Criminal Law:

Judicial Interpretation and Application

Principles Interpreted and Applied in Criminal Decisions

Decisions delivered by

Hon'ble Shri Justice Gurpal Singh Ahluwalia

High Court of Madhya Pradesh

2016–2026

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This publication is intended for legal research, academic study and professional reference. Editorial summaries assist access to judicial reasoning and do not replace the full text of a judgment. Readers should verify the relevant facts, procedural context, operative directions, subsequent judicial treatment and applicable statutory provisions before relying on an entry.

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Dedication

To,

The Hon'ble Shri Justice Gurpal Singh Ahluwalia.

This volume is respectfully dedicated in recognition of His Lordship's profound contribution to criminal jurisprudence and the exceptional depth, rigor and intellectual clarity with which His Lordship has addressed its most consequential questions.

His Lordship's judgments reflect a sustained and principled engagement with the foundations of criminal justice: the protection of personal liberty, the lawful limits of investigative power, fairness in criminal proceedings, and the disciplined appraisal of evidence. Their significance lies not only in the conclusions reached, but also in the analytical method by which questions of law are situated within their factual, statutory and constitutional context.

This compilation seeks to organize and make accessible the principles emerging from those decisions, while preserving the context in which each question arose. It is offered as a resource for close study, rigorous legal research and considered practical application.

May it encourage thoughtful advocacy, deepen academic engagement with criminal law, and reaffirm a lasting commitment to fairness and principle in the administration of criminal justice.

With profound respect

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Preface

I am pleased to present *Criminal Law: Judicial Interpretation and Application -Principles Interpreted and Applied in Criminal Decisions - Decisions delivered by Hon'ble Shri Justice Gurpal Singh Ahluwalia.* This is second digest, following *Judicial Exposition of Service Law by Justice Gurpal Singh Ahluwalia*. The present volume continues that work of judicial study and legal compilation, with its focus on criminal jurisprudence.

The preparation of the service-law digest brought home the care required to read a judgment closely, identify the question actually decided and place its reasoning under an appropriate subject. That discipline has guided the present work. A useful digest must help the reader locate a legal proposition while preserving the facts, procedural setting and limits that give the proposition its proper meaning.

The judgments collected here address a broad range of questions arising in the administration of criminal justice. They concern investigation and pre-trial liberty; the appreciation of evidence and conduct of trial; the ingredients and adjudication of offences; special enactments; and remedies before the High Court. They also engage with related questions of constitutional protection, victims' interests and family support under criminal procedure.

A distinctive feature of these decisions is the depth with which questions of criminal law are examined. Their reasoning calls for attention not only to the rule applied, but also to the statutory framework, the procedural stage, the evidentiary record and the consequences for the rights of the persons concerned. This digest seeks to make that reasoning easier to locate and study without detaching it from the context in which it was developed.

The material is organised through macro divisions, chapters and sub-chapters, with topics and case references designed to assist practical research. Headnotes identify the principal propositions addressed in each decision. Case-notes set out the material facts, authorities considered, issues, reasoning and relief. References to decisions of the Supreme Court are presented with regard to the manner in which those authorities are considered in the judgment being digested.

This volume is offered with profound respect for the judicial work of Hon'ble Shri Justice Gurpal Singh Ahluwalia and with the research needs of the Bench, the Bar and the academic community in view. I hope it will assist in preparing arguments, locating relevant principles and pursuing a more considered study of criminal law. Readers' corrections and suggestions will be gratefully received and may help improve future editions.

Author

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Acknowledgments

The preparation of *Criminal Law: Judicial Interpretation and Application -Principles Interpreted and Applied in Criminal Decisions - Decisions delivered by Hon'ble Shri Justice Gurpal Singh Ahluwalia,* has required sustained reading, careful classification and extensive editorial work. I record my sincere gratitude to all those whose encouragement and assistance have supported this undertaking.

I respectfully acknowledge Hon'ble Shri Justice Gurpal Singh Ahluwalia, whose judgments constitute the subject and foundation of this digest. The opportunity to study His Lordship's reasoning across a wide range of questions in criminal law has been central to the preparation of this volume.

This is my second digest, following *Judicial Exposition of Service Law by Justice Gurpal Singh Ahluwalia*. I remain grateful for the encouragement extended in connection with the earlier work, which strengthened my resolve to undertake a further study of His Lordship's decisions, this time in the field of criminal jurisprudence.

I also acknowledge the contribution of the learned members of the Bench and the Bar to the continuing development and practice of law. I am particularly grateful to the colleagues who have supported this work through discussion, practical assistance and their interest in its progress.

My appreciation extends to all those who assisted with the organisation of the material, verification of references, editing, formatting, typesetting and preparation of the manuscript for publication. These tasks, though often behind the finished volume, are essential to the reliability and usefulness of a legal reference work.

My deepest personal gratitude is to my family. Their patience, understanding and encouragement have made room for the many hours this second volume has required, just as their support sustained the first. I remain profoundly thankful for their constant presence throughout this work.

Any errors or omissions that remain are my responsibility alone.

With gratitude
Author

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Introduction

Criminal Law: Judicial Interpretation and Application -Principles Interpreted and Applied in Criminal Decisions - Decisions delivered by Hon'ble Shri Justice Gurpal Singh Ahluwalia is a subject-wise digest of judgments delivered by Hon'ble Shri Justice Gurpal Singh Ahluwalia of the High Court of Madhya Pradesh. It seeks to organize the legal reasoning in the judgments covered by this volume so that readers can locate a question of law, understand the context in which it was determined and identify the decision for further study.

The judgments bring considerable analytical depth to questions arising across criminal law and procedure. Their study requires attention not only to the proposition stated, but also to the facts, procedural stage, statutory framework and reasoning through which the Court reached its conclusion. This digest is designed to assist that study by presenting the material in a structured and accessible form.

This is the second digest prepared by Advocate Vibhor Kumar Sahu. His earlier work, *Judicial Exposition of Service Law by Justice Gurpal Singh Ahluwalia*, examined His Lordship's contribution to service jurisprudence. The present volume extends that sustained study to criminal law and draws upon the author's experience in reading judgments, preparing case-notes and developing a subject-based system of reference.

Purpose and scope

Criminal litigation may raise several distinct questions within a single decision. A case concerning an alleged offence may also consider the limits of investigation, the power to take cognizance, the conditions governing bail, the admissibility or appreciation of evidence, or the scope of appellate and inherent jurisdiction. This digest presents such questions as separate points of reference while preserving their connection to the decision in which they arose.

The coverage includes constitutional control of criminal process; criminal courts and commencement of proceedings; investigation and custody; bail; charge and trial; evidence and proof; general penal principles; offence groups and special criminal statutes; appellate and post-conviction remedies; and maintenance and family-support questions considered under criminal procedure. These classifications reflect the material addressed in the judgments included in the volume. They do not imply that every question within these fields has been decided or that the subjects have been exhaustively covered.

Organisation and use

The material is arranged into macro divisions, chapters and sub-chapters. Topics provide focused points of entry to the legal issues. The subject index supports navigation through this structure, while the table of cases enables reference by cause title and case number. Case Sr. Nos. provide a common reference between the topic entries and the corresponding case-notes.

Headnotes state the principal legal propositions concisely. Case-notes set out the material facts, precedents and statutes considered, issues, ratio or findings, and relief. This fuller account is intended to show why a proposition arose and how the Court applied it. In decisions delivered by a Division Bench, the composition of the Bench is also relevant to identifying the authority.

Editorial approach

The editorial summaries seek to distinguish the Court's reasoning from the parties' submissions and to preserve the procedural setting of each decision. A refusal to quash proceedings, for example, should be understood in light of the nature and limits of the inquiry undertaken at that stage. Supreme Court authorities discussed in a judgment are presented with attention to the propositions for which the Court cited or applied them.

The digest is a research aid and a starting point for further study. Before relying on an entry, readers should consult the full judgment and the relevant statutory provisions, and check whether the decision has received subsequent judicial consideration.

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Macro Division I
Constitutional Criminal Justice and Public Law Control

Chapter no. 1
Criminal-Side Writ Jurisdiction and Public Law Remedies

Sub-Chapter no. 1.1
Criminal-Side Writs for Investigation Control and Public Law Remedies

Investigation — no right to select an agency or dictate its manner	An accused cannot insist on a particular investigating agency, prescribe the manner of investigation or demand court monitoring. Neither the accused nor the complainant or informant is entitled to choose an investigating agency. The High Court may nevertheless issue appropriate directions under Article 226 where it is satisfied that investigative powers have been exercised mala fide. Transfer to the CBI is an exceptional remedy, to be used sparingly and cautiously where necessary to secure confidence in the investigation, complete justice or fundamental rights, rather than merely because allegations have been made against local police.	4
Criminal-side writ — pending administrative inquiry and lawful departmental action	Pendency of the Collector's inquiry did not justify a writ preventing the department from taking action authorised by law or initiating disciplinary proceedings. In the event of the petitioner's arrest in the registered Section 306/34 IPC case, the consequences under Rule 9 of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966 would follow their lawful course. The Court refused the collateral restraint sought in the criminal-side writ.	16
Article 226: refusal to direct arrest or predetermine the police report	On the complainant's request for police action after registration of an FIR, the Court declined to direct arrest of the accused or filing of a charge-sheet. Applying D. Venkatasubramaniam, it held that courts ordinarily should not prescribe the manner or outcome of investigation. Arrest, seizure and the appropriate final report depend on the evidence and the investigating officer's statutory powers and duties. Requiring those specific steps would amount to supervision of the investigation in the manner sought. This restraint did not prevent a direction to complete the investigation without unnecessary delay.	47
Duty to conclude investigation without unnecessary delay	Section 173(1) CrPC, referred to in the judgment alongside Section 193 BNSS, requires investigation without unnecessary delay. The investigating officer must determine whether an offence is disclosed and submit the appropriate report, whether a closure report or a charge-sheet; investigation cannot simply remain pending. The Court directed completion as early as possible and the lawful consequential steps, without prescribing arrest or a prosecution report. It left the petitioner free to submit any continuing grievance to the Superintendent of Police, Bhopal, for consideration according to law.	47
Exceptional writ intervention for mala fide investigation: limits on directions	The Divine Retreat Centre passage relied upon by the Court permits Article 226 intervention in the rarest cases where mala fide exercise of investigative power, clear abuse and non-compliance with Chapter XII CrPC require it. Even then, the High Court may insist on compliance with the Code's process, but may not dictate how the investigation is conducted. In this petition alleging police inaction, the Court applied the ordinary statutory-remedy route and dismissed the writ with liberty to approach the Magistrate.	48
No-arrest directions while refusing to interfere with investigation	A court declining to quash proceedings or stay investigation under Section 482 CrPC or Article 226 cannot nevertheless direct that the accused should not be arrested, or that no coercive steps should be taken, until investigation ends. Such protection would grant the substance of anticipatory bail without satisfying Section 438 CrPC. Applying Neeharika Infrastructure and its discussion of Habib Abdullah Jeelani, the Court refused the agents' request for	82

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	a general arrest stay during investigation.	
Exceptional High Court control of mala fide investigation	Under Article 226, the High Court may intervene in the rarest of rare cases where mala fide investigation, clear abuse of power and non-compliance with the statutory investigation process require its interference. Even then, it may insist on observance of the prescribed process but cannot direct how the police must conduct the investigation.	92
Article 226 — Directions to arrest accused or predetermine investigation	In a writ seeking police action, the High Court refused to direct arrest of the accused. Applying D. Venkatasubramaniam, it treated directions requiring arrest or a charge sheet as impermissible supervision of the investigation. Investigation is the police's statutory responsibility; courts should ordinarily refrain from directing its manner or requiring particular investigative steps. An investigation need not necessarily end in arrest, seizure or a charge sheet.	110
Drastic investigative directions — Hearing affected persons	The precedent relied upon to refuse arrest directions condemns orders requiring arrest, seizure and a charge sheet without hearing the persons against whom the allegations are made. A judicial order carrying drastic consequences for a person's reputation requires a reasonable opportunity of hearing. Courts must also avoid uncalled-for observations capable of influencing the investigation and prejudicing persons who have not been heard.	110
Police-protection writ — No immunity from registration of an offence	A request for police protection did not establish a right to be heard before registration of an offence or a legal basis to restrain the woman's parents from lodging a report. The Court refused protection against registration of an offence. Its direction to act on any future complaint disclosing specific threats was expressly made without adverse effect on an FIR already lodged.	111
Exceptional writ control over mala fide investigation	Article 226 may be used in a rare case of clearly established abuse of investigative power and non-compliance with Chapter XII CrPC requiring High Court intervention. Even then, the High Court may insist on observance of the statutory process but cannot direct the police how to conduct the investigation.	128
Exceptional writ intervention against mala fide investigation	Article 226 permits appropriate directions in the rarest cases where mala fide exercise of investigative power and a clear abuse of power or non-compliance with Chapter XII CrPC justify intervention. Even then, the High Court may require observance of the statutory process but cannot dictate how the police must conduct the investigation.	154
Father's writ seeking control of his accused son's investigation	An accused has no right to select the investigating agency or require the police to investigate in a particular manner. Presenting that request through a relative or next friend does not enlarge the accused's control over the investigation. Applying Romila Thapar and the other cited authorities, the Court held that the father had no authority to pursue this petition for his son's exoneration or to dictate the investigative course.	158
Alternative criminal remedies before mandamus for FIR registration	Mandamus to compel registration of an FIR may be declined when the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to the exceptions recognised in Whirlpool. Applying Divine Retreat Centre and Shweta Bhadauria, the Court dismissed the writ petition because a complaint before the competent criminal court was an efficacious alternative remedy, while preserving liberty to pursue that complaint.	185
Recovery from the complainant of public funds held as trap evidence	A direction requiring the trap complainant to redeposit the same public money was arbitrary and mala fide where the funds had been used to expose the alleged bribe demand, had never been used for his personal purposes and remained in official or court custody. The demand, backed by a threat of departmental action, was quashed.	198
Exceptional writ intervention requires demonstrated abuse of investigation	Article 226 permits exceptional intervention where mala fide exercise of investigation power or a clear abuse of power and non-compliance with Chapter XII CrPC warrants it. Even then, the High Court may require observance of the	203

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power	statutory process but cannot dictate how the police must conduct the investigation.	
Mandatory FIR registration on disclosure of a cognizable offence	Where the complaint disclosed a cognizable offence of alleged fund misappropriation, the police were obliged to register an FIR under the rule in Lalita Kumari. The availability or outcome of Panchayat civil recovery proceedings did not remove that obligation, and the direction to lodge the FIR was upheld.	238
Judicial monitoring and supervision of investigation	In rare and compelling circumstances, a superior court may monitor an investigation to ensure fair, timely progress without external interference. Monitoring does not permit the court to direct the mode or manner of investigation or supervise the investigating officer's formation of an opinion. Such supervision would intrude upon the investigating officer's function and risk influencing the trial court.	240
Disputed land use in a writ challenge to FIR registration	Where revenue reports indicate subdivision of land into plots and road construction, an unsupported assertion that the land remains under cultivation does not require interference with a direction to lodge an FIR. Disputed questions about agricultural use and colony development cannot be adjudicated in such writ proceedings at that stage. Registration of the FIR does not itself establish criminal guilt.	240
Limits on judicial directions controlling investigation	In exercising Section 482 CrPC powers, the High Court cannot supervise an investigation by directing arrest or filing of a charge sheet; those steps depend on the investigating agency's lawful assessment. The Court also relied on the failure to implead the persons against whom the allegations were made, applying the requirement of a hearing before judicial directions of such serious consequence are issued against them. The applicant could present any remaining grievance to the Superintendent of Police for consideration according to law.	243
Ordinary statutory remedies and exceptional High Court intervention in investigation	The quoted authorities require an informant ordinarily to use the statutory police and Magistrate remedies instead of seeking High Court directions for FIR registration or proper investigation. Exceptional intervention for clearly established mala fide investigation or abuse of power may enforce the prescribed process, but cannot dictate how police should investigate. The judgment also recognises the exceptional writ grounds preserved in Shweta Bhadauria; it found no basis for a registration direction here.	255
Article 226 — directions to arrest accused or file a charge sheet during investigation	In a writ seeking action on a registered FIR, the High Court declined to direct arrest or the filing of a charge sheet. Such directions would amount to supervising the manner of investigation, which ordinarily lies within the statutory responsibility and discretion of the police.	310
Hearing before judicial directions compelling arrest, seizure and a charge sheet	In D. Venkatasubramaniam, relied upon in refusing directions controlling investigation, the Supreme Court treated directions compelling arrest, seizure and a charge sheet without hearing the persons affected as independently unsustainable. The requirement concerns judicial directions carrying such adverse consequences.	310
Article 226 investigation control — exceptional abuse and limits on directions	The ordinary statutory remedies for police inaction do not exclude exceptional Article 226 intervention where a clear case of mala fide investigation, abuse of power and breach of the prescribed criminal procedure is established. Even in that exceptional setting, the High Court may insist on observance of the statutory process but cannot dictate how the police must conduct the investigation. The duty to register cognizable information does not by itself dispense with the alternative-remedy rule.	338
Article 226: Disputed Alibi	A disputed plea of alibi cannot be adjudicated under Article 226 by accepting the accused's photographs as conclusive proof of absence. The plea requires	361

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Requires Evidence	cogent evidence. The Court therefore declined to determine the petitioner's asserted presence at a hospital as a ground for interfering with the criminal proceedings.	
Writ Directions Compelling Arrest or a Charge Sheet During Investigation	A writ cannot require police to arrest the accused or submit a charge sheet merely because an FIR has been registered and investigation remains pending. Applying D. Venkatasubramaniam, the Court declined directions that would prescribe investigative steps or predetermine their outcome. Arrest under Section 41 CrPC requires a cautious, nonmechanical exercise of police discretion; investigation may ultimately justify either a charge sheet or a closure report.	380
Hearing Before Judicial Directions for Arrest, Seizure and Prosecution	In the precedent relied upon to refuse prescriptive investigation directions, orders requiring arrest, seizure of property and a charge sheet against persons who had not been impleaded or heard were treated as invalid. D. Venkatasubramaniam, quoting Divine Retreat Centre, required a reasonable opportunity of hearing before judicial orders with such serious consequences and cautioned against casual observations capable of influencing the investigation.	380
Exceptional Writ Control of Abusive Investigation and Alternative Remedies	High Court intervention in investigation under Article 226 is exceptional and requires a clear case of mala fide exercise, abuse of power or non-compliance with the statutory process. Even then, the Court may insist on lawful procedure rather than dictate how the investigation must be conducted. Ordinary police-inaction grievances should follow the statutory remedies; the adopted alternative-remedy rule preserves the recognised exceptions referred to by the Division Bench.	408
Article 226 directions for arrest or a predetermined charge-sheet during investigation	A writ court cannot supervise a pending police investigation by directing arrest or the filing of a charge-sheet. Applying D. Venkatasubramaniam and the M.C. Abraham passage reproduced in it, the Court recognised that arrest under Section 41 CrPC involves discretion requiring caution because it affects liberty and reputation. Registration of a cognizable offence does not require mechanical arrest. The police must assess the evidence and may lawfully submit either a charge-sheet or a closure report. The Court therefore refused the complainant's request to compel arrest.	423
Article 226 directions for arrest, charge-sheet and investigative method	Investigation is a statutory police duty, and a writ court cannot supervise it by directing arrest or the filing of a charge-sheet. Applying D. Venkatasubramaniam and its M.C. Abraham passage, the Court recognised that Section 41 CrPC arrest power is discretionary and must be exercised cautiously because it affects liberty and reputation. A cognizable FIR does not require mechanical arrest, and the evidence may support a charge-sheet or a conclusion that no case is made out. The request to compel arrest of the accused police officers was therefore refused.	427
Exceptional writ intervention in a mala fide investigation	Article 226 intervention may be justified in a rare case where mala fide exercise of investigative power, clear abuse of power and noncompliance with Chapter XII CrPC are established. Even then, the High Court may insist on observance of the statutory process but cannot dictate how police should conduct the investigation.	430
Article 226: Disputed Defence Cannot Replace Facial Assessment of the FIR	Where the FIR and inquiry material, taken at face value, disclose a cognizable offence and triable allegations, the court ordinarily permits investigation to proceed. It does not resolve the suspect’s disputed explanations as though trying the case. The Sarpanch’s denials of non-construction and misuse of authority, and her explanation that the records burned accidentally, did not warrant quashing on the record before the Court.	459
Informant’s Alleged Mala Fides Are	When the complaint discloses a cognizable offence, the informant’s alleged mala fides are of secondary importance and cannot by themselves justify	459

Topic	Ratio	Case Sr.no.
Insufficient by Themselves	quashing. The material collected in investigation and the evidence at trial determine the accusation's fate. Applying Renu Kumari, the Court rejected the allegation of malice as a basis for stopping this investigation before the facts were established.	
Exceptional writ intervention against mala fide investigation	Under Article 226, the High Court may require observance of the investigation procedure prescribed by the CrPC in the rarest cases where mala fide exercise of investigative power and a clear abuse of power and non-compliance with Chapter XII warrant intervention. Even then, the Court cannot direct the police how to conduct the investigation. This limited writ power, explained in Divine Retreat Centre, is distinct from using Section 482 to obtain FIR registration despite an available complaint remedy.	501
Limited Article 226 supervision of mala fide investigation	In the rarest cases, where mala fide exercise of investigative power, clear abuse of power and non-compliance with Chapter XII CrPC warrant intervention, the High Court may insist under Article 226 on observance of the prescribed process. Even then, it cannot direct the police how the investigation should be conducted. The Court reproduced this limited supervisory power from Divine Retreat Centre while distinguishing the ordinary remedy for police inaction.	504
Alleged counterblast and informant malice in a writ seeking FIR quashing	At the FIR-quashing stage, the Court examines whether the allegations disclose an offence and does not decide the suspect's disputed defence that the prosecution is a counterblast. Where a cognizable offence is disclosed, the informant's alleged malice is secondary and does not by itself justify quashing. The petitioner identified no sufficient ground to quash the four FIRs; their allegations remained to be tested through investigation and evidence.	517
Exceptional writ control of mala fide investigation and limits on directing its manner	Article 226 permits appropriate directions where a clear, exceptional case of mala fide investigation, abuse of power and non-compliance with the investigative procedure is established. Even then, the High Court may insist on compliance with the Code but cannot direct the police how to conduct the investigation. Ordinary dissatisfaction with police action remains subject to the statutory remedies.	517
Article 226 Directions Compelling Arrest or a Predetermined Police Report	In a writ petition concerning a registered FIR, the Court declined to direct arrest or submission of a charge-sheet because those directions would control the course and result of investigation. The relied-upon precedent recognises that arrest under Section 41 CrPC is discretionary and must be exercised cautiously rather than as a mechanical consequence of an FIR. An investigation may lawfully result in a closure report. The precedent also disapproves drastic investigative directions affecting liberty and reputation without hearing the persons concerned.	537
Registration of an FIR — no right to compel arrest or a charge sheet	Registration of an FIR does not require the police to arrest every accused or file a charge sheet. Arrest discretion must be exercised cautiously in light of the circumstances; an investigation may disclose either a case for prosecution or no offence. Relying on D. Venkatasubramaniam, the Court rejected the complainant's request under Article 226 to compel arrest or a charge sheet. Courts ordinarily cannot prescribe investigative steps or require the police to reach a predetermined result.	540
Drastic judicial directions in investigation — hearing persons likely to be affected	Before issuing judicial directions that have drastic consequences for persons against whom allegations are made, the Court must give those persons a reasonable opportunity of hearing. In rejecting the requested directions for arrest and prosecution, the Court relied on D. Venkatasubramaniam, which disapproved such directions made without impleading or hearing the affected accused.	540
Article 226 investigation directions — clear	In the rarest cases, the High Court may issue appropriate directions where mala fide exercise of investigative power, clear abuse of power or non-compliance with Chapter XII CrPC warrants intervention. Even then, it may insist on	543

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abuse and limits on judicial control	compliance with the statutory process but cannot prescribe how the police must investigate. The Court relied on this qualified principle from Divine Retreat Centre while directing the petitioner to the ordinary complaint remedy.	
Section 482 CrPC — restraint against directing arrest or a predetermined charge sheet	The High Court cannot supervise an investigation by directing that the accused be arrested or that a charge sheet be filed. The authorities applied by the Court treat arrest as a statutory discretion to be exercised cautiously, rather than an automatic consequence of a cognizable accusation. Depending on the material collected, the police may lawfully conclude either that prosecution is warranted or that no case is made out. The prosecutrix's request to compel arrest was therefore refused.	547
Alibi based on attendance in court	An alibi requires cogent evidence that the accused's presence at the place of occurrence was humanly impossible. Court order-sheets showing attendance on the same day did not establish that impossibility where the incident occurred about ten kilometres away at 10:30 a.m. and attendance at 11 a.m. remained physically possible. The High Court therefore declined to accept the disputed alibi as a ground for quashing the FIR under Article 226.	614
Enmity as a ground for writ-stage quashing	Enmity may supply a motive either for false implication or for committing the offence. Deciding which inference is supported raises a disputed question of fact that cannot be resolved under Article 226 as a ground for quashing the FIR.	614
Article 226: restraint in directing arrest or a charge sheet	In a writ seeking action after FIR registration, the Court declined to direct arrest or filing of a charge sheet because those commands would prescribe the course and outcome of police investigation. Applying the investigative-restraint principle in D. Venkatasubramaniam, it recognised that an investigation may lawfully end without arrest, seizure or a charge sheet, depending on the evidence.	626
FIR-registration mandamus and unavailed statutory remedies	A direct mandamus for FIR registration may be declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The rule remains subject to the recognised exceptions to the alternative-remedy requirement. Applying Shweta Bhadauria, the Court refused direct registration relief and left the Magistrate route open.	627
FIR-registration writ and alternative statutory remedies	Mandamus to compel FIR registration may be declined where the informant has not used Sections 154(3), 156(3), 190 and 200 CrPC, subject to the recognised exceptions to the alternative-remedy requirement. Applying Shweta Bhadauria, the Court dismissed the direct writ and preserved the statutory Magistrate remedy.	629
Article 226 intervention in investigation — exceptional abuse of power and limits on judicial directions	Article 226 permits exceptional intervention where mala fide exercise of investigative power, clear abuse of power and non-compliance with Chapter XII CrPC warrant the High Court's interference. Even then, the Court may require observance of the statutory process but cannot direct how the police must conduct the investigation.	630
Lalita Kumari — FIR-registration duty does not itself establish entitlement to writ mandamus	The ruling in Lalita Kumari on registration of an FIR does not decide entitlement to mandamus compelling performance of the police duty under Section 154 CrPC without first availing the statutory alternative remedies. That separate writ-remedy question remains governed by the alternative-remedy rule and its recognised exceptions.	630
Writ directions compelling arrest or a charge sheet	Investigation is the police's statutory function. The High Court ordinarily cannot dictate its course by requiring arrest, seizure or filing of a charge sheet as inevitable steps. A direction compelling arrest and prosecution would amount to supervising the investigation and predetermining steps that depend on the material collected.	668
FIR-registration mandamus —	The police duty to register information disclosing a cognizable offence is distinct from entitlement to a writ directing registration. Applying Aleque	679

Topic	Ratio	Case Sr.no.
alternative remedies and recognised exceptions	Padamsee, Divine Retreat Centre, Sakiri Vasu, Sudhir Bhaskarrao Tambe and Shweta Bhadauria, the Court declined mandamus where statutory remedies before superior police officers and the Magistrate were available. The Division Bench passage preserved the exceptions recognised in Whirlpool and explained that Lalita Kumari did not decide entitlement to bypass those remedies through mandamus. The petition alleging police inaction was dismissed with liberty to approach the Magistrate; the Court did not decide the merits of the complaint.	
Exceptional Article 226 intervention — insist on lawful process without dictating investigation	The Divine Retreat Centre passage relied upon by the Court recognises exceptional Article 226 intervention where mala fide exercise of investigative power, clear abuse and non-compliance with the investigation provisions are established. The power is to be used in the rarest cases requiring High Court intervention. Even then, the Court may insist on observance of the statutory process but cannot prescribe how the police should conduct the investigation. That exceptional control is distinct from routine writ petitions seeking action on an unregistered complaint.	679
Exceptional writ intervention against mala fide investigation	Article 226 intervention against mala fide exercise of investigation power is reserved for rare cases where clear abuse of power and non-compliance with Chapter XII CrPC require interference. Even then, the High Court may insist on observance of the statutory process but cannot dictate how the police should investigate. This exceptional power is distinct from ordinary police inaction, for which the statutory Magistrate remedies are available.	697
Exceptional Article 226 intervention in investigation — statutory process and limits on directions	Article 226 intervention may be exercised exceptionally where mala fide exercise of investigative power, clear abuse of power and non-compliance with Chapter XII CrPC warrant interference. Even then, the High Court may insist on observance of the statutory process but cannot dictate how police must investigate. The ordinary alternative-remedy rule remains subject to the recognised writ exceptions referred to in Shweta Bhadauria.	702
Lalita Kumari — FIR-registration duty and entitlement to writ mandamus are distinct	Lalita Kumari's ruling on the police duty to register an FIR does not decide entitlement to mandamus without availing the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. Mandamus may be declined for non-use of those remedies, subject to the recognised writ exceptions referred to in Shweta Bhadauria.	702
Coercive judicial investigation directions — reasons and hearing of affected persons	Judicial directions prescribing arrest, seizure and a charge-sheet can seriously affect liberty and reputation. Such consequential directions cannot be issued casually or mechanically against persons who have not been given a reasonable opportunity to be heard. The High Court must give reasons for intervention and avoid uncalled-for observations capable of influencing the investigation and legal process.	704
Exceptional writ intervention in a mala fide investigation	Article 226 permits intervention in the rarest cases where mala fide investigation, clear abuse of investigative power and non-compliance with Chapter XII CrPC warrant it. Even then, the High Court may require observance of the statutory process but cannot dictate how police should investigate. The rule requiring recourse to alternative remedies remains subject to the exceptions recognised in Whirlpool, as stated in Shweta Bhadauria.	710
Pending closure report and a parallel writ direction to police	Where a closure report awaited the competent Magistrate's decision, a separate writ direction to the Superintendent of Police to look into the FIR was unwarranted. The Magistrate could consider objections and order further investigation if necessary. The Division Bench set aside the Single Judge's direction and required the CJM to dispose of the report within three months of receipt of the certified copy if it remained pending, without prejudging its merits.	714
Alternative Magistrate remedies	A petitioner alleging police inaction ordinarily must use the effective remedies under the CrPC rather than seek a writ directing registration or initiation of	719

1.1 : Criminal-Side Writs for Investigation Control and Public Law Remedies

Topic	Ratio	Case Sr.no.
before seeking FIR mandamus	criminal proceedings. Those remedies include a written application to the Superintendent of Police under Section 154(3), an application to the Magistrate under Section 156(3), and a complaint under Sections 190 and 200. Applying the alternative-remedy rule, the Court dismissed the petition with liberty to file a criminal complaint.	
Rare writ intervention for mala fide exercise of investigative power	Article 226 intervention remains available in the rarest cases where a clear mala fide exercise of investigative power, abuse and non-compliance with Chapter XII CrPC require it. Even then, the High Court may insist on observance of the statutory process but cannot prescribe how the police should investigate. The alternative-remedy rule is also subject to the recognised exceptions referred to in Shweta Bhadauria.	719
Article 226 investigation control — exceptional intervention for mala fide abuse	The Divine Retreat Centre passage adopted by the Court recognises Article 226 intervention at an aggrieved person's instance where investigative power has been exercised mala fide. Such intervention is reserved for the rarest cases in which clear abuse of power and noncompliance with Chapter XII CrPC require the High Court's involvement. Even then, the High Court may insist that the statutory process be observed but cannot prescribe how the police must conduct the investigation. The present Court reproduced this limited power while refusing the routine prayer to compel FIR registration and directing the petitioner to the available Magistrate complaint remedy.	745
Writ directions compelling arrest or filing of a charge sheet	A writ direction requiring the police to arrest the accused or file a charge sheet would impermissibly supervise the manner of investigation. Applying D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, which reproduces M.C. Abraham, the Court recognised that arrest under Section 41 CrPC is discretionary and must be exercised cautiously. Registration of a cognizable offence does not by itself require arrest in every case.	781
Hearing and reasons before coercive investigative directions	The precedent relied upon by the Court disapproves judicial directions compelling arrest, seizure and a charge sheet without reasons or a hearing for the persons affected. Such directions can seriously affect liberty and reputation. Casual judicial observations that may influence the investigation must also be avoided, particularly without hearing those likely to be affected.	781
Hearing before drastic judicial directions affecting an accused	In the D. Venkatasubramaniam passage relied upon by the Court, directions to arrest, seize property and file a charge-sheet were set aside because the affected accused had not been impleaded or heard. The reproduced Divine Retreat Centre reasoning concerned a judicial order setting criminal law in motion on an anonymous petition and required a reasonable hearing before such an order with serious reputational consequences. This addresses drastic judicial directions, rather than participation in ordinary police investigation.	845
Custodial-death inquiry: unexplained injuries and omitted medical assistance	An inquiry attributing a prisoner's death to cardio-respiratory failure was inadequate where it failed to explain recorded ante-mortem injuries or examine the absence of jail first aid for chest pain. The inability of outsiders to enter the jail did not explain injuries sustained in custody. A fresh judicial inquiry was required, with witnesses examined afresh and specific findings on the injuries, availability of a jail doctor, omitted treatment and prima facie responsibility; responsibility for a suspicious death was also to be fixed if the inquiry so found.	867
Police inaction: statutory remedies before a writ for FIR registration	Information disclosing a cognizable offence attracts the police's duty to register an FIR, but failure to act ordinarily requires use of the statutory remedies under Sections 154(3), 156(3), 190 and 200 CrPC before seeking mandamus. The reproduced Shweta Bhadauria ruling preserves the recognised Whirlpool exceptions and distinguishes the police-registration duty in Lalita Kumari from entitlement to a writ without using alternative remedies. The Court dismissed the petition with liberty to approach the Magistrate under Sections 156(3), 200 and 202 CrPC.	875

Topic	Ratio	Case Sr.no.
Matrimonial FIR against relatives — specific allegations and the prohibition on a mini-trial	An FIR need not set out every fact and detail, but the Court examines whether it makes specific allegations disclosing an offence against the relatives concerned. Allegations that the brother-in-law abused the complainant, his wife assaulted her, and the petitioners joined a later dowry-linked threatening episode were specific rather than merely omnibus. Their truth, credibility and reliability could not be adjudicated through a mini-trial under Articles 226–227 or Section 482 CrPC. The Court therefore declined to stop the investigation on the contention that those allegations were vague.	889
Investigation of cognizable offences — exceptional scope for judicial interruption	The police have the statutory right and duty to investigate cognizable offences, and courts should ordinarily permit investigation to proceed within the police's proper sphere. Quashing is exceptional and requires cautious exercise of jurisdiction. Where the FIR discloses no cognizable offence or offence of any kind, investigation need not be allowed to continue; intervention also remains available within the settled quashing standards to prevent abuse of process or miscarriage of justice. The expression 'rarest of rare' in this context denotes restraint in quashing and is distinct from the death-penalty standard.	889
Exceptional writ intervention in mala fide investigation	The High Court may intervene under Article 226 in the rarest cases where a clear abuse of investigative power and non-compliance with Chapter XII CrPC establish the need for intervention. Even then, it may insist on observance of the statutory process but cannot prescribe how the police must conduct the investigation.	921
Writ direction compelling arrest or filing of a charge-sheet	The Court cannot direct the police to arrest an accused or file a charge-sheet, because such a direction would control the course and outcome of investigation. Whether the evidence warrants a charge-sheet or a closure report remains for the investigating agency to decide according to law. The filing of a charge-sheet in the cross-case did not entitle the petitioner to an order compelling a charge-sheet in his own FIR.	922
Writ direction to arrest accused or predetermine a charge-sheet	Registration of an FIR does not entitle the complainant to a judicial direction compelling arrest or filing of a charge-sheet. Investigation and the decision whether the collected material warrants prosecution remain statutory functions of the police. The Court refused to supervise those functions or prescribe the result of the pending investigation. Its refusal did not remove the duty to complete the investigation without unnecessary delay.	927
Writ direction to add a particular offence during investigation	A writ direction requiring the police to add Section 452 IPC to a pending FIR would improperly supervise the investigation. The investigating agency remains free to add an offence where the material prima facie supports it. The Court therefore refused to prescribe the additional charge without determining whether the allegations actually established the ingredients of Section 452.	929
Arrest directions against persons not impleaded in the writ petition	A coercive judicial direction to arrest the persons identified by the petitioner could not be granted when they had not been impleaded. The relied-upon precedent also requires a reasonable hearing before judicial orders directing arrest, seizure or prosecution that would have drastic consequences for the affected person. This is a safeguard governing consequential judicial intervention, rather than a requirement to hear a suspect before ordinary registration or investigation of an FIR.	929
Limits on judicial directions controlling investigation	The police have the statutory duty to investigate, and the Court ordinarily cannot prescribe the manner of investigation or direct arrest, seizure and a charge-sheet as necessary outcomes. Arrest under Section 41 CrPC requires a cautious exercise of police discretion rather than a mechanical response to an FIR. Investigation may disclose a case warranting a charge-sheet or may justify a closure report. Directing arrest and a charge-sheet would amount to judicial supervision of investigation.	931
Judicial restraint in	In an Article 226 petition seeking arrest of private respondents, the High Court	941

Topic	Ratio	Case Sr.no.
directing arrest or filing of charge-sheet during investigation	declined to direct arrest or filing of a charge-sheet because such directions would amount to supervising the police investigation. Relying on D. Venkatasubramaniam, the Court distinguished impermissible directions dictating investigative steps or outcomes from a direction to complete the investigation lawfully without unnecessary delay.	
A writ direction cannot predetermine filing of a charge-sheet	The court cannot direct the police to file a charge-sheet as the necessary outcome of an investigation. Applying D. Venkatasubramaniam, the High Court held that such a direction would amount to supervising the investigation. The police must investigate in accordance with law and decide from the material whether a charge-sheet or closure report is warranted. Courts ordinarily should not dictate the investigative angle or prescribe arrest, seizure and filing of a charge-sheet as inevitable steps. The petitioner's request under Article 226 to compel a charge-sheet was therefore refused.	959
Hearing before drastic judicial directions affecting an accused's reputation	The D. Venkatasubramaniam passage adopted by the Court disapproves mechanical judicial directions to arrest, seize property and file a charge-sheet without hearing the persons against whom they operate. Drawing on Divine Retreat Centre, it requires a reasonable opportunity of hearing before such judicial orders with drastic consequences for reputation are made. The safeguard concerns those judicial directions; it does not create a general requirement to hear a suspect before the police register or investigate an FIR.	959
Alternative statutory remedies for writ demands concerning FIR registration or inquiry	The police duty to register cognizable information does not itself entitle the informant to mandamus without using the available remedies. The adopted authorities direct an aggrieved person to Sections 154(3), 156(3), 190 and 200 CrPC; Shweta Bhadauria preserves the recognised Whirlpool exceptions and explains that Lalita Kumari does not decide entitlement to writ relief without those remedies. The Court accordingly declined to supervise the inquiry or direct FIR registration and dismissed the writ as not maintainable, preserving independent recourse to the Magistrate without deciding the alleged murder or suicide abetment.	961
Accused's request to direct a particular manner of investigation	An accused cannot require the police to investigate from a preferred angle or obtain directions prescribing the manner of investigation merely by seeking a fair investigation. Investigation ordinarily belongs to the police. Exceptional intervention remains available for statutory breach endangering liberty or property, abuse of investigatory power, mala fides or animosity. Applying Romila Thapar and Manohar Lal Sharma, the Court declined to prescribe an investigative angle and left the petitioner free to present his defence at trial; it did not determine the truth of the FIR allegations.	963
Monitoring cannot be used to supervise investigative choices	Monitoring maintains surveillance over fair and timely progress without external interference; supervision directs execution and can shape the investigating officer's opinion, compromising independent trial adjudication. Superior courts may monitor in rare and compelling circumstances, but cannot use that description to direct a particular investigative course. The Court therefore refused to prescribe investigative steps under the guise of monitoring.	963
Ordinary remedies for non-registration of an FIR	The police duty to register information disclosing a cognizable offence does not itself confer a right to immediate writ mandamus. An aggrieved informant should ordinarily pursue the remedies before superior police officers and the Magistrate under Sections 154(3), 156(3), 190 and 200 CrPC, subject to recognised exceptions to the alternative-remedy rule. The petition was dismissed with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS, as stated in the order.	984
Exceptional writ intervention in an abusive investigation	Article 226 permits appropriate intervention where a clear case of mala fide exercise of investigative power and abuse or non-compliance with Chapter XII CrPC requires it. Even in such exceptional cases, the High Court may insist on	984

Topic	Ratio	Case Sr.no.
	observance of the statutory process but cannot dictate how the police should conduct the investigation.	
Service-related public-interest relief sought by a stranger	Public-interest litigation is not maintainable to challenge another employee's service matters. The Court must scrutinise the applicant's credentials and the prima facie correctness, specificity and seriousness of the information, and guard against oblique motives and reckless allegations. These principles were invoked where allegations of financial irregularity were coupled with demands for service and posting action against officials.	984
Judicial directions prescribing arrest or a charge sheet	The High Court should not prescribe the course of police investigation by directing arrest of the accused or filing of a charge sheet. Whether the evidence calls for arrest, seizure, prosecution or closure is for the investigating agency to decide according to law. The Court declined the requested arrest direction because it would amount to supervision of the investigation.	985
Prompt completion of investigation under Section 173(1) CrPC	Section 173(1) CrPC requires completion of investigation without unnecessary delay. The investigating officer must reach a conclusion on whether an offence is made out and submit the appropriate final report, whether a closure report or charge sheet. The Court directed completion as early as possible and lawful consequential steps, leaving any further grievance open to representation before the Superintendent of Police.	985
	Sub-Chapter no. 1.2 **Habeas Corpus and Criminal-Side Writs for Personal Liberty**	
Foreign national — prison detention after completion of sentence pending repatriation	A foreign national who has completed the criminal sentences and is no longer required in a criminal case cannot be kept in prison solely because nationality and repatriation remain unresolved. Merely declaring the Central Jail a temporary detention centre did not justify the continued custody, which the Court held contrary to Articles 20 and 21 of the Constitution. Applying Bhim Singh v. Union of India, the Court directed placement in the Assam detention centre until nationality was determined and deportation effected; any necessary later transfer to another detention centre could be ordered by the competent authority.	11
Detention pending deportation — basic facilities and human dignity	Where a foreign national who has served the sentence must remain in India pending confirmation of nationality and repatriation, restriction of movement in an appropriate detention facility must preserve basic human rights and dignity. The relied-upon decision in Bhim Singh requires electricity, water and hygiene at the place of detention; the unresolved repatriation process does not justify continued treatment as a prisoner.	11
Habeas corpus after remand: review of mandatory arrest safeguards	An Article 226 petition cannot ordinarily be used to reconsider the merits of a judicial remand order or rejection of bail; those orders must be challenged before the appropriate statutory forum. Habeas corpus remains available where mandatory safeguards were not followed, the remand is wholly illegal or without jurisdiction, or the order was passed mechanically. Reading V. Senthil Balaji and Gautam Navlakha with Vihaan Kumar, the Court confined this petition to the legality of the initial arrest for breach of mandatory safeguards. The FIR-quashing prayer had been given up, and the alleged offence was not examined on its merits.	41
Habeas corpus: date relevant to the legality of detention	The legality of detention in habeas corpus proceedings is assessed on the circumstances prevailing at the return or hearing. A remand order or rejection of bail passed while the writ petition is pending must therefore be considered; the Court is not confined to the position when the petition was filed. The order's existence does not remove the limited inquiry into breach of mandatory arrest safeguards.	41
Habeas corpus relief	In a habeas corpus petition, the Court must secure production of the corpus.	431

Topic	Ratio	Case Sr.no.
after recovery of a minor	Where the recovered minor wishes to stay with her mother and is permitted to do so, no further custody relief remains. That does not prevent the Court, on the facts of the same petition, from examining serious police inaction concerning the recovered minor and directing accountability measures.	
Adult corpus's choice of residence after appearance in habeas corpus	After the adult corpus appeared voluntarily in the habeas corpus proceedings, the Court left him free to reside at a place of his choice, subject to law. Release was directed upon furnishing a ₹1 lakh personal bond with a surety in the same amount and an undertaking to attend before the investigating officer when summoned. He was also required to provide an operational mobile number, keep it unchanged and respond to police calls.	642
Statutory matrimonial remedies after disposal of habeas corpus	While disposing of the habeas corpus petition after the husband's appearance, the Court preserved the wife's liberty to pursue statutory matrimonial remedies, including maintenance available under civil law.	642
Under-trial hospital stay — fortnightly medical review and report on treatment in jail	In the Article 226 proceedings, the Court directed doctors to review the under-trial's condition every fifteen days and give a specific finding on the need for continued hospitalization. They had to inform the jail authorities of his condition and the necessity of hospital care. The jail authorities were to forward the periodic medical recommendations to the CJM, committal court or trial court, with the Superintendent's report on whether treatment was possible in jail. Once doctors found hospitalization unnecessary, the under-trial had to be shifted immediately to jail, where the authorities were required to ensure proper treatment. Unnecessary occupation of a hospital bed merely to remain outside jail would deprive another deserving patient of treatment.	740
Under-trial medical care — hospital admission depends on medical necessity	Every under-trial is entitled to treatment, but convenience alone does not justify keeping a prisoner in hospital when treatment can be provided in jail. The Court stated that doctors, rather than the Court lacking medical expertise, must decide whether hospitalization is required. That discretion must not be used to confer exceptional treatment on a person in custody facing serious allegations. In the petition seeking transfer from a general ward to a special ward, no good reason for special accommodation or serious disease requiring hospital admission was shown. The Court therefore declined to direct a special-ward transfer while requiring medical assessment of the need for continued hospitalization.	740
	Sub-Chapter no. 1.3 **Mandamus for Police Action, Protection and Public Law Compliance**	
FIR-registration mandamus: ordinary requirement to use statutory remedies	Police have a duty to register an FIR when the information discloses a cognizable offence. That duty does not by itself entitle the informant to bypass the remedies under Sections 154(3), 156(3), 190 and 200 CrPC and obtain mandamus under Article 226. Applying Aleque Padamsee, Sakiri Vasu, Sudhir Bhaskarrao Tambe and Shweta Bhadauria, the Court required recourse to the statutory procedure on the complaint of a fatal assault. The alternate-remedy rule remains subject to the exceptions recognised in the Division Bench ruling by reference to Whirlpool; it is not an absolute exclusion of writ jurisdiction.	48
Article 226 mandamus for an FIR — statutory alternative remedies	A grievance that police have failed to register an FIR or properly act on the information ordinarily requires recourse to the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The relied-upon Shweta Bhadauria ruling preserves recognised exceptions to alternative-remedy restraint and explains that Lalita Kumari does not itself decide entitlement to mandamus without using those remedies. The writ seeking fair completion of a Section 174 merg inquiry and registration of an FIR was dismissed with liberty to approach the Magistrate under Sections 156(3), 200 and 202.	57
Directions to	Police must protect witnesses so that they can testify without fear or pressure	61

Topic	Ratio	Case Sr.no.
implement witness protection and secure witness attendance	and must secure their prompt attendance, including that of police witnesses, before trial courts. The State was directed to implement the Witness Protection Scheme, 2018 in letter and spirit. The DGP was directed to issue instructions on witness protection and attendance and to file the required circulars before the Principal Registrar within fifteen days.	
Witness Protection Scheme, 2018 — binding force and deposition facilities	The Witness Protection Scheme, 2018, approved by the Supreme Court, must be enforced by the Union, States and Union Territories and operates as law under Articles 141 and 142 until suitable legislation is enacted. The reproduced directions also require States and Union Territories to establish Vulnerable Witness Deposition Complexes in district courts, with Central Government support. The High Court relied on those directions in ordering implementation of the Scheme in Madhya Pradesh.	61
High Court direction to register an FIR and alternative remedies	A request for a High Court direction to register an FIR may be declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to the exceptions recognised in Whirlpool. Applying that principle, the Court dismissed the application under Section 528 BNSS with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	92
Completion of investigation without unnecessary delay	Under Section 173(1) CrPC and the corresponding Section 193 BNSS referred to in the judgment, the investigating officer must complete the investigation without unnecessary delay, determine whether an offence is made out and file the appropriate final report, whether a closure report or charge sheet. The Court directed early completion and lawful consequential action, leaving the complainant free to submit any grievance to the Superintendent of Police.	110
Police protection for an adult couple — Specific threats must be disclosed	Two adults may live together according to their wishes, including in a live-in relationship, and no one may violate their liberty or commit an offence against them on that ground. Failure to establish the marriage prima facie did not displace that principle: the claimed registration lacked proof of the thirty-day residence requirement under Section 5 and notice transmission under Section 6 of the Special Marriage Act. Protection was refused because the complaint disclosed no specific threat or incident. If the couple later approached the authorities with specific incidents and names, the authorities were directed to act in accordance with Lata Singh.	111
Alternative statutory remedies before seeking mandamus for FIR registration	Mandamus compelling police to register an FIR may be declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to the recognised exceptions referred to in Whirlpool. In this petition, the availability of an efficacious Magistrate remedy under Sections 156(3) and 200 led the Court to decline writ relief and reserve liberty to use the statutory remedy.	128
FIR-registration duty distinguished from entitlement to mandamus	The decision in Lalita Kumari concerning the police duty to register an FIR does not itself decide whether the informant is entitled to mandamus without first using the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The Court applied that distinction as stated in Shweta Bhadauria.	128
Non-joinder of suspected accused when seeking a writ directing FIR registration	In this writ petition, the petitioner had not impleaded the persons against whom registration of an FIR was sought. The Court treated their absence as a further reason why the requested direction could not be granted.	128
Lalita Kumari and entitlement to a writ for FIR registration	Lalita Kumari’s ruling on the police duty under Section 154 CrPC does not decide whether an informant is entitled to a writ of mandamus without first using the remedies under Sections 154(3), 156(3), 190 and 200 CrPC.	140
Lalita Kumari and a direct writ for FIR	Lalita Kumari’s ruling on the police duty under Section 154 CrPC does not determine entitlement to mandamus without using the alternative remedies	143

1.3 : Mandamus for Police Action, Protection and Public Law Compliance

Topic	Ratio	Case Sr.no.
registration	under Sections 154(3), 156(3), 190 and 200 CrPC.	
Specific pleadings and affidavit support for serious personal allegations	Serious allegations of personal wrongdoing must be clearly and specifically pleaded and supported by the petitioner's affidavit. The Court declined to act on oral accusations of removing or destroying official files where no specific allegation against the officer was pleaded and the petitioner refused the offered opportunity to bring a fresh petition with such allegations.	147
Lalita Kumari and bypassing statutory remedies for FIR registration	Lalita Kumari's ruling on the statutory police duty to register an FIR does not decide entitlement to mandamus without using the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. Mandamus may be declined for failure to use those remedies unless a recognised Whirlpool exception applies.	147
Alternative remedies against police failure to register an FIR	A complainant seeking registration of an FIR should ordinarily pursue the statutory remedies before the superior police officer and the Magistrate. Following the cited authorities, including Shweta Bhadauria, which preserves recognised exceptions to the alternative-remedy rule, the Court declined writ intervention and left the petitioner free to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	154
FIR mandamus and statutory alternative remedies	The police duty to register cognizable information does not automatically entitle the complainant to an Article 226 direction bypassing statutory remedies. Following Aleque Padamsee, Sakiri Vasu, Sudhir Bhaskarrao Tambe and Shweta Bhadauria, the Court required use of the available police-superior and Magistrate routes, subject to the recognised writ exceptions reserved in the cited authorities. It also noted that the petitioner had not impleaded the Lokayukt or its Special Police Establishment, whose inaction he challenged, and declined the requested writ relief.	159
FIR-registration duty distinguished from entitlement to writ relief	The decision in Lalita Kumari on the police duty to register an FIR does not determine whether a person may obtain mandamus without first availing the statutory criminal remedies. The statutory registration duty and the availability of writ relief remain separate questions under the rule applied in Shweta Bhadauria.	185
Protection of the trap complainant from pressure	The investigating agency was directed to protect the corruption complainant against pressure while his evidence was to be recorded. The direction accompanied the order for immediate recording of his testimony after the Court found that criminal and departmental measures were being used to harass him.	198
Ordinary remedy for failure to register an FIR is before the Magistrate	A writ seeking registration of an FIR is ordinarily declined where the complainant has not used the statutory remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to the recognised exceptions to the alternative-remedy rule. The petitioner was left free to approach the Magistrate under Section 200 CrPC or Section 223 BNSS, as applicable.	203
FIR-registration duty does not dispense with alternative remedies for mandamus	The police duty to register an FIR on information disclosing a cognizable offence is distinct from the informant's entitlement to a writ compelling registration. Lalita Kumari does not decide that statutory alternative remedies may be bypassed when seeking mandamus.	203
Prompt Completion of Investigation and Submission of a Lawful Final Report	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer must decide whether an offence is made out and promptly submit the appropriate final report, whether a charge sheet or a closure report. The Court directed completion as early as possible without fixing a deadline or prescribing the result, and left the petitioner free to present a grievance to the Superintendent of Police for consideration according to law.	380
Police protection for informant and witnesses facing	The Witness Protection Scheme approved in Mahender Chawla applies throughout the country. On the petitioner's allegations of pressure and harassment by accused police personnel and lack of protection despite	427

Topic	Ratio	Case Sr.no.
alleged pressure to compromise	representations, the Court directed adequate police security for him and the other witnesses. It placed responsibility on the Inspector General, Chambal Division Morena, and Superintendent of Police, Bhind, to ensure protection in accordance with that authority.	
FIR-registration writ and alternative statutory remedies	Mandamus to compel registration of an FIR may be declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to the exceptions recognised in Whirlpool Corporation. The police duty to register cognizable information does not by itself entitle the informant to bypass those remedies through a writ petition.	430
Alternative remedies before seeking a writ directing FIR registration	The police duty to register an FIR on information disclosing a cognizable offence does not make a writ petition the ordinary remedy for non-registration. The informant should use the statutory remedies before superior police officers and the Magistrate. Exceptional writ intervention remains available on the recognised grounds referred to in the adopted authorities, including clearly established mala fide investigative abuse or non-compliance with the prescribed process. Lalita Kumari does not dispense with the alternative-remedy requirement for mandamus.	465
Mandamus for FIR registration — Alternative remedies and exceptional writ intervention	Police must register an FIR when the information discloses a cognizable offence. Their failure ordinarily requires recourse to the statutory remedies under Sections 154(3), 156(3), 190 and 200 CrPC rather than a writ petition. The alternative-remedy rule remains subject to the Whirlpool exceptions recognised in Shweta Bhadauria. Divine Retreat Centre also preserves rare intervention where mala fide investigation, clear abuse of power and statutory noncompliance are shown, while prohibiting judicial directions on how police should investigate. Lalita Kumari does not decide entitlement to mandamus without using alternative remedies. The petition was dismissed with liberty to approach the Magistrate, without deciding the accusation on merits.	471
Exceptional writ control of investigation — Alternative remedies and limits on directions	Divine Retreat Centre permits rare Article 226 intervention where mala fide investigation, clear abuse of power and noncompliance with Chapter XII CrPC require correction. Even then, the High Court may insist on lawful process but cannot dictate investigative methods. Under Shweta Bhadauria, failure to use remedies under Sections 154(3), 156(3), 190 and 200 ordinarily justifies refusing mandamus, subject to the recognised Whirlpool exceptions. Lalita Kumari does not decide entitlement to bypass those remedies. This was the precedent framework relied on while rejecting direct FIR relief; the present application was under Section 482.	475
FIR mandamus under Article 226 — alternative remedies and exceptional intervention	A request for writ directions to investigate a complaint and register an offence ordinarily requires the complainant to use the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The Court adopted Shweta Bhadauria's rule preserving the Whirlpool exceptions and distinguishing the police duty discussed in Lalita Kumari from entitlement to bypass alternative remedies. Under Divine Retreat Centre, exceptional intervention is available where clearly mala fide investigation and abuse or non-compliance with Chapter XII are established; even then, the High Court may insist on the statutory process but cannot dictate how the investigation is conducted. Applying these principles, the petition was dismissed with liberty to file a Section 200 complaint.	492
FIR mandamus — alternative CrPC remedies and exceptional writ control	A complainant seeking registration of an FIR ordinarily must use the available CrPC remedies rather than seek direct mandamus under Article 226. Applying Divine Retreat Centre and Shweta Bhadauria, the Court recognised the Sections 154(3), 156(3), 190 and 200 routes, subject to the Whirlpool exceptions. Exceptional writ control remains available for clearly mala fide exercise of investigative power and abuse or non-compliance with Chapter XII, but the	494

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	High Court may insist on the statutory process without dictating the manner of investigation. Lalita Kumari's discussion of the Section 154 duty does not by itself confer entitlement to bypass alternative remedies. The petition was dismissed because an efficacious criminal-complaint remedy was available.	
Alternative remedies before mandamus for FIR registration	Mandamus compelling the police to perform their duty under Section 154 CrPC may be refused when the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200, subject to the exceptions recognised in Whirlpool Corporation. As explained in Shweta Bhadauria and relied upon by the Court, Lalita Kumari does not decide an entitlement to mandamus for FIR registration without first availing those alternative remedies.	501
Mandamus for FIR registration and unused alternative remedies	An informant may be refused mandamus to compel performance of the police duty under Section 154 CrPC when the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the exceptions recognised in Whirlpool Corporation. The Court relied on Shweta Bhadauria's distinction that Lalita Kumari does not determine entitlement to such mandamus without availing alternative remedies.	504
Writ direction to consider a complaint that would effectively require FIR registration	A request that police merely consider a complaint cannot avoid the ordinary statutory-remedy requirement where the requested direction would effectively require FIR registration. Subject to recognised exceptions to the alternative-remedy rule, a person alleging police inaction should use the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The Court declined the indirect registration direction here and preserved liberty to pursue the appropriate CrPC remedy.	517
Lalita Kumari and the separate requirement to pursue remedies before seeking mandamus	The rule in Lalita Kumari concerning the police duty under Section 154 CrPC does not decide entitlement to a writ compelling registration without first using the available statutory remedies. Applying Shweta Bhadauria, the Court treated the mandatory-registration rule and the alternative-remedy requirement for writ relief as separate questions, subject to the recognised exceptions.	517
Alternative Criminal Procedure Remedies before Seeking Mandamus for FIR Registration	The police duty to register an FIR on information disclosing a cognizable offence does not by itself entitle an informant to immediate mandamus under Article 226. Relief may be declined where remedies under Sections 154(3), 156(3), 190 and 200 CrPC have not been used, subject to the exceptions recognised in the relied-upon Division Bench decision. Rare intervention remains available for clearly established mala fide investigative abuse and non-compliance with Chapter XII, but the High Court may insist on lawful procedure without prescribing how the police must investigate. The writ petition was dismissed with liberty to approach the Magistrate.	533
Mandamus for FIR registration — statutory remedies and recognised writ exceptions	A writ of mandamus to enforce the police duty under Section 154 CrPC may be declined where the informant has not pursued the remedies under Sections 154(3), 156(3), 190 and 200, subject to the recognised writ exceptions referred to in Shweta Bhadauria. The duty to register an FIR considered in Lalita Kumari does not itself establish an entitlement to mandamus without resort to those remedies. Applying the alternative-remedy principle, the Court dismissed the petition without examining the complaint's merits and granted liberty to file a criminal complaint before the competent court.	543
Alternative remedies and mandamus for FIR registration	A mandamus directing police to perform their duty under Section 154 CrPC may be denied where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200, subject to the exceptions recognised in Whirlpool. Lalita Kumari concerns the police duty to register an FIR and does not determine entitlement to mandamus without using those remedies.	554
Mandatory FIR registration does not dispense with	As stated in the reproduced Shweta Bhadauria ruling, mandamus to enforce the police duty under Section 154 CrPC may be denied where the informant has not	608

Topic	Ratio	Case Sr.no.
alternative remedies for mandamus	used Sections 154(3), 156(3), 190 and 200, subject to the Whirlpool exceptions referred to there. Lalita Kumari concerns the duty to register cognizable information and does not itself decide entitlement to mandamus without those remedies.	
Mandamus for FIR registration and alternative statutory remedies	A writ seeking FIR registration is ordinarily declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The rule remains subject to the recognised exceptions to the alternative-remedy requirement. Applying this principle, the Court left the petitioner free to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	620
Lalita Kumari and entitlement to FIR-registration mandamus	The ruling in Lalita Kumari on the police duty to register an FIR does not determine an informant's entitlement to mandamus without using the alternative remedies under Sections 154(3), 156(3), 190 and 200 CrPC.	620
Lalita Kumari does not dispense with alternative remedies for mandamus	Lalita Kumari's ruling on the duty to register cognizable information does not decide entitlement to a writ of mandamus without recourse to Sections 154(3), 156(3), 190 and 200 CrPC. The High Court applied that distinction when refusing direct FIR-registration relief.	627
Lalita Kumari and the right to seek registration mandamus	Lalita Kumari's ruling on the police duty to register cognizable information does not resolve entitlement to a writ compelling registration without using the alternative remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The Court relied on this distinction in declining the writ.	629
Specific Complaint Required for Protective Police Action; Existing FIR Unaffected	Where an adult couple's complaint disclosed no particular threat, date or identifiable offender, the Court directed that, if they submitted a complaint to the Superintendent of Police specifying offences and naming the offenders, necessary action should be taken in accordance with Lata Singh v. State of U.P., (2006) 5 SCC 475. The direction expressly left any FIR already registered unaffected.	653
Reliance on an Arya Samaj Marriage Certificate in a Protection Petition	In considering the protection petition, the Court held that the Arya Samaj Mandir had no authority to issue the marriage certificate relied on by the petitioners and declined to take that certificate into account. It read the Supreme Court's order in Secretary, Madhya Bharat Arya Pratinidhi Sabha v. State of Madhya Pradesh, SLP (Civil) No. 5315/2022, dated 4 April 2022, as permitting solemnisation subject to the prescribed conditions, without conferring authority to certify marriage. The petitioners had not claimed to be Arya Samajists for purposes of the Arya Marriage Validation Act, 1937. Their claim to protection was then considered on the basis of their adulthood and freedom of choice.	653
Mandamus for police action—Alternative statutory remedies	A writ seeking to compel the police to act under Section 154 CrPC may be declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200, subject to the exceptions recognised in Whirlpool. Where an effective remedy by criminal complaint is available, the informant may be relegated to the competent criminal court.	662
Lalita Kumari and entitlement to writ mandamus	The duty to register information considered in Lalita Kumari does not itself determine entitlement to a writ compelling police action without first using the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The alternative-remedy requirement must be considered separately.	662
Section 173(1) CrPC—Completion without unnecessary delay	An investigating officer cannot keep an investigation pending indefinitely. Section 173(1) CrPC requires completion without unnecessary delay and submission of the appropriate final report, whether a closure report or charge sheet, as early as possible. A direction to complete the investigation promptly leaves the lawful investigative conclusion open.	668
Alternative remedies before seeking mandamus for FIR	Mandamus to compel FIR registration may be refused where the informant has not availed the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to recognised exceptions to the alternative-remedy rule. The police duty	697

1.3 : Mandamus for Police Action, Protection and Public Law Compliance

Topic	Ratio	Case Sr.no.
registration	to register cognizable information is distinct from entitlement to a writ compelling that duty. Lalita Kumari does not decide entitlement to such mandamus without recourse to those remedies. Applying the statutory-remedy authorities and Shweta Bhadauria, the Court declined the requested FIR-registration writ.	
Police failure to register an FIR — statutory complaint remedy before direct High Court relief	Police must register an FIR where the facts brought to their notice disclose a cognizable offence. If they fail to act, the aggrieved informant may pursue the complaint procedure under Sections 190 and 200 CrPC. That police duty does not itself establish entitlement to direct High Court relief bypassing statutory remedies. Applying that distinction, the Court dismissed the Section 482 CrPC application seeking an FIR-registration direction as not maintainable, with liberty to approach the competent Magistrate under Section 200 CrPC or Section 223 BNSS.	702
FIR registration duty and the remedy against police inaction	Police must register an FIR when the information discloses a cognizable offence. If they fail to act, the informant must ordinarily pursue the remedies under the Code, including a complaint under Sections 190 and 200 CrPC, rather than seek an immediate writ directing registration. Applying this distinction, the Court dismissed the writ petition with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	710
Lalita Kumari does not dispense with alternative remedies for FIR mandamus	Lalita Kumari's rule concerning police registration of an FIR does not decide an informant's entitlement to mandamus without first using the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. Following Shweta Bhadauria, the Court treated the registration duty and entitlement to writ relief as separate questions.	710
FIR-registration precedent does not itself establish entitlement to mandamus	Following Shweta Bhadauria, the Court distinguished Lalita Kumari's FIR-registration rule from entitlement to a writ compelling registration without first using Sections 154(3), 156(3), 190 and 200 CrPC. The existence of a statutory police duty does not itself remove the requirement to pursue the available remedies, subject to the recognised exceptions.	719
FIR-registration mandamus — statutory remedies and exceptions to alternative-remedy restraint	Applying Divine Retreat Centre and Shweta Bhadauria, the Court declined to direct registration of an FIR when the petitioner could use the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The adopted Division Bench rule permits denial of mandamus for failure to pursue those remedies, subject to the exceptions recognised in Whirlpool Corporation. It also distinguishes Lalita Kumari’s rule on the police duty to register an FIR from entitlement to a writ without using the statutory remedies. The petition, brought after police inaction attributed to the prosecution officer’s opinion that the dispute was civil, was dismissed as not maintainable, with liberty to approach the competent Magistrate under Section 200 CrPC.	745
Alternative remedies before seeking mandamus for FIR registration	An informant ordinarily must use the remedies under Sections 154(3), 156(3), 190 and 200 CrPC before seeking a writ compelling FIR registration, subject to recognised exceptions to the alternative-remedy rule. Lalita Kumari concerns the police duty to register cognizable information; it does not itself establish entitlement to mandamus without using those remedies. The Court dismissed the petition with liberty to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.	763
Alternative remedies before seeking mandamus for FIR registration	An informant ordinarily must use the remedies under Sections 154(3), 156(3), 190 and 200 CrPC before seeking a writ compelling FIR registration, subject to recognised exceptions to the alternative-remedy rule. Lalita Kumari concerns the police duty to register cognizable information; it does not itself establish entitlement to mandamus without using those remedies. The Court dismissed the petition with liberty to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.	765

1 : Criminal-Side Writ Jurisdiction and Public Law Remedies

Topic	Ratio	Case Sr.no.
Completion of investigation without unnecessary delay under Section 173(1) CrPC	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely and must determine whether an offence is made out, then submit the appropriate closure report or charge sheet promptly. The Court directed completion as early as possible and permitted a grievance application to the Superintendent of Police for consideration according to law.	781
Alternative remedies and exceptional writ intervention over police inaction	Mandamus for FIR registration may be refused where the remedies under Sections 154(3), 156(3), 190 and 200 CrPC have not been used, subject to the recognised Whirlpool exceptions referred to in Shweta Bhadauria. Lalita Kumari's registration rule does not itself decide entitlement to writ relief without those remedies. Divine Retreat Centre permits rare Article 226 intervention for clearly established mala fide investigation or abuse and non-compliance with Chapter XII, but even then the Court may insist on lawful process rather than dictate the manner of investigation.	786
Article 226 — Exceptional intervention despite police-complaint remedies	Mandamus for FIR registration may be declined where remedies under Sections 154(3), 156(3), 190 and 200 CrPC have not been used, subject to the exceptions recognised in Whirlpool. In a rare case of clearly established mala fide investigation, abuse of power and non-compliance with Chapter XII CrPC, the High Court may insist on observance of the statutory process, but cannot prescribe how the investigation must be conducted. Lalita Kumari does not decide entitlement to mandamus without recourse to the alternative remedies.	820
Article 226 — Exceptional intervention despite police-complaint remedies	Mandamus for FIR registration may be declined where remedies under Sections 154(3), 156(3), 190 and 200 CrPC have not been used, subject to the exceptions recognised in Whirlpool. In a rare case of clearly established mala fide investigation, abuse of power and non-compliance with Chapter XII CrPC, the High Court may insist on observance of the statutory process, but cannot prescribe how the investigation must be conducted. Lalita Kumari does not decide entitlement to mandamus without recourse to the alternative remedies.	822
Article 226 — Exceptional intervention despite police-complaint remedies	Mandamus for FIR registration may be declined where remedies under Sections 154(3), 156(3), 190 and 200 CrPC have not been used, subject to the exceptions recognised in Whirlpool. In a rare case of clearly established mala fide investigation, abuse of power and non-compliance with Chapter XII CrPC, the High Court may insist on observance of the statutory process, but cannot prescribe how the investigation must be conducted. Lalita Kumari does not decide entitlement to mandamus without recourse to the alternative remedies. The writ petition was dismissed with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	826
FIR-registration mandamus and available statutory remedies	The police duty to register information disclosing a cognizable offence is distinct from an informant's entitlement to obtain immediate mandamus under Article 226. Where police do not act, the available police-superior and Magistrate remedies should ordinarily be used. A registration-duty ruling does not dispense with those remedies; the adopted Division Bench formulation preserves recognised exceptions to the alternative-remedy rule. Applying that approach, the Court dismissed the writ and left the petitioner free to complain to the Magistrate under Section 200 CrPC or Section 223 BNSS.	838
Factual foundation for protection and statement-recording directions in a criminal-side writ	The Court refused the requested protection and statement-recording relief because the petitioners had laid no foundation for alleging that the police had treated the other petitioners improperly or that the girl had been beaten by the police or her parents. The request for special police or judicial statement arrangements and associated protection was therefore not granted on that record.	858
FIR-registration mandamus:	A writ of mandamus to compel FIR registration may be declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and	863

Topic	Ratio	Case Sr.no.
availability of statutory alternative remedies	200 CrPC, subject to the recognised exceptions to the alternative-remedy rule. Finding an efficacious remedy by criminal complaint before the competent court, the High Court dismissed the petition with liberty to pursue that remedy.	
Lalita Kumari does not dispense with alternative remedies for FIR-registration mandamus	The ruling in Lalita Kumari on the police duty to register an FIR does not decide entitlement to a writ compelling performance of Section 154 CrPC without first availing the alternative remedies under Sections 154(3), 156(3), 190 and 200. The statutory registration duty does not by itself resolve whether the High Court should entertain that writ.	863
FIR-registration mandamus: statutory remedies and liberty to complain to the Magistrate	A person aggrieved by police inaction should ordinarily use the statutory remedies under Sections 154(3), 156(3), 190 and 200 CrPC before seeking mandamus for FIR registration, subject to the recognised exceptions to the alternative-remedy rule. Applying that principle, the Court dismissed the writ petition with liberty to approach the competent Magistrate under Section 200 CrPC or Section 223 BNSS for redressal.	866
Lalita Kumari: registration duty does not itself establish entitlement to mandamus	Lalita Kumari does not determine entitlement to a writ compelling the police to perform their Section 154 CrPC duty without availing the statutory alternative remedies. The ruling on mandatory FIR registration therefore does not, by itself, displace the alternative-remedy inquiry in writ proceedings.	866
Writ mandamus for registration of an FIR and alternative remedies	A person complaining that the police have not registered an FIR must ordinarily use the remedies under Sections 154(3), 156(3), 190 and 200 CrPC before seeking mandamus under Article 226, subject to the recognised exceptions to the alternative-remedy rule. Lalita Kumari concerns the police duty to register an FIR and does not itself confer an entitlement to mandamus without using those remedies. The petition was dismissed with liberty to approach the competent Magistrate under Section 200 CrPC or Section 223 BNSS.	921
Completion of investigation without unnecessary delay under Section 173(1) CrPC	The investigating officer cannot leave an investigation pending indefinitely. Section 173(1) CrPC requires completion without unnecessary delay, a conclusion on whether an offence is made out and submission of the appropriate final report, whether a closure report or a charge-sheet. The Court directed completion as early as possible and lawful consequential steps, while leaving the result to the investigating officer. Any further grievance could be submitted to the Superintendent of Police for consideration according to law.	922
Witness Protection Scheme — fresh representation to Superintendent of Police	Referring to the nationwide Witness Protection Scheme formulated in Mahender Chawla, the Court directed that, if the petitioner submitted a fresh representation seeking protection to the Superintendent of Police, Gwalior, the Superintendent should take necessary action to provide protection. The direction was conditional on that representation; the Court did not determine a threat category or prescribe particular protective measures.	941
Police inaction: statutory remedies ordinarily precede a writ for FIR registration	The duty to register an FIR when information discloses a cognizable offence is distinct from entitlement to a writ compelling registration. A complainant ordinarily must use the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. Mandamus may be refused where those remedies have not been used, subject to the recognised alternative-remedy exceptions referred to in Shweta Bhadauria. Lalita Kumari's rule about the police duty does not itself decide entitlement to mandamus without using those remedies. The petition was dismissed with liberty to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.	945

Sub-Chapter no. 1.4
Criminal-Side Writs for Fair and Independent Investigation

CBI investigation — exceptional constitutional	A direction entrusting investigation to the CBI is an exceptional exercise of constitutional power, to be used sparingly and cautiously. Allegations against local police alone do not justify it. The relied-upon authority identifies	10

Topic	Ratio	Case Sr.no.
intervention	situations requiring credibility and confidence in investigation, matters with national or international ramifications, and cases where complete justice or enforcement of fundamental rights requires such intervention; there is no inflexible formula.	
Article 226 — exceptional intervention against mala fide investigation	The Divine Retreat Centre principle relied upon permits exceptional Article 226 intervention where mala fide exercise of investigative power and a clear case of abuse of power and non-compliance with Chapter XII CrPC require the High Court's interference. The power is reserved for the rarest cases. Even then, the Court may insist on observance of the Code's process but cannot prescribe how the police must conduct the investigation.	57
Accused cannot require investigation from a chosen angle or by a chosen agency	A suspect or accused has no right to choose the investigating agency or require investigation in a particular manner. Applying Romila Thapar and Dinubhai Boghabhai Solanki, the Court refused to direct investigation according to the accused's representation. The reproduced authorities preserve appropriate Article 226 intervention where the court is satisfied that investigative power has been exercised mala fide; vague, unsubstantiated allegations do not suffice.	134
Judicial monitoring of investigation is distinct from directing its manner or conclusions	In rare and compelling circumstances, a superior court may monitor investigation to ensure proper progress, fairness and freedom from external interference. It may not supervise investigation by directing how evidence is collected or shaping the investigating officer's conclusions. Applying Manohar Lal Sharma, the Court held that directing investigation from the accused's preferred angle would amount to impermissible supervision and could compromise the trial court's independent assessment of the police report.	134
Exceptional writ intervention against mala fide investigation despite statutory remedies	Article 226 intervention remains available in an exceptional case where a clear abuse of investigative power and noncompliance with Chapter XII CrPC are established. The Divine Retreat Centre passage relied upon by the Court permits insistence on statutory process, while withholding directions on how investigation should be conducted. Shweta Bhadauria also preserves the alternative-remedy exceptions recognised in Whirlpool; no such ground was found to justify the requested direction here.	136
Writ for FIR registration and alternative remedies under the CrPC	A writ seeking to compel FIR registration may be declined when the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, unless an exception recognised in Whirlpool applies. The availability of an effective criminal-complaint remedy justified dismissal of the writ with liberty to approach the competent court.	140
Exceptional writ intervention in a mala fide investigation	Article 226 permits intervention in the rarest of rare cases where a clear abuse of investigative power and non-compliance with Chapter XII CrPC are established. Even then, the High Court may insist on compliance with the statutory process but cannot prescribe how the police must conduct the investigation.	140
FIR-registration writ and statutory alternative remedies	Mandamus to compel FIR registration may be refused where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, unless an exception recognised in Whirlpool applies. An effective remedy by criminal complaint justified dismissal of the writ with liberty to approach the competent court.	143
Writ control of mala fide investigation	Article 226 intervention is available in the rarest of rare cases where a clear abuse of investigative power and non-compliance with Chapter XII CrPC are established. The High Court may require observance of the statutory process, but even then cannot direct the police how to conduct the investigation.	143
Exceptional writ relief against mala fide exercise of investigative power	In the rarest of rare cases, a clear abuse of investigative power coupled with non-compliance with Chapter XII CrPC may justify Article 226 intervention. Even then, the High Court may insist on the statutory process being observed	147

Topic	Ratio	Case Sr.no.
	but cannot prescribe how the investigation is to be conducted.	
Exceptional intervention to secure an independent investigation	The absence of an accused's right to choose an agency does not exclude appropriate Article 226 directions against a mala fide exercise of investigative power. Transfer to the CBI or another independent agency is an exceptional measure, to be used sparingly and cautiously where needed for investigative credibility, public confidence, complete justice or enforcement of fundamental rights, or where an incident has national or international ramifications. Allegations against local police or vague assertions of mala fides do not suffice. On the father's claim of political rivalry and false implication, the Court found no case for directing a different investigative course.	158
Exceptional writ directions against mala fide investigation	In the rarest cases, clear mala fide exercise of investigative power, abuse of power or non-compliance with Chapter XII CrPC may justify appropriate Article 226 directions. Even then, the High Court may require compliance with the statutory process but cannot dictate how the police should investigate. The Court relied on Divine Retreat Centre for that qualified limit and on Shweta Bhadauria, which reserves the recognised exceptions to the alternative-remedy rule.	159
Constitutional intervention for mala fide investigation	Although neither the accused nor the complainant can choose the investigating agency, the High Court may issue appropriate directions under Article 226 where it is satisfied that investigative power has been exercised mala fide. Vague or unsubstantiated allegations do not establish that basis for intervention.	161
Exceptional transfer of investigation to CBI	A direction transferring investigation to CBI must be exercised sparingly and cautiously in exceptional circumstances. Allegations against local police alone are insufficient. The power may be used where necessary to restore credibility and confidence, address national or international ramifications, or secure complete justice and fundamental rights.	161
Exceptional writ intervention in mala fide investigation	Article 226 permits appropriate directions where a clear case of mala fide investigation, abuse of power and non-compliance with Chapter XII CrPC requires intervention. The reproduced rule confines that power to rare cases. Even then, the High Court may insist on compliance with the statutory process but cannot dictate how the police should conduct the investigation.	185
Article 226 directions against mala fide investigation	The restriction on choosing an investigating agency does not remove the High Court's Article 226 power to issue appropriate directions where it is convinced that investigative power has been exercised mala fide. The Divine Retreat Centre principle reproduced through Romila Thapar distinguishes that constitutional remedy from using inherent jurisdiction to replace the investigating officer midstream with an officer of the Court's own choice.	217
Exceptional constitutional directions for CBI investigation	A constitutional direction for CBI investigation must be exercised sparingly and cautiously in exceptional circumstances. Allegations against local police alone do not justify routine transfer. The reproduced Constitution Bench standard identifies situations where transfer is necessary to restore investigative credibility, address national or international ramifications, secure complete justice or enforce fundamental rights.	217
Exceptional grounds required for transfer of investigation to the CBI	Transfer to the CBI is an extraordinary power exercised sparingly on a case-specific foundation, such as a need for credible, impartial investigation or prevention of a failure of justice. Mere allegations against local police or the size and public impact of an alleged scam do not automatically justify transfer. Here the petitioner identified no lapse in the completed investigation or charge-sheet. General allegations of a Ponzi scheme and further cheating after bail did not establish an exceptional need for CBI investigation.	299
Public confidence as a ground for independent	Independent investigation may be warranted to make the discovery of truth credible even without a conclusive finding that every act of the State police was	299

Topic	Ratio	Case Sr.no.
investigation	defective. The Court must be satisfied from available material that transfer would promote justice; apprehension must have a reasonable foundation. The exceptional circumstances discussed in Subrata Chattoraj and the narrated transfer cases did not dispense with that requirement, which was absent on the present record.	
Article 226 intervention where investigation is exercised mala fide	The absence of a right to select an investigating agency does not exclude appropriate directions under Article 226 where the High Court is satisfied that the investigating officer has exercised the power mala fide. A vague, unsupported allegation of mala fides is insufficient; specific supporting facts are required.	311
Article 226 — exceptional CBI transfer after filing of the charge sheet	Filing of a charge sheet does not extinguish the High Court's power under Article 226 to direct CBI investigation. The power must be used sparingly and cautiously in exceptional situations, such as the need to restore investigative credibility, address national or international ramifications, secure complete justice or enforce fundamental rights. Allegations against local police alone do not suffice. No exceptional circumstance was shown to justify transfer in this case.	317
Mala fide investigation — constitutional directions despite absence of agency choice	Although neither the accused nor the complainant may choose an investigating agency as of right, appropriate directions under Article 226 remain available where the High Court is satisfied that investigative power was exercised mala fide. Vague, unsubstantiated assertions are insufficient; the claim requires specific supporting facts.	317
Article 226 — exceptional transfer of investigation	Transfer of an investigation to an independent agency cannot be ordered routinely or merely on allegations against the local police. The passages from Romila Thapar relied upon by the Court preserve Article 226 intervention for demonstrated mala fide exercise of investigative power. A direction for CBI investigation calls for sparing and cautious exercise of power in exceptional situations, such as a need to restore investigative credibility, address wider ramifications, secure complete justice or enforce fundamental rights. On the material before it, the High Court found no illegality justifying transfer.	321
Article 226 — Exceptional intervention against mala fide investigation or for an independent agency	The High Court may issue appropriate directions under Article 226 when specific material establishes mala fide exercise of investigative power. A direction for investigation by CBI or another independent agency is exceptional, requiring caution and circumstances such as the need to restore investigative credibility, protect fundamental rights or do complete justice. Mere allegations against local police or vague assertions of bias are insufficient. Neither the accused nor the complainant has a right to select an agency of choice.	359
Exceptional constitutional transfer of investigation to the CBI	A constitutional direction entrusting an investigation to the CBI requires caution and exceptional circumstances; allegations against local police alone do not justify it. The adopted precedent identifies the need to restore credibility and confidence, national or international ramifications, complete justice or enforcement of fundamental rights as relevant circumstances. The power is exercised sparingly, rather than at the choice of an accused, complainant or informant.	440
Exceptional writ correction of mala fide investigation without prescribing police methods	The adopted Divine Retreat Centre passage preserves Article 226 intervention in rare cases of demonstrated mala fide investigation, clear abuse of power and non-compliance with the Code's investigation process. Even then, the High Court may require observance of lawful procedure but cannot direct how the police must conduct the investigation. The present order applied the ordinary Magistrate-remedy route and made no finding warranting such exceptional constitutional intervention.	446

1.4 : Criminal-Side Writs for Fair and Independent Investigation

Topic	Ratio	Case Sr.no.
Exceptional writ intervention in mala fide investigation	The adopted Divine Retreat Centre passage recognises exceptional Article 226 intervention where investigative power has clearly been exercised mala fide, or abuse of power and non-compliance with the prescribed criminal procedure require correction. Even then, the High Court may insist on observance of the statutory process but cannot prescribe how the police must conduct the investigation. This exceptional writ standard does not convert ordinary police inaction into an entitlement to bypass the Magistrate.	466
Exceptional circumstances for transfer of an ongoing investigation to CBI	Transfer of an ongoing investigation to CBI is exceptional relief and cannot be ordered lightly. The Court refused transfer where the petitioner had not identified malice by the investigating authorities necessitating it. Allegations against the informant did not, on this record, establish a basis for changing the investigating agency.	517
Court-monitored investigation — distinction from judicial supervision of investigative steps	Court monitoring may ensure progress, fairness and freedom from outside interference in rare and compelling circumstances. It does not permit the Court to direct the mode of investigation or shape the investigating officer's opinion. Relying on Manohar Lal Sharma, the Court explained that judicial supervision of that kind risks influencing the trial court's independent assessment and is not contemplated by the Code.	540
Transfer of investigation — unfounded apprehension does not establish exceptional grounds	Transfer of investigation requires exceptional circumstances and cannot be ordered routinely or merely on the complainant's unfounded impression that the investigation is unfair. The Court declined intervention on that basis, leaving the complainant free to oppose any closure report subsequently filed.	540
Exceptional writ intervention against mala fide investigation	The High Court’s power under Article 226 to intervene against mala fide exercise of investigative power is reserved for exceptional cases showing clear abuse and non-compliance with Chapter XII CrPC. Even then, the High Court may insist on observance of the statutory process, but cannot prescribe how the police are to conduct the investigation.	554
Exceptional writ intervention in investigation	The relied-upon Divine Retreat Centre passage permits exceptional Article 226 intervention where mala fide use of investigative power, clear abuse of power and non-compliance with the Code are shown. Even then, the High Court may insist on observance of the statutory process but cannot dictate how the investigation is to be conducted. The cited Shweta Bhadauria decision also preserves the recognised exceptions to the alternative-remedy rule; ordinary police inaction is to be addressed through the Code’s remedies.	566
Exceptional writ intervention in investigation matters	Alternative statutory remedies ordinarily justify refusing a writ seeking FIR registration. The narrated Shweta Bhadauria ruling preserves the exceptions referred to in Whirlpool without treating Lalita Kumari as authority to bypass those remedies. The quoted Divine Retreat Centre passage also preserves rare Article 226 intervention where clear mala fide exercise of investigative power, abuse and non-compliance with Chapter XII require it. Even then, the High Court may insist on statutory process but cannot dictate how the police investigate.	595
Exceptional Article 226 intervention in a mala fide investigation	The Divine Retreat Centre passage relied on by the Court permits exceptional Article 226 intervention where a clear abuse of investigative power, mala fides and non-compliance with the statutory process require it. Even then, the High Court may insist on observance of the prescribed process rather than dictate how police must investigate. This is a narrow public-law exception to the ordinary statutory remedy; the present proceeding was an application under Section 528 BNSS.	608
Exceptional writ intervention against mala fide	Article 226 intervention may be justified in the rarest cases where mala fide exercise of investigative power, clear abuse of power and non-compliance with	620

Topic	Ratio	Case Sr.no.
investigation	Chapter XII CrPC are established. Even then, the High Court may require compliance with the statutory process but cannot prescribe how the police must conduct the investigation.	
Exceptional Article 226 control of mala fide investigation	Exceptional intervention under Article 226 may be warranted in the rarest cases where mala fide investigative action, clear abuse of power and non-compliance with Chapter XII CrPC are made out. Even then, the High Court may insist on observance of statutory process but cannot dictate how the investigation must be conducted.	627
Exceptional Article 226 intervention against investigative abuse	The High Court may intervene under Article 226 in the rarest cases where mala fide exercise of investigative power, clear abuse of power and non-compliance with Chapter XII CrPC require correction. Even in such a case, the Court may insist on compliance with the statutory process but cannot dictate the manner of police investigation.	629
Exceptional writ intervention in mala fide investigation	Article 226 intervention in an investigation is reserved for exceptional cases in which mala fide exercise of investigative power, clear abuse of power and non-compliance with Chapter XII CrPC are established. Even then, the High Court may insist on compliance with the statutory process but cannot dictate how the police must conduct the investigation.	662
Exceptional grounds for transfer to an independent investigating agency	Transfer to CBI or another independent agency is an extraordinary power to be exercised sparingly on material showing a need to secure fair investigation, credibility or complete justice. Mere allegations against local police are insufficient. Relevant grounds may include prima facie bias, taint or influence by senior officials. The assessment depends on the available material and a reasonable apprehension of injustice; it does not require a conclusive case of police abuse. Here the Court deprecated the delay but left the merits of the fresh closure report to the CJM and ordered no transfer.	714
Exceptional writ intervention against investigative abuse	Article 226 permits exceptional intervention where a clear case of mala fide investigation, abuse of power and noncompliance with Chapter XII CrPC warrants it. Even then, the High Court may insist on observance of the Code's process but cannot dictate how police should conduct the investigation. Ordinary police inaction should be addressed through the statutory Magistrate remedies.	763
Exceptional writ intervention against investigative abuse	Article 226 permits exceptional intervention where a clear case of mala fide investigation, abuse of power and noncompliance with Chapter XII CrPC warrants it. Even then, the High Court may insist on observance of the Code's process but cannot dictate how police should conduct the investigation. Ordinary police inaction should be addressed through the statutory Magistrate remedies.	765
Exceptional constitutional intervention in investigation	The High Court may issue appropriate directions under Article 226 where it is satisfied that investigative powers have been exercised mala fide. Transfer to the CBI is an exceptional power to be used sparingly and cautiously when necessary for credible investigation, complete justice or enforcement of fundamental rights; mere allegations against the local police do not justify routine transfer.	790
Judicial directions where investigation is shown to be mala fide	The absence of a right to dictate investigation does not exclude appropriate directions under Article 226 where the High Court is satisfied that the investigating officer has exercised investigative power mala fide. The Romila Thapar reasoning relied on by the Court requires specific material facts and particulars; a vague, unsupported assertion of bias is insufficient. Prabal Dogra likewise reserves intervention where bias arises from extraneous considerations or mala fides.	814
Fair investigation and a factually	Investigation under Section 2(h) CrPC involves authorised collection of	818

1.4 : Criminal-Side Writs for Fair and Independent Investigation

Topic	Ratio	Case Sr.no.
grounded request for judicial intervention	evidence to ascertain whether an offence has been committed. Fair and truthful investigation protects victims as well as accused persons and is necessary for a fair trial. Judicial intervention on alleged investigative defects requires a factual foundation rather than unsupported suspicion. Applying Nasima and Dharam Pal, the Court found no prima facie basis serious enough for CBI transfer after considering the asserted anomalies and the State's witnessed panchnamas, forensic post-mortem and scientific inspection material.	
Article 226— exceptional CBI investigation without State consent	Section 6 of the Delhi Special Police Establishment Act does not restrict the High Court's constitutional power under Article 226 to direct CBI investigation within a State without its consent. Such a direction does not violate federalism or separation of powers. Following the Constitution Bench in Committee for Protection of Democratic Rights, the Court emphasised that this power must be exercised sparingly, cautiously and exceptionally, including where needed to secure credible investigation, complete justice or fundamental rights, or where the incident has national or international ramifications. The petitioner's supported circumstances must justify its exercise; the suspicions raised here did not.	818
Charge sheet or commenced trial— no absolute bar to exceptional reinvestigation	Superior courts may exceptionally order further investigation, fresh or de novo investigation, reinvestigation or transfer to another agency when the ends of justice require it. Vinay Tyagi treats fresh, de novo and reinvestigation as equivalent expressions, while requiring sparing and cautious exercise. State of Punjab v. CBI and Dharam Pal establish that filing a charge sheet, commencement of trial or examination of witnesses is not an absolute bar to justified intervention. The present request failed for want of a prima facie case for CBI transfer; the Court also noted that more than seven and a half years had elapsed since the death.	818
Exceptional constitutional directions for mala fide investigation	Although interested parties cannot choose the investigating agency, the High Court may issue appropriate directions under Article 226 where it is convinced that investigative powers have been exercised mala fide. A CBI direction is exceptional and must be exercised sparingly and cautiously where needed for credible investigation, complete justice or enforcement of fundamental rights. Mere allegations against local police or vague, unsubstantiated assertions of mala fides do not justify routine transfer.	832
Constitutional intervention for mala fide investigation and exceptional CBI transfer	The High Court may issue appropriate directions under Article 226 when it is convinced that investigative powers have been exercised mala fide. CBI investigation is an exceptional remedy, to be ordered sparingly and cautiously when needed to restore credibility, do complete justice or enforce fundamental rights, including in incidents of national or international significance. Mere allegations against local police or vague assertions of mala fides do not suffice. This constitutional power remains subject to restraint and does not create a party's right to select an investigating agency.	833
Exceptional Article 226 directions for mala fide investigation	The High Court may intervene under Article 226 in a rare case where mala fide use of investigative power, a clear abuse of power and non-compliance with Chapter XII CrPC justify intervention. Even then, it may insist on observance of statutory process but cannot prescribe how the police must investigate. The request for an independent agency in this case resulted in no such direction; the petitioner was relegated to the Magistrate remedy.	838
Exceptional writ intervention in investigation despite alternative remedies	The adopted Divine Retreat Centre passage permits exceptional Article 226 intervention where clear mala fide exercise of investigation powers, abuse of power and non-compliance with Chapter XII CrPC require it. Even then, the High Court may insist on lawful process but cannot dictate how the police should investigate. The quoted Shweta Bhadauria ruling recognises exceptions to refusal of mandamus for failure to use statutory remedies and explains that	853

Topic	Ratio	Case Sr.no.
	Lalita Kumari does not itself establish an entitlement to mandamus without recourse to those remedies.	
Article 226: exceptional intervention against mala fide investigative abuse	The High Court may issue appropriate directions at an aggrieved person's instance where a clear case of mala fide exercise of investigative power, abuse of power and non-compliance with Chapter XII CrPC requires exceptional intervention. Even then, it may insist on compliance with the statutory process but cannot dictate how the police must conduct the investigation.	863
Article 226: exceptional process-compliance directions for mala fide investigation	In an exceptional case clearly establishing mala fide exercise of investigative power, abuse of power and non-compliance with Chapter XII CrPC, the High Court may intervene at an aggrieved person's instance. It may require observance of the statutory process, but cannot prescribe how the police should conduct the investigation.	866
Exceptional writ intervention against abuse of investigative power	Article 226 permits appropriate intervention where mala fide exercise of investigative power or clear abuse and non-compliance with Chapter XII CrPC require the High Court's interference. Under the adopted Divine Retreat Centre passage, this power is reserved for the rarest cases showing that abuse. Even then, the Court may insist on compliance with the statutory process but cannot dictate how the police conduct the investigation.	875
Article 226 investigation oversight — exceptional intervention and limits on directions	In rare cases of mala fide investigation, clear abuse of investigative power and non-compliance with criminal procedure, the High Court may issue appropriate directions under Article 226 to secure observance of the prescribed process. It cannot dictate how the police must conduct the investigation. Mandamus for FIR registration may be declined where the statutory remedies under Sections 154(3), 156(3), 190 and 200 CrPC have not been used, subject to the recognised exceptional grounds for writ intervention. The mandatory-registration principle in Lalita Kumari does not by itself determine entitlement to mandamus without using those remedies. The Court discussed these constitutional qualifications while dismissing the Section 528 BNSS petition with liberty to use the Magistrate remedy.	887
Exceptional writ intervention in mala fide investigation	Article 226 permits appropriate directions where a clear case of mala fide exercise of investigative power, abuse of power and non-compliance with Chapter XII CrPC warrants exceptional intervention. Even then, the High Court may insist on observance of the statutory process but cannot dictate how the police must conduct the investigation. Ordinary police inaction is to be addressed through the Magistrate's statutory remedies. The Court considered this qualification in Divine Retreat Centre while dismissing the petition with liberty to approach the Magistrate.	945
Article 226 investigation directions — mala fides and exceptional transfer to CBI	The principles reproduced from Romila Thapar recognise that Article 226 directions may issue at an aggrieved person's instance where the Court is satisfied that investigative power has been exercised mala fide. A transfer to CBI cannot be routine or rest merely on allegations against local police. The Constitution Bench standard reproduced in that discussion requires sparing and cautious exercise in exceptional situations, such as a need to restore investigative credibility and confidence, national or international ramifications, or the requirements of complete justice and fundamental rights. Vague and unsupported allegations of mala fides are insufficient.	1008
	Sub-Chapter no. 1.5 **Judicial Monitoring and Compliance in Criminal-Side Writs**	
Court-monitored investigation — surveillance rather than dictation of conclusions	Court monitoring of an investigation differs from supervision. In rare and compelling circumstances, a superior court may monitor to ensure a fair, timely investigation free from external interference. It should not direct the investigating officer to form a predetermined opinion or control the execution	10

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	of investigative tasks. The officer forms the opinion reported under Section 173(2) CrPC, while the trial court must independently decide whether an offence is proved.	
Court monitoring and supervision of a criminal investigation	Court monitoring may ensure that investigation progresses fairly, impartially and without undue delay or external interference. It does not permit the court to direct the mode of investigation or shape the investigating officer's opinion under Section 173(2) CrPC. Such supervision could influence the trial court's independent assessment of that opinion. Applying Manohar Lal Sharma, the Court refused to direct investigation according to the petitioners' proposed course, while preserving monitoring in rare and compelling circumstances.	82
Reasons and restraint in higher-court directions influencing investigation	Higher courts must consider the consequences of directions and observations capable of influencing an investigation. The D. Venkatasubramaniam passages relied upon by the Court reject unexplained intervention and uncalled-for observations prejudicing affected persons. They explain that Section 482 CrPC intervention serves the statutory purposes of giving effect to Code orders, preventing abuse of court process and securing justice; the present writ was disposed of with a completion direction rather than supervision of investigative choices.	139
Judicial monitoring and supervision of investigation	Monitoring may ensure fair, impartial and timely progress without external interference, but does not permit the court to direct the mode or manner of investigation. Supervision that helps formulate the investigating officer’s conclusions risks influencing the trial court and is not envisaged by the CrPC. In rare and compelling circumstances, a superior court may monitor progress while leaving investigation to the agency.	147
Judicial monitoring distinguished from supervision of investigation	Judicial monitoring may, in rare and compelling circumstances, ensure that investigation progresses fairly, promptly and without external interference. It does not permit the Court to direct the mode of investigation or shape the investigating officer's opinion. The officer must form that opinion independently, and the trial Court must assess the resulting case; judicial supervision could improperly influence that later assessment. Applying Manohar Lal Sharma, the Court held that it had no jurisdiction to supervise the investigation in the manner sought.	158
Monitoring and supervision of investigation	Monitoring seeks to ensure fair, timely progress without external interference. It does not authorise a court to direct the investigative method or shape the investigating officer’s opinion. Supervision of that kind risks influencing the trial court’s independent evaluation. In rare and compelling circumstances, superior courts may monitor an investigation to secure fairness without assuming its conduct.	161
Police directions to secure compliance with written arrest grounds	The Court directed Police Headquarters to warn investigating officers that failure to supply written arrest grounds in breach of the cited Supreme Court decisions would be presumed deliberate facilitation of the offender and would entail suspension and a departmental inquiry for a major penalty. The DGP was directed to issue the circular within one month and submit compliance with guidelines by 18 August 2026; default could invite contempt proceedings.	232
Court monitoring and supervision of investigation — distinct functions	In rare and compelling circumstances, a superior court may monitor progress to secure a fair investigation without undue delay or external interference. Monitoring does not authorise directing or channelling the manner of investigation. Judicial supervision that shapes the investigating officer's opinion may influence the trial court and undermine an independent trial; directing investigation in a particular manner would amount to such supervision.	317
Judicial supervision of an accused's investigation	The High Court refused the accused's request to direct the manner of investigation or supervise it. It relied on Manohar Lal Sharma v. Principal Secretary for the limit on supervision and on the absence of any demonstrated	321

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	illegality by the agency. This refusal must be read with the exceptional Article 226 intervention recognised in the precedent passages reproduced in the same judgment.	
Hearing before drastic judicial directions affecting an accused	The passage from D. Venkatasubramaniam relied upon by the Court condemns judicial directions requiring arrest, seizure of property and filing of a charge sheet against persons who were neither impleaded nor heard. Such drastic directions, issued mechanically without an opportunity to the affected persons, were treated as a nullity in that case. The proposition concerns the consequences of those judicial directions; it does not establish a general right to participate in ordinary police investigation.	324
Reasons and restraint in judicial observations about investigation	Judicial intervention in investigation requires reasons and regard to its consequences. The Court relied on D. Venkatasubramaniam, which cautions that casual or uncalled-for observations by a higher court may influence the course of proceedings and cause serious consequences, particularly for persons not heard. In the present writ, relief was confined to the statutory duty to finish the investigation promptly rather than directing its method or result.	324
Article 226 — Monitoring investigation without directing its manner	Exceptional judicial monitoring may ensure that an investigation proceeds fairly, promptly and without external interference. It does not permit the court to direct how investigative tasks are performed. Such supervision may shape the investigator’s opinion under Section 173(2) CrPC and undermine the trial court’s independent assessment. The accused’s request for directions to collect particular call records, CCTV footage and WhatsApp chats sought control over the manner of investigation. The Court therefore refused those directions under Article 226.	353
Article 226 — Unpleaded request for a Section 41A CrPC notice	An oral request for a direction requiring police to issue a Section 41A CrPC notice was declined where the writ petition sought no such relief and pleaded no basis to apprehend that police would act unlawfully. The Court also noted the availability of an application for anticipatory bail under Section 438 CrPC. The refusal rested on those defects in the writ; it did not dispense with the police’s obligations under law.	353
Article 226 — exceptional monitoring of investigation without directing the police opinion	A constitutional court may monitor an investigation in compelling circumstances to ensure lawful progress, fairness and freedom from interference. It cannot supervise the investigation by directing its mode or shaping the investigating officer's opinion. Relying on Manohar Lal Sharma, the Court confined its examination to the manner of investigation. Its detailed observations on manipulation and harassment were limited to the writ proceedings, leaving the independent agency to investigate freely.	546
Monitoring distinguished from supervision of investigation	Judicial monitoring seeks to ensure that an investigation proceeds freely, fairly and within time without external interference. Supervision that directs execution of investigative tasks or shapes the officer's opinion under Section 173(2) CrPC would intrude into the trial court's function and risk binding or influencing its decision. The Code does not envisage such supervision. Superior courts may monitor in rare and compelling circumstances while preserving the investigating officer's independent opinion and the trial court's ultimate adjudication.	832
Constitutional monitoring and supervision of investigation	A constitutional court may monitor an investigation but cannot supervise its conduct. Relying on Manohar Lal Sharma, the Court declined interference that would amount to supervision of the ongoing investigation. The reproduced discussion of Divine Retreat Centre preserves the High Court's power under Article 226 to issue appropriate directions when satisfied that investigative power has been exercised mala fide.	840
Judicial directions for arrest and	A direction to arrest the accused and file a charge-sheet would amount to impermissible supervision of investigation. Applying D. Venkatasubramaniam	845

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charge-sheet during investigation	and the reproduced M.C. Abraham reasoning, the Court refused such a direction. Section 41 CrPC confers a discretionary power of arrest that must be exercised cautiously; a cognizable accusation does not require mechanical arrest. Investigation may lawfully result in a charge-sheet or in a finding that no case is made out.	
Section 528 BNSS application for compulsory arrest and charge-sheet	The High Court refused, in an application under Section 528 BNSS, to direct arrest of the accused and filing of a charge-sheet because those directions would supervise investigation. The reproduced D. Venkatasubramaniam and M.C. Abraham reasoning treats arrest as a discretionary police power to be exercised cautiously, with regard to liberty and the circumstances. Registration of a cognizable case does not require mechanical arrest or dictate that investigation must end in a charge-sheet.	848
Defective custodial-death inquiry: conditional vigilance referral	Where the fresh District and Sessions Judge's inquiry found the earlier JMFC inquiry contrary to law, its report was to be forwarded through the Principal Registrar to the Principal Registrar (Vigilance) for inquiry against the former JMFC. This referral was conditional on the fresh findings. The report was also to reach the High Court and Home Department, and the widow remained free to approach the Human Rights Commission concerning the jail authorities and jail doctor.	867
Judicial monitoring distinguished from supervision of investigation	Judicial monitoring maintains surveillance to ensure proper progress and a free, fair and timely inquiry without external interference; it does not direct the mode or manner of investigation. Supervision would direct execution and help form the investigating officer’s opinion, risking influence over the trial court’s independent assessment. Superior courts may monitor in rare and compelling circumstances, but cannot supervise the police investigation. Applying Manohar Lal Sharma, the Court declined to supervise the Merg inquiry; it did not find exceptional monitoring justified.	961
Court monitoring — ensuring fair progress without supervising investigative method	Court monitoring is intended to ensure proper, timely and impartial progress without directing the mode or manner of investigation or permitting external interference. Applying Manohar Lal Sharma, the Court distinguished surveillance of progress from supervision that directs execution or helps formulate the investigator’s opinion. The latter risks influencing the trial court, whose task is independently to assess the police report and evidence. Superior courts may monitor in rare and compelling circumstances, but the direction sought by the accused to investigate in a particular manner would amount to impermissible supervision.	1008

Chapter no. 2
Constitutional Criminal Justice, Fair Trial and Fundamental Rights

Sub-Chapter no. 2.1
Speedy Trial and Delay in Criminal Proceedings

Exceptional direction to finish a trial after prolonged High Court stay	A direction to expedite and conclude a particular trial is distinct from a judicial deadline that bars further proceedings or automatically acquits the accused. Applying High Court Bar Association, Allahabad and the caution against casual expedition directions, the Court held that fixed disposal schedules ordinarily should be left to the trial court and imposed only in exceptional circumstances. Here, a rape trial arising from a 2018 charge-sheet had remained stayed by the High Court for more than five years. Speedy trial is a fundamental right of the victim as well as the accused. These circumstances justified retaining the three-month direction, which carried no automatic acquittal consequence. P. Ramachandra Rao therefore did not require its recall.	46
Speedy trial and the State's duty to	Speedy trial is part of Article 21 and also serves the administration of justice by reducing opportunities to intimidate or win over witnesses. The State must	61

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produce witnesses	ensure timely attendance of its witnesses and cannot allow unexplained police-witness absences or failures to serve process to prolong an undertrial's custody and create grounds for bail based on delay.	
Speedy trial — delay caused by absent police witnesses	Police witnesses cannot stay away from trial and leave an undertrial in prolonged custody without progress in the case. The Court attributed the delay entirely to the State where the investigating officer repeatedly failed to attend despite summons or notice, and his one appearance could not conclude because the case diary was unavailable. It required the prosecution to produce all witnesses on the next evidence date and the Superintendent of Police to report monthly on the departmental inquiry.	67
Speedy trial — financial and administrative inability are no excuse	The State has a constitutional obligation to provide a procedure ensuring speedy trial and cannot defeat that right by pleading financial constraints or administrative inability. Courts must enforce the right and may require positive measures to strengthen investigation, courts, staffing and equipment where necessary to secure timely proceedings.	67
Speedy-trial right — commencement, stages and protected interests	The Article 21 guarantee of speedy proceedings begins with actual restraint through arrest and incarceration and extends through investigation, inquiry, trial, appeal and revision. It protects against oppressive custody, anxiety and impairment of the defence, and also serves society's interest in timely justice. Section 309 CrPC reflects that constitutional guarantee.	67
Unreasonable trial delay — attribution and the choice of remedy	Unreasonable pendency may violate the speedy-trial right unless delay is attributable to the accused or an interim order of a superior court. The relied-upon authorities recognise quashing as a possible consequence, while also treating bail as an alternative to quashing in grave-offence cases. The remedy must be assessed in context; in this murder prosecution the Court refused bail and awarded compensation for the State's established default.	67
Enforcement of witness process in a long-pending trial	Although constitutional courts should ordinarily avoid expedition directions that disturb trial-court calendars, the prolonged pendency, the trial judge’s own concern and the circumstances of this case justified measures to secure attendance. The district Superintendent of Police was directed personally to ensure execution of witness summons and warrants and prompt appearance of witnesses.	222
Prosecution’s continuing duty to secure witnesses and protect speedy trial	Filing the charge-sheet does not end the prosecution’s duty to secure regular attendance of its witnesses. Continued unjustified absence of police witnesses, despite service and an earlier compensation order, violated the detained accused’s fundamental right to a speedy trial.	250
Unjustified police-witness absence and the right to speedy trial	Repeated failure of police witnesses to attend despite service of summons and warrants, without seeking exemption on reasonable grounds, delayed the detained accused’s trial and violated his fundamental right under Article 21. The trial record showed that the delay was attributable to the police witnesses rather than the accused.	251
Financial or administrative inability cannot excuse denial of speedy trial	The State’s constitutional duty to ensure a speedy trial cannot be avoided by pleading inadequate funds or administrative inability. Courts protecting Article 21 may direct positive measures to strengthen investigation and judicial facilities where necessary to secure that right.	251
Speedy-trial protection extends through all stages of criminal proceedings	The right to speedy trial under Article 21 begins with the restraint imposed by arrest and continues through investigation, inquiry, trial, appeal and revision. It protects against oppressive incarceration, anxiety and prejudice to the defence from impermissible and avoidable delay; Section 309 CrPC reflects that guarantee.	251
Speedy criminal justice throughout	Speedy trial is an integral part of Article 21, and the State must provide the infrastructure needed for it. The right extends through investigation, inquiry,	592

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investigation and review	trial, appeal and revision. The adopted discussion treats timely adjudication as a responsibility shared by judges, lawyers, court staff, the Registry and litigants, requiring diligence rather than routine indulgence in avoidable delay.	
Article 21: prosecution delay in securing official witnesses	Repeated failure to serve or return witness summons and warrants, coupled with failure to secure doctors and police witnesses despite the Superintendent of Police's assurance, infringed the undertrial's right to a speedy trial. The later lockdown did not explain the prosecution's earlier failure to produce witnesses or monitor compliance.	621
Delay alone does not create a fixed bar to criminal proceedings	Elapsed time alone does not require quashing an investigation or trial. Applying P. Ramachandra Rao, the Court affirmed that Article 21 speedy-trial guidelines are illustrative and case-specific; the fixed termination limits prescribed in Common Cause and Raj Deo Sharma are not binding time bars. Courts may assess whether the circumstances make delay oppressive and unwarranted. Here no trial order sheets were produced to show that the prosecution alone caused the delay, and four years of pendency did not by itself justify quashing.	767
Available judicial powers to protect the right to speedy trial	Criminal courts should use their available powers, including Sections 309, 311 and 258 CrPC where applicable, to give effect to the right to speedy trial. In an appropriate case, relief or suitable directions may also be sought under Section 482 CrPC or Articles 226 and 227. A fact-sensitive judicial response protects the right; the expiry of an artificial time limit does not automatically require acquittal or discharge.	767
Bail on trial delay — Need for the trial-court record	The assertion that only three witnesses had been examined during two years of custody did not establish unjustified trial delay when the applicant produced no trial-court order sheets to show that he was not responsible for it.	823
Time-bound trial direction — Absence of order sheets	Without trial-court order sheets showing witness attendance and adjournments sought by the accused, the Court declined to impose a particular deadline for conclusion of the trial. It nevertheless expected the undertrial's case to be decided as early as possible in accordance with law.	823
Police failure to secure prosecution witnesses and the right to speedy trial	The police must promptly execute trial-court summons and warrants to secure prosecution witnesses, including police personnel. Persistent failure to produce those witnesses violates the accused's fundamental right to a speedy trial. The Court relied on an earlier bail order, reproduced in this decision, in which an accused detained since May 2017 was released because repeated process against prosecution witnesses remained unserved. That example supported the finding of institutional failure; this order itself granted no bail to Bhuribai.	912
	Sub-Chapter no. 2.2 **Fair Trial, Due Process and Presumption of Innocence**	
Fair criminal trial — judge's active and impartial assessment of evidence	A criminal judge must actively and objectively examine the relevant material to find the truth, rather than act as a mere recorder of the parties' evidence. Fair trial protects the accused while also considering the victim and society. The court must remain impartial and ensure that an attempt to misdirect the trial through perfunctory or deliberately defective material does not displace its independent assessment.	17
Judicial arrest directions — hearing persons likely to be affected	A judicial direction requiring arrest, seizure or prosecution cannot be issued mechanically against persons who have neither been impleaded nor given a reasonable opportunity of hearing. In the precedent relied upon, such directions were set aside for that defect alone. The Court also noted that the persons whose arrest was sought in the present application had not been made respondents.	51
Presumption of innocence and police projection of guilt	An arrested or detained person must be presumed innocent until convicted. Police cannot use their investigation to project the person publicly as guilty or to prejudge the allegations. Statements recorded under Section 161 CrPC are not substantive evidence on which a conviction can be based; guilt must be	61

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	established before a court in a fair trial.	
Fair adjudication — neutrality in assessing serious accusations	A court assessing serious criminal allegations must remain detached, neutral and fair. It must not allow the emotional force of an accusation or unsupported prejudice against the accused to replace scrutiny of the evidence and proof of guilt.	65
Earlier judicial orders and the test for recusal on alleged bias	An adverse judicial ruling or an opinion formed from judicial proceedings does not by itself establish bias requiring recusal. The adopted recusal principles distinguish such views from deep-seated favouritism or antagonism that makes fair judgment impossible. An extrajudicial source may be significant, but its presence or absence is not conclusive by itself. Here, the allegations concerned earlier orders against a co-accused, with no specific allegation of bias against this appellant. Bail had been granted to other co-accused on their own merits, and the Court rejected the recusal request.	107
Unfounded recusal pressure and litigant choice of Bench	A litigant cannot obtain a preferred Bench by making unfounded allegations of bias. Applying Indore Development Authority, the Court held that a judge who can decide impartially must discharge the assigned duty and should not yield to pressure or embarrassment caused by a recusal demand. The administrative transfer request had already been rejected. The Court then rejected the wife's judicial recusal application. It described the application as contemptuous but expressly declined to initiate contempt proceedings.	107
Decision on recusal by the judge whose participation is challenged	A request that a judge recuse from hearing a case is for that judge to decide. The adopted authority requires the judge to examine whether the case can be decided independently and impartially, unaffected by bias or outside pressure. The embarrassment of hearing a recusal request is not itself a reason to withdraw. Applying those principles, the judge decided and rejected the recusal application.	107
Chief Justice's roster authority and constitution of Benches	The recusal authority applied by the Court recognises the Chief Justice's exclusive authority to constitute Benches and allocate judicial work. That authority serves orderly administration and prevents litigants from selecting the judges who will hear their cases. Unjustified recusal demands cannot be used to take over that roster function.	107
Hearing before extraordinary judicial directions with drastic adverse consequences	In the D. Venkatasubramaniam passages relied upon by the Court, judicial directions to arrest, seize property and file a charge sheet were set aside where the affected persons had neither been impleaded nor heard. The reproduced Divine Retreat Centre principle requires a reasonable hearing before a judicial order with drastic adverse consequences. This concerns such judicial intervention in investigation, rather than a routine hearing right before police action.	135
Opportunity of hearing before drastic judicial directions affecting investigation	The D. Venkatasubramaniam passages relied upon by the Court reject casual judicial directions for arrest, seizure and filing a charge sheet against persons who were neither impleaded nor heard. The reproduced Divine Retreat Centre principle requires a reasonable hearing before a judicial order carrying drastic adverse consequences for an affected person. The principle concerns that judicial intervention, rather than a general hearing before routine police investigation.	139
Witness non-appearance and the detained accused's right to timely trial	Repeated failure of a prosecution witness to respond to summons and warrants, delaying the trial while the accused remained in custody, was treated as a violation of Article 21. After the witness was arrested and produced, the Court directed his disciplinary authority to examine the matter and take necessary action for the non-compliance.	184
Supervisory direction to record evidence in a	To prevent abuse of process, the High Court may exercise Article 227 of the Constitution or Section 482 CrPC to direct the district judiciary in a connected	198

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connected corruption trial	criminal trial even when that trial is not the direct subject of the writ petition. It directed the Special Judge to fix the case immediately and record the trap complainant's delayed evidence without further delay.	
Video cross-examination and exceptional personal production from jail	Where the accused wished to cross-examine witnesses personally, the jail authorities were directed to ensure reliable internet connectivity for video conferencing. In this case, personal production before the trial court was permitted only exceptionally, with the accused bearing the security expenses of transport from Central Jail, Bhopal.	222
Reasons required for judicial findings and refusal of relief	A judicial finding must be supported by reasons so that the litigant can understand why relief was refused and a superior court can assess the exercise of judicial power. Discretion does not permit arbitrary or summary disposal without application of mind. Although the Sessions Judge's transfer-refusal order lacked reasons, the High Court examined the alleged apprehension and affirmed the refusal on different grounds.	245
Fair trial — repayment defence remains open despite refusal of handwriting examination	An accused has a fundamental right to a fair trial and to defend the charge. Refusing handwriting-expert examination on the basis of admitted signature and delivery did not decide the accused's separate plea that he had borrowed a smaller amount and repaid it. The plausibility of that defence remained for the trial court to assess.	349
Judicial vigilance against deliberately defective investigation	A fair trial requires justice to the accused and society and a fair opportunity for the prosecution to prove its case. The presiding judge must act objectively and remain especially vigilant where a deliberately defective investigation threatens to misdirect the trial.	410
Fair trial— opportunity to present defence evidence	A fair trial protects the interests of the accused, victim and society and requires fair opportunities for the persons concerned. Presenting evidence in defence is a valuable right, and its denial can deny a fair trial. Judicial steps to obtain material evidence must preserve that fairness.	414
Fair trial and the opportunity to choose and present defence evidence	A free and fair trial is protected by Article 21, and an impediment to it may also offend Article 14. The right to defend includes a reasonable opportunity to adduce evidence under Section 243(2) CrPC. The accused ordinarily knows how to prove his defence; the nature of that evidence cannot be left entirely to the court's discretion. This right remains subject to scrutiny of bona fides, relevance and unnecessary delay. The Court allowed production of the requested records while directing completion of the eleven-year-old trial within three months of communication of its order.	556
Hearing before drastic judicial directions affecting an accused	The precedent relied upon condemned judicial directions to arrest, seize property and file a charge-sheet without notice to the persons accused. Before issuing such drastic judicial directions affecting a person's reputation, the court must provide a reasonable opportunity of hearing; the precedent treated the order made without that opportunity as a nullity.	564
Active and impartial judicial assessment in a fair criminal trial	A fair criminal trial requires attention to the interests of the accused, the victim and society. The presiding judge must actively elicit relevant material and assess it objectively, while maintaining fairness and impartiality. The judge must guard against attempts to divert the determination through a perfunctory or deliberately defective investigation.	582
Coercive judicial investigation directions — hearing persons whose reputation and interests are affected	Judicial directions requiring arrest, seizure or filing of a charge sheet can have drastic consequences and should not be issued casually without hearing the persons affected. The reproduced Supreme Court reasoning treats failure to give notice before such directions as a ground for setting the order aside and cautions against unreasoned observations that may influence the investigation or legal process.	632
Trial judge's active	Fair trial protects the interests of the accused, the victim and society. The	713

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and impartial duty to ascertain the truth	presiding judge must act objectively and impartially, take an active interest in eliciting relevant material, and ensure that a perfunctory or deliberately defective investigation does not subvert the determination of guilt. The Court relied on these duties when rejecting the contention that it was bound by the prosecution doctor's evidence.	
Adverse investigation directions — hearing before orders with drastic consequences	The D. Venkatasubramaniam passages relied upon by the High Court disapproved directions to arrest, seize property and file a charge-sheet against persons who had neither been impleaded nor heard. Referring to Divine Retreat Centre, the reproduced reasoning required a reasonable opportunity of hearing before a judicial order with drastic consequences for an affected person's reputation. The absence of a hearing independently rendered the impugned order in that precedent unsustainable. The principle concerns such adverse judicial directions; in the present petition the High Court refused to compel arrest and a charge-sheet, without deciding a separate factual dispute about service of notice.	741
Evidence recorded in the accused's absence: no adverse testimony or prejudice	The Court did not decide the legality of recording the evidence of three witnesses in the accused's absence, despite counsel's expressed willingness to cross-examine them. Those witnesses had turned hostile, said nothing against the accused and caused him no prejudice. The decision rested on that absence of prejudice rather than a general conclusion that counsel's consent validates examination without the accused.	774
Adverse judicial investigation directions — opportunity of hearing	Judicial directions requiring arrest, seizure of property and filing of a charge-sheet, with serious consequences for the persons accused, cannot be issued casually without giving those affected a reasonable opportunity of hearing. In the relied-upon decision, failure to implead or hear the affected persons was itself sufficient to invalidate such intrusive judicial directions.	802
Procedural irregularity, prejudice and a proportionate trial remedy	The reproduced authority distinguishes irregularities that vitiate proceedings under Section 461 CrPC from other procedural infringements, whose effect ordinarily depends on substantial prejudice to the accused. Where a defect does not itself vitiate the trial, an available remedy should preserve fair procedure and the interests of both the accused and the prosecution. Re-examination with the accused present and able to instruct counsel may protect those interests. This remedial approach does not dispense with the Section 273 right or make every breach automatically harmless.	835
Hearing before coercive judicial investigation directions against affected persons	The adopted D. Venkatasubramaniam passage, drawing on Divine Retreat Centre, condemns a judicial order directing arrest, seizure and filing of a charge sheet without hearing the persons against whom those directions operate. In that setting, the absence of a reasonable opportunity of hearing, coupled with the drastic consequences for the affected persons and their reputation, was itself a ground for setting the order aside.	854
Fair trial and the judge's duty to ascertain the truth	A fair criminal trial protects the interests of the accused, the victim and society. The presiding judge must assess the material objectively and take an active, impartial role in eliciting relevant evidence needed to reach the truth. The Court's public duty includes protecting the innocent and ensuring that a guilty person does not escape because a perfunctory or deliberately defective investigation subverts the trial.	920
Judicial directions affecting persons not heard — restraint against coercive investigation orders	In refusing to prescribe coercive steps in investigation, the Court relied on D. Venkatasubramaniam, which criticised unreasoned directions to arrest, seize property and file a charge-sheet against persons not heard. That decision referred to Divine Retreat Centre on the need to hear persons likely to suffer drastic consequences from a judicial investigation order. The present writ did not independently decide a notice defect.	941
Trial on independent	Observations founded on a State enquiry report in proceedings to cancel	990

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evidence despite earlier observations in bail-cancellation proceedings	anticipatory bail do not dispense with proof at the criminal trial. While refusing to recall those observations, the Court directed that the trial be decided strictly on the evidence brought on record, thereby preserving an independent determination of the criminal charge.	
	Sub-Chapter no. 2.3 Articles 14, 20, 21 and 22 in Criminal Process	
Constitutional protection against torture during detention	Torture violates the right to life and human dignity under Article 21 and the requirement of non-arbitrariness under Article 14. Convicts, prisoners and undertrials retain these protections, subject only to restrictions authorised by a fair and just legal procedure. Police and prison authorities must protect the life and dignity of persons in custody, and courts may issue appropriate directions in individual custodial-torture cases.	22
Section 138 NI Act conviction and subsequent cheating prosecution	An earlier conviction under Section 138 NI Act does not bar a subsequent prosecution under Section 420 IPC merely because both arise from the same transaction. Applying Sangeetaben Mahendrabhai Patel, the Court held that the relevant comparison for double jeopardy is between the ingredients of the offences, rather than the allegations alone. Fraudulent or dishonest intention is relevant to cheating but need not be proved for cheque dishonour; in the cheque prosecution, antecedent liability is presumed subject to rebuttal by the drawer, proceedings begin by complaint, and any fine is adjusted against the legally enforceable liability. These requirements do not apply to the IPC offences discussed. The distinct ingredients therefore defeated the objection based on Article 20(2), Section 300 CrPC, Section 26 of the General Clauses Act and Section 71 IPC.	153
State duty to provide prescribed medical care to a prisoner	The State must ensure appropriate medical treatment for a person in custody. The jail superintendent was required to provide treatment advised by the doctors, and the Commissioner of Police was directed to provide adequate escorts whenever hospital treatment or a medical check-up was required.	222
Prison transfer inconsistent with Supreme Court medical directions	Where the Supreme Court had specifically directed confinement in Central Jail, Bhopal and follow-up treatment at AIIMS, Bhopal, the High Court refused transfer to another jail. To implement that order, it directed that the accused should not be transferred elsewhere, even temporarily, until conclusion of the trial.	222
Fair investigation as part of constitutional fair trial	Fair trial under Articles 20 and 21 includes an impartial, truthful and transparent investigation directed to discovering the truth. Deliberate creation of evidence and false implication violate that protection; the investigative aim cannot be conviction by any means.	410
Voluntary polygraph testing and a victim's refusal to undergo testing	Voluntarily undergoing a polygraph test does not establish that the person is truthful. A victim cannot be compelled to undergo such testing merely to expedite investigation, because forced testing intrudes unjustifiably into mental privacy. The complainant's refusal, contrasted with the applicants' participation, did not establish that the prosecution witnesses were unreliable or warrant interference with the Section 319 order.	611
Article 20(2) — mining penalty is not prior prosecution and punishment	The protection against double jeopardy under Article 20(2) requires an earlier prosecution and punishment for the same offence, which the applicant must plead and establish. Payment of the Collector's penalty under the Madhya Pradesh Sand Rules, 2019 discharged civil liability and did not constitute that prior criminal prosecution and punishment. It therefore did not bar the IPC prosecution.	688
Article 21: protection of reputation when	Reputation forms part of the protection of Article 21 and belongs equally to privileged and disadvantaged persons. When a judicial decision is likely to damage a person's reputation, the court must observe the governing legal	864

Topic	Ratio	Case Sr.no.
making adverse judicial observations	safeguards and afford an opportunity to be heard before making adverse observations.	
Article 21 and pandemic prison decongestion: category selection and safe release	The Supreme Court's pandemic directions, applied in this bail order, treated control of COVID-19 in overcrowded prisons as an Article 21 concern. High Powered Committees were to determine suitable categories and periods of parole or interim bail by considering offence severity, sentence or charge and other relevant factors; the reference to offences punishable up to seven years was illustrative. Released prisoners were to receive transport home or the option of temporary shelter during lockdown. This release required medical examination, testing if advised, hospital treatment if positive, and arrangements to send the appellant home if medically cleared.	865
Prisoners' Article 21 protection and access to medical care	Imprisonment does not extinguish constitutional rights except to the extent lawfully curtailed. Prisoners retain protection of life and health, and State authorities must address deficiencies in prison medical assistance. All prison deaths, natural and unnatural, require documentation. The unexplained injuries and absence of jail first aid here could not be disregarded merely because the State described the death as natural.	867
Article 21 and pandemic prison decongestion in an individual bail decision	The adopted order in In Re: Contagion of COVID 19 Virus in Prisons required High Powered Committees to identify prisoners suitable for parole or interim bail, considering the nature and severity of the offence, sentence and other relevant factors. Offences punishable up to seven years were an example for consideration, while category selection remained with the committee. Considering the allegations and the need to decongest prisons during the second wave, the Court granted Section 439 bail without commenting on the merits, subject to express release conditions.	878
Hearing before consequential judicial directions in a criminal investigation	Before issuing judicial directions to arrest, seize property or file a charge-sheet that would seriously affect a person’s rights and reputation, the Court must provide that person a reasonable opportunity of being heard. The relied-upon precedent treated such directions, issued without notice to the affected persons, as a nullity. This requirement concerns consequential judicial orders controlling investigation.	922
Double jeopardy depends on identity of offence ingredients	For the double-jeopardy objection considered under Article 20(2), Section 300 CrPC, Section 26 of the General Clauses Act and Section 71 IPC, identity of the allegations or motive is not the test; the ingredients of the offences must be compared. The applicant’s earlier Section 138 NI Act conviction did not bar prosecution under Sections 406 and 420 IPC concerning the same cheque because the offences have different ingredients. The Court affirmed cognizance without determining whether the IPC charges would ultimately be proved.	924
Hearing before consequential judicial directions in a criminal investigation	Before issuing judicial directions to arrest, seize property or file a charge-sheet that would seriously affect a person’s rights and reputation, the Court must provide that person a reasonable opportunity of being heard. The relied-upon precedent treated such directions, issued without notice to the affected persons, as a nullity. This requirement concerns consequential judicial orders controlling investigation.	927
	Sub-Chapter no. 2.4 **Legal Aid, Access to Justice and Effective Defence**	
Hearing a jail application despite defects in prescribed format	For the bail application sent from jail and argued by the appellant personally, the Court did not insist on compliance with the prescribed High Court Rules format. This relaxation allowed the application to be heard in the circumstances of that case.	222
Effective legal assistance before	An arrested person must have early access to legal assistance so that opposition to custody is effective. The remand advocate should explain the allegations and	232

Topic	Ratio	Case Sr.no.
remand	grounds for seeking custody, with documents translated into a language the person understands. An unrepresented accused must be informed of legal aid and afforded free assistance where needed. Section 38 BNSS also permits meeting an advocate during interrogation, though not throughout it.	
Legal-aid counsel — allegation of incompetence for not citing a later judgment	Failure to cite a judgment pronounced after both impugned orders did not support an allegation that legal-aid counsel was incompetent. The Court refused to presume incompetence, rejected the allegation as baseless after comparing the dates, and left counsel at liberty to pursue defamation proceedings if he chose.	303
Counsel of Choice and Appointment of Existing Counsel as Amicus	An unanswered letter from counsel did not establish that the appellant wished to change representation where he had regularly appeared and been identified by the same counsel and had filed no application for replacement. Acknowledging the right to counsel of choice, the Court found no infringement on these facts when the existing advocate accepted appointment as amicus and argued the appeal on merits.	529
Opportunity to engage counsel of choice during a limited remand	Within the limited remand for fresh examination of the investigating officer, the accused was entitled to a short adjournment if he wished to engage a new lawyer of his choice. The Court balanced that opportunity with expedition by limiting the next examination date to ten days and retaining the overall timetable for evidence, further Section 313 examination and judgment.	913
Counsel of choice and experienced legal aid on capital-case remand	On remand the accused's request to engage different counsel of his choice or to receive legal aid had to be allowed. If legal-aid counsel was provided, the trial court was directed to appoint an advocate with at least fifteen years' standing and thorough knowledge of criminal law. That experience requirement was an express direction for effective representation in this case.	917

Chapter no. 3
Privacy, Dignity, Liberty and Due Process in Criminal Process

Sub-Chapter no. 3.1
Right to Privacy, Dignity and Movement

Courts' duty to protect liberty while preserving lawful investigation	Courts must protect the public interest in proper investigation and enforcement of criminal law while ensuring that criminal process is not used for selective harassment. Applying Arnab Manoranjan Goswami, the Court treated the legality of arrest and protection of personal liberty as matters requiring adjudication even though connected public-order proceedings were pending elsewhere.	41
Police media disclosure and public parading of suspects	Privacy, dignity and reputation are protected by Article 21, including for persons with criminal antecedents. Restrictions require lawful authority, reasonableness and a connection with their object; an executive police circular cannot supply the missing statutory authority. The Court quashed clauses 6-B, 8 and 11 of the DGP circular dated 2 January 2014 insofar as they permitted media production of victims or suspects and disclosure of suspects' personal details or photographs. It prohibited police disclosure of suspect and victim identities, publication of suspects' photographs with covered or uncovered faces, and public parading of suspects. Investigation updates to the media require the district Superintendent of Police's approval, with personal responsibility for deviations.	61
Custodial dignity and mental or psychological torture	A person does not lose Article 21 protection on arrest or imprisonment. Custodial restrictions must have legal authority, and police must protect the person's dignity and basic human rights. Torture includes mental or psychological suffering and humiliating treatment, as well as physical injury. Interrogation, including interrogation in the interests of State security, cannot justify torture or third-degree methods to obtain information or a confession.	61

Topic	Ratio	Case Sr.no.
Confidential history sheets and discreet surveillance	History sheets and surveillance registers maintained for crime prevention must remain confidential and surveillance must be discreet. Even a person treated as a hardened criminal retains privacy, dignity and reputation. The Court held that this does not permit displaying history-sheeters' photographs even at police stations.	61
Privacy — bodily integrity, personal information and choice	The right to privacy includes protection against intrusion into the body, informational privacy and privacy of choice. It also includes control over dissemination of personal information and over the portrayal of one's life and image. The Court relied on these principles when requiring consideration of the allegations of pressure for intimate photographs and videos.	63
Dignity and protection from mental torture in custody	Arrest or prosecution does not extinguish Article 21 rights. Only restrictions authorised by law are permissible, and protection of human dignity extends to mental and psychological torment and humiliating treatment as well as physical torture.	410
Constitutional protection of consensual adult intimacy and sexual orientation	The Navtej Singh Johar passage relied upon by the Court recognises sexual orientation as intrinsic to dignity, autonomy and privacy. Consensual adult same-sex intimacy, choice of partner, equal citizenship and protection from discrimination receive constitutional protection; criminalisation of that conduct under Section 377 was unconstitutional, and Suresh Kumar Koushal was overruled.	437
Woman's dignity — No presumption of compelled sex work from a slum address	Residence in a slum does not justify a general presumption that a woman engages in sex work under compulsion. Poverty may explain an individual's circumstances, but a blanket characterisation of women living in slums cannot be made at the cost of their dignity. In considering bail, the Court rejected the inference sought solely from the applicant's Aadhaar address; it did not establish a general rule about the circumstances of every sex worker.	473
Externment and the reasonableness of restrictions on freedom of movement	Externment restricts the fundamental right to move freely under Article 19(1)(d) of the Constitution and must satisfy the test of reasonableness under Article 19(5). It is an extraordinary preventive measure to be used sparingly, with strict compliance with the governing statutory requirements and hearing safeguards. The competent authority's subjective satisfaction must rest on objective material.	512
Article 21 — overnight detention of a rape victim without lawful authority	Keeping the rape complainant at a desk within the police station did not remove the need for lawful authority to detain her. Distance from her parental home did not justify retaining her throughout the night and following day. Referring to the safeguard against a woman's night arrest in Section 46(4) CrPC, the Court held the victim's unauthorised overnight detention to violate Article 21. A direction to keep her in a secure place did not authorise police to confine her in a One Stop Centre on a purported oral judicial order.	546
A girl's right to live without threats to dignity and life	Every girl, as a citizen, has a right to live peacefully without threats to her dignity or life. The Court invoked that right when assessing the societal character of the alleged continued stalking, harassment and threats and refusing compromise-based quashing.	578
Adults' Freedom to Live Together Without Interference	Two adults willing to live their lives according to their wishes are entitled to do so without interference by others. The Court recognised this freedom in the petition for police protection and directed action on a complaint identifying specific offences and offenders, applying Lata Singh v. State of U.P.	653
An Adult's Freedom to Choose a Spouse Without Coercive Interference	An adult is free to decide whom to marry. Applying the narrated Lata Singh v. State of U.P. principles, the Court recognised that disapproval of an adult's choice does not justify threats, harassment or violence. It treated the adult complainant as free to decide her own life and choose the applicant as her spouse, while expressly refraining from determining the asserted marriage's	656

Topic	Ratio	Case Sr.no.
	validity.	
	Sub-Chapter no. 3.2 **Right to Travel Abroad and Personal Liberty**	
Unjustified LOC restraint and the right to travel abroad	Travel abroad forms part of personal liberty under Article 21 and is an important human right, subject to lawful reasonable restrictions. The Court found that restraining a bailed accused who regularly attended trial and had permission to travel, solely through an unjustifiably continued LOC, infringed that right. His later journey did not erase the completed infringement. Because the proposed journey concerned his employment, the Court also found a violation of Article 19. The protection of life includes dignity and self-esteem.	83
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	Sub-Chapter no. 3.3 **Legality, Necessity and Proportionality in Liberty Restrictions**	
Legality, necessity and proportionality of restrictions on personal liberty	A restriction on life, personal liberty or privacy requires a basis in law, a legitimate State aim and proportionate means, with procedural safeguards against abuse. Procedure must be fair, just and reasonable, and the overlapping guarantees of Articles 14, 19 and 21 must be respected. Applying this framework to travel restraint, the Court held that the right to travel is qualified but that the unreviewed LOC lacked justification after bail, regular trial attendance and court permission to leave the country.	83
Legality, necessity and proportionality of restrictions on personal liberty	A restriction on life, personal liberty or privacy requires a basis in law, a legitimate State aim and proportionate means, with procedural safeguards against abuse. Procedure must be fair, just and reasonable, and the overlapping guarantees of Articles 14, 19 and 21 must be respected. Applying this framework to travel restraint, the Court held that the right to travel is qualified but that the unreviewed LOC lacked justification after bail, regular trial attendance and court permission to leave the country.	85
Externment Must Satisfy the Constitutional Test of Reasonableness	Externment is an extraordinary restriction on the freedom of movement guaranteed by Article 19(1)(d), with consequences for residence, family life and livelihood. It must be used sparingly and satisfy the reasonableness requirement of Article 19(5). The absence of material supporting the statutory grounds and present necessity rendered the externment order unreasonable in this case.	454
	Chapter no. 4 **Public Law Compensation for Illegal Custody, Detention and Police Excess**	
	Sub-Chapter no. 4.1 **Public-Law Compensation under Articles 21 and 226**	
Public-law compensation for established Article 21 violations	Compensation for unconstitutional deprivation of life or liberty is available in proceedings under Articles 32 and 226 as a public-law remedy in addition to private-law damages for tortious acts of public servants. For an established Article 21 violation, the claim proceeds on strict liability and cannot be defeated	22

Topic	Ratio	Case Sr.no.
	by a defence of sovereign immunity.	
Public-law compensation for established police violations of Article 21	A patent and incontrovertible violation of fundamental rights through police misconduct may attract monetary compensation against the State in writ jurisdiction. A high standard of proof applies to allegations of brutality, torture or custodial violence, and sovereign immunity is no defence to the public-law claim. Compensation depends on the circumstances and does not bar additional civil compensation in tort or compensation under Section 357 CrPC. Release from custody does not erase an earlier unlawful invasion of rights. The Court reserved the petitioner's compensation claim for further hearing on the alleged eviction and individual officers' conduct.	61
Compensation for violation of the speedy-trial right	A breach of the Article 21 right to speedy trial caused by unjustified police-witness nonappearance may be redressed by monetary compensation even where bail is refused. In this application, the Court directed the State to pay the undertrial Rs. 30,000 within one month for failing to produce its police witness and allowing the trial to remain stalled.	67
Public-law compensation after withdrawal of an unlawful LOC	Ending an unlawful restraint does not remove the court's power to compensate an established violation of fundamental rights. Applying the constitutional-compensation precedents, the Court directed the State to pay Rs. 5,00,000 for the airport restraint by depositing the amount in the High Court Registry within one month for withdrawal by the petitioner. The remedy was available despite prior deletion of the LOC, and the petitioner remained free to seek further damages through a civil suit.	83
Strict public-law liability and absence of sovereign immunity for an established Article 21 violation	Compensation under Articles 32 and 226 for an established infringement of life or personal liberty is a public-law remedy based on strict liability. Sovereign immunity is no defence to that constitutional claim. The remedy is distinct from, and additional to, damages in private law; an available civil suit does not by itself exclude appropriate constitutional redress.	83
Assessment of constitutional compensation and adjustment against civil damages	Constitutional compensation primarily redresses the injury; punishment for an offence remains for the criminal court. Its amount depends on the particular facts, without a fixed formula. Public-law compensation does not bar a lawful civil claim for damages, but the amount already paid may be adjusted against damages awarded for the same wrong.	83
Public-law compensation after withdrawal of an unlawful LOC	Ending an unlawful restraint does not remove the court's power to compensate an established violation of fundamental rights. Applying the constitutional-compensation precedents, the Court directed the State to pay Rs. 5,00,000 for the airport restraint by depositing the amount in the High Court Registry within one month for withdrawal by the petitioner. The remedy was available despite prior deletion of the LOC, and the petitioner remained free to seek further damages through a civil suit.	85
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Assessment of constitutional compensation and adjustment against civil damages	Constitutional compensation primarily redresses the injury; punishment for an offence remains for the criminal court. Its amount depends on the particular facts, without a fixed formula. Public-law compensation does not bar a lawful civil claim for damages, but the amount already paid may be adjusted against damages awarded for the same wrong.	85
Public-law compensation for denial of speedy trial	A breach of the fundamental right to speedy trial may be redressed by monetary compensation even when bail is refused. The State cannot claim sovereign immunity for a fundamental-right violation. For the delay attributable to the	251

Topic	Ratio	Case Sr.no.
despite refusal of bail	two defaulting police witnesses, the Court directed payment of Rs 20,000 within thirty days and recovery from their salaries.	
Writ Appeal Against a Compensation Direction in a Bail Order	Where the State challenged only the compensation direction and left the bail order and factual findings unchallenged, the compensation direction was treated as an exercise of Article 226 jurisdiction because Section 439 CrPC did not authorise it. A writ appeal against that direction was therefore maintainable.	371
Public-law compensation for deliberate false implication and imprisonment	Acquittal alone does not warrant compensation under Article 21. Compensation was justified because the Court found deliberate false implication for oblique motives followed by substantial imprisonment. It awarded ₹1 lakh to Jagdish and ₹3 lakh each to Harnam Singh and Harkanth, taking account of their respective detention and the resulting suffering.	410
Constitutional compensation—strict liability and sovereign immunity	For an established unconstitutional deprivation of life or personal liberty by public servants, public-law compensation rests on strict liability. Sovereign immunity is no defence to that constitutional remedy, and the State may seek indemnification from the wrongdoer.	410
Public-law compensation and other remedies	Constitutional compensation supplements private-law damages and does not bar compensation under Section 357 CrPC. A civil damages claim may still be pursued, with an appropriate adjustment for public-law compensation already paid in respect of the same wrong.	410
Perjury prosecution does not preclude constitutional compensation	Prosecution for false evidence and compensation for the victim's suffering serve different purposes. Directing perjury proceedings therefore does not prevent a constitutional court from also awarding compensation for an established violation of fundamental rights.	410
Article 21 compensation for incarceration caused by false implication	Public-law compensation depends on the facts and a serious violation of Article 21; acquittal or a minor breach of public duty does not alone establish entitlement. Applying the narrated authorities on malicious prosecution, liberty and dignity, the Court found that false implication had caused almost six years of unjustified incarceration. It awarded ₹2,00,000 against the State, payable within one month, and required proof of payment before the Principal Registrar within 45 days. The award rested on the established infringement of personal liberty, rather than an automatic consequence of acquittal.	599
Further civil compensation alongside the public-law award	The narrated public-law principles treat constitutional compensation as distinct from and additional to private-law damages. In this case, the Court expressly preserved the appellant's liberty to bring a civil suit against the investigating officer and the two named witnesses for further compensation, and directed that its ₹2,00,000 award would not be adjusted in such a suit. That direction preserved a further remedy without deciding the merits of a later civil claim.	599
Article 21 compensation for established malicious prosecution and prolonged incarceration	Public-law monetary relief is available for a patent and incontrovertible violation of fundamental rights through police misconduct; the required standard of proof is high. Here the Court found deliberate malicious implication, police participation in an imaginary-encounter account, and imprisonment of about twelve and fifteen years. Those established liberty violations required compensation by the State. Each surviving appellant was awarded Rs 3 lakh, payable within three months. The entitlement rested on the established misconduct and prolonged loss of liberty, rather than acquittal alone.	836
Sovereign immunity in public-law claims for fundamental-rights violations	Violation of fundamental rights through police misconduct may attract public-law liability in addition to criminal and tort remedies. Pecuniary compensation for such an established violation is borne by the State, and sovereign immunity is not a defence to that public-law claim. The remedy remains confined to patent and incontrovertible rights violations established to the required high standard.	836
Compensatory	Public-law compensation for an established fundamental-rights violation is	836

Topic	Ratio	Case Sr.no.
assessment of public-law monetary relief	directed to redressing the injury rather than punishing the wrongdoer. Its amount depends on the circumstances, without a fixed formula. The duration and actual impact of loss of liberty are material: a person who remained on bail stands differently from one wrongfully incarcerated for many years. Applying that approach, the Court treated the surviving appellants' imprisonment of about twelve and fifteen years as warranting substantial monetary redress.	
Civil damages in addition to constitutional compensation and adjustment	Constitutional compensation for loss of liberty does not displace a civil claim for the actual loss caused by malicious prosecution. The appellants could pursue that loss through a civil suit requiring proof of their damages. The Rs 3 lakh public-law award to each appellant was liable to adjustment against any later civil damages award, preserving both remedies while avoiding double recovery for the same loss.	836
Custodial death: public-law compensation independent of civil and criminal remedies	Compensation under Articles 32 and 226 for an established violation of Article 21 is a public-law remedy based on strict State responsibility for breach of the duty to protect fundamental rights. It is distinct from tort damages and criminal prosecution, and their availability does not alone defeat constitutional relief. On the unexplained custodial injuries and failure to provide jail first aid, the Court awarded the widow Rs. 3 lakh while ordering a fresh inquiry and preserving her right to claim compensation by civil suit. The award did not decide individual criminal responsibility or prejudge the fresh inquiry.	867
Article 21 compensation: patent violation and evidentiary safeguards	Before granting public-law compensation for custodial death or torture, the court considers whether the Article 21 violation is patent and incontrovertible, gross enough to shock its conscience, and supported by death, medical evidence or visible injury or disability. An unsupported, false or exaggerated allegation may require recourse to ordinary civil or criminal remedies. The absence of medical or independent evidence does not make custodial violence lawful or unactionable; the additional constitutional remedy depends on satisfaction of its own conditions.	867
Article 21 compensation for malicious false implication and prolonged imprisonment	Public-law compensation may redress an established violation of Article 21 through malicious prosecution and wrongful imprisonment. It does not follow from every acquittal or minor failure of public duty. Drawing on the compensation principles reproduced from Islamic Relief Committee of Gujarat and S. Nambi Narayanan, and the relief granted by the Supreme Court in Ankush Maruti Shinde, the Court held the State responsible for the investigating officer’s collusive false implication of the appellants, who had each spent more than eleven years in actual custody. It directed payment of ₹3 lakh to each appellant within one month and filing of payment receipts before the Principal Registrar within forty-five days.	950
Public-law compensation and a further civil claim for wrongful imprisonment	Compensation in public law for an established infringement of Article 21 is distinct from the private-law remedy in tort. The principles reproduced from S. Nambi Narayanan recognise that a civil claim does not bar constitutional compensation and that a public-law award does not prevent a further civil claim or compensation under Section 357 CrPC. In this case, the Court expressly left the appellants free to sue the responsible witnesses and investigating officer for further compensation and directed that its constitutional award would not be adjusted against compensation in that civil suit.	950
	Sub-Chapter no. 4.2 **Recovery from Erring Officers and State Responsibility**	
Recovery of speedy-trial compensation from the responsible police officer	The State remained immediately liable to pay the Rs. 30,000 compensation, but was expressly permitted to recover it from the salary of the investigating officer whose unjustified nonappearance stalled the trial. The Court also required monthly progress reports on the departmental inquiry against the erring officers.	67

4.3 : Contempt and Enforcement of Constitutional Compensation

Topic	Ratio	Case Sr.no.
State compensation and recovery from responsible police officers	The State was directed to pay the constitutional compensation and recover the Rs. 5,00,000 from the salaries of the former investigating officer and the erring Superintendent of Police, Jabalpur. The cited compensation authorities recognise State redress and recourse against responsible officers. Ravikant S. Patil separately cautioned against directly fixing personal liability or an adverse service entry without the appropriate basis and hearing; the operative salary-recovery direction in this case was accompanied by further scrutiny of the officers' conduct.	83
State compensation and recovery from responsible police officers	The State was directed to pay the constitutional compensation and recover the Rs. 5,00,000 from the salaries of the former investigating officer and the erring Superintendent of Police, Jabalpur. The cited compensation authorities recognise State redress and recourse against responsible officers. Ravikant S. Patil separately cautioned against directly fixing personal liability or an adverse service entry without the appropriate basis and hearing; the operative salary-recovery direction in this case was accompanied by further scrutiny of the officers' conduct.	85
Recovery of constitutional compensation from responsible persons	After directing the State to compensate the falsely implicated appellants, the Court ordered recovery in equal shares from the two investigating officers and the three witnesses found responsible. This was a direction based on the fabricated prosecution established in this case.	410
Recovery of State compensation from responsible wrongdoers	The State was directed to pay the compensation and was permitted to recover the amount from the investigating officer’s salary or pension, and from the two named witnesses as arrears of land revenue. This permission followed the Court’s findings of false implication and did not make the appellant’s receipt of the State award depend on prior recovery from those persons.	599
State responsibility and recovery of constitutional compensation from erring persons	The State bears liability to pay compensation for the established violation of fundamental rights by its functionaries. Payment to the affected person need not await recovery from the individual wrongdoers. In directing the State to compensate the surviving appellants, the Court permitted it to recover the amount from the erring persons.	836
State compensation for custodial wrongs and recovery from defaulting officers	The State's obligation to pay constitutional compensation does not prevent it from seeking indemnification or taking lawful proceedings against the responsible officers. In directing payment to the widow, the Court expressly reserved the State's liberty to recover the compensation from the defaulting officers; individual responsibility remained subject to the fresh inquiry.	867
State responsibility and recovery of compensation for collusive false implication	Having found that the investigating officer had acted in connivance with the prosecution witnesses, the Court held the State responsible for his conduct and directed it to compensate each appellant. It permitted the State to recover the compensation from the officer’s salary or pension and from the two identified prosecution witnesses as arrears of land revenue. The permission to recover was linked to the express finding of collusive false implication; the State’s obligation to pay was not made conditional on first recovering the money from those responsible.	950

Sub-Chapter no. 4.3
Contempt and Enforcement of Constitutional Compensation

Recovery and contempt directions on default in paying constitutional compensation	The State had one month to deposit the compensation in the High Court Registry. If it failed to do so, the Registrar General was directed to initiate recovery proceedings and register a contempt petition under Article 215 and Sections 10 and 12 of the Contempt of Courts Act. This was a conditional enforcement direction, rather than a finding of an existing default or completed contempt.	83
Recovery and	The State had one month to deposit the compensation in the High Court	85

Topic	Ratio	Case Sr.no.
contempt directions on default in paying constitutional compensation	Registry. If it failed to do so, the Registrar General was directed to initiate recovery proceedings and register a contempt petition under Article 215 and Sections 10 and 12 of the Contempt of Courts Act. This was a conditional enforcement direction, rather than a finding of an existing default or completed contempt.	
	Sub-Chapter no. 4.4 **Compensation for Illegal Arrest, Custodial Violence and Detention**	
Reservation of a fresh compensation claim for custodial violence	After finding custodial violence and recognising the petitioner's entitlement to compensation, the Court left its determination to fresh proceedings in the absence of notice to the respondents on that relief. It expressly protected a separate compensation petition and held that the present proceeding would not bar that remedy.	22
Separate Civil Claim After a Bail-Stage Compensation Award Is Set Aside	Setting aside compensation because it exceeded Section 439 CrPC does not determine that the detainee has no entitlement to compensation. A separate civil suit against the erring officers for violation of Articles 20 and 21 remains open, and the civil court must decide it independently of the order confined to bail jurisdiction. Assessment of compensation requires consideration of the parties' status, criminal antecedents, fundamental rights and other relevant factors.	371
Assessment of compensation for violation of personal liberty	The amount of constitutional compensation depends on the circumstances, without a fixed formula. Its emphasis is compensatory: detention, humiliation, injury to reputation and the physical, mental, social and family consequences of false implication are relevant to redressing the established violation.	410
Mental agony and injury to dignity in compensation for wrongful custody	The absence of a complaint of physical custodial torture does not exhaust the enquiry into an Article 21 violation. In the principles reproduced from S. Nambi Narayanan, the Court recognised mental torment in custody and injury to reputation and dignity as relevant consequences of malicious prosecution and wrongful imprisonment. Those principles supported compensation for the appellants' prolonged custody following their collusive false implication.	950
	Macro Division II **Criminal Courts, Jurisdiction and Commencement of Proceedings**	
	Chapter no. 5 **Sanction, Prior Approval, Limitation and Statutory Bars**	
	Sub-Chapter no. 5.1 **Limitation, Delay and Statutory Bar to Criminal Proceedings**	
Section 468 CrPC — limitation for Section 498A IPC prosecution	Section 498A IPC, which carries a maximum sentence of three years' imprisonment, attracts the three-year limitation period for taking cognizance under Section 468 CrPC. In rejecting the limitation objection, the Court noted that the wife was allegedly expelled on 30 July 2020 and lodged the FIR on 18 October 2021, within that period. This was an additional ground to the Court's finding of continuing cruelty.	2
Limitation for Section 498-A IPC and continuing mental cruelty	The limitation period for taking cognizance of an offence under Section 498-A IPC is three years under Section 468(2)(c) CrPC, ordinarily counted from the last act of cruelty. Where expulsion attributable to dowry demands or earlier cruelty compelled the wife to remain in her parental home, the resulting mental trauma could continue there without a fresh physical act at that place. On those allegations, the Court treated the offence as continuing, with a fresh cause each day, and rejected the asserted limitation bar. The lapse of more than three years since the last alleged physical acts abroad did not justify quashing.	29
Quashing where a legal bar prohibits	The inherent power may be exercised where a manifest legal bar prevents institution or continuation of the criminal proceeding, including absence of	64

Topic	Ratio	Case Sr.no.
criminal proceedings	required sanction. The reproduced quashing categories also recognise an express statutory bar or a specific statutory provision providing efficacious redress for the grievance.	
Continuing mental cruelty and the objection that a Section 498-A complaint is time-barred	Where dowry-related cruelty compels a wife to remain at her parental home, the mental trauma may continue despite the cessation of physical assaults. Applying Rupali Devi, the Court held that such continuing cruelty gives a fresh cause of action each day. On allegations that the wife remained excluded from her matrimonial home unless further dowry was brought, the Court rejected the objection that the later FIR was time-barred merely because the last physical assault and expulsion occurred in 2017.	87
Three-year limitation and delay in complaining of matrimonial cruelty	In rejecting the delay objection, the Court applied the three-year period under Section 468 CrPC and noted that even three years from the marriage had not elapsed when the FIR was lodged. The wife's decision to wait in the hope that her marital life would improve did not make the allegations belated.	101
Absence of incident dates in a timely dowry-cruelty complaint	At the quashing stage, specific allegations of demanding a car and ₹5 lakh and beating the wife for non-fulfilment of that demand were not vague merely because the dates of individual incidents were omitted. The complaint had been made before three years had elapsed from the marriage and was within the limitation period considered under Section 468 CrPC.	190
Delay in a matrimonial-cruelty FIR within limitation	Where the prosecution is not barred by limitation, delay in lodging a matrimonial-cruelty FIR does not by itself justify quashing. In considering such delay, the Court recognised that a wife may defer legal action in the hope that her married life will improve.	192
Limitation objection to the Section 498-A proceedings	The Court rejected the limitation objection where the alleged expulsion occurred on 17 July 2019 and the FIR was lodged on 23 November 2021, within the three-year period referred to under Section 468 CrPC. It also relied on the continuing mental cruelty caused by enforced residence at the parental home.	235
Section 468 CrPC — limitation does not bar a Section 376 prosecution	The limitation bar under Section 468 CrPC does not apply to an offence under Section 376 IPC because it is punishable with imprisonment exceeding three years. The reporting delay therefore did not render the FIR time-barred on that ground.	340
Filing or Initiation of Prosecution as the Relevant Date for Limitation	For Section 468 CrPC, the relevant date is the filing of the complaint or initiation of prosecution, rather than the later date on which the Magistrate takes cognizance. Where the FIR and closure report were filed within limitation, the Magistrate’s rejection of the closure report and taking cognizance after prolonged pendency did not make the prosecution time-barred.	376
Condonation When a Complaint Is Filed Beyond Limitation	Where a complaint is filed after the limitation period, the complainant may seek condonation under Section 473 CrPC, and the court decides that application after notice and hearing to the accused and complainant. The relied-upon passage did not decide whether notice requirements differ between the explanation-of-delay and interest-of-justice limbs of Section 473.	376
Section 468 CrPC— three-year limitation in the cruelty prosecution	Applying the three-year limitation period for taking cognizance under Section 468 CrPC, the Court rejected the time-bar objection in this cruelty prosecution because the FIR was lodged within three years of the alleged permanent desertion.	411
Double jeopardy and pending food-safety proceedings	Mere pendency of food-safety penalty proceedings does not bar an FIR for the separately alleged IPC offences. Article 20(2) prohibits repeated prosecution and punishment for the same offence, while Section 300 CrPC protects against retrial following a competent court’s subsisting conviction or acquittal within its terms. Where no earlier trial or judgment and no prior penalty or punishment are shown, the pleaded double-jeopardy objection and the Section 26 General Clauses Act objection do not justify quashing.	434

5 : Sanction, Prior Approval, Limitation and Statutory Bars

Topic	Ratio	Case Sr.no.
Section 468 CrPC limitation and offences punishable above three years	The limitation periods prescribed by Section 468 CrPC do not apply to the alleged offences punishable with imprisonment exceeding three years. The complaint alleged Section 420 IPC, carrying up to seven years; Section 467, carrying up to life imprisonment; and Section 468 IPC, carrying up to seven years. The Court therefore rejected the statutory limitation objection to the complaint concerning the earlier flat transactions. This determination concerned the applicable punishment ranges, separately from the effect of factual delay.	449
Section 468 Objection Rejected on the FIR's Timing in This Cruelty Case	In rejecting the threshold limitation objection, the Court referred to the three-year period under Section 468 CrPC for an offence punishable with a maximum of three years. The marriage was in March 2019 and the FIR was registered in March 2021. On those dates it found the allegations before it within the stated period and refused quashing on limitation.	458
Section 195(1)(b)(ii) CrPC — Forgery before production in court	The requirement of a written court complaint under Section 195(1)(b)(ii) CrPC applies to the specified document offences committed while the document is in court custody. A private complaint remains maintainable where the document was allegedly forged before its production in court. Later filing does not attract the bar merely because the document is then before a court. The applicants did not allege forgery in court custody, so the bar did not apply.	470
Delayed private complaint where cognizance is not barred by limitation	Where cognizance is not barred by limitation, belated filing does not by itself justify dismissal of the complaint under Section 203 CrPC. The explanation for delay may be assessed on evidence at trial. If the trial court finds a plausible explanation, the delay loses significance. The present restoration of process did not finally establish the complainant's explanation or remove delay from later evidentiary assessment.	559
Section 195(1)(b)(ii) CrPC and a document allegedly forged before production in court	The court-complaint restriction under Section 195(1)(b)(ii) CrPC applies to the enumerated document offences committed after the document has been produced or given in evidence in court, while it is in court custody. It did not bar a private complaint under Section 200 CrPC, or an FIR, on the allegation that an affidavit had already been forged before it was filed in the civil suit. The Court restored consideration of the complaint without deciding whether the forgery was proved.	586
Section 300(1) CrPC — prior competent-court conviction or acquittal	Section 300(1) CrPC bars a fresh trial while an earlier conviction or acquittal by a competent court remains in force, for the same offence or, on the same facts, an alternative offence chargeable or convictable under Section 221(1) or (2). Its bar is subject to the statutory qualifications. An administrative penalty, without the required earlier criminal trial, does not establish that protection.	688
Criminal limitation — offences punishable beyond three years and continuing wrongdoing	The Court rejected limitation as a ground for quashing the FIR concerning old revenue-record manipulation. Some alleged offences carried imprisonment exceeding three years, for which no period of limitation was provided. It also found that collusion with revenue authorities had initially prevented discovery and characterised the offence in question as continuing. Referring to Sections 472 and 473 CrPC, the Court stated that cognizance could be taken even after the limitation period. These were grounds for refusing quashing of the alleged collusive government-land transactions and continuing possession and commercial use; the age of the original revenue entries did not establish a bar to the prosecution.	742
Condonation of delay in appealing conviction on grounds of illness	An unsupported assertion of prolonged illness did not establish sufficient cause under Section 5 of the Limitation Act for a delay of ten years and nine days in appealing a conviction. No medical or treatment documents were produced before either the appellate court or the High Court. The applicant had not surrendered after conviction and appealed only after arrest on a perpetual warrant. Even on a lenient assessment, the delay remained unexplained.	780

Topic	Ratio	Case Sr.no.
Section 468 CrPC — Offences punishable beyond three years	The Section 468 CrPC limitation objection failed where the offences under Sections 409, 420, 467 and 468 IPC were punishable with imprisonment exceeding three years. On the conceded punishments, Section 468 prescribed no limitation for those offences.	825
Section 189 IPC and the Section 195 CrPC bar	Section 195 CrPC does not bar proceedings for the offence under Section 189 IPC. The Court relied on the inclusion of Section 189, the explanation to Section 2(d), and the rule governing investigation of combined cognizable and non-cognizable offences to reject the request to quash an FIR under Sections 186, 189 and 34 IPC.	841
Section 468 CrPC does not time-bar prosecution for rape offences punishable above three years	Since the alleged offences under Sections 376 and 376(2)(n) IPC carry imprisonment exceeding three years, Section 468 CrPC prescribes no period of limitation barring their prosecution. The Court therefore rejected limitation as a ground for quashing the FIR.	855
Continuing dowry-related cruelty defeats the pleaded delay and limitation objections	Where the complaint alleged that the wife had been expelled for non-fulfilment of dowry demands and continued to live at her parental home as a result, the Court treated the cruelty as continuous. It therefore rejected the contention that the FIR was delayed or that the allegations were barred by time.	856
Section 195(1)(b)(ii) CrPC: forgery before production in court	The court-complaint requirement under Section 195(1)(b)(ii) CrPC applies to the specified document offences committed after the document has been produced or given in evidence, while it is in court custody. It does not apply merely because a document forged beforehand is later filed in court. Applying Iqbal Singh Marwah, the Court held that it could direct the Principal Registrar to lodge an FIR concerning the allegedly pre-existing forged age certificate used in bail applications.	874
Section 195(1)(b)(ii) CrPC: forgery outside court before production	The Section 195(1)(b)(ii) restriction applies to the specified document offences committed after a document has been produced or given in evidence while it is in court custody. It does not cover a document forged outside court before its later production. Applying Iqbal Singh Marwah to the fabricated official demarcation papers, the Court directed the trial court to lodge an FIR against the two officers. This direction concerned their prior fabrication, separately from the court complaint ordered for the witness's false evidence.	879
Section 195(1)(b)(ii) CrPC and forgery committed before production in court	The court-complaint requirement under Section 195(1)(b)(ii) CrPC applies to the enumerated offences committed in respect of a document after it has been produced or given in evidence in court, while it is in judicial custody. Applying Iqbal Singh Marwah, the Court held that the bar did not apply to the alleged forged document in this case because it had not been manipulated while in custodia legis. Its subsequent production in court did not prevent the complainant from proceeding independently under Section 200 CrPC.	958

Sub-Chapter no. 5.2
Sanction for Prosecution and Public Servant Protection

Reasonable connection with official duty for sanction under Section 197 CrPC	Section 197 CrPC protects an act directly and reasonably connected with official duty, including an excess in performing that duty where the connection remains real. Public office or a pretended claim of duty alone is insufficient. On the contemporaneous material, the Court found prima facie that the firing on a public road occurred without necessity or provocation and was not an act in discharge of official duty or an excess connected with it. Sanction was therefore unnecessary at that stage. The trial court was directed to assess guilt independently on the evidence.	97
Stage at which the need for prosecution sanction may be determined	The need for sanction should ordinarily be considered at cognizance, but may arise at the inception, charge stage, during evidence or at another appropriate stage, and may be raised for the first time in appeal. A prima facie decision can	97

Topic	Ratio	Case Sr.no.
	be reconsidered as further material emerges. Where necessary, the accused must have an opportunity to adduce evidence of the connection between the act and official duty; good or bad faith may require determination after trial.	
Dereliction-of-duty test for an act claimed to be official	One test of the connection required by Section 197 CrPC is whether omission or refusal to perform the act complained of could have exposed the public servant to a charge of dereliction of official duty. An affirmative answer may indicate the required connection. The inquiry concerns the quality and scope of the particular act, since an official act may be performed properly or in dereliction of duty.	97
Competent authority's role in deciding prosecution sanction	Where prosecution sanction is necessary, the competent authority must decide it on a sound and objective assessment. The court cannot act as the sanctioning authority.	97
MGNREGA Section 30 Protection Requires Due Care and Attention	Protection for acts done or intended in good faith under Section 30 of MGNREGA requires due care and attention, applying Section 52 IPC. The allegations of payment for an unconstructed road, allowing the Sarpanch's son to control Panchayat work while she signed documents, and burning records when sought did not attract that protection. The Court therefore refused the claimed immunity at the FIR stage.	459
Section 197 CrPC — sanction question may be reconsidered after evidence	Where the allegations and available material do not establish the necessary connection with official duty, absence of sanction under Section 197 CrPC need not prevent the complaint from proceeding at the initial stage. Applying Dr. S.M. Mansoori, the Court refused to quash the proceedings but directed the trial court to decide the sanction question at final hearing on the evidence and documents produced. The trial court must decide independently, without being influenced by the High Court's preliminary observations.	483
Section 197 CrPC — protected status and connection with official duty	Section 197 CrPC requires both that the accused be a public servant not removable except by or with governmental sanction and that there be a reasonable connection between the alleged act and actual or purported official duty. Mere excess does not remove protection where that connection exists; official position cannot serve as a cloak for an unconnected act. On the charge-sheet allegations, excavation of forest land by JCB contrary to express permission conditions lacked that connection. The Court also found prima facie that employment with SECL did not establish Central Government employment attracting Section 197(1)(a). Both questions were expressly left open for the trial court after evidence.	484
Section 197 protection and reasonable connection with official duty	Section 197(1) CrPC requires previous government sanction where an eligible public servant, removable only by or with government sanction, is accused of an act done or purportedly done in discharge of official duty. The act must have a reasonable connection with that duty. Excess in performing a duty does not by itself remove protection, but official position cannot cloak an unrelated private crime. Applying the narrated authorities to both FIRs and the arrest record, the Court found the ranger's conduct connected with protecting forest land and retaining an arrestee. Cognizance without considering the sanction requirement was therefore defective.	598
Section 197 protection after retirement	The words "is or was" in Section 197(1) CrPC preserve protection for an eligible former public servant where the alleged offence was committed while acting or purporting to act in official duty. Retirement alone does not remove the requirement of prior sanction. The Court accordingly rejected the argument that the ranger's departure from service defeated his protection; the statutory status and official-duty conditions still govern.	598
Stage and supporting material for a Section 197	The need for sanction may arise at any stage of the proceeding and may have to be determined as the relevant facts emerge. Where Section 197 applies, the	598

Topic	Ratio	Case Sr.no.
objection	absence of sanction affects the court's jurisdiction to take cognizance. An accused raising that objection after process issues may produce relevant, admissible documents and material to assist the court in deciding applicability and correcting the jurisdictional error.	
Section 197 CrPC: alleged excess reasonably connected with official duty	Sanction is required where the alleged act is directly and reasonably connected with the public servant's official duty, even if the act exceeds lawful authority. The connection must be genuine; official status cannot serve as a pretended or fanciful cloak for an independent crime. On the complaint's own account of unauthorised sand extraction from a forest river and interception by forest officials, the Court found the alleged abuse and assault connected with their forest-protection duties. Cognizance under Sections 294 and 323 IPC therefore required previous sanction under Section 197 CrPC.	877
Section 197 CrPC: bribery and conspiracy lack the required duty connection	Section 197 requires a reasonable connection between the alleged act and actual or purported official duty. Excess in carrying out a duty may retain protection, but official status cannot cloak unlawful gain. Although demarcation formed part of the officers' functions, demanding illegal gratification and conspiring for its receipt were misuse of that position, rather than performance or excessive performance of official duty. The Court therefore held that no separate Section 197 sanction was required.	879
	Sub-Chapter no. 5.3 **Maintainability of Criminal Proceedings and Preliminary Objections**	
Advocates — no professional exemption from IPC prosecution	An act that constitutes an offence under the IPC remains an offence when committed by an advocate. Professional status does not exempt an advocate from prosecution; the Court regarded unlawful conduct by a person knowing the law as a serious matter.	64
When special legislation excludes the general criminal procedure	The existence of a special enactment does not by itself displace the CrPC. Under Section 4, exclusion depends on a special procedure or an express or necessarily implied statutory bar. A positive duty imposed on specified authorities to report wrongdoing does not, without such a bar, make their reporting power exclusive. Finding no exclusion under the relevant society legislation, the Court upheld the Magistrate's power to take cognizance of the complaint.	86
Stamp-duty penalty and criminal prosecution	The Stamp Act did not prohibit application of the IPC to the alleged deliberate evasion. The special mechanism for recovering deficient duty and imposing a penalty therefore did not bar prosecution for an independently disclosed cheating offence. Payment of the penalty did not absolve criminal liability; the penalty order was treated only as prima facie indication of evasion in the quashing inquiry.	164
Special-law reporting duty and exclusion of ordinary criminal law	A positive statutory obligation on specified officials to report financial irregularities does not, without prohibitory language or necessary implication, exclude others from setting criminal law in motion. An implied exclusion must follow from the statute's language and intended scheme. The Court applied this reasoning in rejecting the contention that the Stamp Act's special machinery displaced IPC prosecution.	164
Hearing the platform against which adverse allegations are made	Where a writ seeks transfer or monitoring of an NDPS investigation on allegations against an e-commerce platform, the court cannot accept those allegations and make prejudicial findings without hearing the platform. Amazon was therefore a necessary party. The petition failed for non-joinder after the petitioner did not take the opportunity to implead it.	169
Accused as parties to a stranger's investigation-transfer writ	In a third party's writ seeking to change the course of an ongoing criminal investigation, the persons already arrayed as accused were necessary parties for hearing. The Court distinguished that situation from an accused demanding a preferred investigating agency. A stranger was not automatically excluded for	169

Topic	Ratio	Case Sr.no.
	want of standing, but the requested change could not be made without hearing the affected accused.	
Necessary and proper parties	A necessary party is one without whom an effective order cannot be made. A proper party is one in whose absence an effective order can be made, but whose presence is needed for complete and final adjudication. The Court applied that distinction to the proposed adverse findings and investigation-transfer relief.	169
Opportunity to cure non-joinder	A petition should not be dismissed for non-joinder of a necessary party without an opportunity to cure the defect. Once the omission was pointed out, the petitioner's insistence that it would implead the parties only on a court direction was treated as failure to use that opportunity. The consequence of non-joinder then followed.	169
Claim to be aggrieved by an order declaring a co-accused absconding	The applicant showed no legal basis on which he was an aggrieved person entitled to challenge the order declaring another accused absconding. His apprehension of bearing the civil liability if tried without that co-accused did not establish a ground for interference with the order or for delaying his own trial.	177
Special enactments and the criminal procedure under the CrPC	Under Section 4 CrPC, offences under other laws are ordinarily investigated, inquired into and tried under the Code, subject to a special enactment regulating that procedure. Exclusion of the general procedure requires an express provision or necessary implication from the special law's language and scheme; describing an enactment as a complete code is not sufficient by itself.	197
Investigation of non-cognizable allegations with a cognizable offence	Where a complaint includes a cognizable offence as well as a non-cognizable offence, the police may investigate both and submit a charge-sheet. Applying Ushaben, the Court rejected the objection to a mixed-offence charge-sheet merely because cognizance of one offence was ordinarily subject to a complaint requirement.	271
Section 195(1)(b)(ii) CrPC — forgery before a document enters court custody	Applying Iqbal Singh Marwah, the Court held that the bar in Section 195(1)(b)(ii) CrPC concerns the enumerated document offences committed after production or admission in evidence, while the document is in court custody. An affidavit allegedly forged outside court before being filed did not attract that bar in the challenge to cheating and forgery charges. No charge under Section 193 IPC had been framed.	318
Section 145 CrPC Proceedings During a Pending Civil Suit	Where a civil suit concerning the disputed property was already pending between the parties and interim relief could be sought from the civil court, proceedings under Section 145 CrPC and attachment of the property until disposal of the suit were unwarranted. The revisional court therefore committed no jurisdictional error in setting aside the attachment.	370
Good-Faith Protection for NHAI Officers Requires Due Care and Attention	Section 28 of the National Highways Authority of India Act protects acts done or intended in good faith under the Act or its rules and regulations. Applying Section 52 IPC, the Court required the accused invoking that protection to plead and prove due care and attention. NHAI's maintenance duty includes keeping an entrusted highway motorable. Alleged unrepaired ditches, without repair, closure or appropriate traffic regulation when the road was unsafe, prevented acceptance of good faith at the quashing stage.	387
Section 430 Companies Act does not imply an exclusion of criminal jurisdiction	The exclusion of civil-court jurisdiction under Section 430 Companies Act cannot be read as excluding criminal courts or the IPC. An exclusion of court jurisdiction must be specific and construed strictly; it cannot be supplied by inference merely because the statute assigns certain matters to the Tribunal or Appellate Tribunal. The Court rejected that proposed criminal-jurisdiction bar and declined Section 482 relief.	447
Section 4 CrPC: Exclusion of General	The CrPC applies to IPC offences and, subject to a governing special procedure, offences under other laws. A special enactment displaces the general procedure	459

5.3 : Maintainability of Criminal Proceedings and Preliminary Objections

Topic	Ratio	Case Sr.no.
Procedure by a Special Law	where its terms or necessary implication exclude that procedure. Describing an enactment as a complete code or pointing to a civil recovery mechanism is insufficient without such exclusion.	
Section 482 CrPC application for FIR registration — Available Magistrate remedy	A direct Section 482 CrPC application seeking police registration of an FIR was dismissed as not maintainable where the applicant could approach the Magistrate. The Court declined to direct registration and granted liberty to invoke Section 200 CrPC/Section 223 BNSS. The dismissal concerned the requested procedural route and did not adjudicate the truth of the accusation or foreclose a properly instituted complaint.	475
Parallel civil proceedings and a criminal complaint alleging forgery	Pendency of civil litigation over a document, including an appeal before a higher court, does not by itself justify dismissing or quashing a criminal complaint concerning its alleged forgery. The criminal allegations must be examined independently under the criminal procedure. The complaint alleging an affidavit forged before its production in the civil suit could not be rejected merely because the land-title litigation remained pending.	586
Priority and stay between related civil and criminal proceedings	Related civil and criminal proceedings may continue simultaneously; neither must invariably await the other. Criminal proceedings ordinarily receive precedence so that allegations are determined promptly, but this is not an inflexible rule. Whether to stay either proceeding depends on the circumstances, including its nature and stage and the likelihood of embarrassment. The possibility of conflicting findings alone does not require a stay.	586
Section 482 CrPC — hearing co-accused joined as respondents	In a petition seeking to quash cognizance and summons against the applicants, co-accused joined as respondents did not need to be heard merely because they were parties to the same complaint. The Court therefore proceeded despite non-service on those co-accused.	803
Section 26 General Clauses Act — prior punishment objection	Where the accused had not already been punished under the Food Safety and Standards Act, 2006, Section 26 of the General Clauses Act did not bar prosecution under Sections 420 and 272 IPC. This was an express ground in the quoted Manish Gupta decision which the Court applied when refusing to quash the Section 420 prosecution before it.	806
Section 528 BNSS application for FIR registration and the available statutory remedies	On a grievance that the police had not registered an FIR despite a complaint, the Court dismissed the Section 528 BNSS application and left the applicant free to approach the competent Magistrate. The authorities relied on distinguish the police duty to register cognizable information from an entitlement to bypass statutory remedies by seeking a High Court direction. The availability of remedies before police superiors and the Magistrate governed the refusal to entertain the application.	853
Parallel civil and criminal proceedings: precedence and stay depend on the circumstances	Civil and criminal proceedings may continue simultaneously. Criminal proceedings ordinarily receive precedence because criminal justice should be prompt, but there is no rigid rule requiring a stay of the civil case. The likelihood of embarrassment and special circumstances, such as a proceeding nearing completion, inform the decision; the possibility of conflicting findings alone is insufficient.	861
Recusal sought because of an earlier direction to register an FIR	The earlier direction to register an FIR was based on the Collector's inquiry report and did not amount to an adverse judicial finding against the applicant or make the Court an aggrieved complainant. The Section 195 objection to that direction was also unfounded because the alleged forgery preceded filing. The Court rejected the request for recusal on that basis and treated the attempt to change the forum after detection of the alleged forged filing as impermissible forum shopping.	874
Section 197 sanction: stage of determination and	The need for sanction is ordinarily considered at cognizance, but the objection may arise at charge, on appeal or later as the evidence develops; the accused	877

Topic	Ratio	Case Sr.no.
competent authority	need not wait until charges are framed. A prima facie decision may be reconsidered on fuller material, and in some cases defence evidence or trial findings on good or bad faith are needed. Sanction itself must come from the competent authority on an objective assessment, rather than from the criminal court. Here the complaint and inquiry statements already established the duty connection, so the Court set aside cognizance and dismissed the complaint for absence of sanction.	
Monitoring nomination and authority to file a PCPNDT complaint	Nomination of an Executive Magistrate to assist in monitoring implementation of the PCPNDT Act does not itself appoint that officer as the Appropriate Authority or authorise a complaint under Section 28. Following Dr. Manvinder Singh Gill, the Court held that the SDO (Revenue), nominated as officer in charge by the District Magistrate, had not filed the complaint in the capacity of the Appropriate Authority. The State's designation of District Magistrates and the monitoring nomination did not supply the necessary complaint authority.	966
Curing an improperly authorised PCPNDT complaint by the Appropriate Authority joining	The Court treated the nominated SDO's lack of proper authority as a curable irregularity, permitting the District Magistrate as Appropriate Authority to join or substitute as complainant and the SDO to testify. It construed Section 28 purposively in light of the Act's object of preventing sex selection and female foeticide, and applied M.M.T.C.'s representative-authority analogy after considering the cognizance-bar objection. The unexplained four-year challenge and advanced trial stage also weighed against quashing. This was the High Court's application of the analogy, without dispensing with Section 28's eligibility requirements. The District Magistrate was directed to seek substitution within one month and the trial to conclude within six months of receipt.	966
Eligible complainants and private notice under Section 28 PCPNDT Act	Section 28 permits cognizance on a complaint by the Appropriate Authority, an officer authorised as specified in clause (a), or a person who satisfies clause (b). A private complainant must give the Appropriate Authority at least fifteen days' notice in the prescribed manner of the alleged offence and the intention to complain to the court. The availability of that conditional private route means that the Appropriate Authority is not the only possible complainant; it does not permit unconditional initiation by anyone.	966

Chapter no. 6
FIR, Complaint, Preliminary Inquiry, Final Report and Protest Petition

Sub-Chapter no. 6.1
Preliminary Inquiry and Cognizable Information

FIR registration — absence of preliminary inquiry does not invalidate cognizable information	Under Section 154 CrPC, an FIR must be registered when the information discloses a cognizable offence; a prior inquiry into the truth or credibility of the accusation is not required. Where the information does not itself disclose a cognizable offence but indicates a need for inquiry, a limited preliminary inquiry may ascertain whether such an offence is disclosed. Its purpose is not to test veracity. The omission of a preliminary inquiry does not, by itself, invalidate an FIR or justify quashing it.	4
Preliminary inquiry — illustrative categories and case-specific discretion	Whether a preliminary inquiry is appropriate depends on the facts and circumstances. The categories identified in the relied-upon authorities include matrimonial or family disputes, commercial offences, medical negligence, corruption and unexplained abnormal delay in reporting. The list is illustrative. Even in corruption or disproportionate-assets cases, the possibility or desirability of inquiry does not create a mandatory precondition to FIR registration or an enforceable right in the accused to demand it when cognizable information is already available.	4
CBI Crime Manual	The CBI Crime Manual is a collection of administrative directions for the	4

6.1 : Preliminary Inquiry and Cognizable Information

Topic	Ratio	Case Sr.no.
— administrative guidance cannot override Section 154 CrPC	internal guidance of CBI officers, rather than a statute. Its preliminary-inquiry procedure cannot override the CrPC or, without support in the Code, impose a mandatory preliminary inquiry within the statutory FIR-registration scheme.	
Cognizable information — sufficient basis for suspicion and flexible form	At FIR registration, the information must provide a basis to suspect the commission of a cognizable offence; the police officer need not already be convinced that the offence has been proved. The relied-upon authorities recognise that a General Diary entry containing such information may, in an appropriate case, be treated as the FIR. Formal or informal collection of information may suffice to disclose the offence; there is no fixed format of preliminary inquiry that must invariably precede registration.	4
Cognizable information — registration and limited purpose of preliminary inquiry	Where information discloses a cognizable offence, FIR registration is mandatory under Section 154 CrPC. A preliminary inquiry, where the information calls for one, is limited to determining whether a cognizable offence is disclosed and is not a prior trial of the information's truth. The investigating officer must assess the reliability of the allegations in the course of investigation rather than being directed by the Court to investigate from the accused's preferred point of view.	10
Non-cognizable allegations — Magistrate's order for police investigation	Where the allegations disclose only a non-cognizable offence, police cannot investigate without a Magistrate's order under Section 155(2) CrPC. The reproduced quashing framework distinguishes such a case from information disclosing a cognizable offence that permits investigation under Section 156(1).	64
Preliminary inquiry before registration of a matrimonial FIR	Under Section 154 CrPC, information disclosing a cognizable offence requires registration of an FIR. The fact that a complaint concerns matrimonial affairs does not make a preliminary inquiry mandatory or confer a right on the proposed accused to demand one. Whether such inquiry is appropriate depends on the facts, and its limited purpose is to ascertain disclosure of a cognizable offence, rather than test the truth of the accusation. Since the complaint disclosed prima facie cruelty, the absence of a preliminary inquiry did not vitiate the FIR.	84
Preliminary enquiry before registration of a corruption FIR	A preliminary enquiry is not mandatory before every corruption FIR. Its necessity depends on the facts and circumstances, and an accused has no right to insist upon it merely because corruption is alleged. Where information discloses a cognizable offence, the police may register the FIR without first conducting such an enquiry. Applying CBI v. Thommandru Hannah Vijayalakshmi, the Court rejected the contention that absence of a preliminary enquiry by itself vitiated the FIR.	150
Limited purpose of preliminary enquiry	A preliminary enquiry serves only to ascertain whether the information reveals a cognizable offence. It does not test whether the information is true, genuine or credible. If the information already discloses a cognizable offence, an enquiry cannot be used to postpone the registration required by Section 154 CrPC.	150
CBI Manual cannot override Section 154 CrPC	The CBI Crime Manual comprises administrative instructions for the internal guidance of its officers. It is not a statute and cannot override the Code of Criminal Procedure or introduce a mandatory preliminary enquiry into Section 154 when the Code does not require one.	150
Negative preliminary inquiry — submission of report to the Magistrate	Where police conclude after a preliminary inquiry that no cognizable offence is made out, they must submit the report to the Magistrate under Section 157 CrPC. Sending the opinion only to a superior police officer and withholding it from the Magistrate is unlawful because the Magistrate must be able to consider whether investigation or an inquiry is required.	314
Sections 154 and 157 CrPC — registration	The duty to register cognizable information under Section 154 differs from the	314

Topic	Ratio	Case Sr.no.
and investigation thresholds	threshold for investigation under Section 157(1). The police require reason to suspect commission of an offence and may decline investigation for insufficient grounds under that provision, but must report such foreclosure to the Magistrate.	
Preliminary inquiry — Omission does not by itself invalidate an FIR	In the family dispute before it, the Court considered that the police should have conducted a preliminary inquiry because the FIR expressly identified an accused as the father of the complainant's daughter-in-law. It nevertheless held that failure to conduct that inquiry did not, by itself, invalidate the FIR. Quashing followed from the separate finding that the delayed, superficial allegations were retaliatory and continuation of the proceedings would abuse the criminal process.	351
Matrimonial FIR: Absence of Preliminary Inquiry	A preliminary inquiry in a matrimonial dispute is not an indispensable condition for registering an FIR. Whether an inquiry is needed depends on the information and circumstances. Where the allegations disclose a cognizable offence, failure to hold a preliminary inquiry does not by itself vitiate the FIR. The Court therefore rejected the petitioners' demand to invalidate this FIR on that ground.	363
Preliminary Inquiry: Disclosure of an Offence Rather Than Truth of Allegations	A permissible preliminary inquiry serves to ascertain whether the information discloses a cognizable offence. Its purpose is not to determine whether the accusation is true or to conduct a trial of the accused's defence. When the information sufficiently discloses such an offence, Section 154 CrPC requires registration and investigation.	363
Investigation of a noncognizable offence and Magistrate's permission	Where the FIR and accompanying material disclose only a noncognizable offence, police investigation requires a Magistrate's order under Section 155(2) CrPC. The absence of a cognizable disclosure capable of supporting investigation under Section 156(1) is among the recognised grounds for considering quashing.	435
Magistrate's order for investigation of a noncognizable offence	Where the allegations and accompanying material disclose only a noncognizable offence, police investigation requires an order under Section 155(2) CrPC. Absence of a cognizable disclosure permitting investigation under Section 156(1) is a recognised ground for considering quashing.	436
Absence of Preliminary Inquiry Does Not by Itself Vitiate a Cognizable FIR	A preliminary inquiry is not mandatory in every case involving allegations against a public servant, including corruption allegations. Its necessity depends on the information and circumstances; the prospective accused has no universal entitlement to insist on it. Since the FIR and National Level Monitor material disclosed a cognizable offence here, the absence of a preliminary inquiry did not invalidate the FIR.	459
Preliminary Inquiry Tests Disclosure of an Offence, Not Truth of the Information	Registration under Section 154 CrPC is mandatory where the information discloses a cognizable offence. Where the information indicates the need for inquiry without itself disclosing such an offence, a preliminary inquiry may ascertain that limited question. It is not a trial of the information's truth or a substitute for investigation of the disclosed offence.	459
Preliminary inquiry — Absence is not itself a ground to quash an FIR	A preliminary inquiry serves to screen wholly frivolous or motivated complaints. Where credible information already discloses a cognizable offence and the officer is satisfied with that disclosure, an FIR may be registered without first conducting such an inquiry. Its absence does not by itself justify quashing. The FIR must be examined as a whole to determine whether its allegations disclose an offence.	472
Cognizable Rape Complaint: Limits on Preliminary Inquiry	Where information discloses a cognizable offence, Section 154 CrPC requires registration of an FIR; preliminary inquiry is confined to ascertaining whether such an offence is disclosed when the information is initially unclear, and cannot test its truth. Applying the narrated Supreme Court principles, the Court found that the police had handled the rape complaint with a preconceived view	528

6.1 : Preliminary Inquiry and Cognizable Information

Topic	Ratio	Case Sr.no.
	of its falsity by substituting internal inquiries for prompt registration.	
Protecting the crime scene and taking investigative steps before formal FIR registration	Seizure of incriminating articles and preparation of a site plan before formal registration of the FIR did not invalidate the investigation where police had received information of firing and needed to preserve a disturbed public crime scene. Formal registration is not a necessary precondition to every investigative step: information giving reason to suspect a cognizable offence can support proceeding to the scene. The cryptic telephone message in this case was not itself treated as the FIR.	583
Preliminary inquiry is not mandatory in every matrimonial case	Where information discloses a cognizable offence, Section 154 CrPC requires registration of an FIR without first testing the truth of the allegation. If the information does not disclose such an offence but indicates a need for inquiry, a preliminary inquiry may ascertain cognizability; it must not investigate veracity. Family disputes are an illustrative category in which inquiry may be desirable according to the circumstances, rather than a mandatory prerequisite or vested right of the accused. Applying Lalita Kumari and Thommandru Hannah Vijayalakshmi, the Court refused to quash the matrimonial FIR merely because no preliminary inquiry had been held.	597
Closure after a preliminary inquiry	The Lalita Kumari directions reproduced and applied in the judgment require registration if a preliminary inquiry discloses a cognizable offence. If the inquiry instead ends in closure, the first informant must receive a copy of the closure entry promptly and no later than one week, with brief reasons for closing the complaint and taking no further steps.	597
Time and diary safeguards for preliminary inquiry	The Lalita Kumari passage reproduced in this judgment states that a preliminary inquiry must be time-bound and completed within seven days, with delay and its reasons reflected in the General Diary. It also requires meticulous diary recording of cognizable-offence information, whether it leads to an FIR or inquiry, and of the decision to conduct an inquiry.	597
Preliminary inquiry before an FIR against a public servant	Under the Lalita Kumari principles applied by the Court, information disclosing a cognizable offence requires registration of an FIR. A preliminary inquiry, where the circumstances warrant one, is confined to ascertaining whether such an offence is disclosed, rather than testing the truth of the information. Public-servant status does not make the inquiry mandatory. Its absence therefore did not vitiate the FIR, which was based on a complaint from the Collector's Food Branch.	600
Police duty to register information disclosing a cognizable offence	Police must register an FIR when the facts brought to their notice disclose a cognizable offence. That duty is distinct from the remedy available to the informant when police fail to perform it; the cited rule directs the informant to the statutory Magistrate process.	620
Cognizable information: police registration duty and enforcement remedy	Police have a duty to register an FIR when the information brought to them discloses a cognizable offence. That duty is distinct from the procedure available when police fail to act; the informant must ordinarily pursue the statutory complaint and Magistrate remedies.	627
Cognizable information: duty to register and remedy for inaction	Police must register an FIR when facts brought to their notice disclose a cognizable offence. The existence of that duty does not determine the complainant's remedy when police fail to perform it; the statutory complaint and Magistrate procedures remain the ordinary means of redress.	629
Preliminary inquiry before registration of a cognizable FIR	Under the Section 154 CrPC framework applied through the cited authorities, information disclosing a cognizable offence requires FIR registration without a preliminary inquiry. Where information does not itself disclose such an offence but calls for inquiry, the inquiry is limited to ascertaining cognizability, rather than testing truth. Its need depends on the facts; even illustrative corruption cases create no universal prerequisite or right of the accused to demand it.	785

Topic	Ratio	Case Sr.no.
	Absence of an inquiry did not vitiate this FIR, whose allegations disclosed a cognizable offence.	
CBI administrative manual and statutory FIR registration	The CBI Crime Manual consists of administrative instructions for internal guidance and is not a statute. Its preliminary-inquiry procedure cannot override the Code of Criminal Procedure or import a mandatory inquiry requirement into Section 154 where the Code provides none. The governing question remains whether the information discloses a cognizable offence.	785
Section 154 CrPC — Duty to register cognizable information	Police must register an FIR where the facts brought to their notice disclose a cognizable offence. That statutory duty is distinct from the remedy to be pursued when the police fail to register the FIR.	820
Section 154 CrPC — Duty to register cognizable information	Police must register an FIR where the facts brought to their notice disclose a cognizable offence. That statutory duty is distinct from the remedy to be pursued when the police fail to register the FIR.	822
Section 154 CrPC — Duty to register cognizable information	Police must register an FIR where the facts brought to their notice disclose a cognizable offence. That statutory duty is distinct from the remedy to be pursued when the police fail to register the FIR.	826
Mandatory FIR registration and the limited purpose of preliminary inquiry	Where information discloses a cognizable offence, registration under Section 154 CrPC is mandatory and preliminary inquiry is not a means of testing whether the information is true. Where the information does not itself disclose such an offence but indicates a need for inquiry, the inquiry is confined to ascertaining whether a cognizable offence is disclosed. The reproduced categories, including matrimonial disputes, are illustrative and depend on the circumstances; they do not create an accused's right to insist that his defence be accepted before registration.	832
A suspect's right to a hearing before FIR registration	The CrPC does not ordinarily require a suspect to be heard before registration of an FIR or a direction under Section 156(3). Requiring such a hearing would frustrate prompt and fair investigation; the suspect may use the statutory remedies available after registration. The adopted Anju Chaudhary passage recognises that a higher court considering reversal of a rejected complaint or application may need to hear the suspect, depending on the circumstances, without creating an absolute right. The applicants therefore had no right to a hearing before the FIR. The separate complaint about absence of a hearing before the SDM's revenue order did not arise for decision because that order was not challenged.	871
Section 156(3) CrPC: registration, proper investigation and monitoring	After an unsuccessful written approach to the Superintendent of Police under Section 154(3), a person aggrieved by non-registration or deficient investigation may apply to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration, require proper investigation and monitor it. If necessary, the Magistrate may recommend a change of investigating officer to the competent police superior, but cannot personally investigate. The Court adopted Sakiri Vasu and Sudhir Bhaskarrao Tambe in directing the petitioner to this remedy.	875
Matrimonial FIR — absence of preliminary inquiry does not by itself invalidate registration	A preliminary inquiry may be desirable in an appropriate matrimonial dispute, but it is not an invariable precondition to registering an FIR. Where the information discloses a cognizable offence, registration is mandatory. If the information indicates a need for inquiry without itself disclosing such an offence, the inquiry is limited to determining whether a cognizable offence is disclosed; it does not test the truth or credibility of the allegations. The accused has no automatic right to insist on an inquiry before registration. Because the complaint disclosed cognizable allegations, the Court held that omission of a preliminary inquiry did not, by itself, vitiate the FIR.	889

Topic	Ratio	Case Sr.no.
Preliminary inquiry finding insufficient evidence — communication and submission of the report	Where a preliminary inquiry concludes that the evidence is insufficient, the Court stated that the police authority must supply the report to the complainant and file a copy before the Magistrate under Section 169 CrPC/Section 189 BNSS. No such action or final outcome of the earlier complaint was shown here. The separate contention that the later FIR was a second FIR was ultimately withdrawn and was not decided on its merits.	896
Preliminary enquiry before registration of a matrimonial FIR	A preliminary enquiry is not mandatory merely because the allegations concern a matrimonial dispute. Its purpose is to ascertain whether there is a prima facie basis to register an FIR; it is distinct from investigation under the CrPC after registration. Where the available information adequately indicates a cognizable offence, a regular case must be registered instead of undertaking a preliminary enquiry. The absence of such an enquiry did not justify quashing the FIR.	930

Sub-Chapter no. 6.2
FIR Registration, Complaint Drafting and False Implication

Criminal complaint — particulars of the offence and each accused's role	Merely reciting statutory sections or repeating their language does not supply the necessary particulars of a criminal complaint. The complaint must identify the alleged acts constituting the offence and the role attributed to each accused. The Court relied on this requirement when finding the matrimonial allegations against the applicants too vague to sustain their prosecution.	3
FIR registration — no right of pre-registration hearing for a suspect	The CrPC does not give a suspect or prospective accused a right to notice or an opportunity to be heard before an FIR is registered. The principles of natural justice do not require a hearing at the stage of reporting a criminal offence. Consequently, an FIR cannot be quashed merely because the person named in it was not heard before registration.	4
FIR — material information rather than an exhaustive account	An FIR need not contain every minute detail of the occurrence, identify every participant, or come from an eyewitness. It must provide information disclosing a cognizable offence and a basis for the police to suspect its commission. Missing details and the truth of the allegations are investigated thereafter. The omission of minute particulars from the prompt Dehati Nalishi did not justify rejecting the prosecution evidence here.	12
FIR omissions — broad narrative assessed with the later evidentiary account	An FIR is not an exhaustive catalogue of the occurrence, and omission of a name or particular allegation does not by itself establish non-involvement or false implication. The effect of an omission must be assessed with the entire factual setting, the informant's circumstances, the other material and the trustworthiness of the account. The Court therefore did not discard specific allegations in the Section 161 statement merely because every detail was absent from the FIR.	18
Cognizable allegations and the duty to register an FIR	Applying Lalita Kumari, the Court stated that police must register an FIR when the complaint discloses a cognizable offence. In this case it found that the truck transaction, nonpayment and continued use, considered in the manner explained in the order, disclosed a cognizable Section 406 IPC allegation. The FIR therefore could not be quashed on the ground advanced.	49
Cognizable information — police duty to register and remedy for default	The Aleque Padamsee principle relied upon requires police to register an FIR when the facts brought to their notice disclose a cognizable offence. Failure to perform that duty is addressed through the Code's statutory remedies, including a complaint under Section 190 read with Section 200. The registration duty and the procedure for enforcing it are distinct questions.	57
Police duty to register cognizable information is distinct from entitlement to writ relief	Police must register an FIR when the information discloses a cognizable offence. That duty does not by itself entitle an informant to bypass the statutory remedies and obtain a High Court direction. The Court relied on Aleque Padamsee and Shweta Bhadauria to distinguish the police obligation from the remedy for its breach; Lalita Kumari did not decide an entitlement to mandamus	136

Topic	Ratio	Case Sr.no.
	without recourse to the available alternative remedies.	
FIR or complaint: factual foundation rather than exhaustive detail	An FIR is not required to set out every evidentiary detail, and a complaint need not reproduce the statutory ingredients word for word. Where the essential factual foundation of the offence is present, lack of detailed pleading of a few ingredients does not by itself warrant quashing. Absence of even the basic facts necessary to disclose the offence stands differently.	142
Cognizable information and the statutory duty to register an FIR	When information placed before the police discloses a cognizable offence, the police must register an FIR. If they fail to act, the informant may use the complaint procedure under Section 190 read with Section 200 CrPC. The police duty and the informant's procedural remedy are distinct questions.	147
Prior complaint and conciliation material in a counterblast defence	The husband's earlier police complaint did not by itself establish that the wife's FIR was a false counterblast; it showed strained relations and apprehension of legal proceedings. Her conciliation statement that her husband and in-laws did not keep her properly supported the cruelty allegations rather than the asserted absence of any complaint. Those materials did not warrant quashing the specific FIR allegations.	148
FIR need not contain every evidentiary detail	An FIR is not required to contain every fact and detail concerning the reported offence. At the quashing stage the court must consider whether its allegations disclose an offence, without demanding the exhaustive evidence expected at trial or deciding disputed merits on incomplete facts.	148
FIR need not be an exhaustive account of the offence	An FIR is not required to contain every fact and evidentiary detail. In deciding a Section 482 challenge, the High Court must not scrutinise the material as a trial court would after evidence is led or conduct a detailed inquiry into the merits of the allegations.	149
Complainant's standing in criminal proceedings	Criminal law ordinarily imposes no locus standi requirement on the person setting the process in motion. The exception is where the statute creating the offence prescribes who is eligible to complain.	238
Authority to bring alleged offences to the criminal authorities' notice	Any person may set the criminal law in motion. On that basis, the Court rejected the objection to the Collector directing the Chief Municipal Officer to lodge an FIR concerning alleged illegal colonisation.	240
Investigation beyond persons and allegations named in the FIR	An FIR or complaint need not set out every relevant fact or identify every offender. Investigation may examine additional material and implicate other persons where facts discovered during enquiry or investigation justify doing so. The absence of the night-parking allegation from the FIR did not prevent investigation when the State's subsequent material disclosed unpaid charges.	290
FIR particulars and omitted minute details	An FIR need state the broad features of the occurrence rather than every minute detail. The complainant had reported and produced the accused's shirt, licence copy and diary when lodging the FIR. Failure also to narrate how he returned to the spot and collected them was not a material omission on this record.	291
FIR or complaint — factual foundation without exhaustive particulars	An FIR need not contain an exhaustive account of the case, and a complaint need not reproduce every statutory ingredient verbatim. Where the necessary factual foundation substantially discloses the offence, omission of detailed language about an ingredient does not by itself require quashing. A complaint lacking even the basic facts needed to disclose the offence stands differently. The Court relied on the reproduced Amit Kapoor, Indian Oil and Kunwar Singh principles in examining whether a triable case existed.	323
Cognizable information — police duty to register FIR and remedy for default	Police must register an FIR when the facts brought to their notice disclose a cognizable offence. That duty is distinct from the remedy available when police fail to act: the informant must ordinarily invoke the statutory remedies before the police superior or Magistrate rather than obtain a direct High Court order merely by citing the duty to register.	338

6.2 : FIR Registration, Complaint Drafting and False Implication

Topic	Ratio	Case Sr.no.
Sexual-offence complaints — Access to registration and investigation	A complainant of sexual harassment or assault should not have to make repeated approaches merely to obtain registration of a complaint and initiation of investigation when the complaint prima facie discloses a cognizable offence. Courts have a responsibility to respond sensitively where the police fail to address such a grievance.	353
Contents of an FIR — Exhaustive evidentiary detail is unnecessary	An FIR need not contain an exhaustive account of all evidence. While considering quashing, the court must avoid scrutinising the material as a trial court would after evidence is recorded. The inquiry remains whether the allegations, taken at face value, disclose a prima facie offence.	357
Contents of an FIR — Full evidentiary detail is not required	An FIR need not set out every evidentiary detail. At the quashing stage the court must not test its contents by the detailed scrutiny appropriate after trial evidence has been recorded. The relevant threshold is whether the uncontroverted allegations, accepted at face value, make out an offence.	358
FIR When the Informant Dies Before Examination	An FIR is not substantive evidence and ordinarily serves to corroborate or contradict its maker when examined. The informant's death before examination does not destroy the prosecution's foundation: the offence may still be proved by other direct or circumstantial evidence. Proof by the officer who recorded the Dehati Nalishi established the reporting document, without making its untested allegations substantive proof of the occurrence.	381
Non-Examination of the Formal FIR Scribe	Non-examination of the officer who transcribed the formal FIR was not fatal where the officer recording the underlying Dehati Nalishi had proved it. The retired scribe could not be traced despite attempts to secure attendance, and the defence itself pressed for closure of prosecution evidence because an accused remained in custody. The Court assessed the omission in that setting rather than treating examination of the formal scribe as indispensable in every case.	381
Suppression of the earliest information received by police	Where police had searched for the missing persons before the formal FIR, the Court inferred that the prosecution had suppressed the information first received by police. The FIR's unexplained omissions about the source of information and known abductors were assessed with the other evidentiary defects.	410
Registration of FIR on prima facie disclosure of a cognizable offence	Where the complaint allegations disclose a prima facie cognizable offence, an FIR must be registered. Whether an offence is disclosed depends on the allegations and circumstances; disputes about their ultimate truth do not justify preventing investigation at inception.	435
FIR detail and incomplete investigation	An FIR need not contain every fact and detail of the reported offence. While investigation is in progress, the Court should not conclude from incomplete or hazy facts that the matter does not deserve investigation, or determine the merits of the allegations as if evidence had been collected and tested.	438
Suppression of the Earlier FIR and Failure to Produce Initial Police Records	The Court found suppression of the earlier FIR on the combined record: a witness said his wife had reported during the night, that report was not produced, the claimed telephone information was unsupported by the station diary, and the original death-inquiry statements were also withheld. The hospital messages had not identified the appellant despite the later claim of a known assailant. These omissions undermined the subsequent FIR registered after the death inquiry.	455
Criminal Law May Be Set in Motion by Any Person Unless Statutorily Restricted	In the absence of a statutory restriction, any person may report information disclosing a cognizable offence and set the criminal law in motion. Ordinary civil notions of the complainant's locus standi do not restrict that right. The Court applied this principle in rejecting the objection to registration of the Panchayat-related FIR.	459
Sufficient factual foundation without an exhaustive FIR	An FIR is not expected to contain every evidentiary detail. Where the allegations lay the factual foundation for an offence and substantially satisfy its requirements, proceedings should not be quashed merely because one or two	469

Topic	Ratio	Case Sr.no.
	ingredients have not been stated in detail. This does not dispense with the basic facts needed to disclose the offence; it prevents premature demands for trial-level completeness.	
FIR registration — Police duty and remedy for non-registration	Police must register an FIR when facts brought to their notice disclose a cognizable offence. That duty is distinct from the procedural remedy available when police do not act. As explained in Aleque Padamsee, the informant may then approach the Magistrate under Sections 190 and 200 CrPC. The registration-duty decisions do not by themselves establish entitlement to a direct High Court order. This order did not decide whether the applicant's accusation disclosed an offence.	475
FIR — omission of detailed acts does not by itself defeat later specific trial testimony	An FIR is not required to contain every detail of the occurrence. Where the applicant was named in the FIR and the witness gave specific trial testimony about his participation, the absence of a detailed account of each act in the FIR did not prevent reliance on that court evidence for summoning him under Section 319 CrPC, subject to the applicable stronger evidentiary threshold.	490
Police inaction — Sections 154(3) and 156(3) CrPC remedies	A person whose FIR is not registered may apply in writing to the Superintendent of Police under Section 154(3) CrPC and, if no satisfactory result follows, approach the Magistrate under Section 156(3). Applying Sakiri Vasu and Sudhir Bhaskarrao Tambe, the Court recognised the Magistrate's power, on prima facie satisfaction, to direct registration or proper investigation and monitor it. Where necessary, the Magistrate may recommend a change of investigating officer to the competent police authority, but cannot personally investigate. This remedy also addresses inadequate investigation after an FIR has been registered.	492
Magistrate complaint and statutory remedies for police inaction	Where police do not act on information alleging an offence, a complainant may approach the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate considers the complaint under Chapter XV and may take the statutory course warranted by the material, including dismissal under Section 203, issue of process, or an appropriate police-investigation direction. The Court relied on Divine Retreat Centre and also identified the remedies under Sections 154(3) and 156(3) through Shweta Bhadauria before leaving the applicant free to file a complaint.	504
Registration of FIR on Information Disclosing a Cognizable Offence	Where the complaint discloses commission of a cognizable offence, the police must register an FIR. Applying this principle, the Court treated the allegations of rape and associated offences as sufficient for registration and declined quashing.	520
Duty to register a cognizable offence and remedy for failure to register	Police must register an FIR when the facts brought to their notice disclose a cognizable offence. That statutory duty is distinct from the procedure an informant must follow when police fail to act. The adopted authorities direct the aggrieved person to the remedies provided by the Code, rather than treating the duty to register as an automatic entitlement to a High Court direction.	554
Police duty to register cognizable information	Where facts brought to the police disclose a cognizable offence, the police have a duty to register an FIR. The relied-upon Aleque Padamsee passage distinguishes that substantive duty from the statutory procedure available to an informant when the police fail to perform it.	566
Duty to register information disclosing a cognizable offence	Police must register an FIR when the facts reported disclose a cognizable offence. The existence of that statutory duty does not by itself decide whether a complainant may bypass available remedies and obtain a writ of mandamus. The Court applied Aleque Padamsee and the narrated Shweta Bhadauria distinction between the registration obligation and the remedy for its breach.	595
Factual foundation required in an FIR or criminal	An FIR need not contain every detail, particularly where financial irregularities in a public scheme require investigation. Nor must a complaint reproduce the	600

Topic	Ratio	Case Sr.no.
complaint	legal ingredients word for word: proceedings should continue where the necessary factual foundation and substantial compliance with the offence requirements are present. Quashing remains appropriate where even the basic facts necessary to constitute the alleged offence are absent.	
An FIR need not contain every detail of the reported offence	Under the Neeharika Infrastructure principles relied on by the Court, an FIR is not required to state every fact and detail. An investigation disclosing a cognizable offence should be allowed to proceed without premature conclusions on incomplete facts. If investigation reveals no substance in the complaint, the investigating officer may submit the appropriate report to the Magistrate for consideration according to law.	601
FIR particulars and a detailed merits inquiry under Section 482	An FIR is not required to contain every detail of the alleged offence. The High Court must not scrutinise the investigation material as a trial court would after evidence is adduced or use a detailed inquiry into disputed merits to decide a quashing application.	666
Limited evidentiary use of an FIR	An FIR is not substantive evidence. It may be used to corroborate or contradict its maker in the manner permitted by the Evidence Act, but cannot corroborate or contradict other witnesses. Its purpose is to obtain the earliest account of the circumstances of the crime, and minute details are not invariably expected from an informant under shock.	713
Dehati Nalishi and subsequent FIR registration at the police station	A Dehati Nalishi records information received by police away from the police station and is then sent to the station for registration as an FIR. The recorded Dehati Nalishi and subsequent FIR in this case contradicted the informant's claim that he had gone to the police station to lodge the report, contributing to doubt about the prosecution's reporting account.	716
Unexplained names in FIR accused-details column — cumulative defects establishing false implication	The prosecution failed to explain how accused names appeared in the FIR's details column when the abductee had not supplied them in its narrative. The Court assessed that inconsistency with the failure to investigate the alleged house and places of captivity, their ownership or occupation, and the absence of a seized ransom letter. In Ramlakhan's trial, the witness producing the Rojnamcha entry was not its writer; in Punjab Singh's trial, the missing-person Rojnamcha entry was not proved. In Avtar Singh's trial, the FIR writer and the person said to have accompanied the abductee to the station were not examined. On their separate records, involvement was not proved; the Court characterised Ramlakhan's and Punjab Singh's implication as false and acquitted all three appellants.	743
FIR registration implicit in a Section 156(3) investigation direction	Where a Magistrate directs investigation under Section 156(3) CrPC into information disclosing a cognizable offence, the officer in charge must register the FIR even if the direction does not expressly require registration. Registration records the substance of the cognizable information under Section 154 and precedes the further investigative steps contemplated by Chapter XII CrPC.	770
Police duty to register an FIR and remedy for non-registration	The police must register an FIR when information discloses a cognizable offence. That statutory duty is distinct from the remedy available when the police fail to act. Applying Aleque Padamsee, the Court directed the applicant to the Magistrate's complaint procedure rather than granting an FIR-registration direction in the Section 482 CrPC/Section 528 BNSS application, which was dismissed as not maintainable.	786
FIR need not contain every detail of the offence	An FIR need not contain every fact and detail relating to the reported offence. During an ongoing investigation, the Court should not decide the merits on incomplete or uncertain facts merely because the FIR is not exhaustive. If investigation reveals no substance, the officer may submit the appropriate report for the Magistrate's consideration.	795

Topic	Ratio	Case Sr.no.
Basic factual foundation without exhaustive detail in an FIR or complaint	An FIR need not contain an exhaustive account of the case. Nor must a criminal complaint reproduce every legal ingredient verbatim when the necessary factual foundation is present. Proceedings should not be quashed merely because a few ingredients are not detailed if the allegations substantially disclose the offence. Interference remains justified where even the basic facts necessary to constitute the offence are absent.	837
An FIR need not contain an exhaustive account of the prosecution case	An FIR is not expected to contain every detail of the case. Adopting the quoted Kunwar Singh passage, the Court reiterated that a Section 482 inquiry must not scrutinise the material as a trial court would after evidence is adduced or undertake a detailed examination of the merits.	855
	Sub-Chapter no. 6.3 **FIR Registration and Delay/Explanation**	
Delay in a matrimonial FIR — efforts to restore the marriage	A delay between leaving the matrimonial home and lodging the FIR cannot be used to draw an adverse inference against the wife without considering efforts made during that interval to restore matrimonial life. In the authority relied upon, the complaint followed the failure of attempts to secure the wife's return; the interval alone did not justify quashing the criminal case.	2
Delay alone as a ground for quashing a complaint or FIR	Delay in lodging a complaint or FIR does not, by itself, justify quashing the proceedings. A delayed FIR is not illegal merely because it was delayed, and prompt reporting does not conclusively establish its truth. The separate question whether Section 468 CrPC bars the proceedings must be considered where raised. No such statutory bar was claimed in this case.	30
Explained delay in reporting sexual assault	Where delay in lodging the FIR is properly explained, the prosecutrix's evidence cannot be disbelieved merely because of that delay. The Court applied this rule after considering her explanation that threats and fear prevented earlier disclosure.	38
Reconciliation efforts explaining delay in a cruelty complaint	A wife's delay in reporting cruelty may be explained by efforts to preserve the marriage and secure reconciliation. Where she reports after those efforts fail and the spouse begins matrimonial litigation, that sequence does not by itself establish a retaliatory complaint. The Court considered that explanation with the allegations and the applicants' messages rather than treating delay alone as a reason to quash.	39
Delayed reporting of rape — scrutiny of the explanation	Fear may explain a delay in reporting sexual assault, but the explanation and the complainant's reliability must still be examined on the evidence. The Court assessed the delay of almost two months together with material improvements, contradictions about later threats, unsupported recording evidence, hostility and the absence of useful forensic or medical support. Their cumulative effect left the prosecution case unproved.	65
Duty to register a cognizable offence and remedy for police inaction	The police must register an FIR when the information brought to their notice discloses a cognizable offence. That duty is distinct from the informant's entitlement to seek a High Court direction without using the available statutory remedies. The mandatory-registration rule in Lalita Kumari does not itself resolve whether such a writ should be entertained.	92
Delayed FIR and later additions to a plea of defensive firing	Although an FIR need not contain every detail, the officials' delayed first account was material when assessing their later plea of defensive firing. That account did not state that they had found persons actually cutting trees or carrying fresh-cut timber, or that an assailant had fired a gun. The delay, inconsistent later enquiry version and absence of corroborating timber or site material led the Court to reject the claimed official-duty connection prima facie, leaving guilt for trial.	97
Police duty to	The police duty to register an FIR when information discloses a cognizable	154

6.3 : FIR Registration and Delay/Explanation

Topic	Ratio	Case Sr.no.
register an FIR and entitlement to writ relief	offence does not by itself entitle the informant to bypass statutory remedies and obtain a writ of mandamus. As explained in Shweta Bhadauria and followed here, Lalita Kumari addresses the registration duty rather than entitlement to writ relief without first using the remedies under Sections 154(3), 156(3), 190 and 200 CrPC.	
Delay in reporting matrimonial cruelty	Delay alone does not make an FIR illegal or justify quashing it under Section 482 CrPC. Its explanation must be considered without trying disputed facts at that stage. The wife's stated effort to preserve her marriage was a plausible explanation for postponing her complaint. Prompt reporting assists investigation and reduces opportunities for fabrication, but does not itself guarantee truth.	163
Section 156(3) direction requires FIR registration, but not necessarily a charge-sheet	When the Magistrate directs investigation under Section 156(3) CrPC, the police must register an FIR. The direction does not compel a charge-sheet: after investigation, the police may submit a closure report if the allegations do not prima facie disclose an offence warranting prosecution.	200
Statutory remedies against police inaction or improper investigation	A person aggrieved by non-registration of an FIR may first apply in writing to the Superintendent of Police under Section 154(3) CrPC and, if that yields no satisfactory result, approach the Magistrate under Section 156(3). A complaint under Sections 190 and 200 is also available. Section 156(3) may be invoked where an FIR exists but proper investigation is not being conducted.	203
FIR need not contain every detail of the incident	An FIR need not provide an exhaustive account of the incident or every minute detail. It must contain the allegations that ordinarily come to mind and assist in assessing the gravity of the crime or identifying the offender. Omission of finer details is therefore not, by itself, decisive against the prosecution.	244
FIR detail and the limits of a quashing inquiry	An FIR is not expected to be an exhaustive account of all the evidence. At the Section 482 stage, the High Court should not scrutinise the material with the detailed evidentiary assessment appropriate to a trial after evidence is led.	249
Duty to register an FIR when information discloses a cognizable offence	Police must register an FIR when the facts brought to their notice disclose a cognizable offence. That statutory duty is distinct from the question whether the informant can obtain a High Court direction without first using the prescribed remedies for police inaction.	255
Mandatory FIR registration when the complaint discloses a cognizable offence	Where the allegations in a complaint disclose a cognizable offence, an FIR must be registered. Applying Lalita Kumari, the Court held that the petitioner had not shown why the allegations of abuse, threats and a demand for money failed to disclose such an offence.	264
Delayed cruelty complaint within limitation: no automatic quashing	Where the cruelty FIR was undisputedly within limitation, failure to report immediately did not justify quashing it. The Court considered that the complainant had waited in the hope that relations would improve and reported only after that hope failed. The delay was assessed in that context, rather than treated as proof that the allegations were false.	289
Cognizable information: obligation to register the FIR	Where the information discloses cognizable offences, the police are obliged to register an FIR. The Court applied that rule to the alleged matrimonial cruelty and unlawful demand and found no ground to quash the registered FIR at the threshold.	289
FIR timing — assessment of the complete chronology and testimony	An isolated statement by the investigating officer about later police-station agitation did not establish that the FIR was antedated or antetimed. The Court read it with the scribe's evidence, the officer's prior receipt of the crime number and the witnesses' account of taking the body to hospital after reporting. It also considered that the complainant and accompanying witness were not questioned about the alleged protest chronology. On the whole evidence, the FIR recorded within twenty minutes was accepted.	319

Topic	Ratio	Case Sr.no.
Delayed FIR — delay alone does not justify quashing	Delay in lodging an FIR does not, by itself, make it illegal or justify quashing it. Prompt reporting helps an immediate investigation and reduces the opportunity to invent a version, but does not guarantee truth. Genuine reasons may explain delay. The interval of about sixteen months in reporting the alleged sexual assault therefore did not, by itself, warrant quashing.	340
Omission of an Eyewitness's Name From the FIR	An eyewitness's testimony does not become unreliable merely because the FIR does not name that witness. An FIR need not list every eyewitness, particularly where the informant was injured and may not have noticed everyone present. The omission must be assessed in context and is not, by itself, a ground to discard otherwise credible evidence.	381
An Assault Omitted From the FIR but Proved by Other Evidence	Although the FIR did not mention the assaults on Ramkali and Munnalal, their investigation statements, testimony and medical reports established that the later three assailants had beaten them. The Court accepted that specific evidence of the later attack while separately assessing whether those accused shared responsibility for the earlier one. The FIR omission did not, on this record, defeat proof of those injuries.	388
FIR followed by missing-person registration for a child	Where the informant reported a missing minor girl and expressed an apprehension of kidnapping, registration of an FIR was proper. A separate missing-person entry shortly afterwards, while the precise circumstances remained uncertain, did not show that the FIR was antedated or antetimed. The same-day forwarding of the FIR to the Magistrate and its acknowledged receipt also supported its authenticity.	391
Delay in lodging a matrimonial FIR and explanation at trial	Delay in lodging an FIR does not, by itself, justify quashing criminal proceedings. Applying Ravinder Kumar and Mohammad Wajid, the Court observed that a delayed FIR is not inherently illegal and that genuine reasons may explain the delay. Delay becomes material when the complainant gives no plausible explanation. Whether the explanation is plausible is for the trial court to decide after recording evidence.	420
Cryptic Information and the Duty to Record a Telephone Message	A cryptic message about commission of an offence is not necessarily an FIR. Nevertheless, the witness's asserted telephone information to police should have been entered in the station diary. Non-production of that entry was a material defect in the Court's assessment of whether the original reporting had been suppressed.	455
Delayed Reporting While Hoping for Improvement in the Marriage	Delay alone did not justify quashing the matrimonial FIR where no limitation bar was established. The Court recognised that a woman may defer reporting ill-treatment in the hope of improvement and preservation of the marriage. It rejected an adverse inference based merely on the interval before reporting and the subsequent matrimonial litigation.	458
Delay in Reporting Sexual Assault: Threats as an Explanation	Delay in lodging an FIR does not by itself discredit the prosecution if it is plausibly explained. Where the prosecutrix attributed her delayed disclosure to threats against her and her brother, the acceptability of that explanation required evidence at trial and could not be decided under Section 482 CrPC.	520
FIR Delay Caused by Police Refusal and an Incorrect Recorded Explanation	The Court found that delayed FIR registration resulted from police non-cooperation despite the complainant's repeated approaches to authorities. The FIR instead attributed delay to her mother's absence and later arrival, which the Court found false and implausible for the long interval. The record required the police's refusal to register the complaint to be recognised as the actual explanation; the recorded delay did not justify quashing on this material.	528
Omission of an eyewitness's name from the FIR or Dehati Nalishi	An FIR must disclose the broad features and basic ingredients of a cognizable offence; it need not name every eyewitness or contain every minute detail. A witness cannot be disbelieved merely because the first report does not mention the witness's name. The omission remains a circumstance to assess with the full	583

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	evidence and the informant's condition, rather than an automatic ground for rejection.	
Statutory remedies when police do not register an FIR	The duty to register information disclosing a cognizable offence is distinct from the remedy for police inaction. Applying Aleque Padamsee, Sakiri Vasu and Sudhir Bhaskarrao Tambe, the Court directed the applicant to the statutory Magistrate route instead of granting the requested direction under Section 528 BNSS. The reproduced CrPC framework provides written recourse to the Superintendent of Police under Section 154(3), followed where necessary by an application under Section 156(3). The Court did not determine whether the complaint itself disclosed an offence.	608
FIR delay explained by prompt initial report and handwriting verification	The later formal FIR did not justify quashing where the Dehati Nalishi followed the suicide promptly and police awaited handwriting verification to exclude fabrication of the suicide note. On receipt of the expert's attribution of the note to the deceased, the officer found a prima facie case and registered the FIR. On this chronology, the Court found no prejudice from the delay; it did not lay down a general requirement to await forensic confirmation before registration.	625
Police duty to register information disclosing a cognizable offence	When the facts brought to the police disclose a cognizable offence, the police have a duty to register an FIR under Section 154 CrPC. The existence of that duty and the procedural remedy available for its non-performance are separate questions; failure to perform it leads to the statutory remedies before the police superior or Magistrate considered in the judgment.	697
Delay in a student's sexual-misconduct complaint against her teacher	The complainant first approached the principal and collector, then lodged an FIR alleging sexual misconduct and examination-related pressure by her professor. The Court reasoned that a student would not necessarily complain to police immediately against a teacher; escalation after the situation became intolerable did not, on this record, warrant quashing for delay. The applicant did not contend that the allegations were time-barred. This was a contextual rejection of his delay objection, not a general finding that delay can never matter.	734
Delay in lodging an FIR — delay alone does not justify quashing	Delay in lodging or registering an FIR, by itself, is insufficient to quash criminal proceedings. Applying Ravinder Kumar v. State of Punjab, the Court noted that the law fixes no time for lodging an FIR and delayed reporting is not for that reason illegal. Prompt reporting aids early investigation and reduces the opportunity for fabrication, but does not guarantee the truth of the version; genuine causes may explain delay. Following Mohammad Wajid v. State of U.P., the Court rejected delay alone as a ground for quashing. Unless prosecution is barred by limitation, the complainant remains entitled to explain the reporting delay. The objection based on the old revenue entries therefore failed.	742
Duty to register information disclosing a cognizable offence	Police must register an FIR when the facts brought to their notice disclose a cognizable offence. The existence of that duty is distinct from the judicial remedy available to an informant when police fail to act; the Court followed the authorities directing such an informant to the statutory Magistrate remedies.	763
Duty to register information disclosing a cognizable offence	Police must register an FIR when the facts brought to their notice disclose a cognizable offence. The existence of that duty is distinct from the judicial remedy available to an informant when police fail to act; the Court followed the authorities directing such an informant to the statutory Magistrate remedies.	765
Police response to a nearby cognizable offence before formal FIR registration	Police who notice a cognizable offence within their jurisdiction need not wait for formal FIR registration before initiating lawful action. The shooting occurred about 50–60 metres from the police station, and the Court considered that officers could have responded on hearing gunfire. In that setting, the tractor engine number appearing in the FIR before the recorded seizure and the alleged variations in chronology did not establish the defence claim of an antetimed or	772

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	fabricated FIR or defeat the prosecution. The conclusion addressed those discrepancies in the circumstances of the case.	
Delay in lodging an FIR is not by itself a ground for quashing	Delay alone does not make an FIR illegal or justify quashing a prosecution. Genuine causes may explain delayed reporting, and a satisfactorily explained FIR may be relied on. Prompt reporting aids early investigation and reduces the opportunity for concoction, but does not conclusively establish the account's truth. Applying Skoda Auto Volkswagen, Ravinder Kumar and Mohammad Wajid, the Court rejected the applicant's delay ground without determining the truth of the allegations.	855
Delay in FIR registration following police inaction and earlier High Court proceedings	Delay in registering an FIR is not by itself a ground for quashing. The complainant had approached the High Court after police inaction, and registration followed its order; the interval therefore could not simply be treated as an unexplained four-year delay. The adopted authorities recognise genuine explanations for delay, while prompt reporting, although helpful to investigation and reducing opportunity for concoction, does not guarantee truth. The Court accordingly rejected delay alone as a basis for interference.	857
Police duty to register cognizable information and the remedy for failure	Police must register an FIR when the facts brought to their notice disclose a cognizable offence. If they fail to perform that duty, the informant may pursue a complaint under Sections 190 and 200 CrPC. Decisions recognising the registration duty address a different question from the procedure available to an informant aggrieved by police inaction.	866
Sexual-assault FIR delay — eleven days does not by itself justify quashing before explanation is tested	An eleven-day interval between alleged sexual assault and FIR was no standalone ground for Section 482 quashing; whether the prosecution supplies a plausible explanation and whether delay benefits the accused are matters for the evidentiary stage, with hesitation over family reputation a possible context.	893
Police duty to register information disclosing a cognizable offence	The police must register an FIR where the facts brought to their notice disclose a cognizable offence. That duty is distinct from the question of the remedy available when the police fail to act; the existence of the duty does not dispense with the statutory remedies for police inaction.	921
Prompt and detailed FIR as corroboration of an abduction account	Prompt reporting with specific details can corroborate the informant’s account and rule out deliberation, exaggeration and false implication. The FIR naming the abductors and identifying their vehicle was lodged within thirty minutes. Together with the tested and corroborated eyewitness testimony, its promptness supported the finding that the abduction was proved.	934
Prompt FIR corroborating the first eyewitness account	An almost immediate FIR containing material particulars reduces the opportunity for deliberation and false implication and corroborates the informant’s testimony. The first version also acts as a check on the prosecution account. The injured informant reported the occurrence within half an hour, and the assault account was consistent with his testimony and the medical findings. The Court treated these features as supporting his reliability.	936
Police duty to register information disclosing a cognizable offence	Police officials ought to register an FIR when the facts brought to their notice disclose a cognizable offence. That duty is distinct from the remedy available on failure to perform it: the informant must use the applicable statutory remedies before the Magistrate rather than treat the registration duty itself as an entitlement to writ relief.	961
	Sub-Chapter no. 6.4 **Complaint Case, Private Complaint and Magistrate Inquiry**	
Section 156(3) CrPC: remedy for non-registration or improper	A person complaining of non-registration may first apply in writing to the Superintendent of Police under Section 154(3) CrPC and, if that fails, approach the Magistrate under Section 156(3). The latter remedy also addresses improper	48

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investigation	investigation after registration. On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor it and, if necessary, recommend a change of investigating officer to the SSP or SP. The Magistrate cannot investigate personally. The complaint procedure under Sections 190 and 200 is also available. The petitioner was left free to approach the concerned Magistrate under Sections 156(3), 200 and 202 without adjudication of the complaint's factual merits.	
Private complaint after police inaction: inquiry, dismissal and process	An informant may present a complaint to the competent Magistrate under Section 190 read with Section 200 CrPC. As explained in the Gangadhar Janardan Mhatre passage reproduced through Divine Retreat Centre, the Magistrate enquires into it under Chapter XV. If the complaint discloses no offence warranting further action, it may be dismissed under Section 203. If the complaint and recorded evidence prima facie disclose an offence, the Magistrate may issue process. These judicial remedies explain why ordinary complaints of police inaction are not taken up directly in writ jurisdiction.	48
Section 156(3) CrPC — discretion to choose police investigation or complaint procedure	The word 'may' in Section 156(3) CrPC leaves the decision to order police investigation to the Magistrate's discretion. After considering the allegations, the Magistrate may direct investigation if necessary or proceed with the complaint by requiring examination under Sections 200 and 202. Recognition of the power to direct investigation in Jayant and Sakiri Vasu does not make its exercise obligatory in every case.	55
Section 202 CrPC — police assistance after examination of complainant's witnesses	Choosing to proceed with the complaint under Sections 200 and 202 CrPC does not leave the Magistrate without police assistance. If, after examining the witnesses, the Magistrate considers such assistance necessary, an enquiry by the police may still be directed under Section 202.	55
Complaint particulars — identifying each accused's act and role	The Neelu Chopra principle relied upon by the Court requires a complaint to state the particulars of the offence and the role of each accused. Merely naming statutory sections or repeating their language is insufficient. A vague complaint that does not identify the acts attributed to the persons prosecuted cannot support their continued prosecution on those general assertions alone.	56
Police inaction — complaint inquiry and the Magistrate's prima facie assessment	An informant may present a complaint to the competent Magistrate under Section 190 read with Section 200 CrPC when police take no action. The complaint is dealt with under Chapter XV. If it discloses no offence warranting further action, the Magistrate may dismiss it under Section 203; where the complaint and recorded evidence prima facie disclose an offence, the Magistrate may take cognizance and issue process.	57
Complainant's office-bearer status in a society and criminal locus standi	Unless a statutory provision restricts who may complain, any person may set the criminal law in motion. Current office-bearer status in a society is not necessary to report alleged forgery, misappropriation or other criminal acts concerning its affairs. The Court therefore rejected the objection based on the complainant's disputed presidency and the cancellation of competing society bodies; those disputes did not prevent cognizance of the alleged offences.	86
Complaint inquiry after refusal of a Section 156(3) CrPC request	Refusal to direct police investigation under Section 156(3) CrPC did not end the matter merely because no separate Section 200 complaint had been filed. In this case, the Magistrate was to proceed with the complaint by recording the complainant's and witnesses' statements under Sections 200 and 202. The Court upheld that procedural course and rejected the challenge to the resulting cognizance order.	86
Magistrate complaint as a remedy for police inaction	Where the police do not act on information of an offence, the complainant may approach the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate must examine the complaint through the statutory inquiry process and may dismiss it under Section 203 if no offence is disclosed, or take	92

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	cognizance and issue process where the complaint and evidence disclose a prima facie offence. In this case, liberty was granted to use Section 200 CrPC or Section 223 BNSS.	
Magistrate's complaint process where police have taken no action	Where police take no action on information of an offence, the informant may present a complaint before the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate must inquire into it through the prescribed complaint procedure, may dismiss it under Section 203 where no offence is disclosed, and may issue process where the complaint and evidence establish a prima facie offence. The reproduced authority also recognises a direction for police investigation and report where appropriate.	128
Magistrate complaint remedy where police fail to register an FIR	A person aggrieved by police failure to register an FIR may file a complaint before the competent Magistrate under Sections 190 and 200 CrPC. Applying Aleque Padamsee and Divine Retreat Centre, the Court dismissed the Section 482 application for an FIR direction as not maintainable, with liberty to approach the Magistrate under Section 200. The reproduced complaint procedure permits inquiry and issue of process on a prima facie case, or dismissal under Section 203 where no offence is disclosed.	136
Recourse under Sections 154(3) and 156(3) CrPC for police inaction	Where a police station does not register an FIR, the aggrieved person may apply in writing to the Superintendent of Police under Section 154(3) CrPC. If the grievance remains, an application may be made to the Magistrate under Section 156(3). Applying Sakiri Vasu and Sudhir Bhaskarrao Tambe, the Court recognised that this remedy also addresses a registered FIR in which proper investigation is not being conducted, subject to the Magistrate's prima facie satisfaction.	136
Magistrate’s powers on a complaint following police inaction	When the police take no action on information, the complainant may approach the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate must inquire into the complaint under Chapter XV and may dismiss it under Section 203 if no offence is disclosed, issue process where a prima facie offence is made out, or direct police investigation at the appropriate stage.	140
Private complaint following police inaction	When the police take no action on information, the informant may file a complaint under Section 190 read with Section 200 CrPC before the competent Magistrate. After inquiry under Chapter XV, the Magistrate may dismiss a complaint disclosing no offence under Section 203, issue process on a prima facie offence, or direct police investigation at the appropriate stage.	143
Magistrate’s remedy for a separate complaint of police or EOW inaction	A grievance that the police or EOW have not acted on a complaint ordinarily requires use of the statutory Magistrate remedy rather than a writ compelling FIR registration. Liberty was granted to move the Magistrate under Section 156(3) CrPC or Section 175(3) BNSS. The Magistrate remained free to consider Section 210 CrPC or Section 233 BNSS concerning a complaint and a police investigation relating to the same offence.	147
Magistrate’s inquiry on a complaint after police inaction	On a complaint under Section 190 read with Section 200 CrPC following police inaction, the competent Magistrate must inquire under Chapter XV. The Magistrate may dismiss the complaint under Section 203 if no offence is disclosed, issue process where a prima facie offence appears, or direct police investigation at the appropriate stage.	147
Magistrate complaint when police take no action	When police fail to act on information, the complainant may approach the competent Magistrate under Sections 190 and 200 CrPC. The complaint is then examined through the statutory inquiry procedure: it may be dismissed under Section 203 if no offence is disclosed, or process may issue where the complaint and evidence prima facie disclose an offence. The Court preserved the petitioner's complaint remedy under Section 200 CrPC or Section 223 BNSS.	154
Complaint remedy before the	Where police do not act on information, a complaint may be placed before the	159

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Magistrate for police inaction	competent Magistrate under Sections 190 and 200 CrPC. The Magistrate examines it through the statutory inquiry procedure, may dismiss it under Section 203 if no offence is disclosed, or issue process where the complaint and evidence prima facie disclose an offence. Applying the cited complaint-remedy authorities, the Court dismissed this petition with liberty to approach the Magistrate under Section 223 BNSS.	
Magistrate's complaint jurisdiction after police inaction	Where police take no action on information, the informant may complain to the competent Magistrate under Sections 190 and 200 CrPC. Under the procedure described in the relied-upon authority, the Magistrate inquires into the complaint and evidence, may direct police investigation where appropriate, may dismiss a complaint disclosing no basis for further action under Section 203, or may take cognizance and issue process where a prima facie offence is disclosed.	185
Complaint proceedings before a Magistrate after police inaction	When the police take no action on information, the complainant may approach the competent Magistrate under Section 190 read with Section 200 CrPC. The relied-upon authority describes inquiry under Chapter XV, assessment of the evidence and, where appropriate, a direction for police investigation, dismissal under Section 203 or issue of process on a prima facie offence. This complaint procedure supplied the alternative remedy preserved by the High Court.	187
Standing to set criminal law in motion	Any person with knowledge of an offence may ordinarily set criminal law in motion, even without a personal interest in the matter. The rule is subject to statutory restrictions on the eligible complainant, including those contemplated by Sections 195–198 CrPC. No provision requiring a complainant of a specified official rank was shown for the alleged cooperative-society financial offences.	197
Complaint survives FIR registration under Section 156(3) CrPC	Registration of an FIR pursuant to an order under Section 156(3) CrPC does not by itself exhaust the pending complaint. The Magistrate cannot dismiss it merely because the FIR has been registered and must proceed according to law after receiving the police report.	200
Private-complaint remedy when police do not register an offence	Where the grievance was police failure to register an offence, the Court declined to issue a registration direction under Section 528 BNSS and dismissed the application as not maintainable. It left the applicant free to approach the jurisdictional Magistrate by a complaint under Section 200 CrPC, identified in the order with Section 223 BNSS, without deciding whether the alleged offence was proved.	255
Section 202(2) inquiry: examination of material complaint witnesses	Non-examination of every witness named in a complaint does not by itself deprive the Magistrate of jurisdiction to take cognizance and issue process. The proviso to Section 202(2) CrPC concerns the complainant's material witnesses; the Magistrate must still be satisfied that the evidence examined makes out a prima facie case.	281
Limited prima facie inquiry under Sections 202–204 CrPC	A complaint inquiry under Section 202 CrPC determines whether there is sufficient ground to issue process, while guarding against false or vexatious accusations. It is not a trial to determine guilt, and the evidence must not be weighed meticulously as at final adjudication. The sufficient-ground test under Sections 203, 204 and 209 asks whether a prima facie case exists, with a threshold distinct from framing a charge. The revisional court exceeded that limit by closely reappraising the material to discharge the accused from the SC/ST counts.	296
Section 156(3) CrPC — affidavit incorporating the complaint	An affidavit solemnly affirming that the complaint's contents are true to the complainant's personal knowledge and that the affidavit forms part of the complaint satisfies the safeguard in Priyanka Srivastava. Repeating every allegation within the affidavit is unnecessary. A false affirmation can expose the deponent to prosecution for a false affidavit.	314

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Section 156(3) application — prior police approaches and supporting documents	The relied-upon directions in Priyanka Srivastava require an application under Section 156(3) CrPC to disclose prior approaches under Sections 154(1) and 154(3), with the supporting documents filed. The application must also be supported by a duly sworn affidavit, and the Magistrate may verify the allegations in an appropriate case.	314
Section 343 CrPC — procedure on a court complaint under Section 340	The Magistrate receiving a complaint under Section 340 CrPC proceeds under Section 343 as if the case were instituted on a police report. In the warrant-case setting described in the passage from British v. State of Maharashtra relied upon by the High Court, the procedure under Sections 238–243 applies. The accused can contest the allegations and seek discharge at the prescribed stage.	320
Section 528 BNSS — statutory complaint remedy where police do not register an FIR	An application invoking the High Court's inherent jurisdiction merely to direct registration of an FIR was dismissed because the aggrieved applicant could pursue the statutory Magistrate remedy. Liberty was expressly reserved to approach the competent Magistrate under Section 200 CrPC or Section 223 BNSS. The dismissal did not decide the merits of the underlying allegations.	338
Private complaint — Magistrate's inquiry and decision on process	When police do not act on information, the complainant may lay a complaint before the Magistrate having jurisdiction under Sections 190 and 200 CrPC. The Magistrate must examine the complaint through the prescribed inquiry. If no offence is disclosed, the complaint may be dismissed under Section 203; where the complaint and recorded evidence prima facie disclose an offence, the Magistrate may proceed to issue process.	338
Section 156(3) CrPC — investigation direction requires FIR registration	Before taking cognizance, an empowered Magistrate may order police investigation under Section 156(3) CrPC without examining the complainant on oath. Where the complaint discloses a cognizable offence, the police must register an FIR before taking the investigative steps under Chapter XII, even if the Magistrate has not expressly directed registration. Such investigation concludes with the police report under Section 173 CrPC.	343
Non-registration of FIR — remedies before the Magistrate	A complainant alleging police failure to register an FIR has an efficacious alternative remedy by approaching the competent Magistrate under Section 156(3) CrPC or by filing a complaint under Section 200 CrPC. In view of those remedies, the High Court declined to issue further directions under Section 482 CrPC without examining the merits of the complaint.	343
Section 202(1) CrPC — police assistance after cognizance	If the Magistrate does not order investigation under Section 156(3) CrPC, the Magistrate may take cognizance and proceed under Chapter XV. After recording the statements of the complainant and witnesses, the Magistrate may seek police assistance through an inquiry under Section 202(1) CrPC. This post-cognizance procedure is distinct from a pre-cognizance investigation under Section 156(3).	343
Magistrate Complaint as the Remedy for Police Non-Registration	Where police allegedly failed to act on accusations against the deceased woman's husband and parents-in-law, the Court declined to direct FIR registration in an application under Section 528 BNSS. It left the applicant free to approach the competent Magistrate under Section 200 CrPC or Section 223 BNSS for redress.	408
Magistrate's Options on a Complaint Following Police Inaction	On a private complaint after police inaction, the competent Magistrate must follow the complaint-inquiry procedure. Depending on the complaint and evidence, the Magistrate may direct investigation and a report, dismiss the complaint if no offence is disclosed, or issue process where a prima facie offence is shown.	408
Complaint before the Magistrate following police inaction	Where police take no action on information about an offence, the informant may complain to the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate must deal with the complaint through the prescribed inquiry and, according to the prima facie material and the applicable statutory	430

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	stage, may direct investigation and a report, dismiss the complaint under Section 203, or issue process. Recourse to the Magistrate under Section 200 CrPC or Section 223 BNSS remains available when the FIR-registration writ is dismissed.	
Police inaction: Magistrate remedy and limits on writ mandamus	Where information discloses a cognizable offence, the police must register an FIR. Police inaction does not, however, ordinarily entitle the informant to a writ directing registration without using the remedies under Sections 154(3), 156(3), 190 and 200 CrPC. The Court applied this distinction, subject to the recognised exceptions to the alternative-remedy rule, and dismissed the petition with liberty to approach the Magistrate under Section 223 BNSS. It did not decide whether the allegations disclosed an offence.	440
Accused participation before issue of process in a CrPC complaint inquiry	The adopted CrPC precedent distinguishes attendance from participation before process issues in a complaint case. Subject to specified statutory opportunities, the proposed accused has no right to participate before process under Section 204; if an inquiry is postponed under Section 202, the accused may attend but cannot participate. This proposition concerns the reproduced CrPC scheme and does not determine any separate hearing requirement under Section 223 BNSS.	440
Magistrate remedy for police inaction in registering an FIR	Police must register information disclosing a cognizable offence, but that duty does not ordinarily entitle an informant to bypass the available statutory remedies and obtain an immediate High Court direction. Applying the narrated CrPC and writ authorities to a Section 528 BNSS application alleging police inaction, the Court dismissed it with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS. The recognised exceptions to the alternative-remedy rule remain; the order did not determine the merits of the complaint or whether it disclosed an offence.	446
Contested defence affidavits at the complaint-process stage	An affidavit attributed to the complainant's relatives, relied on to contradict the complaint, was a matter of defence to be proved by examining witnesses at trial. It did not require the High Court to set aside a cognizance order otherwise supported by sufficient prima facie material. A disputed defence is not finally determined in the limited inquiry into whether process should issue.	464
Statutory remedies for police inaction in registering or investigating an offence	An aggrieved informant may approach the Superintendent of Police under Section 154(3) CrPC and, if that does not resolve the grievance, the Magistrate under Section 156(3). A complaint before the competent Magistrate under Sections 190 and 200 is also an available statutory route. The Court dismissed this writ petition while preserving liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS, without deciding whether the allegations established an offence.	465
Magistrate's complaint remedy for a request to compel FIR registration	Where the applicant sought directions under Section 482 CrPC requiring an FIR and a charge-sheet during a pending merg inquiry, the Court declined interference because an efficacious criminal-complaint remedy was available before the competent Magistrate. It dismissed the application with liberty to pursue that remedy. The decision did not require police to adopt a predetermined prosecutorial outcome.	466
Police inaction — Magistrate complaint and investigation remedies	An informant may complain to the Magistrate under Sections 190 and 200 CrPC; the complaint may be dismissed under Section 203 if no offence is disclosed, or process issued where the evidence establishes a prima facie offence. After approaching the Superintendent of Police under Section 154(3), the informant may seek an order under Section 156(3) for FIR registration or proper investigation. A prima facie satisfied Magistrate may monitor investigation and, where necessary, recommend a change of investigating officer, but cannot investigate personally. In this case, liberty was granted to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.	471
Magistrate remedies	Police inaction may be pursued by a complaint under Sections 190 and 200	475

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— Complaint, FIR direction and investigation monitoring	CrPC. The Magistrate inquires under Chapter XV and may dismiss under Section 203 where no offence is disclosed or issue process on a prima facie case. Where written recourse to the Superintendent of Police under Section 154(3) is ineffective, an application under Section 156(3) may seek registration or proper investigation. A prima facie satisfied Magistrate may monitor investigation and, if necessary, recommend a change of investigating officer to the police superior, but cannot investigate personally.	
Complaint under Sections 190 and 200 CrPC after police inaction	When information given to the police produces no action, the complainant may approach the competent Magistrate under Sections 190 and 200 CrPC. The passage from Divine Retreat Centre, reproducing Gangadhar Janardan Mhatre, recognises inquiry into the complaint, appropriate police investigation before process, dismissal under Section 203 where no offence is disclosed for further action, or cognizance and process where the complaint and evidence disclose a prima facie offence. The liberty to pursue this remedy does not itself establish the allegations or require issuance of process.	492
Police inaction — complaint before the competent Magistrate	On police inaction, the informant may file a complaint under Sections 190 and 200 CrPC before the competent Magistrate. The adopted passage from Divine Retreat Centre, quoting Gangadhar Janardan Mhatre, recognises inquiry under Chapter XV, appropriate police investigation before process, dismissal under Section 203 if the complaint discloses no offence for further action, and cognizance and process where the complaint and evidence disclose a prima facie offence. The High Court preserved liberty to file a criminal complaint without directing the Magistrate to accept the allegations or issue process.	494
Magistrate complaint remedy where police fail to act	Where the police do not act on information alleging an offence, the informant may file a complaint before the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate considers the complaint under Chapter XV and may take the appropriate statutory course, including dismissal under Section 203, issue of process where warranted, or a direction for police investigation as explained in Divine Retreat Centre. Because this efficacious complaint remedy was available, the Court dismissed the application under Section 482 CrPC seeking registration of an FIR, with liberty to approach the competent criminal court.	501
Superintendent of Police and Magistrate Remedies for Non-Registration or Improper Investigation	An informant may complain in writing to the Superintendent of Police under Section 154(3) CrPC if the police station does not register the FIR. If registration or proper investigation remains wanting, the informant may apply to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration and proper investigation, monitor its progress and, where necessary, recommend a change of investigating officer to the Superintendent of Police. The Magistrate cannot personally investigate. Liberty was granted to seek relief under Sections 156(3), 200 and 202 CrPC.	533
Magistrate's Complaint Procedure when Police Fail to Act	Where the police do not act on information, the complainant may approach the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate must examine the complaint through the procedure in Chapter XV. If the complaint does not disclose an offence warranting further action, it may be dismissed under Section 203. If the complaint and recorded evidence prima facie disclose an offence, process may issue. The relied-upon passage also recognises a direction for police investigation and a report instead of immediate process where appropriate.	533
Police inaction — complaint to the Magistrate and available judicial responses	Where police take no action on information received, the informant may lodge a complaint before the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate enquires into it under Chapter XV. In the passage relied upon by the Court, the Magistrate may direct police investigation and a report, dismiss the complaint under Section 203 where it discloses no offence	543

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	warranting further action, or issue process where the complaint and evidence disclose a prima facie offence.	
Police inaction on a complaint: remedy before the Magistrate	For the grievance that police had not registered an FIR, the Court declined a direct registration direction under Section 482 CrPC and dismissed the application as not maintainable. The applicant retained the remedy of approaching the competent Magistrate under Section 200 CrPC, corresponding to Section 223 BNSS. The decision applied the statutory complaint and investigation remedies explained in the cited authorities; it did not decide whether the underlying allegations were true.	554
Magistrate's consideration of a private complaint after police inaction	A complainant may invoke Sections 190 and 200 CrPC before the Magistrate having jurisdiction. The complaint is examined under the statutory inquiry procedure. If it discloses no basis for further action, dismissal under Section 203 is available; if the complaint and recorded evidence prima facie disclose an offence, the Magistrate may proceed to cognizance and issuance of process in accordance with the Code.	554
Proposed accused's participation in a Section 202 CrPC inquiry	At the preliminary inquiry under Section 202 CrPC, the proposed accused has no right to intervene. The Magistrate's task is to examine the complainant's evidence and inquiry material to determine whether there are sufficient grounds to issue process, while safeguarding the interests of the absent proposed accused. This proposition concerns the CrPC inquiry considered in the judgment.	559
Statutory remedies for non-registration of an FIR	An informant complaining of police inaction should ordinarily use the statutory police-superior and Magistrate remedies instead of seeking a direct High Court direction to register an FIR. Applying the cited authorities, the Court dismissed the Section 482 application with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS. The duty to register cognizable information does not by itself establish entitlement to bypass those remedies through a High Court petition.	566
Magistrate's inquiry on a complaint of police inaction	The adopted complaint procedure allows the informant to approach the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate examines the complaint and evidence through the statutory inquiry process, may obtain police investigation and a report where appropriate, may dismiss the complaint under Section 203 if no offence is disclosed, or proceed with cognizance and process when a prima facie offence is shown.	566
Prima facie sufficiency and limits of inquiry before issue of process	Sufficient ground for proceeding means a prima facie case, not evidence sufficient to convict. Inquiry under Sections 200–204 CrPC is not a full trial and does not require meticulous weighing of evidence or final adjudication of a possible defence. On the complaint evidence, further inquiry into the Teak Certificate did not justify setting aside cognizance; proof that it was forged would provide additional evidence. The Magistrate was directed to proceed with the complaint.	585
Non-examination of every listed complaint witness under the proviso to Section 202(2) CrPC	The complainant need not examine every person named in the complaint or later witness list. The requirement concerns witnesses whom the complainant considers material to establish a prima facie case for process. Non-examination of one or more listed witnesses does not by itself deprive the Magistrate of jurisdiction to take cognizance and issue process when the required prima facie satisfaction exists.	585
Magistrate remedy for police failure to register an FIR	Failure by police to register an FIR ordinarily calls for the statutory remedies rather than a direct High Court direction. Applying the narrated authorities, the Court dismissed the Section 482 CrPC petition with liberty to approach the jurisdictional Magistrate under Section 200 CrPC or Section 223 BNSS. The police duty to register cognizable information is distinct from the route for redressing inaction. The Court did not determine the merits of the applicant's	595

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	complaint.	
Magistrate's scrutiny of a complaint after police inaction	The remedy under Sections 190 and 200 CrPC allows a complainant to approach a Magistrate competent to take cognizance when police take no action. The narrated procedure requires inquiry under Chapter XV. If the complaint discloses no offence warranting further action, it may be dismissed under Section 203; where the complaint and recorded evidence disclose a prima facie offence, the Magistrate may issue process.	595
Magistrate complaint remedy for police inaction	Where police fail to act, a complainant may approach the Magistrate under Sections 190 and 200 CrPC. The relied-on Aleque Padamsee and Divine Retreat Centre passages describe inquiry into the complaint, appropriate investigation, issuance of process where prima facie grounds exist, or dismissal under Section 203 where no offence is disclosed. Here, the Section 528 BNSS application was dismissed with express liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS; no complaint was decided on its merits.	608
Magistrate complaint as a remedy for police inaction	A person aggrieved by police inaction may file a complaint before the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate examines the complaint under Chapter XV and may dismiss it under Section 203 if no offence is disclosed or issue process where the complaint and evidence disclose a prima facie offence.	620
Magistrate complaint remedy for police non-registration	Where police do not act on information alleging an offence, the informant may approach the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate examines the complaint under Chapter XV, may dismiss it under Section 203 if no offence is disclosed, or issue process where the complaint and evidence disclose a prima facie offence. The Court left the petitioner free to use Sections 156(3), 200 and 202 CrPC.	627
Complaint to Magistrate as a remedy for police non-registration	If police fail to act on information alleging an offence, the complainant may approach the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate examines the complaint under Chapter XV and may dismiss it under Section 203 if no offence is disclosed or issue process where a prima facie offence emerges. The Court expressly left the petitioner free to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	629
Police inaction on a complaint — statutory remedies ordinarily precede FIR-registration mandamus	Mandamus directing FIR registration may be declined where the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to the recognised writ exceptions referred to in Shweta Bhadauria. Where an efficacious criminal-complaint remedy exists, the High Court may dismiss the writ petition with liberty to approach the competent Magistrate.	630
Magistrate's powers on a private complaint after police inaction	A complainant whose information has not led to police action may approach the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate must inquire into the complaint under Chapter XV and, on the assessment described in the reproduced precedent, may direct police investigation and a report, dismiss a complaint disclosing no offence under Section 203, or take cognizance and issue process where a prima facie offence is disclosed.	630
Proposed accused's participation before cognizance in a complaint case	A suspect or proposed accused has no right to participate in complaint proceedings before cognizance. The Court stated this while applying by analogy Debendra Nath Padhi's rule that an accused has no right to introduce defence material at the stage of framing charge.	641
Non-cognizable police report treated as a complaint	While considering possible action concerning alleged bigamy in the habeas corpus proceedings, the Court stated that the Explanation to Section 2(d) CrPC permits a police report concerning a non-cognizable offence to be treated as a complaint and the investigating officer as its complainant. It also stated that registration of an FIR for a non-cognizable offence was not barred, referring	642

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	instead to a bar at the court's cognizance stage. The Court left the police free to continue or close the investigation.	
Private complaint when police fail to act on information	Where the police take no action on information, the informant may lodge a complaint before the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate proceeds under Chapter XV, considers the complaint and evidence, and may issue process if an offence is prima facie disclosed or dismiss the complaint under Section 203 if no ground for further action is disclosed.	662
Police inaction — complaint remedy before the Magistrate	A complainant aggrieved by police inaction may invoke the Magistrate's complaint jurisdiction. The Aleque Padamsee and Divine Retreat Centre passages relied upon by the Court describe recourse under Sections 190 and 200 CrPC. After the prescribed inquiry and evidence, the Magistrate may act on a prima facie offence, direct appropriate investigation as described in the reproduced passage, or dismiss a complaint disclosing no ground for further action. The High Court left the petitioner free to approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS; it did not order cognizance or prejudge the complaint.	679
Section 2(d) CrPC — non-cognizable police report deemed a complaint	A police report which, after investigation, discloses commission of a non-cognizable offence is deemed a complaint under the Explanation to Section 2(d) CrPC, and the reporting officer is deemed the complainant. Removal of the other counts therefore did not require quashing the remaining Section 506 IPC allegation merely because it was non-cognizable; the charge-sheet was to be treated as a complaint for that offence.	685
Complaint before the Magistrate when police do not act	Where information given to the police is not acted upon, the complainant may proceed before the competent Magistrate under Section 190 read with Section 200 CrPC. The complaint is examined through the Chapter XV procedure. If it discloses no offence warranting further action, dismissal under Section 203 is available; where the complaint and recorded evidence prima facie disclose an offence, cognizance and issue of process are available.	697
Private complaint following police inaction — Magistrate's inquiry and available orders	Where police take no action on information supplied, the complainant may approach the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate must inquire into the complaint under Chapter XV. The adopted passage describes the powers to direct police investigation and a report where a prima facie case is found, dismiss a complaint disclosing no offence under Section 203, or take cognizance and issue process where the complaint and evidence prima facie disclose an offence.	702
Magistrate's inquiry on a complaint of police inaction	When police do not act on information, the complainant may approach the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate must inquire into the complaint under Chapter XV and, according to the prima facie material, may direct police investigation and a report, dismiss the complaint under Section 203, or take cognizance and issue process. The High Court's liberty to approach the Magistrate did not prescribe which outcome should follow.	710
Complaint inquiry when police take no action	An informant may file a complaint before the competent Magistrate under Sections 190 and 200 CrPC when police do not act. The Magistrate must inquire under Chapter XV and assess whether the evidence warrants investigation and a report, dismissal under Section 203, or cognizance and issue of process. The Court's liberty to file a complaint left that statutory assessment to the Magistrate.	719
Police inaction — Magistrate's complaint inquiry, process and	The Gangadhar Janardan Mhatre passage reproduced through Divine Retreat Centre and relied upon by the Court explains the remedy when police take no action on information. The complainant may approach the competent Magistrate under Section 190 read with Section 200 CrPC, and the complaint	745

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dismissal powers	is to be inquired into under Chapter XV. The reproduced rule describes the Magistrate's power to obtain police investigation and a report instead of immediately issuing process, to dismiss an unsupported complaint under Section 203, or to proceed where the complaint and recorded evidence prima facie disclose an offence. This statutory route supported dismissal of the writ with liberty to file a Section 200 complaint.	
Magistrate complaint where police do not register an FIR	A person aggrieved by police inaction may lodge a complaint before the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate considers it through the complaint procedure and the evidence presented, and may dismiss it under Section 203 if no ground for further action appears or issue process where the requisite case is disclosed. The High Court's operative liberty here was to pursue the complaint remedy under Section 200 CrPC/Section 223 BNSS.	763
Magistrate complaint where police do not register an FIR	A person aggrieved by police inaction may lodge a complaint before the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate considers it through the complaint procedure and the evidence presented, and may dismiss it under Section 203 if no ground for further action appears or issue process where the requisite case is disclosed. The High Court's operative liberty here was to pursue the complaint remedy under Section 200 CrPC/Section 223 BNSS.	765
Magistrate's complaint procedure after police inaction	A person aggrieved by police inaction may lay a complaint before the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate enquires into it under Chapter XV, may dismiss it under Section 203 where no offence is disclosed, or issue process where the complaint and evidence disclose a prima facie offence. The Court preserved the applicant's liberty to approach the Magistrate under Section 200 CrPC/Section 223 BNSS without prescribing the result.	786
Section 202(2) CrPC — examination of material complaint witnesses	The proviso to Section 202(2) CrPC does not require the complainant to examine every person named as a witness. The expression 'all his witnesses' refers to those the complainant considers material to establish a prima facie case. Non-examination of one or more listed witnesses does not by itself remove the Magistrate's jurisdiction to take cognizance and issue process if a prima facie case is otherwise established.	805
Section 482 CrPC — Complaint remedy for police inaction	Where the police do not act on a complaint, the complainant may approach the competent Magistrate under Sections 190 and 200 CrPC. The Court declined to direct registration of an offence through Section 482 CrPC and left the applicant free to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	820
Section 156(3) CrPC — Registration and supervision of investigation	A person aggrieved by non-registration of an FIR may first complain in writing to the Superintendent of Police under Section 154(3) CrPC and, if relief is not obtained, approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor the investigation and, where necessary, recommend a change of investigating officer to the senior police authority. The Magistrate cannot personally investigate.	820
Private complaint — Magistrate's inquiry and further action	On a complaint under Sections 190 and 200 CrPC, the competent Magistrate must inquire into it under Chapter XV. The reproduced authority describes recourse to police investigation and a report where a prima facie case is found, dismissal under Section 203 where no offence is disclosed, and issuance of process where the complaint and evidence prima facie disclose an offence.	820
Article 227 — Magistrate's complaint remedy for police inaction	Where police do not act on information alleging an offence, Sections 190 and 200 CrPC provide a complaint remedy before the competent Magistrate. The Court dismissed the Article 227 petition seeking a direct FIR and investigation direction, leaving the petitioner free to approach the Magistrate under Section	822

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	200 CrPC or Section 223 BNSS.	
Section 156(3) CrPC — Registration and supervision of investigation	A person aggrieved by non-registration of an FIR may first complain in writing to the Superintendent of Police under Section 154(3) CrPC and, if relief is not obtained, approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor the investigation and, where necessary, recommend a change of investigating officer to the senior police authority. The Magistrate cannot personally investigate.	822
Private complaint — Magistrate's inquiry and further action	On a complaint under Sections 190 and 200 CrPC, the competent Magistrate must inquire into it under Chapter XV. The reproduced authority describes recourse to police investigation and a report where a prima facie case is found, dismissal under Section 203 where no offence is disclosed, and issuance of process where the complaint and evidence prima facie disclose an offence.	822
Section 202(2) CrPC — Examination of material complaint witnesses	The complainant need not examine every witness named in the complaint or disclosed to the Magistrate. The word 'all' in the proviso to Section 202(2) is qualified by 'his' and requires examination of witnesses the complainant considers material to establish a prima facie case. Non-examination of some named witnesses does not, by itself, remove the Magistrate's jurisdiction to take cognizance and issue process where a prima facie case exists.	825
Section 156(3) CrPC — Registration and supervision of investigation	A person aggrieved by non-registration of an FIR may first complain in writing to the Superintendent of Police under Section 154(3) CrPC and, if relief is not obtained, approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor the investigation and, where necessary, recommend a change of investigating officer to the senior police authority. The Magistrate cannot personally investigate.	826
Private complaint — Magistrate's inquiry and further action	On a complaint under Sections 190 and 200 CrPC, the competent Magistrate must inquire into it under Chapter XV. The reproduced authority describes recourse to police investigation and a report where a prima facie case is found, dismissal under Section 203 where no offence is disclosed, and issuance of process where the complaint and evidence prima facie disclose an offence.	826
Magistrate complaint remedy for police inaction	A person aggrieved by police inaction may place a complaint before the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate must inquire into it through the prescribed complaint procedure and may act on a prima facie case, issue process, direct police investigation where appropriate, or dismiss it under Section 203 if it discloses no basis for further action. The present petitioner was expressly left free to use the Section 200 CrPC or Section 223 BNSS complaint route; the High Court did not itself direct FIR registration or decide the alleged offences.	838
Police report deemed a complaint under Section 2(d) CrPC	Where a police officer's report discloses, after investigation, the commission of a non-cognizable offence, the explanation to Section 2(d) CrPC treats that report as a complaint and the reporting officer as the complainant. The Court applied this deeming provision while refusing to quash the FIR.	841
Magistrate complaint remedy for police inaction under Section 200 CrPC or Section 223 BNSS	A person aggrieved by police inaction may present a complaint to the competent Magistrate. The Court granted liberty to invoke Section 200 CrPC or Section 223 BNSS. The adopted CrPC passages explain that the Magistrate examines the complaint under Chapter XV, may dismiss it under Section 203 if no offence is disclosed, or may proceed on a prima facie case in accordance with the Code.	853
Police inaction: complaint before the Magistrate under Sections 190 and 200 CrPC	Where police take no action on information, the informant may complain to the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate enquires under Chapter XV and, according to the prima facie material, may take cognizance and issue process, direct a police investigation and submission of a	863

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	report, or dismiss a complaint disclosing no offence under Section 203.	
Complaint before the Magistrate when police fail to act	A complainant aggrieved by police inaction may proceed before the competent Magistrate under Sections 190 and 200 CrPC. The adopted Divine Retreat Centre passage explains that the complaint is considered under Chapter XV: the Magistrate may require police investigation and a report where appropriate, dismiss it under Section 203 if it discloses no offence, or proceed to issue process where the complaint and evidence prima facie disclose an offence. The High Court preserved recourse to Sections 200 and 202 while declining writ relief.	875
Police inaction — statutory remedies before seeking High Court directions	The police duty to register an FIR on cognizable information is distinct from the remedy for failure to perform that duty. An aggrieved informant may complain to the Magistrate under Sections 190 and 200 CrPC. The statutory course also includes approaching the Superintendent of Police under Section 154(3) and, if registration or proper investigation remains unsatisfactory, applying to the Magistrate under Section 156(3). These remedies ordinarily govern both non-registration and deficient investigation after registration. In the applicant's Section 528 BNSS petition seeking fair investigation concerning a showroom-payment grievance, the Court declined direct relief and expressly left him free to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.	887
Magistrate complaint as a remedy for police inaction	Where the police take no action on information alleging an offence, the complainant may approach the competent Magistrate under Section 190 read with Section 200 CrPC. The Magistrate examines the complaint and evidence under the prescribed procedure and may direct investigation, dismiss a complaint disclosing no basis for further action, or issue process where the required prima facie case exists. The Court preserved the petitioners' liberty to seek redress under Section 200 CrPC or Section 223 BNSS.	921
Private complaint: inquiry, dismissal and issue of process	A person aggrieved by police inaction may present a complaint to the competent Magistrate under Sections 190 and 200 CrPC. The Magistrate must examine it through the prescribed complaint procedure. If no offence warranting further action is disclosed, the complaint may be dismissed under Section 203; where the complaint and evidence disclose a prima facie offence, the Magistrate may take cognizance and issue process in accordance with law. The dismissal of the writ leaves this statutory remedy available.	945
Police report disclosing a non-cognizable offence as a deemed complaint	Under the Explanation to Section 2(d) CrPC, a police officer's report which, after investigation, discloses a non-cognizable offence is deemed to be a complaint, and the reporting officer is deemed to be the complainant. The charge-sheet alleging Section 323 IPC against the applicants was accordingly treated as a complaint, with the investigating officer as complainant, after their objection to a joint trial succeeded. This determined the report's procedural status without deciding the assault allegation.	960
Complaint before the Magistrate for police inaction or an unsatisfactory inquiry	A person aggrieved by police inaction may file a complaint before the competent Magistrate under Sections 190 and 200 CrPC. The reproduced authorities describe inquiry under Chapter XV, investigation where warranted, dismissal under Section 203 where no offence is disclosed, or process where the complaint and evidence disclose a prima facie offence. For dissatisfaction with the Merg inquiry, the Court reserved a complaint under Section 200 CrPC/Section 223 BNSS with an application under Section 156(3) CrPC/Section 175 BNSS. The Magistrate must decide according to law, uninfluenced by dismissal of the writ petition.	961
Corporate complainant and correction of its representative's	A special statute's eligibility requirements must be satisfied by the complainant. Where a company is the eligible de jure complainant, it necessarily acts through a natural person; the person who first represented it need not continue	966

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authority	throughout the proceedings. The reproduced M.M.T.C. decision permits the company to cure an initial lack of representative authority by sending a competent authorised person later. The High Court relied on that distinction by analogy when permitting the Appropriate Authority to join the PCPNDT complaint.	
	Sub-Chapter no. 6.5 **Closure Report, Final Report and Magistrate Control**	
Informant's hearing on a closure report and accused's lack of cross-examination right	The opportunity of hearing recognised in Bhagwant Singh protects the complainant. Here, the complainant had raised no objection about his opportunity before the Magistrate. The accused could not use that safeguard to insist on the complainant's examination or claim a right to cross-examine him at the stage of rejecting the closure report and taking cognizance. The Court therefore rejected their objection and upheld cognizance.	97
Extent of reasons when rejecting a closure report and taking cognizance	A Magistrate rejecting a closure report and taking cognizance is not required to give detailed reasons. The High Court's fuller factual discussion in revision was confined to the need for sanction and the existence of prima facie material warranting prosecution; it was not to influence the trial court's independent assessment of the evidence.	97
Magistrate's options on a closure report and informant's right to be heard	On a police closure report, the Magistrate may accept the report and drop proceedings, disagree and take cognizance, or direct further investigation. Before declining cognizance and dropping proceedings wholly or against any person named in the FIR, the Magistrate must give the informant notice and an opportunity to be heard.	200
Rejected closure report and earlier police cooperation—bail assessment	The applicant's availability to police and the earlier closure report did not justify anticipatory bail in this case. The Court had already found the closure report unworthy of acceptance and considered that police had shown undue favour, rather than treating the report as an exoneration entitling the applicant to protection.	413
Partial rejection of a closure report where the complaint discloses rioting and property damage	A closure report need not be accepted for every offence merely because the police recommend closure. The complaint specifically alleged stone-pelting by five persons that damaged the house's wall and doors by ₹50 or more, supplying the basic allegation of mischief under Section 427 IPC and supporting the rioting allegation. The Court upheld rejection of closure and cognizance for Sections 147 and 427 IPC. It confined review to those offences because the complainant had not challenged acceptance of closure for Section 294 IPC and Section 3(1)(x) SC/ST Act.	428
Police report where investigation finds no substance in the complaint	If investigation shows that the complaint lacks substance, the investigating officer may submit an appropriate report or summary to the Magistrate. The Magistrate must then consider it through the prescribed procedure; the possibility of such a report does not require the Court to decide the merits prematurely in a quashing petition.	438
Internal Preliminary-Inquiry Reports and Judicial Scrutiny of Closure	The police could not treat their internal negative preliminary-inquiry reports as final exoneration while withholding them from the complainant and the Magistrate. In rejecting reliance on those reports, the Court required communication of the negative finding to the complainant and forwarding for judicial scrutiny, referring to Sections 157 and 169 CrPC and Section 189 BNSS. The reports had not attained finality merely because the officers formed an opinion that the accusation was false.	528
Closure report — complainant's hearing and the Magistrate's independent scrutiny	A police closure report is subject to judicial scrutiny. The complainant must be given an opportunity of hearing before the Magistrate decides whether to accept the report, take cognizance or direct further investigation. In the passage from Abhinandan Jha relied upon by the Court, the Magistrate may direct further	540

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	investigation under Section 156(3) CrPC where the investigation is incomplete or unsatisfactory, and may take cognizance under Section 190(1)(b) where the reported facts disclose an offence despite the contrary police opinion. Fair investigation does not require a report favourable to the complainant.	
Section 173(1) CrPC and Section 193 BNSS — completion without unnecessary delay	Investigation must be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely, but must decide whether an offence is made out and promptly submit the appropriate final report, whether a closure report or charge-sheet. The Court may require completion as early as possible and the steps required by law, without directing which conclusion the officer must reach.	704
Procedural return of a closure report is not rejection on merits	Returning a closure report because it was not presented through the competent police officer did not amount to accepting or rejecting it on merits. The CJM had required refiling through the Superintendent of Police under Police Regulation 737. That procedural return did not establish the appellant's asserted obligation on police to file a charge-sheet. The fresh report filed through the Superintendent of Police remained for the CJM's consideration.	714
Magistrate's options on a police final report	A Magistrate considering a police final report may accept closure, decline to accept it and direct further investigation under Section 156(3) CrPC where investigation is incomplete or unsatisfactory, or take cognizance under Section 190(1)(b) if the reported facts disclose an offence despite the police opinion. Further investigation may produce either a charge-sheet or another final report. Applying Abhinandan Jha, the Court left those choices to the CJM after an opportunity for the complainant to object.	714
Magistrate's assessment of a pending closure report	On a closure report, the Magistrate must consider whether the investigating officer's opinion is proper or the investigation remains incomplete and requires further investigation. The Magistrate may accept a closure report found to be proper. Filing the report alone does not conclude this judicial assessment.	798
Completion of investigation without unnecessary delay	Section 173(1) CrPC, referred to with Section 193 BNSS, requires investigation to be completed without unnecessary delay. The investigating officer must decide whether an offence is made out and submit the appropriate final report, whether a closure report or a charge-sheet. The direction to conclude investigation as early as possible preserves that statutory choice. A grievance may be brought before the Superintendent of Police for consideration according to law.	901
Section 173(1) CrPC — prompt completion and an appropriate final report	Investigation must be completed without unnecessary delay. The investigating officer must determine whether an offence is made out and submit the appropriate final report, whether a closure report or a charge-sheet. The direction to conclude the pending investigation as early as possible did not predetermine its outcome. Any further grievance could be submitted to the Superintendent of Police for consideration according to law.	906
Section 193(1) BNSS — assessment of unnecessary investigation delay	The lapse of two and a half months after registration of the FIR did not, on the circumstances presented, establish unnecessary delay warranting a direction under Section 193(1) BNSS. The Court declined such a direction for the time being, while permitting the applicant to return if the investigation was not completed within a reasonable period.	909
Prompt completion of investigation and submission of the appropriate final report	Section 173(1) CrPC, referred to alongside Section 193 BNSS, requires completion of investigation without unnecessary delay. The investigating officer cannot keep it pending indefinitely, but must determine whether an offence is made out and submit the appropriate closure report or charge-sheet as early as possible. The Court directed lawful completion without prescribing the result and left the applicant free to submit a grievance to the Superintendent of Police for consideration according to law.	937

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Section 173(1) CrPC — investigation must conclude without unnecessary delay	Section 173(1) CrPC requires an investigation to be completed without unnecessary delay. The investigating officer must determine whether the evidence warrants a charge-sheet or a closure report and submit the appropriate final report. The Court directed early completion and necessary lawful steps without prescribing the investigation's result or a fixed deadline.	941
Prepared closure report: police cannot withhold filing pending complainant notice	Police cannot retain a prepared closure report on the ground that the complainant has not appeared or been served. Notice and an opportunity to object arise when the Magistrate considers the filed report. Where its preparation was known and prior orders required consideration, the Magistrate should have required its filing rather than proceed without it.	975
	Sub-Chapter no. 6.6 **FIR Registration — Suspect's Pre-Registration Hearing and Notice**	
Hearing before a direction to report a criminal offence	A suspect has no right to a hearing before a criminal offence is reported or an FIR is registered under the CrPC. The Registrar's direction to initiate criminal action against a cooperative-society employee was therefore not invalid merely because the employee had not first been heard.	197
Proposed accused's right to a hearing before FIR registration	A proposed accused has no right to a hearing before registration of an offence. Applying that principle to the Collector's direction to lodge an FIR on a revenue inquiry report, the Court rejected the demand for a prior opportunity of hearing. The investigative stage does not ordinarily require prior notice to or participation by the accused in the absence of a statutory requirement.	240
FIR registration against police officers — no general right to a pre-registration hearing	Information disclosing a cognizable offence requires FIR registration, and the proposed accused has no general right to be heard before registration. Non-joinder of the police officers in the writ therefore did not prevent a direction to register the disclosed offences. The authorities applied also explain that an accused ordinarily has no participation right during investigation and need not be heard before further investigation under Section 173(8) CrPC. A discretionary hearing in an appropriate judicial transfer proceeding is not an absolute pre-registration right.	546
Public servant's claimed right to explain assets before FIR registration	In the disproportionate-assets reasoning adopted through the cited authority, the accused public servant has no right to a mandatory preliminary opportunity to account for assets before FIR registration. The investigator collects material and may seek clarification, but is not required to adjudicate the sufficiency of the accused's accounting before filing the charge sheet. A mandatory pre-FIR right cannot be founded on such an asserted pre-charge-sheet entitlement.	785
	Sub-Chapter no. 6.7 **Protest Petition and Complainant's Remedy after Final Report**	
Cognizance on a complaint or qualifying protest petition despite police closure	A police closure report, even after its acceptance, does not bar cognizance on a complaint or protest petition satisfying the requirements of a complaint under Section 190(1)(a) CrPC. The complainant may object to closure and lead complaint evidence; the Magistrate may proceed after recording statements under Sections 200 and 202 CrPC, as applicable.	200
Complaint treated as a protest petition against an adverse police opinion	In addressing the police's failure to submit its adverse preliminary-inquiry opinion, the Court held that the complainant's complaint could also be treated as a protest petition. Had the report been placed before the Magistrate, the Magistrate could have directed investigation or decided to hold an inquiry despite the police opinion.	314
Opportunity to object and lead evidence on a pending closure report	For the fresh closure report, the CJM was directed to serve notice if not already issued and give the complainant an opportunity to file objections and examine supporting witnesses. The report was then to be decided after hearing both sides. If a final order had already been passed, the complainant was free to	714

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	pursue the remedies available in law.	
Complaint and closure report: joint consideration required by prior directions	Where the High Court had directed consideration of the closure report with the complainant's private complaint as a protest petition, the Magistrate could not disregard those directions and dismiss the complaint without obtaining the report. The dismissal was set aside for fresh consideration of both in accordance with the prior orders, without prejudgment from the earlier dismissal.	975
Informant's notice and hearing before acceptance of a closure report	Before accepting a police report that would drop the proceedings or exclude persons named in the FIR, the Magistrate must notify the informant and provide an opportunity to be heard. The relied-upon direction also required access to the investigation report, witness statements and related documents in accordance with law before a final decision on closure.	975

Sub-Chapter no. 6.8
Multiple FIRs, Counter-Cases and Cross-Cases

Cross-cases — same judge, separate evidence and separate judgments	Cross-cases arising from the same incident should be tried successively by the same judge, who records evidence and hears arguments in each, reserves judgment in each, and pronounces separate judgments one after the other. Each case must be decided on its own evidence and arguments, without importing evidence from the other. This procedure avoids conflicting judgments; the investigating officer must endeavour to distinguish truth from falsehood in the rival versions.	12
Allegation that an FIR is a counterblast does not alone justify quashing	The existence of an FIR by the accused side and the assertion that the opposing FIR is a counterblast do not by themselves justify quashing. Where the allegations in the impugned FIR disclose a cognizable offence, disputed rival accounts cannot be resolved by accepting the accused's defence at the quashing stage.	209
Separate FIRs from one raid — inference of mala fides	Registration of three FIRs under different statutes after a single house raid did not, by itself, establish mala fides. The Court considered the recovery of illicit liquor, ganja and a loaded unlicensed firearm and found no demonstrated illegality warranting transfer of the investigation. The holding concerns the claimed mala fides in this writ petition; it does not decide a general rule about the validity of successive FIRs arising from the same transaction.	321
Separate cheating transactions require separate FIRs despite a common scheme	Distinct transactions involving different cheated investors or traders constitute separate offences; a common scheme does not by itself make them one transaction. The Court held that police should have registered separate FIRs instead of treating one victim as complainant and the others merely as witnesses. It distinguished separate FIRs and reports from limited joinder for trial under the Code. Since co-accused had already been charge-sheeted, it issued no fresh registration direction in this case, but directed communication of the governing law to the DGP.	443
Interconnected offences on successive days — one transaction does not require separate FIRs	Obstruction and threats during electricity anti-theft repairs, followed by detection of electricity theft during the next day's inspection, were treated as interconnected incidents forming one transaction. Separate FIRs for offences forming that transaction were not permissible, and charges concerning the earlier incident could be framed in the same case.	631
Second FIR — distinct scope of community-incitement allegations	Although both FIRs arose from the same conversation, the first concerned personal and caste-related abuse of its recipient, while the second alleged a statement likely to incite offences between communities under Section 505 IPC, a provision absent from the first FIR. Applying the exception for FIRs with different scope, the Court held that the Section 505 investigation was not barred as a second FIR for the same offence.	686
Successive FIRs — test of sameness	To decide whether a later FIR is impermissibly repetitive, the Court examines	686

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	the facts and circumstances of both reports and whether they concern the same occurrence or parts of the same transaction. A fresh FIR used to subject a person to repeated investigation of that transaction may be quashed, subject to recognised exceptions for genuinely different scope, incidents, rival versions or new discoveries.	
Counter-complaint presenting a rival version of the same incident	The bar against a repetitive FIR does not prevent an aggrieved person or an accused named in the first FIR from lodging a counter-complaint giving a rival version of the incident. Both versions may be investigated; the first report cannot deprive the other side of the right to place its account before the police.	686
Later FIR based on new facts, a larger conspiracy or a separate incident	A later FIR may be permissible when investigation or other proceedings reveal previously unknown facts, a larger conspiracy, an offence distinct from the one first investigated, or a separate incident. Similarity of offences or an overlap in surrounding circumstances does not by itself resolve whether the later FIR has a distinct permissible scope.	686
Rival FIRs and the disputed identity of the aggressor	Where both sides alleged an incident on the same morning through opposing FIRs, the question whether the applicants or the complainant's side were the aggressors was a disputed question of fact. The High Court could not resolve that dispute under Section 482 CrPC or Section 528 BNSS merely because the applicants had also lodged their own FIR.	857
Earlier complaint not registered as an FIR — later FIR is not barred as a second FIR	An earlier complaint containing similar allegations does not bar registration of an FIR on a later complaint where the earlier complaint never culminated in an FIR. The rule against a second FIR for the same offence did not apply because no first FIR had been registered. The Court also rejected the claim of double jeopardy: the applicant had not previously been prosecuted and tried for the same offence. The later complaint could therefore lawfully lead to the FIR.	1001
	Sub-Chapter no. 6.9 **Non-Cognizable Police Report Deemed Complaint — CrPC Section 2(d)**	
Police report disclosing a non-cognizable offence treated as a complaint	Under the Explanation to Section 2(d) CrPC, a police report disclosing, after investigation, commission of a non-cognizable offence is deemed a complaint, and the reporting police officer is deemed the complainant. The Court applied this as an alternative answer to the objection that the proceedings must fail if the Section 294 IPC offence were absent, while maintaining its finding that Section 294 was prima facie disclosed.	244
Police report deemed to be a complaint under Section 2(d) CrPC	Under the Explanation to Section 2(d) CrPC, a police report which, after investigation, discloses a non-cognizable offence is deemed to be a complaint, and the police officer making the report is deemed to be the complainant.	271
	Sub-Chapter no. 6.10 **BNSS Section 175 Pre-Cognizance Investigation Direction — Section 223 Hearing Distinction**	
Section 175 BNSS investigation order and the Section 223(1) hearing requirement	An order directing investigation under Section 175 BNSS is made before cognizance. The Magistrate must apply judicial mind to whether such a direction is necessary, but the Section 223(1) hearing requirement does not apply to that pre-cognizance order. The Court rejected the applicants' objection that the Magistrate's investigation direction was invalid because they had not been heard under Section 223.	424
Section 223 BNSS hearing when proceeding on a complaint instead of directing police registration	Where the Magistrate, on considering an application for police action under Section 175(3) BNSS, finds no basis to direct FIR registration and proceeds on the complaint under Section 223, the first proviso to Section 223(1) requires an opportunity of hearing to the accused before cognizance. The Court criticised omission of the doctors sought to be prosecuted from the application. Its discussion distinguishes the complaint-cognizance stage from the request for a police-investigation direction.	588

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	Sub-Chapter no. 6.11 **FIR Forwarding to Magistrate — Section 157 CrPC Promptness and Evidentiary Effect**	
Section 157 CrPC — delayed forwarding of FIR and prejudice	Prompt forwarding of the FIR to the Magistrate is a public duty and an external check against manipulation. Delay must be assessed with the entire evidence and any explanation sought, but does not by itself prove ante-timing, vitiate the trial or require acquittal. Where the FIR was promptly recorded, investigation began on it and no prejudice from delayed forwarding was shown, the delay did not undermine the prosecution case.	12
Delayed forwarding of a timely FIR and recording of witness statements	Police delay in forwarding an FIR to the Magistrate under Section 157 CrPC or recording witness statements did not discredit the prosecution where the FIR had already been promptly registered with the relevant details, named the eyewitnesses, and contained no material contradiction with their statements. Those subsequent police delays could not be attributed to the complainant party.	21
FIR forwarding and immediate investigative steps	Failure to prove formal compliance with Section 157 CrPC was not fatal where the investigative machinery acted immediately after the FIR. Prompt medical examination of injured persons and dispatch of the body for post-mortem supported the conclusion that the FIR was not ante-timed. Such compliance cannot be treated as an automatic ground to reject every FIR.	165
Section 157(1) CrPC — FIR dispatch safeguard and consequence of non-compliance	Prompt dispatch of the FIR to the Magistrate provides an external check against deliberation, antedating and antetiming. 'Forthwith' requires reasonable dispatch in the circumstances, not a universal fixed interval. Non-compliance or delay does not automatically establish fabrication or defeat the prosecution, but requires close scrutiny of the remaining ocular and medical evidence. The dispatch duty rests on the investigating officer, not the first informant; extraordinary unexplained delay may cast doubt on the FIR's authenticity.	319
Delayed forwarding of an FIR as an evidentiary circumstance	Section 157 CrPC requires prompt forwarding of the FIR to the competent court to guard against later improvement and enable judicial oversight. Delay does not alone defeat an otherwise reliably proved prosecution, but must be weighed with the other evidence. Here the delay exceeding 24 hours, considered with serious contradictions in the prosecution account, substantially weakened its credibility.	716
	Chapter no. 7 **Criminal Courts, Jurisdiction and Court Competence**	
	Sub-Chapter no. 7.1 **Territorial and Subject-Matter Jurisdiction in Criminal Proceedings**	
Territorial jurisdiction over alleged continuing matrimonial cruelty	Section 178 CrPC permits inquiry or trial in any relevant local area where an offence continues across areas or comprises acts in different areas. On the allegations of continuing cruelty and intended remarriage, and noting that the husband's parents lived within the Adhartal police-station area, the Court upheld that station's jurisdiction to register and investigate the FIR despite the principal acts of cruelty having allegedly occurred in Arizona.	29
Territorial objection to an FIR and transfer of investigation	A dispute about the alleged place of matrimonial residence does not by itself justify quashing an otherwise cognizable FIR. Even assuming the spouses never stayed at the stated place, the appropriate consequence could be transfer of investigation to the police station having territorial jurisdiction. The Court left the disputed residence to evidence and did not finally identify the competent station.	39
Liberty petition at a High Court Bench while a connected PIL is pending at the	Where the entire cause of action arises within a Bench's territorial jurisdiction, a pending PIL at the Principal Seat does not require the Bench to decline a separate petition concerning personal liberty if the issues differ and conflicting decisions are not possible. The legality of arrest concerned the implementation	41

7.1 : Territorial and Subject-Matter Jurisdiction in Criminal Proceedings

Topic	Ratio	Case Sr.no.
Principal Seat	of a law-and-order direction, whereas the PIL concerned permission to install a statue. The petitioner was therefore not required to file a new petition or an interlocutory application at the Principal Seat.	
Section 179 CrPC — continuing consequences of matrimonial cruelty may found jurisdiction at the parental home	Where cruelty at the matrimonial home drives the wife to take shelter with her parents and its adverse mental consequences continue there, those consequences may themselves constitute cruelty under Section 498-A IPC at that place. The relied-upon decision in Rupali Devi treats such repeated consequences as attracting Section 179 CrPC. The proposition depends on continuing cruelty-related consequences, not merely on the wife's residence at another address.	76
Continuing mental cruelty and jurisdiction at the wife's parental home	Where matrimonial cruelty compels a wife to take shelter with her parents, the resulting mental trauma may continue there even though physical assaults do not recur at that place. Applying Rupali Devi, the Court treated the wife's compelled separation on account of physical and mental harassment and dowry demands as continuing cruelty at Jabalpur, giving a fresh cause of action each day. The Jabalpur police could accordingly register the FIR, investigate and file the charge-sheet despite the contention that the principal earlier acts occurred at Pune.	84
Territorial jurisdiction where a wife takes shelter after matrimonial cruelty	Where a wife takes shelter at her parental home because of matrimonial cruelty, its continuing mental consequences may give that place jurisdiction under Section 179 CrPC, depending on the facts. Here, the alleged compulsory residence at Datia with her child, pending fulfilment of the unlawful demand, formed part of the cruelty. Datia police therefore did not lack territorial jurisdiction merely because much of the alleged abuse occurred in Lucknow.	289
Section 126 CrPC — Actual residence and territorial jurisdiction in maintenance proceedings	A maintenance application under Section 125 CrPC may be filed in a district where the person proceeded against is, where he or his wife resides, or where he last resided with his wife or, as applicable, the mother of an illegitimate child. Residence need not be permanent: genuine residence for the time being may suffice. A casual stay, a flying visit or an address assumed solely to create jurisdiction does not. The wife’s parental home and occasional visits to Gwalior did not establish residence there when she and her daughter actually lived in Delhi and the spouses had not last lived together in Gwalior. The Gwalior proceeding lacked territorial jurisdiction; liberty remained to apply before a competent court.	350
Section 126 CrPC — Effect of a subsequent transfer on jurisdiction	Where the wife’s residence at the time of filing gives a court jurisdiction under Section 126 CrPC, that court does not lose jurisdiction merely because she is subsequently transferred elsewhere. This observation does not permit filing at a place where she was not residing when the application was instituted.	350
Sections 177–178 CrPC — Territorial jurisdiction where alleged acts occur in different areas	Where an offence is committed partly in different local areas or consists of acts done in different areas, Section 178 CrPC permits inquiry or trial in any of those areas. On the FIR’s allegations, job-offer calls received by the complainant in Morena induced her to travel to Delhi, where the alleged assault and threat occurred. The Court treated that inducement as part of the transaction and upheld registration of the FIR at Morena. The alleged physical act having occurred in Delhi did not, on that account alone, require Morena police to register a zero FIR and transfer the case.	353
Local property transactions supporting police territorial jurisdiction	The company's registered office and asserted decision-making at Noida did not exclude Sirol police jurisdiction over alleged sham sale deeds executed in Gwalior concerning a township within that station's area. The Court found the alleged offence territorially connected to Gwalior. Even assuming a Noida decision formed part of the offence, each police station connected to a part could investigate. It therefore rejected the territorial objection at the Section 482 stage, without finally determining the fraud allegations.	447

Topic	Ratio	Case Sr.no.
Alternative territorial venues under Sections 177–179 CrPC	The adopted territorial-venue authority states that an offence is ordinarily inquired into and tried where committed. Where its location is uncertain, it is committed partly in different areas, continues across areas or consists of acts in different areas, a court in any qualifying area may inquire into or try it under Section 178. Where an act constitutes an offence by reason of both the act and its consequence, Section 179 permits venue where either occurred. The Court used those principles to support rejection of the investigation-jurisdiction objection.	447
Section 498-A IPC — Continuing mental cruelty and parental-home jurisdiction	Cruelty under Section 498-A IPC includes mental suffering. Where cruelty drives a wife from the matrimonial home to her parents, the resulting trauma and psychological distress may continue there even without a fresh physical act at that place. Compelling her to remain at the parental home on account of cruelty was treated as continuing cruelty. Applying Rupali Devi and the Court's Amar Singh decision to the allegations, Mahila Thana, Bhopal also had territorial jurisdiction to investigate while the complainant was residing there. The holding was not based on residence alone.	476
Territorial jurisdiction — continuing mental cruelty at the wife's parental home	Under Section 178 CrPC, an offence occurring partly in different local areas may be inquired into or tried by a court having jurisdiction over any such area. Applying Rupali Devi, the Court held that mental cruelty can continue at the parental home where a wife has been compelled to take shelter after dowry-related expulsion, even if the earlier physical acts occurred elsewhere. The allegations of continued forced residence at Gwalior, together with a renewed dowry demand there, supported the jurisdiction of the Gwalior Mahila Thana to investigate.	549
Territorial jurisdiction where continuing cruelty affects the wife at her parental home	Where dowry-related expulsion from the matrimonial home continues to cause mental cruelty while the wife is compelled to live at her parental home, part of the cause of action arises there. The allegation that the physical acts occurred in Delhi therefore did not exclude Bhopal's territorial connection. Mahila Thana, Bhopal had jurisdiction to investigate, and its charge-sheet could not be quashed as having been filed without jurisdiction on that ground.	926
	Sub-Chapter no. 7.2 **Magistrate, Sessions Court and Special Court Competence**	
Direct cognizance by the Special Court after amendment of Section 14	Distinguishing the earlier committal requirement from the amended Section 14, the Court stated that, after 1 January 2016, the Special Judge could take cognizance of SC/ST Act offences as a court of original jurisdiction and a complaint before the Magistrate would not be maintainable. That later position did not govern the validity of the complaint and summons issued in 2012.	241
Section 193 CrPC after a committal without a merits decision	The Sessions Court retains its Section 193 CrPC power where the committal Magistrate has not decided on the merits whether persons omitted from the charge-sheet should be summoned. Here, the Magistrate declined the Section 190 application solely because the offence was Sessions triable and left the involvement question to that court. This was passive committal, so the Sessions Court's refusal to exercise Section 193 was set aside and cognizance directed.	606
Effect of a Magistrate's merits rejection of summoning omitted accused	Where the Magistrate has actively considered and rejected on the merits a request to proceed against persons omitted from the charge-sheet, the Sessions Court cannot ordinarily entertain the same application again under Section 193 CrPC. Applying Balveer Singh, the Court stated that the Sessions Court would then have to resort to Section 319 on the requisite trial evidence. That limitation did not apply here because the committal order had expressly left the merits open.	606

Topic	Ratio	Case Sr.no.
	Sub-Chapter no. 7.3 **Committal, Transfer and Case Allocation**	
Cognizance of dacoity — case must be committed to the Sessions Court for trial	Where the material warrants cognizance of the offence under Section 395 IPC, the case must be committed to the Sessions Court because that offence is triable by that court. After correcting the refusal to take cognizance, the High Court directed the Magistrate to commit the case accordingly.	74
Appearance of accused before committal of an SC/ST Act complaint	For the complaint validly instituted before the Magistrate under the pre-amendment procedure, the case had to be committed to the Special Court for trial. The Magistrate could not commit it without the accused's appearance; entertaining the complaint and issuing summons to secure that appearance was therefore lawful.	241
Adverse bail orders alone do not justify transfer of criminal trial	Transfer requires circumstances giving rise to an apprehension of injustice that appears reasonable to the Court; proof that justice will inevitably fail is unnecessary, but a subjective or imaginary apprehension is insufficient. An adverse bail order does not by itself establish bias or justify transfer. An allegedly erroneous bail grant should be challenged before the proper superior forum; failure to challenge it did not support a real apprehension warranting transfer in this case.	245
Transfer request does not itself require the trial judge to recuse	The filing of a transfer application and unsupported allegations against a trial judge do not, by themselves, oblige the judge to decline the trial. When asked for comments, the judge may answer the allegations and continue performing judicial duties. Transfer should not be based merely on the judge's refusal to accept such allegations or used to enable a litigant to select a more comfortable court.	245
Whose convenience matters in transfer of a criminal case	Convenience relevant to criminal transfer is assessed with reference to the prosecution, the other accused, the witnesses and the larger societal interest, rather than the applicant's convenience alone. The question of transfer depends on the circumstances of each case and cannot be decided by an inflexible rule.	245
	Chapter no. 8 **Cognizance, Summoning, Process and Pre-Trial Court Control**	
	Sub-Chapter no. 8.1 **Warrants, Proclamation and Attachment**	
WhatsApp transmission in place of executing an arrest warrant	In addressing the unexecuted warrant against a prosecution witness, the Court considered the SSP's reply that the officers should have executed the warrant and that forwarding it to the person by WhatsApp was not the prescribed procedure. The Court required further compliance before the trial court and a report on action against the responsible police personnel.	184
	Sub-Chapter no. 8.2 **Cognizance by Magistrate and Application of Mind**	
Section 13 Notaries Act objection to a mixed-offence police charge-sheet	In a revision concerning a notary prosecuted with other accused for alleged cheating and forgery, the Court rejected the argument that Section 13 of the Notaries Act required the charge-sheet to be quashed for want of an authorised officer's complaint. Applying Section 2(d) CrPC and the reasoning in Ushaben, it treated the police charge-sheet as a complaint. It also held, in the alternative, that an assumed defect in the investigating officer's competence did not by itself justify quashing.	271
Cognizance is taken of the offence rather than each offender	A criminal court takes cognizance of the offence, not separately of each offender. Once cognizance of the offence has been taken, it need not be taken afresh against every accused.	271

Topic	Ratio	Case Sr.no.
Civil judgment: relevance at cognizance without binding criminal findings	Civil findings do not ordinarily bind the criminal court, which must decide the case on its own evidence and the applicable criminal standard of proof. The relevance and effect of a prior judgment remain governed by Sections 40–43 of the Evidence Act. Here, the civil court's reasoned suspicion about the death certificate could support prima facie consideration of the complaint without conclusively establishing forgery or guilt.	281
Judicial application of mind before issuing process on a complaint	Taking cognizance on a complaint and issuing process requires judicial application of mind to whether the allegations, recorded statements and inquiry material disclose an offence calling for the accused's appearance. Summoning is a serious step and cannot be mechanical. That requirement does not authorise a conviction-level assessment of the evidence at the process stage.	296
Section 156(3) CrPC — investigation direction before cognizance	A Magistrate may direct investigation under Section 156(3) CrPC before taking cognizance. In reconsidering the complaint on remand, reappreciation of the existing material sufficed. The Court rejected a requirement to collect additional complaint evidence first, reasoning that this would move the matter beyond the pre-cognizance stage and require proceeding under Section 200 CrPC.	314
Private complaint: application of mind before issuing process	Before issuing process on a complaint, the Magistrate must apply judicial mind to the allegations, the statements recorded and the inquiry material, and decide whether they disclose an offence and sufficient grounds to proceed. Summoning a person into criminal proceedings is a serious judicial act, not a mechanical step. This scrutiny remains preliminary and does not determine the ultimate truth of disputed allegations.	559
Section 186 IPC — written public-servant complaint required by Section 195(1)(a)(i) CrPC	Section 195(1)(a)(i) CrPC bars cognizance of offences under Sections 172–188 IPC, their abetment or attempted commission, and conspiracy to commit them, except on a written complaint by the concerned public servant or a public servant to whom that officer is administratively subordinate. In the absence of the required complaint, cognizance of Section 186 IPC could not be taken and its charge could not be framed.	631
Section 195 CrPC — distinct Section 353 IPC offence remains triable despite overlapping obstruction allegations	Sections 186 and 353 IPC create distinct offences. Section 186 concerns voluntary obstruction of a public servant in public functions; Section 353 requires assault or criminal force while the public servant performs official duty and is cognizable. Section 195 CrPC does not bar trial for a distinct offence outside its scope merely because the same facts also disclose an offence covered by it. Absence of the complaint required for Section 186 therefore did not bar trial under Section 353; the charges under Section 506 Part II IPC and Section 135 of the Electricity Act also remained.	631
Bigamy allegations and proof of marriage rituals at cognizance	At the stage of cognizance of alleged bigamy, the complainant need not establish the actual performance of Saptapadi or prove the second marriage as required at trial. Applying K. Neelaveni, the Court stated that allegations of a second marriage during the subsistence of the first were sufficient for cognizance under Section 494 IPC or Section 82 BNS. This observation arose in habeas corpus proceedings in which the alleged second marriage was disputed.	642
Section 190 CrPC— judicial sufficiency review without weighing evidence	At cognizance, a Magistrate may refuse to proceed if the complaint, case diary, witness statements and other material disclose no offence. This is a judicial assessment of the material, but it does not permit the Magistrate to decide which evidence is acceptable or reliable, or to weigh the balance of probabilities. The Court relied on the reproduced rule in Ajay Kumar Parmar when rejecting the preliminary evaluation of disputed evidence.	812
Cognizance on a police report containing Sections	In Ushaben, whose reasoning the Court reproduced and relied upon, Section 198-A CrPC permitted cognizance of an offence under Section 498-A IPC on a police report. Where the complaint also alleged the cognizable offence under	841

8.3 : Summoning of Accused and Prima Facie Satisfaction

Topic	Ratio	Case Sr.no.
498-A and 494 IPC allegations	Section 498-A along with Section 494 IPC, cognizance could be taken on the police report; the police could investigate both allegations. The reproduced decision distinguished a prosecution confined to offences under Chapter XX IPC requiring an aggrieved person's complaint.	
Summoning an uncharge-sheeted person under Section 190 CrPC	Cognizance is taken of an offence, rather than only of the persons sent for trial by the police. A Magistrate may issue process against another person implicated by the available material even after process has been issued against some accused, without waiting for the Section 319 CrPC stage. In this Magistrate-triable case, the FIR's specific allegation against the applicant supported recourse to Section 190 even assuming that trial evidence had not begun.	983

Sub-Chapter no. 8.3
Summoning of Accused and Prima Facie Satisfaction

Summoning distant relatives — specific role and supporting material	Mere naming of a husband's distant relatives is insufficient to summon them in dowry-related proceedings. The court must identify a specific role supported by tangible material. General allegations against all family members, particularly brothers, sisters and other relatives, require scrutiny to determine whether harassment is attributed to each person named.	69
Complaint-stage inquiry: sufficient grounds to proceed, not proof to convict	At the stage of Sections 203 and 204 CrPC, the Magistrate considers whether the complaint and preliminary evidence disclose sufficient prima facie grounds to proceed. The inquiry is not a full trial and does not require evidence sufficient for conviction. A possible defence is ordinarily left to the appropriate later stage; the evidence is not to be weighed as at trial.	281
Prima facie sufficient ground for complaint process and limits of evidence scrutiny	Sufficient ground under Sections 203, 204 and 209 CrPC means a prima facie case for proceeding, rather than evidence sufficient for conviction. Applying Shivjee Singh and the passages from Chandra Deo Singh, Kewal Krishan and Mohinder Singh reproduced in it, the Court held that the complaint inquiry does not permit meticulous trial-like weighing of evidence or adjudication of the accused's defence. Process may be refused where the complainant's evidence is self-contradictory or intrinsically untrustworthy. Here the complaint and Section 200 statement prima facie disclosed Section 498-A IPC cruelty, so the merits did not warrant interference.	425
Prima facie cognizance and limits of weighing rival witness accounts	Sufficient ground under Sections 203, 204 and 209 CrPC means a prima facie case to proceed, rather than proof sufficient for conviction. Applying Shivjee Singh and its Chandra Deo Singh, Kewal Krishan and Mohinder Singh passages, the Court declined meticulous appreciation of evidence at cognizance. The accused's reliance on affidavits denying the incident and an alleged ulterior motive did not require a full trial of those disputes at this stage. The preliminary threshold nevertheless permits refusal of process where the complainant's evidence is self-contradictory or intrinsically untrustworthy. No ground for interference with the cognizance order was found here.	428
Prima facie grounds for process on a private complaint	The sufficient-ground inquiry under Sections 203–204 CrPC concerns a prima facie case, rather than proof sufficient for conviction. The Magistrate considers the complaint and evidence under Sections 200 and 202 without meticulously weighing them as at trial; even the charge-framing standard is distinct. Here, the reported expenditure for a well not found on site and the mismatch with the amount credited to the complainant supplied sufficient prima facie material to uphold cognizance.	464
Section 202 CrPC inquiry: sufficient grounds to proceed, not proof of guilt	The inquiry under Section 202 CrPC is limited to deciding whether a prima facie case justifies process and preventing false, vexatious or harassing complaints from proceeding. The Magistrate must elicit the relevant facts both to protect an absent proposed accused and to bring alleged offenders to trial where justified. The evidence is not weighed as in a full trial. Sufficient ground	559

Topic	Ratio	Case Sr.no.
	for process under Sections 203–204 is distinct from sufficient proof for conviction; the preliminary standard is also different from that governing framing of charge.	
Proof of a receipt not required by law to be attested	Under Section 72 of the Evidence Act, a document not legally required to be attested may be proved as an unattested document even if it bears attestation. Examination of the receipt's attesting witnesses was therefore unnecessary. The revisional court erred in setting aside cognizance on the ground that those witnesses had not been examined.	585
Unproved alibi material and cognizance against persons omitted from the charge-sheet	Defence material not establishing an accused's absence cannot be treated as conclusive so as to defeat cognizance merely because the police relied on it to omit that person from the charge-sheet. Applying the alibi reasoning narrated in Harjinder Singh, the Court found the medical prescription, statements and CCTV material insufficient against the specific accusation of shooting. It directed cognizance under Section 193 CrPC, without determining guilt or applying Section 319's separate evidentiary trigger.	606
Later summoning of the company as an additional accused	The company's initial non-joinder did not require quashing of the prosecution against the applicant in this case. The Court stated that the company could be impleaded later through the powers to summon an additional accused under Sections 190, 193 and 319 CrPC. It therefore rejected non-joinder as a ground for interference.	617
Sections 203–204 CrPC — prima facie grounds for issuing process	Sufficient ground for proceeding means a prima facie case against the accused, rather than evidence sufficient for conviction. At the preliminary inquiry, the Magistrate should not conduct a full trial or weigh evidence meticulously as at trial or charge-framing. Where the complainant and her witness supplied only suspicion without substantial material connecting the respondent to the homicide, dismissal of the complaint under Section 203 CrPC was justified.	805
Non-expert witness — bare suspicion of the offender's identity	A non-expert witness's bare opinion that a particular person committed the offence does not supply a legal basis for proceeding against that person. The Section 202 witness merely expressed suspicion against the respondent, and that opinion did not establish sufficient grounds to issue process.	805
Issue of process — prima facie evidence and a possible defence	Where prima facie evidence supports the complaint, process should issue even if the proposed accused may have a defence, which must be decided at the appropriate stage. In the relied-upon formulation, process may be refused where the complainant's evidence is self-contradictory or intrinsically untrustworthy.	805
Issue of process — Sufficient ground and prima facie satisfaction	Sufficient ground under Sections 203, 204 and 209 CrPC means a prima facie case for proceeding, not proof sufficient for conviction. The Section 202 inquiry is limited to that question and is not a full trial or meticulous weighing of evidence; its standard also differs from that at framing of charge. Where prima facie evidence exists, process must issue and the defence is left for the appropriate stage. Self-contradictory or intrinsically untrustworthy complainant evidence may justify refusal of process.	825
Materials supporting process against a person omitted from the police report	When considering process against a person not sent for trial by the police, the Magistrate must examine material indicating that person's involvement. The material is not confined to the FIR, charge sheet or police report; a statement recorded under Section 164 CrPC may also be considered.	983

Topic	Ratio	Case Sr.no.
	Macro Division III **Investigation, Police Powers and Custodial Process**	
	Chapter no. 9 **Investigation, Further Investigation, Reinvestigation and Case Diary**	
	Sub-Chapter no. 9.1 **Investigation Control, Agency Selection and Limits on Accused's Role**	
Investigation directions — accused's hearing is not required as a matter of course	An accused is not entitled, as a matter of course, to be heard in a writ petition seeking an impartial investigation. The relied-upon authority also states that an accused has no right to be heard at the investigation stage. Non-impleadment or absence of a hearing does not, by itself, render a justified order entrusting investigation to the CBI a nullity.	4
Accused's role — no right to dictate investigation or select an agency	An accused cannot require the police to investigate in a particular manner, choose an investigating agency or adopt the accused's alternative account of events merely by seeking a fair investigation. In the absence of a specific allegation of investigative mala fides, the Court declined to direct the police to investigate the applicant's account of the complainant's movements and refused to interfere with rejection of his Section 156(3) CrPC application. The relied-upon principles preserve Article 226 directions where the High Court is satisfied that investigative powers have been exercised mala fide.	10
Investigation proceedings — accused's hearing is not automatic	An accused is not entitled as a matter of course to a hearing in a writ petition seeking an impartial investigation. The relied-upon authority states that the accused has no right to be heard at the investigation stage, and that non-impleadment or absence of a hearing does not by itself make an otherwise justified order entrusting investigation to the CBI a nullity.	10
Suspect's role — investigation method and choice of investigating agency	A suspect has no right to dictate how an investigation is conducted or to choose the investigating agency. The Court applied Romila Thapar in rejecting a demand to restrain the investigating agency pending a separate inquiry. The reproduced authority nevertheless preserves appropriate Article 226 directions where the High Court is satisfied that investigative powers have been exercised mala fide; the restriction on an accused's choice does not displace that qualification.	16
Impartial-investigation writ — accused has no automatic hearing entitlement	An accused is not entitled as a matter of course to be heard in a writ petition seeking an impartial investigation. In the relied-upon investigation context, non-impleadment or absence of a hearing does not by itself make an otherwise justified order entrusting investigation to the CBI a nullity.	16
Accused's demand to choose the investigating agency or method	An accused has no right to select the investigating agency or require investigation to follow the accused's wishes. Article 226 nevertheless permits appropriate intervention where mala fide investigation is established. Transfer to the CBI is an exceptional power, to be exercised sparingly and cautiously where necessary for credible investigation, complete justice or enforcement of fundamental rights; allegations against the local police alone are insufficient. The Court found no exceptional circumstances supporting the accused agents' request for an SIT, STF or CBI investigation.	82
Omission of other alleged offenders as a ground for discharge or acquittal	An accused cannot obtain discharge or acquittal merely because other persons alleged to have committed the offence have not been made accused. The agents' admitted solicitation of investments and receipt of commissions supplied a prima facie basis for proceeding against them, notwithstanding their allegation that the company owners were not being pursued. The Court also noted the powers to summon other persons under Sections 190 and 319 CrPC, corresponding to Sections 210 and 358 BNSS, at the appropriate stage.	82

Topic	Ratio	Case Sr.no.
Accused's hearing before investigative decisions or further investigation	Subject to statutory exceptions, an accused has no right to prior notice or participation as a matter of course while police collect material during investigation. The same principle applies to a direction for further investigation: Section 173(8) CrPC does not require the court to hear every potential accused before issuing it. The accused retains the opportunity at trial to challenge the authenticity, admissibility and evidentiary value of the material collected.	82
Directions compelling arrest or a charge-sheet during investigation	The High Court cannot supervise an investigation by directing police to arrest the accused or file a charge-sheet. Investigative steps and the conclusion to be drawn from the evidence remain for the investigating agency under the law; an investigation need not necessarily result in arrest, seizure or a charge-sheet. Applying D. Venkatasubramaniam, the Court refused the informant's request for an arrest direction.	88
Accused's apprehension of false implication — No right to dictate investigation	A prior request to the police for protection against possible false implication was not accepted as a defence warranting quashing. An accused has no right to dictate how the investigating agency should investigate. Referring to Manohar Lal Sharma, the Court also declined judicial supervision of the investigation under Article 226, treating investigation as the prosecution's domain.	119
No routine right of an accused to a hearing on investigative decisions	An accused is not entitled, as a matter of course, to prior notice or a hearing on the manner of investigation or on a direction for further investigation. The Dinubhai Boghabhai Solanki passages relied upon by the Court preserve express statutory exceptions. They also recognise that the accused may challenge the authenticity, admissibility and significance of the collected evidence at trial.	134
Request for ED or CBI investigation without approaching or impleading the agency	No further direction for ED or CBI investigation was warranted where the petitioner had neither made a complaint to those agencies nor impleaded them as parties. The refusal rested on those defects in the request and did not determine the merits of the alleged irregularities.	147
No routine right of hearing or participation during investigation	The CrPC authorities applied by the Court distinguish investigation from adjudication: collection of material does not ordinarily require prior notice or hearing of the accused. Subject to the Code's specified exceptions, the accused has no right to control or participate in a police investigation before the final report under Section 173(2), or in a complaint proceeding before process under Section 204. In a postponed-process inquiry under Section 202, the accused may attend but cannot participate. A decision about the investigating agency likewise does not require hearing the accused as a matter of course.	158
Accused’s request to direct the manner of investigation	An accused or suspect cannot demand that the investigation follow a particular method or that a chosen agency investigate the case. The applicant’s request that police be directed to consider his representations and investigate accordingly was refused. In exercising Section 528 BNSS jurisdiction, the Court could not supervise the investigation to give effect to that request.	161
Opportunity of hearing during investigation	An accused has no general right to prior notice or participation in the method of investigation, subject to the specific opportunities provided by statute. Such a hearing is not required as a matter of course before an order for further investigation or selection of an investigating agency. The accused retains the opportunity at trial to challenge the authenticity, admissibility and evidentiary value of the material gathered.	161
Accused’s participation and choice of investigating agency	An accused cannot insist on choosing the investigating agency or directing the manner of investigation, including a demand for court-monitored investigation. Nor is the accused entitled to participate in the investigation before process is issued, subject to strict compliance with the requirements of a fair investigation.	197
Additional Commissioner's lack	The Additional Commissioner did not possess investigative powers under the CrPC and was not a senior police officer. His direction to the Superintendent of	217

9.1 : Investigation Control, Agency Selection and Limits on Accused's Role

Topic	Ratio	Case Sr.no.
of authority over police investigation	Police to enquire into the accused persons' complaint during the criminal investigation was therefore without jurisdiction and a nullity.	
Choice of investigating agency and control of investigation	An accused cannot select the investigating agency or require investigation in a particular manner, including court-monitored investigation. The relied-upon authorities also deny an entitlement to the complainant or informant to choose an agency. Applying Romila Thapar, Prabal Dogra and the narrated supervision principle from Manohar Lal Sharma, the Court refused the accused applicants' request under Section 482 CrPC to prescribe or supervise the investigation.	217
Accused's hearing in a writ seeking impartial investigation	An accused is not entitled as a matter of course to be heard in a writ seeking impartial investigation. In the reproduced E. Sivakumar discussion, absence of impleadment or hearing did not by itself make the order entrusting investigation to CBI a nullity. The principle concerns participation in investigation and agency selection.	217
Judicial restraint during investigation of cognizable offences	Police have the statutory duty to investigate disclosed cognizable offences, and courts should ordinarily allow the investigation to be completed. Judicial intervention remains available in exceptional cases to prevent miscarriage of justice or abuse of process, including where no offence is disclosed; incomplete or hazy facts do not justify deciding the merits prematurely.	233
Independent police investigation despite administrative audit proceedings	The Dhanraj N. Asawani reasoning relied upon by the Court recognises the police's independent power and duty to investigate information disclosing an offence. Proceedings challenging an administrative decision to set aside an audit report and order a fresh audit do not themselves prevent investigation where the governing statute creates no express or necessarily implied bar.	238
Accused's choice of investigating agency or method	An accused cannot insist upon a particular investigating agency or require an investigation to be conducted in a particular manner. The absence of such a right does not exclude appropriate directions under Article 226 where the High Court is satisfied that investigative power has been exercised mala fide.	240
Accused's request to direct collection and preservation of CCTV and call records	The Court refused a Section 482 CrPC direction requiring police to preserve specified private CCTV footage and call records in support of the accused's asserted absence from the scene. An accused has no right to require investigation from a chosen angle or in a particular manner. The Court left the applicants free to present their defence at trial.	265
No entitlement to select an investigating agency	An accused cannot choose the agency that will investigate the alleged offence or insist on a particular manner of investigation or mode of prosecution. The Romila Thapar passage relied on by the Court also recognises that the complainant or informant is not entitled to select an investigating agency of choice.	265
Monitoring investigation distinguished from supervising investigative steps	Court monitoring in rare and compelling circumstances seeks a fair, timely investigation free from external interference. It does not permit the court to direct particular investigative steps or shape the investigating officer's opinion. Supervising the formation of the report under Section 173(2) CrPC risks influencing the trial court's independent decision. The Court cannot use the label of monitoring to direct investigation in a particular manner.	265
Accused's demand for investigation based on an asserted hotel CCTV alibi	An accused cannot require police to investigate from a particular angle by asking for a free and fair investigation under Section 482 CrPC or Section 528 BNSS. Applying Romila Thapar and Prabal Dogra, the Court refused to direct the investigation in accordance with the applicant's claim that hotel CCTV placed him elsewhere.	266
No routine right to prior hearing or participation during police investigation	During police investigation the accused has no general right to dictate the method of collecting material or demand prior notice and hearing before every investigative action. This rule is subject to statutory provisions providing a hearing in specified circumstances. The adopted Dinubhai Boghabhai Solanki	266

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	passage also states that an accused need not be heard as a matter of course before a direction for further investigation under Section 173(8) CrPC; the material can be contested at trial.	
Monitoring cannot direct the manner of investigation or shape the police opinion	Court monitoring seeks proper progress and a fair, timely investigation free from external interference. It does not authorise supervision that directs the investigating officer's steps or influences the opinion in the report under Section 173(2) CrPC. Such supervision would risk constraining the trial court's independent assessment. Monitoring is available only in rare and compelling circumstances within those limits.	266
Accused's demand to transfer or control investigation on an allegation of bias	An accused has no right to select the investigating agency or require investigation in a particular manner. Officers do not become biased merely because they refuse to proceed according to the accused's wishes. Applying Romila Thapar, Dinubhai Boghabhai Solanki and Prabal Dogra, the Court refused transfer; relying on Manohar Lal Sharma, it also declined to supervise investigative steps within the agency's domain.	269
Accused's participation and prior hearing during investigation	An accused has no routine right to prior notice and hearing on the collection of investigative material or the choice of agency, subject to statutory exceptions granting a hearing in specified circumstances. The adopted Dinubhai Boghabhai Solanki passage also recognises that a court need not hear the accused as a matter of course before directing further investigation under Section 173(8) CrPC. The accused can contest the evidentiary material at trial.	269
Proper investigation and preference for a particular agency	An aggrieved person may seek proper investigation but cannot insist on an agency of choice. An accused likewise cannot dictate the agency or manner of investigation. Those limits do not prevent a constitutional court from ordering an exceptional transfer when the material establishes its necessity. The petitioner's preference for the CBI, without identified investigative lapses or another sufficient exceptional basis, did not justify transfer here.	299
Accused's claim to choose the investigating agency or manner of investigation	An accused has no entitlement to choose the investigating agency or require investigation in a particular manner. A complaint to the Superintendent of Police did not establish a right to compel the investigative method sought by the applicant. The Court applied Romila Thapar, Dinubhai Boghabhai Solanki and Prabal Dogra in refusing interference.	311
Investigation — no routine prior notice or participation right of an accused	When the investigating officer is collecting material to ascertain whether a prima facie case exists, natural justice does not ordinarily require prior notice or a hearing for the accused. Subject to statutory exceptions, the accused cannot participate as of right in the manner and method of investigation. The opportunity to challenge the prosecution's evidence remains available at trial.	311
Accused's entitlement to choose the agency or manner of investigation	An accused cannot demand a particular investigating agency, method of investigation or court monitoring as a matter of right. Applying Romila Thapar, Dinubhai Boghabhai Solanki and Prabal Dogra, the Court rejected the petitioners' demand for investigative control. This ordinary rule remains subject to the constitutional court's power to intervene on established exceptional grounds.	317
Investigation — accused's prior hearing and participation rights	When police collect material to determine whether a prima facie case exists, an accused has no general entitlement to prior notice or participation in the investigation, subject to statutory exceptions. Nor is hearing the accused routinely required before directing an impartial investigation by another agency. The accused retains the opportunity at trial to challenge the authenticity, admissibility and significance of the material collected.	317
Accused's choice of investigating agency or method	An accused has no right to select the investigating agency or require an investigation to be conducted in a particular manner. Applying Romila Thapar v. Union of India and referring to Prabal Dogra, the High Court rejected the	321

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	accused's demand for a different agency where no illegality by the existing agency had been shown. This absence of an entitlement does not remove the exceptional constitutional power to intervene when a proper basis for intervention is established.	
Investigation-transfer writ — hearing of the accused	The accused is not entitled, as a matter of course, to a hearing in a writ seeking an impartial investigation. The passage from E. Sivakumar reproduced through Romila Thapar explains that failure to implead or hear the accused does not, by itself, make an order entrusting investigation to CBI a nullity. That proposition forms part of the authority relied upon for the limits on an accused's control over the investigative process.	321
Section 528 BNSS — no direction prescribing arrest and a charge sheet	The High Court cannot use inherent jurisdiction to dictate that a police investigation must result in arrest of the accused and filing of a charge sheet. Such directions improperly control the manner and outcome of investigation, which depend on the evidence collected. An investigation may disclose grounds for prosecution or may warrant a closure report. The Court therefore refused the complainant's requested directions for arrest and a charge sheet.	347
Investigation — Accused has no right to choose the agency or dictate its method	An accused cannot claim a right to choose the investigating agency, prescribe the manner of investigation or demand court monitoring on that basis. Merely addressing the merits of the accusation does not establish authority to dictate investigative steps. The applicant's general request for a free and fair investigation supplied no basis for the supervisory directions he sought, and the application was dismissed. This limit on an accused's control does not extinguish the court's exceptional constitutional power to remedy a substantiated abuse.	359
Judicial monitoring of investigation — Fair progress without supervision of investigative choices	In rare and compelling circumstances, a superior court may monitor an investigation to ensure fair, timely progress without external interference. Monitoring does not authorise directing the manner in which investigative tasks are carried out. Supervision that shapes the investigator's opinion under Section 173(2) CrPC risks influencing the trial court and undermining its independent adjudication. The Court therefore refused to intervene on the merits or direct the investigation in the manner sought under its writ or inherent jurisdiction.	359
Investigation and pre-process inquiry — No general right of accused participation or prior hearing	Collection of investigative material does not ordinarily require prior notice or a hearing for the accused where the statute creates no such obligation. Subject to specific statutory exceptions, there is no right to participate before the police report under Section 173(2) CrPC or, in a complaint case, before process under Section 204. An accused may attend a Section 202 inquiry but cannot participate as of right. The absence of a general investigative hearing does not prevent challenging the prosecution evidence through cross-examination and other trial remedies.	359
Investigation: Accused Cannot Dictate Its Course	An accused cannot insist on the choice of investigating agency or require the investigation to be conducted in a particular manner. The Court declined the petitioners' requested control over an incomplete investigation, including their demand for an exonerating report and overseas investigative arrangements. This restraint does not exclude appropriate judicial directions where mala fide exercise of investigative power or clear abuse of the statutory process is established.	363
Investigation: No Routine Right of Prior Hearing	A suspect or accused has no general right to prior notice or a hearing during investigation merely because the investigating officer is collecting material against that person. The statutory exceptions remain applicable. The absence of a routine investigative hearing does not reduce the prosecution's burden at trial or the accused's opportunity to question the evidence then.	363
Investigation: Accused Cannot	Investigation and collection of evidence are the investigating officer's statutory responsibility. An accused cannot require investigation to proceed in a	364

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Dictate Forensic Procedure	particular manner. Where the Supreme Court's protection from arrest expressly required cooperation, the petitioner could not obstruct the DNA process on that basis. The Court declined interference because it found the notice within the officer's jurisdiction and the comparison necessary to test the allegation.	
Investigation cannot proceed at the accused's direction	The accused has no right to dictate the investigation. The Court treated an investigation conducted according to the applicant's convenience, with undue police favour despite his availability, as contrary to that principle when refusing anticipatory bail.	413
Investigation is not confined to the original FIR allegations	An FIR or complaint need not contain every fact that investigation may reveal. Investigation may extend to subsequently discovered allegations and may implicate other persons when the discovered facts justify it. The Court applied that principle while considering an objection that EOW had gone beyond the original allegations.	417
No general right to a hearing before FIR registration	A suspect has no general right to advance notice or a hearing before registration of an FIR or during investigative collection of material. The Court rejected the claim that the applicants' show-cause reply and defence had to be decided before the FIR. The rule remains subject to a specific statutory requirement for hearing.	418
Accused cannot choose the investigating agency or direct its methods	An accused has no entitlement to select the investigating agency or require investigation in a particular manner, including as a demand for court monitoring. That restriction on control over investigation does not itself remove available legal remedies against an established misuse of investigative power.	418
Section 36 CrPC—impermissible parallel inquiry and exclusion of its report	Section 36 CrPC does not authorise an independent inquiry running alongside a pending FIR investigation. The SDO(P)'s parallel report declaring the FIR false was therefore a nullity and could not form part of the case diary, investigation or final police report. The investigating officer could not be directed to consider or adopt it.	419
Accused's lack of entitlement to choose or direct the investigation	A suspect or accused cannot insist on a chosen investigating agency, dictate investigative methods or demand participation and a prior hearing as a matter of course during investigation. The Court adopted those limits in refusing intervention. They remain subject to express statutory opportunities and exceptional constitutional relief for demonstrated mala fide investigation or clear abuse of power; even then, the court may require lawful process without prescribing police methods.	440
Judicial monitoring distinguished from supervision of investigation	In rare and compelling circumstances, a superior court may monitor an investigation to secure fair, timely progress without external interference. Monitoring does not authorise directions controlling the collection of evidence or formulation of the investigating officer's opinion. Such supervision risks influencing the trial court and is not envisaged by the Code. Applying that distinction, the Court held that directing the police to investigate in a particular manner would amount to impermissible supervision.	440
Refusal to direct handwriting examination during a pending investigation	A suspected accused cannot require police to investigate from his defence perspective merely by denying signatures or alleging false implication. The Court refused a Section 482 CrPC direction to obtain handwriting-expert examination where no bias against the investigating officer was alleged and the applicant had not clarified his directorship when the agreement was made. It preserved exceptional constitutional correction of demonstrated mala fide investigation. If a charge-sheet relies on the disputed signatures, the applicant may challenge their authenticity and seek expert examination before the trial court at the appropriate stage; the refusal did not authenticate them.	448
No automatic hearing before an investigation is	The Romila Thapar passage adopted by the Court states that an accused has no entitlement to be heard as a matter of course at the investigation stage. In	448

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entrusted to another agency	proceedings seeking impartial investigation, failure to implead or hear the accused before entrusting investigation to the CBI does not by itself make the order a nullity. This limits a claimed procedural veto; it does not give either the accused or the complainant a right to choose the investigating agency.	
Jurisdictional Invalidity of a Separate Parallel Police Inquiry during Investigation	Section 36 CrPC does not authorise a separate independent inquiry alongside an ongoing investigation into the same FIR. The police circular considered in the relied-upon Supreme Court order did not authorise the parallel procedure followed by the officers. The SDO(P)'s separate inquiry, initiated on the accused's request while investigation against him remained pending, was therefore without jurisdiction, and its findings were a nullity. Its favourable conclusion could not support quashing of the criminal proceedings.	539
Accused's role in investigation — no right to choose the agency or dictate its manner	An accused has no right to select the investigating agency or dictate the manner of investigation or mode of prosecution. Applying the authorities reproduced through Romila Thapar, the Court rejected an investigation conducted at the implicated person's direction while the complainant's evidence and complaints were neglected. It declined another substitution of the local investigating officer where the earlier substitution had failed to restore independence.	546
Accused's request for a chosen investigating agency	An accused cannot insist on changing the investigating agency or prescribe the manner of investigation, including court monitoring. That restriction does not remove the High Court's power under Article 226 to correct demonstrated mala fide investigation. CBI investigation is an exceptional remedy, exercised sparingly and cautiously where necessary to restore credibility, secure complete justice or enforce fundamental rights; allegations against local police alone do not suffice. The petitioner established no ground for the requested transfer.	614
Investigation directions — Court cannot prescribe arrest, seizure or a charge-sheet	Investigation is the statutory function of police, and courts ordinarily should not prescribe its manner, angle or particular steps. A direction to arrest the accused and file a charge-sheet amounts to impermissible supervision of investigative discretion. Every investigation need not result in arrest, seizure or prosecution: the evidence may justify a charge-sheet or a conclusion that no case is made out. A direction for prompt lawful completion must leave that assessment to the investigating agency.	704
Right to proper investigation does not include choice of agency	An aggrieved person may insist on proper investigation but has no right to require investigation by an agency of personal choice. A complainant's request for CBI investigation cannot be granted merely because it is made. Equally, an accused cannot require a change of agency or dictate the manner of investigation.	714
Accused's request to compel acceptance of defence documents during investigation	An accused cannot choose the investigating agency or require investigation in a particular manner. Applying Romila Thapar v. Union of India, the Court refused under Section 482 CrPC to direct the investigating officer to accept the accused's selected defence documents, because such a direction would amount to judicial supervision of the investigation. The relied-upon authority preserves Article 226 relief where mala fide exercise of investigative power is established by specific material; vague, unsupported allegations do not suffice.	750
Court monitoring distinguished from supervision of investigation	In rare and compelling circumstances, superior courts may monitor an investigation to ensure fairness, timely completion and freedom from external interference. Monitoring does not permit the court to direct how the investigation is conducted or what opinion the investigating officer should form. Such supervision risks influencing the police report under Section 173(2) CrPC and prejudging the trial. This distinction supported refusal of a direction compelling acceptance of particular defence documents.	750
Section 482 CrPC — directions requiring arrest or a charge	A direction requiring the police to arrest the accused and file a charge sheet would amount to judicial supervision of the investigation. Investigation lies within the police's statutory domain and may lead either to a charge sheet or a	755

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sheet	closure report, depending on the evidence. Applying D. Venkatasubramaniam, the Court declined to prescribe those investigative steps or their outcome. The reproduced authority requires cautious exercise of Section 482 CrPC for its stated purposes, with reasons for interference and regard to the consequences for affected persons.	
Political interference and reporting a parallel inquiry to a legislator	A legislator has no assigned investigative role under CrPC. In the earlier decision reproduced and relied on by the Court, directing an independent parallel inquiry on an MLA's recommendation and forwarding the resulting report to that MLA were condemned as interference with lawful investigation. The demand for a fair investigation did not justify that procedure or political control of the inquiry.	769
Accused's request for investigation from a particular viewpoint	A representation to the Superintendent of Police seeking a fair investigation does not entitle the accused to require the police to investigate from his viewpoint. The accused cannot insist on a particular investigating agency, manner of investigation or court-monitored investigation.	790
Accused's hearing before investigative steps	The accused has no general right to participate in the manner or method of investigation or to receive a prior hearing before investigative steps, subject to statutory exceptions. A direction for further investigation under Section 173(8) CrPC does not itself require the accused to be heard; the accused may challenge the evidence at trial.	790
Judicial supervision distinguished from monitoring of investigation	The Court cannot take over supervision of the investigation. Judicial supervision and monitoring are distinct, and the distinction must be preserved when considering a request for court intervention in investigation.	790
Accused's request to choose the investigating agency or method	An accused has no right to choose the investigating agency or require investigation in a particular manner, including by seeking court-monitored investigation. Applying the relied-upon authorities, the Court declined to direct the police inquiry sought by the accused on his allegations of false implication and his claimed alibi.	807
Court-monitored investigation — distinction from supervision	Court monitoring may ensure timely, free and fair investigative progress without external interference in rare and compelling circumstances. It must not direct the investigative method or help formulate the investigating officer's opinion. Such supervision risks influencing the trial court's independent decision on the police report. A direction prescribing how to investigate the accused's claim would amount to impermissible supervision.	807
Investigation — accused's hearing and participation	The accused is not entitled as a matter of course to prior notice or participation while police collect material during investigation, subject to the Code's specified exceptions. Nor does a complaint inquiry confer a right to participate before process issues; attendance at a postponed Section 202 inquiry does not itself confer participation. A direction for impartial investigation or a change of agency is not invalid merely because the accused was not impleaded or heard.	807
Accused's request to direct investigation from an alibi-based viewpoint	An accused has no right to select the investigating agency or dictate the manner or viewpoint of investigation. Relying on Romila Thapar and Prabal Dogra, the Court refused a Section 482 CrPC direction requiring the police to investigate from the applicants' preferred alibi-based perspective. The police could not be compelled to rely on documents they did not accept. The refusal, made while proceedings under Sections 82–83 CrPC were pending, did not determine the truth of the alibi or guilt.	814
Accused's representations and control over investigation	An accused cannot compel the investigating officer to investigate from his chosen viewpoint or dictate the agency, manner of investigation or mode of prosecution. His representations asserting a defence do not confer such a right. On that basis, the Court found no error in submission of the charge sheet without accepting or considering the applicant's defence in the manner he sought. This	832

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	restriction does not exclude exceptional constitutional intervention where mala fide investigation is established.	
Accused's hearing as of course in proceedings for impartial investigation	An accused is not entitled as a matter of course to a hearing in a writ petition seeking impartial investigation. Non-impleadment or absence of such a hearing does not by itself render an order entrusting investigation to the CBI a nullity where that course is otherwise justified by the case. This rule concerns participation in investigation and does not determine guilt.	832
Accused's choice of investigative agency or manner of investigation	An accused or suspect cannot insist that an offence be investigated by an agency of his choice, from his preferred viewpoint or in a particular manner. The same restriction applies to an interested complainant or informant's choice of agency. Alleged defects in the investigation did not entitle these petitioners to a direction prescribing how the police should proceed. Exceptional constitutional relief for established mala fides remains distinct from such a claimed right of control.	833
Participation and prior hearing during investigation or pre-process complaint inquiry	Subject to statutory exceptions, an accused has no participation as of right in the method of investigation before the police report under Section 173(2) CrPC, and natural justice does not generally require prior notice before investigative steps. In a complaint proceeding, participation does not arise as of right before process under Section 204; if process is postponed under Section 202, the accused may attend the inquiry but cannot participate. An order for further investigation under Section 173(8), including entrustment to the CBI, does not itself require a prior hearing or impleadment of every potential accused. The prosecution must prove its case at trial, where the accused may challenge the authenticity, admissibility and significance of the collected material.	833
Accused's right to choose the investigating agency or method	A suspected accused cannot choose the investigating agency or require the investigating officer to investigate in a particular manner. Applying Romila Thapar, the Court rejected the accused's request for directions on the strength of his asserted alibi. The quoted rule does not exclude appropriate directions under Article 226 where the High Court is satisfied that investigative power has been exercised mala fide.	840
Accused's hearing at the investigation stage	An accused is not entitled, as a matter of course, to a hearing in a writ petition seeking impartial investigation and has no right to be heard at the investigation stage. In the precedent passage reproduced and relied upon by the Court, failure to implead or hear the accused did not by itself make an order entrusting investigation to the CBI a nullity.	840
Police discretion over arrest and charge sheet, subject to timely completion of investigation	The High Court refused under Section 482 CrPC to direct arrest of the accused or filing of a charge sheet, since those directions would supervise the manner and outcome of investigation. The adopted precedent explains that arrest under Section 41 is discretionary, must be exercised cautiously and does not follow mechanically from a cognizable allegation; investigation may lead either to a charge sheet or to closure. Section 173(1), however, requires completion without unnecessary delay. The Court therefore directed an early conclusion and lawful final report, leaving any further grievance open to representation before the Superintendent of Police.	854
Inherent jurisdiction — no predetermined arrest or charge-sheet directions	In exercising inherent jurisdiction, the High Court cannot ordinarily dictate how the police should investigate or direct arrest and filing of a charge-sheet as inevitable steps. Arrest involves a cautious exercise of statutory discretion and does not follow mechanically from registration of a cognizable offence. Depending on the evidence, investigation may result in either a charge-sheet or a closure report.	901
Section 482 CrPC — no direction making arrest and charge-	The High Court cannot ordinarily dictate the course of an investigation by ordering arrest and filing of a charge-sheet. Section 41 CrPC requires a cautious exercise of police discretion, since arrest affects liberty and reputation;	906

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sheet inevitable	registration of a cognizable offence does not make arrest automatic. Investigation may properly conclude that no case is made out. The requested coercive directions were also sought without impleading the suspected persons.	
Section 528 BNSS — no predetermined arrest or charge-sheet directions	Registration of an FIR does not require immediate arrest or a charge-sheet in every case. Arrest involves a cautious exercise of statutory discretion, and investigation may lawfully end in a closure report if no offence is made out. The High Court cannot ordinarily remove that discretion by directing arrest and prosecution. The requested directions were also sought without impleading the accused.	909
Limits of Section 482 directions controlling investigation	The High Court cannot supervise investigation by directing arrest of named accused and the filing of a charge-sheet. Investigative steps and the decision whether evidence warrants a charge-sheet remain within the police's statutory function. Section 482 power must be exercised sparingly to give effect to an order under the Code, prevent abuse of process or secure the ends of justice. Applying D. Venkatasubramaniam, the Court refused to predetermine arrest and the investigative result.	937
No entitlement to choose the investigating agency	Neither an accused nor a complainant or informant is entitled to select the investigating agency. The High Court cannot use inherent jurisdiction to replace an investigating officer midstream with an officer of its own choice on any asserted basis. Article 226 nevertheless permits appropriate directions where the Court is convinced that investigative power has been exercised mala fide. The Court adopted these limits through Romila Thapar and its discussion of Divine Retreat Centre.	963
Accused's hearing in a writ seeking impartial investigation	An accused is not entitled, as a matter of course, to a hearing in a writ seeking impartial investigation. The adopted passage from E. Sivakumar explains that failure to implead or hear the accused does not by itself make an order entrusting investigation to the CBI a nullity where the transfer was warranted by the case's peculiar circumstances.	963
Accused's representations do not confer a right to dictate the investigation	An accused cannot insist that the police investigate in a particular manner or choose the investigating agency merely because representations advancing the defence have been submitted. This restriction does not exclude appropriate constitutional directions where mala fide exercise of investigative power is established; exceptional intervention requires a specific foundation, rather than vague allegations against the police.	970
Judicial monitoring and supervision of investigation: distinction	In exercising power under section 528 BNSS, the Court cannot direct the police to investigate in the particular manner sought by the accused, since that would amount to supervision. Monitoring is limited to ensuring lawful, fair and timely progress, including completion under section 193(1) BNSS or section 173(1) CrPC, without directing investigative choices or the investigating officer's opinion.	970
Investigative-stage hearing: no general right of participation by the accused	Subject to specific statutory exceptions, an accused has no general right to prior notice, a hearing or participation while the police collect evidence. Section 173(8) CrPC does not require a hearing before a direction for further investigation. The accused may challenge the authenticity, admissibility and evidentiary value of the material at trial.	970
Accused's writ petition — no right to choose the agency or dictate investigation	An accused has no right to choose the investigating agency or require investigation in a particular manner. Applying Romila Thapar and Dinubhai Boghabhai Solanki, the Court rejected an accused's Article 226 petition seeking directions for investigation of the FIR against him. A direction prescribing how the agency should investigate would constitute supervision of the investigation. The accused's request for fair and impartial investigation did not give him control over its manner or method.	1008

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Investigation-stage hearing — no routine right of prior participation by the accused	The accused has no general right to prior notice or participation in the collection of investigative material or to a hearing before investigation is entrusted to another agency. The passages from Dinubhai Boghabhai Solanki and W.N. Chadha relied on by the Court preserve specified statutory exceptions rather than imposing a hearing in every investigative step. They also explain that Section 173(8) CrPC does not require hearing the accused before a direction for further investigation. The accused retains the opportunity at trial to challenge the authenticity, admissibility and legal significance of the evidence gathered.	1008

Sub-Chapter no. 9.2
Timely Investigation and Police Report — No Predetermined Arrest or Charge Sheet

Section 173(1) CrPC — completion of investigation without unnecessary delay	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely, but must decide as early as possible whether an offence is made out and submit the appropriate report, whether a closure report or charge-sheet. A direction to complete the investigation promptly does not determine which report the evidence must support.	51
FIR registration does not require arrest or a predetermined charge-sheet outcome	Registration of an FIR obliges the police to investigate according to law, but does not necessarily require arrest, seizure or filing of a charge sheet. Applying D. Venkatasubramaniam, the Court refused to direct arrest and filing of a charge sheet under Section 528 BNSS because those directions would amount to supervising the investigation. The evidence may justify either prosecution or a closure report.	135
Duty to complete investigation without unnecessary delay	Investigation must be completed without unnecessary delay under Section 173(1) CrPC, referred to with Section 193 BNSS. The investigating officer cannot leave it indefinitely pending, but must reach a conclusion and submit the appropriate final report, whether a closure report or a charge sheet. The Court directed completion as early as possible and lawful consequential steps, with liberty to approach the Superintendent of Police about any remaining grievance.	135
Judicial restraint in directing arrest or a particular investigation outcome	The police duty to investigate does not require every FIR to result in arrest, seizure or a charge sheet. Applying D. Venkatasubramaniam, the Court held that directions to arrest the accused and file a charge sheet would amount to impermissible supervision of investigation. Decisions on necessary investigative steps and whether the evidence warrants prosecution remain with the investigating agency acting according to law.	139
Early completion of investigation without prescribing charge sheet or closure	Section 173(1) CrPC, referred to with Section 193(1) BNSS, requires investigation to be completed without unnecessary delay. The investigating officer must reach a conclusion and submit the appropriate final report, which may be a closure report or a charge sheet. The Court directed completion as early as possible and lawful further steps, while permitting a remaining grievance to be submitted to the Superintendent of Police. It did not fix a particular investigative outcome.	139
Section 173(1) CrPC: completion of a long-pending investigation	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. Where an FIR had remained pending for over five years and the petitioner stated that no final report had been filed, the investigating officer was directed to finish the investigation without further delay and submit the appropriate final report, whether a closure report or charge-sheet. The direction did not determine the correctness of the FIR allegations.	147
Investigation must conclude without unnecessary delay	Section 173(1) CrPC, referred to alongside Section 193 BNSS, requires completion of investigation without unnecessary delay. The investigating officer must determine whether an offence is made out and submit the appropriate final report, whether a charge sheet or closure report. The Court may require early completion and necessary lawful steps without prescribing	174

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	the outcome of the investigation.	
Writ directions cannot predetermine arrest or filing of a charge sheet	Investigation is the statutory responsibility of the police. The Court should not direct its manner by requiring the arrest of the accused or filing of a charge sheet in advance of the investigating officer's assessment. Arrest is not an automatic consequence of a cognizable accusation and must be considered cautiously in the circumstances. Investigation may lawfully result in a closure report where no case is made out.	174
Completion of investigation without unnecessary delay	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot keep it pending indefinitely and must decide whether an offence is made out. The Court may require prompt completion and lawful further steps without prescribing arrest, a charge sheet or the outcome of the investigation.	243
Police failure to file completed charge-sheets	The Court treated the failure to file a prepared charge-sheet as a serious lapse in investigation and supervision, noting that the SHO had found forty-nine completed Excise Act investigations with charge-sheets still unfiled. The investigating officer's explanation that he had forgotten the file was rejected in light of the monthly crime-control reporting process. The cases had been allowed to reach the permission issue under Section 61(2) of the M.P. Excise Act without timely action.	276
Non-arrest of a co-accused and filing against arrested accused	The non-arrest of a co-accused did not prevent the police from filing the charge-sheet against the arrested accused. The investigating officer's admission on this point formed part of the Court's assessment that the prolonged failure to complete and file the case was unjustified.	276
Unexplained delay in a corruption investigation	A corruption investigation should not remain pending without reason. After a preliminary enquiry had continued for more than four years, the Court directed the agency to conclude investigation as early as possible, preferably within nine months. The nine-month period was a direction in this case, not a general statutory deadline.	290
Section 482 CrPC — no direction compelling a charge-sheet	A complainant cannot obtain a direction under Section 482 CrPC requiring police to file a charge-sheet in a pending investigation. Applying D. Venkatasubramaniam, the Court held that prescribing that outcome would amount to supervising the investigation. Police must assess the evidence and may lawfully conclude either that a charge-sheet is warranted or that no case is made out.	305
Section 173(1) CrPC — timely investigation and final report	Refusal to direct a charge-sheet does not permit an investigation to remain indefinitely pending. Section 173(1) CrPC requires completion without unnecessary delay. The investigating officer must decide whether an offence is made out, conclude the investigation as early as possible and submit the appropriate final report, whether a closure report or charge-sheet. The Court directed prompt completion and lawful steps, leaving the applicant free to raise a grievance before the Superintendent of Police, Gwalior, for consideration according to law.	305
Section 173(1) CrPC — completion of investigation without unnecessary delay	The investigating officer must conclude the investigation without unnecessary delay, determine whether an offence is made out and submit the appropriate report, whether a closure report or a charge sheet. The Court directed early completion and the steps required by law, leaving the lawful outcome of the investigation open.	310
Complainant's writ for arrest — cognizable FIR does not make arrest compulsory or court-directed	A complainant's Article 226 petition cannot convert registration of cognizable FIRs into an order compelling arrest of named accused. The Court applied D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488, which reproduced M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649: Section 41 CrPC confers a cautious investigative discretion, and arrest is not a	324

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	mechanical consequence of an FIR because it affects liberty and reputation. Whether arrest is necessary depends on investigation and circumstances, not the complainant's demand. The petitioner alleged no arrest in two 2024 FIRs; the Court refused that relief without deciding the accused's guilt or whether arrest could later lawfully occur (paras 2–5).	
Investigation directions — no predetermined charge sheet	The court should not direct police to investigate from a particular angle, compel specified investigative steps or require a charge sheet irrespective of the evidence. Applying D. Venkatasubramaniam, the High Court treated directions to arrest the accused and file a charge sheet as impermissible supervision of the investigation. An investigation may result in a closure report or a charge sheet. The Court did not impose the petitioner's requested fifteen-day deadline.	324
Section 173(1) CrPC / Section 193 BNSS — completion without unnecessary delay	Investigation must be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely and must determine whether an offence is made out and submit the appropriate final report, whether a closure report or a charge sheet. Referring to Section 173(1) CrPC and Section 193 BNSS, the Court directed completion as early as possible and lawful consequential action. It also permitted the petitioner to approach the Superintendent of Police with a grievance, for consideration in accordance with law.	324
Investigation — timely conclusion without a predetermined outcome	Section 173(1) CrPC, referred to with Section 193 BNSS in the order, requires completion of investigation without unnecessary delay. The investigating officer cannot leave the matter pending indefinitely and must reach a conclusion and submit the appropriate final report, whether a closure report or a charge sheet. The Court directed an early lawful conclusion without prescribing the result. The complainant remained free to raise a grievance before the Superintendent of Police for consideration according to law.	347
Section 173(1) CrPC —timely completion without directing a particular result	The investigating officer was required to complete the investigation without unnecessary delay under Section 173(1) CrPC and submit the appropriate final report, charge-sheet or closure report. Exclusion of the unlawful parallel-inquiry report did not require closure of the FIR or predetermine the lawful investigation’s outcome.	419
Section 173(1) CrPC duty to complete investigation without unnecessary delay	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. An investigating officer cannot leave it pending indefinitely and must determine whether an offence is made out, then submit the appropriate closure report or charge-sheet. The Court directed completion as early as possible and the taking of steps required by law. It also permitted the petitioner to raise any further grievance before the Superintendent of Police for consideration in accordance with law.	423
Duty to complete investigation promptly while leaving its conclusion to the evidence	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer must not keep it pending and must reach a conclusion on whether an offence is made out. The Court directed completion as early as possible and the taking of steps required by law, while declining to predetermine arrest or a charge-sheet. It also permitted a further grievance application to the Superintendent of Police, Bhind, for consideration according to law.	427
No prior headquarters clearance for filing a charge-sheet merely because a case is labelled sensational	The designation of a case as sensational does not require prior permission or prior intimation to the IG (Coordination), Crime Investigation Wing, before filing a charge-sheet under the 2 February 2012 Police Headquarters circular. In the clarification accepted by the Court, the DGP stated that the CrPC imposed no such requirement, the circular could not override the Code, and neither the District Prosecution Officer nor the investigating officer could withhold a charge-sheet on that pretext. The Court accepted the corrective circulars and expected compliance with the DGP's affidavits and directions.	429

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Section 482: No Direction Predetermining Arrest or Charge-Sheet	The statutory duty to investigate does not permit the court to prescribe the investigation's course by directing arrest of the accused and filing of a charge-sheet. An investigation may lawfully result in a charge-sheet or in a finding that no case is made out. Applying D. Venkatasubramaniam, the Court refused the requested coercive directions while leaving the investigative conclusion to the police.	457
Section 173(1): Investigation Must Conclude Without Unnecessary Delay	Section 173(1) CrPC requires completion of investigation without unnecessary delay. The investigating officer cannot leave it pending indefinitely and must decide whether an offence is made out and submit the appropriate final report, whether a closure report or charge-sheet, as early as possible. The Court directed lawful completion and permitted any further grievance to be placed before the Superintendent of Police for consideration according to law.	457
No direction compelling arrest or filing of a charge-sheet	The High Court should not use Section 482 CrPC to prescribe the course or result of a police investigation by directing arrest and filing of a charge-sheet. A lawful investigation may disclose an offence requiring a charge-sheet or may warrant closure. Applying D. Venkatasubramaniam, the Court refused the requested arrest direction and also noted that the suspects had not been impleaded.	462
Completion of investigation without unnecessary delay under Section 173(1) CrPC	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely and must reach a conclusion whether an offence is disclosed, filing the appropriate closure report or charge-sheet without delay. The Court directed early completion and lawful consequential action, while leaving the applicant free to raise a remaining grievance before the Superintendent of Police.	462
Limits on Directions for Arrest and Charge-Sheet under Section 482 CrPC	The High Court cannot direct the police to arrest accused persons or file a charge-sheet merely because a cognizable offence has been registered. Such directions would dictate the course and result of the investigation. Section 41 CrPC confers discretion to arrest, which must be exercised cautiously rather than mechanically. Depending on the evidence, the police may submit a charge-sheet or a closure report. The relied-upon precedent also disapproves drastic investigative directions affecting a person's liberty and reputation without an opportunity of hearing.	530
Completion of Investigation without Unnecessary Delay under Section 173(1) CrPC	Section 173(1) CrPC requires the investigating officer to complete the investigation without unnecessary delay, determine whether an offence is made out and submit the appropriate final report, whether a charge-sheet or a closure report. The Court may require prompt completion without directing arrest or predetermining the report. The officer was directed to conclude the investigation as early as possible and take the steps required by law. Any further grievance could be placed before the Superintendent of Police for consideration according to law.	530
Section 528 BNSS and Directions Compelling Arrest or a Charge-Sheet	An informant alleging inaction after registration of an FIR cannot obtain directions under Section 528 BNSS compelling arrest or submission of a charge-sheet. Such directions would control the course and outcome of the police investigation. The Court applied the precedent recognising cautious, discretionary arrest under Section 41 CrPC and the possibility of a closure report where no offence is established. That precedent also disapproves drastic investigative directions affecting liberty and reputation without hearing the persons concerned. The requests for arrest and a compulsory charge-sheet were refused.	535
Prompt Completion of Investigation and Submission of the Appropriate Final Report	An investigation must be completed without unnecessary delay. Referring to Section 173(1) CrPC and Section 193 BNSS, the Court required the investigating officer to determine whether an offence was made out and submit the appropriate final report, whether a closure report or a charge-sheet. The	535

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	officer was directed to conclude the investigation as early as possible and take the steps required by law. Any further grievance could be submitted to the Superintendent of Police for consideration according to law.	
Duty to Conclude Investigation Promptly under Section 173(1) CrPC	Section 173(1) CrPC requires completion of investigation without unnecessary delay. The investigating officer must decide whether an offence is made out and submit the appropriate final report, whether a charge-sheet or a closure report. The Court directed completion as early as possible and the taking of steps required by law, without predetermining arrest or the report's outcome. Further grievances could be placed before the Superintendent of Police for consideration according to law.	537
Section 173(1) CrPC — investigation and final report without unnecessary delay	Section 173(1) CrPC requires completion of investigation without unnecessary delay. The investigating officer cannot leave it pending indefinitely and must reach a conclusion and submit the appropriate final report, whether a closure report or charge sheet, as early as possible. The Court directed expeditious completion and lawful steps without prescribing the result. Any continuing grievance could be presented to the Superintendent of Police for consideration in accordance with law.	547
Completion of investigation without unnecessary delay	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely but must determine whether an offence is made out and submit the appropriate final report, whether a closure report or a charge-sheet. The Court directed completion as early as possible and the necessary steps under law without predetermining the result.	564
Section 482 CrPC cannot prescribe arrest or a charge-sheet	The High Court cannot direct police to arrest named accused or file a charge-sheet as a predetermined outcome of a pending investigation. Applying D. Venkatasubramaniam, the Court held that those directions would improperly supervise the manner of investigation. Police must reach their own lawful conclusion from the material collected; every investigation need not result in arrest, seizure or prosecution.	607
Prompt completion of investigation under Section 173(1) CrPC	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely and must decide whether an offence is made out and submit the appropriate final report, whether a closure report or charge-sheet. The Court directed completion as early as possible and necessary action according to law without prescribing the result. It also permitted the applicant to approach the Superintendent of Police with any grievance for lawful consideration.	607
Section 173(1) CrPC: investigation without unnecessary delay	The investigating officer must complete the investigation without unnecessary delay, decide whether an offence is made out and submit the appropriate final report, whether closure report or charge sheet. The Court may require prompt lawful completion without prescribing that result. A further grievance to the Superintendent of Police was left open for consideration according to law.	624
Section 173(1) CrPC: prompt investigation and an appropriate final report	Section 173(1) CrPC requires completion of investigation without unnecessary delay. The officer must decide whether an offence is made out and submit the appropriate closure report or charge sheet promptly. The Court directed completion as early as possible and necessary lawful steps without fixing a deadline or prescribing the conclusion. A further grievance could be placed before the Superintendent of Police for consideration according to law.	626
Section 173(1) CrPC — investigation must conclude without unnecessary delay	Section 173(1) CrPC requires completion of every investigation without unnecessary delay. The investigating officer cannot leave it pending indefinitely, but must decide whether an offence is disclosed and promptly submit the appropriate final report, whether a closure report or charge sheet. A direction to conclude investigation as early as possible leaves that statutory decision open.	632

Topic	Ratio	Case Sr.no.
Section 482 CrPC — courts cannot dictate arrest or a charge-sheet	The High Court cannot use Section 482 CrPC to supervise an investigation by directing arrest of the accused or requiring a charge-sheet. Applying D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, including its discussion of M.C. Abraham, the Court explained that Section 41 confers a power to arrest that must be exercised cautiously in the circumstances of the case. Registration of a cognizable offence does not make immediate arrest obligatory. Investigation may lead either to a charge-sheet or to the conclusion that no case is made out. The complainant's request for predetermined investigative steps was therefore refused.	672
Section 173(1) CrPC — investigation must conclude without unnecessary delay	Section 173(1) CrPC requires every investigation under the relevant chapter to be completed without unnecessary delay. Although the High Court declined to direct arrest or a charge-sheet, it held that the investigating officer could not leave the investigation pending and had to decide whether an offence was made out. It directed completion as early as possible and further steps required by law. The complainant could also place any grievance before the Superintendent of Police for consideration in accordance with law. No fixed completion date or predetermined investigative outcome was ordered.	672
Section 482 CrPC — no direction compelling arrest or filing of a charge-sheet	The High Court declined to direct the police to arrest the accused or file a charge-sheet. Applying D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, it held that such directions would amount to supervising the investigation and prescribing its outcome. Investigation is the police's statutory responsibility; the evidence may justify a charge-sheet or a conclusion that no case is made out. Every investigation need not lead to arrest, seizure or prosecution. The Court therefore refused the requested direction while separately requiring timely completion of the investigation under Section 173(1) CrPC and lawful consequential steps.	741
Section 173(1) CrPC — investigation must conclude without unnecessary delay	Section 173(1) CrPC requires every investigation under the Chapter to be completed without unnecessary delay. The investigating officer cannot leave the investigation pending indefinitely and must decide whether an offence is made out. While refusing to compel arrest or a charge-sheet, the Court directed the officer to conclude the investigation as early as possible and take the steps required by law. It also permitted the petitioner to raise any grievance before the Superintendent of Police, Gwalior, for consideration according to law. The direction required a lawful conclusion to the investigation without prescribing that the final report must accuse the persons concerned.	741
Direction to file a charge-sheet during a pending investigation	A direction under Section 482 CrPC requiring the police to file a charge-sheet would improperly supervise the investigation. The investigating officer must assess the evidence and may submit either a charge-sheet or a closure report; the Court cannot predetermine that outcome.	791
Completion of investigation without unnecessary delay	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer must reach a conclusion as to whether an offence is disclosed and submit the appropriate final report promptly. A direction to conclude investigation as early as possible does not require a charge-sheet rather than a closure report.	791
Section 482 CrPC — directions to arrest and file a charge-sheet	A direction compelling the police to arrest accused persons and file a charge-sheet would improperly prescribe the conduct and outcome of the pending investigation. Arrest under Section 41 CrPC requires the investigating officer's cautious exercise of discretion and is not an automatic consequence of a cognizable allegation. Investigation may result in a charge-sheet or a closure report according to the material found.	802
Section 173(1) CrPC — completion of investigation without unnecessary delay	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer must determine whether an offence is made out and submit the appropriate final report, whether a charge-sheet or	802

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	a closure report, without delay. The Court directed completion as early as possible and the taking of necessary lawful steps. Any grievance could be placed before the Superintendent of Police for consideration according to law.	
Prompt completion of investigation and submission of the appropriate final report	Section 173(1) CrPC requires completion of investigation without unnecessary delay. The investigating officer must decide whether an offence is made out and submit the appropriate final report, which may be a closure report or a charge-sheet. The Court directed completion as early as possible and necessary lawful steps, without prescribing a particular result or calendar deadline. Any further grievance could be submitted to the Superintendent of Police, Indore for consideration according to law.	927
Prompt investigation without a predetermined charge-sheet or closure report	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer must decide whether an offence is made out and submit the appropriate final report, whether closure or charge-sheet. The Court directed completion as early as possible and lawful consequential steps, while declining to prescribe arrest, addition of Section 452 IPC or a particular report. Any remaining grievance could be submitted to the Superintendent of Police, Gwalior for consideration according to law.	929
Completion of investigation without unnecessary delay under Section 173(1) CrPC	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot keep it pending indefinitely, but must determine whether an offence is made out and submit the appropriate final report, whether a closure report or a charge-sheet, as early as possible. The Court directed timely completion and lawful consequential steps while leaving the investigative conclusion open. Any further grievance could be submitted to the Superintendent of Police for consideration according to law.	931
Completion of investigation and submission of the appropriate final report without unnecessary delay	Section 173(1) CrPC, referred to with Section 193 BNSS in the order, requires completion of an investigation without unnecessary delay. The investigating officer cannot leave the matter pending indefinitely: the officer must determine whether an offence is made out and submit the appropriate final report, whether a charge-sheet or closure report. The Court accordingly directed conclusion of the investigation as early as possible and the steps required by law. It also permitted the petitioner to place any further grievance before the Superintendent of Police for consideration according to law.	959
Completion of investigation without unnecessary delay — closure report or charge sheet according to the evidence	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely, but must decide whether an offence is made out and submit a closure report or charge sheet as warranted. The Court referred also to Section 193 BNSS and directed early completion of the investigation and the taking of necessary lawful steps. It refused to dictate arrest or the filing of a charge sheet, since those directions would control the investigation and predetermine its outcome.	1000
Section 173(1) CrPC — prompt investigation without a prescribed arrest or charge-sheet outcome	The statutory duty to investigate requires completion without unnecessary delay and a decision whether an offence is made out. The investigating officer must conclude the investigation as early as possible and file the appropriate final report, whether a closure report or a charge sheet. The Court directed compliance with Section 173(1) CrPC while refusing to require arrest or filing of a charge sheet: prescribing those steps would amount to supervision of the investigation. The required report must follow the investigating officer's lawful assessment of the case.	1004
	Sub-Chapter no. 9.3 **Further Investigation and Section 173(8) CrPC**	
Failure to investigate after rejection of a closure report	Where the Magistrate rejects a closure report and directs further investigation, the police cannot leave the matter pending without carrying out that direction	81

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	and submitting the appropriate final report. Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The Court found prolonged inaction after rejection of the closure report and ordered an inquiry into police responsibility. It left the merits of the subsequently filed closure report to the Magistrate before whom it was pending.	
Further investigation after a police report and hearing of the accused	Section 173(8) CrPC permits further investigation after submission of the police report, including after cognizance on that report. The reproduced authorities state that the police should desirably inform the Court and seek formal permission. The Court need not hear the accused before directing further investigation. The accused may challenge the authenticity, admissibility and evidentiary value of the resulting material at trial.	158
Independent investigation after a charge-sheet or commencement of trial	Filing a charge-sheet, commencement of trial or examination of some witnesses does not absolutely bar constitutional courts from directing investigation by an independent agency where necessary to secure a fair investigation and justice. Such intervention remains exceptional; completed investigations ordinarily should be left to the trial court unless the material justifies reopening or additional investigation. The present writ failed for want of that foundation, rather than because filing of the charge-sheet had extinguished the Court's power.	299
Section 173(8) CrPC — further investigation after a police report	The police may conduct further investigation after submitting a report, including after cognizance has been taken. The precedent reproduced by the Court states that informing the court and seeking formal permission is desirable. Section 173(8) does not oblige the court to hear the accused before directing further investigation.	311
Section 173(8) CrPC — further investigation and absence of a routine hearing obligation	Further investigation remains permissible after submission of a police report and after cognizance. The relied-upon authority describes informing the court and seeking formal permission as desirable. Section 173(8) does not require the court to hear the accused before directing further investigation.	317
Section 173(8) CrPC — Further investigation after a police report and cognizance	Police may conduct further investigation under Section 173(8) CrPC after submitting the final report and even after the court has taken cognizance. It is desirable for police to inform the court and seek formal permission. Section 173(8) does not require the accused to be heard before the court directs further investigation. The accused remains entitled to contest the authenticity, admissibility and legal effect of the resulting material at trial.	359
Further investigation after police report and cognizance—hearing	Section 173(8) CrPC permits further investigation after the police report, including after cognizance. The reproduced authority treats informing the Court and seeking formal permission as desirable, but does not impose a general obligation to hear the accused before a direction for further investigation.	418
Further investigation after a police report and absence of routine prior hearing	Under the Section 173(8) CrPC principles adopted by the Court, filing a police report, or even taking cognizance on it, does not by itself preclude further police investigation. The narrated authority states that the police should desirably inform the court and seek formal permission. An accused has no automatic right to be heard before further investigation is directed, while retaining the opportunity at trial to challenge the authenticity, admissibility and significance of evidence collected.	440
Further investigation into persons originally named in the FIR	After finding the prosecution's case against the appellant unreliable, the Court directed further investigation under Section 173(8) CrPC against the two persons originally named in the FIR. The direction addressed the unresolved killings in light of the rival motive and flawed investigation. It required further inquiry rather than treating those persons' guilt as finally established.	599
Further investigation and the	Section 173(8) CrPC permits further investigation after submission of the police report and even after cognizance. The reproduced authorities state that the	614

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accused's opportunity of hearing	police should inform the Court and seek formal permission, and that the Court is not obliged to hear the accused before directing further investigation. The accused may contest the authenticity, admissibility and legal significance of material obtained during that investigation at trial.	
Earlier filing under Section 299 CrPC did not remove the need for identification investigation	The investigating officer relied on an earlier charge-sheet described as filed under Section 299 CrPC to suggest that no supplementary charge-sheet was needed when the applicant was subsequently produced. The Court's questioning established that further investigation into identification was necessary after arrest or production and had not been undertaken. The earlier filing therefore did not answer the failure to collect admissible evidence concerning the accused now before the trial court. The Court criticised the omission without directing a particular supplementary report.	674
Further investigation distinguished from repeated investigation through a new FIR	Section 173(8) CrPC permits further investigation, collection of additional oral or documentary evidence and submission of a supplementary report. That power does not justify repeatedly opening fresh investigations through successive FIRs concerning the same transaction. The reproduced authority regards obtaining the court's permission for further investigation as appropriate.	686
Further investigation after a police report or cognizance	Section 173(8) CrPC permits further police investigation after submission of the final report, including after cognizance on that report. For further investigation, it is desirable that the police inform the court and seek formal permission.	790
Section 173(8) CrPC — further investigation after the police report	Police may conduct further investigation under Section 173(8) CrPC after submitting the final report and even after cognizance has been taken. The relied-upon authority states that it is desirable to inform the court and seek formal permission. The court may direct further investigation without first hearing every possible accused; Section 173(8) imposes no such general hearing obligation.	807
Further investigation after a police report, cognizance or closure report	Section 173(8) CrPC permits further police investigation after submission of a final report, even after cognizance has been taken on it. The reproduced rule states that the police should desirably inform the court and seek formal permission. A Magistrate receiving a closure report may identify investigative lapses and direct further investigation. These powers do not confer on a suspect a right to have the High Court supervise a pending investigation or dictate its method.	833
Further investigation after a police report or cognizance: power and court intimation	Filing the police report under Section 173(2) CrPC or taking cognizance does not exhaust the police power of further investigation under Section 173(8). State of A.P. v. A.S. Peter states that prior judicial permission is not legally mandatory. The passages from Ram Lal Narang reproduced in the relied-upon authorities nevertheless make it ordinarily desirable to inform the court and seek formal permission when fresh facts emerge, respecting pending judicial proceedings. Hasanbhai Valibhai Qureshi further establishes that possible delay to the trial does not bar necessary further investigation directed towards discovering the truth.	911
	Sub-Chapter no. 9.4 **Fair Investigation and Preservation of Official Record**	
Transfer of implicated police staff to protect records and investigation	Where the police staff had attempted to manipulate official records and interfere with a fair inquiry and investigation, the Court directed their transfer to separate places at least 900 kilometres from the district within ten days. The separation was ordered to prevent further concerted interference with records and evidence.	22
Daily case-diary entries and	Paragraph 642 of the Police Regulations requires the investigating officer to record daily investigative action in the case diary. These entries enable the work	81

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verification of claimed investigation	claimed to have been done to be checked against the contemporaneous record. The absence of entries and Rojnamcha records for the dates of purported witness and accused statements, together with the inconsistent later diary account, led the Court to suspect that statements had been fabricated and records manipulated. It directed investigation into the officers' conduct without deciding the merits of the underlying criminal case.	
Duty to conclude investigation without unnecessary delay	Section 173(1) CrPC requires every investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely and must decide whether an offence is made out and submit the appropriate final report, whether a closure report or a charge-sheet. The Court directed prompt completion and lawful further steps without requiring arrest or predetermining the outcome. The informant remained free to approach the Superintendent of Police with a grievance.	88
Investigation based solely on co-accused confessions	The Court disapproved filing charge-sheets solely on co-accused confessions without collecting substantive evidence. It called on the Police Department to improve officers' knowledge of evidence law and directed communication of the order through the Superintendent of Police to the DGP concerning the identified deficiency.	146
Fair investigation: investigating the true occurrence without suppressing adverse facts	The investigating authority must investigate neutrally and seek the truth without regard to the desired result. Suppression of material facts, including serious injuries on the accused's side and the associated counter-version, cannot be overlooked merely because other evidence appears persuasive. The Court applied this concern when assessing the unexplained fatal beating and the prosecution's incomplete account.	287
Failure to Examine Available Railway CCTV Left the Alleged Journey Unverified	The prosecution alleged that the accused took the child through the railway stations and boarded a train. The investigating officer admitted that station CCTV footage remained available for six months but that he had not checked it. The Court treated the failure to collect that available evidence as a material gap in proof of the alleged movements. The conclusion turns on the availability and relevance of the footage in this case.	389
Investigative Videography Must Record the Actual Proceedings	Videography should preserve the investigation as it actually occurs. Recreating a completed proceeding later for filming creates false evidence rather than a reliable record. Referring to Section 161(3) CrPC and the State circular of 7 March 2019, the Court emphasised contemporaneous recording with the investigator, witness and document visible; the circular also covers seizure and arrest documents requiring witness signatures. Although issued for rape investigations, the Court observed that those safeguards could be applied to other cases. It found the impugned recordings staged, apart from the body-recovery proceeding.	389
Reliability of arrest, seizure and spot-map records contradicted by witness movements	The arrest and seizure records showed a witness as present in the village after he had left with the injured for hospital. The spot map was said to have been prepared on another witness's instructions, although that witness had also accompanied the injured; the map bore neither date nor time. The incompatible chronology and accounts led the Court to find that the arrest memo, seizure memo and spot map were antedated and antetimed and could not reliably support the prosecution case.	390
Investigator's duty of truthful and fair investigation	An investigating officer must investigate diligently, truthfully and fairly and remains answerable for the method used. Courts cannot overlook flagrant defaults revealing deliberate misconduct or irresponsible investigation, whether or not the default prejudiced the prosecution.	410
Prompt and effective investigation of sensational and non-	Every criminal case must be investigated promptly and effectively, whether labelled sensational or non-sensational. After requiring clarification of the claimed distinction, the Court accepted the 8 April 2022 correction and	429

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sensational cases alike	observed that every offence affects both the individual and society. The prosecution cannot use its own classification to investigate one case vigilantly while handling another case with similar allegations casually. The Court expected the investigating officers to follow the corrected circular and the DGP's assurances in letter and spirit.	
Official requisition cannot be withheld as a private record	A requisition received by a Tahsildar in discharge of official duties is an official record, rather than material to be withheld in a personal file. The Court rejected the recorder's explanation for not producing it and inferred that private retention was intended to prevent access through the official record, including under the Right to Information Act. That withholding contributed to doubt about whether and when the dying declaration had been requested.	467
Protecting Investigation from an Accused Police Officer's Influence	Where the accused head constable had access to internal exonerating reports withheld from the complainant, the police suppressed her complaint and the officer avoided blood-sample collection during the pending investigation, the Court found continuing influence over the process. To protect a fair investigation, it directed his immediate transfer to another part of the State, vacated the no-coercive-action order and left the police free to take him into custody.	528
Section 161 statements — faithful recording and compliance with videography safeguards	An investigating officer must record a witness's statement faithfully and cannot add allegations or omit material parts according to the officer's own version. Under the police circulars applied by the Court, videography must show the witness, the officer and the paper on which the statement is being written; recording questions or taking notes without simultaneously recording the statement did not comply. Material differences between the videos and written statements supported the finding of manipulation. The Court directed registration of offences under Sections 467, 468 and 471 IPC and related provisions against the recording officer, subject to independent investigation.	546
Case diary — contemporaneous recording of the time of each investigative action	Regulation 742(a) of the M.P. Police Regulations requires the investigating officer to record the time of each investigative action contemporaneously with the fact itself. A case diary must show what was ascertained and done from day to day. The Court found non-compliance where timings were omitted throughout and material steps were absent from the diary; later general-diary entries did not provide a reliable substitute for a properly maintained investigative record.	546
Fair investigation — the victim's entitlement alongside the accused's Article 21 rights	Fair investigation protects the victim as well as the accused. The State must investigate impartially even where allegations concern its own officers. The accused's entitlement to fairness cannot justify police intimidation of a rape victim, pressure to change her account or deliberate omission of allegations to shield a suspect. The Court applied these principles in finding the local investigation tainted.	546
Court-premises CCTV — request through the Superintendent to the District Judge	An investigating officer could not direct the District Prosecution Officer to supply CCTV footage from cameras within the court premises. If that footage was needed for investigation, the officer was to inform the Superintendent of Police so that a request could be sent to the District Judge. The Court treated the direct demand to the prosecution officer as beyond the investigating officer's authority.	546
Fair investigation — prompt preservation of the scene and material evidence	Preparing the spot map and promptly securing material from the alleged place of occurrence are important parts of investigation. The Court relied on the failure to visit or seal the scene and to seize the victim's torn clothing promptly, despite the recorded allegations, as evidence of a tainted investigation. It left the remaining issues concerning the delayed seizure and handling of clothing for independent investigation.	546
Proposed digital	The Court expressed the need for a lawful software-based investigation system	599

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recording and access for investigations	available to investigating officers by mobile app, with time and location records linked to police headquarters and supervisory access for senior officers. It envisaged access for the trial judge after filing of the charge-sheet to assist the exercise of Section 165 Evidence Act powers, while recognising the separate domains of investigation and trial. The Chief Secretary and DGP were expected to take necessary action. This was a proposed administrative measure, rather than a finding that such a system already existed.	
Fair investigation and protection of an arrested person's rights	The police must investigate fairly, and the Magistracy must ensure fair investigation and trial. The narrated Delhi Judicial Service Association passage treats those roles as complementary. The breadth of police arrest powers carries a corresponding obligation to respect the arrested person's constitutional and fundamental rights; arrest does not displace those protections.	599
Section 173(1) CrPC — completion of investigation without unnecessary delay	Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot keep it pending indefinitely and must decide whether an offence is made out, then submit the appropriate final report, whether a charge sheet or closure report. The Court directed completion as early as possible and the taking of lawful necessary steps, while refusing to require arrest or a charge sheet. Any continuing grievance could be placed before the Superintendent of Police for consideration according to law.	755
Duty to produce or account for court-preserved material	Police subject to a preservation order must produce the material or truthfully explain its nonproduction and identify responsibility for noncompliance. The trial court must seek that account rather than casually accept an assertion that records were not preserved. Deliberate suppression of material already received, despite the judicial order, harms the search for truth and the parties' right to a fair investigation and trial. The Court required the available records to be placed before the trial court.	769
Case diaries are not substantive evidence or freely accessible records	Section 172 CrPC permits a criminal court to call for investigation diaries to aid an inquiry or trial, but not to use them as substantive evidence. Accused persons do not gain a right to call for or inspect them merely because the court refers to them. Where the maker uses a diary to refresh memory or the court uses it to contradict that officer, the statutory evidentiary safeguards apply. In the earlier order reproduced here, the Court criticised providing case-diary material to the accused and the recommending legislator.	769
Magistrate's Section 156(3) power to ensure proper investigation	Under Section 156(3) CrPC, the Magistrate may direct and monitor a proper investigation if satisfied that the police have not investigated properly or are not doing so. This remedy remains available even after registration of the FIR and during or after police investigation. The provision includes incidental powers necessary to secure a proper investigation. The reproduced Sakiri Vasu passage also explains recourse to the Superintendent of Police under Section 154(3) where the police fail to register an FIR, followed by an application to the Magistrate if that recourse is ineffective.	770
Judicial monitoring without supervising the investigating officer's opinion	In rare and compelling circumstances, a superior court may monitor progress to ensure a free, fair and timely investigation without external interference or channelling its mode. Monitoring differs from supervising the execution of investigative tasks or shaping the officer's Section 173(2) CrPC opinion. Such supervision risks influencing the trial court's independent assessment and is not envisaged by the Code. The High Court therefore declined to prescribe investigative steps at the suspects' instance while investigation was pending.	833
Completion of investigation without unnecessary delay under Section 173(1) CrPC	Section 173(1) CrPC requires completion of investigation without unnecessary delay. The investigating officer cannot keep it pending indefinitely: the officer must determine whether an offence is made out, conclude the investigation as early as possible and file the appropriate final report, whether a closure report or charge-sheet. The Court directed prompt completion and lawful	845

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	consequential steps, while leaving any further grievance to be raised before the Superintendent of Police for consideration according to law.	
Timely completion of investigation under Section 193 BNSS and Section 173(1) CrPC	Invoking Section 173(1) CrPC and Section 193 BNSS, the Court held that investigation must be completed without unnecessary delay. The investigating officer must determine whether an offence is disclosed and file the appropriate final report, whether a closure report or charge-sheet. The officer was directed to conclude the investigation as early as possible and take the steps required by law; any further grievance could be raised before the Superintendent of Police for consideration according to law.	848
Fair investigation for the accused and victim where seized evidence is suppressed	Fair investigation and fair trial protect the accused's rights under Article 21, and the victim is equally entitled to a fair investigation. Relying on Nirmal Singh Kahlon and Vinubhai Haribhai Malaviya, the Court emphasised that investigation must bring actual offenders to trial while protecting innocent persons from prosecution. The deliberate omission of a seized diary containing acknowledgments of payment from the charge-sheet, handwriting examination and malkhana undermined that obligation. A court cannot perpetuate such suppression by refusing further investigation when the concealment is discovered.	911
	Sub-Chapter no. 9.5 **Defective or Biased Police Inquiry and Its Consequences**	
Spot-map omissions — assessment with timing and available physical evidence	Non-production of an initial cursory spot map and absence of blood at every location shown in a later map did not by themselves establish suppression or falsity in this case. The material witnesses had been taken to hospital when the initial inspection occurred, bloodstained earth was seized, and the detailed map was prepared three days later at a public place. Those circumstances explained the omissions relied upon by the defence.	12
Defective investigation — independent scrutiny of the remaining evidence	An illegal, suspicious or defective investigation does not automatically require acquittal. The court must examine the remaining evidence independently and with appropriate caution; credible evidence may still establish guilt despite investigative wrongdoing. The result cannot depend solely on the investigating officer's probity, nor may defects replace scrutiny of the evidence actually relied upon.	17
Inquiry into an internal report contradicted by CCTV evidence	An internal fact-finding report exonerating police officials could not be accepted when the official account was contradicted by the undisputed audio-video record. The DGP was directed to inquire into the report and register a criminal case against its author if the facts warranted that course.	22
Investigation revealing prior insanity — psychiatric examination and production of the medical evidence are required	Where investigation reveals a prior history of insanity, the investigator should have the accused medically examined and place that evidence before the court. Failure to do so creates a serious infirmity in the prosecution case and attracts the benefit-of-doubt principle stated in the relied-upon decision. The accused's burden concerning Section 84 remains, and the relevant inquiry concerns the mental condition when the offence occurred.	77
Section 36 CrPC and an independent parallel police inquiry	Section 36 CrPC does not authorise a superior police officer to conduct an independent inquiry alongside an ongoing FIR investigation. A parallel inquiry giving an accused a clean chit on an alibi lacked lawful authority and did not bar summoning him on trial evidence under Section 319. The cited Supreme Court order distinguished a circular consistent with Section 36 from the unauthorised procedure actually followed.	141
Delay in investigation and credible oral	Delay in investigation does not by itself justify discarding credible oral prosecution evidence or acquitting the accused. The Court rejected the delay objection because the accepted evidence could not be treated as wholly false	160

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evidence	implication on that ground.	
Defective investigation and otherwise reliable proof	A faulty or tainted investigation does not by itself displace the whole prosecution case. The court must closely examine the testimony, corroboration and independent circumstances to determine whether the defect undermines the case or whether the reliable evidence still excludes false implication and supports conviction.	166
Investigative illegality and validity of cognizance or trial	An illegality in investigation does not by itself deprive the criminal Court of jurisdiction or nullify cognizance and trial. Once cognizance has been taken and the case tried, the result cannot be set aside for that illegality without a resulting miscarriage of justice. This rule concerns investigative defects and does not dispense with mandatory provisions governing the Court's own competence to take cognizance or conduct trial.	197
Police informant investigating the same offence	A competent police officer is not automatically disqualified from investigating a cognizable offence merely because the officer recorded the FIR as informant. A challenge on grounds of bias or real likelihood of bias depends on the facts and circumstances; unfairness cannot be presumed solely from the officer's dual role.	197
Non-seizure of a weapon despite reliable eyewitness evidence	Failure to seize the deceased security guard's gun did not undermine the prosecution case where reliable eyewitness evidence established the attack beyond reasonable doubt. The significance of that omission depended on the evidence and circumstances of the case.	220
Complainant and investigating officer being the same person	The prosecution cannot be rejected merely because the complainant and investigating officer are the same person, unless bias in the investigation is shown. Applying V. Jayapaul and its earlier decision in Anil alias Bhura, the Court rejected the argument that this circumstance alone vitiated the investigation; Megha Singh did not establish the broad automatic-invalidity rule asserted by the applicant.	247
Investigative illegality and the validity of cognizance or trial	A defect or illegality in investigation does not by itself remove the court's competence to take cognizance or conduct the trial. A valid police investigation is not the foundation of the court's jurisdiction under Section 190 CrPC. Where cognizance and trial have followed, the result is not set aside merely for an investigative defect unless that defect is shown to have caused a miscarriage of justice.	247
Investigative defects do not by themselves defeat trustworthy direct evidence	Faulty investigation does not by itself require rejection of trustworthy eyewitness evidence. The Court assessed the omissions in the spot map in light of the officer's simultaneous crowd-control duties. It also refused to give the accused the benefit of a later station-recorded merg intimation that omitted firing already described in the complainant's spot report and had not been recorded on his information.	253
Informant investigator overlap requires case-specific proof of bias or prejudice	The investigation is not vitiated merely because the informant police officer also investigated the case. Under Mukesh Singh, bias or prejudice must be assessed from the circumstances of the particular case; the accused is not entitled to acquittal solely because the roles overlap. The Court applied that rule to reject the categorical objection and noted the overruling of Mohan Lal's contrary rule.	257
Personal impleadment of persons accused of mala fides or bias	A person against whom mala fides or bias is alleged must be individually impleaded and given an opportunity to answer the allegations. Naming the State through an officer does not by itself implead that officer personally. The Court declined to examine allegations against persons who had not been joined in the required capacity, since condemning them without a hearing would violate natural justice.	264
Heavy burden of	The person alleging mala fides bears a heavy burden of establishing them	264

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proving allegations of mala fides	through clear, credible proof. The allegations must be specific. Improper motive need not be proved only by direct evidence, but must be discernible from the impugned action or arise as a reasonable and inescapable inference from established surrounding facts. Grave allegations cannot rest on doubtful inferences from incomplete facts.	
Investigation illegality and validity of cognizance or trial	A defect or illegality in investigation does not, by itself, remove the court's competence to take cognizance or conduct the trial. A trial result following such investigation is not vitiated unless the illegality caused a miscarriage of justice. The Court relied on H.N. Rishbud after noting that the charge-sheet had already been filed, distinguishing investigative defects from mandatory provisions governing the court's own competence or procedure.	264
Effect of an unauthorised or otherwise defective investigation	An illegality in investigation does not by itself deprive the court of competence to take cognizance or try the case. Where cognizance has been taken and the trial has concluded, the result is not vitiated unless the investigative illegality caused a miscarriage of justice. Applying this principle, the Court declined to quash the charge-sheet merely on an assumed defect in the investigating officer's competence.	271
Death of investigating officer — assessment of the remaining evidence	The death of the officer who conducted the inquest and registered the FIR, followed by continuation of the investigation by a subordinate officer, did not by itself entitle the accused to acquittal. The prosecution case had to be assessed in the light of the other relevant evidence.	301
Informant acting as investigating officer — no automatic vitiation of trial	Investigation and trial are not vitiated merely because the informant and investigating officer are the same person. Bias or prejudice must be assessed on the facts of each case. Applying Mukesh Singh, the Court rejected an automatic right to acquittal on that ground; the contrary rule in Mohan Lal had been overruled, while earlier acquittal decisions were confined to their facts.	312
Defective investigation — careful evaluation rather than automatic acquittal	Investigative defects or negligence do not by themselves require rejection of the prosecution case or acquittal. The Court must evaluate the other evidence carefully and analytically to determine whether it remains credible and establishes the case. The Court applied this approach to the unproved dispatch of the FIR and the omission of a light pole from the site plan.	319
Informant investigating the NDPS case — proof of bias or prejudice	Investigation is not invalid merely because the informant officer conducted it. Applying Mukesh Singh, the Court required bias, prejudice or unfairness to be assessed on the facts of the case, rather than presumed from the officer's dual role. Established bias and sole reliance on the informant-investigator's evidence may affect its weight. Mukesh Singh expressly overruled Mohan Lal's contrary rule of automatic acquittal. The objection based solely on the complainant conducting most of this investigation was rejected.	327
Section 36 CrPC — independent parallel inquiry during a pending investigation	Section 36 CrPC does not authorise an independent inquiry running parallel to the investigation of the same FIR. A CSP report obtained through such an inquiry on the Superintendent of Police's direction was held to be without jurisdiction and a nullity. It could not be relied upon to exclude the applicant despite the FIR, witness statements and trial evidence implicating him.	336
Omission of Lighting from Site Plan: Effect on Reliable Testimony	Failure by the investigating officer to show the stated source of light in the site plan does not by itself justify rejecting otherwise trustworthy eyewitness evidence. The Court treated that omission as an investigative defect and assessed the testimony in the circumstances of the illuminated gathering, applying the narrated reasoning in Prithvi.	360
Investigation Where a Previous History of Insanity Is Revealed	The Hari Singh Gond passage relied upon by the Court states that, where investigation reveals a previous history of insanity, the investigator must obtain a medical examination and place that evidence before the court. Failure to do so creates a serious infirmity in the prosecution case for which, as stated in that	384

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	authority, the accused is to receive the benefit of doubt. This duty concerns evidence bearing on the legal defence; it does not replace the enquiry into cognitive incapacity at the time of the offence.	
Court's Duty to Address Deliberately Fabricated Investigation	An investigator must collect relevant evidence fairly and truthfully; deliberate fabrication is a breach of that duty, rather than an ordinary omission to be ignored. Applying Dayal Singh, the Court considered accountability necessary where the evidence showed apparent scripting of recoveries and tutoring of witnesses. It directed prosecution steps against the concerned officials and witnesses after finding the statutory threshold satisfied. Their eventual criminal liability remained for adjudication in the ensuing proceedings.	389
Effect of investigative omissions on otherwise reliable proof	An investigative defect does not require rejection of the prosecution case if the remaining reliable evidence proves guilt beyond reasonable doubt. Defects creating reasonable doubt remain material. Here, non-seizure of the school bag and bottle and the failure to compare scalp hair did not displace the other convincing evidence; the Court also considered the law-and-order demands on the investigator.	391
Investigative illegality does not automatically invalidate cognizance or trial	A defect or illegality in investigation does not by itself deprive a competent court of jurisdiction to take cognizance or try the case. Once the case has proceeded to judgment, the investigative defect warrants reversal only where it caused a miscarriage of justice. This is distinct from non-compliance with a statutory condition governing the Court's competence to take cognizance.	418
Early discovery of a mandatory investigative breach —corrective orders	Where a mandatory investigative breach is brought to the Court's notice sufficiently early, it should assess the nature and extent of the violation and order the necessary correction, including such whole or partial reinvestigation as the circumstances require. The accused should not simply be left to prove a miscarriage of justice after the trial ends.	418
Cumulative Investigative Defects and Failure to Prove Guilt	The missing first report, unreliable recoveries, medical inconsistencies and defects in the investigation cumulatively prevented proof beyond reasonable doubt. The Court also questioned the failure to search for the appellant's bloodstained clothing and the unexplained transfer of investigation from available senior officers to a head constable. Assessing the entire record, it found apparent false implication and acquitted the appellant.	455
Unproved Arrest Location and the Accused's Explanation	The prosecution's claim that the appellant was arrested at the scene was inconsistent with witnesses who said she had fled and was brought back by police later. The Court found her Section 313 explanation that she was arrested in Bhopal trustworthy and held that the prosecution had wrongly projected an arrest at the place of occurrence.	455
Unexplained first police information and missing daily-diary record	The investigation left the source and contents of the earliest police information unexplained. The police and scene scientist had attended the scene before the information described in the later death report, yet the relevant daily-diary entry was not produced. The Court treated this unresolved chronology as a deficiency in the prosecution investigation when assessing the case as a whole.	553
Defective investigation and independent scrutiny of reliable evidence	Defects or suspected manipulation in an investigation do not by themselves require acquittal. The court must scrutinise the remaining evidence independently and with caution, and may act on testimony it finds credible despite the investigating officer's misconduct. The judicial determination must not depend solely on the propriety of the investigation.	582
Accountability for blameworthy investigation and prosecution lapses	Where investigative or prosecuting lapses contribute to acquittal, responsible officials must be identified and the lapse assessed as innocent or blameworthy. Appropriate departmental action and, according to culpability, withdrawal of investigative duties may follow. Applying the narrated Ankush Maruti Shinde guidance to its finding of false implication, the Court directed a DIG inquiry	599

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	into the investigator's conduct and a Home Department inquiry and departmental action against erring officials still in service within two months. It did not itself select a final disciplinary penalty.	
Defective investigation — non-seizure of witnesses' bloodstained clothes does not require automatic acquittal	Investigative defects require extra caution in evaluating the remaining evidence, rather than automatic rejection of an otherwise proved prosecution case. If a defect creates reasonable doubt, the accused is entitled to its benefit; credible occurrence testimony may otherwise be assessed independently of the investigator's failings. Failure to seize the bloodstained clothes of the witnesses who carried the injured person did not discredit the reliable, corroborated eyewitness account.	638
Section 36 CrPC and parallel senior-officer inquiry	A senior police officer cannot conduct an independent inquiry parallel to an ongoing FIR investigation under Section 36 CrPC. Applying Deepak alias Preetam Verma and the Supreme Court's decision in Surendra Singh Gaur, the Court held the parallel inquiry impermissible. Its conclusion favouring the applicant's omission from the charge-sheet did not defeat the subsequent Section 319 summons, particularly where the claimed alibi rested on inadequate material.	645
Failure to examine a material person — unsupported police explanation rejected	The investigating officer failed to record the statement of a person who had stayed with the deceased and the appellant on the night of the killing. His explanation that the person would not give a statement because he was related to the appellant was unsupported by any corresponding case-diary entry. The Court declined to accept that explanation and treated the omission as part of the defective investigation contributing to doubt. The finding concerned the unsubstantiated explanation and the person's material presence on this record.	677
Independent scrutiny of evidence despite defective investigation	A defective, illegal or suspicious investigation does not by itself require acquittal where independently scrutinised evidence is credible and sufficient. The Court must evaluate the evidence cautiously and objectively, ensuring that perfunctory or deliberately defective investigation does not subvert the trial. Its duty of a fair trial extends to the accused, victim and society, and requires an active effort to elicit relevant material rather than passive acceptance of the prosecution's presentation.	693
Defective investigation does not by itself require acquittal	A defective or suspicious investigation requires careful scrutiny of the remaining evidence, rather than automatic acquittal. If independently assessed eyewitness testimony is credible, the Court may act on it despite investigative manipulation or lapses. Applying Dayal Singh, the Bench assessed the full evidentiary record instead of allowing the defective medical examination to determine the case by itself.	713
Disputed document fabrication and the prohibition on a mini-trial	Whether the documents relied upon by the complainant were fabricated was a disputed question of fact requiring evidence. The High Court could not determine their authenticity through a mini-trial to grant the requested FIR quashing or use the allegation as a basis for prescribing the course of investigation. Refusal of interference left that factual dispute unresolved.	833
Investigating officer's duty of diligent, truthful and fair investigation	Investigating officers must act diligently, truthfully and fairly and are answerable for the methods used in investigation. Flagrant omissions indicating deliberate wrongdoing or an irresponsible investigative approach cannot be ignored merely because prejudice to the prosecution is not shown. Doctors involved in an investigation must likewise follow recognised medical practice.	869
Discovery of deliberately withheld evidence as a ground for further investigation	Discovery that an investigating officer deliberately suppressed material already collected during investigation may constitute a new fact warranting further investigation. A defective investigation discovered during trial may be cured where the circumstances permit, even if further investigation delays disposal. On discovering the withheld personal diary, the Court allowed further investigation into both the documentary material and the investigating officer's	911

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	role. It also observed that deliberate withholding, if established, could attract prosecution under Section 201 IPC and Section 120B where conspiracy is involved; it made no finding of criminal guilt against the officer.	
Defective investigation and independent scrutiny of other evidence	Defective, illegal or suspicious investigation does not by itself require acquittal. The Court must scrutinise the remaining evidence independently and cautiously, and may act on evidence found credible and acceptable despite the investigating officer's misconduct. Acquittal solely because of an investigative defect may allow a deliberately defective investigation to defeat justice.	920
Defective investigation leaving essential incriminating links unproved	The investigation failed to establish how and by whom the deceased was taken to hospital, who owned the alleged bullock cart, or whether the hospital worker said to have declared him dead had examined him. The cart was not seized and the worker was not examined. Leads in the appellant's report and circumstances of the alleged discovery were also left unexplored. These omissions left essential links unproved; medical evidence of homicide could not bridge them or identify the appellants as the killers. The Court found that the deliberately deficient investigation had facilitated false implication.	942
Collusive false implication established by unsupported naming and manipulated identification	The investigating officer could not substantiate the information on which the accused were named in the FIR before the alleged abductee's return. No statements recorded in the missing-person enquiry were produced, and the informant had withheld his alleged source from the officer. The officer also contradicted the alleged victim's account of escape by claiming police recovery and allowed witnesses to see the appellants at the police station instead of holding a test identification parade. Considered with the unreliable prosecution evidence and the witnesses' motive to implicate the accused, these circumstances led the Court expressly to find that the officer had acted in connivance with the prosecution witnesses to prepare a false case.	950
Failure to send merg documents to a police superior and otherwise reliable evidence	Defective investigation does not by itself require acquittal where the prosecution evidence is trustworthy. The failure to send the merg and related documents to the SDO(P), raised with reference to Police Regulation 174, did not establish that the FIR was antedated when contemporaneous investigative steps showed its prompt registration. Applying Prithvi and State of U.P. v. Jagdeo, the Court rejected this investigative lapse as a ground for displacing the otherwise reliable evidence against Pawan.	951
Investigation omissions and otherwise established prosecution evidence	A lapse or omission by the investigating officer does not by itself make a prosecution case doubtful where reliable direct testimony of injured witnesses, corroborated by medical evidence, fully establishes the case. The Court assessed the alleged investigative deficiencies against that independently accepted evidence.	987
Investigative illegality — no jurisdictional nullity without miscarriage of justice	A defect or illegality in investigation does not by itself affect the criminal court's competence to take cognizance or conduct the trial. Applying H.N. Rishbud, the Court distinguished an antecedent investigative defect from a statutory restriction on the court's jurisdiction. An invalid police report is not for that reason a nullity under Section 190 CrPC. Where cognizance has been taken and the trial has concluded, the result is not vitiated unless the investigative illegality has caused a miscarriage of justice. This principle answered the contention that the manner of obtaining the recording necessarily defeated the prosecution.	1009

Sub-Chapter no. 9.6
Parallel Police Enquiry During FIR Investigation — CrPC Section 36 Limits

Parallel enquiry by a senior police officer during investigation	Section 36 CrPC does not authorise an independent enquiry running parallel to the regular FIR investigation. Applying Mahendra Kumar Vaidya and the Supreme Court decision reproduced within it, the Court treated the report of a	210

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	senior officer who was not the investigating officer as having no legal sanctity. The adopted precedent also excludes such a report from the case diary, investigation and final police report.	
Section 36 CrPC — independent parallel inquiry during a pending FIR investigation is impermissible	Section 36 CrPC and the police circulars considered in the reproduced Supreme Court ruling do not authorise an independent inquiry alongside an ongoing investigation into the same FIR. A circular conforming to Section 36 does not validate an inquiry conducted contrary to its procedure. Applying that rule, the High Court treated the Additional Superintendent of Police's parallel inquiry as outside the lawful investigative process.	637
Section 36 does not authorise an independent parallel police inquiry	Section 36 CrPC and the cited police circulars did not authorise the independent parallel inquiry conducted alongside the regular investigation in the earlier Deepak case. The reproduced Supreme Court order rejected the officers' challenge and held that their procedure was inconsistent with law and the circular. The Court relied on that prior conduct and its judicial treatment when assessing the senior officer's present misconduct.	769
Parallel police enquiry under Section 36 CrPC	Section 36 CrPC does not authorise an independent enquiry running alongside the assigned officer's FIR investigation without withdrawal of that investigation. A report from such a parallel enquiry cannot be relied on to displace the investigation. The CSP report recommending that investigation await the divorce decision therefore had no legal sanctity.	793
	Sub-Chapter no. 9.7 **Police Response to Cognizable Information and Law-and-Order Inputs**	
Police duty on information disclosing a cognizable offence	Where information discloses a cognizable offence, the officer in charge must record it under Section 154 CrPC and investigate it. Registration cannot be refused merely because the officer is not satisfied about the information's reasonableness or credibility.	197
Continuing Cruelty: Territorial Connection for Investigation	Where the FIR alleges that cruelty compelled a wife to leave the matrimonial home and that its mental effects continue at her parental home, the police at the latter place may investigate on that territorial connection. The Court accordingly rejected the objection to Bhopal Mahila Thana's jurisdiction, although the alleged physical acts occurred at Kanpur.	363
Accountability for failure to register cognizable information	A police officer cannot avoid registering an FIR where the information discloses a cognizable offence. The adopted Lalita Kumari directions require action against officers who fail to perform that duty.	597
Zero-number FIR received outside station territory — registration followed by transfer to competent station	A police station cannot refuse to register an FIR on the ground that the occurrence falls outside its territorial jurisdiction. It must transfer the FIR to the police station competent to investigate. The Court rejected the territorial objection because Mahila Thana, Vidisha had registered the FIR at serial No. 0 and transferred it to Gulabganj police station.	856
	Sub-Chapter no. 9.8 **Reinvestigation, Fresh Investigation and De Novo Investigation**	
Further investigation under Section 173(8) and exceptional fresh investigation	Further investigation under Section 173(8) CrPC is distinct from fresh or de novo investigation. Investigating agencies and subordinate courts act within the Code's limits, whereas those limits do not extinguish the High Court's inherent or constitutional power to order fresh investigation where exceptionally necessary to secure justice. Reinvestigation is not the ordinary response to an investigative defect; further investigation may be the appropriate course.	299
De novo investigation precedent — distinction from	A precedent directing de novo investigation after an unacceptable police closure report does not, on that basis, govern a request for initial FIR registration. The Court distinguished Neetu Kumar Nagaich because it concerned a homicidal	494

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initial FIR registration	death and a closure report based on the absence of a clue about the offender; the Supreme Court had ordered de novo investigation in that setting, rather than registration of an FIR on a complaint.	
Further investigation and exceptional fresh investigation are distinct powers	Police and subordinate criminal courts exercise their investigation powers within the CrPC. Section 173(8) permits further investigation after a Section 173(2) report, but that power does not itself authorise a fresh investigation or reinvestigation. Those statutory limits do not extinguish the High Court's inherent power under Section 482 or constitutional powers to order exceptional fresh or independent investigation when necessary to secure justice.	714
	Sub-Chapter no. 9.9 **Magistrate's Section 156(3) CrPC Power to Direct and Monitor Proper Investigation**	
Section 156(3) CrPC — registration, proper investigation and monitoring	After approaching the Superintendent of Police under Section 154(3) CrPC without satisfactory relief, a person complaining of non-registration or improper investigation may approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation and monitor compliance. Monitoring does not authorise the Magistrate to investigate the case personally, which remains the police's function.	57
Proper investigation — Magistrate's recommendation to change the investigating officer	Under the Sudhir Tambe principle relied upon, a Magistrate addressing a proper-investigation grievance under Section 156(3) CrPC may, if considered necessary, recommend to the SSP or SP a change of investigating officer. This is a discretionary measure to secure proper investigation, alongside monitoring, and does not permit the Magistrate to undertake the investigation personally.	57
Magistrate's powers to secure and monitor proper investigation	If a written approach to the Superintendent of Police under Section 154(3) CrPC does not resolve non-registration or defective investigation, the aggrieved person may apply to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor its progress and, where necessary, recommend to the SSP or SP a change of investigating officer. The Magistrate cannot personally conduct the investigation.	92
Magistrate may direct and monitor proper investigation under Section 156(3) CrPC	On prima facie satisfaction, a Magistrate acting under Section 156(3) CrPC may direct registration or proper investigation and monitor its progress. The Sudhir Bhaskarrao Tambe passage relied upon by the Court also permits a recommendation to the competent police superior for a change of investigating officer where necessary. The Magistrate may ensure proper investigation but cannot personally conduct it.	136
Magistrate’s powers to secure proper investigation under Section 156(3) CrPC	After resort to the Superintendent of Police under Section 154(3), an aggrieved informant may seek relief under Section 156(3) CrPC for non-registration or improper investigation. On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor it and, where necessary, recommend a change of investigating officer to the SP or SSP. The Magistrate cannot personally investigate.	147
Magistrate's powers to secure registration and proper investigation	If a written approach to the Superintendent of Police under Section 154(3) CrPC does not resolve non-registration or defective investigation, the complainant may apply under Section 156(3). On being prima facie satisfied, the Magistrate may direct registration and proper investigation, monitor its progress and, where necessary, recommend a change of investigating officer to the competent police authority. The Magistrate may ensure proper investigation but cannot personally undertake it.	154
Registration and investigation directions under	A complainant dissatisfied after a written approach to the Superintendent of Police under Section 154(3) CrPC may apply to the Magistrate under Section 156(3). If prima facie satisfied, the Magistrate may direct registration of the FIR	159

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Section 156(3) CrPC	or proper investigation, monitor the investigation and, if necessary, recommend a change of investigating officer to the SSP or SP. The Magistrate may secure proper investigation but cannot personally conduct it.	
Magistrate may direct and monitor proper investigation without investigating personally	On being prima facie satisfied under Section 156(3) CrPC, the Magistrate may direct registration of an FIR, require proper investigation and monitor it. If necessary, the Magistrate may recommend a change of investigating officer to the competent police superior, but cannot personally conduct the investigation.	203
Magistrate-directed registration, proper investigation and monitoring	Under the CrPC remedies discussed in the judgment, an informant may first approach the Superintendent of Police under Section 154(3) and then the Magistrate under Section 156(3) if registration or proper investigation remains lacking. On prima facie satisfaction, the Magistrate may direct registration and proper investigation, monitor compliance and, where necessary, recommend a change of investigating officer. The Magistrate cannot personally investigate.	255
Magistrate's oversight — direction to investigate without dictating method	Upon the police report declining investigation, the Magistrate may direct investigation or hold an inquiry. Although the Magistrate is kept informed at the statutory stages, this oversight does not authorise interference with the actual investigation or directions prescribing how the police must conduct it.	314
Section 156(3) CrPC — directions and monitoring for proper investigation	A person aggrieved by non-registration of an FIR may first approach the Superintendent of Police under Section 154(3) CrPC and, if that yields no satisfactory result, apply to the competent Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration and proper investigation, monitor compliance and, where necessary, recommend a change of investigating officer. The Magistrate may not personally conduct the police investigation.	338
Police Inaction, Supervisory Complaint and Magistrate Monitoring	A person aggrieved by non-registration of an FIR may first approach the Superintendent of Police in writing under Section 154(3) CrPC and, if the grievance remains, the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation and monitor compliance, including recommending a change of investigating officer where necessary. The Magistrate does not personally conduct the investigation.	408
Magistrate's power to direct and monitor proper investigation	An informant whose FIR is not registered may first apply in writing to the Superintendent of Police under Section 154(3) CrPC. If that produces no satisfactory result, or a registered case is not properly investigated, an application may be made under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor the investigation and, if necessary, recommend a change of investigating officer to the competent police superior. The Magistrate cannot personally investigate.	430
Magistrate's power to secure registration and a proper investigation	An informant dissatisfied with police inaction may first apply in writing to the Superintendent of Police under Section 154(3) CrPC and then approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration or a proper investigation and monitor progress. If necessary, the Magistrate may recommend a change of investigating officer to the senior police authority, but cannot personally investigate. The Court relied on these powers in directing the petitioner to the available statutory forum.	440
Magistrate's Section 156(3) power to direct and monitor a proper investigation	Under the CrPC authorities adopted by the Court, an informant may apply in writing to the Superintendent of Police under Section 154(3), then approach the Magistrate under Section 156(3) if the grievance persists. On prima facie satisfaction, the Magistrate may direct FIR registration or a proper investigation, monitor progress and, if necessary, recommend a change of investigating officer to the senior police authority. The Magistrate cannot personally investigate. Those powers supported the Court's direction to use the statutory forum.	446

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Magistrate's power to secure and monitor proper investigation	On prima facie satisfaction under Section 156(3) CrPC, the Magistrate may direct registration of an FIR or proper investigation of an already registered case and may monitor that investigation. Where necessary, the Magistrate may recommend a change of investigating officer to the senior police authority. The Magistrate supervises compliance but does not personally investigate, since investigation remains the police function.	465
Magistrate's power to secure proper investigation under Section 156(3) CrPC	A Magistrate satisfied of a prima facie case under Section 156(3) CrPC may direct registration of an FIR or proper investigation of an FIR already registered, and may monitor that investigation. If necessary, the Magistrate may recommend a change of investigating officer to the competent police authority. Monitoring does not authorise the Magistrate to investigate personally.	517
Recourse to the Superintendent of Police and Magistrate for registration or proper investigation	An informant aggrieved by refusal to register an FIR may first apply in writing to the Superintendent of Police under Section 154(3) CrPC. If satisfactory action still does not follow, an application may be made to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate can direct registration or proper investigation and monitor its progress. Where necessary, the Magistrate may recommend a change of investigating officer to the competent superior police officer, but cannot conduct the investigation personally.	554
Magistrate's power to secure and monitor proper investigation	For refusal to register an FIR, the aggrieved person may first apply in writing to the Superintendent of Police under Section 154(3) CrPC. If no satisfactory action follows, or a registered case is not properly investigated, an application may be made under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation, monitor it and, if necessary, recommend a change of investigating officer to the police superior. The Magistrate cannot personally undertake the investigation.	566
Magistrate's power to secure registration and proper investigation	A person complaining of non-registration may first apply in writing to the Superintendent of Police under Section 154(3) CrPC. If registration or proper investigation still does not follow, an application lies to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration and proper investigation, monitor its progress and, if necessary, recommend a change of investigating officer to the SSP or SP. The Magistrate cannot personally investigate.	595
Magistrate's power to secure and monitor proper investigation	Under the CrPC framework reproduced from Sakiri Vasu and Sudhir Bhaskarrao Tambe, a Magistrate who is prima facie satisfied may direct registration of an FIR or proper investigation under Section 156(3), and monitor compliance. If necessary, the Magistrate may recommend a change of investigating officer to the SP or SSP. Monitoring does not authorise the Magistrate personally to conduct the investigation, which remains the police's function.	608
Section 156(3) CrPC: registration, proper investigation and monitoring	If a written approach to the Superintendent of Police under Section 154(3) CrPC yields no satisfactory action, the aggrieved person may apply to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration or proper investigation and monitor compliance. Where necessary, the Magistrate may recommend a change of investigating officer to the SP or SSP, but cannot personally investigate.	620
Section 156(3) CrPC: proper investigation and judicial monitoring	If written recourse to the Superintendent of Police under Section 154(3) CrPC produces no satisfactory response, the informant may apply under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation and monitor it. Where needed, a change of investigating officer may be recommended to the SP or SSP, but the Magistrate cannot personally investigate.	627
Section 156(3)	After an ineffective written approach to the Superintendent of Police under	629

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CrPC: registration and proper-investigation supervision	Section 154(3) CrPC, the informant may apply under Section 156(3). If prima facie satisfied, the Magistrate may direct FIR registration or proper investigation and monitor compliance. A change of investigating officer may be recommended to the SP or SSP where necessary, but the Magistrate cannot investigate personally.	
Section 156(3) CrPC — registration, proper investigation and monitoring	The Sakiri Vasu passage adopted by the Court permits a complainant first to approach the Superintendent of Police under Section 154(3) CrPC and, if relief remains unsatisfactory, the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation and monitor compliance. Sudhir Bhaskarrao Tambe further explains that the Magistrate may, where necessary, recommend a change of investigating officer to the competent police superior. Monitoring does not authorise the Magistrate personally to investigate; investigation remains the police function.	679
Magistrate's powers where an FIR is not registered or investigation is deficient	A person aggrieved by non-registration of an FIR may first apply in writing to the Superintendent of Police under Section 154(3) CrPC and, if dissatisfied, approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration or proper investigation and monitor it. If necessary, the Magistrate may recommend a change of investigating officer to the competent police superior, but cannot personally conduct the investigation.	697
Non-registration or improper investigation — recourse under Sections 154(3) and 156(3) CrPC	An informant aggrieved by non-registration may first submit a written application to the Superintendent of Police under Section 154(3) CrPC. If registration still does not follow, or investigation after registration is improper, the informant may apply to the competent Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate can direct registration and proper investigation and monitor compliance.	702
Magistrate's investigation supervision — recommendation to change investigating officer	When ensuring proper investigation under Section 156(3) CrPC, the Magistrate may, if considered necessary, recommend a change of investigating officer to the Superintendent of Police or Senior Superintendent of Police. The Magistrate may monitor the investigation but cannot personally conduct it, because investigation remains the function of the police.	702
Section 156(3) remedy for FIR registration and proper investigation	An informant may first complain in writing to the Superintendent of Police under Section 154(3) CrPC and, if the grievance remains, apply to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration or proper investigation, monitor the investigation and, where necessary, recommend a change of investigating officer to the competent police superior. The Magistrate cannot personally investigate.	710
Magistrate's powers to secure proper investigation under Section 156(3)	On prima facie satisfaction under Section 156(3) CrPC, the Magistrate may direct FIR registration or proper investigation and monitor compliance. Where necessary, the Magistrate may recommend a change of investigating officer to the appropriate police superior, but cannot personally investigate. These powers provide an effective remedy when police fail to register an FIR or investigate properly.	719
Section 156(3) remedy for nonregistration or inadequate investigation	After a written approach to the Superintendent of Police under Section 154(3) CrPC fails to yield satisfactory action, an aggrieved person may apply to the Magistrate under Section 156(3). If prima facie satisfied, the Magistrate may direct registration or proper investigation, monitor compliance and, if necessary, recommend a change of investigating officer to the SSP/SP. The Magistrate supervises the process but does not personally investigate.	763
Section 156(3) remedy for nonregistration or inadequate investigation	After a written approach to the Superintendent of Police under Section 154(3) CrPC fails to yield satisfactory action, an aggrieved person may apply to the Magistrate under Section 156(3). If prima facie satisfied, the Magistrate may direct registration or proper investigation, monitor compliance and, if	765

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	necessary, recommend a change of investigating officer to the SSP/SP. The Magistrate supervises the process but does not personally investigate.	
Section 156(3) investigation before cognizance: no examination on oath	A Judicial Magistrate who orders police investigation under Section 156(3) CrPC before taking cognizance does not examine the complainant on oath at that stage, because the Magistrate is not then taking cognizance of the offence. The Magistrate may direct registration of an FIR to enable the police to begin investigation.	770
Section 156(3) remedy for non-registration or improper investigation	An aggrieved person may first submit a written application to the Superintendent of Police under Section 154(3) CrPC and, if relief remains unsatisfactory, approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration or proper investigation, monitor compliance and, where necessary, recommend a change of investigating officer to the competent police authority. The Magistrate cannot personally undertake the police investigation.	786
Section 156(3) CrPC: registration, proper investigation and monitoring	On failure of police action, a complainant may approach the Superintendent of Police in writing under Section 154(3) CrPC and, if that yields no satisfactory result, seek an order under Section 156(3). If prima facie satisfied, the Magistrate may direct registration or proper investigation and monitor progress. Where necessary, the Magistrate may recommend a change of investigating officer to the police superior. The Magistrate does not personally investigate, since that remains the police function.	838
Section 156(3) CrPC powers to secure and monitor proper investigation	Under the adopted passages from Sakiri Vasu and Sudhir Bhaskarrao Tambe, an informant may first approach the Superintendent of Police under Section 154(3) CrPC and, if that does not produce a satisfactory result, apply to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration or proper investigation and monitor it. Where necessary, the Magistrate may recommend to the competent police superior a change of investigating officer, but cannot personally conduct the investigation.	853
Section 156(3) CrPC: directing and monitoring proper investigation	After an unsuccessful written approach to the Superintendent of Police under Section 154(3), an aggrieved person may approach the Magistrate under Section 156(3) concerning non-registration or inadequate investigation. On prima facie satisfaction, the Magistrate may direct registration or proper investigation and monitor compliance. If necessary, the Magistrate may recommend a change of investigating officer to the SSP or SP, but cannot personally investigate.	866
Section 156(3) CrPC — Magistrate's supervision of proper investigation	Where the Magistrate is prima facie satisfied on an application under Section 156(3) CrPC, he may direct registration of the FIR or proper investigation of an existing FIR and monitor compliance. If necessary, he may recommend to the Superintendent or Senior Superintendent of Police that the investigating officer be changed. The Magistrate supervises the investigation and cannot himself undertake it, since investigation is the function of the police.	887
Section 156(3) CrPC application — affidavit and prior resort to the police	The rule reproduced from Priyanka Shrivastava requires a Section 156(3) application to be supported by a sworn affidavit. Prior applications under Sections 154(1) and 154(3) must be stated and supported by documents. In an appropriate case, the Magistrate may verify the allegations, having regard to their nature and any delay. The affidavit makes the applicant accountable, including liability for prosecution if it is false. The quoted requirement concerns Section 156(3) applications.	899
Magistrate's power to direct and monitor proper investigation	If a written approach to the Superintendent of Police under Section 154(3) CrPC does not produce satisfactory action, the aggrieved person may apply under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration or proper investigation and monitor compliance. Where necessary, the Magistrate may recommend a change of investigating officer to the	921

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	competent police authority, but cannot personally conduct the investigation.	
Magistrate's power to secure and monitor proper investigation	After an unsuccessful written approach to the Superintendent of Police under Section 154(3) CrPC, a person complaining of non-registration of an FIR or improper investigation may approach the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may direct registration and proper investigation, monitor compliance, and, where necessary in the Magistrate's discretion, recommend a change of investigating officer to the police authorities. The Magistrate may supervise the process but cannot personally conduct the investigation.	945
Magistrate's powers to secure and monitor proper investigation	If approaching the Superintendent of Police under Section 154(3) CrPC does not secure registration or proper investigation, the aggrieved person may apply under Section 156(3). On prima facie satisfaction, the Magistrate may direct FIR registration or proper investigation and monitor it. If necessary, the Magistrate may recommend a change of investigating officer to the SSP or SP, but cannot personally investigate because investigation belongs to the police.	961
Magistrate's power to secure and monitor proper investigation	On a prima facie satisfactory application under Section 156(3) CrPC, the Magistrate may direct registration of an FIR or proper investigation and monitor compliance. Where necessary, the Magistrate may recommend a change of investigating officer to the competent senior police officer. The Magistrate may supervise the investigation but cannot personally investigate.	984
	Chapter no. 10 **Police Accountability, Custodial Violence and State Responsibility**	
	Sub-Chapter no. 10.1 **Criminal Action Against Police Personnel for Custodial Abuse**	
Criminal action for custodial assault and fabricated complaint material	An internal police inquiry giving officers a clean chit could not shield them from criminal investigation when undisputed CCTV footage contradicted its conclusions and showed custodial assault and creation of false complaint material. Exercising jurisdiction over an individual case of custodial torture, the High Court directed the Director General of Police to register an FIR against the implicated officers.	22
Alleged police abuse — time-bound trial and execution of warrants	In view of serious allegations of misuse of police powers, the Court directed completion of this trial within six months, with day-to-day hearing if required and adjournments not exceeding four days. If an accused police officer failed to appear, the Superintendent of Police was personally responsible for promptly executing the arrest warrant because the department knew the officer's whereabouts. Failure to execute the warrant was to be reported by the trial court to the High Court for further action.	483
Custodial assault of a rape complainant — criminal action on prima facie material	The complainant's account before the Magistrate, medical records, video material and police-station chronology supported, for the purposes of the writ, a prima facie finding of police assault intended to change her version. The Court directed registration of an FIR against the identified and unknown officers for the assault, unlawful detention under Section 341 IPC and other disclosed offences. It also directed investigation to identify the other assailants, including a test identification parade. The findings did not determine criminal guilt.	546
	Sub-Chapter no. 10.2 **DGP Oversight and Police Accountability**	
Police accountability for prolonged inaction and suspected protection of accused persons	Where police records showed a pending investigation but the matter was presented as closed in monthly review, and prolonged inaction and suspected record manipulation were left unchecked, the Court directed the DGP to inquire into the responsibility of the investigating and supervisory officers. On finding prima facie misconduct intended to give undue advantage to the accused, it also	81

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	directed registration of an offence against the then investigating officer and SHO under the pre-2018 Section 13(1)(d) of the Prevention of Corruption Act. Other persons could be implicated if their involvement was found during inquiry. The writ remained pending.	
Personal DGP inquiry after ineffective compliance by subordinate officers	Where the Superintendent of Police delegated a court-directed inquiry and the resulting response failed to address the apparent police misconduct, the Court required the DGP personally to conduct the inquiry, without delegating it to another officer. It rejected the request to substitute an Inspector General and required the report within one month, supported by the DGP's own affidavit.	81
DGP review of misleading inquiry claims and protection of the delinquent officer	After finding that police officials had misrepresented inquiry progress and shielded the investigating officer, the Court directed the DGP to decide whether the identified Jabalpur and Katni officers required criminal or service proceedings and report by 5 March 2025. It found revocation of the officer's suspension improper while she was not cooperating, dispensed with further preliminary inquiry, and ordered copies of the judgment to be kept in the erring officers' service books, with compliance reported within one month.	83
DGP review of misleading inquiry claims and protection of the delinquent officer	After finding that police officials had misrepresented inquiry progress and shielded the investigating officer, the Court directed the DGP to decide whether the identified Jabalpur and Katni officers required criminal or service proceedings and report by 5 March 2025. It found revocation of the officer's suspension improper while she was not cooperating, dispensed with further preliminary inquiry, and ordered copies of the judgment to be kept in the erring officers' service books, with compliance reported within one month.	85
Supervisory reporting on action for failure to execute a warrant	Issuing show-cause notices to the police personnel did not conclude the Court's compliance inquiry. As the time allowed for their responses had expired, the SSP was directed to report to the Principal Registrar by a fixed date the action or decision taken on the notices. The order required the outcome of the supervisory process to be reported.	184
DGP assessment of investigation and supervisory lapses	On finding serious lapses in investigation and supervision, the Court directed the DGP to assess whether action against the investigating officer or Superintendent of Police was warranted. If action was considered necessary, it was to be taken within one month, with a report to the Principal Registrar by the specified date. The direction left that assessment to the DGP.	276
Police accountability for withholding negative preliminary-inquiry reports	The Court directed circulation of the reporting requirement through the DGP and Superintendents of Police to all SHOs. It warned that future deviations would be treated seriously and could support a presumption that the SHO deliberately withheld the matter to benefit the accused.	314
Police Accountability: Failure to Produce or Formally Arrest a Known Prisoner	The unexplained failure to produce an imprisoned accused under a production warrant or to arrest him formally in the pending case was held to violate his life and liberty. The Court directed the Inspector General to inquire into the station officer's conduct and submit a report to the Principal Registrar within one month.	368
Police training directed for failure to collect substantive evidence	After questioning the SHO, the Court found a lack of legal knowledge and investigative efficiency in leaving identification work undone despite knowledge of the applicant’s custody and the earlier bail order. It also noted repeated charge-sheets based only on accused persons’ confessional statements without attempts to collect substantive evidence. It directed the Director General of Police to send the concerned SHO to a police training school of the DGP’s choice for at least six months and report to the Principal Registrar within fifteen days. This was a corrective direction concerning the officer examined by the Court.	674
DGP accountability	Efficient execution of judicial process is the police department's own duty and	912

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for ineffective execution of trial-court process	should not depend on repeated judicial prompting. A report confined to High Court warrants did not adequately address neglect of trial-court process against witnesses. After rejecting the misleading and perfunctory inquiry report, the Court required the DGP's personal affidavit on process execution, witness protection and responsibility for defaults, with a response to every issue raised.	
Unauthorised retention of closure report: inquiry into police responsibility	Where police retained a prepared closure report without justification despite representations that it had been filed, the Court directed a senior police inquiry to identify the responsible station officers and investigating officer and report the proposed action. Responsibility and disciplinary consequences were left to that inquiry.	975
	Sub-Chapter no. 10.3 **Departmental Enquiry and Police Service Discipline**	
Disciplinary jurisdiction after transfer of the delinquent police officer	Where the alleged misconduct and all relevant proceedings arose in Jabalpur, the officer's later transfer to Katni did not itself make the Superintendent of Police, Katni the disciplinary authority. The Court found no explained basis for moving the preliminary inquiry there. It required an immediate departmental inquiry against the former investigating officer, conducted by an officer of at least Superintendent rank who had never served in Jabalpur or Katni, and completion within six months. A reasoned decision on departmental action against the responsible Superintendents was also required.	83
Disciplinary jurisdiction after transfer of the delinquent police officer	Where the alleged misconduct and all relevant proceedings arose in Jabalpur, the officer's later transfer to Katni did not itself make the Superintendent of Police, Katni the disciplinary authority. The Court found no explained basis for moving the preliminary inquiry there. It required an immediate departmental inquiry against the former investigating officer, conducted by an officer of at least Superintendent rank who had never served in Jabalpur or Katni, and completion within six months. A reasoned decision on departmental action against the responsible Superintendents was also required.	85
Police officer's failure to answer the trial court's direction	An SHO directed by the trial court to explain why action should not be taken for his default was required to provide a written response. The assertion that he had made oral submissions was rejected because the subsequent order sheets did not record them. The High Court fixed a deadline for his written reply and directed the trial court to pass a specific order considering its earlier direction and the SSP's report.	184
Police departmental inquiry and criminal prosecution — distinct charges may proceed simultaneously	A departmental inquiry may proceed alongside criminal prosecution where the disciplinary charges are not identical to the allegations in the FIR. Leaving headquarters without superior permission was an independent service charge, while misconduct in police uniform was only partly based on the criminal allegations. The overlap in the underlying incident therefore did not require quashing the disciplinary charge-sheet or stopping the inquiry.	337
Police uniform — forcible entry without investigative purpose as misconduct	Forcibly entering a spa in police uniform, when the officer had not gone there to investigate an offence, was held to constitute serious misconduct independently of the overlapping criminal allegations. That independent disciplinary aspect supported continuation of the departmental inquiry alongside the prosecution.	337
Criminal Acquittal and an Independent Police Disciplinary Enquiry	A criminal acquittal does not by itself invalidate a departmental charge sheet based on an independent preliminary enquiry and distinct allegations of police misconduct. Criminal guilt requires proof beyond reasonable doubt, whereas disciplinary findings rest on a preponderance of probabilities. Here the prosecutrix supported the criminal case but her parents turned hostile, and the Court regarded the acquittal as other than honourable. It permitted the disciplinary enquiry to continue without deciding whether the misconduct	382

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	charges were proved.	
Writ Review of a Departmental Charge Sheet at the Initial Stage	A departmental charge sheet ordinarily creates no immediate cause of action because it does not itself impose punishment or finally affect the employee's rights. Its factual correctness is for the disciplinary authority, and the writ court should not decide disputed merits at that stage. Patent lack of jurisdiction or issuing competence may justify interference; the relied-upon passage also recognises established mala fides as an exceptional ground. No such basis was made out here, so the Court declined to quash the charge sheet.	382
Meaning of Honourable Acquittal in Disciplinary Proceedings	The expressions 'honourable acquittal' and 'fully exonerated' are judicial descriptions, not forms of acquittal defined in the IPC or CrPC. The relied-upon authorities distinguish full exoneration after consideration of the prosecution evidence from an acquittal for technical reasons or because material witnesses turned hostile or were not examined. The latter does not carry the same effect when the disciplinary authority independently assesses misconduct.	382
No Automatic Reinstatement Merely on Criminal Acquittal	The Samuthiram passages relied upon by the Court state that criminal acquittal does not automatically confer service benefits or reinstatement. Even an honourable acquittal must be considered with the applicable service rules; in the absence of a rule conferring the benefit, acquittal alone does not create that right. The different standards governing criminal trial and disciplinary proof remain relevant.	382
Delay as a Ground to Quash Disciplinary Proceedings	Under the Prabhash Chandra Mirdha passage relied upon through Jagdish Baheti, delayed initiation or failure to conclude a disciplinary enquiry within a reasonable period does not alone justify quashing it. The delay must prejudice the employee, and the gravity of the alleged misconduct is relevant. In this case the earlier judicial stay was vacated, and the authorities were directed to conclude the enquiry within six months.	382
Police accountability for repeated defaults in witness attendance and summons or warrant execution	In accepting the revised Police Headquarters directions, the Court expected effective service of summons and execution of warrants, with particular attention to police witnesses' attendance for evidence. The DGP's 8 April 2022 affidavit provided for preliminary inquiry into repeated failure to attend or repeated laxity in service or execution. The Court further expressed the expectation that repeated non-execution would lead to inquiry and adequate action against the defaulting personnel, protecting witnesses and complainants from avoidable harassment.	429
Consideration of Disciplinary Action Against an Accused Police Officer	Alongside directions to insulate the rape investigation from the accused head constable’s influence, the Court left it to the competent authority to consider action against him under Rules 9 and 14 of the M.P. Civil Services (Classification, Control & Appeal) Rules, 1966. The direction was to consider action; it did not itself impose a disciplinary penalty.	528
Police misconduct — departmental proceedings alongside criminal investigation	Prima facie involvement in custodial violence, partisan investigation and failure to conduct a responsible inquiry warranted departmental action in addition to criminal investigation. The Court directed the competent authorities to initiate departmental proceedings against the responsible officers and directed their immediate transfer outside the Gwalior and Morena ranges because their continued local presence was not conducive to the inquiry. These were protective and disciplinary directions in the writ, subject to the independent investigation.	546
Departmental consideration of police failures causing trial delay	Where the Superintendent of Police failed to honour an assurance to secure official witnesses and the prosecution’s negligence prolonged trial, the Court left possible departmental action to the competent authority instead of initiating contempt proceedings. The Chief Secretary and DGP were also to consider action for the doctors’ and police witnesses’ non-appearance. A copy of the order was directed to be placed in the Superintendent’s service book, with	621

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	compliance reported within fifteen days.	
Departmental proceedings for deliberate interference with preserved evidence	Deliberately withholding records received under a court order, failing to forward them and causing a false compliance reply justified departmental proceedings against the senior police officer. The Court directed the DGP to initiate inquiry, issue a disciplinary charge-sheet within one month, report issuance to the Principal Registrar by 20 May 2025 and place a certified copy of the order in the officer's service record. The direction initiated disciplinary process; it did not impose a final service penalty.	769
Parallel police disciplinary inquiry and criminal prosecution — grounds for stay	There is no automatic bar to a departmental inquiry proceeding alongside a criminal case. Stay requires a case-specific assessment of prejudice to the employee's criminal defence, the gravity of the charge, complicated questions of fact and law, and overlap in facts and evidence. These factors must be balanced against prompt disciplinary action. Here no complicated question was shown, the criminal charge-sheet was not produced, and the Court found the criminal allegation distinct from the service charge.	894
Stayed disciplinary inquiry — resumption where the criminal case is delayed	A departmental inquiry cannot remain stayed indefinitely merely because a criminal investigation or trial is pending. Even an earlier stay may be reconsidered where the criminal case does not progress or is unduly delayed. With the inquiry stayed for over three years, no substantive progress shown in the criminal case and no complicated issue identified, the Court vacated the stay and directed completion of the inquiry within six months.	894
Criminal prosecution and disciplinary inquiry — different purposes and standards of proof	Criminal prosecution determines whether an offence is proved beyond reasonable doubt. A departmental inquiry addresses service misconduct and discipline, which may be established on a preponderance of probabilities. The strict evidentiary rules governing a criminal trial do not apply in the same manner to departmental proceedings. These differences inform the decision whether parallel proceedings should continue.	894
Criminal acquittal — no automatic release from disciplinary liability	Acquittal in a criminal case does not by itself absolve an employee of disciplinary liability or bar action otherwise permissible under the governing service rules. The criminal and departmental proceedings have different objectives, rules of evidence and standards of proof.	894
	Sub-Chapter no. 10.4 **Police Failure to Record Sexual-Offence Information — Section 166A(c) IPC**	
Nominal FIR registration and police liability under Section 166A(c) IPC	Section 166A(c) IPC penalises failure to record information under Section 154(1) CrPC concerning the offences specified in that provision. In the circumstances of a recovered minor whose statements disclosed enticement and sexual relations, mere registration of an FIR against unknown persons followed by inaction did not fulfil the provision's purpose. The Court directed registration of an FIR against the investigating and station officers; the direction did not determine their guilt.	431
	Sub-Chapter no. 10.5 **Official Duty Nexus and Protection of Public Servants**	
Official-duty nexus of custodial assault and fabricated allegations	The conduct of officers in retaliatory roadside violence, custodial assault and creation of false complaint material was held to have no reasonable nexus with discharge of their official duties.	22
Police misconduct — official-duty nexus cannot rest on designation alone	The office of Town Inspector did not by itself establish that alleged forcible entry, search, assault and removal of a resident to the police station occurred in discharge or purported discharge of official duty. The officer relied on patrol duty and alleged gambling but showed no registered gambling offence or warrant and did not explain the treatment of the supposed other gamblers. On that record, the Court found no basis for requiring sanction under Section 197	483

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	CrPC at the initial stage. It distinguished D. Devaraja and applied Dr. S.M. Mansoori, while leaving the final sanction question open for decision on trial evidence.	

Chapter no. 11
Arrest, Custody, Remand and Rights of Accused

Sub-Chapter no. 11.1
Communication of Grounds of Arrest and Written Intimation

Written grounds of arrest: timing and the exceptional oral-communication procedure	Under Article 22(1) and Section 47 BNSS, grounds of arrest must be communicated in writing in a language the arrested person understands. Where an exceptional situation prevents written communication on or soon after arrest, the grounds may first be conveyed orally, but writing must follow within a reasonable time and at least two hours before production for remand. Applying Mihir Rajesh Shah, the Court found no urgency where the cooperative petitioner had already been in police custody for hours before formal arrest at 23:40. No written grounds were supplied at any stage, and the station diary did not show communication of the particular offence alleged. The arrest was therefore illegal.	41
Burden of proving communication of grounds of arrest	When an arrested person alleges non-compliance with Article 22(1), the investigating officer or agency bears the burden of proving compliance. Communication must effectively give the arrested person sufficient knowledge of the basic facts constituting the grounds, in a language that person understands, so that the constitutional safeguard can be exercised.	41
Admission of oral communication does not waive the right to written arrest grounds	An arrested person's admission before the remand Magistrate that the grounds of arrest were communicated does not waive the fundamental safeguard. Where written grounds were never supplied, that admission does not cure the breach. A statement suggesting only that the person's conduct hurt community feelings also does not establish that the particular offence forming the basis of arrest was communicated.	41
Arrest intimation to a nominated relative, friend or other person	The arresting officer must inform the arrested person of the right to nominate a relative, friend or other person to receive arrest information. That nominated person must promptly be informed of the arrest, reasons and place of detention, and the officer must record who was informed. The remand Magistrate must verify compliance. As explained in Mihir Rajesh Shah, these requirements under Section 50A read with Section 50 CrPC, corresponding to Sections 48 and 47 BNSS, are additional to communication of arrest grounds to the arrested person.	41
Substantial communication of arrest grounds through NDPS documents	On the facts of this habeas corpus petition, the Court treated a written Section 50 NDPS Act notice identifying the proposed contraband search, seizure memoranda signed by the accused, and information given to his brother as substantial compliance with Section 47 BNSS. The petitioner did not contend that the accused was unaware of the reasons for arrest. The finding was confined to these circumstances, while the Court reaffirmed the mandatory requirement of written grounds.	232
Written arrest grounds in a language understood by the accused	The constitutional duty to communicate grounds of arrest applies to all offences and requires written grounds in a language the arrested person understands. Where written communication at arrest or immediately afterwards is impracticable, the grounds must be given orally and then supplied in writing within a reasonable time, at least two hours before production for remand. The Court reaffirmed this obligation while assessing substantial compliance on the particular facts.	232
Purpose of meaningful	Communication of arrest grounds must equip the arrested person to obtain legal advice, oppose remand and seek bail. Merely reading out lengthy grounds or	232

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communication of arrest grounds	allowing the person to read them without supplying a copy does not ordinarily serve that purpose; furnishing written grounds under acknowledgment also avoids disputes about whether they were communicated.	
Redaction of sensitive material from PMLA arrest grounds	The Pankaj Bansal reasoning adopted by the Court permits sensitive investigative material in recorded PMLA arrest grounds to be redacted before the written copy is supplied. Concern for investigative secrecy does not justify withholding the written grounds altogether.	232
	Sub-Chapter no. 11.2 Consequences of Illegal Arrest	
Illegal arrest: release and the continuing validity of prosecution	Failure to comply with Article 22(1) vitiates the arrest and subsequent remand and requires release, even where statutory bail restrictions apply. As explained in Vihaan Kumar and applied by the Court, that illegality does not invalidate the investigation, charge-sheet or trial, and filing a charge-sheet does not cure the constitutional breach. The Court ordered liberty relief on the conditions stated separately, while leaving the FIR, investigation and any trial to proceed according to law without findings on guilt.	41
Illegality resulting from failure to communicate arrest grounds	Failure to communicate arrest grounds as constitutionally required violates personal liberty and renders the arrest illegal; non-compliance with the written-grounds safeguard may require release and invalidate the ensuing custody. The Court nevertheless refused habeas relief here because it found substantial compliance through the particular written NDPS documents and surrounding circumstances.	232
Effect of an allegedly illegal arrest on proof of guilt	An irregular or illegal arrest does not affect culpability when the offence is established by cogent evidence. In this case, the Court also rejected the premise of an unsupported arrest because an already recorded last-seen statement supplied material against the accused.	391
	Sub-Chapter no. 11.3 Custody, Formal Arrest and Pre-FIR Restraint	
Police custody and formal arrest are distinct	Arrest necessarily involves custody, but custody does not necessarily amount to formal arrest. Custody has a wider meaning. The Court therefore did not accept that the petitioner's earlier restraint and return with police, by themselves, established that formal arrest had occurred before registration of the FIR. The period already spent in custody remained relevant to whether there was any practical obstacle to furnishing written grounds at formal arrest.	41
Taking an offender into custody before registration of an FIR	Police are not invariably prohibited from taking an offender into custody merely because an FIR has not yet been registered. The Court illustrated this with an offender fleeing after committing an offence. It added that a person taken into custody before an FIR cannot be kept there for an unreasonable period without an FIR, but expressly declined a fuller examination of that issue on the facts before it.	41
Police detention without formal arrest under a mistaken identity	Police cannot avoid the safeguards governing arrest and detention by keeping a person in custody without formally arresting him. Applying D.K. Basu, the Court held the petitioner's detention under a mistaken identity to be illegal and the publication of his photograph as a criminal to violate his reputation, privacy and dignity. Breach of the safeguards may attract departmental action and contempt. The Court directed separate contempt show-cause proceedings against two officers for noncompliance with the safeguards.	61
Section 439 CrPC: Police Cannot Defeat Bail by Withholding Formal Arrest	Where police knew that the applicant was already in jail in another case and had obtained a production warrant, their failure either to produce him or to arrest him formally in the present case could not be used to defeat his Section 439 CrPC remedy. The Court rejected the State's maintainability objection,	368

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	holding that police could not unlawfully curtail the accused's access to legal advice and remedies.	
	Sub-Chapter no. 11.4 **Look Out Circulars, Immigration Restraint and Criminal Process**	
Review and deletion of an investigation-stage Look Out Circular	The originating agency must review an LOC quarterly and annually and immediately request deletion when the person is no longer wanted or its purpose has ended. It bears responsibility for immigration action taken under the LOC. On the facts, the petitioner had cooperated with investigation, appeared before the trial court, obtained bail, attended proceedings and secured permission to travel. With no continuing flight risk or periodic review shown, keeping the investigation-stage LOC active was unlawful. Its later deletion removed the need for a quashing order but did not resolve the earlier restraint.	83
Review and deletion of an investigation-stage Look Out Circular	The originating agency must review an LOC quarterly and annually and immediately request deletion when the person is no longer wanted or its purpose has ended. It bears responsibility for immigration action taken under the LOC. On the facts, the petitioner had cooperated with investigation, appeared before the trial court, obtained bail, attended proceedings and secured permission to travel. With no continuing flight risk or periodic review shown, keeping the investigation-stage LOC active was unlawful. An LOC does not expire automatically; the originator must send the deletion request. Its later deletion removed the need for a quashing order but did not resolve the earlier restraint.	85
	Sub-Chapter no. 11.5 **Constitutional and Statutory Safeguards at Arrest**	
Magistrate's duty to verify arrest safeguards before remand	Remand is a judicial function requiring application of mind to the material and the need for custody. The Magistrate must ascertain compliance with Article 22(1) and other mandatory arrest safeguards rather than authorise detention mechanically. Applying the reproduced authorities, the Court found that the remand had been ordered without due application of mind, while declining to entertain an ordinary merits challenge to that order in the writ petition.	41
Arrest after a cognizable report: discretion rather than automatic action	In the arrest-discretion passage reproduced through D. Venkatasubramaniam and relied upon by the Court, Section 41 CrPC confers a power to arrest without a Magistrate's order or warrant in the specified situations; it does not require arrest mechanically whenever a cognizable offence is reported. The officer may assess the necessity of arrest after investigation. Because arrest affects liberty, reputation and status, the power requires caution and attention to the nature of the alleged offence and the person's circumstances. This principle supported refusal to order arrest at the complainant's request.	47
Section 41 CrPC — arrest is not automatic upon a cognizable FIR	The Section 41 principles relied upon by the Court treat arrest as a discretionary investigative decision, not an automatic consequence of a cognizable allegation. The officer must consider whether arrest is necessary in the circumstances and exercise the power cautiously because it affects personal liberty, reputation and status. The nature of the alleged offence and the persons accused are relevant to that decision.	51
Handcuffing — necessity and individual justification	Handcuffs or fetters cannot be used routinely or merely for the convenience of custody or escort. Their use requires circumstances, including the prisoner's conduct and character, that create a reasonable apprehension of escape or violent disturbance of peace. Handcuffing must be a last resort where security can otherwise be ensured; unjustified handcuffing violates fundamental rights.	61
Arrest safeguards — officer identification and arrest records	Officers conducting an arrest or interrogation must display accurate identification and name tags with their designations, and their particulars must be recorded. An arrest memo must state the time and date, be attested by a family member or a respectable local person, and be countersigned by the	61

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	arrested person. The detention diary must identify the person informed of the arrest and the officers having custody.	
Arrest or detention — information to relatives and control rooms	A person in police custody is entitled to have a friend, relative or other person interested in his welfare informed as soon as practicable of the arrest and place of detention, unless the arrest-memo witness already serves that role. The detained person must be told of this right. Where the next friend or relative lives outside the district or town, notification is required through the specified legal-aid and police channels within eight to twelve hours. The arrest and place of custody must also be communicated to the district or State control room within twelve hours and publicly displayed there.	61
Custody — injury records and periodic medical examination	At the arrested person's request, examination at arrest must record major and minor injuries in an inspection memo signed by the person and the arresting officer, with a copy given to the person. During custody, a trained doctor from the prescribed approved panel must conduct a medical examination every forty-eight hours.	61
Custodial safeguards — Magistrate records and access to counsel	Copies of the prescribed arrest documents, including the arrest memo, must be sent to the jurisdictional Magistrate for the record. The arrested person may meet a lawyer during interrogation, though counsel need not remain present throughout the interrogation.	61
Arrest is not an automatic consequence of a cognizable FIR	The power to arrest under Section 41 CrPC is discretionary and must be exercised cautiously because it affects liberty and reputation. The investigating officer is not bound to arrest every accused immediately after a cognizable offence is reported; the need for arrest depends on the investigative circumstances, including the nature of the alleged offence and the person concerned.	88
Arrest after a cognizable FIR — Discretion and caution	The Section 41 CrPC principle reproduced and relied upon in refusing arrest directions treats arrest as a discretionary investigative decision. Registration of a cognizable offence does not by itself require immediate arrest. The officer may first investigate whether arrest is necessary and must exercise the power cautiously, having regard to the alleged offence and the persons concerned, because arrest affects liberty, reputation and status.	110
Arrest discretion must be exercised cautiously rather than mechanically	A police officer is not bound to arrest immediately upon a report of a cognizable offence. The M.C. Abraham passage relied upon through D. Venkatasubramaniam treats arrest as a discretionary decision requiring caution in light of personal liberty, reputation, the alleged offence and the circumstances of the accused. The necessity of arrest is to be assessed during investigation.	135
Necessity and caution govern police discretion to arrest	Arrest is not an automatic consequence of a cognizable-offence allegation. The M.C. Abraham passage relied upon through D. Venkatasubramaniam requires the investigating officer to assess whether arrest is necessary, with caution because it affects liberty, reputation and status. The decision depends on the alleged offence and the relevant circumstances rather than a mechanical response to the FIR.	139
Judicial scrutiny of police remand requests	When considering remand under Section 187 BNSS, the Magistrate must apply judicial mind to the supporting material and hear the accused or counsel to determine whether custody is justified within the statutory limits. Production for remand provides an opportunity to contest detention; the Magistrate must not merely approve police papers mechanically.	232
Information to relatives and verification of arrest safeguards	Section 48 BNSS requires prompt information about the arrest and place of detention to a relative, friend or nominated person and to the designated district police officer. The arrested person must be informed of this right, the recipient must be recorded at the police station, and the Magistrate must satisfy himself that the statutory requirements concerning notice of the right and the entry have	232

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	been met.	
Arrest is not automatic upon allegation of a cognizable offence	The police power of arrest under Section 41 CrPC is discretionary and must be exercised cautiously, with regard to the nature of the alleged offence and the circumstances of the accused. An investigating officer is not bound to arrest mechanically as soon as a report of a cognizable offence is lodged and may assess the necessity of arrest after investigation.	243
Arrest during investigation — cautious exercise of statutory discretion	An allegation of a cognizable offence does not invariably require arrest as soon as the report is lodged. In the M.C. Abraham passage reproduced through D. Venkatasubramaniam, the Court relied on the investigating officer's statutory discretion to assess whether arrest is necessary. Because arrest affects personal liberty and reputation, that discretion requires caution and attention to the circumstances rather than a mechanical direction to arrest.	305
Section 41 CrPC — arrest is discretionary and must not be mechanical	The police are not bound to arrest an accused merely because a cognizable offence is alleged. The discretion under Section 41 CrPC must be exercised cautiously, having regard to the nature of the alleged offence and the circumstances of the accused. The investigating officer may first investigate and then assess whether arrest is necessary.	310
Doctor accused of negligence — arrest must not be routine	A doctor should not be arrested merely because criminal rashness or negligence is alleged. Under the guidelines relied upon, arrest should be supported by investigative necessity, the need to collect evidence or the investigating officer's satisfaction that the doctor would otherwise not make himself available to face prosecution.	339
Arrest during investigation — discretion must be exercised cautiously	Registration of a cognizable offence does not mechanically require the accused's arrest. The police must assess the necessity of arrest in the course of investigation and exercise the statutory discretion cautiously, having regard to the alleged offence and the circumstances of the accused. Arrest affects liberty and reputation. The Court relied on this principle in refusing a direction compelling arrest.	347
Arrest of Doctors Accused of Criminal Negligence	A doctor should not be arrested routinely merely because criminal negligence is alleged. Arrest must be justified by the needs of investigation or collection of evidence, or by the investigating officer's satisfaction that the doctor would otherwise not be available to face prosecution.	408
Arrest Is Not Automatic on Registration of a Cognizable Offence	A police officer's power of arrest under Section 41 CrPC is discretionary and must be exercised cautiously because arrest encroaches on liberty and affects reputation. Registration of a cognizable offence does not require mechanical arrest; the officer may assess its necessity during investigation in light of the relevant circumstances.	457
Arrest under Section 41 CrPC is not automatic on a cognizable allegation	The discretionary power to arrest must be exercised cautiously because it affects liberty and reputation. A police officer is not required to arrest mechanically whenever a report alleging a cognizable offence is lodged. The need for arrest depends on the investigation and relevant circumstances, including the alleged offence and persons concerned.	462
Arrest is not automatic upon registration of a cognizable offence	The police power of arrest under Section 41 CrPC is discretionary and must be exercised cautiously because arrest affects liberty, reputation and status. A cognizable allegation does not require immediate mechanical arrest in every case. The investigating officer may assess the necessity of arrest after investigation, considering the offence and the circumstances of the accused.	564
Arrest safeguards for a doctor accused of rash or negligent treatment	A doctor should not be arrested routinely merely because rashness or negligence is alleged. Under the adopted guidelines, arrest requires a need to advance the investigation or collect evidence, or a justified concern that the doctor will not make himself available for prosecution without arrest. The medical-negligence accusation alone does not establish that need.	588

11.5 : Constitutional and Statutory Safeguards at Arrest

Topic	Ratio	Case Sr.no.
Discretion and caution in arrest during investigation	Registration of a cognizable case does not itself require immediate arrest. Under the Section 41 CrPC principles reproduced from M.C. Abraham through D. Venkatasubramaniam, the officer must assess whether arrest is necessary in the circumstances and exercise the power cautiously. Because arrest affects liberty and reputation, a court should not replace that investigative discretion with a mechanical command to arrest.	607
Section 41 CrPC: arrest requires a cautious discretionary assessment	Registration of a cognizable offence does not make arrest automatic. Under the Section 41 principle reproduced and applied in the judgment, the investigating officer must assess whether arrest is necessary in the circumstances and exercise the power cautiously because it affects liberty and reputation. The mere lodging of a report does not require mechanical arrest.	624
Section 41 CrPC: FIR registration does not require mechanical arrest	Police discretion to arrest must be exercised cautiously in light of the circumstances and the intrusion on liberty and reputation. An allegation of a cognizable offence does not itself make arrest mandatory. The investigating officer may assess the necessity of arrest after investigation rather than arresting automatically as soon as a report is lodged.	626
Section 41 CrPC — registration of a cognizable offence does not make arrest automatic	The police power of arrest under Section 41 CrPC is discretionary and must be exercised cautiously, with regard to the alleged offence and the person concerned. An accused need not be arrested mechanically as soon as an FIR is lodged. The investigating officer may assess the need for arrest after some investigation, bearing in mind its effect on personal liberty, reputation and status.	632
Section 41 CrPC— Arrest is not automatic on registration of an FIR	Registration of a cognizable offence does not require immediate arrest in every case. The police must consider whether arrest is necessary in the circumstances and exercise the statutory power cautiously, having regard to the offence and the person concerned. Arrest affects liberty, reputation and status; the power must not be exercised mechanically.	668
Section 41 CrPC — registration of a cognizable case does not require automatic arrest	The power to arrest under Section 41 CrPC is discretionary and must be exercised cautiously. A police officer need not mechanically arrest an accused as soon as a report is lodged merely because it alleges a cognizable offence. The officer may assess the necessity of arrest during investigation, having regard to the offence and relevant circumstances. Arrest intrudes upon liberty and affects reputation, requiring caution and circumspection rather than a judicial direction dictating that step.	704
Section 41 CrPC — arrest is discretionary and requires cautious assessment	In the M.C. Abraham passage reproduced within D. Venkatasubramaniam and relied upon by the High Court, Section 41 CrPC confers discretion to arrest in the specified circumstances; registration of a cognizable-offence report does not mechanically require immediate arrest. The investigating officer may first investigate and assess whether arrest is necessary. Because arrest encroaches on liberty and affects reputation and status, that power must be exercised cautiously, having regard, among other matters, to the alleged offence and the persons accused. This principle supported refusal of a judicial direction compelling arrest during the investigation.	741
Section 41 CrPC — arrest is not automatic upon registration of a cognizable offence	The power to arrest under Section 41 CrPC must be exercised cautiously within its statutory conditions, considering whether arrest is necessary, the nature of the offence and the person accused. Registration of a cognizable offence does not require mechanical or immediate arrest. Applying D. Venkatasubramaniam and its reproduced M.C. Abraham principle, the Court refused the complainant's request for a direction to arrest the accused.	755
Discretion and caution in arrest during investigation	The power of arrest under Section 41 CrPC is discretionary and must be exercised cautiously. Registration of a cognizable offence does not automatically require arrest. The investigating officer may first investigate and assess whether arrest is necessary; the Court ordinarily does not direct the	791

Topic	Ratio	Case Sr.no.
	exercise of that discretion.	
Arrest during investigation requires a cautious exercise of discretion	The power to arrest under Section 41 CrPC is discretionary and must be exercised cautiously because arrest affects personal liberty and reputation. The police are not bound to arrest an accused mechanically as soon as a cognizable offence is reported. The investigating officer must consider whether arrest is necessary in the circumstances.	922
Arrest during investigation requires a cautious exercise of discretion	The power to arrest under Section 41 CrPC is discretionary and must be exercised cautiously because arrest affects personal liberty and reputation. The police are not bound to arrest an accused mechanically as soon as a cognizable offence is reported. The investigating officer must consider whether arrest is necessary in the circumstances.	927
Discretion to arrest after registration of a cognizable offence	The police are not bound to arrest an accused mechanically merely because a cognizable offence has been reported. Section 41 CrPC confers discretion that must be exercised cautiously, considering the need for arrest and its effect on liberty and reputation. The investigation may lawfully conclude without arrest, seizure or a charge-sheet where the evidence does not warrant those steps.	929
Cautious exercise of arrest powers under Section 41 CrPC	Section 41 permits arrest without a Magistrate's order or warrant in its specified circumstances, but a cognizable accusation does not require mechanical arrest. The investigating officer may investigate before deciding whether arrest is necessary. Because arrest restricts liberty and affects reputation, the statutory power must be exercised cautiously, considering the alleged offence and the person concerned.	937
Arrest under Section 41 CrPC is discretionary, not automatic upon accusation	Applying the principle reproduced from M.C. Abraham in D. Venkatasubramaniam, the Court treated arrest under Section 41 CrPC as a statutory discretion to be exercised cautiously, not mechanically upon registration of a cognizable accusation. The investigating officer may consider the circumstances and necessity of arrest during investigation; arrest affects personal liberty and reputation. The High Court therefore declined to compel the arrest sought in the writ petition.	941
Registration of a cognizable offence does not make arrest automatic	The M.C. Abraham principles reproduced through D. Venkatasubramaniam recognise that the police power of arrest must be exercised cautiously rather than mechanically whenever an offence is reported. An investigating officer may assess whether arrest is necessary in the circumstances; the mere allegation of a cognizable offence does not invariably require arrest. Since arrest affects liberty, reputation and status, its use depends on the statutory situations and relevant circumstances, including the nature of the allegation. This qualification supports the Court's refusal to prescribe arrest as an inevitable investigative step.	959
Section 174-A IPC accusation: arrest is not automatic	In the section 174-A IPC case treated as punishable with less than seven years' imprisonment, arrest was not mandatory merely because the complainant sought it. The police had to assess the necessity of arrest under section 41 CrPC in accordance with Arnesh Kumar. The Court therefore upheld refusal to compel arrest.	974
Section 41 CrPC: checklist and reasons supporting arrest	Police must assess the necessity of arrest under the statutory criteria rather than arrest automatically. When producing an arrested accused for further detention, the officer must forward the completed section 41(1)(b)(ii) checklist together with the reasons and materials necessitating arrest.	974
Magistrate's scrutiny before authorising detention	Before authorising detention, the Magistrate must examine the police report setting out the necessity for arrest and record satisfaction. Detention must not be authorised casually or mechanically.	974
Non-arrest decision and section 41-A	Under the reproduced Arnesh Kumar directions, the decision not to arrest must be forwarded to the Magistrate within two weeks of institution of the case, and	974

Topic	Ratio	Case Sr.no.
notice: prescribed timelines	a notice of appearance under section 41-A CrPC must be served within two weeks. The district Superintendent of Police may extend these periods for reasons recorded in writing.	
Non-compliance with arrest and detention safeguards: accountability	Failure by police officers to comply with the reproduced Arnesh Kumar directions may attract departmental action and contempt proceedings before the High Court having territorial jurisdiction. A Judicial Magistrate who authorises detention without recording the required reasons may face departmental action by the appropriate High Court.	974
Arrest on registration of a cognizable offence	Registration of a cognizable offence does not require mechanical arrest of every accused. The investigating officer must exercise the discretion under Section 41 CrPC cautiously and consider whether arrest is necessary in the circumstances, having regard to its effect on personal liberty and reputation.	985
Section 41 CrPC — arrest is not automatic upon registration of a cognizable offence	Registration of a cognizable offence does not by itself require the police to arrest the accused. Under Section 41 CrPC, the investigating officer must assess the need for arrest in the statutory circumstances and exercise the power cautiously, having regard to personal liberty, reputation, the nature of the offence and the persons accused. Applying D. Venkatasubramaniam and the passage from M.C. Abraham reproduced in it, the Court refused to direct the arrest of the accused. A court ordinarily cannot require a particular investigative step merely because the complainant seeks it.	1000
Section 41 CrPC — no automatic arrest upon registration of a cognizable FIR	The power of arrest under Section 41 CrPC must be exercised cautiously in the circumstances specified by the provision. Registration of a cognizable offence does not require immediate or mechanical arrest in every case. The investigating officer must assess its necessity, taking account of the nature of the alleged offence and the consequences for liberty, reputation and status. Applying D. Venkatasubramaniam and its quotation from M.C. Abraham, the Court refused the complainant's request for a direction compelling the accused persons' arrest under Section 482 CrPC.	1004
	Chapter no. 12 **Search, Seizure, Recovery, Property Custody and Malkhana**	
	Sub-Chapter no. 12.1 **Custody, Release and Disposal of Seized Property**	
Interim custody of a mining vehicle — release may be refused to preserve material evidence at risk of destruction	In considering release under Sections 451 and 457 CrPC, the Court treated the dumper used to carry illegally excavated sand concealed beneath black soil as important evidence. It found that release to the applicant created a risk of destruction of that evidence and upheld refusal of supurdagi. Compounding of the mining offence and the later power of attorney did not require release in those circumstances.	79
Interim custody of a vehicle allegedly used in repeated offences	Applying Sunderbhai Ambalal Desai, the Court permitted interim custody under Section 451 CrPC of a vehicle allegedly used in more than one offence, subject to stringent safeguards. The applicant had to prove his permanent address, explain the purchase from another State and, because the purchase invoice had not been filed, deposit ₹10 lakh as cash surety. Undertakings were required against further criminal use, with immediate surrender of the vehicle upon such use and forfeiture of the deposit if the applicant committed a further offence. The applicant also had to accept the vehicle's identity, preserve its nature, colour and ownership until disposal, refrain from parting with possession by lease, rent, gift or temporary use, and produce it whenever directed, particularly for witness evidence. These conditions reflected the circumstances of that release order.	242
Fair hearing before confiscation of an	Confiscation involving penal consequences must comply with natural justice. The owner's right to lead defence evidence cannot be closed unless he expresses	394

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owner's vehicle	unwillingness to examine witnesses. The authority must consider his written reply and the parties' evidence and allow final arguments. Here, cross-examination of departmental witnesses did not cure the denial of defence evidence and final submissions or the failure to address the owner's defence and knowledge of the offence. The confiscation and subsequent appellate and revisional orders were set aside, with remand for a fresh decision after those opportunities.	
Interim Custody of a Stolen Vehicle Used in a Subsequent Offence	A stolen vehicle need not remain in police custody merely because it was later used in another offence and is evidence in both cases. Where the claimant had reported its theft and was not an accused in the subsequent offence, the Court applied Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283, and directed interim release under Sections 451 and 457 CrPC upon proof of registered ownership. Release was subject to a bank guarantee of Rs. 30,000, an undertaking against alteration and for production when directed, and a prohibition on alienation until both trials concluded.	651
Prompt Release of Seized Property With Preservation of Evidence	Powers under Section 451 CrPC should be exercised promptly and judiciously so that property does not remain unused or exposed to misappropriation and courts and police do not bear unnecessary custody burdens. Applying the narrated principles in Sunderbhai Ambalal Desai, the Court recognised that a proper panchnama, supported where necessary by evidence describing the property, can preserve its evidentiary value without continued physical retention. Before delivery of a seized vehicle, photographs and a detailed panchnama should be prepared, with appropriate security to secure its return when required.	651
Restitution after unauthorised seizure—Personal liability for missing crop	After quashing the unauthorised seizure and related proceedings, the Court required return of the entire crop in proper condition and made the SDM personally responsible for ensuring compliance within five days. Missing quantity or loss in quality attracted the SDM's personal liability to pay the cost to the affected applicants.	664
State liability for the value of seized property lost in official custody	Where seized property is lost, stolen or destroyed and no prima facie defence of due care and caution is made out, the court may, in an appropriate case required by the ends of justice, direct payment of its value. Following Basava Kom Dyamogouda Patil, the Court required the State to pay for ornaments missing from the treasury under judicial custody directions. The respondents' own valuation established compensation of ₹80 lakh, with release subject to certification of the competing successors' shares.	813
Judicial control of seized property without physical court custody	Production of seized property before a court does not require the court to retain its physical possession. Where the court directs an officer to keep the property safely and obtain its verification or valuation, judicial control over that custody places the property in the custody of law. The Court adopted this reasoning in Basava Kom Dyamogouda Patil when addressing ornaments lost from the treasury.	813
Valuation of lost seized property—articles actually recovered	Compensation for loss from official custody is based on the value of the property actually recovered and seized, rather than the total property originally reported stolen. The Court relied on Basava Kom Dyamogouda Patil's distinction between those amounts. In the present case, the respondents themselves had ascertained the value of the seized ornaments, which supplied the basis for the compensation direction.	813
Competing succession claims to compensation for lost seized property	The writ court did not determine the competing successors' entitlement to the compensation payable for lost seized ornaments. It directed release according to succession certificates establishing their respective shares. The earlier provisional allocation for interim custody did not settle the ultimate entitlement to compensation.	813

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	Sub-Chapter no. 12.2 **Seizure Memo, Independent Witnesses and Police Witnesses**	
Inconsistent seizure account attributed to instructions	The witness's inconsistent account of whether a lathi or farsa was seized from one accused, coupled with his statement that the earlier answer followed the prosecutor's instruction, made that seizure evidence unreliable. The Court nevertheless accepted his separately tested evidence of the gun recovery, which withstood cross-examination.	167
Unproved possession link in an alleged recovery of ransom money	Identification of currency as ransom money could not cure the failure to prove its recovery from the accused. The officer who brought the accused and cash to the police station prepared no seizure memo, gave no recorded statement and was not examined. The documents did not disclose where the cash was found or show recovery from the accused's body, and there was no disclosure leading to discovery. Considered together with unreliable identification of the accused, these deficiencies defeated the alleged recovery and conviction.	183
Corroboration of disputed seizure through the investigating officer	A seizure may be proved through the investigating officer, but that possibility does not dispense with scrutiny of reliability. Here, the seizure witness did not establish production of the knife by the appellant, the other seizure witness was not examined, and the investigating officer's account contained serious discrepancies. The Court therefore declined to rely on his uncorroborated account and found the knife recovery unproved beyond reasonable doubt.	219
Credible police evidence despite hostile independent seizure witnesses	A police witness's testimony cannot be discarded solely because of official status; it must be assessed like other witness evidence. Reliable police testimony may prove seizure and sustain a conviction even when independent seizure witnesses turn hostile. Here, criticism of the officer's status disclosed no feature making his evidence untrustworthy or unreliable.	247
Failure to Examine the Officer Accountable for a Preserved Blood Sample	The autopsy evidence showed that five millilitres of the deceased's blood had been handed to police and entered in a seizure memo prepared by Tulsiram. Another officer identified his handwriting, but the prosecution did not examine Tulsiram or show that he was dead or untraceable. In the Court's assessment, he was the person who could explain the sample's whereabouts, and his unexplained absence caused a serious evidentiary gap.	389
Independent attestation of a discovery memorandum is not invariably required	Neither Section 27 of the Evidence Act nor Section 161 CrPC requires independent witnesses to sign the record of an accused's disclosure. The investigating officer's evidence of a resulting recovery must be assessed on its own reliability. Absence of independent attestation alone does not justify rejecting it, although an actual reason to doubt the record may make the absence of independent witnesses relevant.	575
Proof of seizure despite independent witnesses' denial	The seizure was not treated as unproved merely because the independent witnesses said the memorandum had been prepared outside their presence. The investigating officer testified to seizure of the burnt clothes, matchbox and kerosene container and their dispatch to the forensic laboratory. The Court relied on that evidence in rejecting the challenge to this seizure. Its conclusion depended on the officer's evidence available on this record.	593
Seizure proof — police testimony may establish recovery despite independent witness's non-support	An independent seizure witness's failure to support recovery does not prevent the prosecution from proving the seizure through police testimony. The Court expressly accepted that possibility even though the independent witness denied seizure of the farsa despite his signature on the memo. In this case, however, proof of seizure did not establish the asserted incriminating blood link: there was no usable evidence that blood, including human blood, had been found on the farsa or the appellant's clothing. The prosecution therefore failed to prove the alleged recovery of bloodstained articles as a circumstance connecting him to the offence.	747

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Unexplained non-production of contraband and hostile seizure witnesses	The Vijay Jain passage reproduced through Vijay Pandey requires cogent proof that contraband was seized from the accused and identifies production of the seized material as the best evidence. Where the material is not produced without explanation, mere oral evidence of seizure is insufficient, particularly when the panch witnesses have turned hostile. This qualified evidentiary rule is consistent with Sahi Ram's distinction between non-production alone and non-production accompanied by other evidentiary failures.	843
Recovery accepted despite seizure witnesses denying their presence	On the evidence in this case, the recovery of the knife was accepted although the seizure witnesses denied that it occurred in their presence: they admitted their signatures on the seizure memo, and the investigating officer described the seizure. The denial was assessed with that supporting evidence.	971
	Sub-Chapter no. 12.3 **Field Recovery, Seizure Procedure and Recovery Documentation**	
Weapon or cartridge non-recovery — effect where direct evidence is reliable	Recovery of the weapon or spent cartridge is not an indispensable condition for conviction where reliable direct evidence, supported by the other evidence, establishes the offence. Non-recovery does not by itself disprove the occurrence or make eyewitnesses unreliable. Here, failure to recover the cartridge belt did not defeat consistent evidence of its use during repeated firing, particularly where its carrier had absconded and could have concealed or destroyed it.	12
Non-recovery of the firearm where the accused absconded	On this record, failure to recover the firearm did not defeat the prosecution case. The appellant had remained absent during investigation, leaving no opportunity for seizure from him, and the Court accepted the eyewitness and medical evidence establishing the shooting.	214
Delay in recovery of a vehicle from the scene	Although the investigating officer should act promptly to avoid the possibility of manipulation, delay in recovering a vehicle from the scene does not necessarily undermine an otherwise reliable prosecution case. On the reporting and recovery chronology and the trustworthy eyewitness evidence, the delay in recovering the deceased's motorcycle did not cast doubt on the case.	248
Contradictory Recovery Evidence From an Accessible and Unsealed Scene	The alleged discovery of the bloodstained stone was not proved. The seizure date conflicted with household witnesses' accounts of when police brought the appellant; an earlier officer had minutely inspected the room without seeing the stone, while another witness said it lay close to the place already searched. The room remained unsealed and accessible, leaving an opportunity for manipulation. These combined defects defeated the claimed disclosure-based recovery.	455
Claimed Bloodstained-Earth Recovery Beneath a Cemented Floor	The Court rejected the claimed recovery of bloodstained earth beneath a cemented floor where the prosecution failed to explain why the bloodstained cement itself was not seized or how blood had reached the underlying earth. On the evidence in this case, it treated the asserted recovery as a camouflage rather than reliable corroboration.	455
Section 27 recovery — independent attestation is not a mandatory condition	Section 27 of the Evidence Act does not require the accused's statement to be recorded in the presence of independent witnesses. Nor must a document recording the resulting recovery invariably bear independent attestation. Absence of such witnesses or signatures does not automatically invalidate the recovery; the investigating officer's evidence must be evaluated for reliability, with the absence of independent support considered where there is reason for suspicion.	905
Disclosure-led recovery of weapons used in the assault	The seizure witnesses and investigating officers proved the disclosure statements and resulting recovery of the sword, firearms and lathi attributed to the appellants. The objects were identified in evidence, and the Court accepted that the weapons of offence had been seized from their possession.	936

Topic	Ratio	Case Sr.no.
	Sub-Chapter no. 12.4 **Malkhana, Seal Integrity and Chain of Custody**	
Link between the forensic sample and the alleged seized contraband	A forensic report identifying a sample as ganja does not establish recovery from the accused unless the prosecution connects that sample with the substance allegedly seized. Applying the relied-upon NDPS authorities, the Court found that unexplained non-production of the alleged contraband left that evidentiary connection unproved. The laboratory result did not cure the failure to establish recovery on this record.	186
Challenge to firearm sealing without questioning the armourer	An objection that the armourer had not returned the firearm in sealed condition could not discredit his evidence when no question about that circumstance had been put to him. Before criticising a witness on such a circumstance, the defence must give the witness an opportunity to explain it.	247
Unproved Sealing and Malkhana Custody of Forensic Exhibits	The claimed handling of the clothing was unsupported by a reliable sealed-custody trail. The identification officer received open articles, the record did not show proper resealing or a specimen seal, the seal used on dispatch did not match the asserted intervening custody, and no malkhana record explained storage and movement. The Court found that the slacks remained open until their later dispatch, leaving an opportunity for manipulation. These failures undermined the identity and integrity of the exhibits sent for forensic examination.	389
Different descriptions of sealed specimen containers	Describing a specimen container as a bottle in the medical record and a box in the seizure record did not establish substitution. The Court treated both expressions as descriptions of a broad-necked container, relied on the intact hospital seal received by the laboratory, and noted that the carrier had not been questioned about the terminology and had denied opening the sealed articles.	391
Correlation of seized narcotic sample with the sample tested	In Vijay Pandey, whose reasoning the Court reproduced, a laboratory report establishing that the tested sample contained narcotics was not conclusive by itself. The prosecution had to connect the sample tested with the substance seized from the accused; failure to establish that connection undermined the conviction.	843
Proof of safe sample custody despite non-production of the malkhana register	The objection to safe custody was rejected on the deposit certificate, packet identification and prompt sealed receipt at the forensic laboratory. The officer proved deposit of the two sealed two-gram samples and the four-gram balance, identifying the packets and signatures. The certificate recorded the malkhana entry. The next-day forwarding document and the laboratory's receipt of sample A1 in sealed condition supported the chain, and the laboratory report identified diacetylmorphine. These records established continuity of the seized sample beyond reasonable doubt.	935
	Chapter no. 13 **Preventive Proceedings, Bonds and Public-Order Custodial Controls**	
	Sub-Chapter no. 13.1 **Sections 145–146 CrPC — Preventive Possession Proceedings and Emergency Attachment**	
Preventive scope of Section 145 possession proceedings	Section 145 CrPC provides a provisional remedy to prevent breach of peace arising from a dispute over actual possession. The Magistrate determines possession at the relevant preliminary-order date, subject to the statutory treatment of recent forcible dispossession, without deciding title or the parties' legal right to possess. Applying M. Siddiq, the Court treated that jurisdiction as temporary and subordinate to adjudication of civil rights by the competent court.	646
Parallel Section 145 proceedings during	Section 145 CrPC proceedings should not continue where a competent civil court is examining title or possession of the same property and can grant	646

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civil litigation over the same property	appropriate protective relief. A final civil decision is not necessary before applying this rule. Relying on Ram Sumer Puri Mahant, M. Siddiq and Amresh Tiwari, the Court held that the parties should seek interim protection in their pending civil litigation rather than duplicate it through criminal possession proceedings.	
Crop attachment without an emergency finding during pending civil proceedings	The standing-crop attachment under Section 146(1) CrPC was materially illegal where no emergency finding had been recorded, the parties could seek interim orders in pending civil proceedings over the land, and the respondents' application for temporary injunction had already been rejected. The Court quashed both the attachment order and the revisional order sustaining it.	646
Injunction between co-sharers in joint possession	Each co-sharer is treated as in possession of jointly held property. An injunction against another co-sharer requires exclusive possession to that other's exclusion; while possession remains joint, the appropriate remedy is partition. The Court applied this rule to the admitted joint-possession record when rejecting the standing-crop attachment sought after refusal of civil interim relief.	646
Later civil suit and an already concluded Section 145 order	A civil suit filed after a concluded Section 145 CrPC order does not, merely by its institution, require that order to be quashed. The Amresh Tiwari passage adopted by the Court distinguishes that situation from ongoing Section 145 proceedings commenced despite an earlier same-property civil title or possession suit in which protective relief is available.	646
Effect of Section 145 findings before the competent civil court	A summary order under Sections 145–146 CrPC does not bind the competent court's adjudication of title or entitlement to possession. The order may evidence the dispute, parties, preliminary or attachment order, and the possession found by the Magistrate, but the competent court may reach a different finding on the evidence. In this setting, the civil court's determination governs the provisional criminal possession order.	646
Civil interim order departing from an Executive Magistrate's possession arrangement	A competent court ordinarily respects an Executive Magistrate's possession arrangement but retains jurisdiction to make a different interim order in an exceptional case. A strong prima facie showing that the executive order is without jurisdiction, palpably wrong or self-contradictory may justify departure, with reasons recorded. Where the property is attached, the competent court may examine whether to continue the attachment, change the receiver or make another interim arrangement.	646
Section 146 orders—Opportunity to the opposite party	In the pending preventive dispute considered by the Court, an order under Section 146 CrPC required an opportunity for the opposite party to present its case. The SDM could not bypass that opportunity by directing seizure and receivership through administrative correspondence behind that party’s back.	664
	Sub-Chapter no. 13.2 **Public Order Directions and Criminal Process**	
Non-compliance by others does not excuse breach of a preventive-bond order	Failure by other persons to execute their preventive bonds, or by the Executive Magistrate to take further action under Section 141 BNSS, does not validate the petitioner's own non-compliance with an existing order under Sections 126 and 135 BNSS. The Court took that continuing obligation into account when directing its fulfilment as a condition of release.	41
Ordinary Law-and-Order Offences and Public-Order Necessity	Ordinary law and order is distinct from public order. The later offences registered against the petitioner did not, on the material before the Court, show prejudice to public-order maintenance or conduct causing or calculated to cause alarm, danger or harm to person or property. Their registration could not by itself establish the necessity for externment.	454
Pending Section 145 proceedings—	Once Section 145 CrPC proceedings are registered and notices issued, an application for urgent seizure or custody of the disputed crop must be dealt with	664

Topic	Ratio	Case Sr.no.
Judicial orders for crop seizure and receivership	by an order recorded in those proceedings. An administrative endorsement or letter to the police cannot replace a judicial order appointing a receiver or authorising seizure. The SDM's administrative directions, unsupported by any such order on the order sheets, were beyond his authority.	
Section 145(4) CrPC — possession inquiry and the two-month dispossession proviso	The ordinary inquiry under Section 145(4) CrPC concerns possession on the date of the preliminary order under Section 145(1), without determining the merits of a claim to the right to possess. The proviso permits a party forcibly and wrongfully dispossessed to be treated as in possession if dispossession occurred within two months before receipt of the police report or other information by the Magistrate, or after that receipt and before the preliminary order. Continuing dispossession from an earlier date does not satisfy the proviso merely because it persists. Applicability of the time requirement must be decided after finding when dispossession occurred.	703
Proceedings under one statute — no surprise decision under a different statutory power	Parties prepare their evidence and defence by reference to the statutory provision under which proceedings have been initiated. They cannot be taken by surprise through a decision under a different statute requiring different evidence and a different defence. In the remanded Section 145 CrPC matter, the Court therefore declined to decide the suggested alternative powers under Section 133 CrPC or Section 250 of the Madhya Pradesh Land Revenue Code.	703

Macro Division IV
Bail and Pre-Trial Liberty

Chapter no. 14
Bail Under Special Statutes and Restrictive Conditions

Sub-Chapter no. 14.1
Article 226 Liberty Relief and Exceptional Bail-Type Writ Intervention

Article 226 — no-coercive-action relief after refusal of anticipatory bail	A request to restrain police action while a Collector's inquiry into a suicide note remained pending would, in substance, grant pre-arrest protection after the High Court had refused anticipatory bail under Section 438 CrPC. On these facts, Article 226 could not be used to nullify that refusal. The Court therefore rejected the no-coercive-action request.	16
Conditions imposed on release for breach of arrest safeguards	After finding the arrest illegal, the Court considered the Article 226 bail principles in Arnab Manoranjan Goswami and the petitioner's outstanding preventive-bond obligation. It ordered release on a personal bond of ₹1 lakh with one surety for the same amount to the CJM's satisfaction, execution of the bond or bail bond already directed under Sections 126 and 135 BNSS, a law-and-order undertaking before the CJM, and the other bail conditions. Execution of the preventive bond and the undertaking were conditions precedent to release. The Senior Superintendent of Police was directed to make immediate arrangements enabling compliance while the petitioner remained in custody. These were the conditions of this particular writ relief.	41
Factors governing bail-type liberty relief under Article 226	In an appropriate case seeking liberty under Article 226, the Court considers the nature of the accusation and punishment, risks of interference with witnesses or the complainant, appearance at trial and flight, antecedents and individual circumstances, whether the FIR prima facie discloses the offence, and the interests of the public or State. Arnab Manoranjan Goswami requires caution: the writ jurisdiction is not a routine substitute for the statutory bail remedy. These factors were considered when the Court framed the conditions of release.	41
Anticipatory bail and exceptional Article 226 arrest protection	Registration of a cognizable FIR does not make arrest mandatory. An accused who apprehends arrest may seek Section 438 CrPC relief on its statutory conditions. Article 226 must not routinely be converted into anticipatory-bail	436

Topic	Ratio	Case Sr.no.
	proceedings, but exceptional protection may be granted where refusal would cause gross miscarriage of justice and no case for arrest is made out, provided the relief is sparingly exercised and justified by reasons.	
	Chapter no. 15 **Bail, Anticipatory Bail, Default Bail, Cancellation and Bonds**	
	Sub-Chapter no. 15.1 **Successive Bail, Change in Circumstances and Parity**	
Successive regular bail and the need for changed circumstances	Although res judicata does not apply to bail applications, a fresh application after rejection on merits must be supported by changed circumstances or valid grounds establishing a tenable new case. Without such a change, reconsidering the same merits amounts to impermissible review of the earlier order. The applicant, who insisted on rearguing merits and identified no changed circumstance, could not maintain his third application under Section 439 CrPC.	28
Successive bail applications before the same judge	The forum-shopping principles relied upon by the Court state that successive bail applications should be heard by the same judge. Repeated applications before different judges in pursuit of a favourable order encourage forum shopping. The principle formed part of the Court's reasons for refusing an unfounded recusal demand in a repeat bail appeal.	107
Bail parity and successive applications — Relevant factors remain decisive	A co-accused's release does not justify granting bail by ignoring the gravity of the accusation and the supporting evidence. The Court applied Bhupat Singh, which declined to treat co-accused bail orders as a precedent where they disregarded material considerations. The adopted passage from Virupakshappa Gouda also disapproves renewed efforts to secure bail on the same factual basis after rejection by a superior court. In the present fourth application, the co-accused's bail order did not secure release merely because most prosecution witnesses had been examined.	112
Delay-based bail and defence contribution to delayed trial	A plea for bail based on trial delay must be assessed against the actual progress of the proceedings. Although the record showed failures of service, non-production of exhibits, witness absence and lockdown interruption, it also disclosed repeated defence requests to defer or avoid cross-examination of witnesses who were present. Finding that the applicant's counsel had adopted delaying tactics, the Court refused the eighth application under Section 439 CrPC.	152
Parity in a successive bail application after earlier rejection	Bail granted to a co-accused did not justify release on parity where the applicant's earlier bail application had been rejected and his criminal antecedents remained material. The co-accused's order had been obtained without disclosure of material antecedents and was itself made subject to a show-cause notice for recall. In these circumstances, the Court rejected the applicant's second application under Section 439 CrPC.	180
Successive bail appeal must disclose material relied on in earlier rejection	A document material to an earlier rejection of bail cannot be withheld in a successive appeal. The joint marriage affidavit was decisive to the first refusal, and its repeated omission after an earlier withdrawal amounted to suppression of material facts. Counsel’s duty to the Court required candid disclosure.	208
Further detention did not establish a changed circumstance for successive bail	Where the first bail appeal had been rejected on merits, the appellant had to identify a change in circumstances supporting renewed relief. The additional period of detention invoked in the third appeal was not accepted as a sufficient change on the facts, and bail was refused.	208
Successive bail on prosecution-caused trial delay	The sixth Section 439 CrPC bail application was allowed because prolonged custody since 24 March 2021 continued while the prosecution failed to secure its witnesses and the police offered an incorrect explanation concerning summons. Bail was granted on a ₹1 lakh personal bond with one surety of the	239

Topic	Ratio	Case Sr.no.
	same amount and attendance before the trial court. The order remained effective through trial, becoming ineffective on a bail jump.	
Time-bound trial and personal supervision of police-witness attendance	On the successive bail application based on trial delay, the Court directed a day-to-day trial to conclude within three months of receipt of its order. The Superintendent of Police was made personally responsible for witness attendance; any request to excuse a witness's absence had to be supported by the Superintendent's affidavit stating the reasons. The application was disposed of without an express direction releasing the applicant on bail.	250
Prosecution-caused delay in a successive NDPS bail application	The Court distinguished bona fide delay beyond the prosecution's control, which may justify considering bail, from unjustified nonappearance of State witnesses. It refused to allow such defaults to become a means of securing bail. In this application it refused bail in view of the allegations and expected the remaining witnesses to be examined promptly when normal court functioning resumed.	251
Successive bail application seeking a contrary view on the same minority issue	Where the previous bail application had been rejected in the light of Independent Thought and the school record continued to show that the prosecutrix was below eighteen at the incident, the Court found no ground to take a contrary view on the sixth application. It left the final determination of age to the trial court.	263
Successive Bail: Same-Bench Listing and the 2022 Vacation Exception	Under the roster circular applied in this case, bail applications arising from the same crime and police station or connected case were to be listed before the judge who decided the first criminal revision or bail application. Unavailability of that judge required listing in accordance with the Chief Justice's directions. The temporary summer-vacation exception did not create a continuing entitlement to have later applications heard by the vacation bench, and it expressly excluded repeat applications.	365
Successive Bail: Bench Hunting Through an Earlier Listing	An applicant cannot take advantage of counsel's failure to disclose the proper same-crime bench assignment when an earlier bail application is heard after a temporary roster relaxation has ended. The Court treated the later insistence on returning to that coordinate bench, after taking a chance there without seeking proper listing, as bench hunting and held that the repeat application belonged before the bench assigned the linked earlier matters.	365
Bail Parity: Comparison of the Accused's Actual Role	Parity requires consideration of the accused's actual alleged role and the gravity of that role. It cannot be founded on treating materially different allegations as identical. The respondent was alleged to have participated in the fatal assault and concealment of the deceased's identity, whereas the bailed co-accused were alleged only to have given false information. Ignoring that distinction and describing all as assailants rendered the parity reasoning unsustainable.	367
Successive bail — custody-delay plea without trial order sheets	The Court declined to grant bail on the asserted length of custody when the applicant failed to produce trial order sheets showing that he was not responsible for the delay. The same deficiency had already led to rejection of his delay plea in an earlier application. In the seventh Section 439 CrPC application, following an earlier rejection on merits, the unsupported delay contention did not establish a ground for release.	488
Parity in bail where periods of custody and relevant circumstances differ	Bail granted to a co-accused after one year and five months in custody did not justify parity for an accused detained for less than two months. The Sessions Court had also failed to examine the merits. In setting aside its unreasoned grant, the High Court considered the specific allegations of dowry demand and cruelty, death within three years of marriage, and the accused's abscondence for over a year after recall of her earlier anticipatory bail. These were considerations for bail review, without deciding guilt.	510
Successive Bail After Examination of	Examination of material witnesses, removing the possibility of influencing	523

Topic	Ratio	Case Sr.no.
Prosecution Witnesses	them, is not by itself sufficient for bail where they support the prosecution. The Court must also consider the prima facie case, gravity of the accusation, likely punishment, risk of absconding or repetition, the accused's circumstances and the interests of justice. On these grounds, completed witness examination did not justify the sixth bail application after the earlier rejection on merits.	
Bail-Stage Limits on Assessing Witness Reliability and Credibility	A bail application is not the stage for a trial-like decision on the reliability and credibility of prosecution witnesses. The Court declined to adjudicate the claim that witnesses were unreliable because they supported the prosecution against the applicant but not against some co-accused. Bail requires reasonable or prima facie grounds, rather than proof of guilt beyond reasonable doubt.	523
Parity cannot displace consideration of serious criminal antecedents	Reliance on parity does not justify overlooking an accused's serious criminal antecedents. The narrated decision in Neeru Yadav treats failure to consider a history of heinous offences as a defect in the original grant of bail. Such an order may be set aside for its unsound exercise of discretion, independently of later misconduct.	590
Change in circumstances in a successive bail application	The fifth bail application under Section 439 CrPC was rejected where the applicant showed no change in circumstances after the previous rejection and the deceased's statement implicating him remained available for consideration.	615
Parity with co-accused granted anticipatory bail on payment of mining penalty	A co-accused's anticipatory bail based on payment of a mining penalty did not establish the applicant's entitlement to regular bail on the same basis. The High Court noted that the Sessions Court had not considered its Banti and Rajiv Sharma decisions, and applied the Supreme Court's subsequent Jayant ruling on continuing IPC liability. It refused regular bail and separately issued notice to the co-accused to show cause why his anticipatory-bail order should not be set aside. That notice initiated consideration of the earlier order; it did not itself cancel the co-accused's bail.	670
Successive bail — unresolved identification gap and no substantive evidence	On the second Section 439 CrPC application, the Court found that the identification work noted at the first refusal remained incomplete, no recovery had been made and no substantive admissible evidence was available against the applicant. It granted bail without expressing an opinion on the merits. The applicant's residence outside Madhya Pradesh and three registered criminal cases were addressed by stringent conditions, including cash surety of ₹1,50,000 and attendance before the trial court. Framing of charges did not alter the absence of evidence identified on this record.	674
Renewed bail after non-appearance — detention and the remaining witness's materiality	On the renewed Section 439 CrPC application following cancellation for non-appearance, the Court considered the period of renewed detention and the nature of the witness whose presence had occasioned the earlier cancellation. The witness had registered the FIR and prepared the spot map and, on this record, was not material to the substantive allegations. Those considerations supported fresh conditional release despite the earlier refusal with liberty to renew after that witness's examination.	709
Hostile testimony in a successive bail application	The prosecutrix's hostile testimony, which had already been considered, did not warrant bail in a third application under Section 439 CrPC. The Court considered the earlier finding of pressure on the prosecutrix together with the FSL report recording human sperm on her slide and swab. Because scientific evidence could sustain the prosecution despite hostile testimony, the asserted ground did not justify release.	727
Repeat bail — examination of the prosecutrix is not by itself sufficient for release	The Court rejected a fifth application under Section 439 CrPC based on the contention that examination of the prosecutrix had removed the possibility of pressuring prosecution witnesses. The State submitted that she had supported the prosecution. Relying on Bhupat Singh, the Court held that completed witness examination cannot alone justify bail while the gravity of the	749

Topic	Ratio	Case Sr.no.
	accusations, the supporting evidence and the severity of possible punishment remain relevant. The earlier decision rejected reliance on reduced tampering opportunity in isolation where the material witnesses had supported the prosecution. Applying that reasoning, the Court dismissed the repeat application concerning alleged gang rape, house-trespass, intimidation and POCSO offences.	
Successive bail — the same factual basis cannot circumvent a superior court's refusal	In the Virupakshappa Gouda passage reproduced and relied upon through Bhupat Singh, grant of bail was disapproved where earlier applications had been rejected and the matter had already reached the Supreme Court. After that Court declined release, the same factual basis could not properly be projected again to obtain bail contrary to its refusal. The passage characterises that course as improper and treats it as a ground to set aside the grant. In Ramniwas's fifth application, the High Court relied on the quoted bail principles while deciding the separate contention that completed witness examination alone warranted release.	749
Co-accused bail — orders ignoring material factors do not supply controlling parity	The Bhupat Singh order reproduced and relied upon by the Court declined to treat two coordinate-bench orders granting bail to co-accused as precedents in the circumstances described there. The material eyewitnesses had supported the prosecution, and the gravity of the allegations and severity of punishment remained relevant. Bail could not rest only on completed witness examination and the asserted absence of a further opportunity to influence them. That earlier reasoning forms part of the rule applied in dismissing Ramniwas's application; the co-accused identified in the quoted order belonged to Bhupat Singh's case, and no fresh parity claim concerning them was adjudicated here.	749
Defence-caused trial delay in a successive bail application	An assertion of trial delay must be tested against the actual order sheets. In the fourth application under Section 439 CrPC, the record showed repeated adjournments sought by counsel for the accused at the charge stage, followed by a co-accused's absconding. The Court found no delay attributable to the prosecution and rejected the delay ground for bail on this record.	775
Completion of witness examination as a ground for bail	Examination of prosecution witnesses, and the resulting reduction in the risk of influencing them, is not by itself sufficient to grant bail while other material factors remain adverse. Where a witness continued to support the prosecution's seizure evidence against the applicant, completion of witness examination did not justify release.	796
Parity where evidence against co-accused differs	A co-accused's release on bail does not require release of the applicant where the evidentiary position differs. Bail granted after a witness failed to support the case against the co-accused did not overcome another witness's continuing support for the seizure evidence against the applicant.	796
Successive bail — Co-accused release without disclosure of earlier rejection	Judicial discipline requires relevant prior bail decisions to be brought to the coordinate Bench's notice. Where later orders granting bail to co-accused did not note the applicant's earlier rejection on merits, the Court considered his successive application independently rather than treating those releases as decisive parity. It expressly recognised that negative parity does not apply.	828
Successive SC/ST Act bail appeal: hostile testimony and absence of a DNA match	In the fifth appeal under Section 14-A(2) of the SC/ST Act, the Court considered the prosecutrix's intervening examination without support for the prosecution and a newly received DNA report that did not reveal the appellant's profile on the examined articles. Those developments, conceded by the State, were considered with the allegations, duration of detention and need for prison decongestion during the second COVID-19 wave. Conditional bail was granted without expressing an opinion on the merits of the charge.	865
Successive anticipatory bail after withdrawal	A subsequent application under Section 438 CrPC cannot be used to review a coordinate Bench's order allowing withdrawal of the earlier application without liberty to renew, where no objection to that restriction was raised when	870

Topic	Ratio	Case Sr.no.
without liberty to renew	withdrawing. The Court also examined whether circumstances had changed. It found no distinguishing feature between the applicant Sarpanch and the Panchayat Secretary whose anticipatory bail had earlier been refused on merits, as both attended the Gram Sabha that passed the disputed resolution. The asserted subsequent developments did not establish a change in circumstances. The repeat application was therefore refused on merits and in light of the earlier withdrawal order.	
SC/ST Act bail parity requires comparison of each accused's actual role, not shared case or superficial weapon label	Under a Section 14A(2) appeal, bail granted to persons alleged only to have supplied a false name did not confer parity on one specifically alleged to have assaulted the victim and helped admit him under a dead man's identity. A separate bail grant to another alleged assailant rested on materially erroneous descriptions of the charge sheet and could not dictate the appellant's release.	897
Framing of charge as a ground for successive bail	After rejection of bail on merits, the later framing of charges does not by itself amount to a favourable change of circumstance. It reflects the trial court's finding of prima facie material warranting trial. Applying Virupakshappa Gouda, which treats filing of a charge-sheet as insufficient to establish a changed circumstance for bail, the Court rejected the same contention based on framing of charges.	932
Proof of trial delay in a successive bail application	A claim of trial delay did not justify successive bail where the applicant produced no order sheets showing delay for which he was not responsible. He also failed to produce the record showing that he had not sought adjournments for arguments on charge. On that record, reliance on Dipak Shubhashchandra Mehta was misplaced. The Court additionally noted the non-disclosure of the dismissed Section 482 challenge to the charge-sheet, and found no changed circumstance warranting bail.	932
Bail parity requires comparison of the accused's role and the allegations	Parity in bail requires comparison of the roles attributed to the accused, their positions in relation to the incident and victim, and the material allegations against each. A bare statement that two cases are identical is insufficient. Applying Ramesh Bhavan Rathod and Shri Mahadev Meena through the reproduced discussion in Sikandar Singh Narvariya, the Court found the father-in-law's case materially different from that of the co-accused daughter-in-law. The latter had received anticipatory bail on vague and omnibus allegations, whereas a specific demand of ₹3 lakh and dowry-related harassment were attributed to the father-in-law. The Sessions Court's failure to examine that difference made its reliance on parity unsustainable.	952
	Sub-Chapter no. 15.2 **Regular Bail and Pre-Trial Detention Parameters**	
State-caused trial delay — bail assessed on the case's circumstances	A finding that the State caused trial delay did not itself compel bail in this Section 439 CrPC application. Having considered the alleged murder arising from a property dispute and the accompanying charges under Sections 201 and 34 IPC, the Court held that the case was not fit for bail. It instead granted monetary redress for the speedy-trial violation and directions to secure the prosecution evidence.	67
Custody and proof of trial delay in a murder bail appeal	The Court could not assess the claim of prolonged custody without trial progress because complete trial-court order sheets had not been filed to show that the appellant or co-accused were not responsible for delay. It also applied Anil Kumar Yadav's observation that one year's custody in a murder case was not excessive. Bail was refused, with liberty to renew the request upon producing the complete order sheets showing that the accused were not responsible for the delay.	107
Pandemic prison	On a second Section 439 CrPC application concerning alleged possession of	108

Topic	Ratio	Case Sr.no.
decongestion in deciding repeat regular bail	liquor unfit for consumption, the Court considered the allegations and the need to decongest prisons during the second COVID-19 wave, and granted conditional bail without deciding the merits. It relied on the Supreme Court's 23.03.2020 prison-decongestion directions under Article 21. Those directions entrusted High Powered Committees with selecting release categories by the nature and severity of offences, sentence and other relevant factors; offences punishable up to seven years were given as an example for consideration.	
Examination of prosecution witnesses — Insufficient by itself for bail	Examination of the prosecution witnesses and a resulting reduction in the risk of influencing them do not by themselves justify bail under Section 439 CrPC. The Court must also consider the prima facie case, nature and gravity of the accusation, supporting material, likely punishment, risk of absconding, the accused's character, conduct, means and standing, risk of repetition or obstruction of justice, threats to the complainant and the larger public interest. Applying those considerations, the Court refused the fourth bail application in a prosecution for dacoity with murder, where twenty-nine of thirty-three witnesses had been examined and the trial was at an advanced stage.	112
Bail-stage assessment — Prima facie case, not proof beyond reasonable doubt	At the bail stage, the Court considers whether reasonable grounds support a genuine case against the accused and whether the prosecution can produce prima facie evidence supporting the charge. It does not require evidence establishing guilt beyond reasonable doubt at that stage. This limited assessment remains subject to the other relevant considerations governing bail.	112
Section 439 bail after charge-sheet where no admissible substantive link was shown	First regular bail under Section 439 CrPC was granted in a Section 34(2) MP Excise Act case where the charge-sheet had been filed, the applicant had no criminal history, and implication rested solely on an inadmissible co-accused confession without substantive evidence or a TIP. Release required a ₹1,00,000 personal bond and one surety of the same amount, with attendance before the trial court. The order remained effective through trial unless bail was jumped.	146
Hostile prosecutrix does not by itself establish entitlement to bail	The prosecutrix's turning hostile did not by itself justify bail where scientific evidence remained available. Applying Hemudan Nanbha Gadhvi, the Court recognised that conviction may be supported by scientific evidence despite hostile testimony and relied, at the bail stage, on the FSL finding of human sperm in the slide and swab. Bail was refused; this was not a final determination of guilt.	175
Criminal antecedents and likelihood of repetition in regular bail	Criminal antecedents and the likelihood of repeating an offence are relevant considerations when deciding bail. Applying the Supreme Court's bail principles, the Court considered the applicant's pending excise cases together with the earlier rejection of bail and declined the second application. The assessment concerned bail and did not determine guilt in the pending cases.	180
Relevant considerations in exercising bail discretion	Bail discretion must be exercised judicially with regard to the prima facie case, nature and gravity of the accusation, supporting material, possible punishment, the accused's individual circumstances and antecedents, risk of absconding or repeating the offence, interference with witnesses or evidence, and the interests of justice and society. No exhaustive list or mechanical rule replaces consideration of the circumstances of the particular case.	180
Prima facie assessment at the bail stage	A court considering bail examines whether there are reasonable grounds and prima facie material supporting the charge. It need not demand proof of guilt beyond reasonable doubt or conduct a detailed examination that anticipates conviction or acquittal. Observations made for deciding bail do not bind the outcome of the trial.	180
Custody period considered with antecedents and other bail factors	The period spent in custody is relevant to bail but must be weighed with the totality of the circumstances and the accused's criminal antecedents. Individual liberty must be considered together with the societal concerns involved in release, including the risk posed to victims and witnesses.	180

Topic	Ratio	Case Sr.no.
Bail where prosecution failure delays a material DNA report	An accused cannot be kept in custody because the prosecution is unable to provide a material DNA report. After repeated opportunities to obtain the report failed because the forensic laboratory lacked consumables and standard kits, the Court placed responsibility for the delay on the prosecution and granted bail without deciding the merits. The prosecutrix had turned hostile, but the report remained relevant to the prosecution case.	182
Pandemic decongestion as an additional consideration for bail	The need to decongest prisons during the second wave of COVID-19 was considered together with the circumstances justifying bail. The reproduced Supreme Court directions left identification of release categories to the High Powered Committee by reference to the offence, sentence or charge severity and other relevant factors. The Court granted bail on the combined circumstances without deciding the merits.	182
Successive bail based on delay after the absent witness is produced	Where earlier bail applications had been rejected on merits and the fifth application relied only on trial delay, the arrest and production of the absent prosecution witness removed the identified apprehension of further delay. The Court therefore found no basis to take a different view on bail and rejected the application under Section 439 CrPC.	184
Regular bail because of prolonged police failure to file the charge-sheet	Where the applicants remained in custody although the police had prepared but not filed the charge-sheet, the Court found no useful purpose in rejecting bail. It granted bail under Section 439 CrPC expressly because of the investigating officer's and SHO's negligence, on a personal bond of Rs. 1,00,000 each with a like surety. The order continued until the end of trial, subject to becoming ineffective on bail jump.	276
Regular Bail: Relevant Factors, Reasons and Prima Facie Assessment	Bail discretion must be exercised judiciously, with cogent reasons addressing the accusation, supporting evidence, severity of punishment, prima facie involvement, antecedents, flight risk and possible interference with witnesses or justice. The court balances liberty with the administration of justice, without determining guilt through a detailed trial-like analysis. Charge-sheet filing, absence of antecedents, trial delay and generic references to these factors did not cure the failure to consider the respondent's distinct alleged role.	367
Regular Bail: Custody Reckoned from the Production-Warrant Request	For this bail application, the Court presumed custody from 21 March 2022, when police sought the applicant's production despite knowing he was imprisoned in another case. It considered that period of detention, the absence of a recovery and the police failure to secure production or formal arrest in granting bail. The custody reckoning was expressly limited to the application before it.	368
Compensation for Illegal Detention Beyond Section 439 CrPC	Section 439 CrPC confines the court to deciding bail and does not authorise compensation for illegal detention. A compensation direction made while deciding a bail application exceeds that jurisdiction and is liable to be set aside.	371
Prima Facie Assessment and Scientific Tests in Bail Proceedings	A court deciding bail considers the gravity of the offence, the nature of the evidence, the accused’s position relative to the victim and witnesses, and the risks of absconding, repetition, witness tampering or obstruction of justice. It assesses whether a prima facie case exists. It must not conduct a meticulous examination of the evidence or order lie-detector, brain-mapping or narco-analysis tests so as to turn the bail hearing into a mini-trial.	371
Collateral Banking Directions in a Bail Application	A court exercising Section 439 CrPC jurisdiction must remain within the issues relevant to bail. Directions distributing money recovered from an accused among bank depositors, with consequences for the working of banks, fall outside that jurisdiction.	371
Retention of a Bail File for Criminal Justice Reform	Jurisdiction under Section 439 CrPC ends when the bail application is finally decided. A court cannot retain the file and issue directions requiring the State to form a committee on the reformation and rehabilitation of accused or	371

15.2 : Regular Bail and Pre-Trial Detention Parameters

Topic	Ratio	Case Sr.no.
Directions	convicted persons under the guise of improving the criminal justice system.	
Infructuous Bail Application After Release by Another Court	When a bail application has become infructuous because the District Court has already released the applicant, it should be dismissed as infructuous. That application provides no occasion to decide questions of retesting or wrongful confinement beyond the limits of bail jurisdiction.	371
Criminal Antecedents and Parity in Bail Decisions	Criminal antecedents are a relevant consideration in deciding bail and must be assessed with the nature and gravity of the offences. Parity cannot justify overlooking a serious criminal history. Granting bail on an incomplete account of the antecedents, while material history in the record goes unnoticed, is an improper exercise of discretion.	373
Relevant Factors in Deciding Regular Bail	The court must consider prima facie involvement, the nature and gravity of the charge, likely punishment, the risk of absconding, the accused's character, behaviour, means and standing, the likelihood of repetition, the risk of influencing witnesses, and the danger of obstructing justice. Relevant circumstances peculiar to the accused and the effect of release on witnesses and society also bear on the decision.	373
Vague Apprehension of Witness Tampering and Demonstrated Intimidation Risk	A vague allegation that the accused may tamper with evidence or witnesses may not justify refusing bail. Bail may be refused, however, where the accused's character makes his presence at large intimidating to witnesses, or material shows that he would use liberty to subvert justice or interfere with evidence.	373
Period of Custody Considered with Antecedents and Societal Concerns	The period spent in custody is relevant to bail, but it must be weighed with the total circumstances and the accused's criminal antecedents. The circumstances favouring release must be assessed in the wider context of societal concerns alongside the individual's liberty.	373
Regular bail — final appraisal of prosecution witnesses is reserved for trial	At the bail stage, the Court may assess the prima facie case and the nature and gravity of the offence, but must not decide the credibility or evidentiary value of prosecution witnesses as though conducting the trial. Applying Satish Jaggi, the Court declined to adjudicate alleged discrepancies in the testimony already recorded. A final assessment of witness reliability at that stage could prejudice the pending prosecution.	488
Regular bail during COVID-19 — prison decongestion and the available record	In deciding a first Section 439 CrPC bail application under Sections 8/20 NDPS Act without the case diary, the Court proceeded on the application and the impugned order. It considered the allegations and the need to decongest prisons during COVID-19 and granted conditional bail without expressing an opinion on the merits. The reproduced Supreme Court order required High Powered Committees to identify suitable prisoner categories with regard to the nature and severity of the offence, sentence and other relevant factors; offences punishable up to seven years were an illustration. It did not prescribe automatic release of every prisoner. The applicant's asserted age, lack of knowledge and absence of antecedents remained submissions, with antecedents expressly left for verification before release.	493
Pandemic prison decongestion and High Powered Committee discretion	The Court referred to the Supreme Court's 23 March 2020 directions in In Re: Contagion of COVID-19 Virus in Prisons, which required States and Union Territories to form High Powered Committees to identify categories of prisoners for temporary parole or interim bail. The committees could consider the nature and severity of the offence, sentence and other relevant factors. Offences punishable with up to seven years were an illustrative category for consideration, rather than an automatic entitlement to release. These directions supplied the pandemic context for the bail assessment.	505
NDPS Bail Where the Alleged Link Rests on a Co-	The applicant was granted regular bail on stringent conditions where he was absent from the truck carrying ganja, the co-accused's confession could not be used against him, and asserted telephone contacts were unsupported by	521

Topic	Ratio	Case Sr.no.
accused's Inadmissible Confession	collected call details. The Court also considered prison decongestion during the second COVID-19 wave. Release was expressly without comment on merits and required ₹1,00,000 cash surety. Under this order, a single default in appearance or registration of a new offence would automatically end bail and forfeit the cash surety; bail jump or breach of its conditions would also end the order's effect.	
Three Years' Pre-Trial Detention in a Case Punishable with Life Imprisonment	In this successive bail application involving murder, attempted murder and Arms Act allegations, three years of pre-trial detention was not considered sufficient by itself to release the applicant facing an offence punishable with life imprisonment. The Court rejected bail after considering the supporting witness testimony and the limits on assessing its credibility at that stage.	523
Regular bail — prima facie reasons must address the accused's role and gravity of allegations	A bail order must state the factors that justify release, although detailed examination of the evidence or a final assessment of guilt is unnecessary. General statements that the record and circumstances have been considered do not demonstrate application of mind. The Court found the Special Judge's references to flight risk, tampering, antecedents and possible trial delay insufficient because the order did not address the allegation that a teacher had repeatedly raped a minor pupil aged about sixteen years or the gravity of that allegation. It set aside the bail order for this failure to consider the material circumstances.	545
Hostile prosecution witnesses and bail where material eyewitnesses remain unexamined	The fact that four examined eyewitnesses had not supported the prosecution did not secure bail in this murder case. The Court found that two other material eyewitnesses had been wrongly given up and directed steps for their examination. Considering those circumstances and the allegation of a fatal firearm assault, it declined bail under Section 439 CrPC.	557
Temporary bail where pending sanction prevents trial progress	Where prosecution sanction had not been obtained and the trial could not proceed, the Court held that the accused could not remain detained without progress in the trial. It treated the alleged receipt of illegal gratification by a CBI inspector during a court-directed inspection as especially serious, but balanced that gravity against the stalled proceedings and granted temporary bail.	569
Temporary regular bail distinguished from default bail	The temporary release was granted because detention continued without progress in the trial, and not under the statutory default-bail provisions of Section 167(2) CrPC or Section 187 BNSS. The order therefore rested on the regular-bail assessment of stalled proceedings rather than a determination of the statutory default-bail entitlement.	569
Relevant considerations in exercising bail discretion	Bail discretion must be exercised judicially in the circumstances of the case. Relevant considerations include prima facie support for the accusation, its nature and gravity, the likely punishment, the accused's character and antecedents, the risk of absconding or repeating the offence, possible influence on witnesses or tampering with evidence, and the danger of obstructing justice. The accused's liberty must be considered with the interests of victims, society and a fair trial. These considerations are not an exhaustive checklist, and no single formula decides every bail application.	590
Prima facie assessment at the bail stage	A bail court should assess whether the material discloses a genuine prima facie case, without conducting a detailed evaluation of evidence or an elaborate determination of guilt. Its reasons must address the material circumstances while avoiding conclusions suggesting that conviction or acquittal is already assured. Observations made when deciding bail do not bind the outcome of the trial.	590
Custody period as one factor in deciding bail	The period already spent in custody must be weighed with the totality of the circumstances and any criminal antecedents. Custody duration cannot be assessed in isolation from the societal concern involved in releasing the accused	590

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	and the individual's claim to liberty.	
Regular bail for prolonged custody and prosecution-caused trial delay	An undertrial cannot remain in custody indefinitely at the prosecution's mercy. Despite the serious charge of a fatal lathi assault under Section 302/34 IPC, custody since December 2016 and unexplained prosecution delay in producing official witnesses justified bail under Section 439 CrPC. The assessment did not decide the merits of the accusation.	621
COVID-19 prison decongestion: category assessment by High Powered Committees	The Supreme Court's March 2020 prison-decongestion direction required each State or Union Territory to constitute a High Powered Committee to determine suitable categories for parole or interim bail. The suggested category of offences punishable up to seven years was illustrative. Selection remained for the committee, having regard to the offence, sentence or charge and other relevant factors; the direction did not confer automatic release.	621
Surrender Before Seeking Regular Bail While on Pandemic Parole	An undertrial released on parole in the wake of the COVID-19 pandemic was held not to satisfy the custody requirement for an application under Section 439 CrPC until surrender before the trial court. Applying the narrated Niranjan Singh v. Prabhakar Rajaram Kharote test, custody requires physical control or at least physical presence in court coupled with submission to its jurisdiction and orders. The Court recalled bail granted on an incorrect impression of six months' actual custody when the applicant had already been released on undisclosed parole, and permitted a renewed bail request after surrender.	657
Distinction Between Parole and Temporary Bail for Section 439 Custody	Parole and bail have different legal meanings even though both permit release from confinement. In deciding whether a pandemic parolee could apply under Section 439 CrPC without surrender, the Court applied the narrated distinctions in State of Haryana v. Mohinder Singh and Sunil Fulchand Shah v. Union of India. It declined to apply Kanaksinh Mohansinh Mangrola v. State of Gujarat, which concerned an accused on temporary bail rather than parole. Continued control during parole was not treated as sufficient Section 439 custody in this case.	657
Counting Pandemic Parole When Assessing an Undertrial's Detention	The Court held that the pandemic-parole period before it could not be counted towards the undertrial's period of detention. It noted that Section 31-A of the Prisoners Act, 1900 and the Madhya Pradesh Prisoners' Leave Rules, 1989 govern convicted prisoners and do not directly apply to undertrials, but took guidance from Section 31-A(4), which excludes release time from sentence computation. The applicant did not claim that his parole order required the period to be counted. The Court distinguished the statutory preventive-detention context of Sunil Fulchand Shah rather than treating every form of temporary release as actual detention.	657
Declaration of Parole Status in a Regular-Bail Application	Whenever an application under Section 439 CrPC is filed, the applicant must declare that he is not on parole. The Court issued this requirement after a bail application founded on the duration of actual custody failed to disclose that the applicant had already been released on pandemic parole.	657
Magistrate-triable non-bailable offence — gravity remains relevant to bail	An accused does not acquire a right to bail merely because a non-bailable offence is triable by a Magistrate. Adopting its Rajiv Sharma decision in the illegal sand-mining context, the Court explained that the allegations and gravity of the offence must still be considered. The reproduced reasoning treated harm to rivers, the environment and aquatic life, together with loss of royalty to the State, as relevant to the assessment. Magistrate triability could not require the Court to disregard those considerations.	670
Bail discretion — relevant factors and prima facie assessment without a trial	Bail requires a case-specific balance between personal liberty and the administration of justice. Relevant factors include prima facie involvement, the nature and gravity of the accusation, possible punishment, supporting evidence, risk of flight, antecedents and circumstances of the accused, repetition of offending, witness influence or threats to the complainant, and obstruction of	707

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	justice. The genuineness or frivolity of the prosecution must also be considered; doubt about its genuineness ordinarily favours bail. The factors are illustrative, not exhaustive. Detailed assessment to establish guilt beyond reasonable doubt belongs to trial; bail nevertheless requires reasonable grounds supporting the prima facie assessment.	
COVID-19 prison decongestion — High Powered Committee assessment of release categories	The reproduced Supreme Court direction required each State or Union Territory to constitute a High Powered Committee to determine categories of prisoners for parole or interim bail during the pandemic, having regard to Article 21 and prison overcrowding. The Committee was to consider the offence, sentence or severity of the charge and other relevant factors. The reference to offences punishable with up to seven years, and prisoners sentenced below the maximum, was illustrative; it did not confer automatic release on every prisoner within that description.	709
Witness influence through the prosecutrix's representation	An accused cannot arrange a lawyer for the prosecutrix to obtain an affidavit of his own choice. The accused's procurement of her vakalatnama before her examination, and its possession by his own counsel for engaging another lawyer, supported the Court's finding that he was attempting to influence prosecution witnesses. That conduct was material to refusal of bail.	727
Witness influence through procurement of the prosecutrix's vakalatnama	An accused cannot engage a lawyer for the prosecutrix to procure an affidavit of his own choice. The accused's procurement of her vakalatnama, which his counsel held for arranging representation and a favourable affidavit, supported the finding of an attempt to win over prosecution witnesses. The Court treated that conduct as a ground to refuse bail under Section 439 CrPC.	728
Withdrawal of bail application amid witness-influence findings	The Court refused permission to withdraw the bail application after finding that the accused had procured the prosecutrix's vakalatnama for representation intended to produce a favourable no-objection affidavit. In those circumstances, it rejected the withdrawal request and dismissed the application.	728
Bail is temporary liberty — balance between under-trial, society and complainant	The Court stated that release on bail cannot be equated with acquittal. Bail gives temporary respite to an accused so that the rights of the under-trial, society and the complainant can be balanced. Here, bail had been granted in view of detention already undergone and on conditions requiring a ₹5,00,000 deposit and cash surety. Those conditions and the grant of liberty did not justify projecting release as a public victory. The Court applied the distinction between provisional release and acquittal while examining the procession, firing and challenge to the complainant, and cancelled bail for the resulting misuse of liberty.	746
Bail discretion — accusation, evidence, liberty risks and public interests must be assessed together	The bail principles adopted through Bhupat Singh and Virupakshappa Gouda require consideration of the prima facie case, the nature and gravity of the accusation, supporting evidence and likely punishment. Relevant factors also include the risk of flight, securing the accused’s presence, character and conduct, means and standing, the likelihood of repetition, witness influence or threats, and obstruction of justice. The larger interests of the public and State must be considered with the individual’s liberty. The reproduced Neeru Yadav reasoning requires decisions under established legal parameters rather than whim. In the present application, the Court applied this assessment instead of treating completed examination of witnesses as sufficient by itself.	749
Bail-stage proof — reasonable grounds and prima facie support, not proof beyond reasonable doubt	The CBI v. V. Vijay Sai Reddy passage reproduced through Virupakshappa Gouda and Bhupat Singh explains the evidentiary assessment required for bail. The court considers whether there is a genuine case against the accused and whether the prosecution can produce prima facie evidence supporting the charge. At that stage, it is not expected to have evidence establishing guilt beyond reasonable doubt. This distinction forms part of the adopted assessment of the accusation and supporting evidence. It supported the Court’s refusal to	749

15.2 : Regular Bail and Pre-Trial Detention Parameters

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	decide the repeat application solely by whether witnesses had already testified.	
Regular bail: alleged leading role, defence delay and absconding co-accused	While considering bail in a prosecution under Sections 420 and 406/34 IPC, the Court considered the allegation that the applicant led a scheme of taking vehicles on rent and mortgaging them, together with delay attributable to defence counsel and a co-accused's absconding. On those factors it refused bail, while permitting renewal after the absconding co-accused surrendered. The assessment concerned bail and did not determine guilt at trial.	775
Relevant factors governing regular bail	Bail requires consideration of the prima facie accusation and supporting material, gravity of the offence, possible punishment, risk of absconding, the accused's circumstances and conduct, likelihood of repetition, interference with witnesses, and the interests of justice and the public. Reduced risk of witness interference does not displace the remaining factors.	796
Prima facie standard in deciding bail	At the bail stage, the Court considers whether there is a genuine case supported by prima facie material. It is not expected to require evidence establishing guilt beyond reasonable doubt.	796
Bail-stage age finding — Risk of prejudicing the trial	A finding on the prosecutrix's age is ordinarily unnecessary at the bail stage while the trial is pending, because it may prejudice the trial court. The Court undertook the age assessment here only after counsel expressly insisted on a finding despite that caution.	823
Section 436A CrPC — Two years' custody and statutory release claim	In the prosecution before the Court, where the minimum sentence was ten years, custody of about two years had not given the applicant a statutory right to release under Section 436A CrPC.	823
Bail — Threats and violence to influence trial witnesses	Allegations of threats and armed violence intended to force witnesses to change their testimony are material to bail because they indicate interference with the administration of justice. The Court treated the alleged attack on the complainant's family for that purpose as a ground to refuse release, while recognising the victim's interest in effective criminal justice alongside the accused's liberty.	828
Bail orders — Restraint in detailed discussion of merits	Detailed discussion and elaborate documentation of merits should ordinarily be avoided in a bail order because of their potential effect on the trial. The Court warned counsel of that risk and recorded detailed reasons only after counsel insisted despite the warning.	828
Regular bail — Relevant factors for judicial discretion	Bail requires consideration of the prima facie grounds connecting the accused to the offence, the nature and gravity of the accusation, supporting evidence and the severity of possible punishment. Relevant risks include absconding, repetition of the offence, threats to the complainant, influence on witnesses and obstruction of justice. The accused's character, behaviour, means, position and standing must also be considered.	828
Bail precedents — Application in their factual context	Observations in Sanjay Chandra cannot be applied mechanically to every bail request. The nature of the offence and the manner of its commission require independent consideration, and the Court must understand the factual context of the precedent before applying it.	828
Use of a forged certificate to obtain bail: effect on discretionary relief	The Court refused bail in the forgery case in view of the applicant's use of a forged age certificate in earlier bail proceedings to mislead the Court and obtain release. It held that this conduct warranted no sympathetic exercise of bail discretion. The ruling concerned the Section 439 application arising from the separate certificate-forgery FIR.	874
Bail in cheating cases — repayment offer and the prohibition on debt	A court deciding bail or anticipatory bail cannot act as the complainant's recovery agent. Applying the principle stated in Dilip Singh, the Court declined the accused's offer to deposit one-third of the allegedly cheated amount and	892

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recovery	considered the bail application on its merits.	
Corporate nominee's lack of civil liability does not answer alleged personal participation in depositor fraud at bail stage	For a nominee shareholder in a company allegedly collecting unlicensed deposits, the asserted absence of civil liability during the director's lifetime did not negate witness accounts that the nominee himself induced deposits by promising doubled returns; bail was refused on those prima facie allegations.	892
Grant of bail — reasoned assessment of relevant factors without deciding guilt	Bail discretion must be exercised judicially with reasons reflecting the record. Relevant, non-exhaustive factors include prima facie involvement, genuineness of the prosecution, the charge's nature and gravity, supporting evidence, likely punishment, risk of absconding or repeating the offence, the accused's character, behaviour, means and standing, interference with witnesses or evidence, threats to the victim or complainant and their relatives or friends, and obstruction of justice. Social standing alone is insufficient. A doubt about the genuineness of the prosecution ordinarily favours bail. The Court must balance liberty and the administration of justice without a detailed determination of guilt; formulaic references to the facts and circumstances do not replace reasons.	897
Regular bail where an acknowledged legal hurdle prevents progress of trial	For the Section 439 CrPC application, the Court considered the prosecution's admission that the trial could not presently proceed because sanction for prosecution of the public servants was awaited. The applicant was a private person, and the charge-sheet had been filed. Given the acknowledged lack of progress and the presumption of innocence until guilt is established, the Court held that she could not be left to languish in custody and granted bail. The decision rested on those circumstances and did not independently decide whether sanction was legally required for prosecution of the private applicant.	928
Later filing of a charge-sheet and the grounds for regular bail	The fact that a charge-sheet was filed after the bail application did not prevent consideration of the present inability of the trial to proceed. The Court was deciding regular bail under Section 439 CrPC on that ground, rather than a claim to statutory default bail. It therefore rejected the investigating officer's objection based on the sequence of filing, without determining any default-bail period or entitlement.	928
Lawful pre-trial detention and the safeguards in Section 436A CrPC	Pre-trial detention is not punishment, but detention authorised by law for a non-bailable offence is not, merely for that reason, contrary to Article 21. The Court treated Section 436A CrPC as a guide to custody duration. For offences outside its death-penalty exception, the reproduced provision requires release on personal bond, with or without sureties, after one-half of the maximum term, subject to the court's power to continue detention after hearing the Public Prosecutor and recording written reasons, or to grant bail instead. Detention cannot exceed the maximum term, and delay caused by the accused is excluded from the calculation. The applicant had not claimed to have reached the half-term threshold.	932
Temporary bail to arrange accommodation for a spouse	Temporary bail sought to arrange accommodation for the applicant's wife was refused because the available family support did not establish that nobody could look after her. The applicant's mother was alive, and the asserted estrangement from the wife's parents following a marriage without their consent was unsupported by the record.	932
Regular bail in a case of a medical certificate used to obtain judicial relief	For the first application under Section 439 CrPC, the Court considered the police inquiry reporting forged hospital records and a medical certificate used to obtain another person's anticipatory bail. The alleged interference with the administration of justice, assessed on that inquiry record, weighed against bail. The application was refused on the circumstances of the case.	989

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	Sub-Chapter no. 15.3 **Bail Conditions, Surety and Conduct Restrictions**	
Medical screening and safe transit under pandemic bail directions	Applying the Supreme Court's 07.04.2020 safe-transit directions, the Court required medical examination before release and a COVID-19 test if the doctor considered it necessary. If the applicant was not suspected of infection or tested negative, the local administration was to arrange transport home; a positive result required immediate hospital treatment. The applicant had to follow applicable pandemic instructions and provide the bail order to the police station of his residence. Breach of those instructions would make the order ineffective and result in return to custody.	108
Stringent bail conditions where witnesses turn hostile after pressure by the accused	Where the accused had obtained witness affidavits before cross-examination and the Court found that he had pressured the witnesses, their subsequent hostility led to grant of bail only on stringent conditions, without any finding on the merits. The order required ₹3 lakh cash surety, attendance before the trial court and twice-monthly attendance before the SHO, with compliance reports to the trial court. It expressly provided for automatic cessation of bail and forfeiture of the cash surety upon a single attendance default or registration of a new offence. These conditions arose from the circumstances of this bail application.	130
Medical screening and safe transit on release during COVID-19	The pandemic-related release directions required medical examination before release, COVID-19 testing if advised by the doctor, and arrangements for safe return home where infection was not suspected or the test was negative. A person testing positive was to be sent promptly to the appropriate hospital for treatment. These safeguards implemented the Supreme Court's directions that released prisoners receive safe transit or access to temporary shelter during lockdown.	182
Bail in public-money misappropriation cases — exceptional consideration of voluntary deposit	In an exceptional case alleging misappropriation of public money, the court may consider an accused’s voluntary offer to account for the whole or part of that money before finally considering bail or anticipatory bail, where the deposit serves the larger public interest. This approach does not extend to private disputes alleging cheating of private parties’ money. Applying that principle, the Court accepted the voluntary offer of ₹10 lakh and made release conditional on deposit with the State Civil Supplies Corporation within the stipulated time, proof of payment and the required bond and surety.	334
Bail protection — compliance with undertaking to withdraw parallel writ petition	Where the applicant undertook to withdraw a parallel writ petition carrying interim protection against coercive steps, the bail order expressly provided that failure to withdraw that petition would automatically cancel the protection. Subject to that condition, the order was to remain effective until the end of trial, but would become ineffective on bail jump, leaving the trial court free to take the applicant into custody.	334
Pandemic bail — medical screening, surety, transit and compliance conditions	The case-specific release order required a ₹1,00,000 personal bond, an undertaking to follow the applicable COVID-19 instructions, and a surety of the same amount within one month after the lockdown was completely lifted. The jail authorities had to arrange medical examination and testing if the doctor considered it necessary. Following the reproduced Supreme Court transit directions, the local administration was to arrange travel home if the applicant was not suspected of infection or tested negative; a positive result required hospital treatment. Antecedents had to be checked before release, and additional registered cases would make the order ineffective. Bail continued until conclusion of trial subject to Sections 437 and 439 CrPC and the stated conditions. Breach of public-health instructions required return to custody; bail jump or violation of any condition would also end the order's effect. A copy had to be supplied to the police station for the applicant's residence.	493

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COVID-19 compliance conditions in the anticipatory-bail order	In the anticipatory-bail order made during the COVID-19 pandemic, release was conditional on appearance before the Investigating Officer by 23 September 2021 and a personal bond of ₹1 lakh with one surety of the same amount for each appellant. The appellants had to undertake compliance with government and local COVID-19 instructions, supply the order to the police station for their residence, and observe the other Section 438 CrPC conditions. The order expressly provided that breach of its conditions would terminate its effect and directed custody for violation of the specified public-health instructions.	505
Intimation of grant of bail to the complainant	Applying Aparna Bhat v. State of Madhya Pradesh, the Court directed that intimation of the grant of anticipatory bail be sent to the complainant. This notification direction formed part of the disposal of the appellants' SC/ST Act bail appeal.	505
COVID-19 Bail Release: Medical Screening, Safe Transit and Compliance Conditions	Applying the Supreme Court's prison-decongestion and safe-transit directions during the COVID-19 pandemic, the Court required examination by a competent doctor before release and testing if medically indicated. A suspected-free or test-negative applicant was to be sent home through local administrative arrangements; a positive applicant was to receive hospital treatment. The bail order required compliance with governmental COVID-19 instructions and provided for loss of its effect and return to custody upon breach.	521
Attendance and surrender on production of prosecution sanction	The Court required a personal bond of Rs. 1,00,000 with one surety in the same amount and attendance before the trial court on each fixed date. Its express sanction-linked direction kept temporary bail effective until prosecution sanction was filed, and required surrender on the date the CBI produced that sanction.	569
Pandemic-era bail: release safeguards, surety and compliance	In this 2020 bail order, release required a ₹1 lakh personal bond, with an equal surety to be furnished within one month after the lockdown was completely lifted. Medical examination, testing if medically advised, treatment if positive and safe transit home if cleared were directed. Compliance with pandemic directions and the other bail conditions was required; the order specified that breach or bail jump would end its operation. Bail otherwise continued until conclusion of trial.	621
Bail with cash surety — attendance and further-offence conditions	In granting bail despite the applicant's out-of-State residence and criminal history, the Court required cash surety of ₹1,50,000 and appearance on the trial court's dates. Its order was to remain effective until the end of trial, subject to termination on bail jump. The Court further specified that a single default in appearance or registration of a new offence would automatically end the bail order and forfeit the cash surety without a further reference to the Court. These were the express conditions imposed in this case.	674
Fresh bail after a bail jump — bond deposit, surety and continuing compliance	Fresh release after the earlier bail jump was conditioned on depositing the amount of the previous bail bond and furnishing a personal bond of Rs.1,00,000 with one surety for the same amount. The order retained the applicable conditions under Sections 437 and 439 CrPC and required compliance with the then-operative governmental and local COVID-19 instructions. Bail was to continue until the conclusion of trial, but the order expressly provided that it would lose effect on another bail jump or breach of its conditions.	709
Pandemic release safeguards — medical examination, treatment and safe transit	Under the pandemic directions applied in this order, release required examination by a competent doctor and COVID-19 testing if medically considered necessary. A person not suspected of infection or testing negative was to receive arrangements for safe travel home; a positive case was to be sent promptly to the appropriate hospital for treatment. The reproduced Supreme Court direction also required safe transit or the option of temporary shelter during lockdown so that released prisoners were not stranded. The bail recipient	709

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	had to follow the applicable public-health instructions and provide the order to the police station of residence.	
Anticipatory bail — Voluntary deposit of allegedly misappropriated public money	In exceptional cases involving alleged misappropriation of public money, the Court may consider an accused's voluntary offer to deposit all or part of that money before finally considering bail, where the larger public interest and circumstances justify it. This approach is not warranted in private cheating disputes. On the applicant's offer, protection was made conditional on depositing ₹10 lakh with the State Civil Supplies Corporation and appearing before the investigating officer with the receipt by 28 September 2024, followed by a ₹1 lakh personal bond and one surety of the same amount. Failure to deposit or appear by that date would automatically end the protection.	821
Intimation of bail to the complainant	Relying on Aparna Bhat v. State of Madhya Pradesh, the Court directed that the complainant be informed of the grant of anticipatory bail.	842
Pandemic bail order: compliance undertaking and cessation on breach	The appellant's release was made conditional on an undertaking to follow applicable COVID-19 directions and compliance with the other bail conditions. The order was to operate until conclusion of trial, but expressly provided that a bail jump or breach of its conditions would cause it to lose effect. For breach of the pandemic directions, the local administration or police were directed to take the appellant into custody and return him to the same jail. A copy of the order was also to be supplied to the police station for his place of residence.	865
Pandemic bail: health safeguards, safe transit and pre-release verification	Applying the reproduced Supreme Court safe-transit directions, the Court required medical examination, a COVID test if the doctor considered it necessary, treatment in hospital if positive, and arrangements to send the applicant home if not suspected or testing negative. Release required a ₹1,00,000 personal bond and one surety for the same amount, compliance with pandemic instructions and supply of the order to the local police station. The trial court had to verify criminal antecedents and previous pandemic parole; additional registered offences or an earlier temporary-parole release would end the order before release. The order operated until trial ended, subject to its stated lapse upon bail jumping or breach of conditions.	878
Bail in public-money misappropriation cases — exceptional consideration of a voluntary deposit	In an exceptional case alleging misappropriation of public money, the court may consider an accused's voluntary offer to account for all or part of that money and permit its deposit in the larger public interest before finally considering anticipatory or regular bail. This approach is not warranted in private disputes concerning money allegedly lost through cheating. In considering regular bail for a society computer operator accused of feeding false procurement entries, the Court treated his asserted pressure from others as insufficient to make his own act irrelevant to possible responsibility. Taking account of more than four months in custody and his voluntary offer, it made release conditional on depositing ₹10 lakh with Madhya Pradesh State Civil Supplies Corporation Limited, producing the receipt, and furnishing a ₹1 lakh personal bond with one surety for the same amount.	880
	Sub-Chapter no. 15.4 **Anticipatory Bail and Pre-Arrest Protection**	
Anticipatory bail and consent induced through marriage affidavits	In deciding the first application under Section 438 CrPC in a case under Section 376(2)(n) IPC, the Court considered the marriage and divorce affidavits obtained by the applicant. It viewed those documents as a fraud on the prosecutrix and treated the consent so obtained as falling within Section 375 Fourthly IPC. On that assessment, the Court refused anticipatory bail.	156
Anticipatory bail — ordinary duration and reasoned limits	Protection under Section 438 CrPC ordinarily need not be limited to a fixed period and may continue until the end of trial. Summons, appearance or framing of charge do not normally end it. Special facts may justify limiting protection	304

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	to a period or event, but reasons must be recorded. Applying Sushila Aggarwal and Nathu Singh, the Court held that the unrestricted anticipatory-bail order in this case continued through trial and did not expire merely because the charge-sheet was filed and the applicants appeared before the Magistrate.	
Anticipatory bail—evasion of arrest and risk of witness pressure	Anticipatory bail was refused in the gang-rape prosecution after the Court found that the applicant was avoiding arrest, the investigation had unduly favoured him and the rejected closure report did not merit acceptance. On the totality of those circumstances, the possibility of pressure on witnesses could not be ruled out.	413
Summons or arrest warrant after closure rejection—anticipatory-bail claim	The objection that the Special Judge should have issued summons instead of an arrest warrant on rejecting the closure report did not justify anticipatory bail in this case. The Court reasoned that even on summons the applicant would have to appear and seek regular bail before the trial court.	417
Anticipatory bail in the corruption prosecution—prima facie material	The Court refused anticipatory bail after considering the prima facie allegations of wrongly sanctioned grants, the unexamined HRA allegation, the rejected closure report and the seriousness of corruption. Those were observations for the bail application while the cognizance order was separately under challenge.	417
Fact-dependent limit of anticipatory bail until filing of the charge-sheet	Applying Sushila Aggarwal to the circumstances of this case, the Court upheld the parents-in-law's anticipatory bail but limited its duration to the filing of the charge-sheet. On that date they were required to seek regular bail. That application was to be considered afresh, without influence from observations made while investigation was incomplete. The direction imposed a case-specific limit rather than requiring every anticipatory-bail order to expire with the charge-sheet.	461
Anticipatory Bail in an Excise Case Involving a Large Quantity of Liquor and Flight	In the prosecution under Sections 34(2) and 49-A of the M.P. Excise Act, anticipatory bail was refused having regard to the large quantity of OP liquor and packing material, the applicant's flight on seeing the police, and Section 59-A of the Act. The Court assessed these circumstances at the pre-arrest stage without finally deciding guilt.	532
Anticipatory bail in a housing-allotment dispute: unexplained delay and corrective offer	In assessing anticipatory bail for alleged cheating and criminal breach of trust over excessive plot allotments, the Court considered that payments had gone to the society or Collector, a public cancellation notice had followed shortly afterwards and the police complaint was made over twelve years later without explanation. The applicant offered leases within the 3,000-square-foot allotment limit and refund of the excess payment. With investigation at an initial stage, these circumstances supported conditional protection under Section 438 CrPC. Whether the larger allotments were a mistake or deliberate deception remained undecided. Protection required appearance, a personal bond and surety, availability for interrogation, production of original documents required by the investigating officer, non-interference with evidence or witnesses, and compliance with Section 438(2).	551
Public prosecutor's duty of accurate assistance in remote bail hearings	Where a video hearing leaves the physical case diary with government counsel and the Court must rely on counsel's reading, the public prosecutor has a heightened duty to state the allegations and identify documents accurately. Repeatedly describing an instrument titled a sale deed as an agreement to sell failed that duty. The Court accepted the eventual unconditional apology without imposing a separate disciplinary penalty.	628
Anticipatory bail: inconsistent later transfer undermining the loan defence	In the cheating and conspiracy case, the applicants had consented to a notarised sale deed allegedly executed for ₹9.4 lakh, followed by another notarised deed to the executant's daughter without consideration. Their assertion that the first instrument was intended only as a loan document was unsupported because it did not explain the later deed to the daughter. On the totality of those	628

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	circumstances, the Court refused anticipatory bail under Section 438 CrPC.	
Bail assessment: distinguishing a sale deed from an agreement to sell	The actual nature of a disputed instrument must be correctly identified when assessing a cheating allegation for anticipatory bail. A sale deed relating to property worth more than ₹100 requires registration and is materially different from an agreement to sell. Here, the Court treated obtaining notarisation instead of registration as evasion of stamp duty, while recognising that stamp duty was payable by the purchaser.	628
COVID-19 prison overcrowding — Article 21 decongestion concerns informed individual anticipatory-bail discretion	The reproduced Supreme Court order linked prison overcrowding during COVID-19 to Article 21 and required State and Union Territory High Powered Committees to identify categories for parole or interim bail. Categories were left to the committees, considering offence nature or severity, sentence and other relevant factors; the reference to offences punishable up to seven years was illustrative. Considering the allegations and the deteriorating second-wave situation, the High Court granted one applicant conditional anticipatory bail without expressing a view on merits.	639
Anticipatory bail in dowry-death allegations—Nature and gravity	The nature and gravity of the allegations must be considered when deciding anticipatory bail. Death within four years of marriage, together with a written police complaint of dowry harassment made by the deceased during her lifetime and the other material against the applicant, weighed against pre-arrest bail. The detailed observations made for deciding bail were not to prejudice the trial court.	665
Addition of a non-bailable offence — significance of the earlier bail assessment	Where bail was granted after considering the material on record, mere addition of further penal sections without additional material does not by itself require the accused to surrender and return to custody. That qualification did not govern an earlier release granted solely because the offences were described as bailable, without considering the allegations. When Section 307 IPC was subsequently taken into cognizance, the allegations therefore required consideration in deciding the fresh anticipatory-bail application.	707
Anticipatory bail subject to timely appearance and cooperation	Without commenting on the merits, the Court granted anticipatory bail on the condition that the applicant appear before the investigating or arresting officer by 18 January 2022 and furnish a personal bond of ₹1,00,000 with one surety for the same amount. She was required to attend interrogation when called and comply with Section 438(2) CrPC. Failure to appear by the specified date would make the protective order ineffective and leave the investigating officer free to take her into custody.	842
Anticipatory bail — professional status, nonappearance and misleading disclosure	Status as a practising advocate does not confer an exemption from criminal law or, by itself, justify leniency; a lawyer is expected to uphold the law, and the Court viewed its alleged violation by a legally informed person seriously. Although the applicant had received a Section 41A CrPC notice and had not been arrested during investigation, he had not appeared before the Magistrate when the charge-sheet was filed. His earlier quashing petition described him as a student despite Bar Association membership since 2020, and counsel could not explain the misleading description. The Court rejected the assurance that he had approached it with clean hands and would not mislead it, and refused anticipatory bail on the totality of these circumstances and the alleged forcible removal and assault.	883
Anticipatory bail — marriage certificate from an institution acting despite a subsisting restraint	The Court rejected reliance on a marriage certificate issued by the particular Arya Samaj institution that had been restrained from performing marriages in Shalu Sharma. The review stay concerned a separate direction to the representative body to amend its guidelines; the restraint against the institution itself remained in force on the material before the Court. It treated the marriage performed in breach of that restraint as invalid. The certificate therefore did not support the applicant's request for anticipatory bail in the alleged minor's rape	1007

Topic	Ratio	Case Sr.no.
	case.	
	Sub-Chapter no. 15.5 **Cancellation of Bail and Misuse of Liberty**	
Show-cause notice for recall of bail obtained by suppressing antecedents	Where material criminal antecedents appeared to have been suppressed when a co-accused obtained bail, the Court directed notice requiring him to explain why the bail order should not be recalled and ordered registration of a separate cancellation proceeding. The order initiated that process and did not itself cancel the co-accused's bail.	180
Witness intimidation after testimony as a ground for cancelling bail	Threatening prosecution witnesses to compel a compromise may amount to misuse of bail even after they have testified. Completion of their examination does not eliminate the possibility of pressure to secure a compromise, and the risk is greater where another material witness remains unexamined. In the circumstances considered, threats accompanied by gunfire and false counter-complaints justified cancellation under Section 439(2) CrPC.	221
Cancellation of bail for misuse of liberty and proper conduct of trial	Cancellation of bail requires care and cannot serve as punishment for merely perceived indiscipline. That caution does not prevent cancellation where post-release intimidation and false complaints show misuse of liberty affecting the proper conduct of trial. The Court distinguished Bhuri Bai because the application concerned such subsequent misuse.	221
Forum for cancellation of bail: misuse of liberty and erroneous grant	Where bail cancellation is sought because the accused misused liberty after release, the application lies before the court that granted bail. Where the complaint is that bail was wrongly granted without considering material on record, the challenge lies before a superior court. Section 439(2) CrPC does not confer a power to review the original bail order on its merits; Section 362 bars such review in the absence of an express enabling provision.	245
Cancellation of anticipatory bail — consequential release by Magistrate	A separate challenge to the Magistrate's release order was unnecessary where that order merely implemented a continuing High Court grant of anticipatory bail. The Magistrate had accepted bonds because anticipatory bail already existed and had not independently assessed the facts, seriousness or gravity of the allegations. That consequential order did not support the applicants' contention that the earlier protection had merged into a separate regular-bail grant, preventing its cancellation.	304
Bail: Setting Aside an Unjustified Grant and Cancellation for Later Conduct	Scrutiny of the original grant of bail differs from cancellation based on later misconduct, breach of conditions or supervening circumstances. An original grant may be set aside where it is perverse, illegal or unjustified because the court ignored material facts or exercised discretion arbitrarily. Applying that distinction under Section 439(2) CrPC, the Court set aside the bail order for non-application of mind to the prosecution record.	367
Setting Aside Bail for Failure to Consider Material Antecedents	Bail may be cancelled for misuse of liberty or set aside because the granting court overlooked material factors bearing on the decision. Where the court failed to consider the accused's extensive criminal history available in the record, the original bail order could be set aside without requiring subsequent misconduct as the sole basis for interference. A superior court ordinarily respects bail discretion exercised on relevant material, but may intervene where the order suffers from serious infirmity or perversity.	373
Setting aside a perverse or unreasoned grant of bail under Section 439(2) CrPC	A bail order that ignores material evidence and gives no reasons may be set aside as perverse under Section 439(2) CrPC. Correction of an unjustified, illegal or perverse grant is distinct from cancellation for later misconduct or new circumstances; proof of a subsequent misuse of liberty is therefore not necessary for that challenge.	510
High Court as the forum for	Where the challenge concerns the Sessions Court's original grant of bail on the material already before it, the aggrieved applicant may approach the	510

Topic	Ratio	Case Sr.no.
challenging the merits of a Sessions Court's bail grant	superior High Court under Section 439(2) CrPC. A return to the Sessions Court is unnecessary merely to challenge that same merits decision. This differs from seeking cancellation before the Sessions Court on newly arisen circumstances.	
Aggrieved person's standing to seek cancellation of bail	An aggrieved person, as well as the State, may apply for cancellation of bail. Applying this principle from Puran v. Rambilas, the High Court entertained the deceased woman's father's challenge under Section 439(2) CrPC to the Sessions Court's bail order.	510
Section 439(2) CrPC — setting aside an infirm bail order without subsequent misuse	A superior court may set aside a bail order that is illegal, perverse or unjustified because relevant material was ignored, irrelevant factors were considered or judicial discretion was exercised without due application of mind. Proof of subsequent misuse of liberty is not required for that review. This differs from cancellation based on later misconduct or supervening circumstances, which requires cogent and overwhelming grounds such as interference with justice, evasion or abuse of the concession; cancellation must not be mechanical. The Court rejected the contention that bail could be cancelled only upon misuse and examined the soundness of the Special Judge's original order.	545
Superior-court challenge to bail — illegality of grant and later misuse are distinct	A challenge to the legal sustainability of an initial bail order differs from cancellation for subsequent misconduct or supervening circumstances. A superior court may set aside a perverse, illegal or unjustified grant where relevant material was ignored or discretion exercised arbitrarily, without requiring a later breach of bail conditions. Interference must be reasoned and approached with restraint; it is not a routine substitution of discretion merely because another view is possible.	707
Same-court reconsideration of bail — Section 362 finality and superior review	An application to the court that granted bail ordinarily seeks cancellation for misuse of liberty; reconsidering the same grant on other grounds may encounter the bar under Section 362 CrPC. This restriction does not prevent a superior court from examining whether bail was originally granted erroneously through failure to consider the allegations, their severity or the relevant investigation material.	707
Bail cancellation — post-release glorification and intimidating conduct amounting to misuse of liberty	Applying Ms. P. v. State of Madhya Pradesh, the Court cancelled bail under Section 439(2) CrPC for misuse of liberty after release. The videos showed a large crowd garlanding the accused, touching his feet and chanting slogans, his procession in an open jeep, subsequent firing in the air, and a supporter challenging the complainant. The Court found that this conduct projected him as a warrior and that such glorification adversely affected society and the justice system. It also noted that witnesses had begun turning hostile and said this might result from the glorification or release. On these combined circumstances, the bail order was cancelled and the accused was directed to surrender by 16 November 2022.	746
Facially erroneous co-accused bail grant — separate Section 439(2) show-cause process before recall	Where the Sessions Judge’s order misstated the charge-sheet role of an alleged assailant and compared him with non-assault co-accused, the High Court ordered a separate Section 439(2) CrPC proceeding and notice to show cause why that bail should not be recalled. The present judgment initiated review; it did not finally cancel his bail or rely on post-release misconduct.	897
Erroneous bail grant — review differs from cancellation for later misconduct	Review of an order granting bail asks whether discretion was exercised improperly or arbitrarily and whether the order is perverse, illegal or unjustified. It differs from cancellation ordinarily based on later circumstances or breach of bail conditions. Ignoring relevant factors, relying on irrelevant considerations or misreading the prima facie record may justify setting aside the original grant without proof of later misconduct. Here those concerns led to a separate show-cause proceeding, not an immediate final cancellation.	897
Forgery inquiry when bail is	Where cancellation of bail is sought on the ground that it was obtained through	989

Topic	Ratio	Case Sr.no.
challenged as fraudulently obtained	a forged medical certificate, deciding the certificate's genuineness forms part of that proceeding. The Court distinguished the limit on further directions after deciding an ordinary bail application and upheld consideration of the prosecutor's undertaking for departmental and criminal action concerning the alleged forgery.	
Bail cancellation based on a forged certificate — recording the prosecutor's undertaking	Where cancellation of anticipatory bail was sought on the sole ground that a forged medical certificate had secured bail, the Court had to examine that certificate's authenticity. After considering the State's enquiry report, which included the issuing doctor's statement, the Court could record the prosecutor's undertaking to take departmental and criminal action and express an expectation that it would be honoured. The observation was not treated as a binding direction requiring recall for want of a separate hearing. The later grant of Specialist charge and absence of departmental proceedings also showed that the observation had not prejudiced the doctor's superior officers. M. Murugeson, concerning further directions after disposal of an ordinary bail application under Section 439 CrPC, was distinguished because the alleged forgery was itself the ground of cancellation.	990
	Sub-Chapter no. 15.6 **Bail Bonds, Anticipatory Bail Conditions and Post-Bail Compliance**	
Cash surety and automatic termination conditions in an excise bail order	The Court required cash surety of Rs. 2,00,000 and made bail effective until the conclusion of trial, subject to the stated conditions. The order provided that a single default in trial-court appearance or registration of a new offence would terminate bail and forfeit the cash surety without further reference to the Court. Bail jump or breach of the other conditions would also make the order ineffective.	108
Duration and breach of conditions of pandemic-related bail	The bail order remained effective until the trial concluded, subject to the applicable conditions under Sections 437 and 439 CrPC and compliance with governmental COVID-19 directions. The applicant had to furnish an undertaking and supply the order to the police station for his residence. The Court directed that a bail jump or breach of the specified conditions would cause the order to lose effect, with custody to follow breach of the pandemic directions.	182
Nonappearance and Unknown Whereabouts After Release on Bail	Repeated applications under Section 317 CrPC in place of personal appearance, combined with a police report that the accused no longer lived at the stated address and that his family did not know his whereabouts or mobile number, supported a finding that he had absconded after release on bail.	373
Anticipatory bail conditional on appearance by a specified date	Where the anticipatory-bail order expressly required the applicant to appear before the investigating officer by a specified date, failure to appear by that date would make the order ineffective and leave the officer free to take the applicant into custody. The deadline was an express condition of this particular grant.	551
Anticipatory bail until trial conclusion — protection depended on timely appearance and continuing compliance	The anticipatory-bail order required the protected applicant to appear before the investigating officer by 8 September 2021 and furnish a personal bond of Rs.1,00,000 to that officer's satisfaction. He also had to undertake compliance with applicable Central, State and local COVID-19 instructions, while the other Section 438 CrPC conditions remained operative. Protection continued until conclusion of trial, but would lose effect upon failure to appear by the stated date, a bail jump or breach of a specified condition.	639
	Sub-Chapter no. 15.7 **Bail Grant Order — Initial Legality, Reasons and Superior-Court Review**	
Bail orders — Reliance on irrelevant material	A bail order becomes liable to be set aside when it relies on irrelevant material while leaving relevant considerations out of account. Bail discretion must follow established legal parameters and cannot be exercised arbitrarily. The	112

Topic	Ratio	Case Sr.no.
and omission of relevant factors	principle was adopted to reject reliance on completion of witness examination as the sole justification for release while disregarding the accusation, supporting evidence and potential punishment.	
Reasons for granting or refusing bail	An order deciding bail must show application of judicial mind to the material circumstances and give brief reasons supporting the conclusion. An elaborate discussion of the evidence is unnecessary, but the parties' consent to an unreasoned order cannot dispense with this duty. The requirement protects the exercise of discretion and permits judicial scrutiny.	180
Challenge to an unlawful bail grant and cancellation for later circumstances	A bail order may be challenged before a higher forum for perversity, illegality or failure to consider material circumstances supporting a prima facie case, even without a subsequent change of circumstances. Cancellation sought because of circumstances arising after release is a distinct ground under Section 439(2) CrPC. Failure to consider criminal antecedents may affect the legality of the original grant.	180
Distinct grounds for setting aside an order granting bail	Bail may be cancelled for subsequent misuse of liberty or breach of its conditions, or because the original order granted bail while ignoring material facts. These grounds involve different considerations. The application before the Court proceeded on subsequent misuse of liberty and breach of bail conditions.	221
Reasons Supporting a Prima Facie Decision to Grant Bail	A bail court need not examine the evidence in detail or give an elaborate account of the merits, but it must state reasons for its prima facie decision to grant bail, particularly in a serious offence. A mechanical order lacking those reasons suffers from non-application of mind.	373
Prima facie scrutiny without detailed assessment of evidence in bail proceedings	A bail court may consider whether reasonable grounds prima facie connect the accused with an offence and may consider its gravity. It should avoid an extensive assessment of evidence or merits capable of prejudicing the prosecution or defence. Examining whether specific allegations connect particular accused with the alleged offence does not, by itself, amount to an impermissible detailed trial of the evidence.	461
Setting aside anticipatory bail for an unlawful initial grant	The prosecution, complainant or victim may approach the superior court where bail was granted without considering material on record. This review concerns the legality of the original grant and does not require proof of later misuse of liberty. Cancellation for subsequent misconduct or supervening circumstances involves a different inquiry. In reviewing anticipatory bail amid specific allegations of dowry harassment and an unnatural sexual act, the High Court found that the lower court had casually treated delayed disclosure against the wife without considering her efforts to preserve the marriage and her alleged disclosure to her in-laws. Given these circumstances and the seriousness of the allegations, the grant was materially unlawful and was set aside.	590
Duty to give reasons for granting or refusing bail	An order granting or refusing bail must show application of judicial mind and give brief, relevant reasons. Consent of counsel to dispense with further reasons cannot remove that duty, because bail affects personal liberty, victims' interests and the public administration of criminal justice. Reasons make the exercise of discretion open to scrutiny and restrain arbitrary decision-making. A formulaic or mechanical order cannot replace consideration of the material circumstances.	590
Bail orders — reasons must explain the exercise of discretion	A bail order must give reasons, even briefly, showing why release is justified on the relevant material. A recital that the record was perused, the parties were heard or the facts and circumstances were considered does not by itself explain the decision. Avoiding a detailed merits examination does not excuse the absence of a prima facie assessment. Failure to assign reasons may demonstrate non-application of mind and justify setting aside the grant. The fresh anticipatory-bail order here failed to explain why the accused was entitled to protection despite the alleged firearm injury.	707

Topic	Ratio	Case Sr.no.
Bail grant — irrelevant considerations or omission of material factors expose the order to annulment	The adopted Dinesh M.N. principle states that a bail order becomes vulnerable to annulment when irrelevant material is considered and relevant material is left out. It is reproduced within Virupakshappa Gouda and repeated in Bhupat Singh's reasoning relied upon by the Court. Completed examination of witnesses cannot be treated as decisive while ignoring their support for the prosecution, the seriousness of the allegations and the possible punishment. The present Court used that principle to reject the ground urged for repeat bail; the application before it sought release, rather than cancellation of an existing bail order.	749
Bail order based on irrelevant material or exclusion of relevant material	A bail order becomes vulnerable to annulment when it relies on irrelevant material while leaving relevant considerations out of account. The Court must apply the established bail parameters rather than act arbitrarily.	796
Superior-court interference with an illegal bail grant without subsequent misuse of liberty	A challenge to the original legality of a bail order is distinct from cancellation based on later misconduct, breach of conditions or other supervening circumstances. A superior court may set aside a perverse, illegal or unjustified grant that ignores material evidence or rests on irrelevant considerations, even where subsequent misuse is not alleged. Applying the principles reproduced from Brijmani Devi, Mahipal, Neeru Yadav and Padmakar Tukaram Bhavnagare, the Court entertained the father's application under Section 439(2) CrPC against the Sessions Court's anticipatory-bail order. It set aside that unreasoned grant, directed surrender within fifteen days and permitted arrest warrants on default.	952
Bail orders must give reasons showing consideration of relevant factors	A bail decision must disclose a judicial assessment of the relevant material. The court should consider the nature and gravity of the accusation, severity of possible punishment, prima facie supporting material, antecedents and character of the accused, risk of absconding or repeated offending, and the possibility of influencing witnesses, tampering with evidence or obstructing justice. The genuineness of the prosecution and individual liberty also bear on that assessment. Detailed evaluation of the evidence or a finding of guilt is unnecessary at the bail stage, but brief reasons must show application of mind. The authorities reproduced from Kamla Devi, Brijmani Devi, Jaibunisha and Manoj Kumar Khokhar also make clear that the parties' consent to an unreasoned order cannot dispense with that duty. A bare assertion of parity did not satisfy it here.	952
	Sub-Chapter no. 15.8 **Bail After Addition of Graver Cognizable and Non-Bailable Offences**	
Custody after addition of a murder charge following earlier bail	Where bail had been granted for the offence under Section 307 IPC and the injured later died, the Court rejected the contention that Section 302 IPC was not an aggravated offence and that the accused could not be taken into custody without first cancelling the earlier bail. It found no error in taking the applicant into custody after the murder offence was registered.	615
	Sub-Chapter no. 15.9 **Bail Order Finality — Reconsideration Before Signature and Section 362 CrPC**	
Reconsideration of a Dictated Bail-Withdrawal Order Before Signature	Where dismissal of a Section 439 CrPC bail application as withdrawn had been dictated but the order had not been typed or signed, the Court permitted counsel to retract the withdrawal request and heard the application again. Applying Kushalbhai Ratanbhai Rohit v. State of Gujarat, (2014) 9 SCC 124, the Court treated the unsigned order as capable of alteration. The narrated discussion of Surendra Singh v. State of U.P., AIR 1954 SC 194, explains that even a signed draft becomes operative only on formal delivery. The decision concerns reconsideration before finalisation of the order.	650

Topic	Ratio	Case Sr.no.
Section 362 CrPC and the forum for challenging the legality of a bail order	An order granting bail cannot be substantively reviewed by the same court in the absence of an express statutory power; Section 362 CrPC bars alteration or review of a final order apart from correction of clerical or arithmetical error. Applying Abdul Basit, the Court distinguished such review from cancellation on subsequent misuse of liberty. A challenge alleging that the original grant ignored relevant material must be brought before the superior court, while an application based on misuse of the liberty may be brought before the court that granted bail. The superior-court challenge to the Sessions Court's original anticipatory-bail grant was therefore maintainable.	952
	Chapter no. 16 **Bail Conditions and Travel Permission**	
	Sub-Chapter no. 16.1 **Foreign Travel Permission During Criminal Proceedings**	
Duty to communicate court permission for foreign travel to immigration authorities	The LOC's originating agency must urgently communicate relevant court orders to the Bureau of Immigration and keep track of the criminal proceedings through the Public Prosecutor. It could not justify noncommunication of travel permission merely by claiming that the prosecutor had not informed it or that the final order preceded departure by only a short interval. Reading the trial court's two orders together, the Court found permission to travel had been granted and rejected the attempt to defeat it through the unreviewed LOC.	83
Passport issuance and permission to travel during a pending trial	Prior permission of the court conducting the trial is not required merely to obtain a passport, but permission is required to travel abroad. The Court distinguished these matters while construing the trial court's orders as allowing the bailed petitioner's journey to the United States.	83
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	Macro Division V **Charge, Trial and Procedural Fairness**	
	Chapter no. 17 **Trial Procedure, Witness Management and Fair Opportunity**	
	Sub-Chapter no. 17.1 **Closure of Evidence and Defence Evidence**	
Section 91 CrPC — seeking documents for the defence at an appropriate stage	Refusal to order investigation according to the accused's preferred theory does not prevent the accused from defending the case at the appropriate stages. The Court identified an application under Section 91 CrPC as a means to seek production by hotel owners or other persons of the documents on which the accused wished to rely. That opportunity did not justify directing the police, during the ongoing investigation, to follow the accused's account.	10
Withdrawal of a witness — impermissible after	A party may give up a summoned witness before examination begins, but cannot withdraw the witness after examination-in-chief has started and thereby deprive the opponent of cross-examination. The defence could not abandon its	12

Topic	Ratio	Case Sr.no.
examination-in-chief begins	doctor when the prosecution began eliciting medical reports of other injured persons. The Court rejected the trial court's exclusion of his partially recorded testimony and read that evidence in the circumstances of this case.	
Voluntary defence testimony and explanation of conduct at sentencing	Where the accused voluntarily testified under Section 315 CrPC, the Court assessed his admissions and his explanation of the conduct relied on in defence. His admitted arrears, absence of payment receipts and failure in that testimony to claim that he had stopped running the mill were material when considering the later plea for leniency.	25
Accused giving evidence as a defence witness and answering incriminating questions	An accused who voluntarily gives evidence as a defence witness under Section 315 CrPC is treated as a witness for examination and cross-examination. In that capacity, the accused cannot refuse a question merely because its answer may be incriminating, and admissions in the testimony may be used against the accused. The Court applied that principle when assessing the appellant's sworn defence.	124
Accused who elects to testify is assessed as a witness	Once the accused enters the witness box, his testimony is assessed like that of another witness. In evaluating the explanation offered to rebut the cheque presumption, the Court considered his failure to explain the adverse circumstances, including the undisputed signature and the absence of a consistent account or report of the alleged theft. His examination under Section 313 was distinguished from his evidence as a defence witness.	176
Defence witnesses must be assessed on the same footing as prosecution witnesses	Defence witnesses are entitled to the same standard of assessment as prosecution witnesses. Their evidence must be considered on its merits; here, the defence testimony itself supported that the occurrence had taken place, although the witnesses avoided identifying the assailants.	206
Official defence evidence relevant to disputed incident timing	Where the time of the incident remained disputed because of an apparent alteration in the initial intimation, official records of an electricity outage could assist the trial court in resolving that issue. The difference between the outage period and the prosecution's stated incident time did not make the evidence immaterial before the correct timing was determined. The Court found the certificate essential to a just decision and directed summoning of the electricity engineer with the original records.	212
Section 233(3) CrPC — summoning government officials for defence	When the accused seeks process for a defence witness or production of a document or thing, Section 233(3) CrPC requires its issue unless the judge records reasons that the request is for vexation, delay or defeating the ends of justice. Possible disruption of government work is not, by itself, a statutory ground to refuse government officials as defence witnesses. The High Court set aside that part of the refusal order and remanded the request for decision under Section 233; it did not order unconditional summons.	322
Closing Prosecution Evidence After Repeated Failure to Produce Witnesses	The Raj Deo Sharma passage quoted through Shambhu Nath Singh recognises the trial court's power to close prosecution evidence where witnesses are not produced despite repeated opportunities. It links that power to Section 309's requirement of expeditious proceedings and continuous witness examination. The stated basis is repeated default, rather than a fixed automatic deadline.	386
Assessment of defence witnesses	Defence evidence must be appreciated in the same manner as prosecution evidence. The Court rejected the two defence witnesses because their accounts contained material contradictions and doubtful claims about the accused’s visit, rather than because they appeared for the defence.	391
Reasoned consideration of a request for material hospital records	Where the evidence about treatment was disputed and the hospital maintained a drug-administration register capable of testing it, rejecting the accused’s request to summon that register without reasons was a material irregularity. The missing drug and indoor registers also weakened the doctor’s account of treatment, admission and transfer in this case.	467

17.1 : Closure of Evidence and Defence Evidence

Topic	Ratio	Case Sr.no.
Section 243(2) CrPC: process for relevant defence evidence and reasons for refusal	An accused who has entered upon the defence may seek process for production of documents under Section 243(2) CrPC. The court must consider whether the request is bona fide and the material relevant. Refusal on the statutory grounds of vexation, delay or defeating the ends of justice requires reasons recorded in writing. The provision does not permit summoning wholly irrelevant evidence or unnecessarily prolonging the trial. Here, the trial court had found neither the requested records irrelevant nor the application dilatory, so refusal of process was set aside.	556
Possible RTI access does not by itself justify refusal to summon defence records	The possibility of obtaining documents under the Right to Information Act was not a sufficient reason to refuse court process where the accused specifically asserted that the records concerned a third party and would not be supplied to him. The bank loan and industrial-registration records were sought to establish his defence that he was not the factory's proprietor, and the trial court had not found them irrelevant. He was entitled to an opportunity to bring that material before the court.	556
Summoning defence documents does not dispense with their proof	Production of documents through court process under Section 243(2) CrPC does not establish their contents or decide the defence. The accused must still prove the documents in accordance with law. The trial court must assess their evidentiary effect and decide whether they establish the asserted defence.	556
Closing prosecution evidence without securing an essential witness and original records	A trial court should not mechanically close prosecution evidence when an important witness has not been secured and essential original medical records have not been produced. The Court criticised closure without using the available coercive process against the non-cooperating witness, because it prevented important evidence bearing on the declarant's fitness from reaching the record.	580
Production of preserved defence records under Section 233 CrPC	A refusal to produce court-preserved defence material could not stand once the police assertion of its unavailability proved false. The requested CDRs and mobile-location records had been received on the then SP's official email and were later recovered into the present SP's possession. The Court set aside rejection of the Section 233 application and directed filing of the complete record within ten days, if not already filed. Its evidentiary use and what it proved remained for the trial court.	769
Defence use of an unexhibited prosecution document	An accused may take advantage in defence of a prosecution document even if that document has remained unexhibited. The Court stated this principle while rejecting the request to compel police acceptance of the applicants' alibi documents and leaving the defence to be proved through evidence.	814
Defence affidavits filed with written arguments cannot substitute for witness examination	In the warrant-case procedure applicable through Section 5 of the Prevention of Corruption Act, Section 243 CrPC requires the accused to produce defence witnesses or seek process subject to its statutory conditions. Affidavits of unexamined persons, filed with written arguments after the defence declined to lead evidence, could not prove that the work was completed. No leave had been sought or granted, and the prosecution had no opportunity to cross-examine. The Khandesh Spinning passage concerning authorised affidavit proof in industrial and civil procedure was used by analogy; the Court expressly stated that CPC provisions did not apply to this criminal trial.	914
Reopened prosecution evidence and renewed defence opportunity before final arguments	By directing production of the awaited DNA report, the trial court implicitly reopened the prosecution case and should not have simultaneously fixed final arguments before completing the ensuing stages. Sections 232–234 CrPC require consideration of acquittal, an effective opportunity to enter the defence where applicable, and only then final submissions. On remand, the report was to be exhibited afresh after the objections were decided or the scientific officer examined. Any request to cross-examine that officer and to lead defence evidence in light of the report had to be considered in accordance with law	917

Topic	Ratio	Case Sr.no.
	before final arguments were scheduled.	
Accused's reliance on a favourable unexhibited prosecution document	An accused may rely on an unexhibited prosecution document that supports the defence. That principle applied to the handwriting report said to have been filed by the prosecution, although its favourable contents did not by themselves establish that no other evidence supported the pending prosecution.	973
Section 91 CrPC: necessity, stage and purpose of document production	Necessity or desirability of producing a document under section 91 must be assessed in light of the stage, purpose and party seeking it. An accused cannot invoke the provision at the initial charge stage to seek defence documents to establish innocence; entitlement ordinarily arises at the defence stage. The provision compels production and does not give an accused a right to introduce documents already in the accused's possession or conduct a fishing inquiry.	978

Sub-Chapter no. 17.2
Recall of Witnesses, Cross-Examination and Fair Trial Control

Sections 138 and 154 Evidence Act — scope of questioning a defence witness	Cross-examination may extend to relevant facts beyond those covered in examination-in-chief. A doctor called by the defence to prove an accused's injuries could therefore be questioned by the prosecution about other injured persons whom he had also examined. The calling party has no ordinary right to cross-examine its own witness; it may seek the Court's permission under Section 154 or seek re-examination under Section 138 to explain matters arising in cross-examination.	12
Section 311 CrPC: recall of a prosecutrix who alleges that her earlier testimony was under pressure	Recall under Section 311 CrPC must be necessary for a just decision and directed to finding the truth or obtaining proper proof. The discretion requires strong reasons, fair opportunity and care for the interests of the accused, victim and society. Applying Rajaram Prasad Yadav and referring to its earlier reliance on Zahira Habibullah Sheikh, the Court found no reason to disturb recall of a prosecutrix who had turned hostile and later alleged pressure and a change in the accused's position. Its observation that consent obtained under a misconception of fact would not be free consent under Section 90 IPC explained why further evidence mattered; it did not finally determine guilt. The Court clarified its earlier decision without conducting a fresh merits adjudication of the marriage affidavit or rape charge.	46
Section 311 CrPC: additional evidence, prejudice and a fair opportunity to rebut	The Section 311 power must be exercised judiciously to obtain evidence essential to a just decision, rather than leave the case on incomplete or speculative facts. As explained in the Rajaram Prasad Yadav passage accepted by the Court, recall is not to be labelled filling a prosecution gap unless the circumstances show serious prejudice causing a miscarriage of justice. Relevant material omitted inadvertently may be permitted, but additional evidence cannot be a disguise for changing the case. The other side must have a fair opportunity to rebut it, with particular care to protect the accused's opportunity to defend.	46
Section 311 CrPC — recall for matters outside a forensic witness's responsibility	Recall of laboratory scientists under Section 311 CrPC was not necessary for cross-examination about collection, safe custody and transport of blood samples when they had no role in those matters. Their responsibility concerned the procedures followed inside the laboratory. As the stated purpose of recall did not concern matters connected with those witnesses, rejection of the application disclosed no jurisdictional error warranting Section 482 interference.	59
Section 311 CrPC — discretionary power and mandatory essential-evidence duty	The Section 311 principles adopted permit a criminal court, at any stage of inquiry, trial or other proceedings under the Code, to summon a witness, examine a person present though not summoned, or recall and re-examine a witness already examined. The second part is mandatory: the court must summon and examine, or recall and re-examine, a person whose evidence appears essential to a just decision of the case.	59

17.2 : Recall of Witnesses, Cross-Examination and Fair Trial Control

Topic	Ratio	Case Sr.no.
Section 311 CrPC — strong reasons, evidentiary clarity and prevention of abuse	Section 311 CrPC is exercised to secure justice, clarify ambiguity in the evidence and keep the record accurate without causing prejudice. The adopted principles require strong and valid reasons, caution, and consideration of the particular circumstances. The power must not be used where the court considers the application an abuse of process.	59
Belated or successive recall applications — explanation and prejudice	The principles relied upon caution against summoning a witness long after prosecution evidence has closed where the earlier non-examination is not satisfactorily explained and the belated step would seriously prejudice the accused. Successive applications to recall the same witness should also not be encouraged. The assessment remains tied to the circumstances and the requirement of evidence essential to a just decision.	59
Duty to consider cross-examination when assessing witness evidence	The court must assess the evidence elicited in cross-examination as well as examination-in-chief, including whether contradictions and improvements are minor or material. Reproducing the examination-in-chief while ignoring cross-examination fails to consider the defence's means of testing the prosecution account. The Court criticised that omission in the trial judgment while acquitting the appellant.	99
Recall under Section 311 based on alleged inadequacy of earlier counsel	Witnesses cannot be recalled under Section 311 CrPC merely because newly engaged counsel considers earlier cross-examination ineffective. The Court declined to presume a registered practising lawyer incompetent and applied Shiv Kumar Yadav, which requires regard to fair opportunity, concrete prejudice, expeditious trial and avoidance of undue harassment of the victim. Here, the accused had received a full opportunity and had taken no action against the former lawyer. Allegations of professional misconduct alone did not justify recalling nine witnesses. The Court identified Bar Council proceedings and a claim for compensation as remedies for the alleged misconduct, while dismissing the recall challenge.	104
Recall after represented waiver of cross-examination and alleged counsel misconduct	Section 311 CrPC allows further examination when necessary for a just decision, but recall must be refused where the sole intention is delay or harassment of a prosecution witness. Here, the witness testified in the presence of local defence counsel, who declined cross-examination, and did not support the prosecution. The Court rejected the claim that lead counsel learnt of this only about two years later. No complaint to the Bar Council supported the allegation of counsel misconduct, which the Court treated as an afterthought. An offer to pay costs and compensate the witness did not justify recalling him merely for the accused's satisfaction.	109
Judicial questioning under Section 165 Evidence Act and alleged bias	To discover or obtain proper proof of relevant facts, a judge may question witnesses at any stage, even about an otherwise irrelevant fact, and order production of a document or thing. Parties cannot object to such questions or cross-examine on the answers without the Court's leave. The power remains subject to the statutory limits on privilege, improper questions and primary evidence, and the judgment must rest on relevant facts duly proved. A criminal court has a participatory role under Section 311 CrPC and Section 165 Evidence Act. Its questioning of defence witnesses did not by itself establish bias warranting transfer.	211
Judicial questioning and blanket recall of defence witnesses	Section 165 Evidence Act permits a judge to question witnesses to discover or obtain proper proof of relevant facts. Parties cannot object to those questions or cross-examine on the answers without leave, subject to the section's limits on proof, privilege and improper questions. Reiterating the criminal court's participatory role, the Court rejected the request to cancel all defence testimony and exhibits and recall every defence witness merely because the judge had questioned them.	212
Judicial questioning	Under Section 165 Evidence Act, a judge may question a witness or order	214

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to discover truth and its limits	production to discover or obtain proper proof of relevant facts. The power remains subject to privileges, restrictions on improper questions and primary-evidence requirements, and the judgment must rest on relevant facts duly proved. Applying Sidhartha Vashist, the Court explained that a judge should assist the search for truth but must not confuse, coerce or intimidate the witness.	
Summoning essential witnesses under Section 311 CrPC after final arguments	Section 311 CrPC permits the court to summon, examine or recall a witness at any stage and requires it to do so when the evidence appears essential to a just decision. An order summoning additional prosecution witnesses cannot be set aside merely because the accused describes it as filling a prosecution lacuna. The Court upheld the order where the accused identified no specific lacuna and the trial court committed no jurisdictional error in exercising that power.	262
Court's participatory role under Section 311 CrPC and Section 165 Evidence Act	A criminal court must play a participatory role in determining whether further evidence is necessary for a just decision, while avoiding the role of a prosecutor. The powers under Section 311 CrPC and Section 165 Evidence Act support that role. In relying on the cited authorities, the Court also recognised that parties cannot object to questions put by the court under Section 165.	262
Section 311 CrPC: substituting a witness after hostile testimony	Section 311 CrPC cannot be used as a disguise to change the prosecution case. After the original last-seen witness turned hostile, the complainant sought a replacement who had neither been examined during investigation nor cited as a witness. In the circumstances, summoning him was not essential to a just decision and the order permitting it was set aside.	283
Section 311 CrPC: duty to obtain evidence essential to a just decision	Section 311 CrPC confers a discretionary power to summon, examine or recall a witness, and makes its exercise obligatory when the evidence appears essential to a just decision. Its purpose is to obtain the truth and prevent failure of justice caused by missing evidence or ambiguity. Evidence is not disqualified merely because it supports the prosecution; the power must be exercised judicially and for valid reasons.	283
Closure of prosecution evidence does not extinguish Section 311 power	Even after prosecution evidence has been closed, the Court may invoke Section 311 CrPC if a witness's evidence is essential to a just decision. Directions intended to secure a speedy trial do not remove that statutory power or duty. Closure alone is therefore not a sufficient reason to reject the request.	283
Additional evidence under Section 311: prejudice and opportunity to rebut	Obtaining evidence needed to discover the truth is not merely filling a prosecution gap unless the circumstances show serious prejudice to the accused resulting in miscarriage of justice. The evidence must be relevant to the issue, and the other party must receive a fair opportunity to rebut it. The Court must guard against arbitrary use of the power and disguised alteration of the case.	283
Closure of cross-examination after repeated deliberate delay	The valuable right to cross-examine prosecution witnesses may be treated as given up where the accused deliberately delay the trial to harass witnesses. Here cross-examination remained incomplete for five to six years. Despite an express warning to arrange alternative counsel if necessary, the accused sought another adjournment to engage counsel and supplied no order sheets to rebut the history of delay. On that record, closure of their opportunity disclosed no jurisdictional error.	293
Offer of costs after prolonged avoidance of cross-examination	An offer to pay costs does not necessarily justify reopening an opportunity to cross-examine after prolonged deliberate delay. After the accused had obtained adjournments for five to six years, the Court rejected their request for one last opportunity on payment of ₹5,000, having regard to the rights of the victim and witnesses.	293
Section 311 CrPC — essential evidence and bona fide grounds for recall	Section 311 CrPC confers wide power, and a duty where evidence is essential to a just decision, to summon, recall or re-examine a witness. The power requires judicial reasons, care and caution; an assertion of fair trial does not make recall automatic. Applying Rajaram Prasad Yadav, Shiv Kumar Yadav	308

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	and Ram Mehar, the Court considered essentiality, bona fides, witness hardship and the interests of the accused, victim and society. Recall was refused where counsel voluntarily left cross-examination without substantiating the alleged recording error and the accused himself created the loss of opportunity.	
Section 311 CrPC — explanation for delay in seeking recall	Delay in seeking recall is an important factor requiring explanation. Following Ratanlal v. Prahlad Jat, the Court treated the delay from closure of cross-examination until the later recall application as material in the circumstances, particularly when no immediate recording complaint had been made. The belated recall allowed to protect a fair defence in P. Sanjeeva Rao did not make delay irrelevant or establish an automatic right to recall here.	308
Section 311 CrPC — correction of error and the objection of filling a lacuna	Evidence essential to a just decision may be received to correct a bona fide mistake or remove ambiguity; Section 311 is not confined to the accused's benefit and may operate even after evidence has been closed. A truth-seeking recall is not necessarily an impermissible attempt to fill a prosecution lacuna. The court must examine whether it serves a just decision or instead causes serious prejudice and miscarriage of justice. The Rajaram Prasad Yadav principles relied upon require that assessment on the actual circumstances.	308
Section 311 CrPC — relevance, rebuttal and prohibition of a disguised retrial	Additional evidence received through Section 311 must be germane to the issue and supported by strong, valid reasons. The other party must have an opportunity to rebut it. Recall cannot be used as a disguise for retrial, to alter the nature of the case or to give an unfair advantage causing serious prejudice. These limits accompany the wide recall power in the Natasha Singh and Rajaram Prasad Yadav passages relied upon by the Court.	308
Defective investigation — trial court's powers to obtain necessary evidence	In evaluating a defective investigation, the court may take an active and analytical role to discover the truth, using Section 311 CrPC and Section 165 of the Evidence Act at the appropriate stage. The relied-upon Zahira Habibulla decision explains that deliberate or negligent omissions should not prevent the court from obtaining and evaluating necessary evidence.	319
Section 233(3) CrPC — recalling an examined prosecution witness for defence	The Court upheld refusal to summon as a defence witness a person already examined for the prosecution where the accused had been given a full opportunity to cross-examine him. It applied State of M.P. v. Badri Yadav, which treats use of Section 233(3) to recall examined and cross-examined prosecution witnesses after unsuccessful recall proceedings, for a purpose defeating justice, as impermissible. The decision does not dispense with the statutory assessment of vexation, delay or defeat of justice in other applications.	322
Change of Counsel and Allegedly Inadequate Cross-Examination	A change of counsel or an assertion that the earlier lawyer failed to cross-examine effectively does not by itself justify recalling witnesses under Section 311 CrPC. Incompetence of counsel chosen by the accused cannot be presumed. Applying Ram Mehar and Shiv Kumar Yadav, the Court rejected recall sought on that basis and found no jurisdictional error in the trial court's refusal.	385
Essentiality, Bona Fides and Competing Interests in Witness Recall	Section 311 CrPC permits recall where it is essential to a just decision, but a general appeal to fairness is insufficient without tangible reasons showing why further examination is needed. A bona fide mistake may be corrected, yet the court must balance the request against unnecessary hardship to witnesses and delay. The accused's custody does not mean that only the accused is affected by prolonging the trial or that recall follows as a matter of course.	385
No Automatic Defence Recall Because Prosecution Witnesses Were Recalled	Earlier permission for the prosecution to recall witnesses does not confer an equivalent entitlement on the defence without an independently acceptable ground. The Ram Mehar passage relied upon by the Court rejects an arithmetical distribution of opportunities: a liberal approach remains governed by judicial principles and the need for a just decision, rather than generosity alone.	385

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Closure of Cross-Examination After Repeated Dilatory Requests	The Court upheld closure of the accused's right to cross-examine the prosecutrix after repeated deferment requests found to be intended to harass her. Her chief-examination had been recorded, cross-examination was deferred for lack of defence preparation, and a newly engaged advocate later sought further time while refusing witness costs. Although loss of cross-examination could seriously prejudice the accused, the Court held that he had created that situation through his own delaying conduct. The ruling rested on that sequence of opportunities and conduct.	386
Defence Use of Cross-Examination When a Witness Was Examined Twice	The same witness was inadvertently examined once as PW 6 and again as PW 33. The trial court directed that the second examination be ignored, but the High Court set that order aside: the defence remained entitled to rely on favourable facts elicited in the later cross-examination. Both recorded examinations therefore had to be read for the evidentiary assessment.	389
Section 311 CrPC—summoning an essential age-proof witness	Section 311 CrPC permits the Court to summon a witness on its own initiative and requires it to do so where the evidence appears essential to a just decision. The prosecution's failure to cite the school teacher or headmaster did not justify leaving the relied-upon age record unproved; the trial court should have examined that person as a court witness.	414
Section 311 CrPC—truth-seeking evidence and unfair filling of gaps	The controlling question under Section 311 is whether the proposed evidence is essential to a just decision. The power cannot be used merely to repair a party's case unfairly, change its nature or cause serious prejudice, but obtaining essential evidence is not improper simply because it remedies an omission or supports the prosecution. Strong, valid reasons and a judicial exercise of discretion are required.	414
Court-called witness—opportunity to cross-examine and rebut	A witness summoned by the Court under Section 311 CrPC is not the witness of either party. A party against whom that testimony is given must have a fair opportunity to cross-examine under the Evidence Act and rebut the additional evidence.	414
No Reliance on Testimony Where the Accused Had No Cross-Examination Opportunity	A witness's evidence cannot be read against the accused where cross-examination was deferred and the accused was never given an opportunity to conduct it. An order-sheet entry recording examination and cross-examination did not cure the defect when the trial record showed that the witness's examination had been adjourned at the end of working hours. The Court excluded the testimony and assessed the remaining evidence.	451
Giving up material eyewitnesses on an unsupported prediction of hostility	The Court found it arbitrary to give up two unexamined eyewitnesses, including the deceased's father, merely on the assertion that they would not support the prosecution and that their examination would waste time. The prosecutor did not explain how he knew their proposed evidence: neither witness was present when given up, and his affidavit identified no communication from them. Another witness who did not support the prosecution had nevertheless been examined. Those circumstances did not provide a sound basis for withholding the material witnesses.	557
Section 311 CrPC application to examine wrongly omitted witnesses	After finding that the prosecutor had wrongly given up material eyewitnesses, the High Court directed the Public Prosecutor to apply immediately under Section 311 CrPC for permission to examine them. The trial court was to decide that application after considering the witnesses' importance. The direction required an application and judicial consideration; it did not itself compel examination or establish what the witnesses would say.	557
Leading questions on disputed material facts in examination-in-chief	A prosecutor cannot use leading questions to supply the desired account of disputed material facts to a witness who has not been declared hostile. Section 142 permits such questions for introductory, undisputed or sufficiently proved matters, which did not include the disputed instigation here. The witness's old age and the lapse of years did not justify that procedure. The Court excluded	563

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	the instigation answers elicited through those questions; the adopted precedent treated such prompting on the prosecution's material case as an infringement of the fair-trial right under Article 21.	
Section 311 CrPC — officer's opinion from an unlawful parallel inquiry did not justify summoning	Summoning the officer merely to establish an exonerating opinion reached in an impermissible parallel inquiry would serve no purpose. Examining him for that purpose would endorse a report produced outside the lawful process, and his opinion on the accusations was not legally relevant. The High Court therefore upheld rejection of the Section 311 CrPC application on that ground, although the trial court had relied on different reasons concerning expeditious disposal.	637
Essential Additional Evidence Under Section 311 and the Prosecution-Lacuna Objection	Section 311 CrPC must be exercised judiciously, for strong and valid reasons, to obtain evidence essential to finding the truth and deciding the case justly. Applying Rajaram Prasad Yadav and Rajendra Prasad, the Court distinguished prosecutorial oversight from an impermissible attempt to fill a prejudicial lacuna. Relevant evidence omitted through inadvertence may be received, but it must not disguise a change in the case, cause serious prejudice amounting to miscarriage of justice, or deny the other side an opportunity to rebut it. Fair opportunity must be preserved for the accused, victim and prosecution. The DNA direction based on the positive FSL result met the just-decision requirement and disclosed no jurisdictional error.	658
Complainant's role in seeking production and recall in a Sessions trial	A Sessions trial is conducted by the public prosecutor; the complainant may assist the prosecutor but has no independent right to conduct the trial. The applicant, who was a witness to identification and investigative proceedings, showed no authority or locus to challenge the investigating agency's failure to produce seized articles through a request for production and recall of witnesses. The Court refused interference on that basis and because non-production alone did not justify acquittal.	843
Section 311 CrPC: active judicial control of material witness evidence	The trial court must seek the truth and remain alert to material evidence omitted or misstated by the prosecution. Under Section 311, it may summon, examine, recall or re-examine a witness at any stage and must do so when that evidence appears essential to a just decision. It may prompt clarification or put appropriate questions to reconcile testimony with the witness's own record, while avoiding prejudice to either side. Prosecution control of a Sessions trial under Sections 225, 226 and 301 does not eclipse those powers.	868
An alleged investigative omission must be put specifically to the witness	Evidence appreciation cannot proceed on an assumption not established in the testimony. A witness must have a fair opportunity to explain the particular circumstance alleged against him. The defence's general suggestion that documents came from a disposed-of file did not establish that the investigating officer deliberately omitted existing order sheets. The Court rejected that contention because no specific question about their alleged deliberate non-seizure had been put to him.	879
Complainant's Section 311 CrPC application — factual basis for invoking the Court's intervention	A complainant relying on the procedure recognised in Rekha Murarka must set out the factual basis for intervention, including the Public Prosecutor's material omission despite suggestions and the matter brought to the judge's notice. Where the application alleged no lapse by the prosecutor and did not assert that any issue had been brought to the Court's notice, the High Court held that the complainant's Section 311 application could not be considered.	890
Suo motu recall under Section 311 CrPC after production of material evidence	Where a recovered personal diary is taken on record as part of the charge-sheet or supplementary charge-sheet, the trial court must recall prosecution witnesses suo motu under Section 311 CrPC if further examination concerning that diary is required. The direction depends on the need for further examination and does not require recall of every witness or determine the diary's authenticity.	911
Section 273 CrPC:	When the prosecution failed to produce the jailed accused, examination of a	917

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fresh examination of material witnesses in the jailed accused's presence	witness concerning only a co-accused's mobile number caused him no prejudice. The position differed for two doctors whose evidence about his semen slide, underwear and pubic hairs was used in the trial court's Section 377 IPC analysis. Following Atma Ram, the Court required those material witnesses to be examined afresh in the accused's presence, preserving his opportunity to observe their testimony and instruct effective cross-examination. The remedy addressed the affected evidence rather than requiring automatic acquittal or a fresh trial of every issue.	
Section 311 CrPC examination of a material witness whom the prosecution seeks to give up	The trial court could examine Ramvir as a court witness under Section 311 CrPC despite the prosecutor's request to give him up, because the FIR specifically named him as a person who could disclose the assailants. The High Court considered the prosecutor's attempt to withdraw him, in the circumstances of his cross-case position and the witnesses' denial of his presence, as part of the effort to suppress the real incident. The decision concerns the court's response to a material evidentiary need, not a duty to examine every witness proposed and later withdrawn by the prosecution.	919

Sub-Chapter no. 17.3
Fair Opportunity, Adjournment and Trial Management

Unopposed request — court must decide the legal issue on its merits	When a legal question arises for decision, the court must decide it on its merits even if the opposite party raises no objection. The prosecution's failure to oppose withdrawal of the defence doctor did not justify allowing withdrawal without deciding whether a witness already examined and partly cross-examined could lawfully be given up.	12
Prosecution's choice not to examine every listed witness	The prosecution may choose to examine all or some of its listed witnesses. Its decision not to examine the deceased's wife did not, on the facts, establish malice or undermine the consistent testimony of the injured eyewitnesses.	21
Section 138 NI Act — dismissal for absence on the first date after transfer	Where the complainant had attended on several dates and her cross-examination had been completed, dismissal of the Section 138 NI Act complaint for non-prosecution on its first date before the transferee Magistrate was materially illegal. The Court considered the earlier proceedings, including occasions when the complainant attended but her evidence was not recorded, and set aside the dismissal.	52
Complainant's completed cross-examination — closure of further evidence instead of dismissal	After the complainant's cross-examination had been completed in the Section 138 NI Act case, the Magistrate, if satisfied that she was deliberately delaying the remaining evidence, should have closed her right to examine further witnesses and fixed the case for the accused's statement instead of dismissing the complaint for non-prosecution.	52
Section 165 Evidence Act — active judicial inquiry may clarify material bearing on legal insanity	When medical evidence and conduct raise a material question about the accused's capacity at the time of the offence, the judge should use Section 165 to discover and obtain proper proof of relevant facts rather than remain a silent spectator. The power includes questioning witnesses and ordering documents, but the judgment must rest on relevant facts duly proved. Statutory protections concerning privileged answers or documents, improper questions and primary documentary evidence continue to apply.	77
Timely supply of legible complaint documents to the accused	The complainant must supply the documents to the accused at the first appearance or send them with the notice. Repeatedly leaving a complaint pending without supplying legible copies calls for firm case management. The exceptional final opportunity granted here did not excuse routine failure to provide the complaint and its supporting documents.	126
Prosecutor's refusal to examine an available witness	When defence counsel sought to defer cross-examination of one witness, the Special Public Prosecutor repeatedly refused the trial Court's directions to record another available witness's examination-in-chief. The High Court	152

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	directed immediate withdrawal of the case from that prosecutor and required the competent authorities to review her continuation, after giving her a full opportunity of hearing, and to submit an action report within one month.	
Transfer sought on adverse orders and an unsubstantiated caste remark	Rejection of applications is not by itself a ground to transfer a criminal trial. The Court did not accept the allegation that the trial judge had made a caste-based remark and considered transfer inappropriate when the trial had reached final arguments. It therefore upheld refusal of the transfer request.	211
Attributing trial delay without considering prosecution adjournments	In assessing delay in an old trial, the trial court should consider adjournments attributable to the prosecution as well as those sought by the defence. The Court disapproved attributing the entire delay to six defence adjournments when the order did not address prosecution-witness non-appearance or explain why prosecution evidence had taken about five years to close.	212
Police failure to execute witness process and undertrial custody	An undertrial cannot be left in custody at the mercy of police inaction in executing summons, bailable warrants and arrest warrants issued for witnesses. After checking the trial court's report against the SSP's explanation, the Court found that summons had been issued and police failure to secure the witnesses had delayed trial; it directed that the order be sent to the DGP.	239
Section 309 CrPC and adjournment when witnesses attend	Once examination of witnesses begins, Section 309 CrPC requires it to continue from day to day until the attending witnesses are examined, unless a departure is necessary for recorded reasons. When witnesses are present, postponement without examining them requires special reasons recorded in writing; counsel's mere inconvenience does not satisfy that requirement. Cross-examination should ordinarily follow examination-in-chief on the same day, or the next day if examination continues until late hours.	293
Counsel of choice and the duty to arrange alternative representation	An accused's right to counsel of choice does not permit indefinite adjournments. The Court must balance that choice with witness hardship and proper progress of the trial. When counsel has unavoidable difficulty attending, arrangements should be made for examination of witnesses already present. Here the failure to arrange alternative counsel despite an express warning, with elderly or unwell witnesses awaiting cross-examination for years, supported refusal of a further adjournment.	293
Chosen counsel's withdrawal — appointment of a substitute amicus	The constitutional duty stated in Mohd. Ajmal Amir Kasab requires counsel for an unrepresented accused at the commencement of trial unless the accused voluntarily and clearly makes an informed choice to defend himself. The present accused already had counsel, who left during cross-examination; when offered the opportunity to proceed, the accused insisted that the same advocate alone would cross-examine. In those circumstances, the Court held that appointment of another lawyer as amicus was not obligatory and upheld closure of that witness's cross-examination. The conclusion rested on the recorded opportunity and refusal.	308
Section 309 CrPC — attendance of witnesses and refusal to cross-examine	Day-to-day continuation of a criminal trial is the rule and adjournment the exception. Once witness examination begins, it should continue daily; a witness in attendance should not be sent away without special reasons recorded in writing. Counsel's engagement elsewhere is not a ground for adjournment. Section 309 also permits appropriate orders dispensing with examination or cross-examination when a party or counsel is absent or, though present, unwilling to proceed. Applying the statute and the cited trial-management authorities, the Court upheld closure after counsel's unsupported withdrawal and the accused's refusal of the opportunity offered.	308
Alleged misrecording of evidence — specific and prompt	An allegation that the trial judge misrecorded a witness's answer required a factual foundation identifying the question, the answer given and the different answer recorded. Counsel's departure midway through cross-examination was not justified by an unspecified allegation, particularly when no prompt	308

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objection	application raised the grievance before the trial court. In applying the professional-duty authorities, the Court recognised fearless advocacy within the limits of propriety and counsel's duty of fairness to the court and the parties. It assessed the departure only for the recall request and left the separate contempt matter undetermined.	
Challenge to trial order-sheet — belated affidavit and deposition chronology	The absence of an event from the deposition sheet did not, by itself, establish that a later order-sheet recording the event was false. The Court distinguished closure of the deposition from the subsequent preparation of the order-sheet. It rejected as an afterthought the affidavit denying counsel's return to court, because the point had not been raised in either the original recall application or the Section 482 petition and appeared only during the latter proceeding.	308
Trial expedition — restraint against cursory directions disrupting the calendar	A High Court should not direct expedition of a trial in a cursory manner that disturbs the trial court's calendar. Applying M. Gopalakrishnan v. Pasumpon Muthuramalingan, the Court declined the applicant's custody-based request for an expedition direction. The order did not decide a developed claim of unconstitutional trial delay or analyse a particular trial schedule.	329
Section 165 Evidence Act — active judicial questioning with safeguards	A judge should actively seek the truth rather than remain a silent spectator. Section 165 permits questions, in any form and at any time, to discover or obtain proper proof of relevant facts, and permits orders for production. Judgment must nevertheless rest on relevant, duly proved facts. The statutory protections for privileged answers and documents, restrictions on improper questions, and rules concerning primary evidence remain applicable. Judicial questions must not confuse, coerce or intimidate a witness.	342
Alleged Professional Misconduct by Defence Counsel	Failure to ask certain questions does not, by itself, establish professional misconduct by the accused's chosen lawyer. The Court declined to presume misconduct where no complaint had been made to the Bar Council. Relying on R. Muthukrishnan, it identified the Bar Council as the competent disciplinary forum.	385
Trial Court's Duty to Control Unwarranted Adjournments	In the passages adopted through Ram Mehar, Section 309 CrPC requires orderly progress of the trial, and the trial court must actively control unwarranted adjournments rather than leave proceedings to counsel. Fair trial protects both the accused and the wider interests of justice. That duty does not curtail the full operation of Section 311 where further evidence is genuinely needed for a just decision.	385
Day-to-Day Examination and Special Reasons for Adjournment	Under Section 309 CrPC, once witness examination begins it must ordinarily continue from day to day until attending witnesses are examined. Postponement beyond the following day requires recorded reasons; postponement without examining a witness already present requires special reasons recorded in writing. Cross-examination should ordinarily follow chief-examination the same day, or the next day if proceedings continue late. Counsel's convenience or lack of preparation alone does not satisfy that discipline. The court must account for witness hardship and fairness to both prosecution and accused.	386
Change of Counsel and Costs of Repeated Witness Attendance	An accused who knows the next trial date must arrange representation in time; engaging a new advocate when the witness attends does not itself justify another adjournment. Here the further request and refusal to pay witness costs supported the finding of deliberate delay. The relied-upon Shambhu Nath Singh passage permits costs commensurate with a witness's attendance expenses and loss where the accused or counsel obstructs day-to-day examination.	386
Trial-Control Measures for Non-Cooperation With Witness Examination	The Shambhu Nath Singh passage relied upon by the Court identifies remand to custody and costs as measures available under Section 309 when the accused or counsel obstructs continuous examination. The quoted provision limits a Magistrate's remand to fifteen days at a time. Where an accused on bail is absent while a witness attends, cancellation of bail is identified as an option. The	386

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	passage preserves an alternative application permitting counsel to examine the witness in the accused's absence, supported by a written undertaking not to dispute identity.	
Counsel's Duty to Arrange Examination of Attending Witnesses	In the N.G. Dastane passage adopted through Mohd. Khalid, counsel with an unavoidable difficulty must make other arrangements for examination of witnesses already present. Repeated requests for postponement without such arrangements, causing witness hardship, may amount to professional misconduct; tactics intended to delay proceedings are also condemned as misconduct. The passage imposes a duty toward the court and attending witnesses.	386
Evidence recorded without the accused in breach of Section 273 CrPC	Subject to express statutory exceptions, evidence must be recorded in the accused's presence, or in the pleader's presence where personal attendance has been dispensed with. The two material witnesses' examination in the accused's absence, initially also without counsel, violated Section 273. Later cross-examination by counsel did not establish a valid dispensation on this record. The resulting serious prejudice required fresh examination; the breach was treated as a curable irregularity rather than a ground for automatic acquittal.	395
Unsubstantiated ineffective-assistance claim and de novo trial	A general allegation that assigned counsel lacked experience and failed to cross-examine properly did not justify a de novo trial on this record. Counsel had seventeen years' standing, no material showed absence of criminal-trial experience or incompetence, the accused was present when evidence was recorded, and no objection to counsel's competence had then been raised. The remand application was rejected on those circumstances.	397
Later opportunity to challenge evidence collected in investigation	Absence of participation during investigation does not determine the validity or evidentiary weight of the prosecution material. At trial, the accused may cross-examine witnesses and contest the authenticity, admissibility and legal significance of material gathered, including through further investigation.	418
Verification Before Reporting a Litigant's Death to Obtain an Adjournment	Counsel should verify a litigant's death before making that statement to the court and should not make a false statement to obtain an adjournment. When a later application disclosed that the person reported dead was alive, the Court criticised the conduct and called for thorough verification before such statements are made.	458
Section 165 Evidence Act — Active judicial inquiry and safeguards	A trial judge should actively seek the truth and may ask questions or order production under Section 165 of the Evidence Act, while remaining impartial. Questions must not confuse, coerce or intimidate a witness. The judgment must rest on relevant facts duly proved. The statutory power does not override protected refusals under Sections 121–131, permit improper questions under Sections 148–149, or dispense with required primary documentary evidence. Cross-examination on answers to the judge's questions requires the court's leave.	478
Evidence in counsel's presence after dispensation of personal attendance	Section 273 CrPC permits trial evidence to be recorded in the pleader's presence when the accused's personal attendance has been lawfully dispensed with. Applying U.P. Pollution Control Board v. Mohan Meakins, exemption may be conditioned on counsel attending, identity not being disputed and the accused appearing when required. Here, the recorded Section 317 dispensation, counsel's undertaking to cross-examine and express concession on identity made the complainant's examination in the appellants' absence permissible. The Court distinguished Atma Ram, where evidence had been recorded despite objection and without willingness or lawful dispensation.	508
Missing case diary and adjournment of a bail hearing	The investigating agency's failure to send the case diary did not justify postponing the bail hearing where it had advance notice of the listing and the investigating officer was present through video conferencing. The Court refused to leave the accused in custody at the officer's convenience and	569

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	proceeded to hear the application.	
Further adjournment after prolonged failure to file a response	A respondent who has entered appearance is expected to file the response promptly and cannot withhold it until specifically directed by the Court. Notice provides an opportunity to put forward a defence, rather than a basis for repeatedly seeking time. Where counsel had appeared months earlier without filing a reply, the Court rejected a further adjournment, applying the duty of preparedness and the principles against needless delay narrated in Nandu @ Gandharva Singh.	592
Unnecessary adjournments and counsel's professional duty	An advocate who accepts a brief must prepare the case, present it properly and assist the Court. Seeking adjournments without reason to delay proceedings breaches that responsibility and may amount to professional misconduct. The fact that older cases remain pending does not entitle counsel to refuse to argue a listed matter. The Court adopted these principles in refusing further time, without initiating disciplinary action against counsel in this matter.	592
Counsel's duty when witnesses attend for examination	Where witnesses attend court for examination, counsel must facilitate their examination rather than seek postponement merely for personal convenience. An unavoidable difficulty requires arrangements for their examination. Repeated dereliction causing unnecessary adjournments and hardship to attending witnesses may amount to professional misconduct. The narrated authorities also require the court to examine an attending witness on that day rather than adjourn casually.	592
Day-to-day attendance after accepting a criminal-trial brief	An advocate who accepts a brief in a criminal case has a professional duty to attend the trial from day to day. Difficulty in doing so does not, by itself, excuse the obligation. The Court's adopted discussion of adjournments reproduced this principle from Lt. Col. S.J. Chaudhary through Noor Mohammed.	592
Cross-examination adjournments — prompt completion and recorded special reasons protect trial fairness	Cross-examination should ordinarily be completed on the day examination-in-chief ends; if examination continues until late, it may continue the following day. Deferral for long periods risks pressure on witnesses and prevarication. Trial courts must follow the procedural requirement of special reasons for adjournment and protect the lawful interests of the accused, prosecution, victim and society when managing examination of witnesses.	638
Protection of a Diligent Litigant From Counsel's Default	Applying the narrated Rafiq v. Munshilal reasoning, the Court recognised that a litigant who has done what is required to participate effectively should not suffer merely because the chosen advocate defaults. The principle does not itself establish disputed allegations that documents were supplied or instructions ignored. Where those allegations amounted to professional misconduct and were pending before the Bar Council, the Court declined to determine them in the recall petition and reserved liberty to revive it after the counsel's guilt was established there.	654
Section 173(5) requires statements of proposed prosecution witnesses; the defence may seek other material or call other witnesses	The Court read Section 173(5) CrPC as requiring the police report to be accompanied by documents on which the prosecution proposes to rely and Section 161 statements of persons it proposes to examine. The investigating officer had questioned two school persons who reportedly knew nothing of the incident, and the prosecution did not propose to call them. Their statements therefore did not have to accompany the charge sheet merely because recorded. If the accused considered material necessary, an application under Section 91 could seek it, and a person not cited by the prosecution could be called as a defence witness. The ruling concerns this statutory forwarding duty and available defence avenues, not an absolute bar on disclosure required by another law or order.	678
Section 145 inquiry — an administrative report cannot	An inquiry report submitted by an authority is neither evidence nor a judgment and cannot by itself substitute for evidence in deciding a Section 145 CrPC dispute. The decision must rest on evidence brought on record after both parties	703

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replace evidence and hearing	have had an opportunity to adduce evidence and be heard. A decision made without completing that process warrants a fresh inquiry.	
Illness and exemption from personal appearance	The applicant's illness and need for frequent dialysis did not provide a ground to quash the criminal proceedings. If regular attendance caused inconvenience, the applicant could seek exemption from personal appearance before the trial court. The High Court left that application to be made there; it did not itself grant exemption.	767
Precedence between parallel criminal and civil proceedings	Criminal proceedings should ordinarily receive precedence over related civil proceedings so that criminal justice is not delayed. This is not an inflexible rule: special circumstances, including a related case being close to conclusion, may justify another course. The possibility of conflicting decisions alone is not the governing consideration.	793
Refusal to argue after accepting a brief and repeated opportunities	Filing a fresh vakalatnama and accepting the brief did not, in the circumstances, establish a sufficient ground for adjournment. After time to prepare and repeated opportunities to argue, counsel's refusal to address the matter did not prevent the Court from considering the pleaded grounds, examining the available case diary and hearing the State. The Court deprecated the conduct it found intended to avoid the assigned Bench and decided the application on its merits.	832
Witness examination in the accused's absence under Section 273 CrPC	Except where otherwise expressly provided, trial evidence must be recorded in the accused's presence or, where personal attendance has been dispensed with, in the presence of his pleader. The record did not show an undertaking by the appellant allowing examination in his absence or counsel's assumption of responsibility for cross-examination on that basis. Examination of the material prosecution witnesses without him violated his valuable right to observe and effectively cross-examine them in his presence. The Court therefore declined to affirm the convictions under Sections 323 and 354 IPC.	835
Section 309 CrPC: day-to-day examination and recorded reasons for adjournment	Once witness examination begins, it must continue from day to day until the witnesses in attendance are examined, unless a necessary departure is supported by recorded reasons. An adjournment without examining an attending witness requires special reasons recorded in writing; counsel's convenience or engagement in another court is insufficient. Cross-examination should ordinarily follow examination-in-chief on the same day, or the next day if the examination runs late. Where a party or counsel is absent or unready, the court may record the witness and make an appropriate order dispensing with examination or cross-examination under Section 309(2).	860
Advocate's duty to arrange examination of attending witnesses	An advocate who faces unavoidable inconvenience must make other arrangements for examining witnesses who are present. Seeking postponement without making such arrangements causes hardship to witnesses and amounts to dereliction of duty; repeated dereliction and deliberate tactics to prolong proceedings may amount to professional misconduct.	860
Trial court's duty to prevent obstruction and protect a fair trial	The trial court must actively control proceedings in accordance with the statutory procedure and cannot surrender their conduct to counsel seeking unjustified delays. Its duty to secure a fair trial protects the interests of the accused and the prosecution, as well as the collective interest in justice. An accused cannot use obstructive conduct to jeopardise that trial.	860
Section 309 CrPC: measures against non-cooperation with witness examination	Where non-cooperation by the accused or counsel prevents day-to-day witness examination, the court may use the measures described in Section 309, including appropriate remand or costs commensurate with the witnesses' loss and attendance expenses. The relied-upon precedent also recognises cancellation of bail where the accused is absent while a witness attends, subject to a request that counsel examine the witness in the accused's absence and a written undertaking not to dispute identity.	860

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Early eyewitness examination and the trial court's power to regulate sequence	Unjustified withholding of eyewitnesses while corroborative witnesses are examined exposes the trial to pressure and compromise. The trial court may regulate witness sequence and must secure eyewitness examination at the beginning of trial, even if the prosecutor fails to request it. The Court directed rejection of contrary requests by either side and recording of examination-in-chief whenever witnesses attend, despite defence counsel being unready to cross-examine. These directions did not dispense with cross-examination.	868
Early recording of witness evidence as a measure of witness protection	Police responsibility for witness protection includes securing early recording of evidence so that witnesses are not exposed to prolonged pressure from accused persons. Referring to the Witness Protection Scheme formulated in Mahender Chawla, the Court connected effective protection with prompt service of trial-court process and timely production of civilian and police witnesses. Its subsequent questions to the DGP sought an affidavit about compliance and accountability; they did not finally determine every administrative issue raised.	912
Section 273 CrPC: accused's presence during prosecution evidence	Trial evidence must be recorded in the accused's presence, subject to express statutory exceptions such as Sections 299 and 317 CrPC, or in counsel's presence when personal attendance has been dispensed with. Following Atma Ram, the Court held that counsel's attendance did not imply consent to recording the investigating officer's evidence while the jailed accused remained unproduced without explanation, dispensation or undertaking. The accused lost the opportunity to observe this important witness and obtain explanations through counsel, causing prejudice. Atma Ram left open whether dispensation could be implied on different facts.	913
Section 317 CrPC: reasoned dispensation cannot be presumed from non-production	For dispensation under Section 317 CrPC, the trial court must record why the accused's personal attendance is unnecessary in the interests of justice or that the accused persistently disrupts proceedings. The effect of an accused's application accepting representation through counsel and disclaiming objections to identity or evidence in the accused's absence may then be considered. Mere failure to produce a jailed accused, with no explanation, application, consent or reasoned order, did not satisfy those conditions in this case.	913
Prompt examination on scheduled trial dates without demonstrated prejudice	Sections 230 and 231 CrPC require the trial court to take available prosecution evidence on the dates fixed, while permitting deferral or recall of cross-examination where appropriate. The advance trial programme was not opposed, counsel cross-examined the witnesses, and no inability to cross-examine effectively or later need for recall on that ground was shown. Applying Gouri Shankar, the Court rejected the contention that prompt examination itself made the trial unfair. Expedition serves the accused's right to a speedy trial, but this conclusion did not excuse the separate presence and late-DNA-report violations.	917
Counsel's uninstructed consent and dispensation under Section 317 CrPC	A lawyer's no-objection to recording evidence does not bind a jailed accused when given without his instructions after the prosecution has failed to produce him. Section 317 dispensation requires the relevant application or declaration and a reasoned judicial assessment of why attendance is unnecessary in the interests of justice or why the accused persistently disrupts proceedings. Here the accused was not responsible for his absence, and the prosecution's default could not be used to his disadvantage. Counsel's unsupported undertaking did not cure the Section 273 breach.	917
Section 234 CrPC: effective preparation and hearing of final arguments	Final arguments under Section 234 CrPC are a substantive opportunity founded on natural justice, requiring sufficient preparation and a patient hearing of both parties. In this case a DNA report was admitted, further Section 313 examination conducted and final arguments heard on the same day. Consent recorded for that sequence did not remove the demonstrated prejudice from lack	917

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	of preparation on the newly admitted material. The Court required at least one week for preparation and argument after the renewed defence stage on remand; it did not prohibit expeditious final hearings in every case.	
Priority between parallel civil and criminal proceedings	Criminal proceedings ordinarily receive precedence over parallel civil litigation so that evidence remains fresh and guilt or innocence is determined promptly, consistently with a fair trial. This is not an inflexible rule. The likelihood of embarrassment and special circumstances must be considered, including whether another proceeding is so near completion that a different course would be more expedient and just. The possibility of conflicting decisions is not, by itself, a relevant reason for deciding which proceeding should wait.	940
Belated DNA testing: refusal to postpone delivery of judgment	Allowance of DNA testing did not require judgment to be postponed where the accused sought the test about five years after the alleged rape, without explaining the delay, and the trial had reached the stage of examination under Section 313 CrPC. The Court refused a stay of judgment despite the outstanding report. It nevertheless required the investigating officer to seek the result promptly and the forensic laboratory to endeavour to give the examination priority.	946

Sub-Chapter no. 17.4
Examination of Accused Under Section 313 CrPC/BNSS Equivalent

Section 313 CrPC — omitted question about material evidence and prejudice	The Gadhvi and Nar Singh passages relied upon distinguish a trial court's omission to put material evidence to the accused under Section 313 CrPC from the prosecution's failure to produce or suppression of that evidence. The omission requires assessment of prejudice in the context of the available evidence. In Gadhvi, the objection was first raised in the Supreme Court and no prejudice was found on the record; the omission did not invalidate the conviction on that ground.	58
Incriminating FSL circumstance omitted from Section 313 examination	An incriminating FSL report received after the accused's Section 313 CrPC examination must be put to him before its findings can be used against him. The trial court wrongly rejected the finding of human blood on recovered clothes at that stage merely because blood grouping was inconclusive. Inconclusive grouping alone did not warrant discarding the circumstance. However, because the accused had no opportunity to explain the human-blood finding, the appellate court could not rely on it. It declined to remand the case for a further examination after fifteen years and assessed the remaining evidence.	103
Opportunity to explain material incriminating circumstances under Section 313 CrPC	Each material circumstance intended to support conviction must be put specifically and distinctly to the accused so that the accused has a fair chance to explain it. Failure may vitiate the trial where prejudice or a miscarriage of justice results. Answers may be considered with the prosecution evidence under Section 313(4), but cannot be treated in isolation as a substitute for that evidence.	294
Section 313 CrPC — silence and failure to explain matters within personal knowledge	The Court distinguished an accused’s mere silence from failure to explain incriminating circumstances or facts within his personal knowledge. The husband did not state under Section 313 CrPC that dissatisfaction with the marriage or a wish to move to another town had led the deceased to suicide. In assessing the defence advanced through other evidence, the Court treated that omission, together with the proved circumstances contradicting the hanging account, as a failure to establish the suggested defence.	302
Section 313 CrPC — opportunity to explain an incriminating FSL report	Each material incriminating circumstance must be put specifically, distinctly and separately to the accused so that it can be explained. Failure may vitiate proceedings where prejudice or miscarriage of justice results. Since the firearm FSL report was not put to the appellants, the Court excluded it from consideration while assessing the remaining evidence independently.	319

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Section 313 CrPC — exclusion of omitted material and possible remittal	The reproduced Samsul Haque decision states that inculpatory material not put to the accused should ordinarily be excluded from use against the accused. It also recognises that a perfunctory examination may be remedied by remittal for retrial from the stage after prosecution evidence closed, subject to prejudice or miscarriage of justice. In the present appeals, the Court chose exclusion of the unput FSL report.	319
Section 313 CrPC — explanation of incriminating circumstances	The Court relied on S. Govindaraju for the principle that an accused's explanation of incriminating circumstances put during Section 313 examination must be considered with the evidence. Failure to give an appropriate explanation, or a false answer, may count as an additional link in the circumstances described in that passage. Here the Court considered the evasive response concerning the reconciliation agreement together with the undisputed signature and the prosecution evidence; the response was not the sole proof of cruelty or abetment.	328
Section 313 examination following a limited witness re-examination	On the limited remand, any new facts emerging from the two witnesses' fresh examination had to be put to the accused under Section 313 CrPC. Further examination of the accused was confined to that purpose. The order allowed neither side to lead other evidence and did not permit an additional defence that had not been taken at trial or in the earlier Section 313 statement.	395
Defence Suggestion Assessed With the Accused's Contrary Section 313 Explanation	A question or suggestion put by defence counsel cannot simply be ignored, but its significance must be assessed in the overall circumstances. There was no basis to find that the suggestion placing the appellant at the house had been given on her instructions, and her Section 313 statement specifically denied visiting it before arrest. The Court considered that stand with the weaknesses in the prosecution evidence rather than treating the suggestion as a conclusive admission.	455
Section 313 CrPC: late forensic evidence must be put to the accused	An incriminating circumstance cannot be used to convict an accused who was not given an opportunity to explain it under Section 313 CrPC. Although the forensic report was admissible under Section 293 CrPC, supplying its copy to counsel did not replace questioning the accused about its adverse finding. The report arrived after final arguments, remained unexhibited and was not put to the appellant in a further examination. Its finding of human blood on the knife was therefore excluded. A question about recovery of a weapon does not by itself invite an explanation of a later forensic finding of human blood on it.	550
Section 313 CrPC: DNA report received after examination of the accused	An incriminating circumstance must be put to the accused under Section 313 CrPC before it can be used against him. A copy of a later DNA report and its admission as an exhibit without objection did not replace that opportunity. The report arrived after the appellant's examination, but the trial court did not question him further about the DNA finding before relying on it as the sole basis of conviction. The Court excluded that circumstance. Questioning about recovery alone is distinct from questioning about an adverse scientific finding subsequently obtained from the recovered material.	553
Use of an admission in the accused's Section 313 explanation	An admission contained in the accused's explanation under Section 313 CrPC may be considered when testing a factual objection to the prosecution account. Here the defence itself admitted that the roofs were connected and that the deceased was shot on the accused's roof. The Court used those admissions to reject the alleged twenty-five-foot separation and to assess the plausibility of the escape route and the alternative shooting account.	693
Signed but unanswered Section 313 questionnaire	Section 313 CrPC requires a meaningful opportunity to explain material incriminating circumstances. Rakesh's signatures on 29 pages did not cure the omission to record answers to almost all 222 prepared questions. A circumstance not put to the accused must be excluded where the omission causes prejudice or miscarriage of justice; an omission causing no prejudice	713

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	may have no adverse effect. The denial of an opportunity to explain the incriminating case furnished an additional ground for Rakesh's acquittal.	
Ballistic report not put to the accused under Section 313 CrPC	An RFSL report linking the recovered bullet to the accused's pistol could not be read against him where it remained unexhibited and the incriminating circumstance was never put to him under Section 313 CrPC. Receipt of the report and supply of its copy to defence counsel did not overcome that omission. The Court refused reliance on the report even in view of Section 293 CrPC and assessed the remaining evidence independently.	782
Section 313 CrPC — false explanation of proved incriminating circumstances	The accused's explanation of incriminating circumstances put to him must be considered when assessing a circumstantial case. A false answer or failure to give an appropriate explanation may provide an additional link, while the prosecution retains the burden of proving guilt beyond reasonable doubt. Here the Court rejected the husband's account of discovering the body on returning at 4 p.m. and his explanation about taking his wife for treatment, and treated that false account as an additional circumstance.	898
Limited Section 313 CrPC examination after a witness is re-examined on remand	If fresh examination of PW-20 brings new facts on record, those facts must be put to the accused in a further statement under Section 313 CrPC for that limited purpose. The remand did not permit either side to lead other evidence or the accused to introduce an additional defence not previously taken at trial or in the earlier Section 313 statement. The prosecution had to secure the presence of both the witness and the accused, and the further proceedings were subject to the Court's short timetable without prejudging their result.	913
Section 313 CrPC admissions: independent prosecution proof and the statement as a whole	Answers under Section 313 CrPC cannot themselves form the foundation of conviction: the prosecution retains the burden of proof, and inculpatory answers cannot be detached from the accused's exculpatory explanation. Accepting the narrated principles from Pramila, Darshan Singh and Palvinder Kaur, the Court first assessed witnesses, CCTV and DNA independently. It then used voluntary admissions about taking the child, his account to her father, medical samples and flight as reinforcement. Having examined the answers as a whole, it found no reasonable exculpatory account beyond an unsupported claim of animosity; absence of visiting relations did not establish false implication.	915
Section 313 admissions read with the prosecution evidence	The Court read the accused persons' admissions under Section 313 CrPC together with the prosecution evidence. Their admissions established the manager's instructions and the probationary officer's lack of independent authority to issue cover notes. Considered with insureds' payments, unremitted premiums, complaints and manipulated records, those admissions supported the convictions. The Court did not treat either accused's disputed explanation as a confession of all offence ingredients or use the answers in isolation.	968

Sub-Chapter no. 17.5
Authenticity of Court Filings, Vakalatnama and Affidavit Oath Administration

Accused's control of the prosecutrix's representation and no-objection affidavit	An accused cannot engage a lawyer on behalf of the prosecutrix in order to procure an affidavit of his own choice. Obtaining her vakalatnama before her examination and supplying it to counsel for the accused side to arrange representation was treated as an attempt to win over the witness. Her subsequent hostility was therefore considered against the recorded concern about pressure on her.	175
Affidavit: sworn declaration before an authorised person	An affidavit is a declaration made on oath or affirmation before a person legally authorised to administer it. Its sworn verification gives it evidentiary significance and requires the maker to respect the obligation to state the truth.	282
Forged vakalatnama — absence of authority to	A vakalatnama is the litigant's authority for representation, and an advocate cannot represent a party on a forged instrument. After the advocate declined to challenge the expert opinion excluding the litigant's signature, the Court held	309

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represent a litigant	the appearance unauthorised and restrained further representation. It also rejected withdrawal qualified by continued insistence that the signature was genuine, observing that fresh genuine authority could resolve such a dispute. The Court noted the separate position of designated Senior Advocates when explaining the ordinary requirement of a vakalatnama. The advocate received a warning and conditional acceptance of apology on payment of ₹15,000 costs.	
M.P. High Court Rule 13 — understanding and proper swearing of an affidavit	Under Chapter 9 Rule 13, the oath administrator must ascertain that the affiant has read and understood the affidavit, arrange reading or explanation when necessary, and withhold swearing until satisfied. Where it is read, translated or explained, the required written certification must be made. The rule also requires impounding and referral to the Registrar where the affiant refutes the contents, impersonation is found, statements are manifestly false or another sufficient reason exists, with the date and circumstances certified. The Court found non-compliance in the attestation here, directed expert comparison of the notary's signature and reserved further action pending the report.	309
Notarial attestation — oath, presence and register safeguards	An affidavit is a solemn voluntary statement sworn or affirmed before an authorised person, not a document made valid by signature and attestation as an empty formality. In relying on United India Insurance Co. v. Arti Bano, the Court stressed proper administration of the oath or affirmation in the deponent's presence and compliance with notarial-register requirements, including the executant's signature and prescribed particulars of the act. These safeguards protect the reliability of affidavits on which courts determine rights.	309
Affidavit — oath administered by a legally authorised person	An affidavit is a solemn statement on oath or affirmation administered by a person authorised by law, and carries evidentiary value and penal consequences. The Court relied on the Oaths Act and the narrated decision in Kamla Sharma to reject treating an affidavit as an ordinary or valueless piece of paper.	318
Original vakalatnama and prescribed fees after online filing	Filing a vakalatnama online did not dispense with the requirement under the High Court Rules to file the original. The Court also required scrutiny of the prescribed court fee and Adhivakta Kalyan Nidhi, which were absent from the online vakalatnama. Failure to identify those defects led to a direction for explanations and action according to law.	592
Affidavit as a solemn declaration on oath	An affidavit is a written statement affirmed or sworn as true before a person authorised to administer an oath or accept an affirmation. Its evidentiary significance lies in that solemn verification. Relying on New Okhla Industrial Development Authority v. Ravindra Kumar Singhvi and its reproduction of M. Veerabhadra Rao, the Court rejected treating a supporting affidavit as a mere sheet of paper or evading responsibility through deliberately vague verification.	643
Care in notarising affidavits and due process before action concerning a notary's licence	A notary administering an oath must perform that duty with care and verify the affidavit's contents. An affidavit describing Ahmedabad as being in Maharashtra, despite the notary's Ahmedabad, Gujarat seal, led the Court to find casual notarisation and direct the Gujarat Law Secretary to examine whether the licence should continue. Any action had to follow the due process required under the Notaries Act.	858

Sub-Chapter no. 17.6
Public Prosecutor Control and Private Counsel Participation in Criminal Trials

Private Counsel's Limited Role in a Sessions Prosecution under Sections 248 and 338(2) BNSS	A Sessions prosecution must be conducted by the Public Prosecutor. Under Section 338(2) BNSS, privately instructed counsel acts under the prosecutor's directions and may, with the Court's permission, submit written arguments after the evidence closes. The provision does not confer an independent right to make oral arguments or cross-examine witnesses. An application seeking participation at charge framing was therefore rightly refused. The applicant's	400

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	assertion that his representation led to the FIR did not justify enlarging this statutory role.	
Prosecution's duty to disclose inconvenient evidence	The prosecution must fairly place relevant facts before the Court and must not deliberately withhold witnesses merely because their evidence may favour the accused. A fair selection among numerous eyewitnesses is permissible; suppression of inconvenient witnesses can constitute a serious infirmity in proof.	410
Withdrawal of important trials from a prosecutor pending inquiry	Having lost confidence in the prosecutor's unexplained handling of material eyewitnesses, the Court directed the Public Prosecutor to take over the case and required the competent authority to inquire into whether the prosecutor should continue in office. Pending the inquiry, murder, attempt-to-murder, rape/POCSO and other important Sessions matters were to be withdrawn from him. Reassignment depended on the inquiry outcome; the competent authority was to decide the question of his continuation within two months.	557
Section 301(2) CrPC: private counsel's limited role and independent judicial powers	A privately instructed pleader acts under the directions of the Public Prosecutor or Assistant Public Prosecutor and may submit written arguments after evidence closes with the court's permission. Those limits on private participation do not prevent the court from considering whether its own Section 311 powers are needed to correct an evidentiary omission or anomaly brought to its notice.	868
	Sub-Chapter no. 17.7 **Section 319 CrPC — Summoning Additional Accused on Trial Evidence**	
Section 319 CrPC: examination-in-chief and the right to a fresh trial	A court may summon an additional accused on examination-in-chief satisfying the Section 319 standard without waiting for cross-examination. The proposed accused has no right to an intermediate opportunity to cross-examine before being added. Section 319(4) protects that person through fresh proceedings in which prosecution witnesses may be cross-examined and defence evidence and arguments presented.	141
Section 319 CrPC: persons omitted from the charge-sheet and the protest-petition stage	Omission from the charge-sheet does not prevent summoning a person under Section 319 CrPC when qualifying evidence of involvement emerges in court. The power remains available even after the opportunity to seek summoning through a protest petition has passed. Repetition in court of a specific accusation already made in the FIR does not, for that reason alone, disqualify the testimony from consideration.	141
Pre-summoning hearing on an application under Section 319 CrPC	A person proposed to be added as an accused has no right to a hearing before the court exercises Section 319 CrPC merely because the order may affect that person. The availability of a legal remedy against the summoning order and the trial safeguards do not require a separate pre-summoning hearing.	141
Section 319 CrPC: specific evidence against distant relatives	Distant relationship or separate residence does not prevent summoning under Section 319 CrPC where trial evidence attributes a specific role in dowry demand and harassment to the proposed accused. Mere naming or omnibus allegations against relatives are insufficient without tangible supporting material. Allegations following an unnatural death require a pragmatic assessment, but the Court must be satisfied that the named relatives also caused harassment. The Court upheld summoning where investigation statements and court testimony specifically attributed a dowry demand and subsequent physical and mental harassment to the applicants.	724
	Chapter no. 18 **Charge, Discharge, Framing of Charge and Trial Structuring**	
	Sub-Chapter no. 18.1 **Alteration of Charge and Defective Charge**	
Unspecified Section	A charge under Section 376(2) IPC should identify the particular clause alleged.	38

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376(2) IPC clause and prejudice to the accused	The omission did not vitiate the conviction here because the prosecution case clearly informed the accused that they were being tried for rape of a girl below sixteen, and no prejudice resulted. The High Court identified the applicable provision as Section 376(2)(i), with Section 120-B IPC for the conspirator; it did not approve the practice of framing an imprecise charge.	
Section 498-A conviction without a separate charge after a Section 304-B charge	A person charged with and acquitted of dowry death under Section 304-B IPC may nevertheless be convicted under Section 498-A without a separate charge under that section, if the case of cruelty is proved. Applying that principle, the Court rejected the objection to the appellants' Section 498-A convictions based on the absence of a specific charge.	122
Maintaining the charged rape conviction where the aggravated provision was not charged	Although the prosecutrix was found below sixteen, the trial court had not framed a charge under Section 376(2)(i) IPC. The High Court therefore maintained the conviction under the charged provision, Section 376(1), rather than substituting the aggravated provision on appeal.	124
Separate rioting charge and Section 149 IPC	Where murder is charged with the aid of Section 149 IPC, separate charges under Sections 143 and 147 need not be framed unless separate convictions under those provisions are sought. The ingredients of unlawful assembly and rioting remain necessary to the charge incorporating Section 149.	160
Typing error in the sentencing paragraph	A mistaken name in the sentencing paragraph did not establish conviction on an unframed murder charge where the charges and the operative conviction finding correctly identified the direct offenders. Suresh and Rajesh had been charged with and convicted of Section 302 IPC; Hukum Singh had been convicted under Section 302 read with Section 149. The substitution of Hukum’s name for Suresh’s at sentencing was a typing error.	165
Charge under Section 294 IPC did not support conviction under Section 504	A conviction under Section 504 IPC could not be sustained on a charge confined to Section 294, because the offences have different ingredients. Section 294 concerns obscene words causing annoyance, whereas Section 504 concerns intentional insult provoking the particular victim to breach the peace. The uncharged Section 504 conviction was therefore set aside.	207
Separate rioting charge when Section 149 liability is invoked	Where an offence such as murder is charged with Section 149 IPC, separate charges under Sections 143 and 147 are unnecessary unless separate convictions under those provisions are sought. Applying Mahadev Sharma, the Court explained that the constituent unlawful-assembly and rioting ingredients are included in the composite charge, while the prosecution must still prove the unlawful assembly and common object.	215
Wrong name in charge-framing order without prejudice to the accused	An incorrect accused name in the order directing framing of charges did not vitiate the trial where the actual charges correctly named the accused and the mistake caused no prejudice. The Court declined interference because the error had no substantive effect on the outcome.	226
Lesser hurt offences within a charge of attempted murder	A charge under Section 307 read with Section 34 IPC can support conviction for a lesser hurt offence, though the converse does not follow. On the charges concerning injuries to the same victim in this case, separate lesser hurt charges were unnecessary. Their inclusion caused no prejudice and did not affect the result.	226
Evidence from one trial cannot be used in a separately tried co-accused’s appeal	Where absconding co-accused were arrested later and tried separately on evidence recorded afresh, the evidence from the earlier trial could not be read either for or against them. Although the appeals were heard together, the appeal arising from the separate trial required its own judgment on its own evidence.	227
Omitted separate victim counts and the test of prejudice from a defective	An error or omission in a charge does not invalidate a conviction by a competent court unless it actually causes a failure of justice under Section 464 CrPC. The Court considers whether the accused knew the case and received a fair	291

18.1 : Alteration of Charge and Defective Charge

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charge	opportunity to defend it. Although the charges did not separately label two murder counts and two attempted-murder counts, they identified all four victims and the acts alleged. The accused understood those allegations, and no prejudice was shown.	
Substitution of Section 34 for Section 149 IPC: Overlap and Prejudice	A charge under Section 149 IPC may support conviction with the aid of Section 34 when the facts and evidence also establish common intention and the substitution causes no injustice or prejudice to the defence. Common object and common intention differ, so substitution is not automatic upon the acquittal of some accused. The Court applied Section 34 to the three armed participants because their concerted firing proved the shared intention.	360
Alteration from Joint to Direct Liability: Specific Charge and Absence of Prejudice	The Court altered the Section 302/34 and Section 307/34 convictions of two appellants to direct liability under Sections 302 and 307 because their own acts were proved, specific direct charges had been framed and the alteration caused no prejudice. It made the murder-count alteration despite the absence of a State appeal on that finding. Conversely, it declined a direct Section 302 conviction for another victim where the appellant had faced only the corresponding Section 302/149 charge.	360
Separate Rioting Charge and Liability Under Section 149 IPC	The Mahadev Sharma passage relied upon by the Court explains that a separate charge under Sections 143 or 147 is not essential merely to sustain a substantive offence charged with Section 149. The ingredients of unlawful assembly must nevertheless be proved. Separate charges are required where separate convictions under those provisions are sought; omission of a separate rioting charge does not dispense with the common-object enquiry.	383
Unauthorised counsel at the charge hearing and failure of justice	Counsel who lacked authority from the accused or the appointed legal-aid lawyer was not competent to argue on framing of charge. The irregularity nevertheless did not require retrial from that stage where the prosecution record disclosed grave suspicion warranting trial and no prejudice resulting in failure of justice was shown. The Court applied Sections 461 and 464 CrPC and required the trial court to ensure representation by engaged or duly provided counsel.	391
Correction of a Misdescription in a Framed Charge	An alleged error in naming the complainant wife in a framed charge may be addressed by an application for correction of the charge. Such a misdescription did not, by itself, require quashing the charges.	401
Addition of a charge on the date of judgment—prejudice to the accused	Adding a charge under Section 412 IPC after final arguments and pronouncing conviction on the same day caused prejudice in the circumstances of this trial. The Court reached that conclusion despite the order recording that the accused did not wish to lead defence evidence and that arguments on the added charge were heard.	410
Substitution of Section 34 for Section 149 IPC — Common intention and absence of prejudice	An appellate court may substitute Section 34 for Section 149 where the proved facts support common intention and substantially the same facts and evidence were in issue, without prejudice or failure of justice. Common intention involves concert and a meeting of minds; common object does not necessarily do so. If the common-object charge does not encompass common intention, substitution may prejudice the defence and must not be automatic. Applying Sections 216, 386 and 464 CrPC and the narrated Mala Singh authorities, the Court sustained Rajesh's two murder convictions under Section 302/34 after the assembly case failed.	474
Unframed aggravated rape charge in a conviction appeal	Although the prosecutrix was below sixteen, no charge under Section 376(2) IPC had been framed. On that basis, the Court confined its affirmation to the conviction under Section 376(1) IPC.	560
Conviction under Section 411 IPC	The accused charged with the alleged extortion-based robbery under Section 394 IPC could not, on acquittal of that charge, be convicted under Section 411	574

Topic	Ratio	Case Sr.no.
without a corresponding charge	IPC when neither a corresponding alternative charge nor a specific allegation of that offence was present. The Court found the relevant ingredients different and held that the omission was not a curable irregularity under Section 215 CrPC or a case covered by the illustration to Section 221 CrPC.	
Incorrect complainant name in a charge and correction under Section 216 CrPC	An incorrect complainant name in a charge may be brought before the trial court through an application under Section 216 CrPC for alteration or correction. Here, no such application had been made and serious prejudice from the wrong name was not asserted. The Court therefore declined to interfere with the charges on that ground, while leaving the applicant free to seek correction under Section 216.	603
Conviction for a lesser offence after trial on a graver charge	A person tried for a graver offence may be convicted of the lesser offence established at trial. The Court relied on this possibility as an additional reason for declining interference where the applicants sought discharge from the grievous-hurt charge under Section 333 IPC rather than complete discharge from all charges.	647
Substitution of Section 34 for Section 149 and prejudice from the charge	A conviction under Section 302 read with Section 34 may follow a charge under Sections 302 and 149 when the facts and evidence supporting the charged common object also establish common intention and the substitution causes no prejudice or failure of justice. Sections 216, 386 and 464 CrPC permit charge alteration within those limits. If the charged common object does not involve common intention, substitution may prejudice the defence and must not be permitted. Applying Mala Singh, the Court sustained Section 34 liability for the four proved attackers.	713
Included rape offence despite absence of a separate Section 376(1) charge	The aggravated offences under Section 376(2)(h) and (m) IPC included the underlying element of rape. Where no prosecution case of pregnancy or the specified grievous harm, maiming, disfigurement or danger to life supported those aggravators, the aggravated conviction could not stand. The Court nevertheless convicted under Section 376(1), although no separate charge under that subsection had been framed, because the proved rape element was included in the graver charged offences.	876
Altered charges do not require a fresh trial without actual prejudice	After alteration, charges must be read and explained to the accused, and the court must consider prejudice to the defence or prosecution. It may continue where no prejudice is likely, or direct a new trial or adjournment where needed; witness recall is governed by Section 217 CrPC. Here the altered charges rested on the same material, the appellants further cross-examined their selected witnesses and led defence evidence, and no lost opportunity was identified. Conviction itself was not procedural prejudice, and describing the earlier charges as cancelled did not require a de novo trial.	879
Section 216 CrPC: the Court's exclusive power to add or alter a charge	The Court may add or alter a charge at any time before pronouncing judgment, even after evidence, arguments or reservation of judgment. The power belongs exclusively to the Court; a party has no right to demand alteration merely by filing an application. The proposed charge must have a direct link to the factual ingredients disclosed by the material on record, whether from the original complaint and documents or evidence during trial, and must be exercised judiciously with fair-trial safeguards.	879
Absence of a Section 294 IPC charge in an acquittal appeal	The Court declined to convict Kaushlendra under Section 294 IPC merely on the allegation that he abused witnesses when no charge under that provision had been framed. The finding was made while rejecting the prosecution's attempt to establish his participation in the shooting; it did not supply an alternative conviction on an unframed abuse charge.	916
Specific charge for aggravated rape under Section 376(2)	A charge framed generally under Section 376 IPC cannot be treated as a specific charge under Section 376(2)(i) merely because the police charge sheet invoked that clause. The trial court must frame the specific charge. The Court affirmed	980

Topic	Ratio	Case Sr.no.
(i) IPC	the convictions under Section 376 IPC and Section 4 POCSO Act on the charges actually framed.	
Section 216 CrPC — initial charges may be altered after evidence is adduced	An initial charge sheet or order framing charges does not make the charges unalterable. In applying Vinod Raghuvanshi to caution against premature termination of a prosecution, the Court reproduced the principle that charges may be altered or amended, or a charge added, at a later stage after evidence is adduced under Section 216 CrPC. The initial assessment must therefore be understood in light of the trial court's power to deal with the charges as the evidence develops.	1001

Sub-Chapter no. 18.2
Framing of Charge and Strong Suspicion Standard

Framing charges — grave suspicion supported by material	A charge may be framed where the prosecution material, taken at face value, discloses the offence's ingredients and gives rise to grave or strong suspicion that the accused committed it. The judge must apply judicial mind and may sift the material, consider its overall effect and identify basic infirmities, but cannot conduct a roving inquiry or assess its probative value as at trial. The material must be capable of becoming evidence at trial. The Court need not predict conviction or apply the final test of proof beyond reasonable doubt.	60
Framing charges — separate consideration of accused persons	Before framing charges, the trial court must apply its mind to the material concerning the different categories of accused. Strong suspicion must have a basis in material supporting a prima facie involvement in the offence; suspicion alone is insufficient.	60
Remand to the pre-charge stage does not amount to discharge	An order restoring a case to the pre-charge stage for fresh consideration of charges does not itself discharge the accused or decide the merits in his favour. Where the earlier revision left the question open, the trial court must reconsider framing charges on the entire factual and legal position.	62
Framing charges — consideration of the entire prosecution case	At the stage of Sections 227–228 CrPC, the court must sift the prosecution material to determine whether the alleged offence's essential ingredients and material-based grave suspicion are present. It must consider the material as a whole, broad probabilities and basic infirmities, without treating the prosecution's version as unquestionable or weighing reliability as at trial. The Court held that overlooking the consent issue and the separate allegations of coercive demands for images was a material illegality requiring the charge order to be set aside and reconsidered on the entire FIR.	63
Framing of charge — limited judicial scrutiny and grave suspicion, without a trial of the evidence	At the stage of Sections 227–228 CrPC, the judge must apply an independent judicial mind and may sift the prosecution material to determine whether its face-value facts disclose the ingredients of an offence and a prima facie case. Strong or grave suspicion founded on that material can justify a charge. Where two views are equally possible and the material raises only suspicion, discharge is permissible. The judge must consider basic infirmities and the overall material, but cannot conduct a roving inquiry, assess reliability as at trial, or require proof sufficient for conviction.	73
Framing of charge — the accused has no right to introduce defence material at that stage	At the charge stage, hearing the accused under Section 227 CrPC is confined to submissions on the prosecution record and documents submitted with it. The accused has no right at that stage to produce material establishing a defence, such as an alibi. Permitting that evidentiary inquiry would turn charge framing into a mini-trial; the defence is to be established through evidence at trial.	73
Framing of charge — grave suspicion must arise from material capable of establishing the offence at trial	A charge may be framed where the prosecution material, accepted at face value, discloses the offence's ingredients and gives rise to strong or grave suspicion. The judge must independently sift the record, consider its overall effect and basic infirmities, and may discharge where it raises only ordinary suspicion or cannot establish the offence even if accepted. The suspicion must rest on	74

Topic	Ratio	Case Sr.no.
	material capable of becoming evidence at trial. Detailed assessment of reliability, a roving inquiry and a prediction of conviction are impermissible at that stage.	
Discharge and framing of charge — submissions are confined to the prosecution record, without a right to adduce defence documents	For discharge under Section 227 CrPC, the record comprises the documents and articles produced by the prosecution. The accused may address submissions on that material and explain the circumstances said to create grave suspicion, but has no right to introduce defence documents at the charge stage. The court must not undertake a trial of the proposed defence.	74
Section 91 CrPC at charge stage — court satisfaction about crucial withheld material is essential	Necessity or desirability of production under Section 91 CrPC depends on the procedural stage and the party seeking it. An accused ordinarily cannot invoke the provision at charge framing to establish a defence outside the prosecution record. The court may summon withheld material of sterling quality having a crucial bearing on the charge, but the accused has no independent right to demand production without the court's satisfaction. The private diary sought to contest signatures did not satisfy that requirement in the face of specific ocular evidence of cheating, and refusal of production was upheld.	75
Separate residence and disputed alibi at the charge stage	An accused relative's plea of separate residence did not displace specific allegations that she assaulted the complainant. The Court held that alibi required cogent and reliable evidence and could not be decided at the stage of framing charges. A rent note indicating residence elsewhere, coupled with an unsupported claim of practising dentistry there, did not justify discharge. The allegation against the relative remained subject to proof at trial.	101
Material-based grave suspicion and limited scrutiny when framing charges	At the charge stage, the court must apply its judicial mind and sift the prosecution material for a sufficient basis to proceed. Grave or strong suspicion must rest on material capable of becoming evidence at trial; unsupported suspicion alone is insufficient. If the material, accepted at face value, cannot show commission of the offence, or supports only suspicion rather than grave suspicion, discharge is permissible. Broad probabilities and basic infirmities may be considered, but a roving inquiry, assessment of probative value or final test of guilt is impermissible. Under Section 227 CrPC, the accused's submissions are confined to prosecution material and there is no right to produce defence documents at this stage.	101
Grave suspicion based on the record is sufficient for framing charges	Grave suspicion that the accused may have committed an offence is sufficient at the charge-framing stage, but that suspicion must arise from material discernible in the record. Refusal to quash on this limited assessment does not determine guilt or bind the trial court’s appreciation of the evidence.	204
Abetment-of-suicide charge — tentative assessment of the record	When examining a challenge to a charge of abetment of suicide, the court forms a tentative view from the record and accompanying documents rather than evaluating and marshalling the evidence to determine guilt. Applying Praveen Pradhan and Amit Kapur, the Court found prima facie material in the alleged continuous deprivation of the deceased’s livelihood and refused to interfere with the charge under Sections 306/34 IPC.	306
Framing of charge — material supporting grave suspicion and limited sifting of evidence	At the stage of framing charge, the judge must apply judicial mind to the prosecution statements and documents and consider whether the facts, taken at face value, disclose the ingredients of the alleged offence. Grave or strong suspicion must rest on material capable of becoming evidence at trial. The judge may sift the material for this limited purpose and consider its overall effect and basic infirmities, but must not assess its probative value, conduct a roving inquiry or apply the standard required for conviction.	330
Section 227 CrPC — defence documents	For discharge under Section 227 CrPC, the record of the case consists of the documents and articles produced by the prosecution. The accused has no right	330

Topic	Ratio	Case Sr.no.
at the charge stage	to introduce defence documents at the stage of framing charge, and submissions must remain confined to the police material. The accused may explain the material said to raise grave suspicion, but the probable defence is not to be weighed as though the trial has taken place.	
Charge-stage review — Tentative assessment without weighing evidence as at trial	In reviewing whether an abetment-of-suicide charge can proceed, the court forms a tentative view from the record and accompanying documents. It does not marshal or evaluate the evidence to make a final finding that the offence has been committed. This limited assessment still requires examination of whether the allegations disclose the ingredients of abetment.	352
Framing of charge — Accused has no right to tender defence documents	At the stage of framing charges, the accused has no right to file documents in defence. The Court relied on this rule as an additional reason why the accused's defence on the merits did not entitle him to the investigative directions sought.	359
Framing of Charge: Grave Suspicion	Charges must be framed where the material on record indicates grave suspicion that the accused might have committed the offence. At that stage the court does not undertake the detailed assessment of evidence required to decide guilt at trial.	362
Limited assessment of material at the charge stage	Under Section 227 CrPC, the judge may sift and weigh the prosecution material to determine whether a prima facie case and grave suspicion warrant trial. The judge must consider broad probabilities and basic infirmities, without acting merely as the prosecution's mouthpiece or conducting a roving trial of the evidence. Defence material is not to be introduced for such a trial at the charge stage. These limits informed the finding that the representation defect caused no failure of justice.	391
Limited sifting of evidence at the stage of framing charge	At the charge stage, the judge may sift and weigh the material to determine whether it discloses a prima facie case on the essential elements, considering broad probabilities and the overall effect of the evidence and documents. Unexplained grave suspicion justifies a charge; where two views are equally possible and the material creates only suspicion rather than grave suspicion, discharge may be justified. The judge must not merely transmit the prosecution's case, but must also avoid a roving inquiry or trial-like assessment of competing versions. An objection that supplementary witness statements were afterthoughts did not require their reliability to be finally decided where sufficient material for trial existed.	432
Material-based grave suspicion at the stage of framing charges	Charges require a prima facie foundation in material capable of becoming evidence, giving rise to grave or strong suspicion that the accused might have committed the offence. The judge must apply an independent mind, including to the different categories of accused, and may sift the prosecution material for this limited purpose. Mere suspicion is insufficient and may justify discharge where two views are possible. The court does not assess probative value, conduct a roving inquiry or apply the final test of guilt beyond reasonable doubt.	463
Grave suspicion and the limits of scrutiny when framing charges	At the charge stage, a roving inquiry and meticulous appreciation of evidence are impermissible. Material giving rise to grave suspicion that the accused might have committed the offence is sufficient to proceed to trial. Having examined the statements and age documents, the Court found a prima facie case and declined revisional interference, leaving final guilt for trial.	468
Limited Sifting and Strong Suspicion at Charge Framing	Under Sections 227 and 228 CrPC, the Judge must independently assess the prosecution record and the ingredients of the offence. Evidence may be sifted for that limited purpose without deciding credibility or conducting a trial. Strong or grave suspicion may justify a charge even though conviction requires proof beyond reasonable doubt. Where two views are possible and the material raises only suspicion rather than grave suspicion, discharge may be justified. If the prosecution material, fully accepted, cannot establish the offence, there is	536

Topic	Ratio	Case Sr.no.
	no sufficient ground to proceed. The allegations here provided sufficient prima facie material; the evidence remained for trial.	
Material-based grave suspicion at the charge stage	A charge may be framed where prosecution material taken at face value discloses the offence's ingredients and supports a strong or grave suspicion that the accused committed it. The judge must apply judicial mind, consider broad probabilities and basic infirmities, and sift the record for that limited purpose. The court must not conduct a roving inquiry or assess probative value as at trial. Final proof of guilt beyond reasonable doubt is not required for framing a charge or deciding revision against it.	568
Defence material at the stage of framing charges	For discharge under Section 227 CrPC, the record consists of the prosecution's documents and articles. The accused has no right at that stage to introduce defence documents; submissions must remain confined to the police material. The accused may explain the material said to create grave suspicion, but the probable defence is not to be weighed as trial evidence.	568
Prosecution material governs framing of charges	At the stage of framing charges, the accused cannot require the court to decide a defence; the decision rests on the material relied on by the prosecution. Applying State of Orissa v. Debendra Nath Padhi, the Court declined to accept the unsupported plea of false implication because of old enmity. Its observations were confined to charge-stage review and could not prejudice the trial, which had to be decided on the evidence led.	603
Defence documents at the stage of framing charge	An accused has no right to file documents in defence at the stage of framing charges and may produce them at the appropriate later stage. The Court distinguished that ordinary charge-stage restriction from the exceptional consideration of conclusive defence material by the High Court for quashing.	613
Prima facie cruelty charges against the husband and parents-in-law	Where the allegations against the husband and his parents, taken at face value, disclose a triable cruelty case, whether harassment actually occurred is a matter for trial. Decisions granting relief to relatives on different facts do not create an inflexible rule requiring quashing in every matrimonial prosecution. The Court found sufficient prima facie material against the husband and parents-in-law and maintained their charges under Section 498-A IPC read with Sections 3 and 4 of the Dowry Prohibition Act.	619
Framing of charge — material-based grave suspicion permits limited sifting without a trial of credibility	The court must apply its judicial mind and sift the prosecution material to determine whether its face-value contents disclose the offence and a basis for grave suspicion. It is not a mere conduit for the prosecution. If two views are possible and the material raises only suspicion, rather than grave suspicion, discharge is permissible. Basic infirmities, broad probabilities and the total effect of the material may be considered, but its probative value cannot be tried through a roving inquiry or a demand for proof beyond reasonable doubt.	635
Delayed rape allegation and disputed explanation — credibility cannot be finally resolved at the charge stage	Delay in alleging rape is not, by itself, a ground for discharge; a plausible explanation can be consistent with a conviction after trial. Whether an initial statement of voluntary departure resulted from pressure, and whether the later allegation is false, concern credibility and facts requiring proof at trial. Those disputed matters do not justify treating the witness's account as false when framing charges.	635
Limited sifting and grave suspicion at the charge stage	At discharge or charge stage, the judge must assess the prosecution material, its broad probabilities and basic infirmities to determine whether there is sufficient ground to proceed. Mere suspicion, as distinct from grave suspicion supported by material, may justify discharge; prosecution evidence that cannot show the offence even if accepted does not justify trial. The judge is not a mere conduit for the prosecution but cannot weigh probative value or conduct a roving inquiry. Applying M.E. Shivalingamurthy, the Court found no jurisdictional error in the impugned charge order.	647

18.2 : Framing of Charge and Strong Suspicion Standard

Topic	Ratio	Case Sr.no.
Strong suspicion and limited evaluation at the charge stage	At the stage of framing charge, the Court must apply its judicial mind to whether the prosecution material, taken at face value, discloses the offence's ingredients. Strong or grave suspicion founded on that material is sufficient; proof beyond reasonable doubt is required at trial. The Judge may sift the material for a prima facie case, considering broad probabilities and basic infirmities, but cannot conduct a roving inquiry or assess evidence as at the end of trial.	715
No right to introduce defence material at framing of charge	At framing of charge, the accused's submissions are confined to the prosecution record and documents filed with it; the accused has no right to introduce separate defence material for adjudication at that stage. Allowing such an inquiry would create a mini-trial. A defence such as alibi is to be established through evidence at trial.	715
Prima facie scrutiny, strong suspicion and limited sifting at charge stage	At the charge stage, prosecution material taken at face value must disclose the ingredients of the alleged offence. Strong or grave suspicion founded on that material may justify a charge; proof sufficient for conviction is unnecessary. The judge may sift the material for this limited purpose and consider broad probabilities and basic infirmities, without conducting a roving trial of the evidence. Where two views are equally possible and the material raises only some suspicion, rather than grave suspicion, discharge is permissible. Under Section 239 CrPC, discharge requires a finding, with recorded reasons, that the charge is groundless; Section 240 requires ground for presuming commission of the offence.	726
Defence documents at the stage of framing charges	Relying on State of Orissa v. Debendra Nath Padhi, the Court stated that an accused is not entitled to file defence documents or have the defence considered at the stage of framing charges. It invoked that rule as an additional reason for refusing, during the pending investigation, a Section 482 CrPC direction requiring the investigating officer to accept defence documents; granting that relief would directly or indirectly supervise the investigation.	750
Framing charges — grave suspicion founded on prosecution material	At charge framing, the court must apply its judicial mind and sift the prosecution material for a prima facie case. Grave or strong suspicion must rest on material capable of becoming evidence at trial; suspicion alone is insufficient. If the accepted prosecution material cannot disclose the offence, or supports only mere suspicion rather than grave suspicion, discharge may follow. The court may consider broad probabilities and basic infirmities and hear an explanation of the material, but must not weigh probative value or conduct a roving inquiry. Defence documents cannot be introduced as of right, and submissions remain confined to the prosecution record.	758
Material-based grave suspicion at the charge stage	A charge requires grave or strong suspicion founded on material capable of becoming evidence at trial, rather than mere suspicion. If two views are possible and one creates only suspicion, discharge is permissible. The Judge must apply an independent mind and sift prosecution material for face-value ingredients, broad probabilities and basic infirmities, but cannot assess probative value as at trial or conduct a roving inquiry. If the proposed evidence, fully accepted, cannot show the offence, there is no sufficient ground to proceed. Framing a charge does not require proof of certain guilt or conviction beyond reasonable doubt.	788
Material supporting grave suspicion at the charge stage	A charge may be framed where the prosecution record, taken at face value, discloses the alleged ingredients and supports strong or grave suspicion that the accused committed the offence. The judge must apply judicial mind and may sift the record for sufficient grounds, but must not conduct a roving enquiry, assess ultimate probative value or require proof beyond reasonable doubt.	799
Disputed detention or abetment left for trial at the charge stage	On the alleged payment to procure a person kept in a brothel room, whether the detention occurred with the applicant's concurrence or his procurement amounted to abetment under Section 6 of the Immoral Traffic (Prevention) Act	799

Topic	Ratio	Case Sr.no.
	required evidence at trial. These questions were left open when interference with the charge was refused; the Court did not finally establish detention or abetment by the customer.	
Framing charges — Sections 161 and 164 statements and the prima facie test	At the charge stage, the court considers whether the collected material prima facie discloses an offence, without a roving inquiry or trial-like weighing of evidence. The Court could not prefer the Section 164 statement over the Section 161 statement and thereby eliminate the prima facie case. The charges were sustained, with an express direction that the trial be decided on evidence tested by cross-examination, without influence from the revision court's provisional observations.	808
Framing and alteration of charges beyond the police charge sheet	A criminal court may frame a charge for an offence supported by the material even if the police have not included that offence in the charge sheet; charges may also be altered under Section 216 CrPC. Where charges had not yet been framed, the Court regarded selling substandard food without informing customers of its quality as prima facie cheating. The omission of Section 420 IPC from the charge sheet did not justify quashing the proceedings.	810
Framing an FSSA charge where the material discloses an offence under that Act	In refusing to quash the FIR, the Court adopted the direction in Neelkamal Sharma that, if the trial court concludes that the accused committed an offence requiring penalty or punishment under the Food Safety and Standards Act, 2006, it may frame a charge for that offence. Possible error in invoking Sections 272–273 IPC did not require the entire FIR to be quashed where the cheating allegation survived.	811
Section 409 IPC— agency allegation at the charge stage	Whether Section 409 IPC is prima facie attracted must be considered from the charge sheet as a whole. A specific allegation in the FIR and Section 161 CrPC statement that the accused was appointed as an agent could not be rejected through a detailed inquiry into the truth of that allegation at the preliminary stage. The genuineness of a disputed document did not have to be established by a handwriting expert before proceeding. The Court restored the committal order without finally deciding agency, entrustment or misappropriation.	812
Section 227 CrPC— limited sifting and grave suspicion	At the discharge stage, the judge must apply an independent judicial mind and may sift the prosecution material to determine whether there is sufficient ground for trial. Grave or strong suspicion may justify a charge, although it cannot replace proof at trial. Where two views are equally possible and the material raises only some suspicion rather than grave suspicion, discharge is permissible. The inquiry must not become a detailed balancing of credibility and probabilities as at trial.	812
Section 34 charge— reconsideration of Sections 147, 148 and 149 IPC	The trial court framed Section 307 with Section 34, while the prosecution account described five armed assailants. The High Court dismissed the revision but expressly directed the trial court to reconsider whether Sections 147, 148 and 149 IPC were made out or whether use of Section 34 was correct. Whether the participants formed an unlawful assembly, shared a common object or shared intention remained for proper charge assessment and, as necessary, trial evidence. The direction was not itself a substituted charge or a final determination of guilt or the mental element of every participant.	819
Framing charges on grave suspicion without a mini-trial	At the charge stage, the court considers whether the prosecution material, taken at face value, discloses the ingredients of the alleged offence and gives rise to grave suspicion that the accused might have committed it. Proof sufficient for conviction is unnecessary. The judge may sift the material for the limited prima facie purpose and consider broad probabilities and basic infirmities, but cannot conduct a roving or meticulous assessment as at trial. The accused's submissions under Section 227 CrPC are confined to the prosecution record and accompanying documents; they do not confer a right to introduce defence material or require a defence plea such as alibi to be tried at that stage.	830

Topic	Ratio	Case Sr.no.
Material supporting grave suspicion at the stage of framing charges	A charge requires strong or grave suspicion founded on material capable of becoming evidence at trial; bare suspicion alone is insufficient. The judge must apply an independent judicial mind, examine the prosecution record at face value for the offence ingredients and may sift it for the limited purpose of deciding whether to proceed. Broad probabilities and basic infirmities may be considered, but there can be no roving inquiry, conviction-level weighing or assessment of the probable defence. Under Section 227 CrPC, the accused's submissions remain confined to the police material, without a right to produce defence documents. If two views are possible and one raises only suspicion rather than grave suspicion, discharge is permissible; likewise, there is no sufficient ground to proceed if the prosecution material, fully accepted, cannot show commission of the offence. The findings sustaining charges remain nonconclusive at trial.	832
Judicial consideration of the material before framing a charge	The adopted Satish Mehra passage, drawing on L. Muniswamy and Century Spinning, explains that framing a charge substantially affects liberty, so the court must judicially consider whether the material warrants it rather than blindly accept the prosecution's decision to proceed. The narrated Section 227 principle requires reasons for discharge where there is insufficient ground to proceed, enabling a superior court to examine the decision's correctness.	859
Framing of charge — grave suspicion and limited sifting of evidence	Grave suspicion may justify framing a charge without a roving inquiry into the evidence. Applying P. Vijayan v. State of Kerala, the Court explained that the judge must independently sift the police material and documents to determine whether there is sufficient ground for trial, rather than act as a mere conduit for the prosecution. If two views are possible and one creates only suspicion, as distinct from grave suspicion, discharge may be appropriate. The judge does not weigh evidence and probabilities as at trial or predict conviction or acquittal. The material alleging fraudulent withdrawals and the resulting debt was sufficient to permit the prosecution to continue.	992
	Sub-Chapter no. 18.3 **Joinder of Charges, Common Trial and Separate Trial**	
Separate trial records despite joint hearing of connected appeals	Evidence recorded afresh in a separate trial cannot be read for or against co-accused tried in another proceeding merely because their appeals are heard together. Applying A.T. Maydeen, the Court confined this appeal to the later trial of Balram and Ramjilal and directed that Govind Das and Gudda's appeal be decided by a separate judgment on its own record.	106
Separate trials — Evidence cannot be exchanged between connected appeals	Evidence recorded in the appellant's separate trial could not be read against the co-accused tried separately, or vice versa. Applying A.T. Mydeen, the Bench confined each appeal to its own trial record. Hearing the connected appeals simultaneously did not merge their evidence, and the appeals were decided by separate judgments.	115
Separate trials and separate evidentiary records	Evidence recorded in the separately conducted trial of a co-accused could not be read against the present appellants, or vice versa. Hearing the appeals together did not merge those records. Applying A.T. Mydeen, the Court decided the separately tried co-accused’s appeal by a separate judgment.	166
Acquittal of a co-accused in a separate trial	A co-accused’s acquittal for failure to establish his identity as the substitute examinee did not establish that no impersonation offence occurred. That acquittal, reached in a trial conducted while the applicant was absconding, did not by itself entitle the applicant to quashing without facing his own trial.	231
Separate trial records in simultaneously heard connected appeals	Where an absconding co-accused’s trial resumed after the other accused were convicted and the remaining witnesses were examined again, the appeals could be heard together while being decided by separate judgments. The Court followed that course to avoid confusion between the evidence led in the	291

Topic	Ratio	Case Sr.no.
	respective trials.	
Evidence from a separately tried co-accused	Evidence recorded in the later, separate trial of an absconding co-accused cannot be read as evidence in the appellants' trial.	410
Separate police reports and statutory limits on joint trial of cheating transactions	The adopted authorities distinguish registration and reporting of each distinct cheating transaction from joinder by the court at the charge stage. Under the narrated Section 219 CrPC rule, joinder depends on the statutory requirements and permits no more than three qualifying offences at one trial. Section 218's proviso concerns offences before the same Magistrate; it does not itself transfer cases from other courts. Section 220 requires acts sufficiently connected to form the same transaction, which separate victims' independent transactions do not become merely through a common scheme.	443
Separate trial of an absconding accused — evidence governing his appeal	Where an accused is separately tried after the co-accused's trial, his appeal must be decided on the evidence recorded in his own trial. Applying A.T. Mydeen, the Court expressly excluded the evidence recorded in the earlier co-accused trial. Their convictions, acquittal and appellate history supplied procedural context rather than proof against this appellant. His conviction under Sections 302/34 IPC was assessed on the declaration, oral testimony and medical evidence received in his separate proceeding.	499
Evidence from separately tried co-accused	Evidence led in the separate trial of a co-accused cannot be read to decide another accused's case merely because their appeals are heard analogously. The Court therefore reserved the separately tried co-accused's appeal for an independent decision. It also assessed separately the evidence recorded while Pramod alone faced trial and the evidence recorded after witnesses were re-summoned following the other appellants' arrests.	563
Effect of a co-accused's acquittal in a separate trial	Evidence led in the trial of co-accused cannot be read as evidence in another accused's case. Their acquittal after witnesses turned hostile did not justify quashing the FIR against a petitioner alleged to have personally participated in the fatal assault. The conspiracy ruling in Akhilesh Singh was distinguishable because the principal conspirator there had been discharged and no other material connected the remaining accused.	614
Separate trials: evidence confined to the accused's own record	Evidence recorded in one accused's separate trial cannot be read for or against another separately tried accused, or vice versa. Applying A.T. Mydeen, the Court kept the supplementary-trial record separate from the co-accused's record and decided the simultaneously heard appeals by separate judgments.	622
Separate trials — evidence in one co-accused's case cannot be read in another	Following A.T. Mydeen v. Assistant Commissioner, Customs Department, the Court held that evidence recorded in one appellant's separate trial could not be read either for or against another appellant. The three appeals arose from the same alleged abduction, but the appellants had been arrested at different times and tried separately. Although the appeals were heard simultaneously and decided by a common judgment, the Court examined each record independently. Punjab Singh's evidence had been recorded before Avtar Singh's trial; his later examination under Section 313 CrPC and later judgment resulted from his absence after prosecution evidence had closed. That chronology did not permit evidence from the other trials to be used in his appeal.	743
Seeking a separate trial while a co-accused remains absconding	After refusing bail where a co-accused had absconded, the Court left the applicant free to apply for separation of his trial from that co-accused in the meantime. The liberty was to seek separation through an application; the order did not itself separate the trials.	775
Evidence recorded in a separate trial of a co-accused	Evidence recorded in the separate trial of a co-accused cannot be read as evidence in the accused's trial. While acknowledging that restriction, the Court referred to the witness's evidence in the connected trial when discussing departmental procedure. That limited reference does not establish a general rule	920

Topic	Ratio	Case Sr.no.
	permitting evidence from another trial to be used as substantive proof.	
Evidence recorded only in a co-accused's trial cannot determine another accused's guilt	Subject to lawful exceptions, guilt must be determined on evidence recorded in the accused's own trial, in the presence of the accused or counsel and with an opportunity to cross-examine. Evidence given only in a separately tried co-accused's case cannot be imported to decide another accused's culpability. The witnesses had previously testified in the appellant's presence; their later evidence was recorded only for the co-accused. The appellant could not obtain the benefit of statements made in that later examination merely because they concerned the same occurrence.	944
Independent assault and the same-transaction requirement for joint trial	Section 223(d) CrPC permits persons accused of different offences to be tried jointly when those offences were committed in the same transaction. The wife's and son's alleged assault on the prosecutrix arose from their opposition to the co-accused's relationship with her. There was no allegation that they facilitated, abetted or conspired in his alleged repeated rape. Their assault was therefore independent of the alleged rape and did not satisfy the same-transaction requirement. The charge order was set aside only insofar as it rejected their joint-trial objection; the Court did not determine guilt on the assault charge.	960
Separate simultaneous trials before the same court for connected accusations	Although the alleged assault and rape did not form the same transaction for a joint trial, their direct nexus justified retaining both matters before the same Sessions Court instead of sending the assault case to the JMFC. The Court directed separate but simultaneous trials, with evidence recorded separately and two different judgments. The common forum and timing did not authorise a common evidentiary record.	960
Separate trials where connected offences cause difficulty to the defence	Where several accused are alleged to have committed several offences, separate trials may be the more reasonable normal course. For offences forming part of the same transaction, the consideration justifying separate trials is the embarrassment or difficulty caused to the accused in defending themselves. The Court adopted this principle from Cheemalapati Ganeswara Rao while first asking whether the offences before it formed the same transaction.	960
Separate unlawful-assembly and rioting charges with Section 149 IPC	Where an offence is charged with the aid of Section 149 IPC, separate charges under Sections 143 and 147 are unnecessary unless separate convictions under those provisions are sought. Their requisite ingredients remain implicit in the Section 149 charge and must be established.	987
Separate trials — appraisal of the evidence recorded against each accused	Where accused persons were tried at different stages and witnesses were recalled or examined afresh, the appellate court must consider the evidence against each appellant from the depositions recorded in the trial concerning him. Applying A.T. Mydeen v. Assistant Commissioner, Customs Department, the Bench separately assessed the evidence against the two lathi assailants and against the accused tried later. The rejection of a witness in the earlier trial and the failure of witnesses to support the prosecution in the later trial were kept distinct. The earlier testimony was not treated as automatically available against the separately tried accused.	993
	Sub-Chapter no. 18.4 **Section 319 CrPC — Summoning Additional Accused on Trial Evidence**	
Section 319 CrPC: strong and cogent evidence beyond the charge-framing standard	Section 319 CrPC is an extraordinary discretionary power to be used sparingly on strong and cogent evidence. The evidence must establish more than the prima facie case required to frame a charge, while falling short of the satisfaction that unrebutted evidence would warrant conviction. Specific allegations of firing in the FIR and the complainant's examination-in-chief were sufficient to summon the omitted accused, without deciding guilt.	141
Arrest warrant on summoning an	The arrest warrant issued with the Section 319 order was upheld where the trial court had recorded the proposed accused's absence and the absence of any	141

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additional accused under Section 319 CrPC	application on his behalf, and counsel suggested that notice on the application had already been issued. The finding of legality rested on those circumstances and did not prescribe arrest warrants as the routine first process under Section 319.	
Section 319 CrPC — trial evidence implicating a person omitted from the charge-sheet	Summoning the applicant as an additional accused under Section 319 CrPC was upheld where the FIR specifically named him and witnesses admitted his involvement in their cross-examination at trial. His omission from the charge-sheet on the basis of a void parallel police inquiry did not defeat the trial evidence supporting the summons. The order concerned his addition as an accused and did not determine guilt.	336
Section 319 CrPC: Strong and Cogent Evidence for Summoning an Additional Accused	Section 319 CrPC confers an extraordinary discretionary power to be exercised sparingly on strong and cogent evidence led before the court. The evidence, though not necessarily tested by cross-examination, must exceed the prima facie standard for framing a charge while remaining short of satisfaction that unrebutted evidence would lead to conviction. The court does not decide guilt at this stage. Specific allegations of overt acts, considered with the material on record, met that standard where the police had excluded the proposed accused on an unsupported alibi.	374
Evidentiary Satisfaction for Summoning an Additional Accused under Section 319 CrPC	Section 319 CrPC requires reasonable satisfaction from the evidence that a person not already arraigned has committed an offence and could be tried with the existing accused; mere doubt about involvement is insufficient. The assessment stands above the ordinary prima facie discharge inquiry. Specific accusations supported by the complainant's testimony, corresponding medical injuries and other witnesses justified summoning here, without finally determining guilt.	403
Discretion and the Fresh-Trial Consequences of Section 319 CrPC	The power to add an accused under Section 319 CrPC is discretionary, not compulsory whenever another person is implicated. The Court must consider the evidence, the trial's stage, the work already undertaken and the requirement to commence proceedings afresh and re-examine witnesses for the added accused. The adopted test requires a reasonable prospect of conviction, without treating the summoning decision as a final finding of guilt.	403
No Mandatory Pre-Summons Hearing under Section 319 CrPC	A person omitted from the police report, or not named there as an accused, may be summoned under Section 319 CrPC without a prior notice or hearing. The absence of such a hearing does not remove the person's remedy against an illegal or improper summoning order or the rights available during the subsequent trial.	403
Examination-in-Chief as Evidence for Section 319 CrPC	The Court may exercise Section 319 CrPC after examination-in-chief without waiting for cross-examination, provided its recorded reasons establish the required satisfaction about the additional person's involvement. A mini-trial is unnecessary. Under Section 319(4), the newly added accused is entitled to fresh proceedings with the opportunity to cross-examine prosecution witnesses, lead defence evidence and address arguments.	403
Unproved Alibi and Possible Self-Infliction at the Section 319 Stage	An alibi requires cogent proof at trial. Untested statements placing the proposed accused at a seminar, unsupported by attendance or similar documents, did not displace the evidence supporting the Section 319 summons. A medical opinion that an injury could be self-inflicted likewise raised an evidentiary question for trial. The High Court's assessment was confined to summoning and was not to prejudice the trial court's final decision.	403
Section 227 Discharge Cannot Undo a Proper Section 319 Summons	An accused properly added under Section 319 CrPC cannot undo that order by seeking discharge under Section 227 on the lower prima facie standard. That course would make the earlier exercise under the higher Section 319 standard futile. A legal challenge to an illegal or improper exercise of the summoning power remains available.	403

18.4 : Section 319 CrPC — Summoning Additional Accused on Trial Evidence

Topic	Ratio	Case Sr.no.
Section 319 CrPC — evidentiary threshold for summoning an additional accused	Section 319 CrPC is an extraordinary discretionary power to be used sparingly on strong and cogent evidence recorded before the court. The evidence must exceed the prima facie threshold for framing a charge, while falling short of satisfaction that unrebutted evidence would lead to conviction. Examination-in-chief may suffice without awaiting cross-examination. Applying Hardeep Singh, the Court upheld the summons on PW-1's specific trial testimony placing the applicant at the assault and attributing participation and exhortation to him. Police statements could assist assessment of that testimony but could not replace the required court evidence. The assessment did not determine guilt, and the trial court had to decide independently on the evidence subsequently recorded.	490
Section 319 CrPC — pending closure report and earlier cognizance revision	A pending police closure report does not prevent the trial court from summoning an additional accused under Section 319 CrPC on the requisite trial evidence. An earlier refusal to entertain a revision concerning Section 193 cognizance did not bar scrutiny at this distinct stage. Applying Brijendra Singh, the Court had to examine contrary investigative material when assessing whether the trial testimony met the stronger evidentiary threshold; the High Court retained that duty even if the trial court had overlooked the material. The trial court need not await the Magistrate's decision on the closure report. In this case, the subsequent valid Section 319 order deprived the pending closure report of effect and left it unnecessary for the Magistrate to decide.	490
Evidentiary threshold for summoning under Section 319 CrPC	Section 319 CrPC requires evidence stronger than the prima facie case sufficient for framing a charge and stronger than a mere probability of involvement. The satisfaction must nevertheless fall short of a conclusion that unrebutted evidence would lead to conviction. Applying the reproduced Hardeep Singh test, the Court held that the specific trial evidence of instigation met that threshold. The power concerns whether the person could be tried with the accused; it does not decide guilt.	602
Police exoneration and contrary trial evidence under Section 319 CrPC	Omission of a person from the charge-sheet does not prevent summoning under Section 319 CrPC where the evidence before the trial court satisfies the required higher threshold. The complainant specifically repeated his allegation of instigation in examination-in-chief. In the circumstances, the Court found that the investigating officer had sought to protect the applicant and declined to treat the exculpatory police statements as decisive. It upheld the summons without deciding final guilt.	602
Section 319 CrPC may be invoked before cross-examination	Evidence led before the court need not first be tested by cross-examination before the court exercises Section 319 CrPC. The examination-in-chief must still satisfy the stronger evidentiary standard laid down in Hardeep Singh. On that basis, the Court upheld summoning after the complainant’s examination-in-chief; the absence of cross-examination did not itself bar the order.	602
Evidence required to summon an additional accused under Section 319 CrPC	Section 319 CrPC requires evidence stronger than the prima facie case sufficient for framing a charge, but short of satisfaction that the evidence, if unrebutted, would lead to conviction. Evidence led before the Court need not already have been tested by cross-examination. The Court considers whether the person could be tried with the existing accused and must not form a final opinion on guilt. Applying this standard, the High Court found no perversity in the order summoning the applicants.	611
Section 319 CrPC: trial-stage addition of omitted offenders	Where trial evidence shows that a person who was not charge-sheeted committed the offence, the trial court may add that person as an accused under Section 319 CrPC. The possibility of such trial-stage addition supports the conclusion that omission of other possible offenders does not itself invalidate the prosecution of those already charge-sheeted.	625
Strong and cogent	Section 319 CrPC is an extraordinary and discretionary power to be exercised	643

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evidence required for Section 319 summons	sparingly on strong and cogent evidence. Applying Hardeep Singh, the evidence must exceed the prima facie threshold for framing charge and show more than a mere probability of complicity, while falling short of the satisfaction required for conviction. The court does not decide guilt when summoning an additional accused.	
Evasive supporting affidavit as material for Section 319 summons	An affidavit declaring that an anticipatory-bail application was the first such application supported an inference, on this record, that the deponent had read the application and its annexures. Where the application relied on a false medical certificate, omission of an express verification of every factual statement did not protect the deponent from consideration under Section 319 CrPC. The Court found sufficient material that he knew of the false contents and documents yet supported the application by an evasive affidavit, and sustained his summons as an additional accused.	643
Mere presence with accused insufficient to infer fabrication conspiracy	Presence with existing accused at the police station did not, without further material, establish sufficient involvement in preparing a false medical certificate to justify summons under Section 319 CrPC. The Court refused to presume conspiracy from that presence alone and set aside the summons against the two applicants whom no other material linked to the certificate's preparation.	643
Section 319 summons before cross-examination of the witness	The court may exercise Section 319 CrPC on a witness's examination-in-chief without awaiting cross-examination. Applying Hardeep Singh, the Court rejected the contention that evidence could not be acted upon until cross-examination, while retaining the requirement of sufficiently strong material against each proposed additional accused.	643
	Sub-Chapter no. 18.5 **Discharge and Groundless Accusation at Pre-Trial Stage**	
Discharge where prosecution material cannot support the accusation	If the prosecution's proposed evidence, even when fully accepted before cross-examination or rebuttal, cannot show that the accused committed the offence, there is no sufficient ground to proceed to trial. Where two views are possible and one raises only suspicion rather than grave suspicion, the trial judge is empowered to discharge the accused.	60
Section 227 CrPC — prosecution record and defence documents	For discharge under Section 227 CrPC, the record of the case consists of the documents and articles produced by the prosecution. The accused has no right at the charge-framing stage to introduce defence documents and must confine submissions to the police-produced material. The accused may explain material said to create grave suspicion within that record; the probable defence is not weighed as if the trial had begun.	60
Discharge where the prosecution case raises only suspicion	Where two views are possible and the prosecution material raises only suspicion rather than grave suspicion, the judge may discharge the accused. A charge cannot stand where the proposed prosecution evidence, even fully accepted before cross-examination or rebuttal, cannot show commission of the particular offence. The court need not decide whether the material will ultimately secure a conviction.	63
Section 227 CrPC — limits on introducing defence documents	The record considered for discharge under Section 227 CrPC consists of the prosecution's documents and articles. The accused has no right at the charge-framing stage to produce defence documents and must address the police-produced material. He may explain the material said to create grave suspicion, but cannot demand that the court conduct a trial of the defence case.	63
Discharge distinguished from evidence-based acquittal	A discharge founded on the failure of uncontroverted allegations to disclose an offence differs from an acquittal founded on appreciation of trial evidence. The discharge reasoning in Akhilesh Singh therefore did not give an accused tried later an automatic right to quashing merely because a co-accused had been	231

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	acquitted on evidence in his absence.	
Discharge — suspicion falling short of grave suspicion	Where two views of the prosecution material are possible and one gives rise only to suspicion, as distinct from grave suspicion, the trial judge may discharge the accused. If the proposed prosecution evidence, even fully accepted before cross-examination or defence rebuttal, cannot show commission of the offence by the accused, there is no sufficient ground to proceed to trial.	330
Prosecution record and defence submissions at the discharge stage	For discharge under Section 227 CrPC, the record of the case comprises the documents and articles produced by the prosecution. The accused has no right at the stage of framing charges to introduce separate defence documents; submissions must address the police material. An accused may explain the material said to create grave suspicion, but the court does not decide a contested defence through an evidentiary inquiry at that stage.	463
Defence Documents Requiring Proof at the Discharge and Quashing Stages	An accused cannot obtain discharge by relying on disputed defence documents outside the charge-sheet that require formal proof. Under Section 91 CrPC, necessity or desirability of production depends on the stage and the party seeking it. The accused ordinarily cannot invoke that provision at charge framing to establish innocence through defence material; the relevant record at that stage is the prosecution record under Section 173 CrPC. In the Section 482 challenge to refusal of discharge, the Court declined to decide the defence on the additional accounting and machinery documents.	531
Discharge where prosecution material does not support the offence	If the prosecution material, even if fully accepted, cannot show that the accused committed the alleged offence, there is no sufficient ground to proceed. Where two views are possible and one gives rise only to suspicion rather than grave suspicion, the judge may discharge the accused. Mere suspicion unsupported by material cannot justify a charge.	568
Section 227 CrPC — discharge submissions are confined to the prosecution record	For discharge under Section 227 CrPC, the record of the case consists of the documents and articles produced by the prosecution. The accused has no right at that stage to introduce defence documents. Submissions seeking to explain away material creating grave suspicion must remain confined to the material produced by the police; the probable defence is not to be tried then.	635
Defence document outside the prosecution record at discharge stage	The record considered under Section 227 CrPC comprises the prosecution's documents and articles; the accused has no right to introduce separate defence material at the stage of framing charge. Applying Debendra Nath Padhi, the Court declined to act on a police report sent to the Additional Advocate General in a separate bail matter because it was not part of the charge-sheet or case diary. The applicants could use that report in defence at the appropriate trial stage.	647
Accused's explanation of prosecution material at discharge hearing	An accused may explain material said to create grave suspicion when seeking discharge, but the submission at a Section 227 CrPC hearing must remain confined to the material produced by the police. The adopted M.E. Shivalingamurthy principles preserve that opportunity while excluding introduction of separate defence documents at charge stage.	647
Ordinary suspicion and discharge under Section 227 CrPC	If two views are equally possible and the material raises only ordinary suspicion rather than grave suspicion, the Judge may discharge the accused. Where the proposed prosecution evidence, even fully accepted, cannot show commission of the offence, there is no sufficient ground to proceed. The Judge must make this limited judicial assessment and cannot merely accept the prosecution's request for charge.	715
Defence documents and the prosecution record under Section 227 CrPC	For discharge under Section 227 CrPC, the record of the case consists of the documents and articles produced by the prosecution. The accused has no right to introduce defence documents at the charge stage; submissions must be confined to the police material. The accused may explain the material giving	788

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	rise to grave suspicion, but the Court does not try a separate defence case or assess its probable success at that stage.	
Prosecution record and defence explanations under Section 227 CrPC	For discharge under Section 227 CrPC, the record consists of the prosecution's documents and articles. The accused may explain material said to create grave suspicion through submissions on that record, but has no right to introduce defence documents at the charge stage. The probable defence is not weighed as though the trial had taken place.	799
Mere suspicion and discharge where two views are possible	Where two views are possible and the material gives rise only to suspicion rather than grave suspicion, the trial judge may discharge the accused. Suspicion without supporting material is insufficient to frame a charge; the judge does not act merely as a conduit for the prosecution.	799
Sections 227, 239 and 245(1) CrPC — discharge standards and stages	Section 227 uses the test of insufficient ground to proceed, Section 239 asks whether the charge is groundless, and Section 245(1) asks whether the unrefuted evidence would warrant conviction. Sections 227 and 239 operate before evidence is recorded, on the police-report material and after hearing the parties; Section 245(1) follows the evidence under Section 244. Despite their different wording and stages, the relied-upon authority requires a prima facie case before a charge is framed, rather than a trial-like inquiry.	808
Discharge where equally possible views raise suspicion but not grave suspicion	In considering discharge under Section 227 CrPC, the judge must examine the broad probabilities, the overall effect of the prosecution material and any basic infirmities rather than act merely as a mouthpiece of the prosecution. If two views are equally possible and the material raises only some suspicion, rather than grave suspicion, the judge may discharge the accused. This limited assessment does not permit weighing the evidence as though conducting the trial.	830
Challenge to suicide-abetment charge — allegations tested without a final assessment of guilt	At the stage of challenging a charge for abetment of suicide, the assessment is tentative rather than a final weighing of evidence to determine guilt. Where the prosecution allegations, even accepted as true, do not disclose abetment under Sections 306 and 107 IPC, the charge cannot stand and the accused may be discharged.	902
Fresh discharge request after framing of charges: absence of review power	A subordinate criminal court cannot recall its cognizance order by invoking a review or inherent power it does not possess. Applying that principle, the Court upheld rejection of a fresh application for discharge or acquittal based on a later handwriting report after charges had been framed and evidence had commenced. The applicant’s request for termination was separately examined under section 482 CrPC.	973

Sub-Chapter no. 18.6
Summoning Additional Accused under Section 319 CrPC — Strong Evidence Threshold

Strong-evidence threshold for summoning an additional accused	Section 319 CrPC requires strong and cogent court evidence exceeding the prima facie standard for framing charge, though short of the satisfaction required for conviction. The power is extraordinary, discretionary and exercisable sparingly. Applying Sagar's reproduction of Hardeep Singh and the rule in Sartaj Singh, the Court found the injured witness's specific trial attribution of an active Farsa assault sufficient to sustain the summons.	645
Section 319 power on examination-in-chief	The court need not await cross-examination before summoning an additional accused under Section 319 CrPC. Examination-in-chief may provide the necessary evidence if it satisfies the strong-evidence threshold. The Court applied Sartaj Singh and Hardeep Singh to the injured witness's trial account.	645
Police omission from charge-sheet does not bar Section 319 summons	A person named in the FIR but not charge-sheeted may be summoned under Section 319 CrPC on sufficiently strong trial evidence. Repetition in court of the central accusation made in the FIR does not itself disqualify that evidence. The Court applied Sartaj Singh and sustained the summons where the injured	645

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	witness attributed an active assault despite the police's earlier acceptance of an inadequately supported alibi.	
	Chapter no. 19 **Compounding, Plea Bargaining, Withdrawal and Settlement**	
	Sub-Chapter no. 19.1 **Compounding of Offences and Legal Effect of Compromise**	
Section 498-A IPC: non-compoundability under Section 320 CrPC	An offence under Section 498-A IPC is not compoundable under Section 320 CrPC. The Court accepted that the wife's compounding application had therefore been rejected. Her subsequent decision not to support the prosecution, resulting in acquittal, was considered separately as evidence of her attempt to preserve the marriage; it was not treated as a statutory composition of the offence.	42
Section 23-A MMDR Act — compounding bars the compounded mining offence but does not terminate IPC proceedings	Where an offence is compounded under Section 23-A(1) MMDR Act, subsection (2) bars proceedings or further proceedings for the MMDR or rule offence so compounded. That bar does not extend to distinct IPC offences such as Sections 379 and 414, which may continue. Applying Jayant, the Court held that payment of the mining penalty did not end the separate IPC proceedings or require release of the seized vehicle. Recovery of penalty and royalty alone also did not bar resort to the Penal Code under the rule considered in Banti.	79
Compromise of non-compoundable forgery and conspiracy offences	A voluntary settlement does not make offences under Sections 467, 468, 471 and 120-B IPC compoundable under Section 320 CrPC. The Court affirmed the convictions despite the verified compromise and assessed sentence separately.	273
Section 320(2) permission and support from all separately affected victims	Permission under Section 320(2) CrPC is for the court before which the prosecution is pending. Filing a Section 482 petition did not make the High Court that court where no appeal or revision prosecution was before it and investigation against the applicant remained pending. In this multi-victim case, the compounding application also required supporting affidavits from every affected victim; photocopies annexed to it did not substitute for affidavits in support. The Court declined to exercise the trial court's function on the record before it, leaving the statutory trial-court route available.	443
Voluntary compounding of a cheque-dishonour conviction in revision	A Section 138 NI Act conviction may be compounded in revision after the conviction has been affirmed on appeal. The Court accepted the compromise after the Principal Registrar verified that both parties acted freely and without pressure or coercion. It set aside the conviction and acquitted the applicant subject to deposit of the prescribed compounding costs. The private settlement did not dispense with that condition.	609
Non-compoundability of murder	An offence under Section 302 IPC is not compoundable. The Court therefore declined to apply a decision concerning an amicable settlement to the prosecution involving the alleged fatal assault.	614
	Macro Division VI **Evidence and Proof**	
	Chapter no. 20 **Witnesses, Oral Testimony and Credibility Assessment**	
	Sub-Chapter no. 20.1 **Child Witness, Prosecutrix and Vulnerable Witness Credibility**	
Child eyewitness — reliable testimony despite minor omissions	A child's testimony cannot be rejected merely because of tender age or minor contradictions and omissions which do not affect material particulars. If the child withstands cross-examination and gives a confidence-inspiring account which rules out tutoring, that testimony may by itself support conviction.	8

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	Corroboration may be sought as a precaution, rather than as an inflexible legal requirement. Here the child's account was also supported by the injured eyewitness, the parents' observations and medical evidence.	
Prosecutrix's testimony — sole reliance and material contradictions	A conviction for rape may rest on the prosecutrix's testimony alone if it is reliable and inspires confidence. Corroboration is not a routine requirement, and discrepancies that do not materially affect credibility should not defeat an otherwise reliable case. Here, significant improvements and contradictions, an unproduced and unsupported claim of recorded threats, and the absence of useful medical or scientific support undermined confidence in the prosecution evidence. The Court therefore found the guilt of the accused unproved.	65
Reliability of a child witness and allegations of tutoring	Tender age and residence with relatives do not by themselves establish tutoring. The court must scrutinise a child's ability to understand and answer, the content of the testimony, cross-examination and recorded demeanour. A competent child whose account inspires confidence may be the sole basis of conviction; corroboration is a safeguard of prudence rather than an inflexible legal requirement. Here, the six-year-old injured survivor's natural fear on seeing the accused, confident account of what she witnessed and express denial of coaching supported reliability despite her admission that her grandparents had also spoken about the killings.	103
Child witness — Reliability and prudential corroboration	A child's evidence requires careful assessment of understanding, reliability and the possibility of tutoring. Corroboration is a safeguard of prudence, not an inflexible legal condition: trustworthy child testimony may itself sustain conviction. The child's observation that the deceased left with the appellant remained unchallenged in cross-examination and was also supported by another witness. Her lack of personal knowledge of the killing did not displace that last-seen observation.	118
Child eyewitness account corroborated by forensic evidence	The child's direct account of his father pouring kerosene on his mother and pushing her towards an electric heater was accepted after cross-examination. Kerosene detected in the deceased's scalp hair independently corroborated that account, as did his disclosure of the incident to his grandparents. His age and the denied suggestion of tutoring did not displace the evidence accepted by the Court.	173
Reliable prosecutrix testimony does not require further corroboration	Where the prosecutrix's evidence is reliable and trustworthy, further corroboration is not a necessary condition for accepting it. The Court applied that principle to her account of rape; the FSL finding of human sperm was also available in support of the prosecution case.	179
Minor contradictions in an injured child witness's account	Minor contradictions in an injured child witness's testimony do not make the evidence unreliable when they do not affect the substance of the prosecution case and the account inspires confidence about the accused's involvement.	199
Reliability, tutoring and corroboration of a child eyewitness	A child's evidence requires close scrutiny for tutoring, bias and material inconsistencies. Corroboration is ordinarily a precaution rather than an inflexible legal condition, and a competent child's sole testimony may support conviction if its quality and reliability satisfy the Court. Here, the six-year-old eyewitness's natural answers, consistent identification of her father's act and supporting evidence overcame the tutoring objection. Minor variations attributable to her age and unfamiliarity with court did not make her evidence unreliable.	214
Preliminary assessment of a child's competence to testify	Tender age does not itself disqualify a witness under Section 118 Evidence Act. The trial judge must assess whether the child can understand questions and give rational answers, taking account of the child's intelligence and capacity. This assessment is distinct from credibility and understanding an oath. The trial judge's assessment may be disturbed on appeal if the preserved record shows it	214

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	to be erroneous. The child here was found able to depose after preliminary questions.	
Child witness: residence with maternal relatives does not establish tutoring	A child witness is not to be disbelieved merely because she lives with maternal relatives after her mother's death. Tutoring requires prompting the child to describe acts that did not occur; asking her to speak the truth is different. The Court tested the seven-year-old daughter's account in cross-examination and against the surrounding evidence, and found no basis to reject her evidence against her father merely because her relatives cared for her.	288
Child awakened during an incident may still witness relevant events	A child who was initially asleep is not necessarily incapable of witnessing the incident after being awakened by noise. The Court must consider when she woke, the place and course of events, and what she could then observe. The daughter's evidence could not be rejected wholesale merely because she woke during the burning in the shared two-room accommodation.	288
Child witness — capacity, careful scrutiny and natural discrepancies	The trial judge primarily assesses a child's intelligence and ability to understand the obligation of an oath from the child's manner and examination. Because children may be susceptible to tutoring or influence, their evidence requires careful scrutiny, but a truthful account may be accepted. Minor discrepancies natural to a young witness did not justify rejecting testimony that inspired confidence on the accused's involvement. A higher court may disturb the capacity assessment if the preserved record shows it to be erroneous.	315
Child prosecutrix — testimony assessed with surrounding and scientific evidence	The six-year-old prosecutrix’s account was assessed together with evidence that she emerged crying from the accused’s room, blood on her body and clothes, medical signs of inflammation and the DNA report. The Court considered the alternative explanation of injury by a cow, but accepted the doctor’s categorical rejection of that explanation and found rape proved beyond reasonable doubt on the combined ocular, medical and scientific evidence.	332
Child eyewitness — careful scrutiny and corroboration as a rule of prudence	A child's evidence cannot be rejected merely because of age. It requires careful scrutiny for reliability and tutoring. Corroboration is desirable as a matter of prudence, rather than an inflexible rule of law. Conviction may rest on a child's sole testimony when the Court is satisfied that it is truthful and free from tutoring. Here, the child's natural presence, unshaken account of the assault and immediate disclosures, corroborated by other witnesses, justified reliance on her evidence despite partial hostility on motive.	341
Child eyewitness — reliable testimony and prudential corroboration	A child's testimony is not to be rejected merely because of age. It must be closely examined for tutoring, bias, contradictions and reliability. Corroboration is ordinarily sought as a matter of caution, but reliable testimony of a competent child may by itself support conviction. The child eyewitness's natural account identifying the accused as her mother's assailant remained unshaken in cross-examination and was corroborated by medical evidence and recovery of the stone.	342
Section 118 Evidence Act — understanding, rather than a fixed age, determines competence	Competence to testify is the rule. A child's tender age does not disqualify the child if the child can understand the questions and give rational answers. No fixed age determines that capacity. The Court must be satisfied about the child's intelligence and ability to appreciate the duty of speaking the truth.	342
Child witness — preliminary inquiry and review of the competence finding	The trial judge should conduct a preliminary inquiry to assess the child's understanding and mental capacity before recording evidence. The judge may examine the child for that purpose and observe the child's manner and intelligence. Failure to conduct such an inquiry is not, by itself, necessarily fatal to the evidence. The competence finding may be disturbed on appeal where the preserved record shows that it was erroneous.	342
Child witness —	A child may be competent to give evidence even where an oath cannot properly	342

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competence to testify is distinct from administration of oath	be administered. Admissibility and assessment of that evidence depend on the child's capacity and the safeguards governing child testimony.	
Child Eyewitness Account Supported by Immediate Disclosure and Medical Evidence	The child daughter's account that she saw her father repeatedly strike her mother with a wooden pillar was accepted where she maintained her direct observation in cross-examination, denied tutoring, and immediately informed her uncle. Her account was supported by the uncle's observation of the accused leaving with the pillar and by medical evidence excluding an accidental fall.	377
Sexual-assault testimony — Contextual meaning of ordinary expressions	Courts should understand a witness's ordinary expressions in their linguistic and evidentiary context, without insisting on statutory terminology or graphic details of sexual acts. Sexual-assault evidence must be recorded sensitively and unnecessary obscenity avoided. Here, the adult eyewitness's expression 'Bura Kaam', read with the surrounding account, injuries and the parties' understood issue of penetration, conveyed the alleged sexual act. The infant victim did not testify; this was an assessment of the adult eyewitness's words, not a statement made by the child.	477
Child eyewitness — Competence, tutoring scrutiny and prudential corroboration	Under Section 118 of the Evidence Act, tender age does not itself disqualify a witness. The trial judge must assess understanding, rational answers and the ability to give reliable evidence, ordinarily through a preliminary inquiry. Testimony requires close scrutiny for tutoring, bias and material infirmities. Read with the cited authorities and paragraphs 62–64, corroboration is ordinarily a precaution rather than an inflexible legal requirement; a competent child's wholly reliable sole testimony may sustain conviction. Here, the approximately twelve-year-old daughter's account remained unshaken and was supported by two other witnesses.	478
Reliable Prosecutrix Testimony and Actual Medical and Forensic Support	Reliable and trustworthy prosecutrix testimony does not require independent corroboration as a rule. Here the Court nevertheless considered the whole evidentiary setting: no fresh injuries or definite medical opinion on recent intercourse, but human semen and sperm on the vaginal samples and clothing, proved age evidence, and an unestablished alibi. It distinguished authorities involving unreliable age records or missing medical witnesses. The counterblast allegation also failed because the father's separate Section 307 case arose later on the unrebutted evidence.	529
Material contradictions affecting a sole child eyewitness	A conviction cannot safely rest on a sole child eyewitness whose claimed presence and account contain material contradictions. Conflicting versions about attending school, residence, the sequence of medical treatment and accompanying the injured, considered with the altered attendance record, made the testimony unreliable in this case.	571
Omission from a spot map and reliable direct evidence	The investigating officer's failure to mark the shop in the spot map did not undermine the otherwise reliable testimony of the prosecutrix. The accused could not obtain an advantage from that investigative fault where her evidence and prompt disclosures were accepted as reliable.	616
Discussion of testimony with a parent and alleged tutoring	In the circumstances of this case, the minor prosecutrix's discussion with her father about narrating the incident in court did not by itself establish tutoring. The Court rejected the tutoring objection after accepting her account and finding that the alleged family dispute had not been shown to have caused false implication.	616
Conviction on the prosecutrix's reliable testimony without corroboration	The reliable testimony of a prosecutrix that inspires confidence may alone sustain conviction; corroboration is not a mandatory legal requirement, and she is not an accomplice. Compelling reasons may nevertheless require evidence giving assurance to her account. Minor discrepancies do not defeat an otherwise reliable case, but serious infirmities, material inconsistencies or inherent	618

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	improbability cannot be ignored. After considering the disclosures, cross-examination and other evidence, the Court accepted the prosecutrix's account and upheld the conviction.	
Rape conviction on the prosecutrix's sole testimony	A conviction for rape may rest solely on the prosecutrix's testimony when the Court is satisfied that it is truthful and of a quality sufficient to sustain conviction, without circumstances casting doubt on her veracity. Where the evidence fails that standard, it is unsafe to convict solely on her testimony. The Court applied this test and found the evidence insufficient in the circumstances before it.	694
Reliance on a seven-year-old sole eyewitness after careful scrutiny	A child's evidence is not rejected merely because of age, but requires greater care because of susceptibility to tutoring. The trial court tested Devendra's ability to understand and answer questions before recording his evidence without oath. His presence with his parents was natural and admitted by the appellant, his account of the axe attack remained unshaken, and his immediate reporting conduct supported it. Finding no basis for the tutoring suggestion, the Court accepted him as a reliable sole eyewitness.	718
Speculation about a child witness's conduct without seeking his explanation	The defence could not discredit the twelve-year-old brother merely by speculating why he allowed his sister to leave with the accused for ice cream instead of accompanying her. He had not been asked to explain his own reasons, and the record did not show that the same offer had been made to him. The Court declined to reconstruct an undisclosed reason through speculation by either counsel or the Court.	915

Sub-Chapter no. 20.2
Injured, Related and Interested Witnesses — Credibility Standards

Independent witnesses — quality of credible eyewitness evidence governs	Non-examination of independent witnesses is not, by itself, fatal to the prosecution. The quality of evidence matters more than the number of witnesses. The Court relied on the consistent testimony of the injured sister and the child eyewitness, supported by the immediate observations of the deceased's parents and the medical findings, to reject the objection that independent witnesses had not been examined.	8
Injured eyewitness — special weight subject to credibility and probabilities	An injury sustained in the occurrence ordinarily assures the witness's presence and gives the testimony special weight. Such evidence should not be rejected without strong grounds such as major contradictions or discrepancies, but must still accord with probabilities and cannot be accepted mechanically. Minor variations that did not undermine the core account of the shooting were insufficient to reject the injured eyewitnesses here.	12
Credibility of injured relatives and independent corroboration	Relationship with the deceased does not by itself discredit a witness. Where a relative shares the deceased's hostility towards the accused, the court must carefully examine the witness's presence, probabilities and possible false implication, but independent corroboration is not a legal prerequisite. Injured relatives who naturally reached an assault outside their home and gave materially consistent accounts were accepted where previous enmity was not established.	21
Conviction on the testimony of a sole related or inimical eyewitness	A witness's relationship with the deceased does not by itself make the testimony unreliable or require independent corroboration. Interested or inimical evidence must be examined with particular care for probability, consistency and possible false implication. Where a motive for false implication appears, material corroboration should be sought. A sole eyewitness may nevertheless sustain conviction if the account withstands that scrutiny and is found trustworthy; here the witness's natural presence and medically corroborated account met that standard.	23
Non-examination of	The prosecution case cannot be rejected merely because independent persons	23

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independent witnesses despite trustworthy eyewitness evidence	were not examined when the eyewitness account is otherwise trustworthy. Public reluctance to participate in investigation or court proceedings must be considered. The officer's inquiries also indicated that the two persons named by the defence had not witnessed the incident, so their non-examination did not weaken the accepted eyewitness account.	
Weight of an injured eyewitness's testimony	Injuries sustained in the occurrence support an eyewitness's presence and give the testimony particular weight. Such evidence ordinarily deserves reliance because the injured witness is unlikely to spare the actual assailant and falsely implicate another person. It remains open to rejection for major contradictions or other substantial grounds affecting credibility. Consistent injured-eyewitness accounts corroborated by medical evidence were accepted in this case.	32
Relationship with the victim and witness credibility	A witness's relationship with the victim does not by itself discredit the testimony. The Court must examine related witnesses' evidence carefully for cogency and credibility, including the foundation of any plea of false implication. Reliable evidence cannot be discarded solely because the witness is a relative.	32
Related or interested witnesses: cautious scrutiny without automatic rejection	Testimony cannot be rejected solely because the witness is related to the victim. Applying Jayabalan, the Court required caution and attention to consistency when assessing interested witnesses, rather than automatic suspicion or a rigid rejection. It accepted the supporting accounts after considering their consistency and the corroborating medical and police evidence.	45
Interested testimony — effect of established enmity	Enmity can explain either commission of an offence or a false accusation. Where hostility is established, the prosecutrix's testimony must be carefully tested for reliability, consistency and a convincing account of the core allegations. If that account survives cross-examination, past hostility does not itself negate guilt. In this case, all four prosecution witnesses had reasons for hostility, and the Court found the material inconsistencies and lack of corroboration prevented reliance on their evidence.	65
Reliability of related eyewitnesses	The testimony of eyewitnesses who were close relatives of the deceased could be relied upon where their account consistently identified the accused as the shooter and remained credible and trustworthy. In this case, their account of the shooting was corroborated by the medical evidence, and their relationship to the deceased did not prevent reliance on their testimony.	90
Careful scrutiny of related or interested eyewitnesses	Relationship to the deceased does not by itself justify rejecting an eyewitness's evidence. The court must examine it carefully for consistency and credibility rather than approach it with automatic suspicion. Credible evidence is not discredited merely because the witness is related or because other cited witnesses turn hostile. Here, the wife and brother-in-law's direct account of the knife attack was found natural and reliable, with no indication of false implication.	93
Related witnesses, interested witnesses and careful scrutiny	A related witness is not necessarily an interested witness. Interest requires some benefit from the litigation or a reason to secure conviction beyond the relationship itself. A relative whose presence is natural may give reliable evidence. Interested testimony must be scrutinised cautiously to exclude false implication, but independent corroboration is not an invariable legal requirement where the testimony is intrinsically reliable. Here, the witnesses' presence in their fields was natural and cross-examination disclosed no material reason to reject their evidence.	98
Weight of injured-eyewitness testimony and failure to raise an alarm	Injuries sustained in the occurrence support an eyewitness's presence and give the testimony special evidentiary weight. Cogent grounds, such as major contradictions or discrepancies, are required to reject that evidence. Applying the narrated injured-witness authorities, the Court relied on the child survivor's proved head injuries. Her failure to raise an alarm did not show that she had not	103

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	witnessed the assault: people react differently, and a frightened six-year-old confronted by her uncle could remain silent.	
Related eyewitnesses — Natural presence and careful scrutiny	Relationship with the deceased does not by itself make an eyewitness interested or unreliable. An interested witness has a direct or indirect stake in securing punishment, arising from enmity or another motive for false implication. A plea of false implication requires a foundation, and the testimony must be examined closely for reliability, probability, cogency and consistency. Family witnesses naturally present outside their home during the morning attack could not be rejected merely because they were related to the victims.	115
Non-examination of independent witnesses — Effect on credible eyewitness evidence	Failure to examine nearby independent witnesses does not by itself discredit an otherwise trustworthy eyewitness account. Credible evidence from related or injured witnesses remains usable after careful scrutiny; the prosecution is not required to examine every person who may have witnessed the occurrence. The absence of independent testimony did not justify discarding the three eyewitnesses accepted in this case.	115
Prior enmity — Motive for crime and for false implication	Prior enmity can supply a motive both for committing the offence and for falsely implicating an accused. Its presence therefore does not by itself destroy the prosecution case. The Court must assess it with the evidence and circumstances when deciding whether the accusation and eyewitness account are reliable.	115
Eyewitness failure to intervene in a violent assault	An otherwise reliable eyewitness account cannot be rejected merely because the witness did not intervene when close relatives were being violently assaulted. The Court applied that principle where the father and son were subjected to a severe armed attack, and it also found that an eyewitness had in fact sustained injury while intervening.	115
Injured eyewitness — Explained delay in medical examination	Delay in medically examining an injured eyewitness does not necessarily make the account unreliable when the surrounding circumstances explain it. Here, one victim died and another required urgent referral, while the witness's own injury was not grievous and the family was occupied with treatment and investigation. Her examination later that day did not discredit her presence or testimony.	115
Cautious assessment of related, partisan and inimical witnesses	A witness's relationship to the deceased or enmity with the accused does not, by itself, justify rejecting the evidence. Consistent and trustworthy testimony may be accepted after cautious scrutiny. Where partisan witnesses make material improvements, prudence requires looking for independent ocular or circumstantial corroboration. Here, substantial infirmities and the absence of such support made their evidence unsafe to accept.	123
Concealment of relationship to claim independence as an eyewitness	An attempt by alleged eyewitnesses to conceal their close relationship to the deceased may undermine their credibility when other evidence establishes that relationship. Here, the nephews' categorical denials conflicted with the complainant's admission and formed part of the Court's assessment of their material falsehoods and improvements.	123
Relationship with the deceased does not by itself discredit a witness	A witness's close relationship with the victim is not by itself a ground to reject otherwise credible evidence. The testimony requires careful scrutiny for false implication rather than mechanical rejection. The Court relied on the reproduced Bhagwan Jagannath Markad principles while evaluating the deceased's son and wife and accepted the corroborated part of their evidence.	132
Related or interested witnesses and absence of independent testimony	The testimony of related or interested witnesses cannot be rejected merely because of that relationship or because no independent witness was examined, even where the incident occurred in a populated area in daylight. The court must scrutinise their evidence cautiously, considering material discrepancies, its genuineness and the truth of the account.	145

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Injured eyewitness: proved presence and consistent testimony	Medical proof of an eyewitness's injuries, together with substantial consistency between the FIR, police statement and testimony, supported the witness's presence and credibility. A discrepancy concerning a broken part of the sword did not undermine that assessment. The evidence was accepted after close scrutiny, including consideration of the asserted hostility toward the appellant.	145
Alleged hostility of a witness must be linked to the appellant	Complaints naming other accused, but not the appellant, did not establish hostility between the eyewitness and that appellant. A further suggestion that a complaint had been lodged against the witness remained unsupported when the document was not produced. Those matters did not justify treating the witness as inimical toward the appellant.	145
Evidence of the child victim's mother as an eyewitness	An eyewitness's evidence cannot be rejected merely because she is the victim's mother. Her account that she saw the accused committing the sexual act remained consistent on the material allegation, the suggested enmity was not established, and the forensic report corroborated the prosecution evidence. The omissions and contradictions relied upon did not make her testimony unreliable.	151
Related and interested witnesses	Relationship to the deceased does not by itself make a witness interested or untrustworthy. An interested witness has a direct or indirect stake in punishment and a motive for false implication, such as prior enmity. Related testimony requires careful scrutiny for inherent reliability, probability, consistency and cogency. The family witnesses' presence outside their own home in the morning was natural, and their evidence was accepted after scrutiny.	166
Enmity and credibility of prosecution witnesses	Enmity can supply a motive both for committing the offence and for falsely implicating an accused. Its existence must therefore be assessed with the other evidence rather than treated automatically as a reason to reject prosecution testimony. The prior platform and water disputes were considered in that manner.	166
Absence of independent witnesses	Non-examination of independent persons does not by itself defeat otherwise trustworthy eyewitness evidence. The Court considered the explanation that villagers had not disclosed information and no independent witness came forward, and accepted the family witnesses after close scrutiny.	166
Eyewitness's failure to intervene	An eyewitness's failure to intervene during a ferocious assault does not alone justify rejecting the account. The conduct must be viewed in the circumstances of the attack. The Court rejected that criticism where the witnesses had seen the father and son being severely beaten.	166
Explained delay in examining an injured witness	An injured witness's delayed medical examination did not make her evidence unreliable where the family first attended to a person declared dead, another critically injured person and urgent police and treatment arrangements, while her own injuries were not grievous. Her abrasions were consistent with the explanation that the weapon blow broke her bangles and the fragments injured her.	166
Weight and limits of injured-eyewitness testimony	Injuries sustained at the time and place of the occurrence support an eyewitness's presence and give the testimony special weight. Such evidence should ordinarily be relied on unless major contradictions or discrepancies justify rejection. The Court accepted the injured eyewitnesses' consistent account identifying the appellants as the assailants and found the prosecution case proved.	199
Injury supports a witness's presence at the occurrence	The injuries suffered by the two eyewitnesses supported their presence at the scene. Their detailed accounts of the appellants' roles, against which no discrepancy was shown, were accepted along with the other evidence in holding the prosecution case proved beyond reasonable doubt.	206
Related witnesses, independent	Relationship to the deceased, or being the sole witness, does not justify rejecting otherwise credible evidence. Courts must examine consistency and reliability	214

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witnesses and evidentiary quality	with care rather than presume untruthfulness. Non-production of an independent witness, or hostility of other independent witnesses, does not by itself discredit trustworthy related testimony. Applying Jayabalan, Seeman and Jodhan, the Court accepted the consistent account of the deceased's brother, materially confirmed by his companions.	
Related testimony and non-examination of independent witnesses	Relationship to the deceased does not itself impair a witness's credibility, and non-examination of independent witnesses is not by itself fatal where the testimony relied on is trustworthy. Evidentiary quality matters more than the number of witnesses. Where false implication is properly raised, the Court must scrutinise credibility cautiously. Applying those principles, the Court accepted the reliable accounts of the related witnesses.	215
Simple injuries, witness presence and minor discrepancies	Injuries sustained by a witness support the witness's presence at the occurrence and lend weight to the account of the assault. In rejecting the suggestion of self-inflicted simple injuries, the Court treated the injured witnesses as credible and held that minor discrepancies did not undermine the prosecution case on this record.	215
Conviction on truthful testimony of related witnesses	The testimony of a related witness may sustain a conviction if it is found truthful. Non-examination of independent witnesses does not by itself require rejection of otherwise credible eyewitness evidence.	220
Related and interested witnesses: distinction and assessment	Relationship to the deceased is not the same as an interest in securing conviction. Related or interested testimony must be assessed for natural presence, intrinsic reliability and possible false implication, rather than rejected mechanically. Careful scrutiny is required as a matter of prudence; credible testimony may be accepted without a fixed requirement of independent corroboration. The Court also declined to reject a witness merely because he knew or was employed by the deceased, particularly where that connection explained his presence.	248
Eyewitness remaining uninjured during the assault	An eyewitness's presence or credibility is not disproved merely because the assailants left him unharmed. Presence must be assessed from all the circumstances; the prosecution is not required to explain the assailants' mental process in sparing a witness. Applying this principle, the Court did not reject the accompanying eyewitness merely because he suffered no injury.	248
Non-examination of available independent witnesses	Non-examination of other independent persons does not by itself undermine the prosecution where the eyewitness evidence produced is trustworthy. The failure to examine customers present when the earlier threat was made therefore did not require rejection of the reliable witnesses who testified about it.	248
Relationship to the prosecutrix does not by itself discredit a witness	The mother’s evidence could not be discarded merely because she was related to the prosecutrix. She reached the spot immediately after hearing the alarm, and the suggestion of false implication due to enmity was not supported by circumstances undermining her reliability. Her testimony was assessed on its merits.	254
Credibility of related and interested eyewitnesses	Relationship to the deceased does not by itself justify rejecting an eyewitness. The evidence must be carefully scrutinised for truth and credibility, with greater caution where the witness also has an interest in conviction or hostility towards the accused. Credible evidence can be relied on without a mandatory rule of corroboration. Here, the Court accepted the related eyewitnesses after examining their cross-examination and the corroborating circumstances.	274
Prior enmity and the credibility of eyewitnesses	Prior enmity may supply a motive both for the offence and for false implication. Its effect on credibility must therefore be assessed against the prosecution evidence as a whole. Here, after accepting the eyewitness and corroborative evidence, the Court treated the enmity as a motive for the murder.	274
Related or interested	A witness's relationship to the deceased or interest in the prosecution is not by	275

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witnesses and the need for corroboration	itself a ground to reject the evidence. Presence at the scene, intrinsic reliability, surrounding probabilities and consistency with other evidence must be carefully examined. Corroboration is not universally required, but the court may seek independent assurance where enmity, embellishment or other circumstances create a risk of false implication.	
Enmity as a possible motive for crime or false implication	Enmity can provide both a motive for the offence and a reason for false implication. It does not require automatic rejection of a witness. The court must weigh the evidence carefully and assess the foundation for the allegation of false implication; where the account is trustworthy, enmity may support the prosecution's motive case.	275
Related witnesses, enmity and careful credibility scrutiny	Relationship to a victim or prior hostility towards the accused does not by itself justify rejecting credible testimony. Enmity may explain either false implication or the commission of the offence. The court must therefore scrutinise such evidence with more than ordinary care before relying on it.	279
Related or inimical witnesses: careful scrutiny of credibility	Relationship with the deceased or hostility towards the accused does not by itself disqualify a witness. The Court must carefully examine the witness's presence, the probabilities of the account and any infirmities. Consistent testimony from naturally present relatives may be accepted; independent corroboration is not an indispensable requirement in every case.	280
Relationship with the deceased does not by itself discredit testimony	A witness's testimony cannot be rejected in its entirety merely because the witness is the deceased's son. The Court must evaluate the evidence and the significance of any contradictions. The son's consistent account of the armed assault was accepted because the variations identified did not materially undermine it.	285
Related witnesses: retain reliable portions despite partial disbelief	Relationship alone does not make a witness interested or require rejection of the evidence. Nor does disbelief concerning some accused or part of the account require rejection of everything the witness says. The Court must separate reliable evidence from exaggeration. Here, the relatives' admission that they arrived after the victim was already burning limited their claim to have seen ignition, while reliable evidence concerning the husband could still be assessed separately.	288
Weight of an injured eyewitness's account despite a minor difference in sequence	An injury proved to have been sustained in the occurrence supports the witness's presence and gives the testimony special evidentiary weight, although major contradictions or strong grounds may justify rejection. Ajab Singh's injuries and corroboration by another eyewitness supported his account that the assault on him preceded the fatal firing. The difference in sequence from a witness watching at a distance did not undermine the core account of a rapidly unfolding incident.	291
Related witnesses and interested witnesses	Relationship with a victim does not by itself make a witness interested or unreliable. An interested witness has a direct or indirect stake in the accused's conviction giving a motive for false implication. The Court must carefully test reliability, probability and consistency rather than mechanically reject such evidence. Here no basis for an intention to falsely implicate the appellants was shown in the accounts of the related eyewitnesses.	291
Related eyewitnesses — scrutiny despite hostile independent witnesses	A witness's relationship to the deceased does not by itself justify rejecting otherwise credible testimony. Jayabalan and Seeman require careful scrutiny for consistency, with attention to the quality rather than the number of witnesses. Jodhan confirms that hostile independent witnesses do not, by themselves, discredit reliable related witnesses. Applying those principles, the Court accepted the related eyewitnesses' consistent account of the appellant firing at the deceased despite the independent shopkeepers' failure to support the prosecution.	307

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Related witnesses — conviction despite absence of independent eyewitnesses	Testimony of related witnesses can sustain conviction if it is found truthful. The absence of independent eyewitnesses did not require rejection of the accepted account, which the Court assessed with the medical evidence and the supporting evidence of witnesses who reached the scene immediately after the incident.	315
Related and interested witnesses — credibility after careful scrutiny	Relationship to the deceased or friendship with him does not by itself make a witness unreliable or establish an interest in false implication. The evidence must be assessed for its inherent reliability, probability and consistency, with greater caution where the witness also has hostility towards the accused. Corroboration is not an invariable legal requirement, though the particular infirmities and a demonstrated motive for false implication may call for it.	319
Prior enmity — motive for both false implication and the offence	Enmity can supply a motive for false implication and also a motive for committing the offence. It therefore does not by itself discredit a witness. The court must examine the testimony with due caution and assess whether the claimed false implication has a factual foundation.	319
Non-examination of independent witnesses — fact-dependent effect	Independent corroboration is not an absolute requirement where the examined eyewitnesses are credible after careful scrutiny. The effect of omitting independent witnesses depends on the circumstances, including their materiality, discrepancies in the evidence and reasons for their absence. Here, the market closed after the attack, potential witnesses had left, and reluctance to incur local hostility supported the Court's refusal to reject the accepted eyewitness evidence on that ground.	319
Related and interested witnesses — credibility and corroboration	Relationship to the deceased does not by itself justify rejection of a witness's evidence. The authorities relied upon by the Court require careful scrutiny of credibility, possible interest, hostility and material infirmities. Independent corroboration is not an invariable condition of relying on trustworthy related evidence, although established hostility calls for greater caution and a motive for false implication may require corroboration. The Court accepted the family witnesses' evidence alongside the husband's signed agreement. Its quoted discussion, including Raju, does not impose a rigid equation between relationship and disqualifying interest.	328
Non-examination of every witness — quality and necessary evidence	The prosecution need not multiply witnesses or call every person said to have seen the occurrence. The passages from Harbeer Singh and Raghubir Singh relied upon by the Court emphasise production of material witnesses needed to unfold the case and the quality, rather than number, of witnesses. In this cruelty prosecution, failure to examine neighbours did not by itself discredit the family witnesses, whose accounts were also considered with documentary evidence.	328
Related and Interested Witnesses: Distinction and Scrutiny	Relationship to the victim does not by itself make a witness interested or render the testimony unreliable. An interested witness has a direct or indirect interest in the accused's punishment arising from enmity or another reason supplying a motive for false implication. The Court must examine whether the testimony is reliable, probable, cogent and consistent, rather than reject it merely because the witness is a relative.	360
Injured Witnesses: Special Evidentiary Weight	An injury sustained in the occurrence strongly establishes the witness's presence and gives the testimony special evidentiary weight. Such evidence should ordinarily be relied on unless major contradictions or discrepancies provide strong grounds for rejection. That status does not establish every identification of an assailant: the Court retained the injured witnesses' reliable testimony while rejecting particular unsupported attributions.	360
Scrutiny of Related Witnesses' Evidence	A witness's evidence cannot be rejected merely because the witness is related to the injured person, but it requires close scrutiny. Where the related witnesses' accounts contain material contradictions and cannot withstand that scrutiny, they do not establish the accused's guilt.	372

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Delayed Disclosure and Uncorroborated Presence of a Claimed Eyewitness	An eyewitness's two-day silence about an alleged deliberate collision, despite opportunities to inform nearby police, raised doubt about whether he had witnessed it. His claimed travel in an auto remained uncorroborated: neither the driver nor the auto was identified, the footage did not show it, and no permit allowed its operation on the highway. His inability to read English also made his claimed identification of the vehicle's English-letter registration doubtful. These circumstances justified rejecting his account.	375
Injured Witness and the Quality Rather Than Number of Witnesses	The quality of testimony, rather than the number of witnesses, determines proof. An injured eyewitness has a special evidentiary position because the injuries assure presence at the scene. Failure of an independent witness to support the assault does not by itself require rejection of an injured witness whose account withstands scrutiny.	378
Weight of Injured Eyewitness Testimony	An injury sustained in the occurrence lends assurance to a witness's presence and gives the testimony special weight. Such evidence remains open to rejection on strong grounds, including material contradictions or discrepancies. The Court accepted the injured witnesses' account after examining its consistency and medical corroboration; their injuries did not dispense with scrutiny of credibility.	381
Related Witnesses Distinguished From Interested Witnesses	Relationship to the victim does not by itself establish an interest in falsely securing conviction. An interested witness has a direct or indirect stake in the result, such as a motive for false implication arising from prior enmity. A relative naturally present at the occurrence must be assessed for reliability, probability and consistency; the evidence cannot be mechanically rejected for kinship. Alleged partisanship calls for careful scrutiny supported by a factual foundation.	381
Non-Examination of Independent or Material Witnesses	The absence of independent witnesses does not by itself defeat reliable eyewitness evidence, especially where serious village hostility explains their reluctance to testify. A different question arises when an available material witness is withheld and that witness could explain the origin of the occurrence or fill an otherwise unresolved essential gap. Adverse inference then depends on the witness's necessity and availability; it is not warranted merely because additional testimony would repeat reliable evidence already given.	381
Assessment of Related Injured Witnesses	Relationship to the deceased is not by itself a reason to discard witness evidence as interested. The Court assessed the injured family witnesses' accounts with the medical evidence and distinguished what they proved about each phase and victim. It accepted the consistent account of the first attack and the specific proof of the later injuries, while declining to extend the later group's liability to an earlier assault not established against it.	388
Enmity and scrutiny of a plea of false implication	Enmity may supply a motive both for the offence and for false implication. The evidence must therefore be weighed carefully; otherwise acceptable testimony cannot be rejected merely because of enmity. A plea of false implication requires a foundation and deeper scrutiny of the accusations. Here, the witnesses' doubtful opportunity to observe, material omissions and inconsistent accounts, together with unreliable police records, supported the finding that the accused had been falsely implicated because of enmity.	390
Reliability of a relative or interested witness	Relationship with the victim does not by itself justify rejecting testimony. The court must scrutinise the evidence cautiously, looking for consistency and credibility rather than treating relationship as a reason for suspicion. Reliable evidence is not discredited merely because the witness is also the sole witness or an independent witness has not been examined. These principles informed acceptance of the sister's last-seen account.	393
Reliability of related eyewitnesses and	Relationship to the deceased does not by itself make a witness interested or justify rejecting the evidence. An interested witness has an additional stake in	399

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distinction from interested witnesses	securing punishment, such as a motive for false implication; a relative's account must be assessed for inherent reliability, probability, cogency and consistency. Applying cautious scrutiny rather than automatic suspicion, the Court accepted the eyewitness accounts of the victims' relatives in the overall evidentiary assessment.	
Careful Scrutiny of Related and Inimical Eyewitnesses	Relationship to a victim does not itself discredit a witness. Courts must examine the witness's actual interest and hostility and scrutinise the account carefully, with greater caution where family relationship is accompanied by enmity. Here the witnesses' natural presence while travelling to court, the injured witness's presence and the prompt report supported acceptance of their testimony after that scrutiny.	409
Weight of Injured-Witness Testimony and the Need to Test Probabilities	An injured witness's testimony ordinarily carries substantial weight because the injury supports presence and such a witness is unlikely to spare the real assailant for an innocent person. It must nevertheless be examined against the probabilities; injury does not require mechanical acceptance of every assertion.	409
Independent Corroboration of Interested Testimony as a Rule of Prudence	Interested testimony is not inherently inadmissible or unreliable, and there is no invariable rule requiring independent corroboration before conviction. Carefully scrutinised evidence that is intrinsically credible and probable may suffice. Where a motive for false implication or other infirmity appears, the Court should seek corroboration in material particulars and assess the account with correspondingly greater caution.	409
Injured relative's evidence despite a hostile eyewitness	Relationship to the deceased is not by itself a ground to reject a witness's evidence. The injured brother's account withstood cross-examination and was corroborated by medical evidence, the deceased's admissible statements and weapon recoveries. The independent eyewitness's hostility did not displace that sufficient evidence.	412
Related witnesses and interested witnesses	Relationship with the victim does not by itself make a witness interested or render the testimony unreliable. An interested witness has a direct or indirect stake in the result, including a motive to implicate the accused falsely through enmity or another reason. Related testimony must be assessed cautiously for inherent reliability, probability, cogency and consistency, without treating it as inherently tainted or rejecting it merely because of kinship.	433
Assessment of related and acquainted eyewitnesses	Relationship with the deceased or acquaintance with the complainant does not, by itself, justify rejecting otherwise credible eyewitness evidence. Such evidence requires careful scrutiny for truthfulness and reliability. The Court accepted the brother's explanation for accompanying the deceased and assessed both eyewitnesses against the surrounding circumstances, prompt FIR and ballistic corroboration. Suggestions about family interests, past cases and associations did not discredit their accepted accounts on this record.	445
Related Eyewitnesses: Careful Scrutiny Rather Than Automatic Rejection	An eyewitness's relationship to the victim does not by itself justify rejecting the testimony. Where the relative shares hostility towards the assailant, presence at the scene, probabilities and infirmities require careful scrutiny. Independent corroboration is not an inflexible requirement. The Court accepted the deceased's brother and mother as credible eyewitnesses after examining their evidence and cross-examination and finding support in the medical and surrounding evidence.	450
Credibility of the Injured Eyewitness Supported by Independent and Medical Evidence	The injured eyewitness's account was accepted where cross-examination disclosed no circumstance undermining the assault allegation, other admissible eyewitnesses supported it, the medical findings corroborated the injuries, and the Dehati Nalishi was recorded promptly. The Court also observed the missing finger and bodily scars. It upheld the prosecution case on this remaining evidence after excluding the witness whom the accused had no opportunity to cross-examine.	451

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Interested Household Witnesses and Material Doubts About the Alleged Presence	The household witnesses' account was disbelieved on material circumstances, including strained relations arising from the pending matrimonial dispute, the unexplained alleged visit of the separately residing appellant with her daughter, silence about the daughter after the claimed flight, and the initial failure to identify the appellant as assailant. The suppressed report and disputed arrest further undermined them. The Court found a motive for false implication in this evidentiary setting.	455
Related and interested witnesses — Distinction and careful scrutiny	Relationship to the victim does not by itself make a witness interested or render the testimony unreliable. An interested witness has a direct or indirect stake in securing conviction, such as prior enmity supplying a motive for false implication. The evidence must be assessed carefully for inherent reliability, probability, cogency and consistency. Credible testimony may be acted upon despite kinship; neither relationship nor a label of partisanship warrants mechanical rejection. The reliable evidence identifying Rajesh survived that scrutiny.	474
Non-examination of independent witnesses — Quality of available testimony	A prosecution case cannot be rejected merely because independent witnesses were not examined, if the available testimony survives careful scrutiny and is trustworthy. The court weighs the quality of evidence rather than counting witnesses. The isolated location of the complainant's house reduced the likelihood of independent observers, and their non-examination did not undermine the credible case against Rajesh.	474
Related witnesses — Credibility and factual foundation for false implication	Kinship alone does not make testimony untrustworthy or turn a related witness into an interested witness. Interest requires a direct or indirect benefit or motive to secure a false conviction, including prior enmity. Courts must carefully examine reliability, probability, cogency and consistency; mechanical rejection is impermissible. The asserted land dispute concerned the mother's brother rather than the child's parents and lacked documentary support. The Court found no established vested interest sufficient to discredit the otherwise accepted testimony.	477
Related and interested witnesses — careful scrutiny and effect of established hostility	Relationship with the deceased does not by itself discredit a witness or make independent corroboration invariably necessary. Credible testimony may support conviction after careful scrutiny. An interest in securing conviction, established hostility or a motive for false implication calls for closer examination of infirmities and, where appropriate, corroboration on material particulars. Natural presence does not necessarily establish disinterest. Applying these principles, the Court accepted that a loan existed but rejected the relatives' account of repayment and additional exactions because available supporting evidence was not produced.	480
Related and interested witnesses — relationship and natural presence do not determine credibility	A witness is not interested merely because of relationship with the victim. An interest in securing punishment arising from prior enmity or another motive for false implication distinguishes an interested witness from a related witness. Related testimony must be assessed for inherent reliability, probability, consistency and credibility. The neighbours' arrival after hearing screams was natural; their shared caste did not dispense with scrutiny of their accounts. The Court examined their evidence together with the prosecutrix's admissions and the material inconsistencies.	481
Related eyewitnesses — close scrutiny with independent and medical corroboration	The evidence of the deceased's son and daughter required minute scrutiny because of their relationship, but the Court did not reject it solely on that ground. It accepted the natural account in conjunction with the prompt FIR, three independent eyewitnesses and medical proof of firearm injuries. The accepted evidence supported the finding of common intention and murder. The Court's conclusion rested on that combined assessment rather than an automatic presumption that related testimony was either true or false.	497

20.2 : Injured, Related and Interested Witnesses — Credibility Standards

Topic	Ratio	Case Sr.no.
Related and interested witnesses — distinction and credibility assessment	Relationship to the victim does not by itself make a witness interested or unreliable. An interested witness has a direct or indirect stake in punishment, such as a motive arising from prior enmity to implicate the accused falsely. The Court must examine whether the testimony is reliable, probable, cogent and consistent, using caution rather than mechanical suspicion or rejection. In this case, the deceased's brothers were accepted after assessment of the prompt FIR, the reliable dying declaration, prior acquaintance with the appellant and corresponding medical injuries.	499
Related Eyewitnesses: Opportunity to Observe and Contradictory Accounts	The claimed eyewitness account was unreliable where the spot map contradicted the daughter's asserted proximity, her statement placed other alleged eyewitnesses at the scene only after the assault, and the alleged dragging of the body lacked supporting blood or drag marks. The Court also considered her failure to intervene or visit her father and the absence of independent witnesses to an alleged public-road assault. On this combined assessment, her testimony and the other claimed eyewitness accounts could not establish the prosecution case.	522
Enmity as a Motive for Both False Implication and the Offence	Enmity may motivate false implication as well as commission of an offence, so its effect must be tested against the evidence. Earlier preventive proceedings under Section 151 CrPC did not establish fabrication where the defence produced no record of injuries in that earlier incident, seven victims sustained medically supported injuries including two fractures, and the ocular account was corroborated. The Court rejected the suggestion that those injuries had been self-inflicted merely to create a defence to the preventive proceedings.	527
Related sole eyewitness: credibility and need for corroboration	Relationship to the deceased does not by itself discredit a witness. The witness's presence, the probabilities of the account and its material infirmities require careful scrutiny, particularly where the witness shares the deceased's hostility to the accused. Independent corroboration is not invariably required. Here, conflicting accounts of the earlier encounter and the other family members' presence made the sole eyewitness's account unreliable enough to require corroboration, which the prosecution did not supply.	550
Interested witnesses: quality of evidence and independent corroboration	Where the prosecution principally relies on witnesses who appear interested, independent corroboration is not an indispensable requirement. Credibility depends on the quality of the evidence rather than the number of witnesses. The evidence must nevertheless withstand scrutiny of its material infirmities.	550
Prosecution need not examine every eyewitness	The prosecution need not multiply witnesses to the same occurrence. It must produce the material witnesses needed to unfold its case; it is not bound to examine everyone said to have witnessed the incident. The Court adopted this principle while separately examining why a material family witness had been withheld.	550
Chance eyewitness: unexplained presence, prolonged silence and subsequent conduct	A chance witness's testimony cannot be rejected solely because his presence was coincidental, but the presence must be satisfactorily explained and the evidence closely scrutinised. Subsequent conduct, including whether the witness told anyone about the occurrence, bears on credibility. Here, the related witness claimed to have seen a late-night assault but neither sought available help nor informed nearby police, continued his ordinary work and remained silent for seventeen days. His claim that a relative later took him to the police was unsupported by that relative. In these circumstances, the explanation of fear was rejected and the trial court's rejection of his testimony was upheld.	553
Related witnesses: careful scrutiny and independent corroboration	Relationship to the deceased is not by itself a reason to reject testimony. The witness's presence, the probabilities of the account and its infirmities require careful examination, particularly where the witness shares hostility to the accused. Independent corroboration is not invariably indispensable, and the quality of testimony matters more than the number of witnesses. The	555

Topic	Ratio	Case Sr.no.
	prosecution need not examine every eyewitness or multiply repetitive testimony, but must present the material witnesses needed to unfold its case. The Court accepted the related witnesses' materially consistent account with medical support.	
Evidentiary weight of an injured eyewitness	An eyewitness injured in the occurrence has special evidentiary weight because the injury supports the witness's presence and makes it unlikely that the actual assailant would be spared to implicate another person. Such testimony should ordinarily be accepted unless major contradictions or discrepancies provide strong grounds for rejection. The medically proved injuries and the defence witness's admission of several witnesses' presence supported their reliability in this case.	561
Related witnesses and interested witnesses	Relationship to the victim does not by itself make a witness interested or untrustworthy, nor does it create a requirement of independent corroboration. An interested witness has a direct or indirect interest in securing punishment, arising from enmity or another motive for false implication. The evidence must be assessed cautiously for reliability, probability, cogency and consistency. The Court accepted the related witnesses whose material accounts remained reliable on that assessment.	561
Credibility of injured witnesses related to the victim	Relationship to the victim does not by itself discredit an injured eyewitness. Where the witness's presence is supported by the injuries and the account is consistent and medically corroborated, the evidence may be accepted after careful scrutiny. Doubts about another witness and minor differences concerning a peripheral injury do not necessarily undermine that reliable account.	570
Corroborated evidence of an injured witness and related eyewitnesses	An injured witness's presence may be supported by the injuries sustained while intervening in the assault. The Court accepted the account where several eyewitnesses consistently supported the attack and their evidence was corroborated by medical findings; the asserted association or intimacy of other eyewitnesses with the victim had not been established.	572
An injured eyewitness's account still requires scrutiny	Injuries support a witness's presence and give the testimony special weight, but do not require automatic acceptance. Material changes in the identity of the alleged assailants, unsupported by the earlier report and police statement, may make the account unreliable despite the witness's injuries. The Court applied that principle where the witness first named one pair of assailants and attributed the attack to a different pair at trial.	573
Careful scrutiny where prior enmity raises a plea of false implication	Prior enmity may supply a motive both for the offence and for false implication. The court must scrutinise the evidence carefully so that an accused is neither wrongly acquitted nor wrongly convicted on that basis. A plea of false implication calls for deeper examination of whether the accusations are supported.	573
Weight of an injured eyewitness's testimony	An injury sustained during the occurrence supports the witness's presence and gives the testimony special weight. Such evidence should be assessed with that significance and ordinarily accepted unless major contradictions or discrepancies justify rejection. The Court accepted the injured wife's account after examining her opportunity to observe the continuing attack and the challenges to her credibility.	577
Related witnesses and interested witnesses: distinction and assessment of credibility	Relationship to the victim does not by itself make a witness interested or render the testimony untrustworthy. Interest requires a direct or indirect stake in punishment, arising from prior enmity or another reason that supplies a motive for false implication. The evidence must be assessed for reliability, probability, cogency and consistency. The relatives' presence in hospital was natural and no motive for false testimony was shown, but their accounts still required scrutiny on the merits.	580

20.2 : Injured, Related and Interested Witnesses — Credibility Standards

Topic	Ratio	Case Sr.no.
Scrutiny of related or interested eyewitnesses and the effect of enmity	Kinship alone does not justify rejecting a witness. The testimony must be examined for reliability, probability, cogency and consistency, with greater care where the witness shares hostility towards the accused. Enmity may explain either an assault or false implication. Independent corroboration is not invariably required for intrinsically reliable testimony, although a demonstrated motive for false implication calls for corroboration in material particulars. The Court accepted Umesh after close scrutiny despite his relationship to the victims.	583
Absence of independent witnesses where the remaining testimony is trustworthy	Non-examination of independent witnesses is not invariably fatal. The court must consider the circumstances, including public fear after a violent incident, and closely scrutinise the testimony actually produced. There is no universal rule that related witnesses cannot be accepted without independent testimony where their evidence is otherwise reliable.	583
Related witnesses and prior enmity: careful scrutiny	Relationship with the deceased is not by itself a reason to reject a witness. Applying Jayabalan, the Court required cautious scrutiny for consistency, without a pedantic or automatically suspicious approach. Previous enmity may explain either the assault or false implication and therefore calls for closer examination. The Court accepted the relatives' testimony after considering it with the deceased's accounts and medical evidence; family relationship did not replace scrutiny of the evidence.	593
Credibility of related witnesses whose presence is natural	Relationship with the deceased does not by itself discredit eyewitness testimony or create a requirement of independent corroboration. The evidence must be assessed carefully for reliability, probability, consistency and cogency. Here, nearby shops and the joint family's customary gathering explained the witnesses' presence; a contemporaneous medical record naming a witness as the injured person's attendant also supported it. The Court accepted the testimony after that assessment.	605
A related witness is not necessarily an interested witness	A witness is not interested merely because of kinship with the victim. Interest involves a direct or indirect benefit from conviction, including a motive to implicate the accused falsely through prior enmity or another reason. Applying Mohd. Rojali Ali, the Court distinguished that concern from natural family presence at the scene and required assessment of reliability and consistency rather than automatic rejection.	605
Credibility of related and interested witnesses	Relationship with the deceased does not by itself discredit a witness. The evidence must be examined carefully for consistency, inherent reliability and any motive for false implication. Where prior enmity is shown, closer scrutiny is required. Reliable testimony may be accepted without independent corroboration. Applying these principles, the Court accepted the wife's and parents' accounts of the deceased's oral dying declaration.	610
Non-examination of independent witnesses	An otherwise true and acceptable prosecution case cannot be rejected merely because independent witnesses have not been examined or because independent corroboration is absent. The reluctance of independent persons to assist the investigation or testify does not by itself discredit reliable evidence. The Court applied this principle when accepting the relatives' evidence of the oral dying declaration.	610
Related eyewitnesses: reliability and distinction from interested witnesses	Relationship to the deceased does not by itself make a witness interested or unreliable. An interested witness has a direct or indirect benefit or motive in securing the accused's punishment, including a motive for false implication. The evidence must be assessed cautiously for credibility, probability and consistency. Kinship alone neither requires corroboration nor justifies rejection; natural presence and contemporaneous corroborating circumstances remain relevant.	622
Non-examination of	A prosecution case that is otherwise true and acceptable cannot be rejected	622

Topic	Ratio	Case Sr.no.
independent bystanders	solely because independent bystanders were not examined. Public reluctance to assist investigation is relevant when assessing that omission. Applying Ambika Prasad, the Court accepted the reliable occurrence evidence despite the absence of independent shopkeeper witnesses.	
Injured eyewitnesses — established presence and medical corroboration support the assault account	The injured eyewitnesses' presence at the scene was established by their injuries, and their categorical account of the assault was supported by the medical evidence of incised wounds and by other eyewitness testimony. One supporting witness was related to the injured persons, while another was treated as independent. On that evidence, and after rejecting the alleged counter-assault, the Court accepted the assault account and sustained the Section 324 IPC conviction.	633
Related witnesses — relationship alone does not justify discarding testimony	A witness's testimony cannot be disbelieved merely because the witness is related to the deceased. Relationship must be distinguished from interestedness; the bare fact of kinship did not justify rejecting the witnesses' accounts or quashing the proceedings.	636
Related or interested witnesses — careful scrutiny is required rather than mechanical rejection	Relationship to the victim or partisan interest does not, by itself, justify discarding testimony. A plea of false implication requires a foundation, and the court must examine whether the account is cogent and credible. Reliable testimony may be accepted after careful and thorough scrutiny even when the witness is related or interested.	638
Related eyewitnesses — careful scrutiny rather than automatic rejection	A witness’s relationship to the deceased does not by itself discredit the testimony. The authorities reproduced by the Court require careful assessment of credibility, with greater caution where the witness also has an interest in conviction or shares hostility towards the accused. Such scrutiny is a rule of prudence, not an absolute legal demand for corroboration; the quality of the evidence matters. After close scrutiny, the Court accepted the wife’s account, which two independent witnesses supported. It rejected the mother’s claim to be an eyewitness because her cross-examination showed that she arrived after being informed of the incident.	675
Related witnesses — scrutiny and the absence of independent corroboration	Relationship to the victim does not by itself require rejection of a witness’s evidence. The authorities adopted by the Court require careful scrutiny of credibility, with particular caution where interest or enmity creates a risk of false implication. Reliable related testimony may support conviction without an invariable requirement for independent corroboration. Here, the natural presence and accounts of the wife and nephews were accepted after scrutiny; no foundation showed a plan to implicate the appellants in place of the actual assailants. Non-examination of independent persons, including those at a nearby school, did not by itself render the prosecution unreliable.	678
Credibility of related and interested witnesses	Relationship to the deceased does not by itself make a witness interested or render the testimony unreliable. An interest in the result, arising from prior enmity or another motive to implicate the accused falsely, must be distinguished from kinship. The Court must examine whether the evidence is reliable, probable, cogent and consistent, with a careful approach where false implication is alleged. The deceased’s brothers were natural witnesses whose testimony could not be rejected merely because of their relationship.	693
Evidentiary weight of an injured eyewitness	An injury proved to have been sustained during the occurrence supports the witness’s presence and gives the testimony special evidentiary weight. An injured witness is generally unlikely to spare the actual assailant and implicate another person falsely. The evidence nevertheless remains open to rejection on convincing grounds, including major contradictions or discrepancies. Here the medically proved injuries and consistent evidence supported the injured witnesses, whose relationship to each other and the deceased did not alone discredit their accounts.	698

20.2 : Injured, Related and Interested Witnesses — Credibility Standards

Topic	Ratio	Case Sr.no.
Scrutiny of related, interested and inimical witnesses	Kinship does not by itself discredit testimony or establish an interest in falsely prosecuting the accused. Related or interested evidence must be scrutinised carefully for credibility and inherent probability; where the witness also shares hostility towards the accused, greater care is required. Reliable interested testimony can sustain conviction without an invariable requirement of independent corroboration. Where a motive for false implication or material infirmity appears, the need for corroboration must be assessed in the particular circumstances.	698
Evidentiary weight of an injured eyewitness	An injury proved to have been sustained during the occurrence supports the witness's presence and gives the testimony special evidentiary weight. An injured witness is generally unlikely to spare the actual assailant and implicate another person falsely. The evidence nevertheless remains open to rejection on convincing grounds, including major contradictions or discrepancies. Here the medically proved injuries and consistent evidence supported the injured witnesses, whose relationship to each other and the deceased did not alone discredit their accounts.	699
Scrutiny of related, interested and inimical witnesses	Kinship does not by itself discredit testimony or establish an interest in falsely prosecuting the accused. Related or interested evidence must be scrutinised carefully for credibility and inherent probability; where the witness also shares hostility towards the accused, greater care is required. Reliable interested testimony can sustain conviction without an invariable requirement of independent corroboration. Where a motive for false implication or material infirmity appears, the need for corroboration must be assessed in the particular circumstances.	699
Related and interested witnesses — careful scrutiny without automatic rejection	Evidence cannot be rejected solely because the witness is related to the victim or interested in the prosecution. The Court must scrutinise it carefully for consistency and credibility, without treating the relationship itself as a reason for suspicion. Credible testimony may be accepted even where the related witness is the sole witness. The injured mother's account in this case was accepted because it was medically supported and remained reliable under cross-examination.	700
Injured eyewitness — evidentiary significance and grounds for rejection	An injury sustained during the occurrence supports the witness's presence at the scene and gives the testimony special evidentiary significance. Such a witness is ordinarily unlikely to spare the actual assailant in order to implicate another. The testimony nevertheless remains open to rejection on strong grounds, including major contradictions or inconsistencies. Cogent and reliable injured-witness evidence is not discarded merely because the witness is related to the victim or other witnesses have turned hostile.	700
Related and interested witnesses — careful scrutiny without automatic rejection	Evidence cannot be rejected solely because the witness is related to the victim or interested in the prosecution. The Court must scrutinise it carefully for consistency and credibility, without treating the relationship itself as a reason for suspicion. Credible testimony may be accepted even where the related witness is the sole witness. The injured mother's account in this case was accepted because it was medically supported and remained reliable under cross-examination.	701
Injured eyewitness — evidentiary significance and grounds for rejection	An injury sustained during the occurrence supports the witness's presence at the scene and gives the testimony special evidentiary significance. Such a witness is ordinarily unlikely to spare the actual assailant in order to implicate another. The testimony nevertheless remains open to rejection on strong grounds, including major contradictions or inconsistencies. Cogent and reliable injured-witness evidence is not discarded merely because the witness is related to the victim or other witnesses have turned hostile.	701
Conviction on	The testimony of related witnesses, if found truthful, can sustain a conviction	720

Topic	Ratio	Case Sr.no.
trustworthy testimony of related witnesses	despite the non-examination of independent witnesses. The Court accepted the related witnesses' account after examining its credibility and corroboration by the prompt report, dying declaration and medical evidence.	
Related injured eyewitnesses assessed carefully, not discarded mechanically	Bhagwan Jagannath Markad, (2016) 10 SCC 537, and Harbeer Singh v. Sheeshpal, (2016) 16 SCC 426, were quoted on careful scrutiny of interested or hostile-to-accused relatives, the absence of an inflexible independent-corroboration demand, and evidence quality over witness count. Roop Singh, Shivnarayan, Bir Singh and Baikunthi had medically documented injuries consistent with their presence and material account; the defence witness also placed Baikunthi at the field. Relationship and field-boundary hostility called for scrutiny, but did not alone negate their testimony.	735
Related witnesses with established enmity — scrutiny of supported and exaggerated allegations	Relationship alone does not justify rejection of a witness, but established enmity requires careful scrutiny because innocent persons may be implicated along with the guilty. Applying Raju alias Balachandran and its reproduced Dalip Singh principle, the Court accepted the injured relatives' medically supported account of the fatal shot and axe or lathi assaults. It rejected the uncorroborated allegations of repeated firing by other accused, considering the single gunshot wound, absence of firearm injuries to the other injured witnesses and prior hostility, and extended benefit of doubt to those accused.	753
Related injured witnesses with enmity — acceptance of reliable portions of testimony	Kinship alone does not discredit a witness. Where enmity is established, however, the evidence must be scrutinised carefully because innocent persons may be implicated along with the guilty. Applying Raju alias Balachandran and the reproduced Dalip Singh principle, the Court accepted the injured relatives' account of the fatal shot and medically supported axe or lathi assaults. It treated their wider, uncorroborated allegation of repeated firing by other accused as exaggeration in the setting of the established rivalry.	754
Special evidentiary weight of an injured eyewitness	Injury sustained during the occurrence supports an eyewitness's presence and ordinarily makes false substitution of an assailant unlikely. Such testimony deserves due weight and should not be rejected without strong grounds, such as major contradictions or discrepancies. The medically proved injuries supported the witnesses' presence, but did not prevent the Court from rejecting separately tainted identification evidence.	761
Relationship alone does not discredit a seizure witness	A seizure witness's relationship with the deceased is not, by itself, a reason to discard the evidence or treat the witness as interested. A suggestion about a family dispute did not demolish the proved recovery where nothing established that the witnesses were interested. The Court therefore accepted the seizure evidence while independently examining whether the recovered property was identified.	761
Relationship does not by itself discredit an eyewitness	A witness's relationship with the deceased is no ground to reject testimony that inspires confidence. Related witnesses ordinarily seek punishment of the real offender, but their evidence must still be evaluated. The Court accepted the eyewitness accounts after scrutiny and found them supported by the medical evidence; it did not treat kinship as a substitute for proof.	766
Prior enmity requires closer scrutiny of prosecution evidence	Enmity may explain either the assault or false implication. It is therefore unsafe to reject prosecution evidence solely because the parties were hostile. The Court must examine such evidence more carefully than usual. After that scrutiny, the Court rejected the contention that the prior dynamo dispute established false implication.	766
Related and interested witnesses —careful scrutiny without mandatory independent	Relationship with the victim or partisanship does not by itself make a witness unreliable. Such evidence must be scrutinised carefully and accepted with caution, but independent corroboration is not an invariable requirement where the testimony is intrinsically reliable and inherently probable. Applying P. Venkateswarlu and Abhishek Sharma, the Court accepted the natural and	817

Topic	Ratio	Case Sr.no.
corroboration	consistent eyewitness accounts, supported by the contemporaneous reports and medical and forensic evidence, after testing them against cross-examination and the alleged possibility of false implication.	
Injured eyewitness testimony supported by medical and forensic evidence	The Court accepted the injured eyewitnesses' account of the firearm attack because their evidence remained materially unchanged in cross-examination and their presence at the scene was not doubtful. The medical examinations, radiographs, treatment and postmortem findings supported the firearm injuries and homicidal death, while the positive forensic report added corroboration. Minor discrepancies in supporting witnesses did not displace the accepted account.	873
Related or inimical witnesses — careful scrutiny without automatic rejection	Relationship alone does not make a witness interested; the latter description requires an interest in securing conviction through animus or another reason. Even interested or inimical testimony may sustain conviction if careful scrutiny establishes its credibility and inherent probability. Presence, possible hostility and infirmities must be examined. Where a motive for false implication is shown, corroboration on material particulars should be sought, although independent corroboration is not invariably required. Here the prompt hospital report and medical evidence supported the injured man and his relatives despite the hostility of independent witnesses and the omissions raised in cross-examination.	908
Injured eyewitness — significance of proved presence and corroboration	An eyewitness's injuries are a weighty indication of presence at the occurrence and give the testimony particular evidentiary importance. Such evidence remains subject to careful scrutiny for credibility. In this case, the injured witness's account could not be discredited in cross-examination and was corroborated by the prompt Dehati Nalisi and medical evidence, supporting its acceptance despite the independent witnesses turning hostile.	908
Related and interested witnesses: cross-case motive and reliability scrutiny	Relationship to the deceased does not itself make a witness interested or render natural testimony unreliable. An interested witness has a direct or indirect stake in punishment of the accused and a motive to implicate falsely; even then the evidence requires cautious scrutiny for reliability, probability and consistency rather than automatic rejection. Applying Mohd. Rojali Ali and its reproduced authorities, the Court found a concrete cross-case interest coupled with material improvements, suppression of deaths and injuries, and alteration of the scene. The testimony of Angad, Mahesh, Ram Singh and Munesh failed that scrutiny for reasons beyond kinship.	919
Credibility of injured, related and interested eyewitnesses	Relationship or interest does not by itself justify rejection of testimony. Related or interested witnesses, especially those sharing enmity with the accused, require careful scrutiny for credibility and false implication. Reliable testimony may be accepted without an inflexible requirement of independent corroboration, and absence of unrelated witnesses alone does not defeat the prosecution. Injuries sustained in the occurrence support a witness's presence and give the account particular weight, subject to major contradictions or other sound reasons for rejection. The four eyewitnesses were accepted after scrutiny, supported by the injured witnesses' medical evidence and the prompt, consistent account.	936
Related or inimical witnesses: careful scrutiny of credibility	Relationship alone does not justify discarding a witness's evidence. Enmity may supply a motive either for the offence or for false implication, so testimony must be scrutinised carefully. Otherwise convincing and consistent evidence cannot be rejected merely because the witness is related or hostile to the accused. Here the Court found false implication after examining material improvements, inconsistent accounts and missing corroboration; hostility by itself was not the basis for rejecting the witnesses.	942
Related and	Kinship does not by itself make a witness interested or discredit the testimony.	947

Topic	Ratio	Case Sr.no.
interested witnesses: distinction and scrutiny of credibility	Interest concerns a particular stake in the litigation's result, and even a natural eyewitness may be interested. The Court must carefully examine presence, consistency, infirmities and the surrounding evidence. Independent corroboration is not an invariable requirement, although the circumstances may make corroborative assurance prudent. Injured testimony carries particular importance but remains open to scrutiny. Here the injured witness and his brother gave materially consistent accounts supported by medical evidence, and their relationship did not justify rejection.	
Related or inimical witnesses: scrutiny without automatic rejection	Enmity may motivate either an offence or false implication. It does not by itself justify rejecting testimony, and relationship with the deceased is likewise no ground for exclusion where the evidence otherwise inspires confidence. These circumstances require deeper scrutiny with more than ordinary care. After examining the record, the Court accepted the prosecution's eyewitness account despite the admitted earlier hostility and the complainant's relationship with the deceased.	948
Injured eyewitness: presence, scrutiny and reliability despite kinship	Injuries sustained in the same occurrence give an eyewitness's testimony special weight by establishing presence at the scene. Strong grounds, such as major contradictions or discrepancies, are needed to reject that evidence; injury does not make it immune from scrutiny. The injured husband's account assigned the appellants' roles and was medically corroborated. Relationship with the deceased did not justify rejection, and the suggested motive to grab adjoining land lacked an evidentiary foundation. The Court accepted his evidence after scrutiny despite the rejected dying declaration and unsupportive witnesses.	949
Scrutiny of related eyewitnesses who share hostility towards the accused	Relationship to the deceased does not by itself make an eyewitness unreliable or require independent corroboration in every case. Where related witnesses also share hostility towards the accused, their evidence requires particularly careful scrutiny of presence, probability, consistency and material infirmities. The Court applied the principles reproduced from Mahavir Singh, Harbeer Singh, Vijendra Singh, Raju, Jodhan, Yogesh Singh and the other cited authorities. It examined the witnesses' evidence separately for each accused, accepted the reliable account of Pawan's firing given by Mukesh, Rakesh and Rishabh, and rejected the additions implicating Banti and Khemraj.	951
Non-examination of independent witnesses where the available evidence is reliable	A prosecution is not rendered unreliable merely because independent persons who could have witnessed the incident were not examined. What matters is whether the evidence produced is trustworthy. Relying on Ambika Prasad and its reproduced discussion of State of U.P. v. Anil Singh, the Court rejected the argument that the occurrence in a populated locality required rejection of the relatives' otherwise reliable evidence against Pawan for want of independent corroboration.	951
Credible direct evidence despite failure to prove weapon recovery	Failure to prove seizure of the weapon from the accused did not defeat the accepted direct and medical evidence of assault. The eyewitness placed the spanner at the scene, the officer claimed recovery from the accused about ten days later, and no FSL report was filed to establish blood on it. Nevertheless, the injured's account, the eyewitness's testimony, the accused's observed flight and medical findings proved the attack. The flying-stone suggestion was denied and unsupported by scene evidence. A separate claim that the injured had named the attacker was rejected because he had become unconscious. The recovery defect was assessed against the remaining evidence.	969
Related eyewitnesses: relationship alone does not discredit reliable testimony	An eyewitness's relationship with the deceased is not by itself a ground for rejecting the evidence or insisting on corroboration. Where false implication is alleged, the evidence must be carefully examined for credibility. The parents' consistent account of the knife assault, supported by medical evidence, was	971

Topic	Ratio	Case Sr.no.
	accepted after scrutiny.	
Non-examination of other eyewitnesses where reliable direct evidence is available	Non-examination of other named eyewitnesses did not defeat the prosecution where the investigating officer explained their absence by fear arising from absconding accused, and the examined eyewitnesses gave a credible and medically corroborated account of the assault.	971
Scrutiny of related and interested witnesses	Relationship to the victim alone does not justify rejecting a witness. Where a related witness may share hostility towards the accused, the Court must carefully examine presence at the scene, probabilities and all infirmities in the account. Independent corroboration is not an invariable requirement. The Court accepted the related injured witnesses after finding their core account consistent with the medical evidence.	987
Careful assessment of related witnesses	A witness's relationship to the deceased is not by itself a ground to reject the evidence. The testimony must nevertheless be assessed meticulously. The Court examined the related witnesses' internal inconsistencies, earlier statements and conduct before deciding whether their account was reliable.	988
Related eyewitnesses and prior enmity — careful assessment of credibility	Prior enmity can provide a motive for false implication as well as a motive for the offence. Following Kunwarpal and Ruli Ram, the Court required careful assessment of the evidence and a foundation for the plea of false implication. It accepted the wife and her brother as reliable eyewitnesses after examining their accounts and the circumstances of their presence. Their relationship to the deceased and admitted enmity did not, by themselves, require rejection of otherwise acceptable testimony.	993
Non-examination of independent witnesses — circumstances of the village scene	The absence of a bus passenger or another independent witness did not invalidate the accepted eyewitness evidence. The Court declined to assume that passengers must have been present merely because the assault occurred near a village bus stand: buses were infrequent, their times were known, and no witness had been asked whether a bus arrived during the incident. It also considered the reluctance of independent witnesses to depose where the accused had criminal antecedents. In those circumstances, non-examination of an independent witness did not make the wife’s and her brother’s testimony unreliable.	993

Sub-Chapter no. 20.3
Contradictions, Omissions and Improvements in Criminal Testimony

Witness discrepancies — minor mistakes and material consistency	Minor inconsistencies do not justify rejecting otherwise reliable evidence when they do not affect the material account of the occurrence. The Court assessed the child eyewitness's account, the injured witness's unchanged cross-examination and the corroborating medical record together. The authority relied upon also treats a peripheral mistake in identifying the officer who recorded a statement as insufficient, by itself, to discredit the prosecution.	8
Partly unreliable testimony — separating supported evidence from falsehood	Rejection of part of a witness's account does not compel rejection of the whole testimony or acquittal of every accused. The Court must assess whether the reliable residue independently proves guilt. Where truth and falsehood cannot be separated without reconstructing a new prosecution case by discarding essential context, the testimony must be rejected as a whole. The maxim that falsity in one matter makes everything false is not a mandatory rule of evidence in India.	12
Chaotic occurrence — minor variations and precise recital of every detail	Evidence must be assessed in the setting in which witnesses observed the occurrence. During indiscriminate firing and flight for safety, witnesses cannot ordinarily be expected to identify every shot, sequence and utterance with minute precision. Natural minor variations that do not affect the core case need not discredit them; an artificially identical recital may itself warrant scrutiny for tutoring. The discrepancies identified here were not material to the proved roles	12

Topic	Ratio	Case Sr.no.
	and shooting.	
Material inconsistency between a cross-FIR and defence testimony	An earlier cross-FIR did not establish the defence version when its maker's testimony materially departed from the report, introduced the deceased's alleged participation and accidental fall, and was unsupported by proved medical evidence of the alleged defence-side injuries. The defence account failed even on probabilities, although its admission of a scuffle supported the occurrence of the incident.	21
Discrepancy in viewing distance where the assault remained visible	A difference between the distance shown in a site plan and the witness's stated viewing distance was not material where the assault was visible from either position. The bulb light was unchallenged, no obstruction was shown, and the witness knew the assailants. Recognition of familiar villagers in limited light must be assessed in their rural setting rather than by the visual habits of persons accustomed to bright urban lighting.	23
Holistic appreciation of testimony and isolated discrepancies	A reliable prosecution account must be assessed as a whole rather than unsettled by an isolated sentence. One witness's failure to notice the eyewitness briefly returning to the scene did not contradict the latter's account where he promptly left for the police station after seeing the body and did not remain at the spot.	23
Testing defence testimony against the witness's admitted location	A defence witness's account of meeting the eyewitness on the way to the field was rejected when his own description placed his field on the opposite side of the village from the route in question. His admissions instead supported the site plan and the prosecution's explanation of the eyewitness's movements.	23
Material contradictions and minor discrepancies in witness testimony	Minor discrepancies, trivial embellishments and ordinary differences arising from observation, memory or shock do not justify rejecting otherwise trustworthy testimony. Contradictions or omissions that go to the root of the case and create serious doubt about a witness's truthfulness may undermine the prosecution. The controlling question is whether the evidence, assessed as a whole, inspires confidence.	32
Minor contradictions and omissions: effect on otherwise reliable testimony	Contradictions and omissions must be assessed for their significance. Trivial discrepancies that do not materially affect the account do not make the whole testimony unreliable. The Court found that the discrepancies in the witnesses' accounts of seeing the deceased with the accused were minor rather than grave and did not undermine their evidence.	45
Last-seen testimony — material improvements absent from the police statement undermine reliability	An account of seeing the accused with the deceased cannot safely be relied on where the witness's police statement contains no such allegation and the witness cannot explain the omission. The Court treated the newly asserted sightings and joint drinking as a major contradiction and rejected that witness's last-seen account as untrustworthy.	70
Minor discrepancies in otherwise consistent eyewitness testimony	Discrepancies about beer consumption and the presence of other persons were treated as trivial where the eyewitnesses consistently identified the accused and described the shooting. In assessing those variations, the Court considered the two-year interval before their examination and the emotional effect of witnessing a relative's murder.	90
Material contradictions affecting proof of sexual assault	Discrepancies must be assessed against the evidence as a whole. Minor differences that do not affect its core do not justify rejection, but contradictions that undermine the credibility of the account may do so. Here, conflicting accounts of the first disclosure, recovery of consciousness, change of clothes and condition of the room materially weakened the rape allegation. The child's original and recalled testimony did not establish rape by the appellant.	91
Material inconsistencies in the account of an	The fact that the complainant was injured did not resolve the defects in the prosecution account. His police statement omitted material allegations about the demand for money, weapons and individual acts. His wife's claim that she	95

Topic	Ratio	Case Sr.no.
injured witness and corroborating witness	saw the assault in progress conflicted with her admission that he was already lying on the ground when she arrived. Assessed with the unexplained defence injuries and the cross-case, these deficiencies left the origin of the incident and the claim that the appellants were the aggressors unproved beyond reasonable doubt.	
Eyewitnesses observing from different positions need not notice each other	One eyewitness's failure to mention the other did not make the other's presence doubtful where they had not gone together, observed from different positions and could have been concentrating on the assault. Their presence in their own fields was natural, and no material unreliability was shown in the supporting evidence.	98
Omission of the sole last-seen circumstance as a material contradiction	An omission affecting the core of the prosecution case may make a witness unreliable, unlike a minor discrepancy on a trivial matter. Here, the witnesses' police statements omitted the entire allegation that the appellant had taken the deceased away. Since last seen together was the sole asserted circumstance linking him to the killings, its first introduction in court was a major contradiction going to the root of the case. The accounts were therefore found untrustworthy.	99
Limited use of statements recorded by police under Section 161 CrPC	Statements recorded under Section 161 CrPC are not substantive evidence. Subject to Section 162, an accused may use them to contradict a witness in accordance with Section 145 of the Evidence Act. The prosecution may also contradict the witness with the court's leave, and re-examination may address the matter where necessary. The police statement cannot simply be read as proof of its contents.	99
Proof of a contradiction through a previous written statement	Before a previous written statement is used to contradict a witness, attention must be drawn to the relevant part and the confrontation must appear in the deposition. If the witness admits it, further proof is unnecessary. If it is denied, the marked passage must be proved through the investigating officer. A court cannot on its own use an unproved police statement to contradict testimony. Here, although specific questions about the omissions would have been preferable, the witnesses' admissions that the material account was first disclosed in court, read with the officer's evidence that he had added or omitted nothing, were held substantially to satisfy the requirement.	99
Explained delay in recording an injured child's Section 161 statement	Delay in recording a witness's Section 161 CrPC statement does not automatically destroy credibility. The court must assess the explanation together with whether the eventual testimony is cogent and credible; unexplained delay may raise doubt about engineered implication. Here, the investigating officer's attempts to examine the injured child were frustrated by unconsciousness and memory loss after hospital discharge. Her continuing treatment and the defence's question about dizziness supported that explanation. The Court accepted the delayed statement and rejected the inference that delay necessarily established tutoring.	103
Minor recollection differences after prolonged delay caused by abscondence	Minor discrepancies attributable to fading memory after a long interval do not by themselves discredit otherwise reliable eyewitness evidence. Applying Sadhu Suran Singh, the Court treated differing recollections about travel by foot, bicycle or motorcycle, and an isolated early-morning time for an inquest notice, as peripheral errors after about nine years. The delay in trial followed the appellants' abscondence. The eyewitness account of the assault remained reliable and was corroborated by the medical evidence.	106
Section 162 restriction on contents of a signed police witness statement	The Court held that the contents of a police witness statement bearing witnesses' signatures were hit by Section 162 CrPC. It nevertheless noted that the signatures showed the eyewitnesses were available to the investigating officer. Their availability, despite the failure to record their individual statements, supported the finding of deliberate investigative omissions.	106

Topic	Ratio	Case Sr.no.
Minor variations in the timing of an exhortation	Ordinary differences in observation, memory and perspective do not discredit testimony unless they materially affect the core account or cannot reasonably be reconciled. In a rapidly unfolding assault, differences about whether the appellant exhorted before, during or after particular blows were treated as minor. The Court assessed the evidence as a whole and also checked the police statement, which recorded the exhortation alleged to have been omitted. Material omissions or improvements raising serious doubts about truthfulness stand on a different footing.	115
Partly unreliable testimony — Acceptance of the credible remainder	A false or unreliable part of a witness's account does not require rejection of the whole testimony. The Court must separate trustworthy evidence from exaggeration or error, considering corroborating evidence and the circumstances. A witness may be accepted in part, and the same body of evidence may justify different conclusions for different accused according to their proved involvement.	115
Former inconsistent statements — Contradiction and impeachment	Section 145 of the Evidence Act requires the witness's attention to be drawn to the part of a former statement relied upon for contradiction. Section 155 permits credibility to be impeached through a former inconsistent statement. A mere difference in wording or detail is insufficient: the inconsistency must bear on the credibility of the present account.	115
Minor omissions and contradictions in otherwise reliable prosecution evidence	Minor discrepancies and omissions on trivial matters do not justify rejecting a witness's evidence when they do not affect the core prosecution case. The Court must separate truth from exaggeration and improvements and decide whether the remaining evidence is sufficient to convict. Material contradictions that undermine the basic account require a different assessment.	122
Material improvements concerning a witness's opportunity to see the offence	Changes that create an opportunity to witness the offence are material, rather than minor discrepancies. The complainant's later claim to have seen the assault was absent from his prompt FIR and police statement. The alleged eyewitnesses also changed their account from travelling to inform him to calling him from the scene, contrary to the distance and other evidence. Those changes undermined their claimed presence and reliability.	123
Material improvement in testimony does not require rejection of its independently credible part	A material improvement claiming direct observation of an assault may be rejected while the witness's consistent account of seeing the accused flee with the weapon is considered separately. The Court accepted that consistent part after scrutiny and corroboration. Falsus in uno, falsus in omnibus is not a rule of general application in India. The credible part may be relied upon, but the court cannot reconstruct a new prosecution story where its essential foundation is disbelieved.	132
Minor discrepancies about an adjacent room and platform	A difference about whether witnesses were inside a room or on the adjoining platform when they heard cries was a natural minor discrepancy, rather than a material improvement. Their consistent account that they reached the nearby scene while the assault continued was not displaced by that variation.	145
Variations about an occurrence not witnessed by the witness	The victim's father had not witnessed the sexual act. The Court therefore treated the omissions and contradictions elicited from him about its commission as immaterial when assessing the prosecution case, which rested on the victim's testimony, his mother's eyewitness account and the forensic evidence.	151
Material omission of a known accused's presence and role	An omission from a Section 161 CrPC statement may amount to a contradiction when it is significant and relevant in its context; every discrepancy is not a material contradiction. Here, a witness who already knew the appellant first attributed a jeep-pushing role to him in Court, without explaining its omission from his police statement. The FIR named five persons and contained neither that role nor the stalled-jeep account. Applying Baldev Singh and Shyamal Ghosh, the Court treated the addition as material and disbelieved the evidence of the appellant's presence and participation.	157

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Topic	Ratio	Case Sr.no.
Reading testimony as a whole when assessing contradictions	A witness's testimony must be read as a whole rather than by selecting an isolated passage. A genuine clarification should be distinguished from a contradiction that undermines the evidence materially. Whether an omission or variation is a material contradiction depends on its significance and context in the particular case.	157
Minor contradictions and assessment of testimony	Minor contradictions, omissions or improvements on trivial matters do not justify rejecting testimony that remains credible on the essential prosecution account. The evidence must be read as a whole, and the identified defects assessed for their effect on its reliability. Applying Mallikarjun and the authorities reproduced there, the Court found the discrepancies insufficient to undermine the materially consistent account of the armed attack.	160
Minor variations and material contradictions	Natural witnesses may differ through perception, memory, shock or elaboration. Minor discrepancies that do not affect the essential prosecution account do not justify rejecting it. The court must assess the whole testimony with corroborating evidence; irreconcilable changes affecting its core can discredit it. The Court found the variations insufficient to undermine the accepted assault account.	166
Contradiction by a previous statement	To contradict a witness under Section 145 of the Evidence Act, attention must be drawn to the part of the earlier statement relied upon. The inconsistency must discredit the present testimony; a limited variation is not automatically a material contradiction. Section 155 permits credibility to be impeached through former inconsistent statements.	166
Partial acceptance of a witness's evidence	A witness's untruthfulness on one aspect does not require rejection of the whole account. The court must separate reliable portions from unreliable ones. The same evidence may support conviction of some accused and acquittal of others according to the proved involvement; the rule of rejecting everything because one part is false has no general application.	166
Reliable evidence despite a false second-shooter attribution	Falsehood in one material part does not compel rejection of the whole testimony. The court must separate reliable evidence from the false portion. Although the FIR and witnesses attributed the second shot to another man, the FSL linked both spent cartridges to the convicted appellant's gun. The Court rejected the second-shooter attribution while accepting the corroborated evidence against that appellant.	167
Material improvement changing the place of an accused group	A change that initially appears minor may be material when tested against the scene and direction of attack. Replacing the earlier account of arrival from the village with a claim of hiding in bushes shifted the accused group from in front of the tractor to behind it, where the shots came from. The inconsistent accounts and absence of bushes at the claimed position undermined the evidence against the six alleged assembly members.	167
Material inconsistencies between abductees on ransom and threats	Material differences in the abductees' accounts of the ransom demand and threat were significant where they had remained together throughout captivity. One described a call demanding a collective sum without alleging a threat, another described a demand without threat, and the third described separate demands accompanied by a death threat. The Court found the essential additional conditions of Section 364-A unproved because those accounts did not support one another on the material events.	188
Material omissions undermined a later allegation of participation	The allegation that a co-accused had also abused the deceased was absent from the FIR and the relevant witnesses' Section 161 CrPC statements. Those material omissions undermined the later account and supported the finding that his physical or oral participation in the offence had not been proved.	207
Minor discrepancies that do not affect the prosecution case	Minor contradictions, omissions or inconsistencies on trivial matters do not justify rejecting otherwise credible testimony when the witnesses remain firm	220

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	on material aspects. The evidence must be assessed as a whole to determine whether the identified defects undermine its reliability.	
Material changes in the accused's weapon and role	Unexplained changes between the police statement and testimony concerning whether an accused used a lathi or a gun handle, coupled with another witness's failure to assign him a specific assault and an identification deficiency, left the evidence against him unreliable. In those circumstances the trial court's acquittal was not perverse.	226
Embellishment in an earlier account and the reliable core of testimony	An exaggeration or inconsistency does not require rejection of the entire prosecution case if careful scrutiny separates it from a credible account of the material incident. Here, the earlier allegation that a tractor had been run over the victim was absent from the trial testimony and unsupported by medical evidence, but did not displace the reliable armed-assault evidence. If the core or a material part of the prosecution case is disbelieved, however, the Court cannot construct a new prosecution story from what remains.	248
Using an earlier inconsistent statement to contradict a witness	When a previous statement is used to contradict a witness, attention must be drawn to the relevant part under Section 145 of the Evidence Act. A mere variation does not necessarily discredit the witness: the inconsistency must be assessed for its effect on the credibility of the testimony, particularly the material account of the incident.	248
Material improvement alleging exhortation cannot establish common-object liability	The witnesses' later claim that all the accused exhorted the gunman to kill was absent from the earliest report and their police statements. The omission was put to the witnesses and investigating officer and remained unexplained. The Court rejected that material improvement; constructive liability had to be assessed from the other proved conduct.	253
Omissions that do not undermine the proved central allegation	Omissions from the FIR and the Section 164 CrPC statement concerning earlier stalking, demands for photographs and a mobile number, and threats did not, in this case, undermine the prosecutrix's intact and reliable account of the appellant catching her hand with sexual intent. The Court treated those omissions as nonfatal to the truthfulness of the central allegation.	254
Normal discrepancies distinguished from material contradictions	Discrepancies arising from ordinary errors of observation, lapse of memory or the shock of an occurrence do not necessarily undermine credibility. They must be distinguished from material discrepancies affecting the prosecution case. The Court found no material circumstance in cross-examination that rendered the eyewitnesses unreliable.	274
Separating reliable evidence from a rejected part of the prosecution case	Rejection of evidence about an alleged conspiracy did not require rejection of independent eyewitness evidence of the actual shooting. The rule that falsity in one part makes the whole testimony false is not a mandatory rule of Indian evidence law. The court must separate reliable evidence from falsehood; the whole may be discarded where the two are inseparable and separation would require reconstructing a new prosecution case.	275
Minor omissions and discrepancies in an otherwise truthful account	Testimony must be assessed as a whole. Omissions, inconsistencies or embellishments that do not affect the core of the prosecution case do not by themselves justify rejecting an otherwise truthful account. Material discrepancies that undermine credibility must be distinguished from normal errors of observation or memory and the effects of shock.	275
Using a previous inconsistent statement to contradict a witness	Under Section 145 of the Evidence Act, a witness's attention must be drawn to the part of the earlier statement proposed to be used for contradiction. For the inconsistency to discredit the present testimony, it must affect credibility; a mere variation in some detail is insufficient.	275
Unchallenged trial disclosure does not itself make a new	The defence's failure to cross-examine a witness about an omission does not, by itself, establish that another witness must be summoned under Section 311 CrPC. Here, the asserted last-seen information was absent from the earlier	283

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witness essential	Sections 161 and 164 statements, and its alleged source was not an investigation witness. Lack of a specific cross-examination question did not justify introducing that source as a substitute witness.	
Minor contradictions: assess their effect on the core prosecution case	Minor contradictions, omissions or improvements on trivial matters do not justify rejecting testimony in its entirety when they leave the core prosecution account intact. The evidence must be read as a whole, and the identified deficiencies assessed for their actual effect on credibility. Here, the consistent account of the shooting, prompt FIR and medical corroboration supported acceptance of the witnesses despite peripheral variations.	285
Material omission of co-accused: confrontation and proof	An omission concerning the presence and acts of co-accused may materially undermine their later implication. Here, the child was confronted under Section 145 of the Evidence Act with her earlier police statement naming only her father, and could not explain the omission of the other accused. The investigating officer confirmed recording her own words. Their alleged participation consequently remained unproved beyond reasonable doubt.	288
Minor omissions and discrepancies in otherwise credible testimony	Minor discrepancies or elaborations that leave the core prosecution case intact do not require rejection of a witness's evidence. Material omissions or contradictions that create serious doubt about truthfulness must be distinguished from trivial differences. The omission to describe in the FIR the complainant's return to collect the accused's shirt did not undermine his account, which was supported by contemporaneous seizure of the articles.	291
Material omission in one part of an otherwise reliable witness's account	A material improvement need not require rejection of every part of a witness's testimony. The neighbour's claim that the accused took his wife downstairs while beating her was omitted from his police statement and was not relied on. His evidence that they were together on the roof and quarreling was accepted in light of the other evidence and the accused's own admissions, despite the earlier dispute between the witness and accused.	294
Witness omission — injury detail and the recorded dowry allegations	The maternal uncle's omission to tell police that he had personally seen injuries did not make his account of dowry harassment a material improvement. His police statement already recorded the deceased's allegations of harassment and demands for money and a vehicle. The Court distinguished the omitted injury detail from those recorded allegations and, after considering the cross-examination and other evidence, accepted the dowry-related testimony.	302
Minor discrepancies — separation of doubtful detail from reliable testimony	Minor discrepancies arising from ordinary errors of perception, observation or memory should not be given undue weight if they do not shake the prosecution's basic version. The Appabhai principles applied by the Court require the evidence to be assessed as a whole, excluding exaggeration where appropriate. Doubt about a particular fact warrants rejection of the entire account only when it reaches the root of the case. The Court treated the variations in the related eyewitnesses' accounts as insufficient to undermine their reliable evidence of the shooting.	307
Contradictions and omissions — effect on the core of the prosecution case	Minor discrepancies, omissions or improvements on trivial matters do not warrant rejecting otherwise credible testimony when they leave the core of the prosecution case intact. Evidence must be read as a whole and the identified deficiencies assessed for their effect on credibility. The Court found the discrepancies peripheral and the witnesses firm on the material assault allegation.	315
Witness evidence — whole testimony and material discrepancies	Evidence must be read as a whole rather than judged from a stray sentence. Deficiencies and contradictions require assessment for whether they undermine the substance and credibility of the account. Discrepancies that leave the core intact do not justify rejecting the entire testimony.	319
Exaggerated testimony —	The rule that falsity in one part necessarily makes all testimony false does not	319

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separating the reliable account from additions	apply. An exaggerated version may contain a true account with added false details. The court must separate reliable evidence from the additions; wholesale rejection is justified where truth and falsehood are so inseparable that no real evidence survives.	
Belated affidavit repudiating sworn prosecution testimony	In the passage from Yakub Ismailbhai Patel v. State of Gujarat reproduced through State of M.P. v. Badri Yadav, the Supreme Court upheld rejection of a witness's belated affidavit claiming that his sworn prosecution evidence had been false and given at police instance. It noted his intervening imprisonment with the accused and rejected the attempt to resile from the sworn testimony. The High Court relied on that discussion when refusing to summon an already examined prosecution witness for the defence.	322
Testimonial omissions — material contradictions and minor variations	An omission or variation undermines credibility when it concerns a material particular, reaches the root of the case or creates serious doubt about the account. Minor differences caused by observation, memory or the circumstances of narration do not justify rejection of otherwise reliable testimony. Even an inconsistency on a material point does not mechanically require rejection of the witness's entire evidence. Applying Yogesh Singh and Narayan Chetanram Chaudhary, the Court treated the omissions raised here as minor and assessed the evidence as a whole.	328
Contradictions: Materiality and the Circumstances of the Witness	Minor inconsistencies caused by shock, trauma, lapse of time or the confusion of repeated firing do not justify rejecting otherwise reliable testimony. Contradictions affecting a material part of the account must be assessed separately. The Court rejected particular shooter attributions contradicted by prior statements while accepting the witnesses' reliable evidence on other aspects, with medical and other evidence providing support.	360
Previous Written Statements: Procedure for Proving Contradictions	Before a previous written statement is used to contradict a witness, Section 145 of the Evidence Act requires attention to be drawn to the specific passage. An admitted contradiction needs no further proof. If the witness denies it, the relevant passage must subsequently be proved through the investigating officer. The court cannot itself use an unconfronted, unproved police statement to contradict the witness.	360
Partly Unreliable Testimony: Separating Truth from Falsehood	Disbelief of one part of a witness's evidence does not compel rejection of the whole testimony. The court must separate reliable evidence from falsehood where this can be done without reconstructing a new prosecution case. If truth and falsehood are inseparably mixed and separation would require replacing essential features of the prosecution account, the testimony must be discarded as a whole.	360
Witness Conduct: No Uniform Reaction to a Violent Occurrence	Witnesses' reactions to a violent occurrence cannot be judged by a single uniform standard. In rejecting the contention based on the failure to telephone the police, the Court considered that several persons had been killed or injured and that different people could react differently to those circumstances.	360
Omissions in the First Report: Trauma and Corroborated Later Account	An omission or mistaken attribution in the first report must be assessed in its context and against the subsequent evidence. The Court rejected deliberate suppression of the cross-case death where the body had been moved and the informant had lost close family members. It also accepted a corrected assailant attribution only after finding support in other witnesses' evidence.	360
Partly Disputed Allegations: No Automatic Rejection of the Entire Case	The maxim falsus in uno, falsus in omnibus does not apply as a rule requiring rejection of the whole prosecution account. A challenge to one part of the allegations does not automatically dispose of other specific allegations. The Court applied this principle to the disputed return from Australia, leaving the earlier alleged cruelty for investigation.	363
Material Contradictions	Where the witnesses gave irreconcilable accounts of the time and manner of the	372

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About the Incident and Identification of Assailants	incident, the prosecution failed to establish its genesis. Material omissions and contradictions, together with the injured witness's inability to speak during treatment and inconsistent accounts of naming the assailants, made the alleged identification unreliable and left the charge under Section 307 IPC unproved.	
Minor Discrepancies That Do Not Affect the Core of the Prosecution Case	Omissions, contradictions or discrepancies do not require rejection of the entire testimony where they do not affect its essential account. The court must separate dependable evidence from exaggeration and improvements and decide whether the remaining evidence proves guilt; minor variations in recalling details should not receive undue weight.	378
Partial Rejection of a Witness's Account and Acquittal of Co-Accused	The maxim that falsity in one matter makes the whole testimony false is not a mandatory rule in India. Acquittal of some accused does not require rejection of reliable testimony against others. The court must separate truth from falsehood, but must discard the whole account where they are inseparably mixed and accepting a portion would require reconstructing an entirely new prosecution case.	379
Normal and Material Discrepancies in Witness Testimony	Normal errors of observation, memory or reaction to a shocking event do not ordinarily destroy credibility. The court must read testimony as a whole and distinguish those variations from discrepancies affecting the core and reliability of the account. Only material incompatibilities justify rejection on that basis.	379
Minor Differences in the Description of a Shared Place of Occurrence	Evidence must be assessed as a whole rather than rejected through isolated answers. Different descriptions of adjoining platforms and doors in a family house did not establish that the prosecution had shifted the place of occurrence. The common house and kitchen, the witnesses' full accounts and blood found at the platform explained the differences. Discrepancies that do not affect the core of otherwise reliable testimony do not justify its rejection.	381
Accepting the Reliable Part of a Witness's Evidence	A witness's evidence need not be accepted or rejected in its entirety. The rule that falsity in one part invalidates the whole has no general application in India; the court must separate reliable evidence from exaggeration or untruth where that can properly be done. Differences warrant rejection only when they materially impair credibility, and the assessment must address the testimony as a whole.	381
Contradiction by a Previous Inconsistent Statement	To contradict a witness under Section 145 of the Evidence Act, attention must be drawn to the particular part of the previous statement relied upon. A mere variation is not enough: the earlier statement must materially discredit the testimony in court. The Court applied this approach while examining the alleged inconsistencies in the eyewitness accounts.	381
When a Section 161 Omission Amounts to a Contradiction	Under the Explanation to Section 162 CrPC, an omission from a statement recorded under Section 161 may amount to a contradiction only when it is significant and relevant in its context. Whether that threshold is met is a question of fact. Applying Baldev Singh, the Court held that minor or trivial omissions and differences were insufficient to discredit the otherwise accepted witness account.	388
Material omissions and doubtful opportunity to observe an assault	Claimed eyewitness testimony was unreliable where the witnesses' asserted observation was inconsistent with the distance and height of the standing crop, material parts of their accounts were absent from their police statements, and their evidence contained major inconsistencies. The omissions concerned their presence and their having witnessed the assault, rather than minor details. Considered with the surrounding evidence, these defects prevented reliance on their identification of the accused.	390
Confronting a witness with an omission in a previous written	A party seeking to contradict a witness through a previous written statement must first draw the witness's attention to the relevant part, as required by Section 145 of the Evidence Act. The defence could not use the omission of	391

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statement	last-seen information from the FIR to discredit the informant when his attention had not been drawn to that omission in cross-examination.	
Reading a witness's evidence as a whole	A witness's evidence must be assessed as a whole rather than rejected by isolating a stray sentence from cross-examination. The disputed statement about seeing the child at school was read with the witness's examination-in-chief, the informant's account and the school's proximity to the place of occurrence; it did not displace the accepted last-seen evidence.	391
Proving contradictions in a police statement	To contradict a witness through a statement under Section 161 CrPC, the relevant part must first be put to that witness under Section 145 of the Evidence Act and the previous statement duly proved through the investigating officer who recorded it. Without the required confrontation and proof, alleged omissions and contradictions cannot be used to impeach the testimony. The challenge here failed because the relevant testimony had not been challenged during cross-examination.	393
Assessment of testimony as a whole	A witness's evidence must be considered as a whole when assessing its reliability. The Court applied that approach alongside the requirements for proving alleged contradictions, rather than treating unproved omissions as a basis for rejecting the prosecution evidence.	393
Reading testimony in continuity and as a whole	Witness evidence must be read in its entirety; a stray sentence cannot be detached from its context to reject the account. Read with the sequence of searches and recovery, the witness's statement that he stayed at the police station did not establish that he had remained there throughout the earlier searches. The Court applied the whole-evidence approach in rejecting that challenge.	397
Trivial contradictions and the credibility of eyewitness accounts	Minor contradictions that are neither grave nor significant do not make the whole prosecution evidence unreliable. The Court found the variations concerning the appellants' roles trivial and accepted the eyewitness accounts after assessing their substance and consistency with the rest of the evidence. The conclusion depended on the immaterial nature of the discrepancies in this case.	399
Minor Variations in Individual Roles during a Large Armed Assault	In a large group attack, witnesses may differ in describing each assailant's precise role. Minor variations do not require rejection of testimony whose essential account remains credible and is supported by medical and forensic evidence. Mathematical uniformity is not expected, and normal differences in observation or reaction must be distinguished from material contradictions.	409
Omission of an Individual Role from the FIR	An FIR need state the broad occurrence and is not an exhaustive account of every role or detail. In a prompt report without indications of fabrication, omission of a specific role does not by itself require rejection of later reliable evidence. The Court applied this where the accused was named in the FIR's accused column but no separate act was assigned in its narrative.	409
Separating Reliable Evidence from False or Exaggerated Portions	The maxim falsus in uno, falsus in omnibus is not a mandatory rule in India. Rejection of part of a witness's account, including accusations against acquitted co-accused, does not automatically destroy the remainder. The Court must separate credible truth from falsehood; if the two are inseparable and separation would require constructing an entirely new prosecution case, the evidence must be discarded as a whole.	409
Unexhibited police statements—compliance with Section 145 Evidence Act	Failure formally to mark the police statements as exhibits was treated as an irregularity where the witnesses' attention had been drawn to the omissions and they had an opportunity to explain them. The Court therefore considered those omissions and contradictions as satisfying Section 145 of the Evidence Act in this case.	410
When an omission in	An omission from a Section 161 CrPC statement amounts to a contradiction	412

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a police statement amounts to contradiction	only if it is significant and relevant in its context. Whether a particular omission meets that requirement is a question of fact; every omitted detail is not a contradiction to the witness's trial evidence.	
Trivial contradictions in otherwise reliable eyewitness testimony	Minor contradictions that are trivial and do not materially affect the prosecution account do not make the whole eyewitness testimony unreliable. The Court must assess their significance rather than reject consistent evidence merely because some variations exist.	433
Explanation for Omissions About Earlier Conduct in a Police Statement	Omissions about the appellant's earlier conduct did not make the injured witness unreliable where she explained that police had asked no questions on that subject. The Court accepted the explanation as bona fide, found that her account of the actual assault had not been materially undermined in cross-examination, and relied on her testimony.	451
Site-plan statements — Section 162 CrPC and proper contradiction	A site-plan mark based on a witness's statement to the investigating officer is subject to Section 162 CrPC and is not substantive proof of the narrated fact. It may be used for the permitted purpose of contradiction through the proper procedure, including drawing the witness's attention to the relevant earlier statement. The officer's own observations remain admissible as direct evidence under Section 60 of the Evidence Act. The witness-supplied firing distance in the plan could not discredit eyewitnesses when no relevant witness had been confronted with it.	474
Partly false testimony — Separation of reliable evidence against individual accused	The maxim falsus in uno, falsus in omnibus is not a mandatory rule of evidence in India. A witness disbelieved against one accused may still supply reliable evidence against another. Courts must separate truth from falsehood and assess whether the residual testimony proves the charge. Entire rejection is necessary where the two are inseparable and accepting a part would require constructing a substantially new prosecution case.	474
Witness discrepancies — Material contradictions and ordinary variations	Ordinary errors of observation or memory, shock and minor elaboration do not necessarily impair credible testimony. Omissions or improvements that affect the core of the prosecution case may discredit it. Evidence must be read as a whole to decide whether a discrepancy changes its essential truth. Exaggerations about the number of shots did not require discarding the reliable account against Rajesh, while material improvements concerning the five other appellants contributed to their acquittal.	474
Co-accused's acquittal — Separable credible evidence may still support conviction	Acquittal of a co-accused does not require rejection of the same witnesses' entire testimony or automatic acquittal of another accused. The court must separate reliable evidence from falsehood and decide whether the remaining evidence proves that accused's guilt. It cannot reject the prosecution's essential case and construct a different one from selected fragments; where truth and falsehood are inseparable, the evidence must be discarded. The Court rejected automatic acquittal by parity, but independently found the prosecution case against this appellant unproved.	479
Witness discrepancies — Ordinary variation versus material contradiction	Normal errors of observation or memory, lapse of time, shock and incidental embellishment do not necessarily impair a witness's credibility. Material discrepancies affecting the substance of the account require a different assessment and may undermine the prosecution case. The court must identify the nature of the discrepancy rather than reject all testimony mechanically. Here, the conflicting accounts were tested against the actual condition of the register and the other evidence before guilt was found unproved.	479
Material contradictions and admissions — reasonable doubt about house trespass	Material contradictions about pursuit of the accused and recovery of his shawl must be considered with the prosecutrix's admissions bearing on the possibility of false implication. Witnesses differed on whether the appellant was caught, only his shawl was caught, or the shawl remained with the prosecutrix inside the house. She admitted that the appellant visited her home and that her husband	481

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and assault	suspected her and quarrelled with her over those visits. Considering these circumstances together, the Court found that the prosecution had not proved the offences under Sections 457 and 354 IPC beyond reasonable doubt and acquitted the appellant.	
Eyewitness testimony — ignorance about investigation documents	Witnesses' inability to recall documents they signed, the place of signing or the documents' contents did not undermine their direct account of the kidnapping when those matters concerned investigation and did not affect what they had witnessed. The Court accepted the independent eyewitnesses' account because their testimony about the incident remained unshaken and no enmity with them was alleged.	482
Witness discrepancies — material contradictions and assessment of testimony as a whole	Minor variations or elaborations that do not affect the core of the prosecution case do not justify rejection of witness evidence. A significant omission may amount to a contradiction under the Explanation to Section 162 CrPC, depending on its context and effect on credibility. Testimony must be considered as a whole rather than through isolated passages. At the Section 482 stage, the Court found no discrepancy going to the root of this case and declined to treat general differences in statements as a ground for quashing.	484
Section 164 CrPC recantation — effect on a quashing application	A later Section 164 CrPC statement denying the rape allegations could not automatically be preferred over the FIR and Section 161 statement to quash the prosecution. The Court held that the divergent Sections 161 and 164 statements could be used for omissions and contradictions, but the earlier prosecution account could not be ignored merely because it was not supported in the Section 164 statement. In view of the specific allegations of coercion through the professional relationship, the inconsistency did not justify quashing; the Court did not finally determine which account was true.	496
Delayed testimony — ordinary failures of memory and material contradictions	Witnesses examined long after an occurrence cannot be expected to recall every surrounding detail with mathematical exactness. Applying Jeewan, the Court treated the recorder's inability after eighteen years to remember the doctor's name and other minute details in context, particularly because the appellant's abscondence had delayed the trial. It similarly considered ordinary memory lapses in the eyewitness evidence. The adopted authorities distinguish such normal discrepancies from material contradictions that affect credibility; lapse of time does not excuse every inconsistency.	499
Partial disbelief — separating reliable testimony from falsehood	The rule that falsity in one part requires rejection of the whole testimony does not apply in India. Disbelief of a witness concerning one accused does not compel rejection concerning another. The Court must carefully separate the credible evidence from exaggeration or falsehood. If the true and false portions are inseparable and accepting the evidence would require reconstruction of a new prosecution case, the evidence must be discarded as a whole. Applying the narrated Rai Singh, Shakila Abdul Gafar Khan and Ranjit Singh principles, Babu Singh's acquittal did not automatically invalidate the evidence against this appellant.	499
Minor discrepancies and material contradictions in eyewitness evidence	Contradictions, omissions or improvements warrant scrutiny of whether they materially affect the prosecution case. Trivial variations that leave its core intact do not justify rejecting otherwise credible testimony as a whole. The evidence must be read in its entirety and the identified infirmities assessed for their effect on credibility. Here, the Court found the discrepancies minor and the witnesses consistent on material aspects, with medical corroboration.	555
Clarification of an eyewitness's account in cross-examination	An initial attribution of the fatal blow to the wrong appellant did not make the eyewitness unreliable where the defence's own cross-examination elicited a clarification identifying the appellant to whom the prosecution had attributed that blow. Reading the clarified account with the other evidence, the Court found no discrepancy undermining the witnesses' reliability.	561

20.3 : Contradictions, Omissions and Improvements in Criminal Testimony

Topic	Ratio	Case Sr.no.
Proving a contradiction from a previous written statement	To contradict a witness by a previous written statement, attention must first be drawn to the specific passage relied upon. An admitted contradiction needs no further proof; if denied, the marked passage must be proved through the investigating officer. The court cannot itself use an unproved police statement as a contradiction, and the previous statement as a whole is not substantive evidence. Since Mohwati was not confronted with the relevant omission, it could not be used in the appellants' favour.	563
Witness unable to perceive the act attributed to an accused	The Court rejected a witness's assertion that an additional accused had strangulated the deceased where her own cross-examination showed that she had fallen unconscious after being pushed and reached the courtyard after the incident was over. That account did not provide a reliable basis for identifying him as a participant in the strangulation.	563
Minor differences concerning the place of occurrence	A suggested variation of a few feet in the place of occurrence does not necessarily undermine consistent eyewitness evidence when the investigating officer's site plan and the witnesses' route explain the location. The Court rejected the challenge after comparing the rough site plan with the later patwari plan and the eyewitness account.	570
Omission of individual blows from an FIR lodged during a medical emergency	An FIR lodged when the victim is critically injured need not contain the complete sequence of the assault or attribute every particular injury to an individual assailant. In the circumstances considered, omission of that detail did not undermine the otherwise established prosecution account.	570
Unexplained overwriting in a school attendance record	An explanation that an absence mark was merely rewritten for clarity may be rejected when inspection of the attendance register shows that a pre-existing mark was erased or overwritten and similar alterations appear repeatedly only against the relevant pupil. The Court considered those features with the witness's changing account when assessing whether she attended school on the day of the incident.	571
Hearsay cannot supply missing substantive evidence of identity	Witnesses who arrived after the assault and named assailants only on information from others could not supply substantive proof of the assailants' identity. In the absence of reliable substantive evidence, their hearsay accounts had no corroborative value in this case.	573
Use of a police statement requires confronting the witness	The Court could not use the mother's earlier case-diary statement about the duration of the marriage because she had not been confronted with that statement. It assessed the marriage-period issue on the admissible evidence remaining before it.	576
An unproved police-statement omission cannot be used as a contradiction	To rely on an omission or contradiction in a prior police statement, the witness's attention must be drawn to the relevant part in compliance with Section 145 of the Evidence Act. Where that was not done, the Court could not use the omission on its own to impeach the trial testimony.	577
Proof of an admitted or denied prior contradictory statement	When confronted with the relevant part of a prior written statement, a witness's admission proves that part without further proof. If the witness denies it, confrontation alone only brings the contradiction on record; the relevant passage must then be proved through the investigating officer. The deposition must record the portion put to the witness.	577
Restricted use of statements recorded under Section 161 CrPC	A statement recorded by police under Section 161 CrPC is not substantive evidence. Subject to the statutory exceptions, it may be used to contradict the prosecution witness in the prescribed manner, by the accused or by the prosecution with the Court's permission. Re-examination may use the statement only to explain the matter raised by that contradiction, including its context.	577
When an omission in a police statement amounts to	An omission may amount to a contradiction when it is significant and relevant in its context; that is a question of fact. The earlier statement and the trial assertion must be inconsistent in the material sense. A minor omission cannot	577

Topic	Ratio	Case Sr.no.
contradiction	be treated as a proved contradiction merely because the earlier record lacks the later detail.	
A contradiction must concern the trial assertion and the earlier statement	The contradiction must be between what the witness asserts in evidence and the prior police statement. It cannot be manufactured by first eliciting an answer about what the witness says was told to police and then contrasting only that answer with the recorded statement. Section 162 CrPC does not permit that route to introduce the police account indirectly.	577
Material improvements and delayed statements concerning an oral dying declaration	A claim to have heard an oral dying declaration was unreliable where the witness's police statement said that the declarant had died before his arrival. Another witness's omission of the declaration from both earlier statements also undermined his later account. The Court further considered a third witness's statement recorded more than a year after the incident and his denial that the police had recorded it. These defects required assessment of each account rather than acceptance of the alleged declarations merely because several relatives testified.	580
Minor discrepancies and contextual assessment of witness testimony	Witness evidence must be read as a whole, without isolating sentences or demanding exact agreement on trivial details. Variations that do not affect the core of the prosecution case do not justify rejecting otherwise trustworthy testimony. The court must consider shock, memory, the circumstances of the occurrence and differing human reactions. Here, differences about who first reached the vehicle and the omission of a witness's name from an immediate police statement did not undermine the account when assessed in that context.	583
Separating credible testimony from exaggeration	Exaggeration does not require rejection of the whole testimony. The court must try to separate the reliable part and consider whether it is sufficient and corroborated where necessary. The maxim falsus in uno, falsus in omnibus is not a general rule for rejecting criminal testimony. The whole account may be discarded where truth and falsehood are so inseparable that no reliable evidence remains.	583
Effect of minor contradictions and omissions	Contradictions and omissions that are trivial rather than significant do not justify rejecting a witness’s evidence as a whole. The Court assessed the discrepancies against the deceased’s Dehati Nalishi, her statement, the other testimony and medical evidence, and found that they did not undermine the prosecution’s essential account. This was an assessment of the combined record, rather than a rule that an omission about an assailant’s role must always be immaterial.	593
Material gaps and contradictions in proof of the assailant	The Court found the evidence unreliable in attributing the two killings to the appellant. The immediate FIR named other men; one asserted eyewitness described a blow on only one victim, several claimed eyewitnesses did not support the prosecution, and other witnesses had material contradictions and omissions. Those defects were assessed with the weapon and medical discrepancy, non-examination of the initial source of information and absence of motive. Their combined effect defeated the prosecution case; the judgment did not treat every inconsistency or hostile witness as independently decisive.	599
Delayed further cross-examination — an implausible later retreat may be rejected on the whole evidence	A later answer in further cross-examination need not displace an earlier reliable deposition when the whole evidence shows an attempt to retreat from it. The recalled witness's assertion of a thirty-foot firing distance, made more than three years after his original examination and cross-examination, was rejected because the shooting consistently occurred inside an eight-foot shop, with blood found there and close-range medical findings. The isolated later answer therefore did not establish a fatal conflict between ocular and medical evidence.	638
Minor testimonial discrepancies — only defects affecting	Omissions, contradictions or improvements do not require rejection of the whole testimony where they are minor and do not shake the basic prosecution account. The court must use care and caution to separate reliable evidence from	638

Topic	Ratio	Case Sr.no.
the core account justify rejecting reliable residual evidence	untruth, exaggeration and improvements, and assess whether the remaining evidence is sufficient to convict.	
Immaterial contradictions and omissions in prosecution testimony	Contradictions and omissions that are not material to the prosecution case do not by themselves defeat it. The Court examined the objection to discrepancies in the witnesses' accounts and found them immaterial and not fatal to the proof accepted against the appellants.	648
Normal discrepancies distinguished from material contradictions	The Kishanpal passage reproduced by the Court distinguishes ordinary discrepancies caused by errors of observation, lapse of memory, shock or horror from material discrepancies that undermine credibility. Normal variations may occur even in truthful testimony; material inconsistencies require a different assessment. The Court must identify the nature and significance of the discrepancy rather than reject evidence mechanically. This distinction formed part of the credibility principles used when closely scrutinising the related eyewitness and comparing her account with independent testimony.	675
Material admissions in cross-examination can undermine a witness even if FIR omissions were not formally proved	Dev Singh said in chief he found Premnarayan dead outside on waking, yet in cross-examination said he walked to the well, learned of the death from Komal and previously knew nothing. The Court did not use his unproved FIR-to-deposition variations as contradictions, since counsel had not drawn his attention to the FIR, but held his own sworn admissions independently irreconcilable with his claimed immediate observation. With cots at the house and the body reportedly in a pool of blood, the changed account made the sole incriminating witness unreliable. This is a case-specific assessment of material inconsistency rather than permission to rely on an unproved police statement.	677
Minor improvements and omissions — effect on the core eyewitness account	Only material omissions or contradictions that undermine credibility justify rejecting the central prosecution account. Applying Shyamlal Ghosh and Menoka Malik, the Court treated later weapon attributions as improvements but found that the appellants' presence and participation were otherwise established. It also accepted the accounts of witnesses who observed from a distance although the injured had not named them as eyewitnesses in the FIR. Their presence among those accompanying him to the police station supported their account. The description of the incident as near the well rather than in the field was minor because the well was in that field.	678
Delayed Section 161 examination does not by itself defeat testimony when the investigating officer was not asked to explain it	The Court considered V.K. Mishra v. State of Uttarakhand, Ganeshlal v. State of Maharashtra and Banti v. State of M.P. for the contextual treatment of delayed witness examination. Pista's police statement was recorded weeks after the event, but the defence did not put the delay to the investigating officer; no universal rule makes such a statement unreliable. Her in-court account was tested against the FIR, dying declaration and other evidence, and the Court declined to discard it solely for delay. The authorities do not immunise a genuinely unexplained, prejudicial delay in every case.	678
Partial disbelief does not require rejection of separable credible evidence	The rule that falsity in one part destroys all testimony is not a mandatory rule of Indian evidence. Applying Shakila Abdul Gafar Khan and Menoka Malik, the Court required careful separation of credible truth from exaggeration. Where the two cannot be separated without reconstructing an entirely new prosecution case, the evidence must be rejected as a whole. Here, the witnesses' failure to support accusations against three acquitted persons did not make their entire account unreliable. The evidence implicating the remaining appellants was separately assessed and accepted.	678
Witness testimony — whole deposition and material contradictions	A witness's evidence must be read cumulatively and in context. Trustworthy testimony should not be discarded by isolating a line or an immaterial variation; only material or serious contradictions impairing reliability are consequential.	682

Topic	Ratio	Case Sr.no.
	The Court resolved the seizure witness's confusion over the accused's name from his opening identification and the absence of confrontation, and rejected an isolated statement about the date of learning of the death when read against the record as a whole.	
Witness testimony — isolated name discrepancy and overall reliability	Evidence must be read as a whole rather than rejected because of an isolated line. Only material or serious contradictions affecting reliability are consequential. Applying that approach, the Court rejected the objection based on the officer's use of a different name for the truck driver when the whole testimony and surrounding evidence identified the driver and the truck involved.	683
Partial disbelief of witnesses and acquittal of a co-accused	The rule that falsity in one part makes all testimony false does not apply as a mandatory rule in India. Courts must separate reliable evidence from exaggeration or deficiency; a co-accused's acquittal does not require rejection of separable evidence proving another accused's guilt. If truth and falsehood cannot be separated without reconstructing an entirely new prosecution case, the evidence must be discarded. Normal discrepancies do not necessarily impair credibility, but material discrepancies do, and unresolved reasonable doubt benefits the accused.	693
Delay in recording statements under Section 161 CrPC	Delay in examining a witness does not automatically make the prosecution version suspect. Its explanation and the reliability of the testimony must be assessed; unexplained delay may create suspicion. The investigating officer must be specifically asked to explain the delay before the defence seeks advantage from it. Here no such question was put, two injured witnesses explained their later return to the village, other material witnesses were examined the next day, and the Court rejected delay alone as a reason to disbelieve the evidence.	698
Delay in recording statements under Section 161 CrPC	Delay in examining a witness does not automatically make the prosecution version suspect. Its explanation and the reliability of the testimony must be assessed; unexplained delay may create suspicion. The investigating officer must be specifically asked to explain the delay before the defence seeks advantage from it. Here no such question was put, two injured witnesses explained their later return to the village, other material witnesses were examined the next day, and the Court rejected delay alone as a reason to disbelieve the evidence.	699
Minor omissions in a traumatised eyewitness's account	Whether contradictions and omissions are material must be assessed in the circumstances in which the witness experienced and described the occurrence. The suddenness of an incident, the witness's limited education and the trauma of seeing her son killed were relevant to assessing the omissions here. With her account otherwise reliable and medically supported, those non-material discrepancies did not undermine the prosecution case.	700
Minor omissions in a traumatised eyewitness's account	Whether contradictions and omissions are material must be assessed in the circumstances in which the witness experienced and described the occurrence. The suddenness of an incident, the witness's limited education and the trauma of seeing her son killed were relevant to assessing the omissions here. With her account otherwise reliable and medically supported, those non-material discrepancies did not undermine the prosecution case.	701
Fear explaining omission of individual overt acts from the FIR	An FIR need not contain every detail of the occurrence. The informant's mental shock and fear must be considered when assessing omissions. The Court accepted Datar Singh's explanation that he was frightened by the killing and therefore had not detailed each blow in the first report; the later specific accounts against the four weapon-users were assessed with the medical evidence.	713
Confrontation with a	Drawing Ram Singh's attention in cross-examination to the vital omission from	716

Topic	Ratio	Case Sr.no.
police-statement omission under Section 145	his police statement satisfied Section 145 of the Evidence Act, although the statement had not been given a defence exhibit mark. The Court treated his new account of being escorted into the forest as an improvement. Mangilal had not been confronted with his corresponding omission, so that omission could not be treated as his proved contradiction, though his account remained open to assessment against the other evidence.	
Prior-statement contradiction affecting some eyewitnesses only	The complainant's earlier Section 200 CrPC statement placed his wife and son at the scene only on the following morning. The material contradiction with their later claim to have witnessed the night incident led the Court to reject their eyewitness accounts. The two guests named as present in the earlier statement consistently supported the complainant and withstood cross-examination, so their evidence remained reliable.	717
Minor discrepancies and assessment of testimony as a whole	Minor contradictions, omissions or improvements on trivial matters do not justify rejecting otherwise credible testimony when they do not affect the core prosecution case. The evidence must be read as a whole and the alleged deficiencies examined for their actual effect on credibility. The inconsistencies concerning the injured person's consciousness did not undermine the material account of the assault.	720
Night-time identification — darkness and contradictory accounts defeat the alleged fleeing-accused link	The Court rejected the claim that family witnesses had seen the appellant fleeing after the assault. Banwari admitted that he could not identify the person in the darkness and had named nobody in the FIR or his police statement. Kamleshbai acknowledged that the injuries became visible only after a chimney was lit. Guddya's account of identifying the appellant and informing his elder brother was contradicted by Shivraj, who had been told only that somebody had assaulted their father. Reading these accounts together, the Court found the alleged identification untrustworthy and held that the prosecution had not proved this circumstance against the appellant.	747
Witness credibility — examination-in-chief must be tested against cross-examination	A trial court must assess a witness's credibility and reliability by testing the examination-in-chief against the answers elicited in cross-examination. The Court criticised the trial court for ignoring material admissions and disposing of the issue in a formulaic statement that nothing had emerged to make the witnesses unreliable. Cross-examination is the defence's means of dislodging the prosecution account, and personal liberty cannot be curtailed on such a bare assurance. Here, the ignored admissions concerned inability to identify in darkness, omissions in the first account and inconsistencies about disclosure of the assailant's identity; they materially undermined the prosecution's asserted identification.	747
Claimed eyewitness presence contradicted by admissions, conduct and material omissions	A claimed eyewitness account was rejected where the witness's own admissions or the other evidence showed that he arrived after the firing, or where his presence was doubtful in light of his conduct and material omissions or contradictions. On that assessment, only the two injured witnesses were found to have witnessed the shooting; witnesses who arrived after hearing cries or gunfire could not establish who fired the fatal shot.	753
Claimed eyewitness presence tested against admissions, conduct and material omissions	Witnesses who arrived after hearing gunfire or cries did not reliably establish that they had seen the fatal shooting. The Court assessed their claimed presence against their own admissions, conduct and material omissions or contradictions. One witness's doubtful presence and material improvements, and others' admissions that they reached after the shot or did not see the assault, led the Court to reject their claimed eyewitness accounts. Only the two injured witnesses were found to have witnessed the firing.	754
Minor discrepancies in a shooting lasting only seconds	Where two persons fire at the same victim in an incident lasting only seconds, precise attribution of each wound to a particular gun and shot sequence cannot be assumed. The Court therefore rejected the objection based on inability to	772

Topic	Ratio	Case Sr.no.
	allocate the injuries between the shooters. It also held the contradictions and omissions concerning the brief occurrence nonfatal on this record, having accepted the eyewitness account with medical support and the evidence of the investigating officer and memorandum and seizure witnesses.	
Case-diary allegations absent from testimony are not substantive evidence	A case-diary statement is not substantive evidence. The Court considered Ex. D-1 in the context of Section 145 of the Evidence Act to assess contradictions or improvements. The State could not rely against the accused on allegations of earlier intercourse appearing only in that statement and absent from the prosecutrix's evidence in Court. Those allegations therefore could not establish the State's suggested earlier statutory rape.	776
Failure to name the assailant to the treating doctor	Failure to disclose the assailant's name to a treating doctor does not by itself establish that a later named report was ante-timed, ante-dated or falsely implicates the accused. Applying Bhargavan v. State of Kerala and Pattipati Venkaiah v. State of Andhra Pradesh, the Court explained that the doctor's primary duty is treatment, rather than identifying who caused the injury.	782
Minor variation in the genesis of an assault	The difference between an initial report that the accused offered liquor and testimony that he demanded money for liquor was not material where both accounts attributed the shooting to refusal over liquor. The Court allowed for a minor deviation in recollection after a chest gunshot injury and accepted the injured man's identification as the solitary eyewitness, supported as to the injury by medical evidence.	782
Defence eyewitness—unstable account contradicted by unchallenged testimony	The defence eyewitness's account of unidentified assailants was rejected because her court testimony was inconsistent with her police account and shifted during cross-examination. A prosecution witness's account that she had spoken to the appellant during the assault was not challenged. Taken together, these features deprived her version of credibility; the Court assessed her evidence rather than rejecting it merely because she appeared for the defence.	817
Eyewitness credibility after admitting arrival after the occurrence	A witness who admitted that he reached the scene only after hearing noise and found the deceased already lying there was not accepted as an eyewitness merely because he subsequently changed his version and claimed to have seen the incident. That material reversal led the Court to reject his account as unreliable. The assessment concerned the particular testimony of the witness, who was twelve at the time of the incident.	834
Material improvements distinguished from minor discrepancies in witness testimony	Minor contradictions or omissions on trivial matters do not justify rejecting otherwise credible testimony when they leave the prosecution's essential case intact. The evidence must be read as a whole and the identified infirmities assessed for their effect on credibility; an appellate court ordinarily needs justifiable reasons to reopen the trial court's credibility assessment. Applying these principles, the Court accepted the other last-seen witnesses despite peripheral discrepancies, but rejected one witness's claimed sighting because that material fact was absent from his police statement. The officers' differing accounts of the report's submission were also discounted in light of the FIR exhibit and the lapse of time.	850
Material omissions in a prompt FIR and later attribution of a firearm role	Although an FIR need not contain every detail, a material omission that undermines the prosecution's substantive account cannot be treated as a minor discrepancy. Applying Yogesh Singh and Tomaso Bruno, the Court distinguished harmless variations from contradictions affecting credibility at its core. The prompt, detailed Dehati Nalishi named three gunmen but attributed no firearm, shot or participation during firing to Kaushlendra. His later alleged shooting role, coupled with inconsistent accounts of whom he injured, was therefore a material improvement. The adverse conclusion rested on these omissions and contradictions, rather than delay alone in recording injured witnesses' statements.	916

20.3 : Contradictions, Omissions and Improvements in Criminal Testimony

Topic	Ratio	Case Sr.no.
Suppression of the incident's origin and material changes in eyewitness accounts	Material changes about how an incident began and who committed the shooting can undermine the claimed eyewitness account. Here witnesses denied a fireworks dispute despite earlier police and complaint statements and letters describing it, gave incompatible versions of the first shot, and claimed to have identified the assailant to an informant who had lodged an FIR against unknown persons. Their absence from contemporaneous police proceedings and other contradictions also undermined the asserted opportunity to witness the attack. These defects concerned the origin and identification of the incident, rather than minor memory lapses after four years. The Court found the claimed eyewitnesses unreliable.	919
Minor discrepancies in preparations for a search	Minor omissions or contradictions that do not affect the investigation's outcome should not receive undue weight. Differing accounts of whether the weighing machine was procured before or after the messenger returned from the superior officer's office concerned raid preparations and did not undermine recovery. The contemporaneous station-diary entry supported the recorded sequence and was not displaced by minor variations in oral recollection.	935
Minor variations in descriptions of the place of occurrence	Normal errors of observation or recollection and minor variations that do not affect the core prosecution case do not justify rejection of otherwise reliable testimony. Material omissions or improvements going to the root require a different assessment. The witnesses' references to neighbouring houses and the nearby junction did not establish conflicting scenes: the spot map and the Patwari's unchallenged evidence showed that the houses adjoined one another.	936
Delayed recording of statements of eyewitnesses already named in the FIR	Delay in recording a police statement does not automatically make a witness unreliable; its significance depends on whether it indicates unfair introduction of a false witness. Here the three witnesses whose statements were recorded after twenty-five days were already named in the prompt FIR, and one injured witness was medically examined on police requisition that day. No question seeking an explanation for the delay was put to the investigating officer. In those circumstances, the delay did not discredit their testimony.	936
Material omissions and improvements affecting witness credibility	Under the Explanation to Section 162 CrPC, an omission may amount to a contradiction when it is significant and relevant in its context; that assessment is a question of fact. Improvements creating serious doubt about a witness's truthfulness may discredit the testimony. Ordinary errors of observation or memory and minor variations that do not affect the prosecution case's core do not justify rejecting the evidence in its entirety. The omissions concerning the alleged poisoning, prior kerosene incident, return of the deceased and transport to hospital were material to the incriminating account.	942
Assessment of examination-in-chief in light of cross-examination	A trial court must test prosecution evidence against cross-examination rather than accept examination-in-chief without scrutiny. Admissions and material contradictions elicited in cross-examination require due weight. If the Court considers a contradiction immaterial, it should explain that assessment; it cannot properly decide the trial by ignoring cross-examination.	942
Witness's statement must be read in its full context	An admission that the injured person was lying on the ground when a witness reached the spot did not contradict the witness's account of seeing the assault while approaching. The Court read the admission with the witness's earlier account and recognised the distinction between observing an occurrence from a distance and physically reaching the scene. The isolated answer did not justify concluding that the witness saw no part of the incident.	947
Explained delay in recording a corroborating eyewitness's statement	Delay in recording a Section 161 CrPC statement is not automatically fatal. The Court must examine the circumstances, the witness's availability, the information available to the investigator, and the explanation; the officer should be asked specifically about delay and its reasons. Here the witness explained that fear led him to leave for his aunt's house and then Raipur. His presence	949

Topic	Ratio	Case Sr.no.
	was not seriously disputed in cross-examination, and his account corroborated the injured eyewitness. The Court accepted his explanation for the two to two-and-a-half month delay and found the evidence credible.	
Later cross-examination consistent with an earlier admission cannot be discarded as a changed account	A witness's later cross-examination cannot be disregarded as an attempt to retract the examination-in-chief merely because it occurred after an adjournment. The abductee had already admitted during cross-examination on the day of his examination-in-chief that he learnt the appellants' names only after they were shown to him at the police station. His later answers were consistent with that admission. Reading both parts together, the Court rejected the State's contention that the witness had been won over and distinguished Khujji, which concerned a subsequent change in the witness's account of identification.	950
Material improvements adding participation and instigation in a murder prosecution	Minor discrepancies that do not affect the core of a prosecution case do not justify rejecting the evidence. An unexplained omission becomes material when the later account adds participation essential to an accused's criminal liability and creates serious doubt about the witness's truthfulness. Applying S. Govindaraju and Yogesh Singh, the Court found that the trial allegations that Banti pushed the deceased, was sent to call his brothers with guns, returned with them and instigated the killing were major improvements over the FIR and police statements. The altered account of Khemraj's earlier presence also undermined the role attributed to him. The consistent allegation of Pawan's fatal shot remained separately assessable.	951
An eyewitness's omission from the FIR does not by itself discredit the testimony	An FIR need not name every eyewitness, and omission of a witness's name does not by itself make that witness's testimony suspect or require its rejection. Applying State of M.P. v. Mansingh, Pramod Mahto and Nirpal Singh as reproduced in the judgment, the Court rejected the objection to Rishabh's testimony founded only on the absence of his name from the FIR. His evidence remained subject to assessment on its own reliability.	951
Minor discrepancies and material contradictions in eyewitness testimony	Minor discrepancies, ordinary errors of observation or memory, and trivial embellishments do not justify rejecting otherwise trustworthy evidence. A contradiction or omission is material when it affects the core of the prosecution case and creates serious doubt about the witness's credibility. The witnesses remained consistent on the appellant's knife assault despite minor variations.	971
Nonmaterial contradictions and omissions in eyewitness testimony	Contradictions and omissions must be assessed for their effect on the prosecution's core account. The Court found the identified differences nonmaterial where the injured witnesses consistently established the collective assault and their account was supported by medical evidence. Those differences did not justify rejecting the prosecution case.	987
Material improvements affecting the feasibility of a witness's account	Changes in the witnesses' account of when they left home, whether they returned to the village, and how they followed a blood trail materially affected the asserted observation of the accused disposing of the body. In admitted darkness, those changes bore directly on visibility and the sequence of events. The Court treated them as material contradictions undermining the confession and body-disposal account.	988
Eyewitness names omitted from a hastily lodged FIR	An FIR need only state the broad prosecution case; omission of an eyewitness's name does not by itself justify rejecting the testimony or doubting the witness's presence. Applying V.K. Mishra and Kunwarpal, the Court considered that the report was made in haste while the victim was critically injured and required urgent attention. It therefore declined to discard the wife's and her brother's evidence merely because the FIR did not name them. Their presence and reliability remained matters for assessment on the evidence.	993

Topic	Ratio	Case Sr.no.
	Sub-Chapter no. 20.4 **Police, Official and Seizure Witnesses**	
Official document — witness's description tested against its actual contents	The Court was not bound by an official witness's statement that a measurement book contained measurements when inspection of the book showed otherwise. Article B repeated the estimate and bore a general satisfaction stamp, but contained no actual measurements or sufficient description of the hand pump and platform. The Court assessed the document with the spot panchnama and the entire file rather than accepting the witness's unsupported description.	17
Proof of recovery despite hostile seizure witnesses	Recovery evidence need not be rejected merely because the seizure witnesses do not support the prosecution, if the investigating officer's evidence of recovery is convincing. Here, the arrest, memorandum and seizure records supported the officer's account, and the forensic report corroborated use of the recovered firearm in the incident. The Court therefore accepted the recovery evidence despite the hostile witnesses and the objection that fingerprints had not been collected.	90
Assessment of police witnesses to an alleged recovery	A witness's testimony cannot be discarded merely because the witness is a police officer, but it must be assessed cautiously. Here, inconsistencies concerning the recovery, the persons present and the source of the articles made the police seizure witness's evidence unreliable.	157
Proof of seizure through reliable police testimony	A seizure may be proved through the investigating officer even when an attesting witness turns hostile and another is not examined. Police testimony is not rejected merely because of official status or absence of independent corroboration; it must be carefully assessed for reliability and infirmities. The Court accepted the officer's evidence of Kamal Kishore's disclosure and recovery because no discrepancy making those steps unreliable was shown.	183
Noncorroboration by seizure witnesses is not necessarily fatal when official evidence proves recovery	The failure of the arrest and seizure witnesses to corroborate the prosecution did not by itself defeat the case. The Court accepted the investigating officers' proof of the arrest and seizure, including recovery of a .315-bore country-made pistol and a live round from Jhabbu, while also relying on the trustworthy eyewitness evidence of the shooting.	259
Police testimony where independent seizure witnesses turn hostile	Prosecution witnesses cannot be disbelieved merely because they are police personnel. The hostility of independent seizure witnesses does not, by itself, require rejection of the police evidence. The Court sustained the concurrent findings after considering the seized material and the forensic report.	261
Assessment of police testimony	Police testimony cannot be discarded merely because the witness belongs to the investigating or prosecuting agency. It must be strictly scrutinised and, as far as possible, corroboration on material particulars should be sought. There is no prohibition against acting on reliable evidence from a police officer.	275
Hostile independent seizure witness — proof through police personnel	An independent seizure witness turning hostile does not by itself prevent the prosecution from proving seizure through police personnel. The Court accepted that the police witness's evidence about no recovery at formal arrest was consistent with the documentary record of an earlier seizure.	312
Hostile independent witnesses and proof through police testimony	Police testimony cannot be rejected solely because the witnesses are police officers or independent witnesses have turned hostile. Reliable official evidence may support conviction without mandatory independent corroboration, subject to careful scrutiny. Applying Yakub Abdul Razak Memon, Govindaraju, Rohitash Kumar, Mukesh Singh and Tahir, the Court rejected the categorical objection to police evidence. It found the seizure from the bag proved, with the FSL report identifying ganja. The rule requires an assessment of reliability and does not make every official account acceptable.	327
Hostile Seizure Witnesses:	The evidence of a witness treated as hostile is not erased from the record.	360

Topic	Ratio	Case Sr.no.
Dependable Evidence May Be Used	Admissible portions found dependable on careful scrutiny may be used by either the prosecution or the defence. In accepting the firearm recovery, the Court considered the attesting witnesses' admission of their signatures and failure to explain them, together with the officer's evidence and the armorer's report.	
Police Testimony: Absence of Independent Corroboration	Police testimony cannot be rejected merely because the witness investigated the case or independent witnesses do not corroborate him. It must be scrutinised in the same manner as other testimony, with corroboration on material particulars sought where possible. There is no inflexible requirement of independent corroboration before such evidence can be accepted.	360
Police Evidence of Seizure When Independent Witnesses Turn Hostile	An investigating officer's evidence cannot be rejected merely because the officer belongs to the police or independent seizure witnesses have turned hostile. It requires careful scrutiny, and corroboration on material particulars should be sought where possible. Where the officer's account remained acceptable and no reason for unreliability was shown, the firearms seizure could be proved through that evidence.	379
Villagers accompanying a missing-child search and the pocket-witness allegation	Residents who accompanied police to several places while searching for a missing child did not become police pocket witnesses merely because they attested the successive search memoranda. The accusation was unsupported by evidence of their participation as police witnesses in other cases, and neither witness had been questioned on that point. Their conduct was assessed in the context of the joint search.	397
Proof of firearm seizure despite a non-supporting seizure witness	Although the seizure witness did not support the seizure of firearms and the motorcycle from Indal, the investigating officer proved the seizure memo and described the licensed double-barrel gun, ammunition and motorcycle recovered from the specified house. The Court relied on that testimony with the accepted eyewitness and medical evidence in sustaining the prosecution case. The non-supporting seizure witness did not, on this record, invalidate the recovery evidence.	399
Recovery proved by official witnesses despite hostile seizure witnesses	A firearm recovery may be accepted despite two seizure witnesses turning hostile where the investigating and police witnesses credibly prove the recovery and the hostile witnesses admit signing the seizure memorandum. On the evidence examined here, the hostile stance did not provide a basis to reject the otherwise supported seizure.	433
Presence of a police relative during investigative proceedings	The presence during investigative proceedings of a police officer related to the deceased or prosecution witnesses does not, by itself, vitiate the investigation or cast doubt on the prosecution case. The allegation of improper influence must be assessed against the evidence about who conducted the proceedings and whether the witnesses were acting at that officer's direction.	433
Police recovery witnesses: credibility and independent corroboration	An investigating officer's evidence of recovery cannot be rejected merely because he is a police officer or independent seizure witnesses have turned hostile. Independent attestation of the recovery record is not invariably required, and corroboration of police evidence is a matter of prudence rather than an inflexible rule. Police records are not presumed untrustworthy at the outset; the accused may expose unreliability through cross-examination or other material. Greater care is required where independent support is absent, and reasons to doubt the record remain relevant. A panch witness's relationship to a police employee does not by itself disqualify him. These principles permitted scrutiny of the officer's account here, but did not cure his failure to prove the disclosure leading to recovery.	552
Reliance on police seizure witnesses despite hostile	Police testimony is not unworthy of acceptance merely because the witness belongs to the police force or participated in the investigation. Independent corroboration is not invariably required. The evidence must be carefully	574

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independent witnesses	scrutinised for truthfulness and trustworthiness, and reliable police evidence may support conviction even when independent seizure witnesses turn hostile.	
Police witnesses and absence of independent corroboration of seizure	Police testimony is not unreliable merely because the witnesses are officials involved in the investigation or seek its success. Their evidence requires careful scrutiny and independent appraisal for truthfulness and trustworthiness; independent corroboration is not an inflexible legal requirement. The independent seizure witness's hostility therefore did not prevent conviction on the accepted police evidence of the search and recovery.	587
Police recovery witnesses — independent corroboration is not invariably required	Police personnel involved in recovery are to be assessed like other witnesses. The Karamjit Singh passage reproduced through Goverdhan rejects a rule that their testimony cannot be relied upon without independent corroboration. Police status alone is not a ground for distrust; reliability depends on the facts and circumstances. Applying the quoted reasoning, the Court rejected the contention that the hostility of seizure witnesses necessarily meant that seizure could not be proved, while separately holding that failure to link the actual weapon was not fatal to the otherwise proved case.	675
Unexplained alterations to arrest and seizure records — prosecution must remove doubt	The Court found material inconsistency between testimony that police arrived and arrested the appellant at about 8 a.m. and the altered times recorded in the arrest, disclosure and seizure documents. The seizure memo also contained overwritten timing without the investigating officer’s initials. Read with the testimony that police left within two hours, these defects supported the finding that the documents were prepared at the police station rather than the scene. Although the officer had not been confronted with the obvious overwriting, the prosecution still had to remove the doubts and prove guilt beyond reasonable doubt.	677
Police testimony — reliability and independent corroboration	Evidence cannot be rejected merely because the witness is a police officer or is interested in the investigation’s success. It requires careful scrutiny for truthfulness and reliability, but independent corroboration is not an invariable legal requirement. Trustworthy police testimony can support conviction; the officer’s official status alone does not impair credibility.	682
Recovery evidence — hostile seizure witnesses and reliable police testimony	The hostility of independent seizure witnesses does not by itself require rejection of the investigating officer’s evidence. Police testimony must be assessed on its own merits, without an initial presumption of distrust merely because of official status. Where independent support is absent, greater care and corroboration may be appropriate as a matter of prudence, but reliable police evidence may be accepted without it. Here the admitted signatures, the accused’s admission of tenancy, the recovery from his rented room and identification of the laptops by serial numbers supported the recovery.	905
Proof of seizure through trustworthy police witnesses	Police employment alone is no reason to reject a witness or demand independent corroboration. Police testimony must be assessed for truthfulness and trustworthiness, with careful scrutiny where required. Applying Girja Prasad, the Court accepted the officers’ in-court identification of the chain and Rudraksh mala they had seized, although the civilian seizure witnesses had not been asked to identify those objects in court. This proved the seizures; whether the articles belonged to the deceased required separate proof.	934
Credibility of Raksha Samiti members and police seizure witnesses	Membership of a Raksha Samiti, frequent visits to the police station and receipt of an honorarium did not by themselves make its member a police pocket witness or establish an interest in conviction. Her statutory duties included crime prevention and assistance to the police. Police testimony likewise cannot be rejected solely because of official status or absence of independent corroboration. It may support conviction when careful scrutiny establishes reliability and trustworthiness; demonstrated overzealousness leading to implication of innocent persons would undermine credibility.	935

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Close scrutiny of a sole police searching witness	A police witness is not disqualified by official status, and the quality of evidence matters more than the number of witnesses. Here both independent search witnesses turned hostile, while no other member of the raiding party was examined. The searching officer's account required close scrutiny in light of the admitted weak vision, uncertain house and plot linkage and the Patwari's contrary evidence. On this record, corroboration from other raiding members was necessary, and the officer's uncorroborated account was found unreliable.	939
	Sub-Chapter no. 20.5 **Hostile Witnesses and Use of Partly Supportive Evidence**	
Hostile witness — reliance on a supported part of the account	A witness's hostile stance does not prevent reliance on the part of the testimony that supports the prosecution and is found reliable. Although the injured witness did not support the full case, the Court used his admission that the principal accused came out with the gun and fired shots, while assessing the remaining evidence independently.	12
Reliance on the dependable part of a hostile witness's evidence	A prosecution witness's evidence is not erased from the record merely because the witness is treated as hostile and cross-examined by the prosecution. After careful scrutiny, the Court may rely on the part found dependable and supportive of the prosecution. Here, the witness's admission that the jeep was stopped at the barrier remained usable for that limited purpose.	32
Complainant's failure to support the prosecution: proof through other evidence	The complainant's failure to support the prosecution did not by itself defeat the case where other reliable evidence established the charge. The Court relied on the last-seen witnesses, supporting accounts and corroborating police and medical evidence, and found the circumstantial chain proved beyond reasonable doubt despite the complainant's stance.	45
Hostile prosecutrix — possibility of conviction on independent evidence	A prosecutrix turning hostile does not necessarily make conviction impossible. Applying Hemudan Nanbha Gadhvi, the Court held that scientific and other circumstantial evidence may still establish the offence. The prediction that settlement would cause the prosecutrix not to support the case therefore did not establish that continuation of the trial would be futile.	58
Witness retracting a last-seen account in cross-examination — effect of failure to declare the witness hostile	Where prosecution witnesses withdrew their last-seen accounts in cross-examination, one saying that she had not seen the appellant and another expressly accepting that her earlier account was false, the Court held that their evidence did not establish that circumstance. It observed that the prosecutor should have declared them hostile but had not done so.	70
Acceptance of the reliable part of a witness's evidence	A witness's evidence may be accepted in part and rejected in part. The principle that falsity in one part makes the whole testimony false has no general application. Here, failure to prove the rape allegation did not require rejection of the child's consistent account of neck compression, which was also recorded in the FIR and sustained the conviction for hurt.	91
Reliance on dependable portions of a hostile witness's evidence	A witness's evidence is not erased merely because the prosecution treats the witness as hostile and cross-examines the witness. After close scrutiny, admissible and dependable portions supported by the other evidence may be used by either the prosecution or the defence. The Court relied on the supported portion of the hostile witness's account concerning the husband's absence.	122
Hostile independent witnesses do not necessarily defeat otherwise reliable proof	Some independent witnesses turning hostile did not defeat the prosecution where the injured witnesses gave reliable accounts and the defence evidence itself supported the occurrence. The Court assessed the remaining evidence as a whole and found guilt proved beyond reasonable doubt.	206
Reliance on the supported part of a hostile witness's	The Court relied on the hostile vendor's evidence to the extent that it supported the sale transaction and delivery of the mutation application to the Patwari. It did not accept his loan-transaction account merely because he described it in	252

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testimony	court; that account had not been given to the police, and the alleged loan remained unproved on the evidence as a whole.	
Reliance on the supporting part of partly hostile testimony	The Court relied on the part of a partly hostile witness's testimony confirming that the deceased and eyewitnesses travelled together and left the tractor shortly before the occurrence. His denial of witnessing the assault did not prevent reliance on that supporting part alongside the accepted eyewitness accounts.	274
Hostile seizure witness's admission supporting recovery	A seizure witness who initially denied recovery admitted during the prosecutor's cross-examination that the accused's pant and T-shirt had been seized and that the memorandum was recorded. The Court considered that admission with the other seizure witness and investigating officer and held the recovery proved despite the witness's initial hostility.	278
Reliance on a supported part of a hostile witness's evidence	The Court relied on the child witness's statement that the accused and deceased were together and quarreling on the roof, although she was declared hostile after saying the deceased jumped. That part of her evidence was considered with the neighbour's account and medical evidence; her hostile status did not prevent reliance on the supported account of presence and quarrel.	294
Supported testimony of a witness hostile on an alleged confession	A witness's failure to support an alleged extra-judicial confession does not erase a separately supported part of the witness's evidence. Although Manju Bai was declared hostile on the confession, she repeatedly confirmed that the appellant was at home with the infant when she left. Her contemporaneous report supported that account. The Court relied on the evidence of the child's company with the appellant without treating the unproved confession as established.	297
Hostile witness — use of credible portions of testimony	Declaring a witness hostile does not erase the testimony from the record. Credible portions supporting the prosecution may be relied upon when corroborated by other reliable evidence, including answers given during cross-examination permitted under Section 154 of the Evidence Act. The quality of the evidence, rather than the number of witnesses, governs its value.	313
Hostile prosecutrix — Conviction may rest on independent scientific and circumstantial evidence	A prosecutrix turning hostile does not by itself make conviction impossible. Reliable scientific and other circumstantial evidence may still establish the offence and connect the accused with it. The prospect that marriage would lead the prosecutrix to withdraw support therefore did not justify quashing on the assumption that a trial could never end in conviction. Samples had been sent for DNA testing in this case, but the judgment recorded no result proving parentage or guilt.	354
Reliance on Dependable Portions of a Hostile Witness's Evidence	A witness's testimony is not erased merely because the prosecution treats the witness as hostile. The evidence must be considered as a whole and scrutinised cautiously; admissible portions found dependable may support either the prosecution or the defence, with corroboration ordinarily sought. The companion's account of the journey, finding the injured person and taking him to hospital remained usable although he did not support the assault account.	378
Hostile Witnesses and Absence of Independent Corroboration	The failure of several witnesses to support the prosecution did not displace material testimony that remained reliable and was corroborated by medical evidence. The injured informant also did not support the case fully, so his entire account was not treated as uniformly consistent. Applying Guru Dutt Pathak, the Court held that the quality of the evidence, rather than the number of witnesses, governed; failure to examine an independent witness or an additional injured witness was not fatal on the evidence accepted here.	383
Section 154 Leave During Cross-Examination or Re-Examination	The discretion under Section 154 Evidence Act is not confined to examination-in-chief; it may be exercised when adverse answers emerge in cross-examination or at re-examination. Where the party is permitted to challenge its own witness later, the accused must have an opportunity to cross-examine on	389

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	the new answers. In this case the prosecution did not seek such leave on the seizure witness's favourable admission, and the Court declined its request to disregard that answer merely because he had not witnessed the asserted earlier seizure.	
Unfavourable Truthful Evidence Is Not by Itself Hostility	Leave to cross-examine one's own witness requires a judicial exercise of discretion. A truthful answer unfavourable to the calling party does not by itself justify treating the witness as hostile; the court must consider indications such as hostility, untruthfulness or a material departure from the earlier account. The R.K. Dey passage reproduced and applied by the Court requires that distinction, rather than permission being granted simply because the evidence assists the accused.	389
Reliance on corroborated portions of a hostile complainant's evidence	A witness's hostility does not erase the testimony. Admissible portions supporting either side may be relied on after close scrutiny and corroboration by reliable evidence; hostility alone does not create reasonable doubt. The Court accepted the complainant's voluntary signatures on the complaints, transcript, trap records and sealed articles, and his admitted visits and participation, as corroborated by panch and trap witnesses. It rejected the unidentified intermediary explanation in light of the contradictions and the evidence as a whole.	441
Separating trustworthy evidence from falsehood without reconstructing the prosecution case	A court should separate credible evidence from exaggeration or falsehood where they are separable. It cannot use that approach if doing so would require reconstructing a new prosecution case by removing essential details from their context. Minor discrepancies that do not affect the basic prosecution version need not lead to rejection of otherwise trustworthy testimony. The Court adopted these cautions when retaining the corroborated portions of the hostile complainant's evidence.	441
Hostility of Other Witnesses and Sufficiency of Credible Eyewitness Evidence	The failure of five witnesses to support the prosecution did not defeat the conviction where two other eyewitnesses gave clear and trustworthy evidence corroborated by the medical evidence. The Court assessed the quality of the evidence that supported the charge rather than the numerical balance between supportive and hostile witnesses.	450
Hostile cross-examination after delay — assessment of earlier identification	A witness's later retreat from identification must be assessed with the whole evidence rather than accepted mechanically. Applying Khujji, the Court considered that the complainant identified the appellant in examination-in-chief but denied knowing him when cross-examined four months later after a defence-requested deferment. The Court tested identity against another witness's prior acquaintance with the appellant, the prompt FIR, the dying declaration and medical corroboration. It rejected the later denial as an attempt to withdraw the earlier account and accepted the supported evidence. The delay formed part of that assessment; it did not alone establish identity.	499
Adverse evidence of a prosecution witness not declared hostile	Where the prosecution witness did not support its version but was not declared hostile, the Court applied the rule that the prosecution was bound by that witness's evidence. It considered the chowkidar's testimony on that basis rather than treating the unsupported prosecution account as proved.	576
Recantation after deferred cross-examination and evidence of influence	Later recantation does not automatically displace a witness's earlier reliable evidence. Applying Khujji, the Court rejected reversals where the record indicated that witnesses had been won over, including admissions concerning compromise or contact with the accused and an untenable claim of prosecutorial tutoring. The conclusion rested on those circumstances, not merely on the interval before cross-examination.	577
Other eyewitnesses may prove an assault when the injured	An injured person's failure to support the prosecution does not prevent the court from relying on other credible eyewitnesses to prove the assault on that person. The Court accepted those witnesses' accounts together with medical evidence	577

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witness turns hostile	in sustaining the hurt convictions.	
Reliance on a proved dying declaration when other material witnesses turn hostile	The failure of the material witnesses to support the prosecution did not prevent reliance on the victim's admissible and reliably proved account of the fatal transaction. After assessing the recording officer's evidence, the medical record and the victim's capacity to speak, the Court accepted the Dehati Nalishi and found guilt proved beyond reasonable doubt.	582
Reliance on a corroborated part of a hostile witness's testimony	Permission to cross-examine a prosecution witness does not erase the testimony or make every part unreliable. After considering the evidence as a whole with caution, the court may accept a creditworthy part supported by other reliable evidence. Yuvraj's testimony proved the manner of the shooting despite his denial of the assailants' identity. His failure to support another eyewitness's presence was not by itself a reason to reject that other witness's evidence.	583
Hostile witnesses — dependable portions remain usable for prosecution or defence after careful scrutiny	Declaring a witness hostile does not erase the testimony. The court must read it as a whole, examine it cautiously and rely only on portions found dependable and admissible, whether they support prosecution or defence. Corroboration should ordinarily be sought. Hostile eyewitnesses' accounts of the shooting, place of occurrence and immediate transport to hospital could therefore support those parts of the prosecution case despite their failure to identify the assailant.	638
Hostile witnesses and assessment of surviving prosecution evidence	The fact that several prosecution witnesses turn hostile does not by itself justify discarding the entire prosecution case. The court must assess the quality of the available evidence rather than the number of witnesses. Despite the hostility of several witnesses, the Court found the reliable evidence sufficient to sustain the murder conviction.	644
Dependable part of a hostile witness's testimony	A prosecution witness's evidence is not erased merely because the witness turns hostile or is cross-examined by the prosecution. The dependable part may be accepted after careful scrutiny. Applying Khujji, the Court upheld reliance on Sonu's earlier support for the last-seen account despite his later denial, noting that his cross-examination had been delayed by the appellants' tactics.	648
Hostile relative's account and independent dying-declaration evidence	The husband's hostile turn did not prevent the Court from accepting the part of his testimony confirming the burns and transport to hospital or from relying on the independently recorded dying declarations. His assertion that the appellant had been elsewhere was assessed against those declarations and the absence of reliable alibi support.	649
Hostile Prosecutrix Does Not by Itself Require Acquittal	A sexual-assault prosecution does not necessarily fail merely because the complainant turns hostile. Applying the narrated Hemudan Nanbha Gadhvi reasoning, the Court recognised that scientific, medical and other incriminating evidence may still establish the prosecution case. The inquiry depends on the evidence available in the particular case and must balance the presumption of innocence with the rights of the victim and the societal interest in a fair search for truth. This principle supported obtaining DNA evidence after the complainant turned hostile.	659
Hostile witness — limited facts supported by the testimony remained usable	Although a witness did not support identification of the offender and was declared hostile, the Court relied on his evidence to the limited extent that the deceased, appellant and other visitors had stayed at the same house and that the deceased’s body was found there. The witness’s testimony did not establish who caused the death. The Court used the facts he actually supported without converting his uncertainty about the killing into affirmative evidence against the appellant.	677
Hostile attesting witness does not automatically discredit a reliable declaration recorder	An attesting witness’s refusal to support the prosecution does not by itself make the evidence of the doctor who recorded a dying declaration untrustworthy. The Court assessed the doctor’s evidence independently and found it reliable. The other witness’s hostility therefore did not require rejection of the declaration or	678

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	the prosecution case. The ruling rests on the demonstrated reliability of the recorder rather than an assumption that a medical officer's account is immune from scrutiny.	
Non-supporting relatives and a reliable dying declaration	The relatives' failure to support the prosecution did not defeat the case where a trustworthy dying declaration clearly implicated the appellants and was supported by the deceased's Dehati Nalishi and the Executive Magistrate's and doctor's evidence. On that combined record, the Court sustained the murder convictions.	712
Resiled eyewitness accounts and their remaining corroborative evidence	The neighbours' withdrawal of their earlier claim to have witnessed the assault did not displace the child's reliable direct account. They still described his crying report at about 4 a.m., their discovery of the deceased's body inside the home and the appellant's absence. The Court considered those supported circumstances together with the child's natural presence and immediate conduct.	718
Unchallenged supportive testimony of a partly hostile witness	The Court relied on the portion of a partly hostile witness's testimony that remained unchallenged: the wife was with the husband, a fight was occurring, the witness attempted to intervene, and the husband told him it was a personal matter. The defence asked only about the husband's separate residence from his brothers and did not challenge those material assertions. Partial hostility did not prevent reliance on that unchallenged account when considered with the proved homicidal death in the home.	774
Corroboration from partly hostile witnesses who observed the complainant's injuries promptly	Although officers were declared hostile for not narrating all allegations in examination-in-chief, their evidence confirmed the prompt communication of the incident and the complainant's injured condition when they reached the spot. The Court considered that evidence with the medical findings and the defence witness's admission of the dispute in sustaining the conviction. Their corroborative value rested on what they observed or were promptly told; the Court did not treat them as eyewitnesses to the assault.	852
Hostile witnesses: cautious use of credible portions of testimony	A witness's evidence is not rejected in its entirety merely because the witness turns hostile. After scrutinising the testimony closely and considering it as a whole against the other evidence, the court may accept and act on the portions it finds credible, whether supporting the prosecution or the defence.	868
Hostile testimony: dependable portions may support either side	Declaring a prosecution witness hostile does not erase the whole testimony. After close and cautious scrutiny, legally admissible portions found dependable and supported by other evidence may be used by the prosecution or defence. The Court assessed the complainant's admissions about his application, signatures, participation in trap proceedings, offer of money and payment to the intermediary with the surrounding documentary and witness evidence. It accepted the portions supporting the prosecution despite his denial of the demand and alternative explanation for payment.	879
Possible hostile testimony does not make conviction in a rape case impossible	The possibility that the prosecutrix may turn hostile does not establish that conviction is impossible, because scientific and other circumstantial evidence may still support conviction. The Court relied on this principle from Arif Khan while refusing compromise-based quashing of the sexual-offence prosecution.	933
Hostile independent witnesses do not displace otherwise credible proof	The failure of independent witnesses to support the prosecution does not by itself require rejection of an injured witness or a related eyewitness. Their evidence must be assessed on its own quality and against the remaining record. Here the material accounts of the injured person and his brother were consistent, were not effectively shaken, and were corroborated by medical evidence of multiple injuries and fractures. The independent witnesses' hostility therefore did not render those accounts unreliable.	947
Unsupportive bystanders and the	The bystanders who denied witnessing the assault did not furnish ocular	949

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remaining direct evidence	corroboration, and the Court did not rely on the Kotwar's materially improved account of an alleged oral dying declaration. It instead assessed the injured eyewitness's account, the separately accepted corroborating eyewitness and the medical evidence. The failure of other witnesses to support the prosecution did not displace that accepted proof or require acquittal in these circumstances.	
Partly supportive testimony despite prosecution witnesses not supporting the whole case	Although most prosecution witnesses did not support the full prosecution account, the Court relied on the father's surviving statement that the deceased left with the accused. That last-seen circumstance remained unrebutted in cross-examination and was considered with the medical evidence. The conviction rested on those accepted circumstances rather than treating the father as an eyewitness to the killing.	979
Use of the evidence of a partly hostile witness	The evidence of a witness who turns partly hostile is not erased. The Court must consider the evidence that remains, test its credibility and assess it with the rest of the record. Here the partly hostile witness's claimed sighting was considered but found insufficiently reliable to establish guilt.	988
Prosecutor's questioning does not itself establish withdrawal of the complainant's allegations	The complainant's treatment as hostile for the purpose of questioning by the Public Prosecutor did not establish that she had abandoned the prosecution allegations. On examining the testimony supplied, the Court found that she had forgotten certain matters in examination-in-chief but narrated the allegations against the applicants when questioned by the prosecutor. It therefore rejected the asserted retraction as a ground for quashing. The conclusion concerned the contents of her testimony in this case, rather than a final assessment of its truth.	995
	Sub-Chapter no. 20.6 **Sole Witness and Conviction on Single Witness Testimony**	
Non-examination of witnesses — quality, necessity and adverse inference	The prosecution must prove guilt beyond reasonable doubt through reliable evidence, but need not examine every witness or multiply testimony on the same point. A truthful, consistent and convincing solitary eyewitness may suffice. Withholding a witness may justify adverse inference where that witness is shown to be material to unfolding the occurrence; omission of every additional or minor-point witness does not automatically justify such an inference. Non-examination of other injured persons did not undermine the reliable witnesses examined on the surviving charges.	12
Absence of documentary evidence where oral evidence supports the allegation	A prosecution may establish its case through oral evidence, documentary evidence or both. The absence of a document linking an accused to the alleged act does not by itself require the Court to disregard a witness's specific statement. At the quashing stage, the householder's Section 161 CrPC statement attributing storage of the sand to the applicant could not be ignored merely because no supporting document had been collected. The statement's truth remained to be proved at trial.	35
Sole reliance on a sterling witness — tests of reliability	A sterling witness's account must be truthful, natural and consistent from the initial statement through testimony and cross-examination. Social status is immaterial. The core account of the occurrence, participants and sequence must remain intact and correspond in material particulars with the supporting oral, documentary, physical, scientific and expert evidence. Only an account meeting those standards may be accepted without corroboration.	65
Quality of testimony and non-examination of other eyewitnesses	Section 134 of the Evidence Act does not require a particular number of witnesses for conviction. A court may rely on a solitary witness when the evidence merits full reliance, since its value, weight and quality control the assessment. Where the examined eyewitnesses give convincing evidence, failure to examine other eyewitnesses or independent witnesses does not by itself defeat the prosecution case.	90
Non-examination of	The quality of reliable testimony controls its evidentiary value. Failure to	93

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independent witnesses or the person who transported the victim	produce an independent witness named in the FIR does not by itself discredit credible related testimony. The Court also rejected an objection based on non-examination of the person who transported the victim to hospital because he had not witnessed the attack, and declined to treat the absence of local bystanders as fatal in the circumstances.	
Conviction on a trustworthy sole eyewitness account	Section 134 of the Evidence Act requires no particular number of witnesses to prove a fact. A conviction may rest on a sole eyewitness, including a relative of the deceased, if the account is found wholly reliable. The wife's evidence was accepted because her presence was natural and supported by contemporaneous information and the prompt FIR, while medical and ballistic evidence corroborated the shooting.	275
Corroboration according to the reliability of a sole eyewitness	Where a sole eyewitness is wholly reliable, corroboration is unnecessary unless the law requires it. Where the account is not wholly reliable, independent corroboration in material particulars may be required before conviction. If the witness is wholly unreliable, corroboration cannot cure that defect.	275
Non-examination of a witness where the remaining evidence is reliable	The prosecution is not required to examine a fixed number of witnesses. The court must assess whether the evidence produced is cogent, credible and trustworthy, and may convict on an entirely reliable single witness. The failure to examine the person who reportedly supplied the abductors' names did not defeat this case, because the Court accepted the examined evidence; it also noted that the defence could have called him.	279
Non-examination of an eyewitness: quality rather than number	The prosecution need not examine every person said to have witnessed the occurrence or multiply witnesses unnecessarily. The Court assesses the quality of the evidence produced. Non-examination of another named eyewitness did not undermine the prosecution where the witnesses examined were found credible.	280
Sole related eyewitness: material contradictions and unexplained exculpation of a co-accused	Conviction may rest on a sole related eyewitness whose testimony is coherent, consistent and reliable. Relationship alone does not disqualify a witness; quality matters more than number. Ordinary errors of perception or memory differ from discrepancies that affect truthfulness and make the prosecution case doubtful, when prudence requires corroboration. Applying Shivaji Sahabrao Bobade, Karunakaran and Jagdish Prasad, the Court found material inconsistencies about the witness's presence and her mother's presence, no injury supporting her account of being kicked and falling, and unexplained exculpation of a co-accused previously named by her. Her mother's changed account from hearsay witness to eyewitness supplied no reliable corroboration. With no dependable independent corroboration, the sole account could not sustain the murder conviction.	422
Quality of eyewitness evidence and non-examination of other named witnesses	The prosecution must prove guilt beyond reasonable doubt, but no fixed number of witnesses is required. Credible, consistent evidence, even from one witness, may sustain conviction; evidence is weighed for quality rather than counted. The omission to examine two other persons named in the FIR did not justify rejecting the two eyewitnesses actually examined, whose accounts the Court found trustworthy and supported by the prompt FIR and ballistic evidence. The ruling rests on the adequacy of the evidence produced.	445
Quality of testimony and conviction on a solitary witness	The prosecution must prove guilt beyond reasonable doubt through reliable evidence; no particular number of witnesses is required. A competent court may convict on one trustworthy witness and may acquit despite several witnesses if their evidence lacks quality. The assessment concerns the truthfulness, cogency and reliability of the testimony, rather than its numerical strength.	580
Conviction on one reliable eyewitness despite other	The law requires reliable evidence rather than any particular number of witnesses. Other material witnesses' failure to support the prosecution did not require acquittal where the wife's direct account of the assault remained	584

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witnesses turning hostile	unshaken in cross-examination and was corroborated by the deceased's FIR, treated as a dying declaration, and the medical evidence.	
Non-examination of independent bystanders	A prosecution case that is otherwise true and acceptable should not be rejected merely because independent bystanders were not examined. Applying Ambika Prasad and its reproduced reference to Anil Singh, the Court recognised public reluctance to assist investigation or testify. That omission did not invalidate the eyewitness evidence the Court had already found reliable; it did not dispense with proof of guilt.	605
Sole identifying eyewitness — hostile witnesses' denial of presence does not itself discredit a reliable account	An eyewitness cannot be rejected merely because hostile witnesses deny that witness's presence. Reliability must be assessed from the account, natural presence, opportunity to identify the known assailant, prompt report, conduct and corroborating circumstances. The hotel proprietor's presence and account were supported by the prompt Dehati Nalishi, the investigating officer, surrounding records and dependable parts of the other witnesses' testimony. Meal preparation inside the hotel and the absence of support for a power outage also supported adequate light for identification. His identification remained reliable despite the hostile denial.	638
Non-examination of independent witnesses — trustworthy eyewitness evidence may suffice despite public reluctance	A prosecution case cannot be rejected solely because independent bystanders have not been examined where the eyewitness evidence is trustworthy. Public reluctance to give statements may prevent the investigating officer from securing such witnesses. The officer's evidence that independent persons would not come forward, coupled with the reliable identifying account, answered the objection based on the incident's occurrence in a busy market.	638
Sole eyewitness — quality of evidence and absence of independent corroboration	Conviction may rest on a sole witness whose evidence is credible after careful scrutiny. The quality of evidence, rather than the number of witnesses, determines whether it merits acceptance. Non-production of an independent witness named in the FIR does not by itself discredit a reliable related witness or the prosecution case. Other independent witnesses turning hostile is likewise no automatic ground to reject otherwise cogent interested-witness evidence.	700
Sole eyewitness — quality of evidence and absence of independent corroboration	Conviction may rest on a sole witness whose evidence is credible after careful scrutiny. The quality of evidence, rather than the number of witnesses, determines whether it merits acceptance. Non-production of an independent witness named in the FIR does not by itself discredit a reliable related witness or the prosecution case. Other independent witnesses turning hostile is likewise no automatic ground to reject otherwise cogent interested-witness evidence.	701
Non-examination of an abducted person who never returned	The objection that the abducted person had not been examined was rejected because the prosecution did not claim that he had returned, and the defence had not even suggested that he was still alive. Rather, its suggestion to the complainant was that his anger over his brother’s failure to return had prompted false testimony. The Court assessed the available direct eyewitness evidence and upheld the conviction. The ruling concerns an unavailable abducted person on this record; it does not dispense generally with the prosecution’s obligation to establish its case through reliable evidence.	731
Sole injured witness — medical corroboration supports conviction despite a hostile witness	The conviction rested on the injured complainant’s testimony, corroborated by the medical examination report, although the other prosecution witness to the incident turned hostile. The doctor accepted that some injuries could result from a fall but specifically ruled out a fall as the cause of three others. The complainant’s admission that a counter FIR had been lodged did not displace this evidence: that FIR was not produced, and there was no record showing whether a charge-sheet had followed or its outcome. On this evidence, the Court found that the appellants were the aggressors and affirmed their convictions under Sections 324/34 and 323/34 IPC.	744
Non-examination of	The quality of the evidence, rather than the number of witnesses, governs proof.	949

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a witness: materiality and quality of the remaining proof	The ambulance driver was not a necessary or material witness merely because he transported the injured to hospital. Their medical examination at that hospital was undisputed. In those circumstances, failure to examine the driver was not fatal to the prosecution.	
Quality of evidence and production of eyewitnesses	The quality of evidence governs credibility, rather than the number of witnesses examined. The prosecution need not call every person said to have witnessed the occurrence or multiply witnesses unnecessarily; it must produce the material witnesses needed to present its case. Lack of independent witnesses did not displace the reliable injured-witness and medical evidence accepted here.	987
	Sub-Chapter no. 20.7 **Delayed Witness Disclosure and Examination — Credibility and Explanation**	
Delay in recording witness statements: explanation and risk of embellishment	Delay in recording statements is not by itself a reason to discard the prosecution case. The Court must examine whether the explanation is satisfactory and whether the delay creates a possibility of embellishment. Unexplained delay with that risk may be fatal; satisfactorily explained delay is not. Relying on Gian Chand and Tara Chand, the Court accepted that necessary police formalities preceded the statements and held that the delay of about seventeen days did not defeat this prosecution.	45
Delayed eyewitness disclosure — Plausible explanation and close scrutiny	Delay in recording an eyewitness's statement does not automatically make the testimony unreliable, but requires careful scrutiny of the explanation and possible investigative unfairness. The Court accepted fear after threats, reluctance to become involved and absence for labour work as explanations for several months of silence. It also noted that effective investigation began when the new officer received the diary and that he was not questioned about the recording delay. On those circumstances the witnesses were found reliable.	118
Persuading a reluctant eyewitness to speak — Tutoring not established by persuasion alone	Persuasion by the deceased's family to make an otherwise reluctant eyewitness disclose the incident did not, by itself, amount to tutoring or fabrication of a witness. The Court assessed the reluctance, fear and delayed-disclosure explanation with the evidence and accepted the witnesses as reliable. Their eventual willingness to speak after persuasion was not treated as a sufficient reason to reject their accounts.	118
Unexplained delay and absence of an earlier account of an eyewitness's presence	A witness's claim to have seen the assault was unsafe to accept where his police statement was recorded about seventeen days later without explanation, the prompt FIR did not mention his presence, and the complainant's police statement did not place him among those reaching the scene. The delay was assessed with those surrounding contradictions, rather than treated as an automatic rule of exclusion.	123
Nonmention of a witness in the FIR does not by itself discredit the witness	An FIR need not name every witness. The neighbouring eyewitness’s omission from the FIR and other witnesses’ accounts did not make him unreliable where his nearby house explained his opportunity to see the shooting and his evidence was otherwise trustworthy. The complainant was not expected to identify everyone watching while shots were being fired.	253
Delayed police statement: explanation and reliability must be assessed	Delay in recording a witness's police statement does not invariably make the testimony unreliable. The Court must scrutinise it carefully and assess whether the explanation is plausible and the witness otherwise natural and credible. Treatment, death and the performance of last rites adequately explained recording the daughter's statement several days after the occurrence in this case.	288
Delay in Recording Witness Statements: Trauma and Treatment	The significance of delay in recording a witness's police statement depends on its explanation and the surrounding circumstances. The Court accepted trauma after the killing of close family members and continuing treatment away from the village after a gunshot injury as explanations that did not undermine the witnesses' credibility in this case.	360

20.7 : Delayed Witness Disclosure and Examination — Credibility and Explanation

Topic	Ratio	Case Sr.no.
Delay in recording a witness's police statement	Delay in examination does not by itself make a witness's evidence suspicious or fabricated. Its explanation must be assessed in the circumstances, and the investigating officer and witness should be questioned about it. Here, no question seeking an explanation was put to the investigating officer, whose work was also affected by public agitation requiring immediate police attention; the delay did not justify rejecting the last-seen witness.	391
Delay in recording a police statement	Delayed recording does not by itself make a witness's statement suspicious or concocted. An explanation should be sought from the witness and investigating officer, and any explanation assessed for plausibility and credibility in the circumstances of the investigation. The Court adopted these principles in addressing the delay objection.	393
Delayed recording of an available abductee's statement	The unexplained failure to examine a released abductee promptly, coupled with investigative inactivity while two others allegedly remained captive, seriously undermined the prosecution. The defence's failure to ask the investigating officer why the statement was delayed did not remove that infirmity in these circumstances.	410
Delayed Witness Statements at the Stage of Charge Framing	A witness statement cannot be rejected at charge framing solely because it was recorded belatedly. The prosecution must have an opportunity to explain the delay, and credibility remains open to examination at trial. The objection that two Section 161 CrPC statements had been recorded after 38 days therefore did not by itself require quashing of the charges.	536
Delay in recording an injured and bereaved witness's police statement	Delay in recording a Section 161 CrPC statement is not by itself fatal. It must be assessed in context, including the witness's own injuries, the treatment and death of her husband, treatment of other injured relatives and a prompt initial report. On those circumstances, the delayed statement did not establish that the accusation was the result of deliberation.	577
Delay in recording a witness's statement under Section 161 CrPC	Delay in recording a witness's police statement does not automatically make the testimony unreliable. Its significance depends on the circumstances, the witness's availability, the investigating officer's knowledge and any indication of fabrication or unfair investigation. The witness and investigating officer should be asked specifically to explain the delay. The Court declined to reject Umesh's statement recorded nine days later where neither was questioned on the delay and his evidence disclosed that he had immediately travelled to bring relatives back.	583
Delayed Section 161 CrPC statements — prosecution must have an opportunity to explain the delay	Mere delay in recording a witness's statement under Section 161 CrPC is insufficient to discard the evidence outright. The prosecution must have an opportunity to explain the delay, and if the explanation is accepted the evidence cannot be rejected on that ground. The delay objection therefore did not itself warrant quashing before that assessment.	636
Chance witness — presence and subsequent non-disclosure require close scrutiny	Applying Jarnail Singh v. State of Punjab, the Court explained that testimony cannot be discarded merely because the witness happened to be present. His presence must nevertheless be adequately explained and his evidence closely and cautiously scrutinised; doubtful presence warrants rejection. Subsequent conduct, including whether he told others of the incident, is relevant. Gajraj claimed to have seen the appellant fleeing while checking his cow, but admitted darkness and did not disclose the sighting to the persons at the scene or family members. He remained silent until police examined him two days later. The Court found his evidence untrustworthy in light of that conduct and the surrounding identification difficulties.	747
Delay in recording an injured witness's statement explained by treatment	A delay in recording an injured witness's police statement must be assessed with its explanation and the other evidence. The Court accepted the approximately one-month delay where the witness had been referred in a serious condition for treatment and had been advised by the doctor not to speak. That explanation,	873

Topic	Ratio	Case Sr.no.
	together with his materially consistent account and the medical corroboration, prevented the delay from undermining his testimony.	
Explained delay in recording injured witnesses' police statements	Delay in recording a witness's police statement does not by itself justify discarding the evidence where the witness or investigating officer gives a plausible explanation. In assessing the timing here, the Court considered that four persons had died and injured witnesses were receiving treatment. That explanation did not cure the separate material omissions in the prompt first account or the later inconsistent attribution of a firearm role.	916
Delay in recording the statement of a witness named in the FIR	The delay in recording the eyewitness's Section 161 CrPC statement did not undermine his presence where he had already been named in the promptly lodged FIR. His account specifically implicated the appellant in the armed abduction, and cross-examination disclosed nothing material making that account unreliable.	934
Delayed police statements: explanation and circumstances govern credibility	Delay in examining a witness does not automatically undermine the prosecution. Its significance depends on the circumstances, the availability of information enabling the investigating officer to reach the witness, and the explanation offered. The officer should be asked specifically about the delay and its reasons. An unexplained failure to examine a known material witness calls for close scrutiny. Here delays of about four months and about five months, without explanation and coupled with material improvements, rendered the accounts unreliable.	942
Delay in recording injured witnesses' Section 161 statements	Delay in recording statements under Section 161 CrPC did not require rejection of the injured witnesses on this record. The Court found no resulting prejudice to the accused and ample supporting evidence, including direct testimony corroborated by medical findings. The delay was assessed in that evidentiary context.	987
Failure to disclose assailants and an alleged confession at the earliest opportunity	The failure to name the assailants or disclose the alleged confession when informing close relatives, coupled with failure to report it promptly despite access to a phone and transport, undermined the claimed prior knowledge of the killing. The police had initially received only a missing-person report. The Court assessed those omissions with the other inconsistencies in rejecting the witnesses' account.	988
Delay in recording eyewitness statements — absence for the deceased's last rites	A four-day interval before recording eyewitness statements did not undermine their evidence where the witnesses had gone to immerse the deceased's ashes and were examined on returning. The Court accepted that explanation as reasonable, taking account of the wife's bereavement and mental condition. It rejected the contention that the interval, in those circumstances, made the witnesses unreliable.	993
	Sub-Chapter no. 20.8 **Chance Witnesses — Presence and Credibility Assessment**	
Presence and Credibility of Chance Witnesses	A witness is not disbelieved merely because the witness happened to be present at the place of occurrence. The explanation for that presence must nevertheless be credible, and the account requires close scrutiny in its circumstances. Applying Baby, Harbeer Singh and Jarnail Singh as reproduced, the Court found the railway witnesses' claimed presence and observations unreliable. Their status as chance witnesses was a reason for careful assessment rather than a mechanical exclusion.	389
Natural presence and scrutiny of a chance witness	A witness's testimony cannot be rejected merely by describing the witness as a chance witness. Presence at the scene must be adequately explained, and the testimony requires close and cautious scrutiny; doubtful presence warrants rejection, and subsequent conduct may also be relevant. Ordinary activities such as supplying milk or visiting a shop may explain presence. Here prompt naming	693

Topic	Ratio	Case Sr.no.
	in the FIR, timely police examination, corroboration and absence of shown enmity supported the witnesses' natural presence and reliability.	
A chance witness must reasonably explain presence at the scene	A witness's chance presence does not automatically disqualify the testimony, but the claimed presence must be reasonably explained and the evidence carefully examined. Applying the standard discussed in Mahavir Singh, the Court found no satisfactory reason for Shailesh's presence during the commission proceedings. His interest in the litigation and conduct in standing close to the witness box during another witness's evidence reinforced the Court's conclusion that he was a created witness who had not seen the incident. The finding concerned his evidence and did not require rejection of the reliable eyewitnesses.	951
	Sub-Chapter no. 20.9 **Power-of-Attorney Testimony, Spousal Competency and Personal Knowledge**	
Power-of-attorney holder — testimony about own acts rather than in place of the principal	A power of attorney authorising a person to act for the principal does not delegate the principal's role in the witness box. Applying Janki Vashdeo Bhojwani, the Court distinguished testimony in the holder's own capacity from testimony for and in the capacity of the principal. It set aside the orders permitting the complainant's wife to depose on his behalf and confined her evidence to acts she had performed as the power-of-attorney holder. The earlier permission, even though limited to matters said to be within her personal knowledge, could not authorise her to substitute for the complainant.	999
Section 120 Evidence Act — complainant's spouse cannot testify in the complainant's place	Section 120 distinguishes civil proceedings, where parties and their spouses are competent witnesses, from criminal proceedings against a person, where the spouse of that person is competent. The Court held that the criminal limb did not refer to the complainant and did not permit his wife to replace him in the witness box. In reaching that conclusion, it stressed that the prosecution must prove the charge beyond reasonable doubt and cannot substitute hearsay, unsupported by direct evidence, for the necessary proof. The wife's evidence remained confined by the final order to her own acts as power-of-attorney holder.	999
	Chapter no. 21 **Medical, Forensic, Scientific and Expert Evidence**	
	Sub-Chapter no. 21.1 **Medical Evidence, Forensic Proof and Ocular Contradictions**	
Knife assault — absence of a forensic report and corroborative evidence	The absence of a forensic report concerning the recovered knife did not undermine the prosecution where the knife was discovered from its concealed location on the accused's memorandum, incriminating articles were collected from the scene, and the eyewitness account of the knife assault was supported by medical evidence. The medical findings established sharp-weapon injuries to the injured witness and multiple fatal incised and penetrating injuries to the deceased, consistent with the ocular account.	8
Rape — victim's account corroborated by medical findings	The Court found the sexual assault established where the child's account was supported by examination findings of bleeding, a ruptured hymen and a torn vaginal wall, together with the medical opinion of recent sexual assault. It assessed those findings with the child's evidence and the other reliable witnesses when concluding that the charged rape was proved beyond reasonable doubt.	9
Medical and ocular evidence — credible eyewitness account and conflicting expert opinion	Medical evidence ordinarily corroborates an eyewitness account. Credible ocular evidence is not displaced by a medical opinion suggesting another possibility unless the medical evidence completely excludes the eyewitness version. The Court may test an expert opinion for logic, objectivity and	12

Topic	Ratio	Case Sr.no.
	consistency with other medical evidence. Here, the disputed doctor's account of widespread blackening and relative heights lacked reliable support and conflicted with other doctors' reports; after rejecting those parts, the Court found no medical contradiction requiring rejection of the eyewitnesses.	
Injuries to accused — same transaction, seriousness and prosecution explanation	An accused's injury does not invariably establish that the complainant party was the aggressor or require rejection of the prosecution case. Before imposing a burden to explain the injury, it must be shown to be serious and sustained in the same transaction. Here, the Court found the son's gunshot injury was inflicted later by the principal accused to create a defence; it was therefore neither an unexplained injury in the same transaction nor proof that the prosecution had concealed the incident's origin.	12
Discrepancy between an initial injury report and post-mortem findings	A casually prepared initial medico-legal report describing injuries as simple did not displace a detailed post-mortem report corroborated by CT findings, treatment records and credible eyewitness testimony. The initial report omitted injury locations and appropriate investigation despite bleeding from the ear and nose and immediate referral for further treatment. Its deficiencies explained the apparent medical discrepancy and did not undermine proof of the fatal assault.	21
Food found in the stomach and the eyewitness's account of a meal	The presence of partly digested roti did not falsify testimony that puri, sweets and halwa had been served at a gathering. Several dishes may be served at such a meal, and each guest need not eat every item. The suggested difference in food therefore did not undermine the witness's account of having attended the meal with the deceased.	23
Medical corroboration of the weapons and manner of assault	Medical findings corroborated the eyewitness account where the penetrating wound corresponded to a ballam assault, the extensive neck injury corresponded to pressure from a lathi held by two assailants, and the incised wounds corresponded to axe blows. The Court assessed the injuries together with the specific manner of assault described by the witness.	23
Upward bullet direction and a challenge to the ocular account	An upward bullet track did not by itself disprove the eyewitness account of firing where the doctors were not questioned about possible change of direction after entry. The Court noted that a bullet may change direction on striking a bone, and relied on the entry wound and retained projectile as proof of gunshot injury. It did not find that such deflection had in fact occurred in this case.	34
Uncertain medical timing and doubtful forensic evidence	A partially ruptured hymen and a medical opinion that sexual assault was possible did not establish rape by the appellant where the doctor could not link the injury to the alleged incident and accepted that it could have occurred the following day. The doctor's evidence that no blood was present on the vaginal slide conflicted with the forensic finding of blood. Together with the contradictory evidence about clothing and the trial court's rejection of the forensic report, these defects made the conviction unsafe.	91
Omission of further blows and alleged conflict with medical evidence	An eyewitness's failure to mention every blow did not make his account inconsistent with the medical evidence where he was examined seven years after the incident, another eyewitness described the multiple axe blows and that account was medically corroborated. The omission was assessed in the context of the lapse of time and the evidence as a whole.	98
Compatibility of mixed injuries with assault by a sabbal	Incised, punctured and blunt-force wounds did not contradict the eyewitness account of assault by a sabbal. The Court explained that a solid iron rod with a pointed edge could cause blunt injuries with its blunt side, punctured wounds by piercing, and incised wounds when its edge was used like a sword. Two sabbals were recovered at the scene. The different wound types therefore did not establish the defence suggestion of multiple assailants, and the medical evidence corroborated the ocular account.	103
Ocular and medical evidence —	Credible ocular evidence generally takes priority over medical opinion unless	115

21.1 : Medical Evidence, Forensic Proof and Ocular Contradictions

Topic	Ratio	Case Sr.no.
Laceration despite a stated sword blow	the medical evidence completely rules out its truth. Medical improbability remains relevant in assessing the evidence. A lacerated wound did not necessarily contradict the account of a sword blow: the Court considered that a blunt edge or the blunt part of the weapon could have struck the victim. It therefore found no irreconcilable conflict requiring rejection of the eyewitness account.	
Preference for ocular evidence depends on its trustworthiness	In examining a conflict between ocular and medical evidence, the Court accepted that the ocular account should ordinarily receive preference, but first tested whether that account was trustworthy. An unreliable eyewitness version could not resolve the uncertainty created by the inconsistent medical opinion about the nature of death.	123
Unresolved ligature evidence in a disputed strangulation prosecution	Where strangulation by a noose was alleged, the unexplained disappearance of the noose, the absence of a recorded knot or loop in the seized rope, and the failure to send it to the post-mortem doctor for comparison left material gaps in the investigation. Those gaps reinforced the uncertainty in the medical evidence and were considered with the defects in the eyewitness accounts.	123
Medical opinion inconsistent with the recorded basis of the post-mortem	The doctor's later opinion that a sword could not have caused the cut wounds was rejected where the post-mortem recorded wound dimensions but no shapes, the weapon had not been sent to him, and the recorded long, narrow dimensions did not support his exclusion of a sword. An unsupported recollection of wound shape almost a year later did not displace the accepted eyewitness account in those circumstances.	145
Medical inconsistency and a sword assault	Reliable ocular evidence has primacy unless the medical evidence completely excludes its truth; medical improbability remains relevant to the overall assessment. Lacerated head wounds did not rule out the alleged sword assault because a blunt edge or blunt portion could have made contact. The medical and eyewitness accounts were therefore reconcilable on the record.	166
Tractor-seat position and a brief FIR	An injured informant is not expected to narrate every movement in an FIR. The omission that the victim stood up on the tractor did not make the eyewitness explanation a false improvement merely because a high seat-back was said to obstruct the shot. The occurrence could not be reconstructed on the rigid assumption that the victim remained seated and motionless.	167
Forensic findings inconsistent with the defence of accidental burning	In assessing the defence of accidental burning while cooking, the Court considered the kerosene in the deceased's scalp hair, the extensive burns and the child's eyewitness account together. An electric heater did not use kerosene. These findings supported deliberate pouring of fuel and contradicted the accidental-burning version attributed to the deceased by the doctor, whose account was not accepted.	173
Unexhibited medical records in the trial file	Medical records do not become readable evidence merely because they are contained in the trial Court's file. The injured witness's bed-head ticket and related treatment records could not be read because they had remained unexhibited.	194
Severe burns do not by themselves establish inability to make a dying declaration	The percentage of burns alone does not determine whether a declarant could speak or make a reliable statement; fitness must be assessed from the medical and other evidence. The sedation objection failed because the declaration was medically certified and the record showed that no medication had been given after the morning request for its recording.	202
Rigor mortis and an unchallenged estimate of time since death	The onset of rigor mortis depends on weather conditions and did not establish an earlier death contrary to the doctor's unchallenged estimate. The post-mortem took place about four hours after the incident, within the recorded three-to-twelve-hour range. In those circumstances the claimed inconsistency in the time of death was rejected.	227

Topic	Ratio	Case Sr.no.
Abrasion compatible with the alleged lathi assault	An abrasion medically attributed to a hard and blunt object was compatible with the alleged lathi blow. The doctor was not asked whether that injury could not have been caused in that way. In the circumstances, the eyewitness account of the accused's lathi role was not contradicted by the medical evidence.	227
Burn injuries on the accused did not establish the claimed rescue	The accused's burns from wrist to elbow did not establish his claim that he had been injured while saving his wife. The Court assessed the claimed act of pushing the burning victim against the reliable declarations and surrounding evidence and rejected that explanation. The burn injuries were not treated as conclusive proof of an accident.	229
Medical evidence must completely negate reliable ocular evidence to displace it	Medical evidence is ordinarily corroborative. A discrepancy that makes an eyewitness account improbable must be weighed, but reliable ocular evidence is not displaced unless the medical evidence completely rules it out. The scalp wound's description as incised did not exclude assault with a blunt weapon, since such a wound may resemble an incised injury.	253
Medical findings and an exaggerated account of prolonged beating	The Court tested the account of continuous beating for fifteen or thirty minutes against the victims' limited medical injuries and found the duration alleged unreliable on these facts. This discrepancy formed part of its assessment that the prosecution account was not trustworthy. It was not treated as a general rule that minor injuries alone negate an assault or robbery.	287
Medical opinion and an apparent discrepancy in firing distance	Medical opinion assists the Court but is not binding; it must be assessed with the other evidence. An apparent conflict can be significant if it makes the eyewitness account untenable, but does not automatically require rejection of credible ocular evidence. The Court considered the extensive skull damage and the evidence as a whole, and declined to discard the eyewitness account merely because the doctor noted blackening while one witness estimated a greater firing distance. The other eyewitnesses had not been questioned about firing distance.	291
Rigor mortis and estimation of the time of death	Development of rigor mortis is affected by prevailing conditions and cannot be assigned a uniform timetable in every case. A challenge based on its development should be put specifically to the autopsy surgeon. Here no such question was asked, the stated six-to-twelve-hour interval was compatible with the reported occurrence, and the doctor's evidence about digestion also supported the prosecution chronology. Rigor mortis did not establish an earlier killing by unknown persons.	291
Medical and forensic proof of sexual assault on a child	The child's genital injuries, ruptured hymen and associated bite and bodily injuries supported the finding of sexual assault. The suggested accidental fall did not explain the full pattern of injuries. Human semen and sperm on the vaginal swab and slide provided further support for rape. Identification of the perpetrator rested on the accompanying circumstantial evidence, rather than a claimed laboratory match to the appellant.	298
Absence of penile injury and assessment of rape evidence	Absence of injury on an accused's penis does not invariably discredit otherwise reliable proof of rape. The inference depends on the circumstances. Here the appellant was arrested sixteen days after the incident, leaving time for an injury to heal; the Court rejected the absence of such injury as a sufficient reason to disbelieve the prosecution case.	298
Negative viscera report — assessment with other evidence of abnormal death	Failure to detect poison in the viscera did not, by itself, establish natural death or require other convincing evidence to be discarded. The Court observed that some poisons may escape chemical detection and assessed the medical and chemical reports with the false hanging account, absence of a ligature mark and unexplained ante-mortem injuries. Although the autopsy report's author had died and the attending co-signer acknowledged that no poison symptoms were recorded, the Court found death otherwise than under normal circumstances for Section 304-B IPC.	302

21.1 : Medical Evidence, Forensic Proof and Ocular Contradictions

Topic	Ratio	Case Sr.no.
Firearm assault — medical corroboration of eyewitness evidence	The eyewitness account attributing a firearm injury to the appellant was supported by the medical evidence of gunshot wounds, damaged internal organs and severe bleeding. Differences concerning the second shot and firing distances did not displace the consistent central account of the appellant's shot and the resulting fatal injury. On the combined eyewitness and medical evidence, the Court sustained the Section 302 IPC conviction.	307
Medical corroboration of a sharp-weapon assault	The postmortem evidence of a deep incised neck wound severing major vessels and the trachea, with multiple other injuries and death from shock and haemorrhage, corroborated the accepted ocular account of assault with cutting weapons. The Court relied on that medical support in finding the prosecution case proved beyond reasonable doubt.	315
Ocular and medical evidence — discrepancy versus complete exclusion	Reliable ocular evidence ordinarily has primacy over corroborative medical opinion. A discrepancy does not justify rejection unless the medical evidence completely rules out the manner of injury described by the eyewitnesses. The Court found that the medical findings did not exclude the account of the group assault.	319
Sword assault and a lacerated wound — no inevitable medical contradiction	A lacerated wound does not necessarily exclude an assault with a sword. The blade may be blunt or the blunt part may strike the victim. Applying the narrated authorities, the Court held that the laceration did not create a medical contradiction completely excluding the eyewitness account of the sword assault.	319
Gunshot evidence — medical proof distinguished from proof of weapon and firing distance	Medical evidence established that the complainant suffered a gunshot injury, but the doctor's rejection of the stated firing distance, the discrepancy between the weapon described and the weapon seized, and the seizure witness's denial cast doubt on the prosecution account. Those defects were assessed with the other evidence; they did not prevent the Court from finding that a shot had been fired in private defence.	331
Rape — inconclusive clinical opinion considered with other evidence	The doctor's inability to examine the crying child's hymen or give a definite clinical opinion of rape did not prevent proof of the offence on the evidence as a whole. The recorded inflammation and blood, the ocular account and the DNA report together supported the conviction under Section 376 IPC.	332
Lacerated Wounds and an Eyewitness Account of Assault with a Baka	Credible ocular evidence ordinarily has primacy over medical opinion. Medical evidence that makes the account improbable is relevant to its assessment, but rejection is warranted where it completely rules out the account. Lacerated head wounds did not exclude assault with a Baka, since its blade could have become blunt or its blunt part could have struck the head. Those possibilities reconciled the evidence without determining which side actually made contact.	378
Injury on the accused and skin in the victim's nail clippings	Insufficient skin material for further testing did not make its presence in the child's nail clippings irrelevant. Read with a nail-caused abrasion on the accused's nose, the medical rejection of the suggested self-infliction and the independent DNA links, it supported the inference that the child caused the abrasion while resisting him. The attribution rested on the combined evidence, rather than a laboratory identification of the skin's source.	391
Absence of genital injury on an accused in a child-rape case	Injury to the accused's genital organ is not necessary in every case of forcible intercourse with a child, and its absence does not by itself negate rape. The Court also considered that examination occurred about 48 hours after the incident, allowing for the possibility that minor injuries had healed.	391
Proof of a police request for examination under Section 53A CrPC	The absence of an exhibited requisition did not establish that the accused's medical examination lacked a police request. The escorting witness accepted the defence suggestion that he had acted on senior officers' instructions, and the doctor was not challenged on the absence of a requisition. On that evidence, the Court found the examination had been conducted at the investigating	391

Topic	Ratio	Case Sr.no.
	officer's request.	
Medical examination of a recovered minor alleging voluntary sexual relations	A recovered minor's assertion that she went voluntarily did not excuse the police failure to arrange medical examination when the material disclosed sexual relations. The Court treated the omission as a serious investigative failure requiring action against the officers concerned.	431
Unrecorded medical history attributing the assault to an unknown person	The defence doctor's assertion that the injured had identified the assailant as unknown was not accepted where the MLC did not record that the injured supplied such a history and the assertion was not put to the injured in cross-examination. On that record, the unsupported attribution could not displace the prosecution identification evidence.	439
Medical Possibility of Accidental Injury Without Supporting Circumstances	The doctor's acknowledgment that a fall on broken glass could cause injuries did not establish that explanation in this case, as no circumstance indicating such a fall was identified. The medical examination, X-ray and surgeon's evidence established multiple stab wounds, finger amputation and a life-endangering abdominal injury. The Court accepted those findings as corroborating the admissible eyewitness account.	451
Medical Evidence Inconsistent With the Alleged Heavy-Stone Assault	The Court found that the medical evidence ruled out the eyewitness account of the alleged assault with the seized heavy stone. The treatment record did not explain the stitched wounds, the autopsy surgeon had neither opened the stitches nor measured the injury depth, and the injuries lacked the crushing character the Court expected from the stone described. This conclusion rested on the particular injury, treatment and recovery evidence before it.	455
Ocular and medical evidence — Complete inconsistency and separable exaggeration	Credible eyewitness testimony ordinarily receives preference over corroborative medical opinion. Medical improbability must be considered, and medical evidence completely excluding the eyewitness version may justify rejection of that version. Here, the absence of firearm injuries contradicted the alleged indiscriminate firing by five appellants. In contrast, one entry and one exit wound in each deceased did not exclude the reliable single-shot account against Rajesh merely because some witnesses later exaggerated the number of shots. A downward bullet track did not by itself establish firing from an elevated position.	474
Non-recovery of the weapon — Effect on otherwise reliable prosecution evidence	Recovery of the actual weapon is not indispensable to conviction where unimpeachable eyewitness testimony, supported by medical evidence, proves the offence. Non-recovery does not by itself discredit reliable witnesses. The cited Rakesh passage also treats recovery of a firearm that does not match the bullet as non-recovery of the actual weapon, rather than an automatic ground for acquittal. The Court applied the non-recovery rule to Rajesh's proved shooting.	474
Medical injury evidence — Penetration distinguished from proof of sexual assault	Internal injury, a torn hymen and perineal laceration established penetration by a hard object, but its sexual or accidental cause had to be decided from the remaining evidence. The Court rejected the proposed fall and accidental wood-insertion explanations after considering the medical pattern, absence of expected external injuries, the eyewitness evidence and the failure to put the wood-insertion account to the mother. Absence of labial laceration did not itself exclude penetration in a child of that age.	477
Ocular and medical evidence — laceration despite an alleged sword blow	Medical evidence is generally opinion evidence and must be assessed as a whole alongside credible eyewitness testimony. An apparent discrepancy in the injury mechanism is relevant to credibility, but ocular evidence may be rejected on this ground when the medical evidence completely excludes its possibility. A lacerated head wound did not necessarily contradict the account of a sword assault because a blunt portion or blunted blade could have caused it. The Court applied the principles reproduced from Putchalapalli Naresh Reddy, Bhajan Singh, Ramanand Yadav and Shamsher Singh, and accepted the injured	491

Topic	Ratio	Case Sr.no.
	witnesses' account, which was otherwise corroborated by the medical findings. It did not establish the precise contact surface as a separate fact.	
Medical corroboration — proof of the incident remains distinct from proof of the assailant's identity	The medical evidence of injuries established that the assault incident had occurred, but the Court separately examined whether each appellant was an assailant. For Purshottam, the complainant's prompt naming and accepted in-court identification were supported by the medical findings, establishing guilt beyond reasonable doubt. The same injury evidence did not cure the absence of identification and other connecting evidence against the two acquitted appellants.	548
Medical and physical discrepancies indicating suppression of the occurrence	Proof that death was homicidal did not resolve who caused it. The alleged knife injury to the nose was not an incised wound; other injuries and temporal ecchymosis remained unexplained. The downward, vertical course of the chest wound was difficult to reconcile with an assault while the deceased lay on a cot. The garment removed at autopsy had no corresponding cut, whereas the torn bloodstained garments seized at the scene were withheld from court and the forensic report did not answer the request to examine them for cuts. Unexplained wiping of blood from the scene added to these discrepancies. Taken together, these circumstances supported the finding that the prosecution had suppressed the genesis of the incident.	550
Unexplained lacerated injuries in a prosecution alleging only knife blows	Where the prosecution attributed the assault solely to knife blows, the presence of multiple lacerated wounds called for an explanation. The prosecution’s failure to explain those injuries was one reason the Court found the investigation unsatisfactory and, on the total evidence, held that guilt had not been proved beyond reasonable doubt.	553
Lacerated wound caused by an axe blow	A lacerated head wound did not exclude the eyewitness account of an axe assault where the axe blade could have been blunt or its blunt part could have struck the victim. Since the medical evidence did not completely rule out the assault described, the Court preferred the accepted ocular account.	561
Conflict between medical and ocular evidence	Accepted ocular evidence ordinarily has primacy over medical opinion. Medical evidence making the eyewitness account improbable is relevant to its evaluation; where it completely rules out the possibility of that account being true, the ocular version may be rejected. The medical opinion must be considered as a whole with the other evidence.	561
Medical evidence of fatal head injury considered with direct evidence of assault	The medical findings of skull fracture, depressed bone and brain laceration established the fatal head injury and were considered with the wife's consistent account and the deceased's report of the axe assault. The post-mortem doctor stated that the mode of injury depended on the surrounding evidence. The Court accepted the prosecution evidence as a whole and upheld conviction despite the alternative account of an accidental fall.	584
Conflict between the recovered weapon and medical and oral evidence	The recovered luhangi did not resolve the material conflict in the prosecution evidence. The asserted eyewitness described a lathi blow and specifically denied use of a luhangi, while the doctor attributed both fatal head injuries to a lathi. No lathi was recovered from the appellant. The Court treated this discrepancy with the FIR naming other persons and the unreliable attribution evidence as creating decisive doubt. Proof that the deaths were homicidal did not identify the appellant as the assailant.	599
Difference between FIR and medical-history wording at the charge stage	The FIR’s reference to hot meat and the medical history’s reference to hot curry did not, by that difference alone, justify discarding the FIR at the stage of framing charges. Burning in both eyes had been recorded. The Court upheld the charges within its limited review, leaving the trial court to decide the case on the evidence without being influenced by those preliminary observations.	603
Inconclusive ballistic linkage and non-	Failure to link the seized gun conclusively to cartridges recovered at the scene	605

Topic	Ratio	Case Sr.no.
recovery of the actual weapon	may be treated as non-recovery of the actual weapon, rather than as destruction of an otherwise proved prosecution case. Applying Rakesh, Gulab and Krishna Gope, the Court held that recovery of the weapon was not indispensable to conviction. Here, the missing percussion caps prevented a match, but the accepted eyewitness and medical evidence established the firearm killings.	
Medical inconsistency and ocular evidence at the Section 319 stage	Eyewitness testimony must be assessed independently for credibility. A medical opinion suggesting another possibility does not by itself displace a trustworthy account, though medical improbability is relevant and a complete exclusion of the ocular version may justify disbelief. At the Section 319 stage, the High Court declined to decide the alleged contradiction conclusively before the trial court tested the evidence. Without a finding of complete inconsistency, that objection did not justify setting aside the summoning order.	611
Medical findings and contemporaneous records as corroboration	Firearm wounds and the medical findings of fatal haemorrhage established homicidal deaths. Blackening and tattooing supported the finding of close-range firing. The injured person's contemporaneous MLC naming an eyewitness as attendant, read with the nearby location of his shop, corroborated that witness's presence and prompt removal of the injured to hospital.	622
Farsa blow, lacerated scalp wound and alleged improvement	The injured witness's specification in court that the blunt side of a Farsa was used did not require rejection of his evidence under Section 319 CrPC merely because the FIR referred generally to a Farsa blow and the injury was lacerated. The Court considered the possible condition or use of the blade, scalp-wound appearance, and Putchalapalli Naresh Reddy. The injured witness was not the FIR's maker, and the ultimate effect of the discrepancy remained for trial.	645
Paralytic stroke and proof of inability to use a weapon	A history of paralytic stroke does not establish that a person was incapable of using a Farsa. The effect depends on the affected body part and resulting restriction. Because the applicant did not identify the affected part or establish incapacity, this assertion did not defeat the Section 319 summons.	645
Ocular and medical evidence — absence of a particular external injury	Credible ocular testimony ordinarily takes precedence over medical opinion, but a medical finding that makes the account improbable must be weighed; complete medical exclusion may justify disbelieving it. Applying Bhajan Singh and the passages reproduced through CBI v. Mohd. Parvez Abdul Kayuum, the Court found that absence of an external back injury did not invalidate the eyewitnesses' account of a joint assault. The deceased had multiple injuries, and witnesses to several persons attacking could not be expected to track every movement or the exact landing of every blow. The medical evidence did not completely exclude their account.	675
Unproved recovery of the weapon does not defeat reliable direct evidence	Recovery of the weapon used in the offence is not indispensable where trustworthy direct evidence establishes the assault. The seized lathi had no recorded bloodstain and no FSL report was produced, so the Court treated the prosecution as having failed to establish recovery of the actual weapon. Applying Goverdhan, including its reproduced Rakesh v. State of U.P. reasoning, it held that this failure did not undermine the reliable eyewitness account supported by the injuries. The recovery objection therefore did not defeat the independently established prosecution case.	675
Medical–ocular variance — assess the nature of the inconsistency	Credible eyewitness evidence must be assessed independently rather than rejected because a medical witness suggests another possibility. Applying Krishnan and Thaman Kumar, the Court distinguished absence of injuries normally produced by the alleged weapon from differences in injury dimensions or location, which require examination of the manner of assault, the victim's position and the witnesses' opportunity to observe. It rejected the contention that the allegation of dragging made the FIR medically inconsistent, noting also that the injured had been thrown to the ground. Minor variance did not displace the reliable evidence of the assault.	678

21.1 : Medical Evidence, Forensic Proof and Ocular Contradictions

Topic	Ratio	Case Sr.no.
Absent blood on a belatedly seized weapon — reliable direct evidence remains	The absence of blood on the seized farsa did not displace the reliable direct evidence of the attack. The Court noted that arrest and seizure followed a substantial interval, during which the weapon could have been cleaned. Applying Nankaunoo, it further held that even if recovery of the actual weapon were disregarded, the credible oral evidence, supported by the medical findings, remained sufficient. The conclusion concerned a case independently established by reliable evidence; it did not make every defective recovery immaterial.	678
Blood-group evidence as a corroborating circumstantial link	Unchallenged forensic findings of human blood on recovered clothing and material from the truck supported the circumstantial chain. Group O blood on a recovered pant, a truck seat cover and foam linked those articles evidentially, while group B blood on two other seat covers supported the presence of blood from another person. The Court assessed these findings with recovery, possession of the truck and identification of the deceased.	682
Conflicting medical estimates of injury timing	An oral statement that injuries were more than three hours old did not undermine the prosecution chronology where it conflicted with the post-mortem report and the doctor's other evidence that death occurred within three hours of examination. Reading the medical evidence together with the evidence of immediate death, the Court rejected the proposed earlier injury time and accepted homicidal death.	691
Assessment of conflicting medical opinions on firearm entry and exit wounds	The Court must assess medical evidence with the recorded injury features and the other credible evidence; it is not bound by a prosecution doctor's opinion merely because the doctor was not declared hostile. In this case, both doctors recorded protruding intestines at the abdominal wound. The Court accepted the treating doctor's identification of that wound as the exit wound, rejected the contrary post-mortem characterisation, and found the back-to-abdomen trajectory consistent with the eyewitness account. It therefore rejected the alleged contradiction between medical and ocular evidence.	693
Medical evidence alleged to contradict credible eyewitness testimony	Credible ocular evidence must be assessed independently and is not displaced merely by a medical opinion suggesting an alternative possibility. Medical improbability is relevant to evaluation; medical evidence completely excluding the eyewitness version may justify disbelief. In this case the incised and blunt injuries supported the weapon accounts. The Court found that the absence of penetrating head wounds did not contradict the described Ballam and Barchhi blows to the head and forehead.	698
Failure to obtain a doctor's opinion on recovered weapons	Failure to send the recovered weapons to the doctor for an opinion does not by itself require rejection of direct evidence. Where the described axe and lathi assaults were corroborated by the incised and blunt injuries, and the alleged conflict about pointed weapons was rejected, that investigative omission did not undermine the eyewitness account accepted by the Court.	698
Medical evidence alleged to contradict credible eyewitness testimony	Credible ocular evidence must be assessed independently and is not displaced merely by a medical opinion suggesting an alternative possibility. Medical improbability is relevant to evaluation; medical evidence completely excluding the eyewitness version may justify disbelief. In this case the incised and blunt injuries supported the weapon accounts. The Court found that the absence of penetrating head wounds did not contradict the described Ballam and Barchhi blows to the head and forehead.	699
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Medical	An injured eyewitness's account may be accepted where her injuries support	700

Topic	Ratio	Case Sr.no.
corroboration of an injured eyewitness and proof of homicidal death	her presence and the medical findings corroborate the occurrence she describes. Here, the firearm injuries and fractures sustained by the eyewitness supported her account of the shooting, while the ante-mortem firearm injuries and death from excessive haemorrhage supported the finding of homicidal death.	
Medical corroboration of an injured eyewitness and proof of homicidal death	An injured eyewitness's account may be accepted where her injuries support her presence and the medical findings corroborate the occurrence she describes. Here, the firearm injuries and fractures sustained by the eyewitness supported her account of the shooting, while the ante-mortem firearm injuries and death from excessive haemorrhage supported the finding of homicidal death.	701
Post-mortem omission tested against contemporaneous injury records	The Court was not bound to accept the post-mortem report's silence about a hand injury when the inquest recorded blood and a wound between the thumb and finger, and the medical requisition also referred to that injury. Assessing those documents and the police witnesses together, the Court held the earlier assault proved despite the doctor's negligent or incomplete examination.	713
Primacy of credible ocular evidence and complete medical exclusion	Credible ocular evidence ordinarily has primacy over medical opinion, which is corroborative. Medical evidence making the eyewitness account improbable is relevant to its assessment; if it completely rules out that account, the ocular evidence may be disbelieved. An expert's alternative possibility or unsupported opinion is not conclusive. Here the location and extent of the wounds supported the attributed sharp-weapon assaults, and the doctor's single-blow opinion did not displace the accepted direct evidence.	713
Medical injuries did not establish the alleged assault by the accused	The injuries on two witnesses did not prove that Vijay assaulted them when the underlying abduction account was unreliable and the doctor accepted that the injuries could result from a fall from a bullock cart. The claimed assault on two other abductees had no medical support. On that combined record, the Court found the Section 323 charge unproved.	716
Medical corroboration of the eyewitness account despite weapon-description discrepancies	The Court compared Gorabai (PW1), Ram Singh (PW2), Kamta Prasad (PW5) and Poonam (PW3) with Dr. Ajay Gupta’s post-mortem opinion. The defence pointed to non-mention of Poonam and Rajat in the FIR, kinship of eyewitnesses, differences between lathi and iron-tipped luhangi, and the initial doctor’s observations. The Court found the eyewitness core of Laxmi Narayan’s head strike supported by the post-mortem finding of fresh ante-mortem blunt injuries, fatal head injury, shock and haemorrhage. The seized stick was described as having no iron cover; that difference affected precise weapon description but not attribution of the fatal head blow. It accepted homicidal death and his responsibility, while limiting the other two men’s individual acts to simple hurt. The Court did not derive a universal rule that all related testimony or all medical discrepancies are immaterial.	733
Ocular account of axe blow sustained where scalp laceration did not exclude it	Roop Singh had an 8 cm occipital laceration, dangerous to life, while eyewitnesses identified Brajesh’s axe blow. Applying Latesh v. State of Maharashtra, (2018) 3 SCC 66, and Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195, the Court required medical evidence to completely rule out the oral version before displacement. Scalp hair and hard skull could affect wound appearance, and no axe had been recovered to establish its edge; the doctor’s blunt-object classification did not on this record render the direct, corroborated account impossible. This did not dispense with scrutiny of medical contradictions in a different case.	735
Failure to recover weapons did not displace credible injured eyewitness account	Nankaunoo v. State of U.P., (2016) 3 SCC 317, and Mritunjoy Biswas v. Pranab, (2013) 12 SCC 796, were applied: non-recovery of a weapon is not invariably fatal where reliable direct evidence, especially with medical support, proves the occurrence; Mritunjoy cites Lakshmi, Lakhan Sao and Arjun Singh in that setting. No assault weapon was recovered in this case, but the four injured witnesses’ accounts and MLCs were accepted. The ruling did not deem	735

Topic	Ratio	Case Sr.no.
	recovery irrelevant in every evidentiary configuration.	
Non-recovery of weapon where reliable injured-witness evidence is medically corroborated	Non-recovery of the weapon does not discredit direct evidence that is otherwise reliable and trustworthy. Applying Gulab v. State of Uttar Pradesh and Rakesh v. State of U.P., the Court sustained the Section 324 IPC conviction because the injured witness's account was supported by the medico-legal report. The reproduced authorities distinguish non-recovery from an unexplained failure to obtain available ballistic evidence; they do not impose an inflexible requirement of ballistic examination despite convincing direct evidence.	752
Medical evidence used to test specific acts attributed to individual accused	The single firearm wound to the deceased and the incised and lacerated wounds to the injured witnesses supported the account of one accused's fatal shot and the proved axe or lathi assaults. Neither injured witness had a gunshot wound. Considering those findings, the lack of other corroboration and prior enmity, the Court rejected the wider allegation that the remaining alleged gunmen repeatedly fired at the deceased and injured witnesses. The medical findings supported an assessment of each alleged act in the circumstances of this case.	754
Failure to explain injuries on an accused is not invariably fatal	The effect of unexplained injuries on an accused depends on the circumstances and whether the omission creates reasonable doubt about the prosecution case. There is no universal duty to explain every injury, and where injury questions are not put to prosecution witnesses, no occasion to explain may arise. Here the accused had simple abrasions which the doctor said could result from running or falling. Their non-explanation did not defeat the otherwise accepted assault evidence.	766
Medical probability and eyewitness accounts of a brief firearm assault	Expert evidence indicates probability and is not conclusive proof of every detail of an assault. Although the doctor considered that the back-entry gunshot wounds were inflicted while the deceased was standing, the witnesses also described him running away when shots were fired. The Court assessed that opinion with the eyewitness sequence of a fall and further firing. The entry and exit wounds, blackening and charring, and the buttock wound without an exit supported the firearm assault and homicidal death. On the record, the medical evidence supported rather than displaced the eyewitness account.	772
Exhibited postmortem report and the accidental-fall explanation	The postmortem report recorded widespread ante-mortem blunt injuries, fractures and an occipital fracture with subdural haematoma, and classified the death as homicidal. It was exhibited without reservation, and the defence did not challenge the omitted injury findings in cross-examination. The doctor's incomplete oral recital therefore did not displace the report's proved findings. His general concession that a fall could cause injuries did not explain the combined number and pattern of injuries. The Court rejected accidental death from a fall from the single-storey house.	774
Absence of hair on an axe despite head injuries	In assessing multiple axe wounds, the absence of hair on the recovered axe did not undermine the medical finding of homicidal deaths. The order of the blows was uncertain, and the Court reasoned that a later blow on another part of the body and the resulting blood could have removed hair traces. This objection therefore did not displace the post-mortem evidence in the case.	817
Medical proof of drowning — Separate question of homicidal causation	The unchallenged post-mortem opinion established death by drowning although the diatom test could not be performed because the bone sample was broken. Proof of drowning left a separate question whether the death was homicidal or accidental, which required examination of the other evidence.	827
An unproved ossification report cannot be used against the accused	The prosecution cannot rely adversely on an ossification report that it has not proved. The Court therefore excluded the unproved report suggesting an age above 12 and below 14 years from consideration against the appellant. It determined minority on the other proved age evidence.	876
Inconclusive medical trajectory evidence	The autopsy evidence established homicidal death by gunshot but could not	919

Topic	Ratio	Case Sr.no.
assessed with other scene circumstances	conclusively determine the relative positions of shooter and victim. The doctor accepted alternative explanations for a downward bullet track, including deflection after striking bone, and had not established the track by probing. The Court therefore assessed position and the probable place of shooting through the remaining scene evidence. It treated the roof account as probable on that combined assessment, rather than as a medically certain reconstruction.	
Non-explanation of serious injuries sustained by the accused	Failure to explain injuries on the accused does not invariably require rejection of the prosecution case. Their seriousness, occurrence in the same transaction, the quality of the prosecution evidence and the probability of the defence version must be considered together. Clear, cogent and credible evidence may remain reliable despite non-explanation. Here, the accused suffered multiple serious injuries, including head injuries, and were admitted to hospital by the police. Prosecution witnesses denied those injuries despite facing trial for causing them. In the setting of the possession dispute and a probable defence version, the omission supported an inference that the origin of the incident had been suppressed and created reasonable doubt.	923
Medical corroboration of eyewitness accounts of a group assault	The medical findings supported the eyewitness accounts of the different weapons and injuries. Badal's three firearm entry wounds and corresponding injuries established homicidal death from firearm injuries. Ajay's incised head wounds, skull fractures and internal bleeding supported death from the head assault. The contemporaneous injuries of Vinod and Shiv Kumar also supported their presence and the accounts of lathi and gun-handle blows. The Court assessed these findings with the ocular evidence in accepting the prosecution account.	936
Medical evidence and the suggested accidental fall	The doctor's acceptance that a forceful fall onto a sharp object could cause an injury did not establish that the deceased had suffered such a fall. The defence witnesses lacked direct knowledge of the alleged occurrence, and the investigating officer's plan recorded a drain but no culvert. The Court accepted homicidal death from the brain injury and found the prosecution account of an axe assault supported by the medical and overall evidence despite witness discrepancies. The decision does not establish a definitive scientific match between the recovered axe and the deceased.	948
Ocular and medical evidence: material conflict and hypothetical alternatives	Credible ocular evidence must be independently assessed with the whole record. Minor medical variations or hypothetical alternative causes do not conclusively displace it. Medical evidence making the account improbable is relevant; evidence completely excluding the possibility of the injuries occurring as described may justify rejecting the account. Here the injured witness's condition could explain failure to observe every blow to his wife, and the weapons and the doctor's explanation permitted the blunt penetrating injuries. The Court found no material variance between his account and the medical evidence.	949
Medical corroboration of fatal assault and alleged inadequate treatment	Medical evidence of penetrating injuries to vital organs and death from shock corroborated the accepted eyewitness account of the knife assault and established homicidal death. The records showed prompt initial treatment and referral, followed by death on the way to hospital; the suggestion that inadequate treatment displaced the assault as the cause of death was rejected on that evidence.	971
Medical and forensic evidence rebutting an alternative cause of injury	The doctor's concession that a corn stalk could cause the injury did not displace the prosecution evidence of rape. The Court considered the bleeding vaginal-wall injury, ruptured hymen and human sperm detected on the vaginal slide and swab together with the prosecutrix's account, and rejected the suggested accidental cause. The supporting witnesses had not witnessed the assault itself.	980
Absence of blood on	The absence of blood on the recovered weapons, and the failure to obtain the	987

Topic	Ratio	Case Sr.no.
recovered weapons and corroborated eyewitness evidence	expert examination mentioned in the judgment, did not undermine the conviction on this record. Recovery at the accused's instance, scene material, credible injured-witness testimony and corresponding medical findings supported the use of the weapons in the assault.	
	Sub-Chapter no. 21.2 **Serology, Blood Stains, Fingerprints, Ballistics and Toxicology**	
Damaged firearm — condition at recovery does not necessarily disprove earlier use	A firearm's inability to fire when recovered does not disprove its earlier use where the evidence shows subsequent damage intended to make it unworkable. The seized gun was dismantled and concealed, its firing pins were cut, and nitrate and gunpowder were found in its barrels. Those circumstances defeated the argument that its condition at recovery contradicted the evidence of the shooting.	12
Forensic linkage of a recovered firearm and the cartridge	A forensic finding that a cartridge was fired from the firearm recovered at the accused's instance may connect that recovery to the shooting. Here, the Court accepted the proved FSL report linking the cartridge to the recovered firearm and considered it with the other incriminating circumstances in upholding the conviction.	36
Serologist's report — expert opinion and formal proof in the relied-upon decision	In Gadhvi, relied upon to reject the assumption that a hostile prosecutrix made conviction impossible, the serologist's report was treated as expert opinion under Section 45 of the Evidence Act and admissible without formal exhibition or proof by oral evidence. The report was assessed with medical and other evidence connecting the accused to the assault. That evidentiary assessment concerned the material in the cited case.	58
Recovery of articles — proved seizure without the alleged blood stains supplied no incriminating link	Proof that articles were seized from the accused does not by itself establish their connection with the offence. Although the seizure witnesses and investigating officer proved recovery of the tangi, clothes, socks and shoes, the FSL found no blood on any of them. In the circumstances of this case, the recoveries therefore supplied no incriminating link connecting the appellant with the homicide.	70
Forensic corroboration of the recovered firearm	The forensic report corroborating use of the recovered firearm in the incident supported the prosecution case alongside the reliable eyewitness account, medical evidence and prompt FIR naming the accused. The Court relied on these circumstances together in finding the charge proved beyond reasonable doubt.	90
Recovered firearm without proof of ballistic linkage	Recovery of the .315-bore rifle, which had already been seized in another case and was formally obtained from that police station, did not establish that it was used in these killings. In the absence of a ballistic expert's report linking it to the offence, the Court did not accept the recovery as an incriminating circumstance against the appellant.	99
Human blood on a recovered weapon despite an undetermined blood group	Failure to determine the blood group does not make proved human blood on a recovered weapon irrelevant. Its value depends on the surrounding evidence. Here, recovery of the axe from the accused, the proved sighting of him fleeing with it and his failure to explain its human bloodstains supplied corroborating circumstances. Applying Khujji and the other reproduced authorities, the Court rejected the claim that absence of a blood-group match deprived the recovery of all evidentiary value.	132
Human blood on a proved recovered weapon as corroboration	Human blood detected on the sword recovered from the appellant corroborated the accepted ocular account where both the seizure witness and the seizing officer proved the recovery and cross-examination disclosed no material infirmity in their testimony. The forensic result was used as supporting evidence rather than as an independent identification of the assailant.	145
Forensic	Absence of external or internal injury did not by itself justify rejecting the child	151

Topic	Ratio	Case Sr.no.
corroboration despite absence of visible injury	victim's account of the sexual act. Human sperm was detected on the victim's anal slides, swabs and undergarments and on the accused's slide and undergarments; blood was also detected on the victim's samples and the accused's undergarments. The FSL report was not challenged by seeking cross-examination of the Chemical Examiner. Read with the eyewitness accounts, it corroborated the prosecution case.	
Non-exclusive ballistic opinion and eyewitness proof	An opinion that recovered pellets could have been fired from one 12-bore gun did not exclude the other 12-bore weapons attributed to the shooters. On the forensic material in this case, the pellets could not be tied exclusively to a particular gun. That inconclusive opinion, disputed recovery and discovery of only one distant empty cartridge did not displace consistent eyewitness accounts corroborated by the prompt FIR and post-mortem findings.	165
Unexhibited FSL findings not put to the accused	The Court could not use the alleged blood and human-blood findings on seized weapons where the FSL report had not been exhibited and the circumstances had not been put to the appellants in their Section 313 CrPC examinations. It assessed guilt on the remaining evidence.	166
Missing specimen-seal impression on seizure memos	Absence of the specimen-seal impression on a seizure memo did not by itself invalidate the recoveries. The cartridge memo recorded sealing at the spot, witnesses supported seizure without challenge on that point, and the FSL recorded sealed receipt. The armorer and FSL also received the recovered gun sealed. That evidence established the recoveries despite the missing impressions.	167
Fingerprint evidence contradicted by seizure and sealing chronology	The alleged fingerprint match did not establish an incriminating link where the vessel was recorded as seized and sealed at 10:15 a.m., but the expert claimed to find it open and lift prints at about 12:05 p.m. The contemporaneous records contradicted the claimed joint inspection. The failure to obtain the victim's comparison prints or explain the second print further weakened the claimed link.	219
Blood-group correspondence as a solitary circumstance	The victim's articles and the appellant's T-shirt bore human blood of group A, but the appellant's own blood group was unknown and his clothes were seized 21 days after the incident. The Court accepted that the stain might be the victim's while holding that this solitary circumstance could not establish murder after the other links failed.	219
Reliable eyewitness evidence despite failure to link the recovered firearm	Failure to connect the seized firearms with the shooting through the ballistic report did not displace the reliable eyewitness account. Recovery of the actual weapon used is not essential to conviction where the offence is otherwise proved by trustworthy direct evidence. The Court applied that principle to reject the objection based on the inconclusive firearm linkage.	253
Missing spent cartridges do not necessarily contradict the number of shots	The Court rejected the argument that recovery of only two spent .12-bore cartridges disproved firing by four gunmen. The weapons were not alleged to be automatic, and a spent cartridge could remain in a gun that was not reloaded. Failure to find a cartridge for every alleged shot therefore did not undermine the proved firing in this case.	253
Nonproduction of seized weapon alone does not compel acquittal when seizure is proved	Nonproduction of a seized article does not, by itself, establish failure to prove seizure or require acquittal. Applying State of Rajasthan v. Sahi Ram, the Court noted that the earlier acquittals also involved defects in proof of seizure or linkage to the tested substance. In this Arms Act prosecution, the seizure witness had identified the country-made pistol and two cartridges as material exhibits A1 and A2, so the objection also failed on the record.	257
Failure to recover or link the weapon and reliable ocular evidence	Failure to recover the weapon of offence, or to establish that a seized weapon was the one used, does not by itself discredit otherwise reliable eyewitness evidence. The prosecution case must be assessed independently of that	274

Topic	Ratio	Case Sr.no.
	investigative omission, especially where the ocular account is supported by medical evidence.	
Matching blood groups on the accused's clothes and a scene weapon	Human blood of group B was found on the accused's pant and one stone seized at the scene. The Court inferred that the blood was that of at least one deceased, considering the absence of injury on the accused and his failure to explain the stains. It treated the proved recovery and serology as an incriminating circumstance together with the last-seen evidence, rather than as a standalone substitute for the complete chain.	278
Human blood on recovered articles despite an undetermined blood group	Failure to determine the blood group does not make proved human blood on a recovered weapon or the accused's clothing irrelevant. Such evidence may provide a corroborative link when assessed with the other proved circumstances, though it need not conclusively identify the victim's blood. The unexplained human blood on the pickaxe and the accused's shirt was treated as an incriminating circumstance here.	294
Human blood on recovered articles without a matching blood group	An undetermined blood group does not make proved human blood on a recovered weapon or the accused's clothing irrelevant. Although it does not conclusively identify the stains as the victim's blood, it may corroborate other reliable evidence. The Court treated human blood on the recovered sickle and clothing as a link alongside the short last-seen interval and the unexplained separation, rather than as sufficient proof of murder by itself.	297
Unexplained human blood on the accused's clothing — corroborative circumstance	Human blood detected by the admissible FSL report on the accused's vest and trousers, for which he offered no explanation, was an incriminating circumstance considered with the reliable child eyewitness evidence and proved recovery. The finding formed part of the prosecution's combined proof of guilt.	341
Medical and Ballistic Evidence: Reconciling Shooter Attributions	Where eyewitnesses attribute a victim's injuries to different gunmen, medical and ballistic evidence may explain whether more than one weapon was used and identify the fatal injury. The recovery of both a .315 bullet fragment and a pellet from Mamta, read with the eyewitness evidence about the weapons, supported the finding that both gunmen fired at her and that the bullet injury caused her death. The Court also corrected an attribution inconsistent with the pellet injuries found on another deceased.	360
Human Blood on a Recovered Weapon Without a Reliable Link to the Assault	Recovery of an axe bearing human blood lost its significance where the blood group was not established and the injured witness attributed the axe blows to another accused, alleging only that the appellant held his collar. In the face of the unreliable identification evidence, the bloodstained recoveries did not establish the appellant's guilt.	372
Human Blood on a Weapon When Its Blood Group Is Undetermined	Failure to determine the blood group does not make the finding of human blood on a recovered weapon worthless. It can be an incriminating circumstance corroborating reliable direct evidence, particularly where the accused gives no explanation for its presence. Its value depends on the other proved links; the court must assess reasonable doubt objectively rather than rely on imaginative alternatives.	378
Absence of blood on a weapon allegedly seized immediately after the assault	The absence of blood on the seized spear assumed significance because, on the prosecution account, it was recovered immediately after the assaults and the accused had no time to wash it. The failure to seize his clothes also weakened that account. These circumstances were assessed with the unreliable eyewitness evidence and defective arrest and seizure records in concluding that the prosecution had failed to prove that the accused caused the fatal injuries.	390
Absence of Blood on Recovered Weapons and Non-Recovery of the Actual Weapon	Absence of blood on weapons recovered after an interval did not displace otherwise reliable proof of the assault. The Court considered the opportunity to clean weapons or produce different ones and held that even non-recovery of the actual weapon would not, by itself, falsify the prosecution case.	409

Topic	Ratio	Case Sr.no.
Ballistic matching of the seized pistol, cartridge and recovered bullet	The investigating officer and seizure witness proved recovery of a .315-bore country-made pistol, a fired cartridge and a live cartridge from the appellant's house after his arrest. The FSL report linked both the fired cartridge and the bullet recovered from the deceased's body to that pistol. The Court treated this match as additional corroboration of the two eyewitness accounts and sustained the convictions under Section 302 IPC and Sections 25 and 27 Arms Act on the combined evidence.	445
Alcohol Detection Did Not Corroborate the Alleged Mixing in Food	The later production of a bottle and detection of ethyl alcohol did not establish that the appellant had mixed a substance in the deceased’s food. The prosecution witnesses themselves acknowledged his drinking. In those circumstances, the Court attributed the bottle to the deceased and rejected the alleged mixing as a concocted account.	455
Preservation of vomit as material evidence in suspected poisoning	Non-preservation of vomit after the asserted administration of a solution to empty the stomach materially weakened the account of treatment and poisoning on this record. The later finding of poison in the viscera did not answer the omission: when treatment was given, survival remained possible and the vomit was material for identifying the substance consumed. The omission formed part of the cumulative evidentiary doubt.	467
Ungrouped human blood on a disputed weapon: evidentiary link to the deceased	In this case, the finding of human blood on the knife did not positively connect it with the deceased because the blood group could not be ascertained. The Court applied the passage from Kansa Behra concerning the absence of blood-group evidence linking stains to the victim. This was an additional evidentiary deficiency alongside doubtful recovery and exclusion of the blood finding for failure to question the appellant under Section 313 CrPC.	550
Human blood without an identified group and absence of reliable connecting evidence	Failure to identify the blood group does not invariably deprive a finding of human blood of evidentiary value. It assumed significance here because the injured eyewitness had been disbelieved and no credible evidence connected the seized articles to the deceased. The ungrouped stains therefore did not establish that the blood was the deceased's.	573
Non-recovery of the firearm and proof of guilt	Recovery of the weapon used in the offence is not an indispensable condition for conviction. Non-recovery does not by itself discredit otherwise reliable proof of a firearm attack. Applying Rakesh, Gulab and Krishna Gope, the Court found no adverse effect from failure to recover the appellant’s weapon, particularly as he was arrested about five years after the occurrence.	622
Unproved weapon recovery and ballistic mismatch — credible direct evidence may still establish murder	Recovery of the actual weapon is not indispensable to a murder conviction; a recovered firearm not matching the crime material may be treated as no recovery. Ballistic expertise is not an inflexible requirement where unimpeachable direct evidence and the injuries clearly agree. Its importance depends on the circumstances, particularly where both firearm and crime cartridge are recovered or an apparent inconsistency requires explanation. Here, failure to prove the offence weapon did not defeat the credible eyewitness and medical evidence supporting murder.	638
Missing upper-garment gunshot marks — wound location and lower-garment forensic marks explained the absence	Absence of shot marks on the shirt and vest did not contradict the firearm injury where the entry wound was in the lower abdomen and travelled downward towards the thigh. Corresponding shot marks with lead on the trousers, and lead and nitrate around the underwear perforation, supported the medical account of the lower-body shot.	638
Forensic report dependent on proof of the underlying seizure	Where the seizure of the allegedly bloodstained clothing was not proved, the forensic report concerning that clothing lost its evidentiary effect. The conviction was assessed on the other circumstances rather than that unproved recovery.	683

Topic	Ratio	Case Sr.no.
Failure to link a recovered gun with the shooting	Where damage to the fired cartridge's percussion cap prevents ballistic comparison, a functional gun and evidence of recent firing do not establish that the recovered gun was used in the offence. Suspicion about who damaged the cap does not justify an adverse inference against the accused. Failure to establish the actual weapon's recovery does not, however, displace credible eyewitness evidence corroborated by the injuries. Ballistic expert evidence is not indispensable in every firearm case; its necessity depends on the reliability of the direct evidence and any apparent inconsistency requiring expert explanation.	693
Conclusive cartridge comparison and limited bullet comparison	The FSL report established that the fired cartridge recovered at the scene had been discharged from Kunjilal's seized pistol. The recovered bullet had blood and barrel marks, but insufficient marks for a conclusive comparison, and its match was described only approximately. The Court relied on the definite cartridge-to-pistol link, together with the other evidence of firing; the weaker bullet comparison was not a conclusive weapon match.	761
Human blood on recovered articles as corroborative forensic evidence	After finding that the prosecution had established the spouses' company and the wife's homicidal death in the home, the Court also relied on the forensic report showing human blood on the knife, danda and towel. This was an additional circumstance supporting the prosecution case. The finding was confined to human blood on those articles.	774
Toxicology and prior recovery as corroborating circumstances	The Court treated recovery of a partly used strip of pills described as Trika 0.5 mg, followed by the viscera report recording lorazepam as a tranquilliser, as corroborating administration of a sedative before strangulation. It considered that the disclosure and seizure preceded receipt of the toxicology report and evaluated this inference with the other proved links in the circumstantial chain.	815
Unchallenged human-blood finding on a recovered weapon	The Court relied on the consistent seizure evidence and the forensic report identifying human blood on the axe recovered from the appellant. The investigating officer was not cross-examined about the forwarding document or forensic report, leaving that evidentiary link unchallenged. It was considered with the credible ocular and medical evidence when affirming the convictions.	817
Negative forensic finding on a sword alleged to bear blood stains	Although the seizure and forwarding documents described the recovered sword as blood-stained, the FSL report found no blood on it. On that evidence, recovery of the sword was not accepted as recovery of the murder weapon. The Court nevertheless assessed the independently proved abduction and last-seen circumstances in deciding the appellant's liability.	934
Absence of blood on the recovered weapon: effect of reliable ocular evidence	The absence of bloodstains on the seized knife did not undermine the conviction where reliable eyewitness evidence, corroborated by the medical findings, established the appellant's knife assault. The forensic report was negative for blood on the knife; it supplied no positive forensic link to the deceased.	971
Ungrouped human blood where other circumstantial links fail	Where the other incriminating circumstances were not proved, human blood on recovered weapons and clothes did not establish guilt without a link to the deceased. The deceased's articles indicated group A, while grouping on the accused's articles was inconclusive. In that evidentiary setting, the Court regarded the missing group connection as crucial and held the recoveries insufficient.	988

Sub-Chapter no. 21.3
Homicidal Death — Medical Corroboration of Assault

Medical findings and ocular evidence establishing homicidal death	The number, nature and location of ante-mortem injuries may be assessed together with eyewitness evidence to determine whether death was homicidal. Here, injuries caused by sharp and blunt objects, medical evidence of haemorrhagic shock and the ocular account of assault together established the homicidal nature of death.	32

Topic	Ratio	Case Sr.no.
Proof of homicidal death from firearm injuries	Homicidal death was established by the nature and location of the firearm injuries, their sufficiency in the ordinary course of nature to cause death, and the absence of evidence of self-infliction or accident. The doctor's omission to describe the death expressly as homicidal did not displace that conclusion. The postmortem evidence established excessive bleeding and shock from the firearm injuries.	90
Rigor mortis and an unchallenged medical estimate of time of death	The onset of rigor mortis varies with weather conditions and did not establish an earlier death contrary to the unchallenged medical estimate. The post-mortem, conducted about four hours after the alleged assault, placed death within the preceding three to twelve hours. No question challenging that interval was put to the doctor. The Court therefore rejected the claim that death must have occurred before the alleged incident. The sharp-weapon injuries and fatal shock and haemorrhage supported homicidal death; the doctor rejected the suggested collision with a steel board.	106
Medical evidence distinguishing homicidal strangulation from later burning of the body	Ante-mortem blunt-force injuries, airway obstruction from compression of the trachea and burns without inflammatory margins supported the finding that the victim died from strangulation before her body was burned. The Court accepted the medical evidence as establishing homicidal death and subsequent burning, and considered the other circumstances separately in determining the accused's responsibility.	138
Medical corroboration of a fatal firearm assault	Medical evidence of fatal firearm injuries to the head and chest corroborated the accepted eyewitness account of the armed attack and the two deaths. The Court assessed the medical findings with the surrounding evidence in sustaining the murder convictions.	160
Medical proof distinguishing homicidal head injuries from a fall	Where the medical evidence established fatal brain injury with multiple cranial fractures and the doctor excluded a fall as the cause of the fatal wounds, the Court found the death homicidal. The possibility that some lesser injuries could arise from a hard-surface fall did not explain the fatal head injuries.	248
Medical cause of death and proof that a death was homicidal	The doctor's inability to classify a gunshot death as homicidal or suicidal did not conclude that question. After finding the medical cause of death established, the Court considered the occurrence evidence and held the death homicidal because the accepted eyewitness account proved that the accused shot the deceased from close range.	274
Homicidal burning: combined eyewitness, forensic and scene evidence	The manner of a burn death was assessed from the evidence as a whole rather than the medical burns finding alone. Kerosene residues on the victim's hair and clothes corroborated the child's account. The missing kerosene container, considered with evidence that the husband had held one, also weighed against the suggested suicide. These combined circumstances supported homicidal burning on the particular record.	288
Medical evidence excluding an alleged accidental fall	The doctor’s evidence that the multiple penetrating injuries could not have resulted from a fall on building material supported the finding of homicidal death. The Court also considered that the adjoining plot contained a stack of bricks rather than the alleged iron rods or other material. The suggested fall did not explain the proved injuries on this record.	294
Fatal internal injury without an external wound	Absence of an external wound did not exclude fatal assault. The medical evidence showed death from internal bleeding caused by a lacerated cirrhotic liver and explained both the possibility of injury by a fall and why the seized heavy hammer would ordinarily leave external or rib injury. Fist blows could leave no external injury. After considering those limits with the deceased’s unchallenged report, the Court found that the beating caused the liver injury.	295
Medical evidence establishing homicidal death and	The medical and postmortem evidence established homicidal death from a head injury sufficient to cause death in the ordinary course of nature. The recorded	313

Topic	Ratio	Case Sr.no.
corroborating a dying declaration	incised injuries to the head and waist also corroborated the dying declaration's account of axe blows to those parts of the body.	
Medical proof of homicidal death from a firearm head injury	The postmortem evidence of a firearm entry and exit wound, skull and brain damage, and death from shock and haemorrhage due to the head injury established homicidal death. The medical opinion that the firearm head injury was sufficient to cause death in the ordinary course of nature supported that conclusion.	319
Medical Evidence Establishing Homicidal Death and Corroborating Assault	The autopsy attributed death to a head injury resulting in coma, supporting the finding of homicidal death. Medical examination also recorded the complainant's injuries and the injuries to the later victims. Read with their testimony, those reports corroborated the assaults on the identified victims. The Court used that evidence in its separate assessment of the initial fatal attack and the later hurt offences.	388
Medical Findings Supported Homicidal Death and Postmortem Disposal in Water	The postmortem evidence attributed death to smothering and recorded internal injuries consistent with the alleged sexual assault. The diatom evidence showed diatoms in the water sample but none in the examined bone sample. Reading that evidence together, the Court accepted that the child had died before the body was put into the well and that the death was homicidal. This medical finding did not establish either the child’s claimed identity or the accused’s involvement, which required separate proof.	389
Medical findings establishing homicidal death by firearm injuries	The Court accepted the postmortem findings that the victims died from shock and haemorrhage caused by ante-mortem firearm injuries to vital organs, the heart in Kailashi’s case and the brain in Garsingh’s case. Those findings established homicidal deaths and, assessed with the accepted eyewitness accounts, supported the murder convictions despite the defence challenge to medical corroboration.	399
Fatal splenic injury —medical and ocular proof of homicidal death	The medical evidence of splenic injury and hypovolemic shock, read with the repeated blunt-force injuries and ocular evidence, established homicidal death. The suggestion that no blow was shown directly over the spleen did not justify reducing the offence in those circumstances.	412
Medical findings proving homicidal death from a close-range firearm injury	The entry wound to the chest, rupture of the heart and liver, vertebral injury and bullet lodged within the body supported the medical opinion that death resulted from the firearm injury. The doctor described close-range firing and recovered and sealed the bullet for further examination, while acknowledging that he could not identify the firearm as a ballistic expert. The Court accepted this evidence as establishing homicidal death.	445
Homicidal strangulation — Medical findings and eyewitness support	A request for further expert examination did not require rejection of the death's homicidal character when the medical and eyewitness evidence, read together, supported the assault. The doctor described ante-mortem neck abrasions, a forehead injury and homicidal death; that testimony remained unchallenged in cross-examination. The daughter's account of strangulation with a scarf was supported by two other witnesses. The Court accepted the combined evidence and upheld the murder conviction, rather than treating the referral for further opinion as conclusive of a nonhomicidal cause.	478
Fatal firearm injury to the thighs: medical corroboration of homicide	The Court relied on ante-mortem pellet injuries with blackening and charring, ruptured thigh arteries and extensive haemorrhage to establish homicidal death and corroborate the assault. The doctor considered the injuries sufficient in the ordinary course of nature to cause death. Their surface location away from the chest or head did not prevent the Court from finding fatal sufficiency on this medical evidence.	555
Circumstantial proof of homicidal death despite an	Although examination of the skeletal remains did not establish a medical cause of death, the Court assessed the surrounding evidence and inferred that the	575

Topic	Ratio	Case Sr.no.
inconclusive skeletal postmortem	abductee had been killed and his body concealed. It rejected the proposed animal-attack explanation because the remains were hidden beneath stones and the bones bore no bite marks. The conclusion rested on those circumstances together with the proved abduction and ransom evidence.	
Medical proof of homicidal firearm death despite omission of the label	Failure expressly to write that death was homicidal in a medical report did not prevent that conclusion from the proved injuries and the medical evidence as a whole. The Court found the clinical and post-mortem injuries consistent for one deceased and accepted the explanation that firearm injuries to vital parts established homicidal death for the other. The conclusion rested on the medical findings, rather than the presence of a particular label.	605
Homicidal firearm death — wound characteristics and post-mortem findings established the nature of death	A lower-abdominal gunshot wound with inverted margins, surrounding blackening, damage to muscles and major blood vessels, and recovery of a wad and pellets along the wound track established homicidal death. The absence of a .315-bore bullet did not displace the medical finding based on the pellet wound.	638
Homicidal death — multiple ante-mortem penetrating wounds	Medical evidence that multiple ante-mortem wounds from a sharp and penetrating object caused haemorrhage and shock established the homicidal nature of death, notwithstanding decomposition of the body.	682
Homicidal death — ante-mortem wounds and haemorrhagic shock	Unchallenged medical evidence of multiple ante-mortem injuries caused by blunt and sharp weapons, resulting in haemorrhage and shock, established that the deceased's death was homicidal.	683
Homicidal death from complications of firearm injuries	The Court found homicidal death proved by reading the eyewitness evidence and dying declaration with the medical and postmortem evidence. Death was attributed to intestinal injuries and the resulting septicaemia, notwithstanding the postmortem doctor's inability to describe the original wounds after surgical treatment.	720
Medical proof of strangulation despite absence of a posterior ligature mark	The Court accepted the post-mortem evidence of an ante-mortem ligature mark, underlying tissue changes and asphyxia as establishing homicidal strangulation. The medical witness explained that strangulation does not necessarily leave a ligature mark at the back of the neck and distinguished it from throttling. The absence of a posterior mark therefore did not undermine the accepted medical conclusion in this case.	815
Strangulation finding supported by neck and facial injuries despite post-mortem qualification referring to surrounding evidence	An autopsy opinion identified asphyxia from strangulation and homicidal mode, with multiple ante-mortem neck and facial injuries indicating struggle. The doctor's caveat that final assessment depended on circumstances and evidence did not retract the stated medical cause; the Court combined it with the injury pattern to establish homicidal death.	898
Medical evidence of homicidal death supporting the circumstantial case	The Court accepted the medical evidence that death resulted from haemorrhagic shock and injury to vital organs, with hard and blunt impact to the head and face. That finding of homicidal death supported the last-seen inference against the accused. The medical evidence established the nature and cause of death; his involvement was inferred from the combined circumstances.	979
Homicidal death — multiple blunt-force injuries and fatal internal damage	The post-mortem evidence of numerous fresh ante-mortem blunt-force and rail-pattern injuries, fractures and fatal damage to the liver, lungs and brain established homicidal death. The doctor maintained that the injuries were not explained by the suggested motorcycle fall, and cross-examination did not displace the medical account. The Court relied on that evidence to determine the homicidal nature of death before separately examining who inflicted the injuries.	993

Topic	Ratio	Case Sr.no.
	Sub-Chapter no. 21.4 **Forensic Evidence, DNA Profiling and Expert Witness Examination**	
Negative or absent forensic testing and the remaining evidence	The absence of sperm in the vaginal slide did not by itself displace the prosecution case where the examination followed reporting about seventeen days after the incident. Relying on Sunil v. State of M.P., the Court also recognised that failure to conduct or prove DNA profiling, or a negative result, does not automatically require acquittal: the other evidence must still be weighed. The significance of the forensic result depends on the full record.	38
Admissibility of the FSL report under Section 293 CrPC	The Court treated the FSL report as admissible under Section 293 CrPC. Its admissibility did not permit reliance on an incriminating finding without first allowing the accused to explain that finding under Section 313 CrPC.	103
Reading an unexhibited FSL report under Section 293 CrPC	The FSL report could be read in evidence even though the trial court had not marked it as an exhibit. The Court relied on its admissibility under Section 293 CrPC together with the fact that the accused had been asked a specific question about it under Section 313 CrPC. The report accordingly established the nature of the seized contraband.	105
Scientific evidence despite a hostile prosecutrix	A prosecutrix turning hostile does not by itself preclude conviction supported by scientific or forensic evidence. Relying on Hemudan Nanbha Gadhvi, the Court recognised that a DNA report could remain a crucial circumstance bearing on guilt despite hostile testimony. It did not determine the accused's guilt in the bail proceeding.	182
State responsibility for uninterrupted DNA-testing supplies	In this sexual-offence case, the Court treated DNA testing under Section 53-A CrPC as compulsory and held the State primarily responsible for ensuring the laboratory could conduct it. A shortage of consumables and standard kits had halted testing. The Director General of Police was directed to ensure uninterrupted supplies to RFSL, Sagar so that testing could be completed promptly.	182
Semen evidence without a scientific link to the accused	On this record, semen and sperm on the victim's clothes and vaginal slide did not establish that the appellant had attempted rape. The doctor's tentative suggestion of an attempt was unsupported by reasons in the postmortem findings, and the Court considered DNA testing necessary to determine whether the biological material was linked to the appellant. Semen on his own trousers did not supply that missing connection.	219
Handwriting comparison corroborated by independent evidence	The conviction did not rest solely on the handwriting expert’s report. Independent evidence that the accused procured the drafts, introduced the impostor to the purchaser and signed as a witness established his active role; signature comparison corroborated that evidence. The challenge based on expert evidence alone therefore failed on the actual evidentiary record.	234
Admissibility and use of the FSL report under Section 293 CrPC	The FSL report was treated as admissible under Section 293 CrPC. Its findings on the working condition of the seized pistol and comparison with the bullet recovered from the deceased were used to corroborate the prosecution case.	275
DNA evidence — paternity of a minor victim’s fetus	A DNA finding that the accused fathered his minor daughter’s fetus answered a different question from the natural genetic relationship between a father and daughter. The Court therefore rejected the argument that the match merely reflected that relationship and relied on fetal paternity, exclusion of the alternative suspect and the other proved circumstances to establish sexual intercourse. In discussing Ravi v. State of Maharashtra, it recognised the corroborative value of reliable DNA analysis while retaining the qualification that Y-STR profiling cannot distinguish males of the same paternal lineage. The forensic evidence was assessed with the surrounding circumstances.	301
Handwriting opinion	A handwriting expert's opinion is not conclusive and is not the only mode of	326

Topic	Ratio	Case Sr.no.
and other modes of proof at the quashing stage	proving handwriting. Applying Manorama Naik, the Court noted the available proof and comparison methods under Sections 45, 47 and 73 of the Evidence Act. The examiner excluded the writer of samples S5–S19 as the writer of Q1, but also reported a similarity in the letter 'La' between Q1 and writing marked A–A in the register. The Court described the overall report as inconclusive and declined to quash. Its conclusion called A–A the applicant's admitted writing, whereas the reproduced report itself described A–A only as another writing in the register.	
DNA evidence — prior sealing of victim's clothes and allegation of contamination	The victim's underwear and clothes carried a Y-chromosome STR profile reported as matching the accused. Because the doctor had sealed the clothes before the accused was arrested, the Court rejected the possibility that the police had smeared the already sealed underwear with his semen after arrest. The DNA result was considered with the ocular and medical evidence in affirming the conviction.	332
Section 293 CrPC — use of an unexhibited government FSL report	The original State FSL report signed by its Joint Director could be read under Section 293 CrPC despite not being marked as an exhibit. A copy had been supplied to the accused, specific questions about its findings were put under Section 313 CrPC, and he had not requested cross-examination of the scientific officer. Section 293 permits reports of the specified government scientific experts to be used without routine examination of their authors. Trial courts should nevertheless ensure that such admissible reports are exhibited.	341
Admitted cheque signature and delivery — handwriting reference for remaining entries unnecessary	Where the accused in a Section 138 NI Act trial expressly admitted in his Section 313 CrPC answers that he signed and delivered the disputed cheque, the Court found no error in refusing his later request for handwriting-expert examination. The remaining contents need not be in the signatory's handwriting, and identifying their writer would not answer the statutory effect of admitted signature and delivery. The application had followed completion of the complainant's evidence and the accused's examination. The separate repayment defence remained for the trial court.	349
DNA Comparison: Available Forensic Material Despite Elapsed Time	Where human sperm was found on the preserved anal slide, the Court held that DNA could be extracted and compared with the accused's profile. Passage of time did not, on that record, make the proposed test futile. A differing profile could also produce evidence favourable to the accused, so the comparison could assist in testing the allegation in either direction.	364
Section 53-A CrPC: DNA Examination in the Alleged Unnatural-Act Case	The Court upheld the investigating officer's Section 53-A CrPC notice for medical examination in this case, while expressly recognising that the provision deals with rape. Its conclusion rested on the alleged unnatural sexual act, the human sperm found on the anal slide and the Supreme Court's direction requiring the petitioner's cooperation with investigation.	364
DNA Testing: Privacy Objection and the Needs of Justice	The privacy objection did not invalidate the DNA comparison on the facts before the Court. Relying on Dipanwita Roy's discussion of fact-dependent testing and preservation of privacy so far as compatible with justice, the Court found that the available sample and the need to test the wife's allegation justified the proposed examination.	364
DNA Match Rejected Where the Tested Clothing Had Unreliable Provenance	The accused's DNA profile on the black slacks did not establish the alleged offence on this record. The Court found the asserted seizure date untrustworthy, the slacks remained open and unsealed until their later dispatch, the biological source of the profile was unexplained, and the expected connection with the child was not established. Those circumstances gave an opportunity for manipulation and made this particular DNA circumstance unreliable.	389
Medical Supervision and Proof of Blood-Sample Collection	The mere fact that another person drew the blood did not make the collection procedure unacceptable where the doctor testified that it occurred in his presence and that he sealed the vials himself. The defence had not confronted	389

Topic	Ratio	Case Sr.no.
	him with the medical-text guideline on which it relied. Nevertheless, the Court found the overall collection circumstance unproved beyond reasonable doubt because the asserted presence of outside witnesses inside the jail lacked supporting permission or testimony.	
Typographical sample-code error in a DNA report	A typographical sample-code discrepancy did not undermine the DNA report where the other article bearing that code had been returned unopened, the expert identified the accused's blood as the source of his DNA profile, and that evidence was not challenged in cross-examination. The reciprocal finding of the deceased's DNA on the accused's clothes further supported the report. A discrepancy not affecting the root of the evidence should be put to the witness for explanation before being relied upon to discredit it.	391
Challenge to preservation and dispatch of a blood sample	The Court rejected the suggestion that the blood sample had deteriorated where no preservation challenge was put to the doctors or investigator, no scientific material supported the suggested loss of usable DNA, and the laboratory received the container with its seal intact. Collection on 29 July, dispatch on 31 July and receipt on 2 August also did not establish the alleged delay.	391
Button and thread comparison as corroborative evidence	The Court accepted the expert's comparison linking a recovered button to the accused's shirt. The matching material, colour, design, holes and engraving, together with matching broken threads and a missing shirt button, supported that conclusion. The difference in measurements did not displace it, particularly when the expert was not questioned about that difference. The finding was assessed with the other forensic evidence.	391
DNA findings corroborating last-seen and medical evidence	The expert's accepted analysis found matching profiles in the child's anal swab and nail material, corresponding components in mixed profiles from the accused's pubic-hair and clothing exhibits, and the child's profile on the recovered stone. The Court assessed those findings together with the accepted last-seen testimony and medical evidence and relied on their convergence to connect the accused to the sexual assault and killing.	393
Categorical objection to DNA analysis of cut pubic hair	The Court rejected the proposition that cutting pubic hair necessarily makes DNA analysis of that exhibit worthless. It distinguished the amount and type of DNA obtainable from different parts of hair and considered the laboratory's actual profiling methods and cross-exhibit findings. Its acceptance of the report formed part of the combined forensic and last-seen assessment.	393
Corroborative value and limitation of Y-STR profiling	The reproduced and relied-upon Ravi decision recognised Y-STR analysis as useful corroborative evidence in sexual-assault cases, while acknowledging that it cannot distinguish males of the same paternal lineage. Its weight depends on the match, the reliability of the analysis and the other circumstances. The Court considered Y-STR findings together with autosomal profiles and the other evidence in this case.	393
Matching DNA findings assessed with medical and circumstantial evidence	The accepted laboratory report found a common Y-STR profile linking the accused's blood sample to the child's clothing, vaginal slides and swabs, nail clippings and recovered hair. No Y-STR profile was obtained from the seized grass. The Court considered the sealed specimen evidence, medical findings and documented injuries together with the last-seen and discovery evidence, and relied on the combined proof to establish the accused's involvement.	397
Ballistic and Physical-Match Evidence Corroborating Eyewitnesses	Forensic matching may corroborate an eyewitness account by linking a seized firearm to physical traces at the scene. Here a handle fragment fitted Teerath's gun and a recovered cartridge was found to have been fired from it. Nitrate in the seized barrels and the reported compatibility of recovered pellets provided further support for firearm use; these findings were considered with the ocular evidence.	409
Recurring uninterpretable	Noting repeated reports of very low, uninterpretable Y-chromosome results and	413

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DNA results—DGP corrective oversight	earlier concerns about the Sagar DNA laboratory, the Court invited the DGP's attention to remedy the recurring problem. It left the possible causes for examination rather than finding that a particular kit defect or deliberate testing failure was proved in this case.	
Weight of a positive human-blood FSL report where custody and seal integrity are unproved	Disproportionate weight cannot be given to an FSL report without proof of the chain of custody and intact seal. Although the appellant's recovered jeans and jacket tested positive for human blood, the investigating officer did not testify about dispatch, laboratory receipt or the forensic report. The documents were marked after prosecution evidence had closed, leaving no opportunity to cross-examine him about safe custody and sealed transfer. The positive result therefore did not provide reliable support sufficient to sustain conviction alongside the defective eyewitness account and unproved motive.	422
Missing FSL report — Independent proof and qualified corroboration rule	A missing FSL report did not defeat the independently reliable eyewitness, surrounding and medical evidence accepted in this case. The Court also reasoned that partial penetration need not involve discharge. The narrated Sham Singh rule permits reliance on a prosecutrix's trustworthy testimony without routine corroboration, while allowing assurance where confidence is lacking and requiring protection against false implication. That rule is not a presumption of universal truth. Here, the infant did not testify, and the finding rested on the adult witnesses and medical evidence; no positive forensic result was inferred.	477
Rape prosecution — absence of DNA evidence where other proof is conclusive	Failure to prove a DNA report does not by itself require acquittal where the remaining evidence conclusively establishes the offence and the accused's involvement. Applying Sunil, the Court relied on the medical evidence, eyewitness proof of abduction, prompt named FIR and recoveries on the appellant's information. It also noted that the appellant had never requested production of a DNA report said to assist his defence. The conviction rested on the sufficiency of the other evidence.	482
DNA evidence: doubtful seizure and identity of the hair sample	A DNA result did not establish the prosecution's case where the recovery of the tested hair from the deceased's hand was itself doubtful. The scene scientist described removing two small hairs before 3:30 a.m., whereas the later seizure account described eight to ten hairs taken by the investigating officer at 6:10 a.m. The officer changed his account of collection, and neither the seizure record nor the laboratory forwarding memo specified the number of hairs. Unexplained differences in the time, collector, quantity and size of the material undermined the foundational seizure on which the DNA inference depended.	553
Recovered knife without a forensic link to the assault	Recovery of the knife did not advance the prosecution case where the forensic laboratory could not compare clothing cuts with it because it was rusted and blunt, and the blood found on it was insufficient for testing. In the absence of those connecting results, this recovery did not supply the missing corroboration in the case.	553
DNA identification of recovered skeletal remains	DNA comparison of the recovered skull and humerus with the parents' blood samples established that the remains were those of their missing son. The Court used the DNA result to determine identity; whether the death was homicidal was assessed separately from the surrounding circumstances.	575
DNA Comparison After Closure of Defence Evidence in a Rape Trial	Where the FSL report established human sperm and semen on the complainant's undergarments, the Court held DNA comparison with the accused to be essential under Section 53-A CrPC for a just decision. Applying the narrated Krishan Kumar Malik and Siva Vallabhaneni principles, and the relevant direction in Raja Burman, the Court held that medical examination and DNA testing may be directed at a later stage, including after defence evidence has closed and the case is fixed for final arguments. Any benefit claimed from delay in medical examination may be urged at trial; delay does not itself bar the	658

Topic	Ratio	Case Sr.no.
	direction.	
DNA Testing During a POCSO Trial Despite Omission During Investigation	The prosecution's failure to obtain DNA testing during investigation does not deprive the trial court of power to permit it during trial when the evidence is necessary for a just decision. In the sexual-offence prosecution before the POCSO Special Court, the Court invoked Section 53-A CrPC and the narrated Hemudan Nanbha Gadhvi v. State of Gujarat principles, described DNA testing as imperative, and upheld permission to conduct it after the complainant turned hostile. The earlier investigative omission therefore did not establish the jurisdictional error alleged against the trial court.	659
DNA paternity evidence and the separate inquiry whether rape occurred	The Court accepted the DNA report as establishing that the petitioner and complainant were the child's biological parents and had had a physical relationship. It then separately examined whether that relationship amounted to rape under Sections 375 and 90 IPC. The finding of parentage supplied proof of the relationship for that inquiry.	669
Absence of blood on the alleged weapon and other evidence of assault	Absence of blood on the brick was insufficient to discard the prosecution case where the child's body was found at the scene with severe laceration of the head, multiple skull fractures and exposed brain matter, and the surrounding evidence connected the accused with the fatal assault. The forensic omission was assessed against the medical and other evidence as a whole.	691
Failure to obtain advised DNA evidence of paternity	Where the accusation attributed pregnancy and childbirth to the appellant's repeated forcible intercourse, the unexplained failure to obtain DNA evidence of paternity, despite the examining doctor's advice, was treated as a serious gap in the prosecution case. The omission was assessed with the other deficiencies and doubts about the testimony. The judgment also recognised that sufficiently trustworthy testimony of the prosecutrix alone can sustain a rape conviction.	694
Scientific evidence despite a hostile prosecutrix	A prosecutrix turning hostile does not necessarily prevent conviction where scientific evidence supports the prosecution. Applying that principle at the bail stage, the Court treated the FSL finding of human sperm on the prosecutrix's slide and swab as material against granting bail merely on the ground of her hostility.	727
Unexhibited FSL report — no usable forensic proof linking seized articles to the offence	The Court stated that an FSL report produced before the trial court had not been exhibited under Section 293 CrPC and therefore could not be read against the appellant or for the prosecution. In its recovery discussion, it described the FSL report as unavailable on the record and found no evidence that blood, much less human blood, was present on the farsa or the appellant's clothes. Although the investigating officer said that the articles had been sent to the laboratory, the alleged bloodstained recovery was not proved as an incriminating circumstance. The Court consequently rejected that second link in the circumstantial case.	747
Handwriting expert opinion as one mode of proof at the charge stage	An expert's handwriting opinion is not the only mode of proving handwriting or a signature; proof may also be given through the methods recognised by Sections 45, 47 and 73 of the Evidence Act. Applying Manorama Naik, the Court declined to treat the opinion relied on by the applicant as decisive against framing charges. The report was not before the trial court when charges were framed, and sufficient material otherwise required the applicant to stand trial. His lawful defences remained open at trial.	758
Forensic evidence contradicting a prosecutrix's denial at the charge stage	Scientific or forensic evidence may sustain a prosecution, and even a conviction on adequate proof, despite the prosecutrix turning hostile. Applying the principle stated in Hemudan Nanbha Gadhvi, the Court held that the prosecutrix's denial of physical relations appeared false in light of the reported DNA match with the co-accused on clothing seized before his arrest. The match concerned the co-accused, not the applicant. It supported refusal to interfere with the charges; it was not a final determination of the applicant's rape or abetment liability.	768

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Section 293 CrPC — Government scientific reports and examination of the expert	Section 293(1) CrPC permits a report of a specified Government scientific expert on material duly submitted for examination or analysis in criminal proceedings to be used as evidence. The Court may summon and examine the expert. If the expert cannot attend, a responsible officer conversant with the case may attend on his behalf unless personal attendance was expressly directed. The Court read the FSL report in evidence where its maker had not testified and the appellant had not applied to cross-examine him. The report recorded human sperm and semen stains on the victim's anal slide, swab and underwear and on the appellant's underwear.	886
Y-DNA evidence assessed with sample collection, custody and transfer	The Y-DNA profile obtained from the victim's vaginal slide and swab matched the profile derived from the accused's blood sample. The allegation of misuse of the collected blood was unsupported by significant evidence of collection error, compromised custody or unsafe transfer to the FSL, and the report's authenticity was not challenged. The Court treated the match, together with last-seen evidence, CCTV and subsequent conduct, as establishing the circumstantial chain. Its assessment depended on the sample and custody record before it.	915
Reasoned adjudication of objections to a DNA report under Section 293 CrPC	Where a DNA report is to be relied on against an accused, the court must identify the objections raised and decide them with reasons. Merely describing them as ineffective is insufficient when life and liberty are at stake. The report's marking under Section 293 CrPC did not remove the duty to address the defence objections fairly. The Court directed fresh exhibition after deciding the objections or examining the scientific officer, leaving any request for cross-examination to be decided according to law and expressing no final view on the report's reliability.	917
DNA comparison establishing the identity of a decomposed body	Identification of the decomposed body by the deceased's father was confirmed by DNA comparison with samples taken from both parents. The DNA report and the testing expert's evidence established their biological parentage of the recovered remains. The Court accepted this evidence as establishing the deceased's identity.	934
Negative DNA result: assessment of the prosecutrix's testimony	A DNA report provides corroborative evidence. A negative result, or a result that does not support the prosecutrix, does not by itself justify discarding her testimony; its reliability and credibility must be assessed on the prosecution evidence. A result adverse to the accused may supply an additional link connecting the accused with the offence. In refusing to postpone judgment pending a late-requested test, the Court did not decide the accused's guilt or the credibility of the prosecutrix on an actual DNA result.	946
Handwriting opinion: caution, reasons and corroboration	A handwriting expert's opinion is relevant but is not conclusive and must be examined cautiously with its reasons and the other evidence. Prudence may require independent corroboration, but there is no inflexible rule requiring it in every case or permitting rejection of an opinion supported by unchallenged reasons solely for want of corroboration. A favourable opinion therefore does not automatically establish innocence.	973

Chapter no. 22
Identification Evidence and Test Identification Parade

Sub-Chapter no. 22.1
Test Identification Parade and Dock Identification

Frightened child — failed test parade and reliable identification in court	A young child's failure to identify the accused at a test identification parade must be assessed in light of recorded fear and the surrounding circumstances. Where the magistrate recorded that the six-year-old victim was too frightened to look at the suspect, and the trial judge observed similar reluctance followed by immediate and repeated identification after persuasion, the Court did not	9

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	treat the failed parade as discrediting her identification. Her account was assessed with the other witnesses' reliable identifications and the medical evidence.	
Identification evidence — substantive court testimony and corroborative test parade	Identification in court is substantive evidence; a test identification parade belongs to investigation and ordinarily tests and corroborates that evidence. The CrPC neither makes a parade compulsory in every case nor gives the accused a right to demand one. Failure to hold a parade does not make identification in court inadmissible, though the Court must decide its weight in the particular circumstances.	9
First identification in court — caution where the accused was a stranger	Identification of a previously unknown accused for the first time at trial is ordinarily weak evidence, so prior test identification is generally sought as a safeguard. The need and weight of corroboration depend on the witness's opportunity to observe, familiarity, the time elapsed and surrounding circumstances. A parade is particularly desirable after only a brief encounter with a stranger; the Court may nevertheless accept an exceptionally reliable identifying witness without such corroboration.	9
Test identification parade — promptness, explained delay and exposure	A test identification parade should ordinarily be held as soon as practicable to reduce mistakes. Delay must be assessed with its explanation, and safeguards are needed to prevent the accused being exposed to witnesses in a way that may influence identification. There is no invariable time limit applicable to every parade; reliability is decided from the circumstances and evidence.	9
Identification — no fixed minimum number of identifying witnesses	No invariable number of identifying witnesses is required to sustain conviction. An offence such as rape may be witnessed only by the victim, and a truthful and reliable victim's identification is not insufficient merely because no second identifying witness is available. The Court must assess the identification on the whole record.	9
Identification — guilt may be established by reliable circumstantial evidence	Identification in a test parade or in court is not indispensable in every prosecution if the accused's guilt is otherwise established by the circumstances. The absence or failure of identification must therefore be considered with the remaining evidence, rather than treated as an automatic ground for acquittal.	9
Test identification parade — corroboration and substantive connecting evidence	The Iqbal principle reproduced through Gadhvi treats test-identification-parade evidence as corroborative rather than substantive evidence on which conviction can rest alone. The prosecution must produce substantive incriminating evidence connecting the accused with the crime. In the relied-upon Gadhvi decision, medical and serological material was considered with identification evidence despite the prosecutrix's later failure to identify the accused in court.	58
Absence of a test identification parade in assessing bail	Failure to hold a test identification parade supported bail where the applicant was linked to an alleged escape from an intercepted vehicle only through a co-accused’s inadmissible police confession, with no other substantive evidence identifying him. The conclusion depended on the combined evidentiary deficiencies in that case.	146
Corroborative value of a test identification parade	Identification during investigation is corroborative rather than substantive evidence. Although the officer conducting the parade said that the witness had identified the appellant, the witness gave no such evidence in Court and claimed already to know him. The parade could therefore not establish guilt or cure the unreliable evidence of his presence. The Court did not find it necessary to decide the reliability of the parade on the separate ground that it took place in a police station.	157
Identification without proof of participation or shared common	Identification of an accused does not by itself establish participation in the charged offences. Where the abductees assigned no role to the identified woman, no recovery connected her to the crime, and neither gang membership	183

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object	nor a shared common object was proved, her identification in the parade and in court was insufficient for conviction. Her presence in the forest, even if accepted, did not fill those gaps.	
Test identification parade without a proved mixed line-up	A test identification parade loses reliability where the prosecution fails to establish that other persons were mixed with the accused, leaving no genuine exercise of the witness's memory. Here, the parade memo omitted that safeguard, and the conducting officer could neither identify the other participants nor explain how they were arranged. His oral assertion did not establish a proper mixed line-up, and the Court rejected the parade.	183
Reliability of a parade assessed separately for each identifying witness	A parade rejected for a witness's prior exposure to the accused was not automatically unreliable for another witness who had no such opportunity. The second abductee's absence from Gwalior before the jail parade, the conducting officer's evidence of mixed participants and his denial of prior display supported the identifications of Kamal Kishore and Ramvilas. A general objection that covered faces were not proved did not displace that evidence. His failure to identify Deependra remained material to Deependra's case.	183
Dock identification and the corroborative role of a test parade	Identification in court is substantive evidence; a test identification parade is an investigative safeguard used to test and corroborate that evidence. A parade is not a mandatory right of the accused, and its absence does not make dock identification inadmissible. Identification of a stranger for the first time at trial ordinarily calls for caution and corroboration, but a court may accept it without such corroboration where the witness and circumstances make it safe to do so. Photo identification likewise does not itself become substantive proof.	183
Prior exposure of the accused before test identification	A parade cannot provide reliable corroboration when the identifying witness has already been shown or has seen the suspects before it. Repeating the parade does not remove the effect of that exposure. Applying Gireesan Nair, the Court rejected one abductee's identifications because he had seen the suspects in the Crime Branch office before the first parade and again at that parade before the second. The Court also declined to rely on his dock identification in those circumstances.	183
Timing of identification and number of identifying witnesses	A test identification parade should be held without avoidable or unreasonable delay to protect against prior exposure and fading memory. There is no fixed universal time limit or required number of identifying witnesses. Delay beyond the prosecution's control is not necessarily fatal, but its reasons and all surrounding circumstances must be considered when deciding the weight of identification.	183
Identification at close range in poor evening light	Identification cannot be rejected merely because the incident occurred in poor evening light. The witnesses' familiarity with rural lighting conditions, proximity to the assailants and the actual available sources of light must be considered. Close-range observation and the tractor and car lights supplied a sufficient basis for identification in this case.	248
Names given during investigation and absence of a TIP	The Court rejected the objection that absence of a test identification parade necessarily defeated the prosecution, because the abductee had named the miscreants in his police statement. It treated dock identification as substantive evidence and assessed its weight in the circumstances, including the other prosecution evidence. It did not treat absence of a TIP after arrest, or the abductee's failure to identify in the dock by itself, as decisive against the prosecution.	279
Substantive identification evidence and the role of a TIP	Identification in court is substantive evidence. A test identification parade is an investigative means of checking identity and corroborating later testimony; it is not substantive evidence or a procedure the accused can demand as of right. Its absence does not make identification in court inadmissible, and the weight of that identification depends on the facts.	279

22.1 : Test Identification Parade and Dock Identification

Topic	Ratio	Case Sr.no.
First-time identification of an unfamiliar accused	First-time dock identification of a stranger is ordinarily weak and generally requires prior identification or other corroborative evidence. A TIP is desirable for a complete stranger unless the witness had sufficient opportunity to observe the person. The rule is one of prudence, and exceptionally reliable testimony may be accepted without that corroboration.	279
No fixed period or witness count for a TIP	There is no invariable time limit for holding a test identification parade or fixed number of identifying witnesses necessary to sustain a conviction. The court must assess the delay, opportunity for identification and the other circumstances on the evidence of the particular case.	279
Proof of identity by circumstances despite failed identification	Identification at a TIP or in court is not indispensable in every case if the accused's guilt is otherwise established by the circumstances. Failure of identification is therefore not automatically fatal, but the remaining evidence must independently justify the conclusion.	279
Prior exposure and defective identification safeguards	Identification must be assessed for reliability in the circumstances of the case. Prior courthouse exposure, failure to protect the accused's identity, an uncorroborated dock identification and defects in proving the identification parade together made the alleged captors' identification unsafe here. The Court's rejection rested on these combined defects and the absence of other reliable corroboration, rather than an invariable requirement to hold a parade.	284
Dock identification and test identification parade: evidentiary roles	Identification in court is substantive evidence; a test identification parade during investigation ordinarily tests and corroborates its reliability. A parade is not a statutory right of the accused, and its absence does not make dock identification inadmissible. Identification of a stranger for the first time at trial ordinarily calls for caution and corroboration, although reliable identification may be accepted without a parade in appropriate circumstances.	284
Identification parade: no fixed time limit or required number of identifiers	No invariable period for holding a test identification parade, or fixed number of witnesses who must identify the accused, determines whether identification can sustain conviction. The court must assess all the circumstances and the reliability of the evidence. Delay or a single identifying witness cannot be judged by a mechanical rule.	284
Visual identification when a witness learned the accused’s name from another person	Learning the accused’s name from another witness did not negate a witness’s own identification of the person seen fleeing. The Court assessed the witnesses’ dock identification with their accounts of seeing the appellant at the scene and the corroborating witness evidence. On that record, uncertainty about who supplied the name did not defeat proof of identity.	298
Dock Identification Supported by a Prior Test Identification Parade	The injured witness’s identification of the accused in court was accepted where it had been preceded by identification in a test identification parade and no substantial reason to doubt either identification or to infer false implication emerged from cross-examination.	378
Identification After Prolonged Captivity and Reasonably Prompt Parades	Captivity lasting more than thirty days gave the abductees adequate opportunity to remember the accused’s faces and physical appearance. Their identification in parades held within a reasonable time after arrest, followed by reliable court identification, established identity. Each accused’s identification was assessed separately rather than treating every witness’s success or failure as conclusive for all accused.	379
Substantive Court Identification and Corroborative Test Identification	Identification in court is substantive evidence; a test identification parade is an investigative step providing corroboration and testing its reliability. A parade is not a statutory right of the accused, and its absence does not make court identification inadmissible. First-time identification of a stranger at trial is ordinarily weak and generally calls for corroboration, though a court may rely on an exceptionally trustworthy witness without it. Identification is not indispensable where guilt is otherwise established by circumstances.	379

Topic	Ratio	Case Sr.no.
Failure of Court Identification After a Long Lapse Following a Successful Parade	A witness's failure to identify an accused in court years after the incident does not necessarily destroy the evidence where the witness correctly identified the accused in an earlier parade. Fading memory and the interval before testimony must be considered with the reliable earlier identification and the remaining evidence.	379
No Fixed Period or Minimum Number of Witnesses for Test Identification	No invariable period for holding a test identification parade, or minimum number of identifying witnesses, governs every case. The court must assess timing, opportunity to observe and reliability in the particular circumstances. A truthful and reliable single identifying witness can suffice; delay in arrest does not by itself set a fixed deadline that defeats identification.	379
Unexhibited Arrest Memo Considered for the Accused's Benefit in Assessing Parade Delay	An unexhibited prosecution document may be examined where it favours the accused. The court accordingly looked at the unexhibited arrest memoranda to assess whether the identification parades had been delayed, rather than treating non-exhibition as a reason to deny that favourable inquiry.	379
Weight of First-Time Dock Identification Without a Test Identification Parade	Identification in court is substantive evidence, while a test identification parade ordinarily tests and corroborates a witness's ability to identify an unfamiliar person. Absence of a parade does not make dock identification inadmissible or inevitably defeat a prosecution, but the reliability of the witness's opportunity and capacity to identify must be carefully examined. Applying Prakash and Malkhansingh, the Court declined to rely on the auto-driver's identification because the circumstances indicated tutoring and did not furnish trustworthy prior recognition.	389
Recognition of a familiar villager in poor light	Identification of a person already known to a rural witness cannot be rejected merely because the light was poor or the witness saw the person from behind. Familiarity, walking style, body build and the witness's accustomed visual conditions are relevant. On that basis, the Court accepted the witness's recognition of the accused at about 4 a.m.	391
Recognition of a known villager in darkness	A rural witness's recognition of a familiar co-villager cannot be rejected merely because the light was poor. The Court considered the witness's familiarity, initial recognition from walking style, and his subsequent approach and conversation with the accused. Those circumstances supported his identification of the accused and child together.	397
Prior Exposure and the Reliability of Dock Identification	A complainant's prior exposure to an accused outside a proper identification procedure may undermine later dock identification. Where the complainant had seen Insaf in jail before identifying him at trial and no incriminating recovery independently linked him to the robbery, the identification was doubtful and guilt was not established beyond reasonable doubt.	405
Dock Identification without a Prior Test Identification Parade	Identification in court on oath is substantive evidence; a test identification parade is an investigative means of testing and corroborating it. Failure to hold a parade does not make dock identification inadmissible or automatically require acquittal. First-time identification of a stranger is ordinarily weak and prudence generally calls for corroboration, but the Court may rely on it where the witness and surrounding circumstances make the identification trustworthy.	405
Recognition of a familiar assailant in a partly open market at night	A familiar person's identification is not rejected merely because the incident occurred at night or in limited light. The Court considered the witnesses' prior knowledge of the appellant, their close vantage, the narrow road with shops on both sides and evidence that some shops remained open. No load shedding was suggested. Applying the narrated familiar-person recognition authorities to those conditions, it rejected the contention that insufficient light prevented identification.	445
Test identification and substantive	A police test identification parade is corroborative and is not substantive evidence; identification in court is substantive evidence. In this case, the	508

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identity evidence after an express concession	complainant had identified the appellants in the prior parade, and defence counsel expressly did not dispute identity when seeking their exemption from personal attendance at his examination. On that combination, the Court treated identity as reliably proved and described the in-court identification as substantive evidence supported by the earlier parade. Its conclusion depended on the recorded dispensation and concession, rather than treating the police parade as substantive proof by itself.	
Reliably proved identification despite lack of incriminating recovery from one accused	The absence of incriminating recovery from a particular appellant did not defeat his robbery conviction on the record before the Court. Although the cash recovered from Laxman could not be linked to the stolen money, the complainant's identification of him had been established through the prior parade and the express concession on identity at trial. The Court relied on that proved identity and the relevance of identification under Section 9 of the Evidence Act and Section 54-A CrPC in affirming his conviction.	508
Failed test identification — weight of reliable dock identification of a known accused	Identification in court is substantive evidence; a test identification parade is an investigative aid providing corroboration and is neither mandatory nor an accused's statutory right. First-time identification of a stranger in court is ordinarily weak, so earlier identification or other corroboration is generally prudent, subject to exceptions where the witness is reliably believed. The assessment remains fact-specific. The Court accepted identification of Purshottam, who was known to the complainant, promptly named in the FIR and identified in court at close range. Her poor eyesight was treated as a possible explanation for failure at the parade. The two other appellants were neither named in the FIR nor identified at the parade or in court.	548
Identification of familiar neighbours in poor evening light	Identification of well-known neighbours cannot be rejected solely because the incident occurred in poor evening light. Familiarity, rural conditions and the opportunity to observe the accused at close range must be considered. The Court relied on the accused's proximity as neighbours and the witness's observation of the incident beginning at her own house.	577
Reliability of dock identification without a prior identification parade	Identity may be proved by dock identification even without a prior test identification parade, but the witness’s opportunity to observe and consistency remain material. Here, one injured witness did not identify the attackers, another admitted losing consciousness before seeing them, and the remaining witness’s account contained major omissions and contradictions about identification and the light source. The Court found the dock identification insufficient to establish the appellants’ participation beyond reasonable doubt.	604
Identification of known assailants in limited evening light	Identification of a known assailant cannot be rejected merely because evening light was limited. The Court considered the burning gas lantern, the shop setting, close-range firing and the parties’ familiarity. Applying Ramesh, it also recognised that rural witnesses’ visual capacity may be accustomed to poorer light than that of urban residents. On the actual conditions proved, the witnesses had sufficient light and opportunity to identify the accused.	605
Failure to conduct identification parade after production of accused	Where the applicant was produced from another jail on a warrant, further investigation into his identification remained necessary. The first bail order had noted the absence of a test identification parade. At the second hearing, despite police knowledge of his whereabouts and production, the parade had still not been held and the request to the Tahsildar had been made only the previous day. The Court treated that inaction as an investigative failure contributing to the absence of substantive admissible evidence; it did not decide the reliability of any later identification.	674
Identification of known villagers in poor evening light	Identification of an already known assailant is not to be rejected merely because the incident occurred in evening light or poor illumination. The witness’s familiarity and actual opportunity to identify must be assessed. Here the	698

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	assailants were fellow villagers known to the injured witnesses, the assault continued in the village, and the defence itself elicited that it was a full-moon night. Those circumstances supported rejection of the insufficient-light objection.	
Identification of known villagers in poor evening light	Identification of an already known assailant is not to be rejected merely because the incident occurred in evening light or poor illumination. The witness's familiarity and actual opportunity to identify must be assessed. Here the assailants were fellow villagers known to the injured witnesses, the assault continued in the village, and the defence itself elicited that it was a full-moon night. Those circumstances supported rejection of the insufficient-light objection.	699
Dock identification contradicted by the witness's admission	The abductee's identification of the appellant in court could not safely establish identity when the same witness admitted that he had never seen the appellant during confinement and did not know who had abducted him. The Court held that the trial court had erred in relying on that contradictory identification evidence.	711
Dock identification, TIP corroboration and proof of the offence	Identification in court is substantive evidence of identity under Section 9 of the Evidence Act; a test identification parade is corroborative and assists investigation. The Court may require an accused to submit to identification under Section 54A CrPC. Even reliable identification does not itself prove guilt: the prosecution must establish the alleged criminal acts through direct or circumstantial evidence.	716
Absence of TIP or failure of identification is not invariably fatal	An accused has no absolute right to a test identification parade, and its absence does not make in-court identification inadmissible. First-time identification of a stranger in court is ordinarily weak and prudence calls for corroboration, subject to reliable exceptions. Failure of dock identification does not invariably exclude an earlier TIP when other corroborative evidence exists; guilt may also be established by reliable circumstantial evidence even without identification.	716
Prompt TIP and protection against prior exposure of the suspect	Where the suspect was not previously known to the witness, a prompt identification parade tests the witness's memory of the first impression and reduces the risk of prior exposure to the suspect. A delay caused by circumstances beyond control is not by itself fatal. The parade remains an investigative and corroborative test rather than substantive proof of guilt.	716
Dock identification and explained irregularity in the test identification memo	The Court observed that — identification in court is substantive evidence; a test identification parade is corroborative, so a plausible explained date correction in its memo, without evidence of prior exposure, did not destroy the unchallenged dock identification. The complainant had been detained with the armed abductors and conversed with them at close range before the victim was taken away around 7 p.m.; the FIR did not state that he first saw them at 7 p.m. Applying Ramesh v. State, (2010) 15 SCC 49, the Court rejected a mechanical inference that evening or limited light made a rural eyewitness unable to recognise a nearby person. It accepted the Naib Tahsildar's account that an unused earlier parade proforma required alteration of the date, and found no evidentiary basis that the witness saw the appellant between arrest and parade. A separate witness's ransom-call version was excluded as hearsay and unproved attribution, yet the complainant's direct evidence of taking, demand and threat supported the conviction under Section 364A IPC and Sections 11/13 MPDVPK Act. The inference depends on opportunity, credibility and the record; it is not a rule that dock identification always cures a tainted parade.	731
Identification of unknown abductors — unreliable dock identification and absence of a parade	The Court found identification unreliable on the evidence in each separate trial. The abductee had not previously known the miscreants or supplied their names in the FIR narrative, and no test identification parade was conducted. He attributed the names to co-accused Surendra, but the prosecution did not explain	743

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	their earlier appearance in the accused-details column. In Punjab Singh's case, the Court linked the claimed later disclosure to Surendra's formal arrest on 23 June 2003, after the FIR. In Avtar Singh's trial, the abductee identified him in court but admitted that the abductors had covered their faces and had not been known or seen earlier; no conversation with Surendra during captivity was established. These deficiencies, considered with the remaining evidence, prevented proof of the appellants' participation beyond reasonable doubt.	
Prior police exposure affects the reliability of the exposed witness's identification	Showing an arrested suspect to a witness before a test identification parade defeats the parade's purpose and undermines that witness's identification. Munni Devi's admission of prior exposure deprived her identification of effect. The Court separately accepted Dataram's parade and dock identification because his prior exposure was not established, he consistently denied it, and his account assigned specific acts supported by his injuries.	761
Test identification parade as investigative corroboration	A test identification parade tests memory and helps determine whether investigation is proceeding correctly. It is investigation-stage corroboration, while identification in court is substantive evidence. No statutory provision compels a parade or gives an accused an absolute right to demand one. Its absence does not automatically make court identification inadmissible; its weight depends on the circumstances.	761
Prudential safeguards and exceptions for first-time dock identification	Identification of a stranger for the first time in court is ordinarily weak and should generally have support from an earlier parade or other evidence. This is a rule of prudence. A court may safely rely on an exceptionally trustworthy witness, including one with a particular reason to remember the accused or an opportunity to observe distinctive features. The Court accepted Dataram's reliable identification and also noted corroboration from the recovered firearm.	761
Misaligned endorsements in an identification memo	A misaligned endorsement on a parade memo prepared on blank paper does not necessarily negate identification. The Court considered the tick marks, the parade officer's testimony, the witness's specific dock identification and medical corroboration together. In that setting, misplaced wording and the absence of a written identification endorsement against one name did not invalidate the proved identification.	761
Assessment of identification in limited light	Identification should be assessed in light of the witness's actual opportunity to observe, including distance, available light and familiarity with low-light conditions. The spot map recorded a light and the witness confirmed it was on; the injured witnesses had encountered the assailants at close range. Applying Ramesh's observation about rural witnesses' visual capacity, the Court rejected the challenge based on inadequate lighting.	761
Dock identification where witnesses did not previously know the assailants	Dock identification was necessary on this record because the prosecutrix did not know the assailants before the incident and her asserted source for their names was not corroborated. She said a relative supplied names after hearing their physical description, but that relative did not support having received the description or seen the assailants. The other injured witness named no assailant and said he could identify them on seeing them. Their examination in the appellant's absence prevented dock identification and left his identity as an assailant unresolved.	835
Missing identification and investigative links in an abduction prosecution	Where the abductees first saw the alleged offenders during the incident, the absence of a test identification parade was a material weakness alongside the other gaps in proving identity and participation. The prosecution did not prove the surviving appellants' arrest dates, places or memoranda, examine arrest witnesses, or establish any incriminating seizure or Section 27 Evidence Act disclosure. Considered with delayed disclosure and contradictory release and ransom accounts, those deficiencies made the convictions unsafe despite the claimed identification in court.	836

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Dock identification after the police show previously unknown accused to witnesses	Identification in court is substantive evidence. A test identification parade provides investigative assurance and corroboration; its absence does not by itself make identification in court inadmissible, and the weight of that identification remains for the court to assess. Here, however, the witness admitted that the appellants had been shown to him at the police station and that he learnt their names there. His accounts of hearing names and code words were also inconsistent. Applying Krishna Kumar Malik after considering the principles reproduced from Mukesh, the Court held that the subsequent dock identification could not be relied upon.	950
Identification of familiar assailants after sunset	The Court rejected the darkness objection after considering that the witnesses already knew the accused and that the evidence supported sufficient light at the time of the assault. Identification was assessed on those circumstances; the fact that the incident occurred after sunset did not by itself make recognition impossible.	987
Identification in darkness and the opportunity to observe	Prior familiarity did not overcome the witnesses' admission that nothing was visible. Their account placed them behind persons carrying a body, and they admitted not approaching the body. On those facts, the Court found identification of the accused and of the body unreliable despite the claimed torchlight, especially when the surrounding sequence was materially contradicted.	988
	Sub-Chapter no. 22.2 **Identification of Property and Material Objects**	
Colour discrepancy in identifying a recovered article	The witnesses' description of a red strangling cloth did not discredit recovery of a green scarf where they had viewed the incident from about one hundred feet in twilight, with one referring to torchlight. The Court considered a colour-identification error possible in those conditions and accepted the proved recovery of the concealed scarf at the appellant's instance.	118
Identification of property when its recovery is unproved	Identification of the purse and belt could not supply a link to the appellant when their alleged recovery from him was unproved. The identification took place at a police station, the police brought and opened the articles, their presence could not be ruled out, and only the belt identification memo was proved. The Court considered reliance on this identification unsafe without supporting corroboration and, in any event, immaterial once the underlying recovery failed.	157
Currency identification after unopposed release on Supurdgi	The Court accepted investigation-stage identification of recovered currency although the notes were not produced for identification at trial. The notes had distinctive bank slips and signatures, seizure and identification were proved, the accused had not objected to their release on Supurdgi, and Kamal Kishore neither claimed title nor disputed their identity at that stage. The acceptance rested on those circumstances.	183
Unproduced gold articles and the distinction between recovery and identification	Recovery of the gold chain and ring was proved, but their identification was not established by substantive evidence because the articles were not produced in court despite the Supurdgi condition requiring production. The Court distinguished those findings. It nevertheless treated the recovered articles as belonging to the abductees in the circumstances, including the absence of any ownership claim by Kamal Kishore; it did not hold that the articles had been duly identified in court.	183
Substantive identification of the seized material at trial	Identification of the material before the trial court is substantive evidence of what was seized. The alleged ganja was not produced for identification by any witness, including the investigating officer, and was not marked as a material article. In that evidentiary setting, the prosecution failed to establish that the alleged quantity of ganja had been recovered from the appellant.	186
Failure to prove	The vessel could not be treated as the one carried by the victim when the	219

Topic	Ratio	Case Sr.no.
identification of a recovered object	supposed identifying witness gave no evidence identifying it and the person named as conducting the identification denied doing so. Admission of signatures on the memorandum did not establish that the stated identification had occurred. The Court rejected the trial court's treatment of the object's identity as undisputed.	
Identification of seized ganja despite a change in its appearance	The seized substance's dry, dark appearance when produced in court did not, on the evidence considered, disprove the recovery of ganja described as wet in the seizure memos. The Court compared the produced material with the seizure memos and the forensic description of seeds, leaves and flowering tops, and found the recovery established.	261
Identification of stolen property — conflicting evidence about place and procedure	The identification witness's claim that proceedings took place at a school without police was undermined by his admission that the police brought the articles and wrote the record, and by an owner's statement that identification occurred inside the police station. Her later attempted correction did not remove the doubt. These conflicts weakened the reliability of the identification relied upon to connect the accused with the stolen articles.	335
Prior Police Display Undermined the Later Identification of Clothing	The alleged mother had already been shown the clothing at the police station before its formal identification before the executive officer. The Court rejected the probative value of that later exercise because the identifying witness had previously seen the very articles. It applied the caution against identification influenced by prior police exposure, drawing on N.J. Suraj and Krishan Kumar Malik.	389
Changed Denominations and Unexplained Possession of Recovered Robbery Proceeds	Recovered cash was not excluded as robbery proceeds merely because its denominations differed from those described by the complainant. Money may be spent or exchanged after a robbery. On the recovery and identification evidence in this case, and the accused's failure to explain his ownership or possession, the Court treated the recovered ₹4,376 as part of the looted money.	405
Linking recovered currency and articles to the robbery property	Recovery of cash did not establish that it was the robbed money when the notes had no specific identifying marks. Likewise, although a pair of shoes was recovered from one appellant, it had not been identified by the complainant in court. The Court distinguished those unestablished property links from the proved recovery of the complainant's motorcycle and its broken number plate when assessing the evidence against the individual appellants.	508
Recovered jewellery — proof of seizure does not establish identification as the stolen property	Proof of disclosure and recovery does not by itself establish that the recovered object belonged to the complainant or was the stolen property. The complainant admitted that police showed her the articles at the outpost; the supposed property-identification witness stated that police handed them to her and prepared the identification memorandum there. The Court found that identification of the recovered jewellery was not proved. With no other evidence against Ghanshyam and Preetam, they were acquitted; the gold tops recovered from Purshottam also lost evidentiary importance, although other reliable evidence sustained his conviction.	548
Unreliable identification of recovered ornaments	The recovered ornaments were not reliably connected to the victims where no other ornaments were mixed, contrary to the identification memo, police officers were present, and the articles had already been shown to an identifying witness. The person conducting the identification was also not examined. On these combined deficiencies, the Court rejected the property-identification evidence. Together with the failure to identify the accused, this left guilt unproved beyond reasonable doubt.	604
Rope and lock discrepancies assessed with medical proof and	The Court rejected the asserted rope discrepancy in view of the doctor's evidence of death by rope strangulation. It also held that differing accounts about breaking or opening the lock were not material where the body was	648

Topic	Ratio	Case Sr.no.
concealed-body recovery	recovered from inside a compartment sealed with bricks and cement. These objections did not displace the recovery and medical evidence accepted in the circumstantial case.	
Absence of substantive identification of recovered jewellery	Proof of recovery does not by itself establish that the seized object was the stolen property. The recovered mangalsutra was never produced and identified in court. Its investigation-stage identification was also unreliable. In the absence of substantive identification by its owner, the Court held that the recovery lost its force as an incriminating link.	761
Comparable articles and proof of a property identification parade	A property identification exercise requires scrutiny of whether comparable objects were mixed with the seized article. The witness said only one mangalsutra was displayed, contrary to the memo, and the parade officer was not examined. Applying Ashish Batham's caution about distinctive objects without similar comparators, the Court found that a fair comparison exercise had not been proved.	761
Police identification of articles and Section 162 CrPC	Identification of an article is relevant under Section 9 of the Evidence Act. An identification statement made to police during investigation is subject to Section 162 CrPC and cannot serve as corroborative identification evidence. The Court did not regard police display as itself illegal, but prior display made the later parade untrustworthy. Identification before a non-police person or officer is not subject to that police-statement bar merely on that account.	761
Recovered article — Proof that it belonged to the deceased	Recovery of an old sandal on the accused's disclosure did not establish recovery of the deceased's property when no test identification was conducted and no witness identified the sandal in court. Without proof linking the article to the deceased, the alleged recovery failed as an incriminating circumstance.	827
Effect of non-production of seized articles at trial	Non-production of a seized article does not, by itself, require the seizure to be discarded or the accused to be acquitted. Applying State of Rajasthan v. Sahi Ram, the Court treated non-production in the context of the other evidence. The reproduced discussion distinguished cases in which additional failures, including lack of proof of recovery or of the link between the seized substance and the forensic report, supported acquittal.	843
In-court identification of seized property and the corroborative role of an identification parade	Identification in court is substantive evidence, while an identification parade during investigation is corroborative. Applying the distinction stated in Malkhan Singh, the Court found ownership of the seized chain and Rudraksh mala unproved because the deceased's father, who identified them during investigation, was not asked to identify them in court. The officers' recognition established seizure of the objects, but did not establish that they belonged to the deceased.	934

Chapter no. 23
General Principles of Proof, Appreciation of Evidence and Circumstantial Evidence

Sub-Chapter no. 23.1
Burden of Proof, Proof Beyond Reasonable Doubt and Benefit of Doubt

Alibi — same-city court appearance must exclude presence at the material time	An accused asserting alibi must give cogent proof excluding presence at the crime scene when the offence occurred. The Court required proof beyond reasonable doubt that the appellants remained at court at the relevant time. A bail order without a recorded time and testimony failing to establish when they left court did not prove absence from a reachable scene in the same city when the burning occurred at about 3 p.m. Their alibi failed; guilt was separately assessed on the prosecution evidence.	19
Proof of relatives' involvement in dowry offences	The fault of the husband does not by itself establish the involvement of his relatives in a dowry offence. As explained in the passage from Kans Raj relied upon by the Court, overt acts attributed to relatives other than the husband must	40

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	be proved beyond reasonable doubt; guilt cannot rest on conjecture or mere implications arising from the relationship. This trial standard is distinct from the face-value scrutiny required on a quashing application.	
Presumption of correctness of the Court's recorded proceedings	A Court's order-sheet is presumed correct unless the contrary is established. An attempt in argument to dispute the remand Magistrate's record of an admission was rejected because the writ petition did not plead that the recorded observation was factually incorrect. Accepting that record did not decide whether oral communication met the independent requirement of written arrest grounds.	41
Dowry accusations against relatives — proof of individual overt acts	The Kans Raj principle relied upon distinguishes the husband's alleged fault from the criminal responsibility of other relatives. At the stage of determining guilt in a dowry-death case, overt acts attributed to those other persons must be proved beyond reasonable doubt; kinship, conjecture or implication cannot substitute for proof of involvement.	56
Proof of last-seen circumstances — hearsay cannot replace the evidence of the person who saw the deceased	A witness's account that another person saw the accused with the deceased does not prove the asserted last-seen circumstance when that person is not examined. The Court rejected the reported sightings because the persons with direct knowledge were not examined and their substantive evidence was absent.	70
Private transaction diary — absence of the accused's signature does not necessarily eliminate evidentiary value	The Court could not take judicial notice of the private transaction diary as a public document. It further held that entries signed by subordinate persons on the applicants' instructions would not, for that reason alone, have no probative value against the applicants. Their reliance on the absence of their own signatures therefore did not establish that production of the diary was crucial to the charge decision.	75
Reasonable doubt in proof of rape	The prosecution must prove guilt beyond reasonable doubt, and the accused retains the presumption of innocence. The doubt must be that of a prudent and reasonable person. Proof need not reach absolute certainty, but must carry a high degree of probability. Here, the child's unconsciousness and medical evidence of possible sexual assault did not establish rape by the appellant, given the material contradictions and uncertainty about when the injuries occurred.	91
Suppression of the origin of the incident and unexplained injuries to the accused	Where the prosecution suppresses the origin of the incident and fails to explain injuries sustained by the accused, an adverse inference may justify benefit of doubt. Here, the complainant and his wife admitted injuries to the defence party and the pending cross-case, yet the prosecution did not explain those injuries or establish beyond reasonable doubt that the appellants were the aggressors. The Court therefore found the conviction unsafe. The relied-upon precedent distinguishes a free fight where a witness may not reasonably be expected to see and explain injuries received at different places.	95
Reasonable doubt from unreliable eyewitnesses and uncertain medical evidence	Conviction could not stand where the purported eyewitness accounts contained material falsehoods and improvements, lacked independent corroboration, and were accompanied by medical uncertainty about whether death resulted from strangulation or hanging. The cumulative deficiencies required acquittal; they did not establish that the death was necessarily suicidal.	123
Reasonable doubt is assessed by the standard of a prudent person	The prosecution bears the burden of proving guilt beyond reasonable doubt, and the accused remains entitled to the benefit of such doubt. The standard concerns an objective doubt that a prudent person would entertain, rather than absolute certainty or an imagined possibility. Applying Bhagwan Jagannath Markad, the Court assessed the proved circumstances together in reaching its finding of guilt.	132
Proof of alibi and its consideration at the	An alibi must be established by cogent positive evidence sufficient to exclude the accused’s presence at the occurrence. The prosecution must first establish	141

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Section 319 stage	presence and participation, and failure of the alibi does not relieve it of proving guilt beyond reasonable doubt. If defence evidence raises a reasonable doubt about presence, the accused is entitled to its benefit. A contested alibi requiring trial evidence cannot itself defeat otherwise justified summoning under Section 319 CrPC.	
Proof of homicidal death without proof of the accused's involvement	Proof that the victim died a homicidal death did not establish the appellant's participation. The prosecution failed to prove his involvement in the abduction, recovery of incriminating articles from him, or a last-seen link with the deceased. His convictions under Sections 120B, 364 and 302 IPC were therefore set aside and he was acquitted.	157
Hearsay witnesses and independent direct evidence	The presence of hearsay witnesses did not invalidate the prosecution case where the remaining witnesses supplied an accepted account of the armed assembly and shootings, corroborated by medical evidence. The hearsay objection therefore did not justify rejecting that independent evidence.	160
Quality and number of eyewitnesses	The prosecution need not examine every eyewitness. The number of witnesses is not decisive where several injured eyewitnesses provide reliable evidence. Non-examination of two persons who accompanied the informant to the police station did not undermine that evidence merely because they were named in the FIR; one was not identified there as an eyewitness at all.	165
Reasonable doubt and speculative possibilities	Benefit of doubt requires a reasonable doubt arising from the prosecution evidence. Surmises and possibilities alone do not justify rejecting the prosecution case or its documents. The Court rejected the suggested ante-timing where prompt reporting and immediate medical steps supported the FIR.	165
Civil findings and proof in criminal proceedings	Civil cases are decided on a preponderance of probabilities; criminal guilt requires proof beyond reasonable doubt. Findings in one proceeding are not automatically binding in the other, which must be decided on the evidence adduced in it. A previous judgment may nevertheless be relevant under Sections 40–43 of the Evidence Act, with conclusiveness where Section 41 so provides; its relevance and effect must be assessed in the particular case.	170
Proof of alibi and the prosecution's continuing burden	An alibi is a rule of relevant evidence under Section 11 of the Evidence Act. The prosecution must first establish the accused's presence and participation; raising an alibi does not lessen that burden. Once that burden is discharged, the accused must establish the alibi by positive evidence with absolute certainty so as to exclude the possibility of presence at the occurrence. Evidence raising a reasonable doubt about presence entitles the accused to that doubt, and failure to establish the alibi does not itself prove the prosecution case.	189
Prosecution burden and falsity of the defence	The accused is presumed innocent, and the prosecution must prove guilt beyond reasonable doubt through its own evidence. Falsity of the defence does not discharge that burden, and guilt cannot be recorded unless the prosecution has proved its case.	199
Alibi burden and the prosecution's duty to prove presence	Alibi is a rule of evidence under Section 11 Evidence Act, and the accused bears the burden of establishing it under Section 103. The plea should be raised at the earliest opportunity. Its failure does not itself prove presence at the scene: the prosecution must establish presence by positive evidence. The Court rejected the employment-based alibi in light of the child's eyewitness account, the other witnesses' immediate observations and the appellant's subsequent conduct.	214
Proof of a relative’s individual role in dowry offences	Kinship and conjecture do not establish guilt for a dowry offence. The Kans Raj reasoning adopted by the Court requires the overt acts attributed to relatives other than the husband to be proved beyond reasonable doubt; at the threshold, the absence of clear and specific allegations supported quashing against the relatives concerned.	235
Insufficient	An attendance register completed only at the end of the working day, without	274

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attendance and oral evidence to establish alibi	daily employee signatures or arrival times, did not establish the accused's presence at the clinic when the offence occurred. Another accused's alibi failed where a telephone witness merely repeated his assertion and a shopkeeper's account lacked reliable support. Those defences did not displace the independently accepted eyewitness evidence.	
False defence cannot repair an incomplete prosecution chain	The prosecution bears the burden of proving a complete chain of incriminating circumstances. A false defence or plea by the accused cannot cure a gap or infirmity in that chain.	278
Ransom letters: marking exhibits does not establish authorship and receipt	The investigating officer's evidence that alleged ransom letters were seized and marked as exhibits did not establish that they were the letters written by the abductee or received by the named recipients. The letters were not put to the alleged author, no handwriting evidence established authorship, and the recipients were not examined. Absence of a defence objection when the exhibits were marked did not cure these gaps in substantive proof.	284
Unexplained injuries to the accused: seriousness, timing and overall credibility	Non-explanation of injuries does not automatically defeat the prosecution or establish that the complainant was the aggressor. The injuries must be serious and arise in the same occurrence; their omission has greater significance with partisan testimony or a competing probable defence. Clear, cogent evidence may still be accepted. Here, the accused's multiple injuries and the co-accused's fatal beating were unexplained, and the other material inconsistencies supported a finding that the prosecution had suppressed the incident's true origin.	287
Contradictory reporting chronology and reliability of the prosecution account	An unexplained conflict between the recorded place and time of the first report and the complainant's account may undermine the prosecution narrative. Here, the claim of reaching the police station by 2:30 p.m. conflicted with a Dehati Nalishi said to have been recorded at the scene at 2:40 p.m., as well as the stated duration of events and walking distance. These discrepancies contributed to the Court's reasonable doubt.	287
Prosecution burden — weakness of defence or false explanation	The prosecution must establish its case on its own evidence. Weakness of the defence does not supply an incriminating circumstance in the prosecution's favour, and a merely false explanation cannot by itself become the basis of conviction.	319
Unexplained injuries to accused — doubt about the genesis of the incident	Failure to explain injuries sustained by the accused in the same occurrence may cast doubt on whether the prosecution has disclosed the true genesis of the incident. Here, the proved injury records, the admitted cross-case and the complainant’s failure to address those injuries supported the plea of private defence when assessed with the evidence as a whole.	331
Unexhibited prosecution document — use in favour of the accused	An unexhibited prosecution document ordinarily cannot be read against the accused, but may be considered in the accused's favour. The Court separately applied the statutory admissibility of a government scientific expert's report under Section 293 CrPC to the FSL report before it.	341
Exhibit marking — identification does not establish proof or admissibility	Marking a document as an exhibit serves to identify it. It does not by itself prove the document or decide its legal admissibility. Conversely, the question whether a document is proved is distinct from the endorsement of an exhibit number.	341
Plea of alibi — Accused’s evidentiary burden and continuing prosecution burden	An accused who raises an alibi must establish it by positive, cogent evidence with certainty sufficient to exclude the possibility of presence at the relevant place and time. Failure to establish the alibi does not itself prove guilt: the prosecution must independently prove its case beyond reasonable doubt. Because the applicant’s assertion that he was elsewhere was a disputed factual defence, the Court declined to adjudicate it in the Section 482 proceeding.	358
Plea of Alibi: Proof Excluding Presence	An accused relying on alibi must produce cogent evidence establishing the plea with certainty so as to exclude presence at the place of occurrence. A claim of	360

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at the Occurrence	residence or employment elsewhere does not suffice when it fails to establish the accused's whereabouts at the relevant time and does not make presence at the scene physically impossible. The Court rejected the alibis after examining the defence evidence against those requirements.	
Alibi: Strict Proof and the Continuing Prosecution Burden	The prosecution must first prove the accused's presence and participation. An alibi does not reduce that burden. Once presence is satisfactorily established, the accused must prove the alibi by cogent positive evidence excluding presence at the occurrence, rather than by a mere preponderance of probabilities. The adopted precedent also preserves the accused's entitlement to reasonable doubt where the defence evidence raises such doubt about presence.	361
Unsupported Alibi Affidavits and Summoning Under Section 319 CrPC	An alibi accepted by the police solely on witness affidavits, without supporting hospital documents or other reliable evidence, did not justify rejecting the Section 319 CrPC application where the proposed accused were named in the FIR and specific overt acts were attributed to them. The defence of absence from the scene required cogent proof.	374
Failure to Link the Vehicle to the Offence and the Charge Under Section 201 IPC	Where the prosecution failed to establish that the identified Bolero was involved in the fatal collision or that the accused committed the incident, the alleged denting and painting of that vehicle did not establish the charged disappearance of evidence under Section 201 IPC. The acquittal on that charge was therefore sustainable.	375
Proof of One Assault Does Not Establish a Separate Unwitnessed Assault	The witnesses had not seen the initial assault on the informant, who died before he could testify. That assault could not be proved merely through their accounts of what he had told them, and the appellants could not be held guilty of injuring him on that material. This failure did not defeat the separately proved assaults on the two injured eyewitnesses, supported by their testimony and medical evidence.	381
Unproved Identity of the Recovered Body as the Missing Child	The prosecution did not establish that the recovered body was that of the alleged mother’s daughter. The medical age estimate materially differed from the age asserted by her, yet no dental or ossification examination resolved the discrepancy. Her delayed photographic identification and other evidence were unreliable, and the preserved blood was not used to establish a familial DNA connection. The Court treated identity as an unproved foundational link.	389
Unexhibited documents in the trial record	An unexhibited document cannot be read in favour of the prosecution merely because it is present in the trial court’s file. The Court therefore did not rely on the unexhibited requisition for the accused’s medical examination; it assessed the request through the evidence actually proved.	391
Strict Proof of Alibi and the Continuing Prosecution Burden	An alibi does not reduce the prosecution’s burden to establish the accused’s presence and participation beyond reasonable doubt. Once that burden is satisfactorily discharged, the accused must establish the alibi by positive and strict proof excluding presence at the scene; mere preponderance is insufficient. Evidence creating reasonable doubt about presence nevertheless entitles the accused to that doubt, and failure of the alibi does not itself prove the prosecution case.	409
Unexplained injuries on an accused—effect on prosecution proof	Non-explanation of an accused’s injuries is important but does not invariably defeat the prosecution. Its significance depends on the circumstances, including whether the injuries are minor or superficial or whether sufficiently clear, cogent and credible evidence outweighs the omission. The accused’s injuries do not automatically raise a presumption of private defence.	412
Alibi: strict proof and the continuing prosecution burden	Alibi is a rule of relevance under Section 11 of the Evidence Act, rather than a penal exception. The prosecution must first establish the accused’s presence and participation; pleading alibi does not lessen that burden. The accused must then establish being elsewhere by cogent, positive and strict proof excluding	436

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	presence at the occurrence, rather than mere preponderance of probabilities. Evidence creating a reasonable doubt about presence nevertheless entitles the accused to that benefit. Failure to prove alibi does not establish guilt: the prosecution must independently prove its case beyond reasonable doubt.	
Photographic alibi and strict proof of absence	Photographs said to place an accused away from the occurrence do not, merely on inspection in a quashing petition, establish an alibi. Alibi is relevant under Section 11 of the Evidence Act and requires cogent, positive and strict proof excluding presence at the occurrence after the prosecution has established presence and participation. Evidence creating reasonable doubt about presence benefits the accused. Failure of the alibi does not relieve the prosecution of proving its case independently beyond reasonable doubt.	438
Prosecution burden unaffected by failure to seek a document under Section 91 CrPC	The initial burden of proving the accused's guilt rests on the prosecution. Its failure to produce the official requisition for recording the dying declaration could not be excused by saying that the accused should have applied for it under Section 91 CrPC. The accused could not be held guilty for failing to make that application.	467
Reasonable doubt — Physical record, conflicting accounts and countercomplaint	Guilt must be assessed from the whole record, including physical exhibits and defence evidence. The limited damage to two internal pages of a hardbound register did not fit the varying accounts of its tearing. Contradictions about presence and the scuffle, the unexplained participation of nonmembers, the appellant's injuries and contemporaneously recorded countercomplaint, and the defence testimony undermined proof of assault and caste abuse. The prosecution failed to establish guilt beyond reasonable doubt, so the convictions under Sections 294 and 323 IPC and former Section 3(1)(x) of the SC/ST Act were set aside.	479
Defence testimony — Same standard of appraisal as prosecution testimony	Evidence cannot be placed on a lower footing merely because the witness was called by the defence. Defence witnesses must be considered in the same manner as prosecution witnesses and assessed on their merits. The Court applied this principle when weighing the defence account of the Panchayat dispute alongside the countercomplaint, injuries and physical register.	479
Loan repayment — unproved diary and withholding of available sale evidence	A transaction diary that was neither proved nor shown to concern the disputed loan did not establish repayment. Its production by the deceased's son did not suffice when the diary was not exhibited and the son was not examined. The prosecution also withheld the sale deed and purchaser's evidence despite alleging that land was sold to fund an additional payment. The Court drew an adverse inference from withholding available best evidence and, after scrutinising the interested witnesses, found repayment and further unlawful demands unproved.	480
Quality of evidence and non-examination of material witnesses	Section 134 of the Evidence Act prescribes no minimum number of witnesses: reliable testimony from one witness may support conviction, while several unreliable witnesses may not. Non-examination of independent or additional witnesses does not by itself defeat the prosecution. An adverse inference depends on whether an available witness essential to explaining the occurrence or filling a material evidentiary gap was withheld. No such inference is required merely because further testimony would duplicate credible evidence already produced. The prosecution retains the burden of proving guilt beyond reasonable doubt.	481
Plea of alibi — reliable proof required to answer trial evidence supporting additional summons	An accused advancing an alibi must establish it by cogent and reliable evidence. In reviewing additional summons under Section 319 CrPC, the Court examined the police material relied on for the alibi against PW-1's specific trial testimony. An ATM withdrawal did not establish the cardholder's presence when the user could not be identified. Disputed home CCTV timing and identity, an office roster without proof of actual attendance, and the absence of toll corroboration	490

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	did not sufficiently establish the applicant's presence elsewhere. The closure report therefore did not displace the trial evidence supporting the summons. These observations were confined to the summoning question and were not findings of fact binding the trial court.	
Plea of alibi — positive proof and the continuing prosecution burden	An alibi requires cogent positive evidence excluding the accused's presence at the occurrence. The prosecution must first satisfactorily establish presence and participation; raising an alibi does not reduce that burden, and failure of the alibi does not prove guilt. The adopted Mukesh and Binay Kumar Singh passage also preserves the benefit of reasonable doubt where defence evidence sufficiently casts doubt on presence. Here, a death certificate issued ten years later, without family evidence connecting the deceased woman to the appellant or establishing his attendance at her thirteenth-day ceremony, did not prove the claimed absence. The Court independently relied on the accepted declaration, eyewitnesses and medical evidence.	499
Hearsay Informant and Failure to Examine the Source of the Assault Allegation	An informant’s independent status does not make his second-hand account direct proof of the assailants’ identities. The Kotwar had learned of the alleged assault from another person, whom the prosecution did not examine. The Court rejected the Kotwar’s hearsay account and found that the Dehati Nalishi and FIR based on that untested source had lost evidentiary value in this case, contributing to reasonable doubt about the appellants’ involvement.	522
Homicidal Death and Weapon Recovery Do Not Establish the Assailants’ Identities	Medical proof of fatal blunt-force head injuries established homicidal death but did not identify the assailants. The unreliable eyewitness accounts, conflicting descriptions of where the body lay, absence of blood or drag marks on the alleged route, and recovery of a lathi from each accused despite the account that only one used it left the assault narrative doubtful. The prosecution therefore failed to prove the appellants’ guilt beyond reasonable doubt, and their convictions under Sections 302 and 302/34 IPC were set aside.	522
Proof of homicidal death and proof of the accused's participation	Medical proof that death was homicidal does not by itself establish that the accused caused it. Where material contradictions make the sole eyewitness unreliable and the recovery does not connect the accused to the assault, the prosecution has not proved guilt beyond reasonable doubt.	571
Conjecture cannot replace proof of the accused's participation	A conviction for dacoity with murder cannot rest on conjecture about the ownership of recovered property or the accused's involvement. Proof of homicidal death did not establish participation where the identification evidence was unreliable, hearsay supplied no substantive link and neither the bloodstains nor the recovered articles were connected to the deceased.	573
Cremation after informing relatives and the charge of concealing evidence	In assessing the Section 201 read with Section 34 IPC charge, the Court considered that the accused had informed the neighbours and parents of the death and waited for the mother before cremation. The alleged insistence on a postmortem and the claim that the father had lodged a report were not established. Those circumstances, taken with the deficient prosecution evidence, did not prove the charge beyond reasonable doubt.	576
Proof beyond reasonable doubt of an allegation resting on oral dying declarations	A conviction under Section 354 IPC could not stand where the prosecution failed to prove the alleged oral dying declarations reliably and failed to establish that the deceased had committed suicide because the accused had outraged her modesty. The Court assessed the missing evidence of mental fitness, defects in the witnesses' accounts and the evidence rejected in the rape acquittal together. Its conclusion depended on the totality of this evidence, rather than treating the subsequent burns as sufficient proof of molestation.	580
Use of an unexhibited prosecution document in favour	An unexhibited prosecution document favourable to the accused may be read in the accused's favour, but an unexhibited prosecution document cannot be read against the accused. The unexhibited photocopies of the deceased's hospital record therefore could not be used to support the prosecution against	580

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of or against the accused	the appellant.	
Overall assessment of prosecution evidence where a witness was not declared hostile	A court must assess the prosecution evidence as a whole and is not bound to accept a witness's statement merely because the prosecution did not have the witness declared hostile. The doctor's assertion that the victim could not speak was considered alongside his own MLC recording consciousness and the recording officer's evidence before the Court determined the victim's ability to make the declaration.	582
Evidence in a separate trial of co-accused cannot be imported into the present trial	Evidence given in a separate sessions trial against other co-accused could not be read in the respondent's trial. An explanation offered there for failure to identify the respondent could not cure the absence of that explanation in the evidence of the present case. Each appeal had to be decided on the evidence lawfully available in the trial under review.	583
Non-recovery of the weapon and otherwise reliable direct evidence	Recovery of the weapon is not an indispensable condition for conviction where reliable ocular evidence establishes the offence. Non-recovery did not undermine the direct evidence here, particularly where the respondent was arrested more than twenty-two months after the shooting. The Court also rejected reliance on a failure of recovery attributable to an accused's withholding or concealment of the weapon.	583
Limited use of res ipsa loquitur in a criminal medical-negligence charge	Res ipsa loquitur is an evidentiary rule principally used in civil negligence cases to address the burden of proof. It cannot by itself determine criminal negligence; its application in a criminal-negligence trial is, at most, limited. The required gross negligence must be established rather than inferred merely from the adverse result.	588
Second-hand information does not prove the assailant's identity	A witness who did not see the assault could not establish the assailants' identity merely by repeating what others had told him. After examining the informant brother's cross-examination, the Court treated that account as hearsay and inadmissible. The distinction between his observations after arrival and the second-hand account of who committed the killings was material to proof of participation.	599
Continuing prosecution burden and presumption of innocence in rape cases	The prosecution must affirmatively prove every ingredient of rape beyond reasonable doubt. That burden does not shift, and the accused need not explain why the witnesses might have falsely implicated him. The prosecution cannot rely on weakness in the defence, suspicion or moral conviction in place of legal proof. The accused retains the presumption of innocence and the benefit of every reasonable doubt.	618
Identification of known assailants in limited evening light	Identification of familiar assailants cannot be rejected merely because the incident occurred in limited evening light. Visibility must be assessed from the actual conditions, distance, prior acquaintance and the witnesses' adaptation to local lighting. Here, the shop setting, burning gas lantern, close-range firing and prior familiarity gave the witnesses sufficient opportunity to identify the assailants.	622
Non-examination of the first person to reach the scene	Non-examination of Banwari, who was said to have first reached the scene and extinguished the fire, was not fatal where three independently recorded dying declarations were found reliable. The Court preserved the prosecution's burden to prove guilt and stated that weakness of the defence could not itself establish the charge, while finding the available proof sufficient despite that witness being given up.	649
Alibi — strict proof after prosecution establishes presence and participation	An alibi is relevant under Section 11 of the Evidence Act and does not reduce the prosecution's burden to prove presence and participation. The authorities reproduced by the Court require strict proof excluding the possibility of presence once the prosecution has discharged that burden. They also preserve benefit of reasonable doubt where the defence evidence creates such doubt. The	678

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	witness claiming that four appellants were working elsewhere did not identify the employer or worksite and advanced an accidental-injury account inconsistent with the postmortem. Against the reliable prosecution evidence, the Court found the alibi unproved.	
Burden of proving the insanity exception and reasonable doubt about mens rea	Under Section 105 of the Evidence Act, the accused must establish the circumstances of the Section 84 IPC exception on a preponderance of probabilities, rather than beyond reasonable doubt. Oral, documentary or circumstantial material, including prosecution evidence, may discharge that burden. The prosecution nevertheless retains throughout the trial the burden of proving the offence and requisite mens rea beyond reasonable doubt. Even if the insanity exception is not established, the evidence may create reasonable doubt about an essential ingredient of the offence, requiring acquittal because the prosecution has not discharged its general burden.	691
Unproved document filed with the charge sheet	The prosecution cannot rely on an unproved document merely because it was filed with the charge sheet. The Court declined to give the prosecution the benefit of the time recorded in an unproved merg intimation, and examined the sequence through other proved material.	693
Defence reliance on a favourable prosecution document not formally proved	An accused may rely on a favourable document filed by the prosecution with the charge sheet to substantiate the defence, even though the prosecution has not proved or exhibited it through a witness. After rejecting the unproved school certificate, the Court considered the government hospital's ossification report already filed with the charge sheet, notwithstanding the prosecution's failure to examine a witness to prove that report.	694
Accused's use of an unexhibited prosecution document	An accused may take advantage of an unexhibited prosecution document in presenting the defence. When disputing the identity of the earth article tested for blood, the appellants could have referred to the prosecution's forwarding document even though it had not been proved, but did not do so.	698
Alibi and claimed inability to participate in the evening assault	A photograph showing presence elsewhere earlier in the day does not establish absence from the scene at the time of the offence where return was possible and continued presence elsewhere is unproved. The Court rejected daytime photographs and unsupported assertions of an overnight stay as proof of the alibis. Doubt about when photographs were taken, including absence of supporting development or printing evidence in the circumstances, further weakened that defence. The later medical examination also failed to establish the claimed earlier cycle injury or that another appellant was resting at home when the assault occurred.	699
Accused's use of an unexhibited prosecution document	An accused may take advantage of an unexhibited prosecution document in presenting the defence. When disputing the identity of the earth article tested for blood, the appellants could have referred to the prosecution's forwarding document even though it had not been proved, but did not do so.	699
Failure to prove alibi — prosecution must still prove presence by positive evidence	Alibi is a rule of relevance under Section 11 of the Evidence Act, rather than a general or special penal exception. Under Section 103, the accused bears the burden of proving the asserted fact of being elsewhere. Failure to establish alibi does not assist the prosecution, prove presence at the scene, or permit an inference of presence from that failure alone. The prosecution must establish presence by positive evidence.	700
Failure to prove alibi — prosecution must still prove presence by positive evidence	Alibi is a rule of relevance under Section 11 of the Evidence Act, rather than a general or special penal exception. Under Section 103, the accused bears the burden of proving the asserted fact of being elsewhere. Failure to establish alibi does not assist the prosecution, prove presence at the scene, or permit an inference of presence from that failure alone. The prosecution must establish presence by positive evidence.	701

23.1 : Burden of Proof, Proof Beyond Reasonable Doubt and Benefit of Doubt

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Civil and criminal findings — independent evidence and different standards of proof	Civil proceedings are decided on the preponderance of probabilities, whereas the prosecution in a criminal case must prove the charge beyond reasonable doubt. Each proceeding must be decided on the evidence adduced in it. Findings in one are not automatically final or binding in the other merely because the parties and subject matter overlap, subject to the statutory rules governing the relevance and effect of previous judgments. The broad proposition that civil findings invariably bind the criminal court is not the correct rule.	705
Failure to prove the appellant's participation in the abduction	Proof that the victim was abducted and confined did not establish the appellant's participation. The abductee's contradictory evidence did not reliably identify him, the other two witnesses did not support the prosecution and no further witness was examined. On that record, the Court found no evidence sustaining the charge and set aside the conviction under Section 364A IPC read with Section 13 MPDVPK Act.	711
Proof of disputed documents and their contents	A photocopy denied by the witness could not be exhibited without proof of its execution. The defence also failed to prove its claim that buses were operating by producing conductor sheets through a supervisor who had not prepared them, while the available conductors and owner were not examined. Merely producing those documents did not establish the disputed defence facts.	713
Cumulative doubt from delayed implication, absent injury and inconclusive blood evidence	The Court acquitted Halkai because his name was absent from the FIR and appeared in next-day statements, the alleged lathi blow on the head had no corresponding injury, and blood on the seized lathi was not established to be human. Considered together, those deficiencies left his participation unproved, notwithstanding the Court's criticism of the post-mortem examination elsewhere in the case.	713
Alibi after prosecution proof of presence — strict defence proof without shifting prosecution burden	Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749, Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430, and Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283, were applied: alibi under Section 11 Evidence Act becomes material after prosecution establishes presence; the Court required strict positive proof excluding presence and rejected proof merely by a preponderance of probabilities, but a credible defence can create reasonable doubt and failed alibi does not itself prove guilt. Horilal’s society-meeting witness could not substantiate the society’s registration or office-bearers and gave weak meeting particulars; the Court rejected alibi against accepted eyewitness proof.	735
Unexplained minor injuries of accused did not suppress proved genesis of assault	Mano Dutt v. State of U.P., (2012) 4 SCC 79, and Gurwinder Singh v. State of Punjab, (2018) 16 SCC 525, require attention to whether accused injuries were serious and arose in the same occurrence; non-explanation is not invariably fatal, especially with clear credible prosecution evidence. Krishnegowda v. State of Karnataka, (2017) 13 SCC 98, and Kumar v. State, (2018) 7 SCC 536, addressed material investigative suppression and injuries in their settings. Ramjilal’s three small contusions were minor, and his own tractor driver confirmed that Ramjilal initiated stone throwing, so the alleged suppressed genesis and automatic-acquittal argument failed.	735
Identity of assailant — derivative hearsay account supplies no evidentiary support	The Court found that the prosecution gained no assistance from Mishrilal’s account attributing the assault to the appellant. Mishrilal said that Murarilal had informed him both of Pappu’s suicide and the appellant’s assault on Jaswant. Murarilal was himself a hearsay witness and denied giving the asserted information about the appellant; he said that he had only reported the suicide. The derivative account therefore did not support identification of the appellant as the assailant. This deficiency was considered with the unreliable alleged sightings and the failed recovery link when the Court concluded that the prosecution had not proved guilt.	747
Defence explanation	The accused's burden to establish a defence is lighter than the prosecution's	774

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assessed on preponderance of probabilities	burden to prove its case. The Court assessed the claimed accidental fall on a preponderance of probabilities. The roof had no shown toilet or washroom, no witness was asked to establish one, and the husband's conduct after the death did not support the explanation. The defence was rejected on that standard.	
Unexhibited prosecution document favourable to the accused	A prosecution document that remains unexhibited may be looked at in favour of the accused. The Court accordingly considered the missing-person report filed with the charge-sheet. It corroborated that the husband had earlier reported his wife missing and expressed suspicion about another person. The report was considered in assessing provocation, but the remote earlier departure did not establish grave and sudden provocation at the time of the killing.	774
Unproved prosecution document favouring the accused in age assessment	A prosecution document accompanying the charge-sheet may be considered in favour of the accused even though it remains unproved and unexhibited. The Court accordingly accepted the trial court's use of the school marksheet recording birth on 2 April 1990. It placed the prosecutrix above sixteen but below eighteen on 20 July 2006, requiring the rape and guardianship offences to be assessed under their distinct applicable age thresholds.	776
Unchallenged identification of the driver corroborated by a prompt report	Two eyewitnesses specifically identified the applicant as the driver, and neither was cross-examined on that identification. The Court considered their unchallenged testimony with the Dehati Nalishi, lodged within thirty minutes of the accident and naming the applicant as the driver, and held that his identity as the driver was established.	777
Alibi, the burden of proof and reasonable doubt	Alibi is relevant inconsistent evidence under Section 11 of the Evidence Act, rather than a penal exception. The prosecution must first satisfactorily establish the accused's presence and participation; raising alibi does not lessen that burden. The accused must then establish absence by strict, positive proof excluding presence at the scene. Defence evidence creating reasonable doubt about presence entitles the accused to its benefit. Failure to prove alibi does not itself establish guilt: the prosecution must independently prove its case beyond reasonable doubt.	785
Proof of fatal injury without proof of the accused's responsibility	Medical evidence that heavy pressure, consistent with a bullock's leg falling on the body, caused fatal injuries did not establish who drove the animal. The prosecution's own witness attributed that act to the appellant's brother, while the other claimed eyewitness materially contradicted his account of being present. The evidence therefore failed to establish the appellant's guilt under Section 304-A IPC beyond reasonable doubt, and he was acquitted.	834
Non-examination of an inquiry-committee chairman and the quality of evidence	The omission to examine the inquiry-committee chairman did not by itself defeat the prosecution. In assessing that objection alongside the documentary and other evidence, the Court emphasised that the quality of evidence, rather than the number of witnesses, is decisive.	914
Deliberate and substantial relocation of the occurrence affecting prosecution proof	A change in the asserted place of occurrence matters where the defence establishes that it was deliberate and substantial enough to affect the whole prosecution account. Applying Bhagwati Prasad, the Court considered blood on and flowing from a dilapidated roof, a shoe found nearby, the unexplained shifting of the body to a distant garden and the missing pistol attributed to the deceased. These circumstances undermined the alleged street shooting, the witnesses' claimed vantage and the portrayal of the accused party as aggressors. The medical evidence did not conclusively identify the shooter's position, but the combined record made the defence account probable and the altered prosecution account unreliable.	919
Unexplained serious injuries in the same occurrence and their conditional effect	Failure to explain injuries on the accused side does not invariably discredit the prosecution. The injuries must be serious and connected with the occurrence; interested testimony, a comparably probable defence and the strength of	919

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	independent prosecution evidence bear on the result. The omission may support private defence, create reasonable doubt or have no material effect. Applying Takhaji Hiraji, Lakshmi Singh and the related passages, the Court found the unexplained four deaths and two gunshot injuries on the accused side, together with suppression of the incident's origin and relocation of the scene, fatal to the reliability of this prosecution version. It did not thereby find that Ramant had fired in private defence.	
Documentary record and non-expert witness opinion	The Court must assess the documentary record independently rather than accept a non-expert witness's conclusion that the procedure was regular. The measurement book reproduced the estimate and contained a completion stamp, but no actual measurements or description establishing the work. A witness's assertion that measurements were recorded could not override the document itself. The trial court's reliance on such opinions, instead of the material on record, contributed to the finding that its acquittal was perverse.	920
Benefit of doubt from suppressed origin of a land-dispute assault	The prosecution had to prove the charged offences beyond reasonable doubt despite the complainant party's recorded interests in the land. Their claim of restored possession lacked the asserted Collector order, while the evidence and defence judgments supported the appellant's actual cultivation. Combined with the unexplained serious injuries to the accused and the probable private-defence case, these circumstances left the prosecution version, including the alleged firing and forcible dispossession, unproved. The surviving appellants were therefore entitled to acquittal of the respective charges under challenge.	923
Independent proof in parallel civil and criminal proceedings	Civil cases are decided on a preponderance of probabilities, whereas the prosecution must prove a criminal case beyond reasonable doubt. Each proceeding must be decided on the evidence adduced in it. Findings in one proceeding do not automatically bind or supersede findings in the other, subject to the statutory rules governing previous judgments. A civil court may consider evidence led in criminal proceedings, but this does not make the criminal court's findings binding on it.	940
Probable defence may emerge from prosecution evidence	An accused may rely on a probable defence emerging from the prosecution evidence even without separately presenting that defence through defence witnesses. A hypothetical possibility must nevertheless have support in the record. The suggested drunken fall was rejected because the medical record noted no smell of alcohol, the examining doctor was not questioned on that point, and no evidence established stones or a fall from height. The doctors' acceptance that such a fall could cause injuries did not establish that it occurred.	947
Separate assessment of reasonable doubt for each accused	Where different acts are attributed to different accused, the evidence must be assessed separately for each. Material contradictions about Khemraj's presence and firing, considered with the site evidence and the independent commissioner's account, left his participation unproved beyond reasonable doubt. The Court therefore acquitted him of murder with common intention, attempted murder and the Arms Act charge. Those deficiencies did not resolve Pawan's case, for which the consistent account of his fatal shot and the supporting evidence required an independent assessment.	951
Reliable evidence may be accepted despite false additions concerning other accused	The maxim falsus in uno, falsus in omnibus does not apply in India. A court must carefully separate reliable evidence from false additions where that can be done without reconstructing a new prosecution story. If truth and falsehood are inseparable and no reliable evidence remains, the whole account may have to be rejected. Applying Achhar Singh, Kameshwar Singh, Swaran Singh and Bhagwan Jagannath Markad, the Court held that disbelieving the witnesses about Banti and Khemraj did not require rejection of their consistent account of Pawan's firing. His attributed role remained unchanged from the FIR through the police statements and testimony, and was supported by the chest injury and	951

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	recovered bullet fragments.	
Plea of alibi: burden of proof and continuing prosecution burden	Alibi is an evidentiary plea under section 11 of the Evidence Act. The prosecution must first prove the accused's presence and participation; taking an alibi does not lessen that burden. Once presence is satisfactorily established, the accused must prove absence by positive and strict evidence excluding presence at the scene. Credible defence evidence creating a reasonable doubt entitles the accused to its benefit. Failure to establish an alibi does not itself prove the prosecution case.	970
Plea of alibi: positive proof excluding presence at the scene	An accused who raises an alibi must establish it by cogent, positive evidence with sufficient certainty to exclude presence at the scene at the relevant time; a mere preponderance of probabilities does not establish the plea. The disputed claim of being at home required evidentiary proof and was not finally determined in the section 482 proceedings.	972
Reasonable doubt in circumstantial evidence	Reasonable doubt must be a fair doubt arising from the evidence and grounded in reason and common sense. The prosecution is not required to disprove every imaginary, trivial or merely possible hypothesis advanced by the accused. The Court relied on this standard in finding the accepted circumstantial chain sufficient to prove the offence.	986
Suspicion and the gravity of an offence cannot replace proof	However grave the suspicion or heinous the offence, conviction requires credible evidence proving guilt. A court cannot allow the seriousness of the crime to supply an evidentiary gap or treat a merely possible conclusion of guilt as an established one.	988
	Sub-Chapter no. 23.2 **Delay in FIR and Its Evidentiary Effect**	
Delayed FIR and investigation — prompt reliable dying declaration remains material	A year's delay in registering the FIR and recording witness statements did not require rejection of this prosecution where the Executive Magistrate had recorded the victim's declaration promptly and the remaining reliable evidence established guilt beyond reasonable doubt. The pending merg inquiry and movement of the case diary explained the chronology, but the Court criticised the police for unjustifiably prolonging the inquiry. Following Ambika Prasad, it assessed the reliable evidence independently of official omissions, while recognising the judge's duties to the accused, victim and society.	19
Time taken to report an assault involving several injured persons	Whether an FIR was delayed must be assessed in its circumstances. A report made two hours and ten minutes after an evening assault was not substantially delayed where four persons were injured, one seriously, and they had to reach a police station four kilometres away.	21
Delayed FIR dispatch under Section 157 CrPC and alleged ante-timing	Delay in sending an FIR to the Magistrate does not by itself invalidate a prosecution where prompt registration and investigation are established. Extraordinary unexplained delay may support suspicion of later fabrication, but a police omission does not vitiate trial without prejudice to the accused. Next-day dispatch was not fatal where investigation began promptly, three accused were arrested that day and the officer returned late at night. Overwriting in the receipt register did not establish ante-timing when neither the recipient nor the Magistrate's record was produced to resolve it.	23
Fear of the assailants as an explanation for reporting after sunrise	A witness's failure to leave the scene immediately must be assessed against the danger he reasonably perceived. Hiding until sunrise was natural where the witness had seen his brother killed and the route to his village crossed the assailants' field. In the absence of evidence or a suggestion establishing an alternative route, the court did not expect him to risk a longer journey in the night. His report promptly after sunrise was consistent with that explanation.	23
Delay in a matrimonial FIR —	A wife's efforts to obtain a settlement and resume married life can explain why she did not immediately complain of cruelty. Her patience in the hope that the	76

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attempts to preserve the marriage do not justify an adverse inference by themselves	relationship and the in-laws' conduct would improve cannot by itself be used to discredit her. Lodging the FIR after reconciliation efforts fail and divorce proceedings are instituted does not, for that reason alone, justify an adverse inference or quashing.	
Delay in reporting matrimonial cruelty as a ground for quashing	Delay in lodging an FIR does not, by itself, justify quashing it. In a matrimonial-cruelty case, the absence of an immediate complaint also does not by itself establish that the allegations are false, since the complainant may first attempt to preserve the marriage. The Court rejected the inference of falsity sought merely from the passage of about sixteen years since marriage and the absence of an earlier police complaint.	80
Prompt FIR, next-day Magistrate receipt and absence of FIR number on inquest documents	Under Section 157 CrPC, prompt forwarding keeps the Magistrate informed and provides a check against ante-dating or manipulation. Reasonable dispatch depends on the circumstances; no universal time limit or explanation for every hour is required. Delayed receipt alone does not invalidate a promptly recorded FIR and investigation, particularly without demonstrated prejudice. Applying the narrated authorities, the Court accepted next-day receipt amid disturbance at the police station, the FIR having been lodged within about twenty-five minutes. Omission of its number from the Section 175 notice, inquest and post-mortem requisition did not prove ante-timing because those forms had no column for it.	106
Sexual-offence FIR — Explained next-day reporting	Delay in reporting a sexual offence must be assessed in context and does not discredit an otherwise reliable account when satisfactorily explained. The Court accepted the evidence that heavy rain and flooding prevented the family from reaching the police station until the next day. That delay did not undermine the child's testimony or the prosecution case.	116
Identical times in the FIR and death intimation	The time recorded for receipt of information in an FIR and a marg intimation may be identical when police learn of the offence and death together. It does not establish that the documents were physically written simultaneously or that the FIR was prepared later after deliberation. Reporting within one hour and forty minutes, after taking injured persons twenty-five kilometres to the police station, was treated as prompt.	165
Delayed receipt of a promptly recorded FIR by the Magistrate	Delay in forwarding or receiving an FIR does not by itself establish fabrication or invalidate the prosecution where the FIR was promptly recorded, investigation began on it and prejudice is not shown. Section 157 CrPC requires reasonably prompt dispatch in the circumstances, with no universal time limit. On the proved dispatch and next-day receipt here, the police-station disturbance also explained the interval.	227
Omission of FIR number from forms having no column for it	Absence of the FIR number from the inquest notice, inquest report and post-mortem requisition did not show that the FIR was ante-dated or ante-timed where the forms contained no column requiring that number. The Court assessed the omission with the prompt FIR and the other surrounding evidence.	227
Delay while awaiting matrimonial reconciliation	Delay in reporting matrimonial cruelty does not by itself warrant quashing and may be explained by plausible circumstances. Waiting in the hope that the marital relationship will improve can explain the interval; the Court treated that explanation together with continuing mental cruelty as sufficient to reject the delay objection here.	235
Urgent medical treatment as an explanation for delay in reporting	Where a seriously injured victim needed immediate treatment and referral to another hospital, the relatives' priority was to obtain medical assistance. Their failure to stop at nearby or intervening police stations did not, in those circumstances, justify an inference that the later FIR was the product of deliberation.	248
Prompt FIR as	Prompt registration of the FIR may support the eyewitness account and exclude	274

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support for eyewitness presence and reliability	the opportunity for tutoring or over-implication in the circumstances proved. Here, immediate telephone information, the police response and registration within thirty minutes supported the witnesses' presence with the deceased and the reliability of their account.	
Prompt FIR as support against alleged deliberation and false implication	Prompt reporting with material particulars can support the truthfulness of an eyewitness account by reducing the opportunity for deliberation and false implication. In this case the FIR named the assailants within thirty minutes, following two deaths and an injury; the Court treated that timing and detail as assurance of their participation.	291
Delayed matrimonial FIR during attempts at reconciliation	The passage from Pratibha v. Rameshwari Devi applied by the Court rejects an adverse inference merely from delay in lodging a matrimonial FIR where the wife and her family had been trying to restore the relationship and avoid prejudicing settlement. The later FIR followed failure of those efforts and a divorce petition. These were the circumstances of the cited case; the High Court used the principle in rejecting the applicants' counterblast argument, without independently finding such reconciliation efforts in the present record.	325
Failure to Prove FIR Dispatch Under Section 157 CrPC	Failure to prove prompt dispatch of the FIR to the Magistrate does not by itself vitiate investigation or trial or require acquittal. Dispatch is an external safeguard against manipulation; delay, any explanation and resulting prejudice must be assessed with the reliability of the record. Here the proved Dehati Nalishi and surrounding chronology left no doubt about its timing, so the failure to establish compliance with Section 157 CrPC was not fatal.	381
Next-Day Signature Date Does Not Necessarily Establish an Antedated Report	A date entered beneath the recording officer's signature on the following day did not establish that the Dehati Nalishi was antedated. The information was recorded at 11.30 p.m., and the station diary showed its delivery at 1 a.m.; the Court accepted that midnight had passed before the dispatch endorsement was signed. The officer had not been asked to explain the date in cross-examination. The reporting chronology as a whole defeated the allegation of fabrication.	381
Delayed forwarding of the FIR to the Magistrate under Section 157 CrPC	Prompt forwarding of the FIR to the Magistrate provides an external check on police investigation. Delay alone does not make the prosecution case doubtful, and a reasonable explanation prevents an adverse inference. The prosecution must explain the delay; the accused need not seek that explanation. An unexplained delay requires close scrutiny of the prosecution version for deliberation or false implication. Here, the unexplained next-day dispatch was considered with the other defects in the evidence.	390
Prompt FIR as Assurance against Deliberation	A promptly lodged FIR may support the prosecution by reducing the opportunity for deliberation and false implication. On the circumstances of this attack and the witnesses' return with the dead and injured, the Court treated the report made within about half an hour as supporting the reliability of the accusation.	409
Prompt FIR as corroboration of an eyewitness shooting account	Prompt first reporting provides a check against later deliberation and fabrication and may corroborate the informant's account. Here, the incident occurred at about 11:15 p.m. and the FIR was lodged at 11:25 p.m. at a police station about one furlong away. The Court treated the ten-minute interval and the reported details as supporting the brother's eyewitness account and excluding the suggested opportunity to concoct it. That assessment formed part of the combined appraisal of oral, medical and ballistic evidence.	445
Explained Delay in Lodging the FIR	Delay in lodging the FIR does not by itself justify discarding the prosecution case. The court must examine the explanation and the possibility of embellishment; unexplained delay accompanied by that possibility may be fatal. Here, fear following the assault, the witnesses' initial search for safety and reporting after the deceased's father arrived satisfactorily explained the interval of about three hours.	450

23.2 : Delay in FIR and Its Evidentiary Effect

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Delay while seeking matrimonial reconciliation and quashing of prosecution	Delay in reporting matrimonial cruelty does not by itself justify quashing where the wife may have remained silent in an effort to preserve the marriage. Her explanation for the interval is a matter for the trial court and cross-examination. On the alleged history, the Court held that approximately two years' silence after leaving the matrimonial home did not warrant quashing the prosecution.	469
Sexual-offence FIR — Reporting interval and later receipt by Magistrate	An FIR lodged within about two hours was not treated as delayed on this record. Later receipt of its counter-copy by the Magistrate did not alone establish antedating or antetiming, particularly when the responsible officer was not asked to explain the transit. Applying Gurmit Singh, the Court also recognised that hesitation arising from the personal and family consequences of a sexual-offence allegation may naturally explain some reporting delay. The interval and surrounding circumstances must be assessed, rather than treating every lapse of time as fabrication.	477
FIR Delay Explained by Flight to Safety with Minor Children	Delay in lodging an FIR does not displace the prosecution case when satisfactorily explained. After witnessing the fatal assault, the complainant returned to her village with her two minor children, informed relatives, waited for their arrival and then went with them to the scene and police station. The Court accepted concern for her own and her children's safety as natural and held the resulting five-hour delay satisfactorily explained.	524
Explanation for delay in reporting rape of a minor	The three-day delay in reporting the rape of a fifteen-year-old girl was accepted in light of the parents' concern for her future and family reputation. The father's evidence that he had deliberated with his wife supported that explanation. In these circumstances, the delay did not undermine the prosecution case.	560
Travel difficulty explaining the interval before an FIR	The Court accepted the interval before the FIR where the police station was about twenty-five kilometres away and conveyance was unavailable. The prompt naming of the appellant and the accepted eyewitness evidence supported the finding that he joined in dragging out and beating the deceased.	563
Unexplained FIR timing and contradictory medical chronology	Unexplained delay in lodging an FIR may reinforce doubt where the eyewitness's account, the short journey to the police station and the timing of medical examination do not fit together. Here, the contradictory hospital sequence, absence of an explanation for the time gap and delayed preparation of the site plan formed part of the cumulative reasons for doubting the report.	571
Delay in lodging the FIR assessed in the circumstances of the case	Delay in reporting is not by itself fatal to the prosecution. Its significance depends on the surrounding circumstances, including the need for medical aid, fear or threats, the time of occurrence, distance to the police station and available transport. The Court rejected the delay objection in assessing a report made the next morning after a night-time assault, with the police station twenty kilometres away.	584
Delayed disclosure of matrimonial abuse while attempting reconciliation	When assessing allegations of matrimonial abuse at the bail stage, a wife's delay in approaching the police must be considered in its surrounding circumstances. Her attempt to preserve the marriage and allow time for improvement cannot by itself be treated as weakness or fabrication. Here the FIR also alleged that she had disclosed the unnatural sexual act to her parents-in-law. The lower court's adverse treatment of the delay, without considering this context, was unwarranted.	590
Missing report and the objection of delayed FIR	The Court rejected the alleged FIR delay because a missing report had initially been lodged and registration and investigation followed as the case developed. On its assessment of that reporting sequence, delay did not undermine the prosecution case.	648
Settlement efforts can explain delay in reporting matrimonial cruelty	In the Pratibha passage relied upon by the Court, delay in reporting matrimonial cruelty did not justify an adverse inference where the wife and her family were trying to secure her return to the matrimonial home. Lodging a complaint during	671

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	those efforts could have jeopardised reconciliation, and the complaint was made after the efforts failed. That explanation had to be considered before treating the delay as a reason to quash the FIR. The proposition depends on the circumstances explaining the delay; it does not dispense with their assessment.	
FIR delay explained by lack of transport	A delay of about five hours in lodging the FIR was plausibly explained by the absence of conveyance in the village and the twelve-kilometre distance to the police station. The witnesses consistently explained that they could leave only after arranging a tractor and trolley. The appellant was named among the assailants in that FIR. The Court accepted the explanation when assessing the reliability of the eyewitness account; it did not treat elapsed time alone as grounds to reject the prosecution.	675
FIR at the territorial police station after emergency treatment elsewhere	Failure to lodge a zero FIR at the police station where the injured was declared dead does not by itself establish that a later FIR at the police station having territorial jurisdiction is an afterthought or that the named witnesses did not see the occurrence. The Court considered the sequence of initial treatment, referral to another city, declaration of death and mortuary formalities when evaluating the timing and place of reporting.	693
Effect of an unexplained delay in reporting alleged rape	Delay in lodging an FIR does not necessarily defeat a rape prosecution, but it is relevant to the assessment of credibility and must be considered with the explanation and the other evidence. The explanation for approximately one year's delay was rejected here because the parents' alleged prolonged absence for treatment was not substantiated and material circumstances remained unexplained. The father's occasional visits and the failure to examine the mother concerning disclosure were also considered when the Court found it unsafe to convict on the prosecutrix's sole testimony.	694
Delayed forwarding of the FIR does not by itself establish antedating	Section 157 CrPC requires prompt forwarding of the FIR to the Magistrate, and the time of dispatch and receipt is an external check against manipulation. Delay alone, however, does not establish an antedated FIR where it was promptly recorded and investigation began on that basis. The circumstances, explanation and any prejudice must be assessed. Applying the authorities reproduced in paragraphs 84–88, the Court found that same-day scene inspection, seizures, inquest and post-mortem supported the recorded FIR date. It also considered the intervening Sunday and immediate investigative work in rejecting the challenge based on the Magistrate's receipt two days later.	951
Delay in FIR: explanation and effect cannot be decided by a mini-trial	Delay in lodging an FIR is not invariably fatal if the prosecution plausibly explains it. Whether the delay was explained and what adverse effect it had on the prosecution required trial evidence. The overnight interval in this case did not by itself justify quashing under section 482 CrPC.	976
Delay in reporting sexual offences as a ground for quashing	Delay alone does not justify quashing sexual-offence proceedings; the prosecution may explain the interval, including reluctance connected with the victim's reputation and family circumstances. Where repeated non-consensual acts were alleged during the period between the first act and the FIR, the Court found no delay warranting interference. The first alleged act could not be considered in isolation from the continuing allegations.	982
	Sub-Chapter no. 23.3 **Adverse Inference and Evidentiary Conduct in Criminal Proceedings**	
Omission of assailants' names and overt acts from an inquest report	An inquest determines the apparent cause and nature of death and need not set out the assailants' names, eyewitnesses or individual overt acts. A witness's signature on an inquest report omitting those details did not discredit his eyewitness account, particularly when his detailed FIR and police statement preceded the post-mortem and corresponded with the medical findings.	23
Refusal to cooperate	In reviewing interim maintenance, the Court treated the husband's allegations	131

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with testing of photographs and marital-status allegations	of a prior marriage as apparently false where he relied on photographs but refused their forensic examination and did not cooperate with the medical examination to which the wife had agreed. It accepted the trial court's adverse inference from his changed position. The assessment arose from his conduct recorded in the trial court's order sheets.	
A discrepancy about who lodged the FIR did not establish suppression of an earlier report	An adverse inference for suppression of an earlier FIR was unwarranted merely because one witness attributed the report to another person. The informant and accompanying witness identified the report actually lodged, and the recording officer was not confronted with the suggested earlier report.	207
Unexplained consideration when an accused elects to testify	Where the accused elected to testify about the disputed transaction, the Court required him to explain the adverse circumstances concerning the alleged consideration. His failure to say when payment was made, together with the absence of payment witnesses or a bank record, was considered against the claim that the complainant had received the sale price.	273
Uncollected CCTV footage — alleged suppression and quashing	Failure to collect CCTV footage did not justify quashing on the allegation of deliberate suppression in this case. Given the interval between the alleged access to the record, the complaint and the inquiry statement mentioning cameras, the Court considered it probable that limited storage and automatic overwriting had erased the earlier footage. This was an inference, not a finding based on a verified retention period for that system. The applicant remained free to cross-examine the witness and raise the omission at trial.	326
Non-Examination of Witnesses: Quality of Evidence and Material Gaps	The prosecution need not multiply witnesses to the same point. Non-examination of other eyewitnesses does not undermine trustworthy evidence already establishing the occurrence. An adverse inference may nevertheless arise where an available material witness is withheld and that witness could explain the genesis, supply an essential missing part or cure a material gap in the prosecution case. The Court must first assess the evidence actually produced and the circumstances of the omission.	360
Avoiding Attendance When Court Identification Is to Occur	Where an accused knew that identifying witnesses would be examined and remained absent despite a specific direction to attend, the court could draw an adverse inference. In that setting, the witnesses' stated recognition of an accused known to them, supported by earlier parade identification, was accepted as substantive identification despite his chosen absence from the dock.	379
Non-examination of additional or material witnesses	Evidence is weighed for quality rather than counted. Non-examination of every available witness does not discredit trustworthy evidence already proving the relevant facts. An adverse inference may arise where an available material witness is withheld and the missing testimony is needed to explain an essential part of the case or cure a gap. Here, the other reliable evidence established the child's departure and the recovery of her body, so non-examination of the grandmother, first discoverer and additional villagers was not fatal.	391
Best available evidence and the court's own witness power	The Court cannot compel a party to call a particular witness as its own witness. It may take account of the withholding of the best available evidence and, where evidence is essential, use its own Section 311 power to examine the material witness so that a party's omission does not cause a failure of justice.	414
Suppression of material police and hospital records in assessing the prosecution case	The withholding of the counter-complaint, related inquiry records, contemporaneous hospital documents and records of the deceased's movements, together with the failure to examine officers who took him to hospital, materially undermined the prosecution narrative. The investigating officer's denial of a complaint was inconsistent with his own inquiry into it. On the cumulative evidence, the Court found suppression and concluded that the prosecution had not proved guilt beyond reasonable doubt.	467
Suppression of first	Suppression of the earliest information, combined with admissions that	474

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information — Later naming after deliberation	additional accused were named after deliberation and medical evidence contradicting their alleged firing, undermined proof of their presence and participation. The earliest informant nevertheless admitted that he had named Rajesh and Kallu as the shooters. The evidentiary defect therefore supported acquittal of the five later-named appellants without requiring rejection of the independently reliable case against Rajesh.	
Adverse Inference from Withholding Available Salary Evidence in Maintenance Proceedings	Where the father admitted employment and possessed his salary slip, it was unreasonable to place the burden of proving his income entirely on the mother. Suppression of the best available evidence permitted an adverse inference against him. Both parties had withheld material information about their earnings, but the maintenance claim had to be decided on evidence and law rather than the Court's displeasure at their conduct. The mother's non-disclosure did not justify rejecting the child's maintenance claim.	534
Withholding a material witness to avoid inconsistencies in the prosecution case	Giving up a cited witness assumed significance where her account bore directly on disputed circumstances and the Court found that the prosecution had concealed her presence and avoided inconsistencies between her account and the eyewitness's version. In those circumstances, her non-examination reinforced the Court's doubts about the prosecution account.	550
Suppression of a diary relevant to the deceased's money-lending dealings	The Court found suppression of material evidence where a witness said that a diary had been recovered at the scene, but the police neither recorded its seizure nor produced it. Evidence that the deceased recorded loans in that diary made it material to identifying persons with whom he had financial dealings. Its withholding formed part of the deficiencies considered in assessing whether guilt was proved.	553
Non-examination of witnesses and adverse inference for withholding essential evidence	Failure to examine another witness does not automatically discredit otherwise reliable evidence. The court must assess whether the available testimony proves the case and whether the omitted witness would merely repeat it. Where an available material witness could explain an essential part of the case or fill a significant evidentiary gap and is withheld, an adverse inference may follow. Absence of independent witnesses alone does not defeat trustworthy testimony.	580
Possible Adverse Inference From Avoiding DNA Examination	While upholding the direction for DNA examination, the Court observed that the accused appeared to be avoiding the test and that this conduct could lead to an adverse inference. The observation identifies a possible consequence of avoidance; the Court did not draw a final adverse inference or determine guilt in the proceedings challenging permission for testing.	659
Unchallenged identification and recovery testimony	Where the witnesses identifying the deceased were not cross-examined, their identification remained unchallenged. Similarly, failure to question the investigating officer about recovery of blood from the truck left that recovery unchallenged. The Court accepted those proved circumstances when assessing the cumulative prosecution case.	682
Non-examination of independent or additional witnesses	Non-examination of other available witnesses does not automatically defeat trustworthy prosecution evidence. Courts must first assess the evidence actually adduced and consider whether omitted evidence would merely duplicate it. If an available material witness could explain the genesis of the occurrence or fill an essential gap not otherwise established, withholding that witness may justify an adverse inference. Independent villagers' reluctance in a faction-ridden setting was considered here, and the reliable injured and other eyewitnesses were accepted.	698
Non-examination of independent or additional witnesses	Non-examination of other available witnesses does not automatically defeat trustworthy prosecution evidence. Courts must first assess the evidence actually adduced and consider whether omitted evidence would merely duplicate it. If an available material witness could explain the genesis of the occurrence or fill an essential gap not otherwise established, withholding that witness may justify	699

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	an adverse inference. Independent villagers' reluctance in a faction-ridden setting was considered here, and the reliable injured and other eyewitnesses were accepted.	
Accused as voluntary defence witness — his account tested against his own witness	An accused who elects under Section 315 CrPC to testify as a defence witness is subject to examination as a witness. Relying on Rakesh Garg v. State of M.P., Cr.A. No. 6426/2017, decided on 10 May 2019, the Court stated that he cannot refuse to answer questions on the immunity asserted as an accused and may face leading questions tending to implicate him in cross-examination, in the Section 132 Evidence Act context discussed in that passage. Ramjilal (DW6) asserted that he was dragged from a tractor and beaten, and that Roop Singh fell on a spade. His own tractor driver, Tole Sharma (DW7), did not corroborate those details and instead confirmed Ramjilal's initial stone throwing. The Court rejected the defence narrative on that comparison. The ruling arose from his voluntary election to testify and the assessment of his testimony.	735
Defence suggestion recognising an eyewitness's presence	While disputing one witness's presence, the defence suggested that only the other eyewitness was accompanying the victims. The Court treated that suggestion as recognising the other eyewitness's presence near the incident and considered it together with the consistent testimony and absence of a demonstrated material discrepancy. The conclusion arose from the particular suggestion and the supporting evidence.	817
	Sub-Chapter no. 23.4 **Circumstantial Evidence and Complete Chain Requirement**	
Cumulative circumstantial evidence in a firearm-murder prosecution	The Court upheld the conviction on the combined circumstances of the deceased being last seen travelling with the accused husband shortly before the shooting, his failure to explain that situation, the post-occurrence conduct relied upon by the Court, recovery of a firearm on his disclosure and the forensic link between that firearm and the cartridge. The medical evidence established a fatal gunshot injury. This was a conclusion on the connected evidence as a whole, rather than a finding that last-seen evidence alone established guilt.	36
Circumstantial evidence: a complete chain beyond reasonable doubt	Each incriminating circumstance must be firmly proved, conclusive and consistent only with guilt. Taken together, the circumstances must exclude reasonable hypotheses of innocence and leave no reasonable gap in the chain; suspicion, however strong, is insufficient. Applying the reproduced authorities, the Court considered the quality and cumulative effect of the evidence. PW7 described the five accused entering the fort with the deceased at about 4–5 pm and leaving without him after a sound was heard; the body was found there later that night. Other witness accounts, medical evidence of homicide and weapon recoveries supplied corroboration. The Court found the chain complete despite the complainant's failure to support the case and the delay and credibility objections addressed separately. No eyewitness account of the killing was treated as necessary on that proved chain.	45
Circumstantial prosecution: a false defence cannot cure gaps in proof	The prosecution bears the burden of proving a complete circumstantial chain. As explained in the Sunil Clifford Daniel passage adopted by the Court, the falsity or untenability of the defence cannot excuse a serious defect or missing link in the prosecution evidence. The rejection of the defence witness's account did not replace the Court's separate finding that clear, cogent prosecution evidence established guilt beyond reasonable doubt.	45
Circumstantial evidence — proof of homicide does not establish an accused's guilt without a complete	In a case based on circumstantial evidence, every incriminating circumstance must be firmly established, and the circumstances together must form a complete chain consistent only with the accused's guilt and excluding a reasonable hypothesis of innocence. Proof that the death was homicidal did not establish the appellant's responsibility where the last-seen evidence was unreliable and the recovered articles provided no incriminating forensic link.	70

Topic	Ratio	Case Sr.no.
chain	The incomplete chain could not sustain convictions under Sections 302 and 201 IPC.	
Unproduced letters of unproved authorship as an alleged incriminating circumstance	Seizure memos did not establish the alleged incriminating letters where the prosecution did not produce the letters, their authorship was unknown and the witnesses did not prove either their seizure or the asserted contents naming the appellant. The Court therefore rejected the letters as a circumstance connecting him with the murders.	99
Proof by circumstances despite absence of reliable identification	Identification of the accused at a parade or in court is not indispensable in every prosecution if guilt is otherwise established by the circumstances. The absence or failure of identification must therefore be considered with the other evidence. Here, Deependra's case failed because both his identification and the alleged recovery connecting him to the ransom were unproved.	183
Complete circumstantial chain and exclusion of reasonable innocence	Each incriminating circumstance must be firmly proved, and the circumstances together must form a conclusive chain excluding a reasonable hypothesis of innocence. Suspicion cannot replace proof, and a false defence cannot cure a gap in the prosecution case. Here, last-seen evidence and other material links failed. The solitary possibility that blood on the appellant's T-shirt was the victim's did not establish guilt, and the Court acquitted him.	219
Physical circumstances corroborating a declaration of kerosene burning	In this case, the extensive distribution of burns and recovery of a container containing kerosene supported the deceased’s account that kerosene had been poured on her before ignition. Those medical and physical circumstances corroborated the accepted dying declarations and the finding of homicidal burning.	229
Complete chain required for conviction on circumstantial evidence	Every incriminating circumstance must be fully established by reliable evidence and be conclusive in nature. Taken together, the circumstances must be consistent only with guilt, exclude a reasonable hypothesis of innocence and form a complete chain showing that the accused committed the act. Grave suspicion or a conclusion that the accused may be guilty cannot replace proof beyond reasonable doubt.	278
Complete chain required for conviction on circumstantial evidence	Each incriminating circumstance must be firmly proved, conclusive and consistent only with guilt. Taken together, the circumstances must exclude a reasonable hypothesis of innocence; suspicion cannot replace proof, and a false defence cannot cure a missing prosecution link. The Court found that the proved quarrel and presence on the roof, homicidal injuries, scene blood, recovered bloodstained articles and false explanation formed a complete chain establishing murder.	294
Complete chain of circumstances required for a murder conviction	A conviction on circumstantial evidence requires each material circumstance to be firmly proved, conclusive and consistent only with guilt. Together the circumstances must exclude a reasonable hypothesis of innocence; conjecture or moral conviction is insufficient. Here the child’s homicidal death, the proved short period in the appellant’s company, recovery of the bloodstained sickle and clothing, and human blood on those articles were considered together with his failure to explain separation from the infant. The Court found the chain complete.	297
Flight from an isolated scene and corroborative proof of identity	Seeing the accused flee the place where an injured child is immediately found can be a significant circumstance when supported by other reliable evidence. Here three cattle-grazing witnesses identified the appellant as fleeing an isolated spot without ordinary public movement. They found the child unconscious and bleeding, and the prompt FIR and medical evidence supported their account. Although the very young child could not give intelligible testimony, the combined circumstances established the appellant’s guilt beyond reasonable doubt.	298

23.4 : Circumstantial Evidence and Complete Chain Requirement

Topic	Ratio	Case Sr.no.
Circumstantial evidence — proof of a complete chain	Each incriminating circumstance must be firmly proved, conclusive in tendency and consistent only with the accused's guilt. Taken together, the circumstances must exclude reasonable hypotheses of innocence and form a complete chain establishing guilt beyond reasonable doubt. Grave suspicion and emotional considerations cannot replace proof. Applying these principles, the Court considered fetal paternity, the domestic setting, the medical and other evidence, and the exclusion of the alternative suspect sufficient to sustain the convictions under Sections 376, 302 and 201 IPC.	301
False defence — no substitute for proof of the prosecution case	In a case based on circumstantial evidence, the prosecution bears the burden of proving a complete chain. The falsity or untenability of the defence does not justify overlooking a serious infirmity or gap in the prosecution evidence. The Court adopted this qualification from Sunil Clifford Daniel while testing whether the circumstances established guilt.	301
Circumstantial evidence — complete chain excluding reasonable innocence	Every incriminating circumstance must be firmly established by reliable evidence, and the circumstances taken together must form a complete chain pointing only to the accused's guilt and excluding a reasonable hypothesis of innocence. Suspicion, however grave, cannot replace proof. The doubtful motorcycle link, unsupported recovery and unreliable property identification failed to establish the required chain connecting the appellant to the night house-breaking and fatal assault; he was therefore acquitted under Section 460 IPC.	335
Alleged getaway motorcycle — missing records and ownership proof	A constable's account of seeing three unidentified riders on a motorcycle near the locality did not securely link the accused to the crime where the alleged report of its registration number had no station-diary entry or other documentary support. The seized motorcycle lacked a key and ownership documents, and fingerprints taken during investigation were not examined. These evidentiary gaps contributed to the failure of the circumstantial chain.	335
Failure of the Circumstantial Chain in a Child Rape and Murder Reference	The medical evidence established a homicidal death, but the prosecution did not reliably connect the accused to the child, the alleged journey, the crime scene or the recovered clothing. The body's claimed identity, last-seen accounts, recoveries, sample handling and alleged telephone confession were unproved or unreliable. Considering the evidence cumulatively, the Court found that evidence had been fabricated instead of properly collected. It allowed the appeal, set aside the convictions and acquitted the accused of every charge; the gravity of the allegations did not supply the missing links.	389
Proof of a complete chain of circumstantial evidence	Each incriminating circumstance must be fully established, conclusive in tendency and consistent only with guilt. Together, the circumstances must exclude other reasonable hypotheses and form a chain leaving no reasonable ground consistent with innocence; moral conviction cannot replace proof. The Court found that the last-seen evidence, forensic links, medical evidence and other proved circumstances met that standard.	391
Complete chain required for conviction on circumstantial evidence	Each incriminating circumstance must be cogently established and, taken with the others, form an unbroken chain pointing only to guilt and excluding a reasonable hypothesis of innocence. Grave suspicion cannot replace proof, and a missing link entitles the accused to the benefit of doubt. In its final assessment, the Court found that the accepted last-seen testimony, medical findings and forensic links established the offences beyond reasonable doubt.	393
Proof of every link in a circumstantial case	The circumstances relied on must be fully established, conclusive in tendency and consistent only with guilt. Together they must exclude other reasonable hypotheses and leave no reasonable ground consistent with innocence; a possibility of guilt is insufficient. The Court found the accepted last-seen, discovery, conduct, medical and forensic evidence formed that complete chain.	397
Proof linking an	In a circumstantial poisoning case, the evidence must be carefully examined for	467

Topic	Ratio	Case Sr.no.
accused to homicidal administration of poison	a clear motive, death from the relevant poison, possession of that poison by the accused and opportunity to administer it. Detection of aluminium phosphide in the viscera alone did not establish that the appellants administered it. Missing evidence about possession, purchase and mixing of the poison, together with the rejected dying declaration and suppressed records, left the required connection unproved.	
Complete and exclusive chain of circumstantial evidence	Every circumstance relied on for guilt must be fully established, conclusive and consistent only with the accused's guilt. The combined chain must exclude other reasonable hypotheses and leave no reasonable ground consistent with innocence, showing that in all human probability the accused committed the act. Conjecture that the accused may be guilty cannot replace proof that the accused must be guilty. The incomplete chain here required acquittal.	467
Complete chain of circumstances proving guilt	Each circumstance relied on must be fully established, conclusive and consistent with guilt, and the combined chain must exclude a reasonable conclusion of innocence. The Court found that the disappearance, ransom communications, proved handwriting, disclosure of concealed remains, DNA identification and identification of the deceased's belongings together established guilt beyond reasonable doubt.	575
Complete chain required for conviction on circumstantial evidence	Every incriminating circumstance must be firmly proved by reliable evidence, be conclusive in tendency, and form a cumulative chain consistent only with guilt and excluding a reasonable hypothesis of innocence. Applying Sharad Birdhichand Sarda and the other cited circumstantial-evidence authorities, the Court held that grave suspicion cannot replace proof and found the prosecution's chain established beyond reasonable doubt.	644
False defence cannot cure gaps in circumstantial proof	The prosecution bears the burden of proving a complete circumstantial chain. The falsity or untenability of the accused's defence cannot justify overlooking a serious infirmity or missing link in the prosecution case. The Court adopted this safeguard from Sunil Clifford Daniel's reproduction of Sharad Birdhichand Sarda before finding the prosecution proof sufficient.	644
Absence of an eyewitness to an incident unlikely to be observed	A conviction does not require eyewitness corroboration merely because no one directly observed the incident, particularly where its time or place made another eyewitness unlikely. The Court assessed the quality of the circumstantial and confession evidence and rejected absence of an eyewitness as a ground for acquittal on this record.	644
Cumulative circumstantial proof of abduction, killing and concealment	The Court found a complete circumstantial chain against the two appellants from last-seen testimony, ransom evidence, homicidal strangulation, discovery of the concealed body and memorandum-led recoveries considered together with the scientific evidence. It held that the objections concerning omitted witnesses, minor discrepancies and recovery details did not break that chain, and affirmed their convictions.	648
Non-examination of a witness where the remaining circumstances complete the chain	Non-examination of particular witnesses is assessed against the quality and sufficiency of the remaining evidence. The Court rejected the objection concerning omitted independent witnesses and held that failure to examine the recipient of the ransom call was not fatal where the body recovery, last-seen evidence, recoveries and scientific material completed the circumstantial chain.	648
Circumstantial murder case — homicide and suspicion did not establish authorship	Proof that the deceased died from homicidal injuries did not establish that the appellant killed him. No witness saw the killing, the main incriminating witness was unreliable, the alleged discovery of the axe was unproved and the investigating officer's suggested motive lacked evidentiary support. The appellant's remaining at the scene also weighed in his favour on this record. Assessing these circumstances with the investigative omissions, the Court found guilt unproved beyond reasonable doubt, set aside the murder conviction and directed release unless the appellant was required in another case.	677

23.4 : Circumstantial Evidence and Complete Chain Requirement

Topic	Ratio	Case Sr.no.
Circumstantial evidence — complete chain excluding innocence	Every incriminating circumstance must be firmly proved by reliable evidence, be conclusive in tendency and, taken together, form a complete chain consistent only with the accused's guilt. The chain must exclude every reasonable hypothesis of innocence. Suspicion, however strong, cannot replace proof, and loss of an essential link prevents the remaining circumstances from establishing guilt beyond reasonable doubt.	682
A false defence cannot cure a gap in the prosecution chain	The prosecution bears the burden of proving a complete chain of circumstances. A false defence or plea cannot cure an infirmity or missing link in that proof.	682
Circumstantial evidence — proof of every link and exclusion of innocence	Each incriminating circumstance must be firmly established by reliable evidence. Taken cumulatively, the circumstances must form a complete chain consistent only with guilt and excluding a reasonable hypothesis of innocence. Suspicion cannot substitute for proof; if an essential link fails, the remaining circumstances cannot establish guilt beyond reasonable doubt.	683
False defence cannot cure an incomplete prosecution chain	The prosecution must prove that the circumstantial chain is complete. A false defence or plea cannot cure a defect or missing link in the prosecution's evidence.	683
Circumstantial proof — failure of identification and recovery links requires acquittal	The medical examination and post-mortem established that Jaswant's death was homicidal, but the prosecution still had to prove that the appellant committed the offence. Its case rested on two circumstances: his alleged flight from the scene and recovery of a supposedly bloodstained farsa and clothing. The family witnesses' identification failed when their accounts were read together, the chance witness was unreliable, and the recovery evidence did not establish the alleged blood link. No other circumstance was available against the appellant. The Court therefore held that guilt was not proved, set aside the conviction and sentence, and acquitted him under Sections 452 and 302 IPC.	747
Complete chain of circumstances and proof beyond reasonable doubt	Each incriminating circumstance must be firmly proved by reliable evidence, be conclusive and consistent only with guilt, and form a complete chain excluding a reasonable hypothesis of innocence. Grave suspicion and moral certainty cannot replace legal proof. Loss of a material link breaks the chain. The Court applied these safeguards when assessing recovery, identification and forensic evidence, while also considering direct eyewitness identification.	761
False defence cannot supply a missing prosecution link	In a case based on circumstantial evidence, the prosecution must prove a complete chain pointing to guilt. A false defence or plea cannot cure a gap or infirmity in that proof.	761
Circumstantial evidence—complete chain excluding innocence	Each incriminating circumstance must be firmly established by reliable evidence, be conclusive in tendency and be consistent only with guilt. Taken together, the circumstances must exclude a reasonable hypothesis of innocence and form a complete chain. Grave suspicion cannot replace proof, an important missing link cannot be supplied by the remaining circumstances, and a false defence cannot cure a gap in the prosecution case. Applying these principles to the proved last-seen, body-recovery, belongings-recovery, medical and toxicology links, the Court upheld the convictions under Sections 302 and 201 IPC.	815
Proof of body recovery—unchallenged testimony and the defence suggestion	The objection that no documentary evidence showed recovery of the body from the appellant's house did not defeat proof of that recovery. Several witnesses testified to that recovery without a material challenge, and the defence itself suggested that someone else had buried the body in his house. On that combined evidentiary basis, the Court treated the place of recovery and the appellant's digging out of the body as proved beyond reasonable doubt.	815
Broken circumstantial chain	A solitary circumstance cannot sustain conviction where it does not form a complete chain incompatible with innocence. Once last-seen evidence and	827

Topic	Ratio	Case Sr.no.
— Weak motive and accidental-death explanation	identification of the recovered sandal failed, the weak quarrel-related motive did not establish murder. The unprotected well at ground level supported the Court's conclusion that the child's drowning was accidental, and the Section 302 IPC conviction was set aside.	
Circumstantial evidence — Conditions for a complete chain	Every incriminating circumstance must be firmly proved by reliable evidence. The proved facts must be conclusive, consistent only with guilt and inconsistent with any other hypothesis. Taken together, they must form a complete chain leaving no reasonable ground consistent with innocence and showing that, in all human probability, the accused committed the act. Grave suspicion cannot substitute for proof, and a missing important link cannot be repaired by the remaining circumstances.	827
False defence — No cure for gaps in prosecution proof	In a circumstantial case, the prosecution bears the burden of proving a complete chain. A false defence or plea cannot cure a gap or infirmity in the prosecution case.	827
Circumstantial evidence — fully proved circumstances forming a chain consistent only with guilt	The circumstances relied on must be fully established, and their cumulative effect must exclude a reasonable conclusion consistent with innocence and prove guilt beyond reasonable doubt. The Court considered the homicidal strangulation, the spouses' presence together in the home, their strained relationship, the absence of a credible explanation, the appellant's disappearance and his false account together. It found the chain complete and affirmed the murder conviction.	898
Complete circumstantial chain in a child rape-and-murder prosecution	Circumstantial evidence must form a chain that leaves no reasonable hypothesis consistent with innocence. Accepting the Sharad Birdichand Sarda principle, the Court assessed last-seen testimony, the accused's account to the child's father, authenticated CCTV movement towards the recovery area, matching Y-DNA profiles and subsequent abscondence together. Those independently proved links established guilt cumulatively. Admissions under Section 313 CrPC reinforced the prosecution case only after its evidence had been assessed, rather than replacing proof of the chain.	915
Complete chain of proof in a case based on circumstantial evidence	Each incriminating circumstance must be firmly proved, conclusive in tendency and consistent only with guilt. Taken together, the circumstances must exclude reasonable hypotheses of innocence and form a complete chain establishing that the accused committed the crime. Suspicion, emotional considerations or moral conviction cannot replace legal proof. The prosecution retains the burden of completing the chain, and a false defence cannot cure a gap in its evidence. If the proved circumstances reasonably support two inferences, the inference favouring the accused must be accepted.	934
Circumstantial evidence: complete chain and proof of the offender's identity	Every incriminating circumstance must be fully proved, conclusive and consistent only with guilt. Taken together, the circumstances must exclude a reasonable hypothesis of innocence and form a complete chain. Proof that the death was homicidal did not establish who caused it. The prosecution failed to prove that the deceased was with the appellants at the relevant time, that they administered poison or strangled him, or that the recovered articles connected them with the killing. The missing links precluded conviction under Sections 302/34 IPC.	942
Explained presence of a body in the accused's house	The presence of a dead body in the accused's house was not an incriminating circumstance where prosecution witnesses themselves said that they had brought it there after death. That explanation prevented its location from supplying a missing link connecting the accused with the killing.	942
Recovery of a commonly used pesticide without an incriminating link	Recovery of a pesticide bottle from an agriculturist's courtyard was not incriminating in the circumstances: the pesticide was commonly used and readily available, and witnesses had brought the body to the premises, leaving open the possibility that another person had placed the bottle there. The	942

Topic	Ratio	Case Sr.no.
	recovery did not establish the appellants' participation in the poisoning.	
Circumstantial proof of murder without an eyewitness	The absence of an eyewitness did not defeat the murder charge where the accepted circumstances formed a complete chain: the accused was seen taking the child towards the forest, the body and associated articles were recovered at his instance, and medical evidence established death from multiple injuries. The Court considered these circumstances together with the unexplained matters put to the accused and found the offence proved beyond reasonable doubt.	986
Failure to explain incriminating circumstances under Section 313 CrPC	Where incriminating circumstances established by the prosecution are put to the accused under Section 313 CrPC, failure to explain them, or a false answer, may provide a further link in the circumstantial chain. Here the accused did not explain the circumstances of taking the child away, the knife purchase put to him, or his knowledge of the body's location. The Court considered that failure with the other accepted evidence.	986
Complete proof of a circumstantial chain	Every circumstance relied upon must be fully established by cogent evidence, conclusive in nature and consistent only with guilt. Together the circumstances must exclude other hypotheses and leave no reasonable conclusion consistent with innocence. Although homicidal death was proved, the deficient motive, confession, sighting and forensic links did not establish the appellants' guilt beyond reasonable doubt. Their convictions under Sections 302 and 201 IPC were set aside.	988
Circumstantial evidence — complete chain identifying the accused as the sole offender	Conviction on circumstantial evidence requires a complete chain pointing to the accused's guilt beyond reasonable doubt. In the child's rape and murder case, the Court assessed the last-seen accounts, the accused's return alone, testimony concerning his admission, medical evidence and recovery of the body together. It found the circumstances complete and identifying the appellant alone as the perpetrator, and upheld the convictions under Sections 302, 376(1)(f) and 201 IPC. The conclusion rested on the combined evidence accepted by the Court.	1002

Sub-Chapter no. 23.5
Conduct of Accused and Incriminating Circumstances

Presence at the scene and flight — corroborative incriminating circumstance	A witness need not have seen the actual infliction of the fatal injury for the witness's account to have corroborative value. The relied-upon authority treats seeing the accused at the place of occurrence and running away immediately afterwards as an incriminating circumstance, even though that witness did not see the attack itself. Such evidence is assessed with the eyewitness account and the surrounding record.	8
Abscondence — significance depends on the surrounding circumstances	Flight immediately after an incident may support an inference of guilt when considered with the surrounding evidence, but does not invariably establish guilt: an innocent person may flee through mistaken apprehension. Here, prolonged abscondence, the admitted firing and the concealment and damage of the gun supported the prosecution account rather than the claimed private defence.	12
Post-occurrence conduct under Section 8 of the Evidence Act	The accused's conduct after the death may be relevant under Section 8 of the Evidence Act. The Court relied on its findings that the husband was absent from the inquest and postmortem formalities, did not receive his wife's body and did not attend her cremation. It considered that conduct together with the last-seen and firearm evidence in affirming guilt; the decision does not create an automatic presumption from absence at those formalities.	36
Earlier similar offences — Limited use of the witnesses' accounts	The accounts given by the parents of an earlier child victim were treated as relevant only to the appellant's conduct. The Court based proof of the present assault on the current victim's account and its supporting evidence, and separately considered the proved earlier conviction when assessing sentence. A further alleged incident unsupported by evidence was not treated as established.	116

23 : General Principles of Proof, Appreciation of Evidence and Circumstantial Evidence

Topic	Ratio	Case Sr.no.
Abscondence as a supporting circumstance rather than proof of guilt by itself	Abscondence alone does not establish a guilty mind. It is a relevant circumstance whose weight depends on the facts and which must be considered with the other evidence. The husband's disappearance and failure to accompany his burnt wife to hospital were considered together with the accepted dying declaration and the surrounding circumstances.	122
Flight with the weapon as relevant conduct under Section 8 of the Evidence Act	Flight from the scene must be assessed in context, since a person may flee through unfounded apprehension. Where a close relative left the injured victim instead of helping him and fled carrying an axe later found stained with human blood, the Court treated that conduct as incriminating under Section 8 of the Evidence Act. Together with the proved recovery and unexplained human bloodstains, it established the appellant's responsibility for the assault.	132
Absconding is an incriminating circumstance only when assessed with the remaining evidence	Absconding after an incident is not invariably proof of guilt, since fear of false implication may also cause flight. Where the remaining proved circumstances indicate guilty consciousness, absconding may add an incriminating circumstance. The Court applied that contextual assessment to the appellants' flight after the homicidal death inside their household.	138
Abscondence alone cannot establish guilt	Abscondence is a weak circumstance whose value depends on the surrounding evidence. Even an innocent person may evade arrest through fear of being wrongly implicated. Applying Matru and Bipin Kumar Mondal, the Court held that abscondence alone cannot establish guilt or provide the decisive missing link in a chain of circumstances; it requires support from substantive evidence.	157
Flight from the scene as relevant subsequent conduct	Absconding after an alleged offence is relevant subsequent conduct under Section 8, illustration (i), Evidence Act. The Court treated the appellant's immediate escape from the house and continued absence as incriminating circumstances alongside the child's eyewitness account, the witnesses' observations of the aftermath and medical evidence. It relied on the combined evidence in affirming the murder conviction.	214
Abscondence gains relevance when supported by other incriminating evidence	Absconding after an occurrence is not by itself proof of guilt, since even an innocent person may flee out of fear. Where convincing and reliable evidence otherwise connects the accused with the offence, unexplained abscondence may be considered as an additional relevant circumstance. The Court applied that qualified principle to the shooter’s post-incident conduct.	253
Alteration of the recovered firearm as incriminating conduct	The gun recovered after the shooter’s delayed arrest had a cut firing pin and nitrate in its barrel. The Court considered the unexplained cutting, together with the available opportunity and other evidence, an attempt to present the weapon as inoperative and an incriminating circumstance. The weapon’s condition on recovery did not by itself negate the proved shooting.	253
False explanation under Section 313 CrPC in a circumstantial case	A false answer concerning an established incriminating circumstance put to the accused under Section 313 CrPC may support an adverse inference when considered with the prosecution evidence. Here the claim of being at the market was contradicted by evidence of the accused’s presence on the roof. That false explanation supported the proved circumstances; it did not replace the prosecution’s burden to prove guilt or cure a gap in its case.	294
Abscondence: Assessment with Immediate and Subsequent Conduct	Abscondence alone does not establish a guilty mind, since an innocent person may flee from fear of false implication. Conduct must be assessed in context. The Court attached significance to the witness remaining with the bodies, lodging the report and assisting the investigation, and declined to treat his later absence as establishing guilt in the cross-case.	360
Misleading conduct under Section 8 of the Evidence Act	The accused’s successive false directions that led police to search for a fictitious recipient of the child were relevant as conduct accompanying those acts. Previous or subsequent conduct influencing, or influenced by, facts in issue may be considered under Section 8. Such conduct cannot by itself sustain	397

Topic	Ratio	Case Sr.no.
	conviction, but may be weighed with the other circumstances proved against the accused.	
Abscondence after the occurrence — Additional incriminating conduct	The Court treated the appellant's immediate flight from the house and continued absence until arrest as an additional incriminating circumstance. It considered that conduct alongside the accepted eyewitness accounts and medical evidence in affirming the murder conviction. The decision rests on that combined record, rather than proof of flight alone.	478
Presence after an alarm does not by itself connect a person to the offence	When villagers gathered after an alarm, the appearance of persons living nearby was not by itself unusual conduct connecting them with the earlier assault. Evidence that those persons separately injured the witness on his return home did not establish their involvement in the assault on the deceased.	573
Accused's injury documented six days later — failure to establish suppression of the incident's genesis	An injury documented when the accused was arrested six days after the incident did not establish that he had suffered it in the same occurrence. There was no contemporaneous report, medical examination or record of intervening treatment, and his absence from the police remained unexplained. Since an intervening cause of the fracture could not be ruled out, the plea that the prosecution had suppressed the incident's genesis was rejected.	633
Abscondence as a minor circumstance in the evidentiary assessment	Abscondence does not by itself establish guilt or a guilty mind; even an innocent person may evade arrest through fear. Its value depends on surrounding circumstances and it is ordinarily only a minor item of evidence, not a determining link completing an otherwise deficient chain. Applying Sujit Biswas, the Court treated the appellant's absence after the burning as supporting the accepted dying declarations and other circumstances.	649
Physical circumstances bearing on a suicide defence	In rejecting suicide, the Court considered that the kerosene container was absent when the scene was inspected and was later recovered with a matchbox on the appellant's disclosure. It reasoned that a person who had set herself alight would not then hide or remove that container. This circumstance supported the accepted dying declarations identifying the appellant.	649
Section 8 Evidence Act — pointing out articles as relevant conduct	An accused’s act of pointing out the location of incriminating articles may be admissible as conduct under Section 8 Evidence Act independently of whether an accompanying statement falls within Section 27. The conduct must have a close connection with a fact in issue or relevant fact. Bare statements are not conduct unless they accompany and explain acts other than statements. The Court applied this distinction to the accused’s knowledge and disclosure of the recovery site and his conduct concerning the truck.	682
Section 8 Evidence Act — conduct distinguished from bare statements	Conduct of the accused is relevant under Section 8 Evidence Act when it has a close connection with a fact in issue or relevant fact. Bare statements do not constitute conduct unless they accompany and explain acts other than statements. The act of pointing out a place connected with the crime may be proved as conduct independently of the admissibility of an accompanying statement under Section 27.	683
Unexplained possession of the truck and cargo as an incriminating circumstance	The accused’s unexplained presence at the closed factory and possession of the truck and its cloth cargo were treated as incriminating circumstances after the prosecution proved his apprehension while the cargo was being unloaded and the connection of the truck with its deceased driver. The Court assessed the lack of explanation with the other established circumstances.	683
Contextual significance of flight after a killing at home	Abscondence does not invariably show guilt, because an innocent person may flee from fear of false implication. Here the appellant left immediately after his wife's homicidal death in their shared home and failed to explain it, while the reliable child eyewitness implicated him. Even his absence for a few hours before arrest on the same day assumed incriminating significance in those circumstances.	718

Topic	Ratio	Case Sr.no.
Absconding after the incident as a corroborative circumstance	Absconding alone is not conclusive proof of guilt, since an innocent person may flee through fear of false implication or arrest. Read with other proved circumstances, however, it may provide an additional incriminating link. Applying Kundula Bala Subrahmanyam, the Court relied on the husband's absence during the neighbours' and police proceedings, his failure to obtain treatment or report the death, and his arrest the following day. His immediate absence corroborated the other evidence after the accidental-fall explanation was rejected.	774
Disowning notice contradicted by admitted continued cohabitation	A prior police intimation purporting to disown the son did not establish the parents-in-law's claimed separation where the addresses and a later complaint showed that the son still lived with them. In the circumstances, the Court regarded the intimation as a planned false defence and its preparation as indicative of a guilty mind. That assessment supported the finding of a prima facie case warranting prosecution.	846
Abscondence after the incident — relevant conduct but insufficient by itself to prove guilt	Abscondence may be considered as conduct under Section 8 of the Evidence Act along with other evidence. It does not by itself establish guilt. The appellant’s immediate disappearance and arrest eight days later were treated as an additional incriminating circumstance when considered with the other facts already proved.	898
Abscondence as contextual evidence and a limited credibility circumstance	Abscondence alone does not establish a guilty mind: an innocent person may flee from fear of wrongful arrest. Its value depends on the other proved circumstances and ordinarily cannot supply the decisive missing link in a circumstantial case. Applying Matru, Kundula Bala Subrahmanyam and the narrated Animireddy Venkata Ramana passage, the Court considered the witnesses' absence from immediate police proceedings alongside their cross-case position, inconsistent accounts and suppression of material facts. Their flight was an additional credibility circumstance, not proof by itself that they committed a crime.	919
	Sub-Chapter no. 23.6 **Last-Seen Theory, Motive and Corroborative Circumstances**	
Enmity as a possible motive for crime and false implication	Enmity may explain either false implication or commission of the offence; its effect must be determined from reliable evidence and the surrounding circumstances. Where the eyewitness account was independently found credible and the land-access dispute was established, the Court treated that dispute as the motive for the assault rather than a basis for rejecting the prosecution.	23
Prior enmity as motive for the offence or false implication	Prior enmity may supply a reason to commit the offence as well as a reason for false implication; it is not by itself a ground to reject prosecution evidence. The Court must assess the suggested false implication against the evidence. Here, the injured witness had not participated in the earlier assault or threatened the accused, and the Court rejected the claim that he deliberately accepted a gunshot injury to implicate them.	34
Last seen and Section 106 Evidence Act: explanation as an additional link	Last-seen evidence alone does not establish guilt; the prosecution must prove a complete circumstantial chain. Where the accused were with the deceased shortly before death and the interval left no opportunity for another person's intervention, facts about how they parted company were within their special knowledge. Applying Kashi Ram, the Court treated failure to give a probable and satisfactory explanation as an additional link after the prosecution's foundational proof. Section 106 does not transfer the prosecution's general burden to the accused. Here, the group's entry with the deceased and exit without him were considered with the money-lending motive and medical and recovery evidence in finding the chain complete.	45

23.6 : Last-Seen Theory, Motive and Corroborative Circumstances

Topic	Ratio	Case Sr.no.
Last-seen evidence — close temporal proximity and corroborating circumstances required to establish guilt	Last-seen evidence must be trustworthy, with a time gap sufficiently short to exclude intervention by another person. The circumstance does not by itself complete the chain of proof: other evidence must connect the accused with the crime. Here, the surviving account lacked reliable corroboration, also placed another person with the deceased, and did not establish the appellant's presence near the place of occurrence. It could not safely sustain conviction.	70
Absence of motive where trustworthy direct evidence proves the offence	Failure to prove the motive or its origin does not justify discarding trustworthy direct evidence of the commission of an offence. Where reliable eyewitness testimony establishes the crime, absence of a proved motive loses significance.	90
Time proximity and corroboration in last-seen evidence	The last-seen inference operates where the interval between the accused and deceased being seen together and discovery of death is so short that intervention by another person becomes impossible. Corroboration should still be sought. A long interval leaving room for others to intervene makes a finding of guilt hazardous without other positive evidence. In this case, the Court treated the witnesses' observation of the accused holding and stabbing the deceased as establishing the circumstance.	93
Motive inferred from the act and surrounding circumstances	Absence of proved previous enmity did not establish absence of motive. The Court considered the stabbing on vital parts, the deceased's Scheduled Caste status and the abusive language used during the attack in concluding that motive was established on the evidence.	93
Enmity as both motive and a possible source of false implication	Enmity may supply a motive for the offence as well as a reason for false implication or exaggeration. The testimony must therefore be carefully examined for confidence, consistency and the possibility of falsely involving an accused. Convincing eyewitness evidence cannot be rejected merely because of hostility. Here, the deceased's earlier killing of the appellant's father was found to establish motive, while the witnesses' account remained reliable.	98
Failure to establish the last-seen link in a circumstantial prosecution	The prosecution failed to prove its sole last-seen circumstance after the witnesses' material omissions and the hearsay basis of one account were exposed. The alleged letters were not proved and the recovered rifle was not linked to the shooting. With no other circumstance connecting the appellant to the killings, proof that the deaths were homicidal did not establish his participation, and the convictions were set aside.	99
Last-seen evidence — Short interval and corroborating circumstances	Last-seen evidence gains significance where the interval before death is sufficiently short to exclude an intervening act by another person. A long interval and a realistic possibility of intervention make reliance hazardous without other positive evidence. Here, the deceased left with the appellant for the river, her body was recovered the next day, and the medical estimate placed death within twenty-four hours. The Court accepted the short interval together with the eyewitness account and concealed-scarf recovery; last seen was not treated as conclusive by itself.	118
Time gap and corroboration in the last-seen inference	The last-seen circumstance is significant where the interval between the accused and deceased being seen together and discovery of death is so short that another person's intervention is excluded. A long gap with a realistic possibility of intervention makes a guilt inference unsafe. Here, the Court accepted the short interval together with the blood and other surrounding circumstances; last-seen evidence alone was not treated as conclusive.	278
Last-seen evidence: short interval and additional corroboration	Last-seen evidence gains significance when the interval between the deceased being seen with the accused and being found dead is so short that reasonable intervention by another person is excluded. It does not alone justify conviction; other proved circumstances must complete the chain. The mother consistently stated that she left her infant with the appellant and returned about thirty minutes later to find the child killed and him absent. The Court assessed that	297

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	evidence with the bloodstained recoveries.	
Last-seen evidence — temporal proximity and corroboration	Last-seen evidence supports an inference of guilt where the interval between the accused and deceased being seen together alive and the discovery of death is so short that intervention by another offender is excluded. Even then, corroboration should be sought; a long interval and the possibility of others intervening make reliance on this circumstance hazardous. Following Ramreddy Rajeshkhanna Reddy, Hatti Singh and State of U.P. v. Satish, the Court assessed the victim's residence with the appellant together with the DNA and other evidence as part of the complete circumstantial chain.	301
Enmity: Motive for the Offence and for False Implication	Prior enmity may supply a motive to commit an offence as well as a motive for false implication. Its existence therefore does not by itself establish that the prosecution account is false. The Court must assess the asserted false implication against the evidence and the circumstances, including whether there was a reason to spare the suggested real offender.	360
Absence of Motive: Trustworthy Direct Evidence	Failure to establish motive does not undermine a prosecution case otherwise proved by trustworthy direct evidence. Reliable eyewitness testimony cannot be discarded merely because the witnesses cannot explain why the accused committed the offence.	360
Motive Cannot Supply Missing Proof of the Accused's Involvement	Even assuming that the alleged motive was proved, it could not establish murder where the prosecution failed to connect the accused and the specified vehicle with the fatal collision. The assumed motive did not cure the failure of identification and other linking evidence.	375
Absence of Motive Where Direct Evidence Establishes the Assault	Failure to establish the precise motive does not defeat a prosecution supported by trustworthy direct evidence. Motive concerns the accused's internal mental state and may be difficult to prove. Though proof of motive can provide a link in circumstantial evidence, its absence is not by itself a ground to reject an otherwise proved case.	378
Last-seen evidence, temporal proximity and explanation of separation	Last-seen evidence is not conclusive by itself. Its significance depends on a time gap sufficiently small to exclude an intervening offender and on the other proved circumstances. After accepting that the child was last seen with the accused, the close temporal connection and the supporting circumstances, the Court required him to explain when he parted company with her under Section 106 of the Evidence Act. He gave no such explanation.	391
Temporal proximity and corroboration of last-seen evidence	The last-seen theory requires a gap sufficiently small to exclude the possibility of another person being the offender. Even then, the court should look for corroboration. A long gap allowing intervention by others makes an inference of guilt hazardous without further positive evidence. Here, the Court accepted the child's sister's account and relied on the medical and forensic evidence as corroborating links.	393
Absence of a proved motive where the chain is otherwise established	Failure to determine a definite motive is not necessarily fatal to the prosecution. Where reliable last-seen evidence was corroborated by the accepted DNA findings and established guilt, the Court held that the absence of a definite explanation of motive did not require acquittal.	393
Temporal proximity and the limits of last-seen evidence	Last-seen evidence alone does not complete the chain required for conviction; there must be further evidence connecting the accused to the offence. The prosecution must establish sufficient temporal proximity to exclude an intervening offender. Here, the Court accepted the last-seen account, the recovery about twenty-four hours later and the compatible medical estimate of death, and assessed them with the disclosure and forensic links.	397
Enmity as a Possible Motive for Assault and False	Enmity may supply a motive for false implication, but it may equally supply a motive for committing the offence. It therefore calls for careful and meticulous appraisal of the evidence rather than an automatic rejection of the prosecution.	409

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Implication	The prior family killing and retaliatory manner of the attack supported the finding of a revenge motive here.	
Evidentiary Significance of Proved or Unproved Motive	A proved motive lends additional support to an otherwise established finding of guilt. Its absence does not necessarily make reliable evidence of the offence untrustworthy, because the perpetrator alone may know what prompted the act. A high degree of established animosity may support the finding that a motive existed.	409
Vague allegations of earlier eve-teasing as proof of motive for murder	The allegation of recurring eve-teasing, without details of the alleged incidents, did not establish a motive for murder on this record. Even if the allegation were accepted, that circumstance alone did not supply the alleged motive. The Court therefore found no supporting case against the appellant on the strength of motive.	422
Last-seen evidence and recovery — explanation under Section 106 Evidence Act	Where eyewitnesses proved that the appellant took the child, a named FIR followed within two hours, and the injured child and her undergarment were recovered on his information about nineteen hours later, the combined circumstances called for an explanation of when and in what condition he parted company with her. Applying last-seen and recovery principles, the Court considered his silence on those facts within his knowledge along with the proved abduction, sexual injuries and recoveries. The inference rested on that combined evidence, including the investigating officer’s unshaken testimony.	482
Prior enmity — motive for the offence and for false implication	Prior enmity may supply a motive both for committing an offence and for falsely implicating the accused. It therefore calls for careful assessment of whether reliable and cogent evidence proves guilt beyond reasonable doubt, rather than automatic acceptance or rejection of the accusation. Applying Moti Ram, the Court accepted the prompt FIR, reliable dying declaration, supported eyewitness account and medical corroboration despite the parties' animosity.	499
Absence of motive where reliable direct evidence establishes the offence	Failure to prove motive does not justify discarding trustworthy direct evidence of an offence. Where reliable eyewitness testimony establishes the crime, motive loses significance. The Court applied this principle while accepting the eyewitness and medical evidence of the fatal assault.	555
Motive in the cumulative assessment of doubtful identification	The Court found no proved motive for the appellant and noted a property-possession dispute and earlier quarrel involving the two men named in the FIR. That rival motive reinforced the weaknesses in the evidence attributing the killings to the appellant. The conclusion formed part of the cumulative assessment; it did not make motive indispensable in every direct-evidence case or finally determine the other men’s guilt.	599
Prior enmity as motive for crime and possible false implication	Prior enmity may supply both a motive to commit the offence and a motive to implicate someone falsely. It therefore calls for careful scrutiny, including the possibility of exaggerating roles or adding innocent persons. Applying the reproduced authorities, the Court held that enmity alone could not displace otherwise consistent and convincing eyewitness evidence. The proved pressure to compromise a pending case supported the motive for the attack.	605
Prior enmity as motive and a possible source of false implication	Enmity may supply a motive for the offence as well as for false implication or exaggeration. Testimony of inimical witnesses therefore requires careful scrutiny on the facts. A convincing and consistent eyewitness account cannot be discarded merely because the parties were hostile, particularly where that hostility also explains the crime.	622
Motive — relevant in all criminal cases, but its absence does not defeat trustworthy direct evidence	Motive is relevant in cases based on direct as well as circumstantial evidence. Its proof may strengthen the case, but failure to establish the precise motive or intensity of the accused's resentment does not, by itself, discredit otherwise trustworthy direct evidence. Where earlier confrontations and a threat supplied some motive and the eyewitness account was reliable, inability to explain the	638

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	accused's full mental process did not weaken the murder case.	
Temporal proximity and corroboration of last-seen evidence	Last-seen evidence requires careful assessment of the interval between the deceased being seen with the accused and being found dead, and of the possibility of another person's intervention. Even a close interval calls for corroboration; a long interval makes an inference of guilt hazardous without other positive evidence. Applying Ramreddy Rajeshkhanna Reddy, Hatti Singh, Satish and Bodhraj, the Court accepted the last-seen testimony together with the other circumstances completing its case.	648
Motive must be proved — investigating officer cannot supply an unsupported theory	A motive must be established by evidence; the investigating officer cannot create one through an unsupported explanation. The trial court had accepted that the appellant was angry because the deceased wanted treatment by an exorcist. The relevant witness had not said so, no other witness proved it, and the officer had not investigated whether the suggested exorcist existed. The High Court therefore rejected that motive theory as an evidentiary basis for the murder conviction.	677
Absence of proved motive loses force where direct, credible evidence establishes the assault	The Court adopted Bikau Pandey v. State of Bihar and Saddik v. State of Gujarat for the limited proposition that failure to establish a particular motive does not defeat a prosecution otherwise supported by trustworthy direct evidence. The alleged earlier compromise and the trial acquittal of three persons to whom the initial threatening demand was attributed did not dispose of the proof of the remaining appellants' actual conduct. The Court relied on Lakhan's statements, the accepted eyewitnesses and injuries. Motive was not used to replace proof of identity or participation.	678
Last-seen evidence and a short interval before death	Last-seen evidence gains significance when the interval between the deceased being seen alive with the accused and the death is so short that intervention by another person is excluded. It is not conclusive proof by itself and must be considered with the surrounding circumstances. Here the interval of a few minutes, the hospital evidence and the accused’s immediate capture at the scene supported the finding that he caused the fatal injuries, despite the absence of reliable direct evidence of the precise manner of the assault.	691
Prior enmity as a motive for assault or false implication	Prior enmity may supply a motive both for committing an offence and for falsely implicating an accused. The evidence must be weighed carefully, and a plea of false implication requires a factual foundation. Enmity does not justify rejecting otherwise trustworthy testimony. On the proved earlier dispute and the circumstances of the armed attack, the Court found a retaliatory motive rather than accepting the pending earlier case as a reason to reject the prosecution evidence.	698
Prior enmity as a motive for assault or false implication	Prior enmity may supply a motive both for committing an offence and for falsely implicating an accused. The evidence must be weighed carefully, and a plea of false implication requires a factual foundation. Enmity does not justify rejecting otherwise trustworthy testimony. On the proved earlier dispute and the circumstances of the armed attack, the Court found a retaliatory motive rather than accepting the pending earlier case as a reason to reject the prosecution evidence.	699
Prior enmity as motive and possible ground of false implication	Prior enmity may supply a motive for the crime as well as a reason for false implication. It must be assessed with the evidence. Here both sides had reported an earlier clash, and the specific allegations against Atmaram supported the conclusion that animosity led to the occurrence rather than establishing his false implication.	713
Prior enmity may persist despite compromise of earlier cases	A compromise in earlier cases does not necessarily extinguish the underlying enmity. The Court found that hostility arising from earlier murders remained between the parties despite compromises in those trials and treated that surviving enmity as supporting the motive for the later shooting. The finding	772

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	was considered with the accepted eyewitness and medical evidence of the assault.	
Last-seen evidence—time gap and corroborating circumstances	Last-seen evidence must be assessed against the interval between the deceased being seen alive with the accused and the probable time of death, including the possibility of intervention by another person. It is not conclusive by itself. Applying the cited authorities, the Court considered the deceased's presence at the appellant's house, recovery of his buried body there the next day, the medical interval and the appellant's admitted meeting with him. These circumstances established the last-seen link in the complete chain; the assertion that the deceased later went to another witness's house was not put to that witness.	815
Last-seen evidence — Prosecution burden, time gap and corroboration	The prosecution must first prove that the deceased was last seen alive with the accused. The interval between that sighting and death must be sufficiently short to exclude another person’s intervention. Last-seen evidence alone does not establish guilt; further evidence must connect the accused with the crime. The accused’s failure to explain the death cannot, by itself, supply proof of guilt.	827
Last-seen testimony — Nondisclosure, physical setting and witness conduct	The Court rejected the alleged last-seen accounts after examining the witnesses’ conduct and the objective setting. One witness failed to disclose the sighting to the missing child’s father despite meeting him and described a boundary wall and tree inconsistent with the scene record. The other claimed a rear-view sighting and behaved unexpectedly after learning of his close relative’s death. On the combined assessment, last-seen was not proved beyond reasonable doubt.	827
Last-seen evidence and the explanatory burden under Section 106 Evidence Act	Where the accused was last seen with the deceased so close to the death that another person's intervention was excluded, the Court treated the absence of a probable and satisfactory explanation of their parting as an additional link in the proved circumstances. Section 106 does not transfer the prosecution's ultimate burden of proving guilt. Here, the accepted evidence of the child's movements with the accused, the subsequent recovery of his body at their instance and the medical evidence of homicidal strangulation were considered together in sustaining the conviction.	850
Absence of motive where direct evidence is trustworthy	Absence of a proved motive does not justify discarding trustworthy direct evidence establishing the commission of an offence. Adopting the passage from Yogesh Singh v. Mahabeer Singh, the Court reiterated that motive loses significance where reliable direct testimony establishes the crime.	850
Last-seen evidence: proximity and corroborating links	Last-seen evidence is weak and inconclusive by itself and requires close proximity between the sighting and recovery of the body. The Court accepted the principles narrated from Padman Bihar, Digamber Vaishnav, Arun Shankar and Dinesh Kumar but found that the prosecution relied on a wider chain. The child's brother described the accused taking her for ice cream, the accused acknowledged their company to her father, and CCTV, DNA and later abscondence supported the inference. Non-examination of the ice-cream vendor or other playing children did not defeat these proved links on this record.	915
Last-seen evidence, temporal proximity and the prosecution’s initial burden	Last-seen evidence does not by itself establish guilt, and the accused’s failure to explain cannot alone prove the offence. The prosecution must first establish incriminating circumstances, including a trustworthy sighting and close proximity to the death; Section 106 Evidence Act concerns facts specially known to the accused. The time gap must be assessed for the possibility of intervention by another person. Here, proved abduction, homicidal death and the medical estimate of death six to twelve days before examination established the necessary proximity, although the body was recovered ten days after abduction.	934
Prior enmity as	Enmity may provide both a motive for the offence and a reason for false	936

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motive and a possible ground for false implication	implication. The Court must therefore examine inimical testimony carefully for exaggeration or inclusion of innocent persons. Consistent and convincing eyewitness evidence cannot be rejected solely because of prior hostility. Here the pressure to compromise the pending assault case, reliable eyewitness accounts and medical corroboration supported enmity as the motive for the attack.	
Last-seen evidence: proof of the meeting and a sufficiently short interval	A last-seen inference requires reliable proof that the accused and deceased were together and a time interval sufficiently short to exclude an intervening person. The sole witness's assertion that the deceased returned to the appellant's house on the fatal night was a material improvement over his police statement, which was recorded after an unexplained delay. His claimed presence nearby was also doubtful. The alleged last meeting was therefore not proved.	942
Unproved allegations of an illicit relationship cannot establish motive	An alleged illicit relationship could not establish motive where the witnesses' accounts were inconsistent or materially improved, and the deceased's wife, who could explain the alleged relationship and her departure from the matrimonial home, was not examined. Occasional visits to the widow of an elder brother did not prove the alleged relationship. The supposed prior kerosene incident was also rejected as an unsupported afterthought intended to attribute motive.	942
Prior enmity: not by itself a ground to disregard the complaint	Prior enmity cuts both ways and cannot be treated only as a reason for false implication. In considering the complaint, the Magistrate could not rely on that circumstance while ignoring the alleged dying declaration and the procedural requirement to obtain and consider the closure report.	975
Proved last-seen company, homicidal death and absence of explanation	The Court accepted unrebutted evidence that the deceased had gone with her husband to offer prayers shortly before she was found dead, together with medical evidence of homicidal blunt-force injuries. On those established circumstances, it required the husband to give a reasonable explanation and treated the absence of one as supporting the inference of guilt. The combined evidence was held sufficient to sustain the murder conviction.	979
Last-seen evidence supported by recovery and medical findings	Evidence that the accused took the child from the house and was seen accompanying him towards the forest was assessed with the subsequent recovery of the body at the accused's instance and the medical findings. These accepted circumstances supported the inference of guilt collectively; the Court's conclusion was not based on the last-seen circumstance alone.	986
Doubtful last-seen evidence in a circumstantial case	The claimed sighting of the deceased with one accused did not complete the circumstantial chain. Its timing conflicted with the alleged earlier confession of death, and the witness had not previously disclosed the sighting to villagers as she claimed at trial. With the other incriminating circumstances unproved, the evidence created suspicion but did not prove guilt.	988
Failure to establish an alleged compromise motive	The alleged demand for money to settle a pending criminal case was not proved where the accounts of the supposed compromise talks materially differed and essential assertions were missing from, or disowned against, earlier statements. The Court consequently rejected the claimed motive and the asserted taking of the deceased for those talks as links in this circumstantial case.	988
Last-seen evidence — close time proximity and corroboration	The last-seen theory applies where the interval between the accused and deceased being seen together alive and the deceased being found dead is so small that the possibility of another person committing the offence is excluded. Even then, courts should look for corroboration. Where there is a long interval and an opportunity for others to intervene, an inference of guilt based on last-seen evidence without other positive evidence is hazardous. Applying Ramreddy Rajeshkhanna Reddy, Hatti Singh and State of U.P. v. Satish, the Court considered the witnesses' accounts together with the corroborating circumstances rather than treating last-seen evidence as sufficient by itself.	1002

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	Sub-Chapter no. 23.7 **Section 106 Evidence Act — Foundational Prosecution Proof and Facts in Accused's Special Knowledge**	
Section 106 Evidence Act — prosecution must prove foundational facts before the accused must explain special knowledge	Section 106 does not relieve the prosecution of its burden to prove guilt. It addresses facts especially within the accused's knowledge that the prosecution cannot, or can only with disproportionate difficulty, establish. Where the prosecution has not proved the basic incriminating circumstances, the burden cannot be shifted to the accused, and the absence of an explanation cannot repair an incomplete chain of circumstantial evidence.	70
Section 106 Evidence Act — Foundational proof before an explanation is required	The prosecution must first prove the circumstances beyond reasonable doubt; a burden concerning facts specially within the accused's knowledge arises only after the necessary foundational facts are established. Once cohabitation, departure together for fishing, the short last-seen interval and homicidal death were proved, the Court required the appellant to explain how the deceased died. His failure to explain, considered with the other proved circumstances, supported an adverse inference. Last-seen evidence alone was not conclusive proof of guilt.	118
Section 106 Evidence Act requires foundational prosecution proof before an explanation from the accused	Section 106 does not relieve the prosecution of proving guilt beyond reasonable doubt and cannot by itself sustain conviction. Once the prosecution proves circumstances supporting a reasonable inference, an accused may be required to explain facts especially within his knowledge. Where homicidal death and subsequent burning occurred inside the accused household, the failure to explain those events was considered with the other proved circumstances. The Court relied on Babu alias Balsubramaniam, Tulshiram Sahadu Suryawanshi and Trimukh Maroti Kirkan in affirming the convictions.	138
Section 106 burden concerning facts especially within the accused's knowledge	Where the prosecution proves facts supporting an incriminating inference and the explanation concerns facts especially within the accused's knowledge, Section 106 of the Evidence Act requires a probable and satisfactory explanation. Failure to give one may supply an additional link in the proved circumstances; it does not relieve the prosecution of proving guilt beyond reasonable doubt. The husband's admitted presence, together with the eyewitness and forensic evidence, called for an explanation of the burns, and his accidental-heater account was rejected.	173
Last-seen evidence and facts within the accused's special knowledge	The prosecution must first establish circumstances pointing towards guilt. Once the relevant last-seen circumstances are proved, Section 106 of the Evidence Act requires an explanation of facts especially within the accused's knowledge. Non-explanation may add weight when considered with other incriminating circumstances, but last-seen evidence is not by itself conclusive proof of guilt.	278
Section 106 Evidence Act: explanation of a wife's homicidal death at home	Where the prosecution proves circumstances supporting an inference of homicidal death in the matrimonial home and the husband's presence, he must explain facts especially within his knowledge. Failure to give a reasonable explanation may supply an additional link; Section 106 does not relieve the prosecution of proving guilt beyond reasonable doubt. Here, the husband's account of attending to his wife in hospital was disbelieved, and the absence of a satisfactory explanation reinforced the eyewitness and forensic evidence.	288
Section 106 explanation after proof of the accused's company with the deceased	The prosecution must first establish incriminating facts pointing to guilt. Where a proved last-seen circumstance places facts about the death or separation especially within the accused's knowledge, Section 106 of the Evidence Act may require an explanation, but last-seen evidence remains inconclusive by itself. Here the appellant's statement that he had gone towards the river was unsupported by the witnesses and did not explain when or how he parted from his infant daughter. That failure was considered with the other proved links.	297
Foundational Last-	The prosecution must first reliably establish that the accused and victim were	389

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Seen Proof Before Invoking Section 106	last seen together before expecting an explanation of facts said to be within the accused's special knowledge. Last-seen evidence alone does not complete a circumstantial case; proximity of time and other connecting circumstances remain material, and silence cannot repair an unproved foundation. Applying Ashok and Digamber Vaishnav, the Court rejected the last-seen circumstance because the supporting witnesses were not trustworthy.	
Explanation of facts specially known after proved last-seen circumstances	Section 106 of the Evidence Act does not transfer the prosecution's continuing burden to prove guilt. After the relevant last-seen and surrounding circumstances are established, the accused must give a probable and satisfactory explanation of facts specially within his knowledge, including how and when he parted company with the deceased. Failure to do so may supply an additional link in the proved circumstantial chain; non-explanation alone does not prove guilt.	397
Explanation of the wife's death after prosecution proof was accepted	After finding that the prosecution had established its case beyond reasonable doubt, the Court relied also on the appellant's failure to explain how, by whom and why his wife had been murdered. It rejected his sister's contrary account as false evidence intended to save him. This assessment followed the Court's finding that the prosecution had discharged its burden.	644
Section 106 Evidence Act in a last-seen case	The prosecution must first bring sufficient evidence pointing to the accused's guilt. Where last-seen circumstances are established, Section 106 of the Evidence Act concerns the incident within the accused's special knowledge. Non-explanation of the death may support an inference of guilt when considered with the other surrounding circumstances. Last-seen evidence and the absence of an explanation do not themselves constitute conclusive proof of guilt.	691
Section 106 explanation for homicidal death in the shared home	Section 106 of the Evidence Act does not relieve the prosecution of proving guilt. Where proved circumstances concern a homicidal death in the home shared by the accused and deceased, the accused must explain facts especially within his knowledge that the prosecution cannot readily establish. Here the child gave direct evidence, the fatal neck wounds and shared residence were proved, and the appellant offered no explanation for his wife's death. The Court treated that failure as an additional incriminating circumstance with the other evidence.	718
Section 106: special knowledge after proof of foundational homicide facts	Section 106 of the Evidence Act does not relieve the prosecution of proving guilt beyond reasonable doubt. It applies when proved facts permit a reasonable inference about further facts within the accused's special knowledge. Here, homicidal death in the matrimonial home and the spouses' company and fight were established by medical evidence and an unchallenged witness account. The husband then had to explain the circumstances of death. Failure to give a reasonable explanation may add a link to an established circumstantial chain, but it cannot cure an incomplete prosecution chain or make a false defence sufficient for conviction.	774
Section 106 Evidence Act — alleged locked-room circumstances	An adverse inference cannot rest on a claimed circumstance absent from the material relied upon. The inquest statement did not say that the room had been locked from inside before the deceased and respondent went to sleep. Both had consumed ganja, and the respondent's failure to wake when the deceased was killed did not by itself justify an adverse presumption against him.	805
Section 106 Evidence Act following proof of last seen	The initial burden remains on the prosecution to produce sufficient evidence pointing to guilt. Once a proved last-seen sequence places relevant events within the accused's special knowledge, the absence of an explanation may be considered with the other established circumstances under Section 106 Evidence Act. It does not make last-seen evidence conclusive on its own. The Court applied Ashok while assessing the appellant's admission that the deceased	815

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	visited his house and the unsupported claim that the deceased thereafter left.	
Section 106 Evidence Act — Special knowledge after prosecution proof	The initial burden remains on the prosecution to produce evidence pointing towards guilt. Where last-seen circumstances are established, the accused's special knowledge under Section 106 may require an explanation of the incident. Non-explanation can be considered with other connecting circumstances, but last-seen evidence and silence alone do not prove guilt.	827
Death inside shared home — Section 106 explanation arises only after foundational prosecution circumstances are proved	The prosecution first proved the wife's homicidal strangulation in the matrimonial home, the couple's presence together and strained relationship. Only then was the husband's special knowledge of events relevant; his inconsistent account could add a link but Section 106 did not substitute for proof beyond reasonable doubt or make co-residence alone conclusive.	898
	Sub-Chapter no. 23.8 **Formal Admission of Trial Documents — Counsel Concession and Accused Endorsement**	
Late objection to photocopied medical records admitted without objection	An objection raised only during final arguments to the photocopied CT report and treatment records, including non-examination of the CT report's author, was rejected because those documents had been admitted at trial without objection. The treatment sheets showed that the medical team had relied on the CT report, and those records corroborated the post-mortem findings.	21
Accused-endorsed admission of medical documents cannot be disowned on appeal	Where counsel admitted medical and fracture reports in the accused persons' presence, the accused signed the trial order sheet without objection and countersigned their acceptance on the reports, they could not later deny that counsel had instructions. Permitting withdrawal of that admission after trial would deprive the prosecution of the opportunity it had forgone to prove the documents through doctors.	226
Timely objection to the manner of exhibiting a document	An objection to the manner in which a document is exhibited must be raised when it is marked; if no such objection is taken then, it cannot be raised later. The Court applied this rule to the photocopy of a school admission register that had been compared with the original produced before the trial court.	616
	Sub-Chapter no. 23.9 **Plea of Alibi — Positive Proof and Continuing Prosecution Burden**	
Alibi — unsupported assertion of employment at another place	The Court rejected the asserted alibi where the defence employer's claim that the accused was at his shop was unsupported by any employment or attendance record, and the witness admitted that no documentary record or register was maintained. On this evidence, the witness's assertion did not establish the accused's presence at the shop when the offence occurred.	9
Alibi witnesses — equal evidentiary treatment with prosecution witnesses	Defence witnesses offered in support of an alibi are entitled to the same fair evidentiary treatment as prosecution witnesses. Their testimony must not be rejected through an instinctive distrust of defence evidence. That equal treatment does not dispense with cogent proof excluding the accused's presence at the relevant scene and time.	19
Residence documents without a link to the date of the alleged offence	The defence claim that the appellants had shifted elsewhere before the offence was not proved by Aadhaar cards that disclosed no date of issuance. The asserted voter-list entries and documents of their claimed house were not produced. Against that evidence, a prosecution witness stated that they shifted only after the incident, and their prolonged abscondence supported his account. The Court therefore rejected the claimed prior relocation.	106
Alibi as a rule of relevance under Section 11 of the	An alibi is a rule of evidence under Section 11 of the Evidence Act, rather than a general or special exception under the Penal Code. Evidence that the accused was elsewhere is relevant because it is inconsistent with presence at the scene;	141

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Evidence Act	adopting that defence does not reduce the prosecution's burden to prove presence and participation.	
Burden of proving an alibi	The accused bears a heavy burden to establish a plea of alibi by cogent and reliable evidence.	190
Nature and strict proof of a plea of alibi	Alibi is a rule of relevance under Section 11 of the Evidence Act, rather than a general or special exception under the Penal Code. Once the prosecution satisfactorily establishes the accused's presence and participation, the accused must support the plea of being elsewhere by positive evidence that excludes presence at the scene; a mere preponderance of probabilities is insufficient.	230
Prosecution burden despite failure of an alibi	Raising or failing to establish an alibi does not reduce the prosecution's independent burden to prove guilt beyond reasonable doubt. Even where strict proof of the alibi is lacking, defence evidence that creates a reasonable doubt about the accused's presence at the scene entitles the accused to that benefit.	230
Disputed alibi must be proved by the accused at trial	An alibi intended to exclude the accused's presence at the scene must be proved by cogent evidence at trial; it is not established through a disputed assertion in a quashing petition. Following the reproduced Prashant Kumar Nimgani ruling, the Court treated the plea as requiring proof beyond reasonable doubt. Attendance at a nearby office did not itself rule out presence at the place of occurrence.	264
Proof of alibi and the prosecution's continuing burden	An alibi is a rule of relevant evidence under Section 11 Evidence Act, rather than a penal exception. The prosecution must first prove the accused's presence and participation; raising an alibi does not reduce that burden. Once presence is satisfactorily established, the accused must support the alibi by positive, cogent evidence excluding presence at the scene. The reproduced authorities require strict proof, while preserving the benefit of a reasonable doubt created by defence evidence. Failure to establish an alibi does not itself prove guilt: the prosecution must independently prove its case beyond reasonable doubt.	266
Alibi, strict proof and the continuing prosecution burden	An alibi is a relevant evidentiary plea under Section 11 of the Evidence Act. The prosecution must first prove the accused's presence and participation; raising an alibi does not reduce that burden. The accused must then establish being elsewhere by positive, cogent evidence excluding presence at the scene. Evidence creating a reasonable doubt still benefits the accused, and failure of the alibi does not itself prove guilt.	274
Wedding alibi: assessment against the evidence of presence	The Court assessed the defence witnesses' claim that the accused was attending wedding ceremonies elsewhere against the prompt named FIR and the supporting eyewitness testimony. The defence accounts, including a discrepancy about the ceremony date, did not inspire confidence on the evidence as a whole. The alibi therefore did not displace the prosecution's proof of his participation.	285
Plea of alibi — strict proof and the prosecution's continuing burden	Alibi is a rule of relevance under Section 11 of the Evidence Act, rather than an exception under the Penal Code. The prosecution must first establish the accused's presence and participation. An accused asserting alibi must then lead cogent positive evidence excluding presence at the scene; a mere preponderance of probabilities is insufficient. Evidence creating reasonable doubt about presence can nevertheless benefit the accused, and failure to establish alibi does not relieve the prosecution of proving guilt beyond reasonable doubt.	311
Defence Witnesses: Equal Treatment in Assessing Alibi	Defence witnesses are entitled to the same treatment as prosecution witnesses. Their evidence supporting an alibi must be assessed on its merits, without an instinctive assumption that defence witnesses are untruthful. The Court adopted this approach from Jumni while examining whether the evidence established the asserted absence.	360
False Alibi:	Failure to prove an alibi, or the giving of false defence evidence, is insufficient	360

23.9 : Plea of Alibi — Positive Proof and Continuing Prosecution Burden

Topic	Ratio	Case Sr.no.
Additional Circumstance After Prosecution Proof	by itself to establish guilt. A false alibi may be considered as an additional circumstance only after the prosecution has otherwise proved the circumstances establishing guilt.	
Alibi: Rule of Relevance under Section 11 of the Evidence Act	Alibi is an evidentiary plea recognised by Section 11 of the Evidence Act, rather than a general or special exception under the Penal Code. Evidence that the accused was elsewhere at the relevant time is relevant because it may exclude participation in the alleged occurrence.	361
Failure of Alibi: No Substitute for Proof of Guilt	Failure to establish an alibi does not by itself establish the prosecution case. The prosecution must independently prove guilt beyond reasonable doubt despite the rejection of that defence.	361
Alibi as a Rule of Relevance Under Section 11 of the Evidence Act	An alibi is a rule of evidence under Section 11 of the Evidence Act, which makes facts inconsistent with a fact in issue relevant. It asserts that the accused was elsewhere when the offence occurred; it is not a general or special exception under the Penal Code.	374
Proof of Alibi and the Continuing Burden on the Prosecution	The prosecution must first establish the accused's presence and participation by reliable evidence; an alibi does not lessen that burden. Once that burden is discharged, the accused must establish the alibi by positive evidence with sufficient certainty to exclude presence at the scene. Evidence that creates reasonable doubt about that presence entitles the accused to its benefit. Failure to prove an alibi does not itself establish guilt, which the prosecution must independently prove beyond reasonable doubt.	374
Alibi and the prosecution's continuing burden	A plea of alibi does not lessen the prosecution's burden to prove the accused's presence and participation. Once the prosecution satisfactorily discharges that burden, the accused must establish the alibi with certainty excluding his presence at the occurrence. Defence evidence creating a reasonable doubt about that presence nevertheless entitles him to its benefit. The contradictory defence testimony here failed to establish the plea against the accepted prosecution and scientific evidence.	391
Timing and Authentication of School Records Offered to Prove Alibi	School-presence evidence must reliably cover the time of the offence and be properly proved. A witness arriving after the occurrence could not establish earlier presence, while certificates and attendance records unsupported by their makers or identifiable authorised attestation did not exclude presence at the scene. The Court also considered the short distance between the school and the occurrence.	409
Alibi as proof of inability to be present at the place of occurrence	An alibi concerns whether the accused could have reached the place where the incident allegedly occurred. The Court stated that the accused must prove it beyond reasonable doubt, rather than merely on a preponderance of probabilities. A contested alibi requires cogent and reliable evidence and cannot be finally established through disputed assertions in quashing proceedings.	469
Plea of alibi as a ground for quashing an FIR	An accused's plea that he was elsewhere at the relevant time must be proved at trial and does not, merely on its assertion, justify quashing the prosecution. In rejecting the claim that the applicants were at the police station for interrogation, the Court stated that their alibi required proof beyond reasonable doubt at trial.	513
Alibi: Positive Proof After the Prosecution Establishes Presence	Alibi is an evidentiary plea under Section 11 of the Evidence Act and does not reduce the prosecution's burden to prove presence and participation. Once reliable evidence establishes presence, the accused must produce cogent evidence excluding the possibility of being at the scene; defence evidence creating reasonable doubt can still benefit him. Work attendance did not prove alibi where the register lacked the supervisor's signature, his status was unsupported, and the nearby open worksite allowed the accused to leave and reach the scene.	524

23 : General Principles of Proof, Appreciation of Evidence and Circumstantial Evidence

Topic	Ratio	Case Sr.no.
Alibi Based on a Claimed Stay at a Relative's House	The appellant's claim that he stayed at his aunt's house did not establish alibi where he admitted arrival at Morena on the relevant date, produced no supporting travel or residence document and did not examine the aunt, whom the Court regarded as the best witness to that stay. Considering the reliable prosecutrix evidence and forensic support, the Court rejected the alibi.	529
Proof of Alibi and the Continuing Prosecution Burden	An alibi is a rule of evidence under Section 11 of the Evidence Act, rather than an exception under the IPC. The prosecution must first satisfactorily establish the accused's presence and participation; pleading alibi does not reduce that burden. The accused must then establish absence by positive, strict evidence excluding the possibility of presence at the scene. Defence evidence creating a reasonable doubt about presence entitles the accused to its benefit. Failure to establish alibi does not itself prove the prosecution case, which must independently be proved beyond reasonable doubt. The applicant's disputed claim that he was elsewhere required cogent evidence and did not justify quashing on the parallel inquiry report.	539
Failure of an unsupported plea of alibi	A plea of alibi unsupported by substantial defence evidence does not displace categorical prosecution testimony placing the accused at the scene when that testimony is accepted as reliable. The Court rejected the plea on that basis after assessing the eyewitness evidence.	570
Burden and proof of an alibi	An alibi is a defence that the accused must establish through cogent and reliable evidence. Unproved documents cannot be elevated to conclusive proof before their reliability is tested. In applying that principle, the Court found that a COVID-related prescription from the preceding month did not establish that the accused remained unable to leave home on the incident date; supporting proof of continued confinement to bed was absent.	606
Prosecution burden and proof of alibi	The prosecution must first establish the accused's presence and participation through reliable and cogent evidence. Once that burden is discharged, an accused relying on alibi must prove it with certainty sufficient to exclude presence at the scene. The Court found the prosecution case established beyond reasonable doubt and rejected the contrary defence evidence on the record.	644
Unsubstantiated medical alibi at the Section 319 stage	Police statements that the applicant was receiving treatment elsewhere did not establish his alibi where no prescription, hospital admission register, discharge ticket or comparable medical record had been collected and the witnesses' accounts remained untested. Brijendra Singh was distinguished because it involved affirmative duty and medical records locating the proposed accused away from the scene. The applicant remained free to prove alibi by cogent and reliable trial evidence, uninfluenced by the High Court's preliminary observations.	645
Proof of alibi and the prosecution's continuing burden	Alibi is a rule of evidence under Section 11 of the Evidence Act. The prosecution must first prove presence and participation; the accused then asserting absence must support it by positive, cogent evidence sufficient to exclude presence at the scene. Defence evidence creating reasonable doubt remains effective, and failure of alibi does not itself prove guilt. The Court rejected the claimed absence because, beyond the hostile brother's assertion, no reliable supporting evidence, including the available employer's testimony, was produced.	649
Alibi evidence must cover the time of the offence	A photograph showing presence elsewhere earlier in the day does not establish absence from the scene at the time of the offence where return was possible and continued presence elsewhere is unproved. The Court rejected daytime photographs and unsupported assertions of an overnight stay as proof of the alibis. Doubt about when photographs were taken, including absence of supporting development or printing evidence in the circumstances, further weakened that defence.	698

Topic	Ratio	Case Sr.no.
Plea of alibi — assertion at the earliest opportunity	A plea that the accused was elsewhere at the time of the occurrence should be raised at the earliest opportunity and proved to the Court's satisfaction. The Court identified the initial stages, including framing of charge or preliminary hearing, as appropriate occasions, and relied on Lakhan Singh in disapproving an unexplained plea first raised at the defence-evidence stage. This requirement does not displace the prosecution's continuing duty to prove presence by positive evidence.	700
Plea of alibi — assertion at the earliest opportunity	A plea that the accused was elsewhere at the time of the occurrence should be raised at the earliest opportunity and proved to the Court's satisfaction. The Court identified the initial stages, including framing of charge or preliminary hearing, as appropriate occasions, and relied on Lakhan Singh in disapproving an unexplained plea first raised at the defence-evidence stage. This requirement does not displace the prosecution's continuing duty to prove presence by positive evidence.	701
Ceremony invitation without proof of attendance does not establish alibi	An invitation to a thirteenth-day ceremony did not establish Rambabu's alibi when the defence witness did not say that Rambabu attended it. In the absence of evidence placing him at the ceremony, the Court rejected the plea.	713
Plea of alibi — positive proof and the prosecution's continuing burden	Alibi is an evidentiary plea of being elsewhere, relevant under Section 11 of the Evidence Act. The prosecution must first establish the accused's presence and participation; the plea does not reduce that burden. The accused must then establish alibi by positive evidence with strict proof excluding presence at the scene, while evidence raising reasonable doubt about presence entitles him to its benefit. Failure to prove alibi does not establish guilt: the prosecution must independently prove its case beyond reasonable doubt. The claimed CCTV alibi raised a disputed factual issue requiring cogent evidence.	807
Plea of alibi—proof by cogent evidence	A plea that the accused was elsewhere when the offence occurred is a defence that must be established through cogent evidence. Supplying documents in support of that plea does not itself require the police to accept the defence or investigate from that viewpoint. The Court left the applicants to prove their alibi through evidence rather than deciding it in the Section 482 proceedings.	814
Proof of an alibi and its consideration at trial	An assertion that the accused was elsewhere when the offence occurred is a plea of alibi, which the Court stated must be proved beyond reasonable doubt. The applicant's assertion that he was in his office during the alleged incident could not be decided in these Section 482 CrPC proceedings. He remained free to establish that defence before the trial court, which had to decide the case without being influenced by the refusal to quash.	837
Proof of alibi before the trial court	A plea of alibi is a defence that the suspected accused must prove by leading cogent and reliable evidence before the trial court. An assertion of absence from the scene did not entitle the petitioner to directions controlling the pending investigation.	840
Proof of a hospital-based plea of alibi	The prosecution must first prove the accused’s presence and participation; raising an alibi does not lessen that burden. Once that burden is discharged, an alibi requires positive, strict proof excluding presence at the scene, while credible defence evidence raising reasonable doubt still benefits the accused. The hospital documents did not establish the alibi where the defence doctor was not posted there at the relevant time and could not identify the signatures of their makers.	936

Sub-Chapter no. 23.10
Section 113A Evidence Act — Abetment of Married Woman's Suicide and Discretionary Presumption

Suicide after eight to ten years of marriage —	The Court accepted that the marriage had taken place eight to ten years before the death and declined to draw the presumption discussed in the appeal. The	328

Topic	Ratio	Case Sr.no.
presumption not applied	defence and paragraph 17 refer to Section 113-A of the Evidence Act, while the printed conclusion in paragraph 22 refers to Section 113-B. The Court nevertheless assessed the oral evidence, prior cruelty proceedings and the signed reconciliation agreement and independently upheld the convictions for cruelty and abetment of suicide. The judgment contains no separate dowry-death charge or analysis establishing a distinct Section 113-B issue.	

Sub-Chapter no. 23.11
Site Plan and Scene Record — Direct Observation versus Investigative Statement

Scene reconstruction based on hearsay and unproved working notes	The Court declined to rely on the scientific officer's scene reconstruction because it was based on information from an investigating officer who had not witnessed the occurrence, rather than information from an eyewitness. The short notes from which the later report was prepared were also not produced or proved. The report therefore did not establish the asserted firing position and distance against the direct account.	253
Site-plan observations and information supplied during investigation	A site plan may prove features personally seen by its maker as direct evidence. Markings based on statements made by eyewitnesses to the investigating officer are subject to Section 162 CrPC and cannot be used as substantive proof or ordinary corroboration of those statements. The officer's personal observation of brain matter scattered at the scene was therefore admissible, rather than information merely supplied to him by a witness.	291
Site plan — entry based on the investigating officer's own observation	The investigating officer's site-plan entry showing where the deceased's body lay was admissible because it recorded the position he personally observed on reaching the scene. The variation between that plan and the other spot map did not displace the prosecution case in the circumstances considered.	307
Omitted light pole in site plan — eyewitness identification	Omission of an electric pole from the site plan did not by itself negate illumination or identification. The Court considered the witnesses' close vantage points, familiarity with the local accused, their testimony about light, and other light sources in the open market. A site-plan omission attributable to defective investigation did not require rejection of otherwise credible evidence.	319
Site Plan: Personal Observations and Witness-Supplied Information	A site plan may prove physical facts personally observed by the investigating officer, such as the location of blood, footwear and cartridges. Notes recounting an occurrence the officer did not witness cannot be treated as his direct evidence. Investigative statements remain subject to Section 162 CrPC and the applicable rules for contradiction or corroboration. Applying Jagdish Narain and Rameshwar Dayal, the Court relied on the officer's observed scene together with the witnesses' testimony.	360
Site-Plan Observations Distinguished From Witness Information	A site plan is admissible to the extent that it records what its maker personally observed. Marks or descriptions based on statements given during police investigation are subject to Section 162 CrPC and cannot serve as substantive proof of those statements; their permitted use is for contradiction in accordance with law. The Court rejected reliance on location information supplied by the deceased informant and repeated through police officers to another map-maker, while considering independently observed physical evidence.	381
Limited evidentiary value of a belated spot map based on non-eyewitness instructions	The spot map was prepared about eight days after the incident without an adequate explanation for the delay and on the instructions of persons not shown to have witnessed the alleged administration of poison. In those circumstances, it could not reliably establish that occurrence, and the Court attached no importance to it. Its formal preparation did not repair the missing evidence of the incident.	467
Site-plan observations and witness-supplied	A site plan may be used for what the investigating officer personally observed at the scene. Details entered from witnesses' statements during investigation are governed by Section 162 CrPC and cannot be used as substantive proof; their	583

Topic	Ratio	Case Sr.no.
information under Section 162 CrPC	use is confined to the purposes allowed by that provision, including contradiction. The source of each relevant part of the plan must therefore be distinguished. The same distinction applies to observational and statement-based parts of inquest and seizure documents.	
Omission of blood from the spot map	Omission to mark blood in the spot map did not establish that the assault occurred elsewhere where the map identified the scene, a seizure memo recorded bloodstained earth from that place, and the forensic report detected blood in the earth article. The Court also considered the absence of a question to the investigating officer challenging the article's identity and the absence of a suggestion that witnesses had shifted the scene.	698
Omission of blood from the spot map	Omission to mark blood in the spot map did not establish that the assault occurred elsewhere where the map identified the scene, a seizure memo recorded bloodstained earth from that place, and the forensic report detected blood in the earth article. The Court also considered the absence of a question to the investigating officer challenging the article's identity and the absence of a suggestion that witnesses had shifted the scene.	699
Site-plan inconsistency in an accident defence and the separate proof of identity	The defence that the witnesses were injured in a minor motorcycle accident was rejected because the site plan showed no road at the alleged scene. Rejection of that explanation did not answer the separate question whether this appellant was an assailant. The Court proceeded to examine identification evidence and found dock identification necessary in the circumstances.	835

Sub-Chapter no. 23.12
Civil and Criminal Judgment Findings — Independent Proof and Evidence Act Relevance

Parallel civil and criminal proceedings — simultaneous progress and stay	Civil and criminal proceedings may proceed simultaneously. A stay depends on the circumstances; it does not follow merely from the risk of conflicting findings. The relied-upon authorities treat the likelihood of embarrassment from parallel proceedings as relevant and generally favour precedence for criminal proceedings because criminal justice should not await a prolonged civil suit. This is not an inflexible rule: special circumstances, including a proceeding being close to completion, may justify a different course.	2
Independent findings in civil and criminal proceedings	Findings recorded by a criminal court are not binding on the civil court, and civil-court findings are not binding on the criminal court. In applying that principle, the Court treated the matrimonial civil litigation and the criminal complaint as independent proceedings; the existence of the divorce case did not decide the criminal accusation.	39
Matrimonial civil and criminal proceedings — independent adjudication	In rejecting the reliance on an earlier divorce petition to quash a cruelty FIR, the Court applied the principle that civil and criminal proceedings remain independent even when they arise from the same facts. Findings in one do not bind the other in this setting, and pendency of the divorce proceedings does not itself end the criminal case.	53
Civil and criminal proceedings — independent findings and different standards of proof	Civil and criminal proceedings are independent and employ different standards of proof: probabilities govern civil adjudication, while criminal guilt requires proof beyond reasonable doubt. A civil finding does not bind the criminal court merely because the proceedings arise from the same facts. The pendency of a civil action, even before a superior court, is not by itself a ground to quash the criminal proceedings.	76
Evidence recorded in a co-accused's trial during abscondence	Evidence led in a co-accused's trial in the absence of an absconding accused cannot be read either for or against that absent accused. His case must be determined on the evidence led in his own proceedings.	231
Independent adjudication of	Pendency of a civil divorce proceeding does not terminate criminal proceedings arising from the same matrimonial facts. In rejecting quashing on that ground,	236

Topic	Ratio	Case Sr.no.
divorce and criminal cruelty proceedings	the Court required the civil and criminal cases to be decided on their own merits rather than treating findings in one as binding on the other.	
Civil and criminal findings are independently assessed, subject to statutory relevance of judgments	Civil cases apply the preponderance-of-probabilities standard, while a criminal conviction requires proof beyond reasonable doubt. A finding in one proceeding is not automatically binding in the other, and each is decided on its evidence. A previous judgment may nevertheless be relevant under Sections 40 –43 of the Evidence Act; the specific conclusiveness provided by Section 41 must be preserved.	258
Independent Civil and Criminal Findings and Statutory Relevance of Earlier Judgments	Civil and criminal proceedings ordinarily depend on the evidence led in each case and apply different standards of proof: preponderance of probabilities in civil cases and proof beyond reasonable doubt in criminal cases. Findings in one do not automatically bind the other. The relevance and effect of a previous judgment must nevertheless be examined under Sections 40–43 of the Evidence Act, including the conclusiveness provided by Section 41.	401
Civil matrimonial proceedings and independent criminal adjudication	Civil and criminal proceedings remain independent even when they arise from the same facts. Findings of the civil court do not bind the criminal court, which must decide the case on the material before it and the applicable standard of proof; the divorce proceeding did not terminate the criminal prosecution.	411
Independent civil and criminal findings and relevance of previous judgments under Sections 40–43 Evidence Act	Civil cases are decided on a preponderance of probabilities, while criminal guilt requires proof beyond reasonable doubt. Each proceeding must ordinarily be decided on its own evidence; a finding in one does not automatically bind the other merely because the parties and subject matter overlap. Applying Kishan Singh, Syed Askari, Prem Raj and Vishnu Dutt Sharma, the Court rejected the civil suit as a bar to criminal investigation. A previous judgment may nevertheless be relevant under Sections 40–43 Evidence Act, and its effect must be assessed under the applicable provision, including Section 41's specified conclusiveness.	424
Different Standards of Proof in Civil and Criminal Proceedings	Civil liability may be decided on probabilities, whereas criminal guilt requires proof beyond reasonable doubt. Because the proceedings have distinct scope and standards, the pendency of a civil action does not itself bar the criminal case or justify its quashing. The Court relied on this distinction when rejecting the matrimonial-proceedings objection.	458
Civil and criminal proceedings — independent findings and standards of proof	Civil and criminal proceedings remain independent even when they arise from the same facts. Filing a divorce petition does not bring the criminal case to an end. The Court stated that findings of the civil court are not binding on the criminal court and that the standards of proof differ; the criminal case must proceed on its own allegations and proof. It applied that distinction when rejecting the argument that the later matrimonial FIR was necessarily a counterblast.	495
Independent findings and standards of proof in civil and criminal proceedings	Civil and criminal proceedings arising from the same facts must be decided on the evidence adduced in each proceeding. Civil liability is assessed on a preponderance of probabilities, whereas the prosecution must establish criminal guilt beyond reasonable doubt. Findings in one proceeding are not automatically binding in the other. The pendency of a divorce proceeding therefore does not itself justify ending the criminal proceeding, subject to the statutory relevance and effect of previous judgments under the Evidence Act.	500
Independent Proof and Different Standards in Civil and Criminal Proceedings	Criminal allegations must be proved independently even where a civil court adjudicates the same transaction. Criminal proceedings cannot be made dependent on the civil court first deciding whether disputed documents are genuine or forged. A criminal charge requires proof beyond reasonable doubt, whereas civil proceedings may be decided on probabilities. Failure to prove the criminal allegations may lead to discharge or acquittal; the pendency of a civil	531

Topic	Ratio	Case Sr.no.
	suit alone does not justify quashing.	
Effect of civil findings in a criminal proceeding concerning the same document	Civil findings do not automatically bind the criminal court, or vice versa. Each proceeding ordinarily depends on its own evidence and standard of proof: preponderance of probabilities in civil proceedings and proof beyond reasonable doubt in a criminal case. A previous judgment's relevance and any binding or conclusive effect must be assessed under Sections 40–43 of the Evidence Act, including the specified conclusive effect under Section 41. Absence of a civil finding that the affidavit was forged did not conclusively defeat the criminal allegation.	586
Independent adjudication of civil and criminal proceedings	Civil and criminal proceedings are separate and must be decided on the allegations and proof in each. Civil findings do not bind the criminal court, and the standards of proof differ. Accordingly, an earlier matrimonial case does not terminate a criminal proceeding arising from the same circumstances or, by itself, justify quashing it under Section 482 CrPC.	597
Divorce and criminal proceedings — independent adjudication	Civil and criminal proceedings remain independent even when they arise from the same facts. Filing or pendency of a divorce petition does not bring a criminal prosecution to an end, and findings of the civil court do not bind the criminal court or vice versa.	687
Previous civil judgment in criminal proceedings — relevance and conclusiveness under the Evidence Act	A previous final judgment may be relied on only to the extent permitted by Sections 40–43 of the Evidence Act or another applicable provision. For civil and criminal proceedings arising from the same cause, relevance must first be established and the judgment's effect then assessed. It is not automatically conclusive; Section 41 provides the specified conclusiveness. Judgments outside Sections 40–42 are ordinarily irrelevant under Section 43 unless their existence is itself in issue or relevant under another provision. A judgment may be relevant only for a limited purpose, depending on the case.	705
Independent civil and criminal proceedings and standards of proof	Civil and criminal proceedings are separate even when they arise from the same facts. Civil cases turn on probabilities, while criminal guilt requires proof beyond reasonable doubt. Pendency of a civil or divorce proceeding does not itself justify quashing the criminal case, and civil findings do not determine the criminal case merely because of the overlap.	793
Independent proof and different standards in civil and criminal proceedings	Civil cases are decided on a preponderance of probabilities, while the prosecution in a criminal case must prove guilt beyond reasonable doubt. Findings in one proceeding are not automatically final or binding in the other; each proceeding must be decided on the evidence before it, subject to the statutory relevance and effect of previous judgments. The reproduced Prem Raj discussion also recognises that a civil court may consider evidence led in criminal proceedings.	844
Effect of civil or revenue findings on criminal proceedings	Civil and criminal proceedings ordinarily require independent findings on the evidence produced in each, applying their different standards of proof. A prior civil judgment is not automatically conclusive in a criminal case. Its relevance and effect depend on Sections 40–43 of the Evidence Act; Section 41 provides the specified category of conclusive judgments. Applying the reproduced authorities, the Court held that the Additional Collector's findings concerning the sale deeds did not bind the criminal proceedings.	871
Civil divorce findings do not determine criminal liability for cruelty	Civil proceedings are decided on probabilities, while a criminal prosecution requires proof beyond reasonable doubt on its own evidence. The civil court's findings therefore did not bind the criminal court or justify ending the cruelty prosecution. The husband's divorce decree was also under appeal and had not attained finality, with an interim restraint on remarriage. The Court declined to use that decree or its finding about the wife's alleged relationship to terminate the criminal case.	872

Topic	Ratio	Case Sr.no.
Civil and criminal findings — independent proof subject to rules on previous judgments	Civil and criminal cases ordinarily depend on the evidence led in each, and findings in one do not automatically bind the other. Civil proof rests on a preponderance of probabilities, while the prosecution must prove criminal guilt beyond reasonable doubt. This independence is subject to the Evidence Act rules on previous judgments: relevance and any binding or conclusive effect must be assessed under Sections 40–43, including the conclusiveness specified in Section 41. A relevant previous judgment is not invariably conclusive.	896
Independent civil and criminal findings and the statutory relevance of previous judgments	Civil and criminal proceedings are decided on the evidence produced in each and under different standards: preponderance of probabilities in civil litigation and proof beyond reasonable doubt in a criminal prosecution. Findings in one are not automatically binding in the other merely because the parties and subject matter are the same. Applying Syed Askari Hadi Ali Augustine Imam and Kishan Singh, the Court also preserved the statutory enquiry under Sections 40–43 of the Evidence Act: a previous judgment's relevance and effect must be assessed, with conclusiveness available as provided by Section 41. The reproduced authorities explain that Karam Chand's broad binding-effect statement failed to account for the Constitution Bench decision in M.S. Sheriff, and that V.M. Shah was not approved in K.G. Premshanker.	958
Civil matrimonial findings — criminal proceedings must be decided on their own allegations	The Court stated that findings of a civil court are not binding on the criminal court and that the criminal case must be decided on the allegations made in those proceedings. This formed part of its rejection of the claim that a wife's FIR became a counterblast because the husband had first instituted restitution proceedings. The existence of the civil matrimonial proceedings did not determine the criminal allegations or justify quashing them.	1005

Sub-Chapter no. 23.13
Section 174 CrPC Inquest — Apparent Cause and Limits on Accused Identification

Merg inquiry — injured victim still alive when scene articles are seized	Absence of a registered merg inquiry when the police seized the kerosene bottle, burnt clothes and other scene articles did not show a missing death inquiry at that stage: the victim was still alive. The Court expressly distinguished the same-day collection of scene evidence from the later inquiry after her death.	19
Scope of a marg intimation	A marg intimation need state sufficient facts concerning the death; it need not contain the full description of the crime required in an FIR. The absence of detailed offence particulars in the contemporaneous marg intimation did not establish that the fuller FIR was prepared later.	165
Names of assailants and the limited purpose of an inquest	An inquest concerns the apparent cause of death and the manner or instrument by which injuries appear to have been caused. It need not record every overt act or the names of accused persons and eyewitnesses. Omission of assailants' names from the inquest reports did not make the complainant's testimony unreliable.	291
Injuries found at autopsy but not noted during inquest	The omission of an injury from the inquest record did not contradict the autopsy where the head injury was internal without a corresponding visible external injury and the genital area had not been clearly visible at inquest. The more detailed autopsy examination explained the additional findings. The presence of a woman among the inquest witnesses did not require a separate notation that she alone had inspected the genital area.	391
Section 174 CrPC inquest — omission of assailant names	An inquest under Section 174 CrPC concerns the apparent cause of an unnatural or suspicious death and the injuries observed. It does not require a detailed reconstruction of the assault or identification of every assailant. Applying Brahm Swaroop, the Court held that omission of accused or eyewitness names and individual overt acts from an inquest report does not by itself discredit reliable eyewitness evidence or establish that the FIR was ante-timed. The prosecution evidence must still be assessed on the complete record.	499

Topic	Ratio	Case Sr.no.
Inquest report — evidentiary use and opportunity to explain discrepancies	An inquest report is not substantive evidence, though it may be used to contradict an inquest witness. Under the Brahm Swaroop passage adopted by the Court, an alleged discrepancy, omission, overwriting or contradiction must be put to the author so that an explanation can be given. Even an admitted omission through lack of diligence does not necessarily require rejection of reliable and clinching eyewitness evidence. The omission must be evaluated within the report's limited statutory purpose and the other proof.	499
Inquest opinion does not determine the medical cause of death	An inquest panchnama records the panchas' opinion and does not by itself establish the actual cause of death. The Court rejected a casual suggestion of death from an animal attack where it lacked a reasoned basis and conflicted with deliberate concealment of the skeleton and the medical findings; the medical and surrounding evidence had to be assessed.	575
Section 174 CrPC inquest — omission of accused names does not itself establish an ante-timed FIR	An inquest records the apparent cause of death, injuries and apparent means of infliction; it need not identify the assailants or detail their overt acts. It is not substantive evidence, but may test or contradict inquest witnesses. Omission of an accused's name therefore does not itself show that the FIR was ante-dated or ante-timed or that the eyewitness did not disclose the assailant. A discrepancy, omission or overwriting relied upon must be put to the report's author for an opportunity to explain it in evidence.	638

Sub-Chapter no. 23.14
Evidence Obtained Through Procedural Illegality — Admissibility and Careful Scrutiny

Effect of invalid constitution of an inquiry committee on collected evidence	Setting aside a Bar Association resolution because the inquiry committee was unlawfully constituted did not, by itself, erase the evidence collected by that committee. The Court considered the recorded statements and the surrounding conduct when closely scrutinising the criminal complaint, without deciding the validity of the Bar Council appellate order.	20
Illegally collected evidence — no automatic rejection, but careful scrutiny	Evidence does not automatically lose its evidentiary effect merely because it was collected contrary to law. Relying on Radha Kishan, the Court stated that evidence obtained through an illegal search should be carefully examined rather than rejected for that reason alone. It also rejected the factual premise of an undisclosed recording: the transcript showed that the applicant knew of the recording and voiced no objection. The asserted illegality in obtaining the conversation therefore did not justify its automatic exclusion or quashing of the proceedings.	1009

Chapter no. 24
Statements, Confessions, Admissions, Discovery and Dying Declarations

Sub-Chapter no. 24.1
Dying Declaration and Statements Relating to Cause of Death

Dying declaration — burn percentage and fitness at the time of recording	Burns over ninety to one hundred per cent of the body do not by themselves establish inability to make a dying declaration. The nature and depth of burns, their effect on the person's faculties and the evidence of fitness at the recording time must be assessed. The Executive Magistrate recorded coherent answers after medical fitness certification in the doctor's presence. The doctor's qualified evidence and the defence witnesses' limited presence did not show incapacity at that time. The Court accepted the recorded declaration and the independently proved oral declaration.	19
Section 32(1) Evidence Act — death-related statement and expectation of death	A deceased person's statement about the cause of death or the circumstances of the transaction resulting in death is relevant when that person's cause of death is in question. Relevance under Section 32(1) does not depend on whether the maker expected to die when speaking. The statutory exception admits the statement despite the absence of oath and cross-examination, but its weight still	19

Topic	Ratio	Case Sr.no.
	requires close scrutiny.	
Dying declaration — sole basis for conviction and need for corroboration	A true, voluntary and reliable dying declaration may by itself support conviction if it inspires confidence after careful scrutiny. Corroboration is not an inflexible legal requirement. Suspicion, impaired capacity, an untrue material part or another serious infirmity may require corroboration or make reliance unsafe. The Court must be satisfied about personal knowledge, opportunity to identify the assailants and absence of tutoring, prompting or imagination.	19
Dying declaration — medical certificate is a safeguard, fitness remains essential	The essential requirement is that the maker was fit to understand and communicate the statement and that the person recording it was satisfied of that fitness. A doctor's certificate is an important safeguard rather than an indispensable requirement in every case. The recorder's credible testimony and other evidence may establish fitness, subject to the court's final satisfaction that the declaration was voluntary and truthful; impaired capacity cannot be overlooked merely because the statement is labelled a dying declaration.	19
Dying declaration — recorder, form and method of communication	A dying declaration need not be made only to a Magistrate and has no compulsory statutory form. It may be oral, written or communicated by positive and definite signs or another adequate method. A Magistrate's recording or attestation by persons present may strengthen authenticity, but reliability and the maker's fitness govern the evidentiary value in the circumstances of each case.	19
Multiple dying declarations — independent scrutiny of discrepancies	Each dying declaration must be assessed on its own merits and with the other evidence. Minor or reconcilable variations do not automatically invalidate an otherwise reliable declaration. Where versions are materially opposed, the court must examine their nature and the surrounding evidence rather than decide reliability merely by counting statements or mechanically rejecting a later declaration. Consistency alone does not cure infirmity in each account.	19
Dying declaration — brevity, omitted detail and identification	A declaration is not unreliable merely because it is brief or omits minute details of the occurrence. The court must nevertheless be satisfied that the maker could observe and identify the persons implicated and spoke from personal knowledge. An uncertainty about identity, a material untrue assertion or a statement beyond the maker's knowledge may require corroboration or make the declaration unsafe; absence of detail is therefore assessed in context, not treated as invariably harmless.	19
Burn victim's thumb impression — actual condition of the thumb is factual	Extensive burns over the body do not necessarily make a thumb impression impossible. Whether the thumb's skin and ridges remained sufficiently intact is a question of fact that must be checked against the medical and other evidence. Unexplained conflict between a clear impression and proved destruction of both thumbs may create doubt, while an intact thumb is compatible with severe burns elsewhere.	19
Oral dying declaration — statement to the deceased's husband	An oral dying declaration to the victim's husband may be relied upon when his account of the statement is found credible after scrutiny. In each trial the husband described the victim naming those who burned her, and cross-examination disclosed no substantial reason to reject that account. The Court separately found the oral declaration proved, alongside the recorded declaration.	19
Extensive burns and capacity to make a dying declaration	The percentage of burns does not, by itself, determine whether a person could make a reliable dying declaration. The nature and degree of the burns, the parts affected, their effect on the person's mental faculties, and the evidence of consciousness and fitness must be considered. Extensive or even 100% burns do not automatically establish incapacity.	122
Conviction on a reliable dying	A truthful and voluntary dying declaration may alone sustain conviction if it	122

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declaration without independent corroboration	inspires the Court's confidence after careful scrutiny. The declarant must have been mentally fit, able to observe and identify the assailant, and free from tutoring, prompting or imagination. Here, the declaration implicating the husband was accepted alongside scene evidence inconsistent with the suggested cooking accident.	
Medical fitness certificate as a precaution in recording a dying declaration	A separate medical certificate of mental fitness is a rule of caution rather than an indispensable condition in every case. The person recording the declaration must be satisfied that the declarant is fit and capable of making it, and the Court must ultimately find it voluntary and truthful. Reliable testimony establishing that condition can support the declaration despite the absence of a formal endorsement.	122
Doctor recording a dying declaration without waiting for a Magistrate	A dying declaration need not invariably be recorded by a Magistrate. Where the patient's condition is rapidly deteriorating and delay may lose the statement, the treating doctor should record it rather than wait for a Magistrate. The recorder's satisfaction about the patient's fitness and the statement's truth and voluntariness remain essential.	122
Form and method of communicating a dying declaration	There is no mandatory statutory form for recording a dying declaration. It may be oral or written, or communicated through positive and definite signs or another adequate method. No oath is required. Its evidentiary weight depends on the circumstances, including the declarant's fitness and the authenticity and reliability of the statement.	122
Dying declaration as an exception to hearsay and expectation of death	A deceased person's statement about the cause of death or the circumstances of the transaction resulting in death is relevant under Section 32(1) of the Evidence Act when the cause of death is in question. Relevance does not depend on whether the maker expected death. The statutory exception permits consideration of the statement despite the absence of oath and cross-examination, while requiring careful scrutiny of its reliability.	122
Corroboration of a suspicious or materially unreliable dying declaration	A dying declaration that is suspicious or suffers from a material infirmity should not be relied on without corroborative evidence. Where a material and integral part is untrue, the Court may find it unsafe to convict on the declaration alone. The rule dispensing with corroboration applies only after the declaration has been found trustworthy.	122
Thumb impression on a dying declaration in a burns case	Whether a burns victim could leave a thumb impression is a question of fact concerning the actual condition of the thumb and the survival of its skin and ridges. Extensive burns elsewhere do not alone invalidate the impression. Conversely, an unexplained clear impression where the medical evidence shows both thumbs were completely burnt may cast doubt on the declaration.	122
Brevity or absence of exhaustive detail in a dying declaration	A dying declaration is not to be rejected merely because it is brief or does not describe every detail of the occurrence. Its acceptability depends on whether careful scrutiny establishes that it is truthful, voluntary, coherent and consistent.	122
Declarant's personal knowledge and mental capacity	The Court must be satisfied that the declarant could observe and identify the assailant and had personal knowledge of the matters stated. Evidence that the deceased was unconscious and could not have made the statement requires rejection of the asserted declaration. Matters shown to be outside the declarant's knowledge may undermine its reliability.	122
Extensive burns and reliability of a conscious victim's dying declaration	Extensive burns do not, by themselves, establish that the victim could not speak or make a reliable dying declaration. The decisive consideration is the evidence of the declarant's fit and conscious state. Despite about 90% burns and poor recorded vital signs, the doctor and Naib-Tahsildar testified that the victim was conscious and oriented when her statement was recorded. The Court accepted that testimony and found the declaration trustworthy.	127
Dehati Nalishi	A Dehati Nalishi recorded on an injured person's instructions may be treated as	127

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explaining the victim's death as a dying declaration	a dying declaration under Section 32 of the Evidence Act when it explains the cause of that person's subsequent death. The officer's evidence established that the victim instructed the report and was able to speak. The Court relied on that proved report together with the later declaration recorded by the Naib-Tahsildar.	
Superficial tongue burns do not necessarily prevent a dying declaration	A first-degree burn of the tongue signifies a superficial injury and does not establish that the tongue was completely charred or that the victim was incapable of speech. The Court rejected that objection in light of the medical evidence and testimony that the victim actually spoke when the declaration was recorded.	127
Conviction on a trustworthy dying declaration without corroboration	A dying declaration may be the sole basis of conviction if careful scrutiny establishes that it is truthful, voluntary, coherent and consistent. The Court must be satisfied about mental fitness, the opportunity to observe and identify the assailant, and freedom from tutoring, prompting or imagination. Corroboration is not an invariable legal requirement for a declaration satisfying those conditions.	127
Corroboration where a dying declaration is suspicious or materially defective	A suspicious dying declaration or one suffering from a material infirmity should not be acted on without corroborative evidence. If a material and integral part is untrue, or the declarant's mental fitness is doubtful, the Court may find it unsafe to convict on the declaration alone. The absence of cross-examination requires particularly careful scrutiny.	127
Medical certificate and independent proof of fitness for a dying declaration	A medical certificate of mental fitness is a precaution and is not indispensable in every case. The recorder must be satisfied that the person is fit and capable of making the statement, and the Court must find the declaration voluntary and truthful. Testimony establishing a fit and conscious state may support acceptance even without a formal medical endorsement.	127
No mandatory recorder or prescribed form for a dying declaration	A dying declaration need not invariably be made to a Magistrate or recorded in a prescribed form. It may be oral, written, or communicated by positive and definite signs, and no oath is necessary. Requesting an available Magistrate or obtaining attestation may help establish authenticity, but acceptance ultimately depends on the declarant's fitness and the statement's voluntariness and truth.	127
Thumb impressions on dying declarations by burns victims	Whether a burns victim could leave a thumb impression depends on the actual condition of the thumb and whether its skin and ridges remained intact. The percentage of burns elsewhere is not decisive. An unexplained clear thumb impression may undermine reliability where the medical evidence establishes that both thumbs were completely burnt.	127
Section 32(1) relevance without an expectation of death	A deceased person's statement about the cause of death or the circumstances of the transaction resulting in death is relevant when that person's cause of death is in issue. Under Section 32(1) of the Evidence Act, the maker need not have expected death when speaking. The Court must still scrutinise the statement's truth and reliability.	127
Dying declaration containing matters outside the declarant's knowledge	A statement attributed to a deceased person may become unsafe to rely on if it narrates material facts that could not have been within the person's knowledge or observation. The Court must test the contents against the declarant's actual opportunity to observe and identify those implicated.	127
Recorder need not repeat a dying declaration verbatim	A recorder need not repeat in oral evidence the exact words of a properly recorded dying declaration. Its contents, the maker’s fitness and the connection with the cause or circumstances of death must still be proved. An FIR later becoming a dying declaration by operation of law must be proved as the FIR; its admissibility does not depend on the scribe retelling every allegation in court.	167
Reliability and corroboration of a	A truthful and voluntary dying declaration made in a fit state of mind, free from tutoring, prompting or imagination, may alone support conviction. The court	167

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dying declaration	must scrutinise the opportunity to observe and identify the assailant, fitness and consistency. A suspicious declaration requires corroboration, and a statement the unconscious maker could not have made must be rejected. A medical fitness certificate is a rule of caution rather than an indispensable formality where other reliable evidence establishes fitness.	
Form and confirmation of a dying declaration	A dying declaration need not invariably be made to a Magistrate. For a declaration specially recorded by police, the narrated authority requires the court to be satisfied that no alternative was available and the reliability safeguards were met. Question-and-answer recording is ordinarily preferable, but a short narrative in the maker's words is not defective merely for its form. For a recorded declaration, the prosecution must establish that it was read to the maker and accepted as correct. The FIR scribe's evidence established read-back and acceptance in this case.	167
Reliable dying declaration may sustain conviction without corroboration	A dying declaration may be the sole basis of conviction if the Court, after careful scrutiny, finds it voluntary, truthful and made while the declarant was mentally fit. Independent corroboration is not an invariable requirement. The medically certified declaration identifying those who poured kerosene and set the deceased on fire was accepted as trustworthy.	202
Expectation of death is unnecessary for relevance under Section 32(1)	A statement concerning the cause of the maker's death or the circumstances resulting in it is relevant under Section 32(1) of the Evidence Act when the cause of that death is in question. Its relevance under Indian law does not depend on the maker having expected death when making the statement.	202
Multiple dying declarations require scrutiny of reliability and material inconsistencies	Where more than one dying declaration exists, the Court must examine each declaration's reliability, the circumstances in which it was made and whether inconsistencies are material. A later incriminating declaration is not necessarily untrue because an earlier one differs; acceptance requires scrutiny of fitness, voluntariness, freedom from influence and supporting circumstances.	202
Medical fitness certificate is a safeguard rather than an absolute requirement	The person recording a dying declaration must be satisfied that the declarant is mentally fit. A doctor's certificate is a rule of caution, and its absence does not automatically invalidate the declaration where reliable testimony and other material establish fitness and the Court finds the statement voluntary and truthful.	202
Dying declaration requires no prescribed form, oath or compulsory Magistrate recording	A dying declaration may be oral, written or communicated by definite signs. It need not be made to a Magistrate or on oath, and no statutory form is prescribed for its recording. Its evidentiary weight depends on the circumstances and proof of the declarant's fitness, voluntariness and truthfulness.	202
Recording conditions must protect freedom from tutoring or pressure	The recorder must assess the declarant's mental condition and provide conditions in which the truth can be stated freely, excluding persons who may directly or indirectly influence the statement. Before relying on the declaration, the Court must be satisfied that it was not the product of tutoring, prompting or pressure.	202
Brevity or absence of detailed narration does not alone invalidate a dying declaration	A dying declaration is not to be rejected merely because it is brief or does not describe every detail of the occurrence. Its reliability must be judged through the governing tests of truthfulness, voluntariness and the declarant's fitness.	202
Extensive burns do not by themselves exclude capacity to make a dying declaration	The percentage of burns alone does not determine whether a person can make a reliable dying declaration. The nature, degree and location of the burns and their effect on the ability to think and communicate must be assessed. Here the doctor certified fitness, and cross-examination did not establish impaired faculties, inability to speak or sedative influence that displaced the accepted declarations.	229

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Conviction on a trustworthy dying declaration without independent corroboration	A dying declaration may alone sustain conviction if careful scrutiny establishes that it is truthful, voluntary, coherent and reliable, made in a fit state of mind with an opportunity to identify the assailant and free from tutoring, prompting or imagination. Corroboration is not invariably required; a suspicious declaration or one carrying material infirmities cannot safely be acted upon without supporting evidence.	229
Recording by a doctor without waiting for an Executive Magistrate	A written dying declaration is not inadmissible merely because an Executive Magistrate did not record it. Where the patient's condition is rapidly deteriorating and delay may lose the statement, a doctor satisfied about the patient's fitness may record it without waiting for the Magistrate. Independence and reliability of the recorder and the statement remain relevant.	229
Medical fitness certificate as a safeguard rather than an absolute requirement	The recorder must be satisfied that the declarant is fit to make the statement, and the court must ultimately find it voluntary and truthful. A doctor's certificate is a rule of caution, rather than an indispensable formality in every case. Fitness may be established by other reliable evidence; absence of a particular endorsement alone does not exclude the declaration.	229
Form and method of communicating a dying declaration	A dying declaration may be oral or written, or communicated by words, signs or another adequate method, provided the indication is positive and definite. No oath or prescribed statutory recording format is required. The evidentiary weight depends on the circumstances and proof that the declarant could communicate a voluntary, truthful account.	229
Thumb impression on a declaration despite extensive burns	Extensive burns do not automatically make a thumb impression impossible. Whether the skin and identifying ridges of the particular thumb remained sufficiently intact is a question of fact. The impression must be assessed with the medical and other evidence, rather than rejected solely by reference to the overall percentage of burns.	229
Expectation of death is unnecessary under Section 32(1)	A deceased person's statement about the cause of death or the circumstances of the transaction resulting in death is relevant when the cause of that person's death is in question. The declarant need not have expected death when making the statement. That requirement does not depend on the civil or criminal nature of the proceeding.	229
Assessment of multiple dying declarations	Where there are several dying declarations, their consistency and reliability must be examined together. Differences in detail may be reconcilable and must be assessed against the other evidence. A plurality of declarations may be accepted where they are trustworthy; here the oral accounts, admission history, written declaration and Dehati Nalishi consistently identified the husband.	229
Hospital history must be traced to the deceased before treating it as her statement	An accidental-burning history in a medical record could not be attributed to the deceased where the doctor admitted that he had not spoken with her and the history came from family members. It therefore did not establish a competing dying declaration by the deceased. The account she personally gave at admission was considered separately.	229
Reliability of a dying declaration recorded by the treating doctor	The recorder must be satisfied that the declarant is mentally fit and makes a conscious, voluntary statement with an understanding of what is being said. The Court accepted the treating doctor's declaration where his evidence showed that the deceased remained conscious and oriented throughout and was not under the influence of medicines. Her severe burns and the absence of an Executive Magistrate did not, on the evidence accepted, invalidate the declaration.	268
Formalities and medical certification of a dying declaration	A dying declaration need not be recorded by a Magistrate, on oath or in a prescribed form. It may be oral, written or communicated by positive and definite signs. A doctor's certificate of mental fitness is a safeguard of caution, rather than an indispensable requirement in every case. Fitness and the declaration's voluntary, truthful character may be established through other	268

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	reliable evidence, subject to the court's ultimate satisfaction.	
Severe burns do not alone determine capacity to make a dying declaration	The percentage of burns is not, by itself, decisive of the ability to make a reliable dying declaration. The assessment depends on the nature and location of the burns and their effect on the person's capacity to think and communicate. Reliable medical evidence of fitness cannot be displaced merely by assuming that extensive burns necessarily caused incapacity.	268
Dying declaration as sole basis of conviction and need for corroboration	A truthful and voluntary dying declaration that inspires full confidence can sustain conviction without corroboration. The court must scrutinise mental fitness, opportunity to perceive the events, consistency and freedom from tutoring, prompting or imagination. If the declaration is suspicious or there is grave doubt about the maker's capacity, corroborative evidence is needed before safely relying on it; an infirm declaration cannot by itself support conviction.	268
Relevance of statements concerning the cause or circumstances of death	Section 32(1) Evidence Act makes relevant a deceased person's statement about the cause of death or the circumstances of the transaction resulting in death. It operates as an exception to the ordinary requirement of direct oral evidence. Its admissibility does not dispense with careful scrutiny of the statement's reliability.	268
Fitness to make a dying declaration despite extensive burns	The percentage of burns does not by itself establish that a victim was incapable of making a dying declaration. The decisive question is whether the evidence establishes a fit and conscious state of mind. A declaration by a victim with 98% burns was accepted where the doctor certified fitness before and after recording, the recorder confirmed her capacity, and medical and forensic evidence supported the account. The Court also found no opportunity for tutoring by the parents, who arrived after her death.	272
Reliable dying declaration as the sole basis of conviction	A dying declaration may be the sole basis of conviction without corroboration if, after careful scrutiny, it inspires the court's full confidence. The court must be satisfied that the maker was mentally fit, could observe and identify the assailant, and made a truthful, voluntary and coherent statement free from tutoring, prompting or imagination.	272
Corroboration of a suspicious or materially unreliable dying declaration	A suspicious dying declaration, or one affected by an infirmity such as doubtful mental fitness, should not be acted upon without corroboration. Where a material and integral part of the account is untrue, it may be unsafe to convict on the declaration alone. Corroboration is a rule of prudence rather than an absolute requirement for every declaration.	272
Doctor's certificate of fitness is a rule of caution	A doctor's certification is a safeguard, not an indispensable requirement in every case. A declaration can be accepted without it where the recorder's evidence establishes the maker's fitness and the court is satisfied that the statement was voluntary and truthful. The person recording it must be satisfied that the maker can make the statement.	272
Form and recording of a dying declaration	A dying declaration may be oral, written or communicated by definite words or signs. No oath or prescribed statutory form is required, and recording by a Magistrate is not indispensable. For authenticity, a Magistrate should be requested if available, or attestation obtained from persons present, while the recorder must be satisfied about the maker's fitness.	272
Evidence of actual incapacity and medical opinion on fitness	Where an eyewitness affirmatively establishes that the deceased was not in a fit and conscious state to make a statement, medical opinion cannot prevail over that evidence. The court must assess the evidence of the maker's actual condition when the declaration was made.	272
Brevity or omission of details in a dying declaration	A dying declaration is not to be rejected merely because it is brief or does not give all details of the occurrence. Its reliability, coherence and freedom from improper influence must still be assessed.	272

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Expectation of death is unnecessary under Section 32(1) Evidence Act	A deceased person's statement about the cause of death or the circumstances of the transaction resulting in death is relevant under Section 32(1) of the Evidence Act when that person's cause of death is in question. Relevance does not depend on the maker having expected death when making the statement.	272
Credibility of an alleged oral dying declaration	An alleged oral dying declaration depends on the reliability of the witness who reports it. The Court rejected the widow's account where her conduct and the absence of support from those said to have brought the injured person made that account doubtful. Her claim could not be accepted merely because she attributed an accusation to the deceased.	295
Reliable dying declaration as the sole basis of conviction	A voluntary and reliable dying declaration, made in a fit state of mind and based on personal knowledge with an opportunity to identify the assailants, can sustain conviction without independent corroboration. Material eyewitnesses turning hostile does not prevent reliance on a declaration proved by the witnesses connected with its recording. The declaration must undergo careful scrutiny for truthfulness and freedom from influence.	313
Dying declaration — later claim of unclear speech by its recorder	The recorder's later assertion that the declarant named the assailants in an unclear voice did not undermine the declaration where no such difficulty was noted contemporaneously or reported, and the recorder acknowledged hearing the names. The Court tested that later account against the recorded statement and the doctor's evidence and rejected it as misleading.	313
Dying declaration — mental fitness and capacity to communicate	Physical injuries alone do not determine whether a declarant was mentally fit to make a statement. The Court accepted fitness where the doctor was present, had certified the injured person's condition and testified that the person was speaking and well oriented. The medical evidence supported the capacity to make the declaration.	313
Dying declaration — person recording it and the value of a Magistrate's record	A dying declaration is not inadmissible merely because it was made to a police officer, public servant, doctor or private person rather than a Magistrate. The relied-upon precedent places a declaration recorded by a competent Magistrate without animus on a higher footing, subject to contrary circumstances. The recording officer's status does not dispense with scrutiny of reliability.	313
Dying declaration — discrepancy in one reference to an assailant's name	The reference to 'Ratanlal' did not displace identification of Lakhanlal when the declaration later stated that 'Lakhan' assaulted the deceased, the FIR named Lakhanlal and the defence did not suggest the existence of another person named Ratanlal. The Court assessed the disputed name in the context of the statement as a whole and found participation proved.	313
Surviving Maker: Statement Recorded as a Dying Declaration	A statement recorded as a dying declaration does not become admissible under Section 32 of the Evidence Act when its maker survives. The Court considered the surviving injured witness's explanation for naming a different assailant in that statement, the non-examination of the doctor who recorded it and the supporting evidence. It accepted her court testimony after assessing those matters.	360
Statement Recorded as a Dying Declaration When the Maker Survives	A statement recorded as a dying declaration cannot be admitted in that character where the injured maker survives, though it may be considered as the injured person's first statement. Where the maker disowns having named any assailant in that statement, the prosecution cannot rely on it to establish the accused's identity.	372
Unrelated Later Death Does Not Convert an FIR Into a Dying Declaration	The informant was killed before trial examination, but his death did not result from the injuries involved in the reported occurrence. The Court therefore refused to treat his Dehati Nalishi as a dying declaration under Section 32 of the Evidence Act. The later death alone did not make the earlier account admissible on that basis.	381
Treatment of a	Because the complainant survived, the Court treated her statement recorded as	463

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purported dying declaration when its maker survives	a dying declaration as a statement under Section 164 CrPC. It considered the allegations in that statement in assessing the prima facie case. The ruling concerned the statement's treatment in these proceedings and did not treat it as conclusive proof of the allegations.	
Doubtful fitness and chronology undermining a recorded dying declaration	A dying declaration must be tested against its recording and surrounding circumstances. Here, the patient's initial unconsciousness, deteriorating condition, absence of reliable proof of regained consciousness, conflicting recording times, missing requisition and omission of material answers prevented confidence in the declaration. The Court rejected it as unreliable and apparently concocted. The conclusion arose from the cumulative defects rather than from any single formal omission.	467
Reliable dying declaration as the sole basis of conviction	A dying declaration may alone sustain conviction when the court is satisfied that it is true, voluntary and reliable, made while the declarant was physically and mentally fit and free from tutoring, prompting, duress or other extraneous influence. Corroboration is a rule of prudence rather than an invariable legal requirement. Because the maker cannot be cross-examined, the statement must inspire full confidence; a doubtful declaration cannot obtain reliability merely from its official recording.	467
Faithful recording of a dying declaration in the maker's words	A dying declaration properly recorded by a competent Magistrate, in questions and answers and as far as practicable in the maker's own words, stands on a higher footing than a later oral account vulnerable to memory. Material answers should not be omitted or replaced by the recorder's subsequent improvements. The Tahsildar's admissions that answers were omitted and his later additions to the narrative were factors undermining this declaration.	467
Admissibility of a statement relating to the maker's death under Section 32	Where the maker's cause of death comes into question, a statement about that cause or the circumstances of the transaction resulting in death is relevant under Section 32(1) of the Evidence Act. Admissibility does not depend on the maker having expected death when speaking or on whether the proceeding is civil or criminal. Admissibility remains distinct from whether the particular statement is sufficiently trustworthy to support conviction.	467
Dying declaration — fitness to make the statement and medical evidence	The person recording a dying declaration must be satisfied that the maker is mentally and physically fit to give it. Medical certification is a rule of caution rather than an indispensable formality, but reliable evidence of fitness remains necessary. Here, the contemporaneous doctor's endorsement, the MLC recording responsiveness and the recorder's testimony established fitness despite the injured's poor general condition. A later doctor's general view about possible unconsciousness after a serious head injury did not establish actual incapacity. Prompt recording and corresponding eye and leg injuries supported the Court's acceptance of the declaration.	499
Dying declaration — sole basis of conviction and safeguards of reliability	A statement concerning the cause of the maker's death or the circumstances of the transaction resulting in death is admissible under Section 32(1) of the Evidence Act. A truthful, voluntary and reliable dying declaration may alone sustain conviction; corroboration is not invariably required. The Court must carefully assess fitness, opportunity to observe and identify the assailant, and absence of tutoring, prompting or imagination. A suspicious declaration requires corroborative support, and an infirm declaration or one attributed to a person who could not have spoken cannot sustain conviction. The Court accepted this declaration on its own reliability assessment, with medical and ocular corroboration also available.	499
Dying declaration — brevity, omitted details and recording formalities	A dying declaration is not to be rejected merely because it is brief or does not meticulously recount every detail of the occurrence. A victim suffering multiple serious injuries cannot be expected to give a parrot-like account. The Court adopted a substantive assessment of trustworthiness rather than a	499

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	hypertechnical approach to recording, while retaining the need for a voluntary, reliable statement by a fit maker. Missing details or formal endorsements therefore require assessment in context rather than automatic exclusion.	
Oral dying declaration where the declarant's ability to speak and mental fitness remain unproved	Where an oral dying declaration was attributed to a woman with extensive third-degree burns who died shortly afterwards, her ability to speak and mental fitness required proof. The prosecution neither produced the original hospital record nor examined the treating doctor who recorded the history. The unexhibited photocopy could not be used against the accused, leaving the declarant's fitness unproved on the evidence in this case.	580
Proof of fitness to make a dying declaration despite conflicting medical testimony	Fitness to make a dying declaration must be assessed from the evidence as a whole; the absence of a separate medical certificate is not by itself fatal. Although the treating doctor said that the injured could not speak, the contemporaneous MLC recorded that he was conscious, and the officer testified to speaking with him while taking him to hospital. The officer was not questioned on his mental fitness. Read together, the evidence established that the victim was conscious and speaking when the Dehati Nalishi was recorded after first aid.	582
Conviction on a truthful and voluntary dying declaration	A dying declaration found truthful and voluntary may sustain conviction without corroboration. There is no inflexible rule of law or prudence requiring independent corroboration in every case. Applying the narrated authorities under Section 32 of the Evidence Act, the Court accepted the deceased's statement as voluntary and trustworthy. It also assessed the Dehati Nalishi, eyewitness accounts and medical evidence; the absence of a mandatory corroboration rule did not prevent consideration of that supporting material.	593
Extensive burns and capacity to make a dying declaration	A high percentage of burns does not by itself show that a person cannot make a reliable dying declaration. Capacity to communicate and the statement's trustworthiness must be assessed from the evidence. The Court relied on the narrated burn-injury authorities, including Dal Singh's requirement of confidence and freedom from tutoring, and found the deceased conscious and able to speak despite extensive second- and third-degree burns. It did not presume fitness from the percentage of burns alone.	593
Form and recording of a dying declaration	A dying declaration may be oral, written, or conveyed by signs or another adequate method, provided the communication is positive and definite. No oath or prescribed statutory recording form is essential, and a declaration need not be made to a Magistrate. Calling an available Magistrate is a usual safeguard for authenticity. The evidentiary weight remains dependent on the circumstances, including fitness, truth and voluntariness.	593
Brevity of a dying declaration	A dying declaration cannot be discarded merely because it is brief. The Court adopted the narrated principle in Surajdeo Oza that a short statement may support its truthfulness; brevity remains part of the assessment of the declaration's reliability rather than a substitute for finding it truthful and voluntary.	593
Mental fitness and voluntariness of a dying declaration	The recorder must satisfy himself that the declarant is mentally fit to make the statement. Medical opinion ordinarily assists that assessment, but the declaration is not invalid solely because a doctor has not certified fitness if the recorder is otherwise satisfied. Here, the recorder's testimony, medical assessments before and after recording, and exclusion of relatives from the ward established fitness and voluntariness; no material indicated tutoring.	610
Sealed custody and corroboration of a written dying declaration	The recorder's evidence that he sent the dying declaration to the Chief Judicial Magistrate in a sealed cover, together with the investigating officer's evidence of receiving it sealed and depositing it before the trial Magistrate, established proper custody. The deceased's oral statements to his wife and parents identifying the appellant were found reliable and corroborated the written	610

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	declaration.	
Dying declaration as the sole basis of conviction	A true, voluntary and reliable dying declaration may alone sustain conviction. Because the accused cannot cross-examine the maker, the Court must scrutinise mental fitness, opportunity to identify the assailant, consistency, and possible tutoring or prompting. A suspicious declaration requires corroborative evidence, and an infirm declaration cannot sustain conviction. Section 32(1) also embraces statements about the circumstances of the transaction resulting in death, whether or not the maker expected death; no fixed interval between declaration and death governs its acceptance.	610
Brevity and absence of detail in a dying declaration	A dying declaration is not liable to rejection merely because it is brief or omits details of the occurrence. Its reliability must be assessed with the other safeguards governing dying declarations.	610
Multiple dying declarations and consistency with the prosecution case	Where several dying declarations are available, the earliest ordinarily receives preference, while multiple declarations found trustworthy and reliable may be accepted. A declaration that conflicts with the prosecution version cannot be acted upon. Here, the reliable oral declarations corroborated the written declaration.	610
Mental and physical fitness to make a dying declaration	The recorder must be satisfied that the declarant is mentally and physically fit to give the statement. A doctor's fitness certificate is a safeguard of caution rather than an invariably mandatory condition. Applying Laxman, Govindappa and Jagbir Singh, the Court accepted the treating doctor's examination and the Naib-Tahsildar's satisfaction with Sonkali's responses. Her burns and treatment did not establish inability to speak, and no sedative administration affecting her faculties was shown.	649
Consistent dying declarations and omission of an unasked motive	All three dying declarations consistently identified the appellant as the person who poured kerosene and set Sonkali on fire. The absence of a motive or cause of quarrel in the Naib-Tahsildar's declaration was not a material inconsistency because he had asked no question about it. The Court accepted the consistent account of the act after examining the declarations' reliability.	649
Reliable dying declaration as the sole basis of conviction	A true and voluntary dying declaration may sustain conviction without compulsory corroboration if the court is satisfied of the declarant's fitness, opportunity to observe and identify, and freedom from tutoring or prompting. A suspicious declaration requires corroborative support, and a materially infirm declaration cannot sustain conviction. Applying Ravikumar, Laltu Ghosh and Kalawati, the Court found the three declarations reliable and accepted them in sustaining the murder conviction.	649
Initial complaint later used as a dying declaration	An initial complaint made by an injured person may be assessed as a dying declaration after that person's death. An officer receiving first information before investigation does not record it in the capacity of investigating officer merely because he later investigates. The Court applied Munnu Raja and Jai Prakash in accepting the hospital Dehati Nalishi; its initial recording as a complaint did not require a separate Magistrate-recorded declaration or a contemporaneous doctor's attestation as an automatic condition of later use.	649
Crime number on a police statement and alleged ante-timing	The crime number appearing on Sonkali's police statement did not establish ante-timing on this record. The Court accepted the officer's explanation that he could have learnt the number, noted that the recording time itself had been retained, and considered the presence of two other dying declarations. It therefore declined to discard the statement on that discrepancy.	649
Minor timing discrepancy between successive dying declarations	Near-simultaneous times noted for the police statement and the Naib-Tahsildar's declaration did not make either unreliable where the statements were recorded in quick succession and different watches could explain a 10–15 minute difference. The Court accepted that explanation and found the timing	649

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	discrepancy did not go to the root of the case.	
Alleged tutoring or fabrication of a dying declaration	A dying declaration must be scrutinised for tutoring, prompting and fabrication, but such defects cannot be assumed without supporting circumstances. The Court found no circumstance indicating tutoring and relied on the treating doctor and Naib-Tahsildar as independent witnesses. It adopted Laltu Ghosh's warning against unsupported allegations that public officers fabricated a victim's statement.	649
Dying declaration — actual mental fitness matters more than a formal certificate	A formal medical fitness certificate is a safeguard rather than an inflexible condition for accepting a dying declaration. Applying Laxman and Surendra Bangali, the Court required satisfaction that the declarant was fit, and that the statement was voluntary and truthful. The doctor who recorded the declaration testified that the injured was conscious and answering questions. The medical evidence did not exclude his ability to speak, and the police recorder also confirmed coherent speech when the FIR was lodged. The smaller post-recording fitness endorsement was explained by limited space and did not make the declaration unreliable.	678
Multiple dying declarations — reconcile differences through context and other evidence	Differences between dying declarations require assessment of their significance, context and consistency with the other evidence. Applying Jagbir Singh, the Court compared the detailed FIR naming nine assailants with the doctor-recorded declaration naming four. The doctor had not asked whether other persons were involved, and the injured was in severe pain while urgent treatment was the primary concern. The difference did not require rejection of either statement when assessed with the trustworthy eyewitness evidence. The Court ultimately found no material contradiction between the declarations. It did not treat every discrepancy between multiple declarations as harmless.	678
Urgent dying declaration may be recorded by a doctor without waiting for a Magistrate	A dying declaration is not unreliable merely because a doctor records it instead of an Executive Magistrate. Where a severely injured person is sinking and there is insufficient time to wait, the doctor may record the statement. Applying the Laxman principle and the urgent circumstances of the head injury and amputated leg, the Court rejected suspicion founded only on the investigating officer’s request to the doctor rather than to a Magistrate. The declaration still required proof of mental fitness, voluntariness and truthfulness.	678
Dying declaration without a read-over endorsement — recorder not questioned	The absence of an endorsement that the doctor-recorded declaration was read over did not establish unreliability on this record, where no question on that matter had been put to the doctor. The Court also noted that the injured person’s earlier detailed FIR expressly recorded that it was read over and accepted as correct. The objection was assessed with the evidence establishing the declarations’ voluntary and conscious making. The decision does not dispense generally with examining whether a written statement accurately records the declarant’s words.	678
Capacity to make a dying declaration despite extensive burns	The percentage of burns, even 100%, does not by itself establish incapacity to make a dying declaration. The decisive consideration is reliable evidence that the declarant was fit, conscious and capable of communicating the account; the degree and nature of burns must also be considered. The Court accepted the declarations on medical and recording-witness evidence of consciousness and orientation, including fitness certificates before and after the formal recording. Extensive burns did not alone displace that evidence.	695
Conviction on a trustworthy dying declaration despite hostile witnesses	A voluntary and truthful dying declaration, made in a fit state of mind and inspiring the Court’s confidence, may be the sole basis of conviction without corroboration. It must be carefully scrutinised for tutoring, prompting, imagination and other infirmities because the maker cannot be cross-examined. A suspicious or infirm declaration should not be acted upon without corroboration. Other witnesses turning hostile does not require rejection of	695

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	dying declarations independently found reliable and trustworthy.	
Thumb impressions on dying declarations in burn cases	Whether a burn victim could give a thumb impression is a question of fact. Some thumb skin and its ridges may remain intact despite extensive burns elsewhere. A thumb mark must therefore be assessed against the actual evidence about the thumb's condition and the recording, rather than rejected solely on the overall burn percentage. In this case, the recording witnesses supported the impressions; the police officer explained the divided appearance as uneven ink, and the post-mortem doctor could not say whether the thumb skin was burnt.	695
Medical certification of fitness to make a dying declaration	A doctor's fitness certificate is a safeguard and a rule of caution, rather than an indispensable legal condition in every case. The recorder must be satisfied that the declarant is fit to make the statement, and the Court must ultimately find it voluntary and truthful. Reliable testimony establishing fitness can permit reliance even without a certificate. Here the doctor in fact certified fitness before and after recording and supported the declarant's conscious condition.	695
Recorder, form and communication of a dying declaration	A dying declaration need not be recorded by a Magistrate, and no statutory form is prescribed. It may be oral or written, or communicated through definite and positive words or signs; no oath is necessary. A Magistrate's assistance, where available, helps assure authenticity, but the essential requirements are the recorder's satisfaction about fitness and the Court's assessment of truthfulness and voluntariness. Brevity or omission of every detail of the occurrence does not alone require rejection.	695
Consistency of multiple dying declarations	Where there are several dying declarations, the Court must assess any inconsistencies for materiality in the surrounding circumstances. Consistent, coherent and voluntary declarations may support conviction. The Court accepted the medical history, Dehati Nalishi, police statement and formal declaration as reliable accounts of the husband's act of setting the deceased on fire, supported by evidence of her orientation and fitness.	695
Statements about the cause of death without expectation of death	Under Section 32(1) of the Evidence Act, a deceased person's statement about the cause of death or circumstances of the transaction resulting in death is relevant when that cause is in question, whether or not the maker expected death when speaking. The Court treated the initial oral history, Dehati Nalishi, police statement and formal declaration as dying declarations although the victim survived for about ten days after the incident.	695
Conviction on a truthful and voluntary dying declaration	A dying declaration may alone sustain conviction if careful scrutiny satisfies the Court that it is true, voluntary, coherent and consistent and inspires full confidence. The maker must have been mentally fit, and the statement must be free from tutoring, prompting or imagination. Corroboration is a rule of prudence, not an absolute legal requirement for every dying declaration.	712
Proof of consciousness and reliability of a burn victim's dying declaration	The Court accepted the burn victim's dying declaration where the Executive Magistrate recorded clear accusations against the appellants, the doctor certified consciousness during recording, and the supporting testimony withstood cross-examination. Finding the declaration consistent and trustworthy, and supported by the deceased's own Dehati Nalishi, the Court relied on it to sustain the murder convictions.	712
Suspicious or infirm dying declarations	A suspicious dying declaration should not be acted upon without corroborative evidence. A declaration suffering from a fundamental infirmity, such as the maker being unconscious and incapable of making a statement, cannot sustain conviction. The Court adopted these safeguards from Atbir when testing the declaration's reliability.	712
Brevity or omission of details in a dying declaration	A dying declaration is not liable to rejection merely because it is brief or does not contain every detail of the occurrence. Its reliability must still satisfy the	712

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	safeguards governing dying declarations.	
Eyewitness evidence of unfitness and medical opinion	When an eyewitness affirms that the deceased was not fit and conscious enough to make a dying declaration, medical opinion cannot prevail over that evidence. The Court included this rule among the Atbir safeguards governing assessment of the maker's capacity.	712
Police-recorded dying declaration supported by medical evidence of fitness	A dying declaration recorded by a police officer was accepted where an Executive Magistrate could not be arranged, the attending doctor examined the injured person and certified his fitness to make a statement, and the doctor remained present during recording. Despite the seriousness of the injuries, the evidence established fitness at the time of recording. The declaration was considered with the eyewitness and medical evidence.	720
Failure to record a dying declaration despite survival after injury	There is no mandatory requirement to record a dying declaration from every injured victim who later dies. The investigating agency must assess whether recording one would assist in establishing the case, having regard to the available evidence. The Court rejected the objection to its absence where the planned firearm assault was established by direct injured-eyewitness evidence supported by medical and other material.	873
Reliability and independent evidentiary value of a dying declaration	A dying declaration may sustain conviction without independent corroboration if strict scrutiny shows that the maker was mentally fit, spoke voluntarily from personal knowledge, could identify the assailant and was not influenced by others. Its admissibility does not depend on the recipient’s official status, although disinterested recording by a competent Magistrate is a weighty circumstance. Ajay’s declaration identified Sunny as the sword assailant and was recorded by the Naib Tahsildar with medical fitness certificates before and after recording. The Court found it reliable and treated the minor discrepancies as immaterial.	936
Alleged oral dying declaration omitted from the earlier police statement	The Kotwar’s claim at trial that the injured victim named her assailants could not be relied on as an oral dying declaration where that assertion was absent from his police statement and he could not explain the omission. The Court treated the omission of this central incriminating assertion as a major contradiction, rather than accepting the later account as corroborative proof.	949
Oral dying declaration — injured victim’s capacity to speak and supporting testimony	The Court accepted evidence that the injured victim remained conscious and identified his assailants before death, rejecting the defence contention that he could not speak. His oral statements to his wife and her brother supported their eyewitness accounts; Deendayal’s evidence also supported the earlier trial. Because Deendayal did not support the prosecution in the separately tried accused’s case, the Court relied there on the wife’s and her brother’s depositions. The oral declaration was assessed with the eyewitness and medical evidence in affirming the respective murder convictions.	993
	Sub-Chapter no. 24.2 **Police-Recorded Statement of Deceased — Section 32 Evidence Act and Section 162(2) CrPC**	
Section 161 CrPC statement as a dying declaration	A police-recorded statement under Section 161 CrPC is admissible under Section 32(1) of the Evidence Act when, after the maker's death, it concerns the cause of that death or the circumstances of the transaction resulting in it, and the cause of death is in question. Section 162(2) CrPC expressly preserves this exception. Expectation of death when the statement was made is unnecessary. The maker's later death alone does not make every police statement a dying declaration.	32
Unexhibited police statement of the deceased not usable against the accused	The deceased's Section 161 CrPC statement could not be used against the appellants merely because it had been filed with the charge-sheet and remained in the trial court record. The prosecutor had not exhibited that statement. The Court excluded it from consideration while separately relying on the proved	127

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	Dehati Nalishi and the recorded dying declaration.	
Injured informant's FIR as a dying declaration	An FIR describing the injuries that later caused its maker's death is relevant under Section 32(1) of the Evidence Act, even if initially recorded as an ordinary FIR and without expectation of death. The prosecution must establish the maker's fitness and consciousness. The scribe's account of dictation and read-back, and the medical examination shortly afterwards, supported acceptance here; assistance in walking and use of a thumb impression despite literacy did not establish incapacity.	167
Dehati Nalishi by an injured person as a dying declaration after death	An injured person's own report to police may be admitted as a dying declaration after the maker dies if it relates to the cause of death or the circumstances of the transaction resulting in death and satisfies Section 32(1) of the Evidence Act. Its initial recording as a Dehati Nalishi or first information report does not prevent that use.	229
Reliance on the deceased's own police report of the fatal assault	After the other asserted eyewitness and oral-declaration accounts were rejected, the Court relied on the report lodged by the deceased himself. The recording officer was not questioned about its substance or the injured person's mental condition. Read with the medical evidence, the report proved the quarrel and that the appellant threw the deceased down and struck him with fists and blows. Its acceptance rested on this evidentiary record, rather than a rule that every police-recorded account of a deceased person is automatically conclusive.	295
Deceased's Dehati Nalishi and police statement as dying declarations	A deceased victim's Dehati Nalishi and Section 161 CrPC statement are admissible under Section 32(1) of the Evidence Act when they concern the cause of death or the transaction resulting in death. Section 162(2) CrPC preserves that admissibility. The maker need not have expected death when making the statement.	412
Dehati Nalishi by a deceased informant as a dying declaration under Section 32(1)	A report dictated by an injured person may be admitted as a dying declaration after death when it concerns the cause of death or circumstances of the transaction resulting in death. Its use to register an FIR does not prevent admission under Section 32(1) of the Evidence Act. The declarant need not have expected death when making the statement. The Court applied this rule to the victim's Dehati Nalishi, recorded after first aid, read over to him and bearing his thumb impression.	582
FIR lodged by the injured person and later treated as a dying declaration	The FIR recorded from the injured person's own statement about the fatal assault was treated as his dying declaration after he died from those injuries. The recording officer proved that he wrote the report according to the injured person's account and obtained his signature. The Court relied on that account to corroborate the wife's eyewitness testimony.	584
Police-recorded dying declaration and proof of mental fitness	A dying declaration is not inadmissible merely because police reduced the oral statement to writing, no Magistrate was present, or no doctor certified mental fitness. The recorder must be satisfied that the maker was fit, and the Court must ultimately find the statement truthful and voluntary. Medical certification is a precaution rather than an indispensable formality where fitness is otherwise proved. Applying Laxman and the narrated fitness principle, the Court accepted the police-recorded statement on this evidence.	593
Deceased's Section 161 statement at the bail stage	For considering bail, the Court treated the deceased's statement recorded under Section 161 CrPC, specifically identifying the applicant's participation, as a dying declaration. The eyewitnesses' having turned hostile did not remove that incriminating material from the bail assessment.	615
Deceased victim's police statement as a dying declaration	A statement recorded under Section 161 CrPC concerning the cause or circumstances of the maker's death may be admitted under Section 32(1) of the Evidence Act after the maker dies. Applying Pradeep Bisoi, the Court treated Sonkali's police statement as one of the three dying declarations whose	649

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	reliability it examined and accepted.	
Injured informant's FIR may become a dying declaration after death	A complaint recorded from an injured person as an FIR may acquire the character of a dying declaration when the informant later dies from the injuries described. The officer was recording an FIR, so absence of a contemporaneous doctor's attestation or fitness endorsement did not itself invalidate the document. Applying Jai Prakash, the Court rejected the objection based on treating the original recording as if it had necessarily been a formal dying declaration. The FIR's later evidentiary use also did not make a subsequent declaration recorded by the doctor unnecessary.	678
Police statement as dying declaration: mental fitness must be proved	A victim's Section 161 CrPC statement may become relevant under Section 32 of the Evidence Act after death from the injuries, but the maker's fitness to give it must be established. A doctor's fitness certificate is not invariably required, particularly where the officer does not anticipate death and is satisfied that the maker is fit. Here the doctor described the victim as semi-unconscious, in poor condition and unable to make a statement at essentially the relevant time. That evidence displaced the officer's contrary impression. A small difference between their watches did not itself disprove recording, but fitness remained unproved; the statement could not be relied on as a dying declaration.	949
	Sub-Chapter no. 24.3 **Discovery and Recovery Under Section 27 Evidence Act**	
Section 27 Evidence Act: police custody without formal arrest	For Section 27 of the Evidence Act, custody is not confined to formal arrest. The passage from Perumal Raja relied upon by the Court explains that police surveillance, restriction or restraint may amount to custody, and that the bar under Sections 25–26 and the exception under Section 27 may apply even before a formal arrest. The Court used this explanation to distinguish the wider concept of custody from formal arrest.	41
Discovery of concealed articles in premises accessible to others	Access by others to a place does not by itself invalidate recovery of an article concealed there. Applying the narrated recovery authorities, the Court treated the accused's knowledge of the hidden location and production of his clothes from among tent-house goods as material. The clothes were concealed rather than lying openly visible. The Court nevertheless excluded the FSL finding that they carried human blood because that circumstance had not been put to the accused under Section 313 CrPC.	103
Section 27 Evidence Act — Concealed recovery from a place accessible to others	Accessibility of a place to others does not by itself invalidate discovery under Section 27 of the Evidence Act. The relevant distinction is whether the article was ordinarily visible or remained concealed until recovered through the accused's disclosure. A scarf buried in a pit, whose hidden location was disclosed by the appellant, was accepted as a proved recovery. Its concealed state was material even though the surrounding place could be accessible to others.	118
Unreliable proof of alleged recovery of ordinary articles	An alleged disclosure and recovery did not link the appellant to the crime where the witnesses had not reliably seen the source from which the purse and belt were produced and gave conflicting accounts of the house and persons present. The articles were ordinary goods available in the market, and the asserted visiting card was not seized. On the cumulative deficiencies, the prosecution failed to prove recovery from the appellant's house.	157
Recovery from a place accessible to others	Section 27 of the Evidence Act does not exclude recovery merely because others can access the place. The relevant distinction is whether the article was concealed from ordinary view and its location was known to the disclosing accused. A doorless shed did not invalidate discovery of the hidden gun at the appellant's instance.	167
Disclosure-led	The Court accepted recovery of buried ransom money following the accused's	183

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recovery corroborating involvement in a ransom offence	disclosure when the disclosure, seizure and identified currency were proved through reliable evidence. Distinctive bank slips, signatures placed on notes before the ransom was paid and identification by the persons who handled the money connected the recovery to the offence. The accused offered no explanation of the recovered funds. These circumstances corroborated his involvement in the ransom demand.	
Public access and concealed articles under Section 27 Evidence Act	Public access to the place of recovery does not by itself invalidate discovery under Section 27 Evidence Act. The material question is whether the article was hidden from ordinary view and its location was within the accused's exclusive knowledge until disclosure. Applying the reproduced Supreme Court authorities, the Court distinguished a concealed article from the pistol recovered without proof of concealment in the open drain.	216
Recovery on memorandum — open place and unsupported proceedings	The alleged recovery of stolen articles did not reliably connect the accused with the offence where the place of recovery was open, the memorandum witnesses did not support the prosecution, and the supporting witness said that the proceedings and documents were completed at the police station. These defects were assessed with the other missing links in the circumstantial case.	335
Discovery of a Concealed Weapon at a Place Accessible to Others	Recovery under Section 27 of the Evidence Act is not deprived of value merely because the place is open or accessible to others. The material question is whether the concealed article was ordinarily visible and whether the accused disclosed knowledge of its hidden location. A Baka hidden in bushes and recovered on the accused’s information retained discovery value; no seizure witness had been questioned to show that it was visible to others.	378
Weapon Recovery Corroborating Ocular and Medical Evidence	The Court rejected the challenge to weapon recovery because discovery followed the accused persons' memoranda at the places where the weapons had been kept. Bloodstained and other incriminating articles were collected from the scene, and the eyewitness account was supported by the medical evidence. Those combined circumstances supported the finding that weapons were used in the common-object assault; the recovery was corroborative rather than a substitute for proof of the attack.	383
Recovery From an Open Place Assessed in Its Actual Circumstances	Recovery is not inherently unreliable solely because the place is open or accessible to others. Its probative value depends on the actual circumstances, including visibility, prior searches and the credibility of the asserted discovery. Here the slacks were said to be found at an exposed place already visited by police, and the video, witness admissions and seizure chronology undermined the alleged recovery. Applying Anter Singh, the Court rejected this recovery on its particular evidential defects, not on a categorical rule against open-place recoveries.	389
Discovery of a concealed body and explanation of knowledge	The Court accepted the proved disclosure and recovery of the child’s concealed body as an incriminating link. Where the accused points out concealed material, he may explain that his knowledge came from seeing another person conceal it or being told of it. The relied-upon Suresh principle permits an inference that he concealed it himself when he offers no such alternative explanation. The discovery was assessed with the other proved circumstances.	397
Concealed recovery from a place accessible to others	Recovery under Section 27 of the Evidence Act is not defeated merely because the place is open or accessible to others. The material question is whether the concealed object was ordinarily visible and its location known to the accused. The body here was covered by dry grass in a crop-surrounded field away from the main road; its discovery on the accused’s disclosure was accepted despite the open location.	397
Section 27 Discovery of a Concealed Article in an Open	Recovery is not excluded under Section 27 of the Evidence Act merely because the location is open or accessible to others. The material question is whether the article was ordinarily visible or remained concealed at a place known to the	409

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or Accessible Place	accused. The severed head wrapped in plastic in a hill forest was not shown to be readily visible to passers-by, so the open-place objection did not defeat the discovery.	
Separate Disclosures Followed by a Joint Recovery under Section 27	Disclosures by more than one accused are not inadmissible merely because they lead to a joint recovery. Separately recorded information given in quick succession before discovery, followed by pointing out the concealed material, may be proved against each informant to the extent it distinctly relates to the discovered fact. Credibility remains a matter of evidentiary evaluation; a later statement after completed discovery is distinguishable.	409
Section 27 discovery of a concealed article in an open field	The fact that an article is recovered from an open field does not defeat a discovery where it was concealed and could not readily have been found without information identifying its exact location. The motorcycle's broken number plate lay in standing mustard crop and was not visible even to the field owner. The Court therefore accepted recovery at the accused's instance as incriminating, rejecting the objection that the field was an open place.	508
Section 27 recovery — concealed object in a public place known to the accused	An object was not excluded from a proved recovery merely because the place was public where it was hidden, not visible and its location was known to the accused. The Court accepted the recovery of the buried silver ornament on the disclosure proved by the seizure witness and investigating officer. That conclusion established recovery, while identification of the object as the complainant's property remained a separate requirement.	548
Recovery evidence undermined by admitted tutoring and lack of knowledge of the recovery place	The Court doubted the recovery of the knife where the seizure witness admitted that an advocate had tutored his testimony and could not describe basic features of the house from which recovery was claimed. The investigating officer’s inability to identify the nature of its entrance added to the doubt. These deficiencies undermined proof of the asserted recovery in this case.	550
Section 27 Evidence Act: direct proof of the disclosure leading to discovery	Only the part of an accused’s information that distinctly relates to the fact discovered is admissible under Section 27 of the Evidence Act; the remaining confession is inadmissible. The officer proving the disclosure must give direct evidence of the accused’s relevant words and the sequence leading to discovery, consistently with Section 60. Where several accused are involved, the information must be connected to the person who supplied it. Merely exhibiting the memorandum does not prove its contents. The narrated procedure separates recording the discovery information from documenting the ensuing recovery. Here, the officer only stated that he had recorded the appellant’s statement as an exhibit, without narrating the information leading to seizure of the motorcycle. With the seizure witnesses hostile and the complainant not identifying the appellant as the robber, the charged robbery and the alleged recovery were not proved.	552
Recovery inconsistent with the weapon attributed to the accused	A weapon recovery may fail to strengthen the prosecution when the recovered weapon differs from the weapon attributed to the accused, the seizure witness materially contradicts the recorded seizure time, and the forensic finding does not establish human blood. Those defects, assessed with the unreliable eyewitness evidence, deprived the axe recovery of incriminating value in this case.	571
Identification of recovered articles as property taken in the offence	Proof of seizure alone does not establish that the articles were property taken from the deceased. Identification in court is substantive evidence. Where the articles were neither produced nor identified in court by witnesses able to recognise the deceased's belongings, and no identification parade was held, the finding that they were looted property rested on conjecture.	573
Discovery of a concealed body and the accused's special	A discovery under Section 27 of the Evidence Act includes the place where an object is found and the accused's knowledge of it. An open location does not	575

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knowledge	invalidate the discovery when the object is concealed from ordinary view. Recovery of the skeleton hidden beneath stones in an isolated hill area, on the accused's disclosure and without a convincing explanation of that special knowledge, was a strong incriminating circumstance considered with the other proved evidence.	
Conflicting seizure accounts — matching blood group cannot cure unproved recovery	Where the investigating officer described recovery of an axe from a concealed stone closet but the seizure witness described it as lying openly nearby in a place accessible to the public, the alleged discovery on the accused's information was not proved beyond reasonable doubt. The Court therefore declined to use the matching blood group on the axe and the deceased's clothes as an incriminating circumstance. The forensic result did not establish the missing reliable link between the accused and the recovered article. The finding depended on the conflicting accounts of this recovery.	677
Section 27 Evidence Act — conditions and extent of admissible discovery	A relevant fact must be discovered in consequence of information received from an accused in police custody, and the resulting discovery must be proved. Only the part of the information distinctly relating to that fact is admissible. The fact discovered includes the object, its location and the accused's knowledge of it; its connection with the crime must independently be established. Discovery ordinarily supplies one link in the chain of proof.	682
Recovery from an open place — accused's knowledge of the location	A recovery is not rendered irrelevant merely because the place is open or accessible to others. Knowledge of the particular location where an article is concealed may remain exclusive to the accused despite others' access to the area. The Court accepted the accused's disclosure leading to bloodstained articles in Amola Ghati and treated his knowledge of their location as significant.	682
Discovery recovery of the axe as corroboration of direct evidence	The Court accepted the investigating officer's account that an axe was recovered on the appellant's disclosure and considered that recovery with the child's direct account, the fatal incised neck wounds and the appellant's conduct. The recovery was an additional circumstance in the combined proof of murder.	718
Section 27 Evidence Act—recovery from a place accessible to others	Recovery is not vitiated merely because the place is open and accessible to other people. Following State of H.P. v. Jai Chand, the Court relied on the appellant's specific disclosure of the different locations, his pointing out and personally producing the articles, and the widow's identification of them. Public accessibility did not displace his demonstrated knowledge of where the deceased's belongings had been thrown.	815
Recovery of the deceased's body at the accused's instance as corroborative evidence	The recovery of the child's body from a forest pit, following memoranda recorded under Section 27 Evidence Act and at the instance of the accused, corroborated the accepted evidence that the child had been in their company. The recovery and seizure were supported by the prosecution witnesses, and the medical evidence established homicidal strangulation. The Court relied on these circumstances together in finding guilt proved beyond reasonable doubt.	850
Discovery under Section 27 Evidence Act from an open or accessible place	Recovery from a place open or accessible to others is not inadmissible for that reason alone. The material question is whether the concealed object was ordinarily visible and whether the accused disclosed knowledge of its location. Discovery embraces the location and that knowledge, as well as the object. Applying Jeet Singh and Yakub Razak Memon, the Court accepted recovery of the body from bushes at a forest location not easily accessible to the public on a co-accused's disclosure.	934
Accused-led recovery supported by credible witnesses and medical evidence	The Court accepted the accused-led recovery of the child's body and nearby articles on the consistent evidence of the investigating officer and supporting witnesses. His knowledge of the body's location remained unexplained, and the doctor's opinion that the injuries could have been caused by the recovered knife supported the evidentiary chain.	986

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	Sub-Chapter no. 24.4 **Confession to Police and Admissibility Restrictions**	
Co-accused's police confession and Sections 25–26 of the Evidence Act	A co-accused's confession to the police, identifying the applicant as the person who escaped, supplied no admissible substantive evidence against the applicant under Sections 25 and 26 of the Evidence Act. Where the State could show no admissible basis for that statement and no other substantive link had been collected, sole reliance on it supported release on bail without a final decision on the prosecution's merits.	146
Accused's confessional FIR and the discovery exception	Where an accused's FIR to police amounts to a confession, Section 25 of the Evidence Act excludes both the admission of the offence and the related incriminating admissions forming part of that confession. Only the information admissible within Section 27 may be proved. The accused's self-inculpatory account of killing his wife was therefore excluded, subject to the admissible information concerning discovery of the pickaxe.	294
Police confession cannot supply substantive proof of receipt of ransom	The accused's confessional statement to police could not supply substantive proof of his receipt of ransom money because Sections 25 and 26 of the Evidence Act barred that confession. The alleged recovery still required proof connecting the money to the offence; its mere description as a Section 27 disclosure did not establish that connection.	410
NDPS Confessions: Section 67 and the Application of Tofan Singh at Bail	Officers invested with Section 53 NDPS Act powers are police officers for Section 25 of the Evidence Act, and a statement under Section 67 cannot be used as a confession at an NDPS trial. Applying Tofan Singh in this bail application, the Court rejected reliance against the applicant on the co-accused's confession, whether described as under Section 67 or Section 27 of the Evidence Act. The applicant was apprehended at a dhaba rather than in the truck carrying the contraband.	521
Co-accused's naming statement — absence of substantive evidence at bail stage	A co-accused's confessional statement naming the applicant did not supply substantive admissible evidence against him on the record considered in the second bail application. The investigating officer accepted its inadmissibility, and nothing had been recovered from the applicant. With the identification investigation also incomplete, the Court found no substantive admissible material supporting continued detention and granted bail without commenting on the trial merits. The decision was a bail-stage assessment of the evidence then available.	674
Departmental enquiry statement — limits of Sections 25 and 26 of the Evidence Act	Section 25 excludes a confession made to a police officer; Section 26 excludes one made in police custody unless made in a Magistrate's immediate presence. Those provisions did not bar consideration of the co-accused's statement for the limited purpose of the departmental enquiry report, because the enquiry officer was not a police officer and the speaker was not in police custody. The report could be considered at charge framing, but did not itself prove its findings; the prosecution remained required to prove them at trial.	758
Accused's non-confessional FIR: admissible conduct and limits of proof	An FIR is not substantive evidence. If the informant testifies, it may be used for corroboration or contradiction under Sections 157 and 145 of the Evidence Act. An accused's act of reporting may be relevant conduct under Section 8, and a non-confessional statement may be relevant as an admission under Section 21; a confession to police is barred by Section 25. The appellant's non-inculpatory report was not barred by Sections 25 and 26 and supplied investigative leads. Nevertheless, the Court declined to accept its unproved narrative as substantive proof, particularly where the prosecution evidence differed and the police had not investigated the account.	942

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	Sub-Chapter no. 24.5 **Extra-Judicial Confession and Caution in Reliance**	
Omission of an alleged confession from the earlier police statement	The Court rejected the alleged extra-judicial confession where the witness claimed in court that the accused had admitted the killings, but his police statement contained no such account. That material omission rendered the witness unreliable on the confession, which was not used as a circumstance proving guilt.	278
Attribution of an Alleged Telephone Extra-Judicial Confession	The alleged speakerphone confession was not proved. The person to whom the call was said to have been made did not support it; the other witnesses did not establish familiarity with the accused's voice; and the prosecution did not prove that the call reached a number belonging to the accused. Despite police arranging the call, it was not recorded. The combined deficiencies defeated attribution and reliability in this case.	389
Credibility and corroboration of an extra-judicial confession	An extra-judicial confession is ordinarily weak evidence and must inspire confidence, but corroboration is not an inflexible requirement in every case. Here the Court accepted Raju's account that the appellant admitted murdering his wife, considered the surrounding circumstances and medical evidence of fatal neck injuries, and found adequate corroboration for reliance on the confession.	644
Co-accused's confession: independent evidence must provide the foundation	A co-accused's extra-judicial confession is not substantive evidence against another accused. Under Section 30 of the Evidence Act, where persons are jointly tried for the same offence, a proved confession affecting its maker and another accused may be considered for assurance after the other evidence is assessed; it cannot be the starting point for proving the other accused's guilt. Here the alleged confession attributed to the juvenile co-accused was inconsistently reported and materially omitted from an earlier statement. Without substantive and corroborative evidence against the appellants, it could not sustain their conviction.	942
Extra-judicial confession: voluntariness, truth and reliable proof	An extra-judicial confession is weak evidence requiring careful scrutiny. It must be proved in accordance with law, made voluntarily in a fit state of mind, be truthful, clear and unambiguous, and inspire confidence. Cogent surrounding circumstances and corroborative prosecution evidence increase its reliability. Material discrepancies or inherent improbabilities may justify excluding it. The conflicting accounts of the alleged disclosure and the material omission from the witness's earlier statement failed these safeguards.	942
Reliability of an extra-judicial confession	An extra-judicial confession must be voluntary, truthful, clear and credible, and proved according to law. Its reliability depends on its circumstances, timing, recipient and freedom from material discrepancies or inherent improbability. Corroboration strengthens it, but a voluntary and truthful confession may by itself sustain conviction. Here inconsistent timing, doubtful witness conduct and the later addition of another alleged confessor made the claimed confessions unreliable.	988
Confession of a co-accused under Section 30 Evidence Act	A co-accused's confession is not substantive evidence against another accused within Section 3 of the Evidence Act. Section 30 permits the Court to consider it for assurance after examining independent evidence that appears sufficient to sustain the charge. The Court cannot begin with the confession as the foundation of the case against the other accused.	988

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	Chapter no. 25 **Electronic, Digital and Technological Evidence**	
	Sub-Chapter no. 25.1 **Courtroom Playback and Judicial Appreciation of CCTV Material**	
Judicial appraisal of undisputed police-station CCTV footage	Police-station footage supplied under the Right to Information Act and not disputed by the respondents was accepted as authentic and examined through selected clips played in open court in counsel's presence. The recorded sequence, screams, subsequent physical incapacity and conversations about altering the complaint established custodial assault and fabricated allegations. A road video relied on by the police was likewise accepted and used against the officer whose conduct it depicted.	22
CCTV Showing a Vehicle Without Identifying Its Registration or Driver	CCTV footage of a white Bolero travelling in the wrong direction did not establish the accused's involvement where neither the registration number nor the driver was identifiable, several similar vehicles used the highway, and the alleged vehicle's owner was not asked to identify the recorded jeep. The footage therefore failed to connect the specified vehicle and driver to the offence.	375
Appellate playback of CCTV footage to resolve an identification objection	Where DVR-derived pen drives were supported by Section 65B certificates and their authenticity was not materially challenged, the appellate Bench played the disputed footage in chambers with counsel for both sides present to assess a clarity objection. It found the man's face visible beside the child. The father's identification of the accused and victim and his evidence about the location and recording time had not been challenged in cross-examination and were supported by other witnesses. An uncertain answer by the grandfather did not undermine that coherent record. Direct judicial inspection resolved this visibility dispute without dispensing with electronic-evidence authentication.	915
	Sub-Chapter no. 25.2 **CCTV Coverage, Storage and Oversight in Police Stations**	
Audio-video CCTV coverage of every police-station room and space	Police-station CCTV coverage must leave no unmonitored room or space capable of being used for custodial abuse. The prescribed coverage of washrooms and toilets is outside, not inside. Applying the surveillance safeguards in Paramvir Singh Saini, the Court directed the DGP to obtain district reports identifying blind spots within one month and ensure audio-equipped CCTV coverage throughout police stations within the following two months. A statewide compliance report was required by 18 February 2025.	22
Police-station CCTV recording quality and preservation period	The CCTV safeguards applied by the Court require night vision and clear audio-video recording, with necessary electricity and internet support. Recording systems are to preserve footage for eighteen months. Where available equipment cannot achieve that period, the maximum available storage must be purchased, never less than one year, with review for upgrading to eighteen-month capacity as it becomes commercially available.	22
State and district oversight of police-station CCTV systems	State and district oversight committees must supervise installation, upkeep and functioning of police-station CCTV systems. District committees must interact with Station House Officers, send monthly functioning reports to the State committee and review stored footage for unreported human-rights violations. The State committee must arrange resources, inspections and prompt correction of faults reported from districts.	22
Station House Officer's responsibility for CCTV failures and data	The Station House Officer is responsible for CCTV working condition, maintenance, recording, data backup and fault rectification. Any malfunction must be reported immediately to the district oversight committee. During a failure, the officer must report arrests and interrogations conducted at the station and forward their record, so that oversight continues while repair or	22

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	replacement is arranged.	
Securing CCTV evidence of serious custodial injury or death	Complaints of police force resulting in serious injury or custodial death may be taken to the State Human Rights Commission or a Human Rights Court. The Commission or Court may immediately summon the relevant CCTV footage for safekeeping and make it available to the investigating agency. Police premises must display information about CCTV coverage, complaint rights and the victim's right to secure footage.	22
Police-station CCTV — functioning cameras and coverage of relevant areas	Police-station CCTV is an Article 21 safeguard against custodial abuse. Applying the reproduced directions in Paramvir Singh Saini, the Court directed immediate implementation and required functioning cameras covering every room of police stations within the Superintendent's jurisdiction. The quoted scheme covers entry and exit points, lock-ups, corridors, officers' rooms and other station areas, with cameras outside rather than inside toilets. The SHO is responsible for working condition, maintenance, recording, backup and prompt reporting of faults so that repair can be arranged.	546
Police-station CCTV — audio, night vision and minimum recording storage	The Paramvir Singh Saini directions applied by the Court require night vision and both audio and video recording. Recording systems should preserve footage for eighteen months. Where equipment with that capacity is unavailable, the maximum available storage must be purchased and must not fall below one year, with later upgrading to eighteen months when commercially available. States and Union Territories must also provide the electricity and connectivity needed for clear recordings.	546
Police-station CCTV — State and District Oversight Committees and repair accountability	Under the directions ordered to be implemented, State and District Oversight Committees must oversee CCTV installation, maintenance and compliance. The State committee includes Home, Finance and senior police representatives and the State Women's Commission chairperson or member; the district committee includes the divisional commissioner, District Magistrate, Superintendent of Police and the municipal or rural local-body head. District committees report monthly, inspect operation and review footage for unreported human-rights violations. Faults reported by the SHO require prompt escalation and repair, and arrest or interrogation records during a breakdown must be sent to the district committee.	546
Custodial abuse complaints — securing CCTV footage and notice of redress rights	The CCTV safeguards applied by the Court permit complaints about serious police-station injury or custodial death to the State Human Rights Commission and Human Rights Courts. The Commission or Court may immediately summon relevant footage for safekeeping and later investigation. Notices at police premises must explain CCTV coverage, available complaint authorities and the victim's right to have footage secured; the reproduced notice direction refers to a preservation period of at least six months.	546
	Sub-Chapter no. 25.3 **Electronic Evidence Authentication, Certificate and Source Integrity**	
FIR quashing on alibi — CCTV with a manually entered date and time	The applicant's reliance on CCTV footage did not justify quashing the FIR on alibi where counsel conceded that the recording's date and time were manually entered and could be manipulated. The Court declined interference on that material at this stage.	311
Adverse inference from refusal to provide a voice sample	The Court drew an adverse inference from the appellant's written refusal to provide the requested voice sample and considered it with the signed transcript and trap evidence. It relied on Ritesh Sinha's recognition of a Judicial Magistrate's power to order an investigative voice sample pending express CrPC legislation. The inference formed part of the cumulative proof of demand; the judgment records no playback in court or scientific voice match and does not establish authentication merely from refusal. The Section 65-B certificate	441

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	and CDs appear in the preparation narrative rather than a separate admissibility ruling.	
CCTV alibi — source authenticity and forensic exhibit integrity at the summoning stage	At the Section 319 stage, a closure report based on CCTV material must be assessed for reliability against the trial evidence. Here, the home DVR was obtained without a Section 65-B certificate from the wife who supplied it; the technician's certificate addressed extraction. The timing could have been altered before seizure, and the comparison photographs lacked independent authentication. The laboratory also received a mobile instead of the pen drive listed in the forwarding memorandum. Those defects, together with the inability to identify the ATM user, undermined the claimed alibi. These were preliminary reasons for rejecting the closure report as a sufficient answer to the trial testimony, without a final finding of manipulation or guilt.	490
CCTV source integrity — prompt seizure and scrutiny of manually set recording times	Where allegations concerned a person controlling the premises and CCTV system, the police should have promptly secured the DVR instead of allowing that person to supply selected recordings at his convenience. The Court found that a delay of about one and a half months created an opportunity to manipulate the record. Because DVR dates and times can be set manually, the displayed timestamp did not by itself establish that the supplied image was an original, unaltered record of the alleged event.	546
Reliability of private-house CCTV timestamps offered as an alibi	Private-house CCTV cannot be accepted as conclusive proof of an alibi without examining its reliability. The Court noted that DVR date and time settings may be entered manually and that scenes can be recreated with altered timestamps. The footage and supporting statements relied on here were insufficient to establish that the two persons were absent from the scene. This was a finding of insufficient proof, rather than a finding that a specific alteration had been established.	606
Anticipatory bail— Reliability of an unauthenticated defence audio recording	At the anticipatory-bail stage, a defence audio recording was not relied upon where the speaker’s identity was unverified, possible doctoring had not been excluded and no laboratory testing had been carried out. The conversation also did not establish the alleged demand for settlement money. On that material, the recording did not substantiate the plea of false implication.	665
Disputed video authenticity — open-court playback followed by counsel’s concession	The accused opposed the bail-cancellation application by alleging that the accompanying CD had been forged or tampered with. The Court played it in open court in the presence of counsel for both sides. After viewing it, counsel for the accused did not dispute its contents and could identify no basis for calling it doctored. Counsel also admitted the large welcoming crowd, garlanding, slogans and procession in an open jeep. The Court then considered the videos when assessing misuse of bail liberty. Its assessment proceeded on the playback and the subsequent concessions concerning the material relied upon.	746
Refusal of a voice sample and objection to absence of scientific comparison	The Patwari refused in writing to provide a voice sample. The Court rejected her subsequent reliance on the resulting absence of scientific comparison as a reason to disown the recorded bribe conversation, holding that she could not take advantage of that refusal. Its assessment of the recording formed part of the wider evidence of demand and coordinated conduct.	879
Proof that an official order was uploaded before the alleged fabrication	The assertion that a rejection order had already been uploaded did not prove its contemporaneous existence. The relevant operator was not examined, no uploaded copy was produced and the computer record establishing the date and time was not furnished. Those omissions, with contradictory dates and other documentary defects, prevented the alleged website publication from supporting the defence's claim that the order predated the trap.	879
Recorded conversation relied	A privately recorded conversation could not be relied upon unless it was proved to be unaltered and to contain the voices of the prosecutrix and her husband.	893

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on for quashing — authenticity and identification of voices	The High Court declined to accept the applicant's recording as a basis for quashing without that proof.	
CCTV timestamp and proof of an alibi	CCTV footage does not by itself conclusively establish an alibi without proof in accordance with law. A DVR's date and time can be entered manually, so the displayed timestamp alone cannot establish when the recording was made. The Court's observation addressed the need for proof and did not establish that the applicant had fabricated the footage.	972
	Sub-Chapter no. 25.4 **CDR, Mobile Location, IPDR and Telecom Records**	
Mobile-phone recovery without evidence linking the device to the offence	Recovery of ordinary used mobile phones did not by itself incriminate the accused where the prosecution did not show that the devices were used in the offence. No call-detail evidence connected Ramvilas with the other accused or established his location, and no specific criminal role was proved. The recovered phones therefore did not supply the missing link needed for his conviction.	183
Unproved alleged ransom call and missing corroborating material	The Court rejected the alleged ransom call on the combined evidentiary deficiencies: the recipient was not named or examined, no call-detail records were collected, the other abductees did not support the call, and there was no contemporaneous report or evidence of any family response to the demand. Those omissions were assessed together with the material inconsistencies in the abductees' testimony.	188
Mobile-tower location — distinction between the handset and its owner	A mobile phone's tower location does not by itself establish that its owner was physically present at the same place. Since another person may carry the handset, the applicant's asserted phone location elsewhere did not establish an alibi warranting quashing of the FIR.	311
Tower-Location Analysis Omitting the Time of the Incident	A tower-location analysis that omitted the interval covering the alleged collision did not supply the missing link between the accused and the incident. That evidentiary gap was considered with the unreliable eyewitness account and inconclusive vehicle footage in finding involvement unproved.	375
Mobile-device location does not conclusively locate its holder	The location recorded for a mobile phone does not, by itself, conclusively establish that its holder was also at that place. The device could be carried by another person. The Court therefore declined to treat the applicant's mobile location away from the scene as conclusive proof of his claimed absence.	645
Proof linking seized phones and SIM cards to alleged telephone contacts	The officers' claim that a phone and three SIM cards were recovered from Mukesh was not accepted where no seizure memorandum was prepared and the omission was unexplained. The prosecution also failed to prove the subscribers of the relevant numbers. Calls allegedly made by the other appellants to those numbers therefore did not establish contact with Mukesh and could not supply the asserted telephone link in the conspiracy case.	934
	Chapter no. 26 **Presumptions, Reverse Burden and Statutory Evidentiary Rules**	
	Sub-Chapter no. 26.1 **Statutory Presumptions and Foundational Facts**	
Section 139 NI Act presumption and alleged alteration of a postdated cheque	The presumption under Section 139 of the Negotiable Instruments Act is rebuttable. Where a complaint alleges that the holder advanced the date of a postdated security cheque and instituted Section 138 proceedings before the original date, that presumption does not by itself justify quashing the complaint alleging forgery and related offences. On the complaint's allegations, the liability associated with the cheque had not accrued when those proceedings	30

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	were instituted. This conclusion concerns the challenge to cognizance and does not establish that the alleged alteration was proved.	
Section 114 Evidence Act — factual inference from proved circumstances and ordinary human conduct	A court may infer a fact from other proved facts by considering the ordinary course of natural events, human conduct and the circumstances of the case under Section 114 of the Evidence Act. The Tulshiram Sahadu Suryawanshi passage relied upon by the Court explains that this process can operate with Section 106 where special knowledge is involved, while preserving the prosecution's burden to prove guilt beyond reasonable doubt.	138
Presumption attached to revenue entries until correction	In assessing the alleged purpose of interpolation, the Court recognised that a revenue entry carries a presumption until corrected. The applicant was a practising advocate aware of the importance of those entries. That evidentiary significance supported rejection of the argument that inserting 'Quilla' in the temple's entry could yield no advantage in the dispute with his father. The observation did not finally establish authorship of the insertion or the accused's guilt.	326
Section 20 NI Act — prima facie authority to complete an inchoate stamped instrument	Where a person signs and delivers a duly stamped paper that is blank or contains an incomplete negotiable instrument, Section 20 gives the holder prima facie authority to complete it for an amount within the stamp's coverage. The signatory is liable in that capacity to a holder in due course, while another holder cannot recover more than the amount intended to be paid. The Court applied this reasoning to the accused's admitted signature and delivery when refusing handwriting examination of the remaining cheque entries. It did not finally determine the alleged debt or reject the repayment defence.	349
Long Cohabitation: Rebuttable Presumption of Marriage	Continuous cohabitation and treatment as husband and wife for a long period may support a presumption of marriage under the Evidence Act. The presumption is rebuttable, with a heavy burden on the person disputing the relationship's legal origin. Courts must consider circumstances that weaken or displace it. The Court applied these principles to the alleged cohabitation, child and family recognition before it.	366
	Sub-Chapter no. 26.2 **Reverse Burden and Accused's Rebuttal**	
Plea of insanity — preponderance of probabilities for the exception, continuing prosecution burden on mens rea	Under Section 105 Evidence Act, the accused must rebut the presumption that the circumstances of the Section 84 IPC exception were absent. That burden is discharged on a preponderance of probabilities through relevant oral, documentary, medical or circumstantial material, including prosecution evidence. The prosecution throughout must prove the offence and its requisite mens rea beyond reasonable doubt. Even where the exception is not fully established, the evidence may create reasonable doubt about an essential ingredient and require acquittal because the prosecution's general burden remains unmet.	77
	Sub-Chapter no. 26.3 **Previous Judgments — Relevance, Conclusiveness and Civil–Criminal Interaction**	
Previous civil judgments — statutory relevance and conclusiveness	Where civil and criminal proceedings concern the same cause, the earlier civil judgment is relevant in the criminal case only if the requirements of Sections 40–43 of the Evidence Act or another applicable evidentiary provision are satisfied. Relevance does not by itself make the judgment conclusive; the Court must determine its permissible purpose and effect, including the conclusiveness provided by Section 41. Under Section 43, other judgments are ordinarily irrelevant unless their existence is a fact in issue or is relevant under another provision.	2
Civil-court findings and independent	The divorce petition must be decided on its own merits, and findings recorded	101

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criminal adjudication	by the civil court are not binding on the criminal court. The pendency of matrimonial civil proceedings did not dispose of the criminal allegations.	
Independent verdicts in separate criminal trials	An acquittal in a separate trial to which the accused was not a party does not conclusively determine the merits of his case; each trial turns on its own evidence. The Court distinguished the problem of conflicting findings where, in the same trial, one person is convicted under Section 34 IPC solely for acting jointly with persons acquitted of that joint act.	231
Reopening the settled public character of a lane	A party against whom the lane's public character was finally determined in its own civil suit could not reopen that finding in the later nuisance proceedings without claiming that a different lane was involved or that ownership had subsequently been acquired through a lease or sale deed. Neither basis was asserted here.	237
Relevance and conclusiveness of a previous civil judgment in a criminal case	A previous final judgment may be relied upon in a criminal proceeding to the extent permitted by Sections 40–43 of the Evidence Act, 1872. Its relevance and its binding or conclusive effect must be examined separately in the particular case. A civil judgment is not generally conclusive in the criminal case merely because both concern the same cause; Section 41 governs the judgments made conclusive by that provision. Other judgments remain subject to Section 43 and any other applicable rule of relevance.	500
Relevance and conclusiveness of previous judgments under Sections 40–43 Evidence Act	A previous judgment may be relied upon only to the extent permitted by Sections 40–43 of the Evidence Act or another applicable provision. A civil judgment concerning the same cause is relevant in criminal proceedings only when the statutory conditions are met and is not necessarily conclusive; Section 41 specifies judgments having conclusive effect. Judgments outside Sections 40–42 are generally irrelevant under Section 43 unless their existence is itself in issue or is otherwise relevant. The court must determine both relevance and the extent of binding or conclusive effect in the particular case.	844
Civil and criminal findings: independent proof and statutory relevance of earlier judgments	Civil proceedings turn on a preponderance of probabilities, while the prosecution must prove a criminal charge beyond reasonable doubt. Each proceeding is decided on its own evidence, and findings in one do not automatically bind the other. A previous judgment may nevertheless be relevant under Sections 40–43 of the Evidence Act, and its binding or conclusive effect must be assessed under the applicable provision, including the conclusiveness specified in Section 41.	861
Previous judgments — Relevance and effect under Sections 40–43 of the Evidence Act	Where civil and criminal proceedings concern the same cause, a previous civil judgment may be relevant if the conditions of Sections 40–43 of the Evidence Act are satisfied. Relevance and conclusive effect must be assessed separately. Section 41 specifies the judgments and matters having conclusive effect. In other cases, the permissible effect depends on the applicable provision and the circumstances, and may be limited to a purpose such as motive or a fact in issue. Under Section 43, judgments outside Sections 40–42 are irrelevant unless their existence is itself a fact in issue or is relevant under another provision of the Act.	940
Civil and criminal findings — absence of reciprocal binding effect	Findings recorded by a civil court do not bind the criminal court, and findings of the criminal court do not bind the civil court. In rejecting the attempt to quash the matrimonial FIR on the strength of pending divorce proceedings, the Court expressly reaffirmed the independence of the two adjudications.	991

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Macro Division VII
General Penal Principles and IPC/BNS Offence Families

Chapter no. 27
Sexual Offences, Cruelty and Matrimonial Offence Families

Sub-Chapter no. 27.1
Cruelty, Dowry Demand and Matrimonial Harassment

Section 498A IPC — continuing mental cruelty after dowry-linked expulsion	Compelling a married woman to remain at her parental home because a dowry demand has not been met amounts to mental cruelty. The mental trauma and psychological distress caused by expulsion from the matrimonial home may continue at the parental home even though no further physical assault occurs there. On the allegations before it, the Court treated the cruelty as continuing when refusing to quash the FIR.	2
Section 498A IPC — statutory forms of cruelty	Cruelty under Section 498A IPC includes wilful conduct likely to drive a woman to suicide or to cause grave injury or danger to her life, limb or mental or physical health. It also includes harassment intended to coerce her or a person related to her to meet an unlawful demand for property or valuable security, or harassment because that demand has not been met.	2
Matrimonial cruelty — specific allegations against a sister-in-law	The requirement of specific and clear allegations against a husband's relatives applies to a sister-in-law. Where the FIR attributes to her an identified incident of abusive conduct and assault on the complainant in the presence of visiting family members, those allegations cannot be dismissed as merely vague or omnibus because of her relationship to the husband. The Court found a prima facie case warranting her prosecution.	6
Husband's relatives — individual involvement required in matrimonial accusations	A husband's relationship with an accused does not by itself establish that relative's involvement in dowry demand or harassment. Omnibus naming must be assessed for specific acts, roles and supporting material. Allegations against relatives living elsewhere and rarely or never visiting the matrimonial home require careful scrutiny. Merely reciting offence provisions or their language does not supply the particulars of each accused's alleged conduct.	14
Cruelty and dowry prosecution — specific allegations against each in-law	A plea of omnibus implication must be tested against the conduct attributed to each relative. The account alleged demands for flat-purchase money and abuse by one brother-in-law, deliberate exposure and insults by the other, compelled withdrawal of ₹3 lakh by the father-in-law, and taunts, demands and burning of the wife's hand by the mother-in-law. These specific roles disclosed triable allegations under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act. The caution against indiscriminate implication of relatives did not justify quashing on this record; truth and guilt remained matters for trial.	18
Section 498-A IPC — alleged deliberate exposure before the wife as cruelty	The allegation that a brother-in-law habitually removed his clothes in front of the complainant was a specific allegation of conduct capable of amounting to cruelty. At the quashing stage, the Court rejected the contention that the accusation against him was merely vague or based only on his relationship with the husband.	18
Household disagreements and the statutory threshold of cruelty	Section 498-A IPC requires wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health, or harassment to coerce an unlawful demand for property or valuable security or because such a demand was not met. General objections by a mother-in-law to household work did not meet that threshold on the allegations before the Court. The FIR did not attribute dowry demands or harassment for their fulfilment to her.	24
Mother-in-law's non-intervention in	A mother-in-law's decision to stay away from the personal disputes of the husband and wife did not amount to cruelty on the facts. The allegation that she	24

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the couple's personal disputes	failed to persuade her son when his conduct was reported to her, coupled with general taunts, did not allege dowry-related harassment or establish the statutory cruelty complained of.	
Bare allegation of deprivation of a mother-in-law's love and affection	A bare allegation that the complainant was deprived of her mother-in-law's love and affection did not constitute cruelty in the circumstances. Such deprivation may become significant when considered with other circumstances, but the assertion in this case did not meet the statutory requirement.	24
Threatened remarriage during a subsisting marriage as mental cruelty	The legal invalidity of a second marriage during the first marriage's subsistence did not remove its potential mental impact on the first wife, who had allegedly been expelled from the matrimonial home for dowry-related cruelty. The allegation that the husband intended to remarry formed part of the prima facie cruelty case under Section 498-A IPC. His denial of that intention was a defence requiring evidence and could not be resolved on the quashing application.	29
Failure to seek restitution or divorce does not establish acceptance of separation	A wife's failure to institute restitution-of-conjugal-rights or divorce proceedings did not show that she was content to remain at her parental home. Silence in the hope that relations would improve could reflect an effort to preserve the marriage. Delay in making a criminal complaint while reconciliation was being attempted did not, by itself, justify an adverse inference against her.	29
Continuing mental cruelty after exclusion from the matrimonial home	Cruelty under Section 498-A IPC may be mental as well as physical. After a wife is ousted, physical cruelty may cease while mental cruelty continues. Disowning her on account of an unfulfilled dowry demand, or refusing her return with threats, may disclose such cruelty. The allegations and the applicants' own messages supported continuation of the prosecution here; the Court did not finally determine guilt.	39
General allegations against a sister-in-law in a matrimonial prosecution	A sister-in-law cannot be required to face a matrimonial prosecution merely because she is named with other family members in general allegations of scolding. Clear allegations of her own role are necessary. Applying the principles reproduced from Taramani Parakh, Kans Raj, Monju Roy and Chandralekha, and the principles invoked from Geeta Mehrotra and Preeti Gupta, the Court found no specific allegation against the sister-in-law beyond collective scolding and quashed the FIR and prosecution against her. The specific allegations against the husband and parents-in-law remained triable.	40
Cruelty by a mother-in-law towards her daughter-in-law	In assessing allegations of matrimonial cruelty, the Court applied Meera to emphasise that a mother-in-law is expected to protect her daughter-in-law. Cruelty inflicted by a woman on her daughter-in-law was treated as especially serious and deserving of no leniency. This principle supported refusal to quash the specific allegations against the mother-in-law; it did not determine her guilt before trial.	40
Specific dowry demand, beatings and ouster — plea of omnibus allegations	Allegations of a specified additional dowry demand, beatings for its non-fulfilment, and ouster from the matrimonial home with return made conditional on payment are specific allegations rather than merely general or omnibus accusations. Applying Taramani Parakh, the Court declined to quash the proceedings against the husband and mother-in-law under Section 85 BNS and Sections 3 and 4 of the Dowry Prohibition Act. Whether the alleged harassment actually occurred remained a matter for trial.	53
Taunts about inadequate dowry — prima facie matrimonial cruelty	Applying Taramani Parakh, the Court treated taunts for bringing insufficient dowry as sufficient prima facie to warrant prosecution for cruelty under Section 498A IPC. In the Section 85 BNS proceedings before it, the allegations went further and included a specified demand, beatings and exclusion from the matrimonial home. The assessment concerned whether prosecution could continue, not whether cruelty had been proved.	53
Married relatives — unspecified mental	An allegation that married relatives living in other cities mentally harassed the	56

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harassment during occasional visits	wife over dowry during occasional visits was too general to require them to face trial when neither the manner nor the timing of the alleged cruelty was stated. Applying the cited Supreme Court principles requiring specific involvement of relatives, the Court found the allegations against these applicants insufficient to sustain their prosecution.	
Relatives living elsewhere — scrutiny of alleged involvement in matrimonial cruelty	The Supreme Court principles relied upon require particular care when allegations concern the husband's relatives who live in different cities and never or rarely visit the matrimonial home. Omnibus accusations against relatives do not establish their individual involvement. Specific roles or instances supported by material are required; a casual reference to a family member's name, without an allegation of active involvement, does not justify taking cognizance against that person.	56
Married sister-in-law — sufficiency of the alleged role in dowry harassment	On this FIR and the Section 161 CrPC statement, the Court found the allegation against the married sister-in-law insufficient for prosecution under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act. Her attributed role was a telephone endorsement of the husband's demands, with a threat not to allow the wife to live with him, and no further act of interference or harassment was alleged. Applying the requirement of specific and direct allegations against relatives, the Court quashed the proceedings against her.	69
Section 498-A IPC — dowry-linked expulsion and continuing mental suffering at the parental home constitute cruelty	Compelling a married woman to live at her parental home because a dowry demand remains unmet amounts to cruelty. Section 498-A IPC encompasses mental as well as physical suffering: trauma caused by abuse or expulsion from the matrimonial home may continue where the wife takes shelter, even without further physical assaults there. Applying Rupali Devi, the Court declined to quash the FIR containing specific allegations against the applicants.	76
Cruelty under Section 498-A IPC independent of a dowry demand	Cruelty under Section 498-A IPC is not confined to harassment for non-fulfilment of a dowry demand. It also includes wilful conduct of a nature likely to drive the woman to suicide or cause grave injury or danger to her life, limb or physical or mental health. A dowry demand is therefore not essential to every form of statutory cruelty. In any event, the FIR also contained specific allegations of dowry demands, so the Court rejected the contention that the offence's ingredients were absent.	84
Cruelty complaint after divorce proceedings and attempts at reconciliation	A cruelty complaint cannot be treated as a counterblast merely because it follows the husband's divorce proceedings. Applying Pratibha v. Rameshwari Devi, the Court held that efforts to preserve the marriage and seek reconciliation may explain the wife's delay in complaining. Filing a civil divorce petition does not terminate independent criminal proceedings arising from the same facts. The specific cruelty and dowry allegations were therefore left for trial, without determining their truth at the charge stage.	101
Section 498A IPC — Cruelty without a dowry demand	A dowry demand is not essential to cruelty under Section 498A IPC. Explanation (a) covers wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health; Explanation (b) separately covers harassment connected with an unlawful demand for property or valuable security. Specific allegations of unwanted unnatural sexual acts, followed by assault and physical cruelty when the wife resisted, made out an offence under Section 498A at the quashing stage even without an alleged dowry demand.	113
Alleged falsity of a cruelty complaint — Determination in the underlying trial	Whether the wife's cruelty and dowry allegations were true was for the trial court to determine after recording evidence. The accused in that prosecution could cross-examine the complainant and her witnesses to challenge her account. The husband's belief that he had been falsely implicated did not by itself turn the wife's resort to a lawful complaint into abetment of his suicide.	114
Section 498A IPC —	Section 498A IPC covers both wilful conduct likely to drive a woman to suicide	119

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Cruelty does not require a dowry demand in every case	or cause grave injury or danger to her life, limb or mental or physical health, and harassment connected with an unlawful property demand. A dowry demand is therefore not essential in every cruelty case. The allegations of beating, confinement, degrading treatment, abandonment at a public place and continued exclusion from the matrimonial home disclosed a prima facie case under the non-dowry branch.	
Continued mental cruelty after ouster — Objection to delay in the FIR	Applying Rupali Devi, the Court distinguished the end of physical cruelty after ouster from continuing mental cruelty caused by compelling the wife to remain at her parental home without reasonable cause. It treated the alleged failure to take her back for three years as giving a fresh cause each day. On that basis it rejected both the delay objection and the contention that the allegations disclosed no Section 498A offence.	119
Separation of mother and minor child in the prima facie cruelty assessment	In assessing the cruelty allegations, the Court noted that the wife had been expelled while the applicants retained her minor child without an order from a competent custody court. It treated this as forcible separation of the child from her mother, whom it described as a natural guardian. The husband's refusal to continue reconciliation was also considered with the allegations when finding a prima facie case requiring trial.	119
Distant relatives in matrimonial prosecutions — Specific role and supporting material	The Taramani Parakh passage applied by the Court cautions against summoning distant relatives merely because they are named in a matrimonial complaint. A specific role and tangible supporting material are required; remote relationship alone does not justify involvement. That safeguard differs from a complaint containing triable allegations against the husband and close family members, whose truth must be examined at trial.	119
Continuing cruelty through dowry-related exclusion from the matrimonial home	Compelling a married woman to remain at her parental home because a dowry demand is unfulfilled amounts to cruelty. Mental distress caused by physical cruelty or abusive and humiliating conduct may persist there even after overt acts at the matrimonial home cease. On the allegations of continuing harassment and dowry-related exclusion, the Court rejected delay calculated merely from the date of marriage.	121
Proof of cruelty through motorcycle demands and related harassment	Evidence that the husband and father-in-law demanded a motorcycle and harassed the wife for non-fulfilment supported their conviction under Section 498-A IPC. The Court accepted the consistent core of the demand evidence, including the father's direct account of a demand made to him, despite minor omissions in the witnesses' accounts.	122
Distinct offences of cruelty and dowry death	Sections 498-A and 304-B IPC create distinct offences despite sharing cruelty as an element. Cruelty itself is punishable under Section 498-A, whereas Section 304-B punishes dowry death and requires death within seven years of marriage. Section 498-A has no corresponding seven-year limit. Where both offences are established, conviction under both is permissible.	122
Section 498-A cruelty is not confined to dowry-related harassment	Cruelty under Section 498-A IPC is not limited to harassment connected with an unlawful property demand. Explanation (a) separately covers wilful conduct of such a nature as is likely to drive the woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. Absence of a dowry demand by the particular relative therefore does not, by itself, defeat a case falling within that limb.	125
Character accusations and threats as prima facie matrimonial cruelty	Specific accusations that a woman was pregnant through her own brother, accompanied by alleged assault, repeated threats to kill her and her daughter, and demands for a DNA test, disclosed a prima facie case of cruelty under Section 498-A IPC. In that setting, the Court treated attacks on her character as cruelty rather than requiring a separate dowry demand by the sister-in-law.	125
Specific dowry-cruelty allegations	Brief residence in the matrimonial home did not make the accusations against	148

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against close relatives despite brief cohabitation	the husband, mother-in-law, younger brother-in-law and unmarried sister-in-law non-specific. The allegations described harassment over a ₹2,00,000 demand and inadequate dowry articles, with a particular assault and threat by the husband. Read with the witness statements and Section 498A IPC, those accusations could not be quashed as mere general naming of relatives.	
Section 498A IPC: wilful harmful conduct and unlawful-demand harassment	Cruelty under Section 498A IPC includes wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. It also includes harassment intended to coerce her or a related person to meet an unlawful demand for property or valuable security, or harassment because that demand has not been met.	148
Distant relatives in dowry cases: specific role and supporting material	Mere naming of a distant relative, without a specific role and tangible supporting material, is insufficient to justify summoning that person in a dowry case. Courts must guard against indiscriminate implication of relatives. Where specific allegations disclose a triable cruelty case, however, their truth must be tested at trial rather than rejected at the threshold.	148
Continuing mental cruelty after separation	Physical cruelty may cease after a wife leaves the matrimonial home, while the mental trauma caused by that cruelty continues at her parental home. Compelling her to remain there because of cruelty can constitute continuing mental cruelty. Applying Rupali Devi and Amar Singh, the Court treated the alleged continuing exclusion and trauma as defeating the objection that the FIR was delayed.	163
Inability to conceive and cruelty by in-laws	A married woman’s inability to conceive does not entitle her in-laws to subject her to cruelty. The specific allegations of cruelty against the applicants required the prosecution to continue rather than be quashed.	163
Specific allegations required to prosecute the husband's relatives for cruelty	The risk of false implication of the husband's relatives requires scrutiny of whether the allegations are specific rather than vague or omnibus; it does not create an absolute bar to their prosecution under Section 498A IPC. Specific allegations of joint cruelty, assault and expulsion from the matrimonial home justified continuation of the investigation against the cousin brother-in-law. The trial must be decided on its evidence without prejudice from the quashing order.	171
Separate residence and a relative's ability to interfere in matrimonial affairs	A separate house nearby does not necessarily establish that a relative could not interfere in the complainant's day-to-day family affairs. The Court assessed separate living by reference to that practical ability and held that residence 30 kilometres away did not make the specific accusations impossible. Whether the applicant visited the household was a disputed defence that could not be decided under Section 482 CrPC.	171
Specific dowry demands despite absence on another alleged occasion	Relatives’ absence abroad on an alleged occasion did not justify quashing where the FIR separately attributed dowry demands to them during identified periods when they were in India. The allegations of pressure for ₹10 lakh and a car during those later periods were sufficiently specific to require trial.	192
Specific allegations against the husband’s relatives	The husband’s relatives should not be required to face trial on vague and omnibus allegations alone. The complaint must identify their role in the alleged offence. Allegations against relatives living elsewhere require careful scrutiny, and merely naming distant relatives without specific supporting material is insufficient.	192
Dowry demand is not indispensable to every form of Section 498-A cruelty	A dowry demand is not indispensable to a prima facie offence under Section 498-A IPC where the alleged cruelty by the husband or his relatives is of a nature likely to drive the woman to suicide or endanger her body.	193
Different descriptions of dowry demands in	A discrepancy between the vehicle allegedly demanded in a divorce petition and the vehicle described in the FIR did not justify quashing where specific allegations independently disclosed cruelty under Section 498-A IPC. Dowry	193

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divorce pleadings and the FIR	demand was not essential to the form of cruelty considered by the Court.	
Omission of accusations from a mutual-consent divorce petition	A mutual-consent divorce petition may omit accusations because the parties have chosen not to make allegations against each other. That omission does not by itself establish that cruelty allegations subsequently made in an FIR are false.	193
Specific cruelty allegations against the husband and mother-in-law	Specific allegations of physical and mental harassment over the wife's inability to conceive after her children's deaths, a demand of ₹50,000 and expulsion for non-payment disclosed a prima facie case against the husband and mother-in-law. The husband had no right to subject his wife to cruelty because she could not conceive; whether the alleged harassment occurred was for trial.	235
Continuing mental cruelty after expulsion for dowry	Driving a married woman from the matrimonial home for non-fulfilment of dowry demands and compelling her to remain at her parental home amounts to continuing cruelty under Section 498-A IPC. The resulting mental trauma may persist there even when no further physical assault occurs at that place.	235
Wilful conduct endangering a woman's mental or physical health	Cruelty under Section 498-A IPC includes wilful conduct of such a nature as is likely to drive a woman to suicide or cause grave injury or danger to her life, limb or health, whether mental or physical. The Court assessed the pleaded harassment concerning inability to conceive within that statutory conception of cruelty.	235
Specific dowry demands and cruelty allegations at the quashing stage	Allegations that the husband and relatives demanded an additional ₹5 lakh and a car, abused the wife and subjected her to physical and mental cruelty were held clear and specific enough to sustain prosecution. The Court declined to quash the FIR under Section 482 CrPC; its assessment was prima facie and did not determine guilt.	236
Specific cruelty allegations against husband and parents-in-law	Where the allegations attribute specific acts of cruelty to the husband and parents-in-law, their truth must be tested at trial rather than resolved by comparing rival versions in a quashing petition. Allegations of dowry demands, assault, forced administration of pills, confinement and delay in obtaining treatment provided a basis for continuing prosecution in this case. They were not treated as a final finding of guilt.	249
Statutory forms of cruelty under Section 498-A IPC	Cruelty under Section 498-A IPC includes wilful conduct of a nature likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. It also includes harassment intended to coerce her or a related person to meet an unlawful demand for property or valuable security, or harassment because such a demand has not been met. The provision is therefore not confined to physical injury or to a completed suicide.	249
Section 498A IPC: mental cruelty after forced departure from the matrimonial home	Cruelty may include the continuing mental trauma caused when a wife is driven from the matrimonial home and compelled to take shelter with her parents. Physical abuse need not continue at the parental home for its psychological effects to persist. Allegations of dowry demands, assault, deprivation and coercive exclusion were sufficient to resist quashing on their face; their truth remained for determination in the proceedings.	286
Section 498A IPC: unlawful demand for a fixed deposit in the child's name	Cruelty under Explanation (b) to Section 498A IPC includes harassment to coerce a woman or her relatives to meet an unlawful demand for property or valuable security, or because they fail to meet it. It is not confined to a demand technically constituting dowry. The alleged coercion to obtain a ₹5 lakh fixed deposit in the baby daughter's name, coupled with harassment and exclusion from the matrimonial home, disclosed a prima facie Section 498A case.	289
Earlier apprehension of a false FIR and specific cruelty	An earlier application to police expressing apprehension of false implication does not, by itself, prima facie falsify a later FIR containing specific allegations of cruelty. The Court rejected that basis for quashing where the complaint alleged dowry-related cruelty and expulsion from the matrimonial home. The	323

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allegations	applicant's defences required proof during trial.	
Mother-in-law's protective role and cruelty to a daughter-in-law	Relying on Meera v. State, the Court observed that a mother-in-law is expected to protect her daughter-in-law and that cruelty by one woman towards another in that relationship is a serious matter calling for no leniency. The observation supported refusal to quash specific allegations of cruelty. It did not amount to a finding of guilt or a sentencing decision against the applicant.	323
Section 498-A IPC — continuing mental cruelty at the parental home	Mental cruelty may persist after a wife leaves the matrimonial home because of physical cruelty or abusive and humiliating treatment. The resulting trauma and distress may continue at her parental home even without a fresh physical act there. Applying Rupali Devi, and referring to Amar Singh on compelling a married woman to live with her parents, the Court found the allegations of dowry demands, harassment and expulsion sufficient for the case to proceed. It did not decide their truth or a separate territorial-jurisdiction dispute.	325
Written reconciliation assurances as evidence of earlier cruelty	The husband's written undertaking to provide proper treatment, food, clothing and freedom to visit family, considered with the relatives' testimony, supported the finding of earlier cruelty and the circumstances in which the wife returned to the matrimonial home. The agreement did not expressly recite the alleged dowry demand or every act of cruelty, and the Court did not treat it as a direct admission of each allegation. His Section 313 response about execution was evasive, but he did not dispute his signature. The Court found that the mistreatment continued despite the assurances.	328
Section 498A IPC — Denial of food and exclusion from the matrimonial home for dowry	Withholding food and water from a married woman because a dowry demand remains unmet amounts to physical and mental harassment. Compelling her to remain at her parents' home for that reason also amounts to mental harassment within Section 498A IPC. The FIR alleged concealment of food, keeping the wife hungry and thirsty, and excluding her from the matrimonial home for failure to bring an air-conditioned car. Taken at face value, those allegations disclosed a case requiring trial; their truth was not determined in the quashing proceeding.	355
Matrimonial cruelty — False allegation of adultery	An allegation of adultery against the wife, if found to be false, itself amounts to cruelty. The Court stated this conditionally in considering the strained relationship; it did not find in the quashing proceeding that the accusation was false.	355
Section 498-A IPC: Continuing Mental Cruelty at the Parental Home	Cruelty is not confined to physical acts at the matrimonial home. Where a wife is driven out by cruelty and cannot return for fear of further ill-treatment, the resulting mental trauma and psychological distress may continue while she shelters at her parental home. Applying Rupali Devi, the Court treated the alleged compelled residence as continuing cruelty despite the absence of fresh physical acts there.	363
Section 498-A IPC: Relationship by Marriage Inferred from Cohabitation	For the purpose of refusing quashing, the Court treated the applicant as related by marriage to the deceased's husband. It relied on his alleged long cohabitation with the husband's divorced sister, their two-year-old child, residence in the family home and the family's acceptance of the relationship. Those circumstances supported the marriage inference applied to the relationship requirement.	366
Section 498-A IPC: Dowry Demand Is Not Essential to Wilful Cruelty	A dowry demand is not essential to cruelty falling within Explanation (a) to Section 498-A IPC. Wilful conduct likely to drive a woman to suicide or to cause grave injury or danger to her life, limb or mental or physical health may constitute cruelty independently of such a demand. The Court found the alleged assaults and deliberate harassment through disruption of basic amenities sufficient to allow prosecution.	366
Section 498-A IPC: Meaning of Relative	Section 498-A IPC applies to the husband or his relative. As a penal provision,	366

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of the Husband	the expression must be construed strictly in its ordinary sense and encompasses relationships by blood, marriage or adoption. The Court therefore examined whether the applicant, who was not a blood relative, could be regarded as related by marriage.	
Continuing Mental Cruelty at the Parental Home under Section 498-A IPC	Section 498-A IPC encompasses mental as well as physical cruelty. When dowry-related cruelty drives a wife from the matrimonial home, the resulting trauma may continue at her parental home although physical ill-treatment there has ceased. On her allegation that she resided at Kareli, the continuing mental cruelty supported local investigative jurisdiction; the recorded transfer of money from Kareli supplied an additional territorial connection.	401
Dowry-Related Ouster and Continuing Mental Cruelty at the Parental Home	Compelling a married woman to remain at her parental home because a dowry demand has not been met amounts to cruelty. Section 498-A IPC includes mental cruelty: trauma from physical abuse, humiliating exchanges and exclusion from the matrimonial home may persist at the parental home even without a fresh overt act of physical violence there.	404
Instantaneous and Irrevocable Effect Governs the Statutory Meaning of Talaq	Section 2(c) of the Muslim Women (Protection of Rights on Marriage) Act, 2019 covers talaq-e-biddat and any similar form having the effect of an instantaneous and irrevocable divorce pronounced by a Muslim husband. Calling a notice talaq-e-bain does not remove it from that definition where its asserted character is instantaneous and irrevocable. On the notice and allegations before it, the Court refused quashing at the threshold.	407
Recurring Cruelty Allegations after Earlier Reconciliation and Compromise	Earlier complaints and a compromise entered into in an effort to preserve the marriage did not defeat later, detailed allegations of continuing matrimonial cruelty. Where the wife specified renewed harassment and assaults after reconciliation, the Court declined to resolve their truth through a mini-trial or to quash the prosecution on the basis of the earlier settlement.	407
Continuing mental cruelty after dowry-related separation	Compelling a wife to live separately because a dowry demand remains unmet can amount to cruelty. The mental trauma of cruelty that drove her from the matrimonial home may continue at her parental home even without fresh physical violence there. On the allegations in this FIR, cruelty was continuing and delay did not justify quashing.	411
Absence of individual dates in allegations covering a short marital period	The absence of individual dates did not make the cruelty allegations vague or omnibus where the alleged conduct occurred within an identified period of approximately three and a half months and specific acts were attributed to the applicants.	411
Specific allegations of dowry demand and assault require trial against husband and mother-in-law	Where specific allegations of dowry-related harassment disclose a triable case, their truth cannot be decided in proceedings under Section 482 CrPC. Applying Taramani Parakh, the Court refused to quash proceedings against the mother-in-law, who was specifically accused of beating and dowry-related taunts. Prosecution also continued against the husband on allegations that he demanded ₹10 lakh, assaulted and harassed his wife, and ousted her from the matrimonial home.	420
Continuing mental cruelty after dowry-related ouster and limitation	Compelling a wife to remain at her parental home after ousting her from the matrimonial home for insufficient dowry can amount to continuing mental cruelty under Section 498-A IPC, although physical assaults have ceased. Applying Rupali Devi and Amar Singh, the Court held that the resulting mental trauma continued at the parental home and gave a fresh cause of action each day. On those allegations, it rejected the limitation ground for quashing the FIR.	420
Specific Dowry-Demand and Assault Allegations Against a Mother-in-Law	Caution against vague and omnibus accusations against matrimonial relatives does not justify quashing where specific acts disclose a triable case. The allegations attributed demands for a car, physical assault and ill-treatment for non-fulfilment to the mother-in-law herself. Applying Taramani Parakh, the	456

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	Court held that these allegations warranted trial and refused to quash the FIR.	
Continuing Mental Cruelty After Dowry-Linked Expulsion	Compelling a married woman to remain at her parental home because a dowry demand is unfulfilled can amount to continuing cruelty. Applying Rupali Devi, the Court recognised that mental trauma and distress resulting from expulsion may persist even where physical abuse does not recur at the parental home. It treated the alleged cruelty as continuing for the purpose of the quashing application.	458
Specific allegations of dowry demands and cruelty against the mother-in-law	Specific allegations that the mother-in-law demanded a car or two bigha of land, restricted the wife's contact with her parents and participated in abuse, assaults and threats disclosed a prima facie case for prosecution. Applying Taramani Parakh, the Court refused to quash the FIR under Section 498-A and the associated provisions. The assessment concerned the sufficiency of the allegations, without determining their truth at trial.	460
Continuing mental cruelty after separation from the matrimonial home	Cruelty under Section 498-A IPC may be physical or mental. When dowry demands compel a wife to remain in her parental home, the mental trauma of the earlier abuse and exclusion may continue despite the cessation of physical assaults. Applying Rupali Devi and the narrated Amar Singh principle, the Court found that allegations of continuing harassment and imputations maintained a prima facie case of mental cruelty notwithstanding a year of separation.	463
Triable allegations of dowry cruelty against the husband and his parents	Matrimonial allegations against relatives require caution where they are merely omnibus, particularly if the relatives are not generally concerned with the couple's affairs. That caution creates no inflexible exemption from prosecution. Here, allegations of joint dowry demands, abuse, assault and a renewed demand at the parental home disclosed a triable case against the husband and his parents. Their truth and the accused's participation were matters for trial.	469
Matrimonial relatives — Specific cruelty allegations versus omnibus accusations	Courts must be cautious about vague or omnibus matrimonial allegations against relatives unconnected with the couple's affairs. That caution does not warrant quashing where specific allegations disclose a triable case. Alleged repeated dowry taunts, demands for money and a car, harassment, threats and expulsion were treated as specific accusations against these applicants. The Court also relied on Meera's observation that cruelty by a mother-in-law towards her daughter-in-law is more serious and deserves no leniency. These were threshold observations; guilt and punishment were not adjudicated.	476
Section 498-A IPC — brief residence does not discredit proved dowry cruelty	A wife is not legally required to remain in the matrimonial home despite ill-treatment. Her departure after a total stay of 30–35 days did not by itself make her evidence of repeated dowry demands and cruelty unreliable. The Court accepted her account of ill-treatment on each visit, supported by her brother and father, and noted that the defence had not suggested any effort to bring her back or obtain restitution of conjugal rights. Those omissions formed part of the credibility assessment on this record.	487
Cruelty allegations against relatives — specific and clear accusations	Near relatives of the husband cannot be required to face trial merely on vague allegations; the accusations must be specific and clear. Applying the authorities discussed in the judgment, including Taramani Parakh, the Court found specific allegations that applicants 1 and 2 took ₹10 lakh from the complainant's parents as a loan and subjected her to cruelty when repayment was sought, together with particular allegations of dowry harassment against applicants 2–4 and exclusion from the matrimonial home. These allegations disclosed a prima facie case. Whether the alleged harassment actually occurred was a matter for trial.	495
Section 498-A IPC — continuing mental cruelty after leaving the matrimonial	Cruelty under Section 498-A IPC includes mental suffering caused by physical abuse or humiliating verbal conduct that forces a wife to leave the matrimonial home. Applying the passage from Rupali Devi, the Court recognised that the resulting trauma and fear of returning may persist at the parental home even	495

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home	without a fresh act of physical cruelty there. It also relied on Amar Singh for the proposition that compelling a married woman to live in her parental home amounts to cruelty. These principles were applied to the allegations of exclusion and harassment at the quashing stage, without a final finding that those allegations were proved.	
Compelled residence with parents following an unmet dowry demand	Compelling a married woman to live in her parental home because a dowry demand has not been met amounts to mental cruelty. Specific allegations that the applicants demanded a Fortuner and twenty tolas of gold and forcibly expelled her from the matrimonial home disclosed an offence at the quashing stage. The Court refused interference without determining the truth of the allegations or the applicants' guilt.	500
Wife's ownership of stridhan when leaving the matrimonial home	Stridhan belongs to the wife. Her taking it with her when leaving the matrimonial home cannot by itself furnish a ground of complaint against her or defeat her allegation of matrimonial cruelty. The Court rejected the applicants' reliance on her removal of stridhan as a reason to quash the FIR.	500
Section 482 review — specific dowry-harassment allegations against the husband's close relatives	A husband's close relatives may be prosecuted where clear and specific allegations identify their involvement. The Court found specific allegations against the parents-in-law of an additional demand of ₹25 lakh, harassment for non-fulfilment and expulsion from the matrimonial home. Relying on Taramani Parakh in the context of the alleged dowry-demand taunts and maltreatment, it declined to quash the FIR under Sections 498A, 506 and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act.	549
Insufficient proof of matrimonial cruelty and dowry harassment	General allegations of a demand for money and gold did not establish cruelty beyond reasonable doubt where the witnesses failed to identify reliably when the demands or maltreatment occurred and the surrounding evidence did not inspire confidence. The Court independently examined cruelty after rejecting the dowry-death charge and found the Section 498A IPC charge unproved.	576
Wife's alleged illness as a ground for cruelty or expulsion from the matrimonial home	A married woman's illness, even if incurable, does not justify subjecting her to cruelty or expelling her from the matrimonial home. The allegation that psoriasis had been concealed before marriage did not warrant quashing the FIR alleging dowry demand, assault and expulsion. The Court's assessment concerned whether the proceedings should continue, rather than final proof of the allegations.	589
Continuing mental cruelty after dowry-related expulsion to the parental home	Mental trauma and psychological distress caused by physical cruelty or humiliating treatment may persist after the wife takes shelter at her parental home, even if no further physical act occurs there. The Court adopted the reproduced Rupali Devi passage and its earlier ruling that compelling a woman to live with her parents because of a dowry demand is itself cruelty. The alleged assault, dowry-related expulsion and resulting separation were therefore relevant to assessing the cruelty allegation.	589
Statutory forms of cruelty under Section 498-A IPC	Cruelty includes wilful conduct of such a nature as is likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. It also includes harassment intended to coerce her or a related person to meet an unlawful demand for property or valuable security, or harassment because that demand has not been met. The Court assessed the alleged demand, beating and expulsion against these statutory forms.	589
Cruelty from compelled residence in the parental home	Compelling a married woman to remain in her parental home because a dowry demand has not been fulfilled also amounts to cruelty. The High Court applied the principle narrated from Rupali Devi while considering the allegations of dowry harassment in its review of anticipatory bail.	590
Quashing against relatives does not automatically	Quashing matrimonial-cruelty proceedings against the husband’s relatives does not automatically entitle him to the same relief. The Court read Priyanka	601

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protect the husband	Sharma as expressly confined to those relatives and their position. The husband faced clear and specific allegations of dowry demands and physical and mental harassment, which were prima facie sufficient to permit prosecution under Sections 498-A/34 IPC and Section 4 of the Dowry Prohibition Act.	
Specific allegations required to prosecute relatives for matrimonial cruelty	Near relatives of a husband should not be compelled to face a matrimonial-cruelty trial on ambiguous and general allegations. The allegations against them must be clear and specific. In distinguishing the husband's case, the Court applied this requirement to explain why the Supreme Court had assessed the relatives' position separately and why its quashing order did not govern the husband's specific alleged conduct.	601
Omnibus cruelty allegations against separately residing relatives	Relatives of the husband cannot be compelled to face trial for matrimonial cruelty on vague and omnibus allegations without specific instances of their involvement. The complaint must identify the alleged acts and role of each accused; merely naming relatives or repeating statutory language is insufficient. Applying these principles, the Court discharged the elder brother-in-law and four other relatives residing separately, finding no specific allegations against them. The alleged publication of false news was attributed to the husband, and the Court found no motive for these relatives to demand the complainant's salary.	619
Separate-residence plea in a dowry-cruelty anticipatory-bail application	Documents issued before the deceased's marriage did not establish the mother-in-law's separate residence during the alleged harassment. The Panchayat certificate required proof at trial. Her husband's account placed her in the matrimonial home when the death was discovered, and the deceased's earlier written complaint specifically accused her of harassment. The separate-residence plea was therefore not accepted for anticipatory bail.	665
Specific accusations and a plea of indiscriminate implication of relatives	The Court rejected the plea of indiscriminate implication where the allegations of dowry harassment and beating were directed against the mother-in-law and husband, while the mother-in-law's husband and other children were not accused. The specific lifetime complaint was material to that assessment. The Court also relied on Taramani Parakh's recognition that alleged torture by in-law taunts cannot simply be treated as disclosing no case.	665
Specific allegations of exclusion, infertility taunts and threats — cruelty FIR not quashed	In an application under Section 528 BNSS, specific allegations that the parents-in-law excluded the complainant from her matrimonial home, abused her for inability to conceive, threatened their son's remarriage and threatened to burn her justified refusal to quash the FIR. The Court applied Rupali Devi v. State of U.P. for the mental cruelty suffered when a woman is compelled to leave her matrimonial home because of dowry demands or cruelty. It assessed whether the allegations warranted interference at the threshold; it did not determine their truth at trial.	671
Seeking restitution of conjugal rights does not make cruelty allegations inherently false	A married woman may wish to preserve her marriage and seek restitution of conjugal rights despite alleging cruelty. Her unwillingness to divorce and her application under Section 9 of the Hindu Marriage Act do not, by themselves, establish that the allegations in her FIR are false. The Court rejected the proposed inference from the restitution application and considered the specific allegations of abuse, exclusion and threats when deciding whether to quash the criminal case.	671
Dowry-related expulsion and continuing mental cruelty at the parental home	Mental trauma from dowry-related physical cruelty, humiliation and expulsion from the matrimonial home may continue after the wife takes shelter with her parents, even though physical assaults do not occur there. Compelling her to remain at the parental home until a dowry demand is fulfilled amounts to a continuing act of cruelty. The Court applied that principle to the specific allegations of demands, ouster and refusal to permit her return.	687
Distant relatives —	Mere naming of distant relatives does not justify summoning them in a	687

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specific role and supporting material	matrimonial prosecution without a specific attributed role and tangible supporting material. Courts must guard against indiscriminate implication of relatives, while allowing prosecution where clear and specific allegations disclose their participation.	
Prima facie matrimonial cruelty from the full prosecution material	The immediate quarrel described in the dying declaration had to be considered with the brother's account of continuing matrimonial harassment. Allegations included abandonment without money, demands for household articles, denial of food, forced work and beatings despite Panchayat interventions. On that prosecution material, taken at face value at the charge stage, the Court found sufficient grounds to maintain the charges under Sections 498A and 306 IPC against the applicants.	715
Nearby separate residence did not exclude alleged participation at the charge stage	The married sister-in-law's Dholpur address did not warrant excluding her at the charge stage because Dholpur adjoins Morena and frequent visits to the parental home could not be ruled out. Read with the allegations in the prosecution material, that address did not defeat the prima facie case. The Court maintained the charges without finally determining her participation.	715
Section 498A cruelty beyond dowry demands and direct police reporting	Cruelty under Section 498A IPC is not confined to demands for property or dowry. Wilful conduct likely to drive the wife to suicide or cause grave injury or danger to her life, limb or health also falls within its scope. Where a police complaint discloses such cruelty, the police must register the Section 498A offence along with any other disclosed offences. The wife need not first make other police complaints before directly reporting that offence.	783
Specificity of cruelty allegations during a short matrimonial stay	Where otherwise specific cruelty allegations concern a matrimonial stay of only twenty-five days, omission of separate dates of the alleged acts does not by itself make them vague or general. The short, defined period provides the necessary context. The Court distinguished allegations spread over several years, for which disclosure of dates would be required.	783
Specific role and supporting material against distant matrimonial relatives	The passage in Taramani Parakh relied upon by the Court requires caution before summoning distant relatives in a matrimonial prosecution. Merely naming them is insufficient without a specific attributed role and material supporting that role. Allegations against such relatives require tangible support; indiscriminate implication may weaken the prosecution even against the actual offenders.	783
Effect of a notarised separation agreement on matrimonial prosecution	For the spouses before the Court, mutual-consent divorce required approaching the Court; a notary could not dissolve their marriage by attesting a private separation agreement. The agreement had no legal effect as a divorce and could not defeat the Section 498A IPC FIR on the ground that the marital relationship had already ended.	784
Specific dowry-cruelty allegations and the threshold for quashing	Specific allegations of dowry demands, assault and repeated harassment attributed to the husband and parents-in-law raised triable issues and defeated the plea that the FIR was wholly general. Applying Taramani Parakh, the Court distinguished mere naming of distant relatives without a specific role and supporting material. Rival versions are not tested for truth on quashing, although proceedings that are abusive on their face may be quashed.	784
FIR after divorce for cruelty committed before divorce	Even if a divorce has taken place, an FIR under Section 498A IPC may be lodged for cruelty committed before the divorce. A later divorce does not extinguish that liability. The Court stated this alternative ground while finding that no divorce had occurred on the private agreement relied upon in this case.	784
Specific involvement of relatives in matrimonial cruelty	A husband's relatives cannot be prosecuted merely because of their relationship to him. Specific involvement must be alleged, rather than vague or omnibus accusations. On the FIR as pleaded, the aunt's isolated statement outside the Family Court, without any attributed dowry demand or related harassment, did	793

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	not disclose cruelty under Section 498-A IPC.	
Employment elsewhere and allegations of dowry harassment	Employment or posting in another place does not by itself defeat specific allegations of dowry demand and harassment. In assessing such allegations, continuous physical presence of every accused is not required; a posting elsewhere cannot alone supply a conclusive defence at the quashing stage.	793
Section 498A IPC — isolated taunt by a sister-in-law	A husband's close relative cannot be required to face trial without specific allegations of cruelty. Where the FIR and Section 161 CrPC statement attributed to a resident sister-in-law only an initial taunt about the small silver coins and insufficient money given at the marriage, with no other specific act of cruelty alleged, the Court found no prima facie case and quashed the FIR and charge-sheet against her.	800
Section 498A IPC — specific allegations against a separately residing relative	Separate residence of a married sister-in-law does not justify quashing where the FIR and police statements specifically attribute dowry demands, harassment and threats to her. The allegations of a direct demand for ₹10 lakh, threats of death and being made to live as a servant, and residence close to the matrimonial home supplied prima facie material for trial. The Court therefore refused to quash the prosecution against her.	800
Matrimonial cruelty — vague allegations of instigation by relatives	A vague allegation that a husband's relative instigated him to demand more dowry requires specific instances of instigation before that relative can be compelled to face trial. The Court distinguished the cited case concerning such allegations because the case before it also contained specific allegations of direct dowry demands, cruelty, harassment and threats against the relative.	800
Dowry offences — individual responsibility of the husband's relatives	The husband's wrongdoing does not by itself establish the involvement of his relatives in dowry demands. For conviction on such accusations, the overt acts attributed to relatives other than the husband must be proved beyond reasonable doubt; conjecture and implication are insufficient. The relied-upon authorities also require care before summoning distant relatives without a specific role and material supporting it.	801
Section 498A IPC — Cruelty without a dowry demand	A dowry demand is not essential to an offence under Section 498A IPC. A married woman must have been subjected by her husband or his relative to cruelty within the statutory explanation. Clause (a) independently covers wilful conduct likely to drive her to suicide or cause grave injury or danger to her life, limb or physical or mental health. Clause (b) covers harassment to coerce an unlawful demand for property or valuable security, or harassment for failure to meet it.	824
Matrimonial cruelty — Absence of earlier complaints	A woman may refrain from reporting domestic violence to preserve her marriage until the cruelty exceeds her tolerance. The absence of earlier complaints does not by itself establish that a later FIR is false and is insufficient, by itself, to justify quashing it.	824
Specific matrimonial-cruelty allegations against parents-in-law at the quashing stage	Specific allegations of harassment, dowry taunts and breaking the wife's mobile phone disclosed a prima facie case against the parents-in-law. Applying Taramani Parakh, the Court held that whether cruelty actually occurred was a matter for trial and refused to quash the FIR and charge-sheet. The allegations were not treated as an unsupported attempt merely to implicate relatives because of their relationship with the husband.	846
Specific material required to summon distant matrimonial relatives	The Taramani Parakh passage relied upon by the Court cautions against summoning distant relatives merely because they are named in a matrimonial complaint. A specific role and tangible supporting material are required. This safeguard does not warrant quashing where the complaint assigns concrete harassment to the husband or parents-in-law and raises issues requiring trial.	846
Compelling a wife to remain at her	Compelling a married woman to live at her parental home because a dowry demand has not been fulfilled amounts to cruelty. Relying on Rupali v. State of	851

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parental home for non-fulfilment of dowry demands amounts to cruelty	U.P., the Court applied this principle while refusing to quash the prosecution, where separate residence was admitted and the complaint alleged dowry-related harassment and expulsion. The finding arose in the quashing proceeding while trial evidence was being recorded.	
Dowry-linked expulsion and continuing mental cruelty at the parental home	Mental trauma caused by physical or verbal matrimonial cruelty may continue at the parental home after the wife has been driven out, even without further physical assault there. Applying Rupali Devi and Amar Singh, the Court treated the alleged exclusion for non-fulfilment of dowry demands as continuing cruelty. The absence of dates for every earlier incident did not defeat the complaint: a person who does not maintain a diary cannot necessarily recall each date, and the complaint specified the date of expulsion. These matters were assessed for the sufficiency of the prosecution at the quashing stage.	856
Section 498-A IPC: cruelty by assault over non-performance of a family ritual	Cruelty under Explanation (a) to Section 498-A includes wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. It is distinct from harassment to enforce an unlawful property demand under Explanation (b). Specific allegations that the husband and his relatives assaulted the wife over failure to organise the Hath Dhulai ritual disclosed cruelty at the quashing stage, even though they disputed that the ritual involved dowry.	861
Section 498-A IPC: cruelty need not arise from a dowry demand	A dowry demand is not essential to cruelty under Explanation (a) to Section 498-A. Wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health falls within that clause independently of unlawful-demand harassment. Specific allegations of physical and mental harassment, assault, humiliation over children's fees and expulsion from the home justified continuation of the prosecution against the husband and parents-in-law. The mother-in-law and her family were expected to care for the daughter-in-law rather than subject her to cruelty over jewels or other matters.	862
Section 125 CrPC findings do not by themselves govern a Section 498-A trial	An asserted rejection of the wife's maintenance claim on the grounds that she lived separately without sufficient reason and had not suffered cruelty did not, without an explanation of its legal effect, establish a ground for quashing the sister-in-law's prosecution under Section 498-A. The Court instead assessed the specificity of the criminal allegations against that accused.	862
Expulsion for unmet dowry demand — mental cruelty continuing at the parental home	Driving a married woman out of her matrimonial home because a dowry demand is not met amounts to mental cruelty. The resulting trauma and distress may continue at her parental home even without a further overt act of physical cruelty there. Applying Rupali Devi and the narrated Amar Singh principle, the Court found the allegations of dowry demand and compelled residence away from the matrimonial home sufficient to resist quashing.	896
Matrimonial settlement — omission of a detailed account of alleged cruelty	When parties attempt an amicable settlement, the settlement document is not expected to record every alleged act of cruelty. Its omission of such details therefore did not displace the allegations of expulsion for an unmet dowry demand or justify quashing the FIR and charge-sheet in this case.	896
Continuing mental cruelty after dowry-related expulsion from the matrimonial home	Cruelty under Section 498-A IPC may be physical or mental. Where dowry demands and cruelty force a married woman to leave her matrimonial home, the resulting mental trauma and distress may continue while she takes shelter with her parents, even without further physical cruelty there. Compelling her to remain at her parental home because the dowry demand has not been fulfilled is also cruelty. This reasoning answered the objection based on her residence with her parents and the timing of the FIR, without deciding guilt at trial.	925
Cruelty by a mother-in-law against her daughter-in-law	In considering the specific allegations against the mother-in-law, the Court emphasised her duty to protect her daughter-in-law and treated her alleged participation in cruelty as serious. It relied on Meera for the principle that	925

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	cruelty inflicted by a woman on her daughter-in-law deserves no leniency. The refusal to quash rested on the pleaded acts of instigation, assault and expulsion; guilt was left for trial.	
Continuing mental cruelty following dowry-related expulsion	Section 498-A IPC includes physical and mental cruelty. Where a wife is ousted from the matrimonial home for non-fulfilment of a dowry demand and is compelled to live with her parents, the resulting trauma may continue there even without further physical assault. On the allegations in this case, the Court treated that enforced separation as continuing cruelty, giving rise to a fresh cause of action each day. It did not determine the truth of the allegations at trial.	926
Continuing mental cruelty after dowry-related expulsion from the matrimonial home	Compelling a married woman to live with her parents because a dowry demand remains unfulfilled amounts to cruelty. Applying Rupali Devi, the Court recognised that the mental trauma caused by physical cruelty or abusive and humiliating exchanges can continue at the parental home even without a fresh act of physical cruelty there. This supported refusal to quash the FIR containing specific allegations against the applicants.	930
Specific dowry demands and cruelty allegations at the quashing stage	Allegations of continuing physical and mental harassment, a demand for ₹10 lakh or a four-wheeler, attempted expulsion from the matrimonial home and repetition of the demand in a Panchayat could not be rejected as vague and omnibus. The wife was cited as a prosecution witness, and statements of her mother, father, brother and another relative had been recorded about the alleged harassment. Applying the passage reproduced from Taramani Parakh, the Court held that whether the alleged cruelty had actually occurred was a matter for trial and refused to quash the proceedings under Section 482 CrPC.	953
Specific dowry-cruelty allegations against parents-in-law	Specific allegations of repeated dowry demands, ill-treatment, threats of remarriage and rebukes or abuse when the wife complained about her husband supplied material for prosecuting the parents-in-law. The Court distinguished the general allegation in Kahkashan Kausar and applied Taramani Parakh with Geeta Mehrotra. It declined to quash against the father-in-law and mother-in-law because the FIR attributed particular conduct to them, leaving the truth of those allegations for trial.	967
Omnibus allegations against a sister-in-law without an individual role	Relationship to the husband does not by itself justify prosecution. Allegations against his relatives must identify specific conduct rather than merely name them collectively. Applying Kans Raj, Monju Roy and Chandralekha, the Court found no specific individual act attributed to the unmarried sister-in-law and quashed the FIR and further proceedings against her under Sections 498-A, 294, 323, 506 and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. Relief rested on the vague, general allegations; her unmarried status did not supply a general immunity.	967
Matrimonial cruelty: specific allegations against the husband and his relative	Courts must scrutinise omnibus allegations against relatives who are not generally involved in a couple's affairs, but relationship alone does not confer immunity. Specific allegations of dowry demand and conduct by the husband and elder brother-in-law disclosed a triable case here. Their truth and credibility could not be tested while deciding quashing under section 482 CrPC.	977
Specific dowry-harassment allegations against the husband and parents — triable cruelty	Allegations of a quarrel over insufficient dowry at the marriage, an identified assault and threats, and taunts by the parents-in-law about inferior articles and deficient cash were specific rather than general or omnibus. Applying Taramani Parakh, the Court distinguished triable allegations against the husband and his parents from mere naming of distant relatives without a specific role or supporting material. Whether the allegations of cruelty were true was a matter for trial and could not be decided in the quashing proceedings under Section 482 CrPC/Section 528 BNSS.	995
Section 498A IPC — mental cruelty	Mental trauma resulting from matrimonial abuse and being compelled to leave the matrimonial home may persist after the wife takes shelter with her parents,	995

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continuing at the parental home	even if no further physical violence occurs there. Applying the reproduced passage from Rupali Devi, the Court considered the continuing distress and fear of returning to an unsafe matrimonial home part of the cruelty assessment. It also relied on Amar Singh for the proposition that compelling a married woman to live at her parental home amounts to cruelty. This reasoning supported refusal to quash the specific cruelty allegations.	
Dowry-related expulsion to parental home — continuing mental cruelty	Compelling a married woman to live in her parental home because a dowry demand remains unmet amounts to cruelty. Her separate residence must be assessed in light of her allegations of physical and mental harassment. Applying Rupali Devi and Amar Singh, the Court recognised that the mental trauma and psychological distress caused by cruelty that forced her to leave the matrimonial home can persist at the parental home even when no further physical cruelty occurs there. The alleged harassment and compelled separation could not be dismissed merely by asserting that she lived apart without justification.	1001
Parents-in-law's taunts over insufficient dowry — sufficient allegations of cruelty	Taunting a daughter-in-law for bringing insufficient dowry can itself amount to cruelty. Applying Taramani Parakh, the Court held that allegations specifically attributing such taunts to the parents-in-law, together with their refusal to allow her return to the matrimonial home, supplied sufficient material for prosecution. The absence of separately specified instances of cruelty in the FIR or Section 161 CrPC statement did not require quashing in those circumstances. Their application under Section 482 CrPC was therefore rejected.	1005
Dowry-related exclusion from the matrimonial home — continuing cruelty and the delay objection	Mental trauma caused by physical or verbal cruelty in the matrimonial home may persist after the wife takes shelter at her parental home, even without a further physical assault there. Applying Rupali Devi, the Court treated the husband's and parents-in-law's failure to bring the wife back, inferred in the circumstances to be connected with the unmet dowry demand, as continuing cruelty. In rejecting the delay objection, it also noted that the limitation period for taking cognizance of an offence carrying a maximum three-year sentence is three years. Specific allegations of the husband's physical and mental harassment and assault supported continuation of his prosecution.	1005

Sub-Chapter no. 27.2
Sexual Offences — Rape, Marital Exception and Unnatural Sexual Acts

Rape charge — examination of consent under Section 90 IPC	Before framing the repeated-rape charge under Section 376(2)(n) IPC, the trial court had to examine whether the prosecutrix's consent was free or affected by misconception of fact under Section 90 IPC. Merely stating that the accused won her confidence before sexual relations was insufficient. The Court required consideration of the alleged continuing relationship and her efforts to conceal the accused's presence from her husband, and remanded the charge question for fresh assessment without deciding whether consent was valid.	63
Unproved marriage claim and the claimed marital exception to rape	A notarised marriage deed and affidavit did not establish the asserted Hindu marriage where no evidence proved performance of the claimed Hindu rites and customs. The Court rejected reliance on the marital exception in this child-victim case, referring to Independent Thought and also finding the claimed marriage unproved. It upheld the sexual-offence convictions on the evidence concerning a prosecutrix whose age was established as fifteen years and twenty-one days.	89
Claimed marriage to a minor and refusal to quash sexual-offence allegations	In rejecting the claimed marriage as a basis for quashing, the Court relied on Independent Thought for the proposition that sexual intercourse with a wife below 18 is an offence under Section 376 IPC. The marriage affidavit had been executed while the girl was below 17, and the Court found prima facie material warranting prosecution.	94
Consent of a girl under sixteen under	For the offence committed on 18.09.2006, Section 375 Sixthly IPC treated	102

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Section 375 Sixthly as applicable in 2006	intercourse with a girl under sixteen as rape irrespective of consent. The proved birth date made the prosecutrix fifteen years and two months old on that date, so the plea that she consented was immaterial. Her testimony that the appellant raped her, together with her recovery from his house, supported affirmation of the convictions under Sections 363, 366 and 376(1) IPC.	
Section 377 IPC — Quashing under the Court's marital-exception reasoning	Following Manish Sahu, the Court read the amended definition of rape in Section 375 IPC with the marital exception and held that the allegation of an unnatural sexual act by a husband with his wife during a subsisting marriage and cohabitation did not sustain the Section 377 charge. It separately reproduced Independent Thought, which reads the marital exception as excluding wives below eighteen years. On that reasoning, it quashed the Section 377 component of the FIR while preserving the allegations of cruelty and hurt.	113
Section 377 IPC — Consent between adults	In the Manish Sahu reasoning adopted by the Court, consensual unnatural sexual conduct between adults, whether of the same or different genders, falls outside Section 377 IPC. That reasoning refers to Navtej Singh Johar's declaration that criminalising consensual sexual conduct between adults of the same sex violates constitutional liberty and equality. Mutual consent is the condition stated for this exclusion.	113
Section 375 IPC marital exception — Wife below eighteen years	The Independent Thought ruling reproduced by the Court reads Exception 2 to Section 375 IPC so that the marital exception does not protect sexual intercourse or sexual acts with a wife below eighteen years. The reproduced ruling gives this reading prospective effect and states that cognizance concerning rape of a wife below eighteen must comply with Section 198(6) CrPC.	113
Consent immaterial where the prosecutrix was below sixteen	Having found the prosecutrix below sixteen on the date of the offence, the Court held her alleged consent immaterial and declined to decide whether she had in fact consented. It maintained the convictions under Section 376(1) IPC and Section 4 POCSO Act on that basis.	124
Notarised affidavits cannot solemnise or dissolve marriage	A Hindu marriage cannot be solemnised merely by executing an affidavit; it requires the applicable marriage ceremonies or custom, or compliance with a statutory mode of solemnisation. Likewise, divorce requires a decree of a competent Court or the applicable custom. A notary is not, by virtue of that office, a Marriage Officer. The Court held that notarising marriage and divorce affidavits falls outside the functions conferred by Section 8 of the Notaries Act. These principles formed the basis of the Court's assessment of the documents in the rape-related bail application.	156
Minor prosecutrix's alleged consent is immaterial to the rape charge	Once the prosecutrix was found to be a minor on the date of the offence, her alleged consent did not provide a defence to the rape charge. The Court assessed the sexual assault on her evidence and the supporting forensic material, rather than treating her apparent willingness to travel with the accused as legally effective consent.	179
Consent to each sexual act during a live-in relationship	Past consent during a live-in relationship does not establish consent to every later sexual act. Each act requires the woman’s consent. The specific allegation of forced intercourse after she had refused to continue sexual relations supplied prima facie grounds for prosecution despite the parties’ earlier relationship.	191
False promise of marriage and consent under misconception of fact	A promise of marriage vitiates consent when, at the time of making it, the accused intends not to fulfil it and uses it to induce sexual relations. A genuine promise, not made solely to induce sexual relations, does not make those relations rape merely because the promise remains unfulfilled.	191
Affidavit-induced belief in lawful marriage was	At the bail stage, the Court treated the joint marriage affidavit as material because it had induced the prosecutrix to believe that she was the appellant’s legally wedded wife. That earlier assessment under Section 375 fourthly IPC	208

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material to bail under Section 375 fourthly	remained relevant to the renewed bail request; it was not a final finding of guilt.	
Consent of a prosecutrix below eighteen years	Where the prosecutrix was proved to be below eighteen years of age on the date of the offence, her alleged consent was immaterial to the rape and penetrative-sexual-assault charges. The Court therefore declined to undertake a further inquiry into the consent defence.	246
Reliance on Independent Thought in a bail plea involving alleged marriage to a minor	The Court maintained the earlier bail refusal based on Independent Thought where the prosecution case and school record indicated that the prosecutrix was below eighteen at the incident. The plea invoking customs permitting marriage to a minor did not lead the Court to take a contrary bail view.	263
Section 15 HMA — pending divorce appeal and a false-promise allegation at bail stage	In a fifth bail application concerning an alleged false promise of marriage, the Court rejected the argument that the prosecutrix's pending divorce appeal necessarily prevented a legally effective remarriage and therefore defeated the allegation. Applying Anurag Mittal, it held that breach of the Section 15 waiting restriction does not, by itself, render a second marriage void. It also reproduced Krishnaveni Rai's discussion of non-automatic nullity under Sections 5(ii) and 5(iii). With the prosecutrix said to have supported the prosecution and earlier bail refusals on merits, the Court declined a different view. It did not finally decide whether a marriage took place, a promise was false or consent was vitiated.	329
Prosecutrix's age at bail stage — statutory documents take priority over ossification	Under Section 94(2) of the Juvenile Justice Act, 2015, medical age assessment is considered only if the documents specified in clauses (i) and (ii) are unavailable. The same method applies to assessing a victim's age. Where the prosecutrix's school record was available, an ossification report suggesting majority could not be treated as competing age evidence requiring the version favourable to the accused to be accepted. This determination answered the bail plea; sufficiency of evidence for conviction remained for trial.	344
Section 375 IPC — marriage does not exclude rape of a wife below eighteen	Following Independent Thought v. Union of India, Exception 2 to Section 375 IPC does not exempt sexual intercourse with a wife below eighteen years from the offence of rape. The applicant's asserted marriage to the prosecutrix therefore did not provide a basis for accepting that objection to the rape allegation at the bail stage. Ultimate guilt remained for the trial court.	344
Minor prosecutrix — Consent and later marriage in rape proceedings	For the alleged sexual acts with a girl below eighteen considered here, her purported consent was immaterial under the rule in Section 375 Sixthly IPC and the POCSO framework. Consent that was legally immaterial at the time of the act could not become a basis for compromise because the accused later claimed to have married her. The Court relied on the school record showing that she was still a minor when the FIR was lodged. It did not decide the legal validity of the subsequent marriage.	354
Section 377 IPC: Prima Facie Allegation Against the Husband	The wife's allegation of unnatural intercourse in her Section 164 CrPC statement prima facie disclosed an offence under Section 377 IPC. The Court therefore refused to quash those proceedings against the husband. Earlier relief to his siblings for want of specific allegations did not determine the distinct accusation against him.	362
Minor's consent to sexual intercourse under Section 375 IPC	For the minor girl involved in the investigation, consent to sexual intercourse was immaterial under Section 375 IPC. Her description of the relationship as voluntary therefore did not justify police inaction on the information concerning sexual relations.	431
Marital exception as applied to the Section 377	The Court construed amended Section 375 IPC and Exception 2, as reproduced in this decision, to exclude sexual acts by a husband with his legally wedded	437

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allegation	wife living with him during a subsisting marriage, where the wife was not below fifteen years of age under the text reproduced and applied. On that interpretation, the wife's alleged lack of consent did not make the acts an offence under Section 377 IPC. The Court distinguished Section 376B concerning spouses living separately because of judicial separation or otherwise.	
Consensual adult sexual conduct and Section 377 IPC	Relying on Navtej Singh Johar's ruling against criminalisation of consensual sexual conduct between adults of the same sex, the Court stated that consensual acts between adults of either the same or different genders fall outside Section 377 IPC. Consent of both parties is ordinarily necessary for that exclusion. Its separate conclusion concerning alleged nonconsensual acts within cohabiting marriage rested on its own interpretation of Section 375 and the marital exception, rather than on a Navtej ruling deciding marital nonconsent.	437
Expansion of sexual acts covered by amended Section 375 IPC	The 2013 amendment expanded Section 375 IPC beyond the earlier description of sexual intercourse. Its specified acts include penile penetration, to any extent, of the vagina, mouth, urethra or anus, other prescribed penetrative acts and specified oral acts, subject to the statutory circumstances and exceptions. The Court relied on this inclusion of acts described as unnatural in analysing the relationship between Sections 375 and 377.	437
Specific knowledge and instigation before attributing the husband's alleged sexual act to in-laws	To make parents-in-law prima facie responsible for the husband's alleged act under Section 377 IPC, there must be a specific allegation that the act occurred with their knowledge and instigation. In the absence of such material, their later response telling the wife to accept her husband's wishes did not establish that link for the bail assessment. This was a prima facie examination, without deciding criminal liability at trial.	461
Rape of an infant — Partial penetration and proof from the whole record	Even partial penetration is sufficient to constitute rape. Applying the then-applicable Section 376(2)(f) IPC, the Court found the offence proved beyond reasonable doubt from the eyewitness account, the mother's observation of the taking and return of the child, immediate bleeding and the medical findings, after rejecting the accidental-injury defence. The father's account of the taking and act was hearsay and was treated only as corroborative. The conclusion rested on the combined evidence, not genital injury alone.	477
Consent in a rape prosecution — alleged coercion through an advocate-client relationship	At the quashing stage, allegations that an advocate exploited a client's pending divorce proceedings to obtain sexual relations by pressure and threats could not be treated as free consent. The FIR alleged that he made favourable conduct of the case conditional on compliance with his demands and threatened an adverse outcome and public defamation. The Court considered the misuse of the alleged professional dependency sufficient to refuse quashing of the Section 376(2)(n) IPC prosecution. The subsequent divorce decree and compromise-based acquittal in the matrimonial case confirmed the litigation context; they did not establish the alleged sexual acts. The refusal to quash was not a final finding of guilt.	496
Sexual consent induced by a false promise of reemployment under Section 90 IPC	Consent given under fear of injury or misconception of fact is vitiated under Section 90 IPC where the person doing the act knows, or has reason to believe, that it was given because of that fear or misconception. At the quashing stage, the allegation that a hospital director secured sexual consent by falsely assuring a former employee that she would be reemployed was capable of constituting consent under misconception of fact. Continued sexual relations in the hope of regaining employment did not establish free consent on those allegations.	516
Absence of a complaint and an employer's capacity to dominate an employee's wishes	The employee's failure to complain about the alleged sexual acts did not establish that she participated voluntarily where the accused was her employer and was in a position to dominate her wishes. The Court treated the employment relationship as material to the consent issue when refusing quashing, without	516

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	making a final finding of guilt.	
Disputed Consent Where Accompaniment Is Alleged to Have Been Compelled by Threats	Where the prosecutrix alleged that she went to the specified place because the accused threatened her and her brother, her movement to that place did not establish voluntary consent at the quashing stage. Consent remained a disputed question of fact for trial; the Court refused to quash the rape proceedings on the accused's contrary account.	520
Pre-Amendment Section 375 Sixthly: Consent of a Girl Below Sixteen	For the November 2007 offence, Section 375 Sixthly IPC treated intercourse with a girl below sixteen as rape with or without her consent. Once that age and intercourse were proved, her admission of willingness did not defeat Section 376 liability. Applying the narrated Supreme Court authorities, the Court also treated such purported consent as incapable by itself of mitigating the offence.	529
Sexual history, dignity and assessment of the prosecutrix's evidence	Previous sexual experience does not justify an inference of consent to the alleged act or deprive a woman of her right to refuse sexual intercourse and protect her dignity. Her evidence cannot be discarded merely on that ground. The Court adopted the reproduced principle that character is not relevant unless itself in issue, referring to Sections 53 and 54 of the Evidence Act, while assessing the prosecutrix's evidence for reliability.	618
Absence of injuries and consent in a rape prosecution	Absence of injuries on the victim's private parts cannot by itself be treated as proof of consent. The evidence must be assessed as a whole. Here, despite the absence of external injury and the medical report's inability to give a definite opinion, the Court found the prosecutrix's account reliable and the offence proved beyond reasonable doubt.	618
Section 375 sixthly IPC: consent and the eighteen-year threshold	The Court corrected the trial court's reliance on sixteen as the relevant age for consent under Section 375 sixthly IPC, observing that the 2013 amendment had raised the threshold to eighteen. The victim's proved age of fourteen therefore made consent immaterial to the rape charge.	623
Promise of marriage —False promise from the outset and later breach	An insincere promise made from the beginning to obtain sexual relations differs from a genuine promise later frustrated by unforeseen circumstances or matters beyond the maker's control. Every failure to marry cannot be treated as a false promise amounting to rape. Whether the promise caused consent through misconception must be assessed from the facts; a voluntary relationship arising from affection rather than the alleged deception is treated differently.	669
Subsisting marriage and alleged misconception from a marriage promise	In this quashing decision, the Court found that the complainant knew a second marriage was not possible while her marriage to the petitioner's brother subsisted. It considered the continued physical relationship, birth of a child and the complaint made more than a year after the birth, and concluded on that record that the promise of marriage had not caused consent under a misconception of fact. The FIR and consequential proceedings were quashed.	669
Section 90 IPC— Fear, misconception and the accused's knowledge	Consent is ineffective under Section 90 IPC where it is given under fear of injury or a misconception of fact and the person doing the act knows or has reason to believe that the consent results from that fear or misconception. This inquiry must be read with the circumstances specified in Section 375. Here, the alleged threats followed the demand for marriage, and no threat before the physical relationship was alleged; the Court therefore examined the marriage-promise theory of misconception.	669
Consent under Section 375— Voluntary agreement to the specific act	Consent under Section 375 IPC means an unequivocal voluntary agreement, communicated through words, gestures or other verbal or non-verbal conduct, to participate in the specific sexual act. Absence of physical resistance, by itself, does not establish consent.	669
Proof of a prosecutrix's age through school	For determining the prosecutrix's age, the Court applied Rule 12(3) of the Juvenile Justice Rules, 2007: matriculation or equivalent certificate, then the	694

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records	date-of-birth certificate from the first school attended, then a municipal, corporation or panchayat birth certificate, with medical opinion from a duly constituted Medical Board in their absence. A school certificate must be proved through evidence establishing the underlying birth-date entry and its source. Production by the prosecutrix and collection by the investigating officer were insufficient where no school witness proved the entry and the father did not say that he supplied the recorded date.	
Section 375 Sixthly as applicable in 2004: consent below sixteen was immaterial	For the March 2004 conduct, Section 375 sixthly IPC as then applicable made intercourse with a girl below 16 rape irrespective of purported consent. Satish Kumar Jayanti Lal Dabgar v. State of Gujarat, (2015) 7 SCC 359, and Kailash v. State of M.P., (2013) 14 SCC 340, were applied: travel, living with an adult and a child's birth do not legalise intercourse or mitigate it by alleged consent once age is established. The prosecutrix's evidence of repeated compelled intercourse, a year of movement and coercion, and the age findings sustained Ramkishan's Section 376 conviction and ten-year term; the case applied the historical threshold, not a present-day statutory age rule.	738
Rape age threshold applicable to the 2006 occurrence: prosecutrix over sixteen	For a July 2006 occurrence, the prosecutrix's recorded birth date placed her above the then Section 375 sixthly threshold of sixteen. On the evidence and circumstances as assessed in this appeal, the Court found voluntary participation and set aside the Section 376 conviction; her remaining minority did not itself establish statutory rape under the applicable provision.	776
Consent under Section 375: voluntary choice assessed from all relevant circumstances	Consent for Section 375 requires voluntary participation after understanding the significance of the act and exercising a choice between resistance and assent. It involves an active decision, not merely the absence of opposition. Applying the Kaini Rajan passage reproduced in the judgment, the Court assessed all relevant circumstances and the prosecutrix's admissions concerning their association, travel, stay and voluntary accompaniment. Its finding of consent was an assessment of this record under the law applicable to the incident.	776
Sexual intercourse with a wife below eighteen — marital exception	As explained in Independent Thought, Exception 2 to Section 375 IPC does not exempt sexual intercourse with a wife below eighteen years of age. A claimed marriage therefore did not exclude a Section 376 charge where the school record showed that the girl was a minor. The Court treated the Section 161 account of physical relations and Section 164 denial of forced intercourse together as prima facie material, leaving the charge to trial.	808
Sexual intercourse with a minor wife — Section 375 Exception 2	A claimed marriage does not exempt sexual intercourse with a wife below eighteen from prosecution under Section 376 IPC. The Court relied on the earlier order applying Independent Thought's reading down of Exception 2 to Section 375, under which sexual relations with a minor wife below eighteen also constitute an offence.	809
False promise of marriage distinguished from subsequent breach	A promise of marriage vitiates consent by misconception of fact when it was made in bad faith, with no intention to honour it from the outset, and directly induced the woman's decision to engage in the sexual act. A later breach of a promise made in good faith is different. The reproduced Deepak Gulati, Pramod Suryabhan Pawar and Dhruvaram Sonar reasoning distinguishes relations arising from love and voluntary choice, or inability to marry because of unforeseen circumstances, from inception-stage deception.	847
Misconception of fact and the accused's knowledge under Section 90 IPC	The Uday passage relied upon by the Court requires two conditions for Section 90 IPC: consent must have been given under a misconception of fact, and the person obtaining consent must have known or had reason to believe that it was given because of that misconception. In promise-of-marriage cases, the causal connection between the promise and consent cannot be assumed merely from a later failure to marry.	847

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Assessment of consent and burden of proving its absence	Consent involves active, reasoned deliberation about the proposed act. There is no fixed formula for deciding whether it was voluntary or induced by misconception: the evidence and surrounding circumstances of each case must be considered. The reproduced Uday reasoning places on the prosecution the burden of proving every ingredient of the offence, including absence of consent.	847
Disputed rape allegations concerning consent under misconception require trial assessment	Where the FIR specifically alleges rape and consent obtained under a misconception of fact, the High Court cannot decide the correctness of those allegations by a mini-trial under Section 482 CrPC. Whether the alleged offence is established must be determined by the trial court on evidence. The Court accordingly refused to quash on the applicant's assertion that the allegations were false.	855
Claimed marriage-promise misconception where the complainant's first marriage subsisted	On the complainant's own account, her first marriage remained undissolved, she knew a marriage to the petitioner was legally unavailable while it subsisted, and she voluntarily continued the physical relationship without alleging coercion in its development. Applying the cited consent authorities to those circumstances, the Court held that her consent did not arise from a misconception under Section 90 IPC and that Section 376 was not made out. The adopted authorities distinguish a promise dishonestly made from the outset to induce intercourse from an honestly intended promise later broken or frustrated by circumstances; the false promise must have induced the consent.	859
Two conditions for excluding consent under Section 90 IPC	The adopted Uday passage requires both that consent was given under a misconception of fact and that the person obtaining it knew or had reason to believe that it resulted from that misconception. The prosecution must establish the ingredients of the alleged offence, including absence of valid consent. Whether a marriage promise caused the consent and whether the accused had the required awareness must be assessed from the evidence and circumstances of the particular case.	859
Voluntary consent requires an informed choice and assessment of the surrounding circumstances	The adopted Uday passage, quoting Mango Ram, treats consent under Section 375 IPC as voluntary participation after understanding the nature of the act and exercising a choice between resistance and assent. Submission under fear is not voluntary consent. No rigid formula determines consent or misconception: the Court must consider the evidence and surrounding circumstances in each case.	859
Consent is immaterial where the prosecutrix is proved to be a minor	Once the prosecutrix was found to be a minor, whether she had consented was immaterial to the rape offence considered by the Court. The Court accepted the evidence of the occurrence and recovery from the appellant's company, and rejected the asserted false-implication defence. The convictions for kidnapping and abduction remained intact while the rape conviction was modified to Section 376(1) IPC.	876
False promise of marriage — initial bad faith and causal connection with consent	A promise of marriage vitiates consent under Sections 90 and 375 IPC when it was made in bad faith, without an intention to fulfil it when given, and bears an immediate or direct connection with the woman’s decision to engage in the sexual act. A promise made in good faith but later unfulfilled is distinguishable. Section 90 also requires that the person obtaining consent knows or has reason to believe that it was given because of the misconception. The Court acknowledged that the first physical relationship after the proposed marriage was settled may have been consensual, but separately examined the alleged later demands, violence and pressure when assessing subsequent acts at the quashing stage.	882
Successive sexual acts — independent consent required for each act	Each act of sexual intercourse requires independent and separate consent. An initially consensual relationship does not determine whether consent existed for later acts after the circumstances changed. In refusing to quash the FIR, the Court considered allegations of salary demands, pressure to leave employment, beatings, circulation of joint photographs and threats of defamation and suicide	882

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	after the complainant sought to end the relationship. In those particular circumstances, it prima facie treated consent to the later physical relationship as affected by misconception of fact under Section 90 IPC.	
Consent under Section 375 IPC — voluntary agreement to the specific sexual act	Consent under Section 375 IPC requires an unequivocal, voluntary agreement to the particular sexual act, communicated through words, gestures or other verbal or non-verbal conduct. It involves active understanding and reasoned choice concerning the circumstances and consequences of the act. The absence of physical resistance to penetration does not, by itself, establish consent. Consent arising from fear of injury or misconception of fact is ineffective under Section 90 when the person doing the act knows or has reason to believe that it arose from that fear or misconception.	882
Section 376D IPC — gang rape charge without personal commission of rape by every accused	For a charge under Section 376D IPC, it is not necessary that every accused personally commit rape. Sharing the common intention or doing an act with the requisite mens rea may suffice. On the allegation that the applicant restrained the prosecutrix while another man raped her, his claim that he had not himself committed rape did not justify quashing.	893
False promise of marriage during a subsisting marriage and consent	Section 90 IPC excludes consent given under a misconception of fact where the person doing the act knows or has reason to believe that the consent results from that misconception. On allegations of intercourse induced by a promise of marriage, the petitioner's admitted subsisting marriage and knowledge that he could not lawfully marry the prosecutrix supported a prima facie finding of misrepresentation. Her adulthood did not justify quashing the proceedings.	982
Repeated acts of intercourse without consent	Each individual act of sexual intercourse without the prosecutrix's consent amounts to rape. In considering the plea of delay, the Court took account of allegations of repeated forcible intercourse during the interval before the FIR, rather than measuring the complaint solely from the first alleged act.	982
Claimed marriage — no defence to earlier rape or intercourse with a wife below eighteen	A claim of marriage did not answer the prosecutrix’s allegation that she had been raped before being compelled to sign marriage papers. The Court further applied Independent Thought v. Union of India, which read down Exception 2 to Section 375 IPC: sexual intercourse with a wife below eighteen years is not protected by the marital exception. On the prosecution case that the girl was a minor, the claimed marriage therefore did not supply a ground for anticipatory bail.	1007
	Sub-Chapter no. 27.3 **Outraging Modesty, Sexual Harassment and Criminal Force**	
Coercive demands for intimate images — consideration of sexual-offence charges	When considering charges, the trial court must examine the FIR's allegations of persistent pressure to send intimate photographs and videos, separately from its allegations of sexual intercourse. The Court found that the alleged demands and resulting mental distress had been overlooked and required fresh consideration of whether the conduct prima facie attracted Sections 354-A, 354-C or 354-D IPC. It left that determination to the trial court.	63
Sexual-offence FIR: face-value allegations and disputed factual defences	In the challenge to an FIR alleging unwanted sexual contact and threats against a minor, the Court applied the test whether the uncontroverted allegations disclosed a cognizable offence. It declined to determine their correctness through the accused’s rival account and refused quashing. The accused remained entitled to lead his defence at trial; the order did not conclusively determine the offence or guilt.	149
Section 354 IPC — indecent conduct and assault sufficient to sustain charge	Allegations that a woman was subjected to indecent comments, that the accused advanced towards her when she complained, and that she was assaulted during the ensuing confrontation, taken together at face value, furnished prima facie material for a charge under Section 354 IPC. The finding was confined to framing charge and did not determine guilt at trial.	330

Topic	Ratio	Case Sr.no.
Specific Sexual-Touching Allegations at the Quashing Threshold	Where the FIR alleged repeated intimate touching with an evil intention and a threat to compel an illicit relationship, the Court declined to quash the prosecution by deciding the allegations' truth or the complainant's credibility. Its refusal concerned the prima facie case and the limited scope of inherent review, leaving proof of the alleged acts and intention to trial.	406
	Sub-Chapter no. 27.4 **Dowry Death and Presumption-Based Liability**	
Dowry-death liability of relatives — proof of individual overt acts	In a dowry-death prosecution, the husband's fault does not by itself establish the guilt of his relatives. Overt acts attributed to persons other than the husband must be proved beyond reasonable doubt. Relationship, conjecture or implication alone cannot establish their liability.	69
Dowry death — proof of abnormal death and dowry-linked cruelty	For the Section 304-B IPC charge in this case, the Court found death otherwise than under normal circumstances within seven years of marriage and proved demands for money and a vehicle followed by continuing cruelty. The absence of a ligature mark contradicted the reported hanging, and the unexplained ante-mortem injuries supported the finding of abnormal death. The Court sustained the husband's conviction without determining the precise manner of death; no Section 302 charge had been framed, and the relatives' acquittals were outside the unchallenged scope of the appeal.	302
Proof that death occurred within seven years of marriage	The prosecution must prove that the woman's death occurred within seven years of her marriage to invoke Section 304B IPC and the corresponding presumption under Section 113B of the Evidence Act. Conflicting estimates by the mother and maternal uncle, without specific evidence fixing the marriage within that period, failed to establish this foundational requirement.	576
Foundational proof before the mandatory presumption of dowry death	The Section 113B Evidence Act presumption arises only after the prosecution proves the essential facts of dowry death, including death otherwise than in normal circumstances within seven years of marriage and dowry-related cruelty or harassment by the accused soon before death. Once the statutory essentials are proved the presumption is mandatory; it cannot be used to fill a failure to prove those facts. A remote and stale allegation of cruelty does not establish the required proximity.	576
Dowry-death presumption requires proof of dowry-linked cruelty	For the presumption under Section 113-B of the Evidence Act, the prosecution must establish that the particular accused subjected the woman to cruelty or harassment for, or in connection with, a dowry demand soon before her death. Mere demand of dowry is insufficient for liability under Section 304-B IPC; the required cruelty or harassment must be established.	724
	Sub-Chapter no. 27.5 **Section 354C IPC Voyeurism — Private Images, Consent and Dissemination**	
Unauthorised dissemination and the Section 354C charge	Section 354C IPC concerns watching, capturing or disseminating images of a woman's private act in circumstances of expected privacy. Under Explanation 2, consent to capture does not authorise dissemination to third persons without consent. On the allegations of threats to make the prosecutrix's photographs viral and her Section 164 CrPC statement that photographs had been sent to her father, the Court found the voyeurism charge prima facie sustainable.	568
	Chapter no. 28 **General Penal Liability, Common Intention and Common Object**	
	Sub-Chapter no. 28.1 **Unlawful Assembly, Rioting and Section 149 Constructive Liability**	
Section 149 IPC — shared object	Section 149 IPC requires proof of an unlawful assembly of at least five persons and an offence committed in prosecution of its common object, or one its	12

Topic	Ratio	Case Sr.no.
established by exhortation and supply of cartridges	members knew was likely in prosecution of that object. A separate overt act by every member is unnecessary. Conduct, language, weapons and surrounding circumstances must establish the particular member's participation and shared object; presence or kinship alone is insufficient. Consistent evidence of continuous exhortation to kill and the supply of cartridges during repeated firing established the unarmed exhorters' and supplier's shared lethal object.	
Common object — formation on the spot and protection of innocent bystanders	A common object need not follow prior deliberation and may form on the spot. Membership and sharing of the object at the relevant stages must still be established through conduct, words, weapons and circumstances. Constructive liability must not extend to a person merely drawn to the scene by curiosity or remaining as an innocent onlooker; silence may be innocent or may accompany a shared unlawful object, depending on the evidence.	12
Section 149 IPC — constructive liability without a personal injury-causing act	Section 149 declares vicarious liability rather than requiring every member personally to inflict an injury. Once membership of an unlawful assembly and the statutory common-object or knowledge connection are proved, the absence of a personal blow or an unused weapon does not by itself absolve a member. The prosecution must establish those ingredients; liability does not arise for every offence committed by any member irrespective of the assembly's object.	12
Presence at a road protest and membership of an unlawful assembly	A person who went to a road blockade to secure release of his employer's vehicles was not treated as a member of the protesting assembly merely because he was present there. On the video before the Court, no other person joined his confrontation with the officer or attacked the officer, so a collective threat from an unlawful assembly did not justify the officer's use of force.	22
Section 149 IPC: shared common object and constructive liability	Section 149 IPC requires an unlawful assembly of at least five persons and proof that the accused shared its common object. The object may develop at the scene without prior concert and may be inferred from conduct, motive, weapons and surrounding circumstances. A member who shares the object may be liable for an offence committed in its prosecution even without personally inflicting the fatal injury; the prosecution must establish the relevant awareness of offences likely to be committed to achieve that object. Mere presence without sharing the object is insufficient. The armed interception, collective assault and burning of the vehicle established the shared object here; death of some assailants during trial did not remove the remaining members' liability.	32
Section 149 IPC: proof of membership, common object and the connected offence	Liability under Section 149 IPC requires proof that the accused was a member of an unlawful assembly of at least five persons and that the offence was committed in pursuit of its common object or was one the members knew was likely in pursuing that object. Every member's identity and an individual overt act need not be proved, but mere presence without the shared unlawful object is insufficient. The object must be identified from the circumstances and collective conduct, not only individual acts. Applying Dani Singh and Kuldip Yadav, the Court relied on the money-dispute call, the five accused entering the fort with the deceased, their departure without him, and the injury and recovery evidence to uphold the Section 302/149 convictions. Personal participation was not indispensable once the required membership and connection to the common object were proved.	45
Common object of an unlawful assembly: formation, alteration and differing liability	A common object must be shared and understood by the members of the unlawful assembly, but a prior express agreement is unnecessary. As explained in Dani Singh and adopted in the Section 149 analysis, it may form during events, be joined by other members, and later be modified or abandoned. Members may share the object only up to a particular stage, and their knowledge of what is likely to be committed may differ. Liability must therefore be tied to the common object and the relevant membership and knowledge, rather than inferred as identical for everyone merely present.	45

28.1 : Unlawful Assembly, Rioting and Section 149 Constructive Liability

Topic	Ratio	Case Sr.no.
Prima facie common object in a bail application involving a fatal group assault	For deciding bail, the Court found prima facie membership of an unlawful assembly and a shared common object where the appellant arrived with the other accused after a co-accused threatened to call his son to deal with the complainant's side and the ensuing attack caused death, injuries to other victims and the burning of the complainant's house. His presence was specifically stated in the FIR and witness statements. The Court distinguished him from another accused of the same name and assessed his own alleged participation.	107
Section 149 IPC — Unarmed member's exhortation and shared common object	Section 149 IPC makes a member of an unlawful assembly liable for an offence committed in pursuit of its common object or known to be likely in pursuit of that object. The assembly must consist of at least five persons, and membership and the relevant common object or knowledge must be proved. A separate injury or overt act by every member is unnecessary. Common object may be inferred from the gathering's time, place, weapons and collective conduct. The appellant's joint arrival, exhortation to kill and continued participation after the first victim was attacked supported liability for the murders and hurt despite her being unarmed.	115
Common object and liability under Section 149 IPC	Section 149 IPC requires proof of an unlawful assembly of at least five persons, though every member need not be individually identified, and an unlawful common object within Section 141. Liability attaches where the offence was committed to pursue that object or was known to be likely in its pursuit. Mere presence is insufficient, but an overt assault by every member is unnecessary. The common object may be inferred from the assembly’s conduct, time and place. Prior threats, an armed return, surrounding the victims, exhortation and gunfire supported the finding of a common object to murder.	160
Formation and change of common object	A common object need not arise from prior agreement. It may form during the incident and be adopted by persons joining the assembly. It can change or be abandoned. Liability under Section 149 IPC must reflect the object shared and the knowledge possessed by the particular member at the relevant stage; these may differ among members.	160
Common object to cause hurt and liability for murder	An unlawful assembly’s proved object of causing hurt with guns and other weapons did not establish that every participant shared the two shooters’ sudden intention to kill the deceased or knew that murder would be committed in pursuit of that object. The Court set aside the other proved participants’ Section 302/149 convictions while maintaining constructive liability for the hurt offences within the established common object.	165
Mere presence and disputed assembly membership	Mere presence did not prove membership of the unlawful assembly or shared intention where the alleged participation itself was unproved. Contradictory exhortation accounts and unsupported stone-throwing allegations, together with weapon-blow accounts not borne out by medical evidence, left four appellants’ participation doubtful. They could not be convicted directly, constructively under Sections 34 or 149, or for rioting on that record.	165
Common object proved by coordinated armed conduct	Section 149 IPC imposes liability for an offence committed in pursuit of the assembly’s common object or known by its members to be likely in pursuing that object. The court must identify the common object and supporting evidence. Individual injury-causing is not indispensable. Arrival together armed after the earlier dispute, the fatal attack and continued participation in the second assault established the shared object on which the two murder convictions rested.	166
Knowing continuation in an unlawful assembly	Under Section 142 IPC, a person is a member of an unlawful assembly if, knowing the facts that make it unlawful, that person intentionally joins or continues in it. Continued participation after the first fatal assault, followed by the attack on the intervening victim, supported the inference of shared membership and object in this case.	166

Topic	Ratio	Case Sr.no.
Mere presence and proof of common object	Section 149 IPC requires reliable proof of membership of an unlawful assembly and the offence's connection with its common object or the members' knowledge of its likelihood. Once those conditions are proved, an individual overt act is unnecessary. Here, naming six villagers without reliable evidence of weapons, participation or shared object left innocent presence a real possibility; the Court therefore acquitted them of the constructive-liability and rioting charges.	167
Proof and inference of an unlawful assembly's common object	Section 149 IPC requires membership of an unlawful assembly of at least five persons sharing an unlawful object under Section 141. A clear finding on that object is necessary. It is inferred from the gathering's time, place, weapons and collective conduct, not merely individual overt acts. An overt act by every member need not be proved, but mere presence without sharing the common object is insufficient. The coordinated armed attack on the victims and their rescuers established the common object and participation here.	215
Changing common object and differences in members' knowledge	A common object need not arise from a prior express agreement. It may form during an assembly, be adopted by joining members, and later change or be abandoned. Liability under Section 149 IPC depends on the offence's connection with the common object or the member's knowledge of what was likely in its prosecution. Because participation in the object and knowledge may differ, the section's effect can differ between members.	215
Joint liability for a concerted armed assault	The Court sustained conviction under Sections 302/149 and 148 IPC where the accepted eyewitness evidence established a collective interception and assault by the appellants with weapons, and the medical evidence established fatal head injuries. The witnesses' inability to specify the weapon or particular injury attributable to each assailant did not defeat the prosecution case on the evidence accepted in this appeal.	248
Section 149 liability depends on the common object at each stage of the incident	Common object may develop during an incident and must be assessed from the members' conduct, weapons and surrounding circumstances at the relevant stage. The lathi-bearing group's participation in the initial assault did not establish that they shared the later shootings' homicidal object after the assembly dispersed to different places. Their murder and attempt-to-murder liability was set aside. The other gunmen's firing after the fatal shot supported the finding that they shared the common object of murder and attempted murder.	253
Overt act is unnecessary once Section 149 requirements are proved	A member sharing an unlawful assembly's common object, or the requisite knowledge of the likely offence, may incur Section 149 liability without personally inflicting injury or using a weapon. Membership and the relevant shared object must nevertheless be proved at the crucial stage; mere presence as a passive onlooker does not suffice. Constructive liability cannot replace proof connecting the accused to that object.	253
Section 149 liability for an armed group sharing a common object	Section 149 IPC applies when an offence is committed by a member of an unlawful assembly in prosecution of its common object, or is one the members knew was likely in prosecution of that object. Once membership and the necessary common object are proved, a separate overt act by every member is unnecessary. Common object may arise on the spot and is inferred from conduct, weapons and surrounding circumstances. Here the armed arrival, coordinated assault, injuries and prompt naming of the appellants established shared participation; mere presence as an innocent bystander would not suffice.	291
Absence of a separate injury attributable to each assembly member	The absence of an injury attributable to a particular weapon does not necessarily prove that its alleged bearer was absent from an unlawful assembly. It remains a relevant circumstance and must be assessed with identification, earlier statements, conduct and other evidence of common object. Prompt naming and the proved blunt injury, viewed with the armed group's conduct, supported the	291

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	participation of the lathi-carrying appellants here.	
Section 149 IPC — liability without injury by every assembly member	Section 149 attaches liability where an offence is committed by an unlawful-assembly member in prosecution of its common object, or is one the members knew likely to be committed in prosecution of that object. A separate injury by each member is unnecessary. Once reliable evidence established Lalla's and Chimppi's membership, presence and participation, whether their shots struck the deceased was immaterial to their constructive liability.	319
Formation and Change of the Assembly's Common Object	Common object under Section 149 differs from common intention and need not arise from advance agreement. It may form at the scene, be adopted by other members, or be altered or abandoned. Liability must reflect the object shared and the knowledge possessed by the particular member at the relevant stage. Mere presence, without participation in the unlawful common object or the requisite awareness, does not establish constructive liability.	383
Successive Assaults Do Not Necessarily Form One Unlawful Assembly	Sections 141 and 149 IPC require at least five persons sharing the relevant unlawful common object; presence alone is insufficient. Common object may arise at the scene and must be inferred from conduct and circumstances. Here four armed assailants attacked the deceased and one injured man, departed, and were followed by three others who attacked different victims. The evidence established separate phases and objects, rather than one seven-person unlawful assembly. The Court therefore removed the Section 149 basis and determined each group's proved liability under Section 34.	388
Concerted pursuit and shooting establishing common intention in double murder	The accepted eyewitness evidence showed an armed attack on Kailashi followed by the accused jointly chasing and surrounding Garsingh, with Indal and Subodh firing at him. On the whole record, the Court found a shared intention to kill both victims and affirmed the surviving appellants' murder convictions and life sentences, with Section 34 applying to the co-accused's joint liability. Once the joint criminal act and common intention were proved, it was unnecessary to identify a separate fatal shot by every participant.	399
Inferring Common Object from a Coordinated Armed Attack	The common object of an unlawful assembly is inferred from the gathering, weapons, conduct and surrounding circumstances, rather than solely from each member's individual act. The coordinated shootings, cutting assaults, surrounding and pursuit of the victims supported the finding that the appellants shared the murderous object and incurred liability under Section 149 IPC, despite differences in the acts attributed to them.	409
Minimum Membership and Common Object of an Unlawful Assembly	An unlawful assembly requires at least five persons sharing one of the objects specified in Section 141 IPC, including commission of an offence. Membership and the requisite object must be proved, although identification of every one of the five persons is not essential. Mere assembly with the prohibited common object may constitute the assembly offence without a further overt act.	409
The Two Bases of Vicarious Liability under Section 149 IPC	Section 149 IPC applies where a member commits an offence in prosecution of the assembly's common object, or where the members knew that the offence was likely to be committed in prosecution of that object. It creates vicarious liability and does not require proof that every member personally inflicted the fatal injury or performed the offence.	409
Passive Presence Distinguished from Membership Sharing the Common Object	An individual overt assault is not essential to liability as a proved member of an unlawful assembly. The Court must, however, distinguish persons who share the common object or requisite knowledge from passive spectators present out of curiosity. Presence alone, without the relevant membership and object, does not justify vicarious guilt.	409
Common Object Does Not Require Prior Concert	Common object under Section 149 IPC is distinct from common intention and does not require a prearranged agreement or prior meeting of minds. It is enough that five or more persons act as an assembly with the same prohibited	409

Topic	Ratio	Case Sr.no.
	object, inferred from their conduct and the surrounding circumstances.	
Common object of an armed assembly —collective assault liability	The coordinated interception of two witnesses by eight men armed with lathis, followed by repeated injuries, established a shared unlawful object. Liability under Section 149 IPC did not depend on assigning a particular injury to each assailant once membership, the shared object and commission of the offences in its prosecution were established.	412
Section 149 IPC— membership and shared object	Section 149 requires an unlawful assembly of at least five persons with a common object of the kind specified in Section 141. Mere presence is insufficient unless the person shares that object. Once the conditions for constructive liability are proved, participation in the particular criminal act is unnecessary.	412
Common object may arise at the scene	Common object differs from common intention and need not be preceded by a prior agreement or meeting of minds. It may develop after persons assemble, provided the required members share the unlawful object before the offence is committed and act to achieve it.	412
Section 149 IPC— offence in common object or known likely consequence	Section 149 covers both an offence committed in prosecution of the assembly's common object and an offence the members knew was likely in prosecuting that object. Common object and the relevant knowledge are inferred from the circumstances, including the weapons carried and members' conduct before and at the occurrence.	412
Rioting cognizance and the later possible application of Section 34 IPC	Section 141 IPC requires five or more persons with a statutorily specified common object. Under Section 146, force or violence by the unlawful assembly or a member in pursuit of that object constitutes rioting, punishable under Section 147. On the allegation against five persons, the Court sustained rioting cognizance and considered separate invocation of Section 34 unnecessary at that stage. It nevertheless observed that, if evidence later excluded some accused, Section 34 could support liability of the remaining accused on the facts proved.	428
Section 149: Proof of Unlawful Assembly and Common Object	Liability under Section 149 requires membership, at the relevant time, of an unlawful assembly of at least five persons and an offence committed in prosecution of its common object or known by the member to be likely in its prosecution. A clear finding of the unlawful common object is necessary. The object is inferred from the assembly's conduct and surrounding circumstances, rather than individual overt acts alone. The joint removal and armed assault of the victim established the common object of murder in this case.	450
Common Object May Form or Change During the Assembly	A common object need not arise from a prior express agreement. Members may form it at a later stage or join and adopt it, and it may subsequently change or be abandoned. Liability depends on the object and knowledge attributable to the particular member at the relevant stage, so Section 149 may operate differently for members of the same assembly.	450
Bail during investigation — Possible common-object liability under Section 149 IPC	The absence of Sections 34 or 149 IPC from the registered case did not establish entitlement to bail while investigation was incomplete. The Court reasoned that, if consenting participation in the alleged flesh trade and a common object with the hotel owner were proved, liability under Section 149 could arise. Whether the charge-sheet would invoke Sections 147–149 remained unknown. The observation was conditional and made at the bail stage. Bail was refused in that setting, also noting the earlier rejection of two co-accused persons' bail applications.	473
Section 149 IPC — Membership must be proved despite absence of an injury requirement	Personal infliction of an injury is not necessary to establish membership of an unlawful assembly or action in furtherance of its common object. Nevertheless, where presence and participation are disputed, materially false allegations of overt acts may undermine the membership case. Medical evidence negated the	474

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	alleged firearm injuries, witnesses materially improved their accounts, and five appellants were named only after deliberation. Their membership and participation were not proved, so they were acquitted of all charges.	
Section 149 IPC: Common Object Inferred from a Coordinated Lathi Assault	Where members of an unlawful assembly act in prosecution of their shared common object, a separate attribution of every injury to each accused is unnecessary. The Court inferred common object from the armed group waylaying and assaulting the complainant, then attacking relatives who intervened. The consistent injured-witness accounts and medical evidence supported that combined assault, making differences in individual blows immaterial to the established constructive liability.	527
Killing beyond the assembly's common object	The appellants formed an unlawful assembly to enter the house, drag out the deceased and beat him with fists. They were unarmed, and the Court found that the co-accused's strangulation with the deceased's shirt was an independent act which the appellants neither shared as an object nor knew was likely. Their liability for rioting, house-trespass and hurt remained, but their convictions under Section 302/149 IPC were set aside.	563
Two grounds for constructive liability under Section 149 IPC	A member of an unlawful assembly is liable for an offence committed by another member when it is committed in prosecution of the assembly's common object, or when the members knew that such an offence was likely in prosecution of that object. Constructive liability extends only to offences satisfying one of those grounds.	563
Formation and alteration of an unlawful assembly's common object	An unlawful assembly requires at least five persons sharing an object within Section 141 IPC. Unlike common intention, common object does not require prior concert; it may arise on the spot, be adopted by joining members, and later change or be abandoned. Its scope at the relevant stage is inferred from the members' acts, words, conduct before, during and after the occurrence, weapons, motive and surrounding circumstances.	563
Overt acts and passive presence under Section 149 IPC	Once membership and the requisite shared common object are proved, a separate overt act by each member is unnecessary for Section 149 liability. Mere passive presence or a general allegation against a crowd does not suffice. Direct or indirect circumstances must support the finding that the accused shared the common object at the crucial stages of the occurrence.	563
Proof of a joint armed assault supporting Section 149 IPC convictions	The Court upheld the Section 149 IPC convictions where reliable eyewitness evidence established the armed group's participation in the assault and medical evidence established the fatal and other injuries. Hostility of some injured witnesses did not defeat the accepted evidence concerning those injuries. The finding sustained the murder, grievous-hurt and simple-hurt convictions in the circumstances proved.	577
Section 302/149 IPC liability of an identified participant in a concerted armed attack	Credible identification of the respondent as an armed participant firing with the group in the coordinated attack supported conviction under Section 302/149 IPC for the three resulting murders and under Sections 147 and 148 IPC. The Court assessed his participation through Umesh's direct evidence, supported by the other accepted evidence of the occurrence; non-recovery of the weapon did not displace that ocular proof.	583
Section 149 IPC liability for an armed group's double murder	Participation in an armed unlawful assembly that went to press a compromise, followed by one member shooting the intended victim and the appellant shooting the son who intervened, supported the appellant's liability for both murders under Section 302 read with Section 149 IPC. The conviction under Section 148 IPC was also upheld on the proved group participation.	622
Unlawful assembly and common object under Section 149	Section 149 IPC requires proof that the person belonged to an unlawful assembly of at least five and that the assembly shared an unlawful common object within Section 141. The nature and unlawful character of the object must	648

Topic	Ratio	Case Sr.no.
	be clearly found from the evidence. The Court adopted Dani Singh and Kuldip Yadav in stating these requirements; mere presence without the shared object does not establish constructive liability.	
Inference and development of an unlawful common object	An unlawful common object may be inferred from the time and place of the gathering and the assembly's conduct; an overt act by every member is unnecessary. The object must be shared, though it may arise at a later stage and may change or be abandoned. The Court adopted Dani Singh's qualification that the extent of shared object and knowledge can differ between members and stages.	648
Section 149 IPC—Proof of unlawful assembly and common object	Liability under Section 149 requires membership of an unlawful assembly of at least five persons and an offence committed in prosecution of its common object, or an offence the members knew was likely to be committed in prosecution of that object. The Court must identify the common object and find that it was unlawful. Proof of every member's identity is unnecessary if the assembly's requisite strength is proved.	660
Free-fight plea and proof of common object	A clash in which both armed groups attack and counterattack without acting in prosecution of the alleged common object must be distinguished from an assault by an unlawful assembly. Injuries to both sides do not by themselves defeat Section 149 liability. In the connected appeals, the Court considered the reciprocal injuries but found that the assaults were committed in furtherance of common object.	660
Inference of common object and absence of an individual overt act	Common object is inferred from the circumstances of the gathering, including its time, place and collective conduct. It cannot be assessed solely through separate overt acts of individual members. An overt act by every accused is unnecessary, but mere presence does not establish liability without proof that the accused knowingly shared the unlawful common object.	660
Successive arrivals and formation of common object	A common object may form at any stage and may be adopted by members who join later; express prior agreement is unnecessary. Under Section 142 IPC, a person who knows the facts making an assembly unlawful and intentionally joins or continues in it is a member. Arrival at the scene one by one does not preclude Section 149 liability where the shared unlawful object is proved.	660
Changing common object and the extent of Section 149 liability	The common object may change or be abandoned during the occurrence. Members may share it only up to a particular stage, and their knowledge of offences likely to be committed may differ. Section 149 liability must therefore be related to the object and knowledge attributable to the member at the relevant stage.	660
Separate charges under Sections 143 and 147 when Section 149 is invoked	When an offence such as murder is charged with the aid of Section 149 IPC, separate charges under Sections 143 and 147 are unnecessary unless separate convictions under those provisions are sought. The prosecution must nevertheless prove the ingredients of unlawful assembly and the applicable common-object liability.	660
Section 149 IPC — coordinated restraint and attack establish shared object	Common-object liability requires proof of membership of an unlawful assembly and the offence's connection with its common object; mere presence is insufficient. Applying Charan Singh, the Court relied on the appellants' arrival together and the acts of four members in restraining, throwing down and dragging the injured while the armed assailants attacked him. Those acts showed participation rather than innocent presence and supported the finding of a shared common object. Liability did not depend on each member personally inflicting a fatal injury. The finding sustained the convictions of the appellants whose appeals remained for decision.	678
Common object may develop during the occurrence without	For an assembly of at least five persons, a shared unlawful object need not result from prior concert or a meeting of minds before the attack. The Charan Singh	678

Topic	Ratio	Case Sr.no.
prior concert	passage applied by the Court explains that an initially lawful assembly may become unlawful during the incident, and its object may be adopted, altered or abandoned at different stages. The object is inferred from conduct, language, weapons and surrounding circumstances. A separate overt act by every member is not invariably necessary, but membership and the shared object must be established.	
Section 149 IPC — common-object offence and positive knowledge of likely offence	The two bases of Section 149 liability must be distinguished. One concerns an offence committed to accomplish the unlawful assembly's common object and immediately connected with it. The other concerns an offence the members knew was likely to be committed in pursuing that object. In the Charan Singh passage relied upon by the Court, "knew" requires positive knowledge, not merely something that might have been known. Members' participation and knowledge may differ at different stages, so the provision's effect must be assessed for the individual members.	678
Proof of participation in an armed group assault	Where numerous armed assailants attack several victims, witnesses cannot be expected to assign every injury to a particular assailant. Here the witnesses specified the sharp-weapon assaults and identified the lathi-bearing participants, while blunt injuries supported their participation. The Court rejected the absence-of-specific-role objection and upheld the respective direct and Section 149 convictions on that evidence. A mechanically precise, rehearsed account of every blow in such an incident may suggest tutoring rather than greater reliability.	698
Proof of participation in an armed group assault	Where numerous armed assailants attack several victims, witnesses cannot be expected to assign every injury to a particular assailant. Here the witnesses specified the sharp-weapon assaults and identified the lathi-bearing participants, while blunt injuries supported their participation. The Court rejected the absence-of-specific-role objection and upheld the respective direct and Section 149 convictions on that evidence. A mechanically precise, rehearsed account of every blow in such an incident may suggest tutoring rather than greater reliability.	699
Section 149 IPC — unlawful common object and liability without an individual overt act	Liability under Section 149 IPC requires an unlawful assembly of at least five persons, membership of the accused, and an offence committed in prosecution of its common object or known by its members to be likely in its prosecution. The assembly must be proved to comprise at least five members even if the identity of every member is not established. The prosecution must establish a common object falling within Section 141, and the Court must give a clear finding of its unlawful nature on the evidence. Mere presence or numerical strength is insufficient, but proof of a separate overt act by every member is not invariably necessary. Common object is inferred from the circumstances, including the time and place of assembly and the group's conduct, rather than solely from individual overt acts. The armed arrival and coordinated assault in this case supported the finding of a common object to commit murder.	700
Sections 143, 147, 148 and 149 IPC — when separate rioting charges are unnecessary	The ingredients of Section 143 IPC are included in Section 147 and those of Section 147 are included in Section 148. A separate charge under Section 147 is therefore unnecessary when the charge is under Section 148. Where murder is charged with the aid of Section 149, the ingredients of the assembly and rioting offences must be present, but separate charges under Sections 143 and 147 need not be framed unless separate convictions under them are sought.	700
Common object — formation, change and differences between members	A common object need not result from prior express agreement. It may arise at any stage and be adopted by members who join the assembly. It can subsequently change or be abandoned. The offence must be immediately connected with attaining that object, or fall within the members' knowledge of what is likely in its prosecution. Members may share an object only up to a	700

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	particular stage, and their knowledge may differ; Section 149 IPC may consequently affect different members differently.	
Section 149 IPC — unlawful common object and liability without an individual overt act	Liability under Section 149 IPC requires an unlawful assembly of at least five persons, membership of the accused, and an offence committed in prosecution of its common object or known by its members to be likely in its prosecution. The assembly must be proved to comprise at least five members even if the identity of every member is not established. The prosecution must establish a common object falling within Section 141, and the Court must give a clear finding of its unlawful nature on the evidence. Mere presence or numerical strength is insufficient, but proof of a separate overt act by every member is not invariably necessary. Common object is inferred from the circumstances, including the time and place of assembly and the group's conduct, rather than solely from individual overt acts. The armed arrival and coordinated assault in this case supported the finding of a common object to commit murder.	701
Sections 143, 147, 148 and 149 IPC — when separate rioting charges are unnecessary	The ingredients of Section 143 IPC are included in Section 147 and those of Section 147 are included in Section 148. A separate charge under Section 147 is therefore unnecessary when the charge is under Section 148. Where murder is charged with the aid of Section 149, the ingredients of the assembly and rioting offences must be present, but separate charges under Sections 143 and 147 need not be framed unless separate convictions under them are sought.	701
Common object — formation, change and differences between members	A common object need not result from prior express agreement. It may arise at any stage and be adopted by members who join the assembly. It can subsequently change or be abandoned. The offence must be immediately connected with attaining that object, or fall within the members' knowledge of what is likely in its prosecution. Members may share an object only up to a particular stage, and their knowledge may differ; Section 149 IPC may consequently affect different members differently.	701
Innocent family presence and unproved common object	Relationship with the assailants and presence at the scene did not establish membership of an unlawful assembly sharing its common object. The seven appellants were returning with family members from a medical examination, and the allegation that they assaulted the deceased with fists and blows was not proved, including because no supporting contusions were found. On the surrounding circumstances, their presence was held innocent and their constructive liability unproved.	713
Section 149 liability without an individual overt act	Section 149 imposes constructive liability for an offence committed by a member in prosecution of the assembly's common object, or one that members knew was likely in its prosecution. Once membership and the requisite common object or knowledge are proved, every member need not have inflicted an injury or used a weapon. That rule does not permit conviction of mere passive onlookers whose participation in the common object is unproved.	713
Formation and inference of an unlawful assembly's common object	Common object need not result from prior deliberation and may form on the spot; an initially lawful gathering may later become unlawful. Its existence must be inferred from the members' acts, words, weapons and conduct before, during and after the incident, together with the surrounding circumstances. The Court must assess the assembly's object rather than rely only on each person's individual overt act.	713
Shared common object in arson without personally setting the fire	Ghanshyam's Section 436/149 liability was supported by his identified participation with the group at midnight: abusing the complainant, entering the house, dragging him out and assaulting him while other members burnt the houses. That active conduct in the incident established membership of the unlawful assembly and its shared common object, although he was not shown personally to have lit the fire.	717
Common object	Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537,	735

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inferred from collective armed conduct; the principal blow need not be attributed to every member	Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743, and Mahendran v. State of T.N., (2019) 5 SCC 67, were used to distinguish the five-member unlawful assembly and rioting offences from Section 149 constructive liability. Common object may arise at the scene and is inferred from group conduct, weapons, language and circumstances, with the alternative limb of knowledge of an offence likely in pursuit of the object; no identical overt act or prior concert is demanded, but mere innocent presence is insufficient. The seven appellants participated in the assault on four victims; they were not merely watching Brajesh's head blow.	
Unlawful assembly, rioting and armed rioting have distinct requirements	The Vinubhai Ranchhodbhai Patel passage adopted by the Court distinguishes unlawful assembly, rioting and armed rioting. Section 141 requires at least five persons sharing one of its prohibited common objects, including the commission of an offence; the assembly itself may be punishable under Section 143 without an overt act. Rioting under Section 146 requires force or violence by the assembly or a member in prosecution of the common object, even if that object is not achieved. For Section 148, the person charged must additionally be armed with a deadly weapon. These offences are distinct from the vicarious liability created by Section 149 and require proof of membership of the unlawful assembly.	735
Section 149 IPC — proof of common object or knowledge of the likely offence	A common object may form during an incident and must be inferred from the assembly's conduct, weapons and surrounding circumstances. Section 149 IPC requires either an offence committed in prosecution of that object or positive knowledge that the offence was likely; mere possibility is insufficient. Applying Bhargavan and Baladin, the Court found that an object to stop ploughing could not, on the evidence, be extended to a shared object to kill. Mere presence did not establish unlawful-assembly membership. The other appellants' constructive murder liability was therefore set aside, while the proved shooter remained liable under Section 302 IPC.	753
Section 149 IPC — proof of common object or knowledge of the likely offence	A common object need not arise from prior agreement and may develop at the scene; it is inferred from the assembly's conduct, weapons and circumstances. Under Section 149 IPC, the offence must either be committed in prosecution of that object or be one the members positively knew was likely. Mere possibility is insufficient. Applying Bhargavan and Baladin, the Court declined to extend the proved object of stopping cultivation into a common object to kill. Mere presence did not establish unlawful-assembly membership, and the fatal shot proved against one accused could not automatically be imputed to the others.	754
Common object and participation before and during a later shooting	Participation in bursting crackers before an unanticipated shooting did not by itself establish membership of an unlawful assembly sharing an object to commit murder or attempted murder. Proven stone throwing during gunfire could support an inference of joining that assembly, but the alleged later conduct had to be established. Here the first account omitted surrounding the house and stone throwing during firing, the site plans showed no stones, none were seized, and witnesses gave vague or inconsistent versions. The prosecution therefore failed to establish the respondents' participation or shared common object or intention in the lethal phase of the incident.	916
Common object and constructive liability under Section 149 IPC	Section 149 requires an unlawful assembly of at least five and an offence committed in prosecution of its common object, or known by its members to be likely in prosecution of that object. Common object may arise without prior agreement and can be inferred from weapons, motive and conduct before, during and after the attack. A separate overt act by every member is unnecessary, but membership with the requisite object or knowledge at the crucial stages must be proved; passive bystanders are not liable merely for being present. The armed group's concerted attack on unarmed persons established the common object. The Court also rejected the sudden-incident plea, noting	936

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	the armed preparations, prior pressure to compromise and absence of aggression or injury on the accused side.	
Common-object liability and individual overt acts	Section 149 IPC requires membership of an unlawful assembly of at least five persons sharing an object within Section 141, though every member need not be individually identified. The offence must be committed in prosecution of that object or be known to be likely in its prosecution. Mere presence is insufficient, but an individual overt act is not invariably necessary. A finding on the unlawful common object must rest on the evidence and the group's conduct. The armed return and joint attack established that basis here.	987
Formation and alteration of an unlawful assembly's common object	A common object need not arise from a prior express agreement. Members may form it at any stage and others may join and adopt it; it may later be altered or abandoned. Liability under Section 149 must correspond to the common object, or the member's knowledge of likely offences, at the relevant stage; membership does not make every member's liability identical regardless of those limits.	987

Sub-Chapter no. 28.2
General Exceptions, Private Defence and Limits of Force

Private defence — fabricated attack and later injury cannot justify retaliatory firing	Private defence cannot rest merely on registration of a cross-FIR. On the evidence in this case, the asserted house attack and roof-firing account were inconsistent with the physical circumstances and reliable testimony; the son's close-range injury was inflicted later by the principal accused to create a false defence. The counter-complaint's rejection and closure proceedings had also attained finality before the High Court. The Court rejected the claimed defensive necessity, considered the shooter's flight and concealment of the damaged gun, and held that cruel or excessive firing could not secure complete protection as private defence.	12
Private defence does not extend to excessive force or retaliation	The right of private defence protects against a reasonable apprehension of injury; it does not authorise revenge or an assault after that apprehension has ended. Even allowing for normal reactions in an emergency, excessive or retaliatory force may make the defender an aggressor. An officer's continued beating, throwing down and kicking the head of a person who had pushed him was prima facie beyond private defence and lawful policing, where nobody in the surrounding crowd attacked the officer.	22
Section 99 IPC limits on private defence against official action	Under Section 99 IPC, action by a public servant acting in good faith under colour of office, or under such a servant's direction, does not give a right of private defence if it does not reasonably cause apprehension of death or grievous hurt, even if not strictly justified by law. The protection depends on knowledge or reason to believe the actor's official status or authority, including production of written authority if demanded where applicable. Private defence is also unavailable where there is time to seek public protection, and cannot extend beyond necessary harm. In addressing the collateral directions, the Court found no basis in that trial to treat the officials' demolition action as lacking good faith; it reserved the acquittal appeal's merits.	37
Section 84 IPC — legal insanity requires cognitive incapacity when the act is committed	Medical illness, abnormal behaviour or absence of motive does not alone establish the exception under Section 84 IPC. The accused must, by reason of unsoundness of mind when acting, be incapable of knowing the nature of the act or that it is wrong or contrary to law. Proximate conduct before, during and after the event, considered with medical and treatment evidence, may establish that condition. On the combined evidence of the appellant's disorder, treatment and conduct surrounding the shootings, the Court found the statutory incapacity proved and acquitted him under Sections 302 and 307 IPC.	77
Section 84 IPC — a lucid interval	A lucid interval requires restoration of the mental faculties sufficient for the	77

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requires restored judgment, not merely cessation of violent symptoms	person to understand and judge the act with reason, memory and judgment. Complete restoration to the person's original condition is unnecessary, but mere cessation of violent symptoms is insufficient. The inquiry remains directed to cognitive capacity at the time of the offence, assessed with proximate conduct and medical evidence.	
Acquittal under Section 84 IPC — continued treatment at State expense for persisting unsoundness of mind	After finding the appellant entitled to Section 84 IPC and acquitting him of the murder and attempt-to-murder charges, the Court noted that he remained of unsound mind and had spent more than ten years in custody. It directed that his further treatment be provided at State expense and sent the order to the Chief Secretary for compliance.	77
Section 99 IPC — limits on private defence against official acts and collateral review of a demolition order	Section 99 restricts private defence against acts of a public servant, or acts done by the servant's direction, in good faith under colour of office where there is no reasonable apprehension of death or grievous hurt, even if the act is not strictly lawful. The restriction is subject to the person's knowledge or reason to believe in that official capacity or direction, including disclosure of authority where required. The right is unavailable where public protection can be sought in time and never permits more harm than necessary. In this murder trial, the unchallenged demolition order and official action could not be collaterally condemned to support prosecution directions against the officials; the acquittal's merits were expressly left open.	78
Private defence may be considered even when counsel has not expressly raised it	The Court may consider private defence where it emerges from the material on record even though the accused has not formally pleaded it or counsel has not argued it. Here, prosecution evidence showed that the deceased tried to snatch money, pursued the fleeing appellant and was struck during that pursuit. The Court examined the defence despite counsel's limited request to substitute a grievous-hurt conviction.	129
Complete private defence against pursuit to seize money	The appellant first tried to avoid the deceased's attempt to snatch money by running away but was pursued. In those circumstances, throwing stones twice to protect himself and his money was found not disproportionate. The Court held that he had not exceeded the right under Sections 96 and 97 IPC and set aside the Section 304 Part II conviction, granting acquittal rather than substituting a lesser offence.	129
Burden and sources of proof of private defence	Under Section 105 of the Evidence Act, the accused must establish circumstances supporting private defence on a preponderance of probabilities, rather than beyond reasonable doubt. Those circumstances may emerge from the prosecution evidence or its cross-examination; the accused need not necessarily call defence witnesses. The plea cannot be presumed true without supporting material.	129
Imminent danger and the opportunity to obtain public protection	Private defence protects a person or property against a present or reasonably apparent danger where immediate aid from the State is not readily available. Whether the right arose depends on the surrounding circumstances, including the threat's imminence, injuries received and inflicted, and the time available to approach public authorities. No abstract test determines every case.	129
Private defence ends with the need to repel danger	The right of private defence is defensive, not a right of aggression, revenge or reprisal. It does not authorise an offensive after the reasonable apprehension of danger has disappeared, or an attack disguised as self-preservation. The necessity to avert an impending danger must be real or apparent and must not be self-created.	129
Practical assessment of force used in private defence	Defensive force must not be unduly disproportionate to the harm reasonably apprehended or exceed the purpose of averting it. The threatened person is not expected to calculate the exact force needed in the excitement and confusion of an imminent attack. Courts must assess the situation practically from the	129

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	person's position at the time, rather than through a detached and minute reconstruction after the event.	
Private defence of the body extending to causing death	Where the right of private defence of the body exists under Section 97 IPC, Section 100 permits it to extend to causing death when the assault creates a reasonable apprehension that death or grievous hurt will otherwise result. A complete defence to a killing requires both the existence of the right and its lawful extent to the force used.	129
Exceeding an existing right of private defence distinguished from having no such right	Rejection of a complete private-defence plea may mean that no right existed, or that an existing right was exceeded or did not extend to causing death. The latter situation may attract Exception 2 to Section 300 IPC where the offender acted in good faith, without premeditation and without intending more harm than necessary for defence. Those conditions differ from the complete defence found in this appeal.	129
Resistance to unlawful aggression without an obligation to retreat	Within the statutory limits of private defence, a person confronted with a violent attempt against person, habitation or property may resist the attack where it occurs rather than being obliged to retreat. That resistance remains tied to the continuance of the danger and does not authorise retribution after it has ended.	129
Unsupported plea of private defence	The claimed attack by an armed complainant party was rejected where it lacked supporting injuries, medico-legal reports, a counter-FIR or corresponding physical evidence. On that record the defence account was hypothetical, and no right of private defence was established.	165
Private defence requires reasonable apprehension and proportionate force	A right of private defence requires reasonable apprehension of impending danger; causing death requires circumstances giving reasonable apprehension of death or grievous hurt. The force used must be proportionate to the threatened harm. No such right arose for the armed aggressor where the deceased and the other persons were unarmed and had made no threatening overt act.	207
Private defence may be established on a preponderance of probabilities	An accused need not expressly plead private defence or prove it beyond reasonable doubt. The plea may emerge from the surrounding circumstances, defence evidence or facts elicited from prosecution witnesses, but must be supported on a preponderance of probabilities and cannot rest on speculation.	207
Deceased’s criminal history alone does not create a right of private defence	The deceased’s criminal antecedents alone did not give the accused a reasonable apprehension of injury. Where the deceased and companions were unarmed and made no threatening reaction or overt act, their criminal background could not justify the accused’s unprovoked use of lethal force.	207
Private defence — single defensive gunshot during a serious assault	Where the complainant party was the aggressor, the accused and his brother sustained serious injuries in the same occurrence, and the brother later died, a single gunshot fired by the accused to save himself was held to fall within Section 96 IPC. On the evidence in this case, including the unexplained injuries and lack of support from the other eyewitnesses, the accused had not exceeded the right of private defence, although the shot struck a vital part. His conviction under Section 307 IPC was set aside.	331
Right of private defence — necessity, reasonable apprehension and proportionality	The right of private defence protects against an aggressor where there is reasonable apprehension of an impending danger not created by the defender and immediate State assistance is not readily available. It does not authorise aggression, revenge or malicious retaliation. The force used must serve the defensive purpose and must not be unduly disproportionate to the harm reasonably apprehended. Its extent is assessed in the actual emergency, considering the injuries on both sides, the opportunity for public assistance, the weapons used and, in a firing case, the number of shots, without demanding exact measurement of a threatened person’s response.	331
Common-Object Liability Without an	Section 149 IPC applies when an unlawful assembly's member commits an offence in prosecution of its common object, or an offence the members knew	381

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Individual Fatal Act	was likely in pursuing that object. A separate overt act by every member is unnecessary, but shared object or the requisite knowledge must be proved; passive presence alone is insufficient. Common object may develop at the scene and is inferred from weapons, conduct, language and surrounding circumstances. The group's pursuit of the injured man, transfer and firing of the gun, and continued assault after the killing established participation in the common object under Sections 142 and 149.	
Proof of Unlawful Assembly and Common-Object Liability	Liability under Section 149 IPC requires proof of an assembly of at least five persons and an unlawful common object under Section 141, together with the connection of the offence to that object or the members' knowledge of its likelihood. The identity of every member need not be established, but the accused's membership and the unlawful object require a clear finding. Individual overt acts are not indispensable. The coordinated armed assault, supported by medical and recovery evidence, established the appellants' common-object liability for the fatal attacks and the assault on the injured survivor.	383
Legal Incapacity at the Time of the Act Under Section 84 IPC	Section 84 IPC requires unsoundness of mind that, when the act was done, made the accused incapable of knowing its nature or that it was wrong or contrary to law. Mental illness, abnormal behaviour or a later diagnosis alone does not establish that legal incapacity. The Court considered the relatives' accounts, subsequent psychosis and suspended trial, but found insufficient evidence of incapacity at the occurrence. The absence of contemporaneous treatment documents, the observations on arrest and court production, and conduct indicating awareness supported rejection of the defence.	384
Section 105 Burden and the Prosecution's Continuing Duty to Prove Mens Rea	An accused invoking Section 84 IPC must rebut the presumption against the exception on a preponderance of probabilities, using relevant oral, documentary or circumstantial material, including prosecution evidence. The prosecution's burden to prove every ingredient and the required mens rea beyond reasonable doubt never shifts. Even if the accused does not establish the exception, the same material may create a reasonable doubt about an offence ingredient and require acquittal. Here the Court found neither the statutory incapacity nor such a reasonable doubt.	384
Lucid Interval Requires Restoration of the Relevant Cognitive Faculties	For the Section 84 enquiry, a lucid interval requires restoration of reason, memory and judgment sufficient to understand and judge the act. The mere cessation of violent symptoms is not enough, while complete restoration of every mental faculty is unnecessary. The assessment remains whether the accused possessed the legally relevant cognitive capacity when the act was committed.	384
Conduct and Circumstances Relevant to the Insanity Defence	Conduct shortly before, during and after the occurrence may help establish the accused's mental condition at the material time. Preparation, concealment, attempts to avoid detection and explanations after arrest are relevant to awareness, but must be assessed with the other evidence. The unusual or atrocious nature of an offence, absence of an apparent motive, odd behaviour or failure to flee does not alone establish legal insanity. Remote circumstances cannot substitute for proof directed to the time of the act.	384
Cross-case injury does not by itself establish private defence	A gunshot injury to an accused in the same occurrence did not, by itself, establish that the complainant’s party was the aggressor or that the accused acted in private defence. The Court examined the occurrence as a whole and found that the appellants had initiated the armed assault. Private defence could not be used to justify their aggression.	412
Private defence—assessment of threat and surrounding circumstances	Private defence must be assessed on the whole incident in its setting. Relevant considerations include injuries to the accused, imminence of danger, injuries inflicted by the accused and the opportunity to seek protection from public	412

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	authorities. The plea cannot rest on conjecture.	
Private defence extending to causing death	An accused claiming a right of private defence extending to causing death must show circumstances supporting a reasonable apprehension of death or grievous hurt. The existence of injuries on the accused does not automatically establish that right; the statutory limits on defensive force remain applicable.	412
Duration of the right of private defence	The right of private defence of the body begins when a reasonable apprehension of danger arises from an attempt or threat, even before the offence is completed. It continues only while that apprehension lasts and ends when the threat has ceased.	412
Age at the alleged act and the under-seven exception in Section 20 BNS	Section 20 BNS, corresponding to Section 82 IPC, provides that an act done by a child under seven years of age is not an offence. The relevant age is the child's age when the alleged act occurred. On the assertion that two applicants were about seven and three, the Court directed the investigating officer to verify their ages and immediately delete from the FIR the name of either applicant found to have been below seven at the time of the alleged offence.	424
Intoxication — Section 85 exception and proof of intention	Section 85 IPC requires intoxication administered without the accused's knowledge or against his will, producing incapacity to know the nature of the act or that it is wrong or contrary to law. Voluntary drinking alone supplies no such exemption. Under Basdev, a voluntarily intoxicated person is attributed the knowledge of a sober person, while actual intention must be assessed from the circumstances with due regard to the degree of intoxication. The record did not establish involuntary administration or the asserted incapacity, and the Court rejected both the exception and reduction to Section 304 Part I.	478
Minor injuries on the accused and the plea of private defence	Injuries on an accused do not automatically establish private defence. Their nature and the circumstances of the entire occurrence must make that defence probable. Non-explanation of minor or superficial injuries does not necessarily weaken a prosecution case established by credible evidence beyond reasonable doubt.	570
Limits on causing death in private defence	Private defence is subject to the restrictions in Section 99 IPC and does not permit more harm than is necessary for protection. On the plea considered, the accused had to show circumstances giving rise to a reasonable apprehension of death or grievous hurt to justify causing death in defence.	570
Commencement and duration of private defence	The right of private defence begins when a reasonable apprehension of danger arises from an attempt or threat, even before the offence is completed. It lasts only while the relevant danger continues. Once the reasonable apprehension has ended and the threat has been removed or repelled, further force cannot be justified on that basis.	570
Unexplained injuries to accused and the plea of private defence	Failure to explain injuries sustained by the accused in the same incident requires careful scrutiny of the prosecution evidence and may weaken that evidence or support private defence. It does not automatically establish private defence or shift the burden to the prosecution to disprove it. Minor or superficial injuries, or clear and convincing prosecution evidence outweighing the omission, may leave the prosecution case unaffected. The entire incident must be assessed in its setting.	660
Private defence extending to death— Apprehension and defensive limits	A claim of private defence extending to causing death requires circumstances giving reasonable grounds to apprehend death or grievous hurt, and the accused bears the burden of showing that the right extended that far. The right is subject to Section 99 IPC and permits defence against unlawful aggression. It does not permit retaliation or an offensive after the need for defence has ended.	660
Legal insanity at the time of the act under Section 84 IPC	Section 84 IPC requires legal insanity at the time of the act: because of unsoundness of mind, the accused must be incapable of knowing the nature of the act or that it is wrong or contrary to law. Medical illness, aggression,	691

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	sleeplessness or abnormal behaviour does not by itself establish that incapacity. Conduct before, during and after the offence, together with medical evidence, is relevant to the mental condition at the material time. Absence of motive alone does not establish the defence. Later evidence of psychosis and abnormal jail conduct did not, in this case, prove legal insanity when the offence was committed.	
Limits of private defence against a barehanded group	Private defence permits necessary force to repel unlawful force and must be assessed under Sections 97–106 IPC together. It does not justify revenge after danger has passed or disproportionate deadly force against an ordinary assault. Applying the reproduced Kashi Ram principles, the Court rejected the defence because the complainant party had approached barehanded to stop abusive language, whereas Laxman fired his gun at them.	849
Private defence before an actual blow and in protection of another	The Kashi Ram passage relied upon recognises that a person facing unlawful attack need not wait to be actually struck before defending against it. The right may extend to protecting another person whom the defender is obliged to protect, and to preventing or escaping unlawful detention. It remains confined to necessary, reasonable defensive force and ends when the danger no longer requires it.	849
Section 99 IPC: private defence against acts done under official authority	Section 99 restricts private defence against an act done in good faith by a public servant, or under a public servant's direction, under colour of office where it does not reasonably cause apprehension of death or grievous hurt, even if the act or direction is not strictly lawful. The provision preserves its qualifications concerning knowledge of official status or authority, excludes private defence where public protection can be sought in time, and prohibits more harm than necessary. Here, the shooting trial did not justify treating an unchallenged demolition order as mala fide to found collateral prosecution directions against officials performing their duties.	864
Private defence: necessity and proportionate force against unlawful aggression	The scope of private defence must be assessed by reading Sections 97–106 IPC together. Defensive force may avert unlawful force or detention, but cannot be used for revenge or after the danger has ended. The force used must be reasonable in relation to the threat; an ordinary assault does not justify firearms or other deadly force. Applying the reproduced Kashi Ram discussion, the Court rejected private defence where armed assailants launched a firearm ambush on unarmed cultivators without a preceding altercation.	873
Private defence — reasonable apprehension, necessary force and burden of proof	Private defence protects the body of oneself or another, subject to Section 99 IPC: the harm caused must not exceed what is necessary, and the availability of timely public protection is relevant. Causing death requires circumstances within Section 100, including reasonable apprehension of death or grievous hurt. The accused may establish a reasonable and probable defence on a preponderance of probabilities from the record. The weapon and threatened injury are relevant; defensive force is not measured with exact precision, and actual injury is unnecessary where serious danger is reasonably apprehended. Here, the claimed attack on Gorelal was not established: Ramesh was eating, no weapon attributed to him was recovered, neither accused had an injury or medical report, and repeated lathi blows caused fatal head trauma. The plea failed.	885
Good faith under Section 52 IPC when an official follows superior instructions	An act or belief lacking due care and attention is not in good faith within Section 52 IPC. An official responsible for comparing amounts could not establish good faith merely by saying that he acted on superior officers' instructions when the file itself disclosed undated documents and a charge for removal of a pump claimed already to have been removed. On those facts, failure to examine visible anomalies defeated the defence; the Court did not hold that superior instructions are irrelevant to every assessment of an official's state of mind.	914

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Unsupported attribution of a shot cannot be justified as private defence	After rejecting the alleged eyewitnesses as unreliable, the trial court could not assume that Ramant fired the fatal shot and justify it as private defence when no other evidence established that he was armed or caused the injury. The High Court found the shooting attribution unproved, so the occasion to decide private defence did not arise. It maintained acquittal but corrected its basis to failure of prosecution proof and described the Section 302 IPC acquittal as honourable. The alternative submission that private defence may arise without express pleading was not decided as a necessary legal issue.	919
Private defence of possession against forcible dispossession	A person in settled possession may defend that possession against an aggressor, even where his title is disputed. The right of private defence must be considered in the circumstances of the threatened invasion of property and person. Witnesses acknowledged the appellant's cultivation, the claimed Collector proceedings restoring possession were not produced, and the defence judgments supported his possession. The Court considered it probable that the complainant party had tried to stop cultivation forcibly and held that private defence was available. It also doubted the allegation that the appellant fired, without deciding whether any particular shot constituted excessive defensive force.	923
Settled possession and the requirement of lawful eviction	Even the rightful owner cannot forcibly dispossess a trespasser whose possession has become settled; recovery must be through due process of law. This protection does not extend to a stray, intermittent or recently committed intrusion that has not matured into settled possession. The rightful owner may resist an intrusion in progress or a merely casual trespass with no more force than necessary.	923
Tests for settled possession in a claim of private defence	Settled possession must be effective, undisturbed and sufficiently continuous, to the owner's knowledge or without concealment, with an intention to possess. The dispossession of the true owner must be complete and acquiesced in. On agricultural land, cultivation of a crop is a usual indicator. Occupation merely as the owner's agent or servant does not amount to such possession. Whether possession is settled depends on the facts, without a rigid duration rule.	923
Standard of proof for the plea of private defence	The accused bears the burden of establishing private defence under Section 105 of the Evidence Act, but may discharge it on a preponderance of probabilities from the material on record. This burden is less onerous than the prosecution's continuing obligation to prove every ingredient of the offence beyond reasonable doubt.	923
Consideration of private defence without an express plea	The Court may consider private defence even where the accused has not expressly pleaded it, if its foundation appears from the evidence. Cross-examination of prosecution witnesses and defence evidence may supply the necessary material. The Court therefore examined the right on the existing record despite the absence of a specific plea.	923
	Sub-Chapter no. 28.3 **Common Intention Under Section 34 IPC/BNS Equivalent**	
Common intention where individual fatal blows cannot be identified	Common intention to inflict injuries sufficient in the ordinary course of nature to cause death may be inferred from concerted armed arrival and conduct during the assault. Where several assailants attacked several injured witnesses, precise attribution of each blow could not reasonably be expected. An appellant's assault on an unarmed son attempting to rescue the deceased, together with his prepared participation in the attack, established his shared intention despite uncertainty about his individual blows to the deceased.	21
Physical disability and participation by instigation	An amputated leg did not by itself establish inability to participate in an assault by instigating a co-accused to fire. The Court assessed the prosecution testimony and rejected disability alone as proof of false implication. Its finding that the firing occurred at the second appellant's instigation supported	34

Topic	Ratio	Case Sr.no.
	conviction of both appellants under Sections 307 and 34 IPC.	
Free fight — each participant's own act governs liability if mutual offending is established	If the evidence establishes that both sides committed offences in a free fight, liability is assessed by each participant's own act rather than by applying vicarious liability. The Court stated this conditionally while rejecting the contention that an FIR registered later than the rival FIR must be a counterblast; it did not finally find that a free fight had occurred.	72
Common intention inferred from a coordinated armed attack	Where two armed assailants arrived together and one shot the security guard to clear the way for the other to enter the shop and shoot the intended victim, their coordinated conduct established joint liability under Section 302 read with Section 34 IPC. The assailant who entered the shop was also liable for his own acts under Sections 307 and 450 IPC.	220
Joint armed assault supported by motive and medical evidence	Where eyewitnesses consistently attributed participation in a joint armed attack to the accused, the prompt FIR and medical findings corroborated their account. The land dispute supplied supporting motive. On that evidence the Court sustained murder liability under Section 302 read with Section 34 IPC; the investigative omissions identified did not displace the proved case.	227
Joint participation and shared intention under Section 34 IPC	Section 34 requires a joint criminal act committed in furtherance of shared intention; mere accompaniment of an offender is insufficient. Common intention may develop at the spur of the moment, but must exist before the criminal act. A participant need not inflict a separate injury. The Court upheld the Section 302/34 convictions on the eyewitness account of the armed group’s coordinated interception and firing in the prior-enmity confrontation.	259
Common intention and acquittal of co-accused on different evidence	Acquittal of some co-accused does not require acquittal of another against whom there is an additional incriminating allegation. The Court inferred common intention from the dying declaration that the wife had procured the burning, her presence as her husband brought kerosene and set the victim alight, and her failure to stop him or extinguish the fire. On those combined circumstances, her conviction under Section 302 read with Section 34 IPC was sustained.	272
Common intention inferred from coordinated armed participation	Common intention to commit murder was inferred from the accused waiting armed for the deceased, the principal assailant firing the fatal close-range shot, and the others participating by firing indiscriminately. Eyewitness accounts, supported by two fired cartridges of different bores found at the spot, established their coordinated participation despite failure to prove the weapon seizures.	274
Common intention and participation under Section 34 IPC	Liability under Section 34 IPC requires participation in a criminal act done in furtherance of a shared intention. The common intention must precede the act, although it may develop on the spot. A separate overt act by every accused is unnecessary, but mere accompaniment or participation without the shared intention does not establish joint liability.	280
Section 302/34 IPC: participation proved in connected trials	The Court upheld the murder convictions on evidence of the appellants' armed participation in the shooting. It separately assessed the evidence recorded in the later trial of the previously absconding appellant, where the complainant, the deceased's son and his wife supported his participation despite another witness not supporting the prosecution. The earlier convictions did not replace that examination of the later trial's evidence.	285
Section 34 IPC — common intention without a separate blow by every accused	Common intention must relate to the particular offence and may be inferred from the participants' conduct and surrounding circumstances. A separate or identical assault by every accused is unnecessary where shared intention and participation in the common criminal design are established. Joint arrival armed with axes, concerted abuse and presence facilitating the ensuing assault supported the finding that the accompanying accused shared the assailants'	313

Topic	Ratio	Case Sr.no.
	intention and were liable under Sections 302 and 34 IPC.	
Section 34 IPC — common intention developing at the scene	A shared plan to commit the particular offence may develop at the scene, but the meeting of minds must precede the act constituting that offence. Prior concert may be inferred from the accused's conduct, unity of purpose, respective roles, injuries inflicted and other relevant circumstances.	313
Section 34 IPC — Joint conduct despite money being received by a co-accused	A person sharing the common intention may be liable under Section 34 IPC even though a co-accused personally receives the money. The alleged joint approach, demand, presence at payment and delivery of the purported company letter provided prima facie grounds to proceed against the applicant. On that account, the absence of his signature on the letter was not decisive at the quashing stage. The Court’s conclusion concerned sufficient material for prosecution, not final proof of common intention or forgery.	358
Common Intention: Formation During the Occurrence	Section 34 IPC imposes joint liability where a criminal act is committed in furtherance of the participants' common intention. The shared intention must be inferred from proved facts and may develop during the occurrence. Acting with the same intention independently is insufficient. The appellants' arrival with firearms and concerted repeated firing, supported by the injuries and cartridges, established their shared intention notwithstanding uncertainty over a particular shot.	360
Common Intention Inferred From a Coordinated Armed Assault	The first four assailants arrived together with a sword, axe, rod and lathi and inflicted repeated injuries on the deceased and the injured complainant. Their conduct, medically corroborated injuries and coordinated arrival established a prior meeting of minds rather than a chance confrontation. Ramesh and Bablu therefore remained liable under Sections 302/34 and 326/34 although the fatal axe injury was attributed to another member. Their Section 149 convictions were altered to the corresponding Section 34 liability.	388
Later Assailants' Liability Confined to Their Separate Common Intention	The later three assailants arrived after the first group had left. The Court found their proved attack concerned grievous hurt to Ramkali and hurt to Munnalal, without proof of sharing the earlier group's intention to murder Ramnath or injure Virendra. Their murder and Virendra-related liability was removed, and their convictions were confined to Sections 326/34 and 323/34 for the later victims. The four-year and one-year terms were retained concurrently, with the fines and default terms unchanged.	388
Common Intention Under Section 34 Distinguished From Common Object Under Section 149	In the Virendra Singh and Devi Lal passages adopted by the Court, Section 34 requires a common intention anterior to the act and participation in its furtherance; it does not create a separate offence. Section 149 concerns membership of an assembly of at least five persons sharing an unlawful common object and does not require a separate overt act by each member. A common object may develop at the scene without prior concert. The distinction requires the court to identify the basis actually proved against each accused.	388
Section 34 IPC as constructive liability and the prosecution’s burden	Section 34 creates no distinct substantive offence; it attributes joint responsibility for a criminal act done by several persons in furtherance of their common intention. The prosecution must establish the shared intention and participation by substantial, clear evidence, and the court must assess the entire record carefully before imposing constructive liability. If part of the evidence used to establish that liability is disbelieved, the remaining evidence requires particular caution.	399
Common intention distinguished from independently similar intentions	Section 34 requires a meeting of minds to act in concert toward the relevant criminal result. Several persons may independently harbour the same intention, even to kill, without sharing the common intention necessary for constructive liability. The required consensus must be proved from their conduct, circumstances or other incriminating evidence; simultaneous presence or attack does not dispense with that inquiry.	399

28.3 : Common Intention Under Section 34 IPC/BNS Equivalent

Topic	Ratio	Case Sr.no.
Formation of common intention on the spot	A common plan need not be elaborate or formed long before the occurrence. It may arise suddenly, including during a fight, provided the meeting of minds precedes the criminal act sought to be attributed jointly. The inference that the accused shared the particular intention, especially an intention to commit an offence graver than originally planned, must rest on clear and cogent evidence.	399
Participation through overt acts, covert assistance or illegal omission	A separate overt assault by every accused is unnecessary under Section 34. Participation in furtherance of the shared criminal intention may consist of a different supporting act, covert assistance, guarding the scene or, in appropriate circumstances, an illegal omission. Some participation connected with the joint criminal act remains necessary: merely retaining a common intention in one's mind is insufficient.	399
Mere presence, non-intervention and withdrawal from a common design	Presence at the offence does not automatically make a person liable for everything done there. The act must advance the proved common intention, and the court must examine the accused's participation and any withdrawal on the evidence. Where prior common intention is proved, standing by without dissociating may be relevant, but non-intervention alone cannot replace proof of concert and participation.	399
Physical presence and diverse acts forming one criminal transaction	Physical presence is ordinarily required where the jointly attributed offence is committed physically, particularly when the alleged contribution is instigation or exhortation. The Court also adopted the qualification that presence is not indispensable in every case: an offence may consist of diverse connected acts performed at different times and places. Liability depends on the proved common intention and participation in the particular criminal transaction.	399
Exhortation immediately before a fatal shot as evidence of participation	An exhortation given immediately before a co-accused fires the fatal shot may establish the exhorting accused's participation and common intention on the evidence, supporting conviction under Section 302 read with Section 34 IPC. The Court adopted the Sandeep decision in its analysis and assessed the testimony that Dhaniram exhorted the armed assailants during the pursuit and shooting; liability was based on the proved concerted conduct as a whole.	399
Section 34 IPC: shared intention and prior concert	Section 34 IPC creates constructive liability rather than a separate offence. The prosecution must establish a criminal act done by several persons in furtherance of their shared intention, with participation in the joint criminal action. The common intention must precede the criminal act, but the plan may arise suddenly at the scene and need not be elaborate or longstanding. Similar intentions formed independently do not establish the required meeting of minds. Once the requirements are proved, each participant is liable for the joint act as if he had done it himself, even if the precise author of each component act cannot be identified.	433
Proof of exhortation as participation in a murder	Evidence attributing an exhortation requires clear, cogent and reliable proof. Proved words of instigation, considered with the accused's conduct and surrounding circumstances, may establish shared intention under Section 34 IPC. Where credible eyewitnesses consistently establish that the accused exhorted his co-accused immediately before the latter fired the fatal shot, the exhorter may be convicted under Section 302 read with Section 34 even though he did not fire.	433
Participation under Section 34 without a separate overt assault	Participation in furtherance of the common intention need not consist of a separate overt assault by every accused. It may take the form of a covert act, guarding or other assistance, or an illegal omission that facilitates the crime. Separate or diverse acts forming the criminal action are considered together. Mere intention without connected participation is insufficient; the absence of an individual blow does not exclude joint liability.	433
Proof and inference of common intention	The prosecution must prove common intention by substantial, clear and definite evidence, which may be direct or inferred cumulatively from conduct, words,	433

Topic	Ratio	Case Sr.no.
	surrounding circumstances and participation. Where part of the prosecution evidence supporting Section 34 is disbelieved, the remaining evidence requires particular care. An inference that a graver offence became part of the shared plan during its execution must rest on clear and cogent material.	
Physical presence and withdrawal from a common criminal venture	For a physically committed offence, presence is ordinarily required for Section 34 liability, particularly where the attributed role is exhortation. Exceptions may arise where the offence consists of diverse acts at different times and places. Mere distance from the scene does not invariably absolve a participant; actual withdrawal from the common venture and the surrounding evidence must be considered. Continued presence without dissuasion is relevant only where the prior common intention is proved.	433
Individual liability in a free fight	If the incident is a free fight, each participant is answerable for his own independent act. That possibility does not permit the High Court, in quashing proceedings on rival versions of an admitted encounter, to decide the aggressor or extinguish the prosecution without evidence.	438
Section 34 IPC — participation in a criminal act with common intention	Section 34 IPC requires a criminal act by several persons in furtherance of their common intention and participation in the joint transaction. A separate overt injury by each accused is unnecessary, but mere accompaniment or participation without common intention does not establish the joint liability. Prior concert may develop at the spur of the moment, provided the shared intention precedes the criminal act. In this case, the Court relied on the accepted eyewitness account, the armed attack and multiple firearm wounds to find a prior meeting of minds between Murarilal and Ashok. It affirmed Ashok's liability for both murders under Sections 302/34 without treating armed presence alone as a universal test.	497
Section 34 IPC: Joint Participation and Common Intention	Section 34 requires a criminal act by several persons in furtherance of their common intention; each participant then bears liability for the whole act. A separate overt blow by every accused is unnecessary, but participation without common intention, or common intention without any contribution to the joint act, is insufficient. Common intention requires concert, which may develop at the spur of the moment. Mere accompaniment does not establish liability.	522
Section 34 IPC: shared intention and participation in the joint act	Section 34 requires proof that several persons participated in a criminal act in furtherance of their common intention. Common intention must exist before the act, although it may develop on the spur of the moment. Participation need not take the form of an identical assault or a separate overt act by each accused; a contribution may be overt, covert or, in an appropriate situation, an illegal omission. Mere companionship does not establish joint liability, and participation without common intention is insufficient. On the accepted evidence of holding and instigation during the firearm assault, the Court affirmed the Section 302/34 convictions of the participating co-accused.	555
Proof of common intention under Section 34 IPC	Liability under Section 34 IPC requires both shared intention and participation in the criminal act in furtherance of it. The shared intention may arise on the spot but must precede the offence; similar intentions or mere presence are insufficient. It must be inferred safely from the accused persons' acts, conduct and the circumstances as a whole. In the sudden confrontation caused by the renewed discharge of waste water, the Court found common intention unproved and held each appellant responsible for his own act.	561
Common intention inferred from a concerted armed attack	A prior meeting of minds and participation in a concerted attack with deadly weapons may establish common intention under Section 34 IPC. Where the shared intention to murder and the joint attack are proved, each participant may be liable under Section 302 read with Section 34 without proof that each inflicted a fatal injury.	570
Participation and	Section 34 IPC requires a criminal act by several persons in furtherance of their	570

Topic	Ratio	Case Sr.no.
prior concert under Section 34 IPC	common intention and participation in the joint act. A separate overt act by every accused is unnecessary, but mere accompaniment or participation without common intention is insufficient. The common intention must precede the act, although it may develop at the scene.	
Holding the victim while a co-accused inflicts fatal blows: Section 34 IPC	A person who participates in a criminal act in furtherance of a shared intention is liable for that act as if he committed it himself. The accepted evidence that Hariram held the victim's hands while Veer Singh struck him with an axe supported constructive liability under Section 302/34 IPC, although Hariram did not inflict the blows.	584
Common intention under Section 34 IPC distinguished from independently similar intentions	Section 34 creates constructive liability, not a separate offence. The prosecution must prove a shared intention and participation in action furthering that intention; several people independently having the same intention is insufficient. The shared plan may arise suddenly at the scene, but must precede the criminal act in point of time. It may be inferred from conduct and circumstances after careful assessment of the whole evidence.	584
Participation under Section 34 IPC without a separate overt assault	Each participant need not inflict an injury or perform a separate overt assault. Assistance may consist of an overt or covert act, or an illegal omission, provided it advances the proved common intention and has a connection with the offence. Merely keeping an intention in mind without participating is insufficient. Presence and its significance must be assessed in context; participation does not invariably require physical presence where the offence comprises connected acts at different times or places.	584
Section 34 makes a joint participant liable for a fatal injury inflicted by another in furtherance of their proved common intention	The Court applied Section 34 IPC to the concerted attack after Badu's altercation with Pappu: Rakesh came with a luhangi, Kailash with a lathi, and both assaulted Pappu. The postmortem assigned death to severe head trauma; no witness specifically attributed a fatal head blow to Kailash. Where the criminal act is done in furtherance of the common intention of all, individual infliction of the fatal injury is unnecessary for Section 302/34 liability. The Court inferred shared intention from their arrival and participation, rejected Kailash's proposed limitation to his own alleged back blow, and affirmed his murder conviction. The finding is tied to proved joint participation, not mere presence or family connection.	675
Murder liability under Section 34 after failure of the Section 149 charge	After acquitting the alleged additional members, the Court held the four proved armed attackers guilty of murder under Sections 302 and 34 IPC. Fewer than five persons remained proved to have participated, but the accepted evidence of their joint attack supported common-intention liability. They were acquitted under Section 148, while the life sentence for murder was maintained.	713
Common intention inferred from a concerted armed assault	Common intention was established where armed assailants jointly confronted and surrounded the victim and one of them fired the fatal shot. On the evidence of their concerted conduct, the Court upheld the liability of the accompanying assailant under Section 302 read with Section 34 IPC.	720
Common intention to murder requires proof beyond participation in an abrupt assault	The Court observed that — Section 34 IPC requires a criminal act by several persons in furtherance of their common intention, with some participation in the joint action; the shared plan may be inferred from conduct and can develop at the scene, but mere association or accompaniment is insufficient. It discussed Suresh Sankharam Nangare, Shyamal Ghosh, Mrinal Das, Ramashish Yadav, Hem Raj, Dashrathlal and other authorities on prior concert, participation and the limits of vicarious liability. Ramji and Govind Das were described as kicking, striking with fists and exhorting Laxmi Narayan, but they carried no weapon, and the Court found a sudden altercation without a proved meeting of minds to cause the fatal head injury. It therefore set aside their Section 302/34 convictions, while holding them responsible for simple hurt under Section 323 and sentencing them to custody already undergone. The order does not state	733

Topic	Ratio	Case Sr.no.
	that exhortation can never prove common intention; it evaluates this record and the differing roles.	
Section 34 participation may consist of a covert act or intentional illegal omission	Liability under Section 34 IPC requires participation in the joint criminal act in furtherance of the shared intention. Participation need not consist of a separate overt injury inflicted by every accused. The Court explained that an act may be overt or covert and, in an appropriate situation, an intentional illegal omission may further the common design. Common intention without any such participation is insufficient, just as participation without the requisite shared intention does not attract Section 34. The distinction informed the Court's separate assessment of the principal assailant and the two companions; the latter's established acts of simple hurt did not, on this record, establish a common intention to cause the fatal injury.	733
Common intention and participation in a joint assault	Section 34 IPC imposes constructive liability for a criminal act done by several persons in furtherance of their common intention; it creates no separate offence. The prosecution must prove both the shared intention and participation advancing it. On the accepted evidence of the concerted axe, lathi and spade assault on the two deceased and the intervenors, the Court upheld two convictions under Sections 302/34 and four under Sections 323/34 IPC.	766
Shared intention differs from independent similar intentions	Section 34 requires a meeting of minds to bring about the criminal result, not merely several people independently having the same intention. The shared plan may form suddenly or during the incident, but must precede the criminal act to which liability attaches. Common intention is also distinct from an individual's mens rea. The inference of concert, especially for a graver result, requires clear evidence from conduct and circumstances.	766
Participation without a separate overt blow under Section 34	A separate overt assault by every participant need not be proved. Participation may be covert, consist of guarding the scene or an illegal omission, or form one of a series of acts advancing the common design. It must nevertheless have a nexus with the offence and further the shared intention. A common intention kept only in the mind, without participation in the criminal action, is insufficient.	766
Physical presence and withdrawal in common-intention liability	Presence is ordinarily required for a physically committed offence, particularly where the alleged role is instigation or exhortation, but exceptions may arise where the criminal action comprises diverse acts at different times and places. Mere distance from the immediate scene does not itself absolve a participant. Actual withdrawal from a shared design is a factual matter to assess; presence alone, without proved common intention and participation, does not create liability.	766
Proving common intention by cumulative and cautious assessment	The prosecution bears the burden of proving common intention through substantial, definite and clear evidence. Direct proof of a joint plan is not essential; the inference may arise from the entire conduct and circumstances. Because liability extends to another's criminal act, remaining evidence must be assessed with particular care where part of the prosecution evidence has been disbelieved. A graver shared design cannot be assumed from association alone.	766
Later arrival after a co-accused's call does not conclusively negate shared intention at charge stage	The FIR alleged that Sanu telephoned Ubesh during the attack and that Ubesh came with an iron rod and assaulted both injured brothers. The Court declined to infer merely from his arrival after the confrontation began that he could not share the intention required for Section 34 IPC. His alleged active participation made the issue triable on evidence, rather than finally decidable in a Sections 397/401 CrPC revision against the charge. The Court made no finding that common intention had been proved and directed a separate reconsideration of the appropriate collective-liability charge.	819
Proof of joint participation in	The accepted last-seen evidence, recovery of the child's body at the accused's instance, medical proof of homicidal strangulation and failure to explain the	850

Topic	Ratio	Case Sr.no.
murder through cumulative circumstances	incriminating circumstances together established the appellant's guilt beyond reasonable doubt. On that cumulative evidence, the Court affirmed the conviction and life sentence under Sections 302/34 IPC read with Section 13 of the MPDVPK Act, although the trial court had acquitted the accused of kidnapping for ransom.	
Section 34 IPC: participation in a criminal act with common intention	Section 34 imposes joint liability where several persons participate in a criminal act in furtherance of their common intention. Each is liable for the combined act without proof that each inflicted the fatal injury. The prosecution must establish participation and a prior meeting of minds, which may develop at the scene before the act. Mere accompaniment is insufficient, and participation without common intention does not attract the section. On the accepted evidence, the armed assailants jointly carried out the planned firearm attack, establishing common intention and participation against the surviving appellants.	873
Section 34 IPC — common intention and participation in the joint criminal act	Section 34 IPC requires proof of common intention and participation in the joint criminal act. Each participant need not inflict an identical injury or a separately visible blow. Participation may include intentional assistance from a distance or an illegal omission contributing to the common design; common intention alone, without participation, is insufficient. The meeting of minds may develop at the scene, but mere accompaniment does not establish liability. Gorelal’s alleged shoe blow was treated as occurring after death, with no corresponding injury; the evidence did not establish his participation in a shared murderous plan. His lack of a weapon, weeping beside the body and presence and signature at the inquest were considered cumulatively. His conviction was set aside while Shivcharan’s individual conviction remained.	885
Section 34 IPC: attributable participation beyond mere association	Liability under Section 34 IPC requires participation in a joint criminal act committed in furtherance of common intention. Every accused need not inflict a separate injury: participation may take the form of overt or covert conduct, including a culpable omission in the circumstances described by the Court. Merely accompanying other accused does not establish liability, and common intention without proved participation was insufficient on this record. In the State's appeal, the evidence did not establish Ram Outar's or Subhash's participation in the joint crime, so their acquittal was affirmed. The decision does not impose a universal requirement that every participant personally assault the victim.	918
Section 34 IPC: prosecution proof of common intention and prior concert	The prosecution must establish that the joint criminal act was committed pursuant to shared intention and prior concert; participation alone without common intention does not attract Section 34 IPC. The Court's narrated authorities explain that the meeting of minds must precede the relevant criminal act, while the common intention may develop on the spur of the moment. Common intention does not make each person liable for an entirely different act outside the shared design. These requirements formed part of the Court's assessment of the insufficient evidence against the acquitted respondents.	918
Separate trial acquittal and liability under Section 34 IPC	An acquittal in another person’s separate trial does not bind the court determining the present accused’s guilt on a different evidentiary record. Where the evidence in the present trial warrants it, liability under Section 34 IPC may be assessed on participation with a person acquitted in that other trial. This differs from conflicting findings in the same trial that acquit the other specified participants yet convict one accused of acting jointly with them. Each separate case must turn on its own evidence.	944
Calling relatives before a quarrel does not by itself establish common	Section 302 read with Section 34 IPC could not be applied to Banti merely because, at his father’s instruction, he went to call his brothers before any fight had begun. The initial accounts did not show that anyone was then armed, that	951

Topic	Ratio	Case Sr.no.
intention to murder	Banti knew his brothers would bring firearms, or that he returned and participated in the shooting. The later allegations of procuring weapons and exhorting the killing were material, unexplained improvements. In those circumstances, the Court found no proved common intention to kill and acquitted Banti. The decision concerning the surviving appellants followed the earlier abatement of Suresh Chandra's appeal on his death.	
	Sub-Chapter no. 28.4 **Preparation, Attempt, Abetment and Criminal Conspiracy**	
Abetment of suicide: instigation inferred from continuing coercive conduct	Instigation under Section 107 IPC may be direct or indirect and may be inferred from a continuing course of conduct that creates circumstances leaving the deceased no option except suicide. Express words directing suicide are not essential, but an intention and a reasonably certain connection with the consequence must emerge. At the FIR-quashing stage, continued harassment and pressure by a married man with children to marry him, despite her parents' requests to stop, disclosed a prima facie case under Section 306. The Court treated the proposed second marriage during the first marriage's subsistence as legally void and refused to quash.	27
Conspiracy inferred from coordinated acts facilitating rape	The Court inferred a common plan from the coordinated acts of one accused dragging the victim into his house and locking her in a room where the other accused was already waiting and committed rape. Their awareness of her regular route and timing supported that inference. Those proved circumstances established conspiracy in this case and justified the second accused's liability under Section 120-B read with the rape provision.	38
Lawful cruelty complaint — No abetment of suicide merely from prosecution	Where the sole allegation was that the husband committed suicide because his wife had lodged a cruelty and dowry complaint which he considered false, the complaint and the ensuing charge sheet did not establish abetment under Sections 306 and 107 IPC. Taking the legal remedy of reporting an alleged offence, without any further act of instigation or intentional assistance to suicide, did not amount to abetment by the wife or her parents. The truth of the underlying allegations remained for the trial court to determine on evidence.	114
Section 107 IPC — Conspiracy and intentional aid as forms of abetment	Abetment may consist of instigation, conspiracy accompanied by an act or illegal omission in pursuance of it, or intentional assistance by an act or illegal omission. Under Explanation 2 to Section 107 IPC, an act done before or at the time of the principal act must be intended to facilitate it and must in fact facilitate its commission to constitute aiding. An allegation that the deceased reacted to a lawful complaint does not by itself establish any of these forms of abetment.	114
Criminal conspiracy may be inferred from the parties' conduct	Criminal conspiracy requires an agreement between two or more persons to commit an illegal act or a lawful act by illegal means. As conspiracies are not ordinarily formed openly, the agreement may be inferred from conduct. Advance fee acceptance before seats were said to become vacant supported a prima facie inference of an understanding between the college management and the candidates.	204
Mere presence does not establish participation in a murder conspiracy	A person's presence with the assailant at the scene does not by itself establish a conspiracy to murder. Where the alleged participation was not reliably proved and no evidence linked the other accused to a conspiracy with the shooter, their acquittal under Sections 302/120-B IPC was upheld.	207
Knowing attestation and participation in preparing forged documents	The appellants knowingly identified an impostor as the owner and signed the fabricated sale deeds as witnesses; one also signed under another person's name and arranged the drafts. Their active role in preparing the false documents distinguished Sheila Sebastian and supported convictions under Sections 420/120-B, 467/120-B and 471/120-B IPC.	234

28.4 : Preparation, Attempt, Abetment and Criminal Conspiracy

Topic	Ratio	Case Sr.no.
Conspiracy and absence of proved personal benefit	Conspiracy is ordinarily arranged in secrecy. Where knowing collaboration in an impersonated sale and the preparation of forged deeds is established by the evidence, uncertainty about the precise inducement or personal benefit received by an attesting participant does not erase his proved participation. The Court rejected the plea of non-beneficiary status on that basis.	234
Supplying kerosene and matches while exhorting suicide	The conduct went beyond merely telling the deceased to die: the accused also supplied kerosene and a matchbox, thereby facilitating and provoking the suicide. Applying the reasoning reproduced from Babloo alias Devanand, the Court held that these combined acts established abetment under Section 306 IPC beyond reasonable doubt.	268
Intention and circumstantial inference in abetment by instigation	Instigation involves provoking, inciting, urging or encouraging another to act, with the necessary intention. Express words directing the precise consequence are not indispensable if that intention can reasonably be inferred from acts, omissions or a course of conduct. Angry or emotional words without an intention that the consequence follow do not, by themselves, amount to instigation. Whether the circumstances establish instigation must be assessed in the particular case.	268
Intentional assistance that facilitates the act under Section 107 IPC	Abetment under Section 107 IPC includes intentional aid by an act or illegal omission. A person aids an act where, before or at its commission, the person intentionally does something to facilitate it and thereby actually facilitates it. The Court applied this principle to the supply of kerosene and matches in the circumstances of the suicide.	268
Participation in a conspiracy to execute a forged land transfer	Participation in the conspiracy was inferred from the accused's proved roles in the forged transaction. The attesting accused signed both the forged power of attorney and the sale deed; the purchaser attended registration and put her thumb impression on a deed falsely recording payment of consideration. Those circumstances supported their conspiracy liability.	273
Sections 107 and 306 IPC — sustained cruelty creating a situation leading to suicide	The Court treated sustained conduct creating a situation in which the deceased felt left with no option but to end her life as abetment under Section 107 IPC. It found that the husband resumed cruelty after securing her return through an apology and written assurances, destroying her hope of improvement and leading to suicide. On that evidence it upheld Section 306 along with Section 498-A. The finding rests on the established course of conduct and its connection with the suicide; it does not equate every matrimonial disagreement with abetment.	328
Attempt to promote enmity — an overt act beyond preparation is necessary	An attempt requires an overt act beyond intention or mere preparation, reasonably proximate to the intended offence. It need not be the final act before completion. In hate-speech cases there must be actual expression or another overt act constituting the content; thought alone is not punishable. Whether an attempt to publish has occurred depends on the facts and intent. Intervening circumstances preventing actual disorder do not by themselves rule out a punishable attempt.	348
Section 306 IPC: Prima Facie Assessment of Specific Cruelty Allegations	On the specific allegations of harassment against the applicant and the other in-laws, including threats, assaults and deliberate disruption of the deceased's living conditions, the Court found sufficient prima facie material to permit prosecution for abetment of suicide. It accordingly refused quashing under Section 482 CrPC.	366
Repayment Demand After a Failed Job Assurance and Abetment of Suicide	On the allegations considered, the applicants had paid money for promised government appointments and sought its return when no appointment followed. The Court held that their repayment demand and assertion of membership of an association that was not prohibited did not establish abetment of suicide under Sections 306 and 107 IPC. Its conclusion concerned the applicants' transaction and conduct as assessed in the judgment.	453

Topic	Ratio	Case Sr.no.
Sections 107 and 306 IPC — demand for repayment without proved instigation	Abetment requires instigation, conspiracy accompanied by an act or illegal omission in pursuance of it, or intentional aid. Instigation involves intentional encouragement or incitement and may be inferred from a continued course of conduct creating circumstances in which the victim sees no alternative to suicide. Mere harassment or words spoken in anger without the necessary intention are insufficient; the prosecution must establish the requisite mental element and direct or indirect incitement connected with the suicide. Courts must also distinguish proved incitement from a hypersensitive reaction to ordinary discord. Since unlawful additional demands were not proved and the appellant was seeking repayment of his loan, the Court found no abetment and set aside the conviction.	480
Prima Facie Instigation to Suicide from Continued Harassment and Coercive Conduct	Abetment of suicide under Sections 306 and 107 IPC requires culpable intent and instigation, conspiracy or intentional aid. Mere harassment without a positive act of incitement or intentional aid proximate to the suicide is insufficient. Instigation may be inferred from conduct and circumstances showing intentional incitement; an angry remark without the intended consequence is insufficient. Ordinary discord and a merely hypersensitive reaction require careful assessment. At charge framing, allegations of repeated harassment, holding the deceased's hands, insisting that she accompany the accused and challenging her to die when she refused, followed immediately by her jumping into a well, could support a tentative inference of instigation. The final words could not be isolated from that course of conduct and treated as a mere angry outburst.	536
Abetment of suicide — mens rea and positive instigation or aid	Section 306 IPC requires abetment within Section 107, by instigation, conspiracy accompanied by an act or illegal omission in pursuance of it, or intentional aid. A conviction requires clear mens rea and a positive, active or direct act of the accused intended to push the deceased into a position in which suicide appears to be the only option. Suicide or distress by itself does not establish the offence.	684
Coercive demands after repayment — prima facie instigation to suicide	Allegations that lenders continued to demand excessive payment after full repayment, subjected the borrower to a false case and prevented him from attending duty could not be treated as mere recovery of legitimate dues. Read with the witness accounts and the suicide note as described by the Court, that continuing pressure disclosed a prima facie overt act capable of supporting prosecution under Sections 306 and 34 IPC.	684
Intentional aid — conduct which actually facilitates the act	For abetment by intentional aid, the accused must intentionally do an act or make an illegal omission to assist the act in question. Conduct before or at the time of the act amounts to aid where it is done to facilitate that act and actually facilitates it.	684
Intentional instigation and its inference from continued conduct	Abetment of suicide requires intentional instigation or aid with a causal connection to the suicide. Mere harassment without a connected positive act is insufficient for conviction. Instigation may nevertheless be inferred from acts, omissions or a sustained course of conduct creating circumstances in which the deceased is left with no other option. Direct words of incitement are not indispensable, but the intent to incite must be discernible. The Court found the prosecution material sufficient for a charge, without finally determining guilt.	715
Section 306 suicide abetment — intentional instigation or aid beyond harassment and hurt	Under Section 107 IPC, abetment may be by instigation, conspiracy followed by an act or illegal omission in pursuance of the conspiracy and in order to its object, or intentional aid. Chitresh Kumar Chopra, Praveen Pradhan, Sanju, Gangula Mohan Reddy, M. Mohan, Kishori Lal, Amalendu Pal and Ramesh Kumar were considered on mens rea, a positive direct or indirect act, the possibility of inference from a sustained course leaving no other option, proximity, and the insufficiency of anger or ordinary discord alone. Orilal	736

Topic	Ratio	Case Sr.no.
	Jaiswal cautions against attributing a hypersensitive response to ordinary differences. Even crediting property damage, repeated abuse, and assaults alleged here, the Court found no act or intended course amounting to instigation of Neeraj Singh's suicide; the temporal closeness of the last assault did not by itself supply that ingredient.	
Refusal of a property share without conduct abetting suicide	Refusal by a father to give his son a claimed share in property does not, by itself, amount to abetment of suicide. On the allegations accepted at face value, strained relations with the father and stepmother and the property and belongings dispute disclosed no prima facie act of instigation or intentional aid. The Court also found no allegation of cruel upbringing or neglect merely because the father had remarried. It therefore found no prima facie abetment by the father.	764
Statutory forms of abetment under Section 107 IPC	Abetment may consist of instigation, conspiracy accompanied by an act or illegal omission in pursuance of the conspiracy and for the act's commission, or intentional aid by an act or illegal omission. Aid includes conduct before or at the time of the act that is intended to facilitate it and actually does so. For liability under Section 306 IPC, the prosecution must establish abetment of the suicide through the applicable statutory mode.	764
Conspiracy between revenue officials proved by their coordinated conduct	The Revenue Inspector directed the complainant to contact the Patwari and pay what she demanded. Her recorded negotiations, continued contact, their joint presence and the instruction to pay the intermediary established coordinated action for the bribe. On that combined evidence, the Court found the conspiracy between the two officers proved beyond reasonable doubt.	879
Sections 107 and 306 IPC — instigation inferred from intentional continuing conduct	Abetment under Section 107 IPC consists of instigation, conspiracy followed by an act or illegal omission in pursuance of it, or intentional aid. Instigation involves provoking, urging or encouraging the act; an express command to commit suicide is unnecessary if a reasonably certain inciting consequence can be inferred. Intentional acts, omissions or a continuing course of conduct that creates circumstances leaving the deceased with no other option may support that inference. It depends on the abettor's intention and the circumstances, and cannot be reduced to a fixed formula. Words spoken in anger or emotion without intending the consequence do not suffice. These principles informed the Court's prima facie assessment of the alleged recurrent threats and taunts.	884
Section 306 IPC — repeated threats of false rape prosecution and humiliation	Continuous, calculated intimidation and humiliation that destroys self-esteem and drives a person to the limit of endurance may amount to instigation, rather than mere teasing or an isolated insult. The suicide note and witness accounts alleged repeated threats to implicate the deceased falsely in rape and eve-teasing cases and send him to jail unless his family sold its house and left the colony. The Court considered the effect on his career, studies and social standing, together with daily taunts that he had not died despite the criminal cases, sufficient to disclose a prima facie case under Section 306 IPC. Although the note did not specifically attribute the rape threat to applicant 2, witness statements supported her alleged participation and common intention.	884
Section 306 IPC — harassment, intent and proximity of the alleged incitement	Conviction for abetment of suicide requires a clear mental element and an active or direct act of instigation or intentional assistance linked to the suicide. Mere harassment, without positive action proximate to the occurrence that led or compelled the deceased to end his life, is insufficient. Courts must distinguish such incitement from hypersensitivity to ordinary petulance, discord or differences that would not ordinarily induce a similarly situated person to commit suicide. In the present quashing proceeding, the Court considered the alleged sustained false rape-case threats and humiliation affecting the deceased's career and self-esteem sufficient to permit prosecution, subject to proof at trial.	884

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Abetment of suicide — angry words without intention to instigate suicide	Sections 306 and 107 IPC require instigation, conspiracy accompanied by an act or illegal omission, or intentional aid in committing suicide. The requisite intention and a positive act of incitement or assistance must be shown. Even accepting the allegations, the accused's statement that an absconding adversary should die rather than keep fleeing, without any further overt act or intention to induce suicide, did not constitute abetment.	900
Abetment of suicide — isolated threat without an intention to induce suicide	An isolated threat to kill the deceased, without an alleged background, earlier threats, enmity or material showing an intention to induce suicide, did not disclose abetment under Sections 306 and 107 IPC. Even accepting the prosecution allegations, the threatening words in the circumstances considered did not justify a trial for abetment of suicide.	902
Attempt under Section 15 of the Prevention of Corruption Act despite stopped payment	False work records, bypassed technical scrutiny, a bill submitted two days after the work order, non-installation of the hand pump and advancement of the file towards payment were assessed together as a concerted attempt to obtain money for work not done. Cheques had been prepared, but a complaint stopped payment. Absence of actual disbursement therefore did not prevent conviction of the municipal official under Section 15 of the Prevention of Corruption Act read with Section 120B IPC. This was an application to the proved transaction, rather than a general statement of every ingredient of corruption or conspiracy.	914
Attempted corruption and conspiracy despite non-release of payment	In assessing the Executive Engineer's participation in the offence under Section 15 of the Prevention of Corruption Act read with Section 120-B IPC, his role had to be considered throughout the transaction. He approved an estimate inconsistent with the claim that the pump had already been removed, accepted quotations processed without the required technical scrutiny and issued the work order. A bill was then submitted for work that the spot record showed had not been done. The false completion record and absence of measurements supported the finding of participation. Stoppage of payment after the complaint did not defeat the finding of an attempt on these facts.	920
Family relationship and telephone contact as proof of criminal conspiracy	Telephone contact between close relatives, without other incriminating evidence, did not conclusively establish an agreement to abduct and kill the deceased. Sunil and Deepak were not proved to have participated in the abduction, been last seen with the deceased or possessed incriminating articles. The alleged recipient phone numbers were also not linked to Mukesh. The conspiracy evidence was therefore insufficient to sustain their convictions, which were set aside on separate assessment of their roles.	934
Fraudulently created debt — prima facie abetment of suicide	Allegations that the accused fraudulently created a KCC facility and withdrew ₹5.75 lakh, leaving the deceased and his brother liable for about ₹7 lakh with interest, disclosed sufficient material to proceed under Section 306 IPC. In assessing the alleged instigation, the Court considered the burden of repayment, possible loss of mortgaged property and the effect on the deceased's future. The impact of a debt depends on the person's circumstances; the Court rejected a universal rule that a suicide following fraudulent withdrawal can never involve abetment. Applying the requirement of intentional instigation and its possible inference from conduct, it refused quashing at the prima facie stage. V.P. Singh and Netai Dutta were distinguished because their allegations were materially different.	992
Section 306 IPC — intentional abetment and connection with the suicide	Abetment of suicide requires instigation, a conspiracy accompanied by an act or illegal omission, or intentional aid within Section 107 IPC. The accused must have the requisite mental element, and the conduct must bear a sufficient connection to the suicide. Mere harassment or a grievance, without proximate positive conduct amounting to incitement or aid, is insufficient. Express words are not always necessary: instigation may be inferred from an intentional course of conduct creating circumstances in which the deceased feels no alternative	994

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	remains. Ordinary family discord and a deceased person's particular sensitivity cannot by themselves establish criminal abetment. Applying the reproduced Supreme Court principles, the Court found no prima facie abetment in the unmet expectations of family financial support.	
	Sub-Chapter no. 28.5 **Mens Rea, Intention, Knowledge and Causation**	
Explanation 2 to Section 299 IPC — preventable death and causation	Where bodily injury causes death, the person inflicting that injury is deemed to have caused the death even though proper remedies and skilful treatment might have prevented it. The possibility of medical survival therefore does not by itself sever causation. The Court applied this rule to fatal burns and ensuing complications; classification as murder still depended on the proved injury and required mental element.	19
Inferring homicidal intention from the whole circumstances	Intention is a question of fact to be inferred from the circumstances, including the weapon, whether it was carried or obtained at the scene, the body part targeted, force used, planning or suddenness, prior enmity or provocation, heat of passion, unfair advantage and the number of blows. The location of the injury alone does not determine the offence. The listed circumstances are relevant considerations, not an exhaustive or mechanical formula.	36
Inferring homicidal intent — weapon, injury, force and surrounding circumstances must be considered together	Intention or knowledge is inferred from the circumstances, including the weapon and whether it was carried or picked up, the body part targeted, the force and number of blows, prior enmity, premeditation, sudden quarrel or provocation, heat of passion, and undue advantage or cruelty. No fixed rule reduces every single-blow case to Section 304 IPC. The nature of the offence depends on the proved circumstances and the relevant statutory ingredients, not the number of injuries alone.	77
Mental element required for culpable homicide	Causing death alone does not establish culpable homicide under Section 299 IPC. The act must be accompanied by an intention to cause death, an intention to cause bodily injury likely to cause death, or knowledge that the act is likely to cause death. The required mental element is assessed from the act and the surrounding facts and circumstances.	93
Inference of intention from the circumstances of the assault	Intention must be gathered from the combined circumstances of the case. Relevant considerations include the weapon, whether it was carried or picked up at the scene, the body part targeted, force used, the number of blows, premeditation or a chance encounter, prior enmity, provocation, sudden quarrel or fight, heat of passion, and any undue advantage or cruel or unusual conduct. The list is not exhaustive. Neither the location of the injury nor the number of blows alone determines the offence.	93
Knowledge distinguished from intention in homicide	Knowledge concerns awareness of the relevant circumstances, while intention concerns the consequence desired. Either may exist without the other. For Section 300 Secondly IPC, knowledge that the intended injury is likely to cause the particular victim's death requires a degree of certainty rather than mere probability.	93
Causal connection between the act and death	An act may cause death directly or through consequences that naturally or necessarily flow from it and can reasonably be contemplated as its result. The required mental element under Section 299 IPC must also be present before the death amounts to culpable homicide.	93
Abetment of suicide — Intention and a positive act linked to suicide	Liability under Section 306 IPC requires a clear intention to instigate or intentionally assist suicide and an active or direct act intended to place the deceased in a position where suicide appears the only option. Mere harassment, without a positive act proximate to the suicide, is insufficient for conviction. Words spoken in anger or emotion without intending the consequence are not instigation. The deceased's distress over the prosecution did not establish the	114

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	applicants' intentional involvement in his suicide.	
Voluntary causing of hurt under Section 39 IPC	Persons who came armed and assaulted the victims without established private defence or grave and sudden provocation were treated as knowing the consequences of their chosen weapons. Their resulting hurt was voluntarily caused within Section 39 IPC. Refusal to accompany an accused to purchase a transformer did not supply grave and sudden provocation for the armed assault.	165
Overloading and causation of a wrong-side collision	The presence of three adults and a child on the victims' motorcycle did not displace the accused's responsibility for the collision where the evidence and spot map showed that he approached from the wrong side and struck the motorcycle on its proper extreme left side. The Court found the accused solely negligent and affirmed the convictions under Sections 279, 338 and 304-A IPC.	194
Intention distinguished from motive and knowledge	Intention differs from motive. Knowledge that harmful consequences may follow is awareness of those consequences and does not by itself establish an intention that they should occur. Intention involves purposeful action to achieve the relevant end. These states of mind must be inferred from the weapon, force of the attack, injuries and surrounding circumstances.	223
Inferring homicidal intention from the circumstances of the assault	Intention is a factual inference from the whole occurrence, rather than the injury's location alone. Relevant factors include the weapon and whether it was carried or picked up, the targeted body part and force, premeditation or a sudden encounter, prior enmity or provocation, heat of passion, undue advantage or cruelty, and the number of blows. The factors must be considered together and are not exhaustive.	259
Good faith under Section 52 IPC and a disputed claim of ignorance	Good faith under Section 52 IPC requires due care and attention. In seeking quashing, the Collector could not establish good faith merely by asserting that he did not know of the agreement, when it assigned duties to his office and a copy had been endorsed to the Collector. Whether he had acted with due care and attention was left for him to establish at trial.	290
Homicidal intention — inference from the whole circumstances	The intention accompanying a fatal assault is a question of fact inferred from the circumstances as a whole. The weapon used, whether it was carried or picked up, the part of the body targeted, the force and injuries, premeditation, provocation, the course of the confrontation and the number of blows may be relevant. The location of the injury alone does not determine the offence.	335
Inferring Intention From the Circumstances of an Assault	Intention is inferred from the combined circumstances, including the weapon and whether it was carried or picked up, the body part targeted, the force used, premeditation, prior enmity, provocation, heat of passion, undue advantage and the manner and number of blows. These factors are illustrative rather than exhaustive. Injury location is relevant but does not by itself determine the offence; the necessary statutory mental element must still be established.	383
Knowledge that death is likely— probability rather than possibility	For the relevant culpable-homicide assessment, "likely" refers to probability rather than a mere possibility. The Court must consider the accused's situation in deciding whether the accused knew that the act was likely to cause death.	412
Homicidal intention — inference from the combined circumstances	Intention is a question of fact inferred from the combined circumstances rather than the location of the injury alone. The Court adopted consideration of the weapon and whether it was carried or picked up, the body part targeted, force used, prior enmity or premeditation, chance encounter, provocation, sudden fight and heat of passion, undue advantage or cruelty, and the number of blows. The list is not exhaustive. The Court applied the weapon, vital-part injuries and coordinated conduct in finding an intentional fatal attack.	497
Inferring Homicidal Intention from the Whole Circumstances	Intention is a question of fact to be inferred from the act and the surrounding circumstances, rather than from the location of an injury alone. Relevant factors include the weapon and whether it was carried or picked up, the part targeted, force, number of blows, prior enmity or chance encounter, premeditation,	522

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	provocation, sudden fight, heat of passion and any undue advantage or cruel manner of attack. These factors require a combined assessment and are not exhaustive.	
Inferring intention from the weapon, injury and surrounding circumstances	Intention is a question of fact assessed from the whole circumstances. Relevant factors include the weapon and whether it was carried or picked up, the part of the body targeted, the force and manner of attack, the number of blows, prior enmity or preparation, sudden quarrel, provocation, heat of passion and any unfair advantage or cruelty. The location of the injury alone does not determine the offence.	584
Knowledge distinguished from intention in homicide	Knowledge and intention are distinct mental states, although they often coincide. Intention concerns the consequence sought; knowledge concerns awareness of the relevant circumstance or consequence even where it is not desired. In the discussion of Section 300 Secondly, the narrated authorities describe knowledge in terms of certainty or virtual certainty, rather than mere probability. The Court's homicide analysis therefore required assessment of the particular mental state specified by the applicable clause.	599
Direct and proximate causation in negligent death	For an offence under Section 304-A IPC, the rash or negligent act must be the direct, immediate and proximate cause of death. The immediate cause depends on the particular facts and must be distinguished from a mere background condition. Applying that principle to the quashing request, the Court found that failure to place safety signs led the motorcyclist into the culvert ditch and caused his death, bringing the case within the safety-breach reasoning in Sushil Ansal.	617
Inferring homicidal intention from surrounding circumstances	Intention is a question of fact to be gathered from the act and all surrounding circumstances. The location of injury alone does not determine the offence. The Court considered the nature of the weapon, body part chosen, force and injury, and the circumstances of the assault as relevant to determining the mental state required by Sections 299 and 300 IPC.	648
Knowledge under Section 300 Secondly requires more than mere probability	In examining Section 300 Secondly IPC, the Court treated knowledge that an intended bodily injury was likely to cause the particular victim's death as involving certainty of the relevant circumstances, rather than mere probability. It distinguished knowledge from a desire to bring about a consequence: the two mental states may coincide, but need not do so. The Court did not apply clause Secondly on the facts and proceeded to clause Thirdly, under which the intention to inflict the particular injury and its objective sufficiency to cause death are separate inquiries. The knowledge discussion therefore does not add a requirement of knowledge of fatality to clause Thirdly.	733
Knowledge under Section 300 Secondly and its distinction from intention	The knowledge contemplated by Section 300 Secondly involves awareness of the relevant circumstances with certainty rather than mere probability. Intention concerns the result desired, while knowledge concerns awareness of a consequence; the two often coexist but are not identical. The Court distinguished this enquiry from Section 300 Thirdly, where the intended particular injury and its objective fatal sufficiency are decisive.	766
Inferring homicidal intention from the whole assault	Intention must be inferred from the proved circumstances as a whole. Relevant considerations include the weapon and whether it was carried or picked up, the body part targeted, force, number and manner of blows, premeditation, prior enmity, provocation, sudden fight, heat of passion and any cruel or unfair advantage. No single circumstance mechanically determines the offence. The Court treated the fatal head injuries together with the assault evidence as supporting murder liability.	766
Inferring homicidal intention from the circumstances of the	Intention must be inferred from the combined circumstances, including the weapon and whether it was carried or picked up, the bodily part targeted, the force used, the number of blows, premeditation or chance encounter, prior	772

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assault	enmity, provocation, heat of passion, and any undue advantage or cruel or unusual conduct. No single circumstance or injury count decides the issue, and the factors are not exhaustive. The Court adopted Pulicherla Nagaraju and Sangapagu Anjaiah in explaining the careful assessment required to distinguish murder from lesser homicide.	
Section 304-A IPC: proof of the accused's rash or negligent act causing death	A Section 304-A IPC conviction requires proof that death resulted from the accused's own rash or negligent act. Although the deceased was fatally trampled by a bullock belonging to the appellant, the prosecution witness specifically attributed the act of driving the bullocks from behind to the appellant's brother. The appellant's insistence that his cattle be attended to first did not establish that he caused them to rush. In the absence of proof connecting the appellant's rash or negligent act to the fatal trampling, the conviction could not stand.	834
Distinction between intention and knowledge in homicide	Intention and knowledge are distinct mental states: a consequence may be desired without being foreknown as certain, or known to follow without being desired. The reproduced Arun Nivalaji More reasoning explains knowledge as awareness without substantial doubt, including virtual certainty, and treats the accused's knowledge as material to Section 300 Secondly. The mental state required by the applicable homicide provision must be proved rather than inferred merely from the occurrence of death.	849
Section 52 IPC: good-faith purchase requires due care and attention	An act or belief is not in good faith under Section 52 IPC if it lacks due care and attention. A purchaser's assertion of an honest belief in the seller's ownership is insufficient without explaining the checks made on the earlier title records. Where those records showed government forest land and there was no governmental release or title document authorising the sellers to alienate it, the Court rejected the subsequent purchasers' claim of a bona fide transaction for the purpose of their quashing applications.	871
Inferring intention from the combined circumstances of a fatal assault	Homicidal intention is a question of fact inferred from the combined circumstances. Relevant considerations include the weapon and whether it was carried or picked up, the body part targeted, force, number of blows, premeditation or chance encounter, prior enmity, provocation, heat of passion and undue advantage or cruel conduct. The list is not exhaustive. The Court adopted Pulicherla Nagaraju and Sangapagu Anjaiah and found intention in the prepared firearm attack on the unarmed victims.	873
Death from complications caused by the original injuries	Complications developing from injuries caused by the accused do not, for that reason alone, break the causal connection with the assault. Applying Bablu @ Virendra Kumar, the Court held the later death attributable to the inflicted injuries. Repeated sword blows to the head, a vital part, established the intention and knowledge to cause murder; the injuries were found sufficient in the ordinary course of nature to cause death.	936
Inferring homicidal intention from the whole circumstances	Intention must be inferred from the combined circumstances rather than the injury’s location alone. Relevant factors include the weapon and whether it was carried or picked up at the spot, the target and force of the blow, sudden quarrel or fight, chance encounter or premeditation, prior enmity, provocation and heat of passion, undue advantage or cruel conduct, and the number of blows. The list is not exhaustive. The Court applied the weapon, serious fatal head injury and overall record when rejecting the requested alteration to Section 304 IPC.	948
Inferring homicidal intention from surrounding circumstances	Intention is a factual inference drawn from the circumstances as a whole, including the weapon and whether it was carried or picked up, the body part aimed at, force used, prior enmity, provocation, premeditation, heat of passion and whether undue advantage was taken. Neither the location of injury nor the number of blows alone determines the mental element.	987

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	Sub-Chapter no. 28.6 **Criminal Medical Negligence — Grossness Threshold and Independent Expert Opinion**	
Gross negligence required for criminal liability of a medical professional	Criminal medical negligence requires the element of mens rea and negligence that is gross or of a very high degree. A simple lack of care, error of judgment, accident or unsuccessful treatment does not by itself establish criminal liability. The conduct must involve an act or omission that no ordinarily prudent medical professional would have committed in the circumstances, exposing the patient to injury that was most likely imminent. Negligence sufficient for a civil claim does not necessarily justify criminal prosecution.	181
Expert report before prosecution for medical negligence	The Court held that prosecution for medical negligence should not proceed without the report of the expert committee contemplated by the Supreme Court's directions. As the complainant had not approached the committee, the FIR and proceedings under Sections 336 and 338 IPC were quashed. The complainant remained free to obtain expert assessment and, if negligence was found, file a fresh complaint in accordance with law accompanied by the report.	181
Credible medical opinion supporting a private criminal complaint	Under the directions in Jacob Mathew, a private complaint alleging criminal rashness or negligence against a doctor should not be entertained unless it is supported by prima facie evidence in the form of a credible opinion from another competent doctor. The opinion must support the alleged professional rashness or negligence.	181
Independent specialist opinion before investigating a doctor for negligence	Before proceeding against a doctor accused of a rash or negligent act or omission, the investigating officer should obtain an independent and competent medical opinion. The preferred expert is a government doctor qualified in the relevant branch who can give an impartial opinion applying the Bolam test to the facts collected during investigation.	181
Arrest safeguards in allegations of medical negligence	An allegation of rashness or negligence does not justify routine arrest of a doctor. Under the directions in Jacob Mathew, arrest may be withheld unless needed to advance the investigation or collect evidence, or unless the investigating officer is satisfied that the doctor would otherwise fail to remain available for prosecution.	181
Limits of res ipsa loquitur in criminal medical negligence	Res ipsa loquitur cannot itself determine criminal liability for medical negligence. It is principally an evidentiary rule used in civil negligence to address the burden of proof and has, at most, limited application in a criminal-negligence trial. The requisite gross negligence must still be established.	181
Prosecution of doctors — expert support for alleged failure to check plasma	The refusal to add the treating doctors as accused under Section 193 CrPC was upheld because no Medical Board or committee report supported the allegation of criminal medical negligence. Asking for additional plasma as part of the then treatment protocol, and stopping transfusion when a reaction appeared, did not establish negligence. Whether the emergency conditions allowed time for laboratory re-examination and cross-matching required medical assessment, which the Court would not undertake without the expert report. The rejection was affirmed on these grounds rather than the trial court’s reliance on Section 319 CrPC.	339
Expert Screening before Criminal Proceedings against Doctors	A direction to register an FIR against doctors for alleged medical negligence was refused until a committee of experts reported on that negligence. The Court required independent, competent medical assessment before proceeding against the doctors; the patient’s death after surgery and the complainant’s allegations did not themselves supply that expert foundation.	408
Duty, gross breach and proximate causation in criminal medical negligence causing death	Criminal liability under Section 304-A IPC requires proof of death caused by a rash or negligent act not amounting to culpable homicide. In a medical case, the prosecution must establish a duty, a breach causing death and negligence of a gross degree. The cause of death must be direct or proximate; a treatment failure	588

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	or adverse outcome alone does not establish that causal and culpable breach.	

Chapter no. 29
Kidnapping, Abduction, Wrongful Restraint and Confinement

Sub-Chapter no. 29.1
Kidnapping and Abduction — Age, Consent and Guardianship

Kidnapping — minor's willing departure and the accused's alleged enticement	A minor's willing departure from guardianship does not by itself defeat a kidnapping allegation where the accused's enticement remains prima facie established. The distinction in Anversinh concerns a minor who understands the full import of the act and independently abandons guardianship without the accused's assistance or inducement. On the school-record age and the statements about meeting the petitioner at night and travelling with him on the prospect of marriage, the Court found a prima facie enticement case despite the claim of voluntary accompaniment. Its observations did not bind the trial court's independent decision.	15
Voluntary departure and inducement in kidnapping of a minor	The distinction between taking and enticement must be examined before relying on a minor's voluntary departure to exclude kidnapping. The principle in S. Varadarajan requires the minor's knowledge and capacity to understand her actions, voluntary abandonment of guardianship, and absence of assistance or inducement by the accused. Whether the girl left without inducement was disputed here, and her travel with the accused did not establish absence of enticement at the quashing stage.	94
Proof of a kidnapped girl's age through school records and corroborating evidence	The Court accepted the school admission registers and mark sheet recording the girl's date of birth, proved through the principal, together with the parents' evidence and the radiological age assessment. The father explained that he had supplied the birth date at admission from the hospital birth certificate. These materials established that the girl was fifteen years and two months old at the incident. The radiological range corroborated the documentary and parental evidence.	102
Parental permission limited to a particular place and taking a minor elsewhere	A mother's permission for her minor daughter to accompany the accused to a nearby market did not authorise taking her to another town or elsewhere. By exceeding that permission, the accused took the child away without the parents' consent. The Court therefore rejected the plea that the limited permission defeated the kidnapping and abduction convictions.	124
Enticement defeats the defence that a minor voluntarily left guardianship	A minor's apparent willingness to leave home does not negate kidnapping where the accused induced her departure. The distinction drawn in S. Varadarajan, as explained in Anversinh, requires that the minor understood the full import of her actions, voluntarily abandoned her guardian's care, and received no assistance or inducement from the accused. On the finding of enticement, the Court rejected voluntary departure as a defence and sustained the kidnapping and procuration convictions.	179
Enticement of a minor who leaves her home	Applying Anversinh at the bail stage, the Court held that a minor girl’s leaving her home on the accused’s enticement can still make out offences under Sections 363 and 366 IPC. Her departure on that basis did not provide a ground for taking a contrary bail view where the prosecution alleged that she was below eighteen.	263
Kidnapping — voluntary departure requires capacity and absence of assistance or inducement	A minor's willingness to accompany the accused does not by itself negate kidnapping. To rely on the voluntary-departure principle discussed in S. Varadarajan, it must be established that the minor understood the full import of her actions, voluntarily left her guardian's care, and received no assistance or inducement from the accused. The distinction between taking and enticement remains material. Applying Anversinh, the Court rejected the categorical voluntary-departure plea for bail while leaving the sufficiency of evidence for	344

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	conviction to trial.	
Enticing a minor and her stated willingness to leave home	Where an accused entices a minor and she consequently leaves home, offences under Sections 363 and 366 IPC may be disclosed. Her initial statement that she left voluntarily does not justify ending investigation when the material indicates enticement. This principle was applied in reviewing police inaction after recovery of the minor.	431
Minor's assent does not negate active taking or enticement	A girl below eighteen cannot substitute her own consent for that of the lawful guardian for the purposes of kidnapping under Section 361 IPC. Although she initially requested marriage, the arrangements made by one applicant and the other's role in taking her away without the claimed permission of her in-laws supported a prima facie inference of active assistance or enticement. Her initiative therefore did not defeat the kidnapping charge at this stage.	468
Voluntary departure without assistance or inducement: limited distinction from kidnapping	The reproduced Anversinh passage distinguishes the limited situation considered in S. Varadarajan: a minor with the knowledge and capacity to understand her actions voluntarily abandons the guardian's care without assistance or inducement by the accused. That distinction cannot assist an accused shown to have actively arranged or facilitated her departure. The Court found such active involvement prima facie in the present case.	468
Victim's Age: Proved School Records and the Rule 12(3) Hierarchy	Rule 12(3) of the 2007 Juvenile Justice Rules applies to a child victim's age determination: matriculation or equivalent certificate takes priority, followed in its absence by the first-school birth record, then a municipal or panchayat birth certificate; medical opinion is reached only if these documents are absent. A school certificate is admissible under Section 35 of the Evidence Act, but its weight depends on proof in the particular case. Here the issuing headmaster brought the original school record, and that evidence together with the family testimony established age below sixteen.	529
Ossification Margin: No Automatic Two-Year Benefit to the Accused	Medical age estimation does not create a universal rule adding two years in the accused's favour. The margin must be considered with all the surrounding evidence. The Court preferred the proved school record and family evidence and found that the radiology and dental estimates did not displace minority. It also noted Rule 12(3)(b)'s provision for a reasoned lower-side benefit of up to one year to the child when medical assessment is required, rather than an automatic upward adjustment for the accused.	529
Minor's Willing Departure Following Enticement: Sections 363 and 366 IPC	Kidnapping from lawful guardianship requires taking or enticing the minor, not merely later recovery from the accused. Enticement may arise from subtle prior inducement; apparent willingness does not establish independent departure without assistance or inducement. Section 366 additionally requires the relevant intention or knowledge concerning compelled marriage or forced or induced illicit intercourse. The Court found prior enticement proved despite the girl's admitted willingness and upheld both convictions, recording in its conclusion an intention to compel marriage.	529
Victim's age at taking — contemporaneous school record with later ossification range	Mukarrab v. State of U.P., (2017) 2 SCC 210, and Ramdeo Chauhan v. State of Assam, (2001) 5 SCC 714, were followed: ossification supplies a useful but nonconclusive range, considered with other evidence. Arjun Singh v. State of H.P. recognised a school entry's Section 35 Evidence Act value without making it conclusive; Ram Suresh Singh v. Prabhat Singh, (2009) 6 SCC 681, and Jaya Mala v. Govt. of J&K, (1982) 2 SCC 538, addressed fact-sensitive use of a radiological margin, not an automatic two-year increase favourable to an accused. A 2002 primary-school marksheet stated birth on 2 January 1991; the examination in April 2005 estimated over 16 but under 18, more than a year after taking in March 2004. Together they supported an age below 16 then, and necessarily below 18 for guardian-related charges.	738
Taking a minor girl	The father reported his daughter missing after she left for a Class VIII	738

Topic	Ratio	Case Sr.no.
without guardian consent with intent to compel marriage	examination, and neither he nor the girl said he had permitted Ramkishan to take her. Her account of a threat to her and her brother, movement among cities, being kept and beaten, and the appellant's presentation of her as his wife supported the trial finding that he took a girl under 18 from lawful guardianship with intent to compel her to marry, supporting the convictions under Sections 363 and 366 IPC. Her prolonged stay and childbirth did not replace guardian consent or negate the charged taking; co-accused Kamlesh's unchallenged acquittal was left undisturbed.	
Minor's voluntary departure where assistance or inducement is alleged	A minor's willingness to accompany the accused does not defeat a kidnapping charge where assistance or enticement is alleged. Anversinh distinguishes the narrow Varadarajan situation: a minor with capacity to understand the full import of her action voluntarily leaves guardianship without assistance or inducement by the accused. Here the prosecutrix was a minor and the applicant was alleged to have assisted the co-accused in taking her away. The Court therefore rejected voluntary accompaniment as a ground to interfere with charge framing.	768
Taking or enticing a girl under eighteen from lawful guardianship	Under Sections 361 and 363 IPC, the willingness of a girl under eighteen to accompany the accused does not replace the lawful guardian's consent. The Court distinguished persuasion from forcible taking and found that the appellant's request that the prosecutrix run away with him amounted to persuasion. As the guardian had not consented, the Court sustained the convictions under Sections 363 and 366-A even though it set aside the rape conviction on its assessment of consent under the law applicable to the 2006 incident.	776
Minor's voluntary departure — inducement and lawful guardianship	A minor girl's consent or affection does not by itself defeat a kidnapping allegation where the accused induced her departure from lawful guardianship. The relied-upon distinction in S. Varadarajan requires capacity to understand her actions, independent voluntary abandonment of guardianship, and absence of the accused's assistance or inducement. The school record showed minority, and the claimed marital relationship supplied prima facie material of inducement. Execution of a marriage affidavit did not itself establish solemnisation of a marriage.	808
Minor prosecutrix — Telephone call and alleged consent	A minor girl's acquaintance with the accused or telephone call asking him to meet does not establish that she insisted on being taken away for marriage or consented to sexual relations. Having found her to be a minor for the bail assessment, the Court treated her consent as immaterial and rejected the suggested consent as a ground for release.	823
Section 364-A IPC: proof of abduction, coercive threat and ransom purpose	Section 364-A IPC requires proof of kidnapping, abduction or consequent detention, a threat of death or hurt, conduct giving rise to a reasonable apprehension of it or actual hurt or death, and the prescribed coercive purpose, including payment of ransom. A ransom demand is a communicated request for money for release of the captive. Here the claim of release after payment conflicted with an undocumented police-encounter account; the alleged transfer to another gang, unidentified payment recipient, unexamined payer and unexplained source and place of payment left the prosecution version unproved. With the other defects, the evidence failed to establish the surviving appellants' guilt beyond reasonable doubt, and both the Section 364-A and linked Sections 11/13 M.P.D.V.P.K. Act convictions were set aside.	836
Abduction by force or deceit and its continuing character	Abduction under Section 362 IPC involves compelling a person by force, or inducing him through deceitful means, to go from a place. Deceit turns on the intention to mislead; fulfilment of a promise does not by itself establish that the inducement was bona fide. The adopted explanation treats abduction as a continuing offence in the context of detention for ransom.	836

Topic	Ratio	Case Sr.no.
Induced departure of a minor and refusal to quash a kidnapping allegation despite a later adult marriage	Relying on Anversinh, the Court stated that a minor's departure from home on the accused's inducement attracts Sections 363 and 366 IPC. The petitioners' birth certificate and report showed that the girl had first left and married while below eighteen, was brought back by police, and married again after attaining majority. The Court rejected the claim that the earlier missing report was false because her parents had merely kept her captive, and refused to quash the FIR on the writ material before it.	858
Section 362 IPC — forcible removal and alleged voluntary release at the bail stage	Abduction under Section 362 IPC includes compelling a person by force, or inducing a person by deceitful means, to go from any place. Forcing the complainant into a car and taking him away against his will satisfied that description on the allegations considered in the anticipatory-bail application. Release was not treated as voluntary where the FIR and witness statements indicated that the complainant's father and companions intercepted the car and intervened while he was being beaten. The Court treated the alleged conduct as serious when declining anticipatory bail.	883

Sub-Chapter no. 29.2
Kidnapping for Ransom — Demand, Threat, Participation and Section 364A Liability

Ransom-call admission assessed with corroborating recovery	The accused's admission under Section 313 CrPC that he made the ransom call established his connection with the demand when assessed with the proved recovery of a substantial amount of identified ransom money. The Court rejected his explanation that he had been forced to make the call in light of that recovery. The absence of independent voice identification did not defeat the demand evidence on this record, and his conviction under Section 364-A IPC read with Section 13 of the MPDVPK Act was affirmed.	183
Abduction alone insufficient for conviction under Section 364-A IPC	Section 364-A requires proof of kidnapping, abduction or subsequent detention together with the additional statutory condition of a threat of death or hurt, conduct creating reasonable apprehension of such harm, or actual hurt or death in order to compel the Government, a foreign State, an international intergovernmental organisation or another person to act, abstain from acting or pay ransom. Applying Sk. Ahmed, the Court held that proof of abduction without the required additional condition could not sustain the conviction. The inconsistent evidence did not establish that condition in this case.	188
Alteration from Section 364-A to Section 365 IPC	After finding the additional ingredients of Section 364-A unproved, the Court retained the unchallenged finding of abduction and substituted conviction under Section 365 IPC read with Sections 11 and 13 of the MPDVPK Act. The alteration reflected the proved abduction and wrongful-confinement offence rather than acquittal of all criminal liability.	188
Ransom received by one participant in a proved abduction	The Court accepted evidence of armed abduction, continued captivity and a ransom demand, supported by the abductee, his relatives and the recovery evidence. Where the ransom payment was proved to have been made to one member of the abducting group, the other proved participants could not obtain exoneration merely because they had not personally received the money.	279
Kidnapping for ransom: proof must connect each accused to the offence	Proof that an abduction occurred does not dispense with reliable evidence identifying the persons responsible. The Court separately examined the evidence against each appellant and found the identifications unsafe and the alleged ransom letters unproved. The resulting doubt about their participation required acquittal under Section 364A IPC read with Sections 11/13 of the MPDVPK Act.	284
Ransom Demand Without Proof of Actual Payment	Actual payment of ransom is not an essential requirement for the ransom purpose considered under Section 364-A IPC. The demand was proved through the released captives sent to communicate it and the corroborating accounts, despite the absence of evidence establishing when and where the alleged	379

Topic	Ratio	Case Sr.no.
	payment was made. The court relied on the proved abduction, detention and ransom purpose.	
Kidnapping to Compel Abstention from an Act Under Section 364-A IPC	Section 364-A IPC extends to kidnapping, abduction or continued detention accompanied by the specified threat, apprehension of death or hurt, or actual hurt or death, to compel another person to do or abstain from an act, as well as to pay ransom. The court rejected the proposed reduction to Section 365 on an election-suppression explanation: ransom was independently established, and compelling abstention from the election process also fell within the stated alternative purpose.	379
Ransom Demand Proved Orally Despite Non-Seizure of a Written Demand	Failure to seize a letter said to contain a ransom demand did not displace reliable evidence that two released captives were sent to convey the demand to villagers and the victims' families. The court treated the oral communication and its corroboration as sufficient proof of the demand despite the missing letter.	379
Kidnapping for ransom—belated demand and payment allegations	The prosecution failed to prove kidnapping for ransom where the demand and payment allegations first emerged more than 45 days after the abductees returned, the demand channel, source of funds and place of payment were unproved, and earlier statements described escape. The omission of the appellants' names from the first reported identification further undermined their involvement.	410
Handwriting and prior seizure of a ransom letter as proof of participation	A ransom letter stating that the abductee was in the writers' custody and demanding Rs.6 lakh was proved by expert comparison to be in the appellant's handwriting. Its seizure before his arrest defeated the specific claim that police fabricated it after arrest. The Court treated the letter as a strong circumstance linking him to the ransom demand.	575
Communication of a ransom demand to the abducted person	A ransom demand must be communicated. As explained in Malleshi within the relied-upon Shaik Ahmed passage, a demand made to the abducted person does not cease to have legal effect merely because the accused is arrested before it can be conveyed to another person. Malleshi addressed the ransom-demand issue and did not dispense with the other ingredients of Section 364A IPC.	711
A relayed ransom demand requires substantive proof and attribution to the accused	A witness who merely repeated what the recipient of a telephone call told him could not supply substantive proof that the appellant demanded ransom or threatened the abducted person. The recipient, Latoo Yadav, was not examined, and there was no proof that the appellant made the call. The Court therefore rejected Shiv Singh Yadav's account of that demand and threat. This evidentiary failure concerned the alleged telephone call; it did not displace the complainant's direct account of the abduction, demand and threat, on which the conviction was sustained.	731
	Sub-Chapter no. 29.3 **Section 364A IPC — Kidnapping or Abduction for Ransom and Coercive Threat or Harm**	
Essential components of kidnapping for ransom under Section 364A	Section 364A IPC requires kidnapping, abduction or detention after it, together with the statutory threat of death or hurt, conduct creating reasonable apprehension of such harm, or actual hurt or death, used to coerce action, forbearance or payment of ransom. The Court adopted Shaik Ahmed and its reproduction of Vikram Singh, preserving the conjunction between the initial requirement and the threat component and the alternative forms of harm. It upheld the convictions on the cumulative evidence of abduction, ransom demand, homicidal death, concealment and recoveries.	648
No automatic threat presumption from a child victim's age	Kidnapping a child of tender age for ransom does not dispense with proof of the threat, apprehension or harm component required by Section 364A IPC. The Shaik Ahmed passage adopted by the Court explains that Arvind Singh's observation about an inherent threat arose from its particular facts and creates no legal presumption relieving the prosecution of that requirement.	648

Topic	Ratio	Case Sr.no.
Ransom demand communicated to the abducted person	The Malleshi discussion reproduced through Shaik Ahmed explains that a ransom demand originally made to the abducted person does not lose its effect merely because the accused are arrested before it can be conveyed to another person. That proposition concerns communication of the demand and does not dispense with the other requirements of Section 364A IPC.	648
Failure to prove abduction, identity and ransom demand under Section 364A IPC	A conviction under Section 364A IPC read with Section 13 of the MPDVPK Act could not stand where the evidence did not reliably establish the alleged abduction, the appellants' identity or a ransom demand. The alleged abductee spoke of ₹10 lakh, while other accounts referred to ₹1 lakh. The person said to have negotiated the ransom was not examined, the alleged ransom letter was not produced, and communication of the demand to the family was unexplained. The conflicting accounts of escape and police recovery, unsupported naming of the accused and unreliable identification further undermined the prosecution. On the evidence as a whole, the Court found even the alleged abduction unproved and acquitted the appellants.	950

Sub-Chapter no. 29.4
Kidnapping for Ransom — Ingredients and Threat or Harm Requirement

Essential ingredients of kidnapping for ransom under Section 364A IPC	Section 364A requires proof of kidnapping, abduction or subsequent detention; a threat of death or hurt, conduct creating reasonable apprehension of death or hurt, or actual hurt or death; and the statutory coercive or ransom purpose. Following Shaik Ahmed, the Court emphasised that the conjunction joining the initial act and the threat requirement cannot be ignored. The applicable threat, apprehension or harm alternative must be established in addition to kidnapping or detention for the specified purpose.	711
No automatic presumption of threat from the victim's tender age	The victim's tender age does not by itself create a legal presumption satisfying Section 364A's threat or apprehension requirement. The Court relied on Shaik Ahmed's explanation that Arvind Singh's observations about an inherent threat in kidnapping an eight-year-old for ransom must be read in their factual context. The required threat, apprehension or harm must be established on the evidence in each case.	711
Identification did not cure failure to prove the ransom-kidnapping account	Despite identification of Vijay, the prosecution failed to prove the alleged abduction and ransom account beyond reasonable doubt. Material contradictions concerned communication of the demand, the payers' route to the captors, the source and amount of money, release timing and the police patrol. The doubtful reporting account and delayed FIR forwarding added to the deficiencies. Identification alone could not supply proof of those contested acts, and strong suspicion could not replace proof.	716

Sub-Chapter no. 29.5
Kidnapping for Ransom — Section 364A IPC and Proof of Demand or Threat

Sub-Chapter no. 29.6
Wrongful Restraint, Wrongful Confinement and Criminal Force

Failure to prove secret wrongful confinement under Section 346 IPC	The conviction under Section 346 IPC could not survive the failure to prove that the alleged victim had been abducted and confined by the appellants. The Court considered the conflicting accounts of his escape and police recovery, the absence of a site plan for the alleged place of confinement, the unsupported sources identifying the alleged abductors and the unreliable dock identification after police-station exposure. These defects formed part of its conclusion that the prosecution had failed to prove the alleged abduction itself or the appellants' guilt beyond reasonable doubt. It therefore set aside the wrongful-confinement conviction together with the ransom-abduction conviction.	950

Topic	Ratio	Case Sr.no.
	Chapter no. 30 **Homicide, Attempt to Murder and Hurt Offences**	
	Sub-Chapter no. 30.1 **Murder, Culpable Homicide and Alteration of Conviction**	
Section 300 Thirdly IPC — intended injury sufficient to cause death	For Section 300 Thirdly, the prosecution must prove a bodily injury, its nature, intention to inflict that particular injury rather than an accidental or different injury, and that the injury was sufficient in the ordinary course of nature to cause death. The last inquiry is objective. Once those elements are proved, a separate intention to cause death or knowledge of the injury's fatal sufficiency is unnecessary. The burden remains on the prosecution throughout.	12
Fatal burns — later septicaemia and alleged inadequate treatment	Later septicaemia or the possibility of better treatment does not automatically reduce murder to Section 304 Part I IPC. The Court found that deliberately pouring kerosene on the victim and setting her alight caused burns sufficient in the ordinary course of nature to cause death, with the necessary intention and knowledge. Her death from burns and complications five days later remained attributable to that attack. Applying Explanation 2 to Section 299 IPC, the Court rejected the treatment-based argument and affirmed murder; the different sudden-fight facts discussed in Khokan did not establish a universal reduction rule.	19
Murder — Section 300 clause must be established despite absence of an exception	The prosecution must bring the proved conduct within a clause of Section 300 IPC to sustain murder even when no statutory exception is pleaded or prima facie established. In the relied-upon reasoning, the intended bodily injury's sufficiency to cause death in the ordinary course was assessed objectively with the medical evidence. Septicaemia following that fatal injury did not itself displace the murder finding.	19
Repeated fatal head blows: murder or a lesser offence	The number, nature and location of injuries, the force used and the weapon may establish an intention to inflict bodily injuries sufficient in the ordinary course of nature to cause death. Repeated forceful lathi blows on the head of an unarmed victim, causing a depressed fracture and haemorrhage, supported murder rather than grievous hurt under Section 325 IPC. The proved cause of death, continuous treatment and arrival with weapons also distinguished cases involving uncertain medical causation or a single blow with an object picked up at the scene.	21
Unproved abusive words and grave and sudden provocation	Exception 1 to Section 300 IPC could not be invoked merely because the accused believed that words spoken by the deceased were directed at them. Where the actual words were not proved, the court could not assume that they caused such grave and sudden provocation that the accused lost self-control and inflicted fatal injuries.	21
Section 300 Thirdly: intended injury and objective fatal sufficiency	For murder under Section 300 Thirdly IPC, the prosecution must prove the existence and nature of the bodily injury, the intention to inflict that particular injury rather than an accidental or different injury, and its sufficiency in the ordinary course of nature to cause death. The last question is objective. Once these elements are established, a separate intention to cause death or knowledge of the injury's fatal seriousness is unnecessary. The prosecution retains the burden of proving the required elements.	36
Culpable homicide, murder and the distinction between intention and knowledge	Culpable homicide requires causing death with the intention to cause death, the intention to cause bodily injury likely to cause death, or knowledge that the act is likely to cause death. It amounts to murder when Section 300 IPC applies and no statutory exception takes the case outside murder. Where the offence remains culpable homicide not amounting to murder, intention governs Section 304 Part I, while knowledge without the relevant intention governs Part II. Causing death alone does not establish the required mental element.	36

30.1 : Murder, Culpable Homicide and Alteration of Conviction

Topic	Ratio	Case Sr.no.
A single fatal injury and classification of the offence	There is no fixed rule that a single blow or single injury excludes murder or necessarily reduces the offence to Section 304 Part II IPC. The nature of the injury, weapon, body part, manner of assault and other circumstances must determine the required intention or knowledge and the offence made out. A single intentionally inflicted injury sufficient in the ordinary course of nature to cause death may satisfy Section 300 Thirdly.	36
Section 300 Thirdly IPC: intended bodily injury and objective sufficiency to cause death	Under the Virsa Singh test adopted by the Court, the prosecution must establish the presence and nature of the bodily injury, an intention to inflict that particular injury rather than an accidental or different injury, and its sufficiency in the ordinary course of nature to cause death. The final assessment of sufficiency is objective. Once those requirements are proved, a separate intention to cause death or knowledge of the injury's fatal seriousness is unnecessary for Section 300 Thirdly. The Court considered the firearm and penetrating injuries and the medical opinion that they were individually and cumulatively sufficient to cause death, while separately requiring proof connecting the appellants to the murder.	45
Sections 299–304 IPC: intention, knowledge and the classification of culpable homicide	Culpable homicide under Section 299 IPC requires causing death with an intention to cause death, an intention to cause bodily injury likely to cause death, or knowledge that the act is likely to cause death. It becomes murder when a Section 300 clause is satisfied and no applicable exception removes it from that category. Otherwise, intention-based culpable homicide falls under Section 304 Part I, while knowledge without the relevant intention falls under Part II. The Court adopted the distinction explained in Arun Nivalaji More and emphasised that intention is inferred from the act and all surrounding circumstances, rather than the location of an injury alone.	45
Section 300 Thirdly IPC — intended bodily injury sufficient in the ordinary course of nature to cause death	The prosecution must prove the existence and nature of the bodily injury, the intention to inflict that particular injury, and that the injury was sufficient in the ordinary course of nature to cause death. The first two matters and the injury's sufficiency are objective inquiries; intention to inflict the particular injury is a separate factual question. Once those elements are established, a separate intention to cause death or knowledge of the injury's fatal seriousness is unnecessary. An accidental injury, or an injury materially different from the one intended, does not satisfy that intent requirement.	77
Murder and culpable homicide — intention, knowledge and statutory exceptions determine the applicable offence	The inquiry first asks whether causing death satisfies Section 299 IPC, and then whether the case falls within a clause of Section 300 and outside its exceptions. Culpable homicide outside murder may attract Section 304 Part I where there is intention to cause death or bodily injury likely to cause death; Part II applies where there is the requisite knowledge of likely death without either intention. Causing death alone does not establish culpable homicide without the required mental element.	77
Proof of murder through corroborated eyewitness evidence	The murder charge under Section 302 IPC was proved beyond reasonable doubt by trustworthy eyewitness testimony identifying the accused as the shooter, corroborated by medical evidence, recovery of the firearm, the forensic report and a prompt FIR naming him. On that evidentiary assessment, the Court affirmed the conviction.	90
Intended injury sufficient to cause death under Section 300 Thirdly IPC	For Section 300 Thirdly IPC, the prosecution must prove the existence and nature of the bodily injury, the intention to inflict that particular injury, and its objective sufficiency in the ordinary course of nature to cause death. The burden remains on the prosecution throughout. Once these elements are proved, a separate intention to cause death or knowledge of the injury's fatal consequences is unnecessary. Applying that approach to the deliberate knife attack, corroborated by the medical and other evidence, the Court sustained the murder conviction.	93

Topic	Ratio	Case Sr.no.
Sequence for distinguishing culpable homicide from murder	The court must first determine whether the act amounts to culpable homicide under Section 299 IPC, then whether it satisfies any clause of Section 300, and finally whether an exception to Section 300 applies. An act satisfying a murder clause remains culpable homicide not amounting to murder if a statutory exception covers it. Where culpable homicide falls outside Section 300, intention to cause death or bodily injury likely to cause death attracts Section 304 Part I, while knowledge of likely death without either intention attracts Part II.	93
Intentional throttling — Refusal to alter murder conviction to Section 304 Part I	On the accepted evidence of deliberate throttling or strangulation causing death, the Court inferred both intention and knowledge that death would result. It therefore refused to reduce the conviction from Section 302 to Section 304 Part I IPC. The proved eyewitness account, last-seen circumstances and recovery supported the finding beyond reasonable doubt. The life sentence was affirmed because life imprisonment was the minimum punishment for the murder offence.	118
Section 299 IPC, Explanation 2 — death following prolonged coma and septic shock	Where bodily injuries cause death, the assailant remains causally responsible although proper remedies and skilful treatment might have prevented death. Applying Explanation 2 to Section 299 IPC, the Court rejected the treatment-based defence where head injuries had left the victim continuously comatose and medical evidence linked his later death from septic shock to those injuries. The possibility of better treatment did not break that causal connection.	132
Proof of a Section 300 clause is necessary to sustain a murder charge	Even where none of the five exceptions to Section 300 IPC is pleaded or prima facie established, the prosecution must bring the case within one of that section's four clauses to sustain a charge of murder. The Jagtar Singh passage relied upon by the Court explains that the nature of the intended injury and the medical evidence must be assessed for that purpose.	132
Murder under Section 300 Thirdly IPC	The prosecution must prove the bodily injury and its nature, the intention to inflict that particular injury, and that the injury was sufficient in the ordinary course of nature to cause death. The last inquiry is objective. Once these elements are proved, a separate intention to kill or knowledge of the injury's fatal character is unnecessary. The prosecution bears the burden throughout.	160
Culpable homicide, murder and Section 304 IPC	The Court must first determine whether the act amounts to culpable homicide under Section 299 IPC, then whether it falls within a clause of Section 300 and whether an exception applies. Where culpable homicide does not amount to murder, intention to cause death or an injury likely to cause death attracts Section 304 Part I; knowledge of likely death without either intention attracts Part II.	160
Single injury and inference of intention	A single injury does not automatically reduce murder to an offence under Section 304 IPC. Intention or knowledge must be assessed from the circumstances, including the weapon, whether it was carried or picked up, the part of the body targeted, force, prior hostility, premeditation, provocation and manner of assault. The number of injuries is one relevant factor, not a conclusive test.	160
Intention to murder from repeated aimed firing	Deliberately firing at the victim's chest, followed by a second shot when he tried to rise, established intention to kill. The eyewitness accounts were corroborated by pellet injuries damaging the heart, lungs, liver and brain. Both shooters caused fatal injuries, and the absence of proved prior enmity did not prevent their direct conviction under Section 302 IPC.	165
Motive and proof of murder	Motive can strengthen a circumstantial chain but is not an essential ingredient of murder. The inability to prove prior enmity or ascertain the offender's motive does not defeat reliable direct evidence establishing the fatal act and intention to kill.	165

30.1 : Murder, Culpable Homicide and Alteration of Conviction

Topic	Ratio	Case Sr.no.
Direct liability after failure of constructive charges	On this record, acquittal of the other alleged assembly members removed the basis for the remaining appellant's convictions under Section 148 and the Section 149 combinations. It did not displace the independently proved gunfire. The Court convicted the appellant in Criminal Appeal No. 616/2003 directly under Sections 302 and 324 IPC, imposing life imprisonment for murder and one year for firearm hurt, concurrently.	167
Subsequent attempt to extinguish fire does not by itself negate murderous intent	The accused's subsequent attempt to extinguish a fire does not by itself show that he lacked the intention to kill when he deliberately poured kerosene on the victim and set her ablaze. Conscious ignition of a person soaked in kerosene is imminently dangerous and may constitute murder under Section 300 Fourthly. Intention and knowledge must be assessed from the act and its circumstances; the later rescue attempt does not automatically reduce the offence.	173
Inference of intention from attacks on vital parts	A witness's suggestion that the appellants did not intend to commit a grave offence was rejected in view of their acts. The Court relied on the axe attacks to the victims' neck and head and the attacks on the injured witnesses, supported by the medical findings, to affirm the convictions under Sections 302 and 307 IPC despite the sudden quarrel preceding the assault.	199
Intended bodily injury sufficient in the ordinary course to cause death may constitute murder	An intention to inflict a bodily injury sufficient in the ordinary course of nature to cause death may establish murder even if the accused did not separately intend death. The distinction between culpable homicide and murder must be applied to the injury intended and the circumstances of the act.	207
Intentional bodily injury under Section 300 Thirdly IPC	For Section 300 Thirdly IPC, the prosecution must prove the injury, its nature, the intention to inflict that particular injury and its objective sufficiency to cause death in the ordinary course of nature. A separate intention to cause death or knowledge of the injury's precise seriousness is unnecessary. Applying Virsa Singh and the related authorities, the Court upheld the murder conviction for the intentional gunshot to the head, supported by eyewitness evidence and medical proof of a fatal brain injury.	214
Distinguishing culpable homicide, murder and Section 304 liability	The Court must first determine whether causing death satisfies Section 299 IPC, then whether a clause of Section 300 makes the homicide murder, and whether an exception applies. Where culpable homicide is not murder, Section 304 Part I addresses the specified intention to cause death or a bodily injury likely to cause death, while Part II addresses knowledge of likely death without that intention. The mental element must be established from the evidence, not inferred from death alone.	214
Single injury and inference of homicidal intention	A single injury does not automatically reduce murder to culpable homicide not amounting to murder. Intention is assessed from the weapon, the body part targeted, force, manner of assault and surrounding circumstances, including premeditation, provocation and any sudden fight. The number of blows is one relevant circumstance. The Court applied that contextual approach to the fatal firearm injury to the head.	214
Cumulative conditions for the sudden-fight exception to murder	Exception 4 to Section 300 IPC requires absence of premeditation, a sudden fight, an act in the heat of passion upon a sudden quarrel, and no undue advantage or cruel or unusual conduct. A sudden quarrel and absence of premeditation alone are insufficient. Whether a fight was sudden depends on the proved circumstances; all the exception's requirements must be satisfied.	214
Proof required under Section 300 Thirdly IPC	The prosecution must establish the bodily injury, the accused's intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. Intention to cause the particular injury and the objective sufficiency of that injury are separate inquiries. Death having occurred does not, by itself, establish the required sufficiency in every case.	223
Stages for	The inquiry begins with whether the accused's act caused death, proceeds to	223

Topic	Ratio	Case Sr.no.
distinguishing murder from culpable homicide	whether the act falls within Section 299 IPC, and then considers the clauses and exceptions of Section 300. Where the proved act constitutes culpable homicide but not murder, the applicable part of Section 304 depends on the established mental element.	
Section 300 Thirdly: intentional injury sufficient to cause death	Under the Virsa Singh test, the prosecution must prove the bodily injury, its nature, the intention to inflict that particular injury rather than an accidental or different injury, and its objective sufficiency to cause death in the ordinary course of nature. A separate intention to cause death is unnecessary. Applying that distinction between intended injury and objective fatal sufficiency, the Court treated the intentional fatal firearm injuries as murder under Section 300 Thirdly.	259
A single injury does not automatically reduce murder to a lesser offence	There is no fixed rule that a single blow excludes Section 302 IPC or necessarily attracts Section 304 Part II. The offence depends on the intended injury, its nature and location, the weapon, the manner of assault and the surrounding circumstances. A single intentionally inflicted injury may constitute murder where the Section 300 requirements are established.	259
Murder under Section 300 Thirdly: intention to inflict the particular injury	Section 300 Thirdly IPC requires proof of the bodily injury, its nature, the intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. Intention to cause death need not be separately proved. Applying this test to the intentional gunshot injuries, the Court upheld the murder convictions.	280
Culpable homicide and murder: intention and knowledge	A death amounts to culpable homicide under Section 299 IPC only when accompanied by one of its prescribed forms of intention or knowledge. Whether it amounts to murder depends on the additional requirements of Section 300 and its exceptions. Where the offence is culpable homicide not amounting to murder, intention distinguishes Section 304 Part I from the knowledge-based liability under Part II.	280
Single injury: no automatic exclusion of murder	A single injury does not automatically reduce murder to an offence under Section 304 IPC. The offence depends on the injury, the weapon, the part of the body struck and the surrounding circumstances showing the required intention or knowledge.	280
Inferring intention from the circumstances of the assault	Intention is a question of fact to be inferred from the circumstances as a whole. Relevant factors include the weapon and whether it was carried to the scene, the body part targeted, the force used, prior enmity, provocation, premeditation, the course of the quarrel and the manner and number of blows. No single factor is conclusive in every case.	280
Sudden fight exception: all statutory conditions must coexist	Exception 4 to Section 300 IPC requires an act committed without premeditation, in a sudden fight and in the heat of passion upon a sudden quarrel, without taking undue advantage or acting cruelly or unusually. A sudden quarrel and absence of premeditation alone are insufficient; the remaining conditions must also be satisfied.	280
Victim's special frailty and the assailant's knowledge under Section 300 secondly	Section 300 secondly IPC may apply where an assailant intentionally causes an injury knowing that the particular victim's disease or frailty makes it likely to be fatal. If that special condition is unknown, and there is neither an intention to kill nor an intended injury sufficient in the ordinary course of nature to cause death, the resulting death does not for that reason amount to murder. Here knowledge of the deceased's enlarged, cirrhotic liver was not proved, and the Court convicted the appellant under Section 304 Part II instead of Section 302/34.	295
Injury likely to cause death and injury sufficient in the ordinary course to	The distinction between Section 299(b) and Section 300 thirdly IPC concerns the degree of probability of death from the intended injury. An injury likely to cause death denotes a probable result, while an injury sufficient in the ordinary	295

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cause death	course of nature to cause death denotes a higher probability. That distinction must be assessed carefully when classifying culpable homicide; a fatal outcome alone does not establish the murder standard.	
Section 300 Thirdly IPC — intentional injury sufficient to cause death	Under Section 300 Thirdly IPC, the prosecution must prove the bodily injury, its nature, the intention to inflict that particular injury, and its objective sufficiency to cause death in the ordinary course of nature. A further intention to cause death or knowledge of the injury's fatal seriousness is unnecessary once those elements are established. Applying Virsa Singh, the Court found the appellant's firearm injury intentional and medically sufficient to cause death, and upheld the murder conviction.	307
Single injury — inference of intention from the surrounding circumstances	A single blow or injury does not automatically exclude murder or require conviction under Section 304 IPC. The nature of the weapon, the body part targeted, the force used, the resulting injury and the circumstances of the assault must be assessed together to infer the required intention or knowledge. Premeditation, prior enmity, provocation, heat of passion, undue advantage and the manner and number of blows are relevant, non-exhaustive considerations. The Court relied on Mahesh Balmiki, Pulicherla Nagaraju, Sangapagu Anjaiah, Kanhaiyalal and Bavisetti Kameswara Rao in applying this contextual approach to the firearm assault.	307
Section 300 Thirdly IPC — intended injury and objective sufficiency to cause death	For murder under Section 300 Thirdly IPC, the prosecution must prove the presence and nature of the bodily injury, the intention to inflict that particular injury rather than an accidental or different injury, and its sufficiency in the ordinary course of nature to cause death. Sufficiency is an objective inquiry; a separate intention to cause death is unnecessary. These principles informed the finding that the fatal head injuries were homicidal, but did not establish that the appellant was the assailant.	335
Culpable homicide and murder — intention, knowledge and Section 304 distinction	Culpable homicide requires death caused with an intention to cause death, an intention to cause bodily injury likely to cause death, or knowledge that death is likely. Whether it amounts to murder depends on the clauses of Section 300 and its exceptions. Where the offence is culpable homicide not amounting to murder, the intention-based branches attract Section 304 Part I, while knowledge without the required intention attracts Part II. Causing death alone does not establish the necessary mental element.	335
Culpable Homicide, Murder and the Two Parts of Section 304 IPC	Culpable homicide is the broader category and murder its aggravated form. The enquiry first asks whether death was caused with the intention or knowledge required by Section 299, then whether a clause of Section 300 applies and whether an exception removes the case from murder. Where the offence is culpable homicide not amounting to murder, intention to cause death or likely fatal bodily injury attracts Section 304 Part I; knowledge of likely death without either intention attracts Part II.	383
Four Requirements of Section 300 Thirdly	For murder under Section 300 Thirdly, the prosecution must prove the existence of a bodily injury, its nature, the intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. The last enquiry is objective. Once those elements are established, a separate intention to kill or knowledge of the injury's fatal seriousness is unnecessary. An accidental injury, or proof that a different injury was intended, defeats the required intention to inflict the injury actually found.	383
A Single Blow Does Not Automatically Reduce Murder to Culpable Homicide	There is no fixed rule that a single blow excludes Section 302 IPC or necessarily attracts Section 304 Part II. The offence depends on the proved intention or knowledge, the weapon, the part of the body struck, the injury and the surrounding circumstances. The number of blows alone cannot replace that enquiry; an intentionally inflicted injury sufficient in the ordinary course of nature to cause death may satisfy Section 300 Thirdly.	383

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Intended bodily injury sufficient to cause death under Section 300 Thirdly IPC	Section 300 Thirdly requires proof of the presence and nature of the bodily injury, an intention to inflict that particular injury, and its objective sufficiency to cause death in the ordinary course of nature. Once those elements are proved, a separate intention to cause death or knowledge of the injury's seriousness is unnecessary. An accidental or unintended injury does not satisfy the required intention merely because its consequences are fatal.	393
Distinguishing culpable homicide from murder	Causing death amounts to culpable homicide only when accompanied by the intention or knowledge required by Section 299 IPC. The further inquiry is whether the act falls within a clause of Section 300 and whether an exception applies. Where the act remains culpable homicide but not murder, the distinction between Section 304 Parts I and II depends on whether the relevant mental element is intention or knowledge without the specified intention.	393
Distinguishing culpable homicide, murder and Section 304 liability	A death-causing act amounts to culpable homicide only if accompanied by the intention or knowledge required by Section 299 IPC. The further inquiry is whether a clause of Section 300 applies and whether a statutory exception excludes murder. Where the offence remains culpable homicide not amounting to murder, Section 304 Part I concerns the specified intention, while Part II concerns knowledge of likely death without that intention. Death alone does not establish the necessary mental element.	399
Intended injury and objective sufficiency under Section 300 Thirdly IPC	The prosecution must prove the existence and nature of the bodily injury, the intention to inflict that particular injury, and its sufficiency to cause death in the ordinary course of nature. The last inquiry is objective. Once those elements are established, a separate intention to kill or knowledge of the injury's seriousness is unnecessary. An accidental injury, or an injury different from the one intended, does not satisfy the required intention merely because death follows; the prosecution retains the burden of proof.	399
Murder charge—prosecution must establish Section 300 requirements	Even where no exception to Section 300 IPC is established, the prosecution must prove that the homicide falls within one of its four clauses to sustain murder. Otherwise, the case may fall within culpable homicide under Section 299, depending on the intention or knowledge proved.	412
Section 300 thirdly—intended injury sufficient to cause death	For Section 300 thirdly IPC, the accused must intend the particular bodily injury, and that injury must objectively be sufficient in the ordinary course of nature to cause death. A single fatal injury does not by itself exclude murder. Intention is inferred from the weapon, body part, force, manner of attack and surrounding circumstances.	412
Section 300 Thirdly: Intention to Inflict the Injury and Its Objective Sufficiency	Section 300 Thirdly requires proof of the bodily injury, its nature, the intention to inflict that particular injury rather than an accidental or different injury, and its sufficiency in the ordinary course of nature to cause death. The last inquiry is objective; a separate intention to cause death is unnecessary. Applying this framework and accepting the eyewitness account with medical corroboration, the Court sustained the murder convictions arising from the armed group assault.	450
Distinguishing Murder From Culpable Homicide Under Section 304	The inquiry first addresses whether the act constitutes culpable homicide under Section 299, then whether it falls within a clause of Section 300 and whether a statutory exception applies. Culpable homicide outside murder falls under Section 304: Part I concerns the relevant intention to cause death or likely fatal injury, while Part II concerns knowledge of likely death without either intention. The Court adopted this framework when assessing the murder charge.	450
Sections 302 and 304 IPC — Premeditated attack after an earlier quarrel	The nature of the offence depends on the incident's circumstances, weapon and its source, body part targeted, force used, prior enmity, participation in a sudden fight, provocation, heat of passion, and any undue advantage or cruel conduct. An earlier quarrel did not make the later armed attack a sudden fight: Rajesh went to the victims' house with a gun, without retaliation, provocation or a	474

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	mutual fight from their side. The attack was premeditated and did not warrant conversion from murder to Section 304 IPC.	
Section 300 Thirdly IPC — Intended injury and objective sufficiency	To establish murder under Section 300 Thirdly, the prosecution must prove the presence and nature of the bodily injury, an intention to inflict that particular injury rather than an accidental or different injury, and that the injury was sufficient in the ordinary course of nature to cause death. The last inquiry is objective. A separate intention to kill, or knowledge of the injury's precise gravity, is unnecessary once those elements are proved. The prosecution bears the burden throughout. The Court relied on this framework in upholding the murder conviction.	478
Section 300 Thirdly IPC — intention to cause the particular fatal injury	For Section 300 Thirdly IPC, the prosecution must establish the bodily injury, its nature, an intention to inflict that particular injury rather than an accidental or different injury, and its sufficiency in the ordinary course of nature to cause death. Under the Virsa Singh test applied by the Court, the last inquiry is objective; a separate intention to cause death or knowledge of the injury's fatal seriousness is unnecessary. The prosecution bears the burden throughout. Applying this distinction to the intentional firearm injuries on vital parts and the medical evidence, the Court held the deaths to be murder and affirmed Ashok's conviction under Sections 302/34 IPC.	497
Sections 299, 300 and 304 IPC — classification of culpable homicide	The Court adopted a sequential inquiry: first determine whether the act causing death satisfies Section 299 IPC, then whether it falls within a clause of Section 300, and then whether a statutory exception applies. Murder is a species of culpable homicide; death alone does not establish the requisite intention or knowledge. Where the case is culpable homicide not amounting to murder, Section 304 Part I addresses the relevant intention to cause death or a likely fatal injury, while Part II addresses knowledge of likely death without either such intention.	497
Single injury — no automatic reduction from murder	A single blow or injury does not by itself require conviction under Section 304 instead of Section 302 IPC. The offence depends on the nature and manner of the assault, weapon, injury site, intention or knowledge, and other proved circumstances. The Court adopted the narrated single-injury authorities to explain that Section 300 Thirdly may apply where the particular injury was intended and was objectively sufficient to cause death. The present prosecution concerned multiple gunshot wounds, so the single-injury discussion supplies the legal test rather than a description of these facts.	497
Section 300 Thirdly: Intended Injury and Objective Sufficiency to Cause Death	Section 300 Thirdly requires proof of the bodily injury, its nature, intention to inflict that particular injury and its sufficiency in the ordinary course of nature to cause death. The prosecution bears the burden throughout. Once these elements are proved, a separate intention to kill or knowledge that death is likely is unnecessary. The intention to inflict the injury and its objective fatal sufficiency are distinct questions.	522
Sections 299, 300 and 304 IPC: Intention and Knowledge in Classifying Homicide	The homicide inquiry first asks whether the act causing death satisfies Section 299, then whether it falls within a clause of Section 300 and, if so, an applicable exception. Where culpable homicide does not amount to murder, intention to cause death or bodily injury likely to cause death attracts Section 304 Part I; knowledge of likely death without either intention attracts Part II. Causing death alone is insufficient without the required mental element.	522
Single-Blow Homicide: Number of Injuries Is Not Conclusive	A single blow does not by itself exclude murder or require conviction under Section 304 Part II. Classification depends on the weapon, the body part struck, the nature and force of the injury and the surrounding circumstances bearing on intention or knowledge. An intentionally inflicted injury sufficient in the ordinary course of nature to cause death may attract Section 300 Thirdly even though only one blow was delivered.	522

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Section 300 Thirdly IPC: intention to inflict the injury and its fatal sufficiency	The prosecution must prove the bodily injury, its nature and the intention to inflict that particular injury. It must then establish objectively that the injury was sufficient in the ordinary course of nature to cause death. Intention to cause death, knowledge of the injury's fatal quality or an intention to cause an injury of a particular degree of seriousness is unnecessary. The inquiry remains whether the injury actually inflicted was intended, rather than accidental or different from the injury intended. Applying this test, the Court held that the intentional firearm injuries, with arterial rupture and fatal haemorrhage proved medically, fell within Section 300 Thirdly.	555
Single injury and classification of a fatal assault	There is no fixed rule that a single blow or single injury excludes murder or necessarily attracts Section 304 Part II IPC. Intention or knowledge must be assessed from the whole occurrence, including the weapon, whether it was carried or picked up, the target and force, the nature and manner of injury, prior enmity, premeditation, sudden quarrel or fight, provocation, heat of passion, unfair advantage and the number of blows. These factors are illustrative, not exhaustive; the location or number of wounds alone does not determine the offence.	555
Distinguishing culpable homicide from murder	The classification begins with whether death was caused with one of the mental states in Section 299 IPC. If so, the court examines whether a clause of Section 300 is satisfied and whether a statutory exception applies. Culpable homicide becomes murder only when the further requirements of Section 300 are met and no applicable exception removes it from that category. Causing death alone does not establish culpable homicide without the required intention or knowledge.	555
Section 304 Parts I and II IPC: intention and knowledge	Where culpable homicide does not amount to murder, the relevant mental state determines the applicable part of Section 304 IPC. Part I applies where the act causing death is done with the intention to cause death or bodily injury likely to cause death. Part II applies where the act is done with knowledge that death is likely, but without either of those intentions.	555
Exception 4 to Section 300 IPC: sudden fight and absence of unfair advantage	Exception 4 requires an act without premeditation, in a sudden fight, in the heat of passion upon a sudden quarrel, without taking undue advantage or acting cruelly or unusually. The adopted discussion describes mutual provocation and a fight with the person killed, before passions have cooled. A sudden quarrel and lack of premeditation alone are insufficient; all the conditions must be satisfied. The Court stated this test but ultimately held the proved assault to be murder.	555
Knowledge under Section 300 Secondly IPC	The Court's discussion distinguishes knowledge from mere probability: knowledge involves awareness of the relevant circumstance without substantial doubt, or virtual certainty. Under Section 300 Secondly, the inquiry concerns the offender's knowledge that the bodily injury intended is likely to cause the death of the particular person injured. This subjective inquiry is distinct from the objective sufficiency of injury under Section 300 Thirdly, on which the conviction was affirmed.	555
Murder and culpable homicide not amounting to murder: Sections 299, 300 and 304 IPC	The court must first determine whether the act causing death satisfies Section 299 IPC, then whether it falls within a clause of Section 300 and, if so, whether an exception applies. Where culpable homicide is not murder, intention to cause death or bodily injury likely to cause death attracts Section 304 Part I; knowledge that death is likely, without either such intention, attracts Part II. Death alone is insufficient without the required mental element.	584
Section 300 Thirdly IPC: intended bodily injury and objective sufficiency to cause death	The prosecution must prove the existence and nature of the injury, an intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. The last inquiry is objective. Once these elements are proved, an intention to cause death or an awareness of the injury's fatal	584

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	seriousness is unnecessary. If the injury actually caused was accidental or materially different from the injury intended, the required intention is not established.	
Single-blow cases and classification of the offence	There is no fixed rule that a single blow excludes murder or necessarily limits liability to Section 304 Part II IPC. Classification depends on the injury, the weapon, the body part targeted and the circumstances showing intention or knowledge. A single intentionally inflicted injury may satisfy Section 300 Thirdly where it is sufficient in the ordinary course of nature to cause death.	584
Section 300 Thirdly: intention to inflict the proved injury	Under Section 300 Thirdly IPC, the prosecution must prove a bodily injury, its nature, an intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. Intention to cause the injury is a factual inquiry distinct from the objective assessment of its fatal sufficiency. A separate intention to kill or awareness of the injury's lethal seriousness is unnecessary once the required elements are proved. Applying the narrated Virsa Singh principle, the Court distinguished proof of fatal homicidal injuries from proof that this appellant inflicted them; the latter failed on the combined evidence.	599
Culpable homicide, murder and the two parts of Section 304	The Court first asks whether death was caused with one of the mental states in Section 299 IPC: intention to cause death, intention to cause bodily injury likely to cause death, or knowledge that death was likely. Murder requires the additional conditions of Section 300 and absence of an applicable exception. Where culpable homicide does not amount to murder, intention of the specified kind attracts Section 304 Part I, while knowledge without that intention attracts Part II. Causing death alone does not establish the required mental state.	599
Direct murder liability and liability under Section 149 IPC	The Court distinguished the appellant's own shooting of one victim from the second victim's shooting by another member of the armed unlawful assembly. It upheld his conviction under Section 302 IPC for the first killing and Section 302 read with Section 149 IPC for the second, when that victim intervened. The finding rested on the appellant's proved participation in the assembly and the accepted evidence; it did not attribute the second shot physically to him.	605
Septicaemia and preventable death following fatal injuries	Where inflicted injuries cause death, Explanation 2 to Section 299 IPC attributes that death to the person causing the injuries even if proper remedies and skilful treatment might have prevented it. The deceased's septicaemic shock resulted from ante-mortem burns that were sufficient in the ordinary course of nature to cause death. In view of the deliberate burning and the resulting injuries, the suggestion of improper medical treatment did not justify altering the conviction under Section 302 IPC.	610
Intended injury and objective sufficiency under Section 300 Thirdly	For Section 300 Thirdly IPC, the prosecution must prove the presence and nature of the bodily injury, an intention to inflict that particular injury, and its objective sufficiency to cause death in the ordinary course of nature. A separate intention to kill is unnecessary once those elements are proved. The Court adopted the Virsa Singh analysis in considering the homicide charge and affirmed the murder convictions in the proved circumstantial case.	648
Mental state and classification of culpable homicide	Culpable homicide under Section 299 IPC requires intention to cause death, intention to cause bodily injury likely to cause death, or knowledge that death is likely. Murder is the aggravated form governed by Section 300, subject to its exceptions. The Court adopted Arun Nivalaji More in distinguishing murder from Section 304 Part I, where the relevant intention is present, and Part II, where knowledge without that intention governs.	648
Murder under Section 300 Thirdly—Intended injury sufficient to cause death	Section 300 Thirdly IPC requires proof of the bodily injury, its nature, the intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. The last requirement is objective. Once these elements are proved, a separate intention to kill or knowledge of the injury's fatal character is unnecessary.	660

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Multiple head injuries and extensive fractures supported murder liability	The multiplicity and severity of the head injuries, including extensive underlying skull fractures, supported the finding of an intentional lethal assault. The Court found both intention to cause death and knowledge of the imminently dangerous nature of the act, with injuries sufficient in the ordinary course of nature to cause death. The medical witnesses rejected the suggested accidental bicycle fall. Read with the proved common intention, these findings sustained the surviving appellant's conviction under Sections 302 and 34 IPC despite the absence of proof that he personally inflicted the fatal head injury.	675
Psychosis short of legal insanity and alteration of murder conviction	Failure to establish legal insanity under Section 84 IPC does not preclude consideration of proved mental illness when determining the grade of homicide. On the particular evidence of psychosis and abnormal conduct, absence of animosity or proved motive, and uncertainty about the precise manner of killing after the eyewitnesses turned hostile, the Court substituted conviction under Section 304 Part I IPC for Section 302 IPC. The conclusion rested on those combined circumstances, although the accused was found to have caused the death and was not entitled to complete exoneration under Section 84.	691
Intended bodily injury and knowledge of probable death under Section 300 IPC	For Section 300 Thirdly IPC, the particular bodily injury must have been intended and must be sufficient in the ordinary course of nature to cause death. An additional intention to cause death is unnecessary if those requirements are established. Section 300 Fourthly addresses an imminently dangerous act done without excuse for incurring the risk, with knowledge of death approximating practical certainty. These distinctions between culpable homicide and murder guide assessment of the proved circumstances rather than operating as rigid formulas.	691
Section 300 Thirdly IPC — intended bodily injury and objective sufficiency to cause death	The prosecution must establish the existence and nature of the bodily injury, intention to inflict the particular injury found, and its sufficiency in the ordinary course of nature to cause death. The first two matters and the final sufficiency inquiry are objective; intention to inflict the particular injury must be proved separately. Once these requirements are established, an intention to cause death, awareness of the injury's seriousness, or an intention to produce its fatal consequences is unnecessary. If the evidence shows that the actual injury was accidental or different from the injury intended, the requisite intention is not established. The burden remains on the prosecution throughout.	700
Inferring intention to cause death from the circumstances of assault	Intention must be inferred from the circumstances considered together. Relevant factors include the weapon and whether it was carried or picked up at the scene, the body part targeted, force used, prior enmity, premeditation or a chance encounter, provocation, heat of passion, a sudden quarrel or fight, unfair advantage or cruelty, and the number of blows. The factors are not exhaustive. No single circumstance substitutes for the assessment needed to distinguish murder from the two parts of Section 304 IPC.	700
Section 300 Thirdly IPC — intended bodily injury and objective sufficiency to cause death	The prosecution must establish the existence and nature of the bodily injury, intention to inflict the particular injury found, and its sufficiency in the ordinary course of nature to cause death. The first two matters and the final sufficiency inquiry are objective; intention to inflict the particular injury must be proved separately. Once these requirements are established, an intention to cause death, awareness of the injury's seriousness, or an intention to produce its fatal consequences is unnecessary. If the evidence shows that the actual injury was accidental or different from the injury intended, the requisite intention is not established. The burden remains on the prosecution throughout.	701
Murder and culpable homicide — statutory classification by intention, knowledge	The inquiry first asks whether the act causing death falls within Section 299 IPC and then whether it satisfies any clause of Section 300. If it falls within Section 300, it is murder unless a statutory exception applies. Culpable homicide outside Section 300 attracts Section 304 Part I where the act is	701

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and exceptions	accompanied by intention to cause death or bodily injury likely to cause death, and Part II where there is knowledge of likely death without either such intention. Intention is a question of fact inferred from all the circumstances; the location of the injury alone does not determine the offence.	
Inferring intention to cause death from the circumstances of assault	Intention must be inferred from the circumstances considered together. Relevant factors include the weapon and whether it was carried or picked up at the scene, the body part targeted, force used, prior enmity, premeditation or a chance encounter, provocation, heat of passion, a sudden quarrel or fight, unfair advantage or cruelty, and the number of blows. The factors are not exhaustive. No single circumstance substitutes for the assessment needed to distinguish murder from the two parts of Section 304 IPC.	701
Section 300 Thirdly: intentional injury and objective sufficiency to cause death	The Court applied Virsa Singh v. State of Punjab, AIR 1958 SC 465: Section 300 Thirdly requires proof of the injury and its nature, an intention to inflict that very injury, and its objective sufficiency in the ordinary course of nature to cause death; an additional intention to kill or knowledge of the injury's fatal degree is not required. Anda, Mahesh Balmiki, Bavisetti Kameswara Rao and the single-blow authorities quoted through Kanhaiyalal reject an automatic Section 304 reduction merely because one blow caused death. Dr. Ajay Gupta's post-mortem opinion identified a fresh blunt head injury sufficient to cause death, with death from shock and haemorrhage. Eyewitnesses attributed the intentional head strike to Laxmi Narayan. The Court retained his murder liability under Section 302 IPC, without treating the absence of a pre-planned group attack or the lathi/luhangi nomenclature difference as displacing his individual intentional fatal act.	733
Intended bodily injury sufficient to cause death under Section 300 Thirdly	Section 300 Thirdly requires proof of a bodily injury, its nature, an intention to inflict that particular injury, and its objective sufficiency to cause death in the ordinary course of nature. A separate intention to kill or knowledge of the injury's fatal seriousness is unnecessary once those elements are proved. The prosecution bears the burden throughout. Applying Virsa Singh, the Court found the fatal head injuries sufficient in the ordinary course and upheld the murder convictions.	766
Classification of culpable homicide under Sections 299, 300 and 304 IPC	Death amounts to culpable homicide only when the act carries the intention or knowledge required by Section 299. The Court must then examine Section 300, including its exceptions, to decide whether the homicide is murder. Where the culpable homicide is not murder, Section 304 Part I applies when intention to cause death or likely fatal injury is present; Part II applies where there is knowledge of likely death without either form of intention.	766
A single blow does not automatically exclude murder	There is no rule that one blow necessarily reduces an offence from Section 302 IPC to Section 304. Depending on the injury, weapon, vital part targeted and surrounding circumstances, a single blow may constitute murder, lesser culpable homicide or hurt. Its legal character must be decided on the evidence, including the Section 300 Thirdly test where applicable.	766
Section 300 Thirdly: intended injury and objective sufficiency to cause death	For murder under Section 300 Thirdly IPC, the prosecution must prove a bodily injury, its nature, the intention to inflict that particular injury rather than an accidental or different injury, and its sufficiency in the ordinary course of nature to cause death. The burden remains on the prosecution throughout. Once these elements are established, a separate intention to kill or knowledge of the injury's fatal seriousness is unnecessary. Intention to inflict the injury is a question of fact; its sufficiency to cause death is assessed objectively. The Court adopted this test from Virsa Singh and the explanation in Anda that sufficiency denotes a high probability of death in the ordinary course of nature.	772
A single injury does not automatically	There is no fixed rule that a single blow excludes Section 302 IPC or requires reduction to Section 304. Classification depends on the injury, weapon, bodily	772

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reduce murder to culpable homicide	part, manner of assault and surrounding circumstances establishing the required intention or knowledge. Intention to inflict the particular injury must be distinguished from awareness of its seriousness. The Court adopted the reproduced single-injury authorities, including Mahesh Balmiki, Kanhaiyalal and Bavisetti Kameswara Rao, as part of the legal framework applied to the evidence. A routine tool does not become innocuous merely because it is ordinarily used in the accused's work.	
Murder under Section 300 Thirdly without a separate intention to cause death	Section 300 Thirdly requires proof of a bodily injury, its nature, the intention to inflict that particular injury and its objective sufficiency in the ordinary course of nature to cause death. A separate intention to kill, or knowledge of the injury's ultimate seriousness, is unnecessary once those elements are proved; the burden remains on the prosecution. Applying the reproduced Virsa Singh principles to the accepted eyewitness and medical evidence of fatal firearm injuries, the Court sustained the two murder convictions under Section 302 IPC.	849
Classification under Sections 299, 300 and 304 IPC	The court must first determine whether the act causing death satisfies one of the intention or knowledge requirements of Section 299 IPC. It must then examine whether a clause of Section 300 applies and whether an exception excludes murder. Culpable homicide outside murder attracts Section 304 Part I where the relevant intention is present, or Part II where there is knowledge that death is likely without the intention specified in that provision. Causing death alone does not establish culpable homicide without the requisite mental element.	849
Circumstances relevant to inferring intention in homicide	Intention is a question of fact to be inferred from the circumstances as a whole. Relevant factors include the weapon and whether it was carried or picked up, the body part targeted, force used, premeditation, sudden quarrel or fight, prior enmity, provocation, heat of passion, undue advantage or cruelty, and the number of blows. The list is not exhaustive; neither the injury's location nor the absence of a usual motive alone determines whether the offence is murder or culpable homicide not amounting to murder.	849
Single injury and the applicability of Section 302 IPC	There is no rule that a single blow excludes murder or necessarily attracts Section 304 Part II IPC. Depending on the evidence, a single injury may support Section 302, Section 304 or another appropriate offence. Its nature, the weapon, the body part chosen and the surrounding circumstances determine the required intention or knowledge; where the Section 300 requirements are proved, the number of blows is not decisive.	849
Section 300 Thirdly: intended injury sufficient in the ordinary course to cause death	The prosecution must prove the existence and nature of the bodily injury, the intention to inflict that particular injury rather than an accidental or different injury, and its objective sufficiency in the ordinary course of nature to cause death. The burden remains on the prosecution throughout. Once those elements are established, a separate intention to kill or knowledge of the injury's fatal seriousness is unnecessary. Applying Virsa Singh and Anda with the medical evidence, the Court sustained the murder conviction for the intentional fatal firearm assault.	873
Sections 299, 300 and 304 IPC: intention and knowledge in homicide classification	Death caused by a criminal act amounts to culpable homicide only if one of the mental states in Section 299 is established: intention to cause death, intention to cause injury likely to cause death, or knowledge that death is likely. If a Section 300 clause is satisfied and no exception applies, the offence is murder. Culpable homicide outside murder falls under Section 304 Part I where the requisite intention exists, or Part II where knowledge of likely death exists without that intention.	873
A single injury does not mechanically exclude Section 302 IPC	There is no rule that a single blow necessarily reduces murder to culpable homicide or another lesser offence. Classification depends on the injury, weapon, bodily part, manner of assault and surrounding circumstances showing intention or knowledge. A tool ordinarily used in the accused's work is not	873

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	thereby innocuous when used to inflict injury. The Court adopted the reproduced single-injury authorities as part of the legal framework for assessing homicidal intention and injury sufficiency.	
Section 300 Thirdly IPC — intended injury and objective sufficiency to cause death	For Section 300 Thirdly IPC, the prosecution must prove a bodily injury, its nature, the intention to inflict that particular injury rather than an accidental or different injury, and its sufficiency to cause death in the ordinary course of nature. The last inquiry is objective; an intention to cause death or knowledge of the injury's fatal seriousness is not indispensable. The intended injury must carry a high probability of death in the ordinary course. Sections 299 and 300 distinguish culpable homicide from murder; where the case is not murder, intention-based liability falls under Section 304 Part I and knowledge without the specified intention under Part II. The repeated lathi blows, parietal fractures and fatal skull and brain injuries supported confirmation of Shivcharan's murder conviction.	885
Sections 299, 300 and 304: sequence of homicide classification	The Court must first determine whether death was caused with one of the mental states required by Section 299 IPC, then whether a clause of Section 300 makes the culpable homicide murder, and whether an exception applies. If the offence is culpable homicide without the characteristics of murder, Section 304 Part I applies where the requisite intention to cause death or bodily injury likely to cause death is proved. Part II concerns knowledge that death is likely, without either of those intentions. Causing death alone does not establish culpable homicide without the required mental element.	948
Murder under Section 300 Thirdly IPC	The prosecution must prove the existence and nature of the bodily injury, the intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. The last inquiry is objective. Once these elements are proved, a separate intention to cause death is unnecessary. The Court applied this framework in affirming the murder conviction arising from the collective armed assault and fatal head injuries.	987
Distinguishing culpable homicide from murder	The Court must first determine whether the act falls within Section 299 IPC, then whether it satisfies a clause of Section 300 and whether a statutory exception applies. For culpable homicide not amounting to murder, Section 304 Part I applies where there is intention to cause death or bodily injury likely to cause death; Part II applies where there is knowledge of likely death without either such intention.	987
Single blow and classification of a homicide	There is no fixed rule that a single blow excludes murder or necessarily brings the offence within Section 304 IPC. Classification depends on the injury, weapon, body part struck, manner of assault and surrounding circumstances establishing the requisite intention or knowledge. The number of blows is one relevant circumstance.	987
	Sub-Chapter no. 30.2 **Attempt to Murder and Grievous Assault**	
Section 307 IPC: intention or knowledge and the nature of injury	Section 307 IPC applies to an act done with the intention or knowledge and in circumstances that would make the act murder if death resulted. Serious injury is not indispensable: an attempt without injury falls under the first punishment limb, while causing hurt attracts the second. The weapon used and the part of the body targeted are relevant to intention or knowledge. In this case, firing a firearm near the upper left chest, at the co-accused's instigation, supported conviction under Sections 307 and 34 IPC; the conclusion was based on the proved circumstances, not the location of the wound alone.	34
Reduction of attempted-murder counts to firearm hurt	For the surviving injured victims, the prosecution did not establish fatal or grievous injury through the medical, surgical or specialist evidence. The Court considered the simple injuries and the assailants' conduct, including the	165

Topic	Ratio	Case Sr.no.
	absence of repeated firing in the assault on Raghuveer, and found intention to kill unproved. It reduced the Section 307/149 counts to Section 324/149 IPC.	
Attempt to murder depends on intention or knowledge and an overt act	Section 307 IPC does not require a fatal, grievous or life-threatening injury. The decisive question is whether the act was done with the required intention or knowledge; that state of mind may be inferred from the weapon, force, body part targeted and surrounding circumstances. The injuries remain relevant evidence but their lesser severity, or the absence of repeated blows, does not by itself exclude attempted murder.	206
Intention and knowledge under Section 307 IPC	For an offence under Section 307 IPC, the decisive mental elements are intention and knowledge, rather than the nature of the injury alone. Although the evidence described a blow aimed at a vital part, differing accounts of its target and how the hand was injured left the acquittal a possible view that could not be displaced without perversity.	226
Attempt to murder despite simple injuries or an uninjured target	Section 307 IPC requires an act done with the intention or knowledge, and in circumstances, that would make the resulting death murder. A fatal, grievous or even actual injury is not essential. The weapon, blows, body part targeted and surrounding conduct help establish that mental element. Repeated farsa blows to Ajab Singh's head and ear supported the charge despite clinically simple injuries; firing at Bhanupratap supported the charge although he escaped unhurt.	291
Attempt to Murder: Intention or Knowledge in a Firearm Assault	For the firearm assault proved against Nathu Singh, the Court found the intention and knowledge necessary for Section 307 IPC because, had the injured victim died from that act, he would have been guilty of murder. It therefore upheld direct attempt-to-murder liability for the proved shot, while the victim's survival did not prevent that conviction.	360
Intention or Knowledge and an Overt Act Under Section 307 IPC	Section 307 IPC requires the intention or knowledge described in that provision coupled with an act towards the offence. Neither an injury nor grievous or life-threatening hurt is indispensable; the act and its result are distinct. Intention or knowledge may be inferred from the weapon, the body part targeted, the number and severity of blows, words used and surrounding circumstances. The Baka assault to different parts of the head, with skull fractures and contusions, supported that mental element.	378
Overt Act for Attempt to Murder Need Not Be the Penultimate Act	A criminal attempt under Section 307 IPC need not be the last act before completion of the offence. The required intent coupled with an overt act in its execution can suffice even though the assault produces no injury or only simple hurt; the court must examine the intention or knowledge and the circumstances specified by the provision.	378
Section 307 IPC: intention or knowledge and an overt act	Section 307 IPC turns on the requisite intention or knowledge coupled with an overt act in execution, rather than the seriousness of the resulting wound alone. The attempt need not be the penultimate act, and fatal, grievous, life-threatening or vital-organ injury is not indispensable. Intention may be inferred from the weapon, words, motive, targeted body part, severity of blows, actual injuries and surrounding circumstances; simple injury does not itself exclude the offence. This legal discussion did not alter the appellant's Section 307 acquittal: no State appeal had been filed, and after about nineteen years the Court declined to issue notice to reconsider it.	439
Section 307: Murderous Intention or Knowledge and an Overt Act	An attempt to murder requires the intention or knowledge necessary for murder together with an act in execution of that purpose. The act must go beyond preliminary preparation. Actual injury, or an injury sufficient to cause death, is unnecessary. The required mental state is inferred from the surrounding circumstances, including the weapon, its use, the part of the body targeted, the force and the nature of any injury.	450

30.2 : Attempt to Murder and Grievous Assault

Topic	Ratio	Case Sr.no.
Intent to Kill Inferred From Multiple Knife Wounds to Vital Parts	The Court inferred an intention to cause death from repeated stab and incised wounds to vital parts, including the neck and abdomen, with a dangerous abdominal injury and amputation of a finger. The injured woman's account and the admissible eyewitness evidence, corroborated by the medical evidence, proved the knife assault. The conviction under Section 307 IPC was therefore sustained.	451
Attempt to murder — abandonment of a severely injured infant	Intent to cause death was inferred from the appellant's abandonment of a two-year-old child in distant roadside bushes at night after rape and serious injuries, exposing her to grave danger. Her age, wounded condition and deliberate abandonment supported the Section 307 IPC conviction. The taking of the child despite pursuit, concealment of her whereabouts and subsequent sexual injuries also supported the finding that she had been kidnapped for sexual assault. The Court sustained the convictions under Sections 366, 376(2)(i) and (m), and 307 IPC on the combined evidence.	482
Section 307 IPC: Intention or Knowledge and Injuries to a Vital Part	For Section 307, the decisive inquiry is whether the act was done with such intention or knowledge and in such circumstances that death caused by it would amount to murder; the nature of the resulting injury alone is not decisive. The lathi assault targeted the head, a vital part, and caused a frontal-bone fracture. From these circumstances the Court inferred the required intention and knowledge and upheld the attempted-murder conviction with Section 149 liability.	527
Intention, overt act and injury under Section 307 IPC	Section 307 IPC requires an act done with the intention or knowledge and in circumstances that would make the resulting death murder. Intention alone is insufficient; an act in execution of it is required. A fatal, life-threatening or grievous injury is not essential, and the mental element may be inferred from the weapon, the manner of attack, the target area and the surrounding circumstances.	570
Intention and overt act under Section 307 IPC	Section 307 IPC does not require a fatal, grievous or life-threatening injury. The prosecution must establish the requisite intention or knowledge and an overt act in furtherance of it. The mental element may be inferred from the weapon, words, motive, body part targeted, nature of the injury, force of the blows and other circumstances; simple hurt alone does not exclude the offence.	572
Section 307 IPC — intention or knowledge and an overt act matter more than injury severity	Section 307 IPC requires the relevant intention or knowledge, coupled with an overt act in its execution. A fatal, grievous, life-threatening or vital-part injury is not indispensable, and simple hurt alone does not exclude the offence. Intention may be inferred from the weapon, words, motive, location and severity of blows and surrounding circumstances; actual wounds are relevant but not decisive. An attempt need not be the penultimate act before completion of the offence.	633
Intention or knowledge under Section 307 IPC in a sudden shooting	Firing a country-made pistol at the victim's chest, a vital part of the body, indicated the intention or knowledge required for Section 307 IPC in the circumstances. The sudden liquor dispute and absence of prior enmity did not justify substituting Section 308 IPC. The accused carried the illegal pistol at night, and a bullet was recovered from the victim's body; the Section 307 conviction was sustained beyond reasonable doubt without reliance on the excluded ballistic report.	782
Section 307 IPC— intent or knowledge and overt act despite absence of grievous injury	Section 307 IPC requires the relevant intention or knowledge coupled with an overt act in execution; a fracture, grievous or life-threatening injury, or a wound on a vital part is not essential. Injury may assist in establishing intent; intent may also be inferred from the weapon, words used, motive, part of the body targeted, nature and severity of blows and other surrounding circumstances. Applying State of M.P. v. Harjeet Singh and the authorities narrated there, the Court held that the alleged armed assault and active roles justified the Section	819

Topic	Ratio	Case Sr.no.
	307/34 charge despite the asserted absence of bony injury. Ultimate proof remained for trial.	
Section 307 convictions for firing at interveners	The Court accepted the eyewitness account that Laxman fired at persons intervening during the occurrence and assessed that evidence with the medical record. It sustained his three convictions under Section 307 IPC for injuries to Kailashi Bai, Sultan Singh and Jagdish, together with the seven-year rigorous-imprisonment sentences imposed by the trial court.	849
Section 307 read with Section 34: planned firing causing potentially fatal injuries	A coordinated, preplanned firearm attack on unarmed persons, inflicting injuries with a probability of death, supported attempted-murder liability under Section 307 read with Section 34 IPC. The injured eyewitness accounts were corroborated by the medical evidence, including serious internal injuries and retained projectiles. The Court inferred the intention to kill from the weapons and manner of assault, rejected private defence and sudden provocation, and affirmed the two attempted-murder counts concerning the surviving victims.	873
Section 307 IPC — intention and overt act rather than life-threatening injury	For attempted murder, the prosecution must establish the requisite intention or knowledge and an act in execution of it. A fatal, grievous or life-threatening injury is not essential, and the injury need not fall on a vital part. Intention may be inferred from the weapon, words spoken, motive, part of the body targeted and nature and severity of the blows. The repeated knife attack accompanied by a threat to kill, the nine wounds and frontal-bone fracture supported the conviction under Section 307 IPC.	908
Section 307 IPC: intention or knowledge and an overt act	Section 307 IPC requires an overt act with the intention or knowledge and in circumstances that would make the act murder if death resulted. A fatal, life-threatening or grievous injury is not indispensable, nor must an injury be on a vital part. Intention or knowledge may be inferred from the weapon, words, motive, location and severity of blows, actual injuries and surrounding circumstances. Here repeated forceful iron-pipe blows to the head and another to the leg, causing multiple fractures, established the required mental element. The Court upheld Section 307 and rejected the proposed substitution of Section 326.	947
Section 307 IPC: severe deliberate assault on the surviving victim	The Court upheld the Section 307 IPC conviction on the proved attack in which the appellants used an iron rod and lathi to strike the surviving victim's head and legs, causing injuries and fractures. His account of the appellants' participation was accepted with medical corroboration. The judgment affirmed the conviction on that record without separately formulating an extended Section 307 test. The ten-year sentence for this offence remained concurrent with the life sentence for the murder of his wife.	949
Failure to prove firing at the complainant under Section 307 IPC	The allegation that Khemraj fired twice at the complainant was not proved beyond reasonable doubt. The Court assessed the materially changed account of Khemraj's presence, uncertainty about the complainant's position, the site plan and absence of corresponding impact marks, together with the independent commissioner's account of the earlier quarrel and departure. Although it accepted that the complainant was present, it found that he took shelter after Pawan fired and approached his injured father only after the assailants left. It rejected the alleged firing by Khemraj and acquitted him of the Section 307 charge along with the other charges.	951
Intention or knowledge under Section 307 from the manner of attack	Section 307 IPC turns on intention or knowledge and circumstances under which causing death would amount to murder. Grievous or life-threatening injury is not indispensable, though actual injury, the weapon, the body part struck, force and surrounding circumstances may reveal intent. Applying Kanha, the Court inferred intention to kill and knowledge of the risk from repeated forceful metal-spanner blows to the forehead, a vital part, causing a comminuted skull fracture and requiring multiple operations. The ordinary	969

Topic	Ratio	Case Sr.no.
	vehicle tool was a deadly weapon in the manner it was used.	
Additional Section 326 conviction for the same attack after Section 307 conviction	Having upheld Section 307 IPC for the assault on the sole injured person, the Court held the additional Section 326 conviction for those injuries unwarranted and set it aside. The trial court had imposed no separate Section 326 sentence. The retained Section 307 sentence was unaffected. The general concluding language affirming the trial judgment and dismissing the appeal must be read with the specific Section 326 modification; the decision concerned the same assault on one victim.	969
Intention or knowledge required for attempt to murder	Section 307 IPC requires an act done with the intention or knowledge and in circumstances that would make the act murder if death resulted. Intention is gathered from the whole attack, including the weapon, its use, force, body part targeted and motive. A fatal or grievous injury is not indispensable: the requisite mental element and an overt act in its execution may suffice even without injury.	987
Hurt and the punishment available under Section 307 IPC	An attempt satisfying Section 307 IPC is punishable even if no injury results. Where hurt is caused, imprisonment for life becomes available; the hurt need not be grievous or of any particular degree. The mental element and the act required by Section 307 must nevertheless be established.	987

Sub-Chapter no. 30.3
Criminal Medical Negligence — Grossness, Professional Standard and Expert Screening

Unauthorised allopathic treatment — gross negligence and expert screening	The Court treated the applicant's prescribing allopathic medicines without the required qualification or legal authority as gross negligence for the purpose of refusing to quash the prosecution. Applying Poonam Verma's treatment of unauthorised cross-system practice, and noting the Chief Medical and Health Officer's opinion that the applicant was not competent to prescribe allopathy, it held that a further independent-doctor or Medical Board opinion was unnecessary on these facts. It distinguished the prosecution safeguards in Jacob Mathew as inapplicable to this unauthorised practice.	68
Ordinary professional skill as the standard of medical care	A medical professional is assessed against an ordinarily competent practitioner exercising ordinary skill in the relevant field, rather than the highest available expertise. Negligence may arise from lacking the skill professed or failing to exercise possessed skill with reasonable competence. The Bolam standard applies when assessing professional care, while criminal liability additionally requires the requisite grossness of negligence.	181
Medical practice assessed by knowledge and resources at the time of treatment	The standard of medical care is assessed in the light of knowledge available when treatment was given, rather than knowledge at the trial. Ordinary precautions found sufficient by experience provide the standard. Failure to adopt an extraordinary precaution or use equipment not generally available at the relevant time does not itself establish negligence.	181
Choice between accepted medical treatments and unsuccessful results	A doctor following an accepted medical practice with reasonable skill and care is not negligent merely because another method was available or a more skilled doctor might have chosen it. A genuine difference of professional opinion, or an honestly chosen higher-risk procedure believed to offer a better chance of success, does not alone establish negligence when treatment fails. A medical professional does not guarantee recovery or a successful operation.	181
Criminal medical negligence — grossness beyond civil negligence or error of judgment	Negligence sufficient for civil liability does not necessarily amount to a criminal offence. Criminal medical negligence requires culpability of a gross or very high degree, with the requisite mental element; a simple lack of care, accident or error of judgment is insufficient. The act or omission must be one which, in the circumstances, no ordinarily prudent medical professional would have committed, involving a hazard making the resulting injury most likely imminent.	339

Topic	Ratio	Case Sr.no.
Medical professional — requisite skill and reasonable competence	A medical professional may be negligent if he lacks the skill he professes to possess or fails to exercise that skill with reasonable competence. The standard is that of an ordinarily competent practitioner in the relevant field, judged in the particular circumstances. It does not demand the highest available expertise or permit a very low level of care.	339
Medical negligence — knowledge, precautions and equipment available at the time	The medical standard of care is assessed by the knowledge and accepted practice available when treatment was given, rather than by knowledge at the later trial. Ordinary sufficient precautions are required; failure to use special or extraordinary precautions is not itself the standard of negligence. A charge based on failure to use particular equipment cannot succeed where that equipment was not generally available at the relevant time.	339
Choice of treatment — accepted practice, professional differences and unsuccessful results	A doctor who acts with reasonable skill and care in accordance with a medically accepted practice is not negligent merely because another course was available, another doctor disagrees or treatment fails. Nor does an honestly chosen higher-risk procedure, considered to offer a better chance of success in the patient's condition, become negligent solely because the desired result is not achieved. A doctor's assurance is of reasonable professional competence, not guaranteed recovery.	339
Section 304-A IPC — duty, gross breach and proximate cause of death	Criminal medical negligence under Section 304-A IPC requires death caused by a rash or negligent act not amounting to culpable homicide. The prosecution must establish a duty of care, a breach causing death and gross negligence in that breach. The causal connection must be direct or proximate; proof of an unfavourable medical outcome alone does not establish those elements.	339
Res ipsa loquitur — limited role in criminal medical negligence	The evidentiary rule res ipsa loquitur, used in civil negligence to assist with the burden of proof, cannot by itself establish criminal negligence. Its application, if any, in a criminal-negligence trial is limited and does not dispense with proof of the required criminal culpability.	339
Medical-negligence prosecution — credible and independent expert opinion	Under the guidelines relied upon by the Court, a private complaint alleging criminal rashness or negligence by a doctor requires prima facie support from a credible opinion of another competent doctor. Before proceeding against the doctor, the investigating officer should obtain an independent, competent and unbiased medical opinion, preferably from a government doctor qualified in the relevant branch, applying the professional standard to the collected facts. The reproduced screening direction also provides for reference to a competent specialist doctor or committee before criminal-court notice.	339
Gross Negligence Required for Criminal Medical Liability	Negligence sufficient for civil liability does not necessarily establish a criminal offence. The adopted criminal-law formulation requires mens rea. For criminal medical negligence under Section 304-A IPC, the degree must be gross or very high; an ordinary error of judgment or simple lack of care is insufficient. The adopted test asks whether the act or omission was one that no ordinarily prudent medical professional would have committed in the circumstances, with the resulting injury most likely imminent.	408
Duty, Breach and Causation in Death Alleged to Result from Medical Negligence	A criminal medical-negligence allegation requires an existing duty, its breach and death caused by that breach, with the breach amounting to gross negligence. The cause of death must be direct or proximate, and the rash or negligent act must fall short of culpable homicide. A treatment outcome alone does not establish this causal and culpability chain.	408
Ordinary Competent Professional Skill as the Medical Standard of Care	The governing standard is that of an ordinarily competent practitioner exercising ordinary skill in the relevant field, not the highest available expertise. Professional negligence may arise from lacking the skill professed or failing to exercise possessed skill with reasonable competence. Criminal prosecution additionally requires the higher degree of negligence applicable in criminal law.	408

Topic	Ratio	Case Sr.no.
Accepted Treatment Choices and Unsuccessful Outcomes	A doctor is not negligent merely because treatment fails, another doctor would have chosen differently, or a better alternative was available. A reasonably competent choice accepted by the medical profession may include a higher-risk procedure honestly chosen for a better prospect of success. The obligation is reasonable professional care, not a guarantee of recovery.	408
Contemporaneous Knowledge, Ordinary Precautions and Available Equipment	The standard of medical care is assessed by the knowledge available when treatment occurred, rather than at trial. Ordinary precautions regarded as sufficient by experience govern the inquiry; failure to take extraordinary precautions is not the standard. An allegation based on failure to use particular equipment cannot succeed on that basis if the equipment was not generally available at the relevant time.	408
Limited Role of Res Ipsa Loquitur in Criminal Negligence	Res ipsa loquitur is a civil evidentiary rule concerning the burden of proof. It cannot by itself determine criminal negligence, and its application, if any, in a criminal-negligence trial is limited.	408
Credible Medical Opinion Supporting a Private Negligence Complaint	Under the adopted safeguards for prosecuting doctors, a private complaint alleging criminal rashness or negligence requires prima facie support from a credible opinion of another competent doctor. Before proceeding against a doctor, the investigating officer should obtain an independent, competent opinion, preferably from a government doctor qualified in the relevant branch, applying the professional standard to the collected facts.	408
Protection against Malicious Criminal Pressure on Medical Professionals	Medical professionals acting with reasonable skill and competence in the patient's interests should be protected from unnecessary criminal harassment. Proceedings used maliciously to pressure doctors or hospitals into paying unwarranted compensation deserve to be discarded; this protection depends on the required standard of professional conduct.	408
Gross negligence required for criminal liability of a doctor	Negligence requires a duty of care, its breach and resulting damage, but negligence sufficient for civil liability does not necessarily constitute a criminal offence. Applying Jacob Mathew and the other narrated authorities, the Court explained that criminal liability requires mens rea and negligence that is gross or of a very high degree. Simple lack of care, an accident or an error of judgment is insufficient. The act or omission must be one that no medical professional exercising ordinary prudence would have committed in those circumstances, with a hazard making the resulting injury most likely imminent. A grave adverse outcome alone does not establish that criminal standard.	509
Independent expert assessment before prosecution for medical negligence	Before proceeding against a doctor for an alleged criminally rash or negligent act, the investigating officer should obtain an independent and competent medical opinion, preferably from a government doctor qualified in the relevant speciality who can apply the Bolam test impartially to the investigation material. Applying the expert-screening requirement, the Court held that this prosecution could not continue without the required expert assessment and set aside the charge-sheet and pending Section 338 IPC proceedings. The complainant remained free to approach the Expert Committee and pursue an available legal remedy if it found medical negligence.	509
Ordinary professional competence and the knowledge available at treatment	A doctor's conduct is assessed against the reasonable skill and care of an ordinarily competent practitioner in the relevant field. The law does not require the highest expertise or extraordinary precautions merely because they might have prevented the injury. The practice must be judged by the medical knowledge available at the time of the incident, rather than at trial; failure to use particular equipment does not establish negligence if it was not generally available then. Liability may arise from lacking the professed requisite skill or failing to exercise possessed skill with reasonable competence, subject to the higher threshold for criminal negligence.	509
Choice between	A genuine difference of medical opinion or a reasonable choice between	509

Topic	Ratio	Case Sr.no.
accepted treatments and an unsuccessful higher-risk procedure	accepted courses of treatment does not by itself establish negligence. A doctor exercising reasonable skill and competence is not negligent merely because another doctor would have chosen differently or a more skilled alternative existed. Nor does failure of a higher-risk procedure necessarily establish negligence where the doctor honestly chose it as offering a greater prospect of success in light of the illness. The chosen course must remain acceptable to the medical profession and directed to the patient's interest.	
Limited use of res ipsa loquitur in criminal medical-negligence cases	Res ipsa loquitur is an evidentiary rule primarily operating in civil negligence and affecting the onus of proof. It cannot by itself determine criminal liability for medical negligence and has, at most, limited application in a criminal-negligence trial. The adverse result must therefore be assessed within the applicable criminal-negligence requirements rather than treated as conclusive proof of guilt.	509
Medical opinion supporting a private complaint and criminal-court process	Under the safeguards narrated from Jacob Mathew, a private complaint alleging criminal medical negligence should be supported by prima facie evidence in the form of a credible opinion from another competent doctor. The Court also reproduced Martin F. D'Souza's direction that a criminal court refer the complaint to a competent doctor or a committee specialising in the relevant field before issuing notice, and issue notice only after a report discloses a prima facie case. These safeguards require medical support for the criminal process; they do not themselves determine the doctor's ultimate guilt.	509
Arrest of a doctor accused of criminal medical negligence	A doctor should not be arrested routinely merely because criminal rashness or negligence is alleged. The Jacob Mathew safeguard reproduced by the Court permits withholding arrest unless it is needed to further the investigation, collect evidence, or secure the doctor's availability to face prosecution. The investigating officer must assess those needs rather than treat the accusation alone as sufficient; the Court also narrated Martin F. D'Souza's warning against arrest or harassment outside the Jacob Mathew parameters.	509
Gross negligence and the professional standard for criminal prosecution of a doctor	Criminal medical negligence requires gross or very high negligence; ordinary civil negligence, an unsuccessful outcome or a mere error of judgment is insufficient. The test concerns the skill and reasonable competence of an ordinary practitioner in the relevant field, not the highest expertise. Accepted alternative treatment and genuine professional differences do not by themselves establish negligence. Practice is assessed using knowledge and ordinarily available equipment at the time of treatment. For criminal liability, the conduct must be such that no ordinarily prudent medical professional would have acted that way, with the resulting injury most likely imminent.	588
Independent medical opinion before criminal proceedings for alleged treatment negligence	Under the adopted Jacob Mathew safeguards, a private complaint requires prima facie support from a credible opinion of another competent doctor. Before proceeding against the doctor, the investigator should obtain independent competent opinion, preferably from a government doctor qualified in the relevant branch. A court considering such a negligence complaint should obtain the competent specialist or committee assessment described in the relied-upon authorities before issuing notice. Here, the available CMHO inquiry did not identify a departure from medical protocol, and the allegations did not justify directing FIR registration. Liberty remained to seek expert inquiry and pursue an FIR or complaint if it supported negligence or record manipulation.	588
Alleged fabrication of treatment records and the evidence supporting that allegation	Employment at another private hospital did not establish that a doctor could not have attended the patient or written the prescription. The complainant's belief that the doctor had not treated the patient was insufficient to infer later fabrication. The alleged alteration of the consent time was unsupported by an affidavit from the son who gave consent, and the available inquiry identified no departure from medical protocol. On these materials, the Court found	588

Topic	Ratio	Case Sr.no.
	insufficient support for manipulation of records, while preserving expert inquiry into both negligence and interpolation.	

Sub-Chapter no. 30.4
Abetment of Suicide — Instigation, Intentional Aid and Causal Nexus

Section 306 IPC: intention and positive incitement beyond mere harassment	Conviction for abetment of suicide requires clear mens rea and a positive act of instigation or intentional aid linked to the suicide. A bare allegation of harassment, without positive action proximate to the occurrence that led or compelled the deceased to take that step, is insufficient. Words spoken in anger or emotion without intending the consequence do not constitute instigation.	27
Abetment of suicide — sustained harassment and threatened disclosure of a relationship may justify a charge	Allegations of continuous harassment despite objections from the deceased and her husband, together with threats to disclose the alleged relationship, were sufficient at the charge stage to make out a prima facie case under Section 306 IPC. Applying the test of instigation under Section 107, the Court held that such conduct could amount to abetment of suicide and upheld the charge. The charge required sufficient grounds to proceed; the likelihood of eventual conviction was not the test.	73
Instigation of suicide — intentional incitement may be inferred from a sustained course of conduct	Instigation requires intentional provocation, encouragement or urging towards the act. Express words directing suicide are unnecessary if the conduct and circumstances permit a reasonably certain inference of incitement, including a continued course of conduct leaving the deceased with no other option. For conviction under Section 306 IPC, harassment alone is insufficient without a positive act of incitement or intentional aid linked and proximate to the suicide. An angry utterance without the intended consequence, or ordinary discord to which the deceased was unusually sensitive, does not by itself satisfy that test. Instigation must be assessed in the circumstances of the particular case.	73
Instigation to suicide — Inference from the whole course of conduct	Instigation need not take the form of express words directing suicide. It may be inferred from acts, omissions or a continued course of conduct creating circumstances in which the deceased sees no other option, provided an intention to incite the consequence can reasonably be identified. The assessment depends on the circumstances of the particular case and admits no fixed formula; absence of direct evidence is not by itself decisive.	114
Suicide following ordinary domestic discord — Hypersensitivity and abetment	Courts must assess carefully whether the accused's conduct induced the suicide. If the deceased was unusually sensitive to ordinary domestic disagreements that would not be expected to drive a similarly situated person in that society to suicide, those disagreements do not by themselves justify a finding of abetment. Applying that caution, the Court did not treat the deceased's reaction to the wife's prosecution as proof that the applicants had abetted his suicide.	114
Abetment of suicide — continuous deprivation of livelihood	Instigation may be inferred from a continued course of culpable conduct that creates circumstances leaving the deceased with no other alternative to suicide; express words inciting suicide are not indispensable. The allegations that some applicants forcibly cultivated the deceased’s land while others prevented him from irrigating it disclosed continuing deprivation of livelihood and prima facie material under Sections 306/34 IPC. The Court held that a claimed right to possession should have been pursued before the civil court rather than through forcible self-help.	306
Abetment of suicide — intention, active conduct and causal proximity	Abetment under Section 107 IPC requires instigation, conspiracy accompanied by an act or illegal omission in its pursuance, or intentional aid. For a Section 306 conviction, mere allegations of harassment are insufficient: culpable conduct with the necessary intention and a direct or indirect act of incitement or intentional facilitation linked to the suicide must be proved. The relied-upon authorities require positive action sufficiently proximate to the occurrence; words spoken in anger without the intended consequence do not, by themselves,	306

Topic	Ratio	Case Sr.no.
	constitute instigation.	
Abetment of suicide — hypersensitivity to ordinary discord	The court must carefully assess whether the accused's conduct actually induced suicide. The Orilal Jaiswal and Gangula Mohan Reddy passages relied upon caution against conviction where the deceased was hypersensitive to ordinary discord or differences that would not be expected to induce a similarly placed person to take that step. The Court assessed the allegations here as continuing deprivation of livelihood, rather than merely ordinary discord or an isolated incident of harassment.	306
Sections 306 and 107 IPC — Intent and conduct amounting to abetment of suicide	Abetment of suicide requires conduct falling within Section 107 IPC: instigation, conspiracy accompanied by an act or illegal omission in furtherance of it, or intentional aid. Instigation involves provoking, urging or encouraging the act with the necessary intent. Express words are unnecessary where acts, omissions or a continuing course of conduct create circumstances from which instigation can reasonably be inferred. Words spoken in anger or emotion without intending the consequence do not suffice. Intentional aid requires conduct that facilitates the act before or at its commission. Mere harassment, without positive conduct sufficiently connected and proximate to the suicide, does not establish abetment.	352
Section 306 IPC — Ordinary domestic discord and discharge at the charge stage	Courts must distinguish intentional incitement to suicide from ordinary domestic disagreements. A deceased person's unusual sensitivity to such disagreements cannot replace the ingredients of abetment. On the allegations before the Court, delayed meals, the husband doing household work, shopping, parental visits, dancing at a family wedding and insisting on returning home did not disclose instigation or intentional aid, even if accepted as true. Those allegations therefore could not sustain the Section 306 charge, and the wife was discharged. The decision applied the statutory ingredients to the alleged conduct; it did not determine guilt after a trial.	352
Section 306: Mens Rea and a Positive Act Linked to Suicide	Abetment of suicide requires the necessary intention and an active act of instigation or intentional aid linked to the suicide. Harassment or the deceased's distress alone is insufficient without the requisite positive conduct and causal connection. The Court applied the requirement of a clear mens rea and a proximate act of incitement or aid when deciding whether the allegations disclosed Section 306 IPC.	453
Instigation May Be Inferred From Conduct and Surrounding Circumstances	Instigation means goading, provoking, urging or encouraging the act. Express words directing suicide are unnecessary if the conduct or continued course of conduct supports an inference of intentional incitement. The inquiry depends on the circumstances of the particular case; words spoken in anger without intending the consequence do not by themselves amount to instigation.	453
Proximity between continuing mental cruelty and a suicide attempt	The absence of physical cruelty during a year of separation did not defeat proximity where mental cruelty was alleged to be continuing. In the circumstances alleged, further news of the husband's proposed remarriage, divorce and a claim for child custody intensified that cruelty and supported a prima facie connection with the wife's suicide attempt. The Court therefore declined to interfere with the charge under Section 306 read with Section 511 IPC, without deciding guilt.	463
Instigation of suicide — continuing coercion may suffice without express words urging suicide	Instigation means goading, provoking, inciting or encouraging an act. Express words directing suicide are unnecessary where the accused's acts, omissions or continued conduct leave the deceased with no other option and a reasonable certainty of inciting that consequence can be inferred. An angry or emotional utterance without an intended consequence does not suffice. Repeated demands for unwanted sexual relations and remarriage, backed by threats of public exposure on refusal, were treated as prima facie instigation in the FIR-quashing proceedings.	636

30.4 : Abetment of Suicide — Instigation, Intentional Aid and Causal Nexus

Topic	Ratio	Case Sr.no.
Section 306 IPC — intentional, proximate abetment is required beyond bare harassment or ordinary discord	Conviction under Section 306 IPC requires suicide and a proved active role in instigation or intentional aid, with clear mens rea and direct or indirect incitement connected to the suicide. Bare harassment without positive action proximate to the occurrence is insufficient. Intentional aid includes conduct before or at the act which is intended to facilitate, and does facilitate, its commission. Courts must carefully distinguish cruelty inducing suicide from a hypersensitive response to ordinary domestic discord. The alleged coercion and threats here could not be dismissed as ordinary discord or hypersensitivity at the quashing stage.	636
Instigation inferred from a sustained course of conduct	Instigation means goading, provoking, inciting, urging or encouraging an act. Express words directing suicide are unnecessary if the accused's acts, omissions or continuing conduct permit a reasonably certain inference of intended incitement and create circumstances leaving the deceased with no apparent alternative. Whether that inference arises depends on the particular facts; no fixed formula applies.	684
Angry words without intended consequences are not instigation	Words uttered in anger or emotion, without an intention that their consequences should follow, do not by themselves constitute instigation to suicide. The intention of the alleged abettor remains essential.	684
Ordinary discord and a hypersensitive reaction	Courts must carefully assess whether the alleged conduct actually induced the suicide. Where ordinary discord or differences common to the relevant social setting would not be expected to induce a similarly situated person to take that step, the victim's hypersensitive reaction does not by itself justify a finding of abetment. Individual responses differ, so the circumstances require careful assessment.	684
Harassment and proximity of a positive act to suicide	A general allegation of harassment, without direct or indirect incitement or positive action proximate to the occurrence that led or compelled the deceased to commit suicide, cannot sustain conviction under Section 306 IPC. The prosecution must establish an active role by instigation or intentional facilitation.	684
Angry words without intended consequences and instigation	Words uttered in a fit of anger or emotion, without an intention that the harmful consequence should follow, do not by themselves amount to instigation. The assessment depends on the accused's intention and the circumstances, rather than solely on the deceased's subsequent act.	715
Hypersensitive reaction to ordinary domestic discord	A finding of abetment cannot rest merely on a hypersensitive reaction to ordinary domestic petulance or differences that would not ordinarily induce a similarly situated person to commit suicide. The Court must carefully examine whether the alleged cruelty actually induced the suicide. The Court did not accept the applicants' characterisation of the present prosecution material as only ordinary domestic discord at the charge stage.	715
Intentional incitement and the circumstances supporting suicide abetment	Instigation means provoking, inciting, encouraging or urging a person to act. Express words are unnecessary if the accused's acts, omissions or continued conduct support an inference, with reasonable certainty, of intended incitement leaving the victim no option but suicide. Clear mens rea and a positive, active or direct act with the necessary nexus are required; mere harassment without proximate positive action is insufficient. Words spoken in anger or emotion without intending the consequence are not instigation.	764
Ordinary domestic discord and hypersensitivity to suicide	A suicide following ordinary domestic discord does not alone establish abetment. Courts must carefully assess whether the alleged conduct induced suicide. Where the reaction reflects hypersensitivity to ordinary differences common in that social setting, and those differences would not be expected to induce a similarly situated person to take their life, guilt cannot be founded on that discord alone.	764

Topic	Ratio	Case Sr.no.
Abetment of suicide — instigation inferred from conduct and surrounding circumstances	Instigation need not be expressed in words expressly directing suicide. It may be inferred where the accused's acts, omissions or continued conduct create circumstances leaving the deceased with no other option, and the intention to incite the consequence can reasonably be discerned. The circumstances must be assessed in each case; words spoken in anger or emotion without intending the consequence do not amount to instigation.	900
Abetment of suicide — culpable intention and participation	Abetment under Section 107 IPC requires instigation, conspiracy accompanied by an act or illegal omission in its pursuance, or intentional aid by an act or illegal omission. Liability under Section 306 requires culpable participation in the suicide and the requisite intention. A mere allegation of harassment, without a positive act of incitement or assistance proximate to the suicide, is insufficient.	902
Instigation — inference from circumstances and continued conduct	Instigation may be inferred from the accused's acts, omissions or continued conduct where they create circumstances leaving the deceased with no other option and an intention to incite suicide can reasonably be inferred. Direct words directing suicide are unnecessary. The inference depends on the circumstances of the case; angry or emotional words spoken without intending the consequence do not by themselves establish instigation.	902
Abetment of suicide — intentional instigation inferred from conduct	Instigation under Sections 107 and 306 IPC requires intentional incitement or aid with a sufficient connection to the suicide. Express words directing suicide are not indispensable: acts, omissions or a continuing course of conduct may permit an inference where they create circumstances leaving the deceased with no perceived alternative. The requisite intention and a reasonable certainty of inciting the consequence must still emerge from the circumstances. Words spoken in anger or emotion without intending that consequence do not by themselves constitute instigation. At the quashing or charge stage, the assessment remains tentative; it is not a final determination that the offence has been proved.	992

Sub-Chapter no. 30.5
Section 302 to Section 304 IPC — Intention, Knowledge and Exception 4 Analysis

Exception 4 to Section 300 IPC — indiscriminate firing after a land quarrel	A quarrel over a small piece of land does not by itself reduce murder to culpable homicide not amounting to murder. The manner of attack and whether the offenders acted cruelly or took undue advantage remain material. Indiscriminate repeated firing that killed three people and injured others, coupled with rejection of private defence and the finding that the appellants were aggressors, did not attract Exception 4 or justify alteration from Section 302 to Section 304 Part I IPC.	12
Sudden-fight exception: mutual combat and absence of cruel retaliation	Exception 4 to Section 300 IPC requires absence of premeditation, a sudden fight in the heat of passion upon a sudden quarrel, and absence of undue advantage or cruel or unusual conduct. Mutual combat must be established. Repeated fatal lathi blows on an unarmed victim, without proved injuries to the appellants and after their arrival with weapons, did not satisfy those conditions.	21
Exception 4 to Section 300 IPC — sudden quarrel alone is insufficient without all statutory conditions	Exception 4 requires an act without premeditation, in a sudden fight, in the heat of passion upon a sudden quarrel, without taking undue advantage or acting cruelly or unusually. The fight must involve the person killed, and all conditions must be satisfied. A sudden fight involves mutual provocation; absence of premeditation or proof of a quarrel alone is insufficient. Whether the fight was sudden depends on the proved circumstances, including whether there was time for passions to cool.	77
Single injury does not determine whether the offence is murder	There is no fixed rule that a single blow excludes Section 302 IPC or necessarily attracts Section 304 Part II. The nature of the offence depends on the intention or knowledge proved through the weapon, injury, body part targeted and other	93

Topic	Ratio	Case Sr.no.
	attendant circumstances. An intentionally inflicted injury sufficient in the ordinary course of nature to cause death can attract Section 300 Thirdly even when there is only one blow.	
Requirements of the sudden-fight exception to murder	Exception 4 to Section 300 IPC requires an act without premeditation, in the heat of passion upon a sudden quarrel and fight with the person killed, without undue advantage or cruel or unusual conduct. A sudden quarrel and absence of premeditation alone are insufficient. A fight involves mutual provocation and combat, and whether it was sudden depends on the proved facts. All the requirements must be satisfied.	93
Septicaemia and delayed death do not automatically reduce murder to culpable homicide	Death from septicaemia or after an interval following the assault does not by itself require alteration of a murder conviction to Section 304 IPC. Relying on the reproduced authorities, including Khokan, Arjun Singh, Antram and Jagtar Singh, the Court examined the injuries and their medical connection with death. The victim's prolonged coma and septic shock remained attributable to the head injuries, and the Section 302 conviction was affirmed.	132
Sudden-fight exception to murder	Exception 4 to Section 300 IPC requires an act without premeditation, committed in a sudden fight in the heat of passion upon a sudden quarrel, without undue advantage or cruel or unusual conduct. A sudden quarrel and absence of premeditation alone are insufficient. The fight must be with the person killed, and all the conditions must be satisfied.	160
Sudden quarrel alone does not attract Exception 4 to Section 300 IPC	Exception 4 requires an act without premeditation, in a sudden fight in the heat of passion upon a sudden quarrel, without undue advantage or a cruel or unusual manner of acting. Every condition must be satisfied. Deliberately pouring kerosene on an unarmed wife and pushing her towards a heater showed intention or knowledge, cruelty and unfair advantage. Absence of premeditation therefore did not justify reducing the murder conviction to Section 304 IPC.	173
A single gunshot does not by itself reduce murder to culpable homicide	There is no universal rule that firing a single shot excludes Section 302 IPC. The weapon, body part targeted, injury and surrounding circumstances determine the offence. An unprovoked close-range shot to the chest, causing fatal injury to the heart and lung, remained murder where no applicable exception to Section 300 was established.	207
Sudden quarrel alone does not establish the sudden-fight exception	Exception 4 to Section 300 IPC is not attracted merely because a quarrel arose suddenly. A fight involves a bilateral exchange, and the offender must not take undue advantage. The exception was unavailable where the unarmed deceased merely objected to abuse and the accused fired without retaliation or any threatening act from the other side.	207
Intent to inflict the fatal injury under Section 300 Thirdly IPC	Section 300 Thirdly IPC requires proof of the injury and its nature, intention to inflict that particular injury, and its sufficiency in the ordinary course of nature to cause death. The last requirement is objective; a separate intention to cause death is unnecessary. The Court relied on that framework and the medical evidence of fatal head injuries in affirming liability for murder with Section 149 IPC.	215
Homicide classification and intention or knowledge under Section 304	After finding culpable homicide under Section 299 IPC, the Court must determine whether Section 300 makes it murder and whether an exception applies. Where the homicide does not amount to murder, Section 304 Part I concerns the specified intention to cause death or bodily injury likely to cause death, while Part II concerns knowledge of likely death without that intention. Death alone does not establish the required mental element.	215
Single blow and contextual inference of intention	There is no rule that a single blow excludes murder or necessarily attracts Section 304 Part II IPC. The nature of the weapon, the part of the body targeted, force, manner of assault, premeditation and surrounding circumstances determine intention or knowledge. The number of injuries is one factor and	215

Topic	Ratio	Case Sr.no.
	cannot decide the offence mechanically.	
Requirements of the sudden-fight exception	Exception 4 to Section 300 IPC requires an unpremeditated sudden fight, an act in the heat of passion upon a sudden quarrel, and absence of undue advantage or cruel or unusual conduct. The fight must concern the person killed, and all requirements must be established. A sudden quarrel and lack of premeditation alone do not suffice.	215
Sudden lathi assault and alteration of murder conviction to Section 304 Part I	In assessing a sudden, unpremeditated lathi assault, the Court considered the reason for the incident, the single fatal head injury, the non-fatal injuries and the dragging of the deceased. In those circumstances it altered the conviction from murder to Section 304 Part I IPC. The finding that at least five blows were delivered and the deceased was dragged supported liability under Part I.	223
Circumstances relevant to intention in a fatal assault	Intention must be assessed from the circumstances as a whole, including the weapon and whether it was carried or picked up, the part of the body targeted, force used, number of blows, prior enmity, premeditation, sudden quarrel or fight, provocation, heat of passion and any undue advantage or cruel conduct. The circumstances listed are not exhaustive.	223
A single blow does not automatically exclude murder	There is no fixed rule that a single blow prevents conviction for murder. The weapon, the vital part targeted and the force and nature of the injury may establish the requisite intention. Once that intention is proved, the mere fact that only one blow was delivered does not determine the offence.	223
Conditions for Exception 4 to Section 300 IPC	Exception 4 requires a sudden fight in the heat of passion upon a sudden quarrel, without premeditation, undue advantage or cruel or unusual conduct. A sudden fight involves mutual provocation and combat. All conditions must be satisfied. A sudden quarrel and absence of premeditation alone are insufficient, and whether the fight was sudden depends on the proved circumstances.	223
Cruel burning after a sudden quarrel does not justify reduction from murder	A sudden quarrel did not justify altering murder to culpable homicide where the accused poured kerosene on his wife and set her alight. Burning a person alive was cruel conduct involving undue advantage, defeating the plea for reduction to Section 304 IPC on the ground that the incident occurred suddenly.	229
Factors in distinguishing murder from culpable homicide after a sudden incident	Classification depends on the circumstances of the occurrence, the weapon and its source, the part of the body targeted and force used, participation in a sudden fight, previous enmity, provocation, heat of passion, undue advantage and cruel or unusual conduct. In deciding the sudden-quarrel plea, the Court treated the cruelty and undue advantage involved in burning the victim as decisive against reduction.	229
Distinguishing murder from culpable homicide under Sections 299, 300 and 304 IPC	The inquiry first asks whether causing death satisfies any of Section 299's intention or knowledge conditions. It then asks whether a Section 300 clause makes the act murder and whether an exception removes it from that category. Where the act is culpable homicide but not murder, intention to cause death or likely-fatal injury attracts Section 304 Part I, while knowledge of likely death without such intention attracts Part II.	259
Cumulative conditions for the sudden-fight exception to murder	Exception 4 to Section 300 requires absence of premeditation, a sudden fight, an act in the heat of passion upon a sudden quarrel, and no undue advantage or cruel or unusual conduct. A sudden quarrel and lack of planning alone are insufficient. The fight involves mutual provocation or combat with the person killed, and the circumstances must leave no time for passions to cool.	259
Cruel and repeated stone blows defeating reduction to Section 304 IPC	Absence of prior enmity or an assertion that the incident was sudden did not justify reducing the offence to Section 304 IPC where the assault was cruel or unusual or involved undue advantage. The repeated forceful stone blows that crushed both victims' faces and fractured their skulls demonstrated the brutality of the attack. The Court therefore retained both murder convictions.	278

30.5 : Section 302 to Section 304 IPC — Intention, Knowledge and Exception 4 Analysis

Topic	Ratio	Case Sr.no.
Factors for distinguishing murder from culpable homicide	The assessment under Sections 302 and 304 IPC includes the occurrence circumstances, the weapon and whether it was carried or taken from the scene, the body part targeted and force used, participation in a sudden fight, prior enmity or provocation, heat of passion, and whether the assailant took undue advantage or acted cruelly or unusually. The accused seeking the benefit must establish the absence of undue advantage and cruel or unusual conduct.	278
Inferring intention when distinguishing murder from culpable homicide	Whether a fatal assault amounts to murder or culpable homicide must be decided from the circumstances bearing on intention, including the weapon, force, body part targeted, premeditation, enmity and suddenness of the quarrel. Here a dispute over a tumbler arose without proved prior enmity; the appellant used fists and blows, and deliberate abdominal targeting or an intention to cause death or an ordinarily fatal injury was not established. Those circumstances supported alteration to Section 304 Part II IPC.	295
Homicide classification — intention and knowledge under Sections 299–304 IPC	The court must first determine whether the act causing death satisfies Section 299 IPC and then whether it falls within a clause of Section 300, subject to its exceptions. Where culpable homicide does not amount to murder, intention to cause death or bodily injury likely to cause death attracts Section 304 Part I; knowledge that death is likely, without either such intention, attracts Part II. Causing death alone does not supply the required mental element. The Court adopted this framework from Arun Nivalaji More in assessing the murder conviction.	307
Exception 4 to Section 300 IPC — cruel assault and undue advantage prevent reduction	A plea of sudden assault without premeditation does not justify reducing murder to culpable homicide when the accused took undue advantage or acted cruelly or unusually. The assessment considers the circumstances, weapon and whether it was carried or found at the scene, vital parts targeted, force used, participation of the deceased in a sudden fight, previous enmity, provocation, heat of passion, and undue advantage or cruelty. Repeated deep axe wounds on the victim lying in the house, with no other male member inside, established cruelty and undue advantage. The plea for alteration from Section 302 to Section 304 IPC was therefore rejected.	341
Sudden Quarrel and Alteration from Section 302 to Section 304 Part I IPC	Although repeated head blows established the fatal assault, the sudden quarrel over food, absence of premeditation, use of a small wooden pillar lying at the scene, and the accused's guilty plea and remorse supported alteration of the conviction from Section 302 to Section 304 Part I IPC. The guilty plea was considered with those circumstances even though the trial court had required the prosecution to prove its case.	377
Factors Distinguishing Murder from Culpable Homicide Not Amounting to Murder	The distinction between Sections 302 and 304 IPC requires consideration of the circumstances of the incident, the weapon and whether it was carried or picked up at the scene, the body part targeted, the force used, the deceased's participation in a sudden fight, previous enmity, sudden provocation, heat of passion, and any undue advantage or cruel or unusual conduct. In applying those factors, the court stated that the accused must establish the absence of undue advantage or cruel conduct.	377
Conditions for the Sudden-Fight Exception to Murder	Exception 4 to Section 300 requires a sudden fight without premeditation, in the heat of passion upon a sudden quarrel, and without the offender taking undue advantage or acting cruelly or unusually. A sudden quarrel and absence of planning alone are insufficient. The fight must be with the person killed and involve mutual provocation and combat. All the requirements must be established; 'undue advantage' means unfair advantage.	383
Inferring murderous intention and the effect of a single blow	The nature of the offence cannot be determined mechanically from the number of blows. Intention or knowledge must be inferred from the weapon, force, part of the body targeted, nature of injury and surrounding circumstances, including premeditation, provocation and the manner of assault. A single blow may	393

Topic	Ratio	Case Sr.no.
	amount to murder when the proved circumstances establish the required mental element.	
Inferring intention from the weapon, injury and surrounding circumstances	Intention must be inferred from the proved circumstances together, including the weapon and whether it was carried or picked up, the part of the body targeted, force, injuries, prior hostility, premeditation, provocation, sudden fight, heat of passion and any undue advantage or cruelty. These factors are not exhaustive. The number of blows alone cannot mechanically determine the offence: even one intended fatal injury may support murder. Here, firearm injuries to the heart and brain formed part of the Court's assessment sustaining the murder convictions.	399
Cumulative requirements of the sudden-fight exception to murder	Exception 4 to Section 300 IPC requires an act without premeditation, in a sudden fight and in the heat of passion upon a sudden quarrel, without undue advantage or cruel or unusual conduct. A fight involves mutual provocation and combat, and the relevant fight must be with the person killed. A sudden quarrel and absence of premeditation alone are insufficient; all conditions must be satisfied on the proved facts. The Court reproduced and adopted these limits while rejecting the challenge to the murder convictions.	399
Planned lathi assault —refusal to reduce murder to culpable homicide	Exception 4 to Section 300 IPC requires a sudden fight without premeditation, action in the heat of passion and absence of undue advantage or cruel conduct. Eight armed assailants stopping two men on their way to give evidence and inflicting repeated serious injuries did not establish a sudden, unpremeditated fight. Reduction to Section 304 Part II was refused.	412
Section 304 IPC— intention, knowledge and applicable exceptions	Where culpable homicide is established but murder is not, Part I of Section 304 applies to the requisite intention and Part II to knowledge without that intention. A case within Section 300 may also be reduced by an applicable exception; the appropriate part depends on the mental element proved. Establishing an exception is not essential where the prosecution has not established murder in the first place.	412
Sections 299, 300 and 304 IPC — Intention, knowledge and surrounding circumstances	Culpable homicide becomes murder when a clause of Section 300 is established and no exception applies. Where culpable homicide is not murder, an intention to cause death or bodily injury likely to cause death attracts Section 304 Part I; knowledge of likely death without such intention attracts Part II. Intention is inferred from all the circumstances, including the weapon and its source, body part, force, prior enmity, chance or planned encounter, provocation, heat of passion, undue advantage and number of blows. A single injury or asserted absence of intent to kill does not automatically exclude murder. The Court found no basis to reduce this strangulation to Section 304.	478
Section 300 Exception 4 — Cumulative conditions for a sudden fight	Exception 4 requires death caused without premeditation in a sudden fight, in the heat of passion on a sudden quarrel, without undue advantage or cruel or unusual conduct. The fight must involve the person killed, and its suddenness depends on the proved facts. A quarrel and absence of planning alone do not satisfy every condition. The Court found no evidence that a sudden fight or heat-of-passion exchange accounted for the fatal assault and declined reduction to Section 304.	478
Exception 4 to Section 300 IPC — cumulative sudden-fight requirements	Exception 4 requires absence of premeditation, a sudden fight in the heat of passion upon a sudden quarrel, and absence of undue advantage or cruel or unusual conduct. The discussion adopted from Dhirajbhai Gorakhbhai Nayak also requires the fight to be with the person killed and explains mutual provocation, absence of time for passions to cool, and the fact-specific character of a sudden quarrel. A sudden quarrel and lack of premeditation alone do not satisfy the exception; all its requirements must be established.	497
Sudden Stone Assault in Heat of	Whether fatal assault amounts to murder requires attention to its circumstances, weapon and source, vital part struck, force, provocation, passion and any undue	524

Topic	Ratio	Case Sr.no.
Passion: Alteration to Section 304 Part I IPC	advantage or cruelty. The Court altered the conviction to Section 304 Part I where the appellant, apprehensive that his wife was being taken away permanently, suddenly attacked with stones picked up at the spot. It considered the likely three blows, unproved stone weight, compound skull fractures without crushing and heat of passion. The finding rested on this combined assessment despite repeated head injuries.	
Single fatal hockey blow in a sudden fight	The fatal hockey blow was inflicted during a sudden, unpremeditated confrontation over waste water. The Court considered the hockey not to be a lethal weapon in this setting, found that there was no repeated head blow, undue advantage or cruel conduct, and altered the assailant's conviction from Section 302 to Section 304 Part I IPC.	561
Factors distinguishing murder from culpable homicide	In deciding between Sections 302 and 304 IPC, relevant factors include the circumstances of the occurrence, the weapon and whether it was carried or obtained at the spot, the body part targeted, the force used, the deceased's participation in the fight, previous enmity, sudden provocation, heat of passion, and whether the assailant took undue advantage or acted cruelly or unusually.	561
Undue advantage and Exception 4 to Section 300 IPC	A sudden quarrel does not attract Exception 4 where the assailant takes undue advantage or acts cruelly or unusually. The relied-upon precedent treated fatal violence against an unarmed, non-threatening person who merely sought to stop a fight as outside the exception, and required the relevant fight to be with the person killed.	561
Conditions for the sudden-fight exception to murder	Exception 4 to Section 300 IPC requires absence of premeditation, a sudden fight, an act in the heat of passion upon a sudden quarrel, and absence of undue advantage or cruel or unusual conduct. A sudden quarrel alone is insufficient. The exception was unavailable where the evidence did not establish the claimed heat of passion and showed a concerted, cruel assault with deadly weapons.	570
Intentional bodily injury sufficient to cause death under Section 300 Thirdly	For Section 300 Thirdly IPC, the prosecution must establish the bodily injury, its nature, the intention to inflict that particular injury, and its objective sufficiency to cause death in the ordinary course of nature. A separate intention to cause death or knowledge of the injury's fatal seriousness is unnecessary once those requirements are proved, subject to the statutory exceptions.	570
A single blow does not automatically exclude murder	The number of blows does not alone determine whether an offence is murder or culpable homicide not amounting to murder. Even one blow may attract Section 302 IPC. The weapon, the part of the body struck, the nature and manner of the injury, and the surrounding circumstances must establish the required intention or knowledge.	570
Inferring homicidal intention from the surrounding circumstances	Intention must be assessed from the circumstances as a whole, including the weapon and whether it was carried or picked up, the part of the body targeted, the force used, prior enmity, premeditation, sudden quarrel or provocation, heat of passion, cruelty or undue advantage, and the number of blows. No single factor invariably determines the offence.	570
Intention and knowledge in culpable homicide	Where culpable homicide does not satisfy Section 300 IPC, or falls within one of its exceptions, the distinction between Parts I and II of Section 304 depends on the mental element. Part I covers intention to cause death or bodily injury likely to cause death; Part II covers knowledge that death is likely without either form of intention.	570
Exception 4 to Section 300 IPC: sudden fight and absence of unfair advantage	Exception 4 requires death in a sudden fight, without premeditation, in the heat of passion upon a sudden quarrel, and without the offender taking undue advantage or acting cruelly or unusually. A sudden quarrel and absence of preparation alone are insufficient. The fight involves mutual provocation or combat; the exception must be assessed from the proved circumstances and all its conditions must be satisfied.	584

Topic	Ratio	Case Sr.no.
Single-blow cases and inference of homicidal intention	A single blow does not automatically exclude murder or require reduction to Section 304 IPC. Intention must be assessed from the combined circumstances, including the weapon and whether it was carried or picked up, the bodily site, force and manner of attack, premeditation, prior enmity, provocation, the nature of any fight, heat of passion, undue advantage and the number of blows. These factors are illustrative, and a single forceful blow on a vital part may support murder. The Court discussed these standards but acquitted this appellant because reliable attribution failed, rather than reducing his conviction under a single-blow rule.	599
Cumulative conditions for Exception 4 to Section 300	Exception 4 requires an act without premeditation, in a sudden fight and in the heat of passion upon a sudden quarrel, without undue advantage or cruel or unusual conduct. The narrated Dhirajbhai principle also requires the fight to be with the person killed; a fight involves mutual provocation and conduct, rather than a merely unilateral attack. A sudden quarrel and absence of premeditation are insufficient by themselves. Whether the circumstances qualify is a question of fact. The Court stated this test without finding the exception established for this appellant.	599
Cruel conduct and sudden-fight reduction of murder	In deciding whether an act falls under Section 302 or Section 304 IPC, relevant circumstances include the weapon, force, part of the body targeted, prior enmity, sudden provocation, heat of passion and any undue advantage or cruel or unusual conduct. The Court treated pouring kerosene on a person and burning him alive as cruel conduct involving undue advantage and refused reduction to Section 304 Part I. The sudden-fight decision in Khokan did not establish that every death from septicaemia falls under Section 304 Part I.	610
Exception 4 to Section 300—Cumulative conditions for a sudden fight	Exception 4 requires a killing without premeditation, in a sudden fight in the heat of passion upon a sudden quarrel, without the offender taking undue advantage or acting cruelly or unusually. The fight must be with the person killed. A sudden quarrel and absence of premeditation alone do not satisfy the exception.	660
Sections 299, 300 and 304 IPC—Sequence of classification	The Court must first determine whether the act amounts to culpable homicide under Section 299, then whether it falls within a clause of Section 300 and whether an exception applies. Where culpable homicide does not amount to murder, an intention to cause death or injury likely to cause death attracts Section 304 Part I; knowledge that death is likely, without either intention, attracts Part II.	660
Inference of intention from the circumstances of the assault	Intention is a question of fact assessed from the circumstances as a whole. Relevant factors include the weapon and whether it was carried or picked up, the body part targeted, force used, number of blows, prior enmity or premeditation, sudden quarrel or provocation, heat of passion, and undue advantage or cruel conduct. The location of the injury alone does not determine the offence.	660
Single injury—No automatic reduction from murder	A single blow or injury does not by itself exclude murder or require conviction under Section 304 Part II. The nature and site of the injury, weapon, manner of assault and surrounding circumstances determine the required intention or knowledge and the offence made out.	660
Sudden fight, undue advantage and Exception 4 to Section 300 IPC	Exception 4 requires absence of premeditation, a sudden fight in the heat of passion with the person killed, and absence of undue advantage or cruel or unusual conduct. All requirements must be established; suddenness alone is insufficient, and undue advantage means unfair advantage. The Court found the attack revengeful and premeditated and, independently, that repeated armed assaults on five persons causing two deaths involved undue advantage and cruelty. It therefore refused alteration of the murder convictions to Section 304 Part I IPC.	698

30.5 : Section 302 to Section 304 IPC — Intention, Knowledge and Exception 4 Analysis

Topic	Ratio	Case Sr.no.
Sudden fight, undue advantage and Exception 4 to Section 300 IPC	Exception 4 requires absence of premeditation, a sudden fight in the heat of passion with the person killed, and absence of undue advantage or cruel or unusual conduct. All requirements must be established; suddenness alone is insufficient, and undue advantage means unfair advantage. The Court found the attack revengeful and premeditated and, independently, that repeated armed assaults on five persons causing two deaths involved undue advantage and cruelty. It therefore refused alteration of the murder convictions to Section 304 Part I IPC.	699
Murder and culpable homicide — statutory classification by intention, knowledge and exceptions	The inquiry first asks whether the act causing death falls within Section 299 IPC and then whether it satisfies any clause of Section 300. If it falls within Section 300, it is murder unless a statutory exception applies. Culpable homicide outside Section 300 attracts Section 304 Part I where the act is accompanied by intention to cause death or bodily injury likely to cause death, and Part II where there is knowledge of likely death without either such intention. Intention is a question of fact inferred from all the circumstances; the location of the injury alone does not determine the offence.	700
Sudden quarrel alone does not displace liability under Section 300 Thirdly	The Court distinguished Sections 299, 300 and 304 IPC using Arun Nivalaji More and Paul v. State of Kerala, with Rayavarapu Punnayya's sequence of causation, culpable homicide, murder clauses and possible exceptions. Dhirajbhai Gorakhbhai Nayak sets cumulative requirements for Exception 4: no premeditation, sudden fight, heat of passion, and no undue or cruel advantage; Pulicherla Nagaraju, Sangapagu Anjaiah, Kanhaiyalal and Bavisetti require a contextual assessment of weapon, vital part, force, manner and surrounding circumstances rather than counting blows. Though the incident arose abruptly and no prior plan of all three was proved, the Court held Laxmi Narayan's intentional head injury sufficient in ordinary course of nature to cause death. It did not find all Exception 4 conditions established for him, and rejected the requested substitution of Section 304 Part I or II. Absence of common intention for companions is a distinct question from the principal assailant's Section 300 Thirdly liability.	733
Cumulative requirements of the sudden-fight exception to murder	Exception 4 to Section 300 requires an unpremeditated act in a sudden fight, committed in the heat of passion on a sudden quarrel, without undue advantage or cruel or unusual conduct. The fight must be with the person killed and involves mutual provocation; a sudden quarrel and absence of premeditation alone are insufficient. Whether these conditions exist depends on the proved circumstances.	766
Sections 299, 300 and 304: intention, knowledge and the homicide classification	The inquiry begins with whether the act causing death satisfies Section 299 IPC through intention to cause death, intention to cause bodily injury likely to cause death, or knowledge that death is likely. Death alone does not establish culpable homicide without the required mental state. If a clause of Section 300 applies and no exception intervenes, the offence is murder punishable under Section 302. Culpable homicide outside murder falls under Section 304 Part I where the requisite intention exists, and under Part II where there is knowledge of likely death without the requisite intention. The Court adopted the distinction explained in Arun Nivalaji More before considering the evidence of the fatal shooting.	772
Exception 4 to Section 300: cumulative sudden-fight requirements	Exception 4 to Section 300 IPC requires absence of premeditation, a sudden fight in the heat of passion upon a sudden quarrel, and absence of undue advantage or cruel or unusual conduct. All requirements must coexist, and the fight must be with the person killed. A sudden fight involves mutual provocation and combat; a sudden quarrel and lack of premeditation alone are insufficient. Whether a quarrel was sudden depends on the proved facts. Undue advantage means unfair advantage. The Court adopted these requirements from the reproduced Dhirajbhai passage and the Kanhaiyalal discussion when setting	772

Topic	Ratio	Case Sr.no.
	out the law governing homicide classification.	
Grave and sudden provocation: loss of self-control and cooling-off time	Exception 1 to Section 300 IPC requires grave and sudden provocation by the deceased, a resulting loss of self-control, and the killing during that loss of control. Applying B.D. Khunte, the Court required a close temporal connection and absence of sufficient cooling-off time. The wife's departure about ten months earlier could not establish continuing sudden provocation. Her residence with her parents and the husband's act of bringing her home did not establish it either, and the immediate quarrel's cause was unproved. The earlier conduct had instead become a motive. The plea for reduction from murder on this ground failed.	774
Cruel repeated assault defeats reduction of murder to Section 304 Part II	Apart from failure to prove grave and sudden provocation, the repeated assault causing widespread contusions, fractures, head injury and burns showed cruel conduct and undue advantage. The Court found intention and knowledge of killing, intentional injuries sufficient in the ordinary course of nature to cause death, and awareness that the repeated blows were imminently dangerous. These findings defeated the request for Section 304 Part II treatment and supported conviction under Section 302 IPC.	774
Requirements of Exception 4 to Section 300 IPC	Exception 4 requires a sudden fight without premeditation, in the heat of passion upon a sudden quarrel, without the offender taking undue advantage or acting cruelly or unusually. The reproduced Dhirajbhai reasoning also requires the fight to be with the person killed, explains mutual provocation and blows, and requires absence of time for passions to cool. A sudden quarrel and lack of premeditation alone are insufficient; all the conditions must be established. Undue advantage means unfair advantage.	849
Exception 4 to Section 300: cumulative sudden-fight requirements	Exception 4 requires absence of premeditation, a sudden fight with the person killed in the heat of passion upon a sudden quarrel, and absence of undue advantage or cruel or unusual conduct. A sudden fight involves mutual provocation and combat; a sudden quarrel and lack of premeditation alone are insufficient. Whether the quarrel was sudden depends on the proved facts, and undue advantage means unfair advantage. The armed, preplanned ambush on unarmed persons without a preceding altercation did not satisfy these conditions.	873
Murder or culpable homicide — injury count and the sudden-fight exception	The number of injuries does not by itself determine whether an offence falls under Section 302 or Section 304 IPC. Intention or knowledge must be assessed from the weapon, vital part targeted, force, manner of assault, prior enmity, planning or chance, provocation, heat of passion and other circumstances. Exception 4 to Section 300 requires absence of premeditation, a sudden fight in the heat of passion upon a sudden quarrel, and absence of undue advantage or cruel or unusual conduct; the fight must be with the person killed. A sudden quarrel alone is insufficient. The fatal repeated lathi blows inflicted while Ramesh was eating at his door, with no proved attack on Gorelal or mutual fight, did not justify interference with the murder conviction.	885
Section 300 Thirdly: intended injury and objective sufficiency to cause death	The prosecution must prove that a bodily injury exists, its nature, and the accused’s intention to inflict the particular injury found. It must then establish objectively that an injury of that kind is sufficient in the ordinary course of nature to cause death. Once these elements are proved, an additional intention to kill or knowledge of the injury’s fatal seriousness is unnecessary. An accidental injury, or proof that a different injury was intended, falls outside that finding of intention. Applying these principles with the proved axe assault and fatal brain injury, the Court retained the conviction under Section 302 IPC.	948
Exception 4 to Section 300: all conditions must be satisfied	Exception 4 requires a sudden fight in the heat of passion upon a sudden quarrel, without premeditation, and without the offender taking undue advantage or acting cruelly or unusually. The fight must be with the person killed. Absence	948

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	of premeditation or a sudden quarrel alone is insufficient. The Court considered these cumulative requirements but declined to alter the murder conviction on this record, having accepted the axe assault, the serious fatal brain injury and the overall prosecution evidence. It did not make a separate detailed finding on every condition of Exception 4.	
A single blow does not automatically exclude murder	There is no fixed rule that a single injury attracts Section 304 rather than Section 302 IPC. Depending on the proved circumstances, a single blow may amount to murder, culpable homicide not amounting to murder, or a hurt offence. The Court must assess the weapon, injury, part of the body, manner of assault and surrounding circumstances to determine intention or knowledge. An intentional injury sufficient in the ordinary course of nature to cause death is not reduced to a lesser offence merely because only one blow was struck.	948
Cruel assault on unarmed victims: refusal to substitute Section 304 Part I	In deciding between Sections 302 and 304 IPC, the Court considered the circumstances, weapon and its source, target and force of the blows, participation in any sudden fight, enmity, provocation, heat of passion and undue advantage or cruel conduct. Here the appellants came armed to the victims' field, repeatedly attacked their heads and broke both victims' legs. The victims were unarmed and had not instigated them. The Court found that the incident was not sudden and that the assault was cruel. The verbal dispute therefore did not justify replacing the murder conviction with Section 304 Part I.	949
Distinguishing murder from culpable homicide after an earlier quarrel	Whether a homicide falls under Section 302 or Section 304 IPC depends on the intention and knowledge disclosed by the circumstances. Relevant considerations include the weapon and whether it was brought, the part of the body targeted, force and number of blows, premeditation, prior enmity, participation in a sudden fight, provocation, heat of passion and any undue advantage or cruel or unusual conduct. Applying Lavghanbhai and the principles reproduced through Ajmal, the Court found that the shooting occurred after the commission proceedings had ended and the crowd dispersed. The complainant's side was unarmed and had not provoked the attack; Pawan's firearm shot struck the deceased's chest. It rejected the plea of a killing in the heat of passion, affirmed Section 302 and maintained the life sentence.	951
Requirements of the sudden-fight exception to murder	Exception 4 to Section 300 IPC requires absence of premeditation, a sudden fight in the heat of passion upon a sudden quarrel, and no undue advantage or cruel or unusual conduct by the offender. All conditions must be satisfied; a sudden quarrel and lack of premeditation alone are insufficient. The fight must concern the person killed.	987
	Sub-Chapter no. 30.6 Hurt, Grievous Hurt and Dangerous Weapons	
Manner of using a sharp or pointed weapon	The weapon's description alone does not establish hurt by a cutting or stabbing use. Where a ballam was not shown to have been thrust, or a farsa caused a medically supported blunt injury, simple-hurt liability under Section 323 IPC could follow. Conversely, a proved incised injury could not support conviction of an accused for sharp-weapon hurt without evidence attributing that use to him.	165
Proportionality of sentence for grievous hurt with multiple fractures	The nature and number of fractures and wounds, together with prior enmity, justified refusal to reduce the seven-year sentence under Section 326 read with Section 34 IPC to the period already undergone. The Court considered the severity of the proved injuries and noted that Section 326 permits imprisonment for life.	226
Hurt without visible external injury	Hurt under Section 319 IPC includes bodily pain and does not require an external injury. Accordingly, the absence of injury in the medical examination	244

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	did not negate allegations of fist blows under Section 323 IPC. Ocular evidence could not be discarded merely because it lacked documentary corroboration.	
Section 323 IPC — hurt proved despite failure of the extortion purpose	Failure to prove the purpose required by Section 327 IPC did not negate the independently proved lathi assault. The victim's account, corroborated by medical evidence of eight contusions, established voluntary hurt beyond reasonable doubt. The Court accordingly substituted a conviction under Section 323 IPC.	316
Section 323/34 IPC — charges for assault on two victims	Specific allegations that the accused assaulted the complainant and her husband during the same confrontation, accepted at face value at the charge stage, furnished prima facie material for two counts under Section 323 read with Section 34 IPC. Their truth and the accused persons' ultimate liability remained matters for trial.	330
Individual liability for simple hurt	After rejecting common-intention liability for the fatal assault, the Court separately considered the proved personal assaults on the other injured witnesses. Their injuries were treated as simple, and the appellants were held liable under Section 323 IPC for the injuries individually attributable to them.	561
Absence of visible injuries after fist blows	The absence of injuries other than the fatal neck injury did not lead the Court to reject the proved fist assault. It observed that fist blows delivered without great force may leave no internal injury, and maintained liability for hurt under Section 323/149 IPC while excluding constructive liability for the independent strangulation.	563
Agricultural axe or lathi — possession distinguished from proved use in causing hurt	Carrying an axe or lathi at an agricultural field did not alone establish that the accused had arrived prepared with deadly weapons. Referring to Jugat Ram and Ram Charan, the Court considered the ordinary agricultural use of those implements. Their actual use in causing incised and lacerated injuries was nevertheless established by consistent injured-witness evidence and medical findings. Three appellants were therefore convicted directly under Section 324 IPC after their collective convictions were set aside; the previously acquitted Homesingh was separately convicted under Section 324 IPC in the State's appeal.	754
Bodily pain and medical material supporting a prima facie hurt charge	Hurt under Section 319 IPC includes bodily pain, disease or infirmity. Medical findings of abrasions, swelling, bruising and tenderness, together with the complaint of chest pain, supported a prima facie offence under Section 323 IPC. The absence of an external chest injury did not remove the recorded complaint of pain from that assessment. The conclusion concerned charge sufficiency and remained subject to the trial evidence.	832
Separate Section 323 liability for a lathi injury	The accepted prosecution evidence attributed a lathi injury to Dinesh to Satish, separately from the firearm acts attributed to Laxman. The Court sustained Satish's conviction under Section 323 IPC and sentence of one year's rigorous imprisonment with a fine of ₹500 and the default stipulation. Following dismissal of his appeal, his bail and surety bonds were cancelled and he was directed to surrender to serve the remaining sentence.	849
	Sub-Chapter no. 30.7 **Rash or Negligent Driving Causing Death or Hurt — IPC Sections 279, 337, 338 and 304-A**	
Allowing passengers to travel on an overloaded bus roof: rash and negligent driving	The driver was not entitled to carry passengers beyond the bus's capacity. The Court treated his allowing passengers to sit on its roof as itself a rash and negligent act, together with the witnesses' evidence of rash driving. On the proved circumstances of the overturning, which caused eight deaths and injuries to twenty-six persons, the Court found rash and negligent driving proved beyond reasonable doubt and upheld the relevant IPC convictions.	777
Road accident — overtaking from the	Overtaking a vehicle from its right side was consistent with the traffic rule considered by the Court. A driver turning right was expected to check the side	904

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right and precautions before turning	mirror for traffic approaching from behind and take precautions before crossing its path. In this case, whether the motorcycle was using the wrong lane or avoiding the turning car remained for trial; the observations on the car driver's lack of care were not final findings of negligence.	

Chapter no. 31
Public Order, Speech, Insult and Offences Affecting Social Harmony

Sub-Chapter no. 31.1
Defamation, Insult and Speech-Based Criminal Liability

Defamation: harm to reputation in the estimation of others	Explanation 4 to Section 499 IPC requires an imputation that directly or indirectly lowers a person's moral or intellectual character, caste or calling, or credit in the estimation of others, or causes the person's body to be regarded as loathsome or disgraceful. Where the supporting witness did not state that the alleged words lowered the complainant's reputation in his estimation, the evidence did not prima facie satisfy this requirement.	20
Section 294 IPC allegations and clarification of annoyance at trial	Where the Section 161 CrPC statements specified the abusive words and the accompanying scuffle, the Court found a prima facie Section 294 IPC case despite the FIR's more general reference to filthy abuse. Whether the words caused annoyance to others could be clarified through examination and cross-examination of the witnesses. The omission of that express detail from the FIR did not require quashing on the material then available.	244
Section 153A IPC — added ideological imagery and the plea of protected satire	At the FIR-quashing stage, the Court treated a cartoon's added dress and cap, admittedly absent from the actual incident, as an attempt to attribute the act to a particular ideological group and provoke disharmony or enmity. The Court recognised an artist's liberty to criticise through satire, but held that this unsupported attribution did not qualify for protection on the alleged facts. Freedom of expression is subject to reasonable restrictions under Article 19(2). The explanation for the additions and the plea of absence of intent were left for trial; the refusal to quash was not a final finding of guilt.	348
Political criticism and hate speech — falsity alone is insufficient	Political speech criticising government policy receives strong protection. Even harsh, deceptive or false criticism does not by itself constitute hate speech. The distinction turns on the substance, intent and purpose of the expression: criticism of policy differs from a message that humiliates or alienates a targeted group and incites hatred or violence. Divergent or extreme views on sensitive subjects are not automatically hate speech. Restrictions must satisfy the public-order and proportionality safeguards discussed by the Court.	348
Section 153A IPC — mens rea and involvement of at least two groups	Intention to promote enmity or hatred, or to cause disorder or incite violence, is an essential element of Section 153A IPC, and the prosecution must prove mens rea. At least two relevant groups or communities must be involved. Merely arousing feelings within one group without reference to another does not satisfy the inter-group requirement. In the present quashing proceeding, the applicant's denial of criminal intent was left for trial.	348
Alleged hate speech — whole-context reading and the reasonable-person standard	The expression must be read as a whole in its publication context. Isolated forceful passages cannot be stitched together to infer a criminal intention. The assessment is objective, from the standpoint of a reasonable, firm-minded person aware of the circumstances. Mere offensiveness or repugnancy is insufficient. The inquiry concerns serious vilification and whether the expression is likely to expose the targeted group to hatred, rather than the disagreeable nature of the idea alone.	348
Section 153A(1)(b) IPC — public tranquillity means public order and	For Section 153A(1)(b), public tranquillity must be understood narrowly as public order and safety, rather than every ordinary law-and-order disturbance or loss of serenity. The act must threaten or be likely to disturb community life or public interest at large. Locally significant conduct can threaten public order;	348

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safety	the majority or minority character of a group may be assessed in that local setting.	
Section 294 IPC — public place and annoyance to others	For the charged offence under Section 294 IPC, the obscene words must be uttered in or near a public place and cause annoyance to others. The complainant's drawing room was not a public place, and no annoyance to others was alleged. The Court therefore found that the essential ingredients of Section 294 were absent.	685
Section 294 IPC — private telephone abuse and later circulation	Abuse spoken during the telephone conversation did not satisfy Section 294 IPC where the words were not uttered in or near a public place and annoyance to others was not alleged. Subsequent circulation of the recording by the recipient did not establish those missing ingredients. The Court quashed the Section 294 count while permitting investigation under Section 505.	686
Prima facie abusive-language allegation under Section 294 IPC	The specific allegation that the accused abused the complainant in the name of his mother and sister was treated as prima facie material for Section 294 IPC. The accused's contention that the words were abusive or defamatory but not obscene raised a factual issue left for trial. The Court did not determine final criminal liability on the wording alone.	832
Section 294 IPC — obscene words and annoyance must be alleged	Section 294 IPC requires an obscene act in a public place, or obscene words uttered in or near a public place, together with annoyance to others. A general allegation of filthy abuse, without identifying the words or alleging annoyance, did not disclose the offence even when accepted at face value.	900
	Sub-Chapter no. 31.2 **Criminal Intimidation, Threat and Coercive Conduct**	
Alleged threat after the completed assault	In assessing the alleged words of future killing after the group attack had already caused a death, the Court treated them in their setting as an expression of ego rather than criminal intimidation. It therefore set aside the Section 506 IPC convictions.	165
Threats Against an Advocate for Accepting a Brief	Threatening an advocate merely because the advocate has accepted a client's brief interferes with professional duties. Advocates ordinarily represent their clients' causes without a personal interest in the dispute. Reporting alleged threats directed at forcing an advocate to leave a case cannot, on that basis, be characterised as misuse of advocacy. The Court found the allegations sufficient to permit the criminal proceedings to continue.	361
Criminal intimidation: threat and intention under Section 503 IPC	Criminal intimidation requires a threat of injury to a person, reputation or property, or to the person or reputation of someone in whom the person threatened is interested, with intent to cause alarm, make the person do something not legally required, or make the person omit something legally permitted as a means of avoiding the threat. The aunt's assertion that the family would buy the police even if the complainant were killed was not treated as a threat by her to kill the complainant and did not disclose Section 506 IPC on the allegations made.	793
Disputed intention behind a threat in criminal-intimidation quashing proceedings	Where the prosecution alleged threats to kill and the accused characterised them as empty threats, whether he intended to execute the threats was a disputed factual issue for trial. The Court declined to determine that intention under Section 482 CrPC or to quash the Section 506 IPC charge on the accused's assertion alone.	832
Criminal intimidation — intention to cause alarm or compel conduct	A threat of injury to a person, reputation or property constitutes criminal intimidation only when made with the intention to cause alarm, or to compel an act the person is not legally bound to do or an omission of an act the person is legally entitled to do. Mere threatening words are insufficient without material showing that intention. The alleged threats to kill or spoil the deceased's life	900

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	did not disclose the required intention on the allegations considered.	
	Sub-Chapter no. 31.3 **Unlawful Assembly and Public-Order Offence Ingredients**	
Rioting — force by one member may engage the assembly's liability	Once an assembly is proved unlawful, use of force or violence by a member in prosecution of its common object constitutes rioting; every member need not personally use force. Encouragement by words or signs and actual infliction of hurt may be different forms of participation, provided the accused's membership and the common-object connection are established.	12
Rioting and possession of deadly weapons	The Court distinguished participants carrying ordinary sticks, who were convicted under Section 147 IPC, from proved assembly members carrying guns, farsas or ballams, whose Section 148 convictions were maintained. The classification followed the weapons held and participation proved in this occurrence.	165
Unlawful assembly, rioting and armed rioting	An unlawful assembly requires at least five persons sharing an object specified in Section 141 IPC, although each member’s identity need not be proved. Rioting requires force or violence in pursuit of that object, without requiring its achievement. Section 148 further requires the person charged to be armed with a deadly weapon. Those offences are distinct from the constructive liability created by Section 149.	166
Proof of abusive words and annoyance under Section 294 IPC	A general assertion that the accused used abusive language, without identifying the words or proving resulting annoyance, did not justify interference with acquittal under Section 294 IPC. The Court upheld the acquittal on those evidentiary deficiencies.	226
Rioting and Rioting while Armed with a Deadly Weapon	Use of force or violence by an unlawful assembly or a member in pursuit of its common object constitutes rioting; actual achievement of that object is unnecessary. Section 148 IPC additionally requires the person charged to be armed with a deadly weapon. Unlawful assembly, rioting and armed rioting are distinct offences, while Section 149 supplies vicarious liability for another offence.	409
WhatsApp group administrators — FIR-stage inference of common object	Where a member uploaded an admittedly fake religious video allegedly intended to promote enmity, the administrators' shared object required investigation. The Court noted that the applicants had not themselves rebutted or opposed the video by posting a group message. For the limited purpose of FIR registration, it inferred a shared object and refused to quash. Whether the applicants actually shared that object remained for investigation. The decision does not establish final guilt or automatic criminal liability from administrator status alone.	472
Section 505 IPC — making an inciting statement without circulating the recording	Section 505 IPC covers making, publishing or circulating a statement with intent to incite, or likely to incite, a class or community to commit an offence against another class or community. The maker could therefore face investigation even though the recipient, rather than the maker, circulated the audio recording. The Court found a prima facie inciting statement and allowed investigation to continue.	686
Carrying an axe or lathi in an agricultural field — inference of deadly-weapon preparation	The presence of persons carrying axes and lathis in an agricultural field did not, by itself, establish that they had arrived prepared with deadly weapons. The Court considered that an axe may be an agricultural tool unless used as a weapon and that carrying a lathi is common in village agricultural life. It applied that context in setting aside the Section 148 IPC convictions, while separately sustaining liability under Section 324 IPC for the assaults proved by injured-witness and medical evidence.	753

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	Chapter no. 32 **Property, Economic Deception and Document Offences**	
	Sub-Chapter no. 32.1 **Breach of Contract Versus Cheating — Threshold Distinction**	
Cheating and breach of contract: dishonest intention at inception	Cheating under Sections 415 and 420 IPC requires deception and dishonest or fraudulent inducement, with the necessary dishonest intention when the promise or representation is made. A later failure to perform a contract does not by itself establish that intention. Subsequent conduct may help assess the original intention, but is not the sole test. Allegations that money was obtained for a promised partnership share, a smaller share was allotted, and the excess was retained despite an assurance of refund disclosed a prima facie case beyond a mere contractual breach. This was an assessment for deciding quashing, not a final determination of guilt.	31
Cheating — accepting a further advance before fulfilling an earlier supply order may disclose dishonest intent from inception	Mere breach of contract does not constitute cheating. However, where a supplier failed to deliver goods against an earlier advance, accepted a further substantial advance despite the unfulfilled obligation, and continued to withhold the goods and money, the Court found a prima facie basis for inferring an intention to cheat from the beginning. Those circumstances justified allowing prosecution under Section 420 IPC to continue rather than quashing it as a purely civil dispute.	71
Cheating requires dishonest intention at the inception of the agreement	For Section 420 IPC, the allegations must prima facie show fraudulent or dishonest intention when the promise was made. Mere breach of contract or subsequent unwillingness to execute a sale deed after receiving an advance does not by itself establish cheating. Where no material indicated dishonest intention from the inception, the dispute remained one for civil redress.	172
Subsequent payment default and dishonest intention at the inception of a transaction	In considering the FIR under Sections 406 and 420 IPC, the Court distinguished a later failure to keep a promise from facts indicating an intention to cheat from the outset. The allegations that the purchaser obtained potatoes from several farmers, sold them in the open market and retained the proceeds without paying the farmers permitted a prima facie inference of that intention. The Court distinguished this from an inability to sell the produce and declined to quash; it did not determine guilt at trial.	514
Breach of an agreement and dishonest intention required for cheating	Cheating under Section 420 IPC requires dishonest intention when the promise is made; a subsequent breach of contract does not by itself establish that intention. In the dispute over the signed flat agreement and return of the complainant's money, the Court found the allegations predominantly civil and quashed the FIR under Sections 420, 406 and 34 IPC, leaving the complainant free to pursue civil relief.	518
Cheating requires dishonest intention when the promise is made	A contractual default or failure to repay money does not by itself establish cheating. Fraudulent or dishonest intention must exist when the promise is made. The FIR and Section 161 statements stated that money was provided to stock the applicants' liquor business, but did not allege a prior assurance of partnership inducing those payments. The later complaint that no partnership was granted did not supply that missing inducement. The Court treated counsel's proposed prior-partnership promise as an afterthought and found the transaction predominantly civil.	778
Initial dishonest intention and subsequent conduct in a cheating charge	Section 420 IPC requires an intention to deceive from the inception; mere breach of contract does not establish cheating. Intention may be inferred from previous or subsequent conduct. Where the drawer learns that his cheque was returned because words and figures differed but still does not tender the amount stated in words, that conduct may support an inference of initial dishonest intention for framing a charge. Whether the discrepancy was deliberate or a	788

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	bona fide mistake remains subject to trial proof.	
	Sub-Chapter no. 32.2 **Criminal Breach of Trust, Misappropriation and Entrustment**	
Entrustment and dishonest dealing in criminal breach of trust	Criminal breach of trust under Section 405 IPC requires entrustment of property or dominion over it, followed by dishonest misappropriation or conversion, or dishonest use or disposal contrary to a direction of law or a contract governing that trust. Wilfully allowing another person to deal with the entrusted property in that prohibited manner is also covered. Non-payment alone does not establish these ingredients.	31
Truck delivered on part payment: allegations of criminal breach of trust at the quashing stage	The complaint alleged that the buyer took the truck after part payment, agreed to pay the financed balance of ₹7.90 lakh, paid neither the financier nor the seller, and continued using the truck without returning it. Reading Sections 405 –406 IPC with the Sale of Goods Act provisions on sale, delivery and unpaid sellers, the Court treated the unpaid seller as retaining a lien and the buyer as holding the vehicle as trustee until payment. On that reasoning, it found allegations of a cognizable criminal breach of trust and refused quashing under Section 482 CrPC. The agreement had not been produced and its other terms were unknown. The ruling concerned the sufficiency of these allegations; guilt and the actual contractual terms were not finally determined.	49
Alleged minority and a void contract: no automatic ground to quash the breach-of-trust FIR	The applicant's assertion that the truck agreement was void under Section 11 of the Contract Act because he was then a minor did not by itself defeat the pleaded Section 406 IPC case. The Court rejected contractual incapacity as an automatic exemption from the criminal liability alleged on these facts and stated that the Sale of Goods Act did not prohibit the transaction. It considered possession after part payment, the unpaid financed balance and continued use of the truck. Whether the applicant was actually juvenile when the agreement was made was a factual question left undecided in the Section 482 proceedings. No final age determination or ruling on the applicable juvenile procedure was made.	49
Criminal breach of trust by a merchant — dishonest retention of entrusted advance funds may justify prosecution	Sections 405 and 409 IPC address dishonest misappropriation or conversion of entrusted property, including property entrusted in the course of a merchant's business. The receipt and retention of substantial supply advances, partial delivery, acceptance of a further advance, and continued failure to supply the balance or refund the money disclosed a prima facie case against the applicant as a merchant. The Court therefore declined to quash prosecution under Section 409 IPC.	71
Non-return of stridhan may be pursued through a Section 406 IPC complaint	Articles given to a woman at marriage form her stridhan. Where her in-laws have not returned it, she may pursue a complaint under Section 406 IPC; invoking that legally available remedy cannot itself be held against her. The maintenance decision does not determine criminal guilt in that complaint.	205
Goods-booking agent's disclaimer and investigation of criminal breach of trust	A person who booked the consignment could not obtain quashing of the breach-of-trust FIR merely by denying registered ownership of the trucks or relying on a consignment clause assigning responsibility for non-delivery to the truck owner and driver. Applying the common-carrier definition and Sections 10–12 Carriage by Road Act, the Court held that booking the consignment did not by itself absolve the petitioners. Their possible common intention with the drivers remained for investigation.	269
Goods-booking agents within the statutory definition of common carrier	Section 2(a) Carriage by Road Act includes goods-booking companies, contractors, agents and brokers within the definition of common carrier, together with the other activities and conditions specified in that provision. A person's role in booking the consignment therefore cannot be excluded from the carrier-liability assessment merely because another person is the registered truck owner.	269

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Jewellery entrusted for safekeeping and not returned— Section 406 IPC	Specific allegations that the four household relatives took the wife's jewellery for safekeeping on an assurance of return and then failed to return it disclosed a prima facie offence under Section 406 IPC. The finding permitted prosecution and did not determine guilt.	411
Criminal breach of trust: entrustment and dishonest misuse must be alleged	Section 405 IPC requires entrustment of property or dominion over it and dishonest misappropriation, conversion, use or disposal, or wilfully permitting another person to do so, in violation of the law or contract governing discharge of the trust. A mere incorrect monetary demand or civil default, without factual allegations satisfying those requirements, does not attract prosecution under Section 406. The Court adopted the Deepak Gaba test reproduced through Sachin Garg and quashed the present proceedings after finding a predominantly business repayment claim rather than disclosed criminal ingredients.	778
	Sub-Chapter no. 32.3 **Cheating, Dishonest Inducement and Commercial Transactions**	
Cheating in plot sales — dishonest intention at inception	Section 420 IPC requires an intention to deceive from the beginning; a later failure to keep a promise does not by itself constitute cheating. In assessing the proposed colony's plot sales, the Court found sufficient prima facie material for a cheating charge in the purchasers' statements about residential use and promised amenities, the absence of registration and diversion, and the sale of the land as agricultural land.	60
False land description and prima facie cheating	Section 420 IPC requires deception and dishonest inducement resulting in delivery of property or the making, alteration or destruction of the specified valuable security or signed instrument. Deliberately obtaining registration by falsely declaring a lower conveyance value can deceive the State authorities into granting registration and transferring valuable ownership rights. On the allegation that diverted land was shown as agricultural to pay less stamp duty, the Court found a prima facie cheating offence.	164
Property under Section 420 IPC and registration rights	Property under Section 420 IPC includes a valuable right or interest capable of ownership and having exchangeable value. Applying that meaning, the Court treated registration enabling transfer of valuable ownership rights as property for examining the alleged dishonest inducement of the registering authorities.	164
Blank-paper signature used for an affidavit — prima facie cheating and forgery for cheating	The Court treated an affidavit as property for the purpose of Section 415 IPC. Allegations that a person's signature was obtained on blank paper and contents were later typed and presented as that person's sworn statement, which the person denied executing, prima facie supported charges under Sections 420 and 468 IPC. The finding concerned the sufficiency of the allegations for trial.	318
Adulterated milk sold as pure — separate cheating allegation survives FSSA override	Selling adulterated milk to purchasers by representing it as pure discloses cheating. The FSSA's overriding provision does not by itself exclude every IPC offence, and no provision barring the distinct Section 420 IPC allegation was shown. On the allegations and the food analyst's report identifying adulterated milk solution and powder capable of use as an adulterant, the Court declined to quash the FIR. This was a decision on the sufficiency of the allegation for prosecution, not a final finding of guilt.	346
Selling substandard food as pure and safe: cheating	Selling adulterated or substandard food to unsuspecting consumers by representing it as pure and safe for human consumption may disclose cheating under Section 420 IPC. At the quashing stage, the dairy operator's assertion that the sampled material was residual product not intended for sale was a defence requiring examination, rather than a basis for terminating the FIR.	434
Second sale of an already conveyed flat and prima facie cheating	The registered deed of 1 June 2002 described first-floor Flat No. 10 as sold to the earlier buyer. The applicant conceded that no registered correction deed had changed that description, despite asserting that a ground-floor unit had been intended. The Court treated the first conveyance as divesting his title to the	449

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	described flat and its subsequent sale to the complainant as disclosing cheating under Sections 415 and 420 IPC. At this quashing stage, the separate bank-loan default and eviction did not answer the allegation concerning the second sale.	
Broker's Section 420 IPC Liability for a Seller's Failure to Supply Goods	Where the complaint identified the accused only as a broker and alleged no specific duty or liability to ensure delivery, the seller's failure to supply goods did not establish a prima facie case against the broker under Section 420 IPC. Section 2(5) of the CGST Act includes a broker within the definition of agent, but a broker arranging a bargain for brokerage cannot simply be equated with a commission agent who buys or sells, keeps custody or control of goods and collects payments. The Court applied that distinction to the complaint and the statement under Section 200 CrPC, set aside cognizance only against the broker and discharged him.	538
Section 420 IPC — adulterated food represented as pure and safe	Selling adulterated or substandard food to unsuspecting consumers by representing it as pure and safe for consumption can constitute cheating under Section 420 IPC. Applying the quoted decision in Manish Gupta, the Court refused to quash the Section 420 FIR concerning suspected adulterated mawa. The decision permits the prosecution to continue on the allegations; it does not determine guilt.	806
Selling adulterated food as pure— Section 420 IPC	Selling adulterated food by representing it as pure discloses cheating of purchasers and may sustain prosecution under Section 420 IPC. The Court adopted Neelkamal Sharma, which relied on Rohit Jain and Manish Gupta, and distinguished the FSSA override concerning Sections 272–273 IPC from the separate allegation of deception. No provision completely excluding Section 420 was shown. The application to quash the FIR was dismissed without a trial determination of guilt.	811
Section 420 IPC: deception and dishonest inducement to deliver property	Cheating under Section 420 IPC requires deception followed by fraudulent or dishonest inducement causing the deceived person to deliver property or valuable security, or to consent to another retaining property. The delivery or consent must result from that deception, and the inducement must be fraudulent or dishonest. Deception need not be expressed in words; it may arise from conduct or the nature of the transaction. The Court relied on the reproduced Ram Narayan Popli explanation when examining the alleged government-land transactions.	871
Office practice and business motive as defences to participation in insurance fraud	Following a wrongful office practice or claiming an intention to increase business did not absolve the manager on the evidence of this case. He knowingly instructed issuance of cover-note books to an unauthorised probationary officer and took no action on insureds' acknowledged complaints. Premiums were withheld or insurance records manipulated, causing loss to the company. The Court inferred that the manager acted in concert with the officer and affirmed the cheating, conspiracy and corruption convictions. Its conclusion rested on participation shown by the combined evidence, rather than an office-rule breach alone.	968
Fraudulent KCC preparation and withdrawal — prima facie cheating	Obtaining the borrowers' signatures on loan papers and vouchers, fraudulently creating a KCC facility in their names and withdrawing ₹5.75 lakh so as to burden them with repayment and interest prima facie disclosed cheating under Section 420 IPC. On those allegations, the Court declined to quash the FIR and consequential proceedings. Its conclusion concerned the sufficiency of the accusation for prosecution, not proof of guilt.	992

Sub-Chapter no. 32.4
Theft, Robbery, Dacoity and Extortion

Robbery — threats of instant violence while carrying away	Theft becomes robbery where, for committing the theft or carrying away the stolen property, the offender voluntarily causes or attempts death, hurt or	74

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stolen timber may satisfy Section 390 IPC	wrongful restraint, or puts a person in fear of instant death, hurt or restraint. Allegations that armed persons removing cut timber threatened to kill and cut the complainant if he approached disclosed the required element prima facie. The Magistrate therefore erred in treating the allegations as lacking the ingredients of robbery and refusing cognizance under Section 395 IPC.	
Dacoity — five or more joint participants include persons present and aiding the robbery or attempt	Under Section 391 IPC, dacoity requires five or more persons conjointly committing or attempting robbery, counting persons present and aiding that commission or attempt. Every person committing, attempting or so aiding is included. The Court distinguished robbery from dacoity by the number of participants and, on the allegations before it, directed cognizance under Section 395 IPC.	74
Robbery recovery: inconsistency with alleged apprehension at the scene	Recovery evidence must fit the prosecution account of the occurrence. Although the accused was allegedly caught at the spot, the victim's motorcycle and a loaded pistol were said to have been recovered from a public road about 100 metres away. The unexplained inconsistency, together with the claim that the robbers left their own motorcycle behind, contributed to doubt about the robbery account. The Court did not establish a general bar against recovery from a public place.	287
Section 327 IPC — purpose of extorting property or compelling an illegal act	For Section 327 IPC, the prosecution must prove that hurt was caused for the purpose of extorting property or constraining an illegal act. A demand for a bicycle followed by an assault in anger at refusal did not establish that purpose where the prosecution case did not allege hurt or fear being used to compel delivery. The Section 327 conviction therefore could not stand.	316
Section 383 IPC — dishonest inducement to deliver property through fear of injury	Section 383 IPC defines extortion as intentionally putting a person in fear of injury to that person or another, thereby dishonestly inducing delivery of property, valuable security, or a signed or sealed item capable of becoming a valuable security. The Court read this definition with Section 327 in assessing the purpose of the alleged hurt.	316
Sentencing Firmness in a Violent Train Robbery	The Court regarded violent robbery in a running train as requiring firm treatment and found no ground for leniency. It therefore declined to interfere with the seven-year rigorous-imprisonment terms and fines of ₹25,000 imposed on the appellants whose convictions under Sections 394/397 IPC were sustained.	405
Seven-year minimum sentence for gunpoint robbery under Section 397 IPC	Where the appellants were convicted of gunpoint robbery under Sections 392 and 397 IPC read with Section 13 of the MPDVPK Act, the statutory seven-year minimum under Section 397 precluded reducing imprisonment to the period already undergone. Their request for a shorter sentence, including reliance on conduct while on bail, could not justify imprisonment below that minimum. The Court affirmed seven years' rigorous imprisonment and dismissed the appeals.	508
Section 397 IPC — dismemberment of teeth during robbery	In the robbery proved against Purshottam, the complainant had suffered dismemberment of her teeth. On that basis, the Court affirmed the conviction under Section 397 IPC, along with the conviction under Section 452 IPC.	548
Unexplained possession and documentary linkage of a stolen motorcycle	Recovery of the complainant's motorcycle, identified by its matching engine and chassis numbers, was considered with a diary recording its mortgage and the absence of an explanation for possession. The Court upheld the Section 411 IPC conviction after accepting the trial court's comparison under Section 73 of the Evidence Act identifying the diary entries as the accused's handwriting.	574
Robbery by theft and robbery by extortion under Section 390 IPC	Theft becomes robbery when, for committing the theft or carrying away its proceeds, the offender voluntarily causes or attempts death, hurt or wrongful restraint, or fear of their instant occurrence. Extortion becomes robbery when the offender is present, puts the person in fear of instant death, hurt or wrongful	574

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	restraint and thereby induces immediate delivery. The Court used that distinction in examining the extortion-based robbery charge.	
Failure of one recovery link where independent evidence establishes dacoity murder	Failure to identify the recovered jewellery as the stolen article did not defeat the prosecution where reliable injured-eyewitness identification and the firearm evidence established the appellants' participation. On that combined proof, the Court upheld the convictions under Section 396 IPC read with Sections 11/13 of the MPDVPK Act. It did not treat the defective jewellery identification as evidence of guilt.	761
Section 329 IPC — grievous hurt following a demand for money	The conviction for voluntarily causing grievous hurt to extort property was sustained where the eyewitness's prompt report and testimony established a demand for money to purchase liquor, refusal by the injured man and the ensuing knife assault. Her evidence on the demand, together with the proved injuries, established the Section 329 IPC offence beyond reasonable doubt.	908
	Sub-Chapter no. 32.5 **Forgery, Fabricated Documents and Use of False Document**	
Proof of sale deeds executed by impersonating the landowner	The Court found the sale deeds forged where the true owner had not executed them, the photograph and thumb impressions belonged to an impostor, and the appellants knowingly identified the impostor and signed as witnesses. The purchaser's and draftsman's evidence, together with signature comparison, established participation in the false transactions.	234
Notary's duty to verify the identity of the executant	Under Section 8 of the Notaries Act, a notary must exercise utmost care in verifying or attesting an instrument and satisfy himself that the person appearing is the named executant. Reliance on another person's identification did not justify quashing where a will bearing the purported testator's photograph was notarised after his death and the thumb impression did not match. A notary's statutory verification duty differs from an advocate's reliance on a client's instructions.	271
Proof of a forged power of attorney used to transfer land	The Court sustained the finding that a power of attorney was forged on the complainant's denial of execution and the fingerprint expert's evidence that the disputed thumb impression was not hers. The absence of evidence of the alleged consideration and the execution of the sale deed within two days supported the finding that the accused used the forged authority to transfer her land.	273
Using a forged power of attorney as genuine	An accused who relied on a forged power of attorney as genuine, assumed authority to act for the complainant and executed a sale deed on that basis was held liable for using the forged document. The finding was based on proof that the purported authority bore a forged thumb impression.	273
False affidavit — making a false document and using it as genuine	Obtaining a person's signature on blank paper and later inserting contents to represent that the person signed the completed statement can amount to making a false document under Sections 463 and 464 IPC. On the allegations considered, this supported a charge under Section 465; using the forged document as genuine supported Section 471. These were prima facie findings, with the actual execution and intent to be determined at trial.	318
Revenue-record interpolation — alleged motive and quashing	The Court rejected the claim that adding a location to the revenue record could confer no advantage. On the alleged facts, insertion of 'Quilla' could change the temple's recorded identity and location and undermine the father's claim as its priest amid a family dispute. The Court distinguished Parminder Kaur, where the reproduced passage concerned altered dates on certified copies without an identified advantage or loss. It found a sufficient basis to reject absence of mens rea as a ground for quashing, without finally determining that the applicant made the insertion.	326
False document — conveyance in one's	The passage from Mohammed Ibrahim v. State of Bihar considered by the Court distinguishes a false claim of ownership from making a false document. A	326

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own name while falsely claiming title	person conveying property in his own name, without impersonating another or falsely claiming another's authority, does not make a false document under Section 464 merely because he lacks title. Without a false document, the forgery offences discussed in that passage are not attracted. The present allegation concerned interpolation in an existing government revenue record, and the passage was not treated as requiring its quashing.	
Second sale deed's declarations and prima facie forgery allegations	The later sale deed declared the sellers' authority to sell and that the flat had never been sold, mortgaged, gifted, willed or otherwise transferred and was unencumbered, despite the earlier registered conveyance of that same described flat. Relying on those particular declarations, the Court rejected the contention that Sections 467 and 468 IPC were not attracted and found a prima facie case requiring prosecution. The decision is confined to that deed and the allegations before the Court; it does not supply a general rule that every transfer by a person lacking title constitutes forgery.	449
Alleged fabrication of a Will — criminal ingredients despite a civil property dispute	An allegation that a Will was forged involves criminal ingredients and cannot be treated as predominantly civil merely because it also concerns property or inheritance rights. The burden on a civil plaintiff relying on a Will to establish its genuineness does not prevent an opposing party from initiating criminal proceedings alleging fabrication. These principles permit the criminal allegation to proceed; they do not establish that the disputed Will is in fact forged.	705
False declarations in government-land sale deeds: prima facie forgery	In the alleged sale chain before it, the Court treated express declarations that government lease land was privately owned and was not government lease land as supporting a prima facie case of making a false document and forgery. The original lease had expired, the persons first selling the land had acquired no title, and the Court found that the declarations sought undue gain at the Government's expense. On that basis, it refused to quash the prosecution. This is the Court's application at the FIR stage.	871
Expired government patta and mutation entries in an alleged forged sale chain	The circular dated 26 June 1984 did not retrospectively confer bhumiswami rights on a lease that had already expired; the patta had to subsist on that date, and conferral required an order of the competent authority. Mutation is a fiscal entry and does not itself confer title. Persons without title cannot convey a better title by registered sale deeds. Applying these principles, the Court rejected reliance on the Additional Collector's validation of the sale deeds: the lease had expired in 1977, and the subsequent recorded holders had neither a title document nor inheritance from the lessee.	871
Making a false document: false ownership claims and impersonation distinguished	The Mohd. Ibrahim passage reproduced by the Court distinguishes executing a sale deed in one's own name while claiming ownership from impersonating the owner or falsely claiming the owner's authority. Under that passage, dishonest execution alone does not satisfy the relevant category of Section 464 IPC: the document must be intended to appear to have been executed by, or under the authority of, someone by whom or under whose authority the maker knows it was not executed. An ownership claim by itself is therefore insufficient under that test. The Court subsequently found a prima facie forgery case on the express government-land declarations before it.	871
Forgery and use of a forged document: false document and required intent	Forgery requires the making of a false document or part of it with the intent specified in Section 463 IPC, including intent to cause damage or injury, support a claim or title, procure parting with property, or commit fraud. Under the reproduced Ram Narayan Popli explanation, forgery for cheating is complete when the false document is made with that particular intent. For liability under Section 467 read with Section 471, knowledge or reason to believe that the document was forged must be shown.	871
Proof of fabricated	The Court assessed the note sheet, estimate, measurement and billing records	914

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municipal work records from contradictory documents and site evidence	with evidence from the site. The note sheet asserted that the submersible pump had already been removed, yet the estimate charged for removal and the spot panchnama found it still in the bore. The hand pump was absent although completed work had been billed, and technical scrutiny of the quotations had been bypassed. These combined circumstances supported the finding of a manufactured work file and the contractor's convictions under Sections 467, 468, 471, 420 and 120B IPC. The judgment did not separately formulate a general definition of making a false document.	
Deliberate alteration shown by damaged originals and inconsistent insurance copies	The original cover note was torn selectively at the insured’s name, premium and material vehicle particulars, while its photocopy preserved those entries. A duplicate described a Luna insured for Rs.30 although the original related to a truck for which Rs.1,350 had been collected. Another original bore a cancellation endorsement absent from the earlier photocopy. With the payment evidence, complaints and non-deposit, these discrepancies supported deliberate manipulation rather than mishandling or genuine cancellation, and the Court affirmed the forgery and use-of-forged-document convictions. It did not rely on a separate document-expert opinion.	968
Outpatient-slip explanation where inpatient admission is alleged	At the bail stage, the doctor's explanation that staff entered patients' names on outpatient slips did not answer the allegation before the Court. The disputed documents also represented inpatient admission and examination by him, and the inquiry had considered the hospital records and his explanation. The Court therefore declined to accept the outpatient-name-entry defence as a basis for bail.	989
	Sub-Chapter no. 32.6 **Night House-Trespass and House-Breaking — Section 460 Joint Liability for Death or Grievous Hurt**	
Section 460 IPC — joint participation and injury during night house-breaking	Section 460 IPC applies when, during lurking house-trespass by night or house-breaking by night, a person guilty of that offence voluntarily causes or attempts to cause death or grievous hurt. Every person jointly concerned in that night offence is liable. The prosecution must establish the accused’s participation and the temporal connection between the injury-causing act and the continuing trespass or house-breaking. Proof of a break-in and a guard’s homicidal death did not, without reliable evidence connecting the accused to the occurrence, establish his guilt under Section 460.	335
	Sub-Chapter no. 32.7 **Mischief by Fire and Destruction of Dwelling or Property-Custody Structure**	
Section 436 conviction on proof of the use and burning of the structures	The challenge that the burnt hut was not shown to be used for dwelling or keeping property failed on the evidence. The complainant described goods and household articles stored in the structures, and the defence witness admitted that the hut was used for cattle and had burnt. Accepted eyewitness evidence identified the persons who set the houses on fire. On that record, the Court upheld the Section 436 conviction.	717
	Chapter no. 33 **Offences Affecting Public Justice and Fabrication of Evidence**	
	Sub-Chapter no. 33.1 **Fabrication of Evidence, False Charge and Public Justice Offences**	
Conditional criminal action for a false custodial medical report	Where CCTV footage and the detainee's condition contradicted the claim that he had no injuries, and the officers were recorded discussing the fabrication of medical evidence, the DGP was directed to verify the detainee's medical report. If it recorded no injuries, criminal proceedings against the doctor for preparing a false report and reference to the appointing authority for departmental action were directed. The report itself had not been placed before the Court.	22

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Section 340 CrPC: expediency and optional preliminary inquiry	Before making a complaint for an offence within Section 195(1)(b) CrPC connected with its proceedings or evidence, the Court must form and record the opinion that further inquiry is expedient in the interests of justice. A preliminary inquiry is optional, and the decision to complain is not automatic merely because an offence appears to have occurred. This stage concerns the need for inquiry, not a finding of guilt or innocence.	37
Hearing before and after a Section 340 CrPC complaint	There is no statutory right to a hearing before the Court decides to make a complaint under Section 340 CrPC. A right of appeal under Section 341 does not itself create such a preliminary hearing right. Once the complaint reaches the Magistrate, Section 343 requires it to be dealt with as a case instituted on a police report. The accused must receive the relevant documents and may contest the allegations at the pre-trial stage, including seeking discharge under Section 239 CrPC.	37
Section 340 CrPC — expediency finding and discretionary complaint, without a mandatory preliminary inquiry	For an apparent offence within Section 195(1)(b) CrPC connected with court proceedings, Section 340 requires the court to consider whether further inquiry is expedient in the interests of justice. A preliminary inquiry is optional and does not determine guilt or innocence. Even a prima facie offence does not compel a complaint as a matter of course; if the court decides to proceed, it must record the requisite finding and make a written complaint to the competent Magistrate. That procedure did not justify the demolition-related police-registration directions in this case, which were not orders for prosecution of false evidence.	78
Section 340 complaint — hearing before the Magistrate and police-report procedure under Section 343 CrPC	There is no statutory right to be heard before the court decides to make a Section 340 complaint, and the availability of an appeal under Section 341 does not create such a right. The accused is heard in the Magistrate's pre-trial inquiry, including on whether the allegations are groundless under Section 239. Section 343 requires the Magistrate to proceed as on a police report, with relevant documents supplied, discharge considered, and a charge framed only if the statutory grounds exist; guilt is determined at trial.	78
Section 201 IPC — disappearance of evidence with intent to screen an offender	Section 201 IPC requires knowledge or reason to believe that an offence has been committed and causing its evidence to disappear, or knowingly giving false information about it, with the intention of screening the offender from legal punishment. In this case, the finding that the victim was strangled and her body thereafter burned, considered with the other established circumstances, supported affirmation of the Section 201 conviction along with the murder conviction.	138
Section 340 CrPC: preliminary inquiry is not mandatory	A separate preliminary inquiry under Section 340 CrPC may be dispensed with when the court can already form the necessary prima facie opinion on the apparent offence and the expediency of further inquiry in the interests of justice. That opinion initiates the statutory process and is not a finding of guilt. The challenge based on the asserted mandatory inquiry requirement therefore failed.	144
Section 340 CrPC: prima facie offence and expediency in the interests of justice	Action under Section 340 CrPC requires material disclosing a prima facie case concerning an offence within Section 195(1)(b), together with the court's opinion that further inquiry is expedient in the interests of justice. Neither a suspected offence alone nor contradictory statements by themselves make a complaint automatic.	144
Perjury prosecution: deliberate falsehood on a material matter	Perjury prosecution requires a prima facie foundation of deliberate and conscious falsehood on a matter of substance, with a reasonable likelihood of conviction. An innocent or immaterial inaccuracy, doubtful material, or a contradiction alone does not justify prosecution. The court must apply due care and separately consider whether prosecution serves the interests of justice.	144
Section 340 CrPC: expediency	In deciding whether to make a complaint under Section 340 CrPC, the court normally assesses the alleged offence's effect on the administration of justice	144

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measured by impact on the administration of justice	rather than merely the extent of private injury caused by the document or false evidence. Even a document causing serious private loss may have only a limited effect within the judicial proceeding, so a complaint need not follow as a matter of course.	
Section 340 CrPC: participation of the proposed accused in preliminary inquiry	A person against whom a Section 340 complaint is contemplated has no right to participate in the preliminary inquiry merely as the proposed accused. The inquiry concerns the court's decision whether further proceedings are expedient in the interests of justice, rather than adjudication of that person's guilt.	144
Section 340 CrPC: deliberate material falsehood and expediency of prosecution	Action under Section 340 CrPC requires a reasonable prima facie basis for deliberate falsehood on a matter of substance and the Court's satisfaction that an inquiry is expedient in the interests of justice. Mere suspicion is insufficient. The effect of the false statement on obtaining a favourable order is a relevant consideration, rather than an exhaustive test. Here, misdescribing old-age pension as family pension did not alter the availability of admitted signatures for comparison, so proceedings were refused despite criticism of the careless affidavit.	282
False affidavit as giving or fabricating false evidence	A knowingly false statement sworn by a person bound by oath to state the truth may constitute giving false evidence under Section 191 IPC. An affidavit containing a false statement may also fall under Section 192 when intended to appear in judicial evidence and induce an erroneous opinion on a material issue. These requirements depend on the statement and the maker's knowledge or intention.	282
Deliberately false affidavits and interference with justice	Filing a false affidavit or fabricated document with knowledge of its falsity and an intention to deceive the court may constitute criminal contempt where it interferes, or tends to interfere, with judicial proceedings or the administration of justice. The relevant deceit or knowledge must be present; the Court did not treat every inaccurate affidavit as contempt.	282
False affidavit — due care and the plea of good faith	Section 52 IPC excludes good faith where due care and attention are absent. A deponent who signed blank material without knowing the resulting affidavit's contents, while knowing it would be used in the High Court, could not excuse the false sworn statement merely by relying on his employer. The Court treated the filing as intended to give a false impression and held the deponent guilty of contempt. His apology was accepted for the time being with a warning and ₹15,000 costs, subject to recovery and registration of a contempt case on non-payment.	309
False sworn affidavit — Sections 191–192 IPC and a Section 199 declaration	The Baban Singh passage adopted through Kamla Sharma distinguishes a sworn false affidavit from a declaration merely capable of being received as evidence under Section 199 IPC. A knowingly false statement by a person bound on oath to tell the truth may fall under Section 191. A false document intended to appear in a judicial proceeding and induce an erroneous opinion on a material point may constitute fabrication under Section 192. The Court applied the false-affidavit analysis here, while disposing of the contempt and representation issues rather than pronouncing a separate IPC conviction.	309
False court filing — deceit and interference with the administration of justice	A deliberately false affidavit or a fabricated document knowingly filed to mislead the court may constitute criminal contempt because it interferes or tends to interfere with judicial proceedings or the administration of justice. The Dhananjay Sharma and Chandra Shashi passages adopted through Kamla Sharma require attention to deceit, knowledge and the intention to obstruct or deflect the judicial process. The present Court relied on the deponent's admitted conduct and known judicial use in finding contempt.	309
False-affidavit prosecution — deliberate falsehood	The Muthu Karuppan passage relied upon through Kamla Sharma requires a prima facie case of deliberate falsehood on a matter of substance and a reasonable foundation for the charge before prosecution is ordered as expedient	309

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on a substantial matter	in the interests of justice. The Court invoked that qualified approach in explaining the seriousness of false affidavits; the present order did not itself conclude a separate IPC prosecution.	
False affidavits — giving or fabricating false evidence	A knowingly false statement made on oath can constitute giving false evidence under Section 191 IPC. Making a document containing a false statement with the intention that it appear in judicial evidence and induce an erroneous opinion on a material point can constitute fabrication under Section 192. The reproduced Baban Singh decision applies those principles to affidavits tendered in court.	318
False-affidavit prosecution — deliberate falsehood on a material matter	The reproduced Muthu Karuppan standard requires a prima facie case of deliberate falsehood on a matter of substance and a reasonable foundation for the charge before prosecution for a false affidavit is ordered. The court must consider prosecution expedient in the interests of justice.	318
Knowingly fabricated court material — interference with administration of justice	The relied-upon contempt authorities treat filing a fabricated document with knowledge of its falsity and an intention to deceive or defraud the court as conduct interfering, or tending to interfere, with the administration of justice. The element of deceit or knowledge is material; the present revision did not itself determine contempt liability.	318
Section 340 CrPC — preliminary inquiry is discretionary	Before making a complaint under Section 340 CrPC, the court must consider whether an inquiry into the apparent offence is expedient in the interests of justice. A preliminary inquiry may assist that decision, but is not compulsory. Applying Pritish v. State of Maharashtra, the High Court rejected the objection that the complaint was invalid solely because no preliminary inquiry had been held. The preliminary stage does not determine guilt, and a complaint does not follow automatically from every inconsistency in testimony.	320
Section 340 CrPC — hearing before the complaint and later safeguards	Section 340 CrPC does not require the court to hear the proposed accused before deciding to file a complaint. The appeal provided by Section 341 does not imply a right to participate before that decision. Applying Pritish v. State of Maharashtra, the Court explained that the accused has a right to be heard once called before the Magistrate, including an opportunity to seek discharge under Section 239. The decision to make the complaint determines neither guilt nor innocence.	320
Section 340 CrPC — expediency and deliberate changes in material testimony	Whether a complaint is expedient under Section 340 CrPC depends on the apparent offence's effect on the administration of justice, rather than merely the extent of injury to an individual. Applying Iqbal Singh Marwah v. Meenakshi Marwah, the High Court upheld the complaint against a seizure witness who repeatedly changed his account of the place of recovery to help the accused. His membership of the Gram Raksha Samiti and statutory duties were relevant to that assessment. The ruling upheld initiation of prosecution; guilt remained for determination in the complaint case.	320
Prima Facie Deliberate False Evidence and Expediency Under Section 340 CrPC	A Section 340 complaint requires prima facie material of a qualifying offence affecting judicial proceedings and an opinion that an inquiry is expedient in the interests of justice. Mere discrepancies or contradictory statements do not automatically warrant prosecution; the court must consider deliberate falsehood and its impact on the administration of justice. Applying the reproduced authorities, the Court found apparent fabrication by two investigating officials and seven witnesses sufficiently serious to direct prosecution steps. That direction did not determine their guilt.	389
Preliminary Inquiry Under Section 340 CrPC Is Discretionary	A preliminary inquiry is a means of assisting the court to decide whether a complaint is expedient in the interests of justice; it is not an obligatory stage in every Section 340 proceeding. Where the court can form the necessary prima facie opinion from the existing material, it may proceed without a separate	389

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	preliminary inquiry. Applying Pritish and Amarsang, the Court made clear that this process concerns whether an inquiry into the alleged offence should follow, rather than a determination of guilt.	
No Mandatory Pre-Complaint Hearing Under Section 340 CrPC	Section 340 does not require an opportunity of hearing to the proposed accused before the court decides to make a complaint. The reproduced Pritish ruling distinguishes that preliminary decision from the later proceedings before the competent Magistrate, where the person may contest the charge and seek discharge. The availability of an appeal under Section 341 does not itself create a right to a pre-complaint hearing. The court forming the Section 340 opinion must leave guilt or innocence to the competent criminal court.	389
Fabricated prosecution evidence—direction for perjury proceedings	Where the record disclosed a prosecution built on fabricated evidence and forged memoranda, the Court found it appropriate to direct proceedings under Section 340 CrPC against the three witnesses and two investigating officers responsible for the alleged false evidence. The direction initiated prosecution; it did not determine their guilt in that prosecution.	410
Section 340 CrPC—prima facie offence and interests of justice	Proceedings under Section 340 CrPC require both a prima facie basis for an offence within Section 195(1)(b) and an opinion that inquiry into it is expedient in the interests of justice. A complaint does not follow automatically merely because an apparent offence is identified.	410
Contradictory statements and intentional false evidence	A contradictory judicial statement does not by itself justify perjury prosecution. The material must indicate intentional falsehood or fabrication for use in judicial proceedings, and the Court must separately assess expediency in light of the circumstances and probable consequences of prosecution.	410
Section 340 CrPC—impact on administration of justice	Expediency under Section 340 CrPC normally turns on the effect of the alleged false evidence on the administration of justice, rather than solely on the size of the private injury. Even serious private injury does not make a court complaint compulsory.	410
Section 340 CrPC—preliminary inquiry is discretionary	A preliminary inquiry under Section 340 CrPC is optional. Its purpose is to assist the Court in deciding whether inquiry into an apparent offence is expedient, rather than to determine guilt. A Court able to form the required prima facie opinion from the record may dispense with a further preliminary inquiry.	410
Section 340 CrPC—hearing before making a complaint	Section 340 CrPC does not require a prior hearing for the person against whom the Court proposes a complaint. The accused's right to be heard arises in the ensuing criminal proceedings, and the availability of an appeal under Section 341 does not itself create a right to participate at the preliminary stage.	410
Section 340 CrPC—no adjudication of guilt at complaint stage	At the Section 340 stage the Court determines whether the available material calls for criminal inquiry in the interests of justice. It must not decide or express a conclusion on the proposed accused's guilt or innocence, which belongs to the subsequent prosecution.	410
Section 340 CrPC: deliberate falsehood, expediency and procedural safeguards	A Section 340 complaint requires a prima facie case of deliberate falsehood on a material matter and a separate finding that inquiry is expedient in the interests of justice. Mere contradiction or innocent inaccuracy is insufficient; expediency concerns the effect on administration of justice, rather than private injury alone. If the court can form that opinion on the material already available, a preliminary inquiry is discretionary and the proposed accused has no right to participate before the complaint decision. The direction to complain against the two witnesses was a threshold decision, not a perjury conviction or removal of their defence rights in the ensuing case.	441
Police Investigation of a Document Allegedly Fabricated before Its Filing in	Where a document is allegedly fabricated outside court before being filed, rather than manipulated while in court custody, the Court rejected the objection that proceedings could be initiated only through a court complaint. Applying	532

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Court	Iqbal Singh Marwah, it treated the complaint-route bar described in the judgment by reference to Section 340 CrPC as inapplicable to that alleged prior fabrication. The Court directed inquiry into the applicant's claimed sawmill ownership and licence, and registration of an offence against the Sarpanch who issued the certificate if the applicant was found not to own a sawmill. The direction was conditional on the inquiry.	
Police suppression of evidence — prima facie action under Section 201 IPC	Where officers deliberately failed to collect and preserve evidence in order to protect the persons implicated, the Court found prima facie grounds for action under Section 201 IPC. It left the independent investigating agency free to implicate every public or private person found involved. The direction arose from the identified efforts to shield suspects and did not finally determine the offence or individual guilt.	546
Concealment of a body to screen an offender	Section 201 IPC concerns disappearance of evidence with knowledge or reason to believe that an offence has been committed and an intention to screen the offender from punishment. The Court upheld the Section 201/34 convictions in the circumstances of the child's body being hidden in a lavatory compartment sealed with bricks and cement, together with the other incriminating evidence.	648
Section 340 CrPC: expediency finding and optional preliminary inquiry	For an apparent offence within Section 195(1)(b) CrPC committed in or in relation to a court proceeding, the court must decide whether further inquiry is expedient in the interests of justice before making a written complaint under Section 340. A preliminary inquiry is discretionary, and even an apparent offence does not make a complaint obligatory. This stage concerns the need for inquiry and must not determine or express a conclusion on guilt. The power did not authorise the unrelated police-prosecution directions issued over the demolition proceedings in this case.	864
Section 340 CrPC: no mandatory hearing before the court makes its complaint	A person against whom a court proposes to complain under Section 340 has no statutory right to participate in the court's preliminary inquiry or to be heard before the complaint is made. The appeal provided by Section 341 does not create such a prior-hearing requirement. The absence of that hearing does not offend natural justice because the person's right to contest the accusation arises in the subsequent proceedings before the Magistrate.	864
Section 343 CrPC: Magistrate's procedure on a Section 340 complaint	A Magistrate receiving a Section 340 complaint proceeds under Section 343 as if the case were instituted on a police report. For the warrant offences discussed in the relied-upon passage, the Magistrate must ensure supply of relevant documents, hear the prosecution and accused under Section 239, and discharge the accused with recorded reasons if the allegations are groundless. If there is ground for presuming commission of an offence, a written charge is framed under Section 240 and the case proceeds in accordance with the accused's plea.	864
Section 340 CrPC: deliberate material falsehood and expediency of prosecution	Action under Section 340 requires material establishing a prima facie offence within Section 195(1)(b)(i) and a separate opinion that inquiry is expedient in the interests of justice. A contradiction or innocent or immaterial inaccuracy is insufficient: perjury prosecution requires a reasonable foundation of deliberate, conscious falsehood on a matter of substance and a reasonable probability of conviction. Expediency turns principally on the effect on administration of justice, rather than the magnitude of private injury. The Court held that its earlier judgment had considered these requirements and could not reassess them by prohibited merits review.	869
Section 340 CrPC: optional preliminary inquiry and no right of prior participation	A court may dispense with a preliminary inquiry where the existing material enables the requisite prima facie satisfaction and expediency decision. A prospective accused has no right to participate before that decision, because Section 340 initiation does not determine guilt. Even after the apparent offence is identified, filing a complaint is not automatic. Absence of a preliminary inquiry or prior hearing therefore did not invalidate the earlier perjury direction	869

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	or provide a basis for recall in this case.	
Section 343 CrPC: police-report procedure and adjournment pending appeal	A Magistrate receiving a complaint under Section 340 or 341 proceeds, as far as may be, as in a case instituted on a police report, notwithstanding Chapter XV. If an appeal is pending against the decision in the judicial proceeding from which the complaint arose, the Magistrate may, in discretion and at any stage, adjourn the complaint case until that appeal is decided.	869
Section 340 CrPC: deliberate falsehood and expediency in the interests of justice	Section 340 action requires material establishing a prima facie false-evidence offence and a judicial opinion that inquiry is expedient in the interests of justice. Mere contradiction, innocent inaccuracy or an immaterial statement is insufficient; the apparent falsehood must be deliberate and substantial, with a reasonable foundation for prosecution. Expediency concerns the effect on administration of justice in the overall circumstances. Finding that the complainant deliberately reversed his account after initiating and actively participating in the trap, the Court directed a written complaint under Section 340, without deciding his guilt.	879
Section 340 CrPC preliminary inquiry is discretionary	A preliminary inquiry under Section 340 is optional. If the Court can form the requisite prima facie opinion and find inquiry expedient in the interests of justice on the existing material, it may dispense with a further preliminary inquiry. Such satisfaction does not determine the proposed accused's guilt, and even a prima facie offence does not make a court complaint automatic.	879
No right to participate before a Section 340 expediency decision	The prospective accused need not be heard in a preliminary inquiry concerned with whether a court complaint is expedient in the interests of justice. Following British, the Court held that such an inquiry is not an adjudication of guilt and did not require a prior opportunity to the complainant before directing a Section 340 complaint against him.	879
Section 340 CrPC: prima facie satisfaction, preliminary inquiry and prior notice	Initiation under Section 340 CrPC requires a prima facie opinion that an inquiry into the alleged offence is expedient in the interests of justice. A preliminary inquiry is optional where the Court can otherwise form that opinion, and the proposed accused has no right to prior notice or participation at that stage. The opinion is not a finding of guilt; the person retains a full opportunity of defence at trial. Even after such an opinion is formed, making a complaint is not automatic. On findings of deliberate false testimony and investigation facilitating false implication, the trial court was directed to initiate proceedings against the specified witnesses and police officers.	942
Tampering with the firing pin and conviction under Section 201 IPC	The Court upheld the shooter’s conviction under Section 201 IPC because the firing pin of the mouzer used in the offence was found to have been tampered with. It identified the gun as the licensed weapon of the shooter’s father from whose possession it was seized. This was the specific evidentiary basis stated for affirming the Section 201 conviction together with the convictions for murder and the Arms Act offence.	951
Prima facie action under Section 340 CrPC and hearing the suspect	The Court may form a prima facie opinion for action under Section 340 CrPC from material on record; a separate inquiry and hearing of the suspect are not invariably required. Here the doctor had already been heard during the police inquiry and the Court had considered the resulting report in the earlier bail-cancellation proceedings. It held that Section 340 action could have been considered without a further notice, but had instead recorded the prosecutor's undertaking.	989
Forged medical certificates and fraud on the Court	The Court treated issuance of a forged medical certificate for use in securing judicial protection for an accused as interference with the administration of justice and fraud on the Court. This characterisation of the allegation informed its refusal of bail.	989
Section 340 CrPC — prima facie offence	Action under Section 340 CrPC requires material disclosing a prima facie case	990

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and expediency in the interests of justice	concerning an offence covered by Section 195(1)(b) and an opinion that an inquiry is expedient in the interests of justice. A preliminary inquiry is permissible but is not mandatory where the existing record permits that opinion. Even then, a complaint does not follow automatically. A contradictory statement alone does not justify prosecution for false evidence without intentional falsity or fabrication. Expediency ordinarily turns on the effect on the administration of justice rather than the extent of private injury. Applying State (NCT of Delhi) v. Pankaj Choudhary and its reproduced discussion of Amarsang Nathaji and Iqbal Singh Marwah, the Court considered Section 340 action available in relation to the medical certificate filed to obtain anticipatory bail, but left action to the State instead of making a court complaint.	
Section 201 IPC — concealing the victim's body to cause disappearance of evidence	Concealment of the victim's body to hide the commission of rape and murder was held to constitute causing disappearance of evidence under Section 201 IPC. The Court found that the appellant had thrown the child's body into a drain to conceal the offences; the police later recovered it after information from villagers. On the evidence accepted in the appeal, this concealment supported the separate conviction under Section 201 IPC in addition to the convictions for rape and murder.	1002
	Sub-Chapter no. 33.2 **False FIR, False Complaint and Fabricated Criminal Material**	
Unproved connection between recovered money and alleged ransom	A conviction under Section 412 IPC could not rest on the alleged money recovery where payment of ransom itself was unproved, the seizure memo did not record the claimed signatures on currency notes, and witnesses materially differed about the denominations. The prosecution failed to connect the recovered amount with any ransom payment.	410
	Sub-Chapter no. 33.3 **Offences Relating to Public Servants and Obstruction of Duty**	
Assault on a railway gateman in connection with the discharge of official duty	Closing a railway crossing to protect persons when a train is about to pass is part of a gateman's official duty. The accused showed no authority to insist that the closed gate be opened. His defence witness admitted the dispute over opening the gate, while the injured gateman's account was supported by witnesses who reached promptly and by medical evidence. On that evidence, the Court sustained the convictions under Sections 332 and 353 IPC.	852
	Macro Division VIII **Child, Gender and Vulnerable-Class Special Criminal Statutes**	
	Chapter no. 34 **POCSO Act and Child-Specific Criminal Process**	
	Sub-Chapter no. 34.1 **POCSO Age Determination and Proof of Child Status**	
Child's age — attested school-record correction and contrary medical estimate	The Court accepted the original school register and transfer certificate recording the prosecutrix's birth on 2 January 1997. The school officer explained that the correction from a 1999 entry was signed and attested by the Principal; it made her older and did not support the accused's claim that she was an adult. The records preceded the offence and were proved under Section 35 of the Evidence Act. The defence ossification estimate of eighteen to twenty years did not displace those accepted records, which established that she was under eighteen at the occurrence.	13
Rule 12 of the 2007 Juvenile Justice Rules — age	The Court applied Jarnail Singh to determine a child victim's age using Rule 12 of the Juvenile Justice Rules, 2007. Under that scheme, the first available source in the prescribed sequence governs: matriculation or equivalent certificate, then	13

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determination of a child victim	the birth entry from the first school attended, then a municipal, corporation or panchayat birth certificate. Medical opinion is sought only when those documentary sources are absent. The Rule's age-determination method applies to child victims as well as children in conflict with law.	
Section 35 Evidence Act — admissibility and probative value of birth entries	A school register maintained in discharge of public duty is admissible under Section 35 to prove the recorded birth date, but admissibility does not eliminate scrutiny of the entry's probative value. The Court may examine who supplied the information, its source and whether corroboration is needed. Records made before the dispute arose may be relied on when duly proved; the Court accepted the pre-offence register and transfer certificate on the evidence presented here.	13
Ossification opinion — useful estimate rather than conclusive proof of age	Radiological or ossification evidence is a useful guide to age but is subject to a margin of error and individual developmental variation. It cannot be treated mechanically as conclusive or as the sole criterion; it must be considered with the other circumstances and the applicable documentary framework. The medical estimate did not override the proved school records in this case.	13
Rule 12 age-proof hierarchy applied to a child victim	The Court applied Rule 12(3) of the Juvenile Justice Rules, 2007 to determine a child victim's age. The first available category in the prescribed order governs: matriculation or equivalent certificate, the date-of-birth record from the school first attended, a municipal or Panchayat birth certificate, and medical opinion only if those documentary categories are unavailable. It accepted the proved school admission register and found the victim below sixteen. The unproved ossification report could not assist the prosecution; although an unexhibited prosecution document may be considered if it favours the accused, this report did not do so.	38
Admissibility and probative value of school age records	A school register maintained in discharge of public duty is admissible under Section 35 of the Evidence Act for proving date of birth. Admissibility does not remove the Court's duty to assess the entry's probative value, including the source of the information; corroboration may be necessary in some cases. Records made before the dispute, supported by reliable evidence, may safely be relied upon. Applying the narrated authorities, the Court found the school register reliable here.	38
Ossification evidence as a guide rather than conclusive age proof	Radiological or ossification evidence is useful for age estimation but is subject to variation and a margin of error. It cannot be treated mechanically as conclusive or as the sole criterion; the other circumstances must also be considered. This qualification formed part of the age-proof framework adopted from Mukarrab.	38
Proof of a child victim's age by school records and corroborating testimony	The Court accepted the proved school admission register and the certificate based on it, read with consistent evidence from the prosecutrix, her mother and brother, as establishing that she was fifteen years and twenty-one days old. The absence of a notation identifying the source of the school entry did not discredit it on this record: the entry predated the dispute, there was no reason shown for a false date, and the prosecutrix's asserted age had not been challenged in cross-examination. With reliable documentary proof available, further age evidence was unnecessary.	89
Sequence of age-proof materials for a child victim under Rule 12 of the 2007 Rules	Applying Jarnail Singh, the Court used the Rule 12(3) sequence for determining a child victim's age: the matriculation or equivalent certificate first; in its absence, the birth entry from the first school attended; then the municipal, corporation or panchayat birth certificate; and medical opinion only when the prescribed documentary sources are unavailable. An available and reliable higher-priority source is not displaced by a later option in that sequence.	89
Admissibility and probative value of age entries in official	A school register maintained in discharge of public duty is admissible under Section 35 of the Evidence Act, but admissibility does not prevent scrutiny of the entry's probative value. The information on which the entry was made and	89

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and school records	its source may require corroboration. Records made before the dispute, supported by reliable family testimony, may provide dependable age evidence. The Court applied these principles in accepting the school record and corroborating oral evidence here.	
Medical age estimation is a guide rather than conclusive proof	Radiological or ossification evidence provides useful guidance about age but is subject to a margin of error and must be considered with the surrounding circumstances. It is not the sole or conclusive criterion. The Court referred to Mukarrab while accepting reliable school records and declining to require another mode of age proof.	89
Acceptance of a pre-dispute school record to establish the prosecutrix's minority	The Court accepted the date of birth in the original school admission register, produced by its custodian and stated to derive from a transfer certificate. It treated the entry as relevant under Section 35 of the Evidence Act and as having been made before the dispute, when there was no reason to anticipate the offence. Applying documentary priority in age determination, it found the prosecutrix below sixteen on the date of the incident rather than substituting the approximate radiological estimate.	124
Rule 12 of the 2007 Juvenile Justice Rules in determining a child victim's age	The age-determination method in Rule 12 of the Juvenile Justice Rules, 2007 may be applied to a child victim as well as a child in conflict with law. Under that scheme, the first available source in the prescribed order governs: matriculation or equivalent certificate, birth entry from the first school attended other than a play school, and then a municipal or panchayat birth certificate. Medical opinion is resorted to only in their absence.	124
Documentary priority under Section 94 of the Juvenile Justice Act, 2015	Under Section 94(2) of the Juvenile Justice Act, 2015, the school date-of-birth certificate or matriculation or equivalent Board certificate has priority, followed in their absence by a municipal or panchayat birth certificate. An ossification or other medical age test is required only when those documentary sources are unavailable. The Court referred to that priority when accepting the available school record.	124
Relevance and probative value of school records under Section 35 of the Evidence Act	A school-register entry made in performance of the relevant public or legally imposed duty is relevant under Section 35 of the Evidence Act. Its admissibility does not eliminate examination of its probative value. The source of the information, the circumstances of recording and corroborative evidence may affect reliability. An entry made before the dispute may support its authenticity, but the surrounding evidence remains material.	124
Ossification evidence as an approximate guide to age	Radiological and ossification evidence is a useful guide to age but is not conclusive or exact. Individual developmental variation and a margin of error must be considered with the other circumstances. The Court must not determine age by a blind or mechanical use of medical opinion or treat ossification as the sole criterion.	124
Unchallenged age evidence and Section 5(m) POCSO Act	The mother's evidence that the victim was about eight years old was not challenged in cross-examination. On the accepted age evidence and proof of the sexual act, the Court held that the offence fell within Section 5(m) POCSO Act and affirmed the conviction under Section 6.	151
Rule 12 age-proof hierarchy applied to a child victim	For the 2014 offence, the Court applied Rule 12(3) of the Juvenile Justice Rules, 2007 to the victim's age, following Jarnail. The prescribed order is the matriculation or equivalent certificate, the birth entry from the school first attended, the corporation, municipal or panchayat birth certificate, and only in their absence medical opinion. The Court accepted the school admission register proved in this case and held that the ossification estimate could not displace that available record.	179
No automatic two-year margin in medical age	There is no fixed rule requiring a two-year margin of error in an ossification estimate always to be taken in the accused's favour irrespective of the	179

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estimation	surrounding circumstances. The Court may consider circumstances supporting a different inference. In this case, the medical estimate did not override the school record accepted under the applicable age-proof hierarchy.	
Reliance on a first-school admission register proved by its maker	The Court accepted the first-school admission register proved by the headmistress who admitted the child and made the entry. Although the basis for the date of birth was uncertain, the register contained no overwriting and had been made years before the offence, when false implication of this accused was not in contemplation. On the evidence considered, it established that the prosecutrix was below eighteen on the incident date.	228
Rule 12 age-determination hierarchy applied to a child victim	The Court followed Jarnail Singh in applying Rule 12 of the Juvenile Justice Rules, 2007 to the age of a child victim. Under that scheme, a matriculation or equivalent certificate has priority, followed in its absence by the birth entry of the first school attended, then the specified municipal or panchayat birth certificate. Medical opinion is sought only when the specified documentary sources are absent.	228
Admissibility and probative value of school age records	A school register maintained in discharge of public duty is admissible under Section 35 of the Evidence Act. Its contents must still be assessed for probative value, including whose information supported the entry and the source of that information. Corroboration may be necessary in some cases; pre-dispute records and supporting parental evidence are relevant to reliability.	228
Radiological age assessment is a guide rather than conclusive proof	Radiological and ossification evidence provides useful guidance on age but is subject to a margin of error and cannot be treated as conclusive in isolation. Age must be assessed with the other relevant circumstances rather than by mechanically adopting a medical estimate.	228
Proof of minority by a school admission register	A school register maintained according to law is admissible under Section 35 of the Evidence Act. Its probative value remains open to examination, including the source of the recorded information and any need for corroboration. In this case, the Court accepted the proved register, prepared before the criminal dispute, despite the absence of the underlying admission form, horoscope and birth certificate, and found the prosecutrix to have been 16 years and nine months old.	246
Rule 12 hierarchy for determining the age of a child victim	The age-determination method in Rule 12(3) of the Juvenile Justice Rules, 2007 was applied to a child victim as well as a child in conflict with law. The first available category governs in the stated order: matriculation or equivalent certificate; in its absence, the birth entry from the first school attended other than a play school; then a birth certificate from the municipal or panchayat authority. Medical opinion is sought only if these documentary categories are unavailable. An available earlier category takes precedence over a later one.	246
Medical age estimation is not conclusive	Radiological examination and ossification tests are useful guides to age, but cannot be treated as conclusive or applied mechanically. Their estimates are subject to a margin of error and must be considered with the other circumstances, rather than treated as the sole criterion of age.	246
Proof of child status through a duly proved school-register entry	The school witness proved the register recording the prosecutrix's date of birth, along with the Headmaster's certificate, and her evidence remained reliable after cross-examination. Treating the official entry as relevant under Section 35 of the Evidence Act, the Court found that the prosecutrix was under eighteen on the incident date and applied POCSO.	254
Final determination of prosecutrix's age reserved for trial at the bail stage	Where the prosecutrix's age remained for determination by the trial court, the High Court declined to give a final age finding in the bail proceeding. It nevertheless took account of the school record showing minority when deciding whether there was a basis to depart from the previous refusal of bail.	263
Proof of minority	The Court accepted the deceased's date of birth from the original admission	393

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through the original school admission register	register proved by the school witness, whose evidence remained unrebutted in cross-examination. Compared with the date of the offence, that evidence established that he was below eighteen and therefore a child within the POCSO Act.	
Prosecutrix's age—proof of available school records	Where school records relied on by the prosecution were available to establish the prosecutrix's birth date under Rule 12 of the Juvenile Justice Rules, 2007, the trial court had to obtain proper proof of those records. It should not bypass them in favour of an oral estimate based on assumed gaps between the ages of siblings.	414
Documentary age evidence instead of an FIR estimate at the charge stage	For the charge-stage assessment of the prosecutrix's age, the Court applied the documentary method in Section 94 of the Juvenile Justice Act, 2015, rather than the husband's age estimate in the FIR. That provision prioritises a school birth-date certificate or a matriculation/equivalent certificate, followed in their absence by specified local-authority birth records, and medical determination only if both documentary categories are absent. The school admission register and Headmaster's certificate showing the birth date as 20 December 2003 supported treating her as below eighteen when she left in June 2021.	468
Victim's age at bail stage — school record and later declaration of adulthood	Where the school record showed that the prosecutrix was a minor on the date of the incident, her alleged declaration of adulthood in later marriage proceedings did not warrant resolving the age dispute in the bail application. Referring to documentary age assessment under Section 94 of the Juvenile Justice Act, 2015, the Court left the effect of the inconsistent declaration to the trial court when assessing her age.	488
Proof of the child's age by school records	Applying the age-determination approach quoted from Jarnail Singh, the Court accepted the proved school admission register and Class VIII marksheet, which recorded the same date of birth. The register maintained according to law was admissible under Section 35 of the Evidence Act, and the recorded date had not been challenged in cross-examination. These documents established that the prosecutrix was fifteen on the date of the offence.	560
Proof of the child's age by the original school admission register	Where the school witness produced the original admission register and the photocopy was exhibited after comparison with it, the objection that only an unverified photocopy had been produced was contrary to the record. Non-production of the underlying admission form did not by itself make the register's birth entry incorrect. The Court accepted the school record to establish that the prosecutrix was a child on the date of the incident.	616
Child victim's age: priority of documentary proof under Rule 12	Applying Jarnail Singh, the Court used Rule 12(3) of the Juvenile Justice Rules, 2007 to determine the victim's age. The hierarchy gives priority to an available matriculation or equivalent certificate, then the birth entry from the school first attended, then the municipal or panchayat birth certificate; medical opinion is used only in their absence. The Court accepted the proved school register and certificate and found the victim to be fourteen on the incident date.	623
Ossification estimates and their margin of error	An ossification estimate is medical opinion subject to a margin of error. In this case, the Court noted a two-year margin on either side of the estimated sixteen-to-eighteen-year range, which could accommodate age fourteen at its lower end. It nevertheless based the minority finding on the available school record rather than replacing that record with the medical estimate.	623
Proof of victim's age — school record under the Rule 12 sequence	Applying Jarnail Singh, the Court used the documentary sequence in Rule 12 of the Juvenile Justice Rules, 2007 to determine the child victim's age: matriculation or equivalent certificate; failing that, the first school's date-of-birth record; failing that, a civic birth certificate; and medical opinion only in the absence of those documents. The proved school admission register and the headmaster's certificate recorded the date of birth as 3 February 1999. The Court accepted that record, made before the prosecution could have been	676

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	anticipated, and found corroboration in the ossification report. It therefore found the prosecutrix below eighteen on 25 October 2015. The judgment does not expressly identify the school as her first school.	
School-entry weight and medical age estimates require contextual assessment	The Lekhram and Murugan passages relied upon by the Court recognise the relevance of school records under Section 35 of the Evidence Act while permitting scrutiny of their source and probative value, including corroboration where needed. Records made before litigation may carry particular weight. Mukarrab explains that radiological and ossification estimates are useful guides but are not conclusive or precise and must be considered with other circumstances. Here, the ossification report corroborated the school record rather than displaced it. The Court's finding of minority did not accept the appellant's proposed two-year margin despite the challenge based on the father's assessment at admission.	676
Age determination — statutory records and disputed school correction	The Court relied on its earlier order applying Section 94 of the Juvenile Justice Act: school birth-date or matriculation records take priority, followed in their absence by a municipal or panchayat birth certificate, and only then medical age determination. A further ossification test was refused where a school register and an existing medical report were available. A Samagra ID and an unattested caste-certificate application were not accepted as statutory age proof. The Court had considered the supplementary school affidavit and rejected the co-accused's majority claim; the same contention did not justify quashing here.	809
POCSO bail — Documentary age evidence before medical testing	Applying Section 94(2) of the Juvenile Justice Act as a guide, the Court gave priority to the school birth certificate or examination-board certificate, followed, in their absence, by the specified municipal or panchayat birth certificate. Medical age testing is available only when those documents are absent. The consistent school record and pre-incident mark sheet were not rejected merely because the school was private, and no overwriting was found. On that record, refusal of ossification testing did not displace the documentary age assessment in the bail proceeding.	823
Child-victim age determination under Rule 12 of the 2007 Juvenile Justice Rules	The Court applied Jarnail Singh's extension of Rule 12(3) of the Juvenile Justice Rules, 2007 to a child victim. The prescribed order was matriculation or equivalent certificate, then the birth record from the first school attended, then a municipal or panchayat birth certificate, with medical opinion used only if the earlier documentary options were unavailable. The first available higher-ranked source takes precedence. On the proved school record, supported by the headmaster's evidence and the unchallenged family evidence, the Court found the prosecutrix to be a minor at the time of the incident.	876
Section 35 Evidence Act: admissibility and probative value of school age entries	School birth entries made in discharge of public duty are admissible under Section 35 of the Evidence Act, but admissibility does not dispense with examination of their probative value. The Court may consider who supplied the information, its source, authenticity and the need for corroboration. Entries made before the dispute arose may be relied on where duly admissible and supported. Applying the reproduced Lekhram and Murugan passages, the Court accepted the school birth date established by the headmaster with the supporting oral evidence.	876
Proof of minority — date of birth in proved school admission registers	The Court relied on the school admission registers proved by the prosecution witnesses, recording the victim's date of birth as 11 August 1997, to determine his minority on the date of the offence, 8 October 2014. The recorded dates established that he was below eighteen years when the incident occurred.	886
Section 94 JJ Act — documentary priority over medical age testing	For determining the victim's age, the Court applied the sequence in Section 94 of the Juvenile Justice Act, 2015: first the school date-of-birth certificate or matriculation/equivalent certificate; in their absence, the birth certificate issued by the specified public authority; and only in the absence of both categories,	1007

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	ossification or another medical age test. The school register was available and an ossification report was already in the case diary. The Court rejected the request for an ossification test and stated that the accused could not dictate the investigation.	
Samagra ID and unattested caste-certificate application — inadequate age evidence	The Court declined to treat the family's Samagra ID as a document proving the prosecutrix's age. Its entry showing her as eighteen in 2014 would make her about twenty-five in 2021, inconsistent with the applicant's own claim that she attained eighteen in June 2021. The application for a caste certificate mentioning another birth date was also rejected because it lacked attestation by a competent authority and was not a document specified in Section 94 of the Juvenile Justice Act, 2015. These documents did not establish the age defence advanced in the anticipatory-bail proceeding.	1007

Sub-Chapter no. 34.2
POCSO Victim Testimony and Corroboration Standards

Prosecutrix's testimony assessed with corroborating evidence	The Court accepted the prosecutrix's account of confinement and sexual assault after considering it with the supporting evidence, including the medical opinion. The absence of support from one witness did not require rejection of the account on the record as a whole. This was an assessment of the evidence in the case, without an automatic presumption that every allegation of sexual assault is proved.	38
POCSO commencement and an objection based on the 2013 IPC amendment	The objection that the Criminal Law Amendment Act, 2013 commenced after the initial February 2013 incident did not displace the conviction under Section 6 of the POCSO Act. The Court noted that POCSO had already come into force on 14 November 2012 and therefore rejected the challenge to its application to the proved acts.	89
Corroboration of the prosecutrix's account by recovery, admission and FSL evidence	The prosecutrix's account of sexual intercourse was corroborated by her recovery from the appellant's custody, his Section 313 CrPC admission that they had travelled to Punjab, and the FSL detection of human sperm on her vaginal slides and clothing. The Court assessed this evidence together in sustaining the conviction; the scientific result was used as corroboration of her testimony.	89
Proof of penetrative sexual assault and sexual intent under POCSO	The evidence did not prove penetrative sexual assault by the appellant or that his proved act of pressing the child's neck had sexual intent. After considering Sections 3 and 7 of the POCSO Act, the Court therefore set aside the conviction under Sections 3/4. The neck assault, consistently reported in the FIR and the child's testimony, remained proved as hurt under Section 323 IPC.	91
Unclarified expression in a child's account of alleged sexual assault	The child's use of the word 'छाले' in her recalled testimony, without clarification by the trial court, did not permit an inference that the appellant had raped her. She stated that she became unconscious after neck compression and did not know what happened afterwards. Her further statement that she spoke of pain in her private parts on her father and uncle's instructions was also considered in assessing the allegation.	91
Child victim's credible testimony — Corroboration is not mandatory	A sexual-assault victim is not an accomplice, and a reliable, convincing account can support conviction without corroboration as a rule of law. The Court must consider the testimony as a whole and may seek supporting assurance where there are compelling reasons to doubt or hesitate over it. The child's account, recorded after the trial court checked her understanding, was accepted as trustworthy. In this case it was also supported by her immediate disclosures, family and neighbour testimony, and medical findings.	116
Child victim's shorter testimony and alleged	A child's shorter account in Court did not contradict his more detailed statement under Section 161 CrPC when both consistently identified the accused and described the sexual act. The child denied the suggestions of tutoring and a	151

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contradictions	family dispute, and his account was supported by his mother's eyewitness testimony and the forensic findings. The Court found no material contradiction warranting rejection of his evidence.	
Consent of a prosecutrix proved to be below eighteen	Once the prosecutrix was proved to be below eighteen on the date of the sexual offence, her purported consent did not answer the charge. The Court therefore found it unnecessary to decide whether she had in fact consented to the acts alleged.	228
Conviction on reliable prosecutrix testimony without independent-neighbour corroboration	The absence of testimony from independent neighbours did not prevent reliance on the prosecutrix's trustworthy account that the appellant caught her hand with sexual intent. The central allegation remained intact, her mother reached the spot immediately on hearing the alarm, and the FIR was lodged within ninety minutes. The Court upheld the conviction on that evidence.	254
Failure to raise an alarm by a victim with communication difficulties	The prosecutrix's failure to raise an alarm did not establish consent in the circumstances assessed by the Court. The trial judge's notes showed difficulty in understanding some of her answers. Considering her communication disability, her age of fifteen and the appellant's age of about sixty, the Court rejected the contention that she had willingly participated.	560
Prompt disclosures corroborating the child prosecutrix's evidence	The prosecutrix was the sole witness to the incident, but she promptly narrated it to her father and a neighbour, and her father immediately informed his sister. The Court treated their evidence of those disclosures as corroborating the child's account. On the total evidence, it found the prosecution case proved beyond reasonable doubt.	616
Victim testimony and medical corroboration despite absence of DNA testing	Absence of DNA testing did not prevent conviction where the victim's account was accepted with medical and forensic corroboration. The doctor's findings supported recent penetration, and semen and sperm found on the examined material further corroborated the account. Without DNA analysis, the vaginal material was not independently identified as the appellant's; the conviction rested on the combined evidence.	623
Proved minority — apparent willingness did not defeat the sexual-offence convictions	Once the prosecutrix was found below eighteen at the time of the incident, the Court treated the alleged consent as immaterial. Her account of sexual assault was accepted with corroboration from the medical report, whose material findings were not challenged in cross-examination. Absence of external injuries did not alter that assessment on this record. The appellant's argument based on voluntary travel and failure to raise an alarm did not defeat the convictions under Sections 363, 366 and 376(1) IPC and Section 4 POCSO. The Court assessed the testimony and medical evidence together.	676
Child sexual-assault testimony — absence of injury and forensic corroboration	Absence of bodily injury does not by itself disprove a sexual assault where reliable ocular evidence establishes it. Semen findings may corroborate the victim's account. In the prosecution under Section 377 IPC and, alternatively, Sections 3–4 POCSO Act, the Court accepted the boy's account of being taken away, restrained and assaulted, his prompt disclosure to his father and the next-day FIR. Although the medical examination disclosed no injury, human sperm and semen found on the anal samples and underwear corroborated his testimony. The Court also considered the cross-examination and absence of any suggested enmity before finding the prosecution case proved beyond reasonable doubt.	886
Reliable testimony of a child prosecutrix and corroboration	Reliable testimony of a prosecutrix does not require further corroboration as a condition for acceptance. In this case, the child's account was also corroborated by her immediate disclosure, witnesses who saw her bleeding and the appellant leaving, and the medical and FSL evidence. The Court found the rape proved beyond reasonable doubt.	980

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	Sub-Chapter no. 34.3 **POCSO Sexual Offences — Minor Consent and Compromise-Based Quashing**	
Sexual offences against a child — willing accompaniment does not make consent material	Once the prosecutrix was proved to be below eighteen at the occurrence, her admission that she had willingly accompanied the accused did not make consent a defence to the sexual offences proved against him. On the evidence of repeated intercourse and the established age, the Court affirmed conviction under Section 376(2)(n) IPC and Section 6 of the POCSO Act, together with the Section 368 IPC conviction.	13
POCSO and rape allegations — consent during minority and later family circumstances	For the quashing request, the Court accepted the prosecution material showing that the prosecutrix was under eighteen when the relationship began and that intercourse occurred during her minority. Her consent was therefore immaterial at that stage, notwithstanding that she was close to eighteen and relied on the couple's marriage and child. Those assertions did not eliminate the prima facie sexual-offence case; the trial court remained free to decide the evidence according to law.	15
Consent of a victim below sixteen under the provisions applied	Having found the victim below sixteen at the time of the incident and accepted the evidence of intercourse, the Court rejected the plea of consent as an answer to the rape charge under the provisions applicable to that offence. It sustained the direct offender's conviction under Section 376(2)(i) IPC and Section 4 POCSO Act.	38
POCSO prosecution — minor's consent, later compromise and marriage	Under Section 375 Sixthly IPC, consent does not make sexual intercourse with a girl below eighteen lawful. The Court held that the later compromise or marriage relied upon by the accused could not bypass that protection or justify quashing the pending Sections 3 and 4 POCSO prosecution under Section 482 CrPC. Treating POCSO as a protective special statute, it refused settlement-based termination of the child-sexual-offence proceedings.	58
Consent where the prosecutrix was proved to be fifteen years old	Once the prosecutrix was proved to have been fifteen years and twenty-one days old at the relevant time, her apparent consent did not furnish a defence to the appellant's liability for the proved sexual offences. The Court therefore found it unnecessary to resolve the appellant's argument that her travel with him and failure to complain at intermediate places showed willing participation.	89
Consent of a fifteen-year-old prosecutrix	Once the prosecutrix was proved to be fifteen on the date of the offence, her alleged consent was immaterial to the convictions under Section 376 IPC and Section 4 of the POCSO Act.	560
Minor victim’s or parent’s compromise — refusal to quash alleged POCSO sexual assault	Verification of a family compromise did not justify quashing proceedings alleging an offence under Section 354 IPC and Sections 7/8 of the POCSO Act against a minor girl. The offences were reported as non-compoundable under Section 320 CrPC, and the victim’s father had sought to compromise on her behalf. Relying on Arif Khan and the child-protective reasoning drawn from Independent Thought, the Court held that consent legally immaterial to the sexual offence could not become decisive through a later compromise. Accepting settlement on that basis would indirectly defeat the protection that could not be waived directly. The Court therefore refused quashing under Section 482 CrPC. Its references to Section 375 IPC explained that reasoning; the prosecution before it concerned alleged touching and threats, not a charge of rape.	997
	Sub-Chapter no. 34.4 **POCSO Penetrative Sexual Assault — Section 3 Ingredients and Extent of Penetration**	
Section 3 POCSO Act — Intact hymen and the Court's penetration analysis	The Bench read Section 3 POCSO Act as covering penetration to any extent into the specified body parts and manipulation of the child's body to cause penetration. In applying that provision, it stated that manipulation with an intention to penetrate amounted to penetrative sexual assault. It rejected the	116

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	intact-hymen objection in light of the child's credible account and internal redness and swelling, although the medical opinion described symptoms suggestive of attempted rape. The Section 4 POCSO and Section 376 IPC convictions were affirmed.	
Penetrative anal assault on a child	Penile penetration of a child's anus to any extent falls within Section 3 of the POCSO Act. The Court accepted the medical evidence of penetrative anal assault and the connected forensic and last-seen evidence in affirming the conviction under Sections 3 and 4 alongside the IPC offences.	393

Sub-Chapter no. 34.5
POCSO Section 42 — Greater-Degree Punishment for Overlapping IPC Offences

Section 42 POCSO requires the punishment greater in degree for overlapping offences	Where the same conduct attracts the relevant POCSO offence and Section 376 IPC, Section 42 requires punishment under whichever enactment provides punishment greater in degree. On its comparison of the punishments applicable to the 2014 offence, the Court retained the ten-year IPC sentence and imposed no separate sentence under Section 4 POCSO, while maintaining the convictions and the concurrent sentences for the other IPC offences.	179
Sentence where the act attracts both POCSO and the higher IPC minimum	For the offences considered in this case, the Court noted a seven-year minimum for penetrative sexual assault under POCSO but a ten-year minimum under Section 376(2)(i) IPC. It therefore refused reduction to the period undergone and affirmed the ten-year rigorous-imprisonment sentence imposed under Section 4 POCSO.	246
Section 42 POCSO Act and overlapping IPC conviction	Where the same assault resulted in convictions under Section 376(1) IPC and Section 4 POCSO Act, the trial court applied Section 42 and imposed one substantive sentence under POCSO, with no separate sentence under the IPC offence. The High Court affirmed the convictions and that sentencing disposition while considering the parallel IPC punishment in rejecting reduction.	623

Sub-Chapter no. 34.6
POCSO Trial Procedure and Fair Opportunity in Sexual-Offence Prosecutions

Separate sentences for overlapping IPC and POCSO sexual offences	While upholding the convictions under Section 376(2)(i) and (n) IPC and Section 6 of the POCSO Act, the Court applied Section 71 IPC and held that a separate sentence for the IPC rape offence was unnecessary for the same acts. The ten-year sentence under Section 6 remained.	228
Remand for proper age proof and a fresh judgment	Failure to obtain essential school-record evidence required setting aside the judgment and sentences and remanding for proof of that record, a fresh age finding and a fresh judgment. The father's evidence could corroborate a conclusively proved school record or be considered to assess age if documentary proof failed.	414
Two-year-old victim — non-examination and protected identification	Non-examination of the two-year-old victim did not undermine this prosecution when medical evidence established rape and injuries and her father and independent witnesses identified the appellant as her abductor. The Court considered her limited vocabulary and rejected the demand for conventional dock identification by reference to Sakshi and Section 36 POCSO. That provision protects the child from exposure to the accused during testimony while preserving the accused's ability to hear the evidence and communicate with counsel. These principles were applied in an appeal against IPC convictions.	482
Non-compoundability of the POCSO charges despite a voluntary settlement	The charges under Sections 7, 8, 11 and 12 of the POCSO Act were non-compoundable under Section 320 CrPC. The trial court's rejection of the compounding application was followed by separate consideration of the Section 482 request; the Registrar's verification of a voluntary settlement did not itself	578

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	compound those charges.	
Power to Secure Necessary Documents and Witness Evidence at Any Trial Stage	Under Sections 91 and 311 CrPC, the trial court may secure production of necessary documents and examine, summon or recall a witness at any stage where the material is needed for a just decision. Applying these powers, the Court rejected the contention that an earlier failure to obtain DNA evidence exhausted the trial court's authority to permit necessary scientific evidence. The application challenging that authority was dismissed.	659
POCSO trial: closure of cross-examination after repeated unexplained deferment	Where the minor prosecutrix repeatedly attended and the defence, despite a prior warning, sought to defer cross-examination without giving a reason, closure of the right under Section 309 CrPC did not warrant interference under Section 482. An assertion that counsel sought adjournments contrary to instructions did not justify subjecting the child to further harassment. The accused could change counsel or approach the Bar Council regarding the alleged misconduct.	860
	Sub-Chapter no. 34.7 **POCSO Sections 7–8 — Non-Penetrative Sexual Assault and Punishment**	
Touching a child's breast with sexual intent under Section 7 POCSO Act	Touching a child's breast with sexual intent constitutes sexual assault under Section 7 POCSO Act. The provision covers physical contact without penetration. On the child's specific testimony that the appellant touched her breast, considered with the evidence that he tried to take her towards a vacant area and fled after a witness intervened, the Court affirmed his convictions under Section 8 POCSO Act and Section 354 IPC.	421
Reduction of Section 8 POCSO sentence to custody already undergone above the statutory minimum	Section 8 POCSO Act, as applied in this appeal, prescribed imprisonment of three to five years and liability to fine. The appellant had remained in custody after conviction because bail was refused and had served more than three years and seven months. Since his actual custody exceeded the statutory minimum, the Court reduced the four-year rigorous imprisonment term to the period already undergone. It maintained the sentence under Section 354 IPC and otherwise affirmed the judgment, including the fines, with release directed unless he was required in another case.	421
Prima facie inference of physical contact under Section 7 POCSO	At the stage of framing charges, the Court inferred physical contact from the allegations that the applicant possessed photographs of the minor prosecutrix taken at parties and other places and threatened to upload them. On that inference, it held that the allegations prima facie supported a charge under Section 7, punishable under Section 8 of the POCSO Act.	568
Skin-to-skin contact is unnecessary for sexual assault under POCSO	Section 7 POCSO covers touching a child's vagina, penis, anus or breast with sexual intent, making the child touch those parts of another person, or another sexual-intent act involving physical contact without penetration. Applying Attorney General of India v. Satish, the Court recognised that the required physical contact need not be skin-to-skin.	568
	Sub-Chapter no. 34.8 **POCSO Abetment, Intentional Aid and Mandatory Reporting — Sections 16–19**	
Counsellor's omission and prima facie POCSO abetment	Intentional aid under Section 16 POCSO may consist of an act or illegal omission facilitating the offence before or at its commission. A counsellor responsible for the safety of resident girls allegedly knew of repeated sexual abuse of a mentally disabled minor, saw the accused with her, and merely asked him to stop instead of reporting or acting. That material was sufficient to sustain an abetment charge under Sections 16 and 17. Section 17 requires the abetted offence to be committed in consequence of the abetment and prescribes the punishment provided for that offence; the charge-stage assessment does not determine guilt.	432

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Counsellor's duty to report known child sexual abuse	A counsellor who learns of sexual abuse of a child must inform the Special Juvenile Police Unit or local police under Section 19(1) POCSO. Asking the alleged perpetrator to desist does not discharge that reporting duty. Noncommunication of the required information is punishable, with imprisonment extending to six months as stated in the judgment.	432
	Chapter no. 35 **Victim Rights, Vulnerable Witnesses and Special Protection**	
	Sub-Chapter no. 35.1 **Victim Privacy, Anonymity and Dignity Protection**	
Protection of the prosecutrix's identity in charge-sheets	Where the prosecutrix stated that police had included her name in the charge-sheet with her consent and the officers tendered apologies, the Court declined to pursue the disclosure issue further. It nevertheless directed the DGP to examine disclosure of a prosecutrix's identity through charge-sheet particulars and issue preventive directions, completing the exercise within thirty days.	62
Judicial sensitivity to sexual violence and victim dignity	Sexual violence infringes a woman's privacy, dignity and Article 21 rights, and courts must deal with sexual-offence cases with sensitivity. Conduct such as stalking, harassment and coercive demands must not be dismissed as trivial merely because it differs from rape. The Court invoked these principles in requiring the full allegations, including pressure for intimate images and its psychological impact, to be considered at the charge stage.	63
Protecting a Child Victim's Identity During Playback of Recovery Video	When the body-recovery video was to be played, the Court stopped live streaming so that the child victim's identity would not be disclosed. It converted that part of the hearing into an in-camera proceeding while permitting counsel for both sides to view the complete recording. The adopted procedure protected the child's identity while preserving the parties' opportunity to examine the evidence.	389
Rape victim's video statements — secure custody, privacy and identity protection	The Court found that police video statements were absent from the case diary and had been transmitted through WhatsApp without a lawful explanation, compromising the rape victim's privacy. It directed registration of Section 228-A IPC against the responsible officers on a prima facie basis. The WhatsApp captions did not establish when the original recordings were made. The copy supplied to the Court was retained in a sealed cover, while the independent investigation remained free to examine responsibility.	546
	Sub-Chapter no. 35.2 **Muslim Women (Protection of Rights on Marriage) Act — Talaq Pronouncement and Criminal Liability**	
Conditional written talaq and Section 2(c) of the 2019 Act	On the Section 482 CrPC application, the Court examined the actual terms of the notice described as talaq-e-ahsan. It announced a final and irrevocable divorce after three menstrual cycles unless the wife returned during iddah. Reading that conditional announcement in light of the 2019 Act's protective purpose, the Court treated this notice as expressing an already intended irrevocable talaq within Section 2(c), despite the stated interval, and refused to exclude it from the Act merely because of its label.	256
Prima facie offence from oral triple talaq before the written notice took effect	The FIR also alleged that, before the written talaq notice's three-cycle period elapsed, the husband went to the wife's parental home and pronounced talaq three times. The Court held that this alleged talaq-e-biddat, while the earlier notice had not become operative, disclosed an offence against the applicant and furnished a further ground to refuse quashing.	256
	Sub-Chapter no. 35.3 **Special Protection for Women, Children and Vulnerable Persons**	
Protection of	The prosecution must protect witnesses in accordance with Mahender Chawla	130

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witnesses against pressure by the accused	v. Union of India. Where witnesses had turned hostile after pressure by the accused, the Court found that the prosecution had failed to provide that protection. Their hostility was considered in deciding bail subject to stringent conditions.	
Sexual-offence proceedings — Judicial sensitivity and freedom from stereotypes	Courts must treat complainants of sexual harassment and assault sensitively while ensuring that the facts necessary for fair adjudication are brought on record. Trauma, embarrassment and social stigma must not obscure the evidence. Judicial language and reasoning must remain impartial and avoid stereotypes or extraneous assumptions about women. This duty extends to all forms of sexual violence and harassment, including offences regarded as comparatively minor.	353
Sexual-offence testimony — Privacy and respectful cross-examination	Trial courts must provide appropriate protection when a person testifies about sexual harassment or violence. Measures include in-camera proceedings where appropriate under Section 327 CrPC or otherwise; a screen, or the accused's temporary absence, so that the witness need not see the accused; and respectful cross-examination without inappropriate questions, especially about sexual history. Questions may be submitted through the court, and cross-examination should, as far as possible, finish in one sitting.	353
Rape victim protection — dignity and freedom from pressure during independent investigation	When transferring the case, the Court directed the CBI to provide full protection to the rape victim, maintain her dignity and ensure that she was not pressurised. It referred to the Witness Protection Scheme formulated in Mahender Chawla. Protection was part of securing a fair investigation after the findings of local police intimidation.	546
Witness protection as a condition of truthful and fair testimony	The State must protect witnesses' life and liberty so that they can testify truthfully without fear. Courts must recognise that threats, inducement, money or muscle power, family or political pressure and protracted proceedings can undermine testimony. Applying the witness-protection principles, the Court required active trial management to prevent unjustified delay from exposing eyewitnesses to pressure or compromise.	868
	Sub-Chapter no. 35.4 **Victim Participation, Notice and Hearing Rights**	
Intimation of bail grant to the complainant	Following Aparna Bhat v. State of M.P., the Court directed that intimation of the grant of bail be sent to the complainant.	100
Complainant intimation following grant of bail	Following Aparna Bhat v. State of M.P., the Court directed that the complainant be informed of the grant of bail.	108
Intimation of bail to the complainant in a sexual-offence case	Applying Aparna Bhat v. State of M.P., the Court directed that the complainant be informed of the grant of bail in the prosecution involving IPC Sections 363 and 366-A and POCSO Act Sections 16 and 17.	130
Intimation to the complainant on grant of bail	When allowing the bail application, the Court directed that intimation of the grant of bail be sent to the complainant, following Aparna Bhat v State of M.P.	146
Intimation to complainant when bail is granted	Following Aparna Bhat, the Court directed that intimation of the grant of bail be sent to the complainant in the sexual-offence case. The direction concerns notification of the bail decision.	182
Intimation of bail to the complainant	Applying Aparna Bhat in the prosecution involving sexual-offence allegations, the Court directed that the complainant be informed of the grant of bail.	239
Intimation to the complainant after grant of bail	Following Aparna Bhat v. State of M.P., the Court directed that the complainant be informed of the grant of bail.	276
Grant of bail —	On granting bail, the Court directed that intimation of the order be sent to the	334

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intimation to complainant	complainant in accordance with the Supreme Court decision in XYZ v. State of Madhya Pradesh.	
Grant of Bail: Intimation to the Complainant	Applying Aparna Bhat, the Court directed that the complainant be informed of the grant of bail.	368
Intimation of anticipatory bail to the complainant	The Court directed that the complainant be informed of the grant of anticipatory bail, applying Aparna Bhat v. State of M.P., Criminal Appeal No.329/2021, decided on 18 March 2021. The direction in this order is confined to communicating the grant of bail.	551
Intimation of bail to the complainant	Applying Aparna Bhat v. State of Madhya Pradesh, the Court directed that the complainant be informed of the grant of bail.	569
Complainant intimation — grant of anticipatory bail must be communicated under the order	Following Aparna Bhat v. State of M.P., the High Court directed that intimation of the grant of anticipatory bail be sent to the complainant.	639
Intimation to the Complainant When Bail Is Granted	On allowing the bail application, the Court directed that intimation of the grant of bail be sent to the complainant, applying Aparna Bhat v. State of M.P., Criminal Appeal No. 329/2021, decided on 18 March 2021.	650
Complainant to be informed of the grant of bail	When allowing the regular-bail application, the Court directed that intimation of the grant of bail be sent to the complainant, referring to Aparna Bhat v. State of M.P. The direction required communication of the bail decision to the complainant. The judgment did not reproduce or decide any broader proposition about a right to veto bail or a condition of prior consent.	674
Aggrieved complainant or victim — standing to challenge an erroneous bail order	The State's responsibility to prosecute does not prevent an aggrieved party from approaching the superior court against an illegal or perverse grant of bail. The power may be invoked by the State or an aggrieved party and may also be exercised suo motu. A person with a bona fide connection to the matter is not left without recourse merely because the State does not act. Standing must be assessed with care: an unconnected stranger or a person pursuing a merely personal grievance cannot claim unrestricted access on that basis.	707
Victim participation — information and opportunity to present concerns	Victim-sensitive criminal procedure includes informing victims of their role and the scope, timing and progress of proceedings and allowing their views and concerns to be considered at appropriate stages when personal interests are affected. Such participation must remain consistent with the criminal justice system and must not prejudice the accused. State control of prosecution does not require the actual victim to remain outside the process without an opportunity to address grievances.	707
Intimation to the complainant after grant of bail	The Court directed that the complainant be informed of the grant of bail, applying the Supreme Court's decision in Aparna Bhat. The direction concerned notice of the bail disposition in the pending prosecution, including the POCSO charge.	709
Grant of bail — Intimation to the complainant	When granting bail, the Court directed that intimation of the grant be sent to the complainant, following Aparna Bhat v. State of Madhya Pradesh.	821
Intimation of anticipatory-bail grant to the complainant	When allowing the anticipatory-bail appeal, the Court directed that the complainant be informed of the grant of bail. It issued that direction in light of Aparna Bhat v. State of Madhya Pradesh, preserving the complainant's notification interest in the bail proceeding.	839
Intimation to the complainant when bail is granted	Applying Aparna Bhat, the Court directed that the complainant be informed of the grant of bail. This was a distinct post-decision intimation, following the State's report that notice of the pending SC/ST Act appeal had already been	865

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	given under Section 15-A.	
Intimation of bail to the complainant	Following Aparna Bhat, the Court directed that intimation of the grant of bail be sent to the complainant. This was an express requirement of the bail order in addition to the applicant's release conditions.	878
Victim's counsel in a Sessions trial — assistance without a parallel prosecution	Under Sections 225 and 301(2) CrPC and the proviso to Section 24(8), the victim's counsel assists the Public Prosecutor and ordinarily cannot independently make oral arguments or examine or cross-examine witnesses. The extent and manner of assistance depend on the case. Overlooked questions or points may be routed through the prosecutor. If the prosecutor disregards a material suggestion, counsel may bring it to the judge, who may act under Section 311 CrPC or Section 165 of the Evidence Act if it has merit. Counsel cannot put the questions independently.	890

Chapter no. 36
SC/ST Act and Caste-Based Criminal Process

Sub-Chapter no. 36.1
SC/ST Act — Registration, Public Accountability and Misuse Allegations Where Decided

Sections 18-A and 4 of the SC/ST Act do not create an automatic right to FIR-registration mandamus	The removal of a preliminary-enquiry requirement by Section 18-A and the punishment for wilful neglect of duty under Section 4 of the SC/ST Act do not themselves entitle an informant to bypass the available statutory remedies and obtain a writ directing registration of an FIR. The Court left the petitioner free to pursue the complaint and investigation remedies under criminal procedure.	128
No preliminary inquiry before registration of an SC/ST Act FIR	Section 18-A of the SC/ST Act removes the requirement of a preliminary inquiry before registration of an FIR for an accusation under the Act. That statutory rule concerning registration is distinct from the question whether an Article 226 petition should be entertained without use of the available statutory remedies.	128
Complaint alleging wilful neglect of duty by a public servant under Section 4	Section 4 of the SC/ST Act punishes a public servant who is not a member of a Scheduled Caste or Scheduled Tribe and wilfully neglects duties imposed by the Act or its rules, with imprisonment from six months to one year. The reproduced provision requires an administrative-enquiry recommendation for booking the charges and provides for Special Court or Exclusive Special Court cognizance. A complainant alleging punishable neglect through non-registration may include the responsible SHO as an accused in a complaint, subject to those statutory requirements.	128

Sub-Chapter no. 36.2
SC/ST Act — Public View, Caste-Based Insult and Special Court Process

Caste-based humiliation in public view at the quashing stage	Where the FIR alleged specific words intended to humiliate or insult the complainant by caste and an incident at a public place within public view, no ground was made out to quash the proceedings at the Section 482 stage. Whether those allegations were proved remained for trial; the refusal to quash did not amount to a conclusive finding of guilt.	142
Magistrate's jurisdiction over a pre-amendment SC/ST Act complaint	Under Section 14 of the SC/ST (Prevention of Atrocities) Act as it stood in 2012, the Special Court remained a Court of Session and could take cognizance only after committal by a Magistrate. A private complaint alleging an offence under Section 3(1)(x) was therefore maintainable before the Magistrate at that time. The later amendment conferring direct cognizance power did not render the Magistrate's 2012 entertainment of the complaint and issuance of summons illegal.	241
SC/ST Act public view — prima facie caste insult and	Where the recorded allegation was that the person stood outside the room while the victim was inside, called her by her caste name and threatened to kill her if	546

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threat from outside the victim's room	she disclosed the incident, the Court treated the alleged insult as occurring at a place within public view. On that prima facie basis, it directed his addition as an accused with offences under Sections 3(1)(r) and 3(1)(s) of the SC/ST (Prevention of Atrocities) Act and Section 506 Part II IPC. The observations remained confined to the writ and did not finally decide guilt.	
Telephone caste abuse received alone in a private room — public view	Where the complainant's own statement showed that he was alone in his drawing room when he received the alleged caste abuse by telephone, the insult or humiliation was not within public view. On that factual basis, the Court found no prima facie offence and quashed the invoked SC/ST Act counts under Sections 3(1)(r), 3(1)(s) and 3(2)(va).	685
SC/ST Act — public view distinguished from a public place	A privately owned place may still be within public view. An insult outside a house at a location visible from a road or lane, or inside a building in the presence of members of the public rather than merely relatives or friends, may satisfy that requirement. Private ownership alone does not answer whether the place is within public view.	685
Section 3(1)(r) SC/ST Act — intentional caste-related humiliation	Section 3(1)(r) requires intentional insult or intimidation with an intent to humiliate a member of a Scheduled Caste or Scheduled Tribe within public view. An insult does not fall within that provision merely because the person insulted belongs to such a community; the insult or intimidation must be on account of that status.	685
SC/ST Act public view — knowing recording followed by public playback	In the Section 482 CrPC challenge, the Court distinguished public view from a public place. It found that the applicant knew his telephonic conversation was being recorded and could later be played before others, yet continued the caste-directed abuse and threats. When the recording was subsequently played within public view, the private setting of the original call did not exclude a prima facie case. On those circumstances, the Court declined to quash the allegations under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act.	1009
	Sub-Chapter no. 36.3 **SC/ST Act Offences and Public-Order Allegations at Pre-Trial Stage**	
Caste-abuse allegations at the investigation stage	Where the FIR alleged caste-related abuse and assault causing injury, the Court declined to quash the pending investigation into the alleged SC/ST Act offences. The decision permitted collection of evidence and did not finally determine whether every statutory ingredient was proved.	201
	Sub-Chapter no. 36.4 **SC/ST Act Section 3(2)(v) — Caste Nexus, Knowledge and Temporal Amendment**	
Pre-2016 Section 3(2)(v): proof of caste status and caste-based offence	For conduct before 26 January 2016, Section 3(2)(v) of the SC/ST Act required proof that the offence was committed on the ground of the victim's protected caste or tribal status. Mere knowledge did not satisfy that former test. The later knowledge standard and Section 8(c) presumption could not be applied retrospectively. Here protected status itself was not proved and there was no evidence that the assault occurred because of caste; the conviction under Section 3(2)(v) was set aside.	295
	Sub-Chapter no. 36.5 **SC/ST Act Anticipatory Bail Bar and Abuse-of-Process Review**	
SC/ST anticipatory-bail bar where alleged words and work-payment context are unclear	On a prima facie assessment of the particular FIR and surrounding circumstances, the Court held that the bar under Sections 18 and 18-A of the SC/ST Act might not apply where the actual words allegedly spoken were not disclosed and the State and complainant could not clarify whether the appellants were labourers seeking payment for work under MGNREGA. It accordingly granted conditional anticipatory bail in the Section 14-A(2) appeal. The conclusion was confined to the bail stage and did not finally determine the	505

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	occurrence or guilt.	
Prima facie SC/ST Act inquiry before applying the anticipatory-bail bar	In an appeal seeking anticipatory bail, the Court may examine whether the allegations prima facie disclose an offence under the SC/ST Act before applying its Section 18 bar. Here a Section 250 M.P. Land Revenue Code order had been passed against the complainant party, which had nevertheless not vacated the disputed land, and the incident allegedly occurred on that plot. In those circumstances, the Court could not rule out false or excessive implication or an exercise of private defence. It held the Section 18 bar inapplicable and granted conditional anticipatory bail without determining the merits or finally accepting any defence.	839

Chapter no. 37
Juvenile Justice, Age Inquiry and Children in Conflict with Law

Sub-Chapter no. 37.1
Juvenile Justice Act Section 15 — Preliminary Assessment of Heinous Offences

Scope of preliminary assessment under Section 15 JJ Act	Where a child who has completed sixteen years is alleged to have committed a heinous offence, Section 15 of the Juvenile Justice Act, 2015 requires assessment of mental and physical capacity, ability to understand the consequences and the circumstances of the alleged offence. The assessment concerns those capacities and is not a trial of guilt.	168
Planned conduct and prima facie capacity assessment	The alleged use of a condom, preparation and sequence of conduct were treated as prima facie indications of mental and physical capacity and awareness of the consequences, including avoidance of forensic detection. The Court found that the alleged incident was not sudden and that the Board's assessment had a factual basis. Finding neither perversity nor a jurisdictional error, it declined interference under Section 102 of the Juvenile Justice Act.	168

Sub-Chapter no. 37.2
JJ Act Procedure, Bail and Rehabilitation

Registration of an institution housing children in need of care and protection	An institution housing children in need of care and protection requires registration under Section 41 of the Juvenile Justice Act, 2015. The absence of children in conflict with law did not remove that requirement. The Court declined to quash the Section 42 offence where the institution was admittedly unregistered and the records showed children left by parents or without the asserted parental care.	277
Children in need of care and protection under Section 2(14) JJ Act	Section 2(14) of the Juvenile Justice Act includes children without a home or settled abode and without apparent means of subsistence; children without parents and with no one willing to care for and protect them, or who are abandoned or surrendered; and missing or runaway children, or children whose parents cannot be found after reasonable inquiry. These categories were relevant to deciding the institution's registration obligation.	277
Section 12 Juvenile Bail Before Section 15 Preliminary Assessment	The Juvenile Justice Board may decide bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 before completing the Section 15 preliminary assessment. Section 12 contains no contrary restriction; assessment concerns whether and how the child is to be tried. Trial commences on framing of charges, and bail may be considered earlier. Grant of bail does not relieve the Board of its duty to pass the required orders under Sections 14, 15 and 18, or displace Section 12's statutory grounds for refusing release.	526
Continuation of Board-Granted Bail Following Transfer to the Children's Court	Bail granted by the Juvenile Justice Board under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 continues until conclusion of trial. Reading the Act with Rule 13 of the 2016 Rules, the Court found no requirement to reconsider bail merely because preliminary assessment leads to trial before the Children's Court as an adult. The different trial and sentencing	526

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	routes do not by themselves terminate the existing bail order; the Board must still complete its statutory assessment and related orders.	
Juvenility accepted on appeal — Conviction retained and sentence replaced by Board disposition	Acceptance of juvenility need not disturb the finding of guilt. Applying Section 20 of the 2000 Act and Devilal, the Court affirmed the juvenile appellant's convictions but set aside his adult sentence. Having considered the custody already undergone and Section 15(d), it remitted the matter to the jurisdictional Juvenile Justice Board to determine the appropriate fine, rather than fixing the amount itself. The Board was directed to decide within six months.	829
Section 20 Juvenile Justice Act, 2000 — Ordinary court and Board functions	Proceedings covered by Section 20 continue in the ordinary criminal court notwithstanding the later acceptance of juvenility. That court may determine guilt, but instead of imposing an adult sentence it must forward the juvenile to the Board for an appropriate order under the 2000 Act. Juvenility may also be determined after conviction, with the conviction maintained and the sentence set aside for Board disposition.	829

Sub-Chapter no. 37.3
Juvenility Claim and Age Determination of Accused

Conflicting Birth Records Require a Reasoned Reliability Finding	Where school records give different dates of birth, the court must decide which document is more reliable and in accordance with law. A discrepancy does not by itself justify substituting medical age estimation. Here, the proved first-admission register was preferred because the later Class 10 date remained unexplained and the Court found it inconsistent with the permissible age of entry into Class 1 on the schooling progression it considered.	452
Section 94: Medical Age Estimation Is a Documentary-Evidence Fallback	Under Section 94(2)(iii) of the Juvenile Justice Act, 2015, ossification or another latest medical age-determination test ordered by the Board or Committee is available only in the absence of the documents specified in clauses (i) and (ii). The available school record could not be displaced by dental and radiological estimates merely because another educational record gave an unexplained different birth date. Finding the respondent an adult on the incident date, the Court set aside the juvenile declaration and directed transfer of the charge-sheet for trial in the regular court with the other accused.	452
Unreliable school birth entry and medical examination for juvenility	A school birth entry cannot be treated as conclusive for juvenility when the parent who supplied it admits that it was deliberately incorrect and his evidence has not been rejected for cogent reasons. Here, the father's consistent admission that he understated the age, together with the inconsistent voter-list entry, made the school record unreliable. With no municipal, corporation or panchayat birth certificate available, the Court held that an ossification or other latest medical age-determination test should have been ordered. It set aside the juvenility finding and remanded for age adjudication after medical examination, without itself fixing the accused's age.	507
Documentary priority before medical age determination under Section 94	Where age is reasonably in doubt, Section 94(2) of the Juvenile Justice Act, 2015 provides first for a school date-of-birth certificate or a matriculation or equivalent certificate from the examination board, followed, in their absence, by a birth certificate from a corporation, municipal authority or panchayat. Ossification or another latest medical age-determination test is used only when the prescribed documentary evidence is unavailable. The Court applied that sequence to an unreliable school entry and the absence of the other birth certificate. The statutory provision reproduced in the judgment requires the ordered medical test to be completed within fifteen days.	507
Abeyance of Juvenile Justice Board proceedings pending fresh age adjudication	After setting aside the order declaring the accused juvenile, the Court remanded the age issue to the Sessions Court for a decision after medical examination and directed that the Juvenile Justice Board proceedings remain in abeyance until age was authoritatively adjudicated. The entire remand exercise was ordered to	507

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	be completed within one month.	
Pending appeal — Under-eighteen juvenility for an offence under the 1986 Act	Section 20 and its Explanation in the Juvenile Justice Act, 2000 require juvenility in pending trials, revisions, appeals and other criminal proceedings to be determined under the under-eighteen definition in Section 2(l), as if it applied when the offence was committed. An accused who was above sixteen but below eighteen at the time of a pre-2000 Act offence receives that benefit even though he was not a male juvenile under the 1986 Act and had become an adult before the 2000 Act commenced.	829
Repeal of the 2000 Juvenile Justice Act — Pending juvenility inquiry	The repeal of the 2000 Act with effect from 15 January 2016 does not defeat the inquiry in which a juvenility claim of this kind is accepted. Section 25 of the 2015 Act preserves that treatment.	829

Chapter no. 38
PCPNDT Act and Reproductive-Health Criminal Regulation

Sub-Chapter no. 38.1
Medical Termination of Pregnancy Act — Rape-Related Pregnancy and Minor Safeguards

Termination of a minor's pregnancy following alleged rape	Applying the MTP Act provisions reproduced in this 2020 decision, the Court authorised termination of a 15-year-old's 12–14 week pregnancy in view of her age, trauma and the Medical Board's high-risk assessment. That framework required one practitioner's good-faith opinion up to 12 weeks and at least two beyond 12 and up to 20 weeks on a risk to life, grave injury to physical or mental health, or substantial risk of serious foetal abnormality, presumed grave mental injury from a pregnancy alleged to result from rape, and required written guardian consent for a minor. Section 5(1) provided a separate exception for termination immediately necessary to save life.	392
Medical safeguards for termination of a high-risk minor's pregnancy	Where the Medical Board found the minor's reproductive organs underdeveloped and the pregnancy high risk, termination was directed with necessary precautions and referral to a medical college for skilled management if required. The Court required the presence of gynaecology, anaesthesia and other necessary specialists, with experienced senior substitutes where the department heads were unavailable, and directed the State to ensure postoperative care.	392
Protection of doctors carrying out a court-authorised termination	Following the protection recognised in the reproduced Shaikh Ayesha Khatoon passage, the Court granted immunity to the doctors participating in the authorised termination against litigation arising out of its order. The protection was tied to their participation in the procedure authorised by that order.	392
Preservation of the foetus for paternity DNA examination	After authorising termination of the minor's pregnancy following alleged rape, the Court directed preservation of the foetus so that DNA could be extracted to establish paternity.	392
Termination of a minor rape survivor's pregnancy after medical assessment	Under the Medical Termination of Pregnancy Act as reproduced and applied in this 2020 decision, anguish from a pregnancy alleged to have been caused by rape was presumed to constitute grave injury to the pregnant woman's mental health. Applying Murugan Nayakkar, the Court considered the minor's age, trauma and the medical-board opinion in allowing the father and daughter's request for termination. The board assessed an approximately eight-to-ten-week pregnancy, advised an early procedure and made fitness conditional on normal investigations. The permission remained subject to medical complications and the applicable statutory safeguards.	955
Specialist presence and State-provided postoperative care for a minor's	Having permitted termination, the Court directed prompt admission and performance of the procedure as early as possible, subject to medical complications. Because of the girl's tender age and possible threat to her life, the heads of gynaecology and anaesthesia and the other specialists were to	955

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termination	remain present. If those department heads were unavailable, experienced senior doctors in the relevant fields were to perform the procedure. The State was also directed to ensure postoperative care.	
Written guardian consent for termination of a minor's pregnancy	Section 3(4)(a) of the Medical Termination of Pregnancy Act, reproduced in the judgment, required written consent of the guardian before terminating the pregnancy of a woman below eighteen years. The Court treated the prosecutrix as a minor on the school record and considered the request made by her father and herself within that statutory framework. The permission for termination was accompanied by medical safeguards; the judgment did not record a separate finding that written consent had already been obtained.	955
Protection for doctors participating in termination under the Court's order	Following the clinician-protection direction reproduced from Shaikh Ayesha Khatoon, the Court directed that doctors participating in the permitted termination would have immunity in litigation arising out of its order. The protection was expressly tied to the court-authorised process. The medical conditions, specialist requirements and postoperative-care directions continued to govern performance of the procedure.	955
Rape-related pregnancy of a minor — medical assessment and termination under the then-applicable MTP Act	Under Section 3(2) of the Medical Termination of Pregnancy Act as applicable in March 2020, termination beyond twelve weeks and up to twenty weeks required the good-faith opinion of at least two registered medical practitioners on the statutory grounds, subject to the consent requirements. Where pregnancy was alleged to result from rape, the resulting anguish was presumed to cause grave injury to mental health. Applying Murugan Nayakkar, the Court considered the seventeen-year-old petitioner's age, trauma and the Medical Board's assessment of a pregnancy of sixteen weeks and six days. It permitted termination subject to medical complications and correction of anaemia.	1003
Termination of a minor's pregnancy — specialist attendance, correction of anaemia and postoperative care	Permission to terminate the minor's pregnancy was subject to the Medical Board's assessment that she was fit after correction of anaemia. The Court required prompt admission and termination as early as possible, subject to medical complications and specifically after anaemia correction. The heads of the gynaecology and anaesthesia departments and other specialists were to attend; experienced senior doctors could perform the procedure if the departmental heads were unavailable. The State was directed to ensure postoperative care in view of the girl's tender age and the possible threat to her life.	1003
Section 3(4)(a) MTP Act — written guardian consent for termination of a minor's pregnancy	The statutory consent requirement reproduced by the Court provides that the pregnancy of a woman who has not attained eighteen years cannot be terminated without the written consent of her guardian. Section 3(2), under which the Court considered the minor petitioner's pregnancy, was expressly subject to subsection (4). Written guardian consent therefore formed part of the statutory framework set out for termination of a minor's pregnancy.	1003
Court-authorised termination — immunity of participating doctors from litigation arising out of the order	Following Shaikh Ayesha Khatoon, the Court directed that doctors participating in the authorised termination would have immunity in the event of litigation arising out of its order. The protection accompanied permission to perform the procedure in the medically assessed circumstances of the minor petitioner. Its stated scope was litigation arising from the particular judicial order authorising termination.	1003

Chapter no. 39
Immoral Traffic (Prevention) Act and Sexual Exploitation Offences

Sub-Chapter no. 39.1
Immoral Traffic (Prevention) Act Section 5 — Procurement and Customer Liability

Customer's payment to procure a person	Procuring a person for prostitution under Section 5 of the Immoral Traffic	799

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for prostitution	(Prevention) Act, 1956 includes obtaining that person through payment. Customer status does not itself exclude liability. Prosecution material alleging such payment justified the Section 5 charge; a decision concerning a customer without comparable procurement allegations was distinguishable.	

Macro Division IX
Major Central Special Criminal Statutes

Chapter no. 40
Negotiable Instruments Act — Cheque Dishonour and Criminal Procedure

Sub-Chapter no. 40.1
Section 138 Cheque Prosecution — Insolvency Moratorium and Personal Penal Liability

Section 138 NI Act — signatory's conviction despite initiation of insolvency proceedings	In rejecting a cheque signatory's challenge based on an asserted interim moratorium under Section 96 IBC, the Court applied Ajay Kumar Radheyshyam Goenka and held that initiation of insolvency proceedings did not, by itself, enable the signatory to escape criminal liability or invalidate the Section 138 NI Act conviction on that ground.	54
Section 138 NI Act — penal prosecution distinguished from debt recovery	The Goenka principle relied upon by the Court treats Section 138 NI Act proceedings as penal proceedings for dishonour of a negotiable instrument, carrying imprisonment, fine or both. Their origin in a financial default does not convert them into a civil suit or a proceeding merely to recover the debt with interest. Their penal consequences remain distinct from financial liability under insolvency law.	54
IBC debt extinguishment — effect on personal criminal liability for cheque dishonour	Extinguishment or compromise of a debt through the IBC process does not automatically extinguish the criminal proceedings against a person liable for cheque dishonour. The possibility of partial recovery under a scheme, or of recovering through the insolvency process, does not by itself absolve that person of the penal consequences under Section 138 NI Act.	54
Company resolution or dissolution — continuing liability of natural persons under Section 141 NI Act	Where Section 138 NI Act proceedings have already commenced, subsequent approval of a resolution plan or dissolution of the corporate debtor does not, by itself, terminate the personal penal liability of signatories, directors or other accused covered by Section 141. Difficulty in continuing the prosecution against the corporate debtor does not permit those natural persons to escape prosecution merely on that basis. If the company survives resolution, its erstwhile directors can no longer represent it.	54

Sub-Chapter no. 40.2
Section 138 Cheque Complaint — Amended Territorial Jurisdiction and Pending-Case Validation

Cheque complaints — retrospective payee-bank territorial jurisdiction	For a cheque delivered for collection through an account, Section 142(2)(a) of the Negotiable Instruments Act confers jurisdiction on the court for the bank branch where the payee or holder in due course maintains the account. Section 142-A(1) gives the provision retrospective effect and overrides inconsistent CrPC rules and earlier jurisdictional rulings, including Dashrath Rupsingh Rathod. Applying Bridgestone India, the Court held the complaint at Lahar within territorial jurisdiction and set aside the earlier order to the contrary. Proceedings were to restart after fresh notice to the unserved respondent, who was given liberty to seek recall.	66

Sub-Chapter no. 40.3
Section 143A Interim Compensation — Discretion, Prima Facie Merits, Financial Distress and Quantum

Section 143A NI Act — reasoned discretion and assessment of	The power to award interim compensation under Section 143A of the Negotiable Instruments Act is discretionary. Applying Rakesh Ranjan Shrivastava, the Court explained that brief reasons must address the	303

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quantum	complainant's prima facie case, the defence in reply and relevant circumstances, which may include financial distress. A prima facie plausible defence may justify refusal. If compensation is warranted, its amount requires separate consideration of the transaction, the parties' relationship and other relevant factors; the listed considerations are not exhaustive. In declining interference with the 8% award here, the High Court noted both the reduced percentage and the applicant's failure to produce the trial order, which prevented scrutiny of its actual reasons.	
Section 143A NI Act — proof of claimed financial distress	Bank-loan default alone was insufficient to establish the accused's claimed bankruptcy. Although financial distress could be considered under Section 143A, the SARFAESI demand notice showed arrears and NPA classification, while no material established bankruptcy or pending proceedings for that purpose. Nor was there evidence of regular instalment payments before the Covid-19 period from which the accused attributed his financial decline. On that record, the Court declined to accept the asserted financial condition as a ground to interfere with the interim-compensation order.	303
	Sub-Chapter no. 40.4 **Section 141 NI Act — Director Liability, Complaint Averments and Quashing**	
Complaint averments for prosecution of a non-signatory director	For prosecution under Sections 138 and 141 of the Negotiable Instruments Act, a non-signatory director's designation alone is insufficient. The complaint must disclose that the director was in charge of and responsible for the company's business at the relevant time, with averments explaining that responsibility. A Managing or Joint Managing Director stands differently by virtue of that office. Read as a whole, the complaint's allegations of daily involvement in running the business, shared profit and loss, and joint responsibility sufficiently supported process against the applicant directors.	641
Quashing director prosecution despite a sufficient basic averment	Even where a complaint contains the basic relevant-time responsibility averment under Section 141 of the Negotiable Instruments Act, the High Court may quash proceedings if unimpeachable, incontrovertible material or wholly acceptable circumstances show that the director could not have been concerned and that trial would abuse the court's process. Otherwise, fuller details of the director's role may be established at trial. Section 482 CrPC does not permit a mini-trial or roving factual inquiry at this stage.	641
Trial of director responsibility after refusal to quash	When refusing to quash a cheque-dishonour prosecution within its limited jurisdiction, the High Court's observations about a director's role do not determine liability at trial. The trial court must decide from the evidence whether the applicants were responsible for daily business or were sleeping directors, without being influenced by those preliminary observations.	641
	Chapter no. 41 **NDPS Act and Narcotic Offence Procedure**	
	Sub-Chapter no. 41.1 **NDPS Act Section 37 Bail Restrictions and Twin Conditions**	
NDPS bail on prolonged detention and absence of trial progress	On a second application under Section 439 CrPC, the Court considered approximately ten months of detention and repeated nonappearance of prosecution witnesses, whose absence was conceded by the prosecution. Without reconsidering the earlier rejection on merits, it held that Section 37 NDPS Act did not justify continued custody where the trial had made no progress, even if the prosecution could prima facie show commission of an offence. Detention-based bail to a co-accused also supported relief. Bail was conditional on the trial court verifying that no witness had appeared on 06.09.2022; appearance that day would automatically make the order	100

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	ineffective.	
	Sub-Chapter no. 41.2 **NDPS Conscious Possession, Quantity and Presumptions**	
Whole-mixture quantity under the 2009 NDPS notification and unchallenged acquittal	Clause 4 inserted by notification dated 18.11.2009 applies the scheduled small- and commercial-quantity limits to the entire drug mixture or solution rather than only its pure drug content. The Court therefore disapproved the trial court's use of the pure diacetylmorphine component of the fifteen-gram seizure to exclude Section 21(b) NDPS Act. However, because the acquittal under Section 21(b) had not been challenged, the Court declined to examine its correctness and affirmed the conviction under Section 21(a).	105
Quantity between small and commercial quantity in assessing an NDPS sentence	For the offence under Section 8(c) read with Section 22(b) NDPS Act as adjudicated, quantity greater than small quantity but below commercial quantity attracted imprisonment up to ten years and a fine up to one lakh rupees. Considering the eight grams of smack seized, the Court found no ground to interfere with the sentence of four years' rigorous imprisonment and a fine of ten thousand rupees.	935
Failure to prove the alleged household recovery of ganja	Once the sole searching officer's evidence was found unreliable, the prosecution also failed to prove that one kilogram and 250 grams of ganja had been recovered from the alleged house of Suraj and Ramkali. The Court considered the unsupported recovery and the lack of reliable house linkage and set aside the separate possession conviction as well as the cultivation convictions.	939
	Sub-Chapter no. 41.3 **NDPS Search, Seizure and Statutory Safeguards**	
Unexplained non-production of seized contraband in an NDPS trial	In the circumstances of the case, unexplained failure to produce the seized ganja at trial was not a mere procedural irregularity. The prosecution did not show court-authorised destruction, and the investigating officer admitted non-production. Applying Jitendra and Ashok alias Dangra Jaiswal, the Court held that oral descriptions and seizure panchnamas did not discharge the burden of proving recovery of the alleged quantity from the accused and set aside the conviction.	186
Section 42 NDPS intimation to higher and immediate superior officers	Section 42 does not prohibit informing a higher officer in addition to the immediate official superior. Information was recorded in the station diary and sent to the SDO(P); after the search, the Dehati Nalishi reached the Town Inspector, the investigating officer's immediate superior, who registered the FIR and took over investigation. Noting the statutory seventy-two-hour period, the Court found compliance on this record.	935
Directory duties under Sections 52 and 57 NDPS Act	Sections 52 and 57 NDPS Act are directory rather than mandatory. Applying Gurbax Singh, the Court rejected the noncompliance objection: the arrest was promptly reported to the immediate superior officer, who took over investigation, and the handling required by Section 52 was also found to have been followed.	935
	Sub-Chapter no. 41.4 **NDPS Act Section 50 — Personal Search and Mandatory Communication of Right**	
Recovery from hand-carried bags distinguished from body search	Where contraband was recovered from separate polythene bags carried in the accused's hands, the Court treated the recovery as a bag search rather than a search of the accused's body.	261
NDPS Section 50 — bag recovery after an unproductive	Where no contraband was recovered from the accused's body or clothes and ganja was recovered from the bag he carried, the Court applied Ranjan Kumar Chadha to hold that Section 50 compliance was not required for that bag	327

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personal search	recovery. An alleged discrepancy in the notice therefore did not defeat the prosecution. The Court followed the narrated distinction between personal search and independently proved recovery from a bag, vehicle or container. It did not approve the disputed notice for a case in which recovery depended on a personal search.	
NDPS Section 50 — strict communication of the personal-search right	When Section 50 applies to a personal search, the empowered officer must inform the suspect of the right to be searched before a Gazetted Officer or Magistrate and honour the option if exercised. No prescribed written form is necessary, but awareness of the right and strict compliance are required. The Jadeja and Baldev Singh passages reproduced through Ranjan Kumar Chadha explain that non-compliance makes personal recovery suspect and vitiates a conviction based only on that recovery; it does not automatically exclude other independently proved evidence. The present conviction rested on recovery from the bag.	327
NDPS Section 50 — plain statutory meaning and limits on judicial extension	The Ranjan Kumar Chadha passages applied by the Court reject extension of Section 50 to an accompanying object merely by treating it as part of the person. Clear statutory language governs, and courts cannot supply a legislative omission simply to address a perceived risk of misuse. The reproduced construction principles also require the statute to be read as a whole and recognise that an omission is not readily inferred; any exceptional supply of an omission requires clear necessity and a reason found within the statute itself. That reasoning supports the confined meaning of personal search applied to this bag recovery.	327
Communication of the Section 50 NDPS right before personal search	Recovery from clothing worn by the accused is a personal search attracting Section 50 NDPS Act. The suspect must be informed of the right to search before a Gazetted Officer or Magistrate, and strict compliance is required. No prescribed words or separate explanation of the section number is necessary if the right itself is effectively communicated. Compliance must be assessed from the evidence in each case, and knowledge of the safeguard cannot simply be presumed. Here, the written notice conveyed the right before the appellant consented in writing to search by the investigating officer. Search by a female officer also satisfied Section 50(4). Failure to communicate the right would render the recovery suspect and vitiate a conviction based solely on that personal recovery.	935

Sub-Chapter no. 41.5
NDPS Cannabis Cultivation — Conscious Act and Proof Linking the Accused to the Crop

Proof of conscious cultivation of cannabis under Section 20 NDPS Act	Cultivation under Section 20 presupposes a conscious act attributable to the accused and proved beyond reasonable doubt. Revenue entries showing ownership did not establish that Ram Singh cultivated the alleged plants or exclusively possessed the field. He was absent during the search, and the purported land identification and seizure rested on the other accused's statements without reliable proof connecting the plants to his land. The Court also considered the absence of notice or consent in assessing the search conducted behind his back. Cultivation by him was not proved.	939
Visual disability and corroborative evidence in proving cannabis cultivation	The later date of the Medical Board's disability certificate did not justify disregarding it where the searching officer admitted that Suraj had limited vision at the search. The Court assessed that admission with the medical evidence, the Patwari's inspections showing no crop in the relevant year, and the failure reliably to identify the alleged cultivation plot. Ramkali had no recorded land and was not reliably connected to cultivation. On the combined evidence, cultivation by the accused was not established beyond reasonable doubt.	939

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Chapter no. 42
PMLA, Economic, Financial, Corporate, Tax and Customs Offences

Sub-Chapter no. 42.1
Negotiable Instruments Act — Cheque Dishonour, Statutory Presumptions and Prosecution

Amendment correcting the transaction already described in the statutory notice	The Section 138 complaint mistakenly described the cheque as repayment of a personal loan, although the statutory notice had already identified the advertising debt. In these circumstances, the application to correct the complaint, filed before cross-examination of the complainant though after framing of charge, should not have been rejected as belated or as changing its nature. The Court allowed the amendment to reflect the transaction stated in the notice.	176
Prosecution of the sole proprietor without separately arraigning the trade name	A sole proprietary concern is the proprietor's business name, not a company or partnership distinct from him. Section 141 of the Negotiable Instruments Act therefore does not require a separate prosecution of that concern. The proprietor who drew the cheque could be prosecuted alone despite the absence of separate statutory notice to, or arraignment of, the proprietary trade name.	176
Section 142 complaint in the name of a proprietary concern that is the payee	Section 142 requires a written complaint by the payee or holder in due course. Where a proprietary concern is named as payee, the Section 138 complaint may be filed in that trade name through its proprietor. The concern has no legal identity distinct from the proprietor; the manner of representing the payee is governed by general law rather than Section 142 itself.	176
Rebuttal of the statutory presumption of cheque debt	Once execution of the cheque is proved or admitted, Sections 118 and 139 of the Negotiable Instruments Act raise rebuttable presumptions of consideration and discharge of debt or liability. The accused need not disprove the debt beyond reasonable doubt or necessarily lead direct evidence; probable facts or circumstances may suffice. Bare denial does not. Here the unsupported theft account, undisputed signature and evidence of advertising services left the presumption unrebutted.	176
Bank return memo without a seal may be proved by other evidence	Section 146 of the Negotiable Instruments Act provides a presumption of dishonour for a bank memo bearing the official mark; it does not make a bank seal the exclusive means of proving the memo. The officer-signed memo, considered with the bank witness's evidence and the undisputed insufficiency of funds, was proved on this record despite the missing seal.	176
Court's application of Section 143 to a one-year sentence after reversal of acquittal	After reversing the Section 138 acquittal, the Court imposed one year's rigorous imprisonment and compensation. It construed Section 143 as dispensing with a separate hearing on sentence because it did not intend to impose imprisonment exceeding one year. That construction was the stated basis for proceeding directly to sentence in this appeal.	176
Completion of a signed blank cheque by another person	A person who signs a cheque and hands it to the payee remains liable unless the statutory presumption of debt or liability is rebutted. If a signed blank cheque is voluntarily delivered towards payment, the payee may fill in its particulars; a different hand or ink does not by itself invalidate an otherwise valid cheque. The requirement of voluntary delivery remains material, and the Court separately rejected the alleged theft on the evidence.	176
Cheque-dishonour trial need not await an absconding co-accused	The trial against accused persons who are before the court cannot be kept pending merely to await an absconding co-accused. A partner's fear that the entire civil liability might fall on him did not justify postponement. The firm was itself prosecuted, the applicant did not deny his partnership and the cheque also bore his signature; proceedings against him could continue without deciding his ultimate guilt or civil liability.	177
Correction of a	A simple, curable defect in a criminal complaint may be corrected by formal	225

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cheque number mistakenly stated in a Section 138 complaint	amendment despite the absence of an express enabling provision in the CrPC, provided the amendment causes no prejudice. Where the cheque, return memo and statutory notice gave the correct cheque number and only the complaint misstated it, correction of that number was a formal amendment that did not affect maintainability.	
Correct statutory notice distinguished from a complaint-only cheque-number error	A statutory notice is a prerequisite to maintaining a complaint under Section 138 of the Negotiable Instruments Act. The Court distinguished a case in which the notice itself stated an incorrect cheque number, observing that such an error undermined the complaint's foundation. Here the notice identified the correct cheque, so correction of the number in the complaint did not suffer from that defect.	225
Signed Blank Cheque and Prima Facie Authority to Complete Its Entries	Referring to Section 20 of the Negotiable Instruments Act, the Court stated that signing and issuing a blank cheque permits a prima facie presumption that the payee is authorised to complete the remaining entries. It considered that principle with the husband's initial bank email, which did not deny his signature, while refusing quashing. The disputed counter-investigation remained pending.	456
Stage-based costs for compounding cheque-dishonour offences	The Damodar S. Prabhu guidelines reproduced and applied by the Court allow compounding without costs at the first or second hearing. At a later stage before the Magistrate, the stated cost is 10% of the cheque amount, payable to the Legal Services Authority or another authority the court considers fit. Compounding before the Sessions Court or High Court in appeal or revision attracts 15%, and before the Supreme Court 20%. The Court applied the 15% cheque-amount condition to this revision.	609
Arraignment of the company for prosecution of directors under Section 141 NI Act	Commission of the offence by the company is a condition precedent to the vicarious liability contemplated by Section 141 of the Negotiable Instruments Act. Arraigning the company as an accused is imperative, and liability of the other persons depends on the necessary averments and proof. Where the company that drew the cheque was not arraigned, the applicants could not be prosecuted merely in their capacity as its directors; the complaint against them was quashed.	612
Statutory demand notice to the drawer company	For a cheque drawn by a company, the statutory demand must be addressed to the drawer company in compliance with the proviso to Section 138 of the Negotiable Instruments Act. Notice issued only to the cheque's signatory did not satisfy that requirement here. The company had neither received the statutory demand nor been made an accused, and the prosecution of the applicants as directors was therefore unsustainable.	612
Non-Filing of Income-Tax Returns Does Not by Itself Disprove a Loan	Failure to file an income-tax return or disclose income in it does not by itself establish that a complainant lacked the means to advance a loan. Tax compliance is a matter between the assessee and the revenue authorities. For a prosecution under Section 138 of the Negotiable Instruments Act, the existence of the loan and legally recoverable debt must be assessed from the entire evidence. The Court considered the complainant's explanation of his funds together with the statutory presumption and the inconsistent defence, and declined to draw an adverse inference solely from the absence of income-tax returns.	652
Completion of Particulars on a Signed Cheque by the Payee	The fact that the payee or another person filled in the remaining particulars of a signed cheque does not by itself absolve the drawer of liability under Section 138 of the Negotiable Instruments Act. Applying the narrated reasoning in Bir Singh v. Mukesh Kumar, the Court recognised that, where signature and voluntary delivery are not displaced and no contrary circumstances are proved, subsequent completion of an unfilled signed cheque is not an alteration. Here, the drawer's earlier notice disputed the other entries without disputing her	652

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	signature, and her later defence was rejected on the evidence.	
Assessment of a Belated Signature Denial and Inconsistent Cheque-Theft Defence	In assessing the drawer's theft and forgery defence, the Court considered her inconsistent accounts of where the cheque was stolen, her conflicting statements about acquaintance with the complainant and her attempt to disown her counsel's notice. It also considered the absence of a theft FIR, her failure to seek expert examination despite the complainant's application, her admission of resemblance to the bank specimen signature and the bank's return of the cheque because the account was blocked rather than for a signature mismatch. Taken together, these circumstances supported rejection of the defence and the finding that the cheque discharged a legal liability.	652
Raising and Rebutting the Presumptions of Consideration and Debt	Once execution of the cheque is proved or admitted, Sections 118 and 139 of the Negotiable Instruments Act raise rebuttable presumptions of consideration and discharge of debt or liability. Applying Kishan Rao v. Shankargouda and the narrated Kumar Exports v. Sharma Carpets principles, the Court recognised that the accused need not invariably lead direct evidence of the negative. Facts or circumstances making the absence of consideration or debt sufficiently probable may shift the burden back to the complainant. Bare denial is insufficient; the presumption survives until rebutted by such material.	652
Absence of a Bank Transfer or Loan Receipt in a Cheque-Dishonour Case	Applying the narrated Bir Singh v. Mukesh Kumar reasoning, the Court recognised that a loan's having been advanced without a cheque or demand draft, or without obtaining a receipt, does not by itself defeat a Section 138 prosecution. The statutory presumption and the evidence concerning signature, issue of the cheque and the asserted debt remain material. Absence of those forms of documentation alone does not place the entire burden of proving the advance afresh on the complainant once the presumption operates.	652
Adequacy of Sentence for an Unpaid Dishonoured Cheque	The narrated Suganthi Suresh Kumar v. Jagdeeshan principle requires a sentence under Section 138 of the Negotiable Instruments Act to give effect to the legislation's object where the cheque amount remains unpaid; a merely token sentence may defeat that object. The Court nevertheless left the trial court's lenient punishment of admonition undisturbed because the complainant had not challenged it, while affirming the compensation. The non-interference with admonition was expressly based on the circumstances of this case.	652
Successive cheque presentation and a fresh cause of action under Section 138	MSR Leathers permits a cheque to be presented again during its validity, even after an earlier dishonour and demand notice. A later dishonour may support a fresh notice and prosecution if all conditions in the proviso to Section 138 are satisfied. Failure to prosecute the first default does not confer immunity on the drawer, though prosecution may be launched only once on the selected qualifying default. This rule requires a fresh presentation and dishonour; it does not validate repeated notices on the same old dishonour.	762
Cheque amount stated differently in words and figures	Under Section 18 of the Negotiable Instruments Act, the amount stated in words controls where it differs from the amount in figures. The Court therefore considered the bank's return of the cheque for that discrepancy prima facie unwarranted, while noting that the bank had not been made a party. The provision did not resolve whether the drawer deliberately created the discrepancy or prevent consideration of the Section 420 IPC charge.	788
Concurrent prosecution under Section 138 NI Act and Section 420 IPC	Section 138 of the Negotiable Instruments Act and Section 420 IPC have different ingredients, so overlapping facts do not bar simultaneous prosecution. The adopted Sangeetaben passage distinguishes Section 138's rebuttable presumption of antecedent liability and absence of a requirement to prove fraudulent intention on issuance from the IPC offence's relevant mens rea. An NI Act case requires a complaint, unlike the IPC prosecution; the quoted passage also distinguishes adjustment of an NI Act fine towards the legally enforceable liability. Availability of a cheque-dishonour remedy therefore does	788

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	not exclude a distinct cheating charge.	
Section 141 NI Act — pleading control of the company's business	A complaint must allege that the persons prosecuted under Section 141 NI Act were responsible for the company's day-to-day business when the offence was committed. Describing the applicants as the company's 'Karta Dharta' and authorised signatories, and alleging that they delivered its cheque with an assurance of encashment, supplied the necessary basic averment. Although inartfully worded, 'Karta Dharta' conveyed management of the company's daily affairs and justified cognizance and summons.	803
Section 138 NI Act — balance-price cheque where the seller has not conveyed the land	Where a cheque represented the balance price under an agreement to sell, the seller had not executed the sale deed and the buyer stopped payment, the Court found that the cheque did not discharge a legally recoverable debt. Time was not the essence of the agreement. The civil court's refusal of specific performance and direction to refund the buyer's ₹8.5 lakh advance with 6% interest further established that the seller could recover no balance from the buyer. The Court distinguished a case in which the seller had executed the sale deed but payment was then stopped, and quashed the Section 138 complaint.	804
Distinct requirements of cheque dishonour and IPC prosecution	Section 138 NI Act does not require proof of fraudulent or dishonest intention when the cheque is issued, whereas the relevant mental element must be established in the IPC prosecution. The NI Act provides a rebuttable presumption that the cheque discharges an antecedent liability, requires institution by complaint and provides for a fine to be adjusted against the legally enforceable liability. Those requirements do not govern the IPC offences. Overlap in cheque-related facts therefore does not make the offences identical.	924
Insufficient funds with an additional alteration or signature endorsement under Section 138	A cheque returned for insufficient funds does not fall outside Section 138 of the Negotiable Instruments Act merely because the bank also states that an alteration requires the drawer’s full signature. The Court applied the purposive interpretation in Laxmi Dyechem and the reproduced discussion in Santosh Kumar Gupta: technical signature-related reasons cannot automatically displace the real reason for dishonour. The trial court had found issuance in discharge of legal liability and non-payment despite statutory notice. Because insufficient funds was also an established reason for return, the additional alteration endorsement did not justify acquittal. The Court set aside that perverse finding and convicted the respondent under Section 138.	954
Repeated presentation of a cheque and prosecution on a later default	Relying on MSR Leathers, the Court recognised that a cheque holder may present the cheque repeatedly and institute prosecution on a second or successive default. Here, the cheque was presented again after the first return, and the second dishonour for insufficient funds together with an alteration endorsement did not prevent prosecution under Section 138. The Court considered the subsequent statutory notice and non-payment in sustaining the complaint.	954
The court must determine cheque-signature genuineness rather than accept the bank’s endorsement mechanically	A banker’s statement that a signature differs is not conclusive proof that the signature is not genuine or that Section 138 is inapplicable. In the Devan passage reproduced through Santosh Kumar Gupta and relied upon by the Court, genuineness and execution are questions for judicial determination, together with the real cause of dishonour. If the court finds on evidence that the signature is not genuine, the instrument cannot be treated as the drawer’s cheque attracting Section 138. A mere mismatch endorsement therefore requires a different assessment from a judicial finding of a non-genuine signature.	954
Signature-related dishonour, statutory notice and the rebuttable presumption of liability	The principles reproduced from Laxmi Dyechem recognise that signature mismatch or a change in the authorised signatory may cause dishonour even without an intention to prevent payment. Such dishonour is not an offence by itself: the statutory notice and opportunity to pay, followed by failure to pay within the prescribed time, remain material. Whether a legally recoverable debt	954

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	or liability existed is determined on the evidence, subject to the rebuttable statutory presumption of valid consideration. The Court applied that framework where the respondent failed to pay after notice and the trial court's finding of legal liability was affirmed.	
Punitive, compensatory and restitutive purposes of cheque-dishonour proceedings	Following R. Vijayan v. Baby as narrated in the judgment, the Court recognised that Chapter XVII of the Negotiable Instruments Act serves punitive, compensatory and restitutive purposes. It provides a common process for enforcing criminal liability for dishonour and the civil liability to realise the cheque amount. That purpose informs the interpretation of Section 138 and the exercise of the power to award compensation, rather than treating the proceedings solely as a means of punishment.	954
	Sub-Chapter no. 42.2 **Customs, GST, Tax and Corporate Criminal Prosecutions**	
Company cheque: arraignment and demand notice before vicarious director liability	Where a director signs a company cheque on its behalf to discharge the company's liability, the company is the principal accused. The director cannot be prosecuted vicariously when the company is neither arraigned nor given the statutory demand notice under Section 138 NI Act. The complaint and cheque showed that the ₹13 lakh settlement arose from investment in the company, rather than an independent personal debt. Applying Himanshu, the Court dismissed the complaint; the reproduced precedent also rejects later company arraignment without compliance with the demand-notice proviso.	442
	Sub-Chapter no. 42.3 **Negotiable Instruments Act Section 138 — Cheque Presentation, Statutory Notice and Cause of Action**	
Cumulative statutory conditions and pleading of a Section 138 offence	An offence under Section 138 of the Negotiable Instruments Act requires presentation of the cheque within six months of drawing or its validity period, whichever is earlier; a written demand to the drawer within thirty days after receipt of the bank's information of dishonour; and the drawer's failure to pay within fifteen days after receipt of that notice. The complaint must contain factual allegations constituting the statutory ingredients. These cumulative conditions must be satisfied before dishonour constitutes the offence.	612
Repeated notices on one dishonour do not restart the Section 138 notice period	Where a cheque has been presented only once, successive notices based on that dishonour do not extend the thirty-day period for issuing the statutory demand notice. A later notice outside that period cannot support the prosecution merely because earlier notices were returned unserved and the later notice was refused. Applying its Devendra Prajapati ruling, the Court restored dismissal of the complaint on this ground.	762
	Chapter no. 43 **Cybercrime, IT Act and Online Financial Offences**	
	Sub-Chapter no. 43.1 **Electronic Identity, Attribution and Digital Trail Proof**	
Identity theft through the abductee's ATM card and PIN	Section 66-C of the Information Technology Act penalises fraudulent or dishonest use of another person's electronic signature, password or unique identification feature. On proof that Kamal Kishore obtained the abductee's ATM card and PIN and that withdrawals followed from the abductee's account, the Court upheld his liability even if he had passed the credentials to another person who operated the ATM. Missing CCTV footage left the actual operator unidentified but did not, on the total evidence, defeat his conviction.	183

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	Chapter no. 44 **Arms, Explosives, Excise, Gambling and Public Safety Statutes**	
	Sub-Chapter no. 44.1 **Arms Act Section 17 — Licence Suspension for Public Peace and Safety**	
Household access to a licensed firearm and public-safety risk	In assessing suspension under Section 17 Arms Act, the authorities could consider the risk that the licensee's husband might access the firearm kept in their shared home. His continuing criminal activities and violent resistance to police and forest authorities supplied a reasoned basis for apprehending danger to public peace and safety. In those circumstances, the fact that the licence stood in the wife's name did not invalidate suspension.	213
Earlier acquittals and renewal in assessing firearm-licence suspension	Acquittals resulting from witnesses turning hostile did not, on this record, undermine the authorities' public-safety assessment. Renewal of the licence could indicate that earlier criminal cases had been overlooked, but continuing criminal activity after renewal remained relevant. The Court therefore found no fault with the subjective satisfaction supporting suspension.	213
Public peace and safety as grounds for licence suspension	The licensing authority may suspend or revoke an arms licence when it considers action necessary for public peace or public safety, upon subjective satisfaction supported by the material. Applying Abdul Saleem, the Court treated public peace as public tranquillity and order, and public safety as protection of the public from danger, beyond an effect on an individual alone. Pending or disposed criminal cases may be considered with due care where use, misuse or a threat involving the weapon is established, and the sufficiency of material and degree of danger require examination in each case.	213
Reasons and hearing in arms-licence action	An order suspending or revoking an arms licence must record reasons. A brief statement of those reasons must be furnished to the holder on demand unless disclosure is withheld in the public interest. The Court also reiterated that revocation requires an opportunity of hearing to the affected person.	213
Writ review of a reasoned public-safety assessment	Where the authorities' subjective satisfaction that an arms licence poses a threat to public peace or safety rests on cogent reasons and the record, the High Court does not reassess it as an appellate authority. Applying that limit, the Court upheld the suspension supported by the material before the licensing and appellate authorities.	213
	Sub-Chapter no. 44.2 **Arms Act — Possession, Licence and Proof Requirements**	
Arms Act conviction: seizure evidence considered with corroborating murder evidence	The Court upheld Satish's conviction under Sections 25(1-B)(a) and 27 of the Arms Act on the evidence accepted in this case. The investigating officer proved the memorandum and seizure of the country-made firearm in witnesses' presence and stated that permission had been obtained from the concerned Magistrate for registering the Arms Act offence. The recovery evidence was considered with the other material connecting the weapons to the murder. The judgment did not formulate a rule that recovery alone proves every ingredient of those offences.	45
Arms conviction based on an unconcealed open-drain recovery	Recovery of a pistol from a drain near the accused's house did not establish the exclusive knowledge needed on this record. The prosecution did not show that the pistol was buried or otherwise hidden, and its dry condition supported the inference that the drain was dry and the weapon openly accessible. The Court therefore set aside the conviction under Section 25(1)(1-b)(a) Arms Act.	216
Proof of prosecution sanction after inspection of the seized firearm	Where the sanction order expressly recorded that the District Magistrate had inspected the seized firearm, the sanction was not invalidated by showing that the witness who formally proved the order had not himself seen it. That witness was not the sanctioning authority, and no question was put alleging that the	247

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	District Magistrate had failed to inspect the firearm.	
Refusal to reduce the minimum sentence under Section 25(1-B)(a) Arms Act	Because the trial court had imposed the applicable minimum term of one year's rigorous imprisonment for the Section 25(1-B)(a) Arms Act offence, the High Court found no basis to interfere with that sentence and the accompanying ₹500 fine and default imprisonment.	247
Missing Malkhana register assessed with proof of sealed production for sanction	The missing Malkhana register did not unsettle the concurrent finding of firearm seizure in this case. The Collectorate arms clerk testified that the pistol was produced in a sealed condition and that the Collector examined the case diary and opened the sealed firearm before granting prosecution sanction. The Court considered that evidence while rejecting the custody objection.	257
Proof of unlicensed pistol possession despite a hostile independent witness	The prosecution case could not be rejected merely because the independent witness did not support it. The Court affirmed the conviction under Section 25(1-B)(a) Arms Act where no reason was shown to disbelieve the police witnesses' evidence of seizure and identity. Their evidence was considered with the armourer's report that the pistol was working when examined and the proof of prosecution sanction, despite the pistol no longer working when produced in court.	267
Unlicensed firearm possession proved with recovery and forensic evidence	The Court affirmed the conviction under Section 25(1-B)(a) of the Arms Act on proof of recovery of a country-made pistol and live cartridge, the firearm's working condition and its forensic connection with the bullet recovered from the deceased. The accused produced no licence authorising possession of that pistol.	275
Arms recovery — seizure before formal arrest and proof of possession	Formal arrest before seizure is not a prerequisite to a valid search. Where the firearm had already been seized before the recorded time of arrest, a witness's statement that no article was found at formal arrest did not contradict the earlier recovery or establish absence of firearm possession.	312
Section 25(1-B)(a) Arms Act — minimum sentence and reduction to time served	The Court treated one year's imprisonment as the statutory minimum for the offence under Section 25(1-B)(a) of the Arms Act and refused reduction of the sentence to the shorter period already undergone by the applicant.	312
Failure to connect recovered firearms with the crime — effect on direct evidence	Proof that weapons were recovered did not establish that they were the weapons used in the offence. After excluding the FSL report, the Court treated the failure to connect the seized weapons with the crime as non-recovery of the actual weapons. Recovery of the weapon used is not indispensable to conviction, and its absence did not undermine the otherwise reliable direct eyewitness evidence.	319
Arms Act prosecution — sanction based on a substituted firearm could not sustain the Section 27 conviction	The seizure memo and investigating officer identified a .12-bore firearm, whereas the armourer, forensic examination and sanction concerned a .315-bore firearm. The Court inferred substitution in the prosecution chain and treated the sanction based on inspection of the different firearm as invalid in this prosecution. The resulting failure to prove the offence weapon required setting aside the recorded Section 27 Arms Act conviction, while the separately proved Section 302 IPC conviction remained intact.	638
Unexplained firearm sealing gaps and missing ammunition	The prosecution failed to prove the gun seizures beyond reasonable doubt because it did not explain who resealed the guns after the armourer returned them open, or who opened them after the District Magistrate's office had resealed them. The guns reached court unsealed, the seizure memos lacked a specimen seal, and the removed gunpowder and pellets were unaccounted for. These deficiencies led the Court to set aside the Arms Act convictions of all four appellants.	716
Proof supporting separate Arms Act convictions	Proof of recovery of the pistol from Kunjilal, the cartridge-to-pistol forensic link and reliable evidence of his firing supported his separate Arms Act convictions. The Court also recorded due prosecution sanction and upheld his	761

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	convictions under Section 25(1-B)(a) and Section 27, the latter read with Sections 11/13 of the MPDVPK Act. The finding concerned Kunjilal alone, and his sentences remained concurrent under the trial order.	
Scene recovery of a firearm and doubtful attribution of its use	Recovery of the gun from the scene did not establish its use by the appellant beyond reasonable doubt in the circumstances of this case. The gun was not seized from his possession, and the unexplained serious injuries to the accused, suppressed origin of the incident and disputed possession made the allegation that he fired doubtful. The Court consequently set aside the Section 27 Arms Act and related hurt convictions. Its conclusion rested on the combined evidentiary defects, rather than on a general rule that recovery from the scene is insufficient.	923
Proof supporting conviction under Sections 25 and 27 Arms Act	The seizure witnesses proved recovery of the country-made pistol from Mukesh, the prosecution sanction was proved, and the armourer proved the ballistic report without cross-examination. On that evidence, the Court upheld his conviction under Sections 25 and 27 of the Arms Act.	934
Use of the father's licensed firearm under Section 30 of the Arms Act	The Court upheld Pawan's conviction under Section 30 of the Arms Act on the ground that he had used his father's licensed mouzer gun in the shooting. This was the specific basis stated for affirming that conviction together with the murder conviction. Khemraj, whose alleged participation with another firearm was not proved beyond reasonable doubt, was acquitted of all charges, including his Section 30 charge.	951

Chapter no. 45
Prevention of Corruption Act and Public Servant Criminal Liability

Sub-Chapter no. 45.1
Sanction for Corruption Prosecution and Competent Authority

Proof of sanction without examining the sanctioning authority	A sanction order may be proved by a witness who can identify the sanctioning authority's signature. Application of mind may be established from the facts and grounds stated in the sanction itself or by independent evidence of the material placed before the authority and its resulting satisfaction. The sanction file was produced and the office witness's relevant evidence was not effectively challenged.	224
Actual failure of justice required for appellate interference over sanction defects	Under Section 19(3) of the Prevention of Corruption Act, a conviction or other order of the Special Judge cannot be reversed or altered in appeal merely because of absence of sanction or an error, omission or irregularity in it. Actual failure of justice must be found. The court must examine real prejudice and consider whether the objection could and should have been raised earlier.	224
Special Judge's power to examine validity of sanction at trial	The restriction on appellate or revisional interference in Section 19(3) does not prevent the Special Judge from holding the prosecution not maintainable for want of valid sanction under Section 19(1). The trial court's power to examine that requirement is distinct from the higher court's duty to consider actual failure of justice after a completed trial.	224
Administrative nature of sanction and limits of judicial scrutiny	Grant of sanction is an administrative function requiring prima facie satisfaction that the relevant facts constitute an offence. The prosecution must prove valid sanction, but the reviewing court does not sit in appeal over the adequacy of the material. Where the authority considered the material, failure to prove some of it does not itself invalidate sanction, and validity should not be tested through a merely technical approach.	224
Section 19 PC Act—2018 sanction amendment and a pre-amendment case	Following Kavindra Kiyawat and the reproduced Katti Nagaseshanna reasoning, the Court treated the 2018 amendment extending sanction protection to retired public servants as prospective. In this case, registration of the offence in 2013 and retirement in 2016 meant that the later closure report and	417

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	cognizance in 2021 did not, merely because of their date, require sanction under the amended provision.	
Proof of prosecution sanction and appellate failure-of-justice requirement	The prosecution must prove that the competent authority considered the relevant facts before granting sanction; the sanction order itself or other evidence may establish that consideration. Here, the detailed order of 26 July 2016 and the record-producing witness's proof of the authority's signature established application of mind. No timely request to examine the sanctioning authority or resulting failure of justice was shown. Under Section 19(3)–(4) PC Act, the Court rejected appellate interference, while recognising that the Special Judge may insist on valid sanction at trial.	441
Administrative character and scope of scrutiny of prosecution sanction	Grant of prosecution sanction is an administrative function requiring prima facie satisfaction that the relevant facts constitute an offence. The court does not sit in appeal over the adequacy of the material placed before the authority. Where all relevant material was considered, later failure to prove some of it does not by itself invalidate sanction. Sanction remains a safeguard against vexatious prosecution, but its validity is not tested through a pedantic or hypertechnical approach.	441
Corruption sanction: proof of application of mind without examining the sanctioning officer	The prosecution must establish a competent authority's prima facie satisfaction on the relevant facts. That may appear from the sanction order itself or be proved by other evidence of the material placed before the authority. The order may be proved through a witness who identifies the sanctioning officer's signature; examination of that officer is not invariably necessary. Sanction is an administrative safeguard, and the court does not sit in appeal over the adequacy of the material or test the order hypertechnically. The Court found the sanction's contents showed due application of mind.	879
Section 19 PC Act: appellate interference for sanction defects requires failure of justice	Under Section 19(3)–(4), appellate or revisional interference on the ground of absence, error, omission or irregularity in sanction requires actual failure of justice caused by the defect. The court must consider whether the objection could and should have been raised earlier. This appellate restraint does not prevent the Special Judge from addressing want of valid sanction at trial. Here the incorrect trap date in the sanction order was treated as a typing mistake, and no resulting failure of justice was demonstrated.	879
Timely objection to proof of sanction through a signature-identifying witness	Where the sanction was proved through a witness identifying the sanctioning authority's signature, the defence did not object at that stage that examination of the authority was needed for its application-of-mind challenge. The Court held that such an objection should have been raised in time to allow the prosecution to examine the authority; it could not later be taken by surprise through a claim that non-examination alone made the sanction unproved. The contents of the order remained available for assessing application of mind.	879
	Sub-Chapter no. 45.2 **Demand, Acceptance and Proof of Illegal Gratification**	
Bribe for an official favour beyond the public servant's actual powers	A public servant cannot avoid liability for demanding and accepting illegal gratification merely because he lacked power to perform the promised official act or did not intend to perform it. It is sufficient that he induced payment by representing that he could secure the official favour. The presenting officer's lack of power to close the departmental inquiry did not answer the demand-and-acceptance charge.	224
Proof of demand and acceptance of a bribe for mutation	The prosecution proved that the Patwari demanded Rs 900 for mutation and accepted the money. His admitted receipt, considered with the proved demand and the failure of his loan-repayment explanation, established guilt under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act beyond reasonable doubt.	252

45.3 : Presumption under Corruption Law and Rebuttal

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Circumstantial proof of bribe demand despite a hostile complainant	The Court inferred the ₹3,000 demand from the proved complaints, signed transcript, trap circumstances, positive hand wash, refusal of a voice sample and pending partition work, despite the complainant's denial at trial. The original recording was not played and there was no scientific voice match; the conclusion rested on the combined evidence. The adopted Section 114 Evidence Act reasoning permits logical inference from proved facts, while cautioning against building a further discretionary presumption on another presumption. The pending larger-bench reference was not treated as a final resolution of the disputed question.	441
Bribe recipient's apparent ability to assist despite lack of final decision-making power	Applying the narrated Section 161 IPC principle, the Court held that a public servant's lack of power to make the final official decision does not defeat liability where gratification is sought or accepted by holding out assistance and the giver acts on that belief. The Patwari had prepared the partition documents and the matter remained pending before the Tahsildar; the complainant still regarded him as able to help. His unauthorised acceptance of affidavits and unequal proposal supported the finding of a continuing corrupt role. The appeal did not finally determine the parties' property rights.	441
Apparent authority in a demand for illegal gratification	In assessing the alleged demand, the material consideration was the payer's bona fide impression of the officer's authority, rather than whether the officer actually possessed that authority. The applicant's asserted lack of power to order offline distribution did not defeat investigation if the shopkeepers believed that the instructions came from competent officials. The Court applied this principle at the prima facie stage and did not determine that gratification had been paid or guilt proved.	600
Demand and acceptance through an intermediary in a corruption trap	The Court found demand and directed receipt of ₹7,000 for demarcation proved by the recorded negotiations, the Revenue Inspector's direction to contact the Patwari, the trap evidence and her instruction to hand the money to the intermediary in their presence. Recovery from the intermediary, rather than either officer, and the officers' negative phenolphthalein tests did not displace that combined proof. The convictions under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and Section 120-B IPC were sustained.	879
Fabricated rejection records did not rebut the pending-work bribery case	The defence that the demarcation application had already been finally rejected failed on the record. Under the applicable Section 129 MPLRC procedure and the circular dated 28 January 2014, the Revenue Inspector carried out demarcation, while the final decision belonged to the designated Tahsildar. The alleged rejection papers conflicted with each other, lacked the required proof and were absent from the contemporaneously attested seized file. The Court found later fabrication after the originals were returned, reinforced by the evidence that the proceedings remained pending, and rejected the asserted prior disposal.	879
Bribery: actual power to provide the promised official assistance is not essential	A public servant who induces payment by holding out that official assistance or favour will be provided cannot escape liability merely because the servant lacked actual power or did not intend to provide it. The Court applied the reproduced Chaturdas Bhagwandas Patel reasoning, originally concerning Section 161 IPC, to reject the Patwari's claimed lack of authority. It also found that her actual demarcation role and conduct supported the complainant's belief in her influence.	879

Sub-Chapter no. 45.3
Presumption under Corruption Law and Rebuttal

Proved demand and acceptance with the Section 20	Where the demand was unchallenged and acceptance and recovery of the tainted amount were proved, the Court considered that evidence together with the presumption under Section 20 of the Prevention of Corruption Act and	224

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presumption	affirmed the conviction. Its conclusion rested on the proved demand and acceptance, rather than recovery in isolation.	
Section 20 presumption and an unproved loan-repayment explanation	Where receipt of the money was admitted and the alleged loan repayment was not proved, the Court applied the presumption under Section 20 of the Prevention of Corruption Act. The complainant denied executing the photocopied loan acknowledgment, the original and attesting witnesses were not produced, and the document was given to a later investigator more than a year after the trap. Those circumstances did not substantiate the asserted innocent explanation.	252
Foundational proof and rebuttal of the corruption-law presumption	The Section 20 PC Act provision reproduced by the Court presumes the specified corrupt motive or reward once the public servant's acceptance, obtaining or attempted obtaining of the relevant advantage is proved, unless rebutted. The adopted reasoning distinguishes an inference of voluntary receipt from proved surrounding facts from the statutory presumption that follows. Mere unexplained recovery is insufficient without the relevant foundation. The appeal's finding rested on the combined evidence; the judgment does not separately apply that presumption to establish every ingredient of the Section 13 conviction.	441
	Sub-Chapter no. 45.4 **Trap Proceedings, Recovery and Phenolphthalein Evidence**	
Returned trap money and corroborative value of a positive hand wash	The marked ₹3,000 was recovered from the complainant after his report that the appellant had returned it on detecting powder or the trap signal. Negative control washes, the appellant's positive hand wash, matching note numbers, the laboratory report and witness accounts supported the inference of contact and receipt. The Court rejected the handshake explanation. Receipt may be proved circumstantially, but bare recovery divorced from the circumstances of payment does not by itself establish voluntary acceptance of a bribe.	441
Shadow witness's inability to see an indoor bribe exchange	Where the complainant entered the accused's house while the shadow witness remained outside, the witness's inability to hear the demand or see money change hands did not, by itself, undermine the prosecution. The Court assessed that limitation against the witness's actual position and the corroborative trap evidence, rather than treating him as a direct witness to the private exchange.	441
Bribe receipt may be proved circumstantially; isolated recovery is insufficient	Direct observation of the passing of money is not indispensable: receipt may be established by the proved surrounding circumstances. Under the adopted Hazari Lal passage, recovery alone, separated from unreliable or absent evidence of the payment's circumstances, is insufficient. Here numbered and treated currency, controls and recovery evidence, the recorded demand and instruction to pay the intermediary were assessed together. The suspended first trap, resealing and renewed trap formed a connected evidentiary sequence.	879
	Sub-Chapter no. 45.5 **Prevention of Corruption Act Section 17A — Prior Approval for Enquiry or Investigation**	
Section 17A approval for an official recommendation or decision	Section 17A of the Prevention of Corruption Act requires prior approval where the alleged offence relates to a recommendation made or decision taken by a public servant in discharge of official functions. The allegation here concerned the Collector’s silence and failure to enforce the airstrip agreement, while he pleaded ignorance of that agreement. As no recommendation or decision of his was under investigation, the Court held that Section 17A did not require prior approval. This ruling did not determine his criminal liability.	290
Section 17A and a preliminary enquiry pending before its introduction	The preliminary enquiry began in 2015 and remained pending when Section 17A of the Prevention of Corruption Act came into force. The Court held that the later approval requirement did not benefit the petitioner in that pre-existing enquiry. This was an independent ground for allowing the investigation to	290

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	proceed and was tied to that chronology.	
	Macro Division X **State, Local and Regulatory Criminal Statutes**	
	Chapter no. 46 **Forest, Wildlife, Mining and Environmental Regulatory Offences**	
	Sub-Chapter no. 46.1 **Mining Offences and Illegal Extraction**	
Gram Panchayat's public-works exception and illegal sand excavation	Rule 4 of the M.P. Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2022 grants Gram Panchayats an exception for transport and storage of minor minerals quarried from government land for public works. It does not authorise illegal excavation or theft of State-owned minerals. A claim that sand was intended for road construction did not justify quashing where lawful quarrying or purchase was not asserted and the relied-upon measurement book concerned another village.	35
Mining-law compounding and distinct IPC offences	Compounding under Section 23-A of the MMDR Act bars further proceedings for the mining-law offence so compounded. It does not bar prosecution for distinct IPC offences such as theft or dishonest dealing with stolen property. The Court relied on Jayant v. State of M.P. for this distinction; no actual compounding of the present applicant's case was determined.	35
Illegal sand mining: State's duty as custodian of public mineral resources	Sand and mineral resources are public property of which the State is custodian. Adopting the reasoning in Jayant, the Court emphasised the State's duty to prevent damage to rivers and ecological imbalance from excessive sand and gravel mining. Such extraction can degrade riverbeds, lower groundwater and dry water sources. Protection of these resources and the environment requires serious action against illegal extraction and transportation; compensation alone does not remove that protective responsibility.	44
Illegal sand transport — a post-seizure operating power of attorney does not by itself exonerate the owner	The operating and litigation powers conferred on the driver did not authorise criminal acts or make the driver alone responsible for them. Moreover, the power of attorney was executed after the vehicle had been seized. It therefore did not assist the owner's claim for interim release or absolve him on the asserted basis. The Court did not determine final guilt merely from ownership of the dumper.	79
MMDR Act Section 22 — complaint bar applies at cognizance, not to registration and investigation under Section 156(3) CrPC	A Magistrate may direct registration of an FIR under Section 156(3) CrPC for offences under the MMDR Act and its rules; Section 22 does not bar that registration and investigation stage. The bar applies when cognizance of the statutory offences is taken and process is issued. The investigating officer's report may be sent to the Magistrate and the authorised officer, who may file the required complaint with that report. The Magistrate may then take cognizance and issue process after following the prescribed procedure.	79
IPC offences arising from illegal mining — cognizance on a police report need not await the authorised officer's MMDR complaint	For a distinct IPC offence arising from illegal mining, the jurisdictional Magistrate may take cognizance on the police report without waiting for the authorised officer's complaint required for violations of the MMDR Act and its rules. The complaint restriction governing the statutory mining offences does not postpone cognizance of the IPC offence.	79
Compounding a mining offence does not bar independent IPC proceedings	Under Section 23A(2) of the MMDR Act, compounding bars proceedings for the statutory or rule offence actually compounded. It does not bar proceedings for independent IPC offences, including Sections 379 and 414. Applying the passage reproduced from Jayant v. State of M.P., the Court rejected payment of a sand-rules penalty as a sufficient answer to the applicant’s IPC liability. Its earlier Banti decision treated recovery of royalty and penalty as satisfaction of	670

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	civil liability, without a bar to prosecution under general criminal law. The offer to pay the penalty therefore did not establish entitlement to regular bail.	
Mining-rule penalty does not exclude IPC prosecution	Mere payment of a penalty under the mining rules does not absolve the person from prosecution for IPC offences. In the absence of a statutory bar excluding the IPC, the special mining legislation does not prevent proceedings under Sections 379 and 414 IPC.	688
Section 23A MMDR Act — compounding limited to the compounded mining offence	Under the relied-upon passage from Jayant, valid compounding under Section 23A(1), read with Section 23A(2) MMDR Act, prevents proceedings or further proceedings for the MMDR Act or rule offence so compounded. That bar does not affect prosecution for IPC offences such as theft or receiving stolen property under Sections 379 and 414.	688
	Sub-Chapter no. 46.2 **Forest Act Offences and Violation of Permission Conditions**	
Forest vehicle confiscation: owner's plea of ignorance of the driver's illegal transport	In the Section 482 CrPC challenge to confiscation of a tractor and trolley used for illegal sand transport, the owners' assertion that they were unaware of the driver's conduct did not justify interference. The Court rejected that plea on the record and treated the tractor's absence of a registration number as an additional indication of a guilty mind. It affirmed the confiscation upheld in appeal and revision. The decision did not lay down an irrebuttable rule of owner liability for every act of a driver.	44
Offer of compensation or penalty: no ground to reverse vehicle confiscation	An offer to compensate forest damage or pay a policy-based penalty did not establish a ground to release the tractor and trolley confiscated for illegal sand transport. Relying on Jayant's environmental reasoning and the circumstances of the owners' case, including the unregistered tractor, the Court found no error in the confiscation orders. The reproduced discussion of Section 23-A MMDR Act distinguished compounded MMDR offences from separate IPC offences; the Court did not use that provision to decide the Forest Act confiscation challenge.	44
Forest-rights recommendations do not establish protected forest-dweller status	A claimant invoking Section 4(5) of the Forest Rights Act, 2006 must first establish the relevant forest-dweller status. Under Section 2(c), Scheduled Tribe membership must be accompanied by primary residence in, and dependence on, forests or forest land for bona fide livelihood needs. Scheduled Tribe membership, occupation of forest land and recommendations by the Gram Sabha or Van Adhikar Samiti did not establish that status without evidence of primary forest residence. The pending claim therefore did not protect this applicant's possession or defeat his conviction under Section 26(1-J) of the Indian Forest Act.	137
Forest offences — unauthorised delegation and continuing supervisory responsibility	The officer in charge of mining operations could not obtain quashing merely by asserting that he had delegated crack-filling work to a subordinate. No Act, rule, guideline or circular authorising the delegation was shown, and supervision of the work fell within his admitted responsibilities. The Court rejected the plea that the delegation automatically absolved him of liability for the alleged excavation of forest earth by machinery contrary to permission conditions. The prosecution was allowed to proceed for determination on evidence.	484
	Sub-Chapter no. 46.3 **Forest and Mining Confiscation — Parallel Proceedings and Owner-Knowledge Defence**	
Confiscation of a forest-offence vehicle during criminal prosecution	Confiscation proceedings concerning a vehicle used in a forest offence are independent of criminal prosecution and serve a distinct purpose. The authorised officer may order confiscation on being satisfied that the vehicle was used in the offence without waiting for the criminal case to conclude. Pendency of the criminal trial therefore did not invalidate the tractor-trolley's confiscation.	196

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Owner's denial of knowledge of the vehicle's use in a forest offence	The Court rejected the owner's plea that the tractor-trolley was used for illegal sand transportation without his knowledge because it found that his son was present at the spot with the vehicle. The inference was drawn on the facts of the confiscation proceedings.	196
Owner's burden to obtain protection from forest-vehicle confiscation	An owner seeking the statutory protection discussed in Kallo Bai must establish that the vehicle was used without the owner's knowledge or connivance, or, where applicable, that of the servant or agent, and that all reasonable and necessary precautions were taken to prevent its use for a forest offence.	196
Forest-vehicle confiscation is independent of the criminal trial	Confiscation under the Section 15 scheme discussed in State of M.P. v. Kallo Bai is a quasi-judicial proceeding independent of the criminal trial. The authorised officer may order confiscation on being satisfied that the vehicle was used in committing a forest offence, without awaiting complete establishment of the accused's guilt in that trial. The reproduced scheme requires a written order recording the reasons for confiscation. Applying Kallo Bai, the Court rejected the contention that a vehicle allegedly used for illegal wood transport could not be confiscated while the prosecution remained pending, and declined interference under Section 482 CrPC.	957
Owner's lack of knowledge and reasonable precautions in forest-vehicle confiscation	The Section 15 safeguards reproduced from Kallo Bai protect the owner of a vehicle or other specified article where the required absence of knowledge or connivance is established and all reasonable and necessary precautions against its use in the forest offence have been taken. The reproduced provision addresses the owner and, where applicable, the servant or agent. These requirements qualify the independent confiscation power; the mere pendency of the related criminal trial does not substitute for that defence.	957
	Chapter no. 47 **Electricity, Motor Vehicles, Municipal and Public Health Offences**	
	Sub-Chapter no. 47.1 **Municipal, Public Health and Licensing Violations**	
Coloniser registration for land divided into residential plots	Rule 3(1) of the M.P. Nagar Palika (Registration of Coloniser Terms and Conditions) Rules, 1998 requires a person intending to develop land into plots for transfer for residential or non-residential construction or joint habitation to apply for registration. Land diversion is also necessary for the proposed residential colony. Purchasers' statements that small plots were sold for residential construction, together with the absence of coloniser registration and diversion, supported a prima facie charge under Section 339-C of the M.P. Municipalities Act, 1961, despite the seller's description of the land as agricultural.	60
Eligibility to prescribe allopathic medicines — qualifications and statutory exception	Under Sections 2(d) and 15 of the Indian Medical Council Act, 1956 as applied by the Court, allopathic practice requires the requisite qualification and enrolment on the State Medical Register; unauthorised practice attracts Section 15(3). Section 24(ia) of the M.P. Ayurvigyan Parishad Adhiniyam permits qualifying Ayurvedic or Unani graduates to prescribe allopathic medicines only when posted in government health institutions or allopathic centres, registered with the specified State Board and given government-prescribed training, and only to its authorised extent. The applicant's Ayurvedacharya degree and three months' training did not bring his private-hospital practice within that exception.	68
	Sub-Chapter no. 47.2 **Food Safety and Adulteration Prosecutions**	
Overlapping food laws — overriding	Where the Prevention of Food Adulteration Act, 1954 and the Food Safety and Standards Act, 2006 apply to the same conduct but prescribe inconsistent penal	300

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effect of Section 89 FSSA	consequences, Section 89 FSSA gives the latter Act priority to the extent of the inconsistency. The PFA remained unrepealed when the milk sample was collected on 29 August 2010; its repeal took effect on 5 August 2011. Applying the reasoning in Manik Hiru Jhangiani, which concerned misbranding under Section 52 FSSA and prohibited punishment under both regimes for the same act, the Court resolved the sentencing conflict in this milk-adulteration case by applying Section 57 FSSA.	
Milk adulteration — modification of sentence without setting aside conviction	An inconsistency between the PFA and FSSA as to punishment did not require the proved milk-adulteration conviction to be set aside for a fresh prosecution. Both laboratory reports supported adulteration, no perversity was shown in the concurrent findings, and the applicant had not questioned prosecution under the PFA before either lower court. The Court therefore retained the conviction and substituted the monetary consequence under Section 57 FSSA for the PFA prison sentence. It imposed ₹2,00,000 with two months' rigorous imprisonment in default and directed release on payment.	300
Section 89 FSSA — override of inconsistent food-adulteration provisions	Section 89 of the Food Safety and Standards Act, 2006 overrides inconsistent provisions of other food-related laws. Applying Ram Nath and Sushil Kumar Gupta to conduct covered by Section 59 FSSA, the Court recognised the FSSA's priority over IPC Sections 272 and 273 and observed that registration under those IPC provisions might not be correct. It nevertheless dismissed the application to quash the FIR because the separate Section 420 IPC allegation survived; it did not expressly quash the Sections 272 and 273 counts.	346
FSSA charges — conditional framing by the trial court	The FIR was not liable to be quashed merely because the alleged adulteration could attract the FSSA. If the trial court concludes that the conduct constitutes an offence requiring penalty or punishment under that Act, it may also frame charges for that offence. The High Court left that determination to the trial court.	346
Food Safety Charges: Distinguishing Substandard and Unsafe Food	Where both laboratory reports classified the sample as at least substandard, the charge under Section 3(zx) read with Section 51 of the Food Safety and Standards Act should not have been disturbed. A question about further testing for the unsafe-food allegation did not justify setting aside the entire charge-framing order. The Court distinguished the Section 3(zz)/59 charge as the part that could have been reconsidered after a further report, while leaving the prosecution's ultimate proof of that offence to trial.	369
Perishable Food Sample: Futility of a Much-Delayed Referral	The Court declined to require a third referral test after a long lapse where the mawa sample had never been sent and its short shelf life made testing purposeless even if the sample remained available. It restored the charge-framing order and directed the trial to proceed on the material accompanying the charge-sheet, with a specific determination of whether the prosecution proved the unsafe-food offence.	369
Food-safety penalties and distinct IPC prosecution	The Food Safety and Standards Act, 2006 does not exclude resort to general criminal law merely because it provides its own adjudication, penalty, compounding and appeal procedures. In the absence of an identified statutory bar, police may proceed under Sections 420 and 272 IPC for distinct cheating and adulteration allegations alongside the food-safety contraventions.	434
Prima facie inference that a dairy sample was intended for sale	For the Section 272 IPC allegation, the sampled material's retention in an operating dairy shop, without any indication that it was not for sale, supported a prima facie inference that it was milk intended for sale. The operator's competing claim that it was residual 'sapreta' could not be accepted to quash the FIR at that stage. The inference was provisional and based on the circumstances of the sample's storage and presentation.	434
Delayed addition of a manufacturer	Adding the manufacturer as an accused in 2018 and framing charges in 2019, when the ghee had been analysed in 2011 and its shelf life had already expired,	567

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defeating the retest right	deprived him of the valuable right under Section 13(2) of the Prevention of Food Adulteration Act to seek Central Food Laboratory retesting. The Court held that the delayed impleadment violated that right and set aside the charge, discharging the applicant.	
Written warranty and proof of purchase from the manufacturer	Section 14 of the Prevention of Food Adulteration Act requires a written warranty concerning the nature and quality of food supplied to a vendor; a bill, cash memorandum or invoice for the sale is deemed to be such a warranty. The retailer produced no receipt showing purchase from the applicant or the asserted indemnification. The Court held that responsibility for adulteration occurring after supply could not be fastened on the manufacturer in the absence of that purchase receipt, and found the summoning and charge erroneous.	567
Procedure for seeking Central Food Laboratory analysis	Under Section 13(2) of the Prevention of Food Adulteration Act, after prosecution is instituted the Local Health Authority must forward the adverse Public Analyst report to the person from whom the sample was taken and any person identified under Section 14A, informing them of the right to apply to the court within ten days of receiving it for analysis of the retained sample by the Central Food Laboratory. The Court recognised this as a valuable right available to a person aggrieved by the analyst's report.	567
Prima Facie Purchase and Same-Condition Link Before Adding a Food Manufacturer as Accused	For a seller's application under Section 78 of the Food Safety and Standards Act, 2006 to add a manufacturer as an accused, there must be sufficient prima facie material connecting the seized article to purchase from that manufacturer in the same condition in which it was seized. Merely naming an industry does not establish its criminal liability. Where the seller produced no purchase bill and failed to establish the required link or show perversity in the Magistrate's refusal, the Court declined interference under Section 482 CrPC.	655
Food Safety and Standards Act — concurrent resort to the IPC	The Food Safety and Standards Act, 2006 does not exclude general criminal law merely because it provides a separate regulatory and penalty procedure. In the absence of a statutory bar, the police may invoke the IPC where its distinct offences are disclosed. The Court applied this reasoning from Manish Gupta to reject the claim that the suspected food adulteration could be dealt with only under the 2006 Act.	806
Section 42 FSSA procedure and prosecution under the IPC	The procedure in Section 42 of the Food Safety and Standards Act, 2006 for launching prosecutions under Sections 59–64 applies to offences punishable under that Act. In rejecting the challenge to the IPC prosecution, the Court held that this procedure did not govern offences otherwise punishable under the IPC. No provision barring resort to the general criminal law was shown; the Court relied by analogy on State of M.P. v. Rameshwar.	810
Parallel FSSA penalty adjudication and IPC prosecution —double jeopardy	The Court distinguished the regulatory penalties under Sections 50–58 of the Food Safety and Standards Act, 2006 from the fine or imprisonment prescribed for offences under Sections 59–64. Penalty adjudication under Section 68 serves enforcement of the Act. It therefore held that the pending penalty proceedings and the IPC prosecution could continue simultaneously and rejected the plea of double jeopardy.	810
Regulatory penalties and absence of mens rea or actual loss	A statutory penalty imposed for breach of a regulatory obligation may operate without proof of a guilty mind. In explaining the enforcement character of FSSA penalties, the Court relied on R.S. Joshi v. Ajit Mills and the reproduced reasoning in Som Distilleries that a regulatory penalty for an established breach may be imposed without mens rea or actual loss. This reasoning concerns the regulatory penalty and does not dispense with the ingredients of an IPC offence.	810
Factors governing the quantum of FSSA penalties	When determining a penalty under the Food Safety and Standards Act, 2006, the Adjudicating Officer or Tribunal must have due regard under Section 49 to any quantifiable gain or unfair advantage, loss caused or likely to be caused, repetition of the contravention, whether it occurred without the person's	810

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	knowledge, and any other relevant factor. Section 68 requires a reasonable opportunity to make a representation before penalty adjudication.	
Section 89 FSSA and overlapping offences under Sections 272 and 273 IPC	Adopting the reasoning in Neelkamal Sharma, the Court held that Section 89 of the Food Safety and Standards Act, 2006 gives the Act overriding effect over inconsistent food-related laws. Ram Nath and Sushil Kumar Gupta concerned the overlap between Sections 272–273 IPC and Section 59 FSSA. Registration under those IPC provisions might therefore be incorrect, but that limited override did not exclude a distinct offence of cheating under Section 420 IPC.	811
Food Safety Act — company must be arraigned for prosecution of its nominee on vicarious liability	Where a complaint attributes the offence to the company manufacturing the food and prosecutes its nominee only in that capacity, the nominee cannot be held vicariously liable under Section 66 of the Food Safety and Standards Act, 2006 unless the company is also arraigned as an accused. The company's absence, together with the absence of any allegation against the nominee in his personal capacity, made the prosecution legally unsustainable.	903
	Sub-Chapter no. 47.3 **Electricity Theft and Regulatory Prosecution**	
Unauthorised reconnection after disconnection for unpaid electricity charges	Conviction under Section 138 of the Electricity Act was sustained where inspection evidence established that the consumer resumed operating a flour mill through a direct connection from the pole after disconnection for unpaid charges following notice. His admission of outstanding charges and failure to produce receipts for the claimed payments supported the finding of illegal reconnection.	25
Alleged illegal reconnection distinguished from mere non-payment of electricity dues	The complaint was not confined to unpaid electricity charges: it alleged that the connection was unlawfully restored after the department had disconnected it. The Court treated that alleged reconnection and use as a prima facie electricity offence and refused to quash the pending Section 138 Electricity Act proceedings. This was a threshold assessment, not a finding of guilt.	579
	Sub-Chapter no. 47.4 **Motor Vehicles Act Criminal/Regulatory Prosecutions**	
Alcohol odour and fatal negligent driving as prima facie charge material	The doctor's Pre-MLC notation of alcohol smell, considered with the material indicating negligent driving and a fatal accident, supported framing a charge under Section 304 Part II IPC. The Court referred to drunken driving as an offence under Section 185 of the Motor Vehicles Act and declined to interfere with the order also framing charges under Sections 184 and 185. Relying on the reproduced discussion of alcohol's adverse effects on coordination, judgment, reflexes and vision, it distinguished prima facie material from evidence sufficient to convict. Whether the medical observation justified conviction remained for trial, which had to be decided strictly on the evidence received without being influenced by the revisional observations.	830
	Chapter no. 48 **Madhya Pradesh State and Local Criminal Statutes**	
	Sub-Chapter no. 48.1 **Cooperative Society Recovery and Criminal Prosecution — No Implied Bar**	
Section 64 cooperative-society recovery and criminal prosecution	Recovery of a cooperative society's losses under Section 64 of the M.P. Cooperative Societies Act serves a different purpose from determining criminal liability. In the absence of an express or necessarily implied statutory bar, that recovery remedy does not prevent an FIR or criminal proceedings where a cognizable offence is disclosed.	197
Cooperative statutory remedies—	The Madhya Pradesh Cooperative Societies Act, 1960 did not exclude resort to general criminal law merely because it supplied statutory remedies. In the	418

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no implied exclusion of criminal law	absence of a bar, that regulatory scheme did not prevent criminal prosecution, particularly on the corruption charges considered in the relied-upon precedent.	

Sub-Chapter no. 48.2
CrPC Section 133 Public Nuisance — Obstruction of Adjudicated Public Way

Obstruction of an adjudicated public way as public nuisance	Where the lane's public character had been finally adjudicated up to the High Court and installation of the gate on that lane was not disputed, blocking the public way amounted to public nuisance warranting removal under Section 133 CrPC. The Court upheld the removal orders and directed the Chief Municipal Officer to remove the encroachment within fifteen days.	237

Sub-Chapter no. 48.3
Panchayat Civil Recovery and IPC Prosecution — Independent Remedies

Panchayat recovery proceedings and independent criminal prosecution	A stay of Panchayat civil recovery did not bar a direction to lodge an FIR for alleged withdrawal and misappropriation of construction funds. The impugned direction concerned alleged embezzlement, rather than failure to deposit the recovery amount. Fixing liability under Sections 89/92 of the Madhya Pradesh Panchayat Raj Evam Gram Swaraj Adhiniyam is distinct from criminal investigation, and no provision was shown to curtail the IPC or CrPC process.	238
Special statutory remedies and prosecution under general criminal law	Prosecution under two enactments may proceed on the same facts when the ingredients of their provisions are satisfied and no statutory bar excludes general criminal law. Merely prescribing a special statutory remedy or penalty does not itself bar IPC prosecution. The Court applied the reproduced decisions on concurrent criminal remedies to reject the alleged bar under the Panchayat statute.	238

Sub-Chapter no. 48.4
Local Body, Panchayat and Regulatory Criminal Process

Coloniser registration before development of a colony	Rule 3 of the M.P. Nagar Palika (Registration of Coloniser, Terms and Conditions) Rules, 1998 requires registration where a person intends to establish a colony by developing land into plots and transferring them to persons wishing to build residential or non-residential premises. Registration is required before undertaking that development; actual development of the colony is not a precondition for the rule to apply.	240
Panchayat Civil Recovery Does Not Bar Criminal Proceedings	The inquiry and recovery provisions in Sections 89 and 92 of the M.P. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 do not themselves exclude the IPC or CrPC. No express or implied statutory bar was shown. The existence of a procedure for recovery of civil loss therefore did not prevent registration of a cognizable criminal case or require completion of that recovery process first.	459

Sub-Chapter no. 48.5
Madhya Pradesh Public Distribution System — Control-Order Contraventions and Prosecution Thresholds

PDS stock variation —mandatory prosecution threshold and lesser shortages	The ten-percent stock-variation provision of the Madhya Pradesh Public Distribution System (Control) Order, 2015 makes prosecution mandatory above that threshold. It does not prohibit prosecution below the threshold. The absence of a finding that the shortage exceeded ten percent therefore did not, by itself, justify quashing the alleged contraventions.	418

Sub-Chapter no. 48.6
Madhya Pradesh Local Criminal Laws and Public Order Regulation

Refund of Money Paid for Promised Employment Was Not a Loan	Money received on a false and illegal assurance of securing government appointments was not treated as a loan advanced by the applicants. Their demand for its return therefore did not disclose the alleged offence under	453

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	Section 11 of the M.P. Money Lending Act. The Court quashed that charge against the applicants on the nature of the transaction before it.	
Section 5(b): Specified Offending and Witness Reluctance Must Both Be Supported	Externment under Section 5(b) of the M.P. Rajya Suraksha Adhiniyam, 1990 requires reasonable grounds to believe that the person is engaged or about to engage in the specified offences, and the District Magistrate's opinion that witnesses will not give evidence in public because they fear for their person or property. These findings must rest on material. The mere listing of five criminal cases and a preventive proceeding did not establish the required grounds or witness reluctance here.	454
Stale Criminal Cases Require a Live Link With Present Externment Necessity	The three minor cases registered seven years earlier lacked a live link with the need for externment. The District Magistrate had to consider the nature and outcome of the cases and their connection with a present need for removal, rather than rely on the number of registrations. The old cases could not sustain the impugned order on the circumstances found by the Court.	454
Reasoned Satisfaction Is Required for Externment	The competent authority must record specific, intelligible reasons showing that the statutory conditions for externment exist. Reasons must disclose consideration of relevant material and permit judicial review; a bare recital or a list of registered cases does not replace that assessment. The Court found that the impugned orders did not establish the application of Section 5 to the petitioner's activities.	454
Close proximity of criminal activity to externment proceedings under Section 5	Criminal history relied upon under Section 5 of the M.P. Rajya Suraksha Adhiniyam must have a close and live connection with the proposed preventive action. Old and stale cases cannot supply that connection merely because they form part of the person's record. The Court found the cases from 2012, 2018 and 2020 too remote from the October 2023 recommendation; the remaining two cases of 2022 and 2023 were considered trivial on this record and did not sustain externment.	512
Opportunity to answer fresh adverse material received after final arguments in externment proceedings	If additional adverse material is received after final hearing, the externing authority must either leave it out of consideration or give the affected person an opportunity to meet it. Reliance on further police material received after final arguments, without that opportunity, vitiated the externment decision in this case.	512
Material showing witnesses' unwillingness to depose because of fear	Externment based on witnesses' fear requires supporting material that they are unwilling to give evidence because they apprehend harm to themselves or their property. The mere registration of criminal cases is insufficient. Here no such material was available; the police witness's statement that convictions had occurred indicated that witnesses had deposed, rather than establishing their unwillingness through fear.	512
Requested cross-examination in externment proceedings	Where the person facing externment asks to cross-examine departmental witnesses, the District Magistrate must provide that opportunity. The record did not show that the petitioner had refused to cross-examine the police witness when examined, and his later express request could not be left unfulfilled before the order was passed.	512
Timely preventive action and the live connection required for externment	Externment is preventive rather than punitive. Past activities must be assessed in the circumstances existing when the order is proposed, to determine the need to prevent future misconduct. Proceedings must be concluded within a reasonable time even where the statute prescribes no limitation period; unexplained inordinate delay can sever the live connection between the grounds and the preventive purpose.	512
Close proximity of alleged offences to an externment order	The alleged offending conduct must have close proximity to the externment order. The authority must assess the nature and outcome of the criminal cases	515

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	relied upon and consider whether old cases can support present preventive action. Merely reproducing the earlier record and concluding that one fresh FIR makes the person liable for externment, without explaining the current necessity, does not satisfy this requirement.	
Opportunity to argue after cross-examination in externment proceedings	Cross-examination in externment proceedings is a substantive safeguard. Requiring final arguments before the departmental witness is cross-examined, and then deciding the matter without allowing arguments on the answers elicited, violates natural justice. A formal opportunity to cross-examine does not cure the denial of an opportunity to address its result.	515
Reasons and independent application of mind in an externment order	An externment order must give cogent, clear reasons showing that relevant facts have been considered and explaining why removal is necessary. Pasting an earlier order, evidence, notice and reply into the decision, followed by an unexplained conclusion, is not reasoned adjudication. Applying Kranti Associates, the Court found non-application of mind; externment's serious effects on residence and livelihood require an actual assessment rather than completion of formalities.	515
Material showing unwillingness of witnesses to give statements against a proposed externee	An externment order requires some material showing that witnesses are not coming forward to give statements against the proposed externee, in addition to closely proximate offending conduct. The existence of a criminal record cannot itself replace consideration of this separate requirement.	515
Independent scrutiny by the appellate authority in an externment appeal	The right of appeal against externment is substantive. The appellate authority must scrutinise the challenged order and the procedure followed, and must address defects affecting its validity. Mechanical affirmation without examining the procedural deficiencies and absence of reasons does not fulfil that duty.	515
Ransom abduction in a notified area under the MPDVPK Act	The Court upheld liability under Sections 11/13 of the MPDVPK Act after finding the ransom abduction and associated acts proved and the area from which the abduction occurred notified under that Act. The finding was tied to the proved offence and the notified-area fact.	648
	Sub-Chapter no. 48.7 **State Excise, Gambling and Licensing Offences**	
Minimum imprisonment under Section 34(2) of the M.P. Excise Act	The Court identified one year as the minimum imprisonment under Section 34(2) of the M.P. Excise Act and refused to reduce that term to the six months already undergone. A sentence below the statutory minimum could not be awarded.	780
	Chapter no. 49 **Insecticides and Agricultural Inputs Criminal Regulation**	
	Sub-Chapter no. 49.1 **Insecticides Act Section 24 — Analyst Report, Retesting and Shelf-Life Prejudice**	
Section 24 Insecticides Act — objection to the official who supplied the Analyst report	Where the Deputy Director supplied the Insecticide Analyst's report with a sales-restraint order and no separate notice from the Insecticide Inspector was shown, the applicants could address their timely written objection to that Deputy Director. Reading Sections 24(2) and 24(3) together, the Court held that they had not erred by notifying the same official who supplied the report. If he considered himself incompetent, he should have forwarded the objection to the Inspector. The State questioned the addressee but did not dispute the genuineness of the 6 August objection. The subsequent rejection of the court application as belated did not defeat the earlier exercise of the statutory right within twenty-eight days.	998
Section 24(3) —	A timely written notification of the intention to adduce evidence contradicting	998

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written intention to controvert the report is sufficient	the Insecticide Analyst's report removes its otherwise conclusive evidentiary character. Applying Northern Mineral Ltd. v. Union of India, the Court held that the accused need not disclose the grounds of challenge or expressly demand analysis by the Central Insecticides Laboratory. The written intention itself preserves the statutory opportunity for Central Laboratory testing and enables the court to act under Section 24(4), subject to the provision's conditions. An additional formula of words cannot be required to expose the defence before that opportunity is exercised.	
Section 24(4) — testing opportunity for an accused other than the sampled person	The twenty-eight-day period in Section 24(3) governs notification by the person from whom the sample was taken. As explained in Northern Minerals Ltd. v. Rajasthan Government, Section 24(4) also permits another accused proceeded against to seek Central Laboratory testing, without imposing that same statutory notification period on that accused. Where that accused invokes the right, the reproduced decision requires him to bear the testing expense under Section 24(5). The opportunity remains subject to Section 24(4), including its exclusion where the sample has already been tested by the Central Laboratory.	998
Section 24(4) — no further Central testing where its report is already on record	The Section 24(4) opportunity to seek Central Laboratory analysis concerns a prosecution founded on the State Insecticide Analyst's report. As explained in the reproduced Indofil Industries decision, it does not permit another test of the same sample where a Central Laboratory report has already been obtained and made part of the criminal prosecution. That report is conclusive under the statutory scheme. The distinction limits the testing right and prevents a claim to repeated analysis merely because another accused later seeks it.	998
Prompt Central testing — loss of a valuable statutory defence	Authorities must act promptly after a valid objection to the State Analyst's report. The reproduced Indofil Industries decision explains that the Inspector may send the sample to the Central Laboratory or institute proceedings and place the third sample before the court in time for effective testing before its shelf life expires. Northern Mineral, Gupta Chemicals and National Organic Chemical Industries emphasise that official inaction or failure to provide the statutory testing opportunity may deprive the accused of a valuable defence. Here, no effective action followed the timely objection, and the Court held that the applicants' testing right had been violated. It therefore quashed the five complaints and consequential proceedings.	998

Macro Division XI
High Court Criminal Jurisdiction, Appellate Control and Post-Conviction Remedies

Chapter no. 50
Inherent Powers, Quashing and Abuse-of-Process Control

Sub-Chapter no. 50.1
Quashing of FIR, Complaint and Criminal Proceedings

Restitution suit filed after the FIR — plea of counterblast	An FIR cannot be treated as a counterblast to a suit for restitution of conjugal rights instituted after the FIR was lodged. The subsequent institution or pendency of that matrimonial suit does not, by itself, justify quashing the FIR under Section 482 CrPC or Section 528 BNSS. Civil and criminal proceedings remain separate even when they arise from the same facts.	2
Matrimonial FIR — specific allegations against each accused	Where the FIR contains clear and specific allegations against each applicant of assault and an unlawful demand for money, those allegations cannot be treated as merely general or omnibus when considering quashing. The Court relied on that specificity in declining to interfere with the matrimonial prosecution.	2
Matrimonial FIR — suppression of admitted residence and unsupported	In assessing whether a prima facie case existed against the two sisters-in-law, the Court considered the complainant's earlier police complaint admitting that she had moved to Mumbai with her husband. The later FIR and Section 161	3

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allegations	CrPC statement omitted that material residence history and contained no account of visits during which the applicants allegedly harassed her. Counsel's explanation about such visits was absent from both statements. In that combined context, the vague and misleading allegations disclosed no specific involvement by the applicants, and the FIR and consequential proceedings were quashed as against them.	
Section 482 CrPC — intervention at an interlocutory stage to prevent abuse	Criminal proceedings are ordinarily not stopped at an interlocutory stage. Inherent jurisdiction may nevertheless be exercised to prevent abuse of the court's process and secure the ends of justice. In the matrimonial prosecution before it, the Court applied the caution against proceeding on omnibus allegations and quashed the case against the applicants because no specific prima facie involvement was disclosed.	3
Restitution petition — no automatic inference of a retaliatory matrimonial FIR	The filing of an application for restitution of conjugal rights under Section 9 of the Hindu Marriage Act does not, by itself, establish that the wife's FIR is a false counterblast. Treating the FIR as invalid merely because it followed that application would assume the truth of the husband's civil allegations without a trial and judgment. Civil and criminal proceedings are independent, and findings in one do not automatically bind the other. A wife's delay in complaining while hoping for improvement and reconciliation does not, for that reason alone, make her complaint false or retaliatory.	5
Matrimonial prosecution — mere naming of distant relatives is insufficient	Distant relatives should not be summoned in a matrimonial case merely because they are named. A specific role and tangible material supporting their alleged involvement are required. At the same time, clear allegations of dowry-related harassment against the husband and his parents create triable issues whose truth cannot be resolved by comparing rival versions in quashing proceedings.	5
Reconciliation agreement — omission of cruelty allegations does not itself discredit a later FIR	An agreement intended to preserve marital ties and give the parties time to improve their conduct need not record every allegation of cruelty. The absence of such allegations from the agreement does not, by itself, make a later FIR an afterthought. The Court considered the agreement in its matrimonial context and treated the wife's initial omission and waiting period as consistent with an effort to save the marriage.	6
Restitution proceedings — later cruelty FIR not automatically a counterblast	An FIR alleging matrimonial cruelty cannot be quashed merely because the husband filed an application under Section 9 of the Hindu Marriage Act before the wife approached the police. The wife's earlier efforts to preserve the marriage and the circumstances in which she later complained must be considered. Civil and criminal proceedings are independent, and civil findings do not automatically bind the criminal court. The criminal allegations must be assessed for a prima facie case on their own basis.	6
Omission from a later complaint of allegations made earlier	A subsequent complaint cannot be quashed merely because it omits allegations included in an earlier complaint. The accused's assertion that the omissions showed the complainant changing her version required examination of the allegations and could not alone terminate the FIR under Section 482 CrPC.	26
Foreign divorce decree obtained without effective notice: effect on cruelty prosecution	Under Section 13 CPC, a foreign judgment is not conclusive where it was obtained by fraud, through proceedings contrary to natural justice or on a claim contrary to applicable Indian law. Knowing that his wife had left for India, the husband obtained an ex parte Arizona divorce after publication in a local Arizona newspaper rather than a newspaper circulating where she resided. The Court found absence of effective service and fraud, and declined to treat the decree as conclusive. It also noted that irretrievable breakdown was not a recognised ground under the applicable Indian matrimonial law. The decree therefore did not justify quashing the cruelty prosecution.	29
Incorrect section number in FIR or	An initial reference to Section 498 IPC instead of Section 498-A IPC did not require quashing when the FIR's allegations disclosed the latter offence. The	29

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charge-sheet where facts disclose cruelty	investigating officer's mistaken statutory description, subsequently corrected by adding the letter 'A', did not defeat a prosecution supported by the pleaded facts.	
Alleged mala fides where the complaint discloses a cognizable offence	Where the allegations disclose a cognizable offence, the complainant's alleged mala fides do not by themselves justify quashing the FIR or complaint. The fact that the complaint followed cognizance of the accused's cheque-dishonour case does not displace this rule.	30
Settlement alleged to have been obtained by threat or coercion	Where the complaint alleges that a settlement document was obtained by threat or coercion, the Court cannot treat that document as conclusive while quashing the proceedings. The allegation concerning its procurement requires investigation.	31
Specific allegations against the husband and parents-in-law: refusal to quash	In a petition under Section 482 CrPC concerning Sections 498-A, 377 and 34 IPC and Sections 3–4 of the Dowry Prohibition Act, specific allegations against each accused must be considered at face value. Allegations of the husband's sexual acts and insults and the parents-in-law's dowry taunts and demands for a car, a flat and ₹10 lakh raised issues for trial. The proceedings against them could not be quashed without determining the truth of those allegations at trial. Relief granted separately to the sister-in-law did not extend to them.	40
Section 482 CrPC: interference with perverse concurrent maintenance findings	Concurrent findings concerning a wife's reasons for separate residence do not prevent correction under Section 482 CrPC where the evidence was not considered in its proper perspective and the resulting finding is perverse. The Court set aside both the Magistrate's rejection of the wife's claim and the revisional order affirming it after finding that the evidence established sufficient reason to live apart.	42
Section 482 CrPC — statutory purposes and reasons for intervention	The inherent power under Section 482 CrPC may be exercised to give effect to an order under the Code, prevent abuse of the process of a court, or secure the ends of justice. The precedent relied upon requires its sparing, careful and cautious exercise. Intervention in investigation must be supported by reasons, and casual judicial observations affecting persons who have not been heard must be avoided because they may influence the course of the proceedings.	51
Section 482 CrPC — quashing confined to applicants facing vague allegations	Where both the FIR and the complainant's Section 161 CrPC statement repeated only general allegations against the two applicants, the Court quashed the FIR and further proceedings under Sections 498A and 323 IPC and Sections 3 and 4 of the Dowry Prohibition Act only in relation to them. The relief followed the absence of specific allegations against those applicants despite the filing of the charge-sheet and pendency of the trial proceedings.	56
Specific dowry and cruelty allegations against husband and mother-in-law at the quashing stage	Where the FIR and Section 161 CrPC statement disclose specific allegations of dowry demands and physical or mental cruelty by the husband and mother-in-law, their prosecution under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act cannot be quashed by deciding the truth of the competing versions. Whether the alleged cruelty occurred is a matter for trial. The Court found sufficient allegations to continue their prosecution.	80
Vague and omnibus allegations against a sister-in-law	Prosecution of the husband's relatives for matrimonial cruelty requires specific and clear allegations concerning their involvement. Vague, general or omnibus accusations are insufficient. Where the FIR made no allegation against the sister-in-law and the Section 161 CrPC statement included her only in general allegations, while attributing the later specific incidents to the husband and mother-in-law, the Court quashed the FIR, charge-sheet and consequential proceedings against her alone.	80
General reference to 'in-laws' in a matrimonial-cruelty accusation	A general reference to 'in-laws' in a penal accusation cannot be enlarged to include every person related to the complainant's husband. The Court declined to treat that expression as an allegation against the sister-in-law where the body of the FIR attributed no act to her.	80

50.1 : Quashing of FIR, Complaint and Criminal Proceedings

Topic	Ratio	Case Sr.no.
Disputed enticement and prima facie material against quashing	Whether the girl left her home voluntarily and without enticement required evidence and could not be finally resolved in the application under Section 482 CrPC. She was below 17 at the alleged kidnapping and the claimed marriage shortly afterwards. Considering the disputed inducement and the material concerning her minority and claimed marriage, the Court found a prima facie basis for prosecution and declined to quash the FIR.	94
Partial quashing — Distinct cruelty and hurt offences survive	Quashing the Section 377 IPC allegation did not require quashing the offences arising from the alleged assaults and cruelty. In the Section 482 CrPC application, decided after the charge sheet on the stated footing that charges had not been framed, the Court separately examined the Section 498A allegations. It partially allowed the application, quashed Section 377 and left the FIR under Sections 498A and 323 intact.	113
Earlier matrimonial proceedings — Counterblast allegation against a later cruelty FIR	The earlier restitution and child-custody proceedings had ended after reunion in 2019, while the FIR alleged ouster and cruelty arising in 2020. Their prior institution did not establish that the later FIR was a retaliatory counterblast. The Court also applied Pratibha for the principle that an FIR is not liable to quashing merely because matrimonial proceedings preceded it, and rejected the counterblast ground.	119
Divorce proceedings as a ground for treating a cruelty FIR as retaliatory	A cruelty FIR could not be treated as a counterblast to a divorce petition filed years after it. Even where the divorce petition precedes the FIR, that sequence alone does not justify quashing. Civil matrimonial proceedings and criminal proceedings are independent, and pendency of the former does not end the latter merely because they arise from the same facts.	121
Delay in lodging an FIR as a ground for quashing	Delay in lodging an FIR does not, by itself, justify quashing. The law fixes no general time limit for lodging an FIR, and genuine causes may explain a delayed report. A prompt FIR assists timely investigation and reduces the opportunity for fabrication, but promptness alone does not guarantee the truth of its contents.	121
Reconciliation efforts explaining delay in a matrimonial complaint	A delay in reporting matrimonial cruelty should not attract an adverse inference merely because the wife had left the matrimonial home earlier, where she and her family were attempting reconciliation. A complaint lodged after those efforts failed is not to be rejected solely on that chronology.	121
Complete charge-sheet when seeking quashing of an ongoing trial	Where a charge-sheet has been filed and the accused seek quashing of the pending criminal case, they should place the complete charge-sheet before the High Court to show the material available against them. The applicants' failure to do so did not prevent the Court from examining whether the FIR itself contained specific allegations disclosing a triable case.	121
Factual foundation of an offence and absence of exhaustive details in an FIR	An FIR is not required to contain every detail of the prosecution case. Where a factual foundation for an offence has been laid and its requirements are substantially satisfied, courts should not hasten to quash merely because one or two ingredients have not been expressly stated or do not appear to be satisfied. This does not dispense with examining whether the allegations as a whole disclose an offence.	121
Specific allegations required to prosecute the husband's relatives	A husband's relatives cannot be prosecuted merely on vague, omnibus or general allegations; the allegations against them must be clear and specific. The FIR attributed repeated threats, assault and accusations about the complainant's character to the sister-in-law herself. The Court found those allegations sufficiently specific to reject quashing, leaving their proof for trial.	125
Conditional restoration after counsel's same-day offer to supply missing documents	In the particular circumstances, the High Court set aside dismissal of the Section 138 NI Act complaint after counsel located the misplaced file, offered on the same day to supply the documents and accepted responsibility for costs. Restoration required payment of Rs.20,000 to the accused, appearance and	126

Topic	Ratio	Case Sr.no.
	supply of the complete complaint and documents on the fixed date. If the accused's counsel was absent, filing the set in court for supply was permitted. Failure to meet the conditions automatically revived the dismissal.	
Section 482 CrPC: face-value allegations and disputed facts	On an application to quash an FIR, the court examines whether the uncontroverted allegations, accepted at face value, disclose an offence. It must not resolve disputed facts, conduct a detailed assessment of evidence or decide whether conviction is likely. Specific allegations of caste-based humiliation and threats warranted continuation of the proceedings. These observations remained provisional, and the trial court was to decide the case on the evidence independently.	142
Quashing under Section 528 BNSS and disputed defences	At the quashing stage, the Court considers whether the uncontroverted FIR allegations disclose a cognizable offence. It cannot decide their truth or reliability by weighing a disputed defence. Specific allegations of pulling and attempting to hug the complainant, an indecent sexual proposal, tearing her clothes and threatening her disclosed an offence requiring investigation. The applicant’s claim of false implication over retirement benefits could not be adjudicated under Section 528 BNSS.	161
Disputed defence letter in quashing proceedings	The genuineness of a handwritten letter allegedly written by the deceased, and whether it was fabricated or manipulated, cannot be determined under Section 482 CrPC. The husband’s allegation that the deceased’s relatives caused her death was a defence requiring proof before the trial court. These disputed matters did not justify quashing the FIR under Sections 304-B and 498-A IPC or the pending sessions proceedings.	162
Cruelty FIR filed after a divorce petition	A divorce petition does not by itself justify treating a later cruelty FIR as a counterblast or quashing it. Civil and criminal proceedings are independent, and civil findings do not bind the criminal court. Where the wife had remained silent in the hope of reconciliation and complained after the husband sought divorce, that sequence did not establish an abusive prosecution. The criminal allegations must be assessed on their own terms.	163
Medical ailment and quashing of prosecution	Kidney transplantation or donation did not, by itself, furnish a ground to quash the prosecution. No empowering provision was shown for quashing solely because of the applicants’ medical ailments. If those conditions prevented attendance, the applicants could seek permanent exemption from appearance, to be considered by the trial court with their transplantation and donation history in view.	163
Purchaser’s good-faith defence at the quashing stage	Whether the seller told the purchaser that the land had been diverted was a disputed fact requiring proof at trial. The purchaser’s reliance on agricultural entries in revenue records could not resolve that defence under Section 482 CrPC. The Court proceeded on the uncontroverted allegations and directed the trial court to decide on the evidence without being influenced by its preliminary factual observations.	164
Prima facie offence disclosure in inherent-powers review of an FIR	In determining whether a cognizable offence is disclosed, the High Court examines the allegations in the complaint or FIR for a prima facie case. Quashing cannot rest on extraneous considerations or merely on connected civil litigation. The alleged resale despite an earlier conveyance, with concealment of the pending suit, supplied a basis for registration of the FIR; the revisional direction was upheld under Section 528 BNSS.	170
Filing of charge-sheet during Section 482 proceedings	An application to quash criminal proceedings under Section 482 CrPC cannot be dismissed solely because a charge-sheet has been filed.	191
Criminal court’s power to review its own order	In the absence of statutory authority, a criminal court cannot review its own order; Section 362 CrPC prohibits alteration or review of a signed judgment or final order disposing of a case, except to correct a clerical or arithmetical error.	200

Topic	Ratio	Case Sr.no.
	Dismissing a complaint merely because the FIR had been registered, after previously directing a police report and keeping the complaint pending, was treated as an impermissible review.	
Quashing sought on an invalid parallel enquiry report	A parallel enquiry report lacking legal sanctity cannot justify quashing an FIR whose uncontroverted allegations disclose a cognizable offence. On that basis, the Court declined interference under Section 482 CrPC.	210
Prima facie examination impersonation and quashing	Where the uncontroverted prosecution allegations are that an unauthorised person answered an examination paper on behalf of the enrolled student, and the student does not claim to have answered it himself, those allegations prima facie disclose a cognizable offence. The separate acquittal of the alleged substitute does not remove that basis for prosecution under Section 482 CrPC.	231
Procedural objections to removal of a public-way obstruction	The asserted failures to follow Sections 137, 138 and 254 CrPC did not justify setting aside the removal proceedings in the circumstances considered. The record included a renewed spot inspection in the contesting party's presence, the lane's public status was settled, the matter had been remanded for removal of the obstruction, and no objection concerning ownership or the lane's nature had been raised before the SDM. Section 482 relief was refused because the findings were supported and no jurisdictional error was shown.	237
Alleged mala fides where the FIR discloses a cognizable offence	Where an FIR discloses a cognizable offence, allegations that the informant acted maliciously cannot by themselves justify quashing. The material collected in the investigation and the evidence at trial determine the accused's liability; the informant's alleged motive is secondary.	270
Incomplete FIR details while investigation is in progress	An FIR need not contain every fact and detail of the reported offence. While investigation is continuing, it is premature to conclude on incomplete or unclear facts that the FIR does not deserve investigation or necessarily amounts to an abuse of process. The police should be permitted to complete a legitimate investigation.	277
Matrimonial quashing: specific role alleged against a relative	A husband's relatives must face specific allegations supported by material rather than prosecution merely because of the relationship. Here, the elder brother-in-law resided in the same household and was specifically accused of filthy abuse linked to non-fulfilment of dowry demands. These allegations were not treated as mere naming of a relative. Under Section 482 CrPC, the Court could not determine their truth where the uncontroverted allegations disclosed an offence.	286
Mediation silence does not establish that earlier cruelty allegations are false	When spouses agree to forgive each other and resume married life, a mediator is not expected to reproduce every allegation that had caused their separation. The absence of those allegations from the reconciliation record therefore did not establish that the wife's later cruelty allegations were false or warrant quashing the FIR.	286
Failure to enforce public-dues obligations as a ground for investigation	An agreement executed by the Director of Aviation on behalf of the State remained a State agreement. The Collector could not avoid duties assigned to his office merely because he had not signed it. Material showing unpaid night-parking charges and failure to recover maintenance expenditure called for investigation into his omissions during his tenure. The Court's assessment was confined to whether a cognizable offence was disclosed and was not a finding of guilt.	290
Non-implication of other responsible persons and quashing	An accused cannot obtain quashing of an FIR merely because other persons who may also be responsible have not been named as accused. The investigating agency may implicate additional persons, and the criminal courts retain their powers under Sections 190, 193 and 319 CrPC as applicable.	290
Official commendations and exemption from criminal prosecution	Being a decorated officer does not itself confer exemption from criminal prosecution. The Court rejected the petitioner's reliance on official commendations because no legal provision granting such immunity was shown.	290

Topic	Ratio	Case Sr.no.
Matrimonial quashing — specific allegations against a mother-in-law	Courts must treat omnibus allegations against matrimonial relatives with caution, particularly where the relatives are ordinarily unconnected with the couple's affairs. That caution does not justify quashing a complaint disclosing specific conduct and a triable case. Applying Taramani Parakh, the High Court found clear allegations of cruelty, a specified dowry demand and expulsion from the matrimonial home. Their truth and reliability remained for trial. The precedents involving other relatives do not create an inflexible exemption from prosecution.	323
Divorce proceedings preceding a cruelty FIR — counterblast plea	The filing of a divorce petition before a cruelty FIR does not, by itself, justify quashing the criminal case as retaliatory. Applying Pratibha v. Rameshwari Devi, the Court treated civil and criminal proceedings as independent even where they arise from the same facts. It assessed the specific allegations of cruelty and dowry demand rather than deciding the applicants' claim of falsity from the sequence of the proceedings.	325
Section 482 CrPC — Partial quashing of vague allegations against a sister-in-law	The principal dowry demand was attributed to the mother-in-law, while the sister-in-law was collectively accused of misbehaviour and beating without clear particulars identifying when she allegedly assaulted the complainant. On that record, the Court found the allegations against the sister-in-law insufficiently specific and quashed both the FIR and pending criminal case only as to her. The husband’s and mother-in-law’s prosecution continued after their own quashing requests were withdrawn with liberty to raise trial defences. The ruling did not make absence of a date, by itself, a universal ground for quashing.	356
Quashing: Uncontroverted Allegations Disclosing an Offence	In deciding the Article 226 challenge, the Court examined whether the uncontroverted allegations disclosed an offence. Since the allegations in the FIR disclosed a cognizable offence, it declined interference. This assessment did not involve adjudicating the disputed defence on evidence.	361
Quashing for Want of Specific Allegations: Effect on a Co-Accused	Quashing proceedings against relatives because specific allegations were absent does not amount to a finding that the complainant's allegations were false. Such relief does not establish a ground to quash a distinct, specific accusation against another accused.	362
FIR: Basic Factual Foundation Rather Than Exhaustive Detail	An FIR need not contain an exhaustive account of the evidence. In considering quashing, the court asks whether the basic factual foundation of the alleged offence is present, rather than requiring every legal ingredient to be reproduced verbatim or evaluating the record as at trial.	362
Quashing: Surviving Allegations Despite Disputed Travel History	A disputed claim that some accused remained abroad after a visit did not dispose of specific allegations of cruelty committed while all had earlier lived together. Even accepting that some did not return, the earlier allegations remained to be investigated. The Court declined to resolve the contested travel account or assess the collected evidence on its merits while the investigation was incomplete.	363
Successive Quashing Petition on a Previously Unraised Ground	After a Section 482 CrPC challenge to cognizance had been rejected on merits, a successive petition could not reopen the same relief by raising a Section 468 ground omitted earlier; Section 362 barred that course. The court was not expected to decide an unraised ground on its own without hearing the State or opposite party. A case permitting a successive petition because an expressly raised defence had been overlooked was distinguishable.	376
Good Faith as a Factual Defence at Trial	Whether the officers acted in good faith was also a question of fact requiring evidence. In refusing to quash the unsafe-road prosecution, the Court confined its finding on the unavailability of Section 28 protection to the Section 482 proceedings. The trial court was directed to determine the defence on the evidence independently, without being prejudiced by that preliminary assessment.	387

Topic	Ratio	Case Sr.no.
Specific dowry and jewellery allegations —quashing refused	Specific allegations of dowry demands, harassment and retention of jewellery provided sufficient material to continue proceedings against the parents-in-law, elder brother-in-law and his wife. Whether the alleged harassment actually occurred was a matter for trial, rather than determination under Section 482 CrPC.	411
Delay in lodging an FIR—insufficient by itself for quashing	Delay in reporting the alleged offence does not, by itself, justify quashing an FIR. Genuine reasons may explain delayed reporting, while prompt reporting is also no conclusive guarantee of truth. The Court rejected delay as a standalone ground for terminating this prosecution.	411
Cruelty FIR filed after divorce notice —counterblast allegation	An FIR alleging matrimonial cruelty cannot be quashed merely because it followed service of a divorce petition. Efforts to preserve the marriage can explain why the wife did not complain earlier; the sequence of the divorce notice and FIR did not establish abuse of process in this case.	411
FIR after a matrimonial separation petition— counterblast objection	The wife's FIR could not be quashed merely because it followed the husband's petition under Section 10 of the Hindu Marriage Act. That sequence did not by itself establish the counterblast defence, and the disputed allegations in the husband's earlier police complaint remained matters for trial.	415
Dated and specific cruelty allegations against matrimonial relatives	Allegations identifying the applicants' roles in dated episodes of dowry demand, abuse, instigation to expel the wife and assault were sufficiently specific to withstand the challenge that they were vague or omnibus. The Court refused quashing without determining whether those allegations would be proved at trial.	415
Delayed cruelty complaint during efforts to preserve marriage	A wife's silence while attempting to preserve her marriage does not, by itself, make a later cruelty complaint false or an afterthought. Reporting after the prospect of reconciliation has ended must be assessed in context rather than treated as an automatic ground to quash.	415
Quashing safeguards and allegations of informant malice	The inherent power remains available where allegations disclose no offence, an express legal bar applies or demonstrated abuse of process requires intervention. An allegation that the informant bears malice is not, by itself, enough to quash an otherwise sustainable prosecution; the evidence collected and proved remains material to its outcome.	416
Essential Commodities Act FIR—complaint need not come only from Collector	The Court rejected the claim that only the Collector could initiate the FIR for the alleged PDS contraventions. Following Jagdish Kushwah's interpretation of the earlier 2009 Control Order, it held that adding an exclusive "only" requirement would conflict with the cognizable character of the offence under Section 10-A of the Essential Commodities Act.	418
Quashing matrimonial proceedings against relatives on vague and omnibus allegations	Vague, general and omnibus allegations are insufficient to prosecute the husband's relatives without a specific role attributed to them. The FIR and Section 161 CrPC statement contained no specific allegation against applicants 3–7. Applying Kans Raj, Monju Roy and Chandralekha, the Court quashed the FIR and consequential proceedings against those five relatives, while separately examining the specific allegations against the husband and mother-in-law.	420
Specific allegations required against in-laws despite residence in the same village	Relatives cannot be compelled to face trial for matrimonial cruelty on vague and omnibus allegations without particulars of their acts. Applying Kans Raj, Monju Roy, Chandralekha, Preeti Gupta and Neelu Chopra, the Court found no specific account of how applicants 4–10 had harassed the wife. The collective allegation that they barred her entry for failure to bring ₹5 lakh was insufficient on this record. Although applicants 4–8 lived in the same village and distance did not rule out day-to-day interference, specific allegations were still necessary; applicants 9–10 lived separately in other cities. The FIR, charge-sheet and consequential proceedings were quashed against applicants 4–10.	426
Order of cross-FIR	The fact that one side registered its FIR earlier does not by itself establish that	438

Topic	Ratio	Case Sr.no.
registration and identification of the aggressor	the later cross-FIR is a counter-blast or identify the aggressor. The explanation for the interval, including police referral for treatment and hospitalisation, must be considered. Where an encounter is admitted but the parties give rival accounts, the Court cannot decide who was the aggressor under Section 528 BNSS. An informant's alleged mala fides are secondary where the complaint discloses a cognizable offence.	
Companies Act penalties and concurrent applicability of the IPC	A special statute's penalties do not by themselves exclude prosecution under the IPC where no statutory bar applies and the ingredients of the respective offences are met. Section 26 of the General Clauses Act permits prosecution and punishment under either or any applicable enactment but prohibits double punishment for the same offence. Applying the narrated statutory-coexistence authorities, the Court rejected the contention that the alleged company fraud could be prosecuted only under the Companies Act and refused to quash the IPC proceedings.	447
Delay alone and disputed facts at the quashing stage	Delay in lodging a complaint does not, by itself, justify quashing. At the initial Section 482 stage, the court does not resolve disputed facts or test the truth and reliability of the allegations as at trial. The adopted FIR authorities explain that prompt reporting assists timely investigation and reduces the opportunity for fabrication, but does not guarantee truth; genuine reasons for delay may exist and delayed reporting is not inherently illegal. Applying those principles to the private complaint, the Court rejected the delay ground without deciding whether the allegations were ultimately proved.	449
Co-accused acquittal during abscondence and the applicant's separate prosecution	Acquittal of co-accused in a trial conducted while the applicant was absconding did not itself entitle him to discharge or quashing. No legal basis was identified for treating that judgment or evidence recorded in his absence as binding in his favour. Without commenting on the acquittal reasons, the Court found a prima facie case against the applicant on the complaint and sale deeds and required him to face his own trial. It did not borrow a finding of guilt from the co-accused trial.	449
Restitution Proceedings Do Not by Themselves Establish a Counterblast FIR	The institution of proceedings under Section 9 of the Hindu Marriage Act did not by itself justify quashing the criminal FIR as a counterblast. Civil matrimonial and criminal proceedings are independent, and findings to be made in the restitution case would not bind the criminal court. The Court therefore rejected the objection based on the FIR following the restitution proceedings.	458
Matrimonial FIR lodged after a divorce petition	The filing of a divorce petition before the wife's FIR does not by itself establish a malicious counterblast or justify quashing. A wife may delay reporting while hoping for reconciliation and complain when those efforts fail. Applying Pratibha, the Court rejected an adverse inference based merely on that sequence and declined to quash an FIR whose allegations disclosed a prima facie offence.	460
Inherent jurisdiction and an effective statutory remedy	Section 482 CrPC cannot be used inconsistently with a specific provision of the Code. The reproduced principles require restraint where the statute supplies an effective remedy that the litigant has not pursued. Inherent jurisdiction remains directed to giving effect to orders under the Code, preventing abuse of process and securing the ends of justice.	460
Divorce proceedings preceding a cruelty FIR: counterblast objection	A divorce petition filed before a cruelty FIR does not, by that sequence alone, establish a retaliatory prosecution. The Court treated the wife's later complaint as consistent with waiting until reconciliation appeared unlikely. Civil divorce proceedings and criminal proceedings are independent, and the pendency of the former cannot end the latter merely because they arise from overlapping facts.	469
Parallel civil and criminal proceedings — Pendency, stay and precedence	A criminal complaint concerning forged documents cannot be quashed merely because the dispute also has a civil aspect or a civil suit is pending. Both proceedings may continue and must be decided independently. Criminal proceedings ordinarily receive precedence, but there is no inflexible rule.	470

Topic	Ratio	Case Sr.no.
	Whether either proceeding should be stayed depends on the circumstances, including its nature and stage and the likelihood of embarrassment. A pending civil case, even before a higher court, does not itself bar prosecution.	
Civil and criminal findings — Independent proof and relevance of previous judgments	Civil and criminal proceedings apply different standards of proof: preponderance of probabilities in civil cases and proof beyond reasonable doubt in criminal cases. Each court decides on the evidence adduced before it; findings in one proceeding do not automatically bind the other. A previous judgment may nevertheless be relevant under Sections 40–43 of the Evidence Act. Its relevance and effect must be examined in the particular case, including the conclusiveness prescribed by Section 41.	470
Successive quashing petition — earlier withdrawal and requirement of changed circumstances	Withdrawal of revisions challenging charges, with liberty to raise grounds before the appropriate court at the appropriate stage, did not permit a fresh Section 482 CrPC challenge based on the same charge-sheet and grounds already available. A later petition may be maintainable on genuinely changed circumstances; the applicant must establish that change. Mohan Singh was distinguished because the trial there had made no progress after the earlier refusal, whereas six prosecution witnesses had been examined here and complete order sheets were not produced to substantiate the delay plea. Applying Bhisham Lal Verma and M.C. Ravikumar, the Court rejected successive presentation of available grounds and reiterated that inherent power cannot override the Section 362 bar on reviewing a final order, apart from clerical or arithmetical correction. The petition was dismissed as not maintainable without deciding the evidentiary objections.	486
Matrimonial FIR quashing — divorce proceedings and alleged counterblast	An FIR cannot be quashed merely because it was lodged after a divorce petition. Applying Pratibha, the Court recognised that efforts to preserve the marriage may explain delayed reporting and that quashing must address whether the complaint or FIR allegations disclose a prima facie offence, without relying on extraneous considerations. Here, the complainant expressly explained her earlier silence as an attempt to preserve her matrimonial life. The applicants' property and separate-residence defences did not remove the specific allegations on a plain reading of the FIR. The Court refused quashing without adjudicating the truth of those allegations or the ownership dispute.	495
Quashing a cheque-theft prosecution founded on a fabricated loss report	A prosecution for theft, forgery and misuse of a cheque may be quashed under Section 482 CrPC where reliable material establishes that it was instituted to create a false defence to a pending cheque-dishonour complaint. Here, the original police inward register disproved the claimed receipt of the loss report, and the cheque-series history and admitted signature further undermined the asserted loss. On the combined record, the Court found the loss document fabricated and quashed the FIR and consequential Sessions proceedings. This determination did not dispose of the separate Section 138 NI Act complaint.	502
Unproved allotment and an unregistered community panchnama as grounds for quashing an FIR	An asserted right to the site did not justify quashing an FIR alleging damage to a statue. The Sarpanch's consent letter did not establish that the land was abadi land or that the Gram Panchayat was competent to allot it. A panchnama by community members purporting to gift the property to their own community was not a gift by the alleged allottee or his wife; the gift required registration and the panchnama transferred no title.	513
Civil transactions with criminal ingredients and quashing under Section 528 BNSS	A dispute that is essentially civil cannot be given a criminal form to harass a party. The High Court must examine whether the alleged facts disclose the ingredients of a criminal offence. Where they do, the availability of a civil claim does not prevent criminal proceedings. Applying these principles under Section 528 BNSS, the Court refused to treat the alleged purchase, resale and retention of the farmers' money as a mere civil payment dispute.	514
Quashing-stage	An FIR or charge-sheet may be quashed where the uncontroverted allegations	516

Topic	Ratio	Case Sr.no.
observations on consent and independent determination at trial	do not make out an offence. The alleged false promise of reemployment and the employment relationship prevented quashing on the asserted ground of consensual sexual relations. The Court expressly limited its observations to Section 482 review and directed the trial court to decide on the evidence without being influenced by them.	
Alleged Political Vendetta Where the FIR Discloses a Cognizable Offence	An allegation that the informant acted from political enmity does not by itself justify quashing where the report discloses a cognizable offence. The informant's motive becomes secondary to the allegations and the evidence. The Court declined to decide the disputed claim of political vendetta under Section 482 and refused quashing based merely on inimical relations. This assessment preserves the exceptional power to prevent a demonstrably malicious abuse of process.	525
Section 482 CrPC — quashing matrimonial prosecution based on vague allegations against relatives	A husband's near or distant relatives cannot be compelled to face criminal trial on vague, omnibus allegations without specific instances or material identifying their involvement. A casual reference to their names in a matrimonial FIR is insufficient. Applying this principle to an uncle-in-law and an unmarried sister-in-law who were named only collectively in the initial allegations and were not implicated in the later specifically described incident, the Court set aside the orders refusing discharge under Section 239 CrPC. It quashed their charge sheet and prosecution under Sections 498A, 506 and 34 IPC and Section 4 of the Dowry Prohibition Act.	541
Limited quashing observations and independent decision at trial	Observations made while refusing quashing were confined to the limited scope of interference at that stage. The trial court was required to decide the complaint according to law on the material brought on record, independently of that preliminary assessment.	579
Specific allegations against the husband's relatives at the FIR-quashing stage	Vague and general allegations are insufficient to compel the husband's relatives to face trial, but the actual allegations must be assessed for specificity. The FIR attributed a particular assault and expulsion to all five applicants and a vehicle demand to the husband and mother-in-law. These allegations justified refusal to quash under Section 528 BNSS. A brother-in-law's separate employment and residence did not establish his absence on the alleged day of assault and expulsion.	589
Medical illness and quashing of criminal proceedings	An accused's medical ailment alone is not a ground to quash criminal proceedings. Without doubting the assertion of cancer and kidney problems, the Court rejected that ground but allowed the applicant to seek permanent exemption from personal appearance through representation by counsel, if required. The trial court was directed to consider such an application on the medical documents. Exemption was left for that court to decide.	597
Special statutory procedure and prosecution under the IPC	A separate procedure under a special enactment does not exclude recourse to the IPC unless the law creates a bar. Applying State of M.P. v. Rameshwar, the Court rejected the contention that the Essential Commodities Act or the food-distribution scheme made IPC prosecution unavailable merely because it provided a separate procedure. No bar to the applicability of the IPC was shown.	600
Disputed stock records and offline distribution allegations at the quashing stage	Where officials allegedly procured offline distribution by promising an adjustment in the POS balance and then demanded payment under threat of prosecution for the resulting shortage, accurate figures for online transactions did not answer the allegation. Whether the instructions were given and whether stock was short required investigation. The Court found a prima facie basis to investigate the alleged conduct, without determining guilt or accepting the applicant's disputed account.	600
Reopening an anticipatory-bail rejection in an FIR-	An application under Section 482 CrPC to quash an FIR cannot be used to reargue the correctness of the Court's concluded refusal of anticipatory bail. The Court treated itself as functus officio regarding that decision and stated that	600

Topic	Ratio	Case Sr.no.
quashing petition	the applicant could challenge it before the Supreme Court. Arguments seeking reconsideration of bail were therefore not entertained in the quashing proceeding.	
Blanket protection from arrest after refusal to quash an FIR	When refusing to quash criminal proceedings, the High Court cannot grant a blanket direction against arrest or coercive steps until investigation is completed. Applying Neeharika Infrastructure and its reproduced discussion of Habib Abdullah Jeelani and Ravuri Krishna Murthy, the Court held that such protection would bypass the conditions of Section 438 CrPC and hamper investigation. It refused the requested protection, particularly when anticipatory bail had already been rejected.	600
Material suppression as a ground to refuse judicial relief	Suppression can justify refusal of relief only when the concealed fact is material to adjudication and would affect the merits or outcome. Applying S.J.S. Business Enterprises, the Court distinguished an immaterial omission from a material deception. Because absence of a preliminary inquiry would not itself invalidate the FIR, the dispute about what counsel had earlier said on that issue did not alter the quashing result.	600
Inconclusive foreign divorce decree as a defence to criminal proceedings	A foreign divorce decree must satisfy Section 13 CPC before it can be treated as conclusive on matters adjudicated. The Swedish petition was not a joint application for divorce by consent. The decree was unreasoned, did not decide the cruelty allegations on their merits and ignored the applicable Indian law. The Court therefore found it inconclusive and of no assistance in seeking quashing of the wife's criminal allegations. This conclusion concerned the decree produced in this case.	601
Responsibility for road-work safety and the claimed managing-director status	The applicant's own power of attorney described him as a partner of the contractor undertaking the road work. The Court treated him as a part-owner responsible for execution, rather than accepting his claim to be merely a managing director. The subcontract and site instructions required warning signs, flags and safety arrangements at both ends of the culvert. In view of those duties and the alleged failure that caused the fatal accident, the Court declined to quash the prosecution under Section 482 CrPC.	617
Omission of other accused is no ground to quash a prima facie prosecution	Proceedings against a person charge-sheeted after investigation on a prima facie case cannot be quashed merely because other possible participants were not charge-sheeted or cognizance was not taken against them. Applying Suvarna Cooperative Bank, the Court rejected the applicants' challenge based on the omission of other accused.	625
Quashing a Sexual-Offence FIR on the Judicial Statement and Investigation Record	Where the complainant, who was an adult when the FIR was lodged, stated under Section 164 CrPC that the applicant had committed no offence against her and that the report had been obtained under coercion, the Court assessed that statement with the police case diary and her father's Section 161 statement. The father had not described any earlier sexual abuse, and the Court accepted the explanation that the earlier allegations were made under coercion. On the totality of this record, continuation of the prosecution was held to be an abuse of process, and the FIR under Section 376 IPC and Sections 5(b)(i) and 6 of the POCSO Act was quashed. The Court expressly refrained from commenting on the asserted marriage.	656
Counterblast allegation and old enmity as grounds for quashing	Where a complaint discloses a cognizable offence, allegations of the complainant's mala fides are secondary and cannot by themselves justify quashing. Old enmity can explain either false implication or commission of an offence. Its effect is a disputed question of fact for the trial court after evidence is recorded.	661
Mala fides of the informant where a cognizable offence is	Once the complaint discloses a cognizable offence, the informant's alleged mala fides become secondary and cannot alone justify quashing. Where the purchasers had no right to possession of a specific parcel before partition, their	663

Topic	Ratio	Case Sr.no.
disclosed	reliance on the civil decree did not establish that the FIR was malicious or an abuse of process.	
Parallel Section 145 proceedings during civil adjudication of possession	Where civil proceedings concerning title or possession of the same property are pending and the civil court can grant effective protective relief, parallel, unfinished Section 145 CrPC proceedings should not continue. Prior final adjudication by the civil court is not essential to this rule. The parties may seek injunction, receivership or other appropriate interim relief in the civil proceedings; here they could also invoke Order XXXIX Rule 2-A CPC.	664
Non-joinder in the civil suit and parallel Section 145 relief	Where the competent civil court is already dealing with the property and has granted interim protection, the fact that the person seeking Section 145 CrPC relief is not a defendant in that suit does not, by itself, justify a parallel preventive proceeding. In the circumstances considered, appropriate protection could be sought from the civil court.	664
Civil suit filed after a concluded Section 145 order	A civil suit filed after a final Section 145 CrPC order does not, merely by its institution, require that concluded order to be quashed. That situation differs from a pending preventive proceeding begun after civil litigation over the same property in which effective protective relief is available. The pendency of any civil suit is therefore not an automatic bar to Section 145 proceedings.	664
Personal allegations of police mala fides —Impleadment and hearing	A person against whom personal bias or mala fides are alleged must be impleaded by name and given an opportunity to answer. Without that person being a party, the Court cannot inquire into the allegations to their detriment. Since the police personnel accused of coercive conduct were not impleaded, the allegation that they had abducted the applicant's daughter was not examined.	666
Particulars required for a plea of mala fides	Allegations of mala fides must be clear and specific. Vague assertions do not suffice, and the person whose conduct is challenged must have an opportunity to meet the particular allegations.	666
Divorce proceedings do not by themselves justify quashing a cruelty FIR	Filing a divorce petition does not itself justify quashing criminal proceedings arising from matrimonial cruelty. Relying on Pratibha v. Rameshwari Devi, the Court explained that civil and criminal proceedings are independent and that pendency of a civil proceeding cannot end a criminal proceeding merely because both concern the same facts. It also stated that civil-court findings do not bind the criminal court. Here, the asserted counterblast chronology was itself incorrect: the FIR preceded the husband's divorce petition. The Court therefore declined to quash the FIR on that basis.	671
Pending guardianship proceedings and forcible removal of a child	Pendency of a guardianship application does not permit a parent to take the child's custody by force. Where the applicant had no custody order in his favour, the custody dispute did not justify interference under Section 528 BNSS with an FIR whose allegations of assault and threats disclosed a cognizable offence.	680
Quashing suicide-abetment proceedings — tentative assessment of instigation	When considering quashing of suicide-abetment proceedings, the Court forms a tentative view from the prosecution record rather than marshalling and evaluating the evidence as at trial. Instigation may emerge from the circumstances and a course of conduct without direct exhortation. Where those materials prima facie disclose the offence, their disputed truth is not finally decided in the quashing petition.	684
Section 482 CrPC — statutory purposes and restraint in consequential observations	The relied-upon D. Venkatasubramaniam passage confines inherent power under Section 482 CrPC to giving effect to an order under the Code, preventing abuse of the process of a court and securing the ends of justice. The jurisdiction must be exercised sparingly, carefully and cautiously. The reproduced reasoning also cautions that higher-court observations can influence later events and legal proceedings: uncalled-for observations with far-reaching consequences should not be made casually, particularly without hearing	741

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	affected persons. These limits supported the High Court's refusal to prescribe arrest or a charge-sheet as the required course of investigation.	
Effect of matrimonial decrees on quashing a cruelty FIR	Civil Court findings do not bind the Criminal Court. Dismissal of the wife's divorce petition under Section 13 of the Hindu Marriage Act and grant of the husband's restitution petition under Section 9 therefore did not justify quashing her cruelty FIR. The Family Court's criticism of directly reporting Section 498A cruelty was legally erroneous; its inference of affection from a joint locker also overlooked the wife's expenses and deposit and the mother-in-law's retention of the key.	783
Undertaking not to pursue legal proceedings in a cruelty prosecution	An alleged undertaking not to take legal action did not bar the cruelty FIR. The Court applied Section 28 of the Contract Act to reject the restraint on legal proceedings as void. It also relied on Section 41 of the Specific Relief Act in stating that an injunction could not restrain the complainant from taking such legal recourse.	784
Pending marriage-nullity petition and quashing of a cruelty FIR	The complainant's application under Section 11 of the Hindu Marriage Act did not adversely affect the cruelty FIR or supply a ground for quashing it. In the circumstances, the Court regarded the application as supporting her allegations.	784
Statutory purposes and reasoned exercise of inherent powers	Section 482 CrPC permits orders necessary to give effect to an order under the Code, prevent abuse of a court's process or secure the ends of justice. The power must be exercised sparingly and with care. Intervention requires reasons, and the Court must avoid casual observations capable of prejudicing persons or influencing the course of criminal proceedings.	791
Section 482 CrPC — grounds for exercising inherent powers	The High Court may exercise its inherent power, on an application or on its own motion, to give effect to an order under the Code, prevent abuse of the process of a court, or secure the ends of justice. The power must be exercised sparingly, carefully and with caution where those statutory purposes justify it.	802
Section 482 CrPC — specific assistance in kidnapping and confinement	Specific allegations that the applicant transported the girl with the co-accused, provided a room, locked her inside and supplied food while the co-accused repeatedly raped her furnished grounds to refuse quashing. The asserted voluntary marriage did not displace the girl's contrary statement before the High Court that she had been forcibly married. The Court treated the applicant's alleged assistance as material when refusing to quash the FIR.	809
Section 482 CrPC — disclosure of an earlier rejection of bail	When seeking relief under Section 482 CrPC, counsel is expected to disclose whether the applicant's bail application has been rejected. Suppressing the recent rejection of anticipatory bail while repeating contentions already considered was treated as an attempt to mislead the Court. Lawyers, as officers of the Court, must present the case candidly so that the Court can pass a correct order.	809
Section 482 CrPC — marriage performed contrary to an operative restraint	The claimed marriage did not support quashing where it had been performed by an institution specifically restrained by the High Court from conducting marriages. The earlier order had treated a marriage performed by that institution contrary to the restraint as invalid; the present Court also noted dismissal of the institution's writ appeal. This reason was considered alongside the girl's statement that the marriage was forced.	809
Post-charge-sheet quashing petition after earlier investigation-stage petitions	Dismissal of an earlier FIR-quashing petition during investigation did not bar the later challenge to the charge sheet. Further evidence could still have been collected when the first petition was dismissed, whereas the later petition challenged the completed investigation. The intervening petition had also been withdrawn with liberty to challenge the charge sheet. In these circumstances, the subsequent Section 482 CrPC petition was maintainable.	831
Prior divorce as a ground for quashing	Dissolution of the parties' marriage did not justify quashing allegations of a later incident of abuse, assault and threats. Those allegations concerned conduct	837

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allegations of a subsequent assault	independent of the parties' marital status. The earlier compromise divorce decree and alimony arrangement therefore did not answer an FIR that otherwise prima facie disclosed the charged offences.	
General allegations of misuse based on the complainant's gender	A general accusation that a complainant is misusing her position merely because she is a woman was deprecated and rejected. Such a broad allegation against a woman or the female community did not displace the specific FIR allegations, which prima facie disclosed the charged offences.	837
Investigation of combined cognizable and non-cognizable offences	When the police investigate multiple offences that include a cognizable offence and a non-cognizable offence, they cannot be prevented from investigating the non-cognizable offence merely because of its character. Applying Ushaben, the Court found no ground to quash the FIR on the objection raised under Section 195 CrPC.	841
Section 482 challenge to a Section 156(3) direction where forgery is alleged	In reviewing the direction under Section 156(3) CrPC, the Court examined whether the uncontroverted allegations disclosed an offence. Allegations that an agreement to sell had been forged and used to institute a civil suit disclosed a cognizable offence; pendency of that suit did not justify interference with registration and investigation under Sections 420, 467, 468, 471 and 120-B IPC.	844
Purpose and limits of inherent jurisdiction under Section 482 CrPC	Section 482 preserves the High Court's inherent power to give effect to an order under the Code, prevent abuse of the court's process and secure the ends of justice. Its exercise is exceptional, sparing and cautious; the Court does not act as an appellate or revisional court under this provision. Proceedings may be quashed when their initiation or continuation amounts to abuse of process or quashing is necessary to secure justice, but the power must not stifle a legitimate prosecution.	844
Reasoned and cautious exercise of Section 482 CrPC powers	The reproduced D. Venkatasubramaniam reasoning confines inherent power to giving effect to orders under the Code, preventing abuse of the court's process and securing the ends of justice. Exercise must be sparing, careful and justified by those purposes. The High Court must record why interference is required and avoid casual or uncalled-for observations that may influence the course of criminal proceedings or harm persons who have not been heard.	845
Hearing before drastic judicial directions to arrest or prosecute	In the D. Venkatasubramaniam passage reproduced and relied upon, judicial directions for arrest, seizure and filing of a charge-sheet were held invalid where the affected accused had not been impleaded or heard. The narrated Divine Retreat Centre reasoning concerns a judicial order initiating investigation from an anonymous petition and the need for a reasonable hearing before an order with drastic reputational consequences.	848
Purposes, reasons and caution in exercise of inherent criminal powers	The reproduced Section 482 CrPC reasoning permits inherent intervention to give effect to orders under the Code, prevent abuse of the court's process and secure the ends of justice. Exercise must be sparing, careful and justified by those purposes. Reasons for interference must be recorded, and casual or uncalled-for observations capable of influencing criminal proceedings or prejudicing unheard persons must be avoided.	848
Matrimonial civil proceedings and a plea that the criminal FIR is a counterblast	The fact that the husband had initiated restitution-of-conjugal-rights proceedings before the wife's FIR did not by itself justify quashing the criminal case as a counterblast. Civil and criminal proceedings are independent, and pendency of matrimonial civil proceedings does not terminate a criminal prosecution arising from the same facts where the allegations disclose an offence.	861
Collateral prosecution directions beyond the issues in a criminal trial	The trial court exceeded its jurisdiction by directing prosecution and departmental action against municipal officials and witnesses on findings about demolition proceedings whose validity was not an issue in the shooting trial. The directions also disregarded the High Court's earlier order quashing their	864

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	summoning under Section 319 CrPC. The collateral directions in paragraphs 77, 79 and 80 were set aside; the merits of the shooters' acquittal were left to the pending State appeal.	
Adverse judicial remarks: opportunity to explain, evidence and necessity	Before making disparaging remarks about a person or authority, the court must consider whether that person is before it or has had an opportunity to explain, whether evidence justifies the criticism, and whether the remarks are necessary to decide the case. Castigating remarks capable of serious career consequences require an opportunity of hearing. Unnecessary findings and consequential directions concerning the demolition officials and witnesses could not stand in the shooting trial.	864
Personal allegations of mala fides require personal impleadment	A person accused of personal bias or mala fides must be impleaded in that capacity and given an opportunity to answer the allegations. The Court cannot inquire into such accusations or condemn the person unheard. Allegations must also be clear and specific. As the SDM had not been impleaded in his personal capacity, the Court declined to consider the personal allegations against him in the FIR-quashing proceedings.	871
Section 482 CrPC — prima facie allegations and limits on credibility assessment	Quashing under Section 482 CrPC is exceptional and must be exercised cautiously. The Court considers whether the uncontroverted allegations, accepted as a whole, prima facie disclose an offence; it does not try their truth, assess witness credibility or weigh the defence as at trial. Absence of an offence, inherently absurd allegations, a clear abuse of process or an express legal bar may justify intervention. Specific allegations of a dowry-linked car demand, beatings and taking the complainant’s ornaments disclosed a triable case under Sections 498A/34 IPC and Sections 3–4 of the Dowry Prohibition Act. Their reliability could not be determined in the quashing application.	881
Section 482 CrPC — disputed private defence documents and the public-document exception	The High Court ordinarily does not assess the accused’s defence or determine the veracity of defence documents when considering quashing. In an appropriate case, it may consider a public document or a document whose veracity the complainant does not dispute. Private photographs, WhatsApp chats, gifts and payment records relied on to deny dowry cruelty required proof in accordance with law; the Court could not take judicial notice of them or resolve the contested defence through a detailed merits inquiry under Section 482 CrPC.	881
Matrimonial cruelty — specific allegations against relatives and caution about omnibus accusations	Courts must exercise caution when matrimonial complaints make omnibus allegations against relatives who are not generally concerned with the couple’s affairs. That caution does not warrant quashing a triable case containing specific allegations of participation. The sister-in-law was specifically alleged to have insisted on a car for her brother and participated in taking the complainant’s ornaments. Whether those allegations were true was a matter for trial. Decisions quashing proceedings against relatives on different facts do not establish an inflexible exemption for relatives.	881
Personal allegations against an investigating officer — impleadment and opportunity to respond	Personal allegations against an investigating officer cannot be considered unless the officer is impleaded as a respondent in her personal capacity and given an opportunity to explain them. As the applicants had not impleaded the officer, the Court declined to examine their personal allegations against her.	881
FIR and complaint — factual foundation without exhaustive pleading of ingredients	An FIR need not contain every detail. A complaint is not required to reproduce the legal ingredients of the offence verbatim; where it lays the necessary factual foundation and substantially satisfies the requirements of the offence, proceedings should not be quashed merely because some ingredients have not been stated in detail. Quashing remains available where even the basic facts necessary to constitute the offence are absent.	881

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Section 482 CrPC — tentative assessment of material alleging abetment of suicide	On a request to quash proceedings for abetment of suicide, the Court forms a tentative view from the record and accompanying documents; it does not finally marshal the evidence or determine guilt. Instigation may be inferred from a continuing course of conduct, even without direct evidence. The suicide note and witness statements together supplied sufficient material to prosecute both applicants, including the alleged common intention of applicant 2 despite the absence of a specific rape-threat allegation against her in the note. The Court also rejected the claim that applicant 1's status as a doctor justified exemption from facing prosecution, as no supporting provision of law was shown.	884
FIR at the quashing stage — factual foundation without exhaustive detail	An FIR is not expected to be an encyclopedia. Where the factual foundation of an offence is laid, proceedings should not be quashed merely because every ingredient has not been stated in detail. The Court examines whether the uncontroverted allegations prima facie disclose the offence, without conducting the detailed inquiry into merits that belongs to trial.	893
Pending restitution petition — no automatic inference that a later cruelty FIR is a counterblast	A wife's FIR cannot be quashed merely because it follows a petition for divorce or restitution of conjugal rights. Civil and criminal proceedings are independent. Here the husband's Section 9 Hindu Marriage Act petition was still pending, and its allegations could not be treated as proved. Its pendency therefore did not establish that the wife's FIR was a counterblast or displace the allegations of dowry demand and expulsion from the matrimonial home.	896
Specific allegations against relatives and refusal to quash cruelty proceedings	The caution against omnibus implication of the husband's relatives does not require quashing where specific conduct discloses a triable case. The FIR attributed dowry-related instigation, assault and expulsion from the matrimonial home to the younger brother-in-law and mother-in-law. Those allegations, accepted at face value, supplied sufficient material to proceed against them. Their truth and the competing defence remained matters for trial.	925
Quashing after framing of charge or commencement of evidence	The power under Section 482 CrPC is available at the threshold and at an intermediate or advanced stage, including after framing of charge or recording of evidence. Where the prosecution material, accepted in its entirety, does not disclose a triable offence, continuation may be stopped to prevent abuse of process. Material revealed by investigation may be examined for that limited purpose, without deciding guilt or innocence. The progress of the trial alone did not bar relief to the distant relative.	925
Express legal bar to institution or continuation of prosecution	An express statutory bar protecting the accused against institution or continuation of criminal proceedings may justify quashing under Section 482 CrPC. The power must be exercised sparingly and on sound legal grounds, without using it to stifle a legitimate prosecution.	925
Quashing criminal proceedings instituted for an ulterior purpose	The criminal process cannot be used as a weapon of harassment or persecution. Where sufficient material shows that proceedings were maliciously instituted to wreak personal vengeance or that continuation would abuse the process of court, the High Court may intervene under Section 482 CrPC. The power requires caution and cannot rest on a disputed defence or a premature assessment of evidentiary reliability.	925
Specific allegations against relatives and the limits of FIR quashing	Proceedings may be quashed where the allegations are absurd, disclose no offence or amount to abuse of process. Caution is required when matrimonial complaints make omnibus allegations against relatives who are not ordinarily concerned with the couple's affairs. Where specific allegations disclose a triable case, however, the Court cannot assess the reliability of the allegations or the defence version under Section 482 CrPC. The specific allegations against each applicant therefore precluded quashing at this stage.	930
An earlier divorce petition does not by itself justify	The filing of a divorce petition does not by itself justify quashing criminal proceedings as a counterblast. Civil matrimonial proceedings and criminal proceedings are independent, even when they arise from the same facts.	953

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quashing a cruelty FIR	Applying Pratibha v. Rameshwari Devi as reproduced in the judgment, the Court rejected the applicants' reliance on the earlier divorce petition and assessed whether the FIR disclosed a prima facie offence. The reproduced precedent also explains that delay during efforts at matrimonial reconciliation does not by itself justify an adverse inference or permit the quashing court to rely on extraneous considerations.	
Preliminary observations while refusing quashing do not determine trial facts	Observations made within the limited jurisdiction under Section 482 CrPC are not conclusive findings on the disputed facts. In refusing quashing, the Court expressly directed that, apart from the stated legal position, its observations should not influence or prejudice the trial court. The trial was to be decided strictly on the evidence brought on record.	953
Delay in lodging the FIR is not by itself a ground for quashing	Mere delay in reporting an alleged offence does not make the FIR illegal or supply an independent ground for quashing. Following Skoda Auto Volkswagen, Ravinder Kumar and Mohammad Wajid, the Court held that no universal reporting period is fixed and genuine reasons may explain delay. Prompt reporting assists investigation and reduces the opportunity for fabrication, but does not guarantee truth. The applicants' reliance on a seventeen-day interval therefore did not warrant quashing: the complainant could explain the delay, and the Court noted the alleged effort to recover unpaid masonry charges and absence of previous enmity. The Court distinguished delay alone from an actual statutory time bar.	956
Limited consideration of public or undisputed defence documents in a quashing application	Ordinarily, the High Court does not appreciate the accused's defence or decide the veracity of defence documents under Section 482 CrPC. The exception reproduced from Mohd. Akram Siddiqui permits consideration, in an appropriate case, of a public document or a document whose veracity the complainant does not dispute. That limited exception does not authorise adjudication of rival factual accounts or testing disputed defence material as though at trial.	956
A pending counter-complaint does not itself justify quashing the opposing FIR	The existence of the accused's complaint alleging misconduct by the informant is not by itself a ground to quash the informant's FIR. Where the rival versions raise disputed questions about what happened, the High Court cannot choose the correct account under Section 482 CrPC. The applicants' allegation that the complainant entered the house and tried to outrage a woman's modesty, and the pendency of their complaint, therefore did not displace the prosecution. The Court left the competing accounts to be tested on evidence.	956
Absence of legal evidence is distinct from a dispute about the weight of evidence	The R.P. Kapur principles reproduced through Renu Kumari distinguish a case with no legal evidence, or evidence manifestly inconsistent with the accusation, from one in which legal evidence may or may not support the charge after appreciation. The former may warrant exercise of the inherent power; the latter ordinarily requires the trial court to assess reliability and weight. A quashing application cannot be used to obtain a premature merits determination merely because the accused disputes the prosecution evidence.	956
A pending civil suit over a will does not by itself bar a criminal forgery complaint	A criminal complaint alleging forgery or fraudulent use of a will cannot be quashed merely because a civil suit concerning the document is pending. Applying M.S. Sheriff, M. Krishnan, Kamaladevi Agarwal and P. Swaroopa Rani, the Court held that civil and criminal proceedings may continue simultaneously and the criminal allegations must be established independently. The civil nature of part of the dispute, or the possibility of different conclusions, does not by itself displace the prosecution. It therefore declined to interfere with the Sessions Judge's order setting aside the dismissal under Section 203 CrPC and directing registration of the complaint.	958
Stay and precedence between parallel	The ordinary preference for prompt criminal proceedings does not create an inflexible rule that one proceeding must always be stayed. The M.S. Sheriff	958

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civil and criminal proceedings depend on the circumstances	principles adopted in the judgment identify the risk of embarrassment and special considerations, including the stage reached in either proceeding, as relevant to sequencing. The mere possibility of conflicting decisions is insufficient. Read with P. Swaroopa Rani and Syed Askari Hadi Ali Augustine Imam, whether a stay is justified therefore depends on the nature, stage and circumstances of the particular proceedings.	
Will-based mutation dispute without an allegation of forgery	Where the complaint concerned mutation under a father's Will that allegedly included the complainant's share, and no creation of a forged Will was alleged, the dispute was essentially civil. The complainant could challenge the Will to the extent of his share. The Court quashed the FIR under Sections 420 and 120B IPC without deciding the parties' title or the Will's validity.	981
Disputed consent and defence evidence in quashing proceedings	For quashing under Article 226 or the analogous limits of Section 482 CrPC, the Court considers the allegations at face value and does not conduct a roving inquiry into their truth or decide a disputed defence through trial-style evidence appraisal. Allegations of force and intercourse induced by a knowingly false marriage promise disclosed a prima facie case, so the petitioner's disputed consent defence did not warrant quashing.	982
Section 362 CrPC — repeated recall prayer after withdrawal of the earlier application	A further Section 482 CrPC application seeking the same recall relief as an earlier application withdrawn after argument would, in the circumstances considered, amount to review prohibited by Section 362 CrPC. The applicant had already sought recall of the observations concerning the medical certificate and then repeated that prayer while declaring that no earlier petition on the same subject had been filed. The Court refused the renewed recall request and dismissed the application with costs of ₹10,000, payable within thirty days.	990
Section 482 CrPC — disclosure of earlier applications seeking the same relief	An applicant invoking the Court’s jurisdiction must approach with clean hands and disclose material facts, including an earlier application seeking the same relief that was withdrawn after argument. Describing the renewed recall application as the first petition, despite the earlier identical prayer, suppressed a material fact. Counsel’s statement that he had not appeared in the earlier applications did not answer the applicant’s failure to disclose them.	990
Request for investigation near the parental home is not withdrawal of the complaint	A complainant’s request that one police station take no further action because she fears returning there does not amount to withdrawal of her allegations where she reiterates the alleged cruelty and asks for action at the police station near her parental home. The communication to the Panipat police repeated the allegations and threats and sought investigation at Karera. The police diary recorded that preference. The Court therefore rejected the contention that a withdrawn complaint established the falsity of the later FIR.	991
Section 482 CrPC — omnibus dowry allegations against a younger brother-in-law	General allegations against the husband’s relatives, without a specific role, incident or manner of harassment, are insufficient to compel them to face trial. Applying Kans Raj, Monju Roy and Chandralekha, the Court found that the FIR and Section 161 CrPC statement attributed no specific act to the younger brother-in-law. Where the complainant’s mother had taken her to the parental home after hospitalisation, his failure to bring her back without the husband’s and parents-in-law’s consent could not constitute continuing cruelty by him. The FIR, charge sheet and ensuing proceedings were quashed only against him.	1005
FIR after restitution proceedings — timing alone does not establish a counterblast	An FIR cannot be quashed merely because the husband instituted proceedings for restitution of conjugal rights before it was lodged. Applying Pratibha, the Court recognised that a wife may refrain from complaining while hoping that relations will improve and that she can return to the matrimonial home. The end of that period of patience after proceedings are instituted by the husband does not by itself make her complaint retaliatory. Civil matrimonial proceedings and a criminal prosecution are separate and independent, and pendency of the former does not end the latter.	1005

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Ex parte restitution decree — no ground by itself to quash a cognizable matrimonial FIR	An ex parte decree for restitution of conjugal rights did not justify quashing the FIR where the applicants showed no subsequent effort to bring the wife back, no execution under Order XXI Rule 32 CPC, and no indication that she knew of the decree. The Court noted that they could seek execution or, subject to the statutory condition of no restitution for one year or more, seek divorce under Section 13(1A)(ii) of the Hindu Marriage Act. Merely obtaining the decree without taking further steps did not defeat the FIR's allegations of cruelty, dowry demands and assault, which disclosed cognizable offences.	1006
Desertion — separate residence for valid reasons and the husband's own wrong	Desertion involves separation accompanied by an intention permanently to end cohabitation, without the other spouse's consent or reasonable cause attributable to that spouse. It is a continuing course of conduct inferred from the circumstances; temporary separation without that intention is insufficient. Applying Savitri Pandey and its discussion of Bipinchandra, the Court held that a wife living separately for valid reasons cannot on that account be treated as having deserted her husband, who cannot take advantage of his own wrong. The cruelty allegations explained her separate residence and the unacted-upon ex parte restitution decree did not warrant quashing.	1006

Sub-Chapter no. 50.2
Supreme Court Standards Governing Quashing

Civil and criminal proceedings — independent findings and standards of proof	Findings in civil proceedings do not automatically bind the criminal court, and criminal findings do not automatically bind the civil court. Each proceeding must be decided on the evidence adduced in it. Civil liability is assessed on a preponderance of probabilities, whereas the prosecution must prove the criminal charge beyond reasonable doubt. The relevance and effect of an earlier judgment remain subject to the applicable provisions of the Evidence Act.	2
Matrimonial prosecution of relatives — specific allegations of involvement	A husband's relatives cannot be compelled to face trial merely because of their relationship to him or their collective naming in a matrimonial complaint. Specific and direct allegations must connect each relative with the alleged offence. Omnibus accusations against brothers, sisters or distant relations require careful scrutiny, and allegations against relatives living elsewhere who never or rarely visited the complainant must be assessed in that context. Mere naming without a specific role and supporting material is insufficient.	3
Quashing jurisdiction — exceptional exercise and judicial restraint	Quashing an FIR or complaint is an exceptional exercise of wide inherent power and requires caution, circumspection and adherence to established legal limits. The power does not authorise arbitrary decision-making. The description of quashing as appropriate in the rarest cases expresses restraint in this jurisdiction; it is distinct from the sentencing standard governing the death penalty.	5
Section 482 CrPC — exceptional intervention to prevent matrimonial process abuse	Criminal proceedings are not ordinarily stopped at an interlocutory stage, but the Court may intervene to prevent abuse of process or secure justice. In matrimonial accusations against relatives, absence of specific involvement, assessed with the attendant undisputed circumstances, may justify quashing instead of compelling them to face trial on vague collective allegations.	14
Quashing decision — factual setting and reasons must be stated	A court deciding a challenge to criminal proceedings should identify the brief material facts, examine the challenge under the governing quashing principles and give reasons for allowing or refusing interference. The relied-upon Sangeeta Agrawal passage requires a reasoned application of the legal tests to the case's factual setting.	15
Section 482 CrPC — specific allegations and disputed truth reserved for trial	Quashing may be justified where the allegations accepted as a whole and the supporting prosecution material disclose no offence. The Court should not conduct a roving inquiry into disputed facts, weigh reliability as at trial, or decide a contested defence to terminate a prosecution that raises triable issues.	18

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	Here, the FIR read with the complainant's Section 161 statement attributed specific roles to each applicant, so the claims of omissions and general allegations did not warrant quashing the FIR, charge-sheet or consequential proceedings.	
Quashing — limited consideration of public or undisputed defence documents	Ordinarily, a court considering quashing does not appreciate the accused's defence or investigate the truth of documents relied on by the accused. The reproduced Mohd. Akram Siddiqui principle recognises a limited exception in an appropriate case for a public document or one whose authenticity is not disputed by the complainant. That exception does not authorise a general trial of contested defence material.	18
Section 482 CrPC: consideration of unimpeachable defence documents	In proceedings under Section 482 CrPC, the High Court may consider defence material of sterling and impeccable quality even though the accused cannot ordinarily introduce defence evidence at the stage of framing charge under Section 227. Such material must conclusively displace the accusation, remain unrefuted or be incapable of justified refutation, and show that continuing the trial would abuse the court's process. Undisputed public records directly bearing on the complaint were considered on this basis.	20
Quashing a malicious complaint intended to deter lawful official action	A criminal complaint maliciously instituted to settle a personal grievance and deter an officer from performing statutory duties may be quashed under Section 482 CrPC. Where undisputed records showed that an electricity assessment arose from action against theft, the assessment could be challenged through statutory objections, and the defamation complaint also lacked prima facie reputational harm, its continuation amounted to abuse of process.	20
Alleged retaliation for prior complaints or a PIL as a ground for quashing	Where the FIR discloses a cognizable offence, allegations of the informant's mala fides are secondary and cannot by themselves justify quashing. The applicant's prior complaints and public-interest litigation did not establish that the FIR was a malicious counterblast when the parties' civil rights and competing allegations were disputed. Those factual disputes required adjudication through the ordinary criminal process rather than a decision under Section 482 CrPC.	26
FIR lodged during the overseas husband's return to India and alleged mala fides	Lodging a cruelty FIR when the husband returned to India did not establish mala fides where the wife had faced difficulty serving him abroad or securing his return for trial. Where the complaint disclosed a prima facie cognizable offence, alleged malice was secondary and could not by itself justify quashing; the investigation and trial evidence would determine the accusation.	29
Threshold grounds for quashing criminal proceedings	Section 482 CrPC permits intervention where the allegations accepted at face value disclose no offence, are patently absurd or inherently improbable, or where an express legal bar prevents the proceedings. The power must be used sparingly and on sound principles to prevent abuse of process or secure justice, without suppressing a legitimate prosecution or weighing disputed evidence.	31
Quashing — alleged informant malice where a cognizable offence is disclosed	Where the FIR discloses a cognizable offence, the informant's alleged malice becomes secondary; the investigation material and evidence at trial determine the accusation. Personal hostility or a retaliatory motive cannot by itself justify quashing a legitimate prosecution. This does not remove the power to quash proceedings that are manifestly malicious and constitute an abuse of process under the stated Bhajan Lal categories.	64
Section 482 CrPC — purposes and exceptional exercise of inherent power	Section 482 CrPC preserves the High Court's existing inherent power to give effect to an order under the Code, prevent abuse of court process, or secure the ends of justice. It must be exercised sparingly, carefully and on sound principles. In this jurisdiction the High Court does not function as a court of appeal or revision and must not use the power to stifle a legitimate prosecution.	64
Section 482 CrPC — face-value	The High Court ordinarily does not quash proceedings where the allegations,	71

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allegations and restraint in examining defence material at the quashing stage	accepted at face value and in their entirety, disclose a cognizable offence. Save in very exceptional circumstances, it does not examine documents relied on by the defence or go beyond those allegations to find an absence of mens rea or actus reus. The power must be used sparingly on the merits of each case, while protecting an apparently innocent person from a false and wholly untenable complaint.	
Quashing proceedings — an informant's alleged mala fides are secondary where a cognizable offence is disclosed	Allegations of malice against the informant cannot by themselves justify quashing proceedings where the allegations disclose a cognizable offence. The case must be determined by the material collected in investigation and the evidence led before the court. Applying that principle, the Court held that the earlier registration of the accused's father's FIR did not establish that the complainant's FIR was retaliatory and declined to interfere.	72
Matrimonial FIR after a divorce petition — timing alone does not establish a retaliatory counterblast	An FIR alleging cruelty and dowry harassment cannot be quashed merely because it was lodged after the husband instituted divorce proceedings. In this case the divorce petition had itself been dismissed for want of prosecution, and the FIR contained specific allegations of physical and mental harassment linked to dowry demands. The sequence of proceedings did not, by itself, justify treating the FIR as retaliatory or terminating it under Section 482 CrPC.	76
Specificity required in an FIR and limits of Section 482 scrutiny	An FIR need not contain every minor detail or exhaustively describe each incident. At the Section 482 CrPC stage, the question is whether its uncontroverted allegations, taken as a whole, disclose a cognizable offence; the High Court must not scrutinise the material as a trial court would after evidence. Specific allegations of dowry demands and physical and mental harassment in this FIR disclosed a prima facie case, and the absence of individually detailed incidents did not justify quashing.	84
Section 482 CrPC — Face-value offence test and limits on fact-finding	The High Court may quash an FIR where the uncontroverted allegations, accepted in full, and the supporting material disclose no offence. That power must be exercised sparingly and cautiously to prevent abuse and secure justice. It does not permit a preliminary trial of disputed facts, a detailed weighing of the defence or an assessment of whether conviction is probable. The defence must be tested on evidence at trial.	117
Exceptional quashing grounds — Absurd allegations, legal bars and malicious proceedings	The Bhajan Lal principles reproduced in the authority relied upon recognise quashing where allegations are so absurd or inherently improbable that no prudent person could find grounds to proceed, where an express legal bar prevents the proceedings, or where prosecution is manifestly malicious and directed at vengeance or personal spite. They also recognise the restriction on police investigation of an exclusively non-cognizable offence without the Magistrate's order. These are exceptional grounds; they do not authorise a trial of disputed facts or suppression of a legitimate prosecution.	117
Criminal complaint — Necessary facts rather than verbatim statutory ingredients	A criminal complaint need not reproduce the legal ingredients of an offence word for word. If it states the necessary factual foundation, failure to spell out every ingredient in detail does not by itself justify quashing. Quashing on that basis is warranted when even the basic facts needed to constitute the alleged offence are absent.	117
Section 482 CrPC — Specific cruelty allegations raise triable issues	The Court cannot use Section 482 CrPC to conduct a roving inquiry or mini-trial into the truth of allegations that prima facie disclose an offence. Specific allegations against the husband and parents-in-law required trial. Applying Taramani Parakh, the Court declined to decide the rival versions at the quashing stage and found a prima facie case warranting prosecution. It expressly directed the trial court to decide independently, without influence or prejudice from the observations in the quashing order.	119
Quashing of cross-FIRs involving rival	Where both cross-FIRs acknowledged an assault at the same time and place,	120

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accounts of an assault	and the complainant's medical record showed injuries, the High Court could not decide which account was true in proceedings for quashing. The wife's cross-FIR and pending matrimonial proceedings did not, by themselves, establish that the husband's FIR was false.	
Informant's alleged malice where a cognizable offence is disclosed	Where the complaint discloses a cognizable offence, the informant's alleged malice is of secondary importance and cannot, by itself, justify quashing. The material collected in investigation and the evidence at trial determine the accused's culpability. This does not exclude quashing where the proceeding itself is shown to be a malicious abuse of process.	120
Enmity as a possible motive for either the offence or false implication	Hostility between the parties may supply a motive for committing the offence as well as a reason for false implication. The existence of enmity therefore does not, without more, establish that a prosecution is false or justify quashing it.	120
Purposes and cautious exercise of inherent criminal jurisdiction	Section 482 CrPC preserves the High Court's inherent power to give effect to an order under the Code, prevent abuse of the court's process and secure the ends of justice. The power must be exercised sparingly and cautiously on sound principles. It does not confer appellate or revisional jurisdiction and must not be used to stifle a legitimate prosecution.	120
Statutory bar to institution or continuation of criminal proceedings	An express legal bar to institution or continuation of the proceeding, including a requirement of sanction, may justify quashing under Section 482 CrPC. The reproduced quashing standards also recognise a specific statutory provision providing efficacious redress for the grievance as a relevant ground for considering intervention.	120
Non-cognizable allegations and Magistrate's authority for police investigation	Where the FIR and accompanying material disclose no cognizable offence, police investigation is not justified under Section 156(1) CrPC without a Magistrate's order under Section 155(2). An FIR alleging only a non-cognizable offence cannot be investigated by the police without that order.	120
Quashing of absurd and inherently improbable allegations	Quashing may be justified where the allegations are so absurd and inherently improbable that no prudent person could find sufficient grounds to proceed against the accused.	120
Quashing of proceedings instituted for personal vengeance	Proceedings manifestly tainted by malice or maliciously instituted to wreak personal vengeance may be quashed to prevent abuse of process. A bare allegation that the informant is hostile does not establish that ground where a cognizable offence is disclosed.	120
Specific dowry-harassment allegations against the husband and his relatives	Specific allegations that the husband and his relatives demanded money and a vehicle and subjected the wife to physical and mental harassment disclosed a triable case. Their plea that the relatives lived separately did not justify resolving the truth of those allegations under Section 482 CrPC. The Court's refusal to quash did not establish their guilt.	121
Caution against omnibus allegations implicating matrimonial relatives	In matrimonial prosecutions, courts must exercise caution where omnibus allegations are made against relatives who are not generally concerned with the couple's affairs. This requires examination of the allegations in the particular case, rather than an inflexible rule that relatives must always be discharged or that every matrimonial complaint must proceed to trial.	121
Express statutory bar to criminal proceedings	An express legal bar under the Code or another applicable enactment to the institution or continuation of criminal proceedings may justify intervention under Section 482 CrPC. The quashing inquiry must give effect to the specific statutory protection available to the accused.	121
Quashing of proceedings constituting malicious abuse of	The High Court may intervene where sufficient material shows that criminal proceedings were maliciously instituted to wreak personal vengeance or that the court's process is being used for an ulterior purpose. The power must rest	121

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process	on sound principles and must not become a means of stopping a legitimate prosecution.	
Patently absurd or inherently improbable allegations	The High Court may consider quashing where the allegations are patently absurd or inherently improbable so that no prudent person could conclude that an offence is prima facie established. The court must assess the allegations and accompanying record at the threshold without undertaking a trial of their truth.	121
Balancing personal liberty and legitimate prosecution when considering quashing	The wide power under Section 482 CrPC requires particular care and circumspection. Its exercise must balance the individual's freedom with the complainant's or prosecution's right to investigate and prosecute an offender. Intervention to prevent a miscarriage of justice must not needlessly terminate a legitimate prosecution at its threshold.	121
Aadhaar alone did not resolve a disputed place of residence in quashing proceedings	The applicant's Aadhaar bearing an address current to a date after the FIR did not conclusively establish that she lived away from the matrimonial home during the alleged incidents. The FIR placed her nearby, counsel could not confirm that the Aadhaar details had remained unchanged, and no supporting residence document was produced. The Court left the disputed residence question to the trial court.	125
Exceptional grounds for quashing and protection against abuse of criminal process	The Section 482 power must be exercised cautiously, without stifling a legitimate prosecution. Intervention may be justified where the allegations disclose no offence, are inherently absurd or improbable, face an express legal bar, or show a proceeding maliciously instituted for private vengeance. These grounds do not permit a trial of disputed credibility or an assessment of the probable verdict at the preliminary stage.	142
Public or undisputed defence documents in quashing proceedings	Ordinarily, the High Court does not assess the accused’s defence or determine the truth of documents relied on for quashing. An appropriate exception permits consideration of a public document or a document whose authenticity is not disputed by the complainant.	148
FIR details and premature assessment of merits	An FIR need not contain every fact or detail of the reported offence. While investigation is continuing, incomplete or unsettled facts do not justify prematurely deciding that the complaint lacks substance. If investigation finds no substance, the investigating officer may submit the appropriate report for the Magistrate’s consideration in accordance with law.	161
Uncontroverted allegations and limits of quashing inquiry	When considering quashing under Section 482 CrPC, corresponding to Section 528 BNSS, the Court examines whether the uncontroverted allegations disclose an offence. It cannot conduct a roving inquiry into the truth of the FIR allegations.	162
Illustrative grounds for quashing criminal proceedings	Section 482 CrPC preserves power to give effect to orders under the Code, prevent abuse of process and secure the ends of justice. Its exceptional exercise may be justified by an express legal bar; allegations that, even accepted fully, disclose no offence; uncontroverted material that fails to disclose an offence; inherently absurd allegations; a non-cognizable investigation without the required Magistrate's order; or a proceeding manifestly instituted maliciously for vengeance. Absence of legal evidence must be distinguished from evidence whose reliability requires trial. These illustrative grounds do not authorise a premature assessment of the evidence or arbitrary interference.	171
Informant's alleged mala fides do not alone justify quashing	Once the FIR discloses an offence, allegations about the informant's motive are of secondary importance and cannot by themselves justify quashing. The material collected during investigation and the evidence at trial determine the accused's liability. This does not exclude interference where a proceeding is demonstrably a malicious abuse of process within the recognised quashing grounds.	171
A complaint must	A complaint need not reproduce the legal ingredients of an offence word for	172

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contain the factual foundation of the offence	word or state every ingredient in detail if it lays the necessary factual foundation. Quashing is justified where even the basic facts necessary to disclose the offence are absent. The complaint must be examined as a whole, without a detailed merits inquiry or an assessment of the allegations' reliability.	
Informant's enmity and allegations of mala fides in quashing proceedings	Where the complaint discloses a cognizable offence, allegations that the informant acted from enmity or retaliation do not by themselves justify quashing. Enmity may motivate either false implication or commission of the offence, and the prosecution must be assessed on the material and evidence. The Court's reliance on Renu Kumari also preserves the distinct ground of manifestly malicious proceedings instituted for revenge or personal grudge. Mere alleged enmity did not warrant interference here.	189
Objects and restrained exercise of inherent criminal jurisdiction	Section 482 preserves the High Court's inherent power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. The power is exercised sparingly, carefully and on sound principles; it does not make the Court an appellate or revisional forum for every grievance. The exceptional standard for quashing is distinct from the rarest-of-rare sentencing test used for the death penalty.	189
Incomplete FIR details and premature assessment during investigation	An FIR need not contain every fact and detail of the reported offence. While investigation is continuing and the facts remain incomplete, the Court should not decide the merits on probabilities or prematurely conclude that the case does not deserve investigation. If the investigating officer finds the complaint lacks substance, the appropriate report may be placed before the Magistrate for consideration according to law.	189
Non-cognizable allegations and Magistrate's order for investigation	Where the FIR discloses only a non-cognizable offence, police investigation requires the Magistrate's order contemplated by Section 155(2) CrPC. The reproduced Bhajan Lal categories recognise the absence of that authorisation as a ground for intervention; a non-cognizable allegation cannot by itself justify investigation under Section 156(1).	189
Legal bar to institution or continuance of criminal proceedings	An evident legal bar to institution or continuation of proceedings, such as want of a required sanction, is a recognised ground for quashing. The reproduced categories also address an express statutory bar or a specific provision giving efficacious redress for the grievance. The bar must be identified under the applicable law rather than supplied by assessment of a disputed factual defence.	189
Inherently absurd or improbable allegations as a quashing ground	Quashing may be justified where the allegations are so absurd and inherently improbable that no prudent person could reasonably find sufficient ground to proceed. This recognised category does not permit the High Court to resolve ordinary disputes about credibility or competing factual probabilities by conducting a mini-trial.	189
Prima facie case and abuse of process in quashing proceedings	The High Court assesses the allegations as a whole and at face value when considering quashing. Interference may be justified where they disclose no offence or are patently absurd and inherently improbable, or where the proceeding is manifestly malicious and abuses the criminal process. The power must be exercised sparingly and with care; a triable case cannot be rejected by evaluating its likely success at trial.	192
Quashing an FIR does not permit a premature assessment of disputed evidence	When an FIR discloses a cognizable offence, the High Court ordinarily permits investigation to continue. It cannot decide the reliability of disputed allegations or predict the prospects of conviction by weighing incomplete material as an appellate or trial court.	201
Informant’s alleged mala fides alone do not justify quashing	If the allegations disclose an offence, the informant’s alleged mala fides are of secondary importance and cannot by themselves justify quashing. The prosecution must be assessed on the material gathered in investigation and the evidence led before the court.	201

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Exceptional grounds for quashing criminal proceedings	Inherent jurisdiction may be exercised where a legal bar prevents prosecution, the allegations accepted in full disclose no offence, or the allegations are so absurd or inherently improbable that no prudent person could find sufficient ground to proceed. The power requires caution and must not be used to stifle a legitimate prosecution.	201
FIR need not contain every detail of the offence	An FIR need not set out every fact or detail concerning the reported offence. Where investigation is continuing, incomplete facts do not by themselves justify a premature conclusion that the FIR is an abuse of process or does not deserve investigation.	201
Public or undisputed defence documents may exceptionally be considered for quashing	Although the High Court ordinarily does not assess the accused's defence or the truth of documents relied on by the accused, an appropriate case may permit consideration of a public document or a document whose authenticity the complainant does not dispute. The exception does not authorise resolution of contested facts.	209
Inherent powers protect against wholly untenable prosecution and manifest harassment	Section 482 CrPC may be used exceptionally where the allegations disclose no offence, are patently absurd or inherently improbable, or the proceeding is a manifest abuse directed at harassment or private vengeance. The power must be exercised cautiously on a clear foundation, while a genuine prosecution supported by prima facie material must not be stifled.	209
Substantial factual foundation matters more than formal recital of every ingredient	Where the allegations lay the factual foundation of an offence and substantially satisfy its requirements, proceedings should not be hastily quashed merely because one or two ingredients are not expressly stated or do not at first appear separately satisfied. The allegations must be read as a whole, while still examining whether an offence is disclosed.	209
Informant's alleged mala fides where the FIR discloses an offence	Where the FIR allegations, taken at face value, disclose a cognizable offence, the informant's alleged mala fides become secondary and cannot by themselves justify quashing. The prosecution must be assessed on the material collected during investigation and the evidence led before the trial court.	230
Purposes and cautious exercise of inherent criminal jurisdiction	Section 482 CrPC preserves the High Court's inherent power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. The power must be exercised sparingly and with caution; it does not make the High Court an appellate or revisional court for reassessing the prosecution case.	230
Illustrative grounds for quashing criminal proceedings	Quashing may be justified where a legal bar prevents prosecution; the allegations accepted in full or the uncontroverted material disclose no offence; the allegations are inherently absurd or improbable; or the proceedings manifestly abuse the criminal process through malicious prosecution. The reproduced categories also distinguish non-cognizable allegations requiring a Magistrate's investigation order. These grounds are illustrative and must be applied cautiously, without stifling a legitimate prosecution.	230
Enmity as a ground for quashing	Enmity can supply a motive both for false implication and for committing an offence. Choosing between these competing explanations is a disputed factual inquiry that cannot be undertaken in a Section 482 CrPC petition merely because hostility between the parties is alleged.	230
Exceptional grounds and restraint in criminal quashing	Criminal quashing is exceptional and must rest on established legal principles. It may be warranted where allegations accepted in full, or the uncontroverted allegations and supporting material, disclose no offence, where a legal bar applies, or where sufficient material establishes malicious abuse of process. The width of inherent power does not permit arbitrary exercise or premature determination of disputed merits.	233
Quashing review and assessment of	Quashing may be warranted where the allegations, taken as true, do not disclose an offence, or where there is no legal evidence or the evidence is clearly	244

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disputed evidence	inconsistent with the accusation. This differs from a case in which legal evidence exists but its reliability or ultimate sufficiency requires assessment at trial. The High Court should not weigh probabilities or decide whether conviction is likely in order to terminate a prosecution that has a prima facie foundation.	
Alleged mala fides where allegations disclose a cognizable offence	The informant's alleged mala fides, by themselves, do not justify quashing where the allegations disclose a cognizable offence. Applying Renu Kumari, the Court treated the alleged motive as secondary to the accusation and supporting material. The particular plea that the FIR was intended to jeopardise a teacher's appointment was also rejected because the FIR preceded that appointment.	260
Exceptional exercise and purposes of inherent power under Section 482 CrPC	Section 482 CrPC preserves the High Court's inherent power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. The power must be exercised cautiously and sparingly on settled principles, rather than as an appeal or revision. The exceptional standard described as 'rarest of rare' in quashing cases is distinct from the death-penalty standard.	260
Illustrative grounds for quashing and the limit on evaluating evidence	The principles reproduced from R.P. Kapur and Bhajan Lal recognise quashing where there is a legal bar to proceedings, the allegations accepted at face value do not disclose an offence, or the allegations are inherently absurd or improbable. Absence of legal evidence or material manifestly inconsistent with the accusation differs from evidence whose reliability or sufficiency can be resolved only by appreciation at trial. A non-cognizable offence cannot be investigated by police without the Magistrate's order required by Section 155(2) CrPC.	260
Face-value examination and disputed defence in quashing under Articles 226/227 or Section 482 CrPC	In a challenge to criminal proceedings under Articles 226/227 or Section 482 CrPC, the Court examines whether the allegations accepted at face value disclose an offence. It does not ordinarily decide disputed defence facts, witness credibility or the likelihood of conviction through a detailed evaluation of evidence. The Court declined interference where the allegations disclosed a cognizable offence and the petitioner's defence raised disputed questions.	264
Informant's alleged mala fides where a cognizable offence is disclosed	Where the FIR allegations disclose a cognizable offence, the informant's alleged mala fides are of secondary importance and cannot, by themselves, justify quashing. The accusation and the material collected in investigation or proved at trial determine the accused's case. Disputed allegations of motive do not permit the quashing court to conduct a trial of contested facts.	264
Cautious exercise of inherent power to prevent abuse of criminal process	Section 482 CrPC preserves inherent power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. Intervention is exceptional and must rest on settled principles. The adopted framework includes allegations disclosing no offence, an express legal bar, or allegations so absurd and inherently improbable that there is no sufficient ground to proceed. This power must protect against harassment without stifling a legitimate prosecution.	264
Purposes and restrained exercise of inherent criminal jurisdiction	Section 482 CrPC preserves the High Court's inherent power to give effect to an order under the Code, prevent abuse of the court's process and secure the ends of justice. The power must be exercised sparingly and cautiously on sound principles, and must not be used to stifle a legitimate prosecution.	270
Legal bar to institution or continuation of criminal proceedings	An evident legal bar to the institution or continuation of proceedings, such as absence of a required sanction, can justify quashing under Section 482 CrPC. The statutory bar must apply to the proceeding sought to be quashed.	270
Investigation of a non-cognizable	Where the FIR allegations disclose only a non-cognizable offence, police cannot investigate without the Magistrate's order required by Section 155(2)	270

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offence without a Magistrate's order	CrPC. The absence of such authority is among the recognised grounds for intervention in criminal proceedings.	
Inherently improbable allegations as a ground for quashing	Quashing may be justified where the FIR or complaint allegations are so absurd and inherently improbable that no prudent person could conclude that there is sufficient ground to proceed against the accused. This threshold does not authorise an ordinary assessment of disputed evidence.	270
Defence documents capable of supporting quashing	Although the Court ordinarily does not assess an accused's defence or disputed documents in quashing proceedings, it may consider a public document or one whose authenticity is undisputed in an appropriate case. Material relied on to displace the prosecution case must be of sterling and impeccable quality, conclusively rule out the accusations without recording evidence, and be unrefuted or incapable of justified refutation. Continuation must also amount to an abuse of process and fail to serve the ends of justice.	290
Section 482 CrPC — face-value allegations and investigation	At the quashing stage, the Court considers whether the uncontroverted allegations, taken as a whole, disclose an offence. Where a cognizable offence and a triable case are disclosed, police investigation and prosecution should ordinarily continue. Applying the principles in Munshiram, Teeja Devi, Ujjal Kumar Burdhan and the other reproduced authorities, the Court found specific allegations of dowry-related cruelty and refused to terminate the case before trial. This threshold finding does not establish the allegations as proved.	323
Quashing — malicious proceedings and manifestly untenable allegations	Section 482 may be used where proceedings are manifestly malicious or brought for private vengeance, or where the allegations are so absurd and inherently improbable that they cannot reasonably justify proceeding. The power protects against persecution and abuse, but is exercised sparingly on a demonstrated basis. The passages from S. Khushboo, Gourishetty Mahesh, Padal Venkata Rama Reddy and M.N. Ojha preserve that protection alongside the rule against stifling a legitimate prosecution.	323
Quashing — express statutory bar to criminal proceedings	An express legal prohibition on the institution or continuation of criminal proceedings is a recognised ground for quashing. The Court included this principle in its jurisdictional framework through the reproduced passages from Amit Kapoor, Gourishetty Mahesh and the Bhajan Lal categories narrated in Padal Venkata Rama Reddy. No such prohibition was found to justify terminating the prosecution in this case.	323
Section 482 CrPC — effective statutory remedy and inconsistent exercise of power	The passage from Padal Venkata Rama Reddy reproduced in the Court's discussion states that inherent jurisdiction is not a substitute for an effective remedy specifically provided by statute and cannot be exercised inconsistently with the Code's express provisions. Where an effective alternative remedy is available, the High Court will ordinarily decline inherent relief, particularly when that remedy has not been used. The present application was rejected on the separate ground that it required adjudication of disputed defences.	323
Section 482 CrPC — discretionary relief and clean hands	Inherent jurisdiction under Section 482 CrPC is discretionary. The passage from Padal Venkata Rama Reddy reproduced as part of the governing principles recognises that the High Court may refuse relief where the applicant has not approached it with clean hands. This does not make the power arbitrary: its exercise must serve the ends of justice or prevent abuse. The High Court did not make a separate finding of concealment against this applicant.	323
Quashing orders — facts, governing principles and reasons	A court deciding a challenge to criminal proceedings should set out the material facts, examine the challenge under the governing principles and give reasons for granting or refusing interference. The High Court reproduced Sangeeta Agrawal v. State of U.P. for this requirement before setting out the quashing principles and applying them to the allegations and defences in this case.	323
Informer mala fides alleged — secondary	Bhajan Lal recognises manifestly malicious prosecution as an exceptional	325

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where face-value allegations disclose cognizable offence	quashing category, but an unsupported claim about the complainant's motive does not displace a prima facie cognizable offence. Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346, was quoted for the limited inherent jurisdiction, the face-value offence test and the caution that informer mala fides become secondary when the accusation itself discloses an offence; disputed evidence is for the ordinary process. The High Court found allegations of dowry demand, cruelty and expulsion against these three applicants and declined to adjudicate the asserted counterblast, adultery and falsity as established facts. This is not an absolute immunity for a truly manifestly malicious case meeting an established quashing ground (paras 4, 7–13).	
Quashing — absence of legal evidence distinguished from disputed weight	The Renu Kumari passage relied upon by the Court distinguishes absence of legal evidence, or evidence manifestly inconsistent with the accusation, from legal evidence whose weight may or may not support the charge. The latter requires appreciation by the trial court and ordinarily cannot be decided under Section 482. The inherent power prevents abuse but does not allow an accused to terminate a legitimate prosecution through a premature assessment of evidentiary reliability.	325
Section 482 CrPC — Quashing a retaliatory FIR as an abuse of process	Quashing an FIR, complaint or charge-sheet at the initial stage is exceptional. Although the complainant's mala fides become secondary when a cognizable offence is disclosed, the High Court may examine whether criminal process is being used vindictively. Here, earlier cruelty, divorce, maintenance and domestic-violence proceedings, together with delay and allegations the Court found superficial and trivial, established that the later FIR was a counterblast. Continued investigation would misuse lawful authority, warranting quashing. The conclusion rested on these circumstances together; the existence of earlier family litigation alone was not treated as sufficient.	351
Section 482 CrPC — FIR following a divorce petition is not automatically a counterblast	A cruelty FIR cannot be quashed merely because it was lodged after the husband filed for divorce. Delay may reflect an attempt to preserve the marriage and seek reconciliation until those efforts fail. Where the FIR discloses prima facie criminal allegations, its timing and the existence of earlier marital complaints do not alone establish retaliatory fabrication. The Court rejected that inference here and left the truth of the allegations for trial.	355
Matrimonial prosecution of relatives — Specific role and supporting material	Mere naming of distant relatives does not justify summoning them without a specific role and tangible supporting material. Where the allegations disclose triable issues, however, the court does not decide the truth of competing versions under Section 482 CrPC. Here the allegations of withholding food and concealing eatables specifically extended to the brother-in-law and his wife; the Court found the FIR's allegations against the applicants sufficiently specific and refused quashing.	355
Civil and criminal proceedings — Independent adjudication and different standards of proof	Civil and criminal proceedings remain independent even when they arise from the same facts. A pending divorce proceeding does not bring a criminal case to an end. Civil-court findings do not bind the criminal court, which must decide the allegations before it under the different standard of proof applicable to criminal proceedings.	355
Matrimonial prosecution of relatives — Individual role rather than relationship alone	The husband's relatives cannot be implicated in dowry offences merely because of their relationship or by conjecture. Distant relatives require a specific role and tangible supporting material; omnibus allegations against siblings and other relatives do not stand on the same footing as allegations against the husband and parents. Each person's alleged harassment must be examined individually. Although overt acts must be proved beyond reasonable doubt at trial, that trial standard does not require final proof in a Section 482 proceeding. Extremely general allegations, considered with the surrounding circumstances, may justify quashing as to the relatives concerned.	356

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Section 482 CrPC — Informant's alleged mala fides are secondary where a cognizable offence appears	Where a complaint discloses a cognizable offence, alleged personal hostility or a retaliatory motive of the informant does not, by itself, justify quashing. The material collected in investigation and evidence at trial determine the accused's liability. The allegation that an earlier encroachment complaint provoked the FIR therefore could not dispose of the prima facie assault and related allegations. This principle does not remove the exceptional power to quash a proceeding shown to be a manifest abuse of process.	357
Section 482 CrPC — Recognised grounds for exceptional quashing	Exceptional quashing may be justified where the allegations, accepted in full, or the uncontroverted allegations and supporting material disclose no offence; an express legal bar prevents proceedings; allegations are inherently absurd or improbable; or prosecution is manifestly malicious. A non-cognizable allegation cannot justify police investigation without the Magistrate's order required by Section 155(2) CrPC. Absence of legal evidence or evidence clearly inconsistent with the accusation must be distinguished from evidence whose weight or reliability requires trial. These grounds are illustrative and must be applied cautiously to prevent abuse or secure justice, without stifling a legitimate prosecution.	357
Section 482 CrPC — Exceptional intervention where the legal basis for prosecution is absent	The court may quash where the FIR or complaint, taken at face value and accepted in full, discloses no prima facie offence, or where the uncontroverted allegations and supporting evidence disclose no case against the accused. An express legal bar or sufficient material establishing malicious prosecution for personal vengeance may also justify intervention. The power must be exercised sparingly and on sound principles, without using a premature assessment of credibility to end a legitimate prosecution.	358
Costs for Repeated Attempts to Reopen Rejected Quashing Relief	Repeated Section 482 CrPC applications seeking to quash proceedings after earlier merits decisions may constitute misuse of the court's authority. In that setting, the petition was dismissed with costs of ₹10,000 payable within one month, with initiation of suo motu contempt proceedings directed if payment was not made within the stipulated period.	376
Matrimonial FIR after a Divorce Petition— Counterblast Allegation	The filing of a divorce petition before a matrimonial FIR does not, by itself, establish that the FIR is retaliatory. A wife may delay reporting while trying to preserve her marriage and complain when those efforts fail. The criminal allegations must be assessed on their own terms; pendency of the civil divorce proceeding does not itself justify quashing them.	401
Alleged Mala Fides and a Complainant's Lawyer Relative	The fact that a complainant's relative practises as an advocate does not, by itself, make the FIR liable to quashing. The Court must examine the allegations rather than the relative's professional status. Where a cognizable offence is disclosed, alleged malice of the informant is secondary and cannot alone justify quashing a legitimate prosecution.	401
Territorial Objection to FIR Registration and Transfer to the Competent Police Station	Information disclosing a cognizable offence may be lodged at any police station. If the receiving station finds that it lacks territorial jurisdiction to investigate, it must transfer the FIR to the competent station. An objection to the receiving station's territorial jurisdiction does not, by itself, justify quashing the FIR.	401
Grounds for Quashing under Section 482 CrPC	Inherent jurisdiction may be exercised where proceedings face a legal bar, the allegations accepted in full disclose no offence, or the uncontroverted allegations and supporting material fail to disclose an offence. The reproduced standards also recognise inherently absurd allegations, manifest abuse for private vengeance and investigation of only a non-cognizable offence without the required Magistrate's order. These are illustrative grounds, to be applied cautiously rather than as an appellate reassessment of the prosecution.	401
Alleged Informant Malice Where the	When the FIR allegations disclose a cognizable offence, alleged mala fides of	406

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FIR Discloses a Cognizable Offence	the informant are secondary and cannot alone support quashing. The prosecution's fate depends on the investigative material and evidence, rather than a contested allegation that parallel litigation or an earlier defensive complaint proves false implication.	
Quashing Grounds and the Distinction between Absent Evidence and Disputed Weight	The adopted quashing standards recognise a legal bar, allegations which disclose no offence even if accepted in full, and an absence of legal evidence or material manifestly inconsistent with the accusation. They distinguish those cases from evidence whose reliability or weight requires trial assessment. Inherent power is exceptional and cannot be used as an appeal or revision to terminate a legitimate prosecution.	406
Facial Absence of an Offence, Legal Bars and Established Abuse as Quashing Grounds	Inherent power may be exercised where allegations taken in full disclose no offence, the uncontroverted allegations and supporting evidence disclose no case, an express legal bar prevents the prosecution, or sufficient material establishes malicious proceedings for private vengeance. The power requires caution and sound reasons and must not stifle a legitimate prosecution by determining disputed evidentiary reliability.	407
Section 482 CrPC—prima facie offence and restrained scrutiny	Quashing requires a judicial assessment of whether the uncontroverted allegations, accepted at face value, disclose an offence, while preserving recognised grounds such as a legal bar or demonstrated abuse of process. The High Court must exercise the power sparingly and cannot use a roving inquiry into disputed facts to terminate a legitimate prosecution.	415
An FIR need not contain every evidentiary detail	An FIR is not required to be an exhaustive account of the evidence. At the Section 482 stage, the High Court must not scrutinise the allegations in the detailed manner of a trial court after evidence has been led.	415
Prima facie dowry-demand allegations—quashing refused	Reading the FIR as a whole, the Court found that allegations of additional demands for a car, money and gold, followed by cancellation of the proposed marriage, disclosed a prima facie case for prosecution under Section 4 of the Dowry Prohibition Act. It refused to forecast the outcome by weighing the disputed invitation against the witnesses' statements.	416
Absence of legal evidence and disputed weight of evidence	Quashing standards distinguish a case with no legal evidence, or evidence manifestly inconsistent with the accusation, from a case where existing legal evidence may or may not support the charge after appreciation. The latter requires trial-level evaluation of reliability and cannot be resolved by asking the High Court to choose the more credible version.	416
Matrimonial FIR after a divorce petition: chronology alone does not establish a counterblast	Filing a divorce petition before a matrimonial FIR does not, by itself, show that the FIR is retaliatory or justify quashing under Section 482 CrPC. Applying Pratibha, the Court recognised the independence of civil and criminal proceedings and that civil findings do not automatically bind the criminal court. A wife may initially seek reconciliation and report the alleged misconduct only after losing hope of saving the marriage. The sequence alone therefore did not establish the asserted counterblast.	426
Quashing an FIR that discloses a cognizable offence	Where the FIR allegations taken as a whole disclose a cognizable offence, investigation should ordinarily proceed. Section 482 interference is exceptional, including where the accepted allegations disclose no offence, are absurd or inherently improbable, proceedings face an express legal bar, or a manifest abuse of process is established. The Court must balance personal liberty with legitimate investigation and prosecution, and avoid premature merits findings where facts are incomplete or evidence has yet to be collected.	435
Purposes and controlled exercise of inherent criminal jurisdiction	Section 482 CrPC preserves power to give effect to an order under the Code, prevent abuse of court process and secure the ends of justice. Its breadth requires sparing, careful and principled exercise; it confers no arbitrary power to act on whim or caprice. The jurisdiction must prevent harassment through	435

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	untenable proceedings while allowing a legitimate prosecution to continue.	
Factual foundation without verbatim pleading of offence ingredients	A complaint need not reproduce every legal ingredient verbatim. Where the necessary basic facts and substantial factual foundation of the offence are pleaded, the proceeding should not be quashed merely because some ingredients are not set out in detail. Quashing is justified when even the basic facts necessary to disclose the offence are absent.	435
Specific statutory remedies and limits on Section 482 relief	Inherent power cannot be exercised inconsistently with express provisions of the Code or used to bypass an effective specific statutory remedy. Where such a remedy is available and has not been used, the High Court may decline to exercise Section 482 jurisdiction.	435
Clean hands in discretionary inherent jurisdiction	Section 482 jurisdiction is discretionary. The High Court may refuse to exercise it where the applicant has not approached the Court with clean hands.	435
Reasons required when deciding a quashing challenge	A decision on quashing should state the essential facts, examine the challenge in light of the applicable legal principles and explain the basis for granting or refusing interference.	435
Disputed identity and alibi in an FIR-quashing petition	Where an FIR identifies the accused by name and parentage and its accepted allegations disclose an offence, a disputed claim of being elsewhere or of mistaken identity requires evidence and cannot be decided through a roving inquiry under Section 482 CrPC. Ordinarily, the Court permits investigation and does not assess defence reliability or predict conviction. Exceptional intervention remains available where the accepted materials disclose no offence, are absurd or inherently improbable, face a legal bar or demonstrate abuse of process; an informant's alleged motive is secondary to the material disclosing the offence.	436
Arrest protection after dismissal of an FIR-quashing petition	When the High Court declines to interfere under Section 482 CrPC and dismisses the quashing application, it cannot routinely append a blanket direction against arrest or coercive steps during investigation or until the police report is filed. Such an order may obstruct investigation and necessary custodial inquiry. An accused apprehending arrest may seek anticipatory bail under Section 438, subject to its statutory conditions.	436
Purposes and limits of inherent criminal jurisdiction	Section 482 CrPC preserves power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. The power is broad but not arbitrary or unlimited in its exercise; it must be used sparingly, carefully and on sound principles to prevent injustice without stifling legitimate prosecution.	436
Factual pleading and the limits of FIR detail	The FIR is not required to be an encyclopaedia, and a complaint need not reproduce each legal ingredient verbatim. A proceeding should not be quashed for omission of detailed ingredient language where the necessary factual foundation and substantial requirements of the offence appear. Absence of even the basic facts needed to disclose the offence may justify quashing.	436
Specific statutory remedy and inherent power	Section 482 relief cannot be used inconsistently with specific provisions of the Code or to bypass an effective statutory remedy. Availability of such a remedy, especially where it has not been used, is a reason to decline inherent jurisdiction.	436
Clean hands in discretionary Section 482 relief	The High Court's inherent jurisdiction is discretionary, and relief may be refused where the applicant has not approached the Court with clean hands.	436
Reasoned determination of a quashing application	The Court should set out the essential facts, examine the challenge against the applicable legal principles and state the reasons for granting or refusing interference under Section 482 CrPC.	436
Exceptional and reasoned interim	Interim protection or a stay of investigation in a pending quashing proceeding requires an exceptional case within the recognised limits of inherent jurisdiction	436

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stay in quashing proceedings	and brief reasons showing application of mind. A mere prima facie case is insufficient to justify a routine blanket stay. Orders granting or extending a stay must account for delay and the police duty to investigate; prolonged restraint may impair collection of evidence.	
Section 528 BNSS: quashing without a factual mini-trial	In exercising inherent power under Section 528 BNSS, corresponding to Section 482 CrPC, the Court examines whether the uncontroverted allegations disclose an offence. It cannot conduct a mini-trial into their truth or the accused's disputed defence. Investigation of cognizable offences is the police's statutory function, complementary to the Court's role. Quashing remains exceptional and must rest on recognised principles preventing abuse or miscarriage of justice; the expression 'rarest of rare' in this context is distinct from the death-penalty standard.	438
Exceptional grounds for quashing under Section 482 CrPC	The inherent power must be exercised sparingly and on sound judicial principles. Interference may be justified where allegations accepted in full disclose no offence, are patently absurd or inherently improbable, face an express legal bar, or reveal manifest abuse of process. Where a cognizable offence has a sufficient factual foundation, a legitimate prosecution should ordinarily continue. Applying these principles, the Court found no basis to quash the matrimonial-cruelty FIR.	460
Factual foundation without verbatim recitation of every offence ingredient	A criminal complaint need not reproduce the legal ingredients of the alleged offence word for word. Where the necessary factual foundation and substantial compliance with the requirements of the offence are present, omission to state a few ingredients in detail does not by itself warrant quashing. A complaint lacking even the basic facts necessary to constitute the offence stands on a different footing.	460
Reasoned consideration of a challenge to criminal proceedings	In deciding a challenge to criminal proceedings, the High Court should identify the brief facts needed to understand the case, apply the governing legal principles and record the reasons for granting or refusing interference. The determination must follow the allegations and applicable tests rather than extraneous considerations.	460
Exceptional grounds for quashing a criminal prosecution	Quashing may be justified where allegations and supporting prosecution material accepted at face value disclose no offence, the allegations are patently absurd or inherently improbable, an express legal bar prevents proceedings, or continuation constitutes manifest abuse of process. The power is to be exercised sparingly and on sound principles, balancing personal liberty with the right to investigate and prosecute a disclosed offence.	469
Delayed matrimonial complaint after filing of divorce petition	A matrimonial FIR does not become a retaliatory complaint merely because it follows the husband's divorce petition. A wife may delay reporting cruelty while trying to preserve her marriage and approach the police when reconciliation appears to have failed. Applying Pratibha v. Rameshwari Devi, the Court rejected the argument that the filing sequence and earlier silence alone justified quashing the FIR. The allegations must still be examined to determine whether they disclose an offence on their face.	500
Conclusive defence material permitting quashing under Section 482 CrPC	Under the test in Rajiv Thapar v. Madan Lal Kapoor, defence material may justify quashing only when it is sound, reasonable and indubitable, of sterling and impeccable quality; it decisively refutes the factual accusations; it has not been refuted or cannot justifiably be refuted by the prosecution or complainant; and continuing the trial would abuse the court's process without serving the ends of justice. All four requirements must be satisfied. Applying that test to the original police register and the supporting cheque record, the Court rejected the objection that the material necessarily had to await trial.	502
Informant's alleged mala fides when	Where the uncontroverted allegations disclose an offence, the informant's alleged mala fides are of secondary importance and cannot by themselves	503

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allegations disclose an offence	justify quashing. The accused's fate depends on the material collected in investigation and the evidence led before the criminal court. Applying Renu Kumari v. Sanjay Kumar, the Court rejected reliance on an allegedly retaliatory complaint as sufficient to end this prosecution. The power to prevent a demonstrably malicious abuse of process remains available within the established quashing principles.	
Public or undisputed documents in considering a quashing application	Ordinarily, the High Court does not assess the accused's defence or determine the veracity of documents relied upon by the accused in proceedings for quashing. An exception permits consideration, in an appropriate case, of a public document or a document whose veracity the complainant does not dispute. The Court reproduced this qualification from Mohd. Akram Siddiqui while explaining the scope of Section 482 CrPC; the disputed defences advanced in the present case still required trial.	503
Caution about omnibus allegations against matrimonial relatives	Courts considering matrimonial quashing applications must be cautious about omnibus allegations, particularly against relatives who are not generally involved in the couple's affairs. That caution does not create an inflexible rule requiring quashing whenever a relative is accused. Under Taramani Parakh, where the allegations disclose a triable case, the Court does not determine the reliability of the rival versions at the quashing stage.	503
Substantial factual foundation and an FIR's level of detail	An FIR need not be an exhaustive account of the prosecution case. Where the factual foundation of an offence is laid and its requirements are substantially met, courts should not hasten to quash merely because one or two ingredients have not been expressly stated or do not appear to be satisfied. The Court examines the allegations as a whole for a prima facie offence and does not conduct the detailed merits inquiry appropriate after evidence is adduced.	503
Express legal bar to institution or continuation of prosecution	An express legal bar in the CrPC or the governing enactment to the institution or continuation of criminal proceedings is a recognised ground for exercising the inherent power to quash. The Court reproduced want of sanction as an example from R.P. Kapur. This ground concerns a manifest legal prohibition and is distinct from a disputed factual defence requiring proof at trial.	503
Purposes and restrained exercise of inherent criminal jurisdiction	Section 482 CrPC preserves the High Court's inherent powers to give effect to an order under the Code, prevent abuse of court process, and otherwise secure the ends of justice. It confers no new power and does not make the High Court an appellate or revisional court for reassessing the prosecution case. Its wide jurisdiction must be exercised sparingly, carefully and on sound principles, so that it prevents injustice without stifling a legitimate prosecution.	503
Prima facie allegations and limits on factual inquiry when quashing an FIR	Section 482 CrPC permits quashing where the uncontroverted allegations, taken as a whole, do not make out an offence. The power must be exercised cautiously and cannot be used for a roving inquiry into disputed facts, an assessment of the prospects of conviction, or a premature weighing of the accused's defence. Where the allegations prima facie disclose a cognizable offence, investigation should ordinarily proceed.	513
Section 482 CrPC: Face-Value Offence Test and Cautious Exercise of Inherent Power	Section 482 preserves inherent power to prevent abuse of process and secure justice, to be exercised sparingly and with caution. The Court examines whether uncontroverted allegations disclose an offence; it does not forecast conviction through detailed evidence appraisal. Allegations that the petitioners tied a Panchayat sub-engineer and others to a tree during official work disclosed a basis for the prosecution under Sections 342 and 353 read with Section 34 IPC, and no ground for interference was established.	525
Face-Value Allegations and Factual Foundation in Quashing	A complaint must be read as a whole to determine whether its allegations, accepted at face value, prima facie disclose an offence. A detailed inquiry into their merits, reliability or genuineness is not appropriate. The complaint need not reproduce every statutory ingredient verbatim if the necessary factual	531

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Proceedings	foundation is present. Quashing is warranted where essential basic facts are absent or the proceeding is a clear abuse of process, including malicious prosecution or absurd and inherently improbable allegations. The power must be used sparingly and cautiously so that a legitimate prosecution is not stifled.	
Complainant's alleged mala fides where a cognizable offence is disclosed	Where the FIR discloses a cognizable offence, the informant's alleged mala fides are secondary and cannot by themselves justify quashing. Applying Renu Kumari, the Court held that the sufficiently specific allegations against the husband permitted prosecution despite his claim of retaliation. Evidence collected and led in the criminal proceeding determines the merits; this rule does not remove the exceptional power to prevent an established abuse of process.	601
Defence documents relied on for pre-trial quashing	Exceptional reliance on defence documents for quashing requires material of sterling and impeccable quality that is sound, reasonable and indubitable, wholly displaces the accusations, and is unrefuted or cannot justifiably be refuted. Continuing the trial must consequently amount to abuse of process and fail to serve justice. Applying these requirements to the request to bypass revision, the Court found that the petitioners' counter-complaints and FIRs did not establish the complainant's wife's guilt or demonstrate that his complaint was malicious.	613
Informant's mala fides where a cognizable offence is disclosed	Where the complaint discloses a cognizable offence, the informant's alleged mala fides are secondary. Allegations of hostility cannot by themselves justify quashing; the material collected and evidence led determine the accused's responsibility. Filing complaints or FIRs against a relative of the complainant does not, merely by its occurrence, establish the relative's guilt or the malicious character of the later complaint.	613
Prima Facie Offence and Abuse-of-Process Tests Without a Mini-Trial	Applying the narrated Bhajan Lal and Amit Kapoor principles, the Court examined whether the uncontroverted allegations and investigation material disclosed a prima facie offence and whether continuation would abuse the process of law. Inherent quashing powers require care and circumspection. The inquiry does not involve a full trial of the evidence or a forecast of conviction; the Court considers the allegations as a whole and balances personal liberty with the prosecution's right to proceed. Here, the judicial statement and material in the police case diary led the Court to find continued prosecution abusive.	656
Section 482 CrPC—Purpose and restrained exercise of inherent power	Section 482 preserves the High Court's inherent power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. The power is exercised sparingly and cautiously, on sound legal principles. It does not permit the High Court to act as an appellate or revisional court or to stifle a legitimate prosecution.	661
Quashing on threshold defects—Illustrative grounds and limits	The reproduced quashing principles recognise intervention where an express legal bar prevents proceedings, the allegations accepted in full disclose no offence, or the allegations are so absurd and inherently improbable that no prudent person could find sufficient ground to proceed. These grounds do not authorise weighing contested evidence to predict whether a conviction will follow.	661
Section 482 CrPC—Preserved powers and judicial restraint	Section 482 preserves inherent powers to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. Those powers must be exercised cautiously and on sound principles. They do not make the High Court an appellate or revisional court for deciding disputed evidence or allow a legitimate prosecution to be suppressed.	663
Threshold defects that may justify quashing	The reproduced quashing principles permit intervention where proceedings face an express legal bar, the allegations accepted in their entirety do not disclose an offence, or the allegations are inherently absurd and improbable so that no	663

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	prudent person could find sufficient ground to proceed. Such intervention remains exceptional and does not authorise a trial of disputed facts.	
Informant's mala fides and the dual relevance of enmity	Where the FIR discloses a cognizable offence, the informant's alleged mala fides are secondary and do not by themselves justify quashing. Enmity can supply a motive for either false implication or commission of the offence. Its existence does not resolve the truth of the accusations at the quashing stage.	666
Section 482 CrPC—Threshold scrutiny and prohibition on a mini-trial	The High Court may quash proceedings where the allegations accepted in their entirety disclose no offence, an express legal bar applies, or another recognised ground of abuse is established. The power is exercised sparingly to prevent abuse or secure justice. It does not permit a roving inquiry into reliability, meticulous appreciation of evidence or findings on disputed defences. The allegations here disclosed offences on their face, leaving proof to trial.	666
Public or undisputed defence documents in quashing proceedings	Ordinarily, a Section 482 CrPC court neither appreciates the accused's defence nor tests the truth of defence documents. In an appropriate case, however, it may consider a public document or a document whose veracity the complainant does not dispute. This limited exception does not permit adjudication of contested factual defences.	666
Proxy-examination allegations—Occupational incapacity as a disputed defence	A claim that an accused is an agriculturist without electrical knowledge and could not act as a solver in an electrician recruitment examination raises a disputed defence that cannot be decided under Section 482 CrPC. Where the examination and verification records disclosed mismatches in photograph, identity proof and retina, the Court declined to assess the accused's competence or test that defence through a roving evidentiary inquiry.	667
Section 482 CrPC—Purposes and cautious exercise of inherent power	The High Court's inherent power may be used to give effect to an order under the Code, prevent abuse of court process or secure the ends of justice. Its breadth requires cautious exercise on sound principles. It must not be exercised arbitrarily or used to suppress a legitimate prosecution, particularly while material facts remain incomplete.	667
Threshold grounds for quashing and the face-value offence test	Quashing may be justified where the allegations accepted in full disclose no offence, an express legal bar prevents proceedings, or another recognised ground of abuse is established. The reproduced grounds include absence of legal evidence and inherently absurd or improbable accusations. These principles do not permit a determination of the truth or reliability of contested allegations before investigation and evidence.	667
Quashing — prima facie allegations cannot be tested through a mini-trial	When deciding the application to quash the FIR under Section 528 BNSS, the Court applied the restrained inquiry described in authorities concerning Section 482 CrPC. It could not conduct a roving inquiry or a mini-trial to decide whether the allegations were true. The relevant inquiry was whether the uncontroverted allegations disclosed an offence. The Pratibha passage also disapproved going beyond the FIR to rely on extraneous considerations and investigative findings when assessing prima facie commission of a cognizable offence. Applying that standard to the specific allegations, the Court refused interference.	671
Quashing on alleged mala fides after a prior counter-complaint	In a petition under Section 528 BNSS, a prior complaint by the accused does not by itself discredit a subsequent FIR disclosing a cognizable offence. The informant's alleged improper motive is then secondary; the evidence collected in investigation and led at trial determines the accused's liability. The husband's earlier complaint to the Inspector General therefore did not justify quashing the allegations of assault and threats during the matrimonial dispute.	680
Inherent jurisdiction — purposes and restrained exercise	The inherent power preserves the High Court's authority to give effect to orders under criminal procedure, prevent abuse of court process and secure the ends of justice. It is exceptional, must be exercised sparingly and cautiously, and does not make the High Court a court of appeal or revision.	680

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Illustrative grounds for quashing criminal proceedings	The reproduced quashing standards recognise legal bars to proceedings, allegations which disclose no offence when accepted in full, absence of supporting legal evidence, inherently absurd or improbable allegations, and proceedings manifestly instituted maliciously to wreak vengeance. These are illustrative categories; an allegation of improper motive alone does not require quashing a prosecution that discloses a cognizable offence.	680
Quashing while facts and evidence remain incomplete	Inherent power should not stifle a legitimate prosecution. The High Court should ordinarily refrain from a premature decision where material facts remain incomplete, evidence has not been collected or produced, and substantial issues cannot be assessed in their proper perspective without sufficient material.	680
Separately residing relative — specific participation defeats automatic quashing	Separate residence did not justify quashing where the FIR specifically alleged that the elder brother-in-law accompanied the other accused to the wife's parental home, demanded dowry and threatened that she could not return without fulfilling the demand. His own documents also showed active representation of the family in reconciliation proceedings. Those materials disclosed a prima facie role requiring trial.	687
FIR after divorce proceedings — delay during attempted reconciliation	A wife's report of cruelty is not discredited merely because it follows institution of divorce proceedings. She may have delayed reporting while hoping that the marriage would improve or reconciliation would succeed. Where she reports after those efforts fail, timing alone does not establish that the FIR is a retaliatory counterblast.	687
Quashing — prima facie offence assessed from the complaint or FIR	For the challenge considered here, the Court was required to examine whether the allegations in the complaint or FIR disclosed a prima facie cognizable offence. It could not quash by going beyond those allegations and substituting extraneous considerations, such as an adverse inference from divorce proceedings or delay explained by efforts at reconciliation.	687
FIR quashing — prima facie allegations and extraneous civil considerations	In assessing whether a complaint or FIR discloses a cognizable offence, the High Court must examine the allegations for a prima facie offence rather than quash proceedings on extraneous considerations. Civil proceedings arising from the same facts do not themselves end the criminal process. Applying that approach to an alleged forged Will, the Court refused quashing under Section 528 BNSS without finally determining the Will's authenticity or the accused's guilt.	705
Face-value scrutiny and restraint in FIR quashing	The power under Section 482 CrPC must be exercised sparingly and cautiously. When an FIR discloses a cognizable offence, the High Court should ordinarily permit investigation rather than assess the truth, reliability or probable success of the allegations. The Court retains inherent power to give effect to an order under the Code, prevent abuse of process or secure the ends of justice within the recognised grounds for quashing, but does not exercise appellate or revisional jurisdiction under this provision.	721
Informant's mala fides where an FIR discloses an offence	Where the FIR discloses a cognizable offence, alleged mala fides of the informant are secondary and cannot by themselves justify quashing. The prosecution's outcome depends on material collected during investigation and evidence led in court. An allegation that the complainant sought pressure in a property dispute did not displace the criminal allegations at the threshold.	721
Incomplete FIR details during investigation	An FIR need not contain every fact and detail of the reported offence. While investigation is continuing, the Court should not decide the merits on incomplete or uncertain facts. If investigation reveals no substance in the complaint, the investigating officer may submit the appropriate report for consideration by the Magistrate in accordance with law.	721
Illustrative grounds for quashing criminal proceedings	Recognised grounds for quashing include a legal bar to institution or continuation, allegations which taken at face value disclose no offence,	721

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	uncontroverted allegations and supporting material which fail to disclose an offence, and allegations so absurd or inherently improbable that no prudent person could find sufficient ground to proceed. Proceedings manifestly attended by mala fides or maliciously instituted for vengeance also fall within the illustrative categories. These grounds operate subject to cautious exercise of inherent power and do not permit routine suppression of a legitimate prosecution.	
Absence of legal evidence distinguished from disputed evidentiary weight	For quashing, the absence of legal evidence or evidence manifestly inconsistent with the accusation must be distinguished from legal evidence whose weight may or may not support it. The High Court should not ordinarily decide the reliability or sufficiency of such evidence under Section 482 CrPC, because that assessment belongs to the trial court.	721
Magistrate's order for non-cognizable investigation	Where an FIR discloses only a non-cognizable offence, police investigation requires an order of the Magistrate under Section 155(2) CrPC. An FIR disclosing a cognizable offence authorises police investigation under Section 156(1).	721
Section 482 scrutiny without a forecast of conviction	Section 482 CrPC preserves power to give effect to orders under the Code, prevent abuse of process and secure the ends of justice. The power is wide but must be exercised cautiously and exceptionally. The Court ordinarily considers whether uncontroverted allegations prima facie disclose an offence, without deciding disputed facts or judging their probability, reliability or ultimate proof. Investigation into a disclosed offence should ordinarily be allowed to conclude; early interference requires a demonstrated basis such as gross abuse of investigative power. Defence documents and detailed credibility assessment cannot be used to quash process while a complaint is at the Section 202 stage.	726
Recognised grounds for exceptional quashing	Quashing may be justified where continuation would abuse the court's process or defeat the ends of justice, where a legal bar prevents institution or continuation, where the allegations accepted in full disclose no offence, or where an offence is alleged but there is no legal evidence or the evidence manifestly fails to support the charge. These grounds do not authorise a trial of disputed defence facts in inherent jurisdiction.	726
Specific statutory remedy and Section 482 CrPC	Inherent power should not be used inconsistently with specific provisions of the Code or where the statute provides an effective specific remedy. When such an alternative remedy is available, particularly if the applicant has not pursued it, the High Court will not exercise Section 482 jurisdiction.	726
Discretionary inherent relief and clean hands	The jurisdiction under Section 482 CrPC is discretionary. The High Court may refuse to exercise it where the applicant has not approached the Court with clean hands.	726
Informant's mala fides are secondary at the quashing stage	Allegations of mala fides against the informant are of secondary importance when considering whether the prosecution should be quashed. The Court should not test the complaint against competing probabilities to forecast whether conviction is sustainable.	726
Alleged mala fides alone do not justify quashing a facially cognizable FIR	The Court observed that — Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346, treats the informant's alleged mala fides as secondary when the FIR, accepted at face value, discloses a cognizable offence; motive alone cannot justify a Section 482 CrPC mini-trial into truth or reliability. The applicants asserted that Sarita's father-in-law owed large loans, threatened false implication on demand for repayment, and induced her FIR. Her report, however, alleged entry by a group into her home, assault, an attempt to outrage modesty, an attack on an intervening relative, and property damage. The High Court did not adjudicate whether the loan account or threat was true and refused to quash on that ground. Renu Kumari itself preserves exceptional quashing where recognised abuse or no offence on uncontroverted allegations is shown; its Bhajan Lal extract	730

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	includes manifest mala fide as an illustrative category, which does not mean every disputed allegation of malice defeats a facially cognizable complaint.	
Section 482 preserves inherent power for specified judicial purposes	Section 482 CrPC preserves the High Court's existing inherent power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. The power is wide but must be exercised sparingly, carefully and on sound principles; its exercise does not make the High Court a court of appeal or revision. In adopting the passage from Renu Kumari v. Sanjay Kumar, the Court reiterated that the jurisdiction must prevent injustice without stifling a legitimate prosecution. These limits governed its refusal to terminate a prosecution on disputed assertions of a loan transaction and retaliatory implication.	730
Alleged mala fides and a prima facie cognizable accusation at the quashing stage	Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346, was quoted for sparing use of Section 482, the illustrative R.P. Kapur and Bhajan Lal situations, and the bar on deciding reliability or likely conviction prematurely. An asserted grudge is secondary where a cognizable accusation and supporting material remain; the professor did not show that Awdhesh Tiwari procured the student's complaint. The committee's findings on zero CCE marks and withheld admission card supported the prima facie account. The Court declined to quash the FIR and later charge-sheet proceedings, without deciding guilt.	734
Purposes and limits of the inherent power preserved by Section 482 CrPC	Section 482 CrPC preserves the High Court's inherent power to give effect to orders under the Code, prevent abuse of court process and secure the ends of justice. Although wide, that jurisdiction must be exercised sparingly and with caution, on sound principles; it is not an appeal or revision against the prosecution case. The passage from Renu Kumari adopted by the Court permits examination of the allegations to determine whether an offence is disclosed when they are accepted in full. It does not permit termination of a legitimate prosecution merely because the accused disputes the complainant's motive or predicts that conviction is unlikely.	734
Section 482 CrPC — quashing a prosecution supported by prima facie forgery material	Quashing under Section 482 CrPC is exceptional and serves to give effect to orders under the Code, prevent abuse of process or secure justice. The relied-upon authorities recognise intervention for a legal bar, allegations disclosing no offence, manifest absence of legal evidence or abuse of process. They reject a universal inquiry into the likelihood of conviction on disputed facts. The Court found sufficient prima facie material to prosecute the applicant for the alleged forged OPD slip and hospital entries used to support a false alibi, and refused to quash the FIR.	757
Duty to disclose material facts when invoking the High Court's inherent powers	A person approaching the Court must disclose material facts and come with clean hands. The Court noted that the applicant had failed to disclose the earlier rejection on merits of his anticipatory-bail application. That omission was criticised separately; the refusal to quash was also supported by the prima facie material warranting prosecution.	757
Previous enmity and mala fides as grounds for quashing	Where the allegations disclose a cognizable offence, the complainant's alleged mala fides are secondary and cannot alone justify quashing. Enmity may supply a motive either for false implication or for committing the offence. Choosing between those disputed inferences requires evidence and did not warrant quashing under Section 528 BNSS in this case. The recognised power to intervene against manifest malicious abuse remains available under the governing quashing standards.	785
Illustrative grounds for quashing criminal proceedings	The relied-upon R.P. Kapur and Bhajan Lal framework permits exceptional quashing where an express legal bar prevents proceedings; face-value allegations or uncontroverted material disclose no offence; no legal evidence supports the accusation or the evidence manifestly fails to support it; allegations are inherently absurd or improbable; or proceedings manifestly constitute	785

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	malicious abuse for an ulterior personal motive. In the reproduced CrPC framework, police investigation of purely non-cognizable allegations requires the Magistrate's order under Section 155(2). The stated categories also recognise a statutory provision providing specific efficacious redress. They are illustrative and must be applied cautiously to prevent abuse or secure justice without stifling a legitimate prosecution.	
Pending investigation into allegedly forged juvenility records	Where serious allegations disclose fabrication of age records to obtain juvenile status for a murder accused, a legitimate investigation cannot be stopped midway before the police collect the evidence. Applying the authorities cautioning against premature quashing, the Court refused Section 528 BNSS relief. The applicants' account of later age proceedings did not justify preventing investigation into the alleged document forgery and fraud on the Court.	787
Exceptional grounds and purposes of inherent-power quashing	The adopted Section 482 CrPC authorities preserve inherent jurisdiction to give effect to orders under the Code, prevent abuse of process and secure the ends of justice. Quashing may be justified where face-value allegations disclose no offence, an express legal bar prevents proceedings, or sufficient material shows manifestly malicious or vexatious abuse for an ulterior personal motive. The categories are illustrative. Caution against interrupting investigation does not require an apparently innocent person to undergo persecution on a wholly untenable complaint.	787
Specific allegations against a relative in a dowry-cruelty case	Prosecution of the husband's relatives requires clear and specific allegations, rather than vague or omnibus accusations. Allegations that a relative supported the husband's assault over an unmet dowry demand and threatened to deal with the situation disclosed a prima facie case warranting investigation. Quashing was therefore refused without determining guilt.	790
Omission of allegations during matrimonial reconciliation	Reconciliation proceedings aim to restore the marital relationship and do not determine the criminal allegations against each relative. A wife's failure to accuse her in-laws during reconciliation, in an effort to save the marriage, does not by itself establish that her later FIR allegations are false.	793
FIR lodged after divorce proceedings and unsuccessful reconciliation	An FIR cannot be quashed merely because it was lodged after notice of a divorce petition. Where the wife delayed complaining in the hope of preserving the marriage and complained after those efforts failed, her patience cannot itself be treated as proof that the FIR is a counterblast.	793
Facial scrutiny of an FIR under Section 528 BNSS	In considering quashing under Section 528 BNSS, the Court examines whether the uncontroverted FIR allegations disclose an offence, without deciding their reliability or truth. Police must ordinarily be allowed to investigate cognizable allegations. Inherent intervention is exceptional and must serve the ends of justice or prevent abuse of process, rather than stifle a legitimate prosecution.	795
Informant's mala fides where a cognizable offence is disclosed	If the FIR discloses a cognizable offence, the informant's alleged mala fides are secondary. Those allegations alone do not justify quashing; the material gathered during investigation and the evidence led before the court determine the accused's case.	795
Section 482 CrPC — specific dowry demands and cruelty allegations	Specific allegations that the husband and his parents demanded ₹20 lakh and a vehicle and abused and assaulted the wife when the demand was not met disclosed a case for trial, despite her short stay in the matrimonial home. Whether the alleged harassment and cruelty actually occurred was a matter for trial. The Court refused to quash their prosecution because a legitimate prosecution should not be stopped midway.	801
Matrimonial prosecution — vague instigation by a separately residing	A husband's relative cannot be prosecuted on vague, general allegations without a specific individual role. Where a sister-in-law lived separately in Mumbai, neither the occasion of her alleged instigation nor the basis for attributing	801

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sister-in-law	abortion-inducing pills given by the husband to her direction was explained. The allegations did not justify requiring her to face trial, and the FIR and charge-sheet against her were quashed.	
Quashing a charge— prima facie ingredients and restraint	The Court relied on Amit Kapoor for the rule that a charge is a tentative assessment and that quashing under Sections 397 or 482 CrPC calls for sparing and cautious intervention. The court examines whether the uncontroverted allegations and prosecution documents prima facie disclose the offence. Interference may be justified where the allegations are patently absurd or inherently improbable, or the basic ingredients are absent; it must not decide whether the evidence is ultimately sufficient for conviction through a full inquiry or credibility assessment.	812
Section 482 CrPC— offence disclosed by uncontroverted allegations	Quashing power must be exercised sparingly and with circumspection. It may be used where allegations accepted at face value in their entirety, together with the uncontroverted supporting material, fail to disclose an offence; it does not permit a trial-like assessment of reliability. Here, the FIR prima facie disclosed cruelty, and counsel advanced no separate argument addressing its allegations. The Court therefore refused to quash the FIR and charge sheet without deciding the truth of the prosecution or defence case.	816
FIR quashing — Face-value scrutiny and restraint during investigation	At the FIR stage, the Court considers whether the allegations, accepted without testing their truth, disclose an offence. It cannot inquire into their reliability or genuineness. Quashing is exceptional and must be exercised sparingly within recognised limits. Police ordinarily must be allowed to investigate cognizable offences, although intervention remains available where no offence is disclosed or non-interference would cause a miscarriage of justice. The caution about the rarest cases is distinct from the death-penalty standard.	824
Informant's alleged malice — Cognizable offence disclosed	Where the allegations disclose a cognizable offence, the informant's alleged mala fides are secondary and cannot, by themselves, justify quashing. The material collected in investigation and evidence at trial determine the accusation. This does not exclude the recognised category of proceedings manifestly instituted maliciously for vengeance; a bare allegation of personal hostility is insufficient to stifle a legitimate prosecution.	824
Section 482 CrPC — Preserved powers and their purposes	Section 482 CrPC preserves the High Court's inherent powers to give effect to an order under the Code, prevent abuse of the court's process and otherwise secure the ends of justice. It does not confer new powers or permit the Court to act as an appellate or revisional court. Its width requires careful exercise on sound principles.	824
Quashing — Legal bar to institution or continuance	A manifest legal bar to institution or continuance of criminal proceedings, such as want of requisite sanction, is a recognised ground for quashing. The reproduced categories also recognise an express statutory bar or a specific statutory provision providing efficacious redress for the grievance.	824
Non-cognizable allegations — Magistrate's order for investigation	Where the FIR discloses only a non-cognizable offence, police investigation requires the Magistrate's order contemplated by Section 155(2) CrPC. The absence of cognizable allegations justifying investigation under Section 156(1), subject to that statutory route, is a recognised quashing category.	824
Quashing — Absurd or inherently improbable allegations	Quashing may be warranted where the allegations are so absurd and inherently improbable that no prudent person could conclude that there is sufficient ground to proceed against the accused. This threshold does not authorise weighing disputed evidence or predicting whether a conviction is probable.	824
FIR particulars — Investigation on incomplete initial information	An FIR need not contain every fact and detail of the offence. While investigation is in progress, incomplete or hazy facts do not justify a premature conclusion that the FIR is unworthy of investigation or amounts to abuse of process. If the investigating officer finds no substance, an appropriate report	824

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	may be submitted for the Magistrate's consideration in accordance with law.	
Section 482 CrPC — Face-value allegations and disputed defence	Quashing requires consideration of the complaint and supporting material at face value. The Court cannot conduct a roving inquiry, decide disputed facts, test ordinary defence assertions or assess whether the prosecution evidence will ultimately sustain conviction. Where the accepted allegations and preliminary evidence disclose an offence, a denial of involvement does not justify terminating the prosecution. The power must be exercised sparingly and on sound principles.	825
Quashing — Public or undisputed defence documents	The High Court ordinarily does not appreciate an accused's defence or determine the truth of defence documents when deciding quashing. In an appropriate case, however, it may consider a public document or a document whose veracity is not disputed by the complainant.	825
Quashing — Allegations and collected evidence disclose no offence	The High Court may quash where the allegations, accepted in their entirety, do not prima facie constitute an offence against the accused, or where the uncontroverted allegations and collected supporting evidence disclose no offence. This assessment does not permit a trial of disputed facts.	825
Quashing — Express legal bar to prosecution	The High Court may intervene under Section 482 CrPC where an express provision of the Code or the enactment under which the prosecution is initiated bars the proceedings.	825
Quashing — Manifestly malicious institution for private vengeance	The High Court may intervene where sufficient material shows that criminal proceedings were maliciously instituted with an ulterior motive to wreak vengeance because of a private or personal grudge. The inherent power nevertheless must not be used to stifle a legitimate prosecution.	825
Quashing during investigation — Incomplete allegations and premature findings	The High Court should not stall investigation by deciding contentious facts through a roving inquiry before investigation is complete. An FIR is not expected to contain every detail, and scrutiny of the material as though evidence had already been led at trial exceeds the limits of Section 482 CrPC.	825
Civil features of a transaction where criminal ingredients are prima facie disclosed	Criminal proceedings cannot be quashed merely because the transaction also involves a civil dispute when the allegations prima facie disclose the ingredients of an offence. Receipt of substantial payment without delivering possession, followed by an attempt to sell the same property to a third person, prevented the dispute from being treated as purely civil in this case. The correctness of the allegations and the accused's competing contractual defence remained for trial. Refusal to quash did not determine guilt, and the trial court was directed to decide on the evidence without being influenced by the High Court's observations.	831
Allegations of entry and assault inside a house at the quashing stage	A Section 452 IPC charge could not be displaced by the accused's assertion that the incident occurred outside when the Section 161 CrPC statements specifically alleged that he entered the house and his wife's room, threatened her, and assaulted the intervening complainant inside with fists and a chair. The allegation that stones were thrown after coming outside did not negate the preceding indoor incident. The material was sufficient prima facie; the finding was not conclusive for trial.	832
Absence of criminal antecedents as a ground for quashing	A claim of no previous criminal history does not by itself justify quashing an FIR or establish that its allegations are false. Registration of a first case necessarily precedes any prior criminal background. The relevant inquiry remains whether the uncontroverted allegations disclose a cognizable offence.	832
Threshold grounds for quashing and restraint against stifling prosecution	Section 482 CrPC may be used sparingly to prevent abuse of process or secure justice where allegations accepted in their entirety disclose no offence, an express legal bar prevents proceedings, or sufficient material shows malicious prosecution for private vengeance. Exercise of that power must rest on sound principles and caution. It does not authorise a trial-like assessment of reliability	832

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	or allow an accused to bring a legitimate prosecution to an end without inquiry merely by alleging false implication.	
Face-value offence inquiry and exceptional FIR quashing	The Section 482 CrPC power serves to give effect to orders under the Code, prevent abuse of process and secure justice, and must be exercised cautiously on sound principles. The Court considers whether the allegations accepted as a whole disclose an offence; absence of basic ingredients, inherent absurdity, an express legal bar or sufficiently established malicious abuse may justify interference. It cannot predict acquittal by a roving assessment of reliability or stifle a legitimate investigation into a disclosed cognizable offence. Here allegations of interception, abuse, assault and threats prima facie disclosed Sections 294, 323 and 506 read with Section 34 IPC, so quashing was refused without deciding guilt or binding the trial court.	837
Reasons addressing the factual matrix in a quashing decision	A decision on a request to quash criminal proceedings must identify the brief facts necessary to understand the case, assess the challenge under the governing legal principles, and state the basis and reasons for granting or refusing interference. Recitation of the power's scope does not replace its application to the particular challenge.	837
Illustrative grounds for quashing criminal proceedings	The reproduced R.P. Kapur and Bhajan Lal principles permit quashing where an express legal bar prevents proceedings; allegations accepted in full disclose no offence; uncontroverted allegations and supporting material disclose no case; allegations are absurd or inherently improbable; or prosecution is manifestly malicious and intended to wreak personal vengeance. They also address absence of a cognizable offence or investigation of only a non-cognizable offence without the Magistrate's order required by Section 155(2) CrPC. A statutory provision providing efficacious redress may also bear on intervention. These categories are illustrative and require cautious application to prevent abuse or secure justice.	844
Exceptional grounds and evidentiary limits governing quashing under Section 482 CrPC	Section 482 preserves inherent power to give effect to Code orders, prevent abuse of a court's process and secure justice; it is not an appellate or revisional fact inquiry. The adopted Renu Kumari passage recognises exceptional grounds including a legal bar or specific statutory provision for efficacious redress, allegations or uncontroverted material disclosing no offence, absence of legal evidence or evidence manifestly inconsistent with the charge, inherently absurd allegations, and clearly malicious proceedings. It also includes cases disclosing only non-cognizable offences where police investigation lacks the required Magistrate's order under Section 155(2). Absence of legal evidence must be distinguished from contested reliability, which is for trial. Where a cognizable offence is disclosed, alleged informant malice is secondary and cannot by itself justify quashing; the investigation material and trial evidence determine the accused's case. The power must be exercised cautiously without stifling a legitimate prosecution.	857
Section 482 jurisdiction after a charge sheet, framing of charges and commencement of evidence	A Section 482 CrPC petition cannot be dismissed merely because a charge sheet was filed during its pendency, charges were framed, or trial evidence began. Applying Satish Mehra, Anand Kumar Mohatta and Ravikant Dubey, the Court considered the petition on its merits. Sparing intervention remains available where prosecution allegations and investigation material, accepted in their entirety, disclose no offence; the material is examined for that purpose rather than to determine guilt or innocence. The adopted passages also preserve intervention against abuse of process, a manifest legal bar, or absence of legal evidence as distinguished from an assessment of guilt at trial.	859
Section 482 CrPC: disputed denial of a specifically alleged matrimonial assault	At the quashing stage, the court tests whether the uncontroverted allegations disclose an offence; it does not decide a disputed assertion that the incident never occurred. Where the wife specifically alleged assault by all three	861

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	applicants over the unperformed ritual, their denial did not justify treating the allegation as false and quashing the FIR and consequential proceedings.	
Delay in a matrimonial complaint while reconciliation is attempted	In assessing a request to quash a matrimonial FIR, delay cannot be viewed adversely without considering an explanation that the wife and her family were trying to secure a settlement and her return to the matrimonial home. The relied-upon precedent rejected an adverse inference where the complaint followed failed reconciliation efforts and the husband's civil matrimonial petition.	861
Section 482 CrPC: prima facie offence and limits on appreciation of evidence	Quashing powers must be exercised sparingly and on sound principles. The High Court may intervene where allegations accepted in their entirety do not disclose an offence, where an express legal bar applies, or where sufficient material establishes malicious institution for personal vengeance. It must not conduct a roving inquiry into disputed facts or assess the reliability of evidence as at trial. An FIR need not contain every detail, and a legitimate prosecution cannot be terminated merely by accepting a contested defence.	862
Age and professional status do not confer immunity from prosecution	Advanced age does not by itself justify quashing proceedings for an offence, and an accused's status as an advocate does not establish inability to commit it. Where specific allegations disclose cruelty, those personal circumstances do not exempt the accused from prosecution.	862
Civil claims do not preclude prosecution where criminal ingredients are disclosed	A transaction may give rise to both a civil claim and a criminal prosecution. Quashing may be justified where the allegations predominantly disclose a civil wrong and do not satisfy the basic ingredients of a criminal offence. The existence of civil remedies alone does not justify quashing where the allegations also disclose criminality. Applying that distinction to the alleged unauthorised sale of government land, the Court refused interference under Section 482 CrPC.	871
FIR following a divorce petition: timing alone does not establish retaliation	A criminal complaint cannot be quashed merely because it was filed after the husband instituted divorce proceedings. Civil and criminal proceedings are independent. Where the wife had waited in an effort to save the marriage and complained after reconciliation failed and the husband sought divorce, that chronology alone did not make the FIR a counterblast. Applying Kamaladevi Agarwal and Pratibha, the Court refused to quash the prima facie dowry-harassment case against the husband and his parents on that ground.	872
Alleged informant mala fides do not alone justify quashing an offence-disclosing FIR	Where the FIR discloses a cognizable offence, an allegation that the informant acted with hostility or at another person’s instance does not by itself justify quashing. Applying Renu Kumari and its discussion of R.P. Kapur and Bhajan Lal, the Court distinguished a demonstrable abuse of process or a proceeding barred by law from a dispute requiring appreciation of evidence. The material collected and evidence at trial determine the accused’s liability. The applicants’ assertion that a neighbour had engineered the FIR was a disputed defence which could not be decided in the Section 482 application.	956
Informant’s alleged malice: insufficient by itself to quash an offence	Where the FIR discloses an offence, the informant’s alleged mala fides are of secondary importance and cannot by themselves justify quashing. The prosecution’s fate depends on the investigative material and evidence. This does not exclude quashing where sufficient material establishes a prosecution maliciously instituted to abuse the process.	972
Prior hostility and counterblast allegation: limits of quashing	Where an FIR discloses a cognizable offence, the informant’s alleged mala fides or the existence of earlier cross-cases do not by themselves justify quashing. Enmity may motivate either false implication or the offence itself. Whether the FIR was a retaliatory counterblast was a disputed factual issue that could not be resolved under section 482 CrPC on this record.	976
Section 482 CrPC: face-value offence test without a trial of	The FIR allegations must be accepted at face value for the limited purpose of determining whether they disclose an offence. If they do not, or the proceeding	977

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credibility	amounts to abuse of process, quashing may be justified. Where a triable case is disclosed, the Court cannot conduct a roving inquiry into reliability or decide disputed factual defences.	
Factual foundation for an offence: detailed recital of every ingredient unnecessary	Where the necessary factual foundation is laid and the offence's requirements are substantially met, proceedings should not be hastily quashed merely because one or two ingredients have not been stated in detail. The Court considers the allegations as a whole at the prima facie stage without conducting a meticulous evidentiary inquiry.	977
Quashing cognizance: facial offence test and limits on evidentiary assessment	A quashing court may examine the record to decide whether the complaint, read as a whole and accepted prima facie, discloses the offence; it may intervene where the ingredients are absent or continuation would abuse the process. It cannot resolve disputed defences, assess evidentiary reliability or predict conviction as a trial court would. The petitioner's contested justification for the letter did not establish a ground for quashing the defamation proceedings.	978
Public or undisputed defence documents in a quashing application	Although a court ordinarily does not assess the accused's defence or test the veracity of defence documents when deciding whether to quash proceedings, an appropriate exception permits consideration of a public document or a document whose veracity the complainant does not dispute.	982
Section 482 CrPC — prima facie assessment on the allegations in the FIR	For deciding whether a complaint or FIR discloses a cognizable offence, the Court exercising Section 482 CrPC jurisdiction must examine its allegations for a prima facie case. It cannot quash proceedings by relying on extraneous considerations or going beyond those allegations in the manner disapproved in Pratibha v. Rameshwari Devi. Applying that decision, the Court declined to treat the divorce litigation and the sequence of complaints as grounds to terminate the criminal proceedings.	991
Quashing jurisdiction — cognizable allegations and restraint in examining disputed truth	Applying Neeharika Infrastructure, the Court treated quashing as an exceptional exercise requiring caution. Where the FIR discloses a cognizable offence, the Court ordinarily permits investigation and does not test the reliability or genuineness of the allegations. An FIR need not contain every factual detail. Inherent powers remain available to secure justice or prevent abuse, including where no offence is disclosed; their width does not permit arbitrary intervention. The exceptional-restraint standard for quashing is distinct from the standard governing capital punishment. Because the uncontroverted allegations disclosed triable dowry harassment and cruelty, the applicants' denial did not justify terminating the proceedings.	995
Amit Kapoor principles — prima facie offence and limits on evidence assessment	In exercising Section 482 CrPC jurisdiction, the Court must cautiously examine whether the uncontroverted allegations and prosecution record prima facie disclose an offence. It may intervene where basic ingredients are absent, the allegations are patently absurd or inherently improbable, or continuation would abuse the court's process. It must not conduct a full evidentiary inquiry, weigh the prosecution material as at trial, or predict conviction or acquittal. An available civil claim does not bar a criminal complaint where the same allegations also disclose an offence. Applying the reproduced Amit Kapoor principles to the alleged knowing delivery of fake silver, the Court permitted the prosecution to continue.	996
	Sub-Chapter no. 50.3 **Section 482 CrPC — No Mini-Trial or Evidence Appreciation**	
FIR delay — no quashing through assessment of disputed facts	Delay in lodging a complaint does not, by itself, justify quashing the FIR. In exercising inherent jurisdiction, the Court cannot determine disputed questions of fact or enquire into the reliability or genuineness of the allegations at the initial stage. The allegations must be examined to determine whether they disclose a prima facie offence.	2

50.3 : Section 482 CrPC — No Mini-Trial or Evidence Appreciation

Topic	Ratio	Case Sr.no.
Matrimonial FIR — no mini-trial on the truth of specific cruelty allegations	In a challenge under Section 482 CrPC or Section 528 BNSS, the High Court cannot conduct a mini-trial or a roving enquiry into the reliability and credibility of the FIR's allegations. The threshold question is whether the allegations disclose a cognizable offence. Specific allegations that the husband assaulted the wife and that he and his parents harassed her over an unmet demand for money raise triable issues; whether that cruelty actually occurred must be decided at trial.	5
FIR — absence of every factual detail is not a ground to stop investigation	An FIR need not contain every fact and detail about the reported offence. While investigation is continuing, the Court should not decide its merits on incomplete or uncertain facts and prematurely conclude that it does not deserve investigation or constitutes an abuse of process. If investigation reveals no substance in the complaint, the investigating officer may place an appropriate report before the Magistrate for consideration according to law.	5
Section 482 CrPC — triable cruelty allegations and disputed versions	Where the complaint contains allegations of dowry-related physical and mental cruelty against the husband and his parents which disclose a prima facie offence, their truth is a matter for trial. The Court cannot resolve the veracity of rival versions in quashing proceedings. Inherent jurisdiction may still be exercised where the proceedings, on their face, amount to an abuse of the court's process.	6
Quashing — prosecution case taken as a whole without deciding conviction	At the threshold of quashing, the Court considers the uncontroverted allegations and the prosecution record as a whole to determine whether an offence is prima facie disclosed. It does not conduct a full evidentiary inquiry, decide reliability and admissibility as at trial, predict conviction, or use external defence material to negate the prosecution case. Exceptional intervention remains available where the accepted allegations disclose no offence or the process constitutes abuse; the petitioner's liberty must be considered with the right to investigate and prosecute a disclosed offence.	15
Section 482 CrPC: limits on deciding disputed facts and defence evidence	The High Court must exercise quashing jurisdiction sparingly and on sound principles. It must not conduct a roving inquiry into the truth of the allegations, meticulously weigh evidence or determine disputed defence facts as a trial court would. Those restrictions do not prevent a legal assessment of whether the allegations, taken at face value, constitute the alleged offences.	24
Quashing jurisdiction and the reliability of allegations or witnesses	In deciding a Section 482 CrPC application, the High Court does not conduct a trial of the truth of the allegations or the reliability and credibility of witnesses. It tests whether the uncontroverted allegations disclose an offence and exercises its inherent power cautiously to prevent abuse of process or secure justice. Disputed defence assertions cannot be decided through a meticulous assessment of evidence at this stage.	26
Disputed parentage of the complainant and opportunity for cross-examination	A dispute about the complainant's father's name did not justify quashing when the accused would have a full opportunity to cross-examine her and establish the correct particulars at trial. His apprehension that the asserted error would prevent a later malicious-prosecution claim was rejected.	26
Tentative assessment of circumstantial instigation on a quashing application	When considering quashing of an abetment-of-suicide prosecution, the court forms a tentative view of the allegations and accompanying material. It does not marshal or evaluate the record to determine whether the offence has ultimately been proved. The absence of direct evidence of instigation does not require quashing when the alleged circumstances permit an inference of instigation.	27
Quashing stage: prima facie allegations and disputed defence facts	A quashing application does not call for a trial of witness reliability or an assessment of whether the prosecution will ultimately secure conviction. The allegations must be examined for a prima facie offence, while disputed defences remain for evidentiary determination. The husband's assertion that he had no intention to remarry could not displace the allegation of mental cruelty at this	29

Topic	Ratio	Case Sr.no.
	stage.	
Section 482 CrPC: limits on assessing disputed evidence	The High Court ordinarily cannot decide disputed facts, test the reliability of prosecution evidence or determine the accused's defence while considering quashing under Section 482 CrPC. It must assess whether the allegations, taken as a whole, disclose an offence, rather than conduct a trial in advance or predict conviction or acquittal. An FIR need not set out every evidentiary detail.	31
Public or undisputed documents in a quashing application	Although the accused's disputed defence and documents are ordinarily not assessed under Section 482 CrPC, a public document or a document whose authenticity the complainant does not dispute may be considered in an appropriate case. This exception does not permit the Court to resolve contested authenticity or conduct a detailed evidentiary inquiry.	31
Disputed matrimonial facts in a Section 482 CrPC application	At the quashing stage, the Court considers whether the allegations, taken uncontroverted, make out a prima facie offence. A disputed allegation about where the spouses lived requires evidence and cannot be resolved as a trial of credibility in the quashing application. Considering the FIR and the documents produced by the applicants, the Court found no ground to interfere.	39
Section 482 CrPC: disputed allegations and the accused's defence	When deciding the quashing application, the Court considers the uncontroverted FIR allegations at face value. It does not resolve rival versions or examine the accused's defence to determine whether those allegations are true. Where the allegations raise triable issues, their truth must be decided at trial; quashing remains available where the proceedings on their face abuse the process of the Court.	40
Transfers to wife's account — effect on quashing a cruelty FIR	Transfers of money by the husband to the wife's account do not, by themselves, establish that her cruelty allegations are false. In rejecting that defence at the quashing stage, the Court noted that the relied-upon transfers preceded the alleged ouster and were made while the spouses were living together. Those payments did not justify rejecting the FIR's allegations.	53
Sections 482 CrPC and 528 BNSS — no mini-trial of disputed cruelty allegations	When considering quashing under Section 482 CrPC or Section 528 BNSS, the High Court cannot conduct a mini-trial to decide the truth of disputed allegations. In the application before it, the Court tested whether the uncontroverted allegations disclosed an offence. Where they raised triable issues of cruelty, their factual truth had to be determined at trial rather than by choosing between the rival versions at the quashing stage.	53
Quashing — unsupported counterversion of an admitted incident	An applicant's competing version of an incident does not by itself justify quashing an FIR disclosing a cognizable offence. The applicant admitted that an encounter occurred but alleged that the complainant attacked him. The Court declined to accept that defence where no medical report supported his alleged injury, he had lodged no report against her, and his later complaints to senior police officers did not establish false implication. The incomplete ordersheets also failed to substantiate his claim of being targeted for representing her opponent.	64
Quashing — absence of legal evidence distinguished from disputed reliability	A case with no legal evidence, or material plainly inconsistent with the accusation, differs from one in which legal evidence may or may not support the charge after appreciation. Section 482 CrPC ordinarily does not permit inquiry into reliability or a prediction whether conviction will follow. Restraint is particularly necessary where the facts are incomplete, evidence has not yet been collected or produced, and the issues cannot fairly be assessed on the available material.	64
Quashing medical-negligence proceedings — inconclusive cause-of-death opinion	On the combined material of unauthorised allopathic treatment, medicines detected in the viscera and the competence certificate, an opinion unable to determine whether death was natural or caused by an overdose did not exclude a prima facie case. The Court refused to quash the charge-sheet under Section	68

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	304-A IPC and Section 24 of the State Act. It directed the trial court to decide on the evidence ultimately recorded, without being prejudiced by these preliminary observations, and to endeavour to conclude the trial within nine months.	
Quashing a cross-FIR — disputed claims of counterblast and delayed identification require evidence	Where rival FIRs acknowledge an incident at the same time, the later registration of one FIR does not by itself establish that it is a false counterblast. A claim based on delayed clarification of the accused's identity and the parties' property dispute did not justify deciding disputed facts in inherent jurisdiction. Under Section 528 BNSS, corresponding to Section 482 CrPC, the Court cannot conduct a roving inquiry into the truth of allegations that disclose an offence on their face.	72
Comparison of divorce pleadings with FIR allegations under Section 482 CrPC	The High Court must ordinarily assess the uncontroverted criminal allegations without deciding their reliability or resolving disputed defence facts. It cannot conduct a trial-like comparison of the wife's divorce pleadings and her FIR to determine which account is true. Applying the settled limits of Section 482 CrPC, the Court left that credibility dispute to investigation or trial and refused to quash the prosecution.	87
Earlier complaint expressing apprehension of false implication	An accused's earlier representation anticipating false implication cannot be preferred over the FIR as proof that its allegations are false at the quashing stage. Whether the allegations are correct remains a question for the trial court. The Court therefore declined to quash merely because the husband had previously complained to police that he feared a false case.	87
Public or undisputed defence documents at the quashing stage	Although the accused's defence and the truth of defence documents are ordinarily not assessed on a quashing application, an appropriate case may permit consideration of a public document or a document whose veracity the complainant does not dispute. The Court recognised this limited exception through Mohd. Akram Siddiqui while declining to resolve the contested accounts in the divorce petition and FIR.	87
Later Section 164 and supplementary Section 161 allegations — Quashing review	Where the prosecutrix implicated the applicant in her Section 164 CrPC statement and supplementary police statement, omission of his name from the earlier FIR did not permit the High Court to declare the later allegations false or disregard them under Section 482. Their credibility required evidentiary assessment beyond the initial quashing inquiry. The post-conviction decision cited by the applicant was distinguished because assessment after trial differs from review of material before trial.	117
Absence of legal evidence distinguished from disputed evidentiary weight	A case with no legal evidence, or evidence manifestly inconsistent with the accusation, differs from one in which legal evidence may or may not support the charge after appreciation. In exercising Section 482 CrPC jurisdiction, the High Court ordinarily does not decide the reliability or weight of that evidence, which is for the trial court.	120
No determination of disputed facts or defence merits in quashing proceedings	Section 482 CrPC does not permit a mini-trial to decide whether disputed allegations are true or false. The High Court ordinarily does not weigh witness statements, determine evidentiary reliability, or test the accused's defence as at trial. It must not end a triable prosecution by predicting an acquittal through meticulous appreciation of the material.	121
Public or undisputed defence documents in quashing proceedings	The High Court ordinarily neither appreciates the accused's defence nor decides the veracity of documents relied on by the accused when considering quashing. In an appropriate case, however, it may consider a public document or a document whose authenticity is not disputed by the complainant.	121
Defence documents in a Section 482 petition	Ordinarily, the High Court does not assess the accused’s defence or determine the truth of documents relied on to seek quashing. In an appropriate case, however, a public document or a document whose authenticity the complainant	142

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	does not dispute may be considered.	
Section 482 CrPC: triable cruelty allegations and rival factual versions	A Section 482 petition does not permit a trial of the reliability or credibility of FIR allegations or a detailed weighing of the defence. Where the FIR and witness statements disclose specific dowry-related cruelty and assault, short cohabitation and a rival account do not justify deciding their truth at the quashing stage. The disputed allegations remain for trial.	148
Disputed alibi cannot be decided in a Section 482 petition	An alibi is a defence to be established by cogent and reliable evidence before the trial court. A claim of being at a distant workplace, supported by proposed phone-location and CCTV material, raised a disputed question of fact that could not be determined under Section 482 CrPC. Leaving the defence for trial did not amount to finding the alibi false.	149
Disputed good-faith defence in proceedings under Section 528 BNSS	Good faith under Section 2(11) BNS requires due care and attention. The applicant's disputed claim of good faith could not be accepted without evidence in proceedings to quash the FIR; it had to be established before the trial Court. The application was dismissed as withdrawn with liberty to raise the available defences at trial.	150
Disputed defences cannot be tried while quashing an investigation	For quashing under Section 482 CrPC, the allegations must be taken at face value to determine whether they prima facie disclose an offence. The High Court cannot resolve disputed facts, assess credibility or weigh the likelihood of conviction. Where an offence is disclosed, a legitimate investigation should ordinarily be allowed to continue unless compelling grounds justify interference.	171
Exceptional consideration of unimpeachable defence material for quashing	Defence material may exceptionally justify quashing when it is sound, reasonable and indubitable; it completely rules out the factual basis of the accusations; the prosecution or complainant has not refuted it or cannot justifiably do so; and continuing the trial would abuse the process of court without serving the ends of justice. All four requirements must be satisfied. A disputed claim about residence or visiting terms does not permit a factual trial at the quashing stage.	171
Private partnership deed requires proof at trial	In Section 482 CrPC proceedings, the Court declined to determine the accused partner's liability from a private partnership deed. Such a document could not be judicially noticed as a public document; the applicant had to prove it before the trial court. Its asserted allocation of responsibility therefore did not establish an exculpatory defence at this stage.	177
Private attendance records supporting alibi require proof at trial	The private documents relied upon to show the applicant's presence at work could not be judicially noticed as establishing his absence from the scene of the offence. He was required to prove those documents by evidence before the trial court. The Court therefore declined to decide that factual defence while considering quashing under Section 482 CrPC.	189
No mini-trial or assessment of evidentiary reliability under Section 482	When considering quashing, the High Court does not conduct a roving inquiry into the truth, credibility or reliability of the allegations or decide whether the evidence will ultimately sustain a conviction. It must distinguish the absence of legal evidence or material manifestly inconsistent with the accusation from a case requiring the trial judge to weigh otherwise admissible evidence. Disputed factual defences cannot be decided through a mini-trial.	189
Alibi unrelated to the alleged period of cruelty	An alibi for a period in which no assault is alleged does not displace allegations of dowry-related cruelty. The accused’s training in March 2020 did not answer allegations concerning an earlier period, and the husband’s presence at work did not answer the allegation that he failed to attend reconciliation. These pleas afforded no ground to quash the prosecution under Section 482 CrPC.	190
Prima facie allegations and	Where the uncontroverted allegations prima facie disclose an offence, the prosecution cannot be quashed under Section 482 CrPC by accepting the	190

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defence pleas under Section 482 CrPC	accused's defence. Applying this test, the Court declined to quash the dowry-cruelty prosecution.	
Comparison of Sections 161 and 164 statements under Section 482 CrPC	In proceedings under Section 482 CrPC, the Court cannot compare statements recorded under Sections 161 and 164 to decide which is more reliable. No legal basis was shown for automatically preferring the Section 164 statement. The accused may put alleged omissions to the prosecutrix when she is examined at trial.	191
Accused's earlier complaint as a defence at the quashing stage	The accused's earlier complaint against the prosecutrix alleging financial exploitation was a defence plea. It did not warrant quashing the rape prosecution where the FIR and accompanying material disclosed a prima facie case.	191
Effect of observations made while refusing quashing	Observations made while considering the limited grounds for interference under Section 482 CrPC must not prejudice the trial. The trial must be decided on the evidence adduced before the trial Court.	191
Defence evidence and roving enquiry under Section 482 CrPC	The High Court cannot conduct a roving enquiry into disputed facts or assess the accused's defence under Section 482 CrPC. The husband's assertion that he regularly paid maintenance did not justify rejecting the allegations of dowry-related cruelty at that stage. The Court must assess whether the uncontroverted prosecution allegations disclose an offence, without deciding whether conviction or acquittal will follow.	192
Public or undisputed defence documents at the quashing stage	Although the High Court ordinarily does not assess the accused's defence documents when considering quashing, it may consider a document in an appropriate case if it is a public document or its authenticity is not disputed by the complainant.	192
Reliability of cruelty allegations in Section 482 proceedings	The High Court cannot meticulously assess the evidence or decide the reliability and credibility of witness statements under Section 482 CrPC. It considers whether the FIR allegations disclose a cognizable offence. Specific allegations of cruelty against the husband therefore could not be rejected through an assessment of their truth at the quashing stage.	193
Public or undisputed documents in quashing proceedings	The High Court ordinarily does not assess the accused's defence or test the authenticity of the documents relied on by the accused when considering quashing. In an appropriate case, it may consider a public document or a document whose authenticity the complainant does not dispute.	193
Concurrent confiscation findings and Section 482 CrPC	Where the confiscating authority, appellate authority and revisional Court have concurrently found that the vehicle was involved in the forest offence, the High Court will not substitute a different factual finding under Section 482 CrPC without demonstrated perversity. No perversity was identified in the findings challenged here.	196
Face-value review without assessing witness credibility	At the investigation stage, the High Court does not decide the correctness of allegations or the reliability and credibility of witnesses when considering quashing. It assesses whether the uncontroverted allegations disclose an offence; the power remains available to prevent a prosecution lacking that foundation.	198
Public or undisputed documents as an exception to defence-material restraint	The High Court ordinarily does not assess the accused's defence documents in quashing proceedings. In an appropriate case it may consider a public document or a document whose authenticity the complainant does not dispute.	198
No roving inquiry at the stage of cognizance or framing charges	At the stage of taking cognizance or framing charges, the Court does not conduct a roving inquiry into the merits. In the alleged manipulation of State-quota medical seats, advance fee payment before the claimed vacancy and the later admission record provided prima facie material warranting continuation of the prosecution.	204

Topic	Ratio	Case Sr.no.
Quashing tests the allegations without trying disputed facts or predicting conviction	The High Court ordinarily considers whether the uncontroverted allegations, accepted in their entirety, disclose an offence. It must not weigh disputed evidence, assess the accused's contested defence or conduct a detailed inquiry into whether conviction is likely. Where a cognizable offence is disclosed, the case should proceed unless a recognised ground for quashing is established.	209
CCTV-based plea of alibi at the quashing stage	A disputed plea that CCTV footage places the accused elsewhere requires proof through cogent evidence. The High Court cannot decide that defence or conduct a roving inquiry into the truth of the FIR while exercising jurisdiction under Section 482 CrPC (Section 528 BNSS).	230
Absence of legal evidence distinguished from disputed reliability	For quashing, a case with no legal evidence or evidence manifestly inconsistent with the accusation is different from one in which available legal evidence may or may not sustain the charge after appreciation. Assessing the reliability or probable effect of the latter evidence ordinarily belongs to the trial judge.	230
Disputed allegations in an Article 227 challenge to domestic violence proceedings	In the Article 227 petition seeking to end Section 12 Domestic Violence Act proceedings, the High Court declined to compare disputed allegations in the application and an earlier FIR to decide their truth, reliability or genuineness. Such an inquiry would amount to a mini-trial at the threshold.	233
Undisputed or public defence documents at the quashing stage	Ordinarily, a court considering criminal quashing does not assess the accused's defence or decide the truth of defence documents. In an appropriate case, however, a public document or a document whose veracity the complainant does not dispute may be considered.	233
Triable matrimonial allegations and disputed versions	Where the pleaded allegations disclose a triable case of matrimonial cruelty, the High Court does not determine the truth of rival versions in a Section 482 petition. Quashing remains available where abuse of process appears on the face of the proceedings, but specific prima facie allegations require trial.	235
FIR following a divorce petition and alleged counterblast	A cruelty FIR does not become a retaliatory counterblast merely because it follows the husband's divorce petition. Efforts to preserve the marriage and obtain reconciliation may explain earlier silence; a complaint made after those efforts fail cannot be rejected on that chronology alone.	236
Facial offence allegations and prohibition on a roving inquiry	For the criminal quashing request, the relevant inquiry was whether the uncontroverted allegations disclosed an offence. The High Court could not conduct a roving inquiry into the truth of the FIR allegations or resolve disputed defence accounts as if conducting the trial.	236
Unsupported allegations of mala fides in a quashing petition	Where the FIR discloses a cognizable offence, the informant's alleged mala fides are secondary and cannot by themselves justify quashing. A plea that prosecution was intended to suppress compensation or rehabilitation demands could not be accepted on verbal assertions alone. In the absence of unimpeachable or sterling material supporting that defence, the disputed allegation of mala fides could not be resolved in the accused's favour under Article 226 or Section 482 CrPC.	244
Material considered in a quashing challenge after filing of the police report	After the final police report has been filed, a quashing challenge cannot be examined by confining attention to the FIR alone. The Court must also consider the material collected during investigation, including the witness statements filed with the charge sheet, to determine whether the alleged offences are disclosed.	244
Disputed defence recording at the Section 482 stage	Section 482 CrPC does not permit a roving inquiry into the reliability of disputed defence evidence. Verification that a transcript matched a CD did not establish the identity of the recorded speaker or exclude manipulation. Because verification was conducted without the complainant and did not lawfully authenticate the recording, the Court declined to rely on it to quash specific allegations against the husband, while leaving him free to prove the CD at trial according to law.	249

50.3 : Section 482 CrPC — No Mini-Trial or Evidence Appreciation

Topic	Ratio	Case Sr.no.
Exception permitting consideration of certain defence documents in quashing	Ordinarily, the High Court does not assess the accused's defence or determine the truth of documents relied on by the accused in a quashing petition. In an appropriate case, however, a public document or a document whose veracity the complainant does not dispute may be considered. A disputed recording that had not been authenticated did not satisfy that basis for reliance here.	249
Section 482 court assesses FIR ingredients without trying disputed matrimonial facts	For the Section 482 CrPC/Section 528 BNSS request, the Court assessed whether the uncontroverted FIR allegations disclosed an offence. It could not conduct a roving inquiry into their truth or resolve disputed claims of retaliatory matrimonial litigation. Because the FIR contained specific dowry-demand and harassment allegations, the Court refused to interfere with the investigation.	258
Omission of accused's name from FIR and later attribution under Section 161 CrPC	Where later statements under Section 161 CrPC name the accused and assign specific acts of assault, the High Court cannot decide in a Section 482 proceeding that the later naming amounts to false implication merely because the names were omitted from the FIR. The complainant must have an opportunity to explain the omission. Whether it is a material omission or contradiction requires consideration of witness evidence.	260
Limited exception for public or undisputed defence documents in quashing	Ordinarily, a quashing court does not assess the accused's defence or decide the truth of the documents relied on by the accused. The Mohd. Akram Siddiqui passage reproduced by the Court recognises an exception in an appropriate case for a public document or a document whose veracity the complainant does not dispute.	264
Disputed alibi cannot be decided in a quashing proceeding	A plea of alibi raises a disputed question of fact requiring proof by cogent evidence. The Court declined to decide the applicant's claim that he was at a hotel away from the scene while exercising quashing jurisdiction. The truth of that defence required evidentiary assessment rather than a decision on the papers in the inherent-power proceeding.	266
De facto truck ownership and common intention left for investigation	Documents showing that a truck is registered in another person's name do not, by themselves, resolve whether the accused is its de facto owner. In the non-delivery prosecution, both de facto ownership and any common intention shared with the drivers required investigation. The High Court declined to adjudicate those disputed factual questions in the Article 226 quashing petition.	269
Absence of legal evidence distinguished from assessment of its reliability	For quashing, absence of legal evidence or evidence manifestly inconsistent with the accusation must be distinguished from evidence whose effect depends on appreciation. The High Court ordinarily does not decide reliability or predict whether a conviction will result, particularly while investigation is incomplete; those questions belong to the trial.	270
Pending investigation into trafficking and unlawful-conversion allegations	The Court declined to quash the added allegations under Section 370 IPC and Sections 3 and 5 of the M.P. Freedom of Religion Act, 2021 while investigation was pending. Legitimate collection of evidence could not be stopped at that stage. If investigation produced no material substantiating those allegations, the police could not file a charge-sheet for those offences.	277
Section 482 CrPC: disputed alibi cannot be tried on an unproved attendance sheet	The High Court does not conduct a roving inquiry into the truth of FIR allegations or test a disputed defence as at trial. The Court stated that an alibi must be proved beyond reasonable doubt. The father-in-law's attendance sheet, lacking formal proof, could not establish that defence for quashing the FIR. The face-value allegations disclosed an offence and required the ordinary criminal process.	289
Quashing: limited consideration of public or undisputed defence documents	Ordinarily, the High Court does not assess the accused's defence or adjudicate the truth of documents relied on for quashing. In an appropriate case, a public document or a document whose authenticity the complainant does not dispute may be considered. This limited exception did not establish the contested attendance-based alibi on the record before the Court.	289

Topic	Ratio	Case Sr.no.
Quashing at the investigation stage and disputed factual defences	When uncontroverted allegations prima facie disclose a cognizable offence, the Court ordinarily permits investigation to continue. It does not conduct a roving enquiry into the reliability of the allegations or decide disputed defences to predict conviction or acquittal. The Collector's asserted ignorance of the agreement and absence of mens rea were matters for trial on this record.	290
Section 482 CrPC — disputed defence and credibility	A quashing petition does not permit a trial of disputed facts, assessment of witness credibility or a prediction of conviction after weighing the prosecution and defence versions. The Court relied on the reproduced decisions, including CBI v. Arvind Khanna and State of M.P. v. Kunwar Singh, to leave the applicant's disputed matrimonial account for proof at trial. The claimed short period of cohabitation and the assertion that the wife did not wish to live with her husband did not justify deciding the truth of the allegations under Section 482.	323
Section 482 CrPC — public or undisputed defence documents	The ordinary rule against assessing an accused's defence at the quashing stage has a limited exception. In an appropriate case, a defence document may be considered if it is a public document or its authenticity is not disputed by the complainant. The Court reproduced this qualification from Mohd. Akram Siddiqui v. State of Bihar while setting out the governing jurisdictional principles; the applicant's contested factual defences did not establish a basis for quashing.	323
Missing-person report — omission of cruelty allegations and later FIR	A report confined to a husband's disappearance serves a different purpose from an FIR alleging matrimonial cruelty. The wife's failure to allege cruelty in that missing-person report did not establish that the later allegations were an afterthought. The High Court declined to compare the statements to determine their truth in proceedings under Section 482 CrPC / Section 528 BNSS.	325
Quashing — disputed adultery defence and truth of allegations	The High Court cannot use Section 482 CrPC / Section 528 BNSS to conduct a roving inquiry into whether the FIR allegations are true. An allegation by the accused that the complainant was living in adultery was a disputed question of fact and could not be decided at that stage. The Court examined whether the uncontroverted allegations disclosed an offence and left factual adjudication to the ordinary criminal process.	325
Section 482 CrPC — disputed consent cannot be decided through a mini-trial	Where the FIR alleges that the accused took the complainant to a hotel on the pretext of visiting his sister, raped her and thereafter promised marriage, the High Court cannot accept the defence of consensual relations as established while considering quashing. Whether consent was affected by Section 90 IPC requires evidence tested by cross-examination at trial. The High Court cannot conduct a mini-trial. Taken at face value, the allegations prima facie warranted prosecution under Sections 376 and 506 IPC.	340
Section 482 CrPC — Disputed defence cannot be decided through a mini-trial	A quashing proceeding does not permit a roving inquiry into whether the FIR's allegations are true or a detailed weighing of the accused's competing version. Evidence reliability and disputed defences ordinarily belong to the trial court; Section 482 is not an appellate or revisional merits review. Here the accused's complaints about encroachment and his assertion that the assault never occurred required factual proof. The FIR's allegations of a demand for money, abuse, assault and threat disclosed a prima facie case, so the Court refused to quash without deciding which version was true.	357
Section 482 CrPC — Limited consideration of public or undisputed defence documents	Ordinarily, the High Court does not assess the accused's defence or determine the truth of documents relied on to seek quashing. In an appropriate case, however, it may consider a public document or a document whose genuineness the complainant does not dispute. The exception does not authorise deciding contested factual issues through a detailed evidentiary inquiry. No document was found to dispose of the allegations under that exception in this case.	357
Section 482 CrPC —	The High Court does not decide the truth of disputed allegations or conduct a	358

50.3 : Section 482 CrPC — No Mini-Trial or Evidence Appreciation

Topic	Ratio	Case Sr.no.
Disputed fraud allegations and documentary authenticity require trial	detailed evidentiary inquiry when considering quashing under Section 482 CrPC. The complainant's account and the company's verification provided prima facie material that the accused had falsely represented company posts, sought money and delivered a purported dealership letter. The accused's denials and challenge to the letter's authenticity could not be resolved by a mini-trial. Quashing of the FIR and charge-sheet was refused; the Court did not make a final finding of guilt.	
Section 482 CrPC — Public or undisputed defence documents	The accused's defence and the truth of supporting documents are ordinarily not assessed in a quashing proceeding. In an appropriate case, however, a public document or one whose veracity the complainant does not dispute may be considered. That limited exception does not permit adjudication of contested facts by detailed evidence appraisal. No dispositive defence document was found to warrant quashing here.	358
Section 482 CrPC: Delayed Allegations and Disputed Forensic Evidence	Whether an allegation was made belatedly, why it was delayed and what effect the delay has are matters for the trial court. Proceedings cannot be quashed merely because a particular allegation first appeared in a later statement. The Court also declined to determine the accused's challenge to the correctness of the allegations, including the disputed forensic account, through a roving inquiry under Section 482 CrPC.	362
Defence Documents at Quashing: Limited Exception	Ordinarily, a court considering quashing does not appreciate the accused's defence or decide the truth of documents relied on by the accused. The narrated rule permits consideration, in an appropriate case, of a public document or a document whose veracity the complainant does not dispute.	362
Incomplete Investigation: No Premature Assessment of Reliability	While investigation is in progress, the court should not decide the reliability or genuineness of the FIR allegations by weighing incomplete material. An FIR need not contain every evidentiary detail. Police should ordinarily be allowed to complete the investigation, subject to the recognised power to prevent abuse of process or miscarriage of justice.	363
Section 482 interference with factual maintenance findings	In exercising Section 482 CrPC jurisdiction, the High Court does not interfere with findings of fact unless they are shown to be perverse or contrary to law. The husband did not dispute the material findings supporting his earning capacity, and no such defect was demonstrated; interference with the maintenance orders was therefore refused.	396
Disputed Residence as a Defence in Quashing Proceedings	A disputed claim about the complainant wife's actual residence, based on a process-server's report whose account the applicants themselves contested, required proof at trial. The High Court declined to resolve that defence as a conclusive fact in proceedings under Section 482 CrPC.	401
Absence of Legal Evidence Distinguished from Disputed Reliability	For Section 482 CrPC, the absence of legal evidence, or evidence manifestly inconsistent with the accusation, must be distinguished from evidence whose reliability or weight requires evaluation. The latter inquiry ordinarily belongs to the trial court. The High Court should not predict the prospects of conviction by testing incomplete material against competing probabilities or use inherent powers to stifle a legitimate prosecution.	401
Delayed Cruelty FIR after Divorce Proceedings and the Counterblast Plea	A wife may refrain from reporting matrimonial cruelty while seeking reconciliation and complain after a divorce petition removes her hope of preserving the marriage. The sequence of the divorce proceeding and the later FIR does not, by itself, establish a retaliatory complaint or justify quashing allegations of cruelty.	404
Separate Residence of Parents-in-Law as a Defence to Specific Cruelty Allegations	Where the FIR specifically alleges dowry demands, cruelty and participation in ouster by the parents-in-law, their claim that they lived in another city while the wife lived with her husband raises a defence requiring evidence. Separate residence did not, on that record, disprove the specific allegations or justify	404

Topic	Ratio	Case Sr.no.
	quashing the FIR.	
Omitted Sexual-Harassment Allegations in Parallel Matrimonial Proceedings	An omission to allege sexual harassment in other matrimonial proceedings did not justify an adverse inference at the quashing stage without allowing the complainant to explain it in cross-examination. Cruelty under Section 498-A IPC and outraging modesty under Section 354 IPC are distinct. Assessing the omission's effect on credibility required trial evidence, not a mini-trial in inherent jurisdiction.	406
Disputed Pronouncement of Triple Talaq at the Quashing Stage	Whether the husband had pronounced the alleged oral talaq-e-biddat could not be decided by weighing his denial, the disputed notice chronology and the wife's earlier pleadings in proceedings under Section 482 CrPC. The Court had to assess the allegations at face value and leave disputed factual defences to evidence at trial.	407
Limited Consideration of Defence Documents in Quashing Proceedings	The High Court ordinarily does not assess an accused's defence or decide the truth of disputed defence documents while considering quashing. In an appropriate case, however, it may consider a public document or a document whose veracity the complainant does not dispute. This exception does not authorise adjudication of contested factual defences.	407
FIR Detail and Meticulous Evidence Assessment in Inherent Review	An FIR is not required to contain every evidentiary detail. The High Court should not scrutinise the material as a trial court would after evidence or conduct a detailed merits inquiry in proceedings under Section 482 CrPC.	407
Quashing jurisdiction—disputed facts and triable allegations	When the allegations disclose triable issues, the Court exercising Section 482 CrPC jurisdiction does not decide the truth or reliability of rival factual versions. Facial abuse of process may warrant quashing, but the veracity of specific allegations of cruelty must be tested at trial.	411
Defence documents at the quashing stage	The High Court ordinarily does not determine the accused's defence or verify disputed defence documents under Section 482 CrPC. A public document or a document whose authenticity the complainant does not dispute may be considered in an appropriate case. Here, the husband's prior complaint could not be accepted as true without proof at trial.	415
Separate-residence defence—proof of location and access	Samagra IDs and the husband's complaint disclosed addresses in the same ward, leading only to a prima facie observation that the applicants and husband lived in the same premises. Their contention that they lived separately and had no access to the wife's residence required proof; it did not warrant quashing the specific allegations.	415
Conflicting oral and documentary evidence—limits of quashing	Under Section 482 CrPC, the High Court could not decide whether to believe witnesses alleging dowry demands or prefer a seized Peeli Chitthi said to relate to a different couple. The reliability and effect of that competing evidence had to be decided by the trial court after recording evidence.	416
FIR following a divorce petition and limits of Section 482 scrutiny	An FIR cannot be quashed merely because it followed the husband's divorce petition. Applying Pratibha v. Rameshwari Devi, the Court recognised that civil and criminal proceedings are independent and that attempts at reconciliation may explain a later complaint. It distinguished Amit Kumar Shrivastava, where admissions before the Family Court had demolished the cruelty allegations. Mere chronology did not establish a counterblast here. Section 482 scrutiny proceeds on the uncontroverted allegations and does not permit an inquiry into the accused's disputed defence.	420
Subsequent ex parte divorce decree and an earlier cruelty complaint	An ex parte divorce decree obtained after a cruelty complaint does not, merely by being granted, absolve the applicants of the alleged earlier criminal conduct. The complaint preceded both the divorce petition and decree. The Court rejected reliance on that later decree and declined to decide the disputed truth of the cruelty allegations at cognizance. The complaint and Section 200 statement supplied a prima facie basis for prosecution under Section 498-A IPC.	425

50.3 : Section 482 CrPC — No Mini-Trial or Evidence Appreciation

Topic	Ratio	Case Sr.no.
Triable dowry-cruelty allegations against husband and parents and limits of Section 482 scrutiny	Where uncontroverted allegations disclose a triable offence, Section 482 scrutiny does not extend to deciding the reliability of the prosecution version or the accused's counter-version. Applying Taramani Parakh and the Amit Kapoor principles reproduced in it, the Court distinguished the husband and his parents from the other relatives. Allegations against the parents included initial harassment and refusal to admit the wife without ₹5 lakh. The husband was separately accused of assault, expulsion during pregnancy, mistreatment after compromise, abandonment at Indore and refusal to keep her after renewed assurances. These allegations prima facie supported continuation under Section 498-A IPC and Sections 3/4 Dowry Prohibition Act, without deciding their ultimate truth.	426
Counter-blast FIR and competing versions of the same incident	An FIR disclosing an offence cannot be quashed merely on the assertion that it is a counter-blast to the accused's FIR. The truth of competing accounts and an allegation of retaliatory motive require evidence and cannot be resolved as disputed facts under Section 482 CrPC. Mala fides attributed to the informant are secondary and do not, by themselves, justify terminating the proceedings.	435
Defence material and the public-document exception in quashing	The High Court ordinarily cannot decide the accused's disputed defence, assess the veracity of defence documents, or weigh contested evidence under Section 482 CrPC. Those matters belong to trial, and quashing is not an appeal or revision on the merits. In an appropriate case, however, a public document or a document whose veracity the complainant does not dispute may be considered.	435
Public or undisputed defence documents in quashing	Although defence documents and their disputed veracity are ordinarily not examined in quashing proceedings, the High Court may, in an appropriate case, consider a public document or one whose veracity the complainant does not dispute.	436
Section 482: Rival Versions and a Pending Counter-Investigation	Where the allegations disclose a triable offence, the quashing court does not decide the reliability of the prosecution version or its counter-version, or predict whether conviction will follow. The husband's allegation of fraudulent cheque withdrawal was still under investigation. The bank complaint and disputed account did not displace the specific allegations against the applicant at this stage.	456
Section 482: No Meticulous Comparison of Maintenance Pleadings and FIR	The Court found the basic cruelty allegations in the maintenance application and declined to undertake a trial-like comparison of that pleading with the FIR. Section 482 does not permit detailed appreciation of disputed evidence, and the FIR need not contain every evidentiary detail. The specific allegations warranted continuation of the proceedings against the applicants.	458
No assessment of disputed facts or prospects of conviction at the quashing stage	In considering quashing, the High Court does not conduct a trial of the allegations, assess the reliability of evidence or decide whether the prosecution will ultimately secure a conviction. Disputed defences ordinarily require evidence at trial. The inquiry is whether the allegations and relevant prosecution material, taken as a whole, disclose an offence and whether continuation would abuse the court's process.	460
Limited consideration of public or undisputed defence documents	The High Court ordinarily does not appreciate an accused's defence or determine the truth of defence documents when deciding quashing. In an appropriate case, however, a public document or a document whose authenticity the complainant does not dispute may be considered. This limited exception does not permit adjudication of contested defence material.	460
Night-duty chart did not conclusively exclude the alleged daytime visit	The duty chart placed the husband on duty from 8 p.m. to 8 a.m., leaving the daytime free on the date of the alleged visit. On the Court's approximate assessment, travel to the complainant's town and back remained possible before that shift. The chart therefore did not establish an inability to attend the alleged incident and did not justify quashing on the alibi claim.	469

Topic	Ratio	Case Sr.no.
Face-value allegations and disputed defences in Section 482 proceedings	The High Court tests whether the uncontroverted allegations, taken at face value, disclose an offence. It does not conduct a detailed inquiry into their truth, assess reliability as at trial or resolve disputed defence accounts. Where a triable case is disclosed, the merits must be tested through evidence rather than a premature assessment of whether conviction is likely.	469
Public or undisputed documents as a limited exception in quashing	Although an accused's disputed defence and the veracity of defence documents are ordinarily not examined on quashing, an appropriate public document or a document whose authenticity the complainant does not dispute may be considered. That limited exception does not permit trial of a contested defence or make a document conclusive of facts it does not establish.	469
Section 482 CrPC — Prima facie material and prohibition on a mini-trial	At the quashing stage, the High Court examines whether sufficient prima facie material warrants trial. It cannot conduct a mini-trial or quash proceedings on the ground that the charges have not been proved. Applying CBI v. Aryan Singh, the Court left contested proof and the allegation of malicious prosecution for consideration at the conclusion of trial. The conflicting death certificates and the allegations in the complaint warranted continuation of proceedings; their ultimate truth was not decided.	470
Section 482 CrPC — Restraint during investigation and facial disclosure of an offence	The High Court must consider whether the FIR allegations, taken as stated without adding or subtracting facts, prima facie disclose an offence. It cannot test their reliability or conduct a mini-trial. An FIR need not contain every detail, and police should ordinarily complete investigation where a cognizable offence is disclosed. Quashing remains available where no offence is disclosed or exceptional circumstances show gross abuse, malicious prosecution or a miscarriage of justice. As the investigation status was unknown, the Court assessed the FIR on the assumption that investigation was pending and left the applicants' common object to investigation.	472
Section 482 CrPC — Specific allegations and disputed separate-residence defence	Where uncontroverted allegations disclose a triable offence, the High Court cannot decide the reliability of the accusation or the competing defence under Section 482 CrPC. Whether the applicants lived separately, and whether their explanation or the complainant's account was true, required evidence tested by cross-examination. Quashing may be justified where allegations are absurd, disclose no offence or reveal abuse of process, but does not require a meticulous assessment of whether conviction is likely. Here, the specific dowry and cruelty allegations disclosed a prima facie case.	476
Section 482 CrPC — surrounding circumstances and disputed factual defences	A claim of manifestly frivolous or vindictive prosecution may require examination of attending circumstances and investigation material beyond the wording of the complaint. That scrutiny does not permit a mini-trial or determination of disputed evidence under Section 482 CrPC. The injustice warranting intervention must be grave, palpable and clear, rather than trivial or doubtful. Inherent power must be exercised cautiously to prevent abuse or secure justice, without stifling legitimate prosecution. The claim that proximity of forest land to the mine caused an innocent mistake was a disputed defence requiring trial; it did not justify quashing the alleged breach of express permission conditions.	484
Truth of cruelty allegations at the FIR-quashing stage	In considering whether to quash a matrimonial FIR under Section 482 CrPC, the Court examines whether the uncontroverted allegations disclose an offence. It cannot determine their disputed truth at that stage. Where specific allegations of dowry demands and forcible expulsion disclose cruelty, a contest over whether those allegations are false must be resolved in the criminal proceedings rather than through factual adjudication in the quashing application.	500
Disputed defence and credibility in matrimonial FIR-quashing	On an application under Section 482 CrPC, the uncontroverted prosecution allegations must be taken as a whole and accepted at face value to determine whether they disclose an offence. The High Court cannot conduct a roving	503

50.3 : Section 482 CrPC — No Mini-Trial or Evidence Appreciation

Topic	Ratio	Case Sr.no.
proceedings	inquiry, decide the truth or reliability of disputed allegations, or assess whether the defence is likely to succeed at trial. Where the allegations disclosed a cognizable offence, the applicants' competing account of the marriage and matrimonial dispute required proof at trial and did not justify quashing.	
Absence of legal evidence distinguished from disputed evidentiary sufficiency	In applying Section 482 CrPC, a case with no legal evidence, or evidence clearly inconsistent with the accusation, must be distinguished from one in which legal evidence may or may not sustain the accusation after appreciation. The latter assessment of reliability and sufficiency belongs to the trial court. The inherent power cannot be used to predict conviction by weighing competing evidence or to end a legitimate prosecution prematurely.	503
Claim of easementary rights in a petition under Section 482 CrPC	The High Court cannot adjudicate an asserted easementary right in proceedings under Section 482 CrPC. The applicants' claim that the open land lay in front of their houses did not justify quashing where they had obtained no declaration of that right from a competent civil court.	513
Public or undisputed defence documents in quashing proceedings	The High Court ordinarily does not assess an accused's defence or the veracity of defence documents under Section 482 CrPC. In an appropriate case, however, it may consider a public document or a document whose veracity the complainant does not dispute. This exception does not authorise a trial of contested defence facts at the quashing stage.	513
Unproved allegations of forced signatures as a defence to quashing a purchase-payment FIR	The applicant's complaint alleging abduction and forced signatures on blank papers did not justify quashing where those allegations had not been established. On the material before it, the Court considered the complaint prima facie an attempt to create a defence to the handwritten purchase account. That assessment formed part of its refusal of inherent relief and did not finally adjudicate a separate false-complaint offence.	514
Section 482 CrPC: Prima Facie Offence Test and Limits on Evidence Appraisal	In considering quashing, the High Court examines whether the uncontroverted allegations, taken as a whole, disclose an offence. It cannot conduct a roving inquiry, decide disputed facts, assess credibility or scrutinise the material as a trial court would after evidence. The FIR’s prima facie disclosure of cognizable offences, coupled with disputed questions of delay and consent, did not warrant quashing the FIR or criminal proceedings.	520
Section 482 CrPC: Disputed Identification in Prosecution Video	Whether the petitioners were visible in the prosecution videograph was a disputed factual question that the Court declined to decide under Section 482. The petitioners had not filed the CD supplied under Section 207 CrPC. They remained free to question the witnesses at trial about their identity and presence in the recording; the asserted absence from the video did not warrant quashing on this record.	525
Exceptional Interference with a Framed Charge under Section 482 CrPC	A challenge to a framed charge does not permit a full inquiry into whether the evidence will ultimately sustain a conviction. The High Court must consider the uncontroverted prosecution allegations and record as a whole, without deciding reliability or relying on external defence material to establish innocence. Interference is exceptional where the allegations are patently absurd, inherently improbable, fail to disclose the basic offence ingredients or continuation would constitute an abuse of process. Where the factual foundation broadly supports the offence and disputed facts require trial, the charge should not be quashed through detailed evidentiary appraisal.	536
Disputed residence and possession defences at the quashing stage	A disputed factual defence that the applicant only occasionally visited accommodation allotted to her husband could not be adjudicated under Section 482 CrPC. The Court noted her presence alone at inspection and the absence of pleading or proof that her husband exclusively possessed the accommodation. Those circumstances did not justify terminating the complaint at that stage.	579
Section 482 CrPC: no assessment of	At the FIR stage, Section 482 CrPC requires an assessment of whether the	600

Topic	Ratio	Case Sr.no.
disputed evidence at the FIR stage	uncontroverted allegations disclose a prima facie offence. The High Court must not weigh their reliability, test a contested defence or decide whether conviction is likely. Applying the reproduced quashing precedents, including Amit Kapoor, Arvind Khanna and Kunwar Singh, the Court left the disputed stock position, offline distribution instructions and the applicant's posting dates for investigation.	
Consideration of public or undisputed defence documents in quashing proceedings	Although the accused's defence and the veracity of defence documents are ordinarily not examined under Section 482 CrPC, an exception may arise where the relied-on document is public or its veracity is not disputed by the complainant. The Court reproduced this qualification from Mohd. Akram Siddiqui while defining its jurisdiction; it did not treat the contested stock and posting assertions before it as established facts.	600
No inquiry into the truth of dowry-cruelty allegations under Section 482 CrPC	In deciding whether to quash proceedings under Section 482 CrPC, the High Court examines whether the uncontroverted allegations disclose an offence. It cannot conduct a roving inquiry into their reliability or correctness. Applying the reproduced Neeharika Infrastructure principles and the cited authorities, the Court left the truth of the specific dowry and cruelty allegations for the criminal process and declined to quash them. Its assessment was prima facie, rather than a finding of guilt.	601
Unproved private documents do not establish a director's non-involvement at the quashing stage	The directors' claim that they did not manage daily business raised a disputed question requiring evidence. Their private, notarised MoU was unproved, had not been presented to the Registrar of Companies, and did not bind the complainant. Requests to alter bank operation were unsupported by proof that the bank had changed the mandate, and the cheques had not been dishonoured for stop payment. These documents were not sterling material establishing a basis to quash the prosecution.	641
Challenge to cognizance—No mini-trial of disputed complaint allegations	In a challenge under Section 482 CrPC/Section 528 BNSS to an order taking cognizance, the Court considers whether the uncontroverted complaint allegations disclose an offence. It cannot conduct a mini-trial to decide whether those allegations are true or reliable. Contested factual defences must be determined on evidence at trial.	661
Absence of legal evidence distinguished from disputed reliability	For quashing purposes, absence of legal evidence, or evidence manifestly inconsistent with the accusation, differs from evidence that may or may not support the accusation after appreciation. The High Court ordinarily does not decide the reliability or sufficiency of such disputed evidence under Section 482 CrPC; that assessment belongs to the trial judge.	661
Quashing—Absence of legal evidence and disputed evidentiary weight	Absence of legal evidence, or evidence manifestly inconsistent with an accusation, differs from evidence whose weight depends on appreciation at trial. Under Section 482 CrPC, the High Court ordinarily does not determine witness reliability or predict whether a conviction will be sustainable. That assessment belongs to the trial court.	663
No legal evidence distinguished from evidence requiring appreciation	For quashing, a case with no legal evidence, or evidence manifestly inconsistent with the accusation, differs from one in which existing evidence may or may not support the charge after appreciation. The latter question ordinarily falls to the trial judge and cannot be decided by weighing the evidence under Section 482 CrPC.	666
Quashing — absence of legal evidence and disputed reliability	Absence of legal evidence, or evidence manifestly inconsistent with the accusation, differs from evidence whose reliability or weight is disputed. In inherent jurisdiction the High Court ordinarily does not decide whether the prosecution evidence is reliable or likely to sustain conviction; that assessment belongs to the trial court.	680
Triable matrimonial allegations — rival	Where the complaint discloses triable allegations of dowry harassment and	687

Topic	Ratio	Case Sr.no.
versions reserved for trial	cruelty, the High Court does not decide the truth of rival versions in a quashing petition. Whether the complainant was actually harassed is for trial; quashing remains available where the proceedings are, on their face, an abuse of process.	
Disputed alibi cannot be decided in a Section 482 petition	An assertion that the accused was hospitalised and absent from the place of occurrence is a plea of alibi requiring proof at trial through cogent evidence. The Court applied the rule that alibi must be established beyond reasonable doubt and declined to decide that disputed defence under Section 482 CrPC. At the charge stage, the accused cannot introduce defence material to obtain a mini-trial; the opportunity to make submissions is confined to the prosecution record and accompanying documents.	726
Later conveyance and disputed loan claims do not warrant quashing an earlier alleged house-trespass offence	The Court observed that — a civil dispute and documents invoked by the accused do not automatically displace an FIR alleging independent acts of house entry, assault, modesty offence and damage. The wife of applicant No. 2 had a pending specific-performance and injunction suit, with no temporary injunction; a sale deed dated 9 October 2023 conveyed possession only then, after the alleged incident of 11 December 2022. Even assuming the reported attack occurred at that same house, the later conveyance did not show that applicants possessed it on the incident date. The asserted large cash advances and repayment were disputed facts unsuitable for final determination under Section 482. The order also referred to Section 269SS of the Income-tax Act as a reason not to accept the cash-payment defence, without an independent tax-law adjudication. The Court, citing a group of Supreme Court quashing authorities, declined a roving enquiry into whether the FIR was true and dismissed the application; no finding of guilt or civil title was made.	730
Absence of legal evidence differs from disputed evidentiary sufficiency in quashing proceedings	For the purpose of Section 482 CrPC, a case with no legal evidence, or evidence manifestly inconsistent with the accusation, must be distinguished from one in which legal evidence exists but its weight or reliability remains open to assessment. The latter assessment ordinarily belongs to the trial judge. The R.P. Kapur principles reproduced through Renu Kumari recognise the former category as a possible ground for quashing; they do not authorise the High Court to decide whether available evidence will ultimately sustain a conviction. The Court relied on that restraint in declining to test the truth of the allegations through the applicants' disputed defence.	730
An unreasoned internal committee report did not justify quashing	A committee formed after a student complained about her professor recorded his admission of zero marks on two CCE papers and found that he withheld her admission card until the principal issued a duplicate. It gave only an unexplained one-line view that the hand-grabbing allegation lacked clarity and did not examine the reasons for the marks or card withholding. A reasoned assessment was absent on the decisive allegation. Its report was incomplete and substantially adverse to the applicant, so the claimed clean chit did not justify terminating criminal proceedings or conducting a trial of disputed facts under Section 482.	734
No legal evidence and disputed reliability are distinct grounds of assessment under Section 482	The R.P. Kapur principles reproduced through Renu Kumari distinguish the absence of legal evidence, or evidence manifestly inconsistent with the accusation, from legal evidence whose reliability or sufficiency requires appreciation. The latter assessment ordinarily belongs to the trial judge. The High Court should not examine all probabilities to decide whether a conviction will ultimately be sustainable. In this case, the committee's incomplete opinion did not eliminate the prima facie accusation or its supporting material, and the Court refused to quash the FIR and consequential proceedings.	734
Government-land fraud — bona fide purchaser defence cannot be tried in	In considering quashing under Section 482 CrPC, the Court cannot conduct a roving inquiry into the truth of the FIR or adjudicate the applicants' disputed defence. The uncontroverted allegations must be assessed to see whether they	742

Topic	Ratio	Case Sr.no.
Section 482 proceedings	disclose an offence. Here, alleged collusion in converting forest land into private land, enlarging its recorded area and continuing commercial possession after restoration of the government entry disclosed offences under Sections 420, 467, 468, 471, 120-B and 201 IPC. The Court reasoned that a vendor without title could convey no title through the sale deed. The applicants' claim that they had purchased bona fide after checking the revenue record did not warrant quashing. The application was dismissed while investigation remained pending.	
Section 482 CrPC — disputed defence to alleged fabrication of hospital records	At the quashing stage, the Court does not determine disputed probabilities, reliability or genuineness of the allegations by assessing whether they will ultimately be proved. Applying the reproduced authorities, the Court did not accept the applicant's assertion that he was only a driver and had no duty to make OPD entries as a basis to terminate the prosecution. The allegation that he prepared the forged slip, supported by the hospital enquiry into fabricated entries, warranted prosecution on a prima facie basis.	757
Alternative factual explanation for property damage must be tried	Section 482 CrPC does not permit a mini-trial to decide whether the accused damaged property or others caused it. The applicants' suggestion that tractors driven by other persons destroyed the cement poles disputed the facts; it did not show that the uncontroverted allegations failed to disclose an offence. That factual question was for the trial court, and no ground for quashing was established.	767
Triable cruelty allegations and assessment of rival versions on quashing	When allegations of matrimonial cruelty raise triable issues, the Court exercising quashing jurisdiction does not decide the truth of rival versions. Whether the alleged harassment actually occurred is for trial. Proceedings may nevertheless be quashed where abuse of process is apparent on their face; specific allegations disclosing a case cannot be quashed merely by disputing their truth.	783
Private marriage certificate relied on as a defence to quashing	A private certificate relied upon to allege the complainant's prior marriage could not be accepted through judicial notice in the Section 482 CrPC proceedings. The asserted defence had to be proved by the applicants by leading evidence; the certificate did not itself justify quashing the FIR.	784
Disputed medical alibi in a Section 528 BNSS quashing application	An alibi based on alleged medical treatment elsewhere, supported by a haematology report and a prescription on plain paper, raised a highly disputed question of fact. It required proof through cogent defence evidence and could not be resolved in the Section 528 BNSS quashing application merely from those papers.	785
Limits on evidence assessment in inherent-power quashing	Inherent jurisdiction preserves power to give effect to orders under the Code, prevent abuse of process and secure the ends of justice; it is exercised sparingly and does not turn the High Court into an appellate or revisional fact-finding court. Absence of legal evidence is distinct from evidence whose reliability or weight remains disputable. The latter assessment belongs to the trial court. Quashing cannot rest on weighing probabilities to predict whether conviction will ultimately follow, particularly where facts or evidence remain incomplete.	785
Contested defence and evidence assessment at the quashing stage	Inherent-power quashing does not permit a roving inquiry into disputed facts, testing the reliability of allegations or detailed assessment of the accused's contested defence. Those questions ordinarily require investigation and trial evidence. The High Court must use its wide power cautiously on sound principles and cannot short-circuit a genuine prosecution by deciding disputed documents or factual explanations prematurely.	787
Public or undisputed defence documents in quashing proceedings	Ordinarily the High Court does not assess the accused's defence or verify documents relied on by the accused when considering quashing. In an appropriate case, however, a public document or a document whose veracity is not disputed by the complainant may be considered. This limited exception does not authorise adjudication of contested defence material as though at trial.	787

50.3 : Section 482 CrPC — No Mini-Trial or Evidence Appreciation

Topic	Ratio	Case Sr.no.
Triable allegations and disputed versions in quashing proceedings	Where the allegations disclose a triable case, the Court exercising quashing jurisdiction does not determine the truth of competing versions. Proceedings may be quashed where they constitute an abuse of process on their face, but an allegation of cruelty that requires trial cannot be rejected through an assessment of its truth at this stage.	790
Triable matrimonial allegations and defence scrutiny under Section 482	Proceedings may be quashed where the allegations are absurd, disclose no case or constitute abuse of process. Where specific uncontroverted allegations disclose a triable case, Section 482 CrPC does not permit determination of the reliability of the competing defence version. The prima facie allegations against the other three relatives were therefore left for prosecution.	793
Disputed counterblast allegations arising from civil and criminal litigation	Where earlier FIRs preceded the accused's civil suits and the accused alleged that a later FIR was intended to compel withdrawal of those suits, which proceeding was retaliatory remained a disputed question of fact. That controversy could not be resolved in inherent quashing jurisdiction.	795
Absence of legal evidence distinguished from disputed evidentiary weight	For inherent quashing, absence of legal evidence or evidence manifestly inconsistent with the accusation is distinct from evidence that may or may not sustain it after appreciation. The High Court ordinarily does not assess reliability or decide whether conviction is likely; that assessment belongs to the trial court.	795
Section 482 CrPC — triable issues and rival factual versions	Where a criminal complaint raises triable issues, the High Court should not determine the truth of rival versions in quashing proceedings. It may exercise its inherent jurisdiction where the proceedings, on their face, amount to abuse of the Court's process.	801
Section 141 NI Act — disputed management and director status	Once the basic averment of responsibility for the company's business is made, whether the accused actually held that responsibility is a disputed question for evidence at trial. A memorandum of association omitting their names as directors did not resolve whether its list applied when the cheque was issued, whether it was later altered, or whether they managed the company's business or were authorised signatories. Those disputed matters did not warrant setting aside cognizance and summons.	803
Food-adulteration prosecution — disputed claim that goods were not for sale	A disputed defence that the seized dairy product was a residue not intended for sale could not be accepted at the quashing stage where the material prima facie indicated that it was kept for sale in the dairy shop. The relied-upon decision treated the nature and intended use of the product as matters that could not be resolved in the accused's favour at that stage.	806
Section 482 CrPC— disputed credibility and exculpatory defence writings	The High Court does not ordinarily determine the truth of rival allegations, the complainant's credibility or the genuineness of defence documents in proceedings under Section 482 CrPC. Alleged exculpatory writings and the claim that the complainant acted under her lawyer brother's influence required assessment of disputed facts. The Court declined that inquiry and expressly stated that its observations about possible motives on either side were not findings on the merits.	816
Exception for public or undisputed defence documents in quashing proceedings	Although a quashing court ordinarily does not assess the accused's defence or the veracity of defence documents, it may consider a document in an appropriate case where it is a public document or its veracity is not disputed by the complainant. The Court reproduced and relied on this qualification from Mohd. Akram Siddiqui while declining to resolve the disputed exculpatory writings relied on here.	816
Counterblast plea — Disputed assault versions and FIR chronology	Section 482 CrPC does not permit a mini-trial to choose between conflicting assault allegations, particularly where the accused's counter-FIR partly supports the complainant's account of the encounter. An FIR lodged before the accused's later FIR cannot be treated as a counterblast to that later report.	824

Topic	Ratio	Case Sr.no.
Quashing — Absence of legal evidence versus appreciation of evidence	A case with no legal evidence, or evidence clearly inconsistent with the accusation, differs from one where legal evidence may or may not support the charge after appreciation. Section 482 CrPC does not ordinarily permit an inquiry into reliability or an assessment whether the accusation will be proved; those functions belong to the trial court.	824
Unproved private defence documents in charge-sheet quashing proceedings	Private documents outside the prosecution charge sheet, requiring formal proof and not qualifying as public documents, could not establish the accused's contractual defence in proceedings under Section 482 CrPC. The Court confined its examination to the prosecution documents and declined to treat the asserted buyer default, forfeiture entitlement or revocation of a third-party sale agreement as proved. It also reiterated that an accused has no right to introduce defence documents at the stage of framing charges.	831
Counter-FIR timing and disputed identity of the aggressor in quashing proceedings	A counter-FIR lodged forty minutes after the accused's FIR could not be treated as retaliatory merely because it was later in time. Both versions acknowledged the accused's visit to his wife's parental home and an incident there. Which party was the aggressor required evidence tested by cross-examination and could not be decided under Section 482 CrPC through a roving inquiry into the truth of the competing allegations. Earlier apprehensions of false implication, amid admitted matrimonial hostility and multiple disputes, did not establish that the later FIR was false.	832
Public or undisputed defence documents in quashing proceedings	Ordinarily, the High Court considering quashing does not appreciate the accused's defence or assess the veracity of documents relied upon by him. In an appropriate case, however, a public document or a document whose veracity the complainant does not dispute may be considered. The exception does not permit a general trial of disputed defence material under Section 482 CrPC.	832
Disputed defence facts and evidentiary appraisal under Section 482 CrPC	The High Court does not determine disputed defence facts or meticulously weigh their evidence when considering FIR quashing. Whether the prosecution can ultimately prove the charge belongs to trial, rather than a preliminary prediction of conviction or acquittal. The applicant's disputed claim that he was at his office therefore could not be accepted at this stage as an established answer to the FIR. Refusal of that defence did not determine his actual whereabouts or guilt.	837
Public or undisputed documents as an exception to ordinary defence-material restraint	Ordinarily, a quashing court does not appreciate the accused's defence or determine the veracity of documents he relies upon. In an appropriate case, however, it may consider a public document or a document whose veracity the complainant does not dispute. That limited exception does not authorise resolution of a disputed alibi through a preliminary trial of evidence.	837
Informant's alleged mala fides where a cognizable offence is disclosed	Where the allegations disclose a cognizable offence, the informant's alleged mala fides are secondary and cannot by themselves justify quashing; the investigation and evidence determine the accusation. Applying Renu Kumari, the Court declined to decide the disputed allegation of mala fides under Section 482 CrPC. The reproduced quashing principles nevertheless preserve intervention for manifest malicious prosecution or other established abuse of process.	844
No trial of evidentiary reliability in Section 482 proceedings	Absence of legal evidence, or evidence clearly inconsistent with the accusation, differs from evidence that may or may not sustain it after appreciation. Under Section 482, the High Court ordinarily cannot decide evidentiary reliability or predict whether conviction will follow; that assessment belongs to the trial court. Particular caution is required while facts are incomplete, evidence has not been collected and issues cannot be assessed in their proper perspective.	844
Unproved private defence document in Section 482	The private declaration relied upon to show that the wife had voluntarily left the matrimonial home required proof. The Court could not accept it in support of the defence at the quashing stage. The reproduced Taramani Parakh	846

50.3 : Section 482 CrPC — No Mini-Trial or Evidence Appreciation

Topic	Ratio	Case Sr.no.
proceedings	reasoning distinguishes manifest abuse apparent on the face of proceedings from triable issues for which the Court cannot determine the truth of rival versions.	
One-day discrepancy in the alleged date of matrimonial ouster	The difference between 4 and 5 May in the accounts of the wife's departure did not justify undue importance at the quashing stage. The complainant remained entitled to explain the discrepancy, and a plausible explanation could be accepted. The Court considered the discrepancy alongside specific allegations of harassment rather than treating it as conclusively disproving the incident.	846
Refusal to entertain a matrimonial FIR-quashing application while trial evidence is in progress	After rejecting the contention that the FIR was a counterblast merely because it followed divorce proceedings, and considering the admitted separate residence and the dowry-cruelty principle, the Court declined to entertain the Section 482 CrPC application when evidence was already being recorded at trial. The refusal rested on those circumstances together.	851
Disputed defences and document reliability ordinarily cannot be decided under Section 482 CrPC	The High Court ordinarily cannot determine the truth of disputed allegations, weigh evidence or conduct a mini-trial when considering quashing under Section 482 CrPC. The applicant's denial of physical relations and allegation of blackmail through a WhatsApp QR-code money demand were defences requiring proof before the trial court. The adopted authorities preserve sparing intervention where allegations accepted in full disclose no offence, an express legal bar exists, or sufficient material shows a malicious prosecution. They also recognise consideration, in an appropriate case, of a public document or a document whose veracity the complainant does not dispute.	855
Specific cruelty allegations and disputed medical material raise triable issues under Section 482 CrPC	Applying Taramani Parakh, the Court distinguished mere naming of distant relatives without specific material from allegations against the husband and his parents that raised triable issues. The complaint alleged dowry-related assaults, expulsion and denial of the child's custody. The hospital record supported the pleaded treatment history, and the supplementary statement explained the absence of miscarriage documents rather than withdrawing the cruelty allegations. On the allegations and material considered, the Court declined to determine their ultimate truth under Section 482 CrPC and refused quashing.	856
Section 482 CrPC: disputed defence documents and the undisputed-document exception	The High Court ordinarily does not assess the accused's defence or determine the veracity of defence documents while considering quashing. In an appropriate case, a public document or a document whose veracity the complainant does not dispute may be considered. Here, a telephone-usage statement in the husband's name did not establish that the wife used the phone late at night and did not justify accepting the disputed defence.	862
Quashing: prima facie allegations and limits on evidence assessment	The Court must consider whether the uncontroverted allegations and accompanying prosecution record prima facie disclose an offence, exercising quashing powers sparingly and with caution. It must not conduct a meticulous examination of admissibility or reliability, a full inquiry into guilt, or an assessment of whether conviction will ultimately follow. Patently absurd or inherently improbable allegations, or absence of the basic offence ingredients, may justify interference. Where an offence is broadly disclosed, the prosecution should ordinarily continue.	871
Section 482 CrPC: disputed matrimonial defences require trial	In quashing proceedings, the Court examines whether the uncontroverted allegations disclose an offence; it cannot adjudicate a disputed defence. The alleged extramarital relationship and the complainant's conduct during reconciliation raised matters for the trial court. They did not displace the prima facie allegation of physical and mental harassment for an unmet demand of ₹4,00,000 against the husband and his parents.	872
Section 482 CrPC — disputed consent cannot be	In considering quashing, the High Court examines whether the allegations taken at face value disclose an offence and whether intervention is warranted to prevent abuse of process. It cannot conduct a detailed inquiry into their truth,	882

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determined through a merits inquiry	weigh witness credibility or decide the contested defence as at trial. The plea that an adult police constable voluntarily continued the relationship and later ended the proposed marriage did not permit rejection of her allegations at this stage. The alleged later violence, salary pressure, abortion pills, circulation of photographs and threats were considered on the face of the FIR, and the Court found a prima facie case concerning vitiated consent.	
Section 482 CrPC — disputed mobile-location alibi requires evidence	The High Court cannot decide a disputed defence or test the truth of the prosecution allegations in a Section 482 petition. An accused relying on alibi must prove it by cogent and reliable evidence. The applicant's claimed mobile location therefore could not be adjudicated to displace the FIR's allegations at the quashing stage.	893
Section 482 CrPC — limited consideration of public or undisputed defence documents	Ordinarily, the High Court does not assess the accused's defence or decide the veracity of defence documents when considering quashing. The reproduced principle in Mohd. Akram Siddiqui recognises an exception in an appropriate case for a public document or a document whose authenticity the complainant does not dispute. That exception does not permit the Court to resolve a contested alibi or authenticate an unproved private recording.	893
Quashing — limited consideration of public or undisputed defence documents	Although the High Court ordinarily does not assess the accused's defence or verify defence documents when considering quashing, an appropriate case permits consideration of a public document or a document whose authenticity the complainant does not dispute.	900
Accident proceedings — conflicting accounts and CCTV at the quashing stage	CCTV footage forming part of the charge-sheet could be examined when considering the claim that the investigating officer had withheld it. A discrepancy between the FIR's description of the collision and the footage did not justify quashing where the material still disclosed a prima facie case. Disputed questions about lane use and negligence required evidence at trial. Observations made for this limited review were provisional and did not bind the trial court.	904
Quashing — public and undisputed documents as a limited exception	The High Court ordinarily does not assess the accused's defence or decide the authenticity of defence documents when considering quashing. In an appropriate case, however, a public document or one whose authenticity the complainant does not dispute may be considered. This limited exception does not permit a trial of disputed factual issues.	904
Section 482 CrPC — delayed rape allegation and disputed spot-map chronology	The High Court cannot decide the truthfulness of the prosecutrix or other witnesses when considering quashing under Section 482 CrPC. The contention that rape was alleged four days after the initial account required an assessment of credibility. An allegation that the spot map was antedated because it mentioned the subsequently added Section 376 IPC was for the trial court to examine after giving the investigating officer an opportunity to explain. These disputes did not justify quashing the prosecution.	907
Quashing — limited consideration of public or undisputed defence documents	The accused's defence and the authenticity of defence documents are ordinarily not examined under Section 482 CrPC. In an appropriate case, a public document or a document whose authenticity the complainant does not dispute may be considered. This exception does not permit disputed document chronology to be decided without evidence or an opportunity for the investigating officer to explain.	907
Section 482 CrPC review without a mini-trial	On a quashing application, the Court examines whether the uncontroverted allegations and prosecution material, taken at face value, disclose a prima facie offence. It cannot conduct a roving inquiry, weigh disputed evidence, decide the truth of competing versions or predict conviction. A factual foundation substantially disclosing the offence must be assessed as a whole, without treating the FIR as an exhaustive account. The applicants' denial and reliance on an earlier reconciliation did not require acceptance of their defence against	925

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	allegations of later cruelty.	
Public or undisputed defence documents on a quashing application	Ordinarily, the High Court does not appreciate the accused's defence or determine the veracity of defence documents under Section 482 CrPC. In an appropriate case, however, a public document or a document whose authenticity is not disputed by the complainant may be considered. The exception does not permit adjudication of disputed defence evidence.	925
Plea of alibi based on an employer's certificate in quashing proceedings	A plea that the accused was on duty elsewhere is a defence requiring cogent and reliable proof. The accused bears a heavy burden to establish the alibi. Whether the father-in-law was on duty required examination of his employer and proof of the relevant documents, and could not be determined under Section 482 CrPC.	930
Section 482 CrPC does not permit a trial of disputed facts or witness reliability	A quashing court assesses the uncontroverted allegations and supporting material to determine whether an offence is disclosed; it does not conduct a detailed enquiry into whether the allegations are true or the witnesses reliable. Applying XYZ v. State of Gujarat, S. Martin, Gourishetty Mahesh, M. Srikanth, Arvind Khanna, Kunwar Singh and the other authorities discussed, the Court declined to decide whether the alleged construction had taken place or the incident had occurred as alleged. Those disputed matters required evidence before the trial court. The inherent power must be used cautiously to prevent abuse of process or secure justice, without stifling a legitimate prosecution.	956
Triable issues and the limits of assessing rival versions on quashing	When the complaint discloses triable issues, the High Court is not expected in quashing proceedings to determine the truth of rival versions. It may intervene where the proceedings are facially an abuse of process. The adopted Taramani Parakh passage treats allegations of dowry harassment and cruelty as requiring trial where, taken as proved, they disclose a case. This supported refusal of quashing against the parents while allowing separate relief for the sister-in-law's unspecified role.	967
Section 528 BNSS: disputed alibi cannot be determined in FIR-quashing proceedings	Whether the accused were at their office rather than at the scene was a disputed question of fact requiring assessment of evidence at trial. That contested alibi did not justify quashing the FIR under section 528 BNSS.	970
Section 482 CrPC: disputed defence and evidentiary reliability	In deciding a quashing petition, the High Court cannot conduct a mini-trial to determine the truth of the allegations, assess contested defence evidence or decide whether the prosecution evidence will sustain a conviction. Disputed evidence ordinarily falls for assessment at trial; a cognizable offence disclosed by the uncontroverted FIR allegations cannot be defeated by such an inquiry.	972
Defence documents in quashing: public or undisputed documents	Ordinarily, the High Court does not appreciate the accused's defence or test the veracity of defence documents when considering quashing. In an appropriate case, it may consider a public document or a document whose veracity the complainant does not dispute.	972
Quashing on a favourable expert report without the remaining prosecution material	A favourable handwriting report alone did not justify quashing where the applicant had not produced the charge-sheet to show what other evidence supported the prosecution and had not challenged the charge-framing order. Without material demonstrating the absence of other incriminating evidence, the Court declined to terminate the trial under section 482 CrPC.	973
Section 482 CrPC: no roving inquiry into disputed evidence	The High Court must not assess disputed evidence, test the truth of allegations or predict conviction through a mini-trial in quashing proceedings. Where the allegations disclose a cognizable offence, investigation ordinarily must proceed; intervention remains available where the legal grounds for quashing or a clear abuse of process are established.	976
Alibi concerns the time of the offence,	An alibi requires the accused to have been elsewhere when the offence allegedly occurred. Presence at the High Court on the following day, when the FIR was	976

Topic	Ratio	Case Sr.no.
not the time of FIR registration	lodged, did not establish absence from the village at the time of the alleged offence. The applicant did not claim absence during that relevant period.	
Public or undisputed defence documents in quashing proceedings	Although a quashing court ordinarily neither appreciates the accused's defence nor tests the veracity of defence documents, it may consider a public document or a document whose veracity the complainant does not dispute in an appropriate case.	976
Defence documents and disputed matrimonial counter-version at quashing stage	Ordinarily, the quashing court does not appreciate the accused's defence or decide the veracity of defence documents. In an appropriate case, a public document or one whose veracity the complainant does not dispute may be considered. The applicants' rival account of the marriage and counselling required proof at trial and did not justify quashing the specific allegations.	977
Cognizance and framing of charge: no right to introduce defence material	An accused has no right to produce defence material at the stage of taking cognizance or framing charges. The contrary approach in Satish Mehra was disapproved in Debendra Nath Padhi. In this case, the petitioner's explanation for the allegedly defamatory letter was a disputed defence to be proved at trial, rather than decided in the writ challenge to cognizance.	978
Prima facie scrutiny without a trial of evidence in quashing proceedings	In deciding whether criminal proceedings should be quashed, the Court examines whether the uncontroverted allegations and accompanying prosecution record prima facie disclose an offence. It does not conduct a meticulous appraisal of the evidence or a full inquiry into whether the prosecution will ultimately secure a conviction. This threshold assessment also governs a claim that the dispute is merely civil.	981
Section 482 CrPC — quashing cannot involve a trial of disputed allegations or defence	In considering quashing of a charge sheet and framed charges, the Court must ordinarily assess whether the uncontroverted allegations disclose an offence, without deciding their truth, weighing credibility or conducting a detailed inquiry into the accused's defence. Quashing may be justified where the allegations taken in their entirety disclose no offence, an express legal bar applies, or sufficient material establishes malicious institution to wreak personal vengeance. The power must be exercised sparingly and cannot stifle a legitimate prosecution. Specific allegations of dowry demands, harassment, property taking and threats were sufficient to resist quashing of the charges under Sections 498-A, 406 and 506 Part II IPC.	1001
Section 482 CrPC — limited consideration of public or undisputed defence documents	The High Court ordinarily does not appreciate the accused's defence or examine the truth of documents relied on by the accused while considering quashing. As explained in Mohd. Akram Siddiqui, whose principle the Court reproduced in setting out the governing scope of Section 482 CrPC, an exception permits consideration in an appropriate case where the document is public or its veracity is not disputed by the complainant. This exception qualifies the ordinary rule against evaluating defence material at the quashing stage.	1001
	Sub-Chapter no. 50.4 **Compromise-Based Quashing and Limits in Serious Offences**	
Compromise-based quashing — bank-official misappropriation affecting public trust	Alleged misappropriation of a deceased customer's money by a bank official affects public confidence in the banking system and is an offence against society. A private compromise is therefore insufficient to justify quashing that prosecution under Section 482 CrPC. The Court applied this principle to the remaining breach-of-trust, forgery and conspiracy charges even though the Section 420 IPC charge had already been compounded.	7
Section 482 CrPC quashing and Section 320 compounding — distinct powers	The High Court's inherent power under Section 482 CrPC is distinct from the statutory power to compound an offence under Section 320. A complete settlement may justify quashing even a non-compoundable offence in an appropriate case, but the power must be exercised sparingly and cautiously. The Court must form an opinion that intervention would secure the ends of justice	7

Topic	Ratio	Case Sr.no.
	or prevent abuse of its process.	
Settlement — serious offences and public-duty prosecutions	A compromise between the victim and accused is not a sufficient ground to quash prosecutions for heinous and serious offences with a substantial social impact, such as murder, rape or dacoity. The same restriction applies to offences under statutes such as the Prevention of Corruption Act and offences committed by public servants while acting in that capacity. Their character extends beyond a private dispute between the parties.	7
Settlement of predominantly civil disputes — conviction prospects and injustice	Criminal cases with an overwhelmingly and predominantly civil character, including appropriate commercial, matrimonial or family disputes, may be quashed after the parties resolve their entire dispute. The High Court must examine whether conviction is remote and unlikely and whether continuation would cause serious oppression, prejudice or extreme injustice. Settlement does not dispense with that judicial assessment.	7
Compromise-based quashing — significance of the stage of proceedings	The timing of settlement matters when exercising Section 482 CrPC jurisdiction. A settlement reached immediately after the alleged offence while investigation is continuing, or after charge framing but before evidence begins or while it is at an early stage, may receive more favourable consideration, subject to a prima facie assessment of the material. When prosecution evidence is almost complete or arguments have begun, the High Court should ordinarily leave the trial court to decide the merits rather than quash on settlement.	7
Rape prosecution — later marriage or private settlement is no ground for quashing	A pending rape prosecution cannot be quashed merely because the accused has married the prosecutrix or the parties have settled. Applying Madanlal and the serious-offence principles in the other cited decisions, the Court treated rape as a wrong affecting society and the woman's dignity, rather than a private dispute capable of termination by agreement. Marriage or compromise could not justify a softer approach or the assumption that trial would be futile.	58
Compromise-based quashing — trial stage and disclosure of progress	The timing of settlement and the stage of trial are material to Section 482 CrPC discretion. In the Narinder Singh principles relied upon, early settlement or evidence at an initial stage may permit a favourable assessment in an otherwise eligible case; quashing is ordinarily inappropriate when evidence is substantially complete or arguments are pending. Mere compromise does not justify acquittal on appeal after conviction for a serious offence. Here, failure to disclose whether the prosecutrix had been examined or supported the prosecution was an additional ground for rejecting the petition.	58
Sections 482 and 320 CrPC — quashing distinguished from compounding	The principles relied upon distinguish statutory compounding under Section 320 CrPC from the High Court's inherent power under Section 482. Section 482 preserves existing inherent power and may permit quashing even of a non-compoundable offence in an appropriate case. Settlement alone is insufficient: the Court must determine, cautiously and on the case's circumstances, whether intervention secures justice or prevents abuse of the court's process.	58
Settlement quashing — nature, gravity and social impact of the offence	When considering settlement-based quashing, the High Court must examine the substance of the allegations, the nature and gravity of the offence, and its impact on society. Heinous offences such as murder, rape and dacoity cannot be treated as private wrongs merely because the victim or family agrees to settle. A mechanical inference from compromise that conviction is unlikely does not replace that assessment.	58
Economic offences — public consequences despite a private settlement	The Parbatbhai principle reproduced and relied upon excepts economic offences affecting the State's financial or economic well-being from the ordinary treatment of settled civil-flavour disputes. The High Court may decline quashing where financial fraud or similar conduct has consequences beyond the private parties. Its effect on the financial or economic system must be weighed.	58
Special-statute examples in	In the Monu @ Ranu Kushwah reasoning expressly relied upon, the reference	58

Topic	Ratio	Case Sr.no.
settlement restrictions — illustrative scope	to the Prevention of Corruption Act and offences by public servants in the Narinder Singh settlement restriction was illustrative rather than exhaustive. Monu applied that reasoning to SC/ST Act offences. The present Court relied on it to refuse compromise-based quashing of the alleged POCSO offences.	
Prospect of compromise does not justify using notice to pressure the complainant	Compounding under Section 320 CrPC requires a voluntary compromise in a legally compoundable offence. A request to issue notice merely in the hope of negotiating a settlement cannot be used to put pressure on the complainant; a compromise produced by such pressure is not voluntary.	209
Subsequent repayment and quashing of alleged economic offences	Subsequent payment of outstanding money does not by itself justify quashing where the allegations concern economic wrongdoing affecting public funds and society. The Court must consider the substance and seriousness of the allegations and the public interest rather than treat repayment or settlement as automatically ending criminal liability. On this record, later deposits did not warrant stopping the investigation.	290
Compromise-based quashing — repeated stalking and public sexual harassment affect society	The distinction between predominantly civil or private disputes and offences seriously affecting society governs compromise-based quashing under Section 482 CrPC. An asserted settlement did not justify quashing allegations of repeated stalking and harassment followed by obstruction on a public road, a fall from a scooter, sexually motivated grabbing, threats and abuse. The Court treated women's ability to move safely in public as a substantial societal interest and refused quashing on compromise. This was an assessment of the FIR allegations, not a finding of guilt.	345
Section 482 CrPC — Later marriage does not justify quashing rape and POCSO allegations	A later marriage between the accused and prosecutrix does not justify quashing an allegation of rape or convert a serious sexual offence into a private dispute. Applying the principles against compromise in rape cases, the Court rejected the asserted marriage as a ground to quash the alleged repeated rape of a minor and offences under Sections 5(l)/6 POCSO Act. The alleged repeated exploitation and the accused's continued abscondence after filing of the charge-sheet also weighed against interference. The refusal to quash did not determine guilt after trial.	354
Compromise-based quashing — Distinction from statutory compounding and public-interest limits	Quashing under Section 482 CrPC is distinct from compounding under Section 320 CrPC and may extend to a non-compoundable offence where the ends of justice or prevention of abuse justify it. Settlement alone is insufficient: the court must examine the allegations, the settlement, the nature and gravity of the offence and its social impact. Heinous offences such as rape are not merely private wrongs and cannot appropriately be quashed on settlement. A prediction of acquittal following compromise cannot replace that public-interest assessment.	354
Compromise quashing refused where the applicant evades unfinished investigation	The Court refused compromise-based quashing where co-accused were already on trial but the applicant's non-cooperation had prevented arrest, seizure and completion of investigation. He suppressed his conditional anticipatory-bail history, and the Court inferred that he had neither complied nor appeared before the officer. The alleged ₹4 crore fraud affected numerous victims; complete settlement lacked proper affidavit support, and claimed repayments lacked documentary proof. Earlier refusals and the possibility of further incriminating material also weighed against relief. The decision was a refusal of discretionary quashing, not a final determination of guilt.	443
Compounding distinguished from compromise-based inherent quashing	Section 482 CrPC quashing is distinct from statutory compounding under Section 320 and may extend to non-compoundable offences, but must be exercised sparingly to secure justice or prevent abuse. The adopted test considers the offence's public impact, whether the entire dispute is settled, the prospects of conviction and the prejudice of continuing proceedings. Predominantly civil commercial or family disputes may qualify, whereas	443

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	serious offences affecting society, corruption and official misconduct are not quashed merely because the parties settle. The Court treated the alleged multi-victim fraud as having a wider societal impact.	
Stage of proceedings when considering a compromise for quashing	The timing of settlement is material to Section 482 discretion. The adopted Narinder Singh passage permits greater latitude during investigation or before evidence has substantially progressed, subject to a prima facie assessment of the material. Once prosecution evidence is almost complete or arguments are imminent, the court ordinarily allows the trial to determine the merits. In this case, an unfinished investigation caused by the applicant's evasion, while co-accused faced trial, did not justify treating the settlement as eliminating the possibility of further evidence.	443
Compromise-based quashing of a private property prosecution under Sections 420 and 409 IPC	The Court exercised Section 482 CrPC to quash a prosecution under Sections 420 and 409 IPC after a voluntary settlement of a private plot-allotment and refund dispute. Although the verification report identified Section 409 as non-compoundable, the Court applied Gian Singh and Narinder Singh, relying on the private nature of the dispute, the settlement and relinquishment of the victims' property claims, and the absence of any allegation that a government agency had been defrauded. The ruling turned on those circumstances and did not make every Section 409 prosecution quashable merely on compromise.	506
Compromise accepted for a bedridden victim through affidavit and authorised counsel	In verifying the settlement, the Court accepted the compromise of a victim who could not attend because she was bedridden. Her affidavit, resignation from the society and counsel's statement that he had specific authority to confirm her consent and redress of her grievances satisfied the Court on this record. The other appearing parties' consent had been verified by the Principal Registrar as voluntary and free from threat, inducement or coercion.	506
Verified compromise and quashing of sustained stalking of a minor	Verification that a compromise is voluntary does not by itself justify quashing under Section 482 CrPC. Where the allegations concerned prolonged stalking and harassment of a minor, public misbehaviour and threats to kill or throw acid, the Court treated the alleged conduct as affecting society and declined to quash the FIR and pending trial on the settlement.	578
Compromise-based quashing of a rape prosecution	Rape is a heinous offence affecting society and cannot be treated as a private dispute capable of ending merely through compromise. A Registrar's report verifying a voluntary settlement did not justify quashing the rape FIR where an earlier compromise-based request had already been dismissed on merits.	797
Inherent quashing distinguished from statutory compounding	The High Court's inherent power under Section 482 CrPC is distinct from statutory compounding under Section 320 CrPC. A settlement may support quashing of a non-compoundable prosecution only within the cautious exercise of inherent jurisdiction to secure justice or prevent abuse of process; it does not create an entitlement to quashing.	797
Compromise-based quashing while a closure report awaits decision	Where the police closure report remained pending before the competent Magistrate, the Court declined compromise-based quashing under Section 482 CrPC because an efficacious statutory remedy was available. The Court left the report for the Magistrate's consideration without deciding whether the compromise justified quashing on its merits.	798
Section 308 IPC: compounding and inherent quashing	An offence under Section 308 IPC is not compoundable under Section 320 CrPC. A request to end the prosecution on compromise therefore requires consideration under the High Court's distinct inherent jurisdiction under Section 482 CrPC, exercised sparingly and cautiously to secure justice or prevent abuse of process.	798
Judicial assessment of a settlement offered for quashing	Compromise-based quashing requires consideration of the offence's nature and societal impact, the relevant prima facie material, prospects of conviction and the stage at which settlement is reached. Heinous offences and offences with	798

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	serious public impact cannot be treated like predominantly civil disputes. The applicable safeguards in Gian Singh and Narinder Singh must be followed; settlement alone does not determine the outcome.	
Breach of a conditional settlement as a ground for quashing an FIR	An asserted settlement requiring withdrawal of civil and criminal cases does not by itself require quashing of an FIR when a party fails to honour its conditions. The Court must still consider whether the allegations, accepted as correct, disclose an offence. Withdrawal of the civil suit pursuant to the settlement did not displace that inquiry or entitle the accused to quashing on the settlement ground alone.	831
Compromise-based quashing of public abduction, armed assault and coerced self-incrimination	On an application under Section 528 BNSS/Section 482 CrPC, allegations of abduction from a public place, assault with the butt of a pistol and forced videos containing false self-incriminating admissions were treated as heinous and directed against society. Read as a whole, the FIR also alleged extraction of ₹16,000 and a further monetary demand. Applying Gian Singh and Narinder Singh, the Court refused to quash the FIR on compromise. The decision concerns the nature of these allegations at the quashing stage and does not determine guilt or make every offence under the cited provisions categorically incapable of compromise-based quashing.	910
Compromise-based quashing of heinous sexual offences against a minor	Section 482 CrPC cannot be used to quash heinous offences that are not purely private and have a serious societal impact merely because the parties have settled. Even a prediction that compromise makes conviction remote does not justify terminating such proceedings. Applying Ramji Lal Bairwa, the Court refused to quash the prosecution alleging rape and POCSO offences against a minor on the basis of compromise.	933
Compromise or marriage as a ground to terminate a rape prosecution	Compromise is not an acceptable basis for a lenient judicial approach in cases of rape or attempted rape. A proposal to marry the victim may itself place pressure on her and does not justify such an approach. Applying Madanlal and Arif Khan, the Court reiterated that even marriage with the prosecutrix does not justify quashing a rape prosecution.	933
Verified settlement and quashing of non-compoundable proceedings	Quashing under Section 482 CrPC differs from compounding under Section 320. Even a non-compoundable case may be quashed after settlement, but the power is sparing and cautious and must secure the ends of justice or prevent abuse of process. Predominantly civil commercial, matrimonial or family disputes require consideration of complete settlement, the likelihood of conviction and oppressive or unjust continuation. Heinous offences with serious societal impact, offences under statutes such as the Prevention of Corruption Act and offences by public servants in their official capacity cannot be quashed merely on private compromise. Verification of the settlement did not by itself satisfy these requirements.	938
Misuse of government agencies in a forgery case and compromise-based quashing	Allegations that a sale deed was obtained in a dead person's name and a false death certificate was prepared through misuse of government agencies prevented treating the prosecution as a simple private property dispute. On those allegations, settlement between the parties did not justify quashing the FIR or sessions trial.	938
Disclosure of the trial stage when seeking compromise-based quashing	The timing of settlement and stage of proceedings materially affect the exercise of Section 482 power. Settlement during investigation, before evidence or at its early stage may receive favourable consideration after the required prima facie assessment. Where prosecution evidence is nearly complete, has concluded or arguments have begun, the High Court should ordinarily allow the trial court to decide the merits. The applicant's failure to disclose the stage of the sessions trial was therefore material to the refusal of quashing.	938
Compromise in a prosecution	Compromise did not justify quashing where the applicants had represented ownership of land belonging to a third person and tried to sell it without	964

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involving the purported sale of third-party land	authority. Earlier proceedings had already found prima facie material under Sections 420, 467 and 468 IPC. The transaction affected the third-party owner as well as the complainant, and the Court applied the distinction between private disputes and offences against society. Counsel neither explained the circumstances of the later compromise nor identified the trial stage. In those circumstances the Court refused to quash, without finally determining criminal guilt.	
Compromise-based quashing of predominantly civil disputes	Section 482 CrPC may be used to quash non-compoundable proceedings having an overwhelmingly and predominantly civil character, particularly commercial, matrimonial or family disputes, when the parties have resolved the entire dispute. That power does not make compromise sufficient for offences against society. The Court adopted this distinction from Gian Singh, Narinder Singh and the reproduced Laxmi Narayan principles.	964
Antecedents and settlement circumstances in compromise-based quashing	When considering settlement of non-compoundable offences that are private in nature and have no serious societal impact, the High Court must consider the accused's antecedents and conduct, including any absconding and its reasons, and how the compromise was obtained. A settlement cannot be assessed independently of those circumstances. Here, the absence of an explanation for the complainant's change of position was material to refusal of quashing.	964

Sub-Chapter no. 50.5
Section 482 CrPC — Quashing Where Criminal Ingredients Are Absent

Omnibus dowry allegations — undisputed childhood at the alleged onset	An FIR and Section 161 statement that collectively alleged dowry demand and mental and physical harassment, without any specific act or manner of harassment by the husband's two siblings, did not disclose a prima facie case against them. Their undisputed ages placed them at thirteen and eleven when the alleged conduct began, which the Court considered with the vague account. It quashed the Section 498-A IPC and Sections 3/4 Dowry Prohibition Act FIR only against these applicants.	14
Accused-specific quashing where face-value allegations disclose no offence	Proceedings may be quashed under Section 482 CrPC where the allegations, accepted in their entirety, do not disclose an offence against the applicant. Detailed allegations against the husband did not supply the missing offence ingredients against his mother. On the allegations of household objections, taunts and non-intervention attributed to her, the Court found no offence under Sections 498-A and 506 read with Section 34 IPC or Sections 3 and 4 of the Dowry Prohibition Act, and quashed the FIR and prosecution only as against her.	24
Quashing where specific allegations disclose an offence	A challenge under Section 482 CrPC cannot succeed merely because the accused disputes a specific allegation which, taken uncontroverted, discloses an offence. Filing a charge-sheet does not establish guilt: the prosecution must still prove the allegation. The specific statement attributing storage of the sand to the applicant therefore justified leaving the prosecution to proceed, without a final finding of guilt.	35
Quashing where the allegations disclose no offence or are inherently absurd	Criminal proceedings may be quashed where the FIR or complaint, accepted fully at face value, does not prima facie disclose an offence, or where the uncontroverted allegations and supporting material disclose no case against the accused. Inherently absurd or improbable allegations may also justify quashing where no prudent person could conclude that sufficient ground exists to proceed.	64
Quashing dowry proceedings — individual scrutiny of relatives	Relatives of the husband cannot be prosecuted merely because of their relationship or on vague, general or omnibus allegations. Their own specific role must be examined rather than attributing the husband's alleged conduct to the whole family. The Court applied that rule to quash the FIR and	69

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	consequential proceedings only against the married sister-in-law. The husband's challenge was not pressed, and his prosecution continued.	
Section 482 CrPC — Quashing where the alleged conduct does not constitute abetment	At the quashing stage, the Court forms a tentative view from the allegations and record rather than finally evaluating or weighing the evidence. The only alleged basis for suicide here was the deceased's grievance over the wife's FIR. As that conduct disclosed no abetment, the Court quashed the Sections 306/34 FIR, charge sheet and consequential proceedings against the wife and her parents.	114
Quashing where the allegations and uncontroverted material disclose no offence	Quashing may be justified where the FIR or complaint, read as a whole and accepted at face value, does not disclose the alleged offence, or where the uncontroverted allegations and supporting material disclose no offence against the accused. The inquiry concerns legal sufficiency of the allegations, rather than a prediction of whether conviction will follow.	120
Absence of offence ingredients in allegations accepted at face value	Quashing is justified where the allegations, accepted at face value and in their entirety, do not prima facie constitute an offence against the accused, or where the uncontroverted allegations and supporting evidence disclose no offence. The test concerns the allegations as a whole and is not a full inquiry into the prospect of conviction.	121
Quashing where accepted allegations disclose no offence	The High Court may quash where the FIR or complaint, read at face value and accepted in its entirety, does not disclose an offence. The same threshold includes uncontroverted allegations and supporting material that do not make out an offence against the accused. This inquiry concerns the legal sufficiency of the allegations rather than proof of their truth through a trial of the evidence.	189
Section 409 FIR based on funds used in a Lokayukta trap	Withdrawal of hostel funds followed immediately by handing the money to the investigating agency for a bribery trap did not constitute misappropriation where the same notes were recovered during the trap and remained with the agency and then the trial Court. Since the FIR itself acknowledged that use and custody, its allegations taken at face value disclosed no offence under Section 409 IPC, and the FIR was quashed.	198
Quashing in favour of a co-accused depends on the material against each accused	Quashing the proceedings against a co-accused for want of material showing his involvement does not establish that no offence occurred or entitle every accused to the same relief. The candidates' advance fee payments and admission chronology supplied material distinguishing their cases from the co-accused whose prosecution had been quashed.	204
Vague dowry allegations against the husband's relatives	Relatives cannot be compelled to face a matrimonial prosecution merely because they are named as family members. Where neither the FIR nor the complainant's and family members' Section 161 statements attributed a specific incident or role to applicants 3–8, the general and omnibus allegations did not justify continuing proceedings under Sections 498-A/34 IPC and Sections 3/4 of the Dowry Prohibition Act against them.	235
Separate residence and alleged non-involvement of a relative	A claim that a relative living separately had no involvement in the couple's affairs may be rejected at the threshold where the applicants' own complaint cites her as an eyewitness to an incident at the matrimonial residence. The Court also considered allegations in the relatives' own daughter-in-law's FIRs as context for its prima facie finding of interference, without making a final determination of those accusations.	236
Vague telephonic allegations against a brother-in-law	General allegations that the younger brother-in-law abused the complainant and threatened expulsion while speaking to his parents by telephone, without identifying specific occasions or instances in either the FIR or the Section 161 statement, were insufficient to require him to face prosecution. With no particular act of personal cruelty attributed to him, the Court quashed the FIR and consequential prosecution only as against that applicant.	249
Face-value test for	In deciding whether to quash criminal proceedings, the Court examines whether	260

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disclosure of an offence at the quashing stage	the uncontroverted allegations, accepted in their entirety, disclose an offence. It does not determine whether those allegations will ultimately be proved or whether a conviction is likely. The reliability of evidence ordinarily falls for assessment by the trial court.	
Face-value disclosure of an offence in inherent-power review	In considering quashing, the High Court examines whether the uncontroverted allegations disclose an offence. It does not decide the disputed defence as though conducting the trial. Applying that test, the Court found no basis to interfere with the FIR alleging abuse and assault.	266
Quashing where the allegations disclose no offence	Criminal proceedings may be quashed where the FIR or complaint, accepted at face value and in its entirety, does not constitute the alleged offence, or where the uncontroverted allegations and supporting material disclose no offence against the accused.	270
FIR quashing: disclosure of an offence and assessment of truth	At the quashing stage, the Court considers whether the FIR allegations disclose a cognizable offence; it does not determine their reliability or genuineness by examining the merits. Where no cognizable offence or offence of any kind is disclosed, investigation need not be allowed to continue. Quashing remains an exceptional exercise governed by the recognised legal parameters.	277
Section 482 CrPC — face-value offence test in a speech prosecution	In deciding this request to quash, the Court examined whether the uncontroverted FIR allegations disclosed an offence. The admitted additions to the cartoon prevented acceptance of the claim that no Section 153A offence could arise on those allegations. The disputed explanation and lack-of-intent defence required examination at trial, rather than a final determination in the quashing proceeding.	348
Quashing: Uncontroverted Allegations Must Be Tested for an Offence	The court may examine whether the uncontroverted allegations, taken at face value, disclose an offence. It cannot decide their truth by assessing contested evidence or by conducting a trial within the quashing proceedings. The Court found the allegations before it sufficient to continue the prosecution.	362
Face-Value Allegations and Extraneous Considerations in FIR Quashing	When considering whether an FIR discloses a cognizable offence, the High Court must examine its allegations for a prima facie case. It should not replace that inquiry with extraneous considerations or findings from an investigation report to decide contested allegations in inherent jurisdiction.	404
Vague allegations against separately residing matrimonial relatives	Prosecution of the husband’s relatives requires clear and specific allegations. In this case, an assurance about return of jewellery and general telephone remarks about bringing a car or obtaining divorce were insufficient against the married sister-in-law and her husband living separately in Kanpur. Their proceedings were quashed.	411
Face-value absence of an offence as a ground for quashing	Where the allegations, accepted in their entirety at face value, do not make out the offence in question, the High Court may quash the prosecution under Section 482 CrPC. Applying its interpretation of Section 377 to the marital allegations, the Court found no such offence and did not need to decide the separate contention that omission of those allegations from an earlier report showed an afterthought.	437
Company-liability objection apparent from the complaint must be decided at the threshold	An objection to prosecuting a director without the company, ascertainable from the complaint's allegations and the company cheque, raises a pure question of law. Where the record also showed notice only to the director, postponing the maintainability decision until completion of trial was materially illegal. The High Court exercised Section 482 CrPC power to set aside the Magistrate's and revisional court's orders and dismiss the complaint on that threshold ground.	442
Section 482: Testing Whether Accepted Allegations Disclose the Offence	At the quashing stage the court may examine whether the allegations, accepted as stated, disclose the statutory ingredients, while avoiding a final evaluation or marshalling of disputed evidence. After the charge-sheet had been filed, the	453

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	Court considered the suicide note and witness statements and found no offence of abetment of suicide or the alleged money-lending offence against the applicants; it quashed the FIR and subsequent proceedings against them.	
Completion of a voluntarily delivered signed blank cheque	Where a drawer voluntarily delivers a signed blank cheque to the payee towards payment, the payee may fill in the amount and other particulars. Completion by someone other than the drawer does not by itself invalidate the cheque. Applying Bir Singh v. Mukesh Kumar and Sections 20, 87 and 139 of the NI Act, the Court stated that the drawer must rebut the presumption of debt or liability by evidence. Section 138 may apply if the cheque is otherwise valid. The rule was applied to reject the particular allegation based on filling the cheque, without deciding the pending dishonour complaint.	502
Disowning a signed agreement on the plea that its language was not understood	A plea of good faith under Section 52 IPC requires pleading and proof of due care and attention. The complainant could not disown the agreement he signed merely by saying that it was in Gujarati, which he did not understand, and that he trusted the applicants. In rejecting that plea, the Court held that he should have understood the agreement before signing and also invoked Section 92 of the Evidence Act against oral evidence contradicting its written contents.	518
Testing whether uncontroverted complaint allegations disclose an offence	For the challenge considered, the Court tested whether the uncontroverted allegations in the complaint disclosed an offence. Since the alleged unlawful reconnection made out a prima facie case, the disputed defence did not warrant quashing the proceedings.	579
Reasonable force to protect lawful custody: absence of a hurt offence	On the FIR allegations and arrest record as assessed by the Court, the forest officials had arrested the complainant's husband during forest-land protection work and were attacked as villagers sought his release. The officials were entitled to use reasonable force to prevent removal of the arrestee. Independently of the sanction requirement, the Court found no offence disclosed against the ranger under Sections 323 or 325 IPC. The asserted forest-rights defence had no supporting possession material on record. The cognizance order was set aside and the closure report accepted. The ruling concerns reasonable force on those facts.	598
Exceptional grounds for quashing criminal proceedings	Criminal proceedings may be quashed where the allegations, accepted in full, disclose no offence, are inherently absurd or improbable, encounter an express legal bar, or establish a manifestly malicious abuse of criminal process. These powers require caution and cannot become an inquiry into the truth of disputed allegations. Applying the reproduced Bhajan Lal principles and related authorities, the Court found that the allegations required investigation rather than quashing.	600
Absence of legal evidence and disputed evidentiary weight in quashing proceedings	The quashing jurisdiction distinguishes a case with no legal evidence, or evidence manifestly inconsistent with the accusation, from a case where existing legal evidence may or may not support the accusation after appreciation. The latter assessment belongs to the trial court. The Court reproduced and relied on this distinction in Renu Kumari when refusing to test the reliability of the husband's alleged acts under Section 482 CrPC.	601
Section 306 IPC quashing: dispossession from lawful livelihood land	In the Section 482 challenge to a prosecution under Section 306/34 IPC, the Court treated cultivation under the mother's government lease as lawful possession and forcible dispossession without authority as deprivation of livelihood. Read with the authenticated suicide note and surrounding circumstances, this disclosed a prima facie cognizable case warranting refusal of quashing. The assessment was preliminary and did not finally determine guilt or establish that every dispossession amounts to abetment of suicide.	625
Section 482 CrPC — coercive demands and threatened	An accused seeking quashing must show that the uncontroverted allegations do not disclose an offence. An extramarital relationship alone may be insufficient	636

50.5 : Section 482 CrPC — Quashing Where Criminal Ingredients Are Absent

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exposure disclosed prima facie abetment of suicide	for prosecution under Section 306 IPC, but allegations of pressure for sexual relations and remarriage, enforced by threats of public defamation, disclosed a prima facie active role in instigation or aid. Those additional allegations precluded quashing without determining their truth at trial.	
Quashing suicide-abetment proceedings where the alleged acts do not establish instigation	Praveen Pradhan, (2012) 9 SCC 734, and Amit Kapur, (2012) 9 SCC 460, were quoted for a tentative threshold appraisal, with possible inference of instigation from the alleged circumstances at the threshold stage rather than a full evidence evaluation. The Court accepted for the application the uncontroverted claims that five persons damaged the shop, abused the deceased, and assaulted him and Suresh Singh on 8 April 2023, before Neeraj hanged himself overnight. It nevertheless held the allegations and witness statements, assumed true, lacked Section 107 instigation or intentional aid and thus could not support Section 306/34 IPC. It quashed Crime No. 101/2023 and consequential proceedings on that charged basis, without deciding whether a different offence arose from the alleged assaults or damage.	736
Quashing a suicide-abetment prosecution where accepted allegations lack abetment	At the Section 482 stage, the Court forms a tentative view from the allegations and record rather than determining disputed guilt by evaluating the entire evidence. Instigation can be inferred from circumstances, but those circumstances must prima facie disclose abetment. As the accepted allegations against the father did not do so, the Court quashed the FIR, charge-sheet and proceedings under Sections 306/34 IPC.	764
Section 482: civil recovery dispute given the form of a criminal prosecution	Section 482 CrPC must be exercised cautiously and sparingly, but criminal proceedings may be quashed where an essentially civil dispute is given a criminal form without the necessary offence ingredients. A civil transaction may also disclose a criminal offence, so the allegations must be examined for those ingredients. Applying the reproduced authorities to the FIR and Section 161 statements, the Court found a predominantly business repayment dispute and an attempt to recover money through prosecution. Continuation amounted to abuse of process; the FIR under Sections 406, 420 and 34 IPC and consequential proceedings were quashed.	778
Quashing rape proceedings on the Court's promise-of-marriage analysis	The Section 164 statement alleged an initial forcible act and subsequent physical relations on assurances of marriage. In assessing the statement as a whole, the Court relied on the three-year relationship, continued hotel meetings and a New Year outing, and treated the subsequent refusal to marry as, at most, a breach of promise rather than a promise false from inception. On that assessment it held prosecution under Sections 376 and 376(2)(n) IPC to be misuse of criminal law and quashed the FIR and consequential proceedings.	847
Quashing where the complainant's allegations do not disclose the alleged rape	After considering the FIR and the complainant's statements in light of her acknowledged subsisting marriage and the voluntary relationship described, the Court found no misconception of fact vitiating consent and no case warranting prosecution of the petitioner. It quashed the FIR under Sections 376 and 323 IPC and all consequential criminal proceedings.	859
Section 498-A IPC: vague collective allegations against a married sister-in-law	Prosecution of the husband's relatives requires clear and specific allegations identifying their involvement. Merely naming a married sister-in-law in collective allegations of harassment, abuse or assault, without attributing a specific role to her, was insufficient to require her to face trial. The FIR and consequential proceedings were therefore quashed against her, while the prosecution against the husband and parents-in-law continued on the specific allegations against them.	862
Section 482 CrPC: quashing remains available after framing of charge	The inherent power to prevent abuse of process is available at the threshold and at a later stage, including after framing of charge. At the later stage, material disclosed by investigation may be examined to determine whether, even if accepted in its entirety, it discloses the alleged offence. This inquiry does not	862

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	authorise deciding guilt or innocence or weighing contested evidence.	
Omnibus dowry allegations against separately residing remote accused	Mere naming of relatives in a matrimonial complaint, without specific allegations or tangible material showing their involvement, does not justify prosecution. Each accused's role must be stated; a recital of statutory language or a collective accusation is insufficient for remote persons living separately. Applying the reproduced authorities to the FIR and Section 161 statements, the Court quashed proceedings against two remote, separately residing accused against whom only a collective dowry demand and harassment were alleged. It found sufficient prima facie material to continue the case against the husband and his parents.	872
FIR quashing — allegations accepted at face value and no assessment of disputed evidence	In considering quashing, the High Court ordinarily examines the uncontroverted allegations without assessing witness reliability, resolving disputed facts or conducting the detailed scrutiny appropriate to trial. The power must be exercised sparingly and with care. Where the allegations, accepted in their entirety, do not disclose the ingredients of an offence, criminal proceedings may be quashed.	900
Quashing — professional status does not displace a prima facie offence	Where the material disclosed a prima facie accident offence, the petitioner's status as an Army officer did not justify quashing the proceedings. His driving of the car and its ownership were undisputed, and his negligence remained to be determined at trial.	904
FIR quashing — prima facie offence and prevention of abuse of process	Quashing requires cautious exercise of inherent powers. The uncontroverted allegations and supporting prosecution material must be considered as a whole to determine whether they disclose an offence. Proceedings may be quashed where the basic facts do not disclose an offence, the allegations are patently absurd or inherently improbable, a legal bar applies, or the process is manifestly used for an ulterior purpose. The Court must not resolve disputed evidence or predict conviction and acquittal in the manner of a trial; a legitimate prosecution should ordinarily continue.	907
Quashing — factual foundation is required rather than a verbatim recital of offence ingredients	A complaint need not reproduce every legal ingredient of the alleged offence verbatim. Where the necessary factual foundation and substantial compliance with the offence requirements are present, absence of a detailed recital of one or more ingredients does not by itself justify quashing. Quashing remains appropriate where even the basic facts necessary to constitute the offence are absent.	907
Vague instigation allegations against a distant relative	A distant relative cannot be required to face trial merely because of kinship and general, vague allegations that he instigated the husband. Specific involvement supported by tangible material is required. No clear individual act was attributed to the uncle-in-law beyond the omnibus allegation of instigation. Taking the allegations at face value, the Court quashed the FIR and subsequent proceedings against him alone, while allowing proceedings against the relatives assigned specific roles to continue.	925
Quashing where accepted allegations do not disclose an offence	Quashing is justified where the FIR or complaint, read at face value and accepted in its entirety, does not prima facie disclose an offence against the accused, or where the uncontroverted allegations and supporting material disclose none. This test does not permit adjudication of disputed facts; here, the allegations disclosed a cognizable offence.	972
Quashing test: accepted allegations must disclose the offence	The Court may quash where the allegations, taken at face value and accepted in full, do not prima facie constitute an offence, or where uncontroverted allegations and supporting material disclose none. Inherently absurd or improbable allegations may also warrant intervention, but that assessment cannot become a detailed inquiry into disputed evidence.	976
Suicide note alleging lack of family	A suicide note blaming brothers for not meeting the deceased's children's	994

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financial support — absence of abetment ingredients	education and marriage expenses, and for leaving tractor-loan instalments unpaid, did not disclose instigation or intentional aid to suicide. Failure to meet the deceased's expectation of support, even if morally blameworthy, was not criminal abetment on the allegations before the Court. The loan dispute could have been pursued through legal remedies; the note did not supply the ingredients of Section 306 IPC. The Court therefore quashed the FIR under Sections 306/34 IPC, the charge-sheet and the consequential proceedings. The decision turned on those allegations and did not determine guilt after a trial.	

Sub-Chapter no. 50.6
Section 482 CrPC — Judicial Restraint in Directing Arrest and Charge-Sheet During Investigation

Section 482 CrPC — directions compelling arrest or a charge-sheet	In a pending investigation, the High Court cannot direct arrest or compel a charge-sheet merely because the complainant seeks those steps. Such directions would predetermine decisions entrusted to the investigating police and remove their discretion to submit a closure report if the evidence warrants it. Applying D. Venkatasubramaniam, the Court refused the requested arrest direction while requiring the investigation to be completed according to law.	51
Hearing before drastic judicial directions against a person during investigation	A High Court must not casually issue directions requiring arrest, seizure of property or a charge-sheet against a person without giving that person a reasonable opportunity to be heard. The relied-upon decision treated such adverse judicial directions, made without notice and with drastic consequences, as unsustainable. This safeguard concerns the court's proposed coercive directions, rather than a general right to participate in police investigation.	88
Section 482 CrPC — hearing before drastic investigative directions	The relied-upon D. Venkatasubramaniam discussion treats directions to arrest, seize property and file a charge-sheet, issued without hearing the affected persons, as impermissible. It invokes Divine Retreat Centre for the need to give a reasonable opportunity of hearing before a judicial order with such drastic consequences for an affected person's reputation. This safeguard forms part of the limits on intrusive judicial directions during investigation.	305
Section 482 CrPC — statutory purposes and reasons for interference	Inherent power must be exercised sparingly and with caution to give effect to an order under the Code, prevent abuse of a court's process or secure the ends of justice. The D. Venkatasubramaniam passages relied upon by the Court reject unexplained intervention and casual observations that can influence an investigation and cause serious consequences to affected persons.	305
Hearing affected suspects before coercive judicial directions during investigation	Judicial directions requiring arrest, seizure and a charge-sheet can have drastic consequences for persons accused. The reproduced authority disapproves issuing such directions without impleading or hearing those affected. The Court invoked that safeguard when refusing an arrest direction against suspects who were not parties to the application. This concerns coercive court directions, rather than a general right to a hearing before routine police investigation.	462
Section 482 directions to arrest and file a charge-sheet	In a pending investigation, directions requiring the police to arrest the accused and file a charge-sheet would amount to judicial supervision of investigative decisions. Applying D. Venkatasubramaniam, the Court refused those directions. Investigation may lawfully result in a charge-sheet or a closure report, depending on whether an offence is made out.	564
Hearing and reasons before coercive judicial directions during investigation	The relied-on D. Venkatasubramaniam passage condemns judicial directions to arrest, seize property and file a charge-sheet issued mechanically, without reasons or hearing the persons affected. Such directions have serious consequences for liberty and reputation. This safeguard concerns the High Court's coercive judicial orders in the investigation context; it does not establish a general right to be heard before police register an FIR or carry out ordinary statutory investigation.	607
Judicial directions	Judicial directions compelling arrest, seizure of property and filing of a charge	668

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for arrest, seizure and prosecution— Hearing affected persons	sheet cannot be issued casually without notice and a reasonable opportunity to the persons likely to be adversely affected. The reproduced authority treated coercive judicial directions issued without that opportunity as invalid because of their serious consequences for those persons.	
Reasons and restraint in inherent-power directions affecting investigation	Exercise of inherent power must be justified by giving effect to orders under the Code, preventing abuse of court process or securing the ends of justice. The High Court must state why intervention is required and avoid uncalled-for observations that may influence the investigation or cause serious consequences to persons who have not been heard.	668
Section 482 CrPC — reasons and restraint in investigation directions	Interference with a police investigation under Section 482 CrPC requires reasons showing why intervention is justified. The High Court should avoid casual observations or mechanical directions that may influence the investigation or have serious consequences for persons likely to be affected.	802
Judicial directions for arrest and prosecution — hearing affected persons	Judicial directions requiring arrest, seizure of property and filing of a charge-sheet, with serious consequences for identified persons, cannot be issued mechanically without impleading and hearing those persons. The relied-upon precedent treated such an order, made without notice to the affected persons, as a nullity.	901
Coercive judicial directions during investigation — notice to affected persons	A judicial order directing arrest, seizure of property and filing of a charge-sheet against identified persons cannot be issued mechanically without making them parties and giving them an opportunity to be heard. The relied-upon precedent treated an order with such serious consequences, made without hearing the affected persons, as a nullity.	906
Coercive judicial directions — opportunity of hearing for affected persons	Judicial directions for arrest, seizure of property and filing of a charge-sheet cannot be issued mechanically against identified persons without making them parties and giving them an opportunity to be heard. The relied-upon precedent treated such a coercive order, issued without notice to those affected, as a nullity.	909
	Sub-Chapter no. 50.7 **Civil Dispute Criminalisation and Abuse of Process**	
Civil remedies alongside criminal proceedings	The availability of a civil claim does not bar criminal proceedings where the allegations also disclose the ingredients of an offence. Conversely, a purely civil dispute cannot be given a criminal character to secure repayment or settlement when those ingredients are absent. The Court must examine the criminal ingredients of the transaction rather than its commercial setting alone.	31
Arbitration clause and prosecution for a criminal offence	A contractual provision for arbitration does not substitute for criminal prosecution where the alleged act constitutes an offence. Arbitration provides relief for breach of the agreement; it does not authorise the arbitrator to try the criminal offence arising from the same transaction.	31
Divorce proceedings and a later criminal complaint	The filing or pendency of a divorce petition does not by itself justify quashing a criminal complaint arising from the same matrimonial facts. Civil and criminal proceedings are independent, and the civil proceeding does not bring the criminal case to an end. The later timing of the FIR alone does not establish that it is an abusive counterblast.	39
Earlier divorce petition — later cruelty FIR alleged to be a counterblast	A cruelty FIR cannot be treated as false or retaliatory merely because the husband filed a divorce petition earlier. Where a wife delays complaining in the hope that matrimonial relations will improve and approaches the police after reconciliation appears impossible, her patience cannot by itself be used against her. Allegations in the divorce petition also require proof; the sequence of filings does not establish their truth or discredit the FIR.	53
Predominantly civil	In the framework relied upon, criminal proceedings with an overwhelmingly	58

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disputes — settlement and remote prospects of conviction	civil character, including appropriate commercial, financial, partnership, matrimonial or family disputes, stand differently from heinous offences. Where the entire dispute is settled, conviction is remote, and continuation would cause oppression, prejudice or injustice, quashing may be justified. That reasoning does not convert a rape prosecution into a civil dispute merely because the parties later marry.	
Contractual disputes — civil remedies do not bar prosecution where the allegations also disclose criminal ingredients	The existence of a contractual dispute or civil remedy does not by itself justify quashing criminal proceedings. Although attempts to give a purely civil dispute a criminal character should be discouraged, proceedings may continue where the allegations disclose dishonest inducement or criminal breach of trust. The alleged acceptance and retention of successive advances despite substantial non-supply provided that prima facie basis in this case.	71
Civil remedies where the allegations also disclose criminal offences	The availability of civil remedies does not prevent criminal proceedings where the allegations disclose criminal ingredients as well as a civil dispute. Applying Amit Kapoor, the Court rejected the contention that disputes over society management and accounts necessarily excluded prosecution. The complaint alleged forged authority and misappropriation of society money and assets, and no ground was established to interfere with cognizance under Sections 420, 409, 467 and 120-B IPC. The allegations remained to be proved in the criminal proceedings.	86
Civil wrong without criminal ingredients distinguished from concurrent remedies	A charge may be quashed where the allegations predominantly disclose a civil wrong and do not satisfy the basic ingredients of a criminal offence. Where the same allegations also amount to an offence, the availability of a civil claim does not, by itself, bar the criminal complaint.	121
Revenue mutation and forcible dispossession	A mutation entry serves fiscal purposes and is not a document of title. Even mutation in a person’s favour does not authorise forcible dispossession of an occupant. A claim to possession must be pursued through lawful proceedings, including a suit for possession, and the mutation does not by itself justify quashing allegations of criminal conduct during the attempted dispossession.	142
Civil remedies and parallel criminal allegations	The availability of a civil claim does not bar criminal proceedings when the same facts also disclose a criminal offence. Quashing may be justified where the allegations establish only a civil wrong without the necessary criminal ingredients. A dispute over land entitlement does not by itself remove independently alleged intimidation or caste-based abuse from the criminal process.	142
Pending appeal does not suspend an unstayed civil decree	Although a first appeal continues the suit, its filing does not by itself suspend the operation of the judgment and decree. A restraint against creating further third-party rights does not amount to a stay of the decree. The pending appeal therefore did not, by itself, justify quashing the criminal proceedings concerning a subsequent sale.	170
Civil proceedings do not bar prosecution where the allegations disclose an offence	Civil and criminal proceedings arising from the same transaction may continue simultaneously. A transaction's civil or commercial character does not exclude cheating where the allegations disclose that offence. Pendency of civil litigation, even before a court higher in status, is not by itself a ground to quash criminal proceedings.	170
Stay and priority of concurrent civil and criminal proceedings	Whether civil or criminal proceedings should be stayed depends on the circumstances of the case. Criminal matters ordinarily receive precedence, but there is no inflexible rule. The likelihood of embarrassment and special circumstances, including another proceeding being close to conclusion, may justify a different course; the mere possibility of conflicting findings does not determine priority.	170
Criminal process cannot enforce	A civil wrong cannot be given criminal colour merely to compel execution or	172

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specific performance of a contract	registration of a sale deed. When the FIR, read at face value, alleges only non-performance of an agreement without facts showing initial deception, the cheating prosecution may be quashed under Section 482 CrPC. The complainant may pursue the available civil remedy for specific performance.	
Land dispute does not authorise forcible dispossession or justify quashing an assault FIR	A pending land-boundary dispute or demarcation proceeding does not authorise a party to dispossess the occupant by force. Possession must be recovered through the competent authority under the Madhya Pradesh Land Revenue Code. The asserted encroachment did not establish that the FIR alleging assault was a malicious counterblast.	201
Pending matrimonial and property proceedings do not by themselves justify quashing a dowry FIR	A divorce petition, maintenance application or property suit does not by itself defeat an FIR containing specific allegations of dowry demands and physical and mental harassment. Applying Pratibha v. Rameshwari Devi, the Court held that civil and criminal remedies remain independent even where they arise from the same facts. Filing the FIR after the divorce petition was not, by itself, a reason to treat it as a counterblast and quash it.	258
Parallel civil and criminal proceedings do not attract an automatic stay rule	Civil and criminal proceedings may continue simultaneously; any stay depends on the circumstances. The applied authorities ordinarily favour criminal proceedings taking precedence, because criminal justice should not await protracted civil litigation. A risk of conflicting findings alone is insufficient. Possible embarrassment and special circumstances, such as another proceeding nearing completion, must be considered; the preference is not an inflexible rule.	258
Disputed civil possession as a ground for quashing an FIR	In an Article 226 petition to quash FIRs, the petitioners' claim to possession could not be accepted at the initial investigation stage, particularly when their application for temporary injunction had been rejected. The Court declined to determine the disputed defence at that stage and left the petitioners free to establish it at trial.	270
Parallel civil litigation: no automatic bar to criminal proceedings	Civil and criminal proceedings concerning the same documents may proceed simultaneously. Pendency of a civil suit or appeal, even before a higher court, does not by itself justify quashing or dismissing the criminal case. Whether either proceeding should be stayed depends on the circumstances. Criminal proceedings ordinarily receive precedence, but this is not an inflexible rule and possible conflicting findings alone do not require a stay.	281
Divorce proceedings do not by themselves justify quashing a cruelty FIR	Civil matrimonial proceedings and criminal proceedings are independent. An FIR cannot be quashed merely because the wife lodged it after receiving notice of the husband's divorce petition. Her attempt to preserve the marriage before reporting alleged cruelty did not, by itself, establish that the criminal case was malicious.	289
Civil recovery remedy and criminal allegations arising from a contract	A civil recovery remedy does not by itself bar criminal proceedings if the allegations also disclose a criminal offence. Mere breach of contract creates civil liability, whereas cheating requires the necessary dishonest or fraudulent intention. The Court therefore rejected civil recoverability as a sufficient reason to quash investigation into alleged non-enforcement of the airstrip agreement and resulting public loss.	290
Quashing — civil wrong and criminal offence arising from the same facts	A dispute disclosing only a civil wrong, without the ingredients of a criminal offence, may justify quashing. But the availability of a civil claim does not bar criminal proceedings where the same facts also disclose an offence. These principles appear in the passages from Amit Kapoor and, through Padal Venkata Rama Reddy, Indian Oil Corporation reproduced as part of the Court's quashing framework. They do not authorise a detailed assessment of evidence at that stage.	323
Simultaneous Civil and Criminal	Civil and criminal proceedings arising from the same facts may proceed simultaneously. Whether either should be stayed depends on the circumstances,	401

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Proceedings and Discretionary Stay	including the likelihood of embarrassment from parallel proceedings. The adopted passage favours precedence for criminal proceedings without imposing an inflexible rule; special circumstances and the stage of the other proceeding remain relevant. The possibility of conflicting findings alone does not dictate a stay.	
Independent Civil and Criminal Findings and Previous-Judgment Relevance	Civil and criminal proceedings are decided on the evidence in each and apply different standards of proof. Findings in one do not automatically bind the other. The relevance and effect of an earlier judgment must still be examined under Sections 40–43 of the Evidence Act, including Section 41's specified conclusiveness. Civil matrimonial litigation does not, by its pendency alone, end a criminal cruelty prosecution.	404
Simultaneous Civil and Criminal Proceedings and Qualified Criminal Precedence	Civil and criminal proceedings may continue simultaneously. Any stay depends on the circumstances, including possible embarrassment and the stage reached in the other proceeding. The adopted authority favours criminal precedence without making it an inflexible rule; the risk of inconsistent findings alone does not determine the issue.	404
Matrimonial civil proceedings do not terminate criminal proceedings	Civil matrimonial proceedings and criminal proceedings are independent. The pendency of the former does not end the latter merely because both arise from the same circumstances. A Section 10 Hindu Marriage Act petition therefore supplied no automatic basis for quashing the cruelty FIR.	415
Criminal proceedings for a forged Will despite a pending civil suit	A pending civil suit concerning a Will does not, by itself, justify quashing criminal proceedings alleging its fabrication. The civil plaintiff's burden to prove the Will's genuineness does not prevent the defendant from initiating criminal proceedings on a forgery allegation. Applying Jagmohan Singh, P. Swaroopa Rani, Pratibha and Kamaladevi Agarwal, the Court held that civil and criminal proceedings can proceed together. Alleged creation of a forged document gives the dispute a criminal dimension despite its civil aspects. The pending suit and temporary injunction therefore did not warrant quashing the FIR.	424
Stay of parallel civil and criminal proceedings and ordinary precedence of criminal justice	Civil and criminal proceedings may continue simultaneously; whether either should be stayed depends on the circumstances. The precedents relied on by the Court favour prompt criminal proceedings so that evidence and memories do not fade, but impose no inflexible rule of precedence. The possibility of conflicting findings alone is insufficient; the likelihood of embarrassment and special circumstances, such as another proceeding nearing completion, may justify a different course.	424
Civil remedies and the existence of criminal ingredients	Facts may constitute a civil wrong, a criminal offence, or both. Availability of a civil claim does not bar criminal proceedings where the allegations disclose an offence; conversely, a predominantly civil dispute without the necessary criminal element may justify quashing. The special-facts approach in Madhavrao Jiwajirao Scindia is not a general licence to predict conviction at inception; its application to predominantly civil, family or matrimonial disputes must be considered in that context.	435
Civil wrongs and criminal ingredients in quashing	The same facts may disclose a civil wrong, a criminal offence or both. A civil remedy does not exclude prosecution where criminal ingredients are disclosed; a predominantly civil allegation without criminality may warrant quashing. Madhavrao Jiwajirao Scindia does not permit a preliminary prediction of conviction in every case: its special-features approach is confined to the predominantly civil, family or matrimonial setting explained in the narrated authorities.	436
Independent civil and criminal proceedings arising	The availability or pendency of civil proceedings does not end criminal proceedings where the same facts also disclose an offence. A predominantly civil dispute lacking the ingredients of a criminal offence may justify quashing,	460

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from the same facts	but a civil remedy alone is insufficient. In particular, a divorce proceeding does not extinguish an otherwise maintainable matrimonial prosecution.	
Civil remedy and the presence of criminal ingredients	A predominantly civil wrong may justify quashing where the allegations lack an element of criminality and do not satisfy the basic ingredients of an offence. Even then, the Court does not undertake a critical appraisal of evidence. Conversely, the availability of a civil claim does not prevent a criminal complaint where the allegations also constitute an offence. The distinction turns on the alleged criminal ingredients, rather than the existence of a civil remedy alone.	503
Criminal proceedings as pressure to enforce a civil agreement	Criminal process cannot be used to coerce performance of a civil agreement where the dispute lacks a criminal foundation. Relying on Vijay Kumar Ghai and Radheshyam, the Court treated the controversy over execution of sale deeds and return of money as predominantly civil. It rejected the use of criminal prosecution to enforce the bargain and preserved the complainant's civil remedy.	518
Civil or Arbitration Remedies and Prosecution for Criminal Breach of Trust	A commercial transaction may give rise to both civil and criminal liability. The availability or pendency of a civil remedy or arbitration does not by itself justify quashing a prosecution if the allegations disclose a criminal offence. Arbitration cannot substitute for a criminal trial. Allegations of contribution to a partnership, entrustment of its property and misappropriation disclosed prima facie material for a charge under Section 406 IPC. Final proof of misappropriation remained a matter for trial.	531
Matrimonial FIR filed after divorce proceedings	An FIR is not a counterblast merely because it was lodged after proceedings under the Hindu Marriage Act or Special Marriage Act began. Applying Pratibha, the Court recognised that a wife may delay a complaint while trying to preserve the marriage and approach the police when reconciliation appears no longer possible. The earlier matrimonial proceeding therefore did not, by its timing alone, warrant quashing. The Section 482 inquiry remained whether the FIR allegations disclosed a prima facie offence, rather than whether extraneous circumstances justified an adverse inference.	597
Civil remedies do not exclude a disclosed criminal offence	A civil claim and criminal liability may arise from the same facts. Applying the principles reproduced from Amit Kapoor and Padal Venkata Rama Reddy, the availability of a civil remedy does not justify quashing if the factual allegations also disclose the ingredients of an offence. Conversely, a predominantly civil wrong lacking the basic criminal ingredients may warrant quashing without a trial of the evidence.	600
Parallel civil proceedings and criminal cognizance	Civil and criminal proceedings may continue together where the alleged conduct involves criminality. An existing civil remedy or award does not by itself require quashing a criminal proceeding. Here, the Facilitation Council award did not establish a purely civil dispute. The Court considered the petitioners' noncompliance, despite not pursuing the available Section 34 remedy after dismissal of their earlier writ, capable of supporting an inference of criminal intent for taking cognizance. Other objections remained open before the revisional court.	613
Civil decree for an undivided share and criminal allegations of demolition	A decree recognising a purchaser's undivided share, with possession conditional on partition, does not authorise taking a specific part of the property or demolishing the occupant's house before partition. Allegations of such demolition cannot be dismissed as merely giving a civil dispute a criminal character. The FIR was therefore not quashed on that ground.	663
Purchase of an undivided share—Possession of a specific parcel	A co-sharer may transfer an undivided share but cannot convey a specific piece of the joint land as an exclusively identified share. The purchaser steps into the seller's position and must obtain partition before claiming possession of a specific parcel. Without partition, the purchase did not confer the specific	663

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	possessory right asserted in support of quashing.	
Civil and criminal proceedings — simultaneous remedies and no automatic quashing	Civil and criminal proceedings may proceed simultaneously where the allegations disclose both civil and criminal aspects. A transaction's civil character or the pendency of a civil action does not alone justify quashing an FIR or criminal complaint at the outset. This remains so where the civil action is before a court of higher status. Whether either proceeding should be stayed depends on the facts and circumstances of the particular case.	705
Parallel civil and criminal proceedings — qualified preference for prompt criminal adjudication	Criminal proceedings ordinarily merit precedence because civil litigation may take years and delay may impair witness memory and evidence. The possibility of conflicting decisions is not itself a controlling reason to halt one proceeding. The preference is not an inflexible rule: the likelihood of embarrassment and special circumstances must be considered, and a civil or other proceeding near completion may make a different course more just and expedient.	705
Property disputes and independent allegations of criminal assault	A pending civil suit over property shares or the validity of a will does not make an allegation of assault and criminal intimidation purely civil. Refusal to give a claimed share may raise a civil dispute, but assaulting a person for demanding that share raises a criminal allegation. A will does not operate during the testator's lifetime and could not justify depriving a joint possessor of the claimed share on that basis.	721
Prior warning of a false FIR and threshold credibility	An accused person's earlier report to the police expressing apprehension of a false FIR is not, by itself, sufficient to disbelieve the FIR subsequently lodged. The Court declined to treat the prior warning as proof that the later allegations of assault were false.	721
Special civil features and limits on forecasting conviction	The principle permitting consideration of special features in predominantly civil, matrimonial, property or family disputes does not authorise a preliminary inquiry into the likelihood of conviction in every criminal case. In an appropriate case, those features and the prospect of genuine settlement may support quashing to prevent abuse or secure justice, without a full inquiry into the evidence.	726
Concurrent civil suit and criminal proceedings over an allegedly forged agreement	A pending civil suit does not by itself bar criminal proceedings arising from the same transaction. Civil and criminal proceedings may continue simultaneously. Applying Kishan Singh, Syed Askari Hadi Ali Augustine Imam and Prem Raj, the Court refused to interfere with the direction to register and investigate offences where the complaint alleged preparation and use of a forged agreement to sell in the civil suit.	844
Priority and stay of concurrent civil and criminal proceedings	The reproduced Supreme Court reasoning ordinarily favours giving criminal proceedings precedence because prosecution should not await prolonged civil litigation. There is no inflexible rule: the likelihood of embarrassment and special circumstances, including a proceeding being close to completion, may justify another course. Possible conflicting decisions alone do not determine priority, and whether either proceeding should be stayed depends on the facts and circumstances.	844
Divorce proceedings and civil findings do not by themselves justify quashing a cruelty prosecution	An FIR lodged after the filing of a divorce petition is not, for that reason alone, a counterblast warranting quashing under Section 482 CrPC. Civil and criminal proceedings must be decided independently on their evidence, and civil-court findings do not bind the criminal court. The adopted passages from Pratibha and Kamaladevi Agarwal distinguish proof on probabilities in civil proceedings from proof beyond reasonable doubt in a criminal case. The husband's reliance on divorce litigation and an ex parte decree therefore did not justify terminating the criminal prosecution.	851
Civil remedy and the existence of a criminal offence	Where the allegations predominantly disclose a civil wrong and do not satisfy the ingredients of a criminal offence, quashing may be justified without a	925

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	critical appraisal of evidence. Conversely, the availability of a civil claim does not bar criminal proceedings where the same allegations also disclose an offence.	
Mutation entries and continuation of criminal proceedings	Mutation entries serve fiscal purposes and are not documents of title. A pending dispute over mutation entries does not, by itself, prevent a civil suit or criminal proceedings concerning the underlying transaction from continuing.	940
Pending civil suit as a ground for quashing criminal cognizance	Civil and criminal proceedings concerning the same allegations may proceed simultaneously. Pendency of a civil suit concerning a sale deed does not, by itself, justify quashing criminal cognizance where the alleged execution of a forged sale deed also involves criminal ingredients. Whether either proceeding should be stayed depends on the facts and circumstances of the case.	940
Use of criminal-court orders to negotiate civil liabilities	Civil liabilities should be determined in civil suits. Compromise means that the parties have forgiven each other; it does not permit a party to exploit court orders to take a dominant negotiating position. The Court expressed this limit while examining an unexplained compromise following contested criminal proceedings.	964
Civil remedy and the presence of criminal ingredients	The availability of a civil remedy does not bar criminal proceedings where the allegations also disclose an offence. Conversely, where an essentially civil dispute is given the form of a criminal accusation without the necessary criminal ingredients, Section 482 CrPC may be used to prevent the criminal process becoming a means of harassment. The allegations must be assessed for their actual criminal content.	981
Matrimonial FIR after a divorce petition — timing and efforts at reconciliation	An FIR alleging matrimonial cruelty cannot be quashed merely because the husband filed a divorce petition before the complaint or FIR. Applying Pratibha v. Rameshwari Devi, the Court treated civil and criminal proceedings as independent and rejected the inference that the later complaint was necessarily a counterblast. A wife's efforts to save the marriage may explain why she initially refrained from reporting cruelty. Her earlier patience and the intervening divorce petition do not by themselves establish that her allegations are false.	991
Commercial transaction — alleged substitution of fake security discloses criminal elements	The existence of a business transaction or civil remedy does not justify quashing where the allegations also disclose criminal conduct. The Court distinguished the original gold-secured loan from the later alleged delivery of silver-polished copper as temporary security for the unreturned gold. Although the applicants were not the original pledgee, they were alleged to have joined in giving the fake silver to gain the complainant's confidence. Their alleged knowledge that the metal was not genuine supplied the asserted element of deception. Considering the transaction as a whole, the Court held that it involved both civil and criminal elements and refused to quash the FIR. The ruling was made at the prosecution threshold.	996
Civil remedy concerning remarriage — no bar where allegations also disclose criminal offences	The availability of a civil or matrimonial remedy does not itself justify quashing criminal proceedings when the allegations disclose the ingredients of criminal offences. Applying Indian Oil Corporation v. NEPC India, the Court held that the same facts may give rise both to a civil dispute and to criminal liability because the nature and scope of the proceedings differ. The applicant's contention that his wife could seek a declaration that the alleged second marriage was void did not defeat the criminal prosecution founded on the allegations against him.	1001

Sub-Chapter no. 50.8
Section 482 CrPC — Inherent Powers Affecting Investigation Where Abuse of Process Is Shown

Cognizable offences — police	The police have a statutory right and duty to investigate cognizable offences. The judiciary and police perform complementary functions, and the Court	5

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investigation and exceptional judicial interference	should ordinarily allow investigation to proceed. Intervention remains available in exceptional cases to prevent a miscarriage of justice, secure the ends of justice or stop abuse of process; where the FIR discloses no offence, the Court need not permit investigation to continue.	
Grounds and reasons for Section 482 interference with investigation	The High Court's inherent power is confined to giving effect to an order under the Code, preventing abuse of a court's process or securing the ends of justice. It must be exercised sparingly, carefully and with reasons showing why intervention is justified. Casual observations or unexplained directions that may alter the course of investigation are not a proper exercise of that power.	88
Reasons and statutory purposes governing inherent-power intervention in investigation	The Section 482 CrPC principles reproduced from D. Venkatasubramaniam confine inherent intervention to giving effect to an order under the Code, preventing abuse of court process or securing the ends of justice. Intervention requires reasons and caution. Casual directions or observations capable of influencing investigation and prejudicing affected persons do not satisfy that standard. The Court applied those principles in refusing the requested arrest and charge-sheet directions under Section 528 BNSS.	135
Section 482 application for FIR registration where complaint remedy is available	An application under Section 482 CrPC seeking action on a complaint and registration of an FIR was dismissed because an efficacious remedy lay in a criminal complaint before the competent court. The Court applied the alternative-remedy principles in Divine Retreat Centre and Shweta Bhadauria, including the distinction between the police duty addressed in Lalita Kumari and entitlement to High Court directions without using statutory remedies. Liberty to file the criminal complaint was preserved.	187
Judicial restraint while police investigate a cognizable offence	Police have the statutory right and duty to investigate cognizable offences, and courts ordinarily permit that investigation to proceed within its proper sphere. Judicial and police functions are complementary. Intervention remains available in exceptional cases where required to prevent abuse or miscarriage of justice, but the High Court must not ordinarily usurp the investigative function or stifle a legitimate prosecution.	189
Judicial restraint during investigation of a cognizable offence	The police ordinarily must be allowed to investigate allegations disclosing a cognizable offence. An FIR need not contain every fact or detail, and incomplete or hazy facts do not justify deciding the merits prematurely. Judicial intervention remains available within the recognised quashing principles, including where no offence is disclosed or non-interference would cause a miscarriage of justice.	260
Exceptional judicial intervention against abuse of investigative power	Investigation is ordinarily within the police domain, but must comply with statute and serve a legitimate purpose. The relied-on Manohar Lal Sharma passage permits exceptional intervention where illegal or improper use of investigative power jeopardises liberty or property, the process is abused, or the investigation lacks good faith or is tainted by animosity. The Romila Thapar passage preserves appropriate Article 226 directions where the High Court is satisfied that the investigating officer acted mala fide.	265
Judicial restraint and lawful police investigation	Investigation of a cognizable offence, including the course of evidence collection and interrogation, ordinarily belongs to the investigating agency so long as it acts within the law. Section 482 CrPC permits exceptional intervention where investigation involves mala fides, clear abuse of power or non-compliance with the Code requiring judicial correction. The power must be exercised cautiously to prevent abuse or secure justice.	277
Police Investigation and Exceptional Inherent Intervention	Police have the statutory duty to investigate cognizable offences, and courts should ordinarily permit that investigation to proceed. An FIR need not contain every detail, and incomplete or hazy facts should not be used to prejudge its merits. Inherent intervention remains available where no offence is disclosed or non-interference would cause a miscarriage of justice; it must be exercised	406

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	cautiously to prevent abuse or secure justice.	
Reasons and statutory purposes for inherent intervention in an investigation	Inherent jurisdiction under Section 482 CrPC serves to give effect to an order under the Code, prevent abuse of court process or secure the ends of justice. An intervention affecting investigation must be justified by those purposes and supported by reasons. Casual judicial observations capable of influencing the investigation or prejudicing affected persons are inappropriate.	462
Section 482 request for a police progress report on an unregistered complaint	An application under Section 482 CrPC seeking a police progress report, an explanation for inaction, and action on a complaint was dismissed because the applicant had an efficacious remedy of filing a criminal complaint before the competent court. The applicant's assertion that a preliminary inquiry had established an offence did not result in a judicial determination of that allegation. Liberty to pursue the complaint remedy was preserved.	504
Purposes and caution governing Section 482 powers	The High Court's inherent power under Section 482 CrPC may be exercised to give effect to an order under the Code, prevent abuse of court process or secure the ends of justice. It must be used sparingly and carefully, with reasons justifying intervention. Casual observations capable of affecting the investigation or persons concerned should not be made without regard to their consequences.	564
Section 482 CrPC: no predetermined arrest or charge sheet	The High Court cannot use Section 482 CrPC to dictate arrest of the accused or filing of a charge sheet in a pending police investigation. Such directions would control particular investigative steps and predetermine matters entrusted to the investigating agency. Every investigation need not result in arrest, seizure or prosecution; its lawful outcome depends on the evidence collected.	624
Section 482 CrPC: purposes and restraint in investigative intervention	The inherent power under Section 482 CrPC is confined to giving effect to an order under the Code, preventing abuse of a court's process or securing the ends of justice. Its exercise requires care, caution and reasons. It does not justify casual directions controlling the police investigation or observations made without regard to their consequences.	624
Section 482 CrPC — directions to arrest or file a charge sheet impermissibly control investigation	The High Court should not direct the police to arrest accused persons or file a charge sheet in the exercise of Section 482 CrPC merely because a crime has been registered. Such directions prescribe the manner and outcome of investigation, which ordinarily belong to the police. Investigation need not result in arrest, seizure or a charge sheet; the evidence may instead justify a closure report.	632
Section 482 CrPC — inherent power requires a statutory purpose and cautious, reasoned exercise	Inherent power under Section 482 CrPC may be exercised to give effect to an order under the Code, prevent abuse of the process of a court, or secure the ends of justice. Its exercise must be sparing, careful and justified by those purposes; interference with investigation cannot rest on casual observations or an order giving no reasons for intervention.	632
Disclosed offence and the ordinary continuation of investigation	Where the FIR and relevant material disclose an offence, investigation should ordinarily be allowed to continue to collect evidence. Where no offence is disclosed, investigation should not normally be permitted merely to expose a person's liberty or property to unnecessary harassment. Whether an offence is disclosed depends on the allegations and circumstances of the particular case.	667
Section 482 CrPC — statutory purposes and reasons for intervention	The inherent power under Section 482 CrPC may be exercised to give effect to an order under the Code, prevent abuse of the process of a court, or secure the ends of justice. In the Venkatasubramaniam passage relied upon by the Court, intervention required reasons linked to those purposes. Casual directions or observations without regard to their consequences could improperly influence the investigation and the legal process. The Court applied that restraint when declining to supervise the investigation by ordering arrest and submission of a charge-sheet.	672

50.8 : Section 482 CrPC — Inherent Powers Affecting Investigation Where Abuse of Process Is Shown

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Section 482 relief for inadequate investigation: alternative Magistrate remedy	A complainant dissatisfied with an ongoing police investigation may approach the competent Magistrate under Section 156(3) CrPC. Applying Sakiri Vasu v. State of U.P., the Court declined intervention under Section 482 where the basis of the allegations against the named respondents was unclear. It dismissed the petition with liberty to place the grievances and prima facie material supporting those allegations before the Magistrate.	770
Hearing before judicial directions imposing coercive investigative steps	In exercising Section 482 jurisdiction, the High Court cannot mechanically direct arrest, seizure and filing of a charge-sheet against persons who have not been impleaded or heard. The relied-upon precedent treats such a judicial order with drastic consequences as invalid for want of a reasonable opportunity of hearing.	791
Statutory purposes and reasoned exercise of Section 482 CrPC powers affecting investigation	The adopted D. Venkatasubramaniam passage confines Section 482 CrPC to orders necessary to give effect to an order under the Code, prevent abuse of the process of a court, or secure the ends of justice. The power must be exercised sparingly, carefully and with caution. Directions intruding into the police investigation require reasons tied to those purposes; casual observations capable of influencing the investigation or producing serious consequences are unwarranted.	854
Inherent powers — statutory purposes and reasons for intervention	The High Court may exercise inherent powers, on an application or on its own motion, to give effect to an order under the Code, prevent abuse of a court's process or secure the ends of justice. Intervention in an investigation must be justified by those purposes and supported by reasons. Casual judicial observations capable of affecting the investigation or the reputation of persons should be avoided.	901
Section 482 CrPC — reasons and statutory grounds for intervention	Inherent powers may be exercised on an application or on the High Court's own motion to give effect to an order under the Code, prevent abuse of a court's process or secure the ends of justice. Interference in an investigation requires reasons linked to those purposes. The Court must avoid casual observations that may affect the investigation or the reputation of persons who have not been heard.	906
Inherent jurisdiction — statutory purposes and reasons for intervention	Inherent powers may be exercised, on an application or on the High Court's own motion, to give effect to an order under the Code, prevent abuse of a court's process or secure the ends of justice. Interference must be justified by those purposes and supported by reasons. Casual observations with serious consequences for the course of investigation or the reputation of unheard persons should be avoided.	909
High Court power under Section 482 CrPC to direct investigation after a charge-sheet	The limits imposed by Section 173(8) CrPC on investigating agencies and subordinate courts do not restrict the High Court's inherent power under Section 482 to order fresh investigation or reinvestigation when necessary to secure the ends of justice. The distinction reproduced from Mithabhai Pashabhai Patel confines ordinary statutory powers to further investigation and does not confer inherent powers on subordinate courts. Applying State of Punjab v. CBI, the Court held that filing a charge-sheet did not prevent it from directing further investigation. The order authorised further investigation into the withheld diary and the investigating officer's conduct, without directing a fresh investigation or transfer to another agency.	911
Purposes and restraint governing Section 482 CrPC intervention	The High Court's inherent power under Section 482 CrPC is confined to giving effect to an order under the Code, preventing abuse of the process of a court or securing the ends of justice. Intervention must be sparing, careful and justified by reasons. Casual directions or observations controlling investigation cannot be issued without regard to their consequences for persons affected.	922
Purposes and restraint governing	The High Court's inherent power under Section 482 CrPC is confined to giving effect to an order under the Code, preventing abuse of the process of a court or	927

Topic	Ratio	Case Sr.no.
Section 482 CrPC intervention	securing the ends of justice. Intervention must be sparing, careful and justified by reasons. Casual directions or observations controlling investigation cannot be issued without regard to their consequences for persons affected.	
Statutory purposes and restraint in exercising inherent powers	Section 482 CrPC permits orders needed to give effect to an order under the Code, prevent abuse of the process of a court or secure the ends of justice. The power requires sparing, careful exercise supported by reasons. The Court must avoid casual observations or directions that influence investigation and produce serious consequences without hearing affected persons.	929
Restraint in interrupting investigation of a disclosed cognizable offence	Where the FIR prima facie discloses a cognizable offence, investigation should ordinarily be allowed to proceed so that evidence can be collected. Quashing must be exercised cautiously to prevent abuse or secure justice, rather than to stop a legitimate investigation through premature findings on disputed allegations.	982

Sub-Chapter no. 50.9
Section 362 CrPC — Bar on Review or Substantive Recall of Final Criminal Orders

Section 362 CrPC: bail cancellation power does not confer review jurisdiction	An order finally granting bail cannot be reviewed through a miscellaneous application when the Code provides no power of review. Section 362 CrPC bars that course. The statutory power to cancel bail under Section 439(2) does not authorise the court to sit in review of its earlier grant, and a prohibited review cannot be achieved indirectly.	28
Section 362 CrPC: merits arguments cannot reopen a final criminal order	A request to reconsider the merits of the already decided Section 482 application fell outside the Court's power under Section 362 CrPC. The Court stated that it should not entertain those merits arguments. Its discussion at counsel's instance was only to clarify that the earlier decision had considered the important aspects; it did not amount to a fresh review allowing the application to be reopened.	46
Section 362 CrPC — substantive recall of bail-cancellation order	Section 482 CrPC could not be used to obtain recall of the concluded bail-cancellation order where the requested change amounted to substantive review prohibited by Section 362. After rejecting the contention that the subsequent Magistrate's release displaced the continuing anticipatory-bail order, the Court refused recall on that basis.	304
Section 362 CrPC: Review of the Earlier Listing Order	The Court held that Section 362 CrPC prevented it from reviewing its own order of the previous day rejecting the same request to transfer the bail application to a coordinate bench. The renewed listing request therefore could not be used to reopen that determination before the same Court.	365
Section 362 CrPC: extension of a final order's operative deadline	Subject to an express statutory provision, a signed judgment or final criminal order cannot be altered or reviewed except to correct a clerical or arithmetical error. An error on the merits, even if patent, must be corrected through a legally available procedure rather than a rehearing under Section 362 CrPC. The request under Section 482 to add fifteen days to an earlier order's deadline for applying to the trial court sought a substantive modification, not correction of such an error. Describing the request as modification rather than recall did not remove the statutory bar, and the application was dismissed.	558
Bar on Review of a Signed Criminal Order and Distinct Power of Recall	After a final criminal order is signed, Section 362 CrPC bars substantive alteration or review except as expressly permitted by law, including correction of clerical or arithmetical errors; Section 482 cannot circumvent that bar. Applying the narrated State of Punjab v. Davinder Pal Singh Bhullar principles, the Court distinguished recall of an order that is a nullity because of lack of jurisdiction, denial of a hearing or natural justice, or abuse of process amounting to want of jurisdiction. A party seeking such recall must establish absence of fault. The applicant's disputed allegations against his earlier counsel did not establish a present basis for recall; liberty was reserved to revive the petition	654

Topic	Ratio	Case Sr.no.
	after the Bar Council established the counsel's guilt.	
Disputed Professional Misconduct as a Ground for Recall	A recall application cannot be used to adjudicate disputed professional-misconduct allegations against an advocate when that question lies within the Bar Council's exclusive jurisdiction. Applying R. Muthukrishnan v. Registrar General, High Court of Judicature at Madras, the Court declined to decide whether the applicant had supplied documents or whether counsel had failed to file a reply despite instructions. Even a prima facie finding on those questions would affect the pending disciplinary complaint. Having concluded that it lacked jurisdiction to determine them, the Court was required to refrain from findings that could prejudice the parties.	654
Allegations Against Earlier Counsel Without Impleading Him in Recall Proceedings	In seeking recall on allegations against earlier counsel, the applicant had not impleaded that advocate. The Court held that the allegations could not be considered in his absence. It also declined findings that might prejudice either side in the professional-misconduct complaint already pending before the State Bar Council.	654
Refusal of special leave and the independent bar on review of a criminal judgment	Refusal of special leave, whether by a speaking or non-speaking order, does not cause merger of the challenged judgment. A speaking refusal may nevertheless declare binding law under Article 141, and its other findings bind the parties and subordinate forum through judicial discipline. Merger follows grant of leave and an appellate decision, whether reversing, modifying or affirming the order. Non-merger does not itself confer power to review a signed criminal judgment: the proposed deletion of perjury directions remained subject to Section 362 CrPC.	869
Sections 362 and 482 CrPC: substantive review cannot be obtained by seeking recall	Once a criminal judgment or final order is signed, Section 362 bars alteration or review except correction of a clerical or arithmetical error or an express statutory exception. Section 482 cannot override that prohibition, even where the earlier decision is said to be patently erroneous. Genuine recall for denial of a required hearing differs from merits review. Here, reconsidering the evidentiary basis for the earlier perjury directions would be review, and no mandatory preliminary hearing had been denied. The recall petitions were dismissed; the nearly two-year delay was an additional ground.	869

Chapter no. 51
Sentencing, Probation, Compensation, Victim Rights and Restorative Relief

Sub-Chapter no. 51.1
Sentencing Discretion, Proportionality and Mitigating Factors

Child rape — custody already undergone and proportionality of life imprisonment	In considering reduction of life imprisonment for rape of a six-year-old child, time served beyond the asserted statutory minimum was weighed against the gravity and manner of the assault, severe physical harm, recorded psychological impact on the child and the offence's effect on society. The Court applied proportionality and deterrence, and found life imprisonment just and proper despite more than eleven and a half years already spent in custody.	9
Sentencing discretion — rational assessment rather than personal notions	Sentencing discretion must be exercised on reasonable and rational grounds, with punishment proportionate to the gravity, nature and manner of the offence and its effect on the victim and society. Neither a judge's personal moral view nor hypothetical apprehensions can replace an assessment of relevant circumstances. Severity and leniency must each be justified by the facts rather than by an arbitrary exercise of discretion.	9
Death sentence — multiple victims, mitigation and prospect of reformation	Life imprisonment is the rule and death the exception, requiring a reasoned rarest-of-rare assessment of the crime and the offender, including aggravating and mitigating circumstances and the prospect of reformation. Three deaths and ten injuries did not by themselves justify enhancement to death. The Court considered the family land dispute, the earlier attempt to seek police	12

Topic	Ratio	Case Sr.no.
	intervention, absence of recorded criminal antecedents and absence of material negativing reformation. It declined to enhance the life sentences imposed by the trial court.	
Corruption sentencing — small unpaid bill does not alone measure gravity	The gravity of corruption is not measured solely by the amount involved or by the fact that payment was stopped. The Court found the trial court unduly lenient for focusing on the unpaid ₹9,940 bill while overlooking the coordinated false-file process and the broader record of municipal files examined by the inquiry committee. Relying on J. Jayalalitha, it treated the public consequences of corruption as material to sentencing. It nevertheless left the imposed sentences intact for the separate appellate-notice reasons addressed in the judgment.	17
Minimum sentence for murder under Section 302 IPC	Life imprisonment is the minimum sentence for an offence under Section 302 IPC. After affirming the murder conviction, the Court accordingly maintained the life sentence imposed by the trial court.	23
Replacing imprisonment with a higher fine for a first Electricity Act offence	For a first offence under Section 138 of the Electricity Act, no minimum custodial term prevented substitution of an enhanced fine. Considering the appellant's age of about sixty-one, financial hardship and an advocate's offer to pay the fine, the Court set aside one year's imprisonment and increased the fine from Rs. 1,000 to Rs. 10,000, although the original sentence was not excessive on its merits. Release was conditional on deposit within fifteen days; otherwise the one-year sentence would automatically revive.	25
Proportionate sentence for a premeditated firearm attack	Sentencing discretion must be exercised on reasons and fair play, with punishment proportionate to the offence. Relevant considerations include the manner of planning and execution, motive, weapon, conduct, mitigating and aggravating circumstances, and the interests of the victim and society. Deterrence and rehabilitation must be assessed in the factual setting; undue sympathy or lapse of time alone does not justify an inadequate sentence. For the premeditated firearm attack near a vital part of an innocent victim's body arising from an old dispute with another person, seven years' rigorous imprisonment and the fine of Rs.1,000 were upheld. The period already undergone did not warrant reduction on those facts.	34
Statutory minimum sentence under the then-applicable rape provision	For the offence under Section 376(2)(i) IPC as applied to this incident, the Court identified ten years' imprisonment as the statutory minimum. It therefore declined to reduce the ten-year rigorous-imprisonment sentence imposed by the trial court. No separate sentence had been imposed on the direct offender under Section 4 POCSO Act.	38
Rape sentencing — compromise is no basis for reduction below the statutory minimum	The Shimbhu rule relied upon rejects compromise as a basis for reducing rape punishment below the statutory minimum under the former proviso to Section 376(2) IPC. Rape is non-compoundable and affects society, and the Court cannot assume that the victim's agreement is free from pressure. The reproduced decision also records that the 2013 amendment deleted that proviso, while explaining why even the older discretion was not attracted on its facts.	58
Youth and applicable minimum sentence in reducing imprisonment for rape and abduction	Considering that the appellant was about twenty-one and had a long life ahead, the Court reduced the ten-year rigorous-imprisonment terms under Sections 376(1) and 366 IPC to seven years each. It noted that the applicable minimum under Section 376(1) was seven years and that Section 366 prescribed no minimum. Each modified sentence carried a fine of Rs. 5,000 and five months' rigorous imprisonment in default. The Section 363 sentence remained unchanged, and all substantive sentences were directed to run concurrently.	102
Life imprisonment as the minimum sentence for murder	The Court held that life imprisonment was the minimum sentence under Section 302 IPC and therefore declined to interfere with the life sentence imposed for murder committed with common intention.	106

51.1 : Sentencing Discretion, Proportionality and Mitigating Factors

Topic	Ratio	Case Sr.no.
Murder conviction — Life imprisonment as the minimum sentence	When affirming the murder convictions under Sections 302/149 IPC, the Court treated life imprisonment as the minimum punishment for the Section 302 offence. It therefore found no ground to interfere with the life sentence imposed by the trial court.	115
Sexual assault of a young daughter — Life sentence and proved antecedent	The Court refused the father's request to reduce life imprisonment to the ten-year term sought by counsel. It relied on the sexual assault of his young biological daughter, her right to safety and dignity, his prior conviction for a similar offence against another young child, and the risk of repetition. The claimed further incident at Khurai was expressly found unsupported by evidence. Life imprisonment was held appropriate on the proved circumstances.	116
Minimum sentence under Section 6 POCSO Act for the 2013 offence	For the offence committed in September 2013, the Court treated ten years' rigorous imprisonment as the minimum sentence under Section 6 POCSO Act and declined to reduce it. It affirmed the sentence of ten years' rigorous imprisonment and a fine of Rs. 50,000 with default imprisonment; no separate sentence had been imposed for the accompanying conviction under Section 377 IPC.	151
Sentence for kidnapping for a substantial ransom	The manner of the kidnapping, the substantial ransom demand, use of the abductee's ATM credentials and the compulsion on relatives to travel from Tamil Nadu to meet the demand justified affirming life imprisonment under Section 364-A IPC read with Section 13 of the MPDVPK Act. The Court also affirmed the three-year terms for the related Section 419 IPC and Section 66-C IT Act offences.	183
Sentence reduction for rash driving causing two deaths	A sentence for rash and negligent driving must reflect the gravity of the offence, its manner of commission, the victims' rights and society's interest in deterrence. Where wrong-side driving caused two deaths and a serious jaw injury, about two months in custody did not justify reducing the one-year sentence under Section 304-A IPC to the period already undergone. Undue sympathy could not justify a token sentence.	194
Deterrence in sentencing for corruption offences	The Court treated the seriousness and social harm of public corruption as reasons for a stringent sentence and declined to interfere with the one-year and four-year rigorous imprisonment terms imposed for the respective corruption offences. This was an assessment of the sentences in the case before it.	224
Life imprisonment as the minimum sentence for murder	The Court declined to interfere with the life sentence following affirmation of the conviction under Section 302 read with Section 34 IPC, since life imprisonment is the minimum imprisonment prescribed for murder under Section 302 IPC.	227
No reduction below the statutory minimum applicable to the offence	For the provisions applicable to the 2014 incident, the Court identified ten years' rigorous imprisonment as the minimum under Section 6 POCSO and Section 376(2)(i) and (n) IPC. In the absence of discretion to impose a lower term, more than five years already spent in custody did not justify reducing the surviving ten-year sentence to the period undergone.	228
Minimum imprisonment following affirmation of murder conviction	After affirming the conviction for murder under Section 302 IPC, the Court declined to reduce the sentence because life imprisonment is the minimum imprisonment prescribed for that offence.	229
Life imprisonment as the minimum sentence for murder	Having upheld the Section 302/149 IPC conviction, the Court declined to reduce the life sentence because life imprisonment was the minimum punishment for the murder offence. The collective-liability conviction did not provide a basis for a term below that minimum.	248
Protection of girls considered in refusing reduction of	In deciding whether to interfere with the sentence, the Court considered the increasing occurrence of similar sexual offences and the need to protect girls in society. On that basis it declined to reduce the sentences imposed for the proved	254

Topic	Ratio	Case Sr.no.
sentence for sexual offences	IPC and POCSO offences and affirmed the trial court's sentence.	
Minimum sentence for murder under Section 302 IPC	Life imprisonment is the minimum sentence prescribed for an offence under Section 302 IPC. After affirming the murder convictions, the Court found no ground to interfere with the life sentences on that basis.	272
Sentence reduction for a purchaser's lesser role in a forgery conspiracy	Sentences were assessed according to each accused's role despite a voluntary compromise. Five-year terms were retained for those who prepared or actively assisted the forged power of attorney and sale deed. For the purchaser, whose role did not include preparing the power of attorney and who was about 57 years old, imprisonment was reduced to the period undergone, subject to a fine of Rs. 1,00,000 within one month. Non-payment would revive the original five-year sentence, Rs. 2,000 fine and six-month default imprisonment.	273
Rational and proportionate exercise of sentencing discretion	Sentence must reflect the offence's gravity, the manner of commission, the victim's harm and the impact on society. Deterrence and the possibility of reform must be considered through rational judicial discretion. Neither personal moral views nor the existence of sentencing discretion alone justifies arbitrary severity or undue leniency.	273
Minimum punishment for murder and interference with sentence	Life imprisonment is the minimum sentence for murder under Section 302 IPC. On affirming the murder convictions, the Court found no ground to interfere with the life sentences on that basis.	274
Minimum sentence for murder under Section 302 IPC	Life imprisonment is the minimum sentence prescribed for murder under Section 302 IPC. Having affirmed the murder conviction, the Court declined to interfere with that sentence on this basis.	275
Minimum sentence for murder on two counts	Life imprisonment is the minimum sentence under Section 302 IPC. On affirming the convictions on two counts, the Court declined to interfere with the life sentences awarded by the trial court.	278
Life sentence for rape of a very young child	In declining to reduce the life sentence under the then-applicable Section 376(2)(f) IPC, the Court considered the victim's tender age and the seriousness of the assault. It held that firm punishment was required for such conduct and affirmed the sentence. The decision concerned this assault on a child of about five years and did not prescribe life imprisonment as an automatic sentence for every rape case.	298
Section 302 IPC — minimum imprisonment and sentence reduction	Having upheld the murder conviction under Sections 302 and 34 IPC, the Court declined to reduce the imprisonment because life imprisonment was the minimum sentence for the offence under Section 302.	313
Section 302 IPC — minimum sentence on affirmation of murder conviction	On affirming the murder convictions, the Court declined interference with imprisonment because life imprisonment was the minimum sentence under Section 302 IPC.	319
Sentence — renewed cruelty after written assurances securing reconciliation	The Court declined to reduce the sentences of five years for abetment of suicide and two years for cruelty. It considered that, after an earlier cruelty prosecution, the husband obtained the wife's return through an apology and a written promise of proper treatment, then resumed the mistreatment. Those circumstances justified leaving the terms imposed by the trial court undisturbed.	328
Section 302 IPC — life imprisonment is the minimum sentence	Once the conviction under Section 302 IPC was affirmed, the life sentence did not call for reduction because life imprisonment is the minimum punishment prescribed for that offence.	341
Rape sentencing — Compromise is not a ground for leniency	Compromise in a rape case cannot be treated as a leading ground for a lesser sentence, particularly because apparent agreement may reflect pressure on the victim. The historical discretion under the former proviso to Section 376(2) IPC	354

Topic	Ratio	Case Sr.no.
	could not safely be exercised on that basis; the reproduced authority also notes the proviso's deletion in 2013. The case-specific reductions in Baldev Singh and Ravindra were confined to their own facts and were not treated as binding precedents for compromise-based leniency.	
Unchallenged Evidence of Antecedents in Reviewing Sentence	In reviewing the five-year rigorous-imprisonment sentence under Section 307 IPC, the court relied on testimony that several criminal cases were registered against the accused, which had not been challenged in cross-examination. In those circumstances, it found no basis to reduce the sentence.	378
Life Imprisonment as the Minimum Sentence Under Section 364-A IPC	Life imprisonment is the lesser of the punishments prescribed by Section 364-A IPC. The court therefore could not reduce the sentence below life imprisonment to the period already undergone merely on a plea of disproportionality.	379
Proportionality Review of Legislatively Prescribed Punishment	Punishment must fit the nature and gravity of the crime, but prescribing penalties is a legislative function entitled to judicial deference. A court may interfere with a prescribed punishment that is outrageously disproportionate, inhuman or brutal by accepted standards of decency; a perception that it is excessive is insufficient. The relied-upon decision upheld Section 364-A's prescribed punishment and treated life imprisonment for a proved offence as compatible with Article 21.	379
Life Imprisonment as the Minimum Sentence for Murder	On affirming liability for murder under Section 302 read with Section 149 IPC, the Court treated life imprisonment as the minimum sentence for the murder conviction and found no ground to reduce it. The accompanying fines and default terms, and the sentences for rioting and the separately proved hurt offences, were affirmed.	381
Minimum Sentence on Affirming a Murder Conviction	After rejecting the Section 84 defence and affirming the convictions, the Court treated life imprisonment as the minimum sentence for murder under Section 302 IPC. It therefore found no basis to reduce the life sentence and affirmed the trial court's sentence.	384
Trial Court's Power to Impose a Special Remainder-of-Life Sentence	Applying Union of India v. Sriharan, the Court stated that a judicially modified punishment specifying a term or imprisonment until the end of natural life as an alternative to death is reserved to the High Court and Supreme Court. The trial court could not impose that special sentence for the offences before it. The judgment separately considered the express statutory natural-life punishment in Section 376(3) IPC and held that the 2018 provision did not apply to this 2015 offence.	389
Section 376(3) IPC Punishment Did Not Apply to the Earlier Offence	The offence before the Court occurred in October 2015, whereas Section 376(3) IPC, expressly providing for imprisonment extending to the remainder of natural life, was inserted in 2018. The Court found no retrospective application of that provision and therefore held it inapplicable to the case. It assessed the trial court's sentence under the law applicable to the earlier offence, rather than using the later statutory provision to sustain it.	389
Meaningful hearing before imposing a death sentence	An effective hearing under Section 235(2) CrPC requires the accused to be told that death is contemplated and given a real opportunity to place mitigating circumstances before the court. The court must elicit relevant sentencing facts and consider mitigation. Imposing sentence on the day of conviction is not itself invalid if that opportunity is meaningful. Here, the deficient hearing and failure to consider mitigation prevented confirmation of death; the sentence was commuted to imprisonment for natural life without remission.	391
Mitigation and reform in capital sentencing for child rape and murder	The brutality of rape and murder and the child's age do not dispense with the rarest-of-rare assessment or consideration of mitigation and the possibility of reform. The sentencing court must elicit relevant mitigating facts even when the defence does not place them before it. Applying the reproduced sentencing	391

Topic	Ratio	Case Sr.no.
	authorities, the Court declined to confirm death where that assessment and an effective sentencing hearing were absent.	
Effective mitigation hearing before imposing death	Sentencing on the day of conviction is not itself invalid if the accused receives a meaningful hearing under Section 235(2) CrPC and an opportunity to place mitigation on record. The court must specifically indicate that death is contemplated and elicit relevant facts. Here, the accused had no sufficient opportunity to submit mitigating material or an affidavit; the absence of an effective hearing prevented confirmation of death.	393
Death as an exception and consideration of reform	Life imprisonment is the rule and death an exception reserved for the rarest cases where the alternative is unquestionably foreclosed. Sentencing must account for both the crime and the offender, with meaningful consideration of mitigation and the possibility of reform. Here, the accused's youth, the absence of findings on a continuing threat and reform, and the failure to consider an alternative punishment weighed against confirming death.	393
Natural-life imprisonment without remission in place of death	When replacing death with life imprisonment, the court may determine the length of incarceration appropriate to the offence. Applying Mulla and considering the proved crime and circumstances, the Court directed imprisonment until the accused's natural death without remission.	393
Socio-economic circumstances and reform evidence in capital sentencing	The brutality of child rape and murder, though shocking, does not by itself justify death. The Court considered the accused's youth, poor and marginalised background, family circumstances and favourable jail report showing discipline, cooperation and reformative behaviour. Those mitigating circumstances supported the conclusion that the case was outside the rarest-of-rare category. Death under Section 376A IPC was replaced by imprisonment for the remainder of natural life.	397
Constitutional-court power to impose a special sentence instead of death	The High Court and Supreme Court may replace death with a modified sentence prescribing a particular period of incarceration or imprisonment for the remainder of natural life beyond ordinary remission. The reproduced Sriharan principle reserves that special power to those courts, rather than inferior courts. The Court also noted Section 376A IPC's express natural-life alternative and imposed that sentence here.	397
Life Imprisonment as the Minimum Sentence for Murder under Section 302 IPC	In affirming the murder sentences, the Court treated life imprisonment as the minimum punishment under Section 302 IPC and found no basis to reduce the life terms imposed for the two murders.	409
Corrupt misuse of partition work as a reason to decline sentence reduction	The Court declined to interfere with the sentence because the Patwari had attempted to deprive the complainant's sisters of their legitimate shares by accepting affidavits without authority and preparing unequal partition documents. It treated that misuse of official work, including the attempted relinquishment of pre-existing rights without a registered deed, as material to sentence. The concurrent sentences of three years under Section 7 and five years under Section 13(1)(d) read with Section 13(2) PC Act were affirmed.	441
Belated family compromise and further sentence reduction for forgery	Relationship and settlement did not justify reducing the remaining non-compoundable Section 467 IPC sentence to time already served. The compromise came about seventeen years after the fraudulent sale and six years after trial conviction, and disclosed no terms showing reconveyance or adequate compensation. The Court questioned the circumstances of settlement without finding coercion. Since the appellate court had already reduced three years' rigorous imprisonment to one year with ₹2,000 fine, the Court refused further leniency. The earlier compounding of Sections 419, 420 and 423 did not dispose of the forgery conviction.	444
Life imprisonment	After affirming the murder conviction, the Court declined sentence interference	445

Topic	Ratio	Case Sr.no.
as the minimum sentence for Section 302 IPC	because life imprisonment was the minimum punishment under Section 302 IPC. It maintained the life sentence and the concurrent Arms Act sentences imposed by the trial court.	
Proportionate Sentencing for a Repeated Knife Assault	Sentencing discretion must rest on rational and objective consideration of the offence's gravity, manner of commission, impact on the victim and society, and the relevant circumstances, with punishment proportionate to the crime. Applying these principles to the armed attack and its serious injuries, the Court declined to reduce the ten years' rigorous imprisonment imposed under Section 307 IPC.	451
Murder sentence — Minimum life imprisonment and concurrent terms	Life imprisonment is the minimum punishment for murder under Section 302 IPC. The Court therefore found no ground to reduce the two life sentences imposed for the two murders and directed that they run concurrently.	474
Sentence for rape of an infant — Deterrence and life imprisonment	The extreme youth of a one-year-old victim and the gravity of the sexual assault warranted a deterrent sentence. On those circumstances, the Court upheld life imprisonment imposed under the then-applicable Section 376(2)(f) IPC. The decision affirms that sentence in this case; it does not state that life imprisonment is mandatory in every prosecution under that provision.	477
Section 376(2)(i) IPC — reduction of natural-life sentence to twenty actual years	The trial court's life sentence under Section 376(2)(i) IPC was read with its reasons as imprisonment for the remainder of natural life. Considering the available statutory sentencing range and absence of proved criminal antecedents, the Court substituted twenty years of actual rigorous imprisonment without remission. It retained the other sentences and directed substantive terms to run concurrently. Although clauses (i) and (m) constituted distinct offences, it found no illegality in the absence of a separate sentence under clause (m) on this record, given the punishments for rape and attempted murder and the absence of a State challenge.	482
Fatal rash driving — deterrence and refusal to reduce imprisonment	Deterrence and the driver's duty of care are important when sentencing for death caused by rash or negligent driving. Applying Dalbir Singh, including its caution against Section 4 Probation of Offenders Act relief in such cases, the Court refused to reduce the one-year rigorous imprisonment sentence under Section 304-A IPC. It distinguished Sagar Lolienkar because compensation of ₹3,00,000 had been paid there, whereas none was offered here. Despite no allegation of intoxication, the fatal driving during a traffic jam justified retaining the sentence, ₹500 fine and one-month default imprisonment.	485
Sentence reduction under Section 325 IPC — assault on vital parts	The absence of a statutory minimum sentence under Section 325 IPC does not by itself require reduction of the sentence. Although the quarrel arose suddenly over fetching water, the Court declined interference for the appellants who used lathis, dandas and an iron rod to cause head injuries, having regard to the manner of the assault and the vital part targeted.	491
Murder sentence — life imprisonment as the minimum punishment	After affirming the conviction under Sections 302/34 IPC, the Court declined to reduce the life sentence because life imprisonment was the minimum punishment for the murder offence. The sentence imposed by the trial court therefore called for no interference on that ground.	499
Proportionate sentencing for death caused by rash or negligent driving	A sentence must reflect the gravity and manner of the offence, the relevant aggravating and mitigating circumstances, and the interests of the victim and society as well as the offender. Corrective measures remain relevant, but deterrence may be necessary on the facts. In fatal road-accident cases, sympathy for the offender must not result in punishment disproportionate to the harm caused.	519
Failure to Appear During Appeal as a Sentencing	In declining to reduce the sentence, the Court relied on deterrence and the appellants' prolonged failure to appear before the Registry while on bail as showing no improvement in their conduct. It affirmed the sentences, cancelled	527

Topic	Ratio	Case Sr.no.
Consideration	the bail bonds and directed immediate surrender to serve the remaining imprisonment.	
Section 397 IPC sentence — seven-year minimum and appellate reduction	The statutory minimum imprisonment for an offence under Section 397 IPC is seven years. The Court reduced Purshottam's ten-year rigorous imprisonment to seven years and imposed a fine of ₹2,000, with six months' rigorous imprisonment in default.	548
Reduction of sentence below the applicable statutory minimum	For the offences and incident before it, the Court identified seven years as the minimum imprisonment under Section 4 of the POCSO Act and Section 376 IPC. As the trial court had imposed that minimum and the amended rape provision left no discretion to reduce it, the appellant's age and custody already undergone did not justify a shorter sentence.	560
Minimum life sentence under Sections 302 and 364A IPC	Having upheld the convictions under Sections 302 and 364A IPC, the Court declined to interfere with the life sentences because life imprisonment was the minimum punishment for those offences.	575
Minimum sentence upon affirming a murder conviction	After affirming the murder conviction, the Court declined to reduce the life sentence because life imprisonment was the minimum sentence under Section 302 IPC.	577
Hearing on sentence when an appellate court affirms conviction or reverses acquittal	When an appellate court converts an acquittal into a conviction, it must hear the accused on sentence. When it upholds a trial court's conviction and sentence, a further opportunity on sentence is unnecessary unless enhancement is contemplated. Section 235(2) CrPC therefore did not require a fresh sentencing hearing where the earlier appeal maintained the Section 498-A conviction and its existing sentence while setting aside the Section 304-B conviction.	581
Minimum sentence upon conviction for murder under Section 302 IPC	Life imprisonment is the minimum sentence for an offence under Section 302 IPC. Having upheld the murder conviction, the Court found no basis to interfere with the life sentence imposed by the trial court.	582
Death sentence sought against an accused similarly placed to co-accused serving life sentences	The Court declined to impose death after reversing acquittal where the State did not establish that the case fell within the rarest-of-rare category or identify a difference between the respondent's role and those of similarly placed co-accused already sentenced to life imprisonment. No enhancement appeal had been filed against those sentences. Following a hearing on punishment, the Court imposed life imprisonment on each murder count.	583
Life imprisonment as the minimum punishment for murder	On the murder convictions affirmed in this case, the Court held that life imprisonment was the minimum sentence under Section 302 IPC. The life sentences imposed by the trial court therefore called for no reduction. The separate direction about concurrent execution did not reduce those substantive sentences.	605
Minimum imprisonment for murder under Section 302 IPC	Life imprisonment is the minimum sentence of imprisonment under Section 302 IPC. Upon affirming the murder conviction, the Court found no ground to interfere with the life sentence imposed by the trial court.	610
Life imprisonment as the minimum sentence under Section 302 IPC	Life imprisonment is the minimum sentence for murder under Section 302 IPC. With the murder convictions sustained, the life sentences imposed by the trial court called for no reduction.	622
Minimum sentence following affirmation of murder conviction	Life imprisonment is the minimum sentence for murder under Section 302 IPC. After affirming the conviction, the Court found no ground to interfere with the life sentence imposed by the trial court.	649
POCSO sentence — seven-year minimum applicable to the	For the offence committed in 2015, the Court stated that the minimum punishment under Section 4 POCSO and Section 376(1) IPC was seven years. The trial court had imposed seven years' rigorous imprisonment under Section	676

51.1 : Sentencing Discretion, Proportionality and Mitigating Factors

Topic	Ratio	Case Sr.no.
2015 offence	4 POCSO and, in view of that punishment, awarded no separate sentence under Section 376(1), though the conviction under that provision remained. The High Court affirmed that sentencing arrangement and declined to interfere with the statutory minimum. Its conclusion concerned the provisions applicable at the time of the offence, without analysing a general rule for all overlapping IPC and POCSO punishments.	
Murder conviction — life imprisonment as the minimum sentence	After affirming the conviction for murder under Section 302 read with Section 34 IPC, the Court declined to reduce the sentence because life imprisonment was the minimum punishment for the murder offence.	682
Minimum sentence of imprisonment for life for murder	The Court declined to reduce the sentence of the four appellants convicted under Section 302 read with Section 34 IPC because imprisonment for life is the minimum sentence prescribed for murder under Section 302.	713
Life imprisonment as the minimum sentence for murder	After affirming the murder conviction under Section 302 IPC, the Court declined to interfere with life imprisonment because it is the minimum sentence prescribed for murder.	718
Life imprisonment is the minimum sentence under Section 364A IPC	After upholding the conviction under Section 364A IPC read with Sections 11/13 of the MPDVPK Act, the Court declined to interfere with the life sentence. It reasoned that life imprisonment is the minimum sentence for the Section 364A offence. The affirmed conviction therefore supplied no basis for reducing imprisonment below that statutory minimum.	731
Section 307 sentence reduced from ten to five years after conviction affirmed	Despite affirming seven appellants' convictions under Section 307 IPC directly or with Section 149 and other hurt/rioting counts, the appellate Court found ten years' rigorous imprisonment excessive in light of the incident's manner and the absence of a statutory minimum for Section 307. It imposed five years' rigorous imprisonment and ₹10,000 fine on each for that count, with six months' rigorous imprisonment in default; other sentences stood concurrently. The judgment did not hold that five years is a general benchmark for attempted murder.	735
Refusal to reduce sentence for prolonged sexual exploitation of a girl below sixteen	The Court declined to reduce the ten-year term of rigorous imprisonment for the Section 376 IPC conviction. It relied on the unchallenged evidence that the appellant was already married and had three children, yet kidnapped a girl below sixteen and moved with her from place to place for approximately a year, during which she gave birth to a child. Those circumstances supported affirmance of the sentence imposed by the trial court. The decision concerns the offence and statutory setting applicable to the 2004 conduct and does not prescribe ten years as a general sentencing benchmark.	738
Appellate sentence modification — merits must first be examined	Following Nagpal Traders v. Davinder Singh, the Court held that the quantum of sentence cannot be interfered with without considering the merits of the case. Although the appellants sought reduction on the basis of the elapsed twenty years and the nature of the injuries, the Court first examined the prosecution evidence. It considered the injured complainant's testimony, medical corroboration, the doctor's evidence about injuries not attributable to a fall, and the absence of the alleged counter-case record. Finding that the appellants had been the aggressors and noting the absence of a serious challenge to conviction, it affirmed the convictions under Sections 324/34 and 323/34 IPC before deciding whether to alter the sentences.	744
Absconding after dismissal of appeal as a reason to refuse sentence reduction	The applicant's conduct in absconding after dismissal of his appeal and remaining unavailable until his later arrest justified refusal to interfere with the three-month sentence for the Section 324 IPC offence. The Court treated that conduct as a reason to retain the sentence already imposed.	752
Life imprisonment as the minimum	Once the conviction for murder under Section 302 IPC was upheld, the Court declined interference with the life sentence because life imprisonment is the	774

Topic	Ratio	Case Sr.no.
sentence for murder	minimum imprisonment prescribed for that offence. It affirmed the sentence and directed the appellant to undergo its remaining part.	
Sentencing for a chest shooting and the victim's pending criminal trial	Five years' rigorous imprisonment under Section 307 IPC was not excessive for carrying an illegal firearm at night and shooting the victim in the chest over consumption of liquor. The fact that the victim was brought from jail to testify and faced trial in another case gave no one a right to injure him and did not warrant reducing the sentence.	782
Section 302 IPC— life imprisonment as the minimum sentence	Life imprisonment is the minimum sentence for an offence under Section 302 IPC. After affirming the murder conviction, the Court found no ground to interfere with the life sentence or with the sentence imposed under Section 201 IPC.	815
Section 302 IPC — Minimum sentence for the adult appellant	Life imprisonment is the minimum sentence for murder under Section 302 IPC. The Court therefore affirmed the adult appellant's life sentences on both murder counts.	829
Section 302 IPC — life imprisonment as the minimum sentence of imprisonment	After sustaining the conviction under Section 302 IPC, the Court declined to reduce the sentence because life imprisonment was the minimum sentence of imprisonment for that offence. The life sentence, fine and default imprisonment were affirmed.	898
Sentencing parity with co-accused after reversal of acquittal	After reversing the acquittal, the Court considered the sentences already imposed on co-accused in the connected matters. Although those sentences had been disapproved as unduly light, the connected appeals had not resulted in enhancement, no enhancement notice having been given at admission and belated notice being considered unproductive. In those circumstances, the Court considered it inappropriate to impose a different sentence on the present respondents and applied parity when fixing punishment. This was a case-specific sentencing decision, not approval of the adequacy of the earlier sentences.	914
Capital sentencing: balancing aggravating and mitigating circumstances before commutation	The Court considered the aggravating circumstances reproduced from Ramnaresh and held that they did not fit the case. It weighed the absence of proved prior criminal antecedents and the failure to establish that the accused was a menace, threat or danger to society as mitigating circumstances. On that stated balance, it refused death-sentence confirmation and substituted imprisonment for the remainder of the accused's natural life under Section 302 IPC, retaining the ₹25,000 fine. The other convictions and sentences remained undisturbed. This records the Bench's assessment of this case without treating the absence of antecedents as automatically excluding capital punishment.	915
Sentencing parity with co-accused after reversal of acquittal	Although the Court considered the co-accused's six-month sentences inadequate, it had left them undisturbed in the connected appeals in which no enhancement notice had been issued at admission. In those circumstances, it considered a different sentence for the respondent inappropriate. It imposed six months' rigorous imprisonment and a fine of ₹10,000 on each count under Section 15 of the Prevention of Corruption Act and Section 120-B IPC, with one month's rigorous imprisonment in default on each count, and directed the substantive sentences to run concurrently. The sentence rested on parity in these circumstances.	920
Life imprisonment as the minimum sentence for murder	Life imprisonment is the minimum sentence for an offence under Section 302 IPC. After independently considering sentence in the absence of the appellant's counsel, the Court found no ground to interfere with the life sentence and affirmed the sentences, which were to run concurrently.	934
Minimum life sentence for murder in a Section 149	Life imprisonment is the minimum sentence for murder under Section 302 IPC. Having upheld the convictions under Section 302 read with Section 149 for the	936

Topic	Ratio	Case Sr.no.
conviction	two deaths, the Court found no ground to interfere with the life sentences imposed by the trial court.	
Murder sentence: life imprisonment is the statutory minimum	The Court refused to reduce the life sentence after affirming the Section 302 IPC conviction because life imprisonment is the minimum punishment for that offence. It also maintained the trial court's direction that the sentences under Sections 302 and 307 run concurrently.	949
Proportionality and rational discretion in sentencing	A sentence must be proportionate to the offence and its social and victim impact, without being disproportionately excessive. Relevant considerations may include culpability, antecedents, age, prospects of reform, future social risk, elapsed time and intervening conduct, assessed in the circumstances of the offence. There is no fixed formula; discretion must be reasoned rather than founded on personal moral views, hypothetical fears or mere indulgence. Correction and deterrence both remain relevant, and grave negligent driving may require deterrence despite a plea for leniency.	965
Sentence for insurance officers' breach of the insured's trust	Collecting premiums and issuing insurance documents creates an expectation of indemnity in the insured. Where the insurer's officers themselves defeat that trust through the proved misconduct, the Court found no basis for a liberal sentencing view. It held the concurrent terms of two and a half years and two years already lenient and refused further reduction for the surviving appellant. The observation concerned the proved insurance fraud, rather than an unqualified rule about the extent of every insurance policy.	968
Seven-year sentence for an unprovoked attack on a vital body part	The hurt-caused limb of Section 307 IPC permitted a sentence extending to life imprisonment. Given the unprovoked early-morning attack, repeated blows to the forehead and severe injuries, the Court found no basis to interfere with the seven-year rigorous-imprisonment term or reduce it to custody already undergone. The decision was an assessment of sentence on these circumstances, rather than a general minimum sentence for Section 307.	969
Sentence for rape of a young child	The victim's young age and the gravity of the sexual assault warranted refusal of leniency in sentence. For rape of a girl aged about eight, the Court affirmed the ten years' rigorous imprisonment awarded under Section 4 POCSO Act.	980

Sub-Chapter no. 51.2
Costs, Compensation and Personal Accountability in Criminal-Side Proceedings

Costs — false implication of relatives who were children at the alleged onset	Having found an attempt to falsely implicate the husband's two siblings through vague allegations dating from their childhood, the Court awarded costs for the agony of a criminal case and the use of court time. It directed the complainant to deposit ₹10,000 within sixty days, allocating ₹4,000 to each applicant and ₹2,000 to the Registry.	14
Personal costs for custodial assault and fabrication of allegations	For custodial assault and fabrication of complaint material, the Court imposed personal costs totalling Rs. 1,20,000 on the six implicated police officials in different amounts reflecting their involvement. The amounts were to be deposited in the Registry within one month and made available to the petitioner on application. Default attracted recovery proceedings and separate contempt proceedings.	22
Litigation costs and compliance directions on dismissal of a maintenance revision	On dismissing the husband's challenge to interim maintenance, the Court awarded ₹20,000 to the wife towards the revision's litigation expenses. It required deposit within fifteen days and directed initiation of contempt proceedings and striking off the husband's defence in the trial court if he defaulted. These were the compliance directions made in this revision.	131
Personal costs and accountability for harassing a corruption	For the retaliatory FIR and recovery demand, the Court imposed separate costs of ₹25,000 in each connected writ, to be deposited within two months by the responsible official for payment to the complainant, without reimbursement by	198

Topic	Ratio	Case Sr.no.
complainant	the State. It directed recovery and contempt proceedings on default. The Chief Secretary was also directed to examine the official's conduct, take necessary action within two months and report to the Court within three months.	
Compensation and personal accountability for continued denial of speedy trial	Where police witnesses continued to default despite an earlier compensation order, the Court directed the State to pay a further Rs 50,000 within fifteen days and recover it from the Superintendent of Police's salary for failing to ensure attendance. It also directed departmental inquiries against the defaulting witness and process-serving personnel, with compliance reports and an affidavit on recovery.	250
Return of money unconnected with the alleged offence—with interest	After rejecting the alleged ransom connection and finding the recovery documents fabricated, the Court ordered return of ₹25,000 to Bhagwan Singh/Harkanth and ₹1.90 lakh to Jagdish with interest at 7.5% until payment. The complainant who had received ₹1.90 lakh under an interim order had to redeposit it with interest from the date of recovery. The refund remained subject to any appeal.	410
Mala fide preventive proceedings—Costs and enforcement	The finding that Section 145 CrPC proceedings were initiated mala fide and arbitrarily justified costs of ₹20,000 against the private respondents who obtained the unlawful orders. The Court directed recovery in accordance with law and registration of contempt proceedings if the costs were not deposited within seven days.	664
False prosecution and prolonged custody — constitutional compensation beyond acquittal	Mere acquittal does not invariably entitle an accused to compensation. The Court nevertheless held that its constitutional duty under Articles 20 and 21 required redress where faulty investigation and false implication had kept an innocent person suffering from psychosis in jail for approximately thirteen years. Referring to compensation awarded under Article 142 in Ankush Maruti Shinde, it found acquittal insufficient in the present circumstances. It directed the State to pay ₹3 lakh within one month, preserved the appellant's liberty to sue for civil damages, and allowed the State, if it wished, to recover the amount from the witnesses. The Court found false implication intended to secure control of the appellant's property.	747
Personal compensation for deliberate withholding of trial material	The Court directed the then SP personally to deposit ₹5,00,000 with the Principal Registrar within one month for mala fide suppression affecting the fair-investigation and fair-trial rights of at least one side. Which side he intended to favour remained for inquiry. The deposit was to pass to the trial court and be paid to the complainant if the accused were convicted, or to the accused if acquitted. Default would lead to recovery proceedings and a separate contempt case.	769
Suppression of an earlier quashing refusal and costs	Concealment of the earlier merits dismissal of a similar compromise-based quashing request, both in the renewed application and before the Registrar, was treated as an attempt to defraud the Court. The Court imposed ₹25,000 costs payable within thirty days and directed recovery and registration of contempt proceedings only if payment was not made.	797
	Sub-Chapter no. 51.3 **Set-Off, Concurrent/Consecutive Sentences and Default Sentence**	
Concurrent operation of a later life sentence with earlier life sentences	On the application under Section 427 CrPC, the Court directed that the life sentence in this murder case run concurrently with the life sentences in two earlier trials. Those earlier sentences had already been made concurrent by an appellate order, and the Court applied the same approach to the later sentence. The murder conviction remained affirmed.	98
Concurrent life sentences for several convictions at one	Under Section 31(1) CrPC, separate imprisonment terms ordinarily run consecutively unless the court directs otherwise. The choice is judicial and must reflect the totality of the offences. Applying O.M. Cherian and	103

Topic	Ratio	Case Sr.no.
trial	Muthuramalingam, the Court held that multiple life sentences must run concurrently because life imprisonment extends to the convict's remaining natural life and a further life term cannot commence after it. It also noted the authorities permitting concurrency for offences committed in one transaction. The convictions on two counts under Section 302 and under Section 307 IPC were affirmed, but the life terms were directed to run concurrently.	
Reduction to the minimum sentences applicable on the date of the offence	For the offence committed on 31 January 2014, the Court identified seven years as the applicable minimum under Section 376(1) IPC and Section 4 POCSO Act. It reduced each ten-year term to seven years' rigorous imprisonment, enhanced each fine to Rs.10,000, preserved the sentences under Sections 363 and 366 IPC, and directed all terms to run concurrently.	124
Separate punishment under overlapping IPC and POCSO provisions	While maintaining the convictions under Section 376(1) IPC and Section 4 POCSO Act, the Court referred to Section 71 IPC and held that a separate sentence under Section 376(1) was unnecessary for the overlapping act. Its operative order nevertheless reduced the terms on both counts to seven years and directed concurrent operation.	124
Separate punishment for the same sexual act	Treating the convictions under Section 376 IPC and Section 4 of the POCSO Act as arising from the same offence, the Court affirmed the seven-year rigorous imprisonment and fine under Section 4 and awarded no separate sentence under Section 376 IPC.	560
Separate sentence for Section 147 IPC where punishment is imposed under Section 148 IPC	On conviction under both Sections 147 and 148 IPC, the Court imposed imprisonment under Section 148 and no separate sentence under Section 147 because it was the lesser offence.	583
Subsequent imprisonment where a life sentence is already being served	Under Section 427(2) CrPC, when a person already serving life imprisonment receives a subsequent sentence of imprisonment for a term or for life, that subsequent sentence runs concurrently with the earlier life sentence. Applying that provision and O.M. Cherian, the Court directed the substantive sentence in this trial to run concurrently with the life sentence imposed in the earlier trial. Life imprisonment extends through the convict’s normal life; fixed terms cannot be ordered to begin after it.	605
Default imprisonment remains consecutive despite substantive concurrency	An order that substantive sentences run concurrently does not make the terms imposed in default of payment of fines concurrent. Applying Sharad Hiru Kolambe, the Court expressly directed the default sentences to run consecutively even while directing concurrency of the substantive imprisonment across the two trials.	605
Section 427(2) CrPC: concurrency with an existing life sentence	Where a person already undergoing life imprisonment receives a subsequent sentence of imprisonment for a term or for life, Section 427(2) CrPC requires the subsequent sentence to run concurrently with the earlier life sentence. The Court therefore directed the substantive sentence in the later murder trial to run concurrently with the earlier murder sentence, although counsel had not raised the question.	622
Default imprisonment remains consecutive despite substantive concurrency	A direction that substantive sentences run concurrently does not extend to default imprisonment for non-payment of fine. Following Sharad Hiru Kolambe, the Court expressly directed the default sentences to run consecutively.	622
Section 427 CrPC — concurrent sentences for killings in one transaction	Where two victims were killed in one transaction but prosecuted separately because their bodies were left in different police-station areas, the Court directed the substantive life and fixed-term sentences in the second case to run concurrently with those in the connected case, although no such prayer had been made. Section 427(2) CrPC provides that a subsequent life or fixed-term sentence imposed on a person already undergoing life imprisonment runs	683

Topic	Ratio	Case Sr.no.
	concurrently with that life sentence.	
Section 31 CrPC — life imprisonment and fixed terms	As explained in the relied-upon passage from O.M. Cherian, life imprisonment extends to the end of the convict's normal life. A direction to undergo fixed-term imprisonment after completing life imprisonment is therefore unworkable; fixed terms and multiple life terms must be directed to run concurrently in that setting.	683
Fine-default imprisonment remains consecutive despite substantive concurrency	The direction making the substantive sentences concurrent did not extend to imprisonment in default of payment of fines. Relying on Sharad Hiru Kolambe, the Court expressly directed the default sentences to run consecutively.	683
Separate punishment for Section 420 IPC and concurrent sentences in the connected work-file prosecution	While sentencing the contractor for the fabricated work transaction, the Court followed the approach taken for co-accused and awarded no separate sentence under Section 420 IPC, describing it in this context as a lesser offence of Section 468 IPC. It imposed terms for Sections 467, 468, 471 and 120B IPC and directed the sentences to run concurrently. The determination was confined to sentencing in this prosecution; it did not separately analyse the statutory ingredients or establish that cheating is invariably included in forgery for the purpose of cheating.	914
Default imprisonment for fine after imposition of imprisonment for natural life	When commuting the Section 302 IPC death sentence to imprisonment for the remainder of the accused's natural life, the Court retained the ₹25,000 fine and directed that no imprisonment in default of that fine was required in view of the natural-life sentence. The remaining counts and their sentences were left intact.	915
	Sub-Chapter no. 51.4 **Sentence Reduction, Custody Period and Long Pendency**	
Section 376(2)(n) IPC — refusal to reduce the statutory minimum sentence	The Court declined to interfere with the ten-year sentence because it was the minimum punishment prescribed for Section 376(2)(n) IPC as applied in this case. The sentence and concurrent sentencing arrangement imposed by the trial court were affirmed.	13
Sentence reduction where the applicable POCSO punishment carried a ten-year minimum	The Court declined to reduce the ten-year sentence under Section 6 POCSO to the period already undergone, because ten years was the statutory minimum applicable to this case. It affirmed the sentences under Sections 363 and 366 IPC and Section 6 POCSO. The trial court had imposed no separate sentence under Section 376 IPC, treating the overlapping sexual offences under Section 71 IPC.	89
Minimum life sentence for murder under Section 302 IPC	After sustaining the conviction under Section 302 IPC, the Court declined to interfere with the life sentence because life imprisonment is the minimum sentence prescribed for that offence.	98
Custody already undergone for reduced hurt offences	For participants acquitted of murder, more than four hundred days of custody, with additional custody during appeal, was sufficient for the reduced hurt and rioting offences. The Court reduced their concurrent custodial sentences to the period undergone while retaining fines and default terms. The two direct murder offenders retained their life sentences; their attempted-murder counts were reduced to Section 324/149 with six months' rigorous imprisonment on each of three counts.	165
Custody exceeding the maximum terms for the substituted offences	On altering the conviction, the Court considered that the appellants had remained continuously in custody for eleven years and eight months. That period exceeded the seven-year maximum under Section 365 IPC and the ten-year maximum referred to under Section 11 of the MPDVPK Act; Section 13 carried a three-year minimum. They were sentenced to the period already undergone and directed to be released immediately unless required in another	188

Topic	Ratio	Case Sr.no.
	offence.	
Long pendency alone did not justify reducing sentence for a serious assault	The lapse of about 21 years did not warrant reduction of the sentence to the period already undergone. In view of the sword injuries, nasal fracture, brain haematoma and use of a country-made bomb, the Court considered the trial sentence already lenient and declined further reduction.	206
Sentence already undergone after alteration to Section 304 Part I	After altering the conviction to Section 304 Part I IPC, the Court took account of approximately twelve years of actual imprisonment and sentenced the appellant to the period already undergone, retaining the fine and default sentence. The assessment included undertrial detention and imprisonment after conviction, with the brief period of temporary bail noted.	223
Age and long pendency do not permit a sentence below the statutory minimum	Section 13(2) of the Prevention of Corruption Act, as applicable on the trap date in 1990, prescribed at least one year's imprisonment. The Court held that it could not impose a lesser term because thirty-four years had elapsed or the appellant was over seventy-six. It distinguished the sentencing precedent relied upon and affirmed the one-year term.	252
Reduction of sentence under Section 306 IPC where no statutory minimum applies	Section 306 IPC prescribes no minimum imprisonment. Taking account of the circumstances and approximately four years and eight months of actual custody, the Court maintained the conviction and reduced rigorous imprisonment from seven to five years. It enhanced the fine from ₹2,000 to ₹5,000, with six months' simple imprisonment in default.	268
Sentence already undergone after alteration to Section 304 Part II	After altering the conviction to Section 304 Part II IPC, the Court considered the sudden quarrel, fist assault, unknown liver condition, the appellant's age of about twenty at the time and more than nineteen years since the incident. It noted 257 days of undertrial custody and his later detention, assessing the custody undergone at approximately three years and four months. In those circumstances it imposed the period already served, with release if not required in another case.	295
Dowry-death sentence — effect of long appellate pendency	Fourteen years of appellate pendency did not automatically entitle the appellant to a reduced sentence. Considering the death within one year of marriage and the misleading account that the deceased had been found hanging, the Court upheld ten years' rigorous imprisonment under Section 304-B IPC.	302
Sentence on substitution of Section 323 conviction — time served and enhanced fine	On substituting the conviction under Section 323 IPC, the Court considered its stated custody total of 109 days sufficient imprisonment. In view of the multiple injuries, it enhanced the fine to Rs.15,000, payable within two months, with three months' rigorous imprisonment in default.	316
Sentence Already Undergone After Alteration to Section 304 Part I IPC	After altering the conviction to Section 304 Part I IPC, the court considered the accused's subsequent conduct and continuous actual imprisonment of eleven years and ten months sufficient to meet the ends of justice. The sentence was reduced to the period already undergone, the custody record showing that he had not been released on bail during trial or appeal.	377
Section 324 IPC sentence reduction with an enhanced fine	Where Section 324 IPC prescribed no minimum imprisonment, the Court considered the appellant's age of twenty-five at the offence, absence of any criminal history asserted by the prosecution, lapse of more than nineteen years and twelve days already spent in custody. It reduced imprisonment to the period undergone while affirming the conviction and enhancing the fine from Rs 1,000 to Rs 15,000. Payment by 29 February 2024 was a condition of that relief; default would automatically revive the trial court's jail sentence.	439
Lapse of time as a ground to reduce imprisonment for fatal negligent	The lapse of 22 years after the accident did not justify reducing the six-month sentence under Section 304A IPC to the period already undergone by enhancing the fine. Applying Dil Bahadur, the Court refused undue sympathy that would disregard the loss of life and irreparable harm to the deceased's family. Passage	519

Topic	Ratio	Case Sr.no.
driving	of time alone cannot justify an inadequate sentence without considering the gravity of the offence.	
Sentence Already Undergone After Alteration to Section 304 Part I	After altering the conviction from murder to Section 304 Part I IPC, the Court treated more than eleven and a half years of uninterrupted custody during trial and appeal as sufficient imprisonment. It imposed the period already undergone and a fine of ₹3,000, with three months' rigorous imprisonment in default, and directed immediate release if the appellant was not required in another case.	524
Reduction to the Statutory Minimum Applicable to the 2007 Rape Offence	The Court reduced the Section 376 sentence from ten to seven years' rigorous imprisonment, the minimum applicable under the then provision, while retaining the ₹5,000 fine and one year's rigorous imprisonment in default. It affirmed the Section 363 sentence of one year's rigorous imprisonment with ₹1,000 fine and three months' rigorous imprisonment in default, and the Section 366 sentence of three years' rigorous imprisonment with ₹3,000 fine and six months' rigorous imprisonment in default. The substantive sentences were to run concurrently. Bail bonds were cancelled and surrender was directed for the remaining term.	529
Sentence already undergone for simple hurt	After the murder convictions of two appellants were set aside, only their simple-hurt convictions remained. They had served approximately eleven months and twenty-six days against a one-year term. Considering that custody and remission, the Court limited their imprisonment to the period already undergone if the full one-year sentence had not already been completed.	561
Custody undergone after conversion to Section 304 Part I IPC	Following conversion of the murder conviction to Section 304 Part I IPC, the Court considered that the appellant had already served more than ten years. Referring to the statutory alternatives of life imprisonment or a term extending to ten years, it imposed imprisonment already undergone and a fine of Rs. 10,000, with six months' rigorous imprisonment in default.	561
Long pendency and a request to reduce sentence to time served	Long passage of time and a short period already spent in custody do not by themselves justify reducing a sentence to time served. The seriousness of the assault, the weapon, the part of the body struck and the injuries remain relevant. The Court found the one-year sentence under Section 324 IPC already lenient and declined to reduce it or the concurrent three-month sentence under Section 323 IPC.	572
Reduction to time served after long pendency in a Section 411 IPC case	The Court reduced the sentence under Section 411 IPC to the three months already served after considering the ten-year interval, the absence of any shown criminal history or habitual offending and the absence of a prescribed minimum sentence. It increased the fine to Rs.5,000, payable within three months, with the original one-year rigorous imprisonment to revive if payment was not made within that period.	574
Long pendency and substantial custody as grounds for conditional sentence reduction	For the 1992 offence under Section 5 of the Explosive Substances Act, the Court proceeded on the absence of a minimum sentence under the provision as applied. More than thirty-one years had elapsed, and the Section 428 CrPC certificate showed ten months and four days of custody against a one-year sentence. The Court reduced imprisonment to the period undergone and enhanced the fine from ₹250 to ₹5,000, payable by 29 February 2024. The reduction was conditional: failure to pay would revive the original prison sentence, with a warrant available to enforce the remaining term.	587
Sentence reduction refused in light of the parallel IPC conviction	Although the then Section 4 POCSO minimum was seven years and counsel relied on custody including remission, the Court refused to reduce the ten-year sentence to the period undergone. It treated the parallel Section 376(1) IPC conviction as carrying a ten-year minimum and relied on that premise to uphold the sentence. It referred to the later 2019 POCSO amendment as removing the disparity, without applying that later amendment retrospectively.	623

51.4 : Sentence Reduction, Custody Period and Long Pendency

Topic	Ratio	Case Sr.no.
Sentence reduction for long pendency — multiple weapon injuries to vital parts justified the custodial term	Long pendency did not justify reducing the Section 324 IPC sentence to the period already undergone where the assault involved multiple injuries to vital parts of the victims' bodies. The nature of the injuries, the body parts struck and the weapon used justified maintaining the one-year rigorous-imprisonment sentence and fine.	633
Section 302 IPC sentence — custody already undergone did not permit reduction below life imprisonment	Life imprisonment is the minimum sentence for the proved offence under Section 302 IPC. The period already spent in custody therefore did not justify reducing that sentence. The Court also rejected the asserted fourteen-year period because the custody certificate showed approximately eleven years after accounting for the interval spent on bail, and maintained the life sentence.	638
Murder conviction affirmed — life imprisonment as minimum sentence	After affirming the surviving appellant’s conviction for murder with the aid of Section 34 IPC, the Court declined to interfere with the life sentence because life imprisonment was the minimum punishment for that offence. Its sentencing conclusion followed the affirmation of murder liability; it did not treat the absence of proof that the appellant personally delivered the fatal blow as a ground to reduce the punishment below that minimum.	675
Murder sentence — life imprisonment as statutory minimum	After finding the offences under Sections 302 and 302/149 IPC proved beyond reasonable doubt, the Court affirmed the life sentences because life imprisonment was the minimum punishment for murder. The sentencing conclusion followed the upheld murder liability and did not identify a basis for a term below that statutory minimum. The appeal of the appellant who had died had already abated and was not the subject of the surviving merits determination.	678
Sentence already undergone after alteration to Section 304 Part I IPC	Although Section 304 Part I IPC permits life imprisonment, the manner of the incident and more than fourteen years of continuous custody justified a lesser sentence in this case. After altering the conviction from murder, the Court imposed imprisonment already undergone and a fine of ₹1,000, with one month’s rigorous imprisonment in default of payment.	691
Sentence reduction for arson after a long lapse of time	Section 436 IPC prescribes no minimum term and permits imprisonment for life or a term up to ten years, with fine. Considering the approximately thirteen-year lapse since the fire and the complainant's property loss and displacement, the Court reduced imprisonment from five years to two years, while increasing the fine from ₹5,000 to ₹20,000 and retaining three months' default imprisonment.	717
Hurt offences — fine substituted for imprisonment after twenty years, subject to payment	After affirming the convictions under Sections 324/34 and 323/34 IPC, the Court considered that the provisions prescribed no minimum sentence, twenty years had passed, and the incident had arisen from a trivial issue when all three persons were under the influence of liquor. A counter FIR had also been lodged, and the record showed that the appellants had not remained in jail. It replaced the concurrent one-year and six-month rigorous-imprisonment terms with fines of ₹10,000 and ₹1,000 respectively for each appellant. Payment was required by 29 February 2024. Failure to deposit the fines would automatically revive the trial court’s jail sentences, and the trial court was directed to issue arrest warrants to enforce them.	744
Sentence reduced to custody undergone subject to payment of enhanced fines	With Sections 363 and 366-A convictions sustained, the Court substituted approximately one year and twenty-six days already undergone for the three-year rigorous imprisonment on each count and increased each fine from Rs. 500 to Rs. 10,000. Nonpayment within three months would revive the trial sentence and require surrender.	776
Sentence after substitution of Section 376(1) IPC for aggravated rape	After substituting Section 376(1) IPC for the unsupported aggravated conviction, the Court applied the statutory minimum of seven years in force at the time of the offence. Considering the circumstances and the appellant's age	876

Topic	Ratio	Case Sr.no.
	of about 21 years at the incident, it imposed seven years' rigorous imprisonment and a fine of ₹5,000, with six months' rigorous imprisonment in default. The existing sentences under Sections 363 and 366 IPC were retained, with concurrent service.	
Sentence reduction — youth, custody and absence of a statutory minimum	In reducing the sentences under Sections 307 and 329 IPC, the Court considered the appellant's age of about twenty years, his remaining life, the age of the incident, custody since arrest and the absence of a statutory minimum sentence. For each offence, ten years' rigorous imprisonment was reduced to seven years, while the fine was increased to Rs.10,000, with three months' rigorous imprisonment in default. The substantive sentences were directed to run concurrently.	908
Section 307 sentence: substantial custody does not alone justify reduction	The Court refused to reduce the seven-year rigorous-imprisonment sentence to the period already undergone despite approximately four years' aggregate custody. The repeated iron-pipe blows, including seven directed at the head region, and the resulting multiple fractures justified retaining the sentence. The decision turned on the gravity and manner of the proved assault, rather than treating the custody already served as sufficient by itself.	947
Long lapse of time and sentence reduction for fatal negligent driving	The lapse of 32 years and an offer to pay a higher fine did not justify reducing the two-year Section 304-A IPC sentence to custody already undergone. The driver carried passengers in a tractor trolley meant for agricultural produce and turned around to collect fares while driving, losing control and causing two deaths and injuries to seven persons. Applying the deterrent sentencing approach in Saurabh Bakshi, the Court refused unwarranted sympathy. The decision turned on the dangerous manner of driving and its consequences; it did not make delay irrelevant in every case.	965
	Sub-Chapter no. 51.5 **Probation and Reformative Sentencing**	
Section 3 Probation of Offenders Act relief in an Arms Act conviction	On the facts of the case, following Rakesh alias Nanga and taking account of 130 days already spent in custody, the Court maintained the Arms Act conviction but modified the sentence to release after due admonition under Section 3 Probation of Offenders Act. The order directed the applicant not to repeat conduct endangering social peace and provided that, if he was found involved in another offence in future, the benefit would stand withdrawn without further reference to the Court and the remaining jail sentence would have to be served.	267
Individualised probation — limited role, injury site and compliance with bond conditions	Probation may be considered individually despite conviction for a group assault. The Court extended Section 4 probation to the woman appellant who arrived later, used a danda only against one victim's knee, and had not spent time in custody, considering her role, weapon and the part of the body struck. Her convictions remained affirmed. The trial court was to obtain the required bond, and she had to pay ₹5,000 compensation to that victim under Section 5. She had to appear and complete the statutory requirements by 15 February 2024; failure to comply, or violation of the mandatory requirements, would revive the trial court's jail sentence.	491
	Sub-Chapter no. 51.6 **Fine, Compensation and Victim Compensation**	
Compensation and custodial punishment for negligent road deaths	Payment of compensation does not by itself justify reducing a custodial sentence for rash and negligent driving causing death to a token period. Sentencing must also account for the loss suffered by victims and the need for deterrence, with punishment proportionate to the offence.	194
Compensation as a	Payment of compensation cannot by itself justify a custodial sentence that is	519

Topic	Ratio	Case Sr.no.
reason to reduce custody in a fatal-driving case	inadequate for the gravity of a fatal-driving offence. The adopted discussion of Saurabh Bakshi rejected reliance on compensation to reduce imprisonment to 24 days as misplaced sympathy. Financial relief to the victim must not displace the requirement of just and proportionate punishment.	
Further Interest on Compensation for Cheque Dishonour Until Payment	Where compensation of Rs. 12,69,000 already included interest at 9% up to the trial judgment, the Court affirmed the compensation and directed that it carry further interest at 9% per annum from the trial judgment dated 23 January 2018 until actual payment. The direction continued interest beyond the period included in the compensation awarded by the trial court.	652
Compensation or a higher fine as a substitute for adequate punishment	An offer of compensation does not invariably justify reducing custody for an offence under Section 304-A IPC regardless of its gravity. Motor Vehicles Act compensation and compensation under Section 357(3) CrPC operate in different spheres and cannot, in every circumstance, substitute for an adequate sentence. The Court adopted this principle from Saurabh Bakshi and its discussion of Guru Basavaraj. In this case, the request was to enhance the fine and reduce custody; the Court rejected it because of the driving conduct and resulting deaths and injuries.	965

Chapter no. 52
Criminal Appeal Jurisdiction and Appellate Review

Sub-Chapter no. 52.1
Appellate Interference with Conviction and Conviction Appeal Review

Attempted corruption — payment stopped after a false municipal work claim	Stopping payment after a complaint did not negate the proved attempted corruption and document offences. The municipal file charged for removal of a pump said already to have been removed, although it remained in the bore; quotations were opened without shown authority, a bill followed shortly after the work order, and no actual measurements supported the completion certificate. The Court found the work unperformed and assessed the officials' coordinated processing and payment recommendations. It affirmed Ajay Pandvia, K.K. Shrivastava and R.B. Shrivastava under Section 15 of the Prevention of Corruption Act read with Section 120-B IPC, and Narendra Singh Bhadoria under those provisions and Sections 420, 467, 468 and 471 IPC.	17
Sentence enhancement — declining a late show-cause notice in conviction appeals	Although the Court considered the sentence too lenient, it declined to issue a show-cause notice for enhancement at that late stage. The offences dated from 2003, conviction was in 2013, more than eight years had elapsed, no enhancement notice had been issued when the appeals were admitted, and related trials remained pending. Those circumstances led it to affirm the existing sentences despite its criticism of their leniency.	17
Co-accused's acquittal and parity in a conviction appeal	A co-accused's acquittal does not entitle other accused to acquittal on parity when the evidentiary positions differ. Where witnesses fail to establish the acquitted person's presence but consistently identify the other accused and describe their participation, the evidence against those accused must be assessed on its own merits.	32
Absconding after parole does not permit dismissal of an admitted conviction appeal without deciding its merits	An appeal against conviction already admitted for final hearing must be considered on its merits even if the appellant has absconded after jumping parole. Applying Dhananjay Rai alias Guddu Rai, the Court distinguished a surrender requirement governing admission from an appeal already admitted and heard the appeal on merits despite the appellant's absence from custody.	132
Independent appellate assessment after a separate trial	Where the appellant had been tried separately and evidence had been recorded independently, his appeal had to be decided on the evidence from his own trial. Applying A.T. Mydeen, the Court delivered a separate judgment despite	157

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	hearing connected appeals together and expressly declined to consider evidence recorded in the co-accused's trial.	
Merits consideration despite repeated absence of appellate counsel	After the appellant's counsel failed to appear and successive appointed amici also did not appear, the Court proceeded to examine the trial record itself and heard the State's counsel. Relying on Suryabaksh Singh, it decided the conviction appeal on the merits through its own scrutiny of the evidence.	157
Appellate consideration of a ground not raised in the appeal memorandum	On examining the complete trial record in a conviction appeal, the Court could consider the failure to produce the seized contraband even though the appellant had not raised that ground in the appeal memorandum. The admitted omission was assessed as a material issue bearing on proof of recovery and the safety of the conviction.	186
Merits examination when counsel and amicus fail to appear	After the appellant's engaged counsel and the appointed amicus curiae both failed to appear, the Court relied on Surya Baksh Singh and examined the trial record with the Public Prosecutor's assistance. It decided the conviction appeal on the evidence and merits.	219
Hearing a conviction appeal where the appellant's reported death is unverified	After repeated police inquiries failed to authenticate the reported death of an appellant, the Court heard his conviction appeal on merits rather than dismissing it as abated. It did so on counsel's submission that, without authentic verification, the appellant should be treated as alive for deciding the appeal.	227
Sentence for conspiring to transfer an owner's entire agricultural holding	The Court refused sentence reduction despite one appellant's age of about 65 at arrest and the plea that the appellants were merely witnesses and not beneficiaries. Their knowing participation in eight forged deeds intended to deprive the owner of his entire agricultural holding of about 70 bigha justified affirming the five- and seven-year rigorous imprisonment terms and fines imposed by the trial court.	234
Appellate merits review despite a concession on conviction	A criminal appellate court must examine the conviction on merits even where counsel does not challenge it and seeks relief only on sentence. It cannot accept the concession and proceed directly to the proportionality of punishment.	273
Appellate review of witness credibility — need for justified interference	The trial court must assess witness credibility on the whole evidence, and an appellate court should ordinarily have justifiable reasons for revisiting that assessment. Finding that the trial court had appreciated the evidence correctly and that its findings disclosed no illegality or perversity, the Court declined interference with the conviction.	315
Criminal appeal — decision on merits despite absence of counsel and amicus	After neither the appellant's counsel nor the appointed amicus appeared for hearing, the Court examined the record and the grounds of appeal itself and heard the Public Prosecutor, following Surya Baksh Singh. Written submissions later filed for the appellant were taken on record and considered. The appeal was decided on its merits rather than disposed of merely for non-appearance. The course adopted was tied to the recorded opportunities and absences.	328
Exceptional retrial and the prohibition on repairing an unproved prosecution case	Retrial is an exceptional remedy for serious defects that have prevented a real and fair trial, including circumstances beyond a party's control that prevented material evidence being tendered. It is not ordinarily available merely to let the prosecution repair weaknesses in evidence it could have produced or proved earlier. The corrective re-examination here addressed the denial of the accused's presence, rather than a failure by the prosecution to prove its case.	395
Conviction appeal — decision on merits despite repeated absence of counsel	A conviction appeal may be decided on merits after examining the record even when the appellant's counsel repeatedly fails to appear. Applying Surya Baksh Singh, the Court examined the record and grounds of appeal and heard the State after counsel remained absent on successive listings following suspension of sentence. The appellant's absence did not result in dismissal for default or automatic affirmation of the conviction.	480

52.1 : Appellate Interference with Conviction and Conviction Appeal Review

Topic	Ratio	Case Sr.no.
Section 386(b)(ii) CrPC: alteration of a finding while maintaining sentence	In an appeal against conviction, Section 386(b)(ii) CrPC permits the appellate court to alter a finding while maintaining the sentence. The Court therefore examined the State's contention that the trial court had wrongly disbelieved an eyewitness, even though the State sought to maintain the conviction. After reviewing his evidence, it upheld the trial court's assessment.	553
Appellate reassessment of trial-court witness credibility	After considering the whole evidence, the trial court must form a view on witness credibility. The adopted authority states that an appellate court would ordinarily require justifiable reasons to reassess that view. The Court found the witnesses reliable on material aspects and upheld the trial court's evaluation.	555
Merits review despite a concession accepting conviction	An appellate court must examine the merits of a conviction appeal even when counsel does not challenge conviction and seeks only a reduced sentence. The court cannot accept that concession as a substitute for considering the evidence before deciding the sentence.	572
Declining to reopen an unappealed acquittal after long delay	In the accused's appeal, the Court disapproved the reasons for acquittal under Section 307 IPC but noted that no appeal against that acquittal had been filed. Although it considered issuing a suo motu show-cause notice, it declined to do so because of the long interval since the incident and affirmed the existing convictions and sentences without approving the Section 307 reasoning.	572
Appellate merits review after nonappearance of appointed amicus	Where the appointed amicus did not appear at the hearing, the Court examined the record itself and heard the State before deciding the criminal appeals on their merits. It followed that course expressly in light of the cited Supreme Court decision, rather than disposing of the appeals solely because of nonappearance.	573
Merits disposal of a criminal appeal after counsel's repeated absence	After counsel failed to appear, the Court deferred the hearing with a specific warning that it would examine the record if the absence continued. On the next date, it read the record, heard the State and decided the conviction appeals on their merits rather than dismissing them for default.	574
Independent appraisal of evidence in a first criminal appeal	The first appellate court must apply its own mind to the facts, examine the record and proved documents, and record findings based on an independent assessment. Merely reproducing the trial court's evaluation is insufficient to sustain an appellate decision.	576
Completion of sentence does not make a conviction appeal infructuous	An appeal against conviction under Section 374 CrPC remains to be decided on its merits even after the accused has completed the sentence imposed in that case. The Court therefore heard the appeal notwithstanding completion of the five-year sentences and payment of fines, and examined whether the prosecution had proved the convictions.	604
Conviction appeal after completion of the sentence	An appeal against conviction does not become infructuous merely because the appellant has served the entire sentence. The Court therefore examined the challenge on its merits and affirmed the conviction. The completed sentence required no further custodial action.	616
Conviction appeal: merits review before a sentence-only plea	A request to reduce sentence cannot be decided without first deciding the conviction appeal on merits. Applying Nagpal Traders, the Court independently examined the trial record and the evidence supporting conviction even though counsel confined his submissions to the period already undergone.	623
Unappealed acquittal — passage of nineteen years influenced refusal to reopen Section 307 liability	In the accused's appeal against a Section 324 IPC conviction, the absence of a State appeal against the separate Section 307 acquittal and the passage of more than nineteen years led the High Court to decline a show-cause notice to reopen that acquittal. It sustained the Section 324 conviction while expressly declining to endorse the trial court's erroneous view that non-life-threatening injuries necessarily excluded Section 307.	633
Appellate reassessment of	A trial court must assess witness credibility after considering the entire evidence. An appellate court should not ordinarily reassess that finding without	720

Topic	Ratio	Case Sr.no.
trial-court findings on witness credibility	justifiable reasons. Trivial discrepancies that leave the material prosecution account intact do not by themselves warrant rejection of the evidence.	
Refusal of remand after a Section 273 defect in the circumstances of the appeal	After finding that material witnesses had been examined improperly in the appellant's absence and that dock identification was necessary, the Court separately considered whether to remand. It declined to do so because the incident was about ten years old and in view of the nature of the injuries. It set aside the Section 323 IPC convictions on two counts and the Section 354 IPC conviction and acquitted the appellant. The decision against remand turned on those circumstances rather than treating every Section 273 defect as incurable.	835
Appellate power to remedy defective witness examination	The appellate powers under Sections 386 and 391 CrPC include ordering retrial or taking, or directing the taking of, necessary additional evidence. When directing additional evidence under Section 391, reasons must be recorded and the accused or his pleader has a right to be present. The reproduced authority recognises that the lesser course of re-examining witnesses in the accused's presence can remedy earlier defective examination while allowing observation of demeanour and effective cross-examination. That cure differs from using earlier testimony where the Section 299 conditions were absent and the witnesses were no longer available for cross-examination, making prejudice inherent in the circumstances of that precedent.	835
Exceptional retrial and the prohibition on repairing avoidable prosecution omissions	A criminal retrial is an exceptional remedy requiring circumstances such as absence of trial jurisdiction, serious illegality or irregularity leaving no real trial, or inability for reasons beyond a party's control to tender material evidence, together with the interests of justice. It is not ordinarily ordered merely to let the prosecution supply evidence it could have led but failed to produce or prove. Because retrial displaces earlier proceedings and exposes the accused to another trial, it cannot be used simply to repair weaknesses revealed in the prosecution case.	835
Appellate evidentiary assessment and closure of the connected surety proceeding	Trustworthy eyewitness and injured-witness accounts, the medical evidence and the defence witness's admission of her husband's firing supported affirmance of the separate convictions. The Court declined to credit the other family defence witnesses, finding that they testified to save the accused. After dismissing both appeals and cancelling the bonds, it closed the connected Section 446 CrPC proceeding against the surety because no separate order was required in those circumstances.	849
Unchallenged acquittal of the intermediary did not decide the officers' appeals	The intermediary's acquittal had not been challenged and was left undisturbed. The Court nevertheless held that it did not adversely affect the separately established prosecution case against the two officers, whose coordinated demand and directed payment were supported by the other evidence. Their convictions were assessed and affirmed on that evidence.	879
Curing a Section 273 violation by limited re-examination on remand	Recording prosecution evidence in the accused's absence does not invariably require acquittal or a complete retrial. Applying Atma Ram and Chapter XXXV CrPC, the Court treated the violation as curable through fresh examination of the affected witness in the accused's presence, with an effective opportunity to observe and cross-examine. The reproduced distinction from Jayendra Vishnu Thakur concerned unavailable witnesses who could not be re-examined or cross-examined, making prejudice inherent. Here the conviction and sentences were set aside for fresh examination of PW-20 alone; the remaining prosecution and defence evidence was not reopened.	913
Exceptional retrial and the prohibition on repairing an inadequately presented	A complete retrial is an exceptional remedy. The Ukha Kolhe passage reproduced and relied on through Atma Ram identifies such circumstances as lack of trial jurisdiction, serious illegality or irregularity amounting to no real trial, or inability beyond a party's control to tender material evidence, where	913

Topic	Ratio	Case Sr.no.
prosecution	justice requires another trial. Retrial ordinarily cannot be used merely to allow the prosecution to supply evidence it could have produced or properly proved earlier. This limitation supported confining the present remand to fresh examination of the witness affected by the Section 273 violation.	
Capital-reference remand and removal of prior conviction findings	A death-sentence reference under Section 366 CrPC continues the trial, obliging the High Court to ensure a fair procedure. The Atma Ram passage explains the broad powers under Sections 366–368 and 386/391 to direct further evidence and appropriate corrective proceedings, including acquittal in a reference without a separate conviction appeal. Here prejudice from absent-accused testimony and the DNA-report/final-argument sequence required setting aside the conviction and all sentences. The Court directed fresh evidence from two doctors and resumption from the report stage. All earlier conviction findings stood removed, and the trial court had to decide anew without being influenced by them, completing the directed exercise within four months.	917
Exceptional retrial and targeted correction of procedural unfairness	The Ukha Kolhe passage adopted through Atma Ram treats a complete retrial as exceptional, appropriate where jurisdictional failure, serious illegality or irregularity has prevented a real trial, or material evidence could not be tendered for reasons beyond a party's control and justice requires another trial. It ordinarily cannot serve merely to repair prosecution omissions that could have been avoided earlier. Where the defect can be corrected, targeted re-examination preserves both the accused's fair-trial rights and the societal interest in adjudication. The Court accordingly confined this remand to the affected medical testimony and the subsequent DNA-report stages.	917
Decision on a conviction appeal when counsel and appointed amici do not appear	After counsel failed to appear, the Court appointed amici curiae. When they also failed to appear at the final hearing, the Court applied Suryabaksh Singh, examined the trial record itself and heard the State. It decided the appeals on their merits, separately assessing the evidence against each appellant and also considering sentence.	934
Merits decision of a conviction appeal despite counsel's non-cooperation	A conviction appeal cannot be dismissed merely for non-prosecution without examining its merits, but the Court is not bound to adjourn because the appellant or counsel is absent or refuses to argue. It may decide the appeal after examining the trial record and judgment. Prudence may favour accommodation for an imprisoned appellant or appointment of counsel at State expense where appropriate. Counsel who accepts the brief owes duties to both the Court and the appellant. After notice of final hearing and repeated opportunities, the Court examined the whole record and the available written submissions and decided the appeals on merits.	936
Merits review of a conviction appeal despite repeated non-appearance	Where appellants released on bail and their counsel repeatedly failed to appear despite notice that final hearing could proceed, the Court applied Surya Baksh Singh, examined the trial record itself and heard the Public Prosecutor. It decided the appeal on the merits, found the charges unproved and set aside the convictions rather than dismissing the appeal for default.	939
Decision of a conviction appeal when counsel and amicus do not appear	When neither the appellants' counsel nor the appointed amicus curiae appeared, the Court examined the trial record itself and heard the State before deciding the conviction appeal on its merits, following Suryabaksh Singh. The appeal was resolved after judicial appraisal of the evidence, rather than by dismissal for non-appearance.	942
Incomplete judgment: limited remand for findings on undecided charges	A judgment that gives neither a conviction nor an acquittal on charged offences concerning distinct victims is incomplete. Here the trial court decided one murder and one attempted murder but left the other charged murder and attempted murder undecided. As no sentence existed on the omitted charges, enhancement proceedings were inappropriate; the defect also did not call for a retrial to cure a procedural lapse. Despite the absence of a State appeal, the High	944

Topic	Ratio	Case Sr.no.
	Court used Section 482 CrPC to remit the matter for findings on the omitted charges. The remand was expressly limited: the existing findings on the decided charges were to remain untouched, and another Additional Sessions Judge was to complete the exercise within three months.	
Conviction appeal: appraisal of the particular trial record	A conviction appeal permits reappraisal of the oral and documentary evidence and an independent conclusion on guilt. That review ordinarily remains confined to the record of the particular accused's trial. Evidence from another trial cannot replace it merely because both trials concern the same offence. The qualification for further inquiry or additional evidence under Sections 367 or 391 CrPC, where applicable, remains intact.	944
Acquittal of co-accused with different roles: no automatic parity	Acquittal of co-accused alleged only to have held the deceased's hands did not entitle the appellant to acquittal where consistent eyewitness evidence specifically attributed the knife injuries to him and medical evidence corroborated that account. His culpability was assessed on the evidence of his own role.	971
	Sub-Chapter no. 52.2 **Section 391 CrPC — Additional Evidence in Criminal Appeal**	
Section 391 CrPC — necessity and procedure for additional appellate evidence	An appellant seeking to introduce additional evidence must apply under Section 391 CrPC, establish its necessity for a just decision of the appeal and explain why it was not produced at trial. The appellate court must record reasons before taking the evidence itself or directing that it be taken. Photocopies filed with a printed document list did not satisfy that procedure. Since the appellate court had nevertheless considered the documents, the revisional court also examined whether they were material to a just decision.	137
Section 391 CrPC — appellate evidence where investigation is defective	The authority relied upon by the Court recognises recourse to Section 391 CrPC at the appellate stage to assist truth-finding where investigation is defective, rather than acquitting solely for the investigating agency's omissions. The power remains directed to obtaining and evaluating the relevant evidence; no additional evidence was ordered in these appeals.	319
Limited re-examination to cure a prejudicial procedural irregularity	The High Court's powers in a death reference and conviction appeal permit a focused corrective remand where a prejudicial defect can be cured by re-examining the affected witnesses. Applying Atma Ram, the Court set aside the judgment and sentence and directed fresh examination of the two witnesses whose evidence had been recorded in breach of Section 273 CrPC, instead of ordering acquittal or reopening the entire evidentiary case.	395
DNA report received after judgment: application under Section 391 CrPC	If the DNA report is received after delivery of judgment and the accused is required to file an appeal, the accused may apply to the appellate court under Section 391 CrPC to place the additional material on record. The availability of that application was a reason for refusing to stay judgment; the order did not direct automatic admission of the report or decide a future Section 391 application.	946
	Sub-Chapter no. 52.3 **Victim Appeal, State Appeal and Leave to Appeal**	
No increase in conviction without a State appeal	In the absence of a State counter-appeal, the Court declined to replace Hariom's Section 323 conviction with Section 324 IPC despite its view of the proved firearm injury. It also declined to increase the simple-hurt convictions to all six supported counts. After reducing one existing Section 324/149 count, it confined the final Section 323/149 convictions to three counts.	165
	Sub-Chapter no. 52.4 **Appeal Against Acquittal and Limits of Interference**	
Unchallenged	Where neither the prosecution nor the complainant appealed an acquittal on a	12

52.4 : Appeal Against Acquittal and Limits of Interference

Topic	Ratio	Case Sr.no.
acquittal — reasons may be reviewed without reversing the acquittal	particular attempt-to-murder charge, the Court could not reverse that acquittal in the pending appeals. It could nevertheless reconsider the trial court's reasoning about the defence doctor's evidence when assessing the prosecution case on the charges that remained before it.	
Unappealed acquittal left undisturbed where no notice for its reversal had issued	Although the Court found the reasons for acquittal under Section 307 IPC erroneous, it did not convert the Section 324 convictions into convictions for attempted murder in the absence of a State appeal and notice to the appellants. Given the lapse of about 21 years, it declined to issue such notice and left the acquittal undisturbed.	206
Limits of appellate interference with a reasonable acquittal	An appellate court may reassess the evidence but must address the grounds supporting acquittal and identify illegality, perversity or material error that justifies reversal. A mere difference of opinion is insufficient. Where two reasonable views are possible and the trial court’s view favouring the accused is not perverse, its acquittal must stand, reinforced by the presumption of innocence.	226
Conviction on an acquitted charge in the absence of an acquittal appeal	In the absence of an appeal against the acquittal under Section 307/34 IPC, the Court declined to convict the appellants on that charge. It nevertheless assessed the proved firing and cartridge evidence when deciding whether the surviving murder convictions with common intention were sustainable.	274
Acquittal appeal: another possible view is insufficient for reversal	An appellate court should not reverse an acquittal merely because two views of the evidence are possible. Interference requires findings shown to be perverse or contrary to the record. The trial court's rejection of the co-accused's alleged participation was reasonably supported by material omissions and unreliable attribution, so the State's appeal did not warrant reversal.	288
Appellate Review of a Plausible Acquittal	An appellate court may reappraise the whole evidence in an acquittal appeal, but must examine whether the trial court considered the material evidence, committed a legal or factual error, and reached a fairly possible view. A reasonable acquittal cannot be reversed merely because another view is possible; an equally plausible view favouring innocence reinforces reasonable doubt and the presumption of innocence. Reversal requires the appellate court to address and displace the trial court’s reasons by identifying illegality or perversity.	375
Reversal of acquittal for perverse rejection of credible evidence	An appellate court has full power to review the evidence in an acquittal appeal, but must respect the strengthened presumption of innocence and retain a reasonable view favouring the accused where two views are possible. Interference requires perversity or compelling and substantial reasons, including unjustified rejection of relevant, convincing evidence. Here, the trial court rejected reliable eyewitness evidence on insubstantial grounds; that material error justified reversal of acquittal.	583
Insufficient evidence to reverse the acquittal of other accused	The State's appeal against the acquittal of three other accused failed because the prosecution evidence against them was insufficient. The Court affirmed the two appellants' convictions on their own evidentiary record without treating that proof as sufficient to reverse the separate acquittals.	648
Interference with acquittal where two reasonable views are possible	An appellate court must examine whether an acquittal is perverse or otherwise unsustainable, including through ignoring relevant evidence, relying on inadmissible material or placing the burden incorrectly. It should not replace a reasonable acquittal merely because another view appears more probable. Acquittal reinforces the presumption of innocence. Since the State showed no perversity and the substantive prosecution account remained unproved, the Court affirmed the acquittals.	716
Acquittal based on enmity reconsidered where injured-	Enmity did not justify the acquittal of an accused whose participation in the axe or lathi assault was established by consistent injured-witness evidence	753

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witness evidence is medically supported	supported by medical findings. On that basis, the Court partly allowed the State's appeal and convicted the previously acquitted accused under Section 324 IPC, while the broader allegation of a shared murderous object was not accepted.	
Acquittal based on enmity reconsidered where injured-witness evidence is medically supported	Enmity did not justify the acquittal of an accused whose role in the axe or lathi assault was established by consistent injured-witness evidence supported by medical findings. That evidentiary basis led the Court to partly allow the State's appeal and convict the previously acquitted accused under Section 324 IPC. The Court did not accept the broader case of a shared object to murder.	754
Leave to appeal against acquittal — no interference merely because another view is possible	The Court refused leave under Section 378(3) CrPC to appeal against the Section 323 IPC acquittal because no perversity in the trial court's findings was shown. The possibility of two views did not justify displacing the view favouring the accused. In the circumstances, it also regarded the complaint as an attempt to give a criminal character to the land dispute after an adverse civil appellate decree.	899
Reversal of acquittal based on perverse factual assumptions and improper evidence	An appellate court may reappraise the entire evidence in an acquittal appeal but must respect a reasonably possible view favouring the accused. It may interfere where the acquittal rests on material factual errors, findings without evidentiary support or a failure properly to appreciate the record. Applying Sambhaji Hindurao Deshmukh, Bhim Singh and State of Punjab v. Ajaib Singh, the Court reversed an acquittal founded on untested defence affidavits and assumptions inconsistent with the work estimate and spot record. Its decision followed a fresh assessment of the evidence, rather than merely preferring another possible view.	914
Acquittal appeal: full review and restraint where the trial court's view is reasonable	An appellate court may review all questions of fact and law in an appeal against acquittal; expressions such as compelling reasons do not curtail that power. It must nevertheless account for the presumption of innocence reinforced by acquittal. Where two reasonable conclusions are possible, the trial court's view favouring the accused should remain undisturbed unless shown to be perverse, unreasonable or unsupported by the record. Applying the quoted authorities, including Nandu Vishwakarma and its Chandrappa passage, the Court found the acquittal plausible in view of material FIR omissions, inconsistent testimony and the absence of stones in the site and seizure record, and dismissed the State's appeal.	916
Acquittal appeal: full evidence review and substantial grounds for interference	An appellate court may review the evidence underlying an acquittal while respecting the strengthened presumption of innocence and a reasonable view favouring the accused. Ignoring admissible, relevant evidence or reaching a clearly unreasonable conclusion may justify interference; the mere possibility of another view does not. Applying Gorle S. Naidu, the Court independently assessed this record and upheld the rejection of the claimed eyewitnesses. It dismissed the State's appeal while correcting the unsupported private-defence rationale, preserving the acquittal on failure of proof.	919
Interference with acquittal based on a perverse assessment of evidence	An appellate court may reappreciate the entire evidence, but must respect a reasonable view supporting acquittal where two views are possible. It cannot reverse an acquittal merely because it prefers another conclusion. Interference is justified where the trial court makes wrong assumptions about material facts, fails to appreciate the evidence or reaches a conclusion that is perverse or unsupported by the record. Here, treating the respondent's role as confined to inviting quotations ignored his further approvals and the documentary record.	920

Sub-Chapter no. 52.5
Cross-Appeals, Cross-Cases and Connected Criminal Appeals

Separate trials — evidence assessed on	Where co-accused were tried separately and evidence was recorded separately,	19

Topic	Ratio	Case Sr.no.
each trial's own record	the conviction appeals must be assessed on the respective trial records. The common appellate judgment did not merge the evidence from Saurabh's trial with the separately recorded evidence in the trial of Ajju and Raghvendra. The Court expressly applied A.T. Mydeen in keeping those evidentiary assessments separate.	
Cross-cases — separate evidence and simultaneous hearing	Each cross-case must be decided on its own merits using the evidence recorded in that case. Evidence from one case cannot be used as evidence in the other. The trials, or the appeals arising from them, should be conducted or heard simultaneously, while the evidence in each is analysed separately.	331
Cross-Cases: Same-Judge and Same-Day Decision	Cross-cases should be heard by the same judge and decided on the same day, with each case assessed on its own evidence and arguments. Applying Nathilal, the Court pronounced separate judgments in the connected appeals. In this record it also referred to an accused's admission and its finding in the cross-case to avoid contradictory findings about the occurrence, distinguishing an admission from the evidence led there.	360
Effect of the Acquittal in the Counter-Case on the Present Defence	The defence relied on the counter-case to assert that the complainant side had been the aggressor and that the appellants' individual acts should receive separate treatment. The Court noted the State's statement that the counter-case accused had been acquitted and no appeal had followed, and declined to give the appellants a benefit on that ground. It nevertheless determined liability in the present appeal from the evidence of the two successive attacks.	388
Cross-cases— simultaneous hearing and separate evidentiary records	Cross-cases must be decided on their own records and merits; evidence recorded in one cannot be used in the other. The trials, or appeals, should be taken up simultaneously, with each receiving its own decision. The Court accordingly reserved the cross-appeal for a separate judgment.	412
Separately tried co-accused — Independent assessment of each trial record	An appeal arising from a co-accused's separate trial must be decided on the evidence led in that trial. Although Kallu's appeal was heard alongside the present appeals, the Court reserved it for a separate judgment because its evidence required independent appreciation.	474
Separate trial records in simultaneously heard criminal appeals	Evidence led in one accused's trial cannot be read for or against a co-accused tried separately, or vice versa. Applying A.T. Mydeen, the Court kept the evidence in Pappu's trial separate from that in Phulle's later trial. Although their appeals were heard simultaneously, the Court delivered separate judgments to avoid confusion between the records.	605
Simultaneous hearing and same-day judgments in related criminal cross-cases	Following Nathilal, the Bench heard the present acquittal appeal, the related conviction appeals and the appeal arising from the cross-case together and pronounced their judgments on the same day. Each appeal remained separately decided; the coordinated hearing did not turn evidence or findings from another case into proof of the respondents' guilt in this appeal.	916
Coordinated hearing of appeals arising from criminal cross-cases	Following Nathilal, the Court heard the present acquittal appeal with the related appeals arising from the cross-case and pronounced judgment on the same day. The present adjudication remained confined to the respondent against whom leave to appeal had been granted; leave had been refused in respect of the other nine acquitted persons.	919
Separate appellate judgment where a co-accused was tried on separately recorded evidence	Where an absconding co-accused was tried later and the evidence in his trial was recorded separately, his appeal was heard analogously but required a separate judgment. Applying A.T. Mydeen, the Court distinguished that appeal from the appeals arising from the common earlier trial.	934
Separate trial records in connected conviction appeals	Evidence recorded in the trial of some accused cannot be read against co-accused who were tried separately. Applying A.T. Mydeen, the Court decided the four appeals arising from the common trial together, but reserved separate	936

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	judgments for the appeals of the two accused who had been arrested and tried later.	

Chapter no. 53
Criminal Revision, Reference and Supervisory Correction

Sub-Chapter no. 53.1
Reference and Supervisory Criminal Correction

Collateral prosecution directions against witnesses outside the issues tried	In a trial concerning a fatal shooting during a municipal demolition, the Sessions Court could not decide the collateral legality of the demolition and direct prosecution and departmental action against municipal officials and others on that basis. Those matters were outside the charges tried, and the directions were not complaints under Section 340 CrPC concerning false evidence. The High Court set aside the collateral directions under Section 482 CrPC while leaving the acquittal's merits to the pending State appeal.	37
Magistrate's lack of power to review dismissal of a criminal complaint	After dismissing the criminal complaint for non-prosecution, the Magistrate could not review that order merely because counsel offered on the same day to supply the missing documents. The High Court accepted the bar under Section 362 CrPC, applying Adalat Prasad, while separately considering relief under its inherent jurisdiction.	126
Limits of supervisory correction of supported findings	Supervisory jurisdiction does not permit appellate reappreciation or reweighing of evidence, or correction of every factual or legal error where the ultimate finding is justified. It is exercised sparingly to correct grave dereliction of duty, flagrant abuse, violation of fundamental principles, findings unsupported by any evidence or perversity causing miscarriage of justice.	237
Reasons Required for Supervisory Interference With a Recall Order	The Shiv Kumar Yadav passage relied upon by the Court states that interference under Article 227 or Section 482 CrPC requires sparing exercise supported by reasons identifying patent error or gross injustice. A court cannot uphold the trial court's reasons yet overturn its refusal merely by invoking a fair opportunity in general terms.	385
Death-reference proceedings as a continuation of trial	A reference under Section 366 CrPC continues the trial and requires the High Court to ensure fair procedure and freedom from prejudice caused by procedural lapses. Under Sections 367 and 368, its powers include further inquiry, additional evidence, a new trial and acquittal, even without a substantive conviction appeal. Those powers supported the limited re-examination ordered here.	395
Revisional remand — premature findings must not prejudice the fresh Section 145 inquiry	Where a possession order has been set aside and the case remanded for evidence and hearing, the earlier findings do not survive as operative findings. Without a finding of the date of dispossession, a revisional observation approving eviction under Section 145 CrPC is premature. The fresh inquiry must determine that date and then decide whether the statutory time requirement is satisfied, uninfluenced by the premature observation.	703
Trial court action on conscious disobedience of its preservation order	A trial court must address deliberate suppression of material it has ordered preserved. Police cannot be excused from producing the record or accounting for its absence. The Court held that conscious concealment despite the preservation order warranted a contempt reference and directed the trial judge to initiate contempt proceedings against the then SP. This required commencement of the appropriate process, rather than constituting a final conviction for contempt.	769
Individual findings before proceeding against subordinate officers	Responsibility for a false compliance statement must be examined officer by officer. The former SHO had promptly sought preservation and might not have known that the SP received the records; the Court passed no present stricture, leaving his role open to detailed inquiry. The trial court could proceed against	769

Topic	Ratio	Case Sr.no.
	him after a specific finding about communication of receipt. It was also left to consider action against the current SHO for the false unavailability reply. Neither officer received an unconditional final exoneration.	
Conditional inquiry into inaccurate trial-court order sheets	Where three handwritten order sheets listed the case for evidence although charges had not yet been framed, the Court directed the Principal District and Sessions Judge to inquire into how those entries had been written and signed. If judicial negligence was found, the report was to be placed before the Chief Justice for administrative action. If the clerk was found responsible for incorrect entries, departmental proceedings were to be initiated. The proceedings were to conclude within two months. These directions depended on the inquiry's findings.	775
Judicial discipline when related High Court proceedings on withheld evidence remain pending	A trial court aware of pending High Court proceedings concerning deliberate withholding of material evidence must respect those proceedings and the orders already passed. In the circumstances, it should have awaited their outcome before rejecting the request for further investigation. By ignoring those orders and refusing permission, the trial court sought to nullify the High Court's directions and violated judicial discipline.	911
High Court powers to cure trial defects in a death-sentence reference	Under Sections 366–368 CrPC, a death sentence requires High Court confirmation. The High Court may direct further inquiry or additional evidence and may acquit even without a separate appeal against conviction; confirmation proceedings continue the trial. Sections 386 and 391 also confer broad appellate powers concerning retrial and further evidence. As explained in the relied-upon Atma Ram passage, these powers permit a lesser, targeted fresh examination where appropriate. In this combined reference and appeal, the Court set aside the conviction and sentences and remanded for examination of PW-20, leaving guilt and sentence for fresh decision.	913
	Sub-Chapter no. 53.2 **Precedent Discipline in High Court Criminal Proceedings**	
Respect for the earlier High Court order quashing Section 319 summons	The trial court's earlier Section 319 CrPC order against the applicant and others had been quashed by the High Court. In setting aside the later prosecution and departmental directions, the High Court relied on the trial court's disregard of that decision, together with its findings on matters outside the trial and the unwarranted adverse remarks. The ruling does not establish a general bar against every subsequent proceeding after a Section 319 order is quashed.	37
Coordinate-bench compromise order — per incuriam for overlooking controlling law	The Court declined to follow Pankaj Parmar's compromise-based quashing order because it had not considered the controlling Supreme Court decisions in Madanlal, Laxmi Narayan and Shimbhu, the relevant Vikash Kumar discussion, POCSO's status as a protective special statute, or Section 375 Sixthly IPC. The coordinate order was treated as per incuriam for those identified omissions and did not justify quashing the present rape and POCSO proceedings.	58
Baldev Singh and Ravindra — fact-specific sentence reductions are not binding precedents	The Madanlal passage relied upon, following Shimbhu, confines the compromise-related sentence reductions in Baldev Singh and Ravindra to their own facts and states that they are not binding precedents. Those outcomes therefore do not support a general rule of leniency in rape cases on the basis of settlement, later marriage or the age of the case.	58
Coordinate Bench ruling overlooking controlling Supreme Court authority	A coordinate Bench ruling is per incuriam on an issue when it overlooks the controlling Supreme Court decision on that issue. The Court declined to follow Abhishek Pandey on treating a cruelty FIR lodged after divorce proceedings as a counterblast, because that ruling had not considered Pratibha v. Rameshwari Devi. The finding of per incuriam concerned this identified issue.	101
Coordinate-bench ruling overlooking	The Court declined to follow Abhishek Pandey @ Ramji Pandey on the divorce-counterblast contention because that coordinate-bench decision had not	163

Topic	Ratio	Case Sr.no.
Supreme Court authority	considered the governing Supreme Court judgment in Pratibha v. Rameshwari Devi. It treated the cited decision as per incuriam on that issue.	
Reasons supporting a judicial conclusion	A judicial order must disclose the material facts, issues, submissions, applicable law and reasons supporting its findings. Reasons show whether the court has applied its mind. The unexplained conclusion in Smt. Sudha Gupta that inducement was absent did not resolve the issue in this case; the Court examined the meaning of property and the effect of registration for itself.	164
Limits of an earlier order concerning some rescued children	An earlier order passed on a petition by parents of some rescued children could not be applied to every child rescued from the institution. The Court therefore examined the remaining children's circumstances and the records showing children in need of care and protection.	277
Reliance on an Earlier Order Granting Good-Faith Immunity	The Court declined to extend the benefit of an earlier coordinate-Bench order that had quashed proceedings by referring to Section 28 protection without examining the facts in detail or finding that the officers had acted in good faith. The earlier result did not establish the factual basis for immunity in the present prosecution.	387
Fresh summons after restoration do not reopen cognizance already upheld by a coordinate Bench	Fresh summons issued merely to implement restoration of a complaint do not amount to taking cognizance afresh. The coordinate Bench had set aside the revisional order on territorial jurisdiction and restored the complaint. The Magistrate's consequential summons therefore created no fresh cause for revision, and the applicants could not again challenge the original cognizance order under Section 482 CrPC after it had been upheld by that Bench. Both the later revision and the renewed inherent-powers application were misconceived.	425
Pending larger-bench reference does not by itself displace an operative judgment	While acknowledging the reference concerning inferential proof of corruption offences without the complainant's direct evidence, the Court stated that an existing judgment continues to hold the field until set aside. It therefore applied the available authorities rather than treating the reference itself as a final decision of the disputed issue.	441
Coordinate-Bench Parole Decision Treated as Per Incuriam	The Court held the coordinate-Bench decision in Budh Singh Baghel v. State of M.P., MCRC No. 18164/2020, dated 23 July 2020, to be per incuriam on the maintainability of regular bail during parole without surrender. It reasoned that the earlier decision relied on Kanaksinh Mohansinh Mangrola, a temporary-bail case, without accounting for the distinction between interim bail and parole, and had not considered the effect of Section 31-A(4) of the Prisoners Act. The ruling was confined to the parole-and-surrender issue before the Court.	657
Judicial discipline — reported and unreported High Court decisions	A subordinate judicial forum cannot disregard a High Court decision merely because it is unreported. The Court reaffirmed its earlier ruling that a tribunal’s distinction between reported and unreported High Court judgments violated judicial discipline.	897

Sub-Chapter no. 53.3
Criminal Revision — Scope, Limits and Interlocutory Bar

Challenge to rejection of a Section 156(3) application — hearing the prospective accused	Although persons named as accused have no right to participate in the complaint before summons are issued, they acquire a right to be heard when the complainant challenges rejection of a Section 156(3) CrPC application in a superior court. Applying Manharibhai and the hearing principle reproduced from Atul Pandey, the Court treated failure to implead those persons in the Section 482 challenge as an additional reason to refuse interference.	55
Rejection of a Section 156(3) application — revisable order	The conclusion reproduced from Atul Pandey and relied upon by the Court treats an order rejecting a Section 156(3) CrPC request for police registration and investigation as an order that is not interlocutory. It is therefore open to criminal revision under Section 397, in which the prospective accused must have an opportunity to be heard before a decision is taken.	55

53.3 : Criminal Revision — Scope, Limits and Interlocutory Bar

Topic	Ratio	Case Sr.no.
Hearing the proposed accused in revision against dismissal of a complaint	Although a person named as accused cannot participate before process issues in a complaint case, dismissal of the complaint in limine creates a right in that person's favour. If the complainant challenges that dismissal in revision, the proposed accused becomes a necessary party. The Court used that distinction to explain why hearing rights depend on the procedural stage.	169
Concurrent findings of negligence in criminal revision	Concurrent factual findings supporting a conviction for rash and negligent driving do not warrant revisional interference where they are neither perverse nor contrary to the record. The High Court found that the evidence supported the findings identifying the accused as the wrong-side driver who caused the collision.	194
Acquittal not disturbed in revision where no perversity was shown	The complainant's revision against acquittal failed where no perversity in the trial court's findings was identified. The Court applied the principle that, where the evidence reasonably permits both guilt and innocence, the view favourable to the accused should prevail, recognising that acquittal strengthens the presumption of innocence.	207
Concurrent factual findings require demonstrated perversity for revisional interference	The High Court declined to interfere in revision with the trial and appellate courts' concurrent factual finding that the firearm was seized from the applicant. Revisional interference required the finding to be shown perverse, and the applicant identified no such perversity. The revision was dismissed at admission.	257
Limited revisional interference with concurrent findings of fact	Jurisdiction under Sections 397 and 401 CrPC is exercised to correct patent defects and jurisdictional errors. Concurrent findings of fact may be disturbed where they are perverse or contrary to the record. The revisional court does not reanalyse evidence merely because another view is possible. Applying Bir Singh, the Court affirmed the concurrent findings because no perversity was shown.	261
Revisional direction: Magistrate must independently identify offences	While sustaining interference with dismissal of the complaint, the Court disapproved a revisional direction requiring cognizance of specified offences. The Magistrate was directed to decide independently which offences were made out, without being influenced by that direction, and could consider offences not specified by the revisional court.	281
Reasoned remand in revision against a process order	A revisional court must identify a proper reason for remand; it cannot send a complaint back merely for reconsideration of the same material and rewriting of the order. Here meticulous reappraisal to discharge the accused from the SC/ST counts was impermissible at the process stage, and no reason was given for remanding the IPC counts. The entire revisional order was therefore set aside.	296
Territorial-jurisdiction observations concerning a co-accused who had not sought revision	The High Court faulted the revisional court for making territorial-jurisdiction observations concerning Devendra Kumar Vijaywat when he had not challenged the process order in revision. That defect formed part of the reasons for setting aside the revisional order. The decision did not finally determine territorial jurisdiction on the complaint's merits.	296
Sections 397 and 401 CrPC — concurrent findings of fact and perversity	In revision under Sections 397 and 401 CrPC, concurrent findings of fact cannot be disturbed unless shown to be perverse. Since no perversity was demonstrated in the concurrent findings supporting the conviction, the Court declined interference.	312
Reconsideration after revisional remand — no prohibited review	When the revisional court sets aside dismissal of a complaint and remands it for fresh consideration, the Magistrate's renewed appreciation of the material gives effect to the remand and does not review an operative earlier order. The former order has merged in the revisional decision. Reappreciating the existing material is sufficient; additional evidence is not required merely because the Magistrate reaches a different view on remand.	314

Topic	Ratio	Case Sr.no.
Revision against charges — selective production of the charge sheet	An applicant challenging charges cannot seek a full appraisal of the prosecution material while producing only selected charge-sheet documents and withholding relevant witness statements. The Court considered the objections on the alleged facts and available record, avoided a detailed assessment that could prejudice trial, and required the trial court to decide on the evidence without being influenced by the provisional observations.	318
Revision against charge order — final proof of guilt is unnecessary	In revision against an order framing charge, the inquiry is whether the available material raises strong suspicion that the accused committed an offence which could be proved at trial. The court cannot require a finding of certain guilt at this stage. Where the allegations taken at face value furnished prima facie material for Sections 354 and 323/34 IPC, the High Court declined interference under Sections 397/401 CrPC.	330
Revisional scrutiny of concurrent conviction findings	Sections 397 and 401 CrPC confer restricted supervisory jurisdiction to examine correctness, legality, propriety and procedural regularity. The appellate powers available under Section 401 serve that purpose; revision is not a second factual appeal. Concurrent findings are not reopened through wholesale reappraisal without serious legal infirmity, perversity or failure of justice. Examining the impersonated co-owner's sale-deed case within those limits, the Court found no perversity and maintained the Section 467 IPC conviction.	444
Sentence-only submissions do not dispense with scrutiny of conviction	A court cannot accept counsel's decision not to challenge conviction as a substitute for examining the merits and proceed directly to sentence reduction. Applying Nagpal Traders and its narrated Jeetu principle, the Court examined the conviction despite sentence-only submissions. Because the proceedings were revisions, that examination remained subject to the restricted supervisory standard rather than a fresh factual appeal.	444
Suo Motu Revision Despite a Request to Withdraw the Challenge	The Court refused withdrawal of the challenge to the juvenile declaration because it involved an important question of fact and law and could be examined in suo motu revision. It proceeded to decide the age-determination issue after hearing counsel.	452
Remand of a dismissed complaint for further evidence — Conflicting material documents	Where two mutually inconsistent documents have a material bearing on the alleged forgery, the revisional court may set aside dismissal of the complaint and remit the matter to permit further oral and documentary evidence. The conflicting death certificates directly affected whether the testatrix could have executed the disputed will. Remand for further evidence was therefore justified without deciding which document was genuine.	470
Criminal revision — concurrent findings of rash and negligent driving	A revisional court does not reappraise evidence and substitute its own factual view for concurrent trial and appellate findings merely because another view is possible. Interference requires perversity, findings contrary to the record or jurisdictional error. Here the rider’s account of a rear impact during a traffic jam was not challenged by suggesting sudden entry onto the road or negligence on his part, and another witness described the truck’s high speed. Even on the suggested sudden-entry account, the truck driver remained obliged to drive attentively. No perversity was shown in the concurrent findings under Sections 279 and 304-A IPC.	485
Criminal revision — interference with concurrent findings requires recognised error	Under Sections 397 and 401 CrPC, the High Court does not substitute its own factual findings for concurrent findings merely because they may be erroneous. Applying Bir Singh, the Court stated that interference is warranted where findings are perverse or contrary to law, or the court lacked jurisdiction to try the offence. No such defect was shown in the concurrent Section 498-A IPC findings, and the Court declined to admit the revision and affirmed the conviction and sentence.	487
Revision of a process	The revisional court exceeded its jurisdiction by meticulously assessing the	559

Topic	Ratio	Case Sr.no.
order: no final appraisal of disputed evidence	preliminary complaint evidence as though deciding the trial. Whether the handwriting expert's opinion could be relied upon was a matter for trial, along with the disputed evidence about execution of the power of attorney. The High Court set aside the revisional dismissal and restored the Magistrate's process order, without deciding whether the document was forged or whether the respondents were guilty.	
Revision against cognizance and summoning orders	An order taking cognizance and issuing summons is revisable when allowing the accused's objection would terminate the proceedings; such an order is not merely interlocutory under Section 397(2) CrPC. An additional ground may be raised in revision against cognizance. The petitioners' proposed reliance on outside documents did not, on examination of those documents, justify bypassing revision under Sections 397 and 401. Their Article 226 petition was dismissed with liberty to approach the Sessions Court.	613
Revision against a charge order — strong-suspicion inquiry does not require certainty of guilt	In revisional scrutiny under Section 397 CrPC at the charge stage, the inquiry concerns material supporting a strong suspicion that the accused committed an offence which could be proved at trial. The court must not apply the final test of guilt or require certainty of conviction. Where the charge-stage standard is met and disputed credibility issues require trial, the charge order discloses no jurisdictional error warranting interference.	635
Revisional Interference With Concurrent Findings in a Cheque-Dishonour Case	A revisional court does not reanalyse and reinterpret evidence to displace concurrent factual findings in the absence of perversity. Applying the narrated reasoning in Bir Singh v. Mukesh Kumar and its reference to Southern Sales and Services v. Sauermilch Design and Handels GMBH, the Court also recognised the requirement of a jurisdictional error for interference with an order of a court having jurisdiction. The concurrent findings on execution of the cheque, the debt and rejection of the drawer's defence supplied no ground for revisional interference.	652
Surrender for post-conviction revision and exceptional exemption	Rule 48 of Chapter X of the M.P. High Court Rules does not extinguish the High Court's inherent power to exempt a convicted applicant from surrender in an exceptional situation. A revision under Sections 397 and 401 CrPC may be registered despite the surrender requirement, but an exceptional case for exemption must be established. Past COVID-19 illness, the wife's diabetes and thyroid treatment, and an agreed opportunity to repay the amount did not establish such a situation. In the absence of surrender or grounds for exemption, the revision was dismissed as not maintainable, with liberty to file afresh after surrender.	723
Revisional interference with concurrent findings of fact	A revisional court does not reanalyse evidence to substitute its view for concurrent findings unless they are perverse or contrary to the record. Applying Bir Singh v. Mukesh Kumar, the Court also reiterated that an erroneous order passed by a competent court does not by itself justify revision in the absence of jurisdictional error. As the injured witness's testimony was corroborated by medical evidence and no perversity was shown, the concurrent conviction was affirmed.	752
Revision against framed charges — strong suspicion rather than proof of certain guilt	In revisional review of a charge order, the question is whether material supports strong suspicion of an offence that could be proved at trial. The final test of guilt is not applied at that stage. Following Fatehkaran Mehdu, the Court declined interference because sufficient material warranted framing charges. It expressly confined its observations to that preliminary assessment and preserved the applicant's right to raise all lawful defences before the trial court.	758
Revisional interference with factual findings requires perversity	While exercising revisional jurisdiction, the High Court cannot interfere with factual findings recorded by the courts below unless they are perverse. No perversity was shown in the concurrent findings identifying the applicant as the driver and establishing rash and negligent driving. After checking the	777

Topic	Ratio	Case Sr.no.
	supporting evidence, the High Court affirmed the convictions and sentences and dismissed the revision.	
Revisional review of an appeal dismissed as time-barred	Where a conviction appeal was dismissed as time-barred without consideration of its merits, revision against that dismissal was confined to the propriety of refusing condonation. The High Court could not examine the merits to reduce the sentence to the period already undergone. Applying Nagpal Traders v. Davinder Singh, the Court stated that sentence cannot be considered until the merits of the case have been examined.	780
Revisional review of an order framing charge	At the stage of reviewing a framed charge under Section 397 CrPC, the inquiry concerns material supporting strong suspicion of an offence capable of proof at trial. The reviewing court does not apply the final test of guilt or require a conclusion that the accused is certainly guilty.	799
Revisional scrutiny of a charge-stage order—limits on evaluating disputed documents	A revisional court exceeds its jurisdiction when, at the preliminary stage, it conducts a roving inquiry into the truth of prosecution allegations and the correctness or genuineness of charge-sheet documents. Here, requiring handwriting-expert verification before allowing the Section 409 IPC case to proceed improperly displaced the allegations in the FIR and Section 161 statement. The revisional order substituting a Section 406 trial was quashed, and committal to the Sessions Court was directed.	812
Revisional interference with concurrent findings requires perversity or findings contrary to the record	The High Court cannot interfere in revision with concurrent findings of fact unless they are perverse or contrary to the record. After examining both prosecution and defence evidence as a measure of caution, the Court found no such defect in the concurrent findings of guilt and declined to interfere.	852
Criminal revision — interference with concurrent findings requires perversity	In a revision against concurrent findings of conviction, the High Court does not interfere with findings of fact unless they are perverse. In this revision filed under Sections 438 and 442 BNSS, the Court applied the standard stated under Sections 397 and 401 CrPC. Having considered the challenged recovery and identification evidence, it found no perversity warranting interference.	905
Merger of a cognizance order in the revisional decision	Where the accused challenges a cognizance order in revision and the revision is dismissed on merits, the original order merges in the revisional decision. A subsequent Section 482 CrPC application must therefore challenge the revisional order as well. An assertion that the entire criminal proceeding has been challenged does not cure the omission. This was an independent ground for refusing interference.	924
Revisional interference with findings of fact requires demonstrated perversity	In criminal revision, the High Court cannot interfere with findings of fact unless they are shown to be perverse. As the conviction findings were not challenged and no perversity was identified, the Court affirmed the convictions under Sections 279, 304-A, 337 and 338 IPC and considered the sentencing request separately.	965
Challenge to dismissal of complaint: revisional hearing right of suspects	Although a suspect has no right to be heard before issue of process in the initial complaint inquiry, section 401(2) CrPC requires an opportunity to defend a section 203 dismissal when the complainant challenges it in revision and reversal may revive the complaint. In this section 482 case, the High Court nevertheless proceeded without notice because it confined its intervention to correction of non-compliance with earlier directions and procedure, without deciding the complaint's merits.	975

Sub-Chapter no. 53.4
Adverse Judicial Strictures in Criminal Proceedings — Prior Hearing and Corrective Remand

Adverse judicial remarks: hearing,	Before making adverse remarks against a person, the Court must consider whether the person had an opportunity to explain or defend the conduct,	37

Topic	Ratio	Case Sr.no.
evidence and necessity	whether evidence justifies the remarks, and whether addressing that conduct is necessary as an integral part of deciding the case. Judicial language must remain restrained even where criticism is justified. Reputation is protected by Article 21, and remarks affecting it require observance of fair hearing. Unnecessary strictures against persons who were not heard may be set aside.	
Adverse judicial strictures — hearing, evidentiary support and necessity to the decision	Before making disparaging findings, the court must consider whether the affected person is before it or has an opportunity to explain, whether the record justifies the criticism, and whether the remarks are necessary as an integral part of the decision. Castigating remarks with serious consequences require an opportunity of hearing. Reputation is protected by Article 21; judicial criticism must therefore remain restrained and necessary, with sober language even where criticism is justified.	78
Prior hearing before adverse judicial strictures against an officer	Before making adverse remarks about an officer's integrity that may affect reputation or career, the Court must give an opportunity to answer the proposed strictures. Applying Manish Dixit and the reproduced Dilip Kumar Deka principle, the Division Bench set aside the remarks made without notice. It treated the earlier reasons as a prima facie show-cause notice, allowed one month for a reply and remanded only the question of adverse remarks and possible DGP referral. Those reasons were not findings of guilt; the fresh decision had to consider the prosecution lapses and the officer's defence. Existing bail remained intact, and writ-appeal maintainability was left undecided.	596
Judicial criticism: restraint and dignified language even where correction is justified	Judicial opinions must use sober, moderate and restrained language. Even justified criticism does not permit intemperate or derogatory remarks unnecessary to decide the issue. A superior court correcting a judicial officer's order must maintain dispassionate reasoning and restraint; appropriate reformative measures may be taken on the administrative side.	864

Chapter no. 54
Suspension of Sentence, Remission, Parole, Furlough, Execution and Post-Conviction Custody

Sub-Chapter no. 54.1
Suspension of Sentence Pending Appeal

Suspension of sentence — insolvency objection to an appellate deposit condition	Where the sole challenge to a deposit condition for suspension of a Section 138 NI Act sentence rested on the asserted insolvency moratorium, the Court upheld the condition for the same reason that initiation of insolvency proceedings did not displace the cheque signatory's criminal liability. The moratorium objection did not justify removing the deposit requirement imposed in the pending appeal.	54
Unstayed corruption conviction — service and retirement consequences despite suspension of sentence	Suspension of imprisonment pending appeal does not stay the conviction or remove its adverse service consequences. Where the public servant's corruption conviction remained unstayed, termination under the cited Madhya Pradesh service rules was upheld, and the claim to provisional pension and gratuity was rejected. The relied-upon authority permits action following conviction without awaiting the appeal; if the employee is later acquitted, the service order can be reconsidered; if reinstated, the employee is entitled to the benefits he would have received had he continued in service.	333
Section 389(1) CrPC — exceptional suspension of conviction and disclosure of disqualification	Section 389(1) CrPC permits suspension of an order of conviction in very exceptional cases, separately from suspension of sentence. Filing an appeal does not itself justify that relief. The applicant must specifically disclose the disqualification or other consequence sought to be avoided, so that the appellate court can consider all ramifications and record reasons directed to that consequence.	333
Corruption	For a public servant convicted of corruption, the appellate or revisional court	333

Topic	Ratio	Case Sr.no.
conviction — public interest against suspension to retain public office	should not suspend the conviction merely to enable continuation in public office while the challenge remains pending, even though imprisonment is suspended. The public-interest principle applied is that the disability flowing from the conviction should continue until judicial exoneration.	
	Sub-Chapter no. 54.2 **Remission, Premature Release and Sentence Execution**	
Life sentence subject to the State's premature-release policy	Affirming life imprisonment did not make the sentence one without remission. The Court left the State free to apply its premature-release policy. If release had already been granted under that policy, no further action was required; otherwise the convict was to undergo the remaining sentence. More than fourteen years of actual custody was not treated as an automatic release order.	183
Remission ineligibility upon two life sentences under the circular dated 22 September 2022	Applying the circular dated 22 September 2022, the Court treated the appellant, who had received life imprisonment in two cases and whose earlier conviction appeal had been dismissed, as ineligible for remission. He was directed to undergo the remaining sentence.	934
	Sub-Chapter no. 54.3 **Post-Conviction Custody, Surrender and Jail Compliance**	
Conviction revision — exceptional exemption from surrender	A revision under Sections 397 and 401 CrPC may be registered despite a High Court rule requiring surrender, and the High Court retains inherent power to exempt surrender in exceptional circumstances on a case being made out. Applying Vivek Rai and referring to Deepak Sahu, the Court considered whether an exceptional situation existed. Merely asserting that the CrPC contains no surrender mandate and that the applicant had been on bail during trial and appeal did not establish one. He had failed to surrender after appellate affirmance despite repeated opportunities to file a surrender certificate. The Court refused exemption and dismissed this revision as not maintainable.	489
Acquittal in one case does not displace custody under another sentence	Setting aside a conviction in the case under appeal does not justify release where the accused remains imprisoned under an independent life sentence in another case. Although the appellants were acquitted of all charges in this appeal, the Court declined to direct their release because the trial-court communication established that they were serving life imprisonment in another crime.	604
Proof of compounding-cost deposit before release	Where acquittal on compounding is expressly conditional on deposit of costs, the release direction remains subject to compliance with that condition. Here, the trial court could issue the release order only on production of the original deposit receipt with an attested copy showing payment of 15% of the cheque amount. Release was also subject to the applicant not being required in any other case.	609
	Sub-Chapter no. 54.4 **Transfer of Investigation to CBI or Special Agency — Exceptional Circumstances Standard**	
Exceptional constitutional power to direct CBI investigation	A constitutional direction for CBI investigation is not a routine response to allegations against local police. The Committee for Protection of Democratic Rights passage reproduced and relied upon through Romila Thapar requires cautious and sparing exercise in exceptional situations, including where necessary to restore investigative credibility, do complete justice or enforce fundamental rights. No party has a right to select its investigating agency.	134
No right to choose an agency and exceptional transfer of investigation	An accused has no entitlement to select the investigating agency. The Romila Thapar passage relied on by the Court preserves appropriate Article 226 directions for mala-fide investigation and reproduces the exceptional standard for transfer to CBI: mere allegations against local police are insufficient;	266

Topic	Ratio	Case Sr.no.
	intervention must be sparing and justified by circumstances requiring credibility, public confidence, complete justice or protection of fundamental rights.	
Exceptional transfer of investigation and review of mala-fide exercise of power	The relied-on Romila Thapar passage preserves appropriate Article 226 intervention where the court is satisfied that investigative power was exercised mala fide. Transfer to CBI is exceptional and cannot rest merely on allegations against local police. Such power must be exercised cautiously where needed to secure credible investigation, public confidence, complete justice or fundamental rights. Vague and unsupported claims do not establish a basis for changing the agency.	269
Transfer of investigation to CBI — exceptional exercise of constitutional power	A constitutional direction for CBI investigation must be exercised cautiously, sparingly and in exceptional situations. Allegations against local police alone do not justify a routine transfer. The reproduced Constitution Bench standard permits intervention where needed to restore credibility in investigation, address national or international ramifications, secure complete justice or enforce fundamental rights.	311
Article 226 transfer to CBI — exceptional loss of confidence in local police investigation	The High Court's Article 226 power to direct CBI investigation is not curtailed by the State-consent requirement in Section 6 of the Delhi Special Police Establishment Act. The power must be exercised cautiously in exceptional circumstances requiring credible, impartial investigation and enforcement of fundamental rights. Transfer is not available merely on demand or to secure a preferred conclusion. Where both the original and replacement local investigators were implicated in partisan conduct and efforts to shield officers, the Court transferred the case to a senior CBI officer. It could grant that relief although the petitioner had sought only a change of investigating officer, because the taint emerged from records unavailable to her.	546
Charge-sheet or commencement of trial is no absolute bar to investigation transfer	Filing a charge-sheet, commencement of trial or examination of witnesses does not absolutely bar a constitutional court from ordering independent, fresh or further investigation. The power remains exceptional and requires a grounded need to secure a fair investigation and prevent miscarriage of justice; dissatisfaction or imagined suspicion is insufficient. Ordinarily, a completed investigation should be left to the criminal court unless the exceptional grounds are made out.	714
Transfer to an independent investigating agency — exceptional grounds	Although parties cannot choose their investigating agency, the High Court may issue appropriate directions under Article 226 where it is convinced that investigative powers have been exercised mala fide. A CBI investigation is an exceptional remedy to be exercised sparingly and cautiously where necessary to restore confidence and credibility, address national or international ramifications, or secure complete justice and fundamental rights. Mere allegations against local police or vague assertions of mala fides are insufficient.	807

Chapter no. 55
Relief in High Court Criminal Proceedings

Sub-Chapter no. 55.1
Expunction of Unwarranted Criminal-Trial Strictures and Collateral Prosecution Directions

Criminal-trial directions against non-accused persons — collateral prosecution cannot revive a quashed summoning order	A trial court cannot go beyond the issues being tried to condemn non-accused persons and direct collateral criminal and departmental action in disregard of the High Court's earlier order quashing their Section 319 CrPC summoning. The legality of the municipal demolition proceedings was outside the murder trial, and the impugned directions against the applicant were unwarranted and without jurisdiction. The High Court set those directions aside while expressly leaving the acquittal's merits to the separate State appeal.	78

Topic	Ratio	Case Sr.no.
Restraint in adverse remarks against counsel	Judges should avoid unnecessary adverse remarks about counsel where the alleged lapse has no bearing on adjudication. Applying Neeraj Garg, the Court declined to criticise a possible minor bona fide mistake concerning preliminary inquiry, without deciding whether counsel had made a misleading statement. The ruling distinguishes such an immaterial mistake from conduct involving material deception.	600
Adverse judicial remarks against persons not heard	Courts must not make disparaging remarks or adverse observations affecting a person’s character, reputation or career without making that person a party and affording an opportunity to be heard. Condemnation without that opportunity violates natural justice.	666

Macro Division XII
Maintenance and Family Support under Criminal Procedure

Chapter no. 56
Protection of Women from Domestic Violence Act — Monetary and Other Relief

Sub-Chapter no. 56.1
Domestic Violence Act Monetary Relief — Separate Residence and Restitution Decree

Domestic Violence Act monetary relief — reliance on an unexecuted restitution decree	A husband's assertion that he has obtained a decree for restitution of conjugal rights does not, by itself, justify rejecting the wife's claim for monetary relief under Section 20 of the Protection of Women from Domestic Violence Act on the ground that she lives separately without reasonable cause. Where the decree was not produced and, even assuming its existence, no execution application under Order XXI Rule 32 CPC had been filed, the Court treated the absence of efforts to resume cohabitation as material to rejecting that objection. It also found the monthly award of ₹4,000 reasonable in view of the price index, the cost of daily necessities and the income assessed by the appellate Court.	1
Desertion — separation, intention and absence of reasonable cause	In examining the objection to monetary relief based on the wife's separate residence, the Court relied on the principle that desertion involves separation coupled with an intention permanently to end cohabitation, without the other spouse's consent and without reasonable cause arising from that spouse's conduct. Separation in temporary anger or disgust, without an intention permanently to abandon cohabitation, does not amount to desertion. That intention must be inferred from the circumstances and the parties' conduct before and after separation; physical separation alone is insufficient.	1
Desertion — willingness to resume married life and a genuine offer to return	The spouse alleging desertion must remain ready and willing to resume married life on reasonable terms. In the desertion principles relied upon when rejecting the objection to monetary relief, a genuine offer to resume matrimonial life, made before divorce proceedings have commenced, may end desertion even after the statutory period has elapsed. An unreasonable refusal by the other spouse may place that spouse in desertion. The Court treated the husband's failure to take steps to bring the wife back as material to his objection to her separate residence.	1

Sub-Chapter no. 56.2
Domestic Violence Act Shared Household — Permanency, Exclusion and Employment Elsewhere

Shared household: employment elsewhere and exclusion from the matrimonial home	Whether matrimonial residence has sufficient permanence under Section 2(s) of the Domestic Violence Act depends on the parties' intention and the nature of their living arrangement. Casual or fleeting visits do not suffice, but employment elsewhere for survival does not by itself show that the wife has voluntarily abandoned residence. The wife stated that she had lived in the matrimonial home for about two and a half months and was excluded when she returned. With the husband abroad and no maintenance being paid, the Court treated her employment at Rudrapur as compelled by livelihood needs. It	43

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	therefore rejected the contention that her visits lacked permanence and refused to quash the Section 12 proceeding. The Act's beneficial purpose supported that construction; no final residence order or title determination was made.	
Section 2(s) Domestic Violence Act: exhaustive definition and ownership of a shared household	The definition of shared household in Section 2(s), using both 'means' and 'includes', is exhaustive; the inclusive part explains its scope. It requires that the aggrieved woman lives or has lived there in a domestic relationship. She need not own or rent the premises. The household may be owned or rented by the respondent singly or jointly, or may belong to a joint family of which the respondent is a member, irrespective of either party's title or interest in that joint-family household. Applying the passage from Satish Chander Ahuja, the Court accepted that Sections 2(s), 17 and 19 confer a residence entitlement without requiring the woman's legal interest in the premises. S.R. Batra's narrower ownership-based interpretation was not accepted as correct law.	43

Sub-Chapter no. 56.3
Domestic Violence Act Section 12 — Application, Domestic Incident Report and Continuing Proceedings

Section 12 application seeking several remedies: residence objection alone does not justify quashing	An objection directed to the wife's claim for residence under Section 19 of the Domestic Violence Act does not by itself justify quashing a Section 12 application that also seeks protection under Section 18, monetary relief under Section 20, compensation under Section 22 and interim or other relief under Section 23. The complaint alleged demands, violence, exclusion and withholding of stridhan. As residence was not the sole relief, the Court refused to terminate the entire proceeding under Section 482 CrPC. It did not decide that all allegations were proved or that each requested amount was payable.	43
Economic abuse under the Domestic Violence Act	Economic abuse is a form of domestic violence under Section 3. It includes deprivation of economic or financial resources to which the woman is entitled or which she needs, disposal of assets in which she has an interest or a right of use, and prohibition or restriction of continued access to resources or facilities available through the domestic relationship, including the shared household. The overall facts and circumstances must be considered.	96
Subsisting marriage and aggrieved-person status in a residence claim	Earlier separation did not exclude the wife from protection where the marriage continued without a decree of divorce. In considering the alleged economic abuse and residence claim, the Court treated the subsisting marriage as establishing the domestic relationship and recognised her as an aggrieved person under Section 2(a) of the Domestic Violence Act.	96
Scrutiny before rejecting a domestic-violence application at the threshold	Before rejecting an application under the Domestic Violence Act on maintainability, the court must carefully discuss the issues and scrutinise the facts from all relevant angles to determine whether the objection is legally sound. The beneficial nature of the legislation requires a sensitive approach so that an aggrieved woman's claim is not denied adjudication without proper consideration.	96
Domestic incident report is not a precondition to a direct Section 12 application	An aggrieved person may apply under Section 12 of the Domestic Violence Act herself or through an advocate without first obtaining a domestic incident report. The Magistrate need not call for a report as a condition of entertaining the application or passing an order. If a report is received from a Protection Officer or service provider, however, the proviso to Section 12(1) requires the Magistrate to consider it.	178
Subsequent ex parte divorce does not defeat an already pending domestic-violence application	Where the Section 12 application was instituted before the ex parte divorce decree, the later decree did not make the pending proceeding non-maintainable. The Court confined its decision to that sequence and expressly left open whether an application first instituted after divorce would be maintainable.	178
Omissions in an earlier FIR and later	An FIR need not contain every detail. Additional allegations against relatives in a later Section 12 Domestic Violence Act application cannot be treated as	233

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domestic violence allegations	false merely by comparing them with an earlier FIR, without giving the complainant an opportunity to explain the omissions. Here, the FIR itself also referred to the father-in-law's demand for return of jewellery.	
Civil nature of Section 12 domestic violence proceedings	Proceedings for relief under Section 12 of the Domestic Violence Act are not criminal in nature. The Court distinguished them from proceedings under Section 31 of the Act, which concern a criminal offence.	233

Sub-Chapter no. 56.4
Domestic Violence Act Residence Order — Sham Transfer After Application

Sham transfer after a domestic-violence application and residence relief	A purported transfer intended to frustrate residence relief under Section 19 of the Domestic Violence Act did not defeat the woman's claim. Her husband's partition share was transferred through an applicant acting as attorney to another applicant's son after the application had been filed. The timing and family connection were undisputed, and the finding that the property remained in the applicants' possession supported the conclusion that the transaction was sham. The Court maintained the order against obstruction of her and her daughter's peaceful residence.	96

Sub-Chapter no. 56.5
Domestic Violence Act — Prior Conduct and Past Shared Household Maintainability

Domestic violence before commencement of the Act and past shared residence	Conduct predating the Domestic Violence Act may be considered when deciding an application under Section 12 and relief under Sections 18–20. A wife who shared a household in the past remains entitled to the Act's protection even if she was no longer living there when it commenced. Applying the Supreme Court decisions, the Court rejected the maintainability objection to the residence application and held that Devkaran v. Sanjana Bai was no longer good law on that issue.	96

Sub-Chapter no. 56.6
Domestic Violence Act Sections 19 and 23 — Interim Shared-Household Residence and Concurrent Maintenance

Section 125 rent provision does not bar interim shared-household residence	A direction to pay rent for separate accommodation under Section 125 CrPC does not make Section 19 of the Protection of Women from Domestic Violence Act, 2005 inapplicable or bar interim residence relief under Section 23. If residence relief warrants a change in maintenance, the respondents may seek alteration under Section 127 CrPC. Here they relied on an alleged rent component without producing the maintenance order; that contention could not defeat the wife's application for shared-household residence.	592
Prima facie response to a shared-household claim at the interim stage	Where the wife claimed that she had lived in the house after marriage, the respondents had to show prima facie why it was not a shared household. They could identify neither a reply to the Section 23 application nor material rebutting that claim. On that interim record, the burden could not be reversed by requiring the complainant to produce documents proving the shared-household claim. The refusals of interim residence were set aside, and the respondents were directed to permit her peaceful residence without obstruction or harm.	592
Pending divorce and continued application of the Domestic Violence Act	The pendency of a divorce petition does not by itself end the applicability of the Domestic Violence Act where the marital ties admittedly remain subsisting. The Court rejected the pending petition as an answer to the wife's claim while the marriage had not been dissolved.	592

Topic	Ratio	Case Sr.no.
	Chapter no. 57 **Section 125 CrPC Maintenance, Disqualification and Child Support**	
	Sub-Chapter no. 57.1 **Section 125 Wife Maintenance — Restitution Decree and Sufficient Reason to Live Apart**	
Cruelty as sufficient reason to live apart despite restitution proceedings	Cruelty established from material relied upon by the husband may provide sufficient reason for the wife to live separately and claim maintenance under Section 125 CrPC. The diary page produced and relied upon by the husband required no separate formal proof in this case and disclosed physical cruelty. His restitution petition had been withdrawn. Even a restitution decree does not by itself defeat maintenance entitlement; the Court relied on Rina Kumari while sustaining interim maintenance on the material showing sufficient reason to live apart.	33
Ex parte restitution decree alone does not defeat wife's interim maintenance without proof of unjustified separation	An ex parte decree for restitution of conjugal rights did not by itself defeat the wife's claim for interim maintenance. The husband supplied no copy of the decree and had made no effort to enforce it. He had not proved that, despite his best efforts, she refused to return without sufficient cause. In those circumstances, he could not rely on the decree to avoid interim maintenance.	292
Wife's maintenance — restitution proceedings do not automatically disqualify a wife living apart	A wife subjected to cruelty cannot be compelled to remain in the matrimonial home. The husband's mere filing of a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act does not automatically disentitle her to maintenance under Section 125 CrPC. Relying on Rina Kumari, the Court noted that maintenance may be claimed even after a restitution decree. In the circumstances of the parties' dispute and the Section 498A IPC FIR, it set aside the finding that the wife lacked reasonable cause to live separately.	544
	Sub-Chapter no. 57.2 **Section 125 Wife Maintenance — Proof of Living in Adultery**	
Love or affection without sexual relations and the adultery bar	Maintenance may be denied under Section 125(4) CrPC on this ground only where the wife is proved to be living in adultery. Adultery involves sexual intercourse. Love or affection for another person, without physical relations, does not by itself establish that statutory disqualification.	33
	Sub-Chapter no. 57.3 **Section 125 Interim Maintenance — Income Assessment and Quantum**	
Proof of alleged low income when fixing interim maintenance	An asserted low salary need not be accepted for fixing interim maintenance where the supporting salary certificate omits its date and place of issue and has not been proved by its issuer. In the circumstances of this case, the Court declined to rely on that certificate at the interim stage. Considering the cost of daily necessities and the existing maintenance award, it found no ground to interfere with the further interim award of Rs.4,000 per month.	33
Disowning notice contradicted by continued residence with the father	A newspaper notice by the husband's father purporting to exclude him from family property did not justify reducing interim maintenance where the husband continued to reside with his father at the same address. On that material, the Court rejected the notice as a camouflage. The conclusion depended on the shared residence shown by the notice and the husband's own case particulars.	33
Section 125 CrPC — interim maintenance without recording evidence	Under the second proviso to Section 125(1) CrPC, the Magistrate may fix reasonable interim maintenance and expenses of the proceedings without recording evidence. The assessment may take account of the parties' status and other relevant factors to provide for the wife's subsistence while the maintenance application remains pending.	50
Proof of the wife's	An employment certificate for an earlier academic year did not establish that	131

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actual earnings when interim maintenance is claimed	the wife was earning when she filed her Section 125 CrPC application, particularly where the husband gave no explanation for failing to obtain records for the intervening or current academic year. A pamphlet advertising dance classes was also insufficient to establish that she was running such classes. These materials did not justify interference with interim maintenance.	
Voluntary salary deductions in assessing interim maintenance	Only statutory deductions may be excluded when assessing take-home salary for interim maintenance. Voluntary contributions remain part of the husband's income. On the salary slip produced, the chosen AFPP contribution above the minimum statutory contribution and the AGIF and e-ticketing deductions were not shown to be compulsory. They therefore did not justify reducing the maintenance assessment.	131
Undisclosed employment and an unsupported resignation plea at the interim stage	The husband’s admitted employment had not been disclosed in his Rajnesh financial affidavit. His oral assertion that he had resigned because of litigation was rejected as an unsupported afterthought: neither a resignation nor its acceptance by the employer was produced. On the salary material before it, the Court assessed his income as Rs. 50,000 per month with allowances for the purpose of interim maintenance. That assessment remained subject to the parties’ evidence in the Family Court.	398
Family standard of living and adequate interim maintenance	A wife need not be absolutely destitute to claim maintenance under Section 125 CrPC. Support should permit a standard of living consistent with the family’s status, neither luxurious nor penurious. In view of the husband’s salary material and the cost of daily necessities, the Court enhanced interim maintenance from Rs. 4,000 to Rs. 10,000 per month from the date of the application. Its preliminary observations were not to influence the Family Court’s assessment after evidence.	398
Voluntary loan repayments in assessing income for interim maintenance	For assessing take-home salary for interim maintenance, only statutory deductions are to be deducted. A husband's voluntary loan repayment must be disregarded because the loan represents money already received in advance. On this basis, the Court assessed the husband's take-home salary at ₹53,950 without deducting the further loan EMI of ₹23,125.	792
Interim maintenance reflecting the family's standard of living	A wife and child are entitled to the standard of living they would have enjoyed in the matrimonial or parental home. Interim maintenance must be assessed with that entitlement and the husband's income in view. An award that is shockingly low on the available salary record warrants enhancement.	792

Sub-Chapter no. 57.4
Section 125 Wife Maintenance — Cruelty as Sufficient Reason to Live Apart

Mental or physical cruelty as sufficient reason for a wife's separate residence	For Section 125(4) CrPC, the wife's actual reason for living apart must be examined. Mental or physical cruelty by the husband can provide sufficient reason even when it is unrelated to dowry. The Court found that excessive interference by his sisters led to renewed harassment after reconciliation. The wife's attempt to compromise and her decision not to incriminate the husband in the Section 498-A trial were considered efforts to preserve the marriage, rather than proof that her maintenance claim was false. The concurrent finding that she lived apart without sufficient reason overlooked the evidence and was perverse. As she could not maintain herself and the husband had neglected her, maintenance was payable.	42
False allegations against a spouse amount to cruelty	Making a false allegation against a spouse amounts to cruelty. The Court applied this principle when assessing the husband's apparently false allegations of an earlier marriage and his refusal to cooperate with testing of the material on which he relied in opposing interim maintenance.	131
Delay in reporting matrimonial cruelty	A wife’s failure to report alleged matrimonial cruelty immediately cannot automatically be used to discredit her or to conclude that she lives separately	205

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may reflect an effort to preserve the marriage	without sufficient reason. Her patience in the hope of saving the marriage must be considered when assessing the delay.	
Another family member's continued cohabitation does not disprove a wife's complaint of cruelty	A wife's complaint of matrimonial cruelty cannot be rejected merely because another woman in the family, also having daughters, continues to live with her husband. Continued cohabitation does not establish happiness, and one husband's treatment of his wife does not prove how another wife was treated.	205
Pursuing lawful statutory remedies does not itself amount to cruelty or defeat maintenance	A wife cannot be denied maintenance merely because she has pursued legally available proceedings for cruelty, domestic violence and return of stridhan. Those remedies have distinct ingredients and purposes; invoking them does not by itself constitute cruelty towards the husband or justify non-suiting her.	205
Cruelty as sufficient reason for the wife to live separately	For maintenance under Section 125 CrPC, the wife established sufficient reason to live separately by pleading dowry demand and cruelty, read with the husband's conduct. He abandoned his restitution petition after its transfer to Gwalior, withheld his pay slip despite directions, and answered a question about taking her back by stating that he had filed for divorce. His explanation that the Section 498-A prosecution caused him to abandon restitution was rejected because he had allowed the petition to be dismissed for non-prosecution rather than withdrawn it on that ground.	640

Sub-Chapter no. 57.5
Section 125 Final Quantum, Effective Date and Overlapping Maintenance Remedies

Considering maintenance already awarded under another statute	A wife may seek maintenance under different statutes, but the Court fixing quantum must consider the maintenance she already receives under other provisions. A further award under Section 125 CrPC is not unlawful merely because maintenance under Section 24 of the Hindu Marriage Act is already being paid, where that earlier award has been taken into account.	33
Wife's maintenance: proved means, reasonable quantum and commencement date	Maintenance under Section 125 CrPC serves to prevent destitution and provide food, clothing and shelter. In fixing the amount, the Court applied the principles reproduced from Shamima Farooqui and Jasbir Kaur Sehgal: consider the parties' status and needs, the husband's capacity, reasonable expenses, legal obligations and involuntary deductions, and the wife's reasonable comfort in her accustomed way of life and ability to pursue her case. The amount must not be excessive. The husband was a contract teacher, the alleged coaching income was unproved, and both parties had limited means. The wife was awarded ₹2,000 per month from the Magistrate's order dated 26 June 2013, rather than the application dated 23 December 2011. That amount and date were fixed on the facts of this case.	42
Section 125 CrPC — final reassessment of interim maintenance	An interim maintenance award does not finally determine the amount payable. When deciding the Section 125 CrPC application on the evidence, the Magistrate may redetermine that amount by increasing or reducing it.	50
Maintenance awards under different statutes may be adjusted	The availability of maintenance under different statutes does not by itself bar another claim. When fixing the amount, the Court may take account of maintenance already awarded under another enactment and adjust the awards. An alleged existing award must be supported by the order relied on.	205
Maintenance quantum depends on reasonable needs, means and the matrimonial standard of living	Maintenance must be reasonable and realistic, having regard to the parties' status, the wife's and dependent child's needs, actual income, the husband's means and lawful liabilities, and the matrimonial standard of living. It should provide reasonable comfort without becoming oppressive. Childcare needs, inflation and the cost of daily necessities are relevant; no fixed formula governs the amount.	205
Wife's parents'	The financial position of a wife's parents is not material to fixing maintenance	205

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financial position is immaterial to maintenance quantum	payable by her husband. The assessment turns on the parties' status, her own sufficient independent income and the husband's capacity to provide support.	
Maintenance awarded from the date of application	Following Rajnesh v.Neha, the Court directed that the maintenance awarded to the wife and the enhanced maintenance for the child be paid from the date of the maintenance application.	205
Earning capacity and an able-bodied husband's plea of unemployment	An able-bodied husband capable of supporting himself cannot avoid maintenance of his wife and child by a bare plea of unemployment or financial difficulty. He must show cogent reasons beyond his control for inability to earn enough to discharge that obligation; failure to disclose income may permit an inference against him. Here, admitted past earnings, substantial deposits, bank funds and overseas assignments supported the finding of earning capacity, and no medical incapacity was asserted.	396
Fact-dependent maintenance and reliance on a 25% alimony observation	Maintenance must reflect the parties' status, the spouse's paying capacity and the facts of the case. For an eligible wife, adequate support means dignified sustenance consistent with the matrimonial standard of living, rather than mere survival, especially where a child is with her. The cited permanent-alimony observation about 25% did not justify reducing the separate awards to the wife and daughter in light of the accepted earning capacity. The Court affirmed Rs. 10,000 per month for each.	396
Mandatory and Voluntary Salary Deductions in Maintenance Assessment	In assessing a husband's income for maintenance, mandatory and statutory deductions may be considered, but voluntary deductions cannot reduce the income available for assessment. On the salary slips produced in revision, the Court accepted provident-fund and house-rent recovery deductions, disregarded the voluntary deductions, and assessed monthly income at ₹30,143 rather than the nominal net-pay figure.	402
Factors Governing Final Maintenance Quantum under Section 125 CrPC	Maintenance depends on the parties' status, the husband's actual income and capacity to pay, reasonable expenses for his own maintenance, legally dependent family members and liabilities. The Court must also consider the family's standard of living, inflation and the cost of living. Applying these factors to the salary evidence and the wife's and child's needs, the Court enhanced their separate monthly allowances to ₹7,500 each.	402
Litigation Conduct and the Effective Date of Maintenance Enhancement	In fixing the commencement of enhanced maintenance in cross-revisions, the Court noted that the husband had sought time to argue only on one occasion. On those circumstances, it directed payment of the enhanced allowances from the date of the revisional order. The direction was a case-specific effective-date determination.	402
Purposive Interpretation of Section 125 CrPC as Social-Justice Legislation	Section 125 CrPC enforces a continuing obligation of support towards wives, children and parents. As social-justice legislation protecting vulnerable persons, it calls for a purposive and social-context approach that advances maintenance, equality and dignity rather than a merely adversarial reading.	402
Child Maintenance from the Date of the Section 125 Application	Applying Rajnesh v. Neha, maintenance was payable from the date of the maintenance application rather than the date of the order. The Court found that the child had not caused unnecessary adjournments and that several later adjournments had been sought for the father. His monthly contribution of Rs. 4,000 was therefore made payable from 25 April 2015, when the Section 125 CrPC application was filed.	534
Section 125 maintenance — assessment of quantum and payment from the	After restoring the wife's entitlement, the Court fixed maintenance at ₹6,000 per month in the circumstances before it, including her assertion that the husband earned ₹30,000–35,000 monthly. It also noted the husband's admission that his own father, like the wife's father, worked in the police department.	544

Topic	Ratio	Case Sr.no.
application date	Applying Rajnesh v. Neha, it directed payment of the wife's maintenance from the date of her application.	
Cost of living in assessing maintenance quantum	In assessing the challenge to monthly maintenance of Rs. 5,000 for the wife, the Court considered the price index, the cost of living and the cost of daily necessities. On those considerations, it found that the amount was not excessive and disclosed no jurisdictional error warranting interference.	562
Voluntary house-loan instalments in assessing maintenance	The house-loan instalment claimed by the husband was a voluntary repayment, not a statutory or mandatory deduction. He had already received the borrowed lump sum. The Court therefore refused to deduct the instalment when determining maintenance. The wife had also alleged that the loan was taken after separation to reduce his take-home salary. The ruling concerned that voluntary loan on the record before the Court, while the adopted maintenance criteria continued to recognise relevant liabilities generally.	591
Reasonable maintenance balancing needs, status and means	Maintenance protects a dependent spouse from destitution rather than punishing the payer. No fixed formula governs its amount. The inquiry balances the parties' status, reasonable needs, income and property, the matrimonial standard of living, employment history and family-related career sacrifices, litigation costs, the payer's actual means and reasonable expenses, lawful dependent obligations and relevant liabilities. Inflation and living costs also matter. The award should provide reasonable comfort without becoming oppressive or so meagre as to cause penury. Applying these criteria and current prices, the Court found the effective monthly provision of ₹7,500 inadequate and enhanced the Section 125 CrPC award, subject to adjustment.	591
Adjustment and effective date of enhanced maintenance	In assessing enhancement under Section 125 CrPC, the Court considered the effective provision after adjustment against a separate Domestic Violence Act award. It enhanced the Section 125 award from ₹5,000 to ₹7,500 per month, expressly retaining adjustment against maintenance awarded under the Domestic Violence Act or another statute. The enhanced amount was payable from the date of the application. The Court had not established whether the separate award was being regularly paid, so its adjustment calculation did not amount to a finding of actual payment.	591
Wife's parents' finances and maintenance quantum	The financial position of the claimant wife's parents is not material to determining maintenance quantum. The adopted criteria instead direct attention to the parties' status, the claimant's sufficient independent income and the other spouse's capacity to provide support.	591
Voluntary loan instalments in assessing take-home income	The husband's monthly bank-loan instalment of ₹13,600 was not deducted when assessing his take-home income for maintenance. He had already received the loan proceeds, and repayment of that voluntary borrowing was not treated as a compulsory statutory deduction from salary.	640
Maintenance from the date of application	Applying Rajnesh v. Neha, the Court directed maintenance from the date of the Section 125 CrPC application. The Family Court had given no reason for commencing maintenance from its order, and the husband, whose repeated defaults had delayed the proceedings, showed no exceptional circumstance justifying that later date. The enhanced award therefore ran from 19 August 2019.	640
Wife's matrimonial standard of living and maintenance quantum	A deserted wife is entitled to maintenance consistent with the status she would have enjoyed in the matrimonial home. Considering the husband's position as an Assistant Engineer, his admitted income and the Court's assessment of his take-home salary, maintenance was enhanced from ₹8,000 to ₹30,000 per month.	640
Adjustment of interim maintenance against the final	Interim maintenance already paid by the husband must be adjusted against the final maintenance payable from the application date. The Court directed	640

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award	payment of the remaining arrears within three months.	
Maintenance payable from the date of application	Maintenance is to be awarded from the date of the application. The claimant does not control the time taken to decide maintenance proceedings, and that delay cannot postpone the commencement of the entitlement.	792
Adjustment of maintenance received in other proceedings	Maintenance received in another proceeding is to be adjusted against the maintenance awarded, so that the amounts payable account for the overlapping relief.	792

Sub-Chapter no. 57.6

Section 125 Minor Child Maintenance — Independent Entitlement and Effective Date

Child's maintenance: separate assessment of the existing award	The child's existing maintenance award was assessed separately from the finding concerning the mother's reasons for living apart. Having granted maintenance to the mother, the Court considered the parties' financial and social status and found the child's award of ₹1,500 per month justified. It declined to alter that award, which had been payable from the Magistrate's order dated 26 June 2013. The judgment did not make the child's maintenance depend on the mother's entitlement.	42
Child maintenance payable from the application date	Applying Rajnesh v. Neha, the Court directed that both the maintenance awarded by the trial court and the amount enhanced in revision be payable from the Section 125 CrPC application date, 4 September 2019. The trial court's commencement from the order date was accordingly changed.	218
Child-support quantum and reasonable living and educational needs	Child maintenance must account for food, clothing, residence, medical care, education and reasonable supplementary coaching or training expenses. Applying the narrated Rajnesh principles, the Court considered the daughter's age, books, diet, educational requirements and rising daily costs. It found Rs. 1,000 per month inadequate and enhanced the award to Rs. 3,000 per month.	218
Sharing a child's education expenses between earning parents	A child's education expenses should normally be borne by the father. Where the mother is working and earning sufficiently, those expenses may be shared proportionately between the parents. The Court reproduced and applied this Rajnesh principle while reassessing the minor daughter's maintenance.	218
Unsubstantiated majority objection does not postpone children's interim Section 125 support	A father sought birth certificates under CrPC Section 91 and alleged all three children were major, then argued only one was. He supplied none of their dates of birth and did not dispute paternity. The Court refused to postpone interim maintenance on that inconsistent, unsupported assertion; if a child was ineligible as major on the relevant date, the amount could later be adjusted or recovered. This was an interim finding, not a final determination of the children's ages.	292
Child Maintenance Must Include Education, Nutrition and Other Basic Needs	A child's maintenance cannot be confined to ordinary food expenses; education, uniform, nutritious food and clothing must also be considered. Comparing the existing ₹4,000 award with the employed father's own subsidised food expense and assessed income, the Court found the child's allowance inadequate and enhanced it to ₹7,500 per month.	402
Minor Child's Maintenance and Contributions of Both Earning Parents	Both the father and an earning mother must contribute to their child's maintenance in proportion to their incomes. The mother's monthly honorarium of Rs. 2,500 was insufficient to maintain both herself and the child and did not justify refusing the child's claim under Section 125 CrPC. Considering the child's age and daily living costs, the Court assessed monthly maintenance at Rs. 6,000 and applied a 2:1 allocation, requiring the father to pay Rs. 4,000. The mother's withdrawal of her own revision did not dispose of the child's separate claim.	534
Minor child's maintenance —	A minor child cannot be held responsible for a dispute between the parents, and the father's obligation to maintain the child is not defeated by an allegation that	544

Topic	Ratio	Case Sr.no.
independent entitlement despite the parents' matrimonial dispute	the mother lives separately without reasonable cause. Considering the child's age and the mother's assertion that the father earned ₹30,000–35,000 per month, the Court found the existing award of ₹4,000 per month neither excessive nor inadequate and affirmed it.	
	Sub-Chapter no. 57.7 **Section 127 Maintenance Alteration — Changed Circumstances and Proof**	
Section 127 CrPC — proof of changed circumstances for alteration of interim maintenance	A person seeking alteration of interim maintenance under Section 127(1) CrPC must prove a change in circumstances by leading evidence. The fact that interim maintenance may initially be fixed without recording evidence does not dispense with this requirement. Where the main Section 125 application was pending and separate evidence hearings for alteration and final maintenance were impractical, the Court required the husband to lead his evidence in the main proceeding. It did not treat pendency of that proceeding as making every Section 127 application legally premature.	50
Income-tax return — proof and weight in maintenance proceedings	In proceedings under Sections 125 and 127 CrPC, the applicant's income-tax return cannot be treated as a public document of which the Court may take judicial notice. It must be proved like any other document. Whether the income disclosed in it is correct is a question of fact. The return is not binding on the Magistrate, who may assess income from the circumstances and evidence; the applicant must prove his income by leading evidence.	50
	Sub-Chapter no. 57.8 **Section 125 Divorced Wife — Explanation (b) and Cohabitation Disqualification**	
Divorced wife's maintenance claim is not barred by refusal to resume cohabitation	A divorced woman who has not remarried remains a wife for claiming maintenance under Section 125(1), Explanation (b), CrPC. Following Rohtash Singh v. Ramendri, the Court held that refusal to live with the husband without sufficient reason presupposes a subsisting marriage and does not bar the divorced wife's claim on that ground. After divorce, she is under no obligation to resume cohabitation with her former husband.	133
Husband cannot rely on his own refusal to take the wife home as her desertion	A husband who failed to take his wife with him despite the court's direction could not attribute their continued separation to her desertion or take advantage of his own wrong. His withdrawal of execution proceedings for the ex parte restitution decree also weighed against his asserted willingness to resume cohabitation. In these circumstances, the decree and alleged noncompliance did not justify refusal of maintenance, particularly after divorce.	133
Protective interpretation of Section 125 CrPC in a divorced wife's claim	Section 125 CrPC is a measure of social justice protecting women and children. The Rohtash Singh passage relied upon by the Court, reproducing Captain Ramesh Chander Kaushal, requires its interpretation to reflect that protective purpose, supported by Articles 15(3) and 39 of the Constitution. The divorced wife's continued statutory status was considered in that setting.	133
	Sub-Chapter no. 57.9 **Section 125 Wife Maintenance — Actual Income, Earning Capacity and Child Care**	
Unsupported assertion that the wife earns from a business	A bare allegation that the wife earns from a beauty parlour does not justify denying interim maintenance when no documents show that she runs it or establish her earnings. The issue remains open to proof through evidence. The Court did not make a final determination of her income at this interim stage.	33
Earning capacity and qualifications are distinct from sufficient actual income	A wife’s educational qualifications or capacity to earn do not by themselves defeat maintenance. The relevant question is whether she actually has income sufficient to maintain herself in accordance with the matrimonial standard of living; some earnings alone are not a bar. Her inability to maintain herself, the husband’s sufficient means and his neglect to maintain her must be established.	205
Leaving employment	A mother’s resignation from employment to care for a young child does not by	205

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to care for a young child is not necessarily mala fide	itself show that she deliberately stopped earning to obtain maintenance. Where the child requires constant care and the mother cannot reasonably discharge both responsibilities, leaving employment for childcare cannot be treated as mala fide merely for that reason.	
Concealment of employment in a wife's maintenance claim	The Court upheld rejection of the wife's Section 125 CrPC claim after finding that she had concealed outsourced employment in the electricity department and denied it in evidence. The departmental RTI response and her refusal to consent to disclosure supported that finding on the record. The decision rested on material suppression and lack of candour in this claim.	218
Professional status as an advocate and proof of the wife's income	The wife's status as a practising advocate did not by itself establish sufficient income to maintain herself. Earnings do not necessarily begin upon enrolment, and the husband produced no evidence of a substantial practice, such as certified copies of vakalatnamas filed by her. The Court therefore declined to infer adequate earnings from her professional status at the interim stage, leaving the parties free to prove their positions at trial.	398
Education and Earning Capacity Alone Do Not Defeat a Wife's Maintenance Claim	A wife's literacy or capacity to earn does not, by itself, disentitle her to maintenance when she is not shown to have actual earnings. The employed, able-bodied husband's duty to maintain his wife and child must be assessed with regard to his means and the standard of life they could have enjoyed with him.	402
Education and earning capacity do not establish self-sufficiency	A maintenance claim is not answered merely by saying that the wife is educated and could support herself. The relevant inquiry includes whether she has independent income sufficient for her support in light of the parties' status and the payer's capacity. The claim must be assessed on its actual financial circumstances.	591
	Sub-Chapter no. 57.10 **Section 125(3) Maintenance Enforcement — Monthly Default, Custody and Continuing Arrears**	
Imprisonment under Section 125(3) CrPC for several monthly maintenance defaults	Where a person fails without sufficient cause to comply with a maintenance order, Section 125(3) CrPC permits imprisonment of up to one month for the whole or unpaid part of each month's allowance remaining due after execution of the recovery warrant, or until earlier payment. The one-month ceiling applies to each monthly default. Several defaults can therefore support a cumulative term, and the Court upheld six months' imprisonment or earlier payment of the arrears, subject to the statutory requirement of a recovery application within one year of the amount becoming due.	511
Imprisonment for maintenance default does not discharge the arrears	Imprisonment under Section 125(3) CrPC enforces the maintenance order; it does not satisfy the liability. Only actual payment discharges the arrears. A defaulter's decision to undergo imprisonment therefore does not absolve the obligation to pay maintenance.	511
One-year recovery application requirement and continuing maintenance liability	An application under Section 125(3) CrPC to levy an amount due must be made within one year from the date that amount became due. This requirement does not extinguish the underlying maintenance liability or erase the arrears. Maintenance is a continuing liability, and successive applications may address subsequent defaults.	511
Release on an offered partial payment after prolonged maintenance default	The Court refused release from imprisonment on an offer to pay only part of the maintenance arrears and seek time for the balance where the defaulter had paid only ₹1,500 despite years of subsisting orders. His prolonged, non-bona fide non-compliance had left his wife and child without resources and did not justify sympathetic relief.	511

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	Sub-Chapter no. 57.11 **Section 125 Wife Maintenance — Lifestyle, Moral Disapproval and Sufficient Reason to Live Apart**	
Moral disapproval of a wife's lawful lifestyle and maintenance	A husband's disapproval of his wife's modern lifestyle is not by itself a ground to deny maintenance. Courts must apply the law rather than substitute personal views of morality. Where the husband identified no ground beyond lifestyle to show that the wife was living separately without reasonable cause, the Court refused to interfere with her maintenance award. A wife engaging in no criminal activity was free to choose an orthodox or modern way of life.	562
	Sub-Chapter no. 57.12 **Section 125 Wife Maintenance — Long Cohabitation and Presumption of Marriage**	
Presumption of marriage from long cohabitation	Continuous cohabitation as husband and wife for a substantial period raises a presumption of marriage for a Section 125 CrPC claim. The presumption is rebuttable, but a heavy burden lies on the person disputing the relationship's legal origin, and circumstances weakening it must be considered. Here, failure to prove the asserted temple ceremony and rituals was not a specific finding that the claimant was not a legally wedded wife. The prolonged spousal cohabitation and birth of a child supported the maintenance award.	565
Standard of marriage proof in Section 125 proceedings	Proceedings under Section 125 CrPC provide a summary remedy to prevent destitution. They do not require the strict proof of marriage demanded in matrimonial proceedings or a prosecution under Section 494 IPC. Evidence supporting that the parties lived as husband and wife may sustain maintenance without strict proof of the marriage ceremonies.	565
	Sub-Chapter no. 57.13 **Section 125 Wife Maintenance — Genuine Offer to Maintain on Cohabitation Condition**	
Section 125(3) CrPC — willingness pleaded in a reply does not establish an actual offer to maintain	A husband's statement in his reply that he is willing to keep his wife does not, by itself, establish an offer to maintain her on condition of cohabitation. The offer should be specifically put to the wife in cross-examination, stated in his evidence or made through an application. Where none of those steps was taken, the plea of willingness did not justify denial of maintenance.	634
Conditional offer to maintain — justified refusal to cohabit does not defeat maintenance	Under the further proviso to Section 125(3) CrPC, where a husband offers to maintain his wife on condition that she live with him and she refuses, the Magistrate may consider her stated grounds of refusal. Maintenance may be ordered notwithstanding the offer if the Magistrate is satisfied that there is just ground for doing so.	634
Offer to resume cohabitation contradicted by the husband's conduct	The husband's assertion that he was willing to keep his wife did not defeat her maintenance claim where his conduct showed otherwise. He failed to pursue restitution after transfer of the proceedings and, when asked in cross-examination whether he would take her back, referred to his divorce petition. Read with the cruelty established by the wife, these circumstances justified her separate residence.	640
	Sub-Chapter no. 57.14 **Maintenance Financial Disclosure — Rajnesh Affidavits, Nonproduction and Income Estimation**	
Claimed inability to pay maintenance must be supported by income evidence	A husband's claim of limited income must be examined against supporting evidence and disclosure of his means. Failure to disclose actual income may justify an adverse inference. The asserted daily-wage income was not substantiated by examining the employer, and the husband had not disclosed his income when consenting to parental maintenance orders.	205
Estimating income where correct sources are not	Some estimation is permissible in assessing maintenance income where all income sources, or the correct sources, have not been disclosed. The narrated criteria place that exercise within an assessment of payment capacity, liabilities,	591

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disclosed	the claimant's needs and the parties' lifestyle.	
Income estimation when the husband withholds his pay slip	Where the husband withheld his pay slip despite a direction to produce it, the Court assessed his income from his disclosure affidavit and income-tax information. Because actual compulsory deductions could not be ascertained, it estimated statutory deductions at 10% of the disclosed annual gross income of ₹12,35,123 and arrived at approximately ₹92,634 monthly take-home income. The 10% allowance was the estimate made on this incomplete financial record.	640
Disclosure of financial status in maintenance proceedings	Parties in maintenance proceedings must disclose their financial status by affidavit under the Rajnesh v. Neha guidelines, which dispense with the affidavit requirement for economically weaker sections, persons below the poverty line and casual labourers. The Court applied the disclosure requirement in assessing this salaried husband's means and his failure to produce the directed pay slip.	640
	Sub-Chapter no. 57.15 **Section 125 Wife Maintenance — Changed Circumstances and Repeat Applications**	
Repeat maintenance application after a change in financial circumstances	An earlier rejection of an application under Section 125 CrPC because the wife could maintain herself does not bar a later application when her means are no longer sufficient. A subsequent inability to maintain herself permits reassessment on the changed circumstances.	794
	Sub-Chapter no. 57.16 **Section 125 Wife Maintenance — Actual Self-Sufficiency, Husband's Capacity and Quantum**	
Able-bodied husband's duty despite an asserted meagre salary	An able-bodied husband cannot avoid maintenance merely by asserting that his salary is meagre or that the award uses a large part of it. He must earn to maintain his wife or pay maintenance. The Court applied Rajnesh v. Neha in rejecting that objection to interim maintenance.	33
Earning capacity and a husband's plea of financial inability to maintain his wife	As explained in the Shamima Farooqui passage applied by the Court, an earning-capable husband cannot avoid maintenance merely by asserting financial constraints. An able-bodied young man is presumed capable of earning enough reasonably to maintain his wife and child according to the family standard. He must show cogent reasons beyond his control if he claims inability to do so. Failure to disclose his exact income permits an adverse presumption. This principle does not establish a particular alleged additional income without supporting evidence.	42
Able-bodied husband cannot avoid maintenance merely by pleading low income	An able-bodied husband cannot escape the obligation to maintain his wife and child merely by asserting a meagre salary or lack of sufficient income. He must substantiate circumstances beyond his control that prevent him from earning enough to discharge his legal obligations.	205
Wife's Parental Means Are Immaterial to Maintenance Quantum	The financial position of a wife's parents is not material in determining the maintenance payable by her husband. His obligation must be assessed by reference to the relevant means and needs of the spouses and dependants.	402
Plea of no income by an able-bodied husband	A husband's assertion that he has no income does not by itself discharge his duty to maintain his wife where he is able-bodied and has educational qualifications. His financial capacity, actual income, reasonable personal expenses and legal obligations to dependent family members remain relevant in fixing a just amount.	591
Wife's earning capacity and sufficiency of actual income	The wife's capacity to earn, or receipt of some income, does not by itself defeat maintenance. The Court must assess whether her income is sufficient to maintain her in accordance with the standard of living in the matrimonial home. Maintenance concerns more than mere survival.	794

Topic	Ratio	Case Sr.no.
Able-bodied husband's earning capacity and proof of inability	An able-bodied husband is presumed capable of earning enough to maintain his wife and children. He must produce material showing inability to discharge that obligation for reasons beyond his control; a bare assertion that he depends on his son is insufficient without proof of disability. Failure to disclose the exact income may justify an adverse inference.	794
Cost of basic needs in assessing maintenance quantum	Maintenance quantum must account for prevailing prices and the cost of basic living needs. On that assessment, a monthly award of ₹1,500 to the wife was not excessive.	794

Chapter no. 58
Child Support Directions in Criminal-Side Writ and Ancillary Proceedings

Sub-Chapter no. 58.1
Minor Child Maintenance — Parental Means and Ancillary Writ Directions

Able-bodied father's duty to maintain his minor child	An able-bodied father cannot escape maintenance of his minor child by deliberately choosing circumstances in which he earns a meagre amount while living with another woman. Applying Rajnesh v. Neha, the Court held that the father's stated monthly salary of ₹13,000 was not decisive of his child-support obligation. His acknowledged paternity and willingness to pay at least ₹6,000 per month formed the basis of the support direction.	642
Child-support payment and enforcement directions in habeas corpus proceedings	On the father's offer to pay at least ₹6,000 monthly for his minor child, the Court directed payment into the child's bank account by the second day of each month. It directed the mother to open and communicate that account, declared default liable to contempt proceedings, and preserved the child's liberty to seek enhancement of maintenance.	642

Case Sr. no. (1) Next

Headnote :- Domestic Violence Act — monetary relief / separate residence / restitution decree - In a proceeding under Section 12, the husband relied on an asserted decree for restitution of conjugal rights. However, no copy was produced in revision, and no application had been made for its execution under Order XXI Rule 32 CPC. The Court rejected reliance on the decree to establish that the wife was living separately without reasonable cause. *Bipinchandra Jaisinghbhai Shah v. Prabhavati, AIR 1957 SC 176*, was invoked on the significance of a spouse's efforts to bring the other spouse back. *Savitri Pandey v. Prem Chandra Pandey, (2002) 2 SCC 73*, was considered on the elements and continuing nature of desertion, including intention, absence of consent and absence of conduct giving reasonable cause to leave. It also explains that desertion must be inferred from conduct. Applying that discussion to the limited dispute over monetary relief, the Court affirmed the appellate order under Section 20. It declined to interfere with the award of ₹4,000 per month, having regard to the assessed income and living costs. The Supreme Court authorities concern desertion in matrimonial proceedings; their reasoning was applied here to the petitioners' objection to the respondent's separate residence.

Case-note :- ***1. Facts :*** Poonam Jadon filed an application under Section 12 of the Protection of Women from Domestic Violence Act (DVA). On 21 July 2023, the Judicial Magistrate First Class, Gwalior dismissed the application in MJCR No. 47/2022 on the ground that she was living separately without reasonable cause. On 6 September 2024, the Eighteenth Additional Sessions Judge, Gwalior allowed her appeal, Criminal Appeal No. 408/2023, set aside the Magistrate's order and awarded monetary relief of ₹4,000 per month. Aaditya Pratap Singh Jadon and the other petitioners challenged that decision under Sections 397 and 401 CrPC. Their counsel asserted that the husband had obtained a decree for restitution of conjugal rights under the Hindu Marriage Act, but the respondent had not returned. On that basis, counsel argued that the Magistrate's dismissal of the application should have been upheld.

2. Precedents — Considered : *Bipinchandra Jaisinghbhai Shah v. Prabhavati, 1956:INSC:56 : AIR 1957 SC 176*, was cited on the relevance of a husband's efforts to bring his wife back where desertion is alleged. *Savitri Pandey v. Prem Chandra Pandey, (2002) 2 SCC 73*, was quoted at length on desertion in matrimonial law. The quoted discussion requires separation together with an intention permanently to end cohabitation. As regards the deserted spouse, absence of consent and absence of conduct giving the other spouse reasonable cause to leave are also relevant. Desertion is a continuing course of conduct inferred from all the circumstances. A bona fide offer to resume married life may affect that inference. The Supreme Court passage also discusses the burden and standard of proof in divorce proceedings. The High Court used these authorities to assess the petitioners' contention that the restitution decree conclusively established that the respondent's separate residence was unjustified. The proceedings before it concerned monetary relief in revision, rather than a divorce claim.

3. Statutes considered : Section 12 DVA governed the respondent's application, and Section 20 DVA provided for the monetary relief upheld in revision. Sections 397 and 401 CrPC conferred the High Court's revisional jurisdiction. The petitioners relied on a decree under the Hindu Marriage Act but filed no copy. The Court also considered their failure to seek execution under Order XXI Rule 32 CPC.

4. Issues : First, did the asserted restitution decree and the respondent's failure to return require rejection of her Section 12 DVA application on the ground that she was living separately without reasonable cause, despite the petitioners' failure to produce the decree or seek its execution? Second, did the appellate court's award of ₹4,000 per month under Section 20 DVA warrant revisional interference as to its amount?

5. Ratio / Findings : For its analysis, the Court assumed the asserted restitution decree in the petitioners' favour, while noting that no copy had been filed. It treated their failure to seek execution under Order XXI Rule 32 CPC as showing a lack of effort to keep the respondent with them. Referring to *Bipinchandra* and *Savitri Pandey*, the Court held, on these facts, that the decree alone did not establish that the respondent's separate residence was unjustified. It found no error in the appellate court's recognition of monetary relief under Section 20. This conclusion was confined to the facts and the revisional stage; it did not determine the validity or actual contents of the decree, which had not been produced. On the amount, the Court considered the price index, the cost of daily necessities and the petitioners' income

as assessed by the appellate court. It found that ₹4,000 was not excessive.

6. Relief : The Hon'ble High Court has dismissed the criminal revision.

Aaditya Pratap Singh Jadon and Ors. v. Poonam Jadon, Cr.R. no. 5692/2024, 26/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (2) Prev Next

Headnote :- Inherent powers — matrimonial civil suit / FIR quashing - A suit for restitution of conjugal rights filed after the wife's FIR could not make the earlier FIR a counterblast to that suit. Following *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that parallel civil proceedings do not, by themselves, bring criminal proceedings to an end. The quashing inquiry must address whether the FIR's allegations disclose a prima facie offence, without relying on extraneous findings.

Civil and criminal proceedings — findings / prior judgments - The Court applied *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775*, and *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*. Civil and criminal proceedings have different standards of proof, and findings in one are not automatically binding in the other. A previous judgment may nevertheless be relevant under Sections 40–43 Evidence Act. *Prem Raj v. Poonamma Menon, SLP (Cr.) No. 9778/2018*, decided 02.04.2024, and *Vishnu Dutt Sharma v. Daya Sapra, (2009) 13 SCC 729*, reinforced these principles and confirmed that civil and criminal proceedings may continue simultaneously. Whether either proceeding should be stayed depends on the circumstances of the case.

Quashing — FIR delay / disputed facts - Applying *Pratibha and Skoda Auto Volkswagen (India) Private Limited v. State of U.P., (2021) 5 SCC 795*, the Court held that delay alone does not warrant quashing. At this stage, the Court does not inquire into the disputed reliability or genuineness of the allegations. The allegations of assault and demand were specific, not omnibus.

Section 498A IPC — continuing mental cruelty - The Court followed *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, on the persistence of mental trauma at the parental home after alleged cruelty in the matrimonial home. For this prima facie assessment, it treated expulsion over the dowry demand and refusal to take the wife back without payment as capable of constituting continuing cruelty. The Court also referred to *Amar Singh v. Vimla.*

Limitation — Section 468 CrPC - The alleged ouster was on 30.07.2020, and the FIR was registered on 18.10.2021. Referring to the three-year limitation period for taking cognizance of an offence punishable with imprisonment of up to three years, the Court found no time bar. It dismissed the quashing application without deciding guilt.

Case-note :- ***1. Facts :*** The second respondent married applicant no. 1, Aarif Rahin Khan, on 26 November 2017 according to Muslim rites. Applicant no. 2 was his elder brother, and applicant no. 3 was her mother-in-law. According to her FIR, her father had provided dowry within his means, but the applicants harassed her over an additional demand of ₹10 lakh. She alleged that applicant nos. 1 and 2 acted on applicant no. 3's instigation and that applicant no. 3 harassed her in her husband's absence. She further alleged that all three demanded ₹10 lakh, assaulted her when she refused, and expelled her. She went to her father's home with her young child. Her father allegedly sought to have her taken back, but the applicants made her return conditional on payment. Crime No. 797/2021 was registered at Janakganj Police Station, Gwalior, on 18 October 2021 for offences under Sections 498A and 323 read with Section 34 IPC and Sections 3–4 Dowry Prohibition Act. The husband subsequently filed a suit for restitution of conjugal rights on 21 February 2022. The applicants sought quashing under Section 482 CrPC/Section 528 BNSS, arguing that the civil suit and the interval after the alleged ouster defeated the FIR. The State opposed quashing. The Court considered the allegations at this preliminary stage without finding them proved.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied twice. It disapproves quashing a matrimonial FIR by relying on extraneous civil proceedings or drawing an adverse inference from delay where efforts at settlement could explain the interval. Whether a prima facie offence is disclosed must be assessed from the allegations in the complaint or FIR. *Kishan Singh (Dead) through LRs v. Gurpal Singh, (2010) 8 SCC 775*, was invoked for the principle that civil and criminal findings are not automatically binding in the other proceedings, the different standards of proof, and the limited relevance of previous judgments

under Sections 41–43 Evidence Act. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, explained the exceptions under Sections 40–43 and the need to determine whether a prior judgment is relevant and, if so, its effect. It also discussed simultaneous proceedings and the treatment of the earlier reasoning in *Karam Chand*. *Prem Raj v. Poonamma Menon, SLP (Cr.) No. 9778/2018*, decided 02.04.2024, was considered for the Supreme Court's later explanation of the relationship between civil and criminal findings and their different proof standards, including *Iqbal Singh Marwah* and *M.S. Sheriff*. It did not establish a categorical rule that civil outcomes are irrelevant. *Vishnu Dutt Sharma v. Daya Sapra, (2009) 13 SCC 729*, was also cited for the different proof standards and the possibility of simultaneous proceedings, with a stay depending on the circumstances. *Skoda Auto Volkswagen (India) Private Limited v. State of U.P., (2021) 5 SCC 795*, stated the principle that mere delay in making a complaint and disputes about the reliability of factual allegations are not ordinarily grounds for quashing at the threshold. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explained that mental trauma from cruelty may persist at the parental home after a wife is driven out. The Court applied that understanding to the alleged exclusion from the matrimonial home over the dowry demand. The *Court's own Amar Singh v. Vimla*, Criminal Revision No. 2376/2020, decided 22.06.2021, was noted for the principle that compelling a wife to reside at her parental home amounts to cruelty. Authorities appearing within the extensive Supreme Court quotations, including *K.G. Premshanker*, *Iqbal Singh Marwah* and *M.S. Sheriff*, form part of the cited courts' reasoning.

3. Statutes considered : Section 482 CrPC and Section 528 BNSS were stated as the basis of the application invoking inherent powers. Section 498A IPC and its Explanation were reproduced. Cruelty includes qualifying wilful conduct affecting life, limb or physical or mental health, and harassment to compel compliance with an unlawful demand for property or valuable security. Sections 323 and 34 IPC and Sections 3–4 Dowry Prohibition Act were among the registered offences. Section 468 CrPC was considered in relation to the three-year limitation period for taking cognizance of an offence punishable with imprisonment of up to three years. Sections 40–43 Evidence Act appeared in the Supreme Court passages on the relevance and effect of earlier judgments. The restitution suit did not, by itself, provide a defence to the criminal accusation.

4. Issues : (1) Could a husband's later suit for restitution of conjugal rights justify quashing his wife's earlier matrimonial FIR as a counterblast, or on the argument that civil and criminal proceedings cannot coexist? (2) Would findings in a civil case bind the criminal court, or would a previous judgment have only the relevance and effect prescribed by evidence law? (3) Did the interval between the alleged expulsion and registration of the FIR justify quashing at the threshold, particularly where the wife alleged continuing exclusion and cruelty? (4) Were the alleged dowry demand, assault and roles of the applicants sufficiently specific for a prima facie inquiry under Section 498A? (5) Was the criminal process barred by limitation under Section 468 CrPC on the dates cited?

5. Ratio / Findings : The suit for restitution of conjugal rights was filed in February 2022, after the FIR of October 2021. The Court therefore held that the earlier FIR could not be a counterblast to the later suit. Applying *Pratibha*, it held that civil proceedings concerning the matrimonial relationship do not automatically bring the criminal case to an end. The quashing inquiry must address whether the FIR's allegations disclose a prima facie offence. The Court considered *Kishan Singh*, *Syed Askari*, *Prem Raj* and *Vishnu Dutt Sharma* to explain that civil and criminal findings depend on the evidence in each proceeding and on different standards of proof. A previous judgment may have particular relevance under Sections 40–43 Evidence Act, but findings are not generally binding merely because the parties and subject matter overlap. Simultaneous proceedings are permissible, with any stay depending on the circumstances of the case. Applying *Skoda Auto* and *Pratibha* on delay, the Court declined to inquire prematurely into the disputed reliability of the allegations. It also applied *Rupali Devi*'s explanation that mental trauma may continue after departure from the matrimonial home. The alleged demand for ₹10 lakh, expulsion, refusal to take the wife back without payment, and the alleged assault and roles of all three applicants were sufficiently specific to withstand quashing. This was a prima facie assessment only. The Court applied the three-year period for taking cognizance under Section 468 CrPC in respect of an offence punishable with imprisonment of up to three years and rejected the

asserted time bar. It neither determined culpability nor weighed the defence evidence.

6. Relief : The Hon'ble High Court dismissed the application. The FIR in Crime No. 797/2021 was not quashed. No applicant obtained partial quashing or separate relief. The Court made no trial finding of guilt.

Aarif Rahin Khan and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 36457/2024, 19/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (3) Prev Next

Headnote :- Matrimonial offences — husband's relatives / particularised accusation - *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, and *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, were considered for the need for caution before implicating relatives merely because of their relationship or on collective allegations. Prosecution remains permissible where tangible, specific material supports their involvement. *Chandralekha v. State of Rajasthan, K. Subba Rao v. State of Telangana, (2018) 14 SCC 452, Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363, Neelu Chopra v. Bharti, (2009) 10 SCC 184*, and *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, were applied to the requirement that each relative's role be specified and their separate circumstances examined in context. These authorities arose in different procedural settings; family relationship alone does not provide a conclusive defence.

Quashing — earlier complaint / omitted residence facts - In her earlier police complaint, the complainant stated that she had lived with her husband in Mumbai after marriage and described his conduct there. The later FIR and Section 161 statement neither explained any visits nor identified a specific act by either sister-in-law. Counsel's proposed explanation of visits was not pleaded. The married applicant lived separately in Bhind. On these facts, the Court held that collective allegations were insufficient to prosecute these applicants. It quashed the FIR and consequential proceedings only as to them.

Case-note :- ***1. Facts :*** The complainant married Manish Singh on 24 May 2020 at Gwalior. Her FIR alleged that, after an initially cordial period, her husband, his parents and his two sisters taunted her over dowry and demanded ₹10 lakh and a Creta car. She alleged physical and mental harassment, assault and expulsion, and stated that her parents' efforts to reconcile matters had failed. Police registered Crime No. 98/2021 at Mahila Thana Padav, Gwalior, for offences under Sections 498A, 506 and 34 IPC and Section 4 Dowry Prohibition Act. The applicants were the husband's sisters. Applicant no. 1 was married and was said to live separately in Bhind; applicant no. 2 was unmarried. They sought quashing under Section 482 CrPC, contending that the complainant had lived with her husband in Mumbai and that they had no role in the alleged acts. The State and the complainant opposed the application. During arguments, the complainant's counsel acknowledged that she had lived in Mumbai and asserted that she was harassed on visits to Gwalior. He conceded, however, that those visits were not alleged in the FIR or her Section 161 statement. The Court read her earlier complaint of 29 December 2020. It described her move to Mumbai soon after marriage, her husband's conduct there, her rescue by her father and uncle, and later demands attributed collectively to her in-laws.

2. Precedents — Considered : *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, cautioned against implicating relatives in dowry death merely because of their association with the husband. Its reference to proof beyond reasonable doubt concerns conviction. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, recognised the possibility that all family members might be named through exaggeration and required tangible material against distant relatives. It also cautioned against a mechanical assessment of harassment allegations. *Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, quashed vague allegations against relatives, including a married sister-in-law, in the particular context of residence and delay. *K. Subba Rao v. State of Telangana, (2018) 14 SCC 452*, warned against omnibus allegations against distant relatives. It recognised intervention to prevent abuse of process, while cautioning against routine interference at an interlocutory stage. *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, urged careful scrutiny of allegations against relatives living in different cities. *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, required particulars of each accused's acts, rather than mere repetition of statutory language. *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, treated casual naming without active involvement as insufficient. The Court reproduced and adopted these

authorities as a common caution against implicating relatives through unsupported collective allegations. All the authorities were applied to the applicants' individual roles, residence and the earlier complaint.

3. Statutes considered : Section 482 CrPC governed the application invoking inherent powers to quash the FIR and consequential proceedings. The FIR invoked Sections 498A, 506 and 34 IPC and Section 4 Dowry Prohibition Act. The Court examined whether the allegations of harassment and dowry demand specifically connected each applicant to the alleged conduct so as to disclose a prima facie case. It did not finally decide the ingredients or proof of each charged offence. The complainant's statement under Section 161 CrPC was considered because it did not allege any visit to the Gwalior household.

4. Issues : Whether the two sisters-in-law could be required to face trial on collective allegations of dowry demand and harassment when one lived separately, the complainant's earlier complaint described her residence with her husband in Mumbai, and the later FIR and Section 161 statement did not specify visits or distinct acts by either applicant. The Court also had to determine the extent of any quashing, since the other accused had not applied for it.

5. Ratio / Findings : The Court contrasted the FIR's general allegations against all the in-laws with the complainant's earlier police complaint, which described her move to Mumbai soon after marriage and her husband's conduct there. It found that the later FIR and Section 161 statement omitted her Mumbai residence and the visits raised orally by counsel. Applying the Supreme Court authorities, the Court held that family relationship and a collective demand were insufficient, in these circumstances, to sustain proceedings against the two sisters. Applicant no. 1 was married and lived separately in Bhind. That fact, together with the absence of a specific act attributed to either applicant, supported the conclusion. The Court found the allegations against them vague and misleading and held that no prima facie case had been made out to send them for trial. This finding concerned their alleged participation at the quashing stage. It did not acquit the husband or establish a general rule that relatives living separately cannot commit matrimonial offences.

6. Relief : The Hon'ble High Court allowed the application. It quashed Crime No. 98/2021 and all consequential criminal proceedings for offences under Sections 498A, 506 and 34 IPC and Section 4 Dowry Prohibition Act only insofar as they concerned Aarti Morya and the other applicant. The order did not quash the entire case against family members who were not applicants.

Aarti Morya and Ors. v. The State of M.P. and Ors., M.Cr.C. no. 24751/2021, 14/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (4) Prev Next

Headnote :- FIR — preliminary inquiry — cognizable information - Applying *Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1*, and *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045 of 2021*, the Court held that a preliminary inquiry before registration of an FIR is not mandatory where the information discloses a cognizable offence. Any permissible limited inquiry is confined to whether such an offence is disclosed; it does not test the truth of the information. The absence of a preliminary inquiry alone neither invalidated the two FIRs nor provided a ground for quashing them.

FIR — pre-registration hearing — suspect's rights - Following *SBI v. Rajesh Agrawal, (2023) 6 SCC 1*, on the position at the stage of reporting a criminal offence, the Court rejected the claimed right to a hearing before registration of an FIR. The absence of prior notice or an opportunity to answer the allegations did not, by itself, entitle the petitioner to quashing.

Article 226 — investigation agency — accused's choice - Invoking *Romila Thapar v. Union of India, (2018) 10 SCC 753*, the Court held that an accused has no right to choose the investigating agency or dictate how the investigation is conducted. The exceptional constitutional power to direct an independent investigation remains available where substantiated grounds justify it. The petitioner's request and allegations, as presented, did not warrant intervention.

Case-note :- ***1. Facts :*** Abhishek Pandey appeared in person and described himself as a student leader. He filed a petition under Article 226 seeking an independent and fair inquiry, action against police officers, and quashing of FIR No. 178/2024 dated 07.04.2024 at Police Station Bhedaghat and FIR No. 183/2024 dated 13.04.2024 at Police Station Lordganj, both in Jabalpur. The first complaint alleged that Pandey, Aryan Tiwari and their companions entered the British School at Kudan,

abused staff, damaged furniture and equipment, and threatened the principal. The second police complaint alleged that officers came to Pandey's home in connection with the first case, but he refused them entry, abused and scuffled with them, and tried to evade arrest. It further alleged that his relatives joined in assaulting the officers. These were FIR allegations, not findings of guilt. Copies of both case diaries were before the Court. Pandey acknowledged visiting the school in his claimed capacity as a student leader. He argued, however, that the police were required to verify the truth of the allegations before registration and give him a hearing. After the Court asked him to identify legal authority permitting a self-described student leader to enter a school without authorisation, the order records no other developed argument.

2. Precedents — Considered : In *Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1*, the Constitution Bench directed immediate registration under Section 154 CrPC when information discloses a cognizable offence. Where disclosure is uncertain, a limited inquiry may ascertain whether such an offence is disclosed, without testing the truth of the information. The High Court reproduced the illustrative categories for inquiry, the time limit and the diary-record requirements. It relied on the distinction between an inquiry that is permissible and one that is a mandatory precondition. In *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045 of 2021*, decided 08.10.2021, the Supreme Court applied *Lalita Kumari* to clarify that a preliminary inquiry may be desirable even in corruption and disproportionate-assets cases, but is not invariably mandatory. Its omission does not, by itself, vitiate an FIR. The extensive passage reproduced by the High Court discussed *P. Sirajuddin*, *Yashwant Sinha*, *Managipet* and *Charansingh* in their respective corruption-related settings. The Court also cited its own order in *Avijit Sharma v. State of M.P.*, M.Cr.C. No. 9662/2022, dated 14.03.2024, for the same rule that absence of a preliminary inquiry does not itself vitiate an FIR. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was invoked for the principle that an accused is not entitled to select the agency or insist on a particular manner of investigation. The reproduced Supreme Court analysis referred to *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar* on the accused's limited participation during investigation. It also distinguished the continuing power under Article 226 to address a mala fide investigation and, through *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, the exceptional and cautious exercise of the power to transfer an investigation to the CBI. In its own factual setting, the quoted *Romila Thapar* passage found unsubstantiated allegations insufficient. The High Court adopted its governing principle on the accused's choice of agency here. In *SBI v. Rajesh Agrawal, (2023) 6 SCC 1*, the Court relied on the distinction between a hearing under the principles of natural justice before a bank classifies an account as fraud and the absence of a right to a hearing when a criminal offence is reported. That Supreme Court passage cited *Union of India v. W.N. Chadha* and *Anju Chaudhary v. State of U.P. for the* absence of a right to be heard before registration of an FIR.

3. Statutes considered : Article 226 of the Constitution provided the writ jurisdiction invoked for directions concerning investigation and for quashing the FIRs. Section 154 of the Code of Criminal Procedure, 1973, as explained in *Lalita Kumari* and *Thommandru Hannah Vijayalakshmi*, governed whether the information disclosed a cognizable offence requiring registration or called for a limited preliminary inquiry. The judgment's reference to constitutional supervision of investigation did not give an accused a right to direct an ordinary investigation.

4. Issues : (i) Could the petitioner invalidate the two FIRs merely because no preliminary inquiry had tested the complaints before registration? (ii) Was a suspect entitled to notice and a hearing before registration of an FIR disclosing a cognizable offence? (iii) On the material presented, did the petitioner's request under Article 226 for an independent agency and action against officers justify intervention in the ongoing police investigation? The Court did not decide the truth of the complaint allegations or whether the specific charged offences were proved. Nor did it decide the legality of an individual arrest step on a separately developed challenge.

5. Ratio / Findings : On the first issue, the Court examined the FIR accounts and rejected the contention that police must verify the truth of the allegations before registering an offence. *Lalita Kumari* requires registration when the information discloses cognizable criminal conduct. Any inquiry permissible in an appropriate case is limited to whether such conduct is disclosed. *Thommandru*

Hannah Vijayalakshmi confirmed that, even where an inquiry may be desirable, the accused has no automatic right to insist on it. Failure to hold an inquiry alone does not vitiate an FIR. The Court therefore rejected that ground for quashing without deciding whether either complaint was true. On the second issue, relying *on SBI v. Rajesh Agrawal and the* authorities cited in it, the Court held that an accused has no right to a prior hearing at the registration stage. The absence of notice or an opportunity to contest the allegations before registration therefore afforded no relief. On control of the investigation, the *Romila Thapar* passage stated that an accused ordinarily cannot select the investigator, dictate how the investigation is conducted, or require court monitoring. Exceptional constitutional supervision remains available where a proper factual foundation warrants it, but the Court found no ground in this petition for the requested intervention. Pandey admitted going to the school but cited no law permitting unauthorised entry in his asserted role as a student leader. The Court did not infer criminal guilt from that exchange. These conclusions were confined to the writ petition and the grounds actually advanced.

6. Relief : The Hon'ble High Court dismissed the writ petition. It refused to quash FIR Nos. 178/2024 and 183/2024 on the asserted grounds of absence of a preliminary inquiry or a hearing before registration. It issued no direction for an independent investigation or action against police officers. The FIRs remained in place. The order did not convict the petitioner, determine the ultimate outcome of the investigation, or impose conditions or costs.

Abhishek Pandey v. The State of Madhya Pradesh and Others, W.P. no. 14638/2024, 08/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (5) Prev Next

Headnote :- Quashing — prima facie accusation / no mini-trial - Applying *Neeharika Infrastructure v. State of Maharashtra, (2021) 19 SCC 401*, the Court held that investigation should proceed where the FIR discloses a cognizable offence. The Court does not determine the reliability or genuineness of the allegations at this stage. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was applied to distinguish specific allegations of cruelty against the husband and his parents from the mere naming of more distant relatives. Whether the allegations are true is a matter for trial.

Matrimonial FIR — restitution petition / alleged counterblast - Following *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that civil matrimonial proceedings do not, by themselves, end criminal proceedings. Allegations in the civil petition cannot replace the prima facie assessment of the FIR. The husband's allegations in his Section 9 petition had not been tried and could not establish retaliation. A wife's attempts to preserve or restore the marriage may explain the interval before a complaint. The applicants' request to quash the FIR was dismissed.

Case-note :- ***1. Facts :*** The complainant married applicant no. 1, Abhishek Sarvariya, on 22 January 2017. Her FIR alleged that her father spent ₹8 lakh at the marriage and that she was treated well until 19 June 2017. Thereafter, her husband and his parents allegedly demanded ₹2 lakh repeatedly for a shop. She alleged that her husband assaulted her, her parents-in-law harassed her, and on 20 November 2020 she was expelled and told that she would be taken back only on payment. Her relatives' attempts at reconciliation failed. Crime No. 48/2021 was registered at Kotwali Datia on 1 February 2021 for offences under Section 498A IPC and Sections 3–4 Dowry Prohibition Act. The husband, father-in-law and mother-in-law sought quashing under Section 482 CrPC. They asserted that the allegations were false and that the FIR was a counterblast to the husband's petition under Section 9 Hindu Marriage Act for restitution of conjugal rights. The State opposed the application. The Court assessed the FIR's allegations without deciding whether they were true.

2. Precedents — Considered : *Neeharika Infrastructure Private Limited v. State of Maharashtra, (2021) 19 SCC 401*, stated the restraint applicable at the FIR stage. Allegations disclosing a cognizable offence should be investigated; the Court should not decide their reliability or conduct a mini-trial. Exceptional quashing jurisdiction remains available where the legal parameters justify it. The judgment reproduced its caution that an FIR is not an encyclopedia and that the parameters laid down in *R.P. Kapur* and *Bhajan Lal* continue to govern quashing. *S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, M. Srikanth, Arvind Khanna, Kunwar Singh, Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy*

and *M.N. Ojha* were also cited as confirming that position. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied to reject a civil matrimonial petition as an automatic ground for quashing criminal allegations and to recognise that attempts at settlement can explain delay. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was applied to specific allegations against the husband and his parents. The *Kailash Chandra Agrawal* discussion quoted in it separately cautioned against proceedings based only on the casual naming of distant relatives. The present applicants were the husband and his parents, and the Court found distinct allegations against them.

3. Statutes considered : The application was filed under Section 482 CrPC. The Court also referred to Section 528 BNSS when describing its inherent power. Section 498A IPC and Sections 3–4 Dowry Prohibition Act were the registered offences. The husband's petition for restitution of conjugal rights was under Section 9 Hindu Marriage Act. Its allegations were treated as unproved civil assertions for the purposes of the FIR-stage inquiry.

4. Issues : Did the FIR's allegations against the husband and his parents disclose a cognizable offence sufficient to withstand quashing under the Court's inherent powers, despite their assertion that the allegations were false? Could the husband's restitution petition and the interval before the complaint establish that the FIR was retaliatory or false without findings at trial?

5. Ratio / Findings : Applying *Neeharika*, the Court held that it could not conduct a mini-trial to determine the reliability or credibility of the allegations. The FIR attributed assaults to the husband and a specific demand for ₹2 lakh, harassment and expulsion to all the applicants. *Taramani Parakh* supported leaving these specific accusations against the husband and his parents for trial, as distinct from general allegations against distant relatives. *Pratibha* established that civil matrimonial proceedings cannot, by themselves, displace a criminal case arising from the same facts and that efforts to save a marriage can explain the interval before a complaint. The husband's Section 9 assertions had not been adjudicated. They could not be accepted as facts merely to characterise the FIR as a counterblast. These were prima facie conclusions. The Court neither decided guilt nor found the wife's allegations proved, and it did not determine the precise chronology of the delay.

6. Relief : The Hon'ble High Court dismissed the application. Crime No. 48/2021 and its proceedings remained pending against the three applicants. The Court granted no quashing relief and made no finding of guilt.

Abhishek Sarvariya and Ors. v. The S.H.O. and Ors., M.Cr.C. no. 19377/2025, 16/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (6) Prev Next

Headnote :- Matrimonial cruelty — relatives / specific allegations - *Kans Raj v. State of Punjab, (2000) 5 SCC 207; Monju Roy v. State of West Bengal, (2015) 13 SCC 693; Chandralekha v. State of Rajasthan; Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*; and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*, were considered for the caution required against implicating relatives through vague, collective allegations. The Court found that the present case was different because the FIR attributed abuse and assault to the sister-in-law on a stated date. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was applied to the specific allegations against the husband and parents; whether those allegations were true remained a matter for trial.

Quashing — reconciliation agreement / omitted accusations - The Court considered an early agreement intended to preserve the marriage. Failure to mention every alleged act in that agreement did not conclusively contradict the later detailed FIR.

Matrimonial FIR — restitution petition / counterblast - *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was followed: a husband's civil matrimonial pleading does not by itself bring criminal proceedings to an end, and efforts to reconcile may explain a delay in lodging the complaint. The restitution petition filed in July 2023 did not justify assuming that the FIR was fabricated when it contained specific allegations. The Section 482 application was dismissed as to all four applicants.

Case-note :- ***1. Facts :*** The complainant married applicant no. 1, Abhishek Sharma, on 22 February 2023. Her FIR stated that, soon after she entered the matrimonial home, her parents-in-law taunted her about insufficient dowry, her sister-in-law quarrelled with her, and her husband assaulted and threatened her. She also described her husband as drinking alcohol. She alleged that all four applicants

demanded a car, ₹5 lakh, her salary and transfer of her parents' house. On 28 April 2023, her mother and relatives visited to reconcile matters. She alleged that applicant no. 4, the sister-in-law, abused them and assaulted her in their presence, and that her husband struck her brother when he intervened. She stated that she returned to her parental home on 29 April, received another monetary demand by telephone, and sought assistance from the Mahila Parmarsh Kendra before lodging FIR No. 291/2023 at Mahila Thana, Bhopal, for offences under Sections 498A, 506 and 34 IPC and Sections 3–4 Dowry Prohibition Act. The four applicants sought quashing under Section 482 CrPC on the ground that the allegations were vague and omnibus. They also relied on a marital agreement which, they said, did not mention cruelty, and on a petition for restitution of conjugal rights filed by the husband on 19 July 2023. The judgment records that the FIR was registered on 2 October 2023. The State opposed quashing. The accusations remained unproved at this procedural stage.

2. Precedents — Considered : *Kans Raj v. State of Punjab, (2000) 5 SCC 207, Monju Roy v. State of West Bengal, (2015) 13 SCC 693, Chandralekha v. State of Rajasthan, 2013 (1) UC 155, Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*, were cited together for the need to scrutinise vague, collective allegations against a husband's relatives. The Court did not treat that caution as immunity from prosecution: it found a specific allegation of assault and abuse against this sister-in-law on a stated date. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, reproduced the distinction between merely naming distant relatives and making allegations against the husband and parents that raise issues of cruelty requiring trial. The Court applied the latter reasoning to applicant nos. 1–3. The passages from *Kailash Chandra Agrawal* and *Kans Raj* quoted in *Taramani* explain the distinction concerning distant relatives. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied to reject the inference that an earlier civil matrimonial proceeding makes the wife's FIR a counterblast, and to recognise that reconciliation efforts can explain a delay in lodging the complaint. The Court did not treat a civil decree as conclusive evidence.

3. Statutes considered : Section 482 CrPC governed the quashing application. The FIR invoked Sections 498A, 506 and 34 IPC and Sections 3–4 Dowry Prohibition Act. The husband relied on his petition for restitution of conjugal rights under Section 9 Hindu Marriage Act to support his contention that the FIR was a counterblast. The Court did not finally determine whether the statutory ingredients were satisfied, whether the agreement was enforceable, or the merits of the restitution petition.

4. Issues : (1) Whether the allegation against the sister-in-law was merely general or sufficiently specific, bearing in mind the caution required when prosecuting relatives. (2) Whether the specific allegations against the husband and parents required a trial, rather than an assessment of credibility at the FIR stage. (3) Whether the absence of cruelty allegations in the early marital agreement established fabrication. (4) Whether the husband's earlier restitution petition made the later FIR retaliatory or brought the criminal proceedings to an end.

5. Ratio / Findings : The Court identified a specific allegation that the sister-in-law assaulted the complainant and abused her visiting relatives on 28 April 2023. It applied the Supreme Court's caution regarding allegations against relatives, but found that the accusation went beyond merely naming a family member. The allegations against the husband and parents included dowry demands, physical or mental harassment and expulsion soon after marriage. The Court therefore applied *Taramani Parakh*'s principle that such issues require trial. As to the agreement, the Court inferred that the parties were trying to preserve the marriage and allow time for their behaviour to improve; it did not require the complainant to list every accusation in a reconciliation document. Applying *Pratibha*, it rejected the argument that the husband's Section 9 pleading automatically made the FIR a counterblast. It concluded that a prima facie case warranted prosecution of all four applicants, without deciding guilt, the validity of the agreement, or whether the complainant's account would ultimately be believed.

6. Relief : The Hon’ble High Court dismissed the application. FIR No. 291/2023 and the consequential prosecution continued against all four applicants; no applicant obtained partial quashing.

Abhishek Sharma and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 12490/2024, 05/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (7) Prev Next

Headnote :- Inherent powers — compromise / public impact / bank official - *Gian Singh v. State of Punjab, (2012) 10 SCC 303*, was cited for the High Court's limited power to quash proceedings on settlement even where Section 320 CrPC does not permit compounding. *Narinder Singh v. State of Punjab, (2014) 6 SCC 466*, was applied: the Court must distinguish private disputes of a civil character from offences with serious consequences for society, consider the prospect of conviction and the stage of trial, and exercise its power under Section 482 cautiously. The charge under Section 420 had been compounded, but charges under Sections 409, 467, 468, 471 and 120B IPC remained. The alleged transfer of funds associated with a deceased account holder to a friend of the bank's relationship manager raised concerns about confidence in banking. Substantial evidence had already been recorded. Compromise and the assertion that some witnesses were hostile did not result in quashing. Guilt and the weight of the evidence remained for the trial court to decide.

Case-note :- ***1. Facts :*** Abhishek Tiwari worked as a relationship manager at HDFC Bank, Sagar. According to the account placed before the High Court, a loan of ₹8.20 lakh had been sanctioned against the joint KCC account of Devi Singh and Devendra Singh. After Devi Singh's death, Devendra Singh's brother, Ramnaresh, requested a no-dues certificate. He later complained that he had not received it, and an alleged transfer to an account belonging to the applicant's friend then came to light. Crime No. 290/2019 led to Sessions Trial No. 129/2021 before the IV Additional Sessions Judge, Sagar. The applicant stated that, on an application under Section 320 CrPC, the trial court had compounded the offence under Section 420 IPC by order dated 5 January 2022, but had refused compounding for Sections 409, 467, 468, 471 and 120B IPC. He sought quashing of the remaining charge sheet under Section 482, stating that twelve witnesses had testified and some had turned hostile. The Court asked counsel to explain the legal basis for quashing and the effect of the alleged role of a bank official on public confidence. Counsel gave no substantive answer. The record mentions PW6 Manoj Tiwari's evidence that the applicant had been dismissed from bank service. The Court did not treat these accusations and testimony as establishing guilt.

2. Precedents — Considered : *Gian Singh v. State of Punjab, (2012) 10 SCC 303*, was cited for the proposition that inherent powers may, in appropriate circumstances, be exercised to dispose of proceedings even where the offences are not compoundable. *Narinder Singh v. State of Punjab, (2014) 6 SCC 466*, was quoted in detail and applied. It distinguishes statutory compounding under Section 320 from the cautious exercise of powers under Section 482 after settlement. It directs attention to securing justice or preventing abuse of process, excludes serious offences affecting the public from routine closure on compromise, favours quashing of certain disputes of a predominantly civil or family character after full resolution, and requires consideration of the prospect of conviction and the timing of settlement. Its specific discussion of Section 307 IPC, injuries, weapons and compromise after conviction illustrates the limits in that context; those facts were not present here. The High Court applied the broader principles concerning impact on society to refuse quashing of the alleged misappropriation by a bank official.

3. Statutes considered : Section 320 CrPC governed the trial court's compounding of the offence under Section 420 IPC and its refusal to compound the remaining offences. The separate request for quashing was made under Section 482 CrPC. The remaining charges were under Sections 409, 467, 468, 471 and 120B IPC and concerned alleged breach of trust, offences involving documents and conspiracy. The individual ingredients of those offences were not adjudicated in this order.

4. Issues : Whether a private settlement and compounding of the offence under Section 420 IPC justified quashing the prosecution for the remaining non-compoundable offences under Section 482, given the alleged role of a bank relationship manager in transferring funds, the effect on public trust, and the stage of a trial in which twelve witnesses had already been examined.

5. Ratio / Findings : The Court distinguished compounding under Section 320 from quashing under its inherent powers and applied *Narinder Singh*'s principles concerning impact on society. It regarded the alleged defalcation by a bank official, particularly the transfer of funds relating to a deceased customer's account to the official's friend, as an accusation capable of undermining public trust in the bank. That aspect prevented the case from being treated as a purely private matter resolved by

settlement. The trial was already substantially under way. The assertion that some witnesses had turned hostile did not lead the High Court to determine the prosecution's evidentiary strength in this proceeding. The Court referred to PW6's evidence about dismissal from service, but did not decide the final evidentiary effect of that testimony. It refused to quash the remaining charges without determining whether the charged acts had occurred.

6. Relief : The Hon'ble High Court dismissed the application. The earlier discharge following compounding of the offence under Section 420 was not disturbed. The trial continued on the remaining charges under Sections 409, 467, 468, 471 and 120B IPC.

Abhishek Tiwari v. The State of Madhya Pradesh, M.Cr.C. no. 61635/2022, 20/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (8) Prev Next

Headnote :- Evidence — child eyewitness / minor omissions - *Suryanarayana v. State of Karnataka, (2001) 9 SCC 129*, was applied: tender age alone is not a ground for rejecting the testimony, and corroboration is a matter of caution rather than a mandatory requirement where the material account withstands cross-examination, inspires confidence and rules out tutoring. Mushkan (PW3) described her father stabbing her mother. The injured-witness and medical evidence provided further support.

Witnesses — independent examination / injured family member - *Guru Dutt Pathak v. State of Uttar Pradesh, (2021) 6 SCC 116*, was followed: failure to examine independent witnesses is not fatal by itself; the quality of evidence matters rather than the number of witnesses. Injured Najma (PW1) remained consistent on material particulars. Her fresh sharp-weapon wound, the child's evidence and the accounts of others who promptly arrived supported her version.

Medical and ocular evidence — untested weapon - On the evidence in this case, the absence of a forensic report on the recovered knife and of a doctor's comparison of the knife with the injuries did not require acquittal. The recovery evidence, eyewitness accounts of repeated stabbing and postmortem findings of multiple fatal injuries caused by a sharp penetrating weapon were treated as consistent with one another. The Court did not state a general rule permitting every gap in forensic evidence to be disregarded.

Contradictions — materiality / cumulative proof - *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, was considered for the principle that peripheral mistakes by witnesses are not fatal to the prosecution. The Bench rejected objections based on minor omissions, FIR timing and access to the room in light of the substantially consistent eyewitness and medical evidence. It affirmed the convictions under Sections 302 and 324 IPC.

Case-note :- ***1. Facts :*** Najia, the wife of appellant Abid Mohammad Siddiki, was living with her children at her parents' home after matrimonial discord and an earlier police report. The prosecution alleged that, early on 8 April 2010, the appellant entered the home and repeatedly stabbed her. Her younger sister, Najma (PW1), intervened and suffered a knife injury. Najia's daughter, Mushkan (PW3), saw her father stabbing her mother and tried to stop him. The parents, alerted by cries, stated that they arrived while the attack was continuing. Najia died at the scene. A merg report and FIR followed. The investigation included collection of material from the scene, medical examinations, arrest and the alleged recovery of a knife on the basis of the appellant's memorandum. The prosecution examined eleven witnesses. The appellant denied involvement and alleged a conspiracy by his in-laws; he called no defence witness. On 18 October 2011, the 14th Sessions Judge, Gwalior, in Sessions Trial No. 272/2010, convicted him under Section 302 IPC and imposed life imprisonment and a fine of ₹3,000, with a default stipulation. The court also convicted him under Section 324 IPC and imposed one year's rigorous imprisonment and a fine of ₹1,000. The sentences were to run concurrently. On appeal, he alleged material inconsistencies, an ante-dated FIR, failure to examine independent witnesses, unreliability of the child witness, difficulty in observing entry into the room, and failure to obtain a forensic report or a doctor's comparison of the seized knife with the injuries. The State defended the verdict.

2. Precedents — Considered : *Guru Dutt Pathak v. State of Uttar Pradesh, (2021) 6 SCC 116*, was applied to the objection that independent witnesses had not been examined. The Supreme Court's principle is that the absence of such a witness is not by itself fatal; the reliability and quality of the evidence actually given are decisive. *Suryanarayana*

v. State of Karnataka, (2001) 9 SCC 129, was considered in relation to child-witness testimony: age is not an automatic bar, while cross-examination, confidence in the testimony and absence of tutoring are relevant. Corroboration is a matter of caution rather than a formal prerequisite. The Bench applied that principle to Mushkan's central account of her father stabbing her mother. *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, was reproduced for assessing minor inconsistencies and the opportunity of eyewitnesses to observe events in their actual context. The Bench applied it to reject peripheral discrepancies while retaining the material prosecution case in view. It assessed the untested recovered knife together with the eyewitness, recovery and medical evidence in this case.

3. Statutes considered : The Court affirmed the convictions under Sections 302 and 324 IPC, respectively for the fatal assault on Najia and the sharp-weapon injury to Najma. The offences were initially registered under Sections 302 and 307 IPC, but the trial convictions recorded in the appeal were under Sections 302 and 324.

4. Issues : Whether the trial court's convictions for murder and hurt could be sustained despite alleged contradictions in the evidence of the child and other eyewitnesses, failure to examine independent witnesses, challenges to FIR timing and access to the room, and the absence of forensic comparison of the seized knife; and whether the eyewitness accounts, injured-witness evidence and medical findings together proved that the appellant had fatally stabbed Najia and injured Najma.

5. Ratio / Findings : Najma (PW1) testified that she saw the appellant repeatedly stab Najia and that she intervened and was cut. Her account remained unchanged on material particulars in cross-examination. Shortly after the incident, a doctor documented a fresh wound caused by a sharp weapon. Mushkan (PW3) described her father stabbing her mother and her attempt to stop him. The Bench treated minor omissions as peripheral and found no reason to reject her evidence merely because she was a child. Najia's parents stated that they arrived on hearing cries and saw the attack. The postmortem recorded numerous penetrating and incised wounds, including serious chest and abdominal injuries to vital organs, and attributed death to shock and haemorrhage caused by a single-edged sharp weapon. The Court found those medical findings consistent with the eyewitness account. It considered the knife allegedly recovered on the appellant's disclosure and the material from the scene. It rejected the defence contention that the absence of a forensic report or a doctor's comparison necessarily defeated the prosecution case. Applying *Guru Dutt Pathak*, it found that additional independent witnesses were unnecessary in view of the credible injured witness and other eyewitnesses. Applying *Krishna Gope*, it did not allow peripheral objections about timing or opportunity to observe to outweigh the consistent central account. It concluded that the appellant had inflicted the fatal attack and injured Najma, and affirmed the trial court's assessment of proof.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the conviction and concurrent sentences dated 18 October 2011 under Sections 302 and 324 IPC, including the fines and default stipulations. The appellant, stated to be in jail, was directed to remain there to serve the balance of his sentence. Copies were directed to be sent to the jail authorities and the trial court.

Abid Mohammad Siddiki v. State of Madhya Pradesh, Cr.A. no. 1014/2011, 12/05/2022, D.B., Hon'ble Justice Shri Rajeev Kumar Shrivastava & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (9) Prev Next

Headnote :- Evidence — test identification parade / child witness - *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1; Prakash v. State of Karnataka, (2014) 12 SCC 133; Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*; and *Mulla v. State of U.P., (2010) 3 SCC 508*, were considered. Identification at a parade provides corroboration; identification in court is substantive evidence, but the weight to be attached to it depends on the circumstances. The frightened six-year-old's failure to identify the accused at the parade was assessed alongside her detailed and repeated identification in court, the evidence of two other identifying witnesses and the medical evidence.

Sentencing — child rape / proportionality - *Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77*, and *Raj Bala v. State of Haryana, (2016) 1 SCC 463*, guided the refusal to reduce life imprisonment merely because the period in custody exceeded the stated ten-year minimum. The Bench considered the gravity of the assault, the victim's physical injury and

observed fear, and the need for proportionate punishment.

Case-note :- ***1. Facts :*** On 11 March 2006, a six-year-old girl was found bleeding near a public toilet or culvert. Her father (PW1) reported the occurrence without initially naming an assailant. The prosecution alleged that an unknown man had given her a sweet and money, taken her to the toilet and raped her. Dr Sunita Jain (PW11) recorded blood stains, a ruptured hymen and a tear of the posterior vaginal wall, and gave an opinion that recent sexual assault was possible. The accused, Aftab Khan, was later identified at parades by shopkeeper Ayodhya Prasad (PW2) and bystander Rishabh Vijay (PW5). The child could not identify him at the parade; the executive magistrate recorded her fear and young age. At trial, however, she identified him after initial reluctance and described the assault. PW2 and PW5 also identified him in court. On 26 August 2006, the Fourth Additional Sessions Judge (Fast Track), Shivpuri, in Sessions Trial No. 127/2006, convicted him under Section 376 IPC and sentenced him to life imprisonment. In his appeal under Section 374(2) CrPC, he challenged the identification evidence, including the child's failure at the parade. He later sought a reduction in sentence on the ground that he had already served more than eleven and a half years. The prosecution relied on the witnesses and medical findings. A shopkeeper called by the defence supported an alibi, but kept no records to substantiate it.

2. Precedents — Considered : *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, was cited for the distinction between substantive identification in court and the corroborative role of a test identification parade (TIP). It also recognised that the absence of a TIP does not automatically make identification in court inadmissible. *Prakash v. State of Karnataka, (2014) 12 SCC 133*, qualified that principle: a parade is desirable where a stranger has been seen briefly, and the weight of identification depends on the opportunity to observe, delay and surrounding circumstances. Its discussion of doubtful first identification did not automatically determine the result here, where two other witnesses had identified the accused at parades. *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*, further explained that identification for the first time in court may be weak, that a TIP forms part of the investigation and provides corroboration, and that its absence is not inevitably fatal. It reproduced *Malkhan Singh* on Section 9 of the Evidence Act and Section 162 CrPC. *Mulla v. State of U.P., (2010) 3 SCC 508*, was cited on prompt conduct of parades and the risk of prior exposure of the accused. On sentence, *Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77*, was applied in relation to gravity, proportionality, deterrence and the circumstances of the victim and society. *Raj Bala v. State of Haryana, (2016) 1 SCC 463*, reinforced the need to exercise sentencing discretion rationally.

3. Statutes considered : Section 376 IPC supplied the charge, conviction and sentencing issue. Counsel referred to a ten-year minimum for rape of a girl under sixteen when seeking a reduction in sentence; the Bench left the life sentence intact. Section 374(2) CrPC governed the appeal. Section 9 of the Evidence Act and Section 162 CrPC appeared in the quoted Supreme Court discussion of the relevance of identification evidence and its role during investigation. The High Court did not separately interpret those provisions. The judgment concerned an offence committed in 2006.

4. Issues : Whether guilt beyond reasonable doubt could be affirmed where the child complainant failed to identify the accused at a TIP but later identified him in court, while other witnesses identified him both at parades and in court; whether the medical findings supported the occurrence; and whether the period served beyond the stated minimum justified reducing the life sentence.

5. Ratio / Findings : The medical examination showed recent genital bleeding, hymenal rupture and a vaginal-wall tear, which the Bench treated as proof of the assault on the evidence in this case. PW2 stated that he had seen the accused with the child at his shop. He identified the accused at a parade and in court, denied that the police had shown him the accused earlier, and explained the changes in beard and clothing. PW5 identified in court the man whom he had seen leaving the toilet with his trousers in his hand and blood on his shirt. The magistrate proved an earlier parade identification, although PW5 did not himself mention that parade in his testimony; the Bench expressly noted this gap. The child described the sweet, being taken to the toilet, removal of clothing and the assault. She repeatedly identified the accused in court and denied tutoring. The magistrate had recorded her fear and movement during the parade, and the trial judge recorded her initial reluctance to look at the accused. The Bench treated her failure at the parade as understandable, rather

than decisive. It applied the distinction between substantive identification in court and a corroborative TIP, without treating identification in court as invariably reliable. The alibi witness provided no records to support the asserted employment and presence at the shop. These accounts, taken together with the medical evidence, established identity and guilt, and the conviction was affirmed. On sentence, the Bench treated the child's injuries and observed fear as material evidence of the impact on the victim. It considered the gravity of the assault and its consequences for society, and found life imprisonment proportionate despite the submission that eleven and a half years had been spent in custody. Its concern about possible lasting trauma was a judicial assessment, rather than medical evidence of a diagnosed condition.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the conviction under Section 376 IPC and the life sentence imposed on 26 August 2006. It declined the requested reduction in sentence.

Aftab Khan v. State of Madhya Pradesh, Cr.A. no. 653/2006, 28/03/2018, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vivek Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (10) Prev Next

Headnote :- Investigation — accused's role / fair process - *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was applied. An accused cannot choose the investigating agency or dictate how the investigation is conducted, although substantiated mala fides may justify exceptional judicial directions. The Court followed *Prabal Dogra* in distinguishing monitoring the fairness of an investigation from supervising the investigator's opinion. In the absence of specific investigative mala fides, the accused's alternative account of the complainant's travels did not justify intervention under Section 156(3) or Section 482. Section 91 CrPC may provide a later means of seeking production of documents.

Case-note :- ***1. Facts :*** In Crime No. 186/2020 at Malanpur police station, Bhind, a woman who had initially been reported missing later stated that she and her children had been taken to Haryana and that Rinka had sexually assaulted her. Aftar Khan, seeking to resist his implication in the investigation, asserted that she had instead travelled voluntarily with Vikas alias Javed through hotels and other cities, using a forged identity card. He asked the police to investigate that account and then applied to the Judicial Magistrate First Class, Gohad, under Section 156(3) CrPC. The magistrate rejected his application on the ground that an accused had no say in the matter. Khan then petitioned under Section 482 CrPC, seeking a fair and impartial investigation and challenging the magistrate's order. The High Court required counsel to address maintainability. Counsel invoked the constitutional importance of a fair investigation but did not identify specific investigative mala fides.

2. Precedents — Considered : The applicant cited *Babubhai v. State of Gujarat, (2010) 12 SCC 254*, on the fundamental importance of a fair investigation, along with *State of Maharashtra v. Sheela Ramesh Kini, (1998) 9 SCC 346*, and *Varinder Kumar v. State of Himachal Pradesh, (2020) 3 SCC 321*. The Bench relied *on Romila Thapar v. Union of India, (2018) 10 SCC 753*, for the governing distinction: an accused cannot choose the investigating agency or the manner of investigation. Specific material showing mala fide exercise of investigative power may justify appropriate directions under Article 226, while the extraordinary power to transfer an investigation to the CBI must be exercised sparingly and in exceptional circumstances. The quotations from *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar* and the Constitution Bench decision in *Committee for Protection of Democratic Rights* formed part of *Romila Thapar*'s reasoning; the Bench made no separate findings under those cases here. The Bench also quoted and followed *its* earlier decision i*n Prabal Dogra v. Superintendent of Police, Gwalior* (MCRC 10446/2017, 30 November 2017). That decision used *Manohar Lal Sharma v. Principal Secretary* to distinguish monitoring an inquiry to ensure that it is free, fair and timely from judicial supervision of the investigating officer's conclusion.

3. Statutes considered : Section 156(3) CrPC was the basis of the application rejected by the magistrate; Section 482 CrPC was invoked for relief before the High Court. Section 91 CrPC was identified as a possible later means of seeking production of hotel or other records; no order under that provision was made. Article 226 was discussed through *Romila Thapar* as an exceptional constitutional route where mala fides are substantiated; it was not the basis of any relief granted here. The quoted authorities mentioned Sections 154 and 173(2) CrPC in explaining FIR

registration and investigative autonomy; the Court did not adjudicate those provisions as separate claims.

4. Issues : Whether an accused may invoke Section 156(3) and Section 482 to require the police to investigate his alternative account of the complainant's movements, or to control the agency and manner of an ongoing investigation, when no specific mala fides on the investigator's part have been shown; and whether rejection of his application to the magistrate called for interference.

5. Ratio / Findings : The Bench held that the right to a fair investigation does not entitle an accused to dictate how the investigator tests witness accounts or forms an opinion. Judicial supervision of investigative conclusions could prejudice the later trial. Exceptional monitoring or appropriate directions require concerns about fairness to be supported by material, including actual investigative mala fides. Khan offered an alternative account of the complainant's travels and alleged use of a forged identity card, but made no specific allegation that the investigating officer had acted for extraneous reasons. On that record, the magistrate correctly refused his request, and the High Court declined to direct the police to investigate from the accused's chosen perspective. The Court expressly preserved the ordinary procedural opportunities available to Khan: he could defend himself at later stages and, if advised, seek production of hotel or other documents under Section 91 CrPC. It neither found his alternative account false nor decided the underlying sexual-offence accusation.

6. Relief : The Hon'ble High Court dismissed the application, leaving the magistrate's refusal dated 13 March 2021 undisturbed. No direction for investigation or order for production of documents was made.

Aftar Khan v. State of M.P. and Others, M.Cr.C. no. 18486/2021, 08/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (11) Prev Next

Headnote :- Liberty writ — foreign national / completed sentence - *Bhim Singh v. Union of India, (2012) 13 SCC 471*, was applied. A foreign national who has served the sentence but cannot yet be repatriated may be kept at an appropriate detention centre with restricted movement and basic facilities. Such a person cannot be kept as a prisoner solely while confirmation of nationality is awaited. Declaring a jail a temporary detention centre did not justify this petitioner's continued confinement after completion of his sentence. The Bench directed his transfer to a detention centre in Assam pending determination of nationality and deportation, while permitting a later transfer to another detention centre by order of the competent authority.

Case-note :- ***1. Facts :*** Ahmed Almakki described himself as a Rohingya refugee born in Saudi Arabia to parents from Myanmar. His account of travel through Bangladesh and India, and his nationality, remained disputed or unresolved. The Union reported that Saudi Arabia would not accept him and that the Bangladeshi passport he had used was forged. He was arrested at Gwalior, convicted of offences under the Foreigners Act, 1946 and Passport Act, 1920, and completed a three-year sentence in September 2017. He alleged harsh conditions in a detention room at a police station. He left that facility in June 2018, was arrested again and received a further three-year sentence under the Foreigners Act, which he also served. From July 2021, the authorities treated part of Central Jail, Gwalior, as a temporary detention centre for him, although he was no longer serving a criminal sentence. In Writ Petition No. 1818/2023 under Article 226, he sought habeas corpus or related relief, transfer to an appropriate detention centre, efforts towards deportation, basic amenities and return of materials. Interim orders sought information about other centres and the Union's plan. On 9 December 2024, the Bench recorded that neither the State nor the Union could justify designating the jail as a detention centre. It characterised the custody as illegal and allowed them time to address transfer or payment of monthly costs. At the final hearing, the Union stated that Saudi Arabia had refused repatriation, discussions with Bangladesh were continuing, and the petitioner could be kept at a centre in Assam or West Bengal. The judgment does not resolve the factual nationality dispute.

2. Precedents — Considered : *Bhim Singh v. Union of India, (2012) 13 SCC 471*, was the decisive Supreme Court authority. In that case, foreign prisoners who had served their sentences could not continue to be treated as prisoners merely because confirmation of nationality and repatriation were delayed. The Supreme Court described restrictions on movement at appropriate detention centres under Section 3(2)(e) of the Foreigners Act and paragraph

11 of the Foreigners Order, with basic electricity, water and hygiene facilities. It expressly left the validity of detention under those provisions undecided. The High Court applied to Almakki's case the distinction between continued imprisonment after completion of sentence and placement in an appropriate detention centre.

3. Statutes considered : Article 226 of the Constitution provided the writ jurisdiction. The Bench held that continued prison confinement after completion of both sentences violated Articles 20 and 21. The convictions were under the Foreigners Act, 1946 and Section 3 of the Passport Act, 1920. The judgment's account refers to Sections 14(b) and, later, 4/14 of the Foreigners Act; it does not reopen those convictions. Section 3(2)(e) of the Foreigners Act and paragraph 11 of the Foreigners Order, 1948, appeared in the quoted explanation in *Bhim Singh* of restrictions on movement pending repatriation. The Bench did not decide the validity of any fresh detention order or the petitioner's statutory nationality status.

4. Issues : Whether the authorities could continue to hold a foreign national in Central Jail after completion of two criminal sentences merely by declaring the prison a temporary detention centre while nationality and deportation remained unresolved; and what placement the Court could direct in the liberty writ during that period.

5. Ratio / Findings : The Bench treated completion of both sentences and the fact that the petitioner was no longer required in any criminal case as decisive. It had already required the Union to explain the availability of detention centres, and neither government justified designating Central Jail as a detention centre. Applying *Bhim Singh*, it reasoned that inability to deport a person who has served the sentence does not permit continued treatment of that person as a prisoner or deprivation of basic human dignity. It characterised Almakki's continued confinement in Central Jail as violative of Articles 20 and 21 and directed that he be lodged in a detention centre in Assam pending determination of nationality and deportation. The Union had conceded that a centre in Assam or West Bengal could be used while discussions with Bangladesh continued. The order permits transfer from the Assam centre to another detention centre if the competent authority considers it necessary. The Court did not adjudicate citizenship, the factual allegations of mistreatment, damages or the detailed adequacy of facilities at a particular centre. The requirements for basic facilities were drawn from the applied Supreme Court standard.

6. Relief : The Hon'ble High Court disposed of the writ petition with a direction to place Almakki in a detention centre in Assam until his nationality is decided and he is deported. A later transfer remained subject to an order of the competent authority. The Court made no order for monetary compensation or return of property.

Ahmed Almakki v. State of Madhya Pradesh and Others, W.P. no. 1818/2023, 10/12/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Roopesh Chandra Varshney, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (12) Prev Next

Headnote :- Trial — defence witness / cross-examination - Once a party begins examining DW3, it cannot "give him up" when adverse evidence emerges during cross-examination. Sections 138 and 154 of the Evidence Act provide for the proper sequence of examination, re-examination and, with permission, questions to one's own witness. The trial court's refusal to read the evidence on the ground that the defence had not had an opportunity to cross-examine its own witness was rejected.

Evidence — medical and ocular conflict - *State of Uttarakhand v. Darshan Singh, (2020) 12 SCC 605, CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, guided the test: expert opinion does not displace credible direct testimony unless it rules out that account. Reports from other doctors and the first doctor's conduct undermined his claims concerning blackening around all wounds and the trajectory of the shots.

Unlawful assembly — Section 149 / common object - *Sukhbir Singh v. State of Haryana, (2002) 3 SCC 327; Manjit Singh v. State of Punjab, (2019) 8 SCC 529; Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*; and *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, were considered. Repeated exhortations to kill and the supply of cartridges proved the participation and knowledge of the particular unarmed members in this five-person assembly.

Private defence — staged injury / proportionality - The evidence did not support the alleged attack or the account of firing from the roof. The contrary circumstances included a son's close-range injury,

the burning roof, the absence of cartridges on the roof, the witnesses' positions and the damaged gun later concealed by the shooter. Dismissal of the cross-complaint did not replace examination of the evidence. No imminent need for defensive action justified the indiscriminate firing.

Sentence — state appeal / rarest of rare - *Amar Singh Yadav v. State of U.P., (2014) 13 SCC 443*, and *Santosh Kumar Singh v. State of M.P., (2014) 12 SCC 650*, were applied. Despite three killings and ten injuries, the Bench rejected enhancement to death sentences. It relied on the absence of criminal antecedents or evidence negating the possibility of reformation, the context of the family land dispute and the trial court's imposition of life imprisonment.

Case-note :- ***1. Facts :*** A boundary dispute between brothers Ahmed Sayeed and Abdul Azeez brought members of their families together in village Jhujhalakheda, Vidisha, on 5 May 2003 to affix stones following an attempt to resolve the dispute. The prosecution alleged that, after a scuffle, Ahmed Sayeed returned from his home with a .12-bore gun. In that account, his son Shakeel carried cartridges, while his sons Samim and Anees, along with Yusuf, exhorted him to kill. Repeated firing killed Abdul Azeez, Fida Mohammad and Rabia Bi and injured numerous others. Gaffar Khan reported the incident in a Dehati Nalishi at 10:25 a.m.; a formal FIR followed. Medical examinations recorded extensive pellet wounds. A cross-FIR alleged that the complainant side had attacked the home, set it alight and shot Samim. The police filed a closure report. A private complaint was dismissed, and that dismissal survived revision and Section 482 proceedings. On 13 April 2010, the Additional Sessions Judge, Sironj, convicted Ahmed Sayeed, Samim, Anees and Shakeel of three counts of murder under Sections 302/149 IPC, three counts of attempted murder under Sections 307/149, and rioting under Sections 147/148. The court imposed concurrent life and lesser terms with fines. Their appeal questioned the consistency of the medical and eyewitness evidence, Samim's injuries, non-recovery of a cartridge belt and the finding of common object. They also relied on private defence and, alternatively, sought application of Section 304. The State cross-appealed for death sentences. An unusual trial question also arose: after examining medical witness DW3, the defence sought to withdraw him during prosecution cross-examination.

2. Precedents — Considered : On medical and ocular evidence, the Bench used *State of Uttarakhand v. Darshan Singh, (2020) 12 SCC 605*, which discussed *Abdul Sayeed v. State of M.P.; CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*; and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*. These authorities required medical opinion to be tested against reliable direct evidence, while distinguishing a case in which the medical evidence genuinely ruled out the account. *Sukhbir Singh v. State of Haryana, (2002) 3 SCC 327; Manjit Singh v. State of Punjab, (2019) 8 SCC 529; Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743; Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*; and *Lakshman Singh v. State of Bihar, (2021) 9 SCC 191*, informed the distinct inquiry into common object, including exhortation by unarmed members. *Nathi Lal v. State of U.P.*, 1990 Supp SCC 145, and *State of M.P. v. Mishrilal* were considered on separate evidence and coordinated trial in genuine cross-cases. *Abdul Sayeed v. State of M.P., (2010) 10 SCC 259*, supported reliance on injured witnesses in context. *Gurvinder Singh v. State of Punjab, (2018) 16 SCC 525*, limited any automatic inference from an accused's unexplained injury. *State of Karnataka v. Moin Patel, (1996) 8 SCC 167*, and *Jafel Biswas v. State of W.B., (2019) 12 SCC 560*, guided the treatment of delayed FIR dispatch. *Nagji Odhavji Kumbhar v. State of Gujarat, (2019) 5 SCC 802*, and *Mohd. Asif v. State of Uttaranchal, (2009) 11 SCC 497*, addressed the exceptions to murder. *Amar Singh Yadav v. State of U.P., (2014) 13 SCC 443*, and *Santosh Kumar Singh v. State of M.P., (2014) 12 SCC 650*, supplied the framework for capital sentencing. The decision also cited a Kerala High Court ruling on withdrawal of a witness, which reproduced *Sukhwant Singh v. State of Punjab*.

3. Statutes considered : Sections 141, 147, 148 and 149 IPC govern unlawful assembly, rioting and constructive liability. The convictions under Sections 302/149 and 307/149 were affirmed. Section 300 Exception 4 and Section 304 Part I were invoked as an alternative to murder, but that contention was rejected. Private defence was considered on the factual record and was not upheld. Section 374(2) CrPC provided the basis for the appeals against conviction. Sections 82 and 83 concerned abscondence and attachment; Section 157 concerned delayed dispatch of the FIR; and Section 354(3) appeared in the reasoning on death sentences quoted

from precedent. Sections 138 and 154 of the Evidence Act governed the sequence of examination and permission to question one's own witness. Section 313 CrPC was used at trial. The State's separate appeal sought enhancement to death sentences. The decision did not alter the statutory minimum sentence.

4. Issues : Whether reliable eyewitness and medical evidence established the killings, attempted killings and identity of the assailants despite conflicting accounts of blackening, unexamined or partially examined witnesses, delayed FIR dispatch and the missing cartridge belt; whether the sons and Yusuf formed a five-person assembly sharing a common object to kill; whether the alleged attack on the house and Samim's injury justified private defence or reduction to culpable homicide; whether a party could withdraw its own witness during examination; and whether the State established that the case fell within the rarest-of-rare category warranting enhancement to death sentences.

5. Ratio / Findings : Three postmortems established homicidal deaths from shotgun fire, and reports concerning numerous injured persons corroborated the firing. Dr Arun Jaroliya's claim of blackening around practically every wound conflicted with Dr Geeta Rani Gupta's postmortem findings and Dr Amit Hadole's examinations. The Bench also criticised Jaroliya's reluctance to attend trial and his unsupported inference based on the supposed heights of the deceased men. It rejected those particular opinions while retaining the consistent medical evidence of injury and the eyewitness accounts. The defence had called Hadole (DW3) to prove Samim's wound, but sought to give him up when cross-examination extended to other victims. A witness already examined in chief cannot be withdrawn to defeat cross-examination. The trial court's contrary ruling and its suggestion that the defence had a right to cross-examine its own witness were erroneous. His partially recorded evidence was read, and the available reports were evaluated. The Bench found Gaffar and the injured witnesses substantially credible despite peripheral variations; it did not require every injured person to testify. Earlier omissions at the crime scene, non-seizure of Shakeel's cartridge belt and belated dispatch under Section 157 did not undermine the prompt report, actual investigation and corroborated testimony. The evidence contradicted the account of private defence: the roof from which firing was alleged was tiled and burning; no cartridges were shown to have been found there; injury positions did not fit firing from a single point; the cross-case account had been rejected; and Samim's close-range wound was found to be a later contrivance. Ahmed Sayeed absconded and was found with a broken gun bearing nitrate residue and cut firing pins. In finding a common object, the Bench relied on the sons' specific, repeated exhortations and Shakeel's supply of ammunition after the group returned armed, rather than mere kinship. With Yusuf, whose separate trial remained pending, the group numbered at least five. The repeated firing after the initial scuffle, which killed three and injured ten, was neither justified force nor within the sudden-fight exception to murder. The State's request for capital punishment failed. The Bench weighed the severity of the offences against the context of the family land dispute, the absence of shown criminal antecedents and the absence of evidence foreclosing reformation, and retained life imprisonment.

6. Relief : The Hon'ble High Court dismissed both the appeal by the convicted appellants and the State's appeal. It affirmed the convictions dated 13 April 2010, concurrent life sentences on three murder counts, seven-year terms on three attempted-murder counts, rioting terms, fines and sentences in default. It rejected enhancement to death sentences. Ahmed Sayeed and Shakeel remained in jail. Samim and Anees, who had been on bail, were ordered to surrender immediately, and their bail bonds were cancelled.

Ahmed Sayeed and Others v. State of M.P., Cr.A. no. 410/2010 & 456/2010, 04/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (13) Prev Next

Headnote :- POCSO — victim age / school record and ossification - *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, applied the statutory hierarchy of documents to a child victim. *State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736*, and *Murugan v. State of T.N., (2011) 6 SCC 111*, informed the consideration of Section 35 of the Evidence Act and the probative value of entries made before the dispute arose. The proved school register and transfer certificate recorded 2 January 1997. An attested correction from 1999 made the complainant older, but did not make her an adult. *Mukarrab v.*

State of U.P., (2017) 2 SCC 210, cautioned against treating approximate ossification evidence as conclusive. Her age under eighteen rendered purported consent immaterial to the charged sexual offences.

Case-note :- ***1. Facts :*** The complainant was reported missing from her family home in September 2013. She was recovered on 11 October from the possession of appellant Ajay after roughly a month at his house in Satpada. She described a promise of marriage and repeated sexual acts; in cross-examination she also admitted that she had gone with him willingly. The appellant relied on a marriage agreement and her affidavit, and disputed that she was a child. His defence doctor assessed her age at eighteen to twenty years on the basis of an ossification test. The prosecution produced a school register and transfer certificate recording 2 January 1997. The register showed an attested correction from 2 July 1999 to 2 January 1997. A school officer produced the original and testified about the entry and correction, though he could not identify the precise source of the entry made in Class I. On 23 September 2015, the First Additional Sessions Judge, Vidisha, convicted Ajay under Section 368 and Section 376(2)(n) IPC and Section 6 POCSO, imposing concurrent seven- and ten-year terms of rigorous imprisonment and fines. Two co-accused were acquitted, and their acquittals were not challenged. In appeal, Ajay relied on the medical estimate to challenge the documentary proof of age and also relied on her account of voluntary departure.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, was applied for the sequence under Rule 12(3) of the Juvenile Justice Rules, 2007, which the Supreme Court extended to determining a child victim's age: the prescribed educational or birth documents, where available, take precedence over medical opinion. *State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736*, established the admissibility of a school register under Section 35 of the Evidence Act, while observing that such entries have evidentiary value and can be corroborated. *Murugan v. State of Tamil Nadu, (2011) 6 SCC 111*, stressed documents made ante litem motam and careful appraisal of their source and probative value. *Mukarrab v. State of U.P., (2017) 2 SCC 210*, treated radiological or ossification evidence of age as a guide subject to a margin of error, rather than a precise or conclusive measure. The Bench relied on the attested school material prepared before the incident, rather than rejecting it mechanically because of the visible correction. It did not hold that an ossification report could never assist where reliable documents were unavailable.

3. Statutes considered : Section 6 POCSO and Section 376(2)(n) IPC were the provisions under which the sexual-offence convictions were recorded. The conviction under Section 368 IPC was also affirmed. Section 35 of the Evidence Act governed the admissibility and weight of the school entry made in discharge of a public duty. Rule 12(3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007, as applied to a victim by *Jarnail Singh*, supplied the sequence for proving age discussed by the Court. Section 374 CrPC provided the route of appeal. The judgment concerned an occurrence in 2013.

4. Issues : Whether the school record, containing a visibly corrected but authenticated date of birth entered before the incident, and the transfer certificate proved that the complainant was under eighteen despite an ossification estimate of eighteen to twenty and uncertainty about the source of the initial entry; and whether the asserted marriage agreement and voluntary departure affected the sexual-offence convictions that were affirmed.

5. Ratio / Findings : The original school register and transfer certificate both recorded 2 January 1997. The earlier visible entry was 2 July 1999, and the principal had attested the correction. The correction made the complainant older and therefore did not favour a finding that she was a child. The records had been prepared long before the alleged offence. The Bench accepted them under Section 35, treating the inability to explain precisely the source of the Class I entry as insufficient to displace their probative value in these circumstances. The ossification estimate of eighteen to twenty was less precise and remained subordinate to the accepted documentary age. Either recorded birth date placed her below eighteen when the incident occurred in September 2013; the Court adopted 2 January 1997. It considered her recovery from Ajay's possession, her account of repeated sexual acts and her admission of voluntary departure. As she was a child, the purported consent and marriage materials did not negate liability under the charged sexual provisions. The Court affirmed proof beyond reasonable doubt without disturbing the unchallenged acquittals of the other two accused.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the conviction dated 23 September 2015. It affirmed the concurrent seven-year term under Section 368 and ten-year term under Section 376(2)(n)/Section 6 POCSO, together with the fines and default imprisonment. The ten-year term for the sexual offence was identified as the minimum then applicable. Ajay remained in jail.

Ajay v. State of M.P., Cr.A. no. 948/2015, 02/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (14) Prev Next

Headnote :- Matrimonial cruelty — relatives / specific acts - *K. Subba Rao v. State of Telangana, Criminal Appeal No. 1045/2018* (21 August 2018), *Kans Raj v. State of Punjab, (2000) 5 SCC 207, Monju Roy v. State of W.B., (2015) 13 SCC 693, Chandralekha v. State of Rajasthan* and *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, guided scrutiny of omnibus allegations. The complainant did not dispute that the two applicants were about thirteen and eleven when all the in-laws allegedly began demanding ₹5 lakh. Neither the FIR nor the Section 161 statement specified any act by them. The FIR was quashed insofar as it concerned these applicants.

Costs — implausible collective accusation - The Court imposed costs of ₹10,000 on the complainant for the unsupported inclusion of the siblings. Of this amount, ₹4,000 was payable to each of the two applicants and ₹2,000 to the Registry. The costs were payable within sixty days.

Case-note :- ***1. Facts :*** A woman married Pramod in July 2005 and lodged Crime No. 360/2017 at Kotwali, Bhind. She alleged that, from about 2006, his family collectively demanded ₹5 lakh and harassed her mentally and physically for non-payment. The police registered offences under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act. The husband's younger brother, Ajay Batham, and sister applied under Section 482 CrPC. They stated their ages in the petition as twenty-four and twenty-two and asserted that they had been twelve and ten when the marriage took place. They were therefore about thirteen and eleven when the alleged demand began. The complainant filed a reply but did not dispute those pleaded ages. Her Section 161 statement repeated the collective accusation without describing what either applicant had done or how either had harassed her. They sought quashing as to themselves. The State and complainant maintained that the allegations of demand and harassment were sufficient. The judgment does not decide the husband's or other in-laws' liability.

2. Precedents — Considered : *K. Subba Rao v. State of Telangana (Criminal Appeal No. 1045/2018, 21 August 2018)* was cited for restraint in prosecuting relatives on omnibus matrimonial allegations and the threshold of abuse of process, referring to *State of Haryana v. Bhajan Lal*. *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, cautioned against indiscriminate inclusion of relations. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, required specific material against distant relatives and distinguished omnibus allegations against brothers, sisters and other relatives from those against the husband and parents. *Chandralekha v. State of Rajasthan* illustrated quashing for general accusations in the particular chronology of that case. *Preeti Gupta v. State of Jharkhand* and *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, reinforced careful scrutiny and the need to state individual roles. *Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*, was quoted on misuse and concerns about arrest, but the operative question here was quashing, rather than an arrest order. The Bench applied those principles to the undisputed chronology of the applicants' childhood and the lack of particulars.

3. Statutes considered : Section 482 CrPC supplied the inherent jurisdiction to quash proceedings amounting to an abuse of process. Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act were the offences registered in the FIR. The complainant's statement under Section 161 CrPC was also examined for particulars of individual acts. The Court found no prima facie case against these particular relatives on the pleaded facts.

4. Issues : Whether a collective allegation that all the in-laws began demanding ₹5 lakh and harassing the wife from 2006 made out a prima facie case against the husband's younger siblings, given their undisputed minority at that time and the absence of any stated individual act; and whether their inclusion warranted quashing and costs in the circumstances of the case.

5. Ratio / Findings : The Bench accepted the applicants' pleaded ages because the complainant did not dispute them. According to the FIR's chronology, the siblings were about thirteen and eleven when the

alleged collective demand began. Yet neither the complaint nor the police statement specified any overt act or concrete manner of physical or mental harassment by either applicant. The Court considered these allegations vague, omnibus and too far from reality. It reasoned that minors of those ages were not expected to understand the meaning of dowry or to harass the complainant for non-fulfilment of a dowry demand. On the undisputed ages and absence of particulars, it found no prima facie case requiring these two applicants to face trial. The ruling was confined to the younger brother-in-law and sister-in-law. The Court did not test the evidence at a full trial. It characterised their inclusion as a serious misuse that subjected them to the needless burden of criminal proceedings and awarded costs in the specified allocation.

6. Relief : The Hon'ble High Court allowed the application and quashed Crime No. 360/2017 under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act only insofar as the two applicants were concerned. It ordered respondent No. 2 to deposit costs of ₹10,000 within sixty days, of which ₹4,000 was payable to each applicant and ₹2,000 to the High Court Registry.

Ajay Batham and Others v. State of M.P. and Others, M.Cr.C. no. 9047/2017, 27/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (15) Prev Next

Headnote :- Kidnapping — minor's voluntary departure / enticement - *Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat, Criminal Appeal No. 1919/2010* (12 January 2021), distinguished an independent, informed departure from guardianship without assistance or inducement by the accused from active enticement. The school record showed that the girl was a minor when she met the petitioner at night and travelled with him on the prospect of marriage. The asserted marriage, her subsequent adulthood and her statements of willingness did not justify quashing the kidnapping and related sexual-offence charges; the reported physical relations began before she attained majority, when consent could not defeat the statutory allegations. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, and *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, guided the inquiry into whether the allegations, taken at face value, warranted quashing.

Case-note :- ***1. Facts :*** In December 2019, a girl's father reported that she had disappeared during the night and that Ajay Jatav was also missing. Her school record gave her date of birth as 1 February 2002. She was therefore still under eighteen when she left during the night of 20–21 December 2019. She was later recovered with the petitioner and a child in January 2021. Her statements under Sections 161 and 164 CrPC described meeting him outside her home, travelling via Bhopal to Isanpur, Telangana, and living with him. In the latter statement, she said she had left voluntarily and described sexual relations roughly ten days after arrival. She wanted to remain with him. The accounts differed on the marriage chronology; her Section 164 statement placed the marriage in early 2020. The statements differed on the precise month of marriage, but the reported sequence placed the first sexual relations before she attained majority in February 2020. A charge sheet under Sections 363, 366 and 376 IPC and Sections 5/6 POCSO had been filed, and trial was pending in Sessions Trial No. 19/2021. The petitioner invoked Article 226 to seek quashing of the charge sheet and proceedings. He relied on their love, marriage and child, the prosecutrix's current adulthood and stated consent, as well as the stalled trial and refusal of bail. The petition contained a clerical inconsistency in the crime year: the pleading initially stated 2018 instead of 2019. The Court allowed amendment and did not decide the quashing issue on that error.

2. Precedents — Considered : *Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat (Criminal Appeal No. 1919/2010, decided 12 January 2021)* was applied to kidnapping. Under *S. Varadarajan*'s principle, voluntary departure assists the accused only if the minor knew and could understand the full import of her act, voluntarily left guardianship, and received no assistance or inducement from the accused. A minor's purported consent does not defeat a charge based on enticement. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, referred to *Bhajan Lal*'s exceptional grounds for quashing and the need for a genuine prima facie allegation. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, was reproduced to caution against a mini-trial or consideration of the accused's external defence at the stage of charge. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, restated that proceedings may be quashed where the allegations genuinely disclose no offence; on this

record, the Bench found material allegations. The petitioner cited *Bhajan Lal* and decisions of the Allahabad and Delhi High Courts concerning mature couples. The Court distinguished the present case by the girl's age when the relevant acts occurred.

3. Statutes considered : Sections 363 and 366 IPC concerned the alleged taking or enticement of a minor and marriage-related abduction. Section 376 IPC and Sections 5/6 POCSO concerned alleged sexual activity while she was a child. The Court treated the age shown by the school record and the timing of the physical relations as decisive for the threshold inquiry, rather than as a final finding of guilt. Sections 161 and 164 CrPC supplied the recorded statements of the complainant. Article 226 was the pleaded route for seeking quashing by writ; standards under Section 482 CrPC were discussed by analogy through Supreme Court precedent. The separate refusal of bail did not determine the merits.

4. Issues : Whether a charge sheet for kidnapping and child sexual offences could be quashed solely because the girl said she had left willingly, later married the petitioner, had a child and wished to stay with him, although the school record showed that she was a minor both at departure and at the first reported sexual act; and to what extent a writ court could evaluate the evidence before trial.

5. Ratio / Findings : The Bench found that the girl had not attained eighteen when she left. Her own account described meeting the petitioner at night and travelling with him by bus and train on the prospect of marriage. Under *Anversinh*, these allegations could support active enticement despite her expressed willingness. The Court did not conclusively find that every element of kidnapping had been proved. It also noted that physical relations had begun about ten days after arrival, before February 2020. As she was then a minor, her consent could not negate a prima facie case under Section 376/POCSO. Her subsequent adulthood, marriage and child did not retrospectively change her age when the earlier acts occurred. Applying the test of taking the allegations at face value, the Bench declined to weigh the petitioner's defence or predict an acquittal. It expressly stated that its threshold observations would not bind the trial court, leaving final proof and credibility to be determined at trial.

6. Relief : The Hon'ble High Court dismissed the writ petition and declined to quash the charge sheet or Sessions Trial No. 19/2021. The trial court was directed to decide strictly according to law, without being prejudiced by the observations in the writ order. The application to correct and augment the petition was allowed separately. The amendment was to be carried out within two weeks from resumption of normal Court functioning, and the amended copy was to be uploaded in the meantime.

Ajay Jatav v. State of M.P. and Others, W.P. no. 9659/2021, 14/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (16) Prev Next

Headnote :- Liberty writ — prior anticipatory-bail refusal / parallel inquiry - After protection under Section 438 CrPC had been refused, the request under Article 226 to prevent coercive police action pending a Collector's committee inquiry was, in substance, an attempt to nullify the bail order. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, supported the separate limit on a suspect's control of investigation, while preserving exceptional directions where the High Court is convinced that investigative power has been exercised mala fide. The pending administrative inquiry did not bar lawful criminal or departmental action.

Case-note :- ***1. Facts :*** Brindawan or Vrindavan Sharma, a suspended employee, died by suicide after leaving a note. The police registered Crime No. 213/2020 at Dehat, Shivpuri, under Sections 306/34 IPC. On 29 June 2020, the District Magistrate constituted a committee to examine the allegations in the note. Petitioner Ajay Katiyar, whose request for anticipatory bail had already been refused, sought relief under Article 226. He requested consideration of his representation, a fair investigation by the committee, deletion of his name from the FIR, and restraint on coercive police and departmental steps until the committee concluded its inquiry. The petition and counsel's arguments focused on protection during that parallel inquiry.

2. Precedents — Considered : The petitioner relied on *Anjani Kumar v. State of Bihar, (2008) 5 SCC 248*, to contend that no offence under Section 306 IPC was made out. The Bench did not finally examine the suicide note or the ingredients of that offence in this writ. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was applied to the limited role of an accused or suspect in directing an investigation. The passages quoted from *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar* and *Divine Retreat*

Centre distinguish an impermissible choice of investigating agency or manner of investigation from exceptional directions under Article 226 where investigative power is shown to have been exercised mala fide. The Bench applied its earlier refusal under Section 438 to reject the protection sought by the no-coercive-action prayer.

3. Statutes considered : Article 226 of the Constitution supplied the basis of the writ petition. Section 438 CrPC governed the request for anticipatory bail that had already been rejected. Sections 306/34 IPC concerned the registered allegations of abetment and common intention, which were not adjudicated on merits. Rule 9 of the M.P. Civil Services (Classification, Control and Appeal) Rules, 1966, was mentioned as governing possible service consequences if the petitioner were arrested. The Court also declined to prohibit a departmental inquiry merely because the Collector's committee was examining the note.

4. Issues : Whether a suspect whose request for anticipatory bail had been denied could obtain equivalent protection against coercive action under Article 226 until an administrative committee completed its inquiry into a suicide note; and whether he could direct the police investigation or prohibit lawful departmental action in the meantime.

5. Ratio / Findings : The Bench identified the practical effect of the requested police restraint as protection in the nature of anticipatory bail. Since the High Court had already refused relief under Section 438, granting the same restraint through the writ would nullify that earlier order. The committee's pending administrative inquiry did not give the suspect authority to control the registered police case. A blanket restraint on lawful departmental steps was also refused. If the petitioner were arrested, the applicable service law would take its course; the pending committee inquiry did not prevent a lawful departmental inquiry. The Court did not determine whether Katiyar had actually abetted suicide or decide the final administrative findings.

6. Relief : The Hon'ble High Court dismissed the writ petition. No stay of arrest, change in the police investigation, deletion of the petitioner's name from the FIR or restraint on departmental action was granted.

Ajay Katiyar v. State of Madhya Pradesh and Others, W.P. no. 14101/2020, 25/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (17) Prev Next

Headnote :- Corruption — attempt — municipal work records - In appeals against convictions concerning a hand-pump work file, the Court found that the estimate, handling of quotations, bill, false completion certificate, absence of actual measurements and site evidence proved coordinated wrongdoing by the respective officials. Stopping payment of Rs. 9,940 after a complaint did not undo the established attempt. The convictions under Section 15 of the Prevention of Corruption Act read with Section 120-B IPC, and the additional IPC document and cheating offences against Narendra Singh Bhadoria, were affirmed on proof of the individual roles.

Evidence — official witness — measurement book - Following *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, the Court independently examined the original record instead of accepting a committee witness's assertion that measurements had been recorded. The book reproduced an estimate without dimensions or particulars of the work; the site panchnama also showed that no hand pump had been installed. Defects or unsupported testimony do not relieve a criminal court of its duty to assess all reliable evidence fairly. The prosecution must still prove its case beyond reasonable doubt.

Sentencing — public corruption — quantum and enhancement - Applying the analysis of public interest and gravity in *State of Karnataka v. J. Jayalalitha, (2017) 6 SCC 263*, the Court considered it wrong to assess the corruption case solely by the modest bill amount and the absence of actual payment. It nevertheless declined to initiate enhancement at that late stage. No notice had been issued when the appeals were admitted, and more than eight years had passed since conviction. The existing sentences were affirmed.

Case-note :- ***1. Facts :*** Ajay Pandvia (Cr.A. 429/2013), Narendra Singh Bhadoria (Cr.A. 440/2013), K.K. Shrivastava (Cr.A. 441/2013) and R.B. Shrivastava (Cr.A. 445/2013) brought four connected appeals under Section 374 CrPC against the judgment dated 29.05.2013 of the Special Judge (Prevention of Corruption Act), Gwalior, in Special Sessions Trial No. 01/2010. A complaint about

fictitious municipal water-supply maintenance work led to internal and vigilance inquiries and investigation by the Special Police Establishment (Lokayukt). The particular file, Article A-1, concerned a proposed hand pump at Rangiyana Colony. An undated request from a councillor sought a hand pump because of water scarcity. In a separate undated note, sub-engineer Narendra Singh Bhadoria claimed that the submersible pump had been removed and the bore cleaned. An estimate for Rs. 9,940 nevertheless included the cost of removing that same pump and installing the new equipment. Assistant engineer Ajay Pandvia forwarded the file. R.N. Karaiya, the executive engineer who was separately acquitted, permitted quotations. Notice was sent only to three identified contractors. Their undated quotations were entered consecutively on 19.08.2003. Pandvia opened them, although the Court found no authority for him to do so or to bypass scrutiny by the technical branch. A work order followed on 30.12.2003 and a bill on 02.01.2004. Bhadoria signed a certificate of satisfactory completion, which Pandvia later attested. The purported measurement book repeated the estimated items and prices without actual measurements or details of the installed pump or platform. The investigating officer who visited the site found the original submersible pump still in the bore and no hand pump installed. Payment was stopped after a complaint, and an inquiry committee closed the file.

The prosecution examined sixteen witnesses, including committee members, municipal staff and investigators. Several committee members acknowledged that they had reviewed thousands of files cursorily without site visits. One witness asserted in cross-examination that measurements had been recorded. The appellants maintained that quotations had been processed properly, the work had been done, no forged bill existed and no money had been paid. The trial court convicted Pandvia, K.K. Shrivastava and R.B. Shrivastava under Section 15 of the Prevention of Corruption Act read with Section 120-B IPC. It also convicted Bhadoria under Sections 420, 467, 468 and 471 IPC, in addition to the corruption and conspiracy charges. The four appeals were heard alongside separate State appeals concerning the acquittal of R.N. Karaiya, the contractor and another official. This common judgment disposed only of the appeals of the four convicted appellants.

2. Precedents — Considered : *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, was quoted after the Court independently found that the measurement book did not support a committee witness's assertion. The Supreme Court explained that crime affects society as well as the parties, that a criminal court has an active duty to reach a fair and true determination, and that a suspicious or defective investigation does not automatically destroy independently credible evidence. Its discussion reproduced *State of Karnataka v. K. Yarappa Reddy* and *Ram Bali v. State of U.P. on* careful, independent evaluation where investigation is defective, and the fair-trial perspective reflected in *NHRC v. State of Gujarat*. The High Court applied that duty of independent scrutiny to Article B. It did not treat the quoted passages as dispensing with proof beyond reasonable doubt or the rights of the accused.

State of Karnataka v. J. Jayalalitha, (2017) 6 SCC 263, was quoted on the gravity of corruption when the Court considered the trial sentence. The reproduced analysis drew *on State of M.P. v. Ram Singh* and *Niranjan Hemchandra Sashittal v. State of Maharashtra* to reject treating corruption as trivial merely because a particular amount is small. It discussed *R.S. Nayak v. A.R. Antulay on* construing anti-corruption legislation to further its purpose, and *Subramanian Swamy v. CBI on the* public purpose of effective investigation. The High Court used this material to criticise the lenient sentence, but imposed no enhanced term.

3. Statutes considered : Section 374 CrPC provided the route of appeal. For all four appellants, the convictions affirmed were under Section 15 of the Prevention of Corruption Act, 1988, read with Section 120-B IPC. Under the trial judgment, Bhadoria was additionally convicted under Sections 420, 467, 468 and 471 IPC. The order described sanction under Section 19 of the Prevention of Corruption Act for certain serving officials and recorded that two others had retired. The Court assessed the documentary and oral proof of the attempted misconduct.

4. Issues : (i) Whether the prosecution proved beyond reasonable doubt that the purported water work and its supporting estimate, quotations, measurement book, bill and completion certificate were false, and that each appellant's participation sustained his respective convictions; (ii) what weight should be given to a committee witness's assertion that measurements existed when the original book

and other records showed otherwise, given the incomplete or cursory inquiries; and (iii) whether the trial sentence was too lenient because the particular bill was only Rs. 9,940 and remained unpaid, and whether the appellate court should now issue notice to consider enhancement. The separate State appeals against acquittals were not finally decided in this judgment.

5. Ratio / Findings : The Court traced the municipal file chronologically. The initial assertion that the submersible pump had already been removed conflicted with an estimate charging for its removal and the spot panchnama showing it still in place. The claimed urgency due to summer water scarcity was questioned because approval to call quotations was given in late July. Only three contractors received notice. Their quotations appeared consecutively in the inward register on the same day; Pandvia opened and evaluated them without demonstrated authority and before examination by the technical branch. The bill submitted soon after the work order, the later general satisfaction stamp and the absence of contemporaneous site or measurement particulars did not establish installation. The Court examined Article B instead of accepting the contrary answer given by Rajesh Sharma (PW 6) in cross-examination. The book contained estimated prices, but neither the dimensions of the platform nor the specifications of a hand pump. Applying *Dayal Singh*, the Court made its own overall assessment of the reliable record despite weaknesses and changes in some official testimony. It found the file and certification false and the coordinated acts of the respective appellants proved beyond reasonable doubt. Bhadoria prepared the central note, estimate and purported verification; Pandvia handled quotations and attested completion; R.B. Shrivastava forwarded the bill without statutory deductions; and K.K. Shrivastava forwarded the file for payment despite the apparent defects. Payment was stopped because a complaint intervened, rather than because the underlying acts had not been attempted. The Court affirmed the respective convictions of all four appellants. These findings concerned the file under trial; references to other files provided context and were not additional findings of guilt.

On sentence, the Court considered that the Special Judge had been too lenient in focusing on the low value of this bill and the fact that payment had been stopped. It referred to the larger set of municipal files considered by an inquiry committee and to *J. Jayalalitha*'s warning against measuring public corruption solely by an amount of money. However, the conduct dated from 2003, conviction was in 2013, more than eight years had elapsed by the appeal, other trials were said to be pending, and no enhancement notice had been issued when these appeals were admitted. The Court therefore declined to initiate enhancement at that late stage and maintained the sentences.

6. Relief : The Hon'ble High Court dismissed all four conviction appeals. It affirmed the Special Judge's conviction and sentences dated 29.05.2013 insofar as they applied to Pandvia, Bhadoria, K.K. Shrivastava and R.B. Shrivastava, without issuing an enhancement notice. The affirmed sentences included six months' rigorous imprisonment and a fine of Rs. 10,000 for each offence under Section 15 of the Prevention of Corruption Act and Section 120-B IPC for each appellant. For Bhadoria, they also included two years' rigorous imprisonment and a fine of Rs. 15,000 for each offence under Sections 467, 468 and 471 IPC. The sentences were to run concurrently. Their bail bonds were cancelled, and they were directed to surrender immediately before the trial court, and in any event by 31.03.2022, to serve the remaining sentence. The trial-court record was to be returned for compliance. The separate acquittal appeals mentioned in the narrative were not disposed of by this operative order.

Ajay Pandvia and Others v. State of Madhya Pradesh, Cr.A. no. 429/2013 & 440/2013 & 441/2013 & 445/2013, 03/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (18) Prev Next

Headnote :- Matrimonial cruelty — Specific allegations against in-laws — Read together, the complainant's FIR and Section 161 CrPC statement alleged specific conduct by the parents-in-law and two brothers-in-law, including demands for money to purchase a flat, a coerced withdrawal, burning the complainant's hand, and a brother-in-law exposing himself or insulting her. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260,* distinguishes mere naming of distant relatives from allegations assigning a specific role. Applying that distinction, the Court found triable allegations against each applicant under Section 498-A IPC and Sections 3–4 Dowry Prohibition Act, without deciding guilt.

Section 482 CrPC — Omissions in the FIR **and restraint in** assessing **evidence** — Applying *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, the Court held that an FIR is not an encyclopaedia and that omission of later particulars does not, by itself, defeat an otherwise supported account. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, and *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, informed the requirement to consider allegations at face value and the prohibition against a detailed inquiry into the merits before trial. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, identified a limited exception for public documents or documents whose veracity the complainant does not dispute. Since the Section 161 statement alleged specific conduct and disclosed triable issues, the FIR, charge-sheet and prosecution were not quashed.

Case-note :- ***1. Facts :*** Ajit Lalchand Thadhani, his wife Duru and their sons Sandeep and Nikhil sought quashing of Crime No. 716/2019, the resulting charge-sheet and prosecution under Section 498-A IPC and Sections 3–4 Dowry Prohibition Act. The complainant married Amit Thadani in January 2016. Her FIR alleged taunts about dowry, physical harassment, demands for money to purchase a flat and for Rs 5,000 monthly, and withdrawal of Rs 3 lakh from her account under pressure. She later lived apart from the matrimonial family. Her Section 161 statement added specific allegations: Sandeep demanded money, Nikhil removed his clothes and insulted her, the father-in-law coerced the withdrawal, and the mother-in-law burnt her hand. The applicants argued that the FIR contained no allegations against the two younger brothers and that the accusations against the parents were vague. The State relied on the detailed subsequent statement. These are allegations at the quashing stage, not judicial findings that the acts occurred.

2. Precedents — Considered : *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, was applied for the principle that the first report need not contain every detail. Omissions must be assessed in their factual setting and are not automatically fatal. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, cautioned against a roving inquiry while investigation proceeds. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, recounted *Bhajan Lal*'s caution that the power must be used sparingly. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, supported consideration of allegations at face value and avoidance of adjudication on disputed evidence. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, described the limited exception permitting consideration of defence material where the document is public or its veracity is not disputed by the complainant. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, warned against proceedings based solely on distant family relationship but allowed trial where the complaint contained specific allegations. The Court also considered *Monju Roy* and *Chandralekha* and held that the specific allegations against all applicants prevented quashing.

3. Statutes considered : The application invoked the inherent jurisdiction under Section 482 CrPC. The complainant's statement recorded during investigation under Section 161 CrPC was read with the FIR at the stage before trial. The charged provisions were Section 498-A IPC and Sections 3 and 4 Dowry Prohibition Act. The Court did not finally determine the facts or adjudicate whether the ingredients of the offences were proved after evidence.

4. Issues : Whether omissions in the first report required the later specific allegations against the two brothers-in-law to be disregarded; whether the accusations against the four relatives were merely general; and whether, on those grounds, the High Court could quash the FIR, charge-sheet and prosecution under Section 482 before trial.

5. Ratio / Findings : A first report need not catalogue every alleged act. Reading it with the Section 161 statement, the Court found allegations of specific conduct against each applicant. Sandeep was alleged to have demanded money to purchase a flat and abused the complainant when she refused. Nikhil allegedly exposed himself and insulted her. The father-in-law allegedly compelled withdrawal of Rs 3 lakh from her account, and the mother-in-law allegedly demanded dowry and burnt her hand. In view of those particulars, the Court rejected the contention that no case was made out on the face of the allegations. *Taramani Parakh*'s concern about implicating relatives without a tangible role did not justify quashing in the presence of these specific allegations. Applying the Supreme Court's principles of restraint, the Court declined a detailed inquiry into

their disputed truth or genuineness or into the defence in proceedings under Section 482. It held that the material disclosed triable issues under the charged provisions, leaving credibility and liability to the criminal court.

6. Relief : The Hon'ble High Court dismissed the application. The FIR, charge-sheet and consequential prosecution against all four applicants were left to proceed; there was no acquittal or finding of guilt.

Ajit Lalchand Thadhani and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 36197/2021, 07/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (19) Prev Next

Headnote :- Alibi — A**ttendance** at court in the s**a**me **c**i**t**y — Presence at the **tim**e of occurrenc**e** — *Jitender Kumar v. State of Haryana, (2012) 6 SCC 204*, and *Om Prakash v. State of Rajasthan, (2012) 5 SCC 201*, required convincing proof excluding the accused's presence at the scene. *Jumni v. State of Haryana, (2014) 11 SCC 355*, required defence witnesses to be treated fairly. A bail order that did not record the time, read with the witness's account, did not establish that the appellants remained at the Bhind court when the burning occurred elsewhere in the city at 3 p.m. The alibi failed, but the prosecution still had to prove its case.

Dying declaration — extensive burns and m**ental fitness** — Under Section 32(1) Evidence Act, *Kanti Lal, (2009) 12 SCC 498*, and *Laxmi v. Om Prakash, (2001) 6 SCC 118*, required fitness of the declarant and careful scrutiny of the declaration. *Ashabai, (2013) 2 SCC 224*, *Sher Singh, (2008) 4 SCC 265*, *Jagbir Singh, (2019) 8 SCC 779*, and *Muthu Kutty, (2005) 9 SCC 113*, permitted reliance on an otherwise trustworthy declaration without mandatory corroboration. *Ramesh v. State of Haryana, (2017) 1 SCC 529*, and *Purshottam Chopra, (2020) 11 SCC 489*, held that burn percentage does not conclusively determine the capacity to make a statement. The Court accepted a prompt, coherent declaration recorded in question-and-answer form by an executive magistrate after a doctor certified fitness, together with a credible oral declaration. The challenge based on 90–100% burns did not displace that evidence.

Homicide — burn complications and infection — Explanation 2 to Section 299 IPC, as discussed in *Antram v. State of Maharashtra, (2007) 13 SCC 356*, and *Jagtar Singh v. State of Punjab, (1999) 2 SCC 174*, preserves causation where bodily injury caused death even though proper treatment might have prevented it. *Arjun Singh, (2011) 9 SCC 115*, and *Munnawar* were applied on death from fatal injuries despite later sepsis. *Khokan, (2021) 3 SCC 365*, rejected an automatic reduction to Section 304 Part I in every case involving septicaemia and was distinguishable on its facts. Deliberately setting the victim on fire with kerosene, causing burns sufficient in the ordinary course of nature to cause death, supported conviction under Section 302. Sepsis did not justify alteration to a lesser offence in these circumstances.

Delayed FIR — defective investigation and i**ndependent proof** — *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, required the prosecution evidence to be examined for reliability despite the investigator's lapses. The unexplained pendency of the merg inquiry for a year and the delayed FIR did not invalidate the promptly recorded dying declaration, which was independently assessed. Guilt remained proved beyond reasonable doubt.

Case-note :- ***1. Facts :*** Three connected appeals challenged life sentences imposed on 1 July 2011 in Sessions Trial No. 263/2010 for the murder of Sadhana Singh. Ajju alias Ajay, Raghvendra Singh Chauhan and Saurabh Singh were tried on evidence recorded separately after two accused were arrested later. The two trial judgments, delivered on the same day, were considered in a common appellate judgment. Sadhana suffered extensive burns at her Bhind home on 16 June 2009 and died on 21 June. An executive magistrate recorded her declaration in question-and-answer form at about 4:55 p.m. in hospital. It named the attackers and referred to their earlier quarrel. Her husband testified that she had also named them in an oral statement. Defence witnesses disputed her ability to speak and put forward an account of suicide. Some appellants had attended court for bail that day. The merg inquiry remained pending, and the FIR was lodged roughly a year later. The appellants disputed her fitness, relied on alibi and police delay, and argued that the later sepsis or treatment justified reducing the conviction from murder.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Criminal Appeal No. 1306/2021*, guided the Bench's separate

consideration of the evidence from the two trials. *Jitender Kumar v. State of Haryana, (2012) 6 SCC 204*, and *Om Prakash v. State of Rajasthan, (2012) 5 SCC 201*, required strict proof of alibi excluding presence at the scene. *Jumni v. State of Haryana, (2014) 11 SCC 355*, recognised that defence witnesses are entitled to equal treatment. *Kanti Lal v. State of Rajasthan, (2009) 12 SCC 498*, and *Laxmi v. Om Prakash, (2001) 6 SCC 118*, required actual fitness of the declarant and careful scrutiny of the reliability of a dying declaration. *Ashabai v. State of Maharashtra, (2013) 2 SCC 224, Sher Singh v. State of Punjab, (2008) 4 SCC 265, Jagbir Singh v. State (NCT of Delhi), (2019) 8 SCC 779, Vikas v. State of Maharashtra, (2008) 2 SCC 516*, and *Muthu Kutty v. State, (2005) 9 SCC 113*, informed its admissibility, voluntariness and sufficiency as independent evidence when trustworthy. *Ramesh v. State of Haryana, (2017) 1 SCC 529*, and *Purshottam Chopra v. State (NCT of Delhi), (2020) 11 SCC 489*, including the Constitution Bench principle in *Laxman*, rejected any universal rule based on a fixed burn percentage or mandatory medical certification. The recorder's satisfaction as to fitness and the declaration's truthfulness remained essential. *State of Rajasthan v. Arjun Singh, (2011) 9 SCC 115*, *Munnawar, Antram v. State of Maharashtra, (2007) 13 SCC 356*, and *Jagtar Singh v. State of Punjab, (1999) 2 SCC 174*, addressed causation despite sepsis or treatment. *Khokan v. State of Chhattisgarh, (2021) 3 SCC 365*, was distinguished because it involved a sudden quarrel and no premeditation. *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, supported assessing reliable evidence notwithstanding police delay.

3. Statutes considered : Section 374 CrPC governed the appeals. The charges were under Sections 302 and 34 IPC, and life imprisonment under Section 302 was affirmed. Section 32(1) Evidence Act governed statements relating to the cause of the declarant's death. Explanation 2 to Section 299 IPC was material to the contention that infection or treatment had broken the causal connection. Sections 300 and 304 IPC framed the proposed reduction to a lesser offence. The Bench discussed proof and investigation delay.

4. Issues : Whether the separately tried appellants' attendance at court established an alibi for the time of the burning; whether a woman with 90–100% burns could make trustworthy written and oral dying declarations; whether death following sepsis or the possibility of better treatment broke causation or justified conviction under Section 304 Part I; and whether a year's police delay made the prosecution case unsafe.

5. Ratio / Findings : The Bench considered the evidence from the two trials separately. The court order, which did not record the time, and the defence witness's account did not prove that the appellants remained at court when Sadhana was burnt at about 3 p.m. The court and her home were in the same city. No animus was suggested against the executive magistrate. He described a coherent declaration recorded in question-and-answer form after obtaining a doctor's fitness certification; both signed it. The medical witnesses accepted that a person with superficial burns might still speak. The witnesses relied on to show inability to speak had either left before the declaration was recorded or could not speak to her condition at the material time. Her husband's evidence of the oral declaration also withstood cross-examination. The earlier jeep dispute and threat supplied a motive, whereas the suicide account lacked first-hand support. The post-mortem evidence connected death to infected burns covering about 90% of the body and sufficient in the ordinary course of nature to cause death. Neither sepsis nor the possibility of better care broke the causal connection with the deliberate burning or required conviction for a lesser offence. The Court criticised the year-long pendency of the merg inquiry. However, the principal declaration had been recorded promptly on the day of the incident and was assessed on its own merits. Taken together, the evidence proved homicidal burning and the appellants' responsibility beyond reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the criminal appeals. It affirmed the two trial judgments and the appellants' Section 302 life sentences and fines of Rs. 200 each, with 7 days' rigorous imprisonment in default of payment. It directed the appellants, who were in jail, to serve the balance of their sentences and ordered that copies be supplied immediately and free of cost and that the trial record be returned.

Ajju and Others v. State of Madhya Pradesh, Cr.A. no. 568/2011 & 717/2011 & 718/2011, 07/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (20) Prev Next

Headnote :- Section 482 CrPC — Public records relied on by the defence — Material of **sterling quality** — *Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330*, requires material that is sound, reasonable and indubitable and rules out the accusation. The material must not have been refuted or must be incapable of justifiable refutation. Continuing the trial must amount to an abuse of process and fail to serve the ends of justice. *Prashant Bharti v. State (NCT of Delhi), (2013) 9 SCC 293*, applied those requirements. *Rukmini Narvekar v. Vijaya Satardekar, (2008) 14 SCC 1*, addressed the wider scope of inherent review compared with the ordinary charge stage. The Court considered the undisputed public records of the utility's theft complaint and the court's cognizance order when examining the lawyer's account of his brother's provisional electricity bill.

Section 499 IPC — Explanation 4 — Harm to **reputation** — An imputation must prima facie harm reputation, directly or indirectly, in the estimation of others by lowering moral or intellectual character, character in respect of caste or calling, or credit, or by causing it to be believed that the person's body is in a loathsome state or a state generally considered disgraceful. The supporting advocate's account of the alleged office remarks did not state that they had lowered the complainant in his estimation. On this record, the complaint under Section 500 lacked that ingredient.

Quashing — retaliatory complaint concerning a **statutory decision** — *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, permits intervention where the allegations, taken at face value, disclose no offence or the prosecution is manifestly malicious. *Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287*, cautions against using criminal process to pressure officials over statutory actions for which avenues of challenge are available. The complainant pursued defamation proceedings after seeking alteration of his brother's provisional electricity assessment instead of using the objection procedure under Section 126. Finding an ulterior motive and absence of the reputational-harm ingredient, the Court set aside the cognizance and revision orders and dismissed the complaint.

Case-note :- ***1. Facts :*** A.K. Hade, an electricity distribution engineer, invoked Section 482 CrPC to challenge a private complaint under Section 500 IPC filed by advocate Shailendra Singh Yadav. Yadav alleged that, at the office, Hade refused to correct an improper bill, used defamatory or abusive words in another advocate's presence, and threatened to implicate him in false cases. The bill concerned an electricity connection in the name of Yadav's brother Arvind. Hade produced the utility's complaint alleging meter tampering and the Special Electricity Court's order taking cognizance against Arvind under Sections 135/138 Electricity Act. He contended that the bill was a provisional assessment and that the defamation complaint was a counterblast. Yadav and one advocate had been examined under Sections 200 and 202 CrPC. The magistrate took cognizance and framed a charge; the criminal revision failed. The High Court stayed the proceedings in 2012.

2. Precedents — Considered : *Rukmini Narvekar v. Vijaya Satardekar, (2008) 14 SCC 1*, was quoted for the distinction between the record ordinarily considered at the charge stage and the wider review under Section 482. *Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330*, set out four requirements for considering incontrovertible material produced by the accused that negates the accusation and shows that trial would be an abuse of process. *Prashant Bharti v. State (NCT of Delhi), (2013) 9 SCC 293*, applied those requirements before trial. The Bench considered undisputed public records to examine the billing context, rather than accepting a contested defence narrative. *Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287*, warned against criminal applications intended to harass persons acting under a statutory framework that provides avenues of challenge. It supported the finding of retaliatory motive here. *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, supplied illustrative grounds for quashing where allegations disclose no offence or proceedings are maliciously instituted to wreak vengeance. The Court applied both grounds to the ingredients of defamation and the undisputed assessment context.

3. Statutes considered : The Court exercised inherent jurisdiction under Section 482 CrPC. Sections 200 and 202 CrPC governed examination in the private complaint. Section 499 IPC, particularly Explanation 4, supplied the ingredients of defamation, and Section 500 prescribed its punishment. Section 126 Electricity Act provided for objections to a provisional assessment. The record also showed a separate prosecution against the brother under Sections 135/138 Electricity Act. The

High Court did not determine guilt in that electricity case or the final amount payable.

4. Issues : Whether the undisputed public records produced by the engineer could be considered under the inherent jurisdiction; whether the alleged words and the sole supporting witness's evidence prima facie established harm to reputation under Explanation 4 to Section 499; and whether the complaint was a malicious response to the engineer's statutory electricity assessment, warranting quashing of cognizance and dismissal of the complaint.

5. Ratio / Findings : The utility's theft complaint and the Special Electricity Court's cognizance order were public documents that Yadav did not dispute. They placed his visit to Hade's office in the context of a provisional assessment against his brother, for which Section 126 provided an objection procedure. Yadav had not produced the bill with his defamation complaint. The Court regarded his attempt to obtain its correction and the ensuing prosecution as pressure on an officer performing statutory duties. It also considered Bar Association material concerning Yadav. Although the appellate committee had set aside the resolution for lack of jurisdiction, the High Court held that this did not erase the evidence collected. It relied on that material in deciding to scrutinise the complaint closely. The sole supporting advocate did not state that the alleged remarks had lowered Yadav's reputation in his estimation. The requirement of Explanation 4 was therefore not prima facie met. On the undisputed records and the complaint evidence, the Court found that *Bhajan Lal*'s grounds of failure to disclose an offence and malicious motive applied, while following *Rajiv Thapar*'s limited approach to defence material.

6. Relief : The Hon'ble High Court allowed the application. It set aside the Guna magistrate's order in the complaint case and the revisional order in Criminal Revision No. 47/2012, and dismissed the complaint under Section 500 IPC against Hade.

A.K. Hade v. Shailendra Singh Yadav and Others, M.Cr.C. no. 2629/2012, 07/05/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (21) Prev Next

Headnote :- Related eyewitnesses — *Darya Singh v. State of Punjab, AIR 1965 SC 328*, requires careful scrutiny of relatives who share the victim's hostility towards the accused, but does not make corroboration invariably necessary. The deceased's sons and grandson naturally came to the place of assault outside his home, sustained injuries themselves and gave consistent accounts. Their relationship to the deceased and the prosecution's decision not to examine his wife did not undermine that credible evidence.

Medical and ocular evidence — The cursory initial MLC, which described apparently simple injuries, did not outweigh the detailed post-mortem findings of skull fracture, hemorrhage and multiple contusions. The CT scan and treatment records, admitted in evidence, supported those findings. The defence objected to the photocopies and the non-examination of the report's author only at final argument, having raised no objection when the records were admitted at trial. In these circumstances, the Bench declined to give the initial report disproportionate weight.

Homicide — Exceptions to **Section 300** / **Repeated lathi blows** — *State of A.P. v. Rayavarapu Punnayya, (1976) 4 SCC 382*, explained the distinction between murder and the wider category of culpable homicide. *Kikar Singh v. State of Rajasthan, (1993) 4 SCC 238*, requires a sudden mutual fight, without undue advantage or cruelty, for Exception 4 to apply. Although the victim had spoken while chasing a dog, his precise words were not proved and grave and sudden provocation was not established. The armed group repeatedly inflicted fatal blows on an unarmed victim; this was not a sudden mutual fight. *State of M.P. v. Shyamlal (2025)* was distinguished because the cause of death there was uncertain, and *Anbazhagan v. State (2023)* concerned a single blow with a weapon picked up at the scene. The conviction under Section 302 was affirmed; conversion to an offence under Sections 325 or 304 was refused.

Section 34 IPC — Common **intention /** Attribution of **individual blow**s — Both appellants arrived armed and participated in the assault. Badan Shah also attacked an unarmed person who tried to rescue the victim. These acts established common intention even though the injured eyewitnesses could not identify the assailant responsible for every fatal head blow. The conviction under Section 302 and the three convictions under Section 323/34 were upheld.

Case-note :- ***1. Facts :*** Akbar Shah and Badan alias Badna Shah appealed against their conviction in Sessions Trial No. 29/2022 under Section 302 IPC and on three counts under Sections 323/34 IPC. On 24 October 2021, Chhital Shah shouted while

chasing a dog near his home. The appellants' party took his words to be abuse directed at them, came armed with lathis and assaulted him. His sons Raseed and Bhanu and grandson Afsar intervened and sustained injuries. An FIR was registered that evening; a counter-FIR gave a different account of the scuffle. Chhital was referred from the first medical centre to Gwalior that night and died on 30 October. The appellants challenged the evidence of related witnesses, alleged delay in reporting, relied on the initial MLC's description of apparently simple injuries and the counter-case, and disputed common intention. They sought conviction for a lesser offence.

2. Precedents — Considered : *Darya Singh v. State of Punjab, AIR 1965 SC 328*, does not require corroboration merely because an eyewitness is related to the victim, although evidence must be carefully scrutinised where the witness shares the victim's hostility towards the accused. The Bench applied it to the injured family witnesses whose presence outside their home was natural. *State of A.P. v. Rayavarapu Punnayya, (1976) 4 SCC 382*, explained that culpable homicide is the genus and murder its species, and informed the inquiry under Section 300. *Kikar Singh v. State of Rajasthan, (1993) 4 SCC 238*, required a sudden mutual fight without undue advantage or cruelty for Exception 4 to apply; the Bench instead found a one-sided armed assault. *State of M.P. v. Shyamlal (2025)* was distinguished because the cause of death there was uncertain, whereas the head injury and continuing treatment established causation here. *Anbazhagan v. State, Criminal Appeal No. 2043/2023*, involved a single blow with a weapon picked up at the scene and a different question under Section 304, and was also distinguished.

3. Statutes considered : The judgment identified Section 374(2) CrPC/Section 420 BNSS as the appeal route. Sections 299–300, 302, 323, 325 and 34 IPC governed the homicide inquiry, possible conversion to a lesser offence, simple hurt and joint liability. The Court examined Exceptions 1 and 4 to Section 300. Section 157 CrPC arose in the argument about delay in sending the FIR to the magistrate; police delay did not invalidate the promptly registered report.

4. Issues : Whether the injured relatives' testimony was credible despite the absence of independent support and the non-examination of the deceased's wife; whether the cursory MLC, alleged delay in lodging the FIR or objections to the treatment records undermined proof of the assault and cause of death; whether the misunderstanding and counter-FIR established provocation or a sudden fight warranting conversion to an offence under Section 325/304; and whether Badan shared the intention to cause the fatal injuries even though his individual fatal blow could not be identified.

5. Ratio / Findings : The assault occurred outside the family's house, making the arrival of the deceased's sons and grandson natural. Their injuries and consistent testimony further established their presence. The FIR was lodged roughly two hours after an incident at dusk in which four people were injured, one seriously; this was not substantial delay. The counter-FIR differed materially from its maker's testimony and did not establish a mutual fight or injury to the appellants. The initial MLC was sparse and hurriedly prepared. The prompt referral, subsequent CT scan and case-history records, and detailed post-mortem findings established a depressed temporal skull fracture, subdural and subarachnoid hemorrhage, and multiple other injuries. The treatment documents had been admitted without timely objection and supported the detailed medical account. Repeated, forceful lathi blows to the unarmed victim's head caused his death. As the precise words said to have provoked the attack were not proved and there was no mutual combat on equal terms, neither Exception 1 nor Exception 4 applied. Both appellants arrived armed, and Badan attacked an unarmed rescuer. Their conduct established participation and common intention despite the eyewitnesses' inability to attribute each head blow. The Court refused conversion to a lesser offence and upheld the trial Court's findings of liability.

6. Relief : The Hon'ble High Court dismissed the criminal appeal, affirming both the convictions and the sentences. It directed the Registry to send a copy of the judgment to the concerned authorities in compliance with the legal provisions.

Akbar Shah and Others v. State of Madhya Pradesh, Cr.A. no. 8732/2024, 23/06/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (22) Prev Next

Headnote :- Private defence — police force / retaliation — *Extra-Judicial Execution Victim Families Assn. v. Union of India, (2016) 14 SCC 536*,

distinguishes protective force under Sections 96–106 IPC from retaliation after the danger has passed. The road video produced by the police showed the petitioner pushing an officer, who then beat him and kicked him while he was on the ground. No protester joined in attacking the officer. The Bench formed a prima facie view that the officer had used excessive retaliatory force; it did not finally find that the alleged bribe had been demanded.

Custodial violence — CCTV playback / official account — Undisputed station footage, supplied by the police under RTI and played in open court, showed an officer carrying a bamboo stick taking the petitioner into a room without a camera. Screams followed, and the petitioner was later unable to walk properly. The audio disclosed pressure to add allegations to the officer's complaint and fabricate evidence of damaged clothing or injuries. The recordings contradicted the explanation that the petitioner was merely being carried for medical examination and the internal inquiry's exoneration of the police. *Ashwani Kumar v. Union of India, (2020) 13 SCC 585*, recognised safeguards under Article 21 and judicial power to grant relief in individual cases of custodial torture. *Pravat Chandra Mohanty v. State of Odisha, (2021) 3 SCC 529*, addressed the grave public concern caused by police-station brutality. The DGP was directed to register an FIR against the police personnel involved, transfer the station staff and investigate the associated official records. These directions did not determine guilt in a criminal trial.

Station CCTV — Uncovered room / Statewide compliance — *Paramvir Singh Saini v. Baljit Singh, (2021) 1 SCC 184*, prescribed comprehensive audio-video coverage, preservation and oversight duties. The earlier surveillance observations in *D.K. Basu* and *Shafhi Mohd.* were also considered. As a room without a camera had been used for assault, the High Court directed reports on coverage from every district and installation of cameras covering every station room and space within the specified local deadlines. It required compliance reports and provided for contempt proceedings in the event of non-compliance.

Personal costs and compensation — The Bench apportioned costs of Rs 1,20,000 among respondents 5–10, payable into court and to be released to the petitioner on his application. *D.K. Basu* and *Ashwani Kumar* informed the framework for public-law compensation under Article 21. The Court held the petitioner entitled to compensation, while preserving his right to seek it in a fresh petition rather than awarding substantive compensation in this order.

Case-note :- ***1. Facts :*** Akhilesh Pandey alleged that police beat him on a road after he went to address a truck blockade by villagers, took him to Bhalumada station on 17 September 2023, assaulted him in a room without CCTV coverage and fabricated an FIR against him. He sought action against the officers, production of records, consideration of his representations and relief for detention or arrest. The police maintained that he had abused and pushed an officer, resisted medical examination, sustained no injuries and been properly charged. An SDO(P) inquiry rejected his allegations. Pandey produced station CCTV clips supplied by the police under RTI, and an officer produced footage of the road incident. Selected recordings, including their audio, were played in open court. Respondents 6–10 did not appear despite service. The Bench assessed the recordings, conduct at the station and official responses in the writ petition under Article 226.

2. Precedents — Considered : *Extra-Judicial Execution Victim Families Assn. v. Union of India, (2016) 14 SCC 536*, distinguished defensive force from retaliation; the Bench applied that distinction to the officer's beating of the petitioner after a push. *Prakash Kadam v. Ramprasad Vishwanath Gupta, (2011) 6 SCC 189*, was quoted for its condemnation of unlawful police force as contrary to the rule of law. Its discussion of encounter murder was not a finding of murder in this case. *Pravat Chandra Mohanty v. State of Odisha, (2021) 3 SCC 529*, treated brutality by police custodians as a matter of serious public concern; the refusal to compound offences in that death case was not the relief being considered here. *Ashwani Kumar v. Union of India, (2020) 13 SCC 585*, reviewed Article 21 safeguards against custodial torture, the arrest protections in *D.K. Basu*, public-law compensation for established violations, and judicial power to remedy individual cases despite rejecting a request to compel legislation. *D.K. Basu v. State of W.B., (2015) 8 SCC 744*, and *Shafhi Mohd. v. State of H.P., (2018) 5 SCC 311*, addressed cameras and oversight. *Paramvir Singh Saini v. Baljit Singh, (2021) 1 SCC 184*, prescribed station-wide coverage, audio-video recording, retention, SHO responsibilities and oversight duties. The Bench enforced those requirements after finding a room without camera coverage. It also quoted *Prosecutrix (Minor) through her Natural Guardian*

Vs. State of M.P. and others, 2021 (3) MPLJ (Cri) 339, which had directed implementation of *Paramvir Singh* and coverage of every police-station room within the Gwalior Superintendent of Police's jurisdiction.

3. Statutes considered : Article 226 provided the writ remedy; Articles 21 and 14 protected dignity and liberty against custodial torture. Sections 96–106 IPC governed private defence and its limits. Sections 330–331 IPC were mentioned as offences concerning custodial coercion, without adjudication of particular charges. A notice under Section 41-A CrPC appeared in the account of custody. The police FIR complained of included proposed SC/ST allegations, but the writ did not finally determine the merits of that prosecution. The Protection of Human Rights Act mechanisms appeared in the directions quoted from *Paramvir Singh*.

4. Issues : Whether the officer's use of force on the road was defensive or retaliatory; whether the undisputed CCTV footage and audio established assault at the station and fabrication despite official denials and the SDO(P) report; what criminal and administrative action should follow; whether a room without a camera breached station-surveillance duties; and how personal costs and the separate claim for compensation should be addressed.

5. Ratio / Findings : The partial road recording produced by the police showed a push followed by repeated beating and a kick to the petitioner's head. The Bench found that no member of the assembled crowd had attacked the officer and characterised his force as retaliatory, while expressly declining to conduct a full investigation of the road incident. It did not find the alleged demand for Rs 5,000 proved. The undisputed station footage showed Pandey standing calmly before an officer carrying a thick bamboo stick took him into a room without a camera. Cries followed, others rushed into the room, and the police later lifted him when he could not walk properly. The audio disclosed the station officer directing alterations to a complaint, suggestions that a uniform be torn and old or self-inflicted injuries be recorded, and discussion of a proposed allegation of loot that was not ultimately registered. After playback, the State's counsel could no longer defend the internal inquiry report. The Bench found custodial assault and fabrication of a complaint, directed registration of an FIR and transfers to protect the evidence, and ordered inquiries into the doctor's MLC and the SDO(P) report exonerating the officers. It applied *Paramvir*'s surveillance requirements to the room deliberately used for assault because it lacked camera coverage. These findings and investigation directions in the writ proceedings were distinct from the determination of criminal guilt that remained to follow.

6. Relief : The Hon'ble High Court allowed the writ petition. It directed the DGP to register an FIR against respondents 5–10 and transfer the entire staff posted at Bhalumada on 17 September 2023, including respondents 5–10, to different places at least 900 km from Anuppur within ten days. Compliance with the FIR and transfer directions was to be reported within fifteen days. The DGP was to verify the petitioner's MLC and, if it recorded no injuries, register a criminal case against the doctor and refer the matter to the doctor's appointing authority for departmental action. He was also to inquire into the SDO(P) report and initiate criminal action if warranted. For statewide CCTV coverage with audio, the DGP was to obtain reports from every district Superintendent of Police within one month and ensure coverage of every station room and space within the following two months, completing the three-month sequence. A compliance report was required by 18 February 2025. Costs of Rs 1,20,000 were personally apportioned among respondents 5–10: Rs 40,000 from respondent 5; Rs 20,000 from the ASI who took the petitioner into the room with the bamboo stick; Rs 20,000 from respondent 10; Rs 20,000 from the Head Constable who pulled the uniform; and Rs 10,000 each from the remaining two respondents. The sums were to be deposited in the Registry within one month and paid to Pandey on a withdrawal application. Recovery and contempt proceedings were directed for failure to deposit costs. Failure to provide CCTV coverage would attract contempt action against the district Superintendent of Police and the station SHO; failure to submit the required reports would require the Registrar General to register contempt proceedings. The Court held him entitled to compensation but preserved a separate petition for that relief, without awarding substantive damages in this order. A copy of the order was to be sent immediately to the DGP, and the Government Advocate was also directed to communicate it immediately for information and compliance.

Akhilesh Pandey v. State of Madhya Pradesh and Others, W.P. no. 31360/2023, 18/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (23) Prev Next

Headnote :- Sole eyewitness — related and **inimical** wit**n**ess / F**ear-**ind**u**ced conduct / **Discerning scrutiny** — *Vijendra Singh v. State of U.P., (2017) 11 SCC 129, Raju v. State of T.N., (2012) 12 SCC 701, Jodhan v. State of M.P., (2015) 11 SCC 52*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, establish that relationship alone does not require independent corroboration. Where a related witness also shares hostility towards the accused, the evidence must be examined with heightened care and discerning scrutiny because an innocent person may be added along with the real assailants. *State of U.P. v. Moti Ram, (1990) 4 SCC 389*, and *Kunwarpal v. State of Uttarakhand, (2014) 16 SCC 560*, treat motive or enmity as a double-edged circumstance that may support either false implication or the commission of the offence. As Ashok would have had to cross the appellants' field to reach the village, fear for his life explained why he remained hidden until sunrise after witnessing his brother's brutal murder. The bulb mentioned in the FIR, the absence of any proved obstruction and his familiarity with the attackers supported identification from 150 feet, consistently with *Ramesh v. State, (2010) 15 SCC 49*. His prompt and detailed account matched the penetrating, incised and neck-pressure injuries. Once his testimony was found reliable, the absence of independent witnesses did not defeat it, consistently with Mahesh, Ashok Kumar Chaudhary, Sadhu Saran Singh and Ambika Prasad.

Inquest — Limited s**cope / No adverse inference** — *Guiram Mondal v. State of W.B., (2013) 15 SCC 284*, confines an inquest to ascertaining the apparent cause of death; it is not required to give a complete account of the assailants' identities or overt acts. Although Ashok signed the inquest and it did not name the assailants or describe their acts, he had already given a detailed FIR and his police statement was recorded before the post-mortem began. No adverse inference could therefore be drawn from the omissions in the inquest.

Section 157 CrPC — FIR dispatch / A**nte-timing** — *Anil Rai v. State of Bihar, (2001) 7 SCC 318*, explains that only extraordinary and unexplained delay capable of casting doubt on the FIR requires an adverse inference; every delay in forwarding the report to the magistrate does not invalidate the prosecution. The FIR lodged promptly after sunrise was followed by immediate field inquiry, investigative work throughout the day and the arrest of three accused that evening. Dispatch on the following day was therefore not undue. The challenge based on overwriting in the receipt date was not established because neither the magistrate's record nor the person who acknowledged receipt was produced. The FIR was not shown to be ante-dated or ante-timed. The convictions under Sections 302/149 and 148 IPC were affirmed.

Case-note :- ***1. Facts :*** Three connected criminal appeals challenged the judgment dated 7 March 2009 in Sessions Trial No. 380/2007, by which the appellants were convicted for the murder of Bharat Singh in a field near Baraua. During the intervening night, Bharat's brother Ashok stated that he saw Albel and Kamal Kishore attack Bharat with axes, Gabbar with a ballam, and Amar and Pancham press a lathi across Bharat's neck. Fearing the attackers, Ashok remained hidden until sunrise. He then went home, returned with his family, found Bharat's body in a well and lodged the FIR at 7:15 a.m. The parties had a dispute because the appellants obstructed the route to the complainant party's adjoining fields. The trial court treated Kaptan Singh, Poshan Singh and Hawaldar as hearsay witnesses and held that the recovered weapons did not advance the prosecution case because they had not been sealed at the spot and no blood was found on them. The prosecution therefore depended substantially on Ashok's eyewitness account. The post-mortem recorded penetrating and incised injuries to the face and head, together with severe damage to the neck, trachea, larynx and carotid artery. Amar died during the appeal, which abated against him. The surviving appellants challenged Ashok's credibility, the inquest omissions, the timing of the FIR and the absence of independent witnesses.

2. Precedents — Considered : *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, distinguished a naturally present relative from an interested witness and permitted reliance on intrinsically reliable related testimony after careful scrutiny. *Raju v. State of T.N., (2012) 12 SCC 701*, required discerning scrutiny where relationship and enmity coexist because a hostile relative may add an innocent person along with the real assailants; it did not make

independent corroboration an invariable requirement. *Jodhan v. State of M.P., (2015) 11 SCC 52*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, likewise allowed reliance on trustworthy related testimony after careful examination. *State of U.P. v. Moti Ram, (1990) 4 SCC 389*, and *Kunwarpal v. State of Uttarakhand, (2014) 16 SCC 560*, explained that motive or animosity may support either false implication or the commission of the offence. After testing the surrounding circumstances, the Bench held that the field-route dispute supplied the motive for the assault. *Ramesh v. State, (2010) 15 SCC 49*, supported identification by a familiar rural witness in limited light. *Guiram Mondal v. State of W.B., (2013) 15 SCC 284*, confined an inquest to the apparent cause of death and answered the challenge based on its omission of names and overt acts. *Anil Rai v. State of Bihar, (2001) 7 SCC 318*, explained when delay in forwarding an FIR under Section 157 CrPC may support an allegation of ante-timing. *Mahesh v. State of Maharashtra, (2008) 13 SCC 271, Ashok Kumar Chaudhary v. State of Bihar, (2008) 12 SCC 173, Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, and *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, supported the conclusion that absence of independent witnesses alone does not defeat otherwise credible eyewitness evidence.

3. Statutes considered : Sections 302/149 and 148 IPC supplied the convictions for murder committed with the common object of an unlawful assembly and for rioting. Section 157 CrPC governed forwarding the FIR to the magistrate. The limited purpose of an inquest, together with the evidentiary significance of the FIR and Ashok's Section 161 police statement, was also considered. The Court examined whether the prosecution had proved the surviving appellants' guilt beyond reasonable doubt.

4. Issues : Whether Ashok's remaining hidden until sunrise, the difference between the stated viewing distances of 150 feet and 10 feet, his relationship with the deceased and the field-route dispute made his sole eyewitness account unsafe; whether omission of the assailants' names and acts from the inquest and non-examination of independent witnesses created a fatal gap; whether the later dispatch of the FIR and overwriting in the receipt date showed that it had been ante-dated or ante-timed; and whether the ocular and medical evidence proved the murder and rioting charges despite the ineffective weapon recoveries.

5. Ratio / Findings : The spot map, Ashok's evidence and even defence witness Balwant placed the appellants' field between Ashok and his village. As Ashok would have had to cross that field after witnessing his brother's brutal murder, fear for his own life plausibly explained why he remained hidden until sunrise. The FIR mentioned a bulb, no obstruction over the 150-foot distance was proved, and Ashok was familiar with the attackers. The difference between the viewing distances stated in his evidence and shown in the spot map did not materially undermine identification. The penetrating injury, the axe-compatible incised wounds and the severe neck injury capable of being caused by pressure from a lathi fully corroborated the acts he assigned to the appellants. His relationship with Bharat and the field-route dispute required careful scrutiny, but that scrutiny disclosed no factual foundation for false implication; the dispute also supplied the motive for the assault. The inquest was not required to narrate the identities and roles of the assailants. Ashok's detailed FIR and his police statement recorded before the post-mortem had already described the incident consistently with the medical evidence. The prompt investigation and same-day arrests of Albel, Pancham and Amar undermined the allegation of ante-timing, and forwarding the FIR on the next day was not fatal. The challenge based on overwriting in the receipt date was not established because the appellants neither called for the magistrate's record nor examined the person who acknowledged receipt. Once Ashok's testimony was found credible, non-examination of nearby persons and the ineffective weapon recoveries did not create reasonable doubt. The surviving appellants' joint attack was proved beyond reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the appeals concerning the surviving appellants and affirmed the judgment and sentence. It affirmed life imprisonment and a fine of Rs. 100 under Section 302/149 IPC, with one month's simple imprisonment in default, and two years' rigorous imprisonment and a fine of Rs. 100 under Section 148 IPC, with one month's simple imprisonment in default. The sentences were to run concurrently. Amar Singh's appeal had abated in 2013. Albel, Gabbar and Pancham, who were in jail, were directed to undergo the remaining sentence. Kamal Kishore's bail bonds were cancelled and he was directed to surrender immediately before the trial court. A copy of the

judgment was to be supplied to the appellants free of cost, and the trial-court record was to be returned with a copy of the judgment for information and compliance.

Albel and Others v. State of Madhya Pradesh, Cr.A. no. 225/2009 & 247/2009 & 253/2009, 13/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (24) Prev Next

Headnote :- Section 498-A IPC — mother-in-law / statutory cruelty — On the allegations in the FIR itself, interference in household work, astrology-related taunts, failure to intervene in the son's marital disputes and alleged withholding of affection did not amount to cruelty by the mother-in-law. No unlawful property demand was attributed to her, and her alleged conduct was not of the grave nature required by the statutory Explanation. The separate allegations that the husband demanded property and assaulted the complainant were not adjudicated in this applicant-specific order.

Section 482 CrPC — Face-value test applied separately to each accused — *XYZ v. State of Gujarat, (2019) 10 SCC 337*, *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Criminal Appeal No. 709/2021, caution against resolving disputed merits at the quashing stage. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, permits quashing when the allegations, accepted at face value, disclose no offence. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognises a narrow exception for public or undisputed documents. Applying the face-value test only to the acts attributed to Alka, the Court quashed the prosecution under Sections 498-A and 506/34 IPC and Sections 3–4 of the Dowry Prohibition Act only so far as it concerned her.

Case-note :- ***1. Facts :*** Alka Sharma, the complainant's mother-in-law, sought relief under Section 482 CrPC against Crime No. 108/2021 registered at Mahila Thana, Madan Mahal, Jabalpur, and the resulting prosecution under Sections 498-A and 506/34 IPC and Sections 3–4 of the Dowry Prohibition Act. Her son and the complainant had married by choice in April 2016. Alka was then employed in Uttarakhand; after retiring, she stayed with the couple in Pune. The complainant alleged that Alka criticised her household work, taunted her about an astrologer's prediction of two marriages, did not intervene when the husband quarrelled with her, and withheld a mother-in-law's affection. The FIR separately attributed demands for a flat, car and costly appliances, physical assault and threats principally to the husband. Alka later moved abroad to live with her daughter. She sought quashing on the ground that, even if accepted, the acts attributed to her did not constitute the charged offences.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337*, *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, were cited for restraint against detailed pre-trial fact-finding, weighing the defence or prematurely terminating a prosecution that discloses an offence. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, states the complementary rule that proceedings may be quashed when the allegations, taken at face value, or the uncontroverted supporting material disclose no offence. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognises a narrow exception under which a public document, or a document whose authenticity the complainant does not dispute, may be considered. The Bench did not reject the truth of the FIR; it tested the acts attributed to Alka against the statutory definition in Section 498-A.

3. Statutes considered : Section 482 CrPC conferred the inherent jurisdiction invoked. Section 498-A IPC and its Explanation define two forms of cruelty: grave willful conduct and harassment connected with coercion to meet an unlawful demand. The prosecution also invoked Section 506 read with Section 34 IPC and Sections 3–4 of the Dowry Prohibition Act. The Court's conclusion was confined to whether the FIR disclosed a prima facie case against this applicant.

4. Issues : Whether criticism of household work, taunts, failure to intervene in her son's marital disputes and alleged withholding of affection, taken at their highest, constituted statutory cruelty or dowry harassment by the mother-in-law; and whether Section 482 permitted the Court to quash the prosecution against her while leaving the distinct allegations against the husband unresolved.

5. Ratio / Findings : The Bench accepted the FIR's account for the threshold inquiry. The demands for a flat, car and expensive articles were attributed to the husband, not to the mother-in-law. The mother-in-law's alleged objections concerning household work and her taunts, though said to have caused distress, were not alleged to be grave willful conduct or harassment connected with an unlawful demand as required by Section 498-A. In the circumstances alleged, failure to persuade her son or to show affection did not create criminal liability. The Court therefore held that the FIR, even if accepted in full, disclosed no offence by Alka under Sections 498-A and 506/34 IPC or Sections 3–4 of the Dowry Prohibition Act. It applied the face-value no-offence category of inherent review without resolving disputed evidence. The holding was limited to Alka and did not determine the remaining allegations against others.

6. Relief : The Hon'ble High Court allowed the application. It quashed FIR Crime No. 108/2021 and the criminal prosecution under Sections 498-A and 506/34 IPC and Sections 3–4 of the Dowry Prohibition Act only insofar as they concerned Alka Sharma.

Alka Sharma v. State of Madhya Pradesh and Others, M.Cr.C. no. 30092/2022, 14/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (25) Prev Next

Headnote :- Electricity Act, 2003 — Section 138 / sentencing discretion — The conviction for unlawfully reconnecting a disconnected supply to operate a flour mill was supported by the inspection evidence and the accused's admissions. Although one year's rigorous imprisonment was not excessive, Section 138 prescribed no minimum sentence for a first offender. In view of the appellant's age and financial condition, and a member of the Bar's voluntary offer to pay on his behalf, the Court replaced the custodial sentence with a fine of Rs. 10,000. The substitution was conditional: payment within fifteen days would result in immediate release, but default would revive the one-year term. The decision rested on the particular mitigation and the concrete arrangement for payment; it did not recognise a general entitlement to a fine-only sentence.

Case-note :- ***1. Facts :*** The appellant operated a flour mill through a 10 HP electricity connection. The department stated that substantial dues remained unpaid, notice was given before temporary disconnection on 19 June 2005, and an inspection on 4 July 2005 found the mill operating through a direct unauthorised connection from a pole. On the Junior Engineer's complaint, the Special Judge (Electricity Act), Mungawali, convicted the appellant under Section 138 of the Electricity Act, 2003 on 16 November 2007 and sentenced him to one year's rigorous imprisonment, a fine of Rs. 1,000 and three months' imprisonment in default. In the criminal appeal filed in 2008, the appellant was eventually produced under an arrest warrant in 2022. The complainant's witnesses described the disconnection and unlawful reconnection. The appellant testified about complaints against the disconnection and alleged payments but produced no receipts; he admitted the mill connection and knowledge that at least Rs. 30,000 was outstanding, while denying the unlawful reconnection. At sentencing, counsel stated that the appellant was then about 61, no longer operated the mill and survived by labour, but acknowledged that the alleged cessation had not been stated in his defence evidence. Counsel sought replacement of custody by an enhanced fine while also stating that the appellant could not pay it. A lawyer present in Court offered to deposit Rs. 10,000 for him.

2. Statutes considered : Section 138 of the Electricity Act, 2003 governed unlawful reconnection and, for a first offender, prescribed no minimum term of imprisonment. Section 374 of the Code of Criminal Procedure, 1973 provided the route of appeal against conviction. The appellant entered the witness box as a defence witness under Section 315 CrPC, and the Court considered the evidentiary effect of his admissions. The operative sentencing direction supplied the precise consequence of default.

3. Issues : Whether the inspection evidence and the appellant's admissions proved the Section 138 offence despite his denial and alleged payments; and whether the one-year sentence should be modified because of his age, means and the absence of a statutory minimum, together with the effect that payment or non-payment of an enhanced fine would have on his release.

4. Ratio / Findings : The Junior Engineer's evidence about the notice, disconnection and direct reconnection was corroborated by another complainant witness. The appellant admitted that

charges were outstanding but produced no proof of the payments he claimed to have made. The Court therefore affirmed the conviction and held that one year's imprisonment was not excessive for operating the mill without paying the charges. It also noted that the alleged cessation of the milling business had not been stated in the appellant's defence testimony. Because the provision prescribed no minimum term for a first offender, however, the Court could adopt a different sentence. It was initially unwilling to interfere when counsel stated that the appellant could not pay an enhanced fine. A lawyer then voluntarily offered to pay Rs. 10,000 on his behalf. On that concrete basis, and having regard to the appellant's age and means, the Court replaced imprisonment with the enhanced fine. The result was an exercise of discretion on the particular circumstances, not a finding that age or poverty alone required substitution.

5. Relief : The Hon'ble High Court disposed of the appeal by affirming the conviction and modifying the sentence. It set aside the one-year prison term and increased the fine from Rs. 1,000 to Rs. 10,000. If the fine was deposited within fifteen days from the date of the order, the appellant, who was then in custody, was to be released immediately. If it was not deposited within that period, the one-year sentence would automatically revive, and he was not to be released on bail until he had served it.

Amaan Singh Lodhi v. Kanisth Yantri, Cr.A. no. 09/2008, 08/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (26) Prev Next

Headnote :- Code of Criminal Procedure, 1973 — Section 482 / cognizable offence / alleged retaliatory FIR - The applicant alleged that an FIR accusing him of sexual harassment was a counterblast to his PIL concerning encroachment on a temple. He also alleged that the informant had misstated her father's name and omitted allegations made in an earlier complaint. Applying *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, the Court held that, where an FIR discloses a cognizable offence, the informant's alleged mala fides are secondary and cannot, by themselves, justify quashing it. The parties' competing claims to occupation of the premises, the identity dispute and the history of complaints involved disputed facts that could not be finally decided in the exercise of inherent jurisdiction. The complainant's identity could be tested at trial, and the omission of allegations from an earlier complaint did not, by itself, warrant quashing the FIR. Applying the Supreme Court's principles on considering allegations at face value and avoiding a trial of disputed facts in inherent jurisdiction, including *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021 (30.06.2021), the Court refused interference without deciding the eventual merits.

Case-note :- ***1. Facts :*** The applicant, appearing in person, sought quashing under Section 482 CrPC of the FIR in Crime No. 202/2021, registered at Police Station Inderganj, Gwalior, for offences under IPC Sections 354-A, 509 and 294. A charge-sheet had been filed during the pendency of the application, but he had not sought its quashing. He alleged that the complainant had falsely named Mahesh Chand Tiwari, rather than Harish Chand Tiwari, as her father, with a view to hindering any later action by him for malicious prosecution. He alleged that her family occupied a Hanuman temple and that the FIR was in retaliation for his complaints and PIL No. 19017/2020. He also relied on the omission from the FIR of allegations in an earlier police complaint concerning drug use and the taking of photographs. The State and the private respondent submitted that the FIR disclosed cognizable offences. The High Court examined the PIL record, including the initial directions to the revenue authorities in December 2020, subsequent compliance and inspection proceedings, and final disposal in February 2022 following an OSD's report. The applicant had initially failed to disclose that final disposal and later withdrew his submission that he had not been heard. The parties' claims concerning rights in, and occupation of, the temple premises remained disputed. The FIR alleged that the applicant repeatedly stared at the complainant, made indecent gestures and abused her when she objected.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221, State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547, XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *State of T.N. v. S. Martin, (2018) 5 SCC 718*, were quoted for the need for caution against premature quashing or interference with an investigation where allegations disclose a cognizable offence and require inquiry. The Court applied that framework while recognising

the power to intervene in exceptional cases of malicious prosecution or abuse of process. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, discussed the categories in *Bhajan Lal* concerning allegations taken at face value and proceedings instituted with mala fides, and the need to protect a person from wholly untenable proceedings. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, required a reasoned examination of the facts and the governing law. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, set out the broader principles governing quashing: consider the uncontroverted allegations and prosecution material; avoid weighing the evidence or relying on extraneous defence material; allow a prosecution with the necessary factual foundation to continue; and reserve intervention for exceptional abuse or failure to disclose an offence. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterated the need for circumspection. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised a limited exception permitting consideration of defence documents that are public documents or whose veracity the complainant does not dispute. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, and *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, distinguished the prevention of genuine abuse of process from the premature termination of a prosecution. The latter also reproduced the illustrative categories in *Bhajan Lal* and cautioned that the availability of a civil remedy or an assessment of the prospects of acquittal did not, by itself, justify quashing. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, addressed the corresponding power to intervene where allegations taken at face value disclose no offence or are inherently improbable. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021 (30.06.2021), cautioned against a detailed assessment of disputed facts at the Section 482 stage. The Court considered these authorities together and applied the limits they placed on that jurisdiction. More directly, *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, quoted in paragraph 22, explained the exceptional scope of Section 482, the categories in *Bhajan Lal* and the secondary importance of the informant's alleged mala fides where an offence is disclosed. The Court followed it in rejecting the alleged counterblast as an independent ground for quashing on the disputed facts.

3. Statutes considered : Section 482 CrPC governed the limited exercise of inherent power to prevent abuse of process or secure the ends of justice. It did not permit the Court to decide contested questions of credibility or the ultimate merits of the prosecution. IPC Sections 354-A, 509 and 294 were the offences stated in the FIR; the Court considered whether the allegations prima facie disclosed cognizable offences. CrPC Sections 107/116 and 340 read with 195 appeared in the account of the earlier PIL and complaints. They formed part of that procedural background and were not the basis of the present ruling.

4. Issues : Whether the FIR should be quashed on the ground that the applicant's earlier PIL and complaints allegedly prompted its retaliatory filing; whether the alleged misstatement of the complainant's father's name or the omission of allegations from an earlier complaint warranted quashing; and whether these matters could be determined under Section 482 when the FIR alleged sexual harassment and a charge-sheet had been filed but was not challenged.

5. Ratio / Findings : In considering quashing under Section 482, the Court proceeds on the accusations taken at face value; it does not try their truth or assess the likelihood of conviction. The Court found that the allegations of staring, indecent gestures and abuse disclosed cognizable offences sufficient for the prosecution to proceed. Applying *Renu Kumari*, it held that the informant's alleged motive was secondary. The PIL had already ended, and the parties' claims concerning occupation and their history of complaints and counter-complaints involved disputed facts. The Court could not find in this application that the FIR was a retaliatory fabrication. The applicant would have an opportunity at trial to cross-examine the complainant about her parentage; the alleged misdescription therefore did not justify quashing the FIR. The omission of some allegations from the earlier complaint did not, by itself, invalidate the FIR. The Court observed that women residing in the complainant's house were visible in photographs filed by the applicant himself, and that the earlier allegation that he had photographed them appeared correct. This was a tentative observation in the quashing proceedings, not a final determination of guilt or credibility at trial. The application failed because the applicant had

not established a prima facie case for quashing. The Court did not determine guilt, the complainant's exact identity or the parties' civil rights in the temple premises.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 to quash the FIR. The applicant had neither sought nor obtained an order quashing the subsequently filed charge-sheet. The prosecution remained subject to the ordinary trial process.

Aman Arora Jain v. Investigation Officer and Ors., M.Cr.C. no. 42996/2021, 25/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (27) Prev Next

Headnote :- Indian Penal Code, 1860 — Sections 306 and 107 / instigation at FIR-quashing stage - *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, and *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, recognise that instigation need not be expressed in direct words and may be inferred from a continuing course of conduct. There must, however, be an intention to incite the consequence and a reasonable connection between the conduct and that consequence. An utterance made in anger without intending its consequences, or ordinary discord, is insufficient. *Gangula Mohan Reddy*, *M. Mohan* and *Amalendu Pal* emphasise mens rea, positive conduct and proximity as requirements for conviction. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, requires the Court, on a quashing application, to form only a tentative view at the threshold. Here, the allegations were that the applicant, who was already married, persistently pressed the deceased to marry him despite her family's objections and harassed her before her suicide. The Court reasoned that a second marriage during the subsistence of the first was void and that the applicant was pressing her to enter a relationship not recognised by law. On these allegations, it held that the Section 306 FIR should not be quashed. Abetment was not finally proved in these proceedings.

Case-note :- ***1. Facts :*** After a missing-person report was lodged, it was found that the deceased had died by jumping in front of a train. Crime No. 273/2021 was registered at Gwalior on allegations that the applicant had harassed her. These included persistent pressure to marry him, although he was already married and had children, and despite her parents' requests that he desist. The applicant sought quashing under Section 482 CrPC, submitting that even if all the allegations were accepted, they did not constitute abetment under Section 306 IPC. His earlier application for anticipatory bail had been dismissed on 11 June 2021 in M.Cr.C. No. 27345/2021. In that proceeding, he had submitted that he had advanced money to the deceased and her mother and had been falsely implicated after they demanded more money. The State relied on the alleged pressure to marry and the continued harassment. The present application concerned the FIR; it did not involve a trial of the parties' competing versions.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, explained instigation as goading or provoking another person to act. Express words are unnecessary, but an intention to incite the consequence must be discernible with reasonable certainty. Instigation may be inferred from a course of conduct that leaves the deceased with no apparent option other than suicide. An emotional utterance without an intention that its consequences should follow is insufficient. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, focused on the abettor's intention and the inference to be drawn from the circumstances, rather than a fixed formula. It also emphasised that an assessment on a quashing application is tentative. *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, likewise required mens rea for instigation. *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750*, *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, *M. Mohan v. State*, *AIR 2011 SC 1238*, *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, and *Amalendu Pal v. State of W.B., (2010) 1 SCC 707*, were quoted on the modes of abetment under Section 107, the need for positive and intentional conduct, proximity and causation, and the caution required before treating ordinary discord or a hypersensitive response as proof of abetment at trial. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, incorporated the principle in *Chitresh Kumar Chopra* and *Ramesh Kumar* that instigation may be inferred from the circumstances. It expressly cautioned against evaluating and marshalling the record to determine guilt at the threshold. The Court applied these authorities in deciding that the allegations should proceed. It did not hold that harassment alone would be sufficient for conviction.

3. Statutes considered : Section 306 IPC punishes abetment of suicide. Section 107 IPC defines abetment through instigation, conspiracy accompanied by the requisite act or illegal omission, or intentional aid. Its explanations address misrepresentation or concealment as instigation and facilitation as aid. Section 482 CrPC governed the request to quash the FIR at a preliminary stage. Section 438 CrPC concerned the earlier anticipatory bail proceeding, rather than the relief sought in this application.

4. Issues : Whether the allegations that an already married applicant persistently pressured the deceased to marry him and harassed her, taken provisionally as true, were sufficient to disclose abetment under Sections 306 and 107 so that the FIR should not be quashed, or whether they were legally incapable of constituting that offence.

5. Ratio / Findings : After setting out Section 107 and the Supreme Court's tests, the Court explained instigation as intentional goading, urging, provoking or encouraging, which may be inferred from a continuing course of conduct. It considered the State's account that the applicant persisted in asking the deceased to marry him although he was already married, had children and had been asked by her family to desist. The Court reasoned that a second marriage during the subsistence of the first was void and characterised his insistence as pressure to enter a relationship not recognised by law. It held that such alleged conduct could not be treated as incapable of amounting to abetment of suicide. The allegations therefore went beyond innocuous or ordinary discord and were sufficient to resist quashing at this stage. This conclusion was confined to the quashing application; it was not a finding, after evidence, that all the statutory ingredients had been proved.

6. Relief : The Hon'ble High Court dismissed the application to quash the Section 306 FIR. Investigation and any prosecution were left to continue in the ordinary course. The ruling did not finally determine guilt.

Aman Parmar v. State of M.P. and Ors., M.Cr.C. no. 22585/2021, 18/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (28) Prev Next

Headnote :- Criminal Procedure Code, 1973 — Section 439 / successive bail - The strict principle of res judicata does not bar a further bail application. However, after an application has been rejected on merits, repeated filing without a material change in circumstances or a valid new ground cannot be used to obtain review of the earlier order. Applying *State of Tamil Nadu v. S.A. Raja, (2005) 8 SCC 380*, and *State of M.P. v. Kajad, (2001) 7 SCC 673*, the Court rejected counsel's insistence on rearguing the merits in a third application. *Abdul Basit v. Mohd. Abdul Kadir Chaudhary, (2014) 10 SCC 754*, reinforced the distinct prohibition under Section 362 against indirectly reviewing an order granting bail. As no changed circumstance had been identified, the Court declined to reconsider the merits. It did not hold that every successive bail application was barred.

Case-note :- ***1. Facts :*** The applicant was arrested on 31 December 2021 in Crime No. 273/2021, Gwalior, for alleged abetment of suicide under Section 306 IPC. His first bail application had been dismissed on merits. His second application was dismissed on 5 July 2022 in M.Cr.C. No. 32265/2022. The present application was his third request for bail under Section 439 CrPC. When directed to identify changed circumstances, counsel insisted on arguing the merits again. He submitted that res judicata did not apply to bail applications and relied on *S.A. Raja* and the Division Bench ruling in *Jagdish Arora*. The State opposed a further application in the absence of changed circumstances.

2. Precedents — Considered : *State of Tamil Nadu v. S.A. Raja, (2005) 8 SCC 380*, was cited by the applicant. It states that a fresh bail application made shortly after refusal and an unsuccessful challenge requires a major change in circumstances or valid grounds giving rise to a tenable case for bail. Repeated filing without a change in circumstances would set a bad precedent. The Court applied that qualification in rejecting the applicant's submission. *State of M.P. v. Kajad, (2001) 7 SCC 673*, recognises that successive bail applications may be made on changed circumstances, but treats repetition without change as an impermissible request for review. This was the direct basis of the present ruling. *Abdul Basit alias Raju v. Mohd. Abdul Kadir Chaudhary, (2014) 10 SCC 754*, explains that a court cannot indirectly review its own order granting bail through a request for cancellation, and that Section 362 bars such review in the absence of statutory authority. The Court invoked the prohibition on review. The present case, however, concerned a further bail application after refusal, rather than cancellation of an order granting bail.

3. Statutes considered : Section 439 CrPC governed the request for regular bail; a further application could be made on changed circumstances. Section 362 CrPC was discussed in the quoted *Abdul Basit* ruling as a bar to review of an order granting bail; the present application sought bail again after an earlier refusal. IPC Section 306 identified the alleged offence. The Court did not reconsider its merits.

4. Issues : Whether the applicant was entitled to a fresh hearing on the merits of his third regular bail application merely because res judicata did not apply, when bail had earlier been refused on merits and no change in circumstances had been identified.

5. Ratio / Findings : The Court rejected counsel's reliance on *S.A. Raja* for an unqualified right to reargue the merits. The inapplicability of strict res judicata does not permit repeated argument on the same merits. *Kajad* permits a further application where circumstances materially change and treats repetition without change as an attempt to review the earlier order. Counsel identified no new circumstance after the previous refusal and persisted in seeking to argue the merits again. The Court held that this was an impermissible attempt to reopen its earlier bail decision. It did not reassess the merits of the suicide case. *Abdul Basit* was cited for the broader prohibition on indirect review; that authority concerned an attempt to review an order granting bail.

6. Relief : The Hon'ble High Court dismissed the third application for regular bail under Section 439 CrPC. It did not decide the merits of the underlying Section 306 accusation afresh or impose a permanent bar on a future application based on changed circumstances.

Aman Parmar v. State of Madhya Pradesh, M.Cr.C. no. 40793/2022, 26/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (29) Prev Next

Headnote :- Code of Civil Procedure, 1908 — Section 13 / foreign divorce in Section 482 petition - The husband knew that his wife had left Arizona for India, yet obtained an ex parte divorce decree after notice was published in an Arizona newspaper. The Court held that service was unfair and fraudulent, bringing the decree within the natural-justice and fraud exceptions to the conclusiveness of a foreign judgment. It also noted that the stated ground of irretrievable breakdown was not a recognised ground for divorce in India. The decree therefore did not conclusively defeat the prosecution arising from the Section 498-A FIR.

Code of Criminal Procedure, 1973 — Section 468 / continuing Section 498-A cruelty - For the alleged offence, which carries a maximum sentence of three years' imprisonment, the period of limitation for taking cognizance is three years. Here, however, the alleged expulsion from the matrimonial home for want of dowry and the continuing mental consequences at the wife's parental home were treated as continuing cruelty, rather than an act completed in 2019. Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, and *Amar Singh v. Vimla*, the Court rejected the limitation objection on the alleged facts.

Code of Criminal Procedure, 1973 — Section 178 / territorial jurisdiction - On its prima facie view of continuing mental cruelty and the allegation of threatened remarriage, the Court held that Adhartal police could register and investigate the case despite the principal alleged acts having occurred in Arizona. In reaching that conclusion, it also noted that the husband's parents resided within Adhartal's territorial jurisdiction. The truth of the remarriage allegation remained to be tested in evidence.

Indian Penal Code, 1860 — Section 498-A / mental cruelty and threshold quashing - The alleged dowry demands, expulsion, continuing distress and threatened remarriage could disclose a cognizable offence of cruelty. The wife's silence or her failure to initiate matrimonial proceedings did not establish that she was content with the separation, consistently with *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, supported treating the informant's alleged mala fides as secondary where the complaint disclosed an offence. The initial mistaken reference to Section 498, later corrected to 498-A, did not invalidate the charge-sheet on these facts. The application was dismissed without final findings on the matters requiring trial.

Case-note :- ***1. Facts :*** The parties married in Jabalpur in 2005, lived in several Indian cities and later spent years in the United States. They had two children. The wife's FIR alleged subsequent dowry demands, physical and mental harassment, threats of divorce and remarriage, expulsion from the American home in November 2019, non-payment of maintenance and inability to return. The children

remained with the husband. She returned to India, and FIR No. 1274/2023 was registered at Adhartal, Jabalpur, on 8 December 2023 under Section 498-A IPC; the initial police and charge-sheet papers referred to Section 498 and were later corrected. The husband sought quashing under Section 482 CrPC. He relied on an ex parte Arizona divorce decree, his assertion that there had been no contact after 2019, a travel record showing departure on 21 rather than 23 November, the elapsed time and the fact that the principal alleged acts occurred abroad. He submitted that she had sought a share in property and alimony in later emails, had not sought restitution of conjugal rights or divorce, and had lodged the FIR only when he visited India with the children. The Arizona divorce petition was filed in October 2019. Attempts at service in late 2019 failed, and publication was authorised and made in Arizona in early 2020, after she had left. In an email sent in June 2023, she challenged that service. The husband conceded that he had refused maintenance. The State submitted that the alleged cruelty connected with dowry demands and the threats of remarriage disclosed an offence. The application sought quashing; it did not involve a trial of those accusations.

2. Precedents — Considered : The husband cited *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, in support of his allegation of mala fides. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted at length on the cautious exercise of jurisdiction under Section 482. The quotation included the illustrative categories in *R.P. Kapur* and *Bhajan Lal* concerning a legal bar, failure to disclose an offence and manifest mala fides, the need to avoid assessing credibility as at trial, and the secondary importance of the complainant's alleged motive where the allegations disclose a cognizable offence. The Court applied that threshold when rejecting the alleged motive based on the timing of the complaint and the proposed defence concerning remarriage. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explained that the mental effects of physical or verbal cruelty and forced separation may continue at the parental home where the wife takes shelter, even without a fresh act of physical cruelty there. The Court applied that principle to continuing cruelty and to the objections based on time and place. *Amar Singh v. Vimla*, Criminal Revision 2376/2020 (22.06.2021), stated the High Court's related conclusion that compelling a wife to remain at her parental home may itself amount to cruelty. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, rejected an adverse inference from delay where the wife and her family had been trying to achieve reconciliation. The Court applied it when considering the wife's failure to initiate matrimonial proceedings earlier.

3. Statutes considered : Section 498-A IPC and its Explanation governed cruelty comprising wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health; or harassment intended to coerce her or a person related to her to meet an unlawful demand for property or valuable security, or arising from their failure to meet that demand. Section 498 IPC was a distinct provision mistakenly entered in the earlier papers; the allegations were considered under 498-A. Section 482 CrPC governed quashing. Section 468(2)(c) CrPC prescribed the asserted three-year limitation for taking cognizance where the maximum sentence was three years, subject here to the Court's analysis of the offence as continuing. Section 178 CrPC permitted inquiry or trial where an offence continued across more than one local area or consisted of acts in different areas. Section 13(d), (e) and (f) CPC concerned the natural-justice, fraud and Indian-law exceptions to the conclusiveness of a foreign judgment. The Court also considered the ground of divorce stated in the Arizona decree. The Arizona procedure for publication formed part of the background to the service finding; it was not independently interpreted as Indian criminal law.

4. Issues : (i) Whether the Arizona divorce decree conclusively ended the marital basis of the cruelty prosecution. (ii) Whether the 2023 FIR was barred by a three-year limitation period calculated solely from the wife's departure in 2019. (iii) Whether Adhartal police could act when many of the alleged events occurred in Arizona. (iv) Whether the alleged cruelty, threatened remarriage and delayed complaint disclosed an offence under Section 498-A despite the asserted absence of later contact and earlier matrimonial proceedings, and whether the mistaken reference to Section 498 required quashing.

5. Ratio / Findings : On the husband's own account of her travel, the wife had left Arizona before notice was served by publication there. He knew that she was in India but relied on publication in an Arizona newspaper. The Court held that this involved fraud and denied fair notice, so that the foreign decree was not conclusive under Section 13 CPC. The stated ground of irretrievable breakdown was a further reason for attaching no weight to the decree in these

proceedings. Applying *Rupali Devi*, the Court held that the alleged expulsion for want of dowry and consequent compelled residence with her parents could sustain continuing mental cruelty beyond the original act abroad. On that basis, Section 468 did not bar the case merely because the FIR was lodged four years after her departure. Silence and failure to initiate matrimonial proceedings did not show that she accepted the separation; *Pratibha* recognised that such delay could reflect efforts to save the marriage. The Court treated the alleged threat of remarriage as relevant to mental cruelty, while leaving the husband's actual intention disputed. On its view of continuing cruelty, Section 178 permitted local proceedings. The Court also noted that the husband's parents resided within Adhartal's territorial jurisdiction. Applying *Renu Kumari*, it refused to quash merely on the husband's theory that the wife had waited for his visit to India to complain. The mistaken initial reference to Section 498 did not defeat a prima facie case under Section 498-A. These were findings on the quashing application, not final determinations of cruelty, dowry demands, intended remarriage or guilt.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. It held that the FIR allegations prima facie disclosed an offence under Section 498-A and declined to quash the charge-sheet. The criminal case could continue, with disputed facts left for the competent trial forum.

Aman Shrivastava v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 6512/2024, 26/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (30) Prev Next

Headnote :- Negotiable Instruments Act, 1881 — Sections 138 and 139 / allegedly interpolated security cheque - The presumption under Section 139 is rebuttable. It does not conclusively shield a cheque holder from a counter-complaint alleging that he changed the date of a postdated cheque from 25 December to 25 February 2013 and presented it before the alleged debt became due. On the complainant's version, liability had not accrued either by the altered date or when the Section 138 complaint was filed in May. The Court therefore declined to quash the order taking cognizance of the alleged IPC forgery and related offences. It did not decide whether the cheque had in fact been altered or whether liability was ultimately established.

Criminal Procedure Code, 1973 — Section 482 / delayed complaint and alleged counterblast - Applying *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, the Court held that the complainant's alleged mala fides were insufficient by themselves to justify quashing where the accusation disclosed a cognizable offence. *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, and *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, supported the separate principle that delay alone neither invalidates a criminal complaint nor requires its quashing, unless a bar under Section 468 is established. The application challenging cognizance was dismissed.

Case-note :- ***1. Facts :*** The applicant had filed a complaint under Section 138 of the Negotiable Instruments Act on a cheque which, according to him, represented an existing liability. The respondent alleged that the cheque had been issued as security and postdated 25 December 2013, but that the applicant changed the date to 25 February 2013, presented it and filed the Section 138 case on 18 May 2013, before the original date or the accrual of liability. On the respondent's complaint about the alteration, the JMFC, Satna, took cognizance on 23 March 2018 in RCT 219/2018 of offences under IPC Sections 420, 467, 468, 471 and 120-B. The applicant challenged that order under Section 482 CrPC, while acknowledging that revision was also available. He submitted that issuance of the cheque was admitted, that Section 139 raised a presumption of legally enforceable liability, that a security cheque could attract Section 138, and that the later complaint was a mala fide counterblast to his own case. The respondent submitted that alteration of a valuable security constituted a distinct offence. The Court considered the complaint at the threshold; it did not determine the allegation on tested evidence concerning the document.

2. Precedents — Considered : The applicant relied on *Mahindra and Mahindra Financial Services v. Rajiv Dubey, (2009) 1 SCC 706*, and the coordinate-bench decisions in *G.D. Choudhary v. Vishnukumar* and *Adarsh Singh Kushwaha v. State of M.P., (2016) 3 MPLJ 176*. *Bhajan Lal, AIR 1992 SC 604*, was invoked in support of the alleged counterblast. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, expressly considered *Bhajan Lal* and *R.P. Kapur.* The Court applied its principle that the complainant's alleged motive alone does not justify quashing a complaint disclosing a cognizable offence. *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*,

explained that delay in reporting is common and that there is no fixed deadline for lodging an FIR. Neither promptness nor delay conclusively establishes the truth of the account. The Court relied on it to reject the contention that delay automatically invalidated the complaint. *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, likewise held that delay alone was insufficient for quashing and was applied on that point.

3. Statutes considered : Section 139 of the Negotiable Instruments Act, 1881 raises a rebuttable presumption that the holder received a cheque of the kind referred to in Section 138 in discharge, wholly or partly, of a debt or other liability. Section 138 concerned the applicant's underlying dishonour case, whose merits were not decided. IPC Sections 420, 467, 468, 471 and 120-B were the offences of which the Magistrate had taken cognizance on the allegations of alteration and use. Section 482 CrPC governed the quashing application. Section 468 CrPC was referred to as a possible statutory bar of limitation, but no such bar was asserted or established.

4. Issues : Whether admitted issuance of the cheque and the presumption under Section 139 defeated a complaint alleging a material alteration of its date and use before the asserted liability became due; and whether the alleged retaliation or delay following the applicant's Section 138 case required quashing of the Magistrate's cognizance order.

5. Ratio / Findings : On the respondent's version, the cheque was originally postdated 25 December 2013, but the applicant allegedly altered the date to 25 February 2013 and filed the Section 138 case in May. The Court reasoned that, even with the presumption under Section 139, liability on that version would arise, at most, on the original future date. The presumption therefore did not dispose of the allegation that the cheque had been altered and used before liability arose. The Court rejected quashing on that basis without deciding whether the allegations were proved. Under *Renu Kumari*, the alleged counterblast was secondary where the complaint disclosed cognizable offences. The Court noted the complainant's assertion that he had complained to the bank on 15 May 2013. Applying *Ravinder Kumar* and *Mohammad Wajid*, it held that mere delay in reporting was insufficient to terminate the proceedings; no bar under Section 468 had been alleged. These were threshold conclusions, not findings that the cheque had actually been forged or that either party would ultimately succeed in the parallel proceedings.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. The JMFC's order taking cognizance of the listed IPC offences remained operative. The underlying Section 138 case was not decided.

Ameen Hussain v. Akash Kumar Dwivedi, M.Cr.C. no. 51510/2018, 15/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (31) Prev Next

Headnote :- Indian Penal Code, 1860 — Sections 415 and 420 / inception intention / commercial transaction - A later breach of contract does not, by itself, establish cheating. Fraudulent or dishonest intention must exist when the original inducement is made. *Sarabjit Kaur v. State of Punjab, (2023) 5 SCC 360, Mitesh Kumar J. Sha v. State of Karnataka, (2022) 14 SCC 572*, and *Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712*, explain that distinction. Here, the FIR alleged that a promise of 60 percent participation in a toll-plaza venture induced payment of Rs. 2.06 crore, but only 25 percent was allotted and the excess Rs. 1.215 crore was not returned. The cancellation deed was allegedly signed under pressure. Taken at face value at the Section 482 stage, those allegations supported an inference of deception at the outset, rather than merely a later failure to perform the contract. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, and *Alpic Finance v. P. Sadasivan, (2001) 3 SCC 513*, required consideration of the allegations at face value without resolving disputed evidence. The availability of a civil claim did not automatically preclude investigation of the alleged offence. Quashing was refused without final findings on the partnership terms or guilt.

Case-note :- ***1. Facts :*** The respondent informant, who was said to be about 80 at the later meeting, met the applicant through a mutual acquaintance. He alleged that the applicant encouraged him to invest in a toll-plaza contract by promising monthly profit of 15–20 percent, return of the earnest money and a 60 percent partnership. The informant stated that he withdrew his savings and transferred Rs. 2.06 crore for the Kunwarpur toll plaza, representing roughly 60 percent of the total earnest money of Rs. 3.38 crore. The applicant's counsel accepted receipt of that aggregate amount, while submitting that it had

been received indirectly through other persons. The written arrangement gave the informant a 25 percent share, provided for return of the excess Rs. 1.215 crore and treated Rs. 84.5 lakh as his 25 percent earnest-money contribution, refundable after the NHAI contract ended. He alleged that neither the excess nor the full refundable earnest money was returned. According to him, the applicant referred to penalties, gave him a cheque for Rs. 30 lakh, withheld the penalty details and compelled him to sign a cancellation deed in a closed office late at night in the presence of armed persons. He also alleged threats. FIR 134/2022 was registered at Sanjeevani Nagar, Jabalpur, under IPC Sections 420, 406 and 386. The applicant sought quashing of the FIR and consequential proceedings under Section 482 CrPC. Relying on *V.Y. Jose*, he submitted that the dispute over 60 percent or 25 percent participation and the accounts was civil. The informant maintained that the applicant had intended to deceive him from the beginning.

2. Precedents — Considered : The applicant relied on *V.Y. Jose v. State of Gujarat, (2009) 3 SCC 78*. *Sarabjit Kaur v. State of Punjab, (2023) 5 SCC 360*, held that breach of contract or failure to keep a promise does not, by itself, establish fraud at the outset, and cautioned against using criminal proceedings to exert pressure in a truly civil dispute. The Court distinguished its application because the alleged initial payment followed by a reduced allotment supported a different inference here. *Mitesh Kumar J. Sha v. State of Karnataka, (2022) 14 SCC 572*, including the principles in *Hridaya Ranjan Prasad Verma* and *Indian Oil*, likewise required dishonest intention at the time of inducement. The ingredients of the alleged offence had to be examined; a contractual setting did not, by itself, make every dispute purely civil. *Alpic Finance v. P. Sadasivan, (2001) 3 SCC 513*, considered the exceptional power to quash claims with a civil character while recognising, through *Trisuns Chemical* and *Pratibha Rani*, that civil and criminal remedies may coexist where facts constituting an offence are alleged. *Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712*, set out the ingredients under Sections 405/415 and required, for cheating, dishonest intention when the original promise was made. The Court applied that requirement to the alleged initial inducement of a 60 percent share followed by a 25 percent allotment. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, required the allegations to be considered at face value without conducting a trial of disputed facts, and recognised that a civil claim did not, by itself, displace a criminal offence. *XYZ v. State of Gujarat, (2019) 10 SCC 337, State of T.N. v. S. Martin, (2018) 5 SCC 718, Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226, M. Srikanth v. State of Telangana, (2019) 10 SCC 373, CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021 (30.06.2021), were considered together on the need for restraint under Section 482. Disputed facts were to be investigated and tried, while intervention remained available where allegations taken at face value disclosed no offence.

3. Statutes considered : Sections 415 and 420 IPC concerned deception, dishonest inducement and delivery of property. The Court emphasised the need for dishonest intention at the outset. The elements of entrustment and dishonest misappropriation under Section 405 IPC were quoted through *Harmanpreet* in relation to the charge under Section 406. Section 386 IPC was an offence stated in the FIR in connection with the alleged coercion. Section 482 CrPC governed the request to quash the FIR and consequential proceedings at the threshold.

4. Issues : Whether the alleged failures concerning the partnership and refund amounted only to a civil dispute over accounts or contract, or whether the initial representation and handling of the investment disclosed dishonest inducement constituting cheating; and whether the disputed documents, shares, routes of payment and allegedly coerced cancellation could be determined in the exercise of inherent jurisdiction.

5. Ratio / Findings : The Court distinguished a later breach of contract from dishonest intention at the time of the original promise. It considered the alleged representation of a 60 percent interest, receipt of the corresponding investment directly or indirectly, allotment of only 25 percent, failure to return the excess despite assurances, alleged withholding of refundable earnest money and the account of a cancellation deed signed under pressure. The Court explained that, if a genuine agreement for a 60 percent share had later failed because of intervening events, that failure alone would not establish cheating from the outset. Here, however, the alleged allotment of a reduced share after receipt

of the investment, followed by retention of the excess, supported a prima facie inference of dishonest intention at inception. The civil features of a business venture did not automatically exclude the ingredients of a criminal offence. At the Section 482 stage, the Court could not resolve the conflicting accounts of the arrangement or the cancellation deed. It held that the allegations could not be treated as predominantly civil.

6. Relief : The Hon'ble High Court dismissed the application to quash Crime No. 134/2022 and consequential proceedings. The FIR remained open to investigation or prosecution according to law. The threshold decision did not determine guilt or civil entitlements.

Amit Khampariya v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 39276/2022, 30/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (32) Prev Next

Headnote :- Evidence Act, 1872 — injured and related eyewitnesses / contradictions - The injuries sustained by Jaswant and Rajendra supported their presence at the incident. Their relationship with the deceased did not, by itself, discredit otherwise credible testimony. Applying *State of U.P. v. Naresh, (2011) 4 SCC 324*, and *Mritunjoy Biswas v. Pranab, (2013) 12 SCC 796*, the Court distinguished minor variations from contradictions affecting the substance of the prosecution case. The witnesses consistently identified the appellants and described the armed interception, assault and burning of the jeep. Medical evidence corroborated their account.

Evidence Act, 1872 — hostile witness - Applying *Malti Sahu v. Rahul, (2022) 10 SCC 226*, the Court held that a witness's hostility did not remove the dependable part of the testimony from consideration. It relied on the admission that the jeep had been stopped at the barrier. That limited admission corroborated the occurrence; it did not establish every accused person's role.

Evidence Act, 1872 — Section 32(1) / CrPC Sections 161 and 162(2) - Ramswaroop's statement to the police concerned the assault that caused his death. After his death, it was admissible as a dying declaration under the exception to the usual restriction in Section 162. Applying *Pradeep Bisoi v. State of Odisha, (2019) 11 SCC 500*, the Court relied on the statement to support the eyewitness account and its finding that the death was homicidal.

Indian Penal Code, 1860 — Sections 141 and 149 / common object - A member of an armed unlawful assembly who shares its common object may incur constructive liability even without proof that he inflicted the fatal blow. Mere presence is insufficient. Applying *Rabindra Mahto v. State of Jharkhand, (2006) 10 SCC 432*, and *Naresh v. State of Haryana, (2023) 10 SCC 134*, the Court inferred the shared object and the required awareness from the weapons carried, the unlawful interception, the joint assaults and the burning of the jeep. It affirmed the convictions and sentences of the three appellants whose appeals remained for decision.

Case-note :- ***1. Facts :*** On 13 August 2006, Ramswaroop Chaturvedi and his relatives were returning from a shrine in a jeep when a group intercepted them at the Pahadi Bandha toll barrier. The group allegedly assaulted the occupants with guns, lathis and an axe and set the jeep on fire. Ramswaroop later died of his injuries. The FIR initially alleged rioting, attempted murder and mischief by fire; the murder charge was added after his death. Investigators recovered weapons and recorded the accounts of eyewitnesses and injured persons, including Ramswaroop's statement under Section 161 while he was alive. Doctors examined the deceased and the injured occupants. The Sessions Court, Naugaon, convicted Amit Kumar, Babbu alias Babulal, Munna and Bhaiyan alias Jairam under Section 302/149 and the connected Sections 148, 323/149 and 435/149. It imposed life imprisonment and other concurrent terms, but acquitted Virendra. Several accused had died during the trial. Criminal Appeals 1753 and 1856 of 2010 were heard together. Bhaiyan's appeal had been withdrawn in 2022, leaving the appeals of Amit, Babbu and Munna for decision on the merits. They contended that the fatal blows were mainly attributed to assailants who had died, that their own specific roles were uncertain, and that the witnesses contradicted one another. They also relied on past enmity, Virendra's acquittal and their substantial period in custody to seek interference with the convictions or reduction of sentence. The State relied on the injured and other eyewitnesses, medical evidence and the deceased's recorded account.

2. Precedents — Considered : *Mritunjoy Biswas v. Pranab, (2013) 12 SCC 796*, distinguished minor discrepancies from omissions or contradictions that affect the substance of the prosecution case and undermine otherwise reliable evidence. *State of*

U.P. v. Naresh, (2011) 4 SCC 324, required due weight to an injured witness's testimony because the injury supports presence, subject to rejection for major contradictions or discrepancies. It also held that relationship alone does not discredit a witness, whose evidence must be carefully assessed. The Court applied these principles to the accounts of the injured and related witnesses, which were corroborated by medical evidence. *Malti Sahu v. Rahul, (2022) 10 SCC 226*, permitted reliance on the dependable part of a hostile witness's evidence. Here, that use was confined to the admission that the jeep had been stopped at the barrier. *Pradeep Bisoi v. State of Odisha, (2019) 11 SCC 500*, explained Section 32(1) of the Evidence Act and the exception in Section 162(2) CrPC. Referring to *Mukeshbhai Gopalbhai Barot*, it recognised that a statement recorded under Section 161 concerning the transaction resulting in the maker's death becomes relevant after his death. On that basis, the Court admitted Ramswaroop's account of the assault. *Rabindra Mahto v. State of Jharkhand, (2006) 10 SCC 432*, allowed common object to be inferred from conduct, weapons and surrounding circumstances without proof of prior agreement. *Naresh v. State of Haryana, (2023) 10 SCC 134*, required proof that the accused shared the object and were aware of the offences likely to be committed in pursuing it. The Court applied those tests to the armed interception and group attack.

3. Statutes considered : IPC Sections 141 and 149 governed the requirement of an unlawful assembly of five or more persons, its shared common object and constructive liability. Section 302/149 was the basis of the murder conviction. Sections 148, 323/149 and 435/149 concerned the connected convictions for rioting, hurt and mischief by fire. The trial acquittals under Sections 147 and 307/149 were not reinstated on appeal. Section 32(1) of the Indian Evidence Act made the deceased's statement about the cause or circumstances of his death admissible. Sections 161 and 162(2) CrPC governed its recording by the police and the exception to the usual restriction on its use. Section 25(a) of the Arms Act appeared in the charge-sheet background; it was not the subject of an appellate holding.

4. Issues : Whether the injured and other eyewitnesses, supported by medical evidence, proved homicidal death and the participation of the appellants whose appeals remained for decision; whether discrepancies, hostile testimony, relationship to the deceased or Virendra's acquittal undermined that proof; whether Ramswaroop's statement under Section 161 could be used after his death; whether the common object under Section 149 supported murder liability without separate proof that each appellant inflicted the fatal injury; and whether the convictions or life sentences called for interference on appeal.

5. Ratio / Findings : The autopsy disclosed ante-mortem blunt and penetrating injuries, with death caused by haemorrhagic shock. The Court found that the death was homicidal. Jaswant, Rajendra, Krishna Devi, Rampal and other witnesses described the interception, armed group assault and burning of the jeep. The injury reports supported their presence and the manner of attack. Their accounts consistently placed Amit, Babbu and Munna in the attack, and minor variations did not affect the substance of the prosecution case. The partly hostile witness's admission that the jeep had been stopped was relied on only to the extent that it was dependable. Ramswaroop's police statement concerned the assault that resulted in his death. It was therefore admissible under Section 32(1), read with the exception in Section 162(2), and corroborated the other evidence. The Court inferred the shared common object and the necessary awareness from the number of armed participants, the barrier, the joint assault and the burning of the jeep. Liability under Section 149 followed from each appellant's membership coupled with that shared object; it did not depend on separately proving that each had inflicted the fatal blow. The Court rejected the claim to parity with Virendra and the plea of false implication. It held that the prosecution had proved the case beyond reasonable doubt. Given the seriousness and manner of the attack, the life sentences could not be reduced to the period already undergone.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed the convictions and concurrent sentences of Amit Kumar, Babbu alias Babulal and Munna. Under Section 302/149, each was sentenced to life imprisonment and a fine of Rs. 1,000, with six months' rigorous imprisonment in default. The rigorous imprisonment terms under Sections 148, 323/149 and 435/149 were one year, six months and two years respectively. Bhaiyan alias Jairam's appeal had already been withdrawn, and Virendra's acquittal remained unchallenged. Amit and Munna were on bail. Their bail bonds were cancelled, and

they were directed to surrender forthwith to serve the remaining terms, failing which non-bailable warrants would issue. Babbu, who was in custody, was directed to serve the balance of his sentence. The judgment and trial record were to be sent to the court concerned, and a copy of the judgment to the jail authorities, for compliance.

Amit Kumar and Ors. v. The State of Madhya Pradesh; Munna v. The State of Madhya Pradesh, Cr.A. no. 1753/2010 & 1856/2010, 25/10/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Headnote :- Maintenance — separate residence — cruelty and restitution - In a revision concerning interim maintenance under Section 125 CrPC, the husband produced a page of his wife's diary. It recorded alleged physical assaults and false representations about family property. The Court accepted those contents as sufficient reason for her to live separately. The husband had withdrawn his petition under Section 9 of the Hindu Marriage Act. Citing *Rina Kumari @ Rina Devi v. Dinesh Kumar Mahto @ Dinesh Kumar Mahato, SLP (Criminal) No. 5896/2024*, decided 10.01.2025, the Court added that even a decree for restitution of conjugal rights would not, by itself, bar maintenance. It decided the dispute on the diary material and the absence of any subsisting restitution proceeding.

Maintenance — living in adultery — proof - In discussing the disqualification for "living in adultery", with reference to Section 125(4) CrPC and Section 144(5) BNSS, the Court held that adultery required sexual intercourse. A bare allegation of affection or a love affair, without proof of physical relations, did not disqualify the wife from interim maintenance. The Court made no finding that she was living in adultery.

Interim maintenance — income proof — overlapping remedies - Applying *Rajnesh v. Neha, (2021) 2 SCC 324*, the Court held that an able-bodied husband's asserted meagre salary did not relieve him of his duty to maintain his wife. The Rs. 8,000 salary certificate was undated, did not state its place of issue and had not been proved. The allegation that the wife earned from a beauty parlour was unsupported. The father's purported disowning notice was contradicted by the husband's continued use of the same residential address. Those matters did not establish that the monthly interim award of Rs. 4,000 under Section 125 was excessive. The Family Court had considered the existing monthly award of Rs. 4,000 under Section 24 of the Hindu Marriage Act. Maintenance may be claimed under different statutes, but payments already received must be considered when fixing the amount. The revision was dismissed without a final evidentiary determination of the parties' incomes.

Case-note :- ***1. Facts :*** Amit Kumar Khodake challenged the order dated 20.04.2024 passed by the Principal Judge, Family Court, Chhindwara, in MJCR No. 37/2021, awarding his wife Madhuri interim maintenance of Rs. 4,000 per month under Section 125 CrPC. He invoked Sections 397 and 401 CrPC in criminal revision. She was already receiving maintenance pendente lite of Rs. 4,000 per month under Section 24 of the Hindu Marriage Act. The husband submitted that he worked as a ward boy and earned only Rs. 8,000 per month. He argued that the further award of Rs. 4,000 was excessive in view of that income and the existing award, and produced a certificate attributed to Anmol Hospital, Indore. He also produced a page of his wife's diary, alleged that she had a love affair and earned from a beauty parlour, and relied on a newspaper notice by his father purporting to dispossess him of family property. He had filed and later withdrawn a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act, and had filed for divorce. The diary page, however, recorded allegations that he had physically assaulted her and that false information about family land had been given before marriage. His father's notice and his own cause-title address placed them at the same residence. The High Court heard the applicant husband's counsel and decided the revision on that interim record. Evidence remained to be led in the underlying maintenance proceeding.

2. Precedents — Considered : *Rajnesh v. Neha and Another, 2020:INSC:631, (2021) 2 SCC 324*, was cited and applied to the maintenance obligation of an able-bodied husband. The High Court held that an asserted meagre salary did not automatically prevent an award. It did not rely on that authority to determine his actual income or to dispense with consideration of maintenance awarded under other statutes. *Rina Kumari @ Rina Devi v. Dinesh Kumar Mahto @ Dinesh Kumar Mahato, SLP (Criminal) No. 5896/2024*, decided 10.01.2025, was invoked for the proposition stated in this judgment that even a

decree for restitution under Section 9 of the Hindu Marriage Act would not, by itself, prevent maintenance. There was no subsisting decree or pending restitution proceeding here: the husband had withdrawn his petition. Independently, the Court found sufficient reason for the wife to live separately in the contents of the diary.

3. Statutes considered : Sections 397 and 401 CrPC governed the revision against the interim Family Court order. Section 125 CrPC governed the wife's interim maintenance, including the objection under Section 125(4) that she was living in adultery or refusing to live with her husband without sufficient reason. The Court also referred to Section 144(5) BNSS when discussing that objection. Section 24 of the Hindu Marriage Act was the basis of the existing monthly award of Rs. 4,000, whose payment had to be considered when fixing maintenance under Section 125. Section 9 of the Hindu Marriage Act concerned the husband's withdrawn restitution petition.

4. Issues : (i) Whether the diary and the withdrawn restitution proceeding established that the wife lacked sufficient reason to live separately and was therefore disentitled to interim maintenance. (ii) Whether the alleged love affair met the statutory disqualification for "living in adultery". (iii) Whether the further monthly award of Rs. 4,000 was excessive in view of the existing award under Section 24 of the Hindu Marriage Act, the husband's asserted income, the wife's alleged beauty-parlour earnings and the father's purported disowning notice. The parties' final incomes and the wife's alleged business activity remained to be proved in the pending proceeding.

5. Ratio / Findings : Because the husband himself relied on the diary, the Court did not require the wife to prove it formally before considering its contents. Her account of physical assaults and false pre-marriage representations about family land provided sufficient reason to live separately. The husband had withdrawn his restitution petition. Relying on *Rina Kumari*, the Court rejected the premise that even a decree for restitution would automatically bar maintenance; no subsisting decree fell for determination here. On the alleged love affair, the Court held that "living in adultery" required sexual intercourse. Love or affection without physical relations did not establish that disqualification, and no such physical relationship had been proved. The hospital salary certificate stated neither its date nor its place of issue and had not been proved by the issuer. The husband did not contend that he was incapable of work. Applying *Rajnesh*, the Court held that an able-bodied husband had to earn and discharge his maintenance obligation despite his asserted meagre pay. No document established that the wife owned or rented a shop for a beauty parlour, had other property for that purpose or actually earned from it. The claim therefore remained a bare allegation at the interim stage. The Court regarded the father's newspaper notice as a camouflage because the husband continued to give the same residential address as his father. Maintenance under different statutes could coexist, but the court fixing the amount had to consider payments received under the other statutes. The Family Court had expressly considered the existing monthly award of Rs. 4,000 under Section 24. In view of daily needs and prevailing prices, the further interim award of Rs. 4,000 per month disclosed no material illegality. These provisional findings did not establish the parties' final incomes or finally dispose of the pending Section 125 proceeding.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The Family Court's interim award of Rs. 4,000 per month under Section 125 CrPC remained undisturbed alongside the existing monthly award of Rs. 4,000 under Section 24 of the Hindu Marriage Act, which the Family Court had considered. The order did not fix final maintenance, award costs or issue any further direction.

Amit Kumar Khodake v. Madhuri, Cr.R. no. 4006/2024, 17/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Indian Penal Code, 1860 — Sections 307 and 34 / firearm attack / intention - The question is whether the act was accompanied by the intention or knowledge that would make the offender guilty of murder if death resulted. Serious injury is not a prerequisite, although the causing of hurt affects the applicable punishment. The shot near the upper left chest, the medically recorded entry wound and the retained projectile supported the conviction for attempted murder. The upward path of the projectile did not disprove the eyewitness account when the doctors had not been asked about possible internal deflection. Ajji's leg amputation did not exclude his participation by instigation.

Sentencing — proportionality / time served - *State of H.P. v. Nirmala Devi, (2017) 7 SCC 262, Surjit Singh v. Nahara Ram, (2004) 6 SCC 513*, and *Adu Ram v. Mukna, (2005) 10 SCC 597*, were considered for the need to balance deterrence, the gravity of the offence and mitigating circumstances. The planned firearm attack arose from old enmity and injured a person who was not involved in that dispute. It did not justify reducing the seven-year term to the shorter periods already spent in custody. The convictions and sentences were affirmed.

Case-note :- ***1. Facts :*** On 21 November 2016, Govind alias Tillu Balmik was outside his house in Shivpuri when Ammu alias Amar and Ajji alias Ajit allegedly challenged him for supporting Sunil Balmik. When Govind objected, Ajji allegedly instigated Ammu to kill him, and Ammu fired a shot, injuring his left upper chest or shoulder. Govind ran into the house to escape. Padam and Swaraj were said to have witnessed the incident. A Dehati Nalsi recorded at the hospital preceded FIR 1039/2016. A pistol seized from Ammu was found to be functional. A doctor recorded an entry wound in the left subclavicular region and an opaque projectile retained in the body. On 5 March 2021, the Sessions Court convicted both appellants under Sections 307/34 IPC in S.T. 34/2017 and sentenced them to seven years' rigorous imprisonment and a fine of Rs. 1,000, with a default stipulation. It acquitted them under Section 294. In their appeal under Section 374, they disputed identification, relied on Ajji's earlier leg amputation and his conflict with Sunil, questioned the bullet's path and sought reduction of sentence to the periods already undergone. Ajji testified about an attack by Sunil's associates in 2013 and complaints he had made afterwards. He admitted that Govind was neither an accused in that case nor a person who had threatened him. The State relied on the injured witness, other eyewitnesses and medical evidence.

2. Precedents — Considered : *State of H.P. v. Nirmala Devi, (2017) 7 SCC 262*, was quoted extensively on the principled exercise of sentencing discretion, proportionality and consideration of aggravating and mitigating circumstances. It recognised the greater importance of deterrence in grave crimes. *Surjit Singh v. Nahara Ram, (2004) 6 SCC 513*, cautioned against undue sympathy leading to an inadequate sentence for a serious offence. *Adu Ram v. Mukna, (2005) 10 SCC 597*, addressed the social impact of crime and the limits of leniency based solely on the passage of time. Applying these principles to the planned shooting, the Court declined to reduce the sentence to the period already undergone.

3. Statutes considered : Section 307 IPC punishes an act done with the intention or knowledge that would make it murder if death resulted. The part of the provision dealing with hurt affects the available punishment. Section 34 concerned the common intention reflected in the alleged instigation and shooting. Section 374 CrPC governed the appeal against conviction. The appellants had been acquitted under Section 294 IPC. Sections 25/27 of the Arms Act appeared in the charge-sheet background and evidence of sanction. The appealed convictions stated in the order were under Sections 307/34; the Court did not record a new holding under the Arms Act.

4. Issues : Whether the eyewitness accounts and medical evidence proved the appellants' participation in the attack despite the objections based on old enmity, disability and the bullet's path; whether the proved act involved the intention or knowledge required by Section 307; and whether the seven-year sentence should be reduced to the periods already served.

5. Ratio / Findings : Govind's account as an injured witness described Ajji's instigation and the shot fired by Ammu. Padam and Swaraj supported the essential incident. The entry wound near the upper left chest, retained projectile and recovered functional pistol corroborated the firearm attack. Ajji's leg disability was established, but it did not make verbal instigation impossible. The Court rejected the suggestion that the injury had been staged: Govind had not taken part in the earlier attack on Ajji and had not threatened him. The Court also recognised that motive could explain either false implication or retaliation; it did not treat motive as pointing only to false implication. The doctors had not been asked whether the bullet could have changed direction inside the body. Its upward path therefore did not, by itself, disprove the eyewitness account. For Section 307, the weapon, the vital part of the body targeted and the conduct established the required murderous intention or knowledge, without a threshold requirement as to the seriousness of the injury. On sentence, the old grievance, planned shooting and harm to a victim who was not involved in that dispute made the trial court's seven-year term proportionate. The shorter periods spent in custody did not, by

themselves, justify reducing it. These findings concerned this record; the trial acquittal under Section 294 remained undisturbed.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the convictions under Section 307/34, seven years' rigorous imprisonment and the fine of Rs. 1,000 with the default term. The appellants, who were already in jail, were directed to serve the remaining sentence. Copies of the judgment were to be provided to them immediately and free of cost. The trial record was to be returned immediately with a copy of the judgment for information and compliance.

Ammu and Ors. v. State of M.P., Cr.A. no. 1646/2021, 09/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- M.P. Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2022 — Rules 3 and 4 / public works exception - The exception for a Gram Panchayat to transport and store minor minerals lawfully quarried from government land for public works did not authorise unlawful sand excavation or bar allegations of theft and receipt of State-owned minerals under IPC Sections 379/411. The petitioner's road document concerned a different village, and neither lawful quarrying nor purchase had been shown. The householder attributed the storage to the Panchayat Secretary. The allegation could be supported by oral evidence without a separate document proving the Secretary's act. The Court therefore refused to quash the case, while leaving guilt to be proved. *Jayant v. State of M.P., (2021) 2 SCC 670*, was considered for the distinction between mining-rule offences and IPC theft offences. Its holding on compounding under Section 23-A was background to the present decision, since no compounding had been established in this case.

Case-note :- ***1. Facts :*** In Crime No. 300/2022 at Badarwas, Shivpuri, the police alleged theft and receipt of stolen sand under IPC Sections 379 and 411 after sand was found stored at Narendra Yadav's house. Narendra attributed the storage to the applicant, a Panchayat Secretary. Seeking quashing under Section 482, the applicant submitted that the sand was intended for a concrete road and that Rules 3 and 4 of the M.P. Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules, 2022 exempted the Panchayat. He objected that the case rested on a single oral statement without supporting documents. A measurement book produced by him showed a sanctioned road from Aadiwasi Basti to Ghurwar. Counsel conceded that Ghurwar and Rijaudi were separate villages. Narendra lived in Rijaudi. The Court examined the case diary, the claimed connection with the road and the scope of the exemption at the quashing stage.

2. Precedents — Considered : *Jayant v. State of M.P., (2021) 2 SCC 670*, was quoted for the distinction between offences under the MMDR Act and its rules and separate theft offences under the IPC. Compounding under Section 23-A bars further proceedings for the mining offence compounded; it does not automatically bar proceedings for a distinct IPC offence. The High Court adopted the distinction between the offences and the concern about unlawful sand extraction, but did not decide a compounding defence on the present facts. The judgment then listed *XYZ v. State of Gujarat, State of T.N. v. S. Martin, Ajay Kumar Das v. State of Jharkhand, Mohd. Akram Siddiqui v. State of Bihar, State of A.P. v. Gourishetty Mahesh, M. Srikanth v. State of Telangana, CBI v. Arvind Khanna, State of M.P. v. Kunwar Singh, Munshiram v. State of Rajasthan, Teeja Devi v. State of Rajasthan, State of Orissa v. Ujjal Kumar Burdhan, S. Khushboo v. Kanniammal, Sangeeta Agrawal v. State of U.P., Amit Kapoor v. Ramesh Chander, Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy*, and *M.N. Ojha v. Alok Kumar Srivastav for the* collective principle that the allegations must be considered at face value under Section 482, without conducting a trial of disputed facts. The Court applied that standard to the householder's statement and the disputed road documents.

3. Statutes considered : Rules 3 and 4 of the 2022 M.P. Mineral Rules were invoked. The Court read Rule 4 as a limited exception for transporting and storing minor minerals lawfully quarried from government land for public works. IPC Sections 379 and 411 were the registered allegations of theft and receipt of stolen property. Section 482 CrPC governed the quashing application, and Section 161 CrPC concerned Narendra's statement to the police. Section 23-A of the MMDR Act was discussed in the quoted *Jayant* decision on compounding; it did not determine the present case.

4. Issues : Whether the public-works storage exception entitled the Panchayat Secretary to

quashing of the alleged sand-theft case when lawful extraction and the claimed connection with the road had not been shown; and whether the householder's oral statement could be considered at the quashing stage without documentary proof that the Secretary had stored the sand.

5. Ratio / Findings : The State owns the minerals. The limited exception for lawful Panchayat transport and storage did not permit unlawful excavation or theft. The applicant's road document referred to Ghurwar, whereas Narendra's house was in Rijaudi. It therefore did not establish that the storage at that house related to the claimed public work. Neither lawful quarrying nor purchase had been shown. Narendra's statement under Section 161 attributed the storage to the applicant. That account could not be disregarded merely because the police had not collected a document proving the same act: the case could be proved by oral evidence. In linking the applicant to the storage, the Court also considered his position as Panchayat Secretary and his own claim that the sand had been stored for Panchayat work. The allegations nevertheless remained for the prosecution to prove; filing a charge-sheet did not establish guilt. On the record before it, the Court found no basis to terminate the case under Section 482.

6. Relief : The Hon'ble High Court dismissed the quashing application. Crime No. 300/2022 remained in place, and the prosecution was required to prove the alleged offence in the ordinary proceeding.

Amol Singh Yadav v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 2555/2023, 13/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence Act, 1872 — Sections 8 and 27 / circumstantial evidence / IPC Section 302 — In affirming the husband's conviction for murdering his wife with a firearm, the Division Bench considered the evidence that she had last been travelling with him, his conduct after her death, recovery of a country-made gun following his disclosure and the FSL match between the cartridge and that gun. It treated his absence from the inquest, postmortem, receipt of the body and cremation as relevant conduct under Section 8. The fatal gunshot to the chest established homicidal death within the Section 300 framework. The decision assessed the cumulative circumstances on this record; it did not lay down that last-seen evidence or conduct alone invariably suffices. The convictions under Section 302 and Sections 25/27 of the Arms Act, and the concurrent sentences, were affirmed.

Case-note :- ***1. Facts :*** On 2 June 2009, the appellant and his wife Urmila were travelling with their two daughters in a Maruti van. The initial account was that assailants had stopped the vehicle, attempted to rob her ornaments and shot her. The investigation instead accused her husband. The Sessions Court convicted him under IPC Section 302 and Sections 25 and 27 of the Arms Act, imposing life imprisonment and three-year terms with fines, to run concurrently. He appealed under Section 374 CrPC. The postmortem recorded a chest entry wound with tattooing, an exit wound, a fractured fourth rib and internal damage. The doctor attributed death to haemorrhagic shock from a homicidal firearm injury sufficient in the ordinary course of nature to cause death. The police attributed recovery of a 315-bore katta to the appellant's memorandum under Section 27. The firearm examiner found it functional, and the FSL witness proved the report linking the cartridge to that gun.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, explained the distinction under Section 300 Thirdly. The required intention concerns the particular bodily injury proved; whether that injury was sufficient in the ordinary course of nature to cause death is an objective medical question. The judgment also reproduced the classification under Sections 299/300 from *Arun Nivalaji More*. It discussed *Anda*, *Mahesh Balmiki*, *Dhirajbhai Gorakhbhai Nayak*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *State of Rajasthan v. Kanhaiyalal and Bavisetti Kameswara Rao* on the significance of the weapon, the vital part targeted, a single injury and Exception 4. Those passages provided the framework for classifying the homicide. The Court's operative application chiefly concerned the medical proof and the circumstances identifying the appellant as the offender.

3. Statutes considered : IPC Sections 299 and 300 provided the framework for distinguishing murder from culpable homicide, and Section 302 was the offence affirmed on appeal. The convictions under Sections 25 and 27 of the Arms Act were also affirmed. Section 8 of the Evidence Act concerned the appellant's conduct after the death, and Section 27 concerned the firearm recovered following his disclosure. Section 374 CrPC governed the appeal,

and the appellant's denial under Section 313 was recorded. The Court applied Section 8 to his conduct and Section 27 to the disclosure-led recovery.

4. Issues : Whether Urmila's death was homicidal and amounted to murder; whether the husband, rather than the alleged robbers, had inflicted the injury; and whether the evidence sustained the trial convictions and concurrent sentences despite the challenge to the recovery and the non-examination of the daughters.

5. Ratio / Findings : The doctor's evidence established a fatal gunshot to the chest. The Court found that Urmila had been with the appellant immediately before the shooting and that he had failed to explain the circumstances. It treated his absence from the inquest, the hospital when the body was brought for postmortem, the later receipt of the body and the cremation as conduct relevant under Section 8. The recovery following his disclosure and the FSL linkage were further links in the circumstantial chain. The appellant contended that unidentified attackers had fired, that the daughters had not been examined and that independent witnesses did not support the seizure. The judgment recounted evidence of good marital relations and the robbery accounts, PW8's denial that the katta was seized in his presence, other testimony adverse to the seizures and PW12's account placing the appellant at the hospital. The Court nevertheless found the cumulative circumstances sufficient to hold him guilty. It invoked "res ipsa loquitur" and held that the connecting circumstantial evidence was sufficient.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the trial judgment. It upheld life imprisonment under Section 302, the three-year Arms Act terms, a fine of Rs. 5,000 under Section 302 and a fine of Rs. 500 under each Arms Act conviction, with all sentences running concurrently. The appellant, stated to be in jail, was to remain there to serve the balance of his sentence. A copy of the judgment was to be sent to the jail authorities, and a copy with the record to the trial court, for information and compliance.

Amresh Singh v. State of Madhya Pradesh, Cr.A. no. 1043/2011, 13/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- CrPC Sections 319, 340 and 482 / criminal trial / unwarranted prosecution directions — The Sessions Judge's earlier order summoning municipal officials under Section 319 had been reversed. In the later judgment acquitting the accused in the shooting trial, the Judge could not direct registration of an FIR and departmental action against those officials on the collateral premise that their demolition drive had caused the shooting. The validity of the demolition order was not an issue tried. Nor had the Judge directed a complaint under Section 340 for false evidence affecting the administration of justice. The High Court set aside the challenged prosecution and departmental directions against persons who were not accused in the trial. It applied the principles governing adverse remarks and the judicial discipline required by the earlier High Court reversal. The pending State appeal against acquittal was left untouched.

Case-note :- ***1. Facts :*** A municipal team arrived to demolish a reportedly dilapidated house in Rewa under an official order. During resistance to the drive, Rajbhan allegedly fired shots that injured Neeraj and fatally wounded Rajlallan. In Sessions Trial 382/2014, the Judge invoked Section 319 CrPC to summon municipal officers, including applicant Anand Singh Parihar, as additional accused on a theory of illegal demolition, conspiracy and abetment. The High Court quashed that order in criminal revision on 15 December 2017. The Sessions Judge later acquitted the persons facing trial. In the judgment dated 21 February 2018, however, the Judge directed the Inspector General to register offences against the applicant and others and ordered departmental action. The Judge reasoned that the demolition had provoked the shooting and had been undertaken to confer an improper benefit. The applicant challenged those directions under Section 482.

2. Precedents — Considered : *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, was quoted on Section 340. A court may form the opinion that an inquiry into an offence affecting the administration of justice is expedient and make a written complaint. A preliminary inquiry is discretionary, and the person proceeded against has procedural safeguards before the Magistrate. The High Court distinguished that mechanism: the Sessions Judge had not directed a complaint for false evidence under IPC Sections 193 –196, but registration of an FIR for collateral alleged

offences. *Niranjan Patnaik v. Shashibhusan Kar, State of U.P. v. Mohammad Naim*, and *Om Prakash Chautala v. Kanwar Bhan* were considered on restraint in adverse judicial remarks, opportunity to respond, an evidentiary foundation and necessity for the decision. The coordinate Bench's earlier reversal of the Section 319 order was decisive context. The High Court did not reconsider the merits of the acquittal, against which the State had been granted leave to appeal.

3. Statutes considered : Section 319 CrPC was the basis of the earlier order summoning additional accused, which had already been quashed. Section 340 CrPC was discussed and distinguished from the impugned direction. Section 482 governed the High Court's corrective jurisdiction. IPC Section 99, limiting private defence against acts of public servants done in good faith, was reproduced in response to the trial court's reliance on private defence. The High Court found no material establishing absence of good faith while the demolition order remained unchallenged in separate proceedings. The offences proposed in the judgment included IPC Sections 452, 429, 325, 119, 120-B and 109. The High Court did not adjudicate guilt under those provisions.

4. Issues : Whether, in a judgment of acquittal, the court could go beyond the charges and matters tried, find misconduct in a municipal demolition and direct prosecution and departmental proceedings against persons whose summoning under Section 319 had already been quashed by the High Court; whether Section 340 justified those directions; and whether the adverse remarks were necessary and procedurally fair.

5. Ratio / Findings : The validity of the demolition proceedings was not an issue in the shooting trial. Although the earlier Section 319 order had been reversed, the trial court's later judgment effectively renewed the accusations against the applicant. Section 340 did not justify an FIR for the alleged demolition offences when the court had not directed a complaint for false evidence affecting the proceeding before it. The municipal officials were acting under colour of their official duties and an operative demolition order. The High Court found no basis in this trial to treat that order as mala fide or to conclude that Rajlallan had conspired to create circumstances leading to his own death. Adverse remarks against affected persons had to be supported by the evidence, necessary for the decision and made after an appropriate opportunity to respond. Taken together, those defects rendered the directions unwarranted and beyond the trial court's jurisdiction. The High Court expressly refrained from expressing a view on the acquittal because the State's appeal was pending.

6. Relief : The Hon'ble High Court allowed the application and set aside all the challenged directions against the applicant and the other affected persons, including the directions for criminal prosecution and departmental proceedings. The merits of the acquittal remained for the pending State appeal.

Anand Singh Parihar v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 9246/2018, 28/06/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO / IPC Sections 376(2)(i), 120-B / proof of child age and charge prejudice — The proved school admission register recorded the prosecutrix's date of birth as 16 August 2001. She was therefore under sixteen on 8 January 2015. The Court applied *Jarnail Singh*'s documentary sequence for determining a child victim's age and did not rely on the unproved ossification report. Her account, the medical opinion and the surrounding circumstances supported the findings of rape and coordinated confinement despite the delayed FIR, her friend's hostile testimony and the negative sperm slide. Although the charge did not identify the particular clause of Section 376(2), the accused knew that the allegation concerned a girl under sixteen. The Court found no prejudice from that omission. The convictions and ten-year sentences were affirmed; no separate sentence had been imposed under Section 4 of the POCSO Act.

Case-note :- ***1. Facts :*** Anandi and Rajesh challenged their convictions in connected Criminal Appeals 1198/2015 and 73/2016. The prosecutrix alleged that, on 8 January 2015, Rajesh dragged her into his house and left her in a room where Anandi tied and raped her. She also alleged that Anandi threatened her. Fear delayed her report until 25 January. The trial court imposed ten years' imprisonment for the offence under Section 376(2), read with Section 120-B in Rajesh's case, and lesser terms for confinement and threats. The defence asserted that she was an adult and had consented, and that the appellants had been falsely implicated. The

school admission register, Ex P4, proved through Mohanlal Ghavari, recorded her birth as 16 August 2001. He acknowledged that parents may sometimes give ages approximately. The prosecution did not prove the ossification report.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, was applied to determine a child victim's age through the sequence of documents in Rule 12(3) of the 2007 Juvenile Justice Rules. Where the preferred documents are available, the record of the school first attended takes priority over medical opinion. *State of Chhattisgarh v. Lekhram* addressed the evidentiary value of a school register under Section 35 of the Evidence Act and its possible corroboration. *Murugan v. State of T.N.* considered birth and school records made before litigation and the sources of their entries. *Mukarrab v. State of U.P.* cautioned against treating ossification estimates mechanically as exact. *Sunil v. State of M.P., (2017) 4 SCC 393*, explained that absent or negative DNA testing does not automatically defeat the prosecution. *State of Haryana v. Sanjay Kumar, (2017) 2 SCC 51*, concerned properly explained delay in reporting. The High Court applied the priority of the school record and assessed the remaining evidence, rather than treating the laboratory result or delay as decisive.

3. Statutes considered : Age was determined by reference to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007, applied to a victim through *Jarnail Singh*. Section 35 of the Evidence Act concerned the school record. IPC Sections 342, 506, 376(2)(i) and 120-B were the offences affirmed. Section 4 of the POCSO Act was also held applicable to Anandi, but no separate sentence was imposed under it. Section 53-A CrPC arose in the quoted *Sunil* decision on DNA evidence. The Court examined whether the generic description of the charge under Section 376(2) had caused prejudice.

4. Issues : Whether the prosecutrix was under sixteen; whether her evidence proved intercourse, the appellants' participation and conspiracy despite the delayed report, her friend's failure to support the prosecution and the absence of sperm on the slide; and whether omission of the particular subsection from the trial charge prejudiced either appellant.

5. Ratio / Findings : The proved school admission register established that the prosecutrix was below sixteen on the date of the incident. The unproved ossification report could not support the prosecution and, as the Court recorded, did not favour the defence either. The Court therefore excluded it instead of using it in place of the school record. It accepted the prosecutrix's account, the medical opinion that intercourse had occurred and her subsequent disclosure. Pooja turned hostile but acknowledged that the usual route passed Rajesh's house. The Court considered the absence of sperm in light of the interval of about seventeen days before the report. Applying *Sunil*, it held that the absence of that material did not require acquittal. Coordination was established because Rajesh forcibly took the victim into the room, where Anandi was waiting, and locked her in. The Court acknowledged that the trial charge should have specified Section 376(2)(i). The allegation that the victim was under sixteen had nevertheless given the appellants notice of the case against them, and no prejudice was shown. Having found her age, the Court did not treat consent as a defence. It retained the ten-year term because that was the statutory minimum for the rape offence.

6. Relief : The Hon'ble High Court dismissed both criminal appeals and affirmed the trial convictions and sentences. Both appellants' rigorous imprisonment terms were six months under Section 342 and three years under Section 506. The ten-year terms of rigorous imprisonment imposed on Anandi under Section 376(2)(i) and on Rajesh under that provision read with Section 120-B were affirmed. Each also remained liable to a fine of Rs. 2,000, with two months' simple imprisonment in default. No separate sentence under Section 4 of the POCSO Act had been imposed on Anandi. Both appellants were in jail and were directed to serve the remaining sentence.

Anandi and Ors. v. State of M.P., Cr.A. no. 1198/2015 & 73/2016, 09/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC Section 498-A / Dowry Prohibition Act Sections 3–4 / CrPC Section 482 — The wife alleged further dowry demands and exclusion from her matrimonial home. At the FIR stage, the disputes about residence in the village where the report was registered, the differing dowry figures, ownership of the car, delay in reporting and the husband's earlier divorce petition required evidence; they did not justify quashing. The Court held that continued exclusion on account of dowry

could amount to mental cruelty and noted the applicants' own messages restricting her return. Applying *Pratibha v. Rameshwari Devi*, it held that efforts at reconciliation and the filing of divorce proceedings did not, by themselves, make the report a counterblast. Even if a territorial defect were proved, it could require transfer of the investigation without invalidating the FIR. The Court did not determine guilt.

Case-note :- ***1. Facts :*** The wife alleged that, after her marriage in June 2020, her husband and father-in-law demanded a further Rs 15 lakh and harassed her. She returned to her parents' home and had remained there for over two and a half years. The applicants sought quashing of Crime 158/2024, registered at Bhonti under IPC Section 498-A and Dowry Prohibition Act Sections 3–4. They contended that the May 2024 FIR was a response to the husband's divorce proceedings. They disputed the alleged stay in village Khod, pointed to different cash-dowry amounts in the mediation proceedings and the FIR, challenged ownership of the vehicle, and relied on the absence of an earlier complaint. The wife maintained that she had been kept out of the matrimonial home. WhatsApp messages produced by the applicants themselves restricted her return without their permission and warned of consequences if she returned.

2. Precedents — Considered : The Court applied *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, for the independence of civil divorce proceedings and criminal proceedings, and for the principle that delay during attempts at reconciliation does not automatically justify quashing under Section 482. It also listed *XYZ v. State of Gujarat, State of T.N. v. S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, M. Srikanth, CBI v. Arvind Khanna, Kunwar Singh, Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* for the established standard: the allegations must be taken at face value, and disputed evidence cannot be tried in proceedings for quashing.

3. Statutes considered : The reported offences were under IPC Section 498-A and Sections 3 and 4 of the Dowry Prohibition Act. Section 482 CrPC governed the application for quashing. The divorce proceedings formed part of the background; they did not determine the criminal allegations. The Court considered territorial jurisdiction over the investigation in response to the dispute about residence, but did not order a transfer.

4. Issues : Whether the FIR disclosed matrimonial cruelty and a dowry demand despite the separation, delay and prior divorce proceedings; whether the factual inconsistencies and disputed place of residence justified quashing at the outset; and what effect a defect in territorial jurisdiction would have.

5. Ratio / Findings : Taking the allegations at face value, the Court held that refusing to readmit the wife on account of dowry could amount to continuing mental cruelty even after the parties had stopped living together. The applicants had not claimed to have tried to bring her back, and their own messages required permission before she could return. The Court recognised that delay in reporting could reflect attempts to preserve the marriage. Applying *Pratibha*, it held that a report made after divorce proceedings had begun was not necessarily retaliatory. The differing dowry amounts, title to the vehicle and disputed residence in Khod required evidence and could not be decided under Section 482. Even if the alleged stay in Khod were ultimately found to be false, the Court said that the investigation might have to be transferred to the police station with territorial jurisdiction; the FIR would not be quashed on that ground. These observations concerned the prima facie case and left the truth of the allegations, the territorial facts and guilt to be determined.

6. Relief : The Hon'ble High Court dismissed the application for quashing. The FIR and investigation continued. It made no final finding of guilt and did not direct transfer of the investigation.

Anant Devraj Singh Chauhan and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 30825/2024, 04/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- CrPC Section 482 / IPC Sections 498-A, 377, 34 / Dowry Prohibition Act Sections 3–4 — The Court examined the allegations against each relative separately. The complainant made specific allegations against her husband and parents-in-law about dowry demands and conduct within the marriage; their truth was left for trial. The sister-in-law, however, was merely included in the allegation that the family members scolded the complainant, without any distinct role being attributed to her. Applying *Taramani Parakh* alongside *Kans Raj*,

Monju Roy, Chandralekha, Geeta Mehrotra and *Preeti Gupta*, the Court quashed the FIR and prosecution only against the sister-in-law. It did not find that the allegations against the remaining applicants were true.

Case-note :- ***1. Facts :*** The complainant married applicant 4 in February 2021. She alleged that the marriage had initially been described as dowry-free, but was followed by insults about the expense of the ceremonies, mental harassment and demands for a four-wheeler, a flat and Rs 10 lakh. She also attributed particular acts to her husband, including alleged unnatural sexual intercourse, and identified her parents-in-law in allegations of dowry taunts and other conduct. The husband, father-in-law, mother-in-law and sister-in-law jointly sought quashing of the FIR under IPC Sections 498-A, 377, 34 and Dowry Prohibition Act Sections 3–4. They contended that the relatives had been implicated through vague and general allegations.

2. Precedents — Considered : The Court quoted *Meera v. State through Inspector of Police, (2022) 3 SCC 93*, on cruelty by a mother-in-law towards a daughter-in-law, while examining the allegations in this FIR. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, supported leaving a case involving triable matrimonial allegations for evidence, while requiring care over general allegations against relatives. *Kans Raj v. State of Punjab, Monju Roy v. State of W.B.* and *Chandralekha v. State of Rajasthan* addressed indiscriminate implication of relatives without specific material, including cases involving delay or separate residence. The Court applied *Geeta Mehrotra v. State of U.P.* and *Preeti Gupta v. State of Jharkhand* to the general allegation against the sister-in-law. It considered the authorities in relation to each applicant rather than quashing the proceedings against the entire family.

3. Statutes considered : The FIR invoked IPC Sections 498-A, 377 and 34 and Dowry Prohibition Act Sections 3–4. CrPC Section 482 governed the inherent power to quash. The Court examined whether the allegations against each applicant justified continuing the prosecution; it did not decide on evidence whether the elements of Section 377 had been proved.

4. Issues : Whether the allegations against each of the four applicants were sufficiently specific to justify prosecution when taken at face value; and whether merely including the sister-in-law in a general allegation of scolding justified prosecuting her when more specific allegations had been made against the others.

5. Ratio / Findings : The Court found specific allegations against the husband and parents-in-law concerning dowry demands and the conduct attributed to the husband. It declined to examine whether those allegations were true in proceedings under Section 482. The position of applicant 2, the sister-in-law, was different. Apart from including her in the collective allegation that family members scolded the wife, the FIR attributed no clear act to her. The Court held that those general allegations did not justify continuing her prosecution under the principles governing allegations against relatives. It referred to the observation in *Meera* that a mother-in-law should protect her daughter-in-law, but did not thereby determine guilt. The decision concerned the sufficiency of the allegations against each applicant at the outset of the proceedings.

6. Relief : The Hon'ble High Court quashed the FIR and criminal proceedings only against applicant 2, the sister-in-law. It dismissed the application as regards applicant 1, the father-in-law; applicant 3, the mother-in-law; and applicant 4, the husband. Their prosecution was to continue.

Anil Gaur and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 14323/2022, 22/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 226 / Constitution Article 22(1) / BNSS Section 47 — A judicial remand narrowed the scope for examining the merits of that order, but did not bar a writ for liberty challenging non-compliance with mandatory safeguards at the initial arrest. The police had held the petitioner for hours before formally arresting him, yet never supplied written grounds of arrest. The station diary did not adequately state the particular ground, and neither oral intimation nor his statement before the JMFC waived the safeguard. Applying *Vihaan Kumar* and *Mihir Rajesh Shah*, the Division Bench held the arrest illegal and directed release subject to a bond, surety, execution of an existing peace bond and an undertaking to maintain public order. It treated the unargued prayer to quash the FIR as given up and left the investigation and trial unaffected.

Case-note :- ***1. Facts :*** In W.P. 2/2026, the petitioner, who had been arrested in Crime 1/2026 at the Gwalior Crime Branch, challenged his police

custody, subsequent formal arrest and remand. The complaints concerned alleged public acts involving an image of Dr B.R. Ambedkar. His prayer to quash the FIR was not argued and was treated as given up. He contended that the police had intercepted him before the FIR was registered and had not communicated the grounds of arrest. State records and the officers' accounts showed that he was with the police after about 18:00 and at a police station before registration of the FIR at 19:56; he was formally arrested at 23:40. A JMFC had remanded him and refused bail. A separate PIL concerning installation of an Ambedkar statue in the High Court precincts was pending, with an interim direction to maintain law and order. An Executive Magistrate had also directed the petitioner to execute a peace bond, which remained unexecuted.

2. Precedents — Considered : *V. Senthil Balaji v. State* and *Gautam Navlakha v. NIA* restricted habeas corpus challenges to a reasoned judicial remand, while preserving scrutiny of non-compliance with mandatory provisions, lack of jurisdiction and orders passed in an absolutely mechanical manner. *Kanu Sanyal, Sanjay Dutt and SFIO v. Rahul Modi* were considered on the legality of detention at the date of return. *Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799*, supplied the mandatory rule under Article 22(1), the State's burden to prove communication of the grounds of arrest, the consequence of release for a breach, and the distinction between an illegal arrest and the continuing validity of the investigation and trial. *Mihir Rajesh Shah v. State of Maharashtra* required written grounds in a language understood by the arrested person. Exceptional oral communication had to be followed by written grounds within a reasonable time and, in any event, at least two hours before production for remand. *Perumal Raja* was quoted on custody being wider than formal arrest in the different context of the Evidence Act; the Bench did not hold that custody before an FIR was invariably unlawful. *Arnab Manoranjan Goswami v. State of Maharashtra* guided the cautious exercise of Article 226 powers for bail-related liberty relief and the factors to be considered.

3. Statutes considered : Articles 21, 22(1) and 226 of the Constitution governed personal liberty and the writ proceedings. BNSS Section 47 concerned communication of the grounds of arrest; Sections 35, 48 and 480 were discussed in relation to arrest and remand. BNSS Sections 126, 135 and 141 concerned the existing preventive-bond proceedings, and Section 163 concerned the public-order direction. The FIR invoked BNS Sections 223(b), 196(1)(a)–(b), 353(1)(c), 353(2) and SC/ST Act Sections 3(1)(u)–(v). The Court did not determine the ingredients of those offences.

4. Issues : Whether the prior remand barred any challenge to the petitioner's liberty under Article 226; whether police custody before registration of the FIR or formal arrest, and the failure to supply written grounds, made the arrest illegal; and what relief could be granted without quashing the unargued FIR or deciding the pending investigation.

5. Ratio / Findings : The Bench declined to review the merits of the JMFC's remand order or refusal of bail in this writ, but held that compliance with mandatory safeguards at the initial arrest could still be examined. The separate PIL neither required the petitioner to approach another forum nor disposed of his claim to personal liberty. The Bench distinguished custody from formal arrest and rejected the contention that custody before registration of an FIR was prohibited in every case. It nevertheless said that a person could not be kept in custody for an unreasonable period without an FIR, while declining further consideration of that issue on these facts. The police had controlled the petitioner's movements for hours and showed no urgency preventing written communication of the grounds of arrest. They supplied no written grounds at all and therefore failed to supply them at least two hours before production for remand. The general station-diary entry about social discord did not communicate the particular alleged offence. Neither the asserted oral intimation nor the petitioner's statement at remand cured the omission or waived the safeguard. The arrest was therefore illegal. Although the Bench would not examine the remand order on its merits, it described that order as mechanical and passed without due application of mind in light of *Vihaan Kumar* and *Mihir Rajesh Shah*. It separately noted that information of the arrest had been given to a guard rather than a family member, but did not base its decisive holding on that concern. The illegal arrest did not invalidate the FIR, investigation, charge-sheet or trial. The Bench's observations about the alleged incident were not findings on its merits.

6. Relief : The Hon'ble High Court granted relief for the petitioner's liberty. It directed his release on a personal bond of Rs 1 lakh with one surety for the same amount, to the satisfaction of the CJM. Before

release, he had to execute the existing bond directed by the Executive Magistrate and submit an undertaking to the CJM that he would not act in a manner prejudicial or detrimental to law and order. The Senior Superintendent of Police, Gwalior, was directed to make immediate arrangements enabling him to execute both while in custody. The other conditions of bail also applied. The challenge to the merits of the remand order was rejected in this forum, the prayer to quash the FIR was treated as given up, and the investigation and trial remained open. The sealed pen drives were to be returned unopened to the Additional Advocate General, Shri Vivek Khedkar, in their original sealed condition with the original seal impressions. The case diary was also to be returned to him, with an acknowledgement obtained for both the drives and the diary. No order as to costs was made.

Anil Kumar Mishra v. State of Madhya Pradesh and Ors., W.P. no. 2/2026, 07/01/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Ashish Shroti, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (42) Prev Next

Headnote :- Maintenance — wife — sufficient reason to live apart - Cruelty that justifies a wife living separately under Section 125(4) CrPC is not confined to dowry-related harassment; established mental or physical cruelty may provide sufficient reason. The Court held that the concurrent rejection of her claim was perverse because the courts below had not properly considered the evidence of renewed harassment and interference by the husband's sisters after reconciliation. Her unsuccessful attempt to compound the non-compoundable Section 498-A IPC case, followed by testimony that did not incriminate him and led to his acquittal, showed an effort to save the marriage. It did not conclusively establish that she lacked sufficient reason to live apart. On this record, the Court recognised her entitlement under Section 125.

Maintenance — wife — quantum and effective date - Applying *Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705*, including its discussion of *Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7*, and *Chaturbhuj v. Sita Bai, (2008) 2 SCC 316*, the Court treated Section 125 as a remedy serving social justice. It considered reasonable needs, status and the obligation of a husband capable of earning, without assuming unproved income from coaching. Both parties had modest means. The wife was awarded Rs. 2,000 monthly from the Magistrate's order dated 26.06.2013, although the application had been filed on 23.12.2011.

Maintenance — minor child — independent award - The child's existing Section 125 award of Rs. 1,500 monthly was considered separately from the mother's eligibility and found appropriate to the parties' financial and social status. Recognition of the wife's entitlement did not, by itself, require a change in the child's amount or the date from which it was payable.

Case-note :- ***1. Facts :*** Anju Mishra and the parties' child sought maintenance from Arun Mishra under Section 125 CrPC. Anju stated that they married on 21.11.2007. She alleged demands for a motorcycle, furniture and cash, and abuse and beatings by her husband, with interference from his mother and sisters. Her account included an FIR leading to Crime No. 302/2010 under Section 498-A IPC. She said that he apologised and promised to change, and that she attempted a compromise to preserve the marriage. Her application to compound the offence was rejected because Section 498-A was then non-compoundable. She did not give incriminating testimony, and he was acquitted. According to her, harassment later resumed, his sister filed a complaint against her and her brother, and she was turned out of the matrimonial home. No maintenance was paid in response to her notice dated 17.11.2011. She filed the Section 125 application on 23.12.2011, seeking Rs. 5,000 monthly for herself and Rs. 2,000 for the child. She claimed that he earned as a contract teacher and tutor, while she had no independent means. He denied cruelty, described the application as a counterblast to his sister's complaint, alleged that Anju had chosen to live with her better-off parents, and offered to keep both applicants with him. Anju, her father, a neighbour and her brother gave evidence; the husband examined only himself. On 26.06.2013, the JMFC, Nagda, in M.Cr.C. No. 16/2012 awarded the child Rs. 1,500 monthly but rejected the wife's claim because she was living separately without sufficient reason. The Additional Sessions Judge dismissed Criminal Revision No. 217/2013 on 20.02.2015. The wife and child challenged those orders under Section 482 CrPC. The husband relied on the concurrent factual findings and argued that no perversity justified interference.

2. Precedents — Considered : The Court quoted and applied *Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705*, on the social purpose of Section 125, a fair maintenance amount and the obligation of a husband capable of earning despite asserted financial constraints. The discussion of *Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7*, reproduced in that judgment required consideration of status, needs, reasonable expenses, lawful obligations and involuntary deductions, while avoiding an excessive or extortionate award. The High Court used that framework to fix a modest amount on the evidence. The passage from *Chaturbhuj v. Sita Bai, (2008) 2 SCC 316*, described Section 125 as a speedy measure of social justice against vagrancy and destitution, within Article 15(3) and Article 39. *Chaturbhuj* in turn referred to *Capt. Ramesh Chander Kaushal v. Veena Kaushal, (1978) 4 SCC 70*, and *Savitaben Somabhai Bhatiya v. State of Gujarat, (2005) 3 SCC 636*, in that account. *Shamima* also reproduced a Delhi High Court passage from *Chander Parkash Bodh Raj v. Shila Rani Chander Prakash on* an able-bodied husband's capacity to earn and the significance of failing to disclose his income. The High Court did not independently decide a constitutional question or find that the husband had undisclosed tutoring income; it adopted *Shamima*'s maintenance framework to fix the wife's award. It also held that cruelty justifying separate residence need not be connected with dowry.

3. Statutes considered : Section 125(1) CrPC permits maintenance for a wife unable to maintain herself and an eligible minor child where a person of sufficient means neglects or refuses to maintain them. Section 125(4) excludes a wife who lives in adultery, refuses without sufficient reason to live with her husband, or lives separately by mutual consent. The Court reproduced Section 125, including the provision allowing payment from the order date or, if directed, the application date; here it chose the Magistrate's order date for the wife's allowance. In construing sufficient reason under Section 125(4), it considered the husband's behaviour: mental or physical cruelty may justify separate residence even without a connection to dowry. Section 482 CrPC provided the route for correcting the perverse concurrent finding. Section 320 CrPC arose from the unsuccessful attempt to compound the earlier Section 498-A IPC case. The resulting acquittal formed part of the evidence of the wife's attempt at reconciliation; it did not decide her Section 125 eligibility. The constitutional references were reproduced from *Chaturbhuj* through *Shamima*.

4. Issues : (i) Whether mental or physical harassment unconnected with dowry, considered with the full evidence and reconciliation history, gave Anju sufficient reason to live apart under Section 125(4), making the contrary concurrent finding perverse and open to correction under Section 482. (ii) If she was entitled to maintenance, what amount and effective date were justified by her inability to maintain herself and the husband's proved means, rather than alleged tutoring income. (iii) Whether the child's existing Rs. 1,500 monthly award required alteration when the wife's entitlement was reconsidered. The Court did not retry the Section 498-A charge.

5. Ratio / Findings : The Court rejected the husband's submission that the wife could claim maintenance only if the cruelty concerned dowry. Section 125(4) requires sufficient reason for refusing to live with the husband, and sustained mental or physical harassment may provide that reason. It considered the evidence of his conduct and excessive interference by his sisters. He had admitted that a sister whose matrimonial home was in Bihar lived nearby and that his sister had filed a complaint against Anju and her brother. The Court also considered the attempted reconciliation. The compounding application had failed because the offence was non-compoundable. Her decision not to give incriminating testimony led to his acquittal, but also showed her effort to save the marriage; the Court did not treat that acquittal as a finding against her. The courts below had not considered this evidence in its proper perspective, and their finding that she lacked sufficient reason to live separately was perverse. The wife was unable to maintain herself, and the husband had neglected her support. In fixing the amount, the Court applied *Shamima Farooqui*'s social-justice and earning-capacity principles, with the needs, status and proportionality factors discussed there through *Jasbir Kaur Sehgal* and *Chaturbhuj*. The husband was a contract teacher, but the alleged income from tutoring was unproved. Both parties were financially weak. The wife was therefore awarded Rs. 2,000 monthly from the JMFC's order dated 26.06.2013, rather than the application date of 23.12.2011. The child's Rs. 1,500 award was assessed separately and found justified by the parties' financial and social status. These findings

on evidence and amount concerned the maintenance proceeding; they neither reversed the husband's Section 498-A acquittal nor established tutoring earnings.

6. Relief : The Hon'ble High Court allowed the Section 482 application. It set aside the JMFC's order dated 26.06.2013 and the revisional court's order dated 20.02.2015 insofar as they denied the wife's claim, and awarded her Rs. 2,000 monthly from 26.06.2013. The child's existing Rs. 1,500 monthly award remained undisturbed. No further amount, costs or directions were imposed.

Anju Mishra and Others v. Arun Mishra, M.Cr.C. no. 2570/2015, 31/07/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (43) Prev Next

Headnote :- Domestic Violence Act — shared household — permanency and exclusion - Applying *Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414*, the Court considered Section 2(s) by examining the nature of residence in a domestic relationship and the intended degree of permanency, rather than property title. Fleeting stays do not suffice. The Supreme Court had rejected the restrictive interpretation in *S.R. Batra v. Taruna Batra, (2007) 3 SCC 169*. The wife pleaded that she had initially lived in the matrimonial house for about two and a half months, was later excluded, and had to work elsewhere to support herself while her husband lived abroad and no maintenance was paid. Her employment out of necessity and later visits did not show that she had voluntarily abandoned residence or justify quashing her Section 12 application. The Court did not finally determine her entitlement to a residence order under Section 19.

Domestic Violence Act — Section 12 — multiple reliefs - An objection confined to entitlement to a residence order under Section 19 cannot defeat an application under Section 12 that also seeks protection under Section 18, monetary relief under Section 20, compensation under Section 22 and interim relief under Section 23. The Court refused to quash the proceeding under Section 482 CrPC, without deciding the merits or amounts of those separate claims.

Case-note :- ***1. Facts :*** Ankit Jain and other family members sought quashing under Section 482 CrPC of the wife's pending application under Section 12 of the Protection of Women from Domestic Violence Act in MJCR No. 593/2020 before the JMFC, Gwalior. The wife stated that she married Ankit on 28.11.2017. She alleged that the applicants received cash, jewellery and other goods as her stridhan, refused to return them, and repeatedly demanded money. She described pressure to obtain money for a foreign honeymoon, insistence that she consume alcohol and non-vegetarian food against her wishes, a further demand of Rs. 40 lakh, abuse, physical violence and exclusion from the Moradabad matrimonial house unless that sum was paid. She said that Ankit lived abroad, that she worked in Rudrapur to support herself, and that the family repeatedly prevented her from entering the matrimonial house when she visited. Her account included a confrontation at a hotel on 15.04.2018, later emails about ending the relationship, and a written complaint to the Women and Child Welfare Officer on 24.10.2019. She sought protection under Section 18, residence under Section 19, monetary relief under Section 20 for medical expenses, stridhan, harassment, food and rent, compensation under Section 22, and interim or other relief under Section 23. These were claims for adjudication, not awards already made. The applicants challenged the existence of a shared household. They argued that her employment elsewhere and occasional visits to the matrimonial house lacked the necessary permanency. They relied on her affidavit under Section 23(2), which described her stay there from 29.11.2017 to February 2018, about two and a half months. The Court heard the applicants on that preliminary legal objection without trying the domestic-violence allegations.

2. Precedents — Considered : *Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414*, was quoted at length and followed. The Supreme Court held that the definition in Section 2(s), using means and includes, was exhaustive. An aggrieved person must live or have lived in the household in a domestic relationship, but ownership, tenancy or title in her name or the husband's name is not indispensable. A qualifying joint-family household may fall within the definition even without her proprietary interest. Residence must have some permanency; merely fleeting or casual stays at different places do not suffice. The parties' intention and the nature of their living arrangements must be considered, and Sections 17 and 19 protect residence without requiring ownership. *Satish Chander Ahuja* expressly disapproved *S.R. Batra v. Taruna Batra,*

(2007) 3 SCC 169, insofar as its narrower interpretation required the house to be owned or rented by the husband. Applying that framework, the High Court considered the wife's initial cohabitation, alleged exclusion and need to earn elsewhere. It neither held that every brief visit creates a shared household nor finally granted a residence order.

3. Statutes considered : Section 12 of the Protection of Women from Domestic Violence Act, 2005, governed the application. Sections 2(f) and 2(s) define domestic relationship and shared household. The Court reproduced both definitions and applied the latter to the applicants' objection about residence. Sections 17 and 19 were discussed through *Satish Chander Ahuja* in relation to residence protection and the order sought. The wife also claimed protection under Section 18, monetary relief under Section 20, compensation under Section 22 and interim relief under Section 23. Those additional claims provided an independent reason not to quash the entire application on an objection about residence. Her affidavit under Section 23(2) was relied on for the dates of her stay; it did not conclusively exclude a shared household. Section 482 CrPC governed the quashing application. The Court did not finally determine liability or any precise amount under the DVA remedies sought.

4. Issues : (i) On this preliminary challenge under Section 482, did the wife's initial matrimonial stay of two and a half months, subsequent alleged exclusion and employment in another city fail to satisfy the shared-household requirement under Section 2(s) as merely fleeting visits, applying *Satish Chander Ahuja*? (ii) Could an objection about residence alone justify quashing a Section 12 application seeking other independent DVA remedies? The truth of the violence allegations, return of stridhan, monetary amounts and final entitlement to residence remained for the competent court.

5. Ratio / Findings : Section 2(s) covers a household in which an aggrieved person lives or has lived at any stage in a domestic relationship. Under *Satish Chander Ahuja*, the definition is exhaustive and ownership is not essential, but the residence must have some real permanency rather than be a fleeting or casual stay. The applicants did not contend that the wife had never stayed in the Moradabad house. Her affidavit described residence shortly after the marriage until February 2018, and she alleged that she was excluded whenever she later returned. Her husband lived abroad, she worked in Rudrapur, and the applicants did not claim to pay her maintenance. The Court considered her need to work for survival and the alleged exclusion when assessing the nature and intention of her absence. At this stage, it would not infer that she had voluntarily chosen not to reside there or exclude her application from the beneficial statute on that basis. Residence under Section 19 was also only one of the remedies sought. The disputed right to reside in a particular portion did not determine her claims under Sections 18, 20, 22 and 23. The entire Section 12 proceeding could therefore not be quashed on that ground alone. This was an assessment of prima facie maintainability, distinct from ultimate proof; none of the pleaded remedies was granted.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The proceeding under Section 12 of the Domestic Violence Act in MJCR No. 593/2020 remained pending before the JMFC, with all requested remedies left for adjudication. This decision granted no protection or residence order and awarded no monetary relief or compensation.

Ankit Jain and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 12163/2020, 04/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (44) Prev Next

Headnote :- Forest Act confiscation / owner's knowledge - The owners of a tractor and trolley used to transport sand illegally could not defeat confiscation merely by asserting that they did not know of their driver's conduct. The absence of a registration number on the tractor was a further adverse circumstance. On the evidence and procedural history before it, the High Court found no error in the confiscation upheld in appeal and revision. It did not lay down an absolute rule of vicarious liability.

Environmental damage / proposed payment - An offer to compensate for damage to the forest or pay a penalty under an asserted policy did not require release of the vehicle. The Court adopted the concern for ecological protection and public property expressed in *Jayant v State of M.P., (2021) 2 SCC 670*, in treating illegal sand transport seriously. The quoted discussion in *Jayant* distinguished compounding under Section 23-A MMDR from liability for IPC offences; that statutory bar was not

the basis of the present Forest Act confiscation decision.

Case-note :- ***1. Facts :*** A tractor and trolley owned by the applicants were seized on the allegation that their driver had transported sand illegally without the relevant documents. POR No. 10610/2007 was registered for offences identified in the order as Sections 2(4)(b), 33(l)(b) and 52 of the Indian Forest Act. In response to notice, the owners said they did not know of the driver's activities and offered to compensate for damage to the forest area. The prescribed authority confiscated the vehicle. The Appellate Officer-cum-Chief Conservator of Forest, Shahdol, dismissed their appeal in Case No. 6/2023 on 4 July 2023. The Third Additional Sessions Judge, Shahdol, dismissed Criminal Revision No. 37/2023 on 4 December 2023. The owners challenged the revisional order under Section 482 CrPC, repeating their denial of knowledge and offer of payment. They relied on a State policy which, they said, permitted release after payment of a penalty. The tractor had no registration number.

2. Precedents — Considered : The Court quoted extensively from *Jayant and others v State of M.P., (2021) 2 SCC 670*. That decision explained that compounding under Section 23-A of the Mines and Minerals (Development and Regulation) Act bars further proceedings for the MMDR or rule offence compounded, but does not prevent proceedings for the distinct IPC offences under Sections 379 and 414. Its discussion of environmental harm, drawing *on State (NCT of Delhi) v Sanjay, (2014) 9 SCC 772*, addressed degradation of riverbeds and groundwater through excessive sand mining, the State's stewardship of public mineral resources and the inadequacy of relying on penalties alone. The High Court expressly adopted the concern for ecological protection. It did not hold that Section 23-A MMDR governed this Forest Act confiscation or that *Jayant* determined a separate IPC prosecution. *Sanjay* appeared within the passage quoted from *Jayant*.

3. Statutes considered : Section 482 CrPC was invoked to challenge the revisional order. The order identifies Sections 2(4)(b), 33(l)(b) and 52 of the Indian Forest Act in recording the forest offences and confiscation. The passage quoted from *Jayant* concerned MMDR Act Section 23-A, the rules made under that Act and the distinct IPC offences under Sections 379 and 414. Those provisions explain the precedent's context; they were not the statutory basis of this vehicle-confiscation result. The owners also relied on an asserted State policy permitting release after payment of a penalty.

4. Issues : Whether the owners' asserted ignorance of their driver's illegal sand transport, together with their offer to pay compensation or a penalty, disclosed an error justifying interference with the confiscation upheld in appeal and revision; and what significance should be attached to the tractor's lack of registration and the environmental harm. The Court did not decide a separate criminal charge against the owners or the detailed terms of the policy they relied on.

5. Ratio / Findings : The Court adopted *Jayant*'s concern that illegal extraction and transport of sand harm rivers, groundwater and public resources held in the State's custody. The owners' assertion that they did not know of their driver's conduct did not relieve them of responsibility for the vehicle's use on this record. The Court treated the absence of a registration number as a further indication of guilty mind in the circumstances. The offer to pay for the damage did not require release, given the serious environmental concern and the confiscation decisions already made. The quoted MMDR compounding principle was not applied as an independent rule under the Forest Act. Finding no error in the confiscation orders, the High Court declined interference under Section 482. Its assessment concerned this vehicle and the available record, rather than a universal presumption against vehicle owners.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. Confiscation of the specified Massey Ferguson tractor and trolley, as upheld by the forest appellate authority and the Sessions Court in revision, remained undisturbed. The Court granted no release on payment, remand, compensation order or further condition.

Ankush Pandey and Ors. v. State of Madhya Pradesh, M.Cr.C. no. 7175/2024, 27/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (45) Prev Next

Headnote :- IPC Sections 141, 149 and 302 / circumstantial evidence — In applying Section 149, a separate overt act by each member need not be proved once the unlawful assembly, its common object and the offence's connection with that object are established. In these five connected appeals

concerning a murder at Gwalior Fort, the Court inferred the shared unlawful object from the evidence that five accused entered the fort with the deceased and emerged without him, the alleged dispute over money, discovery of the body, fatal firearm and penetrating injuries, and weapon recoveries. The Court held that evidence of the accused and deceased being last seen together was insufficient by itself. Section 106 could provide an additional link concerning facts within special knowledge only after the prosecution had proved the relevant incriminating circumstances. Despite the initial report against unknown persons, delayed witness statements, the hostile complainant and objections to identification, the Court found the evidence sufficient as a whole. It dismissed the appeals and affirmed the convictions and concurrent sentences.

Case-note :- ***1. Facts :*** Five criminal appeals (404, 464, 517, 611 and 730 of 2010) challenged a common Sessions conviction concerning Satendra Yadav's death near Gwalior Fort on 30 September 2006. According to the prosecution, he received a call asking him to collect money, told his mother that he was going to graze buffaloes, and did not return. His body was found in bushes during the night. The first report expressed suspicion that the killing arose from a lending dispute but named unknown assailants. The autopsy disclosed close-range firearm wounds to the head and back, a penetrating wound to the chest, fractures and fatal haemorrhage. Police seized a 315-bore country-made gun from Satish, another gun from Ashok Pal and a knife from Annudatt. Eighteen prosecution witnesses and one defence witness testified. The trial court convicted the appellants under IPC Section 302/149 and the associated assembly provisions, and separately convicted Satish under Arms Act Sections 25(1-b)(a) and 27. It imposed life imprisonment and shorter terms, to run concurrently.

2. Precedents — Considered : *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, and *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, required proof of an unlawful assembly of five persons and a clearly identified common object. *Mahadev Sharma* addressed the framing of charges under Sections 147 –149. *Sharad Birdhichand Sarda*, *Padala Veera Reddy*, *Ramreddy Rajesh Khanna Reddy*, *Balwinder Singh* and *Sunil Clifford Daniel* were quoted for the requirement that circumstantial evidence form a complete chain consistent only with guilt. *State of Rajasthan v. Kashi Ram* explained that Section 106 may provide an additional link after proof that the accused and deceased were last seen together; it does not transfer the prosecution's ultimate burden. *Gian Chand* and *Tara Chand* addressed the effect of delay. *Jayabalan* required careful assessment of related witnesses and cautioned against rejecting their testimony solely because of kinship. The judgment also discussed Sections 299–300 and the principles governing fatal injuries through *Virsa Singh*, *Anda*, *Mahesh Balmiki*, *Sangapagu Anjaiah* and *Kanhaiyalal*.

3. Statutes considered : IPC Sections 141, 142, 148, 149, 299, 300 and 302 were discussed in relation to unlawful assembly, liability for its common object, culpable homicide and murder. Evidence Act Section 106 concerned facts within special knowledge after proof of the relevant incriminating circumstances by the prosecution. Arms Act Sections 25(1-b)(a) and 27 governed Satish's separate firearm conviction. CrPC Section 161 arose in the challenge to the delay in recording police statements.

4. Issues : Whether Satendra's death was homicidal and amounted to murder; whether the five accused formed an unlawful assembly with the common object of committing murder; and whether the circumstantial evidence proved their participation beyond reasonable doubt despite the absence of a direct eyewitness, the FIR against unknown persons, delay in recording witness statements, the witnesses' family connections, the hostile complainant and the disputed identification.

5. Ratio / Findings : Medical evidence established the fatal gunshot and penetrating injuries. PW7 described the deceased entering the fort with five accused and the five emerging without him shortly afterwards. The Court treated the other witnesses' accounts and the police and medical evidence as corroborative, and inferred a connection with money-lending and coordinated conduct. It applied Section 149 without requiring proof that each appellant had personally inflicted an injury, having identified the common object and the offence's connection with it. Evidence that the accused and deceased were last seen together would not, by itself, suffice. Here, the discovery of the body, medical evidence, account of the group's movements and recoveries completed the circumstantial chain. The Court found that the roughly seventeen-day delay in recording some witness statements and the minor discrepancies did not undermine the prosecution

case. It did not reject the relatives' testimony merely because of their relationship. The complainant's failure to support the prosecution and the defence objections to identification were recorded. The Court further stated that a member could incur liability even without personally participating or being aware that the offence was being committed, where membership at the relevant time and the commission or likelihood of the offence in prosecution of the assembly's common object were established. The judgment also reproduced the requirements of a shared unlawful object and the statutory alternative concerning an offence the members knew was likely to be committed. There was no direct eyewitness to the attack itself.

6. Relief : The Hon'ble High Court dismissed all five appeals and affirmed the convictions and sentences. It cancelled the bail bonds of the appellants who were on bail and directed them to surrender immediately before the trial court to serve the remainder of their sentences. A copy of the judgment and the record were to be sent to the trial court for information and compliance.

Annudatt v. State of M.P., Cr.A. no. 404/2010 & 464/2010 & 517/2010 & 611/2010 & 730/2010, 28/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (46) Prev Next

Headnote :- CrPC Sections 311 and 362 / speedy trial — The Court retained its direction to conclude a rape trial within three months because its own interim stay had halted the 2018 trial for more than five years. It distinguished an order giving exceptional priority to a delayed trial from an automatic deadline for acquittal prohibited by *P. Ramachandra Rao*. Applying the exceptional-circumstances principle in *High Court Bar Association, Allahabad*, it found the prolonged stay sufficient to justify the direction. The Court also observed that both the victim and the accused had an interest in a speedy trial. It maintained the earlier recall of the prosecutrix, who alleged that she had turned hostile under pressure, applying *Rajaram Prasad Yadav*'s requirement that the evidence be necessary for a just decision. The application for review was dismissed. The disputed facts concerning the marriage affidavit and the question of guilt remained for trial.

Case-note :- ***1. Facts :*** In a trial under Section 376 IPC, the prosecutrix first turned hostile and later sought recall under Section 311 CrPC. She alleged that she had testified under pressure and that the accused had since changed his position. The trial court allowed her application on 6 December 2018. The accused challenged that order on 13 December, and a High Court stay granted on 14 January 2019 halted the proceedings for more than five years. On 19 February 2024, the High Court dismissed the challenge, directed that her evidence be recorded without further delay and required the trial to conclude within three months. The accused then sought alteration or review of that order. He also disputed a marriage affidavit, contending that it purported to have been executed on a day when he was in jail.

2. Precedents — Considered : *P. Ramachandra Rao v. State of Karnataka, (2002) 4 SCC 578*, prohibits judicially prescribed limitation periods that automatically end a prosecution or entitle an accused to acquittal because of delay. The direction in this case contained no such consequence. *M. Gopalakrishnan* cautioned superior courts against casually directing district courts to expedite cases. *High Court Bar Association, Allahabad v. State of U.P. (29 February 2024)* stated that constitutional courts should normally leave scheduling and priority to the courts concerned, but may prescribe an outer limit in exceptional circumstances. The High Court treated the earlier stay of more than five years as such a circumstance. *Rajaram Prasad Yadav v. State of Bihar, (2013) 14 SCC 461*, explained the requirements of truth-seeking, necessity and fairness when exercising the power of recall under Section 311. *Zahira Habibullah Sheikh (5)* was also invoked in support of a fair trial. The Court assessed recall under these principles without finally deciding the pending rape charge.

3. Statutes considered : Section 311 CrPC governed recall of the prosecutrix. Section 362 restricted alteration or review after disposal, while Section 482 had provided the basis of the earlier challenge. IPC Section 376 was the charge being tried. The Court's references to IPC Sections 90 and 375 Fourthly depended on whether the apparent consent had been obtained through a misconception of fact; they did not amount to a conviction.

4. Issues : Whether the direction to conclude the trial within three months imposed an impermissible automatic limit on the prosecution or instead

required exceptional expedition; and whether the accused's reliance on the authority concerning recall or his objection to the marriage affidavit justified reconsidering the February 2024 order.

5. Ratio / Findings : The earlier order provided neither acquittal nor abatement if the trial was not concluded within three months. The direction addressed the extraordinary delay caused by the stay granted in the accused's own challenge. A speedy trial served the interests of both the victim and the accused. The prosecutrix's allegations of pressure and changed circumstances had provided a basis for finding her recall necessary for a just decision. Section 311 permitted the necessary evidence to be received, subject to careful protection of a fair trial. The Court said that reconsidering arguments on the merits fell outside its power under Section 362. Nevertheless, at the applicant's counsel's instance, it considered those arguments to explain that the earlier order had taken account of the important aspects of the case. It did not finally resolve the disputed marriage affidavit or the pending charge. Its observations concerning Section 90 and Section 375 Fourthly were conditional on consent having been obtained through a misconception of fact, and did not determine guilt.

6. Relief : The Hon'ble High Court dismissed the application. The earlier order permitting recall and the direction to expedite the trial remained in force. The Court neither decided the rape charge nor prescribed an automatic sanction for failure to meet the deadline.

Ansar Ali v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 4164/2019, 04/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (47) Prev Next

Headnote :- Criminal-side writ — ongoing investigation — direction to arrest and charge-sheet - Registration of an FIR under Sections 406 and 420 IPC did not entitle the complainant to a mandamus requiring arrest of the accused or the filing of a charge-sheet. Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488,* the Court held that the police must decide the investigative steps and the appropriate final report on the evidence. Directing arrest or a charge-sheet in this writ would amount to supervising the investigation. The Supreme Court had explained that arrest involves discretion and does not follow mechanically from an allegation of a cognizable offence. An investigation may properly conclude without arrest, seizure or a charge-sheet.

Investigation — statutory duty to conclude without unnecessary delay - Section 173(1) CrPC, cited by the Court alongside Section 193 BNSS, requires completion of an investigation without unnecessary delay. The investigating officer must decide whether an offence is disclosed and submit the appropriate report, including a closure report where warranted. The Court directed the officer to conclude the investigation as early as possible and take the steps required by law. It prescribed no investigative result and left the petitioner free to place any further grievance before the Superintendent of Police.

Case-note :- ***1. Facts :*** The petitioner filed a writ under Article 226 concerning a car said to be in the possession of respondent No. 4. He sought a direction to the police to seize the car and hand it over to him. Alternatively, if it was not seized, he sought payment of the insured sum with interest from the insurer. He also sought a direction restraining another respondent from taking coercive action. Counsel stated that the police had registered an FIR under Sections 406 and 420 IPC on the petitioner's complaint, but had neither arrested the accused nor completed the investigation. The Court recorded these prayers and the complaint without deciding ownership of the car, the insurer's liability or the criminal allegations. It considered whether it could direct arrest and prescribe the course of investigation, and what direction could be made about the investigation said to remain pending.

2. Precedents — Considered : In *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Supreme Court set aside a High Court order directing investigative steps, including recording witness statements, arrest, seizure and the filing of a charge-sheet, without reasons or a hearing for the affected accused. The passages reproduced and applied in this case explain the police's statutory duty and discretion to investigate. Every FIR need not result in arrest, seizure or a charge-sheet; the investigating officer may find that no case warranting prosecution is made out. The Supreme Court also required reasons and a fair hearing for directions seriously affecting a person's reputation, and cautioned against routine control of investigative methods under

Section 482 CrPC. It quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on the discretion and caution required in making an arrest under Section 41 CrPC, and *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on hearing a person likely to be seriously affected by a direction for investigation. The High Court applied the decision here to refuse directions for arrest or a charge-sheet in this writ.

3. Statutes considered : Article 226 of the Constitution supplied the writ jurisdiction invoked by the petitioner. Sections 406 and 420 IPC were the offences recorded in the FIR, not elements adjudicated on the merits. Section 173(1) CrPC was quoted for the requirement that every investigation under the relevant chapter be completed without unnecessary delay; the order also referred to Section 193 BNSS alongside it. Section 41 CrPC and Section 482 CrPC appeared in the Supreme Court passages to explain police discretion to arrest and the limits of inherent judicial intervention; this writ itself was brought under Article 226 rather than Section 482. The order did not decide the merits of any insurance claim.

4. Issues : (i) Whether a complainant could obtain a direction under Article 226 requiring the police to arrest the accused or file a charge-sheet during a pending investigation, having regard to police discretion and the limits on judicial supervision. (ii) Whether the statutory duty to avoid unnecessary delay justified directing the officer to conclude the investigation and take the lawful consequential steps, without deciding in advance what the outcome should be.

5. Ratio / Findings : On the first issue, the Court applied *D. Venkatasubramaniam*'s distinction between the police's statutory duty to investigate and a judicial direction prescribing investigative methods or results. Registration of an FIR does not automatically require arrest. The investigating agency must assess the evidence before deciding whether arrest, seizure or a charge-sheet is warranted. The Court therefore refused to direct arrest and the filing of a charge-sheet, as that would supervise the investigation. On the second issue, it applied Section 173(1) CrPC, which requires completion without unnecessary delay. The investigating officer could not leave the investigation pending unnecessarily. The officer had to conclude whether any offence was disclosed and submit the appropriate final report, whether a closure report or a charge-sheet. The Court could require early completion while leaving the lawful outcome to the officer's assessment of the evidence. It made no finding of guilt and did not decide ownership of the car or the insurer's liability.

6. Relief : The Hon'ble High Court finally disposed of the writ petition. It did not direct arrest, require a charge-sheet, order seizure or delivery of the car, or award payment against the insurer. It directed the investigating officer to conclude the investigation as early as possible and take the steps required by law. If a grievance remained, the petitioner could apply to the Superintendent of Police, Bhopal, who was to consider it according to law. The Court fixed no date for the final report and granted no specific monetary relief.

Anshul Gupta v. The State of Madhya Pradesh and Others, W.P. no. 24626/2024, 30/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (48) Prev Next

Headnote :- FIR registration — police duty and writ remedy — alternate statutory course - Information disclosing a cognizable offence requires the police to register an FIR. However, an allegation that the police have not acted does not ordinarily entitle the complainant to a mandamus under Article 226 without using the prescribed statutory remedies. Applying *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, and the Division Bench decision in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (20.12.2016), the Court left the petitioner, who alleged that an assault had caused his father's death, free to approach the Magistrate. *Shweta Bhadauria* distinguishes the police duty stated in *Lalita Kumari* from entitlement to a writ, while preserving the recognised exceptions to the rule governing alternative remedies.

Magistrate's remedial jurisdiction — non-registration and improper investigation - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, followed in *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explains the statutory course from an approach under Section 154(3) CrPC to an application under Section 156(3). If prima facie satisfied, the Magistrate may direct registration of the FIR or proper investigation, and monitor compliance without personally investigating. *Aleque Padamsee* also identifies a complaint under Sections 190 and 200 as a remedy. The Court gave the

petitioner liberty to approach the concerned Magistrate under Sections 156(3), 200 and 202, without expressing a view on the alleged offence.

Article 226 — rare intervention in mala fide investigation - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognises exceptional intervention to require compliance with the Code where mala fide investigation, a clear abuse of power and non-compliance with Chapter XII are shown. Even then, the High Court cannot prescribe how the police must conduct the investigation. The Court dismissed this petition with liberty to approach the concerned Magistrate under Sections 156(3), 200 and 202 CrPC.

Case-note :- ***1. Facts :*** The petitioner sought a mandamus under Article 226 requiring the authorities to act on his complaint that his father had been assaulted and had died as a result. He stated that a complaint had been made to the police but that no action followed. The Court did not determine whether the alleged assault occurred or who was criminally liable. It considered whether, in these circumstances, it should direct the police to register an FIR. That question required consideration of the alternative statutory remedies and the limits of intervention through a criminal-side writ.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the duty to register an FIR on information disclosing a cognizable offence from the remedy available when the police fail to perform that duty. It directs the aggrieved informant to the Magistrate's complaint jurisdiction under Sections 190 and 200 CrPC, explaining that decisions concerning the police duty did not determine the separate question of remedy. The High Court relied on that distinction. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, permits rare intervention under Article 226 where mala fide investigation, abuse of power and non-compliance with Chapter XII CrPC are clearly established. Even then, the Court may insist on the prescribed legal process but cannot dictate investigative methods. Its discussion of *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union* explains the Magistrate's complaint jurisdiction in cases of police inaction. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explains that an aggrieved person may first approach the Superintendent of Police under Section 154(3) and then apply to the Magistrate under Section 156(3). If prima facie satisfied, the Magistrate can direct registration and proper investigation and monitor compliance. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterates *Sakiri Vasu*. It includes the Magistrate's discretion to recommend a change of investigating officer, while distinguishing monitoring from personally investigating. The High Court applied its preference for this statutory remedy over routine writ petitions. The binding Division Bench decision in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (20.12.2016), permits refusal of mandamus where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the recognised *Whirlpool* exceptions. It distinguishes the police registration duty stated in *Lalita Kumari* from entitlement to a writ.

3. Statutes considered : Article 226 of the Constitution provided the jurisdiction under which the writ was filed. Section 154 CrPC governs information about cognizable offences and registration, while subsection (3) allows an aggrieved person to approach the Superintendent of Police. Section 156(3) empowers the Magistrate to direct investigation. Sections 190 and 200 govern cognizance and complaint proceedings, and Section 202 provides for inquiry or investigation as part of the complaint process. Chapter XII CrPC appeared in *Divine Retreat Centre*'s discussion of the legal limits on police investigation. The provisions were considered in relation to the appropriate forum and procedure; the Court did not adjudicate the substantive allegation of assault.

4. Issues : Whether a complainant alleging police inaction over a fatal assault could obtain a direction under Article 226 to register an FIR without first using the remedies before the Superintendent of Police and the Magistrate; how the duty to register information disclosing a cognizable offence differs from the remedy for failure to perform it; and whether an exceptional ground for writ intervention displaced the ordinary statutory course. The Court did not decide whether the assault occurred or whether the complaint ultimately established a cognizable offence.

5. Ratio / Findings : Following *Aleque Padamsee*, the Court distinguished the police duty to register an FIR on cognizable information from the remedy for non-registration. The ordinary remedy was the procedure under the Code, rather than a direct writ prescribing police action. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explain the powers available under that procedure. After recourse to Section

154(3), an application may be made under Section 156(3); if prima facie satisfied, the Magistrate may require registration and proper investigation and monitor performance. A complaint under Sections 190 and 200 provides another forum. *Divine Retreat Centre* preserves rare intervention under Article 226 on a clear showing of mala fide exercise of investigative power, abuse and non-compliance with the Code. Even then, the High Court may require lawful process but cannot control the method of investigation. *Shweta Bhadauria* applies the alternative-remedy rule to mandamus for FIR registration, subject to the recognised exceptions, and distinguishes the duty to register from entitlement to a writ. Applying those authorities to the limited petition before it, the Court referred the petitioner to the Magistrate. It made no finding on the alleged assault or the merits of the proposed FIR.

6. Relief : The Hon'ble High Court dismissed the writ petition. It expressly left the petitioner free, if he wished, to approach the concerned Magistrate under Sections 156(3), 200 and 202 CrPC for redress. The High Court did not order registration of an FIR or express any conclusion on the allegations or on a future application to the Magistrate.

Anshul Patel v. The State of Madhya Pradesh and Others, W.P. no. 9271/2024, 14/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (49) Prev Next

Headnote :- Criminal breach of trust — truck sale, part payment and retained possession — FIR-quashing threshold - The complaint alleged that the applicant obtained a truck on part payment, failed to pay the balance promised to the finance company or seller, continued using the truck and did not return it. The Court held that these allegations disclosed a cognizable case under Sections 405–406 IPC sufficient to refuse quashing under Section 482. Reading Sections 4, 5, 31, 33, 45 and 46 of the Sale of Goods Act, it reasoned that the unpaid seller retained a lien and treated the buyer as a trustee until the full price was paid. The agreement had not been produced, and its other terms were unknown. This was the Court's assessment of the particular allegations at the FIR-quashing stage, without a determination of guilt. *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, was applied for the police duty to register an FIR where a complaint discloses a cognizable offence.

Minor's agreement — contractual incapacity and criminal allegation - The applicant's claim that he was a minor when the agreement was made, and that it was therefore void under Section 11 of the Contract Act, did not by itself exclude possible IPC liability on the allegations. The Court rejected a general exemption from criminal law on that contractual ground. It did not decide whether the applicant was in fact a juvenile, treating his age as a disputed question of fact that could not be determined in Section 482 proceedings.

Case-note :- ***1. Facts :*** The complainant alleged that the applicant agreed to buy a ten-wheeler truck for ₹13,75,000, paid ₹5,85,000 to the complainant and undertook to pay the remaining ₹7,90,000 to Magma Finance Company. According to the FIR, the applicant took possession but neither paid the financed balance to the company nor paid it to the seller. He continued using the truck and did not return it. The complaint also alleged defaults in obtaining insurance and a fitness certificate, and referred to notices demanding payment. Police Station Aron, District Guna, registered Crime No. 463/2017 under Section 406 IPC. The applicant sought quashing under Section 482 CrPC. He principally argued that he was a minor on the alleged agreement date, 07.07.2014, so that the agreement was void and he could not be prosecuted on its basis. The State disputed any automatic exemption from criminal law on that ground. The applicant had not produced the agreement, leaving its other terms unavailable for examination.

2. Precedents — Considered : *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, was cited and applied for the rule that the police must register an FIR when the information discloses a cognizable offence. The Court used that rule to assess whether the complaint supported registration and continuation of the investigation. Its separate consideration of Sections 405–406 IPC and the Sale of Goods Act concerned the alleged delivery, unpaid balance, continued use and non-return of the truck. It also considered the applicant's plea of minority.

3. Statutes considered : Sections 405 and 406 IPC provided the definition and punishment of criminal breach of trust. The former requires entrustment or dominion over property and dishonest misappropriation, conversion, use or disposal in the manner specified by the provision. Section 482 CrPC supplied the jurisdiction invoked for quashing. The Court reproduced Sections 4 and 5 of the Sale of

Goods Act, 1930, concerning a sale or agreement to sell and the formation of the contract; Sections 31 and 33, concerning delivery and the duties of buyer and seller; and Sections 45 and 46, concerning an unpaid seller and the statutory rights attached to that position. It relied on these provisions in reasoning about a seller's lien after delivery and the applicant's continued use without completing payment. Section 11 of the Contract Act formed the basis of the applicant's incapacity argument. The Court left his actual age unresolved as a factual question not to be determined in this Section 482 proceeding.

4. Issues : Whether the alleged transaction, possession and continued use of the truck, and failure to pay the balance disclosed a cognizable offence under Sections 405–406 IPC sufficient to sustain the FIR; whether asserted minority and the claimed voidness of the agreement under Section 11 of the Contract Act necessarily excluded any criminal allegation; and whether the applicant's age could be determined on this Section 482 record when the agreement had not been produced. The Court was deciding a threshold request to quash the FIR, rather than trying the questions of dishonest intention, entrustment or ownership.

5. Ratio / Findings : The Court considered the allegations that the applicant obtained possession on part payment and was to pay the balance to the finance company. The agreement itself had not been produced, so its other terms were unknown. Reading the Sale of Goods Act provisions on delivery and unpaid sellers' rights, the Court reasoned in this case that the unpaid seller retained a lien. It treated the buyer as a trustee and considered that his continued use of the truck without paying the balance or returning it could amount to criminal breach of trust. On that reasoning, it found that the complaint disclosed a cognizable offence and applied *Lalita Kumari*'s registration principle. This was an assessment of the allegations at the FIR stage, based on delivery, part payment, the unpaid balance, continued use and non-return of the truck. The Court also rejected contractual incapacity as a ground for general immunity from the IPC. It did not decide whether the applicant was a juvenile on 07.07.2014, holding that his age was a question of fact beyond determination in these proceedings. It made no final finding of criminal liability.

6. Relief : The Hon'ble High Court dismissed the application to quash Crime No. 463/2017, Police Station Aron, District Guna, under Section 406 IPC. The FIR remained in force. The Court made no final determination of the applicant's age, the precise terms of the agreement, civil rights in the truck or criminal guilt.

Antim Dubey v. State of M.P. and Others, M.Cr.C. no. 10820/2018, 05/04/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (50) Prev Next

Headnote :- Maintenance — alteration — proof of changed circumstances - The second proviso to Section 125(1) CrPC permits reasonable interim maintenance without recording witness evidence. Section 127(1), however, allows alteration "on proof of a change in the circumstances"; the party seeking variation must prove that change by evidence. The husband's assertion that he had returned the stridhan and paid ₹9,17,999.38 did not dispense with that requirement. The Section 127 application could not categorically be called premature. In the pending Section 125 proceeding, however, recording evidence separately for alteration and then again for the main claim was not feasible. The final maintenance award could increase or reduce the interim amount.

Maintenance — income-tax return — evidentiary value - The husband's income-tax return was not a public document of which the maintenance court could take judicial notice. It had to be proved like any other document. Whether it correctly disclosed his income remained a question of fact, and the income declared to the revenue authority did not bind the Magistrate. In the absence of evidence proving his means or the alleged change in circumstances, the Court affirmed the refusal to alter the ₹15,000 monthly interim award and dismissed the revision.

Case-note :- ***1. Facts :*** Garima Ajmani's maintenance application under Section 125 CrPC was pending before the Principal Judge, Family Court, Gwalior, in Case No. 251/2016. On 18.08.2017, the Family Court awarded her interim maintenance of ₹15,000 per month. Her husband, Anubhav Ajmani, applied under Section 127 CrPC to alter that allowance. He asserted that, in compliance with the Jaipur Family Court's order dated 06.10.2017, he had returned all her stridhan and paid her ₹9,17,999.38, on which she could earn interest. He also alleged that she was educated but deliberately remained unemployed. She disputed the return of all her stridhan, said that she had received

the amount under protest, and questioned whether his income-tax return disclosed his actual income. On 08.03.2018, the Gwalior Family Court rejected the application for alteration. It reasoned that alteration required evidence, that the Section 125 claim awaited final adjudication, and that the husband could challenge the interim order itself. In revision under Sections 397 and 401 CrPC, the husband argued that an interim allowance granted without recording witness evidence could also be altered without such evidence. He further contended that his income-tax return was a public document on which the Court could rely to assess his income. The High Court considered those legal submissions without finally deciding either party's disputed financial assertions.

2. Statutes considered : The second proviso to Section 125(1) CrPC permits reasonable interim maintenance and expenses of the proceedings while the main maintenance application is pending. The Court held that the Magistrate may fix a reasonable amount for provisional subsistence, having regard to the parties' status and other relevant factors, without recording evidence at that stage. Section 127(1) CrPC permits alteration "on proof of a change in the circumstances". The person seeking alteration must therefore establish that change by evidence. Sections 397 and 401 CrPC provided the jurisdiction invoked in revision. The income-tax return was considered as a document offered to prove income; the Court did not treat it as a public document of which judicial notice could be taken.

3. Issues : (i) Whether the power to grant interim maintenance under Section 125 without recording witness evidence also allowed alteration under Section 127 without proof of a subsequent change in circumstances. (ii) Whether the husband's income-tax return could be judicially noticed as a public document and treated as conclusive or binding proof of his income. (iii) Whether the Section 127 application was legally premature or whether, with the main claim still pending, the disputed evidence and final amount should be considered in the Section 125 proceedings. The Court did not finally decide whether all the stridhan had been returned, whether the wife earned interest, or whether the husband's disclosed income was accurate.

4. Ratio / Findings : The Court rejected the husband's argument that an interim allowance granted without recording evidence could also be altered without evidence. Interim maintenance under the second proviso to Section 125(1) provides provisional subsistence and may be fixed without recording witness evidence. Section 127(1) expressly requires proof of changed circumstances, and the person seeking alteration must establish the change by evidence. The husband's assertions about the return of stridhan and a lump-sum payment did not remove that requirement; the wife disputed the completeness and circumstances of the return. His income-tax return concerned his dealings as an assessee with the revenue authority. It was not a public document of which the Court could take judicial notice and had to be proved like any other document. Whether it correctly stated his actual income was a disputed question of fact, and the return did not bind the Magistrate. The Court qualified the Family Court's description of the Section 127 application as premature, expressly observing that it might not be called premature. Its reason for refusing interference at this stage was that recording full evidence first for Section 127 and then again for the pending Section 125 claim was not feasible. The husband was to adduce evidence in the main claim, where the final maintenance amount could be increased or reduced from the interim award. No perversity warranting revisional interference was shown. The Court's reasoning rested on Sections 125(1) and 127(1) CrPC and the evidentiary value of the income-tax return.

5. Relief : The Hon'ble High Court affirmed the Family Court's order dated 08.03.2018 refusing to alter the interim allowance and dismissed the criminal revision. The interim maintenance of ₹15,000 per month remained operative pending final adjudication under Section 125, when the amount and the parties' means could be established by evidence and reassessed. The Court did not determine the final award, find that all stridhan had been returned, or finally assess either party's actual income.

Anubhav Ajmani v. Garima Ajmani, Cr.R. no. 2151/2018, 14/05/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (51) Prev Next

Headnote :- Inherent powers — investigation — arrest direction - Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court declined to direct arrest or the filing of a charge sheet

in the pending FIR investigation. In that decision, the Supreme Court relied on *M.C. Abraham v. State of Maharashtra* to explain that arrest under Section 41 CrPC is discretionary and does not automatically follow an FIR. It also relied on *Divine Retreat Centre v. State of Kerala* concerning drastic judicial directions affecting persons who had not been heard. Here, the police reported that three named persons had been arrested and another had not. The persons whom the applicant described as absconding had not been impleaded. The police retained discretion to assess the evidence and file either a closure report or a charge sheet.

Investigation — Section 173(1) — timely completion - Restraint over investigative choices does not relieve the police of their statutory duty to complete an investigation without unnecessary delay. In the pending investigation into the Section 307/34 IPC FIR, the Court directed the investigating officer to conclude the investigation as early as possible and submit the final report required by the evidence and law. It did not require an arrest or direct that the report must be a charge sheet.

Case-note :- ***1. Facts :*** An FIR lodged on 30.06.2024 alleged offences under Sections 307 and 34 IPC. Anuj Gurjar applied under Section 482 CrPC, complaining that the police were not arresting the accused and seeking the Court's intervention. In their status report, the police stated that Sanjeev Gurjar, Ravi Baghel and Bhupendra Singh had been arrested, but Manoj Gurjar had not yet been arrested. They also stated that Anuj was an accused in a cross-case. The persons whom he described as absconding had not been impleaded as respondents. After hearing the applicant and the State, the High Court considered whether it could direct arrest during the pending investigation.

2. Precedents — Considered : *D. Venkatasubramaniam and Others v. M.K. Mohan Krishnamachari and Another, 2009:INSC:1132, (2009) 10 SCC 488*, was quoted extensively and applied. The Supreme Court had set aside a High Court order directing the recording of witness statements, arrest, seizure and the filing of a charge sheet during investigation. It held that the police have the statutory duty to investigate and discretion over the method and outcome. The High Court must exercise Section 482 powers sparingly, for the purposes specified in that provision and with reasons; it should not dictate a particular course of investigation or assume that every FIR must lead to arrest and prosecution. The quoted decision relied on *M.C. Abraham v. State of Maharashtra for* the principle that arrest without warrant under Section 41 CrPC is discretionary and must be considered cautiously in light of personal liberty and the circumstances. It also relied on *Divine Retreat Centre v. State of Kerala* concerning an opportunity of hearing before drastic directions affecting an unimpleaded person's reputation and interests. In the present case, the High Court noted that the persons described as absconding had not been impleaded, refused to direct arrest and left the police free to submit a closure report or a charge sheet according to the evidence. It did not determine an arrest application against any particular person or decide guilt.

3. Statutes considered : Section 482 CrPC was the provision invoked for exercise of the High Court's inherent powers. The Court also referred to Article 226 when framing the question whether it could direct arrest. Section 41 CrPC featured in the quoted Supreme Court discussion of police discretion to arrest without warrant. Section 173(1) CrPC required completion of the investigation without unnecessary delay and a report reflecting whether the evidence disclosed a case. Sections 307 and 34 IPC identified the allegations in the FIR; the Court did not adjudicate those offences.

4. Issues : (i) Whether, on the applicant's Section 482 request, the reported arrests and the pending cross-case, the High Court could direct the police to arrest an unarrested suspect or file a charge sheet. (ii) Whether it could require prompt, lawful completion under Section 173(1) while leaving investigative choices and the outcome of the final report to the police. The Court did not decide the merits of the FIR, the applicant's role in the cross-case or whether any individual arrest was necessary.

5. Ratio / Findings : Applying *D. Venkatasubramaniam*, the Court distinguished judicial control over the legality of an investigation from the police's discretion in conducting it. The quoted Supreme Court reasoning made clear that arrest under Section 41 is discretionary and does not follow mechanically from registration of a cognizable FIR. Depending on the evidence, the police may consider arrest necessary, submit a charge sheet or conclude that a closure report is appropriate. Directing arrest in this case would take away the police's lawful option of submitting a closure report and would dictate the course of

investigation. The failure to implead the persons sought to be affected also supported restraint, consistently with the hearing principle in the quoted decision. That restraint did not permit the police to leave the investigation unresolved. Section 173(1) required completion without unnecessary delay. The investigating officer had to assess whether an offence was made out and submit the appropriate final report on the evidence. The Court therefore declined to direct particular coercive steps but required prompt completion according to law. It ordered no specific arrest, finding in the investigation or charge-sheet outcome.

6. Relief : The Hon'ble High Court disposed of the Section 482 application, directing the investigating officer to conclude the investigation as early as possible and take the steps required by law, consistently with Section 173(1). It refused the requested direction to arrest. It did not quash the FIR, require either prosecution or closure, or decide anyone's guilt.

Anuj Gurjar v. State of Madhya Pradesh and Others, M.Cr.C. no. 45939/2024, 26/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (52) Prev Next

Headnote :- Section 138 NI Act complaint — complainant's absence — First hearing **after transfer and completed cross-examination** - The Court held that dismissal for want of prosecution on the first hearing before the transferee Magistrate amounted to a material illegality, given the complainant's earlier appearances, her affidavit under Section 145 and the completion of her cross-examination. The order-sheets showed adjournments caused by the presiding officer's absence or other court work, defence requests, the complainant's illness and her own later requests. If the trial court considered that she was deliberately prolonging the proceedings, it should have closed her right to examine further witnesses and fixed the case for the accused's statement. The Court set aside the dismissal and restored the complaint for trial, without deciding the merits of the alleged cheque dishonour.

Case-note :- ***1. Facts :*** The applicant's complaint under Section 138 of the Negotiable Instruments Act, Case No. 4189/2013, was pending in Gwalior. The substance of the accusation was read over to the respondent in April 2014. In May 2014, the complainant filed her affidavit under Section 145. She appeared on several dates, but cross-examination was postponed because the presiding officer was absent, the court was occupied with other matters, the respondent sought time, including time for payment, or further procedural adjournments were granted. She too was absent on some dates. Her counsel stated that she was receiving cancer treatment in Bombay, and costs were imposed for certain adjournments. Her cross-examination began in October 2015 and was completed on 22.02.2016. The case was then fixed for her other witnesses. On 07.04.2016, she sought an adjournment. The case was transferred from the ACJM to the JMFC, Gwalior. On 04.05.2016, neither she nor her counsel appeared before the transferee court, which dismissed the complaint for want of prosecution. She challenged the dismissal, relying on the earlier proceedings and contending that she had been unaware of the transfer. The respondent did not appear before the High Court despite service.

2. Statutes considered : Section 138 of the Negotiable Instruments Act was the provision invoked in the complaint; the High Court did not decide whether its ingredients were established. Section 145 of that Act provided for the complainant's evidence by affidavit, as recorded in the procedural history. The order-sheets also referred to applications under Section 317 CrPC concerning attendance. The application challenging dismissal before the High Court was stated to be under Section 378(4) CrPC. The procedural question concerned the transferee court's response to the complainant's absence and the evidence of her remaining witnesses.

3. Issues : Whether dismissal of the Section 138 complaint for want of prosecution was justified on the first hearing before the transferee Magistrate, when the complainant had previously appeared, filed her evidence affidavit and completed her cross-examination, although she had also been absent on some earlier dates and other witnesses remained to be examined; and whether, if the trial court considered that she was deliberately delaying the case, it should instead have closed further complainant evidence and proceeded to the accused's statement. The alleged cheque liability and the respondent's territorial-jurisdiction objection were not decided.

4. Ratio / Findings : The Court examined the detailed order-sheets in the context of the complainant's absence on the date of dismissal. On

several earlier dates, she had appeared but her evidence had not been recorded for reasons not attributable solely to her. Her cross-examination had ultimately been completed. The record also showed her own requests for adjournment and her illness, but it did not justify dismissal on the first hearing after transfer to the JMFC. If the trial court considered that she was prolonging the proceedings by failing to produce additional witnesses, it should have closed her right to examine those witnesses and fixed the case for the accused's statement. On this procedural history, dismissal at the first hearing before the transferee court was a material illegality. The Court therefore set aside the dismissal without determining the respondent's criminal liability. Its decision rested on the order-sheets, the completed cross-examination and dismissal on the first date after transfer. Closure of further complainant evidence was the alternative identified if the trial court considered the delay deliberate.

5. Relief : The Hon'ble High Court allowed the application and set aside the JMFC's dismissal order dated 04.05.2016, restoring the complaint for further trial. It directed the parties to appear on 07.03.2022. If the respondent failed to appear on that date, the trial court was to issue a warrant for his arrest. The underlying Section 138 complaint remained to be decided on its merits.

Anuradha Agrawal v. Mahehdra Gupta, M.Cr.C. no. 8166/2016, 13/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (53) Prev Next

Headnote :- Matrimonial cruelty and dowry demand — specific role — quashing threshold - The wife alleged a further demand of ₹5 lakh, beatings, refusal to keep her unless the demand was met, and expulsion from the matrimonial home. The Court held that these allegations attributed specific conduct to the husband and mother-in-law and went beyond merely naming them in an omnibus accusation. Applying *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, it held that taunts for inadequate dowry and alleged harassment forcing separation could disclose a prima facie case of cruelty; whether the allegations were true remained for trial. Drawing *on Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, *Taramani* distinguished unsupported allegations against distant relatives from allegations assigning material roles to close family members. The police's omission of the sister-in-law from the charge-sheet did not, by itself, negate the alleged roles of the two applicants.

Inherent quashing — divorce proceedings and later FIR - Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that a husband's earlier divorce petition did not, merely because it preceded the wife's complaint, establish that the FIR was false or retaliatory. Civil and criminal proceedings remained independent. Delay while attempting or hoping for reconciliation could not automatically defeat the criminal allegations. The unproved allegations in the divorce petition could not displace the prima facie allegations in the FIR.

Section 528 BNSS — no mini-trial of bank transfers - Payments into the wife's account before the alleged expulsion in late August 2024 did not conclusively disprove dowry harassment. The Court reasoned that the January–July transfers were made while she lived with the husband and were not maintenance. Alternatively, if they were separate maintenance payments, they indicated that he had kept her financially separate for her expenses despite their living together. The transfers did not, by themselves, establish that the FIR was false. Applying the settled Supreme Court principles against conducting a mini-trial, the Court tested the uncontroverted allegations without resolving disputed evidence. It dismissed the application without deciding guilt.

Case-note :- ***1. Facts :*** The wife alleged that she married the first applicant on 20.01.2022 and that her family gave money, goods and ornaments at the marriage. According to the FIR, about one and a half years later, the husband and his mother demanded another ₹5 lakh and harassed and beat her when the demand was not met. She informed her relatives, and her father tried to intervene. She alleged that the husband took her to Pune on 23.08.2024, where he and his sister Aastha continued demanding the money and expelled her from the matrimonial home. On 29.08.2024, he left her at her parental home and told her to return only with the money. Crime No. 304/2024 was registered at Police Station Dinara, District Shivpuri. The police filed a charge-sheet against the husband and mother-in-law under Section 85 BNS and Sections 3–4 of the Dowry Prohibition Act, but did not charge-sheet Aastha. The applicants sought quashing under Section 528 BNSS. They contended that the allegations were omnibus, that the FIR dated 24.11.2024 was a counterblast to the

husband's divorce petition dated 25.10.2024, and that his bank transfers to the wife during January–July 2024 disproved cruelty. The State opposed the application. The Court held that it could not conduct a mini-trial under Section 482 CrPC/Section 528 BNSS and examined whether the uncontroverted allegations disclosed an offence.

2. Precedents — Considered : *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was quoted and applied. It distinguished indiscriminate allegations against distant relatives without a specific role, as discussed in *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, from allegations that the husband and close family members demanded dowry and harassed the wife until she left the matrimonial home. Where such allegations could constitute an offence if proved, their truth was a matter for trial and the proceedings could not be quashed at that stage. The Court applied that distinction to the alleged additional demand, beatings and expulsion. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was separately quoted and applied to reject the counterblast argument. It explained that delay and the earlier filing of a divorce petition did not automatically make the wife's complaint false; civil and criminal proceedings were independent, and the quashing court had to assess the FIR rather than rely on extraneous defences or disputed investigative findings. The Court also cited *XYZ v. State of Gujarat*, *S. Martin*, *Ajay Kumar Das*, *Gourishetty Mahesh*, *Amit Kapoor*, *S. Khushboo* and other Supreme Court decisions collectively for the rule against a mini-trial and the test of allegations taken at face value. That series included *Mohd. Akram Siddiqui v. State of Bihar*, *M. Srikanth v. State of Telangana*, *CBI v. Arvind Khanna*, *State of M.P. v. Kunwar Singh*, *Munshiram v. State of Rajasthan*, *Teeja Devi v. State of Rajasthan*, *State of Orissa v. Ujjal Kumar Burdhan*, *Sangeeta Agrawal v. State of U.P.*, *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy* and *M.N. Ojha v. Alok Kumar Srivastav*. *Kans Raj*, *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* appeared within the *Taramani* quotation; *Bhajan Lal* also appeared within the *Pratibha* quotation.

3. Statutes considered : Section 528 BNSS provided the inherent jurisdiction invoked for quashing in 2025. In explaining the governing standard, the Court also referred to its predecessor, Section 482 CrPC. Section 85 BNS and Sections 3 and 4 of the Dowry Prohibition Act were the provisions under which the applicants were prosecuted for alleged cruelty and dowry demand; the Court did not finally determine whether the ingredients required for conviction were established. It expressly referred to Section 498A IPC when stating that taunts for inadequate dowry could prima facie warrant prosecution, and then applied the specific allegations to the present Section 85 BNS case. The husband relied on his divorce petition as a factual defence, but its allegations were not adjudicated. The independence of civil and criminal proceedings governed whether the divorce case could bring the criminal proceedings to an end.

4. Issues : Whether the FIR attributed sufficiently specific dowry harassment and cruelty to the two applicants to warrant continuation, despite their claim of omnibus allegations and the police's omission of the sister-in-law from the charge-sheet; whether the husband's earlier divorce petition established that the later FIR was a counterblast; and whether disputed bank transfers before separation conclusively disproved the wife's allegations at the quashing stage. The Court did not determine whether she had actually been assaulted or whether the allegations in the divorce petition were true.

5. Ratio / Findings : Applying *Taramani*, the Court held that the alleged demand for ₹5 lakh, beatings, forced separation and condition for return attributed specific conduct to the applicants, rather than merely naming distant relatives. The police had omitted the sister-in-law from the charge-sheet, but counsel could not clarify whether the trial court had made any order on that omission. It did not establish a ground for quashing in favour of the two applicants. Applying *Pratibha*, the Court declined to infer that the FIR was false because the husband had filed for divorce earlier. The wife's delay might reflect hope of preserving the marriage. The husband still had to prove the allegations in his divorce petition, and parallel civil proceedings did not extinguish the criminal allegations. The bank transfers preceded the alleged August expulsion and were made while the couple reportedly lived together. The Court reasoned that payments made while the wife lived with the husband were not maintenance and must have been made for some other reason. Alternatively, if he separately paid for her maintenance while they lived together, this indicated that he had kept her financially separate for her expenses. Occasional transfers did not, by themselves, establish that the FIR was false. Under the principles against

conducting a mini-trial, the Court confined its inquiry to whether the uncontroverted allegations could constitute an offence. Disputed evidence and credibility remained for trial. These prima facie conclusions did not establish guilt.

6. Relief : The Hon'ble High Court dismissed the Section 528 BNSS application seeking quashing of the FIR, charge-sheet and pending prosecution. Proceedings against the husband and mother-in-law were left to continue. It granted no relief concerning the sister-in-law or the divorce case and made no final determination of criminal liability.

Anurag Saxena and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 16212/2025, 22/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (54) Prev Next

Headnote :- Cheque dishonour — insolvency — personal penal liability - The Court rejected the cheque signatory's contention that the initiation of insolvency proceedings and the asserted interim moratorium under Section 96 IBC invalidated his conviction under Section 138 NI Act. It followed *Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India, (2023) 10 SCC 545*. That decision had considered *P. Mohanraj v. Shah Brothers Ispat, (2021) 6 SCC 258*, distinguished the penal character of NI Act prosecution from debt recovery, and held that a corporate resolution process did not extinguish the personal penal liability of a natural person who signed the cheque.

Suspension of sentence — deposit condition — insolvency objection - For the same reason, the Court rejected the applicant's challenge to the ₹13,73,890 deposit required for suspension of sentence under Section 389 CrPC during his appeal. The initiation of insolvency proceedings did not extinguish his personal liability under Section 138. His conviction had resulted in six months' imprisonment and compensation of ₹68,69,457.24. The Court rejected the insolvency ground urged against the deposit condition; the appeal against conviction remained pending before the appellate court.

Case-note :- ***1. Facts :*** On 13.03.2024, the JMFC, Burhanpur, convicted Anurodh Mittal under Section 138 of the Negotiable Instruments Act in SC-NIA No. 723/2019. It imposed six months' imprisonment and compensation of ₹68,69,457.24. He filed Criminal Appeal No. 102/2024 and applied for suspension of sentence under Section 389 CrPC. On 16.04.2024, the appellate court required a deposit of ₹13,73,890 as a condition of suspension. In his Section 482 CrPC application, he described himself as guarantor of M/s Shree Geeta Textiles Private Limited, a borrower that had defaulted on its debt. He relied on Company Petition (IB)/74(MP)2022 before the NCLT, Indore Bench, and asserted that an interim moratorium under Section 96 IBC had operated from 14.10.2022 and remained in force when he was convicted and filed his appeal. He therefore challenged the effect of the conviction and the deposit condition on that ground. The order described the borrower as having applied under Section 94 and recorded the moratorium claim as one concerning personal insolvency. Counsel relied on *P. Mohanraj* and the Punjab and Haryana High Court decision in *Vijay Kumar Ghai v. Pritpal Singh Babbar.* The High Court considered the moratorium objection and declined to interfere.

2. Precedents — Considered : The applicant relied on *P. Mohanraj and Others v. Shah Brothers Ispat Private Limited, 2021:INSC:133, (2021) 6 SCC 258*. The High Court quoted the later decision in *Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corporation of India Limited, 2023:INSC:232, (2023) 10 SCC 545*, which had considered *P. Mohanraj*. The quoted passages distinguished the penal character of Section 138 proceedings from civil debt recovery. They held that resolution, dissolution or relief concerning a corporate debtor under the IBC did not, by itself, terminate the criminal liability of individual cheque signatories or directors under Sections 138 and 141 NI Act. The discussion expressly concerned the corporate moratorium under Section 14. It also referred to *Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661*, concerning continued prosecution of natural persons when the company was dissolved after proceedings had commenced, and to *State of Rajasthan v. Shamsher Singh*, 1985 Supp SCC 416, for the maxim that the law does not compel the impossible. The High Court applied *Ajay Kumar* to reject Anurodh's insolvency ground.

3. Statutes considered : Section 138 NI Act was the basis of the conviction and its penal consequences. Section 141 NI Act appeared in the Supreme Court's discussion of liability of cheque signatories and directors. In the present case, the order recorded the applicant's description of himself as guarantor and

treated him as the cheque signatory. Section 389 CrPC governed the appeal-stage application for suspension of sentence and the associated deposit condition; Section 482 CrPC was invoked to challenge that condition. The applicant relied on Sections 94 and 96 of the Insolvency and Bankruptcy Code, 2016, concerning initiation of proceedings and the interim moratorium asserted from 14.10.2022. The quoted *Ajay Kumar* passages addressed the corporate moratorium under Section 14 IBC and subsequent corporate resolution provisions. They also referred to Sections 31 and 38–41 IBC in explaining that extinction of the debt through that process did not, by itself, extinguish criminal proceedings.

4. Issues : (i) Whether, on the ground urged, the initiation of insolvency proceedings and the asserted interim moratorium under Section 96 invalidated the conviction of the individual cheque signatory under Section 138 or barred its continuation. (ii) Whether that objection made the ₹13,73,890 deposit condition for suspension under Section 389 legally erroneous. The Court identified insolvency and the asserted bar on debt recovery as the sole ground urged against the deposit. It did not decide the separate appeal against conviction.

5. Ratio / Findings : The Court identified the asserted moratorium as the sole ground urged against the appellate deposit condition. It quoted *Ajay Kumar*'s reasoning that Section 138 proceedings are penal and do not merely recover the underlying debt, and that corporate insolvency processes do not extinguish a natural person's criminal liability as cheque signatory. *Ajay Kumar* had considered *P. Mohanraj* and rejected automatic termination of prosecution following a company's resolution or dissolution, while preserving the liability of individuals. Applying that reasoning, the High Court held that the mere initiation of insolvency proceedings did not invalidate Anurodh's conviction or make the appellate deposit condition erroneous. The applicant had invoked Section 96, whereas the quoted *Ajay Kumar* passages discussed Section 14. The High Court applied that reasoning on personal penal liability to reject that insolvency ground against the conviction and uphold the deposit condition for suspension of sentence.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The conviction was not quashed. Criminal Appeal No. 102/2024 remained pending, and the appellate court's ₹13,73,890 deposit condition for suspension of sentence remained in force.

Anurodh Mittal v. Rehat Trading Company and Others, M.Cr.C. no. 17782/2024, 21/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (55) Prev Next

Headnote :- Section 156(3) CrPC — magistrate's discretion — Complaint procedure - Section 156(3) provides that the Magistrate "may" order investigation. The Court held that a Magistrate need not send every complaint alleging a cognizable offence to the police for registration of an FIR. After examining the allegations, the Magistrate may proceed under Sections 190, 200 and 202 CrPC, record the complainant's evidence and, if police assistance is later needed, order an inquiry under Section 202. *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1,* relied on by the applicant, concerned the police's duty upon receiving information disclosing a cognizable offence. *Jayant v. State of M.P., (2021) 2 SCC 670*, and *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, recognised the Magistrate's power to order investigation without deciding that it must invariably be exercised. The Court affirmed the JMFC's decision to follow the complaint procedure.

Section 156(3) rejection — superior-court challenge — hearing prospective accused - Persons named as accused in a complaint have no right to participate before summons merely because they have been named. The Court distinguished that position from their right to be heard when the complainant challenges rejection of a Section 156(3) request. It considered *Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel, (2012) 10 SCC 517,* concerning a hearing in superior-court revision against dismissal of a complaint, and *Atul Pandey v. State of U.P. (Allahabad High Court, 08.01.2021),* concerning *the* non-interlocutory and revisable character of Section 156(3) rejection and the hearing required in that revision. The failure to implead the persons named in the complaint in this Section 482 application was a further ground for refusing interference.

Case-note :- ***1. Facts :*** The applicant alleged that certain persons had sexually assaulted or humiliated her and that the police had not registered an FIR despite her repeated approaches. She applied to the JMFC, Gwalior, under Section 156(3) CrPC for

police registration and investigation. By order dated 27.11.2021, the Magistrate rejected that request and directed her to examine her witnesses under Sections 200 and 202. She then filed M.Cr.C. No. 63392/2021 under Section 482 CrPC, seeking to set aside the order and obtain registration of an FIR against the named persons. She also sought investigation by an independent senior police authority uninfluenced by the earlier police reports. Counsel argued that an allegation disclosing a cognizable sexual offence required registration and that the Magistrate should have exercised the Section 156(3) power. The persons accused in the complaint were not impleaded before the High Court. The Court considered the choice of procedure and their hearing rights, without deciding whether the allegations were true.

2. Precedents — Considered : Counsel relied on *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, for the police duty to register an FIR when the information discloses a cognizable offence. The Court distinguished that duty from the question whether a Magistrate must invariably order investigation under Section 156(3). The applicant also cited *Jayant v. State of M.P., (2021) 2 SCC 670*, and *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*. The Court explained that these decisions recognise the Magistrate's power to direct investigation, but do not decide that its exercise is compulsory. It relied on *Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel, (2012) 10 SCC 517*, concerning the right of a prospective accused to be heard in a superior-court revision against dismissal of a complaint. It also considered *Atul Pandey alias Param Pragyan Pandey v. State of U.P. (Allahabad High Court, order dated 08.01.2021)*, which reproduced a Full Bench conclusion that rejection of a Section 156(3) request is not interlocutory and is revisable under Section 397, and that the prospective accused is entitled to a hearing in that revision. The Court applied the hearing concern to the persons not impleaded here, while affirming the Magistrate's choice of procedure.

3. Statutes considered : Section 156(3) CrPC empowers a Magistrate authorised under Section 190 to order police investigation; the word "may" was central to the Court's reasoning. Section 190 concerns cognizance upon a complaint, police report or other information. Sections 200 and 202 govern examination and inquiry when the Magistrate follows the complaint procedure. The Court noted that, after witnesses were examined, the Magistrate could still seek police assistance for an inquiry under Section 202. Section 397 CrPC appeared in the cited Allahabad decision as the revisional remedy against a non-interlocutory order rejecting Section 156(3) relief. Section 482 CrPC was the jurisdiction invoked in the present application. The Court decided the procedural challenge without determining the truth of the alleged sexual assault.

4. Issues : Whether the Magistrate's refusal to order police registration and investigation was legally erroneous merely because the Section 156(3) power was available; whether the Magistrate could instead proceed under Sections 200 and 202 and seek police inquiry later if needed; and whether the complainant's superior-court challenge could result in an adverse order without joining or hearing the persons named as suspected accused. The truth of the allegations and whether process should ultimately issue were not decided.

5. Ratio / Findings : Reading Section 156(3) with Section 190, the Court held that the word "may" leaves the Magistrate to decide the appropriate course on the allegations. If police investigation is necessary, the Magistrate may order it. Alternatively, the Magistrate may proceed with the complaint and record evidence under Sections 200 and 202. That choice does not prevent later police assistance for an inquiry under Section 202. The Supreme Court decisions cited by the applicant did not make an FIR direction compulsory in every case. Separately, the Court distinguished the absence of a right to participate in the original complaint before summons from the prospective accused's right to be heard when a superior court is asked to disturb rejection of the investigation request in their favour. The persons named in the complaint had not been made respondents. For these reasons, the Court found no ground to interfere with the JMFC's order. The Court neither prejudged the allegations nor prevented their examination through the complaint procedure.

6. Relief : The Hon'ble High Court dismissed the Section 482 application and affirmed the order dated 27.11.2021 passed by the JMFC, Gwalior. It directed neither registration of an FIR nor a separate investigation. The complaint remained before the Magistrate for the procedure under Sections 200 and 202 already ordered, without any finding on guilt or the eventual outcome.

Anusha Deepak Tyagi v. State of M.P., M.Cr.C. no. 63392/2021, 06/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial cruelty — married relatives living separately — particularised role - The allegation that two married relatives mentally harassed the wife about dowry during occasional visits did not explain when or how either applicant had acted. Their residence in Ludhiana and Shivpuri was undisputed. Applying *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, the Court cautioned against indiscriminate implication of relatives. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, requires tangible material identifying a distant relative's role, while distinguishing the husband and close household members. *Chandralekha v. State of Rajasthan* (cited as *2013 (1) UC 155*) illustrates quashing of vague allegations against relatives, including a married sister-in-law, where no specific role was alleged and their residence with the complainant was unclear. *K. Subba Rao v. State of Telangana, (2018) 14 SCC 452*, likewise requires specific instances of involvement rather than omnibus allegations. The Court applied these principles to the two applicants; the FIR separately attributed a demand and physical assault to the husband.

Section 482 CrPC — individualised accusation and partial quashing - *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, requires careful scrutiny of allegations against relatives living elsewhere. *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, requires particulars of each accused's acts, rather than merely naming statutory provisions; *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, distinguishes casual naming from active involvement. The complainant's Section 161 statement supplied no individual act or timing against the applicants. Finding that the allegations did not state when or how they had committed mental cruelty, the Court quashed the FIR, charge-sheet and trial only against them. The proceedings against others were outside the scope of that relief.

Case-note :- ***1. Facts :*** The complainant alleged that she married Gyanendra Singh Tomar on 11.12.2019 and that her father gave cash, a vehicle and household articles. She stated that her husband and his parents began taunting and harassing her about inadequate dowry soon after the marriage. She also alleged that Aradhana alias Ashdeep Kaur and Swati, two married relatives of the husband, mentally harassed her about dowry whenever they visited the matrimonial home. She had been living at her parental home for about a year. According to the FIR, on 16.01.2024 the husband came there, demanded ₹2 lakh and a gold chain before he would consider taking her back, and slapped and pushed her, causing injuries. She informed her family of the incident, and the FIR was lodged on 24.02.2024. Crime No. 54/2024 was registered at Police Station Lahar, District Bhind. A charge-sheet under Sections 498-A and 323 IPC and Sections 3–4 of the Dowry Prohibition Act led to RCT No. 367/2024 before the JMFC. Only Aradhana and Swati sought quashing under Section 482. Their counsel described the allegations as omnibus. The State and complainant opposed the application, but did not dispute that the married applicants lived in Ludhiana and Shivpuri and visited only occasionally.

2. Precedents — Considered : *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, cautions against implicating every relative through conjecture in a dowry case. In the conviction context, it required proper proof of overt acts by persons other than the husband. The Court applied that warning against indiscriminate family implication at the present quashing stage, without treating the trial burden as a final finding here. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, reaffirmed that caution and required tangible material concerning a distant relative's role. It recognised that allegations against the husband and parents stand differently and that genuine harassment must not be assessed unrealistically. *Chandralekha v. State of Rajasthan*, cited as *2013 (1) UC 155*, quashed general allegations against relatives, including a married sister-in-law, where no specific role was alleged and it was unclear whether they had lived with the complainant. The Court considered their residence and the circumstances of the complaint. The Court used that factual analogy without adopting a categorical rule. *K. Subba Rao v. State of Telangana, (2018) 14 SCC 452*, requires specific instances of involvement rather than bare allegations of support or conspiracy against relatives, while recognising that interference with ongoing proceedings is exceptional. *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, calls for care in examining allegations against distant or rarely visiting relatives and

recognises the harm caused by needless criminal proceedings. *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, requires particulars of each accused's conduct; statutory section numbers and vague collective allegations do not suffice. *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, distinguishes casual reference to family names from allegations of active involvement. Considering these authorities together, the Court found the alleged acts of the two applicants insufficiently particularised. It did not decide the liability of the husband or other in-laws. The *Monju Roy* quotation included *Raja Lal Singh v. State of Jharkhand* and *Kamesh Panjiyar v. State of Bihar*; the *K. Subba Rao* quotation referred to *Bhajan Lal*, *Kans Raj* and *Kailash Chandra Agrawal*; and the *Geeta Mehrotra* quotation included *G.V. Rao v. L.H.V. Prasad*.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction invoked for quashing. Sections 498-A and 323 IPC and Sections 3 and 4 of the Dowry Prohibition Act were the charged provisions. The question was whether the FIR and charge-sheet attributed sufficiently specific conduct to these two applicants, rather than whether every ingredient of an offence had been finally proved at trial. The Court also compared the complainant's statement under Section 161 CrPC with the FIR. It did not decide the sufficiency of the separate assault allegation against the husband or the outcome of the remaining prosecution.

4. Issues : Whether the allegation that the two married relatives, who lived separately, mentally harassed the complainant about dowry during occasional visits justified continuing their prosecution without particulars of dates, acts, manner or each applicant's role; whether the Section 161 statement supplied those particulars; and whether proceedings could be quashed only against them without deciding the different allegations against the husband and other relatives. The Court did not decide whether the account of the husband's conduct on 16.01.2024 was true.

5. Ratio / Findings : The FIR separately alleged that the husband demanded money and a gold chain and physically assaulted the complainant. The Court examined the allegations against Aradhana and Swati, who alone sought quashing. Neither the FIR nor the corresponding Section 161 statement explained when or how either applicant had subjected the complainant to mental cruelty, or identified each applicant's acts. Their separate residence and occasional visits made the lack of particulars material. The Supreme Court authorities required careful assessment of each person's alleged role, so that criminal proceedings did not rest merely on a family relationship, while allowing genuine allegations supported by specific material to proceed. The Court found no justification for continuing the charge-sheet and trial against these two applicants on the allegations as pleaded. It confined quashing to them, without adjudicating disputed evidence or exonerating persons who had not applied.

6. Relief : The Hon'ble High Court allowed the Section 482 application and quashed Crime No. 54/2024, the charge-sheet and RCT No. 367/2024 before the JMFC, Lahar, only against Aradhana alias Ashdeep Kaur and Swati. The order did not quash proceedings against the husband or other persons, or determine their guilt or innocence.

Aradhana and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 13586/2024, 19/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Merg inquiry — prayer for FIR — Article 226 alternate remedy - A request for fair completion of a Section 174 CrPC inquiry and registration of an FIR does not warrant a writ directing registration merely because the informant is dissatisfied with police action. The Court applied *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, which distinguishes the police duty to register an FIR on information disclosing a cognizable offence from the aggrieved person's remedy under Sections 190 and 200 CrPC. *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (20.12.2016), permits refusal of mandamus where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the recognised exceptions to the alternative-remedy rule. The police registration duty stated in *Lalita Kumari* does not determine entitlement to a writ. The petitioner remained free to apply to the Magistrate under Sections 156(3), 200 and 202.

Fair investigation — exceptional writ oversight and magistrate's power - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, permits exceptional directions under Article 226 where mala fide abuse of investigative power and non-

compliance with the Code are clearly established. Even then, the Court cannot prescribe how the police must investigate. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explain the recourse to the Superintendent of Police under Section 154(3) and the Magistrate's power under Section 156(3), on prima facie satisfaction, to require registration of an FIR or proper investigation and monitor it. The Court dismissed the petition with liberty to approach the Magistrate under Sections 156(3), 200 and 202 CrPC.

Case-note :- ***1. Facts :*** Archana Chaurasiya filed a writ petition under Article 226 seeking a direction to the authorities to conduct and complete a merg inquiry under Section 174 CrPC fairly within a specified time and register an FIR on its basis. The High Court considered the procedure for obtaining the requested FIR and inquiry relief. It did not decide the circumstances of the death or criminal liability. The question was whether a person dissatisfied with police action could seek a High Court direction to register an FIR or should approach the concerned Magistrate. The Court examined the distinction between the statutory police duty and the procedure and forum for redress. It dismissed the writ petition with liberty to pursue the statutory remedies.

2. Precedents — Considered : The Court quoted *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, which distinguishes the police duty to register an FIR on information disclosing a cognizable offence from the aggrieved person's remedy of a complaint to the Magistrate under Sections 190 and 200. That decision reconciles earlier authorities by distinguishing those on the police duty from those on the procedure for redress. The present Court followed the latter procedure. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was quoted for rare intervention under Article 226 where mala fide investigation and non-compliance with Chapter XII are clearly established. Such intervention may require compliance with lawful procedure, but cannot prescribe investigative methods. Its discussion of *Gangadhar Janardan Mhatre* explains the private-complaint remedy. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, provides for an approach to the Superintendent of Police under Section 154(3), followed by a Section 156(3) application to the Magistrate if an FIR is not registered or the investigation is not proper. The Magistrate may direct and monitor proper investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterates that procedure, subject to the Magistrate's prima facie satisfaction. It permits a recommendation for a different investigating officer where necessary, while making clear that the Magistrate cannot investigate personally. The Division Bench in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (20.12.2016), applied the alternative-remedy rule to a prayer for mandamus directing FIR registration, subject to the established exceptions. It distinguished the police registration duty stated in *Lalita Kumari* from entitlement to a writ. Applying these authorities, the present Court dismissed the writ concerning the merg inquiry with liberty to pursue the stated Magistrate remedies.

3. Statutes considered : Article 226 provided the jurisdiction invoked for mandamus. The prayer concerned fair completion of the merg inquiry under Section 174 CrPC within a specified time. Section 154 CrPC concerns recording information about a cognizable offence, and subsection (3) provides recourse to the Superintendent of Police. Section 156(3) empowers the Magistrate to order investigation. Sections 190, 200 and 202 govern cognizance on a complaint, examination and inquiry. Chapter XII appeared in *Divine Retreat Centre*'s discussion of the limits on abuse of investigative power. The Court left the grievance to the Magistrate's statutory procedure without determining an offence or ordering registration of an FIR on the merits.

4. Issues : Whether dissatisfaction with the merg inquiry and a request for registration of an FIR justified a direct mandamus under Article 226, or whether the petitioner should pursue the statutory remedies before the police authorities and Magistrate. The quoted passages from *Divine Retreat Centre* and *Shweta Bhadauria* qualified the ordinary remedy rule by recognising exceptional circumstances for intervention. The Court did not decide the circumstances of the death or the criminal liability of any proposed accused.

5. Ratio / Findings : The Court applied the distinction in *Aleque Padamsee* between the police duty to register an FIR on information disclosing a cognizable offence and the procedure for obtaining redress when that duty is not performed. The ordinary first recourse lies in the CrPC remedies. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explain that, on prima facie satisfaction, the Magistrate can

require registration and proper investigation. The requested investigation relief therefore did not require immediate High Court supervision. *Divine Retreat Centre* permits rare writ intervention for clearly established mala fides and statutory abuse, while denying a general power to prescribe how the police must investigate. The binding Division Bench decision in *Shweta Bhadauria* governed the Article 226 maintainability question, subject to the recognised exceptions to the alternative-remedy rule. The Court dismissed the petition and left the petitioner free to approach the Magistrate under Sections 156(3), 200 and 202. This was a procedural disposal, without a finding that no offence had occurred.

6. Relief : The Hon'ble High Court dismissed the writ petition, expressly leaving the petitioner free, if she wished, to approach the concerned Magistrate under Sections 156(3), 200 and 202 CrPC. It neither directed registration of an FIR nor fixed a deadline for the merg inquiry. It appointed no investigator and made no finding on the criminal allegations.

Archana Chaurasiya v. The State of Madhya Pradesh and Others, W.P. no. 11524/2024, 06/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO — minor consent — compromise - Subsequent marriage and settlement could not, by themselves, justify quashing under Section 482 where the FIR alleged sexual relations with a girl aged about 17 and the accused faced trial under Sections 3/4 POCSO and Section 376 IPC. Applying *Narinder Singh v. State of Punjab, (2014) 6 SCC 466*, and *Gian Singh v. State of Punjab, (2012) 10 SCC 303*, the Court held that the charged sexual offence against a child under the special statute could not be treated as a private dispute resolved by compromise. Under IPC Section 375 Sixthly, consent is immaterial where the girl is below 18. Her later assent could not indirectly defeat that statutory protection. Age, commission of the charged act and guilt remained for trial.

Rape — settlement and marriage — public interest - *State of M.P. v. Madanlal, (2015) 7 SCC 681*, and *Shimbhu v. State of Haryana, (2014) 13 SCC 318*, rejected compromise or an offer of marriage as a reason for leniency in rape cases. *Madanlal* confined the contrary sentencing outcomes in *Baldev Singh* and *Ravindra* to their particular facts. *Parbatbhai Aahir v. State of Gujarat, (2017) 9 SCC 641*, distinguished grave sexual offences from disputes of a predominantly civil nature. *State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688*, rejected mechanical quashing of serious offences on compromise. The Court refused to infer from the applicant's later marriage that the rape charge had ceased to exist or that conviction was impossible.

Precedent — coordinate bench — per incuriam - The Court declined to follow *Pankaj Parmar v. State of M.P.*, M.Cr.C. No. 6904/2019, which had quashed rape/POCSO proceedings after settlement. That order had not considered *Madanlal*, *Laxmi Narayan* and *Shimbhu*, the Delhi High Court's Vikash Kumar @ Sonu order and the Supreme Court order reported in that quotation. It had also overlooked IPC Section 375 Sixthly and POCSO's protective purpose in the light of *Gian Singh* and *Narinder Singh*. The Court held that these omissions rendered the coordinate-bench order per incuriam on the question before it.

Evidence — hostile prosecutrix — remaining proof - Applying *Hemudan Nanbha Gadhvi v. State of Gujarat, Criminal Appeal No. 913/2016*, decided 28.09.2018, the Court rejected the argument that compromise and the prosecutrix's possible failure to support the prosecution necessarily meant acquittal. Independent scientific and circumstantial evidence may still establish the offence. *Hemudan*'s discussion of expert reports and prejudice under Section 313 concerned the evidence in that case. The High Court did not finally assess any such evidence in this pending trial.

Quashing — settlement timing — trial stage - *Narinder Singh, (2014) 6 SCC 466*, requires the Court to consider whether settlement occurred before evidence began, at an advanced stage of trial or after conviction. The applicant had faced trial since 2017, but had not disclosed whether the prosecutrix had been examined or what she had said. The absence of that information was an additional ground for refusing relief under Section 482. The petition was dismissed without a finding on guilt.

Case-note :- ***1. Facts :*** Arif Khan applied under Section 482 CrPC to quash Crime No. 656/2017 registered at Bahodapur Police Station, Gwalior, and Sessions Trial No. 221/2017 pending before the Tenth Additional Sessions Judge. The FIR dated 05.10.2017 alleged that the complainant was about 17, that Arif had developed a relationship with her

through visits to her family and promises of marriage, and that sexual relations had begun about six months earlier. It alleged that, after an encounter on 03.10.2017, he refused to marry her. The police filed a charge sheet under Section 376 IPC and Sections 3/4 of the Protection of Children from Sexual Offences Act, 2012. Arif submitted that elders had helped the parties settle during the trial, that he married her on 13.04.2019 and that they were living together peacefully. He filed a Nikahnama and argued that she no longer wanted the prosecution to continue. He contended that the High Court could quash a non-compoundable case on settlement and that conviction was now unlikely. He relied on Supreme Court decisions on settlement and the coordinate-bench order in *Pankaj Parmar* quashing alleged rape/POCSO proceedings. The State argued that *Pankaj Parmar* had overlooked controlling Supreme Court law. The complainant was represented by counsel. The order records no clear statement of whether she had testified or the stage reached in the trial. The Court considered the allegations and claimed later marriage for the quashing request, without deciding them as a trial court.

2. Precedents — Considered : *Gian Singh v. State of Punjab, (2012) 10 SCC 303*, and *Narinder Singh v. State of Punjab, (2014) 6 SCC 466*, were relied on to distinguish compounding under Section 320 from the cautious exercise of Section 482 after settlement. The Court quoted *Narinder Singh*'s principles that heinous offences such as rape and serious offences under special statutes are not ordinarily private disputes. Cases of a predominantly civil, family or commercial nature stand differently. The prospect of conviction and, separately, the timing of settlement and progress of the trial are material considerations. The Court applied those distinctions in refusing to quash this trial for an alleged sexual offence against a child; it did not impose a blanket prohibition on quashing every non-compoundable case. *Monu @ Ranu Kushwah v. State of M.P.*, M.Cr.C. No. 11891/2016, was quoted to explain that *Narinder Singh*'s example of a special statute was illustrative and not confined to corruption cases. *Monu*'s holding under the SC/ST Act supplied an analogy for POCSO, without deciding any offence under that Act here.

The Court adopted *State of M.P. v. Madanlal, (2015) 7 SCC 681*, on the impropriety of treating compromise, mediation or proposed marriage as a reason for leniency in rape cases. The quotation referred to *Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77*, on dignity, and to *Shimbhu v. State of Haryana, (2014) 13 SCC 318*. *Shimbhu* confined the sentence reduction in *Baldev Singh v. State of Punjab*, (2011) 13 SCC 705, to that case. *Madanlal* likewise confined both *Baldev Singh* and *Ravindra v. State of M.P.*, (2015) 4 SCC 491, to their particular facts, rather than treating them as binding precedents on compromise. The High Court applied *Madanlal* in rejecting Arif's marriage argument; it did not sentence him. *State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688*, criticised mechanical quashing under Section 482 of a serious Section 307 prosecution on settlement without examining the nature and gravity of the offence and its social impact. The High Court treated that reasoning as reinforcing the need for careful scrutiny here. The *Laxmi Narayan* quotation referred to *Shiji v. Radhika*, (2011) 10 SCC 705, on which the earlier High Court had relied, and *State of Maharashtra v. Vikram Anantrai Doshi*, (2014) 15 SCC 29, on examining the allegations, settlement and social impact. *Parbatbhai Aahir v. State of Gujarat, (2017) 9 SCC 641*, supplied the general principles governing inherent powers, their distinction from compounding and the public-interest limit concerning heinous offences. The separately quoted *Shimbhu* passage explained that compromise in a rape case cannot justify a lesser punishment because the victim may have been pressured to settle. The High Court used that reasoning against quashing, without deciding punishment.

The Court held the coordinate-bench order in *Pankaj Parmar v. State of M.P.*, M.Cr.C. No. 6904/2019, per incuriam because it had not considered the controlling decisions, Section 375 Sixthly or POCSO's special protection. It also considered the *Delhi High Court* decision in *Vikash Kumar @ Sonu v. State*, Crl.M.C. No. 2763/2017, refusing to quash rape proceedings despite a claimed marriage. That quotation reported dismissal on 08.02.2016 of the SLP against the separate Delhi order in Crl.M.C. No. 1824/2015. It treated *Manteshwar Hanumantrao Kattimani* and *Jaya D. Ovhal* as non-binding precedents and distinguished *Deepak Gulati* as an appeal against conviction in which the accused was acquitted on benefit of doubt. *Hemudan Nanbha Gadhvi v. State of Gujarat, Criminal Appeal No. 913/2016*, decided 28.09.2018, was quoted to reject the prediction that a hostile prosecutrix necessarily

meant acquittal: independent medical, serological and circumstantial evidence may remain. Its discussion of *Iqbal v. State of U.P., (2015) 6 SCC 623*, on test-identification evidence and *Nar Singh v. State of Haryana, (2015) 1 SCC 496*, on prejudice under Section 313 concerned the evidence and circumstances in *Hemudan*. It did not concern proof examined in Arif's pending trial.

3. Statutes considered : Section 482 CrPC provided the inherent-power jurisdiction invoked, which was distinguished from compounding under Section 320 CrPC. The pending charges were under Section 376 IPC and Sections 3 and 4 POCSO Act. IPC Section 375 Sixthly makes a girl's consent immaterial to rape where she is under 18. The Court applied that protective principle to the alleged 17-year-old and the request to quash POCSO proceedings on settlement, without finally determining age or guilt. The 2019 POCSO amendment bill was mentioned in discussing the protective legislative purpose; no amended punishment was imposed. The *Monu* quotation referred to the SC/ST (Prevention of Atrocities) Act, 1989, and Article 17 as the context for its special-statute holding. The Prevention of Corruption Act appeared as *Narinder Singh*'s illustrative example. The *Madanlal*/*Shimbhu* quotations discussed the former proviso to Section 376(2) IPC and its deletion by the Criminal Law (Amendment) Act, 2013, in their sentencing context. Evidence Act Section 45 and CrPC Section 313 appeared within the quoted *Hemudan* decision. The High Court made no independent ruling on the exhibits or examination of the accused in this trial.

4. Issues : (i) Whether the later Nikahnama, relationship and compromise justified quashing the pending Sections 3/4 POCSO charge when the complainant was allegedly under 18 at the relevant time. (ii) Whether those events justified quashing the connected Section 376 IPC trial as a private settlement or on the assumption that conviction was unlikely. (iii) Whether the coordinate-bench order in *Pankaj Parmar* should govern despite its failure to consider higher-court decisions and the rule concerning a minor's consent. (iv) Whether the predicted hostility of the prosecutrix necessarily excluded other proof, and whether the omission to disclose the stage of trial was material. The Court was not determining the complainant's precise age, the truth of the charged sexual acts or the final trial evidence.

5. Ratio / Findings : On the POCSO charge, the Court applied the limits concerning serious offences under special statutes and public interest stated in *Gian Singh* and *Narinder Singh*, as explained in *Monu*. A private settlement could not negate the alleged sexual offence against a child. If the complainant was below 18, Section 375 Sixthly made her consent immaterial. Her later assent or marriage could not indirectly bypass that statutory protection. The Court refused to quash the Section 3/4 prosecution.

For the rape charge, *Madanlal* and *Shimbhu* treated the offence as affecting both individual dignity and society and rejected marriage as a basis for leniency. *Parbatbhai* and *Narinder Singh* distinguished heinous offences from genuinely private disputes. *Laxmi Narayan* required consideration of gravity and social impact, rather than an assumption that settlement made the trial futile. The Court refused to treat the Nikahnama as erasing the allegation made in 2017. *Pankaj Parmar* had granted quashing without considering controlling Supreme Court principles, POCSO's special purpose or the rule concerning a minor's consent. The Court expressly held it per incuriam. The later marriage did not, by itself, determine the trial evidence. *Hemudan* showed that hostile testimony from the victim need not end a case where independent proof exists; the High Court did not find that such proof had already been established here. Narinder also required attention to the stage of the proceedings: a case under investigation or at the beginning of evidence differs from one nearly concluded. The applicant had not even stated whether the prosecutrix had testified in his trial, pending since 2017. That omission was a separate ground for refusing discretionary quashing. These findings concerned the Section 482 request and did not decide conviction or sentence.

6. Relief : The Hon'ble High Court dismissed the Section 482 petition. Crime No. 656/2017 and Sessions Trial No. 221/2017 under Section 376 IPC and Sections 3/4 POCSO Act were not quashed. The case remained for proof before the competent trial court. The High Court made no determination of guilt and imposed no sentence, costs or special direction.

Arif Khan v. State of Madhya Pradesh and Others, M.Cr.C. no. 39588/2019, 20/09/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 311 CrPC — recall of forensic scientists — relevance to collection and custody questions - The accused sought recall of two DNA laboratory scientists to question them about collection of a blood sample, its safe custody and transport. The Court rejected that request because the scientists had not performed those functions. *Satbir Singh v. State of Haryana (Supreme Court, 29.08.2023, SLP (Crl.) No*. 1258/2022), drawing *on Manju Devi v. State of Rajasthan, (2019) 6 SCC 203*, and *Swapan Kumar Chatterjee v. CBI, (2019) 14 SCC 328*, explains the discretionary power under Section 311 and the mandatory duty to summon or recall a witness whose evidence is essential to a just decision. The power requires strong reasons and consideration of prejudice, delay and abuse. *Satbir Singh* also cited *Harendra Rai v. State of Bihar* for the essentiality test. Counsel's assertion that the FSL result was negative while the DNA result was positive did not connect these scientists with handling of the sample before it reached the laboratory. The Court affirmed the trial court's refusal without deciding the reports' reliability or the accused's guilt.

Case-note :- ***1. Facts :*** Arjun Thapa faced trial in Sessions Case No. 37/2021 under Section 376(2) IPC and Sections 3–4 POCSO Act. He applied under Section 311 read with Section 243 CrPC to call Dr. D.K. Pandey and Dr. Kamlesh Kaitholia of the Regional Forensic Science Laboratory, Bhopal, for cross-examination. The application, reproduced in the order, referred to an FSL report of 2015 and a DNA report produced before the court in 2023. It sought clarification of possible errors in collecting, preserving and transporting the samples. Counsel also submitted that the FSL report was negative whereas the DNA report was positive. On 28.02.2024, the trial court rejected the request because the proposed scientists had not collected, stored or transported the blood sample. The applicant challenged that refusal under Section 482. The State submitted that the scientists could answer questions about laboratory testing, but not about handling of the sample before it reached the laboratory. The High Court examined the questions proposed in the application in relation to the witnesses' actual role.

2. Precedents — Considered : The applicant cited *Satbir Singh v. State of Haryana (Supreme Court, decision dated 29.08.2023 in SLP (Crl.) No*. 1258/2022), which the Court applied as the governing framework under Section 311. The quoted passage draws *on Manju Devi v. State of Rajasthan, (2019) 6 SCC 203*, on clearing ambiguity in the evidence without causing prejudice, and *Swapan Kumar Chatterjee v. CBI, (2019) 14 SCC 328*, on the distinction between discretionary summoning or recall and the mandatory duty where evidence is essential to a just decision. It also cautions against belated or repeated recall. *Harendra Rai v. State of Bihar* is cited *for the* essentiality test. The High Court did not read *Satbir Singh* as requiring recall whenever expert testimony was requested. It considered whether the named scientists could answer the particular questions about collection and custody and concluded that they could not. The request failed because the scientists had no connection with collection, safe custody or transport of the sample. The Court did not decide whether either scientific report was correct.

3. Statutes considered : Section 311 CrPC empowers the court to summon, examine and recall witnesses, and requires it to summon or recall a witness whose evidence appears essential to a just decision. The need for the proposed evidence and whether these witnesses could address the questions were decisive here. Section 243 CrPC appeared with Section 311 in the accused's application for the two scientists' attendance. Section 482 CrPC was invoked to challenge the interlocutory refusal; the High Court found no jurisdictional error. Section 376(2) IPC and Sections 3–4 POCSO Act were the pending charges, without any decision on their merits. The ruling concerned the proposed questions and the scientists' role, leaving the reports' ultimate evidentiary weight for trial.

4. Issues : Whether recall was essential to a just decision when the accused sought to question the named laboratory scientists about collection, custody and transport of the sample in order to examine the asserted contrast between a negative FSL report and a positive DNA report; whether the scientists had any role in those steps before testing; and whether refusal under Section 311 warranted interference under Section 482. The truth of the sexual-offence allegations and the reports' ultimate evidentiary weight were not being decided.

5. Ratio / Findings : Reading the application itself, the Court found that the proposed questions concerned collection, safe storage and transport of the sample. Under the framework in *Satbir Singh*, the court must summon or recall a witness whose

evidence appears essential to a just decision, while the discretionary power requires strong and valid reasons. The Court applied that test to the purpose for which these scientists were sought. They were responsible for the procedures adopted in the laboratory and had no role in the earlier handling stages under challenge. Their examination for that purpose was therefore unnecessary, despite counsel's assertion that the reports differed. The trial court's refusal rested on that specific lack of relevance and involved no jurisdictional error. The High Court did not determine whether the samples had been mishandled or whether the FSL or DNA report was reliable.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The order dated 28.02.2024 passed by the 14th Additional Sessions Judge, Bhopal, refusing the stated Section 311 recall request remained in force. The criminal trial continued without a finding on guilt or the final evidentiary value of the scientific reports.

Arjun Thapa v. State of Madhya Pradesh, M.Cr.C. no. 10265/2024, 13/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (60) Prev Next

Headnote :- Municipal colony — Rule 3 coloniser registration — agricultural labels - Rule 3 of the M.P. Nagar Palika (Registration of Coloniser Terms and Conditions) Rules, 1998 requires registration where land is developed into plots for transfer for habitation. Purchasers described plots of a size suitable for residential use. They said they had been promised road lights, a park and a temple. The applicant did not claim registration as a coloniser, and the land had not been diverted. The Court held that describing the land as agricultural in registered sale deeds did not, at the charge stage, displace the allegation of residential colony development or the prima facie offence under Section 339-C M.P. Municipalities Act.

Cheating — plot representations — intent at inception - Section 420 IPC requires a deceitful intention at the outset; later non-performance alone is insufficient. The alleged assurances that diversion and registration were complete and that amenities would be developed, considered with the alleged absence of registration and diversion, supplied prima facie material for a cheating charge. The Court did not finally determine intent or evasion of stamp duty.

Charge framing — grave suspicion founded on material - *M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768*, requires judicial sifting of the prosecution record to distinguish mere suspicion from grave suspicion. It does not permit a roving inquiry into the merits or reliance on a defence case outside that record. *Soma Chakravarty v. State, (2007) 5 SCC 403*, requires material supporting a prima facie possibility of the offence; suspicion alone is insufficient. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, and *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, likewise distinguish the material required for a charge from final proof of guilt. Applying these tests, the High Court upheld both charges and left their proof for trial.

Case-note :- ***1. Facts :*** Arun Nayak challenged the order dated 12.10.2021 passed by the JMFC, Niwari, framing charges under Section 420 IPC and Section 339-C M.P. Municipalities Act, 1961, and the Sessions Court's order dated 14.03.2022 dismissing his revision. A complaint and purchasers' statements alleged that he had divided several khasra lands into small plots of roughly 1,000–3,100 square feet and sold them by registered deeds describing them as agricultural land. The purchasers said he represented that diversion and registration were complete and promised road lights and space for a park and temple. They alleged that none of those amenities materialised. The State's case was that he was developing a colony without municipal registration, diversion or an approved map, with a possible loss of stamp duty. Counsel argued that the sale deeds did not mention residential use or prior diversion. The charge-sheet copy supplied to the High Court was incomplete. It contained witness statements and a seizure memo, but omitted documents listed in the index, including the seized sale deeds. The Court considered whether the available allegations and material justified framing charges, without deciding land title or ultimate guilt.

2. Precedents — Considered : *M.E. Shivalingamurthy v. CBI, Bengaluru, (2020) 2 SCC 768*, was quoted for the charge and discharge principles drawn from *P. Vijayan*. The judge must sift the prosecution record to distinguish mere suspicion from grave suspicion and must not act as a rubber stamp. Basic infirmities may be considered, but the court cannot conduct a roving inquiry, assess probative value as at trial or rely on documents newly produced by the accused. The quotation also

discussed *State of J&K v. Sudershan Chakkar,* (1995) 4 SCC 181, on consideration of the defence at discharge, and *State of Orissa v. Debendra Nath Padhi,* (2005) 1 SCC 568, on confining the charge-stage record to prosecution material. *Soma Chakravarty v. State through CBI, (2007) 5 SCC 403,* was applied for the requirement of material supporting a prima facie possibility of the offence, with separate attention to each accused. Proof beyond reasonable doubt is reserved for conviction. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290,* explained the limited sifting and weighing permitted, the assessment of alleged ingredients at face value and the need for strong suspicion founded on material. It discussed *Ramesh Singh* and *Dipakbhai* in explaining why that assessment must not become a mini-trial. *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198,* was quoted for restraint when revising a charge order and against applying the final-guilt standard at that stage. The Court applied these principles to the purchasers' accounts, residential plotting, absence of diversion and the applicant's failure to claim coloniser registration. It found sufficient prima facie material for the charges under Sections 420 IPC and 339-C municipal law.

3. Statutes considered : Rule 3(1) of the M.P. Nagar Palika (Registration of Coloniser Terms and Conditions) Rules, 1998 requires a person who intends to develop land into plots and transfer them for residential, non-residential or joint habitation to apply for registration in Form One. The Court reproduced the further provisions of Rule 3 governing applications and registration, but the decisive question was whether registration was required. Section 339-C(2) of the M.P. Municipalities Act supplied the basis for the municipal charge found prima facie justified. Section 420 IPC concerns cheating and dishonest inducement to deliver property. The Court distinguished deceit at inception from a mere failure to keep a promise. The prosecution also referred to diversion under revenue law and stamp duty, without any final determination of a separate diversion or stamp offence. Section 482 CrPC was invoked after dismissal of the criminal revision against the charges. Sections 227–228 and 397 CrPC appeared in the cited Supreme Court decisions as the contexts for framing charges and reviewing them.

4. Issues : Whether Rule 3 required coloniser registration where small plots were allegedly marketed for residential construction despite their description as agricultural land in the sale deeds; whether the purchasers' accounts of assurances about completed diversion and registration and promised amenities supported a prima facie allegation of deceitful intent under Section 420 or merely showed non-performance; and whether the record met the strong-suspicion threshold for the charges under Sections 420 IPC and 339-C municipal law after revision. The Court did not determine the exact stamp duty, the full terms of the registered deeds or the truth of every purchaser's statement.

5. Ratio / Findings : From the plot sizes and the purchasers' stated purpose, the Court concluded that the very small parcels could not plausibly have been offered for agriculture on the record before it. Development of the colony for habitation therefore required registration under Rule 3, which the applicant had not claimed to hold. The Court noted the absence of diversion and the purchasers' accounts of assurances about registration, road lights and communal space. Section 420 requires dishonest intention at the outset, rather than mere failure to perform a promise. The alleged representations, considered with the apparent absence of the required registration and diversion, nevertheless supplied prima facie material for trying the cheating allegation. The agricultural descriptions in the deeds and the incomplete document bundle did not require discharge at that stage. Applying the Supreme Court's grave-suspicion test, the Court held that judicial sifting was necessary and suspicion must rest on material, but ultimate prospects of conviction and disputed defence evidence could not be tried at the charge stage. It found sufficient material for both charges. Its passing observation about possible evasion of stamp duty was neither a conviction nor a decision on a separate charge.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The JMFC's charges under Section 420 IPC and Section 339-C M.P. Municipalities Act, and the order dismissing the revision, remained undisturbed. The accused retained his defences at trial. The Court did not finally determine guilt, civil title or revenue liability. *Arun Nayak v. The State of Madhya Pradesh, M.Cr.C. no. 48402/2022, 18/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (61) Prev Next

Headnote :- Privacy and dignity — suspect publicity — Article 21 - The Court held that an executive circular issued by the DGP could not authorise the police to disclose suspects' identities or photographs in print or digital media, produce suspects and victims before the media, or parade suspects in public. Suspicion, even where a person has criminal antecedents, does not extinguish reputation, dignity or privacy. Clauses 6B, 8 and 11 of the circular dated 2 January 2014 were quashed to the extent that they authorised disclosure and presentation before the media. Information about the progress of an investigation could be shared only with the district SP's approval. *Puttaswamy*, *Mehmood Nayyar Azam* and related Supreme Court authorities informed the Court's analysis.

Custody — mistaken identity — formal arrest safeguards - The police admitted taking an innocent namesake of a wanted person into custody without formally arresting him, and then publishing his uncovered photograph. The safeguards in *D.K. Basu* apply to detention as well as arrest. The Court found that the custody was illegal and that publication violated the petitioner's privacy, dignity and reputation. It directed a separate contempt show-cause proceeding against two officers; it did not finally decide contempt.

Public-law compensation — Article 226 - *Anita Thakur*, *Bhim Singh* and *Sube Singh* recognise a constitutional monetary remedy against the State for patent police misconduct, alongside remedies in tort and criminal law. The Court recognised that principle and found illegal detention. It nevertheless deferred the petitioner's compensation claim and consideration of the shop-eviction incident of 25 July 2020 until the next hearing. It made no monetary award.

Witness protection — police compliance - The DGP was directed to prohibit disclosure of identities and public parades, and to issue instructions protecting witnesses and ensuring their prompt attendance in court. The implementing circulars were to be filed within 15 days. The State was directed to implement the Witness Protection Scheme, 2018.

Case-note :- ***1. Facts :*** In W.P. No. 13057 of 2020, tenant Arun Sharma alleged that, after his landlady complained about rent and sought his eviction, Gwalior police forcibly removed him from a shop on 25 July 2020. He alleged that they took the furniture to the police station and compelled him to undertake to vacate. On 14 August, the police took him into custody because his name resembled that of a person wanted in a 2011 case. They published his uncovered photograph in newspapers and social media, presenting him as a hardened criminal. An inquiry found that he had no criminal antecedents, and he was released. The SHO was briefly suspended. After the suspension was revoked, a fine of Rs 5,000 was imposed on him and another officer was censured. Those penalties followed receipt of the writ notices and were imposed two days before the first compliance report was filed. Departmental charges concerning the shop incident were initiated against other officers. The High Court appointed amici and framed Article 21 questions concerning police publicity, detention, privacy, misconduct and compensation. This order decided the constitutional questions concerning police publicity and detention, while adjourning consideration of individual conduct and the award of compensation.

2. Precedents — Considered : *Saeed Sohail Sheikh* and *Delhi Judicial Service Association* provided the framework for police accountability. *K.S. Puttaswamy (Privacy and Aadhaar)*, *Maneka Gandhi*, *Francis Coralie Mullin*, *Mehmood Nayyar Azam*, *Subramanian Swamy* and related decisions were cited on privacy, dignity and reputation as facets of Article 21, and on the need for legal authority and a rational nexus for restrictions. *Malak Singh* concerned discreet surveillance; *PUCL* addressed privacy; and *Ramlila Maidan* addressed restrictions on fundamental rights. *Mohd. Hussain* and *Rajoo* supported the presumption of innocence despite accusation. *Mahender Chawla*'s approval of the Witness Protection Scheme, 2018 under Articles 141/142 supplied the basis for the witness-protection direction. *D.K. Basu* supplied the safeguards concerning arrest and detention, including documentation and notification requirements, and the consequences of non-compliance in contempt. *Anita Thakur*, *Bhim Singh* and *Sube Singh* supported constitutional compensation for established police misconduct. The decisions concerning trial delay and legal aid provided context; they did not decide any criminal trial against this petitioner.

3. Statutes considered : Article 21 governed privacy, liberty, dignity and reputation; Article 226 supplied the writ and suo motu remedial powers. The DGP's circular dated 2 January 2014 purported to regulate media briefings. Clauses 6B, 8 and 11, however,

permitted suspect photographs or production of suspects and victims before the media, in conflict with the circular's protective provisions. The Court quashed those clauses to that extent. Statements under Section 161 CrPC were described as investigation material, rather than substantive proof on which the police could prejudge guilt. The Court applied the arrest and detention safeguards in *D.K. Basu* and the Witness Protection Scheme, 2018. It did not enter a criminal conviction, determine the officers' penal liability or pass a decree for damages.

4. Issues : Whether an executive police circular could authorise publicity or media presentation of suspects and victims, or public parades of suspects, before adjudication consistently with Article 21; whether the petitioner's custody without formal arrest was permissible because he had been mistaken for a wanted namesake; what police and witness-protection directions should follow; and whether public-law compensation was available for such infringements and should be awarded to this petitioner at that stage. Whether the police had also forcibly evicted him on 25 July, and the precise culpability of individual officers, remained open.

5. Ratio / Findings : Privacy, dignity and reputation remain protected even where a person is suspected of an offence or is a known offender. Any restriction requires authority of law, must be reasonable and must have a nexus to its purpose. A DGP instruction cannot, by itself, provide that legal authority. Publicising a suspect's photograph or parading the suspect before conviction prejudges guilt without a demonstrated investigative rationale. The public's interest in knowing the progress of an investigation can be met through approved updates. The circular's conflicting permission was therefore invalidated. The State's own account established that the petitioner had been taken into custody under a mistaken identity without formal arrest. Calling the custody detention did not avoid the safeguards in *D.K. Basu*, and publication compounded the injury. The Court directed a separate contempt show-cause proceeding, without deciding contempt. It explained that patent police violations of Article 21 can support public-law compensation borne by the State. It deferred a monetary award pending consideration of the facts and arguments concerning the earlier eviction. Witness security and timely attendance of prosecution witnesses serve a fair and speedy trial better than public spectacle.

6. Relief : The Hon'ble High Court quashed clauses 6B, 8 and 11 of the 2014 DGP circular to the extent that they permitted disclosure or display of suspect and victim identities and their presentation before the media. It also held public parades of suspects unconstitutional. The DGP was directed to issue instructions prohibiting those practices. Information about the progress of an investigation required the district SP's approval, and SPs were made responsible for deviations. The State was directed to implement witness protection and ensure witnesses' safety and prompt attendance in court. The circulars were to be filed with the Principal Registrar within 15 days. A separate contempt show-cause case was directed against two officers, requiring their appearance on 20 November 2020. The Court granted a week for reconsideration and further argument concerning the 25 July eviction, police conduct and compensation. It listed the writ for 9 November and required the Gwalior SP to appear by video with the record. No compensation was quantified or awarded at that stage.

Arun Sharma v. State of M.P. and Ors., W.P. no. 13057/2020, 02/11/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (62) Prev Next

Headnote :- Sexual-offence victim identity — charge-sheet disclosure — police safeguards - The police included the complainant's name in the charge-sheet. She appeared personally and stated that she had consented to its inclusion. In view of that statement and the apologies tendered, the Court declined to proceed further over the disclosure. It nevertheless directed the DGP to examine the practice and issue necessary directions within 30 days to prevent disclosure of identity. A party relied on Kerala High Court decisions concerning inadvertent disclosure by a court under Section 228A IPC. The Court quoted that material but did not recognise a general exemption for police disclosure.

Defence access — sensitive photographs and whatsapp chats — inspection - The accused sought copies of items 24 and 25 filed with the charge-sheet, arguing that material already filed could not be withheld from him. The complainant feared that the objectionable photographs might be circulated. The trial court had permitted inspection of the documents in court. In view of that permission, counsel withdrew the Section 482 petition, which was

dismissed as withdrawn. The Court did not finally decide that copies must always be supplied or always be withheld.

Earlier revision — pre-charge restoration - The revision order of 10 May 2024 restored the proceedings to the pre-charge stage and left the framing of charges to the trial court. It did not discharge the accused under Section 376(2)(n) IPC or determine the applicability of Section 228A.

Case-note :- ***1. Facts :*** Arun Tiwari filed a petition under Section 482 CrPC challenging the trial court's refusal to supply photographs and WhatsApp chats listed as items 24 and 25 with the final report in a sexual-offence case. The trial court had refused copies because they could reveal the prosecutrix's identity, but had permitted inspection in court. Her name had also been included in the charge-sheet. She appeared before the High Court with the front camera switched off to conceal her identity. She stated that the police had included her name with her consent. She opposed the supply of copies of the sensitive photographs because she feared their circulation. Two persons apologised for the disclosure. The accused relied on an earlier revision order, contending that it had quashed the charge under Section 376(2)(n) IPC.

2. Precedents — Considered : Counsel cited a Single Bench judgment of the Kerala High Court in WP(C) No. 40709/2023, affirmed in W.A. No. 29/2024, concerning inadvertent disclosure in judicial proceedings and Section 228A IPC. The Madhya Pradesh High Court reproduced the passage. It addressed the immediate disclosure concern in view of the complainant's statement and the apologies, without holding generally that disclosure in a police charge-sheet falls within that analysis of judicial duties. Its own order of 10 May 2024 in Cr.Rev. No. 3977/2022 had merely restored the pre-charge stage. The Court rejected counsel's contention that the earlier order had discharged the accused.

3. Statutes considered : The petition was filed under Section 482 CrPC. Section 228A IPC was raised in relation to protection of the sexual-offence complainant's identity, but the Court did not finally adjudicate an offence under that provision. Whether to frame a charge under Section 376(2)(n) IPC remained for fresh consideration by the trial court. The charge-sheet and its list of documents provided the context for the defence request for access. The order did not decide a general statutory right to copies of the objectionable photographs or chats.

4. Issues : Whether protection of the complainant's privacy justified refusing copies of the filed photographs and chats despite the defence request for access; how to address disclosure of her name in the charge-sheet; and whether the earlier revision had discharged the accused from the rape charge. The request for copies no longer required a ruling by the High Court once counsel withdrew the petition in view of the permission to inspect the documents.

5. Ratio / Findings : In view of the complainant's statement that she had consented to inclusion of her name and the apologies tendered, the Court declined to proceed further over that disclosure. It nevertheless directed the DGP to examine disclosure of identity through the naming of a complainant in a charge-sheet and to issue preventive directions. The earlier revision had left the factual and legal questions concerning the framing of charges open; it had not discharged the accused on the merits. The trial court's existing order permitted the applicant to inspect the sensitive documents in court. His counsel chose to withdraw the petition in view of that permission. The Court did not decide whether inspection is mandatory or adequate in every case.

6. Relief : The Hon'ble High Court dismissed the Section 482 application as withdrawn. It directed the DGP to examine disclosure of identity through charge-sheet naming and issue the necessary directions within 30 days. The Registry was directed to send a copy of the order for compliance. The trial court's permission to inspect the documents remained the operative arrangement for access. The High Court neither directed the supply of copies on the merits nor finally determined the charges to be framed.

Arun Tiwari v. The State of Madhya Pradesh, M.Cr.C. no. 37542/2023, 29/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (63) Prev Next

Headnote :- Rape charge — consent — Section 90 IPC - The Sessions Court had reasoned that the applicant's sweet talk led to repeated intercourse. That did not answer whether the complainant's consent during 2018–2021 was freely given or obtained under a misconception of fact. Her alleged concealment of the applicant from her husband, and the explanation she later gave, required consideration in the context of the entire FIR. The High Court set aside the order framing a charge

under Section 376(2)(n) and directed fresh consideration. It made no finding that she had consented or that the applicant was innocent.

Sexual harassment — coercive image demands - The FIR separately alleged that, after the applicant stopped visiting the complainant's house, he continued to pressure her to send intimate photographs and videos over WhatsApp, causing severe distress. The trial court had not examined whether that conduct could constitute offences under Sections 354A, 354C or 354D IPC. *XYZ v. State of M.P.*, *Ramdev Singh* and *Puttaswamy* informed the need to consider gender-based harm and privacy. The High Court did not itself frame any alternative charge.

Charge framing — entire record — remand - *Dilawar Balu Kurane*, *Mohanlal Soni*, *L. Krishna Reddy* and *Mauvin Godinho* require the court to sift the material for the limited purpose of assessing whether it raises grave suspicion under Sections 227 –228 CrPC. The court must not conduct a full trial at that stage. The High Court allowed the revision, set aside the order of 21 September 2022 and directed the trial court to consider the charges afresh. It did not discharge the applicant or finally determine his culpability.

Case-note :- ***1. Facts :*** Arun Tiwari sought revision under Sections 397 and 401 CrPC against the order dated 21 September 2022 passed by the 10th Additional Sessions Judge, Bhopal, framing a charge under Section 376(2)(n) IPC. The married complainant alleged that the applicant, who knew her husband, developed a relationship with her through messages and promises of lifelong companionship. According to her, intercourse began in 2018 and continued until 2021. She alleged that he threatened to tell her husband if she refused. On 24 February 2021, her husband found the applicant hidden in the bathroom. She helped the applicant leave and gave her husband an innocent explanation for his presence. She further alleged that the applicant later pressured her to send intimate photographs and videos over WhatsApp. This caused severe distress and led her to disclose the matter to her husband. The applicant argued that the relationship was consensual and between adults, relying on authorities concerning consensual relationships. The trial judge had focused on sweet talk and intercourse without separately examining Section 90 or the later allegations concerning images.

2. Precedents — Considered : The defence relied on *Naim Ahamed*, *Dhruvaram Murlidhar Sonar*, *Shambhu Karwar and XXX v. State of M.P.*, together with High Court decisions, *on* consensual relationships. The Court did not finally apply them to exonerate the applicant. *Dilawar Balu Kurane*, *Mohanlal Soni*, *L. Krishna Reddy* and *Mauvin Godinho* were quoted on the prima facie standard at the charge stage: the court may sift the material for the limited purpose of assessing grave suspicion, but must neither weigh it as at trial nor automatically accept every assertion. The judgment referred to *Prafulla Kumar Samal* through the quoted authorities. It also quoted *M.E. Shivalingamurthy*, which referred to *Debendra Nath Padhi* on the limits of the material to be considered at the charge stage. *XYZ v. State of M.P.* discussed hidden and trivialised violence against women; *Ramdev Singh* emphasised the harm sexual assault causes to dignity; and *K.S. Puttaswamy* addressed bodily, informational and decisional privacy. These authorities supported consideration of the full range of alleged conduct. They did not result in a final finding on any charge.

3. Statutes considered : Section 376(2)(n) IPC concerned the charge of repeated rape under review. Section 90 IPC required consideration of whether consent was vitiated by a misconception of fact. Sections 354A, 354C and 354D IPC concerned possible offences of sexual harassment, voyeurism and stalking that the trial court had not examined in relation to the alleged pressure to send intimate images. Sections 227 and 228 CrPC governed discharge and the framing of charges, while Sections 397 and 401 provided for revision. The High Court made no final determination of the ingredients of any offence or of the authenticity and context of the electronic messages.

4. Issues : Whether the trial judge had adequately examined consent and misconception of fact, instead of inferring rape merely from sweet talk and physical relations; whether the later demands for intimate images required separate consideration under other IPC sexual offences; and whether, at the charge stage, the court could sift the FIR and prosecution material to assess the ingredients of the offences without deciding the contested merits. The Court identified omissions in the charge order and directed fresh consideration of the charges.

5. Ratio / Findings : The High Court considered the FIR in two parts: the allegation of intercourse during 2018–2021 and the later allegation of pressure to

send intimate photographs and videos. The complainant's marriage, her concealment of the applicant and her false explanation to her husband required consideration in the particular circumstances when examining consent under Section 90. Those circumstances did not themselves require the applicant's discharge. The allegation that she sent the images under continued pressure, rather than voluntarily, could attract other IPC provisions, but the trial court had not examined that aspect. At the charge stage, the court must sift all the prosecution allegations and material for the limited purpose of assessing prima facie ingredients and grave suspicion. It must not conduct a mini-trial or mechanically confine its consideration to a single offence. The failure to consider the entire FIR amounted to material illegality in the charge order. The High Court therefore remanded the question of framing charges for fresh consideration, without finally determining the accused's culpability.

6. Relief : The Hon'ble High Court allowed the revision. It set aside the order of 21 September 2022 framing a charge under Section 376(2)(n) IPC and remanded the matter to the trial court to consider the framing of charges afresh. That consideration was to cover the entire FIR, including consent under Section 90 and the possible offences arising from the demands for intimate images. No costs were awarded. The pre-charge stage was restored. The order neither acquitted nor discharged the applicant, and the High Court did not frame charges under Sections 354A, 354C or 354D.

Arun Tiwari v. The State of Madhya Pradesh and Ors., Cr.R. no. 3977/2022, 10/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (64) Prev Next

Headnote :- Section 482 CrPC — disputed roadside confrontation — no mini-trial - The complainant alleged filthy abuse in public, physical assault and a threat to kill her. The applicant admitted that a confrontation occurred on 6 August 2022, but claimed that she started it and injured his hand with a khurpa. He produced no medical report and had lodged no report against her. His competing account did not justify quashing the FIR and charge-sheet, which disclosed a cognizable offence. The allegations under Sections 294, 354 and 506 IPC remained for trial; the Court did not decide guilt.

Advocate status — retaliation claim - An advocate is not exempt from liability under the IPC. The applicant produced only two ordersheets from 2019, leaving the earlier case record incomplete. They did not substantiate his claim that the complainant had targeted him solely because he represented her opponent; another lawyer appeared to be the principal counsel. The Court did not foreclose a defence at trial.

Quashing — informant motive - *Renu Kumari v. Sanjay Kumar*, drawing on *R.P. Kapur* and *Bhajan Lal*, states that inherent power is exceptional. Where the allegations taken at face value disclose an offence, the informant's alleged mala fides are of secondary importance. Applying that principle, the Court dismissed the Section 482 application.

Case-note :- ***1. Facts :*** Arunendra Tiwari sought quashing under Section 482 CrPC of Crime No. 178/2022 registered at Chakghat, Rewa, the charge-sheet dated 26 December 2022 and the resulting proceedings before the JMFC in RCT No. 75/2023 under Sections 294, 354 and 506 IPC. The complainant alleged that, on 6 August 2022, while she was crossing the road towards her new house, the applicant arrived on a motorcycle, abused her obscenely, grabbed her and threw her to the ground. After two people intervened, he threatened her. The applicant contended that she had falsely implicated him because he represented a man who had filed a complaint against her and her son. He alleged that she stopped his motorcycle, attacked him with a khurpa and threatened him for continuing that case. He relied on complaints made to senior police officers. He produced only two ordersheets from 2019, without his vakalatnama or the complete record of the earlier case.

2. Precedents — Considered : The High Court applied *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*. The quoted discussion drew *on R.P. Kapur and State of Haryana v. Bhajan Lal*. It identified circumstances in which proceedings may be quashed, including where the allegations taken at face value do not disclose an offence, an express legal bar applies, or the proceedings are manifestly abusive. It cautioned against deciding credibility or treating the informant's hostility alone as decisive. The Court applied the principle that, once a cognizable offence is disclosed and registered, the informant's motive is secondary to the material collected and the evidence led in the prosecution. Other authorities appeared within the long *Renu*

Kumari quotation, but were not separately applied to the present facts.

3. Statutes considered : Section 482 CrPC preserved the High Court's inherent jurisdiction. Sections 294, 354 and 506 IPC were the provisions invoked in the FIR and charge-sheet for the alleged public obscenity, assault on a woman and criminal intimidation. Section 200 CrPC concerned the earlier complaint by a third party in which the applicant claimed to have appeared as counsel. The High Court did not decide that complaint. The applicant's status as an advocate gave him no statutory immunity from IPC offences.

4. Issues : Whether the earlier complaint case established the applicant's claim that he had been falsely implicated in retaliation for acting as a lawyer; whether his competing account and alleged injury justified quashing despite his admission that a confrontation had occurred; and whether the allegations of assault, abuse and threats in the FIR, taken at face value, disclosed cognizable offences. These questions concerned the threshold for quashing, rather than a full assessment of witnesses or medical evidence.

5. Ratio / Findings : One of the two ordersheets showed another lawyer appearing with the earlier complainant. The other showed the applicant appearing on a day when the judicial officer was absent. The applicant produced neither his vakalatnama nor the complete ordersheets, and did not substantiate the alleged retaliatory motive. His counsel conceded that the IPC applies to advocates. Ground D of the applicant's own petition acknowledged the roadside incident. No medical report supported his claim of a khurpa injury, and he had lodged no report against the complainant. The Court therefore declined to prefer his account in proceedings under its inherent jurisdiction. Under *Renu Kumari*, the informant's alleged mala fides alone did not justify quashing when the FIR disclosed a cognizable offence. The observation that the applicant appeared prima facie to have assaulted the complainant was neither a conviction nor a bar to a defence at trial.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. The FIR, charge-sheet and trial proceedings remained in force. No charge was quashed and no immunity was granted on account of the applicant's status as an advocate. The disputed evidence remained for determination in the ordinary course of the proceedings.

Arunendra Tiwari v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 60947/2022, 23/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (65) Prev Next

Headnote :- Sexual-assault testimony — sterling witness — material contradictions - *State of Punjab v. Gurmit Singh* permits conviction on the sole testimony of a reliable prosecutrix and cautions against rejecting it for trivial discrepancies or routinely requiring corroboration. *Krishna Kumar Malik* and *Rai Sandeep* require the core account to be trustworthy and consistent. Here, the complainant's accounts of threats, an altercation and telephone recordings differed materially from her complaint and the witnesses' evidence. No alleged recording was produced. The Division Bench found the evidence as a whole unworthy of credit and acquitted the appellant. It did not prescribe independent corroboration as a requirement in every rape case.

Interested witnesses — enmity - All four prosecution witnesses had strained relations with the appellant. Enmity may explain the commission of a crime or a false accusation; relationship alone does not disqualify a witness. In this case, the Court considered the established hostility together with improvements, contradictions and the absence of supporting material, and found reasonable doubt. Unparticularised allegations of earlier rape charges could not establish criminal antecedents.

Delayed FIR — fear explanation - Fear and the need to stay with relatives could explain reporting nearly two months after the alleged assault. The Court nevertheless assessed that explanation alongside conflicting accounts of later events and the missing recording. It did not treat delay alone as an automatic bar. The convictions under Sections 376(2)(f) and 506 Part II IPC were set aside, and release and refund of any deposited fine were directed.

Case-note :- ***1. Facts :*** Arvind appealed against the judgment dated 18 August 2017 of the Additional Sessions Judge, Seondha, convicting him under Sections 376(2)(f) and 506 Part II IPC and sentencing him to life imprisonment and one year's rigorous imprisonment, with fines. The complainant was a close relative whose identity the Court withheld. She alleged that he raped her at home on 19 February 2016 and threatened her. She then went

to stay with relatives, alleged further threats and reported the incident nearly two months later. The appellant, who had remained in custody since the trial judgment, relied on the delay, the related and hostile witnesses, contradictions in their evidence and a property dispute. The prosecution relied on the complainant, her relatives and a witness from her locality. The Division Bench examined the trial record and oral evidence in an appeal against conviction, rather than applying the threshold standard for assessing an FIR or framing a charge.

2. Precedents — Considered : *State of Punjab v. Gurmit Singh, (1996) 2 SCC 384*, recognises that a sexual-assault complainant's reliable sole testimony may suffice for conviction. Corroboration must not be required routinely, and inconsequential discrepancies do not justify rejecting otherwise reliable evidence. *Krishna Kumar Malik v. State of Haryana, (2011) 7 SCC 130*, requires solitary testimony to inspire confidence and be trustworthy. *Rai Sandeep v. State (NCT of Delhi), (2012) 8 SCC 21*, describes a sterling witness by reference to consistency from the initial statement through trial and correspondence with supporting material. The High Court applied those tests to material inconsistencies, rather than peripheral discrepancies, and expressly cautioned against emotional prejudgment. It did not use those authorities to impose a categorical requirement of corroboration.

3. Statutes considered : Section 376(2)(f) IPC and Section 506 Part II IPC were the rape and threat convictions on appeal.

4. Issues : Whether fear satisfactorily explained the delay in reporting; whether the related witnesses, who admitted prior hostility, could be relied on for the core allegation; whether the contradictions concerning a later visit, a fight, damage to a telephone and threats were material; and whether the complainant's testimony alone was sufficiently trustworthy to sustain both convictions beyond reasonable doubt. The Court considered the combined effect of those matters.

5. Ratio / Findings : The record comprised the written complaint Ex.P/1, earlier police statements Ex.D/1 and D/2, the trial testimony of P.W.1–3 and Tinku Jatav, and an FSL report. A recording of threatening calls allegedly stored on Tinku's telephone was not produced before the trial court, and he gave no evidence of such a recording. The Court found that the FSL report was of no vital consequence. It did not make scientific evidence a prerequisite in every case.

Fear could explain delay, but the Court identified conflicting accounts. The complaint stated that the complainant hid when the appellant visited a relative's house, whereas her testimony placed her there during a fight. A relative described a physical assault that was absent from the complainant's account, and material facts were missing from the earlier police statements. The complainant said that Tinku's telephone contained recordings of threats, but none was produced and Tinku did not support that assertion. Allegations concerning the appellant's antecedents were unproved, and an earlier related case had ended in acquittal. Four witnesses admitted hostile relations with him. Enmity could operate in either direction, but the core testimony still had to be reliable. The Court found that the contradictions, improvements, concerns about delay and lack of supporting material, considered together, created reasonable doubt. The Bench also drew an inference from the fact that the locked house had remained undisturbed; that was an additional observation on these facts, rather than a general test. Corroboration is not invariably required, but the complainant's evidence on this record did not inspire confidence.

6. Relief : The Hon’ble High Court allowed the appeal and acquitted Arvind of the offences under Sections 376(2)(f) and 506 Part II IPC, reversing the trial convictions and sentences. It directed his immediate release unless he was required in another case. Copies of the judgment were to be sent to the jail authority and, with the record, to the trial court for information and compliance. Any fine already deposited was to be refunded.

Arvind v. The State of Madhya Pradesh, Cr.A. no. 4189/2017, 05/08/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (66) Prev Next

Headnote :- Negotiable Instruments Act — territorial jurisdiction — amended Section 142 - The Magistrate's rejection of a Section 138 complaint for want of territorial jurisdiction in 2014, based on *Dashrath Rupsingh Rathod v. State of Maharashtra, (2014) 9 SCC 129*, was set aside following the 2015 amendment. Applying *Bridgestone India Private Limited v. Inderpal Singh, (2016) 2 SCC 75*, the Court held that, for a cheque delivered for collection through an account, Section

142(2)(a) gives jurisdiction to the court for the area in which the payee's bank branch is located. The non obstante and validating provisions of Section 142A displaced the earlier jurisdictional bar retrospectively. The Court held that the JMFC, Lahar, had jurisdiction and directed the proceedings to restart after fresh notice. The unserved respondent was given liberty to seek recall.

Case-note :- ***1. Facts :*** Arvind Gupta's complaint under Section 138 of the Negotiable Instruments Act was registered as Criminal Case No. 397/2009 before the JMFC, Lahar, District Bhind. On 10.11.2014, the Magistrate held that the court lacked territorial jurisdiction in view of *Dashrath Rupsingh Rathod v. State of Maharashtra*. Arvind sought relief under Section 482 CrPC. He contended that the 2015 amendment of Section 142 and insertion of Section 142A made the complaint maintainable at Lahar. The High Court heard his counsel, reproduced the amended provisions and applied *Bridgestone India Private Limited*. The cheque amount and the Chandigarh and Indore bank particulars in the *Bridgestone* quotation concerned that precedent's complaint. Komal Pandey had remained unserved in the High Court proceedings, and the Court expressly preserved her opportunity to seek recall.

2. Precedents — Considered : *Dashrath Rupsingh Rathod v. State of Maharashtra and Others, (2014) 9 SCC 129*, supplied the territorial-jurisdiction rule on which the JMFC had rejected the complaint. The High Court described that earlier rule as denying jurisdiction merely because a cheque had been presented at a particular place. It quoted and followed *Bridgestone India Private Limited v. Inderpal Singh, (2016) 2 SCC 75*. The Supreme Court held that Section 142(2)(a), inserted by the 2015 ordinance and amendment, conferred jurisdiction where the cheque was delivered for collection through an account at the bank branch where the payee or holder in due course maintained the account. The non obstante language of Section 142A(1) overrode contrary CrPC provisions and judgments. The words “as if that sub-section had been in force at all material times” gave the jurisdictional rule retrospective effect. In *Bridgestone*, the cheque was drawn on Union Bank, Chandigarh, and presented through IDBI Bank, Indore. The JMFC, Indore, was held competent. The High Court applied that legal principle to reinstate the Lahar complaint under the amended rule.

3. Statutes considered : Section 138 of the NI Act defined the offence alleged in the complaint; the particular ingredients of dishonour were not adjudicated. Amended Section 142(2)(a) governed territorial jurisdiction where a cheque was delivered for collection through the payee's account. Section 142A(1) was considered for its non obstante clause and retrospective validating effect despite *Dashrath*. The order reproduced parts of Sections 142 and 142A, including provisions concerning cognizance and multiple complaints. It did not determine timeliness, consolidation or subsequent complaints under subsections 142A(2) and (3). Section 482 CrPC provided the procedural route for correcting the Magistrate's jurisdictional order.

4. Issues : Whether the 2015 amendments to Sections 142(2)(a) and 142A of the NI Act restored jurisdiction to the JMFC, Lahar, over a complaint rejected in 2014 under *Dashrath*; and what procedure was required when the respondent had not been served. The Court did not decide the merits of the dishonour complaint or make an evidentiary finding on the bank particulars quoted from *Bridgestone*.

5. Ratio / Findings : The Magistrate's refusal rested on the *Dashrath* rule then applicable. *Bridgestone* interpreted the new jurisdictional provision and its validation as superseding that rule for Section 138 complaints involving collection through an account, notwithstanding earlier judicial orders. It also recognised the provision's retrospective effect. Following that construction, the High Court held that the applicant's complaint fell within the territorial jurisdiction of the JMFC, Lahar. Since Komal had remained unserved in the Section 482 proceedings, the Court directed fresh notice before the proceedings restarted and expressly permitted her to seek recall if aggrieved.

6. Relief : The Hon’ble High Court set aside the order dated 10.11.2014 passed by the JMFC, Lahar, in Criminal Case No. 397/2009. It directed the trial court to restart the Section 138 complaint after fresh notice to Komal Pandey and gave her liberty to seek recall of the High Court's order. The Section 482 application was disposed of. The Court neither convicted the respondent nor awarded compensation or finally determined liability on the cheque.

Arvind Gupta v. Komal Pandey, M.Cr.C. no. 11593/2014, 14/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (67) Prev Next

Headnote :- Speedy trial — police witness absence — Article 21 - The investigating officer repeatedly failed to obey summons and warrants. He falsely claimed that the FSL report and Marg papers were unavailable, although they had been filed with the charge-sheet. On the only occasion when he attended, the police case diary was missing. The Court held the State responsible for the delay in the murder trial. It considered *Hussainara Khatoon*, *Sheela Barse*, *Supreme Court Legal Aid Committee* and *Kartar Singh* on the constitutional obligation to ensure a timely trial.

Regular bail — delay — serious allegation - The fourth application under Section 439 CrPC relied on trial delay following the applicant's arrest in November 2017 for alleged offences under Sections 302, 201 and 34 IPC. Although the Court found that the State had caused the delay, it declined bail in view of the allegation of a killing arising from a property dispute. On these facts, delay did not automatically entitle the applicant to release or bring the prosecution to an end.

Compensation — recovery — trial management - The State was directed to pay the undertrial Rs 30,000 within one month for the breach of Article 21, with liberty to recover the amount from the defaulting town inspector's salary. The SP was directed to send monthly reports on the departmental inquiry to the Principal Registrar. The prosecution was directed to produce all witnesses on the next trial date. The order did not determine guilt.

Case-note :- ***1. Facts :*** Asfaq Khan filed a fourth application under Section 439 CrPC for bail in Crime No. 493/2017 registered at Raghogarh, Guna, for alleged murder and destruction of evidence under Sections 302, 201 and 34 IPC. He had been arrested on 17 November 2017, and his third bail application had been withdrawn in 2018. He relied on delay in the trial. The High Court sought an explanation for Town Inspector D.P.S. Chauhan's repeated non-appearance and for warrants being returned unserved or not returned at all. The SP reported the officer's claim that the FSL report and statements recorded during the Marg inquiry were unavailable. A preliminary inquiry, however, showed that both had been filed with the charge-sheet. The officer had attended only once, when his cross-examination could not proceed because the police case diary was unavailable. Summons or telephone calls had reached him on other dates. His claim of law-and-order duties addressed at most two dates and was unsupported by any written order restraining his attendance. The records also showed poor execution and monitoring of numerous warrants, and departmental charges had been initiated.

2. Precedents — Considered : *Hussainara Khatoon v. Home Secretary, Bihar, (1980) 1 SCC 98*, states the State's obligation under Article 21 to ensure a speedy trial; shortages of resources do not excuse non-compliance. *Sheela Barse v. Union of India* addresses unreasonable trial delay and the possibility of quashing, except where delay is attributable to the accused or an order of a superior court. *Supreme Court Legal Aid Committee v. Union of India* discusses calibrated release on bail rather than automatic quashing of serious prosecutions delayed in trial. Its statutory context was not mechanically applied to the present IPC murder charge. *Kartar Singh v. State of Punjab* explains that the right extends from investigation through appeal and serves both individual and social interests. *Jaipal Singh v. State of M.P.*, an earlier decision, was quoted on police-witness accountability and monetary compensation. The Court relied on these authorities in recognising State-caused delay, while separately considering whether bail should be granted.

3. Statutes considered : Section 439 CrPC governed regular bail. Sections 302, 201 and 34 IPC were the alleged offences; guilt was not adjudicated. Article 21 protected liberty and the right to a timely trial. Police Headquarters circulars dated 30 March and 21 May 2019 concerned monitoring the service and execution of summons and warrants. A Gazetted Officer had failed to comply with them. The compensation and departmental-reporting directions provided constitutional redress; they did not amount to an acquittal or a criminal conviction of the officer.

4. Issues : Whether prolonged undertrial custody and repeated default by police witnesses justified bail despite the grave allegation of murder; whether the delay caused by the State violated the right to a speedy trial; what compensation and measures were required to remedy the breach and prevent further delay; and whether the officer's explanation for his absence was consistent with the charge-sheet and

trial record. The Court considered release separately from redress for the procedural injury.

5. Ratio / Findings : The preliminary inquiry contradicted the investigating officer's account to the SP. The FSL report and Marg documents had already been filed, and it was the absence of the police diary that prevented cross-examination on his sole attendance. Despite notice on numerous dates, he failed to attend and could not explain most of his absences. The State was responsible for the lack of progress in the trial; an undertrial could not be left at the mercy of police witnesses. The Court nevertheless considered bail inappropriate on the particular allegation of a killing arising from a property dispute. It addressed the delay by awarding Rs 30,000 against the State, with liberty to recover the amount from the officer, and by directing departmental monitoring and the production of witnesses. It neither determined guilt for murder nor prescribed a general minimum period of custody entitling an accused to bail.

6. Relief : The Hon'ble High Court disposed of the fourth application for regular bail, declining bail and issuing directions. The State was directed to pay Rs 30,000 within one month, with liberty to recover it from Town Inspector Chauhan's salary. The Guna SP was directed to submit monthly reports to the Principal Registrar on the departmental inquiry against the erring officers. The prosecution was directed to secure the attendance of all witnesses on the next date fixed for evidence.

Asfaq Khan v. State of M.P., M.Cr.C. no. 37969/2020, 04/11/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (68) Prev Next

Headnote :- Medical-practice regulation — cross-system prescription — Section 24(ia), M.P. Ayurvigyan Parishad Adhiniyam - The limited permission introduced in 2016 applies only to eligible persons posted in government health institutions or allopathic centres. An Ayurvedacharya running a private hospital did not satisfy that opening condition, despite his degree and three-month training in allopathy. The Court held that he was not eligible to prescribe allopathic medicines and referred to the qualification and registration restrictions in the Indian Medical Council Act.

Criminal medical negligence — Section 304-A IPC — professional safeguard - *Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*, distinguishes gross criminal negligence from civil negligence and requires independent competent medical opinion before proceeding against a doctor. Applying *Poonam Verma v. Ashwin Patel, (1996) 4 SCC 332*, the High Court held that this applicant's practice of allopathy without the necessary qualification itself amounted prima facie to gross negligence. It distinguished the safeguard in *Jacob Mathew* for competent practitioners and noted the CMHO's opinion that the applicant lacked competence. The applicant also relied on *Martin F. D'Souza* for safeguards against prosecution of doctors.

Section 482 CrPC — charge-sheet — inconclusive cause of death - Allopathic medicines were found in the viscera, and the applicant had treated the patient in a system in which he was not entitled to practise. The medical opinion could not establish whether death was natural or caused by an overdose. In these circumstances, the Court found sufficient prima facie material for trial and refused to quash the charge-sheet under Section 304-A and the State Act. It made no finding that an overdose had occurred. The trial court was to decide on its own evidence, without being prejudiced by these preliminary observations, and to finish the trial preferably within nine months.

Case-note :- ***1. Facts :*** Ashish Khare operated a private hospital at Gadarwara, District Narsinghpur. The informant alleged that his father had been admitted with high fever and died after Ashish gave him allopathic medicines. The complaint described Ashish as a homoeopathy doctor. A merg inquiry led to FIR No. 714/2017 and a charge-sheet under Section 304-A IPC with Section 24 of the M.P. Ayurvigyan Parishad Adhiniyam. The Chief Medical and Health Officer, Narsinghpur, certified that Ashish was not competent to treat patients in allopathy. Viscera were preserved during the post-mortem. The order records that methyl cobalamin and named anti-inflammatory and antipyretic drugs were found in them, but the doctors could not determine whether death was natural or caused by an overdose of medicine. In his Section 482 application, Ashish relied on his unchallenged Bachelor of Ayurvedic Medicine and Surgery (Ayurvedacharya) degree, obtained in 2006, and a certificate of three-month training in allopathy from 01.12.2006 to 02.03.2007. He argued that the 2016 State amendment permitted him to prescribe those medicines. Alternatively, he contended that no opinion on gross negligence had been obtained from

a medical board or government doctor before prosecution and that the cause of death remained uncertain.

2. Precedents — Considered : The applicant relied on *Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*. The Court reproduced its conclusions and interim guidelines at length. *Jacob Mathew* distinguishes an ordinary professional error or civil negligence from the high degree of rashness or negligence required for criminal liability under Section 304-A. It applies the standard of an ordinarily competent professional and the *Bolam* test, assessed by the knowledge and accepted practice at the relevant time. The availability of a better method or greater skill does not, by itself, establish a crime. A doctor may be negligent because he lacks the skill he professes to possess or fails to exercise his existing skill with reasonable competence. A criminal charge requires gross fault, with a hazard of such a nature that the resulting injury was most likely imminent. Res ipsa loquitur cannot, by itself, establish criminal liability. Pending statutory guidelines, an investigating officer should obtain an independent and competent medical opinion, preferably from a government doctor qualified in the relevant branch, before proceeding against a doctor. A private complaint likewise requires prima facie evidence in the form of a credible medical opinion, and a doctor should not be arrested routinely. The High Court held that the direction for an expert opinion did not apply to Ashish's unauthorised practice of allopathy, which fell outside the protection for a competent practitioner. This was the High Court's application of *Jacob Mathew*; the Supreme Court had not decided this applicant's conduct in practising another system of medicine. The applicant also cited *Martin F. D'Souza v. Mohd. Ishfaq, (2009) 3 SCC 1*, for safeguards against prosecution of doctors. The Court quoted *Poonam Verma v. Ashwin Patel, (1996) 4 SCC 332*, in which a practitioner registered in homoeopathy entered the field of allopathy without the required qualification. That conduct breached a statutory duty, amounted to actionable negligence and exposed him to prosecution under Section 15(3) of the Indian Medical Council Act. The High Court applied that principle concerning practice in a prohibited field to Ashish's prescribing allopathic medicines despite his Ayurvedic qualification. It did not treat *Poonam Verma* as proof of this patient's actual cause of death. The passage quoted from *Poonam Verma* itself refers to the three duties of care in *Dr. Laxman Joshi*; that reference forms part of the quoted decision.

3. Statutes considered : Section 24(ia) of the M.P. Ayurvigyan Parishad Adhiniyam, inserted by the 2016 amendment, gives specified practitioners limited permission to prescribe modern scientific medicine and protects them from punishment under that provision. They must be eligible Ayurvedic or Unani graduates posted in government health institutions or allopathic centres, registered with the specified State Board and trained as prescribed by the Government. The permission extends only to the training received. The Court held that the applicant, who ran a private hospital, did not satisfy the opening requirement concerning his posting, despite his accepted degree and three-month course. Section 24 of the State Act formed part of the charge-sheet; the order did not finally determine guilt under it. Sections 2(d) and 15(2)–(3) of the Indian Medical Council Act, 1956 distinguish practitioners of modern medicine from those of Ayurveda, Unani and homoeopathy. Subject to the stated statutory exception, they restrict practice to qualified practitioners enrolled on a State Medical Register and penalise contravention. The State provision referred to the Indian Medicine Central Council Act, 1970 and the Madhya Pradesh Ayurvedic, Unani Tatha Prakritik Chikitsa Vyavsayi Act for the qualifications and extent of training. Section 304-A IPC was the charged offence of causing death by negligence; *Jacob Mathew* explained the degree of negligence required for criminal liability. Section 482 CrPC governed the application to quash the police charge-sheet.

4. Issues : (i) Did amended Section 24(ia) authorise an Ayurvedacharya with this training, who ran a private hospital, to prescribe allopathic medicines? (ii) If not, did prescribing in that prohibited system amount prima facie to gross negligence for the Section 304-A charge, and did *Jacob Mathew* nevertheless require an independent medical board or government doctor to certify medical negligence before prosecution? (iii) Did the doctors' inability to determine whether death was natural or caused by an overdose leave no prima facie case on causation and require quashing at the charge-sheet stage? (iv) What remained for the trial court to decide after refusal to quash? These were questions about whether the case could proceed to trial, rather than final findings on medical causation or criminal guilt.

5. Ratio / Findings : The Court accepted the unchallenged Ayurvedacharya degree and training certificate, but held that they did not satisfy the opening condition in Section 24(ia). The provision did not permit every trained Ayurvedic graduate to prescribe allopathy: eligible practitioners had to be posted in government health institutions or allopathic centres. Ashish ran his own private hospital and fell outside that category. Sections 2(d) and 15 of the Indian Medical Council Act reinforced the distinction between recognised practitioners of modern medicine and those of other systems, and the statutory restriction on allopathic practice. Applying *Poonam Verma*'s reasoning about entry into a prohibited field, the Court treated the applicant's prescribing outside his legal competence as prima facie gross negligence. It also stated that he could be prosecuted under Section 15(3). That statement concerned a potential statutory contravention; the charge-sheet before the Court was under Section 304-A IPC with Section 24 of the State Act. The Court distinguished the independent medical-opinion safeguard in *Jacob Mathew* because the applicant was not competent to prescribe allopathic medicines. The police had, in any event, obtained the CMHO's certificate confirming that lack of competence. On these facts, the Court held that no further report on medical negligence from an independent doctor or medical board was required. The viscera contained allopathic medicines, but the doctors could not determine whether death was natural or caused by an overdose. The Court held that, in the circumstances, the absence of a definite finding of natural death did not establish that there was no prima facie material, given the unauthorised treatment and the other circumstances. It made no affirmative medical finding of overdose. The Court stated that once negligence was proved, nothing more needed to be proved, and found sufficient prima facie material concerning death by negligence at this stage. It expressly directed the trial court to decide on the evidence without being prejudiced by the observations in the order. The merits, medical evidence and ultimate guilt remained for trial.

6. Relief : The Hon’ble High Court dismissed the Section 482 application and refused to quash the charge-sheet under Section 304-A IPC read with Section 24 of the M.P. Ayurvigyan Parishad Adhiniyam. It directed the trial court to decide on the evidence ultimately recorded, without being prejudiced by observations made within the limited scope of the quashing proceeding. The trial was to be concluded as early as possible, preferably within nine months of the date of the order. A copy of the order was to be sent to the trial court. No final finding on causation, conviction or sentence was made.

Ashish Khare v. State of M.P. and Others, M.Cr.C. no. 1736/2018, 07/02/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (69) Prev Next

Headnote :- Dowry cruelty — sister-in-law — individual role - The wife alleged that her husband demanded property in Bhopal or a flat and Rs 20 lakh. The only specific allegation against his married sister was that, in one telephone call, she supported his demand and said that she would not allow the wife to live with him unless it was met. Applying *Kans Raj*, *Monju Roy*, *Chandralekha*, *Kahkashan Kausar*, *Geeta Mehrotra* and *Preeti Gupta*, the Court held that this material was insufficient to prosecute the sister under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act.

Section 482 — party-specific quashing - The Court quashed the FIR in Crime No. 534/2020 and the consequential proceedings only against Sushma Chouhan. Ashish Kumar Kotangale, the husband, did not press his application, and his prosecution was to continue. This partial relief did not determine the truth of the specific allegations against him or grant general immunity to relatives.

Case-note :- ***1. Facts :*** Ashish Kumar Kotangale and his married sister, Sushma Chouhan, jointly applied under Section 482 CrPC to quash Crime No. 534/2020 at Sehore and the consequential proceedings before the JMFC under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act. At the hearing, counsel did not press Ashish's challenge. The complainant said that she and Ashish had married for love in January 2020. Soon afterwards, he demanded that her mother's house in Bhopal be transferred to him or that he be given a flat there. He later demanded Rs 20 lakh, complained of inadequate dowry and behaved abusively. She described an incident in March in the presence of her mother and domestic staff, followed by further demands. The only specific allegation against Sushma concerned a telephone conversation arranged by Ashish. Sushma allegedly urged the wife to fulfil his demand and said that she would not let her live with him unless she did so.

2. Precedents — Considered : *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, cautioned that the husband's fault does not, by itself, implicate every relative in a dowry demand. *Monju Roy v. State of W.B., (2015) 13 SCC 693*, required tangible material concerning a distant relative's individual role and distinguished that person's position from the husband and parents. *Chandralekha v. State of Rajasthan* concerned vague allegations and the abuse of process in prosecuting a married sister-in-law. *Kahkashan Kausar, Geeta Mehrotra* and *Preeti Gupta* were cited for the requirement of clear, specific allegations against near relatives, rather than merely naming them in general accusations. The High Court applied these authorities to the single telephone allegation against Sushma. It did not hold that a distant relative could never commit a dowry offence.

3. Statutes considered : Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act were the charged provisions concerning cruelty and dowry. Section 482 CrPC provided the inherent power to quash the proceedings. The complainant's statement under Section 161 CrPC was examined for any additional allegation. The Court distinguished the positions of the two applicants; it did not decide whether the charges were proved, determine a dowry amount or finally adjudicate the husband's liability.

4. Issues : Whether the single telephone call and support for the husband's demands amounted to sufficiently specific allegations of cruelty or dowry demands against his married sister; whether continuing the proceedings against her would be an abuse of process; and how the relief should be confined after the husband declined to press his own challenge. The Court considered these questions on the allegations in the FIR and the police statement.

5. Ratio / Findings : The wife made specific allegations of demands and other mistreatment against her husband. Against Sushma, however, she alleged no act beyond the single telephone call urging her to meet his demand. The Supreme Court authorities required specific material concerning a relative's role before that person could be prosecuted on general dowry allegations. On this record, the Court held that continuing the proceedings against Sushma was unwarranted. It did not assess the husband's case because his application was not pressed, and its reasoning did not negate the allegations against him.

6. Relief : The Hon'ble High Court dismissed Ashish's application as not pressed and directed that his prosecution continue. It quashed the FIR in Crime No. 534/2020 and all consequential proceedings only against Sushma Chouhan. The Section 482 application was partly allowed; the proceedings were not quashed against all applicants, nor were all applicants discharged.

Ashish Kumr Kotangale and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 3/2021, 03/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (70) Prev Next

Headnote :- Circumstantial murder — complete chain - The neck wounds, fractures and post-mortem findings established that the death was homicidal. They did not establish that the appellant was the killer. Under *Sharad Birdhichand Sarda*, every link had to be fully proved and the circumstances had to be consistent only with guilt. The contradictory evidence of when the appellant was last seen with the deceased, together with the absence of blood on the seized tangi and clothing, left the chain incomplete. The convictions under Sections 302 and 201 were set aside.

Last seen — multiple companions and contradictions - Keshav's claimed sightings were absent from his police statement. Saraswati and Neelam withdrew their accounts in cross-examination, while Badri and Umakant relied on information from persons who were not examined. Geeta placed Phoolchand with the deceased and the appellant, but Phoolchand was not charged and did not support the account that they had been seen together. *Shailendra Rajdev Pasvan*, *Digamber Vaishnav* and *Ashok* require close proximity in time and corroborating links. The weak evidence of last being seen together could not, by itself, sustain conviction.

Forensic recovery — negative FSL - Recovery of the tangi, clothes and footwear was proved. However, Ex.P/14 found no blood on those articles. On this record, their seizure therefore did not provide an incriminating link.

Section 106 — foundational burden - *Satye Singh* cautions that the burden concerning facts within special knowledge does not relieve the prosecution of its duty to prove the case. The appellant's failure to explain could not supply the missing foundational links. The appeal was allowed. He was to be released

in this case if still imprisoned for it; otherwise, his bonds were discharged.

Case-note :- ***1. Facts :*** Ashish Pathak appealed under Section 374(2) CrPC against the Rewa Sessions Court's convictions dated 9 June 2010 under Sections 302 and 201 IPC. He had been sentenced to life imprisonment and two years' imprisonment, with concurrent sentences and fines. Phoolchand, a scrap dealer, reported finding the injured body of Umashanker, also known as Lala Pathak, near a dhaba and canal on 11 July 2009. Some witnesses said that the appellant had consumed liquor with him the previous evening. The police seized articles from the scene. Following a disclosure memorandum, they also recovered an iron tangi, shirt, trousers, socks and shoes from the appellant's house. The defence disputed whether the circumstantial evidence formed a complete chain. The appeal concerned proof of homicide, the accounts of when the appellant and deceased were last seen together, and the forensic connection. It did not determine whether another named companion was guilty.

2. Precedents — Considered : *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, drawing on *Hanumant*, sets out five requirements for conviction on wholly circumstantial evidence. The circumstances must be proved, support only the inference of guilt, be conclusive, exclude alternative hypotheses and form a complete chain. *Shailendra Rajdev Pasvan v. State of Gujarat* requires the interval between the accused and deceased being seen together and the death to be short enough to exclude intervention by another person. *Ashok v. State of Maharashtra* and *Digamber Vaishnav v. State of Chhattisgarh* explain that evidence of last being seen together is not conclusive by itself; it requires trustworthy evidence, proximity in time and supporting circumstances. *Trimukh*, *Kanhaiya Lal* and other authorities appeared within those quoted passages. *Satye Singh v. State of Uttarakhand*, relying on *Shambu Nath Mehra*, cautions that Section 106 of the Evidence Act does not displace the prosecution's duty to prove the foundational facts. The High Court applied these principles to the disputed testimony and the FSL report finding no blood on the recovered articles.

3. Statutes considered : Sections 302 and 201 IPC were the provisions under which the appellant had been convicted of murder and causing disappearance of evidence. Section 374(2) CrPC governed the appeal. Section 106 of the Evidence Act concerned facts within special knowledge; the prosecution retained its primary burden of proof.

4. Issues : Whether the prosecution proved that the death was homicidal and, separately, that the appellant caused it; whether the accounts of when he and the deceased were last seen together were reliable and sufficiently close to the death, given the presence of other companions; whether proved seizure of articles on which no blood was found incriminated him; and whether Section 106 allowed his silence to fill the remaining gaps. The Court found homicide proved, but found that the appellant's identity as the killer and the complete chain of circumstances had not been established.

5. Ratio / Findings : Dr Atul Singh's post-mortem findings of serious neck wounds, fractures of the skull and cervical bones, and shock established that the death was homicidal. The seizure witnesses supported memorandum Ex.P/11 and seizure Ex.P/12. However, FSL report Ex.P/14 found no blood on the tangi, shirt, trousers, socks or shoes recovered from the appellant. The Court examined the accounts of when the appellant and deceased had last been seen together, comparing the witnesses' testimony and cross-examination with their police statements and the other evidence.

The nature of the post-mortem injuries established murder despite the suggestion in cross-examination that they could have resulted from a fall. Keshav's claimed sightings and account of the drinking companions were material assertions absent from his earlier statement. Badri's account of an episode in December was remote from the death; his account of a later sighting came from a person who was not examined. Umakant's evidence was likewise hearsay. Saraswati and Neelam said in cross-examination that they had not actually seen the appellant. Geeta gave a differing account of the meal and placed Phoolchand with the deceased and the appellant. Other family members did not corroborate her account, and Phoolchand did not support the evidence of last being seen together. No reliable observation placed the appellant near the scene at the time of death. Although articles were recovered, no blood was found on them. Neither the burden concerning special knowledge nor conjecture could supply these missing links. The prosecution failed to prove guilt beyond reasonable doubt, including on the charge under Section 201.

6. Relief : The Hon'ble High Court allowed the appeal, set aside the convictions and sentences dated 9 June 2010, and acquitted Ashish Pathak of the offences under Sections 302 and 201 IPC. It directed his immediate release in this case if he was still imprisoned in connection with it; otherwise, his bail bonds were discharged. The judgment and record were to be sent to the trial court. The Court noted an earlier order in 2016 concerning a separate case under Section 307 and his apparent subsequent release, but did not adjudicate that prosecution.

Ashish Pathak v. The State of Madhya Pradesh, Cr.A. no. 159/2011, 16/10/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (71) Prev Next

Headnote :- Contract and cheating — second advance before performance - The buyer alleged that it paid Rs 22 lakh for 50 tonnes of steel but received only 25 tonnes, valued at Rs 15,94,740. It then paid Rs 45 lakh for another 60 tonnes. The supplier admitted that at least 50 tonnes remained undelivered. He had accepted the further advance before completing the earlier order, and thereafter neither supplied the goods over a prolonged period nor refunded the money. On these facts, the Court found prima facie material indicating a dishonest intention from the outset for the purposes of Section 420 IPC. Mere breach of contract would not suffice; the Court did not finally determine dishonesty.

Merchant breach of trust — advance funds - The Court considered Sections 405 and 409 IPC. Substantial payments entrusted to a merchant had been retained without corresponding delivery or refund. At the quashing stage, the Court held that these circumstances were sufficient for the prosecution for criminal breach of trust to continue. Conversion of the funds and the final accounts remained to be proved.

Section 482 — civil overlap - *Kamlesh Kumari* and *R. Kalyani* distinguish a purely civil breach from criminal allegations arising out of a contract that also gives civil remedies. A charge-sheet had already been filed, and the shortfall in supply was admitted. Describing the dispute as civil did not, by itself, justify quashing. The application was dismissed.

Case-note :- ***1. Facts :*** Ashish Sanghi applied under Section 482 CrPC to quash Crime No. 215/2023 at Rewa under Sections 420 and 409 IPC. The police had filed a charge-sheet. The complainant alleged that it transferred Rs 22 lakh through the bank for 50 tonnes of sariya but received only 25 tonnes, valued at Rs 15,94,740. It later transferred Rs 45 lakh for another 60 tonnes, but received neither that supply nor a refund of the balance. Counsel admitted that the full contracted quantity had not been supplied and that at least 50 tonnes remained to be dispatched. He nevertheless contended that the dispute was purely civil. The Court considered the bank advances and repeated failure to supply at the quashing stage; it did not conduct a final accounting or determine guilt.

2. Precedents — Considered : *Kamlesh Kumari v. State of U.P., (2015) 13 SCC 689*, was applied by analogy. It concerned substantial advances retained after an obligation to sell property had not been fulfilled and a charge-sheet had been filed. That decision distinguished *Ram Biraji Devi* on the facts. Its quotation from *R. Kalyani v. Janak C. Mehta* explained that the power under Section 482 should be exercised sparingly, that the allegations in the FIR must be considered at face value, and that a civil dispute may also disclose a criminal offence. The Court also cited *Hemant Singh v. Raghvendra Singh*, a Madhya Pradesh High Court decision, for a similar inference from receipt of an advance followed by failure to perform or refund. The present judgment did not lay down a general rule that every failure to repay a contractual advance establishes a dishonest intention from the beginning.

3. Statutes considered : Section 420 IPC concerns cheating and dishonest inducement to deliver property. Section 405 defines criminal breach of trust through dishonest misappropriation or conversion of entrusted property. Section 409 provides aggravated liability where the person acts as a merchant, banker or in another listed capacity. Section 482 CrPC governed the application invoking the Court's inherent powers. Although a charge-sheet had been filed, the order did not finally decide the admissibility of the bank records, whether the funds had actually been used personally, the exact loss or proof of the offences.

4. Issues : Whether the sequence showed only failure to perform a contract or whether taking another substantial advance before completing the first supply, followed by retention without delivery or refund, indicated dishonesty from the outset; whether a merchant's receipt and alleged misapplication of advances could attract Section 409; and whether civil remedies barred the criminal

proceedings. The Court considered whether there was a prima facie case, rather than finally resolving the disputed intention.

5. Ratio / Findings : The Court acknowledged the need to discourage attempts to turn civil disputes into criminal cases and stated that mere breach of contract is not cheating. Here, however, the applicant accepted a further Rs 45 lakh before delivering the quantity covered by the first advance. Although the payments had been made in 2022, he admitted at the hearing that substantial supplies remained outstanding, and he had not refunded the money. The Court inferred prima facie that he had a dishonest intention when accepting the additional advance and that his retention of the entrusted funds as a merchant could amount to criminal breach of trust. Under *Kamlesh Kumari*, the existence of civil remedies did not, by itself, justify quashing a case that disclosed a cognizable offence and in which a charge-sheet had been filed. The suggestion that the money was being used personally was an inference from its retention at this stage. The Court had not traced the funds or finally determined the applicant's state of mind.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The FIR and charge-sheet proceedings under Sections 420 and 409 IPC continued. It ordered no repayment and decided no contractual claim. Guilt remained for the trial court to determine.

Ashish Sanghi v. State of Madhya Pradesh and Ors., M.Cr.C. no. 7682/2024, 21/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (72) Prev Next

Headnote :- Cross-FIRs — timing and identity — quashing - Both FIRs referred to the confrontation on 8 July 2021. The father's report was lodged at 20:28 and the complainant's at 22:49. The Court held that this sequence, the pending property suit and her later identification of Chhotu as Ashish in a statement under Section 164 did not, by themselves, establish that her report was a false counterblast. Those disputed facts required evidence at trial. Section 528 BNSS/Section 482 CrPC did not permit the High Court to conduct a detailed inquiry into the truth of the rival accounts.

Mala fides — cognizable allegations - *Renu Kumari*, drawing on *R.P. Kapur* and *Bhajan Lal*, explains that the informant's motive is secondary when the allegations, taken at face value, disclose an offence. If a mutual free fight is proved, liability must be assessed by reference to each person's own acts. The High Court did not find that this defence had been established. It dismissed the application to quash FIR No. 382/2021 and RCT No. 5794/2023.

Case-note :- ***1. Facts :*** Ashish Sharma applied under Section 528 BNSS, 2023 (corresponding to Section 482 CrPC), to quash Gwalior Crime No. 382/2021 and RCT No. 5794/2023 under IPC Sections 451, 294, 323, 506, 354, 354B and 34. His father and the complainant disputed title to a house containing a temple. A later civil appellate injunction required them to maintain status quo and prohibited the creation of third-party rights. Both sides lodged FIRs after a confrontation on 8 July 2021: his father's Crime No. 381/2021 at 20:28 and the complainant's Crime No. 382/2021 at 22:49. Ashish contended that her report was retaliatory. He submitted that she had first identified him as Chhotu alias Aashish in a later statement under Section 164, after documents had been produced to show that his brother Abhishek was in Bengaluru. Charge-sheets had been filed in both cases. The High Court considered whether these circumstances justified quashing at that stage.

2. Precedents — Considered : *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted extensively on the exceptional exercise of power under Section 482, including its discussion of the *R.P. Kapur* categories and *Bhajan Lal* illustrations. It explains that the informant's alleged mala fides cannot, by themselves, justify quashing where the allegations disclose a cognizable offence. The Court also cited *XYZ v. State of Gujarat*, *S. Martin*, *Ajay Kumar Das*, *Gourishetty Mahesh*, *Amit Kapoor*, *S. Khushboo* and other Supreme Court decisions for the limited inquiry into allegations taken at face value. Applying those principles, it declined to determine the disputed identity and competing accounts by conducting a mini-trial.

3. Statutes considered : Section 528 BNSS preserved the inherent power corresponding to Section 482 CrPC. IPC Sections 451, 294, 323, 506, 354, 354B and 34 were the provisions invoked for the complainant's allegations concerning house entry, abuse, assault, intimidation, sexual conduct and common intention. The complainant's later statement under Section 164 CrPC identified the applicant. The civil status-quo injunction governed the property dispute; it did not determine criminal responsibility. The rival FIRs and the charge-sheets filed in them remained separate proceedings.

4. Issues : Whether the interval of two hours between the FIRs established that the complainant's report was a malicious counterblast; whether her later clarification of Ashish's identity, after production of an alibi document concerning his brother, required quashing; and whether the title suit or the possibility of mutual fighting displaced the cognizable offences disclosed by the allegations taken at face value. The Court treated these matters as disputed factual defences requiring evidence, rather than conclusive grounds for exercising its inherent power to quash.

5. Ratio / Findings : Both FIRs described an incident between 5:15 and 5:30 p.m. on 8 July. The occurrence of an encounter was therefore common ground, but the earlier filing of one FIR did not establish the truth of that side's account. The delayed clarification of identity and the plea that the property dispute had prompted a false counterblast raised disputed questions of fact. The High Court could not determine them in proceedings invoking its inherent power. Applying *Renu Kumari*, it held that the informant's alleged mala fides were secondary where the allegations disclosed offences. The Court observed that, if a mutual free fight was ultimately proved, each person would be responsible for his own acts and vicarious liability would not apply. It did not find that such a fight had been established. The alleged offences and the disputed identity evidence remained for trial.

6. Relief : The Hon'ble High Court dismissed the application under Section 528 BNSS. Crime No. 382/2021, the charge-sheet filed in it and RCT No. 5794/2023 continued. The Court made no finding of guilt, did not establish that the report was a counterblast and did not decide civil title. It did not adjudicate the father's cross-case in this order.

Ashish Sharma v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 45704/2024, 18/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (73) Prev Next

Headnote :- Criminal Procedure Code — Sections 227–228 — framing of charge - The judge may sift the prosecution material to determine whether the alleged facts disclose the offence and raise grave suspicion. The judge must not conduct a mini-trial or require the proof needed for conviction. Applying *Prafulla Kumar Samal*, *Ramesh Singh*, *Soma Chakravarty* and *Shoraj Singh Ahlawat*, the Court distinguished strong suspicion from mere suspicion that an offence was possible. The applicant disputed the attribution of a CDR number to him. On a prima facie assessment of the alleged continuing harassment and threats of disclosure, the Court upheld the charge.

Indian Penal Code — Sections 306 and 107 — instigation of suicide - Instigation requires a positive intentional act or a continuing course of conduct, with a causal connection to the suicide. An isolated angry remark, ordinary discord or harassment alone is insufficient. The charge-sheet alleged repeated calls, pressure for a physical relationship and threats to disclose an alleged relationship, despite objections from the deceased and her husband. The woman subsequently died by consuming poison. On these allegations, the Court held that instigation could prima facie be inferred. It upheld the charge under Section 306 and dismissed the revision. Ownership of the telephone number, mens rea and causation remained to be proved at trial.

Case-note :- ***1. Facts :*** On 09.02.2021, the First Additional Sessions Judge, Ganjbasoda, District Vidisha, framed a charge under Section 306 IPC against Ashok Ahirwar in S.T. No. 77/2020. The charge-sheet alleged that he pressured the deceased woman to enter a physical relationship and threatened to disclose what it described as an illicit relationship between them. The State relied on her husband's statement that Ashok continued to telephone and harass her despite his repeated objections. The husband had suggested that Ashok touch her feet to dispel his suspicion, but Ashok allegedly refused. After the husband learned of the matter, the woman consumed poison and died. The police filed call-detail records. In revision under Sections 397 and 401 CrPC, Ashok argued that no material linked mobile number 7724041619 to him. The State submitted that the husband's statement and the repeated calls supplied sufficient material to frame the charge. These were allegations and prosecution material at a preliminary stage. The Court did not determine whether the alleged relationship existed or who was the legal subscriber to the number.

2. Precedents — Considered : On framing a charge, *Ajay Kumar Parmar v. State of Rajasthan, AIR 2013 SC 633*, was quoted for the judicial duty, at cognizance, to examine the case diary and statements without deciding which evidence to believe. *Soma Chakravarty v. State through CBI, 2007 AIR SCW*

3683, distinguished material suggesting that the accused might have committed the offence, sufficient for a charge, from proof beyond reasonable doubt required for conviction. *P. Vijayan v. State of Kerala, 2010 Cri LJ 1427*, permits discharge where two possible views give rise only to suspicion rather than grave suspicion. The judge must sift the material and cannot simply act as a post office for the prosecution. *State of Bihar v. Ramesh Singh, AIR 1977 SC 2018*, explains that strong suspicion cannot replace proof at trial, but may justify proceeding where the proposed evidence, if accepted, could constitute the offence. *Union of India v. Prafulla Kumar Samal, AIR 1979 SC 366*, recognises limited sifting, consideration of broad probabilities and notice of basic infirmities under Section 227, without weighing the evidence as at trial. *Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya, AIR 1990 SC 1869*, similarly requires the facts, taken at face value, to be tested against the ingredients of the offence, without marshalling the evidence as at the end of trial. *Shoraj Singh Ahlawat v. State of U.P., AIR 2013 SC 52*, discusses Sections 239–240 alongside Sections 227–228. It quotes *Onkar Nath Mishra* on strong suspicion, *Som Nath Thapa* on commission of the offence as a probable consequence, *Mohanlal Soni* on the prima facie inquiry and *Debendra Nath Padhi* on the exclusion of fresh defence material at the charge stage. The quotation also reproduces *Rumi Dhar* and *Prafulla Kumar Samal*. The High Court applied their common standard for framing a charge, without importing their unrelated facts.

On abetment of suicide, *Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605*, explains instigation as goading, urging, provoking or encouraging. It may be inferred from continuing conduct that leaves the deceased with no alternative, but an angry remark without an intention that its consequences should follow is insufficient. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, emphasises the accused's intention and permits an inference from the particular circumstances, without a rigid formula, especially when only a tentative view is permissible on quashing. *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, explains the three forms of abetment under Section 107 and requires mens rea for instigation. *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750*, *M. Mohan v. State, AIR 2011 SC 1238*, and *Amalendu Pal v. State of W.B., (2010) 1 SCC 707*, require a positive or active act, a clear mental element and a connection between the accused's conduct and the suicide; harassment alone or ordinary friction does not suffice. *Amalendu Pal* requires a positive act proximate to the suicide before conviction. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, cautions against treating hypersensitivity to ordinary discord as proof of abetment. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, explains instigation, conspiracy and intentional aid as the three alternatives under Section 107, and their connection with Section 109. *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, considers these principles at the tentative stage of a charge or a request for quashing. It recognises that instigation may be inferred from sustained conduct without finally deciding the merits. The High Court held that the alleged repeated calls and threats of exposure could satisfy that preliminary standard, leaving proof for trial. *Iqbal Singh*, *Surender*, *Sonti Rama Krishna* and *Ramesh Kumar* appear within the extended quotations; they were not separately applied to the facts by the High Court.

3. Statutes considered : Sections 397 and 401 CrPC conferred revisional jurisdiction over the Sessions order dated 09.02.2021. Sections 227 and 228 CrPC governed discharge and framing of the charge in this Sessions trial. The inquiry concerned sufficient ground to proceed and a basis for presuming commission of the offence, rather than guilt. The quoted Supreme Court discussion also compares Sections 239 and 240 CrPC, which concern warrant cases instituted on a police report; that comparison did not alter the Sessions forum here. Section 306 IPC punishes abetment where suicide occurs. Section 107 IPC defines abetment through instigation, conspiracy followed by an act or illegal omission in pursuance of it, or intentional aid. Its explanations address wilful misrepresentation or concealment and conduct facilitating the offence. Section 109 IPC appears in the *Kishori Lal* quotation: where the abetted act occurs in consequence of the abetment and no express provision prescribes punishment for that abetment, the punishment for the original offence applies. It was not separately charged here. The High Court examined alleged instigation under Section 107; it did not find conspiracy or intentional aid proved.

4. Issues : Whether the material, assessed by the standard applicable to framing a charge, raised grave suspicion that Ashok had abetted the suicide under Sections 306 and 107; whether the repeated calls,

pressure and threats of disclosure could amount to intentional instigation connected with the woman's suicide, rather than harassment alone or ordinary discord; and whether the absence of a document independently establishing that the mobile number belonged to Ashok required discharge at that stage. The revision did not require the High Court to decide guilt beyond reasonable doubt or finally determine the accuracy of the husband's statement.

5. Ratio / Findings : The Court first explained the limited inquiry under Sections 227–228. A judge may examine prosecution material and basic infirmities to decide whether the alleged facts disclose the offence and raise grave or strong suspicion. The judge must neither predict conviction nor weigh the evidence meticulously. Suspicion without the ingredients of the offence is insufficient, but a presumption founded on the material may justify a trial. The Court then examined the Section 306 charge in light of Section 107 and the Supreme Court's requirements of affirmative instigation or intentional facilitation, mens rea and a connection with the suicide. The charge-sheet alleged repeated telephone harassment despite objections from the woman and her husband, pressure for a sexual relationship and threats to disclose a relationship. The woman consumed poison after her husband learned of the matter. The Court held that continuing harassment despite those objections might amount to abetment and that a threat of disclosure would, on the alleged facts, prima facie amount to abetment. It therefore found sufficient material in the continuing harassment and alleged threat to warrant prosecution. Ashok disputed ownership of number 7724041619; the State relied on the husband's account of repeated calls and harassment. The Court did not find the telephone subscription, alleged illicit relationship, causative intention or precise sequence proved. The requirements stated in *Gangula Mohan Reddy*, *M. Mohan* and *Amalendu Pal* continued to govern proof at trial; the tentative inference supporting a charge did not reduce the prosecution's ultimate burden. The Sessions order disclosed no jurisdictional error.

6. Relief : The Hon’ble High Court affirmed the order dated 09.02.2021 passed by the First Additional Sessions Judge in S.T. No. 77/2020, framing the charge under Section 306 IPC, and dismissed the criminal revision. The prosecution was to proceed to trial. The identity and significance of the CDR number, the testimony, intention, proximity and other elements remained open for proof. The Court entered no conviction or sentence.

Ashok Ahirwar v. State of M.P. and Others, Cr.R. no. 932/2021, 08/04/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (74) Prev Next

Headnote :- Indian Penal Code — Sections 390, 391 and 395 — theft becoming robbery and dacoity - In his police statement, the complainant alleged that armed persons were removing Babool timber and threatened to kill and cut him when he confronted them during its removal. The High Court held that the threat, made to enable them to carry away the wood, prima facie supplied the fear of instant harm required by Section 390. It found the ingredients of dacoity under Section 395 available at that stage. The Court set aside the Magistrate's refusal to take cognizance under Section 395 and directed committal to the Sessions Court. It did not decide guilt.

Criminal Procedure Code — additional charge and threshold review - *M.E. Shivalingamurthy*, *Soma Chakravarty*, *Shiv Charan Bansal* and *Fatehkaran Mehdu* require grave suspicion founded on material and a limited judicial examination of the offence ingredients. The Court must not assess the probative value of the evidence as at trial or predict conviction. Here, the FIR and the statement under Section 161 supplied sufficient material at that stage. The revisional court's order upholding the Magistrate's refusal could therefore not stand.

Case-note :- ***1. Facts :*** Ashok Kumar Tripathi alleged that, on 22.06.2017, armed persons entered his field near Rampur Baghelan and cut Babool trees with an electric saw. After a neighbour informed him, he reached the field and found that some timber had already been removed and the rest was being carried away. He alleged that some persons carried lathi, farsa, danda and tangi. They abused him and threatened to kill or cut him if he approached. They also damaged the boundary markings, ploughed part of his land and loaded the timber onto a tractor. He stated that FIR No. 326/2018 under Section 379 IPC had been registered after he contacted the CM Helpline. The police filed a charge-sheet under Section 379. In an application under Sections 190 and 323 CrPC, he sought cognizance also under Sections 395, 447, 294, 506 Part II, 427 and 149 IPC. The JMFC, Rampur Baghelan, partly allowed the

application, but on 06.09.2019 refused to take cognizance under Section 395, holding that the record disclosed neither the requisite voluntary violence nor fear of instant death, hurt or restraint. On 16.07.2022, the Additional Sessions Judge dismissed Criminal Revision No. 4/2021. Ashok challenged both orders under Section 482, relying particularly on his statement under Section 161 that the threats were made when he objected. The respondents submitted that the police had charged only theft and that the ingredients of dacoity were absent.

2. Precedents — Considered : *M.E. Shivalingamurthy v. CBI, Bengaluru, (2020) 2 SCC 768*, was quoted extensively on charge and discharge, drawing on *P. Vijayan*. Where two plausible views leave only suspicion rather than grave suspicion, discharge is permissible; material supporting grave suspicion may justify a charge. The judge must apply judicial mind, sift police statements and documents, consider broad probabilities and basic infirmities, and ask whether the prosecution material, accepted at face value, could constitute the offence. The judge cannot act merely as a post office for the prosecution or conduct a mini-trial by weighing probative value or a likely defence. The quotation also explains that submissions under Section 227 are confined to prosecution material, referring to *Debendra Nath Padhi* and *Sudershan Chakkar.* Those were authorities within the quotation; the High Court did not separately decide an issue about fresh defence evidence here. *Soma Chakravarty v. State through CBI, (2007) 5 SCC 403*, was separately quoted for the distinction between material suggesting that an accused might have committed an offence and proof beyond reasonable doubt required for conviction. It also requires factual material supporting the accused's role and the ingredients; bare suspicion does not suffice. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, permits limited sifting under Sections 227–228 to determine grave suspicion and whether the allegations, taken at face value, disclose the offence, without meticulous weighing. Its extract discusses *Ramesh Singh* and *Dipakbhai Jagdishchandra Patel*, requiring material capable of becoming evidence at trial, rather than a prediction of conviction. *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, explains that review under Section 397 after a charge concerns material suggesting strong suspicion of an offence, not certainty of guilt. The High Court applied these standards in correcting the refusal to take additional cognizance under Section 395 and to commit the case to Sessions. It did not use the facts of the cited decisions as proof of the allegations about timber removal.

3. Statutes considered : Section 379 IPC was the provision under which the police charged theft. Section 390 specifies the additional violence or fear of instant violence that turns theft into robbery, including where it is used for carrying away stolen property. The Court reproduced the separate branch concerning extortion, but the allegation here concerned taking timber, rather than inducing delivery by extortion. Section 391 defines dacoity where at least five persons conjointly commit or attempt robbery, counting those present and aiding the commission or attempt. Section 395 prescribes the punishment. The Court observed that the number of participants distinguishes dacoity from robbery. The application also invoked Sections 447, 294, 506 Part II, 427 and 149 IPC, but the High Court's reasoning and relief concerned Section 395; it did not independently decide those other offences. The complainant's recorded allegation was contained in a statement under Section 161 CrPC. Sections 190 and 323 were invoked for further cognizance and committal, and Section 482 for the High Court challenge to the lower orders. The Supreme Court extracts refer to Sections 227 and 228 on charge and discharge and Section 397 on revisional review. Those standards informed the preliminary inquiry without altering the procedural history of this case.

4. Issues : Whether the FIR and the statement under Section 161, alleging threats with weapons during the removal of timber, disclosed the fear of instant harm required for theft to become robbery under Section 390; whether the Magistrate and revisional court erred in finding that the recorded allegations lacked the necessary ingredients; and, if Section 395 was attracted, which court should try the case. The inquiry concerned the legal sufficiency of the alleged facts, rather than ownership of the timber or ultimate culpability.

5. Ratio / Findings : The Court distinguished the statutory requirements. Section 390 concerns the specified immediate violence or threats used for theft or for carrying away property obtained by theft. Section 391 requires at least five persons acting conjointly, including persons present and aiding. The JMFC had found no allegation of the required

immediate fear. Reading the FIR with Ashok's statement under Section 161, the High Court noted the account of an armed group cutting and carrying away Babool wood. Four accused allegedly abused him and threatened to kill and cut him if he approached; Chotkawa Kol, who was at the saw, also threatened to cut him. In the context of the ongoing removal, the Court found the threats prima facie sufficient for theft to become robbery under Section 390 and for the offence of dacoity under Section 395. Applying the Supreme Court standards, it held that the police decision to charge only under Section 379 did not prevent judicial cognizance of a further offence disclosed by the material. The permissible inquiry was limited sifting for the ingredients and grave suspicion, without proof sufficient for conviction. The recorded threats supplied those ingredients prima facie. The revisional order had not corrected the material illegality in refusing cognizance. As Section 395 was triable by Sessions, the Magistrate was required to take cognizance and commit the case. The Court did not determine ownership of the trees, accept the allegations as credible after testing, or find any defendant guilty.

6. Relief : The Hon'ble High Court set aside the Additional Sessions Judge's order dated 16.07.2022 in Criminal Revision No. 4/2021 and the JMFC's order dated 06.09.2019 in RCT No. 326/2018. It directed the trial court to take cognizance under Section 395 IPC and commit the case to the Sessions Court. The application under Section 482 was disposed of. The allegations and defences remained for examination at trial. The High Court entered no conviction or sentence.

Ashok Kumar Tripathi v. Chhotelal and Others, M.Cr.C. no. 40369/2022, 15/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (75) Prev Next

Headnote :- Charge — Section 91 CrPC production - Under *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, whether a document is necessary or desirable depends on the stage of the proceedings and the party seeking it. An accused ordinarily cannot compel production of defence material at the stage of framing a charge to establish innocence. *Nitya Dharmananda v. Gopal Sheelum Reddy, (2018) 2 SCC 93*, permits the court, on its own satisfaction, to call for material of sterling quality withheld from the prosecution record if it has a crucial bearing on the charge. That exception gives the accused no unrestricted right to production. Here, the private transaction diary and disputed signatures did not justify invoking the exception, particularly in view of the specific ocular allegations of cheating. The revision against refusal of production was dismissed.

Case-note :- ***1. Facts :*** Ashok Mandhwani and the other applicants faced a Sessions prosecution for cheating in Sessions Case No. 932/2015. After investigation and filing of the charge-sheet, they applied under Section 91 CrPC, at the stage of framing a charge, for production of a diary recording amounts received by a company. They relied on witnesses' statements that more money had been paid than was recorded in the diary and sought to establish that the entries did not bear their signatures. On 10 October 2018, the XII Additional Sessions Judge, Indore, rejected the application. In Criminal Revision No. 220 of 2019, under Sections 397/401 read with 482 CrPC, the applicants challenged that order and also sought allowance of an application under Section 205. The High Court considered the request for production under Section 91 and dismissed the revision, whose prayer also sought Section 205 relief.

2. Precedents — Considered : *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was followed for the rule that necessity or desirability under Section 91 depends on the stage and on who seeks production. At the stage of framing a charge under Section 227, the relevant prosecution record is that supplied under Section 173. The accused ordinarily cannot use Section 91 to summon documents to establish a defence or innocence at that stage. The applicants relied on *Nitya Dharmananda alias K. Lenin v. Gopal Sheelum Reddy alias Nithya Bhaktananda, (2018) 2 SCC 93*, which permits the court to call for material of sterling quality withheld by the investigator or prosecutor, even if it was not filed with the charge-sheet, where it is crucial to deciding the charge. The High Court recognised that limited exception but emphasised that it depends on the court's satisfaction and creates no independent defence right. It found no ground for applying the exception to the requested diary.

3. Statutes considered : Section 91 CrPC permits compulsory production of a document when necessary or desirable for the investigation, inquiry, trial or other proceeding concerned. Its use at the stage of framing a charge is limited by the nature of

that inquiry. Sections 173 and 227 CrPC concern the police record and the Sessions charge inquiry discussed in *Debendra Nath Padhi*. Sections 397/401 governed the revision, and Section 482 was also invoked. Section 205 appeared in the applicants' prayer.

4. Issues : Whether the accused could require production of a private diary under Section 91 before framing of the charge in order to dispute their connection with its entries; and whether the exception in *Nitya Dharmananda* for crucial, withheld material of sterling quality warranted production despite the ordinary restriction at that stage.

5. Ratio / Findings : Following *Debendra Nath Padhi*, the Court held that defence material ordinarily falls outside the inquiry at the stage of framing a charge. The accused cannot invoke Section 91 merely to establish innocence then. The Court recognised the limited exception in *Nitya Dharmananda* where it is satisfied that material withheld from the police report is of sterling quality and crucial to deciding the charge. The diary sought here was a private document, rather than a public document of which judicial notice could be taken. Even if subordinates had signed the entries on an applicant's instructions, that fact alone would not deprive the diary of probative value against the applicants. Specific ocular allegations of cheating remained. The Court was not satisfied that the request concerned crucial withheld material warranting production and found no illegality in the trial court's refusal. These findings concerned the charge stage; they did not finally determine guilt or the diary's evidentiary value at trial.

6. Relief : The Hon'ble High Court dismissed the criminal revision and vacated the interim stay dated 23 January 2019. As the proceedings had been stayed, it directed the applicants to appear before the trial court on 14 October 2024. If they failed to appear, the trial court was free to take coercive steps to secure their attendance. A copy of the order was to be sent to the trial court. The dismissal disposed of the revision, whose prayer also sought relief under Section 205.

Ashok Mandhwani and Ors. v. The State of Madhya Pradesh, Cr.R. no. 220/2019, 12/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (76) Prev Next

Headnote :- Quashing — matrimonial FIR after divorce proceedings - *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, distinguishes civil and criminal proceedings and the standards of proof applicable to them. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, holds that delay while attempting reconciliation and the husband's filing of a divorce petition do not, by themselves, justify quashing a criminal complaint. Here, the divorce petition had been dismissed for default before the FIR was registered. The FIR contained specific allegations, and its timing did not establish that it was a counterblast.

Cruelty — continuing mental harm after leaving matrimonial home - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, recognises that Section 498-A IPC encompasses mental as well as physical cruelty. The effects of being driven from the matrimonial home may continue while the wife stays with her parents. The allegations here concerned a demand for Rs. 10 lakh, harassment over the child's condition, assault and being compelled to remain at the parental home. They supplied grounds for refusing quashing at the preliminary stage, without deciding guilt.

Case-note :- ***1. Facts :*** The complainant married in July 2013. She alleged that, after the birth of a child with disabilities, her husband and named relatives taunted her about the cost of the child's treatment, demanded Rs. 10 lakh from her father, assaulted or harassed her and threatened her. She also alleged that her husband repeatedly subjected her to non-consensual unnatural sexual acts and threatened her. In July 2020, she and the child were left at her parental home. She stated that her husband would not take her back unless she brought money. Crime No. 741/2021 was registered in December 2021 at City Kotwali, Shivpuri, under IPC Sections 498-A, 377, 506 and 34 and Sections 3/4 of the Dowry Prohibition Act. The applicants sought quashing under Section 482, asserting that they lived separately and pointing to financial support provided by the husband. They also relied on a police circular said to require reconciliation before registration of the FIR and claimed that the complaint retaliated against the husband's divorce petition filed in September 2020. That petition had been dismissed for default on 9 November 2021. A connected anticipatory bail matter concerned a scheduled attempt at reconciliation with the husband; the parties disputed his willingness to participate.

2. Precedents — Considered : Counsel relied on *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, together with a police circular, to claim that reconciliation was required before registration of the FIR. The Court relied *on Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, which distinguishes the nature and standards of proof of civil and criminal proceedings and rejects quashing merely because civil proceedings exist. Its quotation discusses *M.S. Sheriff v. State of Madras and the* general preference for prompt criminal proceedings, subject to the circumstances of each case. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, rejects an adverse inference merely from a wife's delay while seeking settlement or from the husband's divorce petition. It also cautions against quashing under Section 482 on considerations outside the FIR's allegations. The High Court applied that reasoning to the sequence here. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explains that mental cruelty under Section 498-A may continue after the wife takes shelter with her parents, and discusses recognition of those consequences under Section 179 CrPC. The High Court applied its cruelty principle to the alleged dowry-related exclusion. It did not treat any precedent as establishing the applicants' guilt.

3. Statutes considered : Section 482 CrPC supplied the limited inherent jurisdiction invoked for quashing. The allegations of physical and mental cruelty and dowry harassment were considered under Section 498-A IPC. Sections 377, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act were the other provisions invoked in the FIR. Section 179 CrPC appears in the *Rupali Devi* quotation concerning continuing consequences and territorial venue; venue was not separately disputed here. The husband's divorce proceeding was civil and governed by a different standard of proof.

4. Issues : Whether registration of the FIR after the divorce petition established a retaliatory counterblast warranting quashing; whether the specific allegations disclosed cruelty and dowry harassment despite the applicants' claims of separate residence and financial support; and whether the alleged exclusion for non-payment of dowry, with continuing distress at the parental home, was relevant to Section 498-A at the preliminary stage.

5. Ratio / Findings : Although the divorce petition preceded the FIR, it had already been dismissed for default. The Court held that a wife's patience while hoping to preserve her marriage should not count against her. Applying *Kamaladevi Agarwal* and *Pratibha*, it held that civil litigation or its timing could not, by itself, displace a criminal complaint containing specific allegations. The FIR attributed physical and mental harassment and a monetary demand to the applicants. The Court observed that compelling a married woman to live with her parents because dowry had not been supplied could itself amount to cruelty. It applied *Rupali Devi*'s recognition that mental trauma may continue after a wife leaves the matrimonial home. Because the FIR contained specific allegations, the Court refused quashing despite the submissions about separate residence and payments. Its remarks about the connected reconciliation attempt provided context; they did not finally determine criminal culpability.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 to quash Crime No. 741/2021. The FIR and criminal process remained in force. The Court made no final finding that any applicant had committed the alleged acts. This judgment did not separately decide the husband's connected application for anticipatory bail.

Ashok Sharma and Ors. v. State of M.P. and Ors., M.Cr.C. no. 62886/2021, 21/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (77) Prev Next

Headnote :- Unsoundness of mind — Section 84 IPC - *Sudhakaran v. State of Kerala, (2010) 10 SCC 582, Ratanlal v. State of M.P., (1970) 3 SCC 533*, and *Hari Singh Gond v. State of M.P., (2008) 16 SCC 109*, distinguish a medical illness from incapacity to know the nature of an act or that it is wrong or contrary to law at the time it is done. Conduct and treatment close to that time may establish the required incapacity; unusual conduct alone is insufficient. Having found that the appellant caused the two fatal shootings, the Court considered the doctor's evidence of bipolar affective disorder together with the surrounding conduct. It held that the appellant was incapable of knowing the nature or wrongfulness of his acts at the material time and acquitted him under Section 84.

Burden — insanity exception - *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, as explained in *Bhikari v. State of U.P., AIR 1966 SC 1*, and *Shrikant Anandrao Bhosale v. State of Maharashtra, (2002) 7 SCC 748*, requires the accused to establish the Section 84 exception on a

preponderance of probabilities under Section 105 of the Evidence Act. The prosecution retains the burden of proving guilt, including the requisite mens rea, beyond reasonable doubt. Even evidence insufficient to establish the exception may raise a reasonable doubt about an ingredient of the offence. Here, the Court found the exception established.

Judicial inquiry — Section 165 Evidence Act - When the evidence raises a credible question about the accused's mental state, the judge may question witnesses or call for material to clarify the relevant facts. The judgment must nevertheless rest on relevant facts duly proved in accordance with the Act. The Court emphasised the need for active clarification of the appellant's psychiatric evidence. On acquitting him, it also directed that his continuing treatment be provided at State expense.

Case-note :- ***1. Facts :*** Ashok Singh appealed against his conviction dated 18 May 2010 in Sessions Trial No. 20/2004 for two murders under Section 302 IPC and attempted murder under Section 307. He had been sentenced to life imprisonment and five years' imprisonment, with fines, the terms to run concurrently. The prosecution alleged that, following a neighbourhood quarrel in October 2003, he fired at Rajabhaiya's young son Monu, who died. He later fired from his terrace at Vishal, who also died. A co-accused allegedly fired at Rajabhaiya but did not hit him. The complainant died before he could testify, but the trial court had other eyewitness testimony, post-mortem evidence and documents. Ashok challenged that evidence, sought conviction under Section 304 Part II as an alternative, and relied on a mental disorder that predated the incident. A treating doctor described bipolar affective disorder, admission to hospital on 18 October 2003, further treatment in 2004 and an abnormal mental state around the time of the incident. The trial had also been stayed for a period because of his mental condition. The Court considered his conduct after the shootings and the jail records.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, distinguishes the intention to inflict the particular injury from the objective question whether that injury is sufficient in the ordinary course of nature to cause death under Section 300 Thirdly. *Arun Nivalaji More* and the other homicide decisions, including *Anda, Mahesh Balmiki, Dhirajbhai Gorakhbhai Nayak, Pulicherla Nagaraju, Sangapagu Anjaiah* and *Bavisetti Kameswara Rao*, were cited on the distinction under Sections 299/300, the inference of intention from the weapon and injury, and the proposed conversion to Section 304. That discussion did not displace the Section 84 exception established on the evidence. *Bhikari v. State of U.P., AIR 1966 SC 1*, explaining *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat, AIR 1964 SC 1563*, places the burden of establishing the exception on the accused under Section 105, to the standard applicable in civil proceedings, while preserving the prosecution's ultimate burden to prove mens rea. The Orissa High Court's *Ajaya Mahakud* distinguished legal insanity from medical insanity. *Sudhakaran v. State of Kerala, (2010) 10 SCC 582*, likewise distinguishes a psychiatric diagnosis from the incapacity required by Section 84. *Ratanlal v. State of M.P., (1970) 3 SCC 533*, identifies the time of the act as the crucial time. Through *Ram Bahadur Thapa*, the judgment reproduced the discussion in *Hari Singh Gond v. State of M.P., (2008) 16 SCC 109*: conduct close to the act and medical history are relevant, whereas lack of motive or mere oddness is insufficient; a known history of insanity calls for proper medical investigation. *Shrikant Anandrao Bhosale v. State of Maharashtra, (2002) 7 SCC 748*, reiterates the accused's burden on a preponderance of probabilities and the possibility that the evidence may nevertheless create a reasonable doubt in the prosecution case. *Surendra Mishra v. State of Jharkhand, AIR 2011 SC 627*, was also cited on legal insanity and its proof. The Court used these authorities to assess the doctor's evidence and the appellant's conduct; it did not make a separate psychiatric diagnosis.

3. Statutes considered : Sections 299 and 300 IPC distinguish culpable homicide from murder. Section 300 Thirdly concerns the intention to inflict the proved injury and the objective sufficiency of that injury to cause death in the ordinary course of nature. The appeal challenged convictions under Sections 302 and 307; Section 304 Part II was proposed as a lesser alternative. Section 84 IPC exempts an act if, at the time it is done, unsoundness of mind makes the person incapable of knowing its nature or that it is wrong or contrary to law. Section 105 of the Evidence Act requires the court to presume the absence of circumstances bringing the case within the exception and places the burden of establishing them on the accused. Section 165 permits the judge to question witnesses and obtain material, subject to its safeguards; it does not dispense with proof of

relevant facts. Section 374 CrPC provided the route of appeal.

4. Issues : Whether the eyewitness and medical evidence proved that the appellant fired the fatal shots despite the complainant's death; whether the offence should be reduced from murder to culpable homicide; whether the appellant's mental condition at the time of the acts met the requirements of Section 84, rather than merely establishing a medical diagnosis or a later disorder; and how the burden under Section 105 and the judge's powers under Section 165 applied to the evidence of his mental state.

5. Ratio / Findings : The medical evidence established two homicidal gunshot deaths, and the eyewitnesses identified Ashok as the person who fired the fatal shots. The Court found that he had done the acts. It examined the principles under Sections 299/300, including *Virsa Singh*'s test under clause Thirdly, before considering the decisive general exception. Section 84 requires incapacity to know the nature or wrongfulness of the act at the time of the shooting; a psychiatric illness by itself is insufficient. The accused may establish that incapacity on a preponderance of probabilities through evidence close to the relevant time, while the prosecution retains its ultimate burden of proof. The treating doctor described bipolar disorder and abnormal behaviour around the incident. The hospital records, Ashok's conduct on the terrace after both shootings, his surrender after the police arrived and his subsequent treatment supported the finding of incapacity. Although unusual conduct alone would not suffice, the Court held on the combined evidence that he could not know the nature or wrongfulness of his acts at the material time. Section 165 permits the judge to clarify credible evidence of such a condition instead of remaining a passive spectator, but the conclusion must still rest on proof. The established Section 84 exception resulted in acquittal, leaving no need to substitute a conviction under Section 304 Part II.

6. Relief : The Hon'ble High Court allowed the criminal appeal, set aside the convictions and sentences under Sections 302 and 307 IPC, and acquitted Ashok Singh under Section 84. It directed that he be informed of the result through the Jail Superintendent and released forthwith unless required in another case. As his condition persisted, his further treatment was to be provided at State expense. A copy was to be sent to the Chief Secretary for information and compliance. A copy of the judgment, together with the trial court record, was to be sent back immediately.

Ashok Singh v. State of Madhya Pradesh, Cr.A. no. 504/2010, 10/12/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (78) Prev Next

Headnote :- Criminal trial — collateral prosecution directions and adverse remarks - The Sessions court's earlier order summoning officials and witnesses under Section 319 had been quashed. In its later judgment of acquittal, it could not use the same demolition dispute, which lay outside the charges in the murder trial, to condemn persons not facing trial, infer their conspiracy with the deceased and direct further prosecutions and departmental action without a necessary, supported and fair basis. Adopting its companion order, the High Court set aside the directions against Ashutosh in paras 77, 79 and 80. The appeal against acquittal remained separate.

Code of Criminal Procedure — Sections 195(1)(b) and 340 — Complaint concerning an **offence** affecting justice - *British v. State of Maharashtra, (2002) 1 SCC 253*, permits a court to decide whether an inquiry into a proceeding-related offence is expedient and to make a written complaint. A preliminary inquiry is discretionary. The person proceeded against has an opportunity to be heard before the Magistrate, and an appeal is available under Section 341. Here, the trial judge had not followed that procedure for false evidence. The murder-trial judgment could not instead be used to direct police registration of separate offences concerning the demolition.

Indian Penal Code — Section 99 — official act and private defence - The incorporated order rejected the Sessions court's collateral premise that demolition under an unchallenged municipal order was unlawful and gave the shooter a right of private defence. It quoted the statutory limits concerning acts done in good faith under colour of public office. It did not decide the pending appeal against acquittal or finally determine the shooter's defence.

Case-note :- ***1. Facts :*** Ashutosh Pandey applied under Section 482 CrPC to set aside the directions against him in paras 77, 79 and 80 of the judgment dated 21.02.2018 passed by the 3rd Additional

Sessions Judge, Rewa, in S.T. No. 382/2014. The High Court held that his case was covered by its decision of the same day in M.Cr.C. No. 9246/2018. It reproduced that decision in full and then separately allowed Ashutosh's application. The incorporated case arose from the arrival of a municipal team on 26.07.2014 to demolish a house said to be dilapidated, under an official order. A possession dispute involved relatives and tenants. Rajbhan Singh allegedly fired at persons present, injuring Neeraj Singh and killing Rajlallan Singh. Crime No. 451/2014 led to the trial of Rajbhan and Ranveer for murder and attempted murder. The Sessions court had earlier invoked Section 319 to summon municipal personnel and others for conspiracy or abetment, on the view that the demolition was irregular. The High Court quashed that order on 15.12.2017 in Criminal Revision No. 3463/2017. In its subsequent judgment of acquittal, however, the Sessions court again criticised the demolition and directed registration of offences under Sections 120-B, 109, 452, 429, 325 and 119 IPC, as well as departmental action against persons including Ashutosh. On 20.03.2023, the State had separately obtained leave to appeal against acquittal, and Criminal Appeal No. 4450/2023 was registered. The present order dealt with the collateral directions against Ashutosh and left that appeal's merits open.

2. Precedents — Considered : *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, was quoted at length on Section 340 CrPC. For an alleged offence falling within Section 195(1)(b), the court considers whether a further criminal inquiry is expedient in the interest of justice. It may hold a preliminary inquiry but is not bound to do so; making a complaint is also discretionary. If it decides to complain, it must record the requisite finding and send a written complaint to the competent Magistrate. The preliminary exercise does not determine guilt. The proposed accused's statutory opportunity to contest the allegation arises in the Magistrate's process under Sections 238–240 and through an appeal under Section 341; it does not confer an automatic right to be heard before the Section 340 complaint is made. The quotation refers to *M.S. Sheriff* for the caution against pronouncing guilt at that stage. The High Court distinguished this procedure from the direction to register separate offences, which was not a complaint about false evidence. *Niranjan Patnaik v. Shashibhusan Kar, (1986) 2 SCC 569*, reproduced *Mohammad Naim*'s tests for adverse remarks: an opportunity to answer, support in the record and necessity for deciding the case, together with sober expression. *Manish Dixit v. State of Rajasthan, (2001) 1 SCC 596*, requires a hearing before strictures that may seriously affect a person's career. *Amar Pal Singh v. State of U.P., (2012) 6 SCC 491*, emphasises restraint, moderation and corrective measures rather than unwarranted disparagement, particularly of a judicial officer. *State of Gujarat v. Justice R.A. Mehta, (2013) 3 SCC 1*, states the broader rule against intemperate and unnecessary remarks about parties, witnesses or courts, while preserving independent judicial decision-making. *Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SCC 417*, treats reputation as protected and sets aside disparaging remarks against persons who were not parties and had not been heard, again applying *Mohammad Naim*'s tests. The incorporated order applied these authorities to set aside unsupported collateral findings and directions against persons not facing trial. It did not read *Pritish* as requiring a prior hearing for every Section 340 complaint.

3. Statutes considered : Section 482 CrPC provided the remedy against the Sessions court's collateral directions. Its earlier order under Section 319, summoning additional persons, had been quashed before the impugned judgment. Sections 195(1)(b), 340 and 341 CrPC concern the distinct procedure for a court complaint about specified offences affecting justice and the appeal from that decision. Sections 238–240 appear in *Pritish*'s account of the subsequent proceedings before the Magistrate. The challenged police-registration directions listed Sections 120-B, 109, 452, 429, 325 and 119 IPC. Ashutosh had not been tried for those offences, and their commission was not finally adjudicated. Section 99 IPC, quoted in the incorporated reasoning, limits private defence against a public servant's act done in good faith under colour of office where no reasonable apprehension of death or grievous hurt arises. The quoted provision also addresses knowledge of the public office or authority and the limit of necessary harm. The validity of the demolition order was outside the charges in the murder trial, and the order had not been challenged in the proper forum.

4. Issues : Whether, after its Section 319 summoning order had been quashed, the Sessions court could use the judgment acquitting the murder accused to decide the validity and purpose of a municipal demolition and direct criminal and departmental

proceedings against Ashutosh and others not facing trial; whether the direction was a permissible Section 340 complaint about false evidence or an unrelated direction for investigation; what necessity, evidentiary support and opportunity to answer were required before adverse comments against witnesses or officials; and whether Section 99 permitted the trial judge to assume that demolition under an unchallenged official order was unlawful and justified the shooter. The State's pending appeal against acquittal was outside this decision.

5. Ratio / Findings : Adopting M.Cr.C. No. 9246/2018, the Court distinguished the special procedure under Section 340 from the challenged direction. Under *Pritish*, a court may make a complaint about an apparent proceeding-related false-evidence offence when an inquiry is expedient, without a mandatory preliminary inquiry or prior hearing. The Sessions court had neither identified such an offence nor followed that procedure. Instead, it revisited the supposed invalidity of the municipal demolition, although that question lay outside the murder trial's charges and the competent authority's order had not been separately set aside. The earlier Section 319 summoning order had already been quashed. The High Court found the alleged conspiracy with the deceased, said to have created the circumstances of his own murder, untenable as a basis for the collateral directions. After quoting Section 99, it observed that nothing on record supported a finding that the officials had acted without good faith under the unchallenged demolition order. The correctness of that order was outside the trial's subject matter. The High Court refrained from deciding the merits of the acquittal because the State's appeal had been registered. Applying *Niranjan Patnaik*, *Manish Dixit*, *Amar Pal Singh*, *R.A. Mehta* and *Om Prakash Chautala*, it held that adverse judicial remarks affecting reputation and careers require relevance, evidentiary support, necessity, an opportunity to explain and restrained expression. The directions against Ashutosh and the others failed those requirements and exceeded the trial court's jurisdiction. Setting them aside did not acquit anyone of a new charge or decide the murder appeal.

6. Relief : The Hon'ble High Court allowed the application and set aside, as against Ashutosh, the directions in paras 77, 79 and 80 of the Sessions judgment dated 21.02.2018 in S.T. No. 382/2014. It incorporated the reasoning in the companion M.Cr.C. No. 9246/2018, but the operative relief in this order was expressly confined to the present applicant. It did not decide the underlying acquittal or the State's pending appeal.

Ashutosh Pandey v. State of Madhya Pradesh, M.Cr.C. no. 10230/2018, 28/06/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (79) Prev Next

Headnote :- MMDR Act / compounding - Applying *Jayant v State of M.P., Criminal Appeal Nos. 824–825/2020* (3 December 2020), the Court held that Section 23-A(2) bars further proceedings for the MMDR or rule offence actually compounded, but does not bar proceedings for a distinct IPC offence such as theft under Section 379. Payment of Rs 89,375 for the mining violation therefore did not bring the criminal proceedings or the dispute over custody of the dumper to an end.

Owner's power of attorney / illegal sand transport - The power of attorney gave the driver ordinary powers to operate the dumper and deal with accident-related matters. It neither authorised criminal acts nor made the driver alone responsible for criminal liability. It had also been executed after seizure of the vehicle. On this record, it did not justify release of the dumper or absolve the owner of liability. The Court did not finally determine guilt.

Seized property / interim release - The dumper, allegedly carrying a large quantity of illegally excavated sand concealed beneath black soil, was important evidence. The High Court upheld refusal of supurdagi under Sections 451 and 457 CrPC because it considered that the applicant could destroy that evidence if the vehicle were released. Its earlier decision in *Banti* treated recovery of penalty and royalty as, at most, satisfaction of civil liability. Counsel also relied on *Sundarbhai Ambalal Desai*, *(2002) 10 SCC 283*.

Case-note :- *1. Facts :* Police at Billaua, Gwalior, registered Crime No. 137/2020 under Section 379 IPC and Section 21(4) of the MMDR Act after a dumper was found carrying about 500 feet of allegedly illegally excavated sand beneath a six-inch layer of dust or black soil. Ashwani Kumar claimed to own the Ashok Leyland dumper bearing registration MP 07 GA 3687. He submitted that the Mining Department had compounded the transportation violation and that he had paid Rs 89,375. On 11 November 2020, the Judicial

Magistrate First Class, Dabra, rejected his application for interim release under Sections 451/457 CrPC. In revision under Section 397, he contended that a power of attorney made the driver, Anil Parihar, solely responsible, and that compounding and the authority cited on release of property entitled him to supurdagi. The State opposed release, relying on concealment of the sand and the continuing criminal liability. The dumper had been seized on 18 August 2020; the power of attorney was executed later, on 1 November 2020.

2. Precedents — Considered : The Court quoted and applied the Supreme Court's five-part conclusion in *Jayant v State of Madhya Pradesh, Criminal Appeal Nos. 824–825/2020*, decided on 3 December 2020. *Jayant* distinguishes registration and investigation from cognizance under Section 22 of the MMDR Act. An authorised complaint is required when the court takes cognizance and issues process for an MMDR offence. Police may investigate, after which the authorised officer may lodge a complaint. For the present case, its directly relevant conclusion under Section 23-A was that lawful compounding bars further proceedings for the MMDR or rule offence compounded, while distinct IPC proceedings, including theft, may continue. The High Court also quoted *its* decision i*n Banti v State of MP*, MCRC 37312/2020: recovery of penalty and royalty amounts, at most, to satisfaction of civil liability and does not bar proceedings under the IPC or another statute.

3. Statutes considered : Sections 451 and 457 CrPC governed the request for interim custody of the seized dumper, and Section 397 governed the revision. Section 21(4) of the MMDR Act was the mining provision invoked in the FIR. Section 23-A concerns the limited effect of compounding, while Section 22 requires an authorised complaint at the stage of cognizance, as explained in *Jayant*. Section 379 IPC concerned the distinct allegation of theft. The order did not finally determine all the ingredients of either alleged offence or the applicant's guilt.

4. Issues : Whether compounding and payment of the MMDR penalty required the IPC proceedings to end or the dumper to be released; whether the owner's power of attorney placed responsibility for any unlawful use solely on the driver; and whether interim custody should be granted despite concealment of the load and the Court's stated need to preserve the dumper as evidence.

5. Ratio / Findings : Applying *Jayant*, the Court rejected the contention that payment of the mining penalty ended liability for a distinct IPC offence. *Banti*'s treatment of penalty and royalty as satisfaction of civil liability supported that distinction. The power of attorney conferred ordinary powers concerning operation of the dumper and accidents; it did not authorise criminal acts or make the driver alone responsible for them. Its execution after seizure was a further reason why the owner could not rely on it. The quantity of sand and its deliberate concealment were material to the custody decision. The Court regarded the dumper as important evidence that the applicant could destroy if it were returned. These findings supported refusal of interim custody; they did not finally establish that the owner had committed theft. On the facts before it, the JMFC had not erred in refusing release under Sections 451/457.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The JMFC's order of 11 November 2020 refusing supurdagi of the specified dumper remained in force. The High Court did not grant release on alternative security or terminate the separate IPC proceedings.

Ashwani Kumar v. State of MP, Cr.R. no. 2291/2020, 13/01/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (80) Prev Next

Headnote :- Section 482 / partial quashing in matrimonial offence - Taken at face value, the allegations that the husband and mother-in-law demanded money, harassed the complainant and renewed the demand after she left the matrimonial home disclosed a case for trial under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act. Applying *Taramani Parakh v State of M.P., (2015) 11 SCC 260*, the Court left the truth of those specific allegations for trial.

Delay in FIR / threshold - Applying *Mohammad Wajid v State of U.P., AIR 2023 SC 3784*, the Court held that delay in registering the FIR, by itself, did not justify quashing. It observed that a woman subjected to ill-treatment by her in-laws generally tries to preserve her marriage before reporting it. Delayed reporting alone did not show that the allegations were false; their credibility remained a matter for trial.

Relatives / specificity of accusation - The FIR contained no allegation against the sister-in-law, Jyoti Nayak. The later statement under Section 161 referred to her collectively with the other in-laws in its account of early events but attributed no specific role to her in the later incidents. Applying *Kans Raj v State of Punjab, (2000) 5 SCC 207*, *Monju Roy v State of W.B., (2015) 13 SCC 693*, and *Chandralekha v State of Rajasthan*, the Court held that the vague, general allegations did not warrant her prosecution. It quashed the proceedings only against Jyoti, leaving the husband's and mother-in-law's prosecution to continue.

Case-note :- ***1. Facts :*** Madhulika Mishra alleged that, after her marriage to Asish Mishra on 21 January 2004, he and his mother, Chandraprabha Mishra, demanded money and subjected her to mental harassment, followed by physical harassment. She alleged that her father paid Rs 2 lakh after the birth of their first daughter. On 18 May 2020, according to her, the husband sent her and their daughters to her parental home, requiring her to bring Rs 50 lakh before returning. She further alleged that he and his mother renewed the demand there on 13 July 2020 and took away the daughters. She sought reconciliation through a family counselling centre before lodging the FIR on 6 November 2020 at Civil Lines, Chhatarpur, as Crime 643/2020. The FIR attributed no act to the sister-in-law, Jyoti Nayak. In her statement under Section 161 CrPC, Madhulika named Jyoti collectively with the other in-laws in the early allegations of scolding and demands for money. The later incidents were attributed only to the husband and mother-in-law.

2. Precedents — Considered : *Taramani Parakh v State of M.P., (2015) 11 SCC 260*, was quoted and applied to the husband and mother-in-law: where the complaint alleges dowry harassment and forced separation, whether cruelty actually occurred is for trial. Its quotation from *Kailash Chandra Agrawal v State of U.P., (2014) 16 SCC 551*, requires a specific role for distant relatives and recognises quashing where the proceedings are an abuse of process. *Kans Raj* and other decisions appeared within that quotation as supporting authorities; they did not determine the husband's guilt in the present case. *Mohammad Wajid v State of U.P., AIR 2023 SC 3784*, supplied the directly applied rule that delay in lodging the FIR alone does not justify quashing. For Jyoti, the Court separately quoted and applied *Kans Raj v State of Punjab, (2000) 5 SCC 207*, which cautions against implicating all in-laws merely through kinship or conjecture. *Monju Roy v State of W.B., (2015) 13 SCC 693*, requires scrutiny of a relative's actual role rather than general allegations against the family; it reproduced *Kans Raj* and *Raja Lal Singh* as supporting examples. *Chandralekha v State of Rajasthan* illustrated abuse of process through very general allegations against relatives, particularly where the married sister-in-law's role and residence were unclear. The High Court applied these authorities to assess the allegations against each applicant; it did not require proof sufficient for conviction at the Section 482 stage.

3. Statutes considered : Section 482 CrPC governed the exercise of inherent jurisdiction to quash proceedings. Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act were the provisions invoked for alleged cruelty and dowry offences; guilt was not finally determined. The Court compared the later police statement under Section 161 CrPC with the FIR to assess Jyoti's individual role. Its inquiry concerned whether the allegations were legally sufficient for prosecution, rather than whether they had been proved at trial.

4. Issues : Whether the FIR warranted quashing against the husband and mother-in-law because it was lodged after a long marriage and without an earlier police complaint; whether the FIR and later police statement attributed a sufficiently specific role in dowry-related cruelty to Jyoti to justify her prosecution; and whether the connected applications required different outcomes for the respective applicants.

5. Ratio / Findings : The FIR and the statement under Section 161 attributed identifiable demands and physical or mental cruelty to Asish and Chandraprabha. Under *Taramani Parakh*, the Court could not resolve the disputed truth of those allegations against the complainant at the quashing stage when they disclosed a case for trial. Applying *Mohammad Wajid*, it rejected delay alone as a ground for quashing. Its observation that a woman generally tries to save her marriage before reporting ill-treatment explained why delayed reporting alone did not establish falsity; it did not establish that the allegations were proved. Jyoti's position was different. The FIR made no accusation against her, and the word ‘in-laws’ could not be extended in a penal case to every relative of the husband. The later statement under Section 161 contained a collective allegation about early events but gave her no role in

the specific later incidents. Applying *Kans Raj*, *Monju Roy* and *Chandralekha*, the Court required a specific individual role or material beyond vague, general allegations. Even taken at face value, the statement did not warrant Jyoti's prosecution. This was a limited determination under Section 482; it did not acquit the remaining accused or resolve credibility for trial.

6. Relief : The Hon'ble High Court dismissed the application of Asish and Chandraprabha, leaving their prosecution under Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act to continue. It allowed Jyoti Nayak's application and quashed the FIR, charge sheet and consequential proceedings against her.

Asish Mishra and Ors. v. State of Madhya Pradesh and Ors.; Jyoti Nayak v. State of Madhya Pradesh and Ors., M.Cr.C. no. 43114/2023 & 50654/2020, 10/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (81) Prev Next

Headnote :- Further investigation — rejected closure report - After the Magistrate rejected the 2017 closure report in Crime No. 131/2014, the direction for further investigation required the police to act. Section 173(1) CrPC requires investigation to be completed without unnecessary delay. Recording a few statements nearly four years later, followed by another period of inactivity, did not fulfil that duty. The High Court left the merits of the later closure report for the Magistrate to decide.

Case diary — contemporaneous record - *Paragraph 642* of the Madhya Pradesh Police Regulations required the investigating officer to record the action taken each day in the case diary. The statements said to have been recorded in 2021 lacked corresponding case-diary proceedings and support in the station registers. The Court found the records prima facie suspect and directed an inquiry to fix responsibility. It did not decide the criminal allegations against the original suspects.

Police oversight — DGP inquiry - The pending investigation was not brought to light through the SP's monthly supervision, and he delegated the inquiry required for his response to the Court. In the continuing proceedings under Article 226, the Court directed the DGP to inquire personally into the officers' responsibility and to register an offence under the pre-amendment Section 13(1)(d) of the Prevention of Corruption Act against the former investigating officer and SHO. The DGP had to report within a month. The finding of a corruption offence was expressly prima facie.

Case-note :- ***1. Facts :*** Atul Mandlekar lodged Crime No. 131/2014 at Kotwali, Balaghat, under Sections 448, 452, 294, 427 and 506 IPC. The police filed a closure report, which the CJM rejected in 2017 while directing further investigation. The petitioner complained that neither meaningful investigation nor a final report followed. He sought prompt completion of the investigation, exclusion of the earlier officer from it and an inquiry into responsibility. On 12 March 2024, the High Court called for the SP's explanation and the minutes of the monthly crime-control meetings after finding that the photocopy of the diary produced in a sealed cover lacked records of the later work claimed by the police. At the March hearing, the CSP produced the Jarayam Register and Rojnamcha. The Court found that no investigation had been conducted between rejection of the closure report and 2021, that several statements allegedly recorded lacked contemporaneous diary entries, and that the registers did not corroborate the claimed work. A new closure report had since been filed and was pending before the CJM. The SP stated that the case had not been shown as pending in the monthly meetings. He had entrusted the inquiry required for his response to the Court to an Additional SP.

2. Precedents — Considered : The petitioner referred to *Rajendra Singh Pawar v. State of M.P.* in seeking compliance with the police general-diary requirements. In examining the records before it, the Court applied the Magistrate's earlier direction for further investigation, Section 173(1) CrPC and the Police Regulations.

3. Statutes considered : Article 226 provided the jurisdiction to examine the police's response. Section 173(1) CrPC requires completion of an investigation without unnecessary delay. Rejection of the closure report and the direction for further investigation required lawful investigative action and a further report. The Madhya Pradesh Police Regulations required daily entries of investigative action in the case diary; the petition also invoked *paragraph 634* concerning the general diary. For its prima facie finding of suspected undue advantage, the Court invoked the pre-2018 version of Section 13(1)(d) of the Prevention of Corruption Act. The IPC

provisions in the original FIR formed the factual background; their ingredients were not adjudicated.

4. Issues : Whether the police could leave the investigation inactive after the Magistrate rejected the closure report; whether the claimed recording of statements in 2021 was supported by contemporaneous entries in the case diary, Rojnamcha and Jarayam Register; whether the conduct of the investigating and supervisory officers required a personal inquiry by the DGP and registration of a corruption case; and whether the High Court should examine the merits of the new closure report while it remained pending. The Court left that last question for the Magistrate.

5. Ratio / Findings : Rejection of the closure report in 2017 did not end the investigation. The direction for further investigation still required action, and the years of inactivity contravened that direction and Section 173(1). *Paragraph 642* required a daily record of investigative action, but no diary entries existed for several dates on which statements were said to have been recorded. The July 2021 entry did not reliably explain those earlier claims. The absence of contemporaneous records prevented verification and led the Court to suspect manipulation. The SP's explanation about monthly supervision was insufficient: the register did not record the investigation as closed, yet the case had not been shown as pending, and he had delegated the inquiry required for his response to the Court. The Court drew a prima facie inference that the former investigating officer and SHO intended to give the original accused an undue advantage. It invoked the pre-amendment corruption provision and directed the DGP personally to inquire into the other officers' responsibility. These directions neither decided the merits of the original FIR nor finally determined any individual's guilt of corruption.

6. Relief : The Hon'ble High Court directed the DGP to conduct the inquiry personally, without delegation, and fix the responsibility of the SP, Additional SP, CSP, current and former SHO, and investigating officer. It directed registration of a case under Section 13(1)(d) of the Prevention of Corruption Act against the former investigating officer and SHO. Other persons could also be implicated if the inquiry disclosed their involvement in the offence. The report, supported by the DGP's affidavit, was due within one month, and the matter was listed for 22 April 2024. The police case diary and Jarayam Register were returned. The later closure report remained pending before the CJM, and the High Court made no final finding on it.

Atul Mandlekar v. The State of Madhya Pradesh and Ors., W.P. no. 5058/2024, 20/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (82) Prev Next

Headnote :- Pre-arrest protection / writ investigation - Applying *Neeharika Infrastructure v State of Maharashtra, (2021) 19 SCC 401*, the Court held that, when declining to stay or quash an investigation, it could not nevertheless direct the police not to arrest the accused during that investigation. The passage quoted from *Habib Abdullah Jeelani, (2017) 2 SCC 779*, explains that such an order would effectively grant protection under Section 438 CrPC without satisfying its conditions. The accused agents had filed no copies of the FIRs and established no basis for a general stay of arrest.

Investigation agency / accused's role - Applying *Romila Thapar v Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki v State of Gujarat, (2014) 4 SCC 626*, the Court rejected the accused persons' claim to choose an SIT, STF or CBI investigation or dictate how it should be conducted. *Divine Retreat Centre* recognises the High Court's power under Article 226 to give appropriate directions where mala fide investigation is established. *Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, requires exceptional circumstances for a CBI transfer. No such grounds were shown here.

Monitoring / supervision - *Manohar Lal Sharma v Principal Secretary, (2014) 2 SCC 532*, distinguishes monitoring to ensure a free and timely investigation from supervision that directs how the investigator forms an opinion under Section 173(2) CrPC. Such supervision risks influencing the trial court's later decision. The directions sought by the petitioners would have amounted to impermissible supervision.

Individual role / other suspects - The agents admitted persuading people to deposit money and receiving commissions. They could not avoid investigation merely because the company principals were allegedly not being pursued. The Court noted the statutory procedures for proceeding against other persons at later stages. It dismissed the Article 226 petition without finally determining the petitioners' guilt.

Case-note :- ***1. Facts :*** The petitioners stated that they had worked as agents of companies which collected substantial investments without banking permission and later defrauded the depositors. They alleged that the police were targeting employees and agents rather than the company principals. An investor who was also a journalist had filed a PIL, WP 17126/2021, which remained pending. The petitioners conceded that they had persuaded members of the public to invest and had received commissions in addition to salaries. In WP 29556/2024 under Article 226, they sought protection from arrest, action on their police complaints, constitution of an SIT/STF or transfer to the CBI, seizure of other persons' bank accounts to protect investors, court monitoring, and action under the Multi State Cooperative Societies Act. They did not produce copies of the FIRs in which they said they were wanted. Counsel also sought a writ of quo warranto against the Superintendent of Police on the ground that he was not performing his duties properly. After the Court explained that the remedy concerns eligibility to hold public office, counsel withdrew that prayer.

2. Precedents — Considered : *Neeharika Infrastructure v State of Maharashtra, (2021) 19 SCC 401*, was quoted and applied to refuse a direction against coercive steps while allowing the investigation to continue. Its discussion of *State of Telangana v Habib Abdullah Jeelani, (2017) 2 SCC 779*, explains that an order against arrest, made while declining to quash, effectively grants relief under Section 438 without its conditions. *Romila Thapar v Union of India, (2018) 10 SCC 753*, was quoted at length and applied to the accused's claim to choose an agency or dictate the manner of investigation. It brings together *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar* and *Divine Retreat Centre* on the accused's limited role, while recognising appropriate directions under Article 226 where mala fides are established. The *Romila Thapar* quotation also reproduces the Constitution Bench's caution in *Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, that transfer to the CBI is exceptional. The Court separately quoted *Dinubhai Boghabhai Solanki v State of Gujarat, (2014) 4 SCC 626*. Its discussion includes *W.N. Chadha* on the absence of an ordinary right to prior hearing or participation during investigation, *Rajesh Gandhi* on selection of the agency, and *Sri Bhagwan Samardha* and *Narender G. Goel* on further investigation and the opportunity to challenge evidence at trial. These authorities supplied the supporting principles; they did not independently determine the present agents' guilt. The High Court also cited its own decision in *Prabal Dogra* on the accused's role in investigation. *Manohar Lal Sharma v Principal Secretary, (2014) 2 SCC 532*, was separately quoted and applied to distinguish monitoring for impartial and timely progress from supervision that controls the investigator's method or opinion.

3. Statutes considered : Article 226 provided the writ jurisdiction. Section 482 CrPC appears in the quoted precedent concerning orders against arrest. Section 438 CrPC provides the separate remedy of anticipatory bail; an unconditional writ direction staying arrest could not be used to bypass its conditions. Section 173(2) CrPC concerns the investigating officer's report, whose conclusion judicial supervision must not predetermine. The Court referred to Sections 319 and 190 CrPC, and the corresponding Sections 358 and 210 BNSS, as procedures for proceeding against persons omitted from the prosecution at later stages. Action under the Multi State Cooperative Societies Act was requested, but the Court did not interpret that enactment. The FIRs were not produced, so no particular provision governing the alleged fraud was established before the Court.

4. Issues : Whether agents who had solicited investments for commission could obtain a general writ direction against arrest; whether, as accused persons, they could require the police to pursue the company principals, choose another investigating agency or obtain judicial supervision of the investigation; whether exceptional circumstances justified transfer to the CBI; and whether failure to prosecute other suspected principals removed the agents' own prima facie liability. The quo warranto prayer was withdrawn and was not decided as an issue concerning the merits of the criminal allegations.

5. Ratio / Findings : The petitioners' failure to produce the FIRs, together with their admitted solicitation of investments for commission, did not support blanket protection from arrest. Under *Neeharika* and *Habib Abdullah Jeelani*, the Court could not leave the investigation intact yet direct the police not to arrest, thereby bypassing the separate conditions under Section 438. *Romila Thapar* and *Dinubhai* establish that an accused has no ordinary right to control the agency, method or conduct of an

investigation. That rule preserves judicial intervention on established mala fides and the accused's later opportunity to defend the case. The petitioners showed no exceptional circumstances for transfer to the CBI under the constitutional limits explained in the quoted authorities. Applying *Manohar Lal Sharma*, the Court held that the requested directions would amount to supervision rather than monitoring. They could improperly influence the police report and the trial. The petitioners' admitted persuasion of investors and receipt of commissions supplied a prima facie basis for refusing to absolve them merely because the company owners might also be liable. Statutory procedures remained available for proceeding against other persons at later stages. The decision refused writ relief; it did not convict the petitioners or hold that every investment agent was criminally liable.

6. Relief : The Hon'ble High Court dismissed the writ petition, granting none of the requested directions against arrest or for transfer of the investigation, bank-account action or court monitoring. It dismissed the quo warranto prayer as withdrawn. The petition was not clubbed with the pending investor PIL because their subject matters differed. The Court did not finally determine any company principal's liability or any agent's guilt.

Avanish K. Arjaria and Ors. v. State of Madhya Pradesh and Ors., W.P. no. 29556/2024, 14/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (83) Prev Next

Headnote :- Look-out circular / travel permission — The petitioner was facing prosecution under Sections 498A/506/34 IPC and the Dowry Prohibition Act, but had appeared, obtained bail and secured the trial court's permission to travel abroad. An LOC issued during investigation remained in force, and immigration officials stopped him at Hyderabad on 20 September 2024. The Home Ministry's OM of 22 February 2024 required the originating agency to review the LOC, communicate relevant court orders and seek prompt deletion when it was no longer required. The State's subsequent withdrawal of the LOC made the prayer for quashing academic; it did not erase the completed violation of liberty. *Satwant Singh Sawhney, Maneka Gandhi* and *Satish Chandra Verma* supported the right to travel abroad under Article 21. *Puttaswamy* supplied the framework for lawful and proportionate restrictions. The Court also discussed the Bombay High Court's decision in *Viraj Chetan Shah*, noting the pending Supreme Court challenge and its interim order requiring permission to travel. It did not treat that interim order as a final decision on the merits.

Constitutional compensation — Following *Rudul Sah*, *Sebastian Hongray*, *Bhim Singh*, *Saheli*, *People's Union for Democratic Rights*, *D.K. Basu* and *Nilabati Behera*, the Court awarded Rs 5 lakh compensation against the State under Article 226 for the unlawful airport restraint and infringement of Articles 21/19. The State had to deposit the amount in the Registry within one month and recover it from the responsible officers' salaries. The petitioner remained free to seek damages in a civil suit. In default of deposit, recovery and contempt proceedings were directed. The Court quoted *Ravikant S. Patil* on the State's responsibility to pay and the procedure preceding personal action against an officer.

Police accountability — The misleading account of disciplinary action, the unexplained transfer of the inquiry to Katni and the lack of effective action against the former SHO led the Court to direct a departmental inquiry through the DGP, to be completed within six months. It also required consideration of the SPs' responsibility with reasons, review of possible criminal or service action, and compliance with the service-record and reporting directions. The Court did not decide the underlying matrimonial charges.

Case-note :- ***1. Facts :*** Avijit Sharma filed WP 28981/2024 under Article 226 to challenge an LOC relating to Crime 108/2021 at Mahila Thana, Jabalpur, and his detention at Hyderabad International Airport on 20 September 2024. He was employed by Google and was travelling to the United States for work. He faced trial in RCT 964/2022 under Sections 498A and 506 read with 34 IPC and Sections 3–4 of the Dowry Prohibition Act. After service of a notice under Section 41A, filing of the charge-sheet and his appearance before the court, he obtained bail. Trial-court orders dated 29 July and 19 September 2024 permitted him to travel abroad. Immigration officials nevertheless refused departure because an LOC issued from Jabalpur during investigation remained active, although he produced the court's permission. He stated that the alert had never been disclosed to him. The Jabalpur SP sought deletion on 26 September, and the Bureau of

Immigration confirmed closure on 27 September. The State contended that withdrawal had made the challenge academic and that the travel permission had not been adequately or promptly communicated. Its return also stated that the then SHO, Shabana Parvez, had been suspended and was facing an inquiry. When the Court called for the record in January 2025, it found that the preliminary process had stalled and had been shifted to Katni, where she had subsequently been posted.

2. Precedents — Considered : *K.S. Puttaswamy* (nine judges) was quoted on the breadth of Article 21 and the requirements of legality, a legitimate aim, proportionality and safeguards against abuse when restricting protected rights. *Francis Coralie Mullin* was cited on the right to live with dignity. *Satwant Singh Sawhney*, *Maneka Gandhi* and *Satish Chandra Verma* supplied the principles governing the right to travel abroad. The Bombay High Court's decision in *Viraj Chetan Shah* was discussed in the context of LOCs. The Court noted the pending Supreme Court challenge and reproduced the interim direction that the litigants seek High Court permission to travel while the SLPs were pending. It did not treat that order as an affirmation or reversal of the Bombay decision on its merits.

Sebastian M. Hongray, *Bhim Singh*, *Saheli* and *People's Union for Democratic Rights* illustrated public-law remedies for unlawful State action, the State's responsibility and its recourse against the officials concerned. *Rudul Sah* supported monetary redress beyond an order of release. *D.K. Basu* and *Nilabati Behera* were quoted at length on compensation under Articles 21, 32 and 226. They explain that strict constitutional liability is distinct from the private-law remedy of damages in tort, and that sovereign immunity is no defence to the constitutional remedy. *Ravikant S. Patil* was also quoted: on its handcuffing facts, the Supreme Court required the State to pay and an inquiry before further action against the officer or an adverse service entry. The nested authorities, including *Kasturilal*, explained that distinction; they did not directly decide Sharma's case.

3. Statutes considered : The Court explained that LOCs are issued under the Ministry of Home Affairs' administrative and executive instructions, rather than a specific LOC provision in the CrPC. It reproduced the consolidated OM of 22 February 2024. Clauses 6(B), (G), (J), (K) and (N) respectively deal with approval by the competent originating authority, the originating agency's legal liability, quarterly and annual review with immediate deletion when the person is no longer wanted, communication of court orders, and urgent amendment or deletion following judicial directions or completion of the LOC's purpose.

4. Issues : Whether the withdrawn LOC still required an order of quashing; whether the originating agency had to review and delete an investigation-stage LOC after the accused had joined the trial, obtained bail and secured permission to travel; whether the airport restraint violated his rights to travel, personal liberty and occupation; whether compensation remained available after withdrawal and could be recovered from the responsible officers; and whether the police inquiry and representations made to the Court required action by the DGP. The Court did not determine guilt on the matrimonial allegations, cancellation of bail or the validity of a continuing LOC.

5. Ratio / Findings : The originating police showed no continuing need for the LOC or risk of flight after the petitioner had surrendered, obtained bail, appeared regularly and secured permission to travel. The State was represented in the trial proceedings by its prosecutor, and the OM imposed review and communication duties on the originating agency. It could not simply await notice or rely on the short interval between the order of 19 September and the proposed departure. The restraint on 20 September violated Article 21 and, because the journey was for work, Article 19. Subsequent travel did not undo that violation. Closure of the LOC made prospective quashing academic. The disciplinary record called by the Court showed no substantial action after the show-cause notices and revocation of suspension despite the officer's non-cooperation. The transfer of the inquiry to Katni had no explained jurisdictional basis when every material event had occurred in Jabalpur. The Court found the State's account of serious disciplinary action misleading and intended to protect the officer.

6. Relief : The Hon’ble High Court allowed the writ petition. It directed the State to deposit Rs 5 lakh compensation in the Registry within one month for withdrawal by the petitioner, and to recover the amount from the salaries of Shabana Parvez and the erring Jabalpur SP. The petitioner remained free to bring a civil suit for damages. In default of deposit, the Registrar General was to initiate recovery and register a contempt petition under Article 215 and

Sections 10 and 12 of the Contempt of Courts Act. The DGP was to review whether the identified Jabalpur and Katni officers required action under criminal or service law and submit a report by 5 March 2025. He was also to institute a formal departmental inquiry against Parvez through an officer of at least SP rank who had never served in either district, and conclude it within six months. The DGP had to decide the departmental responsibility of the SPs who authorised or failed to review the LOC, with a reasoned decision under the OM requirements. A copy of the order was to be placed in the service books, with a report of compliance within one month. These directions for review and inquiry did not themselves convict the officers or decide the underlying IPC/Dowry Act trial.

Avijit Sharma v. The State of Madhya Pradesh and Ors., W.P. no. 28981/2024, 28/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (84) Prev Next

Headnote :- Quashing — FIR detail - Following *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, the Court held that Section 482 does not permit scrutiny of the allegations as at a criminal trial. An FIR need not describe every incident in detail if its allegations, taken at face value, disclose a cognizable offence. The wife alleged specific demands for property and costly goods, assaults, strangulation, threats and mental harassment. The Court therefore rejected the husband's objection that the FIR lacked sufficient detail.

Cruelty — Section 498-A IPC - The Court held that cruelty is not confined to harassment over an unfulfilled dowry demand. Grave wilful conduct endangering a woman's health falls within a separate limb of the provision. In any event, the FIR also alleged specific demands. The Court therefore found that the allegations disclosed the ingredients required for prosecution at this stage.

Territory — continuing mental cruelty - Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, the Court held that the mental trauma caused by matrimonial cruelty may continue after a woman takes shelter at her parental home. The wife alleged that physical and mental abuse had compelled her to live with her parents and that her distress continued there. On those allegations, Jabalpur police could register and investigate the case even though much of the alleged conduct had occurred in Pune or Hyderabad.

Preliminary inquiry — Section 154 CrPC - *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, as explained in *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045/2021*, permits a preliminary inquiry in illustrative categories where the circumstances warrant it. Such an inquiry is not invariably mandatory or an accused's entitlement. Where the information clearly discloses a cognizable offence, the police must register the FIR. Applying that principle, the Court held that the omission to conduct a preliminary inquiry did not invalidate this FIR.

Case-note :- ***1. Facts :*** The applicant and the complainant married in April 2016. She alleged that her husband and mother-in-law subjected her to mental harassment after the marriage. According to her, the husband demanded a flat, car and costly electronic and household goods, assaulted or strangled her, and threatened divorce and abandonment. They lived at different times in Pune and Hyderabad. She stated that physical and mental abuse had forced her to return to her parents in Jabalpur, where the separation and threats continued. She also asked the police to prevent his feared departure abroad; the Court did not decide that passport-related request. Crime No. 108/2021 was registered at Mahila Thana, Madan Mahal, Jabalpur, under IPC Sections 498-A, 506 and 34 and Dowry Prohibition Act Sections 3/4. The husband sought quashing under Section 482 of the FIR and the subsequent charge-sheet proceedings. He contended that the allegations lacked sufficient detail, that the alleged cruelty was not connected with dowry, that Jabalpur police lacked territorial jurisdiction and that no preliminary inquiry had been held.

2. Precedents — Considered : *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, was applied for the rule that an FIR need not be an encyclopedia and that Section 482 does not permit scrutiny as at trial. *Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* were also listed as supporting the limits on quashing. The Court quoted *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, on mental cruelty continuing after a woman takes shelter at her parents' home, and applied it to uphold Jabalpur's territorial competence. It cited its *own Amar Singh v. Vimla* for the same principle. *Lalita Kumari v. State of U.P.,*

(2014) 2 SCC 1, required registration where the information discloses a cognizable offence, while permitting a limited inquiry where the circumstances warrant one. *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045/2021*, analysed *Lalita Kumari* and later decisions, including *Managipet*, *Yashwant Sinha* and *Charansingh*, in the context of corruption allegations. That discussion explained that the need for a preliminary inquiry depends on the facts, is not invariably mandatory or an accused's right, and concerns disclosure of an offence rather than the ultimate truth of the allegations. The High Court applied that principle to the matrimonial FIR. It did not treat the corruption examples as creating a mandatory requirement of inquiry in this case.

3. Statutes considered : Section 482 CrPC governed the request for quashing. Section 154 requires registration when the information discloses a cognizable offence. IPC Section 498-A covers both grave wilful conduct and harassment connected with a dowry demand; a demand is not indispensable to the former, and the complaint alleged demands as well. IPC Sections 506 and 34 and Dowry Prohibition Act Sections 3/4 were among the provisions invoked, but were not independently analysed. The Court upheld territorial competence on the alleged continuing consequences of cruelty at the parental home, applying *Rupali Devi*. It did not adjudicate any separate passport provision.

4. Issues : Whether the allegations in the FIR were sufficiently specific to disclose cognizable cruelty without an appraisal as at trial; whether an unfulfilled dowry demand is necessary in every case of cruelty; whether Jabalpur police could investigate when the earlier marital acts occurred in other cities but the complainant alleged continuing mental harm at her parental home; and whether the absence of a preliminary inquiry invalidated this matrimonial FIR.

5. Ratio / Findings : The Court found that the FIR alleged specific demands and repeated forms of harassment. The FIR did not have to state every date or detail, and Section 482 did not permit the Court to resolve those disputed matters as at trial. The Court also rejected the contention that Section 498-A applies only to harassment over dowry. It identified the independent limb concerning grave wilful conduct and noted that the FIR alleged specific demands in any event. Applying *Rupali Devi*, it held that residence with parents compelled by physical and mental abuse could perpetuate mental cruelty at Jabalpur. The allegations therefore supported registration and investigation there. *CBI v. Thommandru Hannah Vijayalakshmi* explained that the need for an inquiry in *Lalita Kumari*'s illustrative categories depends on the circumstances and that any such inquiry is confined to ascertaining whether a cognizable offence is disclosed. The omission to hold it did not invalidate this FIR, which disclosed a cognizable offence. These conclusions concerned a prima facie case for prosecution; they did not establish that the alleged acts had been proved.

6. Relief : The Hon'ble High Court dismissed the application to quash Crime No. 108/2021 and the subsequent proceedings. The Jabalpur investigation and charge-sheet remained undisturbed. The order did not decide guilt, adjudicate the complainant's request for seizure of the passport, or finally determine any objection to trial jurisdiction on evidence.

Avijit Sharma v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 9662/2022, 14/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (85) Prev Next

Headnote :- Look out circular — originating agency — continuing review and deletion - Under the MHA Office Memorandum of 22.02.2024, the originating agency must review an LOC periodically, seek immediate deletion when the person is no longer wanted, communicate relevant court orders urgently and respond promptly when the person is detected at a checkpoint. An LOC does not expire automatically. Jabalpur police left the investigation-stage LOC in force after the petitioner had responded to the Section 41-A notice, appeared before the trial court, obtained bail and secured permission to travel abroad. The Court held that using that LOC to stop him at Hyderabad airport was unjustified. As the LOC had been deleted by 27.09.2024, no further order quashing it was required.

Constitution — Articles 21 and 19 — foreign travel - *Satwant Singh Sawhney*, *Maneka Gandhi*, *Satish Chandra Verma*, *Puttaswamy* and *Francis Coralie Mullin* explain the protection of travel, personal liberty and dignity, subject to lawful and proportionate restrictions. Read together, the trial court's orders of 29.07.2024 and 19.09.2024 permitted the petitioner's journey to the USA. Any alleged breach of bail conditions had to be taken

before the court; it did not justify police reliance on an LOC that should have been withdrawn. The restraint on 20.09.2024 violated Article 21 and, because the journey was for work, Article 19. Subsequent travel did not undo that violation.

Article 226 — public-law compensation and state recourse - Applying *Rudul Sah*, *Bhim Singh*, *D.K. Basu* and *Nilabati Behera*, the Court directed the State to deposit Rs. 5 lakh in its Registry within one month and preserved the petitioner's right to seek damages in a civil suit. The State had to recover the payment from the salaries of the former SHO and the erring Jabalpur SP. Failure to deposit would require recovery proceedings and registration of a contempt petition. The order did not record an existing finding of contempt or a recovery already completed.

Police accountability — LOC and departmental process - The Court directed the DGP to examine supervisory responsibility, institute a departmental inquiry against the former SHO through an appropriately ranked officer from outside the two districts, consider proceedings against the superintendents and submit a report by the specified date.

Case-note :- ***1. Facts :*** Avijit Sharma faced trial in a matrimonial case at Jabalpur under Sections 498-A, 506 and 34 IPC and Sections 3–4 of the Dowry Prohibition Act, arising from Crime No. 108/2021 at Mahila Thana. A notice under Section 41-A CrPC was served on him in Hyderabad. After the charge-sheet was filed, he appeared, obtained bail and faced framed charges. His bail required court permission before leaving India. He applied in RCT No. 964/2022 for a work-related journey to the USA. Read together, the Magistrate's orders of 29.07.2024 and 19.09.2024 permitted the journey and contemplated his return and attendance before the court. At about 02:00 on 20.09.2024, immigration officials at Hyderabad stopped him from boarding because an LOC issued by Jabalpur police remained active, despite his production of the court order. He stated that he was given neither a copy nor the particulars of the LOC and missed his flight. The State later asserted that he travelled the next day. After notice in the writ petition, the Jabalpur SP requested the Bureau of Immigration on 26.09.2024 to close the LOC; the Bureau confirmed deletion on 27.09.2024. The State also claimed to have begun disciplinary action against former SHO Shabana Parvez. The High Court called for the departmental record. At the January 2025 hearings, the SP initially failed to produce it. The record, when produced, showed exchanges of show-cause notices and revocation of suspension without completion of an inquiry. The proceedings were said to have shifted to Katni, although the LOC and criminal case arose at Jabalpur. The LOC itself was not produced for detailed examination.

2. Precedents — Considered : *K.S. Puttaswamy (Privacy, nine Judges) v. Union of India, (2017) 10 SCC 1*, was quoted on privacy as a fundamental right connected with Articles 19 and 21, and on substantive and procedural fairness. The Court drew on its requirements of legality, a legitimate State purpose and proportionality, while recognising that privacy and other liberties are not absolute. *Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608*, explained life under Article 21 as a dignified human existence, protecting human faculties, movement and self-expression even where lawful restraint operates through fair procedure. *Satwant Singh Sawhney v. D. Ramarathnam, AIR 1967 SC 1836*, held that foreign travel falls within personal liberty and cannot be denied except through procedure established by law. *Maneka Gandhi v. Union of India, (1978) 1 SCC 248*, was cited as confirming that protection and fair procedure. *Satish Chandra Verma v. Union of India, Civil Appeal No. 3802/2019, 09*.04.2019, described foreign travel as an important human right and held that pending departmental proceedings alone did not prevent a service member's family visit abroad. The Court also reproduced the Bombay High Court's decision on LOCs in *Viraj Chetan Shah*. It recorded that the Supreme Court had issued notice in the challenge to that decision and, pending consideration, required the litigants to obtain permission from the High Court before travelling abroad. That interim order was not treated as a final Supreme Court endorsement of the Bombay ruling. These authorities supplied the constitutional basis for examining the continued LOC after this petitioner had obtained bail and permission to travel.

For redress, *Sebastian M. Hongray v. Union of India, (1984) 3 SCC 82*, illustrated exemplary monetary relief for agony and oppression where release or ordinary process was insufficient. *Bhim Singh v. State of J&K, (1985) 4 SCC 677*, held that release did not erase a malicious deprivation of liberty and awarded compensation for State misconduct. *Saheli v. Commissioner of Police, (1990) 1 SCC 422*, placed the initial liability for police wrongdoing on the

State, while leaving appropriate recovery from responsible officers through the proper process. *People's Union for Democratic Rights v. Police Commissioner, (1989) 4 SCC 730*, similarly awarded compensation and permitted later recovery from officers after an opportunity to show cause. *Rudul Sah v. State of Bihar, (1983) 4 SCC 141*, recognised the constitutional court's power to compensate unlawful detention instead of making the Article 21 guarantee ineffective by ordering release alone. *D.K. Basu v. State of W.B., AIR 1997 SC 610*, distinguished public-law compensation for an established Article 21 violation from private-law damages, excluded sovereign immunity as a defence to the constitutional remedy, and preserved separate criminal and civil remedies. *State of Maharashtra v. Ravikant S. Patil, (1991) 2 SCC 373*, retained the State's liability to pay compensation, removed the officer's direct personal liability, and held that an adverse service entry could not be made without proper process. *Nilabati Behera v. State of Orissa, (1993) 2 SCC 746*, explained strict public-law liability for infringement of fundamental rights as distinct from damages in tort. It permitted the State to seek indemnity from wrongdoers and required compensation suited to the facts, rather than a fixed tariff. The High Court applied the shared principle of constitutional redress to the unjustified airport restraint; it did not treat the custodial-death facts in several of those decisions as the facts of this case.

3. Statutes considered : Article 226 supplied the writ jurisdiction and power to award monetary redress. Article 21 protected personal liberty, dignity and travel; Article 19 was invoked for the asserted employment journey, and Article 14 formed part of the interrelationship between rights discussed in *Puttaswamy*. These rights remained subject to fair and lawful restrictions, including the operative bail condition requiring court permission to travel. Service of the Section 41-A CrPC notice, completion of investigation, filing of the charge-sheet, appearance and bail were relevant to assessing any continuing risk of flight. Clause 6 of the MHA Foreigners Division's OM of 22.02.2024 governed the LOC mechanism. It required approval by a specified senior originating officer, including an SP, and reasons for an LOC concerning a cognizable offence; placed legal liability on the originating agency; required quarterly and annual review and an immediate deletion request when the person was no longer wanted; and required prompt communication to the Bureau of court orders and changes in the action to be taken. At an immigration checkpoint, the court order concerning the LOC required confirmation through the originator. That verification requirement made the originator's failure to communicate material. The order referred to the Passports Act and Foreigners Act as background, but identified no particular provision of either as the power used for this LOC; the CrPC itself contains no LOC provision. Article 215 and Sections 10 and 12 of the Contempt of Courts Act concerned only prospective enforcement if the State failed to deposit compensation. The IPC matrimonial offences and the Dowry Prohibition Act were background charges whose merits were not decided.

4. Issues : Whether deletion of the LOC after notice in the writ petition made the entire claim academic, or whether the airport restraint on 20.09.2024 remained a completed constitutional wrong; whether an investigation-stage LOC could justify stopping a bailed accused who had court permission to travel, without review or a demonstrated continuing purpose; whether the Magistrate's two orders, read together, permitted travel despite imprecise wording in the later order; which agency had to monitor the LOC and communicate changes urgently to immigration; whether compensation under Article 226 and later State recourse were justified; and what accountability inquiry should follow the uncompleted departmental process and its transfer. The underlying matrimonial trial and any challenge to the original LOC proforma, which had not been furnished, were not decided.

5. Ratio / Findings : Deletion of the LOC by 27.09.2024 made a further quashing order unnecessary, but did not remove the need to examine the restraint seven days earlier. Avijit had received the Section 41-A notice, appeared after the charge-sheet, obtained bail and secured the trial court's permission to travel. The Court read the orders of 29.07 and 19.09 together and rejected the objection based on the absence of an express formula granting permission. A suspected breach of bail conditions could be raised before the court through an application for cancellation. The State conceded that immigration had stopped him because of the LOC, rather than through any process concerning a breach of bail. *Puttaswamy*'s requirements of lawful, necessary and proportionate restraint, together with the travel-right decisions, governed the Court's assessment. On these facts, continued interception

without a continuing purpose was unjustified. Clause 6 of the 2024 OM required the originator to review the LOC periodically and urgently communicate court orders, changes in action and deletion requests to the Bureau. The absence of automatic expiry required active review; it did not justify keeping the restraint indefinitely. The police had not performed those duties as the case progressed. The Court held the Jabalpur originating agency legally responsible, while recognising immigration's practice of confirming court orders. It found that refusing departure on 20.09.2024 violated Article 21 and, because the journey was for work, Article 19. Travel on a later date could not cure the completed violation. The departmental record contradicted the State's claim of meaningful disciplinary action. The Court also questioned the transfer of the inquiry to Katni when the events and disciplinary authority were at Jabalpur. Those findings supported review by the DGP and a fresh departmental inquiry. Applying the constitutional compensation decisions, the Court directed the State to pay first, with recovery from the officers' salaries to follow, while preserving a separate civil remedy. It had not yet found anyone guilty of contempt.

6. Relief : The Hon'ble High Court allowed the writ petition. As the Bureau had deleted the LOC, no further quashing order was made. The State was directed to deposit Rs. 5,00,000 compensation in the High Court Registry within one month of the order, for Avijit to withdraw, and to recover that amount from the salaries of former SHO Shabana Parvez and the erring Jabalpur SP. If dissatisfied with the award, he could institute a civil suit for further damages. If the State failed to deposit the amount, the Registrar General was to initiate recovery and register a contempt petition under Article 215 and Sections 10 and 12. The DGP had to review the conduct of the named current and former senior officers, decide whether criminal or service proceedings were required, and submit a report by 05.03.2025. He was also to institute a departmental inquiry against Shabana Parvez through an officer of at least SP rank who had never been posted in either Jabalpur or Katni, and give a reasoned decision on whether the relevant superintendents also required an inquiry. The departmental inquiry was to be completed within six months. A copy of the order was to be placed in the service books of the identified officers, with a report within one month.

Avijit Sharma v. State of Madhya Pradesh and Others, W.P. no. 28981/2024, 28/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (86) Prev Next

Headnote :- Complaint — locus and society statute - *Dhanraj N. Asawani v. Amarjeetsingh Basi, Criminal Appeal No. 2093/2023*, and *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, support the general rule that anyone may report alleged criminal wrongdoing to the authorities unless a special law bars that course expressly or by necessary implication. The dispute between rival committees did not prevent Shishir Khare from complaining about alleged embezzlement of society funds. No provision of the Society Registrikaran Adhiniyam was shown to exclude that criminal process.

Magistrate — Section 156(3) and complaint route - Refusal to direct police investigation under Section 156(3) CrPC did not require dismissal of the application. The Court held that the Magistrate's only course was then to proceed with the complaint by recording the statements of the complainant and witnesses under Sections 200 and 202. Cognizance could be taken through that procedure.

Civil and criminal remedies — society assets - Under *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, criminal action is not barred merely because the allegations disclose the ingredients of both a civil dispute and a criminal offence. The specific allegations of forged authority and misappropriation of bank, fuel and student funds were not defeated by the rival management suits or an available remedy for accounts. The Section 482 applications were dismissed.

Case-note :- ***1. Facts :*** Two applications under Section 482 were decided together, principally on the facts of M.Cr.C. No. 6453/2017. Rival groups disputed the membership, presidency and management of the Chanakya Kautilya educational society and its college. Properties had been pledged as security for a State Bank loan. Proceedings before the Registrar questioned the committees and membership; a civil suit concerning control and an injunction was also in issue, and the application for interim relief had been rejected. Shishir Khare complained that Anshuman Tiwari, Awadesh Narayan Tiwari, Pushyamitra Mishra and others had used forged resolutions and authority to sign for the society to operate bank accounts, withdraw large

sums, divert fuel coupons and society vehicles, and misappropriate student and laptop funds. These were allegations, not established findings. A rival cheque-dishonour complaint against Khare's daughter and the other disputes were relied on by the applicants to allege retaliation. The Magistrate declined the request for police investigation under Section 156(3), recorded statements of the complainant and witnesses under Sections 200 and 202, and on 20 August 2016 took cognizance of offences under IPC Sections 420, 409, 467 and 120-B. The applicants challenged that order on the grounds of the complainant's disputed status as an office bearer, the availability of civil remedies, mala fides and the procedure adopted by the Magistrate.

2. Precedents — Considered : *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, rejected the argument that a cooperative-societies statute automatically excludes general criminal law. The Court applied that principle in this society dispute. *Dhanraj N. Asawani v. Amarjeetsingh Mohindersingh Basi, Criminal Appeal No. 2093/2023*, explained CrPC Section 4 in detail and held that ordinary criminal procedure can be displaced only expressly or by necessary implication. It treated the auditor's and Registrar's reporting obligations under the Maharashtra cooperative statute as positive duties, rather than an exclusive right to initiate criminal proceedings, and contrasted enactments containing express bars. Its discussion of *A.R. Antulay* recognised the general rule that anyone may initiate a prosecution. The Court applied that general principle without treating the different State statutes as identical. *Meera Yadav*, a decision of the Madhya Pradesh High Court, was cited for the same principle that criminal jurisdiction is not excluded without a statutory bar. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, supplied the rule that civil and criminal proceedings may coexist where the allegations disclose the ingredients of both. The applicants relied on *Bhajan Lal* to allege mala fides, but the Court found that the complaint alleged criminal conduct and did not quash it merely because of the parallel cheque case.

3. Statutes considered : Sections 156(3), 200 and 202 CrPC concern the requested direction for police investigation and the alternative procedure of examining the complaint; Section 190 governs cognizance. Section 4 CrPC provides the ordinary criminal procedure, subject to any procedural exclusion under a special statute. Sections 409, 420, 467 and 120-B IPC were the offences of which cognizance was taken. Other allegations of forgery, threats and misuse appeared in the complaint, but their ingredients were not finally adjudicated. The Madhya Pradesh Society Registrikaran Adhiniyam governed registration and committee disputes; no provision excluding criminal proceedings or restricting who could report an offence was identified. The complaint under Section 138 of the Negotiable Instruments Act was a separate rival proceeding and did not bar this case.

4. Issues : Whether Khare's disputed status as an office bearer deprived him of standing to initiate an IPC complaint; whether refusal of the Section 156(3) request prevented the Magistrate from proceeding under Sections 200 and 202; whether society-registration proceedings or civil remedies for accounts excluded criminal cognizance; and whether the alleged retaliatory motive and rival litigation justified quashing under Section 482 before trial.

5. Ratio / Findings : The Registrar's decisions called the validity of both rival governing committees into question; neither side's claim to office established who controlled the society. Nevertheless, a person reporting suspected wrongdoing could set the criminal law in motion, and the statute imposed no exclusion. The Court held that, after refusing the requested Section 156(3) order, the Magistrate's only course was to proceed with the complaint by recording statements under Sections 200 and 202. The procedure adopted was therefore valid. The complaint contained specific allegations of forged documents and diversion of funds and property, rather than merely a disagreement over management. Under *Amit Kapoor*, the presence of civil elements did not by itself bar criminal proceedings. The asserted retaliatory motive and the applicant's age did not justify quashing when the allegations in the complaint were taken at face value. These findings at the threshold did not establish embezzlement or forgery.

6. Relief : The Hon’ble High Court dismissed both connected applications under Section 482. The Magistrate's order taking cognizance and the complaint proceedings remained in force. The Court made no final determination of society governance, accounts or criminal guilt.

Awadesh Narayan Tiwari v. Shishir Khare; Pushyamitra Mishra v. State of Madhya Pradesh and Ors., M.Cr.C. no. 6453/2017 & 54865/2023, 20/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (87) Prev Next

Headnote :- Limitation — continuing matrimonial cruelty - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, recognises that mental trauma continues at the parental home after a woman is driven from her matrimonial home by cruelty. The FIR lodged in February 2024 alleged that she had been expelled in October 2017 and continued to live with her parents because the demand for Rs. 10 lakh and a car remained unmet. Taking those allegations at face value, the Court rejected the limitation objection based on the maximum sentence of three years under Section 498-A.

Quashing — rival divorce account - *XYZ v. State of Gujarat, (2019) 10 SCC 337, Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, and *CBI v. Arvind Khanna, (2019) 10 SCC 686*, preclude the High Court from resolving contested allegations as though conducting a trial under Section 482. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognises a limited exception for public documents or documents whose veracity is not disputed by the complainant. The divorce pleadings and the husband's earlier complaints apprehending false implication did not establish that the specific FIR allegations were false. Their credibility was left for trial.

Case-note :- ***1. Facts :*** Awadh Narayan Saxena, his wife, their son and daughter-in-law, and the complainant's husband sought quashing of Crime No. 113/2024 at Nowgaon, Chhatarpur, under IPC Sections 498-A, 323, 506 and 34 and Dowry Prohibition Act Sections 3/4. The complainant alleged that, after her marriage in April 2017, the applicants demanded a further Rs. 10 lakh and a car, harassed and assaulted her, and expelled her on 26 October 2017. They allegedly retained her belongings and refused to allow her to return unless the demand was met. She attributed the delay in lodging the FIR until February 2024 to social pressure and said that she had remained with her parents. The applicants argued that the maximum punishment of three years under Section 498-A made the FIR time-barred. They also alleged differences between her divorce petition and the FIR and relied on the husband's earlier police complaints expressing apprehension of false implication.

2. Precedents — Considered : *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explains that mental distress caused by matrimonial cruelty may continue at the parental home even after the physical acts cease. The Court applied that principle to reject the limitation objection at the threshold and cited its *own* decision i*n Amar Singh v. Vimla* to the same effect. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, cautioned against deciding contested questions of coercion and credibility during investigation under Section 482. *S. Martin, Ajay Kumar Das* (including the caution in *Bhajan Lal*), *Gourishetty Mahesh*, *M. Srikanth*, *CBI v. Arvind Khanna and State of M.P. v. Kunwar Singh* reinforced the need to exercise the quashing power sparingly and to avoid a detailed evaluation of disputed evidence. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised that public documents or defence documents whose veracity is not disputed by the complainant may be considered in an appropriate case. *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* were also listed as authorities taking a similar view.

3. Statutes considered : Section 498-A IPC was the principal alleged offence of cruelty. IPC Sections 323, 506 and 34 and Dowry Prohibition Act Sections 3/4 were also invoked in the FIR. Section 482 CrPC provided the inherent power to quash proceedings. The applicants based their limitation objection on the maximum punishment of three years under Section 498-A. The Court rejected it on the basis of the alleged continuing mental cruelty, taking the FIR allegations at face value.

4. Issues : Whether an FIR lodged years after the alleged last physical assault was barred by limitation on its face despite allegations of continuing separation following a dowry demand; whether the High Court could compare the wife's divorce pleadings with her criminal allegations to assess credibility; and whether the husband's earlier apprehensions of false implication made the FIR inherently unreliable.

5. Ratio / Findings : According to the FIR, the woman had been expelled from her matrimonial home and continued to live with her parents because the applicants refused to keep her unless she brought the demanded money and car. Applying *Rupali*

Devi, the Court held that the continuing mental trauma gave rise to a fresh cause of action each day and rejected the limitation objection without taking evidence. It assessed the allegations at face value under Section 482 and declined to decide whether the account in the divorce petition or the FIR was true. The husband's earlier police complaints apprehending false implication raised matters of defence and did not prove that the FIR was false. The Court left those factual questions for trial and made no final finding on guilt or credibility.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 to quash Crime No. 113/2024. Investigation and prosecution could continue, with the factual defences left open.

Awadh Narayan Saxena and Ors. v. Shalini Saxena and Ors., M.Cr.C. no. 10414/2024, 14/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (88) Prev Next

Headnote :- Investigation — arrest discretion - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, applying *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that the power of arrest under Section 41 CrPC is discretionary and must be exercised cautiously, according to the needs of the investigation. Registration of an FIR for a cognizable offence does not automatically require arrest or a charge-sheet. Section 482 cannot be used to dictate those steps or to issue prejudicial directions against an accused without hearing that person. The informant's request for a direction to arrest was refused.

Investigation — prompt completion - Section 173(1) CrPC requires investigation to be completed without unnecessary delay. Although the Court declined to supervise how the investigation was conducted, it directed the investigating officer to complete the investigation into IPC Sections 376/506 and submit the appropriate final report in accordance with law. Whether to file a charge-sheet or a closure report depended on the evidence.

Case-note :- ***1. Facts :*** Ayushi Shrivastava's complaint resulted in registration of Crime No. 500/2019 at Police Station Padav, Gwalior, alleging offences under IPC Sections 376 and 506. In an application under Section 482 CrPC, she complained that the police had taken no further action and had not arrested the accused. The Court's reasons identify the relief sought as directions for arrest and investigation. It did not adjudicate any case diary or disputed evidence concerning the incident. The Court distinguished a request to dictate police decisions on arrest and charging from the duty to complete the investigation already registered.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was extensively quoted and applied to reject judicial directions prescribing arrest, seizure or a charge-sheet during an ongoing investigation. It adopted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on the discretion to arrest under Section 41 and the effect of arrest on personal liberty. The quoted passage also discussed *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, which required an opportunity of hearing for persons affected by judicial orders directing drastic investigative action. The High Court applied that authority's rule against supervising the investigation, but separately applied Section 173(1) to the complaint of delay.

3. Statutes considered : Section 482 CrPC confers a limited inherent power, rather than a general power to supervise the police. Section 41 CrPC permits arrest on cognizable information but does not make it automatic. Section 173(1) requires completion of the investigation without unnecessary delay; applying that mandate, the Court required the appropriate final police report. IPC Sections 376 and 506 were the offences alleged in the FIR and were not examined on their merits.

4. Issues : Whether the informant could obtain a High Court direction compelling arrest of the alleged offender or requiring a predetermined charge-sheet; and whether the lack of progress justified a direction under Section 173(1) to complete the investigation while preserving the police's lawful discretion.

5. Ratio / Findings : *D. Venkatasubramaniam* rejects the view that arrest, seizure and a charge-sheet must follow every investigation. It also cautions that judicial interference without reasons or a hearing may affect the person's liberty and reputation. The Court therefore refused to direct arrest and did not prescribe the result of the investigation. Nevertheless, under Section 173(1), the police had to conclude whether an offence was made out and submit the appropriate final report without unnecessary delay. The direction required prompt completion in accordance with law; it did not require a charge-sheet or establish the truth of the complaint.

6. Relief : The Hon'ble High Court disposed of the application under Section 482 by directing the investigating officer to complete the investigation as early as possible and take the steps required by law. It did not order arrest or the filing of a charge-sheet. Ayushi remained free to make a further application concerning any grievance to the Superintendent of Police, Gwalior, who was to consider it in accordance with law.

Ayushi Shrivastava v. Superintendent of Police and Ors., M.Cr.C. no. 51341/2019, 07/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (89) Prev Next

Headnote :- POCSO — age proof - *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, gives priority to available school records of a child victim's date of birth under the prescribed documentary hierarchy. *State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736*, and *Murugan v. State of T.N., (2011) 6 SCC 111*, explain the admissibility and evidentiary weight of entries under Section 35 of the Evidence Act, including the relevance of their source and corroboration. Here, the school register made before the dispute, the headmaster's certificate and family evidence established that the prosecutrix was born on 12 January 1998 and was 15 years and 21 days old at the time of the incident.

Child sexual offence — marriage and consent - The appellant's notarized deed did not prove that a marriage had been performed according to the rites he claimed. Citing *Independent Thought v. Union of India, (2017) 10 SCC 800*, on the marital exception in Section 375, the Court held that the minor's alleged consent was immaterial. The Court also found that the marriage had not been proved and separately relied on POCSO in upholding the conviction.

POCSO — applicable law and corroboration - POCSO came into force on 14 November 2012, before the incident in February 2013. The objection based on the later IPC amendment therefore did not affect the conviction under Section 6. The prosecutrix's testimony was supported by her recovery with the appellant and the FSL findings. The ten-year sentence was affirmed, with no separate sentence under IPC Section 376 in view of Section 71 IPC.

Case-note :- ***1. Facts :*** Babalu appealed against the judgment dated 19 March 2015 in Sessions Trial No. 33/2013, convicting him under IPC Sections 363, 366 and 376 and Section 6 of POCSO. The trial court imposed seven-year terms for the kidnapping-related offences and ten years under POCSO, with fines. It imposed no separate sentence under Section 376. The prosecutrix went missing on 2 February 2013 after leaving home, and her mother lodged a missing-person report. The prosecutrix testified that the appellant had called her to his shop through a friend, threatened her with a knife, taken her through several cities, purported to marry her in Delhi and repeatedly had sexual intercourse with her. Her mother and brother gave evidence about her age. A school headmaster proved an admission register and a certificate recording her birth as 12 January 1998. Medical examination showed that her hymen had ruptured and healed; the FSL found human sperm on her vaginal slides and clothing. The defence asserted that she had travelled voluntarily and relied on a marriage deed executed in April 2013. It challenged the school evidence of age, relied on the later commencement of the 2013 IPC amendment and sought reduction of sentence. After counsel repeatedly failed to appear, a legal-aid amicus argued the appeal; the original counsel later filed written arguments.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, applied the documentary hierarchy in the then Juvenile Justice Rule 12 to determine a child victim's age. Under that hierarchy, an available certificate from the school first attended took priority over medical estimation. *State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736*, held school registers admissible under Section 35 of the Evidence Act, without treating every entry as conclusive, and assessed the parents' evidence. *Murugan v. State of T.N., (2011) 6 SCC 111*, explained that the weight of official entries made before a dispute may depend on the source of the information and corroboration. *Mukarrab v. State of U.P., (2017) 2 SCC 210*, cautioned against determining age solely by an imprecise ossification test. The Court applied these principles to the register proved by the headmaster and the corroborating witnesses. *Independent Thought v. Union of India, (2017) 10 SCC 800*, was cited to reject the claimed marital exception concerning a girl under 18. The appellant relied on *State of H.P. v. Mango Ram, (2000) 7 SCC 224*, for leniency, but the Court did not reduce the sentence.

3. Statutes considered : Section 6 of POCSO provided the sentence for aggravated penetrative sexual assault; the Act came into force on 14 November 2012. IPC Sections 363 and 366 concerned the taking of the child, Section 376 concerned rape, and Exception 2 to Section 375 was invoked for the claimed marital defence. Section 35 of the Evidence Act concerned the school-register entries. CrPC Section 313 governed the appellant's statement, and Section 374 provided the appeal. The defence relied on the Criminal Law Amendment Act coming into force on 3 February 2013, but POCSO was already in force before the incident.

4. Issues : Whether the prosecutrix was under 18 on 2 February 2013 despite the school entry not identifying the source of its date-of-birth information; whether her alleged consent or the notarized marriage deed could defeat the IPC and POCSO sexual-offence convictions; whether the later 2013 IPC amendment affected the conviction under Section 6 of POCSO; and whether the evidence and sentence justified interference in appeal.

5. Ratio / Findings : The admission register made before the dispute and proved by the headmaster, the school certificate, the mother's and brother's evidence, and the prosecutrix's unchallenged statement about her age established that she was born on 12 January 1998. She was 15 years and 21 days old on the date of kidnapping. On the evidence as a whole, the objection that the source of the school entry was not stated did not create reasonable doubt about her minority. The appellant's deed did not prove a Hindu marriage. Citing *Independent Thought*, the Court treated the minor's consent as legally immaterial and accepted her account of threats and sexual intercourse. Her recovery with the appellant, his admission that they had travelled to Punjab and the FSL finding of human sperm corroborated her account. POCSO had come into force in November 2012, which answered the objection to the prosecution under that Act for the incident in February 2013. The Court affirmed the IPC and POCSO convictions and the ten-year sentence. That sentence was the statutory minimum applicable to the POCSO offence; the authority cited for leniency did not result in a reduction.

6. Relief : The Hon’ble High Court dismissed the criminal appeal and upheld the convictions, imprisonment and fines imposed on 19 March 2015. No separate sentence under Section 376 was added to the sentence under Section 6 of POCSO, in view of Section 71 IPC.

Babalu v. State of M.P., Cr.A. no. 243/2015, 09/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (90) Prev Next

Headnote :- Murder appeal — In an appeal under Section 374(2) CrPC against conviction under IPC Section 302, the postmortem evidence of multiple gunshot wounds and haemorrhagic shock established homicidal death, although the doctor had not expressly described it as homicidal. Three eyewitnesses identified the appellant as the shooter. Their differences about beer, companions and the route did not affect the central account, and their relationship with the deceased was no ground by itself to reject their evidence. Applying *Namdeo, (2007) 14 SCC 150*, and *Guru Dutt Pathak, (2021) 6 SCC 116*, the Bench held that failure to examine additional or independent witnesses did not automatically justify an adverse inference where the evidence already given was convincing. Under *Yogesh Singh, (2017) 11 SCC 195*, failure to prove motive was immaterial when trustworthy direct evidence established the crime. *Rameshbhai Mohanbhai Koli, (2011) 11 SCC 111*, supported reliance on convincing recovery evidence from the investigating officer despite hostile seizure witnesses. The memoranda and FSL report corroborated the account of the firearm's use. The Bench found guilt proved beyond reasonable doubt, affirmed the life sentence, fine and property-disposal order, and rejected the appeal.

Case-note :- *1. Facts :* At a village ceremony on 14 April 2013, Babburaja Singh Gurjar took Ranveer Singh alias Naatiraja away on a motorcycle. Prosecution witnesses stated that they followed and saw him fire a country-made gun at Ranveer near Mota-Kanchanpur. Ranveer died from gunshot wounds to his chest and elbow. The police registered Crime 153/2013 alleging offences under IPC Section 302/34 and Arms Act Sections 25/27. They collected spent cartridges and soil, arrested the appellant and, on the basis of his memorandum, recovered a 12-bore Katta, a cartridge and a motorcycle. The Additional Sessions Judge, Pichhore, convicted him under Section 302 and sentenced him to life imprisonment with a fine of Rs 5,000 and a default stipulation.

2. Precedents — Considered : *Namdeo v State of Maharashtra, (2007) 14 SCC 150*, was quoted for the rule under Section 134 of the Evidence Act that the quality of evidence matters, rather than the number of witnesses. *Guru Dutt Pathak v State of UP, (2021) 6 SCC 116*, explained that failure to examine independent witnesses is not fatal where the eyewitness evidence is convincing. *Yogesh Singh v Mahabeer Singh, (2017) 11 SCC 195*, held that failure to prove motive does not justify rejecting otherwise credible direct testimony. *Rameshbhai Mohanbhai Koli v State of Gujarat, (2011) 11 SCC 111*, supported reliance on convincing recovery evidence given by the investigating officer even where seizure witnesses had turned hostile.

3. Statutes considered : IPC Sections 302 and 34 and Arms Act Sections 25 and 27 were the provisions invoked in the FIR. The appeal under CrPC Section 374(2) concerned the murder conviction. Section 134 of the Evidence Act governed the objection about the number of witnesses examined.

4. Issues : In Criminal Appeal 6341/2021 under CrPC Section 374(2), the Division Bench considered whether the death was homicidal and whether the appellant had committed murder. The defence disputed the eyewitnesses' presence and questioned their credibility as relatives of the deceased. It also challenged the medical description of the death, the failure to prove motive, the non-examination of independent witnesses, the hostility of seizure witnesses, the lack of fingerprints and the recovery. The appeal concerned the conviction and sentence under Section 302, rather than a separate Arms Act conviction.

5. Ratio / Findings : PW13's postmortem evidence showed firearm wounds to the chest and left elbow, fractures and shock caused by bleeding. The injuries were sufficient in the ordinary course of nature to cause death, and there was no evidence of suicide or accident. PW1, PW2 and PW11 identified the appellant as the person who fired the shots. The Bench assessed their differences about beer, companions and the route in light of the two-year interval before their examination and their strong agreement about the shooting itself.

The relationship of PW1 and PW11 with the deceased was not, by itself, a reason to reject their otherwise credible evidence. PW2's differences on peripheral matters did not affect his identification of the appellant or account of the shooting. PW17's evidence of the arrest, memorandum and firearm recovery was supported by exhibits P/16–P/19 and FSL P/23, which the Bench treated as corroborating the use of that weapon in the incident. The absence of fingerprints did not defeat that evidence on this record. The FIR was prompt and named the appellant. The eyewitness, medical and forensic evidence together proved murder beyond reasonable doubt; failure to prove motive separately did not displace the reliable direct evidence.

The Court assessed the materiality of contradictions and the quality of the evidence. It did not require a fixed number of witnesses, reject relatives' evidence merely because of their relationship, or discard convincing recovery evidence from the investigating officer solely because seizure witnesses had turned hostile. Where reliable direct evidence proves the act, failure to prove motive is not decisive. These principles did not relieve the prosecution of its burden of proof, which the Bench found discharged on the corroborated evidence in this case.

6. Relief : The Hon'ble High Court affirmed the conviction under IPC Section 302, the sentence of life imprisonment, the fine of Rs 5,000 with its default stipulation, and the trial court's order for disposal of the property. It rejected the appeal and directed that a copy of the judgment and the original record be sent to the trial court.

Babburaja Singh Gurjar v. The State of Madhya Pradesh, Cr.A. no. 6341/2021, 07/01/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anil Verma, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (91) Prev Next

Headnote :- Criminal proof — rape allegation and reasonable doubt - The prosecutrix described the appellant pressing her neck, but did not testify that he had raped her, even when recalled. The first FIR contained no allegation of rape. The later complaint, material conflicts in the witnesses' accounts, uncertainty about when the genital injury occurred and the doubtful FSL material did not establish that the appellant had raped her. Applying *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, the Court set aside the convictions under IPC Section 376(2)(f) and POCSO Sections 3/4. The child's unconsciousness and medical findings suggesting a possible sexual assault did not establish the appellant's responsibility beyond reasonable doubt.

Witness credibility — core contradictions - The witnesses' accounts differed materially about the first

disclosure, the child's consciousness, whether her clothes had been changed and the room where she was found. Those conflicts affected the allegation of the sexual offence. By contrast, the child's original report and testimony consistently identified the appellant as the person who had pressed her neck. The Court therefore upheld the Section 323 IPC conviction and the three-month sentence.

POCSO — sexual intent and proof - Sections 3 and 7 require proof of the sexual acts they respectively define; Section 7 also requires sexual intent. On this record, proof that the appellant had pressed the child's neck established neither penetration by him nor sexual intent. The Court set aside the POCSO conviction on the cumulative defects in proof. Its decision did not lay down a rule requiring corroboration in every case.

Case-note :- ***1. Facts :*** Bablesh appealed against the judgment dated 20 September 2014 in Sessions Trial No. 105/2013. The trial court had convicted and sentenced him under IPC Sections 452, 376(2)(f) and 323 and POCSO Sections 3/4, with concurrent terms that included ten years for the sexual offences. A child aged approximately eight years said that the appellant came to her home on 19 January 2013 and pressed her neck until she lost consciousness. The FIR lodged on 20 January recorded trespass, hurt and intimidation, but no rape allegation. Her father introduced that allegation in a later written complaint. Medical examinations on 20 and 21 January recorded abrasions on her neck and some genital findings. The child did not allege rape in her trial testimony or when recalled at the prosecution's request under Section 311 CrPC. The trial court nevertheless inferred from the medical findings that she had been raped while unconscious. The defence challenged that inference, improvements in the accounts and the reliability of the forensic evidence.

2. Precedents — Considered : *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537,* was quoted and applied on the prosecution's burden of proof, reasonable doubt as understood by a prudent person, and the distinction between minor discrepancies and contradictions affecting the core of a witness's account. The Court did not reject testimony merely because the witnesses were related to the child. It assessed the particular contradictions against the first disclosure and the medical record.

3. Statutes considered : IPC Section 376(2)(f) concerned the alleged rape of the child, Section 452 the alleged house trespass, and Section 323 the proved assault on her neck. POCSO Section 3 defines penetrative sexual assault, punishable under Section 4. The Court also reproduced Section 7 to distinguish physical contact with sexual intent from ordinary hurt, although the trial conviction under review was under Sections 3/4. CrPC Section 311 permitted recall of the prosecutrix and her father, and Section 374 governed the appeal. Evidence Act Sections 3, 145 and 155 appeared in the Supreme Court passage adopted on proof and contradictions.

4. Issues : Whether partial rupture of the hymen and the child's unconsciousness justified inferring that the appellant had raped her, despite her testimony, the first FIR, uncertainty about the date of injury and the conflict with the FSL report; whether the inconsistencies were material; whether entry into the house and sexual intent were proved; and which of the convictions could be upheld.

5. Ratio / Findings : The child consistently described the appellant pressing her neck, but did not say that Bablesh had raped her, even when recalled. The doctor who examined her on 21 January could not attribute the genital injury to 19 January and had found no blood when preparing the slide. The FSL report, however, recorded blood and sperm; the trial court had itself found that report doubtful. The witnesses gave conflicting accounts about the child's clothes, her first disclosure, how long she remained unconscious and access to the room. Considering the record as a whole, the Court found material doubt and rejected the inference that the appellant must have raped her while she was unconscious. The discrepancies led it to infer that an attempt may have been made to fabricate evidence; it did not determine any separate offence of fabrication. The child said that the appellant had pressed her neck while she was sitting on a platform outside the house, so house trespass was not proved. Her evidence and the FIR proved the neck assault, but no sexual intent was shown, and penetrative sexual assault by the appellant was not proved.

6. Relief : The Hon'ble High Court partly allowed the appeal and set aside the convictions under IPC Sections 376(2)(f) and 452 and POCSO Sections 3/4. It affirmed the conviction under Section 323 IPC, three months' rigorous imprisonment and a fine of Rs 1,000, with 15 days' simple imprisonment in default of payment. The appellant had already served the substantive three-month term and was directed to be released immediately if not required in another case.

Bablesh v. The State of M.P., Cr.A. no. 1163/2014, 13/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (92) Prev Next

Headnote :- Non-registration of FIR / remedy — The applicant sought directions under Section 528 BNSS for the police to investigate her complaint and register an FIR. The Court dismissed the application, leaving her free to approach the Magistrate by complaint under CrPC Section 200 / BNSS Section 223. *Aleque Padamsee, (2007) 6 SCC 171*, and *Divine Retreat Centre, (2008) 3 SCC 542*, distinguish the police duty to register information disclosing a cognizable offence from the remedy when police fail to act. *Divine Retreat Centre* preserves exceptional Article 226 intervention where mala fide exercise of investigative power, clear abuse and non-compliance with the prescribed procedure require it. *Sakiri Vasu, (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe, (2016) 6 SCC 277*, explain recourse to the SP under Section 154(3) and the Magistrate under Section 156(3) CrPC, including directions and monitoring to ensure proper investigation, subject to the Magistrate's prima facie satisfaction. The MP Division Bench's *Shweta Bhadauria* distinguishes *Lalita Kumari*'s registration rule from an entitlement to routine mandamus, while recognising the established exceptions to the rule of alternative remedy. The Court did not decide the merits of the complaint or whether it disclosed a cognizable offence.

Case-note :- ***1. Facts :*** Babli Bais filed MCRC 456/2025 under Section 528 BNSS, stating that the police had not registered an FIR on her complaint. She sought a direction for investigation and registration of an FIR against the persons she had complained about. State counsel relied on her remedy before the Magistrate.

2. Precedents — Considered : *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, affirmed the police duty to register information disclosing a cognizable offence, but directed complainants to the remedy under Sections 190/200 CrPC when police failed to act. It distinguished the question decided in *Ramesh Kumari*. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, recognised exceptional Article 226 intervention where mala fide investigation, clear abuse of power and non-compliance with the prescribed procedure require it, while directing ordinary complaints of police inaction to the Magistrate. Its quotation of *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union* explained inquiry into a complaint and the power to direct investigation. *Sakiri Vasu v State of UP, (2008) 2 SCC 409*, explained recourse to the SP under Section 154(3) and to the Magistrate under Section 156(3). *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, applied *Sakiri Vasu* and explained the Magistrate's powers, on prima facie satisfaction, to direct or monitor a proper investigation. The MP Division Bench in *Shweta Bhadauria v State of MP* distinguished *Lalita Kumari*'s ruling on the police duty from a right to bypass alternative remedies, while recognising the *Whirlpool* exceptions.

3. Statutes considered : The applicant invoked the inherent power under Section 528 BNSS. The CrPC framework reproduced by the Court included Sections 154(3), 156(3), 190 and 200. In its operative order, the Court identified the complaint remedy under Section 200 CrPC / Section 223 BNSS.

4. Issues : Whether the High Court should direct the police to register an FIR on this application despite the ordinary procedure for addressing police inaction. The proceedings concerned non-registration of an FIR, rather than charges, a final report or adjudication of the truth of the complaint.

5. Ratio / Findings : Applying the cited decisions on the statutory remedy before the Magistrate, the Court dismissed the application and gave the applicant liberty to pursue that remedy. It did not examine whether the allegations disclosed a cognizable offence.

The police duty to register an FIR disclosing a cognizable offence is distinct from the remedy available when police fail to perform that duty. In an ordinary case of non-registration, the complainant seeks redress through the statutory remedies before superior police officers or the Magistrate. The cited decisions preserve exceptional constitutional intervention where mala fide exercise of investigative power, clear abuse and non-compliance with the prescribed procedure justify it; that assessment depends on the particular facts. The dismissal here was procedural and did not determine the underlying complaint.

6. Relief : The Hon'ble High Court dismissed the application with express liberty to approach the concerned Magistrate under Section 200 CrPC / Section 223 BNSS for redress.

Babli Bais v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 456/2025, 20/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (93) Prev Next

Headnote :- Murder — Section 300 thirdly — Under *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, the prosecution must prove that the particular bodily injury was intentionally inflicted and was sufficient, in the ordinary course of nature, to cause death. The latter inquiry is objective; a separate intention to kill need not be proved under this clause. The Court affirmed the conviction under Section 302 IPC where eyewitnesses described repeated stabbing with a knife, the abdominal wounds damaged the bowel and blood vessels, and death resulted from shock and haemorrhage. The contention that there was no prior enmity did not alter the result.

Evidence — related witnesses — Relationship with the deceased called for careful scrutiny of the testimony, rather than its automatic rejection. The direct accounts given by the deceased's wife and brother-in-law were consistent with the medical and other evidence, and the defence did not establish a basis for false implication. The auto driver, who was not examined, had transported the deceased and was not an eyewitness. The Court also treated the relatives' accounts of seeing the accused holding and stabbing the deceased as establishing the last-seen theory.

Case-note :- ***1. Facts :*** Bablu alias Virendra appealed against the judgment dated 31 March 2009 in Special Sessions Trial No. 121/2007, which convicted him of Pooran Ahirwar's murder under IPC Section 302 and sentenced him to life imprisonment and a fine of Rs 5,000, with one year's rigorous imprisonment in default. On 1 October 2007, Pooran left home after a neighbour called him. His wife, Meerabai, and brother-in-law, Mahesh, went in search of him and stated that they saw Bablu holding and stabbing him. They took Pooran to hospital, where he was declared dead. The post-mortem recorded several wounds caused by a sharp object, including abdominal injuries, and attributed death to shock and haemorrhage. A knife and clothing were recovered, and the seized articles were sent for FSL examination. The defence disputed the eyewitness accounts, motive and consistency with the medical evidence, and pleaded sudden provocation.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was adopted for the four-part inquiry under Section 300 Thirdly, which distinguishes the intention to inflict the proved injury from the objective question whether it was sufficient to cause death in the ordinary course of nature. The Court reproduced *Arun Nivalaji More*, *Anda*, *Mahesh Balmiki*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *Kanhaiyalal* and *Bavisetti Kameswara Rao* on distinguishing murder from culpable homicide by considering the weapon, the part of the body injured and the surrounding circumstances. *Dhirajbhai Gorakhbhai Nayak* was reproduced on a sudden fight under Exception 4. *Jayabalan v. UT of Pondicherry*, *Seeman v. State* and *Jodhan v. State of M.P.* were applied to require careful scrutiny of related witnesses' evidence rather than its wholesale rejection. *Ramreddy Rajeshkhanna Reddy*, *Hatti Singh and State of U.P. v. Satish* were quoted on the last-seen theory. In this case, the wife and brother-in-law said that they directly saw the attack; the Court also treated their accounts as establishing last-seen evidence.

3. Statutes considered : IPC Sections 299, 300 Thirdly, 302 and 304 governed the classification of the homicide. The judgment also discussed Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, although the trial court's conviction table and the operative relief concerned Section 302 alone. The Court recorded the parties' caste status and inferred a caste-related motive from that status and the abusive language used during the attack; the conviction affirmed was under Section 302 IPC. CrPC Section 374 provided appellate jurisdiction, and Section 161 concerned the statements recorded during investigation.

4. Issues : Whether Pooran died homicidally from an intentional knife attack by Bablu, and whether the injuries and circumstances amounted to murder rather than a lesser form of homicide despite the pleas of sudden provocation and absence of prior enmity. Whether the wife's and brother-in-law's evidence could be relied on despite their relationship to the deceased and the non-examination of independent witnesses. Whether the deceased's Scheduled Caste status motivated the attack.

5. Ratio / Findings : The doctor identified multiple ante-mortem injuries caused by a sharp object, including deep abdominal wounds, ruled out the suggested fall on broken glass, and attributed death to bleeding and shock. The knife could have caused

those wounds. Meerabai and Mahesh gave direct accounts of Bablu stabbing the deceased, supported by the medical and forensic evidence. Their relationship to the deceased did not justify rejecting their testimony, no basis for false implication was established, and the non-examination of an auto driver who was not an eyewitness did not undermine their accounts. On the proved repeated stabbing and fatal wounds, the Court affirmed the conviction for murder under Section 302, applying *Virsa Singh*'s analysis of Section 300 Thirdly. The Court also inferred a caste-related motive from the deceased's status and the abusive language used during the attack. It affirmed the conviction under Section 302.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and confirmed the Section 302 conviction, life imprisonment, fine of Rs 5,000 and the stated default sentence. The appellant was to be informed of the result through the prison superintendent. A copy of the judgment, together with the trial court record, was to be sent back immediately.

Bablu v. The State of Madhya Pradesh, Cr.A. no. 16/2010, 05/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (94) Prev Next

Headnote :- Kidnapping — taking and enticement — *S. Varadarajan v. State of Madras, (1965) 1 SCR 243*, does not require allegations under IPC Sections 363 and 366 to be quashed merely because a minor states that she left voluntarily. As explained in *Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat*, reliance on that decision requires the minor's knowledge and capacity to understand the full import of her actions, voluntary abandonment of her guardian's care, and absence of assistance or inducement by the accused. Whether Bablu enticed the girl to travel with him was disputed. The FIR could therefore not be quashed under Section 482 CrPC.

Child marriage assertion — prima facie stage — The girl was below 17 both when she left home and when the subsequent marriage affidavit was executed. Citing *Independent Thought v. Union of India, (2017) 10 SCC 800*, the Court rejected the claimed marriage as a ground for ending the prosecution. It did not determine guilt under POCSO Sections 7/8.

Case-note :- ***1. Facts :*** Bablu applied under Section 482 CrPC to quash the FIR in Crime No. 331/2016 at Tyonda police station for IPC Sections 363 and 366 and POCSO Sections 7/8. The girl, aged about sixteen at the time, left home on 15 November 2016 and travelled with him to Ahmedabad. He relied on her statement, made after her recovery, that she had left voluntarily. He also claimed that they had married in a temple, relying on an affidavit dated 19 November 2016, and that they had children. A birth certificate concerning a child subsequently born was produced. The State submitted that whether he had enticed the girl was a matter for trial.

2. Precedents — Considered : The applicant invoked *S. Varadarajan v. State of Madras, (1965) 1 SCR 243*, in support of his voluntary-departure defence. The Court followed *Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat, Criminal Appeal No. 1919/2010* (12 January 2021), which distinguished taking from enticement and explained the minor's knowledge and capacity, voluntary abandonment of guardianship, and absence of accused inducement as conditions for reliance on *Varadarajan*. *Independent Thought v. Union of India, (2017) 10 SCC 800*, was cited concerning sexual relations with a wife below 18. The Court treated the disputed question of enticement as material at the prima facie stage.

3. Statutes considered : IPC Sections 363 and 366 concerned the kidnapping and abduction-related allegations. Section 376 was discussed in relation to the claimed marriage. POCSO Sections 7/8 remained among the recorded FIR allegations. CrPC Section 482 provided the jurisdiction to consider quashing.

4. Issues : Whether the girl's asserted voluntary travel necessarily excluded taking or enticement and justified quashing. Whether the alleged marriage and subsequent childbirth brought the criminal proceedings to an end. Whether the FIR disclosed prima facie allegations warranting prosecution.

5. Ratio / Findings : The Court accepted that the girl was below 17 when she left home and when the later marriage affidavit was executed. Whether Bablu had assisted or induced her departure remained disputed; her statement that she travelled voluntarily did not establish the absence of enticement required for reliance on *Varadarajan*. Applying *Anversinh*, the Court held that guilt under IPC Sections 363 and 366 could not be ruled out at that stage. The claimed marriage did not alter her minority, and *Independent Thought* was invoked in that context. The Court

found prima facie material warranting prosecution, without resolving the disputed facts or determining ultimate guilt.

6. Relief : The Hon'ble High Court dismissed the application and declined to quash the FIR.

Bablu v. State of M.P. and Ors., M.Cr.C. no. 30855/2021, 27/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (95) Prev Next

Headnote :- Criminal proof — suppressed genesis and defence injuries — The injured complainant and his wife admitted that the appellants had also suffered injuries and that he faced a cross-prosecution for assaulting them. The prosecution's failure to explain those injuries and the origin of the clash was therefore material. Applying *Bhagwan Sahai v. State of Rajasthan, (2016) 13 SCC 171*, the Court drew an adverse inference on the whole record. As the prosecution had not proved beyond reasonable doubt that the appellants were the aggressors, their convictions under Section 324/34 IPC were set aside.

Witnesses — injured account and omissions — The injured witness's presence at the scene did not resolve the material omissions about the weapons and the cause of the encounter, or the inconsistency in his wife's account of witnessing the assault. Those defects were assessed together with the unexplained injuries to the other side. The conclusion did not rest on the complainant's criminal history alone.

Case-note :- ***1. Facts :*** Babu and the other appellants challenged their conviction dated 6 June 2008 in Sessions Trial No. 69/2008 under IPC Section 324 read with Section 34. They had been sentenced to one year's rigorous imprisonment and a fine of Rs 500, with one month's rigorous imprisonment in default. The prosecution alleged that members of Babulal Kori's family attacked Jagdish on the night of 7 December 2007 with an iron angle, a knife, lathis and stones. His wife, Meena, lodged the FIR. The doctors recorded injuries to his scalp, face and limbs, some caused by a sharp object; the X-rays disclosed no bone injury. Jagdish and Meena admitted that Babulal, Reshma and Nanhi Bai had also been injured and that Jagdish faced a pending Section 307 cross-case for assaulting them. As counsel for the appellants did not appear, the Court examined the record and heard the State.

2. Precedents — Considered : *Bhagwan Sahai and another v. State of Rajasthan, (2016) 13 SCC 171*, was quoted and applied. It explains the adverse inference and benefit of doubt arising where the prosecution suppresses the origin of the occurrence and fails to explain material injuries to the accused. The reproduced passage distinguishes a free fight, in which a witness may not reasonably be expected to observe and explain injuries inflicted at different places, from the facts before the Supreme Court. The High Court assessed the cross-injuries and testimony in this appeal before applying the principle.

3. Statutes considered : The appealed conviction was under IPC Section 324/34. The FIR also referred to Sections 323, 294, 427 and 506-B, while the formal charges were under Sections 294, 324/34, 506-II and 427; the conviction challenged in appeal was Section 324/34. The pending Section 307 cross-case was relevant to the competing account but was not adjudicated in this appeal. CrPC Section 374 governed the appeal, and Section 161 concerned the earlier witness statements used to establish omissions.

4. Issues : Whether the prosecution proved beyond reasonable doubt that the appellants were the aggressors when their injuries and the origin of the cross-assault remained unexplained. Whether Jagdish's and Meena's testimony reliably proved the alleged assault with common intention.

5. Ratio / Findings : The medical evidence established that Jagdish was injured, but did not show who began the confrontation. He admitted the cross-case, omitted details of the alleged weapons and motive from his police statements, and had gone near the appellants' house without a satisfactory explanation in the prosecution account. In cross-examination, Meena placed her arrival after Jagdish was already lying on the ground, contrary to her claim that she had seen the assault. The other witnesses provided no reliable independent account. Some appellants had also been injured, but the prosecution did not explain how. Applying *Bhagwan Sahai* to the record as a whole, the Court found that the origin of the incident had been suppressed and that the prosecution had not proved beyond reasonable doubt that the appellants were the aggressors. It did not decide Jagdish's guilt in the separate case.

6. Relief : The Hon'ble High Court allowed the criminal appeal, set aside the conviction and sentence dated 6 June 2008, and acquitted the

appellants. Their bail and surety bonds were discharged. The office was directed to send a copy of the judgment with the trial court record for necessary information and compliance.

Babu and Ors. v. The State of Madhya Pradesh, Cr.A. no. 1273/2008, 19/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (96) Prev Next

Headnote :- Protection of Women from Domestic Violence Act — Section 19 residence — sham family transfer — The husband received a share in the house under a 1984 partition. After Premwati applied for residence protection on 01.08.2011, his attorney sold that share on 12.06.2012 to the son of a co-applicant. The timing and family relationship were undisputed; the trial court also found that the applicants remained in possession. On that record, the Court upheld the finding that this sale was a sham intended to defeat relief under the DVA. It maintained the order prohibiting obstruction of Premwati's and her daughter's peaceful residence.

Domestic Violence Act — Sections 2(a), 3, 12 and 19 — pre-act conduct — Economic abuse includes deprivation of resources and restrictions on access to a shared household. Premwati's marriage remained subsisting. *V.D. Bhanot*, *Saraswathy*, *Shalini* and *Krishna Bhattacharjee* support consideration of conduct before the 2005 Act and protection for a wife who had formerly shared a household. The contrary view in *Devkaran* could no longer defeat maintainability. The challenge under Section 482 was dismissed.

Case-note :- ***1. Facts :*** Premwati alleged abuse, exclusion from the family house and failure to maintain her and her unmarried daughter. She applied under Sections 12 and 19 of the Protection of Women from Domestic Violence Act, 2005 against her husband, Devi Lal, and relatives including Babulal. The relatives replied that proceedings under Section 125 CrPC had begun in 1985 and that she had not visited the house since then. They relied on the separate shares created by the 1984 partition and alleged that Devi Lal had sold his share and was now living with her. Devi Lal did not appear in the DVA proceedings and was proceeded against ex parte. The JMFC examined the partition dated 17.04.1984, under which Devi Lal received a share. He had given a power of attorney to co-applicant Hetram on 06.01.2004. Premwati filed her DVA application on 01.08.2011, but Hetram sold Devi Lal's share to Dharmendra, a co-applicant's son, only on 12.06.2012, for Rs. 4 lakh. The JMFC found that the family transaction was intended to defeat the residence claim and restrained interference with Premwati's and her daughter's peaceful residence. The Additional Sessions Judge dismissed the relatives' appeal on 27.02.2013. They then invoked Section 482 CrPC, relying on the sale and contending that the alleged acts preceded the DVA.

2. Precedents — Considered : *Krishna Bhattacharjee v. Sarathi Choudhary, (2016) 2 SCC 705*, was quoted to require a sensitive and thorough examination at the threshold under the beneficial and affirmative 2005 Act. Courts should examine the legally relevant facts before dismissing an aggrieved woman's petition on a formal maintainability objection. *V.D. Bhanot v. Savita Bhanot, (2012) 3 SCC 183*, was applied on the temporal and residence questions: conduct before commencement may be considered on a later Section 12 complaint when granting Sections 18–20 relief, and a wife who formerly lived with her husband in a shared household is not excluded merely because she no longer did so when the Act came into force. The judgment refers to the protective constitutional purpose under Articles 14, 15 and 21 and the provision of an effective and expeditious civil remedy. *Saraswathy v. Babu, (2014) 3 SCC 712*, quoted and endorsed *Bhanot* on prior conduct, rejected a High Court's refusal to consider pre-Act behaviour, and applied Section 3's broad definition of domestic violence. *Shalini v. Kishor, AIR 2015 SC 2605*, likewise applied *Bhanot* and *Saraswathy* where a domestic relationship and threatened loss of residence supported relief under Sections 12, 19 and 20. The Court applied those decisions to reject the relatives' timing objection. The applicants relied on the contrary pre-Act view in the Madhya Pradesh coordinate-bench decision *Devkaran v. Sanjana Bai*; the High Court expressly held that it was no longer good law in view of the intervening Supreme Court decisions.

3. Statutes considered : Section 2(a) DVA defines an aggrieved woman in a domestic relationship who alleges domestic violence. Premwati remained married to Devi Lal; no divorce had been granted. Section 3 defines domestic violence broadly, including verbal and emotional abuse and economic abuse through deprivation of resources, alienation of property which the woman is entitled to use, and

exclusion from a shared household, assessed in the overall circumstances. Section 12 provided the application procedure and Section 19 the residence relief actually granted. Sections 18 and 20 appeared in the Supreme Court's discussion of protective and monetary remedies. The Act's preamble and constitutional rights under Articles 14, 15 and 21 informed its beneficial interpretation. The Section 125 CrPC proceedings from 1985 were part of the relatives' pleaded history and did not displace the DVA residence claim. Section 482 CrPC provided the route for challenging the affirmed residence order, rather than the underlying residence right.

4. Issues : Whether the relatives could resist Section 19 residence protection by relying on a sale of the husband's partition share after his wife had sought DVA relief, where the purchaser was a family member and the trial court found an intention to defeat her claim. Whether Premwati's alleged long absence and the pre-2005 conduct meant that she was no longer an aggrieved person or that the Sections 12/19 proceedings were not maintainable. How the subsisting marriage, Section 3 economic abuse and the Supreme Court decisions on a formerly shared household affected those objections. The proceedings did not determine a stranger purchaser's independent title or fix final maintenance.

5. Ratio / Findings : The Court rejected the relatives' reliance on the sale in light of the sequence of events. The partition had allocated a portion to Devi Lal. Premwati applied in August 2011, and Hetram used a 2004 power of attorney to transfer the share in June 2012 to Dharmendra, the son of an applicant. The timing and relationship were undisputed, while the trial court found that the family remained in possession. Those circumstances supported the finding that this particular sale was a sham intended to defeat the Act and could not defeat the residence order. The Court then considered the Act's protective purpose and Section 3's definition of economic abuse, including restrictions on household resources and access. Premwati remained Devi Lal's wife in a subsisting domestic relationship; the earlier Section 125 litigation or past separation did not categorically bar her application. *Bhanot* established that pre-Act conduct and a formerly shared household could be relevant to a subsequent application under Section 12 and relief under Sections 18–20. *Saraswathy* and *Shalini* reinforced that interpretation, while *Krishna Bhattacharjee* required a careful and sensitive threshold inquiry. *Devkaran*'s contrary local view therefore could not govern. The Court rejected the maintainability objection and found no error in the residence order or its appellate affirmation. Its Section 3 analysis addressed economic abuse and the subsisting domestic relationship; it did not separately assess damages, maintenance or criminal punishment for pre-Act conduct.

6. Relief : The Hon'ble High Court dismissed the Section 482 petition filed by Babulal and the other applicants. The JMFC's order under Section 19 prohibiting obstruction of Premwati's and her daughter's peaceful residence, affirmed by the Additional Sessions Judge on 27.02.2013, remained in force. The Court did not grant a new ownership decree, determine final maintenance or impose punishment for a pre-Act offence.

Babulal and Others v. Premwati, M.Cr.C. no. 2528/2013, 06/12/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (97) Prev Next

Headnote :- Public servants — S**anction —** Section 197 CrPC requires a direct and reasonable connection between the alleged act and official duty. Even an excessive act may be protected if that connection exists; holding office or merely asserting self-defence does not establish it. Here, the forest officials' delayed counter-FIR omitted the alleged tree cutting, both spot maps placed the incident on a public road, and the gunshot and forensic evidence contradicted their later account. Applying *Amrik Singh*, *Devinder Singh* and *K. Kalimuthu*, the Court found prima facie no official-duty nexus and upheld cognizance without sanction. Guilt remained for trial.

Closure report — cognizance — A Magistrate may reject a police closure report and take cognizance. *Bhagwant Singh* protects the informant's opportunity to be heard; it does not give the accused a right to examine the informant at that stage. *Nupur Talwar* does not require detailed reasons for taking cognizance. The revision was dismissed, with a direction to decide the trial on its evidence, uninfluenced by the High Court's prima facie observations. The executive circular's effect on FIR registration was expressly left open.

Case-note :- ***1. Facts :*** Baburam and other forest officials challenged the CJM, Sheopur's order of 6 January 2017 rejecting a police closure report and taking cognizance under IPC Sections 302, 307, 147,

148 and 149. Jahir and Islam were shot on 28 August 2012; Islam died later that day. The complainant's FIR, lodged at 8 a.m., alleged that the officials fired without provocation while the men were searching for buffaloes. The officials' counter-FIR, lodged at 5:30 p.m., alleged an attack on the patrolling party and firing by SAF personnel in self-defence. A magisterial enquiry supported the officials' account. They claimed protection under Section 197 CrPC, relied on a government circular requiring an enquiry before a complaint against forest personnel could be entertained, and contended that the complainant's statement had to be recorded before cognizance. The complainant's side disputed the forest-patrol account and maintained that the incident occurred on a public road.

2. Precedents — Considered : *Amrik Singh v. State of Pepsu, AIR 1955 SC 309*; *Shambhoo Nath Misra v. State of U.P., (1997) 5 SCC 326*; *Devinder Singh v. State of Punjab, (2016) 12 SCC 87*; *Choudhury Parveen Sultana v. State of W.B., (2009) 3 SCC 398*; and *K. Kalimuthu v. State, (2005) 4 SCC 512*, explained the reasonable official-duty nexus and the protection available even for excess where that nexus exists. The applicants relied on *D.T. Virupakshappa* and *Omprakash* for sanction in cases of police excess or self-defence. The Court distinguished that factual premise: the present material did not prima facie connect the firing with official duty. *Bhagwant Singh v. Commissioner of Police, (1985) 2 SCC 537*, concerned the informant's opportunity to be heard on closure, rather than an accused's right to cross-examine the informant. *Nupur Talwar v. CBI, (2012) 11 SCC 465*, supported the conclusion that detailed reasons were unnecessary at cognizance.

3. Statutes considered : Section 197 CrPC was invoked as a bar to cognizance without sanction; Sections 397 and 401 governed the revision. The police closure report was described as one under Section 169. Section 154 arose in the discussion of the executive circular, but the Court left open whether executive instructions could restrict the police power to register an FIR. IPC Sections 302, 307, 147, 148 and 149 were the offences taken cognizance of; no conviction was recorded.

4. Issues : Whether the firing by forest and SAF personnel was prima facie reasonably connected with official duty and therefore required prior sanction. Whether the later magisterial enquiry and police closure report prevented cognizance. Whether the accused could insist on examination of the complainant before cognizance. Whether the executive circular prevented registration of an FIR.

5. Ratio / Findings : The forest party lodged its FIR more than ten hours after the incident and after Islam's death, whereas the complainant reported promptly. Its first account mentioned neither tree cutting or freshly cut wood nor attackers armed with firearms. The police found no freshly cut timber, both spot maps placed the incident on a public road, and the physical evidence showed that Islam had been shot from behind at a distance. Against those circumstances, the Court treated the later self-defence account as an afterthought and found prima facie no reasonable connection with official duty. It upheld cognizance without deciding guilt. The accused could not use the informant's right to be heard to demand cross-examination before cognizance, and the CJM's rejection of the closure report was affirmed. Whether the circular could restrict FIR registration under Section 154 remained open.

6. Relief : The Hon'ble High Court dismissed the criminal revision and affirmed the cognizance order dated 6 January 2017. It directed the trial court to decide the case strictly on the evidence at trial, uninfluenced by the High Court's prima facie observations, and to conclude the delayed trial within one year from the date of this judgment.

Baburam and Ors. v. State of M.P. and Ors., Cr.R. no. 119/2017, 19/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (98) Prev Next

Headnote :- Evidence — related and inimical witnesses — Relationship does not by itself establish an interest in securing conviction. Previous enmity may supply a motive for the offence as well as a basis for false implication, requiring careful scrutiny of the account. Applying *Bhagwan Jagannath Markad*, *State of U.P. v. Kishanpal*, *Sudhakar, Vijendra Singh* and *Anil Rai*, the Court accepted the axe-assault account of eyewitnesses naturally present in their fields. Deep head and chest wounds corroborated it. Hardas's omission to describe every blow, when examined seven years later, did not undermine identification or render his evidence inconsistent with the medical findings. The Section 302 conviction was upheld.

Sentences — Section 427 CrPC — The appellant's two existing life sentences had already been directed

to run concurrently. On his application, the Court applied the same analogy to the subsequent life sentence in this case. It directed concurrent running with those terms while affirming the sentence itself.

Case-note :- ***1. Facts :*** Baiju appealed the judgment dated 31 March 2009 in Sessions Trial No. 226/2001, which convicted him under IPC Section 302 for Badri's murder and sentenced him to life imprisonment, a fine of Rs 500 and two months' rigorous imprisonment in default. The prosecution alleged that Baiju attacked Badri with an axe in the fields on 18 April 2001. Badri's brothers, Hardas and Ramswaroop, claimed to have witnessed the assault; his widow, Kapoori, saw Baiju fleeing. Badri had previously been convicted of killing Baiju's father, and the families were hostile. Other co-accused had been acquitted in 2004. Baiju had absconded and was tried separately after his arrest. He disputed the witnesses' reliability and the consistency of their accounts with the medical evidence, alleged false implication, and sought concurrency with the life sentences imposed in two other trials.

2. Precedents — Considered : *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537,* guided the distinction between material and minor discrepancies and the assessment of related witnesses. *State of U.P. v. Kishanpal, (2008) 16 SCC 73*; *Sudhakar v. State, (2013) 5 SCC 435*; and *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, were quoted and adopted on the difference between relationship and an interest in conviction, the natural presence of witnesses, and careful scrutiny of their evidence. *Anil Rai v. State of Bihar, (2001) 7 SCC 318*, was applied to enmity as a circumstance capable of explaining both the crime and false implication. The direction for concurrent sentences followed the analogy of an earlier order in Baiju's separate appeal.

3. Statutes considered : IPC Section 302 governed the murder conviction; the Court regarded life imprisonment as its minimum sentence. Section 374 CrPC provided the appeal, and Section 427 was invoked for concurrent running of the sentences. IPC Section 148 and the other alleged group offences did not produce a separate conviction identified in the impugned disposition. IPC Section 364A and MPDVPK Act Sections 11/13 concerned the two earlier trials and were relevant here only to sentence administration.

4. Issues : Whether the related and inimical witnesses reliably identified Baiju as the axe assailant despite the discrepancy about the number of blows and the co-accused's acquittals. Whether the medical findings supported their account. Whether the life sentence in this case should run concurrently with his other life sentences.

5. Ratio / Findings : The deep incised wounds to the head and chest, including a brain-deep injury, established homicidal death. Hardas and Ramswaroop were naturally present in their fields and described the axe attack; Kapoori saw Baiju leaving the scene. Their relationship to Badri and the families' mutual hostility required careful scrutiny. Cross-examination disclosed no material infirmity, and the medical findings supported Ramswaroop's account of multiple blows. Hardas's failure to recall every blow after seven years did not make his evidence inconsistent with those findings. The Court found Baiju's identity and murderous assault proved. It treated the earlier killing of his father as a motive, while remaining alert to the possibility of false implication, and upheld the Section 302 conviction. For sentence administration, it applied Section 427 by analogy to the earlier order directing that his two existing life sentences run concurrently.

6. Relief : The Hon'ble High Court disposed of the criminal appeal, affirming the Section 302 conviction and life sentence, together with the stated fine and default term. It directed that this life sentence run concurrently with those in Sessions Trials 24/2004 and 18/2006. Baiju remained in custody to serve the remaining sentence on that basis. He was to receive a copy of the judgment free of cost, and the Registry was to send a copy with the record immediately to the trial court for information and compliance.

Baiju v. State of M.P., Cr.A. no. 477/2009, 04/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (99) Prev Next

Headnote :- Witness contradictions — last seen — The prosecution sought to identify Baiju through the claim that he had taken the victims away. None of the three witnesses had mentioned that circumstance in their Section 161 CrPC statements. One admitted that his account was hearsay; the other two acknowledged first giving the account in court. Applying *S. Govindaraju* and *V.K. Mishra*, the Court examined the omissions, the witnesses' admissions and the investigating officer's evidence. It found the

claimed last-seen link untrustworthy and set aside the conviction.

Circumstantial and forensic proof — missing links — The firearm deaths were proved to be homicidal, but that did not identify the killers. The alleged letters naming them were not produced and their authorship was unproved. A rifle seized earlier in another case had no established ballistic connection with these murders. Those materials could not supply the failed identity link. The Court acquitted Baiju of both murders and the associated offences, and criticised the trial court for ignoring cross-examination.

Case-note :- ***1. Facts :*** Baiju alias Vijay Singh appealed the judgment dated 2 June 2010 in Special Sessions Trial No. 161/2002. He had been convicted on two counts under IPC Section 302/149 read with MPDVPK Act Section 13 and under IPC Section 148. The life terms and two-year rigorous terms were concurrent; each recorded conviction carried a fine of Rs 500, with six months' rigorous imprisonment in default. Kartar Singh and Punjab Singh were found shot dead on 11 September 2002. A letter was reportedly found with each body, claiming that a dacoit group had killed them for informing the police. Baiju was arrested five years later. A .315 rifle already seized by another police station was formally retrieved for this case. Three trial witnesses claimed that he and an associate had earlier taken the men away, while the defence challenged their accounts as material improvements made for the first time in court.

2. Precedents — Considered : *S. Govindaraju v. State of Karnataka, (2013) 15 SCC 315*, was applied to distinguish trivial discrepancies from omissions affecting the core of the prosecution case. The Court applied *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588*, on the limited use of Section 161 statements under Section 162 CrPC and the method of confronting a witness with, and proving, a prior statement under Section 145 of the Evidence Act. The Court examined the actual admissions and the investigating officer's account. It found that the questioning of Balkar, Tahsildar and the officer about the particular omission was inadequate, but held that their general admissions about the omitted allegations substantially met the requirement in the circumstances of this case.

3. Statutes considered : Section 374 CrPC governed the appeal. Sections 161 and 162 governed the police statements, and Section 145 of the Evidence Act governed contradiction by a prior written statement. The convictions under IPC Sections 302/149 and 148 and MPDVPK Act Section 13 were set aside. Arms Act offences appeared in the charge history.

4. Issues : Whether the last-seen witnesses proved that Baiju was one of the perpetrators of the two firearm murders. Whether the omissions in their earlier statements had been duly established and defeated reliance on their trial accounts. Whether the alleged letters or the retrieved rifle independently connected him with the crimes.

5. Ratio / Findings : The autopsies established homicidal gunshot deaths, but did not identify the assailants. Sultan admitted in cross-examination that he had not seen the victims being taken away and had learnt of it from another person. The allegation was also absent from his police statement. Balkar and Tahsildar acknowledged first giving their supposed eyewitness accounts in court, and the investigating officer confirmed that no such account had been recorded. After examining how the omissions had been put to the witnesses and proved, the Court held that the sole last-seen circumstance was untrustworthy. The alleged letters were not produced and their authorship was unknown; the seizure memos could not prove their contents. The rifle had already been seized in another case, and no ballistic report linked it with these murders. No reliable circumstance connected Baiju with the crimes. The Court also criticised the trial court for relying on examination-in-chief without assessing the cross-examination.

6. Relief : The Hon'ble High Court allowed the criminal appeal and set aside all convictions and sentences in the judgment dated 2 June 2010. Baiju was to be released immediately if not required in another case. He was to receive a copy of the judgment free of cost, and the trial record was to be returned with a copy for information and compliance.

Baiju v. State of M.P., Cr.A. no. 704/2010, 07/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (100) Prev Next

Headnote :- NDPS Act — Section 37 — Undertrial detention and trial delay — After rejection of his earlier application on merits, the accused had remained in custody for about ten months over an alleged seizure of 6.564 kg of ganja.

The prosecution conceded that no witness had appeared on seven listed dates. The Court considered the second bail application solely on detention and lack of trial progress. Despite the Bureau's reliance on *Mohit Aggarwal*, it held that Section 37 did not authorise indefinite custody without progress in the prosecution, and noted detention-based bail to a co-accused. Bail on a Rs. 1 lakh bond with surety was conditional: the order would automatically lose effect if any witness had appeared on 06.09.2022.

Case-note :- ***1. Facts :*** Bajrang Lal Sharma was arrested on 14.11.2021 in Crime No. 06/2021 of the Central Narcotics Bureau, Gwalior, for alleged offences under Sections 8 and 20 of the NDPS Act, following an alleged seizure of 6.564 kg of ganja. His first bail application under Section 439 CrPC, M.Cr.C. No. 10257/2022, was rejected on merits on 28.03.2022. In this second application, he relied on about ten months' custody and the absence of prosecution witnesses on 03.03, 24.03, 27.04, 11.05, 06.06, 11.07 and 16.08.2022. Later order sheets had not been supplied, but his lawyer said that he personally attended the trial and knew of the subsequent nonappearances. The Bureau's counsel conceded that no witness had appeared on those dates. Bajrang's counsel also relied on bail granted to co-accused Panchuram Saini on 13.05.2022 on the ground of detention, and submitted that there was no risk of flight or tampering. The Bureau opposed bail under Section 37 and cited a recent Supreme Court decision. Evidence was listed for 06.09.2022, but the applicant's counsel did not know whether a witness had appeared that day.

2. Precedents — Considered : The Bureau relied on *Narcotics Control Bureau v. Mohit Aggarwal*, Supreme Court order dated 19.07.2022 in SLP (Crl.) Nos. 6128–29/2021, for the Section 37 bail restriction. The High Court expressly declined to reconsider its earlier merits rejection dated 28.03.2022. It noted its order dated 13.05.2022 in M.Cr.C. No. 23980/2022 granting Panchuram Saini bail on the ground of detention. *Aparna Bhat v. State of M.P.*, Supreme Court Criminal Appeal No. 329/2021, 18.03.2021, was invoked only for sending the complainant intimation of the bail grant.

3. Statutes considered : Section 439 CrPC provided jurisdiction for the successive regular bail application. Sections 8 and 20 of the NDPS Act were the alleged offences; the Court did not decide the merits of possession or quantity classification. The Bureau invoked Section 37 as a bar to bail. The Court held that it did not answer the distinct circumstances of prolonged custody, repeated nonappearance of prosecution witnesses and no trial progress. Its statement that Section 37 would not apply was made in that detention-based context. The operative conditions governed the bond, surety, court appearances and consequences of a bail jump.

4. Issues : Whether Section 37 could justify continued custody after an earlier merits rejection when the undertrial had spent about ten months in jail and prosecution witnesses had repeatedly failed to attend. What weight should be given to detention-based bail already granted to a co-accused. Whether a witness had appeared on 06.09.2022, a fact unknown at the High Court hearing but decisive of whether this bail order could take effect. The merits of the NDPS charge remained outside consideration, and the order's effect depended on attendance that day.

5. Ratio / Findings : The Court considered the second application on detention, without reopening the merits. The Bureau's counsel conceded that no witness had appeared on the earlier dates. Bajrang had remained in jail for roughly ten months with no trial progress. The Court reasoned that, even if the prosecution could prima facie show that he might have committed the NDPS offence, the Act did not authorise keeping an undertrial in custody indefinitely without advancing the trial. On these facts, Section 37 did not answer the continuing lack of progress. A co-accused had already received bail on the detention ground. The Court did not find the ganja allegation proved or decide whether Bajrang would reoffend. Since evidence was listed for the hearing day and attendance was unknown, the court below had to check whether a witness had appeared before releasing him. Appearance of a prosecution witness on 06.09.2022 would automatically make the order ineffective.

6. Relief : The Hon'ble High Court allowed the second regular bail application on a personal bond of Rs. 1 lakh with one surety in the same amount, to the satisfaction of the trial or committal court, for appearance on the dates fixed. Before release, the court below had to verify that no prosecution witness had appeared on the date of the order. If a witness had appeared that day, the order would automatically lose effect. Otherwise, it would remain effective until the end of trial, becoming ineffective upon a bail jump. Intimation of the bail grant was to be sent to the complainant.

Bajrang Lal Sharma v. Central Narcotics Bureau, M.Cr.C. no. 41761/2022, 06/09/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (101) Prev Next

Headnote :- Matrimonial offence — FIR after divorce proceedings — A wife's efforts at reconciliation can explain a delay in reporting cruelty. A divorce petition does not bring separate criminal proceedings to an end, even when both arise from the same facts. Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that the sequence of divorce proceedings and the FIR did not, by itself, establish a counterblast where the wife had made specific allegations of dowry demands and cruelty.

Charge — relative's **a**sserte**d alibi** — The sister-in-law relied on separate residence and an asserted dental practice in Indore. Those matters did not establish an alibi at the stage of framing charges in the face of a specific allegation that she had beaten the wife. Applying *M.E. Shivalingamurthy* and the related authorities, the Court held that material giving rise to grave suspicion could support a charge after limited sifting. Proof of the allegations and the defence remained for trial.

Precedent — per incuriam — The Court held that the coordinate Bench decision in *Abhishek Pandey* was per incuriam on the divorce-notice issue because it had overlooked *Pratibha*. That treatment was confined to the issue before the Court. The charge order was affirmed.

Case-note :- ***1. Facts :*** Balkrishna Devda and the other relatives sought revision of the JMFC's charge order dated 3 February 2021 in Criminal Case No. 4/2021. The charges were under IPC Sections 498-A, 294, 323/34 and 506-II and Dowry Prohibition Act Sections 3/4. The wife alleged that she married Aditya Devda on 17 April 2019 and that he and his relatives thereafter demanded a four-wheeler, beat her and abused her. Her account included a confrontation at her parental home in June 2020. The defence contended that the FIR dated 2 November 2020 was delayed, followed the divorce notice and petition, and falsely implicated a sister-in-law who lived and practised dentistry in Indore.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied to reject the contention that delay during reconciliation efforts or divorce litigation automatically barred independent criminal proceedings. On that issue, the Court held that the coordinate *Bench* decision in *Abhishek Pandey @ Ramji Pandey v. State of M.P.* was per incuriam because it had overlooked *Pratibha*. It also cited *Meera v. State of M.P. M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768, Soma Chakravarty v. State through CBI, (2007) 5 SCC 403, State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290,* and *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198,* were adopted for the requirement of material supporting grave suspicion, the limited sifting permitted at charge and the prohibition on a roving inquiry into the defence.

3. Statutes considered : IPC Sections 498-A, 294, 323/34 and 506-II and Dowry Prohibition Act Sections 3/4 were the charges framed; no conviction was recorded. CrPC Sections 397 and 401 governed the revision. In discussing limitation under Section 468 CrPC, the Court noted that fewer than three years had elapsed between the marriage and the FIR. CrPC Sections 227/228 appeared in the quoted Supreme Court decisions explaining the test for framing a charge.

4. Issues : Whether the sequence of divorce proceedings and the delay in reporting established that the FIR was a counterblast. Whether a relative's separate residence and proposed alibi defeated a specific allegation before trial. Whether the material supporting the charges raised the required suspicion. Whether the coordinate Bench ruling governed the issue despite having overlooked the Supreme Court decision.

5. Ratio / Findings : The FIR specifically alleged a demand for a four-wheeler as dowry and beating by named relatives. Efforts to reconcile the marriage could explain why the wife had not reported the matter immediately. Divorce proceedings and criminal liability remained separate. The sister-in-law's rent note and unproved claim to be practising dentistry did not establish an alibi at the charge stage; the allegation against her was specific, rather than wholly general. Applying the requirement of material supporting strong suspicion, the Court found no error in the JMFC's order. Credibility and guilt remained for trial. It treated *Abhishek Pandey* as per incuriam only on the divorce-chronology issue because that decision had overlooked *Pratibha*.

6. Relief : The Hon'ble High Court dismissed the criminal revision and affirmed the charge order dated 3 February 2021.

Balkrishna Devda and Ors. v. State of M.P. and Ors., Cr.R. no. 2045/2021, 11/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (102) Prev Next

Headnote :- Rape — historical age threshold — For the conduct in September 2006, Section 375 Sixthly IPC made intercourse with a girl under sixteen rape, irrespective of consent. The Court accepted the school records and the evidence of the source of the admission entry, supported by radiology, as proving that the prosecutrix was born on 16 July 1991 and was 15 years and two months old. Her asserted consent was therefore immaterial to the 2006 charge. Her account and recovery from the appellant's house supported the conviction. The under-sixteen threshold was that of the law applicable at the time.

Sentence — modification — The Court affirmed the convictions under Sections 363, 366 and 376(1), but reduced the ten-year terms under Sections 366 and 376(1) to seven years each. It considered the minimum rape sentence then applicable and the appellant's age. The Section 363 term remained unchanged. The modified order specified the fines and default sentences, and the substantive terms were to run concurrently.

Case-note :- ***1. Facts :*** Ballan alias Manoj appealed against the judgment dated 24 January 2008 in Sessions Trial No. 47/2007. He had been convicted under IPC Sections 363/34, 366/34 and 376(1)/34 and sentenced to seven, ten and ten years respectively. The prosecutrix went missing after leaving for stitching classes on 18 September 2006. The police later recovered her from Ballan's house at Dabra. She stated that she had been taken away on a promise of marriage, raped at the appellant's sister's house in Morena and then confined in his house at Dabra. The defence disputed her minority, suggested consent and sought a reduction in sentence. The co-accused Chhote Singh's appeal had abated after his death.

2. Precedents — Considered : The Court directly assessed the school, family and radiological evidence of age and applied the statutory text then in force.

3. Statutes considered : IPC Section 375 Sixthly, as applicable in 2006, made consent immaterial where the girl was under sixteen. Section 376(1) governed the rape conviction and then prescribed a minimum term of seven years. Sections 363 and 366 concerned the taking and abduction-related offences; Section 34 appeared in the trial court's formulation of the convictions. CrPC Section 374 governed the appeal. Although the judgment was delivered in 2019, it assessed the 2006 occurrence under the statutory age threshold then applicable.

4. Issues : Whether the school and medical evidence proved that the prosecutrix was under sixteen in September 2006, making consent legally immaterial. Whether the convictions for the sexual offence and the taking-related offences could stand. Whether the ten-year terms should be modified.

5. Ratio / Findings : The principal proved the admission registers and a mark sheet recording the prosecutrix's date of birth as 16 July 1991. Her father testified that he had supplied the date from the hospital birth certificate when enrolling her. The parents' account of their marriage and the births of their children was consistent with that date. Radiology assessed her age as above 15 and below 16½. The Court found that she was 15 years and two months old at the time of the incident. Under Section 375 Sixthly as it then stood, consent was immaterial below sixteen. The prosecutrix identified Ballan and described intercourse; her recovery from his house supported her account. The Court affirmed the convictions. It reduced the terms under Sections 366 and 376(1) after considering his age and the sentencing range, while leaving the Section 363 sentence unchanged.

6. Relief : The Hon'ble High Court partly allowed the criminal appeal and maintained the convictions. It reduced the terms under Section 366 and Section 376(1) to seven years' rigorous imprisonment each, with a fine of Rs 5,000 and five months' rigorous imprisonment in default for each offence. The Section 363 sentence remained seven years' rigorous imprisonment and a fine of Rs 1,000, with one year's rigorous imprisonment in default. All substantive terms were concurrent. If the appellant remained in jail, he was to serve the remaining sentence. If he had furnished bail, his bail bonds stood cancelled and he had to surrender immediately before the trial court to serve the remaining sentence.

Ballan v. State of M.P., Cr.A. no. 118/2008, 05/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (103) Prev Next

Headnote :- Section 313 CrPC — FSL report received **after examination** of the accused — The trial court should have put the later finding of human blood on the accused's clothes to him for explanation. It should not have rejected that circumstance in advance merely because blood grouping was inconclusive. As the accused had received no opportunity to explain it, the High Court excluded the human-blood circumstance. Fifteen years after the trial, it declined to remand the case solely to supply that opportunity.

Child witness — Injured survivor — Sole testimony — The six-year-old injured eyewitness was tested for understanding, cross-examined and observed by the trial judge. *State of H.P. v. Prem Chand, (2002) 10 SCC 518; Prakash v. State of M.P., (1992) 4 SCC 225; Dharamwati v. Jaibir,* 1990 Supp SCC 275; *Suryanarayana v. State of Karnataka, (2001) 9 SCC 129*; and *State of Rajasthan v. Chandgi Ram, (2014) 14 SCC 596*, required careful scrutiny of competence, truthfulness and the possibility of tutoring. They imposed no absolute requirement of corroboration. The Court applied those principles and accepted the child's account of what she had seen, despite her acknowledgment of what her grandparents had also told her.

Injured witness — Natural reaction — *Ramvilas v. State of M.P., (2016) 16 SCC 316; State of U.P. v. Naresh, (2011) 4 SCC 324*; and *Chandrashekhar v. State, (2017) 13 SCC 585*, supported giving special weight to an injured witness whose presence was established, subject to scrutiny for major contradictions. A frightened child's failure to shout during the attack did not, by itself, make her eyewitness account false.

Section 161 CrPC — Delay in **recording** the statement — The survivor's statement in September about the July attack was accepted after the investigating officer explained her unconsciousness, memory problems and continuing treatment. Applying *Prithvi (Minor) v. Mam Raj, (2004) 13 SCC 279*, which explained *Mohd. Khalid*, the Court assessed the cause of the delay and the credibility of the account. Delay did not require automatic exclusion.

Ocular and medical evidence — Sabbal injuries — The incised, punctured and blunt wounds were medically compatible with the different surfaces of a pointed iron sabbal. The presence of those different kinds of wounds did not, by itself, establish another assailant or discredit the child's account.

Discovery — Concealed articles in an accessible place — Applying *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, which discussed *Jeet Singh* and *Bharat Fakira Dhiwar*, the Court accepted the significance of the disclosure-led recovery of clothes hidden among tent-house goods. Other persons' possible access to the premises did not, by itself, negate the accused's knowledge of the concealment. The FSL finding of human blood nevertheless remained excluded because it had not been put to him under Section 313.

Section 31 CrPC — Multiple **life sentences** — The statutory default of consecutive terms does not permit life sentences to be served successively in an unworkable order. Applying *O.M. Cherian v. State of Kerala, (2015) 2 SCC 501*, and *Muthuramalingam v. State, (2016) 8 SCC 313*, and noting *Kuldeep v. State of Haryana, (2018) 18 SCC 652*, and *Gagan Kumar v. State of Punjab, (2019) 5 SCC 154*, the Court maintained the convictions for two murders and attempted murder but directed the life terms to run concurrently.

Case-note :- ***1. Facts :*** Ballu appealed under Section 374 CrPC against the Shivpuri Sessions Court's judgment dated 30 April 2007 in Sessions Trial 192/2006. He had been convicted on two counts under Section 302 IPC for killing Ruksana and her son Sameer, also called Shahrukh in the judgment, and under Section 307 IPC for attacking her daughter Aarju. The trial court imposed life imprisonment under Section 302 and Section 307 but gave no direction for concurrency. The appeal had earlier been withdrawn to seek remission. It was restored on 15 December 2021.

On 5 July 2006, Bhaiyyan, Ballu's brother and the victims' husband and father, returned home with Banti. He found the door bolted from outside and the children injured on a balcony. Sameer died; Ruksana was found dead elsewhere on the premises, while Aarju survived. The initial FIR also recorded Ballu's statement that he had seen Ruksana alive at about 4:45 p.m. The police recovered two sabbals and bloodstained material from the scene. After Ballu's disclosure, they recovered his shirt and trousers from among tent-house goods. The autopsies recorded fatal head trauma with incised, punctured and blunt injuries; Aarju's medical record showed several head wounds. The prosecution examined sixteen witnesses, including the injured child, and the

defence examined two. Ballu disputed the child's competence and reliability, suggested tutoring by her maternal grandparents and challenged the delay in recording her police statement. He argued that the different kinds of wounds indicated more than one attacker. He also challenged the use of an FSL report received after his Section 313 examination and sought concurrent life sentences. The State maintained that guilt had been proved beyond reasonable doubt.

2. Precedents — Considered : On child testimony, *State of H.P. v. Prem Chand, (2002) 10 SCC 518*, concerned a child who coherently identified a known uncle despite searching cross-examination. The Court used that decision by analogy when assessing Aarju's first-hand account. *Prakash v. State of M.P., (1992) 4 SCC 225*, rejected an assumption of tutoring based on youth alone. *Dharamwati v. Jaibir*, 1990 Supp SCC 275, gave weight to the trial judge's observations of an eight-year-old's demeanour and answers when rejecting speculative tutoring. *Suryanarayana v. State of Karnataka, (2001) 9 SCC 129*, permitted reliance on a solitary child eyewitness after close scrutiny of cross-examination and the absence of material infirmity. It treated corroboration as a matter of prudence rather than an absolute condition; the quoted discussion also referred to *Panchhi* and other child-witness decisions. *State of Rajasthan v. Chandgi Ram, (2014) 14 SCC 596*, quoted *State of M.P. v. Ramesh* on competence under Section 118 Evidence Act, understanding, cross-examination and evidence of tutoring. It also quoted *Shivasharanappa* on reliable child testimony and desirable, though non-mandatory, corroboration. The Court applied these principles to the trial judge's contemporaneous observations and Aarju's answers. For an injured witness, *Ramvilas v. State of M.P., (2016) 16 SCC 316*, required strong grounds to reject the evidence. *State of U.P. v. Naresh, (2011) 4 SCC 324*, explained that injury assured the witness's presence, while major contradictions still required consideration. *Chandrashekhar v. State, (2017) 13 SCC 585*, quoted *Brahm Swaroop* on the same evidentiary consideration. The Court applied those authorities to Aarju's documented head injuries while still examining credibility. *Prithvi (Minor) v. Mam Raj, (2004) 13 SCC 279*, discussed *Mohd. Khalid* and earlier delay cases and rejected an absolute rule that belated examination of a witness was fatal. The explanation and the testimony had to be assessed. That principle supported accepting the investigating officer's medical explanation for the delay in recording Aarju's Section 161 statement.

On recovery, *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, considered *Jeet Singh* and *Bharat Fakira Dhiwar.* It explained why discovery of a hidden object at the accused's instance did not lose its value merely because others could enter the place. The Court applied that discovery principle, while excluding the FSL human-blood finding because the circumstance had not been put to Ballu under Section 313.

On sentence, *O.M. Cherian v. State of Kerala, (2015) 2 SCC 501*, explained the discretion under Section 31, the need to specify the order of consecutive terms and the impracticability of serving a fixed term after a life sentence or life sentences in succession. *Muthuramalingam v. State, (2016) 8 SCC 313*, explained the requirements of one trial and multiple offences under Section 31 and reaffirmed concurrency for multiple life sentences. Referring to *Duryodhan Rout*, it explained that life imprisonment ordinarily extends throughout natural life. *Kuldeep v. State of Haryana, (2018) 18 SCC 652*, and *Gagan Kumar v. State of Punjab, (2019) 5 SCC 154*, were also cited for possible concurrency where offences formed one transaction. The Court applied the life-sentence rule and corrected the trial court's failure to direct concurrency, without altering the findings of guilt.

3. Statutes considered : Sections 302 and 307 IPC governed the murder and attempt charges and convictions, assessed on the eyewitness, medical and other admissible evidence. Section 374 CrPC provided appellate jurisdiction. Section 313 CrPC required that any incriminating circumstance to be used against Ballu be put to him for explanation; the later report's finding of human blood had not been put to him. Although Section 293 CrPC made the FSL report admissible as such, it did not dispense with the opportunity required by Section 313. Section 161 CrPC concerned the timing of Aarju's police statement. Section 118 Evidence Act was discussed in the Supreme Court child-witness authorities on understanding questions and giving rational answers. The recovery analysis concerned the evidentiary significance of Ballu's disclosure and knowledge of the concealed clothes. Section 31(1) CrPC prescribed consecutive terms unless concurrency was directed, subject to judicial sentencing discretion. The reproduced subsection (2)

dealt with aggregate imprisonment limits and when transfer to a higher court was unnecessary.

4. Issues : (i) Whether the fatal injuries established two homicides and whether the child survivor's testimony proved Ballu's participation despite her age, relationship, alleged tutoring and position as the sole eyewitness. (ii) Whether her medical condition plausibly explained the delay in recording her Section 161 statement, and whether her failure to raise an alarm undermined her account. (iii) Whether the incised, punctured and blunt injuries were inconsistent with a sabbal and indicated other assailants. (iv) Whether the FSL finding of human blood on Ballu's clothes, received after his Section 313 examination, could be used when the trial court had not put it to him; and what significance remained in the disclosure-led recovery. (v) Whether the two murder life sentences and the Section 307 life sentence should run consecutively because the trial court was silent, or concurrently under Section 31 and the Supreme Court's life-sentence decisions.

5. Ratio / Findings : The doctors established the homicidal head injuries of Ruksana and Sameer and the surviving child's head injuries. The trial judge questioned Aarju to test her understanding, noted her natural answers and recorded that seeing Ballu frightened her so much that her testimony had to stop. She later identified her uncle and described his assaults on her brother and herself. She distinguished her own observations from what her grandparents had also told her. Her acknowledgment of their statements required careful scrutiny, rather than automatic rejection. Applying the child-witness authorities to her capacity, demeanour and cross-examination, the Court found that she had not been tutored. Her proved injuries supported her presence at the scene. Her silence during an attack by a familiar adult did not carry the fixed adverse inference urged by the defence.

The investigating officer explained that, when he tried to record her account after discharge, she remained unconscious or suffered memory problems. Treatment continued, and the defence itself had asked about lingering dizziness. The Court accepted that explanation for the delay until 9 September and applied *Prithvi*'s case-specific approach. On the alleged medical contradiction, it reasoned that an iron sabbal could cause blunt, punctured and incised wounds according to the surface used. The medical evidence therefore did not contradict the child's account on this record. Bhaiyyan's FIR and answers in cross-examination also placed Ballu at the scene around the relevant time, despite his omission of that fact in examination-in-chief.

The FSL report arrived after Ballu's Section 313 examination. The trial court treated the failure to determine the blood group as a reason to reject the report's evidentiary use and asked him no further question. The High Court held that human blood could have been a relevant circumstance even without grouping, but would not use it against an accused who had received no opportunity to explain it. After fifteen years, it declined to remand the case solely to put that question. Separately, the disclosure-led recovery of clothes hidden among tent materials remained significant under *Yakub Abdul Razak Memon*: Ballu located them despite other persons' possible access. The finding of guilt rested on admissible testimony and circumstances, without treating the FSL human-blood result as proof against him. The Court found both Section 302 counts and the Section 307 offence proved beyond reasonable doubt.

The trial court's silence ordinarily attracted consecutive sentences under Section 31(1). Applying *O.M. Cherian* and *Muthuramalingam*, however, the Court addressed the impossibility of serving one life sentence after another. It also considered the same-transaction authorities, *Kuldeep* and *Gagan Kumar.* It directed the life terms to run concurrently, without changing the convictions or converting life imprisonment into fixed terms.

6. Relief : The Hon'ble High Court dismissed the appeal on the merits of the convictions for the two murders and the attack on Aarju, but partly allowed it on sentence. The life terms under Section 302 and Section 307 were to run concurrently. The Shivpuri trial judgment and sentence were otherwise affirmed. Ballu remained in jail to serve the remaining sentence. A copy of the judgment was to be provided to him immediately and free of cost. The trial record was to be returned immediately, with a copy of the judgment, for information and compliance.

Ballu v. State of M.P., Cr.A. no. 426/2007, 08/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (104) Prev Next

Headnote :- Trial — Recall under **Section 311 CrPC** — A later lawyer's view that earlier cross-

examination was inadequate does not, by itself, justify recalling witnesses. The Court applied *State (NCT of Delhi) v. Shiv Kumar Yadav, (2016) 2 SCC 402*, and considered whether the accused had received a fair opportunity and whether prejudice had been shown, alongside the need to avoid delay and harassment of witnesses. It upheld the refusal to recall nine witnesses in the dacoity trial. It made no finding of professional misconduct against earlier counsel. Its discussion of separate professional remedies was conditional and did not decide such a claim.

Case-note :- ***1. Facts :*** Ballu Khan applied under Section 482 CrPC to challenge the Special Judge's order of 4 April 2019 refusing to recall nine prosecution witnesses under Section 311 in Special Sessions Trial No. 35/2016. The pending charges were under IPC Sections 392 and 395 read with MPDVPK Act Sections 11/13. He alleged that earlier counsel had not cross-examined the witnesses at all and had failed to put important questions to Alakhram and Padam Singh Dhakad. He said that a lawyer at Gwalior had expressed that view after examining the deposition sheets. The State opposed recall on the ground that an opportunity had already been given.

2. Precedents — Considered : *State (NCT of Delhi) v. Shiv Kumar Yadav and another, (2016) 2 SCC 402*, was quoted and applied. A change of counsel or general criticism of earlier representation does not, by itself, justify recall. The assessment must consider a fair opportunity for the accused, prejudice, the burden on victims and witnesses, and an expeditious trial. The quoted Supreme Court passage treated genuine physical or mental incapacity of counsel as a separate concern. No such incapacity was established in the present case.

3. Statutes considered : Section 311 CrPC governed recall; Section 482 concerned the High Court's inherent powers. IPC Sections 392 and 395 and MPDVPK Act Sections 11/13 were the underlying pending charges; the Court did not decide guilt. It mentioned recourse to the Bar Council for professional misconduct and a claim for compensation for loss caused by such misconduct. Those observations were conditional and did not determine any disciplinary violation or compensation claim.

4. Issues : Whether a later lawyer's criticism of the earlier cross-examination and the alleged failure to put questions justified recalling nine witnesses; and whether a fair opportunity had been denied or resulting prejudice had been shown.

5. Ratio / Findings : The applicant had engaged counsel and had been given a full opportunity of hearing. The Court would not infer that earlier counsel was incompetent merely because a later lawyer assessed the representation differently. No specific incapacity, denial of opportunity or concrete resulting prejudice was demonstrated on the grounds assessed. Applying *Shiv Kumar Yadav*, the Court found no basis to recall witnesses merely because counsel had changed. It also rejected the plea that the applicant should not suffer for counsel's fault, noting that he had taken no action against earlier counsel. If he considered that counsel had deliberately failed in his duties and committed professional misconduct, he could approach the Bar Council. If he considered that such misconduct would cause him irreparable loss, he could seek compensation against the lawyer. The Court described those remedies conditionally; it did not find professional misconduct or decide a claim for compensation. Recall could not be granted on that ground alone when a full opportunity had been given and had not been used.

6. Relief : The Hon'ble High Court dismissed the application. The refusal to recall witnesses under Section 311 remained in place.

Ballu Khan v. State of M.P., M.Cr.C. no. 15756/2019, 16/04/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (105) Prev Next

Headnote :- NDPS — Quantity of a mixture **and** scope of the **appeal** — The trial court assessed the seized 15 grams of smack by its pure diacetylmorphine content, following *E. Michael Raj*. It convicted the appellant under Section 21(a) and acquitted him under Section 21(b). The High Court held that the notification of 18 November 2009 applied the quantity thresholds to the whole mixture, rather than its pure drug content, and that the trial court's reasoning was therefore incorrect. As the Section 21(b) acquittal had not been appealed, the High Court left it undisturbed. It affirmed the Section 21(a) conviction and sentence.

Forensic report — Sections 293 and 313 CrPC — The FSL report had not been formally exhibited, but it was admissible under Section 293 and had been put specifically to the appellant under Section 313. The Court read it in evidence. Together with the

accepted evidence of the pocket seizure and sampling, it established the narcotic character of the seized material for the conviction under appeal.

Case-note :- ***1. Facts :*** Ballu Savita appealed against the judgment of 27 June 2013 in Special Sessions Trial No. 16/2011. He had been convicted under Section 21(a) of the NDPS Act and sentenced to four months' rigorous imprisonment and a fine of Rs 5,000, with one month's rigorous imprisonment in default. On 24 May 2011, the police recorded information about the sale of smack and informed the City Superintendent of Police. Near Birla Nagar overbridge, they searched the appellant after giving a Section 50 notice and obtaining his consent. They recovered 15 grams of smack from his pocket, along with a scale and phones. Two samples of five grams each were prepared; the FSL report identified diacetylmorphine. The trial court treated the pure content, at 16.87 percent, as a small quantity and acquitted him of the charged offence under Section 21(b). The defence challenged compliance with Section 50. The High Court also examined the report's non-exhibition and the basis for classifying the quantity.

2. Precedents — Considered : The High Court attributed the trial court's use of pure drug content to *E. Michael Raj v. Narcotic Control Bureau, (2008) 5 SCC 161*. It noted that the trial court had overlooked the later notification of 18 November 2009 governing the quantity of a mixture. It did not reopen the unappealed Section 21(b) acquittal or substitute a conviction in another quantity category. It accepted the prosecution evidence and declined to interfere with the conviction and sentence under appeal.

3. Statutes considered : The charge was under Sections 8/21(b) of the NDPS Act; the conviction upheld was under Section 21(a). The Section 50 notice and consent formed part of the search evidence. Notification S.O. 2941(E) of 18 November 2009 inserted the requirement to consider the whole mixture when applying the specified small and commercial quantities. Section 293 CrPC governed the forensic report's admissibility, Section 313 the accused's opportunity to respond to it, and Section 374 the appeal.

4. Issues : Whether the personal-search and recovery evidence, together with the FSL report, supported the Section 21(a) conviction despite the report not having been formally exhibited; whether the trial court had correctly classified the quantity by pure drug content rather than the whole mixture; and the scope for interference when the Section 21(b) acquittal had not been challenged.

5. Ratio / Findings : The searching officer described the prior information, Section 50 notice, consent, pocket seizure, weighing and sampling. His detailed cross-examination did not undermine his reliability. An independent witness also supported the recovery of 15 grams of smack. The FSL report was admissible under Section 293 and had been specifically put to the appellant under Section 313; the Court could therefore read it in evidence. The High Court rejected the trial court's quantity reasoning because the 2009 notification applied to the whole mixture. It left the Section 21(b) acquittal undisturbed because no appeal had challenged it. On the prosecution evidence, it found the Section 21(a) offence proved beyond reasonable doubt. It considered the four-month term already lenient and declined further interference.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. It affirmed the Section 21(a) conviction and the sentence of four months' rigorous imprisonment and a fine of Rs 5,000, with one month's rigorous imprisonment in default. The appellant was to be released after serving the jail sentence, if he had not already been released.

Ballu Savita v. State of M.P., Cr.A. no. 531/2013, 13/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (106) Prev Next

Headnote :- Separate trials — Evidence confined to each record — Applying *A.T. Maydeen v. Assistant Commissioner, Customs Department* (Criminal Appeal 1306/2021, decided 29.10.2021), the Court held that the evidence recorded afresh in the trial of Balram and Ramjilal, who had been absconding, could not be used in the appeal of Govind Das and Gudda, who had been tried earlier. The earlier-tried co-accused's appeal required a separate judgment.

Section 157 CrPC — Dispatch of FIR **to Magistrate** — The FIR was recorded promptly and received by the Magistrate the next day. That interval did not, by itself, establish that it had been ante-timed, particularly in view of the disturbance at the police station and the absence of demonstrated prejudice. The Court applied *Pala Singh v. State of Punjab, (1972) 2 SCC 640; Mahmood v. State of U.P., (2007) 14 SCC 16*, explaining *Anil Rai* and *Alla*

China Apparao; and *Jafel Biswas v. State of W.B., (2019) 12 SCC 560*, discussing dispatch as an external check against interpolation and the authorities on prejudice. Nor did omission of the FIR number from forms with no field for that number prove fabrication.

Delayed examination of witnesses **— Peripheral discrepancies** — Applying *Sadhu Suran Singh v. State of U.P., (2016) 4 SCC 357*, the Court treated differences about whether the victim came on foot, by bicycle or by motorcycle, and an isolated recollection of time after roughly nine years, as peripheral. The witnesses were substantially consistent about the attack. The appellants' abscondence had caused much of the interval before trial.

Medical evidence — **Time** of death **and rigor mortis** — The doctor estimated that death had occurred three to twelve hours before the afternoon post-mortem. That interval included the reported assault at 11–11:30 a.m. The defence had not challenged the estimate. As the onset of rigor mortis depended on weather conditions, its presence alone did not establish an earlier death.

Section 302/34 IPC — Appeal — On the eyewitness and medical evidence recorded in their separate trial, the Court affirmed Balram and Ramjilal's convictions for the killing arising from the land dispute. It dismissed their appeal.

Case-note :- ***1. Facts :*** In January 2009, Krishna Bihari Singh Tomar reported that his family had purchased land from relatives of Govind Das and that hostility had followed the transaction. In his promptly lodged FIR and later testimony, he stated that his son Mohan Singh had encountered Govind Das, Gudda, Balram and Ramjilal near the field at about 11:30 a.m. on 18 January. He attributed a Baka blow to Gudda, a sword blow on the left wrist to Balram, a Katar blow on the left hand to Ramjilal, and a lathi assault to Govind Das. Mohan Singh was taken first to the Manpura primary health centre and then to the Shivpuri district hospital, where he was declared dead. The autopsy recorded deep incised injuries to the face, arm and head, and death from shock and haemorrhage.

Govind Das and Gudda had been tried and convicted earlier in Sessions Trial 106/2009. Balram and Ramjilal were arrested on 5 October 2016. A supplementary prosecution followed, and evidence was recorded afresh in Sessions Trial 106/2016. On 4 April 2019, the Additional Sessions Judge, Pichhore, convicted them under Section 302 read with Section 34 IPC and sentenced each to life imprisonment and a fine of Rs 500, with three months' rigorous imprisonment in default. Their appeal under Section 374 CrPC was heard alongside that of the earlier-tried co-accused, but the Bench kept the records separate. The appellants argued that rigor mortis indicated an earlier death; that missing FIR numbers and next-day receipt by the Magistrate showed an ante-timed FIR; and that delayed witness statements and differences about transport and time undermined the eyewitness account. They also relied on the change of investigating officer after a protest and on documents said to support their residence elsewhere. The State supported the convictions.

2. Precedents — Considered : *A.T. Maydeen v. Assistant Commissioner, Customs Department*, Criminal Appeal 1306/2021, decided 29 October 2021, established that evidence recorded in one separate trial cannot simply be used for or against persons tried in another. The Bench applied that rule by leaving the earlier-tried co-accused's appeal for a separate judgment and deciding Balram and Ramjilal's appeal on the evidence recorded afresh in their trial.

Pala Singh v. State of Punjab, (1972) 2 SCC 640, explained that transmission under Section 157 keeps the Magistrate informed and enables supervision of the investigation. Where the FIR was actually recorded promptly and investigation began on that basis, delayed receipt alone did not defeat the prosecution in the absence of prejudice or another infirmity. *Mahmood v. State of U.P., (2007) 14 SCC 16*, discussed *Anil Rai* on that purpose. It distinguished extraordinary, unexplained delay from every delay and quoted *Alla China Apparao* on the meaning of 'forthwith': reasonable dispatch in the prevailing circumstances, without a universal rule requiring an explanation for every hour. *Jafel Biswas v. State of W.B., (2019) 12 SCC 560*, reviewed authorities including *Daud Khan*, *Sheo Shankar Singh* and *Sandeep*. Dispatch is an external check against ante-timing or interpolation and a public duty of the investigating officer, but the effect of delay depends on the explanation, the truthfulness of the evidence and demonstrated prejudice. The Court applied those principles to an FIR lodged within minutes and received by the court the next day, in the context of disorder at the station. It did not treat the

authorities as giving general permission for late transmission.

Sadhu Suran Singh v. State of U.P., (2016) 4 SCC 357, distinguished minor deviations after a long interval between the occurrence and examination from major inconsistencies affecting proof of guilt. The Court applied it to peripheral differences in recollection in this delayed trial, taking account of the appellants' long absence. It also assessed the actual post-mortem estimate and the doctor's cross-examination.

3. Statutes considered : Section 374 CrPC governed the appeal. Section 302 read with Section 34 IPC was the basis of the murder conviction on common intention, for which life imprisonment and fine were upheld. The Supreme Court authorities discussed Sections 157 and 159 CrPC in relation to transmission of the occurrence report and the Magistrate's supervisory role. Sections 174 and 175 CrPC appeared in the death-inquiry and notice documents. The absence of a field for the FIR number in the relevant forms informed the Court's rejection of the ante-timing objection. The Court observed that the signed Section 161 statement was hit by Section 162 CrPC; it did not adopt the statement's contents as substantive proof. Its existence nevertheless showed that witnesses were available and that the first investigating officer had failed to record their statements. The supplementary charge sheet included other IPC and Arms Act offences, but the appeal concerned the framed murder charge and conviction, without independent findings on those additional allegations. Ramjilal gave evidence in defence under Section 315 CrPC.

4. Issues : Whether evidence from Balram and Ramjilal's later separate trial could be used in the pending appeal of the two earlier-tried co-accused. Whether next-day receipt by the Magistrate, missing FIR numbers in the inquest-related documents, or allegations of police pressure and a changed investigator undermined the prompt lodging of the FIR. Whether the medical estimate and rigor mortis placed the death before the time alleged by the prosecution. Whether differences in recollection after nine years and delayed witness statements undermined the central accusation that Balram and Ramjilal had assaulted Mohan Singh, and whether their claimed residence in Jhansi established non-participation. Whether the Section 302/34 conviction and sentence required appellate interference.

5. Ratio / Findings : The doctor found fatal ante-mortem injuries caused by sharp weapons, including major head trauma, and rejected the suggested accidental collision with an iron board. His estimate of death three to twelve hours before the afternoon autopsy included the alleged late-morning assault. The defence had not challenged that estimated interval. The onset of rigor mortis depended on environmental conditions and did not, by itself, establish an earlier death. The complainant lodged the FIR within about twenty-five minutes and described the attacks by Balram and Ramjilal on the left hand. Other witnesses and the medical injuries supported the essential account. The Court distinguished the peripheral differences about walking, cycling or a motorcycle, and the recollection of the time of a Section 175 notice after a long interval, from a material contradiction identifying the attackers.

The first investigation had shortcomings. Despite the death, the initial officer did not promptly add the murder offence, and he failed to record the statements of certain witnesses who were available. There had also been agitation at the police station. The signed Section 161 statement was affected by Section 162. Those matters required scrutiny but did not make an otherwise promptly lodged FIR ante-timed. The report was dispatched on the date of the incident and received the next day. The inquest-related documents had no field for the FIR number. Under *Pala Singh*, *Mahmood* and *Jafel Biswas*, the timing of dispatch is a safeguard assessed with the actual recording and investigation, the explanation and prejudice; it does not operate as a mechanical rule requiring acquittal. The Court found no evidentiary basis to infer manipulation from those circumstances.

The defence relied on Aadhaar cards whose dates did not show whether they had been issued before the incident. The voter list was not produced, and ownership of a house in Jhansi was not proved. A witness stated that the appellants had moved after the incident; their arrest years later supported that account. The Court found that cross-examination had not discredited the material eyewitness evidence. It upheld the finding that Balram and Ramjilal had participated in the killing under Section 302/34. This judgment did not dispose of the separate appeal of the earlier-tried co-accused.

6. Relief : The Hon'ble High Court dismissed Balram and Ramjilal's criminal appeal. It affirmed

the conviction under Section 302/34 IPC and the sentence imposed in Sessions Trial 106/2016 on 4 April 2019: life imprisonment and a fine of Rs 500, with three months' rigorous imprisonment in default. The appellants remained in jail to serve the balance of their sentence. A copy of the judgment was to be provided to them immediately and free of cost. The trial record was to be returned with a copy of the judgment for information and compliance. The earlier-tried co-accused's appeal was to be decided separately.

Balram and Ors. v. State of M.P., Cr.A. no. 5079/2019, 06/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (107) Prev Next

Headnote :- Judicial recusal — Ea**r**li**e**r **orders** co**n**cern**ing** a **co-accused** — In a repeat appeal under Section 14-A(2) of the SC/ST Act, the appellant's wife sought the Judge's recusal because he had passed adverse orders in a co-accused's bail proceedings. The Court noted that no bias directed against this appellant was alleged and that other co-accused had been granted bail on their individual records. Applying *Indore Development Authority v. Manoharlal* (order dated 23.10.2019, SLP (Cri.) 9036–9038/2016 as cited in the order), it held that opinions formed in earlier judicial proceedings do not, by themselves, disqualify a Judge. The question is whether the facts objectively support an apprehension that the Judge cannot decide impartially.

Recusal — Ch**oice** of Bench **and judicial duty** — The Court applied *Indore Development Authority*'s discussion of judicial duty and the distinction between a reasoned objection of bias and forum hunting. It rejected the unsupported recusal application after the administrative transfer request had been closed with the Chief Justice's direction to file the application. It described the recusal application as contemptuous but declined to initiate contempt proceedings. The ruling did not exclude recusal on a properly established disqualifying interest or reasonable apprehension of bias.

Bail — Di**stinct identity and** alleged trial **delay** — The Court distinguished the appellant from another accused of the same name. The FIR and witness statements nevertheless placed this appellant with the group, and the Court found a prima facie common object in the alleged fatal attack, other assaults and burning of a house. *Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129*, was cited for the limited observation that one year's custody in a murder case was not excessive in itself. Without the trial order sheets, the Court could not assess the asserted lack of progress. It dismissed the repeat bail appeal, with liberty to renew the delay ground on a complete record.

Case-note :- ***1. Facts :*** Balram was arrested on 7 June 2020 in Crime 108/2020 at Bahadurpur, Ashoknagar. He faced allegations under IPC Sections 307, 294, 147, 148, 149, 436 and 302 and Sections 3(2)(v), 3(2)(iv), 3(1)(r) and 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. His second repeat appeal under Section 14-A(2) challenged the Special Judge's order of 10 June 2020 rejecting bail; an earlier appeal had been withdrawn. The Court recorded that the complainant had been informed of the appeal under Section 15-A. The appellant's wife had first asked the Chief Justice, on the administrative side, to transfer the case. She alleged bias because the Judge had made observations against a principal co-accused. The case was adjourned while that request was pending. The Registrar later communicated the Chief Justice's direction to file the application, closing the administrative request. The wife then sought the Judge's recusal through I.A. 32935/2021. The Judge recounted his rulings concerning different co-accused. These included bail grants where there was no admissible material, rejection of Girraj Yadav's bail, and Supreme Court proceedings about Girraj's medical treatment. That history formed the background to the alleged apprehension of bias; it did not determine Balram's guilt. After rejecting recusal, the Court heard the appeal on its merits. Counsel explained that two persons named Balram Yadav were involved and that this appellant was not Girraj's father, who had been named in the initial narrative. The prosecution nevertheless alleged that the appellant later arrived with the group that attacked the complainant's family, killed his father, injured others and burned the house. The appellant argued that he had been implicated later and that custody since June 2020 and slow trial progress justified bail. He did not produce complete trial order sheets showing who was responsible for the delay.

2. Precedents — Considered : The Court's principal authority on recusal was *Indore Development Authority v. Manoharlal and others*, decided on 23 October 2019, whose lengthy discussion it

reproduced. That authority distinguishes a view formed in judicial proceedings from a personal or disqualifying interest. An adverse legal opinion does not, by itself, show an inability to decide fairly; allowing recusal merely on a litigant's unsupported demand would permit selection of the Bench. The reproduced discussion refers to the United States decision in *Liteky* on ordinary judicial rulings and remarks, as distinct from deep-seated antagonism; *State of W.B. v. Shivananda Pathak on* legal predisposition and judicial obstinacy; and *Asok Pande* on the master-of-roster principle. It also discusses *Supreme Court Advocates-on-Record Association (Recusal Matter)* on impartiality, interests and the Judge's own decision on recusal; *Subrata Roy Sahara* and *R.K. Anand* on resisting motivated Bench hunting; and *Kamini Jaiswal* on forum shopping and attacks on the Court. Those authorities and the foreign examples form part of the reproduced *Indore* discussion. The High Court applied the recusal principle to the objection based on earlier orders concerning a co-accused. The earlier Supreme Court orders in Girraj Yadav's medical-bail proceedings were recounted as part of that history, rather than as a rule governing Balram's entitlement to bail.

On bail, *Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129*, was cited for the limited proposition that one year's custody in a murder case was not excessive in itself. The Court considered the prima facie material against this appellant and the absence of trial order sheets before declining a contrary bail order. It did not lay down that one year's detention could never support bail.

3. Statutes considered : Section 14-A(2) of the SC/ST Act provided the appeal against the Special Judge's bail decision. Section 15-A concerned notice to the victim or complainant, and the Court recorded that notice had been given. The listed IPC and SC/ST Act provisions concerned alleged offences, not final findings of guilt. The bail assessment considered alleged membership of an unlawful assembly sharing a common object under Section 149 IPC and remained prima facie. Section 439 CrPC and Sections 82–84 CrPC, concerning another co-accused's proclamation, attachment and request for release of property, appeared in the procedural history. The recusal decision applied the principles of judicial impartiality and duty drawn from the cited cases. No separate contempt charge against the appellant's wife was adjudicated.

4. Issues : Whether earlier adverse rulings concerning Girraj Yadav gave this appellant an objectively sufficient basis to require the same Judge's recusal from his bail appeal after the administrative transfer request had been closed. Whether refusal to recuse in these circumstances would compromise impartiality, or whether recusal would permit a litigant to select the Bench through pressure. On bail, whether the distinction between this appellant and the other Balram removed the prima facie case; whether the FIR and statements still placed him with the attackers and their common object; and whether custody and alleged lack of trial progress justified a different order without trial order sheets showing responsibility for the delay.

5. Ratio / Findings : The wife's allegations did not assert bias directed against this appellant. They concerned earlier orders in Girraj's proceedings, while bail had been granted to other co-accused on the material in their individual cases. The Chief Justice had closed the administrative transfer request with a direction to file the application. Applying *Indore Development Authority*, the Court held that earlier judicial conclusions do not automatically make a Judge partial in a related case, and that a litigant cannot compel recusal to obtain a preferred Bench. The Judge's duty to decide impartially remains. A disqualifying interest or objectively supported apprehension of bias would require a different assessment. The Court found the present application unsupported and described it as contemptuous, but expressly declined to initiate contempt proceedings. That description concerned the application and did not establish criminal liability on the wife's part.

On bail, the Judge assessed the appellant as a person distinct from the other Balram Yadav. The FIR and statements nevertheless placed him with the co-accused after the confrontation. For the purpose of bail, the Court found prima facie that he had joined an unlawful assembly sharing its common object. It referred to the alleged death, other assaults and burning of the house without finally deciding whether they had been proved. Without complete trial order sheets, it could not determine whether the prosecution or any accused was responsible for the alleged delay. Custody since June 2020 did not, by itself, require bail in this murder case, having regard to the limited observation in *Anil Kumar Yadav.* Those conclusions were provisional bail findings, separate from the decision on recusal.

6. Relief : The Hon'ble High Court dismissed the repeat bail appeal under Section 14-A(2) of the SC/ST Act and rejected I.A. 32935/2021 seeking recusal. It did not initiate contempt proceedings. The appellant was granted liberty to renew his bail request with complete trial order sheets showing that neither he nor any other accused was responsible for the delay.

Balram v. State of M.P. and Ors., Cr.A. no. 5491/2021, 06/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (108) Prev Next

Headnote :- CrPC Section 439 / COVID-19 prison decongestion — Regular bail — *In Re: Contagion of COVID-19 Virus in Prisons* (Supreme Court orders of 23.03.2020 and 07.04.2020) addressed the need under Article 21 to decongest prisons through State High Powered Committees and ensure safe transit for released prisoners. The Committees were to select categories by reference to the nature of the offence, punishment, custody and other relevant factors; release was not automatic for every prisoner. Considering the allegations and the need to decongest prisons during the second wave, the Court granted individual bail on Rs 2 lakh cash surety and conditions. The application concerned five litres of allegedly unfit liquor, prior excise and gambling cases, more than three months' custody and the applicant's submission that trial would take time. The Court directed medical screening and transport arrangements. Bail was to continue until the conclusion of trial, subject to the stated termination conditions, without a decision on guilt.

Case-note :- ***1. Facts :*** Balveer made a second application under Section 439 CrPC for bail in Crime 58/2021 at Pathariya police station, Vidisha, concerning alleged offences under Sections 34(2) and 49(a) of the Madhya Pradesh Excise Act. He had been arrested on 12 June 2021. His first application was rejected on 30 July, with liberty to apply again after a reasonable period of detention. That rejection took account of six other cases registered against him, including four under Section 34 of the Excise Act and one under the Public Gambling Act. Counsel submitted that only five litres of country-made liquor, allegedly unfit for human consumption, had been seized; that the applicant had spent more than three months in custody; and that the minimum sentence under Section 49-A(1)(d)(i) was two months. He submitted that trial would take time and offered to comply with stringent conditions, including cash surety. The State opposed bail on the ground that he was a habitual offender dealing in illicit liquor. The Court considered the submissions during the second COVID-19 wave and reproduced two Supreme Court orders on prison overcrowding and arrangements for released prisoners.

2. Precedents — Considered : In its order of 23 March 2020 in *In Re: Contagion of COVID-19 Virus in Prisons*, Suo Motu W.P. (C) 1/2020, the Supreme Court addressed prison overcrowding and infection risk in the light of Article 21. It directed each State or Union Territory to form a High Powered Committee comprising representatives of legal services, the home or prison administration and the prisons department. The Committee was to decide which classes of prisoners could be released on parole or interim bail, and for how long. The nature of the offence, prescribed punishment, sentence, severity and other relevant factors were left to the Committee; the example of offences punishable with seven years or less was illustrative. The High Court considered that decongestion direction when deciding this individual bail application. It did not identify the applicant as having an automatic right to release under a specified Committee category.

The Supreme Court's order of 7 April 2020 in the same matter concerned released prisoners left stranded during lockdown. The Union could issue directions, and the States or Union Territories were to arrange safe transit home or give prisoners the option of temporary shelter. Applying that order, the High Court directed medical assessment before release and local arrangements to take the applicant home if infection was not suspected or his test was negative. If he tested positive, he was to be sent to hospital for treatment. *Aparna Bhat v. State of M.P.*, Criminal Appeal 329/2021, decided on 18 March 2021, was cited for sending notice of the bail grant to the complainant.

3. Statutes considered : Section 439 CrPC governed the regular bail application, and the existing conditions under Sections 437 and 439 remained applicable. Sections 34(2) and 49(a) of the M.P. Excise Act concerned the alleged offences; Section 49-A(1)(d)(i) formed the basis of counsel's minimum-sentence submission. The Court did not finally determine the offence ingredients or sentence. Article 21 appeared in the Supreme Court's direction on public health and prison decongestion. The

quoted safe-transit order also referred to possible directions under the Disaster Management Act, 2005; that reference concerned the arrangements contemplated by the Supreme Court.

4. Issues : Whether the second bail application warranted release after more than three months in custody despite prior excise and gambling cases, having regard to the quantity and alleged unfitness of the seized liquor, the expected duration of trial and COVID-19 prison overcrowding. How the Supreme Court's decongestion and safe-transit directions applied to this individual application and the arrangements following release, without deciding the merits of the prosecution.

5. Ratio / Findings : The Court considered the parties' submissions and the allegations, without deciding the State's habitual-offender allegation or the applicant's defence on the merits. It also considered the need to decongest prisons during the second wave. The Supreme Court's direction under Article 21 left the selection of prisoner categories to each State or Union Territory's High Powered Committee. The High Court granted bail to this applicant on Rs 2 lakh cash surety and public-health conditions; it did not direct release of everyone charged with such offences. Its directions, based on the Supreme Court's order of 7 April, required examination by a competent doctor before release and testing if the doctor considered it necessary. If infection was not suspected or the test was negative, the local administration was to arrange transport home. A positive test required immediate hospital treatment. The automatic termination of bail, forfeiture of cash surety and return to custody operated on the specific defaults stated in the order, as set out in the Relief below.

6. Relief : The Hon'ble High Court allowed the second application for regular bail on cash surety of two lakh rupees to the satisfaction of the Trial Court, Chief Judicial Magistrate or Remand Magistrate, whichever was available. The applicant was to undertake to follow all general or specific COVID-control instructions issued from time to time by the Central Government, State Government or local administration. Medical examination and, if the doctor considered it necessary, testing were required before release. If infection was not suspected or the test was negative, the local administration was to arrange his return home; a positive result required immediate hospital treatment. Breach of the COVID-control instructions would automatically end the bail order, and the local administration or police were to take him into custody immediately and return him to the same jail. He was also to supply a copy of the bail order to the police station with jurisdiction over his residence. The existing CrPC conditions remained applicable. Bail was to remain in force until the conclusion of trial, but would automatically end on a bail jump or breach of any stated condition. A single default in appearance before the Trial Court or registration of a new offence would automatically terminate bail and forfeit the cash surety without reference to the Court. Notice of the bail grant was to be sent to the complainant.

Balveer v. State of M.P., M.Cr.C. no. 45923/2021, 16/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (109) Prev Next

Headnote :- CrPC Section 311 — Recall of **witness / Fair opportunity** — A court may exercise its power to recall a witness where examination is necessary for a just decision, but must refuse where the sole intention is to delay proceedings or harass a prosecution witness. PW-3 had testified without supporting the prosecution, in the presence of the accused's local counsel, who declined to cross-examine him. Nearly two years later, the applicants claimed that their arguing counsel had not been informed. The Court found their explanation unconvincing and noted that they had taken no action over the alleged professional misconduct. An offer to pay costs did not justify recall merely to satisfy the accused. The Court affirmed the refusal to recall the witness. Counsel had relied on *P. Sanjeeva Rao*, *Sudevanand* and *Natasha Singh* for the general power under the provision.

Case-note :- ***1. Facts :*** Balveer Singh Tomar and the other accused filed a revision under Sections 397 and 401 CrPC against the First Additional Sessions Judge, Ambah's order of 10 December 2021 rejecting their Section 311 application in Sessions Trial 108/2016. Ramdhyan Singh Tomar (PW-3), a prosecution witness, had appeared and testified on 18 October 2019 without supporting the prosecution. The accused's local counsel, Ramadhar Sharma, was present and did not cross-examine him. The applicants said that they had expected the witness not to attend and had therefore not informed their Gwalior arguing counsel, Awadhesh Singh Bhadoriya. They alleged that the local counsel

neither contacted nor consulted him when the witness appeared. According to the applicants, the arguing counsel discovered the absence of cross-examination when he attended on 24 September 2021 and applied with an affidavit to recall the witness. The State opposed the application. The applicants later offered to pay costs and compensate the witness in return for a further opportunity.

2. Precedents — Considered : Counsel for the applicants cited *P. Sanjeeva Rao v. State of A.P., Sudevanand v. State through CBI, (2012) 3 SCC 387,* and *Natasha Singh v. CBI (State), (2013) 5 SCC 741*, in support of the court's discretion under Section 311 to allow further examination necessary for a just decision. The High Court recognised that power, but stated that it must be refused where the sole intention is to delay proceedings or harass a prosecution witness.

3. Statutes considered : Section 311 CrPC permits examination or recall of a witness where the court considers it necessary for a just decision. The Court assessed the explanation for the missed cross-examination against that purpose and the orderly progress of the trial. Sections 397 and 401 CrPC provided the revisional jurisdiction over the trial court's order. The applicants' failure to approach the Bar Council over the alleged misconduct was considered when assessing the credibility and bona fides of their explanation for recall under Section 311.

4. Issues : Whether local counsel's decision not to cross-examine PW-3 while present in court, followed by the claim that arguing counsel learnt of the evidence almost two years later, established the need for recall for a just decision. Whether the offer of costs could overcome the delay and potential harassment, and whether the trial court's refusal warranted interference in revision.

5. Ratio / Findings : The Court recognised its power under Section 311 to recall a witness where examination is necessary for a just decision. On this record, PW-3 had appeared and testified without supporting the prosecution, and the accused's counsel, who was present, declined to cross-examine him. The Court questioned how the applicants could have assumed that the witness would not attend. It also found their account unconvincing: they said that arguing counsel represented them, yet claimed that he remained unaware of the recorded evidence until September 2021. Their failure to approach the Bar Council over the local counsel's alleged misconduct led the Court to regard their explanation as an afterthought. It rejected the offer to pay costs and compensate the witness, stating that a trial could not be hampered by recalling a witness merely to satisfy the accused. In those circumstances, it found no ground to interfere with the trial court's exercise of discretion.

6. Relief : The Hon'ble High Court dismissed the criminal revision and affirmed the order of 10 December 2021 rejecting the Section 311 application. It did not direct recall or accept the offer of costs as a basis for reopening PW-3's evidence.

Balveer Singh Tomar and Ors. v. State of M.P., Cr.R. no. 795/2022, 23/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (110) Prev Next

Headnote :- Article 226 — Investigation / Discretion to arrest — Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, including its discussion of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, the Court declined to direct arrest, prescribe a particular course of investigation or require a charge sheet merely because an FIR was pending. Arrest under Section 41 CrPC is discretionary and affects personal liberty and reputation. An investigation may also end in a closure report. The Supreme Court's discussion cautioned against coercive directions affecting persons who had not been served with notice.

CrPC Section 173(1) / BNSS Section 193 — Timely completion of investigation — The Court separately enforced the duty to complete an investigation without unnecessary delay. It directed the investigating officer to conclude the investigation into the registered BNS crime as early as possible and take the steps required by law towards a final report. Whether that report should be a closure report or a charge sheet depended on the investigation. The direction did not require arrest or the filing of a charge sheet.

Case-note :- ***1. Facts :*** Balwant Singh Chauhan filed a petition under Article 226 before the Jabalpur Bench concerning Crime 347/2024 at Police Station Chhipawad, Harda. He submitted that the police had registered an FIR on his complaint under Sections 109, 115(2), 296, 351(2) and 3(5) BNS, but had neither arrested the accused nor completed the investigation. He sought a departmental inquiry

against the station officers by an officer not below the rank of Additional Superintendent of Police; preservation and production of CCTV footage from the police station, Khirkiya government hospital and nearby area for 18 September 2024; appointment of an investigating officer at least of Additional Superintendent of Police rank or transfer to another State investigation team; and further appropriate relief. The Court considered the request for arrest and directions controlling the course and outcome of investigation separately from the statutory duty to complete it promptly. It did not adjudicate the guilt of any named accused or find that the officers had committed misconduct.

2. Precedents — Considered : In *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Supreme Court set aside a High Court order prescribing investigative steps, including arrest, seizure and filing a charge sheet, without reasons or a hearing for those affected. Investigation is a statutory police function and need not lead to arrest or prosecution. The authority requires caution in exercising inherent powers and does not permit a court to dictate an investigative outcome merely on allegations. Its discussion of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that Section 41 CrPC gives the police discretion to arrest, having regard to the offence, available material and personal liberty; registration of an FIR does not make arrest automatic. The reproduced passage also cites *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on notice to persons likely to be affected by drastic judicial directions. Applying the investigation and arrest-discretion principle, the present Court declined to direct arrest or supervise the filing of a charge sheet. That limit on coercive directions operated alongside the duty to complete the investigation without unnecessary delay.

3. Statutes considered : Article 226 provided the jurisdiction for the requested writ relief. The FIR concerned BNS Sections 109, 115(2), 296, 351(2) and 3(5); the Court did not adjudicate their substantive ingredients. Section 173(1) CrPC, which the Court referred to together with Section 193 BNSS, requires investigation under the relevant chapter to be completed without unnecessary delay. The Supreme Court passage reproduced in the order discussed arrest discretion under Section 41 CrPC, the limits of Section 482 CrPC in that case, and the police power to file a charge sheet or conclude that no case was made out. Article 226 governed this petition; Section 482 was discussed in the cited Supreme Court case. The present Court did not order a particular arrest, transfer, preservation procedure or departmental finding.

4. Issues : Whether the complainant's grievance over non-arrest and the continuing investigation justified directions requiring arrest, investigation by a senior officer or a particular investigative course. Whether the investigating officer nevertheless had a statutory duty to complete the investigation without unnecessary delay and decide on the appropriate final report, and what limited direction could be issued without prejudging the evidence.

5. Ratio / Findings : Relying on *D. Venkatasubramaniam*, the Court refused to direct the arrest of the accused. Investigation is a statutory police function; an FIR does not make arrest, seizure or prosecution inevitable. The court should avoid prescribing particular investigative steps while the police assess the facts and evidence. Separately, Section 173(1) CrPC / Section 193 BNSS requires completion of the investigation without unnecessary delay. The investigating officer must decide whether an offence is made out and submit the appropriate final report, either a closure report or a charge sheet, as early as lawfully possible. Requiring performance of that duty leaves the investigative decision and lawful steps to the police. The Court did not find police malice or adjudicate the CCTV and disciplinary grievances on the evidence. It left the petitioner free to raise his grievances before the Superintendent of Police.

6. Relief : The Hon'ble High Court disposed of the writ petition by directing the investigating officer to complete the investigation in Crime 347/2024 as early as possible and take the steps required by law. It refused to direct arrest or require a charge sheet. The operative relief did not appoint a specified senior officer, transfer the investigation, direct preservation of specified CCTV footage or impose departmental action. The petitioner remained free to apply to the Superintendent of Police, Harda, who was to consider the application in accordance with law.

Balwant Singh Chauhan v. The State of Madhya Pradesh and Ors., W.P. no. 32668/2024, 22/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (111) Prev Next

Headnote :- Article 226 — Adult partners / Police protection — The petitioners relied on *Lata Singh v. State of U.P., (2006) 5 SCC 475*, and *Shakti Vahini v. Union of India, (2018) 7 SCC 192*. In the light of Sections 5 and 6 of the Special Marriage Act, the Court found that their Ghaziabad marriage certificate did not prima facie prove the marriage. Adults nevertheless have the right to choose to live together, and no one may threaten them merely because of that choice. The representation alleging parental threats gave no specific instance warranting immediate protection. If the petitioners later approached the authorities with specific incidents and the names of those involved, the police were to act in accordance with *Lata Singh*. The petition was dismissed.

Article 226 — Criminal complaint — The Court refused to require a hearing before registration of an FIR or restrain the woman's parents from lodging a complaint. Its direction on future threats was not to have any adverse effect on an FIR already lodged.

Case-note :- ***1. Facts :*** Bandhana Sharma and the other petitioner sought directions under Article 226 for police protection of their life and liberty as a couple claiming to be legally married. They also sought protection for petitioner No. 2 and his family against allegedly false criminal implication at the instance of petitioner No. 1's family. They lived in Morena and relied on a marriage certificate issued at Ghaziabad, Uttar Pradesh. They asserted that they were adults, eligible to marry, and faced threats from the woman's parents. The State disputed compliance with the Special Marriage Act and pointed out that the representation to the Morena police identified no concrete instance of a threat. The Court examined the certificate and representations on the limited material before it in the writ petition.

2. Precedents — Considered : The petitioners invoked *Lata Singh v. State of U.P., (2006) 5 SCC 475*. The Court directed the police to act in accordance with that decision if the petitioners later reported specific threats and identified the persons involved. The petitioners also cited *Shakti Vahini v. Union of India, (2018) 7 SCC 192*, for protection against family hostility. The Court did not use either authority to treat the alleged threats as proved, accept the marriage certificate as valid or prevent lawful registration of an offence.

3. Statutes considered : Article 226 provided the jurisdiction invoked. Under Section 5 of the Special Marriage Act, the Court noted that at least one party must have resided in the Marriage Officer's district for not less than 30 days before notice. It also referred to the transmission of notice under Section 6 to the Marriage Officer for the parties' place of residence where they lived outside that jurisdiction. The record showed neither the required stay nor transmission of notice, and the certificate appeared to have been issued on the claimed date of the ceremony. On that material, the Court found that the marriage had not been prima facie proved. This was not a final determination of matrimonial status. The petitioners did not explain any statutory basis for a hearing before registration of an FIR or for restraining the parents from lodging a complaint.

4. Issues : Whether the claimed marriage and alleged family threats justified immediate police protection. Whether the petitioners' right as adults to choose to live together warranted protection even though the marriage had not been proved. Whether a writ could require a hearing before registration of an offence or prevent a complaint against petitioner No. 2.

5. Ratio / Findings : On the material concerning Sections 5 and 6, the certificate did not prima facie prove the marriage. The petitioners were nevertheless adults entitled to live according to their own wishes, including in a live-in relationship. No one could violate their personal liberty or commit an offence against them merely because of that choice. Their representation made vague allegations. Counsel could not identify a specific threatening act or explain how the woman's father had communicated a threat. He conceded that her mobile was switched off and that no threat to the man had been conveyed on it. He also could not say whether her father had visited the matrimonial home to threaten them. The record therefore disclosed no ground for immediate protection. If the petitioners later gave specific incidents and named the persons involved, the authorities were to act under *Lata Singh*. The petitioners showed no legal basis for a hearing before registration of an FIR or an order preventing a complaint. The direction concerning future threats left any existing FIR unaffected.

6. Relief : The Hon'ble High Court dismissed the petition. It directed that, if the petitioners approached the authorities with specific incidents and the names of the persons involved, the respondents were to act in accordance with *Lata Singh*. That direction was expressly not to have any adverse effect on an FIR already lodged. The Court did not order a current police escort, declare the marriage valid, restrain a

complaint or grant immunity from lawful investigation.

Bandhana Sharma and Ors. v. The State of Madhya Pradesh and Ors., W.P. no. 24150/2022, 01/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (112) Prev Next

Headnote :- CrPC Section 439 — Advanced stage of **trial** / Examination of **witnesses** — Applying *Virupakshappa Gouda v. State of Karnataka, (2017) 5 SCC 406*, as quoted in *Bhupat Singh*, the Court held that examination of most witnesses and the resulting reduction in the risk of tampering cannot, by themselves, determine bail. The gravity of the accusation, prima facie support, likely punishment, risk of flight and interests of justice remain relevant. In this alleged dacoity-murder case, examination of 29 of 33 witnesses did not, by itself, justify release on the fourth bail application.

Successive bail / Parity — Bail granted to a co-accused does not compel the same result without consideration of the applicant's own material circumstances. Through *Bhupat Singh*, the Court relied on *Dinesh M.N. v. State of Gujarat, (2008) 5 SCC 66*, for the need to consider all relevant factors rather than an isolated circumstance. It also recorded the Supreme Court's dismissal of the SLP against the earlier High Court order.

Case-note :- ***1. Facts :*** Banti made his fourth application for bail under Section 439 CrPC after his arrest on 2 May 2017 in Crime 48/2017 at Gohad Chauraha, Bhind. The alleged offences were under Section 396 IPC, Sections 11/13 of the MPDVPK Act and Sections 25/27 of the Arms Act. He submitted that 29 of 33 witnesses had been examined, that the independent witnesses to seizure of the batteries had turned hostile, and that there was no likelihood of absconding or tampering with the evidence. He also relied on bail granted to co-accused Ramjeet Singh on 29 January 2020. The State referred to mobile-tower batteries allegedly recovered from him after they had been taken away following the killing of the chowkidar. The Court considered the progress of the trial, the allegations and the cited authority when refusing bail, without deciding guilt.

2. Precedents — Considered : The Court reproduced *its* order in *Bhupat Singh v. State of MP*, MCRC 14129/2018 (11 May 2018), which held that examination of witnesses was not, by itself, sufficient for bail. That order relied on *Virupakshappa Gouda v. State of Karnataka, (2017) 5 SCC 406*, and its account of *Chaman Lal, Prasanta Kumar Sarkar and CBI v. V. Vijay Sai Reddy*. The factors discussed included prima facie support, the nature of the accusation, punishment, flight, witness influence and the interests of justice. The quotation also referred to *Neeru Yadav* on individual liberty and public interest, and *Dinesh M.N. (S.P.) v. State of Gujarat, (2008) 5 SCC 66*, on bail orders becoming vulnerable when they consider irrelevant material and leave relevant material out of account. These authorities provided the framework for considering bail; they were not findings about the evidence in Banti's trial. The comparison with co-accused Kaptan Singh Rawat and Mukesh Rawat concerned *Bhupat Singh*'s case, rather than the Ramjeet Singh order relied on here. The Court recorded that SLP (Crl.) 5103/2018 against *Bhupat Singh* had been dismissed on 21 June 2018.

3. Statutes considered : Section 439 CrPC governed the regular bail application. The alleged offences were under Section 396 IPC, Sections 11/13 of the MPDVPK Act and Sections 25/27 of the Arms Act. The Court considered their gravity and possible punishment without deciding the offence ingredients. As this was the fourth application, the prior bail context and the asserted change arising from examination of many witnesses were relevant to the request.

4. Issues : Whether examination of 29 of 33 witnesses, the claimed reduction in the risk of witness tampering and the co-accused's bail order justified release on this fourth application, despite the gravity of the allegations and the State's reliance on recovery of the batteries.

5. Ratio / Findings : A reduced possibility of influencing witnesses who have already been examined is relevant, but cannot replace consideration of the other factors governing bail. The Court applied the Supreme Court guidance reproduced through *Bhupat Singh*. The gravity of the alleged dacoity-murder, the applicant's circumstances and the advanced stage of trial remained material. The discussion of supportive eyewitnesses in the quotation concerned *Bhupat Singh*, rather than an express finding about Banti's witnesses. Bail granted to a co-accused did not determine the result of this application. The Court also recorded the earlier SLP dismissal. Since, on the applicant's own account, most prosecution witnesses

had been examined, the trial was already at an advanced stage. That circumstance did not justify granting bail solely because much of the evidence had been recorded; the Court refused this application on the record before it.

6. Relief : The Hon'ble High Court dismissed the fourth application for regular bail.

Banti v. The State of Madhya Pradesh, M.Cr.C. no. 5999/2020, 18/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (113) Prev Next

Headnote :- IPC Sections 375, 377 — Sexual allegations within marriage — Following *Manish Sahu*, the Court held that the alleged unnatural sexual acts by the husband with his wife during their subsisting marriage did not sustain the Section 377 allegation and quashed that part of the case. The reproduced coordinate-bench reasoning discussed *Navtej Singh Johar* in relation to consensual sexual conduct between adults of the same sex. The Court separately quoted *Independent Thought* on reading the marital exception to exclude wives below 18 years. Neither Supreme Court decision established the wife's consent in this case.

IPC Sections 498A, 323 — Cruelty / Dowry demand not essential — The wife alleged repeated acts against her wishes and physical assault when she resisted. Those allegations made out a prima facie case of cruelty under Explanation (a); a dowry demand was not essential. The Section 482 application was allowed only in part, and the allegations under Sections 498A and 323 survived.

Case-note :- ***1. Facts :*** Banti Jatav applied under Section 482 CrPC to quash Crime 11/2024 at Sirol Police Station, Gwalior, under Sections 377, 323 and 498A IPC, and Sessions Trial 227/2024. A charge sheet had been filed. The Court expressly proceeded on counsel's representation that charges had not yet been framed. The complainant wife alleged that they married on 2 May 2023 and that marriage gifts were given. She alleged that, after drinking, the applicant repeatedly subjected her to unnatural sexual acts and assaulted and treated her cruelly when she resisted. Attempts by her family to persuade him and her complaints to Mahila Paramarsh Kendra had not resolved the matter. In her objection, she alleged that he repeated the conduct despite giving an undertaking. The applicant relied on the coordinate Bench's analysis of the marital exception to contend that Section 377 was not attracted. He also argued that the absence of a dowry demand defeated the Section 498A allegation.

2. Precedents — Considered : The Court followed *Manish Sahu v. State of Madhya Pradesh*, MCRC 8388/2023 (1 May 2024), as the coordinate-bench basis for quashing the Section 377 allegation in the subsisting marriage. It reproduced that decision's discussion of *Navtej Singh Johar v. Union of India, (2018) 10 SCC 1*, on the invalidity of Section 377 insofar as it criminalised consensual sexual conduct between adults of the same sex. That Supreme Court holding concerned consensual conduct in that context and did not decide the wife's consent here. The extract also referred to the referral order and *Umang Singhar v. State of MP*. The Court separately quoted *Independent Thought v. Union of India, (2017) 10 SCC 800*, on prospectively reading down Exception 2 to Section 375 to exclude wives below 18, and on cognizance under Section 198(6) CrPC. The earlier *Manish Sahu* extract reproduced the former statutory 15-year formulation before that quotation. Those authorities concerned the sexual-offence question; the Court separately retained the cruelty and hurt allegations.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction invoked. Sections 375 and 377 IPC and the marital exception framed the sexual-offence question. The Court reproduced Section 498A IPC and both limbs of its Explanation. Under (a), cruelty includes wilful conduct likely to drive the woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. Limb (b) concerns harassment to force the woman or a person related to her to meet an unlawful demand for property or valuable security, or harassment because either has failed to meet that demand. Section 323 IPC concerned the surviving assault allegation. Section 376B IPC appeared in the precedent extract but was not charged in this FIR; Section 198(6) CrPC concerned cognizance in the Supreme Court's quoted direction. The Court assessed whether the allegations sustained the challenged offences, without deciding their evidentiary truth.

4. Issues : Whether the alleged unnatural sexual acts with the applicant's legally wedded wife sustained an offence under Section 377 on the High Court's reading of the marital exception. Whether the absence of a dowry demand defeated the separate Section 498A allegation despite specific allegations

of physical assault and cruelty, with Section 323 also included in the FIR.

5. Ratio / Findings : Applying *Manish Sahu*, the Court held that the Section 377 allegation was not maintainable and quashed that offence. It separately rejected the argument that this conclusion defeated the cruelty case. Section 498A Explanation (a) does not require a dowry demand. On the alleged facts, repeated acts against the wife's wishes, accompanied by assault and physical cruelty when she resisted, fell within the statutory definition of cruelty. The specific allegations therefore sufficed to retain Section 498A, and the operative order also retained Section 323. These were findings on the sufficiency of the allegations, leaving their evidentiary merits for trial. Quashing the sexual offence did not establish that assault or cruelty had not occurred.

6. Relief : The Hon'ble High Court partly allowed the application. It quashed the FIR and proceedings insofar as they concerned Section 377 IPC and upheld the FIR as to Sections 498A and 323 IPC. It did not acquit the applicant or finally determine the truth of the complainant's allegations.

Banti Jatav v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 32576/2024, 09/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (114) Prev Next

Headnote :- Abetment of suicide / Recourse to a **lawful complaint** — A wife lodged an FIR alleging cruelty, withholding of property and dowry demands against her husband and in-laws on 6 May 2023. The police investigated and filed a charge-sheet. After the husband died by consuming poison on 25 May, the wife and her parents were prosecuted under IPC Sections 306/34 solely on the allegation that his distress over the earlier case, which he regarded as false, had led to his suicide. Applying Sections 107/306 and the Supreme Court guidance in *Chitresh Kumar Chopra*, *Praveen Pradhan*, *Sanju*, *Gangula Mohan Reddy*, *M. Mohan*, *Kishori Lal*, *Amalendu Pal*, *Orilal Jaiswal* and *Ramesh Kumar*, the Court held that abetment requires instigation or intentional aid, the requisite mens rea and a proximate active role established from the facts. Hypersensitivity alone does not establish abetment. *Amit Kapur* cautioned against a full assessment of the merits at the quashing stage; even accepting the present allegations, they disclosed no act of abetment. *Kumar @ Shiva Kumar* was also cited for the same law. The applicants' recourse to the police to report an alleged offence did not amount to abetment on this record. The truth of the cruelty allegations remained for the separate trial. The Court quashed Crime 295/2023, its charge-sheet and the ensuing Section 306/34 proceedings under Section 482 CrPC.

Case-note :- ***1. Facts :*** Beenu Lodhi married Manish Lodhi in June 2022. On 6 May 2023, she lodged a complaint at Rahatgarh, Sagar, registered as Crime 289/2023. She alleged that her husband and his parents abused and assaulted her, demanded Rs 5 lakh, a gold chain and a vehicle, withheld her stridhan and expelled her from the matrimonial home. After investigation, the police filed a charge-sheet under IPC Sections 498A, 406, 294, 506/34 and Sections 3/4 of the Dowry Prohibition Act. Manish consumed poison and died on 25 May 2023. His father and other witnesses attributed the suicide to registration of the earlier case, which Manish regarded as false. Beenu and her parents were then accused under IPC Sections 306/34 in Crime 295/2023 at Suatala, Narsinghpur, and a charge-sheet followed. They sought quashing under Section 482 CrPC.

2. Precedents — Considered : *Chitresh Kumar Chopra* explained instigation as goading, provoking or encouraging an act. It permits an inference from a course of conduct, but requires an intention directed to the consequence. *Praveen Pradhan* emphasised that instigation must be inferred from the circumstances of each case and that assessment at the quashing stage remains tentative. *Sanju* and *Kishori Lal* explained the three forms of abetment under Section 107 and the necessary mental element. *Gangula Mohan Reddy* and *M. Mohan* required a positive, intentional act directed towards driving the person to suicide. *Orilal Jaiswal* and *Ramesh Kumar* cautioned against treating ordinary domestic discord and hypersensitivity as sufficient for abetment. *Amalendu Pal* required direct or indirect incitement and a proximate act. *Amit Kapur* discussed a tentative assessment at the threshold, rather than a final evaluation of the evidence. *Kumar @ Shiva Kumar* was cited as reaffirming the same law. *State of Punjab v Iqbal Singh and* the other authorities referred to within these quotations formed part of the background to those propositions.

3. Statutes considered : IPC Sections 306 and 34 concerned the alleged abetment of suicide. The Court considered the definition of abetment in Section 107

IPC while exercising jurisdiction under Section 482 CrPC. The earlier complaint concerned IPC Sections 498A, 406, 294, 506 and 34, and Sections 3 and 4 of the Dowry Prohibition Act.

4. Issues : Whether a criminal complaint by the wife and her parents against the husband and in-laws, alleged to be false and followed by the husband's suicide, disclosed instigation, conspiracy or intentional aid under IPC Sections 107 and 306. Both sides accepted that lodging the earlier FIR was the applicants' only alleged act. The merits of the earlier cruelty and dowry case remained a separate question.

5. Ratio / Findings : Even taking the Section 306 FIR at face value, the applicants had invoked an available legal remedy. The police investigated the complaint and filed a charge-sheet. Reporting alleged cruelty did not, by itself, establish an intention to instigate suicide or a positive act of intentional aid. Whether the earlier allegations were true or false was for the trial in that case, after examination and cross-examination of the witnesses. The deceased's assertion that the case was false did not establish its falsity. His subjective response to its registration did not make the complainants liable for abetment on the alleged facts.

A complainant's lawful recourse to the police does not amount to abetment under Section 306 merely because the person accused in that complaint later commits suicide. There must be allegations satisfying Section 107 through instigation, conspiracy or intentional aid, together with the requisite mental element and connection to the suicide. The conclusion here rested on the parties' concession that lodging the FIR was the applicants' sole alleged act.

6. Relief : The Hon'ble High Court held that no offence under IPC Sections 306/34 was made out and quashed Crime 295/2023 at Narsinghpur, its charge-sheet and all consequential proceedings. It did not quash or decide the separate Sagar case against the husband and in-laws.

Beenu Lodhi and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 14371/2024, 28/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (115) Prev Next

Headnote :- Separate trials / Appellate record — Applying *A.T. Mydeen v. Assistant Commissioner, Customs Department* (Criminal Appeal 1306/2021, 31 October 2021), the Court held that evidence led in the appellant's later trial could not be used in the appeals arising from the six co-accused persons' earlier trial, or vice versa. Their appeals were heard together but decided by separate judgments.

Related witnesses / Independent corroboration — Applying *Rupinder Singh Sandhu*, *(2018) 16 SCC 475*, *Shamim*, *(2018) 10 SCC 509*, *Rizan*, *(2003) 2 SCC 661*, and *Mohd. Rojali Ali*, *(2019) 19 SCC 567*, the Court scrutinised the evidence of the family members who were natural eyewitnesses. It did not discredit them merely because they were related to the deceased. *Sushil* and *Matibar Singh* recognised that prior enmity could provide a motive both for the offence and for false implication. *Mahesh*, *(2008) 13 SCC 271*, *Nagarjit Ahir*, *(2005) 10 SCC 369*, and *Sadhu Saran Singh*, *(2016) 4 SCC 357*, supported reliance on credible eyewitnesses despite the non-examination of nearby independent witnesses. Relying on *Suresh Yadav* (Criminal Appeal 1349/2013, 25 February 2022), the Court also rejected the contention that failure to intervene made an eyewitness unreliable.

Ocular and medical proof — Applying *Putchalapalli Naresh Reddy*, *(2014) 12 SCC 457*, *Bhajan Singh*, *(2011) 7 SCC 421*, *Ramanand Yadav*, *(2003) 12 SCC 606*, and *Shamsher Singh*, *(2002) 7 SCC 536*, the Court held that Amar Singh's lacerated wounds did not make the eyewitness account of a sword assault medically impossible. The blunt part or a blunted edge of the sword could have caused the wounds. Medical opinion must be considered, but a variance does not by itself displace oral evidence; that consequence arises when medical evidence completely rules out the oral account.

Witness variations — Applying *Dharmendrasinh*, *(2002) 4 SCC 679*, *Dal Singh*, *(2013) 14 SCC 159*, and *Bhagwan Jagannath Markad*, *(2016) 10 SCC 537*, the Court assessed the differing accounts of when the appellant exhorted the assailants. The incident occurred rapidly, and the natural variations did not undermine the substance of the witnesses' account. Material inconsistencies nevertheless require scrutiny under Evidence Act Sections 145 and 155.

IPC Sections 141, 142, 148, 149 — Applying *Krishnappa*, *(2012) 11 SCC 237*, *Daya Kishan*, *(2010) 5 SCC 81*, and *Vinubhai Ranchhodbhai Patel*, *(2018) 7 SCC 743*, the Court held that constructive liability requires proof of membership of an unlawful assembly and that the offence was committed in

prosecution of its common object or was known to be likely in prosecution of that object. These matters may be inferred from the group's conduct; an individual blow need not be proved against every member. The appellant was unarmed, but her exhortation and continued presence in the armed group established her participation and shared common object. The Court upheld her convictions under Sections 148, 302/149 on two counts and 324/149.

Case-note :- ***1. Facts :*** Bhaggo Bai appealed under Section 374 CrPC against her convictions in Sessions Trial 87/2010 under Section 148 IPC, Section 302/149 on two counts and Section 324/149. A dispute over a water tanker on the previous evening was followed by an armed group's attack in front of Gangaram's house on 15 September 2009. Gangaram died soon after sustaining head wounds, and his son Amar Singh later died during treatment. Asha was injured. The appellant was alleged to have arrived unarmed and urged the group to kill them so that the dispute would end. She had absconded and was tried separately at a later stage, after six co-accused had been tried. Two juveniles faced separate proceedings. In her appeal, she challenged the reliance on related eyewitnesses, the absence of independent witnesses, the variance between ocular and medical evidence, the differing accounts of when she exhorted the assailants, and the finding that she was a member of an unlawful assembly despite having struck no individual blow.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs Department* (Criminal Appeal 1306/2021, 31 October 2021) required the evidentiary records to remain separate even when the appeals were heard together. On related and allegedly interested witnesses, the Court relied on *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475; Shamim v. State (NCT of Delhi), (2018) 10 SCC 509; Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*; and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*. These authorities included the principle that kinship alone does not supply a motive for false implication. *Sushil v. State of U.P., 1995 Supp (1) SCC 363*, and *Matibar Singh v. State of U.P., (2015) 16 SCC 168*, guided the assessment of enmity as a factor that could operate either way. *Mahesh v. State of Maharashtra, (2008) 13 SCC 271; Nagarjit Ahir v. State of Bihar, (2005) 10 SCC 369*; and *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, supported the rejection of a categorical requirement for independent corroboration. *Suresh Yadav alias Guddu v. State of Chhattisgarh (Criminal Appeal 1349/2013, 25 February 2022)* addressed an eyewitness's failure to intervene. On the variance between ocular and medical evidence, the Court applied *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457; Bhajan Singh v. State of Haryana, (2011) 7 SCC 421; Ramanand Yadav v. Prabhu Nath Jha, (2003) 12 SCC 606*; and *Shamsher Singh v. State of Haryana, (2002) 7 SCC 536*. *Dharmendrasinh v. State of Gujarat, (2002) 4 SCC 679; State of M.P. v. Dal Singh, (2013) 14 SCC 159*; and *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, guided the assessment of material discrepancies. *Krishnappa v. State of Karnataka, (2012) 11 SCC 237; Daya Kishan v. State of Haryana, (2010) 5 SCC 81*; and *Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*, set out the tests for membership, common object and constructive liability under Section 149.

3. Statutes considered : The appeal was brought under Section 374 CrPC. Section 299 CrPC had been invoked in the charge-sheet filed while the appellant was absconding. IPC Sections 141 and 142 defined an unlawful assembly and knowing membership. Sections 146 and 148 dealt with rioting and being armed, while Section 149 imposed constructive liability for offences committed in prosecution of the common object or known to be likely in prosecution of that object. The convictions were under Sections 148, 302/149 twice and 324/149. Evidence Act Sections 145 and 155 were discussed in the Supreme Court passage on discrepancies. The prosecution initially registered the case under Sections 302, 307, 147, 148 and 149; the appeal did not concern a new conviction under Section 307. In deciding the appeals, evidence from each separate trial had to be confined to the appeal arising from that trial.

4. Issues : Whether the evidence in the appellant's trial proved the two homicidal deaths and her participation beyond reasonable doubt; whether the family members who were natural eyewitnesses remained reliable despite the alleged enmity, absence of independent witnesses, delay in Asha's medical examination, differences in their accounts and differences in wound descriptions; and whether an unarmed person who exhorted the assailants shared the unlawful assembly's common object and incurred liability under Section 149 for the killings and hurt.

5. Ratio / Findings : The post-mortem and treatment evidence established that Gangaram and Amar Singh died from homicidal head injuries. Narayan, Ashok and Asha were naturally present outside their home. Their evidence required scrutiny and could not be rejected merely because they were related to the deceased. The earlier platform and water disputes could provide a motive either for the offence or for false implication and had to be assessed with the whole record. In the circumstances explained by the Court, the absence of independent neighbours, failure to intervene during the fierce attack and delay in Asha's medical examination did not undermine their otherwise accepted account. Amar Singh's lacerated wounds did not make an assault with a sword impossible: the blunt part or a dulled edge could have caused them. The Court did not require exact correspondence between medical evidence and the eyewitness account when the latter was not ruled out. Although the witnesses differed on whether the appellant exhorted the assailants before, during or after the rapidly unfolding assault, they consistently stated that she urged the killings. The Court also examined the police statement relied on by the defence. The group arrived armed after the earlier dispute and attacked the two victims. The appellant's exhortation and continued presence established her membership and shared common object. Section 149 did not require proof that she struck a blow. The finding rested on this trial's evidence; mere presence does not invariably establish a shared common object.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and sentence, including life imprisonment on the two Section 302/149 counts. It cancelled the appellant's bail bonds and directed her to surrender by 30 May 2022 to serve the remaining sentence. If she failed to surrender, the trial court could take coercive steps to secure her appearance. The connected appeals of the six co-accused were decided by separate judgments on their respective trial records.

Bhaggo Bai v. State of Madhya Pradesh, Cr.A. no. 1116/2014, 13/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (116) Prev Next

Headnote :- POCSO child testimony / Corroboration — Applying *State of H.P. v. Sanjay Kumar alias Sunny, (2017) 2 SCC 51, Dinesh alias Buddha v. State of Rajasthan, (2006) 3 SCC 771,* and *State of Punjab v. Gurmit Singh, (1996) 2 SCC 384*, the Court held that a victim of sexual assault is not an accomplice and that her reliable testimony does not require corroboration as a rule. The trial court had checked the child's capacity to understand the proceedings. She identified the appellant and maintained her account in cross-examination. The absence of an FSL report concerning her blood did not displace that evidence. The medical findings, immediate disclosure and other witnesses provided additional support.

POCSO Sections 3, 4 / Intact hymen — Section 3 covered penetration to any extent and manipulation of the child's body so as to cause penetration. On the present record, the Court treated manipulation with an intention to penetrate as sufficient to constitute penetrative sexual assault. An intact hymen did not exclude that finding when the child's credible account was considered with the internal redness and swelling. The medical examiner's opinion that the symptoms suggested an attempt was assessed with the whole record, rather than treated as conclusively excluding penetrative assault. The Court affirmed the convictions under Section 4 POCSO and Section 376 IPC.

Sentencing / Child dignity — The Court refused to reduce life imprisonment to the ten-year minimum stated by the appellant for an offence under Section 4. It considered the father's assault on his young daughter and his proved prior conviction for a similar offence. *State of M.P. v. Madan Lal, (2015) 7 SCC 681*, informed its observations on the victim's dignity. A further alleged incident at Khurai was unsupported by evidence and was not treated as proved.

Case-note :- ***1. Facts :*** Bhagunta appealed under Section 374 CrPC against his conviction on 5 February 2014 under Section 376 IPC and Sections 3/4 POCSO. The trial court imposed life imprisonment and a fine under Section 4, with no separate sentence under Section 376. The prosecution alleged that he sexually assaulted his young daughter near a field or well. She returned crying, limping and bleeding and disclosed the incident to her mother. Heavy rain and flooding delayed the FIR until the next day. In her testimony, the child identified her father, described his acts and the bleeding, and denied the suggestion that she had been tutored for money. Her mother, brother and a

neighbour described the prompt disclosure or visible blood. The medical examiner found internal redness and swelling and described the signs as suggestive of attempted rape. An ossification test estimated her age at eight to ten years, while the narrative described her as about seven. The appellant challenged the absence of the FSL blood report, relied on the intact hymen and sought a reduction of sentence.

2. Precedents — Considered : *State of Himachal Pradesh v. Sanjay Kumar alias Sunny, (2017) 2 SCC 51,* explained that a credible complainant of sexual assault is not an accomplice and that corroboration is not routinely required. Her account must nevertheless inspire confidence, and the court may seek assurance if necessary. *Dinesh alias Buddha v. State of Rajasthan, (2006) 3 SCC 771*, and *State of Punjab v. Gurmit Singh, (1996) 2 SCC 384*, reinforced that approach. They cautioned against unrealistic rejection of a victim's account because of minor differences in behaviour, delay in reporting or shortcomings in the investigation. The Court applied these principles to the child's testimony and the challenge based on the missing FSL report. The present record also contained corroborative evidence. *State of M.P. v. Madan Lal, (2015) 7 SCC 681,* was invoked in sentencing in relation to the victim's bodily dignity.

3. Statutes considered : The appeal was brought under Section 374 CrPC. Section 376 IPC and POCSO Section 3 defined the offences, and Section 4 prescribed the punishment. The Court reproduced Section 3(a)–(d), particularly the provisions concerning penetration to any extent and manipulation to cause penetration. It held that an intact hymen did not by itself exclude liability. In seeking a reduction of sentence, the appellant relied on a ten-year minimum under Section 4 as stated in his submission. No separate sentence was imposed under Section 376. The victim was below 18 on both the testimonial and radiological accounts of her age.

4. Issues : Whether the child's evidence was reliable despite the absence of an FSL report concerning her blood, the intact hymen and the defence allegation of tutoring; whether the testimonial and medical evidence, considered together, established the statutory ingredients of penetrative sexual assault; and whether life imprisonment should be reduced to the statutory minimum stated by the appellant.

5. Ratio / Findings : The trial court first assessed the child's ability to understand the proceedings. Her evidence consistently identified her father, described the act and immediate bleeding, and withstood cross-examination. The Supreme Court principles governing sexual-assault testimony ruled out an automatic demand for external corroboration. The mother's account of the prompt disclosure, the evidence of the brother and neighbour, and the medical findings nevertheless provided assurance. Heavy rain explained the one-day delay in lodging the FIR. The Court read POCSO Section 3 as covering penetration to any extent or manipulation causing penetration. In applying it to this record, it treated manipulation with an intention to penetrate as sufficient to constitute penetrative sexual assault. It did not treat the intact hymen as conclusive when the child's reliable account and internal medical findings were considered together. Both convictions were upheld. On sentence, the father's assault on his young daughter and his prior conviction for sexually assaulting another child warranted life imprisonment. The Court noted that the witnesses' accounts of another offence at Khurai lacked evidentiary support and did not rely on them.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions under Section 376 IPC and Section 4 POCSO, together with life imprisonment, the trial court's fine and the default term. The appellant remained in jail to serve the balance of his sentence. The request to reduce the sentence to ten years was refused. No separate sentence had been imposed under the IPC.

Bhagunta v. State of M.P., Cr.A. no. 426/2014, 16/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (117) Prev Next

Headnote :- CrPC Section 482 — Threshold for quashing — Applying *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437,* and *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, the Court held that the uncontroverted allegations must be examined to see whether they disclose a prima facie offence. That examination cannot become a roving inquiry or a prediction of the ultimate conviction. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682,* recognises intervention in clearly absurd or abusive cases, while *CBI v. Arvind Khanna, (2019) 10 SCC 686,* cautions against deciding disputed facts raised in defence. Here, the prosecutrix's later statements contained allegations

against the applicant. The Court therefore refused to quash the FIR and proceedings.

FIR omission / Section 164 and supplementary Section 161 — At the initial Section 482 stage, the High Court could not reject the later allegations naming the applicant as false merely because he had not been named in the original written FIR. The alleged improvement and the credibility of the prosecutrix's later accounts required assessment at trial. The Allahabad decision cited by counsel was distinguished because it concerned appreciation of evidence after conviction.

Case-note :- ***1. Facts :*** Bhagwandas Sahu applied under Section 482 CrPC to quash Crime 26/2021 at Kotwali, Datia, concerning alleged offences under Sections 376(2)(n), 342, 506 and 376D IPC. The prosecutrix's initial written FIR accused Raj Samuriya alias Lekhraj Ahirwar of sexual assault under threats to her family, followed by detention and repeated assault. It did not name the applicant. Her later statement under Section 164 and supplementary police statement implicated Bhagwandas in rape and threats. He contended that these additions were unreliable improvements, particularly because the prosecutrix had submitted a written report, so the omission could not be attributed to the police's recording of it. The State opposed an assessment of credibility in the exercise of inherent jurisdiction. The Court considered whether quashing was justified at that stage, without deciding the truth of the allegations.

2. Precedents — Considered : *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, set out the exceptional and cautious exercise of Section 482 powers, including the *Bhajan Lal* categories and the limits on assessing prosecution probabilities. Its discussion of *Indian Oil*, *Saroj Kumar Sahoo* and the later explanation of *Madhavrao* formed part of that framework. It did not establish a general requirement to predict conviction in every case. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, reiterated that proceedings may be quashed when the allegations, taken at face value, disclose no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, balanced exceptional intervention against absurd or harassing prosecutions with the need to avoid obstructing an inquiry. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproved deciding disputed defence facts in a Section 482 petition. The applicant's Allahabad High Court authority, *Sandeep alias Kothari Upadhyay v. State (Criminal Appeal 1664/2013, 13 February 2014)*, was distinguished because it concerned appreciation of evidence after conviction rather than initial quashing.

3. Statutes considered : The Court exercised inherent jurisdiction under Section 482 CrPC. The later prosecution statements were recorded under Sections 161 and 164 CrPC; their evidentiary value was not finally determined. The alleged offences were under Sections 376(2)(n), 342, 506 and 376D IPC. The Court did not determine their individual ingredients or the applicant's guilt. The *Bhajan Lal* threshold concerned whether the uncontroverted allegations and accompanying material disclosed an offence, rather than whether each statement would withstand cross-examination at trial.

4. Issues : Whether the failure to name the applicant in the original written FIR prevented reliance on the later supplementary Section 161 statement and Section 164 statement when applying the Section 482 threshold; and whether the High Court could quash the case by treating those later allegations as false improvements before trial.

5. Ratio / Findings : The inherent power to quash may be exercised when the uncontroverted prosecution allegations, taken at face value, disclose no offence or reveal a clear abuse of process. The preliminary proceeding cannot, however, become a roving inquiry into the facts. The prosecutrix had named and accused the applicant in her later statements. The High Court could not reject those statements merely because the original FIR was silent about him and then conclude that the case was baseless. The inconsistency raised by the defence was an evidentiary question to be assessed at the appropriate stage. A decision based on appreciation of evidence after conviction did not supply the standard for this preliminary review. The Court made no final finding on credibility or guilt; it held only that the record did not justify quashing.

6. Relief : The Hon'ble High Court dismissed the Section 482 application, leaving the FIR and consequential proceedings in place. The applicant's challenge to the later statements remained a matter for evaluation at trial in accordance with law.

Bhagwandas Sahu v. State of M.P. and Ors., M.Cr.C. no. 31891/2021, 30/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (118) Prev Next

Headnote :- Child witness / Last seen — Applying *Bhagwan Singh v. State of M.P., (2003) 3 SCC 21, Suryanarayana v. State of Karnataka, (2001) 9 SCC 129, Digamber Vaishnav v. State of Chhattisgarh, (2019) 4 SCC 522*, and *State of Maharashtra v. Damu, (2000) 6 SCC 269*, the Court scrutinised the child's capacity, reliability and susceptibility to tutoring. Corroboration is a matter of prudence rather than an invariable requirement. Leelawati's evidence that her mother left with the appellant was unchallenged and was supported by Girjabai. Leelawati did not claim to have witnessed the killing.

Last seen / Section 106 — *Shailendra Rajdev Pasvan, (2020) 14 SCC 750, Mahavir Singh, (2014) 6 SCC 716*, and *Jagroop Singh, (2012) 11 SCC 768*, guided the assessment of the short interval between the deceased being last seen with the appellant and her death. *Ashok, (2015) 4 SCC 393*, and *Ramesh Vithal Patil, (2014) 11 SCC 516*, explained the limited inference from facts within the accused's special knowledge after the prosecution establishes the foundational facts. Recovery of the body the next day, the eyewitness account and recovery of the concealed article strengthened the chain. Last-seen evidence alone was not conclusive.

Delayed eyewitness disclosure — *Mahesh, (2008) 13 SCC 271, Ashok Kumar Chaudhary, (2008) 12 SCC 173, Sadhu Saran Singh, (2016) 4 SCC 357*, and *Ambika Prasad, (2000) 2 SCC 646*, guided the assessment of witnesses' reluctance to report crime. *Shyamlal Ghosh, (2012) 7 SCC 646*, and *V.K. Mishra, (2015) 9 SCC 588*, required the explanation for delayed examination to be plausible and the evidence to be carefully scrutinised. Here, the Court accepted the explanation based on fear, subsequent travel for labour work, persuasion to speak and the course of the investigation, despite the witnesses' silence for four to five months.

Evidence Act Section 27 / Concealed recovery — Applying *Bharat Fakira Dhiwar, (2002) 1 SCC 622*, and *Yakub Abdul Razak Memon, (2013) 13 SCC 1*, the Court held that public access to a place does not invalidate discovery of a concealed article that is not ordinarily visible to others. The buried scarf was accepted in evidence despite the discrepancy between the red and green descriptions. The Court explained that discrepancy by the witnesses' distance from the incident and the twilight.

IPC Sections 302, 304 Part I — The medical evidence of asphyxia and the accepted prosecution evidence established intentional throttling. The Court held that this amounted to murder, upheld life imprisonment and rejected the request to reduce the offence to culpable homicide not amounting to murder.

Case-note :- ***1. Facts :*** Bhajju appealed under Section 374 CrPC against his conviction in 2004 under Section 302 IPC and sentence of life imprisonment. On 24 November 2002, he and Munnibai, who had been living with him, went towards the Parvati river with fishing gear. Her body was found the next day. The post-mortem showed asphyxia due to throttling, injuries to the neck and fractures of the hyoid bone and laryngeal cartilage. Fourteen-year-old Leelawati and Girjabai stated that they had seen the pair leave together. Maniram and Hardas stated that they had seen the appellant strangling Munnibai with a scarf and that he had threatened them. They did not disclose the incident until months later. A buried scarf was recovered following the appellant's disclosure. The defence challenged the timing of the child's and adult witnesses' accounts, the prolonged silence and the discrepancy in the scarf's colour. It also sought reduction of the offence to Section 304 Part I. The trial court had acquitted the appellant under Section 3(2)(v) of the SC/ST Act; that acquittal was outside the scope of his appeal against conviction.

2. Precedents — Considered : *Bhagwan Singh v. State of M.P., (2003) 3 SCC 21; State of Maharashtra v. Damu, (2000) 6 SCC 269; Suryanarayana v. State of Karnataka, (2001) 9 SCC 129*; and *Digamber Vaishnav v. State of Chhattisgarh, (2019) 4 SCC 522*, were considered on reliable child testimony and corroboration as a matter of prudence, with close attention to what the child had and had not witnessed. *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750; Ashok v. State of Maharashtra, (2015) 4 SCC 393; Mahavir Singh v. State of Haryana, (2014) 6 SCC 716*; and *Jagroop Singh v. State of Punjab, (2012) 11 SCC 768*, guided the assessment of the interval in a last-seen case and the need for corroborative circumstances. *Ramesh Vithal Patil v. State of Karnataka, (2014) 11 SCC 516*, was relied on in applying Evidence Act Section 106 after foundational facts had been proved. *Mahesh v. State of Maharashtra, (2008) 13 SCC 271; Ashok Kumar Chaudhary v. State of Bihar, (2008) 12 SCC 173; Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*; and *Ambika Prasad v. State (Delhi Admn.),*

(2000) 2 SCC 646, concerned the reluctance of independent witnesses to come forward. *Shyamlal Ghosh v. State of W.B., (2012) 7 SCC 646*, and *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588*, guided scrutiny of delayed examination. *State of Maharashtra v. Bharat Fakira Dhiwar, (2002) 1 SCC 622*, and *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, including the latter's discussion of *Jeet Singh*, explained recovery of concealed articles under Section 27.

3. Statutes considered : The appeal was brought under Section 374 CrPC. Section 174 governed the initial inquest, and Section 313 concerned the accused's explanation. Section 27 of the Evidence Act concerned discovery of the scarf. Section 106 concerned facts within special knowledge, after the prosecution had established the necessary foundation. IPC Sections 302 and 304 Part I framed the question of murder or the alternative classification. The charge under Section 3(2)(v) of the SC/ST Act had resulted in an acquittal at trial, which was not reversed in this appeal. The prosecution remained bound to prove guilt beyond reasonable doubt; the accused's failure to explain did not replace that burden.

4. Issues : Whether the child's and adult witnesses' last-seen evidence, the delayed eyewitness accounts and recovery of the scarf established homicidal death and the appellant's responsibility for it; whether the delay and the discrepancy between the red and green descriptions of the cloth made the evidence unreliable; and whether the proved throttling attracted Section 302 or justified reduction to Section 304 Part I.

5. Ratio / Findings : The medical evidence established death by throttling. The child's capacity had been tested, and her evidence that she had last seen the deceased with the appellant was unchallenged. She did not claim to have seen who killed her mother. Girjabai corroborated their departure together. Recovery of the body the next day and the post-mortem estimate established a short interval. On the circumstances proved by the prosecution, together with the eyewitness account, the Court applied the principles concerning facts within special knowledge. It also inferred that the appellant had failed to report the death and had absconded, while expressly noting that no witness had directly stated in examination-in-chief that he had gone missing. Maniram and Hardas explained their silence by fear and subsequent travel for labour work. The later investigating officer recorded their statements after receiving the case file, and no specific question about the delay had been put to him in cross-examination. The twilight, the witnesses' distance and their use of torchlight explained the discrepancy in the scarf's colour. The scarf had been concealed in the earth at the place disclosed by the appellant. Taken together, the evidence established his responsibility beyond reasonable doubt in the Court's assessment. Deliberate throttling showed both knowledge and intention to cause death, so the Court rejected the proposed classification under Section 304 Part I.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the conviction under Section 302, the life sentence, fine and default term imposed by the trial court. The appellant was directed to serve the remaining sentence. The acquittal under the SC/ST Act remained undisturbed.

Bhajju v. State of M.P., Cr.A. no. 279/2004, 12/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC Section 498A — Non-dowry cruelty — Explanation (a) covers wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or health, whether mental or physical. It operates independently of the unlawful-demand harassment addressed by Explanation (b). The allegations of beating, confinement, stigmatising treatment, abandonment in a public place and continued exclusion disclosed a prima facie case against the close in-laws. The absence of a dowry demand did not require quashing.

Cruelty / Continuing mental effects — Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, the Court considered the alleged mental cruelty continuing while the wife remained at her parental home. The reconciliation in 2019 did not resolve the allegations concerning conduct in 2020. On this preliminary record, the complaint could not be rejected merely because three years had elapsed.

Section 482 / Counterblast — *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, supported rejection of an automatic inference of retaliation merely because civil matrimonial or custody proceedings preceded the FIR. Those proceedings had ended following reunion, before the alleged later ouster.

Section 482 / Allegations against in-laws — The Court cited *XYZ*, *S. Martin*, *Ajay Kumar Das*, *M. Srikanth*, *CBI v. Arvind Khanna*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*, among other authorities, for the test based on uncontroverted allegations and the prohibition against a mini-trial. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, distinguished the position of distant relatives against whom no specific role was alleged from triable allegations against close family members. The parents-in-law faced specific allegations. Their application was dismissed without deciding the merits reserved for trial.

Case-note :- ***1. Facts :*** Bharat Bhushan Singhal and his wife, the complainant's parents-in-law, applied under Section 482 CrPC to quash the charge-sheet and Criminal Case 278/2023. The third applicant, the complainant's younger brother-in-law, died during the proceedings and his name was deleted. The complainant alleged beatings and confinement after her marriage in 2014, abandonment at a bypass in 2020 and continued separation from her daughter. She also alleged that her husband and father-in-law later came to her parental home and abused her, and that her husband struck her. The applicants relied on the absence of a dowry demand, a three-year delay and the husband's earlier proceedings for restitution of conjugal rights and child custody. They contended that the FIR was a counterblast to that litigation. Those proceedings had ended after the parties reunited in 2019. Later mediation ended when the husband and another person expressed no interest in further dates. The Court considered whether the allegations raised triable issues, rather than whether guilt had been proved.

2. Precedents — Considered : The Court cited *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of T.N. v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh (Criminal Appeal 709/2021); Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, collectively for the test based on uncontroverted allegations and the rule against a mini-trial. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied against an automatic inference that the FIR was a counterblast. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, addressed continuing mental cruelty after ouster. *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 5*, was invoked on the limits of judicial directions concerning the manner of investigation. That issue arose incidentally from the applicants' earlier representations to the police. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was quoted on the need for caution in proceeding against distant relatives without specific roles, and on triable allegations against close family members. The authorities cited within that quotation reinforced this distinction.

3. Statutes considered : Section 482 CrPC governed quashing of the charge-sheet and pending case. Section 498A IPC and both limbs of its Explanation addressed cruelty independently of an unlawful demand and harassment connected with such a demand. Section 9 of the Hindu Marriage Act and Section 13 of the Guardians and Wards Act identified the earlier proceedings, which had been withdrawn and did not bar a later FIR. Article 226 arose in the *Manohar Lal Sharma* reference concerning control over investigation, although this application was under Section 482. There was no child-custody order, and the criminal court did not finally determine guardianship.

4. Issues : Whether the absence of a dowry demand and the three-year delay excluded an offence under Section 498A on the alleged conduct; whether the matrimonial proceedings withdrawn before 2020 made the later FIR a retaliatory counterblast; and whether the allegations against the two surviving close in-laws were sufficiently specific to withstand the limited review under Section 482.

5. Ratio / Findings : The Court treated Explanation (a) to Section 498A separately from the unlawful-demand harassment covered by Explanation (b). The allegations of physical mistreatment and continuing mental harm were sufficient at this stage. Applying *Rupali Devi*, it considered the continued exclusion after the alleged ouster in 2020 when rejecting the objection based on delay. The matrimonial and custody proceedings of 2018–19 had ended after

reunion; their timing alone did not discredit the later allegations. The applicants' earlier requests for police protection did not entitle them to dictate how the investigation should be conducted. There were specific allegations against the surviving father-in-law and mother-in-law. The caution against involving distant relatives without specific roles did not justify quashing those allegations. The mediator's report and the absence of a custody order formed part of the context considered by the Court. Its observations were expressly confined to review under Section 482, leaving proof and the defences for trial.

6. Relief : The Hon'ble High Court dismissed the application, leaving the charge-sheet and criminal proceedings in place. It directed the trial court to decide the case according to law without being influenced by the High Court's prima facie observations. There was no final determination of custody, guilt or matrimonial status.

Bharat Bhushan Singhal and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 24551/2023, 24/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- CrPC Section 482 / BNSS Section 528 — Cross-FIR and mala fides — Applying *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, which discussed *Bhajan Lal* and *R.P. Kapur*, the Court held that quashing in exercise of inherent powers is exceptional. Where the report and supporting material disclose a cognizable offence, the informant's alleged hostility does not by itself justify quashing. The two FIRs gave rival accounts of the same altercation at the same time. The complainant's MLC recorded a contusion on the eyelid and abdominal tenderness. The Court could not decide who was the aggressor or reject his FIR merely because his wife had filed a cross-case and matrimonial proceedings. Enmity could provide a motive either for the offence or for false implication. The facts required assessment at the appropriate stage.

Case-note :- ***1. Facts :*** Bharat Doneriya and a co-applicant applied under Section 482 CrPC / Section 528 BNSS to quash Crime 970/2022 at Kotwali, Morena, concerning alleged offences under Sections 323, 294 and 506 read with 34 IPC. The complainant alleged that his father-in-law and brother-in-law abused and beat him near the old Collectorate on 7 October 2022 at about 4:30 p.m. His medical examination recorded a left-eyelid contusion and abdominal tenderness. His wife, Bhavna, had also lodged Crime 969/2022, alleging that her husband abused and beat her at the same time and in the same vicinity. She had separately lodged a cruelty and dowry FIR and initiated domestic violence and maintenance proceedings against him. The applicants contended that his complaint was retaliatory. The Court considered the competing complaints without deciding who began or committed the assault.

2. Precedents — Considered : The applicants invoked *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, on malicious prosecution. That decision was also discussed in *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, which the Court applied. *Renu Kumari* summarised the exceptional purposes of Section 482, the categories in *R.P. Kapur* and the illustrative situations in *Bhajan Lal*. It distinguished an absence of legal evidence from a dispute about the reliability or weight of existing evidence. It also explained that the informant's alleged mala fides become secondary when the material discloses an offence and cannot alone justify quashing. The High Court applied that test in refusing to choose between the cross-FIRs. It did not hold that malicious proceedings could never be quashed.

3. Statutes considered : The application invoked Section 482 CrPC and Section 528 BNSS, as recorded in the order. The challenged FIR alleged offences under Sections 323, 294 and 506 read with Section 34 IPC. Bhavna's separate matters included Section 498A IPC, Sections 3/4 of the Dowry Prohibition Act, Section 12 of the Domestic Violence Act and maintenance under Section 125 CrPC. These proceedings supplied the context of the parties' relationship and hostility; they did not create a legal bar to the challenged FIR. The Court did not determine the competing accounts concerning injuries.

4. Issues : Whether the complainant's FIR was shown to be false or malicious merely because his wife had filed a cross-FIR about the same time and place and had instituted criminal and civil matrimonial proceedings; and whether Section 482/528 permitted the High Court to decide at the threshold which account of the altercation was true.

5. Ratio / Findings : Both FIRs acknowledged that an incident occurred at about 4:30 p.m. on 7 October 2022. The complainant's MLC provided some support for his allegation of injury, while counsel could not establish whether the wife had been injured. The accounts conflicted on who was the aggressor. That disputed question could not be conclusively decided through fact-finding under Section 482. The parallel matrimonial cases showed hostility between the parties, which could provide a motive either for wrongdoing or for false accusation. Following *Renu Kumari*, the Court treated the alleged mala fides as secondary to the complaint's prima facie disclosure of an offence. It refused to quash the case, leaving the actual facts and culpability unresolved.

6. Relief : The Hon'ble High Court dismissed the quashing application. Crime 970/2022 remained for investigation or proceedings in accordance with law. The Court did not quash Bhavna's cross-FIR, decide either side's guilt or resolve the matrimonial matters. *Bharat Doneriya and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 15280/2024, 19/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Headnote :- Section 482 CrPC / Matrimonial counterblast — The wife lodged her FIR on 22 September 2019, before the husband filed the cited divorce petition on 24 July 2023. Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court rejected an automatic inference that matrimonial litigation made the FIR a counterblast. The later divorce decree did not by itself bring the prima facie criminal case to an end.

IPC Section 498A / Delay and mental cruelty at the parental home — Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, the Court considered the alleged psychological harm continuing after the wife was driven out over dowry demands. The marriage in 2015 did not make the September 2019 report of continuing cruelty belated. *Skoda Auto Volkswagen, (2021) 5 SCC 95*, *Ravinder Kumar, (2001) 7 SCC 690*, and *Mohammad Wajid* (2023) were considered for the principle that delay in lodging an FIR does not by itself warrant quashing.

Section 482 / Close relatives — *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, distinguished vague, unsupported allegations against distant relatives from specific allegations of harassment that raised a triable case. The applicants had not produced the complete charge-sheet. The FIR itself alleged demands for money and a vehicle, and physical and mental cruelty by the husband and in-laws. Relying on *XYZ*, *S. Martin*, *Ajay Kumar Das*, *M. Srikanth*, *CBI v. Arvind Khanna*, *Kunwar Singh* and related Supreme Court authorities, the Court applied the test based on allegations taken at face value. It declined to conduct a mini-trial or resolve the defence based on separate residence.

Case-note :- ***1. Facts :*** Bharat Madan, his parents and younger brother applied under Section 482 CrPC to quash FIR 966/2019 at Civil Lines, Rewa, and Criminal Case RCT/137/2021. The wife alleged that, after the marriage in December 2015, the applicants demanded Rs. 10 lakh and a car and subjected her to physical and mental harassment in Kanpur and Germany. She alleged that the demand was repeated during a visit to Rewa in January 2019 and that she had remained at her parental home since May 2019. She also described efforts at reconciliation and the applicants' retention of articles given at the marriage. The applicants denied the involvement of the in-laws, relying on their separate residence. They alleged that the FIR was belated and a counterblast to divorce litigation, and referred to a divorce decree passed in February 2024. The Court noted that the husband's cited divorce petition had been filed in July 2023, years after the FIR of September 2019. It also noted that the applicants had not produced the complete charge-sheet for the quashing application.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied in rejecting an automatic inference of a counterblast or a basis for quashing merely from divorce proceedings, reconciliation efforts or elapsed time. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was applied to mental trauma persisting at the parental home after separation caused by cruelty. The Court also cited *Amar Singh v. Smt. Vimla* (Criminal Revision 2376/2020, 22 June 2021) on compelled residence at the parental home. *Skoda Auto Volkswagen (India) Pvt Ltd v. State of U.P., (2021) 5 SCC 95; Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*; and *Mohammad Wajid v. State of U.P.*, concerned the principle that FIR delay alone does not justify quashing. On the limits of review without a mini-trial, the Court quoted *XYZ v. State of Gujarat, (2019) 10 SCC 337*; *S. Martin, (2018) 5 SCC 718*; *Ajay Kumar Das, (2011) 12 SCC 319*;

Mohd. Akram Siddiqui, (2019) 13 SCC 350, including the narrow exception for undisputed or public documents; *Gourishetty Mahesh, (2010) 11 SCC 226*; *M. Srikanth, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686*; and *State of M.P. v. Kunwar Singh (Criminal Appeal 709/2021)*. It then listed further authorities, including *Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha*, as expressing a similar view. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was applied to distinguish bare allegations against distant relations from a triable case based on specific alleged conduct.

3. Statutes considered : Section 482 CrPC governed the application. Section 498A IPC concerned the alleged cruelty, including dowry demands, exclusion from the matrimonial home and the continuing mental consequences. Section 125 CrPC maintenance and the divorce proceedings formed part of the background family litigation; they did not bar criminal prosecution. The Court did not finally decide which relative had participated, the reliability of the allegations or the evidentiary effect of the divorce decree at trial. The applicants had not produced the complete charge-sheet, limiting their attempt to show that there was no material against them.

4. Issues : Whether the FIR was a counterblast to matrimonial litigation; whether the interval between marriage and the FIR, or the wife's continued residence at her parental home, meant that the cruelty allegations raised no triable case; and whether the asserted separate residence of the close in-laws and the alleged generality of the accusations justified quashing after the charge-sheet had been filed.

5. Ratio / Findings : The counterblast argument failed on chronology: the FIR preceded the cited divorce petition by nearly four years. *Pratibha* also ruled out an automatic bar based on civil proceedings. The alleged course of dowry demands and exclusion from the matrimonial home since May 2019 disclosed a prima facie account of continuing mental cruelty under *Rupali Devi*. Mere delay in lodging the FIR did not extinguish that account. The in-laws' residence and the truth of the alleged acts were disputed. The applicants had not produced the full charge-sheet, while the FIR itself attributed demands and harassment to the family. At the threshold, those allegations were sufficient to distinguish the case from merely naming distant relatives without specific conduct. The Court would not weigh the defence or conduct a mini-trial under Section 482. Its decision was a prima facie assessment, not proof of guilt.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. FIR 966/2019 and Criminal Case RCT/137/2021 continued. No applicant was acquitted, and no final finding was made on the wife's allegations.

Bharat Madan and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 26536/2024, 03/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (122) Prev Next

Headnote :- Evidence Act Section 32(1) / dying declaration — Dr B.S. Jamhoriya recorded Meena Bai's responsive statement in question-and-answer form, Ex. P.13, despite her extensive burns. Applying *Ramesh v State of Haryana, (2017) 1 SCC 529; Purshottam Chopra v State (NCT of Delhi), (2020) 11 SCC 489; Abdul Majid Abdul Rahman v State of Gujarat, (1976) 4 SCC 351*; and *Laxman v State of Maharashtra, (2002) 6 SCC 710*, the Court held that the percentage of burns did not by itself establish incapacity to make a declaration. A separate certificate of fitness and recording by a magistrate were not indispensable; her fitness and the declaration's reliability had to be established from the evidence.

Sole basis of conviction — *Jagbir Singh v State (NCT of Delhi), (2019) 8 SCC 779; Muthu Kutty v State, (2005) 9 SCC 113*; and *Vikas v State of Maharashtra, (2008) 2 SCC 516* required careful scrutiny of the declaration and satisfaction that it was trustworthy. Meena's declaration named her husband, Bali Singh, as the person who poured lamp oil on her and set her on fire. The absence of cooking materials, together with the kerosene findings, led the Court to reject the account of an accident. It assessed the declaration recorded by the doctor under the quoted principles of reliability.

Conduct and witnesses — Under *Mritunjoy Biswas, (2013) 12 SCC 796*, and *Sujit Biswas, (2013) 12 SCC 406*, abscondence was a circumstance to be assessed with the other evidence, rather than a sufficient basis for guilt by itself. Applying *Paulmeli, (2014) 13 SCC 90*, the Court relied on the dependable portion of hostile witness PW14's account. Applying *Brahm Swaroop, (2011) 6 SCC 288*, it held that minor omissions did not undermine the core evidence of the motorcycle demand.

IPC Sections 498A and 304B / charge — Applying *Arun Garg v State of Punjab, (2004) 8 SCC 251*, and *Kaliyaperumal v State of Tamil Nadu, (2004) 9 SCC 157*, the Court held that a person charged and acquitted under Section 304B could be convicted of cruelty without a separate 498A charge if that offence was proved. Both appellants' 498A convictions and Bali's 302 conviction were affirmed.

Case-note :- ***1. Facts :*** Meena Bai suffered extensive burns in her matrimonial home on 9 March 2009 and later died. In a question-and-answer declaration recorded by her treating doctor, Dr B.S. Jamhoriya, between 12:10 and 12:25, she stated that her husband, Bali Singh Lodhi, had beaten her, poured lamp oil on her and set her on fire. She said that she had had no quarrel with her in-laws. Her father-in-law, Bharat Singh, took her to hospital. The appellants maintained that she had been burnt accidentally while cooking and that they had been in the fields. A box shaped like a kerosene lamp was found at the scene, but there was no stove or half-cooked food. Kerosene was found on her body, and Bali had absconded. Relatives gave evidence of a motorcycle demand and cruelty, including a demand made directly by Bharat. The trial court convicted Bali under Sections 302 and 498A IPC and Bharat under 498A. Both challenged the decision. They had originally been charged under Section 304B, but no specific charge under 498A had been framed.

2. Precedents — Considered : *Ramesh v State of Haryana, (2017) 1 SCC 529; Purshottam Chopra v State (NCT of Delhi), (2020) 11 SCC 489; Abdul Majid Abdul Rahman v State of Gujarat, (1976) 4 SCC 351*; and *Laxman v State of Maharashtra, (2002) 6 SCC 710* were applied to assess the fitness of a person with burns to make a declaration, the doctor's prompt recording of it, and the absence of an absolute requirement for a separate fitness certificate or recording by a magistrate. *Jagbir Singh v State (NCT of Delhi), (2019) 8 SCC 779; Vikas v State of Maharashtra, (2008) 2 SCC 516*; and *Muthu Kutty v State, (2005) 9 SCC 113* supported conviction on a declaration alone where careful scrutiny established its reliability, coherence and voluntary nature, free from tutoring. The Court reproduced further authorities within those extended quotations, including principles concerning multiple declarations, and assessed the declaration recorded by the doctor. *Mritunjoy Biswas v Pranab, (2013) 12 SCC 796*, and *Sujit Biswas v State of Assam, (2013) 12 SCC 406* treated abscondence as a circumstance to be considered with the other evidence, insufficient by itself to establish guilt. *Paulmeli v State of Tamil Nadu, (2014) 13 SCC 90* addressed reliance on the dependable portions of a hostile witness's evidence. *Brahm Swaroop v State of U.P., (2011) 6 SCC 288* distinguished minor omissions from discrepancies affecting the core of the prosecution case. *Arun Garg v State of Punjab, (2004) 8 SCC 251*, and *Kaliyaperumal v State of Tamil Nadu, (2004) 9 SCC 157* were applied to uphold the Section 498A convictions without a specific charge, despite acquittal on the distinct Section 304B charge.

3. Statutes considered : Evidence Act Section 32(1) made Meena's statement about the cause of her death relevant. IPC Section 302 governed Bali's intentional burning of her, while Section 498A concerned the motorcycle demand and cruelty proved against both men. Section 304B concerned the distinct offence of dowry death. The cited Supreme Court decisions permitted conviction under Section 498A without a specific charge where that offence was established on the evidence led in the case charged under the other provision. Bharat was not convicted under Section 302, and the Section 304B charge did not result in a conviction.

4. Issues : Whether the 90–100% burns, the absence of a separate fitness certificate or recording by an Executive Magistrate, and the account of an accident made Ex. P.13 unreliable; whether a single trustworthy declaration could sustain Bali's murder conviction; how abscondence and the evidence of a hostile witness should be assessed; whether minor discrepancies undermined proof of the motorcycle demand; and whether the Section 498A convictions could stand without a separate charge.

5. Ratio / Findings : The doctor's contemporaneous questions and testimony established that Meena was responsive and fit to make the declaration. The Court held that, where a patient's condition was deteriorating, the doctor should record the declaration promptly rather than wait for a nearby magistrate. The extent of burns alone did not establish incapacity, and there was no basis to suspect tutoring or bias on the doctor's part. On reading the declaration as a whole, the Court found it coherent and consistent with the kerosene findings and the absence of cooking evidence, and rejected the account of an accident. Bali's abscondence was a supporting circumstance, insufficient by itself to establish guilt. The dependable portion of PW14's testimony remained usable despite her hostility.

Witnesses and police statements supported the core allegation of a motorcycle demand despite minor omissions. Bharat's taking Meena to hospital, and the absence of an allegation in the declaration that the in-laws had burnt her, did not displace the separate evidence of cruelty against him. Sections 498A and 304B create distinct offences with different ingredients. Applying *Arun Garg* and *Kaliyaperumal*, the Court rejected the objection to conviction without a specific charge on the evidence in this case.

6. Relief : The Hon'ble High Court dismissed both criminal appeals and affirmed the trial judgment of 31 March 2011. Bali Singh's sentence of life imprisonment under Section 302 and two years' rigorous imprisonment under Section 498A, to run concurrently, was maintained. Bharat Singh's sentence of two years' rigorous imprisonment under Section 498A with fine was also maintained. Bali remained in jail. Bharat's bail bonds were cancelled, and he was directed to surrender by 5 May 2022.

Bharat Singh v. State of Madhya Pradesh & Bali Singh v. State of Madhya Pradesh, Cr.A. no. 317/2011 & 342/2011, 18/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (123) Prev Next

Headnote :- Related and inimical witnesses — *Ramashish Rai v Jagdish Singh, (2005) 10 SCC 498* required careful scrutiny of an inimical witness's evidence, without rejecting it merely because of enmity. *Badruddin Rukonddim Karpude v State of Maharashtra, AIR 1981 SC 1223* addressed material improvements by interested witnesses. *State of U.P. v Chet Ram, AIR 1989 SC 1543* permitted reliance on interested testimony that was consistent, cogent and corroborated. Applying these principles, the Court disbelieved the nephews, who had concealed their relationship with the deceased, materially changed their account and received no independent corroboration in a case involving established enmity over property.

Ocular contradictions — The FIR, lodged immediately after the incident, named only Kalyan and Rahul as eyewitnesses. Munna and Maharaj's later claims to have witnessed part of the incident conflicted with the FIR and the police statements. The nephews changed their account of running half a kilometre to the complainant's house to one of calling out to him. The claim that the witnesses lived nearby was contradicted by the spot map and Vinod PW3. These changes affected whether the witnesses could have seen the incident and arrived at the time they claimed.

Proof of murder — The transverse ligature mark and abrasions suggested strangulation, but the doctor accepted the possibility of hanging. The alleged noose was missing, and the seized rope was never compared with the ligature mark. The eyewitness account was untrustworthy and had no independent support. Guilt under Section 147/302 was therefore not proved beyond reasonable doubt. Both connected appeals were allowed, and all appellants were acquitted.

Case-note :- ***1. Facts :*** Bharat Singh filed a separate appeal, while Murad Ali and the other co-accused appealed jointly against their convictions dated 29 November 2018 under Sections 147 and 302 IPC. They had been convicted of collectively strangling Vijay Singh with a noose and sentenced to two years' rigorous imprisonment, life imprisonment and fines. The FIR, lodged promptly, stated that Vijay's nephews, Kalyan PW4 and Rahul PW9, had seen the incident and run to inform his brothers, Munna PW1 and Maharaj PW2. The accused disputed both the nature of the death and the credibility of the eyewitnesses. The families were related and had established disputes over the property where the incident was alleged to have occurred.

2. Precedents — Considered : *Ramashish Rai v Jagdish Singh, (2005) 10 SCC 498* was applied to require diligent scrutiny of inimical testimony without rejecting it merely on that ground. *Badruddin Rukonddim Karpude v State of Maharashtra, AIR 1981 SC 1223* was applied to material improvements by partisan witnesses. *State of U.P. v Chet Ram, AIR 1989 SC 1543* recognised that consistent, cogent and corroborated interested testimony could be accepted. The Court found that those conditions were absent here; it did not treat relationship with the deceased as a ground for automatic rejection. It acknowledged the trial court's preference for credible eyewitness evidence over conflicting medical evidence, but found the eyewitness account untrustworthy.

3. Statutes considered : The convictions under IPC Section 147 and the murder provision, Section 302, were under review. The Court compared the FIR, police statements, spot map, inquest, seizure and postmortem evidence in assessing whether guilt was

proved beyond reasonable doubt. It did not make a positive finding of suicidal hanging. It found uncertainty about how the death had occurred and held that credible evidence did not establish the alleged unlawful assembly and murder.

4. Issues : Whether the medical and rope evidence established homicidal strangulation; whether the two witnesses named in the FIR and the two who later claimed to be eyewitnesses had an opportunity to see the events they described; whether the concealment of kinship, established animosity and material improvements were reconcilable with the prompt FIR and the physical layout; and whether any independent evidence supported guilt.

5. Ratio / Findings : The postmortem recorded a horizontal ligature mark on the neck and abrasions suggesting a struggle, but the doctor accepted that hanging was possible. The inquest did not record the alleged noose. The seized rope had no recorded loop or knot and was not compared with the ligature mark. The FIR named only Kalyan and Rahul as eyewitnesses and stated that they had run roughly half a kilometre to Munna's house. Munna and Maharaj's later claims to have witnessed part of the incident were absent from the prompt FIR and the police accounts. Maharaj was questioned by the police 17 days later. The nephews changed their account to one of calling out and concealed that they were Meera's sons. Vinod's evidence and the spot map contradicted Munna's claim that he lived nearby. His description of an open scene also conflicted with the enclosure shown on the map. The established animosity required careful scrutiny of the evidence, and there was no independent eyewitness or circumstantial corroboration. The witnesses' accounts were rejected because they were materially unreliable, rather than merely because the witnesses were related.

6. Relief : The Hon'ble High Court allowed both criminal appeals, set aside all appellants' convictions and sentences under Section 147/302, and acquitted them. Brajmohan, who was in jail, was directed to be released immediately. Any fines deposited were to be refunded.

Bharat Singh v. State of Madhya Pradesh & Murad Ali and Ors. v. State of Madhya Pradesh, Cr.A. no. 9706/2018 & 1279/2019, 19/08/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (124) Prev Next

Headnote :- POCSO child status / age records — *Jarnail Singh v State of Haryana, (2013) 7 SCC 263* extended the documentary priority under Rule 12 to determining a child victim's age. *State of Chhattisgarh v Lekhram, (2006) 5 SCC 736*, and *Murugan v State of Tamil Nadu, (2011) 6 SCC 111* recognised the relevance of a school entry under Evidence Act Section 35, while permitting scrutiny of its source and evidentiary weight. *Mukarrab v State of U.P., (2017) 2 SCC 210* cautioned against mechanical reliance on ossification tests. The original school register recorded the prosecutrix's date of birth as 20 June 1998. She was below 16 at the time of the incident, and the approximate radiological assessment did not displace that record.

Kidnapping and consent — The mother permitted the prosecutrix to accompany the appellant only to Kacchi Street, not to Shivpuri or elsewhere. The minor's apparent willingness neither amounted to her guardian's permission for the further journey nor determined liability for the charged sexual offences. The convictions under Sections 363, 366, 376(1) IPC and Section 4 POCSO were affirmed. The Court noted that no charge under Section 376(2)(i) had been framed.

Sentence — Applying IPC Section 71 and the minimum terms of seven years in force on the date of the offence, the Court reduced each of the separate ten-year terms for rape and the POCSO offence to seven years, with fines of Rs. 10,000 each. The sentences under Sections 363/366 remained unchanged. All sentences were to run concurrently.

Case-note :- ***1. Facts :*** Bharti Jatav appealed against his convictions in Special Sessions Trial 26/2014 under IPC Sections 363, 366 and 376(1) and POCSO Section 4. On 31 January 2014, he accompanied the prosecutrix, ostensibly to buy ingredients in Kacchi Street. Her mother expressly limited the journey and told him not to take her to Shivpuri. He nevertheless took her to Shivpuri and other places. She described an assault at a lodge, restraint with a dupatta, threats and a further rape. The accused maintained that she was 19, had travelled voluntarily with her parents' permission, and that a marriage had been arranged. The trial court imposed terms of three and five years for the kidnapping offences and ten years each for rape and the POCSO offence.

2. Precedents — Considered : *Jarnail Singh v State of Haryana, (2013) 7 SCC 263* was applied to the priority of documentary evidence in determining a

victim's age under the then applicable Rule 12 framework for juveniles. *State of Chhattisgarh v Lekhram, (2006) 5 SCC 736*, and *Murugan v State of Tamil Nadu, (2011) 6 SCC 111* addressed the relevance of school entries under Evidence Act Section 35, their creation before the dispute, and scrutiny of the source of the information and its evidentiary weight. *Mukarrab v State of U.P., (2017) 2 SCC 210* explained why ossification provides an approximate estimate rather than conclusive proof of age. The High *Court* also quoted its decision i*n Rakesh Garg v State of M.P. (10 May 2019)* concerning an accused's voluntary testimony under CrPC Section 315 and Evidence Act Section 132. It assessed the appellant's unproved account concerning the marriage card as the evidence of a defence witness.

3. Statutes considered : Evidence Act Section 35 made the original school register relevant. Rule 12 of the JJ Rules 2007, as explained in *Jarnail Singh*, and Section 94 of the JJ Act 2015 concerned the priority of documentary evidence over a medical estimate of age. IPC Sections 363 and 366 concerned removal from lawful guardianship and the purpose of the abduction; Section 376(1) and POCSO Section 4 concerned the sexual offences. IPC Section 71 informed the modification of the overlapping punishments. Section 376(2)(i) was mentioned as an uncharged provision and was not substituted for the provision under which the appellant stood convicted. CrPC Section 374 provided the appellate remedy.

4. Issues : Whether the prosecutrix was a minor despite the uncertain radiological estimate and the challenge to the source of the school-register entry; whether limited parental permission and alleged willingness defeated liability for kidnapping or the sexual offences; whether the marriage card and the appellant's testimony as a defence witness created doubt; and whether separate ten-year terms for rape and the POCSO offence were justified.

5. Ratio / Findings : The original school register recorded the prosecutrix's date of birth as 20 June 1998. The entry predated the dispute, and the custodian explained that it was based on a transfer certificate. The Court found no reason to regard it as fabricated. It treated the radiological estimate of 16–18 as imprecise and broadly corroborative of the school record. The prosecutrix was below 16 on 31 January 2014, so her alleged consent was immaterial. Her mother had permitted only the visit to the nearby market, not travel to Shivpuri or farther. The marriage card was not proved through its maker or the appellant's mother, and the alleged marriage arrangement had not been put to the prosecutrix's parents. The Court also found the claim implausible in view of the appellant's custody. He had not proved that a marriage was arranged. The convictions were affirmed without deciding whether the prosecutrix had in fact consented or substituting an uncharged aggravated rape provision. At the date of the offence, the minimum term for each sexual offence was seven years. Referring to IPC Section 71, the Court considered a separate punishment unnecessary and reduced both overlapping terms, while directing that the sentences run concurrently.

6. Relief : The Hon'ble High Court partly allowed the appeal on sentence alone and affirmed the convictions under Sections 363, 366, 376(1) IPC and Section 4 POCSO. The sentences for the first two offences remained three and five years respectively. Each ten-year term for the sexual offences was reduced to seven years' rigorous imprisonment, with a fine of Rs. 10,000 on each count. All sentences were to run concurrently. If the appellant was still in jail, he was to serve the remaining sentence. If he had been released in the other case, his bail bonds were cancelled and he was directed to surrender.

Bharti Jatav v. State of M.P., Cr.A. no. 1004/2014, 14/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (125) Prev Next

Headnote :- IPC Section 498A / cruelty without a dowry demand — Explanation (a) covers wilful conduct of such a nature as is likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. It operates independently of the harassment involving unlawful property demands covered by limb (b). The specific allegations that the sister-in-law had assaulted the wife, threatened to burn her and her child, and repeatedly accused her of carrying her younger brother's child disclosed a prima facie case of cruelty.

Section 482 / specific allegations against an in-law — The Court applied *Kans Raj v State of Punjab, (2000) 5 SCC 207; Monju Roy v State of W.B., (2015) 13 SCC 693; Kahkashan Kausar v State of Bihar, (2022) 6 SCC 599; Geeta Mehrotra v State of U.P., (2012) 10 SCC 741*; and *Preeti Gupta v State of Jharkhand, (2010) 7 SCC 667* for the requirement

of clear and specific allegations against a relative. Here, the FIR attributed particular acts to the applicant within a recent period, rather than making an omnibus allegation against the family.

Disputed residence — The Aadhaar copy recorded address details as of December 2023. It did not establish that the applicant lived in Rajasthan when the FIR of August 2023 alleged that she lived near the matrimonial home in Jhansi. The Court left her disputed residence for determination at trial and dismissed the quashing application.

Case-note :- ***1. Facts :*** Bharti Jha, the complainant's sister-in-law, applied under Section 482 CrPC to quash Mahila Police Thana Shahdol FIR 46/2023 and the ensuing proceedings. The wife alleged matrimonial harassment after her marriage in November 2021, including dowry demands and violence by her husband. She separately alleged that the applicant had threatened to burn her and her daughter, visited frequently and assaulted her, repeatedly accused her of carrying a second child fathered by her younger brother, and insisted on a DNA test. The allegations concerned June–July 2023, shortly before the FIR of 1 August. The applicant relied on an Aadhaar copy to claim residence in Sri Ganganagar, Rajasthan, and invoked the rule against prosecuting in-laws on omnibus allegations.

2. Precedents — Considered : *Kans Raj v State of Punjab, (2000) 5 SCC 207; Monju Roy v State of W.B., (2015) 13 SCC 693; Kahkashan Kausar alias Sonam v State of Bihar, (2022) 6 SCC 599; Geeta Mehrotra v State of U.P., (2012) 10 SCC 741*; and *Preeti Gupta v State of Jharkhand, (2010) 7 SCC 667* were cited together for the requirement of clear and specific allegations against relatives. Applying that caution, the Court distinguished the particular acts attributed to the applicant from the mere inclusion of family members' names.

3. Statutes considered : Section 482 CrPC governed the application to quash the FIR and subsequent proceedings. Section 498A IPC, Explanation (a), covers wilful conduct of such a nature as is likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. Limb (b) covers harassment intended to coerce her or a person related to her to meet an unlawful demand for property or valuable security, or harassment because such a demand has not been met. The applicant's own conduct could constitute cruelty without proof that she had demanded dowry. The allegations against the husband formed part of the background and were not treated as proof of the applicant's guilt.

4. Issues : Whether the FIR made only vague and general allegations against a relative; whether Section 498A required a dowry demand by this applicant; and whether the later Aadhaar address conclusively disproved her alleged residence near the matrimonial home when the FIR was lodged.

5. Ratio / Findings : The FIR attributed particular threats, assaults, accusations about the wife's character and pressure for a DNA test to Bharti Jha within a defined recent period. Those allegations satisfied the Supreme Court's requirement of specificity at the prima facie stage. The accusations and threats were capable of constituting mental or physical cruelty under the limb of Section 498A that does not depend on a dowry demand. The Aadhaar copy stated that its Rajasthan address details were current as of 2 December 2023, months after the FIR. No independent document proving residence had been filed, and counsel could not establish that the address had remained unchanged. On that material, the Court left the disputed place of residence for determination at trial. These were findings on whether the prosecution should continue, not proof that the alleged acts had occurred.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. FIR 46/2023 and the subsequent criminal proceedings were not quashed. The factual disputes remained open for adjudication at trial.

Bharti Jha v. State of Madhya Pradesh and Ors., M.Cr.C. no. 2835/2024, 10/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (126) Prev Next

Headnote :- CrPC Sections 362 and 482 / review by a criminal court - Applying *Adalat Prasad v Rooplal Jindal, (2004) 7 SCC 338*, the Court held that the Magistrate could not recall or review the order dismissing the complaint. The High Court separately examined that dismissal in its inherent jurisdiction. The offer to supply the documents on the same day and counsel's undertaking to bear costs justified conditional relief, while the bar under Section 362 remained applicable to the Magistrate.

NI Act Section 138 complaint / supply of documents and case management - The complainant should supply legible documents on the

respondent's first appearance or send them with the notice. The failure to do so despite eight opportunities, and the resulting delay, required a firm response. The Court granted one final opportunity to supply a complete set, subject to costs of Rs. 20,000 payable to the respondent. The dismissal would revive automatically if the complainant failed to appear, pay the costs or supply the papers by the specified date.

Case-note :- ***1. Facts :*** Bhaskar Publication and Allied Industries Private Limited filed Complaint Case 861/2018 under Section 138 of the Negotiable Instruments Act against Jai Hanuman Publicity. From 11 June 2019, the Magistrate repeatedly directed it to supply legible copies of the complaint documents to the respondent. After eight opportunities, the JMFC dismissed the complaint for non-prosecution on 19 March 2021. On the same day, counsel stated that the office file, misplaced during the COVID period, had been found and sought an opportunity to supply the documents. The Magistrate declined to recall the dismissal because of Section 362 CrPC. The subsequent revision was dismissed as not maintainable. In the Section 482 application, the complainant submitted that it should not lose its case because of counsel's lapse, and counsel offered to bear the costs of restoration personally.

2. Precedents — Considered : *Adalat Prasad v Rooplal Jindal, (2004) 7 SCC 338* was expressly applied to the rule that a criminal court cannot review its own final order. The High Court did not recognise an exception permitting the Magistrate to do so. It examined the dismissal under its own Section 482 jurisdiction, taking account of the same-day application to supply documents and counsel's undertaking to pay costs. The contention that a litigant should not suffer for counsel's mistake was the applicant's submission. It was not an unqualified holding dispensing with the duty to supply the papers.

3. Statutes considered : NI Act Section 138 concerned the underlying cheque-dishonour complaint. CrPC Section 362 barred the Magistrate from reviewing the dismissal already pronounced. Section 482 enabled the High Court to examine that dismissal. The Sessions Court's rejection of the revision as not maintainable formed the procedural background. The High Court did not decide the merits of the cheque-dishonour claim or the respondent's defence.

4. Issues : Whether the Magistrate could reopen a dismissed criminal complaint on an application made the same day despite Section 362; whether the High Court should uphold dismissal for the prolonged failure to supply legible documents; and whether costs and strict service conditions could protect the respondent while permitting one final opportunity.

5. Ratio / Findings : The complainant had a duty to furnish a complete, legible set of papers on the respondent's first appearance or with the notice. Eight defaults and the resulting delay could not be condoned without consequence. Once the Magistrate dismissed the complaint, *Adalat Prasad* and Section 362 barred that court from reviewing its own order. The effort on the same day to supply the recovered file, counsel's acceptance of responsibility and the offer to bear costs provided a narrow basis for High Court intervention. The dismissal was set aside subject to payment of Rs. 20,000 to the respondent and supply of the complete set on the fixed date. Failure to appear, pay or supply the papers would automatically deprive the High Court's order of effect and revive the original dismissal. The relief was confined to the circumstances and strict conditions of this case.

6. Relief : The Hon'ble High Court set aside the JMFC's dismissal dated 19 March 2021. The complainant was given one opportunity on 25 March 2022 to deposit Rs. 20,000 as costs payable to the respondent and supply the complete complaint and documents. If the respondent's counsel did not appear, the complainant's counsel was to lodge the papers in court for service. Upon any of the specified defaults, the High Court's order would automatically lose effect and the dismissal would revive. The Section 482 application was disposed of.

Bhaskar Publication and Allied Industries Private Limited v. Jai Hanuman Publicity, M.Cr.C. no. 60573/2021, 11/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (127) Prev Next

Headnote :- Evidence Act Section 32(1) / fitness of a person with burns - Applying *Purshottam Chopra v State (NCT of Delhi), (2020) 11 SCC 489*, including its discussion of the Constitution Bench ruling in *Laxman*, the Court rejected the contention that 90–100% burns necessarily made a person incapable of giving a declaration. It separately

rejected the claim that a superficial burn on the tongue prevented speech, on the medical evidence. The Magistrate's and attending doctor's evidence established that Lata was conscious and fit. Her declaration, Ex. P.6, was read back to her and identified both accused. The Court applied the principles governing reliability and fitness in cases involving burns.

Dehati nalishi as a dying declaration - Tomar proved that Ex. P.13 had been recorded on Lata's instructions while she was injured and described the burning that caused her death. It therefore independently qualified as a dying declaration under Section 32(1). The two proved statements, including Ex. P.6, and the recovered kerosene and ignition material established the murder despite the hostile witnesses. The reference to tracheal "secretion" did not support the suggested inference of accidental burning.

Unexhibited deceased statement - A separate statement under Section 161 CrPC was included in the charge-sheet file but was never exhibited. Its presence in the file did not permit its use against the appellants. The Court relied on the two proved statements concerning the cause of death under Section 32.

Case-note :- ***1. Facts :*** Connected Criminal Appeals 853/2009 and 18/2010 challenged the convictions and life sentences imposed on Bhikam/Bheekham Singh and Lata's husband, Suresh, under IPC Section 302 on 16 November 2009. Lata reported a continuing dispute over her husband's intention to transfer the house to Bhikam. She stated that, on 10 October 2008, both men had poured kerosene on her and set her on fire. Y.S. Tomar recorded her Dehati Nalishi, Ex. P.13. Naib-Tahsildar Mamta Shakya subsequently recorded the formal dying declaration, Ex. P.6, after obtaining a doctor's fitness certificate. Lata died the following day. Relatives turned hostile. The defence contended that her 90% burns, burnt tongue and poor vital signs made speech impossible, and suggested that the fire had been accidental.

2. Precedents — Considered : *Purshottam Chopra v State (NCT of Delhi), (2020) 11 SCC 489* was quoted extensively and applied to assess the particular declarant's mental and physical capacity, voluntariness and reliability despite burns. It reproduced the *Constitution Bench* ruling in *Laxman v State of Maharashtra* that a doctor's certification is a safeguard rather than an inflexible legal requirement, and that a reliable, voluntary declaration may support conviction without corroboration. *Purshottam*'s discussion of *Dal Singh* treated the survival of skin on a thumb despite extensive burns as a question of fact. The quoted survey also addressed infirm or conflicting statements and the need for careful scrutiny. Here, the doctor had certified fitness and attended the recording by the Magistrate. The Court relied on that specific evidence; it did not treat extensive burns as establishing either truthfulness or incapacity by themselves.

3. Statutes considered : Evidence Act Section 32(1) governed the two statements concerning the cause of death. CrPC Section 161 concerned another police-recorded statement which, although included in the charge-sheet file, was not exhibited and was not used against the appellants. IPC Section 302 was the offence charged and upheld. The investigation had resulted in a charge-sheet under Section 302/34, while the trial charge and the convictions affirmed on appeal were under Section 302. Section 374 CrPC provided for the appeals.

4. Issues : Whether death from burns was homicidal rather than accidental or suicidal; whether Lata could make a reliable declaration despite 90% burns, superficial injury to her tongue and poor vital signs; whether the Dehati Nalishi also qualified as a dying declaration; whether the unexhibited Section 161 statement could be considered; and whether the two proved statements established each appellant's participation beyond reasonable doubt.

5. Ratio / Findings : The medical evidence established death from burns; whether the burning was homicidal, accidental or suicidal depended on the remaining evidence. The first-degree burns on the tongue were superficial and did not mean that it was charred or that speech was impossible. Nor did the 90% burn percentage by itself establish incapacity to speak. The Naib-Tahsildar observed that Lata was conscious and oriented, obtained the doctor's fitness certificate and read Ex. P.6 back to her. The doctor was present and denied that she had been unconscious. Applying *Purshottam* and *Laxman*, the Court found the declaration reliable. Tomar proved that Ex. P.13 recorded Lata's own account of the cause of her death, bringing it within Section 32. The unexhibited Section 161 statement was not used. The scene recovery included a kerosene container and matches. The postmortem recorded secretion in the trachea, not liquor; the suggested inference of liquor therefore did not

establish accidental burning. The two proved statements named both men and established guilt beyond reasonable doubt despite the hostile witnesses.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed the Section 302 convictions and life sentences. Suresh remained in jail. Bhikam's position following temporary bail was uncertain. If he had not surrendered after 90 days, the trial court was directed to issue a perpetual warrant for his arrest so that he could serve the remaining sentence. *Bheekham Singh and Ors. v. State of M.P., Cr.A. no. 853/2009 & 18/2010, 05/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (128) Prev Next

Headnote :- SC/ST Act Sections 18A and 4 / FIR and neglect of duty - Section 18A dispenses with a preliminary inquiry before registration of an FIR. Section 4 concerns wilful neglect of specified statutory duties by a public servant who is not a member of a Scheduled Caste or Scheduled Tribe, subject to the statutory procedure. Neither provision independently entitles an informant to bypass the CrPC complaint and Magistrate remedies by seeking a direct order under Article 226. The Court did not decide whether an atrocity or neglect of duty had actually occurred.

Article 226 / mandamus for FIR registration - *Sakiri Vasu v State of U.P., (2008) 2 SCC 409; Aleque Padamsee v Union of India, (2007) 6 SCC 171*; and *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542* were considered for recourse to the Magistrate when the police fail to act. The exception quoted from *Divine Retreat* concerns rare cases of clear mala fide abuse of investigative power and noncompliance with Chapter XII. Even then, a writ court cannot dictate how the investigation is to be conducted. The MP Division Bench decision in *Shweta Bhadauria* applied the alternative-remedy rule, recognised the *Whirlpool* exceptions and distinguished the statutory duty under *Lalita Kumari* to register an FIR from an entitlement to direct mandamus. No exception was established here. The writ petition was dismissed with liberty to pursue Sections 156(3), 190/200 CrPC.

Case-note :- ***1. Facts :*** Bherolal submitted a written complaint to the SHO at Isagarh, Ashoknagar, alleging offences under the SC/ST (Prevention of Atrocities) Act against four named persons. When no FIR was registered, he petitioned under Article 226 for registration in accordance with Section 18A and for disciplinary or penal action against the police personnel under Section 4. He submitted that the allegation of an atrocity and the statutory bar on a preliminary inquiry made it unnecessary to approach the Magistrate. The proposed accused had not been impleaded as respondents. The Court decided the question of the appropriate forum and statutory remedy without adjudicating the underlying complaint.

2. Precedents — Considered : *Sakiri Vasu v State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v Union of India, (2007) 6 SCC 171* supported recourse to statutory remedies rather than routine direct writ petitions for non-registration of FIRs. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542* was quoted and applied: ordinary police inaction could be addressed before the Magistrate under Sections 190/200. Rare cases of clear mala fide abuse of investigative power and noncompliance with Chapter XII could justify appropriate intervention under Article 226, but a court could not prescribe the manner of investigat*ion*. I*n Shweta Bhadauria v State of M.P.*, WA 247/2016, the MP Division Bench held that mandamus could be declined where the remedies under Sections 154(3), 156(3), 190 and 200 had not been used, unless the recognised exceptions in *Whirlpool Corporation v Registrar of Trade Marks, (1998) 8 SCC 1* applied. It distinguished *Lalita Kumari v Government of U.P., (2014) 2 SCC 1*, concerning mandatory FIR registration, from the question of bypassing statutory remedies to obtain a writ. The present Court applied that distinction.

3. Statutes considered : Constitution Article 226 conferred discretionary writ jurisdiction. SC/ST Act Section 18A(1)(a) removes the requirement of a preliminary inquiry before FIR registration, while Section 18A(1)(b) removes the requirement of prior approval for an arrest where necessary. Section 4 concerns wilful neglect of statutory duties, including FIR registration, by a public servant who is not a member of a Scheduled Caste or Scheduled Tribe. It requires an administrative-enquiry recommendation for booking charges and provides for cognizance and directions for penal proceedings by the Special Court. CrPC Sections 154(3), 156(3), 190 and 200 provide the ordinary avenues for escalation, an investigation order and a complaint. The Court did

not decide which offence, if any, the underlying complaint established.

4. Issues : Whether Sections 18A and 4 permit a direct writ for FIR registration without first using the statutory remedies; whether the alleged police omission called for disciplinary action or a complaint under Section 4; whether an exceptional public-law ground justified intervention; and whether an order could be made when the proposed accused had not been impleaded.

5. Ratio / Findings : Section 18A removes a preliminary inquiry as a prerequisite to FIR registration, while Section 4 addresses wilful neglect of statutory duties. Neither provision makes police refusal or inaction an automatic basis for a direct FIR-registration writ under Article 226. The Supreme Court and Division Bench authorities required recourse to the Magistrate; the rare-abuse exception and the recognised exceptions to the alternative-remedy rule had not been established. The Court observed that the informant could name a delinquent SHO as an accused in a complaint under Section 4 if the allegation was supported. It did not find the officer guilty or dispense with the procedure prescribed by Section 4. It also noted that the suspected accused had not been impleaded. The available remedy under Sections 156(3)/200 was sufficient to decline mandamus.

6. Relief : The Hon'ble High Court dismissed the writ petition with liberty to pursue the statutory remedies before the competent Magistrate. It issued no direction to register an FIR, prescribe the manner of investigation or take disciplinary action. It made no finding on the merits of the alleged atrocity.

Bherolal v. State of Madhya Pradesh and Ors., W.P. no. 15443/2022, 24/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (129) Prev Next

Headnote :- IPC Sections 96–97 / private defence not expressly pleaded - Applying *Rizan v State of Chhattisgarh, (2003) 2 SCC 661*, and *State of M.P. v Ramesh, (2005) 9 SCC 705*, the Court held that a formal plea was unnecessary where the prosecution evidence itself disclosed an immediate need for defence. Under Evidence Act Section 105, the accused could establish the exception on a balance of probabilities through cross-examination or other evidence; the prosecution's burden of proof remained unchanged. *Salim Zia v State of U.P., (1979) 2 SCC 648* confirmed the lower burden on the defence. Here, the deceased's son described the attempt to take back the money, the appellant's retreat and the ensuing pursuit.

Private defence / necessity and excess - *Ramesh, Dharam v State of Haryana, (2007) 15 SCC 241, Buta Singh v State of Punjab, (1991) 2 SCC 612*, and *Bhanwar Singh v State of M.P., (2008) 16 SCC 657* required a practical assessment of imminent danger and the force used, rather than a detached arithmetical test. The right ends when the danger ends and cannot justify reprisal. Exceeding an existing right may attract Section 300 Exception 2. Here, throwing two stones during the pursuit did not exceed the right. The Section 304 Part II conviction was set aside, and the appellant was acquitted.

Case-note :- ***1. Facts :*** Bhersiya appealed against his conviction under IPC Section 304 Part II and sentence of five years' rigorous imprisonment for Bhuchariya's death after being struck on the head with stones during a money dispute on 22 December 1999. The trial court had acquitted him under Sections 294, 336 and 506-B. The deceased's wife, Idli Bai, alleged that Bhersiya had assaulted him over an unpaid account. In cross-examination, their eight-year-old son, Kasam PW9, gave a fuller account. His father and the appellant had gone together to sell Toor pulse. His father consumed liquor, repaid Rs. 1,900 and then tried to take the money back. The appellant ran towards a field, the deceased pursued him, and the stones were thrown there. That account materially differed from the site map, which placed the incident in the courtyard. Other witnesses attributed the stone-throwing to the appellant, while the medical evidence showed two skull fractures and fatal haemorrhage. Counsel disputed knowledge that death was likely and sought reduction of the conviction to grievous hurt. He did not argue private defence.

2. Precedents — Considered : *Rizan v State of Chhattisgarh, (2003) 2 SCC 661*, and *State of M.P. v Ramesh, (2005) 9 SCC 705* were quoted and applied to the right of private defence disclosed by the record despite the absence of a formal plea. They addressed the burden under Evidence Act Section 105, reliance on prosecution evidence, necessity and proportionality. *Salim Zia v State of U.P., (1979) 2 SCC 648* was separately cited for proof by a preponderance of probabilities, rather than beyond reasonable doubt, by an accused. *Dharam v State of Haryana, (2007) 15 SCC 241*, and *Buta Singh v State*

of Punjab, (1991) 2 SCC 612 required force to be assessed in the circumstances of the moment, rather than weighed in golden scales. *Bhanwar Singh v State of M.P., (2008) 16 SCC 657* distinguished the absence of any right of defence from the exceeding of an existing right, which could attract Section 300 Exception 2. The decisions reproduced within *Rizan*/*Ramesh* supported those principles.

3. Statutes considered : IPC Sections 96 and 97 provide a complete defence for acts falling within the right of private defence of the person or property. The quoted Supreme Court passages discuss Sections 100–101 concerning the extent to which defence of the body may extend to causing death. Evidence Act Section 105 governs the accused's burden to establish the exception. IPC Section 300 Exception 2 concerns a different outcome where, in good faith and without premeditation, an existing right is exceeded and death is caused without an intention to inflict more harm than necessary for defence. Section 304 Part II was the conviction under appeal. Section 325 was counsel's proposed lesser alternative, rather than the final decision. CrPC Section 313 contained the appellant's account of retreating from the attempted seizure of his money. The acquittals on the other original counts remained undisturbed.

4. Issues : Whether Bhersiya caused the fatal injuries with stones; whether the money dispute and pursuit created an imminent threat to his person or money that justified private defence even though counsel had not expressly pleaded it; how, and to what standard, the accused could establish that exception; whether the two blows to the head exceeded the necessary force; and whether the proper result was to maintain the culpable-homicide conviction, substitute a conviction for grievous hurt, or acquit him completely.

5. Ratio / Findings : The child's account disclosed the deceased's intoxication, completed repayment, attempt to snatch the money and pursuit after Bhersiya ran away. The Court found that the police map's placement of the incident in the courtyard conflicted with the account of its occurrence in the field. Other witnesses and medical evidence established the injuries from stones and the death, but did not determine whether the statutory exception applied. Under *Rizan* and *Ramesh*, the Court could consider private defence on its own initiative from the prosecution evidence. The accused's burden was one of probability and could be met without calling defence witnesses. The appellant had first tried to avoid the confrontation by retreating. The pursuit and attempted seizure required immediate protection without recourse to state assistance. Assessing the confusion and available choices at the scene, rather than only the fatal result or the location of the injuries on the head, the Court held that throwing stones twice was not disproportionate and did not exceed the right. It therefore rejected both the trial court's Section 304 Part II conviction and counsel's proposed substitution under Section 325.

6. Relief : The Hon'ble High Court allowed the criminal appeal and set aside the Section 304 Part II conviction dated 20 January 2001, the five-year sentence and the fine. Bhersiya was acquitted of all charges. As he was on bail, his bail bonds were discharged.

Bhersiya v. The State of M.P., Cr.A. no. 187/2001, 13/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 439 CrPC / witness intimidation and monitored conditions - The applicant had obtained affidavits from the prosecutrix and her parents before their cross-examination, and bail had earlier been refused on that account. They later turned hostile. Applying *Mahender Chawla v Union of India, (2019) 14 SCC 615*, the Court found that the prosecution had failed to protect the witnesses. It granted bail on stringent conditions without deciding guilt. These included a cash surety of Rs. 3 lakh, twice-monthly police reporting and trial-court monitoring. Even a single default in court or police attendance, or registration of a new offence, would automatically end bail and forfeit the cash surety. *Aparna Bhat v State of M.P.*, Criminal Appeal 329/2021 (18 March 2021), was applied to direct intimation of the grant of bail to the complainant. Bail was granted on these stringent conditions in the circumstances of this case.

Case-note :- ***1. Facts :*** Bhola Sakhwar made his third application for bail under Section 439 CrPC in Crime 60/2021, registered at Police Station Nagra, Morena, for offences under IPC Sections 363 and 366-A and POCSO Sections 16/17. He had been arrested on 29 June 2021. In seeking bail earlier, he had relied on affidavits from the complainant and her parents before their cross-examination. The first

application was rejected. The second was withdrawn with liberty to apply again after a reasonable period in custody. The prosecutrix and her parents later turned hostile at trial. Relying on the earlier affidavits, the State submitted that he had pressured them. The Court considered the changed testimony together with the concern about pressure on the witnesses.

2. Precedents — Considered : *Mahender Chawla v Union of India, (2019) 14 SCC 615*, was cited and applied to witness protection. The High Court found that the prosecution had failed to protect the witnesses in this case. *Aparna Bhat v State of M.P.*, Criminal Appeal 329/2021 (18 March 2021), was applied to direct communication of the grant of bail to the complainant. The order did not decide guilt or withdraw its observation that the applicant had pressured the witnesses.

3. Statutes considered : Section 439 CrPC governed the application for bail. IPC Sections 363 and 366-A and POCSO Sections 16/17 were the alleged offences; their merits were not decided. The Court required a cash surety, twice-monthly attendance before the SHO and reports by the SHO to the trial court, and specified the consequences of noncompliance.

4. Issues : Whether the subsequent hostile testimony justified bail despite the earlier affidavits and the State's allegation of intimidation; whether the failure to protect the vulnerable witnesses required monitored bail conditions; and how the complainant should be informed of the grant of bail.

5. Ratio / Findings : The affidavits obtained before cross-examination had caused serious concern and contributed to the first refusal of bail. The Court stated that the applicant had been involved in pressurising the witnesses. The prosecutrix and her parents had now failed to support the prosecution case. Referring to *Mahender Chawla*, the Court expressly found that the prosecution had failed to protect them; it did not treat their hostility as proof of innocence. Without deciding the merits of the prosecution case, it exercised its discretion under Section 439 and granted bail subject to substantial cash security, regular police attendance, reports to the trial court and strict consequences for default. The reasoning and the amount of security related to the particular circumstances of this case.

6. Relief : The Hon'ble High Court allowed the third application for regular bail, without commenting on the merits. Release was subject to a cash surety of Rs. 3,00,000 to the satisfaction of the trial court or committal court and appearance on the dates fixed by the court. The applicant was to appear before the SHO, Police Station Nagra, Morena, on the 1st and 15th of every month until the trial ended. The SHO was to report compliance to the trial court by the 3rd and 17th of each month. The order was effective until the end of trial, subject to becoming ineffective upon bail jump. Even one default in appearance before the trial court or the SHO, or registration of a new offence, would automatically end bail and forfeit the cash surety without a further reference to the court. Intimation of the grant of bail was to be sent to the complainant. Two typed copies of the order were to be handed to the Public Prosecutor for communication to the Superintendent of Police, Morena, and the SHO, Police Station Nagra, Morena, for information and compliance.

Bhola Sakhwar v. State of M.P., M.Cr.C. no. 53063/2021, 28/10/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 125 CrPC / disputed disqualification of the wife - At the interim stage, the husband's photographs did not establish his allegations of an earlier marriage and a child. The wife had agreed to forensic and medical testing, but he withdrew his cooperation. The Court upheld the adverse inference drawn from his conduct without finally deciding marital status.

Interim maintenance / proof of current income - A school certificate recording pay of Rs. 8,000 in 2016–17 did not establish employment when the claim was made in August 2018. An unauthenticated pamphlet advertising dance classes did not prove earnings. Counsel cited *Rajnesh v Neha, (2021) 2 SCC 324*, in support of the request for an income affidavit.

Interim maintenance / voluntary salary deductions - The December 2019 Army payslip did not justify reducing the income assessed for maintenance by voluntary AFPP, AGIF or e-ticketing deductions that were not shown to be statutory. The Court held that only statutory deductions, rather than voluntary contributions, could be excluded in calculating take-home salary. It upheld maintenance of Rs. 10,000 and imposed revision costs of Rs. 20,000.

Case-note :- ***1. Facts :*** Bholu challenged the Family Court, Gwalior, order dated 12 February 2021 granting Reshma Parmar interim maintenance of Rs. 10,000 per month in Section 125 Case 258/2018. He alleged that she had concealed an earlier marriage and a child and was living in adultery. She denied those allegations and said that the boy was her sister's son. He relied on photographs, a school certificate recording monthly pay of Rs. 8,000 in 2016–17, a pamphlet advertising dance classes and an Army payslip showing his net monthly pay as Rs. 24,576. She said that she was unemployed, alleged that the photographs were doctored and offered forensic, medical and DNA testing. She pointed to his salary of approximately Rs. 41,060. The High Court examined the Family Court order sheets dated 28 and 29 January and 12 and 17 February 2021 concerning the proposed tests and his failure to cooperate.

2. Precedents — Considered : The husband relied on *Rajnesh v Neha, (2021) 2 SCC 324,* to submit that the wife should disclose her income by affidavit. The Court recorded that submission. It decided the revision by examining the trial court's order sheets, the date of the old employment certificate, the lack of proof of dance-class income and the distinction between statutory and voluntary salary deductions.

3. Statutes considered : CrPC Section 125 governed the maintenance claim, and Sections 397/401 governed revision of the interim order. The applicant alleged an earlier subsisting marriage or adultery, but marital status and the alleged disqualification were not finally tried in this interim proceeding. In assessing his ability to pay, the Court considered whether the salary deductions were statutory or voluntary. It also imposed costs in the revision and specified the consequences of nonpayment in this case.

4. Issues : Whether the wife's alleged earlier marriage, child and adultery were sufficiently established to deny interim maintenance; whether the 2016–17 school certificate and dance-class pamphlet established income when her claim began in August 2018; whether the voluntary AFPP, AGIF and e-ticketing deductions from Army pay justified treating Rs. 10,000 as excessive; and whether the Family Court's provisional order warranted interference in revision.

5. Ratio / Findings : The Family Court order sheets showed that the wife had agreed to examination of the disputed photographs and to medical testing, while the husband failed to cooperate. The High Court upheld the adverse inference drawn from his reversal of position. It considered his accusations apparently false and observed that making a false allegation against a spouse itself amounts to cruelty. These were findings on the material before it in this interim revision, rather than a final determination of marital status. The old school salary certificate did not establish that the wife was employed in the relevant year, and the unsupported pamphlet did not establish current receipts from dance classes. The December 2019 payslip included a voluntary AFPP contribution of Rs. 13,000 and other deductions not shown to be statutory. The applicant could choose to make those payments, but they remained part of his income for maintenance. Only statutory deductions could be excluded in calculating take-home salary. The Court found maintenance of Rs. 10,000 proportionate and no ground for interference in revision. It did not finally determine the alleged earlier marriage or the parties' future earning circumstances.

6. Relief : The Hon'ble High Court dismissed the criminal revision and upheld interim maintenance of Rs. 10,000 per month. Bholu was directed to deposit Rs. 20,000 in revision litigation costs with the Registry within 15 days for payment to Reshma on her application. He was to submit the deposit receipt to the trial court by 4 April 2022. If the costs were not deposited within that period, the Principal Registrar was directed to register a contempt case, and the trial court was directed to strike off his defence.

Bholu v. Reshma Parmar, Cr.R. no. 1095/2021, 15/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Conviction appeal / absconding appellant — Applying *Dhananjay Rai @ Guddu Rai,* the Court decided the already admitted appeal on its merits despite the appellant's failure to surrender after parole. After dismissing the appeal, it directed the issue of a perpetual arrest warrant.

Homicide / death following delayed sepsis — Under Explanation 2 to Section 299 IPC, the assailant remained responsible where the sharp-force head injuries caused continuous coma and death from septic shock about seven months later. The possibility that better treatment might have

prevented death did not break the medically established causal connection. *Khokan* was cited to show that death from septicaemia did not automatically bring the case under Section 304. *Arjun Singh*, *Antram* and *Jagtar Singh* were applied to the issue of causation.

Witness improvements / reliable remaining testimony — The son and wife's new assertion at trial that they had seen the assault was rejected as a material improvement. Applying *Tomaso Bruno*, *Achhar Singh* and *Sohrab*, the Court nevertheless accepted their consistent account of seeing the appellant flee with an axe, which they had given to the police.

Serology / conduct as circumstantial evidence — Human blood on the recovered axe remained corroborative even though its group could not be identified. *Khujji* distinguished *Kansa Behera*; *Rameshbhai Mohanbhai Koli*, *Molai* and *Teja Ram* were also applied. The Court considered the appellant's flight with a weapon from a gravely injured relative as relevant conduct under Section 8, together with the forensic evidence and his failure to explain the blood. It affirmed the Section 302 conviction and life sentence.

Case-note :- ***1. Facts :*** Bhoop Singh appealed against the Morena Sessions Court's conviction dated 8 May 2012 under Section 302 IPC and sentence of life imprisonment. On 22 May 2010, Jagman Singh sustained multiple incised wounds to the head and face, including a bone fracture, and became unconscious. His son, Dhruv, and wife, Ganga, reached the scene and reported seeing the appellant, a close relative, run away with an axe. Jagman Singh remained in a coma despite treatment and died on 8 December 2010. The prosecution initially proceeded under Sections 307 and 326. The trial charge was altered to Section 302 after his death. The appellant later failed to surrender after parole, raising the question whether his already admitted appeal could be heard.

2. Precedents — Considered : *Dhananjay Rai @ Guddu Rai* (Supreme Court, Criminal Appeal 803/2017, decided 14 July 2022) was applied to require a decision on the merits of an already admitted conviction appeal despite absconding. The surrender rule applicable before admission was distinguished. *Khokan v State of Chhattisgarh, (2021) 3 SCC 365*, was cited to reject automatic application of Section 304 merely because death resulted from septicaemia. *State of Rajasthan v Arjun Singh, (2011) 9 SCC 115*, *Antram v State of Maharashtra, (2007) 13 SCC 356*, and *Jagtar Singh v State of Punjab, (1999) 2 SCC 174*, supported causation from the injuries despite delayed infection or the possibility of better treatment. *Tomaso Bruno v State of UP, (2015) 7 SCC 178*, *Achhar Singh v State of HP, (2021) 5 SCC 543*, and *Sohrab v State of MP, (1972) 3 SCC 751*, guided the separation of material improvements from trustworthy testimony. *Khujji v State of MP, (1991) 3 SCC 627*, distinguished the defence authority, *Kansa Behera v State of Orissa, (1987) 3 SCC 480*, concerning human blood whose group could not be identified. *Rameshbhai Mohanbhai Koli*, *Molai* and *Teja Ram* supported the contextual use of that forensic evidence. *Bhagwan Jagannath Markad v State of Maharashtra, (2016) 10 SCC 537*, supplied the standard of proof beyond reasonable doubt and the principles for appreciating witnesses' evidence. The Court applied and distinguished those authorities in deciding this appeal.

3. Statutes considered : CrPC Section 374 governed the conviction appeal. IPC Section 299 Explanation 2 treats a person who causes a fatal bodily injury as having caused death even if proper remedies and skilled treatment might have prevented it. Section 302 was the provision under which the murder conviction was affirmed. Evidence Act Section 8 made the appellant's flight with the axe relevant as subsequent conduct, while Section 3 informed the standard of proof beyond reasonable doubt. The police initially proceeded under Sections 307/326; the trial court altered the charge after Jagman Singh's death. The finding of human blood was relevant to the chain of circumstances although its group could not be determined.

4. Issues : Whether an already admitted conviction appeal could be dismissed without a hearing on the merits because the appellant had failed to surrender after parole; whether the interval of about seven months, sepsis and alleged inadequate treatment broke the legal and medical connection between the head injuries and death; whether the son and wife's improved trial claim to have seen the blows required rejection of their original account of seeing the appellant flee; and whether human blood on the axe, despite the lack of blood-group identification, could corroborate identity when considered with the evidence of flight.

5. Ratio / Findings : The Court heard the appeal on its merits despite the appellant's absconding. The

initial medical findings, continuous coma and post-mortem opinion linked death from septic shock to the assault. The treatment records and family testimony did not support the suggested intervening neglect. Explanation 2 to Section 299 prevented the mere possibility of better treatment from absolving the assailant. The witnesses' new claim that they had seen the blows was a material contradiction and was discarded, but their earlier, consistent account of seeing the appellant flee with an axe was accepted. The recovery evidence established seizure of the axe, the FSL found human blood on it, and the appellant did not explain its presence. Failure to identify the blood group did not make that evidence worthless, although it did not conclusively match the blood to the victim. Flight alone might have an innocent explanation. Here, however, flight with a weapon from a gravely injured relative, considered in the setting of this case, was incriminating conduct under Section 8. The circumstances taken together proved beyond reasonable doubt that the appellant had committed the assault. The conviction rested on those circumstances, rather than on a rejected claim of directly witnessing the assault or on serology alone.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the Section 302 conviction, life imprisonment and fine of Rs. 5,000, with six months' rigorous imprisonment in default. The trial court was directed to issue a perpetual arrest warrant so that the absconding appellant could serve the remaining sentence. A copy of the judgment was to be supplied to him immediately, free of cost.

Bhoop Singh v. State of Madhya Pradesh, Cr.A. no. 405/2012, 22/08/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 125 CrPC / divorced wife — Following *Rohtash Singh v Ramendri, (2000) 3 SCC 180,* a divorced woman who has not remarried remains a "wife" for the limited purpose of maintenance under Explanation (b) to Section 125(1). The bar based on refusal to live with the husband presupposes a subsisting marriage and did not defeat maintenance after the husband obtained an ex parte divorce decree. *Captain Ramesh Chander Kaushal v Veena Kaushal, AIR 1978 SC 1807*, was quoted through *Rohtash Singh* for the social-justice purpose of the provision.

Restitution and conduct — The ex parte decree under Section 9 of the Hindu Marriage Act did not itself end maintenance. The husband withdrew its execution, and his own revision petition recorded that he had twice failed to take his wife home despite court directions. The Court rejected his claim of desertion and dismissed the revision. Monthly maintenance of Rs. 4,000 for the wife and Rs. 4,000 for the minor child remained in force. Neither the child's maintenance nor the amount awarded was challenged.

Case-note :- ***1. Facts :*** By order dated 18 January 2018 in MJCR 17/2017, the Family Court, Guna, awarded monthly maintenance of Rs. 4,000 each to Bharti and the parties' minor child. The child's award was to continue until majority or further order. Bhoopendra Singh Gurjar challenged only his wife's maintenance in revision under CrPC Sections 397/401 and Family Courts Act Section 19(4). He had obtained an ex parte decree for restitution of conjugal rights under Hindu Marriage Act Section 9 and applied for execution on 19 February 2018, but later withdrew that proceeding. He filed a divorce petition under Section 13 on 13 August 2020 and obtained an ex parte divorce decree on 30 July 2024. He alleged that his wife was living separately without sufficient cause. She relied on his failure to take her home despite court directions.

2. Precedents — Considered : *Rohtash Singh v Ramendri (Smt.) and others, (2000) 3 SCC 180,* was quoted and directly applied. Under Explanation (b) to Section 125(1), a divorced woman who has not remarried remains a "wife" for maintenance, while the bar based on refusal to live with the husband without sufficient reason presupposes a subsisting marriage. The passage quoted from *Rohtash Singh* itself cited *Captain Ramesh Chander Kaushal v Veena Kaushal, AIR 1978 SC 1807,* for construing Section 125 in light of its social-justice purpose.

3. Statutes considered : CrPC Section 125 and Explanation (b) to subsection (1) governed the wife's status for maintenance after divorce. The asserted bar under Section 125(4), based on living apart without sufficient reason, concerned a subsisting marriage. Hindu Marriage Act Sections 9 and 13 concerned the earlier restitution decree and the later divorce. CPC Order XXI Rule 32 concerned the execution proceeding that was withdrawn. CrPC Sections 397/401 and Family Courts Act Section 19(4)

supplied revisional jurisdiction. The child's separate award under Section 125 was not contested.

4. Issues : Whether, after obtaining a divorce decree, the husband could deny maintenance under Section 125 because his former wife had not lived with him before divorce; whether the ex parte restitution decree established a disqualifying refusal; whether his own conduct in the restitution proceedings defeated his allegation of desertion; and whether there was any basis to disturb the wife's monthly amount when he had not challenged its quantum.

5. Ratio / Findings : Divorce ended the obligation to cohabit, but Bharti remained within Section 125's inclusive definition of "wife" for maintenance. Under *Rohtash Singh*, the restriction based on living apart without sufficient reason could not be applied to her after divorce. The husband's own revision petition recorded that he had been directed to take his wife and child home, had failed to attend on one date and had attended on another without taking them, citing illness. He then withdrew execution of the restitution decree. The Court found that this conduct did not support his allegation that she had deserted him and held that he could not take advantage of his own default. The wife's monthly amount of Rs. 4,000 had not been challenged.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The Family Court's monthly maintenance awards of Rs. 4,000 to the wife and Rs. 4,000 to the minor child remained in force; the child's award had not been challenged.

Bhoopendra Singh Gurjar v. Bharti and Ors., Cr.R. no. 1638/2018, 13/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 226 / accused's preferred investigation — An accused named in an FIR cannot insist that the police investigate from the perspective set out in his representation, choose the investigating agency or demand a hearing as a matter of course during investigation. *Romila Thapar v Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki v State of Gujarat, (2014) 4 SCC 626*, were applied. The quoted authorities recognise exceptional constitutional directions where a mala fide exercise of investigative power is convincingly established. The Court refused the direction sought in this petition.

Judicial monitoring / supervision — *Manohar Lal Sharma v Principal Secretary, (2014) 2 SCC 532*, distinguishes monitoring to ensure progress and fairness from supervision that directs the investigation and the report under Section 173. The direction sought would amount to supervision. The writ petition was dismissed, leaving the petitioner to challenge the evidence at the lawful stages.

Case-note :- ***1. Facts :*** Bhupendra Ghoshi was named as an accused in Crime 240/2023 at Jaisi Nagar Police Station, Sagar, for alleged offences under IPC Sections 436, 294 and 34. He submitted a representation to the Superintendent of Police on 19 October 2022 seeking what he described as a fair investigation. In Writ Petition 21795/2024 under Article 226, he sought a mandamus directing investigation of his complaint. The order records only the appearance of the petitioner's counsel. It considered the scope of an accused's right to seek such a direction and did not decide the underlying arson allegation.

2. Precedents — Considered : *Romila Thapar v Union of India, (2018) 10 SCC 753*, was quoted at length and applied to the rule that an accused cannot choose the investigating agency or the manner of investigation. It also recognised the narrow scope for directions under Article 226 where a mala fide exercise of investigative power is convincingly established. The quotation included the Constitution Bench's caution about exceptional transfers to the CBI in *State of West Bengal v Committee for Protection of Democratic Rights, (2010) 3 SCC 571*. *Dinubhai Boghabhai Solanki v State of Gujarat, (2014) 4 SCC 626*, was separately applied to the absence of an accused's right to a hearing or participation in investigation as a matter of course. The quoted passages drew on *WN Chadha*, *Rajesh Gandhi*, *Sri Bhagwan Samardha* and *Narender G Goel*. The High Court's *Prabal Dogra* order stated the same principle. *Manohar Lal Sharma v Principal Secretary, (2014) 2 SCC 532*, was directly applied to distinguish rare monitoring from directions controlling the investigative method or result.

3. Statutes considered : Article 226 conferred writ jurisdiction, to be exercised with restraint during an ongoing criminal investigation. IPC Sections 436, 294 and 34 described the registered offences; their ingredients were not decided. In the cited authorities, CrPC Section 173(2) concerned the investigation report and the need for its independent assessment at trial, which judicial supervision could compromise.

Section 173(8) appeared in the quotation concerning further investigation. This petition did not decide the validity of a filed final report.

4. Issues : Whether an accused can obtain a mandamus requiring the police to investigate his representation or his preferred account; whether he has a right to participate in choosing the manner of investigation or the agency; and whether a superior court can supervise an ongoing investigation, as distinct from exceptional monitoring to secure fairness.

5. Ratio / Findings : An accused has no ordinary right to direct the investigation or obtain a court order requiring investigation from his preferred perspective. The quoted authorities preserve constitutional power to remedy sufficiently established mala fides or exceptional unfairness. They distinguish monitoring, which watches progress and independence in rare and compelling circumstances, from supervision, which directs investigative methods and conclusions and may influence or bind the trial court when it considers a report under Section 173. The High Court held that directing investigation from this petitioner's perspective would amount to impermissible supervision. It did not decide whether he had committed the alleged IPC offences. If he claimed false implication, he would have an opportunity to establish his innocence at trial.

6. Relief : The Hon'ble High Court dismissed the writ petition. It issued no mandamus directing or supervising the police investigation.

Bhupendra Ghoshi v. State of Madhya Pradesh and Ors., W.P. no. 21795/2024, 17/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (135) Prev Next

Headnote :- Investigation / directions to arrest or file a charge sheet — On the FIR informant's application invoking inherent powers, the Court declined to compel arrest of the named persons or direct a predetermined charge sheet. *D. Venkatasubramaniam v MK Mohan Krishnamachari, (2009) 10 SCC 488,* was applied: a statutory police investigation may result in a charge sheet or a closure report. *M.C. Abraham v State of Maharashtra, (2003) 2 SCC 649*, was quoted within that decision for the discretion to arrest and the caution required in exercising it. A direction to arrest and file a charge sheet would amount to impermissible supervision of investigation.

Prompt completion / lawful outcome — The Court quoted CrPC Section 173(1) and referred to BNSS Section 193, requiring completion of investigation without unnecessary delay. It directed early completion and the steps required by law, leaving the result to the investigating officer's lawful assessment. The applicant could take any grievance to the Superintendent of Police. The application was disposed of.

Case-note :- ***1. Facts :*** On Bhupendra Singh Gurjar's complaint, Atreta Police Station, Datia, registered Crime 61/2024 for alleged offences under BNS Sections 103, 109, 125, 351(2), 191(2), 191(3) and 190. He complained that the police had taken no further action and had not arrested the persons accused. In Miscellaneous Criminal Case 54959/2024, he invoked the High Court's inherent power under BNSS Section 528, seeking arrest, filing of a charge-sheet and prompt action. The Court did not examine the evidence relating to the alleged offences.

2. Precedents — Considered : *D. Venkatasubramaniam and others v MK Mohan Krishnamachari and another, (2009) 10 SCC 488*, was quoted and directly applied. The cited passages criticised mechanical High Court directions prescribing the recording of witnesses' statements, arrest, seizure and filing of a charge sheet during investigation. A police investigation may lawfully result in a charge sheet or a closure report. The quotation included *M.C. Abraham v State of Maharashtra, (2003) 2 SCC 649*, on discretion to arrest and the need for caution rather than routine arrest upon registration of an FIR. It also quoted *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, in discussing notice to persons affected by coercive judicial directions in the earlier Supreme Court case.

3. Statutes considered : BNSS Section 528 was invoked for the High Court's inherent power. The BNS provisions listed in the FIR stated the allegations; their ingredients were not decided. The Court quoted CrPC Section 173(1) and referred alongside it to BNSS Section 193 for completion without unnecessary delay and the lawful police report that must follow. The precedent discussed CrPC Sections 41 and 482 in the earlier Code's setting. The present ruling concerned police

discretion in investigation and the limits of directions under inherent powers.

4. Issues : Whether, at the complainant's request, the Court could direct arrest of the accused and filing of a charge sheet while investigation was pending; whether it could instead require prompt completion without prescribing a prosecution outcome; and what remedy remained for a grievance about continuing delay.

5. Ratio / Findings : Registration of an FIR begins a statutory investigation; it does not automatically require arrest or filing of a charge sheet. The investigating officer must assess the material collected and the need for arrest and submit the final report warranted by the investigation. A court direction to arrest and file a charge sheet would control the investigative method and result and would amount to supervision. The statutory duty to complete investigation without unnecessary delay nevertheless remains. The officer cannot keep the case pending indefinitely. The Court could therefore direct completion as early as possible and the steps required by law, without deciding whether an offence had been established. The Supreme Court passages about hearing affected persons concerned the earlier case; no such coercive direction was made here.

6. Relief : The Hon'ble High Court disposed of the application with a direction to the investigating officer to complete the investigation expeditiously and take the steps required by law. It refused directions for arrest and filing of a charge-sheet. The applicant remained free to approach the Superintendent of Police, Datia, with any grievance, to be considered in accordance with law.

Bhupendra Singh Gurjar v. State of Madhya Pradesh and Ors., M.Cr.C. no. 54959/2024, 20/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (136) Prev Next

Headnote :- FIR non-registration / alternative remedy — The police must register information disclosing a cognizable offence. If they fail to do so, the ordinary remedy is a complaint before the Magistrate under CrPC Sections 190/200. The informant may also approach the Superintendent of Police under Section 154(3) and then the Magistrate under Section 156(3) for registration or proper investigation. *Aleque Padamsee v Union of India, (2007) 6 SCC 171; Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542; Sakiri Vasu v State of UP, (2008) 2 SCC 409;* and *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, were applied.

High Court direction — *Shweta Bhadauria* distinguished the police's statutory duty under *Lalita Kumari* from an entitlement to immediate mandamus without using the alternative remedies. Recognised exceptions permitting constitutional intervention remained intact. The Section 482 application was dismissed as not maintainable, with liberty to complain before the Magistrate. The merits of Bhura's allegations were not decided.

Case-note :- ***1. Facts :*** Bhura filed Misc. Criminal Case 8712/2024 under CrPC Section 482, alleging that the police had failed to register an FIR despite multiple complaints. He sought a direction requiring the respondent officers to decide his complaint by a speaking order within a time limit, referring to an earlier order. The State submitted that he should approach the Magistrate under CrPC Sections 190 and 200. The Court considered whether an application for a direction to the police to register an FIR was maintainable.

2. Precedents — Considered : *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, was quoted to distinguish the duty to register information disclosing a cognizable offence from the remedy under Sections 190/200 when the police fail to act. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, was applied for the same Magistrate route and for rare intervention under Article 226 where investigative power is clearly abused mala fide. Its quotation from *Gangadhar Janardan Mhatre* explained the complaint procedure. *Sakiri Vasu v State of UP, (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, were applied for recourse first under Section 154(3) and then under Section 156(3), including the Magistrate's power to direct and monitor investigation. The MP Division Bench in *Shweta Bhadauria v State of MP* relied on the *Whirlpool* exceptions to the alternative-remedy rule. It distinguished *Lalita Kumari v Government of UP, (2014) 2 SCC 1*, as addressing the police's registration duty rather than an automatic entitlement to a writ.

3. Statutes considered : CrPC Section 154 governs registration of information disclosing a cognizable offence. Section 154(3) provides recourse to the Superintendent of Police, Section 156(3) permits an application to the Magistrate for registration or

proper investigation, and Sections 190/200 provide the complaint and cognizance route. Section 482 was the inherent jurisdiction invoked; the Court declined to use it as a substitute for those ordinary remedies. The Supreme Court authority discussed exceptional intervention under Article 226 in cases of mala fide exercise of investigative power, although Bhura's application was under Section 482.

4. Issues : Whether repeated police failure to register an FIR justified a High Court direction in this application; which forum and statutory steps remained available to the informant; and whether the police duty under Section 154 alone displaced the requirement to use alternative remedies.

5. Ratio / Findings : The police must register information disclosing a cognizable offence. The Court did not decide whether Bhura's complaint disclosed such an offence. On police refusal or inaction, the informant could approach the Superintendent of Police and the Magistrate through the statutory remedies. If prima facie satisfied, the Magistrate may direct registration of an FIR or proper investigation and may monitor the investigation, but cannot personally investigate. A complaint under Sections 190/200 also remained available. The High Court found no case for directing registration and left Bhura to the Magistrate's remedy. The cited authorities preserved exceptional intervention under Article 226 for clear abuse of investigative power or recognised exceptions to the alternative-remedy rule. The order did not separately assess those exceptions on Bhura's facts. *Lalita Kumari* was not treated as itself conferring an entitlement to immediate mandamus.

6. Relief : The Hon'ble High Court dismissed the application as not maintainable for a direction to the police to register an offence, with liberty to approach the competent Magistrate under CrPC Section 200. It did not express an opinion on the merits of the alleged offence.

Bhura v. State of Madhya Pradesh and Ors., M.Cr.C. no. 8712/2024, 23/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (137) Prev Next

Headnote :- CrPC Section 391 / additional evidence in appeal — Photocopies of Gram Sabha and Van Adhikar Samiti recommendations, filed with a printed list of documents, were not duly admitted as additional evidence. There was no application under Section 391, showing their necessity for a just decision, no recorded reasons and no explanation for their nonproduction at trial. Since the appellate court had considered the documents, the revision court also examined whether they were material.

Indian Forest Act Section 26(1-j) / Forest Rights Act — Scheduled Tribe membership and pending recommendations did not by themselves establish status as a "forest dwelling Scheduled Tribe" under Forest Rights Act Section 2(c). The claimant failed to show that he primarily resided in the forest. On this record, the protection pending recognition under Section 4(5) did not defeat the conviction for encroachment. The conditional release under the Probation of Offenders Act, including the planting and return-of-possession conditions, remained undisturbed. The revision was dismissed.

Case-note :- ***1. Facts :*** A forest beat guard found Bhuru cultivating and attempting to encroach on forest land in Kalyanpura Beat 270 on 22 July 2015. The JMFC, Jhabua, convicted him under Indian Forest Act Section 26(1-j) in October 2016 and granted conditional release under the Probation of Offenders Act. He was required not to repeat a similar offence during the next three years, to plant and tend at least fifty plants and to surrender possession of the forest land to the Forest Department. The Sessions Court dismissed his appeal. In criminal revision, he claimed that he was a forest-dwelling Scheduled Tribe member with a pending forest-rights proceeding and could retain possession under the 2006 Act. He had produced no supporting documents at trial. Photocopies of recommendations were later filed before the appellate court with only a list of documents.

2. Statutes considered : CrPC Section 391 permits a criminal appellate court to take additional evidence, or direct a subordinate court to take it, when the evidence is necessary and the court records reasons. It also provides safeguards for participation. Section 2(c) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 defines forest-dwelling Scheduled Tribes by primary residence in the forest and dependence on it for bona fide livelihood needs. Section 4(5) was invoked for continued possession pending recognition or verification. Section 26(1-j) of the Indian Forest Act 1927 supplied the encroachment offence. Relief under the Probation of Offenders Act had already moderated the sentence. CrPC Sections 397/401 governed the revision.

3. Issues : Whether photocopies filed in appeal with a document list, without an application or reasoned order under Section 391, could establish the claimed forest-rights facts; whether those documents, even if considered, established qualifying status under Section 2(c) and interim protection under Section 4(5); and whether the conviction or existing probation conditions called for revisional interference.

4. Ratio / Findings : Bhuru had neither applied to adduce additional evidence nor explained why he had not produced the documents at trial. Filing photocopies with a document list could not bypass Section 391. The Court nevertheless examined their effect because the lower appellate court had considered them. The recommendations did not show that he primarily resided on forest land or that his village lay in a forest area. Scheduled Tribe membership and possession of encroached forest land did not automatically establish forest-dweller status as defined by the Act. No forest right had yet been conferred. On this record, pendency of the process did not protect a claimant who had failed to establish eligibility. The Court applied CrPC Section 391 and Forest Rights Act Sections 2(c) and 4(5) to these evidentiary deficiencies. It examined the appellate record and the trial court's probation order; a recommendation for forest rights was not treated as a binding determination recognising them.

5. Relief : The Hon'ble High Court dismissed the revision and affirmed the conviction under the Indian Forest Act and the conditional probation order already granted. It made no independent order recognising or extinguishing forest rights in the separate administrative proceeding.

Bhuru v. State of M.P., Cr.R. no. 3759/2017, 01/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Homicidal death / burning after death — The post-mortem examination established death by asphyxia caused by compression of the trachea, ante-mortem blunt injuries and subsequent extensive burning. The burns did not establish an accidental death by fire. The burning formed part of the Court's assessment under Section 201.

Evidence Act Section 106 / death in the household — The husband and father-in-law were required to explain events especially within their knowledge in their home only after the prosecution had established homicidal death and the other incriminating circumstances. *Babu alias Balasubramaniam v State of Tamil Nadu, (2013) 8 SCC 60; Tulshiram Sahadu Suryawanshi v State of Maharashtra, (2012) 10 SCC 373*; and *Trimukh Maroti Kirkan v State of Maharashtra, (2006) 10 SCC 681*, were applied. Section 106 did not relieve the prosecution of proof beyond reasonable doubt. Absconding was assessed in context, with recognition that it could have an innocent explanation. The life sentences under Section 302 and concurrent terms under Section 201 were affirmed.

Case-note :- ***1. Facts :*** Bihari Singh and his son Hariom were convicted in Sessions Trial 113/2011 of murdering Jyoti, Bihari's daughter-in-law and Hariom's wife, and causing evidence of the crime to disappear. On 17 February 2011, a relative reported that Jyoti had been found burned in their home. The police recorded a death inquiry, collected material from the scene and investigated the family's conduct. The doctor found fatal compression of the trachea, ante-mortem blunt injuries to the head and extensive burns. The Sessions Court imposed life imprisonment under IPC Section 302 and a concurrent one-year term under Section 201. In Criminal Appeal 513/2012, the appellants challenged the chain of circumstances, relying on the hostile witnesses and absence of an eyewitness.

2. Precedents — Considered : *Babu alias Balasubramaniam v State of Tamil Nadu, (2013) 8 SCC 60*, was quoted and applied on Section 106 where the prosecution had first established the basis for finding homicide in a shared home. Its quotation from *Tulshiram Sahadu Suryawanshi v State of Maharashtra, (2012) 10 SCC 373*, preserved the prosecution's burden of proof. *Tulshiram* was also separately quoted on household circumstances and permissible inferences. *Trimukh Maroti Kirkan v State of Maharashtra, (2006) 10 SCC 681*, supported consideration of an unexplained household death and related conduct. The nested quotation also referred to Section 114 and *Mir Mohammed Omar*; those passages formed part of the cited authority rather than independent factual findings in this appeal.

3. Statutes considered : CrPC Section 374 governed the appeal, and Section 174 the initial death inquiry. IPC Section 302 supplied the murder conviction. Section 201 concerned causing evidence of the offence to disappear with intent to screen the offender. Evidence Act Section 106 placed an

explanatory burden on a person for facts especially within that person's knowledge; it did not reverse the prosecution's general burden. Section 114 appeared in the cited authority on inferences from human conduct.

4. Issues : Whether Jyoti's death was homicidal despite the burned condition of her body; whether the evidence proved beyond reasonable doubt that the two appellants had caused her death and destroyed evidence, despite the absence of eyewitnesses and several witnesses turning hostile; and when a death in their household required an explanation under Section 106.

5. Ratio / Findings : The medical evidence established fatal strangulation and ante-mortem blunt injuries. The absence of inflammation at the burn margins supported the finding that the body was burned after death. This evidence, together with the household setting, family relationships and flight after the incident, formed the prosecution's foundation. Several neighbours and seizure witnesses did not support its case. Once the prosecution had established incriminating circumstances permitting a reasonable inference, the appellants' failure to explain events especially within their knowledge added weight under Section 106. The Court expressly recognised that Section 106 alone could not sustain a conviction and that a person might abscond from fear of false implication. It nevertheless held the combined circumstances sufficient to affirm the convictions under both Section 302 and Section 201.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. For each appellant, it affirmed life imprisonment and a fine of Rs. 1,000 under Section 302, and one year's rigorous imprisonment and a fine of Rs. 500 under Section 201, with the default stipulations. The imprisonment terms were to run concurrently. The appellants, who were in jail, were to serve the remaining sentence. A copy of the judgment was to be sent to the jail, and a copy with the record returned to the trial court for information and compliance.

Bihari Singh and Ors. v. State of Madhya Pradesh, Cr.A. no. 513/2012, 11/11/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (139) Prev Next

Headnote :- Article 226 / pending FIR — The informant's request for arrest of the accused and addition of two respondents to Crime 384/2024 did not permit the High Court to supervise the police investigation. *D. Venkatasubramaniam v MK Mohan Krishnamachari, (2009) 10 SCC 488*, was applied. Its quotation from *M.C. Abraham* treats arrest as discretionary and cautions against automatic arrest upon registration of an FIR. The alleged involvement of the persons whom the informant sought to add was not decided.

Prompt completion — CrPC Section 173(1) and BNSS Section 193(1), as cited in the order, require completion of investigation without unnecessary delay. The investigating officer was directed to finish it as early as possible and take the steps required by law. No arrest or final-report outcome was prescribed. Any further grievance could be placed before the Superintendent of Police, Morena. The writ petition was disposed of.

Case-note :- *1. Facts :* On Bijendra Singh Jadon's complaint, Sabalgarh Police Station, Morena, registered Crime 384/2024. Alleging that the police had taken no further action, he filed Writ Petition 5898/2025 under Article 226. He sought arrest of the accused, addition of respondents 6 and 7 to the FIR, completion of the investigation and a decision on his representation. The High Court considered the limits of directions concerning investigation and the duty to avoid delay.

2. Precedents — Considered : *D. Venkatasubramaniam and others v MK Mohan Krishnamachari and another, (2009) 10 SCC 488*, was quoted extensively and applied against mechanical directions for arrest, seizure and filing of a charge sheet. Its discussion relied on *M.C. Abraham v State of Maharashtra, (2003) 2 SCC 649*, for the police's discretion to arrest and the caution required in exercising it. It also quoted *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, on notice before drastic directions affecting other persons in the earlier case.

3. Statutes considered : Article 226 supplied the constitutional jurisdiction invoked. The judgment quoted CrPC Section 173(1), paired with BNSS Section 193(1), on completion without unnecessary delay and submission of a lawful police report. The quoted Supreme Court decision discussed CrPC Sections 41 and 482 in its own procedural setting. The order did not interpret any particular offence

provision or decide whether respondents 6 and 7 were culpable.

4. Issues : Whether an FIR informant could obtain directions to arrest suspects and specify additional persons for investigation; whether early completion was legally required; and how prompt police action could be secured without dictating whether the final report should be a charge sheet or a closure report.

5. Ratio / Findings : Investigation is a statutory police function. Registration of an FIR does not by itself require arrest or guarantee a charge sheet. A judicial direction specifying persons to be arrested or determining their involvement would prescribe investigative steps and could prejudice the process. The investigating officer must nevertheless conclude the investigation without unnecessary delay and take the steps warranted by the evidence and law, including submission of the appropriate report. The Court gave that limited direction and left the informant free to pursue a grievance before the Superintendent of Police. Its refusal to dictate the investigation did not bar a later lawful arrest, inclusion of persons whose involvement was supported by the investigation, or filing of a charge sheet.

6. Relief : The Hon'ble High Court disposed of the writ petition. It directed the investigating officer to complete the investigation as early as possible and proceed in accordance with law. It did not order arrest or mandatory inclusion of respondents 6 and 7. The petitioner remained free to approach the Superintendent of Police, Morena, with any grievance.

Bijendra Singh Jadon v. State of Madhya Pradesh and Ors., W.P. no. 5898/2025, 04/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (140) Prev Next

Headnote :- Article 226 / direction to register an FIR — The Court declined mandamus to register the informant's complaint because statutory remedies, including recourse to the Magistrate, were available. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, and *Shweta Bhadauria v State of MP* were applied. Constitutional power remains available in rare cases of clear mala fide abuse. *Shweta Bhadauria* distinguished the police's registration duty stated in *Lalita Kumari v Government of UP, (2014) 2 SCC 1*, from an automatic entitlement to a writ without using alternative remedies.

Complaint procedure — CrPC Sections 154(3), 156(3), 190 and 200 provide recourse through the police hierarchy and the Magistrate. The quoted *Gangadhar Janardan Mhatre* passage describes the Magistrate's inquiry and cognizance options. Writ Petition 18815/2022 was dismissed with liberty to file a criminal complaint. The Court did not decide whether the alleged offence was made out.

Case-note :- ***1. Facts :*** Bijendra Singh Rajput filed Writ Petition 18815/2022 under Article 226, seeking a direction to the Bhind district police authority to ensure that Gohad police took action against respondent 4 and registered his complaint as disclosing a cognizable offence. The State objected to maintainability because criminal procedure remedies were available. The Court considered whether the requested mandamus for registration of an FIR should be entertained.

2. Precedents — Considered : *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, was quoted on exceptional constitutional directions in cases of clear mala fide abuse and the informant's ordinary remedy before the Magistrate. Its quotation from *Gangadhar Janardan Mhatre v State of Maharashtra* explained the complaint procedure under Sections 190/200. The *MP Division Bench* decision in *Shweta Bhadauria v State of MP*, Writ Appeal 247/2016, was applied on alternative remedies and the distinction from *Lalita Kumari v Government of UP, (2014) 2 SCC 1*. The State also cited *Sakiri Vasu v State of UP* and *Aleque Padamsee v Union of India*; the Court itself reproduced *Divine Retreat Centre* and *Shweta Bhadauria*. The quoted Division Bench rule preserved the *Whirlpool* exceptions to the alternative-remedy rule.

3. Statutes considered : Article 226 of the Constitution was invoked for mandamus. CrPC Section 154 concerned the alleged duty to register an FIR, and subsection (3) provided recourse to the Superintendent of Police. Section 156(3) concerned a direction by the Magistrate to investigate. Sections 190 and 200 provided the complaint and cognizance procedure; Section 203 appeared in the quoted passage on dismissal of a complaint by the Magistrate. The Court did not adjudicate a substantive IPC offence.

4. Issues : Whether the High Court should entertain a direct writ for registration of an FIR despite adequate criminal procedure remedies; whether the police duty under Section 154 itself displaced the

alternative-remedy rule; and which remedy remained available to the petitioner.

5. Ratio / Findings : The High Court applied the remedy framework in *Divine Retreat Centre* and *Shweta Bhadauria*. When the police fail to act, the informant may approach the superior police authority or the Magistrate and file a complaint before the competent court. The Magistrate may assess whether a prima facie offence is disclosed and follow the lawful course of inquiry, process, dismissal or investigation. The police's statutory registration duty, as described in *Lalita Kumari*, is distinct from an entitlement to bypass alternative remedies and obtain mandamus. The quoted authorities preserved constitutional intervention for clear mala fide abuse and recognised exceptions to the alternative-remedy rule. The Court dismissed this petition because an efficacious alternative remedy by criminal complaint was available; it did not decide the complaint's merits.

6. Relief : The Hon'ble High Court dismissed the writ petition with express liberty to file a criminal complaint before the competent court.

Bijendra Singh Rajput v. State of Madhya Pradesh and Ors., W.P. no. 18815/2022, 23/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (141) Prev Next

Headnote :- Section 319 CrPC / additional accused — Strong and cogent evidence led in court, exceeding the suspicion sufficient to frame a charge but falling short of the satisfaction required for conviction, justified summoning Birbal despite his omission by the police. The complainant's examination-in-chief was sufficient; the Court need not await cross-examination. *Hardeep Singh v State of Punjab, (2014) 3 SCC 92*, as applied in *Sagar v State of UP (2022)*, and *Sartaj Singh v State of Haryana, (2021) 5 SCC 337*, governed the decision. **Parallel police enquiry / alibi** — The DySP's independent alibi enquiry under Section 36, conducted alongside the continuing FIR investigation, had no legal status. *Deepak @ Preetam Verma* was affirmed by the Supreme Court in *Surendra Singh Gaur* by order dated 18 January 2022. The claimed hospital alibi required proper proof at trial and could not prevent action under Section 319 on this record. *Rakesh*, *Jitender Kumar*, *Sk. Sattar* and *Mukesh* addressed the principles concerning alibi and the prosecution's burden. **Process / result** — The trial order recorded that the applicant was absent and no application had been filed. In those circumstances, the arrest warrant was upheld. The revision was dismissed, the interim stay vacated and expedited trial requested.

Case-note :- ***1. Facts :*** Following a quarrel concerning a motor, Ram Lakhan's FIR of 1 November 2010 alleged that a group arrived in vehicles and fired at members of his family. It specifically attributed shots from a mouser gun to Birbal alias Pappu Dhakad, with injuries to Gajendra and Rekha. During investigation, a DySP conducted a separate enquiry and accepted hospital treatment as Birbal's alibi. The police omitted him from the charge sheet. In Sessions Trial 179/2011, the First Additional Sessions Judge, Sabalgarh, allowed the complainant's application under Section 319 on 14 October 2016 and summoned Birbal for IPC Sections 147, 148 and 307 read with 149. Birbal sought revision, relying on the police statements and his alibi. He also challenged the arrest warrant as premature.

2. Precedents — Considered : *Hardeep Singh v State of Punjab, (2014) 3 SCC 92*, supplied the Constitution Bench threshold under Section 319 and the rule permitting reliance on examination-in-chief. *Sagar v State of UP*, Criminal Appeal 397/2022, and *Sartaj Singh v State of Haryana, (2021) 5 SCC 337*, were quoted and applied on omitted accused and evidence led at trial. *Sartaj Singh*'s quotation of *S Mohammed Ispahani* and *Rajesh* explained the distinction between the protest-petition and trial stages. The MP High Court ruling in *Deepak @ Preetam Verma* on parallel enquiries, affirmed by the Supreme Court in *Surendra Singh Gaur*, SLP(Crl) 1345/2019, by order dated 18 January 2022, was applied to the DySP's report. *Rakesh v State of Haryana, (2001) 6 SCC 248*, *Jitender Kumar v State of Haryana, (2012) 6 SCC 204*, *Sk. Sattar v State of Maharashtra, (2010) 8 SCC 430*, and *Mukesh v State (NCT Delhi), (2017) 6 SCC 1*, supplied the principles on examination of witnesses and alibi. The Court also recorded the applicant's reliance on several other Supreme Court decisions.

3. Statutes considered : CrPC Section 319 permits the extraordinary summoning of a person not already accused when evidence against that person appears during an inquiry or trial. Section 36 concerns the powers of superior police officers, but did not authorise a separate parallel investigation. The FIR and statements under Section 161 were assessed

against the evidence led at trial, without a final determination of guilt. CrPC Sections 397/401 governed the revision. IPC Sections 147/148 and 307/149 identified the proposed charges; their ingredients were not finally adjudicated. The arrest warrant was considered in light of the trial order's recorded absence, rather than as an automatic consequence of Section 319.

4. Issues : Whether the complainant's examination-in-chief and the FIR justified action under Section 319 despite omission from the police report, the earlier Section 161 material and the DySP's alibi enquiry; whether the alibi could be finally accepted at that stage; and whether issuance of the particular arrest warrant, instead of summons, called for revisional interference.

5. Ratio / Findings : *Hardeep Singh* requires strong and cogent evidence led at trial, exceeding the probability sufficient to frame a charge but falling short of satisfaction that the evidence, if unrebutted, would lead to conviction. The Court need not await cross-examination, and the person added as an accused retains full trial rights. Here, the specific firearm allegations in the FIR and the complainant's examination-in-chief were sufficient. The DySP's independent enquiry was procedurally unauthorised. The Supreme Court had distinguished a circular consistent with superior-officer powers from an impermissible parallel enquiry. The hospital alibi remained open to proof by cogent evidence at trial. The prosecution's burden to prove its case remained; failure to establish an alibi did not itself prove guilt. The order did not finally determine Birbal's guilt.

6. Relief : The Hon'ble High Court dismissed the revision and affirmed the order of 14 October 2016 summoning the applicant under Section 319 and issuing an arrest warrant. It vacated the interim order of 18 November 2016. The trial court was asked to make every endeavour to conclude the pending trial within one year of receiving a certified copy of the order.

Birbal v. State of M.P. and Ors., Cr.R. no. 1042/2016, 22/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (142) Prev Next

Headnote :- Section 482 CrPC / premature determination of disputed facts — The FIR alleged forcible entry on land, public insult by caste name and threats. The accused's competing mutation entries and denial of the incident required evidence. *Amit Kapoor v Ramesh Chander, (2012) 9 SCC 460*, the *Bhajan Lal* principles, *CBI v Arvind Khanna, (2019) 10 SCC 686*, and *State of MP v Kunwar Singh (2021)* were applied on the limits of quashing allegations taken at face value.

Civil title / alleged criminal acts — Mutation entries serve fiscal purposes and do not confer title or authorise forcible dispossession. The civil decree and competing claim to the land did not extinguish the separately alleged intimidation and caste humiliation.

SC/ST Act / public view — The FIR alleged specific caste words at a public place within public view, with named persons intervening. At the pleading stage, those allegations did not warrant quashing the proceedings under Sections 3(1)(r)(s) and 3(2)(va); guilt remained for trial. The five-day reporting delay, attributed to fear, did not itself justify quashing at that stage. The petition was dismissed with a direction that the threshold observations should not prejudice the trial.

Case-note :- ***1. Facts :*** Bisan Patel and others sought quashing under CrPC Section 482 of Sausar Police Station FIR 223/2019, alleging IPC Sections 294 and 506 and SC/ST (Prevention of Atrocities) Act Sections 3(1)(r)(s) and 3(2)(va). The complainant, who traded in oranges, claimed possession of commercial land in Khasra 61/4 and a civil declaration of title. He alleged that the petitioners came twice on 13 October 2019: first to take forcible possession and later to use specific caste insults at a public place and threaten to bury him alive. Two persons intervened. He reported the incident about five days later, attributing the delay to fear. The petitioners denied that the incident had occurred and relied on mutation in their names and rejection of the complainant's mutation application.

2. Precedents — Considered : *Munshiram v State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v State of Rajasthan, (2014) 15 SCC 221*, and *State of Orissa v Ujjal Kumar Burdhan, (2012) 4 SCC 547*, were cited against interrupting a proper investigation. *XYZ v State of Gujarat, (2019) 10 SCC 337*, and *State of Tamil Nadu v S Martin, (2018) 5 SCC 718*, cautioned against a roving inquiry before investigation was complete. *S Khushboo v Kanniammal, (2010) 5 SCC 600*, and *Amit Kapoor v Ramesh Chander, (2012) 9 SCC 460*, addressed face-value ingredients, abuse of process and the overlap between civil and criminal wrongs. *Amit Kapoor* synthesised guidelines from an

extensive list of cited decisions. *Padal Venkata Rama Reddy v Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, reproduced the *Bhajan Lal* and *Indian Oil* principles, distinguishing a purely civil wrong from facts also disclosing an offence. *Mohd Akram Siddiqui* described a limited exception permitting consideration of a public document or a document whose authenticity the complainant did not dispute; no defence document resolved the disputed incident here. *CBI v Arvind Khanna, (2019) 10 SCC 686*, and *State of MP v Kunwar Singh*, Criminal Appeal 709/2021, reinforced that a Section 482 court cannot try disputed facts or require an encyclopedic FIR. The cited authorities supported that procedural standard.

3. Statutes considered : CrPC Section 482 governed quashing. IPC Sections 294 and 506 concerned the alleged abuse and intimidation. SC/ST Act Sections 3(1)(r)(s) and 3(2)(va) were the alleged caste-based offences. The mutation entries and civil decree formed part of the background. The Court did not finally determine caste intent, presence within public view, possession or the credibility of the threats.

4. Issues : Whether the five-day delay in lodging the FIR and the rival mutation entries required quashing; whether the property dispute made the alleged threats and humiliation by caste name merely civil; whether the pleaded public setting and caste words were sufficiently specific for investigation or trial under the SC/ST Act; and what weight a Section 482 court could give to contested ownership and the defence denial.

5. Ratio / Findings : The mutation order produced by the petitioners themselves referred to the complainant's decree. Mutation entries served fiscal purposes, were not conclusive proof of title and did not authorise forcible dispossession. The alleged incident occurred only four days after mutation. Taken at face value, the FIR described an attempt to dispossess the complainant, specific caste insults in public view and threats, with named persons intervening. A title dispute could coexist with those criminal allegations. The FIR attributed the reporting delay to fear and consultation with family members. Applying the limited quashing standard, the Court declined to resolve the disputed documents or assess the likelihood of conviction. It expressly reserved the evidentiary findings for trial and directed that its observations be treated as non-conclusive.

6. Relief : The Hon'ble High Court dismissed the Section 482 petition, leaving the FIR and ensuing proceedings intact. It directed the trial court to decide strictly on the evidence without being influenced by the High Court's observations at the quashing stage. *Bisan Patel and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 54287/2021, 23/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (143) Prev Next

Headnote :- Article 226 / police non-registration — An informant alleging fraud of Rs. 4,12,759 could not obtain routine writ directions for registration of an FIR, immediate arrest and repayment while effective CrPC remedies remained available. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, was applied on the complaint remedy under Sections 190/200 and the exceptional constitutional power to address clear mala fide abuse. *Shweta Bhadauria v State of MP* applied the remedies under Sections 154(3), 156(3), 190 and 200 and distinguished *Lalita Kumari v Government of UP, (2014) 2 SCC 1*, as addressing the police's duty rather than an automatic entitlement to a writ. The petition was dismissed with liberty to file a criminal complaint. The merits of the alleged fraud and the claim for repayment were not decided.

Case-note :- ***1. Facts :*** Bitthal Ahirwar filed Writ Petition 14677/2022 under Article 226, alleging that persons named in several representations had taken Rs. 4,12,759 from him. He sought police consideration of the representations, immediate registration of an FIR and arrests in terms of *Lalita Kumari*, repayment of the money and costs. The State relied on authorities concerning alternative remedies. The Court considered the proper remedy for his grievance.

2. Precedents — Considered : *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, was quoted and applied: the ordinary remedy for police failure to act on information is a complaint before the competent Magistrate under CrPC Sections 190/200. Constitutional directions under Article 226 for clearly established mala fide abuse remain exceptional. Its quotation from *Gangadhar Janardan Mhatre* explained the Magistrate's options of inquiry, process and dismissal. The *MP Division Bench* decision in *Shweta Bhadauria v State of MP*, Writ Appeal 247/2016, was quoted and applied on the alternative remedies under Sections 154(3), 156(3), 190 and 200. It distinguished *Lalita Kumari v Government of UP, (2014) 2 SCC 1*, on entitlement

to writ mandamus. *Sakiri Vasu* and *Aleque Padamsee* were cited by the State. The Court recognised the *Whirlpool* exception in the quoted rule.

3. Statutes considered : Article 226 was invoked for writ relief. CrPC Section 154 concerns registration of an FIR, and subsection (3) provides recourse to the superior police authority. Section 156(3) empowers the Magistrate to direct investigation. Sections 190 and 200 provide the complaint and cognizance route. The Court did not decide the ingredients of an IPC fraud offence, the exercise of arrest powers on these facts or civil restitution.

4. Issues : Whether alleged police inaction on the fraud representations justified direct writ orders for registration of an FIR, arrest and repayment despite the available criminal complaint remedies; and whether reliance on *Lalita Kumari* displaced the ordinary alternative-remedy rule.

5. Ratio / Findings : The quoted authorities provide a remedy before the Magistrate when the police fail to register or act on information. The statutory duty to register information disclosing a cognizable offence does not by itself entitle an informant to High Court mandamus before using those remedies. Exceptional constitutional intervention remains possible for a clear mala fide exercise of investigative power. Applying that distinction, the Court refused the writ and expressly left open a criminal complaint before the competent court. It did not decide whether the money had been taken fraudulently or whether any named person should be arrested or ordered to repay it.

6. Relief : The Hon'ble High Court dismissed the writ petition with liberty to file a criminal complaint before the competent court. It granted no direction for registration of an FIR, arrest, refund or costs.

Bitthal Ahirwar v. State of Madhya Pradesh and Ors., W.P. no. 14677/2022, 05/09/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (144) Prev Next

Headnote :- False evidence / Section 340 CrPC — After dismissing a suit based on a patta it found forged and considering the evidence of B.L. Mishra, a former Tehsildar, the civil court wrote to the Collector on 28 December 2012 seeking criminal action under IPC Sections 193, 467 and 468. Mishra sought removal of the strictures and quashing of the letter, contending that a preliminary enquiry under Sections 340/344 CrPC was mandatory. The High Court applied its earlier decision in *Shambhu Singh Chauhan*. The Supreme Court had affirmed its conclusion that a preliminary inquiry under Section 340 is optional, in Criminal Appeal 1239/2024 on 20 February 2024. The quoted authorities, including *K.T.M.S. Mohd.*, *Pankaj Chaudhary*, *Iqbal Singh Marwah*, *Pritish*, *Amarsang Nathaji and State of Goa v Jose Maria Albert Vales*, distinguish prima facie satisfaction and expediency from guilt. A preliminary inquiry may be dispensed with if the existing material enables the court to form that opinion. The extensive discussion of merger, recall and Section 362 concerned the different case quoted. The writ petition was dismissed and the Collector directed to proceed; Mishra's criminal guilt was not decided.

Case-note :- ***1. Facts :*** Girjaprasad's civil suit concerning khasra 1675 was dismissed, remanded on appeal and dismissed again on 22 December 2012. The civil judge found patta Ex.P/1 forged and considered that B.L. Mishra, a former Tehsildar, had given false evidence. Mishra acknowledged that the issuing signature resembled his, but denied that it was his signature. On 28 December 2012, the judge wrote to the Collector, Chhatarpur, seeking criminal action under IPC Sections 193, 467 and 468. In WP 745/2013 under Article 226, Mishra sought quashing of the letter, restraint of further action and removal of the strictures.

2. Precedents — Considered : The Court extensively reproduced *Shambhu Singh Chauhan v State of MP*, an earlier High Court decision concerning referrals for false evidence in a separate kidnapping appeal. The Supreme Court affirmed that ruling on 20 February 2024 in Criminal Appeal 1239/2024 on the point that a preliminary enquiry before action under Section 340 is optional and the court's opinion is not a finding of guilt. The quotation considered *K.T.M.S. Mohd.* and *Pankaj Chaudhary* on prima facie material and expediency in the interests of justice; *Iqbal Singh Marwah* on the effect upon the administration of justice; *Pritish* and *Amarsang Nathaji* on optional inquiry and the proposed accused's lack of a right to participate at that stage; and *State of Goa v Jose Maria Albert Vales* on the nonmandatory inquiry. In the quoted *Shambhu* matter, *Kunhayammed* and *Khoday Distilleries* concerned merger after an SLP; *Mohd. Zakir* and *Sooraj Devi* concerned the review bar under Section 362; and *Vishnu Agarwal* and *Asit Kumar* concerned recall. Those issues arose in the earlier matter's recall

dispute. *Dayal Singh* appeared in the quotation concerning another investigation, rather than Mishra's patta.

3. Statutes considered : Article 226 of the Constitution; CrPC Sections 195(1)(b), 340 and 344; and IPC Sections 193, 467 and 468 were considered. Section 362 CrPC appeared in the quoted discussion of review in the earlier matter.

4. Issues : Whether Sections 340 and 344 CrPC required a preliminary enquiry before the civil court's referral, so that the letter and observations should be set aside. The writ petition did not determine a criminal charge of perjury or forgery. Counsel advanced no other argument after the discussion of precedent.

5. Ratio / Findings : Section 340, read with Section 195(1)(b) CrPC, requires prima facie material suggesting a covered offence and judicial satisfaction that inquiry or prosecution is expedient in the interests of justice. The court may conduct a preliminary inquiry if necessary, but may dispense with it when the existing material enables it to form that opinion. This threshold decision initiates the process; it does not determine guilt. The quoted perjury authorities concern deliberate falsehood on a material matter, rather than every inconsistency.

Mishra's only developed procedural objection was answered by the Supreme Court's binding affirmance of *Shambhu* on the inquiry requirement. The High Court did not try the disputed signatures or make a fresh final finding of guilt under IPC Sections 193/467/468. It found no ground to interfere with the civil court's communication.

6. Relief : The Hon'ble High Court dismissed the writ petition. It directed the Collector, Chhatarpur, to proceed on the civil judge's letter of 28 December 2012. The High Court office was to send a copy of the order immediately.

B.L. Mishra v. State of Madhya Pradesh and Ors., W.P. no. 745/2013, 28/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (145) Prev Next

Headnote :- Injured and related witnesses — Kinship and the absence of independent bystanders did not require rejection of the testimony. Applying *Himmat Sukhadeo Wahurwagh v State of Maharashtra, (2009) 6 SCC 712*, and *State of UP v Iftikhar Khan, (1973) 1 SCC 512*, the Court carefully examined Ashish's MLC, his consistent account, the absence of proved enmity with Arun and the relatives' opportunity to witness the continuing assault.

Medical-ocular conflict — Fatal sharp-edged wounds were proved. The doctor's later categorical opinion that a sword could not have caused them rested on wound shapes not recorded in his report, and he had not examined the weapon. On these facts, the Court preferred the supported eyewitness account.

Forensic link — Human blood on the sword recovered from Arun corroborated the witnesses although its group was not determined. The seizure evidence withstood cross-examination. This was corroboration, rather than conclusive identification of the blood as the victim's. The surviving appellant Arun's convictions and sentences under Sections 302/34 and 324/34 were affirmed.

Case-note :- ***1. Facts :*** Three appellants challenged their convictions in Sessions Trial 411/2012 for murdering Banti alias Naveen Datt Sharma and injuring Ashish Gupta. Dilip Singh and Bobby alias Manoj died while Criminal Appeal 1054/2013 was pending, leaving the appeal to proceed only against Arun Sharma. The prosecution alleged a daylight attack by Arun and his companions with swords and a stick. Ashish, an injured neighbour, and three relatives were examined as eyewitnesses. The defence challenged their familial interest and the absence of independent witnesses, the roughly four-day delay in recording some relatives' police statements and discrepancies in their accounts. It also relied on the doctor's view that a sword was unlikely to have caused the injuries, delayed dispatch to the FSL and the failure to identify the blood groups.

2. Precedents — Considered : *Himmat Sukhadeo Wahurwagh and Ors v State of Maharashtra, (2009) 6 SCC 712*, was applied on assessment of interested witnesses. *State of UP v Iftikhar Khan, (1973) 1 SCC 512*, required careful and prudent scrutiny without rejecting partisan testimony merely because it was so described. The High Court assessed the medical testimony, seizure evidence and forensic report on the record before it.

3. Statutes considered : CrPC Section 374 governed the appeal against conviction; the defence also raised compliance with Section 157 CrPC. IPC Sections 302/34 and 324/34 were affirmed for murder with common intention and hurt with a dangerous weapon. The original trial included charges under

Section 307, but the convictions actually affirmed were under Sections 302/34 and 324/34.

4. Issues : Whether the related and injured witnesses were credible despite delayed statements, minor contradictions and the absence of independent onlookers; whether the doctor's later assertion that a sword could not have caused the wounds displaced the eyewitness account; whether human blood of an undetermined group on the recovered weapon provided corroboration; and whether Arun's convictions and minimum life sentence should stand.

5. Ratio / Findings : Ashish's MLC proved his injury, and his evidence at trial materially agreed with the FIR. No significant contradiction or personal enmity with Arun was proved. The complaints about illicit activities concerned two other appellants, not Arun. The three relatives lived nearby and reached the scene while the assault continued. Whether they had been in the adjoining room or on the chabutra when they heard the cries did not affect their account of the assault. The post-mortem recorded nine wounds, including two fatal sharp-edged injuries. The report did not describe the wound shapes, and the doctor had not examined the weapon. His assertion in cross-examination almost a year later therefore lacked a sound basis for excluding a sword. Both the seizure witness and investigating witness proved recovery of the sword. Human blood on it corroborated the direct evidence, but did not establish a matching blood group or replace the eyewitness account. The Court affirmed guilt and the sentences. Its assessment rested on the proved seizure and corroboration.

6. Relief : The appeal survived only against Arun after the deaths of the other two appellants. The Hon'ble High Court dismissed his appeal and affirmed life imprisonment with a fine of Rs. 1,000 under Section 302/34 and one year's rigorous imprisonment with a fine of Rs. 100 under Section 324/34. A copy of the judgment was to be supplied to him through the jail, and a copy with the record returned to the trial court.

Boby and Ors. v. State of M.P., Cr.A. no. 1054/2013, 15/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (146) Prev Next

Headnote :- Regular bail / police confession — B.P. was alleged to be the occupant who escaped when police intercepted a car carrying liquor. The arrested co-accused named him, but there was no other substantive identification and no test identification parade. The State could not explain how the co-accused's police confession was admissible under Sections 25–26 of the Evidence Act. With the charge-sheet filed and no criminal history, the Court granted the first application for bail under Section 439 CrPC in Crime 45/2022 under Section 34(2) of the MP Excise Act, without commenting on the trial merits. Release required a personal bond of Rs 1 lakh and one surety for the same amount, with attendance before the Court as required. Bail would become ineffective if he jumped bail. *Aparna Bhat* was cited only for intimation to the complainant, not for a ruling on confession or this offence. The order was to be communicated to the Superintendent of Police, Morena, and the DGP because the Court criticised reliance on co-accused statements without collecting substantive evidence.

Case-note :- ***1. Facts :*** In Crime 45/2022 at Police Station Saraichola, Morena, officers intercepted a car after receiving information from an informer. One person allegedly escaped, while another was caught with liquor. The arrested co-accused named B.P. as the person who had fled. No test identification parade was held. Counsel explained that the application had mistakenly given the arrest date as 22 February; B.P. had actually been arrested on 25 March 2022. The police filed a charge-sheet under Section 34(2) of the MP Excise Act.

2. Precedents — Considered : *Aparna Bhat v State of MP*, Criminal Appeal 329/2021, decided on 18 March 2021, was cited only for the direction to notify the complainant of the grant of bail.

3. Statutes considered : The co-accused's police confession could not be relied on as substantive evidence in this case in view of Sections 25 and 26 of the Evidence Act. State counsel could identify no basis for admitting it.

Section 439 CrPC governed the application for regular bail; Section 34(2) of the Madhya Pradesh Excise Act was the provision under which the charge-sheet was filed.

4. Issues : Whether the first application for regular bail under Section 439 CrPC should be allowed when the only alleged link identifying the applicant was a co-accused's police statement, he had no criminal history and investigation was complete with the charge-sheet filed. The question concerned custody pending trial; it did not call for a verdict on guilt.

5. Ratio / Findings : No test identification parade had been conducted, and there was no other substantive evidence identifying the applicant as the person who fled. The Court criticised the practice of filing charge-sheets against co-accused persons solely on such confessional statements without collecting substantive evidence.

The filed charge-sheet, absence of criminal history, lack of a test identification parade and absence of substantive admissible evidence against the applicant together justified bail. The Court expressed no opinion on his ultimate guilt.

6. Relief : The Hon'ble High Court allowed the first application for regular bail under Section 439 CrPC. The applicant was to be released on a personal bond of Rs. 1,00,000 with one surety for the same amount, to the satisfaction of the Trial Court/Committal Court, and was required to appear on the dates fixed by the concerned Court. The order would remain effective until the end of trial, but would become ineffective if he jumped bail. Intimation of the grant of bail was to be sent to the complainant. State counsel Shri Pramod Pachori was directed to supply the order to the Superintendent of Police, Morena, who was to communicate it to the DGP, State of M.P., to apprise him of the police's lack of knowledge of the law. A certified copy was to be issued as per rules. *B.P. v. State of M.P., M.Cr.C. no. 18487/2022, 18/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (147) Prev Next

Headnote :- Pending investigation / monitoring — According to the petitioner, no final report had been filed in FIR 65/2020 even after five years. Section 173(1) CrPC required investigation to be completed without unnecessary delay. The investigating officer was therefore directed to complete it and file either a closure report or a charge-sheet. Applying *Manohar Lal Sharma v Principal Secretary, (2014) 2 SCC 532*, the Court distinguished permissible monitoring of progress from supervision that directs the content of an investigation. It expressed no opinion on guilt and did not prescribe which final report should be filed.

Separate EOW grievance / magistrate — *Aleque Padamsee*, *Divine Retreat Centre*, *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* supported recourse to the Magistrate under Section 156(3) CrPC or Section 175(3) BNSS for police inaction. Section 210 CrPC or Section 233 BNSS could be considered if a parallel complaint was filed. The Court declined to act on oral personal accusations unsupported by specific sworn pleadings. It issued no direction to the ED or CBI, which had neither been approached nor impleaded. Allotment cancellation was left to the statutory remedy under Section 64 of the cooperative legislation. The petition was disposed of.

Case-note :- ***1. Facts :*** Brajesh Chandra Mishra appeared in person in Writ Petition 10000/2025 under Article 226 concerning the Yashoda cooperative, builders and municipal allotments. He sought compliance with a municipal order, removal of alleged encroachments and development of the layout, a status report on FIR 65/2020 at Police Station University, Gwalior, investigation by the ED or CBI into alleged financial wrongdoing, and cancellation of allotments. During argument, he alleged that respondent 13, Dr Atibal Singh Yadav, had removed municipal files. He also complained that no final report had been filed in the FIR under Section 292(c) of the MP Municipal Corporation Act and Section 120B IPC, although five years had passed since its registration on 14 February 2020. He referred separately to a complaint to the EOW.

2. Precedents — Considered : *Manohar Lal Sharma v Principal Secretary, (2014) 2 SCC 532*, was applied to distinguish monitoring in rare cases to secure prompt and fair progress from supervision that directs investigative opinion and may prejudice the trial. *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, and *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, explained the private-complaint remedy and the limits on writ directions for registration of an FIR. *Sakiri Vasu v State of UP, (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, addressed recourse to the Magistrate under Section 156(3) and limited monitoring. In *Shweta Bhadauria*, the MP Division Bench distinguished *Lalita Kumari*'s rule on the duty to register an FIR from entitlement to bypass statutory remedies, subject to the *Whirlpool* exceptions quoted there. The reproduced passages also referred to *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh*, *Minu Kumari* and *Lallan Chaudhary.*

3. Statutes considered : Article 226 provided writ jurisdiction. Section 173(1) CrPC required investigation to be completed without unnecessary delay; the final report could be a closure report or a charge-sheet. Section 156(3) CrPC or Section 175(3)

BNSS provided the suggested Magistrate remedy for the separate EOW grievance. Section 210 CrPC or Section 233 BNSS could be considered if a complaint and police investigation overlapped. Sections 190/200 and 154 were referred to in the cited precedents. Section 64 of the MP Cooperative Societies Act provided a remedy concerning allotments which the petitioner had not pursued; the allotment dispute was not decided. Section 292(c) of the MP Municipal Corporation Act and Section 120B IPC identified the offences in the existing FIR, rather than findings on their merits.

4. Issues : Whether the High Court could direct completion of an investigation said to have remained unresolved for five years without supervising its findings; whether alleged EOW inaction justified a direct FIR direction or investigation by a central agency; whether serious oral accusations without specific sworn pleadings could support personal findings; and whether cancellation of cooperative allotments should be sought from the statutory authority.

5. Ratio / Findings : The delay in FIR 65/2020 attracted the duty under Section 173(1) to complete investigation without unnecessary delay. The Court directed completion and filing of either lawful form of final report, without examining the merits or choosing the outcome, consistently with the distinction between monitoring and supervision in *Manohar Lal Sharma*. The separate EOW grievance could be taken to the Magistrate. No direction was issued to the ED or CBI because the petitioner had neither approached them nor impleaded them. His oral attribution of the removal or washing away of files to respondent 13 lacked specific sworn pleadings and could not support action. He declined the offered liberty to file a fresh petition with specific allegations. He had also not pursued the Section 64 cooperative remedy for cancellation of allotments. These rulings rested on the procedural position and the record before the Court; they did not determine whether the personal allegations were true.

6. Relief : The Hon'ble High Court disposed of the petition and directed the investigating officer in Crime 65/2020 to complete the investigation without further delay and file either a closure report or a charge-sheet. The petitioner was given liberty to approach the Magistrate on the EOW grievance under Section 156(3) CrPC or Section 175(3) BNSS. If such a complaint was filed, the Magistrate would be free to take notice of Section 210 CrPC or Section 233 BNSS. No investigation by the ED or CBI, personal finding against respondent 13, or cancellation of allotments was ordered.

Brajesh Chandra Mishra v. State of Madhya Pradesh and Ors., W.P. no. 10000/2025, 01/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (148) Prev Next

Headnote :- Cruelty / quashing — The husband, mother-in-law, younger brother-in-law and unmarried sister-in-law sought quashing of Crime 794/2022 at Gotegaon, the charge-sheet and RCT 1324/2022 under Sections 498A, 323, 506/34 IPC and Sections 3/4 of the Dowry Prohibition Act. Although cohabitation was brief, the FIR and statements under Section 161 alleged a demand for Rs 2 lakh, mental and physical cruelty for dowry, expulsion from the matrimonial home, and the husband's act of pressing the wife's neck and threatening her. His earlier complaint and the conciliation statement did not conclusively disprove these allegations; the conciliation statement recorded improper treatment. Applying *Taramani Parakh, (2015) 11 SCC 260*, the Court distinguished specific accusations against close relatives from merely naming distant relations. *Neeharika Infrastructure, (2021) 19 SCC 401*, and the other cited Supreme Court decisions precluded a trial of credibility under Section 482. *Mohd. Akram Siddiqui* permitted consideration, in an appropriate case, of a public document or one whose veracity the complainant did not dispute. That exception did not resolve the disputed account here. The application was dismissed, leaving truth and guilt to trial.

Case-note :- ***1. Facts :*** Brajesh Jhariya (Mehra), the husband, and three close relatives applied under Section 482 CrPC to quash Crime 794/2022 at Gotegaon, Narsinghpur, the final report and RCT 1324/2022. The judgment recorded the marriage date as 26 May 2022. The wife alleged harassment for dowry on her second visit, a demand for Rs 2 lakh, and the husband's scolding, pressing her neck and threatening her on 10 June, followed by her return to her parental home. The FIR was registered on 8 November 2022 under Sections 498A, 323, 506/34 IPC and Sections 3/4 of the Dowry Prohibition Act. The applicants relied on her total stay of six days, the husband's earlier complaint and the conciliation proceedings.

2. Precedents — Considered : *XYZ v State of Gujarat*, *S. Martin*, *Ajay Kumar Das* (reproducing *Bhajan Lal*), *Gourishetty Mahesh*, *M. Srikanth*, *CBI v Arvind Khanna*, *Kunwar Singh* and *Neeharika Infrastructure* were quoted on assessing allegations at face value and the limits on weighing defence evidence. *Mohd. Akram Siddiqui* recognised a narrow exception for a public document or a defence document whose veracity the complainant did not dispute. *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* were cited as laying down similar law, without separate factual adjudication in this order. *Taramani Parakh* reproduced *Kailash Chandra Agrawal* and *Kans Raj* on the need for caution before proceeding against distant relatives without specific material. It also held that the matrimonial-cruelty allegations against the close family in that case raised matters for trial and could not be quashed at that stage.

3. Statutes considered : Section 498A IPC covers wilful conduct likely to drive a woman to suicide or to cause grave injury or danger to her life, limb or mental or physical health. It also covers harassment intended to coerce her or a person related to her to meet an unlawful demand for property or valuable security, or harassment on account of failure by her or that person to meet such a demand.

Sections 323, 506 and 34 IPC; Sections 3 and 4 of the Dowry Prohibition Act; and Sections 482 and 161 CrPC were also considered.

4. Issues : Whether the FIR and collected statements disclosed triable allegations of cruelty and dowry offences against the husband, mother-in-law, younger brother-in-law and unmarried sister-in-law, or whether the alleged counterblast, brief cohabitation and claimed omissions justified quashing. The Court described the alleged incidents as having occurred within a short span of four months.

5. Ratio / Findings : The FIR specifically alleged that the husband pressed the wife's neck and threatened to kill her, and that the other close relatives subjected her to mental and physical harassment for dowry. The statements under Section 161 repeated these allegations. Her statement at the Police Paramarsh Kendra described improper treatment. The husband's complaint showed that relations were strained; it did not establish that her allegations were false. In proceedings under Section 482, the Court could neither accept the disputed defence account nor insist that the FIR contain every factual detail.

Specific allegations against close relatives which, taken at face value, disclose cruelty or dowry offences cannot be rejected by accepting a disputed defence account about the length of cohabitation, a counter-complaint or conciliation. Quashing remains available to prevent abuse of process where the necessary ingredients are absent, but that ground was not made out here. The Court applied the distinction between close and distant relatives to the specific roles alleged.

6. Relief : The Hon'ble High Court dismissed the application. The FIR, final report and pending RCT were not quashed and remained in place. No finding of guilt was made.

Brajesh Jhariya (Mehra) and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 24583/2023, 05/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (149) Prev Next

Headnote :- POCSO / Section 482 — A minor alleged that a neighbour repeatedly harassed her and, after she refused his proposal, hugged her, pressed her breast and threatened her and her brother. Crime 121/2021 was registered under Sections 354, 354A and 506 IPC and Sections 7/8 of the POCSO Act. The applicant claimed that the report was retaliation for his complaint about her proposed child marriage. He also relied on phone location and CCTV to support his claim that he was working at a factory in Gujarat. The Court declined to determine these disputed defence facts at the quashing stage. The State cited *Lalita Kumari*, *(2014) 2 SCC 1*, on registration of cognizable allegations. Applying *State of MP v Kunwar Singh*, Criminal Appeal 709/2021, the Court declined detailed scrutiny of the merits and left proof of the alibi to trial. The complaint, taken at face value, disclosed offences, and the application was dismissed. The Court made no finding on the truth of the assault allegation or the alibi.

Case-note :- ***1. Facts :*** The child complainant alleged that her neighbour Brajesh Singh had continuously harassed her, affecting her schooling. On 29 July 2021, while she was picking lemons in a field, he proposed marriage. She alleged that, when she refused, he hugged her and pressed her breast. He allegedly said that he alone would marry her and

threatened that she would otherwise be killed. He also threatened to kill her brother if she disclosed the incident. Fear and concern for her reputation kept her from telling her mother immediately. After she disclosed it to her mother, an FIR was lodged in Crime 121/2021 at Nagra, Morena, under Sections 354, 354A and 506 IPC and Sections 7/8 of the POCSO Act.

In MCRC 47582/2021 under Section 482 CrPC, the applicant claimed that he had reported a proposed child marriage, that the Child Welfare Officer had intervened and that the girl had retaliated. He relied on an earlier complaint and asserted that, on the date of the alleged incident, he was working at a diamond factory in Gujarat. He offered his mobile location and CCTV footage in support.

2. Precedents — Considered : State counsel cited *Lalita Kumari v Government of UP, (2014) 2 SCC 1*, on registration of an FIR upon information disclosing a cognizable offence. The Court quoted and applied *State of MP v Kunwar Singh*, Criminal Appeal 709/2021, decided on 30 June 2021, on the limits of Section 482: the Court cannot examine evidence in the detail required at trial, and an FIR need not contain every factual detail. The former supported the State's submission on registration; the latter governed the limits of scrutiny. Neither determined whether the applicant was present or absent.

3. Statutes considered : Sections 354, 354A and 506 IPC and Sections 7 and 8 of the POCSO Act were the provisions invoked in the FIR. Section 482 CrPC governed the request to quash it.

4. Issues : Whether the applicant's claims of retaliation and alibi could justify quashing the FIR, which disclosed cognizable offences on its face, without a trial of those disputed facts.

5. Ratio / Findings : The alleged touching, threats and continuing harassment disclosed cognizable offences if taken at face value. The earlier report of a proposed child marriage, the alleged grudge and the alibi raised disputed factual questions. The phone location and video could be proved through cogent and reliable evidence before the trial court; they could not be assessed and decided in proceedings under the inherent power. The order made no final determination of age under the POCSO Act or of credibility.

A disputed alibi and claim of retaliation cannot be treated as established in an application under Section 482 to quash a sexual-assault complaint that discloses cognizable offences on its face. The accused may lead evidence of that defence at trial.

6. Relief : The Hon'ble High Court found no ground to quash the FIR and dismissed the application.

Brajesh Singh v. State of M.P. and Ors., M.Cr.C. no. 47582/2021, 09/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (150) Prev Next

Headnote :- Preliminary enquiry / corruption FIR — The accused applied under Section 528 BNSS to quash Crime 56/2026 under the BNS provisions on cheating and forgery and Section 13(1)(a) of the PC Act, contending that no preliminary enquiry had preceded the FIR. The Division Bench applied *CBI v Thommandru Hannah Vijayalakshmi, (2021) 18 SCC 135*, which considered *P. Sirajuddin*, the Constitution Bench decision in *Lalita Kumari*, *Managipet*, *Yashwant Sinha* and *Charansingh*. A preliminary enquiry may be appropriate in a corruption case, depending on its circumstances, but is not an invariable condition for registering an FIR. Its omission alone does not invalidate an FIR disclosing a cognizable offence. The other submissions raised a disputed claim of good faith under Section 2(11) BNS, for which due care and attention had to be established by evidence. Counsel withdrew the application with liberty to raise the available defences at trial, and it was dismissed as withdrawn. Neither guilt of corruption nor good faith was finally determined.

Case-note :- ***1. Facts :*** In MCRC 18225/2026, Brajesh Yadav applied under Section 528 BNSS to quash Crime 56/2026 at Dinara, Shivpuri, registered under Sections 318(4), 336(3), 338 and 340(2) BNS and Section 13(1)(a) of the Prevention of Corruption Act. Counsel first argued that a mandatory preliminary enquiry had not been held before registration of the FIR. He also advanced submissions on the merits.

2. Precedents — Considered : The Division Bench extensively quoted *CBI v Thommandru Hannah Vijayalakshmi, (2021) 18 SCC 135*. That judgment considered *P. Sirajuddin*'s concern for a public servant's reputation; *Nirmal Singh Kahlon*'s observations on the CBI Manual; the Constitution Bench ruling in *Lalita Kumari* on mandatory registration when cognizable information is received and the circumstances permitting an enquiry in corruption cases; the observations in the concurring

opinion in *Yashwant Sinha*; *Managipet*'s rejection of an accused's claim to a mandatory enquiry; and *Charansingh*'s recognition of an appropriate enquiry before registration. It explained that the CBI Manual contains administrative instructions and cannot override the Code. These authorities were discussed within the quoted *Thommandru* judgment.

3. Statutes considered : Section 528 BNSS governed the quashing application. The BNS provisions considered were Sections 2(11), 318(4), 336(3), 338 and 340(2), together with Section 13(1)(a) of the Prevention of Corruption Act. The quoted CBI Manual was administrative material.

4. Issues : Whether a preliminary enquiry was legally indispensable before registration of an FIR in a corruption case, and whether the applicant's merits and good-faith defence could be determined on disputed material at the quashing stage. The application was later withdrawn. The order addressed the preliminary-enquiry legal point and preserved trial defences without deciding the facts alleged in the FIR.

5. Ratio / Findings : *Lalita Kumari* and *Thommandru* permit a preliminary check where the circumstances require an assessment of whether a cognizable offence is disclosed, including in some corruption cases. They do not require an enquiry in every such case or permit a general assessment of credibility before an FIR is recorded. The absence of an enquiry therefore did not vitiate this FIR. As to the other submissions, good faith under Section 2(11) BNS required due care and attention to be proved on evidence. The Court could not accept the applicant's disputed defence merely on the pleadings.

The Court left all legally available defences open for trial. Its ruling did not bar a preliminary enquiry where the circumstances warranted one.

6. Relief : At counsel's request, the Hon'ble High Court dismissed the application under Section 528 BNSS as withdrawn, with liberty to raise the available defences at trial.

Brajesh Yadav v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 18225/2026, 05/05/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (151) Prev Next

Headnote :- POCSO appeal / child and forensic proof — A boy aged approximately eight said that Brijesh Singh stopped him in a field and committed an anal sexual act. His mother said that she arrived and witnessed it. His brief account at trial was consistent in substance with his fuller statement under Section 161. No external or internal injury was recorded. FSL Ex.P/1, however, detected blood on the child's anal slides, swabs and underwear and on the appellant's undergarments, and human sperm on those child samples and the appellant's slide and undergarments. No cross-examination of the chemical examiner was sought to challenge the report. The Court held that the absence of visible injury did not displace credible eyewitness and forensic evidence, and that the mother's relationship alone did not discredit her. The age evidence was unchallenged, and Section 5(m) POCSO applied to a child below twelve. The convictions under Section 377 IPC and Section 6 POCSO were affirmed; no separate sentence had been imposed under Section 377. The ten years' rigorous imprisonment and Rs 50,000 fine under the Section 6 minimum applicable to the offence were upheld.

Case-note :- ***1. Facts :*** On 25 September 2013, the child, said to be about eight, went to graze cattle with his sister. She returned and told their mother that he had stayed in Brijesh Singh's field. The mother went there and said that she witnessed an anal sexual act. She shouted, and the accused fled. The child received hospital treatment, after which FIR Crime 92/2013 was lodged on 27 September. The police seized clothing and biological slides and swabs. The Bhind Sessions Court convicted the appellant under Section 377 IPC and Section 6 POCSO for aggravated penetrative sexual assault under Section 5(m). It imposed sentence only under Section 6: ten years' rigorous imprisonment and a fine of Rs 50,000, with rigorous imprisonment in default of payment.

2. Statutes considered : Section 377 IPC, Sections 5(m) and 6 of the POCSO Act, and Section 374 CrPC were considered. Section 161 CrPC arose in the discussion of the child's earlier statement.

3. Issues : In the appeal under Section 374 CrPC, the defence questioned the absence of independent witnesses, the mother's relationship to the child, alleged omissions in the child's testimony and the absence of visible injury. The Court also had to consider whether the sentence called for interference.

4. Ratio / Findings : PW1 described being stopped, undressed and sexually assaulted. His earlier statement under Section 161 gave more detail but

was consistent about the central act; the Court found no material omission or contradiction. PW3 Sheela Bai said that she had witnessed the act, and no hostile relationship with the accused was established. The father, PW2, had not witnessed it; his evidence concerned what happened afterwards.

PW6 found no external or internal injury and collected the child's anal slides, swabs and underwear. PW4 medically examined the appellant. FSL Ex.P/1 detected blood on the child's anal slides, swabs and underwear and on the appellant's underwear. Human sperm was detected on the child's anal slides, swabs and underwear, and on the appellant's slide and underwear. The appellant did not seek cross-examination of the chemical examiner to challenge the report. The Court considered the forensic findings together with the eyewitness evidence. The absence of external injury alone did not defeat the prosecution. The mother's testimony was assessed for credibility and was not rejected merely because she was related to the child.

The mother put the child's age at about eight and was not questioned on that point. The proved act against a child below twelve fell within Section 5(m) POCSO. The Court affirmed the convictions under Section 377 IPC and Section 6 POCSO. It treated ten years as the minimum under Section 6 applicable to this offence and declined to reduce the sentence. No separate punishment was imposed under Section 377.

5. Relief : The Hon'ble High Court dismissed the appeal and affirmed the judgment and sentence dated 10 February 2015 in ST 289/2013. The appellant was to serve the remaining prison term.

Brijesh Singh v. State of M.P., Cr.A. no. 276/2015, 21/09/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (152) Prev Next

Headnote :- Successive bail / delay — The eighth application for bail under Section 439 CrPC in a prosecution for murder, attempt to murder and unlawful assembly relied on custody since 29 May 2018. The seventh application had been withdrawn. The hearing order sheets disclosed several causes of delay: failures concerning summons, unavailable Malkhana articles, COVID restrictions, absent witnesses, defence requests to defer or avoid cross-examination, and Special Public Prosecutor Hemlata Arya's refusal to examine a witness who was present. As defence counsel had materially contributed to the delay, the Court refused bail without deciding the merits of the charges. In view of the prosecutor's conduct on 3 March 2022, it directed that this case be withdrawn from her immediately. The Principal Secretary, Law, and the District Magistrate, Bhind, were to review her continuation, give her a full hearing before action and report by 18 May 2022.

Case-note :- ***1. Facts :*** Brijmohan Sharma was arrested on 29 May 2018 in Crime 49/2018, Bhind, under Sections 307, 302, 147, 148, 149 and 323 IPC. Charges were framed on 2 November 2018. His eighth application for regular bail under Section 439 CrPC followed the dismissal of his seventh application as withdrawn on 24 February 2022. He relied principally on delay and claimed that he was not responsible for it.

The order sheets recorded unreturned summons, the failure to examine a witness who was present, unavailable Malkhana articles, absent witnesses and the COVID lockdown. The defence also sought to defer cross-examination until witnesses on the same issue had been examined. Counsel declined cross-examination on 20 December 2019 because he was busy in another case, declined to complete it at closing time in January 2020, and relied on illness and travel in February 2022. On 3 March, another court engagement and the end of working hours were cited. On 3 March, Anil Sharma and Subedar Khan were both present. Despite repeated requests from the trial court, SPP Hemlata Arya refused to have Subedar's examination-in-chief recorded until Anil's deferred cross-examination had taken place.

2. Statutes considered : Section 439 CrPC governed the bail application. The prosecution concerned Sections 307, 302, 147, 148, 149 and 323 IPC.

3. Issues : Whether the length of custody and slow progress of witness evidence justified successive bail in light of the actual responsibility for adjournments. A separate question concerned the Special Public Prosecutor's refusal to examine a witness who was present. The truth of the homicide charge was not determined in this order.

4. Ratio / Findings : The Court examined the hearing record and found that the defence had actively contributed to the delay. The delay relied on therefore did not justify bail. It criticised the SPP's refusal to examine the witness as a failure to cooperate with the trial court in progressing the case. The conclusion rested on the delays recorded in this case.

5. Relief : The Hon'ble High Court dismissed the eighth application for regular bail. It directed that the present case be withdrawn from the SPP immediately. The Principal Secretary, Law and Legislative Department, and the District Magistrate, Bhind, were to examine her conduct and review whether her continued appointment served the interest of justice. She was to receive a full opportunity of hearing before action was taken. A report was to be filed before the Principal Registrar within one month, latest by 18 May 2022. Two copies of the order were to be given to State counsel for communication to both authorities.

Brijmohan Sharma v. State of M.P., M.Cr.C. no. 18225/2022, 19/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (153) Prev Next

Headnote :- Cheque dishonour / cheating / double jeopardy — The prosecution alleged that the sellers received Rs 16.4 lakh for land, failed to execute a sale deed and issued two dishonoured cheques to repay the money. Counsel stated that, after conviction under Section 138 of the NI Act, the parties compromised before the High Court Lok Adalat and the money was repaid. In the application to quash the separate FIR and charge-sheet under Section 420 IPC, the Court applied *Sangeetaben Mahendrabhai Patel v State of Gujarat, (2012) 7 SCC 621*. For the same-offence bar under Article 20(2), Section 300 CrPC, Section 26 of the General Clauses Act and Section 71 IPC, identity of offence ingredients is material; factual overlap alone is insufficient. Section 138 and Section 420 differ in their requirements of intent and procedure, so the cheating prosecution was not barred merely by the earlier cheque case. Counsel then withdrew the application under Section 482 with liberty to seek compounding before the trial court under Section 320(2) CrPC. The High Court neither found the accused guilty of cheating nor compounded the offence.

Case-note :- ***1. Facts :*** According to the prosecution account summarised by counsel, Brijnandan Deewan and the other applicants agreed to sell land after receiving Rs 16.4 lakh. They did not execute the sale deed and issued two cheques to return the money; both were dishonoured. They were prosecuted and convicted under Section 138 of the Negotiable Instruments Act. Counsel said that a subsequent compromise before the High Court Lok Adalat resulted in repayment. The separate case under Section 420 IPC in Crime 551/2014 at Gwalior Kila Gate led to this application under Section 482 CrPC.

2. Precedents — Considered : The Court quoted and applied *Sangeetaben Mahendrabhai Patel v State of Gujarat, (2012) 7 SCC 621*.

Identity of the ingredients, rather than overlap in the factual allegations, governs the same-offence bar. Section 138 NI Act carries a statutory presumption that the cheque was issued to discharge an antecedent liability and does not require proof of fraudulent intent at the time of its issue. Cheating under the IPC has different ingredients and procedural requirements. The prohibition against punishing a person twice for an identical offence remains.

3. Statutes considered : The quoted judgment discussed Article 20(2) of the Constitution, Section 300 CrPC, Section 26 of the General Clauses Act and Section 71 IPC.

The proceedings concerned Section 138 of the Negotiable Instruments Act and Section 420 IPC; Sections 482 and 320(2) CrPC governed the quashing application and the compounding remedy respectively.

4. Issues : Whether the conviction and compromise under Section 138 and the common transaction barred prosecution under Section 420 as double jeopardy, and whether repayment justified immediate quashing on compromise. The Court did not decide whether the alleged land transaction established the ingredients of cheating.

5. Ratio / Findings : The prior cheque conviction and repayment did not, by themselves, bring the separate Section 420 case to an end. The High Court did not determine the alleged dishonest inducement in the land transaction. After the explanation of double jeopardy, counsel chose to seek statutory compounding before the trial court under Section 320(2) CrPC.

The order did not quash the FIR or charge-sheet, compound the offence, convict the accused of cheating or require the trial court to allow a later application. The Lok Adalat settlement could support a request for compounding, which remained for that court to consider under the statute.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 as withdrawn, with liberty to apply to the trial court under Section 320(2) CrPC.

Brijnandan Deewan and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 42642/2019, 27/01/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (154) Prev Next

Headnote :- FIR-registration writ / alternative remedy — Buddhu Lal Patel, appearing in person, sought directions under Article 226 requiring Barela police to register a case under Section 108 BNS, seize his mobile recordings, obtain the postmortem report, record statements and act against officers responsible for delay. The Court dismissed the request for mandamus, with liberty to file a complaint before the Magistrate under Section 200 CrPC or Section 223 BNSS. *Aleque Padamsee, (2007) 6 SCC 171*, recognised the police duty to register cognizable information but directed an aggrieved complainant to Sections 190/200. *Divine Retreat Centre, (2008) 3 SCC 542*, reserved exceptional Article 226 intervention for a clear case of mala fide exercise of investigative power, abuse of power and non-compliance with criminal procedure. *Sakiri Vasu, (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe, (2016) 6 SCC 277*, explained the remedies before the SP and Magistrate. *Shweta Bhadauria* distinguished *Lalita Kumari*'s rule on registration from a direct entitlement to a writ, subject to recognised exceptions to the alternative-remedy rule. The Court made no finding on the merits under Section 108 BNS or on police misconduct, and ordered no seizure of evidence.

Case-note :- ***1. Facts :*** In WP 20779/2024, Buddhu Lal Patel alleged that Barela police had not registered a case under Section 108 BNS on his complaint. He sought seizure of the mobile-phone recordings in his possession, action over delay in obtaining the postmortem report and recording statements, and other relief. He appeared in person.

2. Precedents — Considered : *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, distinguished mandatory registration on cognizable information from the complainant's remedy under Sections 190/200 CrPC when the police do not act. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, preserved rare intervention under Article 226 for a clear mala fide exercise of investigative power, while ordinarily directing the informant to the Magistrate. Its references to *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union* supported that proposition. *Sakiri Vasu v State of UP, (2008) 2 SCC 409*, identified recourse to the SP under Section 154(3) and to the Magistrate under Section 156(3). *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterated the Magistrate's powers to direct and monitor investigation. The MP Division Bench in *Shweta Bhadauria* referred to the *Whirlpool* exceptions to the alternative-remedy rule and distinguished *Lalita Kumari*'s proposition on the police duty to register. *Ramesh Kumari* and the other decisions reproduced within *Aleque* were authorities in that quotation, rather than factual findings about Patel's complaint.

3. Statutes considered : The State relied on the complaint procedure under Section 200 CrPC, identified in the order as Section 223 BNSS.

Article 226 of the Constitution and Section 108 BNS were referred to. The cited authorities also discussed Sections 154(3), 156(3) and 190 CrPC.

4. Issues : Whether the High Court should direct registration of an FIR and specific investigative steps under Article 226 when ordinary statutory remedies for police inaction were available. The Court did not determine guilt or decide whether the alleged conduct met the requirements of Section 108 BNS.

5. Ratio / Findings : The petitioner had an efficacious complaint remedy before the Magistrate, so the Court declined to order registration of an FIR through an ordinary writ petition. It did not direct seizure of the phone, collection of the postmortem report or punishment of officers, and did not find the complaint false.

The police duty to register information disclosing a cognizable offence is distinct from the procedure available to a complainant alleging non-registration. The complainant may pursue the police-superior and Magistrate remedies. Exceptional intervention under Article 226 still requires an established ground recognised for departing from the ordinary remedy.

6. Relief : The Hon'ble High Court dismissed the writ petition with express liberty to approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS.

Buddhu Lal Patel v. The State of Madhya Pradesh and Ors., W.P. no. 20779/2024, 24/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (156) Prev Next

Headnote :- Anticipatory bail / notarized marriage affidavit — In a case under Section

376(2)(n) IPC, the State relied on the notary register showing marriage and divorce affidavits executed about five weeks apart. The applicant claimed that the prosecutrix had borrowed Rs 50,000 and falsely accused him to avoid repayment. The Court held that notarization under Section 8 Notaries Act neither solemnizes a Hindu marriage nor dissolves it: a notary is not a Marriage Officer. For the bail decision, it treated the affidavits as a fraudulent assurance of marriage affecting the adult prosecutrix's consent, invoked IPC Section 375 Fourthly and refused bail under Section 438 CrPC. The Fourthly clause quoted in the order concerns consent given when the man knows he is not her husband and she believes he is another man to whom she is or believes herself lawfully married. The Principal Secretary/competent authority was directed to initiate proceedings against the notary under Section 10 Notaries Act. Documents were to be supplied within 15 days, a final order passed within four months after following the prescribed procedure, and a report made within five months, each period running from the order date. The order did not finally determine criminal guilt or disciplinary liability.

Case-note :- ***1. Facts :*** Bundel Singh Lodhi filed his first application for anticipatory bail under Section 438 CrPC in Crime 65/2021, registered at Tyonda, Vidisha, under IPC Section 376(2)(n). He claimed that the adult prosecutrix had received Rs 50,000 and falsely accused him of rape to avoid repayment; he also relied on her affidavit acknowledging receipt of the money. Reading her statement, the State opposed bail and submitted that notary M.K. Choudhary's register and the seized documents recorded a marriage affidavit dated 8 May 2018 and a divorce affidavit dated 15 June 2018.

2. Statutes considered : The Court explained that a Hindu marriage must be solemnized through the applicable rites, including saptapadi, or custom, or under an authorized statutory marriage process; executing an affidavit does not solemnize it. Divorce requires a decree of a competent court or a recognized custom. Section 8 Notaries Act authorizes functions such as attesting instruments and taking affidavits, but does not appoint a notary as a Marriage Officer or authorize solemnization or dissolution of marriage.

CrPC Section 438; IPC Sections 376(2)(n) and 375 Fourthly; Section 10 of the Notaries Act.

3. Issues : Whether the purported notarial marriage and divorce documents justified anticipatory bail in the rape investigation, whether they had any legal effect on marital status, and what action should follow against the notary. These questions arose at the bail stage, without a full trial of consent, the alleged loan or the sexual-offence charge.

4. Ratio / Findings : In deciding bail, the Court treated the marriage and divorce affidavits executed in quick succession as a fraud that led the prosecutrix to believe she was legally married. It considered her consent affected on that basis and invoked IPC Section 375 Fourthly.

Section 375 Fourthly, as quoted in the order, concerns consent given because the woman believes that the man is another man to whom she is or believes herself lawfully married.

5. Relief : The Hon'ble High Court dismissed the first anticipatory-bail application. It directed the Principal Secretary, Law and Legislative Department/competent authority to initiate proceedings against M.K. Choudhary under Section 10 Notaries Act. The investigating officer was to supply the two affidavits and a copy of the register to that authority within 15 days from the order date. A final administrative order was to be passed within four months, and the Principal Registrar informed within five months, both periods running from the order date. The authority had to follow the procedure prescribed by the Act and Rules before passing its final order. The Court did not itself remove the notary or finally determine his disciplinary liability.

Bundel Singh Lodhi v. State of M.P., M.Cr.C. no. 15168/2021, 30/04/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (157) Prev Next

Headnote :- Separate trial / identity and recovery / acquittal — Sagar Singh was abducted in November 2007 and later found murdered. Bunty was arrested in 2009 and tried separately from the earlier co-accused. Applying *A.T. Mydeen*, the Division Bench considered only the evidence recorded in his own trial. The FIR named five people but said nothing about a stalled jeep. PW1 claimed to know Bunty, yet first alleged in court that he had pushed the jeep. Applying *Baldev Singh* and *Shyamal Ghosh*, the Court treated this significant omission from his Section 161 statement as a material contradiction. The test identification parade

could not replace PW1's missing substantive account. The purse and belt recovery witnesses gave conflicting accounts of who saw the retrieval, the box and the persons present; the articles were also readily available. Their later identification at the police station did not cure the failure to prove possession. Under *Matru* and *Bipin Kumar Mondal*, two years' abscondence was a weak circumstance without independent supporting proof. Although homicidal death was established, Bunty's involvement in the abduction, conspiracy and murder was not proved beyond reasonable doubt. The convictions and sentences under Sections 120B/364/302 were set aside, with immediate release unless he was required in another case. Following *Suryabaksh Singh*, the Court reviewed the record despite counsel's absence.

Case-note :- ***1. Facts :*** Armed men abducted Sagar Singh in a Bolero from a tea shop in Katni on 17 November 2007. His body was found about ten days later on information supplied by a co-accused. The other accused were tried first. Bunty alias Shailendra alias Guddu was arrested on 27 November 2009, a supplementary charge-sheet was filed, and he was tried separately. On 27 January 2014, the Katni Sessions Court convicted him under IPC Sections 120B and 364, imposing ten years' rigorous imprisonment for each, and under Section 302, imposing life imprisonment. Each conviction carried a fine of Rs 1,000, with six months' rigorous imprisonment in default. The sentences were concurrent. He appealed under Section 374(2) CrPC. Counsel did not appear. The Court appointed an amicus curiae twice, but the amicus also failed to appear at the final hearing.

2. Precedents — Considered : The Court applied *A.T. Mydeen v Assistant Commissioner, Customs* to confine its assessment to evidence recorded in Bunty's separate trial, although connected appeals were heard at the same time.

Following *Suryabaksh Singh v State of UP*, the Bench examined the record itself and heard the State. *Baldev Singh v State of Punjab* and *Shyamal Ghosh v State of WB* explained that whether a significant omission amounts to a material contradiction under Section 162 CrPC depends on its context.

The Court quoted *Matru v State of UP* and *Bipin Kumar Mondal v State of WB* on the weak and context-dependent evidentiary value of abscondence. The two-year gap alone did not prove guilt.

3. Statutes considered : IPC Sections 120B, 364 and 302; CrPC Sections 374(2), 161 and 162.

4. Issues : Whether Bunty's presence and role in the abduction were proved; whether the identification parade, alleged purse and belt recovery, and property identification were reliable; what weight his abscondence carried; and whether the admitted homicide could be attributed to him.

5. Ratio / Findings : FIR Ex.P5(c) named five other participants but did not mention Bunty or allege that the Bolero had to be pushed. PW1 Gaurav claimed to know Bunty and alleged in court that he had pushed the jeep, although this account was absent from his Section 161 statement, Ex.D1(c). PW3 could not identify Bunty as one of those who pushed it. The officer who recorded the FIR confirmed the omission, and PW11 turned hostile.

PW1 did not testify that he had identified Bunty in the TIP, although the officer who conducted it said that he had. The Bench held that a TIP was corroborative, not substantive evidence, and could not fill that evidentiary gap. It therefore did not decide the objection to the parade's venue.

The alleged recovery of the purse and belt from Bunty's home under memorandum Ex.P18 and seizure memo Ex.P19 lacked consistent first-hand evidence. PW12 could not say where the articles had been taken from and said that nobody was in the house. PW13 had not seen the box and said that the appellant was alone in the room when he retrieved the articles. PW14 said that the appellant's mother was present and the box was open. Similar purses and belts were readily available, and the alleged visiting card was not seized. The father later identified the articles at Kotwali, but only the belt identification memo was proved. That identification could not cure the failure to prove the initial seizure. PW9's autopsy evidence established a fatal head injury and homicidal death. That finding did not establish Bunty's involvement. There was no reliable eyewitness account linking him to the abduction, no last-seen evidence, no proved possession of incriminating articles and no complete circumstantial chain. Evidence from the earlier trial of the other accused could not be imported into his separate trial. The prosecution had not proved the charged conspiracy, abduction and murder beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the appeal and set aside the convictions and sentences under IPC Sections 120B, 364 and 302. It acquitted

Bunty and ordered his immediate release unless he was required in another case. The record was to be sent to the trial court.

Bunty v. The State of Madhya Pradesh, Cr.A. no. 778/2014, 04/09/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (158) Prev Next

Headnote :- Criminal-side writ — father of accused / exoneration / investigation control - The allegation that his son had been falsely implicated in Crime No. 61/2025 because of political rivalry did not entitle the father to seek the son's exoneration or directions prescribing how the police should investigate. The Court applied *Romila Thapar v. Union of India, (2018) 10 SCC 753*, which explains, by reference to *Narmada Bai* and *Sanjiv Rajendra Bhatt*, that an accused cannot choose the investigating agency or dictate the investigation. Bringing the same claim through a next friend does not ordinarily confer a greater right. *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, reinforced the limited role of a proposed accused during investigation. Its discussion of *W.N. Chadha* explains that prior hearing is not ordinarily required; the accused may challenge the material at trial.

Fair investigation — Article 226 / mala fides / exceptional intervention - *Romila Thapar*, referring to *Divine Retreat Centre*, also recognises that an aggrieved person may obtain appropriate directions under Article 226 if the Court is convinced that investigative power has been exercised mala fide. Under *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, the Constitution Bench requires sparing and cautious transfer to CBI in exceptional situations; bare allegations against the local police do not suffice. The High Court rejected the father's request under the principles limiting accused control and judicial supervision of investigation.

Court-monitored investigation — monitoring contrasted with supervision - The Court applied *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, to distinguish monitoring for fair and timely progress in rare, compelling cases from directing investigative methods or conclusions. Such supervision risks compromising the trial court's independent assessment. The requested supervisory direction was refused, and the writ petition was dismissed without deciding the son's guilt.

Case-note :- ***1. Facts :*** Champalal Dhakad filed Writ Petition No. 12274 of 2025 under Article 226 of the Constitution. His son was implicated in Crime No. 61/2025, registered at Police Station Pohari, District Shivpuri, for an alleged offence under Section 376 IPC and Sections 3/4 of the Dowry Prohibition Act. The petitioner claimed that political rivalry had led to false implication and sought a free and fair police investigation that would exonerate his son. The relief is described in paragraphs 2–3 and 5. The order records appearances by the petitioner's counsel and the State's Government Advocate. The Court considered whether the father could seek exoneration for his son and whether it could direct the manner of police investigation. It did not try the alleged offences or determine the son's guilt.

2. Precedents — Considered : The Court extensively quoted and adopted *Romila Thapar v. Union of India, 2018:INSC:912 : (2018) 10 SCC 753*, on the limits of attempts by an accused to change the investigating agency, obtain court monitoring or pursue the same relief through a next friend. That judgment restates *Narmada Bai v. State of Gujarat on the* accused's lack of choice of agency and *Sanjiv Rajendra Bhatt v. Union of India on* the absence of control over the manner of investigation or prosecution. It refers to *E. Sivakumar v. Union of India for the* rule that an accused is not entitled, as a matter of course, to be heard in a writ seeking impartial investigation. *Divine Retreat Centre v. State of Kerala* distinguishes impermissible midstream substitution of an investigator under inherent powers from appropriate Article 226 directions where mala fide investigation is established. *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, requires exceptional, sparing and cautious resort to CBI transfer for credibility, confidence, complete justice or fundamental rights; a party's bare allegation is insufficient. *Romila Thapar* also cautions against evaluating disputed investigative material at a preliminary stage and identifies later remedies, including bail, discharge and quashing, where legally available. The High Court applied the rule against accused control to the father's request and found no basis for an investigative direction.

The Court then quoted *Dinubhai Boghabhai Solanki v. State of Gujarat, 2014:INSC:139 : (2014) 4 SCC 626*, on the limited procedural role of

a proposed accused. Its discussion of *Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260*, explains that investigation and proceedings before issue of process do not ordinarily require prior hearing of the accused, who cannot choose the investigative method. Its references to *CBI v. Rajesh Gandhi, (1996) 11 SCC 253*, and *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740*, distinguish decisions about the agency and lawful further investigation under Section 173(8) CrPC from a claimed right of veto or hearing. *Narender G. Goel v. State of Maharashtra, (2009) 6 SCC 65*, reiterates that the accused may challenge the evidence at trial despite having no investigation-stage hearing as of right. These principles form part of the Supreme Court passage reproduced and relied on by the High Court. In *Prabal Dogra v. Superintendent of Police, Gwalior,* M.Cr.C. No. 10446/2017 (order dated 30 November 2017), the High Court had itself applied the rule that an accused has no say in the investigation.

Manohar Lal Sharma v. Principal Secretary, 2013:INSC:839 : (2014) 2 SCC 532, distinguishes monitoring for fair and timely progress from supervision of investigative methods or the investigator's opinion. Supervision could compromise the trial court's independent assessment of the police report and evidence. The High Court applied this distinction to reject the requested supervisory control, relying on the principles quoted from that judgment.

3. Statutes considered : Article 226 of the Constitution supplied the High Court's writ jurisdiction and the asserted basis for a fair-investigation direction. Appropriate constitutional intervention remains possible on a proper showing of mala fides or exceptional circumstances, although supervisory control was refused here. Section 376 IPC and Sections 3/4 of the Dowry Prohibition Act were the alleged FIR offences. The quoted Supreme Court passages discuss Sections 173(2) and 173(8) CrPC on the police report and further investigation, and Sections 202 and 204 CrPC on attendance at an inquiry and issue of process. Those provisions explain the investigation-stage distinction; no application for further investigation or a hearing in complaint proceedings was before the High Court.

4. Issues : (1) Could the father seek his son's exoneration through his own writ petition by alleging political rivalry? (2) Could a person in the accused's position require the police or High Court to select a particular agency, method or conclusion during investigation? (3) Did the requested direction seek permissible monitoring for impartial progress, or impermissible supervision of investigative steps and conclusions? The validity of the FIR's penal allegations and the son's criminal liability were not decided.

5. Ratio / Findings : The Court considered the father's authority to seek his son's exoneration and the limit on an accused dictating the investigation. Under *Romila Thapar*, even an accused ordinarily has no say in the choice of agency or manner of investigation; presenting the same demand through a next friend does not confer that control. *Dinubhai Boghabhai Solanki* and the authorities reproduced within it reinforce the absence of a routine right to participate or be heard during investigation. These limits do not determine guilt: later judicial remedies and the opportunity to challenge the material remain subject to their own conditions. Applying those principles, the High Court held that the father could not maintain the requested exoneration claim for his son and that the accused could not demand a chosen investigative course.

The quotation from *Romila Thapar* preserves appropriate constitutional directions where mala fide investigation is demonstrated and the exceptional standard for transfer. In that quoted case, the Supreme Court found that vague allegations without specific material particulars did not establish mala fide exercise of investigative power. Here, the High Court held that the father could neither maintain the exoneration request nor demand a particular manner of investigation. It did not prohibit every fair-investigation writ or decide whether the accusation was true.

Finally, *Manohar Lal Sharma* distinguishes limited monitoring in rare, compelling circumstances from supervision of police methods and conclusions. Monitoring protects free, fair and timely progress without directing the assessment of evidence; supervision risks pre-empting the independent trial. The Court treated the requested direction as supervisory control and held that it lacked jurisdiction to supervise the investigation in that sense. Considering the circumstances as a whole, it found no basis for directing the police.

6. Relief : The Hon'ble High Court dismissed the writ petition. It ordered neither exoneration nor a prescribed course of police investigation, court

monitoring or supervision. The FIR remained subject to ordinary investigation and judicial process. The order made no finding of guilt, innocence or the merits of the alleged offences.

Champalal Dhakad v. The State of Madhya Pradesh and Ors., W.P. no. 12274/2025, 15/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR registration — police duty / writ remedy / alternative process - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was applied to distinguish the duty to register a cognizable FIR from the remedy when the police do not act: the ordinary remedy for police inaction is a complaint to the Magistrate under Sections 190 and 200 CrPC. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explained the approach to the Superintendent under Section 154(3), followed by an application to the Magistrate under Section 156(3) if the FIR remains unregistered or the investigation remains deficient. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, applied that route and recognised the Magistrate's power to ensure proper investigation if prima facie satisfied. *Shweta Bhadauria*, the Madhya Pradesh Division Bench authority, recognised that refusal of writ mandamus for failure to use alternative remedies is subject to the recognised *Whirlpool* exceptions. The Court also noted the petitioner's failure to implead the Lokayukt and its Special Police Establishment.

Complaint and investigation — magistrate's remedial powers - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, relied on *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union* for the remedy of a complaint under Sections 190/200 when the police take no action. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* permit a Magistrate who is prima facie satisfied to order FIR registration or proper investigation under Section 156(3) CrPC, monitor the investigation and, if necessary, recommend a different investigating officer. The Magistrate does not personally investigate. The writ was dismissed with express liberty to approach a Magistrate under Section 223 BNSS.

Fair investigation — exceptional Article 226 power - *Divine Retreat Centre* recognised the High Court's power to issue appropriate directions in rare cases where mala fide abuse of investigative power and non-compliance with Chapter XII are clearly shown. Even then, the Court cannot prescribe how the police should investigate. The High Court noted the non-impleadment of Lokayukt and its Special Police Establishment and dismissed the writ with liberty to approach the Magistrate, without deciding the alleged offences or guilt.

Case-note :- ***1. Facts :*** Chandra Kumar Kourav alleged corruption, misappropriation and embezzlement of public money by respondents 5 and 6 in relation to 54 construction works. He said he had complained to several authorities without action. An earlier Writ Petition No. 884/2021 had been disposed of on 4 July 2022, giving him liberty to approach the Lokayukt Organisation. He thereafter submitted a complaint dated 18 August 2022, recorded as received by the Lokayukt on 23 August 2022, and asserted that it too had not been acted on. In Writ Petition No. 20442 of 2024 he requested mandamus to respondents 1–4 for an inquiry into the 54 works and a report so that guilty persons could be punished, as well as disposal of the Lokayukt representation. The petition did not implead the Lokayukt or its Special Police Establishment, although the complaint of inaction concerned that body. The High Court heard the parties and examined the proper route for a person seeking police action on alleged cognizable wrongdoing; it did not adjudicate the corruption allegation or conduct a fact-finding inquiry.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, 2007:INSC:760 : (2007) 6 SCC 171*, was quoted for the difference between the police duty to register information disclosing a cognizable offence and the procedural remedy for non-registration. It identified the complaint procedure under Sections 190 and 200 CrPC as the course for an aggrieved informant. Its quoted comparison explained that *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, concerned the police obligation, whereas *AIIMS Employees' Union v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, addressed the remedial course. The present Court relied on that distinction.

Divine Retreat Centre v. State of Kerala, 2008:INSC:341 : (2008) 3 SCC 542, was quoted for exceptional Article 226 intervention where mala fide investigative action and a clear abuse and breach of Chapter XII CrPC are demonstrated; even then the

court cannot instruct the police how to investigate, but can insist on compliance with law. The quotation from *Gangadhar* reproduced in that decision described the Magistrate's options after a complaint: inquiry, police investigation where appropriate, dismissal if no offence is disclosed, or cognizance and process on a prima facie case. An ordinary grievance of police inaction does not, by itself, justify a writ.

Sakiri Vasu v. State of U.P., 2007:INSC:1243 : (2008) 2 SCC 409, was quoted for the course of approaching the Superintendent in writing under Section 154(3) CrPC, followed, if necessary, by an application to the Magistrate under Section 156(3) for registration or proper investigation. The Magistrate may monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, restated *Sakiri Vasu*, including the Magistrate's discretion to recommend a change of investigating officer without personally conducting the police investigation, and discouraged routine High Court writs that bypass this route. The High Court used these principles in declining direct intervention and granting liberty to approach the Magistrate.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016 (Division Bench, decided 20 December 2016), was applied for the ordinarily adequate remedies under Sections 154(3), 156(3), 190 and 200 CrPC. Its quoted holding expressly preserves the four recognised exceptions associated with *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*; it also distinguishes the police duty discussed in *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, from entitlement to writ mandamus without using alternative routes. *Whirlpool* and *Lalita Kumari* appear within the Division Bench passage.

3. Statutes considered : Article 226 of the Constitution supplied writ jurisdiction and the petitioner's mandamus request. Section 154 CrPC governed police registration of cognizable information, with Section 154(3) offering an approach to the Superintendent when the police station does not act. Section 156(3) CrPC provided for an application to the Magistrate for a direction to register or investigate and, where appropriate, to monitor the investigation. Sections 190 and 200 CrPC supplied the private-complaint route; the quoted *Divine Retreat* passage also mentioned Section 203 and Chapter XV concerning inquiry, dismissal or process. Chapter XII CrPC was discussed as the police-investigation framework relevant to exceptional constitutional intervention. The operative order specifically granted liberty under Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

4. Issues : (1) Whether alleged inaction on the complaint about 54 public construction works warranted High Court mandamus for an inquiry, report, punishment or registration of a criminal case, especially when the Lokayukt and its Special Police Establishment were not impleaded. (2) What statutory recourse an informant has when information disclosing a cognizable offence is not registered or adequately investigated, and what the Magistrate may direct. (3) In what exceptional circumstances Article 226 directions could nevertheless be given despite ordinary remedies, and whether such a direction could prescribe the police's investigative method. The actual truth of the corruption and embezzlement allegations, and whether any FIR should ultimately issue on proper proceedings, were left open.

5. Ratio / Findings : The Court noted the earlier liberty to approach Lokayukt and the subsequently received complaint, but found that neither Lokayukt nor its Special Police Establishment had been made a respondent. On the request for police action, it held that Article 226 was not the appropriate route to seek a direction for FIR registration on this record. *Aleque Padamsee* distinguished the police's legal obligation on receipt of cognizable information from the informant's remedial steps after inaction. The quoted Supreme Court authorities described statutory remedies: representation to the police superior under Section 154(3), an application under Section 156(3) where the FIR remains unregistered or proper investigation has not been conducted, and complaint jurisdiction under Sections 190/200. A Magistrate who is prima facie satisfied can direct or monitor proper investigation and recommend a change of investigating officer where necessary, while the police retain responsibility for conducting the investigation. The Court's refusal of this writ did not assess the underlying criminal allegations.

Divine Retreat Centre recognised the power to issue directions under Article 226 in rare cases of clear mala fide abuse of investigative power and non-compliance with Chapter XII. The Court may insist on lawful procedure, but cannot prescribe the method of investigation. The Division Bench statement in

Shweta Bhadauria similarly recognises exceptions to the alternative-remedy principle. The Court noted the missing Lokayukt parties and dismissed the petition with liberty to approach the Magistrate. The Court did not say that the police may ignore cognizable information, or that the High Court is invariably powerless in every unusual case. The operative order expressly granted liberty under Section 223 BNSS.

6. Relief : The Hon'ble High Court dismissed the writ petition. It granted Chandra Kumar Kourav liberty to approach the concerned Magistrate under Section 223 BNSS, 2023. It did not direct respondents 1–4 or Lokayukt to conduct an inquiry, decide the representation, register an FIR, punish the private respondents or submit a report. The dismissal does not decide the merits of the alleged misuse of public money.

Chandra Kumar Kourav v. The State of Madhya Pradesh and Ors., W.P. no. 20442/2024, 23/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder — Section 300 thirdly / injury intent / objective fatality - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was discussed for the four inquiries: proof of bodily injury, its nature, the intention to inflict that particular injury, and its sufficiency to cause death in the ordinary course of nature. A separate intention to kill is not required under the third clause. *Arun Nivalaji More* explained Section 299 culpable homicide, the Section 300 murder clauses and exceptions, and the intention/knowledge distinction underlying Section 304 Parts I and II. *Anda v. State of Rajasthan, Mahesh Balmiki v. State of M.P., Pulicherla Nagaraju v. State of A.P., Sangapagu Anjaiah v. State of A.P., State of Rajasthan v. Kanhaiyalal* and *Bavisetti Kameswara Rao v. State of A.P.* were considered for injury sufficiency, weapon, vital part, force and context; the offence cannot be classified automatically merely because a single blow was inflicted. *Dhirajbhai Gorakhbhai Nayak* was quoted on the cumulative requirements of a sudden fight under Exception 4. The medical evidence established that both deaths resulted from firearm injuries and the murder convictions were affirmed.

Unlawful assembly — Section 149 IPC / common object / non-shooter liability - *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, was applied for the distinction between mere presence and participation in a shared unlawful object: a separate overt act by each member is not always necessary, and the object may be inferred from coordinated conduct. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, requires an express finding of the object and its unlawfulness; *Mahadev Sharma v. State of Bihar* was discussed on the relationship between charges under Sections 143, 147, 148 and 149. The Bench inferred the object from the preceding assaults and threats, the group's armed return, its surrounding of the victims, the exhortation and the gunfire, and maintained liability of those who did not themselves shoot. Counsel's reliance on *Bunnilal Chaudhary* was rejected on those facts.

Evidence — contradictions / hearsay / medical corroboration - *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, and the principles in *Sunil Kumar Sambhudaya Gupta* and *Raj Kumar Singh* quoted in that decision require the Court to assess whether an inconsistency affects the core of the prosecution case, rather than reject the evidence for trivial omissions. The Bench acknowledged hearsay testimony and differences in Deepak PW4, Ravi PW9 and Arjun PW11 on presence and shooter attribution; it found that the remaining eyewitness account of an armed group and two killings was materially supported by Dr Parihar's autopsy evidence. Counsel cited *Bawan Kumar* and *Suraj Mal* in challenging the witness accounts. *Jayaseelan* was cited for delay in investigation not automatically displacing credible oral proof. The three connected appeals were dismissed and the convictions affirmed; bail bonds of appellants at liberty were cancelled and surrender directed.

Case-note :- ***1. Facts :*** This common judgment disposed of Criminal Appeal No. 1049/2011 by Chandrabhan, No. 102/2012 by Ravi and Santosh, and No. 160/2012 by Ashish and Ramprakash. All challenged the conviction and sentence in Sessions Trial No. 1/2007 conducted before the Special and Additional Sessions Judge, Datia. The trial court ordered concurrent sentences including life imprisonment for murder and compensation of ₹5,000 each to the legal heirs of Mahesh Chaurasiya and Munnalal Chaurasiya from the fine deposit under Section 357 CrPC.

The prosecution account began with a dispute at a Bhandara: Ghanshyam allegedly beat Ramrati, and the complainant's side then beat Ghanshyam. On 9 April 2006 the accused party allegedly confronted

Deepak Chaurasiya, assaulted him and threatened to kill him after his uncle Mahesh intervened. There was another alleged assault on Ramrati and heated exchange at Mahesh's handcart. Around 7:30 p.m. a group returned on motorcycles, some armed with country-made pistols. According to the Dehati Nalishi, Ramprakash exhorted them, Rakesh shot Mahesh in the head, Ashish shot Munnalal in the chest when he intervened, and Ravi fired a further shot that missed. The deaths occurred at the spot. The original Dehati Nalishi at Crime No. 06/2006 led to FIR Crime No. 33/2006 under Sections 147, 148, 149, 302, 109 and 115 IPC and Sections 25/27 Arms Act. Eighteen prosecution witnesses testified. The accused denied the charges under Section 313 CrPC and examined no defence witness.

On appeal, counsel argued that complainant Deepak PW4 did not consistently support his first account, other witnesses were hearsay or contradicted police statements, and non-shooters could not be held liable under Section 149 merely by presence. The State relied on the armed group, shared purpose and medical findings. The record describes Deepak PW4 as claiming to have seen the assault but also admitting that he was absent at the exact moment; his initial account and testimony also differed on the identity of the shooters. Ravi Chaurasiya PW9 and Arjun PW11 described the group and shootings but faced omissions or differences on who fired and who had which weapon. Anil PW5, Hargovind PW12 and Vijay PW13 received information from others rather than witnessing the shots. Dr K.S. Parihar PW8 documented head firearm trauma with brain damage in Mahesh and a chest firearm wound involving lung and liver in Munnalal, both causing death through haemorrhage and shock. The Bench examined these evidentiary disputes along with the group's earlier conduct and the offence distinctions; it held that the discrepancies were minor and the evidence firm on material aspects.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was used to explain Section 300 Thirdly's four inquiries: a bodily injury exists; its nature is objectively established; the accused intentionally inflicted that very injury rather than accidentally causing it or intending a different wound; and the wound was sufficient to cause death in the ordinary course of nature. The last inquiry is objective and no separate intention to kill is necessary once the required intention to inflict that injury and its fatal sufficiency are proved. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, likewise stressed that the injury must be sufficient to cause death in the ordinary course of nature. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079/2005 (as cited), explained the progression from Section 299 to Section 300 clauses and exceptions and, if murder is excluded, the distinction under Section 304 between intention in Part I and knowledge in Part II. The Bench confined the Section 300 inquiry to Thirdly and stated that lack of an intention to cause death does not exclude that clause when the intentional bodily injury is sufficient in the ordinary course of nature to cause death.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, rejected the categorical reduction of the offence in every death caused by a single blow. The weapon, the part of the body injured, the circumstances and the manner of assault determine the requisite intention and the offence. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, listed non-exhaustive indicators including weapon, vital target, force, prior hostility, chance encounter, provocation, heat of passion, unfair advantage and number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, treated the forceful crowbar blow to the skull, together with the weapon used, the part of the body targeted and the injury caused, as evidence of intention in its own factual setting. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, considered the single-blow issue and Exception 4 through *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram*; *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, also warned against mechanically reducing the offence to Section 304 merely because there was a single injury and discussed *Vedanayagam* and *Virsa Singh*. These authorities informed the Bench's legal framework; the present case concerned separate gunshots in a group attack. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, was quoted on Exception 4's cumulative requirements of absence of premeditation, a sudden fight, heat of passion and absence of undue advantage.

Dani Singh v. State of Bihar, (2004) 13 SCC 203, explained that mere presence is insufficient for Section 149 liability without a common object under Section 141, although an overt act by each member is unnecessary. The object may arise or change during an episode and members' knowledge may differ. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC*

324, requires a clear evidentiary finding of an unlawful common object. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, addressed how the ingredients of Sections 143 and 147 relate to a charge of rioting or a charge under Section 149. The Bench applied these principles to the concerted course of events and rejected the claim that the non-shooters could not be held liable; *Bunnilal Chaudhary* was a defence citation in the same argument.

For witness credibility, counsel cited *Bawan Kumar v. State of M.P., AIR 1994 SC 1251*, and *Suraj Mal v. State (Delhi Administration), AIR 1979 SC 1408*, on serious discrepancies and inconsistent statements. The Bench instead applied *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, which quoted *Sunil Kumar Sambhudaya Gupta v. State of Maharashtra, (2010) 13 SCC 657*, and *Raj Kumar Singh v. State of Rajasthan, (2013) 5 SCC 722*: trivial inconsistencies do not destroy the credible core of the prosecution case, but a material contradiction must be evaluated in the whole evidence. *Jayaseelan v. State of Tamil Nadu, (2009) 12 SCC 275*, was cited briefly to reject the contention that investigative delay alone defeats otherwise credible oral evidence. The Bench acknowledged the hearsay character of PW5/PW12/PW13 and relied on the other witnesses with medical corroboration.

3. Statutes considered : Sections 299, 300 (particularly Thirdly and quoted Exception 4), 302 and 304 IPC supplied the homicide framework. Sections 141, 148 and 149 IPC governed the alleged unlawful assembly, armed rioting and constructive liability for murder committed in prosecution of the shared object or known likely to occur. Sections 147, 109 and 115 IPC appeared in the original registered case, but the appellate reasoning and affirmed convictions were focused on Section 148 and Section 302 directly or with Section 149. Sections 25/27 Arms Act appeared in the account of the investigation, including firearm seizure and sanction material. Section 374(2) CrPC supplied appellate jurisdiction; Section 313 governed accused statements, and Section 357 concerned the trial direction for payment to heirs from fines.

4. Issues : (1) Whether two intentional fatal firearm injuries, established through medical and credible ocular evidence, supported the Section 302 murder convictions rather than a lesser Section 304 classification, and whether any sudden-fight or single-blow authority altered that result. (2) Whether at least five participants shared an unlawful object to attack and kill, making non-shooting members liable under Section 149, or whether the prosecution proved only presence and the individual actions of shooters. (3) Whether the inconsistencies and omissions in Deepak PW4, Ravi PW9 and Arjun PW11, together with the hearsay nature of PW5, PW12 and PW13, made the conviction unsafe, or whether the core account remained corroborated. (4) Whether the asserted delay in FIR or investigation defeated credible oral and medical proof. The appeals also required a precise disposition for each appellant's custody status.

5. Ratio / Findings : The Bench set out Section 299's three mental states and the additional Section 300 characteristics of murder, drawing on *Virsa Singh* and *Arun Nivalaji More* to reject the proposition that failure to prove an express intention to cause death necessarily reduces the offence where a fatal injury was intentionally inflicted. The Supreme Court authorities on single blows required an examination of the circumstances, rather than classification by the number of blows alone. Here the physician established separate fatal gunshot injuries to head and chest. The Bench found the account of those shootings in the remaining credible witness evidence sufficiently corroborated.

On Section 149, the Court identified the five-person and common-object conditions, then considered the entire course of conduct without requiring proof that every appellant had struck an identical blow. It relied on the morning assault and death threats, renewed confrontations, the armed arrival and surrounding of Mahesh, Ramprakash's exhortation, and the gunfire against Mahesh and rescuing Munnalal. Those circumstances were found to establish a common object and knowledge sufficient for group liability, notwithstanding the direct shooting roles attributed to only some participants. It rejected the proposition that absence of a separate strike by a non-shooter required acquittal.

As to credibility, the Bench reviewed Deepak PW4's claimed presence and cross-examination admission, the differing accounts of whether Rakesh or Ravi fired the shot at the head, and PW9/PW11 differences and police-statement omissions. It considered these differences minor in relation to the core account of the armed assembly and fatal shootings. It expressly recognised PW5, PW12 and PW13 as hearsay and relied on other witnesses together with medical evidence rather than those witnesses alone. The postmortems substantiated two

homicidal deaths caused by firearm injuries but did not themselves identify a particular assailant. Invoking *Mallikarjun*, the Bench declined to reject otherwise credible evidence in its entirety because of immaterial variations. It also rejected the alleged investigative delay as insufficient by itself to overturn the reliable oral account. In the final assessment, it found no infirmity in the trial judgment and held that the prosecution had proved the appellants' guilt beyond reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the connected criminal appeals and affirmed the trial conviction and concurrent sentences. Chandrabhan, Ravi and Santosh, stated to be on bail, had their bail and surety bonds cancelled and were directed to surrender before the trial court to serve the remaining sentence. Ramprakash, on bail on account of age, received the same surrender direction. Ashish, reported in jail, was directed to remain in custody to serve the sentence. Copies were ordered to the jail authorities and trial court with the record for compliance.

Chandrabhan v. State of Madhya Pradesh; Ravi and Ors. v. State of Madhya Pradesh; Ashish and Ors. v. State of Madhya Pradesh, Cr.A. no. 1049/2011 & 102/2012 & 160/2012, 13/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers — FIR quashing / threshold allegations / defence dispute - Chandrabhan Singh Bhadoriya sought quashment under Section 528 BNSS of Crime No. 63/2025 alleging BNS Sections 74, 75, 76, 296 and 351(3). *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, was applied for the limited inquiry at the quashing stage: if the uncontroverted FIR allegations disclose a cognizable offence, police investigation ordinarily proceeds. At that stage, the High Court does not assess the truth or reliability of those allegations or the merits of a disputed defence. The complainant's allegations of unwanted physical contact, indecent proposal, tearing of clothes and threat were specific enough to resist quashing. The applicant's allegation of false implication over retirement money was left for proper evidentiary scrutiny.

Investigation — accused's representations / no control over police method - *Romila Thapar v. Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, were applied to reject the applicant's alternative request that police investigate according to his own complaints to senior officers. Their quoted discussion of *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *W.N. Chadha*, *Rajesh Gandhi*, *Sri Bhagwan Samardha* and *Narender G. Goel* explains why an accused does not ordinarily choose an agency, control the method of investigation or demand a prior hearing, while retaining lawful later opportunities to challenge the prosecution. Exceptional constitutional directions for established mala fides are a separate matter.

Judicial monitoring — surveillance versus supervision - *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, was applied to distinguish monitoring for fair and timely progress in rare compelling circumstances from directing how the investigation is conducted or what conclusions it reaches, which would prejudice an independent trial. The Section 528 application was dismissed; the FIR and investigation remained undisturbed, without a finding of guilt.

Case-note :- ***1. Facts :*** Chandrabhan Singh Bhadoriya, a retired police Sub-Inspector, applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash Crime No. 63/2025 at Police Station Gole Ka Mandir, Gwalior. The FIR alleged offences under Sections 74, 75, 76, 296 and 351(3) of the Bharatiya Nyaya Sanhita, 2023. According to the allegations as recounted by the Court, on 13 February 2025 at about 10–11 p.m. he tried to hug and pull his daughter-in-law, made a proposal that she sleep with him once, tore her clothes, teased her and threatened her after she escaped. The applicant denied the incident and asserted that his daughter-in-law, son and her parents had demanded his retirement proceeds and lodged a false FIR when he refused. He said he had approached the Superintendent of Police, officer in charge of the police station and Inspector General requesting a fair investigation without success. After hearing his counsel, the High Court considered quashment and, when that relief was not granted, the alternative request to order police to consider his complaint and investigate accordingly. The allegations and the applicant's explanation remained unadjudicated.

2. Precedents — Considered : *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, 2021:INSC:253 : (2021) 19 SCC 401*, was quoted for

the division of functions between the police and the court in investigating cognizable offences. It allows quashing where the FIR discloses no cognizable offence, but directs restraint where an offence is prima facie alleged and forbids a preliminary inquiry into the merits or reliability of accusations still under investigation. Its reference to *R.P. Kapur* and *Bhajan Lal* frames the established quashing parameters rather than a warrant to decide a disputed defence on affidavit. The present Court applied the rule to the alleged conduct with the daughter-in-law and refused to choose between the FIR and the retirement-benefits explanation. The Court also cited *XYZ v. State of Gujarat, State of Tamil Nadu v. S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, M. Srikanth, Arvind Khanna, Kunwar Singh, Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* for the same general proposition governing quashing at this stage.

Romila Thapar v. Union of India, 2018:INSC:912 : (2018) 10 SCC 753, was quoted and used for the accused's inability to select the agency or control the manner of investigation. In the reasoning quoted from that decision, *Narmada Bai* and *Sanjiv Rajendra Bhatt* state that limit; *E. Sivakumar* explains the absence of an ordinary right of the accused to be heard in a fair-investigation writ; *Divine Retreat Centre* distinguishes a lack of inherent power to choose an investigator midstream from appropriate Article 226 directions for demonstrated mala fides. The Constitution Bench in *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, is quoted there for the exceptional and cautious exercise of the power to transfer an investigation to CBI; bare allegations against police do not suffice. *Romila Thapar* also warns against testing disputed investigative evidence at that stage and identifies ordinary subsequent remedies.

Dinubhai Boghabhai Solanki v. State of Gujarat, 2014:INSC:139 : (2014) 4 SCC 626, was quoted for the limited role of an accused or proposed accused during investigation. It drew *on Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260*, to explain why prior notice and a say in the method of investigation are not ordinarily required; *CBI v. Rajesh Gandhi, (1996) 11 SCC 253*, for agency choice and permissible further investigation; *Sri Bhagwan Samardha v. State of A.P., (1999) 5 SCC 740*, for the power under Section 173(8) CrPC without a routine hearing of the accused; and *Narender G. Goel v. State of Maharashtra, (2009) 6 SCC 65*, for the later opportunity to contest evidence at trial. The High Court adopted the principle that the accused ordinarily has no right to control the investigation or to a prior hearing, without deciding a Section 173(8) motion in this case.

Manohar Lal Sharma v. Principal Secretary, 2013:INSC:839 : (2014) 2 SCC 532, was quoted for the distinction between court monitoring to ensure fair and timely progress and supervision that directs the investigators' methods and opinion. Such supervision jeopardises independent adjudication on the police report. The Court applied the distinction in refusing to supervise this pending investigation. The referenced rare monitoring power was not exercised.

3. Statutes considered : Section 528 BNSS, 2023, supplied the High Court's inherent jurisdiction invoked to quash the FIR and alternatively seek an investigative direction. BNS Sections 74, 75, 76, 296 and 351(3) were the sections mentioned in the FIR. The Court assessed whether the allegations disclosed a cognizable offence for threshold purposes. The Supreme Court passages discussed the scheme of CrPC investigation and police report under Sections 173(2) and 173(8), the ordinary stages of complaint proceedings and issuance of process under Sections 202 and 204, and the distinction between investigation and trial. Those quotations explain accused participation and further-investigation principles; no separate CrPC motion was before the Court. Article 226 arose in the cited authorities as the constitutional source of exceptional directions on proven investigative mala fides, distinct from the Section 528 remedy invoked here.

4. Issues : (1) Whether the FIR's uncontroverted allegations about the applicant's conduct towards his daughter-in-law disclosed a cognizable offence requiring investigation so that Section 528 quashing should be refused despite his allegation of a false family financial motive. (2) Whether the applicant could obtain an order requiring police to consider his representations and carry out investigation in the manner he proposed. (3) Whether the High Court could supervise the pending investigation, and how that differs from exceptional judicial monitoring. The veracity of either side's factual account, sufficiency of evidence for trial, and ultimate criminal liability were not decided.

5. Ratio / Findings : The Court applied *Neeharika Infrastructure* to confine its threshold inquiry to the allegations taken at face value. It found the complaint's account specific as to the attempted hug, sexual proposal, pulling and torn clothes. That was sufficient to disclose a cognizable offence at the investigation stage. The truth of the applicant's denial and his claim of retaliation over retirement proceeds required examination of evidence; the High Court could not resolve that conflict under Section 528 in place of investigation or trial. The order does not establish guilt.

When counsel sought a police direction as an alternative, the Court considered whether the accused had a right to interfere with the investigation. *Romila Thapar* and *Dinubhai* explained the restrictions on choosing the investigating agency, directing the method of investigation and claiming a prior hearing as a matter of course, even as they recognise proper later remedies and exceptional constitutional directions enforcing lawful process on an appropriate record. The applicant's representations did not entitle him to dictate the course of the police investigation or require a predetermined conclusion. *Manohar Lal Sharma* then explained why monitoring for fairness and progress differs from supervising an investigator's decisions and report; such supervision could undermine independent trial adjudication. The Court declined to supervise this investigation.

6. Relief : The Hon'ble High Court dismissed the application. It refused quashment of Crime No. 63/2025 and the alternative direction to police to investigate according to the applicant's requests. Investigation remained free to continue in law. No factual guilt determination, partial quashing, monitoring direction, costs or remand was ordered.

Chandrabhan Singh Bhadoriya v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 12930/2025, 25/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (162) Prev Next

Headnote :- Quashing — Section 482 CrPC / disputed defence document / dowry-death allegation - The husband sought quashment of Crime No. 531/2023 under Sections 304-B and 498A IPC and Sessions Trial No. 13/2024, relying on his report to a Deputy Superintendent and a handwritten letter said to be from his deceased wife accusing her relatives. The Court declined to authenticate the letter or decide whether the relatives had poisoned her within the limited scope of proceedings under its inherent powers. It applied the stated threshold that proceedings may be quashed only if the uncontroverted allegations do not disclose an offence, without a roving inquiry into disputed prosecution and defence accounts. The order cites *XYZ v. State of Gujarat*, *S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *Arvind Khanna*, *Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* collectively for that threshold. The FIR and trial proceedings remained undisturbed; the letter's authenticity, the medical cause of death, the evidence of dowry demands and guilt remained matters for proof before the trial court.

Case-note :- ***1. Facts :*** Preeti Maurya died after receiving medical treatment in June 2023. According to the prosecution account summarised in the order, the witnesses' statements recorded during the Marg enquiry alleged that her husband Chandrakant Mourya ill-treated her for additional dowry and a car, placing her under continuing pressure. The death was described as resulting from cardio-respiratory failure. Crime No. 531/2023 at Police Station Bhind Dehat, District Bhind, was registered under Sections 304-B and 498A IPC, with Sessions Trial No. 13/2024 pending. Chandrakant applied under Section 482 CrPC to quash both the FIR and further proceedings.

The husband denied the allegations and alleged a contrary family conflict. He claimed that Preeti's maternal uncle, brother and mother demanded recovery of marriage expenses, pressured her to proceed against him, and assaulted her or forced her to leave when she declined. He relied on a handwritten report said to have been made by Preeti to the police against those relatives. He described an earlier hospital episode after abdominal and chest pain, discharge from Birla Hospital, Gwalior, on 14 May 2023, and their subsequent peaceful residence. According to him her brother took her to Hariom Nagar on 24 May for a forthcoming Bhandara, and he then had telephone conversations on 29 May about dental pain and on 10 June about vomiting and diarrhoea. On 11 June he was told she was being taken to hospital; when he reached Gwalior she was dead. He alleged her relatives had administered

poison. He produced his representation to the Deputy Superintendent of Police, Bhind, and the alleged handwritten letter. These are his submissions and documents as recounted, not findings that the letter was authentic or that the relatives caused the death.

2. Precedents — Considered : The Court cited a series of Supreme Court quashing decisions in one sentence to support the threshold that uncontroverted FIR allegations must fail to disclose an offence before proceedings of this kind can be quashed, and that inherent power does not authorise a roving merits inquiry. The cases named were *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021* (order dated 30 June 2021); *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The Court applied only the consolidated threshold rule to the husband's proposed defence documents.

3. Statutes considered : Section 482 CrPC was invoked to exercise the inherent power to quash the FIR and trial proceedings. The order parenthetically identifies Section 528 BNSS as its later counterpart, but conducts the application under Section 482 as filed. Sections 304-B and 498A IPC were the alleged dowry death and matrimonial cruelty offences. The alleged offences' ingredients and the death's medical cause remained matters for proof at trial.

4. Issues : (1) Could the High Court, while considering Section 482 quashing, accept the husband's alternate narrative of family demands and poisoning in place of the witness allegations of dowry pressure? (2) Could it decide from the presented copy whether the handwritten report was truly authored by Preeti or concocted? (3) Did the uncontroverted allegations in Crime No. 531/2023 permit the prosecution and Sessions Trial No. 13/2024 to proceed, without a roving factual inquiry at the threshold? The underlying cause of death, the authenticity of the writing, the strength of each witness and the husband's guilt were not decided.

5. Ratio / Findings : The Court recognised that the applicant's representation to police and the purported handwritten statement formed his defence. Authentication of the writing and the competing poisoning allegation would require proof and testing before the trial court. In an application invoking its inherent powers, the Court could not decide those contested facts by conducting a preliminary trial. It applied the threshold quashing proposition drawn collectively from the cited Supreme Court decisions: if uncontroverted prosecution allegations disclose an offence, questions of factual accuracy and the credibility of the defence ordinarily await determination during investigation or trial. The Marg enquiry's recorded allegation of continued ill-treatment for a car and further dowry was therefore not displaced by the unproved defence documents at this stage. The Court refused to decide disputed facts under Section 482; it did not find that the letter was forged, that poisoning was impossible, or that all elements of Section 304-B were conclusively established. The Court recorded that counsel advanced no other argument.

6. Relief : The Hon'ble High Court dismissed the application. Crime No. 531/2023 and further proceedings in Sessions Trial No. 13/2024 were not quashed. The husband retained the opportunity to prove his defence and contest the prosecution at trial; the order granted no partial relief, remand, costs or direction resolving the medical cause of death.

Chandrakant Mourya v. The State of Madhya Pradesh, M.Cr.C. no. 5126/2024, 05/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (163) Prev Next

Headnote :- Matrimonial cruelty — delayed FIR / reconciliation explanation - *Skoda Auto Volkswagen (India) Pvt. Ltd. v. State of U.P., (2021) 5 SCC 95*, was applied to preclude an inquiry into disputed factual reliability in quashing proceedings under Section 482; *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, explained that a late FIR is not illegal, though promptness has investigative value and delay may need explanation; *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, likewise rejects delay alone as a quashing ground. The wife alleged she remained silent to save the marriage and

continued to be excluded from the matrimonial home. That was a plausible explanation at the threshold, not a final credibility finding.

Section 498-A IPC — continuing mental cruelty after departure - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was applied for the continuing mental trauma of being driven from the matrimonial home and fearing or being unable to return, even after physical acts there cease. The Court also referred to *Amar Singh v. Vimla on* enforced residence at the parental home. Allegations of infertility-related humiliation, physical and mental abuse, removal of jewellery and later exclusion supported a prima facie continuing-cruelty case; no guilt was determined.

Quashing — divorce petition / alleged counterblast - *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied: efforts to reconcile can explain a later criminal complaint, and the husband's divorce petition does not by itself end criminal proceedings or render the FIR a counterblast. The Court must test the FIR allegations, rather than importing disputed civil material to decide their truth. The applicants' chronology alone failed to justify quashing.

Precedent discipline — coordinate bench / per incuriam - The Court declined reliance *on Abhishek Pandey @ Ramji Pandey v. State of M.P.*, Criminal Revision No. 521/2021, holding that its failure to consider the relevant Supreme Court rule in *Pratibha* made it per incuriam for this argument. The separate request to quash the prosecution of applicants 2 and 3 on account of a kidney transplant and donation also failed; the trial court may consider an application for exemption from attendance in light of their actual medical circumstances. The Section 482 application was dismissed.

Case-note :- ***1. Facts :*** Chandrakant Shrivastava and two other applicants sought Section 482 CrPC quashing of Crime No. 1018/2021 at Police Station Majholi, District Sidhi, the charge sheet, framed charges and RCT No. 594/2021 before JMFC Majholi. The complainant, respondent 2, alleged cruelty under Sections 498-A and 34 IPC. She married applicant 1 on 17 April 2008. Her FIR alleged physical and mental harassment because she did not conceive. After another family member Arti Shrivastava married and developed kidney failure, the applicants allegedly blamed the complainant as unlucky; the mother-in-law donated a kidney to Arti, but the alleged abuse continued. The complainant claimed her in-laws called her sterile despite a medical assessment that she could conceive, that the report was taken from her, and that a later test at District Hospital Shahdol did not support the mother-in-law's desired conclusion. She also alleged she had been required to write diary statements on visits to her parents that she was happy and not being harassed.

On 22 November 2019, as she prepared to attend her younger sister's wedding, the mother-in-law and sisters-in-law allegedly searched her bag, took jewellery and sent her with her brother. She alleged that her husband promised to fetch her 15 days after attending the wedding but did not; she was not informed about her younger brother-in-law's December 2020 wedding, and her name was not printed on the invitation. She said she delayed approaching police in hope of preserving the marriage and continued to be unable to return to the matrimonial house. The applicants argued the FIR was belated and retaliatory because the husband had filed a divorce petition under Section 13 of the Hindu Marriage Act. They relied on a coordinate-bench decision in *Abhishek Pandey.* They also argued that prosecution of applicants 2 and 3 should be quashed because applicant 3 had suffered kidney failure and applicant 2 donated a kidney. These are alleged facts and submissions, not findings of guilt.

2. Precedents — Considered : *Skoda Auto Volkswagen (India) Pvt. Ltd. v. State of U.P., (2021) 5 SCC 95*, was used for the threshold limitation: a quashing court does not resolve disputed reliability or genuineness of FIR allegations, and delay alone does not terminate proceedings. *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, was explained as stating that no fixed legal time limit is prescribed for lodging an FIR; prompt reporting assists investigation and may reduce opportunity for fabrication, yet neither promptness guarantees truth nor every delay indicates falsehood. *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, reaffirmed that delay by itself is no ground to quash. The Court applied these authorities to the wife's expressed wish to preserve the marriage and continuing exclusion, treating her explanation as plausible at this stage.

Rupali Devi v. State of U.P., (2019) 5 SCC 384, was quoted on physical or mental cruelty under Section 498-A. The Supreme Court explained that the psychological distress and trauma caused by abuse and expulsion may persist at the parental home even after physical cruelty at the matrimonial home ends.

The Court adopted that reasoning to treat continued forced separation resulting from the alleged cruelty as potentially continuing mental cruelty. *Amar Singh v. Vimla*, Criminal Revision No. 2376/2020 (High Court order dated 22 June 2021), was invoked for the related conclusion that compelling a married woman to live in her parental home can itself amount to cruelty. The present Court applied the principles to threshold allegations, not after a final evidentiary finding.

Pratibha v. Rameshwari Devi, (2007) 12 SCC 369, was quoted at length. Its Supreme Court reasoning disapproved quashing a cruelty FIR merely because the wife reported after separation and after the husband's divorce petition; attempted reconciliation could explain delay, civil and criminal proceedings are separate, and the quashing court must test the complaint or FIR allegations rather than extraneous investigative or civil materials. Its quoted reference to *Bhajan Lal* is part of that context. The Bench used *Pratibha* to reject the applicants' counterblast inference. *Abhishek Pandey @ Ramji Pandey v. State of M.P.*, Criminal Revision No. 521/2021 (coordinate-bench order dated 18 August 2021), was relied on by counsel but the Court held it per incuriam on this issue for not considering *Pratibha* and declined to follow it.

3. Statutes considered : Section 482 CrPC supplied the High Court's inherent jurisdiction to quash the FIR, charge sheet and proceedings. Sections 498-A and 34 IPC were the alleged cruelty and common-intention offences; the Court assessed whether allegations against all applicants permitted prosecution at the prima facie stage, with focus on continuing mental cruelty and the alleged events. Section 13 of the Hindu Marriage Act governed the husband's divorce petition, whose filing was asserted as the alleged motive for the FIR; the Court did not decide matrimonial relief or treat the divorce action as ending the criminal matter. Counsel could not point out a ground or provision authorising quashing merely because of the applicants' medical ailments; the Court left consideration of a possible application for permanent exemption from personal appearance to the trial court in light of the transplant and donation.

4. Issues : (1) Did the time between alleged matrimonial conduct and FIR registration by itself make the Section 498-A complaint abusive or incapable of prosecution, in light of the wife's asserted hope of reconciliation and continuing inability to return home? (2) Can continued psychological suffering and forced separation on account of pleaded cruelty constitute continuing mental cruelty even if physical acts at the matrimonial house have ceased? (3) Did the husband's earlier divorce petition make the later FIR a retaliatory counterblast, and how should the coordinate-bench *Abhishek Pandey* ruling be treated against *Pratibha*? (4) Could applicants 2 and 3 obtain complete quashing simply because one underwent a kidney transplant and another donated a kidney, or was attendance relief a different trial-court question? The truth and proof of the alleged harassment remained for trial.

5. Ratio / Findings : The Court rejected the delay argument through *Skoda Auto Volkswagen*, *Ravinder Kumar* and *Mohammad Wajid*. It did not undertake a factual credibility inquiry on the Section 482 petition. The wife's stated effort to save her marital life plausibly explained the delay in reporting; the allegations that she was not permitted to return to the matrimonial home also indicated that the harm continued after her initial departure. *Rupali Devi* supplied the doctrine that mental trauma and distress can continue after a woman takes shelter with her parents, and *Amar Singh* supported treatment of compelled parental-home residence as cruelty. These authorities informed the Court's conclusion at the quashing stage that the alleged continuing cruelty did not end merely with the passage of time. That conclusion is an assessment of allegations, not a final finding that each applicant committed Section 498-A cruelty.

The fact that the divorce petition preceded the FIR did not establish malice as a matter of law. *Pratibha* explained why attempted reconciliation and a subsequent civil matrimonial proceeding do not convert the wife's later criminal complaint into a counterblast; the allegations themselves must be examined for a prima facie offence. The Court held the applicants' cited *Abhishek Pandey* coordinate-bench view per incuriam to the extent it overlooked that controlling Supreme Court authority, and rejected the counterblast submission. It also found specific pleaded cruelty against all applicants; infertility did not entitle family members to mistreat the wife. As to applicants 2 and 3, the Court found no legal ground authorising quashment merely because of kidney illness, transplantation or donation. It distinguished continuation of the prosecution from the practical question of attending

court: if they seek permanent exemption from appearance, the trial court should consider their application in light of the actual transplant and donation circumstances. No exemption was granted automatically.

6. Relief : The Hon'ble High Court dismissed the application and declined to quash Crime No. 1018/2021, the charge sheet, framed charges or RCT No. 594/2021. Applicants 2 and 3 were left free to apply for permanent exemption from attendance; if filed, the trial court was directed to consider the kidney transplant and donation facts. The High Court did not decide guilt, order exemption outright, award costs or alter charges.

Chandrakant Shrivastava and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 21528/2022, 13/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (164) Prev Next

Headnote :- Cheating — Section 420 IPC / under-stamped land registration / valuable right - The sale deed described the land as agricultural although it was alleged to have already been diverted, and lower stamp duty was paid. *Mariam Fasihuddin v. State by Adugodi Police Station, Criminal Appeal No. 335/2024* (22 January 2024), was considered for property as a valuable ownership right or interest. The Court reasoned that dishonest false valuation or description to induce State registration, which enables transfer of ownership, could prima facie satisfy the requirements of deception and delivery under Section 420. This was a Section 482 threshold finding, not proof of the purchaser's knowledge or guilt.

Special statute — stamp penalty / general criminal law - *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, was applied because a special statute does not, by itself, bar prosecution under the general criminal law unless it excludes that law. *Dhanraj N. Asawani v. Amarjeetsingh Moindersingh Bassi, Criminal Appeal No. 2093/2023* (25 July 2023), explained the distinction between a positive statutory duty to report and an express or necessarily implied exclusion of ordinary FIR registration and police investigation; its cooperative-society context was used by analogy, not treated as a Stamp Act holding. No Stamp Act bar was shown. The Collector of Stamps' assessment and deposit of penalty therefore did not automatically terminate a potentially separate cheating case.

Quashing — bona fide purchaser / disputed knowledge - The purchaser claimed agricultural revenue entries gave him a good-faith belief. Whether the seller told him of prior diversion, and whether the buyer intentionally misdeclared value, remained disputed trial facts. The High Court dismissed the application for quashing and directed the trial court not to be influenced by its factual observations.

Judicial precedent — reasons for coordinate-bench result - The applicant cited *Smt. Sudha Gupta*, MCRC No. 3468/2014, for absence of inducement in a stamp-duty case. Applying *Central Board of Trustees v. Indore Composite Pvt. Ltd., (2018) 8 SCC 443*, the Court observed that the prior decision gave no reason for its bare conclusion and undertook its own Section 420 analysis.

Case-note :- ***1. Facts :*** Chandramohan Dubey bought land bearing survey numbers 225/3, 171/2, 172, 170, 166 and 168/2 at Village Chanwarpatha, Tehsil Tendukheda, from Yogendra Singh, also named as an accused. The prosecution alleged the land had already been diverted from agricultural status but the sale deed portrayed it as agricultural to pay lower stamp duty. The Additional Collector, Narsinghpur, directed the Tehsildar on 20 December 2023 to lodge an FIR for State revenue loss and financial misappropriation. Crime No. 526/2023 at Police Station Suatala, Narsinghpur, alleged offences under Sections 420 and 34 IPC. Separately, the Collector of Stamps on 5 February 2024 in Case No. 1/B-103/48(B)/2023–24 determined a deficit and imposed a penalty, which the applicant said he paid. The buyer applied under Section 482 CrPC to quash the FIR. He contended that the Stamp Act supplied a complete route for duty recovery and a criminal cheating charge was unwarranted after payment. He also claimed good faith because revenue entries depicted the land as agricultural, and he relied on *Mariam Fasihuddin* and a coordinate-bench *Sudha Gupta* decision. The State opposed. The Court addressed the legal possibility of Section 420 on the alleged registration facts and left the disputed questions of knowledge and intention for trial.

2. Precedents — Considered : *Mariam Fasihuddin v. State by Adugodi Police Station, Criminal Appeal No. 335/2024* (Supreme Court, 22 January 2024), was invoked by the applicant and used by the Court for the wide connotation of property under Section

420 IPC: a valuable right or interest subject to ownership and exchange, including the exclusive powers of possession, use and disposal. The High Court reasoned from that account of ownership and the Registration Act requirement for a transfer of property above ₹100 that State registration of a deed enables the transfer of a valuable interest. The conclusion concerning registration obtained by deception on insufficient stamp duty is the present Court's application of that principle; it is not a universal Supreme Court holding that every stamp-duty deficit amounts to cheating.

Smt. Sudha Gupta and Ors. v. State of M.P., MCRC No. 3468/2014, was the applicant's coordinate-bench authority. Its quoted paragraphs reproduced the text of Sections 120-B and 420 IPC and the cheating ingredients before stating without explanation that inducement was absent in that case. The Court asked counsel for the reasons supporting the conclusion; counsel conceded the prior order gave no reasons. *Central Board of Trustees v. Indore Composite Pvt. Ltd., (2018) 8 SCC 443*, was quoted for the duty of courts to give reasons on facts, issues, parties' arguments, relevant principles and each material finding, so the parties understand the result and appellate review is possible. Applying that principle, the Court did not automatically apply *Sudha Gupta*'s unexplained factual result and instead considered whether registration could be a valuable property benefit.

State of M.P. v. Rameshwar, (2009) 11 SCC 424, was considered for the absence of a bar to ordinary criminal law in the separate M.P. Cooperative Societies Act context. *Dhanraj N. Asawani v. Amarjeetsingh Moindersingh Bassi, Criminal Appeal No. 2093/2023* (25 July 2023), was quoted extensively: a special cooperative statute's positive obligation on an auditor or Registrar to file an FIR does not, without express words or necessary implication, prevent another informant from invoking ordinary police powers. *Dhanraj* distinguished *Jeewan Kumar Raut*, where a different statute's cognizance scheme created an exclusion by necessary implication; it referred to *Bhajan Lal*'s category concerning a statutory bar. The present Court applied by analogy the approach of examining whether the Stamp Act excluded the general criminal law after counsel identified no provision excluding IPC prosecution. It did not hold that all special enactments permit identical parallel proceedings regardless of text.

3. Statutes considered : Section 420 IPC required cheating with deception, dishonest inducement and delivery of property or effect on a valuable security or relevant signed instrument; Section 34 IPC appeared in the FIR. Section 482 CrPC supplied inherent quashing jurisdiction, limited here to allegations taken at face value. The Registration Act's requirement, as described in the order, for registration of transfers above ₹100 was used to explain the legal value of registration to ownership rights. The Stamp Act was invoked for duty assessment and penalty, but counsel identified no express prohibition on IPC application. Section 120-B IPC and provisions of the M.P. Cooperative Societies Act appeared within cited decisions for comparison, not as charges or governing special provisions in this FIR.

4. Issues : (1) Does knowingly misdescribing already diverted land as agricultural and understating its value to obtain sale-deed registration on lower stamp duty potentially satisfy the deception, dishonest inducement and property-delivery elements of Section 420 IPC? (2) Does the Stamp Collector's separate assessment and paid penalty bar investigation of an IPC offence, or must an exclusion of general criminal law be shown in the special statute? (3) Could the buyer's asserted reliance on revenue entries and claimed ignorance of diversion be accepted on a Section 482 petition without testing what the seller conveyed or what the buyer knew? (4) What weight could be given to the coordinate-bench *Sudha Gupta* conclusion of no inducement where the cited paragraphs gave no reasons? The actual buyer's mens rea, transaction value and guilt were not tried.

5. Ratio / Findings : The Court first identified Section 420's elements and considered the coordinate-bench reliance. It observed that *Sudha Gupta* had not explained why inducement was absent after reciting the statutory text. Applying *Indore Composite*'s principle that judicial orders must give reasons, it declined to treat that unreasoned conclusion as determinative. It then drew on *Mariam Fasihuddin*'s conception of property and registration's role in transferring a valuable ownership interest. On the prosecution allegation, falsely declaring value or agricultural status to induce authorities to register a deed at insufficient duty could amount to prima facie cheating. The characterisation of State registration as delivery of property is the High Court's legal conclusion at the

quashing stage; the Court expressly limited factual aspects to the Section 482 stage.

The buyer's claimed reliance on agricultural revenue entries could not resolve whether he knew that the land had already been diverted or what information the seller had given him. The Court treated these as trial defences. The existence of a stamp-duty assessment and paid penalty did not resolve the issue of prosecution under the IPC. *Rameshwar* and *Dhanraj* illustrated that a positive duty or recovery process under a special statute does not alone exclude general criminal law; no express or necessarily implied Stamp Act bar was shown. The Court described the penalty as prima facie evidence of evasion, not a criminal conviction. Taking the uncontroverted allegations at face value, it found a prima facie Section 420 case and refused quashing. It specifically directed the trial court to decide on its own evidence, without prejudice from its preliminary factual remarks.

6. Relief : The Hon'ble High Court dismissed the application. Crime No. 526/2023 under Sections 420 and 34 IPC was not quashed. The trial court was directed to decide strictly in accordance with evidence at trial, uninfluenced by the High Court's factual observations. The order imposed no additional penalty or costs and made no final determination of the buyer's knowledge, dishonest intent, precise valuation or guilt.

Chandramohan Dubey v. State of Madhya Pradesh, M.Cr.C. no. 6066/2024, 02/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (165) Prev Next

Headnote :- Criminal appeal — charge discrepancy / clerical error - Trial charges and conviction findings identified Suresh and Rajesh as the persons charged and convicted directly under Section 302, and Hukum as charged and convicted under Section 302/149. The sentencing paragraph's use of Hukum for Suresh was an isolated typing error. *Subran* and *Nanak Chand* on conviction without a substantive charge were distinguished.

Evidence — prompt FIR / Section 157 CrPC - The marg intimation and FIR recorded the same time of receipt of information, which was not necessarily the time when each document was written. Injured persons were medically examined immediately after the timely report. *State of U.P. v. Gokaran* was applied: failure to prove compliance with the forwarding formalities did not, on this record, establish that the FIR was ante-timed; *Bhajan Singh*, *Arjun Marik* and *Meharaj Singh* were distinguished. *Brijpal Singh* and *Lallu Manjhi* did not require examination of every eyewitness where several injured eyewitnesses corroborated one another; *Baldev Singh*, *Shingara Singh*, *Pancho*, *Ghurey Lal* and *Ghudan* were distinguished where ocular, medical and ballistic evidence that did not exclude their weapons supported the findings against the shooters.

Murder / attempt / hurt - Suresh and Rajesh fired successive 12-bore shots at Govind's chest and head, damaging vital organs; their convictions under Section 302 were upheld. Pellet wounds to Raghuveer, Vijay and Uttam were not proved fatal or grave and the acts of the particular shooters did not establish the alleged intention to kill those victims, so the convictions under Section 307/149 were reduced to Section 324/149. *Pashora Singh* and *Parsuram Pandey* were used for the injury/intention assessment; the case does not hold that a grave injury is invariably necessary for Section 307.

Unlawful assembly / constructive liability - The shared object proved was to cause hurt, not to murder Govind. The murder by two members was not imputed to all under Section 149. Four appellants, including Chandu, were acquitted because participation and common object were not proved beyond doubt. The remaining members' convictions for hurt and rioting were adjusted according to the weapons used and the injuries proved. Section 506 was set aside on the particular alleged post-assault words. In the absence of a State appeal, the Court did not enhance Hariom's conviction or increase the hurt counts. The short custodial sentences of the other participants were reduced to the periods already undergone; direct murder convictions of the two shooters remained.

Case-note :- ***1. Facts :*** Three connected appeals challenged the III Additional Sessions Judge (Fast Track), Guna's 8 February 2007 judgment in ST No. 19/2006. On 31 October 2005 an argument over purchase and use of a transformer between Ram Singh and complainant Bhupendra Singh Raghuvanshi was followed by an armed group arriving at a village gathering. Suresh Singh shot Govind Singh in the chest; Rajesh Singh shot him again as he tried to rise. Multiple others fired guns or used farsa, ballam or sticks against members of the gathering. Govind died, several witnesses suffered

pellet wounds and others simple injuries. The FIR and marg were lodged at Bajrang-garh, and victims promptly sent for examination. The trial court convicted the many appellants on murder, attempted murder, unlawful-assembly, hurt, rioting and intimidation counts. Pancham Singh's appeal abated upon his death. The Supreme Court's 3 January 2014 CRLMP order allowed Suresh to seek urgent final hearing; it did not decide the appeal merits.

2. Precedents — Considered : *Subran alias Subramanian v. State of Kerala, 1993 SCC (Cri) 583*, and *Nanak Chand v. State of Punjab, AIR 1955 SC 274*, were invoked against a direct Section 302 conviction without a direct charge. The Court distinguished them because Hukum's name in the sentencing paragraph was a typing mistake; the charge and conviction findings concerned Suresh and Rajesh. *Brijpal Singh v. State of M.P., 2004 SCC (Cri) 90*, on missing independent witnesses was distinguished since several injured eyewitnesses testified and one unexamined companion was not identified as an eyewitness. *Lallu Manjhi v. State of Jharkhand, AIR 2003 SC 854*, on a single interested eyewitness was distinguished from the multiple injured witnesses here. The judgment invokes a general principle that witness quality, not mere number, matters.

Bhajan Singh alias Harbhajan Singh v. State of Haryana, AIR 2011 SC 2552, on inordinate unexplained Section 157 delay, and *Arjun Marik v. State of Bihar, 1994 SCC (Cri) 1551*, and *L/NK Meharaj Singh v. State of U.P., 1995 Cri LJ 457*, on ante-timed FIR concerns were distinguished: the two documents recorded the same time of receipt of information, and medical examination and investigation followed promptly. *State of U.P. v. Gokaran, AIR 1985 SC 131*, was applied for treating immediate investigative action as evidence against ante-timing even though separate Section 157 compliance was not proved.

Baldev Singh v. State of M.P., AIR 2003 SC 2098, was repeatedly invoked on ocular-medical contradictions but distinguished for Govind because post-mortem and eyewitnesses corroborated the shots; it also informed the Court's separate assessment of non-fatal injuries. *Pancho v. State of Haryana, (2011) 10 SCC 165, Ghurey Lal v. State of U.P., (2009) 1 SCC (Cri) 60*, and *State of M.P. v. Ghudan, AIR 2004 SC 797*, were pressed on ballistic-ocular inconsistency; the Court distinguished them because the expert's opinion on pellet compatibility did not exclude the two shooters' weapons. *Shingara Singh v. State of Haryana, AIR 2004 SC 124*, on materially changed eyewitness accounts was distinguished because no material change in accounts about Govind was shown. *Pashora Singh v. State of Punjab, AIR 1993 SC 1256*, and *Parsuram Pandey v. State of Bihar, AIR 2004 SC 5068*, were considered with *Baldev Singh* when reducing particular Section 307 allegations to Section 324 on the basis of the proved injury and the individual assailant's intention.

3. Statutes considered : IPC Sections 302 and 302/149 (direct murder and constructive liability), 307/149 (attempted murder), 324/149 and 323/149 (hurt by dangerous weapon and simple hurt), 147 and 148 (rioting and armed rioting), 34 and 149 (common intention and common object), 506 (criminal intimidation), and 39 (voluntariness) were central. CrPC Section 157 concerned dispatch of FIR to Magistrate; Section 161 prior statements were compared to testimony. The Court also noted Section 25 Arms Act only to explain that recovery may bear on a separate firearm charge but not necessarily identify a shooter here. The appeal record, absence of State appeal, charges and trial sentencing paragraphs limited the possible adverse alteration. The three connected appeals were disposed of by one judgment.

4. Issues : Whether a wrong name in a sentencing paragraph reflected conviction without charge; whether the FIR was ante-timed and whether the injured eyewitnesses' accounts, medical evidence and ballistic evidence that did not exclude their weapons proved the individual shooters' roles; whether three injured victims' wounds and actors' intent sustained attempted murder; whether all accused shared a common object to murder or only to cause hurt; whether alleged exhortation or mere presence proved four participants' liability; what hurt, rioting, intimidation and sentencing orders could survive without a State appeal.

5. Ratio / Findings : The trial charge and conviction identified Suresh and Rajesh under Section 302 and Hukum under Section 302/149. Marg and FIR recorded the time information was received, not the duration of drafting. The complainant travelled about 25 km with the injured and reported within roughly one hour forty minutes. Medical work started immediately. The Court rejected speculation that the FIR was ante-timed and a blanket adverse inference from the non-examination of witnesses. Injured

eyewitnesses consistently attributed the two fatal shots, supported by 25 pellet wounds and vital-organ damage. The ballistics expert's statement that pellets could have come from a third gun did not say they could not have come from the two shooters' 12-bore weapons. Their successive shots aimed at the chest and head established an intention to murder, despite the absence of proved prior enmity.

In contrast, the MLCs for Raghuveer, Vijay and Uttam and other materials did not prove fatal or grave injuries; a suspected lung condition was not confirmed by surgery or specialist proof. The Court assessed each victim, shooter, weapon and location and held that the proved shootings constituted simple hurt by dangerous weapons rather than attempted murder, on the basis of its finding on intention. Other blows were differentiated: a ballam/farsa could produce a simple laceration depending on use, but the asserted blows by Chandu and Banti were unsupported by injury records. The accounts of Onkar and Anant's alleged exhortation varied and no stone injury was proved. Mere presence did not establish their common object. The group members with proved assaults shared an object to cause hurt, but not Govind's murder, which remained Suresh and Rajesh's direct offence. The Court also found the alleged future-threat words insufficient for Section 506 in this particular context.

The State filed no appeal to seek a more serious individual conviction for Hariom's injury to Shivram or a larger number of Section 323/149 counts. The remaining participants' rioting distinction followed weapons: sticks for Ram and Dalup supported Section 147, while deadly weapons supported Section 148 for the others. Although the reasoning discusses six simple-hurt victims, the operative conviction is three Section 323/149 counts; the appellate disposition remains confined to those counts.

6. Relief : The Hon'ble High Court acquitted Onkar Singh, Anant Singh, Chandu alias Chandrabhan and Banti alias Hindu Singh of all charges. All appellants were acquitted of the charge under Section 506. Ram, Dalup, Hariom, Vishnu, Lallu, Radheshyam, Neta, Setu, Bhure and Hukum were acquitted of 302/149 and three 307/149 counts, then convicted on three 324/149 and three 323/149 counts; Ram and Dalup's Section 148 became Section 147, with Section 148 maintained for other proved armed participants. Those short custodial terms were reduced to the periods already served, with the fines and default provisions preserved. Suresh and Rajesh retained direct Section 302 and other surviving convictions; their convictions on three counts under Section 307/149 were reduced to convictions on three counts under Section 324/149 with six months' RI and ₹100 fine per count.

Chandu and Others v. State of Madhya Pradesh, Cr.A. no. 172/2007 & 176/2007 & 177/2007, 25/11/2016, D.B., Hon'ble Justice Shri N.K. Gupta & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal appeal — separate trial record - Under *A.T. Mydeen*, evidence recorded in Bhaggo Bai's separate trial could not be used in the present appellants' appeals, or vice versa; her simultaneously heard appeal was decided separately. Hemant's appeal abated on his death.

Witnesses — related, inimical and injured - Narayan and Ashok were sons of deceased Gangaram, and Asha was Narayan's wife and an injured witness at their home. *Rupinder Singh Sandhu*, *Shamim*, *Rizan* and *Mohd. Rojali Ali* were applied: relationship alone does not make testimony interested or incredible, though enmity demands scrutiny. *Sushil* and *Matibar Singh* supported assessing enmity as both motive and risk of false implication. *Mahesh*, *Nagarjit Ahir* and *Sadhu Saran Singh* supported reliance on credible witnesses despite the absence of an independent villager's testimony. *Suresh Yadav*, *Dharmendrasinh*, *Dal Singh* and *Bhagwan Jagannath Markad* guided assessment of non-intervention and minor variations.

Ocular and medical evidence / FSL - Gangaram's two incised head wounds matched sword blows. Amar's lacerations and skull fracture did not rule out a sword used bluntly or blows by rod and lathi; *Putchalapalli Naresh Reddy*, *Bhajan Singh*, *Ramanand Yadav* and *Shamsher Singh* were applied to require more than a reconcilable difference before rejecting direct evidence. An FSL assertion of human blood on weapons was not used because the report was unexhibited and the appellants were not asked about it under Section 313 CrPC.

Unlawful assembly — Section 149 - The coordinated armed group attacked Gangaram after a prior dispute and then Amar when he intervened. *Krishnappa*, *Daya Kishan* and *Vinubhai Ranchhodbhai Patel* were applied: membership, common object and likely offences may be inferred

from collective action without proving a separate injury by every member. Two Section 302/149 counts, Section 324/149 for Asha and Section 148 were upheld. Both appeals were dismissed, and the life sentences were affirmed.

Case-note :- ***1. Facts :*** The Division Bench heard Cr.A. 873/2011 by Chhaviram, Sodam alias Kunjbihari and Chunge alias Ramgopal and Cr.A. 977/2011 by Thakurdas and Janki alias Ramdas, challenging the 7 September 2011 conviction in ST 87/2010. A quarrel over fetching water from a municipal tanker on 14 September 2009 followed an earlier platform dispute. Narayan reported the quarrel. At about 7:45 a.m. next day, armed accused came to Gangaram's home; Hemant and Thakurdas struck Gangaram's head with swords. Amar Singh intervened and was struck by Sodam and Janki, with other members participating. Chhaviram's chopper blow at Asha's arm broke her bangles and caused abrasions. Gangaram was declared dead on arrival at hospital; Amar died on 21 September after treatment. The trial court imposed Section 148, two Section 302/149 and Section 324/149 convictions, including two life sentences, with concurrent terms. Of ten accused, two juveniles were dealt with by JJB; Bhaggo Bai and Tillu had absconded. Bhaggo Bai was later separately tried and appealed. Hemant died during appeal and his appeal abated.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Cr.A. 1306/2021 (31 October 2021), was applied to keep the evidence recorded in separate trials of co-accused apart, even when their appeals were heard simultaneously. *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, were quoted for the need to assess the reliability of related witnesses rather than mechanically disbelieve them. *Rizan* reproduced *Dalip Singh* and *Masalti*; these embedded citations were not independently applied to a different issue. *Sushil v. State of U.P., 1995 Supp (1) SCC 363*, and *Matibar Singh v. State of U.P., (2015) 16 SCC 168*, were applied to the dual evidentiary effect of enmity. *Mahesh v. State of Maharashtra, (2008) 13 SCC 271*, *Nagarjit Ahir v. State of Bihar, (2005) 10 SCC 369*, and *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, supported the conclusion that absence of independent witnesses alone did not defeat a credible prosecution account. *Suresh Yadav alias Guddu v. State of Chhattisgarh*, Cr.A. 1349/2013 (25 February 2022), was used to reject the inference that an eyewitness's account must be disbelieved because the witness did not intervene in a violent assault. *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457*, *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, *Ramanand Yadav v. Prabhu Nath Jha, (2003) 12 SCC 606*, and *Shamsher Singh v. State of Haryana, (2002) 7 SCC 536*, were used to assess reconcilable differences between the weapon described and the medical description of the wound; the court did not claim ocular proof always overrides medical impossibility. *Dharmendrasinh v. State of Gujarat, (2002) 4 SCC 679*, *State of M.P. v. Dal Singh, (2013) 14 SCC 159*, and *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, supported separating immaterial variations from core contradictions. *Krishnappa v. State of Karnataka, (2012) 11 SCC 237*, *Daya Kishan v. State of Haryana, (2010) 5 SCC 81*, and *Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*, were quoted and applied for Section 149 membership, common object and knowledge. *Hallu*, *Niranjan Prasad*, *Bhola Singh*, *Bhimappa Jinnappa Naganur* and *Kuldip Yadav* were listed in defence submissions; *Ramchander*, *Vijendra Singh* and *Rohtas* in the State's submissions.

3. Statutes considered : CrPC Section 374 supplied appellate jurisdiction; Section 313 mattered because the accused were not confronted with incriminating FSL material. IPC Sections 141 and 142 defined unlawful assembly and membership; Sections 146, 148 and 149 governed rioting, deadly weapons and constructive liability. Sections 302/149, 324/149 and 148 were the operative convictions. The FIR and charges mentioned Sections 147, 307 and Arms Act Section 25(1-B) read with Section 4, but the appeal's operative confirmation did not separately adjudicate an Arms Act sentence. Evidence Act Sections 145 and 155 appeared within the *Bhagwan Jagannath Markad* quotation on contradiction and credibility, not as a separate ruling.

4. Issues : Could evidence from Bhaggo Bai's separate trial be used in these appeals? Did kinship, prior enmity, the absence of independent villagers' testimony, failure to intervene, Asha's delayed examination or variations make the three eyewitnesses unreliable? Did Amar's lacerations refute testimony of a sword blow? Could an

unexhibited FSL result omitted from Section 313 examination be used? Did collective armed conduct prove common object to commit two murders under Section 149, and were trial convictions and life sentences sustainable?

5. Ratio / Findings : The Court first kept the separate trial records apart. Post-mortems established homicidal deaths: Gangaram had two incised head wounds with fractured skull and exposed brain matter; Amar had multiple injuries, skull fracture and hemorrhage, with head injury sufficient to cause death. Narayan, Asha and Ashok were natural witnesses to the attack in front of their home. Kinship was not itself a credibility defect. The previous platform and water disputes could motivate the attack as well as false accusation; the Court scrutinised their accounts against the FIR, the injuries and the surrounding facts. No villager came forward with information about the incident, and an injured family witness was not discredited solely for lack of an independent witness. Asha's examination at 17:20 was explained by attending to Gangaram and severely injured Amar. Her abrasions could have resulted from the chopper striking and breaking her bangles. Nor was a son's non-intervention during a ferocious assault a decisive reason to reject his account. Minor variations did not destroy the consistent core.

The incised wounds on Gangaram corresponded with sword blows. Amar's lacerated wounds did not make a sword blow impossible, since its blunt side or a blunt edge could have struck, and rod/lathi assaults were also alleged. Medical evidence did not completely exclude direct testimony. The FSL report of blood on seized weapons was unexhibited and not put to the accused under Section 313; the Court did not rely on it. For common object, the group came armed after a dispute, forcibly took Gangaram a short distance, attacked his head, continued to attack Amar as he intervened, and injured Asha. The absence of dragging marks did not refute forcible movement. Proof that each member caused a separate injury was not required once membership and the common object or knowledge of the likely offence were established. Continued participation after the first assault supported the inference of a common object to kill both victims. The Court held the evidence sufficient beyond reasonable doubt without relying on the inadmissible FSL assertion.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed the Section 148, two Section 302/149 and Section 324/149 convictions and sentences. Life imprisonment was the minimum for Section 302 and not reduced. Janki and Thakurdas, already imprisoned, were to serve the remaining terms. Chhaviram, Sodam and Chunge, on bail, had bonds cancelled and were ordered to surrender by 30 May 2022, with enforcement in default. A free copy was directed to the appellants and trial record returned. This judgment did not decide Bhaggo Bai's separate appeal, though it was heard concurrently.

Chaviram and Others v. State of Madhya Pradesh; Hemant and Others v. State of Madhya Pradesh, Cr.A. no. 873/2011 & 977/2011, 13/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence — FIR as dying declaration - Daghich Singh dictated an FIR reporting his gunshot wounds at 20:00 and died from those wounds. The medical record at 20:35 did not show unconsciousness; the scribe proved dictation, readback and thumb impression. *Munnu Raja* and *Dharam Pal* were applied to admit the FIR under Section 32(1) Evidence Act. Expectation of death was unnecessary under *Najjam Faraghi*. The recorder need not repeat the exact words in oral testimony if the recorded declaration and its conditions are proved; the Bombay Full Bench decision in *Ramesh Kamble* was followed. *Jaishre Anant Khandekar* guided scrutiny of fitness and truth.

Forensic / discovery - Two spent cartridges and the recovered 12-bore gun were received sealed; missing specimen seal impressions on seizure memos were not decisive on the proved record. *Yakub Abdul Razak Memon*'s open-place discovery analysis was applied to a gun hidden in an accessible shed. FSL linked both cartridges to the one recovered gun. *Gurcharan Singh* was used to reject a rigid inference about the victim's posture based on the tractor seat's backrest. *Shakila Abdul Gafar Khan* supported retaining the credible core while rejecting an unsupported second-shooter attribution.

Unlawful assembly - The FIR named the six co-appellants but gave them no weapon or act. The witnesses' later accounts of hiding, weapons and directions changed materially and were not corroborated by the spot map or reliable evidence of seizure. *Bhudeo Mandal, Kuldip Yadav, Shaji,*

Krishnappa, *Debashis Daw*, *Sudhir Samanta* and *Killu* were considered to require proof of membership and common object before Section 149 liability, even though no personal overt act is necessary once those elements are proved. Six appellants were acquitted of Section 302/149, 324/149 and 148. The gunman remained convicted directly under Sections 302 and 324, with concurrent terms of life imprisonment and one year; his liability under Sections 148 and 149 was set aside.

Case-note :- ***1. Facts :*** Five connected appeals challenged a 3 September 2003 sessions judgment in ST 36/2000 convicting all appellants under Sections 148, 302/149 and 324/149. On 28 October 1999, Daghich Singh was sowing masoor from a tractor with Jagdish and Jandel. Two shotgun discharges wounded Daghich and Jagdish. Daghich dictated FIR Ex. P.28 at 20:00 after travel via an outpost, and died after referral for treatment. The post-mortem found hip region firearm wounds, damaged intestines and hemorrhagic shock; Jagdish had simple pellet wounds. The FIR named a shooter described at the outset as Chandrabhan Gadariya, Shibbu Jatav as another shooter and seven more men. Shibbu was absconding and charge-sheeted under Section 299 CrPC; this appeal did not determine his case. Devlal's separate appeal abated after his death. The six present co-appellants were Chhuna, Bablu, Harnam Singh, Madho Singh, Indrapal Singh and Mukundi.

2. Precedents — Considered : *Munnu Raja v. State of M.P., (1976) 3 SCC 104*, and *Dharam Pal v. State of U.P., (2008) 17 SCC 337*, were applied to admit a deceased injured informant's FIR about the fatal transaction under Section 32(1), subject to proof of capacity and reliability. *Gurcharan Singh v. State of Punjab, 1994 Supp (1) SCC 515*, was applied on a victim's possible movement on a tractor and limits of a doctor's posture opinion. *Sitaram v. State of M.P.,* (2010) 3 MPWN SN 9, was invoked to require the FIR recorder to repeat the declaration verbatim; the court rejected that proposition in relation to this FIR and cited the Bombay Full Bench decision in *Ramesh alias Gyanoba Kamble*, *2011 Cri LJ 4964*, on proof of a recorded statement without oral recitation of every word. The Full Bench's long extract includes *P.V. Radhakrishna*, *Sukanti Moharna*, *Khushal Rao*, *Laxmi*, *Laxman* and other Supreme Court decisions on Section 32; they were quoted as part of that court's review.

Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1, was applied to recovery from a concealed position in a place accessible to others, quoting *State of H.P. v. Jeet Singh on* hidden knowledge and ordinary visibility. *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749*, was applied to separate reliable evidence from false attribution instead of applying falsus in uno as a mandatory rule. *Najjam Faraghi v. State of W.B., (1998) 2 SCC 45*, was applied to the express Section 32 proposition that expected imminent death is unnecessary. *Jaishre Anant Khandekar v. State of Maharashtra, (2009) 11 SCC 647*, was cited for careful dying-declaration scrutiny; its quotation contains the *Paniben*/*Shakuntala* principles and their embedded authorities. *Bhudeo Mandal v. State of Bihar, (1981) 2 SCC 755, Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324, Shaji v. State of Kerala, (2011) 5 SCC 423, Krishnappa v. State of Karnataka, (2012) 11 SCC 237, Debashis Daw v. State of W.B., (2010) 9 SCC 111, Sudhir Samanta v. State of W.B., (1998) 1 SCC 581*, and *State of M.P. v. Killu, (2020) 16 SCC 735*, were individually quoted for the distinction that no overt act is needed once membership of an unlawful assembly and its common object are proved, but bare presence or vague general allegations do not establish those requirements under Section 149. The *Killu* quotation embeds *Ramlal Devappa Rathod* and others.

3. Statutes considered : Evidence Act Section 32(1) rendered the deceased's cause-of-death statement relevant, even without an expectation of death. Section 27 governed recovery based on disclosure of the concealed gun. IPC Sections 141, 148 and 149 required an unlawful assembly of at least five, armed rioting and proved membership/common object; Sections 302 and 324 covered direct murder and simple gunshot hurt. Initial charges included Section 307 and Arms Act Sections 25/27 but final relief did not separately sustain those charges. CrPC Section 299 was mentioned for the absconder Shibbu; Section 313 appears within a quoted Supreme Court case, not as a separate issue in this appeal.

4. Issues : Was Daghich conscious and capable of dictating the FIR after being shot, despite thumb impression and time spent in transit? Could the FIR become a dying declaration and could the scribe prove it without oral verbatim repetition? Did the victim's posture on the tractor, the wound findings, the sealing of the exhibits or recovery from an accessible shed undermine the identification of the

gunman? Could the court accept the first-shooter account while rejecting the second gunman allegation in light of two cartridges matched to one gun? Were the six villagers' membership of the unlawful assembly and common object to commit murder proved beyond reasonable doubt, or was their presence innocent and the witnesses' later account unreliable? What direct convictions remained if Section 149 failed?

5. Ratio / Findings : The FIR scribe testified that Daghich dictated the report, heard it read back and thumb-marked it. The MLC for the examination at 20:35 did not mention unconsciousness; no question on incapacity was asked of the examining doctor. Being helped to walk with hip wounds, or using a thumb mark though educated, did not show inability to speak. The FIR, concerned with his fatal injuries, became a dying declaration by operation of Section 32. The scribe proved the existing FIR, rather than a statement formally recorded as a dying declaration, and did not have to repeat its complete text. The short FIR did not have to describe every change in the tractor driver's posture. The seizing officer, supporting witnesses, armorer and FSL receipt showed sealed cartridges and gun despite absence of specimen seal impression on the memos. The gun was hidden within an open shed; access by others did not eliminate the disclosed hidden-location knowledge. FSL tied both fired cartridges to it. The Court accepted the core against the gunman, treated the claim that Shibbu fired one shot as possible false implication, and found murder of Daghich and simple hurt to Jagdish.

As for the six villagers, the deceased's FIR merely named them, with no weapon or act. Later accounts of armed men hiding in bushes conflicted with prior police statements that they had approached from the village and with the spot map, which showed no bushes on the firing side. Several prosecution seizure witnesses did not support the prosecution or contradicted themselves; in one instance a witness volunteered that the prosecutor instructed him which weapon to name. The court did not find reliable proof of group membership, common object or weapons. Although a participant need not personally injure a victim where Section 149 otherwise applies, proof of participation with a shared object could not be inferred solely from village presence. With those six acquitted, the convicted shooter could not alone form the requisite assembly of five on this record.

6. Relief : The Hon'ble High Court acquitted Chhuna, Bablu, Harnam Singh, Madho Singh, Indrapal Singh and Mukundi of Sections 302/149, 324/149 and 148. Bail bonds of those at liberty were cancelled as no longer required; Indrapal, then in jail, was ordered released unless held in another case. The gunman named Chandramohan in the operative order was acquitted of Section 148 and constructive counts, but convicted directly under Sections 302 and 324. He received life imprisonment and ₹10,000 fine with one year default RI for murder, plus one year RI for hurt, concurrently, and was ordered to surrender. Four appeals by the six acquitted appellants were allowed; Chandramohan's appeal was dismissed with the modifications. A free copy was directed to the appellants, and a copy with the trial record was to be sent immediately to the trial court for necessary information.

Chhuna and Others v. State of Madhya Pradesh, Cr.A. no. 474/2003 & 512/2003 & 609/2003 & 662/2003 & 616/2003, 25/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Juvenile justice / heinous offence / Section 15 preliminary assessment - For a child aged sixteen or above alleged to have committed a heinous offence, the Board assesses mental and physical capacity, understanding of consequences and the circumstances; the exercise is not a trial or a finding of guilt. The High Court applied the statutory criteria in revision without deciding the substantive sexual-offence charge.

Preliminary assessment / alleged planned conduct / scope of revision - The allegations that a victim below twelve was taken into the applicant's shop, that clothing was removed and that a condom was used were treated as prima facie grounds for inferring capacity, awareness of consequences and steps to avoid forensic detection. The Board's opinion that the child be tried as an adult, affirmed on appeal, was not shown to be perverse, baseless or jurisdictionally erroneous.

Case-note :- ***1. Facts :*** The prosecution alleged that on 04.08.2018 the victim, a child below twelve, went with a companion to the applicant child's shop in Datia. A family member reported that the applicant had committed an unnatural sexual act on the victim and released him when he screamed. Information

passed through the victim's family to the complainant, leading to registration of Crime No. 100/2018 at Police Station Kotwali, Datia, initially under Sections 377 and 450 IPC. The investigation included a spot map and witness statements. The final report, as described by the High Court, referred to Sections 377 and 342 IPC and Section 5(n)(6) of the POCSO Act; the Court did not adjudicate the precise charge formulation in this revision. The applicant was above sixteen. The Juvenile Justice Board, Datia, on 18.08.2021 made a Section 15 preliminary assessment and opined that the child should be tried as an adult. Criminal Appeal No. 45/2021 before the Children's Court/Special Judge (POCSO Act), Datia was dismissed. In the revision under Section 102, the applicant argued that the victim had no injury supporting the allegation, that the Board had not properly assessed his mental and physical capacity, and that the assessment had exceeded the three-month period.

2. Statutes considered : Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides for a Board's preliminary assessment when a child who has completed sixteen years is alleged to have committed a heinous offence. Subsection (1) directs attention to mental and physical capacity, ability to understand consequences and the circumstances; its explanation distinguishes assessment from trial and its proviso permits assistance from experienced psychologists, psycho-social workers or other experts. Subsection (2), reproduced in the judgment, addresses Board disposal and the applicable period by reference to Section 14. Section 2(33) supplies the definition of "heinous offences"; Section 18(3) is referred to within the reproduced Section 15 text. The revision was brought under Section 102 of the Act. IPC Sections 377, 450 and 342 and the POCSO provision are part of the case background as stated by the Court, not offences whose ingredients or guilt were decided here.

3. Issues : (i) Whether the Board's Section 15 opinion, upheld by the Children's Court, had a rational basis for finding the child's mental and physical capacity and understanding of the alleged offence's consequences, or was so cursory or perverse that interference in revision was warranted. (ii) Whether the applicant's arguments about absent bodily injury and a delayed assessment undermined that order.

4. Ratio / Findings : The High Court set out Section 15 and emphasised that a preliminary assessment concerns capacity and understanding in the alleged circumstances, rather than a trial of guilt. Referring to the prosecution version, it reasoned that use of a condom was a precaution capable of indicating physical and mental capacity and an awareness that forensic material might implicate the actor. It also relied on the alleged sequence at the shop, including taking the victim inside and removing clothing, to view the conduct as deliberate rather than sudden or provoked. These are the Court's prima facie inferences from allegations for Section 15 purposes; they do not establish that the sexual act occurred or prove the charged offences. In the Court's view, those circumstances furnished a basis for the Board's conclusion and did not permit a finding that the assessment was perverse or lacked a basis. Counsel identified no jurisdictional error. The Court reproduced and applied the statutory text of Section 15.

5. Relief : The Hon'ble High Court dismissed the criminal revision, leaving undisturbed the Board's preliminary-assessment opinion that the applicant should be tried as an adult and the appellate order affirming it. The order does not convict the applicant, finally determine the sexual-offence allegations, or grant any separate direction on the assessment-period objection.

Child in Conflict with Law v. State of M.P., Cr.R. no. 1463/2022, 27/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (169) Prev Next

Headnote :- Writ petition — transfer of NDPS investigation / necessary parties - A traders' association asked for FIR No. 288/2021 under Sections 8/20 NDPS Act to be transferred to the Narcotics Control Bureau, a SIT or a court-monitored probe, citing alleged ganja delivery through an e-commerce platform. It impleaded neither Amazon, against which it made accusations, nor the FIR accused. *Swapna Mohanty* and *State of Assam* were applied for the necessary-party test; *Church of Christ* was applied for the opportunity to cure non-joinder; and *Indu Bhushan Dwivedi* was applied for the rule against a prejudicial finding about a person who had not been heard. The petitioner was alerted but did not avail the opportunity to add them.

Third-party request / accused hearing - The Court left open the possibility of a stranger seeking relief in a criminal matter in some circumstances. On this record a third party could not change the investigation's agency without hearing those accused in that investigation. Their position differed from the limited participation available before process is issued on an original complaint; the court illustrated that an accused may become a necessary party when a complaint's dismissal is challenged in revision. The writ was dismissed for non-joinder, without deciding platform culpability, investigating officer expertise or whether NCB or SIT transfer was warranted.

Case-note :- ***1. Facts :*** The Confederation of All India Traders filed W.P. 27516/2021 under Article 226 for transfer of Crime No. 288/2021 at Police Station Gohad Chauraha, Bhind, under Sections 8/20 NDPS Act to the Narcotics Control Bureau, or for a special investigation team or court-monitored investigation. Counsel alleged about 21.734 kg ganja worth ₹2,10,000 had been delivered through Amazon and referred to a similar Visakhapatnam case, whose number the order itself marks as partly illegible. The petition alleged local police lacked cyber expertise or reach, but made no personal accusation against the investigating officer. Amazon and the persons named as accused in the FIR had not been included among the respondents. The State challenged the petitioner's standing and opposed transfer. The court asked counsel about non-joinder; counsel offered to add the missing persons only if directed. The order contains no determination on the evidence that Amazon committed or knew of any offence.

2. Precedents — Considered : *Swapna Mohanty v. State of Odisha, (2018) 17 SCC 621*, and *State of Assam v. Union of India, (2010) 10 SCC 408*, were quoted and applied: a necessary party is one without whom effective adjudication or an order is impossible, while a proper party aids complete final resolution. Both refer to *Udit Narain Singh Malpaharia*; it is an embedded foundational reference. *Church of Christ Charitable Trust v. Ponniamman Educational Trust, (2012) 8 SCC 706*, was considered for the requirement that an objection to non-joinder be raised in time to permit cure, and the potential consequence where a litigant persists after notice. Its civil plaint context was used for the opportunity principle, not as an NDPS-specific transfer rule. *Indu Bhushan Dwivedi v. State of Jharkhand, (2010) 11 SCC 278*, was applied to avoid a prejudicial finding against Amazon without a reasonable opportunity to be heard. The court's illustration concerning an accused after dismissal of a complaint in limine was its own procedural analogy.

3. Statutes considered : Article 226 supplied writ jurisdiction; NDPS Act Sections 8/20 were the FIR offences, not adjudicated merits. The order referred generally to complaint pre-process procedure and criminal revision. The procedural rule applied was necessary-party joinder and audi alteram partem in a writ affecting non-parties.

4. Issues : Could the court accept allegations against an unimpleaded e-commerce platform and order an independent investigation? Were the accused in the ongoing FIR necessary respondents to a stranger's writ seeking a change of investigating agency? Was the opportunity to cure the defect sufficient where the petitioner declined to decide for itself whom to implead? The merits of Amazon's alleged involvement, the investigator's expertise, territorial limits and grounds for agency transfer were not determined.

5. Ratio / Findings : The petition made allegations that, if accepted, would prejudice Amazon, so it was a necessary party for the requested adjudication. The Court notified counsel of the omission and the opportunity to add it, but counsel deferred the choice to the Court. The Court explained that it decides whether an absent person is necessary; the petitioner decides whom to implead to seek relief. The accused named in the FIR were also necessary parties where a third party who was not aggrieved asked the Court to alter their ongoing criminal investigation. Although a stranger may sometimes have standing in a criminal matter and a person named as an accused in a complaint has limited participation before process is issued, that did not allow a third party to change the investigation's course without hearing the existing accused. The Court found both omissions uncured. These findings are procedural and case-specific. They neither impose a universal veto over all police investigation nor establish an accused's participation right in every investigatory step.

6. Relief : The Hon'ble High Court dismissed the writ petition for non-joinder of necessary parties. No direction was issued for an NCB transfer, a SIT or court monitoring. No adverse finding on Amazon's guilt, NDPS allegations, police expertise or the merits of FIR No. 288/2021 was made. The order

describes the Visakhapatnam crime number as partly illegible.

Confederation of All India Traders v. State of Madhya Pradesh, W.P. no. 27516/2021, 20/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (170) Prev Next

Headnote :- Civil and criminal process — land sale / pending title appeal - A power-of-attorney sale in 2012 was followed by a disputed 2018 sale during a title suit and a 2021 conveyance to the complainant. The 2022 dismissal of the seller's suit remained unstayed while its first appeal proceeded; filing an appeal did not suspend the decree. Alleged nondisclosure of the suit and prior transaction supported a cheating FIR. *Jagmohan Singh* and *P. Swaroopa Rani* were applied to permit criminal proceedings alongside a civil dispute where the allegations independently disclosed an offence. *Pratibha*, *Vishnu Dutt Sharma* and *Kamaladevi Agarwal* were used to reject quashing merely because a civil proceeding was pending; *Prem Raj* and *M.S. Sheriff* explained context-specific sequencing rather than a rigid priority rule.

Civil judgment / criminal proof - *Kishan Singh* and *Syed Askari Hadi Ali Augustine Imam*, with *Iqbal Singh Marwah* discussed through the quotations, distinguished an operative unstayed decree from conclusive criminal proof. The two processes use different standards; Evidence Act Sections 40–43 may make an earlier judgment relevant in a limited way. The High Court's account of the transaction at the quashing stage did not finally determine guilt.

BNSS Section 528 / Section 175(3) - The Magistrate declined to direct registration of an FIR and fixed the case for recording the complainant's statements. The revision court ordered an FIR, which became Crime No. 53/2025 under Sections 420 and 120-B IPC. The High Court upheld that direction and dismissed two connected inherent-powers applications. No final finding on the disputed power of attorney, precise title, dishonesty or conspiracy was made.

Case-note :- ***1. Facts :*** Balaji Developers complained that a disputed land parcel was resold after an earlier transfer. A company through director Mukesh Agrawal executed a 24 February 2012 power of attorney in favour of Dalveer Singh Kanshana, though authority for Khasra 142/1 was disputed. Dalveer sold Khasra 191 and 142/1 on 22 March 2012 to Shruti Developers and Constructions. A later Board of Revenue mutation ruling and 2015 writ status quo order concerned the land. The company sued to annul the 2012 deed; while that suit was pending, it sold to Rakhi Upadhyaya and Ganesh Sharma on 24 August 2018, with Girraj Agrawal and Dalveer as attesting witnesses. The 2018 deed allegedly stated no civil suit or interim order was pending. Those buyers sold to Balaji in October 2021. The company's cancellation suit was dismissed on 16 December 2022; FA 180/2023 was pending and a 16 May 2024 order prohibited further third-party rights, but did not stay the decree. Balaji's complaint alleged payment of ₹40 lakh and deceptive concealment. The JMFC rejected the request under Section 175(3) BNSS for an FIR and fixed the case for recording the complainant's statements; revision 473/2024 reversed that on 19 February 2025. Police then registered Crime 53/2025 under Sections 420 and 120-B IPC. Dalveer and Mukesh/Girraj separately sought quashing under Section 528 BNSS, and their applications were disposed of by a common order.

2. Precedents — Considered : *Jagmohan Singh v. Vimlesh Kumar,* SLP(Crl) 9339/2021 (5 May 2022), was applied for the proposition that a civil suit over an alleged forged instrument does not preclude a criminal complaint alleging fabrication. *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765*, was quoted on parallel civil and criminal proceedings and case-specific stay choices; its passage refers to *M.S. Sheriff*, *Iqbal Singh Marwah* and another authority. *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775*, was quoted on differing civil and criminal proof standards and limited relevance of prior judgments under Evidence Act Sections 41–43. *Syed Askari Hadi Ali Augustine Imam v. State, (2009) 5 SCC 528*, was quoted at length for *K.G. Premshanker*'s distinction between the relevance and conclusiveness of an earlier judgment and the rejection of the broad rule in *Karam Chand* that civil decisions bind the criminal court.

Prem Raj v. Poonamma Menon, SLP(Crl) 9778/2018 (2 April 2024), was quoted for the Constitution Bench *Iqbal Singh Marwah*/*M.S. Sheriff* approach: differing proof standards and no hard-and-fast sequencing, with possible limited exceptions. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied against quashing a prima facie FIR because of collateral civil litigation and beyond-FIR defence material. *Vishnu Dutt Sharma v. Daya*

Sapra, (2009) 13 SCC 729, and *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, likewise supported parallel proceedings and cautioned against thwarting a criminal case merely because civil proceedings were pending. *Kamaladevi* quotes *Trisuns Chemical* and *Rajesh Bajaj* about a commercial transaction containing cheating; those were embedded authorities. *Bhajan Lal* appears within *Pratibha* and *Kamaladevi* as a quashing framework, not as a fresh independent holding that every title dispute is criminal.

3. Statutes considered : BNSS Section 175(3) governed the complaint's request that police register and investigate; Section 528 provided the High Court's inherent review jurisdiction. The complaint listed BNS Sections 314, 316, 318, 320, 323, 335, 336 and 340 with Sections 45 and 61, while the police FIR actually recorded IPC Sections 420 and 120-B. Evidence Act Sections 40–43 were discussed through cited cases on relevance of prior judgments. The pending civil appeal and unstayed decree were procedural facts, not a res judicata determination binding criminal guilt.

4. Issues : Did pending FA 180/2023 suspend the trial decree or block the criminal complaint about subsequent sales? Did alleged conveyance despite prior sale and knowledge of a pending suit disclose a crime notwithstanding civil title litigation? Were findings in a civil case automatically binding on the criminal court? Was the revisional direction to register FIR vulnerable to Section 528 quashing solely due to the connected civil appeal? The court did not try the disputed authority under the power of attorney, witness culpability, final title or conspiracy.

5. Ratio / Findings : The civil suit's dismissal had not been stayed. A first appeal is a continuation of the suit but does not automatically suspend the decree. Against that background, the 2018 resale by the former seller while its suit was pending, alleged contrary assertion that no suit or interim order existed, and attestation by persons with transaction knowledge supplied a prima facie basis for investigation. The High Court described the resale as fraudulent in its reasoning at the quashing stage, but criminal evidence had not been tested at trial. Civil and criminal proceedings may proceed simultaneously because their standards of proof and the questions they address differ; earlier civil findings do not simply control the criminal court, although an earlier judgment may be relevant under Evidence Act provisions. It rejected a rule requiring the FIR to await the appeal and sustained the revision court's registration direction. The 2024 no-new-rights order was distinct from a stay of the 2022 decree. The court did not decide whether the alleged 2012 authority alteration actually occurred or whether each attesting witness had criminal intent.

6. Relief : The Hon'ble High Court affirmed the VI Additional Sessions Judge's 19 February 2025 revision order directing police registration and dismissed both connected applications. Crime 53/2025 under IPC Sections 420 and 120-B remained. No conviction, final finding on title, or direction staying the first appeal was entered.

Dalveer Singh Kanshana v. Balaji Developer and Others; Mukesh Kumar Agrawal and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 8856/2025 & 9360/2025, 15/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (171) Prev Next

Headnote :- Quashing — investigation / disputed defence - A cousin brother-in-law sought Section 482 CrPC quashing of Crime No. 293/2017 under Sections 498A, 323 and 34 IPC, saying he lived 30 km away, did not visit the matrimonial household and was falsely implicated because he was financially comfortable. The FIR specifically alleged harassment after the husband's death, followed by beating and expulsion on 29 May 2017. *Satvinder Kaur, Padal Venkota Rama Reddy, Rajiv Thapar, R. Kalyani* and *Tilly Gifford* were considered: courts assess whether the allegations, taken at face value, disclose an offence and interfere sparingly with a pending investigation; disputed defence claims normally await evidence. *Lalita Kumari* was invoked by the State for registration of a cognizable FIR.

Matrimonial cruelty — extended family / specificity - The Court recognized concern about omnibus implication of a husband's relatives but declined a categorical bar. Specific allegations against this cousin, coupled with alleged joint assault and eviction, sufficed for investigation. A residence only 30 km away did not conclusively rule out involvement; "separate living" was assessed in relation to capacity to interfere, not merely a distinct address. The High Court dismissed quashing and directed the trial court to decide solely on evidence, without influence from preliminary observations. It made no final guilt finding.

Case-note :- ***1. Facts :*** The complainant married Indrajeet Singh Jatav on 1 June 2013. He died in a rail accident on 30 October 2016. She reported that the applicant, a cousin brother-in-law, together with her parents-in-law harassed her physically and mentally after his death, beat her and expelled her and her children on 29 May 2017. Bhind Dehat police registered Crime 293/2017 under IPC Sections 498A, 323 and 34; investigation remained pending. The applicant sought Section 482 quashing, arguing he was not a real brother-in-law, lived separately about 30 km away, had no visiting contact and was targeted for his finances. The State emphasized specific allegations and cited *Lalita Kumari*; complainant's counsel added that anticipatory bail had been rejected, but that was a submission rather than the ratio for refusing quashing.

2. Precedents — Considered : *Satvinder Kaur v. State (NCT of Delhi), (1999) 8 SCC 728*, was quoted for ordinarily permitting investigation where an FIR, on its face, discloses a cognizable offence and for refraining from determining the correctness of the accusations under Section 482. Its territorial jurisdiction discussion concerned its own facts, not an issue in this case. *Padal Venkota Rama Reddy v. Koveuri Satyanarayana Reddy, (2011) 12 SCC 437*, was quoted extensively on the three purposes of inherent jurisdiction, its sparing exercise, the avoidance of a premature assessment of whether the prosecution version was probable or the witnesses credible, and the illustrative quashing principles in *R.P. Kapur* and *Bhajan Lal*. It reproduces many authorities such as *L. Muniswamy*, *Saroj Kumar Sahoo*, *Madhavrao*, and *P.P. Sharma*. *Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330*, set out the exceptional four-step approach to indubitable defence material; the Court treated the applicant's claimed lack of visits and separate residence as disputed defence facts. *R. Kalyani v. Janak C. Mehta, (2009) 1 SCC 516*, was quoted on face-value offence disclosure and limited examination of defence material. *Tilly Gifford v. Michael Floyd Eshwar, (2018) 11 SCC 205*, was quoted to caution against resolving disputed facts and foreclosing investigation absent clear grounds. The State invoked *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, for the police duty to register a cognizable FIR; the court's own analysis rested on Section 482 threshold and specific accusations rather than a separate *Lalita Kumari* issue determination.

3. Statutes considered : CrPC Section 482 supplied inherent power to quash an FIR/investigation. IPC Sections 498A, 323 and 34 were the registered offences: alleged cruelty by a husband's relative, hurt and common intention. The pending investigation was distinguished from a trial verdict.

4. Issues : Could a pending FIR be quashed based on the applicant's status as a cousin brother-in-law rather than a real brother-in-law, separate residence, claimed absence of visits and suspected false implication? Were the allegations concerning conduct after the husband's death sufficiently specific to justify investigation against him, rather than merely a list of relatives? Could the court assess contested proximity and credibility before evidence was collected? The applicant's actual role and the prosecution's ultimate ability to prove the charged offences remained open.

5. Ratio / Findings : At the Section 482 threshold the court accepted the FIR's specific allegation that the applicant jointly harassed, beat and expelled the complainant and her children after the husband's death. It acknowledged that extended family can be falsely drawn into matrimonial criminal cases and vague omnibus allegations should not alone force trial, but the described assault and eviction identified actual conduct and a date. Living at a different address 30 km away did not make involvement impossible; the claimed lack of visits and effective separation were contested defence facts. In this setting, the court assessed separate living by the person's ability to interfere in everyday family affairs, rather than merely by residence in another nearby house. The absence of a general bar to prosecution of a cousin did not settle guilt. The court declined to halt the cognizable investigation or weigh the truth of competing accounts. It did not decide the merits of the previously rejected anticipatory bail application or use that rejection as proof of guilt.

6. Relief : The Hon'ble High Court dismissed the application; the FIR and investigation in Crime 293/2017 continued. The trial court was expressly requested to decide on evidence produced at trial, without prejudice from factual observations in the quashing order.

Dalveer Singh v. State of Madhya Pradesh and Others, M.Cr.C. no. 8230/2017, 09/05/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (172) Prev Next

Headnote :- Cheating — agreement to sell / intention at inception - The complainant paid ₹14 lakh under a ₹22 lakh land-sale agreement, with ₹8 lakh due when the deed was executed. The FIR alleged the sellers subsequently refused and "now" had a dishonest intention. It did not allege fraudulent inducement when the agreement was made. Applying *Vijay Kumar Ghai v. State of W.B.* and *Radheshyam v. State of Rajasthan*, the Court held a mere breach and a later change of intention did not prima facie establish an offence under Section 420 IPC. The extensive *Vijay Kumar Ghai* passage on forum shopping and multiple complaints was reproduced but no such finding was made in this case.

Quashing — civil remedy / criminal pressure - On the allegations accepted as stated, Section 482 CrPC relief was warranted because the dispute was over performance of the sale agreement and lacked facts showing cheating at the inception of the agreement. Crime No. 115/2023 under Sections 420 and 34 IPC and consequential proceedings were quashed. The complainant was left free to file a civil suit for specific performance if advised. The Court did not order the sale deed executed, decide the civil claim or rule that commercial disputes can never disclose cheating.

Case-note :- ***1. Facts :*** The applicants agreed to sell land to respondent No. 2. The complainant asserted payment of ₹14 lakh out of a total ₹22 lakh, with the remaining ₹8 lakh payable when the sale deed was executed. The sellers did not execute it, and the complainant said it later appeared they no longer intended to do so. Inderganj police registered Crime 115/2023 under IPC Sections 420 and 34. The applicants invoked Section 482 CrPC to quash the FIR and consequences, asserting that the pleaded dispute was a contract breach. The complainant argued the sellers' present refusal showed dishonesty. The High Court determined whether the allegations, taken at face value, disclosed an offence and left respondent No. 2 free to pursue civil redress.

2. Precedents — Considered : *Vijay Kumar Ghai v. State of West Bengal* was quoted at length. Its material application here was to distinguish a subsequent breach of contract from dishonest inducement at the inception of the agreement, by reference to *Hridaya Ranjan Prasad Verma*, and to caution against using criminal process for a purely civil claim. The quotation also surveys forum shopping, multiple complaints, second FIRs, suppression, *Bhajan Lal*, *R.P. Kapur*, *Indian Oil*, *G. Sagar Suri* and other decisions. The present Court did not find two FIRs, choice of competing fora or deliberate suppression by these parties; those quoted discussions are not independent holdings on this record. *Radheshyam v. State of Rajasthan*, Criminal Appeal 3020/2024 (22 July 2024), was directly applied for breach of contract not automatically calling for criminal action and for rejecting criminal pressure to enforce land-sale specific performance. Neither case was treated as making a genuine initial fraud immune simply because a civil claim might also exist.

3. Statutes considered : IPC Section 420 required cheating, including initial dishonest inducement, and Section 34 was included in the FIR. CrPC Section 482 supplied inherent quashing power. The suggested suit for specific performance was a civil remedy. The decision was at the facial FIR stage, not an acquittal after trial.

4. Issues : Did the allegations that ₹14 lakh was paid under a land-sale agreement and the sellers later refused to execute the deed disclose dishonest intention at the inception of the bargain and a Section 420 offence? Could criminal law be used to secure the deed when the allegations, taken as true, stated only breach and later unwillingness? If quashed, what civil relief remained possible? The court did not decide whether the buyer was ready and willing to perform or whether a civil decree should issue.

5. Ratio / Findings : The High Court identified intention at the inception of the agreement as critical to distinguishing cheating from breach of contract. The complaint's chronology asserted a valid agreement, advance payment, balance at registration, and a later refusal or later change of intention. It did not aver an original plan to deceive. Even assuming the entire FIR true, the basic Section 420 ingredient was absent. The criminal process could not be used as a coercive route to obtain specific performance. This decision assesses the allegations at face value; it resolves the allegations in this FIR and does not determine whether other commercial transactions may disclose a criminal offence.

6. Relief : The Hon'ble High Court allowed the application and quashed Crime 115/2023 at Inderganj under Sections 420 and 34 IPC, together with consequential proceedings. Respondent No. 2 was expressly free to pursue a civil specific-

performance suit if so advised. No damages, refund, sale-deed execution or costs were awarded.

Damodar Das Singhal and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 21886/2024, 19/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (173) Prev Next

Headnote :- Murder appeal — child witness / forensic corroboration - The couple's ten-year-old son testified that his father poured kerosene on Saroj after she refused money and pushed her toward an electric heater. He was cross-examined, denied tutoring and was supported by kerosene detected in her scalp hair and extensive burns. A doctor's claim that she reported an accidental cooking fire was rejected in light of that evidence and a contrary account of her ability to speak; no formal dying declaration had been recorded. Her parents did not witness the act and were used only for her strained relationship and the child's later account.

Section 106 Evidence Act - The husband admitted presence at the incident and offered an explanation that she had been accidentally burnt while cooking on a heater. *State of Rajasthan v. Kashi Ram and Tulshiram Sahadu Suryawanshi* were applied: failure to explain facts about the incident that were especially within his knowledge could add to a prosecution case already founded on proof; it does not transfer the prosecution's burden.

Section 302 / Exception 4 - *Suraj Jagannath Jadhav* was applied to conscious kerosene burning and the limited significance of a later alleged rescue effort. *Nandlal* required, for Exception 4, that the accused had taken no undue advantage and had not acted cruelly, in addition to the requirement of suddenness. The unarmed wife's kerosene burning after a money argument was cruel and imminently dangerous, so the proposed Section 304 Part I reduction failed. The murder conviction and life sentence were affirmed.

Case-note :- ***1. Facts :*** Dashrath appealed the Gwalior Sessions Judge's 29 October 2010 conviction under Section 302 IPC for burning his wife Saroj. The judgment's sentencing discussion records life imprisonment, and its opening records a ₹500 fine with one month's RI in default. They had been married about 13–14 years. The prosecution said that after he demanded money for liquor and Saroj refused while cooking on an electric heater, he poured kerosene on her and pushed her head toward it. Their ten-year-old son Mukesh was at home and gave the direct account. Saroj suffered very extensive burns and died during hospital treatment. Her father Lalaram and mother Rajabeti described marital strain and what Mukesh later told them, but did not see the incident. The doctor who treated Saroj testified for both sides and claimed she said the fire was accidental while cooking on a stove, although he had not recorded a formal dying declaration. The prosecution FSL detected kerosene in her scalp hair.

2. Precedents — Considered : *State of Rajasthan v. Kashi Ram, (2006) 12 SCC 254*, was applied for Section 106 Evidence Act: a person with special knowledge of circumstances of death must give a probable explanation, but the prosecution keeps the criminal proof burden. *Tulshiram Sahadu Suryawanshi v. State of Maharashtra, (2012) 10 SCC 373*, was applied for an inference under Sections 106 and 114 only after the prosecution established foundational facts. Its quotation embeds *Mir Mohammad Omar* and *Shambhu Nath Mehra*. *Suraj Jagannath Jadhav v. State of Maharashtra, (2020) 2 SCC 693*, was quoted at length and applied to the specific argument that an unplanned act of setting the victim on fire with kerosene, followed by an attempt to extinguish the fire, reduces the offence from murder. Its discussion of *Santosh*, *Bhagwan* and *Kalu Ram* distinguishes an extreme inebriation fact pattern and explains why subsequent rescue does not necessarily mitigate conscious burning. *Nandlal v. State of Maharashtra, (2019) 5 SCC 224*, was applied for the cumulative Exception 4 requirements. Its quoted *Sridhar Bhuyan* passage explains mutual fight, heat of passion, absence of undue advantage and cruelty; *Pappu* and *Surain Singh* appear within the quote, not as new fact-specific holdings of the present court. The court rejected automatic Section 304 treatment simply because the precipitating money dispute was sudden.

3. Statutes considered : IPC Section 302 governed murder, Section 300 Fourthly the imminently dangerous act, and Exception 4 to Section 300 the claimed sudden-fight mitigation toward Section 304 Part I. Evidence Act Section 106 concerned special knowledge, with Section 114 presumptive reasoning in cited *Tulshiram*. CrPC Section 313 was relevant to the husband's admission of presence and accidental-burning defence; Section 374 supplied appellate review, Section 174 the initial death inquiry. No statutory provision created an automatic

presumption of guilt from marriage or household residence.

4. Issues : Was the child eyewitness reliable despite alleged tutoring and a doctor's claim of an accidental-burn statement? What did kerosene in scalp hair and all-over burn distribution prove against an electric heater accident? Could the husband's presence in the house and his explanation under Section 313 provide an additional link under Section 106 without reversing the burden of proof? Did a sudden dispute and alleged fire-extinguishing conduct satisfy Exception 4 and warrant Section 304 Part I instead of Section 302?

5. Ratio / Findings : The doctor who conducted the post-mortem found fatal, extensive ante-mortem burns but left the question of accident, homicide or suicide to be determined from the surrounding evidence. Mukesh was a natural witness who consistently described his father pouring kerosene and forcing Saroj close to the heater; he denied tutoring and was tested in cross-examination. The FSL finding of kerosene in the scalp hair was consistent with kerosene having been poured from above and inconsistent with burns caused by an electric coil heater alone. The doctor's account of an accidental statement, not formally recorded as a dying declaration, conflicted with a police officer's report that the injured could not speak and with the independent physical finding. The Court accepted the child and rejected the accident defence. Dashrath's admitted presence and special access to the incident called for a probable explanation once the prosecution's foundational proof was present; the inadequate heater explanation added to, but did not replace, that proof.

After she refused to give him money, he poured fuel on his unarmed wife and pushed her towards the heater, setting her on fire. This was a consciously lethal or imminently dangerous act. A claim that he later tried to put out the fire, even if assumed, did not negate the intention/knowledge shown by the initial act. The event's lack of planning did not satisfy Exception 4, since the appellant took undue advantage and acted cruelly. No mutual sudden fight with the victim was proved. The prosecution established guilt beyond reasonable doubt on the court's overall assessment, without relying on an automatic spouse presumption.

6. Relief : The Hon'ble High Court dismissed the criminal appeal, affirmed the Section 302 conviction and life sentence as the statutory minimum, and ordered the already-imprisoned appellant to serve the remainder. The judgment was to be provided free of cost and trial record returned.

Dashrath v. State of Madhya Pradesh, Cr.A. no. 970/2010, 10/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Satish Kumar Sharma, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (174) Prev Next

Headnote :- Investigation — delay / outcome report - The petitioner complained that the investigation into an FIR dated 21 October 2023 under Sections 341, 363 and 392 IPC remained incomplete and sought arrests, a charge sheet and a status report. Section 173(1) CrPC and Section 193 BNSS were cited for the duty to complete investigation without unnecessary delay. The Court directed the investigator to finish as early as possible and take the steps the evidence and law require, leaving open whether a charge sheet or a closure report should be filed. No fixed deadline was imposed, and no finding of criminal guilt was made.

Arrest and judicial supervision - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari* was applied: courts should not dictate arrest, seizures, or a charge sheet in every investigation. The quoted *M.C. Abraham* principle explains the investigating officer's discretion and the effect of arrest on personal liberty. The petitioner's arrest and predetermined charge-sheet requests were refused. A grievance could be submitted to the Superintendent of Police, Panna, for consideration according to law. The petition was disposed of.

Case-note :- ***1. Facts :*** Dashrath Singh Lodhi filed W.P. 32273/2024 under Article 226, stating that no arrests had been made and the investigation into an FIR dated 21 October 2023 under IPC Sections 341, 363 and 392 had not been completed. He asked the High Court to direct the police to proceed with the investigation and file a charge sheet, call for a status report, and arrest Tarandeep Singh, Shashikant Patel and eight to ten others described as absconding. The order also refers to a grievance that may be submitted to the Superintendent of Police, Panna.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted extensively and applied. The Supreme Court disapproved an order instructing police to record statements, arrest, seize property and file a charge sheet, because the investigator may lawfully decide

those steps differently and can end with a closure report. Its quotation of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains Section 41 arrest discretion, caution owing to liberty and reputation, and no mechanical arrest simply because a cognizable offence is reported. The quoted decision also invokes *Divine Retreat Centre v. State of Kerala on* hearing those prejudiced by coercive judicial orders. The High Court used the decision for limits on supervisory investigation directions.

3. Statutes considered : Article 226 provided the writ remedy. IPC Sections 341, 363 and 392 were the registered FIR offences, not adjudicated on the merits. CrPC Section 173(1), alongside BNSS Section 193 as stated by the Court, requires expeditious completion without unnecessary delay and a report after investigation. CrPC Section 41 appeared in the quoted *M.C. Abraham* passage on arrest discretion, while Section 482 appeared in the Supreme Court's original case but was not this writ's direct jurisdictional basis.

4. Issues : Could the High Court order named suspects arrested and compel a charge sheet before the investigation was complete? Did prolonged pendency warrant an instruction to finish and report without unnecessary delay? What complaint channel remained for further delay? The court did not decide whether offences would be proved or whether the named persons were actually absconding.

5. Ratio / Findings : Arrest, seizure and the final prosecution decision lie with the police under law and depend on evidence; a court should not direct automatic arrest and filing of a charge sheet merely because an FIR has been registered. The requested commands would amount to supervising the investigation's manner and outcome. Separately, the statutory duty to complete the investigation without unnecessary delay did not permit indefinite inaction. The investigator must reach a conclusion on offence disclosure and file whichever lawful final report is justified. The Court directed prompt completion and necessary steps under law without prescribing the result, a concrete timetable, or a required arrest. No criminal liability inference was made from the petitioner's allegation of delay.

6. Relief : The Hon'ble High Court disposed of the writ with a direction to conclude the investigation as early as possible and act as required by law. The request to order arrests or require a charge sheet irrespective of the investigation's outcome was declined. The petitioner could apply to the Superintendent of Police, Panna, with a grievance, to be considered according to law.

Dashrath Singh Lodhi v. State of Madhya Pradesh and Others, W.P. no. 32273/2024, 07/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (175) Prev Next

Headnote :- Regular bail — witness influence / forensic evidence - Deepak sought Section 439 bail in a prosecution for IPC Sections 376-D, 366 and 506 after the prosecutrix turned hostile. The High Court relied on a prior co-accused order recording that the defence side had obtained her vakalatnama and contemplated a no-objection affidavit through a lawyer chosen by the accused side; it treated that circumstance as a serious witness-pressure concern. A forensic report also found human sperm on the slide and swab. *Hemudan Nanbha Gadhvi* was applied for the limited principle that hostile testimony does not make scientific proof legally irrelevant. Bail was refused. The Court's consideration of the disputed conduct and the forensic finding did not amount to a final determination of criminal guilt or identification. The extensive *Javed Ansari* quotation inside the earlier order concerned another case and was not adopted as a factual finding about this prosecutrix.

Case-note :- ***1. Facts :*** Deepak was arrested on 8 July 2021 in Crime 341/2021, Police Station Pichhore, Shivpuri, on allegations under IPC Sections 376-D, 366 and 506. In his first Section 439 CrPC application he argued that the prosecutrix had turned hostile. The High Court had addressed this circumstance in a 10 August 2021 order on co-accused Ramhet's application, MCRC 39388/2021. That earlier order recorded a changed assertion about Deepak's alleged engagement or proposed marriage to the prosecutrix and that counsel on the accused side held her vakalatnama, with a proposed no-objection affidavit. It inferred an effort to influence her; the co-accused then sought withdrawal of his bail request. In the current case the Court applied that concern to Deepak and also noted that human sperm had been found in the slide and swab of the prosecutrix. The FSL finding was considered as a bail factor, without a final determination of identity or guilt.

2. Precedents — Considered : *Hemudan Nanbha Gadhvi v. State of Gujarat, (2019) 17 SCC 523*, was applied for the possibility of conviction on reliable

scientific evidence even if the prosecutrix is hostile; the present court used it at bail stage, not as a declaration of guilt. The 10 August 2021 Deepak-related co-accused order was incorporated at length to explain the witness-influence concern. Its lengthy quotation of *Javed Ansari v. State of U.P.*, Allahabad High Court Criminal Miscellaneous Bail Application 27194/2021, described a different alleged forged-vakalatnama incident and professional-ethics response. The Allahabad incident and directions appeared as an illustration within the quoted order, rather than as facts or operative relief in Deepak's matter.

3. Statutes considered : CrPC Section 439 governed regular bail. IPC Sections 376-D, 366 and 506 were the offences alleged. The judgment evaluated apparent witness influence and forensic evidence as bail factors. The earlier order discussed professional conduct and counsel authority by reference to a different case, without deciding a separate disciplinary proceeding here.

4. Issues : Did the prosecutrix's hostile testimony require bail where the accused side was linked to obtaining her vakalatnama and a proposed no-objection affidavit? Could the FSL finding remain potentially probative despite hostile testimony, and what role did it play at the bail stage?

5. Ratio / Findings : The Court treated the vakalatnama episode documented in the co-accused order as a concrete risk of influencing the prosecution witness, materially weakening reliance on her hostility as a bail ground. The FSL finding of human sperm meant the case did not depend only on her current testimony; *Hemudan Nanbha Gadhvi* establishes that proper scientific proof may support a conviction notwithstanding hostility. At the bail stage, this supported refusal of bail; it was not a judicial conclusion that the forensic result identified Deepak or that the charged offences were proved. The quoted Allahabad dispute did not constitute a separate finding of fact about these parties.

6. Relief : The Hon'ble High Court dismissed the first application for regular bail under Section 439 CrPC.

Deepak v. State of Madhya Pradesh and Others, M.Cr.C. no. 55512/2021, 11/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (176) Prev Next

Headnote :- Cheque dishonour — corrected complaint - A statutory demand notice identified ₹3 lakh due for advertising, though the ensuing complaint mistakenly pleaded a personal loan. Before the complainant's cross-examination, the pleading could be amended to reflect the notice; its rejection was a material error even though charge had already been framed.

Sole proprietorship / payee - Naresh signed as proprietor of Prapti Collection. *Raghu Lakshminarayanan* was applied: the proprietary business is not a separate company, and Section 141 did not require its separate notice or arraignment. Deepak Advertisers was the cheque payee and filed through its proprietor; *Shankar Finance* supported the written complaint in the payee's trade name under Section 142.

Debt presumption / dishonour - The admitted signature triggered the presumption under Section 139. *Bir Singh* rejected a difference in handwriting or ink alone as a defence, while *Shree Daneshwari Traders* and its *Kumar Exports* quotation confirmed that the presumption remained rebuttable by probable facts and circumstances. The theft account, which lacked a credible date or supporting evidence, was rejected; advertising photos were admitted and bills produced. Section 146's official-mark presumption did not make a seal the only way to prove the signed bank memo; the bank witness did not disown it, and insufficient funds was a recorded reason for dishonour. The High Court reversed acquittal, convicted under Section 138, imposed one year RI and ₹5 lakh compensation.

Case-note :- ***1. Facts :*** Deepak Advertisers, a sole proprietary business of Deepak Jethwani, appealed the Additional Chief Judicial Magistrate, Gwalior's 13 October 2017 acquittal of Naresh Jethwani in Criminal Case 14094/2010. The ₹3 lakh cheque, dated 10 March 2010, was signed by Naresh as proprietor of Prapti Collection and returned on 29 June 2010. The 5 July 2010 statutory notice, received 7 July, said the debt arose from advertising Naresh's shop, but the complaint filed 9 August 2010 mistakenly alleged a personal loan for domestic needs. The complainant's drafting counsel accepted responsibility for the error. The correction application of 15 February 2012 was refused on 8 October 2012. The trial court also allowed copies of advertising bills as secondary evidence subject to final admissibility and genuineness assessment.

Deepak and two witnesses testified; Naresh and an ICICI employee testified for the defence. Photographs showed the shop advertisements and Naresh acknowledged his shop and phone number in them. He asserted that signed cheques had been stolen but gave no reliable theft-report chronology.

2. Precedents — Considered : *Raghu Lakshminarayanan v. Fine Tubes, (2007) 5 SCC 103*, was applied to distinguish the proprietor from a company or partnership and reject a Section 141 separate-entity objection; its *Ashok Transport Agency* quotation supplied the trade-name distinction. *Shankar Finance & Investments v. State of A.P., (2008) 8 SCC 536*, was applied to the written Section 142 complaint by the payee proprietary concern through its proprietor. *Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, was applied to the admitted signature and different-handwriting point; it addresses voluntarily handed-over blank cheques in its quoted rule, while theft was separately rejected on this record for want of credible support. *Shree Daneshwari Traders v. Sanjay Jain, (2019) 16 SCC 83*, was applied on the Section 139 burden. *Kumar Exports v. Sharma Carpets* is quoted extensively within *Shree Daneshwari* on probability-based rebuttal and bare denial.

3. Statutes considered : The Negotiable Instruments Act provisions considered were Sections 138 (dishonour offence and punishment), 139 (rebuttable debt/liability presumption), 141 (company liability, inapplicable to the sole proprietary concern), 142(a) (written payee or holder complaint), 143 (sentence-hearing statement in this order) and 146 (official-mark bank memo presumption). The quoted *Bir Singh* analysis also mentions Sections 20 and 87. CrPC Section 372 supplied the appeal; Section 313 governed the accused's examination. The order reproduces more of Section 142, including limitation and jurisdiction.

4. Issues : Could a complaint's mistaken loan account be amended when the statutory notice had stated the advertising debt? Must the drawer's sole proprietary concern separately receive notice or be arraigned, and could the payee's proprietary trade name bring the written complaint? Did a signed cheque, an alleged theft and different ink, advertising evidence and the Section 139 presumption establish enforceable liability? Could an officer-signed return memo without a bank seal prove insufficient-funds dishonour under Section 146? If so, should the acquittal be reversed and what relief was ordered?

5. Ratio / Findings : The notice contemporaneously described the advertising debt, and the amendment application preceded the complainant's cross-examination; the earlier refusal was set aside and the correction allowed. A sole proprietorship is its proprietor's business name, so Naresh was the proper accused as drawer without separately naming or notifying Prapti Collection; conversely, Deepak Advertisers was the named payee and could complain through Deepak Jethwani. The signature was undisputed. The suggested missing-cheque story lacked a credible date or police record, while the shop-advertisement photographs were admitted, bills were produced, and no objection to the advertisement had been made. The court treated the signed cheque and transaction evidence as establishing debt under the rebuttable Section 139 framework, and different ink did not itself displace it. The trial permission for copies of bills had been subject to final admissibility and genuineness; the appellate Court relied on the photographs, bills and other circumstances to find a legally enforceable debt. The ICICI officer-signed memo was not disowned by the defence bank employee; Section 146's marked-slip presumption was not the sole mode of proving dishonour. Insufficient funds was supported despite an additional signature-related remark. The court found the offence proved beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the criminal appeal, set aside the 13 October 2017 acquittal and convicted Naresh under Section 138. It imposed one year rigorous imprisonment and directed ₹5 lakh compensation to Deepak Advertisers within one month, with a stated jail term of three months in default, and surrender by 31 December 2020. It cited Section 143 as its reason for no separate sentence hearing because the jail term was not over one year.

Deepak Advertisers v. Naresh Jethwani, Cr.A. no. 5504/2020, 07/12/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (177) Prev Next

Headnote :- Cheque dishonour / Section 482 - Deepak Gupta challenged the order declaring co-accused Ashutosh Sharma absconding in the Section 138 prosecution of A.S. Tractors and its partners. He relied on a private partnership deed to deny responsibility for Ashutosh's misconduct and feared

that the entire civil liability might fall on him if he were tried alone. Applying *State of Orissa v. Debendra Nath Padhi*, the Court declined to assess the deed under its inherent jurisdiction; Deepak had to prove it at trial. He did not deny being a partner and had also signed the cheque. He identified no legal provision under which he was aggrieved by the declaration against Ashutosh. The trial could proceed without waiting for the absconder. The Court affirmed the declaration, vacated the 2019 interim order and directed the magistrate to conclude the 2017 complaint trial within six months of receiving the certified order. It did not decide guilt or finally allocate liability between the partners.

Case-note :- ***1. Facts :*** Vimlesh Goyal brought Regular Criminal Trial 1691/2017 under Section 138 of the Negotiable Instruments Act against A.S. Tractors and its partners, Deepak Gupta and Ashutosh Sharma. Deepak appeared, but Ashutosh did not. By order of 12 February 2019, the JMFC, Gwalior, declared Ashutosh absconding. Deepak applied under Section 482 CrPC, alleging that the prescribed procedure had not been followed. He feared that proceeding without Ashutosh might saddle him with the entire civil liability. He also relied on a private partnership deed which, he said, excluded his responsibility for Ashutosh's misconduct. The firm was an accused, Deepak did not deny being a partner, and he had signed the disputed cheque. The deed remained to be proved before the trial court, and the complaint remained for trial.

2. Precedents — Considered : *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was applied to reject reliance on the unproved private partnership deed at this Section 482 stage. The Court held that the deed was not a public document of which it could take judicial notice; Deepak could prove it before the trial court. This ruling concerned the deed relied on here and did not resolve the admissibility of every defence document in every procedural setting.

3. Statutes considered : CrPC Section 482 governed the application challenging the order declaring the co-accused absconding. Negotiable Instruments Act Section 138 governed the underlying dishonour complaint, and Section 141 concerned Deepak's arraignment as a partner in respect of the firm's cheque. The Court addressed the absconder declaration and continuation of the trial against the accused who had appeared. It did not finally decide civil recovery or allocate civil liability.

4. Issues : Could Deepak rely on an unproved partnership deed in Section 482 proceedings to disclaim responsibility for the firm cheque? Was he legally aggrieved by a co-accused's absconder declaration, and must the Section 138 trial be stayed until that co-accused appeared? Did the fact that Deepak also signed the cheque matter to the premature liability argument?

5. Ratio / Findings : The private partnership deed had to be proved before the trial court. Under Section 482, the High Court would not take judicial notice of it to determine Deepak's disputed liability. He identified no provision under which he could seek to set aside the declaration that Ashutosh was absconding. The trial could proceed against the accused who had appeared without waiting indefinitely for the absconder. Deepak did not dispute being a partner, and the cheque also bore his signature. His arraignment therefore did not rest solely on attributing another partner's conduct to him. These findings concerned continuation of the proceedings; they neither convicted him nor established that every signatory partner was liable regardless of the trial evidence.

6. Relief : The Hon'ble High Court found no jurisdictional error and affirmed the JMFC's order of 12 February 2019. It disposed of the Section 482 application and vacated the interim order of 16 September 2019. It directed the magistrate to proceed immediately and conclude the complaint trial, pending since 2017, within six months of receiving the certified order. The Office was directed to send a copy immediately to the trial court for information and compliance. Proof of the partnership deed and the merits of the Section 138 complaint remained for trial.

Deepak Gupta v. Vimlesh Goyal, M.Cr.C. no. 38461/2019, 11/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (178) Prev Next

Headnote :- Domestic Violence Act Section 12 — report / later divorce - Deepak Pandey sought interference under Section 482 with orders allowing Aneeta Tiwari's 2021 application under Section 12 to continue. Applying *Prabha Tyagi v. Kamlesh Devi*, the Court held that a Magistrate must consider a domestic incident report received from a Protection

Officer or service provider. The Magistrate need not, however, call for a report before acting on an aggrieved person's direct application. Deepak obtained an ex parte divorce decree on 15 June 2022, after the complaint and notice. The later decree did not defeat the pending application. The Court expressly left open whether an application first filed after divorce would be maintainable. It did not decide the domestic violence allegations or entitlement to final relief under the DV Act. The application invoking inherent jurisdiction was dismissed.

Case-note :- ***1. Facts :*** Aneeta Tiwari applied under Section 12 of the Protection of Women from Domestic Violence Act, 2005. On 22 January 2021, the JMFC, Sirmour, issued notice to her husband, Deepak Pandey, without first calling for a domestic incident report (DIR). Deepak's separate proceeding under Section 13 of the Hindu Marriage Act resulted in an ex parte divorce decree on 15 June 2022 on the ground of cruelty pleaded by him. He sought dismissal of the pending DV Act proceeding, but the magistrate rejected his application on 27 January 2023. The Additional Sessions Judge rejected Criminal Revision 11/2023 on 2 November 2023. Deepak then sought intervention under Section 482 CrPC. The order does not establish whether the ex parte decree was challenged and does not resolve the wife's substantive DV Act allegations.

2. Precedents — Considered : *Prabha Tyagi v. Kamlesh Devi, (2022) 8 SCC 90*, was extensively quoted and applied on the proviso to Section 12(1). A Magistrate must consider a DIR received from a Protection Officer or service provider. An aggrieved woman applying personally or through counsel need not first obtain a DIR to enable the Magistrate to act. The quoted passage in *Prabha Tyagi* reviews *Nayanakumar, Abhiram Gogoi, Mohd. Basit, Rahul Soorma, A. Vidya Sagar, Ravi Kumar Bajpai, Shambhu Prasad Singh, Rakesh Choudhary, Vijay* and *Suraj Sharma*.

3. Statutes considered : DV Act Section 12(1) and its proviso govern an aggrieved person's application and consideration of a DIR received by the Magistrate. The quoted passage from *Prabha Tyagi* refers to the definitions in Section 2, appointment and duties under Sections 8–10, and the service provider. CrPC Section 482 governed the application for interference. Hindu Marriage Act Section 13 was the basis of the separate divorce decree; the decree did not automatically bar a previously instituted DV Act proceeding.

4. Issues : Was a DIR from the Protection Officer essential before the magistrate issued notice on the wife's Section 12 application? Did an ex parte divorce decree made during that pending proceeding require its dismissal? What temporal question about a complaint newly filed after divorce was actually before the court?

5. Ratio / Findings : Under *Prabha Tyagi*, a DIR is not a mandatory precondition to an aggrieved person's direct application under Section 12. The Magistrate must consider a report when one is received, but its absence does not prevent the Magistrate from acting. Aneeta's complaint preceded the ex parte divorce decree, so the later decree did not render the pending application unmaintainable. The Court did not determine whether the decree had been challenged or decide who was cruel. It expressly declined to answer whether Section 12 could first be invoked after divorce because that question did not arise on these facts.

6. Relief : The Hon'ble High Court found no ground to interfere with continuation of the DV Act proceeding and dismissed the application. The wife's application remained for adjudication by the magistrate. This order granted no final protection, residence or monetary relief.

Deepak Pandey v. Aneeta Tiwari, M.Cr.C. no. 3753/2024, 19/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (179) Prev Next

Headnote :- POCSO Act — proof of child status — Rule 12(3) hierarchy - For the 2014 incident, the proved school admission register recorded the prosecutrix's birth date as 30.03.2001. Under the 2007 Rules, applied to child victims through *Jarnail*, that record took priority over medical age estimation. The ossification estimate of 16–18 years and the claim to an automatic two-year margin did not displace it. The prosecutrix was a minor, so the alleged consent was immaterial. The decision did not establish a universal rule for a materially impeached school record (¶¶17–23).

Kidnapping and procuration — minor's departure — enticement - Applying *Anversinh*'s distinction of *S. Varadarajan*, the Court rejected the argument that travel without protest established a wholly voluntary departure from guardianship. The

specific allegation in the FIR that the appellant had induced the prosecutrix supported enticement. The convictions under Sections 363 and 366-A IPC rested on that finding, rather than on travel alone (¶¶24–28).

POCSO Act — Section 42 — overlapping IPC punishment - The trial court imposed ten years under both IPC Section 376(1) and POCSO Section 4. Applying the requirement to select the punishment greater in degree, the High Court retained the IPC term and imposed no separate Section 4 sentence. This reflected its assessment of the law applicable to the 2014 offence. It noted the 2019 amendment without applying it retrospectively. The other IPC terms remained concurrent.

Case-note :- ***1. Facts :*** The Court finally heard the appeal under Section 374(2) CrPC against the Additional Sessions Judge, Karera's judgment of 30.10.2014 in Special Sessions Trial No. 59/2014. The appellant had initially sought suspension under Section 389 after about seven years in custody on a ten-year sentence. Counsel accepted the Court's invitation to argue the appeal finally, so the interim suspension request received no separate decision on its merits. The prosecution alleged that the prosecutrix went missing on 13.04.2014, that the appellant had enticed her away and that he raped her. Crime No. 131/2014 was registered at Dinara. The investigation included witness statements, medical and ossification examinations, and FSL material. The trial court acquitted co-accused Mukesh but convicted Deepak under IPC Sections 363, 366-A and 376(1), and POCSO Section 4. It imposed rigorous imprisonment for three, five and ten years respectively under the IPC provisions, and another ten years under POCSO Section 4, with fines and default terms. All custodial terms were concurrent. The appellant disputed the prosecutrix's minority, claimed consent and voluntary travel, and challenged the overlapping punishment.

2. Precedents — Considered : *Jarnail v. State of Haryana, (2013) 7 SCC 263*, was materially applied to extend Rule 12's ordered scheme for proving age under the Juvenile Justice Rules, 2007 from children in conflict with law to child victims. The reproduced passage gives priority to a matriculation or equivalent certificate, then to the birth entry in the school first attended, and then to a municipal or panchayat birth certificate. Medical opinion follows only if those records are absent. The Court relied on the school admission register instead of the ossification estimate (¶¶19–21). *Anversinh @ Kriansinh Fatesinh Zala v. State of Gujarat*, Supreme Court Criminal Appeal No. 1919/2010, order dated 13.01.2021, was materially applied on kidnapping and enticement (¶¶25–27). Its quoted passage distinguished *S. Varadarajan*. A minor's voluntary departure avoids a kidnapping charge only where she has the knowledge and capacity to understand her action, leaves voluntarily, and receives no assistance or inducement from the accused. Here, the High Court found a specific allegation of enticement in the father's FIR and rejected the voluntary-departure argument. The Court also stated that reliable and trustworthy testimony of the prosecutrix requires no additional corroboration (¶22).

3. Statutes considered : Section 374(2) CrPC governed the appeal; Section 389 was invoked for an interim application but was overtaken by the final hearing. The incident occurred in 2014, so the Court applied Rule 12(3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007, framed under the 2000 Act, to determine the victim's age. IPC Sections 363 and 366-A addressed taking/enticement of a minor and procuration; Section 376(1) and POCSO Section 4 addressed the sexual-offence conviction. Under Section 42 POCSO, where overlapping POCSO and IPC offences are proved, the Court selected the punishment it considered greater in degree and imposed no separate POCSO term. The 2019 POCSO amendment was mentioned for changed Section 4 punishment but not used to sentence the 2014 conduct.

4. Issues : Did the school admission entry or the ossification estimate govern the victim's age under the 2007 Rules, including the defence's claimed two-year margin? Did her travel with the appellant without raising an alarm defeat the prosecution case on sexual assault or kidnapping, given the allegation of enticement? Were separate custodial sentences for the overlapping IPC rape and POCSO sexual-assault offences permissible under Section 42? The appeal did not require deciding a new Section 389 suspension test once it was heard finally, nor the acquitted co-accused's liability.

5. Ratio / Findings : The headmaster in charge proved the school admission register recording 30.03.2001 as the prosecutrix's birth date. She acknowledged that she had not personally admitted the prosecutrix and did not know the basis of the entry. The Court nonetheless applied *Jarnail*'s

statutory hierarchy and gave the school record priority over medical estimation. The ossification estimate of 16–18 years could not displace that record, and a two-year margin did not automatically operate in the accused's favour. Even counsel's alternative calculation based on school years yielded a minor. Her minority made the alleged consent immaterial. The Court also relied on her specific account of rape and the FSL finding of human sperm. It held that rape was proved beyond reasonable doubt and that credible testimony did not require additional corroboration. On kidnapping, it applied *Anversinh*'s distinction between a minor's wholly voluntary departure and departure induced by the accused. The father's FIR alleged previous contact and enticement. The Court found that the appellant had induced the departure and affirmed the convictions under Sections 363 and 366-A. These findings concerned Deepak; Mukesh's acquittal remained undisturbed. Finally, Section 42 precluded a separate POCSO Section 4 sentence alongside the IPC Section 376(1) sentence. On its assessment of the 2014 penalty framework, the Court considered the IPC punishment greater in degree. It imposed no separate POCSO sentence while affirming guilt under that Act.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the conviction judgment of 30.10.2014. It affirmed the ten-year rigorous-imprisonment term under IPC Section 376(1), the three-year term under Section 363 and the five-year term under Section 366-A, together with their fines and default stipulations. The terms were directed to run concurrently. Although guilt under POCSO Section 4 was affirmed, no separate sentence was imposed for that offence in view of Section 42. Deepak remained in jail, and a free copy of the judgment was directed to be furnished to him. The final appeal hearing superseded the Section 389 application; suspension was not separately granted.

Deepak Prajapati v. State of Madhya Pradesh, Cr.A. no. 12/2015, 16/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (180) Prev Next

Headnote :- Regular bail / parity / antecedents - Deepak Rajawat's second application under Section 439 concerned 141 litres of liquor allegedly seized jointly from him and his uncle, Bhola, in a prosecution under MP Excise Act Section 34(2). Deepak's first application had been rejected. A coordinate Bench later granted Bhola bail under the summer vacation exception to the usual listing rule. The High Court declined to grant Deepak bail automatically on parity: he had five additional pending excise cases, and Bhola's bail order did not mention the earlier rejection. *Virupakshappa Gouda*, *Sudha Singh* and *Manoj Kumar Khokhar* required consideration of antecedents, repetition risk and reasons for exercising discretion, without deciding guilt. The Court issued notice to Bhola and directed registration of a separate cancellation case. It did not recall Bhola's bail in this order. Deepak's second application was dismissed.

Case-note :- ***1. Facts :*** Deepak Rajawat was arrested on 8 April 2022 in Crime 111/2022, Police Station Hazeera, Gwalior, for an alleged offence under MP Excise Act Section 34(2). The prosecution alleged that 141 litres of liquor worth ₹1,24,285 had been seized jointly from him and his uncle and co-accused, Bhola alias Hemraj Sikarwar. Deepak's first Section 439 CrPC bail application had been dismissed on 11 May 2022 in MCRC 23501/2022. A coordinate Bench granted Bhola bail on 30 May 2022 in MCRC 26405/2022 during summer vacation, when the rule for placing connected applications before the same Bench was suspended. The co-accused's bail order did not mention the rejection of Deepak's first application. Deepak sought parity in a second application.

2. Precedents — Considered : *Virupakshappa Gouda v. State of Karnataka, (2017) 5 SCC 406*, was quoted and applied for a bail assessment based on gravity, prima facie evidence, the risk of tampering and the likelihood of repetition, rather than arbitrary discretion; *Chaman Lal*, *Prasanta Kumar Sarkar*, *CBI v. V. Vijay Sai Reddy and Neeru Yadav* occur within its quotation. *Preet Pal Singh v. State of Uttar Pradesh, (2020) 8 SCC 645*, was quoted to distinguish pretrial bail from post-conviction Section 389 sentence suspension; that distinction provided context, since Deepak's application was for pretrial bail. *Sudha Singh v. State of Uttar Pradesh, (2021) 4 SCC 781*, was applied for consideration of antecedents and risks to society and witnesses; *Ash Mohammad* and *Prasanta Kumar Sarkar* appear in the quoted extract. *Manoj Kumar Khokhar v. State of Rajasthan, (2022) 3 SCC 501*, was quoted extensively and applied for reasoned consideration of antecedents and an apparently defective grant of bail to a co-accused. Its many embedded cases,

including *Neeru Yadav, Ramesh Bhavan Rathod, Brijmani Devi* and *Myakala Dharmarajam*, were part of the Supreme Court discussion. The present order initiated proceedings for recall or cancellation of Bhola's bail but did not decide them.

3. Statutes considered : CrPC Section 439 governed the successive pretrial bail request. The *Manoj Kumar Khokhar* quotation refers to Section 439(2) cancellation and the distinction between subsequent misuse and an original perverse grant; Section 389 appears in *Preet Pal Singh*'s quotation, but Deepak sought no sentence suspension. MP Excise Act Section 34(2) was the alleged offence; IPC Section 307 figured only in the co-accused's antecedent history. Pending cases and preventive proceedings were risk material, not convictions in this prosecution.

4. Issues : Did Bhola's later bail order, passed during an exceptional coordinate-Bench listing, justify Deepak's second application on parity despite the earlier rejection? How should pending criminal antecedents and repetition risk be weighed? Did the apparent omission of Bhola's substantial diary history warrant immediate cancellation or a notice and separate adjudication?

5. Ratio / Findings : The Court declined to grant bail mechanically on parity. Deepak's first application had been rejected, Bhola's bail order did not mention that rejection, and their individual histories required consideration. Deepak's pending excise cases were relevant to the risk of repetition, together with the alleged joint seizure; they were not proof of guilt. The Court found no basis to grant him bail. As to Bhola, it inferred that material facts had been omitted when bail was sought before the coordinate Bench, but gave him an opportunity to respond. Its order left his bail for separate adjudication: notice was issued and registration of a separate case was directed. No final cancellation decision was made.

6. Relief : The Hon'ble High Court dismissed Deepak's second application for regular bail. It directed that show-cause notice be served on Bhola through the Superintendent of Police, Gwalior, asking why his bail order of 30 May should not be recalled. A separate cancellation case was to be registered and listed on 4 July 2022.

Deepak Rajawat v. State of Madhya Pradesh, M.Cr.C. no. 28390/2022, 17/06/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (181) Prev Next

Headnote :- Criminal medical negligence — expert screening - A registered dentist faced prosecution under IPC Sections 336 and 338 after an injection for jaw pain was followed by severe symptoms in the complainant's hand, referral, suggested amputation and later surgery. Applying *Jacob Mathew,* the High Court distinguished civil negligence from gross criminal negligence, adopted the standard of an ordinarily competent practitioner and emphasised safeguards against unsupported prosecutions of doctors. *Kusum Sharma*, *Martin F. D'Souza*, *Malay Kumar Ganguly* and *S.K. Jhunjhunwala* were quoted on the required standard of professional care, including passages on consumer liability and Section 304-A. The complainant had obtained no independent expert or committee opinion supporting this prosecution. The FIR and the JMFC proceedings were quashed. The complainant remained free to obtain an expert report and file a fresh complaint if the report supported negligence. The Court did not decide medical causation, civil liability or the merits of any later complaint.

Case-note :- ***1. Facts :*** Deepak Shukla was a dentist registered with the MP State Dentist Council since 19 October 2013 and ran Shukla Dental Clinic at Baikunthpur. The complainant attended on 7 January 2015 with severe lower jaw pain. She alleged that he prescribed and administered an injection bought from the market, after which she suffered marked pain. She returned, received another injection and was referred to another doctor. The next day, she noticed disfiguration of a finger. She was referred from Rewa for further care and, at Bombay Hospital, Indore, a CT scan reportedly led to a suggestion that her hand be amputated. She later underwent an operation on 21 January that improved circulation. She claimed substantial expenditure and continuing treatment. A charge sheet followed in Crime 74/2015, leading to JMFC case 74/2017 under IPC Sections 336 and 338. The dentist sought quashing under Section 482 CrPC because no competent medical opinion had been obtained.

2. Precedents — Considered : *Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*, was quoted and applied on the standard of an ordinarily competent professional, gross criminal negligence, the distinction from civil error, the limited role of res ipsa loquitur, and the requirement of a credible independent expert opinion before a private complaint or police proceedings against a doctor. Its

statement that arrest is not routine was quoted but no arrest issue was decided here. *Kusum Sharma v. Batra Hospital, (2010) 3 SCC 480*, was quoted on professional care, genuine treatment alternatives and the high threshold for criminal liability in this prosecution under Sections 336 and 338. *Martin F. D'Souza v. Mohd. Ishfaq, (2009) 3 SCC 1*, was quoted on *Bolam* and the requirement of a competent opinion from the relevant specialty before notice; the present judgment turned on the absence of expert support. *Malay Kumar Ganguly v. Dr. Sukumar Mukherjee, (2009) 9 SCC 221*, explained the different thresholds for criminal and civil negligence by reference to Section 304-A. The present case concerned alleged nonfatal harm under Sections 336/338. *S.K. Jhunjhunwala v. Dhanwanti Kaur, (2019) 2 SCC 282*, was quoted on reasonable competence and unsuccessful outcomes, including its embedded *Jacob Mathew* and *Bolam* passages. *Bolam*, *V.P. Shantha* and other cases appear within those Supreme Court quotations reproduced by the High Court.

3. Statutes considered : IPC Sections 336 and 338 were the charged offences in the FIR and JMFC prosecution. CrPC Section 482 conferred the High Court's quashing power. IPC Section 304-A appears in the quoted Supreme Court analyses of death-causing medical negligence; no death or Section 304-A charge was pleaded here. Dentist registration and professional status provided context, not a statutory exemption. The order did not adjudicate a civil/consumer compensation claim.

4. Issues : Could a criminal prosecution of a registered dentist for the alleged injury proceed from treatment chronology and an adverse outcome without a competent independent professional opinion? What degree of departure from ordinary professional skill constitutes criminal rather than possible civil negligence? If the expert safeguard was absent, should the existing FIR and charge-sheet case be quashed outright, and could a supported complaint later be filed?

5. Ratio / Findings : An adverse outcome does not, by itself, establish gross negligence by a doctor. Under *Jacob Mathew*, criminal negligence requires a much greater departure from professional standards than an ordinary lack of care or a reasonable clinical choice that fails. Conduct is judged by the skill of an ordinarily competent professional and the knowledge available at the time. The Supreme Court safeguard requires a credible opinion from a competent doctor to support a private complaint, or an appropriate independent medical opinion during investigation. Admittedly, the complainant had not sought review by an expert committee. The High Court therefore held that the present criminal allegations lacked the required support and that the prosecution was unwarranted. It did not hold that the injection was medically sound, rule out causation or bar a lawful later claim. The treatment chronology and suggested amputation remained allegations; the Court made no medical finding on their merits.

6. Relief : The Hon'ble High Court allowed the application and quashed Crime 74/2015 and the further proceedings in RCT 74/2017 before the JMFC, Sirmour, District Rewa. The complainant was expressly left at liberty, if advised, to approach an expert committee. If the committee found negligence, she could file a fresh complaint in accordance with law, accompanied by its report. No compensation was awarded in this order.

Deepak Shukla v. State of Madhya Pradesh and Others, M.Cr.C. no. 38791/2018, 19/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (182) Prev Next

Headnote :- Regular bail / forensic delay - Deepak Tomar had spent nearly a year in custody in a rape, POCSO and SC/ST Act case. Although the prosecutrix had turned hostile, the High Court applied *Hemudan Nanbha Gadhvi* to emphasise that scientific evidence could still establish the case. Repeated requests for a DNA result failed because RFSL Sagar lacked consumables and a standard kit. The Court directed the DGP to restore testing capacity. The State's failure to provide the report could not justify keeping this accused in custody. COVID-19 prison-decongestion directions added context. Bail was ordered on a ₹1 lakh bond and like surety, with health and conduct conditions and without a finding on guilt. The Court stated that DNA testing was compulsory under Section 53-A CrPC.

Case-note :- ***1. Facts :*** Deepak Tomar was arrested on 6 October 2020 in Crime 337/2020, Police Station Hazira, Gwalior, for IPC Sections 363 and 376, POCSO Sections 3/4, and SC/ST Act Sections 3(1)(w)(ii) and 3(2)(v). In his first application under Section 439 CrPC, he relied on the prosecutrix turning hostile. The Court sought the DNA report on 26 August; it was still unavailable on 14 September 2021. On 27 September, the matter was converted to

a miscellaneous criminal case. By 4 October, the State still could not furnish the report. RFSL Sagar said consumables and a standard kit were unavailable. The Division Bench ruling in *Pramod v State of MP* prompted that conversion from an appeal; that ruling was decided on 22 April 2021 in Criminal Appeal No. 5189/2020. Deepak had already spent almost a year in custody. The order contains neither a DNA result nor a trial outcome.

2. Precedents — Considered : *Hemudan Nanbha Gadhvi v. State of Gujarat*, Supreme Court Criminal Appeal 913/2016, decided 28 September 2018, was applied for the principle that a prosecutrix turning hostile does not preclude conviction on scientific or forensic evidence; it did not decide this accused's guilt, as the report was absent. *In Re: Contagion of COVID-19 Virus in Prisons*, Supreme Court suo motu W.P.(C) 1/2020, orders of 23 March and 7 April 2020, was quoted on State high-powered committees identifying categories for prison decongestion and on safe transit or shelter for released prisoners. The present order treated pandemic conditions as an additional reason for release without finding Deepak fell within a specified committee category. *Aparna Bhat v. State of MP*, Supreme Court Criminal Appeal 329/2021, decided 18 March 2021, was invoked to direct that the complainant be informed of the grant of bail; no substantive guilt issue was resolved under it. The MP Division Bench *Pramod* ruling was procedural context only.

3. Statutes considered : CrPC Sections 439 and 437 governed bail and its ordinary conditions. Section 53-A was invoked in the order for medical examination and DNA evidence of a rape accused. The Court stated that DNA testing was compulsory under Section 53-A and directed uninterrupted provision of laboratory consumables and the standard kit. IPC Sections 363/376, POCSO Sections 3/4 and SC/ST Act Sections 3(1)(w)(ii), 3(2)(v) were alleged offences, not decided ingredients. Article 21 and COVID-19 prison directions concerned liberty and safe release, not adjudication of guilt.

4. Issues : Could the hostile prosecutrix's testimony be treated as dispositive before potentially important DNA evidence returned? Who bore responsibility for a laboratory supply shortage that stalled the report? Could the accused remain in pretrial custody because the State failed to produce scientific material after repeated adjournment, taking account of pandemic prison conditions? What directions and limits accompanied release?

5. Ratio / Findings : *Hemudan Nanbha Gadhvi* established that forensic evidence could remain important even after a witness turned hostile. The State was responsible for keeping RFSL supplied so that DNA testing remained available. The shortage of consumables was an impediment attributable to the prosecution, rather than delay caused by the accused. The Court distinguished the potential value of that evidence from the question of continued custody. Since the prosecution could not furnish the report and Deepak remained detained, he could not be left in jail while it failed to comply. The Court directed DGP intervention and granted bail without deciding whether DNA evidence would eventually connect him to the offences. The quoted COVID-19 directions and the second-wave conditions provided additional reasons for release. The Court stated that DNA testing was compulsory under Section 53-A and held that the prosecution's failure to furnish the report could not justify continued custody.

6. Relief : The Hon'ble High Court allowed the application for regular bail without commenting on the merits. Deepak was to furnish a personal bond of ₹1,00,000 and one surety in the same amount to the satisfaction of the trial court, CJM or remand magistrate, whichever was available. He had to give an undertaking to follow all general or specific instructions issued from time to time by the Central Government, State Government or local administration to combat the pandemic. Before release, the jail authorities had to arrange examination by a competent doctor and testing if the doctor considered it necessary. If he was not suspected of infection or tested negative, the local administration had to arrange his journey home under the Supreme Court's directions. If positive, he was to be sent immediately to the appropriate hospital for treatment under medical norms. He was required to comply strictly with the pandemic instructions. A breach would automatically make the order ineffective, and the local administration or police had to take him into custody immediately and return him to the same jail. He also had to supply a copy of the bail order to the police station having jurisdiction over his residence. The other conditions under Sections 437 and 439 CrPC remained applicable. The order was to remain in force until the trial concluded, but would automatically lose effect upon bail jump or breach of any condition. The complainant was to be informed of the grant of bail. The DGP was directed to intervene immediately and

ensure uninterrupted supplies of consumables and the standard kit to RFSL, Sagar, so that DNA testing could be completed as early as possible. A copy of the order was to be sent to the DGP for information and compliance.

Deepak Tomar v. State of Madhya Pradesh and Others, M.Cr.C. no. 49075/2021, 04/10/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (183) Prev Next

Headnote :- Connected ransom appeals — identification / recovery / electronic identity - Two abductees were lured from Tamil Nadu on the pretext of groundnut trading, detained by an armed group in the Gwalior area, and released after their family paid ransom. The Court assessed the evidence against each of the four appellants separately. Recognition of Rama Bai, without proof of a defined role or common object, did not establish guilt. Karunanidhi's Polytechnic TIP was not shown to include other persons and followed his exposure to the accused at the Crime Branch. His second TIP, after repeated exposure, was also unreliable. Sinthil's independent jail TIP reliably identified Ramvilas and Kamal, but no role or incriminating property was proved against Ramvilas. Deependra's alleged ₹40,000 recovery was not proved because the officer who brought him and the cash was not examined, and the place of recovery and the seizure chain were not established. Kamal's admission that he made the ransom call, the IO-supported recovery recorded as ₹34,40,500 with Chennai bank slips and signed notes, and Sinthil's identification sustained his conviction. Release on Supurdgi without objection permitted reliance on investigation-stage currency identification in the particular circumstances, despite nonproduction in court. The gold articles, however, were not substantively identified. Collection of the ATM card and PIN, together with bank records, supported Section 66C liability despite the missing CCTV. Deependra, Ramvilas and Ramabai were acquitted; Kamal's life sentence remained subject to the lawful remission policy.

Case-note :- ***1. Facts :*** A single Division Bench judgment disposed of four appeals against the conviction dated 30 June 2014 by the Special Judge, Gwalior, in SST 20/2011: Deependra (CRA 742), Ramvilas (767), Ramabai (768) and Kamal Kishore alias Doctor/Master/K.K. (962). Each had received life RI under IPC Section 364A read with MPDVPK Act Section 13, and three years under IPC Section 419 and IT Act Section 66C, with the recorded fines and default terms. Trader R.L. Sinthil Kumar and his employee Karunanidhi travelled from Tamil Nadu in January 2011 after Vijay Tomar offered groundnuts at Gwalior. They were taken to a hilly area, detained by an armed gang, threatened and deprived of valuables and ATM credentials. Ransom was demanded from the family. The prosecution account described an initial demand of ₹2 crore, a call demanding ₹1 crore, a negotiated ransom of ₹32 lakh and the family arranging ₹35 lakh. Karunanidhi met the family members who had brought the ransom cash to Jhansi; the abductees were later released. The police investigated identification, seizures, bank transactions, ransom calls and the roles of individual accused. The trial court acquitted seven others; one accused died during trial, and the four appellants were convicted. The appeals challenged identification and recoveries, rather than the occurrence of the abduction itself.

2. Precedents — Considered : *P. Sasikumar v. State*, Supreme Court CRA 1473/2024, and *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*, were applied to distinguish substantive identification in court from corroborative TIP evidence. *Sheo Shankar Singh* quotes *Malkhansingh* and *Pramod Mandal* in its discussion of identification evidence. *Prakash v. State of Karnataka, (2014) 12 SCC 133, State of Rajasthan v. Daud Khan, (2016) 2 SCC 607, Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1, Suraj Pal v. State of Haryana, (1995) 2 SCC 64*, and *Rabindra Kumar Pal/Dara Singh v. Republic of India, (2011) 2 SCC 490*, were quoted on the purpose of TIP and the weight to be given to identification as a matter of prudence. They did not categorically exclude all dock identification. *Gireesan Nair v. State of Kerala, (2023) 1 SCC 180*, was applied to the witness's exposure before TIP and the repeated parade.

Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1, Govindaraju v. State, (2012) 4 SCC 722, Rohitash Kumar v. State of Haryana, (2013) 14 SCC 434, Mukesh Singh v. State (Narcotic Branch), (2020) 10 SCC 120, Tahir v. State (Delhi), (1996) 3 SCC 338, Girja Prasad v. State of MP, (2007) 7 SCC 625, Praveen Kumar v. State of Karnataka, (2003) 12 SCC 199, and *Karamjit Singh v. State (Delhi Admn.)* were cited on accepting credible police testimony after careful scrutiny, despite the lack of independent panch support. The

Bench applied that principle to Kamal's recovery. It did not cure the separate gap in proof of the first seizure alleged against Deependra.

3. Statutes considered : IPC Section 364A and MPDVPK Act Section 13 governed kidnapping for ransom, IPC Section 419 concerned impersonation, and Information Technology Act Section 66C concerned dishonest use of another person's password or unique identification. Evidence Act Section 9 concerned identification. Discovery under Section 27 was invoked for Kamal's disclosure but was absent in Deependra's case. CrPC Sections 162 and 313 arose in the identification discussion and Kamal's admission, respectively. CrPC Section 374(2) governed the appeals, and Section 428 concerned the custodial set-off certificate. The order's application of Section 66C concerned use of an ATM card and PIN despite a missing CCTV floppy.

4. Issues : Could recognition alone sustain Rama Bai's conviction without proof of a role or shared object? Which of the abductees' TIP and dock identifications remained reliable after prior exposure, failure to establish other persons in the parade and repeated parades? Did reliable identification alone suffice against Ramvilas? Was the alleged ₹40,000 recovery proved to be from Deependra's possession when ASI Chauhan was not examined and the arrest-to-seizure chain was missing? Could the IO prove Kamal's much larger recovery of disclosed and marked ransom money despite hostile panch evidence and nonproduction of the cash after unopposed Supurdgi? What weight should be given to the unproduced gold articles, Kamal's Section 313 admission to the ransom call and the ATM PIN and withdrawal evidence despite the missing CCTV? How should the four appeals be disposed of, including Kamal's life sentence and remission position?

5. Ratio / Findings : Rama Bai was identified, but no criminal act, recovery, membership or common object was attributed to her. Her presence in the forest and the unreliable allegation that she supplied food could not sustain guilt. Karunanidhi admitted seeing the accused at the Crime Branch before the first Polytechnic parade on 21 January. Its memorandum did not record other persons being included, and the Tehsildar could neither identify them nor explain where they came from. The Court found that no meaningful mixed parade had been held. Karunanidhi's repeated identification on 23 February followed two prior exposures and was also rejected. Sinthil had left Gwalior after his release and returned for the jail parade; he was not shown to have seen the accused beforehand, but he could not identify Deependra. Ramvilas still had no defined role, incriminating recovery or call data against him, so identification alone did not prove guilt. Deependra's alleged ₹40,000 recovery lacked independent attestation and a proved chain linking it to his possession. ASI Chauhan brought Deependra and the cash to the station without a contemporaneous seizure, was not examined, and the IO's papers did not show that the cash had been found on Deependra. No disclosure led to the recovery, and the old phone was not linked to the crime. Later identification of the notes could not establish a seizure that had never been reliably attributed to him. Kamal's separate disclosure led to ₹32,90,000 buried at a relative's home, and ₹1,15,500 was seized at arrest. The IO's account withstood cross-examination despite a hostile panch. Chennai bank slips, signatures placed on some notes before the journey and recognition by the carrier and abductee linked the cash to the ransom. The notes had been returned on Supurdgi without objection and were not produced in court. In those particular circumstances, the Court accepted their identification during investigation. It found no substantive identification of the gold ring and chain in court, but held that jewellery belonging to the abductees had been recovered from Kamal, who claimed no ownership. Kamal admitted making the ransom call in his Section 313 statement and claimed coercion. The Court rejected that explanation in light of the traced cash. Sinthil's card and PIN, the bank manager's evidence and the withdrawals established the Section 66C attribution despite the lost CCTV floppy; they did not prove that Kamal personally made each withdrawal.

6. Relief : The Hon’ble High Court allowed the criminal appeals of Deependra, Ramvilas and Ramabai, set aside all their convictions and discharged their bail and surety bonds. It dismissed Kamal's criminal appeal, affirming life RI under IPC Section 364A with MPDVPK Section 13 and three-year RI under IPC Section 419 and IT Act Section 66C. The Bench observed that Kamal had served more than fifteen actual years, but did not know whether the State had already released him under its remission policy. It expressly stated that life imprisonment without remission had not been

imposed. If he had already been released under the policy, no further action was required; otherwise, he was to serve the remaining sentence, subject to State consideration for premature release. The Court did not itself grant remission or determine a later event affecting custody.

Deependra @ Deepu, Ramvilas, Ramabai and Kamal Kishore v. State of Madhya Pradesh, Cr.A. no. 742/2014 & 767/2014 & 768/2014 & 962/2014, 24/06/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (184) Prev Next

Headnote :- Warrant execution, fair trial and successive bail — A prosecution witness's repeated nonappearance delayed the murder trial of an accused in custody. In his reply, the SSP stated that sending an arrest warrant to the person concerned on WhatsApp was not a procedure for executing it under Section 71 CrPC. He had issued notices to the SHO and constable concerned. The High Court directed the SHO to submit a written response to the trial court and the SSP to report on the action taken. It also directed the witness's disciplinary authority to examine his repeated nonappearance and take necessary action. The Court held that the resulting delay in the trial of an accused in custody violated Article 21. The witness had since been arrested and produced. As the fifth bail application rested solely on delay, and the earlier applications had been dismissed on merits, the Court declined to take a different view and dismissed the application. The directions required examination and reporting; the Court did not impose a final departmental penalty.

Case-note :- ***1. Facts :*** Deepu Kaurav was arrested on 04.07.2019 in connection with Crime 225/2019 at Police Station Hazira, Gwalior, for offences under IPC Sections 302 and 34. A prosecution witness, Dr H.L. Manjhi, had repeatedly failed to attend despite summons and warrants, delaying the recording of evidence while Kaurav remained in jail. On 09.09.2022, the trial court had called for the SHO's explanation. In response to the High Court's order dated 02.11.2022, the SSP stated that the SHO and Constable Kamlesh Chaurasiya should have executed the arrest warrant under CrPC Section 71 instead of sending it on WhatsApp. He had issued them show-cause notices allowing three days to respond. The SHO had not filed the written response sought from him. The High Court rejected as clearly false the claim that he had responded orally to the trial court, since its subsequent order sheets recorded no such response. The witness was arrested and produced on the hearing date. The trial was listed for recording evidence on 29.11.2022. This fifth application under Section 439 rested solely on delay; the fourth application had been dismissed on merits on 24.02.2022.

2. Statutes considered : CrPC Section 71 was referred to in the SSP's reply concerning execution of the arrest warrant. CrPC Section 439 governed the fifth bail application. The Court relied on Article 21 of the Constitution in addressing the delay caused by a prosecution witness's repeated nonappearance while the accused remained in custody. IPC Sections 302 and 34 concerned the underlying prosecution; this order decided the bail application. The Court also referred to Section 29 of the Police Regulations in connection with the earlier direction requiring the SHO's explanation.

3. Issues : Did sending an arrest warrant to the person concerned on WhatsApp satisfy the trial court's directions? What directions were warranted by the SHO's failure to respond and the witness's repeated nonappearance? After the witness's arrest and production, did the delay still justify bail despite the earlier dismissals on merits?

4. Ratio / Findings : In his reply, the SSP accepted that the arrest warrant should have been executed under Section 71 and that sending it on WhatsApp did not follow the required procedure. The Court required a written response from the SHO and a further report from the SSP. It rejected as clearly false the claim that the SHO had made oral submissions to the trial court, because the subsequent order sheets recorded none. The Court held that the witness's repeated absence, which delayed the trial while the accused remained in jail, violated Article 21. It directed his disciplinary authority to examine the matter and take necessary action. Once the witness had been arrested and produced, the Court found no apprehension of further delay. Since delay was the sole ground of the present bail application, the Court declined to take a view different from its earlier dismissals on merits. It neither adjudicated a disciplinary charge nor determined guilt in the murder case. Its directions rested on the procedural record and its stated concern for a fair trial. The Court addressed the execution of the arrest warrant in this case.

5. Relief : The Hon'ble High Court dismissed the fifth application for regular bail. The SHO was directed to file his written response in the trial court by 18.11.2022. The trial court was to pass a specific order in the light of its earlier direction and the SSP's reply; a copy of that reply was to be sent to it for information and compliance. The SSP, Amit Sanghi, was directed to submit an immediate report to the High Court's Principal Registrar, latest by 16.11.2022, on the action or decision taken on the show-cause notices issued to the officers. The witness's disciplinary authority was directed to examine the matter and take necessary action for his failure to respond to the trial court's summons and warrants. No further direction for producing the witness was required after his arrest. A copy of the order was to be supplied to the Public Prosecutor for communication to the SSP, Gwalior, for information and compliance.

Deepu Kaurav v. State of Madhya Pradesh, M.Cr.C. no. 51550/2022, 04/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (185) Prev Next

Headnote :- FIR registration and alternative criminal remedy — The petitioner sought directions under Article 226 requiring police action on his complaint against Kanha and a disciplinary inquiry under the SC/ST Act. The High Court distinguished the police duty described in *Lalita Kumari* from a complainant's entitlement to a writ of mandamus. Relying on *Divine Retreat Centre* and the binding MP Division Bench decision in *Shweta Bhadauria*, it held that the ordinary remedy for police inaction was a complaint before the competent criminal court. The available remedies under CrPC Sections 154(3), 156(3), 190 and 200 remained relevant, subject to the recognised grounds for exceptional writ intervention. The writ petition was dismissed with liberty to file a criminal complaint. The Court did not determine whether the alleged offence was made out.

Case-note :- ***1. Facts :*** Deewan Singh alleged that the police had not registered an FIR on his complaint against Kanha. In Writ Petition 24288/2021, he sought action on the complaint and registration of an FIR. He also sought compliance with Sections 18A and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and a disciplinary inquiry under those provisions. The Court considered whether a petition under Article 226 seeking registration of an FIR was maintainable.

2. Precedents — Considered : The State relied on *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, for the police duty to register information disclosing a cognizable offence. The High Court adopted the distinction drawn in *Shweta Bhadauria*: that duty did not, by itself, entitle a complainant to mandamus without pursuing alternative remedies. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was quoted on exceptional intervention under Article 226 where mala fide investigation involved a clear abuse of power and noncompliance with the statutory investigative procedure, and on the ordinary complaint remedy under Sections 190/200 when the police took no action. The quoted guidance also stated that, even in such exceptional cases, the High Court could insist on observance of the statutory process but could not dictate how the police should investigate. Its reproduced passages from *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union* explained the Magistrate's powers over a complaint. *Sakiri Vasu* and *Aleque Padamsee* were cited by the State without a separate application to the facts. The MP Division Bench decision in *Shweta Bhadauria*, WA 247/2016, was quoted on the alternative CrPC remedies and the limited exceptions drawn from *Whirlpool*. *Whirlpool* formed part of that quotation; the Court did not separately apply it as a holding on these facts.

3. Statutes considered : Article 226 conferred writ jurisdiction. CrPC Sections 154(3), 156(3), 190 and 200 provided remedies before the police authorities and the Magistrate, including the complaint procedure. Sections 18A and 4 of the SC/ST Act formed the basis of the relief sought, but the Court did not adjudicate their ingredients. Chapter XII and Chapter XV CrPC appeared in the quoted Supreme Court guidance. Section 203 was referred to in the reproduced explanation of the Magistrate's power to dismiss a complaint.

4. Issues : Could the petitioner obtain a writ directing the police to register an FIR without first using the available criminal complaint and magisterial procedures? Did the mandatory registration principle in *Lalita Kumari*, by itself, determine his entitlement to that remedy?

5. Ratio / Findings : The statutory duty to register information disclosing a cognizable offence does not, by itself, entitle a complainant to mandamus under Article 226 when effective CrPC remedies are

available. *Divine Retreat Centre* distinguished ordinary police inaction from rare cases of mala fide investigation in which a clear abuse of power and noncompliance with the statutory investigative procedure justified writ intervention. The Division Bench's stated exceptions to the alternative-remedy rule remained applicable. Even where intervention was warranted, the High Court could require observance of the statutory process but could not direct how the investigation should be conducted. The Court held that this petitioner had an efficacious alternative remedy of filing a criminal complaint before the competent court. It decided the question of forum and remedy, without determining whether Kanha had committed an offence or whether the officers had breached the SC/ST Act.

6. Relief : The Hon'ble High Court dismissed the petition under Article 226, expressly leaving the petitioner at liberty to file a criminal complaint before the court of competent jurisdiction. It did not direct registration of an FIR, a disciplinary inquiry or a police investigation.

Deewan Singh v. State of Madhya Pradesh and Others, W.P. no. 24288/2021, 27/07/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (186) Prev Next

Headnote :- NDPS recovery proof — The appellant challenged a three-year sentence for possessing 4.5 kg of ganja. The police had recorded a seizure and sent samples for analysis, and the FSL report identified the substance as ganja. However, the allegedly seized contraband was never produced as a material object before the trial court. Its absence was not explained by destruction authorised by the court. The investigating officer admitted the nonproduction, and a panch witness did not support the prosecution. Applying *Jitendra v. State of MP* and *Ashok alias Dangra Jaiswal v. State of MP*, the High Court held that the oral accounts and panchnamas did not prove recovery from the appellant or connect the FSL sample with that alleged seizure. It set aside the conviction and acquitted him, leaving the separate objections to compliance with the statutory search safeguards undecided.

Case-note :- ***1. Facts :*** According to the prosecution, an informer's tip led the police to Deewanpuri, who was carrying a bag near Char Sahar Naka on 31.10.2001. The police claimed to have seized 4.5 kg of ganja, drawn two 50-g samples, sealed and deposited them in the malkhana, and obtained an FSL report. The Special Judge convicted him under the NDPS Act and sentenced him to three years' rigorous imprisonment and a ₹10,000 fine, with imprisonment in default of payment. In the appeal, he challenged the independent evidence of seizure, the police testimony, compliance with Sections 41, 42, 50 and 57, and the chemical analysis. Although nonproduction had not been expressly raised in the appeal memorandum, the High Court examined the trial record and found that the seized ganja and sealed documents had never been produced or identified in court. The investigating officer, PW8, admitted the nonproduction, for which there was no explanation based on lawful destruction. One panch witness did not support the prosecution, and the other was not examined.

2. Precedents — Considered : *Jitendra and Another v. State of M.P., (2004) 10 SCC 562*, was quoted and applied on the prosecution's heavy burden of proving recovery under the NDPS Act where the seized material was not produced, the panch witnesses did not support the case, and the police evidence did not establish that the samples came from drugs seized from the accused. In *Jitendra*, the investigating officer had also not been examined; in the present case, PW8 had testified. *Ashok alias Dangra Jaiswal v. State of MP, (2011) 5 SCC 123*, was quoted on the cumulative doubts arising from unexplained sample custody and nonproduction of the seized substance as a material exhibit. The particular custody delays recorded in that case were not attributed to Deewanpuri.

3. Statutes considered : The judgment described the conviction under NDPS Sections 8/20(1)(b)(B), as printed in it. Objections under Sections 41, 42, 50 and 57 were raised but remained undecided because recovery itself had not been proved. CrPC Section 374 governed the appeal. The FSL report and police seizure record were items of evidence; they did not replace proof of the identity of the seized substance and its connection with the sample tested.

4. Issues : Could the NDPS conviction stand when the alleged contraband had never been produced or identified as a material object at trial, and there was no explanation or proof of authorised destruction, despite the police testimony, panchnamas and a positive FSL report? If recovery was not proved, was it necessary to decide the separate objections

concerning search safeguards and witness credibility?

5. Ratio / Findings : Production of the seized material as a trial exhibit would have provided the best evidence connecting the alleged recovery with the accused and the substance sampled. The material was never produced, and PW8 admitted that failure. Without an explanation for its absence, the prosecution had not proved beyond reasonable doubt that 4.5 kg of ganja had been seized from Deewanpuri or connected the positive FSL report with that alleged seizure. On this record, oral descriptions and panchnamas did not discharge the prosecution's burden. The Court therefore left the other objections to compliance with the NDPS Act undecided. It did not hold that police personnel were inherently unreliable.

6. Relief : The Hon'ble High Court allowed the appeal. It set aside the Special Judge's judgment and sentence dated 03.05.2003 and acquitted Deewanpuri of the stated NDPS charge. As he was on bail, his personal and surety bonds stood discharged.

Deewanpuri v. State of Madhya Pradesh, Cr.A. no. 268/2003, 16/05/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (187) Prev Next

Headnote :- FIR and inherent jurisdiction — After complaining to the Economic Offences Wing about alleged corruption by revenue and treasury officials, the applicant sought a direction under Section 482 CrPC for registration of an FIR. Relying on *Divine Retreat Centre*'s explanation of the Magistrate's complaint procedure and the MP Division Bench's alternative-remedy rule in *Shweta Bhadauria*, the High Court declined the request and left him at liberty to file a complaint before the competent court. The quoted authorities also discussed exceptional writ intervention in cases of mala fide investigation. The present application was dismissed because the criminal complaint remedy was available. The Court identified the relief sought as registration of an FIR and decided the application on that basis.

Case-note :- ***1. Facts :*** Deshraj Singh Tomar alleged that he had complained to the Economic Offences Wing about corruption by an SDO, Tahsildar, Naib Nazir, a sub-treasury clerk and a Patwari, but no action had followed. He filed MCRC 62422/2021 under Section 482 CrPC. The Court identified his request as registration of an FIR. No counsel appeared for the applicant at the hearing, and the Court heard State counsel.

2. Precedents — Considered : *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was quoted on the ordinary complaint remedy under Sections 190/200 and rare intervention under Article 226 in cases of mala fide investigation involving a clear abuse of power and noncompliance with the statutory investigative procedure. The quoted guidance stated that, even then, the High Court could insist on observance of the statutory process but could not dictate how the police should investigate. Its reproduced passages from *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union* explained the Magistrate's procedure on a complaint. The MP Division Bench decision in *Shweta Bhadauria*, WA 247/2016, was quoted on the alternative remedies under Sections 154(3), 156(3), 190 and 200 and the exceptions drawn from *Whirlpool*. Its distinction concerning *Lalita Kumari* appeared in the same quotation. *Sakiri Vasu* and *Aleque Padamsee* were cited by the State without a separate application to the facts. The Bench did not independently find that a *Whirlpool* exception applied.

3. Statutes considered : The applicant invoked the High Court's inherent jurisdiction under CrPC Section 482. Sections 154(3), 156(3), 190 and 200 provided remedies before the police superiors and the Magistrate. Section 203 and Chapter XII/Chapter XV appeared in the quoted Supreme Court reasoning. The reference to Article 226 concerned exceptional writ relief discussed in that authority; the present proceeding was an application under Section 482. The Court did not determine the ingredients of any particular corruption offence.

4. Issues : Should the High Court exercise its power under Section 482 to direct registration of an FIR when the police or Economic Offences Wing have not acted on a corruption complaint and the applicant can file a criminal complaint before the competent court?

5. Ratio / Findings : The Court held that the criminal complaint procedure provided an efficacious alternative remedy and declined to direct registration of an FIR in this application under Section 482. Although the quoted authority discussed exceptional intervention under Article 226 in cases of clear mala fide abuse, the Court made no finding that such an

exception applied here. It did not determine the truth of the corruption allegations.

6. Relief : The Hon'ble High Court dismissed the application under Section 482, leaving the applicant at liberty to file a criminal complaint before the court of competent jurisdiction. It did not direct registration of an FIR or an investigation.

Deshraj Singh Tomar v. State of Madhya Pradesh, M.Cr.C. no. 62422/2021, 06/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (188) Prev Next

Headnote :- Kidnapping for ransom — Three villagers were abducted in a forest, but their accounts materially differed on the ransom demand, phone call and death threat. The alleged call was unsupported by call records, an identified recipient, family testimony or a contemporaneous report. Applying *Sk. Ahmed v. State of Telangana*, the Division Bench held that abduction had to be accompanied by the further statutory element of a threat of death or hurt, conduct creating a reasonable apprehension of either, or the causing of hurt or death in connection with a demand for ransom. That additional element was not proved beyond reasonable doubt. The Bench therefore set aside the conviction and life sentence under Section 364A and convicted the appellants under Section 365 IPC read with Sections 11/13 MPDVPK Act. As the appellants had served 11 years 8 months, their sentence was reduced to the period already undergone, with immediate release unless they were wanted in another case.

Case-note :- ***1. Facts :*** On 18.05.2010, Ashok, Munesh and Malkhan/Malkhe were abducted at gunpoint while grazing cattle in a forest. Paramsukh reported the incident. The prosecution alleged a ₹15 lakh ransom call and a threat; the victims escaped the next day. The appellants, Deva and Fouja, were sentenced to life imprisonment under IPC Section 364A and MPDVPK Act Sections 11/13, with a ₹5,000 fine and six months' rigorous imprisonment in default. Co-accused Ghanshyam was acquitted, and no appeal was filed against his acquittal. In their appeal, Deva and Fouja did not contest the abduction but challenged their conviction for kidnapping for ransom. They had remained in custody continuously since November 2010, for about 11 years 8 months.

2. Precedents — Considered : *Sk. Ahmed v. State of Telangana, (2021) 9 SCC 59*, was quoted and applied on the cumulative requirements of Section 364A. Kidnapping, abduction or detention following abduction must be accompanied by at least one of the further statutory conditions concerning a threat, conduct creating a reasonable apprehension of death or hurt, or the causing of hurt or death to compel an act or payment of ransom. The Bench examined whether the witnesses proved those additional ingredients; it did not treat abduction alone as sufficient.

3. Statutes considered : IPC Section 364A was the basis of the original conviction and life sentence for kidnapping for ransom. Section 365 concerned abduction with intent to confine a person secretly and wrongfully and carried a maximum sentence of seven years. The Court substituted that conviction on the uncontested facts of abduction. Sections 11/13 of the MPDVPK Act continued to apply to the substituted conviction and the assessment of sentence. The Court stated that Section 11 carried a maximum sentence of ten years and Section 13 a minimum sentence of three years. It held that the appellants' custody exceeded the maximum terms under consideration. CrPC Section 374 governed the appeal.

4. Issues : Did proof of abduction establish the additional threat and ransom requirements of Section 364A despite the contradictory accounts of the victims? If those ingredients were not proved, what conviction and sentence should remain after more than 11 years in custody?

5. Ratio / Findings : Paramsukh did not describe any threat of death or hurt linked to a demand for ransom. Ashok spoke of a ₹15 lakh ransom call but did not identify its recipient or allege a threat. The prosecution neither examined a family member who had received the call nor collected the CDR, and the other abductees did not confirm that a call had been made. Munesh described a demand for money without a threat or beating. Malkhan described a demand of ₹5 lakh from each person and a death threat, which his companions did not confirm, although they had remained together. The Bench held that these material variations left the further ingredients of Section 364A unproved. As the abduction was not contested, it convicted the appellants under Section 365. It did not find that any ransom had actually been paid.

6. Relief : The Hon'ble High Court partly allowed the appeal. It set aside the conviction under Section 364A and the life sentence, convicted the appellants under Section 365 IPC read with MPDVPK Act Sections 11/13, and sentenced them to the period already undergone. It directed their immediate release unless they were required in another offence. Subject to those modifications, the trial court's judgment and sentence were affirmed. A copy of the judgment was to be provided immediately to the appellants free of cost. The trial record was to be returned with a copy of the judgment for information and compliance.

Deva and Others v. State of Madhya Pradesh, Cr.A. no. 201/2012, 07/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (189) Prev Next

Headnote :- Quashing, alibi and alleged retaliation — The applicant relied on workplace biometric attendance and an earlier CM Helpline complaint to seek quashing of an FIR alleging assault and related IPC offences. The High Court held that the private attendance record required proof by evidence and could not be accepted on judicial notice as an established alibi. It could not conduct a mini-trial under Section 482. Relying on *Vijay Pal* and *S.K. Sattar*, it distinguished the accused's burden to prove an alibi by positive evidence from the prosecution's continuing burden to prove its case. *Neeharika Infrastructure* and *Renu Kumari*, including the quoted *Bhajan Lal* principles, explained the limits on quashing disputed allegations or proceedings said to arise from enmity. The application was dismissed without a final finding on the applicant's presence or the complainant's alleged mala fides.

Case-note :- ***1. Facts :*** FIR Crime 26/2024, registered at Kailaras, Morena, alleged offences under IPC Sections 427, 323, 294, 506 and 34. Devendra Dhakad sought quashing under Section 482, claiming that workplace biometric attendance showed that he was elsewhere when the offence occurred. He also alleged that the complainant had lodged the FIR in retaliation for his earlier CM Helpline complaint. The State and the private respondent opposed the application. The Court considered both grounds within the limits of its jurisdiction under Section 482.

2. Precedents — Considered : *Neeharika Infrastructure v. State of Maharashtra, (2021) 19 SCC 401*, was quoted and applied on the limits of interference with a cognizable investigation. The Court could examine whether the allegations, taken at face value, disclosed an offence, but could not prematurely decide their credibility. Further Supreme Court authorities were cited for the prohibition on a roving inquiry or mini-trial into FIR allegations under Section 482. *Vijay Pal v. State (NCT Delhi), (2015) 4 SCC 749*, reproduced *Binay Kumar Singh* on alibi: the prosecution must first establish the accused's presence and participation; raising an alibi does not reduce that burden. The accused must then establish the alibi by strict positive proof excluding his presence, while retaining the benefit of reasonable doubt arising from the defence evidence. *S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, likewise required positive proof of alibi and affirmed that its failure does not relieve the prosecution of proving guilt beyond reasonable doubt. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted extensively, including the *R.P. Kapur* and *Bhajan Lal* categories, on limited intervention under Section 482. Alleged informant mala fides alone could not justify quashing where an offence was disclosed.

3. Statutes considered : CrPC Section 482 governed the application to quash the FIR. Evidence Act Section 11 appeared in the quoted alibi authority: a fact inconsistent with the fact in issue, such as the accused being elsewhere, is relevant. IPC Sections 427, 323, 294, 506 and 34 were the offences alleged in the FIR; the Court did not try those allegations on evidence.

4. Issues : Could disputed private biometric attendance and an allegation that the FIR was retaliatory establish an alibi or mala fides sufficient to quash an FIR disclosing a cognizable offence without a trial?

5. Ratio / Findings : The workplace attendance record was a private document, not a public document of which the Court could take judicial notice. The applicant had to prove it by leading evidence before the trial court. Section 482 did not permit the Court to compare disputed accounts through a roving inquiry or mini-trial. The quoted alibi principles preserved the prosecution's independent burden of proof; the defence had to be tested on evidence. When the complaint disclosed a cognizable offence, the informant's alleged mala

fides became secondary. Enmity could furnish a motive either to implicate a person falsely or to commit the offence, so enmity alone did not justify quashing. The Court made no final finding on guilt, the applicant's presence or the complainant's motive.

6. Relief : The Hon'ble High Court dismissed the application under Section 482, finding no ground for interference. The criminal proceedings continued, leaving the applicant to prove the attendance record by evidence before the trial court.

Devendra Dhakad v. State of Madhya Pradesh and Others, M.Cr.C. no. 6976/2024, 14/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (190) Prev Next

Headnote :- Dowry allegations, alibi and limitation — The husband and his relatives sought quashing of a case under Section 498-A and the Dowry Prohibition Act. A relative's training at Hyderabad in March 2020 did not answer allegations of earlier beatings, and the husband's bank duty on the date fixed for reconciliation did not refute the alleged harassment. The complaint alleged a demand for a car and ₹5 lakh and was made within three years of the May 2019 marriage. The absence of a separate date for each incident did not make those allegations vague at this stage. Applying *Taramani Parakh*, the Court also held that the allegations against another applicant prima facie warranted prosecution. It dismissed the Section 482 application without deciding the disputed defences or guilt.

Case-note :- ***1. Facts :*** Devendra Kumar Sadh and two others sought quashing of Crime 117/2020, registered at Mahila Thana, Gwalior, and the charge sheet under IPC Sections 498-A, 294, 506 and 34 and Dowry Prohibition Act Section 4. The complainant alleged that, after her marriage to applicant 1 on 29.05.2019, the applicants demanded a car and ₹5 lakh, physically and mentally harassed her, and turned her out of the matrimonial home. Applicant 3 claimed to have been undergoing training at Hyderabad throughout March 2020. Applicant 1, a bank employee, relied on being on duty on 11.03.2020 and disputed receipt of the reconciliation notice. Applicant 2 advanced no separate argument.

2. Precedents — Considered : *Taramani Parakh v. State of MP, (2015) 11 SCC 260*, was expressly applied in holding that the allegations against applicant 2 prima facie warranted prosecution. The order also stated the burden of proving an alibi and the limits of face-value review under Section 482. It did not decide whether the alleged demands had occurred.

3. Statutes considered : CrPC Section 482 governed the application for quashing. The Court relied on the three-year limitation under Section 468 in rejecting the objection that the allegations were vague because individual incidents were undated. IPC Sections 498-A, 294, 506 and 34 and Dowry Prohibition Act Section 4 were the charged provisions. Witness statements under Section 161 CrPC supported the State's account.

4. Issues : Did the asserted training and bank-duty alibis negate the pleaded cruelty at the threshold? Were the allegations of a demand for a car and money too vague without separate dates for each incident, although the complaint was made within the limitation period relied on by the Court?

5. Ratio / Findings : The FIR did not allege that the trainee had beaten the complainant in March 2020; it indicated that she had already been turned out before then. His absence during training therefore did not refute the alleged earlier beatings. The husband's bank duty on the reconciliation date did not answer the harassment allegations. The burden of proving an alibi lay heavily on the accused and required cogent and reliable evidence; disputed defences could not be tried on an application for quashing. The marriage date, specified demands and beating allegations disclosed a prima facie offence within the Court's stated Section 468 period. The absence of a date for each incident did not justify quashing. The allegations against applicant 2 prima facie warranted prosecution, leaving the merits of that applicant's role for trial.

6. Relief : The Hon'ble High Court dismissed the application to quash the FIR and charge sheet. It did not convict the applicants or decide the dispute over receipt of the reconciliation notice.

Devendra Kumar Sadh and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 47776/2020, 10/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (191) Prev Next

Headnote :- Consent and Section 482 — The complainant and the applicant had been in a relationship for about eight years. She alleged that, after unsuccessful attempts to marry and her decision to end the relationship unless they married, he tied

her to a bed and forced intercourse on 14 July 2018. The High Court held that consent to earlier relations did not establish consent to a later act. The specific allegation of force disclosed a prima facie case for prosecution. It considered the Supreme Court authorities on false promises of marriage in light of that separate allegation of force. The alleged omission in the statement under Section 164, compared with the statement under Section 161, was a matter for trial; the Court did not assign statutory priority to either account in this quashing application. The FIR and charge sheet were not quashed, and the trial court was asked to decide independently on the evidence.

Case-note :- ***1. Facts :*** The applicant sought quashing of FIR Crime 125/2018, registered at Sirol, Gwalior, and the subsequent proceedings alleging rape and other IPC offences. The complainant stated that their eight-year live-in relationship and his family's acceptance of her led her to expect marriage. The proposed marriage did not take place, including after an application at Arya Samaj for which he did not supply his identity proof. She alleged that, after she decided they must either marry or end the relationship, he assaulted her, tied her hands and legs to a bed and forced intercourse on 14.07.2018. She also alleged confinement, pregnancy and a threat of an acid attack. The applicant relied on their earlier voluntary relations, alleged financial exploitation and his own earlier private complaint. In a separate MTP writ, the complainant was permitted to terminate the pregnancy, with a direction to preserve a foetal DNA sample. The charge sheet had been filed in 2018, but the stage of the trial was not known.

2. Precedents — Considered : *Deepak Gulati v. State of Haryana* and *Pramod Suryabhan Pawar v. State of Maharashtra* were discussed on the distinction between a genuine promise and one known to be false when made, and the resulting misconception of fact. The applicant also cited *Sonu alias Subhash Kumar, Dhruvaram Murlidhar Sonar, Uday* and two MP decisions. The Court's decisive consideration was the separate allegation of a nonconsensual act involving force. Its discussion of the promise-of-marriage authorities did not amount to a finding that all the earlier intercourse had occurred without consent.

3. Statutes considered : IPC Section 376 was the central prosecution allegation. Sections 294, 406/506 and 417 appeared in the order's differing descriptions of the offences. CrPC Section 482 governed quashing. Sections 161 and 164 concerned the two forms of witness statement; neither was given automatic evidentiary priority in this review. The MTP order formed part of the context and did not determine criminal guilt.

4. Issues : Did an eight-year consensual relationship negate a specific allegation of force in a later act? Could the High Court prefer an asserted omission in the Section 164 statement to the Section 161 account and quash the proceedings after the charge sheet had been filed?

5. Ratio / Findings : Consent was required for each act of intercourse. On the face of the FIR, the act on 14.07.2018 was alleged to have occurred after the complainant withdrew her willingness to continue the relationship and was tied to a bed; earlier intimacy did not defeat that prima facie case. The Court also considered the applicant's purchase of a Mangalsutra and his failure to provide the identity proof needed for the proposed marriage, despite creating an impression that he intended to marry her. It took account of the MTP permission granted on her allegation of rape in finding prima facie material for prosecution. Under Section 482, it could not compare the statements for reliability or decide the asserted omission; the applicant could raise it when the complainant was examined at trial. Filing a charge sheet did not by itself bar an application under Section 482, but these allegations justified continued prosecution. The applicant's earlier complaint was at most a disputed defence, and its outcome was not known.

6. Relief : The Hon'ble High Court dismissed the application to quash the FIR and charge sheet. It expressly asked the trial court not to be influenced or prejudiced by the preliminary observations and to decide the case strictly on the evidence brought on record. It entered no conviction or final finding on consent.

Devendra Kumar Sharma v. State of Madhya Pradesh and Others, M.Cr.C. no. 52360/2018, 16/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (192) Prev Next

Headnote :- Quashing of matrimonial cruelty proceedings — A husband and four relatives challenged a dowry cruelty FIR and charge sheet, relying on overseas travel, monthly maintenance and

delay in reporting. The High Court distinguished merely naming relatives from alleging specific conduct. Even if the brother-in-law and sister-in-law were abroad on the alleged eviction date, the FIR attributed later pressure for ₹10 lakh and a vehicle to periods when they were in India. There were also specific allegations against the husband and parents-in-law. The Court applied the Supreme Court's caution against omnibus accusations to the roles actually alleged and declined to conduct a mini-trial on the defence materials. Delay alone did not justify quashing when the prosecution was not barred by limitation. The petition was dismissed without a finding of guilt.

Case-note :- ***1. Facts :*** Devendra Sharma, the complainant's husband, joined his parents, younger brother and sister in challenging Crime 107/2020 and the charge sheet dated 19.06.2020 under IPC Sections 498-A, 506, 34 and Dowry Prohibition Act Section 4. The wife alleged demands for a car and ₹10 lakh after the marriage, inadequate food, assault and eviction on 12.08.2018. She alleged a renewed demand on 16.08.2018 and specific demands by the sister and brother during January–February 2019. Reconciliation attempts in 2020 were unsuccessful. The siblings relied on their travel to Dubai and Saudi Arabia, covering the eviction date, while the husband claimed to have transferred ₹10,000 every month.

2. Precedents — Considered : *Kansraj*, *Monju Roy*, *Chandralekha*, *Arnesh Kumar*, *Preeti Gupta* and *Neelu Chopra* were quoted on the need for caution before prosecuting relatives without allegations of specific roles. The Court examined the conduct attributed to each applicant. It relied on *Taramani Parakh* when considering the prima facie allegations against the parents-in-law. *S. Khushboo*, *Amit Kapoor*, *Ajay Kumar Das*, *M.N. Ojha and CBI v. Arvind Khanna* were quoted on cautious exercise of the quashing power and review of allegations at face value, with further authorities appearing in those quotations. *Mohd. Akram Siddiqui* recognised that, in an appropriate case, a public document or a defence document whose veracity the complainant did not dispute could be considered. The Bench nevertheless found no basis to decide the contested defence here. *M. Srikanth* was quoted on quashing where the allegations did not disclose an offence.

3. Statutes considered : CrPC Section 482 governed quashing. IPC Sections 498-A, 506 and 34 and Dowry Prohibition Act Section 4 were the charged provisions. The Court considered delay in light of the admitted absence of a statutory time bar; it did not undertake a fresh calculation of limitation. It considered the matrimonial setting when explaining why a wife might delay reporting in the hope that her married life would improve.

4. Issues : Were the relatives implicated only by vague, omnibus allegations, or did the FIR attribute specific acts to periods when they could have committed them? Could the disputed travel and maintenance records, or delay in reporting, justify quashing before trial?

5. Ratio / Findings : The specific allegations of later demands against the two siblings were not answered by their absence on the eviction date. The husband and parents-in-law also faced allegations of particular conduct, rather than being named merely because of their relationship. The husband's assertion of maintenance payments did not establish that the cruelty allegations were false. Under Section 482, the Court could not resolve competing factual accounts or decide the merits of that defence. Counsel conceded that the prosecution was not barred by limitation, so delay alone did not justify quashing. The Court also observed that a wife might postpone legal action in the hope of improvement in her married life. It found a triable prima facie case, without holding that the allegations had been proved.

6. Relief : The Hon'ble High Court dismissed the petition to quash the FIR and charge sheet against all five applicants, leaving the prosecution to proceed to trial.

Devendra Sharma and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 34507/2020, 24/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (193) Prev Next

Headnote :- Cruelty and Section 482 — The husband sought quashing of a charge sheet under Section 498-A and the Dowry Prohibition Act. He contrasted the FIR's demand for a Bullet motorcycle and ₹50,000 with a four-wheeler demand in a withdrawn divorce petition and the absence of accusations in an earlier mutual-consent divorce application. The High Court held that these differences did not displace the specific allegations of drunken assault, abuse and pressure to give up employment or leave the matrimonial home. It stated that cruelty which might lead a woman to suicide or endanger her bodily safety could prima facie attract

Section 498-A even without a dowry demand. Spouses seeking divorce by consent could choose not to make accusations against each other. Applying the Supreme Court's limits on premature assessment of evidence, the Court dismissed the application without deciding disputed trial facts.

Case-note :- ***1. Facts :*** The complainant married Devendra Singh on 19.04.2022 and worked as a computer operator at a hospital. She alleged that, after two or three weeks, he demanded a Bullet motorcycle and ₹50,000, assaulted her while intoxicated and abused her. He would not allow her to go to work and, when she insisted, told her to leave the matrimonial home and live with her parents. Crime 38/2024 at Rahatgarh, Sagar, resulted in a charge sheet under IPC Section 498-A and Dowry Prohibition Act Sections 3/4. The husband relied on a petition under Section 13B for divorce by mutual consent, filed in July 2022 and dismissed as premature. He also relied on a later petition under Section 13, withdrawn in November 2023, which referred to a demand for a four-wheeler. He contended that the differences showed that he had been falsely implicated.

2. Precedents — Considered : *XYZ v. State of Gujarat*, *State of Tamil Nadu v. S. Martin*, *Ajay Kumar Das*, *State of A.P. v. Gourishetty Mahesh*, *M. Srikanth*, *CBI v. Arvind Khanna and State of MP v. Kunwar Singh* were quoted on the limited inquiry under Section 482 and the prohibition on deciding disputed credibility before trial. *Mohd. Akram Siddiqui* was quoted on the exception permitting consideration, in an appropriate case, of a public document or a defence document whose veracity the complainant did not dispute. The Bench found no indisputable defence that disposed of the allegations in this FIR.

3. Statutes considered : IPC Section 498-A and Dowry Prohibition Act Sections 3/4 were the prosecution provisions. CrPC Section 482 governed quashing. Hindu Marriage Act Sections 13B and 13 concerned the civil divorce pleadings relied on by the defence; their merits were not decided in this proceeding.

4. Issues : Did the omission or variation of a dowry demand in the divorce pleadings negate the cruelty alleged in the FIR and justify quashing the charge sheet? Was a dowry demand indispensable to the pleaded limb of Section 498-A?

5. Ratio / Findings : The FIR contained specific allegations of physical and mental cruelty by the husband. At this stage, those allegations were sufficient even though the vehicle demand was described differently in the divorce pleading. An application for divorce by mutual consent could reflect the spouses' decision not to accuse each other, so its silence did not establish that the FIR was false. The Court stated that cruelty which might lead a woman to suicide or endanger her bodily safety could prima facie constitute an offence under Section 498-A even without a dowry demand. This was a threshold assessment, not a finding that the applicant had committed the alleged acts. The Court could not conduct a mini-trial to resolve the disputed civil and criminal accounts.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. The FIR and charge-sheet proceedings remained for trial. The Court did not decide the merits of the divorce petition or the applicant's guilt.

Devendra Singh v. State of Madhya Pradesh and Others, M.Cr.C. no. 20136/2024, 29/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (194) Prev Next

Headnote :- Road deaths, causation and sentence — The applicant challenged concurrent convictions under IPC Sections 279, 338 and 304-A after a motorcycle collision killed two people and injured another. Although the victims' motorcycle carried three adults and a child, the spot map and the injured rider's evidence placed it on its proper side of the road and showed the applicant approaching from the wrong side. The High Court rejected the contention that overloading excused the collision. It held that the concurrent findings were supported by the record and were not perverse. Applying the Supreme Court's guidance on proportionate and deterrent sentences for road deaths, it declined to reduce the one-year term under Section 304-A to the roughly two months already served and affirmed that sentence.

Case-note :- ***1. Facts :*** On 03.10.2013, the applicant's motorcycle collided near Ganjbasoda with a motorcycle carrying Chandrashekhar, Priti, Mahendra and a minor child. Chandrashekhar and Priti died, while Mahendra suffered facial and jaw injuries requiring fixation. The CJM sentenced the applicant to six months' rigorous imprisonment and a fine of ₹500 each under IPC Sections 279 and 338, and one year's rigorous imprisonment with a fine of

₹1,000 under Section 304-A. Each default term was ten days' rigorous imprisonment. The Sessions Court affirmed the convictions and sentences. In revision, the applicant claimed that the other motorcycle was overloaded and had slipped, denied any collision with his motorcycle, and alternatively sought reduction to the period served since September 2021. Two witnesses who reached the spot after the accident offered little support. The injured rider and another witness described the collision, although the latter expressed uncertainty about identifying the applicant in the dock after the lapse of time. The applicant testified in his own defence and admitted that he was at the scene.

2. Precedents — Considered : *State of Punjab v. Saurabh Bakshi, (2015) 5 SCC 182*, was quoted at length on avoiding misplaced sympathy in sentencing for road deaths under Section 304-A. The Supreme Court reduced the sentence in that case to six months; the present applicant's one-year sentence was affirmed. *State of MP v. Surendra Singh, (2015) 1 SCC 222*, was applied on punishment proportionate to the gravity of the offence and its impact on victims and society. Its quoted reasoning also referred to *State of M.P. v. Bablu*. *State of Karnataka v. Sharanappa Basanagouda Aregoudar, (2002) 3 SCC 738*, was relied on for caution in revisional interference and against unduly light sentences for road deaths.

3. Statutes considered : IPC Sections 279, 338 and 304-A were the offences of conviction. CrPC Sections 397 and 401 governed the revision, and Section 315 permitted the applicant to testify at trial. MV Act Sections 3/181 and 5/180 appeared in the charge-sheet and charge history; the operative convictions considered in revision were the three IPC counts. The Court expressly declined to read the bed-head tickets because they had not been exhibited.

4. Issues : Did the overloaded motorcycle and the applicant's denial make the concurrent findings of rash driving perverse in light of the spot map and witness evidence? Was the one-year term under Section 304-A disproportionate after about two months in custody?

5. Ratio / Findings : The spot map placed the collision on the victims' extreme left side of the road and supported the evidence that the applicant had approached from the wrong side. The presence of excess riders did not excuse his wrong-side collision with their motorcycle. The concurrent findings of negligent causation were supported by the evidence and were not perverse. Two deaths and a serious injury made reduction to a token period already served inappropriate. The Court relied on the spot map and witness testimony to establish the wrong-side collision; the medical evidence established the fatal and grievous injuries.

6. Relief : The Hon'ble High Court dismissed the revision. It affirmed the convictions and the terms of six months' rigorous imprisonment with a fine of ₹500 each under Sections 279/338, and one year's rigorous imprisonment with a fine of ₹1,000 under Section 304-A. Each default term remained ten days' rigorous imprisonment. The applicant, who was already in jail, was to serve the balance of the sentence. The Registry was directed to return the lower courts' record with a copy of the judgment for information and compliance.

Devendra Valmiki v. State of Madhya Pradesh, Cr.R. no. 2512/2021, 12/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (196) Prev Next

Headnote :- Forest confiscation and interim custody of a vehicle — A tractor and trolley were confiscated after forest patrol officers reported illegal excavation and loading of sand. The applicant described his request as release on supurdginama pending the criminal trial, but the petition challenged completed confiscation proceedings upheld in appeal and revision. Applying *Kallo Bai* and *Mustafa*, the High Court held that confiscation and criminal prosecution were separate proceedings. It rejected the claim of lack of the owner's knowledge on its finding that his son was at the site with the vehicle. No perversity was shown in the three concurrent findings of fact, and the confiscation order itself had not been filed before the High Court. Relief under Section 482 was refused without deciding the pending criminal trial.

Case-note :- ***1. Facts :*** Forest officials on night patrol on 17.10.2020 reported illegal excavation of sand and its loading into tractor-trolley MH-27-BV-8996. They seized the vehicle and initiated Forest Crime/POR 949/30. The competent forest officer ordered confiscation on 28.11.2020. The administrative appeal was dismissed on 31.03.2021, and the Sessions revision was dismissed on 10.12.2022. Devidas sought relief under Section 482, describing the request as release on

supurdginama during a pending criminal case, although the challenged orders concerned confiscation.

2. Precedents — Considered : *State of MP v. Kallo Bai, (2017) 14 SCC 502*, was quoted and applied on confiscation as an independent quasi-judicial proceeding. Under the statute considered there, the person concerned had to establish absence of knowledge or connivance on his part or, where applicable, on the part of his servant or agent, and that all reasonable and necessary precautions had been taken against use of the vehicle or other articles to commit a forest offence. *Mustafa v. State of UP, (2021) 16 SCC 474*, was quoted on confiscation independent of prosecution under the statute considered in that case. Its reproduced passages from *Yogendra Kumar Jaiswal*, *Uday Singh* and *G.V. Sudhakar Rao* explained the different purposes of confiscation and criminal prosecution.

3. Statutes considered : CrPC Section 482 was the source of the inherent jurisdiction invoked. The challenged proceedings concerned forest confiscation under State law, separately from the criminal prosecution. The *Kallo Bai* quotation discussed Section 15 and Sections 15-A/15-B of the MP Van Upaj (Vyapar Viniyam) Adhiniyam. *Mustafa* concerned confiscation under another enactment.

4. Issues : Did the pending criminal trial prevent confiscation or require interim release of the vehicle? Could Section 482 be used to overturn concurrent administrative and revisional findings on the disputed claim that sand was transported without the owner's knowledge?

5. Ratio / Findings : Confiscation and prosecution were independent proceedings serving different purposes; the criminal case did not have to conclude before confiscation. Despite counsel's description of an interim-custody request, the petition challenged completed confiscation proceedings. The confiscation order had not been placed before the High Court, and no perversity was shown in the concurrent findings. On its finding that the applicant's son had been at the site with the tractor and trolley, the Court rejected the claim that the vehicle was used without the owner's knowledge. It did not convict the owner of a forest offence.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. The confiscation remained in force, and no interim release was directed.

Devidas v. State of Madhya Pradesh, M.Cr.C. no. 6917/2024, 20/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (197) Prev Next

Headnote :- Cooperative society and criminal process — A bank employee challenged the Registrar's direction to initiate criminal action after earlier disputes and interim litigation under the MP Cooperative Societies Act. The High Court held that a proposed suspect was not entitled to a hearing merely because a criminal complaint was to be initiated. Civil recovery under Section 64 did not exclude the ordinary criminal law in the absence of an express or implied bar. No statutory requirement that a complainant hold a specified rank was shown. Supreme Court authorities on an informant's locus and *H.N. Rishbud*'s requirement of a miscarriage of justice answered the alleged procedural defect. The writ petition was dismissed without deciding financial guilt or service liability.

Case-note :- ***1. Facts :*** In December 2019, the Deputy Registrar asked a cooperative bank to pursue service action, criminal registration, dispute proceedings for recovery under Section 64 and attachment under Section 68 against Devmani Tiwari. Earlier writ petitions and an appeal resulted in interim directions. By order dated 19.01.2021, the Registrar allowed the appeal on the question of competence but directed the Deputy Registrar to ask the society to take departmental and criminal action. Tiwari challenged the criminal-action direction under Article 226. He relied on the absence of a prior hearing, the asserted lack of authority of the proposed complainant and the available cooperative remedy for recovery of loss.

2. Precedents — Considered : *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was quoted at length on an accused's inability to choose or control the investigation. Its references to *Narmada Bai*, *E. Sivakumar* and *Committee for Protection of Democratic Rights* formed part of that limited discussion of a suspect's right to a hearing. *SBI v. Rajesh Agarwal, (2023) 6 SCC 1*, was cited for the absence of a natural-justice hearing before criminal reporting, as distinct from the bank fraud-classification issue in that case. *Vinubhai Haribhai Malaviya* was quoted on the limits of the no-hearing authorities: an accused has no right to participate in the investigation until process is issued, provided a

fair investigation is strictly ensured. Those authorities addressed questions different from the one before the Supreme Court in that case. *State of MP v. Rameshwar, (2009) 11 SCC 424*, and *Dhanraj N. Asawani*, Criminal Appeal 2093/2023, supported the absence of a cooperative-statute bar. *Dhanraj*'s comparisons with MCOCA, TADA and organ-transplant legislation concerned exclusions under those statutes, rather than the cooperative proceeding in the present case. *Naser Bin Abu Bakr Yafai* and *H.N. Rishbud* explained that a defect in investigation does not invalidate a completed trial before a competent court unless that defect is shown to have caused a miscarriage of justice. That rule distinguishes an investigative defect from a breach of mandatory provisions governing the court's competence or procedure. *Vishwa Mitter* and *A.R. Antulay* supported the general right to set the criminal law in motion, subject to express statutory exceptions. *Mukesh Singh*'s discussion of an informant who also investigates was quoted in that context: the two roles do not automatically disqualify the officer, while bias or its real likelihood depends on the facts.

3. Statutes considered : Article 226 was the basis of the writ petition. CrPC Sections 4 and 154 governed the general criminal procedure and reporting of an FIR; Sections 190 and 195–198 were relevant to statutory exceptions. Sections 64 and 68 of the MP Cooperative Societies Act concerned civil dispute or recovery proceedings and attachment. The petitioner showed neither an express exclusion of the IPC/CrPC process nor a restriction requiring the person reporting an FIR to hold a specified rank. Section 81(5B), discussed in the quoted *Dhanraj* decision, concerned another State's cooperative law; it is not attributed to the MP Act.

4. Issues : Was a proposed suspect entitled to a hearing before the Registrar directed criminal action? Did the recovery remedy under Section 64, or the asserted restriction on the rank of the reporting authority, prevent registration of an FIR or necessarily invalidate a later trial?

5. Ratio / Findings : There is no ordinary right to a hearing before a cognizable offence is reported. Cooperative recovery proceedings address civil loss, while criminal prosecution determines guilt; no exclusion of the criminal process was shown. In the absence of a statutory exception, any person may generally set the criminal law in motion. A defect in investigation does not automatically invalidate a later trial before a competent court: the defect must be shown to have caused a miscarriage of justice. The Court did not decide whether a prosecution would prove its allegations or whether a particular investigative defect had already occurred.

6. Relief : The Hon'ble High Court dismissed the petition challenging the Registrar's direction for criminal action. No bar on filing an FIR, mandatory prior hearing or injunction against investigation was granted.

Devmani Tiwari v. State of Madhya Pradesh and Others, W.P. no. 3348/2021, 30/11/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (198) Prev Next

Headnote :- Retaliatory FIR, corruption witness and public-law relief — A hostel superintendent withdrew ₹50,000 in maintenance funds for an SPE Lokayukt trap against a superior who demanded a bribe. The marked notes were seized from the recipient and were later placed in the trial court's custody. Years later, despite acknowledging the trap, the department demanded repayment and an FIR under IPC Section 409 was lodged against the superintendent. The High Court held that the FIR's allegations, even if accepted in full, disclosed no misappropriation. In the connected writ petitions, it quashed the FIR and the repayment order, directed prompt recording of the complainant's evidence in the corruption case and ordered his protection against pressure. It imposed personal costs of ₹25,000 on the official in each petition and directed the Chief Secretary to examine his conduct. It did not decide the guilt of the accused in the trap case.

Case-note :- ***1. Facts :*** Dharam Das Bhalekar, a hostel superintendent, alleged that his superior Anand Mishra demanded ₹50,000 from funds sanctioned for hostel repairs and suggested preparing forged bills. Bhalekar complained to SPE Lokayukt, withdrew the money on 22.05.2013 and immediately handed it to investigators, who marked it for a trap. A subordinate, Prakashraj Palewar, received the notes and was caught. A PC Act charge-sheet against Mishra and Palewar was filed only in July 2021. The notes remained with the investigators and were later placed before the Special Judge. In 2023, the current Assistant Commissioner demanded that Bhalekar redeposit ₹50,000 or face departmental action. He then lodged Crime 174/2023 under IPC Section 409 despite acknowledging the trap and the custody of

the money. The judgment expressly noted that the corruption trial was numbered 2/2021 in some source papers and 3/2021 in others. The connected writ petitions separately challenged the FIR and the recovery order.

2. Precedents — Considered : The Court reviewed the limits on quashing proceedings at a preliminary stage in *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *XYZ*, *S. Martin*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *Padal Venkata Rama Reddy*, *M. Srikanth*, *M.N. Ojha*, *CBI v. Arvind Khanna and Kunwar Singh*. *Bhajan Lal* and further authorities were discussed in the quoted decisions. The Court applied the exception where the allegations, taken at face value, disclose no offence. It compared the FIR's own account of the trap and custody of the notes, without deciding disputed questions of witness credibility.

3. Statutes considered : IPC Section 409 was the offence alleged in the FIR; the Court found no misappropriation constituting criminal breach of trust on the accepted account of the money's use and custody. PC Act Sections 7, 13(1)(d), 13(1)(a) read with 13(2) were charges against the superior and recipient in a separate pending case, not convictions in these proceedings. Articles 226 and 227 and CrPC Section 482 provided the writ, supervisory and inherent powers. The Court did not decide an application for return of the notes held as case property by the trial court.

4. Issues : Could a government employee who immediately handed over the money for a successful official trap be accused of criminal breach of trust when the FIR admitted that use of the money? Was a demand to repay it valid while the notes remained case property? Could the Court direct prompt recording of his evidence, protect him against pressure and impose personal accountability for official harassment?

5. Ratio / Findings : The prosecution's own account traced the notes from the bank withdrawal to the Lokayukt trap and then to court custody, without personal use by Bhalekar. Even the uncontroverted allegations in the FIR therefore disclosed no offence under Section 409 or any other provision against him. Requiring the complainant to make a second payment for money used in the official trap was arbitrary and, in the Court's assessment, a retaliatory attempt linked to his testimony. The prolonged investigation and the failure to record his evidence justified supervisory directions. These observations did not determine the bribery charges against Mishra/Palewar.

6. Relief : The Hon'ble High Court allowed both writ petitions. In the first, it quashed FIR Crime 174/2023 and directed respondent 4 to deposit personal costs of ₹25,000 in the Registry within two months. The petitioner was entitled to withdraw the costs, which were not reimbursable by the State. On default, the Registrar General was to initiate both recovery and contempt proceedings. The Special Judge was directed to fix the case immediately and record the petitioner's evidence without further delay; SPE Lokayukt was to protect him against pressure. In the other petition, the Court quashed the recovery order dated 02.05.2023 and directed the Assistant Commissioner to deposit another ₹25,000 in personal costs in the Registry within two months. Those costs were payable to the petitioner on his withdrawal application and were not reimbursable by the State. On default, the Registrar General was to initiate recovery proceedings and register a contempt case. The Chief Secretary was directed to examine the Assistant Commissioner's conduct and take necessary action for harassing the petitioner, decide the matter within two months and submit a report in the Registry within three months.

Dharam Das Bhalekar v. State of Madhya Pradesh and Others, W.P. no. 12327/2023 & 12294/2023, 18/07/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (199) Prev Next

Headnote :- Injured witnesses and fatal field attack — A family dispute over a calf entering crops led to violence in a field. Four injured eyewitnesses, including a child, identified Babulal as the person who attacked Kalyan with an axe and Dharmendra as the person who attacked Shishupal with an axe. Both victims died and others were injured. The Division Bench accepted the witnesses' substantially consistent accounts despite minor discrepancies, their relationship to the parties and the sudden verbal scuffle. It found support in the medical evidence of fatal head and neck injuries and the recoveries. Applying *State of UP v. Naresh*, it gave due weight to the injured witnesses' testimony while recognising that major contradictions could justify its rejection. It affirmed the appellants' life sentences under Section 302 and seven-year sentences under Section

307, finding proof in the prosecution evidence rather than treating the alleged falsity of the defence as proof of guilt.

Case-note :- ***1. Facts :*** On 16.02.2009, a quarrel over a calf damaging crops led to violence among relatives irrigating adjoining land. The FIR named Babulal and his son Dharmendra. The prosecution alleged that Babulal inflicted fatal axe blows on Kalyan's neck and head, while Dharmendra inflicted fatal axe blows on Shishupal's head and shoulder. It also alleged attacks on Megh, Gyan, Kesri and Santo Bai. Two bloodstained axes were later recovered following the appellants' disclosures. The Sessions Court convicted both appellants under IPC Sections 302 and 307. It imposed life imprisonment with a fine of ₹1,000 for the former offence and seven years' rigorous imprisonment with a fine of ₹2,500 for the latter, with default stipulations. The appellate record contained variations about the timing and the roles of two other persons added as accused during investigation. The appeal concerned the two convicted appellants.

2. Precedents — Considered : *State of UP v. Naresh, (2011) 4 SCC 324*, was quoted for the special weight attached to an injured witness's testimony: it should be relied on unless major contradictions or discrepancies provide grounds for its rejection. The quotation referred to *Jarnail Singh*, *Balraje* and *Abdul Sayeed*. *Tika v. State of UP, AIR 1974 SC 155*, supported the principle that the prosecution must prove guilt beyond reasonable doubt irrespective of weakness in the defence.

3. Statutes considered : The convictions under IPC Sections 302 and 307 were affirmed. Section 34 appeared in the FIR and charge-sheet history, while the judgment attributed individual blows to the appellants. CrPC Section 374 governed the appeal. Evidence Act Section 27 concerned the disclosures leading to recovery of the axes; the Court relied principally on eyewitness testimony and medical evidence.

4. Issues : Did the witnesses' relationship to the parties, the sudden scuffle, inconsistencies in their descriptions of weapons and some nonfatal injuries, or gaps in the seizure details create reasonable doubt about the appellants' acts and intention? Did the medical findings concerning the two deaths support the injured witnesses' central account?

5. Ratio / Findings : Megh, child witness Gyan, Kesri and Santo Bai gave substantially consistent accounts identifying the two appellants and the victims of the fatal attacks. Their own injuries supported their presence. The postmortem evidence disclosed fatal head and neck trauma, and the Court found the prosecution case proved. The doctors described several nonfatal injuries as caused by blunt objects, although witnesses had described axe attacks; the postmortem doctor also stated in cross-examination that Shishupal's injuries were caused by a hard and blunt object. The Court nevertheless found the injured witnesses' evidence supported by the medical reports and held the prosecution case proved beyond reasonable doubt. It rejected the suggestion that the appellants lacked murderous intent despite the sudden heated exchange, having regard to their acts. Falsity of the defence alone could not establish guilt; the Bench based its finding on the prosecution evidence.

6. Relief : The Hon'ble High Court dismissed the appeal. It upheld life imprisonment under Section 302 with a fine of ₹1,000 and seven years' rigorous imprisonment under Section 307 with a fine of ₹2,500, together with the trial court's default stipulations. The appellants, who were in jail, were directed to serve the remainder of their sentences.

Dharmendra and Others v. State of Madhya Pradesh, Cr.A. no. 1013/2010, 07/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (200) Prev Next

Headnote :- Section 156(3) investigation, complaint and closure report — The Magistrate directed registration of an FIR and awaited the police report, but later dismissed the complaint solely because the FIR had been registered. The High Court held that the later order impermissibly reviewed the earlier direction. An order for registration of an FIR neither requires the police to file a charge-sheet nor ends a pending complaint. If the police file a closure report, the informant must have an opportunity to be heard and may pursue a protest petition and evidence in support of the complaint. The Magistrate retains the lawful options for dealing with the report and complaint. The dismissal was set aside, with a direction to proceed according to law on receipt of the final report.

Case-note :- ***1. Facts :*** Dipti Kushwah filed a complaint alleging cheating and forgery. On 02.05.2016, the JMFC directed registration of an FIR under Section 156(3) CrPC and awaited a charge-

sheet or closure report. Crime 258/2016 was registered. On 24.10.2016, while the final report was still awaited, the Magistrate first adjourned the matter and signed the order-sheet, but later added an order dismissing the complaint because the FIR had been registered. The State submitted that investigation remained pending and that the police had formed a preliminary view that the evidence was insufficient.

2. Precedents — Considered : *Bhagwant Singh v. Commissioner of Police, (1985) 2 SCC 537*, was cited for notice and an opportunity of hearing to the informant before proceedings are dropped on an adverse police report. *B. Chandrika v. Santhosh, (2014) 13 SCC 699*, recognised that a protest petition may be dealt with even after acceptance of the final report, provided it satisfies the requirements of a complaint before cognizance is taken. *Madhao v. State of Maharashtra, (2013) 5 SCC 615*, explained the Magistrate's options on receiving the report following a direction under Section 156(3). *Gopal Vijay Verma*, *Kishore Kumar Gyanchandani*, *Devarapalli Lakshminarayana Reddy* and *Tula Ram* were discussed in the quoted authorities.

3. Statutes considered : CrPC Sections 156(3), 173, 190, 200, 202 and 362 concerned the investigation, police report, cognizance, complaint procedure and bar on review. The complaint alleged offences under IPC Sections 420, 467, 468 and 471; the order also listed Section 31.

4. Issues : Could the Magistrate review the earlier order awaiting a police report? Did registration of the FIR alone end the pending complaint and the complainant's opportunity to proceed after a possible closure report?

5. Ratio / Findings : Applying Section 362, the Court held that the Magistrate could not review the earlier direction awaiting the police report. The provision bars alteration or review of a signed judgment or final order disposing of a case, except for clerical or arithmetical correction and subject to exceptions under the Code or other law. A direction under Section 156(3) requires registration of an FIR but does not require a charge-sheet. If a closure report is filed, the informant must be heard. The Magistrate may act on the police report, direct further investigation by the police or, where the complaint statements or a protest petition satisfying the requirements of a complaint justify it, take cognizance. Premature dismissal of the complaint removed those options. The High Court did not decide whether the police would file a closure report or a charge-sheet.

6. Relief : The Hon'ble High Court allowed the application and set aside the later portion of the JMFC's order dated 24.10.2016 dismissing the complaint. The Magistrate was directed to proceed according to law after receiving the police final report.

Dipti Kushwah v. Vijay Shankar Tiwari and Others, M.Cr.C. no. 14091/2016, 11/04/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (201) Prev Next

Headnote :- Land demarcation and SC/ST assault FIR — The applicant relied on boundary proceedings and alleged that the FIR was retaliatory. The demarcation papers did not establish a right to forcibly dispossess the complainant, and the removal proceedings under Section 250 MPLR remained pending. Even a landowner alleging encroachment must obtain possession in accordance with law. The FIR alleged lathi injuries, caste abuse and threats and disclosed cognizable offences requiring investigation. The application to quash the FIR under the Court's inherent powers was dismissed. The decision concerned the continuation of investigation; it did not determine guilt or finally decide every statutory ingredient.

Case-note :- ***1. Facts :*** Following a boundary dispute and demarcation initiated by the applicant, the complainant alleged that, on 04.01.2025, Divicharan Lodhi abused him by caste, struck his head and waist with a lathi and threatened him. Others intervened. The applicant relied on a demarcation panchnama and his pending application under Section 250 of the Madhya Pradesh Land Revenue Code, contending that Crime 7/2025 was a counterblast. The demarcation file contained no notice to the complainant or details of how the measurement was carried out. A page also lacked witness signatures.

2. Precedents — Considered : *Neeharika Infrastructure v. State of Maharashtra, (2021) 19 SCC 401*, was relied on for the limits on quashing an investigation into cognizable offences. The Court also cited *XYZ v. State of Gujarat*, *S. Martin, Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *CBI v. Arvind Khanna*, *Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Amit Kapoor*, *Padal Venkata*

Rama Reddy, M.N. Ojha and *Renu Kumari*. *R.P. Kapur* and *Bhajan Lal* appeared in the passage quoted from *Neeharika*.

3. Statutes considered : The application invoked BNSS Section 528. The FIR referred to BNS Sections 296 and 351(2), with "1015(2)" also stated in the order, and SC/ST (Prevention of Atrocities) Act Sections 3(1)(r), 3(1)(s) and 3(2)(v-a). M.P. Land Revenue Code Sections 129(4), 250 and 250(8) concerned the land proceedings and lawful recovery of possession.

4. Issues : Did the demarcation and pending land proceedings establish that the FIR was a malicious counterblast or permit the applicant to take possession by force? Could the Court end the ongoing investigation despite allegations of assault, caste insult and threats?

5. Ratio / Findings : The demarcation papers did not conclusively establish the applicant's claim, and no eviction order under Section 250 had been shown. Even if encroachment were assumed, the applicant had no right to remove the complainant by force. If an eviction order were passed but not complied with, Section 250(8) provided a remedy before the competent authority. The FIR alleged injury and caste abuse and disclosed cognizable offences. In those circumstances, allegations about the informant's motive did not justify deciding disputed facts prematurely or preventing the collection of evidence. The ruling concerned whether investigation should continue; it did not determine guilt or finally decide every ingredient to be proved at trial.

6. Relief : The Hon'ble High Court dismissed the application under BNSS Section 528, allowing the FIR investigation to continue.

Divicharan Lodhi v. State of Madhya Pradesh and Others, M.Cr.C. no. 10619/2025, 19/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (202) Prev Next

Headnote :- Dying declaration in burn-death murder appeal — Archana's dying declaration identified her husband, Durgesh, and two relatives as the persons who poured kerosene on her and set her on fire. It also described demands for dowry. The official who recorded the declaration proved her thumb impression, and the doctor certified her fitness. The Court rejected the sedation objection in view of the medication timing. The fact that she had suffered ninety-five percent burns did not, by itself, establish that she could not speak. Finding the declaration voluntary and trustworthy, the Division Bench affirmed the conviction under IPC Section 302/34 and the sentence of life imprisonment.

Case-note :- ***1. Facts :*** Archana married Durgesh in May 2004. She suffered burns at the matrimonial home in November 2005, was admitted to hospital on 24 November and died on 28 November with 95% burns. In her dying declaration, Ex.P/10, she stated that, while she was watching television at about 10 p.m., Durgesh, her aunt-in-law Hemlata and sister-in-law Shikha poured kerosene on her and set her on fire. She also described earlier demands for a computer and a vehicle and stated that her husband had treated her badly from the outset. The trial Court convicted Durgesh under Section 302/34 IPC and sentenced him to life imprisonment with a fine of Rs 1,000 and three months' rigorous imprisonment in default of payment. The two named co-accused were absconding.

2. Precedents — Considered : The judgment surveyed Supreme Court decisions on the reliability of dying declarations, the declarant's fitness, voluntariness, tutoring and the need for corroboration. Those principles required assessment of the evidence in the particular case; they did not establish that every person with burn injuries could speak. The judgment also referred to Modi's medical jurisprudence on the severity of burns.

3. Statutes considered : IPC Sections 302/34, 307 and 498-A were considered; the latter two were the initial FIR offences. The appeal was under CrPC Section 374(2). The judgment applied Evidence Act Section 32(1) principles governing dying declarations.

4. Issues : Was Ex.P/10 reliable despite the extensive burns, pain medication and absence of an eyewitness? Could the declaration sustain the conviction and sentence for murder?

5. Ratio / Findings : The recording official proved the contents of the declaration and Archana's thumb impression, and the doctor certified her fitness. The declaration was recorded at about 4:15 p.m. on 25.11.2005. No medication had been given after about 8:30 a.m., when the official was requested to record the declaration. The Court therefore rejected the sedation objection. It found the specific attribution of responsibility voluntary and trustworthy and held that a reliable dying declaration could be the sole basis of conviction. The extent of

the burns did not, by itself, determine whether Archana was conscious and able to make the statement. The postmortem confirmed that the burns were fatal, and the Court found the defence account unreliable on the evidence. Ex.P/10 set out the persons she identified as responsible and how she said the burns had occurred.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the conviction, life imprisonment and fine, including three months' rigorous imprisonment in default of payment. The appellant was to be informed of the result through the Jail Superintendent.

Durgesh Singh Bhadauria v. State of Madhya Pradesh, Cr.A. no. 427/2007, 12/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (203) Prev Next

Headnote :- FIR mandamus and alternative remedies — Alleging police inaction, the petitioner sought a direction under Article 226 compelling registration of an FIR. The Supreme Court authorities require ordinary grievances of this kind to be pursued through CrPC Section 154(3), an application to the Magistrate under Section 156(3), or a complaint under Sections 190/200. The Madhya Pradesh Division Bench recognised exceptions to the rule requiring use of an alternative remedy. Intervention under the writ jurisdiction remained available in rare cases on the requisite facts. The petition was dismissed with liberty to approach the Magistrate under CrPC Section 200 or BNSS Section 223.

Case-note :- ***1. Facts :*** Faiza Khan sought a writ of mandamus directing the police to register an FIR against the named respondents. She alleged police inaction and relied on an earlier High Court direction. The State submitted that she could pursue a complaint before the Magistrate. The Court considered whether the petition seeking a direction to register an FIR was maintainable.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, directed complainants to the Magistrate's process when the police failed to register information disclosing a cognizable offence. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognised intervention in rare cases of mala fide exercise of investigative power and clear abuse, while limiting the Court to requiring observance of the statutory process rather than directing how the investigation should be conducted. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explained recourse to the Superintendent of Police and the Magistrate. If prima facie satisfied, the Magistrate could direct registration or proper investigation and monitor it. *Shweta Bhadauria v. State of M.P.*, WA 247/2016, recognised the four *Whirlpool* exceptions to the ordinary rule requiring an alternative remedy to be used and distinguished *Lalita Kumari*. Other authorities appeared within the quoted passages rather than being independently applied to the present facts.

3. Statutes considered : The petition invoked Constitution Article 226. The judgment considered the remedies under CrPC Sections 154(3), 156(3), 190 and 200 and granted liberty to approach the Magistrate under BNSS Section 223.

4. Issues : Should the High Court direct registration of an FIR on an ordinary allegation of police inaction when remedies before the superior police officer and the Magistrate are available?

5. Ratio / Findings : Information disclosing a cognizable offence gives rise to the police's statutory duty to register an FIR. An aggrieved informant ordinarily approaches the superior police officer under Section 154(3). If the grievance remains unredressed, the informant may invoke the Magistrate's Section 156(3) jurisdiction or pursue a complaint before the Magistrate. The exceptions recognised by the Madhya Pradesh Division Bench show that the alternative-remedy rule is not an absolute bar to writ jurisdiction. The Court found no ground in this petition to bypass the available Magistrate remedy. Its decision did not determine the merits of the allegations against the proposed accused.

6. Relief : The Hon'ble High Court dismissed the writ petition with liberty to approach the concerned Magistrate under CrPC Section 200 or BNSS Section 223.

Faiza Khan v. State of Madhya Pradesh and Others, W.P. no. 20162/2024, 08/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (204) Prev Next

Headnote :- VYAPAM admission conspiracy, cognizance and quashing — Eight connected

applications sought quashing of the CBI proceedings concerning Chirayu Medical College's 2011 State-quota MBBS admissions. The representative applicant had not been allotted a seat through counselling. She claimed admission against a vacant seat on the last day, although she had already paid the fees and prepared the admission papers. These circumstances supported a prima facie suspicion of an admission arrangement with the college. The earlier quashing of proceedings against *Dr Ajay Goenka* rested on the absence of material linking him individually to the alleged acts and did not govern the candidates' cases. The Court dismissed all eight applications and left the trial court free to decide the merits.

Case-note :- ***1. Facts :*** The CBI investigated the alleged blocking of MPPMT-2011 MBBS seats at Chirayu Medical College. The records showed 47 State-quota admissions on the 30 September deadline, including 39 candidates who, according to the investigation, had either not participated in counselling or had not been allotted a college. The representative applicant scored 113/200, prepared the admission documents in August and paid Rs 3,85,000 by a cheque dated 26 August, although the college receipt was dated 25 August. Her admission was later shown as being against a vacancy on 30 September. She maintained that the seat had been advertised only after it fell vacant and relied on the earlier quashing of proceedings against a co-accused doctor. Seven connected applications were decided on identical facts.

2. Precedents — Considered : In *Dr Ajay Goenka v. CBI*, MCRC 39055/2021 (Madhya Pradesh High Court, 21.02.2024), the proceedings against the doctor were quashed because there was no material connecting him individually to the alleged conspiracy or the specific acts attributed to him. That decision did not hold that the entire admissions scheme was lawful. The Supreme Court's VYAPAM transfer order dated 09.07.2015 in WP(C) 372/2015 formed the background to the CBI investigation; it did not supply the rule for deciding the merits of these applications.

3. Statutes considered : CrPC Sections 482 and 173(8) concerned the quashing application and further investigation. The alleged offences were under IPC Section 120B read with Sections 201, 204, 408, 419, 420, 468, 471 and 477A; Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act 1988; and Section 4/3-D(1)(2) of the M.P. Recognised Examinations Act 1937, as printed. The admission framework was the 2007 M.P. private professional institutions Act and Rules 6, 8, 9, 10, 11 and 12 of the 2011 admission Rules.

4. Issues : Did the claim of admission against a vacant seat and the earlier quashing of proceedings against a co-accused doctor justify quashing cognizance and prosecution, or did the advance fee payment and counselling records support grave suspicion?

5. Ratio / Findings : The 2011 rules required admission through merit and counselling; a college notice inviting applications for vacant seats did not by itself answer those requirements. Payment of fees and completion of admission papers before the claimed admission against a vacant seat on the last day, despite the absence of an allotment, supported an inference of an understanding with the college. A conspiracy may be inferred from the parties' conduct at this preliminary stage. *Dr Goenka*'s case turned on the absence of material about his own role, whereas the records concerning these applicants were different. At the stage of taking cognizance or framing charges, grave suspicion is sufficient; the Court is not required to conduct a roving examination of the evidence. The Court expressly directed that its decision must not influence the trial court's findings on the merits.

6. Relief : The Hon'ble High Court dismissed the application and the seven listed companion applications. The prosecution and the order taking cognizance remained in place, with the merits reserved for trial.

Farah Khan and Others v. Central Bureau of Investigation and Others, M.Cr.C. no. 14084/2024 & 14050/2024 & 34149/2021 & 47888/2021 & 49836/2021 & 12292/2024 & 14100/2024 & 14159/2024, 16/01/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anil Verma, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (205) Prev Next

Headnote :- Section 125 maintenance, earning capacity and multiple remedies — The wife's qualifications and past employment as a teacher did not establish that she had sufficient current income to maintain herself, particularly while caring for a young child. The delay in lodging a complaint, other relatives' domestic circumstances and her pursuit of separate remedies concerning domestic violence, cruelty and stridhan did not justify denying

maintenance. The husband did not substantiate his claim of low wages by examining his employer. The maintenance payments to his parents, agreed to in compromise proceedings in which he had not disclosed his income, did not establish his means. Applying *Rajnesh v Neha*, the Court awarded the wife Rs 5,000 per month and enhanced the minor daughter's maintenance to Rs 3,000 per month, both payable from the date of the application.

Case-note :- ***1. Facts :*** Farjana married Rashid in March 2011, and they had a daughter. She alleged demands for dowry, physical and mental harassment, deprivation of food and expulsion from the matrimonial home in July 2013. He maintained that she had left voluntarily, held an MA degree and earned from teaching. He claimed a monthly income of Rs 3,500–4,000 and stated that he had to maintain his parents. The Family Court rejected her claim under Section 125 on the ground that she had previously taught and could work. It disbelieved her allegations because of the delay in complaining, and drew an adverse inference from her other legal proceedings and her refusal to live in a separate room in the same family house. It awarded the daughter Rs 2,000 per month. The wife and daughter sought revision.

2. Precedents — Considered : *Shailja v. Khobbanna, (2018) 12 SCC 199*, distinguished the capacity to earn from actual earnings. *Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715*, explained the requirement that the wife be unable to maintain herself and that some earnings do not by themselves defeat her claim. *Rajnesh v. Neha, (2021) 2 SCC 324*, laid down the factors for determining the amount of maintenance, adjustment of awards under different statutes and payment from the date of the application. *Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705*, held that an able-bodied husband could not avoid maintenance merely by pleading a meagre salary. The Court reproduced other authorities as part of the guidelines quoted from *Rajnesh*.

3. Statutes considered : CrPC Sections 125, 397 and 401; Protection of Women from Domestic Violence Act Sections 12 and 20; IPC Sections 406 and 498-A. Section 23 of the Hindu Adoptions and Maintenance Act and the DV Act provisions concerning residence appeared in the guidelines quoted from *Rajnesh*; they were not the basis of direct claims in the present revision.

4. Issues : Did the wife's qualifications and past employment bar maintenance despite her childcare responsibilities and the absence of proof of sufficient current earnings? Did the delay in lodging a complaint and her pursuit of other legally permissible remedies justify treating her separate residence as unreasonable and denying maintenance? What amounts of maintenance, date of commencement and adjustment for alleged overlapping awards were warranted?

5. Ratio / Findings : The capacity to earn does not by itself establish that the wife has sufficient actual income to maintain herself. If the mother of a young child leaves employment because she finds it difficult to combine work with childcare, her resignation cannot be treated as mala fide merely on the allegation that she seeks maintenance. Other family members' domestic circumstances did not disprove her account of harassment. A woman may delay a criminal complaint in an effort to preserve her marriage, and such patience cannot be held against her. Pursuing separate statutory remedies does not disqualify a wife from maintenance. Maintenance awarded under different statutes may be adjusted, but the husband did not produce the alleged DV order. He did not substantiate his salary claim by examining his employer. The orders for maintenance of his parents were passed on compromise without disclosure of his income. The reasonable needs of the wife and child, the husband's means and the cost of daily necessities justified the revised amounts.

6. Relief : The Hon'ble High Court allowed the revision, awarded the wife Rs 5,000 per month and enhanced the daughter's maintenance from Rs 2,000 to Rs 3,000 per month. Both amounts were payable from the date of the application, 21.03.2014.

Farjana and Others v. Rashid, Cr.R. no. 1414/2019, 26/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (206) Prev Next

Headnote :- Attempt to murder, unappealed acquittal and sentence — The prosecution case involved sword blows to the victims' heads and the throwing of a country-made bomb. The trial court acquitted the appellants under IPC Section 307 because it considered that the injuries were not dangerous to life. The High Court held that the decisive factors were the requisite intention or

knowledge and an overt act, rather than the infliction of a life-threatening injury. The medical and forensic evidence did not support the trial court's reasoning. The State had not appealed against the acquittal, and no notice had been issued to the appellants. The Court considered it inappropriate to issue notice after 21 years and left the acquittal undisturbed. It nevertheless refused to reduce the sentences to the period already undergone and affirmed the convictions for the lesser offences and the sentences imposed.

Case-note :- ***1. Facts :*** In February 2003, Alok Tiwari and Rakesh Rajak were assaulted following a dispute over a tractor carrying crushed stone. The prosecution alleged that Gabbar and Shiraj struck their heads with swords, Manoj inflicted lathi blows, Babloo threw a country-made bomb, and the appellants damaged motorcycles by pelting stones. The trial court acquitted the appellants under Section 307 but convicted them under IPC Sections 324, 323 and 427 and Explosive Substances Act Section 3, as applicable, and imposed concurrent terms of imprisonment and fines. On appeal, the appellants did not challenge their convictions. They sought reduction of their sentences to the period already undergone on the ground that 21 years had elapsed.

2. Precedents — Considered : *State of M.P. v. Harjeet Singh, (2019) 20 SCC 524*, *Kanha, (2019) 3 SCC 605*, and *Saleem, (2005) 5 SCC 554*, explain that Section 307 turns on the requisite intention or knowledge and an act done in furtherance of it; an injury capable of causing death is not essential. *R. Prakash*, *Jage Ram*, *Mohan* and *Balram Bama Patil*, referred to within the quoted authorities, elaborate the same standard.

3. Statutes considered : CrPC Section 374; IPC Sections 307, 324, 324/34, 323 and 427. The charge-sheet also referred to IPC Sections 341, 294 and 325. Explosive Substances Act Section 3 was considered, while Arms Act Sections 25/27 appeared in the account of the charge-sheet.

4. Issues : Was the trial court's acquittal under Section 307 legally sound in light of the sword blows to the head and the use of an explosive device? Could the appellate court disturb that acquittal when the State had not appealed and no notice had been issued to the appellants? Did the passage of time justify reducing the sentences imposed?

5. Ratio / Findings : Section 307 requires the requisite intention or knowledge and an overt act. The severity and location of the injuries may assist in determining intention, but a life-threatening injury or an injury to a vital part is not essential. The injured witnesses' evidence and the medical findings, including head injuries, a fractured nasal bone and an MRI finding of a brain haematoma, were considered alongside the FSL evidence of explosive residues and bomb fragments. The trial court's reasons for acquittal were unsound. However, the State had not appealed, no notice had been issued to the appellants, and the Court considered it inappropriate to issue notice after 21 years. The acquittal therefore remained undisturbed. The prosecution proved the remaining offences beyond reasonable doubt. Given the gravity of the assault and the injuries, the passage of time did not justify reducing the sentences.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and sentences for the remaining IPC and Explosive Substances Act offences. The appellants' bail bonds and surety bonds were cancelled. They were directed to surrender immediately before the trial court, no later than 15.02.2024. If they failed to surrender, the trial court was to issue warrants of arrest for them to undergo the remaining jail sentence.

Gabbar and Others v. State of Madhya Pradesh, Cr.A. no. 1113/2005, 18/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (207) Prev Next

Headnote :- Single-shot murder, private defence, wrong charge and conspiracy — Firing a pistol at the deceased's chest merely because he objected to abuse amounted to intentional murder, although only one shot was fired. The deceased was unarmed, posed no threat and had not engaged in a fight with the shooter. The conviction and life sentence under Section 302 were affirmed. The conviction under the uncharged Section 504 could not be sustained on a charge under Section 294, since the offences had distinct ingredients. The complainant's revision against the acquittal of three accused also failed: mere presence and unsupported allegations did not establish an agreement to kill.

Case-note :- ***1. Facts :*** On 29.09.2001, Gyan Singh and others were sitting near a village temple discussing agricultural matters. Gabbar Singh arrived with Mantram and abused Gyan Singh. When Gyan Singh objected, Gabbar Singh fired a country-made pistol at his chest from close range. The bullet penetrated his heart and lung, causing his death. The

trial court convicted Gabbar Singh under IPC Sections 302 and 504 and sentenced him to life imprisonment with a fine of Rs 1,000 and seven days' rigorous imprisonment, respectively, with both sentences to run concurrently. It acquitted Mantram, Sanjay and Bheekam of the conspiracy charge under Section 302/120-B. Gabbar Singh appealed, while the complainant sought revision of the acquittals.

2. Precedents — Considered : *Arjun v. State of Maharashtra, (2012) 5 SCC 530*, explained the need for reasonable apprehension of injury and proportionate exercise of private defence. *Mohd. Rafique v. State of West Bengal*, *Joginder Singh v. State of Punjab*, *State of M.P. v. Shivshankar and Bhagwan Munjaji Pawade* addressed the principles governing murder, a single gunshot and the exception for a sudden fight. *Chanakya Dhibar v. State of W.B., (2004) 12 SCC 398*, guided the cautious review of acquittal.

3. Statutes considered : IPC Sections 299, 300 (including Exception 4), 302, 294, 504, 120-B and 99; Evidence Act Section 27, concerning recovery; CrPC Section 161, concerning police statements.

4. Issues : Did the single gunshot amount to murder despite the plea that there was no intention to kill, or was the act protected by private defence or Exception 4? Could a conviction under Section 504 stand when the charge was under Section 294? Did the evidence establish a conspiracy by the three acquitted accused and justify interference with their acquittals?

5. Ratio / Findings : The eyewitnesses established that the shooter fired at the deceased's chest from close range without provocation, and the medical evidence showed fatal injuries to the heart and lung. The shooter was the aggressor. The deceased's verbal objection to abuse presented no imminent threat, and there was no sudden fight involving an exchange of blows. A single gunshot may amount to murder, depending on the weapon used, the part of the body targeted and the circumstances. Section 294 concerns obscenity causing annoyance, whereas Section 504 concerns intentional insult provoking the person abused. Since the offences had distinct ingredients, conviction under the latter provision, for which no charge had been framed, was illegal in this case. Material omissions in the evidence and mere presence at the scene did not establish an agreement by the co-accused to commit murder. Their acquittals were therefore a tenable view of the evidence.

6. Relief : The Hon'ble High Court partly allowed the appeal and set aside only the conviction and sentence under Section 504. The conviction and sentence under Section 302, including life imprisonment and the fine, were affirmed. The complainant's revision was dismissed, and the bail bonds and surety bonds of the acquitted accused were discharged.

Gabbar Singh and Others v. State of Madhya Pradesh and Others, Cr.A. no. 323/2003; Cr.R. no. 284/2003, 27/10/2016, D.B., Hon'ble Justice Shri N.K. Gupta & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (208) Prev Next

Headnote :- Successive bail and material suppression — The appellant, accused of repeated rape and SC/ST offences, had relied on a joint notarized marriage affidavit in his first bail appeal. The affidavit was material to the prosecutrix's alleged belief that she was lawfully married to him and to the earlier refusal of bail under IPC Section 375 fourthly. It was withheld in the second appeal, which was withdrawn after the Court noticed the omission. The same counsel again filed the present appeal without the affidavit. The third bail appeal was dismissed because no change in circumstances was shown beyond the period of custody. The Court cautioned counsel against withholding material facts.

Case-note :- ***1. Facts :*** Gagan Ojha was arrested on 15.12.2020 for alleged kidnapping, confinement, repeated rape and SC/ST offences. In rejecting his first bail appeal, the Court considered a joint notarized marriage affidavit said to have led the prosecutrix to believe that she was lawfully married to him. The affidavit was omitted from the second appeal, which was withdrawn after the Court raised the omission. The same counsel filed the third appeal without the affidavit and relied on the period of custody as a change in circumstances. State counsel reported that the complainant had been informed of the appeal under Section 15-A.

2. Precedents — Considered : The appellant's earlier CRA 249/2021 and the withdrawn CRA 1505/2021 formed the procedural background. *Mukesh v. State of M.P.*, MCRC 44184/2020, was cited concerning the authority of a notary. *Gajendra Singh Marmit v. State of M.P.*, MCRC 14999/2021, involved similar concerns about a marriage affidavit and professional conduct. That order was affirmed in SLP(Cri) 3901/2021 on 01.06.2021.

3. Statutes considered : SC/ST (Prevention of Atrocities) Act Sections 14-A(2), 15-A, 3(2)(v) and 3(2)(va); IPC Sections 366, 344, 376(2)(n) and 375 fourthly. The Special Marriage Act was referred to in the submission that a notary had no authority to solemnize a marriage.

4. Issues : Did the period of custody constitute a change in circumstances after the first appeal had been rejected on merits? Could bail be granted in a successive appeal in which the affidavit, material to the prosecutrix's alleged consent and belief in a lawful marriage, had again been withheld?

5. Ratio / Findings : At the bail stage, the Court treated the affidavit as material to its earlier refusal of bail under Section 375 fourthly, on the view that it had led the prosecutrix to believe that she was lawfully married to the appellant. The State submitted that a notarized affidavit did not itself create a valid marriage. Repeated withholding of the affidavit in successive appeals was serious. Counsel, as an officer of the Court, was expected to disclose material facts and the relevant history of the earlier bail appeals. No change in circumstances was established after the first rejection on merits; the period of custody alone did not justify bail on this record.

6. Relief : The Hon'ble High Court dismissed the third appeal for bail and advised counsel against suppressing material facts or misleading the Court.

Gagan Ojha v. State of Madhya Pradesh and Others, Cr.A. no. 3006/2021, 10/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (209) Prev Next

Headnote :- Quashing, counter FIR and pressured compromise — The complainant alleged that the applicants and other co-accused waylaid the motorcycle on which she was travelling with her husband, that a co-accused outraged her modesty and that a quarrel followed with her husband. The applicants relied on an earlier cross-FIR and sought issuance of notices in the hope of reaching a settlement. A compromise must be voluntary; negotiations conducted by putting pressure on the complainant do not meet that requirement. The earlier FIR did not by itself justify quashing the later FIR. Taken at face value, the later allegations disclosed cognizable offences. The application under Section 482 was dismissed.

Case-note :- ***1. Facts :*** On 18.03.2020, the complainant reported that the applicants and other co-accused had stopped the motorcycle on which she was travelling with her husband. She alleged that a co-accused outraged her modesty and that a quarrel then followed. FIR 132/2020 alleged offences under IPC Sections 354, 341, 323 and 506/34. The applicants relied on FIR 131/2020, lodged by a co-accused's wife against the complainant's party, and alleged that the later FIR was retaliatory. They requested issuance of notices on the ground that a compromise might follow.

2. Precedents — Considered : *S. Khushboo v. Kanniammal, (2010) 5 SCC 600,* reproduced *Bhajan Lal*'s categories concerning allegations taken at face value and proceedings instituted with a malicious motive. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, explained the limited scrutiny permissible at the quashing stage. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, cautioned against deciding disputed defence facts under Section 482. The further Supreme Court authorities cited addressed the same limits. *Mohd. Akram Siddiqui v. State of Bihar,* (2019) 13 SCC 350, recognised the limited exception permitting consideration, in an appropriate case, of a public document or a document whose authenticity is not disputed by the complainant.

3. Statutes considered : CrPC Sections 482 and 320; IPC Sections 354, 341, 323, 506 and 34.

4. Issues : Did the possibility of a future compromise justify issuing notices to facilitate negotiations with the complainant? Did the earlier cross-FIR establish that the later FIR was a malicious counterblast or otherwise justify quashing it?

5. Ratio / Findings : Compounding requires a voluntary compromise. The Court did not accept the request for notices merely to enable negotiations aimed at obtaining a compromise by putting pressure on the complainant. The sequence of cross-cases did not by itself justify quashing. Taken at face value, the allegations of waylaying, outraging modesty and a subsequent quarrel disclosed cognizable offences. The applicants' competing account required evidence and could not be accepted as a conclusive defence in proceedings under Section 482.

6. Relief : The Hon'ble High Court dismissed the application for quashing the FIR. The investigation and proceedings could continue, with the allegations remaining subject to proof.

Gajendra Singh Sakhwar and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 32958/2020, 01/10/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (210) Prev Next

Headnote :- Parallel inquiry under Section 36 and FIR quashing — While an FIR was under investigation, a separate report by the SDO(P), who was not the investigating officer, concluded that the complaint was false. The High Court relied on its earlier decisions and the Supreme Court's ruling that neither Section 36 nor the State circulars authorised an independent inquiry running parallel to the regular investigation. The separate report therefore had no legal force. Since the FIR's allegations disclosed cognizable offences, the Court refused to quash it under Section 482.

Case-note :- ***1. Facts :*** Garunadwaj Ojha and others sought quashing of FIR 284/2022 registered at Panwar, Rewa. They relied on a report dated 30.01.2023 submitted by the SDO(P), Sirmour, to the Superintendent of Police. The report stated that the complaint was false. Counsel conceded that the SDO(P) was not the investigating officer in that FIR. The Court considered the report as a separate inquiry alongside the pending regular investigation.

2. Precedents — Considered : *Mahendra Kumar Vaidya v. State of M.P.*, WP 23876/2022 (03.11.2022), held that a senior officer could not conduct a separate inquiry alongside the regular investigation. It followed *Deepak @ Preetam Verma v. State of M.P.*, MCRC 12592/2018. The Supreme Court dismissed the challenge to the latter order on 18.01.2022 in *Surendra Singh Gaur v. State of M.P.*, SLP(Cri) 1345/2019, holding that neither Section 36 nor the circulars authorised an independent parallel inquiry. The High Court reproduced the relevant passages from *Mahendra* and applied that rule.

3. Statutes considered : CrPC Sections 36 and 482. Section 173(1) appeared in the order in *Mahendra* quoted by the Court.

4. Issues : Could a superior police officer conduct an independent inquiry under Section 36 at the same time as the designated officer investigated the FIR? Could a report from that separate inquiry, concluding that the complaint was false, require quashing when the FIR's allegations, taken at face value, disclosed cognizable offences?

5. Ratio / Findings : A superior police officer's general powers do not authorise a separate inquiry running parallel to the regular investigation. The SDO(P)'s report therefore had no legal sanctity. It could not govern the regular investigation or establish that the FIR was false. Taken at face value, the FIR's allegations disclosed cognizable offences. The disputed truth of those allegations could not be determined under Section 482 by relying on the unauthorised parallel-inquiry report.

6. Relief : The Hon'ble High Court dismissed the application. The FIR was not quashed, and the regular investigation was left undisturbed.

Garunadwaj Ojha and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 29113/2023, 26/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (211) Prev Next

Headnote :- Trial transfer, judicial questioning and bias — The accused in a murder trial sought transfer, alleging that the judge questioned defence witnesses extensively, continued their examination beyond court hours and decided applications on the day they were filed. Evidence Act Section 165 permits a judge to question witnesses to discover or obtain proper proof of relevant facts, subject to its statutory safeguards. Such participation does not by itself establish bias. The Court did not accept the alleged caste remark and held that rejection of applications was not a ground for transfer. With the trial at the stage of final arguments, the refusal to transfer was affirmed.

Case-note :- ***1. Facts :*** The applicants were facing trial under Section 302/34 IPC in a sessions case of 2017. At the stage of final arguments, they sought transfer under CrPC Section 408. They alleged that the trial court decided applications on the day they were filed, questioned defence witnesses extensively, continued their examination beyond court hours and remarked that the applicants had killed a Brahman. The Sessions Judge rejected the transfer application. The applicants challenged that refusal under Section 482.

2. Precedents — Considered : *Varsha Garg v. State of M.P. (2022), Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158, Munnu Sharma v. State (NCT Delhi), (2010) 6 SCC 1, Mohanlal Shamji Soni v. Union of India, 1991 Supp (1) SCC 271*, and *Rajendra Prasad v. Narcotic Cell, (1999) 6 SCC 110,*

supported the participatory role of a criminal court under Evidence Act Section 165 and CrPC Section 311. The court is expected to participate in the examination of evidence rather than remain a silent spectator.

3. Statutes considered : CrPC Sections 408, 482 and 311; Evidence Act Section 165; IPC Section 302/34, under which the applicants were being tried.

4. Issues : Did the judge's questioning of defence witnesses or prompt disposal of applications establish bias and justify transfer? Did the alleged remark and adverse orders provide a reasonable basis for apprehending an unfair trial?

5. Ratio / Findings : Section 165 permits judicial questioning to discover or obtain proper proof of relevant facts. The judgment must rest on relevant facts that are duly proved, and the statutory safeguards concerning privilege, improper questions and primary documentary evidence remain applicable. A criminal judge has a participatory role; questioning defence witnesses does not by itself establish disqualifying partiality. The Court did not accept the alleged caste remark. Same-day disposal of applications and examination beyond court hours were among the applicants' allegations. The Court held that rejection of applications was not a ground for transferring the case. Transfer was unwarranted when the trial had already reached final arguments.

6. Relief : The Hon'ble High Court dismissed the application under Section 482, leaving the Sessions Judge's refusal to transfer the trial undisturbed.

Geeta Bai and Others v. State of Madhya Pradesh, M.Cr.C. no. 6626/2023, 16/02/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (212) Prev Next

Headnote :- Defence evidence, official records and witness recall — An alleged alteration of the incident time in the death intimation made the electricity outage records potentially relevant to the murder trial. The trial judge should have summoned the engineer with the original records. The age of the case and an incomplete account attributing delay to defence adjournments did not justify refusing material evidence. The separate request to cancel the recorded evidence of five defence witnesses and recall them because the judge had questioned them was rejected in light of Evidence Act Section 165. The application was partly allowed, with a direction to conclude the trial promptly.

Case-note :- ***1. Facts :*** In the same murder trial of 2017, the applicants challenged the refusal to summon an electricity-board engineer with the original outage record and the refusal to cancel the earlier evidence of five defence witnesses and recall them. They alleged that the incident time in the death intimation had been overwritten. A utility certificate recorded load shedding between 7:00 and 7:45 p.m., whereas the prosecution placed the incident at 8:45 p.m. The trial court relied on the age of the case, defence adjournments, the production of a photocopy and the difference between the two periods. They also complained that the judge had questioned the defence witnesses into the evening.

2. Precedents — Considered : In the connected *Geeta Bai v. State of M.P.*, MCRC 6626/2023 (16.02.2023), the Court had rejected the allegation of bias based on judicial questioning under Section 165. That order relied on *Varsha Garg*, *Zahira Habibullah Sheikh*, *Munnu Sharma*, *Mohanlal Shamji Soni* and *Rajendra Prasad*. The relevant authorities were reproduced here through the earlier order. The present application also required a decision on the materiality of the original outage record.

3. Statutes considered : CrPC Sections 482 and 311; Evidence Act Section 165.

4. Issues : Were the outage certificate and original record sufficiently relevant to require examination of the utility witness despite the age of the trial? Did judicial questioning or examination beyond court hours justify cancelling the earlier defence evidence and recalling all the defence witnesses?

5. Ratio / Findings : The trial court had to determine the disputed incident time before deciding whether a power outage coincided with it. The original official record was material to a just decision, and the engineer should have been summoned with it. Delay could not be attributed solely to the defence without examining the adjournments occasioned by the prosecution. Section 165 permits active judicial questioning, and the same grievance had already been rejected. The request to cancel the examination and cross-examination of all five defence witnesses and the documents exhibited through them, and to recall the witnesses, was misconceived.

6. Relief : The Hon'ble High Court partly allowed the application. The order refusing to summon the utility engineer with the original record was set aside, while the order rejecting wholesale recall of the defence witnesses was affirmed. The trial court

was directed to proceed in accordance with law and conclude the trial within two months from the date of the order.

Geeta Bai and Others v. State of Madhya Pradesh, M.Cr.C. no. 9702/2023, 20/03/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (213) Prev Next

Headnote :- Arms licence suspension and risk to public safety — The petitioner challenged suspension of her renewed arms licence on the ground that the alleged violent conduct was her husband's and earlier cases against him had ended in acquittal. The authorities relied on his continuing conduct, violent resistance to enforcement and possible access to the gun kept in their shared home. Acquittals based on hostile witnesses did not remove the risk disclosed by that material. The Court upheld the reasoned assessment under Section 17 because these circumstances supported the apprehended threat to public peace and safety.

Case-note :- ***1. Facts :*** Geeta Gurjar held a renewed arms licence, identified in the judgment as No. 235/09 mm. The Superintendent of Police recommended cancellation, citing several cases against her husband, Kamlesh Gurjar, his illegal sand excavation, violent resistance to police and forest authorities, and the danger of his gaining access to her gun. The District Magistrate suspended the licence and directed her to deposit the firearm immediately at Police Station Saraichhola, with coercive action permitted to secure its deposit if she failed to comply. The Commissioner dismissed her appeal. She claimed that she had no criminal record, neither she nor her husband had misused the firearm, and no show-cause notice had been issued. She also argued that her husband's activities could not be attributed to her. They lived in the same home.

2. Precedents — Considered : *Abdul Saleem v. State of M.P., 2019 (3) MPLJ 332*, set out the Section 17 criteria: reasoned subjective satisfaction concerning public peace and safety; assessment of the material in each case, including proof of use, misuse or a threat involving the weapon in pending or disposed cases; supervision by higher authorities; and an opportunity of hearing before revocation. The Court applied those criteria to the record and examined the risk disclosed by the husband's conduct and access to the firearm.

3. Statutes considered : Arms Act Section 17(1)–(10), particularly Section 17(3)(b), concerning public peace and safety, and Section 17(5), requiring recorded reasons. Arms Rules Rule 5(2) appeared in the cited precedent. The IPC cases were against the petitioner's husband.

4. Issues : Could the licence be suspended on the basis of a supported risk that the petitioner's husband, who lived with her and was alleged to have engaged in violent conduct, could gain access to her firearm, despite her claimed clean record and his acquittals based on hostile witnesses? Did the administrative orders give adequate reasons for that assessment?

5. Ratio / Findings : Section 17 permits suspension on a reasoned assessment of a threat to public peace or safety. Although renewal might have overlooked earlier cases, the husband's continuing conduct after renewal and violent resistance to enforcement provided further material. His acquittals resulted from witnesses turning hostile; they did not establish that the allegations were false. As the couple lived together and the firearm was kept in the same house, the possibility of his gaining access to it could not be excluded. These specific circumstances supported the authorities' assessment of the risk. The Court would not act as an appellate authority to reweigh that cogently reasoned assessment.

6. Relief : The Hon'ble High Court dismissed the writ petition in limine, upholding the suspension of the arms licence and the Commissioner's dismissal of the appeal.

Geeta Gurjar v. State of Madhya Pradesh and Others, W.P. no. 18720/2019, 13/09/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (214) Prev Next

Headnote :- Murder — Section 300 thirdly — fatal single gunshot - The postmortem disclosed a gunshot wound in the temporal region, with surrounding tattooing, skull fracture and brain injury sufficient to cause death in the ordinary course. Applying *Virsa Singh* and the authorities on a single fatal injury, the Court distinguished the intention to inflict the particular injury from its objective sufficiency to cause death. The daughter's eyewitness account, supported by the immediate aftermath and medical evidence, sustained the conviction under Section 302. A single shot did not,

by itself, justify reducing the offence to Section 304 (¶¶9–33, 71–85).

Child witness — competence and reliability — tutoring - The trial court questioned the six-year-old daughter to test her ability to give evidence. She identified her father as the shooter and pointed to the site of the head injury. After considering the allegation of tutoring and the minor omissions in her evidence, the Court accepted her statement that she was describing what she had seen. The evidence of the scene immediately after the shooting and the medical findings supported her account. Corroboration is a matter of prudence, rather than an absolute statutory requirement for accepting the evidence of a competent and reliable child witness (¶¶46–73, 82).

Alibi — Evidence Act Sections 11 and 103 — prosecution burden - The Court weighed the factory certificate and B-shift register against the child's direct account and the relatives' evidence that the accused was at the house and left after the shot. It rejected the alibi. The principle quoted from *Binay Kumar Singh* was that failure to establish an alibi does not, by itself, prove presence at the scene; the prosecution must prove presence by positive evidence. In applying the evidence here, the Court also placed on the appellant the burden of showing that another person in the house had committed the offence, and treated his unsuccessful attempt to establish an alibi as supporting the prosecution case (¶¶37–45, 78, 82–83).

Evidence — Section 8 conduct and related witnesses - The accused's departure from the scene and later absence from duty were relevant conduct supporting the direct and medical evidence. The Court also drew an adverse inference from his remaining away after his wife's murder, reasoning that he would ordinarily have stayed at home to care for their child. It assessed the deceased's brother and his companions for consistency and did not reject their evidence merely because of kinship (¶¶35–45, 74–83).

Case-note :- ***1. Facts :*** Ghanshyam appealed under Section 374 CrPC against the Third Additional Sessions Judge, Gwalior's judgment dated 12.01.2006 in Sessions Trial No. 296/2003. He had been convicted under Section 302 IPC of murdering his wife, Vidyabai, and sentenced to life imprisonment with a fine of Rs. 5,000. His mother, Shantibai, had already been acquitted by a separate judgment dated 30.11.2004; this appeal concerned Ghanshyam alone. The prosecution alleged that he wanted Vidyabai to encash her fixed deposit and Indira Vikas Patra to fund a used minibus, which led to a dispute. Her brother, Chandrabhan (PW/10), and his companions came to the matrimonial home after a call about a quarrel. They saw the fighting and left when Ghanshyam refused to let Vidyabai accompany them. Almost immediately, they heard a shot. On returning, they found her bloodstained body and her crying daughter, Sonali @ Guddi (PW/9), and saw Ghanshyam escaping. The child, approximately six years old, identified her father as the shooter. The doctor (PW/15) recorded a firearm entry wound in the temporal region with surrounding tattooing, an exit wound, skull damage and other contusions. He attributed death to shock and haemorrhage from the head injury. Ghanshyam challenged the child's competence, alleged tutoring, disputed the credibility of the related witnesses and relied on the non-production of the financial documents. He claimed an alibi on the strength of factory shift records and three defence witnesses, and argued that no gun had been seized.

2. Precedents — Considered : Murder and injury: *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the four-part inquiry under Section 300 Thirdly: the presence and nature of the bodily injury, the intention to inflict the injury found, and its objective sufficiency to cause death in the ordinary course, with the burden on the prosecution throughout (¶13). *Arun Nivalaji More* was quoted on the distinction between Section 299, the clauses and exceptions of Section 300, and the consequences under Section 304 (¶14). *Anda* explained sufficiency to cause death in the ordinary course (¶24). *Mahesh Balmiki*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *State of Rajasthan v. Kanhaiyalal and Bavisetti Kameswara Rao* explained that a single fatal injury must be assessed in light of the weapon, the part of the body struck, the force used and the surrounding circumstances. A single injury does not automatically reduce the offence to Section 304. *Vedanayagam* and *Virsa Singh* were discussed within the quoted extract (¶¶25, 27–30). The Court quoted *Dhirajbhai Gorakhbhai Nayak* on the requirements of Exception 4 and then applied the collected homicide principles to the firearm wound and the testimony it accepted, affirming the murder conviction (¶26; ¶¶31–33, 82–84). Child testimony: *Rameshwar*, *Panchhi*, *Bhagwan Singh*, *Ratansingh Dalsukhbhai Nayak* and *Golla Yelugu Govindu* were

considered with Section 118 on competence, susceptibility to tutoring, careful scrutiny and corroboration as a matter of prudence. The discussion also included the Privy Council decision in *Mohamed Sugal Esa* and other illustrative authorities (¶¶51–69). *Sidhartha Vashist* addressed lawful judicial questioning under Section 165. *Sakshi* concerned protective procedures and cross-examination in child sexual-abuse cases. Those passages formed part of the wider discussion of child testimony; the Court's application here concerned Sonali's competence and reliability (¶¶49–50, 64). Alibi: *Binay Kumar Singh* was quoted for the principle that a failed alibi does not prove presence. *Lakhan Singh* was quoted on raising the defence at the earliest opportunity. The Court rejected this alibi by reference to the child's account and the appellant's conduct (¶¶38–44). Related testimony: *Jayabalan*, *Seeman* and *Jodhan* required careful scrutiny, rather than rejection merely because a witness was related or was the sole witness. The injured-witness authorities discussed within the quotation from *Jodhan* concerned the witnesses in that authority; the present application concerned the related witnesses' credibility (¶¶75–77). The Court applied the child-witness and related-witness principles to the evidence in this appeal.

3. Statutes considered : IPC Sections 299, 300, particularly clause Thirdly and the discussed Exception 4, 302 and the alternatives under Section 304 governed the classification of the homicide. Evidence Act Section 118 governed the child's competence to testify. Section 165 was reproduced in the discussion of judicial questioning. Sections 11 and 103 concerned the alibi and the burden of proving it; Section 8 Illustration (i) made subsequent flight relevant. Omissions from the child's statement under Section 161 CrPC were raised in cross-examination. The appellant advanced his alibi in his examination under Section 313 CrPC, and Section 374 CrPC provided for the appeal. The Court placed on the appellant the burden of establishing the alibi and, on the circumstances it accepted, of showing that another person in the house had committed the offence. It also quoted *Binay Kumar Singh* on the prosecution's obligation to prove presence by positive evidence despite the failure of an alibi.

4. Issues : Was Vidyabai's death homicidal, and did the offence amount to murder under Section 300, or did the single shot and the surrounding circumstances justify a lesser offence? Was the six-year-old eyewitness competent and reliable despite the alleged tutoring and omissions, and was her account corroborated? Could the related witnesses' account of the immediate aftermath be relied on? Did the factory B-shift certificate and register establish an alibi in the face of the prosecution evidence? What weight should be given to the accused's departure, absence from duty, alleged motive and the non-recovery of the firearm? The appeal concerned Ghanshyam's conviction; his mother's prior acquittal was outside its scope.

5. Ratio / Findings : The doctor found a firearm entry wound just above the left ear, with tattooing, an exit wound on the opposite side of the face, skull fracture and protruding brain matter. He stated that the injury was sufficient to cause death in the ordinary course. The Court found the death homicidal. Applying the distinction between the intention to inflict the particular injury and its objective sufficiency to cause death, together with the authorities on a single fatal injury, it upheld the conviction for murder under Section 302. The objection that there was no intention to cause death did not answer the inquiry under clause Thirdly. The trial judge had tested Sonali's capacity to give evidence. She described her father shooting her mother and pointed to the temporal region. The High Court examined the allegation that maternal relatives and counsel had tutored her, her cross-examination and the minor omissions in her account. It found her evidence natural and reliable, supported by the immediate aftermath and the postmortem. A competent and reliable child's evidence may sustain a conviction after careful scrutiny. Corroboration is ordinarily sought as a matter of caution, rather than an absolute rule; here it was present. Brijesh, Rajkumar and Raju confirmed Chandrabhan's account of the quarrel before the shot and Ghanshyam's escape afterwards. Their accounts remained materially intact, and Chandrabhan's relationship as the deceased's brother did not justify rejecting his evidence. The Court accepted the dispute over the FDR and Indira Vikas Patra as the motive on the oral evidence. The defence had pointed out that the instruments were not produced. The Court's finding of guilt also rested on the direct and medical evidence. Under Section 8, departure from the scene and subsequent absence were relevant conduct. The Court reasoned that Ghanshyam's remaining away, rather than staying at home to care

for the child after his wife's murder, pointed to his guilt. It considered the factory certificate (Ex-D/10), register (Ex-D/9) and the defence witnesses' claim that he was on B-shift duty, but accepted the child's account and the witnesses' evidence of his presence at the house and escape. It noted his absence from duty from the following day. While quoting *Binay Kumar Singh* that a failed alibi does not itself prove presence, the Court placed on Ghanshyam the burden of showing that someone else in the house committed the offence and treated his unsuccessful alibi as further support for the prosecution case. It rejected the objection based on non-recovery of the firearm because he had absconded and the investigation had proceeded in his absence, leaving no opportunity for its seizure. The findings in this appeal concerned Ghanshyam alone; Shantibai's acquittal remained undisturbed.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and confirmed Ghanshyam's conviction under Section 302 IPC and the sentence of life imprisonment with a fine of Rs. 5,000 imposed on 12.01.2006. As he was in jail, the result was to be communicated through the Jail Superintendent. The trial court record was to be returned immediately with a copy of the judgment.

Ghanshyam v. State of Madhya Pradesh, Cr.A. no. 160/2006, 15/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (215) Prev Next

Headnote :- Murder by an unlawful assembly — Eleven armed assailants jointly attacked two men and injured family members who came to their rescue. The fatal head wounds caused by sharp-edged weapons were sufficient to cause death in the ordinary course of nature. Under Section 300 Thirdly, the relevant intention is the intention to inflict the injury actually caused. The assailants' concerted conduct and weapons established a common object under Section 149 to cause the fatal and other injuries, despite differences in the weapons each carried. The credible evidence of injured relatives did not require independent corroboration merely because they were related to the deceased. The convictions under Sections 148, 302/149 and 323/149 were affirmed. The appeal of the appellant who had died abated.

Case-note :- ***1. Facts :*** The prosecution alleged that, at an agricultural field in Datia on 11 September 2006, eleven armed men assaulted Sahab Singh and then attacked the relatives who came to rescue him. Sahab Singh and Ramswaroop died the following day, and other relatives were injured. The trial judgment of 2011 convicted the appellants under IPC Sections 148, 302/149 for both murders and 323/149 for injuries to three persons. The two appeals challenged identification, the attribution of fatal injuries to particular weapons, reliance on related witnesses and the finding of a common object.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the test under Section 300 Thirdly, distinguishing the intention to inflict the particular injury from its sufficiency to cause death. *Anda*, *Mahesh Balmiki*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *State of Rajasthan v. Kanhaiyalal and Bavisetti Kameswara Rao* addressed the nature of the injury, the weapon used and the distinction between murder and culpable homicide not amounting to murder. *Dhirajbhai Gorakhbhai Nayak* explained Exception 4. *Dani Singh* and *Mahadev Sharma* addressed liability under Section 149, while *Kuldip Yadav* required a clear finding that the assembly's common object was unlawful. *Guru Dutt Pathak*, *Asharam Tiwari* and *Gangadhar Behera* addressed the evidence of injured or related witnesses and the effect of the absence of independent corroboration. The appellants cited *Jugut Ram*. The Court considered the reproduced authorities in deciding the homicide classification, common object and reliability of the witnesses.

3. Statutes considered : IPC Sections 141, 148 and 149 concerned the unlawful assembly and liability for its common object. Sections 299, 300, particularly clause Thirdly and the discussed Exception 4, and 302 concerned the homicide. Sections 323 and 294 were also considered. CrPC Section 374(2) provided for the appeals, and Section 174 concerned the inquest proceedings.

4. Issues : Were the deaths homicidal, and did the offences amount to murder? Did the appellants share an unlawful common object to inflict the fatal and non-fatal injuries despite their different weapons and the disputes about individual acts? Could the injured relatives' evidence sustain the convictions without independent witnesses?

5. Ratio / Findings : The postmortem evidence established head injuries caused by sharp-edged

weapons that were sufficient to cause death in the ordinary course of nature. The Court applied the Section 300 Thirdly framework to the injuries and the proved assault and upheld the murder convictions. Eleven armed persons attacked Sahab Singh together and then attacked those who came to his rescue. Their concerted conduct established the common object required by Section 149. Liability did not depend on proving which appellant had inflicted each fatal blow. The injured eyewitnesses were credible, and medical evidence supported their accounts. Their relationship to the deceased and the absence of independent witnesses did not discredit that evidence. The defence evidence did not raise a reasonable doubt about the prosecution case.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed the convictions and sentences: two years' rigorous imprisonment under Section 148; rigorous life imprisonment with a fine of Rs. 2,000 under Section 302/149 for the murders; and six months' rigorous imprisonment under Section 323/149 on each of the three counts. All sentences were to run concurrently. The affirmed trial direction required all appellants to pay Rs 10,000 as compensation to the legal representatives of each deceased. Prakash's appeal stood abated because he had died. The appellants already in jail were to serve the remainder of their sentences. The bail and surety bonds of those on bail were cancelled, and they were directed to surrender before the trial court to serve the remaining sentences. Copies of the judgment were to be sent to the jail authorities and, with the record, to the trial court for information and compliance.

Ghanshyam Yadav and Others v. State of Madhya Pradesh, Cr.A. no. 324/2011 & 483/2011, 11/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (216) Prev Next

Headnote :- Arms Act possession and recovery from an open place — A country-made pistol and live cartridge were recovered from a drain near Ghasiram's house. Public access does not, by itself, invalidate a discovery at the accused's instance where the object is concealed and its location is known exclusively to him. Here, the pistol was dry, and there was no evidence that it had been buried or otherwise hidden. The drain appeared to be dry and accessible to everyone. The recovery did not establish the accused's conscious or exclusive possession on this evidence. His conviction under Section 25(1)(1b)(a) was set aside and he was acquitted.

Case-note :- ***1. Facts :*** Following a shooting complaint in 2004, the police seized a 12-bore country-made pistol and a live cartridge from a drain near Ghasiram's house on the basis of his memorandum. The trial court acquitted him of attempted murder and use of the firearm under the Arms Act, but convicted him under Section 25(1)(1b)(a). It sentenced him to one year's rigorous imprisonment and a fine of Rs. 1,000, with three months' rigorous imprisonment in default. He appealed on the ground that the drain was accessible to everyone and the recovery did not establish his possession.

2. Precedents — Considered : *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, discussed *State of H.P. v. Jeet Singh, (1999) 4 SCC 370*, and *Bharat Fakira Dhiwar, (2002) 1 SCC 622*. An object concealed at a public or openly accessible place may still be validly discovered where its hidden location is specially known to the accused. The reproduced passages also discussed conscious possession through *Sanjay Dutt v. State and Durga Prasad Gupta*. The High Court distinguished the recoveries of concealed objects in those authorities from the recovery in this case.

3. Statutes considered : Arms Act Sections 25(1)(1b)(a) and 27(1); Evidence Act Section 27; IPC Section 307/34, of which the accused had been acquitted; and CrPC Section 374. The discussion of TADA possession principles formed part of the reproduced Supreme Court passage; the present prosecution concerned the IPC and Arms Act charges.

4. Issues : Did recovery of a pistol from a drain near the accused's house prove his conscious or exclusive possession, or show that the weapon had been concealed at a place known specially to him?

5. Ratio / Findings : The material distinction was whether the weapon had been concealed and its location was specially known to the accused, rather than whether the recovery site was accessible to the public. The seizure record did not show that the pistol had been buried or otherwise hidden. Its dry condition indicated that the drain was dry: if water had concealed the pistol, it would have been wet when recovered. On the evidence, the weapon was openly accessible to everyone, and there was no proof that the accused alone knew its location or

controlled it. The prosecution had not established the possession necessary for conviction beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the appeal, set aside the conviction and sentence under Section 25(1)(1b)(a) and acquitted the accused. His bail and surety bonds were discharged. A copy of the judgment and the trial court record were to be returned for information and compliance.

Ghasiram v. State of Madhya Pradesh, Cr.A. no. 2553/2005, 17/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (217) Prev Next

Headnote :- Control of investigation — The accused sought directions for a fair and impartial investigation into an assault FIR which they alleged was a counterblast. They relied on an Additional Commissioner's letter directing an enquiry into an allegedly false medical certificate. The Additional Commissioner had no authority under the CrPC to direct the FIR investigation and was not a senior police officer; his direction to the Superintendent of Police was without jurisdiction and a nullity. The Court held that the accused could not choose the investigating agency or dictate the manner of investigation. It also stated that an accused had no right to seek a free, fair and impartial investigation, and refused to supervise the investigation. The Section 482 application was dismissed.

Case-note :- ***1. Facts :*** The applicants were accused in Crime No. 209/2021 under IPC Sections 323, 504 and 325. They alleged that the FIR was a counterblast and that the complainant had obtained a false medical certificate. After their representations, the Additional Commissioner wrote to the Collector and the Superintendent of Police on 13.09.2021, directing an enquiry and an immediate report to his office. The applicants invoked Section 482 CrPC to seek a direction for a fair and impartial investigation.

2. Precedents — Considered : *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was applied for the principle that an accused cannot choose the investigating agency or require an investigation in a particular manner. The reproduced discussion referred to *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar*, *Divine Retreat Centre* and *Committee for Protection of Democratic Rights*. That discussion also recognised constitutional directions where the High Court was convinced that investigative power had been exercised mala fide and the sparing exercise of the power to order a CBI investigation in exceptional circumstances. *Prabal Dogra* followed the same rule on the accused's lack of control over investigation. Relying on *Manohar Lal Sharma v. Principal Secretary, AIR 2014 SC 666*, the High Court refused to supervise the investigation in this case.

3. Statutes considered : CrPC Section 482 and the statutory scheme governing investigation; IPC Sections 323, 325 and 504. Constitution Article 226 was discussed in the reproduced Supreme Court passage concerning constitutional directions where the High Court was convinced that investigative power had been exercised mala fide.

4. Issues : Could the Additional Commissioner direct the police to enquire into the complaint concerning an ongoing FIR investigation? Could the accused obtain directions requiring investigation in a particular manner or supervision by the Court?

5. Ratio / Findings : The Additional Commissioner had no power under the CrPC to interfere with the investigation and was not a senior police officer. His direction to the Superintendent of Police was therefore without jurisdiction and a nullity. The accused could neither select the investigating agency nor control the manner of investigation. The Court also expressly stated that accused persons had no right to seek a free, fair and impartial investigation. Relying on *Manohar Lal Sharma*, it declined to supervise the investigation and held that the directions sought by the applicants could not be granted.

6. Relief : The Hon'ble High Court dismissed the application under Section 482.

Girand Prasad Sharma and Others v. State of M.P. and Others, M.Cr.C. no. 19417/2022, 23/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (218) Prev Next

Headnote :- Section 125 CrPC — The Court upheld the rejection of the wife's maintenance claim because she had concealed material information about her outsourced employment. It relied on the electricity department's correspondence, her refusal to consent to disclosure and her categorical denial of employment. The minor daughter's independent entitlement required separate consideration. Monthly maintenance of Rs 1,000 was inadequate for her education, diet and ordinary needs and was enhanced

to Rs 3,000. Following *Rajnesh v. Neha*, both the original award and the enhancement were made payable from the date of the application. The revision was disposed of with that modification.

Case-note :- ***1. Facts :*** The wife and minor daughter applied under Section 125 CrPC on 4 September 2019, alleging dowry harassment and inability to maintain themselves. The Family Court rejected the wife's claim and awarded the daughter Rs 1,000 per month from the date of its order. In revision, they challenged the rejection of the wife's claim and sought enhancement of the daughter's maintenance. The husband alleged that the wife was working in the electricity department and relied on correspondence obtained in response to his RTI requests. The department's reply dated 13.08.2021 recorded that she had refused consent to sharing her personal information, citing a threat to her life.

2. Precedents — Considered : *Rajnesh v. Neha, (2021) 2 SCC 324*, was applied to the minor's food, residence, medical and educational expenses, including reasonable coaching costs, and to the date from which maintenance was payable. The quoted guidelines ordinarily placed educational expenses on the father, while permitting proportionate sharing where the wife worked and earned sufficiently. *Shamima Farooqui v. Shahid Khan* appeared within the passage reproduced from *Rajnesh* as part of the discussion of maintenance obligations; the wife's claim here was decided on her non-disclosure of employment.

3. Statutes considered : CrPC Sections 125, 397 and 401. The Right to Information correspondence was considered as evidence concerning the wife's employment; the revision concerned maintenance under the CrPC.

4. Issues : Did the alleged concealment of employment income justify upholding the rejection of the wife's maintenance claim? Was the daughter's monthly maintenance adequate, and from what date should it be payable?

5. Ratio / Findings : The Court inferred from the electricity department's reply that the wife was working as an outsourced employee. Her refusal to consent to disclosure, citing a threat to her life, together with her categorical denials of employment, led it to find material suppression and a lack of candour. It therefore upheld the rejection of her claim. The daughter, whom the Court treated as about nine years old at the time of decision, needed school expenses, books, diet and ordinary living expenses. Maintenance of Rs 1,000 per month was inadequate for those needs. It was enhanced to Rs 3,000, payable from the date of the application in accordance with *Rajnesh*. The Court did not determine the amount of the wife's actual salary.

6. Relief : The Hon'ble High Court upheld the rejection of the wife's claim and enhanced the daughter's maintenance to Rs 3,000 per month. Both the original award and the enhancement were payable from 4 September 2019, the date of the application. The revision was disposed of accordingly.

Girja and Others v. Raju, Cr.R. no. 3002/2021, 28/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (219) Prev Next

Headnote :- Circumstantial evidence and forensic chronology — In the case of a schoolgirl's death by strangulation, the alleged last-seen witnesses did not support the prosecution. The water vessel, or lota, allegedly bearing the accused's fingerprint was recorded as seized and sealed before the expert claimed to have lifted prints from it in an unsealed condition. Its connection to the victim was not proved. Semen evidence without DNA identification, doubtful knife recovery and an isolated A-group bloodstain on the accused's T-shirt did not establish that he was the killer or prove attempted rape. The circumstances did not form a complete chain excluding innocence. The convictions for murder, attempted rape and the Arms Act offence were set aside.

Case-note :- ***1. Facts :*** A girl was found strangled and partly undressed after going to answer the call of nature with a water vessel. The trial court convicted Girraj of murder, attempted rape and an Arms Act offence. The appeal examined seven alleged circumstances: her disappearance; discovery of her body and homicidal death; the alleged last sighting; identification of the lota and the fingerprint on it; semen evidence; attempted rape; and bloodstains. It also examined the alleged knife recovery. The accused was arrested about 21 days after the death.

2. Precedents — Considered : *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, *Pudhu Raja*, *Ram Singh v. Sonia and Inspector of Police v. John David* required proof of every incriminating circumstance and a complete chain pointing only to guilt and excluding a reasonable

possibility of innocence. Additional authorities appeared within the reproduced discussion from *John David*; the High Court applied the complete-chain standard to the circumstances in this case. *Surya Baksh Singh* permitted the Court to examine the record with the Public Prosecutor's assistance when neither the retained defence counsel nor the appointed amicus curiae appeared.

3. Statutes considered : IPC Sections 302 and 376 read with Section 511; Arms Act Section 25(1-B)(b); and CrPC Section 374.

4. Issues : Did each alleged circumstance connect the accused to the homicide or attempted sexual assault beyond reasonable doubt? Did the circumstances, considered together, form a complete chain excluding a reasonable possibility of innocence?

5. Ratio / Findings : Death by strangulation was proved, but the alleged last-seen witnesses did not support the prosecution. The prosecution also failed to identify the seized lota as the vessel the girl had taken with her. The records showed its seizure and sealing at 10:15 a.m. The expert said that he arrived at noon, found it unsealed and lifted the prints at about 12:05 p.m. That chronology undermined the claimed fingerprint recovery. No DNA examination linked the semen to the accused. The doctor's suggestion of an attempt to rape was unsupported by reasons or a corresponding opinion in the postmortem report, and the semen evidence did not itself establish the accused's involvement. The A-group blood on his T-shirt might have been the victim's, but his own blood group had not been established. That isolated circumstance did not prove guilt. The knife recovery was also doubtful: the seizure witness described being shown the knife at the police station, without saying that the accused had produced it, and the other seizure witness was not examined. Given the investigating officer's discrepancies, the Court would not accept his account without corroboration in this case. The prosecution had not proved the recovery beyond reasonable doubt. Suspicion could not supply the missing links in the chain.

6. Relief : The Hon'ble High Court allowed the appeal, set aside all convictions and sentences and acquitted the accused. He was to be released immediately unless required in another case, and supplied a copy of the judgment immediately, free of cost. The trial court record was to be returned immediately with a copy of the judgment for information and compliance.

Girraj v. State of M.P., Cr.A. no. 525/2010, 14/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (220) Prev Next

Headnote :- Coordinated firearm attack — An armed associate shot the guard outside a jewellery shop, while Girraj entered and fired at the owner, who ducked and suffered superficial pellet injuries. The coordinated acts established the common intention underlying liability for the guard's murder, as well as Girraj's separate attempt to kill the owner. Consistent eyewitness accounts, the prompt FIR and medical evidence sustained the prosecution case despite minor discrepancies, the witnesses' relationship or employment, the absence of independent testimony and the failure to recover the guard's gun. The convictions under Sections 302/34, 307 and 450 were affirmed.

Case-note :- ***1. Facts :*** On 12 January 2007, Girraj and Ravi approached Sanjay Mangal's jewellery shop. Ravi fatally shot the guard, Brijendra, outside. Girraj entered and fired at Sanjay, who ducked; the shot struck a showcase and caused superficial injuries to him. A pistol, ammunition and glass fragments were seized from the scene, but a later memorandum by Girraj led to no recovery at his instance. The trial court imposed life imprisonment under Section 302/34 and five years' rigorous imprisonment each under Sections 307 and 450, with a fine of Rs. 1,000 on each count and default stipulations. The defence alleged that Brijendra had fired at Sanjay and that another guard, Chandan Singh, had shot Brijendra to protect Sanjay. It relied on Chandan's non-examination and the failure to seize Brijendra's gun, and challenged the related witnesses and the discrepancies in their accounts.

2. Precedents — Considered : *Karulal v. State of M.P.* was applied for the principle that truthful evidence from related witnesses may support a conviction. *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359,* distinguished material contradictions from trivial omissions and discrepancies. The discussion of *Bakhshish Singh*, *Sunil Kumar Sambhudaya Gupta* and *Raj Kumar Singh* appeared within that reproduced passage and supported the same approach to credibility.

3. Statutes considered : IPC Sections 302/34, 307 and 450. Arms Act Sections 25 and 27 appeared in the registered crime. A memorandum was recorded under Evidence Act Section 27, but no recovery was made at the appellant's instance.

4. Issues : Was Girraj liable for the guard's death caused by his accomplice and for the attempted killing of the owner and trespass into the shop? Did the defects or omissions in the investigation undermine the direct evidence?

5. Ratio / Findings : The joint armed arrival and successive, coordinated shots established the common intention. The Court found that Ravi's shot at the guard cleared the way for Girraj to enter the shop and fire at the owner. The injured complainant's evidence was supported by the employee and the nephew, the prompt FIR, the articles seized at the scene, the medical proof of the guard's gunshot death and the complainant's superficial wounds. Their accounts remained firm on the material events despite minor discrepancies. The defence witness admitted that he had not seen who fired the shots, so he did not establish the alternative account that another guard had shot Brijendra. The Court noted that Chandan Singh and Chokhelal were the same person and that his statement had been recorded during investigation; he was not examined at trial. In the face of the credible direct evidence, the absence of independent witnesses and the failure to seize Brijendra's gun did not create a reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and sentences. The appellant, who was in jail, was directed to serve the remainder of his jail sentence.

Girraj Ghuraiya v. State of M.P., Cr.A. no. 269/2009, 04/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (221) Prev Next

Headnote :- Cancellation of bail — After his release on bail in a POCSO-linked case, the respondent allegedly threatened the complainant to secure a compromise, while a co-accused fired warning shots. A police officer reported that enquiries into the respondent's earlier counter-complaints had found them false. The prior examination of some witnesses did not remove the risk of pressure on the remaining witness or pressure to obtain a compromise relevant to quashing or sentence. The specific misuse of liberty affecting a proper trial warranted cancellation under Section 439(2), as distinct from cancellation for perceived indiscipline. Bail was recalled and surrender ordered.

Case-note :- ***1. Facts :*** The respondent was granted bail on 21 July 2022 in proceedings involving IPC and POCSO charges arising from allegations that a minor had committed suicide after being pressured to marry him and threatened with disclosure of recorded conversations and photographs. A subsequent FIR alleged that he and another accused went to the complainant's house on 5 August, demanded a compromise and threatened to kill the complainant and his family if they refused; the co-accused fired two shots in the air. The respondent relied on earlier complaints alleging a threat of false implication. The Court called for the police registers, and an officer reported that enquiries had found those complaints false. Some prosecution witnesses had testified before bail was granted. Mahendra had initially been given up by the prosecution, but its later application under Section 311 was allowed; he remained unexamined.

2. Precedents — Considered : *Bhuri Bai v. State of M.P.* required caution in cancelling bail and a connection with the requirements of a proper trial. It was distinguished because the present application specifically alleged misuse of liberty. *Gian Singh v. State of Punjab* and *Narinder Singh v. State of Punjab* informed the Court's assessment of pressure to compromise, given its possible relevance to quashing proceedings even where the offences were not compoundable. *Mandata Singh* concerned misuse of liberty after release. *Jayaben v. Tejas Kanubhai Zala* distinguished cancellation for misuse or breach of conditions from cancellation because bail had originally been granted by ignoring material facts.

3. Statutes considered : CrPC Sections 439(2) and 311; IPC Sections 195-A, 305, 354-D, 294, 336, 506 and 34, as referred to in the underlying and subsequent allegations; POCSO Sections 11 and 12.

4. Issues : Could pressure to compromise after release warrant cancellation of bail when several witnesses had already testified and the offences were not compoundable? Was the record sufficiently specific to establish misuse of liberty?

5. Ratio / Findings : The earlier testimony did not end the risk of pressure: a witness remained to be examined, and a compromise could still be relevant to quashing proceedings or determining sentence.

The specific allegations of threats and gunshots in the new FIR, considered with the police officer's verification that the counter-complaints were false, established misuse of liberty and a risk to a proper trial. The Court also noted that no compact disc or pen drive containing the alleged viral video had been filed. The respondent admitted that a video had gone viral but denied using objectionable words against the complainant's family.

6. Relief : The Hon'ble High Court allowed the application for cancellation of bail and recalled the bail granted on 21 July 2022. The respondent was directed to surrender before the Trial Court within one month.

Girraj Sharma v. State of Madhya Pradesh and Others, M.Cr.C. no. 46863/2022, 18/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (222) Prev Next

Headnote :- Medical care and trial management in custody — In a fifth bail appeal under the SC/ST Act, the accused pressed his requests for treatment and jail transfer without arguing the merits of bail. Existing Supreme Court orders required custody in Central Jail, Bhopal and follow-up at AIIMS, Bhopal. The High Court directed treatment and police escorts and prohibited transfer to another jail, even temporarily, until the trial concluded. It directed video facilities for cross-examination, confined personal transport to exceptional circumstances at the appellant's security expense, and required execution of witness process in the prolonged trial. It took account of the Supreme Court's caution against orders disturbing trial calendars. The appeal was dismissed with directions.

Case-note :- ***1. Facts :*** The appellant faced charges of murder, rioting and offences under the SC/ST Act and had unsuccessfully sought bail several times. Supreme Court medical orders required him to be lodged in Central Jail, Bhopal for follow-up at AIIMS, Bhopal. Appearing in person, he sought adequate care and transfer to another jail rather than arguing for bail. The trial had been pending for more than four and a half years. The records disclosed disputes over transfers, his insistence on personally cross-examining witnesses and their attendance.

2. Precedents — Considered : The Supreme Court's orders in the appellant's SLP (Crl.) Nos. 1406/2021 and 6326/2024 governed his custody and treatment. *High Court Bar Association, Allahabad v. State of U.P. (29 February 2024)* cautioned constitutional courts against routine expedition directions that disturbed the trial judge's calendar. The Court took that caution into account, but noted that the Presiding Officer had also noticed the trial's prolonged pendency. The earlier *Girraj Yadav* appeal of 25 January 2021 was referred to for the dispute over his criminal history, rather than as a determination of guilt in the present trial.

3. Statutes considered : SC/ST (Prevention of Atrocities) Act Section 14A and Sections 3(2)(v), 3(2)(iv), 3(1)(r), 3(1)(s); IPC Sections 147, 148, 149, 294, 302, 307 and 436.

4. Issues : How should the existing Supreme Court directions on medical care and custody be implemented while preserving cross-examination and progressing the delayed trial?

5. Ratio / Findings : The Supreme Court's directions requiring Central Jail custody and AIIMS follow-up precluded transfer to another jail, even temporarily, until conclusion of the trial. The State had a duty to provide appropriate medical treatment in custody. The Jail Superintendent was to ensure treatment as advised by the doctors, and the Police Commissioner was to provide adequate escorts whenever the appellant needed to attend AIIMS, Bhopal. The Supreme Court's direction also required hospitalization if recommended by the AIIMS doctors. Proper video connectivity would enable the appellant to cross-examine witnesses himself. Personal transport to the Trial Court was permitted only in exceptional circumstances, with the appellant bearing the security expenses. The Superintendent of Police, Ashok Nagar, was directed personally to ensure execution of witness summons and warrants and the witnesses' attendance without further delay. The Court did not endorse the prosecution's allegations that the appellant created a nuisance in jail, but directed him to maintain discipline. Separately, it recorded misconduct towards the Trial Judge and applications that had delayed framing of charges. It observed that the accused appeared to have impeded the trial.

6. Relief : The Hon'ble High Court dismissed the bail appeal with directions to the jail authorities, Police Commissioner and district Superintendent of Police concerning medical treatment, escorts, video facilities, discipline, exceptional personal attendance at the appellant's security expense, and execution of witness process.

Girraj Yadav v. State of Madhya Pradesh, Cr.A. no. 11859/2024, 29/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (223) Prev Next

Headnote :- Homicide classification — Gopal and Amar Singh assaulted Jagdish with lathis and dragged him. He died from an injury to the front of his skull. Eyewitness evidence and oral dying declarations identified the assailants. The Court considered the incident sudden and unpremeditated, arising from the deceased's earlier nuisance. Taking that setting and the single fatal head injury into account, it held that the offence was not murder. The repeated blows and dragging nevertheless warranted conviction for culpable homicide with intention under Section 304 Part I. Gopal's conviction was altered from Section 302 and his sentence reduced to the approximately 12 years already served. Amar Singh's appeal had abated on his death.

Case-note :- ***1. Facts :*** On 1 August 2009, Gopal and Amar Singh assaulted Jagdish with lathis near a village house and then dragged him to a field. His brother, Kaushal, witnessed the assault. Before his death, Jagdish named the assailants to family members; Vidhya and Bhavana testified to his oral dying declarations. The postmortem disclosed a fatal injury to the front of the skull and other abrasions and contusions. Both accused were convicted under Section 302/34 and sentenced to life imprisonment with a fine. Amar Singh later died and his appeal abated. Gopal sought conversion of the conviction and a sentence limited to the period already undergone; his counsel did not challenge the finding that the accused had assaulted Jagdish.

2. Precedents — Considered : *Stalin v. State*, through its discussion of *Pulicherla Nagaraju, Singapagu Anjaiah and State of Rajasthan v. Kanhaiya Lal*, required intention to be assessed from the circumstances, including the weapon, the part of the body struck, the force used and the manner of the assault. A single blow did not by itself rule out murder. *Nankaunoo v. State of U.P.* distinguished intention from motive and from knowledge of likely consequences, and explained the separate requirements of an intended injury and its sufficiency in the ordinary course of nature to cause death. *Surain Singh v. State of Punjab* explained that Exception 4 required an unpremeditated sudden fight in the heat of passion, without undue advantage or cruel or unusual conduct, involving the person killed. These authorities informed the Court's assessment of the proved circumstances rather than a categorical single-blow rule.

3. Statutes considered : IPC Sections 299, 300 including Exception 4, 302/34 and 304 Part I; CrPC Section 374.

4. Issues : Did the fatal assault amount to murder under Section 302/34 or culpable homicide under Section 304 Part I/II, and what sentence should follow?

5. Ratio / Findings : The eyewitness account, oral dying declarations and postmortem findings proved the assault and homicidal death. The Court considered the reason for the quarrel, its suddenness and the absence of premeditation, the single fatal blow to the front of the skull, the other injuries, and the repeated blows and dragging. On these facts, it held that the offence was not murder. At least five blows had nevertheless been inflicted and Jagdish had been dragged, warranting conviction under Section 304 Part I on the basis of intention. Gopal had spent approximately 12 years in actual custody, apart from a brief temporary release after which he surrendered. The period already undergone was considered sufficient.

6. Relief : The Hon'ble High Court partly allowed the appeal, altered Gopal's conviction under Section 302/34 to Section 304 Part I and sentenced him to the period already undergone, with a fine of Rs 500 and three months' rigorous imprisonment in default. He was directed to be released immediately unless required in another case. A copy of the judgment was to be supplied to him immediately, free of cost, and the trial record returned with a copy for information and compliance.

Gopal v. State of M.P., Cr.A. no. 831/2010, 20/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (224) Prev Next

Headnote :- Prevention of Corruption Act — A presenting officer demanded Rs 1 lakh to secure the closure of a departmental inquiry and was caught in a trap with Rs 25,000. An office witness identified the sanctioning authority's signature and produced the relevant file. No defect showing lack of application of mind, prejudice or failure of justice under Section 19(3) was established. The officer's lack of power to close the inquiry did not defeat the

demand made by inducing a belief that he could procure official favour. The proved demand and acceptance, recovery of the tainted money and Section 20 presumption sustained the convictions under Sections 7 and 13 and the concurrent sentences.

Case-note :- ***1. Facts :*** Gopal, a tourism department officer presenting its case in the inquiry against Praveen Dubey, allegedly demanded Rs 1 lakh for himself and the inquiry officer, T.R. Tank, to have the proceedings dropped. After verification of the complaint, a Lokayukt trap led to recovery of Rs 25,000 from Gopal. The trial court convicted him under Section 7 and Section 13(1)(d) read with Section 13(2), while acquitting the other officer. The State did not challenge that acquittal. Gopal appealed on the grounds that the prosecution sanction was defective and that a presenting officer had no power to close the inquiry.

2. Precedents — Considered : *State of M.P. v. Bhooraji* addressed actual failure of justice arising from procedural irregularity. *Mohd. Iqbal Ahmed*, *State of Maharashtra v. Mahesh G. Jain and State of Rajasthan v. Tarachand* required proof that the sanctioning authority had considered the facts supporting prosecution; that could appear from the sanction itself or other evidence. *Nanjappa* distinguished the appellate restriction on interference without failure of justice from the Special Judge's power to act for want of a valid sanction. *Chaturdas Bhagwandas Patel* and *Ram Sarup Gupta* established that a public servant's actual ability to provide the promised official favour was unnecessary where gratification was obtained through that representation. The Rajasthan High Court's *State of Rajasthan v. Mohd. Habib* and the Punjab and Haryana High Court's *Pargat Singh v. State of Punjab* supported that principle, which concerned represented official conduct rather than acts wholly in a private capacity.

3. Statutes considered : Prevention of Corruption Act Sections 7, 12, 13(1)(d), 13(2), 19(1), 19(3), 19(4) and 20; CrPC Sections 374 and 465; IPC Section 120-B against the acquitted co-accused.

4. Issues : Was the sanction proved, and did any defect occasion a failure of justice warranting appellate interference? Did the presenting officer's lack of authority to end the inquiry negate the proved demand and acceptance?

5. Ratio / Findings : The office witness identified the sanctioning authority's signature and produced the original file. He was not questioned about its contents, and no lapse demonstrating lack of application of mind or actual prejudice was identified. Section 19(3) did not permit reversal on a merely asserted irregularity without failure of justice. As the officer presenting the department's case, Gopal could induce the complainant to believe that he could secure closure of the inquiry. His lack of formal power to do so was immaterial to the demand for that official favour. The unchallenged demand, recovery of the tainted cash and Section 20 presumption established demand and acceptance and proved the corruption offences beyond reasonable doubt. The Court found no reason to interfere with the sentences.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and concurrent sentences: one year's rigorous imprisonment under Section 7, with a fine of Rs 1,000 and three months' rigorous imprisonment in default, and four years' rigorous imprisonment under Section 13(1)(d) read with Section 13(2), with a fine of Rs 1,000 and six months' rigorous imprisonment in default. Gopal's bail bonds were cancelled. He was directed to surrender before the Trial Court by 30 August 2024 to serve the remaining sentence; on failure to surrender, the Trial Court could issue an arrest warrant. The judgment and trial record were to be sent to that court for information and compliance.

Gopal Shivhare v. State of Madhya Pradesh, Cr.A. no. 5460/2018, 31/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (225) Prev Next

Headnote :- Negotiable Instruments Act, Section 138 — The cheque, bank memo and statutory notice correctly stated cheque number 628895; only the complaint mistakenly stated 628892. The error was a formal defect that could be corrected without prejudice to the accused, despite the absence of an express CrPC provision permitting amendment. The precedent concerning an incorrect cheque number in the statutory notice was distinguishable because that notice formed the foundation of the complaint. The orders allowing and affirming the correction were upheld, and the Section 482 application was dismissed.

Case-note :- ***1. Facts :*** A cheque for Rs 1.5 lakh was dishonoured for insufficient funds. The cheque, bank return memo and statutory notice stated number

628895, but the Section 138 complaint mistakenly stated 628892. The Magistrate allowed the complainant's application, filed under Order VI Rule 17 CPC, to correct the number. The Sessions Court dismissed the accused's revision. The accused then challenged those orders under Section 482 CrPC.

2. Precedents — Considered : *S.R. Sukumar v. S. Sunaad Raghuram, (2015) 9 SCC 609*, permitted a formal amendment to cure a simple defect in a criminal complaint where no prejudice would result, despite the absence of an enabling CrPC provision. *Lekhraj Singh Kushwah v. Brahmanand Tiwari* was distinguished because the statutory notice in that case mentioned the wrong cheque number. *N. Harihara Krishnan v. J. Thomas, (2018) 13 SCC 663*, explained the inapplicability to Section 138 proceedings of the general concept that cognizance is taken of the offence rather than the offender. The Court emphasised the statutory notice as the foundation for maintaining the cheque complaint.

3. Statutes considered : Negotiable Instruments Act Section 138 and its statutory demand notice; CrPC Section 482; Order VI Rule 17 CPC was the provision invoked in the correction application, with curability tested under criminal-procedure precedent.

4. Issues : Could an incorrect cheque number appearing only in the criminal complaint be corrected when the statutory notice correctly identified the cheque, without affecting the maintainability of the Section 138 prosecution?

5. Ratio / Findings : The cheque filed with the complaint, the bank return memo and the statutory notice consistently stated number 628895. The error appeared only in the complaint and was a simple defect curable by formal amendment. The accused had received notice of the correct cheque, and correction neither changed the transaction nor prejudiced his defence. A wrong cheque number in the statutory notice would stand differently, because it would undermine the foundation for maintaining the complaint. On the present facts, the courts below committed no jurisdictional error in allowing the correction.

6. Relief : The Hon'ble High Court dismissed the Section 482 application and upheld the orders allowing the correction.

Gorelal Malviya v. Vimlesh Shukla, M.Cr.C. no. 36824/2021, 10/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (226) Prev Next

Headnote :- Injury appeals and acquittal review — The accused and their counsel admitted the injured man's fracture report at trial, and the accused signed both the order sheet and the medical exhibit. They could not withdraw that admission on appeal after the prosecution had forgone examination of the doctors on that basis. Four fractures and multiple wounds justified seven years' imprisonment under Section 326/34. The additional lesser-offence charges and an incorrect name confined to the charge-framing order caused no prejudice. Variations in the accounts of the intended farsi blow and the co-accused's role supported the trial court's possible view acquitting the accused of attempted murder and acquitting that co-accused entirely. All three appeals were dismissed.

Case-note :- ***1. Facts :*** In a field dispute in 2016, Govind and Munna were accused of attacking Purushottam with a farsi and luhangi. Bhanu, the injured man's brother, lodged the report. The medical records showed multiple wounds and fractures. The trial court convicted Govind and Munna of hurt offences, including Section 326/34, but sentenced them only under that provision, to seven years' rigorous imprisonment. It acquitted them under Sections 294 and 307/34 and acquitted Kadam of all charges. Govind and Munna appealed their convictions and sentences, while Purushottam challenged the acquittals.

2. Precedents — Considered : *Mallappa v. State of Karnataka, (2024) 3 SCC 544*, and its discussion of *Selvaraj* and *Sanjeev* governed review of an acquittal where the trial court had taken a plausible view. A different view of the evidence alone did not justify reversal; illegality or perversity was required. *Sambhaji Hindurao Deshmukh* reinforced the principle that an acquittal should stand where two views were reasonably possible. The other Supreme Court authorities reproduced in those discussions supported the same standard of appellate restraint.

3. Statutes considered : IPC Sections 294, 307/34, 326/34, 325/34, 324/34 and 323/34; CrPC Section 428 on custody credit.

4. Issues : Could the accused withdraw their admission of the X-ray and fracture report, which

they had endorsed in court? Did the additional lesser charges or the incorrect name in the order sheet cause prejudice? Was the seven-year sentence excessive? Were the acquittals under Sections 294 and 307/34, and Kadam's acquittal of all charges, perverse?

5. Ratio / Findings : The accused were present with counsel when the medical documents were admitted and signed both the trial order and the endorsement accepting the medical exhibit. Withdrawal of the admission on appeal would deprive the prosecution of the opportunity to prove those documents through the doctors. Four fractures and multiple wounds justified the seven-year sentence. The additional lesser charges were unnecessary because conviction for a lesser offence was possible under the attempt-to-murder charge, though the converse was not true. They caused no prejudice. The incorrect name appeared only in the charge-framing order; the actual charges named the accused correctly. For attempted murder, intention and knowledge were material, rather than the nature of the injury alone. The injured man and the reporter differed on whether the farsi was aimed at the head or neck and how it struck the hand. Those variations permitted the trial court's view acquitting the accused of attempted murder. Kadam's alleged weapon and role were materially inconsistent, and another witness could not identify him. Section 294 was not proved because the words allegedly used and the resulting annoyance were not established. None of the acquittals was perverse.

6. Relief : The Hon'ble High Court dismissed Govind's and Munna's appeals against conviction and the appeal against acquittal filed by Purushottam. Govind's and Munna's bail bonds were cancelled, and they were directed to surrender before the Trial Court on or before 17 June 2026 to serve the remaining sentence. The judgment and trial record were to be sent to that court for information and compliance.

Govind and Others v. State of Madhya Pradesh and Others; Munna v. State; Purushottam Sharma v. Govind and Others, Cr.A. no. 5153/2023 & 3759/2023 & 4588/2023, 08/05/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (227) Prev Next

Headnote :- Murder appeal — The FIR was lodged within 25 minutes of the group assault, dispatched to the Magistrate that day and received the following day. The police-station disturbance explained the circumstances of receipt. Neither that timing nor the absence of an FIR number from forms containing no field for it established ante-timing. The postmortem timing and blunt-force abrasion were consistent with the eyewitness accounts. Motive, the prompt report and medical corroboration sustained the two appellants' convictions under Section 302/34 and life sentences. The separately tried co-accused's appeal required a separate judgment.

Case-note :- ***1. Facts :*** The purchase of land had caused hostility between Mohan Singh's family and Govind Das's group. On 18 January 2009, Mohan was attacked near the field. Govind Das allegedly carried a lathi and Gudda a baka; Balram carried a sword and Ramjilal a katar. Mohan's father reported the assault within 25 minutes. Mohan died after being referred to hospital. The trial court convicted Govind Das and Gudda under Section 302/34. Balram and Ramjilal, who had absconded, were tried separately years later. Govind Das's reported death could not be verified, and his appeal was therefore heard on the merits.

2. Precedents — Considered : *Pala Singh v. State of Punjab, (1972) 2 SCC 640*, and *Mahmood v. State of U.P., (2007) 14 SCC 16*, explained that delay in forwarding a promptly recorded FIR did not by itself discredit the prosecution. The circumstances of dispatch, the reliability of the prosecution case and prejudice had to be considered. *Jafel Biswas v. State of W.B.* likewise addressed the duty to forward the report and the effect of delay on the facts of the case. Those principles were applied to the same-day dispatch and the disturbance at the police station.

3. Statutes considered : IPC Sections 302/34 and 294; CrPC Sections 157, 159, 175 and 374; Arms Act Section 25-B.

4. Issues : Was the FIR ante-timed because its copy reached the Magistrate the following day and its number was absent from other documents? Did the onset of rigor mortis or the nature of the alleged lathi injury conflict with the eyewitness accounts? Did the investigation lapses or variations in testimony undermine guilt under Section 302/34? Could the evidence recorded in this trial be read for or against co-accused who had been tried separately?

5. Ratio / Findings : The FIR was lodged promptly and dispatched that day. The disturbance at the police station explained why receipt the following day did not establish an improper delay, and the relevant forms had no field for an FIR number. The Court

found the interval between the incident and postmortem consistent with the medical estimate of time since death. That estimate had not been challenged, and the onset of rigor mortis depended on weather conditions. The neck abrasion was compatible with a hard, blunt object; the doctor's opinion on that point was also unchallenged. Although the first investigating officer had omitted steps and was suspended, the prompt initial account, motive, eyewitness evidence and injury pattern proved the coordinated assault. The evidence in this trial could not be read for or against the separately tried co-accused, whose appeal had to be decided by a separate judgment on its own record.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions under Section 302/34 and the life sentences, with a fine of Rs 500 and three months' rigorous imprisonment in default. Govind Das's bail bonds were cancelled and he was directed to surrender immediately before the Trial Court to serve the remaining sentence. Gudda, who was in jail, was to serve the remainder of his sentence and receive a copy of the judgment immediately, free of cost. The trial record was to be returned with a copy for information and compliance. The separately tried co-accused's appeal was to be decided separately.

Govind Das and Others v. State of Madhya Pradesh, Cr.A. no. 227/2010, 06/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (228) Prev Next

Headnote :- POCSO and rape appeal — The school admission register, proved by the headmistress who had admitted the prosecutrix years before the incident, recorded her date of birth as 1 August 1998. The Court accepted that record despite uncertainty about the source of the entry and approximate family estimates. She was below 18 on 22 April 2014, so alleged consent was immaterial. The IPC and POCSO convictions were sustained. Section 71 IPC, however, precluded a separate ten-year sentence under Section 376(2)(i),(n) for the act also punished under POCSO. The ten-year minimum term of rigorous imprisonment under POCSO was maintained.

Case-note :- ***1. Facts :*** In April 2014, the prosecutrix left a tomato market with Govind Saini on a promise of marriage. She described two sexual assaults at his house before she returned to her parents. The Special Court convicted him of kidnapping, inducement, aggravated rape, criminal intimidation and aggravated penetrative sexual assault. It imposed concurrent sentences, including separate ten-year terms of rigorous imprisonment under the IPC and POCSO Act. He challenged the finding that she was a minor, relied on consent and sought a sentence limited to the period already undergone.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, applied the juvenile-justice age-determination hierarchy to a child victim: the first available document in the prescribed order governed. A matriculation or equivalent certificate took priority, followed in its absence by the first-school birth record and then a birth certificate from a corporation, municipal authority or panchayat. Medical opinion was available only if those documentary sources were absent. *State of Chhattisgarh v. Lekhram* recognised the evidentiary value of a school register considered with oral evidence. *Murugan v. State of T.N.* explained the value of records made before a dispute arose, while preserving scrutiny of their authenticity, source and need for corroboration. *Mukarrab v. State of U.P.* cautioned that radiological age estimation was a useful guide subject to error, rather than conclusive proof. The Court evaluated the register and testimony in that context and rejected the unsupported suggestion that the prosecutrix was an adult.

3. Statutes considered : IPC Sections 71, 363, 366, 376(2)(i),(n) and 506 Part II; POCSO Act Sections 4 and 6; CrPC Section 374; Juvenile Justice age principles discussed through *Jarnail Singh*. The charged SC/ST Act provisions ended in acquittal at trial.

4. Issues : Was the prosecutrix below 18 despite the headmistress's inability to recall the source of the recorded birth date? Could alleged consent defeat the sexual-offence charges? Could separate concurrent ten-year punishments be imposed under both the IPC and POCSO Act, or the minimum term reduced to the period already served?

5. Ratio / Findings : The headmistress who admitted the prosecutrix proved the Class I register made in her own handwriting in 2006. Its entry of 1 August 1998 had not been shown to have been fabricated for the allegation made in 2014; the family's recollections of age were approximate. The prosecutrix was about 15 years and eight months old

when the incident occurred, so consent was legally immaterial. The Court therefore found it unnecessary to determine whether she had consented. The prosecution proved the sexual offences and the other offences of conviction. Under Section 71 IPC, no separate sentence was required under Section 376(2)(i),(n) for the act also punished under POCSO. The applicable minimum under Section 6 was ten years' rigorous imprisonment. The Court had no discretion to reduce it to the more than five years already served.

6. Relief : The Hon'ble High Court dismissed the appeal and sustained the convictions and the minimum substantive term, while holding that no separate sentence was required under Section 376(2)(i),(n) IPC in view of Section 71. The ten-year term under Section 6 POCSO remained. The appellant, who was in jail, was directed to serve the remainder of his sentence.

Govind Saini v. State of Madhya Pradesh, Cr.A. no. 537/2015, 14/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (229) Prev Next

Headnote :- Dying declarations and murder — The fact that Bharti had 95–100% burns did not by itself establish that she was unable to speak. The doctor assessed her fitness and could record her dying declaration without waiting for a Magistrate. Her oral statements to her siblings, admission history, written medical declaration and police-recorded Dehati Nalishi consistently identified her husband as the person who poured kerosene and set her alight. The stove-accident history had not come from her, and the husband's limited arm burns did not establish his claim of an accidental fire and rescue. The Court held that deliberately burning her alive was cruel and did not warrant reduction to Section 304. The murder conviction and life sentence were affirmed.

Case-note :- ***1. Facts :*** Bharti, who was six months pregnant, suffered extensive burns at home after a quarrel with her husband, Govind Singh, over an earlier complaint she had lodged. She survived for several days. She told her siblings, gave the history recorded at hospital admission, and made a written declaration to a doctor and a Dehati Nalishi to the police, identifying her husband as the person who had poured kerosene and ignited her. She died on 31 October 2009. The husband claimed that a stove accident had caused the fire and relied on his own 8–10% burns to the arms as evidence of an attempted rescue. The trial court convicted him under Section 302 and imposed life imprisonment.

2. Precedents — Considered : *Ramesh v. State of Haryana and Purshottam Chopra* addressed a declarant's capacity despite extensive burns; percentage alone was not decisive. *Abdul Majid Abdul Rahman v. State of Gujarat, (1976) 4 SCC 351*, and *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, supported reliance on a doctor-recorded declaration without a mandatory Magistrate, subject to fitness and reliability. *Munnu Raja* and *Dharam Pal* recognised that a police-recorded statement about the maker's cause of death could be admitted as a dying declaration. *Jagbir Singh v. State (NCT of Delhi), (2019) 8 SCC 779*, explained that a trustworthy declaration could alone support conviction, with careful scrutiny of voluntariness, freedom from tutoring or imagination, consistency and compatibility with the proved facts. *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, informed the distinction between murder and culpable homicide under Sections 302/304 by reference to the circumstances of the assault, including undue advantage and cruel or unusual conduct.

3. Statutes considered : IPC Sections 302 and 304; Evidence Act Section 32(1); CrPC Section 374.

4. Issues : Did the extensive burns prevent a conscious declaration, and was recording by a Magistrate essential? Were the oral, medical and police accounts reliable despite the stove-accident explanation? Did the quarrel justify treating the fatal burning as culpable homicide short of murder?

5. Ratio / Findings : The extent of burns did not mechanically determine mental capacity. The doctor examined Bharti and certified her fitness; cross-examination did not establish sedation or an inability to make the declaration. A treating doctor need not await an Executive Magistrate when the patient's condition is deteriorating. Bharti's accounts were consistent. The doctor relied on for the stove-accident history admitted that he had not spoken to her, and no damaged stove was recovered. The kerosene container, injuries and surrounding circumstances corroborated the declarations. The husband's limited burns and account of rescue were unpersuasive; the Court inferred that he had been burnt while setting her on fire. A trustworthy dying declaration could itself support conviction. The

Court held that deliberately setting Bharti alight was cruel and excluded the requested reduction to Section 304.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the Section 302 conviction, life imprisonment and fine of Rs 1,000, with one month's rigorous imprisonment in default. The appellant, who was in jail, was directed to serve the remaining sentence. He was to receive a copy of the judgment immediately, free of cost, and the trial record was to be returned with a copy for information and compliance.

Govind Singh v. State of Madhya Pradesh, Cr.A. no. 485/2011, 28/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (230) Prev Next

Headnote :- Quashing, alibi and mala fides — The applicants sought quashing of a Sheopur FIR and the ensuing RCT proceedings for assault, intimidation and an illegal demand. They relied on a CCTV alibi and alleged hostility arising from a separate family dispute. The High Court held that the footage and competing account required assessment of evidence, while the FIR, taken at face value, alleged beating and an illegal demand. Applying the Supreme Court decisions on alibi and inherent powers, it held that alleged malice on the informant's part was secondary where those allegations disclosed an offence. Enmity could provide a motive either for false implication or for committing an offence. The application under Section 482 CrPC (Section 528 BNSS) was dismissed without deciding guilt.

Case-note :- ***1. Facts :*** Dharmendra Jadon and the other applicants sought quashing of Crime 363/2022, Police Station Vijaypur, Sheopur, and RCT 345/2024 under IPC Sections 323, 294, 506, 34 and 327. They alleged hostility on the part of complainant Shiv Shankar Jadoun's family in connection with a separate FIR against Dharmendra's son, Vivek, involving a woman identified as X. They also claimed that footage from an outdoor camera at their Sabalgarh home showed that they were elsewhere at the relevant time. The State opposed quashing. The account of the separate sexual-offence dispute was the applicants' submission, not a factual finding by the Court.

2. Precedents — Considered : *Vijay Pal v. State (NCT of Delhi), S.K. Sattar v. State of Maharashtra* and *Binay Kumar Singh v. State of Bihar* were quoted on the evidentiary burden of an alibi. Once the prosecution established the accused's presence, the alibi required positive evidence excluding that presence with absolute certainty; a mere preponderance of probabilities was insufficient. The prosecution nevertheless retained the burden of independently proving its case beyond reasonable doubt, and evidence raising a reasonable doubt about presence could benefit the accused. The Court listed numerous Supreme Court decisions on quashing, including *XYZ v. State of Gujarat*, *S. Martin*, *Amit Kapoor* and *S. Khushboo*, on examining allegations at face value without a roving factual inquiry. *Renu Kumari v. Sanjay Kumar* was quoted at length; that passage discussed the *R.P. Kapur* and *Bhajan Lal* categories and the secondary role of the informant's mala fides. These principles appeared in cited authorities and nested quotations. The present Court applied the limited quashing test to the FIR before it.

3. Statutes considered : CrPC Section 482, identified in the order alongside BNSS Section 528, supplied the inherent jurisdiction invoked. IPC Sections 323, 294, 506, 34 and 327 formed the challenged case. Evidence Act Section 11 appeared in the quoted Supreme Court explanation of alibi; it was not the basis of an independent ruling on CCTV admissibility.

4. Issues : Could the claimed CCTV alibi or alleged family animosity justify quashing the FIR and ensuing proceedings at the threshold? Did the allegations, taken at face value, disclose an offence?

5. Ratio / Findings : The plea of alibi required cogent evidence, rather than proof merely on a preponderance of probabilities. The High Court would not determine the disputed CCTV facts or conduct a mini trial under Section 482. The allegations, taken at face value, were that the applicants had beaten the complainant and raised an illegal demand. As those allegations disclosed an offence, the informant's alleged mala fides were secondary. Hostility could provide a motive for false implication or for committing an offence, so that disputed question of fact did not justify quashing. The prosecution still had to prove its case independently before the trial court.

6. Relief : The Hon'ble High Court dismissed the application. The FIR and RCT proceedings were not quashed. The Court made no finding of guilt or final determination of credibility.

Dharmendra Jadon and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 50236/2024, 25/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (231) Prev Next

Headnote :- Separate trial and co-accused acquittal — An absconding student sought quashing of an FIR for impersonation and forgery after Prabhudayal, the alleged substitute examinee, was acquitted because his identity as the substitute had not been proved. The Court held that evidence recorded in a co-accused's separate trial, held in the student's absence, could not be used either for or against the student. It distinguished a Supreme Court decision concerning discharge from an acquittal based on trial evidence. The allegation that another person had answered the Political Science paper on the applicant's behalf still disclosed an offence. The application under Section 482 was dismissed.

Case-note :- ***1. Facts :*** The prosecution alleged that, on 23.06.2015, another person was answering Dharmendra Lodhi's Political Science examination paper at Government College, Karera, and that Prabhudayal had appeared on his behalf on two earlier dates. A charge sheet was filed while Lodhi was absconding, and he had not surrendered. The trial court acquitted Prabhudayal because his identity as the substitute examinee had not been proved. Relying on that acquittal, Lodhi sought quashing of Crime 429/2015, Karera.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs* was applied for the principle that evidence recorded in a co-accused's separate trial could not be used for or against the absent accused. *CBI v. Akhilesh Singh* was distinguished: the co-accused in that case had been discharged, whereas Prabhudayal had been acquitted after evidence was recorded. *Karan Singh v. State of M.P.* was quoted for the principle that each accused's separate case must be decided on the evidence recorded in that case. The other authorities appeared within the *Karan Singh* quotation and were not independently applied by the present Court.

3. Statutes considered : CrPC Section 482 governed the application for quashing. The FIR alleged offences under IPC Sections 419, 420, 467, 468 and 471. The separate charge sheet against Prabhudayal also cited Sections 3 and 4 of the M.P. Manyata Prapt Pariksha Adhiniyam, 1937.

4. Issues : Did the alleged substitute examinee's acquittal in a separate trial automatically exonerate the absent applicant? Did the allegation of impersonation, taken at face value, justify continuing the applicant's prosecution?

5. Ratio / Findings : The co-accused was acquitted because the prosecution had failed to prove that he was the person who had answered the examination paper. That finding did not establish that no one had done so on Lodhi's behalf. The evidence recorded in that trial could not be used either for or against Lodhi, who had not participated in it. The Court distinguished discharge on the allegations from an acquittal based on evidence; *Akhilesh Singh* therefore did not govern this case. Lodhi did not claim that he himself had answered the paper. The allegation that another person had answered on his behalf prima facie disclosed a cognizable offence.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 seeking quashing of FIR Crime 429/2015. The applicant's guilt remained to be determined at trial.

Dharmendra Lodhi v. State of Madhya Pradesh and Others, M.Cr.C. no. 59472/2021, 10/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (232) Prev Next

Headnote :- Habeas corpus, grounds of arrest and NDPS notice — The petitioner challenged his brother's arrest in a case involving 86.850 kg of ganja because a separate written statement of the grounds of arrest had not been supplied. On this record, the Division Bench held that the written notice under Section 50 NDPS Act, the signed seizure records and the information given to the brother made the reasons for arrest known, and dismissed the writ petition. It reaffirmed the Supreme Court safeguards requiring written grounds of arrest, criticised police failure to follow a February 2026 circular, and directed the DGP to issue a warning and submit a compliance report. The Bench found substantial compliance on these facts while also declaring written communication of arrest grounds mandatory and directing police compliance with that requirement.

Case-note :- ***1. Facts :*** Dharmendra Lodhi filed a habeas corpus petition under Article 226 concerning his brother's arrest in Crime 111/2026, Basai, Datia, under NDPS Sections 8/20. The police seized 86.850 kg of ganja from a vehicle. On 05.06.2026, the trial

court rejected a similar objection to the arrest, relying on the written Section 50 search notice and written information given to the petitioner brother, and finding substantial compliance with BNSS Section 47. The accused had also signed the seizure memoranda. The High Court examined the MP Police Headquarters circular dated 13.02.2026 on communicating written grounds of arrest and reproduced it in the order.

2. Precedents — Considered : *Pankaj Bansal v. Union of India* was quoted on meaningful written communication of arrest grounds under acknowledgement; its PMLA reasoning was distinct from the factual decision in this NDPS case. *Mihir Rajesh Shah v. State of Maharashtra* was quoted on the Article 22 and BNSS safeguards. The reproduced police circular, drawing on that decision, required written grounds in a language understood by the arrestee. Where written communication at or immediately after arrest was impracticable, the grounds were to be conveyed orally and then supplied in writing within a reasonable time, in any event at least two hours before production for remand; noncompliance would render arrest and subsequent remand illegal and entitle the person to release. The petitioner cited *Anil Kumar Mishra v. State of M.P. (07.01.2026)*, in which another arrest had been declared illegal. *Vihaan Kumar v. State of Haryana* was named in the final direction to the DGP. Other authorities, including *Suhas Chakma*, appeared within the lengthy Supreme Court quotations as context and were not separately applied to this arrest.

3. Statutes considered : Constitution Articles 21, 22(1) and 226; BNSS Sections 47 and 48; NDPS Act Sections 8, 20 and 50. The quoted Supreme Court passages also addressed CrPC Sections 50, 50-A and 167 and their BNSS counterparts, and PMLA Sections 19 and 45. The State's submission referred to Article 23; the reasoning and the cited arrest safeguard concerned Article 22.

4. Issues : Was the arrest illegal because no separate written grounds had been supplied, despite the search notice and seizure documents? What administrative measures were appropriate to secure compliance?

5. Ratio / Findings : The Bench reaffirmed that written communication of the grounds of arrest was mandatory, so that the reasons were clear and their communication could be verified. On the facts before it, however, the Court held that the arrestee knew why he had been arrested: the written NDPS notice explained the proposed search for contraband, contraband was seized from the vehicle, he signed the seizure memoranda, and his brother received information. It treated this as substantial compliance and refused habeas corpus relief. The Bench also expressed serious concern that officers had not followed *Pankaj Bansal* or their own circular. It directed a warning that violation of the named Supreme Court rulings would be presumed to be a deliberate failure intended to enable an offender to challenge the legality of his arrest. The officer would be suspended and a departmental enquiry instituted for imposing a major penalty. The petition was dismissed on the stated finding that the written Section 50 notice amounted to substantial compliance in this case.

6. Relief : The Hon'ble High Court dismissed the writ petition in limine. The DGP was directed to issue the warning within one month and submit a compliance report with guidelines to the Principal Registrar by 18.08.2026. The Court stated that failure to comply could lead to contempt proceedings against the DGP.

Dharmendra Lodhi v. State of Madhya Pradesh and Others, W.P. no. 25312/2026, 03/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (233) Prev Next

Headnote :- Domestic Violence Act complaint and earlier FIR — A husband and three relatives sought termination of a Section 12 DVA proceeding under Article 227, arguing that the earlier FIR had named only the husband and the later complaint added allegations against the relatives. The High Court held that an FIR need not contain every fact. The earlier FIR itself referred to the father-in-law's demand for return of gold. The Court declined to determine the truth of the differing allegations by conducting a mini trial. It treated ordinary Section 12 DVA proceedings as noncriminal and distinguished proceedings under Section 31. The petition was dismissed.

Case-note :- ***1. Facts :*** The respondent married petitioner 1 in 2009. Her FIR dated 23.09.2021, under IPC Sections 498-A, 323 and 294, alleged dowry taunts, control over her earnings and an assault by her husband in May 2021. It named only the husband, but also referred to the father-in-law's

demand for return of gold given at the marriage. Her application under Section 12 DVA, filed on 04.01.2022, alleged dowry harassment by the husband, parents-in-law and brother-in-law, and that the relatives had instigated the husband to demand more dowry. The petitioners argued that the allegations added against the relatives were an afterthought. They also referred to a proceeding under Section 125 CrPC in which maintenance had been refused to the wife, who was earning, and monthly maintenance of ₹27,000 had been granted to a child. That proceeding formed part of the background; its merits were not adjudicated in this petition.

2. Precedents — Considered : The petitioners relied on the coordinate-bench decision in *Ankit Gehlot v. Anjali to contend* that a challenge to DVA proceedings under Section 482 was not maintainable, and therefore invoked Article 227. *Neeharika Infrastructure v. State of Maharashtra, XYZ v. State of Gujarat, S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, M. Srikanth, Arvind Khanna, Kunwar Singh* and other Supreme Court decisions were cited on the limited inquiry at the quashing stage and the prohibition on deciding disputed reliability. The quoted passage from *Mohd. Akram Siddiqui* recognised that, in an appropriate case, a public document or a document whose veracity the complainant did not dispute could be considered. The factual holdings of those authorities were not treated as findings of fact in this DVA dispute.

3. Statutes considered : Constitution Article 227 was invoked as the source of supervisory jurisdiction. The Court discussed Sections 12 and 31 of the Protection of Women from Domestic Violence Act, distinguishing the noncriminal proceeding under Section 12 from proceedings under Section 31. CrPC Sections 482 and 125 and IPC Sections 498-A, 323 and 294 arose in the petitioners' legal arguments and the background proceedings.

4. Issues : Did the absence of allegations against the relatives in the earlier FIR establish that the later Section 12 DVA application was false and require its termination under the supervisory jurisdiction? Could the High Court compare the two accounts to determine credibility at this stage?

5. Ratio / Findings : An FIR need not contain every fact. This FIR also referred to the father-in-law seeking return of the gold. The petitioners' counsel could not explain how the earlier FIR could be used to discredit the later complaint without giving the respondent an opportunity to explain the omissions. Comparing the disputed accounts to determine their truth, omissions and reliability would require a roving inquiry or mini trial. The Court therefore found no ground to terminate the Section 12 proceeding. It did not decide the merits of the underlying domestic-abuse allegations.

6. Relief : The Hon'ble High Court dismissed the petition under Article 227. The DVA proceeding continued.

Dharmendra Singh Thakur and Others v. Supriya Saxena, M.P. no. 1492/2024, 20/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (234) Prev Next

Headnote :- Sale-deed impersonation and conspiracy — Two witnesses to eight purported sales of Sitaram's land, measuring about 70 bigha, challenged their convictions for conspiracy to cheat and commit forgery. The evidence established that Dimna, who had since died, had posed as the owner. Dharmendra arranged the drafts, introduced him to the purchaser and signed in another Patwari's name; Ramjilal identified him as the owner. Expert comparison supported the direct witness and documentary evidence. The Court distinguished the rule concerning persons who had not made a false document because these appellants had knowingly facilitated the transactions. Their convictions and sentences of five and seven years' rigorous imprisonment were affirmed, and the request for leniency was rejected.

Case-note :- ***1. Facts :*** Eight deeds dated 09.08.2008 purported to transfer about 70 bigha of Sitaram's land in Shivpuri to Vikas. Dimna Jatav, who had since died, had posed as Sitaram. Dharmendra, a former Patwari, and Ramjilal witnessed the deeds; Dharmendra was alleged to have signed as Rajesh. The owner denied selling the land or affixing a thumbprint. He had not witnessed execution of the deeds and could not say who had signed them. Purchaser Vikas stated that Dharmendra had introduced the impostor and that both appellants had shown him the land. Draftsman Premsingh stated that Dharmendra had brought the typed deeds, while document experts compared the signatures and thumbprints. The 2018 Sessions judgment convicted both appellants under IPC Sections 420/120-B, 467/120-B and 471/120-B. Each was sentenced to

five years' rigorous imprisonment and a fine of Rs 1,000 under Section 420/120-B, and seven years' rigorous imprisonment and a fine of Rs 1,000 under Section 467/120-B, with three months' rigorous imprisonment in default on each count. No separate sentence was imposed under Section 471/120-B.

2. Precedents — Considered : Dharmendra relied on *Padum Kumar v. State of U.P.* to challenge a conviction based solely on a questioned signature. The Bench found substantial additional evidence in the testimony of the draftsman and purchaser. Both appellants relied on *Sheila Sebastian v. R. Jawaharaj concerning* persons who had not made a forged document. The Court distinguished that decision because the appellants had knowingly identified the impostor and witnessed the false deeds. It relied on the purchaser's and draftsman's evidence, together with the appellants' participation as deed witnesses, to reject those submissions and affirm the conspiracy convictions.

3. Statutes considered : IPC Sections 420, 467, 471 and 120-B, and Section 34 in the original FIR. The judgment addressed the registration documents, handwriting opinions and appellate review of sentence. Registration-office witness Indra Kumar Shukla referred to Section 86 of the Act as his asserted basis for acting in good faith.

4. Issues : Was there reliable evidence, apart from the handwriting report, that the appellants had knowingly participated in the forged sale transactions? Could they avoid liability on the ground that they had witnessed, rather than made, the deeds? Was a reduction of sentence justified?

5. Ratio / Findings : Sitaram's denial, Dimna's photograph and thumbprint, Vikas's account of the introduction and identification, Premsingh's evidence that Dharmendra had brought the deeds, and the expert comparison together established the sale by an impostor and the appellants' involvement. Dharmendra's false signature as a witness and his coordination of the transactions established his central role. Ramjilal had knowingly identified Dimna as the owner. The Court treated these acts as active participation in the charged conspiracy and distinguished the position of a person uninvolved in making a forged document. Ramjilal's age of about 65 at the time of arrest and the claimed absence of personal benefit did not justify leniency in view of the serious attempt to deprive the owner of his holding.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed the convictions and original sentences. Dharmendra was to serve the remaining term. Ramjilal's bail bonds were cancelled, and he was directed to surrender immediately before the trial court to serve the remaining sentence. No separate sentence under Section 471/120-B was added. Copies of the judgment were to be supplied immediately to the appellants free of cost, and the trial record was to be returned with a copy for information and compliance.

Dharmendra v. State of M.P. and Ramjilal v. State of M.P., Cr.A. no. 4688/2018 & 4529/2018, 05/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (235) Prev Next

Headnote :- Dowry cruelty and differentiated quashing — After the complainant's two children died and she was unable to conceive again, she alleged harassment, a demand for ₹50,000 and expulsion from the matrimonial home in July 2019. The Court quashed the FIR and proceedings against six extended relatives because neither the FIR nor the witness statements attributed a specific role to them. The prosecution continued against the husband and mother-in-law because the allegations identified their harassment and exclusion of the complainant. The Court treated the continuing mental effects at her parental home as cruelty and rejected the objection based on the delay of about two years. Its conclusions concerned prima facie sufficiency, not guilt.

Case-note :- ***1. Facts :*** The complainant married Dhirendra in 2015. Both their children died, and she was later unable to conceive again. She alleged that her husband and in-laws then harassed her, demanded ₹50,000 and turned her out on 17.07.2019. Crime 1446/2021, Kolgawan, Satna, was registered on 23.11.2021 under IPC Sections 498-A/34 and Dowry Prohibition Act Sections 3/4. The husband, mother-in-law and six other relatives applied for quashing. The FIR recounted these central events and named the extended relatives collectively, without attributing individual incidents to them. The statements recorded under CrPC Section 161 repeated the same allegations.

2. Precedents — Considered : *Kans Raj v. State of Punjab, Monju Roy v. State of W.B.* and *Chandralekha v. State of Rajasthan* supported

caution against implicating distant relatives through general allegations. *Rupali Devi v. State of U.P.* explained how mental cruelty could continue after a woman was driven to her parental home. The Bench also cited *its decision in Amar Singh v. Vimla and* applied *Taramani Parakh v. State of M.P.* to the allegations against the mother-in-law. *Taramani Parakh* required triable allegations of harassment forcing a wife to leave the matrimonial home to be tested at trial, rather than rejected on an assessment of competing versions at the quashing stage. *Meera v. State* was cited on the mother-in-law's duty to protect another woman. The cases mentioned within the *Taramani* quotation remained part of that context, rather than separate adjudications in this case.

3. Statutes considered : CrPC Sections 482, 161 and 468; IPC Sections 498-A and 34; Dowry Prohibition Act Sections 3 and 4. The Court discussed mental and physical cruelty under Section 498-A, including wilful conduct likely to drive a woman to suicide or to cause grave injury or danger to her life, limb or mental or physical health.

4. Issues : Against which applicants were the alleged roles sufficiently specific to require trial? Did the exclusion from the matrimonial home and the delay in lodging the FIR bar a cruelty prosecution against the husband and mother-in-law?

5. Ratio / Findings : Applicants 3–8 were named collectively, but neither the FIR nor the Section 161 statements of the complainant and her family identified an incident involving any of them individually. The Court therefore quashed their cases. In contrast, the allegations against the husband and mother-in-law connected the taunts about the loss of the children and inability to conceive with the ₹50,000 demand and expulsion. Compelling a wife to remain at her parental home after exclusion for non-fulfilment of a dowry demand could continue to cause mental cruelty. The Court applied the three-year period under Section 468 and held that the interval between 17.07.2019 and 23.11.2021 did not justify quashing. It also regarded the hope of restoring the marriage as a plausible explanation for waiting. These findings concerned prima facie sufficiency, not proof at trial.

6. Relief : The Hon'ble High Court allowed the application of Vinay, Shikha alias Sarika, Durga, Vijay, Kanchan and Ashok Vishwakarma, applicants 3–8. The FIR and criminal proceedings were quashed as against them, and they were discharged. The application of the husband, Dhirendra, and mother-in-law, Kusum, applicants 1–2, was dismissed; their prosecution continued.

Dhirendra Vishwakarma and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 9592/2022, 12/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (236) Prev Next

Headnote :- Dowry FIR after divorce filing — A husband and five relatives sought quashing of the wife's FIR alleging cruelty and dowry demands, describing it as vague and retaliatory. The FIR alleged a demand for ₹5 lakh and a car, as well as abuse. The husband's own Pune complaint named the mother-in-law's sister as a witness to an incident involving the family. This undermined her claim, at the prima facie stage, that she had no involvement in their family affairs. The Court held that the wife's efforts to preserve the marriage, followed by the husband's divorce petition, did not by themselves establish that her FIR was a counterblast. It dismissed the Section 482 application without deciding the truth of the competing allegations.

Case-note :- ***1. Facts :*** The wife married D.R. Tiwari in 2015 and alleged that her father gave ₹11 lakh and household articles. She later alleged demands for an additional ₹5 lakh and a Honda car, physical and mental cruelty, and abuse. Crime 1318/2022, Kotwali Morena, was registered under IPC Sections 498-A, 323, 294, 506 and 34 and Dowry Prohibition Act Sections 3/4. The applicants were the husband, his elder brother, his mother and father, his mother's sister and her husband. A previous quashing petition was dismissed by a separate order because it had been filed without the applicants' authority. They relied on the divorce proceedings and their criminal complaint against the wife's family.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi* was quoted and applied. It explained that efforts at reconciliation could account for the delay in lodging an FIR and that a divorce petition did not justify quashing an FIR disclosing a cognizable offence. Civil and criminal proceedings were independent and had to be decided on their own merits. The Bench also cited *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Arvind Khanna*, *Kunwar Singh* and other Supreme Court authorities on examining the allegations at face value under Section 482.

3. Statutes considered : CrPC Section 482, also identified in the judgment as BNSS Section 528, governed quashing. The alleged offences were under IPC Sections 498-A, 323, 294, 506 and 34 and Dowry Prohibition Act Sections 3/4. The parallel divorce petition was under Hindu Marriage Act Section 13.

4. Issues : Did the allegedly vague accusations against the relatives, the earlier divorce petition or the countercomplaints establish that the FIR was a malicious counterblast warranting quashing?

5. Ratio / Findings : The FIR alleged a specific demand for additional cash and a car, together with continuing cruelty. The husband's own Pune complaint cited the mother-in-law's sister as a witness to an incident there. This undermined her categorical claim that she had no involvement in the family's affairs. The Court also considered two FIRs lodged by her own daughter-in-law against applicants 5 and 6; one alleged that applicant 3 was present. It found prima facie that the two sisters interfered in each other's family affairs and treated their daughters-in-law with cruelty. The husband's divorce petition and the time spent seeking reconciliation did not invalidate the criminal allegations. The civil and criminal cases had to be decided independently on their own merits. The Court stated that quashing was available only where the uncontroverted allegations did not disclose an offence. It found the allegations sufficient to prosecute the applicants and declined to decide their truth through a roving enquiry under Section 482.

6. Relief : The Hon'ble High Court dismissed the application. The FIR and the consequential proceedings were not quashed.

Dicky Ram Tiwari and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 8370/2023, 03/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (237) Prev Next

Headnote :- Section 133 public nuisance — A temple institution challenged orders directing removal of its gate from a lane leading from the main road. Earlier civil proceedings, culminating in a High Court second appeal, had established that the lane was public. Spot inspection confirmed the obstruction, and the institution neither claimed a later title nor identified a different lane. The Court rejected its procedural challenge under Sections 137, 138 and 254 CrPC and affirmed the SDM's order and the revisional order. Noting that the nuisance application had been filed in 1995, it directed the municipality to remove the obstruction within 15 days.

Case-note :- ***1. Facts :*** An application made in 1995 alleged that the applicant had installed a gate across a lane leading to a temple in Guna. A civil judgment in 1965, the first appeal in 1968 and the High Court's decision on the second appeal in 1983 had established that the lane was public. Several SDM orders and revisions followed. A revisional order directed inspection and removal of any obstruction. After an inspection in November 2019, the SDM directed the CMO to remove the gate in January 2020. The Sessions Court dismissed the revision in March 2020. The applicant sought interference under Section 482.

2. Precedents — Considered : The earlier civil decrees and the High Court's decision in Second Appeal 310/1968 were treated as conclusive on the public character of the lane. The Court cited *Garment Craft v. Prakash Chand Goel on* restraint in exercising supervisory jurisdiction. That decision distinguished correction of grave dereliction of duty, flagrant abuse or violations of fundamental principles of law or justice from reassessing evidence or substituting a different factual conclusion. Its discussion of Article 227 provided context for the restraint exercised here; it did not convert the Section 482 application into an Article 227 case.

3. Statutes considered : CrPC Sections 133, 137, 138, 254 and 482. The applicant relied on the procedure under Sections 137–138 and the requirement to take evidence as in a summons case under Section 254. The Court explained that Section 482 preserved the inherent power to give effect to orders under the Code, prevent abuse of the process of a court or otherwise secure the ends of justice.

4. Issues : Could the applicant reopen the finding that the lane was public? Did the alleged procedural deficiencies invalidate the removal order? Did blocking the established public way constitute a public nuisance?

5. Ratio / Findings : The public character of the lane had been settled by the earlier civil litigation. The applicant neither identified a different lane nor claimed to have acquired title later by lease or sale. Inspections, including one conducted in the presence of the contesting party, confirmed the gate.

Obstructing this established public lane amounted to a public nuisance. The Court found no jurisdictional error warranting relief under Section 482. It stated that, where the lower court's findings were correct, it could decline to set aside the proceedings for a procedural lapse. In this case, the established public character of the lane, the absence of any claim to a different lane or subsequently acquired title, and the admitted gate supported the removal order.

6. Relief : The Hon'ble High Court dismissed the application without costs and affirmed the SDM's order and the revisional order. It directed the CMO, Guna, to remove the obstruction immediately and no later than 15 days from the date of its order.

Digambar Jain Khandelwal Panchayat Mandir v. State of M.P. and Others, M.Cr.C. no. 38039/2020, 19/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (238) Prev Next

Headnote :- Panchayat fund recovery and criminal FIR — Panchayat secretaries challenged the Additional Collector's direction to lodge an FIR concerning the withdrawal of toilet-construction funds, relying on a stay of an earlier recovery order. The Court distinguished civil recovery liability from investigation into an independent allegation of embezzlement constituting a cognizable offence. In the lead petitioner's case, ₹18,76,800 had been withdrawn for 408 toilets, but 137 remained unbuilt despite reminders. The Panchayat Act did not bar investigation under the IPC and CrPC; where a complaint disclosed a cognizable offence, the police were obliged to register an FIR. The suspect had no right to a hearing before registration. Both writ petitions were dismissed. The Court did not determine criminal guilt or finally decide recovery liability in these proceedings.

Case-note :- ***1. Facts :*** Two writ petitions challenged the Additional Collector (Development), Anuppur's direction dated 26.04.2023 to lodge an FIR concerning alleged misuse of toilet-construction funds. In the lead petitioner Dileep Sharma's Gram Panchayat Gulidand, ₹18,76,800 had been withdrawn for 408 toilets. After repeated reminders, 271 toilets had been constructed, while 137 allegedly remained unbuilt. A ₹9 lakh recovery order passed in 2018 had been stayed in WP 7038/2018. That writ petition was allowed by a separate order on the day these petitions were decided.

2. Precedents — Considered : *State of M.P. v. Rameshwar, State (NCT of Delhi) v. Sanjay, Sayyad Hassan Sayyad Subhan* and *Dhanraj N. Asawani* were quoted on the independence of criminal proceedings from special statutory or civil proceedings in the absence of a statutory bar. *Lalita Kumari v. State of U.P.* was cited for the duty to register an FIR when the information disclosed a cognizable offence. The decisions concerning other statutes supported that distinction; they did not determine the guilt of any Panchayat official in this case.

3. Statutes considered : Article 226 of the Constitution; Sections 89/92 of the M.P. Panchayat Raj Evam Gram Swaraj Adhiniyam; the CrPC provisions governing investigation; and the IPC provisions concerning cognizable offences.

4. Issues : Did the stay or outcome of Panchayat recovery proceedings bar a direction to register an FIR for alleged misappropriation? Was the suspect entitled to a hearing before registration of the FIR? Could the complainant's lack of standing bar registration?

5. Ratio / Findings : The allegation concerned withdrawal of funds without constructing all the sanctioned toilets, rather than mere failure to pay the amount under a recovery order. Panchayat recovery proceedings and criminal investigation were independent; the State Act did not exclude the operation of the IPC and CrPC. As the allegations disclosed a cognizable offence, the police were obliged to register an FIR, and the direction to lodge it warranted no interference. The suspect had no right to a hearing before registration of the FIR. A complainant's standing is generally immaterial in criminal proceedings, except where the statute creating the offence prescribes eligibility to complain.

6. Relief : The Hon'ble High Court dismissed both writ petitions, leaving the direction to lodge an FIR undisturbed. It did not determine whether the petitioners were guilty of embezzlement.

Dileep Sharma v. State of M.P. and Others; Rakesh Kumar Kacher and Others v. State of M.P. and Others, W.P. no. 10626/2023 & 11539/2023, 02/09/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (239) Prev Next

Headnote :- Successive bail and witness-service delay — The sixth application for regular bail in a case involving serious allegations of rape and attempt to murder was allowed after the Court compared the trial orders with the SSP's explanation and found that the police had failed to execute process for prosecution witnesses. The accused had been in custody since March 2021. The Court held that an undertrial could not be left in jail because the prosecution failed to produce its witnesses. It granted bail on a personal bond of ₹1 lakh with one surety in the like amount and directed that a copy of the order be sent to the DGP. Bail was granted because of the intervening trial delay; the order did not adjudicate guilt.

Case-note :- ***1. Facts :*** Dilip was arrested on 24.03.2021 in Crime 81/2021, registered at Police Station Girwai, Gwalior, for offences under IPC Sections 376-D and 307/34. His fifth bail application was dismissed on 26.08.2022. The sixth application was based mainly on delay in the trial. After examining the trial orders, the High Court called for an explanation from the SSP about the failure to serve process on prosecution witnesses. The trial court's report contradicted the SSP's account. It reported that summons had been issued, and the High Court found the SSP's explanation incorrect.

2. Precedents — Considered : *Aparna Bhat v. State of M.P.* was cited for the direction to inform the complainant that bail had been granted. The finding on trial delay and the police's failure to serve process arose from the record of this case; the cited decision was not treated as requiring the grant of bail.

3. Statutes considered : CrPC Section 439 and IPC Sections 376-D, 307 and 34. The Court directed furnishing of a bail bond and intimation of the grant of bail to the complainant.

4. Issues : Did the trial delay caused by the failure to execute process for prosecution witnesses justify regular bail despite the earlier unsuccessful applications?

5. Ratio / Findings : The Court found that summons had been issued but the police had failed to serve process on the witnesses diligently. It described the SSP's contrary explanation as false. An undertrial could not be left in jail at the mercy of such police inaction. The failure of the prosecution agency to produce its witnesses and the resulting trial delay justified allowing the successive bail application. This change in the progress of the trial warranted bail without an adjudication of guilt.

6. Relief : The Hon'ble High Court allowed the sixth application for regular bail and directed the applicant's release on furnishing a personal bond of ₹1 lakh with one surety in the like amount to the satisfaction of the Trial Court/Committal Court, for appearance on the dates fixed by the concerned Court. The order was to remain effective until the end of the trial, but would become ineffective in the event of bail jump. Intimation of the grant of bail was to be sent to the complainant, and a copy of the order to the Director General of Police, State of Madhya Pradesh, for information.

Dilip v. State of Madhya Pradesh, M.Cr.C. no. 49220/2022, 11/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (240) Prev Next

Headnote :- Illegal colony FIR and pre-registration hearing — A purchaser denied developing the land after the Guna Collector directed registration of an FIR against him and others. The Court held that Rule 3 of the 1998 Coloniser Rules required registration where a person intended, within a municipal area, to develop land into plots for transfer to persons intending construction; actual development was not a prerequisite. Reports described plot markings and a gravel road. The purchaser supplied no material supporting his assertion of agricultural use, and the disputed facts could not be decided in the writ proceedings. He had no right to a hearing before registration of the FIR or to require investigation in a particular manner. The writ petition was dismissed without an adjudication of criminal guilt.

Case-note :- ***1. Facts :*** By order dated 05.11.2024, the Guna Collector directed the Municipal CMO to lodge an FIR against Dilmeet Singh Bal and 23 others for alleged illegal colonisation. FIR 1066/2024 was registered pursuant to that direction. Bal stated that he had merely purchased agricultural land and was cultivating it. An SDO (Revenue) inquiry report and a Patwari report described a larger parcel divided into plots by markings and a gravel road. Bal produced neither photographs showing cultivation nor documents establishing his registration as a farmer or sales of agricultural produce in the Krishi Upaj Mandi. He sought

quashing of both the Collector's direction and the FIR under Article 226.

2. Precedents — Considered : *Romila Thapar v. Union of India* and *Dinubhai Boghabhai Solanki v. State of Gujarat* were quoted on the absence of an accused's right to a hearing before registration of an offence or to participate in the investigation as a matter of course. The quoted discussion preserved specified statutory exceptions and the remedies available at the appropriate stages. Authorities on the choice of investigating agency and further investigation were considered through those quotations, rather than as separate holdings on this petitioner's conduct. The Court also referred to *Prabal Dogra v. Superintendent of Police, Gwalior and State of M.P.* for the principle that the accused has no say in the manner of investigation. *Manohar Lal Sharma v. Principal Secretary* distinguished monitoring in rare and compelling circumstances, to secure a free and fair investigation, from directing or supervising its mode or manner. The Court reiterated that distinction through *Sant Kumar Patel*.

3. Statutes considered : Article 226 of the Constitution and Rule 3 of the M.P. Nagar Palika (Registration of Coloniser, Terms and Conditions) Rules, 1998. Rule 3 requires registration where a person intends, within a municipal area, to establish a colony by dividing land into plots for transfer to persons intending construction. The Collector's direction led to FIR 1066/2024.

4. Issues : Was actual development of a colony necessary before coloniser registration became mandatory? Was Bal entitled to a hearing before the direction to register an FIR? Could the writ court determine the disputed facts concerning cultivation and development?

5. Ratio / Findings : Within a municipal area, Rule 3 requires registration where a person intends to develop land into plots for transfer to persons intending construction; actual development of a colony is not a prerequisite. The reports described plot markings and a gravel road. Bal's unsupported assertion that he was cultivating the land did not justify resolving those disputed facts in his favour in writ proceedings. He had no right to a hearing before registration of the FIR or to demand investigation in a particular manner. Any person could set the criminal law in motion; the Collector did not err in directing the CMO to lodge the FIR. Registration of an FIR did not establish criminal guilt.

6. Relief : The Hon'ble High Court dismissed the petition. Neither the Collector's direction nor the FIR was quashed.

Dilmeet Singh Bal v. State of Madhya Pradesh and Others, W.P. no. 40972/2024, 21/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (241) Prev Next

Headnote :- SC/ST Act forum and temporal amendment — A police officer sought quashing of a private complaint filed in 2012, alleging caste-based abuse and assault at a police station, on the ground that only the Special Court could take cognizance. Under the legal position applicable when the complaint was filed and process was issued in 2012, the Magistrate could entertain the complaint and commit the case to the Special Court under Section 14. The later 2016 amendment empowered an Exclusive or designated Special Court to take cognizance directly; it did not invalidate the CJM's earlier summons. The officer was directed to appear, and the CJM was directed to commit the case. The complaint's merits were not decided.

Case-note :- ***1. Facts :*** Chhotelal filed a private complaint on 30.01.2012, alleging that police personnel, including Dinesh Singh Baish, had assaulted him, abused him by his caste name and threatened him following a protest over a road accident. The complaint alleged offences under IPC Sections 166, 323, 294 and 506 Part II and SC/ST Act Sections 3(1)(x) and 3(2)(vii). The CJM issued summons on 05.07.2012. The application also stated that an arrest warrant had been issued on 19.07.2017. Baish challenged the Magistrate's jurisdiction and apparently had not appeared before the CJM.

2. Precedents — Considered : *Gangula Ashok v. State of A.P., M.A. Kuttappan v. E. Krishnan Nayanar* and *Rattiram v. State of M.P.* were applied to the position before the amendment: a Special Court, being a Court of Session, could take cognizance after committal by a competent Magistrate and could not entertain a complaint directly. The petitioner relied on *Moly v. State of Kerala* and *Dhiraj Kumar v. State of Jharkhand*. *Moly v. State of Kerala* was also discussed through *Rattiram*. The Court distinguished the earlier legal position from amended Section 14.

3. Statutes considered : CrPC Section 482 and the provisions governing committal; Section 14 of the SC/ST (Prevention of Atrocities) Act before and after

Amendment Act 1 of 2016. The Court described the changed legal position as applicable after 01.01.2016. The alleged offences included Sections 3(1)(x) and 3(2)(vii) of the Act. The merits of the complaint were not decided.

4. Issues : Was the CJM incompetent to entertain the private SC/ST complaint and issue summons in 2012 because the trial would take place before the Special Court? Did the later 2016 amendment permitting direct cognizance alter the legality of that earlier process?

5. Ratio / Findings : Under the law applicable in July 2012, the Special Court could take cognizance only after committal, so the Magistrate was the proper court to entertain the complaint initially. Amended Section 14 later authorised the Special Court to take cognizance directly, but the complaint and summons preceded that amendment. The Court observed that Baish had apparently not appeared before the CJM. Without his appearance, the CJM could not commit the case and had committed no illegality in entertaining the complaint and issuing summons. No arguments had been advanced on the merits of the complaint.

6. Relief : The Hon'ble High Court disposed of the quashing application with directions. Baish was directed to appear before the CJM, Bhind, on 23.04.2021, and the CJM was directed to commit the case to the Special Judge, Bhind, for trial.

Dinesh Singh Baish v. Chhotelal, M.Cr.C. no. 11064/2020, 18/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (242) Prev Next

Headnote :- Seized vehicle interim custody — The registered owner, who was also an accused in robbery cases, sought interim custody of an Eeco van allegedly used in the offences after it had been released on bond in another case. Applying *Sunderbhai*'s general guidelines on seized property, the Court considered the alleged use of the van in multiple offences and doubts about the owner's stated Shivpuri address, given its UP registration and purchase in Jhansi. It permitted interim custody subject to strict requirements for proof and explanation, ₹10 lakh cash surety, and undertakings concerning the van's identity, continued possession and production at trial. The allegations of guilt were not adjudicated.

Case-note :- ***1. Facts :*** Eeco van UP93-BK-7541 was allegedly used by masked assailants who robbed a soyabean truck's cleaner and driver in February 2021. The van was seized in Crime 96/2021 at Police Station Pichhore, involving IPC Sections 395 and 397 and MPDVPK Act Sections 11/13. The applicant was its registered owner and an accused. The same van was said to have been used in Crime 90/2021 and to have been released on supurdaginama in that case. The Sessions Court refused release in the present case. The applicant gave a Shivpuri address, but the van was registered in UP and had been sold and financed in Jhansi.

2. Precedents — Considered : *Sunderbhai Ambalal Desai v. State of Gujarat* provided the general guidelines governing release of seized property. The High Court applied those guidelines subject to conditions suited to the circumstances; it did not treat alleged use of the van in an offence as requiring either refusal of custody or unconditional release.

3. Statutes considered : CrPC Sections 451 and 482; IPC Sections 395 and 397; MPDVPK Act Sections 11 and 13.

4. Issues : Could the van be released on interim custody despite its relevance as evidence of alleged use in multiple robberies? What safeguards were necessary to ensure its continued availability?

5. Ratio / Findings : The Court permitted interim custody subject to stringent conditions. It required proof of identity and permanent address, together with an explanation for purchasing the van in Jhansi despite the applicant's stated residence in Shivpuri. As no copy of the invoice had been filed, it required ₹10 lakh cash surety. The applicant had to undertake not to use the van for further offences, alter or dispose of it, or part with its possession; he also had to accept its identity and produce it for trial. These interim-custody directions did not establish the criminal allegations.

6. Relief : The Hon'ble High Court disposed of the application by permitting conditional interim custody. The applicant was required to file identity proof showing his permanent address, explain why he had purchased the van in Jhansi despite claiming residence in Shivpuri, and deposit ₹10 lakh as cash surety before the Trial Court. He had to undertake that the van would not be used in any further offence and, if such use was found, to surrender it immediately. He also had to undertake not to commit another offence; if he was found to have committed a further offence, the cash surety would stand

automatically forfeited. He was required to undertake not to dispute the van's identity and not to change its nature, colour or ownership until final disposal of the criminal case. He could not part with possession in any form, including by lease, rent, gift or temporary use. He had to undertake to produce the van whenever directed, particularly when witnesses' evidence was recorded.

Dinesh v. State of M.P., M.Cr.C. no. 9466/2022, 24/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (243) Prev Next

Headnote :- Investigation delay versus directions to arrest — An informant sought a free and fair investigation into a murder case and the arrest of the suspects. The High Court held that it could not use Section 482 to supervise the manner of police investigation by directing arrest or the filing of a charge sheet, particularly when the affected persons had not been joined as parties. Section 173(1) CrPC nevertheless required completion of the investigation without unnecessary delay. The Court directed early completion in accordance with law and left the applicant at liberty to approach the SP. It did not prescribe the outcome of the investigation.

Case-note :- ***1. Facts :*** Dinesh Yadav complained that, after registration of Crime 1333/2021 at Police Station Kotwali, Morena, for an offence under IPC Section 302, the police had taken no adequate further steps and the suspects had not been arrested. He sought a direction under Section 482 for a fair investigation. The persons whose arrest he sought had not been joined as respondents.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari* was quoted extensively on the police's discretion concerning arrest, seizure and filing a charge sheet, and the limits on directions affecting accused persons who had not been heard. Its quoted discussion of *M.C. Abraham* emphasised that arrest should not follow an FIR mechanically and that the power, affecting liberty and reputation, must be exercised cautiously. *Divine Retreat Centre* was quoted on the need to hear persons affected by judicial directions with serious consequences. The High Court applied those limits while separately enforcing the statutory duty to complete the investigation without unnecessary delay.

3. Statutes considered : CrPC Sections 482, 41 and 173(1); IPC Section 302 was the offence alleged in the FIR. The quoted authority confined inherent power to giving effect to orders under the Code, preventing abuse of the process of a court or securing the ends of justice. The duty to complete the investigation without unnecessary delay remained enforceable.

4. Issues : Could the Court direct the arrest of suspects or prescribe the manner of investigation? Was the duty to complete the investigation without unnecessary delay enforceable?

5. Ratio / Findings : The police must form their own opinion during the investigation; every FIR does not necessarily result in arrest or the filing of a charge sheet. The High Court could not use Section 482 to supervise the investigation by prescribing particular steps, especially when the affected suspects had not been heard. Section 173(1), however, required completion without unnecessary delay. The Investigating Officer was therefore directed to conclude the investigation as early as possible and take the steps required by law, without any predetermined investigative outcome.

6. Relief : The Hon'ble High Court disposed of the petition by directing the Investigating Officer to conclude the investigation as early as possible and take the steps required by law. It declined to direct arrest. The applicant remained at liberty to submit any grievance to the SP, Morena; any such application was to be considered in accordance with law.

Dinesh Yadav v. State of M.P. and Others, M.Cr.C. no. 3609/2022, 31/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (244) Prev Next

Headnote :- Quashing after charge sheet, hurt and noncognizable offences — A resident challenged a company employee's FIR arising from a protest at a weighing-machine construction site. After the charge sheet was filed, the Court considered the statements recorded under Section 161 and found prima facie allegations of obscene abuse, assault by fists and threats. Bodily pain may constitute hurt under the IPC even if the MLC records no visible injury. In the alternative, the Court explained under CrPC Section 2(d) how a police report disclosing only noncognizable offences is treated as a complaint. Unsupported allegations

concerning blasting and compensation did not establish mala fides. The writ petition was dismissed.

Case-note :- ***1. Facts :*** During construction of a weighing machine at Adani Enterprises' site on 04–05.01.2022, supervisor Mohar Singh alleged that Dipendra Shah and another person demanded that work stop, abused and scuffled with the workers, and threatened to kill them if work resumed. FIR 08/2022 at Langhadol led to a charge sheet. Shah claimed that he was protesting against blasting near his house and the lack of rehabilitation. He challenged the cognizability of the offences, the allegations of obscenity under Section 294 and hurt under Section 323, and the informant's motive. He also sought a stay of separate proceedings under Section 5(a)/(b) of the M.P. Rajya Suraksha Adhiniyam; the Court's reasons for dismissal focused on the FIR.

2. Precedents — Considered : *Subhash Kumar*, *Motiram Padu Joshi*, *Satpal* and *Jarnail Singh* were cited for the principle that an FIR need not contain every detail. *Satvinder Kaur* and *Renu Kumari* supported the limits on quashing where the allegations, taken at face value, disclose an offence. *Debendra Nath Padhi* was quoted on the consideration of defence material at the stage of framing charges. *Ushaben v. Kishorbhai Chunilal Talpada* supported the explanation to Section 2(d), although it concerned different substantive offences. Shah relied on *Mohd. Wajid* and *Bhajan Lal*, but his plea of mala fides was not established on this record.

3. Statutes considered : Article 226 of the Constitution; CrPC Sections 2(d), 161 and 482; IPC Sections 294, 319 (definition of hurt) and 323. Section 5(a)/(b) of the M.P. Rajya Suraksha Adhiniyam was invoked in the petitioner's separate prayer for a stay of proceedings initiated against him under that Act.

4. Issues : Did the charge sheet and statements prima facie support the allegations of cognizable obscenity and hurt despite the FIR's omission of the exact words and the absence of external injury? Would a police report disclosing only noncognizable offences be void? Could the asserted environmental protest establish that the prosecution was malicious?

5. Ratio / Findings : Once investigation was complete, the Court could consider the statements collected by the police. Those statements described abuse in the name of the complainant's mother and sister and assault by fists. Whether the words caused annoyance to others could be clarified during examination and cross-examination at trial. Bodily pain constitutes hurt under Section 319 even without visible injury, and ocular evidence cannot be discarded merely because the MLC records no injury. The allegation of damage from blasting 200 metres away was an unsubstantiated, disputed defence unsupported by unimpeachable material. In the alternative, under the explanation to Section 2(d), a police report disclosing only noncognizable offences after investigation is treated as a complaint, and the police officer making the report is treated as the complainant.

6. Relief : The Hon'ble High Court dismissed the writ petition. The FIR and charge sheet were not quashed; no finding of guilt was returned.

Dipendra Shah v. State of Madhya Pradesh and Others, W.P. no. 21586/2023, 16/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (245) Prev Next

Headnote :- Transfer of criminal trial — The applicant sought transfer of the trial, alleging that the trial judge had wrongly applied parity in granting bail to three co-accused. The Sessions Judge rejected the application under Section 408 CrPC without giving reasons for the conclusion. Judicial orders must contain reasons, but an adverse bail order alone does not give rise to a reasonable apprehension of bias. An allegedly erroneous grant of bail must be challenged before a superior court; subsequent misuse of liberty may be raised before the court that granted bail. The applicant had not challenged the bail orders by seeking cancellation. The revision was dismissed, and the refusal to transfer the trial was affirmed on different grounds.

Case-note :- ***1. Facts :*** In Sessions Trial 92/2021 at Gohad, the presiding judge granted bail to Ramjilal, Prashant and Sushant Kaurav on parity with two persons whom the High Court had previously granted bail. The applicant contended that the three were not similarly situated and sought transfer under Section 408 CrPC. In his comments, the trial judge explained why he had applied parity and stated that he had no objection to transfer. The Sessions Judge, Bhind, rejected the request, referring to the absence of documentary proof and describing the allegations as baseless. The applicant challenged that order in revision under Sections 397 and 401.

2. Precedents — Considered : *Tutul Kumari Sen v. State of Jharkhand, (2009) 13 SCC 495*, was relied on for the principle that judicial orders must give

reasons; its quoted passage discusses *State of Orissa v. Dhaniram Luhar and State of Rajasthan v. Sohan Lal*. *Abdul Basit v. Mohd. Abdul Kadir Chaudhary, (2014) 10 SCC 745*, held that Section 362 bars the court that granted bail from reviewing that concluded order merely by entertaining a cancellation request. *Anupam Ghos v. Faiz Mohammad*, Transfer Petitions (C) 2331–2334/2021 (2 September 2022), disapproved transfer based merely on adverse judicial orders. *Usmangani Adambhai Vahora v. State of Gujarat, (2016) 3 SCC 370*, required a reasonable apprehension rather than speculative allegations. The quoted passage refers to *Gurcharan Das Chadha*, *Abdul Nazar Madani*, *Amarinder Singh*, *Lalu Prasad* and *Nahar Singh Yadav* as supporting authorities. The applicant relied on *Sikandar Singh Narvariya v. State of M.P. (4 October 2021)* and the Supreme Court's order in *Axay Kumar Dwivedi v. State of M.P. (26 November 2021)* on bail parity; the High Court did not decide whether parity had been correctly applied.

3. Statutes considered : CrPC Sections 397 and 401 (revision), 408 (transfer by the Sessions Judge), 439(2) (cancellation of bail) and 362 (bar on review of a concluded judgment or order). The judgment also reproduces the Supreme Court's discussion of Sections 406 and 407 on transfer jurisdiction and Article 21 on a fair trial.

4. Issues : Should the Sessions Judge's inadequately reasoned order be interfered with? Did the grant of bail to co-accused on an allegedly erroneous application of parity give rise to a reasonable apprehension of bias warranting transfer of the trial? Before which court should an allegedly erroneous grant of bail be challenged?

5. Ratio / Findings : The Sessions Judge should have given reasons for rejecting the transfer application. Reasons demonstrate application of mind and enable review. However, the applicant had not challenged the co-accused's bail orders, so the High Court could not determine whether the trial court had failed to consider relevant material when granting bail. Subsequent misuse of liberty may justify an application for cancellation before the same court. An allegedly erroneous initial grant must be challenged before a superior court; the court that granted bail cannot use cancellation as a means of reviewing its concluded order. Dissatisfaction with an adverse judicial order does not, by itself, justify transfer. The apprehension of bias must be reasonable in the circumstances. The trial judge's statement that he had no objection to transfer did not establish bias. The High Court did not decide that the underlying grants of bail were proper.

6. Relief : The Hon'ble High Court dismissed the revision and affirmed, on different grounds, the Sessions Judge's order dated 5 August 2022 refusing transfer.

Jagdish Singh Kaurav v. State of Madhya Pradesh and Others, Cr.R. no. 3364/2022, 19/09/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (246) Prev Next

Headnote :- POCSO, rape and age proof — The school admission register, proved through a school witness, recorded the prosecutrix's date of birth as 5 January 1997. She was therefore 16 years and nine months old at the time of the incident in October 2013. Although neither an admission form nor a birth certificate accompanied the register, the school record, made before the incident, had evidentiary value under Section 35 of the Evidence Act. The order of priority for age documents under Rule 12 of the 2007 JJ Rules also applied to a child victim. Her alleged consent was immaterial. The ten-year sentence of rigorous imprisonment under POCSO Section 4 and the convictions for rape and intimidation were affirmed. In considering sentence, the Court stated that ten years was the minimum for the charged offence under IPC Section 376(2)(i).

Case-note :- ***1. Facts :*** The prosecutrix stated that Jagdish caught hold of her, gagged her and raped her when she went to relieve herself on 17 October 2013. On seeing her parents return, he fled, pushed her mother and threatened death if the incident was reported. The family delayed reporting out of fear until her father spoke to a spiritual adviser. The trial court convicted the appellant under IPC Section 506 Part II and POCSO Section 4. It also recorded a conviction under IPC Section 376(1), without imposing a separate sentence for that offence. The defence contended that the prosecutrix was an adult and had consented, and questioned the source of the date of birth entered in the school register.

2. Precedents — Considered : The judgment reproduces a Supreme Court passage applying Rule 12 of the Juvenile Justice Rules to the determination of a victim's age and explaining the priority of age documents. *State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736*, explains the admissibility and corroborative value of school register entries under

Section 35. *Murugan v. State of Tamil Nadu, (2011) 6 SCC 111*, examines the probative value of birth records made before litigation and the sources of their entries; *Umesh Chandra*, *Radha Krishna Singh*, *Madan Mohan Singh* and other decisions are referred to in the quoted passage. *Mukarrab v. State of Uttar Pradesh, (2017) 2 SCC 210*, treats radiological age estimates as useful but inconclusive; *Anoop Singh* and *Babloo Pasi* are referred to in that quotation.

3. Statutes considered : POCSO Act Sections 3 and 4; IPC Sections 376(1), 376(2)(i) (the provision charged) and 506 Part II; Evidence Act Section 35; Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007; Section 68(1) of the Juvenile Justice Act, 2000; CrPC Section 374.

4. Issues : Was the prosecutrix under 18 on the date of the incident despite the absence of the admission form and the underlying birth certificate? Was her alleged consent material? Did the convictions and the ten-year sentence warrant appellate interference?

5. Ratio / Findings : School witness Santosh Sharma produced the admission register, which recorded the prosecutrix's date of birth as 5 January 1997, although he had initially stated it orally as 8 July 1997. The Court examined the register and found that she was 16 years and nine months old on 17 October 2013. A school register maintained in the discharge of official duty is admissible under Section 35, and this entry predated the offence. The documentary priorities in Rule 12 guided the determination of the victim's age; medical assessment is not conclusive. Her consent was therefore immaterial, and the Court did not consider it necessary to examine the factual allegation of consent at length. The accounts of the prosecutrix and her parents supported the intimidation conviction. The Court declined to reduce the ten-year custodial sentence to the period already undergone, referring to the minimum sentence for the charged offence under IPC Section 376(2)(i).

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the judgment and sentence dated 28 December 2015. This included ten years' rigorous imprisonment and a fine of ₹2,000, with two months' simple imprisonment in default, under Section 4 of the POCSO Act; three years' rigorous imprisonment under IPC Section 506 Part II; and the conviction under IPC Section 376(1), without a separate sentence. The appellant remained in jail.

Jagdish v. State of Madhya Pradesh, Cr.A. no. 31/2016, 09/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (247) Prev Next

Headnote :- Arms Act Section 25(1-B)(a) — Police recovered a pistol and two live cartridges from Jagdish, who had no licence. The seizure officer's additional roles as complainant and investigator did not, by themselves, invalidate the proceedings in the absence of demonstrated bias or a miscarriage of justice. The fact that independent seizure witnesses turned hostile did not require rejection of reliable police testimony. The defence had not put its objection about continuity of the seal to the armourer. The sanction order recorded that the District Magistrate had examined the seized arms. The concurrent conviction and the minimum sentence of one year's rigorous imprisonment were affirmed. The revision was dismissed, and the bail bonds were cancelled.

Case-note :- ***1. Facts :*** Acting on information received on 27 January 2010, Sub-Inspector K.N. Sharma and his team searched Jagdish at Chikali bus stand and recovered a pistol and two live cartridges. No licence was produced. An armourer examined the firearm, and the District Magistrate sanctioned prosecution. The trial court convicted Jagdish under Arms Act Section 25(1-B)(a) and sentenced him to one year's rigorous imprisonment and a fine of Rs 500. The conviction and sentence were affirmed in the first appeal. In revision, Jagdish contended that Sharma had acted as both complainant and investigator, that the independent seizure witnesses had not supported the prosecution, that the identity of the firearm sent to the armourer had not been proved, and that the sanction was invalid.

2. Precedents — Considered : *Raju Dubey v. State of M.P., 1998 (1) JLJ 236*, and *Megha Singh v. State of Haryana, AIR 1995 SC 2339*, were cited on the objection to the same officer acting as complainant and investigator. *State v. V. Jayapaul, AIR 2004 SC 2684*, treated *Megha Singh* as turning on its facts rather than laying down a categorical disqualification. *Anil alias Bhura v. State of M.P.*, Criminal Appeal 533/2017 (19 July 2017), required bias to be shown. *H.N. Rishbud v. State of Delhi, AIR 1955 SC 196*, and *Union of India v. Prakash P. Hinduja, AIR 2003 SC 2612*, explained that a defect in investigation does not, by itself, deprive the trial

court of jurisdiction; interference with a completed trial requires a miscarriage of justice. *Prabhu v. Emperor* and *Lumbhardar Zutshi v. The King* are referred to in the quoted passage from *Hinduja*.

3. Statutes considered : Arms Act Sections 25(1-B)(a) and 27, the latter having been charged but not forming part of the conviction affirmed in the disposition; the prosecution-sanction requirement under the Arms Act; CrPC Sections 397, 401, 161 and 190, with Sections 193 and 195–199 discussed in the quoted authorities; Section 5-A of the Prevention of Corruption Act, 1947, and IPC Sections 161, 165 and 165-A, referred to only by analogy in the precedents.

4. Issues : Did the same officer's roles as complainant and investigator vitiate the investigation and conviction? Did the hostile independent witnesses and the alleged gap in proof of sealing after the armourer's examination undermine proof of seizure? Was the sanction invalid on the ground that the District Magistrate had not seen the firearm? Did the sentence warrant reduction?

5. Ratio / Findings : No actual bias was shown merely because Sharma had acted as both complainant and investigator. Even an illegality in investigation does not automatically nullify cognizance or a completed trial without a resulting miscarriage of justice. Nothing else in his seizure testimony was shown to make it untrustworthy. A police witness must be assessed like any other witness, and reliable police evidence is not rejected merely because independent witnesses have turned hostile. The armourer had not been asked in cross-examination whether he had returned the firearm sealed; that criticism could not be accepted without giving him an opportunity to explain. Sanction Ex. P/4 recorded that the District Magistrate had viewed the seized arms. The witness had merely proved the Magistrate's sanction, and no question had been put to him suggesting that the Magistrate had not seen the arms. No perversity was shown in the concurrent findings of fact. The Court treated one year's rigorous imprisonment as the applicable statutory minimum.

6. Relief : The Hon'ble High Court dismissed the revision and affirmed the conviction, the sentence of one year's rigorous imprisonment and the fine of Rs 500 with default imprisonment. The applicant's bail and surety bonds were cancelled, and he was directed to surrender immediately to undergo the remaining sentence.

Jagdish v. State of Madhya Pradesh, Cr.R. no. 2926/2017, 01/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (248) Prev Next

Headnote :- Murder by unlawful assembly — A threat arising from a land dispute was followed by an assault on Lakhan by six appellants armed with sharp-edged and blunt weapons. Fatal brain injuries established that the death was homicidal. His nephew and a nearby dhaba owner saw the assault at close range, with the tractor lights on; his son and other witnesses saw the assailants flee in the light of the car's headlights. Relationship or employment did not, by itself, discredit witnesses whose presence was natural. The original allegation that a tractor had run over the victim was unsupported by medical evidence or testimony at trial. That embellishment did not require rejection of reliable evidence of the weapon assault. The attempt to obtain medical treatment explained the timing of the FIR. The convictions under IPC Sections 302/149 and 148 and the life sentences were affirmed.

Case-note :- ***1. Facts :*** On 7 December 2008, Rajesh Yadav threatened Lakhan Singh Raghuvanshi over possession of a field and the crops sown on it. Later, Lakhan and his nephew Mahavir went to inspect the field. The six appellants, Jagram, Vir Singh, Rajesh, Neeraj, Ranjit and Manoj, waylaid Lakhan and assaulted him with lathi, sabbal and farsa. Mahesh, the owner of a nearby dhaba, telephoned Lakhan's son Deependra. The family took Lakhan first to Badarwas and then to Shivpuri Hospital, where he was declared dead. The FIR was lodged at 00:40 on 8 December in Shivpuri and was transferred to Badarwas. The trial court imposed life imprisonment under IPC Section 302/149 and three months' imprisonment under Section 148. The appeal challenged the source of light, the evidence of related witnesses, the timing of the FIR and the seizure of the motorcycle, as well as the unsupported allegation that a tractor had run over Lakhan.

2. Precedents — Considered : *Ramesh v. State, (2010) 15 SCC 49*, concerned identification by rural witnesses in poor evening light. *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, addressed material contradictions and the assessment of reliable portions of evidence. *State of U.P. v. Kishanpal, (2008) 16 SCC 73*, and *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, explained the

distinction between related and interested witnesses and the relevance of their natural presence. *Dharamveer v. State of U.P., (2010) 4 SCC 469*, concerned eyewitnesses who had remained unharmed. *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, addressed the non-examination of other independent witnesses. *Sohrab v. State of M.P., (1972) 3 SCC 751*, and *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, concerned separating exaggeration from the credible substance of the evidence. *State of Rajasthan v. Kalki*, *Hari Obula Reddy*, *Kartik Malhar* and *Rana Partap* are referred to within the quoted Supreme Court passages.

3. Statutes considered : IPC Sections 302/149 and 148; Sections 147 and 341, referred to in the charge sheet; and the alternative charge under Section 302. CrPC Sections 374 and 161 were also considered. Evidence Act Sections 145 and 155 appear in the quoted precedent on contradictions.

4. Issues : Were the appellants reliably identified in darkness? Did kinship, employment, the absence of injuries to an eyewitness and the non-examination of customers undermine the eyewitness accounts? Did the circumstances of the rescue and the later recovery support the allegation of fabrication? Did the unsupported tractor-overrun allegation undermine the evidence of homicide?

5. Ratio / Findings : The post-mortem showed multiple deep incised wounds to the skull and brain injuries causing coma. The fatal injuries could not have been caused by a fall. Mahavir and Mahesh saw the assault from nearby, with the tractor lights on, while the approaching witnesses saw the appellants flee in the car's headlights. Neither Mahavir nor Mahesh could identify the weapon used by each appellant, and Mahesh could not attribute particular injuries to individual assailants. Kinship and employment explained the witnesses' presence and called for careful scrutiny rather than automatic rejection. The dhaba owner independently supported the account of the assault. Mahavir's lack of injuries did not disprove his presence. The urgency of obtaining treatment for a gravely injured person explained why the relatives passed the police stations and reported the matter at Shivpuri. The allegation in the FIR and Section 161 statements that a tractor had run over Lakhan was neither repeated in court nor supported by the medical evidence. The Court discarded that allegation but accepted the consistently proved assault with weapons. The later recovery of the motorcycle was not decisive. The credible evidence of the appellants' collective armed assault established guilt beyond reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the sentences of life imprisonment with a fine of Rs 2,000 under IPC Section 302/149 and three months' rigorous imprisonment under Section 148. No default imprisonment was imposed for the fine. Manoj's bail bonds were cancelled, and he was directed to surrender immediately before the trial court to undergo the remaining sentence. The other appellants remained in custody to serve their remaining sentences.

Jagram and Others v. State of Madhya Pradesh, Cr.A. no. 790/2009, 29/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (249) Prev Next

Headnote :- Section 482 CrPC, matrimonial cruelty — The wife alleged that her husband demanded Rs 6 lakh and a car, that her parents-in-law assaulted and mistreated her, and that she was forcibly given pills and confined in a room before being hospitalised. A defence CD, said to show her relationship with another man, could not be relied on to quash the proceedings. The police had checked that the transcript corresponded with the recording, but had verified neither her voice nor the recording's authenticity; the check was conducted in her absence. The specific allegations against the husband and parents-in-law raised issues for trial. The younger brother-in-law faced only general allegations of telephone abuse and threats, without any specific instance or personal act being alleged. The FIR and proceedings were quashed only against him; the other applicants' petition was dismissed.

Case-note :- ***1. Facts :*** Following her marriage in May 2020, the wife alleged demands for Rs 6 lakh and a car, pressure from her husband to divorce him, abuse and assault by his parents, threats, and an attempt by her husband to strangulate her. She stated that her mother-in-law forcibly administered pills on 19 February 2021. Her husband and mother-in-law then locked her in a room, where she vomited. Her father-in-law later took her to hospital. She also alleged that her younger brother-in-law, Rajdeep, abused and threatened her by telephone. The four family members sought quashing of FIR 92/2021. The husband produced a CD of an alleged

conversation between the wife and another man; the police verified that the transcript matched the CD.

2. Precedents — Considered : On the limited scope of quashing and the treatment of disputed defence material, the Court referred to *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686;* and *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021. It also cited *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* on the same limits. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, concerned allegations of cruelty by parents-in-law that required trial. *Kans Raj v. State of Punjab, (2000) 5 SCC 207; Monju Roy v. State of W.B., (2015) 13 SCC 693;* and *Chandralekha v. State of Rajasthan* were cited on the need for specific material against relatives. *Bhajan Lal* and other authorities are referred to within the quoted passages.

3. Statutes considered : CrPC Sections 482 and 161; IPC Sections 498-A and 34; Dowry Prohibition Act Section 4. The discussion of the explanation to Section 498-A addressed danger to life, limb or health and harassment to secure an unlawful demand for property.

4. Issues : Could the CD and the transcript check conducted in the wife's absence defeat her allegations at the quashing stage? Did the specific allegations against the husband and parents-in-law disclose an offence requiring trial? Were the undated allegations of telephone abuse sufficient to proceed against the younger brother-in-law?

5. Ratio / Findings : Section 482 permits quashing where the uncontroverted allegations do not disclose an offence, but does not permit a roving examination of a disputed defence. The police report checked only whether the words in the transcript matched the CD. It did not verify the complainant's voice or establish that the recording had not been altered, and the check took place in the husband's presence without the wife. The CD was therefore not accepted as a basis for quashing, although liberty was granted to prove it at trial. The husband faced direct allegations of dowry demands and violence. The parents-in-law were accused of specific acts during his absence and in connection with the pills and confinement. Those allegations raised questions for trial. The allegations of telephone abuse and threats against Rajdeep gave no dates or specific incidents and alleged no personal act of cruelty. In those circumstances, proceeding against him was an abuse of process. No final finding of guilt was made against the other three applicants.

6. Relief : The Hon'ble High Court dismissed the petition of the husband, Jaideep, and his parents, Ramshanker and Urmila; their prosecution was to continue. The FIR and criminal proceedings were quashed only against the younger brother-in-law, Rajdeep.

Jaideep Raghuwanshi and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 26385/2021, 03/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (250) Prev Next

Headnote :- Speedy trial and prosecutorial accountability — In his tenth NDPS bail application, an accused arrested in 2018 showed that police witnesses continued to remain absent despite service and a June 2020 order awarding Rs 20,000 for earlier delay. The High Court found a continuing violation of his fundamental right to a speedy trial. It directed payment of Rs 50,000 compensation within fifteen days, recovery from the salary of the Superintendent of Police, Bhind, departmental inquiries and compliance reports. It also directed a day-to-day trial to be completed within three months. The application was disposed of without an express direction to release the applicant on bail. The trial history separately identified adjournments caused by COVID-related restrictions.

Case-note :- ***1. Facts :*** Jaipal was arrested on 5 January 2018 in an NDPS case in which 520 g of opium was allegedly recovered from him and 21.57 kg of ganja from a co-accused travelling in the same car. His ninth bail application was withdrawn. In June 2020, the High Court had ordered payment of Rs 20,000 compensation for the non-appearance of police witnesses, with liberty to recover the amount from the salaries of two inspectors. The tenth application under Section 439 relied on trial order sheets showing dates affected by pandemic restrictions and the eventual examination of two police witnesses. Sub-Inspector Vinod Chhawai and

other witnesses, however, had failed to appear despite service, and one bailable warrant had not been returned. The Court noted that the order sheet dated 24 August 2021 had not been produced.

2. Precedents — Considered : *Jaipal Singh v. State of M.P.*, MCRC 10547/2020 (25 June 2020), was the earlier order in the same prosecution awarding Rs 20,000 for violation of the right to a speedy trial. The Court expressly revisited that order.

3. Statutes considered : CrPC Section 439; NDPS Act Sections 8 and 20; the fundamental right to a speedy trial. The operative directions addressed service of summons and bailable warrants, recovery from salary and departmental inquiries.

4. Issues : Did the delay following the 2020 compensation order establish a continuing denial of the right to a speedy trial? How should the attendance of police witnesses and accountability for defaults be secured? What relief should be granted on the renewed bail application?

5. Ratio / Findings : The Court distinguished pandemic-related adjournments from the unjustified absence of police witnesses who had been served and the failure to return process. The prosecution's duty does not end with filing the charge sheet; it must ensure the regular attendance of witnesses. The State was continuing to violate the applicant's fundamental right to a speedy trial, and the earlier compensation order had not changed its conduct. The Superintendent of Police had failed to ensure the attendance of police witnesses. The Court directed personal monitoring, inquiries and further compensation, together with a firm trial schedule. The application was disposed of with these directions, without an operative order releasing the applicant on bail. The Court also sought a compliance report on whether the earlier Rs 20,000 had been paid, recovered from salary and recorded in the service books.

6. Relief : The Hon'ble High Court disposed of the tenth regular bail application with directions. The State was to pay Rs 50,000 within fifteen days, with recovery from the salary of the Superintendent of Police, Bhind. Departmental inquiries against Sub-Inspector Vinod and the defaulting process server were to be initiated within the same period. The Superintendent of Police was also to report within two weeks whether the earlier Rs 20,000 had been paid, recovered and recorded in the service books. The Inspector General of Police, Chambal Range, was to submit a compliance report by 4 October 2021, file an affidavit about salary recovery and place copies of the disciplinary charge sheets on record. The trial was to proceed from day to day and conclude within three months of receipt of a certified or soft copy of the order. The Superintendent of Police was personally responsible for securing witness attendance; any request for exemption had to be supported by his affidavit giving reasons.

Jaipal Singh v. State of Madhya Pradesh, M.Cr.C. no. 42352/2021, 14/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (251) Prev Next

Headnote :- Article 21 speedy trial and NDPS bail — In his eighth application under Section 439, the applicant showed that police inspectors had repeatedly failed to attend despite summons and warrants, and that process had often not been returned. He remained in custody without progress in the trial. The State cannot secure bail for an accused through the dereliction of its own witnesses, but it cannot disregard his constitutional right to a speedy trial. In view of the allegations and the suspension of normal court functioning during COVID-19, the High Court dismissed the bail application. It nevertheless awarded Rs 20,000 compensation, payable by the State within thirty days and recoverable from the salaries of two inspectors, and directed that copies of the order be placed in their service books.

Case-note :- ***1. Facts :*** Jaipal had been in custody since 5 January 2018 for offences under NDPS Sections 8/20. His earlier bail application on the ground of delay had been rejected because he had not produced the trial order sheets. With his eighth application, he produced order sheets from March 2019 to February 2020. They recorded repeated non-return of summons, bailable warrants and arrest warrants issued for Inspectors Rekhapal and Ram Naresh Yadav, as well as their failure to attend even after service. The preliminary inquiry report submitted to the Superintendent of Police found their explanations unsatisfactory, and each inspector was fined Rs 5,000. They appeared before the trial court on 20 March 2020 only after the case had been adjourned. Normal court functioning was subsequently affected by COVID-19. The Court examined the earlier delay attributable to the police independently of that suspension.

2. Precedents — Considered : *Hussainara Khatoon v. Home Secretary, State of Bihar, (1980) 1 SCC 98; Sheela Barse v. Union of India, (1986) 3 SCC 632*; *Supreme Court Legal Aid Committee (Representing Undertrial Prisoners) v. Union of India, (1994) 6 SCC 731;* and *Kartar Singh v. State of Punjab, (1994) 3 SCC 569*, were considered on the right to a speedy trial under Article 21 and remedies for delay. *Rudul Shah v. State of Bihar, AIR 1983 SC 1086; Bhim Singh v. State of J&K, AIR 1986 SC 494;* and *D.K. Basu v. State of W.B., AIR 1997 SC 610*, were considered on public-law compensation and State accountability. *Sebastian M. Hongray, Saheli, Nilabati Behera* and *Nambi Narayan* were also cited. The foreign decisions appear within the quotation from *Hussainara Khatoon*.

3. Statutes considered : Article 21 of the Constitution; Article 14, noted in the quotation from *Supreme Court Legal Aid Committee*; CrPC Sections 439 and 309; and NDPS Act Sections 8 and 20. The Police Headquarters circular dated 30 March 2019, requiring daily monitoring of process service by a gazetted officer, was also considered.

4. Issues : Did the repeated failure of police witnesses to attend violate the undertrial's right to a speedy trial? Did the prosecution's own default justify bail? Could compensation and officer accountability be ordered despite dismissal of the bail application?

5. Ratio / Findings : The police witnesses repeatedly failed to attend and did not seek exemption on reasonable grounds. Process was not reliably served or returned, and both the witnesses and the supervising officer disregarded the requirements of the trial. The right to a speedy trial is integral to Article 21. Bona fide delay beyond the prosecution's control may justify consideration of bail, but the State cannot create delay through the indifference of its officers and thereby become an instrument for securing bail. The violation of the applicant's fundamental right nevertheless warranted monetary compensation. The State cannot claim sovereign immunity for a violation of fundamental rights and may recover the compensation from the responsible officers.

6. Relief : The Hon'ble High Court dismissed the eighth application for regular bail in view of the allegations and the suspension of normal court functioning during COVID-19. It expected the prosecution to produce the remaining witnesses without default once normal functioning resumed. The State was directed to credit Rs 20,000 to the applicant's bank account within thirty days and recover that amount from the salaries of the two inspectors. The Superintendent of Police was to ensure payment. Copies of the order were to be sent to the senior authorities and placed in the inspectors' service books.

Jaipal Singh v. State of Madhya Pradesh, M.Cr.C. no. 10547/2020, 25/06/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (252) Prev Next

Headnote :- Patwari bribery trap — An applicant for mutation alleged that the Patwari demanded Rs 900 for three sale deeds. The Patwari admitted receiving the tainted notes but claimed that the money was repayment of a Rs 1,100 loan. The complainant denied executing the photocopied acknowledgment. The original document was not produced, the attesting witnesses were not examined, and a copy was given to an investigator only a year after the trap. The Court found demand and acceptance proved and applied the presumption under Section 20 of the Prevention of Corruption Act. It affirmed the convictions under Sections 7 and 13(1)(d)/13(2). The lapse of thirty-four years and the appellant's advanced age did not justify a sentence below the one-year minimum which the Court held applicable under Section 13(2) in 1990.

Case-note :- ***1. Facts :*** In 1990, Mardan Singh sought mutation of 5.2 acres purchased under three sale deeds. The Tahsildar directed that the applications be handed to Patwari Jaishanker, who allegedly demanded Rs 300 for each deed. For the Lokayukt trap, currency notes totalling Rs 900 were treated with powder and their serial numbers recorded. On 15 June 1990, Jaishanker received the notes and placed them under a register. His finger wash turned pink. In 1999, the trial court imposed concurrent sentences of one year's rigorous imprisonment and fines of Rs 1,000 under Sections 7 and 13(1)(d)/13(2) of the Prevention of Corruption Act. On appeal, he claimed that the money was repayment of a Rs 1,100 loan to the complainant. He also sought leniency on the ground that he was over 76 years old and 34 years had elapsed.

2. Precedents — Considered : *B.G. Goswami v. Delhi Administration, (1974) 3 SCC 85*, was cited in support of reducing the sentence because of the passage of time. The High Court distinguished the

statutory provisions considered in that case. It held that one year was the minimum sentence under Section 13(2) as applicable in 1990 and that it could not impose a shorter sentence.

3. Statutes considered : Prevention of Corruption Act, 1988, Sections 7, 13(1)(d) and 13(2), as applicable on 15 June 1990; the presumption under Section 20; and CrPC Section 374(2). The passage quoted from *B.G. Goswami* discusses IPC Section 161 and Section 5 of the earlier Prevention of Corruption Act; those provisions were not the charges in this appeal.

4. Issues : Was the tainted money repayment of a loan rather than a bribe demanded by the appellant? Did the photocopied acknowledgment and the vendor's testimony rebut the statutory presumption? Did the appellant's age and the extraordinary delay in the appeal justify a sentence below the statutory minimum?

5. Ratio / Findings : The complainant denied the loan, his signatures and execution of the document. Although execution was denied, the photocopy had been marked as an exhibit. Neither the original document nor the attesting witnesses were produced. Vendor Bhagwatsharan supported the loan explanation in cross-examination but had not mentioned it in his police statement. His evidence nevertheless confirmed that the mutation applications reached the appellant. The claim that the acknowledgment had been supplied to the investigator immediately after the trap was rejected: that investigator took over the investigation only a year later. The appellant admitted receiving the money but failed to establish his loan-repayment defence. The Court found demand and acceptance proved and applied the presumption under Section 20. The trap evidence included treated notes, their recovery and a pink finger wash. The Court declined to apply *Goswami* to reduce the sentence below what it held to be the one-year minimum under Section 13(2) as applicable in 1990.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed both convictions, the concurrent sentences of one year's rigorous imprisonment and the fines of Rs 1,000 each. The affirmed sentences also carried three months' rigorous imprisonment in default of payment of each fine. The appellant's bail bonds were cancelled. He was directed to surrender by 30 August 2024, failing which the trial court was free to issue a warrant of arrest.

Jaishanker Tiwari v. State of Madhya Pradesh, Cr.A. no. 1241/1999, 06/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (253) Prev Next

Headnote :- Holi procession dispute, common object — An armed group returned after an objection to indecent songs. Members of the lathi group assaulted Sarro bai. Gautam separately fired the fatal shot at Jeetu, while Jandel, Dilip and Vijay fired at Moti Khan. The allegation that all the accused had exhorted Gautam to kill was a material improvement. The initial common object of teaching a lesson did not establish that the lathi group shared the later object of killing or attempting to kill after the assembly dispersed to different places. The murder, attempt-to-murder and rioting convictions of the three surviving members of that group were set aside; their hurt and endangerment convictions were retained. The firearm group's conduct supported its murder and attempt-to-murder convictions. Defects in the spot map and the absence of a ballistic link did not displace credible eyewitness evidence. The appeals were partly allowed.

Case-note :- ***1. Facts :*** During Holi on 21 March 2011, Jeetu objected to indecent songs outside his family home. About half an hour later, a group returned with five guns and four lathis, hurled abuses and pelted stones. Hakim son of Nathu dragged Jeetu's mother, Sarro bai, and Hakim son of Dilip and Laxman beat her. Gautam shot Jeetu in the head from near Ram Janaki Temple. Jandel, Dilip, Vijay and Devi Singh allegedly fired at Jeetu's father, Moti Khan, from the Ganesh Temple side, but missed him. The trial court sentenced Gautam and six other surviving appellants to life imprisonment for murder, along with sentences for attempt to murder, hurt, rioting and endangerment; Jandel was also convicted under the Arms Act. Devi Singh and Laxman died during the appeal, and their appeals abated.

2. Precedents — Considered : *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, and *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, were considered on the relationship between eyewitness and medical evidence. *Manjit Singh v. State of Punjab, (2019) 8 SCC 529*, and *Sukhan Raut v. State of Bihar, (2001) 10 SCC 284*, were considered on common object under Section 149 and the need for caution before imposing collective liability. *Sikandar Singh, Masalti* and *Subal Ghorai* are

discussed within the passage quoted from *Manjit Singh*. *Bhagwan Singh v. State of M.P.*, (2002) 4 SCC 85, and *State of M.P. v. Mansingh*, (2003) 10 SCC 414, were considered in rejecting the challenge based on the omission of an eyewitness's name from the FIR. *In Ref (Suo Moto) v. Manoj*, CRRFC 8/2019 (23 July 2021), concerned investigation alongside the duty to maintain law and order. *Kundula Bala Subrahmanyam v. State of A.P., (1993) 2 SCC 684*, and *Amrik Singh v. State of Rajasthan, (1994) 1 SCC 563*, were considered on absconding as corroborative but not conclusive evidence. *Rakesh v. State of U.P., (2021) 7 SCC 188; Gulab v. State of U.P.*, Criminal Appeal 81/2021; and *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, were considered on non-recovery or mismatch of weapons where reliable direct evidence was available. Further authorities appear within the lengthy Supreme Court quotations.

3. Statutes considered : IPC Sections 141, 142, 148, 149, 302, 307, 323 and 336; Arms Act Sections 25(1-B)(a) and 27 in relation to Jandel; and CrPC Section 313. The charge-sheet also referred to IPC Sections 147, 324 and 201 and Arms Act Section 30, but no final conviction was recorded under those provisions.

4. Issues : Did all the members share a continuing common object to kill Jeetu and attempt to murder Moti Khan across the three locations? Was the eyewitness account of the firearm attacks reliable despite the changed account of exhortation, the deficient spot map and inconclusive firearm matching? How should the convictions be allocated between the lathi and firearm groups?

5. Ratio / Findings : Sarro bai's injuries were consistent with lathi blows even though one scalp wound appeared incised. The allegation that all the accused had exhorted Gautam to kill was absent from the earliest report and prior statements and was rejected as an improvement. The initial common object was to confront or teach a lesson. The lathi group's acts ended with the assault on Sarro bai at a different location. On these facts, arriving with the gunmen did not establish that the lathi group shared, or knew of, the later object of killing Jeetu and attempting to kill Moti Khan. The specific allegation that Kalu struck Sarro bai was not considered reliable, although his participation in abusing and pelting stones was established. Gautam's fatal shot from close range was proved. His unexplained absconding was relevant alongside the other evidence, and the deliberately cut firing pin indicated a guilty mind. The other gunmen fired at Moti Khan after Jeetu had been killed; their conduct supported the finding of a common lethal object at that stage. The crowd had impeded precise preparation of the spot map. Failure to connect the recovered weapons, or non-recovery of the actual weapon, did not displace reliable eyewitness testimony. Ballu Singh's evidence was not rendered unreliable merely because his name was absent from the FIR: there was no requirement to name every witness, and he had seen the incident from his nearby house. Jandel's separate convictions under Arms Act Sections 25(1-B)(a) and 27 were retained.

6. Relief : The Hon'ble High Court acquitted Hakim son of Nathu, Hakim son of Dilip and Kalu under IPC Sections 302/149, 307/149 and 148, while retaining their convictions under Sections 323 and 336. They had served those sentences, and their bail bonds were discharged. Gautam, Jandel, Vijay and Dilip were acquitted under Section 323/149. Gautam's convictions under Sections 302, 307/149, 148 and 336 were retained. Jandel's, Dilip's and Vijay's convictions under Sections 302/149, 307, 148 and 336 were retained, as were Jandel's convictions under Arms Act Sections 25(1-B)(a) and 27. The sentences for the retained convictions were maintained and were to run concurrently. Compensation of Rs 25,000 to Jeetu's family and Rs 2,000 to Sarro bai, payable out of the fines, was preserved. The bail bonds of Jandel, Dilip and Vijay were cancelled, and they were directed to undergo the remaining sentences. Gautam, already in custody, was also to undergo his remaining sentence. The appeals were allowed in part.

Jandel Singh and Others v. State of Madhya Pradesh, Cr.A. no. 497/2012 & 494/2012 & 500/2012, 01/11/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Milind Ramesh Phadke, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (254) Prev Next

Headnote :- POCSO sexual assault and witness proof — The school register established the prosecutrix's date of birth as 11 September 2001 and that she was a minor on 5 May 2016. She testified that Jaswant caught her hand with sexual intent and insisted that she accompany him. Her alarm brought her mother and others to the spot, and the FIR was promptly lodged. Independent evidence from neighbours was not essential when her account was reliable, and her mother's relationship to her was not

a ground for rejecting that evidence. Allegations of stalking, demands for photographs and a mobile number, and threats had not appeared in the earlier statements. The Court nevertheless found that the central allegation of catching her hand remained intact. It affirmed the convictions and sentence under IPC Sections 354, 354-A and 354-D(i) and POCSO Sections 7/8 and 11/12.

Case-note :- ***1. Facts :*** On 5 May 2016, a girl standing at the entrance to her home alleged that Jaswant caught her hand with improper intent and told her to accompany him. She shouted, and he fled when her mother and neighbours arrived. The trial court convicted him under IPC Sections 354-D(i), 354 and 354-A and POCSO Sections 7/8 and 11(i), 11(iv)/12. It imposed three years' rigorous imprisonment and a fine of Rs 3,000 under Section 8, and two years' rigorous imprisonment and a fine of Rs 2,000 for each of the offences under IPC Sections 354-A and 354-D(i). No separate sentence was imposed under Section 354. During the appeal, he failed to attend before the Registry after being released on bail. An experienced amicus curiae was appointed and argued the appeal. The defence contended that the prosecutrix's evidence lacked independent corroboration.

2. Precedents — Considered : The Court assessed witness credibility and proof of age from the trial record.

3. Statutes considered : IPC Sections 354, 354-A and 354-D(i); POCSO Act Sections 7, 8, 11(i), 11(iv) and 12; Evidence Act Section 35; CrPC Sections 161, 164 and 374(2).

4. Issues : Did the school record establish that the prosecutrix was a child? Could her evidence sustain the conviction without independent evidence from neighbours? Did the omissions concerning stalking and threats in the earlier statements make the principal incident unreliable? Did the sentence call for interference?

5. Ratio / Findings : School witness Vandana Sharma proved the admission register and the Headmaster's certificate recording the prosecutrix's date of birth as 11 September 2001. Her evidence was not materially shaken. The official entry was relevant under Section 35 and established that the prosecutrix was a minor on 5 May 2016. Her direct account that the appellant caught her hand with sexual intent remained intact. Her mother's immediate arrival and the prompt FIR supported that account; their relationship alone did not justify rejecting the mother's evidence. The prosecutrix admitted that stalking was not mentioned in the FIR or her statements under Sections 161 and 164. Demands for photographs and a mobile number, and the threat to her brother, were absent from the FIR and the Section 164 statement. The Court held that these omissions did not undermine the consistent allegation of catching her hand and affirmed all the convictions, including those for stalking and sexual harassment. It declined to interfere with the sentence, referring to the increasing number of similar offences and the security of girls in society.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and sentences dated 30 January 2017. The appellant's bail bonds were cancelled, and he was directed to surrender immediately before the trial court to undergo the sentence.

Jaswant v. State of Madhya Pradesh, Cr.A. no. 256/2017, 16/12/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (255) Prev Next

Headnote :- Police inaction / FIR / alternative remedy - The Court applied *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*: the police must register information disclosing a cognizable offence, but an informant complaining of their failure should follow the Magistrate complaint procedure under CrPC Sections 190/200. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, explains that intervention under Article 226 for mala fide investigation and clear abuse of process is exceptional; even then, the High Court cannot direct how the police are to investigate. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, were followed on recourse under Sections 154(3) and 156(3), including the Magistrate's power to monitor proper investigation. The application under BNSS Section 528, in which the applicant alleged that no FIR had been registered, was dismissed as not maintainable. Liberty was granted to approach the Magistrate under CrPC Section 200 / BNSS Section 223. The merits of the alleged offence were not determined.

Case-note :- ***1. Facts :*** Jaswinder Singh applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which the order identified as corresponding to Section 482 CrPC. The prayer

sought a direction to complete the investigation within two months. His counsel, however, submitted that the police had not registered an FIR despite his complaint. The State opposed the application and relied on the remedy of a complaint before the Magistrate. The High Court considered the proper procedure when the police fail to register information about a cognizable offence; it did not decide the merits of the complaint.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the police duty to register information disclosing a cognizable offence from the informant's remedy if that duty is not performed. An aggrieved person may complain to the Magistrate under CrPC Sections 190/200. The High Court applied that distinction in declining a direct order to the police to register the offence. The quoted passage discusses *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh*, *Minu Kumari* and *Ramesh Kumari*. It distinguishes the question of police duty in *Ramesh Kumari* from the procedure available to an aggrieved informant.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, recognises exceptional directions under Article 226 where mala fide investigation and clear abuse of the powers under Chapter XII are shown. Even then, the High Court cannot direct how the police are to investigate, although it may insist on compliance with the prescribed process. For ordinary police inaction, the decision points to the Magistrate procedure. The High Court quoted these limits in dismissing the application, without making a finding of exceptional abuse.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, explains that an aggrieved person should first make a written application to the Superintendent of Police under Section 154(3). If the FIR is still not registered, or a registered case is not properly investigated, recourse lies to the Magistrate under Section 156(3), who may also monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterates the Section 156(3) remedy in place of routine High Court writ petitions. If prima facie satisfied, the Magistrate may direct registration or proper investigation and monitor it, but cannot investigate personally. The High Court relied on these decisions in requiring use of the alternative remedy. The *Division Bench* decision in *Shweta Bhadauria v. State of M.P.*, W.A. 247/2016 (20 December 2016), holds that mandamus may be denied where statutory remedies have not been used, subject to the recognised exceptions referred to in *Whirlpool Corporation*. It distinguishes *Lalita Kumari*'s ruling on the duty to register an FIR from entitlement to a writ. The Court adopted that principle on maintainability.

3. Statutes considered : BNSS Section 528 (inherent power) and Section 223 (Magistrate complaint route, as stated by the Court); CrPC Sections 482, 154, 154(3), 156(3), 190 and 200 (the judgment quotes older-code precedents); Constitution Article 226 (exceptional writ intervention); Chapter XII and Chapter XV of CrPC in quoted Supreme Court passages. The quoted authorities use CrPC provisions, and the Court's express liberty refers to Section 200 CrPC / Section 223 BNSS.

4. Issues : Could an application invoking inherent powers to direct completion of an investigation be maintained when the applicant also asserted that no FIR had been registered, or should he use the available Magistrate procedures? The Court did not determine whether the underlying complaint disclosed a cognizable offence or whether an investigation had actually begun.

5. Ratio / Findings : The duty to register information disclosing a cognizable offence rests on the police. Their failure to perform that duty does not ordinarily permit an informant to bypass statutory recourse to the Magistrate. The authorities provide for a complaint before the Magistrate and for the Magistrate to secure registration and proper investigation where prima facie satisfied. The Magistrate may monitor the investigation but cannot investigate personally. Article 226 intervention remains available in a clear exceptional case of mala fide investigation and abuse of process. The present order made no finding of such exceptional abuse; it held the Section 528 application not maintainable because the alternative remedy was available. The merits of the complaint were not determined.

6. Relief : The Hon'ble High Court dismissed the application as not maintainable, with liberty to approach the concerned Magistrate under CrPC Section 200 / BNSS Section 223. It did not issue the requested direction to complete the investigation within two months.

Jaswinder Singh v. State of Madhya Pradesh and Others, M.Cr.C. no. 1724/2025, 20/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (256) Prev Next

Headnote :- Muslim Women (Protection of Rights on Marriage) Act, 2019 / Section 2(c) / written talaq - In proceedings under Section 482 CrPC, the Court considered a registered-post notice treated as talaq-e-ahsan. It stated that the divorce would become final after three menstrual cycles unless the wife returned during iddah. Reading that condition in light of the 2019 Act's protective purpose, the Court held that this particular notice was in the nature of instantaneous talaq: the husband had already expressed an intention to grant an irrevocable divorce and had put pressure on the wife to return. Its label and deferred operation did not take the applicant's case outside the statutory prohibition. Counsel had relied on *Saheer v. State of Kerala*, Crl.MC 3632/2023 (13 November 2023), concerning a recognised form of divorce. The Court examined the notice's actual terms and the separate allegation of a later oral triple pronouncement.

Muslim Women (Protection of Rights on Marriage) Act / subsequent oral talaq - Before the notice became operative, the husband allegedly pronounced talaq three times at the wife's parental home. On the FIR allegations, that separately disclosed an offence under Sections 3 and 4. The Court therefore refused to quash the proceedings without finally determining the facts.

Case-note :- ***1. Facts :*** Javed Naseem and the respondent wife married on 21 April 2017. In her FIR dated 23 December 2023, she alleged that he had sent self-signed talaknamas on 9 October 2022 and 29 January 2023, and that the divorce was prompted by an unmet dowry demand and the birth of a daughter. She further alleged that he visited her parental home on 25 February 2023 and pronounced triple talaq in the presence of family members, witnesses and a neighbour. The FIR also referred to a July 2023 fatwa and named the mother-in-law, sister-in-law and attesting witnesses. Javed alone applied under CrPC Section 482 to quash FIR Crime 338/2023 and the consequential proceedings. The defence said that the notice sent by registered post on 30 January 2023 was a recognised, revocable talaq-e-ahsan, which would become operative only after three menstrual cycles. The Court examined its actual text and the allegation of a subsequent oral pronouncement.

2. Precedents — Considered : The applicant's counsel relied on *Saheer v. State of Kerala*, Crl.MC 3632/2023 (13 November 2023), to contend that a recognised form of talaq falls outside the criminal prohibition and may justify quashing. The deciding Court examined the statutory definition, the words of this notice and the separate allegation of a triple pronouncement.

3. Statutes considered : Muslim Women (Protection of Rights on Marriage) Act, 2019, Section 2(c), defining talaq as talaq-e-biddat or a similar form having instantaneous and irrevocable effect; Section 3, declaring a Muslim husband's pronouncement of such talaq to his wife, by spoken, written, electronic or other means, void and illegal; and Section 4, prescribing imprisonment up to three years and fine. CrPC Section 482 governed the quashing application. The Court referred to the Act's purpose of protecting married Muslim women. The individual liability of the other persons named in the FIR was not determined.

4. Issues : Did the registered-post notice's conditional revocability and delayed operation take it outside Section 2(c), as counsel contended? Did the alleged oral triple talaq before that period expired nevertheless disclose an offence? Should the FIR be quashed at this preliminary stage? The truth of the allegations and the culpability of the other persons were not tried.

5. Ratio / Findings : The Court distinguished immediately operative talaq-e-biddat from talaq-e-ahsan, which it described as revocable during iddah and operative after three menstrual cycles. Paragraph 18 of the notice stated that the divorce would become absolute unless the wife returned within that period. The Court reasoned that the husband had already expressed an intention to grant an irrevocable divorce and had made its avoidance conditional on her return, thereby putting pressure on her. It held that this particular notice fell within Section 2(c), despite its stated form and deferred operation. Independently, the wife alleged that the husband came to her parental home and pronounced talaq three times on 25 February 2023, before the written notice became operative. On the FIR allegations, that disclosed an offence involving prohibited talaq-e-biddat. The Court was deciding whether to quash the proceedings and made no final finding of guilt. Its conclusion concerned this conditional notice and the

subsequent oral pronouncement alleged in this case. It held that the notice's condition did not take the applicant's case outside Section 2(c).

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The FIR and consequential proceedings were not quashed. It made no final determination of guilt or of the individual liability of the other accused persons.

Javed Naseem v. State of Madhya Pradesh and Others, M.Cr.C. no. 8056/2024, 20/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (257) Prev Next

Headnote :- Seized arms / production and identity - In *State of Rajasthan v. Sahi Ram, (2019) 10 SCC 649*, the Supreme Court explained that nonproduction of NDPS contraband was not the sole ground for acquittal in *Vijay Jain*, *Jitendra*, *Ashok* or *Vijay Pandey*. Failures to prove seizure or to link the seized material with the tested sample were also relevant. Applying that distinction in this Arms Act prosecution, the High Court rejected the contention that nonproduction automatically required acquittal. It also noted that the officer had identified the pistol and cartridges as trial exhibits.

Investigation / informant as investigating officer - In *Mukesh Singh v. State (Narcotic Branch of Delhi), 2020:INSC:524*, the Supreme Court confined earlier contrary observations to their facts and overruled the automatic-disqualification rule in *Mohan Lal*. Whether the informant's role as investigating officer caused bias or prejudice depends on the facts of each case. Applying that principle, the High Court held that the officer's dual role did not by itself vitiate the investigation.

Arms Act Section 25(1B)(a) / sanction and revision - The firearm was produced before the Collector in a sealed condition for sanction. Nonproduction of the Malkhana register did not show that the concurrent findings of recovery were perverse. The conviction and one-year sentence were upheld, and the revision was dismissed.

Case-note :- ***1. Facts :*** Acting on information received on 15 September 2018, Head Constable Rakesh Shivhare and his party went to the Haddi Mill area, Guna. A person who fled on seeing the police was apprehended. A 0.32 bore country-made pistol and two live cartridges were allegedly seized from him without a licence. After ballistic examination and sanction by the Collector, the Magistrate convicted him under Arms Act Section 25(1B)(a) and sentenced him to one year's rigorous imprisonment and a fine of Rs 500, with one month's rigorous imprisonment in default of payment. His first appeal was dismissed. In revision, he contended that the informant had himself investigated the case, the Malkhana register had not been produced, and the seized articles had not been produced.

2. Precedents — Considered : *State of Rajasthan v. Sahi Ram, (2019) 10 SCC 649*, was applied to determine the consequence of failing to produce seized material in court. It explained that *Vijay Jain v. State of M.P., (2013) 14 SCC 527*, involved both nonproduction of the contraband and failure to establish its seizure. In *Jitendra v. State of M.P., (2004) 10 SCC 562*, the panch witnesses had turned hostile and cogent proof of seizure was lacking. In *Ashok v. State of M.P., (2011) 5 SCC 123*, there was also no explanation of where the substance had been kept or evidence connecting the forensic report with the seized substance. *Vijay Pandey v. State of U.P., (2019) 18 SCC 215*, involved failure to link the seized sample with the tested sample. *Sahi Ram* thus held that nonproduction alone was not a ground for automatic acquittal. The High Court applied that principle and also found that the firearm said to be missing had in fact been identified as an exhibit. *Noor Aga* was referred to within the passage from *Vijay Jain* concerning samples under Section 52A of the NDPS Act; that sample procedure was not applied as a separate Arms Act requirement.

In *Mukesh Singh v. State (Narcotic Branch of Delhi), 2020:INSC:524*, the Supreme Court answered a reference by holding that the informant and investigator being the same person does not by itself establish bias. Bias or prejudice must be assessed on the facts of each case. It confined *Bhagwan Singh*, *Megha Singh* and *Rajangam* to their facts and expressly overruled the categorical contrary rule in *Mohan Lal*. The High Court applied *Mukesh Singh* to the officer's dual role; no further instance of bias was shown. The defence relied on *Mohan Singh v. State of M.P.*, Criminal Appeal 5191/2018 (23 October 2024), concerning Malkhana records. The High Court addressed that objection by considering the evidence that the firearm had been produced in a sealed condition and the concurrent findings of recovery.

3. Statutes considered : The conviction was under Arms Act Section 25(1B)(a). The offences were initially registered under Sections 25 and 27, and

sanction was obtained before prosecution. CrPC Sections 397 and 401 governed the revision. The Court relied on Supreme Court decisions concerning proof under the NDPS Act, but did not apply the sample procedure under NDPS Act Section 52A as a legal requirement in this Arms Act prosecution.

4. Issues : Did the alleged nonproduction of the seized pistol or failure to produce the Malkhana register necessarily defeat proof of seizure? Did the complainant's role as investigating officer automatically vitiate the trial? Were the concurrent factual findings concerning seizure and sanction perverse so as to warrant interference in revision?

5. Ratio / Findings : *Sahi Ram* establishes that nonproduction alone does not require acquittal: the earlier acquittals also rested on evidentiary defects, particularly failure to prove seizure or to link the tested material with what was seized. In any event, Shivhare identified the pistol and two cartridges at trial as A1 and A2. Under *Mukesh Singh*, bias cannot be presumed solely because the informant also investigated the case; no instance of case-specific unfairness was shown. Arms clerk Anoop Kumar Srivastava stated that the weapon had been produced before the Collector in a sealed condition. The Collector opened it and considered the case diary before granting sanction. Failure to produce the Malkhana register did not establish that the weapon's identity or the sanction was unreliable. Both the trial court and the first appellate court found the seizure proved, and no perversity in those concurrent findings was shown. The High Court therefore declined to interfere in revision and did not reassess the evidence afresh.

6. Relief : The Hon'ble High Court dismissed the revision in limine and recalled the applicant's bail bonds. It directed him to surrender immediately before the trial court, on or before 28 March 2025, to undergo the remaining sentence. If he failed to surrender, the trial court was to issue a warrant of arrest.

Jawar Pardi v. State of Madhya Pradesh, Cr.R. no. 5777/2024, 18/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (258) Prev Next

Headnote :- Dowry cruelty / civil and criminal proceedings - Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that a husband's divorce petition or delay in the wife's report does not by itself justify quashing an FIR that prima facie discloses matrimonial offences. That review cannot rest on inferences of improper motive drawn from extraneous circumstances. *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775, Syed Askari Hadi Ali Augustine Imam v. State, (2009) 5 SCC 528*, and *Prem Raj v. Poonamma Menon (2 April 2024)* were followed on the independence of civil and criminal proceedings and their different standards of proof. Previous judgments may be relevant under Evidence Act Sections 40–43, but their findings do not automatically bind the other forum. The pending maintenance and property proceedings therefore did not negate the specific allegations under Section 498-A IPC and the Dowry Prohibition Act.

Section 482 CrPC / Section 528 BNSS / FIR-stage review - Applying the Supreme Court decisions cited on the limits of quashing jurisdiction, the Court held that it could not conduct a roving inquiry into the merits. The uncontroverted FIR allegations of demand and harassment disclosed offences, and the applicants' defence that the FIR was a counterblast could not be adjudicated at that stage. The petition was dismissed without a finding of guilt.

Case-note :- ***1. Facts :*** The wife married Jayant in June 2018. She alleged that her father had given Rs 50 lakh in cash and jewellery worth Rs 20 lakh, but the husband and father-in-law demanded more money, assaulted her and subjected her to mental harassment. She alleged that they left her alone for months and that, under their pressure, her father provided a car, which the husband sold. She returned to her parental home when the assaults continued. FIR Crime 537/2024 alleged offences under IPC Section 498-A and Dowry Prohibition Act Sections 3/4. Jayant and his father sought quashing under CrPC Section 482 / BNSS Section 528. They contended that the FIR was a counterblast to the divorce petition filed in July 2019, the wife's pending application for maintenance under CrPC Section 125, and her civil suit for declaration of title, injunction and partition. The Court examined whether the FIR prima facie disclosed offences, without deciding whether the allegations were proved.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, held that delay in the wife's complaint and the husband's earlier divorce petition did not by themselves justify quashing. Attempts at settlement may explain delay, and civil and criminal proceedings are independent.

The High Court applied the requirement to assess the FIR allegations at face value and rejected the applicants' contention that the complaint should be quashed as a counterblast.

Kishan Singh (deceased) through LRs v. Gurpal Singh, (2010) 8 SCC 775, explained that civil cases are decided on a preponderance of probabilities, whereas criminal guilt requires proof beyond reasonable doubt. Findings in one proceeding do not automatically bind the other, although Evidence Act Sections 41–43 may make particular earlier judgments relevant. The High Court applied that principle to the pending property suit. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, discussed *K.G. Premshanker* and the limited relevance of previous judgments under Sections 40–43, rejecting a general rule that civil findings bind criminal courts. The passage from *Iqbal Singh Marwah* reproduced within that discussion identifies the different standards of proof. The quoted *M.S. Sheriff* passage explains the precedence ordinarily given to criminal proceedings and the public interest in prompt prosecution, subject to exceptions depending on the facts; it does not prescribe a categorical stay. *Prem Raj v. Poonamma Menon*, SLP (Cr.) 9778/2018 (2 April 2024), reaffirmed, through *Iqbal Singh Marwah* and *M.S. Sheriff*, that neither forum's findings automatically bind the other. The High Court applied their common principle without finally determining the effect of any civil finding in the still-pending suits.

The Court collectively cited *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *Arvind Khanna*, *Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* on the settled limits of quashing jurisdiction. Relying on those decisions, it stated that proceedings could be quashed only if the uncontroverted allegations did not disclose an offence. It could not conduct a roving inquiry into whether the FIR allegations were true.

3. Statutes considered : IPC Section 498-A concerned the alleged matrimonial cruelty and harassment; Dowry Prohibition Act Sections 3 and 4 were the other reported offences. CrPC Section 482 / BNSS Section 528 governed the request for quashing, and CrPC Section 125 concerned the separate maintenance proceeding. Evidence Act Sections 40–43 governed the limited relevance of previous judgments discussed in the Supreme Court passages relied upon. Hindu Marriage Act Section 13 and CrPC Section 300 appeared within those quoted authorities, rather than as claims independently decided in this case.

4. Issues : Could an FIR containing specific allegations of dowry demand and cruelty be treated as mala fide solely because it followed divorce, maintenance and civil property proceedings? Did those proceedings or their findings control the criminal process? Could the disputed motive for the FIR and the truth of its allegations be decided in a petition under Section 482 / 528 during investigation?

5. Ratio / Findings : The Court found specific FIR allegations of unlawful demand and physical and mental harassment against both applicants sufficient to warrant investigation. Under *Pratibha*, review of the FIR's prima facie content could not be replaced by inferences drawn from the timing of the divorce petition or extraneous litigation history. Civil property and maintenance proceedings could continue alongside the criminal process. *Kishan Singh*, *Syed Askari* and *Prem Raj* establish that the different standards of proof preclude automatic binding effect between the forums, subject to the statutory relevance of particular previous judgments. No civil finding that could defeat this FIR was identified. The Court could examine whether the uncontroverted allegations disclosed an offence, but could not weigh the applicants' contention that the FIR was a counterblast through a roving inquiry into its truth. It decided only whether the proceedings should be quashed, without determining the truth of the allegations, the charge or guilt.

6. Relief : The Hon'ble High Court dismissed the application, leaving the investigation under IPC Section 498-A and Dowry Prohibition Act Sections 3/4 undisturbed.

Jayant Raghuvanshi and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 48530/2024, 21/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (259) Prev Next

Headnote :- Murder / Section 300 thirdly - Applying *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, the Court held that the prosecution must prove the presence and nature of the bodily injury, the intention to inflict that particular injury, and its

objective sufficiency to cause death in the ordinary course of nature. A further subjective intention to kill is unnecessary. *Arun Nivalaji More v. State of Maharashtra (Criminal Appeals 1078–1079/2005)* distinguished the intention and knowledge alternatives under Section 299. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, and *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, require consideration of the weapon, the vital part struck, the force used and the circumstances; a single blow does not mechanically justify reducing the offence. The Court held that the firearm wounds through the abdomen and skull, the fatal brain injury and the eyewitness evidence of firing established murder.

Common intention / Section 34 IPC - *Suresh Sankharam Nangare v. State of Maharashtra (2012), Shyamal Ghosh v. State of W.B., AIR 2012 SC 3539*, and *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, were considered on the need for concert and participation. The coordinated armed interception and firing supported affirmance of Jhabbu's conviction under Section 302 and Kamal and Babloo's convictions under Section 302/34.

Case-note :- ***1. Facts :*** On 28 August 2008, around noon near a hotel in Bhind, an armed group allegedly stopped Imam Khan. The prosecution attributed the attack to earlier enmity arising from the killing of an accused's brother. It alleged that Gambheer fired at Imam Khan's waist and Jhabbu then shot him in the head, causing his death. The deceased's sons and another witness described a coordinated attack. The trial court convicted Jhabbu under IPC Section 302 and Arms Act Sections 25/27, and Kamal and Babloo under IPC Section 302/34. It imposed life imprisonment for each murder conviction and three years' rigorous imprisonment under the Arms Act. Each sentence carried a fine of Rs 500, with three months' rigorous imprisonment in default of payment. In appeal, the accused contended that the eyewitnesses lived in Itawa, that the jail visitors' register did not record Imam's alleged meeting with his son Shahjad, and that contradictions, prior enmity and absence of motive supported their plea of false implication. The prosecution relied on the direct testimony, medical evidence and recovery of Jhabbu's firearm.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the four-part Thirdly test. The prosecution must objectively establish the injury and its nature, prove the intention to inflict that particular injury rather than an accidental or different injury, and establish objectively that the injury was sufficient to cause death in the ordinary course of nature. The High Court applied that test to two firearm tracks, including a destructive skull wound. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079/2005, distinguished the intention and knowledge alternatives in Section 299, the murder clauses in Section 300 and its exceptions. The Court used that distinction to frame the inquiry into murder and culpable homicide not amounting to murder. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, similarly explains objective sufficiency, for which the weapon and the part of the body struck may be relevant. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, rejects an automatic rule that a single blow excludes murder. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, gives a nonexhaustive list of circumstances relevant to intention, including the weapon, the vital part struck, the force used, prior enmity and a sudden quarrel. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, treats a forceful blow to the head, a vital part, as evidence of intention. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, bring together the principles governing a single blow and the circumstances of the injury. The Court discussed those principles at length, but this case involved more than one firearm injury rather than a borderline single-blow case. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, explains the cumulative requirements of Exception 4: absence of premeditation, a sudden mutual fight in the heat of passion, no undue advantage or conduct that is cruel or unusual, and a fight with the person killed. The Court quoted those requirements and ultimately classified the shooting as murder under Section 300 Thirdly.

For Section 34, *Suresh Sankharam Nangare v. State of Maharashtra (2012), Shyamal Ghosh v. State of W.B., AIR 2012 SC 3539*, and *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, were cited on concert and participation. *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, permits an inference of a shared plan even where it develops at the scene. *Hem Raj*, *Dashrathlal*, *Rajagopalswamy Konar* and *Sheikh Nabab* caution against imposing collective liability on mere accompaniment or participation that has not been proved. The Court ultimately relied on

eyewitness evidence that the group stopped the deceased and fired at him.

3. Statutes considered : IPC Sections 299, 300, particularly Thirdly and the quoted Exception 4, 302, 304 Parts I and II, 34 and 304-A were discussed in explaining the law of homicide. Arms Act Sections 25 and 27 concerned Jhabbu's conviction, and CrPC Section 374 governed the appeal. Section 34 provides for constructive liability when several persons commit a criminal act in furtherance of their common intention; it does not create a separate substantive homicide offence.

4. Issues : Did the firearm death amount to murder under Section 300 Thirdly or to a lesser offence? Did the eyewitness account, medical evidence and recovery identify the attackers despite the alleged contradictions and the objection based on the jail visitors' register? Did Kamal and Babloo share a common intention sufficient to support conviction under Section 302/34? Should the firearm-possession conviction be upheld?

5. Ratio / Findings : The postmortem disclosed firearm entrance and exit wounds through the abdomen and head, missing skull bone and exposed brain matter. The doctor described the death as homicidal, caused by a firearm injury to a vital organ. Applying the subjective and objective elements explained in *Virsa Singh*, the Court held that the injuries were intentionally inflicted and sufficient to cause death in the ordinary course of nature, bringing the case within Section 300 Thirdly. A separate intention to cause death was unnecessary. The deceased's sons, Ajeem and Chanda, and witness Baseem supported the account of the attack, which was not materially altered in cross-examination. The Court preferred that account to the defence witness's evidence and held that the place from which the eyewitnesses had come was irrelevant. It accepted the police evidence of recovery of a .315-bore firearm and a round from Jhabbu, although the arrest and seizure witnesses did not corroborate the prosecution. The coordinated stopping and firing in the setting of prior enmity supported the convictions, including liability under Section 34.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and sentences. It cancelled Kamal and Babloo's bail bonds, which had followed suspension of their sentences, and directed them to surrender immediately before the trial court. Jhabbu was reported to have been released on parole from prison; the trial court was directed to secure his custody to serve the remaining sentence.

Jhabbu and Others v. State of Madhya Pradesh, Cr.A. no. 263/2010, 24/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (260) Prev Next

Headnote :- Section 482 CrPC — quashing FIR and charge-sheet — FIR omission of names — later Section 161 attribution — alleged mala fides. Applying *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, the Court held that police must ordinarily be permitted to investigate cognizable allegations. An FIR need not contain every detail, and quashing is exceptional. The Court examines whether the allegations, taken at face value, disclose an offence, without deciding their reliability. The applicants were not named in Crime 60/2023, but later statements attributed fist blows and an iron-rod blow to them. Whether the omission was a material contradiction required evidence and could not be decided under Section 482. Applying *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, the Court held that alleged mala fides of the informant do not by themselves justify quashing where cognizable allegations are disclosed. It also rejected as misconceived the contention that the FIR was intended to ruin applicant 1's teacher appointment: the FIR dated 23 April 2023 preceded his appointment on 12 August 2023. Quashing was refused.

Case-note :- ***1. Facts :*** The applicants sought quashing of FIR Crime 60/2023, registered at Bhaguapura, Datia, under IPC Sections 294, 323, 506 and 34, and of the charge-sheet. Their names were absent from the initial FIR. Statements recorded under Section 161 on 21 May 2023 alleged that they had beaten Arvind Jatav with their fists and that applicant 2 had struck his head with an iron rod. The applicants contended that their later naming was an improvement and that the FIR had been maliciously lodged to jeopardise applicant 1's employment as a primary teacher. They also alleged that FIR Crime 62/2023, accusing them of pressuring the complainant to compromise and firing in the air, was false. Applicant 1 was appointed on 12 August 2023. His appointment was kept in abeyance on 27 October 2023 pending the criminal case, and his

joining was rejected on 20 February 2024. The challenged FIR had been lodged on 23 April 2023.

2. Precedents — Considered : *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, was quoted and applied. It explains the police duty to investigate cognizable allegations, the restraint against stopping criminal proceedings at the outset, and the principle that an FIR need not contain every detail. Review under Section 482 cannot test the genuineness or reliability of allegations as though the Court were trying the charge. Its recognised exception permits intervention where the allegations disclose no offence, consistently with *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, and *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, referred to within the quoted framework. The Court applied that framework in leaving the disputed explanation for the omitted names to the evidence of the complainant and witnesses. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was separately quoted and applied: once cognizable allegations are made, the informant's alleged mala fides are of secondary importance. The reproduced discussion sets out the *R.P. Kapur* and *Bhajan Lal* categories and cautions against weighing reliability or probabilities. The Court collectively cited *XYZ v. State of Gujarat, State of Tamil Nadu v. S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, M. Srikanth, CBI v. Arvind Khanna, Kunwar Singh, Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* for the threshold that the uncontroverted allegations must fail to disclose an offence before proceedings are quashed.

3. Statutes considered : CrPC Section 482 governs inherent quashing power and Section 161 the later witness statements; IPC Sections 294, 323, 506 and 34 are the FIR offences. The judgment refers to a charge-sheet and refuses to quash both the FIR and charge-sheet.

4. Issues : Did the omission of the applicants' names from the FIR justify quashing despite later statements assigning specific acts of assault to them? Did the alleged malicious attempt to damage a teacher appointment justify intervention? Should the FIR and charge-sheet be quashed in proceedings under Section 482?

5. Ratio / Findings : Following *Neeharika*, the Court examined whether the uncontroverted allegations disclosed an offence, taking them at face value without assessing their merits. The later statements assigned active roles to the applicants. The complainant's explanation and the witnesses' evidence were needed to determine why the names had been omitted from the FIR and whether that omission was material. The Court declined to treat it as proof of false implication in proceedings under its inherent jurisdiction. Applying *Renu Kumari*, it held that alleged mala fides do not by themselves defeat an accusation disclosing a cognizable offence. It also rejected the particular claim that the FIR was intended to cause loss of employment as misconceived because the FIR preceded the teacher appointment by nearly four months. The order did not determine the truth of the accusations or the merits of Crime 62/2023.

6. Relief : The Hon'ble High Court dismissed the Section 482 application, finding no ground to quash the FIR or charge-sheet.

Jitendra and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 41475/2024, 05/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (261) Prev Next

Headnote :- NDPS Act Sections 8/20 and 50 — ganja bags in accused persons' hands — police witnesses — revisional restraint. Separate bags containing 700 g and 400 g were recovered from the applicants' hands; the recovery did not involve a body search. Although the independent witnesses turned hostile, that did not by itself justify rejecting the police testimony. The seized exhibits, seizure memos and FSL description supported the finding that the substance was ganja. Applying *Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, the Court held that revision does not permit reappraisal of concurrent factual findings in the absence of perversity or jurisdictional error. The possibility of another view is insufficient. No perversity was shown. The convictions under Section 8/20 and one-year rigorous-imprisonment sentences were affirmed. The defence disputed combining the separate quantities as 1.1 kg; the Court considered the individual recoveries of 700 g and 400 g and declined to interfere with the sentences.

Case-note :- ***1. Facts :*** These connected revisions challenged the JMFC's convictions under NDPS Sections 8/20 and their affirmance in appeal. Acting on information recorded on 4 September 2014,

police approached Ramu Chidar and Jitendra Batham, served notices under Section 50 and recovered polythene bags carried in their hands. The seizure attributed 700 grams of ganja to Ramu and 400 grams to Jitendra, with separate samples. Each was sentenced to one year's rigorous imprisonment and a fine of Rs 10,000, with two months' rigorous imprisonment in default of payment. They disputed the seizure because the independent witnesses had turned hostile and objected to combining the separate quantities as 1.1 kg. The State relied on the concurrent findings.

2. Precedents — Considered : *Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, was quoted and applied on the limits of revisional interference with concurrent factual findings in the absence of perversity or jurisdictional error. The quoted passage refers to *Southern Sales & Services v. Sauermilch Design and Handels GmbH, (2008) 14 SCC 457*, on jurisdictional error. The Court found no such defect. It considered the evidence concerning the hand-carried bags, the seizure and the police witnesses within those revisional limits.

3. Statutes considered : NDPS Act Sections 8/20 concerned possession and conviction, and Section 50 concerned the notices recorded in the account of the search, which the Court distinguished from a body search because the bags were carried in the applicants' hands. CrPC Sections 397 and 401 governed the revisions. The passage quoted from *Bir Singh* mentions Section 482, whereas these revisions were decided under Sections 397/401.

4. Issues : Was seizure proved despite the hostile independent witnesses and the differing wet and dry descriptions? Did recovery from bags carried in the applicants' hands amount to a personal search? Were the concurrent findings perverse? Did the sentences or the alleged aggregation of quantities warrant interference in revision?

5. Ratio / Findings : The contraband was carried in bags held in the applicants' hands; its recovery did not involve a body search. When opened in court, the exhibits contained dry, blackish plant matter. The seizure memos described wet ganja, while the FSL described greenish-brown seeds, leaves and flowering tops. Reading those descriptions together, the Court found that the seized substance was ganja. The fact that the independent witnesses turned hostile did not by itself discredit the police witnesses. Applying the revisional rule in *Bir Singh*, the Court found no perversity in the concurrent findings. On sentence, it referred separately to the recovery of 700 grams from Ramu Chidar and 400 grams from Jitendra Batham and held that the one-year rigorous-imprisonment sentences and fines did not warrant interference. It accordingly left the one-year prison terms and fines undisturbed.

6. Relief : The Hon'ble High Court dismissed both revisions in limine and affirmed the convictions and sentences. The applicants, who were already in jail, were directed to serve their remaining terms.

Jitendra Batham v. State of Madhya Pradesh; Ramu Chidar v. State of Madhya Pradesh, Cr.R. no. 1222/2022 & 1236/2022, 13/07/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (262) Prev Next

Headnote :- CrPC Section 311 — additional witnesses after final arguments — alleged filling of prosecution lacuna — fair trial. A court may summon or recall a witness at any stage and must do so if the evidence appears essential to a just decision. *Varsha Garg v. State of M.P. (2022), Zahira Habibullah H. Sheikh v. State of Gujarat, (2004) 4 SCC 158, Munnu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1, Mohanlal Shamji Soni v. Union of India, 1991 Supp (1) SCC 271*, and *Rajendra Prasad v. Narcotic Cell, (1999) 6 SCC 110*, were cited on the court's participatory role alongside Evidence Act Section 165. The accused failed to identify the prosecution lacuna allegedly being filled. The order summoning four prosecution witnesses at that late stage was upheld, and the Section 482 application was dismissed.

Case-note :- ***1. Facts :*** Sessions Trial 72/2018 concerned the death of the applicant's wife and offences under IPC Sections 304-B, 498-A and 176. After final arguments had been heard and the matter listed for judgment, the prosecution sought to examine four further witnesses. The trial court allowed the request under CrPC Section 311 on 23 February 2023. Challenging that order under Section 482, the applicant argued that the witnesses had not been included in the trial programme and that their examination was intended to cure a defect he had identified in final arguments. His account also referred to earlier unsuccessful efforts to secure a doctor's attendance. The impugned order summoned police officers Sunil Nema, Ramswaroop Verma and Sitaram Yadav, and Phool Singh Parte.

2. Precedents — Considered : *Varsha Garg v. State of M.P. (judgment* dated *8 August 2022), Zahira Habibullah H. Sheikh v. State of Gujarat, (2004) 4 SCC 158, Munnu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1, Mohanlal Shamji Soni v. Union of India, 1991 Supp (1) SCC 271*, and *Rajendra Prasad v. Narcotic Cell, (1999) 6 SCC 110*, were collectively relied upon for the principle that a criminal trial court cannot remain a passive spectator. It may exercise its powers under Section 311 and Evidence Act Section 165 to secure evidence essential to a just decision. Applying Section 311 and the authorities on the court's participatory role, the High Court held that the applicant had not identified the alleged prosecution lacuna and that summoning the witnesses involved no jurisdictional error.

3. Statutes considered : CrPC Section 311 permits summoning or recalling material witnesses at any stage and requires the court to act where the evidence appears essential to a just decision. Section 482 governed the challenge, and Evidence Act Section 165 concerned the court's power to question witnesses. IPC Sections 304-B, 498-A and 176 were the underlying charges, which were not decided in this application.

4. Issues : Could the trial court summon four prosecution witnesses after final arguments had been heard and the case fixed for judgment? Did the allegation that the prosecution was repairing a lacuna require that order to be quashed?

5. Ratio / Findings : The trial court must consider whether additional evidence is essential to a just decision and cannot remain a silent spectator. It cannot act as prosecutor, but a bare allegation that the prosecution seeks to fill a gap is insufficient. The applicant did not identify the lacuna supposedly being repaired. The trial court therefore acted within its jurisdiction in allowing the Section 311 request, and no error warranted intervention under Section 482. The High Court did not determine what the witnesses would eventually say or decide the underlying dowry-death charges.

6. Relief : The Hon'ble High Court dismissed the application and upheld the order summoning the four witnesses.

Jitendra Dhare Ghatle v. State of Madhya Pradesh, M.Cr.C. no. 14429/2023, 12/04/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (263) Prev Next

Headnote :- Successive bail / CrPC Section 439 — POCSO and IPC rape, kidnapping — disputed minor age. The sixth bail application followed a refusal on merits. That refusal had proceeded on *Independent Thought v. Union of India, (2017) 10 SCC 800*: Exception 2 to IPC Section 375 does not exempt intercourse with a wife below 18 from Section 376. The school record gave the prosecutrix's date of birth as 8 May 2001, placing her below 18 on 30 November 2018; final determination of age remained for trial. Applying *Anversinh v. State of Gujarat, (2021) 3 SCC 12*, the Court held that, on the prosecution allegation, a minor leaving home on the accused's enticement could still attract IPC Sections 363/366. The State described *K. Dhandapani* as relief granted on the particular family circumstances. The Court did not treat it as displacing *Independent Thought* and found no ground to take a different view on bail. The application was dismissed.

Case-note :- ***1. Facts :*** This was the applicant's sixth application under Section 439, following rejection of his fifth application on merits on 13 May 2022. He had been arrested on 29 April 2021 in Crime 348/2018 for offences under IPC Sections 363, 366-A and 376 and POCSO Sections 3/4. The defence disputed the prosecutrix's age and the basis of the school entry under Evidence Act Section 35 and the 1973 Madhya Pradesh school-register rules. It also sought a sympathetic view on the basis of customs permitting minor marriage. The State relied on the school-record birth date of 8 May 2001 and the date of departure, 30 November 2018, to place her age at about 17 years and 6 months. Her brother's later testimony giving an approximate age was also discussed. The school entry's final evidentiary value was not decided in the bail proceeding.

2. Precedents — Considered : *Independent Thought v. Union of India, (2017) 10 SCC 800*, had supplied the binding basis for the earlier refusal, which the Court maintained. As read down, the marital exception in IPC Section 375 did not exempt intercourse with a wife below 18. *Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat, (2021) 3 SCC 12*, was applied to the allegation that a minor induced to leave home could still be the subject of kidnapping charges despite leaving with the accused. *K. Dhandapani v. State (Criminal Appeal 796/2022)* was raised in the State's submissions. The State described that decision as relief concerning

family life, apparently granted under Article 142 without consideration of *Independent Thought*. The High Court did not itself apply it or grant similar relief. It recorded, but did not accept, the applicant's proposed criticism of *Independent Thought*.

3. Statutes considered : CrPC Section 439; IPC Sections 363, 366-A, 376 and Section 375 Exception 2; POCSO Sections 3/4; Evidence Act Section 35 and Madhya Pradesh Date of Birth (Entries in the School Register) Rules, 1973 as contested age proof. Article 142 was raised in the State's description of *K. Dhandapani*, not exercised by this Court.

4. Issues : Did the disputed age and asserted marriage customs justify bail after the earlier refusal on merits? How did *Independent Thought* and *Anversinh* bear on the provisional allegations? Should the evidentiary value of the school entry be finally determined at this stage?

5. Ratio / Findings : Final determination of age was left to the trial court. For the bail decision, the school record placed the prosecutrix below 18 when she left home, and the earlier basis under *Independent Thought* remained. On the prosecution allegation that the accused had enticed a minor to leave, *Anversinh* supported the kidnapping aspect. The Court found no reason to take a different view on the sixth application. It did not decide the actual validity of any marriage, the final age or guilt, or whether *K. Dhandapani* created a general exception.

6. Relief : The Hon'ble High Court dismissed the sixth application for regular bail.

Jitendra Kushwah v. State of Madhya Pradesh, M.Cr.C. no. 32002/2022, 14/07/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (264) Prev Next

Headnote :- Criminal-side writ / Article 226 — quashing a charge-sheeted FIR — extortion allegations — asserted police mala fides and alibi. Taken at face value, the allegations of a demand for ₹50 lakh, abuse and death threats disclosed cognizable offences. The petitioner's claims that he was at the nearby SP office and that corrupt police officers had conspired against him could not be adjudicated in quashing proceedings. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was applied: alleged mala fides of the informant are of secondary importance where the allegations disclose an offence. *Chaman Lal Goyal*, *P.P. Sharma* and the related Supreme Court authorities require an official accused of personal mala fides to be impleaded and given an opportunity to answer. The petitioner had not impleaded the former SP or the MLA. *H.N. Rishbud v. State of Delhi, AIR 1955 SC 196*, explains that an investigative defect does not affect the Court's competence to take cognizance or conduct a trial; the result of the trial is not vitiated unless a miscarriage of justice is shown. The writ petition was dismissed without deciding the petitioner's guilt.

Case-note :- ***1. Facts :*** The petitioner sought quashing under Article 226 of the FIR in Crime 365/2019, Police Station Omti, Jabalpur, registered under IPC Sections 294, 506 and 384. The FIR alleged that, after a memorial ceremony on 30 August 2019, he entered Sindhi Dharmashala's office, abused an office bearer and demanded ₹50 lakh, threatening to have the premises locked if the amount was not paid. It also alleged threats to kill the office bearer and spread false videos. The police completed the investigation and filed a charge-sheet. The petitioner alleged that the former SP and other officers had threatened him because of his complaints against them and the society. He claimed that he was at the SP office when the incident occurred and alleged that a local MLA was behind the action. He had not impleaded the former SP or the MLA in their personal capacity.

2. Precedents — Considered : On the scope of quashing proceedings, the Court reproduced a series of Supreme Court decisions, including *Munshiram, Teeja Devi, Ujjal Kumar Burdhan, XYZ v. State of Gujarat, S. Martin, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, Padal Venkata Rama Reddy, M. Srikanth, M.N. Ojha, CBI v. Arvind Khanna and Kunwar Singh*. It relied on these decisions to hold that disputed defence facts, appreciation of evidence and a meticulous enquiry are outside the scope of quashing proceedings where the uncontroverted allegations disclose an offence. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was specifically applied to hold that alleged mala fides of the informant are of secondary importance where the allegations disclose a cognizable offence. *State of Punjab v. Chaman Lal Goyal, (1995) 2 SCC 570; State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222; Federation of Railway Officers Association v. Union of India, AIR 2003 SC 1344; J.N. Banavalikar v. MCD, AIR 1996 SC 326*; and *All India State Bank Officers' Federation v. Union of India, (1997) 9 SCC 151*, require the person accused

of mala fides to be impleaded so that the allegations can be answered. *Indian Railway Construction Co. v. Ajay Kumar, (2003) 4 SCC 579*, explains the heavy burden of proving bad faith. The Court applied these principles because the former SP and the MLA had not been impleaded. *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, was applied to the duty to register an FIR where the allegations disclose a cognizable offence. *H.N. Rishbud v. State of Delhi, AIR 1955 SC 196*, was quoted at length to explain that illegality in investigation does not automatically invalidate cognizance or trial, and that the trial's result is not vitiated unless a miscarriage of justice is shown. The High Court's order in *Prashant Kumar Nimgani* was relied on for the principle that a plea of alibi must be proved at trial.

3. Statutes considered : Articles 226/227 of the Constitution were considered in relation to the High Court's power to quash proceedings. CrPC Section 482 was discussed as the parallel jurisdiction to quash proceedings, and Section 190 was considered within the framework of cognizance quoted from *H.N. Rishbud*. The FIR invoked IPC Sections 294, 506 and 384. The Court did not determine whether each offence was ultimately proved.

4. Issues : Whether the FIR and charge-sheet should be quashed on the petitioner's allegations of police bias and ulterior motive, and his claim that he was elsewhere at the time of the incident; whether allegations of personal mala fides could be examined without impleading the persons concerned; and what effect the alleged investigative defects had after the charge-sheet was filed.

5. Ratio / Findings : Taken at face value, the allegations of unauthorised entry, abuse, a demand for ₹50 lakh and death threats disclosed a cognizable offence. The petitioner had not explained how those allegations failed to disclose an offence. Their truth and his plea of alibi were matters for trial evidence. The Court stated that the accused must prove an alibi at trial by cogent evidence; the authority it reproduced required proof beyond reasonable doubt. The SP office was said to be only 2–3 km from the place of the incident, so attendance there did not exclude his presence at the spot. The allegations of mala fides involved disputed facts, and the former SP and the MLA had not been impleaded to give them an opportunity to answer. The charge-sheet had already been filed, and the proceedings were now before the trial court. As explained in *H.N. Rishbud*, illegality in investigation does not itself invalidate cognizance or trial; the trial's result is not vitiated unless a miscarriage of justice is shown. The Court did not decide whether the officers had acted corruptly or whether the petitioner was guilty.

6. Relief : The Hon'ble High Court dismissed the writ petition and declined to quash the FIR or otherwise interfere.

Jitendra Makhija v. State of Madhya Pradesh and Others, W.P. no. 31336/2023, 04/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (265) Prev Next

Headnote :- Investigation control / Section 482 CrPC — accused request to preserve CCTV footage and call records. The applicants in a gang-rape FIR claimed that they were absent from the scene and sought a direction requiring the police to obtain and preserve specified private records. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was applied: an accused has no right to choose the investigating agency or dictate the manner of investigation. *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, was applied to distinguish exceptional court monitoring to ensure a fair and timely investigation from supervision that directs how the police investigate. The trial court must remain independent in assessing the evidence. *Divine Retreat Centre*, quoted through *Romila Thapar*, recognises the High Court's power to issue directions under Article 226 where it is satisfied that the investigating officer exercised the power of investigation mala fide. The Section 482 application was dismissed, leaving the applicants free to raise their alibi at trial.

Case-note :- ***1. Facts :*** The applicants sought directions under Section 482 CrPC to preserve private CCTV footage and call records for the relevant time and place in Crime 419/2020, Police Station Mehgaon, Bhind, registered under IPC Section 376-D. They contended that those records would establish that they were absent from the scene. The Court considered the requested direction concerning the investigation; it did not decide the merits of the FIR or whether the recordings were available.

2. Precedents — Considered : *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was directly applied to hold that the accused cannot choose the investigating agency or dictate the manner of investigation. The discussion quoted from that

decision relies on *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar* and *Divine Retreat Centre*. *Divine Retreat Centre* recognises the High Court's power under Article 226 to issue directions where it is satisfied that the investigating officer exercised the power of investigation mala fide. The deciding Court applied the rule that an accused cannot seek a direction requiring investigation in a particular manner. *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, was directly applied to distinguish monitoring in exceptional cases to ensure fairness and timely progress from supervision that directs the collection of evidence and may influence the trial court. The Court also quoted its order in *Prabal Dogra*, which relies on *Manohar Lal Sharma and Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, when explaining the police duties of registration and investigation and the limits of judicial interference.

3. Statutes considered : The application was made under CrPC Section 482. Section 173(2) was referred to in the quotation from *Manohar Lal Sharma* concerning the police report. The underlying FIR was registered under IPC Section 376-D. Article 226 was mentioned in the exception recognised by the Supreme Court; it was not the provision under which the applicants sought relief.

4. Issues : Whether accused persons could obtain a direction requiring the police to preserve and examine specified CCTV footage and call records to establish their alibi, on the ground of securing a fair investigation or monitoring the investigation.

5. Ratio / Findings : Investigation is within the domain of the police. The accused may put forward their defence at trial, but cannot use Section 482 to require investigation from a particular angle. Even where an investigation is monitored in exceptional circumstances, the Court ensures fairness and timely completion without supervising particular steps in collecting evidence. The Article 226 exception recognised in *Divine Retreat Centre*, as quoted through *Romila Thapar*, concerns cases in which the High Court is satisfied that the investigating officer exercised the power of investigation mala fide. The Court did not determine whether the applicants were present at the scene or whether the CCTV footage or call details existed.

6. Relief : The Hon'ble High Court dismissed the application and issued no direction to preserve CCTV footage or call records.

Jitendra Singh and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 50459/2020, 06/01/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (266) Prev Next

Headnote :- Section 482 CrPC / Section 528 BNSS — FIR for BNS Sections 115(2), 296 and 3(5) — plot-dispute assault — hotel CCTV alibi and fair-investigation request. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was applied to hold that a suspect cannot choose the investigating agency or dictate the course of investigation. *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, distinguishes exceptional court monitoring from supervision of particular investigative steps. *Vijay Pal*, *S.K. Sattar* and *Binay Kumar Singh* were applied to hold that a disputed alibi must be proved at trial. The prosecution retains the burden of proving the accused's presence and participation. Once that burden is discharged, the accused must strictly prove the asserted absence so as to exclude presence at the scene, while remaining entitled to the benefit of any reasonable doubt arising from the defence evidence. The hotel CCTV footage and the companion's whereabouts could not be assessed in the exercise of inherent powers. Taken at face value, the allegations of abuse and physical assault disclosed an offence. The requests for quashing and directions controlling the investigation were refused.

Case-note :- ***1. Facts :*** The FIR in Crime 650/2024, Police Station Maharajpura, Gwalior, alleged that on 18 October 2024 the complainant objected to construction on his disputed plot. Four persons, including the applicant, allegedly abused him and assaulted him and two relatives who intervened, using fists and a stick. The applicant sought quashing under Section 482 CrPC/528 BNSS and a fair investigation. He claimed that he was in a hotel about 20 km away, that CCTV footage supported his presence there, and that another named person was elsewhere. He also alleged that the authorities had ignored his representations.

2. Precedents — Considered : *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was applied to hold that an accused cannot choose the investigating agency or prescribe the manner of investigation. The passage quoted from that decision includes *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar*, *Divine Retreat Centre*, *Narender G. Goel* and other

decisions concerning the accused's participation in, and control over, investigation. *Dinubhai Boghabhai Solanki v. State of Gujarat*, (2014) 4 SCC 626, was separately quoted for the rule that an accused has no right to dictate the manner of investigation or to be heard as a matter of course at that stage. *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, was separately applied: court monitoring may ensure fairness and progress, but supervision cannot direct how the evidence is collected. The High Court's order in *Prabal Dogra* followed the same principle. *Vijay Pal v. State (NCT of Delhi), (2015) 4 SCC 749, S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, were quoted on alibi as a factual defence. The prosecution must first discharge its burden of proving the accused's presence and participation; the accused must then establish the alibi by cogent evidence excluding presence at the scene. The accused is nevertheless entitled to the benefit of reasonable doubt arising from the defence evidence, and failure to establish an alibi does not relieve the prosecution of independently proving its case beyond reasonable doubt. The Court also cited the authorities from *XYZ v. State of Gujarat* through *M.N. Ojha* for the principle that quashing is warranted where the uncontroverted allegations do not disclose an offence, and that disputed defence claims cannot be adjudicated in these proceedings.

3. Statutes considered : CrPC Section 482 and BNSS Section 528 concern the inherent jurisdiction invoked. The FIR alleged offences under BNS Sections 115(2), 296 and 3(5). Evidence Act Section 11 was discussed in the quoted alibi authorities, without deciding admissibility at trial. The civil dispute over the plot provided the factual context; title was not adjudicated.

4. Issues : Whether the accused could obtain a direction requiring the police to verify hotel CCTV footage and a co-accused's whereabouts; and whether the asserted alibi or the pending civil dispute over the plot justified quashing the FIR at the threshold.

5. Ratio / Findings : The accused could not dictate the police's investigative choices. The High Court would neither turn monitoring into supervision nor decide the disputed hotel alibi in an application under Section 482/528. The alibi authorities preserve the prosecution's burden of proving presence and participation, and require the defence to be tested at trial. Strict proof of an alibi is required once the prosecution discharges that burden, but the accused remains entitled to the benefit of reasonable doubt arising from the defence evidence. Failure to establish an alibi does not itself establish the prosecution case, which must be proved independently beyond reasonable doubt. The claimed absence was not treated as established at this stage. Taking the allegations of abuse and assault at face value, the Court found no ground for quashing or other interference. It did not decide title to the plot, the authenticity of the CCTV footage or guilt.

6. Relief : The Hon'ble High Court dismissed the application, declining to quash the FIR or direct investigation from a particular angle.

Jitendra Singh Narwariya v. State of Madhya Pradesh and Others, M.Cr.C. no. 54772/2024, 20/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (267) Prev Next

Headnote :- Arms Act Section 25(1-B)(a) — .32-bore pistol and live cartridge without licence — police seizure testimony — probation. Although one independent witness turned hostile, the consistent recovery evidence of the police officers, the armourer's report that the mechanism was working and proof of sanction supported the conviction. The Court found no reason to disbelieve the recovery evidence of Deepak Singh Tomar and Amod Tiwari. The applicant had served 130 days of the one-year sentence. Following *Rakesh alias Nanga v. State of M.P. (2019)*, the High Court extended the benefit of Section 3 of the Probation of Offenders Act. It maintained the conviction and modified the sentence to release after due admonition. The Court warned the applicant against future offences and directed that, if he was found involved in any other offence in future, the benefit would stand withdrawn without further reference to the Court and he would undergo the remaining jail sentence.

Case-note :- ***1. Facts :*** The revision under CrPC Sections 397/401 challenged the concurrent conviction under Arms Act Section 25(1-B)(a) and the sentence of one year's rigorous imprisonment with a fine of Rs 500 and default imprisonment. According to the police, Jitendra alias Jitu tried to flee at Do-Khamba Bypass on 27 February 2017 and was found carrying a .32-bore pistol and a live cartridge without a licence. A panch witness turned

hostile. The officers described the seizure, the armourer found the weapon to be working when examined, and prosecution sanction was produced. The defence principally sought the benefit of the Probation of Offenders Act, relying on *Rakesh alias Nanga*. The applicant had spent 110 days in custody during trial and 20 days after the appeal.

2. Precedents — Considered : The High *Court* quoted and followed its decision i*n Rakesh alias Nanga v. State of M.P.*, CRR 3782/2019. In that case, the benefit of Section 3 was extended in view of the substantial period already served and the absence of prior conduct sufficient to justify further confinement. The Court followed that approach after considering the present applicant's 130 days in custody. It decided the conviction on the evidence of the witnesses, the armourer's report and proof of sanction.

3. Statutes considered : The conviction was under Arms Act Section 25(1-B)(a); the case was initially registered under Sections 25/27. Section 3 of the Probation of Offenders Act was applied to release the applicant after admonition. The revision was under CrPC Sections 397/401. Mahendra Singh Chauhan proved the District Magistrate's prosecution sanction, exhibited as Ex. P8.

4. Issues : Whether the seizure and the firearm's working condition were proved despite a hostile independent witness and its subsequent non-working condition; and whether the conviction should be maintained while modifying the one-year custodial sentence by extending the benefit of Section 3.

5. Ratio / Findings : The Court accepted the recovery evidence of Deepak Singh Tomar and Amod Tiwari, noting that the applicant had shown no reason to disbelieve them. The prosecution case could not be rejected merely because one independent witness had turned hostile. The armourer had found the pistol to be working. In cross-examination, Amod Tiwari acknowledged that it was no longer working, but stated that it had been working when seized and identified the weapon produced in court as the same pistol. The conviction was affirmed. Considering the 130 days already served and the approach in *Rakesh alias Nanga*, the Court extended the benefit of Section 3 and modified the sentence to release after due admonition. It further directed that, if the applicant was found involved in any other offence in future, the benefit would stand withdrawn without reference to the Court and he would undergo the remaining jail sentence.

6. Relief : The Hon'ble High Court allowed the revision to the extent of modifying the sentence. It affirmed the conviction and directed release after due admonition. The order further directed that, if the applicant was found involved in any other offence in future, the benefit would stand withdrawn without reference to the Court and he would undergo the remaining jail sentence.

Jitendra v. State of Madhya Pradesh, Cr.R. no. 982/2019, 06/12/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC Sections 107 and 306 — suicide abetment — dying declaration — sentencing. The treating doctor recorded the conscious burn victim's statement that, after a quarrel over money, her husband told her to die and handed her kerosene and matches, which she used to set herself on fire. *Lallubhai Devchand Shah*, *Laxman*, *Dal Singh*, *Kaliya* and *P.V. Radhakrishna* were considered in assessing reliability. Mental fitness and voluntariness are essential; ninety percent burns or recording without a Magistrate do not, by themselves, make a dying declaration unacceptable. The Court found the declaration reliable. Applying the principles of instigation and intentional aid discussed in *Babloo* with reference to *Swamy Prahlad Das*, *Chitresh Kumar Chopra*, *Praveen Pradhan* and *Sanju*, it held that the words and physical assistance together amounted to more than an angry exhortation. The conviction under Section 306 was affirmed. Considering the approximately four years and eight months already served and the absence of a statutory minimum sentence, the Court reduced rigorous imprisonment from seven to five years and increased the fine to ₹5,000.

Case-note :- ***1. Facts :*** Jogendra's wife Sangita set herself on fire on 20 August 2013 after a domestic quarrel over money and died on the way to Gwalior after being referred there for treatment. The treating doctor recorded her statement that her husband had assaulted her and, when she threatened to die, gave her kerosene and matches and told her to die. She then set herself on fire. She had about 90 percent burns. Some witnesses turned hostile, while family witnesses described quarrels. The defence stated that Jogendra had also suffered burns while trying to

rescue her. The trial court convicted him under IPC Section 306 and imposed seven years' rigorous imprisonment and a fine of ₹2,000. He challenged the dying declaration and the finding of abetment, and sought a reduced sentence in view of the custody already undergone.

2. Precedents — Considered : *Lallubhai Devchand Shah v. State of Gujarat, AIR 1972 SC 1776*, requires the person recording a dying declaration to be satisfied that the declarant is conscious and understands the statement being made. *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, was quoted on careful scrutiny of reliability, mental fitness and voluntariness, and the absence of an inflexible requirement of medical certification. *State of M.P. v. Dal Singh, Kaliya v. State of M.P. and P.V. Radhakrishna v. State of Karnataka* were considered on severe burns and the circumstances in which a dying declaration may be accepted. The percentage of burns is not conclusive; the medical evidence and surrounding circumstances must be examined. A declaration found truthful and voluntary may sustain conviction without corroboration. The Court applied these principles to Dr Sharma's evidence. The High *Court's* decision in *Babloo alias Devanand v. State of M.P.* was quoted and applied by analogy: providing fuel along with an exhortation to die may establish intentional assistance beyond the bare words "go and die". The quoted decision explains *Swamy Prahlad Das*'s limitation concerning words spoken in the heat of the moment and refers to *Chitresh Kumar Chopra, (2009) 16 SCC 605*; *Praveen Pradhan, (2012) 9 SCC 734*; and *Sanju alias Sanjay Singh Sengar, (2002) 5 SCC 371*, on instigation, mens rea and the forms of abetment under Section 107. Those Supreme Court passages explain the distinction drawn in *Babloo*; in the present appeal, the Court considered both the words and the material assistance.

3. Statutes considered : IPC Sections 107, concerning instigation or intentional aid, and 306, concerning abetment of suicide, were considered. The appeal was under CrPC Section 374. The Court examined the evidentiary reliability of the dying declaration. The absence of a minimum term under Section 306 was relevant to the exercise of sentencing discretion.

4. Issues : Whether the dying declaration recorded by Dr Sharma was voluntary and made in a fit state of mind despite the burns and the unavailability of an Executive Magistrate; whether the words and the supply of kerosene and matches established intentional abetment beyond reasonable doubt; and whether seven years' imprisonment remained proportionate in view of the long period already spent in custody.

5. Ratio / Findings : The doctor stated that Sangita was conscious, oriented and not under the influence of medication, and that the police were absent when the declaration was recorded. The Court accepted the dying declaration despite her ninety percent burns and the hostility of some witnesses. Although there was evidence that Jogendra had also suffered burns, he had produced no document establishing the grievous burn injuries he claimed. The Court held that, by handing over kerosene and matches and telling her to die, he had facilitated and provoked the suicide; his conduct was more than an expression of anger. The conviction was affirmed. Considering the approximately four years and eight months actually served and the absence of a statutory minimum sentence, the Court reduced the term to five years and increased the fine to ₹5,000.

6. Relief : The Hon'ble High Court partly allowed the appeal on sentence. It affirmed the conviction under Section 306, reduced rigorous imprisonment from seven to five years and increased the fine from ₹2,000 to ₹5,000, with six months' simple imprisonment in default. The appellant was to be released after completing the sentence, if not required in any other case.

Jogendra Singh v. State of Madhya Pradesh, Cr.A. no. 479/2015, 13/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (269) Prev Next

Headnote :- BNS Sections 316(3), 3(5) — goods not delivered — carrier's asserted contractual disclaimer and disputed truck ownership — Article 226 quashing and transfer request. The petitioners admitted booking two consignments, but claimed that others owned the trucks and that the bilty placed responsibility for loss on the drivers and owners. Section 2(a) of the Carriage by Road Act 2007 includes a goods booking company, agent or broker within the definition of a common carrier, while Sections 10–12 address loss and criminal acts. The Court observed that a person booking a consignment was also equally responsible; booking the goods did not, by itself, absolve the petitioners. De facto ownership and common intention remained

matters for investigation. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki* were applied to reject an accused's claim to choose the investigating agency. *Manohar Lal Sharma, (2014) 2 SCC 532*, was applied against judicial supervision of the investigation. The allegation of bias did not justify transfer. The writ petition was dismissed without finally determining criminal guilt or civil carrier liability.

Case-note :- ***1. Facts :*** The FIR in Crime 770/2024, Police Station Bargawan, Singrauli, alleged that goods carried in two trucks, worth ₹10,00,000 and ₹14,17,919 respectively, had not reached their destination. It accused the petitioners of criminal breach of trust under BNS Section 316(3), read with Section 3(5). Petitioner 1 was alleged to own the trucks, and petitioner 2 to be his representative. They denied registered ownership but admitted arranging the consignments. Relying on a bilty clause placing the risk on the owners and drivers, they sought quashing of the FIR and transfer of the investigation on the allegation of police bias.

2. Precedents — Considered : *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was quoted and applied to hold that an accused cannot choose the investigating agency or dictate the manner of investigation. Its discussion of *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar* and *Divine Retreat Centre* was reproduced as part of the quotation. Those authorities explain the principle and the exception permitting judicial directions where the investigating officer has exercised the power mala fide. *Dinubhai Boghabhai Solanki v. State of Gujarat* was separately quoted at length on investigation, further investigation and the accused's limited participation, in support of refusing the requested transfer. The High Court's decision in *Prabal Dogra* reiterates the same principle. *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, was applied to the distinction between monitoring for fair progress and directing the police's investigative choices. The Court also quoted Sections 2(a) and 10 –12 of the Carriage by Road Act and considered the petitioners' admitted booking of the consignments.

3. Statutes considered : The petition was under Article 226 of the Constitution. The FIR invoked BNS Sections 316(3) and 3(5). Sections 2(a) and 10 –12 of the Carriage by Road Act 2007 were quoted concerning the definition and liability of a common carrier. CrPC Section 173(8) appeared in the quoted investigation authorities; the present petition was not an application for further investigation under that provision.

4. Issues : Whether a booking agent's denial of truck ownership and reliance on a contractual disclaimer required quashing of the criminal FIR concerning the undelivered goods; and whether the allegation of police bias entitled the accused to transfer or supervision of the investigation.

5. Ratio / Findings : Registration of the trucks in other persons' names did not resolve whether the petitioners were de facto owners or otherwise involved. Booking goods can bring a company within the statutory definition of a common carrier. Referring to the carrier-liability provisions, the Court observed that a person who booked the consignment was also equally responsible. The bilty disclaimer and the claim of nonownership did not establish an absence of criminal involvement before investigation. Whether the petitioners shared a common intention with the drivers remained unresolved. The Court rejected the allegation of bias: failure to act according to the petitioners' wishes did not establish bias, and the respondents concerned appeared to be discharging their duties honestly. It refused to permit the accused to choose the investigating agency or dictate the manner of investigation. These conclusions were reached while refusing interference at the investigation stage.

6. Relief : The Hon'ble High Court dismissed the writ petition. The FIR was not quashed, and no direction transferring or supervising the investigation was issued.

Junaid Siddiqui and Others v. State of Madhya Pradesh and Others, W.P. no. 32013/2024, 23/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (270) Prev Next

Headnote :- Article 226 — land dispute and quashing two FIRs — asserted malicious dispossession. The petitioners relied on a claimed one-seventh inherited share, a civil decree and pending proceedings to assert possession. Their application for a temporary injunction in another suit had, however, been rejected. The High Court declined to determine possession at the initial stage of investigation. Applying *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, it held that, where an FIR discloses a cognizable offence, alleged mala fides of the informant alone do not justify quashing.

Disputed defence facts must be established at trial. The writ petition, including the request for ₹1 lakh compensation, was dismissed in limine. The petitioners remained free to establish their defence at trial.

Case-note :- ***1. Facts :*** The petitioners sought quashing of two FIRs and compensation of ₹1 lakh, alleging that the FIRs had been lodged to dispossess them of ancestral land at Veerpur, Gwalior. They relied on a claimed one-seventh share and a decree recognising a right of preemption. They challenged a 1999 sale deed and a later decree for specific performance, contending that they had not been parties to the latter proceedings. An appeal against that decree and their application for impleadment were pending. Counsel conceded that their application for a temporary injunction in their own civil suit had been rejected and that a miscellaneous appeal against that rejection remained pending.

2. Precedents — Considered : *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted extensively and directly applied. It requires the power to quash proceedings to be exercised sparingly, an assessment of whether the allegations taken at face value disclose a cognizable offence, and recognition that alleged mala fides of the informant are of secondary importance. The quotation reproduces the categories in *R.P. Kapur* and *Bhajan Lal* and refers to other Supreme Court decisions on the limits of quashing. The Court declined to determine the petitioners' defence at the initial stage of investigation.

3. Statutes considered : The writ petition was under Article 226 of the Constitution. CrPC Section 482 was discussed in the quotation from *Renu Kumari*. The civil proceedings included a pending application for impleadment under Order I Rule 10 CPC and the rejected application for a temporary injunction.

4. Issues : Whether the petitioners' civil claims to ownership and possession established that the FIRs had been maliciously lodged, so as to require quashing of both FIRs and an award of compensation at the initial stage of investigation.

5. Ratio / Findings : In view of the rejection of the application for a temporary injunction, the High Court could not treat the petitioners' claimed possession as established. At the initial stage of investigation, it would not decide the disputed civil and criminal defences. Under *Renu Kumari*, where the allegations disclose a cognizable offence, alleged mala fides alone do not justify quashing. The Court did not determine ownership or actual possession of the land, and left the petitioners free to establish their defence at trial.

6. Relief : The Hon'ble High Court dismissed the petition in limine. Neither quashing of the FIRs nor compensation was granted.

Kadam Singh and Others v. State of Madhya Pradesh and Others, W.P. no. 25331/2021, 14/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Notaries Act Sections 8 and 13 — notarisation of allegedly forged will after death — complaint bar and charge-sheet. A will dated 19 November 2014 purported to have been signed by a testator who had died on 18 November, and the thumb impressions did not match on comparison. The Court held that the notary's duty under Section 8 to verify the executant's identity provided a prima facie basis for the proceedings. It distinguished *Hiralal Jain v. Delhi Administration, AIR 1972 SC 2598*, concerning an advocate's reliance on instructions. On Section 13, the Court relied on CrPC Section 2(d), *Ushaben v. Kishorbhai, (2012) 6 SCC 353*, and the principle that cognizance is taken of an offence, to reject the challenge to the charge-sheet involving cognizable forgery offences. Alternatively, relying on *H.N. Rishbud, AIR 1955 SC 196*, and *Union of India v. Nathamuni, (2014) 16 SCC 285*, it held that an investigative defect does not by itself invalidate the proceedings in the absence of a miscarriage of justice. It assumed, for this alternative ground, that the investigating officer lacked competence to investigate and file the charge-sheet, and held that this ground alone did not require quashing. The revision was dismissed.

Case-note :- ***1. Facts :*** The complainant stated that Janak Singh claimed her deceased husband Rambharosi's land on the basis of a will prepared on 19 November 2014, one day after Rambharosi's death. The will bore his photograph and a disputed thumb impression. The police registered allegations under IPC Sections 420, 423, 466, 467, 471 and 120-B, found that the applicant, notary Kailash Narayan, had notarised the will, and filed a charge-sheet. Invoking Section 13 of the Notaries Act, he contended that a police report could not replace a written complaint by an officer authorised by the Government. He also denied a personal duty to

verify the apparent executant's identity when another person had identified him.

2. Precedents — Considered : *Ushaben v. Kishorbhai Chunilal Talpada, (2012) 6 SCC 353*, was applied by analogy to cognizance of a case involving both non-cognizable and cognizable offences, and to the explanation to CrPC Section 2(d), which deems a police report disclosing a non-cognizable offence to be a complaint. The Court applied that reasoning to the mixed forgery charge-sheet. *H.N. Rishbud v. State of Delhi, AIR 1955 SC 196*, and *Union of India v. Nathamuni, (2014) 16 SCC 285*, were relied on in the alternative. They explain that an investigative defect does not automatically invalidate cognizance or the trial's result in the absence of a miscarriage of justice. The quotation from *H.N. Rishbud* distinguishes rules governing the Court's competence from irregularities in investigation. *Hiralal Jain v. Delhi Administration, AIR 1972 SC 2598*, was distinguished: an advocate filing a vakalatnama on instructions is differently placed from a notary with a specific statutory duty of authentication. The defence cited the Madras High Court's order in *V. Ramakrishnan*. The Court considered that its reasoning had not addressed the definition of a complaint, and also noted its rejection of a notary's reliance on identification by another person.

3. Statutes considered : Section 13 of the Notaries Act imposes the requirement of an authorised officer's written complaint and limits cognizance, while Section 8 concerns the notary's authentication functions. The Court considered CrPC Section 2(d) and its explanation concerning a police report disclosing a non-cognizable offence. Section 190 appeared in the quoted reasoning on cognizance. The charge-sheet concerned IPC Sections 420, 423, 466, 467, 471 and 120-B. Section 13(2) also specifies the class of Magistrate competent to try an offence punishable under the Notaries Act.

4. Issues : Whether Section 13 barred proceedings against a notary included in a police charge-sheet concerning a will purportedly executed after the testator's death; whether an alleged defect in investigation or the complaint required quashing; and whether notarisation without personally verifying the executant's identity disclosed prima facie material for criminal proceedings.

5. Ratio / Findings : The Court stated that cognizance is taken once of an offence, rather than separately against each accused, and that the police may investigate and file a charge-sheet in a case involving cognizable and non-cognizable offences. It treated the police report as a complaint under Section 2(d). Section 13 requires a written complaint by an officer authorised by the Government; the Court rejected the Section 13 quashing challenge through its reasoning under Section 2(d) and, alternatively, on the assumption that the investigating officer lacked competence. On that alternative ground, an officer's lack of competence alone did not invalidate the proceedings without demonstrated prejudice or miscarriage of justice. On the merits, the purported execution of the will after death, the photograph and the mismatched thumb impressions, considered with the notary's duty to verify the signatory's identity, justified proceeding to trial. The Court did not make a final finding of guilt.

6. Relief : The Hon'ble High Court dismissed the revision/application and declined to quash the charge-sheet.

Kailash Narayan v. State of Madhya Pradesh, Cr.R. no. 1306/2019, 02/04/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (272) Prev Next

Headnote :- IPC Sections 302/34 — burn murder — sole dying declaration and common intention. In her dying declaration to a Naib-Tahsildar, Rajkumari stated that Kalla poured kerosene on her and set her on fire, and that Kaliya had her burnt. The doctor certified her fitness before and after recording. Despite her 98 percent burns, the declaration was coherent; neither police nor relatives were present, and the medical and FSL evidence supported the use of kerosene. Applying *Purshottam Chopra*, *Madan* and *Mukesh*, the Court held that a voluntary and reliable dying declaration may alone sustain a conviction. Extensive burns require scrutiny of the evidence of fitness and do not automatically exclude the declaration. The specific accusation against Kaliya and her conduct distinguished her from the two acquitted relatives and established common intention under Section 34. Kalla's conviction under Section 302 and Kaliya's conviction under Section 302/34, with their life sentences, were affirmed. The appeal was dismissed.

Case-note :- ***1. Facts :*** Rajkumari died from extensive burns in June 2009. A Naib-Tahsildar recorded her dying declaration after medical checks confirmed her fitness. She alleged that Kalla poured

kerosene on her and set her on fire, while Kaliya had her burnt. The trial court convicted Kalla of murder and Kaliya under IPC Sections 302/34, sentencing each to life imprisonment and a fine of ₹1,000, with 3 months' rigorous imprisonment in default. It acquitted Nandu and Sheela, and their acquittal was not challenged. In appeal, Kalla and Kaliya relied on the family witnesses having turned hostile, Rajkumari's 98 percent burns, the possibility of tutoring, and parity with the acquitted co-accused.

2. Precedents — Considered : *Purshottam Chopra v. State (NCT of Delhi)*, (2020) 11 SCC 489, was quoted for a structured enquiry into voluntariness, capacity, coherence, consistency and the circumstances in which a dying declaration may sustain conviction without corroboration. *Madan v. State of Maharashtra, (2019) 13 SCC 464*, emphasises the risks of relying on a declaration that cannot be tested by cross-examination, while permitting sole reliance on a trustworthy declaration made in a fit state of mind without tutoring or prompting. *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, likewise permits sole reliance on a truthful declaration, while requiring scrutiny of mental fitness and material discrepancies. The Court applied these standards to the evidence of the doctor and the recorder, Rajkumari's ability to speak, the absence of her parents during recording, and the medical and FSL evidence of kerosene. The other decisions referred to within the quotations from *Purshottam Chopra* supplied the dying-declaration principles reproduced there. The Court inferred common intention from Kaliya's presence, the specific accusation against her and her conduct during the burning.

3. Statutes considered : IPC Sections 302 and 34; appeal under CrPC Section 374. The Court assessed the dying declaration and the forensic evidence concerning the burns. The percentage of burns did not, by itself, determine whether the declaration was reliable.

4. Issues : Whether Rajkumari could make a reliable dying declaration despite her 98 percent burns and whether it could be relied on when family witnesses had turned hostile; whether Kaliya's role was sufficiently distinct from that of the two acquitted relatives to establish common intention under Section 34; and whether the sentence of life imprisonment required modification.

5. Ratio / Findings : The doctor certified Rajkumari's fitness before and after the dying declaration was recorded. The Naib-Tahsildar's evidence showed that she was oriented and that no police personnel were present during recording. The Court considered the depth of the burns, the normal condition of the internal organs, her ability to speak and the traces of kerosene, and found the declaration truthful and supported by the evidence. It found that Kalla had poured kerosene on her and set her on fire. The declaration specifically accused Kaliya of having her burnt. She was present when Kalla brought kerosene and carried out the attack, and she made no attempt to stop him or extinguish the fire. The Court assessed these circumstances together and found that she shared his common intention under Section 34; its finding did not rest on inaction alone. The two acquitted relatives faced only a general allegation that they had taken part in a discussion. The Court held that life imprisonment was the minimum sentence for murder and declined to interfere with it.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and sentences of life imprisonment and a fine of ₹1,000 each, with 3 months' rigorous imprisonment in default. Kaliya's bail bonds were cancelled, and she was directed to surrender immediately before the trial court to serve the remaining sentence. Kalla was directed to serve the remainder of his sentence.

Kalla and Others v. State of Madhya Pradesh, Cr.A. no. 478/2010, 26/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (273) Prev Next

Headnote :- Forged power of attorney and land sale — noncompoundable offences — appeal merits and sentence. Applying *Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*, the Court held that an appellate court must examine the conviction on merits even when it is not challenged and a compromise is submitted. Fingerprint evidence, the absence of proof of payment of consideration and the short interval between the power of attorney and the sale deed sustained the convictions for forgery, use of the forged document and conspiracy under the IPC. The Registrar verified that the settlement was voluntary, but CrPC Section 320 did not permit compounding the offences under IPC Sections 467, 468, 471 and 120-B. Applying the principle of proportionality in *Shyam Narain, (2013) 7 SCC 77*,

and *Raj Bala*, *(2016) 1 SCC 463*, the Court affirmed the five-year sentences of Rajendra, Dharamvir and Veero. Kallo's lesser role as purchaser, her age and the period already spent in custody justified reducing her sentence to the period undergone, subject to payment of a fine of ₹1 lakh within one month. The original sentence would revive if she failed to pay within that period. The appeal was disposed of accordingly.

Case-note :- ***1. Facts :*** Vimla Devi alleged that her relatives forged her thumb impression on a power of attorney and that Rajendra used it to sell her inherited half share in the land to Kallo. Dharamvir and Veero signed both the power of attorney and the sale deed as witnesses. The trial court imposed five-year terms of rigorous imprisonment and fines for the respective offences under IPC Sections 467, 468, 471 and 120-B. During the appeal, the parties submitted a voluntary compromise. The Registrar reported that the offences were not compoundable. Counsel for the appellants did not challenge the convictions and sought reduction of the sentences to the periods already undergone, submitting that the three men had spent just over three years in custody and Kallo about two years and two months. The State opposed leniency.

2. Precedents — Considered : *Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*, was applied to require examination of the conviction on merits despite counsel's concession. Its discussion of *Jeetu* formed part of that principle. *Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77*, and *Raj Bala v. State of Haryana, (2016) 1 SCC 463*, were quoted on the seriousness of the offence, the social purpose of punishment, its impact on the victim, proportionality and the rational exercise of sentencing discretion. *Jameel*, *Shailesh Jasvantbhai*, *Babulal*, *Gopal Singh* and the other authorities referred to within those quotations supplied the sentencing principles reproduced there. The Court applied proportionality differently to the three appellants who were instrumental in the forgery and to the older purchaser.

3. Statutes considered : CrPC Sections 374, governing the appeal, and 320, governing compounding; IPC Sections 467, 468, 471 and 120-B, according to the charges and convictions of the respective appellants. The civil decree invalidating the power of attorney and the sale was considered alongside the criminal evidence; it did not replace that evidence.

4. Issues : Whether the fingerprint evidence, the complainant's testimony and the evidence concerning the transactions sustained the convictions notwithstanding counsel's concession and the compromise; and whether the verified settlement and the periods already spent in custody justified reducing the five-year sentences of all the appellants.

5. Ratio / Findings : Fingerprint expert Om Prakash Batham established that the thumb impression on the disputed power of attorney was not Vimla Devi's. The civil court had also found the document forged. There was no evidence that the stated consideration of ₹1,94,000 had been paid. Rajendra prepared the false power of attorney and used it to execute the sale deed; Dharamvir and Veero signed both documents as witnesses. Kallo appeared at registration as the purchaser and participated in the conspiracy, but no role in preparing the power of attorney was proved against her. Following *Nagpal Traders*, the Court examined the convictions on merits. The voluntary settlement did not extinguish guilt because the offences were not compoundable. The Court declined to reduce the sentences of the three appellants who had played the more active roles, while granting Kallo an individual reduction subject to payment of the enhanced fine within the prescribed period. Failure to pay on time would revive her original sentence.

6. Relief : The Hon'ble High Court dismissed the appeal in respect of Rajendra, Dharamvir and Veero and affirmed their five-year terms of rigorous imprisonment and fines, with the custodial terms to run concurrently. Kallo's appeal was partly allowed: her sentence under Section 120-B was reduced to the period already undergone, subject to payment of a fine of ₹1 lakh within one month of the judgment. If she failed to pay within that period, the original five-year term of rigorous imprisonment, the fine of ₹2,000 and six months' rigorous imprisonment in default would automatically revive, and the trial court would be required to issue a warrant for her arrest to serve the remaining sentence.

Kallo and Others v. Vimla Devi and Others, Cr.A. no. 5064/2018, 20/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (274) Prev Next

Headnote :- IPC Sections 302/34 — armed ambush and fatal chest shot — related eyewitnesses, missing weapon link, alibi. Applying

the principles in *Mahavir Singh*, *Raju*, *Kishanpal*, *Sudhakar* and *Sarwan Singh*, the Court carefully scrutinised the evidence of the deceased's cousins, Shailendra and Vipin. Their account was supported by the prompt FIR, medical evidence and recovered cartridges, notwithstanding the enmity between the parties. Applying *Nankaunoo v. State of U.P., (2016) 3 SCC 317*, the Court held that failure to recover or connect a weapon with the offence does not displace otherwise reliable eyewitness evidence corroborated by medical evidence. Coordinated firing established common intention, while the separate acquittals under Section 307/34 and the Arms Act remained final because the State had not appealed. Applying *Vijay Pal*, *S.K. Sattar* and *Binay Kumar Singh*, the Court rejected the alibis based on Kallu's clinic attendance recorded at the end of the day and Girish's unreliable shop and telephone evidence. The prosecution's ultimate burden of proof remained unchanged. Anil's conviction for murder and the three companions' convictions under Section 302/34, with their life sentences, were affirmed.

Case-note :- ***1. Facts :*** On 12 March 2013, at about 2:45 p.m. near Birkhadi, Anil fired a close-range pistol shot into Avdhesh's chest during an alleged armed ambush. Shailendra and Vipin escaped while Kallu alias Madhusudan, Ram Baran and Girish also fired. There was earlier enmity between the parties. The FIR was lodged at 3:15 p.m.; the postmortem findings and cartridges recovered from the scene supported the account of the shooting. The trial court sentenced Anil under IPC Section 302 and the others under Section 302/34 to life imprisonment and a fine of ₹10,000 each, with one year's simple imprisonment in default. The latter three were acquitted under Section 307/34 and Arms Act Sections 25(1-B)(a)/27, and the State did not appeal against those acquittals. The defence challenged the reliability of the cousin witnesses and the connection between the seized weapons and the offence, and relied on Kallu's clinic alibi and Girish's shop alibi.

2. Precedents — Considered : *Mahavir Singh v. State of M.P.*, *Raju v. State of T.N.*, *State of U.P. v. Kishanpal*, *Sudhakar v. State* and *Sarwan Singh v. State of Punjab* were quoted on the distinction between related and interested witnesses and the assessment of credibility. Relationship requires careful scrutiny but does not automatically disqualify a witness. The Court applied that approach to the cross-examination, the prompt FIR, and the medical and scene evidence. *Nankaunoo v. State of U.P., (2016) 3 SCC 317*, was applied for the principle that nonrecovery of a weapon, or failure to connect it with the offence, does not destroy reliable oral evidence corroborated by medical evidence. This did not reopen the unappealed acquittals on separate charges. *Vijay Pal v. State (NCT of Delhi), (2015) 4 SCC 749*, *S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, were applied on alibi. The prosecution must first establish the accused's presence; the accused then bears a strict burden of proving absence. The prosecution's burden remains, and failure of alibi does not by itself prove guilt. If the defence evidence raises a reasonable doubt about the accused's presence, the accused is entitled to its benefit. The Court examined the defence witnesses and the attendance register before rejecting the alibis.

3. Statutes considered : IPC Sections 302/34 governed the convictions; the acquittals under Section 307/34 and Arms Act Sections 25(1-B)(a) and 27 were not appealed. The appeals were under CrPC Section 374. Evidence Act Section 11 was discussed within the quoted authorities on alibi.

4. Issues : Whether the related witnesses, despite their enmity with the accused, reliably identified the shooter and his armed companions; whether failure to prove that the seized guns were used in the offence defeated the convictions for murder and common intention; whether clinic attendance or shop testimony established alibi; and what effect the final acquittals on the other counts had on the appeals.

5. Ratio / Findings : The prompt report and the medical evidence of a chest gunshot injury supported the eyewitness account of Shailendra and Vipin. Dharmendra corroborated their journey together to a limited extent. The .32 and .315 bore cartridges found at the scene supported the account of multiple shots and coordinated participation. Enmity alone did not discredit the witnesses, and, applying *Nankaunoo*, failure to establish that the seized arms were the weapons used did not negate their reliable evidence. The Court left the unappealed acquittals under Section 307/34 and the Arms Act undisturbed. Kallu's attendance was entered in the clinic register after 8:30 p.m., without recording the time of his arrival. Girish's telephone and shop evidence was hearsay or lacked reliable support concerning the relevant time. Neither alibi displaced the prosecution evidence accepted by the Court. Anil shot Avdhesh, and the ambush and firing established that the others shared his common intention.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed Anil's conviction under Section 302 and the convictions of Kallu, Ram Baran and Girish under Section 302/34, with life imprisonment and a fine of ₹10,000 each, with one year's simple imprisonment in default. The bail bonds of Kallu, Ram Baran and Girish were cancelled, and they were directed to surrender immediately before the trial court, on or before 27 August 2026, to serve the remaining sentence. Anil, who was in jail, was directed to serve the remainder of his sentence.

Kallu and Others v. State of Madhya Pradesh; Anil v. State of Madhya Pradesh, Cr.A. no. 1026/2016 & 111/2017, 05/08/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC Section 302 and Arms Act Section 25(1-B)(a) — sole related eyewitness and final co-accused acquittal. Arati's presence at the roadside shooting of her husband was corroborated by the information immediately conveyed through a passer-by, the police finding her at the scene, and the FIR lodged within about 50 minutes. The postmortem findings and the FSL comparison linking the recovered bullet with Kallu's working, unlicensed pistol supported her account. Applying *Raju, Jalpat Rai, Namdeo* and the related Supreme Court authorities, the Court emphasised credibility and the quality of evidence under Evidence Act Section 134; relationship alone did not make a witness interested. *Shakila Abdul Gafar Khan, Yogendra* and *Raja* did not require rejection of the entire testimony merely because the conspiracy allegation against Mira had failed. *Bhagwan Jagannath Markad* guided the assessment of whether omissions were material. *Babir* and *Ruli Ram* required careful scrutiny of enmity as both a motive for the offence and a possible reason for false implication. The convictions for murder and the Arms Act offence were affirmed, and the concurrent sentences of life imprisonment and one year were left undisturbed.

Case-note :- ***1. Facts :*** On 25 September 2005, Arati was accompanying her husband Sunil as he pushed their motorcycle home after it had broken down. Three men approached them. According to Arati, Kallu fired the first shot into Sunil's chest and another man also fired, killing him. She reported land-related enmity with Mira Bhatele, who was charged with conspiracy but acquitted; the State did not appeal against that acquittal. Kallu was convicted under IPC Section 302 and Arms Act Section 25(1-B)(a), and sentenced respectively to life imprisonment with a fine of ₹1,000 and one year's rigorous imprisonment with a fine of ₹500, with default imprisonment. The custodial sentences were concurrent. In appeal, he challenged Arati's account as the sole related eyewitness, relied on alleged omissions and land enmity, and questioned the absence of independent road witnesses and the rejected conspiracy allegation.

2. Precedents — Considered : *Raju v. State of T.N., Jalpat Rai v. State of Haryana, Rohtash Kumar v. State of Haryana, State of Rajasthan v. Chandgi Ram, Nagappan v. State, Mohd. Ishaque v. State of W.B.* and *Namdeo v. State of Maharashtra* were quoted on related and interested witnesses and the principle in Evidence Act Section 134. A sole witness may prove guilt if her evidence, after careful scrutiny, is natural and credible; there is no universal requirement of an independent witness. The Court applied these principles to Arati's prompt account and its corroboration. *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749; Yogendra v. State of Rajasthan, (2013) 12 SCC 399*; and *Raja v. State of Haryana, (2015) 11 SCC 43*, supported separating reliable testimony from the unproved conspiracy evidence concerning the co-accused. The maxim falsus in uno is not a mandatory rule of evidence in India. Where truth and falsehood are so inseparably intertwined that separation would require reconstruction of a new prosecution case, the evidence must be discarded as a whole. *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, guided the distinction between peripheral omissions and contradictions affecting the core account. *Babir v. Vazir, (2014) 12 SCC 670*, and *Ruli Ram v. State of Haryana, (2002) 7 SCC 691*, were applied to assess enmity as both a motive for the offence and a possible cause of false implication. The further authorities referred to within these Supreme Court passages supported the evidentiary principles reproduced there.

3. Statutes considered : IPC Sections 302, 34 and 120-B formed part of the charge and alleged conspiracy history. Arms Act Sections 25(1-B)(a) and 27 were referred to in relation to the charges, with conviction under Section 25(1-B)(a). CrPC Sections 374 and 293 concerned the appeal and the

FSL report respectively. Evidence Act Section 134 prescribed no fixed number of witnesses.

4. Issues : Whether Arati's evidence as the sole eyewitness and the deceased's wife established that Kallu fired the shot despite land enmity and the absence of independent passer-by testimony; what effect Mira's final acquittal on the conspiracy allegation and the discrepancies in the evidence had on the prosecution case; and whether the forensic and recovery evidence proved possession of an unlicensed firearm.

5. Ratio / Findings : Arati's presence was supported by the passer-by's information to the police, the police finding her at the scene, and the FIR lodged within about 50 minutes. The evidence of death by gunshot and the bullet comparison supported her account. The seized country-made pistol was in working condition, and Kallu produced no licence for it. Arati had not claimed firsthand knowledge of Mira's alleged planning, so Mira's acquittal did not undermine the distinct evidence of the roadside shooting. Ordinary omissions did not affect the core account, and the Court assessed the enmity in light of the prompt report and scientific evidence. It found Kallu guilty beyond reasonable doubt of murder and possession of the unlicensed pistol, without reopening Mira's acquittal.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the sentence of life imprisonment with a fine of ₹1,000 under IPC Section 302 and one year's rigorous imprisonment with a fine of ₹500 under Arms Act Section 25(1-B)(a), with default imprisonment. The custodial sentences remained concurrent.

Kallu Khan v. State of Madhya Pradesh, Cr.A. no. 109/2011, 28/03/2018, D.B., Hon'ble Justice Shri Vivek Agarwal & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- MP Excise Act Sections 34(2), 49(A), 61(2) — police report delay — Section 439 bail and administrative accountability. Following the seizure of 72.2 bulk litres of liquor, a charge-sheet prepared on 27 December 2021 remained unfiled while permission under the Act's six-month provision was sought belatedly. The investigating officer conceded that the pandemic restrictions did not prohibit investigation and that an absconding co-accused did not prevent filing a report against the arrested persons. The new SHO disclosed that reports in 49 completed cases also remained unfiled. The Court rejected the explanation that the file had been forgotten and granted bail to the applicants, who had been in custody since 23 August 2022, despite their earlier failure to appear while on interim bail. It required a report from the DGP and conditional action if he considered the lapses serious. *Aparna Bhat v. State of M.P. (2021)* was cited for intimation of bail to the complainant. The order determined neither guilt nor the pending permission request.

Case-note :- ***1. Facts :*** The applicants faced offences under MP Excise Act Sections 34(2) and 49(A) following an alleged seizure of 72.2 bulk litres of liquor. Interim bail granted during the pandemic in July 2021 was extended, but they stopped appearing in February 2022 and surrendered on 23 August 2022. Their regular bail application revealed that a police report prepared on 27 December 2021 had not been filed as a charge-sheet. The former investigating officer relied on COVID restrictions, an absconding co-accused and the ADPO's advice that permission was required under MP Excise Act Section 61(2) after six months. The current SHO reported that charge-sheets in 49 completed Section 34 cases also remained unfiled and that belated requests for permission had been sent to the higher authorities.

2. Precedents — Considered : *Aparna Bhat v. State of M.P.*, Criminal Appeal 329/2021, was cited for sending intimation of the grant of bail to the complainant. In deciding bail and directing the DGP to submit a report, the Court considered the officers' responses, the unfiled charge-sheet and the negligence it found.

3. Statutes considered : CrPC Section 439 governed bail. Section 144 was relied on as a pandemic restriction, although it did not halt investigation. MP Excise Act Sections 34(2) and 49(A) concerned the alleged offences, and Section 61(2) was cited as requiring permission after six months. The Court did not finally decide the pending request to the competent authority for permission.

4. Issues : Whether the applicants should remain in jail while a completed police report had not been filed; whether the pandemic, an absconding co-accused or a forgotten file justified the delay; and how the 49 similarly stalled Excise Act cases should be addressed.

5. Ratio / Findings : The investigating officer conceded that investigations continued during the relevant pandemic period and that a charge-sheet

against arrested accused persons could be filed without waiting for an absconding co-accused. He did not promptly seek permission after receiving the ADPO's advice. In light of monthly reviews of pending cases and the pattern of 49 unfiled reports, the Court rejected his explanation that he had forgotten the file as misleading. It did not itself impose punishment. The DGP was to consider whether the lapses of the investigating officer or the Superintendent of Police were serious and, if he decided to act, take action within one month; he was also required to submit a report. As the charge-sheet remained unfiled and the applicants were in custody, further refusal of bail would serve no useful purpose on these facts. The Court expressly granted bail on the basis of the negligence it attributed to the investigating officer and the SHO.

6. Relief : The Hon'ble High Court allowed the application for regular bail under Section 439 CrPC. Each applicant was to furnish a personal bond of ₹1,00,000 with one surety in the like amount to the satisfaction of the trial or committal court and appear on the dates fixed by that court. Bail would remain effective until the end of trial but would become ineffective on a bail jump. Intimation of the grant of bail was to be sent to the complainant. The DGP was directed to submit his report to the Principal Registrar by 14 November 2022 and, if he decided that the lapses warranted action, to take that action within one month.

Kalla and Others v. State of Madhya Pradesh, M.Cr.C. no. 44885/2022, 12/10/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Juvenile Justice (Care and Protection of Children) Act 2015 Sections 2(14), 41, 42 — registration of hostel housing vulnerable children — later trafficking/conversion allegations. An inspection found children in an unregistered institution. A list identified 30 children who had been left by their parents or whose parents had remarried. The applicant supplied no documents establishing parental consent for all the children and could not extend a coordinate bench order concerning some parents to every rescued child. The material supported investigation of the Section 42 offence for nonregistration of an institution housing children in need of care and protection, although none of the children was in conflict with law. Applying *Neeharika Infrastructure, (2021) 19 SCC 401*, the Court declined to stop investigation of the added allegations under IPC Section 370 and MP Freedom of Religion Act Sections 3/5. It did not find those allegations proved and stated that the police could not file a charge-sheet for them without supporting material. Quashing was refused.

Case-note :- ***1. Facts :*** An inspection of the Adivasi Sahayata Samiti girls' and boys' hostel and old-age home at Jobat, Alirajpur, found minor girls and boys, including orphaned children or children without support. The institution was not registered under Section 41 of the Juvenile Justice Act 2015. The police registered an offence under Section 42 and later added IPC Section 370 and MP Freedom of Religion Act 2021 Sections 3/5. The applicant argued that the children were neither in conflict with law nor in need of care and protection. She asserted parental consent without producing documents, challenged the later offences, and relied on an order passed on a petition by the parents of some rescued children.

2. Precedents — Considered : *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, was quoted and applied because the investigation was pending. The police investigate cognizable allegations; quashing is exceptional, and the Court cannot prematurely assess the reliability of those allegations. The recognised exceptions in *R.P. Kapur* and *Bhajan Lal* formed part of the quoted framework. The coordinate bench order in *Digvijay Singh*, passed on a writ petition by parents of some rescued children, was distinguished because it did not establish the circumstances of every rescued child. *Prakash P. Hinduja, P. Chidambaram* and *Skoda Auto Volkswagen* were referred to within the quotation explaining the respective limits of investigation and quashing.

3. Statutes considered : Juvenile Justice Act 2015 Sections 2(13), defining a child in conflict with law; 2(14), defining a child in need of care and protection; 41, requiring registration; and 42, prescribing the penalty. IPC Section 370 and MP Freedom of Religion Act 2021 Sections 3/5 concerned the later allegations. The application was under CrPC Section 482.

4. Issues : Whether housing children in need of care and protection in an unregistered hostel supported the offence under Section 42; whether assertions of parental consent or the limited earlier order required quashing; and whether investigation of the added

trafficking and conversion allegations should be stopped before it was completed.

5. Ratio / Findings : None of the children was alleged to be in conflict with law. On the material before it, the Court found that the institution housed children in need of care and protection and therefore required registration under Section 41. The government lists distinguished 37 children returned to their parents from 30 children who had been left by their parents or whose parents had remarried. The applicant produced no documents establishing the position of all the minors, so registration of the Section 42 offence was not baseless. The earlier order on the parents' petition could not be extended beyond its limited scope. As to the added offences, the Court permitted lawful investigation and expressly stated that the police could not file a charge-sheet without material supporting those allegations. It did not find trafficking or conversion proved or finally determine each child's status.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 and declined to interfere with the continuing investigation of the FIR.

Kalpana Daniel v. State of Madhya Pradesh and Others, M.Cr.C. no. 47928/2023, 10/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Circumstantial evidence / complete chain - *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116, Pudhu Raja v. State, (2012) 11 SCC 196, Ram Singh v. Sonia, (2007) 3 SCC 1*, and *Inspector of Police v. John David, (2011) 5 SCC 509* require each incriminating circumstance to be firmly proved and the whole chain to exclude a reasonable innocent explanation. The Court applied that test to two deaths caused by homicidal head injuries, the appellant's return alone soon after the encounter, blood found at the scene and on his clothing, and his lack of injury; an alleged confession introduced as an improvement in testimony was excluded from the chain.

Last seen / temporal proximity - *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750, Ashok v. State of Maharashtra, (2015) 4 SCC 393, Mahavir Singh, Jagroop Singh* and *Ajitsingh Harnamsingh Gujral, (2011) 14 SCC 401*, were considered in relation to the short time gap, the possibility that another person had intervened, and the need for other supporting evidence. The witnesses placed the appellant with the deceased in the afternoon; he returned alone about 5 p.m., and the bodies were located soon after. The Court treated this evidence as one link corroborated by other circumstances, rather than as a presumption sufficient on its own.

Serology / incriminating bloodstains - FSL report Ex P15 recorded group B human blood both on a stone seized at the scene and on the appellant's pant. Other items contained human blood whose group was not similarly identified. Applying *Barku Bhavrao Bhaskar v. State of Maharashtra, (2013) 14 SCC 745, Gilbert Pereira v. State of Karnataka, (2004) 12 SCC 281, Alagupandi v. State of T.N., (2012) 10 SCC 451*, and *Ramesh v. State of Rajasthan, (2011) 3 SCC 685*, the Court considered the proved seizure, absence of injury and unexplained stains together with the other links in the chain. It inferred that at least one victim had group B blood.

Extra-judicial confession / material omission - Narayan Singh's claim of a confession first surfaced in testimony and was absent from his police statement. The Court treated it as unreliable and did not use it to supply a missing link.

Murder / Section 304 Part I - *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, setting out *Dhirendra Kumar*'s contextual factors, was applied to repeated forceful stone blows crushing the faces and skulls of two victims. The absence of proved previous enmity did not establish that the incident was a sudden fight in which the appellant had not acted cruelly. Both Section 302 convictions and concurrent life terms were affirmed.

Case-note :- ***1. Facts :*** On 10 May 2010, Kallu alias Kalyan Singh, Mukesh and appellant Kalu went for labour work around Raghogarh with others. Prem Narayan (PW2) met them; the group consumed liquor near Rangbawadi pond. Kallu went briefly to buy fish, and Prem Narayan later left the appellant near Nahar Singh's platform, expecting him to rejoin Kallu. The Court relied on Prem Narayan and others as witnesses who placed the men together during the relevant period; they were not eyewitnesses to the assault. Around 5 p.m. Kalu returned alone to Hari Singh's house with bloodstained clothes. He said the two men had beaten him and gone towards Raghogarh, yet Hari Singh, Prem Narayan and Mulibai observed no injury on him. Their search found both men dead near the pond, with severe face

and head wounds; Hari Singh reported the matter at about 7:30 p.m. The autopsy of Kallu disclosed fractures of parietal, frontal and nasal bones and lacerated brain; Mukesh also had facial and skull fractures, ruptured membrane and contused or lacerated brain. The doctor classified each death as homicidal, while saying prompt treatment might have saved them and noting no alcohol in the stomachs. Stones and earth were seized from the spot; the appellant's pant and full-sleeved shirt were seized under memorandum Ex P9 and seizure Ex P10. The trial court convicted Kalu on two IPC Section 302 counts, each carrying life imprisonment and ₹500 fine with one month's rigorous imprisonment in default; the sentences were to run concurrently. In the appeal under Section 374, counsel disputed the last-seen link and the inference from stained clothing; alternatively he sought conversion to Section 304 Part I on the grounds that the incident had occurred suddenly and without premeditation and that there was no prior hostility.

2. Precedents — Considered : *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, set out the five conditions: the circumstances must be proved and conclusive, be consistent only with guilt, exclude reasonable alternatives and form a complete chain leaving no ground for innocence. *Pudhu Raja v. State, (2012) 11 SCC 196*, warned that even grave suspicion cannot replace reliable and clinching proof. *Ram Singh v. Sonia, (2007) 3 SCC 1*, required each link to withstand scrutiny, because the failure of an important link breaks the chain. *Inspector of Police v. John David, (2011) 5 SCC 509*, repeated this caution and reproduced *State of U.P. v. Ram Balak*, *C. Chenga Reddy* and *Padala Veera Reddy* on firmly established cumulative circumstances; those authorities appeared within the quoted exposition and were not separately applied to the facts of the present case. The Bench applied the complete-chain standard to the evidence actually proved after excluding the unreliable alleged confession.

Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750, required the interval between the accused and deceased being last seen together and the death to be short enough to rule out the intervention of another person, discussing *Bodhraj*, *Rambraksh* and *Anjan Kumar Sarma* within the passage. *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, explained that the prosecution retains the initial burden, while the accused's special knowledge under Section 106 and an unexplained death after the accused and deceased were last seen together may be considered along with the surrounding circumstances; last-seen alone is not conclusive, and *Ajitsingh Harnamsingh Gujral v. State of Maharashtra, (2011) 14 SCC 401*, likewise addressed the small gap and realistic possibility of intervention. The Bench used their shared test for Prem Narayan's sighting, the appellant's return around 5 p.m. and the discovery of the bodies soon afterwards, with the blood evidence supplying further corroboration.

Barku Bhavrao Bhaskar v. State of Maharashtra, (2013) 14 SCC 745, found unexplained matching blood on an accused's recovered clothing probative where physical examination showed no injury. *Gilbert Pereira v. State of Karnataka, (2004) 12 SCC 281*, considered the known blood groups, proximity to the deceased and an unpersuasive explanation that the blood had been transferred innocently. *Alagupandi v. State of T.N., (2012) 10 SCC 451*, treated group-matched blood on a shirt as significant in conjunction with the deceased's known group and an inadequate Section 313 answer. *Ramesh v. State of Rajasthan, (2011) 3 SCC 685*, weighed even ungrouped human blood on clothing and grouped blood on a recovered weapon alongside the accused's failure to explain the bloodstains. The Bench applied the principles concerning the evidentiary significance of bloodstains. In the present case, however, the victim's blood group was inferred from the stone found at the scene, rather than separately established through a sample from the victim.

Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329, quoted *Dhirendra Kumar v. State of Uttarakhand's* factors separating Section 302 from Section 304: circumstances, weapon carried or picked up, targeted vital parts, degree of force, participation in sudden fight, enmity, provocation, heat of passion, undue advantage and cruelty. The Bench applied the factors concerning the injuries and the force used to both deaths and found no basis to substitute a conviction under Section 304 for the murder convictions. Narayan Singh's extra-judicial-confession testimony was rejected because it was missing from his prior police statement. The Court declined to rely on that asserted confession.

3. Statutes considered : Sections 302 and 304 Part I of the IPC governed the conviction and proposed alternative offence. Section 374 of the CrPC provided for the appeal; Section 313 arose in the discussion of an accused's explanation in the quoted

authorities on serological evidence. Evidence Act Section 106 appeared in *Ashok*'s special-knowledge discussion, subject to the prosecution first proving the primary facts. The judgment did not make an independent shift of the burden under Section 106 the ground of conviction. The FSL report Ex P15 and seizure memos formed part of the evidence.

4. Issues : (i) Were Kallu and Mukesh victims of homicide, and did the prosecution prove beyond reasonable doubt that the appellant was responsible through a complete circumstantial chain despite no eyewitness to the blows? (ii) Was the last-seen interval sufficiently close, when one deceased had temporarily gone to buy fish and the men had been drinking, to reduce the possibility of an intervening actor? (iii) Did the seizure evidence and the finding of group B blood on a stone from the scene and on the appellant's pant, coupled with the absence of bodily injury, support an incriminating inference, and could the claimed extra-judicial confession be used? (iv) Did the absence of prior enmity and assertion of a sudden encounter justify Section 304 Part I instead of two Section 302 convictions?

5. Ratio / Findings : Dr B.L. Kushwaha's findings on the two distinct bodies established homicide by severe blunt-force injuries to vital head and facial structures. Prem Narayan's account put Kalu with the group near the pond and left him close to the place where the bodies were found; although Kallu had temporarily gone to buy fish, the Court found the witnesses' material last-seen evidence reliable and the interval before Kalu's solitary return and discovery sufficiently short. Hari Singh, Prem Narayan, Mulibai and Resham Bai described his bloodstained return and explanation that the two had beaten him, but no injury was noticed even after his shirt was removed. Narayan Singh's account of the alleged confession could not strengthen the evidence relied on by the trial court. The confession was not mentioned in Ex D2, so the Bench rejected that part of his testimony. The seizure of the two stones was proved by witnesses to the seizure at the scene and by the investigating officer. The seizure of the pant and shirt was also proved, despite one witness's initial denial, following which he was declared hostile. FSL report Ex P15 recorded blood on earth, stones and clothing, human blood on the first stone, earth, pant and shirt, and group B human blood on the first stone and pant. The Bench inferred that at least one victim had group B blood, treated the bloodstains on the pant as unexplained because the accused had no injuries, and considered those stains together with the close last-seen interval. This is the Court's evidentiary inference from the matching group B findings and the absence of injury on the appellant. It held the prosecution had established the chain without the alleged confession. Separately, the Court considered the absence of prior dispute but applied the full set of factors stated in *Lavghanbhai*: multiple heavy stone blows had crushed both faces, fractured skulls and injured the brains. The repeated use of such force and the cruelty of the assault did not support the inference of a sudden fight that would reduce the offence from murder, or justify conversion to Section 304 Part I. Both murder findings were affirmed.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. The trial judgment of 28 January 2011 and both Section 302 convictions, concurrent life sentences, ₹500 fine on each count and default term of one month's rigorous imprisonment on each count were affirmed. The appellant, who was in jail, was to serve the remaining sentence, receive a free copy of the judgment, and the trial record was to be returned with a copy for compliance.

Kalu v. State of Madhya Pradesh, Cr.A. no. 532/2011, 18/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Identification / test parade and dock evidence - *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654, Prakash v. State of Karnataka, (2014) 12 SCC 133, State of Rajasthan v. Daud Khan, (2016) 2 SCC 607, Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1, Suraj Pal v. State of Haryana, (1995) 2 SCC 64*, and *Dara Singh v. Republic of India, (2011) 2 SCC 490* were considered. A test identification parade (TIP) assists the investigation and provides a check on reliability as a matter of prudence. Identification in court is substantive evidence; identification in the dock for the first time of a person previously unknown to the witness requires careful corroboration. The Court held that the failure to conduct a TIP was not fatal on the evidence in this case because the abductee had named the miscreants in his police statement after prolonged captivity. It reached this conclusion despite their faces being covered at the time of the initial abduction, inconsistencies about his

familiarity with them, and imperfect identification in the dock.

Witness sufficiency / missing informant and enmity - Karan, who reportedly gave the names of the abductors to relatives searching for Gopal, was not examined. *Vadivelu Thevar v. State of Madras, AIR 1957 SC 614, Kunju v. State of Tamil Nadu, AIR 2008 SC 1381, Bipin Kumar Mondal v. State of West Bengal, AIR 2010 SC 3638, Mahesh v. State of M.P., (2011) 9 SCC 626, Prithipal Singh v. State of Punjab, (2012) 1 SCC 10*, and *Kishan Chand v. State of Haryana*, JT 2013 (1) SC 222, were invoked for the principle that the quality of reliable evidence matters, rather than the number of witnesses. The Court scrutinised the evidence of related witnesses, bearing in mind that electoral hostility could provide a motive either for the offence or for false implication, and accepted the evidence of the abductee, his family and the recovery. It carefully assessed the evidence of the related and inimical witnesses and found it credible.

Ransom abduction / participation and payment - Gopal's account of armed seizure and month-long forest captivity, a demand of ₹5 lakh, Prakash's evidence that ₹2 lakh was paid to Narayan Mirdha, and the police recovery of Gopal supported the convictions under Sections 364A and 365 of the IPC, read with Section 120B and Section 13 of the MPDVPK Act where charged. Receipt of money by one captor did not exonerate participants proved to be involved. The Court rejected the appellants' objections and held that the prosecution proved the abduction and ransom case beyond reasonable doubt. The five appeals were dismissed with separate surrender and custody directions for the appellants.

Case-note :- ***1. Facts :*** The consolidated judgment disposed of five appeals under Section 374 against two judgments of the Special Judge at Gwalior in Special Sessions Trial 70/2004. Gopal went to sleep at a tube-well after dinner on 15 February 2004 and was missing the next morning. His uncle Laxman reported the disappearance on 16 February after those searching for Gopal found a shoe, lathi, disturbed crops and a key at the site. A missing report was followed by Crime 42/2004 under IPC Section 364A on 5 March. The prosecution alleged armed abduction by a group that took Gopal via Jatrawi to Lokanpur forest, kept him captive for roughly a month, demanded ₹5 lakh and received ₹2 lakh through Narayan Singh Mirdha. Gopal named participants in his police account; Prakash, his brother, said he and Haridwari paid Narayan Mirdha. Police recovered Gopal from captivity on 12 March 2004 under Ex P1, handed him to Prakash under Ex P2 and arrested several suspects; the investigating officer described weapons and later arrests. Gopal said the initial abductors covered their faces, that he knew or learned names through their conversation and extended captivity, and that he was beaten; his familiarity with the accused by face and his identification of them in the dock were contested.

The 8 August 2011 judgment convicted Pancham Singh, Kalyan alias Kallu Gurjar, Narayan Kushwah, Narayan Mirdha and Punjab Singh under Sections 364A and 365. Gariba alias Hanumant and Tunda alias Rajesh were convicted under Sections 364A and 365 read with Section 120B, together with the applicable count under the MP Dacoity and Vyapaharan Prabhavit Kshetra Adhiniyam. Udal Singh had absconded at the first trial and was separately convicted on 28 June 2012 under Sections 364A and 365 read with the special Act. The sentences included life imprisonment under Section 364A and five years' rigorous imprisonment on the other count, with a ₹300 fine and a default stipulation. The sentences were to run concurrently. The appellants challenged the proof of demand and payment of ransom and of a threat or apprehension under Section 364A. They also raised objections concerning the reliability of the claimed familiarity, the absence of a test identification parade, omissions from police statements, non-examination of Karan, who first supplied names to those searching for Gopal, election enmity, and the lack of independent witnesses. The three defence witnesses asserted innocence or alibi, as did the accused in their statements under Section 313; the court noted the trial court had disbelieved the defence evidence because of contradictions.

2. Precedents — Considered : The appellants relied *on Sonu Kumar v. State of Himachal Pradesh, AIR 2009 SC 810*, and *Mohar Singh v. State of M.P.*, ILR (2011) MP 1355, on identification. The Bench did not accept that those submissions required acquittal. In its discussion of identification, the Bench referred to *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*, which distinguished identification in court as substantive evidence from a prior parade as a test of its reliability. *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, addressed the investigative character of the test and the scope for relying on reliable identification in court supported by the

circumstances. *Prakash v. State of Karnataka, (2014) 12 SCC 133*, explained the danger of first-time dock identification of strangers, depending on opportunity for prior observation, and why failure to hold a parade does not automatically invalidate other trustworthy evidence. *State of Rajasthan v. Daud Khan, (2016) 2 SCC 607*, examined identification and the absence of a parade in the context of witnesses who knew the accused and corroborating facts. *Suraj Pal v. State of Haryana, (1995) 2 SCC 64*, described the parade as testing the witness's memory and guarding against mistaken first identification. *Dara Singh v. Republic of India, (2011) 2 SCC 490*, with *Manu Sharma* and *Dana Yadav* quoted within its passage, warned that uncorroborated first-time dock identification of previously unknown persons is inherently weak; a prior parade is a prudential check rather than a mandatory legal condition. Applying these principles, the Court held that a TIP was unnecessary because Gopal had named the miscreants in his police statement, and that failure of dock identification did not by itself defeat the prosecution case.

On the failure to examine Karan, the Court cited *Vadivelu Thevar v. State of Madras, AIR 1957 SC 614; Kunju alias Balachandran v. State of Tamil Nadu, AIR 2008 SC 1381; Bipin Kumar Mondal v. State of West Bengal, AIR 2010 SC 3638; Mahesh v. State of Madhya Pradesh, (2011) 9 SCC 626; Prithipal Singh v. State of Punjab, (2012) 1 SCC 10*; and *Kishan Chand v. State of Haryana*, JT 2013 (1) SC 222. The Court relied on these authorities collectively to assess the credibility and quality of the evidence, rather than the number of witnesses. The Court also considered relatedness and enmity as factors requiring careful appraisal, rather than categorical disqualification.

3. Statutes considered : IPC Section 364A (ransom abduction) and Section 365 (kidnapping/abduction with intent secretly and wrongfully to confine) were the substantive conviction provisions; Section 120B applied to the convictions of Gariba and Tunda for conspiracy. Section 13 of the M.P. Dacoity and Vyapaharan Prabhavit Kshetra Adhiniyam, 1981, appeared with relevant charges and sentences. Section 374 of the CrPC provided appellate jurisdiction. Section 161 concerned the prior police statements from which omissions were alleged, and Section 313 concerned the accused's explanations. The identification authorities concern Evidence Act Section 9 and the evidentiary function of a parade. The Bench held that the evidence proved the abduction and ransom demand and payment, and affirmed the respective convictions.

4. Issues : (i) Whether the abductee's account of the individual captors could support the convictions despite face covering at the initial encounter, disputed prior acquaintance, inconsistent dock identification and the absence of a police TIP. (ii) Whether the ransom demand and ₹2 lakh payment to one participant, with alleged omissions about payment and no asserted threat to cause death or hurt, sufficed on the proved facts for Section 364A and allied convictions. (iii) Whether election hostility, familial witnesses, defence versions and non-examination of Karan created a reasonable doubt about identity or participation. (iv) Whether the distinct direct and conspiracy convictions and sentences in the two trials required appellate interference.

5. Ratio / Findings : Gopal's account placed armed persons at the tube-well, described movement through the mustard field and continued forest captivity, and named those whom he had observed during roughly a month of captivity. The judgment records his testimony about initial masking and prior acquaintance. The Court held that the absence of a formal TIP was not fatal because Gopal had named the miscreants in his police statement; it also stated that failure to identify an accused in the dock did not by itself defeat the prosecution case. This evidentiary finding depended on the facts of the case and did not create a general presumption in favour of every identification in the dock. On ransom, Prakash testified to the ₹5 lakh demand and ₹2 lakh paid to Narayan Mirdha, and Gopal's account was regarded as corroborated despite the suggested improvement. Once the court accepted their participation in the abduction and ransom scheme, it refused to exonerate others merely because they had not personally received the money. The Bench rejected the appellants' objections and concluded that the prosecution had proved the charged abduction and ransom offences beyond reasonable doubt. Electoral enmity could motivate the offence or false implication, so the court examined the related testimony with additional care. Karan's absence did not deprive the other evidence of its value; the Court found that evidence cogent. The contradictions in the evidence of the three defence witnesses did not establish an alternative account. It upheld the

respective direct, conspiracy and special-Act convictions in the two judgments while preserving the distinct bases of conviction of the accused.

6. Relief : The Hon'ble High Court dismissed all five appeals and affirmed the Special Judge's judgments of 8 August 2011 and 28 June 2012. Kalyan in his criminal appeal, and Pancham, Gariba and Tunda in theirs, were on bail. Their bonds were cancelled, and they were directed to surrender to serve the remainder of their sentences. In his criminal appeal, Narayan Kushwah, who was in jail but on parole, was directed to surrender. In their respective criminal appeals, Punjab Singh, Narayan Mirdha and Udal Singh were to remain in jail and serve the balance of their sentences. The judgment directed immediate transmission to jail authorities and return of the trial record with a copy.

Kalyan and others v. State of Madhya Pradesh, Cr.A. no. 828/2011 & 885/2011 & 898/2011 & 100/2012 & 666/2012, 09/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Culpable homicide / murder under Section 300 thirdly - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, requires proof that the accused intended to inflict the particular bodily injury. Whether that injury was sufficient in the ordinary course of nature to cause death is a separate, objective question. The Court surveyed *Arun Nivalaji More v. State of Maharashtra (criminal appeals 1078–1079/2005), Anda v. State of Rajasthan, 1966 Cri LJ 171, Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322, Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444, Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799, State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, on intention, the injury and weapon, and the possible application of the exceptions to Section 300. It applied clause Thirdly to the deliberate gunfire that damaged Sanjay's lung and caused his homicidal death. Its classification of the offence rested on the proved wounds and the coordinated attack.

Common intention / distinct accused roles - *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, *Shyamal Ghosh v. State of W.B., AIR 2012 SC 3539, Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, and *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, were considered on inferring shared intention from concerted acts, including where that intention forms at the scene. *Dashrathlal v. State of Gujarat, 1979 Cri LJ 1078, Rajagopalswamy Konar v. State of T.N., 1994 Cri LJ 2195, Sheikh Nabab v. State of Maharashtra, 1993 Cri LJ 43*, and *Hem Raj v. Delhi Administration, AIR 1990 SC 2252*, caution against imposing liability under Section 34 merely because an accused accompanied another, or where participation was not proved. The Court accepted the eyewitness account of the armed group's arrival and firing, which placed Madho, carrying a luhangi, with the group. It affirmed his conviction under IPC Section 302/34, separately from Gulab's and Kamal's direct convictions under Section 302.

Related and inimical witnesses / motive - *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, discussing *Darya Singh* and *Raghubir Singh*, requires careful scrutiny of whether related witnesses were actually present and of material infirmities in their evidence. Credibility does not depend on a fixed number of independent witnesses. The brothers' presence while repairing an electric line, the prompt and specific FIR, the post-mortem findings, the scene evidence and the supporting witnesses sustained their account despite earlier family enmity and the non-examination of Radhelal. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, was applied for the limited principle that failure to prove motive does not defeat otherwise trustworthy direct evidence.

Appeal / distinct convictions - The Court affirmed Madho's conviction under Section 302/34 and Gulab's and Kamal's direct convictions under Section 302, each read with MPDVPK Act Section 13. In all three appeals, it upheld the sentences of life imprisonment and a fine of ₹10,000 on each appellant. The appellants who were on bail were directed to surrender.

Case-note :- ***1. Facts :*** The connected appeals arose from Special Sessions Trial 71/2007. Judgment was delivered against Madho Singh Rawat and Gulab Singh on 7 April 2010, and against Kamal Singh Rawat on 21 June 2013. Village Kurra, Datia, had been declared a dacoity-affected area by a notification under the MPDVPK Act. On 28 June 2007 at about 2:30 p.m., Sanjay alias Baba and his brothers Dashrath (PW1) and Ashok (PW2) were repairing an electric line in or beside a field. The

prosecution alleged that Mohan Singh, Gulab, Kamal and Madho arrived together, armed with firearms and a luhangi, against the background of an earlier family dispute concerning a murder. Mohan allegedly shot Sanjay in the back, Gulab shot him in the right hand, and Kamal shot him in the back. Mohan later died in a police encounter. Panjab and Radhelal arrived on hearing the cries raised by Dashrath and Ashok and saw the men flee. Dashrath reported the matter at 3:20 p.m. at a police station about nine kilometres away. Inquest, site and seizure documents were prepared, and a bullet, cork, pellets, clothes and earth were examined. The autopsy established gunshot injuries and damage to the lung. In their answers under Section 313, the three appellants denied guilt and alleged false implication by relatives who were inimical to them. They examined no defence witness. Madho was convicted under IPC Section 302/34 read with MPDVPK Act Section 13, and Gulab and Kamal under Section 302 directly, read with Section 13. Each was sentenced to life imprisonment and a fine of ₹10,000, with a default stipulation. Their appeals challenged the witnesses' presence, omissions in their evidence, the non-examination of Radhelal, their allegedly unnatural failure to intervene, the consistency of the medical and ocular evidence, and the inference of shared intention.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the four-step test under Section 300 Thirdly: proof of the existence and nature of the bodily injury, the intention to inflict that particular injury, and the objective sufficiency of that injury to cause death in the ordinary course of nature. The burden remains on the prosecution throughout; it need not additionally prove a subjective intention to cause death. *Arun Nivalaji More v. State of Maharashtra (criminal appeals 1078–1079/2005, as cited)* explained the inquiry under Section 299, followed by Section 300 and its exceptions. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, emphasised that the intended injury must be sufficient in the ordinary course of nature to cause death, assessed with reference to the weapon and the part of the body injured. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, rejected a categorical rule for cases involving a single blow and required consideration of the circumstances, whether a vital part was targeted, and the manner of attack. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, identified the cumulative conditions for sudden-fight Exception 4, including a mutual fight, absence of premeditation, and absence of undue advantage or cruelty. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, listed non-exhaustive factors bearing on intention, such as whether the weapon was carried, the part targeted, the force used, prior hostility and provocation. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, inferred intention from a forceful blow to the head, a vital part of the body. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, likewise rejected an automatic reduction of the offence merely because a single blow was inflicted, and reproduced other authorities on Exception 4. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, formed part of the same discussion of mens rea. The Court applied the inquiry into injury and intention to the multiple gunshots and fatal lung damage.

For Section 34, *Suresh Sankharam Nangare v. State of Maharashtra,* 2012 (9) SCALE 345, *Shyamal Ghosh v. State of West Bengal, AIR 2012 SC 3539, Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, and *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, were discussed on shared intention, prior concert that may develop at the scene, and participation in a joint act. *Hem Raj v. Delhi Administration, AIR 1990 SC 2252*, illustrates the acquittal of accused whose participation was disbelieved. *Dashrathlal v. State of Gujarat, 1979 Cri LJ 1078*, states that merely accompanying an accused does not suffice. *Rajagopalswamy Konar v. State of Tamil Nadu, 1994 Cri LJ 2195*, and *Sheikh Nabab v. State of Maharashtra, 1993 Cri LJ 43*, show that substantially different acts or unproved participation cannot automatically establish liability for murder on the basis of common intention. The Bench accepted the eyewitness account placing Madho with the armed group and affirmed his conviction under Section 302/34.

Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195, states that failure to prove motive loses significance when trustworthy direct evidence establishes the act. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, reproduced *Darya Singh v. State of Punjab on* the need for especially careful scrutiny of an inimical relative's presence at the scene and the infirmities in that witness's evidence. It also reproduced *Raghubir Singh v. State of U.P. on* examining the material witnesses needed to unfold the prosecution case, without unnecessary multiplication of witnesses. The Bench scrutinised

the brothers' account and relied on the prompt report and its consistency with the medical and scene evidence in accepting it despite prior hostility.

3. Statutes considered : IPC Sections 299 and 300, particularly clause Thirdly and the discussion of sudden-fight Exception 4, governed the classification of homicide. Sections 302 and 34 governed the distinct direct convictions and the conviction based on common intention. MP Dacoity and Vyapaharan Prabhavit Kshetra Adhiniyam, 1981, Sections 3 (notified area), 11 and 13 appeared in the context of the investigation and convictions. Arms Act Sections 25 and 27 appeared in the charge-sheet background, rather than as separate convictions under review. CrPC Sections 174 (inquest), 161 (prior statements) and 313 (answers of the accused) provided the procedural context.

4. Issues : (i) Whether the gunshot wounds established homicidal death and satisfied the requirements of an intentional injury sufficient in the ordinary course of nature to cause death under Section 300 Thirdly, rather than a lesser form of culpable homicide. (ii) Whether the coordinated arrival and the different acts proved that Madho shared the shooters' intention under Section 34, without imposing guilt merely for kinship or presence. (iii) Whether Dashrath and Ashok were credible despite family hostility, alleged omissions and their failure to intervene; and whether the prompt FIR, medical evidence and witnesses who saw the armed group flee supported their account despite Radhelal's non-examination. (iv) Whether the separate convictions under Section 13 of the special Act and the individual sentences required interference.

5. Ratio / Findings : The doctor found multiple gunshot wounds and fatal lung damage. The recovered articles and site documents supported the alleged place and manner of the occurrence. Applying the subjective and objective requirements in *Virsa Singh*, the Court found that the firearm injuries to vital parts were intentionally inflicted and were sufficient in the ordinary course of nature to cause death. The killing therefore amounted to murder under Section 300 Thirdly. The shooters' own acts of firing supported their direct liability. The accepted eyewitness account placed Madho, carrying a luhangi, with the armed group at the field. After discussing Section 34 and assessing the prosecution evidence, the Court affirmed Madho's conviction under Section 302/34 and Gulab's and Kamal's convictions under Section 302. Dashrath and Ashok had a natural reason to be present: they were repairing the electric line. Panjab and Kalyan described hearing gunshots or seeing the armed men flee. The witnesses' prior enmity with the assailants required careful scrutiny, particularly because Sanjay and his father had faced a case concerning the assailants' uncle. Nevertheless, the detailed FIR was lodged about 50 minutes after the incident at a police station nine kilometres away. It named the assailants and was consistent with the post-mortem findings of gunshot injuries and the scene evidence. The Bench found no material conflict between the medical and ocular evidence, and nothing in cross-examination that undermined the essential account. Radhelal's non-examination did not require the prosecution to examine more witnesses when those examined were credible. The Court upheld each appellant's conviction on proof beyond reasonable doubt. Neither the non-examination of a witness nor the animosity automatically established false implication.

6. Relief : The Hon’ble High Court dismissed all three appeals. It affirmed the judgment dated 7 April 2010 against Madho (Section 302/34) and Gulab (Section 302), and the judgment dated 21 June 2013 against Kamal (Section 302), each read with MPDVPK Act Section 13 and imposing life imprisonment and a fine of ₹10,000, with a default stipulation. The appellants who were on bail were directed to surrender immediately to serve the remainder of their sentences. They were to be informed of the judgment through the jail authorities, and copies of the judgment, with the trial record, were to be sent to the Special Judge.

Kamal Singh Rawat and others v. State of Madhya Pradesh, Cr.A. no. 715/2013 & 303/2010 & 363/2010, 14/12/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Complaint / sufficient ground for process - *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, distinguishes a prima facie case under CrPC Sections 203–204 from proof sufficient for conviction. Every witness named in the complaint need not be examined before process is issued, provided a prima facie case is made out. The Magistrate wrongly required a conclusive civil

finding of forgery and evidence from the authority that issued the certificate before proceeding on the allegation concerning the 2012 death certificate. The civil court had questioned the unexplained delay in obtaining that certificate. The revisional court could set aside the dismissal under Section 203, but the Magistrate had to determine independently which offences were made out, without being bound by the direction specifying IPC Sections 120B, 471 and 417.

Civil judgment / criminal relevance - *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775*, discussing *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370, Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, and *K.G. Premshanker v. Inspector of Police, (2002) 8 SCC 87*, explains the different standards of proof in civil and criminal proceedings and the limited relevance of earlier judgments under Evidence Act Sections 40 –43. *Prem Raj v. Poonamma Menon* (SLP (Cr.) 9778/2018, decided 02.04.2024) reaffirmed those distinct standards. The suspicion surrounding the 2012 certificate was relevant at the prima facie stage; it was not a final judicial finding that the applicants had forged it. Their separate 2021 certificate was outside the complaint and was disregarded.

Concurrent proceedings / no automatic civil bar - *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, ordinarily gives criminal proceedings precedence, while leaving room for the circumstances of the case and the likelihood of embarrassment; it lays down no rigid rule. *M. Krishnan v. Vijay Singh, AIR 2001 SC 3014, Kamaladevi Agarwal v. State of W.B., AIR 2001 SC 3846, Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, and *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765*, were applied to permit independent consideration of the criminal complaint despite the pending second civil appeal. The Court did not determine guilt or conclusively decide the certificate's authenticity.

Case-note :- ***1. Facts :*** Maniram owned the disputed land. His widow Kamla Bai and the other heirs sued for a declaration that the sale deed dated 20 December 1988 was void, asserting that he had died on 2 April 1987. The purchasers maintained that he had executed the deed and died on 16 November 1989. The heirs relied on a death certificate issued on 3 September 2012. In its judgment dated 14 December 2017, the civil court declined to rely on it because the registration and issue of the certificate about 25 years after the asserted death remained unexplained. The civil suit and first appeal were dismissed. A second appeal was pending and, according to the High Court, had not yet been admitted. The purchasers also filed a complaint alleging that the heirs had produced a forged 2012 certificate to defeat the sale deed. After recording the preliminary statements, the JMFC dismissed the complaint under CrPC Section 203 because the civil court had not expressly found forgery and the complainants had not examined a competent person from the authority that issued the certificate. The Sessions Court allowed the revision, set aside that dismissal and directed cognizance under IPC Sections 120B, 471 and 417. The heirs invoked CrPC Section 482, arguing that the revisional court could order further inquiry under Section 398 but could not dictate findings on guilt or authenticity, or direct cognizance of specified offences. A separate certificate issued on 28 July 2021 was annexed to the High Court application. It was neither the document used in the civil suit nor the subject of the complaint.

2. Precedents — Considered : *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, construed "sufficient ground" in CrPC Sections 203, 204 and 209 as a prima facie basis for proceeding, rather than proof sufficient for conviction. Its quoted discussion of *Chandra Deo Singh*, *Kewal Krishan* and *Mohinder Singh* explains that the complaint inquiry is not a full trial and that every named witness need not be examined, provided a prima facie case is made out. The Court applied that standard in rejecting the JMFC's requirement of definitive proof of forgery and evidence from the certificate-issuing authority before process could issue.

Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775, discussed *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, on proof by preponderance in civil proceedings, the prosecution's burden of proof beyond reasonable doubt in criminal proceedings, and the absence of a general rule making the findings in one proceeding binding in the other. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, and *K.G. Premshanker v. Inspector of Police, (2002) 8 SCC 87*, addressed the limited relevance of earlier judgments under Evidence Act Sections 40–43. The discussion in *Kishan Singh* rejected reliance on *Karam Chand* for a general rule that civil findings take precedence. *Prem Raj v. Poonamma Menon* (SLP (Cr.) 9778/2018, decided 02.04.2024)

reaffirmed the distinct standards and the limited relevance of earlier findings in their context. Applying these authorities, the Bench treated the civil court's suspicion as relevant at the prima facie stage of cognizance, without holding that forgery was proved or that the civil findings bound the criminal court.

M.S. Sheriff v. State of Madras, AIR 1954 SC 397, ordinarily gave criminal proceedings precedence to avoid delay in criminal justice, but expressly rejected a hard-and-fast rule. Special circumstances and the likelihood of embarrassment could affect whether proceedings should be stayed. *M. Krishnan v. Vijay Singh, AIR 2001 SC 3014*, held that a civil suit concerning allegedly forged documents does not, by itself, justify quashing criminal proceedings; the criminal allegations must be proved independently. *Kamaladevi Agarwal v. State of W.B., AIR 2001 SC 3846*, likewise required criminal proceedings to follow the CrPC despite the civil action. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, cautioned against quashing criminal proceedings on extraneous considerations arising from civil proceedings. *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765*, permitted simultaneous proceedings and left the question of a stay to the facts of each case. The Court followed these authorities in allowing the criminal complaint to proceed while the second appeal remained pending. The applicants relied on *Rajaram Gupta*, *Rewaram* and *Bahadur Singh* to support the limits on revisional power. The Court accepted that the Magistrate's independent assessment had to be preserved.

3. Statutes considered : CrPC Section 203 governed dismissal of the complaint. Sections 200, 202 and 204 provided the framework for preliminary inquiry and issue of process discussed in *Shivjee Singh*. Section 398 empowered the revisional court to direct further inquiry into a dismissed complaint, while leaving the decision on cognizance to the Magistrate. Section 482 provided the basis for invoking inherent jurisdiction. IPC Sections 120B, 471 and 417 were the offences specified in the Sessions Court's direction; that direction was not a finding of guilt. Evidence Act Sections 40–43 governed the limited relevance of earlier judgments. The direction concerned cognizance of the offences disclosed by the available material.

4. Issues : (i) Could the Magistrate dismiss the complaint at the prima facie stage because the civil judgment had not expressly found the 2012 certificate to be forged and the issuing authority had not yet testified? (ii) What relevance did the civil court's refusal to rely on that document have without binding the criminal court or prejudging guilt? (iii) Did dismissal of the civil suit and first appeal, together with the pending second appeal, prevent independent criminal proceedings? (iv) Could the revisional court set aside the dismissal under Section 203 and direct process for specified IPC offences, or did the Magistrate have to determine independently which offences were made out? The separate 2021 certificate was outside the complaint and did not provide a basis for deciding the authenticity of the certificate in issue.

5. Ratio / Findings : The civil court had refused to rely on the death certificate obtained in 2012 for the asserted death in 1987 because the heirs had not explained the delay in obtaining it. The High Court treated the suspicion recorded by the civil court as relevant material for deciding whether there was sufficient ground to take cognizance. It maintained the distinction between the relevance of that material and a binding civil finding or proof of forgery. The absence of a witness from the certificate-issuing authority at the preliminary inquiry did not justify demanding proof sufficient for conviction. The pending second civil appeal did not automatically bar the complaint, which had to be decided on its own evidence and standard of proof. Annexure P7, the separate 2021 certificate, was excluded from consideration because it had not been filed in the civil suit and was not the subject of the criminal complaint. The High Court upheld the reversal of the dismissal under Section 203, but held that the JMFC should not be directed to take cognizance only under Sections 120B, 471 and 417. The JMFC had to decide independently which offences were made out and could take cognizance of another offence disclosed by the material. The Court did not find the applicants guilty or conclusively decide the certificate's authenticity.

6. Relief : The Hon’ble High Court dismissed the challenge with a modification: the Magistrate was to take cognizance of the offences actually made out, on an independent assessment and without being influenced by the revisional court's specification of IPC offences. The Magistrate could also take cognizance of another offence if the material supported it. The complaint was not quashed. The Court ordered no automatic stay on account of the

civil proceedings and made no finding of criminal guilt.

Kamla Bai and others v. Kailash Singh Raghuvanshi and others, M.Cr.C. no. 13070/2024, 07/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- False affidavit / Section 340 complaint - General Clauses Act Section 3(3), Oaths Act Sections 3–4 and IPC Sections 191–193 explain the solemn nature of an affidavit and the possible offence of giving false evidence. *Dalip Singh v. State of U.P., (2010) 2 SCC 114, Baban Singh v. Jagdish Singh, AIR 1967 SC 68, Dhananjay Sharma v. State of Haryana, (1995) 3 SCC 757,* and *Rita Markandey v. Surjit Singh Arora, (1996) 6 SCC 14*, emphasise the seriousness of knowingly submitting false material to a court. The Court did not hold that every inaccuracy, even after correction, necessarily required prosecution.

Deliberate material falsehood / expediency - *Aarish Asgar Qureshi v. Fareed Ahmed Qureshi, (2019) 18 SCC 172*, requires a statement to be deliberately and consciously made and found false on comparison with unimpeachable evidence. *Muthu Karuppan v. Parithi Ilamvazhuthi, (2011) 5 SCC 496*, requires a reasonable prima facie foundation for deliberate falsehood on a matter of substance and a finding, on the facts of the case, that inquiry is expedient in the interests of justice; mere suspicion is insufficient. Applying those limits to the corrected affidavit in the disputed-will suit, the Court held that whether Raksha Devi received family pension or old-age pension did not affect the availability of her admitted signatures in the ID and passbook for comparison under Evidence Act Section 45. The affidavit had been sworn carelessly, but the error did not change the order allowing comparison. The Court therefore declined a complaint under Section 340 and dismissed the Section 482 application.

Case-note :- ***1. Facts :*** Sukhdevlal and his sibling filed a civil suit claiming a half share in joint agricultural land at Morar, Gwalior. They alleged that their relatives, Kamla Sharma and others, had obtained mutation on the strength of a forged will dated 12 February 1991, purportedly executed by their deceased mother, Raksha Devi. Their assertions about title, possession, the mutation appeal and threats were civil pleadings, not findings in this criminal application. In the suit, they applied under Evidence Act Section 45 for comparison of the disputed signature/thumb impression on the will with Raksha Devi's admitted specimens on her ID and original passbook. Their supporting affidavit initially stated that their father had been a government employee and that their mother had received family pension after his death. The civil court allowed comparison on 27 November 2013. They later filed a correcting affidavit, stating that the assertions about their father's government employment and their mother's family pension had been made by mistake; their mother had received old-age pension. The ID and bank documents containing her admitted specimens were still available. The applicants sought a complaint under CrPC Section 340 read with Section 195 for false evidence, also pointing to the timing of the father's death and the documents dated 1999. The Civil Judge refused the request on 7 January 2016 on the ground that the affidavit had been manipulated outside court. The Additional Sessions Judge dismissed Criminal Appeal 65/2016 on 30 June 2016. In the Section 482 application, the applicants sought prosecution, distinguishing the filing of a false affidavit in court from fabrication of a document before it entered court custody. The respondents admitted that the pension description was inaccurate, but maintained that it was a mistake which did not affect the comparison request.

2. Precedents — Considered : The Court cited *Dalip Singh v. State of U.P., (2010) 2 SCC 114*, on litigants seeking judicial relief through falsehood or suppression. It provided a caution against such conduct, rather than a rule requiring prosecution in every case. *Baban Singh v. Jagdish Singh, AIR 1967 SC 68*, treated a knowingly false affidavit tendered in evidence as potentially falling within IPC Sections 191–192, where it was intended to induce an erroneous judicial conclusion on a material point, rather than merely a false declaration under Section 199. *Dhananjay Sharma v. State of Haryana, (1995) 3 SCC 757,* and *Rita Markandey v. Surjit Singh Arora, (1996) 6 SCC 14*, concerned deliberately false sworn declarations interfering with the administration of justice. The discussion of *Chandra Shashi v. Anil Kumar Verma, (1995) 1 SCC 421*, required deceit or knowledge that the statement submitted was forged or fabricated. The Bench acknowledged the seriousness of intentionally false affidavits, then examined the material effect of this particular statement.

Aarish Asgar Qureshi v. Fareed Ahmed Qureshi, (2019) 18 SCC 172, required deliberate and conscious falsity established by comparison with unimpeachable evidence. *Muthu Karuppan v. Parithi Ilamvazhuthi, (2011) 5 SCC 496*, required a reasonable prima facie case of deliberate falsehood on a matter of substance and a finding that inquiry was expedient in the interests of justice, on grounds beyond surmise or suspicion. It recognised exceptional proceedings where a deliberately false statement was made to obtain a beneficial judicial order. Applying those tests to the comparison order, the Court found that the incorrect description of the pension had changed neither the availability of genuine documents for comparison nor the basis of the order. The applicants relied on *Iqbal Singh Marwah* to distinguish forgery before production from a false affidavit filed in court. They also cited *State of H.P. v. Suresh Kumar Verma* and the local decision in *Mohammad Ibrahim* in support of prosecution.

3. Statutes considered : CrPC Sections 195(1)(b) and 340 govern the court's consideration of an inquiry and a written complaint concerning an offence in or relating to its proceedings. Section 482 was invoked to challenge the refusal to make a complaint. IPC Sections 24–25 and 191–193 were reproduced in relation to dishonest or fraudulent intent and false evidence; Section 199 appeared in the discussion of *Baban Singh*. General Clauses Act Section 3(3) and Oaths Act Sections 3–4 explain or regulate affidavits and sworn declarations. Evidence Act Section 45 governed the underlying request for expert comparison, rather than a finding of criminal guilt. Contempt of Courts Act Section 2(c) appeared in the precedents on false affidavits; no contempt proceeding was instituted in this case.

4. Issues : (i) Did the affidavit's incorrect description of old-age pension as “family pension” constitute a deliberate and material falsehood warranting a complaint under Section 340 despite its later correction? (ii) Did that description influence the order permitting expert comparison of the disputed will with the admitted specimens on the ID and passbook, so that prosecution was expedient in the interests of justice? (iii) Was refusal to make a court complaint erroneous because the lower courts referred to manipulation outside court, although the applicants complained of a false affidavit filed in court? The High Court decided the application on materiality and expediency.

5. Ratio / Findings : The Court emphasised that an affidavit is a solemn declaration and that a knowingly false affidavit must be taken seriously; it did not condone casual verification. Under Section 340, the Court must form an opinion that inquiry is expedient in the interests of justice. *Aarish Asgar Qureshi* requires deliberate and conscious falsity established by comparison with unimpeachable evidence. *Muthu Karuppan* requires a reasonable prima facie foundation for deliberate falsehood on a matter of substance, on grounds beyond mere suspicion, together with an assessment of expediency. Whether the false statement secured a favourable order that would otherwise have been unavailable was one criterion identified by the Court. The respondents' description of “family pension” was incorrect, as their correcting affidavit acknowledged. The Section 45 application, however, sought admitted signatures/thumb impressions for comparison with the disputed will. Raksha Devi's ID and passbook supplied those specimens whether she received family pension or old-age pension. An accurate initial description of old-age pension would therefore have produced the same result on the comparison application. The error did not secure a favourable order that was otherwise unavailable. Although the Court expressly criticised the carelessly sworn affidavit, it held that proceedings under Section 340 were not expedient. It did not decide the will's genuineness or find the affiants guilty of perjury or contempt.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. The Civil Judge's refusal to make a complaint under Section 340, as upheld in the criminal appeal, remained in force. No inquiry into perjury or contempt was ordered.

Kamla Sharma and others v. Sukhdevlal and others, M.Cr.C. no. 8770/2016, 18/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- CrPC Section 311 — summoning a material witness after closure of prosecution evidence. In a murder and kidnapping trial based on circumstantial evidence, Veer Kumar, the prosecution's cited last-seen witness, turned hostile. After the accused's statement under Section 313, the complainant sought to call Jaiveer as another last-seen witness. Jaiveer had neither been listed as a witness nor examined during investigation, and

Vimlesh, through whom his information was said to have emerged, had not mentioned him in statements under Sections 161 or 164. Applying *Raj Deo Sharma (II)*, *Fatehsinh Mohansinh Chauhan*, *Iddar* and *Rajaram Prasad Yadav,* the High Court recognised the power under Section 311 to obtain material evidence and the duty to summon a witness whose evidence is essential to a just decision. In the circumstances, however, that provision could not be used to change the prosecution case by introducing an uninvestigated witness in place of its cited witness merely to overcome that witness's failure to support the prosecution. The summons order was set aside.

Case-note :- ***1. Facts :*** Vikram disappeared after going to school and was later found dead in a well. Kamlesh faced charges under IPC Sections 302, 363 and 364A and the MP dacoity area law. The prosecution case rested on circumstantial evidence. Veer Kumar, its cited last-seen witness, did not support the prosecution. After prosecution evidence had closed and Kamlesh's statement under CrPC Section 313 had been recorded, the complainant applied to call Jaiveer as a new witness. The complainant relied on Vimlesh's trial testimony that Jaiveer had seen Vikram with Kamlesh. The trial court allowed the request for summons because Vimlesh had not been cross-examined on that assertion.

2. Precedents — Considered : *Raj Deo Sharma (II) v. State of Bihar, (1999) 7 SCC 604,* held that closure of prosecution evidence does not exhaust the power under Section 311 where the evidence is essential. *U.T. of Dadra and Nagar Haveli v. Fatehsinh Mohansinh Chauhan, (2006) 7 SCC 529,* held that calling a witness to ascertain the truth cannot be treated as filling a lacuna in the prosecution case unless it would cause serious prejudice to the accused resulting in a miscarriage of justice. *Iddar v. Aabida, AIR 2007 SC 3029*, emphasised whether the evidence was essential to a just decision and required the wide discretion to be exercised judiciously. *Rajaram Prasad Yadav v. State of Bihar, AIR 2013 SC 3081*, laid down safeguards, including that additional evidence must not disguise a change in the case and that the parties must have a fair opportunity. The High Court applied those safeguards to the witness proposed at the late stage of trial. These authorities do not impose a blanket bar on recalling a witness after another witness turns hostile.

3. Statutes considered : CrPC Sections 311, 161, 164, 313 and 482 concerned the witness application, earlier statements and the High Court challenge. IPC Sections 302, 363 and 364A and Sections 11/13 of the M.P. Dacoity Avam Vyapaharan Prabhavit Kshetra Adhiniyam were the pending trial charges; their merits were not decided in this application.

4. Issues : Was summoning an unlisted witness who had not been examined during investigation, in place of the original last-seen witness who had turned hostile, essential to a just decision? What was the effect of Vimlesh's failure to mention Jaiveer's account in his earlier statements and of the absence of cross-examination on his new trial account?

5. Ratio / Findings : Neither Vimlesh's statement under Section 161 nor his statement under Section 164 identified Jaiveer as the source of information that the deceased was last seen with the accused. The police had not recorded Jaiveer's statement or listed him as a witness. The application was made after Veer Kumar failed to support the prosecution on that same central circumstance. The absence of cross-examination on Vimlesh's trial assertion did not overcome those omissions. In these circumstances, the proposal changed the prosecution case and impermissibly filled the gap left by the failed last-seen evidence. It did not seek evidence indispensable to a fair decision.

6. Relief : The Hon'ble High Court set aside the order summoning the witness under Section 311 and rejected the complainant's application. It directed the trial court to continue the proceedings according to law.

Kamlesh Diwakar v. State of Madhya Pradesh, M.Cr.C. no. 11021/2016, 08/11/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Identification / test parade and dock evidence - *Prakash v. State of Karnataka, (2014) 12 SCC 133,* distinguishes substantive identification in court from a test identification parade (TIP), which assists investigation and tests reliability. Prior exposure, unfamiliarity, delay, the witness's opportunity to observe and corroboration affect the weight of identification. The authorities considered by the Bench prescribe no invariable deadline for a parade and do not require acquittal merely because no TIP was held. The Bench applied that caution where Buddhu had learned the captors' names from

their speech and had seen Kamlesh and Mithlesh at Joura Court before identifying them in the dock. No TIP was held for Kamlesh. For Mithlesh's parade on 25 April 2003, the arrest date and precautions to conceal his identity were not proved, the Naib Tahsildar who conducted it was not examined, and Buddhu disowned the parade. Bhagwan did not identify Kamlesh, and his identification of Mithlesh was unsafe without supporting evidence.

Document proof / ransom letters - Bhagwan described being forced to write two letters demanding ₹5 lakh. Ex P4 and Ex P6, however, were marked through the investigator without being shown to him. There was no handwriting evidence, and the alleged recipients, Cheu and Ratiram, did not testify. Marking the letters as exhibits and the evidence of seizure did not establish authorship, dispatch or receipt. The letters could not corroborate the appellants' personal involvement.

Ransom abduction / accused-wise proof - The other abductees, Thakur Lal and Fosu, did not support the identification of either appellant. The Court distinguished evidence of captivity and an alleged ransom demand from proof that Kamlesh and Mithlesh had committed the offence under IPC Section 364A read with MPDVPK Act Sections 11/13. The identifications affected by prior exposure or lacking support, together with the unproved letters, left reasonable doubt. Both convictions and life sentences were set aside, with directions for release and refund of fines.

Case-note :- ***1. Facts :*** On the night of 11–12 December 2002, Buddhu and Bhagwan Singh were in the fields near their hut when several men armed with guns and lathis allegedly took them into captivity in the forest. Bhagwan said that he was forced to write two letters demanding ₹5 lakh. He escaped after about four days and reported the incident on 18 December. Thakur Lal and Fosu, allegedly abducted later, did not identify the appellants. The police seized the alleged inland ransom letters, Ex P4 and P6, said to have been produced by Cheu and Ratiram, and arrested Kamlesh on 27 February 2003. Buddhu named Kamlesh and Mithlesh in his police statement, but later explained that he recognised the captors' faces and learned their names from their calls to one another. Mithlesh underwent a TIP on 25 April 2003; no TIP was held for Kamlesh. On 3 October 2006, the Special Judge, Sheopur, convicted both under IPC Section 364A read with MP Dacoity and Vyapaharan Prabhavit Kshetra Adhiniyam Sections 11/13, imposing life imprisonment and a fine of ₹1,000 with imprisonment in default. In their separate appeals under Section 374, the appellants challenged identification, the parade and proof of the letters. The prosecution defended the convictions.

2. Precedents — Considered : *Prakash v. State of Karnataka, (2014) 12 SCC 133*, was reproduced at length and applied. Identification in court is substantive evidence; a prior police TIP is an investigative check on memory and reliability, is not compulsory, and is not substantive evidence. A first identification in the dock after suggestive prior exposure is vulnerable without independent corroboration. The Bench also cited *Prahlad Singh* on tutored identification in court, *Mohd. Iqbal M. Sheikh* on suspects known only by appearance and the effect of a police show-up, and *Sheo Shankar Singh* on the non-mandatory nature of a TIP. *Pramod Mandal*, quoted within *Sheo Shankar Singh*, rejected a fixed period for a parade or a fixed number of identifying witnesses and left acceptability to assessment of the whole record. *Malkhansingh* and *Aqeel Ahmad* adopted the same flexible approach. The Bench applied the caution in *Prakash* to the earlier courthouse exposure and the weaknesses in the identification evidence against each appellant. It preserved the possibility of accepting trustworthy identification in court without a TIP in an appropriate case.

3. Statutes considered : IPC Section 364A was the charge of abduction for ransom. MP Dacoity and Vyapaharan Prabhavit Kshetra Adhiniyam Sections 11 and 13 were the linked special-Act charges. CrPC Section 374 governed the appeals. The case diary statement, Ex D1, was used to test the claimed prior naming of the appellants. Evidence Act Section 9 supplied the identification context discussed in the passage from *Malkhansingh* quoted in *Sheo Shankar Singh*. The Court assessed authorship and receipt of the letters as matters requiring proof; assigning exhibit numbers did not, by itself, establish their contents or provenance.

4. Issues : (i) Did Buddhu's recognition of the appellants' faces, naming in his police statement and identification in the dock reliably establish Kamlesh's identity when no TIP was held for him and Buddhu had seen both appellants at Joura Court before testifying? (ii) Could the TIP and identification in court establish Mithlesh's identity when Buddhu denied the parade, the arrest and

concealment history were not proved, the conducting officer was not examined, and Bhagwan's identification lacked other corroboration? (iii) Were Ex P4 and P6 proved to have been written by Bhagwan under compulsion and received by Cheu and Ratiram, and could exhibit marking overcome the absence of proof from the maker and recipients? (iv) Once the unreliable links were excluded, had the prosecution proved each appellant's participation in the ransom abduction beyond reasonable doubt?

5. Ratio / Findings : Buddhu's naming of Kamlesh in the case diary statement did not assist the prosecution: he recognised the captors by their faces and had learned their names from their calls during captivity. He admitted seeing both men at Joura Court before identifying them in the dock. Bhagwan did not identify Kamlesh at all. No TIP was held for Kamlesh, although the police considered one necessary for Mithlesh, and there was no other reliable corroboration. As regards Mithlesh, Buddhu told the court that the police had not asked him to identify an accused, despite the recorded parade. Bhagwan said that he had identified Mithlesh in Ex P3. Mithlesh's arrest date and precautions to conceal his identity before the parade on 25 April 2003 were not proved, and the Naib Tahsildar who conducted it was not examined. Buddhu's earlier sighting and the absence of independent support also undermined identification in court. As to the letters, Bhagwan was not asked whether the exhibits were in his handwriting, no handwriting report was obtained, and neither Cheu nor Ratiram testified to receipt or production. The investigator's evidence of seizure and the absence of an immediate objection did not prove that chain. There was evidence describing captivity and a ransom demand, but, in view of these distinct failures, the prosecution did not prove either appellant's personal involvement beyond reasonable doubt.

6. Relief : The Hon’ble High Court allowed both criminal appeals, filed by Kamlesh and Mithlesh. The conviction and life sentence dated 3 October 2006 under IPC Section 364A read with special-Act Sections 11/13 were set aside, and both appellants were acquitted of all charges. As they were in jail, the Court ordered their immediate release unless required in another case. Any fines deposited were to be refunded. If ₹1,000 had already been paid to Buddhu and Bhagwan under the trial court's order, it was to be recovered from them.

Kamlesh v. State of Madhya Pradesh, Cr.A. no. 894/2006 & 204/2010, 07/03/2018, D.B., Hon'ble Justice Shri S.A. Dharmadhikari & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Eyewitness contradictions / core credibility - *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, drawing *on Bakhshish Singh v. State of Punjab, (2013) 12 SCC 187, Sunil Kumar Sambhudaya Gupta v. State of Maharashtra, (2010) 13 SCC 657*, and *Raj Kumar Singh v. State of Rajasthan, (2013) 5 SCC 722*, distinguishes minor discrepancies from omissions or contradictions that materially affect the credibility of the prosecution case. A witness's evidence must be assessed as a whole. Applying these principles, the Court relied on Chandrabhan's prompt FIR naming the accused, the testimony of Rampal and other witnesses, and the seven firearm injuries found at post-mortem. The minor variations alleged by the defence did not undermine the account of the armed attack on Ranveer following an irrigation dispute.

Multiple accused / separate trials - Kampoo, Narayan and Kallu were convicted in the 2010 trial under IPC Sections 302 and 302/34 and Arms Act Sections 25(1)(b) and 27. The record included firearm seizures, transmission of the seized articles to the FSL and the District Magistrate's sanction. Matlab, who had earlier absconded, was tried subsequently, and the relevant witnesses were examined afresh. On the evidence recorded in his trial, the Court accepted the account that he fired a 12-bore gun and rejected his wedding alibi. His conviction under Section 302/34 and sentence of life imprisonment were affirmed. The Arms Act convictions in the earlier trial concerned Kampoo, Narayan and Kallu. Both appeals were dismissed. All appellants were already in jail and were directed to serve their remaining sentences.

Case-note :- ***1. Facts :*** On 28 January 2008, Chandrabhan, his brother Ranveer and Ranveer's son Rampal were irrigating a field at Barjorpura. Kampoo objected to their use of water from the government canal, and Chandrabhan said that they would stop. According to the prosecution, when the three were returning at about 5 p.m. near Nihal Chowkidar's house, Kampoo came armed with a mouser, Matlab with a 12-bore gun, and Narayan and Kallu with country-made firearms. The prosecution

attributed successive shots to the accused, striking Ranveer's chin, shoulders, neck, rib and fingers. He died at the scene. Panjab, Munnidevi and Laxman reached the spot after hearing cries or gunshots. Chandrabhan took the body by tractor to Indergarh police station, about 10–12 km away, and lodged a report naming all four accused that evening, within approximately four hours. Police recovered cartridges, a brick bearing a bullet mark, earth, clothes and weapons. They sent articles for forensic testing and obtained the District Magistrate's sanction under the Arms Act. The post-mortem examination disclosed seven firearm injuries, and the death was found to be homicidal. In the first trial, S.T. 81/2008, Kampoo, Narayan and Kallu were convicted on 30 July 2010 under IPC Sections 302 and 302/34 and Arms Act Sections 25(1)(b) and 27. They received life imprisonment and three-year terms, with a fine of ₹1,000 each and default stipulations. Matlab was shown as absconding. After a supplementary charge-sheet and a separate trial in which eight prosecution witnesses and three defence witnesses were examined, he was convicted under Section 302/34 on 19 December 2015 and sentenced to life imprisonment with a fine of ₹5,000 and a default stipulation. The appeals questioned contradictions in the testimony, reliance on related witnesses, the absence of an independent witness and whether the medical evidence corroborated the prosecution account. Matlab also relied on his claim that he was attending a wedding.

2. Precedents — Considered : *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, was quoted and applied in assessing whether differences between the police statements and testimony in court materially affected the prosecution case. The discussion quoted from *Bakhshish Singh v. State of Punjab, (2013) 12 SCC 187*, including *Sunil Kumar Sambhudaya Gupta v. State of Maharashtra, (2010) 13 SCC 657*, explained that trivial inconsistencies and embellishments do not justify rejection of the evidence as a whole when the essential prosecution account remains credible. The magnitude and material effect of the alleged defects must be assessed. *Raj Kumar Singh v. State of Rajasthan, (2013) 5 SCC 722*, also reproduced in that discussion, required the evidence of a witness to be read as a whole. If it appeared to contain a ring of truth, the particular deficiencies and infirmities had to be evaluated to determine whether they rendered it unworthy of belief. The Bench applied these principles to Chandrabhan's prompt FIR, the eyewitness testimony, the physical evidence and the seven firearm injuries.

3. Statutes considered : IPC Sections 302 and 34 governed the findings of murder and common intention. Section 294 appeared in the initial FIR. The convictions of Kampoo, Narayan and Kallu under Arms Act Sections 25(1)(b) and 27, and their three-year terms, were affirmed. The District Magistrate's sanction for prosecution was proved as Ex P20. Matlab's subsequent conviction and sentence were under Section 302/34.

4. Issues : (i) Was the account of the irrigation dispute and shooting, including the weapons used by the accused and the sequence of firing, reliable despite the relationship of the witnesses to the deceased, the alleged contradictions and the failure to produce unrelated witnesses? (ii) Did the medical evidence and the articles recovered from the scene corroborate the accusation against Kampoo, Narayan and Kallu, and did the weapon seizures and sanction support their convictions under the Arms Act? (iii) In Matlab's subsequent trial, was his participation proved beyond reasonable doubt despite Laxman's failure to support the prosecution and the three defence witnesses who claimed that he was attending a wedding but gave differing dates?

5. Ratio / Findings : In the first trial, Chandrabhan's account named all four accused soon after the occurrence, described their weapons and participation, and remained substantially consistent. Rampal and the other family or nearby witnesses supported the account of the shooting. The seven firearm injuries found at post-mortem, the cartridges and other articles recovered from the scene, and the weapon seizures corroborated the prosecution case. The Court assessed the differences in the testimony in the context of the evidence as a whole and found that they did not materially affect the prosecution account. It also held that Rampal's testimony could not be disbelieved merely because he was the deceased's son. The investigating officers described the recovery of weapons and ammunition from the first three appellants, the seized articles were sent for chemical examination, and the Arms Clerk proved the District Magistrate's sanction. The Court affirmed the convictions under the IPC and the Arms Act. It separately examined the evidence recorded in Matlab's subsequent trial. Except for Laxman, the prosecution witnesses again supported the account of the attack; Chandrabhan's testimony was

corroborated by Rampal and Munnidevi. The defence witnesses claimed that Matlab was at a relative's wedding and produced notarised affidavits. Their accounts differed as to the dates of the wedding or the ceremony following it, and one witness was a close relative brought to court by Matlab's grandson. The Court rejected the alibi as unconvincing in view of the prompt FIR and the eyewitness testimony establishing Matlab's participation with a firearm. On that evidence, it affirmed his conviction under Section 302/34. The Arms Act convictions affirmed in the earlier trial concerned Kampoo, Narayan and Kallu.

6. Relief : The Hon'ble High Court dismissed both criminal appeals. It affirmed the convictions dated 30 July 2010 of Kampoo, Narayan and Kallu, with their sentences of life imprisonment and three-year terms, and Matlab's conviction dated 19 December 2015 under Section 302/34, with his sentence of life imprisonment. Their respective fines and default stipulations remained in force. All appellants were in jail and were directed to serve their remaining sentences.

Kampoo and others v. State of Madhya Pradesh, Cr.A. no. 630/2010 & 221/2016, 07/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC Section 498A — Quashing of matrimonial cruelty FIR. The wife alleged demands for a four-wheeler as dowry, abuse, deprivation of food, assault and renewed taunts after a period of reconciliation. The High Court held that the omission of earlier allegations from the mediation record did not justify rejecting the allegations in the FIR. Applying *Rupali Devi*, it recognised that the mental trauma caused by being compelled to leave the matrimonial home could continue at the parental home. The principles quoted from *Taramani Parakh* required specific allegations against relatives and left triable disputes for trial. The alleged abuse by the elder brother-in-law in connection with the unfulfilled dowry demand was a specific allegation, rather than the mere inclusion of his name. Its truth could not be tested at the quashing stage. The application under Section 482 to quash the FIR was dismissed.

Case-note :- ***1. Facts :*** The complainant married applicant Kapil Gupta in 2019. In the FIR, she alleged that her husband and relatives in the matrimonial household mistreated her, demanded a four-wheeler as dowry, abused her, denied her food, took away her mobile phone and prevented her from talking to her mother, and pressed her to claim a share in her maternal grandfather's property. She returned to the matrimonial home after mediation in proceedings for restitution of conjugal rights, but alleged that the taunts resumed. The applicants sought quashing of the FIR on the grounds of delay, the absence of cruelty allegations in the reconciliation record and the allegedly vague nature of the accusations, including those against Rahul Gupta, her elder brother-in-law.

2. Precedents — Considered : The applicants relied on *Kahkashan Kausar v. State of Bihar, (2022) 6 SCC 599*, and *Jai Prakash Singh* in support of their objections concerning general allegations and delay. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was applied to the continuing mental cruelty suffered by a wife after she was driven from the matrimonial home. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was quoted on the need for specific allegations against relatives and the limits of quashing. The quoted principles distinguished proceedings that, on their face, amounted to an abuse of process from cases raising triable issues, in which the truth of competing versions could not be determined at that stage. The quotation referred to *Kailash Chandra Agrawal*, *Kans Raj*, *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa*. The coordinate High Court decision in *Amar Singh v. Vimla* was cited for the proposition that compelling a married woman to live at her parental home also amounted to cruelty.

3. Statutes considered : IPC Section 498A concerned the allegations of cruelty in connection with dowry demands. The application sought quashing under CrPC Section 482. Proceedings for restitution of conjugal rights under Hindu Marriage Act Section 9 supplied the reconciliation record on which the applicants relied. The absence of details of cruelty from that record did not justify rejecting the allegations in the FIR.

4. Issues : Did the absence of earlier allegations from the reconciliation record, the delay in lodging the FIR and the allegedly general accusations show that the proceedings against the husband and relatives were an abuse of process? Did the acts attributed to the elder brother-in-law constitute a specific allegation against him?

5. Ratio / Findings : When spouses decided to forgive each other and resume married life, the mediator was not expected to record every allegation that had led to their separation. The allegations of dowry demands, ill-treatment and circumstances compelling the complainant to live separately disclosed a prima facie case of cruelty. Rahul lived in the same household and was specifically alleged to have abused the complainant because the dowry demand had not been met. That was a specific allegation of his role. Whether the allegations were true was a matter for trial. At the quashing stage, the Court could interfere only if the uncontroverted allegations failed to disclose an offence; the allegations in this case did disclose one.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. The FIR remained intact, leaving the investigation or prosecution to proceed.

Kapil Gupta and others v. State of Madhya Pradesh and others, M.Cr.C. no. 12990/2024, 03/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (287) Prev Next

Headnote :- IPC Sections 394 and 397, Arms Act and MP dacoity area law — Failure to explain serious injuries sustained by the accused. Karan and Sajjan were alleged to have robbed a couple at gunpoint and were then beaten by villagers. Sajjan died, and Karan sustained multiple injuries. The prosecution failed to explain those injuries and the fatal beating. Its account also contained material contradictions concerning the timing, the alleged taking of the victims' motorcycle while leaving the accused's motorcycle behind, recovery 100 metres from the alleged place of apprehension, and prolonged beating of the victims despite their minor injuries. Applying *Mano Dutt* and *Krishnegowda*, the High Court held that the unexplained serious injuries, together with these contradictions, showed suppression of the genesis of the occurrence and created reasonable doubt. Failure to explain a trivial injury would not necessarily have the same effect. All convictions were set aside, and Karan was acquitted.

Case-note :- ***1. Facts :*** Sunil and Savitri alleged that Karan and two others stopped their motorcycle and, by threatening them with a country-made pistol, took the ornaments and the vehicle. Villagers caught Karan and Sajjan and beat them; Sajjan later died. The police claimed to have seized the victims' motorcycle and a loaded pistol. Karan was convicted under IPC Sections 394/397, MP Dacoity and Vyapaharan Prabhavit Kshetra Act Sections 11/13 and Arms Act Section 25(1-B)(a). On the principal count, he was sentenced to seven years' rigorous imprisonment and a fine of ₹1,000, with three months' rigorous imprisonment in default. For the Arms Act offence, he received one year's rigorous imprisonment and a fine of ₹500, with one month's rigorous imprisonment in default. He appealed against the convictions and sentences.

2. Precedents — Considered : *Mano Dutt v. State of U.P., (2012) 4 SCC 79*, was applied to the effect of the prosecution's failure to explain injuries sustained by an accused. The injuries must be serious and must have been sustained in the occurrence in question. *Krishnegowda v. State of Karnataka, (2017) 13 SCC 98*, was quoted on defects in the investigation arising from unexplained injuries to an accused and the treatment of a counter-complaint. *Gurwinder Singh v. State of Punjab*, (2018) 16 SCC 525, and *Kumar v. State*, (2018) 7 SCC 536, were also quoted on the significance and limits of non-explanation of injuries. The quoted principles did not make every unexplained injury fatal to the prosecution: clear, cogent and credible evidence could still be accepted, and the serious and contemporaneous nature of the injuries had to be considered. The reproduced discussion included *Lakshmi Singh* and other decisions. Applying these principles, the High Court distinguished minor unexplained injuries from Karan's multiple injuries and the beating that caused Sajjan's death.

3. Statutes considered : IPC Sections 394, 397 and 34; Arms Act Section 25(1-B)(a) in the framed charge and conviction, and Sections 25/27 in the charge-sheet; MP Dacoity and Vyapaharan Prabhavit Kshetra Act Sections 11/13; CrPC Section 374, under which the conviction appeal was filed.

4. Issues : Were the robbery allegations and the alleged recovery of the pistol reliable in view of the unexplained injuries to the accused and the death of the alleged co-accused, the discrepancy between the account of beating and the victims' minor injuries, the inconsistent timing, and the seizure from a public road away from the alleged place of apprehension?

5. Ratio / Findings : The police acknowledged that villagers had beaten both men, but the prosecution did not explain the circumstances in which Karan sustained his injuries or Sajjan was fatally injured.

The claim that the victims had been beaten for a prolonged period was inconsistent with their minor medical injuries. The Court found the account of the robbers taking the victims' motorcycle while abandoning their own implausible. The seizure evidence and the timing of the reports were also inconsistent with the alleged immediate apprehension. These omissions and contradictions, considered together, created reasonable doubt about the prosecution account, including the alleged firearm recovery. The Court further noted that no documentary evidence had been produced to establish ownership of the jewellery. The prosecution had therefore failed to prove Karan's guilt beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the appeal, set aside all convictions and sentences, and acquitted Karan of all charges. He was directed to be released immediately, if not required in another case. *Karan Kumar v. State of Madhya Pradesh, Cr.A. no. 158/2013, 13/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (288) Prev Next

Headnote :- Murder by burning — Child eyewitness, Section 106 of the Evidence Act and appeal against acquittal. Seven-year-old Soumya described her father, Kashiram, pouring kerosene on her mother and setting her on fire. Kerosene detected in the scalp hair and semi-burnt clothing corroborated her account. The Court rejected the objection that her police statement had been recorded six days after the incident. It accepted the explanation concerning treatment, death and funeral rites and found no delay in recording the statement. Her residence with maternal relatives did not, by itself, establish tutoring. The adult relatives' inability to say that they had seen the actual ignition did not displace the child's reliable account. Kashiram's hospital-attendance defence was disbelieved, and his unexplained absence supported the prosecution case. Section 106 was applied to facts within his special knowledge after the prosecution had established the necessary foundation. Soumya's first police statement had not named the three other accused; the later additions and the adult witnesses' limited observations left reasonable doubt about their participation. Kashiram's conviction under Section 302 and the three co-accused persons' acquittals under Sections 302 and 498-A were affirmed.

Case-note :- ***1. Facts :*** The appeals concerned Archana's death from burns sustained in the home where she lived with her husband, Kashiram, and their daughter, Soumya. Kashiram appealed against his murder conviction and sentence of life imprisonment with a fine of ₹50,000 and one year's imprisonment in default. The State appealed against the acquittal of Kalyansingh, Ballu alias Sobran and Kailash under IPC Sections 302 and 498-A. Kashiram had also been acquitted under Section 498-A. Soumya was seven years old. Maternal relatives and a neighbour gave further evidence. The post-mortem examination disclosed extensive ante-mortem burns, and the scalp hair and semi-burnt clothing tested positive for kerosene. Archana was unable to make a dying declaration.

2. Precedents — Considered : *Kalu alias Laxminarayan v. State of M.P., (2019) 10 SCC 211*, was applied to the husband's obligation to explain a homicidal death in the matrimonial home when the relevant circumstances were especially within his knowledge. *Tulsiram Sahadu Suryawanshi v. State of Maharashtra, (2012) 10 SCC 373*, explained how Evidence Act Sections 114 and 106 operated together. An inference could be drawn from proved facts, but Section 106 did not relieve the prosecution of proving guilt beyond reasonable doubt. The principles quoted from *Mir Mohammad Omar* and *Shambhu Nath Mehra* concerned exceptional facts especially within the accused's knowledge that would be impossible or disproportionately difficult for the prosecution to establish. *Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681*, addressed murder committed in the privacy of a home. After the prosecution led the evidence it could reasonably produce, the inmates had to give a cogent explanation. A false or absent explanation, in the circumstances described in that decision and after proof of co-residence, was a strong incriminating circumstance. *State of Jammu and Kashmir v. Vijay Kumar, (2018) 13 SCC 655*, illustrated the separate assessment of the husband and other relatives where homicidal death and recent co-residence had been proved. *State of Rajasthan v. Kashi Ram, (2006) 12 SCC 254*, required the inference under Section 106 to depend on the particular proved facts. The Bench applied these principles to Kashiram's admitted presence in the house, the disbelieved hospital-attendance account, Soumya's testimony and the forensic evidence. The related witnesses' credibility was assessed in relation to each act and accused. The

Bench separately examined the evidence against the other accused and the grounds for interfering with their acquittals.

3. Statutes considered : IPC Sections 302 and 498-A; Evidence Act Sections 106, 114 and 145; CrPC Sections 161 and 313. Section 106 supplemented the prosecution's established evidentiary foundation. The material omission in Soumya's earlier police statement was put to her under Section 145 in assessing the allegations against the acquitted co-accused.

4. Issues : Did the interval before Soumya's police statement and her residence with maternal relatives make her account of the burning unreliable? What was the effect of the relatives' testimony and Kashiram's claim that he had accompanied Archana to hospital? Was the participation of the three other accused proved, and did the record justify interference with their acquittals in the State's appeal?

5. Ratio / Findings : A witness's relationship to the deceased did not, by itself, make the witness interested or unreliable. The evidence had to be assessed in relation to the act and the accused concerned. The adult relatives admitted that Archana was already burning when they entered the room; their evidence did not establish that they had seen her being ignited. Soumya's evidence could not be rejected merely because she had awakened on hearing the noise. The Court accepted the explanation concerning treatment, death and last rites for the interval before her police statement and rejected the objection of delayed recording. Nor did living with maternal relatives while her father was missing establish tutoring. Her account that Kashiram poured kerosene and set Archana on fire was supported by the FSL findings. The Court rejected the hospital-attendance defence after considering the contemporaneous records, the inquest and the handing over of the body to Archana's father. Against the foundation established by the prosecution, it considered Kashiram's failure to explain the circumstances within his special knowledge under Section 106. The Court also rejected the suicide suggestion in view of the absence of a kerosene container from the scene and Amit's evidence that Kashiram had a container in his hand, inferring that Kashiram had removed it. As to the other three accused, Soumya's first police statement named only Kashiram. She could not explain the later additions when confronted with the omissions under Section 145, and the adult witnesses had not seen the actual ignition. The evidence therefore left reasonable doubt about the others' participation. Their acquittal under Section 498-A was also supported by Soumya's failure to describe dowry harassment or prior cruelty. The trial court's assessment was neither perverse nor contrary to the record. The possibility of another view was insufficient to reverse the acquittals.

6. Relief : The Hon’ble High Court dismissed both appeals. It affirmed Kashiram's conviction under Section 302 and sentence of life imprisonment with a fine of ₹50,000 and one year's imprisonment in default. It also affirmed the acquittals of Kalyansingh, Ballu and Kailash under Sections 302 and 498-A. Kashiram's acquittal under Section 498-A, against which the State had not appealed, remained undisturbed. Kashiram was directed to serve his remaining jail sentence. The bail bonds of the acquitted respondents were discharged. A copy of the judgment was to be supplied immediately to Kashiram free of cost, and the trial record was to be returned immediately with a copy of the judgment for information and compliance.

Kashiram Yadav v. State of Madhya Pradesh; State of Madhya Pradesh v. Kalyansingh and Others, Cr.A. no. 910/2010 & 453/2014, 09/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (289) Prev Next

Headnote :- Matrimonial cruelty — Demand for a fixed deposit in the daughter's name, territorial jurisdiction at the place of shelter and quashing of an FIR. The wife alleged that her husband and in-laws abused and beat her, demanded a ₹5 lakh fixed deposit in their daughter's name, and left her at Datia with a condition that she could return only after the demand was met. Harassment to coerce a woman or her relatives to meet an unlawful demand for property or valuable security, or because of failure to meet that demand, falls within Explanation (b) to IPC Section 498-A. The provision is not confined to dowry demands or to demands made at the time of marriage. Under *Rupali Devi*, the continuing mental effects of cruelty at the place where a wife takes shelter after being driven away may confer territorial jurisdiction, depending on the facts. The unproved attendance sheet relied on for an alibi, the divorce notice and the delay in lodging the complaint did not

justify testing the disputed defence or quashing the cognizable FIR. The delay objection was rejected where the FIR was undisputedly within time. The petition was dismissed; the allegations remained matters for investigation and proof.

Case-note :- ***1. Facts :*** The wife alleged that, after her marriage at Lucknow, her in-laws taunted and physically ill-treated her over dowry. They later demanded that her parents create a fixed deposit of ₹5 lakh in her daughter's name. According to her, her husband and father-in-law left her at her parental home in Datia in March 2019 and refused to allow her to return unless the deposit was made. She lodged the complaint in June 2020. Her mother-in-law, father-in-law, husband and brother-in-law sought quashing of the Datia FIR under IPC Section 498-A and Sections 3/4 of the Dowry Prohibition Act. They relied on the father-in-law's attendance sheet, a divorce petition, the delay in reporting and the fact that the earlier alleged acts had taken place at Lucknow. These were the complainant's allegations and the applicants' defence assertions; their truth was not finally determined in the quashing petition.

2. Precedents — Considered : *Rajinder Singh v. State of Punjab, (2015) 6 SCC 477*, considered the meaning of dowry in the context of Section 304-B and held that *Appasaheb* and *Vipin Jaiswal* did not state the law correctly. *Jatinder Kumar v. State of Haryana (Criminal Appeal 1850/2010, decided 17.12.2019)* treated a later demand for money to extend a clinic as a dowry demand. The High Court considered these decisions together with the wider express terms of Explanation (b) to Section 498-A and rejected the argument that the alleged fixed-deposit demand could not amount to cruelty under that provision. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explained that the continuing mental consequences of cruelty at the place where a wife takes shelter after being driven away may confer territorial jurisdiction, depending on the facts. *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was relied on in rejecting consideration of the disputed alibi. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, established that divorce proceedings alone do not justify quashing criminal allegations. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised an exception permitting consideration, in an appropriate case, of a public document or a defence document whose authenticity the complainant does not dispute. In the present case, the Court declined to rely on the attendance sheet because it had not been formally proved. The discussion of Section 482 included *S. Khushboo*, *Amit Kapoor*, *Bhajan Lal* as quoted in *Ajay Kumar Das*, *M. Srikanth*, *M.N. Ojha and CBI v. Arvind Khanna*. These authorities required assessment of whether the allegations, taken at face value, disclosed an offence, while preserving intervention where no offence was disclosed or the proceedings amounted to an exceptional abuse of process. They cautioned against deciding disputed facts or the merits of the defence at that stage. *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, required registration of an FIR disclosing a cognizable offence. Applying these principles, the Bench considered whether the FIR could proceed; it did not determine the applicants' guilt.

3. Statutes considered : IPC Section 498-A and its Explanation, particularly clause (b); Sections 3/4 of the Dowry Prohibition Act and the definition of dowry discussed in the cited decisions; CrPC Sections 179 and 482. Section 304-B arose in the Supreme Court's discussion of dowry; the present FIR concerned matrimonial cruelty and the Dowry Prohibition Act, rather than a charge of dowry death.

4. Issues : Could the alleged demand, made after marriage, for a fixed deposit in the child's name prima facie amount to cruelty? Did Datia have territorial jurisdiction despite the alleged acts of abuse at Lucknow? Did the attendance sheet, divorce notice or delay in reporting justify quashing the FIR at the investigation stage?

5. Ratio / Findings : Explanation (b) to Section 498-A covers harassment intended to coerce a woman or her relatives to meet an unlawful demand for property or valuable security, as well as harassment because of failure to meet that demand. It is not confined to dowry demands or to demands made at the time of marriage. The alleged deposit demand, accompanied by coercion, could therefore disclose cruelty under that provision. The allegation that the wife had been left at Datia and prevented from returning until the demand was met, together with the continuing mental effects of that conduct there, supported investigation at Datia under *Rupali Devi*. The attendance sheet had not been formally proved, and the disputed alibi could not be tested at this stage. The Court considered that the complainant had waited in the hope of preserving her marriage; the delay and the lodging of the complaint after receipt of the divorce notice did not, by themselves, establish mala fides. The FIR was undisputedly

within time and could not be quashed merely because it had not been lodged immediately. As the allegations disclosed cognizable offences, the Court declined to quash the FIR.

6. Relief : The Hon'ble High Court dismissed the petition under Section 482. It declined to quash the FIR under IPC Section 498-A and Sections 3/4 of the Dowry Prohibition Act.

Kasturi Devi and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 26941/2020, 29/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (290) Prev Next

Headnote :- Prevention of Corruption Act Section 17A — Prior approval and investigation of airstrip dues. On a reference arising from a Division Bench's difference of opinion, the Judge declined to quash the Lokayukta FIR against a former Ujjain Collector concerning the State's Datana Air Strip agreement. Section 17A applies where the alleged offence is relatable to an official recommendation or decision. On the facts, the alleged silence and failure to recover maintenance and night-parking charges did not involve such a protected decision. Independently, the preliminary enquiry had begun in 2015, before Section 17A was inserted in 2018, and its continuation was not barred by that provision. The contractual remedy, disputed payments and material filed in the subsequent returns did not displace the prima facie allegations of cognizable offences. Mens rea and the defence of due care remained matters for investigation or trial. The Judge agreed with Sanjay Yadav, J., that the petition should be dismissed, directed expeditious investigation, preferably within nine months from the order, and limited the factual observations to the question whether the FIR disclosed a cognizable offence.

Case-note :- ***1. Facts :*** Under an agreement made in 2006 and extended to ten years, the State permitted Yash Air, later renamed Centaur Aviation Academy, to use Datana Air Strip. The agreement imposed obligations to pay licence fees and night-parking charges and to maintain the airstrip. The agreement and the Government's sanction order assigned the Collector oversight of specified conditions. Kavindra Kiyawat was Ujjain Collector from August 2014 to August 2016. Complaints made in 2015 led to a Lokayukta preliminary enquiry, followed by a November 2019 FIR against sixteen persons under Section 7 of the Prevention of Corruption Act and IPC Section 120-B. The prosecution alleged that State expenditure of about ₹292.39 lakh on maintenance had not been recovered and that night-parking charges remained unpaid. The petitioner disputed his role, the relevant timing, his knowledge and intent. He relied on deposits and the availability of civil recovery. The Division Bench differed on whether the allegations against him disclosed an offence, while agreeing on the FIR's maintainability under Section 17A. The third Judge considered that statutory question again because respondent No. 3 renewed it, and also addressed whether the allegations disclosed an offence. For that limited assessment, the Judge examined the Collector's obligations under the Government order and agreement.

2. Precedents — Considered : *Nathi Devi v. Radha Devi Gupta, (2005) 2 SCC 271*, was cited for giving unambiguous statutory words their ordinary meaning when construing 'recommendation' and 'decision' in Section 17A. The Delhi High Court's decision in *Manoj Prasad v. CBI* (11.01.2019) was cited on Section 17A. The Telangana High Court's decision in *Katti Nagaseshanna v. State of Andhra Pradesh* (16.11.2018) was quoted on the prospective operation of the amended prosecution-sanction requirement under Section 19. The Judge then separately held that Section 17A did not benefit the petitioner because the preliminary enquiry had begun in 2015 and remained pending when that provision came into force. *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, cautioned against prematurely stopping investigation of a cognizable FIR. The wider discussion included *State of Orissa v. Ujjal Kumar Burdhan*, *XYZ v. State of Gujarat*, *S. Khushboo*, *Sangeeta Agrawal*, *Bhajan Lal*, *Amit Kapoor*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *State of A.P. v. Gourishetty Mahesh*, *Padal Venkata Rama Reddy*, *M. Srikanth*, *M.N. Ojha* and *CBI v. Arvind Khanna.* These authorities addressed the exceptional grounds for quashing and the limits on deciding disputed facts at that stage. *Debendra Nath Padhi* and *Prashant Bharti*/*Rajiv Thapar* were considered in distinguishing the ordinary rule against considering defence evidence from the stringent exception for exculpatory material of sterling and impeccable quality. Under the quoted test, the material must be sound, reasonable and indubitable; it must rule out the factual assertions against the

accused; it must remain unrefuted or be incapable of justifiable refutation; and continuing the trial must amount to an abuse of process and fail to serve the ends of justice. All those requirements must be satisfied. *State of Maharashtra v. Vikram Anantrai Doshi, (2014) 15 SCC 29, CBI v. Jagjit Singh, State of T.N. v. R. Vasanthi Stanley and CBI v. Maninder Singh were quoted on the public consequences of financial wrongdoing and why subsequent payment does not necessarily justify quashing. Vijayander Kumar v. State of Rajasthan, (2014) 3 SCC 389*, and *V. Ravi Kumar v. State, (2019) 14 SCC 568*, addressed the overlap between civil and criminal liability: a contractual claim does not itself exclude a cognizable offence, while a mere breach of contract does not automatically amount to cheating. *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, concerned registration of information disclosing a cognizable offence. The preliminary enquiry did not prevent investigation of relevant allegations omitted from it. The petitioner's reliance on *Bhajan Lal* was assessed against the prima facie record. *Vinod Raghuvanshi v. Ajay Arora*, (2013) 10 SCC 581, was also quoted for permitting investigation where the allegations had substance.

3. Statutes considered : Prevention of Corruption Act, 1988, Sections 7 and 17A. Section 17A concerns prior approval for enquiry or investigation and is distinct from sanction for prosecution. IPC Sections 120-B and 52, the latter defining good faith by reference to due care and attention; Constitution Articles 226/227; and CrPC Sections 190, 193, 319 and 482 were discussed in relation to the scope of investigation, implication of additional persons and quashing.

4. Issues : Was prior approval under Section 17A required for an enquiry begun before the amendment, or for an alleged omission involving no official recommendation or decision? Did the Collector's contractual oversight duties and the unpaid State dues disclose a cognizable offence at the FIR stage? Did the payments, his omission from the original complaints, the possible responsibility of other officers or the availability of civil recovery justify quashing? What was the scope of the third Judge's decision and of the observations on facts?

5. Ratio / Findings : Section 17A requires the alleged offence to be relatable to an official recommendation or decision. The petitioner himself claimed that he had no knowledge of the agreement and had taken no decision. On that record, remaining silent and failing to pursue the dues did not amount to a protected official decision. Independently, the preliminary enquiry had begun in 2015, before Section 17A came into force, and the later provision did not bar its continuation. The agreement was made on behalf of the State and assigned a defined role to the Collector. Although the petitioner disputed liability for earlier fees and work completed before his tenure, the agreement continued during his tenure, maintenance expenditure remained unrecovered and night-parking charges were admittedly unpaid. Those circumstances warranted further investigation. Subsequent adjustment of some amounts, the civil recovery remedy and the omission of his name or particular allegations from the original complaints did not conclusively exclude an offence. The preliminary enquiry report did not finally determine the matter. The Court left it to the Lokayukta or D.G.P. (Lokayukta) to examine whether the enquiry officer's omission of the night-parking issue from that report was intentional or bona fide. The petitioner's claimed lack of knowledge and absence of intent remained matters for trial, and the Court held that he would have to establish that he had acted with due care and attention. The factual observations were expressly confined to prima facie sufficiency and did not determine guilt. The third Judge agreed with Sanjay Yadav, J., and differed from B.K. Shrivastava, J., on whether the FIR should be quashed.

6. Relief : The Hon’ble High Court dismissed the petition under Article 226 to quash FIR 0282/2019. It directed that the investigation be completed as early as possible, preferably within nine months from the date of the order, and not be kept pending without reason. The factual observations were limited to whether a cognizable offence was disclosed; they did not finally determine culpability or the precise amount recoverable.

Kavindra Kiyawat v. State of Madhya Pradesh and Others, W.P. no. 27734/2019, 21/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (291) Prev Next

Headnote :- Double murder and attempted murder — Injured and related witnesses, medical evidence, common object and defective charges. Following an irrigation dispute, an armed group killed Pahalwan and Darshan and assaulted Ajab; shots fired at Bhanupratap missed. Ajab's injuries,

the prompt FIR and the eyewitness accounts supported the finding of a coordinated assault in furtherance of a common object under Section 149. An injured witness's account deserved due weight but remained open to rejection for strong reasons, including major contradictions or discrepancies. Relationship alone did not disqualify a witness. On the facts, the estimated firing distance, blackening and rigor mortis did not displace the credible eyewitness evidence. Section 307 required the requisite intention or knowledge and an act towards commission of the offence; an injury was not essential. The failure to specify separate counts for each victim in the charges had caused no demonstrated failure of justice under Section 464 CrPC. Ramhet's appeal had abated on his death. The surviving appellants' convictions and sentences for murder, attempted murder and rioting were affirmed.

Case-note :- ***1. Facts :*** At about 10:15 a.m. on 16 October 2006, an irrigation dispute led an armed group to the field where Pahalwan, Darshan, Ajab and Bhanupratap were present. Pahalwan and Darshan were shot dead. Ajab sustained five incised wounds and swelling, while Bhanupratap reported that shots had been aimed at him but he had escaped injury. He lodged the FIR about half an hour after the occurrence. Kedar, Ramhet, Bharat, Devaram and Rampreet were convicted under Section 302/149 for the murders of Pahalwan and Darshan, Section 307/149 for the attempts to kill Ajab and Bhanupratap, and Section 148 for rioting. The sentences were life imprisonment and a fine of ₹1,000, with six months' rigorous imprisonment in default, under Section 302/149; five years' rigorous imprisonment and a fine of ₹1,000, with six months' rigorous imprisonment in default, under Section 307/149; and one year's rigorous imprisonment under Section 148. All sentences were to run concurrently. Surajbhan, who had absconded during the trial and was later arrested and tried separately, had his appeal heard with these appeals but reserved for a separate judgment; Dilip remained shown as absconding. Ramhet died while the appeal was pending, and his appeal abated. The surviving appellants challenged the reliability of the eyewitnesses, the medical and ballistic evidence, the timing of the occurrence, the common object and the form of the charges.

2. Precedents — Considered : *Baleshwar Mahto v. State of Bihar, (2017) 3 SCC 152*, quoting *Abdul Sayeed*, explained the special evidentiary weight of a witness injured in the occurrence. That account was not immune from scrutiny: strong grounds, including major contradictions and discrepancies, could justify its rejection. *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, distinguished mere relationship from an interest in securing a false conviction. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, and the discussion of FIR detail in *V.K. Mishra* and *Kamal Kant Dubey* distinguished minor variations from contradictions affecting the core of the case. *Jagdish Narain v. State of U.P., (1996) 8 SCC 199*, distinguished an investigating officer's own observations at the scene from information supplied by a witness. *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, explained the assessment of medical opinion together with eyewitness evidence. *Manjit Singh v. State of Punjab, (2019) 9 SCC 529*, explained that a common object could be inferred from conduct and surrounding circumstances without prior concert. Liability under Section 149 extended to an offence committed in prosecution of that common object or one the members knew was likely to be committed in its prosecution. The quoted principles also warned against treating a passive onlooker who did not share the common object as a member of the unlawful assembly. *Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*, treated the absence of stick injuries as relevant but not conclusive. *Krishnan v. State and State of U.P. v. Harban Sahai* supported reliance on a prompt FIR when assessing the suggestion of fabrication. *State of M.P. v. Harjeet Singh, (2019) 20 SCC 524*, and the Section 307 decisions quoted in it distinguished intention and an overt act from the result, without requiring a fatal injury or any injury at all. *Guiram Mondal v. State of W.B., (2013) 15 SCC 284*, explained that an inquest concerned the apparent cause of death and was not required to identify the assailants. *State of W.B. v. Laisal Haque*, (1989) 3 SCC 166, quoting *Willie (William) Slaney*, required an actual failure of justice before a charge defect could invalidate the conviction. *State of U.P. v. Naresh*, *Rizan* and *Brahm Swaroop* were also quoted on injured or related witnesses and minor discrepancies. *Charan Singh* supported the assessment of the time of death, and *Bhagwan Jagannath Markad* addressed common-object liability. *State of M.P. v. Kanha* and *State of M.P. v.*

Saleem were separately quoted on Section 307. *K.T. Mydeen* was cited as the basis for deciding the separately tried Surajbhan's appeal by a separate judgment. The appellant relied on the Madhya Pradesh High Court's decision in *Krishna Sewak* in disputing the ballistic terminology.

3. Statutes considered : IPC Sections 141, 148, 149, 302, 307 and 319, the latter defining hurt; CrPC Sections 218, 219, 220, 374 and 464. For Section 307, the act and the requisite intention or knowledge had to be distinguished from the result. Section 149 required qualifying membership of the unlawful assembly and an offence committed in prosecution of its common object or one the members knew was likely to be committed in prosecution of that object.

4. Issues : Did the injured and related eyewitnesses reliably establish each appellant's role? Did the estimated firing distance, blackening, rigor mortis or absence of further lathi injuries disclose a material contradiction? Did the armed group share a common object? Could the shots that missed Bhanupratap and the simple injuries sustained by Ajab constitute offences under Section 307? Had the use of a single charge covering several victims prejudiced the defence?

5. Ratio / Findings : Ajab's injuries sustained in the occurrence, the prompt FIR and Brijendra's corroborating account supported the central prosecution case despite Bhanupratap's observation from a distance and the minor variations in sequence. Blackening recorded in the post-mortem findings did not, by itself, justify rejecting the eyewitness accounts. The development of rigor mortis depended on conditions about which the doctor had not been adequately questioned; the medical estimate and the stomach contents were consistent with the morning attack. Bharat's blows with a sharp weapon, the firearms and lathis carried by the group, and the injury and scene evidence showed coordinated participation rather than casual presence. The fact that Ajab had only one injury attributable to a blunt object did not disprove the participation of both lathi-bearing appellants, Devaram and Rampreet. The Court construed the FSL report's firing-pin description, 'ek saman', as meaning 'identical' and held that the report supported the prosecution. The multiple discharged cartridges were consistent with shots having been aimed at Bhanupratap. The first limb of Section 307 did not require a wound, and the simple nature of Ajab's wounds did not exclude an intended lethal attack. The omission of the assailants' names from the inquest reports was immaterial to the limited purpose of an inquest. The accused knew the victims and the acts alleged against them, faced the relevant evidence and showed no actual prejudice from the single Section 302/149 and Section 307/149 charge descriptions. Separate counts for each victim should have been specified, but the absence of demonstrated prejudice did not warrant setting aside the convictions.

6. Relief : The Hon'ble High Court dismissed the appeals of the surviving appellants and affirmed the convictions and sentences for the two murders, the attempted murders and rioting. The concurrent sentences included life imprisonment and a fine of ₹1,000, with six months' rigorous imprisonment in default, under Section 302/149; five years' rigorous imprisonment and a fine of ₹1,000, with six months' rigorous imprisonment in default, under Section 307/149; and one year's rigorous imprisonment under Section 148. Kedar, who was in custody, was directed to serve his remaining sentence. The bail bonds of Bharat, Devaram and Rampreet were cancelled, and they were directed to surrender immediately before the trial court to serve their remaining sentences. Copies of the judgment were to be supplied to the appellants immediately, free of cost, and the trial record was to be returned immediately for information and compliance. Ramhet's appeal had already abated on his death.

Kedar Singh and Others v. State of Madhya Pradesh, Cr.A. no. 687/2010 & 691/2010, 20/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (292) Prev Next

Headnote :- Section 125 CrPC — Interim maintenance for wife and children; age objection and ex parte restitution decree. The father, who did not dispute paternity, sought production of the three children's birth certificates under Section 91. His application alleged that all three were adults but stated no date of birth; at the hearing, counsel asserted that only respondent No. 2 was an adult. The Court held that the pending request did not require interim maintenance to be withheld: if any child were later found to have been an adult on the date of the maintenance application, the amount paid to that child could be recovered or adjusted. Nor did an unproduced ex parte decree for restitution of conjugal rights establish that the wife was living

separately without sufficient cause. The husband had neither sought enforcement nor proved genuine efforts to resume cohabitation. Interim maintenance of ₹2,000 per month for the wife and ₹1,500 per month for each child was affirmed; the revision was dismissed.

Case-note :- ***1. Facts :*** In proceedings under Section 125 CrPC, Seema alleged that Kedar had harassed her for dowry, driven her and their three children from the matrimonial home, and neglected to maintain them. The Family Court awarded interim maintenance of ₹2,000 per month to Seema and ₹1,500 per month to each child. Kedar challenged the order under Section 19(4) of the Family Courts Act read with Sections 397 and 401 CrPC. His pending Section 91 application sought the children's birth certificates. Although that application alleged that all three children were adults, his counsel argued that only respondent No. 2 was an adult. Kedar also relied on an unproduced ex parte decree for restitution of conjugal rights. The revision concerned only interim maintenance, not a final determination of the harassment allegation, the children's ages or ultimate entitlement under Section 125.

2. Statutes considered : Sections 91, 125, 397 and 401 CrPC; Section 19(4) of the Family Courts Act; Order XXI Rule 32 CPC, mentioned because Kedar had never used that procedure to enforce the restitution decree. The Court did not finally determine any child's age or ultimate entitlement under Section 125.

3. Issues : Whether the Family Court could award interim maintenance without first deciding the pending Section 91 request for birth certificates, when the children's majority was alleged without any birth date; whether an unproduced and unenforced ex parte restitution decree established that Seema was living separately without sufficient cause; and whether the interim amounts should be affirmed.

4. Ratio / Findings : Kedar was the children's father and was expected to know their birth dates, yet his Section 91 application stated none. It alleged that all three children were adults, while counsel later submitted that only respondent No. 2 was an adult. Paternity was undisputed. The Court therefore treated the application as a delaying measure and held that technical objections could not leave the wife and children destitute. No irreparable loss would result from deciding interim maintenance first, because any amount paid to a child later found to have been an adult on the application date could be recovered or adjusted. The restitution decree was not produced, had been passed ex parte, and had never been pursued for enforcement under Order XXI Rule 32 CPC. Unless Kedar proved genuine efforts to resume cohabitation and Seema's refusal without sufficient cause, he could not use that decree to avoid interim liability. The ruling was confined to the interim order and the record then before the Court.

5. Relief : The High Court affirmed the Family Court's award of interim maintenance of ₹2,000 per month to Seema and ₹1,500 per month to each of the three children and dismissed the revision.

Kedar v. Seema and Others, Cr.R. no. 644/2018, 03/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (293) Prev Next

Headnote :- CrPC Sections 309 and 482 — Closure of cross-examination after repeated adjournments. Yashoda Singh's and Suryapal Singh's examinations-in-chief had been recorded in 2017 and 2018, but their cross-examination remained incomplete more than six and five years later. After earlier excuses concerning counsel's health and absence, the trial court expressly directed the accused to arrange alternative representation for the next hearing. On 27 May 2023, they again sought time to engage counsel and produced no order sheets to challenge the recorded history of delay. The High Court held that the rights to counsel of choice and cross-examination did not confer an absolute licence to postpone the trial indefinitely. Section 309 requires day-to-day examination and recorded reasons for an adjournment, with special written reasons when witnesses are present. One witness was elderly and Yashoda was in poor health. A late offer to pay ₹5,000 in costs was treated as another attempt to delay the trial. The closure order was affirmed and the Section 482 application was dismissed. The ruling was a fact-specific finding that the accused had given up the right to cross-examine through their delaying conduct after an express warning.

Case-note :- ***1. Facts :*** In Sessions Trial No. 86/2017, Yashoda Singh and Suryapal Singh gave their examinations-in-chief in 2017 and 2018 respectively, but the defence did not complete cross-examination. On an earlier date, the defence sought an adjournment because one lawyer had low blood pressure and another was out of station. The trial

court directed the accused to arrange alternative representation if their chosen lawyers could not attend the next hearing. On 27 May 2023, they again sought time to engage counsel, and the court closed their right to cross-examine the two witnesses. The accused challenged that order under Section 482 CrPC, asserting a statutory right to cross-examination and later offering ₹5,000 in costs for another opportunity. They did not produce the trial court's order sheets to contradict its account of repeated adjournments.

2. Precedents — Considered : The High *Court's decision in Akash Batham v. Santoshi*, affirmed in SLP (Cri.) No. 4464/2017, and *Kuldeep Singh Tomar v. State of M.P.* addressed adjournments when witnesses are present. *Vinod Kumar v. State of Punjab, (2015) 3 SCC 220*, applied Section 309 CrPC and the requirement of fairness to both sides, warning that long separation of examination-in-chief and cross-examination exposes witnesses to pressure and requires special recorded reasons. Its reproduced discussion referred to *Gurnaib Singh v. State of Punjab*, *Swaran Singh v. State of Punjab, State of U.P. v. Shambhu Nath Singh* and *Talab Haji Hussain v. Madhukar Purshottam Mondkar. Akil v. State (NCT of Delhi), (2013) 7 SCC 125*, reproduced the statutory day-to-day and written-reason safeguards through a Delhi High Court circular. *Krishnan v. Krishnaveni, (1997) 4 SCC 241*, associated prompt trial with accurate witness memory and protection from inducement or intimidation. *Swaran Singh v. State of Punjab, (2000) 5 SCC 668*, and *Gurnaib Singh v. State of Punjab, (2013) 7 SCC 108*, criticised repetitive adjournments and placed active trial-control responsibility on the Bench and Bar. *State of U.P. v. Shambhu Nath Singh, (2001) 4 SCC 667*, explained Section 309's day-to-day command, special-reasons exception and possible responses to non-cooperation; its reproduced discussion also referred to *Raj Deo Sharma v. State of Bihar* and *Raj Deo Sharma (II) v. State of Bihar. Mohd. Khalid v. State of W.B., (2002) 7 SCC 334*, required compelling reasons to defer a present witness and reproduced *N.G. Dastane v. Shrikant S. Shivde* on counsel's duty to arrange coverage if genuinely unavailable. The Court applied these principles to the express warning and years of delay in the present case.

3. Statutes considered : Sections 309(1) and 309(2) CrPC require expeditious, day-to-day examination once witnesses' evidence begins, recorded reasons for departing from that course, and special written reasons for adjourning when witnesses are present. Section 482 concerned the requested inherent supervisory relief. The accused's fair opportunity to test the evidence had to be balanced against a fair and prompt trial for the prosecution, victim and witnesses.

4. Issues : Whether the rights to counsel of choice and cross-examination made the closure order a jurisdictional error despite repeated defence-caused delay, an express warning and failure to arrange substitute counsel; and whether an offer of costs justified reopening cross-examination after years of postponement.

5. Ratio / Findings : The Court held that the applicants' delaying conduct amounted to giving up their valuable statutory right to cross-examine. They had knowingly allowed more than six and five years to pass after the two witnesses' examinations-in-chief, had been expressly directed to arrange alternative counsel, and still sought another adjournment when the case was called. They produced no trial order sheets to substantiate a different history. One witness was elderly and Yashoda was in poor health; repeatedly summoning them imposed an independent cost on the fairness of the trial. The right to counsel of choice did not permit indefinite adjournments. The late offer of ₹5,000 in costs was treated as another attempt to postpone cross-examination and did not cure the conduct or prejudice to the witnesses. On those facts, the trial court had committed no error, much less a jurisdictional error, by closing the right to cross-examine.

6. Relief : The High Court dismissed the Section 482 application and left undisturbed the trial court's order dated 27 May 2023 closing the applicants' right to cross-examine Yashoda Singh and Suryapal Singh.

Keshav Singh and Others v. State of Madhya Pradesh, M.Cr.C. no. 24227/2023, 22/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (294) Prev Next

Headnote :- Evidence Act, 1872, Sections 25 and 27; CrPC Sections 162, 313 and 374; IPC Section 302 — murder proved by circumstantial evidence. The accused husband's police FIR, which described repeated pickaxe blows to his wife, was self-inculpatory and excluded as a confession except to the extent that information leading to discovery

was admissible under Section 27. A child witness's partly adverse account and the neighbour's evidence established that the couple had quarrelled and were together on the roof. The neighbour's omitted assertion that the husband took his wife downstairs was disregarded, and he had not seen a pickaxe assault. The multiple penetrating wounds and medical evidence excluded an accidental fall onto the bricks in the adjoining plot. Human blood on the recovered pickaxe and the husband's shirt, although its group could not be determined, corroborated the other proved circumstances. His market alibi in the Section 313 examination conflicted with the presence evidence. Applying the requirement of a complete chain consistent only with guilt, the Division Bench affirmed the Section 302 conviction and life sentence. Neither the inadmissible FIR confession nor a false defence was used as a substitute for independent prosecution proof.

Case-note :- ***1. Facts :*** Khemchand Kushwah appealed his conviction by the Sessions Judge, Guna, in Sessions Trial No. 76/2011 for murdering his wife, Goda Bai, under Section 302 IPC. He had been sentenced to life imprisonment and a fine of ₹500, with one month's rigorous imprisonment in default. On 25 February 2011, the couple and two young granddaughters were at home. Khemchand gave the police an FIR describing a quarrel on the roof over his allegation of infidelity, repeated pickaxe blows and disposal of the body into the adjoining plot. Because the report was his own self-inculpatory statement to the police, that narration could not itself prove the killing. The post-mortem disclosed extensive ante-mortem lacerated and penetrating wounds, including injuries to the neck, liver and kidney. Dr D.S. Rana excluded a fall onto building materials or iron rods as their cause; the adjoining plot contained stacked bricks, not iron rods or stones. Puja (PW1), a hostile child witness, nevertheless placed both grandparents quarrelling on the roof and also said that the deceased had jumped. Bhavana (PW6) gave an accidental-fall account and turned hostile, as did the accused's son, Jagdish (PW7). Neighbour Vishal Singh (PW2) described the roof quarrel and fist blows but admitted that he had not seen a pickaxe assault. The source records blood on the roof and wooden frame, while the FSL report records blood on the earth seized from the roof. Under memorandum Ex. P10 and seizure Ex. P11, the police recovered a pickaxe and the accused's shirt and trousers. FSL report Ex. P13 found human blood on the pickaxe and shirt, but the blood group could not be determined. In his Section 313 answers, Khemchand claimed that he had gone to the market and also rejected Puja's jumping account.

2. Precedents — Considered : *Aghnoo Nagesia v. State of Bihar, (1966) 1 SCR 134*, held that a confessional FIR made by an accused to the police, including incriminating admissions integral to the confession, is barred by Section 25 of the Evidence Act except to the extent saved by Section 27. The Bench accordingly excluded Khemchand's self-incriminating FIR while treating information concerning the pickaxe as admissible; it also held that the signed FIR could not be used against him under Section 162 CrPC. *Khujji v. State of M.P., (1991) 3 SCC 627*, held that unexplained human blood on a weapon or an accused's clothing, even without a determined group, may be a link corroborating other evidence. Khujji distinguished *Kansa Behera v. State of Orissa* and *Surinder Singh v. State of Punjab*, whose particular evidentiary settings did not justify conviction on ungrouped blood. *Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111*, referring to *State of Rajasthan v. Teja Ram* and *Molai v. State of M.P.*, treated human-origin blood on a weapon as an incriminating circumstance. *Munna Kumar Upadhyay v. State of A.P., (2012) 6 SCC 174*, with its discussion of *Asraf Ali v. State of Assam* and *Manu Sao v. State of Bihar*, explained that Section 313 gives an accused a fair opportunity to answer each material circumstance and that a false answer may support an adverse inference only in conjunction with prosecution evidence and subject to prejudice. *Rohtash Kumar v. State of Haryana, (2013) 14 SCC 434*, discussing *Musheer Khan v. State of M.P., Sunil Clifford Daniel v. State of Punjab and State of Maharashtra v. Suresh*, held that a false explanation may supply a missing link in an otherwise proved circumstantial chain, but the prosecution must first prove its case beyond reasonable doubt. *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, stated the five requirements for a firmly established, conclusive and exclusively incriminating chain. *Pudhu Raja v. State, (2012) 11 SCC 196*, held that grave suspicion cannot replace reliable, clinching proof. *Ram Singh v. Sonia, (2007) 3 SCC 1*, and *Inspector of Police v. John David, (2011) 5 SCC 509*, stated that gaps or conjecture cannot sustain conviction and that a reasonable innocent hypothesis must be excluded. John David

reproduced discussion of *State of U.P. v. Ram Balak*, *Hukam Singh v. State of Rajasthan*, *Eradu v. State of Hyderabad*, *Earabhadrappa v. State of Karnataka*, *State of U.P. v. Sukhbasi*, *Balwinder Singh v. State of Punjab*, *Ashok Kumar Chatterjee v. State of M.P.*, *Bhagat Ram v. State of Punjab*, *C. Chenga Reddy v. State of A.P.*, *Padala Veera Reddy v. State of A.P.*, *State of Rajasthan v. Raja Ram* and *State of Haryana v. Jagbir Singh*. The appellant relied on *Satye Singh v. State of Uttarakhand, Cr.A. No. 2374/2014, decided 15 February 2022, for the* rule that suspicion cannot substitute for proof.

3. Statutes considered : Section 302 IPC governed the murder conviction and minimum sentence of life imprisonment. Sections 25 and 27 of the Evidence Act governed the police-confession bar and discovery exception. Sections 162, 313 and 374 CrPC concerned the Court's treatment of the signed police FIR, the accused's opportunity to explain incriminating circumstances and the conviction appeal. The Court assessed FSL report Ex. P13, post-mortem report Ex. P17, the scene and seizure material, and prior police statement Ex. D1 only for the evidentiary questions for which each was relevant.

4. Issues : Whether Goda Bai's death was homicidal rather than the result of a fall; what part, if any, of Khemchand's self-incriminating police report was admissible; which portions of the neighbour's and hostile children's evidence remained reliable; what weight could be assigned to the pickaxe and shirt bearing ungrouped human blood, the roof evidence and the market alibi raised under Section 313; and whether the admissible circumstances proved Khemchand's authorship beyond reasonable doubt and justified maintaining the life sentence.

5. Ratio / Findings : The penetrating wounds caused by a hard, blunt but pointed object, the pathologist's express rejection of the suggested fall, and the actual contents of the adjoining plot established homicidal death and displaced the children's jump or accidental-fall accounts. The FIR confession was excluded under Section 25. The Court used only the discovery information concerning the pickaxe under Section 27 and separately relied on the memorandum, seizure, scene and FSL evidence. Vishal's earlier complaint against Khemchand was considered, but his core account of the couple's roof quarrel was supported by Puja and by Khemchand's own answers admitting the neighbour and earlier quarrels. Vishal's assertion that he saw Khemchand take Goda Bai downstairs was omitted from his police statement and was expressly disregarded; he did not claim to have seen the pickaxe assault. Blood on the roof and wooden frame answered the proposed absence of a blood trail. The seized pickaxe and shirt bore human blood that Khemchand did not explain. Because the blood group was unknown, this result corroborated the other links but did not itself identify Goda Bai as the blood source. The market alibi was unsupported by suggestions to witnesses and contradicted by Puja's presence evidence. Khemchand's rejection of Puja's jumping account also undermined the fall theory. Applying Sharad Birdhichand Sarda and the other circumstantial-evidence authorities, the Bench found a complete chain consisting of the proved roof confrontation, medically established homicide, scene and recovery evidence and false explanation, with no reasonable innocent hypothesis.

6. Relief : The High Court dismissed the appeal and affirmed the conviction under Section 302 IPC and the sentence of life imprisonment, a ₹500 fine and one month's rigorous imprisonment in default. Khemchand, who was already in jail, was directed to serve the remaining sentence. The Court also directed that he receive an immediate free copy of the judgment and that the trial record be returned for information and compliance.

Khemchand Kushwah v. State of M.P., Cr.A. no. 511/2011, 29/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (295) Prev Next

Headnote :- Evidence — deceased's police report and rejected oral dying declaration. The trial court disbelieved Samrath Singh's account of what the deceased had allegedly told him and Laxman's claimed eyewitness account. The High Court also rejected the widow's claimed oral dying declaration because of her conduct and inconsistent account. The injured man's contemporaneous police report therefore remained the principal account of the assault. Neither its contents nor the maker's mental condition was challenged in the recording officer's cross-examination. Read with the medical evidence, the report proved that Khoob Singh's fist assault during the quarrel caused the fatal liver injury.

Medical evidence — internal injury without an external mark — The lacerated cirrhotic liver and

internal haemorrhage established the cause of death. The medical witnesses nevertheless accepted that a fall could have caused the injury and doubted that the seized heavy hammer had been used because there was no external or rib injury. The Court assessed those alternatives with the deceased's police report and distinguished an assault with fists, which could leave no external mark. Whether Devendra had used a different hammer did not require decision after his appeal abated.

Homicide — intention inferred from the circumstances — *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, requires careful consideration of the circumstances when distinguishing an offence under Section 302 from one under Section 304 IPC. Relevant factors include the weapon, the part of the body targeted, the force used, a sudden quarrel, prior enmity and premeditation; the list is not exhaustive. Here, the spontaneous dispute over a drinking tumbler, the surviving appellant's fist blows and the absence of deliberate blows to the abdomen did not establish the mental element required for murder merely because the assault caused death.

Homicide — assailant's lack of knowledge of the victim's disease — under Section 300 secondly and illustration (b), an assailant's knowledge of the particular victim's disease is material where that condition makes the intended injury likely to cause death. *Shankar Narayan Bhadolkar v. State of Maharashtra, (2005) 9 SCC 71*, distinguished that knowledge from an injury sufficient in the ordinary course of nature to cause death and from the lower probability of death required by Section 299. *Thangaiya v. State of T.N., (2005) 9 SCC 650*, explained the three degrees of culpable homicide and the same requirement of knowledge of the victim's condition. The prosecution did not prove that the appellant knew of the enlarged cirrhotic liver, intended to kill or intended an injury sufficient in the ordinary course of nature to cause death. His conviction under Section 302/34 was therefore replaced by one under Section 304 Part II IPC.

SC/ST Act — Section 3(2)(v) as applicable before the amendment — *Dinesh v. State of Rajasthan, (2006) 3 SCC 771*, required proof under the former provision that the offence was committed on the ground of the victim's protected caste status. *Patan Jaman Vali v. State of A.P.*, Cr. A. 452/2021 (27.04.2021), distinguished that requirement from the knowledge requirement and the presumption under Section 8(c) introduced with effect from 26 January 2016. The amended provisions did not apply to the 2002 incident. As neither a caste certificate nor evidence of a caste-based motive was proved, the conviction under Section 3(2)(v) was set aside.

Sentence — imprisonment already undergone after substitution of conviction — *Kuldeep Singh v. State of Haryana, AIR 1996 SC 2988*, and *Raj Singh v. State of Haryana, (2000) 10 SCC 151*, were considered as instances in which a sentence under Section 304 Part II was limited to the period already served. Having considered the sudden occurrence, the appellant's young age in 2002, his lack of knowledge of the victim's condition, the long lapse of time and the imprisonment already served, the Court imposed that period as the sentence and directed release unless he was required in another case.

Case-note :- ***1. Facts :*** Khoob Singh and Devendra were convicted by the Special Judge, Vidisha, on 18 December 2002 in Sessions Trial No. 122/2002. For the offence under Section 302/34 IPC, Khoob Singh was sentenced to life imprisonment and a fine of ₹5,000, with four months' imprisonment in default. For the offence under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he was sentenced to life imprisonment and a fine of ₹15,000, with six months' imprisonment in default. Devendra died while the appeal was pending, and his appeal was dismissed as abated on 6 December 2019. The Court therefore examined Khoob Singh's responsibility without deciding Devendra's remaining merits.

The prosecution case arose from a quarrel in a liquor shop over a drinking glass. In his police report, Ex. P-16, Ramcharan stated that Devendra struck his abdomen with a hammer and that Khoob Singh threw him down and beat him with fists and blows. The police initially treated the report as disclosing a non-cognizable offence under Section 155 CrPC and sent him for medical examination. He was intoxicated and had a tense, painful abdomen. He declined referral to Hamidia Hospital, Bhopal, and died in Sironj Hospital on 6 April 2002. An FIR, investigation, post-mortem examination and charge sheet followed. The medical evidence disclosed a ruptured, cirrhotic liver and internal haemorrhage without an external injury. The appellant argued that the eyewitness accounts had been disbelieved, that he had only used his fists during a sudden quarrel, that the account of an assault with the heavy hammer

was doubtful and that he did not know of the deceased's liver disease.

The prosecution examined twelve witnesses and the defence examined none. The trial court disbelieved Samrath Singh's account of what the deceased had told him and Laxman's claimed eyewitness account. The High Court rejected the widow Nanni Bai's claimed oral dying declaration because of her conduct and inconsistencies with the surrounding accounts. The recording officer's evidence concerning Ex. P-16 and the injured man's mental condition was not materially challenged. The High Court considered the competing medical explanations, the ingredients of murder and of the SC/ST offence as it stood before the amendment, and the sentence to be imposed if the homicide conviction was reduced.

2. Precedents — Considered : *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, sets out a non-exhaustive list of circumstances from which an intention to cause death may be inferred. They include the weapon used; whether it was carried or picked up at the spot; whether a vital part was targeted; the force used; a sudden quarrel; premeditation; enmity; provocation; undue advantage; and the number of blows. The High Court applied that approach to the fist assault and the spontaneous dispute.

Shankar Narayan Bhadolkar v. State of Maharashtra, (2005) 9 SCC 71, explains Section 300 secondly: an intended injury to a victim with a particular disease may amount to murder if the assailant knows that the disease makes the injury likely to cause that victim's death. If the assailant has no knowledge of the victim's special condition, no intention to kill and no intention to cause an injury sufficient in the ordinary course of nature to cause death, the offence is not murder merely because the fatal injury was intentionally inflicted. The passage also distinguishes the probability of death required by Section 299(b) from that required by Section 300 thirdly. The High Court applied these distinctions to the deceased's cirrhotic liver and the absence of proof that the appellant knew of it.

Thangaiya v. State of T.N., (2005) 9 SCC 650, explains that culpable homicide is the genus and murder its gravest degree. The intermediate degree is punishable under Section 304 Part I and the lowest degree under Part II. For Section 300 secondly, an intention to cause bodily injury must be accompanied by knowledge that the particular victim's condition makes the injury likely to cause death; an intention to cause death itself is unnecessary. The High Court applied that explanation, the statutory illustration and the evidence in holding that the appellant's offence fell under Section 304 Part II.

Dinesh v. State of Rajasthan, (2006) 3 SCC 771, states that the former Section 3(2)(v) required proof that the underlying offence was committed against the victim on the ground of membership of a Scheduled Caste or Scheduled Tribe. Without that proof, the enhanced offence was not made out. *Patan Jaman Vali v. State of A.P.*, Cr. A. No. 452 of 2021, judgment dated 27 April 2021, distinguished that requirement from the knowledge requirement introduced in 2016 and the presumption of knowledge under Section 8(c) where the accused was acquainted with the victim or the victim's family. It also acknowledged the difficulty of proving the basis of violence where caste, gender and disability intersect. Applying the earlier law to the 2002 offence, the High Court found that caste status had not been proved by a certificate and that a caste-based motive had not been established. It explained the later standard without applying it retrospectively.

Kuldeep Singh v. State of Haryana, AIR 1996 SC 2988, and *Raj Singh v. State of Haryana, (2000) 10 SCC 151*, provided sentencing comparisons for limiting imprisonment under Section 304 Part II to the period already served. The High Court considered the appellant's actual imprisonment and the long lapse of time before imposing that sentence in this case.

3. Statutes considered : Sections 299, 300 (particularly secondly, thirdly and illustration (b)) and 304 Part II IPC govern the distinction between culpable homicide and murder and the degree of culpable homicide established on the evidence. Here, the offence under Part II rested on knowledge rather than a proved intention sufficient for murder. Section 302/34 IPC was the provision under which the appellant had originally been convicted; the Court did not decide the deceased co-accused's individual culpability after his appeal abated. Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, 1989, as applicable to the 2002 incident, required proof that the offence was committed on the ground of the victim's caste or tribal membership. The 2015 amendment, effective from 26 January 2016, replaced that causal requirement with knowledge of membership and introduced the rebuttable

presumption under Section 8(c) concerning acquaintance with the victim or the victim's family. The Court explained the later provisions but did not apply them to this incident. Section 374 CrPC governed the appeal, while Section 155 CrPC concerned the initial police classification of the report.

4. Issues : (i) After Samrath Singh's account of what the deceased had told him, Laxman's claimed eyewitness account and the widow's claimed oral dying declaration were rejected, did the remaining evidence establish a fatal assault by Khoob Singh, or did the absence of an external injury and the possibility of a fall leave an accidental death in question? (ii) Did fist blows during a sudden quarrel amount to murder under Section 300 where the deceased had an enlarged, diseased liver, but the prosecution had not proved that the appellant knew of that condition, deliberately targeted the abdomen or intended death or an injury sufficient in the ordinary course of nature to cause death? (iii) For the 2002 occurrence, were protected caste status and commission of the offence on that ground proved under Section 3(2)(v), and could the 2016 knowledge requirement alter the applicable test? (iv) If the conviction was reduced, what sentence was appropriate in view of the imprisonment already served, the appellant's age and the long pendency of the appeal? Devendra's individual appeal was not decided after it abated.

5. Ratio / Findings : The post-mortem examination attributed death to internal haemorrhage from a lacerated liver, disclosed cirrhosis and found no external injury. The doctors accepted that a fall could cause such an injury. One doctor considered an assault with the seized 3½ kg hammer unlikely in the absence of an external or rib injury, but accepted that fist blows could leave no external mark. The trial court had rejected Samrath Singh's account of what the deceased had told him and Laxman's claimed eyewitness account, while the High Court rejected the widow's claimed oral dying declaration. The deceased's contemporaneous report, Ex. P-16, recorded by R.G. Katiyar, remained unchallenged as to its contents and the maker's mental condition. Read with the medical evidence, it established beyond reasonable doubt that a quarrel occurred, that Khoob Singh threw Ramcharan down and beat him with fists and blows, and that the beating caused the liver laceration and death. Whether Devendra had used a different hammer did not require decision after his appeal abated.

Section 300 illustration (b) makes the assailant's knowledge of the particular victim's disease material to liability for murder. *Pulicherla Nagaraju* required intention to be assessed from the circumstances. *Shankar Narayan Bhadolkar* and *Thangaiya* distinguished an intended injury inflicted with knowledge of the victim's special condition from an injury sufficient in the ordinary course of nature to cause death and from the lesser degrees of culpable homicide. The evidence showed an unplanned quarrel over a tumbler among persons consuming liquor, followed by this appellant's fist assault. Prior enmity, deliberate blows to the abdomen and even acquaintance with the deceased were not proved. Nor was it shown that the appellant knew of the cirrhotic, enlarged liver. The prosecution failed to establish an intention to kill or to cause an injury sufficient in the ordinary course of nature to cause death. The Court held that the act amounted to culpable homicide of the third degree and substituted Section 304 Part II for Section 302/34.

Section 3(2)(v) had to be applied as it stood before 26 January 2016. *Dinesh* required proof that the offence was committed on the ground of the victim's protected caste status. *Patan Jaman Vali* explained why the later knowledge requirement and the presumption under Section 8(c) could not be applied to an earlier offence. The prosecution neither produced and proved the deceased's caste certificate nor linked the sudden dispute over a tumbler to his caste. The conviction under the SC/ST Act therefore failed on those separate grounds, independently of the change in the homicide conviction.

In sentencing the appellant for the substituted offence, the Court recorded 257 days of pre-trial imprisonment, later custody following his arrest in November 2018 and a total which it described as approximately three years and four months in jail. It also considered the earlier bail order and the history of duplicate appeals, the sudden occurrence and the appellant's lack of knowledge of the deceased's condition. More than nineteen years had passed since the offence, and the appellant had been about twenty years old at the time. *Kuldeep Singh* and *Raj Singh* supplied sentencing comparisons. In those circumstances, the Court imposed the imprisonment already undergone.

6. Relief : The High Court partly allowed the appeal. It set aside Khoob Singh's conviction under Section

302/34 IPC and convicted him instead under Section 304 Part II IPC, limiting the custodial sentence to the imprisonment already undergone. It also set aside his conviction under Section 3(2)(v) of the SC/ST Act. The Court directed his immediate release unless he was required in another case and ordered that he receive a free copy of the judgment. Its concluding paragraph affirmed the trial judgment only with those modifications. Devendra's appeal had already abated on his death.

Khoob Singh v. State of M.P., Cr.A. no. 50/2003, 09/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Complaint case — limited inquiry under Section 202 - *Rosy v. State of Kerala, (2000) 2 SCC 230, Kewal Krishan v. Suraj Bhan*, 1980 Supp SCC 499, and *Mohinder Singh v. Gulwant Singh, (1992) 2 SCC 213*, establish the limited scope of an inquiry under Section 202 CrPC. The court must decide whether the complaint and preliminary evidence disclose sufficient ground to issue process under Section 204 or whether the complaint should be dismissed under Section 203. The inquiry also protects a proposed accused from a false, vexatious or harassing complaint, but it is not a trial and does not require proof sufficient for conviction. *Pramatha Nath Talukdar v. Saroj Ranjan Sarkar, AIR 1962 SC 876*, requires judicial appraisal of the available material within that limited purpose. *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, explains that 'sufficient ground' means a prima facie case, not a final finding of guilt.

Cognizance — judicial application of mind without a trial-like merits review - *Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420*, requires the court, before issuing process, to apply its mind to whether the complaint, recorded statements and inquiry material prima facie constitute an offence. Summoning a person is a serious step and cannot be mechanical. That duty does not, however, permit a revisional court to reappraise the preliminary material as though conducting a trial. The revisional court discharged Pachouri of the SC/ST Act allegations after such a meticulous assessment. The High Court set that decision aside without finally determining whether the alleged offences had been committed.

Revision — limits of revisional scrutiny; reasons required for remand - Vijaywat had filed no revision, yet the revisional court commented on the trial court's territorial jurisdiction in relation to him. It discharged Pachouri of the SC/ST Act allegations after prematurely weighing the preliminary evidence and remanded the allegations under Sections 294 and 506 Part II IPC without explaining why reconsideration was necessary. A matter cannot be remanded merely to have the Magistrate rewrite the order. The High Court therefore set aside the revisional order in its entirety, allowed the complainant's Section 482 application and dismissed Pachouri's connected application.

Case-note :- ***1. Facts :*** Kishanlal Choudhary, a Home Guard employee who described himself as a member of the Chamar Scheduled Caste, filed a private complaint against N.R. Pachouri and Devendra Kumar Vijaywat. The complaint arose from his transfers between Jabalpur and Katni during 2011–12. He alleged delay in relieving him, a demand for money by Vijaywat, directions to perform domestic and cleaning work, withholding of salary, intimidation and caste-related insults. He separately alleged that Pachouri used abusive and threatening language, including in telephone conversations with Kishanlal's brother, and required him to apologise and perform menial work. These were allegations in the complaint, not facts finally found proved. The complaint attributed different incidents to the two accused, while the connected applications before the High Court principally concerned the challenge by and against Pachouri.

Neither Kishanlal's preliminary statement nor his son Ram Gopal's statement alleged that Pachouri had insulted Kishanlal by his caste name. Kishanlal's elder brother Vishnupal described a telephone call in which caste-related language was used, and Amrit Lal Tiwari described a later caste-related rebuke. On 10 September 2012, the Magistrate took cognizance and issued process under Sections 294 and 506 Part II IPC and the SC/ST Act provisions recorded in paragraph 9 of the judgment as Sections 3(1)(x) and 3(2)(7). On Pachouri's revision, the Sessions Court discharged him of the special-statute allegations and remanded the IPC allegations for reconsideration. The revisional court also addressed territorial jurisdiction in relation to Vijaywat although he had filed no revision. Kishanlal invoked Section 482 CrPC to challenge the discharge and remand, while

Pachouri's connected application challenged the remand of the IPC allegations.

2. Precedents — Considered : *Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420*, holds that issuing process is a serious step. The court must apply its mind to whether the complaint, recorded statements and inquiry material prima facie constitute an offence; summoning cannot be mechanical. The High Court relied on that requirement while keeping the cognizance threshold distinct from proof at trial.

Rosy v. State of Kerala, (2000) 2 SCC 230, describes the two limited purposes of a Section 202 inquiry: to determine whether a prima facie case justifies issuing process and to prevent process on a false, vexatious or harassing complaint. The evidence is not to be meticulously appraised as at trial or at the stage of framing charge, and the proposed accused ordinarily has no right to intervene in the inquiry. The passage quoted by the High Court refers to *Ranjit Singh* on when a preliminary inquiry is necessary, and to *Chandra Deo Singh*, *Vadilal Panchal*, *Pramatha Nath Talukdar*, *Nirmaljit Singh Hoon* and *Mohinder Singh* as supporting authorities. The High Court applied the central distinction between a threshold inquiry and final assessment of the evidence.

Kewal Krishan v. Suraj Bhan, 1980 Supp SCC 499, explains that, for a complaint involving an offence triable exclusively by the Court of Session, the Magistrate at the Sections 203–204 stage asks on a cursory view whether the preliminary material provides prima facie support. That threshold is lower than the standard applied when framing charge, and the material is not to be judged as proof of final guilt. Its discussion of commitment under Section 209, discharge under Section 227 and an impermissibly meticulous preliminary appraisal supported the High Court's conclusion that the revisional court had assessed the disputed evidence as though at trial.

Mohinder Singh v. Gulwant Singh, (1992) 2 SCC 213, reiterates that Section 202 permits only a restricted inquiry into whether sufficient ground exists to proceed under Section 204; it is not a full-dress trial of whether the evidence can sustain a conviction. *Pramatha Nath Talukdar v. Saroj Ranjan Sarkar, AIR 1962 SC 876*, discusses the material on which judicial satisfaction under Sections 200–204 must rest and the exceptional circumstances in which a second complaint may follow an earlier dismissal. For the present case, the High Court relied on the limited nature of the inquiry and the need for judicial application of mind.

Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578, holds that 'sufficient ground' in Sections 203, 204 and 209 means satisfaction that a prima facie case exists, not evidence sufficient for conviction. Returning to that test in paragraphs 22–23, the High Court held that the revisional court had exceeded the permissible preliminary scrutiny by meticulously appraising the evidence. It treated both that appraisal and the unexplained remand as material illegality.

3. Statutes considered : Sections 200, 202, 203 and 204 CrPC concern examination of a private complainant and witnesses, the limited preliminary inquiry, dismissal where sufficient ground is absent, and issue of process where a prima facie case exists. The passage quoted from *Kewal Krishan* also discusses commitment under Section 209 and discharge under Section 227 to distinguish later procedural standards. Section 482 CrPC supplied the High Court's jurisdiction in the two connected applications arising from the Sessions revision. The complaint alleged offences under Sections 294 and 506 Part II IPC. The judgment describes the SC/ST Act allegations with differing subsection labels: Sections 3(1)(x) or 3(1)(10), and Sections 3(2)(v), 3(2)(7) or 3(2)(vii).

4. Issues : (i) Did the revisional court apply the proper threshold under Sections 202–204 CrPC when reviewing the Magistrate's process order, or did it prematurely resolve the disputed preliminary accounts of caste-related insults, obscene abuse and threats? (ii) Could it comment on territorial jurisdiction concerning Vijaywat, who had filed no revision, and discharge Pachouri of the SC/ST Act allegations through a meticulous assessment of the preliminary statements? (iii) Could it remand the IPC allegations without giving a reason for reconsideration, merely so that the Magistrate would rewrite the order?

5. Ratio / Findings : Reading *Mehmood Ul Rehman* with *Rosy*, *Kewal Krishan*, *Mohinder Singh*, *Pramatha Nath Talukdar* and *Shivjee Singh*, the Court held that issuing process on a complaint requires genuine judicial application of mind to the alleged offence and the supporting preliminary material because summoning is a serious step. The Section 202 inquiry nevertheless remains a limited screening exercise. It asks whether a prima facie case supplies sufficient ground to proceed, or whether the complaint should be rejected for want of such

ground, while guarding against false, vexatious or harassing complaints. It is not a trial and cannot be converted into proof beyond reasonable doubt or a meticulous resolution of credibility. The later-stage standards discussed in relation to Sections 209 and 227 were distinguished, not imposed on the complaint inquiry.

Applying that test, the High Court found that the Sessions Court had meticulously assessed the complainant's and witnesses' statements before discharging Pachouri of the SC/ST Act allegations. That evaluation exceeded the limited scrutiny permitted at the process stage. The Sessions Court had also commented on territorial jurisdiction concerning Vijaywat, who had not filed a revision, and had remanded the IPC allegations without identifying any error that required reconsideration. A remand merely to have the Magistrate rewrite the order was impermissible. The High Court held that the discharge and the unexplained remand involved material illegality.

6. Relief : The High Court set aside in its entirety the revisional order identified in the operative paragraph as dated 14 November 2018. It allowed Kishanlal's application and dismissed N.R. Pachouri's connected application. The order did not convict or acquit anyone and made no final finding that caste-based abuse had occurred.

Kishanlal Choudhary v. N.R. Pachouri; N.R. Pachouri v. Kishanlal Choudhary, M.Cr.C. no. 50852/2018 & 1382/2019, 22/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Circumstantial evidence — complete chain and reasonable hypotheses - *Sharad Birdhichandra Sarda v. State of Maharashtra, AIR 1984 SC 1622*, set out five conditions: every circumstance must be established, be consistent only with guilt and be conclusive; the circumstances must exclude other reasonable hypotheses and together form a complete chain. The Court applied this test to the short period in which an infant was left with her father, her homicidal death, bloodstained recoveries and the explanation that the Court rejected; it did not count an unproved extra-judicial confession or alleged river sighting as proved facts.

Last seen — time gap, supporting links and special knowledge - *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750, Mahavir Singh v. State of Haryana, (2014) 6 SCC 716*, and *Jagroop Singh v. State of Punjab, (2012) 11 SCC 768*, were considered in deciding whether the interval allowed for the intervention of another perpetrator. *Jagroop* illustrated that the time gap must be assessed alongside the post-mortem and search evidence, rather than by a mechanical rule. *Rambraksh v. State of Chhattisgarh, (2016) 12 SCC 251*, cautioned that last seen alone cannot sustain conviction. *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, required the prosecution to establish the initial facts. Under Section 106 of the Evidence Act, an explanation of when and how the accused parted from the deceased, being within his special knowledge, was to be considered only with other incriminating circumstances. The mother left Nikita with Kishanlal and found her dead about thirty minutes later; his river account lacked witness support and did not explain when he left the infant.

Forensic proof — ungrouped human blood as a link - *Khujji v. State of M.P., (1991) 3 SCC 627*, distinguished the lack of conclusive blood-group attribution from the corroborative value of human blood on an accused's weapon or garment where other evidence is reliable. *Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111*, also treated an FSL finding of human blood on a knife as incriminating. The seized sickle and clothes carried human blood whose group could not be ascertained; the Court treated this as one link in the established chain, not a conclusive match to the deceased.

Hostile testimony — supported portion retained - The mother's testimony did not prove the alleged extra-judicial confession, but her repeated account that she left the child with the appellant was consistent with her prompt report. The Court relied on that limited portion and the other established circumstances, without treating her being declared hostile as proof of the confession or as a reason to reject all her testimony. The conviction and life sentence under Section 302 IPC were affirmed.

Case-note :- ***1. Facts :*** Kishanlal appealed under Section 374 CrPC against the judgment dated 1 January 2010 of the Sessions Judge at Guna in S.T. No. 281/2009, convicting him of the murder of his eight-month-old daughter Nikita under Section 302 IPC and imposing life imprisonment, a fine of Rs 200 and one month's rigorous imprisonment in default. The prosecution case began with a report by his wife Manju Bai. She said she went to a well with their

older children to fetch water, leaving the infant at home with Kishanlal; on returning about thirty minutes later, he was gone and she found the child's head separated from her body under a shawl. The account initially referred to an unknown killer. Police investigated, arrested Kishanlal, seized a sickle and garments, and received an FSL report identifying human blood on the articles without a determinable blood group.

The defence argued that prosecution witnesses had turned hostile, that Kishanlal had gone towards the river rather than remaining with the child, and that ungrouped blood did not prove that the stains came from Nikita. The State relied on the short last-seen interval, the appellant's failure to explain when he left the infant, and the recoveries. The post-mortem doctor described ante-mortem decapitation and other incised injuries, with death from shock due to extensive haemorrhage; the doctor was not cross-examined. Manju Bai did not support an alleged extra-judicial confession and was declared hostile on that issue, but reaffirmed her account of leaving the child with Kishanlal. Pinki Bai, Virjo Bai and Phool Singh did not support important prosecution suggestions, including the asserted river sighting.

2. Precedents — Considered : *Sharad Birdhichandra Sarda v. State of Maharashtra, AIR 1984 SC 1622*, set out the five requirements for proof based entirely on circumstantial evidence: fully established facts, consistency only with guilt, conclusive tendency, exclusion of reasonable alternative hypotheses, and a complete chain leaving no rational ground compatible with innocence. Its reproduced discussion distinguished "must be" from "may be" guilty, drawing on *Shivaji Sahebrao Bobade*, and addressed the limited role of an accused's false explanation after the prosecution proves the links. The High Court applied the rule to assess custody, death and the recoveries together. *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750*, required close temporal proximity between the victim being last seen with the accused and the discovery of death, so an intervening actor is reasonably excluded. The passage referred to *Bodhraj*, *Rambraksh* and *Anjan Kumar Sarma* on that caution. *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, required initial prosecution proof and explained that the accused may then bear a burden under Section 106 of the Evidence Act to explain events within his special knowledge; last seen is not conclusive by itself and requires corroborating circumstances. *Mahavir Singh v. State of Haryana, (2014) 6 SCC 716*, reiterated the need for a very short interval. *Jagroop Singh v. State of Punjab, (2012) 11 SCC 768*, illustrated assessment of a contested gap alongside the search evidence and the medical evidence of the time of death, rather than by a rigid formula.

Rambraksh v. State of Chhattisgarh, (2016) 12 SCC 251, expressly said that last-seen evidence alone cannot sustain conviction; the prosecution must complete the chain, with the narrow time gap reducing the likelihood of another perpetrator. Its quotation of *Krishnan*, *Arjun Marik* and *Bodhraj* illustrated the danger of long gaps and missing corroboration. The High Court applied all these cases to an infant left with the appellant for roughly half an hour and then examined the additional bloodstained articles and his unsupported river account rather than relying on custody alone.

Khujji v. State of M.P., (1991) 3 SCC 627, distinguished cases where ungrouped human blood on clothing or a weapon was insufficient to convict on its own from one where it corroborated reliable evidence. Failure to determine the blood group does not make the finding of human blood wholly immaterial. *Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111*, cited the incriminating value of an FSL finding of human blood on a knife, with references to *Teja Ram* and *Molai*. The High Court treated the sickle and clothes as a supporting link, without treating the laboratory finding as a match to Nikita's blood.

3. Statutes considered : Section 302 IPC was the provision under which the appellant was charged with murder and his conviction was affirmed. The medical and circumstantial findings were used to establish beyond reasonable doubt that he was the perpetrator. Section 374 CrPC conferred appellate jurisdiction. Section 313 CrPC is relevant to Kishanlal's explanation that he went toward the river; the Court tested this against testimony and the fact that the infant had been left in his sole care. Section 106 of the Evidence Act was judicially considered through *Ashok* and applied only after the prosecution proved last-seen proximity and other circumstances: the accused's particular knowledge of how and when he parted from his infant did not displace the prosecution's initial burden. The discovery statement and sickle recovery formed part of the evidence.

4. Issues : (i) Was the child's death homicidal, and what did the medical evidence establish? (ii) Could the reliable portion of Manju Bai's account, despite hostility on an alleged confession, establish that Kishanlal was last alone with the infant during a short interval before discovery of death? (iii) Did his river explanation, the bloodstained sickle and clothing with human blood but no group, and the other proved circumstances complete the chain required for a murder conviction, or leave a reasonable possibility that another person had intervened? (iv) If guilt remained proved, was there any basis to disturb the sentence imposed? The Court did not find that an extra-judicial confession had been proved or that there was a direct eyewitness account of the killing.

5. Ratio / Findings : The unchallenged post-mortem evidence proved decapitation and homicidal death. Manju Bai's testimony was accepted on the separate, consistent fact that she left Nikita with Kishanlal and returned about half an hour later to find him absent and the infant dead; her prompt report corroborated this. The prosecutor could not elicit evidence of the alleged extra-judicial confession, so it did not form a link in the chain. Phool Singh did not substantiate the reported river sighting, and the Court did not use it as affirmative proof that Kishanlal was there. Under the Supreme Court's last-seen authorities, the unusually short interval gave substantial weight to the fact that the infant had been left with the appellant, but that circumstance was not conclusive on its own.

Kishanlal said under Section 313 that he went toward the river, but no witness supported seeing him there and he did not say when he left his eight-month-old daughter or give a reasonable account of leaving her unattended. The Court considered that omission with the proved proximity. It also regarded the river explanation as indicative of a guilty mind, observing that he might have gone there to wash himself. The independent seizure testimony, the investigating officer's evidence and the FSL report established that the recovered sickle and garments carried human blood. Although the blood group was unknown and the evidence could not identify the blood as Nikita's, the principles in *Khujji* and *Rameshbhai* permitted the blood finding to be used as corroboration alongside other reliable links. The Court found that the medically established death, the interval during which the infant was left with the appellant, the recovery and the inadequate explanation of when and how he parted from her together satisfied *Sharad Birdhichandra Sarda*'s complete-chain test and excluded a reasonable innocent hypothesis. It therefore found that Kishanlal murdered Nikita.

6. Relief : The Hon'ble High Court dismissed the appeal. The Sessions Judge's Section 302 IPC conviction, sentence of life imprisonment, Rs 200 fine and one month's rigorous imprisonment in default were affirmed. Kishanlal, already in custody, was to serve the remaining term; a copy of the judgment was directed to be supplied to him free of cost.

Kishanlal v. State of M.P., Cr.A. no. 252/2010, 04/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Child sexual offence — circumstantial identification after flight - The five-year-old prosecutrix could not give meaningful evidence, but the Court did not require her testimony in the presence of other reliable evidence. Three witnesses saw and identified the appellant running from an isolated place immediately before finding the child unconscious and bleeding. *Nanak v. State of U.P.*, 1984 Supp SCC 628, was considered for the incriminating value of flight from the scene as part of the evidence as a whole. The prompt FIR, witness accounts, medical injuries and FSL findings together established the appellant's identity beyond reasonable doubt despite differences about when witnesses learned his name.

Medical and forensic proof — injury pattern, human semen and absence of accused injury - Examination showed genital lacerations, ruptured hymen, bite abrasions and other bodily injuries; a possible fall did not explain the injuries taken together. Human semen and sperm on the vaginal swab and slide established sexual assault. *State of H.P. v. Raghubir Singh, (1993) 2 SCC 622*, was applied to reject the argument that the absence of injury to the accused's penis necessarily disproved the prosecution case; the examination occurred sixteen days after the incident. The Section 376(2)(f) IPC conviction and life sentence for the assault on a very young child were affirmed.

Case-note :- ***1. Facts :*** The appellant challenged the judgment dated 17 February 2012 of the Sessions Judge at Guna in S.T. No. 350/2011, convicting him under the then-applicable Section 376(2)(f) IPC and

sentencing him to life imprisonment, a fine of Rs 500 and one month's rigorous imprisonment in default. The prosecution alleged that in October 2011, while the child's parents and her uncle and aunt were away for work, the young child, who was in her uncle's care, was taken near a school. A boy informed the uncle of an incident. Cattle-grazing witnesses said they saw the appellant flee from an isolated area, where the child lay unconscious with bleeding from her genital area and facial injuries. The uncle reported the matter promptly. The prosecution initially included Section 324 IPC in the charge-sheet, but the trial charge and appellate conviction concerned Section 376(2)(f).

The trial court could not record the child's evidence because she was about five years old and did not answer its questions. Her uncle did not see the assault himself and qualified the inconsistent statement in the initial report about whether he had seen the appellant flee. The defence disputed the reliability of Phulla, Khema and Gudda and argued that the perpetrator's identity had not been proved. The child's medical examination showed extensive genital lacerations, a ruptured hymen, cheek bite abrasions and contusions. Vaginal swab and slide yielded human semen and sperm on FSL examination. The appellant was arrested sixteen days later; his medical examination found no indication of incapacity for sexual activity, and the defence relied on the absence of penile injury.

2. Precedents — Considered : *Nanak v. State of U.P.*, 1984 Supp SCC 628, was quoted in relation to a case where an immediate neighbour saw the accused flee with a knife, alongside other witness testimony and surrounding circumstances. The quoted decision held that the trial court's acquittal was unreasonable. The High Court regarded flight as an important piece of circumstantial evidence. The High Court treated the witnesses' sighting of the appellant fleeing the isolated scene as one important circumstance, then tested identity against the child's immediate condition, the witnesses named in the promptly lodged FIR, medical findings and forensic result.

State of H.P. v. Raghubir Singh, (1993) 2 SCC 622, held that the absence of injuries on the male organ cannot invariably discredit an otherwise reliable rape case; the significance of such absence depends on the facts, and an earlier contrary inference in *Rahim Beg* arose from its own evidentiary setting. The High Court applied this qualification where the appellant was arrested and medically examined sixteen days after the incident, and accepted the child's genital injury pattern and FSL semen findings with the independent identification evidence.

3. Statutes considered : Section 376(2)(f) IPC was the applicable provision under which the appellant was charged with and convicted of raping a child in the 2011 incident. The original investigation mentioned Section 324 IPC, but the judgment identified no trial finding or operative conviction under that section. Section 374 CrPC provided for the appeal. The medical examinations, FSL swab and slide, and witnesses' identification were used as evidence of the sexual assault and its perpetrator.

4. Issues : (i) Did medical findings and the FSL report establish sexual assault on the young child despite the defence suggestion that a fall might cause genital injury? (ii) In the absence of recorded testimony from the child herself, did the three witnesses' observations and identifications of the appellant fleeing an isolated scene, with the prompt FIR and physical evidence, prove his identity beyond reasonable doubt? (iii) Did the absence of penile injury on the appellant, examined sixteen days after the incident, undermine that proof? (iv) Was there reason to interfere with the life sentence?

5. Ratio / Findings : The doctor documented hymenal rupture, deep genital lacerations, cheek bite abrasions and other contusions; a fall on a pointed object might explain an isolated genital injury but not the whole pattern. The FSL finding of human semen and sperm on the vaginal material provided further proof of rape. The child was too young and did not respond to questions, so her evidence could not be recorded at trial; the Court recorded no trial statement from her. Her uncle found her in immediate distress but was not a direct eyewitness to the assault, and his report discrepancy was considered. Khema directly described the appellant running from the spot; Gudda identified him in court despite learning his name from Khema, and Phulla also identified him after initially saying he did not know him by name. Their accounts, the isolated site, the immediate discovery and the promptly lodged FIR naming the witnesses formed a coherent chain identifying the appellant. *Nanak* reinforced the evidentiary value of flight where corroborated.

The defence's objection based on the absence of injury to the appellant's penis was rejected under the rule in *Raghubir Singh*, which requires assessment in the particular factual circumstances. Sixteen days separated the assault and arrest, enough

time for any minor injury to heal; absence of such injury did not disprove the otherwise supported case. The Court found guilt beyond reasonable doubt and affirmed Section 376(2)(f). It considered the victim's very young age and the gravity of the crime and found no reason to reduce the life sentence. The Court stated that such acts must be dealt with firmly to provide a safe society for minor girls.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. The Section 376(2)(f) IPC conviction, life imprisonment, Rs 500 fine and stated default term of one month's rigorous imprisonment were affirmed. The appellant, already in jail, was to serve the remaining sentence. The High Court directed a free copy of its judgment to him and return of the trial record with a copy for compliance.

Kishna Banjara v. State of Madhya Pradesh, Cr.A. no. 360/2012, 20/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal-side writ — exceptional transfer to CBI - *State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, as considered through *Himanshu Kumar*, *K.V. Rajendran* and *Royden Harold Buthello*, requires the constitutional power to transfer an investigation to be used sparingly, on a need established in the particular case to restore a credible and fair investigation, address the involvement of high officials or substantial ramifications, or avert a likely failure of justice. *Subrata Chattoraj v. Union of India* involved a massive multi-State deposit scam, influential participants and an unexplained money trail; those features were distinguished because this petitioner identified no comparable inadequacy in the completed local investigation. *Vishal Tiwari v. Union of India, AIR 2024 SC 414*, and *Anant Thanur Karmuse v. State of Maharashtra, (2023) 5 SCC 802*, reiterated that grave allegations and a desire for a CBI investigation cannot substitute for strong material showing bias or deliberate failure. The writ for Crime No. 177/2022 was dismissed.

Further investigation — post-charge-sheet power and limits - *State of Punjab v. CBI, (2011) 9 SCC 182*, distinguishes further investigation under Section 173(8) CrPC from fresh or de novo reinvestigation, and recognises High Court power to direct appropriate independent investigation to secure justice despite filing of a report. *Dharam Pal v. State of Haryana, (2016) 4 SCC 160, Bharati Tamang v. Union of India, (2013) 15 SCC 578*, and *Babubhai v. State of Gujarat, (2010) 12 SCC 254*, explain that even the commencement of trial is not an absolute bar where a need to ensure fairness has a factual foundation; *K.V. Rajendran* ordinarily leaves cases in which investigation is complete to proceed to trial, except in rare circumstances. The present petition failed because no such need was established, rather than because the Court lacked power after the charge-sheet was filed.

Agency selection — fair process and particularised basis - *Himanshu Kumar v. State of Chhattisgarh*, drawing *on Romila Thapar v. Union of India* and *CBI v. Rajesh Gandhi*, distinguished the right to a proper investigation from a party's claimed right to choose the agency; it preserved extraordinary court intervention on supported grounds. *Royden Harold Buthello* considered the need for a credible process of discovering the truth, while cautioning that an accused's unsubstantiated dissatisfaction does not justify transfer. This petitioner claimed public interest but was not the complainant and did not point to any concrete defect in the police work or charge sheet. General allegations of fraud and the later controversy about bail were insufficient to justify a change of investigating agency.

Case-note :- ***1. Facts :*** Kishor Samrite filed a writ petition under Article 226 seeking an inquiry by the CBI or another higher authority into an alleged deposit or Ponzi scheme and transfer of Crime No. 177/2022 from local police. He described many investors and villagers in Balaghat, large sums, media reports, alleged suicides, representations to authorities and discovery of further money after bail. These were grounds and assertions in his petition, not facts the High Court adjudicated as proved. The petitioner was not the complainant and described himself as a public-spirited person. At the hearing, counsel for accused persons in other identified proceedings said that bail granted to them had later been cancelled and that investigation had been completed, a charge sheet filed and trial begun. The High Court recorded those procedural facts but did not decide the accused persons' separate proceedings or the fraud charges in this writ.

Samrite relied on *Subrata Chattoraj* to argue that a multi-State scam involving large sums and an inadequate local inquiry required investigation by the CBI. When asked to identify what the police had

failed to investigate and the basis for his allegation, counsel referred to alleged subsequent cheating after bail but could not identify a defect in the investigation or the charge-sheet. The pleadings likewise did not make a specific allegation against the investigative agency supporting transfer. The Court surveyed the exceptional-transfer authorities and dismissed the petition.

2. Precedents — Considered : *Subrata Chattoraj v. Union of India*, W.P.(C) No. 401/2013 (9 May 2014), was invoked by the petitioner's counsel and then examined by the Judge. The quoted reasons for transferring the chit-fund investigation included enormous collections from vulnerable investors, millions of claims, multi-State and possible international ramifications, politically influential persons, regulatory questions and a money trail that had not been fully traced. The Supreme Court did not premise transfer solely on police fault; public confidence in independent investigation mattered. The High Court distinguished it because the petitioner furnished no comparable case-specific deficiency or reason to replace the police.

State of Punjab v. CBI, (2011) 9 SCC 182, recognised High Court power to secure the ends of justice through a fresh or independent investigation notwithstanding Section 173(8) CrPC's ordinary limits on subordinate courts; the judgment discussed the distinction in *Mithabhai Pashabhai Patel* between further investigation and ordinarily forbidden reinvestigation, and the transfer under Article 226 in *Nirmal Singh Kahlon* even after a charge-sheet had been filed. The High Court invoked it to reject a categorical post-charge-sheet bar, while refusing transfer here because necessity had not been established.

Dharam Pal v. State of Haryana, (2016) 4 SCC 160, stressed a victim's demand for a fair investigation where that demand had a factual foundation and held that filing of a report or even commencement of trial does not create an absolute bar to constitutional courts ordering an independent investigation to prevent injustice. It required a real foundation for grave suspicion, not imagination. *Bharati Tamang v. Union of India, (2013) 15 SCC 578*, catalogued the courts' power in an appropriate case to address concealed deficiencies, constitute an SIT, monitor investigation and transfer after charge sheet, with de novo investigation only exceptionally. The Court considered those powers but found no factual basis for exercising them in the present case.

Babubhai v. State of Gujarat, (2010) 12 SCC 254, favoured appropriate further investigation under Section 173(8), potentially through an independent agency, when serious irregularity is found, while warning against routine court interference and ordinarily forbidden reinvestigation. *Himanshu Kumar v. State of Chhattisgarh*, reported as *(2023) 12 SCC 592* in the later quotation, drew on the Constitution Bench in *State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*: transfer to the CBI cannot be ordered merely because it is requested, but may secure credibility where State investigation is tainted, influential officials are implicated or wider ramifications or fundamental rights require it. It also stated that filing a charge-sheet or commencement of trial is not an absolute bar. Its discussion of *K.V. Rajendran, Romila Thapar and CBI v. Rajesh Gandhi* distinguishes exceptional judicial choice of agency from a litigant's unilateral choice. The High Court applied the rare-case test to the absence of particular allegations here.

K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai, (2013) 12 SCC 480, was separately examined: ordinarily, cases in which investigation is complete and a charge-sheet has been filed proceed to trial, with no premature merits opinion, but transfer remains possible where high officials are implicated, the police work appears tainted or public confidence demands a fair independent inquiry. *Vishal Tiwari v. Union of India, AIR 2024 SC 414*, required strong material on the record showing deliberate inaction, inadequacy or apparent bias and cogent justification for exceptional judicial displacement of the statutory investigator.

Royden Harold Buthello v. State of Chhattisgarh, AIR 2023 SC 1231, considered *Committee for Protection of Democratic Rights*, the factors in *Mithilesh Kumar Singh* concerning credible discovery of the truth and victims' confidence, and the refusal in *Arnab Ranjan Goswami* to transfer an investigation on an accused's unsubstantiated dissatisfaction. It framed the test as an exceptional need for an outside agency to secure a fair trial. *Anant Thanur Karmuse v. State of Maharashtra, (2023) 5 SCC 802*, reiterated the same framework by reproducing *Himanshu Kumar* and the associated distinction between proper investigation and agency choice. The High Court consolidated these overlapping authorities into the exceptional-transfer standard.

A.R. Antulay v. Ramdas Sriniwas Nayak appeared only in the petitioner's pleaded grounds on general standing to initiate proceedings. The Court found no allegation against the investigating agency warranting transfer and dismissed the petition.

3. Statutes considered : Article 226 of the Constitution was the petitioner's jurisdictional basis for writ relief in criminal proceedings; the judgment considered the constitutional court's exceptional power to ensure fair independent criminal investigation, with Supreme Court authorities also discussing Article 32. Section 173(2) CrPC concerns the filed police report and Section 173(8) concerns the ordinary power of further investigation. The distinction between further investigation and fresh, de novo investigation or reinvestigation remained relevant even after the police report had been filed. Section 482 CrPC was explained through *State of Punjab v. CBI* as a separate basis for the High Court's inherent power, not as the provision under which Samrite actually filed. The case was described as Crime No. 177/2022.

4. Issues : (i) Could the High Court under Article 226 transfer the State police's investigation of Crime No. 177/2022 to the CBI after a charge sheet and while trial was underway? (ii) What exceptional facts and evidentiary showing would justify that step despite the statutory role of the ordinary investigating agency? (iii) Did this petitioner's allegations of a large deposit fraud, public harm, representations and post-bail events identify concrete police bias, omitted lines of investigation or defects in the charge sheet sufficient to warrant transfer?

5. Ratio / Findings : The Court distinguished the existence of constitutional power from the conditions for exercising it. *State of Punjab v. CBI*, *Dharam Pal* and *Bharati Tamang* establish that filing a report and commencement of trial do not create an absolute bar to the High Court directing fair further investigation or, exceptionally, an independent investigation. *Babubhai* and *K.V. Rajendran* preserve the distinction between ordinary further investigation and exceptional fresh or de novo investigation, and caution that cases in which a charge-sheet has been filed ordinarily proceed before the trial court without premature judicial merits opinions. The long line from *Committee for Protection of Democratic Rights* through *Himanshu Kumar, K.V. Rajendran*, *Vishal Tiwari*, *Royden Harold Buthello* and *Anant Thanur Karmuse* requires a specific showing of grave inadequacy, apparent bias, influence of powerful officials, wider ramifications or need to preserve credible justice. No party has an automatic right to insist on the CBI as the investigating agency; a need for a proper independent investigation, supported by facts, may nevertheless justify exceptional intervention.

Subrata Chattoraj illustrated that public confidence can demand CBI investigation of a sprawling multi-State scam even without a prior finding that local officers wholly failed; the exceptional facts of that case could not simply be applied to this petition. Samrite's allegations of large sums, villagers affected, representations, subsequent recovery and further cheating after bail were not themselves evidence that the local police had omitted a material inquiry or filed a deficient charge sheet. When asked directly, counsel identified no specific lapse. The writ grounds did not make a particular allegation against the investigative agency warranting transfer. Thus the relief failed on the facts, not solely on the petitioner's non-complainant status or the stage of the criminal case.

6. Relief : The Hon'ble High Court dismissed the petition seeking an inquiry by the CBI or another higher authority and transfer of Crime No. 177/2022 because no case warranting judicial interference had been made out. No transfer, fresh investigation, reinvestigation or merits direction was issued; the already filed charge sheet and trial were left in their existing course.

Kishor Samrite v. Union of India and others, W.P. no. 20196/2022, 29/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (300) Prev Next

Headnote :- Food adulteration — overlapping statutes and overriding effect - The milk sample was collected on 29 August 2010, before the repeal of the Prevention of Food Adulteration Act took effect on 5 August 2011. *Manik Hiru Jhangiani v. State of M.P.*, Cr. A. 3864/2023 (14 December 2023), was considered for the overriding effect of Section 89 FSSA where imprisonment under the earlier Act conflicts with the monetary penalty under the later statute, and for the concern under Article 20(2) about punishing the same act under both regimes. That Supreme Court case concerned misbranding under Section 52. The High Court applied its reasoning on overriding effect to adulteration under Section 57,

while maintaining the distinction between the two offences.

Revision — conviction retained and sentence changed - Both laboratories found that the sampled milk did not meet the statutory standard, and the applicant showed no perversity in those factual findings. He had not objected to prosecution under the PFA before the trial or appellate court. The High Court affirmed the adulteration conviction but, instead of requiring a new prosecution under the FSSA, replaced the sentence of six months' rigorous imprisonment with a fine of Rs 2,00,000 under Section 57, with two months' rigorous imprisonment in default and release upon payment.

Case-note :- ***1. Facts :*** Komal Singh Yadav sought revision under Sections 397/401 CrPC after the Additional Sessions Judge, Morena, affirmed the Judicial Magistrate's conviction under Sections 7/16 of the Prevention of Food Adulteration Act, 1954. A milk sample was drawn from a tanker on 29 August 2010. The public analyst found adulteration; on the applicant's request for retesting, the Central Food Laboratory report also found the sample below the prescribed solids-not-fat minimum and positive for glucose under Appendix B, Item A.11.01.11 of the Prevention of Food Adulteration Rules, 1955. The lower courts imposed six months' rigorous imprisonment, Rs 2,000 fine and one month's rigorous imprisonment in default.

The applicant argued that the Food Safety and Standards Act, 2006, had already come into existence when the sample was collected and that his conviction and imprisonment under the PFA should not stand. He sought instead a monetary penalty under Section 57 FSSA, contending that the adulterant was not shown to be injurious to health. The High Court examined the notification fixing 5 August 2011 as the PFA repeal date, the Supreme Court's ruling on overlapping statutes, the two laboratory reports and whether to set aside the conviction to permit a fresh prosecution under the FSSA or modify the sentence in the existing case.

2. Precedents — Considered : *Manik Hiru Jhangiani v. State of M.P., Criminal Appeal No. 3864/2023,* decided 14 December 2023, was the material Supreme Court authority quoted and applied. In a case of misbranding where imprisonment under Section 16 PFA and a monetary penalty under Section 52 FSSA were both available, the Supreme Court considered Article 20(2)'s prohibition on double jeopardy and the overriding effect of Section 89 FSSA over inconsistent food laws. It held that Section 52 prevails to the extent of the inconsistency in punishment and that both regimes cannot cumulatively punish the same act of misbranding. The High Court expressly applied that reasoning on conflict and overriding effect to adulterated milk under Section 57 FSSA, which provides a different monetary penalty. It identified the inconsistency as one concerning punishment and modified the sentence while preserving the proved conviction.

3. Statutes considered : PFA Sections 7 and 16 formed the basis of the conviction and custodial sentence imposed at trial; the applicable milk standard was the cited item in Appendix B of the 1955 Rules. The Food Safety and Standards Act, 2006, was already in force in relevant respects during the period of overlap, while the PFA repeal took effect on 5 August 2011. Section 89 FSSA gives the Act overriding effect over inconsistent provisions of another food-related law. Section 57 FSSA was applied to impose the monetary penalty for adulteration in this case, whereas Section 52, concerning misbranding, was the provision considered in *Manik Hiru Jhangiani*. Article 20(2) was discussed through that Supreme Court decision as preventing double punishment for the same act. Sections 397/401 CrPC governed the revisional proceeding.

4. Issues : (i) Did the PFA remain applicable to a sample taken on 29 August 2010 despite the existence of the FSSA, given the notified repeal date? (ii) Did the laboratory findings establish adulteration, and was any perversity shown in the concurrent findings? (iii) How should Section 89's overriding effect resolve inconsistent PFA imprisonment and FSSA Section 57 monetary sanction: by undoing the conviction and inviting new prosecution, or by preserving it and modifying the sentence? (iv) What precise penalty and release consequence would follow? Counsel submitted that the adulterant was not found injurious to health and sought a fine of Rs 2,00,000.

5. Ratio / Findings : The PFA had not been repealed when the sample was collected, since the Government notification made the repeal effective from 5 August 2011. The Court therefore rejected the premise that prosecution under the earlier Act was inherently void merely because the later Act existed. Both the public analyst and the Central Laboratory found that the milk did not meet the prescribed

standard. The applicant pointed to no perversity in those findings and had not challenged his prosecution under the PFA in the lower courts. The Court relied on *Manik Hiru Jhangiani* for the overriding effect of Section 89 where overlapping food statutes impose inconsistent sanctions, noting its reasoning on double jeopardy for the same act. Here, the inconsistency concerned the punishment. With adulteration proved, the Court chose to retain the conviction and replace imprisonment under the PFA with the monetary penalty under Section 57, rather than require a new prosecution under the FSSA. This was the High Court's application of the principle to adulteration; the quoted Supreme Court holding directly concerned misbranding under Section 52.

6. Relief : The Hon'ble High Court allowed the revision to the extent of modifying the sentence. The conviction for adulterated milk and the lower-court judgments were otherwise affirmed, but the sentence of six months' rigorous imprisonment was replaced by a fine of Rs 2,00,000 under Section 57 FSSA, with two months' rigorous imprisonment in default. As the applicant was in jail, the Court directed his immediate release after payment of that amount; failing payment, he would undergo the default term.

Komal Singh Yadav v. State of Madhya Pradesh, Cr.R. no. 5994/2024, 12/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (301) Prev Next

Headnote :- Forensic DNA — fetal paternity distinguished from parent-child relationship - The FSL results, as recited by the Court, identified the appellant as the biological father of the fetus in his adolescent daughter and excluded Vishal Shrivastava. The appellant's ordinary biological relationship with his daughter did not answer the separate question of the fetus's paternity. *Ravi s/o Ashok Ghumare v. State of Maharashtra, (2019) 9 SCC 622*, was considered for the strong, but context-dependent, evidentiary value of DNA profiles in sexual-assault cases. Its discussion of Y-STR expressly limits the ability to distinguish males in the same paternal line. The Court relied on the reported result together with the surrounding facts, rather than on a mere parent-child match.

Circumstantial chain — proof rather than suspicion - *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116, Padala Veera Reddy v. State of A.P., 1989 Supp (2) SCC 706, Ramreddy Rajesh Khanna Reddy v. State of A.P., (2006) 10 SCC 172, Balwinder Singh v. State of Punjab, 1995 Supp (4) SCC 259, Sunil Clifford Daniel v. State of Punjab, (2012) 11 SCC 205*, and *Satish Nirankari v. State of Rajasthan, (2017) 8 SCC 497*, were applied for their shared principles: each link must be reliably proved, and the circumstances taken together must exclude a reasonable explanation consistent with innocence. A false defence cannot fill a gap in the prosecution case. The Court affirmed the appellant's convictions for rape, murder and destruction of evidence on the FSL result and the other circumstances, while considering Vishal's exclusion separately.

Last seen — temporal limit and corroboration - *Ramreddy Rajesh Khanna Reddy, Hatti Singh v. State of Haryana*, 2007 (2) CCSC 802 (SC), and *State of U.P. v. Satish, (2005) 3 SCC 114*, require a short interval and corroborating evidence before last-seen circumstances can implicate an accused. The fact that the father and daughter lived together was one link in the chain, not proof by itself. The appeal was dismissed, and the convictions under Sections 302, 376 and 201 IPC and the sentences were affirmed.

Case-note :- ***1. Facts :*** Komal Tiwari appealed against the decision dated 3 November 2010 of the Additional Sessions Judge, Datia, in Sessions Trial No. 33/2007. He had been convicted under Section 302 IPC (life imprisonment and a fine of Rs 10,000), Section 376 IPC (ten years' rigorous imprisonment and a fine of Rs 5,000), and Section 201 IPC (seven years' rigorous imprisonment and a fine of Rs 5,000), with default stipulations. The deceased, identified as his daughter X and described as about fourteen, was reported dead on 19 July 2006. The initial police intimation recorded the appellant's account that she had gone out and was later found dead. An inquest, post-mortem examination, seizures and further investigation followed; the appellant was arrested months later. The prosecution alleged sexual assault, pregnancy, throttling and burning to conceal the crimes. Those allegations required proof in the appeal; the Court did not simply treat the initial report or the allegations as established facts.

The post-mortem doctor recorded extensive burns covering about 95 per cent of the body. In the passage reproduced, he did not give a definitive opinion on the cause of death; the judgment referred to possible viscera testing. The Court, however, described FSL

DNA reports Exs P25 and P26 as identifying Komal Tiwari as the biological father of the fetus in the victim and excluding another person investigated, Vishal Shrivastava. The defence argued that a father's DNA naturally matches his daughter's and that Vishal may have had an illicit relationship with her. The appellant also challenged the absence of a direct eyewitness and the completeness of the circumstantial chain. He alleged faulty investigation after the death of the officer who conducted the initial inquest.

2. Precedents — Considered : *Ravi s/o Ashok Ghumare v. State of Maharashtra, (2019) 9 SCC 622*, was invoked in the Court's discussion of forensic DNA. In that Supreme Court case, a laboratory witness explained mixed samples in a sexual-assault case, Y-chromosome STR profiling and other comparative profiles. The Supreme Court accepted the well-supported profiling as powerful corroboration, while noting that Y-STR alone cannot distinguish males of the same paternal lineage and must be considered with the entire record. The High Court applied that analysis to the reported finding about the fetus's paternity. It rejected the appellant's argument that his ordinary biological relationship with his daughter explained the finding about the paternity of her fetus. The Court discussed DNA profiling, including STR loci, Y-chromosome inheritance and mitochondrial DNA analysis of hair, before relying on the fetal DNA findings in this case. *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, set out five principles requiring fully proved circumstances consistent with guilt and a complete chain excluding any reasonable conclusion consistent with innocence. *Padala Veera Reddy v. State of A.P., 1989 Supp (2) SCC 706*, restated the need to establish the circumstances firmly and to prove a complete chain when they are considered together. *Ramreddy Rajesh Khanna Reddy v. State of A.P., (2006) 10 SCC 172*, required clinching proof and warned that grave suspicion cannot substitute for it. *Balwinder Singh v. State of Punjab, 1995 Supp (4) SCC 259*, warned against allowing emotional considerations to displace legal proof. *Sunil Clifford Daniel v. State of Punjab, (2012) 11 SCC 205*, reiterated that the prosecution must complete the chain and that a false defence cannot excuse a missing link. *Satish Nirankari v. State of Rajasthan, (2017) 8 SCC 497*, summarised the requirements of conclusive circumstances and exclusion of another perpetrator. The High Court considered these authorities together and affirmed the three convictions on the circumstances it found proved, rather than on the heinousness of the charges alone.

Ramreddy Rajesh Khanna Reddy was also cited on the last-seen theory: a sufficiently short interval and corroboration are needed to exclude an intervening perpetrator. *Hatti Singh v. State of Haryana*, 2007 (2) CCSC 802 (SC), repeated that limitation. *State of U.P. v. Satish, (2005) 3 SCC 114*, warned against inferring guilt where the interval is long or uncertain and there is no other positive evidence. The High Court considered the fact that the appellant and his daughter lived together alongside the evidence of the fetus's paternity and the other circumstances; the judgment does not establish an exact last-seen time.

3. Statutes considered : Sections 376, 302 and 201 IPC were the three provisions under which the convictions were affirmed: sexual assault, murder and causing disappearance of evidence. The appellant invoked Section 374(2) CrPC for the appeal; his statement under Section 313 and the initial merg intimation formed part of the procedural record. Section 27 of the Evidence Act was mentioned in connection with the appellant's memorandum and seizures, but the Court did not formulate an independent rule on the admissibility of discovery evidence. Section 161 CrPC appears in the judgment's account of some brothers' earlier police statements describing the occurrence, although the Court otherwise treated the case as circumstantial. The fetal DNA result and the reported comparison with Vishal were considered as evidence, without any numerical likelihood ratio stated in the judgment.

4. Issues : (i) Did the prosecution prove the charged rape of the adolescent daughter, murder by throttling and burning, and disappearance of evidence beyond reasonable doubt despite absence of a clearly identified direct trial eyewitness? (ii) Did the fetal DNA finding identify the appellant as the fetus's biological father, as distinct from his undisputed status as the deceased's father, and what did exclusion of Vishal establish? (iii) Did domestic custody, medical and DNA results, witness accounts and reported conduct form the complete circumstantial chain demanded by the Supreme Court, or was it speculative? (iv) Did the death of an earlier investigating officer or alleged imperfection in inquiry justify acquittal, and did sentence call for change? The judgment did not separately report a

precise forensic probability or an exact last-seen interval.

5. Ratio / Findings : The Court understood the FSL reports as identifying the appellant as the biological father of the fetus in the deceased and excluding Vishal. It rejected the defence argument that a father's DNA naturally matches his child's, because the comparison concerned the fetus, a different person. The Court relied on *Ravi Ghumare*'s discussion of DNA as support for the evidentiary value of forensic findings considered with the surrounding facts. The brothers' testimony, as summarised, established that the appellant and the deceased lived together without other household members, while the brothers lived elsewhere. The Court considered the doctor's finding of extensive burns and the investigative record. The separate DNA exclusion of Vishal supported his acquittal by the trial court.

Applying *Sharad* and the other circumstantial-evidence decisions, the Court concluded that the finding about the fetus's paternity, the living arrangements and the other material formed a chain pointing to the appellant and excluding the proposed alternative. The death of the original investigator and continuation of the investigation by another officer were not, by themselves, fatal to the prosecution case; the remaining evidence had to be assessed. On the last-seen theory, *Ramreddy*, *Hatti Singh* and *Satish* required proximity in time and corroboration. The Court treated shared residence as part of the cumulative case. It found rape, murder and subsequent burning to remove evidence proved and affirmed the trial court's decision; the judgment did not give a more precise medical opinion on the cause of death or a DNA statistic. In upholding life imprisonment for murder, the Court considered the seriousness of the offence and the victim's age. It also concluded that the prosecution had proved the complete chain of circumstances beyond reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the Sessions judgment dated 3 November 2010. The sentence of life imprisonment under Section 302 and the fines, the sentence of ten years' rigorous imprisonment and fine under Section 376, and the sentence of seven years' rigorous imprisonment and fine under Section 201 remained in force, with their default stipulations. If the appellant was on bail, his bail and surety bonds were cancelled, and he was directed to surrender immediately to serve the remaining sentence. Copies of the judgment were to be sent to the jail and to the trial court, the latter with the record. Vishal's acquittal was not disturbed.

Komal Tiwari v. State of Madhya Pradesh, Cr.A. no. 132/2011, 13/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (302) Prev Next

Headnote :- Dowry death — Section 304-B ingredients - The Court affirmed the husband's conviction under Section 304-B IPC because Manju died in circumstances other than normal in her matrimonial home within a year of marriage. The evidence established a demand for Rs 1,50,000 and a vehicle, followed by beating and harassment before her death. The Court did not need to determine the precise cause of death or decide an unframed murder charge; the relatives' unchallenged acquittals remained final.

Medical and forensic evidence — negative poison analysis - The doctor who conducted the autopsy died before trial. The doctor who had merely attended and co-signed the report acknowledged that it recorded no specific symptoms of poisoning, and the FSL detected no poison. Those limits prevented poisoning from being treated as conclusively established. Nevertheless, the absence of a ligature mark contradicted the reported hanging, and the ante-mortem abrasions and burns remained unexplained. The negative viscera result therefore did not require the Court to treat the death as natural.

Sentence — appellate delay - The appeal's fourteen-year pendency did not, by itself, entitle the husband to a reduction of the ten-year rigorous-imprisonment sentence. In the circumstances found proved, the Court affirmed the sentence, cancelled bail and directed him to surrender.

Case-note :- *1. Facts :* According to her maternal uncle Kamlesh (PW 2), Manju married *Krishna Gopal* on 11 May 1999. She died on 14 April 2000 in her matrimonial home. The initial information given by the appellant's father, Bhagwan Das, described a locked room and stated that Manju had been found hanging after the husband and his parents returned from harvesting. Village chowkidar Bhagwan Singh Parihar (PW 1) reported the death; he found Manju dead and a rope hanging from the roof. The inquest, scene examination and body

record led to a dowry-death FIR on 15 April, a post-mortem, viscera analysis and a charge under Section 304-B read with Section 34 IPC against the husband, his father, mother and brother.

Post-mortem report Ex. P8 recorded putrefaction, abrasions and burns, but no ligature mark on the neck. Its author, Dr B.K. Shrivastava, died before trial. Dr R.S. Dhengula (PW 11), who had attended and co-signed the report, proved it without defence opposition. He acknowledged that it described no specific symptoms of poisoning, although the original opinion attributed death to shock caused by poison. FSL report Ex. P7 detected no poison. Kamlesh's police statement recorded Manju's report of dowry demands and harassment, but not his claim that he had personally seen her injuries. Kallu (PW 3) conceded that his account of the vehicle demand was partly based on what his wife told him. Usha (PW 4) and Kathule (PW 5) described the demand for money and a vehicle, threats and injuries. Mahendra (PW 7) acknowledged that some of his knowledge came from Usha after Manju's death. No police complaint had been made during Manju's lifetime.

The defence suggested that Manju disliked the marriage, wanted to open a beauty parlour and wished to move to Jhansi, and that she had written the incomplete inland letter Ex. D6. The letter was unsigned and its authorship was not proved. The husband had also not stated in his Section 313 examination that dissatisfaction with the marriage had led Manju to commit suicide. On 16 October 2003, the trial court acquitted the father, mother and brother; those acquittals were not appealed. It convicted the husband under Section 304-B IPC and sentenced him to ten years' rigorous imprisonment. In his appeal under Section 374 CrPC, he challenged the findings on unnatural death and dowry cruelty and sought leniency because of the delay.

2. Statutes considered : Section 304-B IPC governed the offence. The Court required proof that the woman died otherwise than under normal circumstances within seven years of marriage and that she had been subjected to dowry-related cruelty or harassment before death; it assessed the evidence against the husband individually. Section 34 IPC formed part of the joint charge, but the other accused had been acquitted and their acquittals were not challenged. Section 302 IPC was outside the case because no murder charge had been framed, so the Court did not determine a homicidal mechanism. Section 374 CrPC provided the appellate route. The husband's Section 313 CrPC examination was relevant because he did not advance the asserted explanation involving facts within his special knowledge. The Court did not treat silence alone as proof of guilt, but found that defence unsupported. The judgment did not expressly interpret Section 113-B of the Evidence Act.

3. Issues : (i) Did the negative FSL report and limits of autopsy proof create doubt that death was otherwise than normal within seven years of marriage, despite injuries and the contradicted hanging account? (ii) Was the dowry demand and cruelty proved against this husband before death, notwithstanding evidentiary omissions, partly indirect relatives' accounts, the unhappy-marriage theory and the co-accused's final acquittals? (iii) Was fourteen years' appellate pendency a reason to reduce the ten-year sentence? The precise mechanism of death and an unframed murder charge were not decided.

4. Ratio / Findings : The Court did not accept the autopsy opinion of poisoning as conclusive. The doctor who conducted the autopsy had died, the co-signing doctor had merely attended, the report recorded no symptoms of poisoning and the FSL found no poison. Even so, the absence of a ligature mark contradicted the report that Manju had been found hanging, and the ante-mortem abrasions and burns remained unexplained. The Court observed that chemical analysis may fail to detect some poisons and that clear surrounding circumstances must still be considered. It treated the initial account as misleading and considered the husband's failure to explain the scene and injuries material in context. It therefore found that Manju had died in circumstances other than normal in her matrimonial home within the statutory period. That conclusion did not determine the precise cause of death or murder: no Section 302 charge had been framed, and the other accused's acquittals were final.

On dowry cruelty, the Court distinguished Kamlesh's omitted claim that he had personally seen injuries from the account in his police statement that Manju had reported the demands and harassment. It considered Usha's evidence of demands for money and a vehicle, Kathule's evidence of threats and injuries, the partly second-hand elements of Kallu's and Mahendra's testimony, and the absence of an earlier FIR. The ante-mortem injuries supported the account of beating. The proposed Jhansi and beauty-

parlour explanation and the unsigned, incomplete letter lacked reliable support; the husband had not advanced that explanation in his Section 313 examination. Although the Court cautioned that silence alone could not be used against an accused, it found the asserted explanation unproved when weighed with the remaining evidence. It concluded beyond reasonable doubt that the husband had demanded Rs 1,50,000 and a vehicle and had continued to harass and beat Manju when the demand was not met. He was therefore liable for dowry death. The finding concerned the husband alone and did not disturb the unappealed acquittals.

On sentence, prolonged pendency did not automatically warrant leniency. The Court considered that Manju died within a year of marriage and that the hanging account was misleading, and found no error in the ten-year rigorous-imprisonment sentence. It did not lay down a universal rule that delay is irrelevant in every sentencing case.

5. Relief : The High Court dismissed the appeal and affirmed the Additional Sessions Judge, Seonda's judgment dated 16 October 2003, which convicted *Krishna Gopal* under Section 304-B IPC and sentenced him to ten years' rigorous imprisonment. His bail and surety bonds were cancelled immediately, and he was directed to surrender before the trial court to undergo the remaining sentence. The unchallenged acquittals of Bhagwan Das, Devabai and Vikram were not disturbed.

Krishna Gopal v. State of M.P., Cr.A. no. 663/2003, 26/04/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (303) Prev Next

Headnote :- Negotiable Instruments Act, 1881 — Section 143A — discretionary interim compensation - The Court considered *Rakesh Ranjan Shrivastava v. State of Jharkhand and Another, Criminal Appeal No. 741/2024*, decided 15.03.2024, which treats Section 143A(1) as directory and requires brief reasons addressing the relevant factors. Interim compensation can be awarded only if the complainant makes out a prima facie case. A prima facie plausible defence may justify refusal, and financial distress supported by evidence may also be considered. Once an award is justified, its amount requires a separate assessment of the transaction, the parties' relationship and the other circumstances. The High Court declined to interfere with the direction to pay 8%, while expressly stating that the trial court's order had not been supplied and its actual reasons could not be examined.

Financial distress — bank default — evidentiary sufficiency - A notice under Section 13(2) SARFAESI recording arrears and classification of the account as an NPA established loan default, but did not by itself establish the asserted bankruptcy. The accused produced no material showing bankruptcy or regular payment of instalments before the financial decline he attributed to the Covid period. His unsupported plea therefore did not justify interference with the Section 143A direction; the finding was confined to the material placed before the Court.

Case-note :- ***1. Facts :*** The complainant, Ashok Kumar Dwivedi, alleged that after retirement he received approximately ₹22 lakh in benefits and, being on friendly terms with Krishna Kumar Gupta, advanced him ₹15 lakh when Gupta represented that his business urgently required money. According to the complaint, Gupta later issued a cheque for ₹13 lakh and promised the balance of ₹2 lakh in cash. The cheque was dishonoured for insufficient funds. Following statutory notice, Gupta's reply through counsel alleged that a blank signed cheque had been stolen and misused. The complainant then instituted a Section 138 Negotiable Instruments Act case, SC NIA No. 48/2021 before the JMFC at Umaria, and sought interim compensation under Section 143A. These are the complainant's allegations and the accused's pleaded response; the High Court did not adjudicate the ultimate cheque liability.

In answering the interim-compensation request, Gupta said that his finances were near bankruptcy and that he had required a lawyer supplied by the Legal Aid Services Authority. On 17.01.2024 the trial court partly allowed the request and directed payment of 8% of the ₹13 lakh cheque amount. Criminal Revision No. 13/2024 was dismissed by the Third Additional Sessions Judge, Umaria on 09.03.2024. Gupta invoked Section 482 CrPC against the revisional and trial orders. He argued that counsel provided through legal aid was incompetent for not citing *Rakesh Ranjan Shrivastava*, which recognised discretion under Section 143A, and that his financial condition made even the reduced award inappropriate. He also placed a bank notice under Section 13(2) of the SARFAESI Act before the High Court.

2. Precedents — Considered : In *Rakesh Ranjan Shrivastava v. State of Jharkhand and Another, Criminal Appeal No. 741/2024*, decided on 15.03.2024, the Supreme Court's paragraph 19 was reproduced and considered. It holds that the Section 143A(1) power is discretionary and directory: 'may' cannot be read as 'shall'. The deciding court must record brief reasons showing consideration of relevant factors. It should prima facie assess the complainant's case and the defence in the accused's reply; an interim direction requires the complainant to make out a prima facie case, while a prima facie plausible defence may justify refusal. Financial distress of the accused may be considered. If compensation is warranted, the court must also assess the amount in light of the nature of the transaction, the parties' relationship and other relevant circumstances; the stated parameters are not exhaustive. The High Court specifically addressed the financial-distress factor from paragraph 19(c)(i), tested the accused's asserted bankruptcy against the material tendered and refused interference. It did not re-examine the trial court's reasons or independently verify every element of that court's discretionary assessment because Gupta had not filed its order. The Supreme Court judgment was delivered six days after the revision and almost two months after the trial order, so the High Court also rejected the allegation that legal-aid counsel's failure to cite it in those earlier courts proved incompetence.

3. Statutes considered : Section 138 of the Negotiable Instruments Act, 1881 was the basis of the pending cheque-dishonour prosecution. Section 143A governed the complainant's request for interim compensation pending that prosecution and the discretionary 8% direction under challenge; the High Court considered the Supreme Court's construction of its subsection (1) and the need to evaluate both entitlement and amount. Section 482 CrPC supplied the procedural jurisdiction invoked before the High Court following the criminal revision. The bank's notice was issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; it was considered as evidence offered for the accused's financial condition, not as a decision about that Act's enforcement or the underlying debt.

4. Issues : (1) Whether the Section 143A interim-compensation direction, affirmed in revision, called for interference when the accused invoked the Supreme Court's discretionary framework, asserted financial distress and had not supplied the trial court's order for scrutiny. (2) Whether a SARFAESI demand notice recording bank-loan default and NPA classification adequately supported his assertion that he had become bankrupt or financially unable to meet the 8% direction. (3) Whether failure of legal-aid counsel to rely on *Rakesh Ranjan Shrivastava* before the trial and revisional courts could substantiate an allegation of incompetence when that judgment was delivered only after both orders. The merits of the Section 138 complaint and any prospective defamation claim were not issues decided.

5. Ratio / Findings : The High Court set out the Supreme Court's paragraph 19 parameters rather than treating interim compensation as mandatory. The governing inquiry calls for brief reasons on all relevant factors, the prima facie case made out by the complainant and the defence pleaded by the accused. A plausible defence can weigh against compensation, and financial distress may bear on discretion; if an award is justified, its quantum requires consideration of the transaction and parties' relationship. In applying those principles, the High Court concentrated on Gupta's claimed bankruptcy. The Section 13(2) notice showed a loan of ₹24,90,000 taken on 30.03.2018; it recorded ₹31,81,599 in default and NPA classification as of 08.09.2023. The Court distinguished being in default of a bank loan from proof of bankruptcy. Gupta had not provided a declaration of bankruptcy, material showing pending bankruptcy proceedings or proof that he regularly serviced instalments before the Covid-19 period, although he ascribed deterioration of his business to that period. The material therefore did not persuade the Court that his finances justified interference. This case-specific failure of proof is not a rule that an accused must always obtain formal insolvency adjudication before financial difficulty can be considered.

The High Court expressly acknowledged that the trial court's order had not been placed before it. It therefore could not ascertain whether the trial court had correctly reduced the potential compensation figure from 20% to 8% after exercising its discretion. It nonetheless inferred from the reduced rate that the trial court had appropriately considered the pleadings and merits, and concluded that interference was unwarranted on the record presented. The judgment does not provide the absent trial order's reasons or hold that a reduction alone

invariably demonstrates compliance with Section 143A.

On counsel, the Court declined to presume any lawyer incompetent. The trial order preceded *Rakesh Ranjan Shrivastava* by nearly two months and the revision preceded it by six days. Non-citation of a later decision could not support the accused's repeated allegations against the lawyer provided through legal aid. The Court described the accusations as baseless and gave that lawyer liberty, if he wished, to institute defamation proceedings; it did not adjudicate a defamation cause of action.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The revisional dismissal and the trial court's direction that Gupta pay 8% of the cheque amount as interim compensation therefore stood undisturbed. The High Court granted no exemption on the asserted financial condition and made no final determination of liability under Section 138. It gave counsel liberty to bring a separate defamation proceeding if so advised; it neither ordered such a suit nor decided its merits.

Krishna Kumar Gupta v. Ashok Kumar Dwivedi, M.Cr.C. no. 14683/2024, 17/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (304) Prev Next

Headnote :- CrPC, Section 438 — duration of anticipatory bail — charge-sheet and trial - The Court applied *Sushila Aggarwal v. State (NCT of Delhi), (2020) 5 SCC 1*, as explained and followed in *Nathu Singh v. State of Uttar Pradesh, (2021) 6 SCC 64*: anticipatory-bail protection ordinarily is not limited to a fixed period and does not normally expire on summons, framing of charge or filing of charge-sheet. Particular circumstances may justify a reasoned condition limiting the duration of protection or linking it to an event. As the anticipatory bail granted to the applicants on 31.10.2018 had no such limit, it continued to operate notwithstanding their later appearance before the JMFC.

Bail cancellation — consequential release by magistrate — separate challenge - The JMFC's release order dated 11.03.2019 rested solely on the existing High Court anticipatory-bail order, without independently assessing the gravity of the case or the allegations. It did not replace the subsisting protection with a separately reasoned grant of bail. The complainant was therefore not required to challenge the JMFC's order before seeking cancellation of the High Court's grant for the alleged breach of its conditions. The ruling depends on the actual terms of both orders.

CrPC, Sections 362 and 482 — recall of final cancellation order - An application seeking recall could not be used to obtain a substantive review of the High Court's order dated 28.06.2021 cancelling anticipatory bail. After rejecting the alleged merger with the consequential release by the JMFC, the Court held that Section 362 barred the requested alteration and dismissed both connected applications; no question of correcting a clerical error arose.

Case-note :- ***1. Facts :*** This common judgment disposed of M.Cr.C. No. 37497/2021, filed by Krishna Kumar Naroliya, Radha Naroliya and Surendra Naroliya, together with M.Cr.C. No. 37509/2021 filed by Mrigendra Naroliya. The Court used the first application's facts for convenience. The applicants faced investigation in Crime No. 568/2018 at Police Station Kotwali, Morena under Sections 498-A, 506 and 34 IPC read with Sections 3/4 of the Dowry Prohibition Act. On 31.10.2018 the High Court granted them anticipatory bail in M.Cr.C. No. 41981/2018 subject to conditions, without fixing a termination date. After a charge-sheet was filed, they appeared before the JMFC at Morena on 11.03.2019; the JMFC released them because the High Court had already granted anticipatory bail.

A complainant subsequently sought cancellation under Section 439(2) CrPC, alleging that the applicants had breached the conditions of the earlier protection, committed further offending conduct and threatened the complainant. The High Court cancelled the anticipatory bail by order dated 28.06.2021 in M.Cr.C. No. 41733/2019. The present applicants invoked Section 482 CrPC to recall that cancellation. They contended that the earlier Section 438 order had merged into the JMFC's release on 11.03.2019, which they described as regular bail, so the complainant needed to challenge the JMFC order before the High Court could cancel the original anticipatory bail. The State opposed recall. During these proceedings the High Court had requested a police status report. Police reported that arrest warrants could not be executed because the applicants were absent from the given address; their counsel could not explain the failure to surrender after cancellation. The Court treated them as absconding, but the decisive merger and review

analysis rested on the orders and governing law, not on an independent adjudication of the underlying domestic-cruelty or threat allegations.

2. Precedents — Considered : The Constitution Bench decision in *Sushila Aggarwal and Others v. State (NCT of Delhi) and Another, (2020) 5 SCC 1*, was quoted and applied for the normal duration of Section 438 protection. Its rule is that anticipatory bail is not invariably confined to a fixed period or terminated at the charge-sheet, summons or charge stage; it can ordinarily continue to the end of trial. The court granting relief can, for reasons linked to particular facts or the proceeding stage, impose a shorter duration, a condition tied to an event or ordinary conditions under Sections 437(3) and 438(2). The High Court compared that qualified rule with the actual order of 31.10.2018 and found no temporal limit. The quotation also referred to *Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565*, as the antecedent Constitution Bench authority informing the scope of anticipatory bail; the present Court did not independently elaborate any separate *Sibbia* proposition beyond the reproduced *Sushila Aggarwal* discussion.

Nathu Singh v. State of Uttar Pradesh and Others, (2021) 6 SCC 64, was also quoted and applied. It explains the governing approach in *Sushila Aggarwal*: ordinarily, anticipatory bail continues without a fixed end date, but in special circumstances a court may limit its duration if it gives reasons that a superior court can examine. The High Court relied on that explanation to confirm that the original grant in this case had not expired when the charge-sheet was filed or the applicants appeared before the Magistrate.

3. Statutes considered : Section 438 CrPC governed the initial anticipatory-bail grant, whose duration and effect were central. Sections 437 and 439 were relevant to the applicants' asserted distinction between anticipatory and later regular bail; the judgment recounts a Section 439(2) cancellation application and the JMFC's release, but holds that the latter relied on the existing protection rather than making a fresh merits assessment. Section 482 CrPC supplied the route used to seek recall of the High Court's cancellation order; Section 362 CrPC barred the substantive review the request would entail. IPC Sections 498-A, 506 and 34, with Sections 3/4 of the Dowry Prohibition Act, identified the investigated alleged offences but their ingredients were not interpreted or decided. The Court made no final finding of guilt in the underlying crime.

4. Issues : First, did anticipatory bail granted without a specified end date continue after charge-sheet and appearance before the JMFC, or did the Magistrate's subsequent release displace it? Second, where that JMFC order relied only on the earlier High Court grant, was the complainant obliged to challenge it independently before seeking cancellation of the original anticipatory bail? Third, could the applicants use Section 482 to recall the High Court's completed cancellation decision on that merger theory, consistently with Section 362's prohibition on review? The police report concerning their non-surrender furnished context, but the Court did not retry the truth of the original cruelty allegations or the alleged later threats in this recall proceeding.

5. Ratio / Findings : The Court examined the JMFC's order dated 11.03.2019 rather than treating its label as decisive. It found that the JMFC had released the applicants because they already held anticipatory bail, without a fresh assessment of the gravity, seriousness or factual merits of the allegations. Under *Sushila Aggarwal* and *Nathu Singh*, the original Section 438 order would ordinarily remain effective after the charge-sheet and through trial unless a shorter duration had been imposed for stated reasons. The order dated 31.10.2018 had no time limit. The JMFC's consequential release therefore neither extinguished that protection nor required the complainant first to seek cancellation of the purported independent grant of regular bail. The High Court considered the JMFC's limited approach appropriate in light of the earlier order. This reasoning concerns the particular terms of the orders before the Court, rather than every later bail order a Magistrate might pass.

The Court also noted the police status report that the applicants were not found at their stated address and that arrest warrants remained unexecuted after cancellation. Counsel gave no explanation for their failure to surrender, and the Court described the applicants as absconding. The present proceeding concerned recall, rather than a fresh cancellation adjudication under Section 439(2). As the merger argument failed, recalling the cancellation order dated 28.06.2021 would substantively alter a concluded order. The Court held that Section 362 CrPC prohibited that review, notwithstanding the application under Section 482. It did not consider

whether a purely clerical or arithmetical correction would be possible.

6. Relief : The Hon'ble High Court dismissed both Section 482 applications seeking recall of the order dated 28.06.2021 cancelling anticipatory bail; that cancellation order was not recalled.

Krishna Kumar Naroliya and Others v. State of M.P. and Others; Mrigendra Naroliya v. State of M.P. and Others, M.Cr.C. no. 37497/2021 & 37509/2021, 21/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (305) Prev Next

Headnote :- Criminal Procedure Code, 1973 — Section 482 — police investigation — prayer to compel charge sheet - A complainant whose FIR remained under investigation sought a High Court direction requiring the police to file a charge sheet. In *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Supreme Court held that investigation falls within the police's statutory domain and that the High Court's inherent power must be exercised sparingly for the purposes recognised by Section 482. An investigation does not necessarily result in arrest, seizure or a charge sheet; it may properly lead to a conclusion that no case is made out. Applying that rule, the Court refused to supervise the investigation by directing that it result in a charge sheet. The precedent's quoted discussions of discretionary arrest in *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, and notice before judicial directions with serious consequences in *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, formed part of the Supreme Court passage. The Court did not separately decide any question of arrest or of directions against an accused who had not been heard.

Criminal Procedure Code, 1973 — Section 173(1) — pending FIR — completion without unnecessary delay - Refusal to order a charge sheet does not permit an investigating officer to keep an investigation pending indefinitely. Section 173(1) requires completion without unnecessary delay. The officer must determine through investigation whether an offence is made out and take the lawful steps to submit a final report, which may be a closure report or a charge sheet. The Court disposed of the Section 482 petition with a direction to conclude the investigation in Crime No. 870/2017 as early as possible and proceed according to law. It did not prescribe the report's conclusion or a fixed deadline. The applicant could submit a grievance to the Superintendent of Police, Gwalior, for consideration in accordance with law.

Case-note :- ***1. Facts :*** Krishna Kumar Sharma had complained to the police, following which Crime No. 870/2017 was registered at Police Station Kotwali, Guna, District Guna, alleging offences under Sections 420, 467, 468, 471, 120-B, 447 and 34 of the Indian Penal Code. Counsel for the applicant submitted that, despite registration of the FIR, the police had not concluded the investigation. The applicant invoked Section 482 of the Code of Criminal Procedure, 1973, in M.Cr.C. No. 8407/2019 before the Gwalior Bench and specifically sought a direction to the respondents to file a charge sheet in that crime. The reported order records the State's appearance through the Public Prosecutor but no distinct factual response. The question before the Court was therefore the permissible judicial response to a still-pending police investigation, rather than the truth of the complaint or sufficiency of the proposed prosecution evidence.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was expressly invoked and extensively quoted by the High Court. The quoted Supreme Court decision concerned a High Court order treating witness statements, arrest, seizure, protection of property and filing of a charge sheet as obligatory investigative acts. The Supreme Court explained that police have a statutory duty and discretion to investigate, while courts ordinarily should not guide the agency on the manner of investigation. Depending on the evidence, an investigation may justify a charge sheet or a conclusion that no case is made out; it does not invariably require arrest, seizure or a charge sheet. Section 482 inherent power is to be exercised sparingly, carefully and only to secure the ends of justice, give effect to an order under the Code or prevent abuse of a court's process. The quoted decision also disapproved consequential directions made mechanically without reasons or hearing the persons likely to be affected. The present Court applied the central rule to the particular prayer before it: ordering a charge sheet would amount to supervision and predetermination of the police investigation, so the prayer could not be granted. It

did not use the quotation to decide a new question about arrest, seizure or notice on this record.

Within the quoted reasoning in *D. Venkatasubramaniam*, the Supreme Court reproduced *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC: arrest on cognizable-offence information is discretionary, requires caution because it affects liberty and reputation, and is not a mechanical consequence of an FIR. That reasoning explains why a judicial order cannot presume compulsory investigative steps. The High Court did not separately adjudicate any arrest request in Sharma's case. The quoted Supreme Court judgment also referred to *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for the principle that a person likely to suffer serious consequences from a judicial investigation direction should receive a reasonable opportunity of hearing. Notice to the accused was part of the higher court's warning about intrusive orders, not an independently decided procedural issue in the present petition.

3. Statutes considered : Section 482 CrPC supplied the applicant's jurisdictional route. The Supreme Court authority quoted by the Court describes the High Court's inherent powers to give effect to an order under the Code, prevent abuse of a court's process, or otherwise secure the ends of justice, and stresses cautious use. That power did not authorise the requested instruction that the police file a particular report regardless of the investigation's result. Section 173(1) CrPC was separately reproduced and applied: 'Every investigation under this Chapter shall be completed without unnecessary delay.' It imposed a duty of timely completion while leaving the investigating officer to determine whether the case supported a charge sheet or closure report and to take the lawful procedural steps. Section 41 CrPC appears within the quoted *M.C. Abraham* passage about arrest discretion, not as a provision directly applied to a proposed arrest here. Sections 420, 467, 468, 471, 120-B, 447 and 34 IPC identify the FIR allegations; the Court did not interpret their ingredients or make a finding that any offence was proved.

4. Issues : First, could the High Court, acting on a complainant's Section 482 application while an FIR was under investigation, direct police to file a charge sheet rather than permit an independent assessment and legally appropriate final report? The applicant's concern was the lack of progress, but the relief sought prescribed the prosecution outcome. Second, even though the specific charge-sheet prayer could not be granted, did Section 173(1) require the investigating officer to finish the pending investigation without unnecessary delay, and what direction could preserve that statutory duty without dictating the conclusion? The Court did not determine the allegations' truth, the identity or culpability of an accused, or whether a charge sheet would ultimately be justified.

5. Ratio / Findings : On the first issue, the Court expressly held that the requested charge-sheet direction could not be granted. It adopted *D. Venkatasubramaniam*'s distinction between a police duty to investigate in accordance with law and an impermissible court order specifying the course or outcome of the investigation. An officer may conclude on collected material that a prosecutable case exists, or that it does not. Directing the filing of a charge sheet before the officer reaches that conclusion would put the Court in the role of supervising the investigation. The extensive higher-court quotation described examples of arrest and seizure directions, the discretion under Section 41 reflected in *M.C. Abraham*, and the hearing problem reflected in *Divine Retreat Centre*. Those examples fortify the limit on judicial intervention but do not establish that such steps were sought or taken in this case. The Court neither evaluated the IPC allegations nor converted the applicant's assertion of delay into proof that a charge sheet was warranted.

On the second issue, the Court reproduced the mandatory text of Section 173(1) and reasoned that the investigating officer cannot simply leave the investigation pending. The officer must reach a conclusion, on investigation, whether an offence is made out, complete the exercise as early as possible, and file the appropriate final report without delay. The Court expressly identified both a closure report and a charge sheet as possible lawful outcomes. Its direction to conclude the investigation and take necessary steps under law addressed the delay while preserving the agency's fact-finding and reporting responsibility. It imposed no specific calendar deadline and expressed no view on the report's merits.

6. Relief : The Hon’ble High Court finally disposed of the Section 482 application. The prayer to direct filing of a charge sheet was refused. The investigating officer was directed to conclude the investigation in Crime No. 870/2017 as early as possible and take necessary steps in accordance with

law, including an appropriate final report following the officer's conclusion, without predetermining closure or prosecution. No fixed deadline, finding on guilt, compulsory arrest or seizure, or order to file a charge sheet was made.

Krishna Kumar Sharma v. State of M.P. and Ors., M.Cr.C. no. 8407/2019, 25/03/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (306) Prev Next

Headnote :- Indian Penal Code, 1860 — Sections 306 and 107 — instigation — continuous conduct depriving deceased of livelihood - Abetment requires a culpable act of instigation, conspiracy or intentional aid and a meaningful link with the suicide, not a bare assertion of harassment. *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, recognises that instigation may be inferred from a continued course of conduct leaving no apparent alternative, while excluding a stray angry utterance without the required intention. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, likewise treats intent and circumstances as decisive without a rigid formula; *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371, Kishori Lal v. State of M.P., (2007) 10 SCC 797, Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, M. Mohan v. State, AIR 2011 SC 1238*, and *Amalendu Pal alias Jhantu v. State of W.B., (2010) 1 SCC 707*, set out the related requirements of mens rea, active or proximate conduct and more than ordinary harassment. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, cautions against equating ordinary discord and a victim's unusual sensitivity with abetment. Applying these principles at the charge stage, the Court considered the allegations that Krishnapal and Amar Singh had continuously and forcibly cultivated Bharat Yadav's land and that Babu Singh and Phool Singh had obstructed its irrigation, depriving him of his livelihood before his suicide. It held that there was prima facie material for prosecution, without expressing a final view on proof, causation or property title.

Criminal Procedure Code, 1973 — Sections 228, 397 and 401 — revision against charge under Sections 306/34 IPC - *Praveen Pradhan, (2012) 9 SCC 734*, and *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, distinguish the tentative charge-stage view from assessing or analysing the record to reach a firm finding of guilt; *Amit Kapur* also recognises that a coercive course of conduct may support an inference of instigation. On the prosecution allegations of persistent deprivation of the deceased's livelihood, the High Court found prima facie material warranting trial and dismissed the revision against the charge. Its observation that a claimant to possession should use a civil court, rather than forcibly take or control another's land, explained why the alleged forcible conduct was not treated as a trivial property disagreement; it did not determine civil title or conclusively establish the Section 34 element.

Case-note :- ***1. Facts :*** Bharat Yadav died by consuming poison. The police charge sheet alleged that Krishnapal Yadav and Amar Singh Yadav had forcibly cultivated land belonging to him, while Babu Singh Yadav and Phool Singh Yadav forcibly prevented him from irrigating the field. Counsel for the four applicants characterised the allegations as insufficient for abetment of suicide even if accepted in full. The High Court described the alleged conduct as continuous interference with the deceased's land and livelihood, rather than a simple episode of beating or harassment. The judgment does not provide a date of suicide, a detailed account of the land dispute, the deceased's statements, particular items of evidence, or a finding on title; the factual propositions are prosecution allegations considered at the charge stage. The 7th Additional Sessions Judge, Shivpuri, framed charges under Sections 306/34 IPC by order dated 20 September 2021. The applicants filed criminal revision under Sections 397 and 401 CrPC challenging that order. The State was represented, but the reported judgment does not set out a separate detailed State submission.

2. Precedents — Considered : The Court assembled a line of Supreme Court authority to define abetment and assess the alleged continued course of conduct. *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, explains instigation as goading, urging, provoking, inciting or encouraging the act. Express words need not name the ultimate consequence if the conduct supports reasonable certainty of incitement; a sustained course creating circumstances in which the deceased saw no other option can support an inference of instigation. A remark in anger without the intended consequence does not. The Court used this distinction to consider the alleged conduct depriving the deceased of his livelihood rather than treating any harassment as automatically sufficient.

Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734, was quoted for the abettor's intention, the three Section 107 modes, rejection of an unintentional angry remark as instigation, and the absence of a rigid formula. Direct proof of a verbal incitement is not indispensable where circumstances support an inference, and a charge-stage assessment remains tentative. Its quotation also mentions *State of Punjab v. Iqbal Singh, (1991) 3 SCC 1; Surender v. State of Haryana, (2006) 12 SCC 375*; *Kishori Lal*; and *Sonti Rama Krishna v. Sonti Shanti Sree, (2009) 1 SCC 554*, as support for the anger/intention proposition. Those nested references are not separately analysed by the present Court. *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, was quoted independently for the statutory alternatives of Section 107 and the necessity of mens rea in instigation.

Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, and *M. Mohan v. State represented by the Deputy Superintendent of Police*, *AIR 2011 SC 1238*, were invoked for the mental process of instigation or intentional aid, clear mens rea, and a positive, active or direct act intended to put the person in a position of seeing no option but suicide. The passage attributed to *Gangula* additionally cautions about attributing undue significance to ordinary domestic discord or a deceased's hypersensitivity. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, supplies a related caution that ordinary petulance or differences, viewed with a similarly situated person in mind, are not necessarily inducement to suicide. The Court considered these judgments in addressing the applicants' argument that the conduct alleged here was no more than harassment; the present Court distinguished the allegations as continuous deprivation of livelihood, without purporting to make a final evidentiary finding.

Kishori Lal v. State of M.P., (2007) 10 SCC 797, was quoted to identify instigation, conspiracy and intentional aid as distinct routes under Section 107, with provocation or persuasion central to instigation; its discussion of Section 109 concerned the relationship of an abetted act and punishment. *Amalendu Pal alias Jhantu v. State of West Bengal, (2010) 1 SCC 707*, stresses careful factual assessment, direct or indirect incitement, an active role, and the insufficiency of bare harassment absent positive conduct proximate to suicide for conviction. Its quoted analysis also explains intentional aid and facilitation under Explanation 2 to Section 107. The Court cited these safeguards as part of the offence framework, but determined only the sufficiency of allegations for a charge, not the proof required for conviction.

Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460, was quoted on the procedural stage: the record should yield a tentative charge-stage view, rather than an evaluation as at trial; instigation may be inferred where an accused's sustained conduct creates a situation of extreme frustration and no apparent alternative. Its passage refers to *Chitresh Kumar Chopra and Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618*, for the course-of-conduct principle. *Ramesh Kumar* is a nested reference rather than a separately discussed holding here. These authorities overlap on the need for intentional, connected conduct; their common rule was applied to the unusually persistent alleged interference with the deceased's livelihood from the land. None was cited as a final determination that the applicants in fact abetted the suicide.

3. Statutes considered : Section 306 IPC punishes abetment of a suicide; the Court reproduced its text. Section 107 IPC defines abetment by (first) instigation, (second) conspiracy accompanied by an act or illegal omission in pursuance of it and to accomplish its object, or (third) intentional aid by act or illegal omission. The reproduced explanations cover instigation by wilful misrepresentation or by wilful concealment of a material fact that the person is bound to disclose, whereby the person voluntarily causes or procures, or attempts to cause or procure, the act to be done. They also address conduct before or at the time of commission that is intended to facilitate the act and does facilitate it as a form of aid. The Court's operative analysis concerned alleged continued acts and omissions capable of supporting instigation or involvement, rather than a particular agreement to conspire. Section 34 IPC accompanied the framed charge, but the judgment does not separately construe common intention or allocate a proved common design among the four applicants. Sections 397 and 401 CrPC supplied the revision jurisdiction against the charge order. Section 228 CrPC is discussed in the *Praveen Pradhan* quotation as the tentative framing-of-charge context; no final conviction standard was being applied to decide guilt. Section 109 IPC appears in quotations from *Kishori Lal* and *Amalendu Pal* as background to

punishment for an abetted act, not as a separate charge decided here.

4. Issues : The principal issue was whether, taking the prosecution's account of forcible cultivation and obstruction of irrigation at the charge stage, the applicants' alleged course of conduct could prima facie amount to abetment of Bharat Yadav's suicide under Sections 306 and 107 IPC, or whether it showed only a land dispute/harassment insufficient for the charge. A related stage-specific issue was whether the revisional Court should set aside the Sessions Judge's Section 306/34 charge for lack of material, without undertaking the final assessment of intention, causal nexus and evidence reserved for trial. No civil title dispute or final criminal culpability was before the Court for adjudication.

5. Ratio / Findings : The Court first rejected the applicants' description of the case as a simple harassment or beating allegation. On the prosecution account, Krishnapal and Amar Singh had forcibly cultivated the deceased's land and Babu Singh and Phool Singh had prevented irrigation. This allegedly prevented the deceased from using his field and earning a livelihood; he subsequently consumed poison. Against Section 107's definition and the cited Supreme Court tests, the Court viewed the acts and omissions as continuous in nature and as prima facie supporting the culpable involvement required by Section 306. It did not say that every encroachment or quarrel is abetment, or that suicide alone proves the accused intended it. The material allegation was sustained deprivation of livelihood, which could support an inference from the surrounding circumstances, rather than a single casual insult. The Court observed that anyone claiming title or possession ought to approach a civil court rather than forcibly seize or interfere with another's land. That observation explained why the asserted property claim did not justify treating the alleged conduct as trivial; it did not resolve ownership or treat civil wrongfulness as a substitute for proof of criminal mens rea.

The Court's review was confined to the framing of charges. *Praveen Pradhan* and *Amit Kapur* supplied the caution that a provisional inference of instigation may be drawn from the circumstances without finally assessing the record at this stage. The Court found prima facie material warranting prosecution of the applicants, and therefore left the charge order undisturbed. Its conclusion is common to the four named applicants, but its narration preserves their different alleged roles: two cultivated the land and two prevented irrigation. The Court found prima facie material warranting prosecution on the alleged continuous conduct. The conviction-stage safeguards quoted from *Gangula Mohan Reddy, M. Mohan* and *Amalendu Pal* remained relevant to the proof required at trial; the present decision sustained the charge rather than recording guilt.

6. Relief : The Hon’ble High Court dismissed the criminal revision under Sections 397 and 401 CrPC. The order dated 20 September 2021 of the 7th Additional Sessions Judge, Shivpuri, framing charges under Sections 306/34 IPC against the applicants remained in force and the prosecution could proceed. The High Court granted no discharge or charge alteration, made no final finding that the accused instigated Bharat Yadav's suicide, and did not adjudicate civil title to the land.

Krishnapal Yadav and Ors. v. State of M.P. and Ors., Cr.R. no. 35/2022, 01/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Indian Penal Code, 1860 — Sections 299, 300 thirdly and 302 — intentional fatal firearm injury - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, requires objective proof of the bodily injury and its nature, proof of intention to inflict that particular injury, and objective proof that the injury was sufficient in the ordinary course of nature to cause death; intention to cause death itself need not be separately shown under clause Thirdly. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079/2005, was quoted for the sequence of analysis under Sections 299, 300 and 304 and the different roles of intention and knowledge. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, likewise emphasised ordinary-course sufficiency. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319; Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444; Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799; State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*; and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, identified the circumstances relevant to intention and rejected automatic reduction to Section 304 merely because there was a single injury. The Court affirmed the murder conviction on the basis of the accepted eyewitness account of the appellant firing at Sanju's chest/underarm and the post-mortem

proof of devastating, fatal gunshot injuries. The quoted sudden-fight Exception 4 criteria from *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, and *Kanhaiyalal* were not separately applied to a proved sudden fight on this record.

Evidence — related eyewitnesses — hostile independent witnesses - *Jayabalan v. UT of Pondicherry, (2010) 1 SCC 199*, and *Seeman v. State, (2005) 11 SCC 142*, require careful scrutiny for consistency but prohibit rejection merely because a witness is related or interested; the quality of the evidence, rather than the number of witnesses, is decisive. *Jodhan v. State of M.P., (2015) 11 SCC 52*, rejects automatic discredit from independent witnesses turning hostile, and *Appabhai v. State of Gujarat, AIR 1988 SC 696*, distinguishes peripheral discrepancies from damage to the core case. The Court found PW5 and PW9, brothers of the deceased, and PW8, a relative by marriage, credible on the appellant's firing despite minor omissions and the hostility of shopkeepers PW2 and PW3. *Jodhan*'s nested discussion of the enhanced weight of an injured eyewitness was not applied to these witnesses as injured persons.

Evidence — medical and ocular proof — firearm injuries - The eyewitness identification was tested against the doctor's findings of right-arm and right-chest/underarm firearm wounds, broken ribs, destructive internal injury, bleeding and recovered bullet particles. The Court held the fatal medical account compatible with the material eyewitness version notwithstanding variations about the second shot and distances, and affirmed the Section 302 conviction and life sentence. The appellant's acquittal on separate Arms Act charges was not disturbed.

Case-note :- ***1. Facts :*** Kuldeep Singh Rajawat appealed his conviction under Section 302 IPC and sentence of life imprisonment with a fine of Rs 2,000 and a default stipulation imposed on 13 May 2011 by the First Additional Sessions Judge to the Court of Special Judge and First Additional Sessions Judge, Bhind, in Sessions Trial No. 164/2007. The prosecution alleged prior enmity, including an earlier firing case pending against Kuldeep and juvenile co-accused Mauni. On 1 May 2007 at about 11 a.m., Sanju alias Shyamsunder was near Lahar Chaurah; the account placed Kuldeep, Mauni and Toni arriving by motorcycle and taking Sanju towards an empty shop. The prosecution attributed a shot to Kuldeep and another to Mauni. Pramod Kumar Sharma (PW9), the deceased's brother, informed police; Dehati Nalishi was recorded at about 11:20 a.m. and Crime No. 127/2007 at Police Station Dehat, Bhind, at about 11:45 a.m.

Police prepared scene records, seized soil and a 315-bore bullet, and arranged the post-mortem. Dr Ravindra Choudhary (PW4) found firearm injuries involving the right arm and right chest/underarm, fractured ribs, severe damage to internal organs, and recovered bullet particles. A country-made firearm and shell were seized from juvenile co-accused Mauni on 14 May 2007; the reported forensic opinion concerned that gun's working condition and bullet/cloth traces. The prosecution examined eleven witnesses. Independent shopkeepers Guddu Batham (PW2) and Dwarika Prasad (PW3) did not support its case. PW5 Brajendra and PW9 Pramod were brothers of the deceased; PW8 Ramesh was related by marriage. The appellant denied firing, asserted that the earlier case was false, and claimed he was at a relative's marriage in Village Baknasa, but called no defence witness. He was acquitted of the charges under Sections 25/27 and 30 of the Arms Act for lack of evidence and was convicted of murder. On appeal, he attacked the related witnesses as interested or chance witnesses, alleged omissions and contradiction with Section 161 CrPC statements and medical findings, and disputed proof that he fired a 315-bore weapon. The State maintained guilt beyond reasonable doubt.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was the principal authority on clause Thirdly. The judgment reproduces its four-stage analysis: objectively establish the injury and its nature; prove intention to inflict the very injury found, rather than an accident or a different intended injury; and determine objectively whether that injury is sufficient in the ordinary course of nature to cause death. The prosecution bears the burden throughout. Neither a separate intention to cause death nor subjective knowledge that the injury was fatal is essential once the specified elements are proved. The Court used the framework with the eyewitness identification and doctor's evidence of fatal chest and internal damage to affirm Section 302.

Arun Nivalaji More v. State of Maharashtra, Criminal Appeals (Cri.) 1078–1079/2005, was quoted for the route from Section 299 culpable homicide through Section 300 clauses and

exceptions to Section 302 murder or Section 304 Parts I/II. Its passage distinguished intention and knowledge, including the special knowledge in Section 300 Secondly. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, addressed the intentional infliction of an injury sufficient in the ordinary course of nature to cause death under Section 300 Thirdly. Those authorities supplied the classification framework rather than a separate finding that a Section 300 exception applied.

The Court also quoted multiple Supreme Court decisions on why a single blow does not automatically determine the offence and on how intention may be inferred. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, explained that one blow may yield Sections 302, 304 or 326 depending on weapon, vital site, manner and circumstances. *Pulicherla Nagaraju alias Nagaraja v. State of A.P., (2006) 11 SCC 444*, listed non-exhaustive factors such as weapon, vital target, force, premeditation, enmity, sudden quarrel and number of blows, warning against both unwarranted reduction and unwarranted murder classification. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, inferred intention from a crowbar, chosen vital part and injury force. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, quoted *Arun Raj, Ashokkumar Magabhai Vankar* and *Leela Ram* to reject an automatic Section 304 outcome for a single blow and recounted Exception 4 criteria. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, similarly weighed circumstances and quoted *State of Karnataka v. Vedanayagam and Virsa Singh on* intended injury versus seriousness. These examples support contextual examination of intention; the prosecution here described two firing acts, so their single-blow facts were not findings about this episode. The nested authorities were quoted through the named decisions rather than separately factually analysed. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, supplied the four requirements for Section 300 Exception 4: no premeditation, a sudden mutual fight with the person killed, heat of passion, and no undue advantage or cruel/unusual conduct. The Court did not find a sudden fight or expressly apply that exception to convert the present conviction.

For witness credibility, *Jayabalan v. UT of Pondicherry, (2010) 1 SCC 199*, rejects both pedantic suspicion and uncritical acceptance of an interested witness, requiring a consistency assessment. *Seeman v. State, (2005) 11 SCC 142*, holds that relationship or sole-witness status alone is no reason to discard otherwise credible evidence; non-production of one named independent witness does not itself negate it. *Jodhan v. State of M.P., (2015) 11 SCC 52*, rejects a rule that hostile independent witnesses automatically discredit related witnesses. Its extended quotation then discusses enhanced reliability of an injured witness through *Abdul Sayeed v. State of M.P., (2010) 10 SCC 259*, with further nested citations; the present PW5, PW8 and PW9 were not said to be injured, so that limb was not applied as a factual finding. *Appabhai v. State of Gujarat, AIR 1988 SC 696*, was invoked to assess non-examination or non-support of independent witnesses and to distinguish ordinary observation or memory discrepancies from contradictions that strike at the prosecution's foundation. The High Court used these authorities to credit the core of three related witnesses' testimony despite hostile shopkeepers and minor differences.

3. Statutes considered : Sections 299 and 300 IPC distinguish culpable homicide, murder and the exceptions, and Section 302 prescribes punishment for murder. The Court focused on Section 300 Thirdly: intentional infliction of the specific bodily injury, sufficient in the ordinary course of nature to cause death. It discussed intention versus knowledge and Section 304 Part I/II through quoted authority, but affirmed murder rather than altering the conviction. Exception 4's sudden-fight elements were reproduced; no separate factual satisfaction of that exception appears in the reasoning. Section 34 appeared in the registered FIR's formulation and the prosecution's initial account; the appellant's conviction considered here was Section 302. Sections 25/27 and 30 of the Arms Act were charged, but he was acquitted on those counts and the appeal did not reverse that acquittal. Section 161 CrPC statements formed part of the appellant's alleged contradiction argument, not a separately decided admissibility question. The appeal challenged the trial court's final conviction and life sentence.

4. Issues : First, did credible ocular, medical and surrounding evidence prove beyond reasonable doubt that Kuldeep intentionally inflicted the fatal firearm injury on Sanju, attracting Section 300 Thirdly and Section 302 rather than a lesser homicide classification? This required distinguishing intent to inflict the particular injury from a separate intent to kill and evaluating the injury's objective ordinary-

course sufficiency. Second, could the related eyewitnesses' evidence be relied on despite asserted chance presence, differences from early statements, and the hostility of two independent shopkeepers? Third, did the medical and forensic record materially conflict with, or corroborate, the core eyewitness account of firearm death and the appellant's participation? The Court quoted sudden-fight and single-blow doctrines, but no developed defence case of a proved mutual sudden fight or an application of Exception 4 appears in the ultimate reasoning.

5. Ratio / Findings : On homicide, the Court read Sections 299 and 300 in the *Virsa Singh* framework. Although the authorities discussed various forms of intention, knowledge, a single blow and Exception 4, the Court applied the law to an intentionally fired shot at a vital area, with post-mortem proof of severe chest and organ damage sufficient to cause death in the ordinary course. PW9 attributed the first shot to Kuldeep; PW8 and PW5 materially supported the account. PW4's findings included right arm and chest injuries, broken ribs and extensive internal damage. Prior enmity was part of the prosecution setting and could support motive, but the conviction rested on credited direct evidence and medical support. The Court rejected the appellant's challenge and agreed with the trial judge that Section 302 was proved beyond reasonable doubt.

On witness credibility, the Court individually identified PW5 and PW9 as the deceased's brothers and PW8 as a relative by marriage. It accepted their presence and core identification of Kuldeep firing near the shop. It regarded omissions and differences in description or the Dehati Nalishi as minor, not fatal to their materially consistent account. *Jayabalan* and *Seeman* required caution but forbade rejection solely for relationship; *Jodhan* established that hostile independent witnesses did not automatically discredit the related witnesses; *Appabhai* allowed peripheral variation without discarding the credible substance of the evidence. PW2 and PW3's lack of support was considered, but the Court did not rely on a rule that every hostile witness had been intimidated as a proved fact. The Court also observed generally that witnesses may withhold testimony through fear of accused persons. PW7 was described as hearsay and unsupportive; he was not transformed into an eyewitness. The alibi was stated by the appellant without supporting defence testimony and did not create a reasonable doubt in the Court's view.

On physical proof, the Court found PW4's post-mortem consistent with firearm injuries and death by the resulting internal damage and bleeding. It considered variations in distances, knowledge of who fired the second shot, and between spot-map Exhibits P6 and P11, but accepted the investigating officer's description of the body position and did not find the variations destructive of the main case. A forensic report on a seized 315-bore gun and bullet/garment material appeared in the investigation narrative; the judgment did not clearly make a unique ballistic identification of a firearm recovered from Kuldeep. The Court did not set aside the separate acquittal under the Arms Act. The death and sufficiency of injury were supported by the medical evidence, and the identification of the appellant as the person who fired was supported by the eyewitnesses whom the Court believed, read with the consistent medical evidence.

6. Relief : The Hon’ble High Court dismissed the criminal appeal and affirmed the 13 May 2011 conviction under Section 302 IPC and life imprisonment, the Rs 2,000 fine and the trial court's default stipulation. It ordered that Kuldeep, in Central Jail, Gwalior, be informed of the appeal result through the concerned Jail Superintendent and that the trial court record be returned with a certified copy for information and compliance. The judgment did not disturb the earlier acquittal on Arms Act counts or alter the murder conviction to Section 304. *Kuldeep Singh Rajawat v. State of Madhya Pradesh, Cr.A. no. 502/2011, 13/12/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.*

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Headnote :- Code of Criminal Procedure, 1973 — Section 311 — recall for cross-examination — essentiality, bona fides and delay - *Rajaram Prasad Yadav v. State of Bihar, (2013) 14 SCC 461*, treats the wide recall power as directed to evidence essential for a just decision, exercised judicially and cautiously. Its discussion includes the fair-opportunity principle in *P. Sanjeeva Rao v. State of A.P., (2012) 7 SCC 56*; delay alone is not an absolute bar. *Ratanlal v. Prahlad Jat, (2017) 9 SCC 340*, makes explanation of delay a material factor. *State (NCT of Delhi) v. Shiv Kumar Yadav, (2016) 2 SCC*

402, requires tangible reasons, rather than a bare assertion of the need for a fair trial, and regard to witness hardship; *State of Haryana v. Ram Mehar, (2016) 8 SCC 762*, balances accused, victim and society and rejects indiscriminate magnanimity. In the pending Prevention of Corruption Act trial, defence counsel left PW5 Ramgopal's cross-examination midway after an unparticularised allegation of inaccurate recording. The accused's later motion did not identify any question, actual answer and divergent dictated answer, nor adequately explain the interval from closure on 26 May 2017 to the application on 9 January 2018. The Court found no bona fide basis showing that recall was essential and affirmed refusal under Section 311.

Fair trial — right to counsel — existing advocate's withdrawal during cross-examination - *Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1*, requires appointment of a lawyer for an unrepresented accused at the commencement of trial unless the accused clearly makes an informed choice to defend himself. The applicant here had counsel; when counsel left, the trial judge offered the accused a chance to cross-examine, but he insisted upon the same lawyer. The judge was not bound to impose another amicus against that choice. The later offer to counsel to put questions in question-and-answer form was also recorded as refused. This ruling is confined to the opportunities and refusals found on the record, not a general exemption from providing representation.

Code of Criminal Procedure, 1973 — Section 309 — witness present — day-to-day examination and special reasons for adjournment - *Vinod Kumar v. State of Punjab, (2015) 3 SCC 220*, *Akil v. State (NCT of Delhi), (2013) 7 SCC 125*, *State of U.P. v. Shambhu Nath Singh, (2001) 4 SCC 667*, *Mohd. Khalid v. State of W.B., (2002) 7 SCC 334*, *Swaran Singh v. State of Punjab, (2000) 5 SCC 668*, *Gurnaib Singh v. State of Punjab, (2013) 7 SCC 108*, and *Krishnan v. Krishnaveni, (1997) 4 SCC 241*, were considered for continuous examination, recorded exceptional reasons, and the prejudice to witnesses and justice from routine delay. Where PW5 was present and counsel voluntarily ceased questioning without a substantiated obstacle, the Court held that the trial court need not adjourn indefinitely and could close that opportunity in the circumstances, subject to the statutory safeguards.

Advocate's court duty — challenge to deposition record — contemporaneous particulars - *R.K. Anand v. Delhi High Court, (2009) 8 SCC 106*, *Amit Chanchal Jha v. High Court of Delhi, (2015) 13 SCC 288*, *P.D. Gupta v. Ram Murti, (1997) 7 SCC 147*, *D.P. Chadhu v. Triyugi Narain Mishra, (2001) 2 SCC 221*, and *O.P. Sharma v. High Court of Punjab and Haryana, (2011) 6 SCC 86*, explained the ethical principles governing counsel's duty to court, witness and client. An assertion that the judge inaccurately dictated an answer required identification of a specific discrepancy between the question, answer and recorded text and timely resort to the trial court. The applicant supplied neither; the late affidavit denying counsel's return did not overcome the order sheet, whose sequence was consistent with the deposition ending first. The Court confined this assessment to the recall application and did not decide the separate contempt proceeding.

Case-note :- ***1. Facts :*** Kuldeep Singh Tomar was on trial in Special Sessions Trial No. 11/2015 before the First Additional Sessions Judge/Special Judge (Prevention of Corruption Act), Morena, on an alleged offence under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. The reported judgment does not narrate the trap allegation's merits. Ramgopal (PW5) appeared for examination on 26 May 2017. His cross-examination began with questions about other traps. Defence counsel Harswaroop Maheshwari objected that the judge was dictating or recording an answer differently from the witness's words and left the courtroom before cross-examination was completed. The reproduced deposition sheet records the judge's and witness's positions about the recording, an opportunity offered to the accused, his insistence that only his advocate would question the witness, and closure of the remaining cross-examination. The trial court's order sheet also recorded counsel's later return and refusal of an offer to continue in question-and-answer form. The Court noted a separate motion for contempt concerning counsel's conduct and expressly did not decide it.

The accused did not promptly apply to correct a particular deposition entry or challenge the alleged misrecording. On 9 January 2018 he moved under Section 311 CrPC to recall PW5, saying absence of counsel had prevented complete cross-examination and that further questioning was necessary for the defence. The Special Judge rejected the motion on 19 January 2018, describing counsel's voluntary departure and treating reconsideration of 26 May 2017 as impermissible review. The accused invoked

Section 482 CrPC before the High Court. He alleged that counsel could not continue because the witness's answers were being recorded inaccurately, argued that the judge should have supplied an amicus if his advocate behaved improperly, and submitted that belated filing alone cannot defeat Section 311. He also challenged the order-sheet statement that counsel returned and declined the question-and-answer offer; during the High Court proceeding, affidavits from counsel and an associate, filed on 4 March 2018, denied aspects of that record. The State maintained that adequate opportunity had been given, no specific inaccurate question and answer had been identified, and the accused could not use the consequences of counsel's conduct to demand recall.

2. Precedents — Considered : *Ratanlal v. Prahlad Jat, (2017) 9 SCC 340*, was expressly quoted for the relevance of explaining delay in a Section 311 application. The High Court used it to assess the unexplained passage between 26 May 2017 and 9 January 2018, while not announcing a limitation period. The accused cited *P. Sanjeeva Rao v. State of A.P., (2012) 7 SCC 56*, for the proposition that late recall may still be required for a fair defence. The High Court later reproduced its reasoning within *Rajaram Prasad Yadav*: even a four-year delay and possible prosecution prejudice did not prevent the grant of a necessary opportunity in that case. It treated fair opportunity as important but found this applicant's self-created and unexplained situation different. Counsel also cited *Md. Sukur Ali v. State of Assam, (2011) 4 SCC 729*, on defence representation; the judgment does not quote or independently analyse that decision, instead deciding the amicus point through the recorded choice and *Kasab*. The State cited *Umar Mohammad v. State of Rajasthan* and *Nisar Khan v. State of Uttaranchal*, but the Court did not separately analyse either decision.

R.K. Anand v. Delhi High Court, (2009) 8 SCC 106, was extensively quoted for the role of advocates and professional standards as integral to justice. *Amit Chanchal Jha v. High Court of Delhi, (2015) 13 SCC 288*, repeated those concerns and the dignity of the profession; its quotation included further authorities on professional norms. *P.D. Gupta v. Ram Murti, (1997) 7 SCC 147*, required fairness by counsel to client, court and opposite party. *D.P. Chadhu v. Triyugi Narain Mishra, (2001) 2 SCC 221*, balanced fearless advocacy with propriety and court assistance. *O.P. Sharma v. High Court of Punjab and Haryana, (2011) 6 SCC 86*, recognised advocacy's expression rights alongside decorum and the prohibition on unfounded allegations. The High Court relied on this body of principle only to examine whether leaving an active cross-examination on an unparticularised accusation was a justifiable cause; it withheld any determination of the separate contempt reference. Nested professional-conduct citations, including *Pritam Pal*, *Sanjiv Datta*, *Bar Council of Maharashtra v. M.V. Dabholkar*, *R.D. Saxena* and *D.C. Saxena*, occur in the quoted Supreme Court extracts without an individual factual application by this Court.

Mohd. Ajmal Amir Kasab v. State of Maharashtra, (2012) 9 SCC 1, was quoted on the court's absolute duty at trial commencement to provide counsel to an unrepresented accused unless a clear informed decision to defend personally is made. The High Court distinguished the present circumstances: the accused already had a lawyer and, after his departure, specifically insisted that cross-examination be done by that lawyer rather than accepting the offered alternative. The initial representation duty did not require the appointment of a different amicus against that choice here. *Kasab*'s quotation mentions *Suk Das* as its source; that case was not separately applied.

Vinod Kumar v. State of Punjab, (2015) 3 SCC 220, was invoked against routine adjournments in criminal trials, especially deferral of cross-examination once the witness is present. *Akil v. State (NCT of Delhi), (2013) 7 SCC 125*, reproduced procedural reminders about day-to-day witness examination. *Krishnan v. Krishnaveni, (1997) 4 SCC 241*, *Swaran Singh v. State of Punjab, (2000) 5 SCC 668*, and *Gurnaib Singh v. State of Punjab, (2013) 7 SCC 108*, explained public justice and the risk of delay, fading memory or witness pressure. *State of U.P. v. Shambhu Nath Singh, (2001) 4 SCC 667*, explained Section 309's requirement of continued examination and its exception permitting adjournment for special reasons recorded in writing when a witness is in attendance. *Mohd. Khalid v. State of W.B., (2002) 7 SCC 334*, criticised deferral of cross-examination without compelling reason and quoted *Shambhu Nath* and *N.G. Dastane* on counsel's obligation not to inconvenience witnesses. *Vinod Kumar*'s own extensive quotation also refers to *Gurnaib*, *Swaran* and *Shambhu Nath*; the Court applied these overlapping statements as part of the principle requiring day-to-day examination. They

were not independent findings of witness tampering here.

Rajaram Prasad Yadav v. State of Bihar, (2013) 14 SCC 461, was reproduced at length on Section 311, read with Section 138 of the Evidence Act. It explained the broad scope of recall and the controlling requirement that the evidence be essential to a just decision. Recall may correct genuine omissions and secure truth at any stage, but the power is exercised judicially with caution, without using additional evidence to fill a lacuna unfairly, to disguise a retrial or to cause serious prejudice, and with an opportunity of rebuttal. The quoted survey included *Jamatraj Kewalji Govani*, *Mohanlal Shamji Soni*, *Raj Deo Sharma (2)*, *UT of Dadra and Nagar Haveli v. Fatehsinh Mohansinh Chauhan*, *Iddar v. Aabida*, *P. Sanjeeva Rao*, *Sk. Jumman* and *Natasha Singh*; the material principle they shared and the qualification protecting a fair defence informed this framework, while the High Court did not resolve their separate factual settings. *State (NCT of Delhi) v. Shiv Kumar Yadav, (2016) 2 SCC 402*, required specific tangible reasons why fair trial would fail without recall and consideration of witness harassment and delay; blanket assertion was insufficient. *State of Haryana v. Ram Mehar, (2016) 8 SCC 762*, cautioned that a liberal or magnanimous approach is no automatic rule and that fair trial balances accused, prosecution, victim and society. The High Court applied these limits on recall because the applicant could identify no actual recording discrepancy or circumstance beyond counsel's control necessitating PW5's return.

3. Statutes considered : Section 311 CrPC empowers the court at any stage to summon, examine, recall or re-examine a witness; where the evidence appears essential to the just decision, the court has a duty to act, subject to judicial assessment of necessity and fairness. Section 138 of the Indian Evidence Act governs the order of examination and re-examination, discussed in *Rajaram Prasad Yadav.* Section 309(1) CrPC requires day-to-day continuation after witness examination begins unless adjournment beyond the following day is necessary for recorded reasons. Section 309(2) and its provisos impose special written reasons where witnesses are present and address a party or pleader unwilling to examine or cross-examine a witness present in court. The Court used this framework to evaluate the demand to defer PW5's cross-examination. Section 482 CrPC supplied the High Court's inherent-power procedural route against the 19 January 2018 order. The Prevention of Corruption Act Sections 13(1)(d) and 13(2) identify the pending trial; their offence elements and the trap merits were not adjudicated. Constitutional legal-representation and fair-trial principles arose through *Kasab* and the recall authorities, but the Court did not decide a separate constitutional challenge to the corruption charge.

4. Issues : The central question was whether PW5's recall under Section 311 was essential for a just trial when defence counsel had voluntarily abandoned cross-examination after alleging that the trial judge misrecorded answers, without specifying any particular question, actual answer and recorded divergence, and when the application came more than seven months after closure. A distinct question was whether the judge should have appointed another lawyer or adjourned after counsel left despite the accused's expressed insistence on the same advocate and PW5's presence. The Court also had to resolve whether the belated affidavits and absence of a return notation in the deposition sheet displaced the 26 May 2017 order sheet recording counsel's later return and refusal. It expressly excluded the separate contempt matter from decision. The trial's corruption allegations and PW5's ultimate truthfulness were not being decided.

5. Ratio / Findings : The Court inspected the deposition sheet and noted that the cross-examination had barely begun, initially addressing other traps rather than much of the trap in issue. Even assuming that counsel was genuinely dissatisfied with the dictation, the accused did not present an immediate objection or application specifying what was asked, answered and incorrectly recorded. Neither the subsequent Section 311 motion, which attributed incomplete questioning merely to counsel's absence, nor the Section 482 application supplied those particulars. No factual basis was therefore established to justify counsel's departure on the ground of misrecording. The passage from closure on 26 May 2017 to the 9 January 2018 motion mattered as part of the factual assessment; the Court did not hold that every delayed Section 311 motion fails. The wide power explained in *Rajaram Prasad Yadav*, the latitude for a fair defence in *P. Sanjeeva Rao*, the requirement of tangible reasons in *Shiv Kumar Yadav* and the balanced approach to fairness in *Ram Mehar* required a bona fide explanation of why PW5's further questioning was essential. The Court found none; the applicant could

not create the difficulty through his side's conduct and then invoke an unqualified interest of justice. The trial judge's stated concern about impermissible review was not converted into a categorical bar on recall; the High Court upheld refusal on its fuller Section 311 and factual reasoning.

On representation, the Court distinguished *Kasab*'s obligation to supply counsel at the outset of trial from a mid-hearing dispute where counsel of choice was already representing the accused. The deposition and order-sheet record showed an offered opportunity to the accused, who said the same lawyer would cross-examine; after counsel returned, the order sheet recorded an offer to proceed in question-and-answer form and refusal. In that setting the court was not required to appoint a different amicus contrary to the expressed choice. This depended on the recorded opportunity and response, not on an assumption that an unrepresented accused can routinely be deprived of legal aid. Section 309 made continuation with a witness in attendance the rule and required special written reasons for postponement. The unsubstantiated objection and refusal furnished no such reason; the cited Supreme Court cases explained harm to witnesses and justice from deferring cross-examination at counsel's convenience.

On the challenged record, the fact that counsel's return was not in the deposition sheet did not establish that the order sheet was false: the deposition was closed before the later order-sheet writing. The original Section 311 application and Section 482 petition did not contain the denial raised later; the affidavit supplied during the High Court case was treated as an afterthought. The Court rejected the factual attack on the order sheet, but confined the professional-conduct discussion to the need for recall. Its review of the advocates' duties under *R.K. Anand* and related cases did not itself decide contempt or discipline. PW5's evidence remained for the trial court to assess on its merits; the High Court did not endorse the prosecution's corruption allegation.

6. Relief : The Hon’ble High Court dismissed the Section 482 application and affirmed the Special Judge's 19 January 2018 refusal to recall PW5 under Section 311 CrPC in Special Sessions Trial No. 11/2015. The closure of the remaining cross-examination was left undisturbed. A copy of the order was directed to be sent immediately to the trial court. No finding on the pending corruption charge or on the separately initiated contempt proceedings was made.

Kuldeep Singh Tomar v. State of M.P., M.Cr.C. no. 5816/2018, 08/03/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Indian Penal Code, 1860 — Sections 52, 191 and 192 — false affidavit in court — good faith and contempt - Good faith under Section 52 requires due care and attention. Pradeep Kumar Tiwari admitted signing a blank sheet and the notarial register without reading or adopting the contents of the affidavit later filed to assert that Dilip Pandey executed a disputed vakalatnama, although he knew it would be used in the High Court. The unchallenged handwriting opinion found the questioned client signature was not Dilip's. *Baban Singh v. Jagdish Singh, AIR 1967 SC 68*, distinguishes sworn false evidence or a document fabricated for a judicial proceeding under IPC Sections 191–192 from a mere declaration under Section 199. *Muthu Karuppan v. Parithi Ilamvazhuthi, (2011) 5 SCC 496*, requires a prima facie case of deliberate falsehood on a matter of substance before prosecution in the interests of justice. *Dhananjay Sharma v. State of Haryana, (1995) 3 SCC 757*, and *Chandra Shashi v. Anil Kumar Verma, (1995) 1 SCC 421*, explain that a knowingly false affidavit or fabricated filing can obstruct justice and amount to criminal contempt; the element of deceit matters. Those principles were reproduced through the High Court's *Kamla Sharma* decision and applied to Pradeep's admitted conduct. The Court rejected his reliance on trust in his employer as a good-faith explanation under Section 52, held him guilty of contempt, and accepted apology with a warning and Rs 15,000 costs subject to default consequences.

Court representation — vakalatnama authenticity — unauthorised appearance - A litigant's authority to an advocate depends on a genuine vakalatnama. Dilip Pandey denied the signature on the 11 January 2023 filing. The State examiner's opinion that it was not his signature remained unchallenged by advocate S.K. Pathak. The Court held his appearance for Dilip unauthorised, barred further appearance for that respondent and rejected a withdrawal request that still asserted the signature's authenticity. It accepted

Pathak's apology conditionally with warning and Rs 15,000 costs. The order did not find that he personally made the forged signature.

M.P. High Court Rules — Chapter 9 Rule 13 — affidavit oath and notary's verification - The oath officer must ascertain that the affiant has read and understood the document; where it is read, translated or explained, the required certification is made, and affidavits meeting the specified conditions must be impounded under the rule. Pradeep's account of signing blank material and the absence of an endorsement that he understood the later affidavit led the Court to find apparent notarial dereliction. *United India Insurance Co. Ltd. v. Arti Bano*, 2022 (2) Gau LR 223 (Gauhati High Court), was considered for the solemn nature of attestation and notarial-register safeguards. The affidavit was sealed and the SP, Satna, directed to secure expert comparison of notary Ramdas Sharma's signature with specimen signatures; further action was reserved pending that report. The separate reported death of Dharmesh Chaturvedi was also sent for verification, not accepted as finally established.

Case-note :- ***1. Facts :*** In Miscellaneous Petition No. 4375/2022, respondent No. 3 Dilip Pandey filed IA No. 16531/2023 after discovering that several advocates were shown as acting for him under a vakalatnama filed on 11 January 2023. He denied signing it and alleged forgery; he said he had also complained to police without action. The Court treated the allegation seriously on 12 February 2024, sealed the original filing in the Registry and directed the Superintendent of Police, Satna, to verify the signature, with expert photography and comparison against admitted/specimen signatures. An application to withdraw the authority for respondents 2, 3 and 7 followed on 15 February, and other affidavits were filed claiming to have witnessed Dilip's signature. The State handwriting expert reported on 11 March that the questioned signature had not been made by the person whose admitted signatures were compared. On 21 March the Court issued show-cause notices to Pradeep Kumar Tiwari and Dharmesh Chaturvedi concerning affidavits supporting the disputed authority.

A senior advocate later stated that Dharmesh had died in a road accident on 15 April 2024; the Court had no verification report and directed SP, Satna, to confirm the death with FIR and post-mortem material by 7 November. It recorded an earlier postal endorsement from 8 April but did not infer whether the later death claim was true. Pradeep responded that he was Dharmesh's employee, had signed a blank sheet and notary register on instructions, had not read or understood the final affidavit, and had trusted his employer. He apologised. Advocate S.K. Pathak acknowledged that Dilip had complained and did not challenge the expert's signature opinion, though his withdrawal request continued to assert that Dharmesh told him the signature was genuine. The Court considered Pradeep's false affidavit, Pathak's authority and conduct, and the notarial act of Ramdas Sharma. This order disposed of the interlocutory application with several consequential directions; it did not decide the underlying petition's substantive merits.

2. Precedents — Considered : The Court reproduced substantial portions of its earlier *Kamla Sharma and Ors v. Sukhdevlal and Ors*, M.Cr.C. 8770/2016, decided 18 April 2022, to explain the character of an affidavit as evidence given on oath and the response to deliberate falsehood. Within that earlier decision, *Baban Singh v. Jagdish Singh, AIR 1967 SC 68*, explains why knowingly false sworn affidavits tendered in a judicial proceeding may constitute giving or fabricating false evidence under IPC Sections 191 or 192, depending on the act and purpose, rather than merely a Section 199 declaration. The present Court used that distinction in treating the admitted affidavit as a serious court filing; it did not initiate or conclude an IPC prosecution in this order. The *Kamla Sharma* quotation also includes the definitional provisions of the General Clauses Act and Oaths Act.

Dalip Singh v. State of U.P., (2010) 2 SCC 114, was quoted within *Kamla Sharma* on the denial of judicial relief to litigants who pollute proceedings with falsehood. *Muthu Karuppan, Commissioner of Police, Chennai v. Parithi Ilamvazhuthi, (2011) 5 SCC 496*, requires a prima facie case of deliberate falsehood on a matter of substance and a reasonable foundation before prosecution is ordered as expedient in the interests of justice. The Court relied on these principles when assessing the admitted blank-sheet affidavit and handwriting report. *Dhananjay Sharma v. State of Haryana, (1995) 3 SCC 757*, sets out the obstruction/interference limb of Section 2(c) of the Contempt of Courts Act for false affidavits intended to pervert judicial process. *Chandra Shashi v. Anil Kumar Verma, (1995) 1 SCC 421*, explains that fabricated material filed with deceit or knowledge can interfere with the

administration of justice. *Rita Markandey v. Surjit Singh Arora, (1996) 6 SCC 14*, was mentioned in *Kamla Sharma* as relying on *Dhananjay Sharma*, with no independent factual exposition. The present Court adopted the solemnity and deliberate falsehood analysis while granting a conditional apology and costs, without separately convicting or sentencing anyone under the IPC. *Iqbal Singh Marwah and State of H.P. v. Suresh Kumar Verma* appear in counsel submissions quoted from *Kamla Sharma* and were not independently decided here; the controversy under Section 195 CrPC about a document in the custody of the court belonged to that earlier case, not this application.

For notarial safeguards, the Court directly quoted *United India Insurance Co. Ltd. v. Arti Bano*, 2022 (2) Gau LR 223 (Gauhati High Court). That decision treats an affidavit as a voluntary sworn declaration, not a typed formality; the oath officer must observe the statutory/rule steps and keep a proper register, because courts act on such evidence. The present Court applied the safeguards it described alongside Chapter 9 Rule 13 of the M.P. High Court Rules to Pradeep's explanation and the absence of an understanding endorsement. It did not conclusively decide the authenticity of the notary's own signature.

3. Statutes considered : Section 52 IPC defines good faith negatively: an act or belief without due care and attention is not in good faith. The Court applied it to reject Pradeep's assertion that reliance on his employer excused signing an affidavit meant for court without reading it. The reproduced *Kamla Sharma* discussion identifies IPC Sections 24–25 on dishonest/fraudulent intent, Sections 191–193 on false evidence, fabrication and punishment, and the distinct treatment of a declaration under Section 199. Section 2(c) of the Contempt of Courts Act, 1971, covers conduct interfering or tending to interfere with judicial proceedings or administration of justice, with knowledge/deceit important in the cited cases. Section 3(3) General Clauses Act and Sections 3–4 Oaths Act are reproduced in the earlier judgment to explain oath and affidavit. Chapter 9 Rule 13 of the M.P. High Court Rules is directly applied to the oath officer's inquiry into reading and understanding, explanation and certification where required, and impounding specified suspect affidavits. The Gauhati decision discusses Oaths Act Section 3, CPC Section 139, Notaries Act Section 8(e) and Notaries Rules Rule 11(2); those are contextual to proper attestation, not independent charges here. No substantive issue under the underlying miscellaneous petition was determined.

4. Issues : First, did Pradeep's admitted signing of blank material and the later affidavit filed to prove the disputed vakalatnama amount to an innocent good-faith mistake, or to a false sworn filing interfering with the Court's work, and what response was appropriate to his apology? Second, did the handwriting finding and Pathak's stance leave valid authority for Pathak to appear for Dilip, or justify the qualified withdrawal and continued representation? Third, had the notary complied with Rule 13's inquiry into the affiant's understanding, and what investigation of the notary's signature was needed before final further action? The Court also directed verification of Dharmesh's reported death, which remained an unproved factual matter, not a finding of criminal liability.

5. Ratio / Findings : Pradeep admitted that he signed a blank sheet and notarial register, did not know the resulting affidavit's contents, and knew it was being placed before the High Court. The affidavit's assertion that Dilip signed the vakalatnama in the affiants' presence was contradicted by the handwriting report. The Court applied Section 52's due-care requirement and rejected employer trust, low education and absence of reading as good faith. A sworn affidavit intended to influence the Court cannot be treated as a worthless piece of paper. Applying the principles protecting the administration of justice reproduced from *Kamla Sharma* and the Supreme Court authorities quoted in it, the Court held Pradeep guilty of contempt for the false affidavit. The result was a warning and conditional acceptance of apology with Rs 15,000 costs, not a separately pronounced conviction for IPC false evidence. It also observed that Pathak filed and relied on that affidavit, but accepted his apology and imposed the same costs rather than finally convicting him of forging the authority.

On representation, the expert's opinion of 11 March compared the disputed signature Q1 with Dilip's admitted and specimen writings and concluded that he had not written it. Pathak did not challenge that opinion. Dilip's complaint and Pathak's admitted police telephone inquiry confirmed that the dispute had been brought to his attention; a fresh genuine vakalatnama might have removed doubt. The proposed withdrawal was qualified by continued insistence on the document's genuineness and was rejected. The Court held that Pathak had been

appearing without Dilip's authority and restrained further appearance for Dilip immediately. It did not identify the person who wrote the forged signature. Pathak expressed regret for not withdrawing on notice; the Court expressed the expectation that he would verify vakalatnamas before future representation from his office and made acceptance of the apology conditional on costs.

On oath administration, Rule 13 required an inquiry into whether the affiant had read and understood the affidavit, explanation where needed, and a proper certificate if explained. Pradeep's own account and the missing endorsement made the attestation appear casual and deficient. The Court criticised notary Ramdas Sharma's conduct but took an investigative step rather than final disciplinary or forgery adjudication: it sealed the affidavit, directed SP, Satna, to obtain it and compare the questioned notarial signature with Ramdas's specimen, and awaited the State examiner's report. The quoted Gauhati authority explained the reason for the formal safeguards: affidavits are used as evidence to decide rights, so a mechanical signature or entry without voluntary understanding undermines the oath.

6. Relief : The Hon'ble High Court disposed of the interlocutory application. Pathak was restrained with immediate effect from appearing for respondent Dilip Pandey on the forged vakalatnama; his qualified withdrawal application was rejected. Pathak and Pradeep each received a warning and had to deposit Rs 15,000 costs in the High Court Registry within one month. Their apologies were accepted for the time being subject to that payment; on default the Registrar General was directed to begin cost recovery and register a contempt case. The SP, Satna, was directed to verify Dharmesh Chaturvedi's reported accidental death with FIR and post-mortem report by 7 November 2024, and to obtain expert comparison of notary Ramdas Sharma's signature on Pradeep's sealed affidavit with his specimen by 10 November 2024. Further action concerning the notary was reserved after the report, and the case was listed for 13 November 2024. The underlying petition was not finally decided in this order.

Kunj Bihari v. Jhinguri and Ors., M.P. no. 4375/2022, 15/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Constitution of India — Article 226 — registered FIR — prayer to compel investigation, arrest and charge sheet - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, holds that police have a statutory duty to investigate but the High Court ordinarily cannot direct the manner of investigation or require arrest, seizure and charge-sheet filing regardless of the evidence; Section 482 inherent power is exercised sparingly. Its quotation invokes *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, for cautious discretionary arrest rather than mechanical arrest upon FIR, and *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for a hearing before orders seriously affecting persons not before the court. Although the precedent's order arose under Section 482, the Court applied its limit on judicial direction of investigative steps to this Article 226 prayer concerning Crime No. 124/2020 and refused to direct arrest and filing of a charge sheet. It did not decide the accusation's merits.

Code of Criminal Procedure, 1973 — Section 173(1) — investigation without unnecessary delay - Judicial refusal to dictate arrest or a charge sheet does not excuse an indefinitely pending FIR investigation. The investigating officer must conclude it as early as possible and, after determining whether an offence is disclosed, take lawful steps to file the appropriate final report, whether closure or charge sheet. The Court disposed of the writ with that prompt-completion direction and liberty to approach the Superintendent of Police, Jabalpur, with a grievance for consideration according to law. It fixed no deadline or prosecution outcome. The petition also requested security for the complainant and family until arrest, but the order gives no separate reasoning or express security direction.

Case-note :- ***1. Facts :*** Kusum Raja had lodged Crime No. 124/2020 at Police Station Ishanagar, District Chhatarpur. The reported order does not describe the underlying event, alleged offences, identified suspects or investigative steps. In Writ Petition No. 17997/2020 under Article 226 of the Constitution, she asserted that police had taken no effective action or investigation and that suspects had not been arrested. She asked the High Court to direct prompt investigation, arrest of persons concerned and their prosecution, and also requested

security for herself and her family until arrest. The petition was heard by video conferencing. The order records her counsel's contention but no separate detailed State response or evidence of a specific threat.

2. Precedents — Considered : The High Court expressly quoted and applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*. In that decision the Supreme Court set aside a High Court order which had directed, in substance, particular investigative steps including witness statements, arrest, seizure and filing of a charge sheet. Investigation is the police's statutory domain; a court ordinarily cannot prescribe the precise manner of investigation, and an investigation may result in a charge sheet or in a conclusion that no case is made out. The quoted decision described the purposes for which inherent power under Section 482 CrPC must be exercised with caution and criticised casual, reasonless directions with serious effects on persons not heard. The present Court applied the core proposition to the Article 226 relief: a direction to arrest suspects and file a charge sheet would supervise and predetermine the police investigation.

The quotation in *D. Venkatasubramaniam* includes *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, which treats Section 41 CrPC arrest as a discretionary, cautious step affecting liberty and reputation, not a mechanical consequence of a cognizable FIR. That principle explains why Kusum Raja's arrest request could not be granted merely because a case was registered. The quoted Supreme Court judgment also invokes *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for a reasonable opportunity of hearing to a person likely to be seriously affected by a judicial direction to investigate, arrest or seize. The High Court reproduced this caution but did not separately decide a notice dispute in the present petition. The extensive quotation did not amount to independent findings of fact concerning the Ishanagar FIR.

3. Statutes considered : Article 226 supplied the writ jurisdiction invoked for directions to police and security. The Court's operative reasoning used the separation between a permissible duty to complete investigation and impermissible judicial prescription of arrests or a charge sheet. Section 173(1) CrPC was reproduced: every investigation under the relevant Chapter shall be completed without unnecessary delay. The Court applied it to require a conclusion and the lawful final report; closure and prosecution remained open alternatives. Section 41 CrPC appears in the quoted *M.C. Abraham* passage on police arrest discretion, not as a specific arrest decision by the High Court. Section 482 CrPC appears in the quoted *D. Venkatasubramaniam* ruling because that earlier case concerned inherent power; the current proceeding was an Article 226 writ.

4. Issues : The petitioner raised police inaction after an FIR and sought intervention specifying investigation, arrest and prosecution. The decided issue was whether the High Court should compel police to arrest persons and file a charge sheet in a pending investigation, or whether that would impermissibly assume the agency's judgment about the evidence and lawful outcome. The second issue was the independent statutory obligation under Section 173(1) to complete the investigation without unnecessary delay despite refusal of the predetermined outcome. A security request was pleaded, but the Court did not give an express separate finding on threat, entitlement, conditions or protective measures; it laid down no separate rule on security.

5. Ratio / Findings : The Court adopted *D. Venkatasubramaniam*'s distinction between police duty and police discretion over investigative steps. Its quoted context explained why neither arrest nor a charge sheet is inevitable and why higher-court orders can have grave consequences, particularly without hearing affected persons. The present Court concluded that directing arrest and filing of a charge sheet would amount to supervision of investigation and declined those requests. It did not conclude that the complainant's allegations were false, that the police had in fact performed adequate investigation, or that an investigating officer could disregard the FIR. The quoted Section 482 constraints are described as part of the Supreme Court precedent; the jurisdiction presently invoked was Article 226.

The Court then reproduced Section 173(1)'s mandatory timing rule and reasoned that the investigating officer must not keep the case pending without conclusion. The officer must assess whether an offence is made out and file the lawful final report, which may be a closure report or charge sheet. The direction to conclude the investigation as early as possible and take necessary statutory steps enforces the duty to complete the investigation promptly without determining its outcome. Nothing in the reasons resolves the separate request for family

security; it was neither expressly granted nor given a distinct refusal rationale.

6. Relief : The Hon'ble High Court finally disposed of the writ petition. The Court refused to direct arrest of suspects or a compulsory charge sheet. It directed the investigating officer to conclude the Crime No. 124/2020 investigation as early as possible, make the lawful assessment and take required steps for the appropriate final report without unnecessary delay. It fixed no precise date for completion and did not order prosecution. No express security arrangement for the petitioner or family was ordered.

Kusum Raja v. Station House Officer, Ishanagar, W.P. no. 17997/2020, 05/02/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence Act, 1872 — Section 11 — alibi — onus and preliminary quashing - *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, quoting *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, treats an alibi as evidence relevant because it is inconsistent with presence, rather than as a statutory exception: the prosecution must prove presence and participation; after that burden is met, the accused must support a claim of absence with positive, stringent proof, although evidence creating a reasonable doubt may benefit him. *S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, reiterates that failure of alibi does not itself prove the prosecution case. In a Section 482 CrPC/Section 528 BNSS challenge to an FIR alleging a lathi assault, the applicant's asserted presence at a friend's house based on CCTV and phone-location material did not establish an indisputable alibi at the preliminary stage. The Court rejected quashing, not the accused's right to contest presence at trial.

Electronic evidence — CCTV clock — reliability of claimed alibi timestamp - Counsel conceded that the date and time on a third-party residence's CCTV system were manually entered and could be changed. The Court declined to treat the apparent recording time as decisive proof of absence from the field during the alleged assault. It made no finding of actual manipulation and made no final ruling on the recording's admissibility.

Telecom location — device and person — limited inference - A mobile tower may indicate the phone's location, but its owner need not be at the same place; the Court illustrated that a handset could be given to another person. On that limited reasoning the asserted distant tower location did not conclusively negate the applicant's alleged participation or warrant FIR quashing. The illustration was not a finding that this applicant fabricated a location, and prosecution proof remains necessary.

Investigation — accused's role — choice of method or agency - *Romila Thapar v. Union of India, (2018) 10 SCC 753*, states that an accused ordinarily cannot choose the investigating agency or dictate method, while acknowledging exceptional Article 226 directions upon demonstrated mala fide exercise and the Constitution Bench caution on routine transfer. *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, discusses the absence of an automatic pre-report participation or hearing right and the lawfulness of further investigation; those quoted contexts were not separate orders in this case. Applying that limit on an accused's control over investigation, with *Prabal Dogra v. Superintendent of Police, Gwalior,* M.Cr.C. 10446/2017, the Court found the applicant's complaint to the SP did not entitle him to dictate how the pending investigation should proceed. The quashing application was dismissed without a final finding on the BNS allegations.

Case-note :- ***1. Facts :*** Crime No. 392/2024 at Police Station Banmore, District Morena, arose from a complainant's account that, while he worked in his field at about 4 p.m. on 28 December 2024, cattle belonging to Balu Gurjar entered and threatened his crop. He asked Balu to remove them. The FIR alleged that Balu, Rajveer, Kalla and Lakhan Singh abused and challenged him; Balu struck his head with a lathi, Rajveer his right shoulder, Kalla threw him down, and applicant Lakhan struck his back. The complainant's elder brother Surendra and Mukesh reportedly intervened after hearing him. The FIR invoked BNS Sections 296, 115(2), 351(2) and 3(5). These are allegations, not proved trial findings.

Lakhan Singh applied under Section 482 CrPC/Section 528 BNSS, 2023, to quash the FIR and consequential proceedings. He alleged personal enmity and denied being at the field, claiming that he was going to his friend Deepak's house in the tempo-stand lane at Kushwaha Market. He relied on CCTV at Mitthan Singh Fauji's residence and the tower location of his phone as indicating a distant place, and said a complaint to the Superintendent of Police had received no heed. During argument, counsel

conceded that the CCTV system's date and time were manually set and thus capable of alteration. The High Court considered his legal arguments and the FIR without deciding who owned the cattle, whether the injuries were proved, or the ultimate authenticity of the digital sources.

2. Precedents — Considered : *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, was quoted on the burden of proving an alibi. It reproduces *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*: alibi is the evidentiary relevance of a fact inconsistent with presence under Section 11 Evidence Act, not a Penal Code exception. The prosecution first bears and retains the burden of proving the accused's presence and participation. Once that burden is discharged, an accused asserting that he was so far away participation was impossible must establish the defence by positive and stringent proof. Evidence of sufficient quality creating reasonable doubt about presence can still favour the accused. The High Court quoted *Binay Kumar Singh* again directly and applied the test to the inconclusive CCTV and handset-location claims at FIR-quashing stage; it did not conduct a trial to determine those sources' evidentiary value. *Vijay Pal*'s passage lists *Gurpreet Singh*, *Sk. Sattar* and *Jitender Kumar* as reiterating the rule, but they were not each separately applied on distinct facts here.

S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430, was also quoted directly for positive evidence and the stringent alibi threshold. Crucially, it states that even a failed alibi does not relieve the prosecution of proving its case beyond reasonable doubt. Its own quotation of *Gurpreet Singh* concerned concurrent trial and appellate fact findings, a context absent in this pretrial quashing petition. *Binay Kumar Singh*'s nested references to *Dudh Nath Pandey and State of Maharashtra v. Narsingrao Gangaram Pimple* similarly supplied historical support without independent treatment by this Court. The present Court applied these authorities to conclude the defence material was insufficiently definitive for immediate quashing; it did not decide final guilt.

Romila Thapar and Ors v. Union of India and Ors, (2018) 10 SCC 753, was quoted at length on the lack of an accused's right to select an investigating agency or direct its method. Its passage invokes *Narmada Bai* and *Sanjiv Rajendra Bhatt* for that rule, and *Divine Retreat Centre and State of West Bengal v. Committee for Protection of Democratic Rights for the* qualified possibility of extraordinary Article 226 intervention upon demonstrable mala fides or exceptional need; vague assertions are inadequate. The quoted Supreme Court case itself involved a request to change agency and other circumstances unlike this local assault FIR. The High Court applied that limit on an accused's control over investigation when considering Lakhan's complaint to the SP. It was not deciding a request for a particular CBI transfer. The quotation's discussion of later bail, discharge and quashing remedies was not a merits determination of those remedies here.

Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626, was separately quoted on the accused's limited participation while police gather material. It reproduces *Union of India v. W.N. Chadha on* no automatic pre-report hearing or control of investigative manner, *CBI v. Rajesh Gandhi on* no say in agency choice, *Sri Bhagwan Samardha* on further investigation after a report, and *Narender G. Goel* on testing evidence at trial. Those embedded decisions clarify the investigative-stage boundary; the present Court did not itself direct further investigation, deny notice on an agency-transfer application, or decide a report under Section 173(8). *Prabal Dogra v. Superintendent of Police, Gwalior and State of M.P.*, M.Cr.C. No. 10446/2017, decided 30 November 2017, was cited as a prior High Court application of the no-say rule.

3. Statutes considered : Section 482 CrPC and Section 528 BNSS, 2023, were both stated as the application's inherent-power route; the Court declined quashing at this preliminary FIR stage. The FIR charged BNS Sections 296, 115(2), 351(2) and 3(5), but the judgment did not analyse each statutory ingredient; those provisions identify allegations only. Section 11 of the Indian Evidence Act is quoted in *Binay Kumar Singh* as the basis for relevance of an alibi inconsistent with presence. The decision uses the Supreme Court's distinction between the prosecution's burden of proof and the accused's burden to establish an alibi rather than treating alibi as a statutory exception or the failed defence as proof of guilt. The quotations from *Romila Thapar* and *Dinubhai* mention CrPC Sections 173(2), 173(8), 204 and 202 as contexts of investigation, report and participation; no final report, process issue or further-investigation order was adjudicated in Lakhan's application.

4. Issues : The principal question was whether Lakhan's asserted alibi, drawn from third-party

CCTV and his phone's tower location, was sufficiently decisive and reliable to displace an FIR specifically alleging that he struck the complainant's back and to justify quashing at the threshold. This involved the timing source's admitted manual setting, the difference between a handset's location and its owner's location, and the continuing prosecution burden despite a doubtful alibi. The independent issue was whether the named accused's complaint to the SP gave him any right to require police to investigate in his preferred manner. The Court did not finally determine the footage's authenticity, the tower record's exact coverage, the credibility of the complainant, or guilt under the listed BNS sections.

5. Ratio / Findings : The Court considered the alibi authorities together with the electronic assertions. Counsel fairly accepted that the CCTV date/time was manually entered and alterable. That concession prevented reliance on the displayed time as conclusive proof that Lakhan was elsewhere at the exact time alleged, but the Court did not find it actually altered. A tower result for a mobile device similarly does not by itself prove that the subscriber was carrying it; the Court offered the possibility of someone giving the device to another to make a misleading location. This was an illustration of the evidentiary gap, not a finding that Lakhan did so. In light of the named physical assault allegation, the disputed material did not establish an alibi with the positive certainty required to justify quashing the FIR on the material presented. The proposition from *Binay Kumar Singh* and *S.K. Sattar* that prosecution still must prove presence and participation remains intact. The order dismissed the quashing application without finally determining the authenticity or evidentiary value of those sources.

On investigative control, counsel could not point to any entitlement of an accused to have the SP direct the police along a particular line simply because he made a complaint asserting innocence. *Romila Thapar* and *Dinubhai* stated the general rule that the accused neither chooses the agency nor dictates police methods, with exceptional constitutional intervention requiring facts supporting mala fide or extraordinary need. Lakhan's assertion did not make out such a case in the order. The High Court concluded that the facts and circumstances, taken as a whole, disclosed no ground for interference under its inherent power. It did not adjudicate whether a future final report, discharge request or trial defence would succeed.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC/Section 528 BNSS to quash Crime No. 392/2024 and consequential proceedings. The FIR and investigation remained in place. No direction to the SP to conduct a specified investigation, no transfer to another agency, and no final rejection of an alibi after trial were ordered. The applicant's evidentiary and procedural defences remained to be tested at the appropriate later stage.

Lakhan Singh v. State of Madhya Pradesh and Ors., M.Cr.C. no. 1713/2025, 24/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal investigation — informant also investigator — *Mukesh Singh v. State (Narcotic Branch of Delhi), 2020:INSC:524*, in which the Constitution Bench held that an investigation is not automatically invalid, nor is an accused automatically entitled to acquittal, merely because the police informant also investigates. Bias or prejudice depends on case-specific facts. *Bhagwan Singh*, *Megha Singh* and *Rajangam* were confined to their facts and *Mohan Lal*'s contrary automatic-acquittal rule was overruled. The applicant's objection that the complainant and investigating officer were the same person did not, by itself, vitiate this Arms Act trial.

Arms Act, 1959 — Section 25(1-B)(a) — unlicensed .315 bore country-made pistol with live cartridge — Ex. P-1 recorded seizure at 17:15 and Ex. P-2 formal arrest at 17:30. PW-2's statement that no article was found at the time of arrest did not contradict the recovery made fifteen minutes earlier. A valid search does not require the accused to have been formally arrested first. The fact that an independent seizure witness turned hostile did not prevent the seizure from being proved through police personnel. The FIR also invoked Section 27; the conviction and revision concerned Section 25(1-B)(a).

Criminal revision — Sections 397 and 401 CrPC — conviction affirmed on appeal — The High Court declined to interfere because no perversity in the concurrent factual findings was shown. It stated the statutory minimum imprisonment for Section 25(1-B)(a) was one year and rejected reduction of the

two-year rigorous imprisonment term to the shorter period undergone. The revision was dismissed in limine and the bail bonds were cancelled. The applicant was directed to surrender by 28 March 2025; otherwise, the trial court was to issue an arrest warrant. The Court relied on the sequence of seizure and formal arrest and the absence of any demonstrated perversity.

Case-note :- ***1. Facts :*** While on patrol, SHO Sunil Singh Rajput received information that Lakhan Parihar of Kaprana was travelling towards Raunakhedi with a country-made pistol and an alleged intention to commit an offence. Police proceeded near Raunakhedi Electricity Power House. The applicant allegedly ran on seeing them but was apprehended. A physical search revealed a .315 bore country-made pistol with a live .315 bore cartridge in its chamber. The police removed the cartridge. He could not produce a licence. Crime No. 130/2020 was registered for Sections 25(1-B)(a) and 27 of the Arms Act. Police filed a charge sheet, and the JMFC framed a charge under Section 25(1-B)(a) on 27 January 2021. The applicant pleaded not guilty. Prosecution examined Ramhet Jatav (PW-1), Santosh Singh Bais (PW-2), Girjashankar (PW-3), Deepak Tiwari (PW-4), Lokendra Singh Kirar (PW-5), Hariom Sharma (PW-6), and Sunil Singh Rajpoot (PW-7); the defence called no witness.

The JMFC, Shivpuri, convicted him in RCT No. 521/2020 on 29 February 2024 and imposed two years' rigorous imprisonment, Rs.200 fine, and one month's rigorous imprisonment in default. The Sixth Additional Sessions Judge, Shivpuri, dismissed Criminal Appeal No. 80/2024 on 15 October 2024. In revision under Sections 397 and 401 CrPC, the applicant argued that the complainant and investigating officer were the same person, the independent seizure witness had turned hostile, and PW-2 said no incriminating article was found when he was arrested. He requested reduction of imprisonment to the period undergone. The State opposed. The prosecution evidence was that the applicant could not produce a firearm licence.

2. Precedents — Considered : The High Court relied on the Constitution Bench decision in *Mukesh Singh v. State (Narcotic Branch of Delhi), 2020:INSC:524*. It reproduced paragraph 13, which answers the reference. The mere fact that an informant police officer subsequently investigates does not itself make the inquiry unfair or biased, vitiate the trial, or entitle the accused to acquittal. Claimed prejudice must be tested on facts and circumstances. The High Court rejected the applicant's objection that the trial was vitiated merely because the complainant and investigating officer were the same person.

Mukesh Singh discusses *Bhagwan Singh v. State of Rajasthan, (1976) 1 SCC 15; Megha Singh v. State of Haryana, (1996) 11 SCC 709*; and *State v. Rajangam, (2010) 15 SCC 369*. The observations and acquittals in those cases, where the informant also investigated, were confined to their facts. They did not establish that the combination of roles inevitably caused bias. The Constitution Bench expressly overruled the contrary per se rule in *Mohan Lal v. State of Punjab, (2018) 17 SCC 627*, and other contrary decisions. Those four authorities appear in the reproduced passage; the High Court did not separately apply them to different items of evidence in Lakhan's case. The High Court separately applied principles concerning proof of seizure through police witnesses, sentencing and revisional interference.

3. Statutes considered : Sections 397 and 401 CrPC governed revision against the conviction affirmed on appeal. The Court stated that concurrent factual findings could not be disturbed unless perversity was shown. The charge and conviction were under Section 25(1-B)(a) of the Arms Act. The order states that the minimum term of imprisonment is one year and relies on that premise to refuse reduction to the period undergone. Section 27 appeared in the FIR account but was not the charge of conviction under review. The information about an intended offence explained why the police approached the applicant; the Court did not decide a separate charge of attempting that offence. Exhibit P-1 was the seizure memo and Ex. P-2 the arrest memo; their respective times 17:15 and 17:30 were controlling.

4. Issues : Did the fact that the police complainant also investigated, by itself, vitiate the trial? Did hostility of the independent seizure witness and PW-2's statement that nothing incriminating was found at arrest defeat proof of seizure of the pistol and cartridge, given the seizure and formal-arrest times? Could imprisonment be reduced to time served despite the Court's stated one-year minimum, and was there perversity in concurrent findings warranting interference under Sections 397 and 401?

5. Ratio / Findings : The Court adopted *Mukesh Singh*'s case-specific approach. An investigation is not inherently biased, and the trial is not vitiated, merely because the informant police officer also

conducted the investigation. The High Court therefore rejected the objection based solely on the complainant and investigating officer being the same person. Whether the combination of roles caused bias or prejudice must be assessed on the facts of each case.

The Court examined the sequence rather than isolating PW-2's remark. PW-2 described the tip, visit to Raunakhedi, flight and apprehension, search disclosing the .315 pistol and chambered live cartridge, unloading, nonproduction of licence, and two memos. Ex. P-1 recorded seizure at 17:15. Ex. P-2 recorded formal arrest at 17:30. His paragraph 9 statement that nothing was found at arrest at 17:30 was consistent with earlier recovery. Formal arrest before seizure is not essential to the validity of a search. The independent seizure witness's hostility did not legally foreclose proof through police personnel. The Court thus resolved the alleged contradiction on the chronology of this seizure and arrest.

The trial and appellate factual conclusions stood. The revisional court could not interfere with concurrent factual findings unless perversity was shown. Counsel identified none. The Court refused to reduce the sentence to the period already undergone, stating that Section 25(1-B)(a) prescribed a minimum term of one year. The two-year rigorous imprisonment term and fine remained. The Court retained the two-year term after stating the one-year minimum and finding no perversity in the concurrent findings.

6. Relief : The High Court dismissed the revision in limine. The applicant was on bail. The Court cancelled his bail bonds and directed him to surrender before the trial court on or before 28 March 2025. If he failed to surrender, the trial court was to issue an arrest warrant so that he could serve the remaining sentence. The office was to send the order and lower-court record for information and compliance. The affirmed conviction was under Section 25(1-B)(a), with two years' rigorous imprisonment, Rs.200 fine and one month's default rigorous imprisonment.

Lakhan v. State of Madhya Pradesh, Cr.R. no. 5348/2024, 18/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (313) Prev Next

Headnote :- Evidence Act, 1872 — dying declaration — murder conviction despite hostile eyewitnesses — Under *Laltu Ghosh v. State of W.B., (2019) 15 SCC 344; Ramesh v. State of Haryana, (2017) 1 SCC 529*; and *Krishan v. State of Haryana, (2013) 3 SCC 280*, a dying declaration may be the sole basis of conviction without independent corroboration if the maker could identify the assailants, was mentally fit, spoke voluntarily from personal knowledge, and the statement withstands careful scrutiny. Siyasharan's Ex. D-1 was taken by a Naib-Tahsildar at 9:30–9:45 a.m. with a doctor's fitness certificate. The recorder's later claim that the voice was unclear had not been noted contemporaneously and was rejected. The declaration identified an armed group, with Manvendra and Lakhan as assailants, and was consistent with the head and waist injuries. The Court considered the reference to "Ratanlal" alongside the FIR and Siyasharan's later identification of "Lakhan"; no person named Ratanlal was tried.

Hostile witnesses — *Krishan*'s quotation of *Bhajju* and *Mrinal Das* — A witness's hostility does not erase the whole of that witness's evidence or make an otherwise reliable dying declaration unusable. Nine witnesses, including the complainant, did not support the prosecution; the convictions rested on the declaration, the evidence of its recorder and the doctor, and the medical corroboration. The State suggested that a compromise in a cross-case explained the hostility; the Court did not treat that suggestion as an independently proved fact.

Medical proof — MLC ex. P-9 and post-mortem ex. P-27 — Multiple sharp head injuries, a skull fracture and a lumbar incised wound established homicidal death from head injury and supported the dying account. The fact that emergency treatment preceded the later MLC did not disprove the patient's fitness when the earlier declaration was recorded.

IPC — Sections 302 and 34 — Applying *Hardev Singh*, *Krishnan*, *Preetam Singh* and *Subed Ali*, the Court held that common intention may be inferred from conduct and concert even if every participant does not inflict a blow. Nirbhay's and Mithlesh's joint armed entry and abuse supported their constructive liability for the acts of Manvendra and Lakhan. All four life sentences and Rs.2,000 fines were affirmed. Nirbhay and Mithlesh were ordered to surrender, Manvendra to continue his sentence, and Lakhanlal received conditional surrender directions because the record did not establish

whether he had surrendered after parole or whether his parole had been extended. Appeal dismissed.

Case-note :- ***1. Facts :*** On 27 October 2008 Jitendra Singh Lodhi reported that at about 7 a.m. his father Siyasharan was sitting in their house when Lakhanlal, Manvendra, Nirbhay and Mithlesh arrived with axes and a sickle following prior enmity. The report alleged that Lakhanlal, Manvendra and Nirbhay struck his father on the head with axes and that Mithlesh struck him on the waist with a sickle; it also alleged injury to Jitendra when he intervened, injuries to Jaivendra, rescue by others, and threats as the group left. The police sent Jitendra, Jaivendra and Siyasharan for examination. Naib-Tahsildar Ashok Bhatnagar recorded Siyasharan's dying declaration Ex. D-1 in hospital. Siyasharan later died during treatment. The police recorded the seizure of axes from Lakhanlal, Manvendra and Nirbhay. The charge sheet cited IPC Sections 302, 307, 324, 452, 294, 506-B and 34. The defence called no witness.

The Sessions Judge, Datia, in Sessions Trial No. 30/2009 convicted all four under Section 302/34 IPC on 30 October 2009 and imposed life imprisonment, Rs.2,000 fine and three months' simple imprisonment in default, acquitting them of Sections 452 and 324/34. In their appeal under Section 374 CrPC, the appellants said all eyewitnesses including complainant Jitendra were hostile, leaving only Ex. D-1; they challenged its reliability and differences from FIR Ex. P-13. The State maintained that a reliable dying declaration can suffice and suggested a compromise in a cross-case to explain witness hostility. That explanation remained the State's submission; the Court did not find that a compromise had been proved.

2. Precedents — Considered : *Laltu Ghosh v. State of W.B., (2019) 15 SCC 344*, was quoted for the rule that corroboration is not invariably required, provided the declaration is reliable and neither conceals the truth nor falsely implicates the accused. Its quoted facts involved a recording doctor and supporting eyewitnesses; this appeal instead had hostile eyewitnesses. The High Court therefore applied its reliability rule without importing the factual corroboration present in that case. *Ramesh v. State of Haryana, (2017) 1 SCC 529*, was quoted on necessity-based admissibility and on the need to establish the maker's opportunity to identify the accused, mental fitness, voluntary statement from personal knowledge and reliability on strict scrutiny. Its passage says a declaration is neither inherently extra strong nor weak, may be made to a Magistrate, doctor or another person, and no universal injury percentage dictates fitness. *Jai Karan*, *Rambai*, *Khushal Rao* and *Vikas* are embedded authorities in that quotation. Here Ex. D-1 was supported by the doctor and Naib-Tahsildar, although no independent eyewitness supported the prosecution.

Krishan v. State of Haryana, (2013) 3 SCC 280, was quoted at length on hostile witnesses and dying declarations. It reproduced *Bhajju* on reliance upon a trustworthy dying declaration despite hostile witnesses and on the admissible parts of hostile testimony under Section 154 of the Evidence Act. It also reproduced *Mrinal Das* on the primacy of evidentiary quality over quantity. *Munnu Raja*, *Khushal Rao*, *Koli Lakhmanbhai*, *Prithi*, *Manu Sharma* and *Ramkrushna* appear nested in the *Bhajju* excerpt as explanations. The High Court held that hostility of material witnesses does not prevent conviction on a trustworthy dying declaration proved by the persons connected with its recording. The convictions rested on the dying declaration and the evidence supporting its recording, rather than on any partly supportive eyewitness account.

On common intention, *Hardev Singh v. State of Punjab, (1975) 3 SCC 731*, was quoted for shared intention directed to the particular crime. *Krishnan v. State, (2003) 7 SCC 56*, explained participation, acting in concert, liability for different acts and the fact-specific application of that provision. Its reference to conspiracy and unlawful assembly distinguished other forms of constructive liability; this prosecution concerned Section 34, rather than Sections 120-A or 149. *Preetam Singh v. State of Rajasthan, (2003) 12 SCC 594*, explained that a common plan may develop at the scene but must precede the offence, and may be inferred from conduct; *Krishna Govind Patil* and *Ramashish Yadav* were embedded supporting references. *Subed Ali v. State of Assam, (2020) 10 SCC 517*, explained unison despite different active or passive roles and inference from arrival, weapons, assault and conduct. Its quotations of *Ramaswami Ayyangar*, *Nandu Rastogi* and *Surendra Chauhan*, plus reference to *Nand Kishore*, illustrate participation without each accused striking. The Court applied those principles to the four appellants' joint armed entry, abuse and assault.

3. Statutes considered : Section 374 CrPC governed the appeal against conviction. Section 154 Evidence Act and Section 161 CrPC arose in the

Krishan/Bhajju quotation on hostile-witness examination and prior police statements; the Court did not decide a discrete application under either. Sections 302 and 34 IPC governed the affirmed conviction for murder committed in furtherance of common intention. The FIR and charge sheet listed further offences, while trial acquittal of Sections 452 and 324/34 was noted; the appeal did not revive those acquittals. Section 302's minimum life imprisonment was the Court's stated reason not to reduce the sentence. Each appellant's sentence included a Rs.2,000 fine and three months' simple imprisonment in default. Cross-case No. 134/2008 was used only to corroborate Mithlesh's presence through her own submission before the trial court.

4. Issues : The Court first asked whether Siyasharan died by homicidal violence, considering the MLC, the autopsy and the suggestion that the injuries resulted from an accident or fall. It then asked whether the appellants perpetrated the assault notwithstanding nine hostile witnesses and whether Ex. D-1 was reliable, particularly because the recorder later claimed that the voice was unclear, the declaration initially said Siyasharan could not see which person struck his head, and the declaration used 'Ratanlal' before identifying 'Lakhan.' A further question was whether Nirbhay and Mithlesh shared an intention to commit murder despite absence of a specifically proved lethal blow from either, and whether all four convictions and life terms should stand. Finally, the appellants' different custody and parole positions required separate operative directions.

5. Ratio / Findings : Autopsy surgeon Dr. Ajay Gupta (PW-14) recorded stitched sharply cut head wounds, abrasions, underlying bone cut/fracture and a lumbar incised wound in Ex. P-27. He attributed the cardio-respiratory failure to a head injury that was sufficient to cause death in the ordinary course and rejected a fall explanation. Dr. M.M. Shakya (PW-8) recorded several bleeding scalp and waist incised wounds in MLC Ex. P-9 and explained urgent treatment before completing medical documentation. The Court found homicidal death and later treated the pattern of three head cuts and a waist cut as corroborating Ex. D-1. The medical evidence established the nature and cause of death but did not identify an assailant.

Moolchand (PW-2), Ram Milan (PW-3), Neksaee (PW-4), Ratiram (PW-5), Komal Singh Patel (PW-7), complainant Jitendra (PW-9), Arvind (PW-10), Maithlisharan (PW-11) and Jaivendra (PW-13) turned hostile. The Court thus examined Ex. D-1 independently. Bhatnagar (PW-15) said he asked Siyasharan's name, obtained a doctor fitness certificate, recorded his words in the patient's language, and sent the declaration in a sealed envelope the same day. Family members and PW-8 were present, but Bhatnagar denied that they had prompted the deceased or interfered with the recording. His trial assertion that Manvendra's and Lakhan's names had been spoken in an unclear voice, coupled with a claim of weak hearing, was absent from his contemporaneous record and any report to superiors. The Court regarded the later assertion as an attempt to mislead it. No trial-court note corroborated hearing weakness. PW-8 independently certified mental fitness and said the patient could speak; the High Court found Siyasharan mentally fit and well oriented.

The recorded words described morning armed arrival of 'Ratanlal,' Manvendra, Nirbhay and Lakhanlal's wife, abuse and axe blows to head and waist, with initial inability to see who delivered a particular blow. In subsequent answers, Siyasharan named Manvendra and Lakhan as the attackers and said that Manvendra had delivered repeated blows. The Court acknowledged the reference to "Ratanlal" but found that no person of that name had been tried or identified by the defence; FIR Ex. P-13 named Lakhanlal and Ex. D-1 later named Lakhan. It found the declaration proved beyond reasonable doubt and supported by the medical distribution, establishing Manvendra and Lakhanlal's participation.

The Court inferred Nirbhay's and Mithlesh's common intention under Section 34 from their joint arrival at the victim's house while armed with axes, their abuse and their presence during the group assault. It also cited Mithlesh's trial-court stand that she had injuries in cross-case No. 134/2008 as support for her presence. The Court relied on the declaration's account of joint armed arrival and abuse to hold Nirbhay and Mithlesh vicariously liable for the acts of Manvendra and Lakhan. Under the cited authorities, different roles do not prevent liability where the common intention to commit the particular crime and participation in the criminal enterprise are established. All four were found guilty under Section 302/34. The life sentence was left undisturbed as the statutory minimum stated by the Court.

6. Relief : The High Court dismissed the criminal appeal and affirmed the judgment and sentence of 30 October 2009 in Sessions Trial No. 30/2009. Nirbhay and Mithlesh, on bail from December 2009, had bail bonds cancelled and were directed to surrender immediately. Manvendra was already in jail and was to undergo the balance. If Lakhanlal had surrendered after expiry of parole, he was to serve the balance; if Lakhanlal had not surrendered or his parole had been extended, he was directed to surrender immediately before the trial court. The direction was conditional because the record did not establish whether Lakhanlal had surrendered after parole or whether his parole had been extended. Copies were ordered supplied to Manvendra and Lakhanlal, and the trial record returned for compliance. Life imprisonment, Rs.2,000 fine and three months' simple imprisonment in default remained for each appellant. *Lakhanlal and Ors. v. State of M.P., Cr.A. no. 779/2009, 04/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (314) Prev Next

Headnote :- CrPC — Sections 154 and 157 — negative preliminary-inquiry report — *Kailash Vijayvargiya v. Rajlakshmi Chaudhari, 2023:INSC:494*, explains that registration upon cognizable information is distinct from the higher "reason to suspect" threshold for beginning an investigation. If the police foreclose an investigation under Section 157(1), they must report that decision to the Magistrate; the Magistrate may direct investigation or hold inquiry, without directing its manner. The Waraseoni SHO sent a no-offence report to the SDO(P) but withheld it from the Magistrate. The High Court held that withholding the report was a material illegality, directed the DGP to circulate the governing judgment and this order through SPs to SHOs, and warned that future deviations would be treated seriously. The warning was prospective; the Court made no finding of collusion in the present case.

Complaint and revision — Sections 156(3), 200, 203, 362 and 482 CrPC — A JMFC's 2022 dismissal was set aside by a 2023 revisional remand; after that remand, the Magistrate could reappraise the existing material and issue a pre-cognizance direction under Section 156(3) without reviewing a subsisting final order. *Adalat Prasad v. Rooplal Jindal, (2004) 7 SCC 338*, on impermissible recall after summons and overruling of *K.M. Mathew*, was distinguished. If the Magistrate had collected further complaint evidence, the proceeding would instead have moved into the Section 200 procedure. The direction was made before cognizance.

Section 156(3) affidavit — *Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287* — An affidavit that incorporated the complaint and solemnly affirmed personal knowledge of its contents supplied the required accountability safeguard; it did not have to repeat every allegation. The Court also explained that, had the negative police report been submitted, the complaint could have been treated as a protest petition. The applicants did not argue that, even if all allegations were accepted, no offence would be disclosed. Their Section 482 application was dismissed; the disputed allegations about society donations and property were not adjudicated on their merits.

Case-note :- ***1. Facts :*** Respondent No. 2 made allegations against Lakhiram Ramchandani and other society members about donations, the tenancy or allocation of shops, property alienation and accounts for Sindhi Samaj Kalyan Samiti and related bodies at Waraseoni. A coordinate Bench disposed of W.P. No. 7765/2021 on 6 April 2021 by directing the Town Inspector to consider any complaint submitted within seven days with a certified copy of the order. The Bench referred to its order of 24 December 2020 in W.P. No. 18878/2020. The complainant applied to the SHO on 12 April 2021. Police conducted a preliminary inquiry and prepared a report dated 5 June 2021 stating that no cognizable offence was disclosed, but sent it to the SDO(P) rather than to the Magistrate. Contempt Case No. 1643/2021 was dismissed on 1 September 2021 because the police had considered the complaint and made a decision; that order did not determine the Magistrate's later statutory powers.

Respondent No. 2 then moved the JMFC under Sections 156(3) read with 200 CrPC. After recording witness statements the JMFC dismissed the request on 6 August 2022 for want of a disclosed cognizable offence. The complainant's Criminal Revision No. 75/2022 succeeded before the Second Additional Sessions Judge on 30 January 2023, setting aside the dismissal and remanding for reconsideration. On 21 June 2023 the JMFC in UNCR No. 49/2022 directed police investigation under Section 156(3). The applicants invoked Section 482 to seek quashing of both the remand and the later order, together with

dismissal of the complaint. They argued that the police report and the earlier dismissal of the complaint precluded the later direction, that no new evidence had been obtained, and that the supporting affidavit was inadequate. They denied misappropriation, saying members' donations financed a building and major donors became tenants. Respondents alleged large unaccounted shop payments, cash retention, diverted discretionary-quota funds, deficient minutes and income-tax returns, alienation without Registrar permission and an audit later withdrawn after cancellation of society registration. These financial assertions remained disputed allegations and submissions; the High Court did not decide their truth.

2. Precedents — Considered : *Kailash Vijayvargiya v. Rajlakshmi Chaudhari, 2023:INSC:494*, was quoted at paragraph 59. The duty under Section 154 to register cognizable information differs from Section 157(1), which requires "reason to suspect" before an investigation begins. The police need not investigate every registered FIR if sufficient grounds are absent, but a decision under the proviso to Section 157(1) not to investigate must be reported to the Magistrate, who may direct an investigation or hold an inquiry. The Magistrate remains informed but cannot prescribe police investigative methods. Counsel for the applicants conceded the reporting duty. The High Court directly applied it to the SHO's negative preliminary-inquiry report withheld from judicial scrutiny and issued a prospective circulation direction. The separate reference in the quotation to a final report under Section 173 did not establish that such a report had been filed in this case.

Adalat Prasad v. Rooplal Jindal, (2004) 7 SCC 338, was discussed for the rule that, after issuing summons, a Magistrate cannot recall that order under Section 203; an aggrieved accused must seek relief under Section 482. It overruled the contrary position in *K.M. Mathew v. State of Kerala, (1992) 1 SCC 217*. The High Court distinguished those circumstances: the JMFC's dismissal had been set aside in revision, and reconsideration followed the remand rather than a self-recall of any subsisting order. Section 362 therefore did not bar reconsideration.

Priyanka Srivastava v. State of U.P., 2015:INSC:239 : (2015) 6 SCC 287, was quoted. It requires a sworn affidavit with an application under Section 156(3), disclosure and documentary support of prior approaches under Sections 154(1) and 154(3), and appropriate verification by the Magistrate. These safeguards deter casual or false applications and expose a false deponent to prosecution. The present Court applied the affidavit safeguard to the actual filing produced by the applicants and held that incorporation of the complaint and the affirmation of personal knowledge were sufficient. *Lalita Kumari* appears inside the Priyanka quotation for contexts where preliminary inquiry may arise; the High Court did not separately apply its categories to resolve the society-fund merits. The earlier coordinate-Bench writ and contempt orders formed part of the procedural history; they did not amount to findings on the present complaint's merits.

3. Statutes considered : The applicants invoked the High Court's inherent power under Section 482 CrPC. Section 156(3) empowers a Magistrate to direct an investigation before taking cognizance. Section 200 governs examination of a complaint after that stage, while Section 203 concerned the prior dismissal and the comparison with *Adalat Prasad*. The bar on reviewing a final order under Section 362 did not prevent fresh consideration after the revisional court set aside the earlier order. Section 157 required reporting a negative decision not to investigate to the Magistrate, in distinction from Section 154 registration; Section 173 describes a later final-report path in the Supreme Court quotation, not a report that was filed here. Sections 154(1) and 154(3) appeared in Priyanka's requirements for prior police approaches. The Court did not analyse the ingredients of any disputed society, fiscal or penal provision and made no finding that any such ingredient was satisfied or disproved.

4. Issues : The Court asked whether the SHO could retain a negative preliminary inquiry report without submitting it to the competent Magistrate; whether, after the successful revision and remand, the JMFC's Section 156(3) order amounted to an impermissible review under Section 362 or required additional evidence; whether that order amounted to taking cognizance; and whether the complainant's affidavit met *Priyanka Srivastava*. It did not decide whether the society's shop transaction, cash handling, audit cancellation, registration or donations amounted to any particular offence. Counsel did not argue that the allegations, even if accepted in full, failed to disclose an offence. The Court therefore did not adjudicate an ingredient-based ground for quashing.

5. Ratio / Findings : The Court held that a negative preliminary-inquiry report must be submitted to the Magistrate rather than retained by the SDO(P). Section 157 requires a report to the Magistrate, who can decide whether investigation or an inquiry is appropriate. The SHO had not made such a filing; the High Court held that this was a material illegality because it deprived the Magistrate of statutory oversight. It directed the Director General of Police, M.P., to circulate the *Kailash Vijayvargiya* judgment and this order to all SPs, who should circulate them to SHOs. It warned that future deviations would be treated seriously and might support a presumption that the SHO deliberately withheld the report to benefit an accused. The warning was prospective and conditional; it was not a finding that the officer in this case acted with a corrupt intention. Had a report been submitted, the complainant's filing could also have functioned as a protest petition; the judgment did not purport to decide a filed closure report.

The dismissal dated 6 August 2022 ceased to subsist when the revisional court set it aside on 30 January 2023. Reappraisal of the material already before the JMFC complied with the remand; no additional collection of evidence was required. The 21 June 2023 Section 156(3) order directed investigation before cognizance; the respondents accepted that cognizance had not been taken, and the Court rejected the applicants' contrary characterization. The Court reasoned that gathering additional complaint evidence would have moved the proceeding beyond the pre-cognizance route and into Section 200. The judgment did not pronounce the preliminary inquiry binding on the JMFC or equate ordering investigation with issuing process against applicants.

On affidavit, the applicants produced the complainant's sworn document but argued that it had to repeat every allegation in detail. The affidavit declared the complaint true to the deponent's personal knowledge and incorporated the complaint. The Court held that this was a sufficient solemn affirmation because a false statement could expose the deponent to prosecution. It did not dispense with an affidavit altogether. Once these procedural objections failed, and no argument on the substantive ingredients was made, there was no ground to exercise the inherent power.

6. Relief : The High Court dismissed the application. The revisional remand of 30 January 2023 and the JMFC's 21 June 2023 police-investigation direction remained in force; the private complaint was not dismissed. The direction for DGP circulation and the prospective warning to the police remained operative. The Court made no finding that the applicants had committed misappropriation or that the complainant's financial allegations were true.

Lakhiram Ramchandani and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 31459/2023, 31/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (315) Prev Next

Headnote :- Evidence — child witnesses — *Nivrutti Pandurang Kokate v. State of Maharashtra, AIR 2008 SC 1460*, requires scrutiny of a child witness's capacity, susceptibility to influence and whether the evidence bears the ring of truth. Kundan Singh (PW-1), then about fourteen, testified that he saw Lakhmichand cut the neck of his twelve-year-old brother, Dilip, with a hasiya. Nine-year-old Vikram (PW-13) also implicated the attackers. The Court weighed their peripheral omissions and Vikram's ambiguous attribution of the weapons; it did not treat either as an automatic ground for exclusion.

Related witnesses — independent eyewitness not examined — *Karulal v. State of M.P.* permits conviction on the credible testimony of related witnesses. The mother's prompt FIR alleged the hasiya attack on the neck. At trial, she and several relatives described arriving mainly after Kundan's cry, finding Dilip dead and seeing the armed accused flee. The Court relied on Kundan's direct account together with this evidence of the immediate aftermath; it did not treat every relative as an eyewitness to the fatal cut.

Contradictions — *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, quoting *Bakhshish Singh*, *Sunil Kumar Sambhudaya Gupta* and *Raj Kumar Singh*, distinguishes minor omissions from defects that destroy the core of the case. The earlier police statements omitted certain details about the search, the villagers and the capture. Nevertheless, PW-1 had stated that he saw the attack, and the FIR specifically identified Lakhmichand as the person who cut Dilip's neck. The High Court found that the central version remained intact.

Medical corroboration — The autopsy recorded twenty-one injuries, including a deep transverse incised wound to the neck that severed the major

vessels and trachea; death resulted from shock and hemorrhage. The police reported seizing the hasiya and knife and sending the articles to the FSL, but the judgment does not discuss any positive laboratory result. The trial court's sentence of life imprisonment and fine of Rs.1,000 under Section 302 IPC was affirmed, and the appeal under Section 374 CrPC was dismissed. Co-accused Kanhaiya's trial acquittal was not reversed.

Case-note :- ***1. Facts :*** On 5 August 2009, the day of Rakshabandhan, twelve-year-old Dilip went around noon to ease himself near the water-tank boundary at Panchkuiya/Raghogarh. His mother, Soram Bai, reported at 2:30 p.m. that, against a background of animosity, Lakhmichand, armed with a hasiya, his son Kallu, armed with a knife, and Kanhaiya pursued the boy. Her FIR alleged that Kanhaiya and Lakhmichand held Dilip, Lakhmichand cut his neck and Kallu inflicted a knife injury. A crowd gathered, and the accused fled. Crime No. 295/2009 was registered under Section 302/34 IPC. The police prepared a spot map and dead-body panchnama and recovered ordinary and blood-stained soil. They reported seizing a hasiya on Lakhmichand's disclosure and a knife on Kallu's disclosure. The soil, weapons and the deceased's clothes were sent for chemical analysis. The judgment identifies an FSL report at Ex. P-32 but does not describe its contents or any specific positive link.

The police filed a charge-sheet against Lakhmichand and Kanhaiya. On 19 July 2010, the Second Additional Sessions Judge, Guna, convicted Lakhmichand under Section 302 IPC in Sessions Trial No. 354/2009 and sentenced him to life imprisonment with a fine of Rs.1,000 and a default stipulation whose term this judgment does not state. The prosecution examined nineteen witnesses and the defence examined two. In his appeal under Section 374 CrPC, Lakhmichand challenged the interested, related and allegedly inconsistent evidence, the absence of an independent eyewitness and the failure to accept the agricultural-work alibi given by Kallu alias Kalluram (DW-2). The State supported the conviction.

2. Precedents — Considered : *Nivrutti Pandurang Kokate and Ors. v. State of Maharashtra, AIR 2008 SC 1460*, was quoted in considering the evidence of the child witnesses, particularly Vikram. A child's intelligence and understanding of the obligation of an oath are primarily assessed by the trial judge, whose conclusion may be disturbed if the preserved record shows that it was erroneous. Children may be pliable, susceptible to tutoring and imaginative, and their evidence therefore requires caution; but age does not bar reliance when careful scrutiny reveals the ring of truth. The High Court treated Vikram's relatively minor inconsistencies as natural in context and regarded his account as supportive, while Kundan's evidence supplied the principal direct accusation. The judgment records neither a fresh voir dire of either child nor a finding that the defence had actually tutored them.

Karulal v. State of M.P. was invoked, without a reporter citation in the order, for the proposition that credible testimony of related witnesses may sustain a conviction despite the relationship. The Court applied that principle in answering the complaint that no independent eyewitness had been examined. It did not hold that every relative personally witnessed the cutting of Dilip's throat or that relationship could substitute for scrutiny of credibility.

Mallikarjun and Ors. v. State of Karnataka, (2019) 8 SCC 359, was quoted on minor discrepancies. The reproduced paragraph from *Bakhshish Singh v. State of Punjab, (2013) 12 SCC 187*, in turn quotes *Sunil Kumar Sambhudaya Gupta v. State of Maharashtra, (2010) 13 SCC 657*, and *Raj Kumar Singh v. State of Rajasthan, (2013) 5 SCC 722.* Those passages require the court to determine whether omissions or contradictions materially affect the trial or the core of the case, and warn against discarding an otherwise truthful account in its entirety because of trivial embellishments. *State v. Saravanan* appears within the reproduced quotation from *Sunil Kumar* on appellate restraint; it was not separately applied to the facts. The High Court used this chain of authority to assess the witness discrepancies; it did not hold that every omission was immaterial.

3. Statutes considered : Section 374 CrPC provided the appeal against conviction. The trial conviction under Section 302 IPC, the sentence of life imprisonment and the fine were affirmed. Section 34 IPC appeared in the FIR's original accusation against multiple persons, but this appellate judgment describes Lakhmichand's conviction as one under Section 302 alone. The Court neither disturbed Kanhaiya's acquittal nor considered a separate appeal concerning constructive liability. The earlier police statements exhibited as Ex. D-1, D-3, D-4, D-5, D-6 and D-7 were compared with the trial evidence; the judgment made no separate ruling on their admissibility under Sections 161/162 CrPC.

The investigative narrative mentions the dispatch of articles to the FSL at Sagar and the report at Ex. P-32, but does not analyse it as proof that a particular person's blood was found on a weapon.

4. Issues : The central issue was whether the prosecution proved beyond reasonable doubt that Lakhmichand killed Dilip by inflicting the sharp neck wound, despite the witnesses' family relationship, the absence of an independent direct witness, discrepancies between the trial evidence and the FIR or police statements, and DW-2's assertion that Lakhmichand was working in a field. The related issues were whether adolescent Kundan and nine-year-old Vikram could be relied upon after scrutiny; what the mother and other relatives personally saw, as distinct from what they heard or found on arrival; whether the medical injuries corroborated the ocular account; and whether the trial court's assessment disclosed illegality or perversity. The appeal did not reopen Kanhaiya's acquittal or determine Kallu's separate status.

5. Ratio / Findings : The mother's initial report specifically accused Lakhmichand of cutting her son's neck with a hasiya. At trial, Soram Bai (PW-7) described sending Kundan to look for Dilip, hearing his cry and seeing Lakhmichand and the others flee while armed. Her FIR and police statement omitted some details about the search and what Kundan had reportedly told her. The Court acknowledged those omissions but found that the prompt FIR retained the direct attribution of the neck attack to Lakhmichand. It therefore did not treat her trial account as proof that she personally witnessed the entire assault. Rather, her evidence supported the prompt identification, Kundan's cry and the immediate aftermath.

Kundan (PW-1) testified that he saw Lakhmichand cut Dilip's neck and Kallu stab him. In cross-examination, he described the tank wall and nearby houses, acknowledged that the lower tank area was not visible from his house, and said that he went directly to the spot and was the first to arrive. His police statement, recorded two days later, omitted the names of the assembled villagers and the detail that the accused were caught, but stated that he had seen the incident and then cried for help. The Court regarded those omissions as peripheral to his account of witnessing the neck assault, taking account of his age and the shock of seeing his younger brother killed. Vikram (PW-13), aged about nine, also described reaching the spot and seeing the accused attack Dilip. The judgment notes discrepancies in his account, including the sequence and attribution of the weapons, but treats them as minor and assesses his evidence cautiously under *Nivrutti*.

Sheela (PW-5), Khushilal (PW-6), Pinki (PW-8) and Jyoti (PW-9) mainly heard Kundan's cry, reached the place, saw Dilip with his neck cut and observed Lakhmichand and Kallu armed, or saw the accused fleeing. They were principally witnesses to the immediate aftermath; parts of their accounts of the actual blows came from Kundan or differed as to what they had personally seen. The Court identified differences from their police statements but found the central identification and immediate aftermath consistent. Pachelal (PW-12) also saw the body and people running, not the precise cut. Balkishan (PW-10) was hostile, and the prosecution obtained nothing supportive in cross-examination; his evidence was not treated as affirmative corroboration. Ashok Kumar Jatav (PW-2) corroborated the arrest and seizure and recounted what the father had told him, not a personal view of the assault. Parvat Singh (PW-11) described the memorandum and seizure of the hasiya; in cross-examination he placed the preparation of both the memorandum and seizure memo at the police station. The Court recounted that evidence but did not rest the conviction solely on a scientifically identified weapon.

Post-mortem doctor B.L. Kushwah (PW-4) found twenty-one injuries, including an 8 x 4 x 3 cm deep transverse cut on the front of the neck that severed the major vessels, trachea and soft tissue, multiple incised injuries to the face, scalp, nape, back, hands and abdomen, and abrasions. Death resulted from shock and hemorrhage due to the multiple injuries. He said that all injuries except injury 1 were simple and that treatment within five minutes might have saved the child. The Court nevertheless found that the medical evidence corroborated the ocular evidence. The judgment did not discuss the FSL report as proving a blood match.

Kallu alias Kalluram (DW-2) said that Lakhmichand was doing agricultural work and was of good character. The Court found that assertion insufficient to displace the prompt FIR, Kundan's core account, and the supporting medical and immediate-aftermath evidence. It assessed the family relationship and the omissions instead of rejecting the prosecution testimony wholesale, and found no illegality or perversity in the trial court's appreciation. It did not

state a general rule that a defence alibi fails merely because its witness is related or because a co-accused's name appears in the record.

6. Relief : The High Court dismissed the criminal appeal and affirmed the conviction and sentence imposed on 19 July 2010 in Sessions Trial No. 354/2009: life imprisonment under Section 302 IPC and a fine of Rs.1,000, with the original default stipulation. The operative paragraphs issued no fresh custody direction, and this judgment does not quantify the default term. Co-accused Kanhaiya's acquittal remained part of the recorded background. The evidentiary holding rests on the child's direct account, the prompt accusation, the immediate-aftermath evidence and the extensive medical corroboration.

Lakhmichand v. State of M.P., Cr.A. no. 670/2010, 19/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (316) Prev Next

Headnote :- IPC — Sections 327 and 383 — hurt for the purpose of extorting property — A demand for a bicycle was refused, after which the applicant assaulted the complainant with a lathi out of annoyance. That sequence did not prove that the hurt was caused to extort the bicycle or compel an illegal act. The prosecution had to establish the specific coercive purpose; timing alone could not supply it. The conviction under Section 327 was therefore set aside. The decision does not make successful delivery of property an element of Section 327; on these facts, the prosecution failed to prove the required purpose.

IPC — Section 323 — Gopal Giri's account that he was beaten with a lathi was corroborated by Dr. S.P.S. Raghuvanshi's MLC, Ex. P-6, which recorded eight contusions. Voluntary hurt remained proved beyond reasonable doubt, and the High Court substituted a conviction under Section 323. The trial acquittals under Sections 294 and 452 remained undisturbed.

Sentencing in revision — Sections 397 and 401 CrPC — The applicant had spent 26 days in custody during the trial and another 83 days after conviction, totalling 109 days. For the substituted conviction under Section 323, the Court reduced the imprisonment to the period already undergone. Because the complainant had sustained multiple injuries, it increased the fine from Rs.1,000 to Rs.15,000 and directed payment within two months, with three months' rigorous imprisonment in default.

Case-note :- ***1. Facts :*** At about midnight on 11 April 2008, Gopal Giri was fetching water from a public tap near Shivpuri. Lala asked to borrow his bicycle. When Gopal refused, Lala abused him. After Gopal objected, Lala returned with a lathi, followed him into his home, brought him outside and struck him. Gopal fell and sustained multiple injuries. A report was lodged at Police Station Kotwali, Shivpuri, at about 12:45 a.m. on 12 April, and Crime No. 230/2008 was registered under Sections 327, 452, 294 and 323 IPC. The police had Gopal medically examined, prepared a spot map, recorded witness statements, arrested Lala and filed a charge-sheet. On 26 May 2008, the JMFC framed charges under Sections 294, 452 and 327. Eight prosecution witnesses testified, including Gopal (PW-2) and Dr. S.P.S. Raghuvanshi (PW-5); the defence called no witness. The judgment states that Lala Srivastava, Kundan Singh and Manju also witnessed the occurrence, but the revision was decided on Gopal's evidence and the MLC rather than on a separate credibility analysis of each named witness.

On 23 April 2010, the JMFC acquitted Lala under Sections 294 and 452 but convicted him under Section 327, sentencing him to one year's rigorous imprisonment and a fine of Rs.1,000 with a default stipulation. The Fourth Additional Sessions Judge (Fast Track Court), Shivpuri, affirmed the conviction in Criminal Appeal No. 102/2010. In the revision under Sections 397 and 401 CrPC, Lala did not primarily deny beating Gopal. He argued that, even on the prosecution's version, the assault following refusal of the bicycle arose from annoyance, not the purpose of extortion required by Section 327, and that at most Section 323 applied. The State supported the concurrent judgments.

2. Statutes considered : Section 383 IPC defines extortion as intentionally putting a person in fear of injury and thereby dishonestly inducing the delivery of property, valuable security, or a signed or sealed item convertible into valuable security. Section 327 IPC punishes voluntarily causing hurt for the purpose of extorting property or valuable security from the sufferer or an interested person, or of constraining either person to do an illegal act or facilitate an offence. The Court quoted both provisions and focused on the purpose required by Section 327: the lathi blows had to be shown as a means of coercion, rather than a reaction to the

refusal of a request. Section 323 IPC supplied the lesser offence of voluntary hurt proved by the assault and contusions. Sections 294 and 452 were among the trial charges, but the acquittals under those provisions were not disturbed. Section 323 appeared in the FIR and charge-sheet narrative, although the quoted formal-charge paragraph lists Sections 294, 452 and 327. Sections 397 and 401 CrPC supplied the revisional jurisdiction.

3. Issues : The principal issue was whether the lathi beating that followed the refusal to lend a bicycle was inflicted for the purpose of extorting that property or compelling an illegal act within Section 327. If not, did the victim's direct account and the medical evidence nevertheless prove voluntary hurt under Section 323 beyond reasonable doubt? Upon altering the conviction, what sentence and fine properly reflected the 109 days already spent in custody and the eight contusions? The Court was not required to reconsider the acquittals on the abusive-language and house-trespass charges or to decide that an unsuccessful attempt at extortion can never satisfy Section 327.

4. Ratio / Findings : Gopal (PW-2) said that Lala demanded his bicycle, abused him when he refused, grabbed his neck, threw him down and assaulted him with a lathi. The Court distinguished the sequence of events from proof of the purpose of the assault. On the prosecution's version, Lala did not use injury or fear to compel Gopal to hand over the bicycle after the refusal. Rather, the refusal angered him, and he beat Gopal out of annoyance. A conviction under Section 327 requires proof that the voluntary hurt was inflicted for the purpose of extorting property or compelling the proscribed act; that nexus was absent from the accepted prosecution account. The High Court therefore rejected the concurrent courts' legal characterisation under Section 327 without finding that the complainant had sustained no injury. Section 383 explained the concept of extortion. The order did not add completed delivery as an element of Section 327; it distinguished the required purpose of extortion from ordinary voluntary hurt by applying the statutory texts to the complainant's account.

Dr. Raghuvanshi (PW-5) recorded eight contusions in the MLC, Ex. P-6, over the lower back, left arm, left hand, right side of the neck, right buttock, posterior right thigh, left buttock and left knee. Those findings corroborated Gopal's account of the lathi assault. The Court found that hurt under Section 323 was proved beyond reasonable doubt and substituted that conviction. The applicant had spent 26 days in custody during the trial. Paragraph 18 records that he spent a further 83 days in custody after the JMFC's conviction, apparently because he did not furnish bail despite suspension of sentence, until the High Court granted bail on 14 July 2010. The Court regarded the total of 109 days as sufficient imprisonment for the lesser offence. Because of the number of injuries, it increased the fine to Rs.15,000; the order did not make a separate compensation award to Gopal.

5. Relief : The High Court disposed of the revision by setting aside the conviction under Section 327 and the sentence of one year's rigorous imprisonment, and substituting a conviction under Section 323. It limited imprisonment to the 109 days already undergone and increased the fine to Rs.15,000, payable within two months. In default of payment, the applicant had to undergo three months' rigorous imprisonment. The acquittals under Sections 294 and 452 remained undisturbed. The order did not direct a retrial or separate payment to the victim, or find that the bicycle had ever been transferred.

Lala v. State of M.P., Cr.R. no. 535/2010, 03/05/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (317) Prev Next

Headnote :- Investigation — accused's role — *Romila Thapar v. Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, establish that an accused has no right to choose a different district or agency or dictate the manner of investigation. The authorities preserve the qualified power under Article 226 to intervene where mala fide investigation is demonstrated; their distinct contexts of hearing and further investigation did not themselves warrant any such direction here. The petitioners, accused in a Section 498-A case, had already failed in an application to quash the FIR, and a charge-sheet had been filed.

Court monitoring and supervision — *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, distinguishes monitoring progress and fairness in rare cases from supervising how an investigation is conducted or influencing the police opinion under Section 173(2). Such supervision could compromise the independence of the trial. The Court therefore

refused the request for SP or High Court control over investigative steps.

Article 226 — CBI transfer — *State of W.B. v. Committee for Protection of Democratic Rights*, Constitution Bench, as quoted in *Romila Thapar*, requires this extraordinary power to be exercised sparingly, cautiously and only in exceptional situations, not merely on unsubstantiated allegations against the local police. Filing of the charge-sheet did not remove the High Court's constitutional power, but these accused petitioners disclosed no exceptional circumstance. The petition was dismissed without deciding innocence or guilt. The separate prayer for a marital-separation direction, based on *Sneha Parikh*, was recorded but not separately adjudicated.

Case-note :- ***1. Facts :*** Crime No. 13/2024 was registered at Police Station Mahila Thana, Narsinghpur, under Section 498-A IPC against petitioner Lalit Jhariya and others. Lalit had earlier sought quashing of the FIR dated 4 April 2024 in M.Cr.C. No. 17045/2024, which the High Court dismissed on 7 May 2024. In this Article 226 petition, the accused petitioners sought production of the records relating to specified annexures; transfer of the inquiry outside Narsinghpur to an independent district officer under SP supervision; or a CBI investigation into the allegedly unfair inquiry by respondent No. 4. They also sought action against that officer if unfairness was found and a decision regarding separation of petitioner No. 1 and respondent No. 5 by reference to *Sneha Parikh v. Manit Kumar.* The order does not set out the underlying matrimonial allegations, the officer's particular acts, or evidence substantiating bias. It records that a charge-sheet had been filed before the writ petition was decided.

2. Precedents — Considered : *Romila Thapar and Ors. v. Union of India and Ors., 2018:INSC:912 : (2018) 10 SCC 753*, was reproduced at length. It states that an accused is not entitled to appoint an investigating agency or dictate the manner of investigation, drawing on *Narmada Bai* and *Sanjiv Rajendra Bhatt*. Its reference to *E. Sivakumar* explains why an accused ordinarily need not be heard before a direction for a CBI inquiry in another case. *Divine Retreat Centre* distinguishes an impermissible midstream substitution of an investigator through inherent power from a justified Article 226 direction where mala fide exercise of investigative power is established. The quotation from the Constitution Bench decision in *State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, preserves the Article 226/32 power to transfer an investigation to the CBI but requires sparing, cautious and exceptional use to secure credibility, complete justice or fundamental rights, rather than a routine response to allegations against the police. Paragraph 29 of *Romila Thapar* discussed arrests, disputed links to a banned organisation and pending defence remedies in that different case. Those were facts from the cited precedent, not facts of the Narsinghpur Section 498-A FIR. The High Court applied the principles that an accused has no say in the choice or manner of investigation and that intervention is exceptional, and then found that the petitioners had not shown an exceptional case.

Dinubhai Boghabhai Solanki v. State of Gujarat, 2014:INSC:139 : (2014) 4 SCC 626, was also quoted extensively. The quoted passages addressed the absence of ordinary participation or a pre-report hearing for an accused; *CBI v. Rajesh Gandhi on* the absence of a right to choose the investigating agency; *Sri Bhagwan Samardha* on lawful further investigation after a report without a mandatory hearing for the accused; and *Narender G. Goel* on testing the evidentiary value later at trial. Dinubhai concerned an inquiry criticised as an effort to exculpate a suspect, unlike this petition by accused persons seeking transfer. These nested authorities explain the procedural boundary. The High Court did not itself direct further investigation under Section 173(8), hear a challenge to a letter rogatory, or decide a right to notice where someone else sought a CBI transfer. The prior local decision in *Prabal Dogra v. Superintendent of Police, Gwalior,* M.Cr.C. No. 10446/2017, decided on 30 November 2017, was cited for the same principle that an accused has no say in the manner of investigation.

Manohar Lal Sharma v. Principal Secretary and Ors., 2013:INSC:839 : (2014) 2 SCC 532, was quoted on the distinction between monitoring and supervision. Monitoring can maintain oversight of progress and freedom from outside interference in rare and compelling circumstances, while supervision would direct how the police conduct the investigation and shape their opinion under Section 173(2), making an independent trial difficult. The High Court directly applied that distinction to the request for SP or court control. *Sneha Parikh v. Manit Kumar, AIR 2018 SCW 575*, was cited by the

petitioners in relation to marital separation, but the Court neither extracted nor applied a proposition from it and did not decide the separation claim.

3. Statutes considered : Article 226 of the Constitution supplied the writ jurisdiction under which an independent investigation and transfer to the CBI were sought. The Court expressly acknowledged that this power may be exercised even after a charge-sheet has been filed, but only on exceptional facts. Section 498-A IPC identified the matrimonial-cruelty offence alleged in the FIR, though its ingredients and truth were not tried in the writ proceedings. The earlier dismissed FIR-quashing application formed part of the procedural background, not the operative jurisdiction of this petition. Section 173(2) CrPC appeared in Manohar Lal Sharma as the police-report opinion whose independence could be undermined by judicial supervision. Section 173(8) and provisions concerning the complaint process, notice and hearing appeared in the Dinubhai quotation, but the High Court did not make a further-investigation order in this case.

4. Issues : The Court identified three controlling questions: whether an accused can seek investigation by a chosen agency or in a chosen manner; whether the High Court may supervise investigative steps; and whether any exceptional circumstance justified transfer to the CBI in this case. Because the charge-sheet had been filed, the Court also addressed whether its constitutional transfer power remained available and whether the petitioners could pursue their defence before the trial court. The marital-separation prayer and the conditional request for action against respondent No. 4 were recorded in the relief clause but received no separate factual or legal analysis on the merits. The Court was not deciding the underlying Section 498-A allegations or reconsidering the merits of the already dismissed quashing application.

5. Ratio / Findings : The cited Supreme Court authorities deny an accused an ordinary right to select the investigator, district, mode or agency. The petitioners' status as accused persons and their preference for investigation outside Narsinghpur or by the CBI could not by themselves justify writ control. The possibility of intervention under Article 226 for a mala fide investigation or a genuinely exceptional case affecting rights remains; the quoted decisions in *Romila Thapar* and *Committee for Protection of Democratic Rights* expressly preserve that power. Here, however, the petitioners established no exceptional circumstance. The decision therefore rejects this particular petition; it does not hold that an accused can never seek a fair-investigation remedy, regardless of the facts.

Manohar Lal Sharma supplied a separate structural reason for refusing the request that the police investigate under judicial or administrative directions about particular steps. Monitoring in a rare case watches progress and fairness; supervision dictates the conduct of the investigation and risks influencing the trial court through the resulting police opinion. The High Court held that directing investigation in a particular manner would amount to supervision and refused that relief. It did not categorically bar monitoring in an appropriate rare case.

Filing of the charge-sheet did not divest the High Court of its Article 226 power to direct a CBI investigation, but the absence of exceptional circumstances made transfer unwarranted. The petitioners could assert their innocence and challenge the prosecution evidence before the trial court. Dismissal of the earlier quashing application was procedural background, not an evidentiary finding of guilt in this writ proceeding. The Court made no separate order on marital separation or punitive action against the officer.

6. Relief : The High Court dismissed the writ petition. It did not transfer the investigation to another district or the CBI, direct an SP-controlled method or court-supervised investigation, order action against respondent No. 4, or grant a separation direction. The filed charge-sheet and the petitioners' ordinary opportunity to defend themselves at trial remained. The judgment did not decide the truth of the cruelty allegation.

Lalit Jhariya and Ors. v. State of Madhya Pradesh and Ors., W.P. no. 22960/2024, 22/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (318) Prev Next

Headnote :- IPC — Sections 415, 420, 463, 464, 465, 468 and 471 — alleged false affidavit prepared from a signature on blank paper — A chowkidar allegedly signed blank paper without knowing its intended contents; text was later typed on it and presented as his sworn affidavit supporting a reply in a civil suit. An affidavit is a legally significant declaration on oath, not an expendable

sheet of paper. On those allegations, obtaining the signature by deception, falsely attributing the completed document to the signatory, and using it as genuine prima facie disclosed cheating, forgery, forgery for cheating and use of a forged document. The notary's inability to recall a register signature, lack of personal acquaintance with the deponent and the police failure to seize the register raised questions of authenticity; they did not establish fabrication conclusively at the charge stage.

CrPC — Section 195(1)(b)(ii) — *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, approving *Sachida Nand Singh*, holds that the bar concerning the specified document offences applies when the forgery is committed after the document has been produced in court and while it is in custodia legis. An affidavit allegedly fabricated outside court before it was filed did not attract that bar.

Revision against framing of charges — Sections 397 and 401 CrPC — Despite a specific query, the applicant did not produce the complete charge-sheet or Mahesh's police statement. The High Court therefore examined the allegations only provisionally, affirmed the charges under Sections 420, 465, 468 and 471 IPC, and directed the trial court to decide the case on the evidence without being influenced by its observations. Smt. Kamla Sharma, Dalip Singh, Muthu Karuppan, Dhananjay Sharma, Baban Singh and Chandra Shashi were discussed through a quoted earlier High Court decision on the seriousness of false sworn filings; the order made no finding of contempt or perjury against this applicant.

Case-note :- ***1. Facts :*** Rishi Parisar and Surya Nagar are adjoining colonies in Bhopal. Lalji Sharma, a resident of Rishi Parisar, alleged that the water and electricity infrastructure serving his colony stood outside it on land in Surya Nagar and that the Surya Nagar complainant had taken unauthorised connections, leaving Rishi Parisar residents with inadequate water. The complainant and his wife were advocates. In their pending civil suit, RCSA No. 369/2016, for declaration and permanent injunction, Lalji supported his reply to an application under Order 39 Rules 1 and 2 CPC with an affidavit attributed to Mahesh Ahirwar, a chowkidar at the infrastructure. The complainant later produced a three-page affidavit in which Mahesh disowned the earlier affidavit and said that Lalji had obtained his signature on blank paper without disclosing its purpose. The truth of those rival accounts remained for trial.

An application under Sections 340 and 195 CrPC, invoking Sections 191, 192, 193 and 196 IPC in relation to the disputed affidavit, had earlier been rejected on the ground that the matter concerned evidence. The complainant then applied under Section 156(3) CrPC, alleging cheating and forgery. By an order dated 1 June 2018, the JMFC directed registration of an FIR under Sections 420, 467, 468, 471 and 120-B IPC. After investigation, the police filed a charge-sheet, and on 29 May 2024 the Sessions Court framed charges in Sessions Trial No. 292/2022 under Sections 420, 465, 468 and 471. Lalji, appearing in person, challenged that order in revision under Sections 397 and 401 CrPC. He argued that, even if accepted, the allegations disclosed at most false evidence under Section 193, for which Section 195 required a court complaint, and not cheating or forgery. The High Court noted that he had filed selected portions of the police papers, omitting Mahesh's Section 161 statement and other annexures, and declined to make a definitive assessment of the evidence at the charge stage.

2. Precedents — Considered : The High Court quoted its earlier decision in *Smt. Kamla Sharma and Ors. v. Sukhdevlal and Ors.*, M.Cr.C. No. 8770/2016, decided on 18 April 2022, on the status of an affidavit as a verified statement on oath carrying evidentiary and penal significance. That decision reproduced provisions of the General Clauses Act, the Oaths Act and the IPC relating to false evidence, and surveyed Supreme Court authorities. *Dalip Singh v. State of U.P., (2010) 2 SCC 114*, condemned falsehood and suppression by litigants. *Muthu Karuppan v. Parithi Ilamvazhuthi, (2011) 5 SCC 496*, required prima facie deliberate falsehood on a material matter and expediency in the interests of justice before prosecution. *Dhananjay Sharma v. State of Haryana, (1995) 3 SCC 757*, explained how false affidavits may obstruct justice and constitute contempt. *Baban Singh v. Jagdish Singh, AIR 1967 SC 68*, distinguished false evidence on oath under Sections 191 and 192 from a declaration under Section 199. *Chandra Shashi v. Anil Kumar Verma, (1995) 1 SCC 421*, concerned fabricated material filed in court and contempt by deceit. *Rita Markandey*'s reliance on Dhananjay Sharma also appeared within the quoted decision. These authorities explained the gravity and authentication of sworn filings; they were not

separate findings that Lalji had committed contempt or perjury. The Court used that discussion to reject his description of the affidavit as an insignificant piece of paper.

The directly applied authority on the statutory bar was *Iqbal Singh Marwah v. Meenakshi Marwah, 2005:INSC:129 : (2005) 4 SCC 370*. Paragraph 33, as quoted, approved *Sachida Nand Singh v. State of Bihar, (1998) 2 SCC 493*, and confined Section 195(1)(b)(ii) CrPC to the specified offences committed in relation to a document after its production or admission in court, while it was in custodia legis. The High Court applied that temporal distinction because the alleged typing and fabrication occurred outside court before the affidavit was filed.

3. Statutes considered : Section 415 IPC defines cheating by deception and fraudulent or dishonest inducement to deliver or retain property, or by inducing an act or omission likely to cause harm; Section 420 punishes the relevant form of cheating. Section 463 defines forgery, and Section 464 includes making a document with false authorship or authority and obtaining a signature through deception about its contents. Sections 465, 468 and 471 were the framed charges for forgery, forgery for the purpose of cheating and using a forged document as genuine. Sections 467 and 120-B appeared in the directed FIR but were not among the four charges under challenge. The quoted earlier High Court decision referred to Sections 24, 25 and 191–193 IPC, Section 3(3) of the General Clauses Act and Sections 3–4 of the Oaths Act to explain the significance of an oath. Section 193 was Lalji's proposed alternative characterisation, not a framed charge. Section 195(1)(b)(ii) CrPC requires a court complaint for the specified document offences committed after production while the document is in court custody, as construed in Iqbal Singh Marwah. Sections 340 and 195 appeared in the earlier rejected application and Lalji's statutory-bar argument. Sections 397 and 401 governed the revision; Section 161 concerned the omitted statement of Mahesh and the available statement of the notary. The underlying application under Order 39 CPC explained the purpose for which the affidavit was filed but was not decided in the revision.

4. Issues : Did the alleged procurement of Mahesh's signature on blank paper, the later insertion of contents, and presentation of the completed paper as his authorised sworn affidavit disclose the ingredients of cheating and making and using a false document sufficient to sustain charges under Sections 420, 465, 468 and 471? Did Section 195 bar the police prosecution merely because the affidavit was filed in a civil court, or only if the relevant forgery occurred after the document had been produced in court? Could the applicant obtain a merits assessment in revision by relying on selected charge-sheet papers while withholding Mahesh's police statement? The Court also considered the notary's identification, the missing register and the legal significance of an affidavit. It did not decide ownership of the utility infrastructure, the legality of the complainant's connections, the genuineness of Mahesh's first affidavit, or guilt beyond reasonable doubt.

5. Ratio / Findings : The Court quoted Sections 415, 463 and 464 IPC and tested the charge allegations on a provisional assumption that they were true. On its view that an affidavit is property and a legally significant document, the alleged deceptive procurement of the signature could sustain the charge under Section 420. Adding words without the signatory's authority and presenting the completed paper as his affidavit could satisfy Section 464's definition of making a false document and support the charges under Sections 465, 468 and 471. This was a charge-stage characterisation, not a final finding that Lalji had forged the affidavit. Because Lalji had omitted annexures and Mahesh's Section 161 statement, the Court did not have the complete police material; it also directed that the trial court remain uninfluenced by its provisional observations. In his Section 161 statement, notary Manohar Pathak said that he did not consider it necessary to obtain a deponent's signature in his register, could not recall whether he had done so in this instance, did not know Mahesh personally, and had been told the accompanying person's name by the person identified by the applicant. The police did not seize the register. The High Court criticised that investigative omission because the register could have shed light on the notary's practice and the authenticity of the disputed affidavit. It did not treat the omission alone as conclusive proof that the affidavit was forged, and the notary's credibility remained for trial. The Court stressed that an affidavit is a declaration on oath carrying legal consequences and cannot be treated as worthless; the quoted false-affidavit authorities supplied context, not a contempt order in this case.

The alleged fabrication occurred outside court before the affidavit was filed, not by alteration or interpolation while the document was in court custody. Under Iqbal Singh Marwah, the bar in Section 195(1)(b)(ii) did not defeat the present cheating and forgery prosecution. Lalji's contention that only Section 193 could apply did not answer the independent allegations of pre-filing fabrication and cheating. The Court expressly noted that the trial court had not framed a charge under Section 193 and considered that provision only because Lalji had relied on it.

6. Relief : The High Court affirmed the Sessions Court's order dated 29 May 2024 in Sessions Trial No. 292/2022 and dismissed the criminal revision. The charges under Sections 420, 465, 468 and 471 IPC remained for trial. The Court expressly directed the trial court to decide the case independently on the evidence, without being influenced or prejudiced by its provisional observations. There was no conviction, contempt finding, charge under Section 193, direction to seize the notary register, or decision on the pending civil suit.

Lalji Sharma v. State of Madhya Pradesh and Ors., Cr.R. no. 3372/2024, 24/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (319) Prev Next

Headnote :- FIR timing — homicide occurred at about 20:00 and FIR ex. P-1 was recorded at 20:20 — Later family protest and the investigating officer's description of a subsequent arrival with the body did not prove an antedated or antetimed FIR. The FIR scribe affirmed 20:20; the CSP already knew Crime No. 1/2011 by 20:30–20:45, and the eyewitnesses described transfer of the body to hospital after reporting. Protest about incomplete recording and later naming of Puran did occur. *Dharmendrasinh*, *Achhar Singh* and *Bhagwan Jagannath Markad* require the whole evidence, not a stray sentence, to be assessed.

CrPC — Section 157(1) — Dispatch of the FIR to the Magistrate was not proved: no date, dispatch number or acknowledgement was proved, nor was evidence from the carrier produced. The provision safeguards against manipulation. *Mahmood*, *Jafarudheen* and *Zahira Habibulla* require careful appraisal of the other evidence rather than automatic acquittal for a police lapse. Similarly, the absence of a light-pole notation in the map did not invalidate identification by eyewitnesses who knew the accused as neighbours and saw them in the light from the market and motorcycle. *Prithvi (Minor)* was applied.

Witnesses — pillion rider and two brothers — Enmity may motivate crime or false implication. Kinship does not by itself discredit testimony, and an interested/inimical witness calls for discerning scrutiny. The Court addressed *Harbeer Singh*, *Raju*, *Yogesh Singh*, *Mohd. Rojali Ali* and other Supreme Court authorities and distinguished the cases of *Kanakarajan* and *Noor Aga*, cited by the defence, where independent proof was inadequate. The closure of shops and reluctance of local bystanders helped explain why no independent market witness testified; the three direct accounts were accepted.

Section 313 CrPC — The firearm FSL report, which had not been put to the appellants, was excluded under *Bhalinder Singh* and *Samsul Haque*. The evidence of seizure and the armourer remained; the seized weapons were not linked to the actual fatal projectile. *Rakesh*, *Gulab* and *Krishna Gope* establish that nonrecovery of the precise murder weapon does not invariably defeat reliable direct evidence.

Medical and common object — One close-range gunshot caused fatal brain injury; stab and laceration were also documented. The fact that only one shot hit the deceased despite three alleged shooters, and that a laceration was found despite the alleged use of a sword, did not completely rule out the eyewitness account, under *CBI v. Mohd. Parvez Abdul Kayuum*, *Baleshwar Mahto* and *Putchalapalli Naresh Reddy. Krishnappa* holds that Section 149 liability does not require each armed member to strike or inflict a distinct wound. The convictions of the five appellants under Sections 148 and 302/149 IPC, and of three appellants under Sections 25(1-B)(a) and 27 of the Arms Act, together with their concurrent sentences, were affirmed. Puran remained acquitted. All four appeals were dismissed.

Case-note :- *1. Facts :* At about 20:00 on 4 January 2011 Pinkad rode a motorcycle through Chhatri Mandi, Gwalior, with his friend Girish (PW-1) as pillion. He paused to speak with brothers Nihal (PW-2) and Ravindra (PW-3) at a handpump. According to the FIR and their evidence, Gopal Pal, Chimppi alias Narendra and Lalla alias Dharmendra appeared with country-made pistols, Monu Maratha with a sword, and Illu alias Ramendra with a katar. Gopal made a hostile statement referring to Pinkad

as a Mehtar and threatened to kill him. The three pistol holders fired; Monu and Illu struck with their weapons. Girish jumped away, the brothers hid when threatened, and Pinkad fell with a head gunshot injury and bleeding. The five fled. Nihal lodged FIR Ex. P-1, Crime No. 1/2011, recorded at 20:20; the body was taken in an auto to the police station and mortuary. The prosecution attributed motive to previous hostility over alleged teasing. Nihal later complained that Puran alias Dhapole also used fists/blows, leading to his addition as sixth accused.

Police recorded merg, prepared an inquest and spot map, seized ordinary and blood-stained earth, arrested and recovered several weapons, and charged IPC Sections 302, 341, 147–149, SC/ST (Prevention of Atrocities) Act Section 3(2)(v), and Arms Act Sections 25/27. The Special Judge (Atrocities), Gwalior, in Special Sessions Trial No. 105/2011 acquitted Puran but convicted the five present appellants on 7 May 2012 under Sections 148 and 302/149 IPC. Lalla, Chimppi and Gopal additionally were convicted under Arms Act Sections 25(1-B)(a) and 27. Each received one year RI and Rs.1,000 fine for Section 148, life imprisonment and Rs.10,000 fine for Section 302/149, with one month's simple imprisonment in default for Section 148 and four months' simple imprisonment in default for Section 302/149; the three Arms Act appellants additionally received one year RI and Rs.1,000 fine under Section 25(1-B)(a), and seven years RI and Rs.1,000 fine under Section 27, with one-month default SI for each Arms count. Terms were concurrent. The record does not identify a separate SC/ST Act conviction in the sentencing table.

2. Precedents — Considered : On alleged FIR antetiming and isolated discrepancies, *Dharmendrasinh v. State of Gujarat, (2002) 4 SCC 679*, rejects mechanical application of falsus in uno and assesses exaggeration or faulty investigation against the whole corroborated account. *Achhar Singh v. State of H.P., (2021) 5 SCC 543*, distinguishes an exaggerated statement, where a truthful core may survive, from a wholly false one; *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, similarly asks if discrepancies shake the account's core. The Court used these when reconciling IO PW-11's later station-arrival passage with the scribe's evidence and the early knowledge of the crime number, not to pronounce every protest statement true.

On Section 157 dispatch and investigative defects, *Leela Ram v. State of Haryana, (1999) 9 SCC 525*, cautions against automatic rejection for investigative irregularity. *Mahmood v. State of U.P., (2007) 14 SCC 16*, quoting *Anil Rai* and *Alla China Apparao*, describes Magistrate oversight and the significance of extraordinary unexplained delay in sending the FIR copy, which depends on the facts. *Jafarudheen v. State of Kerala* similarly emphasizes early Magistrate receipt to guard against later embellishment while rejecting delay as sole ground for acquittal. *State of U.P. v. Jagdeo, (2003) 1 SCC 456*, and *Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158*, require an independent and analytical appraisal of credible evidence, potentially using trial/appellate evidence powers in an appropriate case, rather than rewarding designedly poor investigation. Their nested *State of Rajasthan v. Kishore*, *Karnel Singh*, *Paras Yadav*, *Ram Bihari Yadav* and *Amar Singh* references were background. *Prithvi (Minor) v. Mam Raj, (2004) 13 SCC 279*, treats a missing light-pole notation in a site plan as a potential investigative lapse, not automatic destruction of credible close-range identification.

The Court quoted an extensive series of decisions on related witnesses: *Kunwarpal v. State of Uttarakhand, (2014) 16 SCC 560*, and *State of U.P. v. Kishan Chand, (2004) 7 SCC 629*, recognise that enmity may provide a motive both for false implication and for the crime. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, and *Raju v. State of T.N., (2012) 12 SCC 701*, discuss scrutiny of related or genuinely interested testimony, its quality and when cautious corroboration may be helpful. *Jodhan v. State of M.P., (2015) 11 SCC 52; Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*; *Rupinder Singh Sandhu*, *Shamim*, *Rizan* and *Mohd. Rojali Ali*, *(2019) 19 SCC 567*, reinforce fact-specific scrutiny. Embedded *Dalip Singh*, *Darya Singh*, *Hari Obula Reddy* and other authorities elaborate, but were not individually applied to the facts of this occurrence.

For missing market witnesses, *Mahesh v. State of Maharashtra, (2008) 13 SCC 271; Nagarjit Ahir v. State of Bihar, (2005) 10 SCC 369; State of A.P. v. S. Rayappa, (2006) 4 SCC 512*; and *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, recognize that reliable testimony is not automatically discredited by bystanders' reluctance to testify. The defence cited *Kanakarajan v. State of Kerala, (2017) 13 SCC 597*,

where missing credible independent witnesses mattered alongside weak prosecution proof, and *Noor Aga v. State of Punjab, (2008) 16 SCC 417*, concerning unexplained absence of material search witnesses and serious procedural gaps in a different special-statute context. The Court did not treat those decisions as laying down an incorrect rule; it distinguished their factual need for independent corroboration from reliable eyewitness accounts and a closed market here.

On Section 313, *Bhalinder Singh v. State of Punjab, (1994) 1 SCC 726*, prevents reliance on an incriminating circumstance never put to the accused and insists prosecution stand on its own proof. *Samsul Haque v. State of Assam, (2019) 18 SCC 161*, quotes *Asraf Ali*'s need for distinct questions and demonstrated prejudice, and *Shivaji Sahabrao Bobade* on excluding unput material or sometimes remitting a deficient examination. The Court chose exclusion of this FSL report, without ordering a retrial. *Rakesh v. State of U.P., (2021) 7 SCC 188; Gulab v. State of U.P., Criminal Appeal No. 81/2021*, 9 December 2021; and *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, separately explain why failure to seize or match the actual homicide weapon does not invariably defeat credible direct proof.

On differences between eyewitness and medical evidence, *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, was quoted at length, including *Yogesh Singh*, *Sunil Kundu*, *Bastiram* and *Dayal Singh* to distinguish ordinary variance from medical impossibility. *Baleshwar Mahto v. State of Bihar, (2017) 3 SCC 152*, quoted *Kamaljit Singh* on minor variations. *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457*, supported a possibility that a cutting weapon's blunt edge or dulled blade produced a laceration. The local *Division Bench Bhaggo Bai v. State of M.P.*, Cr.A. No. 1116/2014, decided 13 May 2022, was also cited on that point. These authorities do not mean medical proof may be disregarded where it completely rules out the asserted assault. Finally, *Krishnappa v. State of Karnataka, (2012) 11 SCC 237*, supplied the Section 149 common-object rule that actual injury by each assembly member is unnecessary; nested *Lalji*, *Allauddin Mian*, *Ranbir Yadav*, *Kishan Chand* and *Deo Narain* were supporting references.

3. Statutes considered : IPC Section 148 punished armed rioting and Section 302 read with Section 149 supplied homicide liability for each member of an unlawful assembly acting for the common object or knowing the offence likely. Section 149 differs from direct attribution of a particular fatal bullet. IPC Sections 147 and 341 appeared in the charge-sheet background. The charges included Section 302 read with SC/ST Act Section 3(2)(v) or, in the alternative, Section 302/149 IPC read with Section 3(2)(v), in the context of the alleged caste-related language. However, the appeal's sentencing table and conclusion identify no separate Atrocities Act conviction; the High Court did not analyse the caste ingredient as a distinct appellate issue. The three pistol appellants' separate convictions were under Arms Act Sections 25(1-B)(a) and 27. CrPC Section 157(1) governed prompt FIR copy to the Magistrate, a safeguard not proved complied with here; Section 159 was referenced in Supreme Court quotations on Magistrate oversight. Section 313 required an opportunity to explain the forensic report, which was excluded for lack of a question. Sections 311 and 391 CrPC and Evidence Act Section 165 appeared in *Zahira*'s discussion of tools for dealing with designedly deficient investigation, but were not exercised in this appeal.

4. Issues : Was Pinkad's death homicidal, and did three eyewitnesses identify the five convicted appellants in a well-lit market group attack? Was Ex. P-1 actually registered at 20:20 or prepared later after protest, and what consequence flowed from failure to prove Section 157 Magistrate dispatch? Should the accounts of Girish, Nihal and Ravindra be discounted because two were brothers and one a friend, there was prior enmity, and no independent shopkeeper testified? Did the missing pole in the spot map make nighttime identification unsafe? What remained of recovery proof after excluding an FSL report not put under Section 313, and did absence of a forensic link to the actual murder weapon destroy ocular proof? Did one fatal bullet and a laceration conflict materially with testimony of three shots and sword/katar blows? Finally, could Lalla and Chimppi be convicted under Section 302/149 when neither was individually shown to have fired the only bullet that hit? The appeal did not adjudicate a separate SC/ST Act conviction or a new charge against acquitted Puran.

5. Ratio / Findings : Autopsy surgeon Dr. J.N. Soni (PW-14; the judgment flags inconsistent PW numbering) documented a firearm entry at the left molar region with burning/tattooing, an exit with brain matter and skull fractures, a laceration above the left eye, a deep stab on the left buttock and an

abrasion. He attributed death to shock and hemorrhage from the head injury, which was sufficient to cause death in the ordinary course of nature, and described the death as homicidal. He said the tattooing suggested a close shot, only one entry existed, some other injuries could result from fall or a sharp/double-edged weapon, and no seized weapon was shown to him.

Girish rode immediately behind Pinkad, while Nihal and Ravindra stood nearby. They named Gopal, Lalla, Chimppi, Monu and Illu with pistols, sword and katar and described the firing and assault. Their presence was natural; old enmity required closer scrutiny but also gave a possible motive for attack. The Court found their core accounts credible despite some differences in precise weapon effects and the later naming of Puran, whom the trial court acquitted. The market was open at the time; local accused were known to witnesses; proximity, asserted street illumination, shops and motorcycle headlamp permitted observation. The site plan's failure to mark a pole was a police omission, not conclusive proof of darkness. Shops had closed by the IO's arrival and the Court found missing independent market testimony did not in these circumstances outweigh direct accounts. The Court also referred to the general reluctance of bystanders to testify against local accused persons.

For the FIR chronology, the FIR scribe PW-15 maintained that it was recorded at 20:20. CSP PW-11 said he learned of the registered crime number by 20:30–20:45 and went to the scene, then described a later police-station visit and protest with the body. The Court read these statements with the eyewitnesses' account that the body had been taken to hospital after reporting and could have returned. It accepted that agitation occurred and inferred it concerned disagreement over details recorded; Puran was added by a later written application. The defence did not put the protest sequence to Nihal or Ravindra. It rejected antetiming. Separately, it found no proof of the FIR copy's dispatch or receipt before the Magistrate under Section 157. That failure required close examination of other evidence with appropriate caution, rather than treating the FIR as false merely because the first informant could not control police dispatch.

The IO recounted recoveries of three country pistols, a sword and a katar, supported by seizure witnesses, and armourer PW-9 found the sealed firearms working with an explosive smell. The FSL report on Gopal's pistol was not put to the accused under Section 313 and was therefore excluded. The Court further acknowledged that no reliable connection had been established between the seized weapons and the fatal shot, treating the actual crime weapon as untraced. That did not eliminate credible ocular proof under the cited nonrecovery cases. The separate Arms Act convictions in the trial order were affirmed.

Only one shot struck Pinkad although three armed men reportedly fired. The Court held that, once Lalla and Chimppi were found to be members of the unlawful assembly who participated in the assault, whether their shots hit the deceased was immaterial. The buttock stab was compatible with sharp attack; the head laceration could be from a dulled sword edge, its blunt side, impact or fall as considered by the doctor. The medical picture did not entirely negate the witnesses' group-assault narrative. Lalla and Chimppi were named and placed in the armed five-person assembly from the beginning, and Section 149 made their membership and homicidal common object, rather than proof of a separate wound from each, the controlling question. The Court affirmed guilt beyond reasonable doubt; it did not extend conviction to Puran or identify which of the three seized pistols caused death.

6. Relief : The Hon’ble High Court dismissed all four connected appeals; the Special Judge's 7 May 2012 convictions and concurrent sentences were affirmed. Lalla, Chimppi, Gopal, Illu and Monu remained convicted under IPC Sections 148 and 302/149 with the specified life term, fines and defaults; Lalla, Chimppi and Gopal also remained convicted under Arms Act Sections 25(1-B)(a) and 27 with the trial's respective one-year and seven-year terms and fines. Illu, on bail, had his bonds cancelled and was directed to surrender immediately; the others, in jail, were to serve the remainder. Copies were to be supplied free and the trial record returned. Puran's acquittal and the absence of a separately stated SC/ST Act conviction were not disturbed.

Lalla and Ors. v. State of Madhya Pradesh, Cr.A. no. 467/2012 & 531/2012 & 711/2012 & 770/2012, 21/11/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (320) Prev Next

Headnote :- False evidence — Section 340 CrPC — preliminary inquiry — The Court applied

Pritish v. State of Maharashtra, (2002) 1 SCC 253: the court must form an opinion that inquiry into an offence which appears to have been committed is expedient in the interests of justice, but may do so from the material already before it without a preliminary inquiry. Such an inquiry, if chosen, aids the expediency decision and is not a trial of guilt. Absence of a separate inquiry did not invalidate the complaint against the seizure witness merely on that account.

False evidence — Section 340 complaint — proposed accused's hearing — The Court also applied *Pritish, (2002) 1 SCC 253*, to hold that there is no statutory right to be heard by the referring court before it makes the complaint. The appeal provided by Section 341 does not imply a requirement of a pre-complaint hearing. The person has a right to participate and seek discharge at the later Magistrate stage; the referring court does not decide guilt or innocence. Laxman Rao's objection that he was entitled to be heard before the complaint was made therefore failed.

False evidence — expediency and administration of justice — The Court applied *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*: a court complaint is discretionary and turns on the apparent misconduct's effect on justice, not a routine response to every incorrect statement. Laxman Rao, a seizure witness and Gram Raksha Samiti member, first placed ₹80,000 recovery in Pahada, corrected it to Ramkumar Niranjan's Bhander house when confronted by the prosecutor, then reverted to Pahada in defence cross-examination. The High Court assessed this repeated material shift as deliberate assistance to the accused and upheld the trial court's complaint direction. The pending prosecution was to proceed; the revision was dismissed, without a finding of criminal guilt.

Case-note :- ***1. Facts :*** In a trial arising from the 13 July 2009 robbery of bus passenger Rakesh Jain and the taking of approximately ₹20 lakh, charges under IPC Sections 120-B and 412 were pending in Sessions Trial No. 118/2010. Laxman Rao was a witness to a seizure involving ₹80,000 said to be accused Ramkumar Niranjan's share. In examination-in-chief he stated that Niranjan's memorandum placed the money in his village Pahada and that it was seized from his house there under Ex. P-7. The prosecution treated this as incorrect and had him declared hostile. In the prosecutor's cross-examination Rao corrected the location to Niranjan's house at Bhander, attributing his first answer to faded memory. In the accused's cross-examination he acknowledged Gram Raksha Samiti membership but again said that the money had been seized from Pahada. The High Court characterized the alternating material accounts as intentional weakening of the prosecution case. It did not determine the truth of the recovery as an issue in the robbery trial or finally adjudicate Rao's criminal liability.

The Sessions Court's final decision on 4 February 2013 directed a complaint under Section 340 CrPC concerning Rao's evidence. A complaint was filed as Criminal Case No. 145/2013. Rao objected that there had been no preliminary inquiry; the JMFC at Guna rejected that application on 1 September 2018. The First Additional Sessions Judge dismissed his Criminal Appeal No. 251/2018. Rao invoked Sections 397 and 401 CrPC to challenge the order. He argued that preliminary inquiry and a hearing were needed and that a witness should not be prosecuted merely because his evidence did not support the prosecution. The State opposed the revision.

2. Precedents — Considered : *Pritish v. State of Maharashtra and others, (2002) 1 SCC 253*, was quoted and applied on two distinct procedural points. Its discussion of Section 340 requires the court to consider whether an inquiry into an offence apparently committed in relation to its proceedings is expedient in the interests of justice. The preliminary inquiry is an optional means of reaching that opinion, not a compulsory precondition or an adjudication whether a particular person is guilty. The High Court used this rule to reject Rao's argument that the complaint failed without a prior separate inquiry. *Pritish* also explains that, although the referring court need not give the proposed accused a pre-complaint hearing, the person is heard when called by the Magistrate, can participate in the pre-trial inquiry and can seek discharge. The Section 341 appeal does not imply an earlier hearing right. The High Court followed these safeguards at the respective procedural stages in rejecting Rao's second objection. The quoted *Pritish* passage itself referred to the Constitution Bench caution in *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, against pronouncing guilt or innocence at the Section 340 stage; the High Court's use of *Pritish* keeps the present opinion within that threshold and does not

involve a separate examination of the facts in *M.S. Sheriff*.

Iqbal Singh Marwah and another v. Meenakshi Marwah and another, (2005) 4 SCC 370, paragraph 23, was quoted on the discretion conferred by Section 340. A court is not bound to complain about every apparent offence within Section 195(1)(b). Expediency is assessed by the effect or impact on the administration of justice, rather than merely the magnitude of harm to a particular person; even serious individual loss from a forged document can have a limited bearing on proceedings amid voluminous evidence. The cited passage also warns against a construction leaving a forgery victim remediless. This case involved shifting sworn testimony about the site of seizure. The High Court applied the expediency criterion to Rao's repeated changes on a material recovery fact and affirmed the complaint, rather than adopting an automatic-prosecution rule.

3. Statutes considered : Section 340 CrPC authorizes the court, on considering it expedient in the interests of justice that inquiry be made into an apparently committed offence described in Section 195(1)(b) in or in relation to its proceedings, to record the requisite opinion and make a written complaint to the competent Magistrate; it may hold a preliminary inquiry first but need not. Section 195(1)(b) governs the court-complaint route for the covered public-justice offences. Section 341 provides an appeal from a court's complaint decision; the quoted *Pritish* analysis explains why that later remedy does not mandate a prior hearing. The Magistrate's ensuing procedure and discharge protections were described through CrPC Sections 343 and 238–243; these govern later adjudication, not the referring court's Section 340 threshold. Sections 397 and 401 supplied the High Court's revisional jurisdiction. The underlying robbery-related IPC Sections 120-B and 412 identify the separate trial in which Rao testified; they were not charges adjudicated against him in this revision.

4. Issues : First, did Section 340 make a preliminary inquiry indispensable before a court could direct a complaint about Rao's allegedly false seizure testimony? Second, was Rao entitled to be heard by that court before the complaint was made, given the later appeal and Magistrate procedures? Third, did the varying answers show more than an ordinary hostile or mistaken witness, so that inquiry was expedient in the interests of justice rather than automatic punishment for failure to support the prosecution? The revision did not determine whether the ₹80,000 had actually been recovered in Bhander or Pahada, the accused's guilt in Sessions Trial No. 118/2010, or Rao's guilt in the separate complaint prosecution.

5. Ratio / Findings : The Court adopted *Pritish*'s distinction between forming an expediency opinion and conducting an optional preliminary inquiry to help form it. A court may use the proceedings and evidence already available to decide that the apparent false-evidence offence should be examined by the criminal court; the absence of a separate inquiry is not, by itself, fatal. The High Court rejected Rao's argument that a preliminary inquiry was mandatory. The High Court did not say every hostile turn is enough: the discretion still requires an interests-of-justice finding. It also applied *Pritish*'s hearing sequence. The referring court is deciding whether an allegation merits inquiry, not whether Rao is guilty, so he had no pre-complaint hearing right at that stage. He retained the legal opportunity to answer the accusation before the Magistrate and to seek discharge; a Section 341 appeal is a distinct later safeguard.

On expediency, the High Court examined the three answers rather than treating the witness's mere failure to support the prosecution as conclusive. In chief Rao placed the recovery in Pahada. Under the prosecutor's questioning he gave Bhander, saying forgetfulness had led to the first mistake. Under the accused's questioning he again identified Pahada as the place of recovery. Because the recovery location was material to the prosecution case, the Court inferred intentional assistance to the accused from the repeated reversal. Rao's Gram Raksha Samiti membership and the statutory duties the Court attributed to it were considered in its assessment. *Iqbal Singh Marwah*'s administration-of-justice criterion supplied the reason to sustain the complaint in these circumstances, not a rule requiring prosecution whenever a witness varies an answer. The present conclusion is a Section 340 threshold and revisional finding, leaving proof of a charged offence to the ensuing criminal trial.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The interim stay of Criminal Case No. 145/2013, granted on 19 August 2019, was vacated. The trial Magistrate was directed to make every endeavour to conclude the prosecution within one year from the decision; if Rao failed to

cooperate, the court below was free to take coercive steps to secure early disposal. No conviction for false evidence was entered in this revision, and no determination of the underlying robbery accused's liability was made.

Laxman Rao v. Court of Third Additional Sessions Judge, Guna and others, Cr.R. no. 3958/2019, 02/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (321) Prev Next

Headnote :- Multiple FIRs — one search, three statutes — A house raid allegedly disclosed country liquor, ganja and a loaded unlicensed pistol, producing Excise Act, NDPS Act and Arms Act FIRs within six minutes. The High Court held that the officer's choice to record three offences separately did not, by itself, establish a deliberate mala fide act aimed at preventing the accused from canvassing for his wife. It did not decide an abstract same-transaction second-FIR rule or guilt for the alleged recoveries.

Investigation — accused's choice of agency — The Court applied *Romila Thapar v. Union of India, (2018) 10 SCC 753*, including its discussion of *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar*: the accused has no entitlement to select an investigating agency or dictate the manner of investigation. The High Court also followed *Prabal Dogra v. Superintendent of Police, Gwalior.* The registration of three FIRs within that period and the unsubstantiated allegation of political pressure did not justify transfer to an independent agency.

Article 226 — fair investigation and exceptional transfer — *Romila Thapar*'s discussion of *Divine Retreat Centre* preserved intervention for demonstrated mala fide exercise of investigative power, while *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, requires CBI transfer to be ordered sparingly and cautiously for exceptional needs, rather than routinely on allegations against the police. *Manohar Lal Sharma v. Principal Secretary, AIR 2014 SC 666,* was invoked against supervising the investigation. No specific illegality or basis for exceptional intervention was established here, so transfer and other writ relief were refused. The request to preserve CCTV footage and to pursue officials was not separately decided on the merits.

Case-note :- ***1. Facts :*** Laxman Yadav petitioned under Article 226 after Police Station Datia Civil Lines registered three crimes following a search of his house on 4 July 2022. He said Crime Nos. 239, 240 and 241/2022 were lodged within six minutes under ruling-party pressure, deliberately preventing him from canvassing for his wife in the Datia municipal councillor election. He asked principally for investigation of Crimes 240 and 241 by an independent agency, inquiry and disciplinary action against police officials, and preservation of CCTV footage for 4 July from midnight until 6 a.m. These were his allegations and requested remedies, not established findings of political interference.

The State said one raid found seven boxes with 350 quarters of country liquor, a total described by the Court as 63 bulk litres, 500 grams of ganja, and an unlicensed loaded .315-bore country-made pistol. Crime No. 239 was for Section 34(2) of the M.P. Excise Act, No. 240 for Section 25(1) of the Arms Act and No. 241 for Sections 8/20 of the NDPS Act. The State emphasized that the NDPS FIR itself recorded a smell of liquor and ganja during the raid and argued that distinct offences under different enactments justified distinct registrations, with no procedural lapse or evidence of fabrication. The High Court treated the account of the raid and items as appearing from the record for the limited writ decision. It did not conduct a trial of possession, licence status or search reliability.

2. Precedents — Considered : *Romila Thapar and others v. Union of India and others, (2018) 10 SCC 753*, paragraphs 24–30, was quoted at length and expressly applied. It reaffirmed that an accused cannot choose the agency or method of investigation. The quoted passage relied *on Narmada Bai v. State of Gujarat for the* no-choice principle and *Sanjiv Rajendra Bhatt v. Union of India for* no accused right to control the manner of investigation or prosecution; the latter itself listed *W.N. Chadha, Mayawati, Dinubhai Boghabhai Solanki, CBI v. Rajesh Gandhi, CCI v. SAIL and Janata Dal* as supporting authorities without separately analysing their facts. *Romila* also discussed *E. Sivakumar v. Union of India*, which rejected an accused's demand for a hearing as a matter of course before a transfer to the CBI in the circumstances there, referring to *Dinubhai* and *Narender G. Goel*. The present petitioner was affirmatively seeking transfer, so that quoted principle explains the limits on the accused’s hearing

rights, but no separate hearing claim was decided in this case.

The same *Romila* passage explained *Divine Retreat Centre v. State of Kerala*: neither accused nor complainant may choose an officer as of right, and inherent jurisdiction does not permit a midstream replacement merely to substitute an officer of the court's own choice; Article 226 nevertheless allows directions on convincing proof of mala fide exercise of investigative power. It reproduced the Constitution Bench warning in *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, paragraph 70: constitutional CBI transfers are exceptional and require caution, for example where investigative credibility, national or international implications, complete justice or enforcement of fundamental rights require them; bare allegations against local police do not suffice. *Romila* itself found vague allegations inadequate in its own setting. The High Court used those limits to assess the present election-pressure claim, not to declare all agency transfers impossible.

The High Court cited *its own Prabal Dogra v. Superintendent of Police, Gwalior and State of M.P.*, M.Cr.C. No. 10446/2017, decided 30 November 2017, for the principle that the accused has no say in how investigation is conducted. It also invoked *Manohar Lal Sharma v. Principal Secretary, AIR 2014 SC 666*, for the proposition that it could not supervise the investigation as requested; the Court relied on that authority when refusing to supervise the investigation. These authorities governed the writ remedy and investigation control; they did not determine the legality of each FIR or the truth of seizure allegations.

3. Statutes considered : Article 226 of the Constitution was the source of the extraordinary writ relief sought. The court assessed whether concrete mala fide investigative conduct or another exceptional ground justified changing the agency; the cited Supreme Court decisions limit routine intervention while preserving constitutional power on an adequate foundation. Section 34(2) of the M.P. Excise Act was the reported liquor offence in Crime No. 239; Section 25(1) of the Arms Act concerned alleged unlicensed possession of the loaded pistol in Crime No. 240; Sections 8/20 of the NDPS Act concerned alleged ganja possession in Crime No. 241. These provisions identify the three separate offences and factual setting. The High Court did not decide whether each charge would stand.

4. Issues : Did the registration of three FIRs within six minutes after a single raid, each tied to an item and a different special statute, itself establish deliberate political targeting, mala fides or illegality by the officers? Could the petitioner, as an accused in the challenged FIRs, choose an independent agency or require the High Court to direct how investigation should proceed? Was there a sufficiently specific exceptional foundation for Article 226 intervention despite the usual limits on investigation control? CCTV preservation and inquiry or discipline of officials were requested; the petition was dismissed without granting those directions. It did not decide a comprehensive bar on multiple FIRs for a single transaction.

5. Ratio / Findings : The Court treated the raid as appearing to reveal three categories of articles: 63 bulk litres of country liquor, 500 grams of ganja and one loaded .315-bore pistol. The separate Excise, NDPS and Arms Act registrations reflected the investigating officer's choice to record three alleged offences. Timing alone and the shared raid did not persuade the Court that the officer acted deliberately to injure Yadav's election campaign. Its language was that separate registration in the officer's wisdom could not on this record be called mala fide; it did not resolve whether a single consolidated FIR would have been the only legally correct alternative, or adjudicate the defence in the underlying cases. The State's assertion that the petitioner had committed the three offences was a litigating position, not a conviction by the writ court.

Applying *Romila Thapar* and *Prabal Dogra*, the High Court held that a person arrayed as an accused cannot select a new agency or prescribe investigative steps merely because he distrusts local officers. The quoted Supreme Court discussion preserves an exception for mala fide investigation and, under *Committee for Protection of Democratic Rights*, particularly serious reasons requiring an independent agency. Here the political-pressure allegation was not substantiated by specific illegality; the simultaneous FIRs and the alleged items in one raid supplied no basis to infer fabrication. The court thus found no ground to transfer the investigation. Its invocation of *Manohar Lal Sharma* against supervising investigation addressed the request to direct the investigative manner; it did not eliminate the exceptional Article 226 jurisdiction described in *Romila*. The order did not inspect or preserve CCTV

in the operative part and did not decide the separate merits of disciplinary proceedings.

6. Relief : The Hon'ble High Court dismissed the writ petition. It refused transfer of the investigation of Crimes 240 and 241/2022 to another agency and issued no direction controlling the manner of investigation. The requested inquiry or discipline of named officials and preservation of 4 July CCTV footage were not granted. The three FIRs remained in place for ordinary investigation, with no quashing, finding of guilt or determination of the validity of any future charge.

Laxman Yadav v. State of Madhya Pradesh and others, W.P. no. 18055/2022, 05/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- CrPC — Section 233(3) — defence witnesses — The judge shall issue process requested by an accused entering defence unless, for recorded reasons, the application is for vexation, delay or defeating the ends of justice. Government employment and inconvenience to official duties are not among those grounds. The Special Judge refused five identified government witnesses in a Prevention of Corruption Act trial solely on that basis; the High Court set aside that portion and remanded the request for decision under Section 233, without itself compelling the witnesses' attendance.

Defence evidence — previously examined prosecution witness — *State of M.P. v. Badri Yadav, (2006) 9 SCC 549*, discussed use of Section 233(3) to reject a vexatious attempt to re-examine prosecution eyewitnesses as defence witnesses after full cross-examination and failed Section 311 recall. Its quotation of *Yakub Ismailbhai Patel v. State of Gujarat, (2004) 12 SCC 229*, warned against facilitating later recantation of sworn testimony. The Amit Hardware proprietor had already testified for the prosecution and had been made available for full cross-examination; refusal to call him again for the defence was affirmed. The decision does not announce a categorical ban applicable to every distinct and proper defence purpose.

Case-note :- ***1. Facts :*** Laxmi Narayan Vishwakarma was an accused in SC Lok 06/2017 before the Special Judge, Prevention of Corruption Act, Vidisha. At the defence-evidence stage he filed a witness list and described records to be proved through the proposed witnesses. Serial numbers 1–4 were the Secretary of Gram Panchayat Ukayla, the Public Information Officer of Janpad Panchayat Ganjbasoda, the Janpad's Chief Executive Officer and the station house officer of Police Station City Kotwali, Ganjbasoda. Number 6 was the present Secretary of Gram Panchayat Visdha. Number 5 was the proprietor of Amit Hardware. The revision concerned the grounds for refusing process for the listed defence witnesses.

On 24 September 2021 the Special Judge refused process for government officials numbered 1–4 and 6 on the view that their court attendance would hamper official duties. The judge separately refused the Amit Hardware proprietor because he had already testified as a prosecution witness and Vishwakarma had a full cross-examination opportunity. In revision under Sections 397 and 401 CrPC, counsel challenged the refusal during the defence stage. Counsel for the Lokayukta fairly accepted that the prosecution itself must have examined some government officials. The High Court considered the two sets of witnesses separately.

2. Precedents — Considered : For the request to call the already examined proprietor, the High Court quoted *State of M.P. v. Badri Yadav and another, (2006) 9 SCC 549*. In that case prosecution eyewitnesses had been examined, cross-examined and discharged; a Section 311 CrPC recall application was rejected; years later they were recalled ostensibly under Section 233(3) and examined as defence witnesses. The Supreme Court said the judge had power to refuse frivolous or vexatious process sought for delay or to defeat justice. The quoted decision addressed that sequence of prosecution examination, unsuccessful recall and later defence examination. The High Court applied its reasoning on abuse of process in light of the fact that Amit Hardware's proprietor had already been available for full cross-examination.

Badri Yadav quoted *Yakub Ismailbhai Patel v. State of Gujarat, (2004) 12 SCC 229*, where an eyewitness who had identified accused persons later filed an affidavit repudiating sworn prosecution testimony and blaming the police; the quoted Supreme Court reasoning rejected permitting a witness to perjure himself by such a resiling statement. The High Court reproduced that passage as part of *Badri Yadav*'s rationale, but the present record does not say the Amit Hardware proprietor signed a repudiating affidavit, was in custody with the accused, or had

sought to recant. Those were facts of the nested authority, not findings about him.

3. Statutes considered : Section 233(1) CrPC requires that a Sessions accused who is not acquitted under Section 232 be called to enter defence and adduce supporting evidence; subsection (2) provides for a written statement's inclusion in the record. Subsection (3), central here, directs issuance of process compelling attendance of a defence witness or production of a document or thing on the accused's application, subject to recorded reasons for refusal if the application is for vexation, delay or defeating the ends of justice. The statutory exceptions are directed at abusive use of court process; official workload is not one of them. Section 311 appears in the quoted procedural history of *Badri Yadav* as the earlier failed recall route, not as a separate application decided in Vishwakarma's trial. Sections 397 and 401 governed revision. The Prevention of Corruption Act identifies the special trial setting.

4. Issues : Could the Special Judge decline process for five identified government functionaries merely because their attendance as defence witnesses would disrupt public duties, despite Section 233(3)'s stated grounds and the records the accused proposed to prove? Did the same right require summoning the Amit Hardware proprietor again after prosecution examination and a full opportunity for defence cross-examination, in view of the abuse-of-process concern addressed by *Badri Yadav*? The High Court did not determine the relevance or admissibility of each underlying record or whether the five officials would ultimately be summoned after a fresh statutory decision.

5. Ratio / Findings : The Court read the actual language of Section 233, including the accused's opportunity to enter defence and subsection (3)'s requirement of process subject to recorded vexation, delay or ends-of-justice reasons. The Special Judge had relied solely on inconvenience to government work for witnesses 1–4 and 6. That consideration was foreign to the provision and could not deprive the accused of a defence-evidence opportunity. The Lokayukta counsel's concession that the prosecution had also examined government officials supported the Court's rejection of that ground. The High Court rejected the reason without making its own final relevance finding; on remand the Special Judge must apply Section 233(3) to the requested witnesses and any records. The proprietor's position was different. He had already been called by the prosecution, examined and made available for full cross-examination by the accused. The High Court invoked *Badri Yadav*'s warning that Section 233(3) should not be used to bring back prosecution witnesses for vexation or to defeat justice, and quoted its reliance on *Yakub Ismailbhai Patel*'s protection of the integrity of sworn testimony. On this record it found no case to summon the proprietor again and upheld that refusal. The judgment does not record an additional distinct defence purpose for calling him, nor a proposed recanting affidavit.

6. Relief : The Hon'ble High Court partly set aside the Special Judge's order of 24 September 2021. It remanded only Vishwakarma's request to examine listed government witnesses 1–4 and 6 for a new decision in accordance with Section 233 CrPC. It left intact the refusal to summon witness 5, the Amit Hardware proprietor, who had already testified and been made available for full cross-examination. The criminal revision was disposed of; no acquittal, finding on the corruption allegation, automatic summons order or direction as to the ultimate defence evidence was made.

Laxmi Narayan Vishwakarma v. State of M.P., Cr.R. no. 2536/2021, 29/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC — FIR quashing — face-value test and investigation - *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, and *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, were considered on the need for restraint before stopping the investigation of a disclosed cognizable offence. The *Bhajan Lal* exceptions reproduced in *S. Khushboo, (2010) 5 SCC 600*, and *Padal Venkata Rama Reddy, (2012) 12 SCC 437*, together with *Amit Kapoor, (2012) 9 SCC 460*, permit intervention where the allegations, taken at face value, disclose no offence, are inherently improbable, are subject to a legal bar or reveal an abuse of process. *M. Srikanth, (2019) 10 SCC 373*, and *M.N. Ojha, (2009) 9 SCC 682*, recognise the corresponding need to prevent manifest injustice. The allegations of a dowry demand, beating, threat and expulsion disclosed a triable case involving a cognizable offence. The High Court therefore refused to quash the FIR

without deciding whether those allegations were true.

Section 482 CrPC — disputed defence and mini-trial - *XYZ v. State of Gujarat, (2019) 10 SCC 337, State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718, Amit Kapoor, State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226, State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021,* and *CBI v. Arvind Khanna, (2019) 10 SCC 686,* were considered on the limits of weighing evidence or assessing a disputed defence before trial. *Mohd. Akram Siddiqui, (2019) 13 SCC 350*, recognises a narrow exception for public documents or documents whose veracity is undisputed. That exception did not make the applicant's disputed account of the matrimonial relationship conclusive. Her claim that cohabitation lasted only briefly and the co-accused's earlier apprehension that a complaint would be lodged were matters for proof, not grounds for treating the FIR as false.

Matrimonial cruelty — relatives — specificity of allegations - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260,* requires particular caution where omnibus allegations are made against relatives not generally involved in the couple's affairs, while leaving a triable case of harassment to trial. The allegations that this mother-in-law beat the complainant over a specified dowry demand and excluded her from the matrimonial home were treated as specific. *Meera v. State, (2022) 3 SCC 93,* was cited concerning a mother-in-law's duty to protect her daughter-in-law and the gravity of cruelty by one woman to another. Neither authority was treated as establishing the applicant's guilt. The quashing application was dismissed.

Case-note :- ***1. Facts :*** Laxmi Pandey, the mother-in-law of respondent No. 2, sought quashing under Section 482 CrPC of Crime No. 525/2022 registered at Barela Police Station, Jabalpur. The FIR named her and other accused for offences under Sections 498-A, 323, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act. The complainant said she married Pritesh Pandey on 3 May 2022 according to Hindu rites. She alleged that her father spent approximately ₹15 lakh and supplied cash and household articles according to his means. Despite this, the accused on her husband's side, including the applicant as described in the FIR, allegedly beat her over a further demand of ₹30 lakh, threatened that her husband would marry again, and turned her out of the matrimonial house, saying she could return only after the demand was met. These were allegations, not findings made after evidence was taken.

The applicant argued that the accusations were false and that a co-accused had earlier approached the police expressing apprehension of false implication. She said the complainant had lived with her husband for only ten to twelve days, had subsequently created trouble and did not wish to live with him. She relied on that competing version in seeking quashing of the FIR. The order records that the applicant's counsel was heard. It does not record evidence at trial, a concluded investigation or a final adjudication of the family dispute. The High Court first set out the governing Section 482 precedents and then applied the threshold test to the allegations and the defence.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, (2018) 5 SCC 678,* was cited on the error of prematurely quashing an FIR without proper investigation and the cautious exercise of Section 482 where continuation would amount to an abuse of process. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, likewise protects the statutory police power to investigate where the FIR prima facie discloses a cognizable offence, subject to the exception for malicious and vexatious proceedings. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, explains why an offence disclosed by the allegations ordinarily requires investigation to gather evidence. Its quotations from *Swapan Kumar Guha* and *Jeffrey J. Diermeier* explain the same interest in investigation and the cautious exercise of inherent power to secure justice. Those cases were reproduced within *Ujjal Kumar Burdhan* and were not separately applied to the facts of this case.

XYZ v. State of Gujarat, (2019) 10 SCC 337, and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718,* warn against deciding disputed matters or halting an incomplete investigation through a roving inquiry under Section 482. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, reproduces the *Bhajan Lal* examples concerning the absence of a prima facie offence and proceedings manifestly attended with mala fides. It also discusses the duty to prevent the persecution of an apparently innocent person through a wholly untenable complaint. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, requires a quashing decision to apply the governing law to the actual facts and state the reasons for the conclusion. After considering the authorities, the High Court addressed the particular allegations and the defence.

Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460, sets out a broad framework for the cautious exercise of jurisdiction under Sections 397 and 482. The reproduced propositions distinguish allegations that prima facie disclose an offence when taken at face value from an inherently absurd case. They recognise express legal bars and abuse of process, balance personal liberty against the complainant's right to prosecute, and prohibit a detailed assessment of prosecution evidence, defence material or the prospects of conviction at the stage of charge or quashing. The discussion limits the application of *Madhavrao Jiwajirao Scindia*'s approach based on special features in predominantly civil cases. The present Court did not separately analyse every case in the extensive citation list. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, repeats *Bhajan Lal*'s warning that quashing is exceptional and does not permit an inquiry into the FIR's genuineness.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, states the ordinary rule against assessing an accused's defence or the veracity of documents on which the accused relies. It acknowledges an exception in an appropriate case for a public document or a document whose veracity the complainant does not dispute. The High Court cited that exception but did not identify such an indisputable document in this case. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, describes both the exceptional grounds of absence of an offence or abuse of process and the prohibition on using Section 482 to bring a legitimate prosecution to an end through an assessment of the evidence. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, reproduces the *Bhajan Lal* categories and the protection of a complaint that has a sufficient factual foundation even if it does not reproduce the ingredients of the offence verbatim. It also reproduces the discussion in *Madhavrao* and *P.P. Sharma* on the limited circumstances in which settlement of a civil dispute may be considered. The High Court did not apply that approach to settlement of a civil dispute in this case.

M. Srikanth v. State of Telangana, (2019) 10 SCC 373, recognises that proceedings may be quashed where the FIR allegations, even if fully accepted, or the uncontroverted material supporting them make out no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, explains the need for caution in both directions: routine interference obstructs an inquiry, while refusal to stop proceedings based on inherently improbable allegations or instituted to harass can itself cause injustice. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproves of deciding disputed defence facts under Section 482. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, order of 30 June 2021, rejects detailed scrutiny of the evidence as though at trial and states that an FIR need not be an encyclopedia. These authorities informed the Court's conclusion that proceedings may be quashed where the uncontroverted allegations disclose no offence, but the applicant's defence cannot be tried at this stage.

On the allegations against a relative in a matrimonial case, the Court invoked *Meera v. State by the Inspector of Police, (2022) 3 SCC 93*, concerning the seriousness of cruelty by a mother-in-law and her responsibility to protect her daughter-in-law. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, provides a quashing test directed more specifically to such cases: courts must guard against omnibus allegations against relatives not involved in the couple's affairs, while leaving a triable case of harassment and disputes about reliability to trial. Its lengthy quotation from *Amit Kapoor* and its distinctions from *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra* concern the circumstances of those other cases. The High Court did not treat the facts of those cases as findings about this applicant. The rule in *Taramani* was applied to the specific allegations in this case.

3. Statutes considered : Section 482 CrPC was invoked to prevent abuse of process or secure the ends of justice. At the FIR stage, the wide inherent power is exercised cautiously. The Court considers the complaint's uncontroverted allegations as a whole and ordinarily leaves a disclosed cognizable offence to investigation and trial, without trying contested evidence or the defence. Sections 397 and 228 CrPC, investigation provisions such as Sections 155 and 156, and the report under Section 173(2) appear in the quoted Supreme Court discussions of other procedural settings. This petition did not independently decide a revision, the framing of a charge or a defect in a police report under those provisions. Sections 498-A, 323, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act are the offences specified in the FIR. The Court held that the allegations disclosed a cognizable offence for the purpose of deciding whether to quash the FIR. It did not separately examine the ingredients of each

offence for a final determination, determine guilt or decide an evidentiary presumption.

4. Issues : First, taking respondent No. 2's allegations of a dowry demand, physical cruelty, threats and exclusion from the matrimonial home at face value, did the FIR disclose a triable case involving a cognizable offence attributable to the applicant mother-in-law, or did it warrant exceptional quashing under Section 482? Second, could the applicant's account of short cohabitation and the co-accused's earlier expression of apprehension establish that the complaint was false without testing the evidence? Third, how did the caution against vague or omnibus matrimonial allegations against relatives apply where the FIR alleged active conduct by the mother-in-law? The Court did not decide whether the alleged events occurred, whether any accused was guilty, or which version was ultimately credible. No compromise was put forward as a basis for relief.

5. Ratio / Findings : The Court began by considering the statutory interest in investigating an allegation of a cognizable offence and the exceptional role of Section 482 in preventing abuse of process. After considering the cited Supreme Court decisions, it stated the governing threshold: proceedings can be quashed where the uncontroverted allegations do not make out an offence, while the accused's defence cannot be determined at this stage. The Court applied those limits on Section 482 jurisdiction to the allegations and the applicant's disputed defence. The quotation of numerous quashing decisions did not mean that every possible *Bhajan Lal* category arose on the facts of this case.

As recounted in the FIR, the accusations went beyond merely naming the applicant as a family member. The complainant alleged beatings linked to a further demand of ₹30 lakh, threats that her husband would marry again, and exclusion from the matrimonial home until the demand was met. The High Court described the allegations as clear and specific and held that they prima facie disclosed a cognizable offence. It treated the mother-in-law as an alleged participant and cited *Meera*'s observation on her expected responsibility to protect her daughter-in-law. This was an assessment of whether there was a triable accusation, not an independent finding that the applicant had committed cruelty or that every charged offence had been proved. The caution in *Taramani* about relatives not generally involved in the couple's affairs being named through omnibus allegations remained relevant, but did not displace the specific accusation in this FIR.

The applicant's assertion that cohabitation lasted only ten to twelve days and that trouble followed was a disputed account of the facts. A co-accused's earlier application to the police expressing fear that an FIR would be lodged likewise did not prima facie disprove the complaint. Neither provided an uncontroverted basis for stopping the case. The Court did not identify an undisputed public document falling within the narrow exception in *Mohd. Akram Siddiqui*. It held that the truth, credibility and reliability of the allegations had to be assessed in the ordinary criminal process. Its refusal to quash left all issues for trial open.

6. Relief : The Hon'ble High Court dismissed the application and refused to quash Crime No. 525/2022 at Police Station Barela, Jabalpur. The FIR and the ordinary course of investigation or prosecution could therefore continue. The order contained no finding of guilt, direction to convict, final determination of credibility, special condition or remand. The applicant remained free to establish her defence at trial through the appropriate process.

Laxmi Pandey v. The State of Madhya Pradesh and Others, M.Cr.C. no. 56817/2023, 17/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (324) Prev Next

Headnote :- Police investigation — arrest — complainant's writ - Registration of an FIR disclosing a cognizable offence does not automatically require the police to arrest the accused. *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was applied. The passage it quotes from *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that the investigating officer must exercise the discretion under Section 41 CrPC cautiously, having regard to the person's liberty and reputation. The Court refused the petitioner's request for a direction to arrest the accused in the two pending FIRs. It did not rule that an arrest could never be justified.

Article 226 — police investigation — predetermined charge sheet - *D. Venkatasubramaniam* holds that a court ordinarily cannot direct the steps the police must take in an investigation, compel arrest, seizure or the filing of a charge sheet, or assume that the investigation must support prosecution. The evidence may justify a

closure report. The passage reproduced from that decision refers to *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, which cautions against judicial directions concerning an investigation that have serious consequences for affected persons without first hearing them. Notice was not independently in issue in the present case. The High Court refused to supervise the investigation by directing the filing of a charge sheet or requiring the requested outcome within fifteen days.

CrPC — Section 173(1) — BNSS Section 193 as cited — timely conclusion - Judicial restraint does not permit the police to delay an investigation unnecessarily. The officer must assess whether an offence is made out, conclude the investigation as early as possible and take the lawful steps required for a final report, whether a closure report or a charge sheet. The Article 226 petition was disposed of with that limited direction in respect of FIR Nos. 75/2024 and 177/2024 and liberty to approach the Superintendent of Police, Chhatarpur, without a fixed deadline or a finding on the accusations.

Case-note :- ***1. Facts :*** Laxmikant Chaturvedi filed Writ Petition No. 33104 of 2024 under Article 226 before the Jabalpur Bench. He referred to FIR No. 75/2024 dated 17 February 2024 and FIR No. 177/2024 dated 7 April 2024, registered at respondent No. 3 police station on a complaint he had made. The prayer quoted in the order sought a mandamus directing the police to complete both investigations and submit a final report or challan before the competent court within fifteen days. He also sought production of the records and appropriate relief. Counsel submitted that the police had neither arrested the accused nor completed the investigation. The Court considered the request for arrest, whether directing the filing of a charge sheet would amount to supervising the investigation, and the statutory duty to conclude the investigation. It cited a Supreme Court decision on improper judicial directions to the police, then reproduced the requirement in Section 173(1) CrPC that investigation be completed without unnecessary delay, while also referring to Section 193 BNSS. The petition concerned the scope of writ relief where investigations had not been completed. The Court did not decide whether the FIR allegations were true or whether any eventual arrest would be necessary.

2. Precedents — Considered : *D. Venkatasubramaniam and others v. M.K. Mohan Krishnamachari and another, (2009) 10 SCC 488*, was expressly cited and materially applied. The passage reproduced by the High Court concerned an earlier High Court order that treated the recording of statements, arrest, seizure and filing of a charge sheet as obligatory. That order also fixed a period for investigation without sufficient reasons and without hearing the affected persons. The Supreme Court held that the police have the statutory duty and discretion to investigate, and that courts ordinarily should not direct how an investigation proceeds or prescribe its result. An investigation need not result in arrest, seizure or prosecution. After gathering evidence, the officer may find grounds for a charge sheet or conclude that no case is made out. The Supreme Court also explained the cautious exercise of inherent power under Section 482 and set aside the intrusive order. In the present Article 226 writ, the High Court applied the principle against judicial supervision to refuse directions compelling arrest and a predetermined charge sheet, while separately directing timely completion according to law. It did not treat all the procedural circumstances of the cited case as facts of this case.

D. Venkatasubramaniam reproduced *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on the discretion to arrest under Section 41 CrPC. A police officer may arrest on the prescribed grounds, but must assess whether arrest is necessary in the circumstances. An FIR does not automatically require arrest, particularly because arrest intrudes on liberty and affects reputation. That rule, quoted within the precedent, was directly relevant to the petitioner's complaint that no accused had been arrested. The same Supreme Court passage cited *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on the need to hear persons likely to be affected by a judicial direction concerning an investigation that would have serious consequences for them. The present High Court did not independently decide an allegation that a hearing had been denied or issue a direction against accused persons who had not been heard. The reference reinforced restraint in framing writ relief.

3. Statutes considered : Article 226 of the Constitution supplied the jurisdiction invoked for mandamus. It did not entitle a complainant to choose investigative methods or compel the police to reach a particular result. Section 173(1) CrPC, reproduced in the order, directs completion of every investigation under the relevant Chapter without unnecessary delay. Section 41 CrPC appears in the

explanation of arrest discretion quoted from the Supreme Court decision. Section 482 CrPC appears in the quoted precedent's warning about the limits of inherent power. This petition itself proceeded under Article 226.

4. Issues : Could the writ court direct the police to arrest the accused in the two FIRs because the complainant was dissatisfied that no arrest had been made? Could it require a charge sheet or another predetermined result in favour of prosecution within the requested fifteen days, before the investigating officer had completed the assessment of evidence? Separately, did the statutory requirement to complete investigations without unnecessary delay justify a limited direction to bring them to a lawful conclusion while preserving the police's discretion as to the appropriate final report? The Court did not decide whether anyone should ultimately be arrested, whether an offence had been proved, or which report the officer must file.

5. Ratio / Findings : On arrest, the Court held that the requested direction could not be granted. It applied the rule in *D. Venkatasubramaniam* that investigation is within the police's domain and the *M.C. Abraham* reasoning quoted in it that Section 41 permits arrest when the statutory grounds exist, rather than requiring arrest mechanically. The petitioner's complaint that no arrest had been made did not justify a judicial direction requiring that particular investigative step. The conclusion left any lawful later arrest to the officer's assessment under the statute. It was not a finding in favour of the accused on the underlying allegations.

The Court held that directing arrest and the filing of a charge sheet would amount to supervising the investigation. *D. Venkatasubramaniam* had rejected a court's casual and mechanical prescription of investigative steps and recognised that, on completion of the investigation, the police might file a charge sheet or conclude that no case was made out. The High Court therefore did not grant the prayer for completion within fifteen days as framed or require a challan. The quoted warning about hearing affected persons and giving reasons remained part of the precedent's rationale. It was not a separate ground adjudicated in this case. The petitioner's grievance about delay did not determine what the evidence would ultimately establish.

On timely completion, the Court reproduced the requirement in Section 173(1) that investigation be completed without unnecessary delay and referred to Section 193 BNSS. An officer cannot leave the investigation of a registered case unresolved indefinitely. The officer must reach a reasoned conclusion from the investigation as to whether an offence is made out and proceed to the appropriate report, whether a closure report or a charge sheet, without unnecessary delay. The Court gave effect to that statutory duty by directing completion as early as possible and the necessary steps according to law. It set no fixed date and made no finding on the merits.

6. Relief : The Hon'ble High Court finally disposed of the writ petition. It did not order arrest, filing of a charge sheet or completion within fifteen days. It directed the investigating officer to conclude the investigations as early as possible and take the steps required by law. Chaturvedi was free to apply to the Superintendent of Police, Chhatarpur, about any grievance, which was to be considered in accordance with law. The choice of the final report, any lawful arrest and the merits of the FIR allegations remained for the competent authorities to address through the ordinary process.

Laxmikant Chaturvedi v. The State of Madhya Pradesh and Others, W.P. no. 33104/2024, 24/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / Section 528 BNSS — quashing — different-purpose earlier report and disputed defence - The complainant's earlier report that her husband was missing did not mention matrimonial cruelty. That report served a different purpose from the later FIR; its silence on cruelty did not establish that the FIR was an afterthought. At the quashing stage, the High Court would not compare the accounts to decide their credibility or determine the applicants' factual allegation of adultery. The Supreme Court authorities listed in paragraph 7, including *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *CBI v. Arvind Khanna, (2019) 10 SCC 686*, were cited collectively on the restraint required against a roving inquiry into the evidence where the allegations, taken at face value, disclose an offence.

Matrimonial criminal proceedings — earlier divorce petition — counterblast inference - *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied for the rule that the pendency of a divorce petition under Section 13 of the Hindu

Marriage Act does not by itself bring a criminal case arising from related facts to an end. The FIR allegations must be assessed to determine whether they prima facie disclose a cognizable offence; quashing cannot rest on an adverse inference drawn from the sequence of filings as an extraneous consideration. The husband's petition of 21 March 2024 preceded the wife's FIR of 30 July 2024, but that chronology alone did not establish the alleged counterblast. The history of attempts at reconciliation in *Pratibha* belonged to that case and was not a finding in this case.

IPC — Section 498-A — ouster and continuing mental cruelty - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted on the mental trauma caused by dowry-related abuse and forced departure from the matrimonial home, which may continue while the wife takes shelter with her parents even without a fresh physical assault there. *Amar Singh v. Vimla*, Criminal Revision No. 2376/2020 (MP High Court, 22 June 2021), was also cited on compelling a wife to live at her parental home. The FIR alleged demands for a vehicle or ₹20 lakh, assault, continued harassment and expulsion with the child. The Court treated those allegations as a triable accusation of cruelty against the husband, father-in-law and elder brother-in-law, without determining guilt or territorial jurisdiction.

Section 482 CrPC — informer mala fides — face-value cognizable offence - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, explains that inherent power prevents abuse of process but does not permit a factual mini-trial. Where an accusation prima facie discloses a cognizable offence, a disputed assertion of the informer's mala fides is secondary. The discussion of *Bhajan Lal* in that decision preserves the exception for proceedings shown to be manifestly malicious. The Court did not accept the applicants' reliance on the timing of the divorce petition and their other disputed allegations as grounds for quashing the proceedings arising from the charge sheet. The application was dismissed.

Case-note :- ***1. Facts :*** Laxminarayan Rawat (the father-in-law), the elder brother-in-law and the complainant's husband, who were applicants 1, 2 and 3 respectively, sought quashing of Criminal Case No. 1675/2024 before the JMFC, Morena, under Section 482 CrPC, which the order refers to alongside Section 528 BNSS. The police had filed a charge sheet in Crime No. 18/24 alleging offences under Sections 498-A, 323, 294 and 506 read with 34 IPC. The Court did not finally adjudicate those accusations.

According to respondent No. 2's FIR, as recounted in the order, she married applicant 3 on 29 April 2017. She stated that her parents had given ₹11 lakh in cash, 25 tolas of gold, 500 grams of silver and household articles. She said relations were initially good, but tensions later arose when she noticed an S&G tattoo on her husband's hand, and she visited her parental home. After the child's birth, she alleged that a four-wheeler was demanded. When her husband came to take her back in December 2018, he allegedly made a vehicle or ₹20 lakh a condition of her return. When she said her parents could not afford it, he allegedly kicked and punched her and abused her. On her parents' persuasion, she returned to the matrimonial house, but she alleged that the applicants continued to harass her physically and mentally for dowry. Her mother-in-law died on 6 September 2023. She alleged that on 23 September the applicants expelled her and her child, after which she lived with her parents in Morena. On 14 November 2023, her husband allegedly came there, repeated the unfulfilled demand, and beat and abused her. When she informed applicants 1 and 2, they allegedly demanded ₹20 lakh and told her not to return if her parents could not pay. These allegations were considered for the threshold test; they were not proved findings.

The applicants argued that the wife lodged the FIR on 30 July 2024 only after the husband filed a divorce petition on 21 March 2024 and she received notice. They described it as a false and malicious counterblast, alleged that she was living in adultery, and relied on her earlier report at Agar police station that her husband was missing. That report did not mention cruelty. Counsel invoked *Bhajan Lal*. After hearing the applicants' counsel, the High Court examined these objections in light of the earlier report's different purpose and the substantive allegations in the FIR.

2. Precedents — Considered : The applicants invoked *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, on mala fide prosecution as a possible exceptional ground for quashing. The Court did not regard the mere assertion of a retaliatory motive as proof that this category applied; it examined whether the uncontroverted FIR allegations disclosed an offence. Paragraph 7 collectively cites *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v.*

State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021, order of 30 June 2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The Court cited these decisions together for the common test of taking allegations at face value and the prohibition on a roving factual inquiry. It did not quote or individually analyse those sixteen decisions, or apply a distinct factual ratio from each, in this case.

Pratibha v. Rameshwari Devi and others, (2007) 12 SCC 369, was quoted extensively and directly applied to the contention that the FIR was a counterblast to the divorce petition. In that case, the Supreme Court reversed quashing based on delay and a divorce petition. It explained that attempts at reconciliation accounted for the later complaint on that record, and that civil divorce proceedings neither extinguish criminal proceedings nor permit the High Court to go beyond the FIR allegations and assume falsity. The present Court applied the general principles that the proceedings are separate and that the allegations must be tested for a prima facie offence, rejecting the inference that the Rawat FIR was necessarily retaliatory. It did not find that reconciliation efforts had taken place in this case merely because they had occurred in *Pratibha*.

Rupali Devi v. State of U.P., (2019) 5 SCC 384, was quoted on the meaning of cruelty under Section 498-A: physical acts, abusive or humiliating exchanges and forced exclusion can cause mental trauma that continues while a wife stays with her parents. The High Court applied that principle to this wife's alleged expulsion and continuing residence with her parents. It did not decide a separate dispute about territorial jurisdiction. It also cited *its own* decision in *Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020, decided on 22 June 2021, for the proposition that compelling a married woman to live at her parental home amounts to cruelty.

Renu Kumari v. Sanjay Kumar and others, (2008) 12 SCC 346, was then quoted at length on the purposes of inherent power in preventing abuse and the exceptional categories drawn from *R.P. Kapur* and *Bhajan Lal*. The quotation distinguishes cases involving no legal evidence from those requiring an assessment of evidentiary reliability. It also covers allegations so absurd and inherently improbable that no prudent person could find sufficient ground for proceeding against the accused. The passage stresses that the informant's alleged mala fides are secondary if the information discloses a cognizable offence; the evidence collected and led at trial determines the accused's fate. The present Court expressly adopted that conclusion after finding prima facie allegations of cruelty and dowry demands. *R.P. Kapur*, *Bhajan Lal* and the other decisions cited within the *Renu Kumari* quotation supply its framework. The Court did not independently decide whether a legal bar, want of sanction or absence of evidence justified quashing in this case.

3. Statutes considered : Section 482 CrPC, with Section 528 BNSS mentioned parenthetically in the order, supplied the inherent jurisdiction to quash proceedings. The Court could examine whether the uncontroverted allegations in the FIR and the ensuing proceedings arising from the charge sheet prima facie disclosed an offence. It could not decide the correctness of contested allegations or conduct a trial of the defence evidence. Section 498-A IPC was central to the continuing mental cruelty principle quoted from *Rupali Devi*. Sections 323, 294 and 506 read with 34 IPC were the other charged offences, but their distinct ingredients were not individually interpreted. Section 13 of the Hindu Marriage Act, 1955 identified the husband's divorce proceedings; their pendency did not determine the criminal case. The missing-person report concerned a different subject of investigation. The Court neither interpreted a provision governing such reports nor decided the evidentiary use of the omissions in that report at trial. It did not substitute BNS provisions for the IPC charges or give a final ruling on the merits.

4. Issues : Did the omission of cruelty allegations from the wife's missing-person report establish a contradiction so conclusive that her later matrimonial FIR had to be quashed as an afterthought, or did the earlier report serve a different

purpose? Could the High Court accept the applicants' allegations of adultery and falsity at the stage of exercising inherent powers without deciding disputed facts? Did the filing of a Section 13 divorce petition before the FIR make the criminal case a retaliatory counterblast, despite the separate legal character of divorce and cruelty proceedings? Taking the allegations of dowry demands, assault, joint harassment and exclusion from the matrimonial home at face value, was there a triable accusation under Section 498-A against the three applicants, including alleged continuing mental cruelty after the wife went to her parents? Finally, could the asserted mala fides of the informer independently defeat proceedings where the FIR prima facie disclosed a cognizable offence? The Court did not decide guilt, credibility at trial, the truth of the adultery allegation or a separate jurisdictional claim.

5. Ratio / Findings : The Court first rejected the inference sought to be drawn from the Agar missing-person report. Its limited purpose was to report the husband's disappearance. A complainant need not set out every separate matrimonial grievance in such a report; the omission did not establish that the later cruelty allegations were fabricated. Comparing the two accounts to determine their truth would require the roving inquiry into the evidence prohibited by the Section 482 authorities cited collectively in paragraph 7. The allegation of adultery was also a disputed question of fact that could not be resolved at this stage. The Court did not rule out every later evidentiary use of the earlier report. It only declined to draw a final conclusion about credibility from the omission in these proceedings.

The sequence of the divorce petition and FIR likewise did not by itself establish malicious prosecution. The applicants supplied the dates and described the FIR as a counterblast. *Pratibha* makes clear that divorce and criminal proceedings may continue independently even where they arise from related family events. A court exercising inherent powers must identify a proper ground for quashing by assessing whether the FIR prima facie discloses an offence or whether the proceedings constitute an abuse of process, rather than drawing an adverse inference solely from the sequence in which the divorce petition and FIR were filed. The explanation concerning reconciliation in *Pratibha* was not imported as a fact of this case. The High Court described the counterblast submission as misconceived, without purporting to determine every alleged motive after evidence.

The FIR alleged that the husband demanded a vehicle or ₹20 lakh as a condition and assaulted the complainant; that the applicants continued to harass her physically and mentally; that she and her child were expelled on 23 September 2023; that a further assault and demand occurred in November; and that the father-in-law and brother-in-law later demanded ₹20 lakh. The Court described the allegations against all applicants as specific and sufficient at the prima facie stage. *Rupali Devi* explained the distinction between the cessation of physical acts at the matrimonial home and the continuing psychological distress after a wife is forced to leave. *Amar Singh* was cited on compelled residence with parents. The ruling neither established the truth of the allegations nor treated the different acts alleged against the applicants as the same conduct. It did not determine territorial jurisdiction.

Finally, the Court applied the principle in *Renu Kumari* requiring caution in both the exercise and refusal of inherent power. The *Bhajan Lal* category of manifestly malicious proceedings remained available where established. The applicants' disputed claims of falsity, adultery and retaliatory timing, however, did not displace the cognizable accusation disclosed by the FIR. On this record, the informer's motive was secondary to the prima facie allegations. The proceedings arising from the charge sheet were therefore allowed to continue, leaving the merits and reliability of both versions for trial.

6. Relief : The Hon’ble High Court dismissed the application and refused to quash Criminal Case No. 1675/2024 before the JMFC, Morena, arising from Crime No. 18/24. It made no finding of guilt or acquittal, reached no final conclusion about evidentiary credibility, and imposed no additional condition. The pending prosecution could continue through the ordinary process.

Laxminarayan Rawat and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 47295/2024, 12/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (326) Prev Next

Headnote :- IPC — Sections 464, 467 and 468 — revenue-record interpolation — distinct false-document context - *Mohammed Ibrahim v. State of Bihar, (2009) 8 SCC 751*, concerned a person who

executed a conveyance in his own name while falsely claiming title. That false claim alone did not amount to making a false document under Section 464. *Parminder Kaur v. State of U.P., AIR 2010 SC 840*, concerned alterations to dates on certified copies, for which no benefit or loss was explained. The Court distinguished the circumstances of those cases from the alleged insertion of 'Quilla' in an original government revenue register. The insertion's potential effect on the temple's identity or location, together with the 2014 Tahsildar letter describing the father-son dispute, provided a plausible motive and led the Court to reject the applicant's argument that he could gain nothing from the change at the Section 482 stage. The Court did not finally determine who wrote the entry.

Investigation — missing CCTV footage — evidentiary inference - The alleged visit to inspect the office register on 4 January 2017 preceded the complaint of 31 January and the witness's statement of 14 February about the cameras installed there. The Court considered the limited storage of CCTV systems and the possibility that earlier recordings would be overwritten. It declined to infer intentional suppression or terminate the prosecution merely because the footage had not been collected. The retention period of the particular camera and the actual deletion of footage were not established. The applicant was expressly left free to challenge the omission by cross-examining the witness at trial.

Evidence Act — Sections 45, 47 and 73 — handwriting proof - The State Examiner's report stated that the person who wrote the standard writings S5–S19 did not write Q1, but it also noted a similarity between Q1 and the writing marked A–A in the same register. Applying *Manorama Naik v. State of Odisha, Criminal Appeal No. 423/2022* (14 March 2022), the Court held that a handwriting expert's opinion is neither conclusive nor the sole means of proving handwriting. Testimony and judicial comparison under the Evidence Act remain available. The Court held that the report did not justify quashing, leaving authorship and the weight of the evidence for trial.

Case-note :- ***1. Facts :*** Leelakrishna Mishra applied under Section 482 CrPC to quash Crime No. 272/2017, registered at Police Station Sabalgarh, Morena, under Sections 420, 467 and 468 IPC, and the resulting charge sheet. The dispute concerned a revenue record describing temple Shri Laxminarayan Ji through its pujari Bhawani Shankar, the applicant's father. Bhawani Shankar complained that an older certified copy did not contain 'Quilla' before Sabalgarh in the temple's description, whereas a later copy did. He sought correction of the record and action against the person responsible. The Naib Tahsildar conducted an enquiry. Munshilal Dhakad, an Assistant Grade-II in the revenue office, stated that the applicant had obtained a certified copy and asked to inspect the record, after which the disputed word appeared in a different ink. The applicant acknowledged obtaining a certified copy on 4 January 2017 but denied altering the original record. In the report of 13 April 2017, the Naib Tahsildar attributed the suspected interpolation to him, and the Tahsildar referred the matter to the police. These were allegations arising from the investigation, not findings of authorship reached after trial.

The applicant said that, despite the family dispute with his father, he stood to gain nothing from the insertion of the word. He relied on an expert's finding that the questioned writing was not his and alleged that the police had deliberately failed to collect CCTV footage from the revenue office. He relied on two Supreme Court decisions on forgery. The State opposed quashing. The Court reproduced the Tahsildar’s letter of 20 December 2014 to the Collector, which reported an enquiry into Bhawani Shankar's complaint. The letter recorded the applicant's allegation that his father had demolished the earlier temple structure and moved the deities to a building attributed to Devendra Kumar and Santosh Kumar. It also described the father-son disagreement over residence, ownership and the temple site. The Court used this history as a possible explanation for why a change to the description of the temple's location in the revenue register could matter. The letter does not itself identify who wrote the later entry in 2017.

2. Precedents — Considered : The applicant relied on *Mohammed Ibrahim and others v. State of Bihar and another, (2009) 8 SCC 751*. That decision distinguishes a person who executes a property conveyance in his own name on a false claim of ownership from one who pretends to be another person or to act with another's authority. In that context, a mere false claim of ownership does not constitute forgery under Section 467 unless a false document, as defined by Section 464 IPC, has been made. The High Court considered that rule but did not apply it to the different allegation of a physical

alteration to the original government register. It examined the potential significance of that alteration. It did not conduct a full trial of all the ingredients of Sections 420 or 468.

Parminder Kaur v. State of U.P. and another, AIR 2010 SC 840, was also specifically examined. The quoted Supreme Court decision concerned alterations to dates on certified revenue copies submitted in civil litigation. On the facts of that case, no one could explain how adding a digit to those dates would secure an advantage or cause a loss, and the alleged alterations were insufficient to sustain the allegation of forgery. The present Court distinguished the insertion of 'Quilla' in the revenue register. The 2014 Tahsildar letter, the father-son dispute and the presumptive effect of official revenue entries provided a plausible purpose for the alteration, relating to the temple's location and claimed identity. The Court rejected the applicant's contention that he had no motive. It neither treated the earlier authority as overruled nor conclusively determined the handwriting.

Manorama Naik v. State of Odisha and another, Criminal Appeal No. 423/2022, order dated 14 March 2022, was invoked. In that case, the handwriting expert's opinion had first been produced before the High Court and was unavailable when cognizance was taken. The Supreme Court explained that such an opinion is not the sole means of proving a signature or handwriting; Sections 45, 47 and 73 of the Evidence Act provide other means of proof. The present Court applied that general principle and refused to treat this examiner's opinion as decisive at the Section 482 stage. It did not state that, in the present case, the opinion had likewise been filed for the first time before the High Court.

3. Statutes considered : Section 482 CrPC governed the application to quash the FIR and charge sheet. At that stage, the Court could not finally resolve disputed authorship, the likely effect of an alteration or contested omissions in the investigation as it would at trial. Sections 420, 467 and 468 IPC were the offences registered. The judgment's substantive discussion concerned the alleged falsification or forgery of an official revenue entry and the contention that the applicant had no motive; it did not finally determine each statutory ingredient. Section 464 IPC arose in *Mohammed Ibrahim*'s distinction between a false assertion of ownership and the making of a false document. Sections 45, 47 and 73 of the Indian Evidence Act were invoked through *Manorama Naik* concerning expert opinion, proof by persons acquainted with the handwriting and judicial comparison, as applicable. The judgment did not conduct a final comparison under Section 73. It noted that an official revenue entry carries a presumption unless corrected, but did not specify or interpret any revenue-code provision.

4. Issues : Did the alleged insertion of 'Quilla' in the original revenue register have sufficient apparent significance to defeat the applicant's submissions that he had no motive and that no forgery was made out at the quashing stage, given the distinction between that insertion, a mere disputed ownership claim and alterations to dates on certified copies? Could the failure to seize CCTV footage from the revenue office more than a month after the alleged access justify an inference of deliberate suppression by the investigators or the quashing of proceedings, or should the omission be tested at trial? Did the expert's finding that the writer of the S5–S19 samples did not write Q1 finally establish that the applicant could not be linked to the alteration, despite the report's additional comparison with A–A and the other statutory means of proof? The Court did not decide the criminal charges, the camera's actual retention period or the ultimate attribution of the handwriting.

5. Ratio / Findings : The Court distinguished the allegations in the present case from those in the two Supreme Court decisions relied on by the defence. *Mohammed Ibrahim* concerned a conveyance executed in one's own name on a false claim of title, rather than the physical addition of a word describing location to an official register. *Parminder Kaur* concerned changes to dates on copies without a demonstrated benefit or loss. Here, the older certified copy did not contain 'Quilla', the later entry contained it in a different ink, and the 2014 letter explained the continuing dispute about the temple's former location, the deities and the private building. The Court reasoned that adding 'Quilla' could change the temple's apparent identity or location and undermine the father's claim to be its pujari. Because an official revenue entry carries a presumption until corrected, the Court rejected the applicant's contention that the change could serve no purpose. That inference concerned possible motive and the alteration's prima facie significance. It did not conclusively establish that the applicant personally made the entry or that each charged offence was proved.

The Court declined to infer that the CCTV footage had deliberately not been collected. It noted that the applicant had obtained the certified copy on 4 January 2017, that the complaint was made on 31 January, and that the witness's statement identifying the installed cameras was recorded on 14 February. In the Court's view, the footage of the earlier date would in all probability have been overwritten by the time of the investigation because ordinary CCTV systems have finite storage. The applicant remained entitled to cross-examine the revenue-office witness about the omission at trial. The refusal to quash on this ground did not determine every evidentiary consequence that might arise later.

The expert's opinion contained two comparisons. It stated that the person who wrote the standard writings S5–S19 did not write Q1, and noted a similarity in the letter 'La' between Q1 and the writing marked A–A in the same register. The Court described the report as inconclusive, noted that similarity, and held that the other means of proof under Sections 45, 47 and 73 remained available under *Manorama Naik*. The negative comparison was thus retained in the assessment, but was not accepted as finally exonerating the applicant. Authorship and the weight of the evidence remained for the trial court to determine.

6. Relief : The Hon'ble High Court dismissed the application and refused to quash Crime No. 272/2017 and the consequential proceedings arising from the charge sheet. It expressly preserved the applicant's liberty to raise the omission to collect CCTV footage during trial. It made no final finding on guilt, authorship of the handwriting, actual deletion of CCTV footage or entitlement to correction of the revenue entry.

Leelakrishna Mishra v. State of M.P. and Others, M.Cr.C. no. 47574/2018, 25/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (327) Prev Next

Headnote :- NDPS Act — Section 50 — body and bag search — recovery only from bag - The appellant was given a notice under Section 50 and was personally searched, but nothing was recovered from his body or clothing. The ganja was found in the bag he carried. The Court acknowledged *State of Rajasthan v. Parmanand, (2014) 5 SCC 345*, which had treated a combined search as attracting Section 50, and applied the later detailed analysis in *Ranjan Kumar Chadha v. State of H.P.*, Criminal Appeals 2239–2240/2011 (6 October 2023). *Ranjan Kumar Chadha* explained the tension between *Dilip, Shah Alam, Parmanand* and *S.K. Raju* on one side, and the larger-bench decisions in the *Pawan Kumar* and *Baljinder Singh* line on the other. Section 50 concerns recovery from the person; a defect in that search does not automatically invalidate an independently proved recovery from a bag or vehicle. *Ranjan Kumar Chadha* discussed the limited scope of the statutory text, the continuing mandatory personal-search right under *Baldev Singh* and *Vijaysinh Chandubha Jadeja*, and the distinction between personal recovery and recovery from a bag or conveyance. *Than Kunwar, Kallu Khan* and *Dayalu Kashyap* formed part of that quoted analysis. On this record, the High Court held that a discrepancy in the notice was immaterial to the recovery from the bag. It did not validate a defective notice where the recovery is from the person.

NDPS investigation — informant as investigator — case-specific bias - Applying *Mukesh Singh v. State (Narcotic Branch of Delhi), (2020) 10 SCC 120*, the Court rejected the argument that the prosecution was automatically vitiated because Gulbag Singh had received the tip, made the seizure and conducted most of the investigation. *Mukesh Singh* requires actual bias, prejudice or unfairness to be established on the particular facts, while the informant's dual role may be relevant when evaluating the evidence. It overruled the contrary categorical approach in *Mohan Lal v. State of Punjab, (2018) 17 SCC 627*. The Court assessed the later involvement of an ASI and the evidence, without treating the dual role alone as entitling the appellant to acquittal.

Evidence — police and seizure witnesses — independent witnesses hostile - *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, and *Tahir v. State (Delhi), (1996) 3 SCC 338*, require careful scrutiny of police testimony, but do not require independent corroboration in every case. *Govindaraju v. State, (2012) 4 SCC 722*, permits reliance on reliable, cogent police testimony duly supported by admissible evidence. *Rohitash Kumar v. State of Haryana, (2013) 14 SCC 434*, rejects a prohibition on police officers giving evidence. *Mukesh Singh, (2020) 10 SCC 120*, rejects suspicion based solely on a witness's official position. *Girja Prasad*, *Praveen Kumar* and *Karamjit Singh* were cited for the same line of authority, without separate

analysis. The Court refused to acquit merely because the independent witnesses had turned hostile and the case rested on police witnesses. It found the seizure from the bag proved and relied on the FSL report identifying the material as ganja.

Case-note :- ***1. Facts :*** On 11 February 2005, Town Inspector Gulbag Singh received information that Lisyu was selling ganja. He recorded it in Rojnamcha Sanha No. 592, prepared an information panchnama (Ex. P.4), and informed the SDO(P), Panna. The SDO(P)'s reader said that the officer was away from headquarters. Gulbag Singh prepared a panchnama for the proposed raid and went to the spot with police personnel and witnesses. The appellant was found standing there. The police gave him a notice under Section 50 of the NDPS Act, recorded the notice panchnama (Ex. P.6) and his consent (Ex. P.7), and searched him. No contraband was found on his body or clothing. Small packets of suspected ganja were found in the bag he carried. The police prepared seizure, testing and weighing panchnamas, including Exs. P.9 and P.11. Gulbag Singh took the appellant and the material to the station, registered the FIR, and deposited the material in the malkhana under Ex. P.3. The material was sent to the forensic laboratory under Ex. P.18; the report, Ex. P.19, identified it as ganja. The investigation was handed over to ASI Kishan Singh Thakur, who prepared a spot map on 12 February 2005. An arrest memo dated 11 February and notice to the appellant's brother were also recorded.

The police filed a charge sheet under Sections 8/20 NDPS Act. The appellant denied guilt. Seven prosecution witnesses testified, including the seizing officer and other police personnel; the appellant called no defence witness. On 28 June 2006, the trial court convicted him in Special Case No. 2/2005 under Section 20(b)(ii)(B). It imposed one year's rigorous imprisonment and a ₹5,000 fine, with three months' rigorous imprisonment in default. He appealed under Section 374 CrPC. Through amicus curiae, he argued that the independent witnesses had turned hostile and that the remaining police testimony should not sustain the prosecution. He also argued that the Section 50 notice did not amount to substantial compliance and that the complainant's conduct of most of the investigation had tainted it. The State answered that the recovery was from a bag, so any flaw in the notice for personal search could not affect the result.

2. Precedents — Considered : The High Court expressly referred to *State of Rajasthan v. Parmanand Singh, (2014) 5 SCC 345*, for the proposition that Section 50 applies where both the accused and the bag he carries are searched, even if nothing is recovered from his body and the contraband is found in the bag. The Court then reproduced extensively *Ranjan Kumar Chadha v. State of Himachal Pradesh*, Criminal Appeals Nos. 2239–2240/2011, decided on 6 October 2023. It followed that analysis to reach the contrary conclusion for the bag recovery in the present case. The High Court did not independently determine the precedential status of every earlier authority or purport formally to overrule *Parmanand*.

The passage from *Ranjan Kumar Chadha* traced the decisions concerning searches of both the person and a bag through *Dilip v. State of M.P., (2007) 1 SCC 450*, which had treated a personal search conducted without the safeguard as affecting recovery from a scooter. *Union of India v. Shah Alam, (2009) 16 SCC 644*, followed *Dilip* where heroin was found in shoulder bags during a body search. The passage also considered *Parmanand* and the three-*Judge* decision in *S.K. Raju v. State of West Bengal, (2018) 9 SCC 708*. *S.K. Raju* stated that Section 50 was attracted when both the person and the bag carried were searched, regardless of where the recovery was made, and found compliance in that case. The quotation explained that the larger-bench decision in *State of H.P. v. Pawan Kumar* also concerned a search of both the person and the bag, yet did not apply Section 50 where recovery was only from the bag.

Ranjan Kumar Chadha contrasted *State of Punjab v. Baljinder Singh, (2019) 10 SCC 473*, in which a defect in a personal search yielding no contraband could not invalidate an independently proved recovery of poppy husk from a vehicle. Its discussion relied *on State of Punjab v. Baldev Singh, (1999) 6 SCC 172*, and *Vijaysinh Chandubha Jadeja v. State of Gujarat* concerning *the* mandatory obligation, in a genuine personal search, to inform the person of the right to be searched before a Gazetted Officer or Magistrate. It also addressed the consequence where a conviction depends on illicit articles recovered from the person without compliance. *Baljinder Singh* rejected *Dilip*'s extension of the defect to a vehicle recovery; the quoted passage acknowledged that *Baljinder Singh* had not examined *S.K. Raju*. *Ranjan* also recounted the Delhi High Court's

attempts in *Akhilesh Bharti* and *Kamruddin* to distinguish a bag held in the hand from a vehicle, and criticised their account of the facts in *Pawan Kumar. Than Kunwar v. State of Haryana, (2020) 5 SCC 260*, applied *Baljinder Singh* despite noting *S.K. Raju*, and held Section 50 unnecessary for recovery from a bag where personal search had yielded nothing. *Kallu Khan v. State of Rajasthan* applied the distinction concerning a vehicle. *Dayalu Kashyap v. State of Chhattisgarh, (2022) 12 SCC 398*, rejected an attempt to extend a complaint about an impermissible third option under Section 50 to recovery from a polythene bag carried on a kanwad. These examples and the Delhi decisions appeared within the Supreme Court quotation. Their treatment was part of the *Ranjan* Court's analysis, adopted here for the narrow conclusion concerning bag recovery, rather than additional individual holdings of this High Court.

In its final analysis, *Ranjan Kumar Chadha* recognised the concern that a bag closely accompanying a person might be used to evade the safeguard, and the earlier concept of an object inextricably linked to the person. It nevertheless treated the plain wording of Section 50, the larger-bench decisions in *Pawan Kumar* and *Baldev Singh*, and the prohibition on judicially supplying a statutory omission as controlling. It described the distinction between bag recovery in *S.K. Raju* and vehicle recovery in *Baljinder Singh*. It also explained that *Parmanand* had followed *Dilip* without reconciling the larger-bench decision in *Pawan Kumar*, and that *Baljinder Singh* had regarded *Dilip* as incorrect. The quoted statutory-interpretation authorities, including *Filip Tiago De Gama*, *D.R. Venkatchalam*, *Rishabh Agro* and *Padma Sundara Rao*, supported that reasoning within *Ranjan*. This High Court did not invoke them as independent grounds determining the appeal. It applied *Ranjan* to the personal search yielding nothing and the proved recovery from the bag, and held that Section 50 compliance was unnecessary for that recovery.

Mukesh Singh v. State (Narcotic Branch of Delhi), (2020) 10 SCC 120, was quoted at length on the objection that the informant was also the investigator, and was later invoked again concerning official witnesses. It held that neither the NDPS Act nor the general law automatically bars the informant officer from investigating. Actual bias, unfairness or prejudice must be established on the facts. The dual role can receive weight in assessing the evidence where bias or unfair investigation is established and the prosecution depends solely on that officer's deposition, without other witnesses. The decision specifically overruled *Mohan Lal v. State of Punjab, (2018) 17 SCC 627*, to the extent that it required categorical invalidity and acquittal. Within the quotation, *Mukesh Singh* referred to *State of Rajasthan v. Ram Chandra, Union of India v. Vipan Kumar Jain, Bhaskar Ramappa Madar and State v. V. Jayapaul for the* approach based on the facts of each case. The present Court followed *Mukesh Singh* rather than independently analysing those subsidiary citations. It rejected the appellant's submission that the investigation was automatically vitiated.

For police testimony, the High Court itself cited *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*. That decision states that acceptable police evidence cannot be discarded solely because no independent witness was examined, though it requires greater care in scrutiny. *Govindaraju v. State, (2012) 4 SCC 722*, was cited concerning reliable, trustworthy and cogent official testimony supported by admissible evidence as appropriate. *Rohitash Kumar v. State of Haryana, (2013) 14 SCC 434*, rejected a prohibition on police officers giving evidence and discussed independence by reference to the source from which a witness comes and possible enmity. *Mukesh Singh* required police testimony to be treated like other testimony, without an automatic requirement of independent corroboration or unsupported suspicion of dishonesty. *Tahir v. State (Delhi), (1996) 3 SCC 338*, permitted conviction on reliable police evidence after the careful scrutiny required as a matter of prudence; there is no rule invariably requiring independent corroboration. *Girja Prasad v. State of M.P., (2007) 7 SCC 625*, *Praveen Kumar v. State of Karnataka, (2003) 12 SCC 199*, and *Karamjit Singh v. State (Delhi Admn.)* were cited for similar law. The judgment did not separately discuss their reasoning or give the full *Karamjit* citation, and the Court developed no additional ratio from them. These authorities supplied the Court's reason for rejecting acquittal based merely on the hostility of independent witnesses and the official position of the remaining witnesses.

3. Statutes considered : Section 374 CrPC supplied appellate jurisdiction to challenge the 2006 conviction and sentence. Sections 8 and 20 of the NDPS Act provided the framework for the prosecution and conviction. The Court did not

separately analyse quantity thresholds or recalibrate the sentence under those provisions. Section 50 raised the material safeguard question. The safeguard requires a person to be informed of the right to be searched before a Gazetted Officer or Magistrate. Compliance is mandatory where the provision applies to recovery from the person. On the cited authority, however, the Court treated the proved recovery from the bag, with no recovery from the body or clothing, as outside that requirement. The quotation from *Mukesh Singh* referred to NDPS Section 68, protecting an officer's source of information, Section 58 as a statutory safeguard, and the special investigative procedure in Chapter V. These provisions formed the background to rejecting automatic bias; they were not separate grounds requiring proof of compliance in this appeal. No separate statutory rule concerning independent seizure witnesses was interpreted.

4. Issues : First, did a claimed discrepancy in the Section 50 notice undermine the conviction where the police searched both Lisyu and the bag he carried, but recovered ganja only from the bag? The Court had to consider *Parmanand*'s approach to a combined search and the later analysis quoted from *Ranjan Kumar Chadha*, while preserving the distinct mandatory rule for recovery from the person. Second, did the complainant officer's receipt of information, raid, seizure and substantial investigative work automatically vitiate the case, or did bias or prejudice have to be proved on the particular facts? Third, could the trial court rely on police witnesses after the independent witnesses turned hostile, and did the law require independent corroboration regardless of the reliability of the official testimony? The appeal also challenged the conviction and sentence, but the judgment did not develop an independent sentencing principle or address a separate challenge to forensic sampling, the malkhana chain or quantity.

5. Ratio / Findings : The Court expressly noted the earlier rule in *Parmanand* and then applied *Ranjan Kumar Chadha*'s analysis of the divergent Section 50 decisions. A notice had been given and Lisyu had been personally searched, but no illicit material was recovered from his body or clothes. The proved recovery was from the bag he carried. The Court applied the understanding that Section 50's protection for a personal search does not invalidate an independently proved recovery from a bag merely because the person was searched as well. It therefore held compliance unnecessary for the material on which the conviction rested. Any discrepancy in the notice did not prejudice this prosecution. The Court did not decide the precise contents of the notice or state that an invalid notice would be harmless where drugs were found on the body. Nor did it treat the giving of a notice as a substitute for the mandatory communication where the provision applies.

On the objection to the investigation, Gulbag Singh was both the officer who received the information and the officer who conducted much of the operation. The record also described a later handover to ASI Kishan Singh Thakur. *Mukesh Singh* ruled out a universal inference of bias merely from the informant's dual role. Bias and prejudice must be demonstrated on the individual record. The complainant-investigator's role may still receive weight when assessing the evidence where bias or unfair investigation is proved and the prosecution depends solely on that officer's deposition, without other witnesses. The appellant advanced the categorical objection, which the Court rejected as misconceived.

The hostility of the independent witnesses did not make the police witnesses legally incapable of proving the case. The Court applied the cited Supreme Court authorities to require careful examination of official testimony, without presuming dishonesty or invariably insisting on independent corroboration. It found the seizure of ganja from the appellant's bag proved and noted that the FSL report identified the substance as ganja. The Court accepted the prosecution's proof of the seizure from the bag and the FSL identification of the material as ganja. Having rejected the Section 50 and investigation objections and accepted the recovery, it found no ground for interference. It also held that the sentence required no interference.

6. Relief : The Hon’ble High Court dismissed the criminal appeal and affirmed the judgment of the Special Judge, NDPS, Panna, dated 28 June 2006 in Special Case No. 2/2005. It upheld the conviction and the sentence of one year's rigorous imprisonment, a ₹5,000 fine and the recorded three-month default term. Lisyu was directed to surrender before the trial court immediately and, in any event, by 15 February 2024. His bail and surety bonds were cancelled. If he failed to surrender by that date, the trial court was to issue an arrest warrant to ensure that he served the remaining sentence. A copy of the judgment and the trial record were to be sent to the

trial court for information and compliance. The Court did not order a retrial, acquittal or reduction of sentence.

Lisyu v. The State of Madhya Pradesh, Cr.A. no. 1263/2006, 19/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence — related and interested witnesses — careful scrutiny - *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, required cautious scrutiny of an interested witness's account to determine whether it was cogent and had a ring of truth; *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, warned that hostility and infirmities must be examined while rejecting a rule that independent corroboration is always indispensable. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, distinguished a relative who is a natural witness from one whose interest or animus is proved and accepted intrinsically reliable testimony after scrutiny. *Raju v. State of T.N., (2012) 12 SCC 701*, gave a more nuanced account, questioning an absolute related-versus-interested distinction and calling for heightened care where enmity is shown. *Jodhan v. State of M.P., (2015) 11 SCC 52*, required credible evidence and material corroboration where motive for false implication is demonstrated; *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, likewise refused to reject a related witness solely for relationship. The Court applied this body of law to the deceased's four family witnesses; the absence of testimony from neighbours was not decisive, and the signed reconciliation agreement Ex. P/4 was additional material.

Evidence — omissions and contradictions — materiality - Applying *Yogesh Singh, (2017) 11 SCC 195*, and *Narayan Chetanram Chaudhary v. State of Maharashtra, (2000) 8 SCC 457*, the Court held that minor omissions or differences are not automatically contradictions; only those that reach the core of the case, make testimony seriously doubtful or render it improbable materially affect the prosecution case. The appellant's general objection to the relatives' omissions did not defeat the evidence on this record.

IPC — Section 498A — written reconciliation and cruelty - Ex. P/4 recorded the husband's apology and promises of proper care, food, clothing, freedom to visit family and an end to harassment after the earlier report and departure. It contained no express account of the specific dowry demand. The Court treated the undisputed signature and undertakings as supportive of the relatives' accounts of prior cruelty, and found that maltreatment continued after her return; it affirmed the husband's conviction while the three in-laws' acquittals remained undisturbed. The Court also quoted *S. Govindaraju v. State of Karnataka, (2013) 15 SCC 315*, on an accused's Section 313 explanation for incriminating circumstances; it noted his evasive reply concerning Ex. P/4 without treating his silence alone as proof of every charge.

IPC — Sections 107 and 306 — abetment by sustained cruelty in the particular circumstances - The Court found that the husband had caused the deceased to leave and lodge a cruelty complaint, obtained her return by written apology, yet continued to mistreat her, causing her to lose hope of improvement before she committed suicide by setting herself on fire. It reasoned that, on this record, creating a situation in which she perceived no viable alternative amounted to abetment under Section 107, notwithstanding the unavailability of the discussed statutory presumption. The five-year Section 306 and two-year Section 498A terms were affirmed in light of the same history.

Case-note :- ***1. Facts :*** The appeal concerned the death of Mumtaz Bee, who had married Liyakatuddin about eight to ten years earlier. The prosecution alleged that her husband and his parents and sister mistreated her after marriage and that he beat her, sometimes while intoxicated, and demanded money from her parental family for a business. The Court later examined the written reconciliation agreement, Ex. P/4, as evidence of strained relations and the husband's assurances. It did not treat the agreement as a literal recital of all the alleged dowry demands.

The prosecution alleged that her treatment did not improve. Mumtaz Bee died on 16 October 1996 after being burned with kerosene. A merg inquiry, body panchnama, site map, photographs, seizure of a plastic kerosene container, matchbox and clothes, statements, a post-mortem and forensic material followed. An FIR of 17 October 1996 under Sections 498A and 306 IPC led to arrests of the husband and three in-laws. The doctor, Dr. Mahavir Khandelwal, reported about 95% ante-mortem burns and a kerosene smell; he was not cross-examined on that testimony.

The Additional Sessions Judge, Jaora, framed charges under Sections 306 and 498A on 22

September 1997. Seven prosecution witnesses testified; the accused called none. By judgment of 13 May 1999 in S.T. No. 15/1997, the trial court convicted Liyakatuddin, imposing five years' rigorous imprisonment and a ₹1,000 fine for Section 306 and two years' rigorous imprisonment and a ₹500 fine for Section 498A, with unspecified default imprisonment. His father, mother and sister, identified in the judgment as Goremiyan alias Azizuddin, Chhoti Bee and Jakiya alias Kali, were acquitted; neither State nor complainant appealed that acquittal. The High Court referred to them only to the extent necessary to assess the husband's case.

Liyakatuddin appealed under Section 374 CrPC and was granted bail on 2 December 1999. In 2018 no advocate appeared when the case was called; the appointed amicus also did not attend the later hearing. Relying on *Surya Baksh Singh*, the High Court reserved the appeal after scrutinising the record and hearing the Public Prosecutor. The appellant's lawyer subsequently filed written submissions, which were taken into account. The appeal grounds challenged reliance on the relatives in the absence of testimony from neighbours, claimed that the agreement restored cordial relations, and asserted omissions, exaggeration and no recent harassment. The written argument asserted that the duration of the marriage precluded a presumption under Section 113A of the Evidence Act. The State submitted that repeated cruelty after the solemn assurance drove the deceased to suicide.

2. Precedents — Considered : *Surya Baksh Singh v. State of Uttar Pradesh, (2014) 14 SCC 222*, was cited in paragraph 1 as the governing law when the appeal was reserved for decision in the absence of counsel and the amicus. The High Court did examine the appeal record, heard the prosecutor and considered late written arguments; the order attributes no more specific rule to *Surya Baksh Singh*.

Mahavir Singh v. State of M.P., (2016) 10 SCC 220, was quoted for especially careful scrutiny of an interested witness and reliance when the account is cogent, credible, trustworthy and rings true; a contradicted interested account is not usually conclusive. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, was quoted for attentive scrutiny of relatives who testify and share hostility toward the accused, without turning independent corroboration into a universal prerequisite; the quality of the evidence matters, rather than the number of witnesses. Its quotation included *Darya Singh*'s caution that a witness may correctly name the actual offender yet add another from hostility. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, quoted *Hari Obula Reddy* to reject an invariable corroboration rule and distinguished kinship as a natural-witness feature from a proved interest in obtaining punishment. The present Court drew on this group to reject the categorical argument that the deceased's family could not prove cruelty.

Raju v. State of T.N., (2012) 12 SCC 701, was quoted. It examined the distinction made in *State of Rajasthan v. Kalki* between a relative and an interested witness, then noted that *Basawan Singh*'s Constitution Bench treatment of a naturally present trap witness undermined an absolute claim that a natural witness can never be interested. The passage from *Raju* described degrees of interest and enmity, and the need for greater care when assessing the account of a related and inimical witness. It discussed *Dalip Singh*'s warning against assuming relatives fabricate, *Darya Singh*'s caution about hostility and added names, and the rule in *Waman* and *Sarwan Singh* that corroboration is a matter of prudence rather than a legal requirement. *Raju* called for discerning scrutiny in light of actual motive and infirmity.

Jodhan v. State of M.P., (2015) 11 SCC 52, repeated that relationship alone does not require corroboration and that intrinsically probable interested evidence may sustain conviction, but unreliable or suspicious evidence must be rejected and material corroboration sought if a motive for false implication is established. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, drew together the principles in *Dalip Singh*, *Piara Singh*, *Hari Obula Reddy* and *Ramashish Rai*: interest or enmity calls for careful evaluation; enmity can motivate a false charge or an offence; trustworthy family evidence cannot be thrown out simply because of kinship. The High Court quoted these authorities collectively and, in applying them, referred to the family's account, the absence of neighbourhood witnesses and the agreement.

Yogesh Singh was separately quoted for the rule that minor omissions, inconsistencies and embellishments do not undermine the core case unless they create serious doubt about the witness's credibility or reach the root of the case. *Narayan Chetanram Chaudhary v. State of Maharashtra, (2000) 8 SCC 457*, distinguished material

contradictions from ordinary variations due to memory and observation; its quoted discussion includes *State of H.P. v. Lekh Raj and Leela Ram on* assessment in context, rather than a mathematical comparison of witnesses' accounts. The present Court adopted the materiality test and rejected the general ground based on omissions. *S. Govindaraju v. State of Karnataka, (2013) 15 SCC 315*, was also quoted: where an accused is confronted under Section 313 CrPC with incriminating circumstances, an unexplained or falsely explained circumstance may be used as a link in a circumstantial chain; the answer must be considered with the whole evidence. Here the judgment had already called Liyakatuddin's answer on execution of Ex. P/4 evasive while recording that he did not dispute his signature. It did not treat his answer alone as complete proof of cruelty or abetment.

After discussing the evidence, the High Court addressed the seven-year presumption and the ingredients of abetment in its own reasoning.

3. Statutes considered : Section 374 CrPC governed the conviction appeal. Section 313 CrPC governed the accused's response to incriminating circumstances; the judgment records an evasive reply to Ex. P/4 but an undisputed signature. Sections 498A, 107 and 306 IPC governed the questions of cruelty and abetment of suicide. The appellant had been prosecuted earlier under Section 498A based on the 1991 report; this trial concerned the later death and cruelty charge, and the prior proceedings and agreement were used as context. The Court reasoned that a situation created through cruelty in which the deceased saw no alternative to suicide amounted to abetment under Section 107 in these circumstances, and affirmed the convictions for both charged offences.

4. Issues : Could the conviction appeal be determined on the record when the appellant's advocate and appointed amicus had failed to attend, with written argument later supplied? Could the relatives' testimony establish marital cruelty without neighbours, when objections were raised concerning their relationship, potential interest, asserted omissions and the later reconciliation? What probative significance did Ex. P/4 have despite its failure to recite a particular dowry demand, and what weight could be given to the accused's Section 313 response? Did the duration of the marriage preclude the claimed seven-year presumption, and, if so, did the evidence independently establish continued cruelty and abetment under Sections 107 and 306? Finally, did the five-year and two-year terms warrant interference? The unappealed acquittals of the three in-laws were outside the appeal's operative scope.

5. Ratio / Findings : The High Court proceeded in the absence of counsel and the amicus, examined the record itself, heard the prosecutor and took the later written submissions into account. The doctor's unchallenged evidence established 95% ante-mortem burn injuries with a smell of kerosene; scene photographs, container and seized articles supported the conclusion that Mumtaz Bee set herself on fire.

The relatives' accounts concerned past beating and demands, the deceased's removal to her family and earlier report, the husband's apology, her return and asserted continuing maltreatment. Relationship did not legally disqualify them. The Court adopted the Supreme Court's nuanced rule: examine whether interest or hostility is actually established; scrutinise the account and material infirmities carefully; accept credible, intrinsically probable evidence without insisting on a fixed number of detached witnesses. It declined to discard testimony solely because no neighbour testified. It also noted the actual terms of Ex. P/4: strained relations and detailed promises to treat his wife and children properly, supply meals, clothing and facilities and permit family visits, with no express admission of the pleaded dowry demand. The appellant's signature was not disputed, although his Section 313 explanation was evasive. The Court inferred from the undertakings, alongside the family accounts, that earlier cruelty had driven her away. It found that the later return on those assurances did not prove lasting reconciliation or an end to the cruelty.

As to omissions, the Court used *Yogesh Singh* and *Narayan Chetanram Chaudhary* to reject the mechanical treatment of every variation as a contradiction that undermines the case. A discrepancy must materially affect the central narrative, cast serious doubt on credibility or affect the inherent probability of the account. The Court treated the omissions objection as concerning minor differences and applied the materiality test to the evidence. The separately quoted *S. Govindaraju* rule about Section 313 non-explanation was not used to dispense with the prosecution's burden.

On its own assessment of the relatives' accounts and Ex. P/4, the Court found that the husband had first driven Mumtaz Bee away by beatings and harassment, induced her return with a written apology and assurances, then continued to mistreat

her. It inferred that the broken undertaking left her without hope of a happy married life and that she chose suicide in that situation. Applying its reasoning under Section 107, the Court held that this amounted to abetment supporting the conviction under Section 306, and the same conduct supported Section 498A. This is the High Court's final finding in this appeal, not an automatic rule that a suicide after reconciliation establishes instigation. The three in-laws' acquittals were not reopened.

In considering punishment, the Court examined the sequence of initial harassment, a pending 498A case, written apology and later false assurance, and found no reason to interfere with the five-year and two-year imprisonment terms.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed Liyakatuddin's conviction and sentence in S.T. No. 15/1997, judgment of 13 May 1999, under Sections 306 and 498A IPC: five years' rigorous imprisonment and ₹1,000 fine, and two years' rigorous imprisonment and ₹500 fine, respectively, with the trial judgment's default imprisonment not quantified in this appellate text. Because he was on bail, his bail bonds were cancelled and he was directed to surrender immediately before the trial court to undergo the remaining jail sentence. The acquittals of Goremiyan alias Azizuddin, Chhoti Bee and Jakiya alias Kali remained unchallenged and untouched.

Liyakatuddin v. State of M.P., Cr.A. no. 705/1999, 21/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC — Section 376 — alleged false promise of marriage — HMA Section 15 during divorce appeal - On the fifth bail application, the accused argued that the complainant's pending appeal from a divorce decree prevented her from remarrying and that an alleged promise of marriage therefore could not have induced consent under a misconception of fact. The Court applied *Anurag Mittal v. Shaily Mishra Mittal, (2018) 9 SCC 691,* which followed *Lila Gupta v. Laxmi Narain, (1978) 3 SCC 258,* and held that a marriage contracted during a statutory waiting disability is not automatically void; the consequences of treating it as void must also be considered. The Court also quoted *Krishnaveni Rai v. Pankaj Rai, Criminal Appeal No. 321/2020* (19 February 2020), on the distinct proposition that contravention of HMA Sections 5(ii) or 5(iii) does not itself render a marriage void, though it may make the marriage voidable. These principles defeated the asserted automatic legal disqualification at the Section 439 stage. The prosecutrix was said to support the prosecution, and the applicant's earlier bail applications had been dismissed on merits. The order did not find that a second marriage had actually occurred or finally determine the alleged promise, consent or ingredients of the offence under Section 376 IPC.

Trial management — expedition direction — trial court calendar - Applying *M. Gopalakrishnan v. Pasumpon Muthuramalingan,* SLP (Crl.) Diary No. 30839/2021 (11 March 2022), the Court declined the late bail-stage request for an expeditious trial because a cursory expedition order could disturb the trial court's calendar.

Case-note :- ***1. Facts :*** Nabal Singh Morya sought regular bail in Crime No. 105/2021 registered at Police Station Kotwali, District Shivpuri, for offences under Sections 376, 323 and 506 IPC. The order describes this as his fifth application under Section 439 CrPC. His earlier bail applications had been dismissed on merits, and the fourth application, M.Cr.C. No. 13375/2022, was dismissed as withdrawn on 25 March 2022.

The applicant's principal submission was that the prosecutrix had filed First Appeal No. 1904/2019 against a divorce decree and that the appeal was ultimately dismissed on merits. Invoking Section 15 of the Hindu Marriage Act, he argued that she was legally unable to remarry while the appeal was pending and that his alleged promise of marriage therefore could not have induced her consent under a misconception of fact. Counsel also asserted that she had been convicted of murdering her stepson and had caused allegedly false cases to be registered against her former husband, Raju Jatav. Those assertions were defence submissions, not independent findings in this order. The State and the complainant opposed bail. They argued in particular that conviction for another offence would not disqualify a person from reporting an offence committed against her. The Court recorded that the prosecutrix was said to support the prosecution case. After addressing the relationship and legal-capacity argument, counsel sought an expeditious trial because of the applicant's custody.

The case diary was available. Paragraph 3 records that the applicant was arrested on 5 March 2021,

while counsel's custody submission in paragraph 10 refers to 5 March 2022; the order does not reconcile the two dates. Counsel also relied on the former husband's acquittals in the allegedly false cases. The order records these matters as defence submissions and makes no independent finding that they undermined the complainant's credibility or established the applicant's innocence.

2. Precedents — Considered : *Anurag Mittal v. Shaily Mishra Mittal, (2018) 9 SCC 691*, was quoted on HMA Section 15. In a supplementary opinion, Justice S.A. Bobde agreed with the principal opinion and explained *Lila Gupta v. Laxmi Narain, (1978) 3 SCC 258*: even a prohibitory waiting provision did not necessarily render a marriage contracted during that period null. The quoted passage also warned against inferring nullity merely from a disability and referred to the consequences for children who might be conceived or born during the period of disability. The High Court relied on that non-automatic-nullity principle to reject the applicant's claim that the pendency of the complainant's divorce appeal conclusively made a marriage impossible in law. The order did not find that a marriage had actually been celebrated or finally decide deception or consent. *Krishnaveni Rai v. Pankaj Rai and another, Criminal Appeal No. 321/2020*, decided on 19 February 2020, was quoted separately. Paragraph 30, reproduced in the order, states that contravention of HMA Sections 5(ii) or 5(iii) does not make a marriage null and void, although the marriage may be voidable at the option of the underage party or the party who could not validly consent. Those conditions differ from the pending-appeal restriction in Section 15. The High Court used the passage to reinforce the distinction between a statutory disability and automatic voidness; it did not find that either party in this case was underage or incapable of consent under Section 5.

M. Gopalakrishnan and others v. Pasumpon Muthuramalingan and another, SLP (Crl.) Diary No. 30839/2021, decided on 11 March 2022, was cited for the warning that a High Court should not issue a cursory expedition direction that disturbs the trial court's calendar. The Court applied that warning to counsel's request for expeditious disposal and issued no such direction.

3. Statutes considered : Section 439 CrPC supplied the regular-bail jurisdiction. This was the fifth application, after the earlier applications had been dismissed on merits and the fourth had been dismissed as withdrawn. IPC Sections 376, 323 and 506 were the registered offences. The disputed defence argument concerned alleged consent under a misconception of fact arising from a promise of marriage in the Section 376 accusation; the Court did not finally determine the ingredients of rape, a false promise or the other two offences. Section 15 of the Hindu Marriage Act was the central legal-capacity provision. The quoted Supreme Court authority addressed the effect of remarriage during the interval associated with a divorce decree and appeal, distinguishing a statutory disability from nullity. HMA Sections 5(ii) and 5(iii) appeared through *Krishnaveni Rai* as a different example of non-automatic nullity and possible voidability; no violation of those provisions was alleged on these facts. The Court did not interpret Article 21 or any statutory time limit for trial.

4. Issues : At the provisional stage of a successive bail application, did the prosecutrix's pending divorce appeal under Section 15 HMA make her legally incapable of remarriage so as conclusively to defeat the accusation that sexual intercourse had been induced by a false promise of marriage? This required the Court to distinguish a statutory restriction on remarriage from the legal consequence of voidness and from final proof of deception and consent. The applicant also sought a direction for expeditious disposal of the trial, raising whether a routine expedition order could be issued without disturbing the trial court's calendar. The order recorded the allegations about the prosecutrix's prior conduct and the State's response but made no final finding on the alleged conviction, the other cases or her credibility.

5. Ratio / Findings : The Court rejected the applicant's contention that, because the prosecutrix had appealed against her divorce decree, Section 15 made any subsequent marriage void and a promise of marriage inherently incapable of inducing consent. *Anurag Mittal*'s reading of *Lila Gupta* established the distinction between a statutory waiting disability and the separate legal consequence of nullity. The quotation from *Krishnaveni Rai* supplied a contextually distinct illustration that contravention of conditions under the Hindu Marriage Act need not automatically make a marriage void. The Court therefore held that a second marriage performed during the pendency of an appeal cannot be treated as void merely for that reason. The prosecutrix was

said to support the prosecution case. In view of that circumstance, the procedural stage and the previous merits refusals, the Court found no ground to take a contrary view on bail. It did not finally assess the evidence, find that a second marriage had occurred, decide whether the applicant had made or intended to honour a promise of marriage, or hold that the prosecutrix's reported earlier conviction invalidated her complaint.

On the request for expedition, the Court cited *M. Gopalakrishnan* and declined to issue a cursory direction that could disturb the trial court's calendar. The refusal of bail and the refusal to direct expedition were confined to the material considered on this fifth application.

6. Relief : The High Court dismissed the fifth application for regular bail and issued no direction for expeditious disposal of the trial.

Nabal Singh Morya v. The State of Madhya Pradesh, M.Cr.C. no. 25054/2022, 21/06/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- CrPC — framing of charge — strong suspicion; limited sifting — *M.E. Shivalingamurthy v. CBI, Bengaluru, (2020) 2 SCC 768*, drawing on *P. Vijayan*, requires a judicial examination of the prosecution statements and documents. The judge is not a mere post office: a charge requires material raising grave suspicion, but the court cannot conduct a roving inquiry into probative weight or ordinarily examine defence documents under Section 227. *Soma Chakravarty v. State through CBI, (2007) 5 SCC 403*, distinguishes possible commission, which is sufficient for a charge, from guilt proved beyond reasonable doubt and requires material against the particular accused, not suspicion alone. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, relying on *Ramesh Singh* and *Dipakbhai Jagdishchandra Patel*, similarly requires face-value ingredients and strong suspicion founded on material capable of becoming evidence at trial, without deciding veracity or a probable defence. Applying that limited test to the complainant's and her husband's accounts, the High Court sustained the charges against both officials; it made no finding of guilt.

CrPC — Section 397 revision — restraint in revising a charge order — Applying *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, the Court held that revision of a charge order concerns material supporting a strong suspicion of an offence capable of proof at trial, not whether guilt is certain. After assessing the material at face value, it dismissed both revisions under Sections 397/401. It did not decide any question concerning the interlocutory-order bar.

IPC — Section 354 — complaint by female research fellow — the complainant alleged that Nageshwar Mishra made indecent comments after a disputed demand for commission on her fellowship payment and repeated the comments on the incident day. In the Registrar's chamber, she alleged that Rakesh Kumar Chauhan moved towards her, her husband intervened, and both officials then assaulted her. Taken together at the charge stage, these attributed allegations supplied prima facie material for the Section 354 charge. The order neither finally determines the requisite conduct or intent nor treats every comment, by itself, as constituting the offence.

IPC — Sections 323/34 — two victims; two counts — The complaint alleged that Nageshwar threw the complainant's husband to the ground, and that both officials assaulted the complainant during the chamber confrontation. Taking that account at face value, the Court sustained the two Section 323/34 counts concerning the complainant and her husband. Common intention, actual injury, the attribution of individual blows and witness credibility remain for trial; the unproved allegations were not treated as convictions.

Case-note :- ***1. Facts :*** These connected criminal revisions arose from the same prosecution at Rewa. Nageshwar Prasad Mishra filed Cr.R. No. 852/2017, and Registrar Rakesh Kumar Chauhan filed Cr.R. No. 574/2017; the order also spells the latter surname as "Chouhan". Each challenged the Judicial Magistrate First Class's order dated 19 January 2017 in Criminal Case No. 1545/2015, framing charges under Sections 354 and 323 read with Section 34 IPC, with the latter in two counts. The High Court used the factual account in the first revision to decide both matters by a common order.

The complainant and her husband were research fellows at Awadhesh Pratap Singh University. She alleged that Nageshwar Mishra demanded a commission when she sought payment of her fellowship; after she complained, he harassed her and made indecent comments. She said that she repeatedly complained to the Registrar but no action followed. On the incident day, Nageshwar allegedly

made another indecent comment. When she went to the Registrar's chamber to complain, she found Nageshwar there. She alleged that Registrar Rakesh told her not to complain and to leave. Her husband entered and asked to whom she could complain if the administrative officer would not receive it. The Registrar allegedly moved towards her, and her husband intervened. Nageshwar allegedly threw her husband to the ground, while both officials allegedly assaulted her. She further alleged that her husband's phone was snatched and that the Registrar attempted to snatch hers. This was the complainant's account and prosecution material accepted provisionally for the charge inquiry, not established trial fact.

Counsel for the applicants argued that, even if every allegation were accepted, no offence under Sections 354 or 323 IPC was made out. Counsel for the State and the complainant maintained that the alleged affront to the complainant's modesty and the assaults on both persons warranted the charges. Hearing the connected revisions under Sections 397/401 CrPC, the High Court considered both the charge-stage standard and the alleged roles of the two officials. Neither revision was an appeal against conviction.

2. Precedents — Considered : *M.E. Shivalingamurthy v. CBI, Bengaluru, (2020) 2 SCC 768*, was quoted extensively. Drawing *on P. Vijayan v. State of Kerala, (2010) 2 SCC 398*, the Supreme Court distinguished mere suspicion, where discharge may follow if two views are possible, from grave suspicion supported by material. The judge must sift the police statements and prosecution documents and consider broad probabilities and basic infirmities; the judge is not a prosecution post office. But this limited scrutiny cannot become a roving inquiry, a trial of probative weight or a final determination of guilt. If the prosecution case, even if fully accepted, cannot disclose an offence, a trial is unwarranted. The quoted passage also discussed the "record of the case" under Section 227 CrPC and, by reference to *State of J&K v. Sudershan Chakkar and State of Orissa v. Debendra Nath Padhi*, explained that an accused ordinarily cannot tender separate defence documents at that stage. The High Court adopted the material-versus-mini-trial distinction; no separate dispute concerning defence documents or the technical application of Section 227 to a JMFC case arose.

Soma Chakravarty v. State through CBI, (2007) 5 SCC 403, was quoted for the distinction between a charge based on an opinion that the accused might have committed the offence and a conviction requiring proof beyond reasonable doubt. The trial judge must nevertheless apply a judicial mind, examine the different categories of accused and find some material supporting the strong suspicion; suspicion alone is insufficient. The High Court applied this framework to the two officials and their respective alleged roles without finally weighing credibility.

State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290, was quoted for the limited sifting or weighing permitted to decide whether the facts, taken at face value, disclose the charged ingredients and grave suspicion, without a roving trial-stage review. The reproduced passage cited *State of Bihar v. Ramesh Singh, (1977) 4 SCC 39*, on strong suspicion under Sections 227/228, and *Dipakbhai Jagdishchandra Patel v. State of Gujarat, (2019) 16 SCC 547*, on the need for some material capable of becoming evidence at trial, rather than certainty of conviction or detailed scrutiny of a probable defence. *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, was quoted specifically on revisional interference under Section 397 with an order framing charge. The decision requires attention to material raising a strong suspicion of an offence that may be proved at trial and rejects application of the final-guilt standard at the preliminary charge stage. The High Court applied that principle in dismissing both revisions.

3. Statutes considered : Sections 397 and 401 CrPC supplied the High Court's revisional jurisdiction over the Magistrate's order dated 19 January 2017. The reproduced Supreme Court passages addressed Sections 227 and 228 CrPC as illustrations of the discharge and charge standards. The High Court applied their general prima facie and strong-suspicion reasoning to the JMFC charge order without deciding any separately contested Magistrate-specific procedural provision. The Section 354 IPC charge rested on the alleged indecent comments and incident involving the complainant. The Section 323 IPC charge concerned the alleged hurt to her and her husband in two counts, while Section 34 supplied the alleged common-intention basis. The Court found preliminary material for both offence groups. It did not finally decide the physical or mental elements, the extent of injury, or common intention. The alleged commission demand formed the background to the

confrontation and complaints; no separate corruption charge was decided.

4. Issues : Could the Magistrate frame charges when the applicants contended that, even accepting the complainant's allegations, no offence under Section 354 or 323 arose? How far could the charge court examine police material, basic infirmities, the individual roles and a likely defence, and how should the High Court review that determination under Sections 397/401? Applying that threshold, did the alleged indecent comments and movement towards the complainant provide material for the Section 354 charge, and did the alleged assaults on her and her husband provide material for the two Section 323/34 counts? Final credibility, guilt, the truth of the commission allegation and the prospect of acquittal were not issues for decision.

5. Ratio / Findings : The High Court drew from the four Supreme Court decisions a limited charge-stage inquiry. A judge must identify supporting material and cannot blindly accept a request to frame charges; a bare or weak suspicion is insufficient. Strong or grave suspicion founded on statements and documents, with the alleged facts taken at face value, suffices, although guilt must later be established by admissible evidence at trial. The court may consider broad probabilities and facial ingredients but cannot conduct a detailed roving inquiry, test credibility exhaustively or weigh defence material as though deciding the trial. Revisional review under Section 397 applies the same stage-appropriate standard to the charge order; it does not require proof that the accused is already certainly guilty.

As to Nageshwar, the prosecution account included the alleged fellowship-commission demand, harassment after the complaints, indecent comments, his presence in the Registrar's chamber, the alleged act of throwing the complainant's husband to the ground, and participation in assaulting the complainant. As to Rakesh, it alleged refusal to receive the complaint, movement towards the complainant before her husband intervened, participation in assaulting her and an attempt to seize her phone. The judgment recorded these as statements made by the complainant and her husband; it did not find their account proved. Considered together rather than as isolated fragments, the allegations supplied prima facie material for the Section 354 charge and the two Section 323/34 counts. Common intention and witness reliability remain for trial.

The Court found no ground to interfere with the Magistrate's order dated 19 January 2017 against either accused. Its dismissal finally disposed of the revisions but remained only a prima facie determination concerning the criminal charges.

6. Relief : The High Court dismissed both criminal revisions. The order of the JMFC, Rewa, in Criminal Case No. 1545/2015, framing charges under Section 354 and Section 323 read with Section 34 IPC in two counts against Nageshwar Prasad Mishra and Rakesh Kumar Chauhan, remained in force. The prosecution was left for trial; this order convicted neither applicant and finally adjudicated none of the allegations.

Nageshwar Prasad Mishra v. State of Madhya Pradesh and Others; Rakesh Kumar Chauhan v. State of Madhya Pradesh and Others, Cr.R. no. 852/2017 & 574/2017, 08/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC — Sections 96–106 and 307 — private defence and proportionate response — In *Bhanwar Singh v. State of M.P., (2008) 16 SCC 657*, the Supreme Court, drawing on *Anil Kumar* and *Dharam*, identified the accused's injuries, the imminence of the threat, access to public authorities, proportionality and the confusion of a sudden attack as relevant considerations. The right is defensive, not a licence for aggression or reprisal; yet force used in a split-second response cannot be weighed in golden scales. *Madan Mohan Pandey v. State of U.P., 1991 CrLJ 467* (SC), treats the weapon used and the number of shots fired as relevant, while *Biri Singh v. State of U.P., 1992 CrLJ 1510* (SC), addresses inseparably mixed truth and falsehood and reasonable doubt about excess. In the linked counter-case, Roop Singh's party was found to have initiated the violence. Nandu and his brother Rajendra were injured, and Rajendra died. On these facts, Nandu's single abdominal gunshot was held to be a defensive response that did not exceed the right of private defence, and his conviction under Section 307 was set aside. This conclusion is case-specific; it does not make every use of a firearm against an aggressor lawful.

Proof — injuries to the accused and origin of the encounter — *Parshuram v. State of M.P., Criminal Appeal No. 524/2021* (3 November 2023), was applied for the proposition that failure to explain

injuries to an accused may cast doubt on whether the prosecution has disclosed the true genesis of the incident. The record in this appeal included the cross-FIR and injury exhibits, the investigating officer admitted the counter-case, Roop Singh did not explain the injuries, and three other alleged eyewitnesses turned hostile. The adverse inference arose from the cross-incident record as a whole; it is not an automatic consequence of every unexplained injury.

Cross-cases — separate records and coordinated hearings — *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Criminal Appeal No. 1306/2021 (29 October 2021), was quoted for the rule that each cross-case must be decided on its own evidence, without importing evidence recorded in the other case, while the trials or appeals should be heard simultaneously.

Evidence — abdominal gunshot, firing distance and recovery — The doctor and the X-ray supported the existence of a gunshot injury, but the doctor rejected the complainant's asserted firing distance of five feet. The independent seizure witness denied the alleged handover. The Court doubted the precise recovery and the prosecution's aggressive account, yet found that Nandu fired one shot to save himself. Medical proof of a gunshot did not, without resolving those discrepancies and the counter-party's attack, establish an unlawful attempt under Section 307.

Case-note :- ***1. Facts :*** The appeal arose from Nandu alias Narendra Sharma's conviction under Section 307 IPC by the Additional Sessions Judge, Gadarwara, District Narsinghpur, in Sessions Trial No. 65/2003 on 29 October 2005. He was sentenced to seven years' rigorous imprisonment and a fine of ₹500, with three months' rigorous imprisonment in default. The case concerned an encounter on 19 December 2001 that led to opposing FIRs at Police Station Saikheda. In Crime No. 148/2001, Roop Singh alias Ram Singh alleged that, while he and his associates were going to the Gadarwara court to testify, Rajendra, Jainendra, Geeta Bai and Nandu emerged from bushes, tried to prevent them from attending court, and Nandu shot Roop Singh in the abdomen with a country-made firearm. The FIR invoked Sections 341 and 307/34 IPC. Medical examination disclosed a deep epigastric gunshot wound with omental prolapse and multiple pellets, including pellets visible on X-ray. A statement of the injured man was recorded in the form of a dying declaration, but he survived; it therefore did not become evidence of the cause of his death. Jainu alias Jainendra and Geeta Bai were acquitted, and the State did not appeal. Proceedings against Rajendra abated after he died during the trial.

The defence gave a different account of the same incident. On Rajendra's report, Crime No. 147/2001 was registered against Roop Singh's group, alleging that eight persons armed with lathis assaulted Rajendra and Nandu. Rajendra died during treatment on 22 December 2001, after which Section 302 IPC was added to the counter-case. Separate Sessions Trial No. 120/2002 resulted in the counter-party's convictions under Sections 148, 302/149 and 307/149 IPC. Their appeals—Criminal Appeal Nos. 2360/2005, 2405/2005 and 30/2006—were decided by a separate judgment. The present judgment records that those convictions were affirmed and that Roop Singh's group was held to be the aggressor. The record of this appeal itself contained the cross-FIR, the injury exhibits relating to Nandu and Rajendra, and the investigating officer's admission that a counter-case had been registered.

Nandu challenged his conviction under Section 307. He argued that the complainant's group began the violence; that he fired only to defend himself and his brother; and that the medical evidence about firing distance, the firearm-recovery evidence and the alleged eyewitness accounts did not support the prosecution's version. The State maintained that the evidence proved the charge and that, even if a right of private defence arose, use of the firearm exceeded it. The appellate court heard the parties and reviewed the testimony of Roop Singh, the three alleged eyewitnesses, the seizure witness, the doctors and the investigating officer, together with the contemporaneous documents.

2. Precedents — Considered : *Bhanwar Singh v. State of M.P., (2008) 16 SCC 657*, was quoted at length on the right of private defence. Its discussion of *Anil Kumar v. State of U.P., (2004) 13 SCC 257*, identified the accused's injuries, the imminence of the threat, the injuries caused and the opportunity to seek public intervention as relevant factors. It described private defence as a necessary response to present danger, not aggression or retrospective reprisal, and required that the force used should not be unduly disproportionate, while cautioning that a threatened person's split-second choice cannot be weighed in golden scales. It cited *Dharam v. State of Haryana, (2007) 15 SCC 241*, for the prohibition on

vindictive or malicious force. The High Court applied that composite principle to the reciprocal encounter, the injuries and the single shot; it did not create a mechanical one-shot safe harbour.

Madan Mohan Pandey v. State of U.P., 1991 CrLJ 467 (SC), was invoked for considering the weapon used and the number of shots fired when deciding whether the right of private defence was exceeded. *Biri Singh v. State of U.P., 1992 CrLJ 1510* (SC), was cited for a case in which truth and falsehood were so intertwined that they could not safely be separated and the prosecution had not proved its version beyond reasonable doubt; in that setting, the accused could not be said to have exceeded the right. The Court applied those principles in the context of three hostile eyewitnesses, the accused's injuries and a single shot.

Parshuram v. State of M.P., Criminal Appeal No. 524/2021, decided on 3 November 2023, was cited for the proposition that unexplained injuries to an accused may cast doubt on whether the prosecution has presented the real genesis of the encounter. Here, the cross-FIR, the admitted reciprocal violence and the medical injury exhibits made that omission material. The Court did not state that every unexplained injury is automatically fatal to the prosecution. *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Criminal Appeal No. 1306/2021, decided on 29 October 2021, was quoted on cross-cases: each case must be decided on its own record, evidence from one cannot simply be used in the other, and parallel trials or simultaneous appellate hearings are desirable. The quoted passage itself notes that the Supreme Court's actual dispute involved two separate prosecutions for the same offence because one accused had absconded, a situation different from the reciprocal FIRs here.

3. Statutes considered : Section 307 IPC was the offence of conviction challenged in the appeal. The original FIR also invoked Sections 341 and 307/34; the appellate order did not separately dispose of another conviction under Section 341 or a distinct count under Section 34. Sections 96–106 IPC provide the general right of private defence of person and property. The judgment relied specifically on Section 96, under which an act done in exercise of that right is not an offence, subject to the limits of a real or reasonably perceived imminent danger and a response that is neither excessive nor vindictive. The counter-case involved Sections 147, 148, 149, 341, 294, 323 and 506-B and, later, Section 302 IPC. The separate trial convictions described in this judgment included Sections 148, 302/149 and 307/149. Those offences supplied context for the reciprocal incident; this appeal did not retry or formally alter the companion convictions. The Court used the firearm evidence and the parties' conduct to reject unlawful intent under Section 307 in this particular defensive setting, not to give a comprehensive construction of every element of Section 307.

4. Issues : Was the abdominal gunshot reliably attributable to Nandu as an unlawful attempt to murder Roop Singh despite the inconsistencies concerning firing distance and recovery, the hostile supporting witnesses and the proved counter-assault? Did Nandu face an imminent danger from Roop Singh's group, so that the shot was protected by Section 96, and, if so, did the use of a firearm and the vital injury show that the single shot exceeded the right of private defence? How did the unexplained injuries to Nandu and Rajendra affect the reliability of the complainant's account and the identification of the encounter's true origin? How could the simultaneously decided counter-case appeals be considered while keeping the evidentiary record of each appeal separate? The Court did not decide the acquitted co-accused's guilt or reopen the companion appeals in this judgment.

5. Ratio / Findings : The doctor confirmed a substantial abdominal gunshot wound, and the X-ray disclosed multiple pellets. That evidence proved a gunshot injury, but the doctor stated that it could not have been caused from the five-foot distance described by Roop Singh. The three alleged eyewitnesses—Jagdish, Mohan and Ghanshyam—turned hostile, leaving Roop Singh as the only witness directly supporting the alleged aggressive attack. He admitted the cross-case and the parties' earlier enmity but did not explain the injuries to Nandu and Rajendra. The Court doubted the firearm recovery and held that the precise aggressive narrative was not proved, while still accepting that Nandu fired one shot. These are distinct findings: doubt about the particular seized object and the stated distance did not amount to a finding that Nandu fired no shot.

The injury evidence and the counter-case material established that the two groups clashed in the same occurrence. The investigating officer admitted Crime No. 147/2001, and the defence injury exhibits were produced and proved in this case. The judgment identifies Roop Singh's group as the aggressor and

records that the companion appeals affirmed their convictions. Under *Bhanwar Singh*, defensive necessity and proportionality had to be assessed amid the turmoil of the actual attack. The Court emphasised the injuries to Nandu and Rajendra, Rajendra's death, the single gunshot, and the absence of repeated firing or evidence of a deliberate, pinpointed aim at a vital part. It held that Nandu fired to save himself and did not use excessive force; Section 96 therefore protected the act.

The Court accordingly reversed Nandu's conviction under Section 307, holding that he acted in private defence and that the prosecution had not proved its contrary account beyond reasonable doubt.

6. Relief : The High Court allowed the criminal appeal, set aside the conviction and seven-year sentence imposed on 29 October 2005 in Sessions Trial No. 65/2003, and acquitted Nandu alias Narendra Sharma. As he was on bail, his bail bonds were discharged, and any fine deposited by him was ordered to be refunded. A copy of the judgment, together with the trial-court record, was directed to be sent to the court concerned. The acquittals of the co-accused and the abatement of the proceedings against Rajendra remained undisturbed. The separate counter-case appeals were not formally disposed of by the operative order in this judgment.

Nandu alias Narendra Sharma v. The State of Madhya Pradesh, Criminal Appeal No. 2301/2005, decided on 16 October 2024, Division Bench, Gurpal Singh Ahluwalia and Vishal Mishra, JJ., High Court of Madhya Pradesh.

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Headnote :- IPC — Section 376 — child prosecutrix — alternative cow-injury explanation and internally inconsistent medical record — A six-year-old testified that the appellant raped her after she went to feed a cow. Her mother saw her emerge crying from his room, and Kailadevi also saw her crying and coming from his house. Blood and inflammation were found on her private part. In the same paragraph, the judgment records the doctor as first saying that a cow-horn injury was possible and then stating "with authenticity" that such an injury was impossible; the Court's final finding relies on the latter statement. The incomplete hymen examination was therefore not treated as conclusive by itself. The conviction rested on the child's account, the supporting ocular circumstances, the medical observations and the DNA evidence.

Evidence — y-chromosome STR profiling — pre-arrest sealing and fabrication theory — The DNA report recorded a Y-STR profile on the child's underwear and the appellant's Y-STR profile on her clothes. Dr Shalini Mishra sealed the child's clothes at 11:30 p.m. on 31 January 2013, before the appellant was arrested on 1 February 2013. The Court held that this sequence excluded the possibility that the investigating agency had smeared the sealed underwear with the appellant's semen after his arrest, and it treated the DNA result as corroboration. The finding was tied to the recorded custody sequence and the other evidence.

Case-note :- ***1. Facts :*** Narayan Singh appealed against the judgment dated 26 April 2013 of the Additional Sessions Judge, Ambah, District Morena, in S.T. No. 80/2013, convicting him under Section 376 IPC. He was sentenced to ten years' rigorous imprisonment and a fine of ₹25,000, with one year's rigorous imprisonment in default. The prosecutrix was about six years old. At about 11:00 a.m. on 31 January 2013, her mother, who was observing a Thursday fast, gave her dough to feed a cow tied near another house. When the child did not return for about half an hour, the mother searched for her and, according to her testimony, saw the child emerge crying from the appellant's room while he went back inside. The child said that he had raped her after gagging her and had threatened to strangle her if she disclosed the incident. The mother saw blood on the child's private part and underwear, washed the child and her clothes, and informed family members. The father returned later, and the FIR was recorded at 5:00 p.m. that day.

The child and her mother testified. Her grandmother and Kailadevi also supported the prosecution; Kailadevi saw the child crying and later said that she had emerged from the appellant's house. The mother described the child's blood-stained pink pants and yellow underwear and the referrals from Ambah to Morena and then to Kamla Raja Hospital, Gwalior, where the child remained for two or three days. Dr Shalini Mishra found inflammation and blood on the vaginal surface but could not examine the hymen because the child was crying and would not cooperate. She said that rape could not be ruled out and that the opinion required correlation with the surrounding circumstances and laboratory examination. The judgment's account of her cross-examination is internally inconsistent: it first records that a cow-horn injury was possible, but immediately

records her categorical statement that the injuries could in no circumstance have resulted from a cow attack. The child said in cross-examination that a cow had thrown and injured her; her mother denied that account and also denied that a marital dispute or pressure from the father had prompted a false report. The investigators seized the child's clothes and samples, an alleged blood-stained bedsheet, a shirt and other articles; samples and clothing were also collected from the appellant. A seizure witness admitted political rivalry and an earlier prosecution but denied that he had merely signed papers without witnessing the proceedings. A doctor found the appellant potent. The prosecution examined twelve witnesses, and the appellant examined one defence witness. The trial court convicted him. No advocate appeared for the appellant in the High Court, which reviewed the record, heard the State and considered the grounds in the memorandum of appeal.

2. Statutes considered : Section 374 CrPC conferred appellate jurisdiction. Section 376 IPC was the charged offence, and the conviction under that provision was affirmed. The Court held that the applicable minimum sentence was ten years and declined to interfere with it. Section 27 of the Indian Evidence Act appears in the account of the appellant's memorandum and the related seizures; the Court did not make a separate ruling on discovery admissibility.

3. Issues : Whether the child's account, the mother's and Kailadevi's observations, the medical findings and the DNA result proved the charge under Section 376 IPC beyond reasonable doubt despite the cow-injury explanation and the incomplete medical examination. Whether sealing the child's clothes before the appellant's arrest answered the suggested fabrication of DNA material on the underwear. Whether the ten-year sentence required appellate interference.

4. Ratio / Findings : The child described the assault after entering the appellant's room. Her mother found her crying as she emerged, observed blood and received her immediate account; Kailadevi also saw the child crying and coming from the appellant's house. The Court considered the child's cross-examination statement that a cow had thrown and injured her and the mother's denial of that version. The medical examination showed inflammation and blood, although the hymen could not be examined and the doctor's recorded testimony about cow-horn causation is internally inconsistent. In reaching its conclusion, the Court expressly relied on the categorical statement that the injuries could not have resulted from a cow attack, together with the ocular evidence and the DNA report.

The DNA report, as reproduced in the judgment, recorded a Y-chromosome STR profile on the child's underwear and the appellant's Y-STR profile on her clothes. Dr Shalini Mishra sealed the child's clothes at 11:30 p.m. on 31 January 2013, and the appellant was arrested on 1 February 2013. The Court held that the investigating agency could not have smeared the already sealed underwear with the appellant's semen after his arrest. Treating that chronology as an answer to the fabrication theory, it combined the forensic result with the ocular and medical evidence and found guilt proved beyond reasonable doubt.

The Court maintained the sentence of ten years' rigorous imprisonment and the fine, holding that ten years was the applicable statutory minimum. Because the appellant had already served the awarded prison term and had been released, no further custody direction was required.

5. Relief : The High Court dismissed the criminal appeal and affirmed the judgment dated 26 April 2013 in S.T. No. 80/2013, including the conviction under Section 376 IPC, ten years' rigorous imprisonment, the ₹25,000 fine and one year's rigorous imprisonment in default. As Narayan Singh had already undergone the awarded imprisonment and been released, nothing further was required.

Narayan Singh v. State of Madhya Pradesh, Cr.A. No. 469/2013, decided on 28 March 2022, Single Bench, Gurpal Singh Ahluwalia, J., High Court of Madhya Pradesh, Gwalior Bench.

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Headnote :- CrPC — Section 389 — suspension of sentence distinguished from stay of conviction — public servant convicted under the Prevention of Corruption Act — The petitioner challenged his termination after conviction under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. In his pending criminal appeal, the prison sentence had been suspended, but the conviction had not been stayed. Applying *K.C. Sareen v. CBI, Chandigarh, (2001) 6 SCC 584*, the High Court held that the two orders have different effects: neither an appeal nor suspension of the sentence makes the conviction disappear. A stay of conviction is exceptional; the applicant must disclose the specific adverse consequence, and the

appellate court must consider its ramifications and give written reasons. *Sareen* cautions against staying a corruption conviction merely to enable a convicted public servant to continue in office pending appeal, even when imprisonment is suspended. The Court found no illegality in the termination under the Madhya Pradesh service rules. Relying on its decision in *Badelal Pathak*, it also rejected entitlement to provisional pension and gratuity after conviction. The writ petition was dismissed without deciding the merits of the criminal appeal or any application to stay the conviction.

Case-note :- ***1. Facts :*** Narendra Gangrade filed a petition under Article 226 challenging the Engineer-in-Chief, Water Resources Department's order dated 18 April 2019 terminating his service. By a criminal judgment dated 11 January 2019, he had been convicted under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. The judgment records sentences of two and three years' rigorous imprisonment, respectively, with fines of ₹5,000 and ₹1,000. The service order relied on Rules 19(1)(2) and 10(9) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966.

Gangrade filed Criminal Appeal No. 350/2019. By an order dated 4 February 2019, his sentence was suspended. His counsel submitted that, despite the conviction, he should at least continue in service as a suspended employee. Gangrade had since reached the age of superannuation and also complained that pension and gratuity were not being paid. The Court recorded that he did not claim that his conviction had been stayed. The writ petition sought reversal of the service termination and consequential benefits; it did not require the Court to dispose of the pending criminal appeal or reassess the evidence supporting the corruption conviction.

2. Precedents — Considered : *K.C. Sareen v. CBI, Chandigarh, (2001) 6 SCC 584*, was extensively quoted and applied. Paragraphs 10–15 distinguish the ordinary suspension of the execution of a sentence from the exceptional suspension of an order of conviction under Section 389(1) CrPC, including where the conviction produces a disqualification. *Sareen* holds that merely filing or admitting an appeal does not justify keeping the conviction in abeyance. The appellate court must consider the consequences, and a public servant convicted of corruption should not be enabled to continue in public office through a stay of conviction while an appeal or revision is pending, even though imprisonment may be suspended. The High Court used that distinction and public-interest principle to assess an unstayed conviction; it did not adjudicate a Section 389 application.

Within the passage from *Sareen*, the three-Judge Bench decision in *Rama Narang v. Ramesh Narang, (1995) 2 SCC 513*, is discussed. Ordinarily, Section 389 suspends an executable sentence or an order for compensation, fine or probation; a conviction does not disappear merely because an appeal is filed. In some circumstances, however, a conviction itself may produce an executable disqualification, and a stay may then be available. The applicant must specifically draw the consequence to the appellate court's attention, and the court must record reasons in writing. A general stay obtained without disclosing its purpose cannot automatically remove the disqualification. These qualifications, reproduced through *Sareen*, informed the High Court's distinction; the Court did not hold that a conviction can never be stayed.

Sareen also quoted *Deputy Director of Collegiate Education (Admn.) v. S. Nagoor Meera, (1995) 3 SCC 377*, on taking action under clause (a) of the second proviso to Article 311(2) after a government servant's conviction without awaiting an appeal or revision. If the employee is later acquitted, the service order may be revised and, upon reinstatement, the benefits restored. It also cited *State of T.N. v. A. Jaganathan, (1996) 5 SCC 329*, which set aside a discretionary stay of conviction for public officials convicted, among other matters, of corruption, including an attempted use of Section 482. The High Court reproduced these passages as part of *Sareen*'s public-interest analysis; it did not make a fresh ruling under Article 311 or Section 482. The High Court also cited *Badelal Pathak v. State of Madhya Pradesh and others*, W.P. No. 18341/2023, decided on 5 September 2023, for the proposition that a convicted employee is not entitled to provisional pension or gratuity.

3. Statutes considered : Article 226 of the Constitution conferred the writ jurisdiction invoked to challenge the service order. The conviction was under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act; the writ order did not reconsider the elements of those offences. Rules 19(1)(2) and 10(9) of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966, were cited as the basis of the

post-conviction service action. Section 389(1) CrPC is the appellate suspension provision analysed in *Sareen* and the quoted *Rama Narang* discussion. The quoted *Nagoor Meera* passage concerns clause (a) of the second proviso to Article 311(2), and the quoted *Jaganathan* passage refers to Section 482 CrPC. The provisions are stated at the level at which they entered the High Court's reasoning.

4. Issues : Whether the order dated 4 February 2019 suspending Gangrade's prison sentence in Criminal Appeal No. 350/2019 also prevented the adverse service consequences of his unstayed corruption conviction, so that the Engineer-in-Chief could not terminate his service and should at least retain him as a suspended employee. This required the Court to distinguish suspension of a sentence from a stay of conviction and apply the Supreme Court's public-interest treatment of corruption convictions. A related issue was Gangrade's claim to pension and gratuity after superannuation, for which the Court relied on *Badelal Pathak*.

5. Ratio / Findings : The conviction, sentence and later appellate order were undisputed procedural facts. The Court expressly found that the conviction itself had not been stayed. Suspension of a sentence affects the execution of imprisonment; it does not set aside or suspend the underlying conviction. Gangrade therefore could not derive a right to remain in service from the order dated 4 February 2019. Applying *Sareen*, the Court distinguished an exceptional, specifically justified stay of conviction from the ordinary suspension of imprisonment pending appeal. Through the quoted discussion of *Rama Narang*, it explained that an applicant seeking relief from a conviction-triggered disqualification must identify that consequence and that the appellate court must record reasons. The distinction preserves the limited statutory possibility of a properly justified stay of conviction but does not allow suspension of the sentence to be treated as such a stay.

Sareen further holds that merely entertaining an appeal does not temporarily exonerate a public servant judicially convicted of corruption. It counsels against staying such a conviction to permit continued public office while the challenge is pending, even if imprisonment is suspended, because public confidence and administration may suffer. *Nagoor Meera* and *Jaganathan* supported prompt service consequences and restrained use of the power to stay a conviction. The High Court adopted that public-interest approach and found that the unstayed conviction permitted Gangrade's termination under the stated service rules. It did not decide the merits of a conviction-stay request or hold that a prison sentence can never be suspended.

For the post-superannuation claim, the Court relied on *Badelal Pathak* for the proposition that a convicted employee is not entitled to provisional pension or gratuity. The quoted passage from *Nagoor Meera* recognises that, if the employee is later acquitted, the service order may be revised and benefits restored upon reinstatement. That eventuality was not before the Court. The decision rested on the conviction remaining operative, not on a finding that the pending criminal appeal lacked merit.

6. Relief : The High Court dismissed the writ petition and declined to interfere with the termination order dated 18 April 2019. It granted no direction for continued or suspended employment, provisional pension or gratuity. The criminal conviction remained unstayed, while the prior suspension of the prison sentence and the pending criminal appeal were unaffected by the writ order.

Narendra Gangrade v. State of Madhya Pradesh and others, W.P. No. 9307/2019, decided on 22 September 2023, Single Bench, Gurpal Singh Ahluwalia, J., High Court of Madhya Pradesh, Jabalpur Bench.

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Headnote :- BNSS — Section 482 — anticipatory bail in alleged public-money misappropriation — The prosecution alleged false computer entries recording the purchase and movement of food grain that had not been purchased. The applicant, described as a society computer operator, voluntarily offered to deposit ₹10 lakh and relied on a similar deposit offered by a co-accused who had received anticipatory bail. Applying *Ramesh Kumar v. State of NCT of Delhi, (2023) 7 SCC 461*, paragraph 26, the High Court held that, exceptionally, an accused's voluntary offer to account for all or part of allegedly misappropriated public money may be considered before bail is finally decided, because returning public money may serve the larger public interest. That approach does not extend to private disputes involving money allegedly lost through cheating. The Court directed the applicant's release on depositing ₹10 lakh with the Madhya Pradesh State Civil Supplies Corporation Limited by 30 November

2024, producing the receipt, and furnishing a personal bond of ₹1 lakh with one surety in the same amount. The bail order would automatically stand cancelled if he did not withdraw his parallel writ petition seeking transfer of the investigation; otherwise, it would remain effective until the end of trial but become ineffective upon a bail jump.

Case-note :- ***1. Facts :*** Narendra Kumar Pandey applied in M.Cr.C. No. 47379/2024 under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The order describes the application as one for anticipatory bail in Crime No. 61/2024, Police Station Dharkundi, District Satna. The registered offences were under Sections 406, 417, 420, 467, 468, 471 and 120-B IPC, and Section 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, as identified in the order. The case diary was available. According to counsel's account of the prosecution case, false entries in a society's computer system represented the procurement and transportation of food grain that had not actually been purchased. Counsel described fictitious purchases worth about ₹90 lakh and alleged misappropriation of ₹92.64 lakh of public money by more than eight persons. These figures and the description of the scheme were allegations and submissions, not final findings or an adjudicated loss.

Pandey submitted that he was a computer operator who had been compelled by others to enter the incorrect information. He had also filed W.P. No. 23452/2024 seeking transfer of the investigation to another agency. By an order dated 22 August 2024, a coordinate Bench directed that no coercive steps be taken against him. Asked how he presently apprehended arrest despite that protection, counsel acknowledged that he did not, but submitted that the writ petition might fail because an accused had no right to seek transfer of an investigation. Counsel proposed to withdraw it, after which the apprehension of arrest would revive. The statement about the accused's lack of such a right was counsel's submission in this bail proceeding, not an independently reasoned holding on transfer jurisdiction.

Counsel relied on the anticipatory bail granted to co-accused Samrat Singh on 6 September 2024 after he offered to deposit ₹10 lakh. Counsel contrasted the rejection of co-accused Dhananjay Dwivedi's application on 3 October 2024 after he declined to deposit that amount and argued the case on merits. Pandey likewise volunteered to deposit ₹10 lakh; the State opposed the application. The judgment is internally inconsistent about custody: although it repeatedly frames the matter as anticipatory bail based on an apprehension of arrest, paragraphs 8 and 12 state that Pandey had been in jail for the last, or more than, four months. The digest records that conflict without resolving it.

2. Precedent — Considered : *Ramesh Kumar v. State of NCT of Delhi, 2023:INSC:596, (2023) 7 SCC 461*, was cited by counsel, quoted by the Court and applied to the offered deposit. Paragraph 26 does not prohibit consideration of an accused's willingness to pay or deposit money in every bail case. In an exceptional case alleging misappropriation of public money, a court may consider an accused's voluntary proposal to account for all or part of that money before finally deciding anticipatory or regular bail, because restoring public money may serve the larger public interest. The passage distinguishes private disputes involving money allegedly lost through cheating, where that approach is unwarranted. The High Court applied the public-money branch of the principle to the ₹10 lakh condition. Neither the allegation nor the proposed deposit was treated as a final admission or determination of guilt.

The final direction cites *XYZ and Others v. State of Madhya Pradesh and Another, 2021:INSC:192, (2021) 16 SCC 179*, as the basis for sending intimation of the bail grant to the complainant. The judgment was invoked only for that notification direction. The two co-accused bail orders and the coordinate Bench's interim protection in the writ petition were procedural comparators or background, not Supreme Court precedents laying down general rules.

3. Statutes considered : Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, was the provision invoked for the anticipatory-bail application. The registered offences were under Sections 406, 417, 420, 467, 468, 471 and 120-B IPC, and Section 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, with the order referring to the 2018 amendment. The no-coercive-steps order arose in the separate investigation-transfer writ petition. The operative bail direction specified the deposit, receipt, personal bond, matching surety and withdrawal condition. The bail order did not finally determine ownership of the alleged funds or the applicant's guilt.

4. Issues : Whether Pandey could obtain anticipatory bail on his undertaking to withdraw the transfer writ, despite acknowledging that the coordinate Bench's no-coercive-steps order meant he did not then apprehend arrest. Whether, consistently with the narrow exception in *Ramesh Kumar*, his voluntary offer to deposit ₹10 lakh could be considered where public money was alleged to have been misappropriated. What conditions would govern his release and the continuance of bail. The Court did not decide whether the investigation should be transferred, who was ultimately responsible for the false entries, the actual amount lost, or the criminal liability of any accused.

5. Ratio / Findings : The Court first elicited counsel's admission that the interim writ order removed any present apprehension of arrest. Counsel's proposed withdrawal of the writ supplied the contemplated basis on which that apprehension would revive. The Court therefore made withdrawal of W.P. No. 23452/2024 an express condition for the bail order to remain effective; it did not decide the writ petition's prospects or transfer the investigation. The Court treated the computer-entry defence cautiously. It considered it not very important at the bail stage whether Pandey entered the false information under another person's pressure or voluntarily, because he might still be responsible for his own act. That observation was not a final finding on intent, complicity or guilt.

For the financial condition, the Court reproduced paragraph 26 of *Ramesh Kumar* and applied its exceptional public-money rationale to the allegations and Pandey's voluntary offer to deposit ₹10 lakh. The Supreme Court passage permits consideration, in the larger public interest, of an offer to account for all or part of allegedly misappropriated public money before bail is finally determined. It does not establish a general payment requirement for bail and expressly excludes the same approach in private disputes involving money allegedly lost through cheating. The different treatment of the two co-accused appeared in counsel's submissions and was not converted into a general parity rule.

The operative order required Pandey to deposit ₹10 lakh with the Madhya Pradesh State Civil Supplies Corporation Limited by 30 November 2024, produce the receipt, and furnish a personal bond of ₹1 lakh with one surety in the same amount to the trial court's satisfaction. It provided that the anticipatory-bail order would automatically stand cancelled if Pandey did not withdraw the parallel writ petition; otherwise, it would remain effective until the end of trial. Upon a bail jump, the order would become ineffective and the trial court could take him into custody. The Court also directed intimation to the complainant by reference to *XYZ*. These were conditions of the particular order.

6. Relief : The High Court allowed the application and directed Pandey's release on bail if he deposited ₹10 lakh with the Madhya Pradesh State Civil Supplies Corporation Limited by 30 November 2024, produced the receipt, and furnished a personal bond of ₹1 lakh with one surety in the same amount to the trial court's satisfaction. The order would automatically stand cancelled if he did not withdraw W.P. No. 23452/2024. If the writ was withdrawn, the order would remain effective until the end of trial, subject to becoming ineffective upon a bail jump. Intimation of the bail grant was to be sent to the complainant.

Narendra Kumar Pandey v. State of Madhya Pradesh, M.Cr.C. No. 47379/2024, decided on 8 November 2024, Single Bench, Gurpal Singh Ahluwalia, J., High Court of Madhya Pradesh, Jabalpur Bench.

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Headnote :- IPC — Section 460 — night house-trespass or house-breaking causing death or grievous hurt — joint liability requires proof of the accused's participation - The Davars' home was broken into at night, property was allegedly stolen, and guard Bhagwan Singh was found dead. The Court explained Section 460's temporal requirement and its application to persons jointly concerned when any person guilty of the nighttime offence voluntarily causes or attempts to cause death or grievous hurt. It did not infer Nandu's participation merely from the condition of the scene and the medical proof of death. The circumstances relied upon by the prosecution failed to connect him with the offence, and his conviction and life sentence were set aside.

IPC — Sections 299, 300 thirdly and 304 — homicide established, but the offender's identity not proved - Three incised injuries on the head and nose, together with skull fractures and coma, supported the doctor's conclusion that the death was homicidal. The Court reviewed *Virsa Singh's* distinction between the intention to inflict the particular injury proved and the objective assessment

whether that injury was sufficient in the ordinary course of nature to cause death. It also considered *Arun Nivalaji More* on the categories of homicide and the roles of intention and knowledge. The authorities cautioning against automatic classification by the number of blows were also quoted. Those principles did not supply the missing proof that Nandu was the assailant or establish any individual intention or knowledge on his part.

Evidence — identification of stolen articles and recovery - The organiser of the purported property-identification proceeding said that it took place at a school without police presence. He nevertheless admitted that the police had brought the property and prepared the written record, while one owner initially stated that the identification occurred at the police station. The owners' and the brother's accounts of opening and examining the house also differed. The alleged recovery was made from an open place and was unsupported by the memorandum witnesses. In the circumstances of this case, these conflicts impaired the reliability of the alleged link to Nandu.

Evidence — circumstantial chain — motorcycle and property links insufficient - No witness identified Nandu at the house or as one of the riders seen near the area at 3 a.m. The constable's alleged report of the motorcycle number was not entered in any station record. The seized motorcycle had neither a key nor ownership documents linking it to Nandu, and the fingerprints collected during the investigation were not examined. The alleged recovery and property-identification evidence were also unreliable. Applying *Padala Veera Reddy*, *Sharad Birdhichand Sarda* and *Ramreddy Rajeshkhanna Reddy*, the Court held that the circumstances did not form a complete and exclusive chain establishing guilt beyond reasonable doubt. Nandu was acquitted of the charge under Section 460 and ordered to be released if not required in another case.

Case-note :- ***1. Facts :*** Nandu appealed under Section 374 CrPC against the Third Additional Sessions Judge, Fast Track, Guna's judgment of 26 June 2006 in Sessions Trial No. 268/2005. He alone was convicted under Section 460 IPC and sentenced to life imprisonment, a ₹500 fine and one additional year of rigorous imprisonment in default. The prosecution had charged an absconding Jackey separately under Section 299 CrPC; this appeal did not decide Jackey's case. Umesh and Varsha Davar were away in Jaipur on the night of 24–25 March 2005. Unknown persons allegedly removed a window grill, entered their Mathur Colony, Guna house, stole ornaments, a men's watch and a Sai Baba idol, and killed their watchman Bhagwan Singh. Their brother Gulshan Davar reported finding the body, rope and damaged window the next morning and lodged FIR Ex. P/2. A merg and spot map were prepared. The house-breaking and death were not disputed as events; the offender's identity was the live issue.

Dr P.K. Sharma's postmortem Ex. P/5 described two incised head wounds over the right parietal and frontal regions with bone fractures and a further incised wound over the nose bridge. He attributed death to coma following head injuries and characterised it as homicidal. Constable Bhaskar Singh Raghuvanshi said that at about 3 a.m. he saw three young men, whom he described as looking like Pardis, on motorcycle MP-08-J-7149 coming from the colony's direction and turning away on seeing police. He said he read the plate by torchlight and told the station after learning of the murder at about 5 a.m. He did not identify Nandu as a rider. Investigators arrested Nandu, seized a motorcycle under Ex. P/13, recorded his memorandum Ex. P/15, and asserted seizure of stolen property under Ex. P/14. Dinesh Sharma, a municipal councillor, conducted an article-identification proceeding Ex. P/1. The defence challenged its venue and procedure, the open-place recovery and the timing, the absence of corroboration for the plate information, and the inference from the motorcycle.

The appeal was argued for Nandu by Anoop Nigam and opposed by the State. The Court framed issues whether he committed lurking house-trespass by night or house-breaking by night, caused the guard's death while committing that offence, whether the death amounted to culpable homicide and murder, and whether Nandu was the murderer. It examined each issue in light of the evidence concerning identity.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was explained in the Court's discussion of Section 300 Thirdly. The prosecution must prove the existence and nature of the bodily injury, the intention to inflict that particular injury—as distinguished from an accidental injury or an intention to inflict a different injury—and, objectively, that the injury was sufficient in the ordinary course of nature to cause death. Once those elements are proved, a further

intention to cause death or knowledge that the injury was likely to be fatal is unnecessary. The Court reviewed this framework before assessing the fatal injuries, but it did not establish who inflicted them. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079 of 2005, was quoted on the intention and knowledge limbs of Section 299, the clauses and exceptions of Section 300, and the division between Parts I and II of Section 304 where culpable homicide does not amount to murder. The judgment reproduced a context-specific discussion of Section 300 Secondly and Thirdly that referred to a differently named victim.

The Court also quoted *Anda v. State of Rajasthan, 1966 Cri LJ 171*, for the ordinary-course sufficiency of an intended injury; *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, for the absence of an automatic rule that a single blow excludes murder; and *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, for the cumulative conditions of Section 300 Exception 4, including a sudden mutual fight, absence of premeditation, and absence of undue advantage or cruelty. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, supplied a non-exhaustive list of circumstances bearing on intention, while *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, concerned a crowbar blow to a vital part of the skull. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, reproduced passages from *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram* concerning a single blow and Exception 4. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, quoted *State of Karnataka v. Vedanayagam and Virsa Singh* to distinguish the intention to inflict the proved injury from the seriousness of that injury.

Padala Veera Reddy v. State of A.P., AIR 1990 SC 79, was quoted for firmly established, unerringly incriminating circumstances forming a complete chain excluding innocence. Its quotation itself cites *Gambhir* and other cases as background; their individual facts and holdings were not independently considered. *Sharad Birdhichand Sarda v. State of Maharashtra, AIR 1984 SC 1622*, supplied the five conditions: circumstances must be fully established, consistent only with guilt, conclusive, exclude other hypotheses, and make a complete chain leaving no reasonable ground consistent with innocence. The Court expressly applied these and found the chain unproved. *Ramreddy Rajeshkhanna Reddy v. State of A.P., (2006) 10 SCC 172*, was quoted to emphasise clinching proof of each link and that grave suspicion is no substitute; its embedded references to *Anil Kumar Singh* and *Reddy Sampath Kumar* were not separately analysed by the present Court. The three circumstantial-proof authorities directly supported acquittal.

3. Statutes considered : Section 374 CrPC governed the appeal against conviction. Section 460 IPC was the sole provision under which Nandu was convicted. Its quoted text applies where, during lurking house-trespass by night or house-breaking by night, a person guilty of that offence voluntarily causes or attempts to cause death or grievous hurt, and it extends liability to every person jointly concerned in the nighttime offence. The requirement that the harmful act occur while the nighttime trespass or house-breaking is being committed was material. IPC Sections 299 and 300 were extensively discussed in relation to the guard's homicidal death, while Sections 302 and 304 appeared in the quoted precedent framework. Nandu's recorded trial conviction was under Section 460, not a separate Section 302 count adjudicated in this appeal. The charge sheet filed against the absconding Jackey under Section 299 CrPC was a separate procedural matter, not a reference to culpable homicide under the IPC. The memorandum and alleged recovery were considered through the exhibits and witness testimony.

4. Issues : The Court had to decide whether the prosecution proved that Nandu was jointly concerned in the nighttime entry or break-in and that an act causing death or grievous hurt occurred while that offence was being committed so as to attract Section 460; whether the medical evidence established homicidal death and how the principles under Sections 299 and 300 applied; whether the article identification, memorandum and recovery linked him to the stolen property; and whether the motorcycle sighting, seized motorcycle and other circumstances formed an exclusive chain proving his identity and participation beyond reasonable doubt. The Court also had to determine the effect on his life sentence and custody if that proof failed.

5. Ratio / Findings : First, the Court reproduced Section 460 and emphasised the words “at the time of” the nighttime trespass or house-breaking. The act causing or attempting to cause death or grievous hurt must occur while that offence is being committed. Extended liability rests on the accused being jointly concerned in the underlying nighttime offence when

one guilty participant voluntarily causes or attempts to cause death or grievous hurt. The prosecution, however, failed to connect Nandu with the entry or the killing. The broken grill, missing property and the guard's death established the occurrence alleged by the prosecution, but not Nandu's identity or participation.

Second, Dr P.K. Sharma's evidence established that Bhagwan Singh died from head injuries and consequent coma, with fractures in two regions of the skull and an incised wound over the nose. The Court recorded the doctor's opinion that the death was homicidal and that the injuries were sufficient to cause death. In its preceding legal discussion, the Court explained Sections 299 and 300, including *Virsa Singh's* distinction between the intention to inflict the actual injury and the objective question whether that injury was sufficient in the ordinary course of nature to cause death. It also discussed the roles of intention and knowledge in the classification of offences under Sections 302 and 304. The Court extensively reproduced Supreme Court illustrations concerning single blows, weapons, vital body parts, provocation and sudden fights. None resolved the separate evidentiary question whether Nandu was the attacker, and no eyewitness identified him as such. The Court therefore acquitted Nandu of the Section 460 charge after finding that the circumstantial chain was not proved.

Third, the alleged discovery and identification of the stolen property did not provide a reliable link to Nandu. Gulshan and Umesh materially differed over when and in whose presence the house was unlocked and its contents examined. The memorandum witness Rajesh Solanki gave differing accounts of the place of arrest and signing. The seizure of glass and rope witnessed by Hariom and Pawan did not result from Nandu's memorandum, and both witnesses said that they signed at the direction of the police. The investigating witness stated that only a motorcycle was seized when Nandu was arrested; he described the later seizure of stolen property from an open place, but no memorandum witness supported it. Dinesh Sharma said that the property-identification proceeding took place at a school without the police, yet admitted that the police had brought the articles and prepared Ex. P/1 for him. Varsha initially placed the identification at the police station and later attempted to correct that account. The Court treated these contradictions and the absence of independent support as defeating the alleged identification.

Fourth, Bhaskar Singh reported three unidentified riders around 3 a.m. near several colonies, on a motorcycle whose plate he said he saw with a torch. He did not recognise Nandu; a description that riders looked like Pardis did not identify individuals. His claimed post-patrol report of the number had no Rojnamcha/Sanha entry or other document. The seized bike had no key or ownership documents tying it to Nandu. Investigators took fingerprints but did not have them examined. The circumstances therefore lacked reliable links both from the scene to the riders and from the numbered bike to Nandu. Applying *Padala Veera Reddy*, *Sharad Birdhichand Sarda* and Ramreddy, the Court required proof of each inculpatory link and exclusion of reasonable innocence. It expressly found the cumulative chain incomplete. Suspicion from the purported motorcycle, recovery or property identification could not meet the criminal standard. The State's defence of the conviction failed; the fact of homicidal death did not cure the attribution gap.

6. Relief : The High Court allowed the criminal appeal, set aside the conviction and life sentence imposed on 26 June 2006 under Section 460 IPC, and acquitted Nandu of that charge. Referring to the Superintendent, Central Jail, Gwalior's report dated 11 August 2021 that Nandu was in prison, the Court ordered his release in the matter arising from this trial if he was not required in another case. It also directed that the trial-court record be returned promptly with a copy of the judgment.

Nandu v. State of Madhya Pradesh, Cr.A. no. 499/2006, 01/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- CrPC — Section 36 — independent parallel inquiry during investigation - According to the prosecution case, police found Narendra Pal Singh Tomar and Rajkumar unloading illicit liquor from a truck. After Tomar represented to the Superintendent of Police, the City Superintendent of Police (CSP) conducted a separate inquiry and reported that he was absent from the spot; he was therefore omitted from the charge sheet. Applying *Deepak @ Preetam Verma*, as affirmed in *Surendra Singh Gaur*, the High Court held that neither Section

36 nor the cited police circular authorised an independent inquiry alongside the investigating officer's ongoing FIR investigation. It declared the CSP report to be without jurisdiction and a nullity that could not be considered for any purpose. The quoted Supreme Court order recognised that the circular conformed to Section 36 but held that the officers' parallel procedure did not conform to the circular or the law.

CrPC — Section 319 — summoning an omitted person on trial evidence - A co-accused sought to summon Tomar while prosecution evidence was being recorded. The FIR, witness statements recorded under Section 161 CrPC and the witnesses' court evidence indicated his involvement in unloading a truck containing 1,919 litres of illicit liquor. Because the CSP report was a nullity, it could not control the trial court's assessment. Citing *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*, the High Court upheld the Section 319 summons and dismissed the revision under Sections 397 and 401 CrPC. The finding of prima facie involvement was not a determination of guilt.

Case-note :- ***1. Facts :*** Narendra Pal Singh Tomar brought Criminal Revision No. 3103/2021 under Sections 397 and 401 CrPC against the Sixth Additional Sessions Judge, Morena's order dated 8 October 2021 in S.T. No. 339/2017. By that order, the trial court summoned him as an additional accused under Section 319 CrPC after he had not been included in the charge sheet. According to the prosecution case, police received information that illicit liquor was being unloaded near Rajkumar's premises, formed three parties and found Tomar and Rajkumar unloading a truck bearing registration No. HR69-2733 into the premises. Tomar allegedly fled when police arrived, while Rajkumar was arrested. Police seized 1,919 litres of liquor valued at about ₹16 lakh.

Tomar represented to the Superintendent of Police, Morena that he had no connection to the offence. While the FIR investigation was pending, the SP assigned a separate inquiry to the City Superintendent of Police. The CSP concluded that Tomar was not at the spot; on this basis the police did not charge-sheet him. During the prosecution evidence in Rajkumar's trial, Rajkumar himself applied under Section 319 to summon Tomar. The trial court acted on evidence that had come before it. Tomar's principal revisional argument was that the CSP's report made summoning unnecessary. The State opposed and said a simultaneous, separate Section 36 inquiry was impermissible. The High Court had the case diary and heard counsel for both sides.

2. Precedents — Considered : *Deepak @ Preetam Verma and another v. State of M.P. and another*, M.Cr.C. No. 12592/2018, order dated 11 September 2018, was the High Court's earlier ruling that an independent parallel inquiry under Section 36 CrPC during an ongoing investigation is not maintainable. The present Court applied that ruling. The Supreme Court's order dated 18 January 2022 in *Surendra Singh Gaur v. State of M.P. and others, SLP (Criminal) No. 1345/2019*, affirmed the rejection of the independent parallel inquiry and was quoted extensively. It held that neither Section 36 nor the circular invoked by the officers provided for a simultaneous, separate inquiry into the same FIR. The order further stated that the 26 June 2010 circular conformed to Section 36, but the procedure actually followed by the officers conformed neither to the circular nor to the law. Finding no ground to interfere under Article 136, the Supreme Court dismissed the petitions. The present Court treated that reasoning as governing the CSP's report in this case.

Hardeep Singh v. State of Punjab, (2014) 3 SCC 92, was expressly cited as support for upholding the trial court's Section 319 summons on the FIR and witnesses' court testimony. It applied the authority to the particular evidence and procedural stage, finding the summons permissible rather than deciding final culpability.

3. Statutes considered : Section 36 CrPC was invoked as authority for senior police involvement. The ruling concerned an independent parallel CSP inquiry conducted during the pending FIR investigation and the legal effect of its report. Witness statements recorded under Section 161 CrPC and evidence given in court were treated as sources of prima facie implication. Section 319 CrPC empowered the trial court to summon a person not already accused on the basis of evidence emerging during trial; the present order reviewed that exercise after prosecution evidence had begun. Sections 397 and 401 CrPC conferred revisional jurisdiction. Article 136 of the Constitution appears in the quoted Supreme Court order as the basis on which that Court declined to interfere.

4. Issues : Could a CSP's exonerating report, created on the SP's direction as an independent inquiry while

the investigating officer's FIR investigation continued, be relied on under Section 36 to prevent the trial court from summoning Tomar? Did the FIR, Section 161 statements and witnesses' trial evidence supply a sufficient basis in this record for the Sessions Court to exercise Section 319 after Tomar was omitted from the police report? The associated revisional question was whether the 8 October 2021 order warranted interference. The Court did not determine whether Tomar actually committed the underlying liquor offence or finally assess a defence of nonpresence.

5. Ratio / Findings : The High Court first identified the origin of the CSP report: Tomar asked the Superintendent of Police to examine his plea that he was absent from the spot, and the CSP conducted a separate inquiry while the original investigation remained pending. *Deepak @ Preetam Verma* had rejected such a parallel inquiry. The quoted Supreme Court order in *Surendra Singh Gaur* explained that neither Section 36 nor the State circular authorised an independent inquiry alongside the investigating officer's work on the FIR. It recognised that the circular conformed to Section 36 but held that the officers' actual procedure conformed neither to the circular nor to the law. Applying that reasoning, the High Court declared the CSP report to be without jurisdiction and a nullity that could not be considered for any purpose.

The Court then identified prima facie material independent of the CSP report. It found that Tomar was specifically named in the FIR; the statements recorded under Section 161 CrPC and the witnesses' court evidence indicated his involvement in unloading the truck; and the witnesses admitted his involvement in cross-examination. The Court further observed that supplementary statements by police personnel giving Tomar a clean chit indicated his influential status. After stating, "Be that whatever it may," the Court relied on the named FIR and the witnesses' evidence and, citing *Hardeep Singh*, held that the trial court had committed no error in summoning Tomar as an additional accused under Section 319 CrPC.

6. Relief : The High Court dismissed the criminal revision as lacking merit, leaving operative the Sixth Additional Sessions Judge's order dated 8 October 2021 in S.T. No. 339/2017 summoning Tomar as an additional accused under Section 319 CrPC.

Narendra Pal Singh Tomar v. State of Madhya Pradesh and others, Cr.R. no. 3103/2021, 28/06/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (337) Prev Next

Headnote :- Police discipline — criminal prosecution and departmental inquiry arising from the same incident - An FIR concerned alleged misconduct by police personnel at a Gwalior spa. A police employee also faced disciplinary charges for leaving his Morena headquarters without permission and for entering the spa in uniform, without any investigative purpose, and behaving improperly. In an Article 226 challenge to the departmental charge sheet, the High Court compared the allegations in the two proceedings. It held that the unauthorised-departure charge was absent from the FIR. Although the charge concerning entry into the spa and misconduct partly overlapped with the criminal allegations, it also raised an independent service-discipline issue because the employee had allegedly entered the spa in uniform without any investigative purpose. The disciplinary charges were therefore not identical to the FIR allegations, and the departmental inquiry could proceed simultaneously with the criminal prosecution. The writ petition was dismissed.

Case-note :- ***1. Facts :*** Narendra Rasak, a police employee posted at Morena, petitioned under Article 226 to quash a disciplinary charge sheet dated 10 May 2024 and the proceedings based on it. He invoked Rule 18 of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966, and contended that Crime No. 117/2024 at Police Station University, Gwalior covered the same matter. The disciplinary charge sheet contained two allegations: first, that on 26 March 2024 he left headquarters without his superior's permission, in breach of paragraph 64(3), (4) and (5) of the Police Regulations; and second, that he entered The Beach Spa in police uniform without any investigative purpose, misbehaved with female employees and the manager, abused them and assaulted them.

The FIR narrative, as recounted by the Court, alleged that two persons wearing police trousers and shoes, but no shirts, forcibly entered the spa after the manager objected, demanded women, offered ₹2,000, slapped a female employee, misbehaved with the staff and abused them. It also referred to

another man in police uniform who entered while the altercation was underway and left after observing it. Rasak's counsel submitted that Rasak was the person alleged to have forcibly entered the spa with the two partly undressed police personnel. The Court also recorded that all three police personnel had filed M.Cr.C. No. 55634/2024 under Section 482 CrPC, which was dismissed on 20 January 2025. The State opposed the writ petition and relied on the distinct allegations of unauthorised absence from headquarters and misconduct in uniform.

2. Precedents — Considered : *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. and another, 1999:INSC:139, (1999) 3 SCC 679*, was cited by Rasak. The High Court reproduced paragraph 10 of that decision, which records the appellant's submissions that the departmental and criminal proceedings arose from the same facts and evidence and that continuing the inquiry would prejudice his defence, along with submissions concerning his illness and non-payment of subsistence allowance. After examining the charges in the present case, the High Court held that they were not identical to the FIR allegations.

Stanzen Toyotetsu India Private Limited v. Girish V. and others, 2014:INSC:40, (2014) 3 SCC 636, was also cited. The quoted passage retained the discretionary stays granted in that case, directed the criminal trial to be concluded within one year and provided that the disciplinary inquiry would resume if the trial was not completed within that period. In Rasak's case, the High Court did not stay the disciplinary inquiry. It decided the petition by comparing the disciplinary charges with the FIR allegations.

3. Statutes considered : Article 226 of the Constitution of India was invoked to seek quashing of the departmental charge sheet and proceedings. Rule 18 of the Madhya Pradesh Civil Services (Classification, Control and Appeal) Rules, 1966 was relied on in the relief claimed. Paragraph 64(3), (4) and (5) of the Police Regulations formed the stated service-law basis of the unauthorised-departure charge. Section 482 CrPC was mentioned only as the provision under which the three police personnel had filed an earlier application, dismissed on 20 January 2025.

4. Issues : Whether the disciplinary charges and the FIR allegations were identical, so that the charge sheet dated 10 May 2024 and the departmental inquiry should be quashed or halted while Crime No. 117/2024 proceeded. The Court compared the first charge of unauthorised absence from Morena headquarters and the second charge concerning conduct at the spa while in uniform with the allegations in the FIR.

5. Ratio / Findings : The Court treated the identity of the charges as the only question for consideration. On the first charge, Rasak was posted at Morena, whereas the incident occurred at Gwalior. The disciplinary charge alleged that he had left headquarters without his superior's permission. That service-discipline allegation was not identical to any allegation in the FIR and was therefore independent of the criminal case.

On the second charge, the alleged forcible entry and conduct at The Beach Spa partly overlapped with the FIR allegations. The disciplinary charge, however, also concerned Rasak's alleged entry into the spa in police uniform when he had not gone there to investigate any offence. The Court held that this aspect was independent of the FIR and itself amounted to serious misconduct. It therefore concluded that the disciplinary charges were different from the FIR allegations and that the departmental inquiry could proceed simultaneously with the criminal prosecution.

The High Court quoted *Capt. M. Paul Anthony* and *Stanzen Toyotetsu India Private Limited* but did not grant a stay. As no other argument was advanced, it found no ground to quash the disciplinary charge sheet or halt the inquiry.

6. Relief : The High Court dismissed the writ petition. The departmental inquiry was allowed to proceed simultaneously with the criminal prosecution.

Narendra Rasak v. State of Madhya Pradesh and others, W.P. no. 14545/2025, 02/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (338) Prev Next

Headnote :- BNSS — Section 528 — police refusal to register FIR — remedy before magistrate - The applicant sought a direction from the High Court requiring the police to register an FIR on his complaint. The Court distinguished the police duty to register information disclosing a cognizable offence from the remedy available when the police fail to act. *Aleque Padamsee* and *Divine Retreat Centre* identify the ordinary remedy as a complaint before the competent Magistrate under Sections 190

and 200 CrPC. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* also recognise recourse to the Superintendent of Police under Section 154(3) and to the Magistrate under Section 156(3), who may direct registration and proper investigation and may monitor the investigation. The Division Bench decision in *Shweta Bhadauria* holds that an ordinary writ of mandamus for registration may be declined when the statutory remedies remain unexhausted, subject to the recognised exceptions to the alternative-remedy rule. The application under Section 528 BNSS was dismissed with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.

Case-note :- ***1. Facts :*** Naresh Dhanuk filed Miscellaneous Criminal Case No. 46692/2024 under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. He sought a direction requiring the police to act on his complaint by registering an FIR. His counsel submitted that the police had not registered an FIR despite the complaint. The State opposed the application on the ground that he had an efficacious remedy before the concerned Magistrate under Sections 190 and 200 CrPC.

The Court considered whether an application seeking a direction to the police to register an FIR was maintainable. After hearing the parties, it examined Supreme Court decisions on the duty to register cognizable information, the statutory remedies available on police inaction and the restraint governing direct High Court intervention. The final order granted Dhanuk liberty to pursue a complaint before the Magistrate.

2. Precedents — Considered : *Aleque Padamsee and others v. Union of India and others, 2007:INSC:760, (2007) 6 SCC 171*, distinguishes the police duty to register an FIR when the information discloses a cognizable offence from the remedy available if the police fail to perform that duty. In the latter situation, the aggrieved person may file a complaint before the Magistrate under Sections 190 and 200 CrPC. The decision distinguishes the police-duty issue considered in *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, and *Lallan Chaudhary v. State of Bihar*, (2006) 12 SCC 229, from the remedial procedure considered in *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*. The High Court applied that distinction to Dhanuk's request for a direct registration order.

Divine Retreat Centre v. State of Kerala and others, 2008:INSC:341, (2008) 3 SCC 542, reiterates that when police take no action on information supplied to them, the informant ordinarily proceeds under Sections 190 and 200 CrPC. The Magistrate may inquire into the complaint, direct a police investigation, dismiss the complaint under Section 203 if no offence is disclosed, or issue process if the evidence prima facie discloses an offence. The decision also recognises that the High Court may intervene under Article 226 in a rare case of clear mala fide abuse of investigative power and non-compliance with Chapter XII, while remaining unable to dictate how the investigation must be conducted.

Sakiri Vasu v. State of Uttar Pradesh and others, 2007:INSC:1243, (2008) 2 SCC 409, explains that a person whose FIR is not registered may first approach the Superintendent of Police under Section 154(3) CrPC and may thereafter apply to the Magistrate under Section 156(3). The Magistrate may direct registration and proper investigation and may monitor its progress. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and others, (2016) 6 SCC 277*, follows *Sakiri Vasu* and reiterates that the complainant should ordinarily approach the Magistrate rather than the High Court. It adds that the Magistrate may, where necessary, recommend a change of investigating officer, although the Magistrate does not conduct the investigation personally. The operative liberty granted to Dhanuk referred specifically to a complaint under Section 200 CrPC or Section 223 BNSS.

Shweta Bhadauria v. State of M.P. and others, W.A. No. 247/2016, decided on 20 December 2016, holds that a writ of mandamus compelling registration under Section 154 CrPC may be declined when the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, unless the recognised exceptions stated in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, apply. It also distinguishes the registration duty stated in *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, from an entitlement to obtain a writ directing registration without first using the statutory remedies.

3. Statutes considered : Section 528 BNSS was the inherent-powers provision invoked in the application. The quoted authorities considered the police duty under Section 154 CrPC, a representation

to the Superintendent of Police under Section 154(3), and a Magistrate's power under Section 156(3) to direct and monitor an investigation. Sections 190 and 200 CrPC govern the ordinary complaint route identified in *Aleque Padamsee* and *Divine Retreat Centre*, while Section 203 appears in the quoted discussion of dismissal after inquiry. In the operative order, the High Court expressly granted liberty to proceed under Section 200 CrPC or Section 223 BNSS. Article 226 was discussed in the authorities concerning limited constitutional intervention.

4. Issues : Whether the High Court should exercise its power under Section 528 BNSS to direct registration of an FIR when the police had not acted on the applicant's complaint, or whether the applicant should pursue the statutory remedies before the superior police officer and the Magistrate. The Court also considered the distinction between the police duty to register cognizable information and the procedure available to enforce that duty.

5. Ratio / Findings : Information disclosing a cognizable offence imposes a duty on the police to register an FIR. The remedy for police inaction, however, was the controlling question in this application. *Aleque Padamsee* and *Divine Retreat Centre* establish that the aggrieved person ordinarily approaches the competent Magistrate under Sections 190 and 200 CrPC. The limited possibility of Article 226 intervention in a clear case of mala fide abuse of investigative power did not displace that ordinary statutory route. The High Court therefore declined to issue the requested direction and dismissed the application with liberty to approach the Magistrate.

Sakiri Vasu and *Sudhir Bhaskarrao Tambe* further identify the sequence of approaching the Superintendent of Police under Section 154(3) CrPC and, if necessary, the Magistrate under Section 156(3), who may direct registration and proper investigation and monitor the investigation. *Shweta Bhadauria* applies the alternative-remedy principle to a request for mandamus compelling registration, while preserving the recognised exceptions to that rule. It also explains that *Lalita Kumari*'s statement of the police duty to register does not itself determine whether a direct writ should issue. Those principles supported the refusal to entertain Dhanuk's request under Section 528 BNSS and the grant of liberty to pursue the Magistrate's complaint jurisdiction.

6. Relief : The High Court dismissed the application. It granted Dhanuk liberty, if he so desired, to approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS for redress of his grievance.

Naresh Dhanuk v. State of Madhya Pradesh and others, M.Cr.C. no. 46692/2024, 13/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (339) Prev Next

Headnote :- Criminal medical negligence — plasma transfusion during COVID treatment — grossness and expert support - The patient's family arranged an additional plasma unit through an outside supplier. They alleged that the doctors began transfusion without inspecting the bag or verifying the cross-match report, stopped after a reaction and placed the patient on a ventilator. In a Section 482 challenge to the refusal to take cognizance against two doctors under Section 193 CrPC, the High Court applied *Jacob Mathew*, *Kusum Sharma*, *Martin F. D'Souza*, *Malay Kumar Ganguly* and *S.K. Jhunjhunwala*. An error, accident or adverse result does not by itself establish the gross or very high degree of negligence required for criminal prosecution. A private complainant must support the charge with a prima facie credible opinion from a competent doctor, and investigating officers should obtain independent competent medical opinion before proceeding against a doctor. Here, the doctors stopped the transfusion when they noticed the reaction. Without expert medical material, the Court could not determine whether the circumstances allowed further laboratory re-examination and cross-matching before transfusion. The applicant filed no Medical Board report. The High Court therefore upheld the refusal to add the doctors, although on grounds different from the trial court's reference to a possible later application under Section 319 CrPC.

Case-note :- ***1. Facts :*** Naresh Kumar Gupta challenged, under Section 482 CrPC, the order dated 12 October 2021 passed by the Ninth Additional Sessions Judge, Gwalior, in S.T. No. 256/2012. His application under Section 193 CrPC sought cognizance against respondents 2 and 3, two doctors, in a pending prosecution of other persons arising from allegedly adulterated plasma. Gupta's brother, Manoj Gupta, had COVID-19 and was admitted to R.J.N. Spectra (Apollo) Hospital. The family supplied one unit of plasma, after which the doctors said that another unit was required. Gupta alleged that respondent 3 referred him to an employee, Jagdish Bhadkariya, who provided the number of

accused Mahesh Mourya. Mourya connected the family with Ajay Tyagi, who allegedly supplied another unit for ₹18,000. The family thus obtained the second unit from outside the hospital.

Gupta alleged that the doctors began the transfusion without inspecting the plasma bag or verifying its cross-match report. When a reaction appeared, they stopped the transfusion and placed Manoj Gupta on a ventilator. Gupta described the purchased unit as adulterated and sought to prosecute the doctors under IPC Sections 304, 420, 465, 467, 468, 471 and 120-B. These were allegations against the proposed additional accused, not findings that the doctors had committed adulteration, fraud, forgery or conspiracy, or had caused the patient's condition. The trial court rejected the Section 193 application because action could be considered under Section 319 CrPC and there was no good reason to take cognizance at that stage. The High Court examined Gupta's challenge and the alleged medical negligence on different grounds.

2. Precedents — Considered : *Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*, controlled the criminal-medical-negligence analysis. It distinguishes ordinary professional negligence from the higher criminal threshold. A lack of care, accident or error of judgment does not by itself establish criminal negligence. The standard is that of an ordinarily competent practitioner exercising ordinary skill in light of accepted practice and the knowledge available at the relevant time. Criminal liability requires gross or very high negligence, mens rea and a sufficiently direct connection to the injury, including under Section 304-A IPC. The *Bolam* formulation asks whether no ordinarily prudent medical professional would have acted or omitted to act as alleged. For a private complaint, *Jacob Mathew* requires prima facie credible opinion from another competent doctor; an investigating officer should obtain independent competent medical opinion, preferably from a suitably qualified government doctor, before proceeding against a doctor. It also cautions against routine arrest unless investigation or appearance makes it necessary.

Kusum Sharma and others v. Batra Hospital and Medical Research Centre and others, (2010) 3 SCC 480, reiterates the requirement of reasonable skill and care, the distinction between culpable or gross negligence and an error of judgment, the legitimacy of acceptable differences in medical opinion, and the need to protect doctors from harassment without insulating genuinely deficient care. The High Court used those principles to assess the request to add the doctors. *Martin F. D'Souza v. Mohd. Ishfaq, (2009) 3 SCC 1*, restates the *Bolam* standard of an ordinarily skilled doctor and discusses referring a proposed complaint against a doctor or hospital to a competent doctor or committee before issuing notice on a prima facie negligence allegation. The quoted passages address consumer and criminal fora and caution against routine police harassment.

Malay Kumar Ganguly v. Dr. Sukumar Mukherjee and others, (2009) 9 SCC 221, explains the elements of Section 304-A IPC—death caused by a rash or negligent act not amounting to culpable homicide—and the need to establish duty, breach, causation and grossness in criminal medical-negligence cases. It distinguishes criminal culpability from tort or consumer negligence and requires examination of the medical professional's work and direct or proximate causation, rather than an inference from an adverse result. *S.K. Jhunjhunwala v. Dhanwanti Kaur and another, (2019) 2 SCC 282*, applies *Jacob Mathew* and the *Bolam* standard of ordinary competent skill, recognises that a doctor does not guarantee a cure, and holds that a reasonable medical choice is not negligent merely because it fails. The gallbladder-surgery facts quoted from that authority were not facts of Manoj Gupta's treatment. The High Court used these authorities collectively to decline unsupported criminal prosecution of the doctors.

3. Statutes considered : Section 482 CrPC was invoked to challenge the Sessions order. The applicant relied on Section 193 CrPC to seek cognizance against the two doctors. The trial court referred to possible action under Section 319 CrPC at a later stage, but the High Court affirmed rejection on the absence of the medical support required for a criminal-negligence prosecution. Gupta sought prosecution under IPC Sections 304, 420, 465, 467, 468, 471 and 120-B. The discussion of Section 304-A IPC in *Jacob Mathew* and *Malay Kumar Ganguly* supplied the criminal-negligence framework. The Court declined to direct the medical-negligence prosecution without the Medical Board report required by its reasoning.

4. Issues : Whether the two doctors should face additional criminal prosecution because they asked the family to obtain another plasma unit, the alleged referral chain led to an outside supplier, and they allegedly failed to inspect the bag or verify its cross-match report before transfusion. Whether the

reaction and immediate cessation of transfusion, in the circumstances of first-wave hospital pressure, met the gross criminal-negligence standard and the requirement of independent expert support. Whether the Court could decide, without a competent medical report, if there had been sufficient time for further laboratory re-examination and cross-matching. Whether the Sessions Court's refusal of the Section 193 application should stand although it had relied on possible later action under Section 319.

5. Ratio / Findings : The Court first separated the doctors' request for another plasma unit from criminal wrongdoing. During the first COVID-19 wave, hospitals were overloaded and doctors were attempting to treat patients; the judgment described plasma transfusion as one of the treatment protocols at that time. The family obtained the second unit from Ajay Tyagi through the described contact chain. Asking for another unit did not itself establish medical negligence or connect the doctors with the alleged adulteration. When a reaction appeared after transfusion began, the doctors stopped the transfusion and returned the unit to the family. The Court found no negligence in their conduct after the reaction became apparent. It treated the alleged failure to inspect the bag and verify the cross-match report before transfusion as the remaining question.

Jacob Mathew requires a gross departure from the conduct of an ordinarily competent medical professional; criminal negligence cannot be inferred merely from deterioration, an adverse result or the availability of a potentially better technique. *Kusum Sharma*, *Martin F. D'Souza* and *S.K. Jhunjhunwala* reinforce context-sensitive reasonable skill, acceptable medical alternatives and protection against unsupported proceedings. *Malay Kumar Ganguly* distinguishes criminal culpability under Section 304-A from tort or consumer negligence and requires grossness and direct or proximate causation.

The Court noted that every plasma bag carries a cross-match report, but asked whether these doctors had sufficient time, amid the hospital conditions, to send the unit for laboratory re-examination and further cross-matching. It declined to decide that technical question without medical expertise.

The applicant produced no report from the Medical Board contemplated by the safeguards in *Jacob Mathew*. The High Court therefore upheld the refusal to prosecute the doctors for medical negligence. Although the trial court had relied on the possibility of action under Section 319 CrPC, the High Court affirmed the same refusal on these different grounds.

6. Relief : The High Court affirmed, on different grounds, the Ninth Additional Sessions Judge's order dated 12 October 2021 in S.T. No. 256/2012 and dismissed Gupta's Section 482 application. It declined, on the material presented, to take cognizance against respondents 2 and 3 under Section 193 CrPC.

Naresh Kumar Gupta v. State of Madhya Pradesh and others, Cr.R. no. 3152/2021, 21/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (340) Prev Next

Headnote :- FIR quashing — sexual assault allegation — reporting delay, limitation and disputed consent — The complaint alleged that, following an earlier marriage proposal rejected by the complainant and her family, the applicant offered to take her to his sister's house on 3 December 2020 but instead took her to a hotel, raped her twice, threatened her and thereafter promised marriage. The FIR was lodged on 12 April 2022, after the applicant, according to the FIR, subsequently expressly refused to marry her. The applicant described the relationship as consensual and relied on the delay in reporting. The Court also considered Section 468 CrPC. The High Court applied *Ravinder Kumar* and *Mohammad Wajid* to hold that delay alone neither makes an FIR illegal nor warrants its quashing; prompt reporting is useful but does not by itself establish the truth of the allegations. Section 468 did not bar proceedings on an allegation under Section 376, which carries punishment exceeding three years. The question of consent under Section 90 IPC could not be finally determined by accepting the applicant's account of a consensual relationship when the FIR alleged an initial forcible act, a change of destination, a threat and a subsequent assurance of marriage. Taken at face value, the allegations prima facie disclosed offences under Sections 376 and 506, and factual disputes required evidence and cross-examination at trial. The Section 482 application was dismissed. These were prima facie conclusions, not final findings on rape, a false promise of marriage, intimidation or credibility.

Case-note :- ***1. Facts :*** Naresh Rajoriya sought quashing under Section 482 CrPC of Crime No. 84/2022 at Mahila Thana, Bhopal, registered under Sections 376 and 506 IPC. Both the applicant and

complainant were described as persons with disabilities. The complainant's account in the FIR was that about four years earlier Rajoriya proposed marriage. She initially refused, saying she would marry according to her family's wishes, and her family also refused when he approached them because of the difference in caste. They later talked and he visited her house. On 3 December 2020 she went shopping in Bhopal; he met her at the bus stand and proposed a visit to his sister's house. She accepted that destination, but, according to the FIR, he took her instead to Avni Palace Hotel in Ashoka Garden and forcibly raped her twice. She alleged that he threatened her life, warned of social defamation and difficulty marrying if she reported it, and assured her he would marry her. The account places the assurance of marriage after the alleged hotel assault. The complainant said she did not report at once because of those threats and concerns. When she later asked him to marry her, he allegedly deferred their marriage until after his sister's marriage, and on 18 March 2022 expressly refused, saying his own marriage was fixed. She informed her family, after which her father and uncle made approaches to his family; the FIR followed on 12 April 2022. Rajoriya argued that the roughly one-year-four-month gap made the FIR suspect. He submitted that the complainant was an adult, that she pressed him for marriage because he had a government job, and that a consensual adult relationship could not be rape. These were defence submissions, not findings that consensual intercourse occurred or that the complainant had a particular motive. Counsel relied on *Prashant Bharti* and the Delhi High Court decision in *Anand Kaushal*. The complainant opposed quashing, maintaining that rape and a false promise were prima facie shown.

2. Precedents — Considered : *Ravinder Kumar and another v. State of Punjab, 2001:INSC:414, (2001) 7 SCC 690*, was quoted on delay in furnishing the first information to the police. The law prescribes no fixed time for lodging an FIR. Prompt reporting may permit immediate investigation and reduce the opportunity for concoction, yet promptness alone does not guarantee genuineness, and genuine reasons can explain delay. The High Court applied this limited proposition to reject delay as an independent ground for quashing under Section 482, without declaring the complainant credible or the asserted explanation proved. *Mohammad Wajid and another v. State of U.P. and others, 2023:INSC:683, AIR 2023 SC 3784*, was cited for the narrower proposition that delay in FIR registration by itself does not warrant quashing.

Prashant Bharti v. State of NCT of Delhi, 2013:INSC:51, 2013 Cri LJ 3839, and *Anand Kaushal v. State (Govt. of NCT of Delhi)*, 2020:DHC:1719, *2020 Cri LJ 3716*, were cited by the applicant's counsel.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction invoked to quash the FIR. Sections 376 and 506 IPC concerned the offences of rape and criminal intimidation alleged in the FIR; they were not convictions. Section 90 IPC was identified as the consent question potentially affected by misconception of fact; the Court expressly reserved whether that provision applied until trial evidence and cross-examination. Section 375 IPC was invoked in the submission of the applicant's counsel that consensual intercourse between adults does not amount to rape; the Court did not accept that alleged consensual premise as a fact at this stage. The Court considered Section 468 CrPC as a possible limitation bar. The Court found that it did not apply to the Section 376 accusation because that offence is punishable by more than three years' imprisonment.

4. Issues : Could the approximately sixteen-month gap between the alleged hotel assault and lodging the FIR, viewed with the pleaded threats and subsequent marriage discussions, by itself invalidate the FIR or justify quashing? Did Section 468 CrPC prevent proceedings on the Section 376 allegation? Could the Court, in proceedings under Section 482, finally accept the applicant's account of a consensual adult relationship or determine the question of misconception under Section 90 on his version when the FIR alleged a forcible initial act after being taken to a place other than the agreed destination, a threat, and only later a marriage assurance? Did the allegations, taken at face value, prima facie disclose offences under Sections 376 and 506, leaving contested facts for trial? The Court was not deciding guilt, the truth of the alleged threats, whether the applicant had always intended to marry, or the complainant's final credibility.

5. Ratio / Findings : The Court separated three objections. On reporting delay, it applied *Ravinder Kumar* and *Mohammad Wajid*. Delay does not, in itself, make an FIR illegal or automatically justify ending the prosecution before investigation or trial. The complaint described threats, social concerns and subsequent discussions, but the High Court did not

conduct a final evidential assessment of those explanations. The Court's statutory time-bar discussion was distinct from the objection based on reporting delay: it held Section 468 CrPC inapplicable to the Section 376 accusation because its potential sentence exceeds the three-year threshold.

On consent, the Court read the FIR in sequence. Initial marriage negotiations had been refused. On the specified date the complainant allegedly agreed to visit the applicant's sister's house, rather than to go to a hotel or have intercourse. She alleged that he initially raped her twice by force at the hotel and then promised to marry her. The applicant's description of the encounter as consensual physical relations between adults was therefore disputed; it was not an uncontested fact apparent from the FIR. Whether her consent was vitiated under Section 90 IPC, and what the encounter involved, required evidence tested in cross-examination. The Court did not hold as a final matter that a subsequent refusal to marry proves a deliberately false promise from inception, or that a promise after the alleged forcible assault was the sole legal foundation of the rape charge. It made no final finding on the separately alleged threat or the ingredients of Section 506.

Under Section 482, the Court could not hold a mini-trial or weigh contested evidence. It could quash if uncontroverted allegations, taken at face value, failed to constitute an offence. Here, the FIR allegations were prima facie capable of supporting prosecution for offences under Sections 376 and 506. That limited threshold conclusion left all disputed evidence and defences for the trial court.

6. Relief : The Hon'ble High Court has dismissed the application declining to quash Crime No. 84/2022. The FIR and prosecution for Sections 376 and 506 IPC could proceed on the prima facie allegations. The order did not direct conviction, decide whether the complainant's version was ultimately proved, pronounce a final Section 90 consent finding, or adjudicate the applicant's guilt. Neutral citation: *2024:MPHC-JBP:19754*.

Naresh Rajoriya v. State of Madhya Pradesh and others, M.Cr.C. no. 26587/2022, 12/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (341) Prev Next

Headnote :- Murder appeal — child eyewitness, unexhibited FSL report and sudden-fight plea — The appellant's minor niece, the deceased's daughter, awoke after the first axe blow and saw further blows inside the house. Her grandfather, who was outside, heard her immediate report and found the victim injured. Others corroborated the prompt alarm, although several prosecution witnesses turned hostile. Applying *Bhagwan Singh*, *Panchhi*, *Yogesh Singh* and *Alagupandi*, the High Court scrutinised the risk of tutoring and found Julie reliable. Corroboration was available in this case, but the Court recognised it as a rule of prudence, not an absolute legal precondition to relying on a child witness. The State FSL report, filed in original and signed by its Joint Director, had not been exhibited. Section 293 CrPC permitted its use: a copy had been supplied to the appellant, specific blood findings had been put to him under Section 313, and he had not sought the expert's examination. *Mast Ram* and *Tarajee Khimchand* informed the distinction between statutory admissibility, proof and exhibit marking. Unexplained human blood on the appellant's clothing further supported the prosecution case. The alternative plea under Section 304 failed. Multiple deep axe injuries to the neck and other parts of the victim, who was lying in the house, showed cruelty and undue advantage under *Raj Paul Singh* and *Lavghanbhai*. The appellant's plea of a sudden incident did not overcome those findings. The Section 302 conviction and life sentence were affirmed. The report's use depended on its Section 293 character and the safeguards applied here; corroboration of child testimony remained a matter of prudence rather than an inflexible requirement in every case.

Case-note :- ***1. Facts :*** Naresh Singh appealed under Section 374 CrPC against the Sessions Judge, Bhind's judgment dated 4 May 2011 in S.T. No. 171/2010. He had been convicted under Section 302 IPC and sentenced to life imprisonment, a fine of ₹1,000 and three months' rigorous imprisonment in default. Mithla, the wife of his elder brother and mother of Julie (PW2), died following an attack in the family house. The initial information attributed to the appellant's father, Biharilal/Bihari (PW1), described a nighttime axe attack after a dispute over Naresh's drinking and Mithla's refusal to marry him. At trial, however, Bihari did not claim to have seen the blows. He was asleep outside, while Julie woke inside after the first assault, saw the subsequent blows and immediately informed him. Mithla died while being taken to hospital. The defence suggested

that an unknown intruder had killed her and, alternatively, that the sudden, unpremeditated act fell under Section 304 IPC.

Dr Jitendra Shrivastava (PW15) recorded five injuries, including deep chop wounds on the left side of the neck severing major cervical vessels, an ear wound and a wound on the right hand. Death was homicidal, caused by shock from excessive haemorrhage due to antemortem injuries. The doctor stated that one weapon could have caused all five injuries and that they could have been inflicted while Mithla lay straight. Julie said that she woke after the first assault and saw about five further blows. She identified her uncle and, frightened, went outside to inform Bihari. He found his daughter-in-law grievously injured. Roshan (PW4) heard him shout the allegation, and Bachhulal (PW13) recounted Julie's report by telephone. Several neighbours and seizure witnesses turned hostile wholly or partly. The police seized an axe and clothing said to be bloodstained at the appellant's instance. The investigating officer acknowledged that the FSL report had been received but not exhibited. The record refers to the initial FIR as Crime No. 18/2010 and its subsequent registration at Raun as Crime No. 93/2010.

2. Precedents — Considered : *Bhagwan Singh v. State of M.P., (2003) 3 SCC 21*, was quoted on the careful assessment of a young child's evidence. Competence does not remove the need to consider immaturity and susceptibility to tutoring; adequate corroboration was sought in that case's circumstances. Its reference to *Panchhi* did not make corroboration a universal statutory requirement. *Panchhi v. State of U.P., (1998) 7 SCC 177*, was quoted at length: a child's evidence is not inherently unworthy of belief, and corroboration is a matter of practical wisdom rather than an inflexible rule of law. *Prakash*, *Baby Kandayanathil*, *Raja Ram Yadav* and *Dattu Ramrao Sakhare* appeared within that reproduced passage.

Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195, was quoted on careful scrutiny of child testimony, susceptibility to influence and prudent corroboration, without rejecting the evidence merely because the witness is a child. Its quoted list also included *Ashok Dixit* and *Suryanarayana*. *Alagupandi v. State of T.N., (2012) 10 SCC 451*, was quoted for the proposition that truthful and reliable child testimony may sustain a conviction. It expressly states that corroboration is not required in every case, although seeking it is desirable as a matter of prudence. The High Court applied these principles to Julie's opportunity to see the later blows, her immediate conduct, her evidence as tested in cross-examination and the available corroboration. Bihari was not treated as an eyewitness to the actual attack.

State of H.P. v. Mast Ram, (2004) 8 SCC 660, was quoted on Section 293(1) CrPC, which permits the use of a qualifying government scientific expert's report, and its relationship with the officers listed in subsection (4). The Supreme Court rejected an insistence on oral proof based on the expert's designation. *Mast Ram* concerned a ballistic report; this appeal concerned a State FSL blood report signed by a Joint Director. *Tarajee Khimchand v. Yelamarti Satyam, (1972) 4 SCC 562*, was cited for the principle that mere exhibit marking does not dispense with proof. *Sudir Engineering Co. Ltd. v. Nitco Roadways Ltd.*, Delhi High Court, Suit No. 765/1990, 23 March 1995, was quoted at length on the identification function of an exhibit endorsement and the distinction between identification and proof. *Raj Paul Singh v. State, (2012) 10 SCC 144*, was quoted on Exception 4 to Section 300 IPC. A person who fatally attacks an unarmed victim who poses no threat cannot establish the absence of undue advantage merely by asserting that the encounter was sudden. The references to *Narayanan Nair Raghvan Nair* and *Kikar Singh* formed part of that authority's explanation of the exception, rather than findings about the facts of this appeal. *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, was quoted for the contextual Section 302/304 factors stated in *Dhirendra Kumar*: the circumstances, the source and nature of the weapon, the vital part targeted, the force used, participation in a fight, prior enmity, provocation, heat of passion, undue advantage and cruelty. The High Court applied the injury pattern and the factors concerning undue advantage and cruelty to reject the alternative plea.

3. Statutes considered : Section 374 CrPC provided for the appeal. Section 302 IPC was the basis of the conviction under challenge. The defence sought the lesser alternative under Section 304 IPC, which the Court examined through the sudden-fight and undue-advantage requirements of Exception 4 to Section 300. Sections 293(1), (2) and (4) CrPC address the use of reports from specified government scientific experts and the Court's power to summon them. The

judgment reproduced Section 293 and applied it to the signed State FSL report. The appellant had received a copy and had not sought to cross-examine the scientific officer. Specific report findings were put to him under Section 313 CrPC in questions 40–42. The blood-group and human-blood findings remained distinct: question 41 concerned blood group A on the deceased's sari, while question 42 concerned human blood on the appellant's baniyan and pants and the deceased's clothes. The Court relied on the unexplained human blood on the appellant's own clothes, not on a finding that its group matched the victim's.

4. Issues : Whether Julie's testimony was reliable despite her childhood, the possibility of tutoring, cross-examination and her declaration as hostile on aspects of motive. Whether her natural presence, immediate disclosure and corroboration by Bihari, Roshan and Bachhulal established the assailant's identity beyond reasonable doubt despite the unknown-intruder suggestion. Whether the original government FSL report, signed, supplied to the appellant and specifically put to him under Section 313 CrPC, could be read against him under Section 293 despite not being exhibited. What the report established and what corroborative weight it carried. Whether the plea of a sudden, unpremeditated incident brought the repeated axe attack within Exception 4 and Section 304, or whether the manner of attack, the parts targeted and the victim's condition established cruelty and undue advantage supporting murder. The sentence challenge was confined to the proposed change in offence classification.

5. Ratio / Findings : The medical evidence established homicidal death from extensive blood loss following sharp-weapon injuries. Julie's presence with her mother inside the house was natural. Bihari placed Julie, Naresh and the deceased there while he slept outside. Julie saw the later attacks after waking on the first assault. Bihari recounted her immediate report; Bachhulal described her telephone report, and Roshan heard the alarm. The High Court found that cross-examination had not undermined her identification of the assailant. Bihari's partial hostility and the prosecution's cross-examination of Julie on motive did not displace her credible direct account or its prompt corroboration. Julie admitted an interest in Naresh being jailed so that her family could obtain the land, but denied the defence suggestions of a property dispute and an unknown killer. The Court nevertheless found her tested evidence trustworthy. Bihari did not see the axe blows himself. He was sleeping outside the doorway and did not report anyone else entering or leaving the house. With Naresh present inside, the Court ruled out a stranger as the assailant. A child's evidence requires careful scrutiny for tutoring, but *Alagupandi* and *Panchhi* rule out automatic rejection and do not make independent corroboration an inflexible legal condition in every case. Corroboration was available here. The Court also considered the seizure of the axe and clothes. Although one memorandum/seizure witness denied those acts, Munnalal and the investigating officer proved them.

The original FSL report, signed by the Joint Director of the State FSL, Gwalior, had been filed, supplied to the appellant and retained in the trial record's B file. Ordinarily, an unexhibited prosecution document cannot be used against the accused, although material favourable to him may be considered. Section 293 CrPC, however, permits qualifying government scientific experts' reports to be used as evidence without routine oral proof. The appellant had received the report, specific questions about it had been put to him under Section 313, and he had not sought the scientific officer's examination. *Mast Ram* supported its statutory use. Conversely, an exhibit stamp does not itself determine admissibility or proof: *Tarajee Khimchand* and the quoted *Sudir Engineering* passage distinguish an identification mark from proof. On these statutory and procedural grounds, the Court read the report despite the missing exhibit mark. It also admonished trial courts to remain vigilant and exhibit reports otherwise admissible under Section 293. The unexplained human blood on Naresh's baniyan and pants supplied additional circumstantial support. The Court did not identify it as the victim's blood through a matched blood-group finding.

On Exception 4, the medical evidence was that the victim was lying straight when the injuries were inflicted. Repeated axe blows caused multiple chop and incised wounds, including deep neck wounds to major vessels. The Court applied *Raj Paul Singh*'s undue-advantage principle and *Lavghanbhai*'s factors concerning the weapon, vital part, force, fight and cruelty. It found both cruelty and undue advantage, particularly because the appellant's father was outside and no other male member was inside

the house. The appellant's plea that the incident occurred suddenly did not overcome the Court's findings of cruelty and undue advantage. On those findings, the Court held that the act did not fall under Section 304 IPC. Julie's reliable identification, the surrounding corroboration and the FSL circumstance established guilt beyond reasonable doubt, and the murder conviction was upheld.

6. Relief : The High Court dismissed the criminal appeal and affirmed the Sessions Judge's judgment dated 4 May 2011 in S.T. No. 171/2010, convicting the appellant under Section 302 IPC. Life imprisonment, the ₹1,000 fine and three months' rigorous imprisonment in default remained. The Court declined to interfere with life imprisonment because it was the minimum sentence for the Section 302 offence. The appellant was already in custody and was directed to serve the remaining sentence. A free copy of the judgment was to be supplied to him, and the trial court record was to be returned. The Court declined to reduce the offence to Section 304 and read the qualifying FSL report despite its missing exhibit mark. Neutral citation: *2022:MPHC-GWL:6607-DB.*

Naresh Singh v. State of Madhya Pradesh, Cr.A. no. 496/2011, 02/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (342) Prev Next

Headnote :- Child witness — capacity and careful assessment — Naresh's jail appeal from a Section 302 IPC conviction turned on his daughter Chanha's account that he struck her mother Vidhabai on the head with a stone. The Division Bench reviewed Section 118 Evidence Act, the trial judge's role in assessing comprehension and rational answers, possible tutoring, prudential corroboration, and the judge's questioning power under Section 165. Chanha identified her father and the stone, described the assault and immediate aftermath, and was not shaken in cross-examination; medical evidence of hard blunt injuries and the recovered stone corroborated her account. The conviction and life sentence were affirmed. The passage quoted from *Jibhau* says that failure to conduct a preliminary examination is not necessarily fatal; *Rameshwar* and *Panchhi* describe corroboration as prudence rather than an invariably necessary legal condition; *Ratan Singh* permits conviction on the credible testimony of a child as the sole witness.

Case-note :- ***1. Facts :*** Naresh, convicted in Sessions Trial No. 243/2009 by the Third Additional Sessions Judge, Shivpuri on 5 February 2010 of murdering Vidhabai under Section 302 IPC, pursued a jail appeal. He received life imprisonment, a ₹5,000 fine and three months' rigorous imprisonment in default. On 9 June 2009 a woman's body was found in Shyamlal's field. Village Kotwar Hakim Singh informed Pohri police, a merg inquiry followed, and Crime No. 102/2009 was first registered against an unknown person. The body was identified as Vidhabai at the time of the post-mortem. Investigation implicated Naresh in crushing her head with a stone. His daughter Chanha (PW7) was the main eyewitness. In its account of Chanha's parentage, the judgment refers to Naresh as her father and Vidhabai as her mother. The appellant described Vidhabai as living with him as a wife; that was his submission, rather than a finding determining their marital status.

The appellant alleged that he had been falsely implicated because Vidhabai's family objected to their relationship on grounds of caste. He also alleged that the FIR was antedated, that there were contradictions, and that the child had been tutored. He also asserted sudden heat of passion and lack of premeditation, as a ground for challenging his conviction under Section 302. Chanha said Naresh, her father, struck her mother on the head with a stone in her presence, crushing it. She identified him in court and identified the seized stone, said she cried out without anyone coming and that he took her to his sister's house afterward. Dr Ram Kumar Choudhary (PW6) found multiple antemortem injuries caused by a hard and blunt object and opined that the death was homicidal. The Court's ultimate assessment emphasized Chanha's natural, unrebutted testimony, the medical evidence and stone recovery.

2. Precedents — Considered : *Sidhartha Vashist v. State (NCT of Delhi), AIR 2010 SC 2352*, was cited on a judge's active role in seeking the truth under Section 165 Evidence Act, subject to the restriction that questions must not confuse, coerce or intimidate a witness. *Mohamed Sugal Esa v. The King, AIR 1946 PC 3*, was quoted for the principle that a court may act on admissible child evidence and that corroboration is a sound prudential safeguard, in the absence of a statutory requirement. *Rameshwar v. State of Rajasthan, AIR 1952 SC 54*, was quoted for

the need for the judge to bear in mind corroboration as a matter of prudence, with no rule of practice that corroboration must be present in every case.

Arbind Singh v. State of Bihar, 1995 Supp (4) SCC 416, was quoted on susceptibility to tutoring and looking for corroboration particularly when the account betrays traces of it. *Panchhi v. State of U.P., (1998) 7 SCC 177*, was quoted for careful scrutiny without treating childhood as an automatic stigma, and for adequate corroboration as practical wisdom rather than a strict rule of law. The quoted passage also cites *Prakash*, *Baby Kandayanathil*, *Raja Ram Yadav* and *Dattu Ramrao Sakhare*. *Bhagwan Singh v. State of M.P., (2003) 3 SCC 21*, was quoted on the special care and corroboration sought for a particularly young child who cannot form a proper view through immaturity.

Ratansingh Dalsukhbhai Nayak v. State of Gujarat, (2004) 1 SCC 64, was quoted on the trial judge's position in assessing a child's intelligence and understanding of the obligation to tell the truth, subject to appellate correction on the record. It was then invoked for the proposition that a child's credible testimony, standing alone, can sustain a conviction after close scrutiny. *Golla Yelugu Govindu v. State of A.P., (2008) 16 SCC 769*, was quoted for Section 118's capacity test rather than any fixed minimum age. *Sakshi v. Union of India, (2004) 5 SCC 518*, was quoted at length on proposed arrangements for witnesses in child sexual-abuse cases, the Section 273 CrPC confrontation concern and possible screen arrangements.

Other High Court authorities reproduced were *The State v. Dukhi Dei, AIR 1963 Ori 144* (particularly the importance of a prompt account given before any opportunity for coaching), *Jibhau Vishnu Wagh v. State of Maharashtra, 1996 (1) Cri LJ 803* (a preliminary child examination preferable but its absence not necessarily fatal), and *Dhani alias Dhaneswar Naik v. The State, 1999 (3) Cri LJ 2712* (capacity to understand and rationally answer rather than age alone under Section 118).

3. Statutes considered : The conviction under Section 302 IPC and the sentence of life imprisonment were affirmed. Section 118 of the Indian Evidence Act, 1872 presumes persons competent unless tender years or other listed causes prevent understanding questions or rational answers; the judgment discussed capacity and the trial judge's assessment. Section 165 permits a judge to ask questions or order production to discover or properly prove relevant facts, subject to the statute's restrictions. The judgment must rest on relevant facts that have been duly proved. The *Sakshi* quotation also discusses Section 273 CrPC and a proposed screening procedure in child sexual-abuse cases.

4. Issues : Can a criminal conviction rest on an eyewitness who is a child, and what safeguards inform competency and credibility under Section 118? Did Chanha understand and reliably recount the event rather than repeat a tutored accusation, given the asserted family enmity and contradictions? Did her account survive adversarial testing and receive relevant corroboration from medical examination and physical recovery?

5. Ratio / Findings : The Division Bench treated the child's testimony as the principal evidence identifying the assailant. Under Section 118, tender age by itself does not disqualify; the real concern is comprehension, rational answers and reliability under careful trial-court observation and appellate scrutiny of the record. The judge may actively seek relevant proof under Section 165 but cannot confuse, coerce or intimidate. A child may be influenced or tutored. In its summary of safeguards, the Court stated that a preliminary inquiry must be conducted before a child is examined, that the child's mental capacity must be assessed, and that the child's evidence should be corroborated. The quoted *Jibhau* ruling specifically says omission of preliminary examination does not itself create a fatal defect, while *Ratan Singh* permits conviction on credible testimony from a child as the sole witness.

Chanha identified her father in court, gave a direct account of his striking Vidhabai's head with a stone, identified that stone, and described her immediate cry and movement to his sister's house. The Court considered her version natural and unshaken in cross-examination. Dr Choudhary's finding of multiple antemortem injuries caused by a blunt object supported her account of how the assault occurred; the stone had been recovered. The Court found that this evidence supported the trial court's conclusion beyond reasonable doubt. The Court found the eyewitness account and corroborating medical evidence and stone recovery sufficient to establish guilt beyond reasonable doubt. The Court observed that a child may be an important sole eyewitness to offences committed within the home and may have a strong memory of the incident. It also noted the possibility of exaggeration and the Court's role in assessing the evidence.

6. Relief : The Hon'ble High Court has dismissed the criminal appeal and affirmed Naresh's Section 302 conviction and life sentence with ₹5,000 fine and the stated default term in S.T. No. 243/2009. Naresh was in jail and the judgment directed notice of the result through the Jail Superintendent and return of trial records. The order's equivalent citations are *ILR[2022]MP157* and 2021(III)MPJR(SC)117.

Naresh v. State of Madhya Pradesh, Cr.A. no. 215/2010, 12/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (343) Prev Next

Headnote :- Police refusal to register FIR — magistrate complaint route and effect of Section 156(3) order — The applicants sought a direction under Section 482 CrPC on complaints made to the station house officer and Superintendent of Police. Without examining their allegations on merits, the High Court held that they had an efficacious remedy before the competent Magistrate. It also clarified that, where a Magistrate empowered under Section 190 makes a pre-cognizance order for police investigation under Section 156(3), the police must register an FIR on the cognizable offence disclosed before beginning Chapter XII investigation, even if the order does not expressly direct registration. *Mohd. Yousuf v. Afaq Jahan* was quoted and applied for that consequence and for the distinction that a Magistrate ordering such investigation has not yet taken cognizance or examined the complainant on oath. If the Magistrate does not make a Section 156(3) order, the Magistrate may take cognizance, proceed under Chapter XV, record complainant witnesses and, where police assistance is needed, direct an inquiry under Section 202(1). The Court dismissed the petition with liberty to use Sections 156(3) or 200. It did not itself direct FIR registration, find that a particular cognizable offence was disclosed, or decide the complaint on merits.

Case-note :- ***1. Facts :*** Narottam Pathak and the other applicants invoked Section 482 CrPC for a direction to register an FIR on a complaint dated 20 October 2015 to the station house officer, City Kotwali, Morena, and another dated 5 March 2016 to the Superintendent of Police, Morena. The judgment does not state the underlying allegations and expressly avoids the merits. Counsel cited the Madras High Court order in *Sugesan Transport Pvt. Ltd. v. Inspector of Police*, Crl.O.P. No. 19197/2016, decided on 27 September 2016, which recognised the Section 156(3) remedy; counsel also sought similar additional directions. The High Court referred the applicants to the ordinary Magistrate route and then explained the consequence of a Section 156(3) investigation order, contrasting it with cognizance under Chapter XV and a possible Section 202(1) inquiry. The judgment records no existing Section 156(3) order or complaint-specific determination of a cognizable offence.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171; Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*; and *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, were cited together in paragraph 3 in support of the efficacious complaint and Magistrate remedy where police do not register an FIR. The Court also relied on *Soniya v. State of M.P.*, W.P. No. 8906/2016, decided on 24 October 2016, and *Smt. Sudami Devi v. State of U.P.*, Writ-C No. 47416/2016, decided on 30 September 2016, for that remedy. Counsel relied on *Sugesan Transport* in seeking similar additional directions; the Court held that no further direction was necessary because the statutory remedy was complete and efficacious.

Mohd. Yousuf v. Smt. Afaq Jahan, AIR 2006 SC 705, was quoted and applied. The quoted passage distinguishes an investigation ordered under Section 156(3) before cognizance from the procedure of taking cognizance and examining the complainant on oath. FIR registration consists of entering the substance of cognizable information in the police station record under Section 154 and ordinarily precedes further investigation under Chapter XII. When a Magistrate directs investigation under Section 156(3), the police must therefore register an FIR regarding the cognizable offence disclosed by the complaint, even if the order does not expressly direct registration. The requirement concerns the cognizable offence disclosed by the complaint.

3. Statutes considered : Section 482 CrPC was the applicants' route to the High Court. Section 156(3) permits a Magistrate empowered under Section 190 to order police investigation. The Court explained that Chapter XII investigation begins with FIR registration on cognizable information under Section 154 and ends with the police report under Section 173; registration is therefore the necessary first step after a qualifying Section 156(3) order, whether or not the order expressly says so. If the Magistrate does

not make that pre-cognizance order, the Magistrate may instead take cognizance, examine the complainant under Section 200 and follow Chapter XV. After recording complainant witnesses, the Magistrate may seek police assistance through an inquiry under Section 202(1).

4. Issues : Should the High Court use Section 482 to direct FIR registration on the applicants' complaints despite the available complaint and Magistrate remedy? When a Magistrate empowered under Section 190 makes a pre-cognizance investigation order under Section 156(3), must police register an FIR even if the order does not expressly direct registration? How does that route differ from cognizance under Chapter XV followed, where warranted, by a Section 202(1) inquiry? The Court deliberately did not reach the merits of the allegations, decide whether a particular cognizable offence was disclosed, or determine how the competent Magistrate should exercise discretion on a future application.

5. Ratio / Findings : The applicants had a complete and efficacious statutory remedy, so the High Court declined to direct registration without entering the complaint's merits. Reading Section 156(3) with Chapter XII and following *Mohd. Yousuf*, the Court held that a pre-cognizance order for police investigation carries a duty to register the FIR on the cognizable offence disclosed; omission of an express registration direction does not relieve the station officer of that first step. The investigation proceeds from FIR registration to the police report under Section 173. The registration duty presupposes a complaint disclosing a cognizable offence and an actual Section 156(3) investigation order. The Court explained the available statutory route without deciding that such an order or an offence-specific determination already existed in the applicants' case. If the Magistrate does not consider a Section 156(3) order appropriate, the Magistrate may take cognizance, follow Chapter XV, record complainant witnesses and, if police assistance is needed, direct an inquiry under Section 202(1). *Mohd. Yousuf*'s statement that the complainant need not be examined on oath concerns the different, pre-cognizance Section 156(3) route. The Section 202(1) inquiry follows cognizance and the recording of complainant witnesses; it is distinct from an investigation ordered under Section 156(3) before cognizance. The Magistrate retains the procedural choice described in the judgment.

6. Relief : The High Court dismissed the petition, leaving the applicants free to file an application or complaint under Sections 156(3) and 200 CrPC before the competent Magistrate. It granted no direct FIR-registration direction and made no determination on the allegations. The judgment is reported at *ILR [2017] MP 762*.

Narottam Pathak and others v. State of Madhya Pradesh and others, M.Cr.C. no. 3701/2016, 08/12/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (344) Prev Next

Headnote :- Regular bail — age of prosecutrix, asserted marriage, and alleged voluntary departure — On the sixth application under Section 439 CrPC, following five earlier applications, the applicant relied on an ossification opinion said to show that the prosecutrix was major, subsequent marriage and residence with his family, her alleged voluntary departure, and nearly three years in custody. The fifth application had been dismissed, and counsel attributed the previous merits-based refusals to the prosecutrix's minority. The applicant had been arrested in a case alleging offences under Sections 323, 366 and 376 IPC. Applying *Jarnail Singh v. State of Haryana* to the victim's age, the Court held that available school records excluded resort to medical age opinion under Section 94(2) of the Juvenile Justice Act, 2015; the two sources could not therefore be treated as equal, contradictory evidence. Under *Independent Thought v. Union of India*, which read down Exception 2 to Section 375 IPC, marriage did not answer the rape allegation involving a wife below eighteen. *Quoting and applying Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat and its* distinction of *S. Varadarajan*, the Court rejected the contention that voluntary departure alone excluded kidnapping. The relevant conditions were the minor's knowledge and capacity to understand the full import of her actions, voluntary abandonment of guardianship, and absence of the accused's assistance or inducement. Bail was refused in the circumstances. The sufficiency of the trial evidence for conviction remained for the trial court; the bail order did not finally decide the charges.

Case-note :- ***1. Facts :*** Navendra Singh Gurjar filed his sixth application for regular bail under Section 439 CrPC in MCRC No. 29152/2021. He had been

arrested on 16 August 2018 in Crime No. 49/2018, registered at Police Station Pandokhar, District Datia, for offences under Sections 323, 366 and 376 IPC. The fifth application was dismissed on 27 July 2020 in MCRC No. 23443/2020. Counsel attributed the earlier merits-based refusals to the prosecutrix's minority and submitted that an ossification assessment showed her to be major. Counsel also submitted that she had married the applicant and was living with his family, that she had accompanied him voluntarily and had not been kidnapped, and that he had spent approximately three years in custody. The State opposed bail, and the case diary was available. The Court noted the applicant's statement that the trial was at an advanced stage and left the sufficiency of the evidence already on record for conviction to the trial court.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, was invoked and applied for the proposition that the statutory method of determining a child's age under juvenile-justice law also applies to the victim's age. The Court applied that proposition with the order of materials specified in Section 94(2) of the 2015 Act. As the prosecutrix's school record was available, a medical or ossification estimate could not be treated as competing evidence to be preferred for bail. The documentary-before-medical priority therefore governed the age assessment.

Independent Thought v. Union of India, (2017) 10 SCC 800, was invoked and applied. The Supreme Court read down Exception 2 to Section 375 IPC so that sexual intercourse with a wife below eighteen years constitutes rape notwithstanding the exception's former wording. The applicant's assertion of subsequent marriage and the prosecutrix's residence with his family did not therefore answer the sexual-offence allegation merely by invoking marriage, on the minority premise applied for bail. The sufficiency of the trial evidence for conviction remained for the trial court to decide.

Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat, Criminal Appeal No. 1919/2010, decided on 12 January 2021, was quoted and applied to the voluntary-departure contention. *Anversinh* distinguished *S. Varadarajan* because that case concerned 'taking', rather than 'enticement'. The reasoning in *S. Varadarajan* assists an accused only where a minor who understands the full import of her actions voluntarily leaves her guardian's care without the accused's assistance or inducement. The minor's knowledge and capacity, her voluntary abandonment of guardianship, and the absence of inducement are distinct conditions; an assertion that she went willingly does not by itself establish them. *S. Varadarajan* was discussed through the quoted *Anversinh* analysis and did not provide an automatic defence. In this bail proceeding, the High Court rejected the inference that the single claim of voluntariness established absence of kidnapping; it did not determine the competing trial evidence.

3. Statutes considered : Section 439 CrPC governed the sixth regular-bail application. The alleged offences were Sections 323 (hurt), 366 (kidnapping or abduction for the specified purpose) and 376 (rape) IPC. The Court considered the age, marital-exception and voluntary-departure grounds relevant to Sections 366 and 376 when deciding bail; proof of the charged offences remained for the trial court. Clauses (i) and (ii) of Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 specify the documentary sources for determining age. The Court held that medical opinion could be considered only if those documents were unavailable and, applying *Jarnail Singh*, used that method for the victim's age. Exception 2 to Section 375 IPC was read in light of *Independent Thought*'s holding concerning a wife below eighteen.

4. Issues : Could an ossification report suggesting majority create two contradictory age assessments requiring the favourable view when school records were available? Did the asserted subsequent marriage and residence with the applicant's relatives answer the rape allegation involving a minor wife? Did alleged voluntary departure exclude kidnapping for bail without establishing the minor's capacity, voluntary abandonment of guardianship, and absence of the applicant's assistance or inducement? In light of those grounds, the custody period, previous merits-based refusals and the reported advanced trial stage, was a case made out for bail? The application concerned provisional liberty; the sufficiency of the trial evidence for conviction remained for the trial court.

5. Ratio / Findings : The Court rejected the submission that the school record and ossification opinion constituted equal, contradictory age evidence. Section 94(2) requires the specified documentary sources to be considered before medical opinion, which becomes relevant only in their absence. Under *Jarnail Singh*, that method also

applies to the victim's age. Because the prosecutrix's school record was available, the Court could not consider the ossification opinion or accept the claimed conflict on which the applicant sought the favourable view. The school record's availability therefore defeated this renewed age ground for bail.

The assertion of subsequent marriage and co-residence did not support the marriage-based ground for bail on the Section 376 allegation. *Independent Thought* read down Exception 2 to Section 375 in relation to a wife below eighteen; a spousal relationship does not exempt sexual intercourse with a minor wife from rape. The Court applied that rule in refusing bail. The sufficiency of the evidence for conviction remained for the trial court.

The Court rejected the contention that the prosecutrix's alleged willingness, by itself, excluded kidnapping. In the passage quoted from *Anversinh, S. Varadarajan* was distinguished as concerning 'taking', rather than 'enticement'. The relevant conditions were that the minor had the knowledge and capacity to understand the full import of her actions, voluntarily left her guardian's care, and acted without the accused's assistance or inducement. The single assertion that she had accompanied the applicant voluntarily did not establish the absence of the accused's participation or the other conditions. The Court rejected that categorical defence at the bail stage; the competing trial evidence and ultimate proof of Section 366 remained for trial.

Having rejected the renewed grounds, the Court found no case for granting bail on the sixth application in the totality of the circumstances. It expressly left to the trial court whether the evidence already on record was sufficient for conviction and noted the applicant's statement that the trial was at an advanced stage. Counsel's submission that custody had lasted approximately three years was before the Court. The age-evidence priority, minor-wife marital exception and voluntary-departure contention were considered in deciding bail.

6. Relief : The High Court dismissed the sixth application for regular bail under Section 439 CrPC. *Navendra Singh Gurjar v. State of Madhya Pradesh, M.Cr.C. no. 29152/2021, 30/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (345) Prev Next

Headnote :- Inherent jurisdiction — compromise-based quashing — alleged stalking and physical or sexual harassment on a public road — The applicant sought quashing of Crime No. 137/2017 and Criminal Case No. 199/2018 under Section 482 CrPC on the ground that the complainant had compromised with him. Neither the applicant's counsel nor the complainant's counsel appeared to press the application, which the Court therefore decided on the FIR copy. The allegations concerned earlier stalking, obstruction of the woman's scooter on a public road causing her to fall, grabbing her hand with an improper sexual intention, threats and abuse, followed by departure when she raised an alarm. The applicant was specifically alleged to have driven the motorcycle. Applying *Gian Singh v. State of Punjab* and *Narinder Singh v. State of Punjab, and* quoting *State of M.P. v. Laxmi Narayan*, the Court held that the alleged conduct involved society's interest in women's safe movement in public. The asserted private compromise did not justify quashing the FIR or prosecution. The quoted framework permits quashing in fully settled disputes of an overwhelmingly and predominantly civil character, while restricting that power for serious offences affecting society and requiring consideration of the accused's conduct in private, non-serious cases. Its Section 307, Arms Act and corruption examples formed part of that precedent's framework. The application was dismissed; the FIR allegations remained for adjudication in the criminal case.

Case-note :- ***1. Facts :*** Nazim Ahmad applied under Section 482 CrPC in M.Cr.C. No. 27031/2018 before the High Court of Madhya Pradesh, Gwalior Bench. He sought quashing of FIR Crime No. 137/2017, registered at Police Station Sirol, Gwalior, and Criminal Case No. 199/2018, pending before the Judicial Magistrate First Class, Gwalior. According to the FIR, the complainant ran Vaishno Coaching at Sirol and travelled there daily from Morar. She alleged that on 21 September 2017, at about 11:30, Ahmad and another person on a black motorcycle blocked her way, causing her to fall from her scooter. Ahmad allegedly grabbed her hand with an improper intention and threatened to kill her; the other accused allegedly also grabbed her with an improper intention and used abusive language. They left on the motorcycle when she shouted. The FIR specifically alleged that Ahmad was driving it. She also alleged

earlier stalking and harassment, which she had not disclosed because she feared them. She reported the matter after speaking to her sister and brother-in-law. These were the allegations on which the application was considered.

The application stated that the complainant had compromised with Ahmad. Neither her counsel nor the applicant's counsel appeared to press the application; a Public Prosecutor was recorded for the State. The Court therefore decided the application on the copy of the FIR filed with the petition. It considered whether the nature of the alleged conduct and its occurrence on a public road justified ending the prosecution on the asserted private compromise.

2. Precedents — Considered : *Gian Singh v. State of Punjab, (2012) 10 SCC 303*, and *Narinder Singh v. State of Punjab, (2014) 6 SCC 466*, were expressly invoked for the distinction between offences affecting private parties and offences against society. The Court applied the principle that an offence against society ordinarily should not be quashed under Section 482 merely because the parties have compromised.

State of M.P. v. Laxmi Narayan and others, Criminal Appeal No. 349 of 2019, decided on 5 March 2019, was quoted and applied. The reproduced passage permits the exercise of Section 482 in respect of offences not compoundable under Section 320 where the dispute has an overwhelmingly and predominantly civil character, particularly a commercial, matrimonial or family dispute, and the parties have resolved the entire dispute. Offences under special statutes such as the Prevention of Corruption Act, and offences committed by public servants acting in that capacity, cannot be quashed merely on a compromise between the victim and offender. Serious offences under Section 307 IPC or the Arms Act that affect society ordinarily cannot be quashed on that ground. However, the High Court must consider more than the formal inclusion of Section 307: after investigation and collection of evidence, once a charge sheet has been filed or a charge framed, or during trial, it may examine the injuries, whether they affected vital parts of the body, and the weapons used to determine whether Section 307 was included merely for its own sake or whether the prosecution had collected sufficient evidence which, if proved, would support a charge under it. That examination is not permissible while investigation is continuing. The passage requires paragraphs 29.6 and 29.7 of *Narinder Singh* to be read together and harmoniously. In private, non-serious cases involving non-compoundable offences, the Court must also consider the accused's antecedents and conduct, including whether and why the accused absconded and how the compromise was obtained. The High Court applied the distinction between private disputes and offences affecting society to the allegations in the present case; the statutory examples formed part of the quoted framework.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR and the criminal case pending before the JMFC. Section 320 CrPC appeared in the quoted *Laxmi Narayan* framework distinguishing statutory compounding from the discretionary quashing of non-compoundable offences. A private compromise did not entitle the applicant to quashing of the alleged conduct affecting society. Section 307 IPC, the Arms Act and the Prevention of Corruption Act appeared in the Supreme Court passage as examples of restrictions on compromise-based quashing. The qualification concerning examination after investigation and filing of a charge sheet or framing of a charge also formed part of that framework. The application was decided under the CrPC in 2019.

4. Issues : Did the application's assertion that respondent No. 2 had compromised justify quashing FIR Crime No. 137/2017 and Criminal Case No. 199/2018 under Section 482 CrPC? On the allegations in the FIR, did the earlier stalking, public-road obstruction, grabbing, threats and abuse concern a private dispute alone, or did they affect society's interest in women's safety in public? With neither the applicant's counsel nor the complainant's counsel appearing to press the application, these questions were considered on the FIR copy filed with the petition.

5. Ratio / Findings : The Court considered the nature of the allegations rather than treating the asserted compromise as decisive. Under *Gian Singh* and *Narinder Singh*, an offence against society should not be quashed under Section 482 merely on a compromise. The quoted *Laxmi Narayan* framework permits quashing where an entirely resolved commercial, matrimonial or family dispute has an overwhelmingly and predominantly civil character, while restricting it for serious conduct affecting society and the other specified categories. Its qualifications concerning a Section 307 charge require examination of the supporting evidence at the

permitted procedural stage. Its private, non-serious case category also requires consideration of the accused's antecedents and conduct.

The FIR alleged earlier stalking and harassment, obstruction of the complainant's scooter on a public road causing her to fall, grabbing with an improper intention, threats and abuse, and departure after she raised an alarm. It specifically alleged that the applicant drove the motorcycle. The complainant attributed her earlier silence to fear. The Court treated allegations of girls being stalked and physically or sexually abused as a serious concern for society's ability to provide an environment in which they could move safely. Because the incident was alleged to have occurred on a public road and there was a specific allegation of earlier harassment, the Court held that the FIR and criminal case could not be quashed on the asserted compromise. The application was decided on the FIR copy in the absence of counsel for the applicant and complainant.

The Court thus applied the distinction between private disputes and offences affecting society to the alleged repeated stalking and public sexual harassment. The asserted settlement did not justify terminating this prosecution. The allegations remained for adjudication in the criminal case.

6. Relief : The High Court dismissed the application. FIR Crime No. 137/2017 and pending Criminal Case No. 199/2018 were not quashed on the asserted compromise. The FIR allegations remained for adjudication in the criminal case.

Nazim Ahmad v. State of Madhya Pradesh and others, M.Cr.C. no. 27031/2018, 06/03/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (346) Prev Next

Headnote :- Food adulteration — Section 89 Food Safety and Standards Act, 2006 — distinct IPC cheating allegation — The applicants sought quashing under Section 482 CrPC of an FIR registered under IPC Sections 420, 272, 273 and 34 following a dairy inspection and food analysis. They contended that the FSSA entirely displaced the IPC. The Court distinguished *Manik Hiru Jhangiani*, which concerned the predecessor Prevention of Food Adulteration Act. It read *Ram Nath v. State of Uttar Pradesh* and *Sushil Kumar Gupta v. State of West Bengal* as concerning Sections 272–273 IPC and the overriding effect of the FSSA, particularly Section 59. It observed that registration under Sections 272–273 in this case 'might not be correct'. However, the alleged sale of adulterated milk as pure milk to unsuspecting purchasers, considered with the recovery of powder capable of use as an adulterant, could disclose a distinct offence of cheating under Section 420. Section 89 did not exclude every IPC offence. The Court followed *Rohit Jain* and *Manish Gupta* on that distinction. It also relied on *State of M.P. v. Rameshwar* for the proposition that a special Act does not necessarily bar recourse to general criminal law in the absence of a statutory bar. The application to quash the FIR was dismissed. The Court stated that the trial court could frame FSSA charges if warranted by its assessment. The High Court did not expressly quash Sections 272–273, finally determine the ingredients of Section 420, or decide any issue of prior punishment or double jeopardy.

Case-note :- ***1. Facts :*** Neelkamal Sharma and the other applicants filed Misc. Criminal Case No. 46662 of 2022 under Section 482 CrPC to quash FIR Crime No. 73/2022 registered at Police Station Umri, Bhind, under IPC Sections 420, 272, 273 and 34. At about 1:30 p.m. on 19 April 2022, police officers and a Food Safety Officer inspected Neelkamal Dairy. Harikamal Sharma, who was present, identified Neelkamal as the proprietor and said that his brother held the licence, which he could not produce at the time. The officers reported finding milk stored in the basement; three bags containing 75 kilograms of white powder; 32 litres of semi-prepared milk; 41 kilograms of ghee in two tanks; fifteen empty one-litre vanaspati ghee packets; a parked tanker said to contain 3,200 litres of adulterated milk; and two drums containing 300 litres of milk. Samples were collected and the other articles seized. The order records the market value of the seized articles as ₹25,280. These were inspection and prosecution allegations, rather than final factual findings after trial.

The applicants contended that the Food Safety and Standards Act, 2006 (FSSA) overrode the IPC provisions concerning food adulteration and rendered the entire FIR unlawful. They relied on *Ram Nath*, *Sushil Kumar Gupta* and the coordinate-bench decision in *Rajkumar Tinkar.* The State supported registration of the FIR and relied on *Manik Hiru Jhangiani*. The Court recorded the food analyst's description of the milk sample, referred to as 'Ghol' or solution, as an adulterant under Section

3(1)(a) FSSA. It also recorded that the seized white powder was maltodextrin, which could be used as an adulterant. The allegation that adulterated milk was being offered to consumers as pure milk provided the independent basis for Section 420 IPC.

2. Precedents — Considered : *Ram Nath v. State of Uttar Pradesh and others, 2024:INSC:138, (2024) 3 SCC 502*, was cited by the applicants and examined by the Court. The Court reproduced its express limitation to IPC Sections 272 and 273 and its conclusion that, when those food offences are made out, Section 59 FSSA is also attracted and prescribes a more stringent offence. The Court did not treat *Ram Nath* as excluding every IPC offence committed in the course of a food business. Its observation that registration under Sections 272–273 'might not be correct' remained qualified.

Sushil Kumar Gupta v. State of West Bengal, Criminal Appeal No. 1798/2024, decided 22 March 2024, was cited by the applicants and discussed by the Court. The High Court stated that it also concerned only IPC Sections 272–273 and prohibited simultaneous prosecution under both statutes for those food-adulteration offences. The High Court distinguished that decision from the separate issue under Section 420. *Rajkumar Tinkar v. State of M.P.*, MCRC No. 2159/2012, decided 3 April 2024, was also distinguished.

Manik Hiru Jhangiani v. State of M.P., Criminal Appeal No. 3864/2023, decided 14 December 2023, was expressly distinguished. As described in the present order, *Manik* concerned the validity of prosecution under Sections 7/16 of the repealed Prevention of Food Adulteration Act, 1954 for a sample collected on 29 August 2010, after the FSSA had come into existence. The present FIR included IPC cheating as well as IPC food-adulteration offences. *Manik* did not determine the separate cheating issue arising in this case.

Rohit Jain v. State of M.P., MCRC No. 14294/2021, order dated 23 February 2024, and the passage from *Manish Gupta v. State of M.P.*, MCRC No. 11462/2021, order dated 1 April 2021, quoted in it were reproduced and followed. They supported the proposition that selling adulterated or substandard milk as pure and safe may constitute cheating independently of food safety violations. The quoted passage from *Manish Gupta* also contained earlier statements permitting prosecution under Sections 420 and 272 together in the absence of an FSSA bar, and discussing Section 26 of the General Clauses Act where no prior penalty had been imposed.

State of Madhya Pradesh v. Rameshwar and others, 2009:INSC:456, (2009) 11 SCC 424, paragraphs 48 –49, was quoted in *Manish Gupta* and separately reproduced by the present Court. In the context of the MP Co-operative Societies Act and the Prevention of Corruption Act, it rejected the contention that a special statutory code necessarily excludes recourse to general criminal law where no statutory bar exists. It also held that the objection to converting civil disputes into criminal cases did not apply to the alleged conspiracy to cheat a bank. The present Court relied on that reasoning in holding that counsel had identified no FSSA provision excluding Section 420 IPC.

3. Statutes considered : Section 89 FSSA gives the Act overriding effect to the extent that provisions of another food-related law are inconsistent with it. The High Court reproduced the provision and applied the priority recognised in *Ram Nath* in relation to Sections 272 and 273 IPC. Through *Ram Nath*, it identified Section 59 FSSA as the more stringent food-safety offence attracted when the food adulteration covered by those IPC provisions is made out. Section 3(1)(a) FSSA was referred to in recording the analyst's description of the sample. The Court stated that the trial court could frame appropriate FSSA charges if it concluded that the applicants had committed an offence attracting penalty or punishment under that Act. The order itself framed no charge.

Section 272 IPC concerns adulteration of food or drink so as to make it noxious, with the intention of selling it or knowledge that it is likely to be sold. Section 273 IPC concerns selling, offering or exposing for sale food or drink that is noxious or unfit for consumption, with knowledge or reason to believe that it is in that condition. Both provisions were reproduced in the judgment. The separate allegation under Section 420 IPC concerned selling an adulterated product to unsuspecting purchasers by representing it as pure. Section 34 IPC formed part of the FIR, but the Court did not determine individual common intention or the liability of each accused. Section 482 CrPC governed the application to quash the FIR. Section 26 of the General Clauses Act appeared in the quoted *Manish Gupta* decision in relation to prior penalty and duplicate prosecution; it was not separately adjudicated as a defence in the present case. The Prevention of Food Adulteration

Act, 1954 and the MP Co-operative Societies Act arose in the distinguished precedent and the cited analogy, respectively; they did not govern the applicants' alleged conduct in 2022.

4. Issues : Did Section 89 FSSA and the Supreme Court decisions on overlapping food-adulteration laws bar the FIR's allegations under Sections 272 and 273 IPC, and did that position require quashing the entire FIR? Did the separate allegation of selling adulterated milk to consumers as pure disclose a prima facie offence under Section 420 IPC, without inconsistency with the FSSA having been shown? How did the Supreme Court decisions concerning food offences, the predecessor food law and the interaction between special statutes and general criminal law apply to the different offences alleged in this FIR? What relief was available under Section 482, and what question concerning FSSA charges remained for the trial court? The Court did not determine guilt, actual purity or sale on the basis of trial evidence, the final liability of each applicant, any previously imposed FSSA penalty, or a claim of double punishment.

5. Ratio / Findings : The Court distinguished the statutory provisions and the scope of the cited decisions. *Manik Hiru Jhangiani* concerned prosecution under Sections 7/16 of the former Prevention of Food Adulteration Act after the FSSA had come into existence; it did not determine the separate IPC cheating issue in this case. Paragraph 29 of *Ram Nath*, reproduced in the order, expressly concerned IPC Sections 272 and 273 and their overlap with the more stringent Section 59 FSSA. The Court treated Section 89 as overriding inconsistent food-related law. It read *Sushil Kumar Gupta* as also precluding simultaneous prosecution under both statutes for those food-adulteration offences. It therefore observed that, in light of *Ram Nath*, the police 'might not be correct' in registering offences under Sections 272–273. However, in refusing to quash the FIR, it did not expressly quash those counts.

On the separate allegation of cheating, the Court considered the analyst's description of the adulterated milk solution and the seized powder capable of adulterating milk products. At the stage of considering whether to quash the FIR, it concluded that the alleged dairy business involved selling adulterated milk to the public as pure milk. The applicants had not contended that consumers were informed that the milk was adulterated. Following *Rohit Jain* and *Manish Gupta*, the Court held that such conduct could constitute deception of purchasers under Section 420 IPC. This provided the basis for refusing to quash the FIR on the ground that the FSSA displaced the IPC altogether. The alleged representation of adulterated milk as pure supported registration under Section 420 IPC despite the FSSA objection. The decision concerned quashing of the FIR, rather than guilt after trial.

The Court stated that counsel had relied only on Section 89 and had identified no provision completely barring Section 420 IPC. In paragraphs 17–18, it further observed that the alleged recovery of adulterated milk products and powder capable of use as an adulterant could amount to an offence, and that prosecution under the FSSA was also available. It dismissed the application to quash the entire FIR without separately quashing the food-adulteration counts. The order did not acquit the applicants on any count, frame charges, or finally evaluate the evidence.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC. FIR Crime No. 73/2022 remained in force, without express partial quashing of IPC Sections 272–273. The Court stated that the trial court could frame FSSA charges if it concluded that the applicants had committed an offence attracting penalty or punishment under that Act. It did not discharge any individual accused, determine guilt, or direct a conviction. The trial and assessment of any charges remained for the competent court. Neutral citation: *2025:MPHC-GWL:8294*.

Neelkamal Sharma and others v. State of Madhya Pradesh and others, M.Cr.C. no. 46662/2022, 08/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (347) Prev Next

Headnote :- Investigation — judicial directions to arrest or file charge sheet — timely completion — In an application under Section 528 BNSS concerning an FIR already registered under IPC Sections 420/467, the complainant alleged police inaction. She sought investigation by a higher-ranking officer, arrest of the accused and filing of a charge sheet. The Court refused to direct arrest or filing of a charge sheet as the necessary outcome of investigation. It quoted and applied *D. Venkatasubramaniam v. M.K. Mohan*

Krishnamachari: the police must investigate in discharge of their statutory duty, while exercising the discretion conferred by law. The quoted *M.C. Abraham* decision explains that an FIR alleging a cognizable offence does not make arrest automatic or mandatory. The evidence may justify either a charge sheet or a closure report. The Supreme Court decision also cautions against judicial directions prescribing particular investigative steps and against consequential orders affecting persons who have not been heard. No separate hearing defect was determined in the present case. The Court distinguished directions controlling the outcome from enforcement of Section 173(1) CrPC, cited with Section 193 BNSS: investigation must be completed without unnecessary delay and followed by a lawful final report. It directed the investigating officer to conclude the investigation as early as possible and take the steps required by law. The applicant could approach the Superintendent of Police with any further grievance. No arrest was ordered, no charge sheet was compelled, and no finding was made on the IPC allegations.

Case-note :- ***1. Facts :*** Neha Shakya applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, invoking the High Court's inherent jurisdiction in Misc. Criminal Case No. 55128 of 2024. On her complaint, Police Station Lahar, Bhind, had already registered Crime No. 195/2023 under Sections 420 and 467 IPC. She alleged that the police had taken no further action and had not arrested the persons accused by her. She sought a fair and transparent inquiry by an officer not below the rank of Deputy Superintendent of Police, arrest of the accused to safeguard her family, and filing of a charge sheet. The Court quoted a Supreme Court judgment concerning another High Court's directions to arrest, seize property and file a charge sheet. It disposed of the present application by directing completion of the investigation in accordance with law.

2. Precedents — Considered : *D. Venkatasubramaniam and others v. M.K. Mohan Krishnamachari and another, 2009:INSC:1132, (2009) 10 SCC 488*, was expressly quoted in paragraph 4 and applied in paragraph 5. The reproduced passages disapproved of a High Court's unreasoned directions requiring the police to record witness statements, arrest the accused, seize property and file a charge sheet. Those directions prescribed the course of investigation before the police had exercised their statutory judgment. The police's statutory duty and discretion permit either a charge sheet or a report that no case is made out; every investigation need not result in arrest, seizure or prosecution. The inherent jurisdiction under Section 482 CrPC is confined to giving effect to an order under the Code, preventing abuse of the process of a court, or securing the ends of justice. Casual judicial observations may unduly influence the police. The Supreme Court also noted that the affected accused had neither been impleaded nor heard before the far-reaching directions were issued. These principles informed the present Court's refusal to direct arrest or filing of a charge sheet. It made no adverse investigative order against a named accused.

M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649, was quoted within *D. Venkatasubramaniam*. Its principle concerning Section 41 CrPC is that arrest following a report of a cognizable offence is discretionary. The power must be exercised cautiously, with regard to the needs of investigation, the nature of the alleged offence and the circumstances of the person concerned, since arrest affects liberty and reputation. A police officer is not bound to arrest automatically upon receipt of a report. The High Court relied on that reasoning in refusing to direct arrests in *Shakya's* case. It did not determine, on a fully developed record, whether any particular suspect should be arrested.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, paragraph 51, was reproduced in the quoted discussion in *D. Venkatasubramaniam*. It states that a judicial order initiating investigation against a person, with drastic consequences for that person, should not be passed without a reasonable opportunity of hearing, particularly where the allegations are anonymous. In *D. Venkatasubramaniam*, the Supreme Court set aside the earlier High Court order and held that the absence of notice itself rendered the order a nullity. The present Court quoted that reasoning but did not determine any separate notice violation in this case.

3. Statutes considered : The applicant invoked the High Court's inherent power under Section 528 BNSS. The Court relied on *D. Venkatasubramaniam*, which concerned the corresponding inherent jurisdiction under Section 482 CrPC. The FIR alleged cheating and forgery under IPC Sections 420 and 467, but the Court did not determine their ingredients or factual merits. Section 41 CrPC appeared in the quoted *M.C. Abraham* discussion of

police discretion to arrest; arrest was not treated as a judicially mandated consequence of an FIR. The order reproduced Section 173(1) CrPC, requiring every investigation under the chapter to be completed without unnecessary delay, and cited Section 193 BNSS alongside it. The duty to reach a timely and lawful conclusion was distinguished from any supposed obligation to file only a charge sheet. The Court required a final report according to the result of investigation, expressly permitting either a closure report or a charge sheet.

4. Issues : After registration of Crime No. 195/2023, could the High Court, on the informant's application under Section 528, direct the police to arrest the identified accused and file a charge sheet, or otherwise prescribe the outcome of investigation? Did the police nevertheless have a duty to complete the investigation without unnecessary delay and take the lawful steps required for a final report? The prayer also sought investigation by a more senior officer and referred to safety concerns, but the Court issued no specific direction selecting an investigating agency or granting protection. It did not determine whether the alleged IPC offences had occurred, whether the criteria for arrest were satisfied for any person, or which final report the evidence would justify.

5. Ratio / Findings : The Court distinguished the complainant's allegation of inaction from her request for directions controlling police action. Applying *D. Venkatasubramaniam*, it held that the investigating agency must determine, within the law, how to investigate, whether arrest is necessary and whether the evidence warrants a charge sheet or a closure report. The quoted *M.C. Abraham* passage explains that arrest is a discretionary power affecting liberty, rather than an automatic consequence of a report of a cognizable offence. A direction to arrest, seize property or file a charge sheet irrespective of the evidence collected would improperly control and prejudge the investigation. The Court therefore expressly refused the requests for arrest and compulsory filing of a charge sheet. The quoted Supreme Court decision also disapproved of unreasoned directions affecting persons who had not been heard; the present Court did not determine a separate hearing issue on this record.

Those limits on judicial directions did not relieve the police of the duty to complete an investigation. Section 173(1) CrPC, cited with Section 193 BNSS, requires completion without unnecessary delay. The investigating officer must reach a lawful conclusion on whether an offence is made out and submit the corresponding final report, whether a closure report or a charge sheet. The direction to conclude the investigation 'as early as possible' and take the steps required by law enforced that duty without choosing the contents of the report, appointing an investigator of a specified rank, ordering custody or determining guilt. The order did not quantify any unjustified delay or fix a deadline. The applicant remained free to approach the Superintendent of Police with any further grievance.

6. Relief : The Hon’ble High Court disposed of the application. It refused to direct arrest or filing of a charge sheet, and directed the investigating officer to conclude the investigation as early as possible and take the necessary steps in accordance with law. The applicant was permitted to approach the Superintendent of Police, Bhind, with any grievance, to be considered according to law. The Court did not order investigation by a Deputy Superintendent, direct the arrest of any particular accused, compel a particular prosecutorial outcome, or determine the merits of the IPC allegations. Neutral citation: *2025:MPHC-GWL:1113*.

Neha Shakya v. State of Madhya Pradesh and others, M.Cr.C. no. 55128/2024, 21/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (348) Prev Next

Headnote :- Section 153A IPC — political cartoon, free speech and quashing threshold — A folk singer sought quashing of an FIR concerning a social-media cartoon about an incident in which a person allegedly urinated on another belonging to a reserved category. She contended that the post exposed a serious incident and was protected commentary. The Court noted that the cartoon depicted a black cap, white shirt and khaki-coloured half trousers. Counsel accepted that the additional dress did not reflect the actual incident. The Court inferred an attempt to associate the incident with a particular ideology and held that the intention behind the added clothing and its factual justification required examination at trial. It refused to quash the FIR on the asserted satirical or Article 19(1)(a) defence. *Amish Devgan v. Union of India* was quoted at length: political criticism, even when harsh or false, receives strong protection, while vilification targeting a group by identity, with the required

public-order connection, may attract Section 153A. Mere thought does not amount to an attempt. *Patricia Mukhim v. State of Meghalaya* was also quoted on mens rea, a tendency to cause public disorder, assessment of the expression as a whole in context, and the involvement of at least two protected groups. Merely offensive ideas are insufficient. The Court did not convict the applicant, find a proved public-order disturbance, or hold that every false detail or satirical expression is independently criminal. The application under Section 482 was dismissed.

Case-note :- ***1. Facts :*** Neha Singh Rathore, a folk singer, applied under Section 482 CrPC to quash FIR No. 1001/2023 dated 10 July 2023, registered at Police Station Baidhan, Singrauli, under Section 153A IPC, and the consequential proceedings. Counsel stated that a person, while intoxicated, had urinated on another belonging to a reserved category, and that Rathore had a moral responsibility to bring the incident to public attention. A cartoon uploaded on her Twitter and Instagram accounts depicted a half-naked person urinating on a seated person, yellowish-brown or khaki half trousers lying on the ground, a black cap, a white shirt and a belt. She stated that she had been accused of acting for other political parties and was not afraid of threats. The State opposed quashing, contending that the representation could promote disharmony between groups and referring to tension following the underlying incident. It also submitted that the direct perpetrator had been detained under the National Security Act and that a separate challenge to that detention had been dismissed. Those detention proceedings formed part of the State's submissions and background; they were not independently adjudicated in this application.

The Court asked counsel whether the clothing shown in the cartoon corresponded to that worn by the actual perpetrator. Counsel conceded that some of the depicted clothing had not been worn at the incident. From that alteration, the Court inferred an attempt to associate the incident with a particular ideology. It held that the purpose of adding the clothing was a question for trial. The order described the cartoon filed as Annexure A/2.

2. Precedents — Considered : *Amish Devgan v. Union of India and others*, AIR Online 2020 SC 930, was cited by the State, quoted at length and relied on by the Court. The reproduced passages distinguish protected political criticism and debate about government policy, including strong or false statements, from speech directed at humiliating, alienating or inciting hatred or violence against a group. They emphasise context, purpose, group identity and harm, rather than treating the government as the arbiter of truth. For Section 153A(1)(b), public tranquillity bears the narrower meaning of public order; every minor disturbance of law and order is not sufficient, although acts of local significance may qualify. An attempt requires an overt act beyond mere preparation or thought, reasonably proximate to commission of the offence. Intention and likely harm remain relevant even where intervention prevents completion. The High Court relied on those principles in treating the admitted addition of clothing as an attempt to attribute the incident to a particular ideology. *Kedar Nath Singh*, *Arun Ghosh*, *Aman Kumar* and *Mohd. Yakub* were referred to within the quoted Supreme Court reasoning; they did not constitute separate High Court findings on a different offence.

Patricia Mukhim v. State of Meghalaya and others, *2021:INSC:213*, *(2021) 15 SCC 35*, was separately quoted in paragraph 15, after the High Court had stated its own view. The quotation affirms freedom of speech under Article 19(1)(a), subject to the restrictions enumerated in Article 19(2). In relation to Section 153A, it treats intention to cause disorder or incite violence as essential and places the burden of proving mens rea on the prosecution. Intention must be assessed from the language and circumstances of publication, reading the expression as a whole rather than relying on isolated strong passages. Its discussion of *Bilal Ahmed Kaloo* requires involvement of at least two groups; inciting one group without reference to another does not suffice. It applies the standard of an ordinary reasonable observer and distinguishes serious vilification from mere repugnancy or offensive opinion. *Balwant Singh*, *Manzar Sayeed Khan*, *Ramesh*, *Bilal Ahmed Kaloo* and *Pravasi Bhalai Sangathan* formed part of the Supreme Court reasoning reproduced through *Patricia Mukhim*. The High Court did not expressly distinguish *Patricia Mukhim* or apply it to quash the FIR; it dismissed the application after reproducing the passage.

3. Statutes considered : Section 153A(1) IPC was reproduced in full. Clause (a) concerns words, signs, visible representations and other means which promote or attempt to promote disharmony, enmity, hatred or ill-will between the specified groups on the

grounds stated in the provision. Clause (b) concerns acts prejudicial to harmony between groups which disturb or are likely to disturb public tranquillity. The quoted interpretation in *Amish Devgan* confines public tranquillity in that clause to matters of public-order significance. Clause (c), concerning organisation of or participation in violent exercises, was reproduced, but no such activity was alleged in this case. Subsection (2), concerning conduct at a place of worship or an assembly engaged in worship, was also reproduced but not applied. The cartoon was considered as a visible representation. The question at the quashing stage was whether the alleged addition of ideological clothing, viewed in its setting, could support the charged promotion or attempt. The order did not finally identify an exact subclause for framing a charge.

Section 482 CrPC governed the application to quash the FIR. The Court considered whether the uncontroverted allegations disclosed an offence and left the disputed intention for trial. Articles 19(1)(a) and 19(2) of the Constitution governed the asserted artistic and satirical freedom and the permissible reasonable restrictions. The Court recognised an artist's liberty to criticise through satire, but rejected that explanation for the allegedly baseless addition of ideological clothing at this stage. Section 505 IPC appeared in the *Patricia Mukhim* quotation, rather than in the FIR described in this judgment. The State referred to National Security Act detention of the person involved in the underlying incident; that detention was not treated as a basis for punishing this applicant. The applicable provisions were those of the IPC and CrPC.

4. Issues : Did the alleged social-media post, read as a whole and including the added clothing, disclose a prima facie attempt under Section 153A to promote disharmony between groups, or amount only to protected condemnation and satire of a disturbing incident? Could absence of mens rea or the artistic explanation be determined on the Section 482 record, or did the disputed purpose of the added imagery require trial? How did the statutory ingredients apply with the free-expression, public-order, intention and whole-context principles in *Amish Devgan* and *Patricia Mukhim*? The questions arose at the quashing stage, rather than on final proof of an actual public-order disturbance, the protected groups involved beyond an ideological association, or guilt after evidence.

5. Ratio / Findings : The Court considered the language of Section 153A and the cartoon as described in the order. Counsel's concession that the depicted clothing did not reflect the actual incident was central to its assessment. It inferred that the additional cap, shirt and khaki-coloured clothing associated the alleged wrongdoer with a particular ideology without a basis in the incident. It treated this as an attempt to disrupt harmony and provoke enmity or ill-will, and refused to quash on the artistic and free-expression explanation. Paragraph 10 expressly left the intention behind the choice of clothing for trial; paragraph 12 stated that the defence of absence of intention had to be proved by the applicant there. Applying the test whether uncontroverted FIR allegations disclose an offence, the Court concluded that the departure from the actual incident prevented acceptance of the claimed protection for satire at that stage.

The quoted principles in *Amish Devgan* distinguish criticism of government policy from hatred directed at a group by identity and require assessment of likely serious harm to public order, particularly under Section 153A(1)(b). Its discussion of attempt requires more than thought or mere preparation. The separate quotation from *Patricia Mukhim* places proof of mens rea on the prosecution and requires assessment of the expression as a whole in context, including involvement of at least two groups and tolerance of merely offensive ideas. The inference in the present case concerned the circumstances alleged; it did not establish a general rule that political cartoons satisfy the offence. The High Court refused to terminate this particular FIR at the threshold.

The Court did not separately determine the correctness of the State's account of public tension or the underlying detention proceedings. It found no ground for interference under its inherent power and left the merits to be addressed by the prosecution and defence at trial.

6. Relief : The Hon’ble High Court dismissed the application and declined to quash FIR No. 1001/2023 and the incidental proceedings under Section 153A IPC. It did not convict or punish the applicant, restrain further posting, hold that protected criticism generally falls outside constitutional protection, or decide the underlying NSA detention. Neutral citation: *2024:MPHC-JBP:27011*.

Neha Singh Rathore v. State of Madhya Pradesh and others, M.Cr.C. no. 47655/2023, 15/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (349) Prev Next

Headnote :- Negotiable Instruments Act — cheque handwriting and Section 20 — The complainant alleged a loan of ₹3 lakh, delivery of a signed cheque, its dishonour for insufficient funds, service of notice and prosecution under Section 138. After the complainant's evidence and his own examination under Section 313 CrPC, the accused sought examination by a handwriting expert, asserting that neither the signature nor the other entries were his. In his recorded answers, however, he had admitted signing cheque No. 759479, giving it to the complainant and receiving the statutory notice. The Court held that, in these circumstances, identifying the writer of the remaining entries would not justify sending the cheque to an expert. The bank had not returned it for a mismatch of signatures. Following *Vipin Kumar Vimal Kumar HUF*, the Court relied on the prima facie authority under Section 20 NI Act to complete an incomplete instrument that had been signed and delivered, subject to the provision's limits. It left the accused's separate defence that he had borrowed only ₹1 lakh and repaid it for consideration at trial, while recognising his right to a fair opportunity to defend himself. The trial and revisional courts' refusal of expert examination was upheld. The Court made no final finding on the legally enforceable debt or guilt under Section 138. It applied the reproduced Section 20 provision to the admitted signing and delivery of the cheque in refusing this particular expert reference.

Case-note :- ***1. Facts :*** Vimal Kumar's complaint under Section 138 of the Negotiable Instruments Act alleged that he and Nicky Chaurasia knew each other through business. Chaurasia had borrowed ₹3 lakh for domestic needs and, when repayment was demanded, signed and delivered a cheque on 22 August 2014, asking that it be presented after two or three days. The cheque was presented on 26 September 2014 and returned the same day for insufficient funds. The complainant sent the statutory notice and instituted the prosecution. After the complainant had examined all his witnesses and the accused had been examined under Section 313 CrPC, the accused applied to send the cheque to a handwriting expert, asserting that neither the signature nor the entries were in his handwriting. The Judicial Magistrate First Class, Ashok Nagar, rejected the application in Criminal Case No. 2484/2014 on 2 July 2016. The II Additional Sessions Judge dismissed Criminal Revision No. 25/2016 on 26 September 2016. Chaurasia challenged those orders under Section 482 CrPC in Misc. Criminal Case No. 12242/2016.

In answer to question 5 under Section 313, Chaurasia admitted signing cheque No. 759479 and giving it to the complainant. In answer to question 7, he again admitted delivery, and in answer to question 8, he admitted receiving the registered notice. The High Court treated those recorded admissions as contradicting the assertion in his expert application that the signature was not his. It also noted his separate defence on the merits: he had borrowed ₹1 lakh, rather than ₹3 lakh, and had repaid it. That defence remained for assessment at trial. The discussion concerned the relevance of the proposed handwriting examination at that procedural stage, rather than a finding of criminal guilt.

2. Precedents — Considered : *Vipin Kumar Vimal Kumar H.U.F. v. Shobhit Kumar alias Mintu Samaiya*, MCRC No. 8893/2015, decided on 26 August 2015 by a coordinate bench of the same High Court, was quoted and followed in paragraph 8. The coordinate bench reasoned that, where a cheque had not been dishonoured for a mismatch of signatures, there was no prima facie need for expert verification of the signature. Examination of the handwriting or ink in the other entries would at most show that someone else had filled them in. That circumstance was not necessarily fatal where the accused had signed and delivered the instrument and the NI Act recognised authority to complete it. Without a specimen for comparison, an expert might not even identify who wrote the other entries. Successive expert references could delay the proceedings without resolving liability. The quotation referred to *Satyendra Upadhyay* and *Bhadauriya Tiles* for the same principle. The present Court adopted that limited practical reasoning in light of the express Section 313 admission of signing and delivery. It did not hold that a cheque with a genuinely disputed signature, or an issue requiring expert analysis, could never be examined.

3. Statutes considered : Section 138 NI Act governed the complaint arising from dishonour for insufficient funds of the cheque allegedly issued for

the loan, followed by statutory notice. The order did not determine every element of the offence, limitation, the existence of a legally enforceable debt, or the ultimate operation and rebuttal of presumptions at trial. Section 20 NI Act was reproduced. A person who signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments, either blank or incomplete, thereby confers prima facie authority on the holder to make or complete a negotiable instrument for an amount within the stamp limit. The proviso limits recovery by a person other than a holder in due course to the amount intended by the signer. The Judge applied the provision to the admitted signing and delivery of the cheque to explain why an expert did not need to identify the writer of its remaining contents in this case.

Section 313 CrPC governed the accused's examination. The Judge relied on his answers as the factual basis for signing and delivery, rather than as a final determination of the loan balance. Section 482 CrPC provided the procedural basis for the High Court petition after dismissal of the criminal revision challenging refusal of expert examination. The Court expressly recognised the right to a fair trial and to defend oneself, while leaving the asserted smaller loan and repayment for the trial court to assess. The order did not treat the fact that someone else wrote the other cheque entries as a conclusive defence to Section 138.

4. Issues : Did refusal of handwriting-expert examination of the disputed cheque amount to error or denial of a fair defence after the accused had admitted signing and delivering it in his Section 313 answers? Would an opinion that someone else wrote the other entries be material in light of the prima facie authority to complete an instrument under Section 20 and the bank's return of the cheque for insufficient funds, rather than a mismatch of signatures? Did that refusal determine the separate factual defence that a smaller loan had already been repaid? The Court did not decide the enforceable amount, whether a statutory offence had been completed, whether there was an actual forgery, who wrote the cheque entries, or the technical scope of Section 20 for every form of cheque.

5. Ratio / Findings : The High Court examined the record rather than accepting the unsupported assertion in the application for expert examination. In his Section 313 answers, Chaurasia had admitted signing and delivering the specific cheque, had repeated his admission of delivery, and had also admitted receiving the notice. The bank had returned the cheque for insufficient funds. An inquiry into whether the signature matched the bank's specimen therefore did not address the actual ground of dishonour. An expert might at most establish that someone else wrote the remaining text. The coordinate bench had explained why another person's handwriting in the body did not automatically negate an instrument that had been signed and delivered, and why unrestricted expert references could delay a Section 138 case. The present Court regarded those considerations as sufficient to uphold the Magistrate's refusal in the circumstances of this case. It did not hold that expert evidence was inherently inadmissible or that a request made in the interests of a fair trial could always be rejected as delaying the proceedings.

The Court's application of the provision supplied the further reason that identifying the writer of the other entries would not, by itself, resolve the Section 138 dispute. The discussion concerned prima facie authority, rather than a final, irrebuttable presumption of a debt of ₹3 lakh. The reproduced Section 20 referred to stamped paper and an amount not exceeding that covered by the stamp. The Court expressly left the plausibility of the accused's defence that he had borrowed ₹1 lakh and repaid it to the trial court. That defence could be assessed on proper evidence despite refusal of this particular expert reference.

The order upheld the lower courts' expert-referral decision but did not convict, determine all presumptions under the NI Act, or foreclose a relevant defence.

6. Relief : The Hon’ble High Court dismissed Chaurasia's Section 482 petition without costs. The orders of the JMFC and the revisional court refusing the requested handwriting-expert examination remained effective. The Section 138 complaint continued for trial, with the defence concerning the loan and repayment still open. Reported citation: *ILR [2017] MP 236.*

Nicky Chaurasia v. Vimal Kumar, M.Cr.C. no. 12242/2016, 18/11/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (350) Prev Next

Headnote :- Criminal procedure — maintenance jurisdiction — Section 126(1) CrPC - A wife and

daughter applied for maintenance under Section 125 at Gwalior, relying on the wife's parental home and asserted permanent address there. The wife worked as an Airport Authority air-traffic controller and lived in Delhi, where the daughter also lived and studied. In the husband's revision against rejection of his territorial objection, the Court held that casual stays or flying visits do not amount to residence, and that a temporary residence acquired solely to confer jurisdiction does not suffice. Genuine residence for the time being may confer jurisdiction without permanent domicile. A subsequent transfer does not, by itself, remove jurisdiction established when the application was filed. The statutory alternatives also permit proceedings in the district where the husband is or where the spouses last resided together; neither alternative established jurisdiction at Gwalior on these facts. The Court discussed the Delhi High Court's *Asha Devi*/*Sachin Gupta* passage and the Madras High Court's treatment of residence in *K. Mohan*, applying the distinction between actual temporary residence and a casual visit. It rejected the separate submission that the daughter resided at Gwalior in light of the wife's application and the daughter's Delhi residence and studies. The Gwalior Family Court's order was set aside, and the Section 125 proceeding there was held to be without territorial jurisdiction. Substantive maintenance rights were not decided, and the applicants were given liberty to apply before a court with jurisdiction. The accounts of the wife's earlier employment and claimed return to her parental home were the parties' competing positions. They did not amount to a finding that only permanent residence could confer jurisdiction.

Case-note :- ***1. Facts :*** Nirman Sagar and respondent No. 1, Monika Sagar Chaudhari, were husband and wife; respondent No. 2 was their daughter. The wife and daughter applied for maintenance under Section 125 of the Code of Criminal Procedure before the Family Court at Gwalior. The husband challenged territorial jurisdiction by an application under Order VII Rule 11 of the Code of Civil Procedure read with Section 126 CrPC. He asserted that the marriage had taken place at Bhopal on 29 November 2019 and that the spouses had last lived together there. He also asserted that Monika, an Airport Authority of India employee, lived and worked in Delhi, where their daughter was studying. He relied on the Delhi addresses she had disclosed in her reply to a petition for restitution under Section 9 of the Hindu Marriage Act and in her own application under Section 24. According to him, the Gwalior parental-home address in the maintenance cause title had been used to create a forum that otherwise lacked jurisdiction. These were his pleaded contentions. The ruling concerned residence under Section 126, rather than the merits of the maintenance claim.

In reply, the respondents stated that Gwalior was the wife's permanent address and parental home, while Delhi was her work posting rather than her permanent address. Their counsel also relied on her occasional visits to her parents at Gwalior. They asserted that she had entered employment before marriage, was first posted at Calcutta in 2010 and had been posted in Delhi since 2011. They also asserted that she had returned to her parental home after being deserted in 2014, while continuing to attend her job in Delhi. On 25 October 2021, the Additional Judge to the Principal Judge, Family Court, Gwalior, rejected the husband's objection in Case No. 234/2019 (new No. 367/2021), relying on the wife's parental home and asserted permanent address at Gwalior. The husband challenged that order under Sections 397 and 401 CrPC in Criminal Revision No. 3060/2021. The judgment determined that procedural challenge.

2. Precedents — Considered : The wife relied on *Asha Devi and others v. Muneshwar Singh @ Munna*, Criminal Revision No. 614/2018, decided by the Delhi High Court on 17 December 2021. The Judge reproduced paragraph 7, which quoted the coordinate-bench decision in *Sachin Gupta v. Rachana Gupta*, Criminal Revision Petition No. 476/2018, decided on 21 January 2019. The quoted principle was that Section 126(1)(b) does not require permanent residence. A place where the wife resides for the time being may confer jurisdiction, but a residence temporarily acquired solely to confer jurisdiction does not suffice. The present High Court applied that distinction to the actual living arrangements when the application was filed; it did not regard the assertion of a permanent address as sufficient. The remaining *Asha Devi* excerpt referred to the respondent's arrest in Delhi and a submission relying *on Bhaskar Lal Sharma v. Monica & Ors., (2014) 3 SCC 383,* that a maintenance order could be enforced against a person living outside the country. That enforcement proposition formed part of the party's submission reproduced in the quotation.

The Court also quoted *K. Mohan v. Balakanta Lakshmi*, 1983 Criminal Law Journal 1316 (Madras

High Court), at length. Drawing on Corpus Juris Secundum and Words and Phrases, that judgment explained that the meaning of ‘reside’ depends on the statutory context and purpose. It may mean domicile or actual temporary living, but even the liberal meaning excludes a casual stay or flying visit. The present Court adopted that distinction in paragraph 10 and applied it in paragraph 14. It did not require permanent domicile in every maintenance application.

3. Statutes considered : Section 125 CrPC governed the underlying maintenance application by the wife and daughter. The High Court did not decide their eligibility, need or the amount of any entitlement. Section 126(1) CrPC supplied the territorial rule. As reproduced in paragraph 8, proceedings under Section 125 may be brought against a person in any district (a) where he is, (b) where he or his wife resides, or (c) where he last resided with his wife or, as applicable, with the mother of an illegitimate child. The Court interpreted ‘resides’ in clause (b) as actual residence, rather than a formal permanent address or occasional visits to the parental home. Its observation about a later transfer concerned the relevant time: jurisdiction established when the application was filed is not lost merely because of a subsequent transfer. The order also reproduced subsections 126(2) and (3), concerning evidence in the presence of the person against whom maintenance is sought or through counsel, ex parte proceedings for deliberate nonattendance, and costs. Those provisions did not control the territorial issue. The husband's objection invoked Order VII Rule 11 CPC read with Section 126 CrPC. Sections 397 and 401 CrPC provided the route for revision. Sections 9 and 24 of the Hindu Marriage Act were mentioned in connection with the wife's disclosures of her Delhi address and employment in related proceedings; restitution and interim maintenance in those proceedings were not adjudicated.

4. Issues : First, did Section 126(1) confer territorial jurisdiction on the Gwalior Family Court over the wife's and daughter's Section 125 application because the wife described her parents' Gwalior address as her permanent address and visited them, despite her longstanding employment and living arrangements in Delhi? This involved distinguishing genuine residence for the time being from a casual visit or a residence acquired solely to confer jurisdiction, and considering whether the spouses had last lived together in Gwalior. Second, could the daughter independently sustain the Gwalior application on counsel's assertion that she had previously stayed with her maternal grandparents there, in light of the maintenance application's statements and her Delhi studies? The revision did not require determination of the underlying maintenance claim, the effect of employment on need, or the power to enforce an eventual order abroad.

5. Ratio / Findings : The Court considered the alternative grounds of jurisdiction under Section 126(1). The respondents did not contend that the spouses had last resided together at Gwalior. The wife's claim to that forum rested on her parental address and visits. The quoted Delhi High Court passage recognised that residence for the time being could confer jurisdiction without being permanent, but excluded a temporary stay undertaken solely to create a forum. The Madras High Court's discussion further established that even a liberal meaning of residence did not include a casual visit. Thus, where a working person genuinely resided in a place when the application was filed, a subsequent transfer would not, by itself, defeat that court's jurisdiction. Conversely, describing a place as a permanent address did not establish actual residence there at the relevant time. The Court did not decide that employment in another city invariably determines domicile.

On its assessment of the record, the Court found that Monika had been posted in Delhi since 2011 and worked there as an Airport Authority air-traffic controller. Her parental home and visits to Gwalior did not establish residence in that district when the maintenance application was filed. The Family Court had treated the asserted permanent address and parental home as sufficient, without applying the statutory residence test. The High Court rejected that approach and found that the Gwalior address in the cause title had been given to confer jurisdiction. That finding concerned territorial jurisdiction on the application, employment and living arrangements; it did not determine the validity of the marriage or the substantive maintenance claim.

The Court separately considered the daughter's position. Counsel submitted that she had previously lived with her maternal grandparents at Gwalior. The Judge found that submission inconsistent with paragraph 1 of the wife's application, which stated that the daughter lived with her. The extract reproduced after paragraph 13 described daughter

Dakshata Chaudhary as then residing with applicant No. 1. The Court expressly found that the daughter was studying in Delhi and that both respondents lived there. The asserted earlier stay with the grandparents therefore did not establish Gwalior residence for this application. The judgment did not decide whether a child genuinely resident in a district could independently establish jurisdiction on different evidence; the objection was determined on the actual facts and the alternatives stated in Section 126.

6. Relief : The Hon'ble High Court allowed the husband's criminal revision. It set aside the Family Court's order dated 25 October 2021 rejecting the territorial objection and held that the wife's and daughter's Section 125 application in that court was without territorial jurisdiction. It expressly granted them liberty to apply under Section 125 before a court having jurisdiction under Section 126 CrPC. The Court made no maintenance award, did not reject the claim on its merits, and specified no costs or further deadline. Neutral citation: *2022:MPHC-GWL:5062*.

Nirman Sagar v. Monika Sagar Chaudhari and Others, Cr.R. no. 3060/2021, 01/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (351) Prev Next

Headnote :- Inherent powers — Supreme Court quashing standard — retaliatory FIR - *Rishipal Singh v. State of U.P., (2014) 7 SCC 215,* quoted and applied *the principle in Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd., (2000) 3 SCC 269*: quashing at an early stage is exceptional and must not routinely cut short a prosecution. Intervention is nevertheless warranted where the allegations, on their face, do not disclose an offence or legal process is used vindictively. The Court recognised that, where allegations disclose a cognizable offence, the informant's mala fides ordinarily become secondary. It nevertheless examined whether the complainant's later FIR was a counterblast to her daughter-in-law's earlier cruelty prosecution and divorce, maintenance and domestic-violence proceedings. On this record, it found the FIR delayed, the allegations superficial and trivial, and the complaint retaliatory. It held that continued investigation would misuse lawful authority. The Section 482 application was allowed, and the FIR under IPC Sections 323, 294, 506 and 34 was quashed. The earlier proceedings supplied the context; they did not establish a presumption that every subsequent complaint was false.

Preliminary inquiry — related family litigation — consequence of omission - The applicants relied on *Lalita Kumari v. State of U.P.* and submitted that the police should have examined their asserted absence from the scene before registering the FIR. The Court observed that the complainant's express identification of one accused as her daughter-in-law's father called for a preliminary inquiry. It nevertheless held that the absence of an inquiry did not, by itself, invalidate the FIR. Quashing rested on the separately reasoned finding of abuse, rather than automatic procedural invalidity. The Court did not determine the applicants' asserted alibi after a trial.

Case-note :- ***1. Facts :*** The applicants, Nirmal Singh Mertia and his brothers Sumer Singh and Sudarshan Singh, were related to respondent No. 2, Vidya Singh Bhadoriya, through her son's marriage to Nirmal's daughter. On 15 January 2024, Vidya lodged the report registered as Crime No. 13/2024 at Police Station University, Gwalior. She alleged that all three applicants had come to her home at about 7:30 p.m. on 23 December 2023 and demanded ₹50 lakh. When she said that she could not pay, they abused her, struck her with fists and blows, injured her left hand and threatened to kill her unless she paid. She stated that her neighbours, Pradeep Singh Bhadoriya and Punit Tomar, intervened after she cried out. She attributed the reporting delay to her husband's absence from Gwalior. The police registered offences under IPC Sections 323, 294, 506 and 34. These were allegations in the FIR, rather than facts proved at a trial or separately disproved by the High Court.

The applicants sought quashing under Section 482 CrPC in Misc. Criminal Case No. 20621 of 2024. Their counsel described Vidya's FIR as a counterblast to the prior proceedings brought by Nirmal's daughter against her husband and his family. She had filed a divorce petition on 14 October 2021, an application for maintenance under Section 125 CrPC on 18 July 2022, and an FIR on 13 September 2022 alleging offences under IPC Sections 498A, 377, 406, 323, 504, 506 and 34 against her in-laws. A complaint under Section 12 of the Domestic Violence Act against Vidya and other in-laws was also pending. Counsel further asserted that the three applicants had not been present on the alleged date and, relying on *Lalita Kumari*,

submitted that the police should have conducted a preliminary inquiry. The State and complainant opposed quashing. They contended that the absence of an inquiry was not sufficient by itself, and that the allegations of mala fides and counterblast raised disputed facts for trial. The order recorded that Vidya and others were facing trial on the daughter's earlier FIR; it did not adjudicate the merits of those proceedings or establish the applicants' claimed absence.

2. Precedents — Considered : The Judge cited and quoted *Rishipal Singh v. State of U.P., 2014:INSC:461, (2014) 7 SCC 215,* in paragraph 7. That Supreme Court decision reproduced *Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd., 2000:INSC:103, (2000) 3 SCC 269*, on the restricted and careful exercise of inherent jurisdiction at the FIR, complaint or charge-sheet stage. The passage states that initial quashing must be exceptional to avoid prematurely ending a prosecution. Intervention is warranted, however, where the complaint on its face does not constitute the alleged offence or a frustrated litigant uses legal process vindictively. The present Judge adopted both the caution and the inquiry into vindictiveness. He expressly recognised that, where a cognizable offence is disclosed, the complainant's mala fides become secondary, while the Court may still consider whether the FIR was brought by a frustrated litigant. He applied that approach to the earlier family litigation, delay and allegations he found superficial and trivial, and held that continued proceedings would be an abuse. *Rishipal* was not treated as authority for quashing every later cross-complaint merely because another proceeding had been filed first. *Medchl* appeared within the Supreme Court passage that was adopted; its qualification formed part of that quotation.

The applicants' counsel cited *Achin Gupta v. State of Haryana, 2024:INSC:369; Anupriya Pal v. State of U.P., (2019) 14 SCC 643*; *Akanksha Katiyar* (Allahabad High Court); and the Madhya Pradesh High Court decisions in *Pradhumna*, *Chandrakant alias Rajaram Parmar*, *Himanshu Sharma* and *Saiyad Asfaq Ali*. The order recorded those citations as counsel's submissions. Counsel also relied on *Lalita Kumari v. State of U.P., 2013:INSC:748, (2014) 2 SCC 1*, in seeking a preliminary inquiry. The Court stated its own conclusion on the need for an inquiry in these circumstances and held that omitting it did not, by itself, invalidate the FIR.

3. Statutes considered : Section 482 CrPC supplied the inherent power invoked to quash the FIR and stop investigation where continued process would be an abuse. The Court treated intervention as exceptional, rather than as routine factual appellate review of an FIR. IPC Sections 323 (voluntarily causing hurt), 294 (obscene acts or words), 506 (criminal intimidation) and 34 (common intention) were the offences stated in the challenged report. The Court considered both the superficial nature of the allegations and their timing in relation to the earlier proceedings. IPC Sections 498A, 377, 406, 323, 504, 506 and 34 identified the daughter's earlier case; those charges were not tried in this quashing application. The Section 125 CrPC maintenance application, matrimonial divorce petition and complaint under Section 12 of the Protection of Women from Domestic Violence Act were contextual proceedings said to precede the mother-in-law's FIR. No entitlement to maintenance, divorce or domestic-violence relief was determined. Counsel invoked *Lalita Kumari*, and the Judge assessed the consequence of omitting an inquiry on the facts of this case.

4. Issues : First, did the sequence of matrimonial and criminal proceedings, considered with the reporting delay and the allegations as stated, establish that Vidya's later FIR was a retaliatory abuse warranting exceptional intervention under Section 482, although a bare assertion of mala fides would not ordinarily defeat allegations of cognizable offences? The parties disputed whether the counterblast allegation was established or involved facts requiring trial. Second, did the absence of a preliminary police inquiry, despite the family relationship disclosed in the FIR, invalidate registration? The applicants relied on their asserted absence and *Lalita Kumari* in submitting that an inquiry was necessary. The High Court was not asked to determine the truth of the earlier complaints or guilt in the present IPC case.

5. Ratio / Findings : The Court relied on *Rishipal Singh* and the *Medchl* passage reproduced in it to explain both aspects of the Section 482 threshold. Criminal process should ordinarily continue after FIR registration, and the power to quash at inception is restricted. A complaint that facially discloses an offence is not automatically defeated merely because the informant is hostile. The Court may nevertheless prevent a frustrated litigant from using investigation or prosecution vindictively. That assessment depends on the actual complaint and its context, rather than

merely the accused's description of it as a ‘counterblast’. The Judge expressly stated that allegations of a cognizable offence make motive secondary, but do not preclude examination of abuse by a frustrated litigant.

Applying that approach, the Judge found that the daughter's cruelty case against Vidya and her in-laws was at trial, and that her divorce, maintenance and DV Act proceedings had all begun before the 2024 FIR. He considered Vidya's delay of approximately three weeks and her recorded explanation that her husband was away, and described the FIR allegations as superficial and trivial. Taking those circumstances together, he inferred retaliation against the proceedings brought by the daughter. The stated basis was that inference of abuse and the nature of the allegations in this setting. The Court did not determine the claimed alibi by taking evidence. Its findings of triviality and counterblast were made at the quashing stage; they did not establish a universal rule that family disputes or reporting delay make allegations false. The Court concluded that continuing the FIR and investigation would misuse investigative or judicial authority.

As to inquiry, the Court observed that Vidya's express description of Nirmal as her daughter-in-law's father called for a preliminary police inquiry into the circumstances. It nevertheless held that the absence of an inquiry did not, by itself, invalidate the FIR. Quashing therefore rested on the separate finding of abuse under Section 482, rather than merely the omitted preliminary step. The Court did not lay down a general rule that an alibi must be verified before every cognizable FIR. Counsel had relied on *Lalita Kumari*. The respondents' contention that the counterblast question required trial was rejected on this record through the Judge's contextual assessment, rather than through a separate trial of the earlier litigation.

6. Relief : The Hon’ble High Court allowed the Section 482 application and quashed FIR Crime No. 13/2024 at Police Station University, District Gwalior, alleging offences under IPC Sections 323, 294, 506 and 34 against the applicants. The challenged FIR and its investigation were thereby terminated as directed. This was not an acquittal after trial or a decision in the daughter's earlier cases. The judgment granted no independent compensation, specified no costs and gave no direction determining the asserted alibi. Neutral citation: *2025:MPHC-GWL:7931*.

Nirmal Singh Mertia and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 20621/2024, 03/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Penal law — abetment of suicide — Section 306 read with Section 107 IPC - Section 107 recognises instigation, conspiracy or intentional aid. Suicide following a marital disagreement does not, by itself, establish any of these modes. The Court quoted *Chitresh Kumar Chopra, (2009) 16 SCC 605*, and *Praveen Pradhan, (2012) 9 SCC 734*: a deliberate course of conduct may imply instigation without express words if it reasonably incites suicide and leaves no alternative, but intention and context remain essential. *Sanju, (2002) 5 SCC 371*, *Gangula Mohan Reddy, (2010) 1 SCC 750*, *M. Mohan, AIR 2011 SC 1238*, and *Kishori Lal, (2007) 10 SCC 797*, were cited on mens rea, a positive act or intentional aid, and the statutory alternatives. *Praveen Pradhan* and *Amit Kapur, (2012) 9 SCC 460*, require only a tentative view at the charge stage, rather than a trial of the evidence. Even on that basis, none of the wife’s alleged domestic acts, taken at face value, supported intentional instigation or aid. The Section 306 charge was set aside and she was discharged.

Suicide — domestic discord — proximity and ordinary petulance - *Orilal Jaiswal, (1994) 1 SCC 73*, and *Ramesh Kumar, (2001) 9 SCC 618*, caution against treating ordinary domestic differences, or a victim’s sensitive reaction to them, as sufficient to establish the accused’s abetment. *Amalendu Pal, (2010) 1 SCC 707*, requires scrutiny for direct or indirect incitement and proximate positive action. The Court cited *Kumar @ Shiva Kumar* (1 March 2024) as stating the same law. Applying these qualifications, the Court held that late meals, household chores performed by the husband, the wife’s shopping and parental visits, dancing at her brother’s wedding and insistence on returning to Pali did not amount to a deliberate act pushing her husband to suicide. The order concerned a death by hanging and competing allegations. The ruling addressed the sufficiency of the material for framing a charge; it did not lay down a categorical rule excluding sustained coercive conduct in a different case from Section 306.

Case-note :- ***1. Facts :*** Nisha Saket was married to Preetam Saket, who had obtained a compassionate

government appointment on 1 April 2014 after his father's death. They married on 26 April 2016. Preetam later died by hanging in his government accommodation at Pali Project, Pali. A Merg inquiry under Section 174 CrPC was registered, the body was sent for postmortem and witness statements were recorded. The police then registered an FIR against Nisha under Section 306 IPC. His mother, respondent No. 2 Radha Bai, and other witnesses alleged that Nisha behaved poorly towards the family after returning to the matrimonial home for a second time in July 2016. They alleged that she sometimes did not prepare food before Preetam left for duty, left the child with neighbours while shopping with others, and quarrelled when challenged. They also alleged that she left him to mop, clean and wash clothes, visited her parents without his permission, watched a crime television programme and objected to his monthly payment of ₹10,000 to his mother. These remained prosecution allegations; they were not findings that domestic labour or a spouse's independent movement constituted abetment of suicide.

The order described a disagreement when Nisha danced at her elder brother's marriage ceremony. It also recorded the allegation that, on 18 July 2021, she insisted that the family return from the ceremony to Pali, although Preetam wanted to stay and speak with his mother. On 19 July at about 2:51, she telephoned her brother-in-law to say that Preetam had died by suicide. Paragraph 22 also recorded an allegation that, in 2016, Nisha had left the house by crossing a boundary wall and was recovered at Budhar Square. The prosecution relied on these events to allege abetment. The Sessions Judge, Umaria, framed a charge under Section 306 on 18 July 2022 in Sessions Trial No. 42/2022. Nisha challenged that order through Criminal Revision No. 3161 of 2022 under Sections 397/401 CrPC. She argued that, even if every allegation were accepted, Section 107 abetment would not be made out. The State and complainant argued that the alleged harassment had left Preetam with no alternative. A separate challenge to the FIR under Section 482, MCRC No. 31993/2022, had been withdrawn on 15 March 2024 with liberty to pursue the revision, since the charge had already been framed. The judgment decided the challenge to the charge order without determining every factual dispute about the marriage.

2. Precedents — Considered : The Judge reviewed and applied Supreme Court principles on abetment of suicide. *Chitresh Kumar Chopra v. State (Government of NCT of Delhi), (2009) 16 SCC 605*, paragraphs 16–17, explains instigation as goading, urging, provoking or encouraging. Express words directing suicide are unnecessary, but reasonable certainty of incitement must be discernible. A deliberate, continuing course of conduct may create a situation in which the deceased perceives no alternative. An angry utterance without an intention that its consequences follow is insufficient. The High Court tested the wife's alleged domestic behaviour against this requirement of a positive and intentional connection, rather than inferring abetment from suicide alone. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, paragraphs 17–18, explains that instigation depends on the abettor's intention and the circumstances, rather than a rigid verbal formula. Direct evidence may be absent, but the circumstances must support an inference that a situation compelling suicide had been created. It limits a court considering quashing or a charge to a tentative view under Section 228 CrPC, rather than a firm trial verdict. The Judge quoted this principle before testing whether the accusations, even taken at face value, met the definition of the offence. The *Praveen Pradhan* extract contains citations to *State of Punjab v. Iqbal Singh*, *Surender*, *Kishori Lal* and *Sonti Rama Krishna*. *Sanju @ Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, was quoted on all three statutory modes under Section 107 and the mens rea inherent in instigation. *Gangula Mohan Reddy v. State of Andhra Pradesh, (2010) 1 SCC 750*, was summarised on the mental process, clear intention and active or direct conduct intended to push the deceased into suicide. Its discussion of ordinary domestic discord and hypersensitivity cautions against attributing abetment where such discord would not ordinarily induce a person in comparable circumstances to commit suicide. *M. Mohan v. State represented by the Deputy Superintendent of Police*, *AIR 2011 SC 1238*, repeated the requirements of a mental process, a positive act, intention and a causal connection leaving no other option. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, paragraph 6, was reproduced on Section 107's three alternatives and the ordinary meaning of instigation. Its explanation of Section 109 concerns punishment for an abetted offence where no specific punishment is provided. Section

306 itself prescribes punishment for abetment of suicide.

State of West Bengal v. Orilal Jaiswal, (1994) 1 SCC 73, calls for careful evaluation of whether cruelty actually induced suicide. It cautions against treating ordinary domestic discord and a victim's sensitivity to it as sufficient without assessing causation and the likely response of a person in comparable circumstances. The present Court cited this qualification and held that the described marital frictions could not establish abetment. *Amalendu Pal @ Jhantu v. State of West Bengal, (2010) 1 SCC 707*, paragraphs 12–16, requires close scrutiny of whether harassment left the person with no alternative. It requires proof of direct or indirect incitement, a positive act proximate to the death, and an active role through instigation or intentional facilitation. The extract discusses Section 107's intentional-aid clause and Explanation 2 in describing the requirements for conviction. The High Court used those elements to decide whether the allegations warranted prosecution; it did not conduct a trial to determine guilt. *Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618, was cited directly in paragraph 20 for the qualifications concerning angry utterances and ordinary domestic discord.

Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460, paragraph 35, was quoted on the procedural limit: at the charge stage, courts form a tentative view from the record and documents, without fully evaluating or marshalling the evidence. The extract also repeats *Chitresh Kumar Chopra* and a nested passage from *Ramesh Kumar* explaining that instigation may arise from a continuing course of conduct that leaves no option. The High Court discharged Nisha because no legally relevant allegation emerged even at that tentative threshold, rather than after a full assessment of witness credibility. *Finally, Kumar @ Shiva Kumar v. State of Karnataka, Criminal Appeal No. 1427/2011*, decided on 1 March 2024, was cited in paragraph 21 as laying down the same law. All these authorities form part of the Court's legal discussion in paragraphs 11–21. The quotations address intention, positive action, proximity, domestic discord and the standard applicable at the charge stage.

3. Statutes considered : Section 306 IPC punishes a person who abets another's commission of suicide with imprisonment that may extend to ten years and a fine. Death by suicide alone does not prove another person's abetment. Section 107 IPC defines abetment through three alternatives: instigation; conspiracy accompanied by an act or illegal omission in pursuance of the conspiracy and in order to do the thing; or intentional aid by an act or illegal omission. Explanation 1 treats a person as instigating an act if, by wilful misrepresentation or wilful concealment of a material fact that the person is bound to disclose, the person voluntarily causes or procures, or attempts to cause or procure, the act. Explanation 2 treats a person as aiding an act if, before or at the time of its commission, the person does anything in order to facilitate its commission and thereby facilitates it. The Judge reproduced Section 107 twice and examined whether there was a legally relevant intentional connection between the wife's alleged acts and the suicide. None of the alleged domestic incidents was treated as an actual conspiracy, wilful misrepresentation or facilitation; the prosecution broadly relied on harassment amounting to instigation. Section 174 CrPC governed the death inquiry, rather than the test for abetment. Sections 397/401 CrPC provided revisional control over the Sessions Judge's charge order. Section 228 CrPC appeared in the *Praveen Pradhan* quotation to identify a tentative presumption at the charge stage, rather than final proof. The High Court was deciding whether the material supported the charge, rather than conducting a trial under Section 306. Section 482 concerned the withdrawn parallel FIR challenge. Section 109 IPC appeared only in *Kishori Lal*'s reproduced explanation of general abetment; it was not an independently charged offence.

4. Issues : Did the witness statements and prosecution allegations, assumed to be true at the charge stage, disclose a mode of intentional abetment under Section 107 sufficient to support a charge under Section 306 against Nisha? Or did they describe ordinary marital disagreements followed by her husband's suicide, without incitement, intentional aid or causal proximity? The Court considered the alleged conduct against the quoted principles governing inferential instigation and ordinary domestic discord. How was the tentative standard at the charge stage to be applied without prematurely conducting a full trial? The Court did not determine whether the witness accounts were true, diagnose the deceased as hypersensitive or assign legal fault for domestic arrangements unrelated to abetment.

5. Ratio / Findings : The Judge first set out Sections 306 and 107, then quoted and discussed the Supreme Court decisions requiring intention and a positive contribution to suicide. Instigation may be inferred from conduct over time; direct words are unnecessary if the conduct reasonably and deliberately creates an intolerable situation with a causal connection to suicide. These principles carry important qualifications. An angry quarrel or ordinary discord, without an intention that suicide follow, is insufficient. Harassment alone does not establish the proximate incitement described in *Amalendu Pal*. A person's decision to die does not prove that the spouse instigated, conspired in or intentionally aided the suicide. *Orilal Jaiswal* and the related passages caution against treating a reaction to ordinary domestic differences as sufficient without considering whether comparable conduct would induce a person in similar circumstances to commit suicide and whether the accused's conduct played the legally required part. The High Court applied these principles to assess the allegations at the charge stage. It neither conferred categorical immunity on spouses nor required an express verbal invitation to suicide in every case.

The Court grouped the allegations into eight categories in paragraph 22. Nisha was alleged to have left the house once in 2016, behaved badly towards her in-laws, sometimes failed to prepare food before her husband left for work, shopped while a neighbour watched the child, and left him to mop and wash clothes. She was also alleged to have visited her parents without permission, danced at her brother's wedding and quarrelled when he objected, and insisted that they return together to Pali on 18 July 2021. The Court did not treat her dancing, movement, parental visits or the allocation of household work as acts establishing abetment of suicide. Even accepting the prosecution's account and its sequence of events, none disclosed deliberate conduct intended to push Preetam towards suicide, direct or indirect incitement with the necessary connection, or intentional facilitation of death. The Court described the allegations as trivial domestic events of a kind generally occurring in households. It observed that even counsel for the State and complainant could not identify which alleged facts constituted statutory abetment. The order's factual summary also mentions the wife's objection to her husband's monthly payment to his mother and her watching a crime television programme.

Praveen Pradhan and *Amit Kapur* precluded a final evaluation or marshalling of the entire record as though after trial. The High Court could nevertheless conclude that the prosecution's own version did not support an inference of the ingredients of the offence. It expressly reasoned that, even if all the allegations were accepted, there was no basis to presume instigation. Cogent and convincing material showing acts of incitement was required, rather than a bare temporal connection with the death. The order set aside the charge for want of a prima facie case of abetment. It did not declare that suicide had never followed the dispute, acquit Nisha after evidence or vindicate her factually in respect of every alleged act. The separate FIR challenge had been withdrawn; it did not result in a distinct ruling quashing the FIR.

6. Relief : The Hon'ble High Court allowed the criminal revision, set aside the order dated 18 July 2022 of the Sessions Judge, Umaria, in Sessions Trial No. 42/2022 framing a charge under Section 306 IPC, and discharged Nisha. It ordered no remand, further condition, costs or determination of the separate withdrawn MCRC. Reported citation: *ILR [2024] MP 2376*; neutral citation: *2024:MPHC-JBP:15335*.

Nisha Saket v. State of Madhya Pradesh and Others, Cr.R. no. 3161/2022, 20/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Territorial jurisdiction — Sections 177–178 CrPC — connected acts in more than one local area - The accused sought a zero FIR and transfer on the ground that the alleged sexual touching and threat had occurred in Delhi. The complainant's FIR also alleged that he had telephoned her in Morena with a job offer that induced her to travel to Delhi. On that alleged sequence, the Court treated the Morena call as part of the transaction and held that Morena police could register the FIR. It therefore rejected the territorial objection. This assessment accepted the allegations for the purposes of the writ; it neither proved the call or offence nor made unrelated contact sufficient to establish venue.

Criminal-side writ — monitoring versus supervision of investigation - *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, distinguished exceptional judicial monitoring of free, fair and timely investigative progress from

supervision of investigative methods. Such supervision risks influencing the report under Section 173(2) and the trial. Applying that distinction, the Court refused the accused's request under Article 226 for directions to obtain particular call records, bank CCTV footage and WhatsApp chats. The police remained free to investigate relevant material independently; the writ court did not select evidence or dictate the methods of investigation.

Sexual-harassment complainant — sensitive and stereotype-free process - The Court invoked *XYZ v. State of Madhya Pradesh*, order dated 5 August 2022, SLP (Cri.) No. 1674/2022, which reiterated the need for sensitivity in registration and adjudication. Through quotations from *Virender* and *Aparna Bhat*, *XYZ* cautioned against stigmatising assumptions and described trial safeguards for vulnerable witnesses. The accused's writ described the complainant as a woman of 'easy virtue' and relied on chats to challenge her claimed illiteracy. The Court did not accept those labels as findings and noted that the chats filed by the accused himself included her allegations. It ordered no trial accommodation and made no finding of guilt. The unpleaded request for notice under Section 41A, raised by reference to *Arnesh Kumar*, was not granted; anticipatory bail under Section 438 remained available. The writ was dismissed.

Case-note :- ***1. Facts :*** Respondent No. 4 lodged the report on which Crime No. 736/2022 was registered at Police Station Kotwali, Morena, alleging offences under Sections 354 and 506 IPC. According to the FIR as recounted by the Judge, she had lost her husband in 2013, lived with her children in rented premises and was looking for work. About eight days before the report, she allegedly received calls in Morena from a person identifying himself as Nishant Mishra. He represented that he worked at Mahindra Kotak Bank in Noida and could help destitute women obtain employment. She travelled to Delhi on 20 July 2022 and met him near the bank at about 6 p.m. After tea, she allegedly followed him to an empty plot on the promise of discussing a job. She alleged that he held her hand, began putting his hand inside her clothing to touch her breast, and threatened to kill her if she did not satisfy him in exchange for employment. She said that she escaped, returned to Morena, told her brother and lodged the FIR on 24 July. These particulars remained allegations, rather than final findings of assault or intimidation.

Nishant filed Writ Petition No. 17991 of 2022 under Article 226, principally seeking a direction requiring the investigating officer to obtain the complainant's call detail records, bank CCTV footage and WhatsApp chats. In argument, he submitted that the entire physical incident had occurred in Delhi, so Morena police lacked territorial jurisdiction and should have registered a zero FIR for transfer. His representation to the police asserted that the complainant's mobile location would show that she had never come to Delhi. It used the disparaging description 'easy virtue' and alleged false implication through a honey trap. His counsel also suggested that WhatsApp messages contradicted her claim to be illiterate. These assertions were not adjudicated as proved. After argument, he relied on *Arnesh Kumar* to seek a notice under Section 41A, although the request was neither pleaded nor specifically made in the writ prayers. The State appeared. The order recorded no trial or complete body of investigation evidence. The Judge considered the FIR's sequence of events, the requested control over investigation, the precedent requiring sensitivity towards complainants and the unpleaded concern about arrest, then dismissed the writ.

2. Precedents — Considered : *Manohar Lal Sharma v. Principal Secretary and others, (2014) 2 SCC 532*, paragraphs 38–39, was quoted and followed on the distinction between monitoring and supervising an investigation. In rare and compelling circumstances, monitoring keeps watch over proper, impartial and timely progress without external interference. Supervision directs the execution or manner of the inquiry. The Supreme Court warned that a superior court's direction of investigative conclusions could effectively shape the report under Section 173(2) and impermissibly influence the later trial. The High Court applied that principle directly: directing the collection of particular records, video footage and messages at the accused's request would dictate investigative methods, rather than monitor the investigation's integrity. It neither found general police misconduct nor ordered a monitoring regime. The Judge next quoted *XYZ v. State of Madhya Pradesh*, SLP (Cri.) No. 1674/2022, order dated 5 August 2022, paragraphs 30–35, at length. *XYZ* stressed that courts must treat complainants of sexual harassment and assault sensitively, recognising

trauma, stigma and barriers to complaint registration, while ascertaining the complete truth and the accused's actual complicity. It reproduced a passage from the *Delhi High Court's decision in Virender v. State of NCT of Delhi* on the trial judge's responsibility to prevent embarrassment from concealing material evidence. *XYZ* also quoted *Aparna Bhat v. State of Madhya Pradesh* against paternalistic or misogynistic courtroom stereotypes and extraneous reasoning that undermines a survivor's confidence in neutral justice. The nested references to *State of Maharashtra v. Bandu @ Daulat and Smruti Tukaram Badade* concerned vulnerable-witness deposition centres. This High Court issued no such directions. *XYZ* described trial courts' duties, subject to the stated qualifications, including appropriate in-camera proceedings, a screen or the accused's departure during testimony, respectful questions, and completion of cross-examination in one sitting where possible. The present Court invoked these principles in a writ containing disparaging allegations against the complainant. It did not order those accommodations or determine the truth of the underlying charge.

Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273, was invoked only by counsel in paragraph 11 to seek a notice under Section 41A. The Judge noted that the petition pleaded no basis for fearing unlawful police action and sought no such relief, and that the accused could apply for anticipatory bail under Section 438. The present order made no independent ruling on the detailed arrest and notice standards in *Arnesh Kumar.*

3. Statutes considered : Sections 177 and 178 CrPC were reproduced. Section 177 states the ordinary rule that inquiry and trial take place where the offence was committed. Section 178 permits inquiry or trial in any of several local areas where the place of commission is uncertain, the offence is committed partly in different areas, a continuing offence extends across areas, or the offence consists of several acts in different local areas. The Judge applied this venue framework to FIR registration because, on the FIR's account, the inducement call reached the complainant in Morena before the alleged contact in Delhi. He neither determined final trial venue on proved evidence nor addressed a later jurisdictional challenge after investigation. Sections 354 and 506 IPC were the registered allegations of sexual assault or criminal force and intimidation; their ultimate elements and guilt were not tried. Article 226 supplied the writ power invoked for investigative directions, rather than an entitlement to direct every evidentiary step taken by the police. Section 173(2) CrPC appeared in *Manohar Lal Sharma*'s warning against pre-empting the investigator's report and the trial court's decision. Sections 41A and 438 CrPC arose only in connection with the accused's late request for notice and the available anticipatory-bail remedy. Section 327 CrPC and Sections 376, 376A–D IPC appeared in the *XYZ* quotation as examples of trial protection for more serious sexual offences. They were neither charges in this FIR nor the basis of accommodations actually ordered.

4. Issues : Did the alleged job-inducement calls received by the complainant in Morena form a sufficient part of the reported transaction there under Sections 177–178, despite the physical touching and threat alleged in Delhi? If so, was registration by Morena police free from the asserted jurisdictional error? Could the accused invoke Article 226 to compel collection of specific electronic and CCTV evidence for his proposed defence, or would that amount to prohibited supervision rather than permissible monitoring? How should the Supreme Court's guidance on sensitivity towards sexual-harassment complainants inform the treatment of a writ containing demeaning descriptions, while preserving fair investigation and proof? Finally, should the Court entertain an unpleaded request for notice under Section 41A based only on counsel's oral reliance on *Arnesh Kumar*? The Court did not decide the truth of the FIR, the preservation or admissibility of any digital item, the accused's risk of arrest or the merits of the sexual-offence allegation.

5. Ratio / Findings : On jurisdiction, the Judge read the FIR as describing connected acts. The accused allegedly called the complainant in Morena, where she lived, promised her work, persuaded her to travel to Delhi and then committed the charged conduct there. The calls were therefore treated as part of the alleged acts giving rise to the case in Morena. Section 178 expressly permits jurisdiction in more than one local area where an offence is partly committed, or consists of acts, in different areas. On that basis, the Court found no error in the registration of the FIR by Kotwali police, Morena. The allegation that physical touching occurred in Delhi did not, by itself, require the proposed zero FIR and transfer to Delhi. This was an assessment of jurisdiction on the face of the FIR. It neither established that the calls

had occurred nor treated an unrelated preliminary conversation as independently proving an offence.

The Court left the assessment and collection of the requested material to the investigator in accordance with law. *Manohar Lal Sharma* did not authorise the writ court to select the precise investigative leads favoured by a suspect. Monitoring concerns whether an investigation proceeds fairly and without interference. Supervision directs how the investigation is conducted and may impair the trial court's independent decision. The writ prayers specified the evidence that police should obtain; granting them would therefore amount to supervision. The Court refused those particular directions and left ordinary investigation to proceed. It neither declared digital evidence inadmissible nor decided whether the complainant had travelled to Delhi. Nor did it hold that Article 226 provides no remedy of any kind to secure a fair investigation.

The *XYZ* passage provided the context for treating the complainant sensitively. The Court reproduced the Supreme Court's concerns about stigma, stereotyping, access to FIR registration and care for trial witnesses. The accused's police representation used the 'easy virtue' label and alleged a honey trap, while counsel relied on chats to challenge the claim of illiteracy. The Court did not adopt either characterisation. Instead, it observed that the petitioner himself had filed WhatsApp chats containing specific allegations by the complainant against him. Considering the record as a whole, it found no reason to entertain the writ. That observation neither authenticated the chats nor adjudicated them as trial evidence. The Judge also did not order the witness measures listed in *XYZ* in this case.

On Section 41A, the Judge considered counsel's late reliance on *Arnesh Kumar.* He noted that the petition pleaded no apprehension that the police would act unlawfully and contained no prayer for such notice. He also noted the available remedy of an application for anticipatory bail under Section 438. He issued no advance direction concerning arrest. The dismissal rested on rejection of the territorial and investigative-control objections, the lack of a basis for the new notice request and the limited record. It neither convicted nor exonerated either party.

6. Relief : The Hon'ble High Court dismissed the writ petition. Registration of Crime No. 736/2022 at Morena under Sections 354 and 506 IPC remained undisturbed. No order required collection of call data, bank CCTV footage or WhatsApp material. The Court ordered no FIR transfer, Section 41A notice, special witness accommodation or costs. The accused remained free to seek anticipatory bail under Section 438 through the ordinary remedy, if appropriate.

Nishant Mishra v. State of Madhya Pradesh and Others, W.P. no. 17991/2022, 17/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers — serious sexual offences — marriage or compromise after FIR - In a petition under Section 482 to quash allegations of repeated rape under Section 376(2)(n) IPC and aggravated penetrative sexual assault under POCSO Sections 5(l)/6, the accused relied on an Arya Samaj marriage certificate dated 18 March 2019 and asserted that conviction was impossible. The Court applied *State of M.P. v. Madanlal, (2015) 7 SCC 681*, which rejects compromise through a later marriage or a lenient approach in rape cases. *Shimbhu v. State of Haryana, (2014) 13 SCC 318*, cautions against pressure on a complainant and reliance on settlement to mitigate rape. *State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688*, and *Parbatbhai Aahir v. State of Gujarat, (2017) 9 SCC 641*, distinguish statutory compounding under Section 320 from discretionary inherent quashing and require consideration of seriousness, public interest and social impact. Applying those limits to the minor's allegations of repeated sexual relations, pregnancy and a subsequent marriage, the Court refused to treat the wedding as a ground for ending the prosecution. The cited coordinate decision in *Arif Khan* had treated *Pankaj Parmar* as per incuriam for overlooking higher authority and POCSO's special-statute context. The present decision reproduced and followed that reasoning.

Sexual offences — minor's consent — later marriage - The school marksheet recorded the complainant's date of birth as 1 February 2001. The alleged final act occurred on 27 June 2018, before she turned eighteen. The Court held that her consent was immaterial to the alleged intercourse while she was a minor, and that a later marriage could not make it a ground for compromise. It quoted *Satish Kumar Jayanti Lal Dabgar, (2015) 7 SCC 359*, on why a minor's purported sexual consent has no legal effect. That judgment concerned a statutory provision

applicable to girls under sixteen; the present Court referred to Section 375 Sixthly and POCSO's protection of children under eighteen. This was a refusal to quash on the face of the allegations, not a finding that the acts or the validity of the marriage had been proved.

Evidence — possible hostility of prosecutrix — independent proof - *Hemudan Nanbha Gadhvi v. State of Gujarat, Criminal Appeal No. 913/2016*, order dated 28 September 2018, held on its own record that a hostile complainant did not require acquittal where medical, serological and circumstantial material remained. The High Court applied the narrower principle that marriage and a possible change of testimony could not guarantee acquittal here. The complainant's blood and the newborn's remains had been sent for DNA testing; the order recorded no result. The Court presumed neither a positive DNA result nor conviction. The accused's absconding and the charge sheet filed under Section 299 CrPC were additional circumstances. The petition was dismissed.

Case-note :- ***1. Facts :*** Nitesh Raghuvanshi sought quashing under Section 482 CrPC of Crime No. 377/2018, registered at Police Station Basoda City, Vidisha, under Section 376(2)(n) IPC and Sections 5(l)/6 of the Protection of Children from Sexual Offences Act, 2012. In her FIR dated 24 July 2018, the complainant described herself as a Class IX pupil in 2017 who walked to school. Nitesh, an ICICI Bank employee, used to visit a relative in her village. She alleged that a relationship developed and that he repeatedly had sexual intercourse with her on a promise of marriage. The order recounted an earlier rape case and recorded his arrest as 24 March 2017. It described a renewed assurance of marriage that led her to change her statement, his release on bail and further intercourse. She alleged a final act on 27 June 2018 while attending a marriage at Basoda, followed by pregnancy and his refusal to marry. These were allegations and procedural history, rather than findings of guilt in this proceeding. The judgment recorded the first arrest and the later 2018 FIR in that sequence, without supplying further details of the earlier case.

The prosecution relied on the complainant's Class IX marksheet, which recorded her date of birth as 1 February 2001. On that basis, she was under eighteen at the alleged act in June 2018 and when the FIR was lodged in July. The order recorded that she delivered a child on 19 December 2018 and that the child died during treatment. It reported asphyxia associated with premature lungs and stated that her blood and the child's body parts had been sent for DNA testing. It recorded no returned test result. Nitesh produced a marriage certificate dated 18 March 2019 from Arya Samaj Mandir, Indore. He submitted that they were living peacefully and that she was pregnant again. He contended that the allegations were false, continued prosecution would ruin both their lives, and conviction was impossible after marriage. The State opposed quashing, relying on the complainant's minority and the serious allegations. It also stated that a charge sheet had been filed under Section 299 CrPC while Nitesh was absconding. The Court considered whether the later marriage and an anticipated change of testimony justified quashing. It did not conduct a trial on the age document's authenticity, scientific proof, marriage validity or the rape allegations.

2. Precedents — Considered : *State of M.P. v. Madanlal, (2015) 7 SCC 681*, paragraphs 18–22, was quoted and formed a central basis of the decision. The Supreme Court rejected compromise in cases of rape or attempted rape and warned that an offender's offer of marriage could pressure a complainant rather than justify a lenient approach. It discussed dignity and the public interest extending beyond private reconciliation. *Madanlal* quoted *Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77*, on dignity. It also explained *Shimbhu v. State of Haryana, (2014) 13 SCC 318*, and the confined facts of *Baldev Singh v. State of Punjab, (2011) 13 SCC 705*, and *Ravindra v. State of M.P., (2015) 4 SCC 491*. Those earlier sentence reductions, in which compromise was among the circumstances, were not binding precedents for general leniency. The present Judge applied *Madanlal*'s rejection of a subsequent marriage as a ground for Section 482 quashing; he did not impose a sentence. *Shimbhu* was also quoted directly later. It states that rape is noncompoundable and that compromise may result from pressure rather than free consent. It also discusses the old Section 376(2) sentencing proviso and its deletion by the 2013 amendment. That sentencing context differs from the present FIR, but the caution about settlement supported refusal to quash.

State of M.P. v. Laxmi Narayan, (2019) 5 SCC 688, was quoted on the error of mechanically quashing a serious FIR under Section 307/34 on compromise without considering noncompoundability, social impact and the character of the offence as a public

wrong. That case concerned attempted murder, rather than the rape and POCSO allegations here. Its general caution against relying on private settlement and a predicted acquittal was applied by analogy. *Shiji* and *Vikram Anantrai Doshi* appeared within the reproduced reasoning. *Parbatbhai Aahir v. State of Gujarat, (2017) 9 SCC 641*, paragraph 16, was also quoted extensively. It distinguishes statutory compounding under Section 320 from the inherent power preserved by Section 482. That power serves the ends of justice or prevents abuse of process, and its exercise requires attention to the circumstances and gravity of the case. Appropriate private commercial disputes may be quashed after settlement where conviction is remote and continued proceedings would cause oppression and prejudice. The framework excludes heinous public offences such as rape and recognises the public interests involved in economic offences. The High Court applied the part of that framework concerning serious offences. The civil, commercial and economic examples describe its boundaries; they are not facts of this sexual-offence case.

The Court reproduced *the Delhi High Court's decision in Vikash Kumar @ Sonu v. State*, Crl.M.C. No. 2763/2017, 1 August 2017. It declined to treat marriage as a basis for quashing a rape FIR and described another similar Delhi order whose special-leave challenge had been dismissed. *Gian Singh*, *Deepak Gulati* and the other nested references formed part of that context. The Judge also quoted the coordinate decision in *Arif Khan v. State of M.P.*, MCRC No. 39588/2019, 20 September 2019. *Arif Khan* had treated *Pankaj Parmar* as per incuriam because it had not considered *Madanlal*, *Laxmi Narayan*, *Shimbhu*, the *Vikash Kumar* material, POCSO's special-statute character or Section 375 Sixthly. The present Judge used that discussion as reinforcement; his independent refusal rested principally on the quoted Supreme Court limits and the minor's allegations. *Gian Singh* and *Narinder Singh* also appear in the quoted *Arif Khan* reasoning. *Hemudan Nanbha Gadhvi v. State of Gujarat, Criminal Appeal No. 913 of 2016*, order dated 28 September 2018, was quoted in rejecting the submission that a complainant's future hostility necessarily eliminates the prospect of conviction. The conviction in that case was sustained on the combined identification, medical and serological evidence, although the complainant did not identify the accused in court. The nested *extract from Iqbal v. State of U.P.* explains that a test identification parade is not substantive evidence without an incriminating connection. The nested extract from *Nar Singh v. State of Haryana* concerns a fact-sensitive assessment of an omission under Section 313 CrPC and the balance of prejudice. The High Court relied on *Hemudan*'s general point about independent evidence. It did not apply that case's particular serology or Section 313 outcome as findings against Nitesh. Samples in his case had been sent for DNA testing; no positive result was reported.

Satish Kumar Jayanti Lal Dabgar v. State of Gujarat, (2015) 7 SCC 359, was quoted on a prosecutrix's age and the absence of legal effect in a minor girl's purported sexual consent, even after marriage. The extract expressly concerned a girl below sixteen in its own statutory context. The present case involved a girl under eighteen and POCSO. Through the *Arif Khan* passage, the Court referred to Section 375 Sixthly and applied the cited under-eighteen rule to the present IPC and POCSO allegations. None of the quoted Supreme Court authorities was used to decide an actual DNA result, the marriage's legal status or guilt after trial.

3. Statutes considered : Section 482 CrPC preserved the High Court's inherent power invoked to quash the FIR. That power is distinct from compounding under Section 320 CrPC. Noncompoundability alone does not end the inherent-powers inquiry in every case. Here, however, seriousness and public impact made settlement-based termination inappropriate for the alleged rape and POCSO offence. Section 376(2)(n) IPC was the repeated-rape charge. Section 375 Sixthly was invoked concerning intercourse with a girl below eighteen, irrespective of purported consent. POCSO Sections 5(l)/6 were the recorded aggravated penetrative sexual assault allegation and punishment provision. The cited coordinate decision treated them as part of a special child-protection regime. Section 299 CrPC was the basis on which the State reported a charge sheet in the accused's absence. The Court recorded his absconding without examining the legality of that course. Section 45 Evidence Act and Section 313 CrPC appeared in the quoted *Hemudan* conviction reasoning concerning expert serology and an omitted question in the accused's examination. Neither was applied to a completed trial of the present applicant. *Shimbhu*'s discussion of the old Section 376(2) sentencing proviso and its deletion by the 2013 amendment

concerned sentence reduction in other cases, rather than an operative sentencing issue here.

4. Issues : Could a marriage certificate obtained after an alleged series of sexual acts against a minor, together with a claim of peaceful married life, justify quashing this grave noncompoundable FIR under Section 482 on the basis of private settlement? Could the complainant's apparent earlier change of version, possible future hostility or the accused's predicted acquittal justify bypassing trial if other scientific or circumstantial proof might remain? Did her school-record age and the statutory treatment of a minor's consent prevent purported agreement or later marriage from negating the sexual-offence allegations on the face of the record? The Court did not resolve disputed paternity, DNA evidence, trial proof of the age document, the outcome of the alleged earlier prosecution or the validity of the 2019 ceremony.

5. Ratio / Findings : The Court considered the FIR and case diary at the limited stage of a quashing petition. The marksheet's recorded birth date placed the complainant below eighteen even when the FIR was lodged. She alleged repeated intercourse on promises of marriage and a final act in June 2018 while underage, followed by pregnancy and childbirth. The Court did not conclusively determine the truth of those allegations. It found a serious prima facie prosecution that could not be ended on the accused's claim of a later wedding. *Madanlal* and *Shimbhu* address the risk of using a proposal or act of marriage to pressure a complainant into compromising rape. *Laxmi Narayan* and *Parbatbhai* require attention to gravity and the social dimension, rather than mechanically equating settlement with a remote prospect of conviction. On that combined basis, the Judge held that marriage was not a good ground for quashing. In the context of the prior changed statement and renewed alleged exploitation, he described the marriage as apparently an 'eyewash' capable of pressuring the complainant again. That was his assessment of the quashing request, rather than a separate decision invalidating the ceremony or convicting Nitesh.

The complainant's minority separately answered any contention that she had agreed to the alleged acts. *Satish Kumar* explained why a child's apparent agreement is not informed legal consent in the statutory context of a girl under sixteen. The present Court applied the under-eighteen rule cited for its own IPC and POCSO allegations. It reasoned that her later willingness to marry could neither retrospectively validate the earlier sexual acts nor permit a compromise of serious offences. The earlier change of version after an alleged promise was not treated as proof that the later allegation was true or false; it remained part of the alleged sequence.

The accused's prediction that marriage meant acquittal was separately rejected. *Hemudan* shows that a complainant's hostility or failure to identify the accused need not prevent conviction where reliable independent evidence remains. In this case, samples had been sent for DNA analysis. The Court neither claimed a positive test nor determined paternity or guaranteed conviction. The State also reported a charge sheet under Section 299 and the accused's continued absconding. These were additional circumstances noted in the final refusal. Credibility, expert results, the applicable ingredients and the defence remained matters for the criminal proceeding, rather than compromise-based quashing under Section 482.

6. Relief : The Hon'ble High Court dismissed the application. The FIR in Crime No. 377/2018 at Basoda City under Section 376(2)(n) IPC and POCSO Sections 5(l)/6 remained in force, and the filed charge sheet was not quashed. The Court made no finding of guilt, DNA parentage or marriage validity, and granted no sentencing relief.

Nitesh Raghuvanshi v. State of M.P. and Others, M.Cr.C. no. 34068/2019, 28/11/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Cruelty — dowry-linked deprivation — specific allegations against relatives - A wife's FIR under Section 498A IPC and the Dowry Prohibition Act alleged a demand for an air-conditioned car, concealment of food, withholding of meals and water, and her continued exclusion from the matrimonial home. The Court held that dowry-related deprivation of food would amount to physical and mental harassment and that exclusion from the matrimonial home for an unmet dowry demand would amount to mental harassment. It found sufficiently particular allegations against the brother-in-law and his wife and rejected the contention that the FIR against the five applicants was merely omnibus. The Court applied *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, which permits a triable cruelty complaint to proceed. Its nested

references to *Kailash Chandra Agrawal* and *Kans Raj* caution against implicating distant relatives without tangible roles. This was a face-value assessment under Section 482, rather than a finding that every individual demand or act had been proved.

Inherent powers — divorce petition and later FIR — counterblast inference - The wife reported alleged cruelty the day after conciliation in her husband's divorce proceeding. The husband relied on that sequence, the separation and an earlier complaint about his access to her phone and online accounts to allege fabrication. Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that divorce litigation and delay in reporting do not automatically make a cognizable cruelty FIR retaliatory. Efforts at reconciliation may explain delay. Civil and criminal proceedings are independent and involve different standards of proof; when deciding whether a prima facie offence appears under Section 482, the Court should not substitute extraneous civil or investigative findings for the FIR's allegations. The earlier complaint and accusations of adultery showed strained relations, rather than establishing the later FIR's falsity. The Court's observation was conditional: an accusation of adultery, if found false, would itself amount to cruelty. The quashing application was dismissed; the charges and guilt remained matters for trial.

Case-note :- ***1. Facts :*** Nitish Umariya, his elder brother Ashwini, Ashwini's wife Vaishali, Nitish's mother Sunita and his father Deen Dayal applied under Section 482 CrPC to quash Crime No. 396/2019, registered at Police Station Harda under Sections 498A, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act. According to the impugned FIR, respondent No. 2 married Nitish on 27 April 2018 at Itarsi. She alleged that her father had provided dowry and deposited ₹1,80,000 in Deen Dayal's account. Despite this, the applicants demanded an air-conditioned car, hid food and deprived her of meals and water, causing physical and mental harassment. She stated that she had remained at her parental home for about a year and had not been taken back because the demand remained unmet. Those assertions had been investigated and a charge sheet filed; they were not facts proved by the quashing order.

The applicants relied on other litigation and competing allegations. The wife had earlier reported Nitish under Section 354D IPC and Section 66C of the Information Technology Act. She alleged that he had accessed her Facebook and email accounts, retained her Oppo A57 phone, changed account and recovery details, and accused her of a relationship with Sarvesh Gupta. Her earlier report also stated that Ashwini had supported retaining the phone for possible use in court. The husband had filed a restitution petition under Section 9 of the Hindu Marriage Act and later withdrawn it. He had also complained to the police that she was having an affair and had threatened false cases, and had filed a divorce suit alleging cruelty and an extramarital relationship. The parties attended Family Court conciliation on 20 August 2019. She lodged the impugned cruelty and dowry FIR the following day, 21 August. Counsel contended that this timing made it a counterblast and that the earlier cyber and stalking FIR contained no dowry allegation. Counsel also submitted that the relatives lived separately and faced only general allegations, while the wife herself was living away. These remained defence contentions. The Court decided whether the FIR warranted quashing on its face, without determining which disputed account was true.

2. Precedents — Considered : *Taramani Parakh v. State of Madhya Pradesh and Others, 2015:INSC:221, (2015) 11 SCC 260*, paragraphs 12 –14, was quoted and applied to the sufficiency of the family cruelty complaint on its face. Its embedded quotation from *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, warns against summoning distant relatives who were not named in the FIR or were later named without a particular role, unless tangible material supports their involvement. *Kailash*, in turn, quoted *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, on the danger of routinely implicating all in-laws in dowry cases. The same passage states that a quashing court does not determine the truth of competing versions where the complaint raises triable issues, although it may intervene against abuse apparent on the face of the proceedings. It refers to *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* as quashing parameters. *Taramani*'s own complaint specified harassment and forced separation; the Supreme Court held that truth was for trial and quashing at that stage was impermissible. The present Judge considered the caution about unspecified roles alongside allegations that Ashwini and Vaishali withheld food and that the other applicants were named in the demand and exclusion narrative. He held that the FIR was not merely omnibus, leaving

the truth of the allegations and each person's participation for trial.

Pratibha v. Rameshwari Devi, 2007:INSC:929, (2007) 12 SCC 369, paragraphs 14–16 and 22, was quoted on the separate counterblast question. The Supreme Court disapproved quashing a wife's FIR on extraneous material or drawing an adverse inference from delay while the family had been attempting reconciliation. It also explained that a husband's divorce case does not automatically end independent criminal allegations arising from the same relationship. At the FIR stage, the question is whether the allegations disclose a prima facie cognizable offence. An investigation report or civil findings should not be used to determine contested truth as though at trial. The present Court applied that principle in rejecting an inevitable inference of retaliation from the wife's filing immediately after divorce conciliation. It suggested that she might have remained quiet in the hope of saving the marriage; it did not conclusively establish that motivation. *Pratibha*'s quoted test also refers to the *Bhajan Lal* categories.

3. Statutes considered : Section 498A IPC was the principal cruelty charge. Addressing the alleged withholding of food and water, the Court held that depriving a married woman of food because a dowry demand was unmet would amount to physical and mental harassment. Compelling her to remain at her parents' home on that basis would amount to mental harassment. Sections 3/4 of the Dowry Prohibition Act concerned the alleged demand and earlier payment. Sections 506 and 34 IPC were included in the FIR's offence list. Section 482 CrPC governed the limited inherent review of the FIR and filed charge sheet, without determination of contested evidence. Section 354D IPC and Section 66C of the IT Act concerned the earlier separate report about alleged phone and account access. They provided context for marital strain and were not the subject of this quashing application. The restitution proceeding under Section 9 of the Hindu Marriage Act and the husband's divorce claim were civil and matrimonial proceedings relied on in the counterblast argument. The Court stated that civil findings do not bind the criminal court and that the standards of proof differ. It made no operative order in the Family Court case.

4. Issues : Did the FIR, treated as allegations rather than findings, specify dowry-related deprivation and exclusion sufficient to sustain prosecution under Section 498A against the husband and named in-laws, particularly Ashwini and Vaishali? Or was it merely a vague, omnibus account warranting quashing? Did the timing immediately after divorce conciliation, the earlier complaint's lack of dowry detail and the husband's earlier police and civil proceedings necessarily establish a retaliatory counterblast? Could the Court rely on asserted civil facts or decide whose account was true at the Section 482 stage? The decision did not require proof of a threat under Section 506, verification of the alleged bank transfer or online-account access, or a determination that the adultery accusation was false.

5. Ratio / Findings : The Judge first examined the FIR, rather than treating family status alone as sufficient either to prosecute or to exonerate. It specified a car demand and alleged that essentials, including food and water, were withheld to exert dowry pressure. Deliberate deprivation of food on that basis would itself amount to physical and mental harassment. Requiring the wife to remain at her parents' home because the demand was unmet would amount to mental harassment under Section 498A. The Court identified alleged roles for Ashwini and Vaishali in withholding food and hiding eatables, and described the allegations against each applicant as sufficiently specific. *Taramani Parakh* supported allowing the triable cruelty case to proceed. The nested passages from *Kailash* and *Kans Raj* cautioned against implicating distant relatives merely by relationship, without particular roles. The judgment's collective formulation did not prove which applicant actually demanded the car, hid food or excluded the complainant; those matters remained for trial.

On the counterblast argument, the Judge did not treat filing the day after conciliation as establishing malice. *Pratibha* explains why a spouse may delay a complaint while seeking reconciliation and why civil litigation does not displace criminal process. Here, the earlier phone and account complaint and the husband's accusations of an affair demonstrated longstanding discord, which could coexist with a later cruelty claim. The Court offered a possible explanation: she may have hoped to preserve the marriage until the divorce step made reconciliation unlikely. This was an inference against automatic quashing, rather than an established account of her private motivation. The criminal FIR's allegations supplied the threshold material. Civil allegations and findings would not bind the criminal court, which applies a different standard of proof. The Court

stated that an accusation of adultery, if found false, would itself amount to cruelty. Since falsity was not decided, that statement did not establish cruelty by Nitish on this record.

The Judge found specific allegations of dowry-related deprivation on the face of the FIR and, applying *Pratibha*, rejected timing alone as proof of abuse. The decision was made at the Section 482 threshold after a charge sheet had been filed. It neither established every allegation as proved nor barred the defence at trial.

6. Relief : The Hon'ble High Court dismissed the application. The FIR and filed charge sheet in Crime No. 396/2019 remained in force against all five applicants under the listed IPC and Dowry Prohibition Act provisions, subject to the ordinary trial process and defences. The Court made no finding of guilt, separate order in the matrimonial proceedings, costs order or grant of relief concerning the earlier cyber and stalking report.

Nitish Umariya and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 46355/2019, 04/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers / matrimonial cruelty — relatives' specific role - In *Nitin Ahire v. State of Madhya Pradesh*, the Court considered *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, which cautions against drawing all in-laws into a dowry prosecution merely through relationship or conjecture. Overt acts attributed to relatives require proof beyond reasonable doubt at trial. The Court also considered *Monju Roy v. State of W.B., (2015) 13 SCC 693*, which requires a specific role and tangible material before distant relatives are summoned. Its qualifications caution against weighing unnatural death and dowry harassment in golden scales and recognise that a husband and his parents may stand on a different footing. *Chandralekha v. State of Rajasthan* was applied in the Section 482 context: extremely general accusations against relatives, considered with the attendant circumstances, may make continued proceedings an abuse of process. These authorities were used to assess the allegations against the unmarried sister-in-law individually, rather than to absolve the husband or mother-in-law.

Partial quashing — collective allegation and procedural stage - The complaint attributed the telephone demand for ₹15 lakh to the mother-in-law. It then alleged collectively that Nitin and Nutan abused and beat the complainant when the demand remained unmet. The Court found no specific date or clear allegation of beating by Nutan and quashed Crime No. 115/2020 and R.C.T. No. 10440/2020 against her under Section 482 CrPC. Although charges had been framed and evidence was being recorded, the respondent conceded that the ongoing trial did not make her petition infructuous. Nitin and Kalpana withdrew their requests in view of *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*. The Court preserved their available trial defences and expressly directed that their prosecution continue. Withdrawal amounted neither to an acquittal on the merits nor to a finding of guilt.

Case-note :- ***1. Facts :*** The second respondent married Nitin Ahire on 10 December 2018. She alleged that his unmarried sister, Nutan, lived with them in Bombay. According to the FIR, matters were initially normal, but Nitin's mother Kalpana later demanded ₹15 lakh by telephone to purchase a house in Bombay. Nitin and Nutan were then alleged to have abused and beaten the complainant and pressed her to obtain the money from her parents or leave the matrimonial home. Nutan also allegedly abused the complainant's parents when she resisted by pointing to the expenses they had incurred on the marriage. These were complaint allegations, rather than facts established by evidence in the Section 482 order.

The three applicants sought quashing of Crime No. 115/2020, registered at Mahila Thana, Bhopal, under Sections 498A/34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, together with the resulting R.C.T. No. 10440/2020 before the JMFC, Bhopal. Nutan's counsel stated that the complainant had lived with the family for only 12 days. Counsel referred to a maintenance application under Section 125 CrPC, filed on 6 February 2020, which contained no allegation of a dowry demand by Nutan. Counsel also cited Nitin's notice under Section 9 of the Hindu Marriage Act, sent on 3 March and received on 13 March, followed by the complaint and FIR on 9 October 2020. The submission was that the allegations against the sister-in-law were vague and omnibus. These dates and asserted omissions formed part of counsel's argument; the Court did not expressly treat the maintenance pleading or matrimonial notice as conclusive records

exonerating her. The respondent opposed quashing and stated that charges had been framed and evidence was being recorded. The respondent nevertheless conceded that the trial's progress alone did not make the Section 482 petition infructuous. Nitin and Kalpana sought permission to withdraw their requests by reference to *Taramani Parakh*. The Judge dismissed their applications as withdrawn, with liberty to raise available trial defences, and considered Nutan's application separately.

2. Precedents — Considered : *Taramani Parakh v. State of M.P., 2015:INSC:221 : (2015) 11 SCC 260*, was cited by the applicants' lawyer as the reason for withdrawing the husband and mother's applications. It explained that procedural step; it was neither a separate holding on their guilt nor a new substantive test applied to Nutan.

The Judge quoted *Kans Raj v. State of Punjab, 2000:INSC:251 : (2000) 5 SCC 207*, on the danger of implicating all of a husband's relatives in dowry-death proceedings merely because of family ties. Overt acts attributed to other relatives must be proved beyond reasonable doubt; conjecture cannot establish guilt. That proof requirement arose in *Kans Raj*'s trial and dowry-death context. In the present cruelty and dowry-demand prosecution, the Judge used its caution against indiscriminate attribution to examine Nutan's individual role. He did not declare that proof at trial had already failed.

Monju Roy v. State of W.B., (2015) 13 SCC 693, was quoted more extensively. On its own record, it upheld a finding of dowry harassment while warning that exaggeration may lead to all family members being named. Its relevant summoning principle requires a specific role and tangible material against distant relatives; naming them alone is insufficient. A further qualification cautions against weighing unnatural death and harassment in 'golden scales'. It distinguishes omnibus allegations against siblings and other relatives from the position of a husband and parents. *Monju Roy* quoted *Kans Raj and Raja Lal Singh v. State of Jharkhand, (2007) 15 SCC 415*; the latter discussed possible overinclusion of a brother and sister-in-law. *Raja Lal Singh*, *Kamesh Panjiyar* and other names appeared within that nested *Monju Roy* quotation. The Judge applied *Monju Roy*'s specificity principle to Nutan, while maintaining the separate treatment of Nitin's and Kalpana's withdrawn requests.

Chandralekha v. State of Rajasthan, 2013 (1) UC 155, was quoted on a Section 482 disposition in which extremely general allegations, the absence of individually attributed roles, uncertainty about the relatives' residence and a six-year delay justified quashing only against those relatives. The present Judge applied the principles of individual scrutiny and possible partial quashing to Nutan. The six-year delay and married sister-in-law in *Chandralekha* belonged to that precedent; they were not facts found in the present case. The current order neither established a comparable delay nor treated residence uncertainty as decisive. It focused on the lack of a specified beating date and a clear allegation against Nutan. The authorities were not applied as blanket immunity for relatives.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction invoked to quash the FIR and connected proceedings against a particular accused. The Court exercised it after charges had been framed and evidence had begun; the respondent conceded that the application remained live. It prescribed no general deadline and did not hold that a trial could always be interrupted regardless of the allegations. Section 498A and Section 34 IPC, and Sections 3 and 4 of the Dowry Prohibition Act, were the registered cruelty, common-intention and dowry provisions. The ruling addressed whether the complaint supplied a sufficiently clear, individual basis for prosecuting Nutan. Nitin and Kalpana withdrew their requests without a decision on the merits. Section 125 CrPC and Section 9 of the Hindu Marriage Act appeared in counsel's chronology concerning maintenance and a restitution notice. The Court adjudicated neither maintenance entitlement nor matrimonial relief.

4. Issues : Could the cruelty and dowry FIR and pending trial continue against Nutan, an unmarried sister-in-law, when the telephone demand was attributed to the mother-in-law and the subsequent abuse and beating were alleged collectively, without a dated or clear act by Nutan? This required the Judge to distinguish family association alone from a sufficiently particular individual allegation under Section 482. Did the progress of the trial to framed charges and evidence extinguish the quashing application? The respondent conceded that it did not. The husband and mother withdrew their requests, so the merits of quashing the allegations against them were not decided. The Court did not determine the truth of the complainant's account, the defence chronology or final liability for the offences.

5. Ratio / Findings : The Court first dealt separately with the applicants. At counsel's request by reference to *Taramani Parakh*, it dismissed Nitin's and Kalpana's applications as withdrawn, preserving their available defences at trial. Nutan's challenge remained for decision. The Judge considered the Supreme Court's cautions in *Kans Raj*, *Monju Roy* and *Chandralekha*. A dowry complaint is not invalid merely because it names a relative, and allegations of harassment must not be mechanically discounted. Equally, relationship to the husband alone cannot justify prosecution where the person's role lacks adequate particulars. The Court examined the material recounted in the FIR, rather than deciding whether the complainant had proved or disproved the acts at trial.

On the FIR's account, the mother-in-law made the telephone demand for ₹15 lakh to buy a house in Bombay. The next allegation was that 'they' began misbehaving and beating the complainant when the demand remained unmet, and that Nutan abused the complainant's parents. The Judge found this insufficiently specific against Nutan. The order identified no date on which she was alleged to have beaten the complainant and found the clear particulars needed for her prosecution lacking. This concerned Nutan's individual alleged role, rather than a final finding that no demand or harm had occurred. The conclusion was that her continued prosecution was unwarranted.

The respondent acknowledged that the petition remained live even though charges had been framed and witness evidence was in progress. The Court exercised inherent jurisdiction to grant partial relief without laying down a general rule for all advanced prosecutions. Nutan's request was decided separately from the withdrawing applicants' requests. No quashing decision on the merits was made for Nitin or Kalpana, and their trial was expressly to continue. Nor did the order convert *Kans Raj*'s beyond-reasonable-doubt trial standard into a requirement to prove guilt at the FIR stage.

6. Relief : The Hon’ble High Court partially allowed the Section 482 application. It quashed Crime No. 115/2020 at Police Station Mahila Thana, District Bhopal, and R.C.T. No. 10440/2020 before the JMFC, Bhopal, only as to applicant No. 2, Nutan Ahire. The applications of applicant No. 1, Nitin Ahire, and applicant No. 3, Kalpana Ahire, were dismissed as withdrawn, with liberty to raise available trial defences; their prosecution would continue. The order did not acquit them, determine Nutan's evidentiary innocence after trial, dispose of a maintenance or matrimonial case, or quash the FIR against every named person.

Nitin Ahire and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 10692/2021, 04/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / no mini-trial at FIR stage - The Court held that the informant's allegations of a ₹500 demand for liquor, abusive words, a bucket assault and a threat could not be displaced at the quashing stage by the applicant's claim that the incident never occurred and that he had earlier complained about encroachment. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, cautioned against a roving or premature assessment before investigation was complete. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, explained *Bhajan Lal*'s requirement that inherent power be used sparingly, without testing the FIR's reliability as at trial. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, balanced the prevention of abuse against the need to avoid stifling a legitimate prosecution. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, recognised quashing where the face-value or uncontroverted material disclosed no offence; no such deficiency was shown here. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021 (30 June 2021), prohibited minute appraisal of the defence and treating an FIR as an encyclopedia. Applying those limits, the Court left the factual disputes for trial.

Defence documents / alleged mala fides - *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, was quoted for the ordinary rule against considering disputed defence material, subject to a limited exception for public or undisputed documents. The Court did not find that the asserted encroachment complaints qualified for that exception. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted at length on the cautious exercise of Section 482 jurisdiction. It reproduced *R.P. Kapur*'s recognised grounds and *Bhajan Lal*'s illustrative categories, including manifestly malicious proceedings. Its qualification was that the informant's hostility alone becomes secondary when a cognizable offence is alleged and cannot by itself

end the prosecution. The applicant advanced a theory of retaliatory motive but showed no facial absence of the offences charged under Sections 294, 323, 327 and 506 IPC. The application was dismissed without deciding the truth of either account.

Case-note :- ***1. Facts :*** Nitin Pahariya sought quashing under Section 482 CrPC of Crime No. 136/2023, registered at Police Station Khitola Bazar, Sihora, District Jabalpur, under Sections 294, 323, 327 and 506 IPC. His counsel recounted the prosecution allegation that he demanded ₹500 from the complainant to buy liquor. When the complainant refused, he allegedly used filthy language, picked up a bucket lying in the shop, assaulted the complainant with it and threatened his life. The order records neither a completed trial nor a finding that these acts occurred.

Nitin stated that he and others had complained on 15 March 2023 about allegedly illegal construction at the bus stand in Khitola Ward No. 12. He also referred to a complaint to the local SHO on 20 March. According to him, the authorities took no action, but the complainant and other witnesses, whom he associated with the encroachment, resented his continuing objections and falsely implicated him. He denied that the demand or assault had occurred. He thus asked the Court, at an early Section 482 stage, to accept his denial and his account of retaliation in response to the FIR. The Court treated both the denial and the asserted retaliatory motive as defences requiring proof at trial.

2. Precedents — Considered : The Judge set out the Supreme Court's Section 482 standards before applying them. *XYZ v. State of Gujarat, 2019:INSC:1199 : (2019) 10 SCC 337*, was quoted on the error in halting an investigation and conducting a roving inquiry into disputed blackmail and coercion allegations. The present Court applied its procedural caution to avoid trying Nitin's defence while the FIR proceeded; it did not import *XYZ*'s sexual or blackmail facts into this case. *State of Tamil Nadu v. S. Martin, 2018:INSC:284 : (2018) 5 SCC 718*, was quoted briefly against a High Court's premature assessment before investigation was complete.

Ajay Kumar Das v. State of Jharkhand, 2011:INSC:655 : (2011) 12 SCC 319, quoted *Bhajan Lal*'s caution that quashing must be exercised sparingly and with circumspection, without evaluating the genuineness of the allegations. *State of A.P. v. Gourishetty Mahesh, 2010:INSC:405 : (2010) 11 SCC 226*, explained the balance between preventing needless vindictive proceedings and preserving a legitimate prosecution. A court may quash a face-value complaint that constitutes no offence or lacks a cognizable basis, where there is a legal bar, or where there is sufficient material to show malicious prosecution. It cannot short-circuit a legitimate prosecution by weighing the evidence. *M. Srikanth v. State of Telangana, 2019:INSC:1172 : (2019) 10 SCC 373*, likewise approved quashing where either the allegations accepted at face value or the uncontroverted allegations together with the collected evidence disclosed no offence. In paragraph 15, the present Court drew from these authorities the rule that the uncontroverted complaint must fail to disclose a prima facie offence to justify this kind of intervention; it could not conduct a mini-trial.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, was quoted for the ordinary rule against appraising an accused's defence or disputable documents. In an appropriate case, however, a public document or a document whose veracity the complainant does not dispute may be considered. The excerpt referred to *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D*. The present Court did not find that Nitin's asserted complaints were undisputed, public or dispositive. *CBI v. Arvind Khanna, 2019:INSC:1152 : (2019) 10 SCC 686*, rejected Section 482 findings based on minute examination of disputed defence details, including after cognizance. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709 of 2021*, order of 30 June 2021, rejected meticulous scrutiny as at trial and stated that an FIR need not be an encyclopedia. The Judge applied those restraints to the present denial and theory of motive.

The Judge then quoted *Renu Kumari v. Sanjay Kumar, 2008:INSC:278 : (2008) 12 SCC 346*, at length. It identified the three purposes of Section 482: giving effect to Code orders, preventing abuse and securing justice. It also required sparing and careful exercise of the power. The passage reproduced *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, on an express legal bar, allegations that do not constitute an offence on their face, and the absence of legal evidence, as distinct from disputes about its weight. It also reproduced *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, and its illustrative categories. These included the absence of an offence or cognizable basis on the face of the

allegations, inherently improbable allegations, a legal bar and manifestly malicious prosecution. The quoted passage stressed that, when a cognizable offence is registered, the informant's mala fides alone are secondary: collected evidence and proof at trial ordinarily govern. The Court applied that limitation to the applicant's bare assertion of retaliation.

Paragraph 14 listed *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* as taking a similar view in support of the general caution. The *Renu Kumari* passage also named later decisions reiterating that position.

3. Statutes considered : Section 482 CrPC was the inherent jurisdiction invoked. The Court considered its limited application to early quashing while retaining the power to prevent abuse of court process or secure justice. Section 156(1) and Section 155(2) CrPC appeared in the reproduced *Bhajan Lal* illustrations, which distinguished cognizable police investigation from non-cognizable investigation requiring a Magistrate's order. The Court did not find that procedural defect in this FIR. Sections 294, 323, 327 and 506 IPC identified the registered offences concerning alleged obscene abuse, assault or hurt, extortion-linked violence and threat. The Court dismissed the quashing request and left the applicant's defence for proof at trial.

4. Issues : Did the reported demand, abuse, bucket assault and threat fail to disclose an offence on their face, so as to justify Section 482 intervention at this stage? The applicant identified no missing element that would remain absent even if the allegations were accepted. Could the asserted earlier encroachment complaints, the complainant's alleged resentment and the denial of any incident establish a manifestly retaliatory FIR without resolving disputed facts or conducting a mini-trial? The public or undisputed-document exception qualified the governing law, but the Court did not decide that these complaints met it. The case did not require a final determination of what occurred, whether the construction was legal or whether the witnesses were biased.

5. Ratio / Findings : In paragraph 15, the Court stated that quashing is available where uncontroverted allegations do not disclose a prima facie offence, but that the High Court cannot determine their factual correctness through a mini-trial. The Supreme Court passages explained why incomplete investigation and alternative facts supplied by an accused ordinarily cannot substitute for proof at trial. The exception for public or undisputed documents remained part of the governing law. The Court treated the applicant's denial and contention about motive as defences requiring proof at trial.

According to the FIR, the applicant demanded ₹500 for liquor. Refusal was followed by abuse, an assault with a bucket and a threat to life. The Judge recorded that counsel could point to no fact showing that the allegations, even if accepted in full at face value, disclosed no offence. Counsel instead argued that the incident was fabricated because of the earlier construction complaints and resulting resentment. Applying *Renu Kumari*'s treatment of an informant's mala fides, the Court held that an assertion of motive alone could not overcome an otherwise cognizable complaint at this stage. The truth of the complaints, their connection with the informant and the participants' credibility were defence issues requiring proof at trial. The result was confined to the allegations and procedural stage described. The quoted authorities recognised exceptional cases involving facial deficiency, a legal bar, uncontroverted material or demonstrated abuse; none was established here. The Court made no adverse finding on Nitin's ultimate defence and did not convict him.

6. Relief : The Hon'ble High Court dismissed the application, finding no ground for interference under Section 482 CrPC. Crime No. 136/2023 was not quashed. The order did not direct conviction, determine guilt under Sections 294, 323, 327 or 506 IPC, decide whether the disputed encroachment was lawful or unlawful, or resolve the truth of the applicant's retaliation claim. The defence remained for ordinary proof as the criminal case proceeded.

Nitin Pahariya v. The State of Madhya Pradesh, M.Cr.C. no. 21788/2023, 05/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / disputed fraud defence - The complaint alleged that Nilesh Shinde and Nitin Vithal Rao Kale posed as Hindustan Petroleum Corporation Limited's Chief HR officer and Depot Manager, respectively, and sought ₹3 lakh. After payment to Nilesh in Nitin's presence, they allegedly handed the complainant a purported dealership document. A preliminary inquiry preceded the FIR. Police verification reportedly

revealed that neither man was employed by the company and that it had issued no such letter. Nitin disputed identification, payment, delivery and his presence. The Court applied *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *S. Martin, (2018) 5 SCC 718*, against premature roving inquiry, and *Ajay Kumar Das, (2011) 12 SCC 319*, against testing the FIR's genuineness. *Gourishetty Mahesh, (2010) 11 SCC 226*, and *M. Srikanth, (2019) 10 SCC 373*, supplied the face-value or uncontroverted-material threshold. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021 (30 June 2021), cautioned against deciding disputed facts through a mini-trial. *Mohd. Akram Siddiqui, (2019) 13 SCC 350*, recognises the limited exception for public or undisputed documents; no document was found to resolve this defence conclusively. Finding a prima facie case, the Court declined to quash the FIR or charge-sheet without deciding criminal guilt.

Alibi / proof burdens - *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, was quoted for the accused's affirmative burden to establish an alibi excluding presence. It also preserves a distinct rule: failure of an alibi cannot itself lead to conviction, because the prosecution must independently prove guilt beyond reasonable doubt. Nitin's claimed absence at delivery was disputed and left for trial. The Court did not decide in the Section 482 proceeding that his plea was proved false.

Section 34 IPC / joint conduct at the quashing stage - The allegation that Nilesh received the money rather than Nitin personally did not defeat a prima facie case of participation. Whether Nitin's signature appeared on the alleged forged letter was immaterial at that stage. The Court relied on the alleged joint representation and demand, Nitin's presence at payment, joint delivery and the reported company denial to leave common intention for trial. It neither held that presence alone always establishes Section 34 nor finally determined authorship of the document.

Case-note :- ***1. Facts :*** Nitin Vithal Rao Kale sought quashing under Section 482 CrPC of Crime No. 253/2022 at Police Station Phoonp, District Bhind, registered under Sections 420, 467, 468 and 471 IPC, and of the resulting charge-sheet. The complainant reported a supposed petrol-pump dealership transaction with Hindustan Petroleum Corporation Limited. Police conducted a preliminary inquiry into the complaint before registering the FIR. According to the account recorded by the High Court, co-accused Nilesh Shinde claimed to be the company's Chief HR officer and Nitin its Depot Manager. They allegedly visited the complainant, inspected the site and demanded ₹3 lakh. After that amount was handed to Nilesh in Nitin's presence, they allegedly supplied a purported company allotment or first-information letter. Police asked the company's Mumbai headquarters to verify their employment and the letter. It reportedly replied that neither man was an employee and that it had issued no such letter. This account comprised allegations and preliminary verification, rather than findings after a completed trial.

Nitin's counsel submitted that the complainant had no occasion to know either his name or his father's name, that he had issued no dealership allotment, and that the account of a forged document being supplied after payment was false. Counsel also submitted that no cash was paid to Nitin personally and that he was elsewhere on the alleged delivery date. The State opposed the petition. The Court considered the Section 482 limit on deciding those disputed assertions. It also examined whether the complainant's account of joint conduct supplied a prima facie basis against Nitin, although Nilesh received the money and the document's signature was disputed. The concluding refusal referred to both the FIR and the charge-sheet.

2. Precedents — Considered : The Judge cited and quoted *XYZ v. State of Gujarat, 2019:INSC:1199 : (2019) 10 SCC 337*, in which the Supreme Court criticised a premature roving inquiry under Section 482 into contested allegations and a disputed settlement after investigation had been stalled. Its caution supported leaving Nitin's denial to assessment through investigation and trial; *XYZ*'s underlying allegations did not become facts of the present fraud case. *State of Tamil Nadu v. S. Martin, 2018:INSC:284 : (2018) 5 SCC 718*, was quoted briefly against a High Court's assessment before investigation was complete. *Ajay Kumar Das v. State of Jharkhand, 2011:INSC:655 : (2011) 12 SCC 319*, recounted *Bhajan Lal*'s requirement that Section 482 be exercised rarely and sparingly, without deciding the reliability or genuineness of FIR allegations at that stage.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, states that a court ordinarily does not examine defence documents supplied by an accused when considering quashing. In an appropriate case,

however, it may consider a public document or one whose veracity the complainant does not dispute. The passage named *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* as sources of that exception. The Judge identified no public or undisputed document that proved Nitin's absence or negated the alleged encounter. The exception therefore remained an express qualification, rather than a finding disposing of the case.

State of A.P. v. Gourishetty Mahesh, 2010:INSC:405 : (2010) 11 SCC 226, was quoted on preventing abuse of criminal process without stifling a legitimate prosecution. It permits quashing where no offence or cognizable basis appears on the face of the allegations, where there is an express legal bar, or where sufficient material shows malicious institution. It does not permit a trial of reliability under Section 482. *M. Srikanth v. State of Telangana, 2019:INSC:1172 : (2019) 10 SCC 373*, preserves quashing where either the FIR taken at face value or the uncontroverted allegations with the collected evidence disclose no offence. The High Court applied that threshold to the alleged personation, receipt and document delivery and found sufficient material to proceed. *CBI v. Arvind Khanna, 2019:INSC:1152 : (2019) 10 SCC 686*, prohibited findings on minute disputed defence facts in an inherent-powers petition, even after cognizance. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709 of 2021* (30 June 2021), similarly barred meticulous scrutiny as at trial and stated that an FIR need not contain every evidentiary detail. Paragraph 16 listed eight additional Supreme Court decisions as taking a similar view.

Sk. Sattar v. State of Maharashtra, 2010:INSC:546 : (2010) 8 SCC 430, was quoted on the plea of alibi. An accused relying on that plea bears an affirmative burden to prove absence by positive evidence excluding presence. Failure to establish it does not, however, relieve the prosecution of independently proving guilt beyond reasonable doubt. The quotation mentioned *Gurpreet Singh*'s appellate treatment of concurrent factual findings on alibi. That nested reference was not applied as an appellate standard in this Section 482 petition. The Judge used *Sk. Sattar* to explain why Nitin's claimed absence was a trial issue, without finding that he had failed at trial or that the prosecution had proved guilt. The Judge applied Section 34 to the alleged group conduct at the prima facie stage.

3. Statutes considered : Section 482 CrPC was the inherent jurisdiction invoked. The Court examined whether the uncontroverted allegations disclosed an offence and declined to determine disputed facts or the alibi in that petition. Sections 420, 467, 468 and 471 IPC were the offences recorded in the FIR, concerning cheating and the alleged making or use of forged documents. Section 34 IPC was applied to the asserted common intention underlying the joint approach and transaction. The Judge rejected the contention that proceedings could lie only against the co-accused who physically received the cash or a person whose signature appeared on the disputed letter. The Court made no final finding, after evidence, of agreement, intention or forged execution. It interpreted no petrol-dealership regulatory statute or company policy.

4. Issues : Did the allegations and the company's reported denial provide a prima facie basis for continuing the IPC fraud and forged-document prosecution, or did Nitin's denials concerning the letter, receipt, identification and presence justify quashing the FIR and charge-sheet? The question concerned the scope of Section 482, rather than proof at trial. Was the asserted absence at delivery an alibi that the High Court could decide at this stage, and how did the accused's affirmative alibi burden coexist with the prosecution's independent burden? Could a participant be proceeded against under Section 34 on the alleged joint representation and delivery, even if Nilesh physically received the payment and Nitin had not signed the purported letter? The Court left the complaint's factual accuracy, the genuine company record and final guilt to the trial forum.

5. Ratio / Findings : The Court first reviewed the Supreme Court's cautions against turning Section 482 proceedings into a trial of disputed facts. According to the complaint, Nilesh and Nitin claimed specific offices in Hindustan Petroleum Corporation Limited, carried out an inspection, sought money, accepted payment through Nilesh and jointly delivered a purported dealership letter. The police inquiry reportedly obtained the company's denial of their employment and of the letter's issuance. In the face of those allegations and that preliminary verification, Nitin's denials raised factual issues requiring evidence. The Court found sufficient prima facie material for prosecution and refused to quash either the FIR or the charge-sheet. Its references to forgery and the company's response

described the reported basis for proceeding; they were not a verdict that every forged-document offence had been proved.

Nitin's claimed absence was also disputed. The Judge quoted *Sk. Sattar*'s requirement of cogent affirmative evidence of alibi, together with its equally important qualification: failure to establish an alibi does not itself establish the prosecution case. The Court did not treat Nitin's alibi as disproved; it held that the disputed factual issue could not be adjudicated under Section 482. The prosecution retained its trial burden, including proof beyond reasonable doubt. This petition decided only whether the threshold for quashing was met.

The Court invoked Section 34 in addressing personal receipt and signature. The complainant placed Nitin with Nilesh in the alleged misrepresentation and demand, the receipt of money in his presence and the joint handover. The company's reported denial provided a preliminary basis for the false-representation allegation. The Judge reasoned that Nilesh's physical receipt of the money did not itself protect another participant alleged to share the common intention. Given the ocular account of joint delivery, Nitin's signature on the disputed document was not required before prosecution could continue. That conclusion remained conditional on the facts ultimately proved; proximity to a co-accused alone was not declared conclusive.

6. Relief : The Hon'ble High Court dismissed the application. Neither Crime No. 253/2022 nor the charge-sheet was quashed. The alibi, denial of receipt, challenge to identification and letter delivery, and the prosecution allegations remained for appropriate determination on evidence. The order imposed no conviction, sentence, restitution or separate dealership direction.

Nitin Vithal Rao Kale v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 133/2025, 20/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Investigation / accused's choice and participation - An accused seeking a general direction under Section 482 CrPC for a fair investigation could not establish a right to prescribe the officer's methods or obtain court supervision of the investigation into his FIR. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, quoted *Narmada Bai* and *Sanjiv Rajendra Bhatt* on the rule that an accused cannot choose the investigating agency or manner of investigation. It referred to *E. Sivakumar* on the absence of an automatic right to be heard on a transfer order. Its discussion of *Divine Retreat Centre* distinguished substitution of an agency through inherent power from a properly founded Article 226 remedy for mala fide exercise of investigative power. Its quotation of *State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, preserved exceptional constitutional control of investigation. *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, quoted *W.N. Chadha* on the absence of a routine right to a hearing or participation while investigative material is collected. It also quoted *CBI v. Rajesh Gandhi on* agency selection, and *Sri Bhagwan Samardha* and *Narender G. Goel* on further investigation and later challenges to evidence. Those principles preserve express statutory opportunities and trial rights. The applicant argued the merits but did not satisfy the Court either that it could supervise the investigation or that he could dictate its manner. The requested direction was therefore refused. *State of Orissa v. Devendra Nath Padhi, (2005) 1 SCC 568*, was also cited on the accused's inability to tender defence documents at charge framing; no charge was decided in this petition.

Judicial monitoring / supervision boundary - *Manohar Lal Sharma*, quoted in paragraph 8 and applied in paragraph 9, distinguishes rare judicial monitoring of timely, impartial progress without external interference from supervision of the officer's factual choices and opinion under Section 173(2) CrPC. Routine directions on the merits risk binding or influencing the later trial court and undermining its independence. The quoted constitutional authorities preserve exceptional monitoring supported by compelling circumstances. *Romila Thapar* also cautions against changing the agency merely on vague allegations of police mala fides. The High Court treated the requested intervention on the merits as impermissible supervision and dismissed the application.

Case-note :- ***1. Facts :*** Omprakash Dhakad filed Misc. Criminal Case No. 5973/2025 under Section 482 CrPC, seeking a direction that the investigating officer investigate the case freely and fairly. An FIR had already been registered against him. The Court specifically asked counsel whether it could supervise the ongoing investigation and whether an accused

could dictate how it was conducted. Counsel argued the merits but did not satisfy the Court on either its jurisdiction or the accused's authority. The State appeared through the public prosecutor. The question concerned the limits of investigation directed by an accused or the Court, rather than guilt, innocence or particular police omissions.

2. Precedents — Considered : *Romila Thapar v. Union of India, 2018:INSC:912 : (2018) 10 SCC 753*, was quoted at length. In the context of named accused seeking a change of agency or a special team, it held that an accused cannot choose the agency or insist on a particular manner of investigation or a court-monitored investigation. Its quotation of *Narmada Bai v. State of Gujarat* states the rule against agency choice. *Sanjiv Rajendra Bhatt v. Union of India* states that an accused has no right over the investigation's method or the mode of prosecution. *Romila Thapar* also discussed *E. Sivakumar v. Union of India*: an accused has no automatic right to notice or a hearing when a writ court directs CBI investigation. Its discussion of *Divine Retreat Centre v. State of Kerala* distinguished changing an officer midstream through inherent jurisdiction from Article 226 directions available to an aggrieved person where mala fide exercise of investigative power is established. It quoted the Constitution Bench in *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, on the exceptional nature of even broad constitutional power to transfer investigation to CBI. That power cannot be exercised routinely on an unsubstantiated complaint against local police. On *Romila Thapar*'s own record, vague assertions about arrest and evidence did not justify a change of agency. Available remand, bail, discharge and quashing remedies remained open at their proper stages. The present Court applied the principles limiting accused control and judicial intervention to Omprakash's general request. It neither transferred the case nor made independent findings of misconduct by a particular investigator.

Dinubhai Boghabhai Solanki v. State of Gujarat, 2014:INSC:139 : (2014) 4 SCC 626, was then quoted at length. It invoked *Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260*, to explain that investigation collects material for the report under Section 173(2) CrPC. Natural justice does not automatically require notice before that report or allow the accused to choose the method. *W.N. Chadha* recognised specified Code exceptions. *Dinubhai* also quoted *CBI v. Rajesh Gandhi, (1996) 11 SCC 253*, on agency choice and the availability of further investigation when the local investigation proved unsatisfactory. *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740*, concerned further investigation under Section 173(8), without a mandatory prior hearing for every potential accused. *Narender G. Goel v. State of Maharashtra, (2009) 6 SCC 65*, was quoted on later opportunities to challenge the evidence at trial. Those CBI-transfer and further-investigation histories belonged to the precedents, rather than this applicant's case. The Judge applied their shared rule against routine intervention by an accused in police methods.

State of Orissa v. Devendra Nath Padhi, 2004:INSC:679 : (2005) 1 SCC 568, was cited in a sentence on the accused's inability to tender defence documents at charge framing. It reinforced the limits on early participation. No dispute about documents at charge framing was decided here, and the proposition did not displace the distinct statutory exceptions described in *Dinubhai*.

Manohar Lal Sharma was quoted in paragraph 8 and applied in paragraph 9. Its quoted paragraphs 38–39 distinguish monitoring the progress and fairness of a rare court-directed inquiry from supervision that dictates the officer's conduct of the investigation. Such supervision may predetermine the opinion under Section 173(2) and improperly affect the later trial. The Judge applied that distinction in refusing directions on the merits. The nested Supreme Court references supported or qualified the quoted reasoning; they did not establish independent factual findings in the present case.

3. Statutes considered : Section 482 CrPC was the jurisdiction invoked by the accused for a direction to investigate fairly. The Court held that the request could not be used to supervise police collection of facts or allow the accused to dictate methods. Section 173(2) CrPC appeared in the quoted framework as the report following police investigation. Section 173(8) concerned the lawful possibility of further investigation after a report, without an automatic right for the accused to be heard before the direction. Section 204 and Section 202 CrPC appeared in *W.N. Chadha*'s nested distinction between issuing process and an inquiry after postponing process; neither was a procedure employed in Omprakash's case. Articles 226 and 32 of the Constitution appeared in *Romila*

Thapar and the Constitution Bench's qualified power of exceptional transfer.

Paragraph 7 also referred to Article 226 of the Constitution and Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in stating the limit on supervision. The application itself was described as one under Section 482 CrPC. That description did not erase the exceptional constitutional principles quoted by the Court.

4. Issues : Could an accused against whom an FIR had been lodged obtain a direction under Section 482 prescribing the investigating officer's methods on a general request for free and fair investigation? Could the Court supervise the merits during investigation, and how did that differ from exceptional monitoring of progress and fairness? Arguments on the criminal case's merits did not substitute for the necessary jurisdictional or factual basis. The Court did not finally decide guilt, any charge, the FIR's validity, any request for transfer to a named agency or any allegation of mala fide police conduct.

5. Ratio / Findings : The Judge asked counsel to establish both the accused's entitlement to dictate the investigation and the Court's power to supervise it. Counsel's assertions on the merits satisfied neither requirement. Drawing on *Romila Thapar* and *Dinubhai*, the Court treated the collection of investigative material and the agency's methods as generally belonging to the investigating authority, with no ordinary accused choice or early participation. The principle remained qualified. The quoted authorities recognised Code-specified opportunities, later defence through remand, bail, discharge, quashing or trial, and constitutional directions supported by careful evidence in mala fide or exceptional situations.

Manohar Lal Sharma provided the further reason. Rare judicial monitoring checks that an agency progresses fairly, without undue delay or external interference. Supervision directing which witnesses to believe, what facts to find or how to formulate the final opinion may compromise an independent trial. The direction sought on the merits would, in substance, supervise the officer. The High Court therefore declined to intervene and described investigation as the agency's exclusive domain for those purposes.

6. Relief : The Hon'ble High Court dismissed the Section 482 application and refused the requested direction to the investigating officer. The order neither quashed nor transferred, monitored or otherwise modified the FIR and investigation. It made no final determination of the underlying accusations, police misconduct or the accused's future statutory remedies.

Omprakash Dhakad v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 5973/2025, 07/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Cross-cases / simultaneous appellate disposal - The appeals of the three convicted persons, the State's appeal against the other acquittals in their trial, and the appeal in the Brajesh-death cross-case were heard together. Judgments in the related matters were delivered on 30 April 2021; the three convicted persons' appeals were disposed of together in this common judgment. *Nathilal v. State of U.P.*, 1990 Supp SCC 145, supplied the method of hearing before the same judge and decision on the same day, without wholesale transfer of evidence between records. The Court referred to its separate finding in the cross-case that Ramant did not kill Brajesh and discussed an accused's admission there. It also relied on the scene and witness evidence in this case.

Site plan / direct observation - *Jagdish Narain v. State of U.P., (1996) 8 SCC 199*, and *Rameshwar Dayal v. State of U.P., (1978) 2 SCC 518*, distinguish physical features observed by the investigating officer from notes reproducing witnesses' accounts of the occurrence. Section 60 of the Evidence Act supports direct observations; Section 162 CrPC restricts investigative statements. The blood, footwear and cartridge locations shown in Ex. D.16 were considered with the testimony to assess where the shooting occurred and why Brajesh's body was moved. The entire map was not treated as substantive eyewitness evidence.

Witnesses / credibility and missing guests - *Rupinder Singh Sandhu, (2018) 16 SCC 475*; *Rizan, (2003) 2 SCC 661*; and *Mohd. Rojali Ali, (2019) 19 SCC 567*, distinguish a natural related witness from one with a demonstrated motive to implicate the accused falsely and secure punishment. *Chandrasekar, (2017) 13 SCC 585*, and *Abdul Sayeed, (2010) 10 SCC 259*, accord special evidentiary weight to an injured witness, subject to material contradiction. *Sarwan Singh, (1976) 4 SCC 369*; *Yanab Sheikh, (2013) 6 SCC 428*; *Mahesh, (2008) 13 SCC 271*; *Nagarjit Ahir, (2005) 10 SCC*

369; *Vijendra Singh, (2017) 11 SCC 129*; and *Sadhu Saran Singh, (2016) 4 SCC 357*, were applied in rejecting an automatic adverse inference from the failure to examine more festival guests. The qualification concerning a truly withheld material eyewitness remained.

Contradictions / Section 145 - *Sunil Kumar Sambhudayal Gupta, (2010) 13 SCC 657*, distinguishes material contradictions from ordinary discrepancies. *Shakila Abdul Gafar Khan, (2003) 7 SCC 749*, rejects automatic application of falsus in uno. Gomati's earlier 'came to know' wording defeated her claim to have directly seen the shootings of the three deceased men. Manohar's conflicting account of the shooters and Kumher's attribution of Raghunath's shooting to Nathu were rejected to that extent, without discarding all their evidence. Under *V.K. Mishra, (2015) 9 SCC 588*, confrontation under Section 145 of the Evidence Act was required before Rajabeti's police statement could be used to contradict her account concerning Mamta. She had not been confronted with it. Gomati survived, so her doctor-recorded statement did not fall under Section 32 merely because it was labelled a dying declaration. The recorder was not examined. The Court assessed her explanation and corroborated court evidence concerning Nathu, rather than treating the label as substantive proof of the cause of death.

Alibi / conduct and motive - *Jitender Kumar, (2012) 6 SCC 204*; *Om Prakash, (2012) 5 SCC 201*; and *Jumni, (2014) 11 SCC 355*, supported a fair assessment of positive alibi evidence excluding presence. Ramvir's relatives did not establish his claimed move to Patrai. Under *Subramaniam, (2009) 14 SCC 415*, a false alibi may be an additional circumstance only after independent prosecution proof; it cannot be the sole basis of guilt. *Kunwarpal, (2014) 16 SCC 560*, recognises that enmity may support either the offence or a false accusation. *Matru, (1971) 2 SCC 75*, cautions against simply inferring guilt from abscondence. Ramant remained with the bodies, reported the incident and assisted the investigation before his later absence, while the appellants' conduct was assessed in context. *Saddik, (2016) 10 SCC 663*, and *Yogesh Singh, (2017) 11 SCC 195*, treat the absence of an established motive as secondary where direct evidence is trustworthy.

Medical and seizure proof / individual attribution - Bullet and pellet wounds corroborated Ramvir's direct killing of Keshav and Jaswant, Ghanshyam's fatal shot to Raghunath, and the use of two weapons against Mamta. The Court found that Ramvir's bullet killed Mamta and that Ghanshyam's thigh pellets were probably nonfatal. Gomati's pellet injuries, the witness accounts and recovery of the .12-bore gun linked Nathu to her attempted murder. *Ramesh Harijan, (2012) 5 SCC 777*, permits reliance on dependable portions of hostile attestors' evidence. *Rohtash Kumar, (2013) 14 SCC 434*, and *Mukesh Singh, (2020) 10 SCC 120*, require police testimony to be assessed, rather than rejected merely because of the witness's office. The Court accepted the recovery on the attestors' signatures, the officer's account and the armorer's test.

Common intention / charge and relief - *Chhota Ahirwar, (2020) 4 SCC 126*, recognises that common intention under Section 34 may form during the occurrence where participation and shared purpose are proved; mere presence is insufficient. The three armed appellants' concerted firing supported constructive liability. *Mala Singh, (2019) 5 SCC 127*, including *Karnail Singh*, *Willie Slaney* and *Chittarmal*, and *Dhaneswar Mahakud, (2006) 9 SCC 307*, permit substitution of Section 34 for Section 149 where the facts overlap and the defence suffers no prejudice. That condition was satisfied despite the co-accused acquittals. Ghanshyam's conviction for Raghunath's murder changed from Section 302/34 to direct Section 302, and Nathu's conviction for the attempt on Gomati changed from Section 307/34 to direct Section 307. Specific charges had given each notice. Ramvir was not convicted directly under Section 302 for Mamta's murder without such a charge, although his Section 302/34 liability remained. All three appeals were dismissed with those modifications. Concurrent life and seven-year sentences and fines were specified for each appellant.

Case-note :- ***1. Facts :*** On 16 October 2000, a celebration marking the birth of Ramant Singh's son was taking place at his home in village Khoyala. His Dehati Nalishi stated that a group near Ramvir Singh's sitting room began bursting crackers towards the gathering. When Manohar objected, abuse and stone throwing followed, after which armed men fired towards the house. Keshav, Ramant's father; Jaswant, his brother; Raghunath alias Chhote Singh, his cousin; and Mamta died. Gomati and Manohar were injured. Ramant's first report attributed the deaths of Keshav and Jaswant to Ramvir's mouser, those of Raghunath and Mamta to Ghanshyam's .12-

bore gun, and Manohar's injury to Nathu. Later witness accounts differed on several individual shots. The medical records of the deceased and injured showed gunshot wounds. Ramant reported the incident after police arrived to investigate the separate death of Brajesh, Ramvir's nephew. A cross-case concerning that death was registered against members of Ramant's party. The location and movement of Brajesh's body, cartridges near the sitting room and a dilapidated house, and whether Ramant had killed Brajesh were disputed aspects of the episode. These accounts represented prosecution and defence positions, rather than unqualified facts inferred from the FIR alone.

Ten persons were tried in Sessions Trial No. 37/2001 at Morena for four deaths and the attempted murders of Gomati and Manohar. Charges against different accused combined individual offences under Sections 302 or 307 with Section 149 and related IPC and Arms Act allegations. The trial court acquitted seven persons, including Kaushlendra. It convicted Ramvir on two direct Section 302 counts, two Section 302/34 counts and two Section 307/34 counts. Nathu and Ghanshyam were each convicted on four Section 302/34 counts and two Section 307/34 counts. The murder counts carried life imprisonment and fines; the attempt counts carried seven years' rigorous imprisonment and fines. All sentences were concurrent. Nathu, Ghanshyam and Ramvir filed appeals 397, 401 and 425 of 2005. Separate State appeals challenged the acquittals of the seven co-accused and Ramant's acquittal in the Brajesh cross-case. Under *Nathilal*, the related appeals were heard by the same bench and decided on the same day. This common judgment formally disposed of the three convicted appellants' appeals. The defence alleged false implication because of enmity and Brajesh's death, omitted or contradictory police statements, non-examination of many guests, darkness, failure to prove individual shooters, self-defence or sudden retaliation, and alibis for Ghanshyam and Ramvir. The State and complainant supported the convictions.

2. Precedents — Considered : *Nathilal v. State of U.P.*, 1990 Supp SCC 145, supplied the method for cross-cases to be dealt with by the same judge and decided on the same day, with the evidence in each record assessed separately. The High Court referred to its separate decision in *State v. Ramant Singh* concerning Brajesh's death. It distinguished an admission in that case from wholesale importation of its evidence. *Jagdish Narain v. State of U.P., (1996) 8 SCC 199*, and *Rameshwar Dayal v. State of U.P., (1978) 2 SCC 518*, distinguish scene facts personally observed by the officer preparing a site plan from investigative statements about an occurrence the officer did not witness. They apply Section 60 of the Evidence Act and Section 162 CrPC. The Court relied on the physical entries in Ex. D.16, without treating every notation as substantive eyewitness evidence.

Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475; Shamim v. State (NCT of Delhi), (2018) 10 SCC 509; Rizan v. State of Chhattisgarh, (2003) 2 SCC 661; and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, were quoted on why relationship alone does not make a witness interested. Cautious scrutiny remains necessary where prior enmity or benefit may supply a motive to implicate falsely. *Rizan* reproduced *Dalip Singh*, *Masalti* and related authorities. The present Court applied their common credibility principle, rather than an irrebuttable presumption that a relative always tells the truth. *Chandrasekar v. State, (2017) 13 SCC 585*, and *Abdul Sayeed v. State of M.P., (2010) 10 SCC 259*, accord special weight to injured witnesses, subject to rejection for major contradictions or discrepancies. *Sarwan Singh v. State of Punjab, (1976) 4 SCC 369; Yanab Sheikh v. State of W.B., (2013) 6 SCC 428* (quoting *Namdeo* and *Bipin Kumar Mondal*); *Mahesh v. State of Maharashtra, (2008) 13 SCC 271; Nagarjit Ahir v. State of Bihar, (2005) 10 SCC 369; Vijendra Singh v. State of U.P., (2017) 11 SCC 129* (drawing on *Gian Chand*, *Takhaji Hiraji* and *Dahari*); and *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, distinguish an essential, available eyewitness who has been withheld from witnesses whose evidence would merely be cumulative. The Court found that direct and injured testimony had already been tested. It did not reject the prosecution merely because every guest had not been called.

Kunwarpal v. State of Uttarakhand, (2014) 16 SCC 560, recognises that enmity may give rise to either the offence or a false accusation. *Matru v. State of U.P., (1971) 2 SCC 75*, informed the cautious assessment of a suspect's conduct and abscondence. *Kundula Bala Subrahmanyam* was briefly invoked on conduct after the offence, without creating an automatic presumption. *Saddik v. State of Gujarat, (2016) 10 SCC 663*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, establish that an unproved motive does not defeat otherwise trustworthy direct

evidence. *Prithvi (minor) v. Mamraj, (2004) 13 SCC 279*, was quoted in addressing the argument that the absence of gas lamps from the site plan defeated identification. A defective plan alone does not displace credible witness evidence. The Court considered that principle in the setting of the night celebration; it did not find that every alleged lamp had been seized or photographed.

Sunil Kumar Sambhudayal Gupta v. State of Maharashtra, (2010) 13 SCC 657, distinguishes material omissions from normal discrepancies. *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749*, rejects mandatory application of falsus in uno and requires the trustworthy residue to be separable. Under *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588*, a witness's attention must first be drawn to the relevant part of a prior written statement under Section 145 before it can be used as a contradiction. If denied, the contradiction must then be proved through the investigating officer. The Court applied that requirement to an unconfronted police entry about Rajabeti and Mamta, while limiting other witnesses' confronted material contradictions.

Jitender Kumar v. State of Haryana, (2012) 6 SCC 204; Om Prakash v. State of Rajasthan, (2012) 5 SCC 201; and *Jumni v. State of Haryana, (2014) 11 SCC 355*, were considered on timely, positive proof of an alibi excluding presence. *Jumni*'s quoted passage also requires equal treatment of defence witnesses, rather than automatic disbelief. *Subramaniam v. State of T.N., (2009) 14 SCC 415*, prohibits using a failed or false alibi as the sole proof of guilt. It may add to the prosecution circumstances only after those circumstances have been independently established. The Court assessed the two specific residential and work alibis after considering the direct prosecution evidence.

Ramesh Harijan v. State of U.P., (2012) 5 SCC 777, permits reliance on usable portions of hostile seizure attestors' evidence. Its nested authorities explain that the entire testimony is not erased. *Rohtash Kumar v. State of Haryana, (2013) 14 SCC 434*, requires scrutiny and, where possible, corroboration of police testimony, without categorical exclusion. *Mukesh Singh v. State (NCT of Delhi), (2020) 10 SCC 120*, rejects a legal requirement of independent corroboration merely because the witness is a police officer. The gun recovery was accepted on the signatures, the officer's evidence and the armorer's test. *Chhota Ahirwar v. State of M.P., (2020) 4 SCC 126*, states the Section 34 rule of joint liability: participation and shared intention must be proved, although the intention may form on the spot. The Court applied it to the concerted armed firing. *Mala Singh v. State of Haryana, (2019) 5 SCC 127*, quoted *Lachhman Singh*, *Karnail Singh*, *Willie Slaney* and *Chittarmal* on substituting Section 34 for Section 149 where the charged facts overlap and the defence is not prejudiced. *Dhaneswar Mahakud v. State of Orissa, (2006) 9 SCC 307*, reinforced that requirement of fair notice. The Court applied it after seven acquittals, without treating the two sections as automatically identical.

3. Statutes considered : Section 60 of the Evidence Act governed the officer's direct observations, as distinct from site-plan entries based on information from others. Section 145 required proper confrontation before a police statement could contradict a witness's court evidence. Statements under Section 161 CrPC and the restrictions in Section 162 were considered, without general use of investigative accounts as substantive evidence. Although a doctor labelled Gomati's statement a dying declaration, she survived, so it did not become proof under Section 32 of the Evidence Act. The recovery account referred to memoranda under Section 27 of the Evidence Act. Section 174 CrPC concerned the inquest background, rather than a separate holding on the purpose of inquests in this appeal.

Sections 302 and 307 IPC concerned four murders and two attempts, with constructive common-intention liability under Section 34. Charges under Section 149 had originally been framed. After most accused were acquitted, the Court considered substitution and the question of prejudice. Sections 147, 148 and 324 IPC and Arms Act 25/27 formed part of the charge history; they did not become separate convictions of the three appellants in this appellate decision. Section 374 CrPC provided the appeal route. The initial account refers to Section 178(3) CrPC for investigation against absconders, without a legal issue under that provision being decided.

4. Issues : The Court considered whether the four deceased died homicidally and whether Gomati and Manohar sustained gunshots. It examined whether Ramant and the other natural or injured witnesses were credible despite relationship, enmity, delayed or conflicting police statements, missing guests, darkness and the Brajesh cross-case; what the scene

map, medical and ballistic evidence established about each appellant and victim; and whether the two residential and work alibis excluded participation. It also considered whether the three appellants shared an intention to kill or attempt murder despite using different weapons and the acquittals of other accused, whether Section 34 could replace Section 149 without prejudice, and whether direct convictions under Sections 302/307 could replace constructive counts where a specific individual charge had been framed. This common judgment did not decide the separate State appeals, although it referred to their same-day outcomes.

5. Ratio / Findings : The post-mortem doctors described fatal firearm injuries to Keshav, Jaswant and Raghunath, who died at the scene, and to Mamta, who died after treatment. Gomati and Manohar underwent timely medical examinations and had metallic foreign bodies. Homicide and injury were not materially challenged. Ramant reported to police after they arrived to investigate Brajesh's death and remained for the inquest and site work. The Court rejected an inference of guilt from his later absence alone. It considered the movement of Brajesh's body and the physical items shown in Ex. D.16 significant, while distinguishing the officer's direct observations from witness narratives. The separate cross-case finding that Ramant did not kill Brajesh, and the reference to a participant's admission, were used within the stated same-day decision framework. They did not authorise wholesale transfer of the cross-case evidence. The Court rejected the suggestion that old litigation with Ramlakhan established him as the sole shooter, noting the use of two firearm types and the absence of a reason to spare a guilty rival. Enmity and an uncertain motive did not displace otherwise supported ocular evidence.

After assessing each witness, the Court found Ramant, Rajabeti, Gomati, Manohar and Kumher generally reliable, while rejecting some individual attributions. Gomati's earlier 'came to know' statement prevented her being treated as a direct witness to the shooting of Keshav, Jaswant and Raghunath. She had, however, consistently named Nathu as her assailant and Ghanshyam as Mamta's. Manohar's account of who shot him and Gomati differed materially from his police statement and did not establish those individual shooters; his injury and other observations remained. Kumher's claim that Nathu shot Raghunath contradicted his earlier attribution to Ghanshyam and was rejected. Rajabeti had not been confronted, as Section 145 required, with her police account concerning Mamta. It could not therefore be used as a proved contradiction. Her age, traumatic loss and delayed examination informed the assessment of smaller discrepancies. Since Gomati survived, the doctor-recorded Ex. D.18 was not dying-declaration proof under Section 32. The doctor was not examined, and she explained her use of Ramvir's name. Those limits, the known participants and the medical evidence supported the reliable residue. Non-examination of other guests did not automatically justify an adverse inference, because material natural and injured witnesses had been examined.

Ghanshyam did not establish his whereabouts on 16 October, produce proof of duty or examine his alleged landlord. Ramvir's relatives supplied no convincing documentary or residential basis for his claimed move to Patrai and farming there, while his wife remained the village sarpanch. The Court rejected both alibis after independently assessing the prosecution case; their failure did not itself prove guilt. On the individual acts, Ramvir's .315-bore shots were accepted as fatal to Keshav and Jaswant. Raghunath's pellet injuries and the evidence of Ghanshyam's .12-bore gun led the Court to correct the trial finding attributing his direct death to Ramvir. Mamta suffered effects from both a .315 bullet and .12 pellets. The Court found that Ramvir's bullet killed her and that Ghanshyam's thigh pellet injuries were unlikely to have been fatal. It did not, however, impose an uncharged direct Section 302 conviction for Mamta's murder on Ramvir. Gomati's pellets, the witness attribution and the tested recovered .12 gun supported Nathu's direct attempted murder. The actual source of Manohar's wound remained uncertain after Kaushlendra's separate acquittal. The Court maintained common-intention liability against the three appellants without identifying a proved direct shooter.

Applying *Chhota Ahirwar*, the Court inferred shared intention under Section 34 from the three armed men approaching the house and firing repeatedly. That intention could form during the incident. The Section 149 charges had put the joint acts and common-purpose facts before the defence, and the Court found no unfairness in applying Section 34 after seven acquittals. It recognised the doctrinal distinction and the possibility of prejudice on other facts. Ghanshyam's conviction for Raghunath's

murder was changed to direct Section 302 and Nathu's conviction for the attempt on Gomati to direct Section 307, because each had faced a specific charge and defended that act. Ramvir retained direct murder liability only for Keshav and Jaswant, with Section 302/34 liability for Raghunath and Mamta. All three bore the stated direct and constructive attempt counts. These were final appellate findings on conviction, rather than prima facie procedural observations.

6. Relief : The Hon'ble High Court dismissed the criminal appeals with the stated modifications to the judgment of 20 May 2005 in Sessions Trial No. 37/2001. Ramvir remained directly guilty of murdering Keshav and Jaswant on two Section 302 counts, constructively guilty of murdering Raghunath and Mamta under Section 302/34, and guilty on two Section 307/34 attempt counts. Nathu retained four Section 302/34 murder counts. His Gomati attempt count changed to direct Section 307, while his Manohar attempt count remained under Section 307/34. Ghanshyam's Raghunath count changed to direct Section 302; the other three murder counts remained under Section 302/34, and both attempt counts remained under Section 307/34. As set out in paragraph 152, each murder count carried life imprisonment and a ₹1,000 fine, and each attempt count carried seven years' rigorous imprisonment and a ₹500 fine. All sentences were concurrent. Ghanshyam and Ramvir, already in jail, were to serve the remaining sentences and be informed of the judgment. Nathu's bail bonds were cancelled, and he was directed to surrender immediately. The trial record was to be returned. The separate State appeals were decided the same day; this judgment did not newly convict the seven acquitted co-accused.

Nathu Singh and Ors. v. State of Madhya Pradesh, Cr.A. no. 397/2005 & 401/2005 & 425/2005, 30/04/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (361) Prev Next

Headnote :- Article 226 criminal writ / alibi / advocate intimidation / FIR threshold — The writ petitioner challenged Crime No. 181/2024 for offences under Sections 294, 506 and 507 IPC. He claimed that hospital photographs placed him elsewhere when he was alleged to have threatened the complainant advocate to abandon a client's brief. The FIR also alleged earlier telephone threats and a demand for compromise. The Court quoted *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*. An alibi is relevant under Section 11 of the Evidence Act, rather than a substantive IPC exception. Once the prosecution establishes presence, the defence must offer positive, cogent evidence excluding presence. The prosecution's own burden remains even if the alibi fails. The hospital claim raised a disputed question of fact that could not be finally determined in the writ proceedings; this was not a finding that the petitioner was at the scene. The Court rejected the claim that an advocate's FIR concerning threats for accepting a brief amounted to misuse of advocacy. The alleged coercion interfered with professional duties. Paragraph 12 listed *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *CBI v. Arvind Khanna*, *Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*. The Court drew the general rule that proceedings can be quashed only where the uncontroverted allegations fail to disclose an offence. Since these allegations disclosed a cognizable offence, it dismissed the petition. This assessment of the allegations at face value did not establish guilt, determine the photographs' authenticity or decide any separate offence specific to threats against advocates.

Case-note :- ***1. Facts :*** The petitioner filed Writ Petition 36916/2024 under Article 226 challenging Crime 181/2024 at Kotwali Shivpuri, registered under Sections 294, 506 and 507 IPC. The complainant was an advocate representing an accused in RCT 308/2018. According to the FIR account reproduced by the Court, Neetesh made several telephone calls on 23 February 2024, threatening the advocate's life and demanding that he leave the case. He repeated the threat and pressed for a compromise on 11 March. On 19 March, he approached the advocate near the SDM Court in the presence of Arun Sharma, Jai Goyal, Vikas Singhal and Yogesh Tiwari. The allegations included demands that the advocate abandon the brief, abuse referring to his mother and sister, a death threat, and a threat to implicate him falsely under the SC/ST Act. The advocate attributed the delay in reporting to fear.

These were FIR allegations that had not been proved at a criminal trial.

The petitioner claimed that he was treating patients at a hospital at the relevant time and submitted photographs showing him outside the hospital premises. He described the FIR as a misuse of advocacy. The single-judge bench heard his counsel and considered whether the disputed alibi justified discharging him or interfering with the FIR in writ proceedings. A Government Advocate represented the State. The writ decision did not determine guilt.

2. Precedents — Considered : *Vijay Pal v. State (Govt. of NCT of Delhi), 2015:INSC:194, (2015) 4 SCC 749*, was quoted at length on positive proof of an alibi once the prosecution establishes presence. It reproduces *Binay Kumar Singh v. State of Bihar, 1996:INSC:1260, (1997) 1 SCC 283*, which treats alibi as a plea relevant under Section 11 of the Evidence Act. That passage preserves the prosecution's burden and requires strict proof from the defence, while allowing the accused the benefit of reasonable doubt arising from defence evidence of sufficient quality. The Court quoted *Binay Kumar Singh* again separately in paragraph 8, including its references to *Dudh Nath Pandey* and *Narsingrao Gangaram Pimple*. *Sk. Sattar v. State of Maharashtra, 2010:INSC:546, (2010) 8 SCC 430*, was separately quoted on positive proof and the express qualification that failure to prove an alibi does not necessarily establish the prosecution case. Its quotation includes *Gurpreet Singh*'s treatment of concurrent factual findings on alibi. *Vijay Pal* identified *Jitender Kumar* as reiterating the principle. The Court concluded that the disputed implications of the photographs could not be decided under Article 226. It did not apply the burdens governing final trial adjudication as a declaration of the petitioner's guilt.

Paragraph 12 listed *XYZ v. State of Gujarat*, *S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *CBI v. Arvind Khanna*, *Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* with citations. The Court invoked them collectively for the proposition that proceedings can be quashed only when the uncontroverted allegations do not disclose an offence. They supported that collectively stated threshold for quashing. None was used to determine whether the hospital photographs were true or to establish an additional substantive offence against advocates.

3. Statutes considered : Article 226 provided the jurisdiction for the criminal writ actually filed. Sections 294, 506 and 507 IPC were the offences named in Crime 181/2024. The Court assessed collectively whether the allegations, taken at face value, disclosed a cognizable offence; it did not determine whether the evidence was sufficient for conviction. The complainant alleged a threat of false implication under the SC/ST Act. No actual offence or prosecution under that Act was adjudicated. Section 11 of the Evidence Act was discussed through *Binay Kumar Singh* as the basis for the relevance of an alibi, rather than an IPC exception. The requirements of prosecution proof and reasonable doubt remained applicable. The RCT number identified the client's pending case, rather than a charge being tried in this writ. Section 482 CrPC was not the stated basis of the petition's jurisdiction.

4. Issues : The immediate question was whether the Court could accept the hospital photographs and claimed alibi as proof of absence and discharge the petitioner in Article 226 proceedings. It also considered whether an advocate's report of threats intended to make him abandon a client's brief could be dismissed as misuse of advocacy, and whether the uncontroverted FIR account disclosed a cognizable offence so as to justify declining interference. The Court did not conduct a trial concerning the alleged telephone calls, test the eyewitnesses or photographic metadata, or determine eventual guilt.

5. Ratio / Findings : Alibi means elsewhere. It is a rule of relevant evidence under Section 11, rather than a statutory exception. The quoted cases require the prosecution first to prove presence and participation. An accused raising an alibi must then produce cogent, positive evidence excluding presence, while evidence that creates reasonable doubt may still benefit the accused. A false or failed alibi does not relieve the prosecution of its burden of proof beyond reasonable doubt. The Court held that this disputed factual issue could not be settled under Article 226 by treating the submitted hospital photographs as conclusive. It did not reject the photographs after testing the evidence or shift the ultimate burden at trial.

The FIR alleged repeated threats to the complainant advocate because he had accepted a client's brief, followed by pressure to compromise, abuse and

threats near the SDM Court. The Court reasoned that advocates generally represent their clients' causes without a personal stake. Threatening an advocate merely because the advocate has appeared for a client amounts to interference with professional duties. Describing the FIR as misuse of advocacy did not negate the alleged conduct. At the preliminary stage, the allegations taken at face value disclosed a cognizable offence. The authorities listed in paragraph 12 supported the general threshold for declining quashing. This did not amount to a finding that every witness's account or every element of an offence had been proved. The hospital alibi and the merits remained to be considered in the criminal process.

6. Relief : The Hon'ble High Court dismissed the Article 226 petition, declining to interfere with Crime 181/2024 or quash the FIR. The judgment neither convicted the petitioner nor finally determined his defence. Its reported neutral citation is *2024:MPHC-GWL:21507*.

Neetesh Sharma v. State of Madhya Pradesh and Others, W.P. no. 36916/2024, 29/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (362) Prev Next

Headnote :- Section 482 CrPC — The husband sought quashing of the Section 377 charge. He challenged the wife's allegation of unnatural sex, which appeared in her Section 164 statement, and disputed the forensic material. The effect of the delayed allegation and the evidentiary objections fell to be considered at trial. The separate quashing of proceedings against his relatives for want of specific acts did not assist him. The wife's account disclosed a prima facie case. The petition was dismissed.

Case-note :- ***1. Facts :*** The husband faced prosecution arising from Crime 954/2017, including offences under Sections 498-A and 377 IPC. He disputed the allegation of unnatural sex in the wife's later Section 164 statement. He also questioned the FSL findings of sperm, relying on their separate residence. Proceedings against his siblings had been quashed because there were no specific allegations against them. He expressly confined his arguments in this petition to Section 377.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, Teeja Devi v. State of Rajasthan, State of Orissa v. Ujjal Kumar Burdhan, S. Khushboo v. Kanniammal, Amit Kapoor v. Ramesh Chander, CBI v. Arvind Khanna and State of M.P. v. Kunwar Singh* were considered on the sparing exercise of the power to quash proceedings and the prohibition on meticulous appraisal of evidence at that stage. The Court also noted the earlier ruling of 15.03.2019 dismissing his challenge to the DNA notice.

3. Statutes considered : The provisions referred to were Sections 164 and 482 CrPC and Sections 377, 498-A, 323, 294, 506 and 34 IPC. Sections 3–4 of the Dowry Prohibition Act were also mentioned.

4. Issues : Could the later disclosure and the accused's forensic objections justify quashing the Section 377 prosecution? Did the relief granted to his relatives also extend to the husband?

5. Ratio / Findings : In considering an application under Section 482, the Court tests whether the uncontroverted allegations disclose an offence, without deciding credibility or conducting a mini trial. The effect of delay in making a particular allegation and the claimed impossibility of the sperm evidence require assessment at trial. The siblings had obtained relief because there were no specific allegations against them. By contrast, the wife directly accused the applicant in her Section 164 statement. Her accusation supplied prima facie material and grave suspicion sufficient for framing the charge. The Court did not decide the other offences, on which no arguments had been advanced.

6. Relief : The Hon'ble High Court dismissed the application. The Section 377 proceedings continue.

Harsh Gupta v. State of Madhya Pradesh and Others, M.Cr.C. no. 63657/2021, 14/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (363) Prev Next

Headnote :- Article 226 / matrimonial FIR / preliminary inquiry / accused's role / continuing cruelty — The wife alleged a demand for ₹10 lakh and a Baleno car, taunts, assault and threats by her husband and relatives at Kanpur, misconduct by her father-in-law, a trip to Australia, subsequent expulsion and continuing distress at her parental home in Bhopal. The petitioners sought a preliminary inquiry into documents sent by email, a Section 173(2) report exonerating them, questioning in Australia or payment of their travel expenses, and prosecution of the complainant. Under *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, an FIR must be registered where the information discloses a cognizable offence. A preliminary inquiry

in the illustrative category of matrimonial disputes depends on the circumstances. It is not invariably mandatory and concerns disclosure of an offence, rather than the ultimate truth of the allegations. The Court applied its quotation in *Meera Yadav* of *CBI v. Thommandru Hannah Vijayalakshmi*, which discusses *Managipet*, *Yashwant Sinha*, *Charansingh* and earlier corruption-case authorities. Failure to hold an inquiry did not automatically invalidate this FIR. *Romila Thapar*, *Dinubhai Boghabhai Solanki* and *Narender G. Goel* supplied the rule that suspects have no routine right to a hearing, to choose an agency or to dictate how an investigation proceeds. Exceptional relief under Article 226 remains available where a mala fide investigation is established. *Neeharika Infrastructure* cautioned against stifling an unfinished investigation or assessing the defence on incomplete material. The petitioners disputed whether all the relatives had returned from Australia. Their counsel nevertheless conceded that they had previously lived together, and the FIR specifically alleged earlier cruelty and misconduct by the father-in-law. Falsus in uno did not erase those earlier allegations. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, supported the principle of continuing mental cruelty where a wife expelled over dowry allegedly suffers at her parental home. This supplied the connection for investigation by Bhopal Mahila Thana. The petition was dismissed, the interim stay of 11 July 2023 was vacated, and prompt completion of the investigation was directed. The Court did not finally determine guilt, the authenticity of the travel material, residence or any entitlement to prosecute the complainant.

Case-note :- ***1. Facts :*** Tanweer Seraj and other family members filed Writ Petition 14464/2023 under Article 226. They sought a direction to the police to conduct a preliminary inquiry into documents enclosed with their representation and file a report under Section 173(2) CrPC exonerating them. They also asked that, if personal questioning was needed, an officer be sent to Australia or their travel to Bhopal be paid for, and that the complainant be prosecuted for lodging a false FIR. Crime 116/2023 at Mahila Thana, Bhopal alleged offences under Sections 498-A, 354, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act. The complainant stated that she married Zain Tanweer at Bhopal on 5 December 2021 and arrived at the matrimonial home in Kanpur on 17 July 2022. She alleged a demand for ₹10 lakh and a Baleno car, taunts, filthy language, beating and sexualised misbehaviour by her father-in-law, Tanweer. She further alleged that the family travelled to Sydney in September 2022 and returned to Kanpur in January 2023. Dowry pressure and assault allegedly continued, and she was expelled with a warning not to return without the money and car. She said that she took shelter at her father's home in Bhopal and tried to preserve the marriage before reporting. These were FIR allegations, rather than final findings of fact by the Court.

The petitioners argued that no preliminary inquiry had preceded registration, that passports and material sent by email showed that not all family members had returned from Australia, and that the alleged acts occurred in Kanpur, outside the territorial jurisdiction of the Bhopal police station. Their counsel relied on *Rashmi Chopra*, *Prashant Bharti* and *Doliben*. The State and complainant opposed the petition. They relied on disclosure of a cognizable offence, continuing harm at the parental home and the absence of a right for the accused to be heard before or during investigation as a matter of course. The investigation remained incomplete because an interim order had stayed it. The Court recorded counsel's concession that all the petitioners had lived together at Kanpur before the Australia trip. It considered the alleged earlier acts, without resolving the disputed travel evidence.

2. Precedents — Considered : *Lalita Kumari v. Government of U.P., 2013:INSC:748, (2014) 2 SCC 1*, was discussed through the Court's quotation from its earlier decision in *Meera Yadav v. State of M.P.* It requires registration where the information discloses a cognizable offence. It permits an inquiry for a limited purpose in appropriate categories, including matrimonial disputes, depending on the facts. Such an inquiry is neither a trial of the allegations' truth nor a universal entitlement of the accused. The lengthy *Meera Yadav* extract quotes *CBI v. Thommandru Hannah Vijayalakshmi*, Criminal Appeal 1045/2021. That decision surveys *P. Sirajuddin*, *Nirmal Singh Kahlon*, *Yashwant Sinha*, *Managipet*, *Charansingh* and *K. Veeraswami* in the context of corruption by public servants and CBI practice. The High Court applied the general principle that absence of an inquiry does not automatically invalidate the matrimonial FIR. It did not treat the corruption-case facts as findings against these parties. *Lalita Kumari*'s duty to register an FIR

remained distinct from its illustrative categories in which an inquiry is permissible.

Romila Thapar v. Union of India, W.P.(Cr.) 260/2018, judgment of 28 September 2018, was quoted at length on an accused's choice of agency or method of investigation and exceptional judicial transfer where genuine mala fide abuse is shown. Its quotations from *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar*, *Divine Retreat Centre* and *Committee for Protection of Democratic Rights* concern different settings. They support that framework while preserving exceptional control under Article 226. *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, was separately quoted on the absence of an automatic right for a proposed accused to be heard during investigation. The quotation includes *W.N. Chadha*, *Rajesh Gandhi*, *Sri Bhagwan Samardha* and *Narender G. Goel*. *Narender G. Goel v. State of Maharashtra, (2009) 6 SCC 65*, was then quoted separately, recognising the later opportunity at trial to test the evidence. Merely submitting disputed documents did not entitle the petitioners to direct an overseas inquiry, obtain State-funded travel or require a police report exonerating them.

Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401, was quoted on the police's primary role in investigating cognizable offences, exceptional quashing, assessment of an FIR at face value and restraint in evaluating reliability on incomplete facts. Its extensive references to *Prakash P. Hinduja*, *P. Chidambaram*, *Khwaja Nazir Ahmad*, *Skoda Auto*, *Bhajan Lal* and *R.P. Kapur* state that framework; they are not independent findings of fact in this case. The Court applied it to the disputed return from Australia and the continuing investigation. *Rupali Devi v. State of U.P., 2019:INSC:479, (2019) 5 SCC 384*, was quoted on mental cruelty continuing at the parental home after expulsion connected with dowry demands. The High Court also cited *its decision in Amar Singh v. Vimla*, Criminal Revision 2376/2020, decided on 22 June 2021. The alleged continuing effects at Bhopal supported investigation there.

3. Statutes considered : The petition invoked Article 226 for directions concerning the investigation and a final report. The Court refused to direct a particular outcome, while recognising exceptional judicial control over mala fide abuse. Section 154 CrPC governed registration of a cognizable FIR and the limited preliminary inquiry permissible in appropriate circumstances. Section 173(2) concerned the final report sought by the petitioners; no final report had yet been filed. Sections 498-A, 354, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act were the alleged offences. No finding of guilt was made. The mental-cruelty aspect of Section 498-A was relevant to the alleged effects at the parental home and the territorial connection. Although the High Court quoted authorities on restraint in quashing under Section 482, this petition was under Article 226. The alternative request to prosecute the complainant for a false FIR was not granted.

4. Issues : Did the absence of a preliminary inquiry in this matrimonial dispute invalidate an FIR disclosing a cognizable offence? Could the suspects rely on their documents to control the method of investigation, obtain a favourable final report or demand an interview overseas or payment of travel expenses? Did the dispute about which relatives returned from Australia eliminate the specific earlier Kanpur allegations and justify ending an incomplete investigation? Could Bhopal Mahila Thana investigate when the complainant alleged that cruelty connected with dowry demands had compelled her to live at her parental home in Bhopal? What relief, if any, should replace or continue the existing interim stay? The Court did not try the underlying accusations.

5. Ratio / Findings : The Court held that a preliminary inquiry is not mandatory in every case within the illustrative category of matrimonial disputes. Its absence alone does not vitiate an FIR disclosing a cognizable offence. The inquiry determines whether a cognizable offence is disclosed, rather than whether guilt is established. The investigating police, rather than the accused, decide how to assess passports and other documents. A suspect or accused has no routine right to be heard in advance, to choose an officer or to direct exoneration through a Section 173(2) report. Exceptional judicial directions remain available where abuse is demonstrated. No established basis for such directions was supplied in this petition, while the investigation had been stopped by an interim order.

The significance of the passports for events after the Australia trip was disputed. The Court did not find the passports forged or authentic. Even if some relatives had not returned, counsel accepted that they had lived together at Kanpur before the trip. The FIR

specifically alleged earlier dowry taunts, physical and mental abuse, and misconduct by Tanweer personally. A possibly inaccurate part did not automatically destroy the separable allegations; falsus in uno is not an inflexible rule. *Neeharika*'s caution made it inappropriate to assess the evidence as at a trial while the investigation was incomplete. Applying *Rupali Devi*, the alleged expulsion connected with dowry demands and continuing mental distress at the parental home in Bhopal supplied the territorial connection for the police station. This was a preliminary determination concerning jurisdiction and allegations disclosing a cognizable offence. It did not prove residence, cruelty, sexual misconduct or the participation of every relative.

6. Relief : The Hon'ble High Court dismissed the writ petition. It vacated the interim order of 11 July 2023 and directed respondent No. 1 to complete the investigation as early as possible, without further delay. It did not order a mandatory preliminary inquiry, an exonerating final report, a visit to Australia, payment of travel expenses, prosecution for a false FIR or quashing. The criminal process remained open, with guilt and the defence evidence unresolved.

Tanweer Seraj and Others v. State of Madhya Pradesh and Others, W.P. no. 14464/2023, 19/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 226 — The challenge to the DNA notice in the investigation into the wife's allegation of unnatural sex failed. Human sperm on a preserved anal slide supplied material for comparison; the lapse of time did not make DNA profiling futile. The investigator could seek cooperation for medical examination. The accused, whose protection from arrest was subject to cooperation, could not dictate the method of investigation.

Case-note :- ***1. Facts :*** The wife alleged unnatural sexual acts in Crime 954/2017. Human sperm was found on FSL examination of her anal slide, prepared on 30.12.2017. Investigation against the husband continued under Section 173(8) CrPC. The investigator issued a notice dated 07.02.2019 seeking his cooperation with DNA profiling. The Supreme Court's interim protection from arrest required him to cooperate. He challenged the notice as futile because of the delay and as an intrusion on privacy.

2. Precedents — Considered : *Dipanwita Roy v. Ronobroto Roy, (2015) 1 SCC 365*, was considered on DNA testing and privacy in a different matrimonial setting. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, and *Prabal Dogra v. Superintendent of Police were considered on the* accused's lack of control over the manner of investigation.

3. Statutes considered : The provisions referred to were Article 226 of the Constitution and Sections 53-A, 161, 173(8) and 438 CrPC. Sections 112 and 114 of the Evidence Act were discussed through the precedent.

4. Issues : Was the DNA notice outside the investigator's authority or futile because of elapsed time? Did privacy or protection from arrest excuse noncooperation?

5. Ratio / Findings : The existing slide supplied biological material for comparison with the husband's DNA profile. A mismatch could provide evidence in his favour. In these circumstances, the investigator could issue a notice requiring medical examination, referring to Section 53-A although that provision concerns rape. The Court declined to interfere with the manner of a lawful investigation. The Supreme Court's interim order itself required cooperation. The Court's broad discussion of DNA led to a conclusion specific to the preserved sample in this case, rather than a determination of ultimate guilt.

6. Relief : The Hon'ble High Court dismissed the writ petition. The notice requiring cooperation for DNA testing remained in effect.

Harsh Gupta v. State of Madhya Pradesh and Others, W.P. no. 5428/2019, 15/03/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Successive bail / roster / vacation exception / bench hunting — In his second application under Section 439 CrPC concerning Crime 23/2022, the applicant sought listing before the coordinate Bench that had dismissed his first bail application. The Court examined the co-accused persons' successive applications and the administrative directions governing assignment. A circular of 13 May 2022 permitted certain bail and

sentence-suspension applications arising from the same crime to be listed before available summer-vacation Benches, but expressly excluded repeat applications. The roster note of 27 June 2022 directed later Section 438/439 matters arising out of the same crime number and the same police station and/or the same trial or appellate court case number, and from the same judgment or order, to the judge who had decided the first revision or bail application. If that judge was unavailable, assignment was subject to the Chief Justice's direction. The applicant's first application was filed during vacation but heard only on 3 September, after the relaxation had ended. *Shahzad Hasan Khan v. Ishtiyaq Hasan Khan, (1987) 2 SCC 864*, supports the discipline of listing repeat bail before the same Bench. Counsel had, however, failed at the first hearing to alert the coordinate Bench to the earlier linked assignment. Having taken a chance before that Bench and lost, he could not insist that the repeat application return to it. *Munna Singh Tomar, (1989) MPLJ 414*, was distinguished because the factual position concerning assignment differed. The renewed transfer request, already refused on 28 November, could not secure review of the previous day's order in view of Section 362 CrPC. The Court held that the repeat application should be heard by the present Bench and characterised the attempted routing as bench hunting. Counsel chose not to argue bail on the merits, stating that the applicant's case was indistinguishable from those of the co-accused. The application was dismissed. The order did not separately assess the evidence, entitlement to parity or guilt in the case alleging IPC forgery and cheating offences and Section 66D of the IT Act.

Case-note :- ***1. Facts :*** Tarun Kushwah was arrested on 8 April 2022 in Crime 23/2022 at Crime Branch, Gwalior. The alleged offences concerned impersonation, cheating, forgery, use of forged documents and common intention under Sections 419, 420, 34, 467, 468 and 471 IPC, along with Section 66D of the Information Technology Act. M.Cr.C. 55955/2022 was his second application under Section 439 CrPC. On 28 November, the Court rejected his request to send it to the coordinate Bench that had dismissed his first application. Counsel renewed the listing request the next day. The judgment records a sequence of bail applications by co-accused Sagar Chauhan, Ashish Ken, Monika Dixit, Rohit Sharma, Akash and Kunal Jatav. Some were initially heard by a vacation Bench, while later repeat applications came before the present Bench. The dates were relevant to administrative assignment; they did not independently establish that every accused's case was identical.

Tarun's first bail application, M.Cr.C. 26884/2022, was filed during vacation but heard and dismissed by the coordinate Bench on 3 September 2022. Relying on the same-judge principle, counsel sought listing of the repeat application before that Bench and invoked *Munna Singh Tomar* and *Shahzad Hasan Khan*. The State opposed transfer. The Court invited submissions on the bar under Section 362 CrPC against reviewing the previous day's order, but counsel continued to press the listing request. The underlying cybercrime allegations were neither tried nor assessed on the evidence in this order.

2. Precedents — Considered : The applicant invoked *Shahzad Hasan Khan v. Ishtiyaq Hasan Khan, (1987) 2 SCC 864*, for continuity before the judge who had dealt with earlier bail in the same crime. The Court accepted the same-bench principle. It reasoned, however, that counsel should have informed the coordinate Bench of the earlier linked assignment when Tarun's first application came up for hearing after vacation. The precedent did not entitle an applicant who had taken a chance before that Bench and received an adverse decision to dictate the forum for the next application. *Munna Singh Tomar v. State of M.P., (1989) MPLJ 414*, was relied on for returning a repeat application to the Bench that first heard it. It was distinguished because the linked co-accused matters had been placed before different available Benches under a temporary vacation relaxation. Neither authority was applied as a test of the merits or proof of cyber-cheating.

3. Statutes considered : Section 439 CrPC governed the repeat regular-bail application. Sections 438 and 439 also appeared in the later roster note. The circular of 13 May 2022 permitted bail and sentence-suspension matters arising from the same crime number to be listed before an available summer-vacation Bench when the normal Bench was unavailable. Repeat applications were excluded from that exception. The roster/assignment note of 27 June 2022 directed Section 397/401 revisions and Section 438/439 bail applications arising out of the same crime number and the same police station and/or the same trial or appellate court case number, and from the same judgment or order, to the judge who had decided the first revision or bail application. If that judge was unavailable, assignment was to follow the

Chief Justice's direction. The Court applied those dates; filing during vacation did not create a permanent exception. Section 362 CrPC barred review of the listing order of 28 November 2022 and provided a procedural reason not to reopen the rejected request. Sections 419, 420, 34, 467, 468 and 471 IPC and Section 66D of the IT Act identified the registered case. Their ingredients were not decided.

4. Issues : Should the repeat bail application be heard by the coordinate Bench that dismissed Tarun's first application, or by the present Bench under the later roster and the assignment of linked co-accused matters? Did the summer-vacation listing exception continue to apply merely because the first application was filed during vacation, although heard in September? Could counsel renew the transfer request rejected the previous day, and what followed from his failure to alert the coordinate Bench to the linked assignment before obtaining an adverse decision there? Counsel declined to address bail on the merits.

5. Ratio / Findings : The Court distinguished the filing date from the hearing date. Tarun's first application was filed during vacation, but the coordinate Bench heard it on 3 September, when the exception was no longer in force. Counsel should have raised the roster principle concerning the first linked bail application at that hearing. The Court described his decision to take a chance there, followed by an insistence after dismissal that all later applications return to that Bench, as bench hunting. The note of 27 June and the history of the linked co-accused applications placed the repeat application before the present Bench. *Munna Singh Tomar* did not govern these circumstances arising from a temporary exception. *Shahzad Hasan Khan* supported proper continuity, rather than strategic selection of a forum. Section 362 barred review of the previous day's refusal. These conclusions concerned judicial assignment and the integrity of successive bail applications. They did not establish that any inadvertent mistake always forfeits listing before the same judge, or that a particular co-accused's bail result automatically binds this applicant.

After holding that it was the proper Bench, the Court turned to the merits. Counsel stated that Tarun's case was not distinguishable from those of the co-accused and chose not to argue it. The application was accordingly dismissed. The finding on conduct did not determine the allegations at trial.

6. Relief : The Hon'ble High Court dismissed the second application for regular bail, retaining it before the present Bench. The refusal to transfer the matter on 28 November was not reviewed.

Tarun Kushwah v. State of Madhya Pradesh, M.Cr.C. no. 55955/2022, 29/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Quashing of the prosecution under Sections 498-A/306 was refused. The applicant's cohabitation with the deceased's sister-in-law, their child and the family's acceptance of their relationship supported a prima facie relationship by marriage. Specific allegations of assault, threats and deprivation of household amenities could constitute cruelty even without a dowry demand. Following the woman's suicide, the Court also found a prima facie basis for prosecution for abetment.

Case-note :- ***1. Facts :*** A woman died after consuming poison. Witnesses alleged that her in-laws and the applicant had threatened, harassed and assaulted her. The witnesses also alleged that they had cut off electricity and water to the room occupied by her and her husband and demanded rent. The applicant lived with the husband's sister, Saroj, after her divorce. They had a two-year-old child and lived in her parental home. He sought quashing on the grounds that he was not a relative of the deceased's husband and that no dowry had been demanded. Charges were subsequently framed in December 2019, but he did not amend his challenge to contest them.

2. Precedents — Considered : *U. Suvetha v. State* and *Vijeta Gajra v. State (NCT of Delhi)* informed the interpretation of "relative" as a person related by blood, marriage or adoption. The Court applied *Kamala v. M.R. Mohan Kumar, (2019) 11 SCC 491*, and the authorities discussed in it concerning the rebuttable presumption of marriage arising from sustained cohabitation. The petitioner cited *Joseph Salvaraj*, *Mamta Shailesh Chandra*, *Ramesh Kumar*, *Gangula Mohan Reddy* and *Prabhu*, among others. The Court decided the case on the alleged relationship and conduct.

3. Statutes considered : The provisions considered were Sections 498-A, 306 and 34 IPC and Section 482 CrPC. Section 114 of the Evidence Act arose in the authorities concerning the presumption of marriage.

4. Issues : Was the applicant a relative of the husband for the purposes of Section 498-A? Could harassment unrelated to a dowry demand constitute cruelty? Could the allegations sustain a prosecution under Section 306 at the threshold?

5. Ratio / Findings : The applicant's long cohabitation with Saroj, their child and the family's acceptance of their relationship permitted the Court to draw a rebuttable presumption of marriage and thus treat him as related by marriage to the deceased's husband. A dowry demand is not required under Explanation (a) to Section 498-A. Cruelty includes wilful conduct of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health, whether mental or physical. The specific allegations of assault, threats and deprivation met the prima facie threshold. The Court held that the allegations, taken together, were also sufficient to warrant prosecution for abetment of suicide. This was a ruling at the threshold, not a finding of guilt.

6. Relief : The Hon'ble High Court dismissed the quashing application, permitting the prosecution under Sections 498-A and 306 to continue.

Harshit Namdev v. State of Madhya Pradesh and Others, M.Cr.C. no. 35340/2019, 20/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 439(2) CrPC / suo motu bail correction / false parity — While hearing co-accused Sikandar's bail appeal, the High Court noticed that the Sessions Judge had granted Gajendra bail on an account contrary to the case diary. It issued a show-cause notice before considering cancellation. The prosecution alleged that Sikandar, Omkar and Gajendra had assaulted Shyamlal, taken him to hospital under the false name Nathuram, and concealed his true identity in connection with his death and cremation. The other accused faced a different allegation: supplying false information that Nathuram had died. The Sessions order described all of them as assailants of Nathuram, stated that Gajendra's role was unspecified and relied on the High Court's bail orders for the second group. *Harjit Singh v. Inderjeet Singh*, Criminal Appeal 883/2021, 24 August 2021, quotes *Mahipal v. Rajesh Kumar, (2020) 2 SCC 118*, and *Neeru Yadav v. State of U.P., (2014) 16 SCC 508*. An original grant of bail can be set aside where discretion was exercised perversely, illegally or without relevant consideration. This is distinct from later cancellation for supervening misconduct or breach of conditions. The authorities quoted within that discussion—*Gudikanti Narasimhulu*, *Ash Mohammad*, *Sitaram Popat Vetal*, *Ram Govind Upadhyay* and *Prasanta Kumar Sarkar*—identify the relevant considerations of liberty, gravity, evidence, prima facie involvement and risks to the judicial process. The Court did not conduct a final trial. Gajendra's reliance on Hirasingh's Section 164 statement did not answer the defect in the bail order's premise, because Hirasingh did not claim to be an eyewitness. The High Court found non-application of mind and no genuine parity. It set aside the bail order of 10 August 2021 and required surrender by 24 January 2022, with a warrant to issue on default. It also directed that a prior Supreme Court order declining to interfere with an administrative-side referral concerning the Sessions Judge, together with this decision, be placed before the Chief Justice. No new disciplinary outcome was adjudicated here.

Case-note :- ***1. Facts :*** The High Court registered M.Cr.C. 50723/2021 under Section 439(2) CrPC on its own motion while considering bail for co-accused Sikandar Singh Narvariya alias Lalu in Criminal Appeal 5870/2021. The police case began with a report by neighbour Upendra Singh Jatav that Sikandar, Omkar alias Daplu and Gajendra had beaten Shyamlal and taken him to Gwalior, after which his whereabouts were unknown. According to the investigation, Shyamlal was admitted to J.A. Hospital under the false name Nathuram son of Hukum Singh and died on 8 June 2020. Omkar received the body after post-mortem, and the cremation took place away from the village. The police stated that the actual Nathuram had died in 2013. They charge-sheeted the first three for the alleged assault and concealment, and a larger second group for allegedly giving false information about the deceased's identity and a supposed fall from a roof. These were prosecution allegations, not findings at a criminal trial.

The Sessions Judge, Bhind had granted Gajendra bail on 10 August 2021 in B.A. 978/2021. The order referred to his lack of a prior record or flight risk, the completed investigation, the absence of a need for custodial interrogation, pandemic-related delay and parity with several persons granted bail by the High Court. It also described the alleged victim as Nathuram and treated both groups as assailants. The

other recipients of bail, however, were accused of giving false information, rather than directly attacking the deceased. After noticing this discrepancy, the High Court issued a show-cause notice. Gajendra's lawyer relied on Hirasingh's Section 164 statement, which did not name Gajendra. After examining that statement, counsel accepted that Hirasingh had not claimed to be an eyewitness and had instead recounted information received from others. No further ground was advanced to justify the Sessions Judge's reasoning.

2. Precedents — Considered : *Harjit Singh v. Inderjeet Singh alias Inder,* Criminal Appeal 883/2021, decided on 24 August 2021, was quoted extensively as the immediate Supreme Court framework. Its discussion of *Gudikanti Narasimhulu v. Public Prosecutor, (1978) 1 SCC 240*, balances liberty against the nature of the accusation and evidence, the severity of punishment, antecedents and risks to the judicial process. *Ash Mohammad v. Shiv Raj Singh, (2012) 9 SCC 446*, stresses regulated liberty and social protection. *State of Maharashtra v. Sitaram Popat Vetal, (2004) 7 SCC 521*, requires reasons addressing the nature of the accusation, punishment, evidence, tampering and prima facie support for the charge. These authorities were discussed within the quotation from *Harjit Singh*; their individual historical facts were not separately applied to the present case.

Harjit Singh then reproduced *Mahipal v. Rajesh Kumar, (2020) 2 SCC 118*, concerning the judicious, rather than mechanical, exercise of discretion under Section 439 and the appellate test for an unsound original grant of bail. *Mahipal*, in turn, quoted *Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598*, and *Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496*, on the relevant factors and the defect in an unreasoned order. The reproduced passage invokes *Neeru Yadav v. State of U.P., (2014) 16 SCC 508*, to distinguish later cancellation for misconduct or supervening circumstances from setting aside an original order that ignored relevant facts or relied on irrelevant ones. The High Court adopted the approach of reviewing the original order. It did not find that Gajendra had breached the conditions of his release.

3. Statutes considered : The suo motu cancellation proceeding was expressly brought under Section 439(2) CrPC, with notice and a hearing given to Gajendra. The power to grant bail under Section 439 must be exercised on relevant prima facie material; proof of guilt beyond reasonable doubt is not required at that stage. Hirasingh's statement under Section 164 CrPC was assessed according to what he actually claimed as a person who was not an eyewitness. It did not constitute conclusive evidence exonerating Gajendra. The charge-sheet's allegations of murder and false identity formed part of the bail record; the substantive charges remained for trial. The co-accused Sikandar's special criminal appeal for bail prompted the notice, while the present operative order concerned Gajendra's B.A. 978/2021.

4. Issues : Was the Sessions Judge's grant of bail based on a prima facie accurate account of Gajendra's role and a valid comparison with the other persons granted bail? Could an original bail order be set aside for perversity or non-application of mind in the present Section 439(2) proceeding without an allegation of later misconduct? Did Hirasingh's failure to identify Gajendra displace the relevant case diary material when Hirasingh was not an eyewitness? What directions should follow concerning surrender and forwarding the orders for administrative information? The Court did not decide the underlying murder prosecution.

5. Ratio / Findings : The Court distinguished the two groups identified by the prosecution. The first three were alleged to have assaulted Shyamlal and participated in admitting him under a false identity and concealing his body. The other group was alleged to have supplied false information to the police. Nevertheless, the Sessions Judge wrote that all of them had attacked Nathuram, stated that Gajendra's role was not specified, and relied on bail grants for the latter group to extend parity to him. Those premises were contrary to the record. General references to custody, a clean record, pandemic-related delay and parity could not make the order a judicious exercise of discretion. Hirasingh's omission in his Section 164 statement had limited weight because he did not claim to have witnessed the occurrence. The Court held that the original grant was bad in law because it ignored material allegations and falsely projected parity. It set aside the grant on the ground that the order was unsound, rather than because of post-release misconduct. This was a prima facie bail assessment. It neither convicted Gajendra nor decided how the allegation concerning the false identity would be proved at trial. The judgment also referred to an earlier direction to place the Sessions Judge's conduct before the Chief

Justice on the administrative side. It noted that the Judge's SLP (Cr.) 9149/2021 had been dismissed on 26 November 2021, with the Supreme Court declining to interfere. The Registrar was directed to forward both orders for information. This passage records an administrative referral and an order declining interference. It does not record a finding in the present judgment that a particular disciplinary sanction had already been imposed.

6. Relief : The Hon'ble High Court disposed of the application under Section 439(2) CrPC by setting aside the bail order dated 10 August 2021 in B.A. 978/2021. Gajendra was directed to surrender before the Trial Court immediately, and in any event by 24 January 2022. If he failed to surrender by that date, the Trial Court was to issue a warrant of arrest immediately. The Principal Registrar was directed to place the Supreme Court's order dated 26 November 2021 and this judgment immediately before the Chief Justice for information.

State of Madhya Pradesh v. Gajendra Singh, M.Cr.C. no. 50723/2021, 05/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 439 — The police knew that the applicant was in custody in another case and had obtained a production warrant, but neither produced him nor formally arrested him in the present case. They could not rely on their own omission to defeat his bail remedy. For the purposes of this application, the Court treated custody as commencing on the date of the request for the warrant. It granted bail and directed an inquiry by the Inspector General.

Case-note :- ***1. Facts :*** Hazrat Khan sought regular bail in a case concerning alleged preparation for dacoity in 2017. He stated that he had been in jail since July 2022. The State objected that he had never been formally arrested in the present case. The SHO admitted knowing that the applicant was in jail in another case and having sought a production warrant on 21.03.2022. Despite being able to do so, the police had neither produced him nor formally arrested him in this case. No article had been recovered from him.

2. Precedents — Considered : *Aparna Bhat v. State of M.P.*, Criminal Appeal 329/2021, was cited only for notifying the complainant of the grant of bail. The analysis of custody and police conduct was the High Court's own application of the law to this record.

3. Statutes considered : The provisions considered were Section 439 CrPC; Sections 399, 400 and 402 IPC and the other registered offences; Sections 11/13 of the MPDVPK Act; and Sections 25/27 of the Arms Act. The Court also considered the safeguards for liberty.

4. Issues : Could the police avoid review under Section 439 by omitting formal arrest when the accused was already in jail and a production warrant had been issued? How should custody and the officers' conduct affect the decision on bail?

5. Ratio / Findings : The Court rejected the State's objection as misconceived and misleading. The police could not unlawfully curtail the available legal remedies through their own omission. The SHO's unexplained failure to produce or arrest the applicant violated his liberty. For the purposes of this bail application, the Court presumed custody from 21.03.2022. It considered the period of detention, the absence of any recovery and the police conduct, notwithstanding the registration of two other cases against the applicant. It also ordered an inquiry by the Inspector General.

6. Relief : The Hon'ble High Court allowed the application for regular bail. The applicant was to be released on furnishing a personal bond of Rs. 1,00,000/- with one surety in the like amount to the satisfaction of the Trial Court/Committal Court, and was required to appear on the dates fixed by the concerned Court. The order was to remain effective until the end of the trial, but would become ineffective in the event of a bail jump. Intimation of the grant of bail was to be sent to the complainant. The Inspector General, Gwalior Range, Gwalior was directed to conduct an inquiry and submit the report to the Principal Registrar of the High Court within one month of the order.

Hazrat Khan v. State of Madhya Pradesh, M.Cr.C. no. 38313/2022, 05/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (369) Prev Next

Headnote :- Food Safety and Standards Act / charge separation / stale sample — Mawa seized on 18 October 2011 was reported to be substandard by the Food Analyst, Bhopal. On the seller's appeal under Section 46(4), the notified Referral Laboratory also reported that it was substandard and unsafe. The Trial Court framed charges, but the Sessions Revisional Court set aside the entire order. It directed

that a third sample be sent to the Referral Laboratory under the proviso to Section 47(1)(c)(iii) before the question of charges was reconsidered. The High Court held that setting aside the entire order was erroneous because both reports found the mawa substandard. The charge under Section 3(zx) read with Section 51 should have remained intact. The separate unsafe-food charge under Section 3(zz) read with Section 59 could have been reconsidered after a further report, if obtaining one remained useful. No third report had been obtained on remand. The respondent had questioned whether the then five-year-old sample was fit for analysis, the food officer had been asked whether a third sample existed, and the court record had been requisitioned. By the time of the High Court's decision, the short shelf life of mawa meant that a delayed referral would serve no useful purpose, even if a sample remained. The Court therefore set aside the revisional order of 22 October 2016 and restored the charge order of 27 July 2016. It directed the Trial Court to decide the case on the charge-sheet material and expressly determine whether the prosecution proved the offence under Section 3(zz)/59. The order describes the time elapsed since October 2011 as '11 years'. It neither decides guilt nor treats substandard food as necessarily unsafe. It also lays down no blanket rule against a timely statutory referral.

Case-note :- ***1. Facts :*** The Food Safety authorities seized mawa from Babulal's sweet shop on 18 October 2011. The Food Analyst at Bhopal reported that the sample was substandard. Babulal appealed under Section 46(4) of the Food Safety and Standards Act, 2006. A second sample was then sent to a notified Referral Laboratory, whose report dated 24 February 2012 described the mawa as substandard and unsafe. The Trial Court framed charges on 27 July 2016. In Criminal Revision 124/2016, the Additional Sessions Judge, Mandsaur set aside that order on 22 October 2016 and directed a further referral under the proviso to Section 47(1)(c)(iii) before charges were reconsidered. The State challenged the setting aside of the entire charge order under Section 482 CrPC in M.Cr.C. 10196/2017. Its counsel argued that the Revisional Court had accepted the existence of sufficient material for charges and therefore should not have set aside every count pending a third report. Babulal opposed the application.

After the revision, the Trial Court directed the competent authority on 4 November 2016 to obtain the further report. Babulal questioned whether a mawa sample that was already about five years old was fit to be sent for analysis. On 15 November, the food officer was asked to state whether a third sample existed. The High Court requisitioned the trial record in October 2017, although it had not stayed the matter. No third sample was sent. The judgment delivered in September 2024 states that '11 years' had passed since the seizure in October 2011. Its reasoning turned on the very long delay, the product's short shelf life and the absence of a further referral report.

2. Statutes considered : Section 46(4) of the Food Safety and Standards Act, 2006 provided for Babulal's appeal against the first analyst's report, after which the second sample was examined by the Referral Laboratory. The proviso to Section 47(1)(c)(iii) was the stated basis of the revisional direction for a third-sample referral. No third sample was ultimately examined, and the usefulness of a referral at the time of decision was assessed in light of the perishability of mawa. Section 3(zx) read with Section 51 concerned the substandard-food charge supported by both reports. Section 3(zz) read with Section 59 concerned the unsafe-food charge, on which the Trial Court was required expressly to determine guilt. Section 482 CrPC was the provision under which the State challenged the revisional order before the High Court.

3. Issues : Could the Revisional Court set aside both the substandard-food and unsafe-food charges when both existing reports agreed, at least, that the mawa was substandard? Would a third Referral Laboratory test, still not conducted, serve any useful purpose in 2024 given the long storage and short shelf life of the product? What should be restored, and what should be left for trial, particularly regarding the unsafe-food allegation? The High Court did not determine the original sample's ultimate composition as a court deciding guilt.

4. Ratio / Findings : The High Court held that the entire charge order should not have been set aside. Both reports supported a prima facie finding that the mawa was substandard. The charge under Section 3(zx)/51 therefore stood on a different footing from the separate unsafe-food charge under Section 3(zz)/59. The Revisional Court could have confined any remand to the latter charge if a further report could have been obtained in time to serve a useful purpose. However, no third sample had been sent to a laboratory following the Trial Court's steps in 2016

and the requisition of the file. Given the short shelf life of mawa, the High Court held that a referral at that stage would serve no useful purpose, even if a sample remained. It restored the Trial Court's charge order and directed that court to assess the charge-sheet material, expressly determining whether the prosecution proved guilt on the unsafe-food charge. It did not equate sufficient material for framing a charge with proof beyond reasonable doubt, treat substandard food as automatically unsafe, or hold that a timely statutory appeal was unavailable. The delay and the distinction between the counts were essential to the decision. The legal analysis rested on the two laboratory reports, the identified provisions of the Food Safety and Standards Act, the distinct charges and the procedural record of the unsuccessful referral.

5. Relief : The Hon'ble High Court allowed the State's application under Section 482. It set aside the revisional order dated 22 October 2016 and restored the Trial Court's order dated 27 July 2016 framing charges. The Trial Court was directed to decide the case on the charge-sheet material and specifically determine whether the offence of unsafe food under Section 3(zz)/59 was established. No conviction or acquittal was ordered at that stage, and no delayed third referral was required.

State of Madhya Pradesh v. Babulal, M.Cr.C. no. 10196/2017, 09/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (370) Prev Next

Headnote :- Section 145 CrPC — With a civil suit over the same property pending, initiation of preventive proceedings concerning possession and attachment of the property were unwarranted. The parties could seek interim relief from the civil court. The revisional order setting aside the SDM's order was upheld.

Case-note :- ***1. Facts :*** While a civil suit over possession was pending, the SDM initiated proceedings under Section 145 and attached the disputed property, handing it over to a village panchayat until disposal of the suit. The respondents successfully challenged the order in criminal revision. Citing an apprehended breach of peace, the applicant invoked Section 482 to restore the attachment.

2. Precedents — Considered : In *Ram Sumer Puri Mahant v. State of U.P., AIR 1985 SC 472*, the Supreme Court held that parallel proceedings under Section 145 are unwarranted where a civil suit between the parties is pending and interim relief is available from the civil court.

3. Statutes considered : CrPC Sections 145 and 482.

4. Issues : Could the SDM attach the property until disposal of the civil suit when a suit over the same dispute was already pending? Was the revisional court's intervention erroneous?

5. Ratio / Findings : On the stated facts, the SDM should have dismissed the proceedings under Section 145 rather than kept the property under attachment pending disposal of the civil suit. The parties could seek temporary relief from the civil court. The revisional court committed no jurisdictional error in setting aside the attachment.

6. Relief : The Hon'ble High Court dismissed the Section 482 petition and maintained the revisional order.

Heera Singh v. Ram Singh and Others, M.Cr.C. no. 44227/2023, 04/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (371) Prev Next

Headnote :- Writ appeal / Section 439 bail / compensation for alleged illegal detention — A Single Judge's bail order of 28 April 2023 also directed the State to pay Mohit Tiwari ₹10 lakh. In its appeal under Section 2(1) of the Madhya Pradesh intra-court appeal statute of 2005, the State expressly left the grant of bail and the underlying findings untouched, challenging only compensation. The Division Bench treated that severable monetary direction as one under Article 226. Section 439 CrPC permits the grant or refusal of bail and appropriate bail conditions, but does not authorise compensation. The writ appeal was therefore maintainable despite the direction's inclusion in a bail order. The Bench relied on *Union of India through I.O., Narcotics Control Bureau v. Man Singh Verma*, which quoted *RBI v. Cooperative Bank Deposit A/C H.R. Sha, Sangitaben Shaileshbhai Datanta and State v. M. Murugesan* on the limits of bail jurisdiction. Those limits preclude collateral systemic directions, compulsory scientific tests or a mini-trial. Compensation for illegal detention may in principle be available, but its factual basis and quantum require assessment in the proper forum rather than determination as part of the Section 439 decision. The ₹10 lakh direction was quashed without

disturbing bail. Mohit was left at liberty to bring a civil suit against erring officers for alleged violations of Articles 20 and 21. The civil court was to decide independently. The appeal did not establish that detention was lawful or that all compensation was barred. The order also refers to 'Section 528 of BNS' when describing jurisdiction. Neither the amount of substantive damages nor culpability was finally determined.

Case-note :- ***1. Facts :*** While allowing Mohit Tiwari's regular-bail application in M.Cr.C. 14202/2023 on 28 April 2023, a Single Judge also directed payment of ₹10 lakh for alleged illegal detention. The State filed Writ Appeal 692/2023 under Section 2(1) of the M.P. Uchcha Nyaylaya (Khand Nyay Peeth Ko Appeal) Adhiniyam, 2005. Its counsel repeatedly and expressly confined the challenge to the compensation direction, leaving the grant of bail and the factual findings undisturbed. The State argued that Section 439 CrPC conferred no power to award compensation and that any such award was, in substance, an Article 226 public-law direction against which an appeal lay. It also complained that notice had not been issued to the affected State authorities. Mohit opposed maintainability on the ground that the order was a bail order and defended the amount as compensation for illegal detention.

2. Precedents — Considered : The Division Bench applied *Union of India through I.O., Narcotics Control Bureau v. Man Singh Verma* as the controlling authority. That decision held that Section 439 bail jurisdiction is limited to the grant or refusal of bail pending trial and cannot extend to collateral compensation for illegal detention. The judgment quoted *Man Singh Verma* at length. Within that Supreme Court extract, *RBI v. Cooperative Bank Deposit A/C H.R. Sha* rejected directions in a bail order affecting the distribution of recovered banking funds. *Sangitaben Shaileshbhai Datanta v. State of Gujarat* criticised compulsory lie detection, brain mapping and narco-analysis as an impermissible mini-trial in bail proceedings. *State v. M. Murugesan* disapproved criminal-justice committee directions issued after the bail decision. *Man Singh Verma* also concerned a bail application that had become infructuous after release by a district court. That additional feature of the precedent was not asserted by the Division Bench in relation to Mohit's 2023 bail. The High Court applied the jurisdictional holding to sever and quash the compensation direction made by its own Single Judge.

3. Statutes considered : Section 439 CrPC governed the Single Judge's regular-bail order and confines that adjudication to liberty and proper bail conditions; the Division Bench did not decide a new bail application. Article 226 supplied the public-law character assigned to the separate illegal-detention compensation direction. That characterisation did not establish an automatic entitlement to compensation. Section 2(1) of the Madhya Pradesh High Court intra-court appeal statute of 2005 provided the route for review of that direction. Articles 20 and 21 were identified as the asserted rights on which Mohit could base a future civil suit against erring officers; no violation was finally found or quantified here. Paragraph 8 of the order says 'Section 528 of BNS' while comparing other jurisdictions with Sections 438/439 CrPC.

4. Issues : Was a writ appeal maintainable against the ₹10 lakh direction when it formed part of a Section 439 bail order? Could the Single Judge award compensation for illegal detention while deciding that application, without the separate process required for such relief? What effect would quashing the direction have on Mohit's possible compensation claim? Bail itself and the Single Judge's factual findings were expressly outside the challenge, and the Division Bench did not reopen them.

5. Ratio / Findings : The Division Bench held that the legal nature of the direction, rather than the heading of the larger order, governed the limited appeal. Compensation cannot be awarded in exercise of the bail power under Section 439; any such direction must be treated as relief under Article 226. The State's writ appeal against that severable direction was therefore maintainable, and the office objection and the respondent's preliminary objection were rejected. Following *Man Singh Verma*, the Court quashed the monetary direction as beyond the Single Judge's Section 439 jurisdiction. It observed that compensation for unlawful detention is possible, but its factual basis and appropriate quantum require consideration in the proper forum rather than a grant at the bail stage. The Court stated that the trial Court must adjudicate the quantum, taking into account factors including the status, criminal antecedents and fundamental rights of the parties. The Court did not determine whether the detention was lawful, fix final responsibility on the officers, or decide whether ₹10 lakh would be too high or too low after proper proof.

The order expressly preserved Mohit's liberty, if so advised, to bring a civil suit against erring officers for alleged violations of Articles 20 and 21. The civil court was directed to decide independently, uninfluenced by this appellate ruling on the limited question of jurisdiction. The Court expressly stated that it had not held Mohit ineligible for compensation. Neither a stay of the original bail nor a separate finding against the Single Judge's unappealed factual conclusions was made.

6. Relief : The Hon'ble High Court allowed the writ appeal. The ₹10 lakh compensation direction in the M.Cr.C. order of 28 April 2023 was quashed, while bail remained undisturbed by the State's appeal. Mohit retained liberty to bring a civil action against erring officers for alleged fundamental-rights violations, without prejudice from this appellate order. The Court awarded no substituted amount, made no fresh finding of illegal detention and did not prejudge the civil suit.

State of Madhya Pradesh v. Mohit Tiwari, W.A. no. 692/2023, 28/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (372) Prev Next

Headnote :- Section 307 appeal — The injuries were proved. The appellant's identity as an assailant was not established. The FIR was against unknown assailants. Witnesses differed about the time of the incident and later identification, and the surviving injured person disowned the purported dying declaration. Human blood of an unascertained group on the axe and shirt could not link the appellant to an axe assault that he was not alleged to have carried out. The conviction was set aside.

Case-note :- ***1. Facts :*** Bhojapal sustained two sharp-weapon injuries to his chest and neck in May 2014. His brother's initial report referred to two or three unknown attackers. Later accounts named Hem Pal and two others. The Trial Court acquitted the others but convicted Hem Pal under IPC Section 307 and sentenced him to ten years' rigorous imprisonment and a fine of Rs. 10,000/-, with default imprisonment. The evidence concerning the injured person's inability to speak, his purported written account, the police statement, a statement recorded by a Naib Tahsildar, and the bloodstained axe and shirt was contested.

2. Precedents — Considered : The Court closely scrutinised the evidence of the related witnesses and applied the statutory limits governing a declaration made by a person who survived.

3. Statutes considered : IPC Section 307; CrPC Sections 161 and 374(2).

4. Issues : Did the prosecution prove beyond reasonable doubt that Hem Pal was responsible for the established injuries? Could the alleged dying declaration, subsequent identifications and serological evidence overcome the contradictions?

5. Ratio / Findings : Accounts placed the incident at both 9 p.m. and midnight, and differed about how and when the injured person arrived home. The brother's later assertion that the injured person had named Hem Pal conflicted with the FIR and his cross-examination. The injured person denied naming anyone to the Naib Tahsildar. Since he survived, that statement was not admissible as a dying declaration. It could nevertheless be treated as his first statement, but he had disowned the identification it contained. He did not accuse Hem Pal of inflicting the axe blows, attributing them to an acquitted person. The human blood on the seized articles was not grouped. Relatives are not disqualified from giving evidence, but their accounts did not withstand close scrutiny in this case.

6. Relief : The Hon'ble High Court allowed the appeal, acquitted Hem Pal of the charge under Section 307 and set aside the conviction and sentence. It directed his immediate release unless he was required in another case.

Hem Pal v. State of Madhya Pradesh, Cr.A. no. 527/2016, 05/12/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (373) Prev Next

Headnote :- Suo motu bail cancellation / omitted antecedents / post-release absence — While considering a co-accused's bail application, the High Court discovered that Nasir's bail order of 9 November 2022 mentioned only three criminal cases in the Gwalior area. The charge-sheet and case diary, however, included 69 Delhi registrations, one under IPC Section 302. The Court issued notice and called for a report on his appearances before the Trial Court. The report stated that he had been released on 17 November, had not appeared personally, and his advocate had repeatedly sought exemption under Section 317 CrPC. The constable who attempted service reported that Nasir's father and brother had said that he did not live at the address and that they

knew neither his whereabouts nor his phone number. *Neeru Yadav v. State of U.P., (2016) 15 SCC 422*, distinguishes setting aside an original bail grant for overlooked antecedents from cancellation for later misconduct. *Amarmani Tripathi, (2005) 8 SCC 21*; *Manno Lal Jaiswal*, Criminal Appeal 97/2022; *Anil Kumar Yadav, (2018) 12 SCC 129*; *Zahoor Ahmad Shah Watali, (2019) 5 SCC 1*; and *Manoj Kumar Khokhar, (2022) 3 SCC 501*, were cited for the requirement that courts consider gravity, evidence, antecedents, flight and witness risks and give reasons, rather than exercise discretion mechanically. The High Court found both a material defect in the original grant and subsequent abscondence. It set aside bail, directed immediate surrender and ordered a warrant if Nasir did not surrender by 31 December 2022. The order describes the total as 'at least 73' cases while separately referring to three local and 69 Delhi cases. These were registrations, not findings of conviction. Neither the underlying charge nor any antecedent offence was finally tried in this proceeding.

Case-note :- ***1. Facts :*** The Trial Court granted Nasir Shekh bail on 9 November 2022 in B.A. 3161/2022, and he was released on 17 November. While considering a separate application by co-accused Shaqeel Khan, M.Cr.C. 53181/2022, the High Court examined the police case-diary material concerning Nasir's record. It initiated cancellation proceedings of its own motion on 16 November and issued notices. A constable who attempted service was told by Nasir's father and brother that Nasir did not live at the stated address and that they knew neither his whereabouts nor his mobile number. The Trial Court's report of 16 December, reproduced in the order, stated that the case remained at the prosecution-evidence stage. Since release, Nasir had not appeared personally, and counsel had repeatedly sought exemption from personal appearance. On the combined basis of this report and the service information, the High Court found that he had absconded after release and proceeded to hear the case finally.

The original bail order referred to three registered cases involving IPC Sections 454 and 380 in the Morar, Vishwavidyalaya and Thatipur police areas of Gwalior. The police history accompanying the charge-sheet and case diary separately listed 69 Delhi cases at stations including Bhajan Pura, Shahdara, New Welcome, Sabzi Mandi, Chandani Mahal, Lahori Gate, Darya Ganj, Kamla Market, Uttam Nagar, Jyoti Nagar, Crime Branch, Aman Vihar, Jaffrabad, Gokul Puri and Sarai Rohilla, including a registration under IPC Section 302. The High Court described the total as 'at least 73'. These were allegations or registrations, not proved convictions. The history was available in the police material but had escaped the bail court's attention.

2. Precedents — Considered : *Neeru Yadav v. State of U.P., (2016) 15 SCC 422*, was quoted on the importance of serious criminal antecedents and on setting aside a bail order where the granting court had overlooked relevant material. This ground does not require new misconduct. *State of U.P. through CBI v. Amarmani Tripathi, (2005) 8 SCC 21*, set out the factors of prima facie involvement, gravity, severity, flight, character, repeated offence, witness influence and risk to the process of justice. Its discussion of reasoned bail orders referred to *Prahlad Singh Bhati*, *Gurcharan Singh* and *Kalyan Chandra Sarkar. Manno Lal Jaiswal v. State of U.P.*, Criminal Appeal 97/2022, was quoted on a mechanical grant of bail based on wrong facts and the failure to consider evidence specific to the accused and the risk of flight, referring to *Anil Kumar Yadav.*

Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129, was separately quoted on a superior court's power to intervene where the Sessions Court's exercise of discretion suffers from serious infirmity or perversity, despite the ordinary rule of restraint. The passage reproduced from *NIA v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 1*, repeated *Amarmani*'s general list of bail factors. *Manoj Kumar Khokhar v. State of Rajasthan, (2022) 3 SCC 501*, quoted *Prasanta Kumar Sarkar* on mechanical grants of bail and *Ash Mohammad* on weighing custody with antecedents and societal concerns. Those nested authorities supported the general standard; they did not involve separate trials of Nasir's Delhi record. The Court applied these authorities to the omission of material antecedents. His later absence supplied a further factual ground.

3. Statutes considered : The proceeding was described as suo motu cancellation of bail following a Trial Court grant; the judgment does not expressly identify Section 439(2) as the provision invoked. Section 317 CrPC appeared in the trial report because counsel repeatedly sought exemption from Nasir's personal appearance. The Court considered those applications together with his relatives' statements and his nonattendance, rather than

treating them as an automatic statutory bar to every exemption. IPC Sections 454 and 380 characterised the three local registrations, and Section 302 appeared in the Delhi history. No finding on the merits of those antecedent offences, trial conviction, or special-statute bail test was made.

4. Issues : Did the Trial Court's failure to consider the Delhi antecedent history filed by the police invalidate its original exercise of bail discretion? Did Nasir's failure to appear personally and the inability to locate him after release independently justify cancellation? How should a court weigh registrations, seriousness and flight risk without treating accusations as final guilt? What directions for surrender and enforcement should follow? The merits of the underlying pending prosecution were not tried.

5. Ratio / Findings : The High Court found a material discrepancy in the record. The Trial Court had considered only three Gwalior registrations when the police diary and charge-sheet also contained a much larger Delhi criminal history, including an alleged murder. Criminal antecedents were relevant to a reasoned balance between liberty and safety, and their omission could have affected the result. Under *Neeru Yadav* and the other cited bail authorities, the original grant could therefore be set aside for failure to consider material facts, even without proof of a later breach. The Court also found a separate ground arising after release: no personal appearance since 17 November, repeated exemption applications, and family members unable to locate or contact Nasir. It treated these circumstances together as abscondence. The finding concerned bail review and control of appearance.

6. Relief : The Hon'ble High Court set aside the Trial Court's bail order of 9 November 2022 in B.A. 3161/2022. Nasir was directed to surrender immediately before the Trial Court. The Trial Court was directed to issue a warrant of arrest if he failed to surrender before it by 31 December 2022.

State of Madhya Pradesh v. Nasir Shekh, M.Cr.C. no. 56158/2022, 20/12/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (374) Prev Next

Headnote :- Section 319 CrPC — The Trial Court wrongly refused to summon two persons named as assailants on the basis of an unproved hospital alibi, which the police had accepted in omitting them from the charge-sheet. Their specific roles in the FIR and the injury evidence met the heightened threshold under Section 319. The revision was allowed, and the Trial Court was directed to proceed against them.

Case-note :- ***1. Facts :*** In an assault arising from a field-boundary dispute, the FIR named Girraj and Mangal and attributed specific blows to them on several injured persons. The police omitted them from the charge-sheet after receiving affidavits stating that they were at a district hospital with an ill person. No supporting records were collected. During trial, the complainant applied under Section 319 to add them as accused. The Trial Court rejected the application, and he filed a revision.

2. Precedents — Considered : *Hardeep Singh v. State of Punjab*, decided by a Constitution Bench, and *Sagar v. State of U.P.* stated the exceptional standard governing Section 319. *Jitender Kumar v. State of Haryana, Sk. Sattar v. State of Maharashtra and* the other cited authorities addressed the burden of establishing a genuine alibi.

3. Statutes considered : CrPC Sections 319, 397 and 401; Evidence Act Section 11 in alibi discussion.

4. Issues : Did the evidence justify adding the two persons as accused despite the police accepting their alibi? Could unverified affidavits defeat an application that otherwise met the threshold under Section 319?

5. Ratio / Findings : Section 319 requires strong and cogent evidence led before the Court, exceeding the prima facie threshold for framing a charge but falling short of satisfaction that the evidence, if unrebutted, would lead to conviction. The specific overt acts attributed to the two persons and the corroborating injuries supplied sufficient material. An alibi must be established by reliable evidence excluding presence at the scene, without relieving the prosecution of its independent burden to prove its case. The police had collected no hospital document, and the defence could not be accepted at this stage on bare affidavits. The Trial Court failed to apply the proper standard in exercising its power.

6. Relief : The Hon'ble High Court allowed the revision and set aside the rejection order. The Trial Court was directed to proceed against Girraj and Mangal in accordance with law. They were required to appear before the Trial Court on the next date of hearing, failing which the Trial Court was to issue warrants of arrest against them.

Heman Singh Dhakad v. State of Madhya Pradesh and Others, Cr.R. no. 2691/2021, 10/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (375) Prev Next

Headnote :- Appeals against acquittal / deliberate vehicle collision alleged / eyewitness credibility / CCTV identification / motive / disappearance of evidence — The State under BNSS Section 419 and complainant Manish Jaat under Section 413 challenged the acquittal of Pawan @ Kalla of IPC Sections 302 and 201, and Asharam of Section 201. The prosecution said Pawan intentionally struck Ajay Pal Jat's motorcycle with Bolero MP08-CA-3605 over rivalry concerning X (PW9), then arranged denting and painting through Asharam. Applying *Mallappa v. State of Karnataka, (2024) 3 SCC 544*, and *Sambhaji Hindurao Deshmukh v. State of Maharashtra, (2008) 11 SCC 186*, the Division Bench held that an acquittal based on a reasonably possible view cannot be reversed merely because another assessment is possible; material factual error, illegality or perversity is needed. After independently assessing the evidence, it upheld the rejection of PW2's testimony. PW2 was the deceased's maternal uncle, but for two days he did not disclose that he had witnessed a deliberate killing, despite opportunities to do so; the initial report described an accident, his supposed auto was absent from the map and hotel CCTV, its driver was not identified, and he could not read English letters, although the registration plate bore English lettering. The CCTV showed an unidentified white Bolero driving the wrong way, without a legible registration number or an identifiable driver; multiple similar vehicles used the road, the alleged owner was not asked to identify it, and tower analysis omitted the incident interval. The medical evidence established injuries caused by impact but did not identify the person responsible or establish the alleged intention; even assumed motive did not prove the particular vehicle or driver. Without that link, the IPC Section 201 allegations of denting and painting failed as charged against both respondents. Both appeals were dismissed, and the acquittal dated 2 July 2025 was affirmed.

Case-note :- ***1. Facts :*** These were two connected appeals decided together by the Gwalior Division Bench on 6 May 2026. The State filed Criminal Appeal 10539/2025 under Section 419 BNSS and complainant Manish Jaat filed Criminal Appeal 7086/2025 under Section 413 BNSS, challenging the First Additional Sessions Judge, Shivpuri's acquittal in Sessions Trial 166/2024. Pawan @ Kalla was tried under Sections 302 and 201 IPC; Asharam was tried under Section 201. The acquittal was dated 2 July 2025. The charges had been framed on 30 July 2024 and the defence led no witnesses. The prosecution examined PW1–PW15, including eyewitness claimant Arvind Jat (PW2), postmortem doctor Aakash Soni (PW3), alleged vehicle owner Jitendra Ahirwar (PW7), X (PW9) and investigating officer Ravi Chouhan (PW15). The charge-sheet alleged that at about 12:30 p.m. on 26 March 2024, Pawan drove Bolero MP08-CA-3605 the wrong way into Ajay Pal Jat's motorcycle deliberately to kill him, then caused the vehicle to be dented and repainted to make offence evidence disappear. Asharam was separately alleged to have performed the bodywork. The prosecution suggested that Pawan and Ajay Pal had both had relations with X (PW9), that Ajay Pal had lately been residing with her and that this caused animosity. Those are prosecution allegations, not findings that the relationships, intentional impact, or subsequent concealment were proved. The State and complainant argued that the trial judge wrongly disbelieved PW2 and gave insufficient weight to the motive; the respondents pointed to cogent acquittal reasons and absence of perversity.

PW2, the deceased's maternal uncle, said he was travelling as the sole passenger in an auto from Badarwas toward Myana, saw a wrong-way white Bolero hit a motorcycle near Barkheda Bridge and recognised Pawan as its driver. He said that the frightened auto driver continued to Myana. PW2 stayed elsewhere that night, heard the next evening that his nephew had died, and went to the police the following day. He claimed to have noted MP08-CA-3605. In cross-examination he conceded that he did not report his claimed observation to police at nearby Myana Triangle outpost or Myana station, to the deceased's mother (his own sister), or to other family members at the relevant time. His account of when he eventually told them varied. He did not attend the funeral. The spot map did not depict his auto; he supplied neither its plate nor the driver's identity and could not read the English letters on the file, although the Bolero registration letters were in English. The Dehati Nalishi entered by Manish at 12:37 p.m. on 26 March stated only that Ajay Pal had

met with an accident and his body was at CHC Badarwas.

PW3 found serious head, limb and other blunt-impact injuries, including fractures. In cross-examination he acknowledged adding the words 'might be due to forceful impact of hard and blunt object' in different ink later, without his short signature, explaining that it was his first postmortem and he sought senior advice. The Court regarded the injuries as resulting from an accident while noting that the prosecution's theory was an intentional collision disguised as an accident. The CCTV footage from Hotel Prem Shri showed a white Bolero moving in the wrong direction, but not a readable registration plate or identifiable driver; several white Boleros used the national highway. PW15 had not asked the alleged owner, PW7, to identify the vehicle visible in the footage, questioned a driver connected with it, or seized its tyres to test for human blood. PW15 said that the tower-location analysis accidentally missed 12:30–12:40 p.m., covering the reported incident time. These gaps concerned identification. Evidence of a collision and a vehicle travelling in the wrong direction did not, by itself, identify MP08-CA-3605 or Pawan.

2. Precedents — Considered : *Mallappa v. State of Karnataka, 2024:INSC:104, (2024) 3 SCC 544*, was quoted at length and applied. It recognises the appellate court's power to review the entire evidence. It asks first whether the trial court appreciated all the material evidence, next whether its finding was affected by illegality or an error of fact or law, and then whether its view supporting acquittal was reasonably possible. An equally plausible view favouring innocence creates reasonable doubt and reinforces the presumption of innocence; a difference in judicial preference is therefore insufficient. *Mallappa*'s quoted passage reproduces *Selvaraj v. State of Karnataka, (2015) 10 SCC 230*, which in turn quotes *Jagan M. Seshadri v. State of T.N., (2002) 9 SCC 639*, requiring an appellate reversal to address and dispel the trial reasons. It also quotes *Sanjeev v. State of H.P., (2022) 6 SCC 294*, whose summary refers to *Vijay Mohan Singh v. State of Karnataka, (2019) 5 SCC 436*, and *Anwar Ali v. State of H.P., (2020) 10 SCC 166*, on engagement with acquittal reasons; *Atley v. State of U.P., AIR 1955 SC 807*, on reinforced innocence; and *Sambasivan v. State of Kerala, (1998) 5 SCC 412*, on restraint where two views exist. These latter cases occur as nested authorities within the quoted *Mallappa* discussion.

Sambhaji Hindurao Deshmukh v. State of Maharashtra, (2008) 11 SCC 186, was separately quoted and applied: the High Court can review the entire evidence but needs strong reasons based on the evidence to displace a properly reasoned acquittal, such as wrong assumptions about material facts or failure to appreciate evidence. Its quoted supporting authorities were *Ganesh Bhavan Patel v. State of Maharashtra, (1978) 4 SCC 371; Babu v. State of U.P., (1983) 2 SCC 21; Awadhesh v. State of M.P., (1988) 2 SCC 557; Thanedar Singh v. State of M.P., (2002) 1 SCC 487*; and *State of Rajasthan v. Raja Ram, (2003) 8 SCC 180*. *Bhim Singh v. State of Haryana, (2002) 10 SCC 461; Ramji Surjya Padvi v. State of Maharashtra, (1983) 3 SCC 629; Anil Kumar v. State of U.P., (2004) 13 SCC 257*; and *Sachchey Lal Tiwari v. State of U.P., (2004) 11 SCC 410*, were additionally cited by the Bench collectively for the same acquittal-review principle.

3. Statutes considered : BNSS Section 419 was the State's stated appeal route and Section 413 the complainant's stated route; the judgment disposed of both on the same evidentiary and acquittal-review grounds. IPC Sections 302 and 201 defined Pawan's murder and disappearance-of-evidence charges, while Section 201 alone was charged against Asharam for the allegedly dented and painted jeep. The Court held the alleged involvement of the identified jeep itself unproved and consequently sustained the acquittal on that charge.

4. Issues : Were the trial judge's reasons for disbelieving PW2 and acquitting both respondents legally defective or perverse, so that either the State's or complainant's appeal could succeed? Was PW2's claimed presence, recognition and plate identification reliable in light of delayed disclosure, family connection, the missing auto and his inability to read English letters? Did the medical evidence, hotel CCTV, tower-location analysis and other investigation prove that the specific Bolero and Pawan caused a deliberate collision, beyond a fatal accident involving an unidentified wrong-way vehicle? Could the asserted motive bridge the identity gap? Without proof connecting the alleged jeep to the event, had the prosecution established the separately charged Section 201 acts attributed to Pawan and Asharam?

5. Ratio / Findings : The Court stated and applied the limits governing appellate review of an acquittal.

Appellate reappraisal is possible and was undertaken here; the trial court's possible and properly supported view was not reversible simply because an alternative inference could be imagined. A material error in appreciating the evidence, an incorrect assumption about a material fact, an error of law or perversity would justify intervention, but the appellants established none.

PW2's kinship to Ajay Pal supplied context but did not alone disqualify him. What mattered was the combination of his claimed direct knowledge of an intentional killing, two days' silence despite access to an outpost and station, no timely warning to family including his sister, an initial report of accident alone, an untraced auto and driver, absence of the auto on the map and hotel footage, the evidence that no permit was issued for operating an auto on the national highway, and his inability to read even one English letter while purporting to specify the plate. His account of later communication and the investigating officer's statements added to doubt. The Bench considered the trial court justified in disbelieving this claimed eyewitness.

The doctor established traumatic collision injuries, not which driver or vehicle struck the motorcycle or whether this collision was intentional. The later addition to the postmortem report, made in different ink and without the doctor’s short signature, was disclosed together with his explanation; it did not by itself establish the prosecution’s allegation of a deliberate collision. Hotel footage showed only a wrong-way white Bolero with illegible registration and unidentifiable driver. Multiple similar vehicles used the route. Investigators did not have PW7 identify it or seize tyres to examine for blood, and the cell-tower compilation lacked the precise 12:30–12:40 window. The Court concluded that the involvement of jeep MP08-CA-3605 and Pawan in the collision was not proved. Even if a motive connected with X were assumed, that did not supply the missing proof of identity or murder. Because the specific jeep's involvement was not established, the trial court's conclusion that neither Pawan nor Asharam was proved guilty of the alleged Section 201 concealment by denting and painting it was also sound. These were the Court's case-specific findings.

6. Relief : The Hon’ble High Court has affirmed the First Additional Sessions Judge, Shivpuri's 2 July 2025 acquittal in ST 166/2024, dismissed State criminal appeal and complainant Manish Jaat's criminal appeal, and directed return of the trial record with a copy of the judgment. Pawan remained acquitted of Sections 302 and 201 IPC and Asharam of Section 201 IPC.

The State of Madhya Pradesh v. Pawan and Others; Manish Jaat v. The State of Madhya Pradesh and Others, Cr.A. no. 10539/2025 & 7086/2025, 06/05/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (376) Prev Next

Headnote :- A renewed challenge under Section 482 to the order taking cognizance under the Arms Act was impermissible after rejection of the earlier challenge on merits. The Court was not required to anticipate a ground of limitation that had not been raised. In any event, for limitation under Section 468, the relevant date was the timely filing of the closure report in 2007, rather than the Magistrate’s taking cognizance in 2017. The repeated applications led to costs of ₹10,000 and a direction to initiate contempt proceedings in the event of nonpayment.

Case-note :- ***1. Facts :*** Police filed a closure report in 2007 in a 2006 Arms Act case. In December 2017, the Magistrate rejected the closure report and took cognizance. Hemant Sharma’s first Section 482 challenge failed in 2018; another petition challenging the rejection of his discharge application and the order in revision failed in January 2021. He again sought quashing, raising limitation under Section 468 for the first time.

2. Precedents — Considered : *Anil Khadkiwala v. State (NCT of Delhi), (2019) 17 SCC 294*, on successive petitions, was distinguished because a previously raised defence had gone undecided there. *Sarah Mathew v. Institute of Cardio Vascular Diseases, (2014) 2 SCC 62*, supplied the rule that limitation is computed by reference to the filing date rather than the date of taking cognizance.

3. Statutes considered : CrPC Sections 239, 362, 468 –470, 473 and 482; Arms Act Section 25(1-B)(a).

4. Issues : Could a fresh Section 482 petition reopen merits with a ground never raised previously? Did the Magistrate’s ten-year delay render the prosecution time-barred?

5. Ratio / Findings : The first quashing case had been decided on merits; a court cannot be faulted for failing to decide a ground that was never advanced, and Section 362 bars this successive effort. Separately, limitation turns on initiation of the prosecution or filing of the report within time. The

timely police report filed in 2007 was therefore not invalidated by the Magistrate's later taking cognizance. The repeated applications amounted to misuse of judicial process.

6. Relief : The Hon'ble High Court has dismissed the petition with costs of ₹10,000, payable to the Registry within a month. The Principal Registrar was directed to initiate suo motu contempt proceedings if the costs remained unpaid after 30 days.

Hemant Sharma v. State of Madhya Pradesh, M.Cr.C. no. 15637/2021, 26/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (377) Prev Next

Headnote :- Murder appeal / child eyewitness / plea at framing / sudden quarrel / Section 302 to Section 304 Part I / sentence undergone — Tikam Singh's daughter Saraswati (PW2), then about eleven, testified that she saw him strike his wife Savitribai twice or thrice on the head with a wooden pillar. Her prompt report to PW1, his sight of the accused leaving with the pillar, PW4's supporting observation, postmortem evidence of head injuries and human blood on the seized pillar supported the finding of homicidal death despite claims of tutoring and accidental fall. At the framing of the charge, the accused said that after a quarrel with his wife he struck her with the pillar and killed her; the trial judge declined to convict merely on that plea and required a full prosecution trial. On the alternative conviction sought, the Division Bench quoted *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, reproducing *Dhirendra Kumar*'s ten-factor inquiry into circumstances, weapon, vital injury, force, sudden fight, provocation and undue advantage. It considered a quarrel about food, a small marriage-mandap pillar lying at the spot, absence of premeditation, and the plea indicating remorse, notwithstanding repeated fatal head blows, and converted IPC Section 302 to Section 304 Part I. The Bench stated that the accused was obliged to establish that he had not taken undue advantage. He had been continuously in custody since 10 July 2010, for 11 years and 10 months; the sentence was fixed at time served and release ordered unless needed in another case.

Case-note :- ***1. Facts :*** The Sessions Judge, Vidisha convicted Tikam Singh of murder under Section 302 IPC on 2 December 2011 in ST 102/2011 and imposed life imprisonment, a Rs 2,000 fine and one year's rigorous imprisonment in default. He appealed under Section 374 CrPC. His wife Savitribai had been brought dead to District Hospital Vidisha. The marg enquiry, postmortem, spot map, witness statements, arrest, disclosure and seizure of a wooden pillar followed. The postmortem doctor PW3 identified severe right forehead, ear and cheek wounds, a fractured skull with exposed brain and haemorrhage, and coma caused by a head injury and injury to a vital organ. She rejected suggested injury from a simple fall on wood or ground. The appellant disputed the reliability of his approximately eleven-year-old daughter PW2 and two related witnesses and sought alteration of the conviction to Section 304 Part I on the ground that the incident was sudden and unpremeditated; the State supported the conviction.

At the 16 June 2011 charge hearing, Tikam admitted the charge. At that hearing, he said that he had quarrelled with his wife and struck her with a wooden pillar, killing her. Tikam denied the correctness of prosecution documents. The trial court expressly declined to convict on his plea alone and called on the prosecution to prove the case; the appeal therefore reviewed a conviction after evidence, rather than a conviction based solely on the plea. The High Court later treated the plea as one circumstance bearing on his state of mind and remorse in choosing between homicide grades.

Saraswati (PW2) testified as a direct eyewitness: while in the courtyard she saw her father strike her mother on the head two or three times with the pillar; siblings were also at home. She could not tell what words her parents exchanged. She denied an accidental fall during a scuffle or tutoring by her uncle. She promptly informed uncle Laxmansingh (PW1), who arrived and saw Savitribai bleeding and Tikam leaving with a pillar, though he was not present for the blows. Rekha Pal (PW4), described as a niece, saw Tikam pass carrying a pillar but was not an eyewitness to the assault. The investigating officer PW5 described marg and FIR records, the 10 July 2010 arrest, the disclosure and seizure, and forensic submission. PW1 said police obtained his signature on the disclosure memorandum at their instruction, but he was not questioned in cross-examination about the seizure of the pillar or his evidence that he saw Tikam leave with it. The FSL report found human blood on the pillar.

2. Precedents — Considered : *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, was expressly quoted and applied for

conversion from Section 302 to Section 304 IPC. The quoted passage sets out the parameters from *Dhirendra Kumar v. State of Uttarakhand*. The ten matters reproduced are circumstances of the episode, weapon type, whether carried or taken at the scene, targeting of a vital part, degree of force, participation of the deceased in a sudden fight, prior enmity, sudden provocation, heat of passion, and whether the assailant took undue advantage or acted cruelly or unusually. They direct a contextual assessment. The Bench applied the list to a domestic quarrel over food, the pillar said to be at the spot, absence of premeditation and the appellant's earlier admission, while having already found multiple severe head blows proved.

3. Statutes considered : Section 374 CrPC furnished the convicted person's appeal. IPC Section 302 governed the trial conviction and life sentence; Section 304 Part I governed the conviction substituted on appeal. The judgment referred to Section 428 CrPC for the certificate recording continuous detention and the custody history relevant to credit for detention already undergone. Despite the statement made when the charge was framed, the trial court required the prosecution to prove its case.

4. Issues : Was Savitribai's death homicidal and did the daughter's direct testimony, supported by PW1, PW4, medical findings and the pillar evidence, establish that Tikam inflicted the injuries? Did the suggestion of a fall, her young age, kinship or claimed tutoring create a reasonable doubt? Given repeated fatal blows to the head, did the sudden quarrel over food, the small pillar said to be present at the scene, absence of earlier planning and the accused's prior guilty statement justify replacing murder with Section 304 Part I? What sentence was appropriate after alteration in light of continuous custody for almost twelve years?

5. Ratio / Findings : The Court first considered whether the death was homicidal, separately from who had caused it. PW3's postmortem showed a forehead wound extending to the bone and exposing brain matter, associated ear and face wounds, skull fracture and intracranial bleeding causing coma; she rejected a fall explanation. PW2 consistently identified her father as the person who struck her mother two or three times. She said she was in the courtyard and promptly told PW1. Cross-examination explored her inability to recount the conversation, presence of other children, a purported scuffle and tutoring, but she did not adopt the suggested alternatives. PW1 saw the immediate aftermath and Tikam leaving with a pillar. PW4's account supported the surrounding circumstances and was partly hearsay as to the killing; she was not treated as a second eyewitness. The seized pillar contained human blood. The Bench found the daughter reliable in the context of those supporting circumstances, and held that Tikam's assault caused death. The charge-hearing admission was not used to dispense with proof because the trial judge had expressly rejected a conviction based solely on the plea.

The Bench then separately considered the degree of homicide. It quoted the factors stated in *Lavghanbhai* and drawn from *Dhirendra Kumar* and said that the accused was obliged to establish absence of undue advantage or cruelty. The Bench described a sudden, unpremeditated quarrel about food, a small wooden pillar used for a marriage mandap lying there rather than a lethal weapon brought in advance, and Tikam's guilty statement as showing an 'innocent mind' and remorse. It also acknowledged the multiple vital head injuries, human blood on the pillar, and fatal result. On the overall view it altered the conviction to Section 304 Part I. The alteration rested on those combined circumstances.

As to punishment, the Section 428 certificate and appeal record showed Tikam had been in jail continuously since 10 July 2010 and was never released on bail during the trial or appeal, about 11 years and 10 months by the date of the decision. The Bench also mentioned his subsequent conduct. For the substituted Section 304 Part I conviction, it deemed time already undergone sufficient.

6. Relief : The Hon'ble High Court has partly allowed the appeal. The Section 302 conviction and its life sentence were set aside and a Section 304 Part I conviction substituted with sentence equal to detention already undergone. The Court ordered immediate release if Tikam was not required in another case, free delivery of the judgment to him, and return of the trial record with a copy for compliance. Subject to those modifications, the Court affirmed the Sessions judgment and sentence.

Tikam Singh v. State of Madhya Pradesh, Cr.A. no. 1054/2011, 12/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (378) Prev Next

Headnote :- Attempt to murder / injured eyewitness / medical-ocular variance / partly hostile witness / motive / concealed recovery / ungrouped human blood — Tillu appealed his IPC Sections 307 and 341 convictions arising from an assault on Sanjay Tiwari (PW1). PW1 identified him in a ten-person test identification parade and in court as the man who struck his head with a Baka; the acquitted co-accused was not identified. PW2 did not support the identification of the assailant, but reliably confirmed their journey, PW1's injured condition and hospital transport; the court used that portion without making him an eyewitness. A lacerated rather than an incised wound did not wholly exclude an assault with a Baka, because blunt or worn-edge impact remained possible; *Putchalapalli Naresh Reddy*, *Bhajan Singh*, *Ramanand Yadav* and *Shamsher Singh* were applied with their medical-exclusion qualification. *Bikan Pandey* and *Praful Sudhakar Parab* supported the limited conclusion that absent proof of precise motive does not negate trustworthy direct evidence. Under IPC Section 307, the controlling question is whether the requisite murderous intention or knowledge accompanied an overt act; a fatal injury is not necessary: *Harjeet Singh*, *Kanha* and *Saleem* were applied to multiple head wounds, skull fractures and contusions. Recovery of a Baka concealed in bushes was not invalidated merely because the place was accessible to the public; *Yakub Abdul Razak Memon* and its quoted *Jeet Singh* passage distinguish visibility from accessibility. Human blood without group determination corroborated the direct evidence under *Khujji*, *Rameshbhai Mohanbhai Koli*, *Molai* and *Teja Ram*, without proving that the blood was PW1's. The Court affirmed both convictions, five years' rigorous imprisonment and the fine for Section 307, the Section 341 fine, and dismissed the appeal. The initial police account named unknown assailants, the parade failed for the co-accused, and the court's support for Tillu's conviction is accused-specific; the quoted TADA passages concern possession under that special statute.

Case-note :- ***1. Facts :*** The appeal was heard finally on 22 August 2022 after an application for suspension of sentence on the ground of delay in hearing the appeal had been listed and counsel earlier sought an adjournment to argue the appeal. The 4th Additional Sessions Judge, Gwalior in ST 418/2016 convicted Tillu under Sections 307 and 341 IPC on 24 March 2021. He received five years' rigorous imprisonment, a Rs 1,000 fine and six months' rigorous imprisonment in default under Section 307; for Section 341, a Rs 100 fine and 15 days' simple imprisonment in default, without a substantive custodial term. Co-accused Sagar Soni was acquitted; a third person, Nisha Chauhan, had been dealt with by the Juvenile Justice Board. No appeal against Sagar's acquittal was being determined here. Tillu's appeal challenged identity, the medical consistency of the weapon account, lack of independent support and motive, the Section 307 mental element, recovery of the Baka and the blood evidence.

PW1 Sanjay Tiwari reported from Sahara Hospital that two initially unknown persons stopped his motorcycle late on 10 September 2016 near a forest-department gate, requested a lift or aid for a broken motorcycle, demanded Rs 500 for liquor after refusal, and assaulted him. The Dehati Nalishi and initial FIR invoked Sections 341, 294, 323, 327 and 34 IPC against unknown persons; Section 307 was added during investigation and an Arms Act charge was framed at trial, but the appealed convictions were only Sections 307 and 341. The prosecution examined fifteen witnesses, including the injured PW1, companion Dilip PW2, two doctors, seizure and police personnel, and a Naib-Tahsildar who held the identification parade.

PW1 said Tillu struck his head with an iron Baka, while another boy struck his shoulder with a lathi, and a girl was present. He was treated for four lacerations across temporal, frontal and parietal scalp and left ear. CT imaging described a left lambdoid and parietal skull fracture extending toward temporal bone, left hemotympanum and small fronto-parieto-temporal haemorrhagic contusions. The examining doctor said he was conscious and talking, had not labelled his condition serious in the MLC, and conceded a fall or accident could cause the recorded injuries. PW1 denied falling in a scuffle or at the railway track. He also could not explain why his claimed earlier description of assailants was absent from his first report; the officer who recorded the

statement confirmed that no names were initially disclosed. In a 15 September 2016 parade, PW1 identified Tillu among ten persons; he did not identify Sagar. PW1 identified Tillu again in court and continued to attribute the Baka assault to Tillu despite being treated as hostile in relation to Sagar. The officer conducting the parade acknowledged certain administrative omissions concerning her entry into the jail and the request letter; the Court did not find them fatal to Tillu's identification.

Dilip PW2 turned hostile on the question of who delivered the blow, but confirmed returning from a meal with PW1, PW1 moving ahead, finding him injured after assailants had left, and taking him to hospital. PW3 described arrest and Baka recovery from bushes near the scene, as well as blood-stained jeans and motorcycle seizure; the IO and other witnesses described related memoranda and exhibits. A police witness said Tillu was known to him because several cases had been registered, but the Court did not use them to prove the assault. The FSL found human blood on the Baka without determining its group. There was no scientific individual identification of the stain as PW1's.

2. Precedents — Considered : On ocular and medical inconsistency the Judge quoted *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457*, for the possibility that an axe's blunt or reversed part can produce a laceration without eliminating an eyewitness; *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, for the primacy of ocular evidence, subject to the qualification concerning medical evidence that renders it improbable or wholly rules it out; *Ramanand Yadav v. Prabhu Nath Jha, (2003) 12 SCC 606*, for the opinionative nature of medical evidence and the exception where it specifically rules out the injury described by the eyewitness; and *Shamsher Singh v. State of Haryana, (2002) 7 SCC 536*, for looking at the doctor's complete opinion and potential blunt axe contact. *Hari Chand* and *Abdul Sayeed* are cited within the quoted passage from *Bhajan Singh*. The Judge also mentioned Modi's medical jurisprudence on scalp wound appearances. These authorities were applied to the claimed Baka blow and lacerated, fractured head. The Court considered that the blade might have become blunt or that its blunt side had struck the injured, so that the weapon account was compatible with the injuries.

For hostile testimony *Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111*, *Radha Mohan Singh v. State of U.P., (2006) 2 SCC 450*, and *Arjun v. State of Chhattisgarh, (2017) 3 SCC 247*, were quoted and applied: a hostile witness's record is not effaced; reliable relevant portions may assist either side upon careful scrutiny. *Rameshbhai*'s quoted line of cases includes *Bhagwan Singh*, *Rabindra Kumar Dey*, *Syad Akbar*, *Khujji*, *Ramesh Prasad Misra*, *Balu Sonba Shinde*, *Gagan Kanojia*, *Sarvesh Narain Shukla*, *Subbu Singh* and *C. Muniappan*; the *C. Muniappan* passage also cites cases about minor discrepancies. *Arjun*'s quoted *Paramjeet Singh* passage and its references to *Bhawani*, *Mahesh*, *Rajendra*, *Govindappa*, *Mrinal Das* and *Khachar Dipu* likewise reinforce cautious reliance.

Bikan Pandey v. State of Bihar, (2003) 12 SCC 616, and *Praful Sudhakar Parab v. State of Maharashtra, (2016) 12 SCC 783*, were quoted for the limited role of precise motive where direct testimony proves crime. *Praful*'s extracts refer to *Ravinder Kumar*, *Jeet Singh* and *Paramjeet Singh*, the last distinguishing motive's role as a link in circumstantial evidence. The Court applied this distinction.

For attempt to murder, *State of M.P. v. Harjeet Singh, (2019) 20 SCC 524*, and *State of M.P. v. Kanha, (2019) 3 SCC 605*, were expressly quoted: serious hurt is not indispensable, while weapon, blows, body part and circumstances inform intent or knowledge. *State of M.P. v. Saleem, (2005) 5 SCC 554*, was quoted at length on intent with an overt act and the distinction between act and resulting wound. Harjeet's quotation includes *R. Prakash* and *Jage Ram*; *Saleem* mentions *Balram Bama Patil*, *Girija Shankar*, *R. Prakash* and *Sarju Prasad*. They illustrate the same standard. The quoted passage from *Saleem* also compares Sections 333 and 325.

Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1, was quoted and applied for recovery of an object concealed in a publicly accessible place, especially its reproduction of *State of H.P. v. Jeet Singh and State of Maharashtra v. Bharat Fakira Dhiwar.* Its further nested discussion cites *Durga Prasad Gupta* and *Sanjay Dutt* and addresses conscious possession and the presumption under Section 5 TADA in the context of that special statute. On ungrouped human blood, *Khujji v. State of M.P., (1991) 3 SCC 627*, distinguishes *Kansa Behera* and *Surinder Singh* on their weak remaining proof while allowing human blood as corroboration of direct evidence.

Rameshbhai Mohanbhai Koli, Molai v. State of M.P., (1999) 9 SCC 581, and *State of Rajasthan v. Teja Ram, (1999) 3 SCC 507*, were additionally quoted or applied for the evidentiary value of human-origin blood without group identification, assessed in the context of the complete record rather than as automatic proof of the donor's identity.

3. Statutes considered : Section 374 CrPC was the convicted person's appeal route. IPC Sections 307 and 341 were the actual convictions; Section 307 was reproduced and analysed by the Court as requiring murder-related intention or knowledge and an act toward it, with one punishment limb where no injury results and a heightened limb when hurt results. Section 319 IPC's definition of hurt was quoted to explain that the second Section 307 limb does not require a fatal injury. The first report included Sections 294, 323, 327 and 34 IPC; a Section 25-B Arms Act charge was framed. No appellate conviction under those provisions was affirmed here. Section 27 Evidence Act was discussed through quoted discovery authorities in connection with the hidden Baka, not an admissibility ruling on the accused's entire memorandum or adoption of any separate TADA liability. The FSL report established human-origin blood without a group and did not prove donor identity.

4. Issues : Could the injured PW1 reliably identify Tillu despite unknown assailants in the initial report, night conditions, an incomplete original description and failure to identify Sagar? Was the Baka account irreconcilable with four blunt-type scalp lacerations and CT findings? Did Dilip PW2's hostility erase his dependable account of PW1's journey and immediate aftermath, and was proof of precise motive required in the presence of direct testimony? Did the head assault and circumstances meet Section 307's mental element and overt act, independent of the injury label? Did concealment in bushes remain a meaningful discovery despite public access? What weight could the Court give to human blood on the recovered Baka absent a blood group and individual match? Were the separate Section 307 and Section 341 sentences to be disturbed?

5. Ratio / Findings : PW1 was an injured eyewitness whose presence at the scene was supported by the injuries and PW2's journey and hospital account. The Court found that no reason had been shown for PW1 to falsely implicate Tillu. The parade placed ten persons together and PW1 identified Tillu, while failing to identify Sagar, and he identified Tillu in court. Cross-examination did not materially discredit the positive identification of Tillu; the Court treated the evidentiary position of the acquitted Sagar separately. It did not treat the first report's lack of names as if Tillu had been named there. PW2 was hostile on the blow and assailant but his trustworthy portions remained part of the record and corroborated PW1's presence without directly identifying the assailant. The absence of a separately proved motive did not outweigh the accepted direct account.

Dr Gupta recorded four lacerations and acknowledged that an accident or fall might cause such injuries; the CT showed skull fractures and contusions. The defence inferred that a sharp Baka must always create an incised wound. Applying the quoted Supreme Court decisions, the Court considered contact with the blunt side or a worn edge possible and found that medical opinion did not rule out PW1's direct account. This was a compatibility assessment. Nor does ocular primacy mean medical proof is irrelevant where it truly excludes the claimed mechanism.

On Section 307, the Judge separated the nature of the actual injuries from proof of the required intent or knowledge and an overt act. The account of a Baka blow to the head, multiple lacerations across different areas of the head, and fractures and cerebral contusions permitted an inference of the requisite mental state. The case contained actual hurt, but the Court explained that even life-threatening hurt is not a statutory sine qua non. It affirmed the attempted-murder conviction and the wrongful-restraint conviction.

Seizure witnesses and the IO supported recovery of the Baka from bushes near the scene on Tillu's information. Defence counsel questioned recovery from a place open to the public, but no seizure witness was asked whether the object had been plainly visible. The Court applied the visibility distinction and accepted the recovery of the concealed object despite public access to the place. The FSL established that the blood was of human origin but identified neither its group nor its donor. The accepted injured eyewitness account and recovery were other links; Tillu offered no explanation for the stain, so it added incriminating weight. The conclusion did not assume that ungrouped blood conclusively was Sanjay's. For sentence, the Court noted PW5's unchallenged statement that several cases were registered at Jhansi

Road station, and declined to disturb the five-year Section 307 term or Section 341 fine. That limited sentencing reference is not treated as a finding of guilt in other cases.

6. Relief : The Hon'ble High Court has dismissed the criminal appeal and affirmed the 24 March 2021 Sessions judgment under IPC Sections 307 and 341. Tillu, in jail, was directed to serve the remainder of the five-year rigorous-imprisonment sentence under Section 307 with Rs 1,000 fine and its default term as imposed, and the Section 341 Rs 100 fine with its default term; the trial court had awarded no substantive jail sentence under Section 341. A free copy of the judgment was ordered for him and the trial record was to be returned for compliance. The Court did not decide the original suspension application as a separate grant after hearing the appeal finally.

Tillu v. State of Madhya Pradesh, Cr.A. no. 2768/2021, 22/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (379) Prev Next

Headnote :- Appeals against convictions for mass abduction for ransom — Captives held for over a month had ample opportunity to identify their abductors, and their identification was corroborated by timely test identification parades; Horam's voluntary absence at dock identification could not defeat the identification evidence. Released captives conveyed the demand for ransom; actual payment was unnecessary to establish the offence. Credible police evidence of recovery supported Jagdish's Arms Act conviction. Life imprisonment was the statutory minimum, and the appeals were dismissed.

Case-note :- ***1. Facts :*** About a dozen armed persons abducted villagers returning from a ceremony in January 2000 and held them captive until late February. Some captives were released to convey a demand of ₹11 lakh. Horam, Veera, Ramhet, Jagdish and Munesh challenged their Section 364A life sentences; Jagdish also challenged an Arms Act conviction. They disputed identification, the demand for ransom and its payment, citing a possible election motive and the acquittal of other accused.

2. Precedents — Considered : *Malkhansingh v. State of M.P., Pramod Mandal v. State of Bihar, Subhash Krishnan v. State of Goa* and *Daya Singh v. State of Haryana* were considered on test identification parades and identification in court. *Malleshi v. State of Karnataka* concerned Section 364A ingredients. *Rohtash Kumar v. State of Haryana* addressed police witnesses. *Shakila Abdul Gafar Khan*, *Yogendra* and *Bhagwan Jagannath Markad* were relied on to reject an inflexible falsus-in-uno rule. *Vikram Singh v. Union of India* and *Akram Khan v. State of W.B.* were considered on sentencing.

3. Statutes considered : IPC Sections 364A and 365; Arms Act Sections 3 and 25(1-B)(a); Evidence Act Section 9; CrPC Sections 162, 299, 317 and 374.

4. Issues : Were appellants adequately identified? Was the purpose of obtaining ransom proved despite the missing letter and the absence of proof of actual payment? Did election coercion change the offence? Could hostile panch witnesses or other acquittals defeat liability or permit a sentence below life?

5. Ratio / Findings : Each appellant's identification was examined separately; prolonged captivity and timely TIP supported reliable recognition. Horam avoided attendance despite knowing dock identification was due, so the court drew an adverse inference in assessing witnesses who knew and identified him. The released captives conveyed the demand for ransom, and their evidence was independently corroborated; the missing letter and unproved actual payment were not essential. The statutory alternative of compelling a person to abstain from an act also answered the argument concerning the election. The officer's credible account of the seizure of firearms supported the case against Jagdish despite the hostility of the independent witnesses, and witnesses' credible parts could be separated from unreliable parts concerning acquitted accused. Life imprisonment is the minimum sentence under Section 364A.

6. Relief : The Hon'ble High Court has dismissed all the appeals. The life terms and fines under Section 364A were affirmed, as were Jagdish's three-year Arms Act sentence and fine. Veera's bail was cancelled, and he was directed to surrender.

Horam and Others v. State of Madhya Pradesh, Cr.A. no. 125/2008 & 145/2008 & 158/2008 & 314/2008, 31/10/2018, D.B., Hon'ble Justice Shri Sheel Nagu & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (380) Prev Next

Headnote :- Article 226 / registered FIR / demand for arrest and chargesheet / investigative discretion / prompt completion — The informant

asked the High Court to require police to arrest named accused, complete investigation within a stipulated period, file a chargesheet and act on a representation in an FIR concerning IPC Sections 147, 148, 149, 294, 506, 336 and 120-*B. Citing D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, with its *M.C. Abraham* and *Divine Retreat Centre* passages, the Court refused to order arrest or compel the filing of a chargesheet: arrest under Section 41 CrPC is discretionary and does not follow mechanically from a complaint disclosing a cognizable offence; police must assess the evidence and may file a closure report. The Supreme Court's caution also concerned judicial prescription of witnesses, seizures and the direction of investigation, and orders affecting persons who had not been heard. Separately, Section 173(1) CrPC requires completion of the investigation without unnecessary delay. The investigating officer was therefore directed to finish as early as possible, form a lawful conclusion, and take the steps required for a final report without a fixed date or predetermined result; the petitioner could submit a grievance to the Superintendent of Police. The writ was disposed of. The Court required prompt completion under the statute while preserving the police's discretion over arrest and the decision to file a chargesheet or closure report.

Case-note :- ***1. Facts :*** Todal filed Article 226 Writ Petition 3086/2024 at Jabalpur, decided on 16 February 2024. He said that after his complaint the police registered an FIR under IPC Sections 147, 148, 149, 294, 506, 336 and 120-B but had neither arrested the accused nor completed investigation. He sought a direction to respondent 5 to finish within a period fixed by the Court and submit a chargesheet against those accused, action by respondent 4 on a 3 January 2024 representation, and ancillary relief. Those sections were the registered allegations, not offences found proved by the High Court. The relief was thus examined as an attempt to dictate both investigative actions and the outcome of an already registered case, alongside a narrower request for timely completion.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, 2009:INSC:1132, (2009) 10 SCC 488*, was quoted at length and applied to reject orders which compel police in a particular case to record statements, arrest, seize property and file a chargesheet. Investigation falls within the police's statutory domain; it need not culminate in arrest or prosecution, and courts should not specify an investigative angle without reason. The selected passages also fault a prior High Court order for drastic directions against persons not heard. The passage quotes *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC's discretionary arrest power, caution for liberty and reputation, and an officer's assessment of whether arrest is necessary, rather than a mechanical response to registration of the case. It separately quotes *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on giving persons likely affected by a judicial investigation direction a hearing. The present judgment did not itself order an arrest or decide whether any specified accused had been denied a hearing; those are boundaries illustrated by the quoted authority. *D. Venkatasubramaniam* discusses Section 482 CrPC in its own procedural setting, whereas Todal's actual petition was under Article 226; the applicable investigative-restraint reasoning was used without changing the present writ's jurisdictional label.

3. Statutes considered : Article 226 was the writ jurisdiction invoked. The FIR allegedly covered IPC Sections 147, 148, 149, 294, 506, 336 and 120-B. Section 173(1) CrPC was quoted: every investigation under the relevant chapter shall be completed without unnecessary delay. On that basis the High Court required the investigating officer to conclude as early as possible and take lawful steps to submit a final report, which may be a closure report or a chargesheet. Section 41 CrPC and Section 482 CrPC occur in the Supreme Court precedent extract on arrest discretion and the limits of inherent-power interference respectively; this writ was not a Section 482 petition, and the Court did not apply a categorical arrest prohibition in every lawful investigative circumstance. The existence of an FIR does not decide what the investigation will establish.

4. Issues : Can an informant obtain a writ compelling police to arrest particular accused and file a chargesheet merely because the FIR has been registered and investigation remains pending? How does judicial restraint over investigative choice coexist with Section 173(1)'s duty to complete an investigation without unnecessary delay? What relief, if any, can require progress without dictating evidence gathering or the closure-versus-charge conclusion? Could the petitioner still approach the Superintendent of Police with a grievance? The

underlying IPC allegations and the guilt of any accused were not issues for final trial determination in this writ.

5. Ratio / Findings : The Court adopted the Supreme Court's warning that police investigation should not be controlled through detailed judicial directions requiring arrest, seizure, recording of statements or a chargesheet. The cited *M.C. Abraham* reasoning treated arrest as discretionary, depending on its necessity, the nature of the offence and the persons involved; registration of a cognizable case does not itself create an immediate arrest duty. The *D. Venkatasubramaniam* passage recognised the possibility that an investigation may result in a closure rather than a prosecution report. Therefore the specific requested arrest and chargesheet commands would amount to improper supervision and were refused. The caution about hearing affected persons and avoiding casual directions came from the precedent.

The Court then gave effect to the separate duty imposed by Section 173(1). An investigator must complete the investigation without unnecessary delay and decide on the material whether an offence is made out. It directed completion as early as possible and lawful further steps for a final report, preserving the possibility of either a chargesheet or a closure report. It did not fix a number of days, specify a particular arrest, direct a particular witness statement or find that the allegations necessarily merited a charge. The petitioner remained free to apply to the Superintendent of Police, Narsinghpur, who was to consider any grievance according to law. The direction therefore required timely completion without prescribing the substantive outcome.

6. Relief : The Hon'ble High Court has finally disposed of the writ petition. The demand for arrest and compulsory chargesheet was not granted. The investigating officer was directed to finish investigation as early as possible and take necessary steps under law, and the petitioner was permitted to pursue a grievance before the Superintendent of Police. No judicial finding of guilt, specified deadline, arrest warrant, or command that a chargesheet rather than closure be filed followed.

Todal v. The State of Madhya Pradesh, W.P. no. 3086/2024, 16/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (381) Prev Next

Headnote :- Murder and unlawful assembly appeals — One participant fired the fatal shot after the group chased the informant home; others continued to beat two injured eyewitnesses. The participants' conduct established their common object and liability under Section 149, although only one of them fired the shot. The testimony of the related witnesses was supported by medical evidence and evidence from the scene. Uncertainty about dispatch under Section 157 and minor differences in descriptions of the scene did not undermine the prosecution's proof. The convictions and life sentences were affirmed.

Case-note :- ***1. Facts :*** A vacant-land dispute led to an attack in March 2004. Rustam reported that Hotam's group chased him to the family house; Rajaram passed a gun to Rajesh, whose shot killed Rustam's brother Janved. Rani and Ummed were beaten, and their injuries were medically documented. Rustam was murdered before his trial testimony in this case. Five appellants appealed convictions for rioting, murder and voluntarily causing hurt with the aid of Section 149; Rajaram's appeal had abated following his death.

2. Precedents — Considered : *Amish Devgan v. Union of India* was considered on the use of an FIR where the informant cannot testify; *Rameshwar Dayal v. State of U.P. and others on* map evidence; *Shamim v. State (NCT of Delhi) on* related witnesses; *Sukhbir Singh v. State of Haryana, Manjit Singh v. State of Punjab, Dev Karan v. State of Haryana, Chandrika Prasad Singh v. State of Bihar* and *Bhajan Singh v. State of U.P. on* common object; *Jafel Biswas v. State of W.B.* on dispatch of the FIR under Section 157.

3. Statutes considered : IPC Sections 141, 142, 148, 149, 302 and 323; CrPC Sections 157 and 313; Section 30 of the Arms Act was included in the trial charges against the deceased co-accused.

4. Issues : Were the related witnesses' accounts of the incident and the place of shooting reliable despite differences in the maps and the absence of independent neighbours? Did the non-examination of the FIR writer or uncertainty about dispatch to the Magistrate invalidate the prosecution? Could non-shooters share murder liability under Section 149, and was each alleged injury proved?

5. Ratio / Findings : The core account given by the injured witnesses Rani and Ummed was consistent with medical findings, the household layout and

blood at the mapped platform. Kinship does not itself defeat credible testimony, nor does the absence of neighbours; the Dehati Nalishi was proved by the officer who recorded it. Non-dispatch of the FIR under Section 157, or uncertainty about its dispatch, is not automatically fatal where there is no doubt about the timing of the FIR. A common object can develop and be inferred from the group's pursuit of the victim, its weapons and conduct, and its continued attack: the others joined the assault even after Rajesh's fatal gunshot, supporting liability under Section 302/149 and under Section 323/149 on two counts for the hurt caused to Rani and Ummed. No one saw the initial attack on Rustam, and his death before testimony left that individual injury allegation unproved.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed the life sentences and fines under Section 302/149, the sentences on two counts under Section 323/149, and the sentence under Section 148. The bail of four appellants was cancelled, and they were directed to surrender; Rajesh was to continue serving his sentence in prison.

Hotam Singh and Others v. State of Madhya Pradesh; Rajbahadur Singh v. State of Madhya Pradesh, Cr.A. no. 620/2010 & 666/2010, 24/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (382) Prev Next

Headnote :- Police disciplinary enquiry / parallel criminal prosecution / effect of acquittal / prematurity of a writ challenging a charge sheet — Tourez Khan, a police employee, challenged a departmental charge sheet while facing a criminal trial concerning a complainant's sexual-abuse allegation; during the writ, he was acquitted on 28 February 2022. The disciplinary charges followed a police preliminary enquiry and alleged an extramarital relationship, inducement, a threat concerning abortion, and conduct bringing discredit to the police service under Regulation 63(4). These remained allegations. The criminal prosecutrix supported the prosecution but the trial court disbelieved her substantially because her parents did not corroborate her; the High Court called that acquittal non-honourable and noted that the disciplinary allegations differed. Applying *SBI v. R. Periyasamy, (2015) 3 SCC 101; State of Rajasthan v. Heem Singh, (2021) 12 SCC 569*; and *Inspector General of Police v. S. Samuthiram, (2013) 1 SCC 598*, it held that the standards of proof differ: proof beyond reasonable doubt in criminal proceedings and a preponderance of probabilities in disciplinary proceedings; acquittal does not automatically quash an independent departmental case. Applying *Kunisetty Satyanarayana, (2006) 12 SCC 28*, and the quoted authorities including *Prabhash Chandra Mirdha*, the Court held that a writ challenging a charge sheet before enquiry is ordinarily premature unless the issuing authority lacks jurisdiction or another exceptional ground is established. It did not test the truth of the allegations. It dismissed the writ, vacated the 27 June 2017 stay, and required the enquiry to conclude within six months. The departmental allegations remained for determination in the enquiry; the 'honourable acquittal' term was applied in the service-law context and is not a distinct criminal verdict category under the IPC or CrPC.

Case-note :- ***1. Facts :*** Police employee Tourez Khan filed Article 226 Writ Petition 6308/2017 challenging a departmental charge sheet on the ground that related criminal charges were pending. During the long-pending writ, III Additional Sessions Judge, Singrauli at Waidhan acquitted him on 28 February 2022 in ST 1500083/2016, and he argued that the acquittal also removed the basis for the departmental proceedings. The State replied that one complainant, anonymised as X, had alleged sexual abuse; an SDO(P) preliminary enquiry preceded the service charge sheet. Its three allegations concerned a married employee's relationship with another woman; alleged inducement, a prolonged relationship and a threat to undergo abortion; and alleged dereliction of duty, misconduct and reputational damage to the police department under Regulation 63(4). These remained accusations for the disciplinary authority to determine; they were not facts found proved in this writ. The State emphasised that the service case was not merely based on registration of the criminal case. The High Court described the criminal judgment as one in which the prosecutrix supported the prosecution account, but her testimony was disbelieved mainly because her parents turned hostile or did not corroborate her. The court characterised the acquittal as other than honourable. The writ also raised a procedural issue: a 27 June 2017 interim order had stayed the departmental

process for years. The Court had to decide whether the later acquittal or the challenge to a charge sheet before enquiry justified continuing the stay.

2. Precedents — Considered : *SBI v. R. Periyasamy, (2015) 3 SCC 101*, was quoted on the distinction between a criminal verdict and service discipline. The quoted passage refers to *Union Bank of India v. Vishwa Mohan* in the context of an inquiry report in banking service, and more directly to *Commissioner of Police v. Mehar Singh, (2013) 7 SCC 685*, for the distinction between criminal proof beyond reasonable doubt and disciplinary proof on a preponderance of probabilities, the significance of hostile witnesses and the distinction between benefit-of-doubt and full merits acquittal; it also invokes *R.P. Kapur, AIR 1964 SC 787*, on departmental proceedings after an acquittal other than honourable. The issue of prejudice in the banking case formed part of the quoted precedent; Tourez had not alleged a defect concerning service of the inquiry report.

State of Rajasthan v. Heem Singh, (2021) 12 SCC 569, was quoted at length for the effect of acquittal on discipline. It refers to *Southern Railway Officers Association*, then reproduces *State v. S. Samuthiram, (2013) 1 SCC 598*, and its discussion of *RBI v. Bhopal Singh Panchal and R.P. Kapur.* The quoted passage explains that 'honourable acquittal' is judicial service-law terminology rather than a category stated in the Penal Code or CrPC; even a clean acquittal does not automatically confer reinstatement without a service-rule entitlement, given different standards of proof. The references within that quotation to *State of Assam v. Raghava Rajgopalachari and Robert Stuart Wauchope* explain that terminology. *Inspector General of Police v. S. Samuthiram* was separately quoted on a disciplined-force employee, unexamined key witnesses and hostile witnesses, and the distinct civil standard; the facts of that precedent did not establish the allegations against Tourez. The Bench applied these authorities to the independently initiated enquiry and its view of the actual acquittal.

Union of India v. Kunisetty Satyanarayana, (2006) 12 SCC 28, was quoted for the ordinary prematurity of a writ against a charge sheet or notice; its quoted list includes *Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh, Special Director v. Mohd. Ghulam Ghouse, Ulagappa* and *Brahm Datt Sharma*. The High Court separately quoted its Division Bench decision *Jagdish Baheti v. High Court of M.P.*, which reproduces *Secretary, Ministry of Defence v. Prabhash Chandra Mirdha, (2012) 11 SCC 565*, and references *Sangram Keshari Misra* and *Upendra Singh*. These authorities place determination of the correctness of charges within the disciplinary authority's domain, recognise patent lack of competence as a ground for immediate scrutiny, and discuss the need for prejudice before delay invalidates a proceeding. *Ranjeet Singh Kumpawat v. Central Madhya Pradesh Gramin Bank*, quoted *Upendra Singh*, *Transport Commissioner v. A. Radha Krishna Moorthy and Jagdish Baheti and* noted proved mala fides as a possible exceptional route. None was used to hold that Tourez's alleged misconduct had already been proved or that any actual lack of jurisdiction existed here.

3. Statutes considered : Article 226 was the jurisdiction for the challenge to the departmental charge sheet, not an appeal against criminal acquittal. Police Regulation 63(4) was invoked in the departmental allegations of misconduct and reputational discredit; the Court did not adjudicate the allegations under that provision on evidence. The different burdens, beyond reasonable doubt for crime and preponderance for service discipline, were applied as explained by the Supreme Court authorities. The quoted cases refer to the Penal Code, CrPC and various service rules in their own settings; the Court applied the distinction between criminal acquittal and departmental adjudication.

4. Issues : Did a later criminal acquittal, characterised by the Court as resting on uncorroborated prosecutrix testimony, automatically extinguish the police department's charge sheet, issued after an independent enquiry into related but distinct service misconduct? Could the High Court test the veracity of charges and quash an initiating charge sheet before enquiry absent lack of issuing competence or a substantiated exceptional ground? What effect should be given to the 2017 interim stay that prevented enquiry progress, and what completion direction was appropriate? Guilt in the criminal case and the truth of the departmental allegations were outside the operative merits decision.

5. Ratio / Findings : The Court held that mere acquittal was insufficient to quash this disciplinary charge sheet. Its reading of the criminal judgment was that X had supported the prosecution, but lack of corroboration by hostile parents led to acquittal. It

therefore did not treat the verdict as a full merits exoneration of the conduct; the departmental case arose from a preliminary enquiry, had its own service-law formulation and would be decided on a preponderance of probabilities rather than the criminal standard. The Court expressly said the service charges and criminal allegations differed. That finding supported continuation of the enquiry without treating X's complaint or each allegation under Regulation 63(4) as proved. The Court did not purport to overturn the criminal acquittal or lay down a universal rule that an expressly exonerating verdict can never be relevant under an applicable service rule.

The Court also relied on the prematurity of the challenge to a departmental charge sheet. Such an initiating notice ordinarily does not itself adversely decide service rights, and factual truth belongs to the disciplinary authority. Lack of jurisdiction or competence of the issuing authority is a recognised ground for review at that stage. The quoted authorities also recognise prejudice caused by delay or established mala fides as grounds for intervention, subject to the relevant circumstances; they do not confer blanket immunity from judicial review. Tourez had not made out an applicable defect justifying quashing. Since the interim stay dated 27 June 2017 had suspended progress, the Court vacated it and required completion within six months of the 10 August 2023 decision. That direction governs the enquiry process and supplies no finding about the ultimate disciplinary result.

6. Relief : The Hon'ble High Court dismissed the writ petition, vacated the interim stay of 27 June 2017, and directed the respondents to conclude the departmental enquiry within six months. The police disciplinary charge sheet remained for adjudication in that enquiry. There was no conviction or departmental punishment ordered by this writ court and no alteration to the 28 February 2022 criminal acquittal.

Tourez Khan v. The State of Madhya Pradesh and Others, W.P. no. 6308/2017, 10/08/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (383) Prev Next

Headnote :- Appeal concerning two killings and an attack on Ramu — The armed group's concerted assault established liability based on its common object. Principal accounts were supported by injuries, postmortems and recoveries; some hostile or unexamined witnesses did not defeat the prosecution. The life sentences and other sentences were affirmed.

Case-note :- ***1. Facts :*** After Rambai was reportedly set alight, Ramu travelled with Ganeshram and Babloo to see her in October 2009. An armed group attacked them near the village. Ganeshram and Babloo died and Ramu was injured. The convicted accused appealed, challenging the reliability of the witnesses, the absence of independent witnesses and the recovery evidence.

2. Precedents — Considered : *Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, was noted in relation to the manner in which one appellant's appeal was to be considered. *Guru Dutt Pathak v. State of U.P., (2021) 6 SCC 116*, supported the principle that the quality of evidence, rather than the number of witnesses, is material when assessing the non-examination of independent witnesses. Other Supreme Court authorities were quoted on common object and evaluation of testimony; the court applied them to the incident as a whole.

3. Statutes considered : IPC Sections 147, 148, 149, 302, 307 and related assault provisions; CrPC Sections 174, 313 and 374(2). Discovery of weapons pursuant to the accused persons' memoranda was considered.

4. Issues : Did the evidence establish the appellants' participation and shared object despite hostile or unexamined witnesses and challenges to seizures?

5. Ratio / Findings : The material witnesses gave consistent accounts of the armed assault, and their testimony remained unshaken in cross-examination. The autopsy findings and medical findings concerning the injured person supported the account of blows with weapons and the finding of homicidal deaths. Some peripheral witnesses turning hostile, and non-examination of an independent or further injured person, did not require rejection of otherwise trustworthy proof. Recovery at the instance of the accused persons and articles collected from the scene corroborated the account. The coordinated assault supported liability under Section 149, and the defence account did not create reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the convictions and sentences. The appellants who were on bail were directed to surrender.

Hukum Singh and Others v. State of Madhya Pradesh, Cr.A. no. 47/2012, 07/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (384) Prev Next

Headnote :- Unsoundness of mind / Section 84 IPC / psychosis during trial / time of offence / Evidence Act Section 105 — Tufan appealed the life sentence under IPC Section 302 for killing his mother Phuliya Bai and five years' rigorous imprisonment under Section 307 for assaulting his father Daujaram; the sentences ran concurrently. He did not contest homicidal death or authorship on appeal, but invoked legal insanity. His father, sister-in-law and a seizure witness described longstanding 'madness' and mental illness on the day of the incident. The investigating officer knew of treatment for mental illness over several months. A September 2012 report diagnosed psychosis, and the trial was stayed. In September 2013 a report stated that he was fit to defend himself, and the trial court reached the same conclusion after questioning him. Applying *Mohd. Anwar v. State (NCT of Delhi), (2020) 7 SCC 391; Hari Singh Gond v. State of M.P., (2008) 16 SCC 109; Bapu v. State of Rajasthan, (2007) 8 SCC 66*; *Sudhakaran*, *Surendra Mishra* and *T.N. Lakshmaiah*, the Division Bench held that medical illness or later psychosis does not alone establish incapacity at the instant of the act to know its nature or wrongfulness. The accused's burden under Section 105 is to establish the exception on a preponderance of probabilities, and he may rely on prosecution evidence. The prosecution retains the burden of proving the offence and its mens rea beyond reasonable doubt, as distinguished in *Dahyabhai*. The Court found no pre-incident treatment record, considered observations made at his arrest and appearances before the Court, and inferred awareness from his departure from the scene and arrest the following day. It refused Section 84 relief and affirmed both convictions and sentences.

Case-note :- ***1. Facts :*** The 3rd Additional Sessions Judge, Shivpuri convicted Tufan on 27 April 2017 in ST 400169/2012 of killing his mother Phuliya Bai under IPC Section 302 and attempting to murder his father Daujaram under Section 307. The punishments were life imprisonment and Rs 1,000 fine (two months' rigorous imprisonment in default) for murder, and five years' rigorous imprisonment plus Rs 1,000 fine (two months' rigorous imprisonment in default) for the attempt, running concurrently. The injured father reported on 26 March 2012 that after a neighbour Anguri Bai objected to Tufan sitting outside her house and the father queried him, Tufan struck his mother repeatedly with a lathi, then struck his father on the head, shoulder, thigh and hand as he intervened. Daujaram and daughter-in-law Asha sheltered inside; they later found Phuliya dead. The trial court framed both charges. On appeal, counsel did not challenge the finding of homicidal death or the prosecution's proof of the assaults but argued that Tufan lacked the cognitive capacity required for criminal responsibility at the time, invoking Section 84. The Court still reviewed injury and eyewitness facts for that issue rather than treating his concession as eliminating the need for context. The doctor who conducted the postmortem, PW7, described head and ear lacerations, temporal bruising, temporal fractures, exposed brain material and fatal coma from brain injury and haemorrhage. He accepted in cross-examination that falling from a height could produce injuries, but the Court found no evidence of any such fall. The examining doctor, PW8, found a parietal head laceration and swelling on Daujaram's hand, shoulder and thigh; he said a fall or impact with a wall might produce injuries, while the father and Asha supported the assault history. Anguri Bai turned hostile on her alleged complaint to the father, though she accepted that Tufan had sat outside her house and returned after she objected. Daujaram PW2 and Asha PW3 identified Tufan as the assailant; PW4 saw a lathi seizure. PW5 and PW6 were hostile. The Court found the assault proved independently of the disputed precipitating conversation.

The same prosecution witnesses supplied material for the defence: Daujaram said his son had been 'mad' for ten to twelve years, attacked people, had been treated without improvement, and was so affected that day; Asha gave a similar account, and PW4 also described him as in a state of madness. The arresting officer, PW9, said he had learnt during investigation of five to six months' treatment for mental weakness, though he denied being told of 'madness'. Tufan did not call a defence witness or file records of treatment before the incident. Trial order sheets showed that a lawyer was arranged through legal aid, an application for treatment had been made, a report dated 21 September 2012 said he had psychosis and the trial was stayed; on 3 September

2013 a report said he had improved and was fit to defend, a conclusion the trial judge verified by questioning him before framing charges. Those later assessments of fitness to participate in the trial did not directly assess his mental state at the time of the act in March 2012. The Court noted that no abnormality had been observed when he appeared before the trial court or by the arresting officer and that he was apprehended the following day at a bus stand with a lathi.

2. Precedents — Considered : *Mohd. Anwar v. State (NCT of Delhi), (2020) 7 SCC 391*, was quoted for the civil standard and the need to show a sufficiently serious mental disorder affecting right/wrong understanding particularly at the time of the act; a photocopied OPD card and maternal affidavit were inadequate on the facts there. *Hari Singh Gond v. State of M.P., (2008) 16 SCC 109*, and *Bapu v. State of Rajasthan, (2007) 8 SCC 66*, were extensively quoted for legal versus medical insanity, the two forms of cognitive incapacity under Section 84, contemporaneous conduct, episodic illness/lucid intervals, and the insufficiency of odd behaviour, absence of motive or mere medical illness. The reproduced discussion in *Hari Singh* invokes *Dahyabhai Chhaganbhai Thakkar, AIR 1964 SC 1563*, and *Sheralli Wali Mohammed*. The quotation also says that where previous insanity is revealed during investigation, an honest investigator should arrange a medical examination; failure to do so can seriously weaken the prosecution. The present Court recorded the officer's knowledge of treatment and the later report.

Sudhakaran v. State of Kerala, AIR 2011 SC 265, was quoted with its *Ratan Lal* reference for the focus on the time of the act. *Surendra Mishra v. State of Jharkhand, AIR 2011 SC 627*, was quoted for the test of cognitive capacity for criminal responsibility, preponderance under Evidence Act Section 105 and the significance of conduct before, during and after the act; its excerpt includes *Bapu*, *Hari Singh Gond* and *T.N. Lakshmaiah*. *T.N. Lakshmaiah v. State of Karnataka, (2002) 1 SCC 219*, was independently quoted for the general exception's proof burden, the presumption of sanity and the three propositions stated in *Dahyabhai*: the prosecution’s burden to prove guilt and mens rea never shifts; the accused must establish the Section 84 exception on the civil standard; and material falling short of proving the exception may still raise reasonable doubt about an ingredient of the offence. The passage invokes *State of M.P. v. Ahmadulla and Bhikari* in support. These source and nested authorities were used as legal tests, not as factual diagnoses of Tufan.

3. Statutes considered : IPC Section 84, within the general exceptions, excuses an act done while, by reason of unsoundness of mind, the actor is incapable of knowing its nature or that what he does is wrong or contrary to law. Evidence Act Section 105 requires the Court to presume, subject to rebuttal, the absence of circumstances bringing the case within the exception and places the burden of establishing those circumstances on the accused on the civil standard; it does not transfer the prosecution's continuing burden to prove IPC Sections 302 and 307 and their mens rea beyond reasonable doubt. The murder and attempted-murder sections were the separate convictions for the deceased mother and injured father. The trial was stayed after the report of psychosis and resumed after the later report of fitness; those steps concerned capacity to participate in proceedings at a later date. The report of psychosis was not an automatic statutory finding of Section 84 incapacity at the earlier incident.

4. Issues : Did testimony of family and a seizure witness about many years of illness, the investigator's knowledge of some treatment, and a psychosis report months after the assault make it probable that, at the time of the assault, Tufan could not know the nature or wrongfulness of his act? Was there medical or other contemporaneous evidence of the requisite cognitive impairment, and what weight was due to the circumstances of arrest, conduct after the incident and observations made by the Court? How does the accused's Section 105 exception burden relate to the prosecution's unshifting burden on homicide and attempted murder? Did the evidence, even if insufficient to establish Section 84, create reasonable doubt about the charged mental elements? The appellant did not advance a separate merits challenge to the established assaults, but the Court addressed them in context.

5. Ratio / Findings : The Court distinguished a general diagnosis or lay label of 'madness' from the statutory capacity question. A person may have an illness or intermittent psychosis without being unable at the material time to understand the act or its wrongfulness. The relatives gave direct oral evidence concerning his condition, including on the day of the incident; that prosecution evidence was available for the purposes of Section 105 and was considered. The September 2012 psychosis report

led to a stay of the trial and eventual finding of restored fitness in 2013, but it did not establish what mental faculties were impaired in March 2012. The Court said no pre-incident treatment document was produced, no abnormal behaviour was observed at his arrest or initial appearances before the trial court, and any psychosis was not continuous. It considered repeated blows to mother and father and his being arrested the next day at a bus stand; it characterised his intervening departure as absconding and inferred awareness of the gravity of his act. This is the Court's factual inference, not a universal proposition that every departure proves legal sanity or that lay testimony may never sustain a Section 84 defence.

Under the quoted authorities, an accused can establish the exception on a preponderance of probabilities and may rely on prosecution evidence; the prosecution still bears the burden of proof beyond reasonable doubt. Even if the exception is not established, the evidence may raise a reasonable doubt about culpable intent. Here the Bench found neither cognitive incapacity at the time of the act under Section 84 nor sufficient doubt about the proof of murder and attempted murder to disturb the convictions. The Court distinguished medical from legal insanity and held the later psychosis insufficient to establish legal incapacity at the time of the act. The Court did not impose an additional requirement of producing defence witnesses as an exclusive means of proof. Its rejection rested on the overall evidence including the absence of contemporaneous medical material and the conduct it described.

6. Relief : The Hon'ble High Court rejected the defence under Section 84 and dismissed the appeal. The Court affirmed Tufan's IPC Section 302 conviction and life imprisonment for his mother's homicide, the Section 307 conviction and concurrent five-year rigorous imprisonment for assaulting his father, and the specified fines and default terms. It held life imprisonment to be the applicable minimum for the murder conviction and left the sentence undisturbed. Tufan remained in jail to serve the remaining term. A free judgment copy was directed to him and the trial record returned for compliance.

Tufan v. State of Madhya Pradesh, Cr.A. no. 704/2017, 20/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (385) Prev Next

Headnote :- Section 311 CrPC — Recall of two witnesses was not warranted merely because the accused alleged that his former lawyer, whom he had chosen, had not cross-examined them effectively. Recall to ensure a fair trial requires concrete reasons showing its necessity; a change of advocate and an unsubstantiated allegation of incompetence did not establish any error by the trial court.

Case-note :- ***1. Facts :*** In a murder and dowry-death trial with nine prosecution witnesses already examined, the accused sought to recall Kamlesh and Ambika Prasad for further cross-examination, attributing the need for further cross-examination to the alleged incompetence of his former lawyer, whom he had chosen. The trial court refused and he sought revision.

2. Precedents — Considered : *State of Haryana v. Ram Mehar, (2016) 8 SCC 762*, and *State (NCT of Delhi) v. Shiv Kumar Yadav, (2016) 2 SCC 402*, required tangible reasons showing that recall was essential, with due consideration of hardship to witnesses and delay. *R. Muthukrishnan v. Registrar General, (2019) 16 SCC 407*, was cited on the Bar Council's disciplinary competence.

3. Statutes considered : CrPC Sections 309, 311, 397 and 401; IPC Sections 302/34 and 304-B; Arms Act Sections 29 and 30 as trial charges.

4. Issues : Did a change of counsel and a general claim of inadequate cross-examination require recall of two important witnesses?

5. Ratio / Findings : The discretion under Section 311 serves the just decision of the case, and recall is not routine. The applicant identified no concrete necessity beyond the alleged incompetence of his lawyer; he had made no Bar Council complaint and the court would not presume professional misconduct from omitted questions. A change of counsel could not by itself justify reopening completed cross-examination. The trial court committed no jurisdictional error.

6. Relief : The Hon'ble High Court dismissed the revision and upheld the order refusing recall.

Ichhashankar v. State of Madhya Pradesh, Cr.R. no. 575/2022, 25/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (386) Prev Next

Headnote :- Cross-examination / closure of defence opportunity / fair trial - The order sheet of

9 February 2024 recorded that the prosecutrix's examination-in-chief and cross-examination had been completed. Her deposition, however, showed that cross-examination had been deferred at the defence's request because counsel was unprepared and needed further instructions. The order sheet of 23 February was not supplied. When the prosecutrix attended on 6 March, newly appearing counsel again sought time and refused to pay witness costs. The Court acknowledged that closure of cross-examination might cause irreparable prejudice to the accused. It nevertheless held him responsible for that situation because his repeated requests for adjournment were intended to harass the prosecutrix. In those circumstances, it upheld closure of the opportunity to cross-examine and dismissed the Section 482 application.

Adjournment / Section 309 CrPC / witness present in court - *State of U.P. v. Shambhu Nath Singh, (2001) 4 SCC 667*, explains the requirement of day-to-day examination under Section 309(1), the need to record reasons for an adjournment beyond the following day, and the further requirement under Section 309(2) of special reasons recorded in writing before an attending witness is sent away without examination. Witnesses lose time and incur financial loss by attending court. Non-cooperation may be addressed through costs proportionate to that loss and other available measures for controlling the trial. The Court applied these requirements where the prosecutrix had repeatedly attended and the defence sought further time because of lack of preparation and a late change of counsel. The statutory exception for an adjournment justified by special reasons recorded in writing remained applicable.

Witness examination / delay and pressure / Supreme Court guidance - *Vinod Kumar v. State of Punjab, (2015) 3 SCC 220*, explains that a lengthy interval between examination-in-chief and cross-examination undermines a fair trial. Cross-examination should be completed on the same day, with continuation on the following day permissible when examination extends late. The decision cites *Gurnaib Singh v. State of Punjab, (2013) 7 SCC 108*, on piecemeal trials and the duties of the Bench and Bar, and *Swaran Singh v. State of Punjab, (2000) 5 SCC 668*, on the risk that repeated adjournments tire witnesses or expose them to influence. *Akil v. State (NCT of Delhi), (2013) 7 SCC 125*, reproduces directions concerning continuous sessions trials and Section 309. The High Court relied on these authorities in refusing adjournments sought merely for their own sake. It considered both the prejudice asserted by the accused and the prosecutrix's repeated attendance.

Counsel's duty / witness costs / unnecessary deferral - *Mohd. Khalid v. State of W.B., (2002) 7 SCC 334*, deprecates routine deferral of cross-examination after examination-in-chief when the witness is available. It reproduces *N.G. Dastane*'s statement that counsel should arrange for the examination of witnesses present in court rather than subject them to repeated hardship. *Shambhu Nath Singh* also discusses costs commensurate with the witness's loss. The Court applied these considerations to the newly engaged advocate's request for time and refusal to pay costs. *Krishnan v. Krishnaveni, (1997) 4 SCC 241*, explained the public-justice reasons for expedition. Its observations about threats and inducement were general guidance, not findings that this prosecutrix had been threatened or won over.

Case-note :- ***1. Facts :*** *Tulsi Ram Lodhi* filed MCRC No. 43730 of 2024 under Section 482 of the Code of Criminal Procedure, 1973, challenging the order dated 6 March 2024 passed by the Additional Judge to the Court of the First Additional Sessions Judge, Begumganj, District Raisen. That order closed his opportunity to cross-examine the prosecutrix. The application concerned his procedural opportunity to cross-examine her. The question was whether a further opportunity should be granted after she had attended court and her examination-in-chief had been recorded.

On 9 February 2024, the prosecutrix appeared and her examination-in-chief was recorded. The order sheet stated that both examination-in-chief and cross-examination had been completed and that she had been released. The deposition sheet, filed as Annexure A/3, showed a different position. After examination-in-chief, the accused's advocate sought deferment of cross-examination because he had not properly prepared the case and needed further information from the accused. The court deferred cross-examination and fixed the matter for 23 February. The applicant did not supply the order sheet for that date. The High Court expressly noted the omission and made no finding about what had occurred on that date.

The prosecutrix again attended on 6 March 2024. R.K. Gupta, Advocate, appeared for the applicant, filed his memorandum and sought time to cross-

examine her. When the trial court insisted that the accused pay costs to the witness, counsel refused. The trial court then closed the accused's right to cross-examine her. Before the High Court, the applicant's counsel accepted that the applicant's failure to cross-examine the prosecutrix was not correct, but sought one further opportunity on the ground that denial would cause irreparable loss. The State opposed the application. The High Court considered the sequence of events, the hardship to the prosecutrix attending court, the requirements of Section 309 and the applicant's own responsibility for the prejudice he asserted.

2. Precedents — Considered : In *Akash Batham & Ors. v. Santoshi*, Criminal Revision No. 380/2017, order dated 21 April 2017 (M.P. High Court, Gwalior Bench), the Court had considered an adjournment request made while witnesses were present. Counsel had been given an opportunity to prepare and cross-examine them after lunch, but instead sought an adjournment to challenge the trial order. The quoted decision found that the request was intended to delay the trial. The present Court relied on it when considering the bona fides of an adjournment request and the need to examine witnesses attending court; it did not treat every request as automatically improper. The judgment records that the Supreme Court affirmed that order in SLP (Criminal) No. 4464/2017 on 30 May 2017. *Kuldeep Singh Tomar v. State of M.P.*, MCRC No. 5816/2018, order dated 8 March 2018, states that day-to-day proceedings in a criminal trial are the rule and adjournment the exception.

Vinod Kumar v. State of Punjab, (2015) 3 SCC 220, was quoted at length. The Supreme Court criticised adjournments after examination-in-chief and lengthy intervals before cross-examination, which may expose witnesses to pressure or influence and undermine a fair trial for the accused, prosecution and public. It required compliance with the statutory requirement to record reasons for deferment and stated that cross-examination should ordinarily be completed on the same day. Continuation on the next day was permissible when examination extended late. Its discussion of *Gurnaib Singh v. State of Punjab, (2013) 7 SCC 108*, condemned piecemeal proceedings and deferment of cross-examination without special reasons. Its quotation from *Swaran Singh v. State of Punjab, (2000) 5 SCC 668*, described the risk that repeated adjournments tire witnesses or permit improper influence. Its quotation from *State of U.P. v. Shambhu Nath Singh* stressed the hardship and loss of income suffered by summoned witnesses. The High Court relied on these principles in rejecting casual postponement of the prosecutrix's cross-examination after examination-in-chief. The general warnings in those authorities were not findings that this witness had actually been threatened, bribed or won over.

Akil v. State (NCT of Delhi), (2013) 7 SCC 125, was cited through an extract reproducing a circular. The extract sets out the day-to-day examination requirement under Section 309(1), the special written reasons required under Section 309(2) before an attending witness is sent away without examination, and administrative instructions for scheduling sessions cases. The High Court relied on the requirements of expedition and examination of witnesses present in court. *Krishnan v. Krishnaveni, (1997) 4 SCC 241*, explains the public-order and public-justice purposes of criminal law, the need to complete trials before witnesses' memories fade, and the danger of delay and witness influence. These observations provided general guidance; they were not proof that this prosecutrix had been influenced.

Swaran Singh and *Gurnaib Singh* were also quoted separately later in the judgment. *Swaran Singh* deplored repeated adjournments that cause witnesses to tire and give up. *Gurnaib Singh* required trial courts to monitor proceedings actively and counsel to avoid delaying tactics. The Court applied these principles when considering the repeated requests for time and the prosecutrix's attendance.

State of U.P. v. Shambhu Nath Singh, (2001) 4 SCC 667, was quoted as the principal explanation of Section 309. It distinguishes the requirement to proceed expeditiously from the stricter requirement, once examination begins, to continue from day to day until witnesses in attendance have been examined. An adjournment beyond the following day requires recorded reasons. If a witness is present, special reasons must be recorded in writing before the case is adjourned without examining that witness. Counsel's convenience alone does not satisfy that requirement. The decision describes measures available where the accused or counsel does not cooperate, including costs commensurate with witnesses' expenses and loss. It also discusses remand and cancellation of bail subject to the procedural conditions stated in that decision; the High Court did not impose those measures in this case. The principles supported the trial court's

insistence on witness costs and its refusal to prolong cross-examination because counsel was unprepared or had been newly engaged.

Mohd. Khalid v. State of W.B., (2002) 7 SCC 334, was quoted for the principle that, absent compelling reasons, cross-examination should not be deferred for long periods after examination-in-chief when the witness is available. It repeats *Shambhu Nath Singh* on the hardship caused by attendance and *N.G. Dastane v. Shrikant S. Shivde on* counsel's duty to arrange examination of a summoned witness attending court. Repeated delaying tactics may amount to professional misconduct. The High Court relied on this guidance in refusing adjournments sought for their own sake and protecting the prosecutrix from repeated attendance; it made no independent disciplinary order against an advocate. The references to *Raj Deo Sharma* and *Raj Deo Sharma (II)* occur within the extract from *Shambhu Nath Singh* and concern expedition under Section 309 and reminders to trial courts through the High Courts.

3. Statutes considered : The application under Section 482 CrPC sought to set aside the trial court's order dated 6 March 2024. The High Court considered whether closure of the defence's opportunity to cross-examine the prosecutrix warranted interference in the circumstances of this case. It did not determine her credibility or the accused's guilt.

Section 309(1) CrPC requires inquiries and trials to proceed as expeditiously as possible. Once examination of witnesses begins, it must continue from day to day until all witnesses in attendance have been examined; an adjournment beyond the following day requires recorded reasons. Section 309(2) permits postponement or adjournment, for recorded reasons and on reasonable terms, after cognizance has been taken or trial has commenced. Its witness-attendance proviso further requires special reasons recorded in writing if a witness present in court is not examined. The quoted Supreme Court explanation distinguishes the general power to adjourn from the stricter requirements when a witness is present. It also discusses costs and other measures available in response to non-cooperation. Here, the trial court required payment of costs to the prosecutrix. The *Akil* extract also reproduces a Delhi High Court circular and administrative instructions for sessions cases. These appear as quoted guidance, not as independently applicable Madhya Pradesh rules.

4. Issues : (i) Whether, to avert the irreparable prejudice asserted by the applicant, the High Court should interfere under Section 482 with closure of his right to cross-examine the prosecutrix and grant a further opportunity, having regard to the conflicting order sheet and deposition of 9 February, the missing order sheet of 23 February, the prosecutrix's attendance on 6 March, and the newly appearing advocate's request for time and refusal to pay costs.

(ii) What the day-to-day examination requirement and safeguards for witnesses present in court under Section 309, as explained by the cited Supreme Court authorities, required of the court and counsel after examination-in-chief had been recorded and cross-examination repeatedly deferred; and whether lack of preparation or a late change of counsel justified a further adjournment on this record. The decision concerned the opportunity to cross-examine and control of adjournments, not the merits of the underlying criminal accusation.

5. Ratio / Findings : The High Court noted the discrepancy between the order sheet of 9 February and the prosecutrix's deposition. Although the order sheet recorded completed cross-examination, the deposition showed that cross-examination had been deferred. The application therefore concerned an opportunity not yet exercised, rather than a request to repeat completed questioning. The defence had obtained deferment because counsel was unprepared and needed further instructions. The case was fixed for 23 February, but the applicant did not supply that day's order sheet. The Court noted the omission without making a finding about the intervening proceedings. On 6 March, the prosecutrix again attended, another advocate appeared and sought further time, and counsel refused to pay the costs required by the trial court. These were the circumstances in which the trial court closed the opportunity to cross-examine.

The Court considered those circumstances in light of Section 309 and the cited authorities. *Kuldeep Singh Tomar* states the rule of day-to-day trial proceedings. *Akash Batham* illustrates scrutiny of the bona fides of an adjournment request when witnesses are present; the judgment records that the order was affirmed in the SLP. *Shambhu Nath Singh* distinguishes expedition generally, recorded reasons for an adjournment beyond the following day, and special written reasons for adjourning without

examining a witness present in court. It recognises the time and income lost by witnesses, rejects counsel's convenience as sufficient justification, and permits appropriate costs in response to non-cooperation. *Akil* reproduces the statutory requirements and guidance for scheduling trials. *Vinod Kumar,* with *Gurnaib Singh* and *Swaran Singh*, explains how a lengthy interval after examination-in-chief exposes witnesses and the trial to improper pressure and undermines fairness. It also permits continuation on the next day when examination extends late. *Mohd. Khalid* and its extract from *N.G. Dastane* emphasise counsel's responsibility to arrange examination of witnesses attending court. *Krishnan* explains the public-justice interest in prompt and reliable trials. These general warnings did not amount to findings that this prosecutrix had actually been threatened or influenced.

Applying those principles, the Court held that an adjournment should not be granted merely for its own sake and that the hardship to witnesses must be considered. Lack of preparation had already led to deferment on 9 February. On 6 March, the applicant engaged another advocate when the prosecutrix was again present. Since the applicant knew the next trial date, he should have arranged representation earlier. The Court treated the renewed request and refusal to pay witness costs as lacking bona fides and found that the repeated adjournments were intended to harass the prosecutrix. It rejected the late change of counsel as justification in those circumstances. The conclusion rested on the applicant's conduct and the opportunities already afforded to him.

The Court acknowledged that inability to cross-examine the prosecutrix might cause irreparable loss to the defence. It nevertheless held the applicant responsible for that situation because he had repeatedly sought adjournments to harass her. In those circumstances, the trial court had committed no error in closing his right to cross-examine. The ruling concerned interference with the procedural order under Section 482; it did not determine the accused's guilt or the truth of the prosecutrix's evidence.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The order dated 6 March 2024 closing the applicant's right to cross-examine the prosecutrix remained undisturbed, and the further opportunity sought was refused. The operative paragraph contained no order for remand, reopening, costs or any other independent direction.

Tulsi Ram Lodhi v. State of Madhya Pradesh, M.Cr.C. no. 43730/2024, 18/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (387) Prev Next

Headnote :- NHAI officers' Section 482 petition — The application arose from an allegation that a motorcyclist was injured when his motorcycle fell into a ditch on a national highway. Protection under Section 28 of the National Highways Authority of India Act, 1988 depended on good faith, which required proof of due care and attention in maintaining the road or controlling traffic where it was unsafe. Good faith could not be presumed merely because the applicants were officers of the Authority. The earlier coordinate Bench order quashing another prosecution contained no finding that the officers concerned had acted in good faith on the facts of that case. The Court refused quashing, permitting the prosecution to proceed after the prolonged stay, and directed completion of the trial within one year. Its finding was confined to the quashing proceedings; factual good faith remained for trial on evidence.

Case-note :- ***1. Facts :*** The complainant reported that, in August 2013, his motorcycle fell into one of the large ditches on NH-7, causing injuries to his leg and hand and damage to the vehicle. He alleged that the NHAI officers responsible for that stretch had left the road unrepaired for several years. The police filed a charge-sheet for offences under the IPC relating to public ways and damage. The applicants obtained a stay of the criminal proceedings in 2014 and sought quashing under Section 28 of the National Highways Authority of India Act, 1988, claiming protection for acts done in good faith.

2. Precedents — Considered : In *Iqbal Mohammed Siddiqui v. State of M.P.*, a coordinate Bench had quashed another proceeding on the basis of Section 28. The order contained no finding that the officers had acted in good faith on the particular facts. The Court therefore distinguished that order and held that it did not assist the applicants.

3. Statutes considered : Sections 16 and 28 of the National Highways Authority of India Act, 1988; Sections 4 and 5 of the National Highways Act, 1956; Sections 31, 33 and 34 of the Control of National Highways (Land and Traffic) Act, 2002;

Sections 52, 431, 283, 290, 336 and 427 of the Indian Penal Code; and Section 482 of the Code of Criminal Procedure.

4. Issues : Whether statutory protection for acts done in good faith required quashing of the prosecution despite allegations that the road was dangerously unrepaired and that the officers had not exercised their powers to close the highway or control traffic.

5. Ratio / Findings : Good faith under Section 52 IPC requires due care and attention. The officers could not establish it merely by asserting their official status. NHAI had a duty to maintain the highway and powers to restrict traffic where the road was unsafe. In view of the allegations of large unrepaired ditches and the absence of maintenance or measures to close the highway or regulate traffic, the Court could not prima facie presume that the applicants had acted in good faith. It expressly confined that finding to the quashing proceedings. Whether the applicants had acted in good faith remained a question of fact for the trial court to decide on evidence, without being prejudiced by the High Court's finding. Referring to the prolonged stay and describing the elapsed period as approximately eleven years, the Court directed completion of the trial within the specified time.

6. Relief : The Hon'ble High Court dismissed the application for quashing. It directed the applicants to appear before the trial court on 31.07.2024 and the trial court to conclude the trial by 31.07.2025. If the applicants failed to appear on the specified date, the trial court was to issue warrants of arrest to secure their presence.

I.M. Siddiqui and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 11930/2013, 05/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (388) Prev Next

Headnote :- Unlawful assembly / Section 141–149 IPC / successive groups - Section 149 requires an assembly of at least five persons sharing a qualifying common object. Liability may arise without an overt act by each member, but mere presence does not establish that the person shared the object. *Rabindra Mahto v. State of Jharkhand, (2006) 10 SCC 432*, explained this distinction. Four armed men attacked Virendra and Ramnath and then left. Three others subsequently arrived and assaulted Ramkali and Munnalal. The differences in timing, victims and acts did not establish a single assembly of seven persons. The Section 149 convictions of the appellants whose appeals were contested on merits were therefore unsustainable.

Common intention / Sections 34 and 149 distinguished / first group - *Virendra Singh v. State of M.P., (2010) 8 SCC 407*, distinguishes Section 34's shared intention and participation from Section 149's wider common-object liability, including its five-person threshold. *Devi Lal v. State of Rajasthan, (1971) 3 SCC 471*, describes anterior intention or a prearranged plan under Section 34. The Court inferred shared intention among Tulsiram, Banshilal, Ramesh and Bablu from their joint armed arrival and assault, notwithstanding Banshilal's individually identified fatal axe blow. For Ramesh and Bablu it substituted Sections 302/34 for Ramnath's murder and 326/34 for Virendra's grievous injuries, retaining life and four-year concurrent terms.

Common intention / later group / limits of vicarious guilt - Sitaram, Jairam and Gangaram arrived after the first group had fled. The Court found that they jointly attacked Ramkali and Munnalal, but no shared intention with the first group to kill Ramnath or cause the earlier injuries to Virendra was established. Their convictions under Section 149 were altered to convictions under Sections 326/34 for grievous hurt to Ramkali and 323/34 for hurt to Munnalal. The concurrent terms of four years and one year were retained. Liability for the murder committed in the first attack could not be extended to the three accused who committed the separate later assault.

Evidence / omission in police statement / related injured witnesses - *Baldev Singh v. State of Punjab, (2014) 12 SCC 473*, explains under the Section 162 CrPC Explanation that an omission from a Section 161 statement is a contradiction only if contextually significant and relevant. The FIR omitted the attacks on Ramkali and Munnalal, but their injured testimony and medical findings proved the later assault. The Court separately limited the later trio's responsibility for the earlier victims. Relationship alone did not discredit injured witnesses. The counter-case against the complainant party ended in an unappealed acquittal according to the State, from which the Court declined to draw a defence benefit.

Homicidal death / medical corroboration / appellant-specific relief - Ramnath's post-mortem attributed his death to head injury and coma. Medical examinations corroborated the injuries to Virendra,

Ramkali and Munnalal. Banshilal's appeal had abated on his death. The Court declined to examine the merits of Tulsiram's appeal because he had completed his sentence and had been released following remission/commutation. Ramesh and Bablu were required to surrender. Sitaram's custody already exceeded his altered term, and his bond was discharged. Jairam and Gangaram were required to surrender to serve the balance of their sentences. The appeal was partly allowed with the stated alterations; the concurrent terms, fines and terms of imprisonment in default were retained.

Case-note :- ***1. Facts :*** The appeal under Section 374(2) CrPC challenged the judgment dated 29 November 2010 passed by the VII Additional Sessions Judge (Fast Track Court), Sagar, in Sessions Trial No. 681/2009. Seven appellants had been convicted under Sections 302/149 IPC for Ramnath's murder, 326/149 on two counts for grievous hurt to Virendra and Ramkali, and 323/149 for hurt to Munnalal. Each received life imprisonment and a fine of Rs 500, with six months' rigorous imprisonment in default, on the murder count; four years' imprisonment and a fine of Rs 300, with two months' imprisonment in default, on each grievous-hurt count; and one year's imprisonment and a fine of Rs 200, with one month's imprisonment in default, on the hurt count. The terms of imprisonment ran concurrently. They were acquitted under Sections 294 and 506 Part II. The police had initially registered offences under Sections 294, 323, 324 and 506/34, added Section 302 after Ramnath's death, and filed a charge sheet mentioning Sections 294, 323, 324, 325, 302, 506/34 IPC and Section 25 Arms Act. The convictions under consideration in the appeal were the IPC counts specified above.

The occurrence on 23 September 2009 took place in two stages. According to Virendra's prompt FIR (Ex P/9), Tulsiram came to his house with a sword, Banshilal with an axe, Ramesh with a rod and Bablu with a lathi, and they abused him. Tulsiram struck Virendra on the head with the sword. When Ramnath intervened, Banshilal struck him on the head with the axe. Bablu threw Virendra to the ground, and the four assaulted them with weapons and with their hands and feet. After they fled, Sitaram arrived carrying a baka, accompanied by Jairam and Gangaram carrying lathis. They allegedly attacked and threatened the complainant side. Ramnath died at 3:55 pm that day during treatment. The injured witnesses examined were Virendra (PW2), Ramkali (PW15) and Munnalal (PW4); other witnesses and medical officers were also examined. The investigation included inspection of the site, recovery of soil and weapons, and recording of witness statements. Fifteen prosecution witnesses testified, and Jairam testified in defence.

In their statements under Section 313 CrPC, the accused denied guilt and alleged that the complainant side had been the aggressor. They claimed that the present FIR was lodged in response to Crime No. 628/2009, the cross-case against the complainant party. They relied on contradictions, the FIR's omission of the attacks on Ramkali and Munnalal, allegedly unexplained injuries to the accused, and the fact that Banshilal had individually inflicted the fatal blow. The State relied on the injured witnesses, medical corroboration and participation by the accused while armed, and stated that the accused in the cross-case had been acquitted without an appeal. The record also referred to prior enmity, including an earlier allegation that Virendra had thrown acid. The High Court reassessed the evidence by reference to the timing and victims of each attack.

Banshilal died on 21 February 2015; his appeal was dismissed as abated by order of 19 September 2024. The judgment records that Tulsiram had completed 20 years in custody and was released on 2 October 2023 after remission/commutation; the Division Bench stated that it did not need to examine the merits of his appeal. It heard the appeals of Ramesh, Bablu, Sitaram, Jairam and Gangaram on merits. The outcome and surrender directions differed among those five appellants.

2. Precedents — Considered : *Virendra Singh v. State of M.P., (2010) 8 SCC 407*, was quoted for four distinctions: Section 34 does not itself create an offence, whereas Section 149 does; in crimes involving violence, Section 34 requires participation, whereas liability under Section 149 may arise from membership without a separate overt act; common object is wider than common intention; and Section 149 requires five persons, whereas Section 34 prescribes no minimum number. The Court applied these distinctions to test the alleged common object of seven persons against the actual sequence of events. It determined each group's liability under Section 34 after finding Section 149 inapplicable.

Rabindra Mahto v. State of Jharkhand, (2006) 10 SCC 432, was cited in the Court's discussion of Section 149. A common object may arise at the spot

without prior concert, and an act committed in prosecution of that object may make a member liable. Mere presence, however, is insufficient unless the person shares the object. The High Court applied that qualification in refusing to treat the four earlier assailants and the three later assailants automatically as one unlawful assembly, despite their relationship and violent acts. *Devi Lal v. State of Rajasthan, (1971) 3 SCC 471*, was quoted for the requirement under Section 34 that the criminal act be committed in furtherance of a common intention existing before its commission, in contrast to the common object under Section 149. The Court inferred the first four accused's prior common intention from their arrival together with weapons and their concerted assault. It confined the later three accused's common intention to their later attack on different victims. It did not hold that identification of the person who inflicted the fatal blow by itself excludes liability based on common intention.

Bhanwar Singh v. State of M.P. was mentioned in the discussion of Section 141. It explained that the common object must fall within Section 141, may arise at the spot, and may be inferred from the weapons, the nature of the assembly and its members' conduct. An otherwise lawful gathering may become unlawful. The Court considered those propositions in examining the alleged common object, but found no single assembly of at least five persons sharing the required object on the evidence.

Baldev Singh v. State of Punjab, (2014) 12 SCC 473, was quoted on the Explanation to Section 162 CrPC. An omission from a statement under Section 161 may amount to a contradiction if it is significant and relevant in its context; whether it does so is a question of fact. Every omission is not automatically a contradiction. The High Court referred to that principle and the injured witnesses' evidence supported by medical findings in rejecting reliance on minor discrepancies. It nevertheless maintained the distinction between the evidence concerning the victims of the earlier and later attacks. The omission of the assaults on Ramkali and Munnalal from the FIR was expressly acknowledged.

3. Statutes considered : Section 374(2) CrPC governed the appeal against conviction. Sections 161 and 162 CrPC governed comparison of statements recorded during investigation with testimony in court. The Explanation to Section 162 specified when a material omission may amount to a contradiction. Section 313 CrPC concerned the accused's responses at trial, in which they alleged false implication and referred to the counter-case.

Sections 141 and 149 IPC concerned an unlawful assembly of five or more persons sharing a qualifying object specified in Section 141, and constructive liability for an offence committed in prosecution of that object. Actual membership and sharing of the object had to be proved. Section 34 IPC imposed joint liability for a criminal act committed in furtherance of common intention. The Court distinguished the requirement of prior common intention and participation from the wider common object and minimum of five persons under Section 149. Having found two successive groups, it replaced the trial court's reliance on Section 149 with liability under Section 34. Section 302 governed Ramnath's murder, Section 326 the grievous injuries to Virendra and Ramkali, and Section 323 the hurt caused to Munnalal. The appellants had been acquitted under Sections 294 and 506 Part II. Section 25 Arms Act appeared in the charge sheet, but no conviction under it was operative in this appeal. The IPC provisions in the cross-case formed part of the background and were not separately adjudicated here.

4. Issues : (i) Did all seven accused form one unlawful assembly with a common object, so that each could bear Section 149 liability for Ramnath's murder and the hurt caused to all three injured persons, despite the two separate attacks at different times and on different victims?

(ii) If that collective basis failed, did common intention under Section 34 and the individualised evidence support convictions for murder and grievous hurt against Ramesh and Bablu as members of the first four? What offences did the later three jointly commit against Ramkali and Munnalal?

(iii) Did the evidence of the injured witnesses, who were related, the medical findings and the investigation support the separate accounts of the two attacks despite omissions, alleged contradictions, prior hostility and the cross-case? What directions concerning conviction, sentence and custody should follow for each surviving appellant? Banshilal's abatement and Tulsiram's recorded completion of sentence limited consideration of the merits of their appeals.

5. Ratio / Findings : Ramnath's death was homicidal. The examining doctor recorded a frontoparietal head wound and other injuries; the autopsy surgeon attributed death to the head injury

causing coma. Virendra had six documented injuries, including a scalp-deep incised wound. Ramkali had an incised wound to her hand and a contusion over the clavicle. Munnalal had multiple contusions and abrasions. The Court found that the medical examinations broadly supported the evidence of the injured witnesses and eyewitnesses. It did not infer each accused's liability from the medical evidence alone, but determined the sequence of events and the victims of each attack from the testimony.

Virendra described the arrival of the first four accused with a sword, axe, rod and lathi, Tulsiram's blow to him, Banshilal's blow to Ramnath, Bablu's intervention and the assault by the group. The later three accused arrived after the first four had left. The Court closely examined the accounts of Virendra, Ramkali, Munnalal and Nandkishore. It found consistent evidence of the first group's attack on Virendra and Ramnath and the second group's attack on Ramkali and Munnalal.

Section 149 did not make all seven accused liable merely because they participated at different stages. The Court considered *Virendra Singh*'s distinction between that provision and Section 34, *Rabindra Mahto*'s requirement of a shared object rather than mere presence, *Devi Lal*'s distinction concerning prior common intention, and the requirements under Section 141 of at least five persons and a qualifying common object. It rejected the existence of a single unlawful assembly in this case. The first group comprised four persons and had fled before the later three arrived. The later group's acts and victims were different. The convictions based on Section 149 were therefore unsustainable. The Court did not require prior planning in every case of common object. It expressly recognised that the object may arise at the spot, but found that the necessary assembly and shared object had not been proved on this record.

For the first four accused, their arrival together with weapons, the sustained attack on Virendra and Ramnath, and the location and repeated infliction of injuries established common intention. Banshilal's fatal axe blow did not absolve Ramesh and Bablu of liability for murder under Section 34. The Court found that the attack was not an unplanned altercation occurring on the spur of the moment. Ramesh and Bablu were convicted under Sections 302/34 for Ramnath's murder and 326/34 for the injuries to Virendra. They were not convicted for the later injuries to Ramkali and Munnalal. For the later three accused, the Court inferred a separate common intention to attack Ramkali and Munnalal with a baka and lathis. It excluded liability under Section 302/34 and under Section 326/34 in relation to Virendra, because those accused were not proved to have shared the first group's intention or attacked those victims. Their convictions were altered to Sections 326/34 for Ramkali and 323/34 for Munnalal.

The Court acknowledged that the FIR omitted the attacks on Ramkali and Munnalal. Their testimony as injured witnesses, supported by the medical evidence, nevertheless established those attacks. The Court referred to *Baldev Singh* and Section 162 for the requirement that an omission be significant and relevant in its context before it is treated as a contradiction. The witnesses' family relationship alone did not justify rejecting their evidence. The counter-case FIR was before the Court and alleged that the complainant side had attacked Jairam and others. The State reported that the accused in that case had been acquitted and that no appeal had been filed. The Court declined to extend the benefit sought by the defence on that basis and held that participation in the present case had been proved. The investigating officer's evidence concerning the scene, statements and recoveries withstood cross-examination; no bias aimed at securing false convictions was demonstrated.

The appellate alterations were confined to the appellants whose appeals were examined on merits. Banshilal's appeal had already abated on his death. The Bench stated that Tulsiram's completed sentence and release made it unnecessary to examine the merits of his appeal. Its findings concerning the first group explained the liability of the remaining appellants; they did not constitute a fresh operative alteration of Tulsiram's conviction. The corresponding terms of life imprisonment and four years for Ramesh and Bablu, and four years and one year for the later three accused, were retained and were to run concurrently. The fines and terms of imprisonment in default remained unchanged.

6. Relief : The Hon'ble High Court partly allowed the appeal. Ramesh and Bablu's four convictions under Section 149 were altered to convictions under Sections 302/34 for Ramnath's murder and 326/34 for the injuries to Virendra. The concurrent sentences of life imprisonment and four years' rigorous imprisonment, and the relevant fines and terms of imprisonment in default, remained unchanged. Their bail bonds were cancelled, and they were directed to

surrender forthwith to serve the remainder of their sentences. On default, the concerned court was to issue non-bailable warrants. Sitaram, Jairam and Gangaram's convictions under Section 149 were altered to convictions under Sections 326/34 for the grievous injuries to Ramkali and 323/34 for the injuries to Munnalal. The concurrent terms of four years and one year, fines and terms of imprisonment in default remained unchanged. Sitaram had served eight years, eleven months and nine days; he was not required to surrender, and his bail bond was discharged. Jairam and Gangaram had served one year, one month and four days and one year, one month and eight days, respectively. Their bonds were cancelled, and they were directed to surrender forthwith to serve the balance, with non-bailable warrants to follow on default. The merits of Tulsiram's appeal were not separately examined following his release after completion of the sentence; Banshilal's appeal stood dismissed as abated. The judgment and trial record were to be sent to the trial court, and a copy of the judgment to the jail authorities for compliance.

Tulsiram and Others v. State of Madhya Pradesh, Cr.A. no. 2459/2010, 16/10/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Headnote :- Death reference and appeal — An earlier conviction had been set aside and the matter remanded for a witness to be examined in the accused's presence. On fresh review, the prosecution failed to establish that Ravi was the offender or that the body recovered was that of the missing child. The alleged seizure of black slacks was antedated, the garments had remained unsealed, and the source of the DNA was doubtful. Prior display of the clothing undermined its identification, and material railway CCTV footage had not been collected. These defects left the chain of circumstantial evidence incomplete. The convictions and sentences were set aside, Ravi was acquitted of all charges, and prosecution for giving false evidence was directed.

Case-note :- ***1. Facts :*** The prosecution alleged that a seven-year-old child had disappeared from Bhopal railway station in October 2015 and that a girl's body recovered from a well near Vidisha was hers. The High Court found that the body had not been proved to be that of the missing child. It noted that the date of birth given by the mother indicated that her daughter was about four and a half years old, whereas the age of the recovered body had been variously estimated at six to nine years. Ravi had been convicted of kidnapping, rape, murder and concealment. He was sentenced to death for murder and to imprisonment for the remainder of his natural life on the sexual-offence counts. The 2019 conviction had earlier been set aside and the matter remanded because a witness had been examined contrary to Section 273 CrPC. The renewed conviction in 2020 and the death reference came before the High Court for a full review. The police relied on clothing, identification, DNA evidence and an alleged railway journey.

2. Precedents — Considered : *N.J. Suraj v. State* and *Kirshan Kumar Malik v. State of Haryana* concerned the loss of evidentiary value of identification following prior display of the person or article to the witness. *Union of India v. V. Sriharan, (2016) 7 SCC 1*, restricted the power to impose the special sentence of imprisonment for the remainder of a person's life to the High Courts and the Supreme Court. *Dayal Singh v. State* concerned the duty to investigate fairly. *K.T.M.S. Mohd. v. Union of India* required care and consideration of whether action under Section 340 CrPC was expedient in the interests of justice. *Pritish v. State of Maharashtra* explained that a preliminary inquiry was not mandatory and that the persons concerned were entitled to be heard when prosecution commenced before the Magistrate, rather than before the court decided to make a complaint.

3. Statutes considered : IPC Sections 201, 302, 363, 364, 366A and 376(2)(i), (j), (k); CrPC Sections 273, 313, 340 and 366; Evidence Act Sections 27 and 69.

4. Issues : Whether each circumstantial link and the chain of forensic evidence reliably connected Ravi to the child and the offences; whether the death sentence could be confirmed; and what action should follow the findings that evidence had been fabricated.

5. Ratio / Findings : The Court found that the alleged seizure of the black slacks was antedated and that the garments had remained unsealed, without reliable proof of safe custody. The mother of the missing child had seen the garments at the police station before the formal identification. Only Ravi's DNA profile was reported on the slacks said to belong to the child; the child's profile was absent. His DNA profile was not found on the vaginal and anal slides. The unexplained biological source of the DNA and

the other gaps concerning the samples made the result unsafe to rely on. The videography contradicted the claim that the clothing had been spontaneously discovered. Material CCTV footage from Bhopal station had not been checked, and the other witness testimony and physical evidence did not establish the alleged links. Suspicion could not replace a complete chain of circumstances. The Court directed steps to prosecute the named officials and witnesses for giving false evidence under Section 340, while making clear that this stage did not determine their guilt. It separately held, applying *Sriharan*, that the trial court could not impose the special sentence of imprisonment for the remainder of a person's life. Section 376(3), inserted in 2018, did not apply retrospectively to the offence alleged to have occurred in 2015.

6. Relief : The Hon'ble High Court declined to confirm the death sentence and allowed the appeal. All convictions and sentences were set aside, and Ravi was acquitted and directed to be released immediately unless required in another case. The Principal Registrar was directed to take the necessary steps for prosecution for giving false evidence. The Registrar General was directed to circulate the judgment containing the sentencing ruling to the Sessions Judges and Additional Sessions Judges.

In Reference and Others v. Ravi and Others, Cr.Rf.C. no. 3/2020; Cr.A. no. 3007/2020, 09/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal proof / related eyewitnesses and physical opportunity - The Court observed that neither kinship nor enmity arising from an earlier drain dispute disqualified an eyewitness by itself. Enmity could provide a motive for either the offence or false implication. *Ruli Ram v. State of Haryana; (2002) 7 SCC 691*, requires careful assessment of the evidence and a foundation for a plea of false implication. *Vidyadharan v. State of Kerala; (2004) 1 SCC 215*, requires deeper scrutiny when that plea is raised. *Kailash Gour v. State of Assam; (2012) 2 SCC 34*, similarly recognises that enmity can operate in either direction. On the evidence in this case, the High Court found the deceased's sons, Surendra and Mohan, unreliable. Each claimed to have observed the incident from about 100 metres away through mustard crop standing above the waist and below the chest. Their accounts differed, and material omissions and contemporaneous documents undermined their claimed presence and ability to see the assault. Their accounts did not establish the assailant's identity beyond reasonable doubt merely because the medical evidence established homicide.

Witness credibility / material police-statement omissions and hostile injured witnesses - Deepak and Dinesh, the two injured witnesses, did not identify their assailant, and the appellant was acquitted of both Section 307 IPC counts at trial. The informant, Mool, and other witnesses also failed to identify the appellant as the assailant. Mohan's police statement omitted his alleged trip to the field, the preceding attempt to assault him and his observation of the fatal assault. He had not told Mool that he had seen the assailant. Randhir's claimed eyewitness account was likewise absent from his police statement. These omissions and inconsistencies, considered together with the obstructed view and enmity, made the claimed identification unsafe. The witnesses' hostility was not, by itself, treated as proof that someone else had committed the offence.

Arrest and seizure documentation / impossible attesting-witness presence - Surendra accompanied his wounded father to Bhind hospital and was recorded as present in the inquest papers prepared at 15:15. Yet he also attested the spear seizure at 14:15 and the arrest at 14:20 in the village. Mool, who was also at the hospital, was said to have given the instructions for a spot map prepared after the supposed arrest, although the map bore neither a date nor a time. The investigating officer's account of the sequence conflicted with Surendra's statement that she had accompanied him to the hospital. On these combined facts, the Court found the seizure, arrest and spot-map records to have been ante-dated and ante-timed. This substantially discredited the claimed immediate recovery and the prosecution's account.

Forensic corroboration / immediate spear recovery without blood - Although the prosecution claimed that the appellant had been caught promptly after three spear assaults, it did not seize his clothing, and the FSL report, Exhibit P.17, showed no blood on the seized spear. In the sequence alleged, there was no suggested interval in which he could have washed the weapon. The absence of stains therefore materially weakened the claimed recovery and identification when considered with the unreliable

eyewitness accounts and suspect documents. The post-mortem independently established fatal penetrating injuries, a skull fracture and homicidal death, but did not identify the perpetrator.

FIR transmission / Section 157 CrPC unexplained delay - *Bijoy Singh v. State of Bihar; (2002) 9 SCC 147,* treats prompt forwarding of the special FIR report to the Magistrate as an external check on police recording. Delay alone need not undermine the prosecution case. It requires the prosecution to explain the interval and the court to examine whether the version given in court was the one originally reported or had resulted from later deliberation. The officer said that the FIR copy had been sent the following day, but produced no receipt and gave no explanation for the delay. In view of the already doubtful identification and police records, the High Court treated this omission as a further reason for caution, rather than as an independent and conclusive bar to conviction.

Murder appeal / identity not established notwithstanding proved homicide - The three stab wounds and internal orbital and maxillary fractures found by Doctor Raje established homicidal injuries to Lakhmi Singh, including a fatal brain injury. Nevertheless, the trial court's Section 302 IPC conviction could not stand because the prosecution's identification evidence and the claimed immediate seizure of the spear failed when considered against the combined factual defects. The Section 307 acquittals concerning the injured persons were not reversed. The appeal was allowed. The Section 302 conviction and life sentence, together with the fine and default term, were set aside, and the imprisoned appellant was ordered to be released unless required in another case.

Case-note :- ***1. Facts :*** Udai Singh appealed under Section 374 CrPC against the judgment dated 16 November 2005 passed by the VII Additional Sessions Judge (Fast Track), Gohad, in Sessions Trial 115/2004. On 17 March 2004, the police at Barohi received a wireless report that a person described as having gone "lunatic" had attacked several villagers with a spear in Lavan. The prosecution alleged that there had been an earlier drain dispute with Lakhmi Singh's family. In the Dehati Nalishi lodged at Bhind hospital, Mool Singh reported that he had heard of an assault on Dinesh, had seen Udai strike Dinesh and then run towards and injure Lakhmi, and that the family had fled as the police arrived. The police claimed to have arrested Udai near the scene and seized a broken spear. Lakhmi died while being taken to hospital. Dinesh and Deepak had also been injured. The charge sheet alleged murder and two attempts to murder under IPC Sections 302 and 307. The trial court framed those charges on 14 July 2004. Udai denied guilt.

The trial court convicted him under Section 302 and sentenced him to life imprisonment and a fine of Rs 100, with one month's rigorous imprisonment in default of payment. It acquitted him on both Section 307 counts. On appeal, defence counsel stressed that the injured persons and several other witnesses had not identified him; that the principal witnesses claimed to have observed the incident from roughly 100–150 metres away through mustard crop; and that no blood had been found on the spear allegedly seized promptly, while the accused's clothes had not been seized. The State relied on the relatives' accounts and the claimed arrest at the scene. The appellate court reviewed the whole of the trial evidence, the medical report, the witness statements, the timing and integrity of the police documents, and the cited Supreme Court decisions. The reference to a "lunatic" formed part of the initial radio message; it was neither a judicial diagnosis nor an accepted defence of insanity.

Doctor C.R. Raje found three penetrating wounds involving the left upper eyelid, mouth/tongue and upper arm, fractures of the maxillary and orbital bones, and brain injury with haemorrhage; he said death was homicidal and even prompt treatment could not have saved Lakhmi. Deepak and Dinesh, the injured witnesses, said they did not see who injured them. Mool, who made the hospital report, saw Lakhmi injured but did not support the claimed assailant's identity. Surendra, a son working near his father, and Mohan, another son, purported to observe the spear blow from around 100 metres; Randhir also later claimed observation. The officer Chetna Sharma relied on a 14:15 seizure, 14:20 arrest and a subsequent spot map, while the FSL report found no blood on the spear. These accounts and documents were the central appellate controversy.

2. Precedents — Considered : *Bijoy Singh v. State of Bihar; (2002) 9 SCC 147*, was expressly quoted for the Section 157 CrPC special-report safeguard. Prompt sending of the FIR to the Magistrate is an external check on the investigating agency. A delay does not alone invalidate the prosecution; a reasonably explained delay permits no adverse

inference, whereas an unexplained delay places the court on guard to check for deliberation or the later implication of an innocent person. The prosecution bears the burden of explaining the delay without first requiring the accused to demand an explanation. Here, Chetna said that she had sent the copy the next day, but no acknowledgment was filed and the delay remained unexplained. The Court applied *Bijoy Singh* as an additional reason to scrutinise an already doubtful account.

Ruli Ram v. State of Haryana; (2002) 7 SCC 691, was quoted on interested or factional witnesses. Independent witnesses may be difficult to find in a divided village, and enmity can provide a motive both for the crime and for false implication. The evidence must be assessed carefully, and a plea of false implication requires a foundation. Credible testimony cannot be discarded merely because the parties were hostile. *Vidyadharan v. State of Kerala; (2004) 1 SCC 215*, adds that a plea of false implication requires deeper scrutiny of the accusations. *Kailash Gour v. State of Assam; (2012) 2 SCC 34*, was quoted for the same dual effect of enmity. The Court did not treat enmity alone as disqualifying the witnesses. It applied the caution expressed in these decisions to the admitted drain dispute, together with the obstructed view, the absence of earlier eyewitness assertions, the inconsistent accounts and the suspect police records. In these circumstances, the motive for false implication arising from enmity reinforced the reasonable doubt. The Court did not adopt a rule that a related witness could never sustain a conviction.

3. Statutes considered : Section 374 CrPC supplied the appellate route for challenging the sessions conviction and sentence. IPC Section 302 was the murder conviction under review; the court accepted homicidal death but required reliable proof that this appellant inflicted the fatal injuries. IPC Section 307 appeared as two attempted-murder counts on which the trial court had acquitted him after the two injured witnesses failed to identify their attacker; the appeal did not disturb those acquittals. Section 157 CrPC was materially discussed through *Bijoy Singh*: a copy of the FIR or special report is to be forwarded promptly to the Magistrate as an external check, and an unexplained delay calls for close examination of the prosecution account.

Section 175 CrPC appeared in the investigating officer's evidence about notice to witnesses. The trial court had rejected a Section 328 CrPC request alleging inability to defend by order dated 12 July 2004; that procedural history did not become a separately decided ground in the conviction appeal. The principal witness references were Dr C.R. Raje (PW1), Deepak (PW4), Mool (PW6), Surendra (PW7), Randhir (PW9), Mohan (PW10), Chetna Sharma (PW11) and Dinesh (PW13).

4. Issues : (i) Whether Lakhmi's death was homicidal and, separately, whether the prosecution established beyond reasonable doubt that Udai was the assailant notwithstanding the injured witnesses' failure to identify him and the sons' claimed observations from a distant mustard field. (ii) Whether the police-statement omissions, contradictory descriptions of the witnesses' presence and the disputed times on arrest, seizure and spot-map documents rendered the claimed identification and immediate weapon recovery unsafe. (iii) What evidentiary significance the bloodless spear, unseized clothes and unexplained next-day forwarding of the FIR had when assessed cumulatively under the Section 157 safeguard and the Supreme Court's approach to factional witnesses.

5. Ratio / Findings : The Court first considered medical causation separately from the identity of the offender. Doctor Raje's findings of three stab wounds, a deep injury towards the frontal/occipital bone, orbital and maxillary fractures, shock from brain injury and blood loss, and his opinion that death was homicidal established that Lakhmi had been killed by violence. This medical evidence could not, by itself, identify the person who had wielded the spear. The injured witnesses, Deepak and Dinesh, could not name their assailant even after being declared hostile; the appellant had been acquitted on both Section 307 counts. Mool, the Dehati Nalishi informant, also failed to identify the appellant. Lalji's account was hearsay and contained an omission from his police statement. Ranvir and Shoukeen did not support the prosecution. The witnesses' hostility did not, by itself, establish Udai's innocence, but it removed the claimed corroboration. Surendra said that he was about 100 metres from his father when Udai attacked and that the mustard crop stood above the waist and below the chest. Although he described blows to particular body parts in examination-in-chief, he admitted in cross-examination that he learned which parts had been injured only after he came near. He admitted the family's enmity and did not lodge the Dehati Nalishi himself, despite claiming to have seen the assault.

His attestation of the spear seizure at 14:15 and the arrest at 14:20 was inconsistent with his account of accompanying Lakhmi to Bhind hospital, where the inquest papers recorded his presence at 15:15. The Court concluded from this sequence that he was not in the village to attest those documents. This conclusion rested on the complete testimony and documents, rather than on the clock times alone. Mohan's claimed view from about 100 metres away faced the same crop obstruction. His police statement omitted his claimed journey to the field, his observation of the assault and the earlier attempt to assault him. He had not told the informant, Mool, that he had witnessed the incident. His account also differed from Surendra's as to their presence and movements. Investigator Amresh Bohare confirmed the material omissions. Randhir's claimed eyewitness account was likewise absent from his earlier police statement. The Court rejected these claimed eyewitness identifications after the deeper scrutiny required where there was enmity with the family, as explained in *Ruli Ram*, *Vidyadharan* and *Kailash Gour.* Enmity alone would not have sufficed; the Court found a basis for possible false implication in the substantial inconsistencies independent of that enmity.

Chetna Sharma said that she had arrested Udai, seized a spear and prepared a spot map before visiting the hospital. Surendra, however, said that she had accompanied the injured to hospital. The spot map bore neither a date nor a time and was purportedly prepared on instructions from Mool, who had also accompanied the victim to hospital. In the Court's assessment, the hospital presence of Mool and Surendra, considered with the times on the seizure and arrest memos, meant that their claimed involvement in preparing those documents could not be accepted. The Court found that the police officer had created ante-dated and ante-timed seizure, arrest and spot-map documents, and did not accept the claimed immediate recovery at face value. The officer also failed to explain where the arrested man had remained while she travelled to hospital. The initial wireless/Rojnamcha message merely said that an unidentified person had gone "lunatic" and injured people; it did not identify Udai at the time. The relevant entry was produced during the deferred cross-examination. No bloodstained clothes were seized, and the FSL report, Exhibit P.17, found no blood on a spear allegedly seized almost immediately after three assaults, with no apparent opportunity to clean it.

As to Section 157, Chetna said that the FIR copy had been sent to the Magistrate the following day, but the prosecution produced no receipt and gave no reason for the delay. *Bijoy Singh* requires an explanation and closer scrutiny of possible later deliberation; it expressly rejects treating transmission delay alone as fatal. Considering the record as a whole, the Court held that the prosecution had failed to prove that Udai had inflicted the fatal injuries. It found that the claimed eyewitnesses had falsely implicated him because of enmity and that the police records had been manipulated. These findings concerned the evidence in this prosecution. They neither identified an alternative attacker nor established a general rule about related witnesses, FIR transmission times or forensic stains.

6. Relief : The Hon'ble High Court allowed the criminal appeal. It set aside Udai's conviction under Section 302 IPC and the judgment and sentence dated 16 November 2005 in Sessions Trial 115/2004. His life imprisonment, fine of Rs 100 and default sentence of one month's rigorous imprisonment consequently ceased to operate. As he was in jail, the Court directed his immediate release unless he was required in another case. The trial court's two Section 307 acquittals were not converted into convictions. No retrial, compensation, costs or proceedings against the investigating officer were ordered.

Udai Singh v. State of M.P., Cr.A. no. 871/2005, 06/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (391) Prev Next

Headnote :- Child rape and murder death reference — Forensic evidence linked Manoj to his eight-year-old cousin. The discrepancies in the laboratory's article codes were clerical rather than substantive. Other circumstantial and medical evidence sustained the finding of guilt. The trial court failed to give an effective hearing under Section 235(2) on the proposed death sentence and mitigating circumstances. The death sentences were therefore commuted to imprisonment for the rest of his natural life, without remission.

Case-note :- ***1. Facts :*** An eight-year-old girl left for school in July 2017 and was later found raped and killed. Manoj, her cousin, was convicted under IPC and POCSO provisions and sentenced to death. The

reference and his appeal raised questions about the girl's movements at school, biological samples, the button and clothing comparison, forensic article codes, articles omitted from the investigation, the defence plea of alibi and the trial court's sentencing process.

2. Precedents — Considered : *Babu v. State* and *Ganga Singh v. State of M.P.* were considered on the distinction between minor investigative lapses and defects that create reasonable doubt. *Sarwan Singh v. State of Punjab and State of M.P. v. Laakhan* addressed the principle that the quality of witnesses matters more than their number. *Dilawar Balu Kurane v. State of Maharashtra* was examined in considering the irregularity at the charge-framing stage. *Dattatraya* and *Mohd. Mannan* were considered on the requirements of an effective hearing on a proposed death sentence and commutation to imprisonment for the rest of the convict's natural life.

3. Statutes considered : IPC Sections 366, 376A, 302 and 201; POCSO Act Sections 5/6; CrPC Sections 235(2), 293, 366 and 464; Evidence Act Sections 27 and 134.

4. Issues : Did the DNA article-code discrepancy and investigative omissions create reasonable doubt? Had the defence established the plea of alibi? Was the death sentence imposed after a meaningful hearing on sentence?

5. Ratio / Findings : The DNA report used, on one page, the code assigned to a scalp-hair sample that had been returned unopened. However, the expert evidence identified the blood sample and the DNA profile extracted from it. The presence of the child's DNA on Manoj's clothes independently supported the evidence of sexual assault. The medical evidence, the button and thread examination, and the school evidence reinforced that conclusion. The failure to seize the school bag and water bottle, and the non-examination of the grandmother, did not undermine this evidence. The defence evidence supporting the plea of alibi was inconsistent. An advocate who was not authorised to represent Manoj had argued at the charge-framing stage. The Court nevertheless found no resulting failure of justice because the prosecution material raised grave suspicion warranting a trial. It declined to order a retrial and advised the trial court to ensure representation by counsel engaged by the accused or provided through legal aid. The trial court imposed sentence on the day of conviction. Although same-day sentencing was not, by itself, prohibited, the court did not alert Manoj that it contemplated the death penalty or consider mitigating circumstances. It therefore failed to provide a meaningful hearing under Section 235(2).

6. Relief : The Hon'ble High Court affirmed the convictions and commuted the death sentences to imprisonment for the rest of Manoj's natural life, without remission. The reference was answered accordingly, and the appeal was allowed only to the extent of the sentence.

In Reference (Suo Moto) and Others v. Manoj and Others, Cr.Rf.C. no. 8/2019; Cr.A. no. 4554/2019, 28/07/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (392) Prev Next

Headnote :- Medical Termination of Pregnancy Act / minor alleging rape / statutory safeguards - A 15-year-old petitioner alleged abduction and rape and sought termination of a 12–14 week pregnancy. The Court reproduced the law then applicable under Sections 3(2), 3(4)(a) and 5(1): requirements concerning gestational age and registered medical practitioners' opinions formed in good faith, presumed grave mental-health injury where pregnancy is alleged to result from rape, written guardian consent for a minor, and a separate exception for termination immediately necessary to save the woman's life. On the Board's high-risk assessment and the petitioner's age and trauma, it permitted termination without deciding the accused's guilt.

Child survivor / Medical Board / *Murugan Nayakkar* - *Murugan Nayakkar v. Union of India*, W.P. (Civil) 749/2017, order dated 6 September 2017 (Supreme Court), permitted termination for a 13-year-old alleging sexual assault after a Medical Board advised it, weighing age, trauma, agony and risk. The High Court applied that case-specific approach to the Guna Board's report of an underdeveloped uterus and a 12–14 week high-risk pregnancy. It required appropriate precautions, specialist attendance and postoperative State care, together with referral to Medical College Gwalior for skilled management if required; the order did not assume the procedure risk-free.

Physician protection / court-authorized termination / scope - *Shaikh Ayesha Khatoon v. Union of India and Others* (Bombay High Court)

was quoted for risk counselling and protection of doctors acting on the judicial termination permission from litigation arising from that order. The present Court gave that order-specific protection to the doctors involved and permitted experienced substitutes if department heads were unavailable. It did not pronounce a general immunity from all medical liability.

Foetal material / DNA preservation / investigation relief reserved - To allow DNA to be extracted for paternity testing, the Court directed preservation of the foetus after termination. The minor had also alleged police failure to add Section 376 IPC or investigate rape and POCSO fairly. Because multiple reliefs could not be granted in this petition, it gave liberty for a fresh petition on alleged police inaction; it neither ordered an independent investigation nor found the named respondents guilty. A copy went to the Guna Superintendent of Police.

Case-note :- ***1. Facts :*** A minor petitioner described as Victim "X", proceeding through her father, filed W.P. No. 17987/2020 under Article 226. She alleged that respondents 5 and 6 had abducted her in December 2019 and subjected her to rape before recovery on 17 October 2020 in the Chachoda area of Guna. The police had registered Crime No. 214/2019 under Section 363 IPC, but she said they ignored her subsequent pregnancy and had failed to investigate Section 376 IPC and POCSO allegations fairly. A medical examination arranged by her father indicated a pregnancy of about three months. These were her allegations and requests for investigation, not judicial findings that a named person committed rape or was the biological father.

She sought three kinds of relief: fair investigation, including the alleged rape and POCSO angle or an independent agency; permission for medical termination under the Medical Termination of Pregnancy Act, 1971; and preservation of the foetus for DNA evidence. The Court had directed the Chief Medical and Health Officer, Guna on 24 November 2020 to constitute a Medical Board to examine whether termination could be performed. The Medical Board's report recorded a roughly 15-year-old unmarried minor with a 12–14 week pregnancy, an underdeveloped reproductive system/uterus, and high risk; it recommended possible Medical College Gwalior referral for second-trimester termination and skilled management if needed. The need for precautions remained. The Court considered the child's age, alleged sexual trauma and the Board's medical assessment, then dealt separately with medical permission, procedural protection and the investigation request.

2. Precedents — Considered : *Murugan Nayakkar v. Union of India and Others*, W.P. (Civil) No. 749/2017, Supreme Court order dated 6 September 2017, was quoted in substantial part. It concerned a 13-year-old alleging rape/sexual abuse; a court-constituted Medical Board recommended termination while indicating that termination and delivery carried comparable maternal risks and a premature infant would face complications. The Supreme Court weighed age, trauma, present agony and that Board report, and permitted a scheduled termination at a named hospital. The present Court followed its individualised approach, which considered the child's circumstances and the medical evidence. It did not interpret the cited order as automatic permission for every minor pregnancy or as a finding of rape; it considered the 15-year-old petitioner's distress and Medical Board report while prescribing specific medical precautions and providing for referral.

Shaikh Ayesha Khatoon v. Union of India and Others (Bombay High Court) was quoted for explanation of procedural risk to the patient and immunity to doctors whose opinions and court-authorized termination might otherwise expose them to litigation arising from the petition in which termination was authorised. The Gwalior Bench used it to add order-specific protection for participating doctors and provided for experienced substitute gynaecology and anaesthesia specialists if the department heads were absent. The quoted passage also says the earlier petitioner had been sensitized to risk and could undergo the procedure at her own risk. The Court reserved the police investigation claim to a separate petition.

3. Statutes considered : The Court reproduced the Medical Termination of Pregnancy Act, 1971 in its form applicable on 2 December 2020, and its operative reasoning invoked Sections 3 and 5(1). Section 3(1) protects a registered medical practitioner from criminal liability for termination in accordance with the Act. Section 3(2), subject to subsection (4), described one practitioner's good-faith opinion for a pregnancy not exceeding 12 weeks; when it exceeds 12 but not 20 weeks, at least two registered practitioners must hold in good faith that continuation would involve a risk to the pregnant woman's life or of grave injury to her physical or

mental health, or that there was a substantial risk that the child, if born, would have physical or mental abnormalities rendering it seriously handicapped. Explanation 1 then presumed grave mental-health injury from anguish where the pregnant woman alleges rape; the judgment quoted but did not apply Explanation 2 on failure of contraception. The 12–14 week estimate straddled the 12-week threshold, and the Board had two named specialists. Section 3(3) allowed the actual or reasonably foreseeable environment to inform health risk. Under Section 3(4)(a), termination for one under eighteen required the guardian's written consent. The petition was filed through her father. Section 5(1), quoted as an exception to the length and two-practitioner opinion requirements where immediate termination is necessary in a practitioner's good-faith view to save the woman's life, was reproduced alongside the Section 3 framework.

Article 226 supplied writ jurisdiction. IPC Section 363 was the FIR offence; Section 376 IPC and POCSO appeared as alleged offences for which the petitioner wanted investigation, not findings of guilt or statutory ingredients finally determined here. The Court reserved the police-inaction question and directed DNA preservation after termination to support future paternity investigation; it did not pronounce that any DNA result would independently prove a rape charge.

4. Issues : (i) Should a minor alleging rape, carrying a medically assessed 12–14 week pregnancy with an underdeveloped uterus and identified risk, be permitted to undergo termination under the then-applicable MTP Act framework after Medical Board assessment, and with what medical safeguards?

(ii) Did participating physicians require order-specific protection, and should foetal material be preserved to allow DNA paternity testing?

(iii) Should this combined petition also resolve the claim that police deliberately omitted Section 376 IPC or a POCSO investigation, or should that distinct challenge be left for fresh proceedings? The Court decided termination, related safeguards and preservation; it did not decide the truth of the sexual assault allegation or command an independent agency investigation.

5. Ratio / Findings : The Court first obtained medical assistance. The Board reported a 12–14 week pregnancy in a 15-year-old, an underdeveloped uterus/reproductive system and high risk, advising skilled referral at Medical College Gwalior if necessary. The Court quoted the MTP Act's conditions that varied with gestational age, opinion requirements, rape-related presumption of grave mental-health injury, rule requiring a guardian's written consent for a minor, and emergency life-saving exception. Its operative assessment was that the petitioner's age, alleged trauma and distress, and Board report merited termination, following the case-specific Supreme Court approach in *Murugan Nayakkar.* Its observation about life risk was an assessment in this medical and age context, not a universal proposition that all minor pregnancies pose identical risk.

The permission was subject to specific medical safeguards. The authorities were ordered to carry out termination immediately with necessary precautions. If the petitioner appeared before the Medical Board by 6 December 2020, she was to be admitted at District Hospital Guna; the Chief Medical and Health Officer was to arrange referral to Medical College Gwalior if required by the underdeveloped uterus and need for specialist management. Heads of Gynaecology and Anaesthesia and other specialists were to be present, or senior experienced doctors if the heads were unavailable. The State was to provide postoperative care. These directions acknowledged the possibility of procedural danger rather than promising safety.

The Bombay High Court extract in *Shaikh Ayesha Khatoon* informed the Court's further order that doctors participating in this judicially permitted procedure have immunity against litigation arising from the order. The Court attached protection to their role in complying with this authorization; it did not adjudicate a future allegation of negligence or pronounce unconditional immunity from law. Because paternity could become probative in a later rape investigation, it also directed preservation of the foetus after termination so that DNA could be extracted. Preservation facilitates evidence gathering but does not determine paternity or the alleged criminal liability in the present order.

Finally, the Court separated the petitioner's complaint of deliberate police inaction from the termination proceedings. It said multiple reliefs in the single petition could not be granted, gave liberty to file a fresh petition concerning non-registration of Section 376 IPC, and sent a copy to the Superintendent of Police, Guna. It did not decide whether respondents 5 and 6 committed rape, direct a change of investigating agency, or issue a merits

order under POCSO. This limitation is integral to the result.

6. Relief : The Hon'ble High Court allowed the prayer for medical termination. The State and medical authorities were directed to arrange the procedure with necessary precautions, admission if she appeared by 6 December 2020, referral to Gwalior Medical College if needed, specialist attendance or experienced substitutes, and State postoperative care. Participating doctors received protection from litigation arising out of the High Court's order. The foetus was to be preserved for potential paternity DNA extraction. The police-investigation grievance was left open with liberty to bring a fresh petition; no finding of rape or direction for independent-agency investigation was made. The writ petition was finally disposed of and a copy directed to the Superintendent of Police, Guna.

Victim "X" v. State of Madhya Pradesh and Others, W.P. no. 17987/2020, 02/12/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (393) Prev Next

Headnote :- Minor boy's sexual assault and murder — The last-seen testimony, medical evidence and matching DNA profiles on the clothes and seized stone supported the convictions. The death sentence could not be confirmed because the accused had not received a meaningful hearing on mitigating circumstances and the trial court had not considered the possibility of reformation. The High Court substituted life imprisonment until natural death without remission.

Case-note :- ***1. Facts :*** A minor boy went missing at a village wedding in April 2017. The judgment's opening narrative described him as about ten, while the proved school register recorded his date of birth as 28 June 2008. His unclothed body was found in a dugout, with evidence of penetrative anal assault and ante-mortem head injuries caused by a hard, blunt object. The post-mortem opinion attributed death to asphyxia caused by ligature compression of the neck; the Court's account of the killing attributed it to the use of the seized stone. Yogesh Nath was convicted under IPC Sections 363, 377, 302 and 201 and POCSO Sections 3/4, and sentenced to death for murder. The High Court considered the death reference and the appeal filed from jail together.

2. Precedents — Considered : *Bachan Singh v. State of Punjab* states that life imprisonment is the rule and death the exception, reserved for the rarest of rare cases when the alternative is unquestionably foreclosed. *Mohd. Mannan v. State of Bihar* requires a meaningful and effective hearing under Section 235(2), with an opportunity to place mitigating factors on record; sentencing on the day of conviction does not, by itself, invalidate the sentence if that opportunity is given. *Dattatraya v. State of Maharashtra* emphasizes the rarest-of-rare standard and consideration of mitigating circumstances and the possibility of reform or rehabilitation. *Mulla v. State of U.P.* permits the court to fix the length of incarceration when replacing death with life imprisonment; the Court followed it in adopting the natural-life alternative here. Other cited authorities guided the assessment of last-seen and DNA evidence.

3. Statutes considered : IPC Sections 201, 302, 363 and 377; POCSO Act Sections 3/4; CrPC Sections 235(2), 354(3) and 366.

4. Issues : Did last-seen and scientific evidence prove sexual assault and killing beyond reasonable doubt? Could the death sentence be confirmed without a meaningful opportunity to place mitigating circumstances before the court?

5. Ratio / Findings : Witness testimony and the material found at the scene corroborated the account of the child being taken from the wedding and the recovery of his body. Medical evidence established penetrative anal assault and homicidal death. The DNA evidence showed matching Y-chromosome profiles and matching components of mixed autosomal profiles in articles associated with the accused and the child. On sentence, the trial court had not given the accused a meaningful opportunity to present mitigating circumstances. It had not considered the possibility of reformation or why an alternative punishment was inadequate, and had sentenced him on the day of conviction. The brutality of the crime alone did not justify the death sentence without the required sentencing inquiry.

6. Relief : The Hon'ble High Court commuted the death sentence to life imprisonment until natural death without remission and affirmed the other convictions. The reference was answered accordingly, and the appeal was partly allowed to the extent of the modification in sentence.

In Reference (Suo Moto) and Others v. Yogesh Nath and Others, Cr.Rf.C. no. 5/2020; Cr.A. no. 4965/2020, 08/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (394) Prev Next

Headnote :- Vehicle confiscation / seized property / defence opportunity - Forest staff seized the owner's tractor and trolley on the allegation that they were being illegally loaded with fifteen flagstones. The owner filed a reply to the show-cause notice, and his counsel cross-examined the departmental witnesses. The confiscation authority nevertheless proceeded directly from recording the last departmental testimony to passing the final order, without giving the owner an opportunity to lead defence evidence. Nothing in the record showed that he had expressed unwillingness to examine defence witnesses. His right to lead evidence could not therefore be closed in proceedings carrying penal consequences. The authority also failed to hear final arguments or consider the written reply. The reply and counsel's vakalatnama were missing from the record, and no reason was given for concluding that the owner knew of the alleged offence. These omissions compounded the denial of natural justice.

Remand / confiscation order / scope - The High Court set aside the prescribed authority's confiscation order of 28 January 2013, the appellate order of 20 June 2013 and the revisional order of 5 May 2014. The matter was remanded to the prescribed authority to continue from the stage reached on 31 December 2012. The authority was to allow the owner to lead defence evidence, consider his reply and both sides' evidence, hear final arguments and decide afresh whether the tractor was liable to confiscation. The six-month period runs from receipt of a certified copy of the High Court order. The orders were set aside for procedural defects; the Court did not finally hold that no forest-related offence or vehicle liability could be established.

Case-note :- ***1. Facts :*** Vijay Singh, the registered owner of tractor MP07-A-7933 and a trolley, invoked Section 482 CrPC to challenge the confiscation order and the appellate and revisional orders affirming it. On 4 January 2012, forest-post staff at Rehat allegedly found a tractor and trolley being illegally loaded with fifteen flagstones, each approximately 3 by 2 in size. The vehicle was chased and stopped. The driver identified himself as Raje, and the forest staff prepared a spot panchnama and seizure memo. The tractor and trolley were seized, and the flagstones were placed in the custody of Ghatigaon Police Station. The merits remained for the prescribed authority to decide on remand.

The prescribed authority, the DDFO at Ghatigaon, issued notice to the driver and then the owner. On 26 October 2012, the owner filed his written reply, and his lawyer filed a vakalatnama. The authority merely noted that the reply was unsatisfactory and listed the matter for departmental evidence. Narendra Kumar Sharma was examined on 22 December 2012, and R.C. Sharma, Joda Ram Jatav and Devendra Singh Tomar were examined on 31 December 2012. The owner's advocate cross-examined them. The record did not show that the department had closed its case or that the owner had declined to call defence witnesses. The matter was never listed for final arguments. The authority proceeded directly to confiscation on 28 January 2013, without considering the defence reply or giving reasons for concluding that the owner knew of an offence. Copies of his reply and counsel's vakalatnama were not found in the authority's file.

The appellate authority-cum-Conservator of Forest, Gwalior affirmed the confiscation on 20 June 2013 in Appeal 12/2013. The Additional Sessions Judge/Special Judge (Electricity), Gwalior affirmed that decision in Criminal Revision 241/2013 on 5 May 2014. The owner asked the High Court to set those orders aside, arguing that his reply had not been evaluated and that he had been denied an opportunity to lead defence evidence. The Court reconstructed the procedural sequence from the authority's own order sheets, rather than deciding the alleged illegal loading or the merits of the owner's defence.

2. Statutes considered : The petition under Section 482 CrPC sought the setting aside of the revisional, appellate and original confiscation orders. The order identifies the prescribed forest authority and describes the seizure and confiscation. The Court examined the right to be heard before confiscation carrying penal consequences. This required consideration of the written reply, an opportunity to lead defence evidence unless the owner expressed unwillingness to examine witnesses, and a hearing on final arguments. The High Court remanded the question whether the tractor was liable to

confiscation to the prescribed authority for a fresh determination after the required hearing.

3. Issues : (i) Whether confiscation of the owner's tractor and trolley could stand when the authority had received his show-cause reply and allowed cross-examination of departmental witnesses, but had not given him an opportunity to lead defence evidence, heard final arguments or explained why it rejected his reply on the question of his knowledge of the offence.

(ii) What consequences followed for the prescribed authority's order and the appellate and revisional decisions affirming it, and from which procedural stage should the matter resume? The Court did not finally determine whether the alleged illegal loading of flagstones had occurred or whether the tractor was liable to confiscation.

4. Ratio / Findings : The High Court tested the owner's complaint against the original order sheets. They confirmed that he had received notice, filed a reply on 26 October 2012 and appeared through counsel, who cross-examined one departmental witness in December and three more on 31 December. There was, however, no recorded closure of the prosecution evidence, no statement by the owner that he was unwilling to lead defence evidence, and no listing for final arguments. The authority proceeded directly to confiscation. Counsel's cross-examination of the departmental witnesses did not exhaust the owner's separate right to lead defence evidence or make final submissions before a decision carrying penal consequences. The Court applied the principles of natural justice to the confiscation procedure disclosed by the record.

The authority's bare statement that the reply was unsatisfactory did not provide a reasoned finding about the owner's knowledge of the alleged offence. The confiscation order did not mention the defence he had raised, and even the reply and counsel's vakalatnama were absent from the authority's record. The Court considered these matters together and found a denial of natural justice. It held that the owner's right to lead defence evidence could not be closed unless he expressed unwillingness to examine witnesses, and that the penal consequences of confiscation did not permit the authority to bypass that protection. The Court also noted that a hearing on final arguments would have allowed the owner to point out alleged infirmities in the departmental evidence. Its conclusion rested on the recorded procedural omissions.

The Court consequently set aside all three orders and restored the proceedings to the stage reached on 31 December 2012. The owner was to be allowed to lead evidence, and the authority was to consider his written reply, both parties' evidence and final submissions before deciding afresh whether the tractor was liable to confiscation. The Court left the substantive outcome to the prescribed authority and imposed a time limit because the alleged incident dated back to January 2012.

5. Relief : The Hon'ble High Court allowed the Section 482 petition, with no order as to costs. The prescribed authority's confiscation order of 28 January 2013, the Conservator's appellate order of 20 June 2013 and the revisional court's order of 5 May 2014 were all set aside. The matter was remanded to the prescribed authority from the stage reached on 31 December 2012. The authority must allow the owner to adduce defence evidence and consider his written reply, both sides' evidence and final arguments. It must then decide afresh whether the tractor is liable to confiscation, completing the exercise within six months from receipt of a certified copy of the High Court order. The Court did not order unconditional permanent release of the tractor or finally reject confiscation.

Vijay Singh v. State of Madhya Pradesh and Others, M.Cr.C. no. 6271/2014, 02/12/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (395) Prev Next

Headnote :- Death reference — Important prosecution witnesses in the trial for the murder of the accused's adoptive mother were examined in the absence of both the accused and his counsel, without lawful dispensation of his personal attendance under Section 273. The defect caused serious prejudice but was curable. The judgment of conviction and sentence, including the death sentence, was set aside for limited re-examination of the two witnesses and a fresh judgment within the prescribed timetable. Guilt was not finally decided.

Case-note :- ***1. Facts :*** Deepak Pachori was convicted of murdering his adoptive mother, Usha Devi, and concealing her body. He was sentenced to death for murder. The alleged motive concerned her fixed deposits. He had filed a missing-person report, and her body was recovered from a walled-off area in the bathroom. In the appeal and death reference, he pressed a procedural objection: Sanjay Dutt

Sharma, the deceased's nephew, and Rambabu Sharma had given their initial testimony in April 2025 when both he and his counsel were absent. He maintained that the later proceedings had not cured the defect.

2. Precedents — Considered : *Atma Ram v. State of Rajasthan, (2019) 20 SCC 481*, recognises the accused's right to be present under Section 273 as a valuable right. It held that, in the circumstances before it, the infringement could be remedied by examining the witnesses afresh in the accused's presence and allowing cross-examination, rather than by automatic acquittal. It distinguished *Jayendra Vishnu Thakur.* The Court also relied on the powers available in a death reference and an appeal under CrPC Chapters XXVIII and XXIX.

3. Statutes considered : CrPC Sections 273, 299, 313, 317, 366–368, 386 and 391; IPC Sections 302 and 201.

4. Issues : Were two important witnesses examined contrary to Section 273? Did that invalidate the whole trial or call for a limited remedy for the procedural defect in the death reference?

5. Ratio / Findings : Neither the accused nor his advocate was present when the initial testimony was recorded, and no valid order dispensed with the accused's personal attendance. Counsel later cross-examined the witnesses, but the record did not show that he was authorised to do so in the accused's absence. The Court considered it unsafe to rely on those statements as recorded. A death reference is a continuation of the trial, and the High Court may direct further evidence to be taken. Treating the defect as curable, the Court ordered a limited remand to examine both witnesses afresh, allow cross-examination and put any new facts to the accused in a limited examination under Section 313. The Court did not decide substantive guilt.

6. Relief : The Hon'ble High Court set aside the judgment of conviction and sentence dated 23 July 2025, including the death sentence, and remanded the matter for the two witnesses to be examined afresh in the accused's presence. Neither side may lead other evidence or apply to examine another witness. Any new facts emerging from the two witnesses' evidence must be put to the accused in an examination under Section 313 confined to that purpose. The accused may not raise an additional defence that he had not taken at the trial or in his earlier statement under Section 313. The prosecution must produce the witnesses by 24.07.2026 and ensure their physical presence on the date fixed by the trial court. If the accused seeks to engage a new lawyer, a short adjournment must be allowed, but the next date for examining the witnesses must be within ten days. Re-examination of the witnesses and the further examination under Section 313 must be completed by 24.07.2026. The case must be fixed for final arguments by 10.08.2026, and judgment must be pronounced by 25.08.2026. The trial record must be returned immediately. The reference was answered accordingly, and the appeal was finally disposed of.

In the Reference of the State of Madhya Pradesh v. Deepak Pachori, Cr.Rf.C. no. 5/2025; Cr.A. no. 11168/2025, 24/06/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (396) Prev Next

Headnote :- Section 125 CrPC / sufficient means and earning capacity / wife and minor child - The JMFC found neglect and fixed Rs 10,000 per month for the wife and separately for the minor daughter. The husband's claim of unemployment was assessed against his admissions concerning his earlier annual pay, several large fixed deposits, a substantial savings balance and overseas work; he did not dispute the deposit findings or allege a medical inability to earn. *Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705*, holds that Section 125 seeks dignified, adequate sustenance and an able-bodied husband cannot avoid a subsisting support duty with a bare plea of unemployment or financial difficulty. The quotation of *Chaturbhuj v. Sita Bai* in *Shamima Farooqui* places the remedy's purpose of preventing destitution in the context of social justice. The Court found that the husband had sufficient earning capacity and declined to interfere under Section 482.

Maintenance quantum / *Kalyan Dey Chowdhury* / fact-sensitive assessment - The husband cited *Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy, AIR 2017 SC 2383*, in support of his claim that maintenance should be limited to 25% of income. The High Court reproduced the Supreme Court's caution that permanent alimony must reflect the parties' status and the paying spouse's capacity, with the amount determined by the facts of the case.

Section 482 / maintenance fact findings / no perversity - Following dismissal of the husband's revision and the respondents' separate enhancement revision, the High Court said it would not displace

factual findings about earning capacity under Section 482 unless shown perverse and contrary to law. The admitted bank deposits were not disputed, and the Court found no basis for interference. The JMFC's order of 26 November 2019 and the Sessions Court's order of 14 March 2020 remained operative; no enhancement or reduction was ordered.

Case-note :- ***1. Facts :*** Vikas Ramprakash Mishra applied under Section 482 CrPC against the Second Additional Sessions Judge, Karera's order of 14 March 2020 dismissing his Criminal Revision 22/2020 and affirming the JMFC, Karera's maintenance order of 26 November 2019 in Miscellaneous Criminal Case 24/2013. Abha, respondent 1, was undisputedly his legally wedded wife and respondent 2 their minor daughter. After taking evidence, the JMFC found neglect and awarded each respondent Rs 10,000 per month under Section 125 CrPC. The wife and daughter separately pursued enhancement through Criminal Revision 179/2019, also dismissed by the Sessions Court; the matter before the High Court was the husband's challenge under its inherent powers, rather than a fresh claim for enhancement.

The husband maintained that he was unemployed and could not pay. In his testimony, however, he admitted an annual package of Rs 8.5 lakh in 2008 at a private company, deposits of Rs 7 lakh and Rs 16 lakh, two further deposits of Rs 4 lakh each on the stated dates, and a savings balance of Rs 9,82,855 on 8 November 2013. His testimony recorded deputations in Singapore, the United Kingdom and Belgium, with stated foreign-currency earnings. Before the High Court he did not dispute the substantial deposit findings and did not assert a medical ailment that prevented him from working.

He also invoked *Kalyan Dey Chowdhury* for a proposed 25% income limit. The Court considered *Shamima Farooqui*'s Section 125 support principle and the *Kalyan Dey* passage concerning permanent alimony, compared each award with the figure it adopted for earning capacity, and held that no perversity or legal error justified altering the maintenance orders.

2. Precedents — Considered : *Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705*, was quoted at length. The Supreme Court had criticised a reduction made without reasons after the husband's retirement, emphasizing that Section 125 is meant to prevent financial destitution and furnish a wife with support adequate to her status and dignity, not bare physical survival; the duty is heightened when children are with her. Where an able-bodied husband can support himself, bare claims of unemployment or poor business do not by themselves excuse him from maintaining a wife entitled under the statute, subject to statutory disqualification. The present Court applied that principle to a husband whose earnings, bank deposits, international work and absence of any claim of medical inability to work belied an unsupported inability claim, while maintaining separate awards for wife and daughter.

Within the *Shamima Farooqui* extract, *Chaturbhuj v. Sita Bai* described Section 125 as a social-justice remedy to prevent vagrancy and protect women and children, with reference to *Capt. Ramesh Chander Kaushal v. Veena Kaushal* and Article 15(3) and Article 39 of the Constitution. *Savitaben Somabhai Bhatiya v. State of Gujarat* was cited there as reinforcing that purpose within the *Shamima Farooqui* extract. The extract also quoted the *Delhi High Court's* decision in *Chander Parkash Bodh Raj v. Shila Rani Chander Prakash* on the need for an able-bodied husband to show cogent grounds for inability to maintain his wife and child, and on the adverse inference when he withholds his exact earnings. These were subsidiary passages within the cited Supreme Court reasoning, not distinct factual determinations on the present husband's current salary.

Kalyan Dey Chowdhury v. Rita Dey Chowdhury Nee Nandy, AIR 2017 SC 2383, was invoked by counsel for an asserted 25% benchmark. The Court reproduced the Supreme Court's words that permanent alimony must befit the spouses' status and the paying spouse's capacity, and that the amount depends on the case's facts and may be adjusted in light of various factors. The Court compared the separate annual awards of Rs 1.2 lakh with a stated earning capacity of Rs 8.4 lakh and declined interference.

The judgment also referred to *Shila Bai (Smt.) and Another v. Ashok Kumar Patel, ILR [2014] MP 832*, in describing an able-bodied husband's support duty. In reporting the lower court's reliance, the judgment describes *Shila Bai* as a Supreme Court decision.

3. Statutes considered : Section 125 CrPC provided the wife and minor child with a summary remedy for maintenance. The lower courts found the legal relationships, neglect and the husband's sufficient means or capacity, and granted monthly support to each respondent. The quoted Supreme Court

material explains its social purpose and standard of support sufficient for a dignified life, subject to the statute's disqualifications. Section 482 CrPC was invoked against the JMFC and revisional orders. The High Court stated that factual findings, especially undisputed deposits and earning capacity, could not be displaced under that jurisdiction unless perverse and contrary to law. The wife's and daughter's separate revision for enhancement had been dismissed. Article 15(3) and Article 39 appeared within *Shamima Farooqui*'s quotation of *Chaturbhuj* as context for the social-justice purpose, not independent constitutional grounds decided by this Bench.

4. Issues : (i) Whether the husband's stated unemployment overcame the lower courts' evidence-based findings of earnings, fixed deposits, savings and capacity to maintain his legally wedded wife and minor daughter at Rs 10,000 per month each.

(ii) Whether the passage from *Kalyan Dey Chowdhury* imposed the 25% limit he asserted on final Section 125 awards, and whether Section 482 allowed the High Court to revisit the undisputed income findings or quantum when the findings had not been shown to be perverse and contrary to law. The Court did not reassess the respondents' separate enhancement revision.

5. Ratio / Findings : The statutory entitlement rested on the accepted relationships of wife and child and the JMFC's finding of neglect. The evidence of means was not a bare assumption based on a prior job title: the husband himself acknowledged substantial annual remuneration, large fixed deposits on different dates, a savings balance of nearly Rs 10 lakh and international assignments. He did not contest the lower courts' deposit findings in the High Court. The Court also noted that he had not claimed any medical condition making him unable to work. *Shamima Farooqui* explains why a capable husband may not treat maintenance under Section 125 as a bare survival allowance or avoid support by an unsupported assertion of unemployment. The Bench therefore concluded that his capacity sufficed to maintain both respondents. The earlier employment and bank balance had evidentiary value in this case.

The Court next considered the claimed 25% cap. The reproduced passage from *Kalyan Dey* concerns permanent alimony suited to status and means, with the amount dependent on the facts and open to adjustment according to the circumstances. The High Court held that these awards, based on the facts of the case and supported by admitted means, required no reduction.

Finally, the High Court articulated a limit on its Section 482 intervention at this stage: it would not interfere with factual findings unless demonstrated perverse and contrary to law. The threshold for interference was not met, given the husband's failure to contest the deposits and the absence of a substantive error. The dismissal left the wife's and daughter's existing monthly awards intact, not enhanced; the challenged maintenance orders were affirmed.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The JMFC, Karera's 26 November 2019 order directing Rs 10,000 per month to Abha and Rs 10,000 per month to the minor daughter, and the Second Additional Sessions Judge's 14 March 2020 affirmance, remained in force. The High Court ordered no reduction, enhancement, remand, new payment condition or separate costs.

Vikas Ramprakash Mishra v. Abha and Others, M.Cr.C. no. 32166/2020, 04/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (397) Prev Next

Headnote :- Seven-year-old child's sexual assault and murder — Discovery of the concealed body, the misleading explanation and matching DNA from the victim's clothing, vaginal samples and nail clippings sustained the finding of guilt. The claim of ineffective legal aid did not justify a retrial. The mitigating circumstances and jail conduct showed a prospect of reform. The death sentence under Section 376A was therefore replaced with imprisonment for the remainder of natural life; the other sentences remained unchanged.

Case-note :- ***1. Facts :*** A seven-year-old girl disappeared from a marriage procession in February 2023. Sheru first said that he had sent her away with a relative; the body was recovered under dry grass after his disclosure. The autopsy showed rape and murder. He was convicted under the IPC provisions relating to kidnapping, rape and murder and under POCSO; the trial court imposed the death sentence under Section 376A. In the appeal and death-reference proceedings, he sought a de novo trial on the ground that the assigned counsel had not provided effective legal assistance.

2. Precedents — Considered : *The accused invoked Aman Singh v. State of Bihar on competent legal assistance. The Court rejected the request for a retrial after noting that the assigned counsel admittedly had seventeen years of practice, that no supporting material showed that he lacked competence to conduct a criminal trial, and that the accused had not objected to his competence while the evidence was being recorded. On sentence, the Court also followed the direction in Aman Singh to obtain material on aggravating and mitigating circumstances from the State. Gauri Shankar v. State of Punjab and Union of India v. V. Sriharan, (2016) 7 SCC 1,* established the High Court's power to replace a death sentence with imprisonment for the remainder of natural life.

3. Statutes considered : IPC Sections 364, 366, 376A, 376AB and 302; POCSO Act Sections 5(m)/6; CrPC Section 366 and procedural retrial powers; Evidence Act Sections 8 and 27.

4. Issues : Did the representation provided at trial require a fresh trial? Were discovery, the accused's conduct and the DNA evidence sufficient to sustain guilt? Did the mitigating material preclude capital punishment and permit imprisonment for the remainder of natural life instead?

5. Ratio / Findings : There was no evidence that the advocate, who had 17 years of practice, lacked competence, and the accused had not objected to his competence while the evidence was being recorded. The discovery of the concealed body, the inconsistent account and the relevant conduct after the offence were considered together with the evidence of when the accused and victim were last seen together. DNA matching Sheru's was found on the victim's clothes, vaginal slide/swab and nail clippings. The medical findings provided further corroboration. The State's socioeconomic and jail reports recorded his limited means, family responsibilities, discipline and conduct indicating reform. Although the offence was brutal, imprisonment for the remainder of natural life remained an available alternative. The High Court substituted that sentence for death under Section 376A while preserving the other convictions.

6. Relief : The Hon'ble High Court rejected the application for a de novo trial and declined to confirm the death sentence in the reference. It set aside the death sentence under Section 376A and imposed life imprisonment for the remainder of the accused's natural life. The fine and the other convictions and sentences were affirmed. The appeal was disposed of with this modification of sentence.

In the Reference of State of Madhya Pradesh v. Sheru Jatav, Cr.Rf.C. no. 3/2026; Cr.A. no. 5134/2026, 24/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (398) Prev Next

Headnote :- Section 125 CrPC / interim means / disclosure and resignation - The husband admitted his June 2022 appointment with UltraTech Cement but had omitted it from the affidavit filed under *Rajnesh v. Neha, (2021) 2 SCC 324*. The Court rejected his unsupported oral claim of resignation, as neither his resignation letter nor the company's acceptance had been produced. The salary material indicated Rs 50,000 per month with allowances. On that record, the Court reassessed his means for interim maintenance without finally determining the husband's exact net monthly income, which remained disputed, or precluding further evidence at trial.

Wife's asserted earnings / junior advocate / proof - Registration and practice as an advocate did not themselves establish that the 28-year-old wife actually earned a substantial income sufficient to maintain herself. The husband produced no vakalatnamas or other evidence of substantial practice. The Court declined to deny interim support on conjecture about her earnings. Its observations remained provisional, as evidence had yet to be led.

Quantum / family-consistent sustenance / Supreme Court principles - *Chaturbhuj v. Sita Bai, (2008) 2 SCC 316*, and *Bhagwan Dutt v. Kamla Devi, (1975) 2 SCC 386*, were applied to assess support consistent with the family's status, neither luxurious nor penurious. A wife need not be absolutely destitute before claiming maintenance under Section 125. Given the provisional income evidence, the lack of proof of the wife's earnings and the current cost of daily necessities, the Court increased interim maintenance from Rs 4,000 to Rs 10,000 per month with effect from the application date. The Family Court was expressly directed to decide the matter after evidence without being influenced by these interlocutory observations.

Case-note :- ***1. Facts :*** Tishi Sharma filed a revision under Section 19(4) of the Family Courts Act read with Section 397 CrPC against the interim maintenance order dated 29 August 2023 passed by

the Principal Judge, Family Court, Ujjain, in Miscellaneous Judicial Case 476/2022. The order awarded her Rs 4,000 per month, which she considered inadequate. The High Court had requisitioned the Family Court's record on 6 December 2023, and the underlying proceeding had made no further progress while the revision remained pending.

The wife relied on Mohit Sharma's appointment letter dated 10 June 2022, which described him as Territory Manager, Technical and Customer Solutions, Officer at Job Band 11 in UltraTech Cement's Quality and Technical Services function. She asserted that his annual package was Rs 6 lakh, equivalent to Rs 50,000 per month, with a further Rs 20,000 per month in allowances, making a total of Rs 70,000 in her submission. She also said that he had omitted the appointment from the affidavit of assets and liabilities filed under the *Rajnesh v. Neha* guidelines. The husband acknowledged the appointment but orally asserted that he had left the job because of litigation initiated by her. He claimed that she was about 28 years old, practised as an advocate and had a substantial income, so she needed no support.

The High Court regarded the appointment and its omission from the disclosure affidavit as undisputed. Neither a resignation letter nor the employer's acceptance supported the husband's new claim that he had left the job. He also produced no vakalatnamas or other records showing that the wife had the substantial legal practice he alleged. The salary material showed Rs 50,000 per month with allowances. The Court expressly stated that its observations were preliminary, as the parties had yet to lead evidence. Before modifying the amount, it considered the provisional stage of the matter, the standard of maintenance consistent with the family's status, the cost of daily necessities and the limited scope of its interlocutory findings.

2. Precedents — Considered : *Rajnesh v. Neha and Another, (2021) 2 SCC 324*, supplied the Supreme Court framework for financial-disclosure affidavits, which the wife invoked and the Court recognized. In applying that framework, the Court noted that the husband had not disclosed his June 2022 employment in his affidavit. When assessing his means for interim maintenance, it rejected his later claim of resignation because no documentary evidence supported it.

Chaturbhuj v. Sita Bai, (2008) 2 SCC 316, and *Bhagwan Dutt v. Kamla Devi, (1975) 2 SCC 386*, were expressly invoked in the Court's reasoning on the amount of maintenance. The Court drew from them the principle that maintenance should enable a wife to maintain a standard of living consistent with the family's status, neither luxurious nor penurious. The expression "unable to maintain herself" under Section 125 does not require her to be absolutely destitute before claiming maintenance. The Court applied that principle to the husband's employment evidence, the lack of proof that the wife earned a substantial income from practice and the cost of daily necessities. It increased the interim award from Rs 4,000 to Rs 10,000. The Court expressly confined its observations to the interim stage, before evidence.

3. Statutes considered : Section 125 CrPC governed the wife's underlying maintenance claim and the interim amount. The Court applied the principles concerning her inability to maintain herself and appropriate support without finally deciding the disputed income or precluding further evidence. Section 19(4) of the Family Courts Act and Section 397 CrPC were the revision provisions stated in the opening paragraph. The financial affidavit under *Rajnesh* served to disclose income; it did not replace documentary proof concerning resignation or the spouse's earnings.

4. Issues : (i) Did Rs 4,000 per month remain adequate interim maintenance in light of the husband's acknowledged employment, his omission of it from the affidavit, his undocumented assertion of resignation, and the wife's claim of a higher package and allowance?

(ii) Did the wife's status as a practising advocate alone establish that she currently earned enough to maintain herself, or was evidence of her actual practice and means required?

(iii) What interim amount and effective date were appropriate in light of support consistent with the family's status, the available material and current living costs? How could the Family Court's later assessment after evidence remain unaffected? The Court did not finally determine either party's precise earnings for the trial.

5. Ratio / Findings : The husband admitted the June 2022 appointment but had not disclosed it in his affidavit under *Rajnesh*. His bare explanation that litigation by his wife had forced him to resign was unsupported by a resignation letter or the employer's acceptance, although he could have produced those

documents. The Court regarded this oral assertion as an afterthought and rejected it at this stage. The salary material showed about Rs 50,000 per month with allowances. The wife's specific claim of an additional Rs 20,000 in allowances remained a contention, and the Court expressly stated that its observations were preliminary, before evidence. Her assertion remained distinct from the Court's provisional assessment of income.

The husband's assertion about the wife's income from legal practice also lacked proof. The Court said that a newly registered junior advocate does not necessarily earn a substantial income from the date of registration. It identified certified vakalatnamas as one form of evidence he could have produced to show substantial practice, but he produced none. Its refusal to presume substantial earnings was confined to the facts and remained provisional. The Family Court can determine actual means after both parties lead evidence.

Chaturbhuj and *Bhagwan Dutt* supplied the standard: support consistent with the status of the matrimonial household, neither luxurious nor penurious, without requiring the claimant to become wholly destitute. Considering the salary material and the unproved competing assertions, together with inflation/price index and the cost of daily necessities, the Court held Rs 4,000 inadequate and fixed Rs 10,000 per month. The enhancement took effect from the date of the Section 125 application, rather than merely from the date of the High Court's order. The Family Court's record had been requisitioned and the case had not progressed. As the matter was still at an initial stage and the parties had yet to lead evidence, the Court expressly directed that its preliminary observations should not influence the eventual decision on the merits after evidence. The amount remained an interim ruling, without finally determining income or entitlement.

6. Relief : The Hon'ble High Court disposed of the revision by modifying the Family Court's order dated 29 August 2023. It increased interim maintenance from Rs 4,000 to Rs 10,000 per month with effect from the application date. The Family Court was directed not to be influenced or prejudiced by the High Court's observations when the parties later lead evidence in the underlying proceeding.

Tishi Sharma v. Mohit Sharma, Cr.R. no. 5545/2023, 11/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (399) Prev Next

Headnote :- Double murder appeal — A quarrel over the burning of dung cakes led Indal to shoot Kailashi; he and the others then chased and killed Garsingh. Eyewitness testimony and medical evidence established that the accused deliberately acted together with firearms. This supported Subodh's liability under Section 34; his participation included firing at Garsingh. The testimony of related witnesses was corroborated. The failure of a seizure witness to support the prosecution did not undermine the case. The life sentences were affirmed.

Case-note :- ***1. Facts :*** A fire lit in a dung hill to kill a snake damaged neighbouring dung cakes and caused a quarrel. In October 2007, after the quarrel, Indal Singh fired on Kailashi, and the group chased and surrounded Garsingh, who was shot dead. Indal was convicted on two counts under Section 302 IPC; Subodh and Dhaniram were convicted under Section 302 read with Section 34. Dhaniram's appeal abated following his death. Indal and Subodh challenged their convictions on the grounds of inconsistencies in the witnesses' accounts, the witnesses' relationship with the deceased and absence of intention.

2. Precedents — Considered : *Virendra Singh v. State of M.P., Chhota Ahirwar v. State of M.P., (2020) 4 SCC 126*, and *Sandeep v. State of Haryana* guided the Court's assessment of common intention under Section 34. The Court also surveyed authorities on murder and the appreciation of evidence.

3. Statutes considered : IPC Sections 34, 299, 300 and 302; CrPC Section 374.

4. Issues : Did the firearm deaths amount to murder? Did Subodh share Indal's intention in both killings, despite disputes about the precise acts attributed to him and the witnesses' relationship with the deceased?

5. Ratio / Findings : Eyewitnesses Surajmukhi and Ramvilas described Indal's shot at Kailashi. Sikandar, a neighbour, and Uday Singh supported the account of the chase, encirclement and further shots at Garsingh. The firearm injuries were consistent with this evidence. Section 34 imposes constructive liability for acts done in concert. Common intention may form suddenly, but it must exist before the

criminal act, and there must be shared intention and participation in its furtherance. A separate fatal blow by each participant need not be proved. It is not enough that different accused independently had the same intention. The group's conduct and continued pursuit established common intention. The failure of a seizure witness to support the prosecution did not nullify the investigator's recovery of the gun or the consistent eyewitness and medical evidence. The defence accounts did not raise a reasonable doubt.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the life sentences imposed on Indal and Subodh. Dhaniram's appeal remained abated.

Indal Singh and Others v. State of Madhya Pradesh, Cr.A. no. 651/2010, 02/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (400) Prev Next

Headnote :- Sessions trial / public prosecutor control / BNSS Sections 248 and 338(2) - Section 248 places the conduct of a Sessions prosecution with the Public Prosecutor. Under Section 338(2), a privately instructed advocate acts under that prosecutor's directions and may, with the Court's permission, file written arguments after the evidence closes. The provision gives no general right to cross-examine witnesses or make oral arguments. *Rekha Murarka v. State of West Bengal, (2020) 2 SCC 474*, rejected an expanded role for a victim's counsel that was unsupported by the text of the corresponding CrPC provisions. The Court applied that limit to an elected councillor's application to participate at the stage of framing charges in a municipal corruption trial and upheld its refusal.

Complainant status / charge-stage intervention / distinct bail authorities - The councillor's representation prompted an inquiry and an FIR concerning allegedly false records of municipal road works. He argued that, as the original complainant and a representative of residents, he was a victim entitled to assist the prosecution. The Court did not accept that this status could override BNSS Sections 248 and 338(2) or permit oral advocacy or examination of witnesses at the stage of framing charges. *Puran v. Rambilas, (2001) 6 SCC 338*, and *R. Rathinam v. State, (2000) 2 SCC 391*, were distinguished because they concerned cancellation of bail. The revision was dismissed without deciding whether the corruption allegations were true.

Case-note :- ***1. Facts :*** Vijay Sharma filed Criminal Revision No. 1874/2026 under Sections 438 and 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), challenging the order dated 10 February 2026 passed by the Special Court (Prevention of Corruption Act), Shivpuri, in SC No. 97/2025. The court had refused his I.A. No. 2/2026 under Section 338(2) BNSS to assist the prosecution at the stage of framing charges. He was an elected councillor and was not an accused.

On 21 July 2025, 21 elected councillors of the Municipal Council, Shivpuri, submitted a written representation to the Collector about the condition of roads, works that allegedly did not exist but were recorded as completed, and suspected misuse of municipal funds. The Collector ordered an SDM inquiry, and the SDM submitted a report on 25 July. On the Collector's direction, FIR No. 504/2025 was registered at Kotwali, Shivpuri, against a sub-engineer, an assistant engineer and a construction contractor for offences under BNS Sections 318(4), 316(5), 61(2), 337, 338, 336(3), 340(2) and Prevention of Corruption Act Sections 8 and 12. Following investigation, the charge sheet cited BNS Sections 318(4), 316(5), 61(2), 338, 336(3), 340(2) and PC Act Sections 13(1)(A) and 8. The Court set out these allegations as procedural background; it did not examine the merits of the charges.

The petitioner argued that the trial court had wrongly denied him participation merely because it did not recognize him as a victim. He said that his original representation prompted the FIR and that, as a councillor, he represented residents affected by the alleged misuse of public funds. He cited *Puran v. Rambilas and R. Rathinam v. State*. The State maintained that only the Public Prosecutor could conduct the Sessions trial. The revision therefore concerned statutory control of the prosecution and the role and stage at which a private lawyer could participate. It was not a separate challenge to the SDM report, charge sheet or investigation.

2. Precedents — Considered : *Rekha Murarka v. State of West Bengal and Another, (2020) 2 SCC 474*, was introduced by the Bench and quoted on the corresponding CrPC Sections 24, 225 and 301. The Supreme Court considered a request to expand the role of a victim's counsel on the ground that the Public Prosecutor might, deliberately or through oversight, fail to present the case properly. It rejected

a broad right for private counsel to make oral arguments and examine witnesses because that role was unsupported by the statutory text, despite the concern about prosecutorial inadequacy. The present Bench applied that principle with BNSS Sections 248 and 338(2). It confined the privately engaged advocate to submitting written arguments under the Public Prosecutor's directions, with the Court's permission, after the evidence closed, and rejected the application made at the stage of framing charges. *Puran v. Rambilas, (2001) 6 SCC 338*, and *R. Rathinam v. State, (2000) 2 SCC 391*, were cited by the petitioner's counsel. The Court described both as concerning cancellation of bail, distinguished that context from the conduct of a Sessions trial and found them unhelpful.

3. Statutes considered : BNSS Section 248 provides that the prosecution in every Sessions Court trial shall be conducted by a Public Prosecutor. BNSS Section 338(1) allows the Public Prosecutor or Assistant Public Prosecutor in charge to appear and plead without written authority. Section 338(2) concerns a private person instructing an advocate to prosecute. The prosecutor in charge continues to conduct the case; the instructed advocate acts under that prosecutor's directions and may, with the Court's permission, submit written arguments after the evidence has closed. Reading these provisions together, the Court excluded an independent right for private counsel to make oral submissions or cross-examine witnesses and held that the application made during charge framing was premature for the specified written-argument role. The Supreme Court excerpt concerned analogous CrPC Sections 24, 225 and 301; the present Court applied the enacted BNSS provisions. BNSS Sections 438 and 442 provided the revisional remedy.

The BNS and Prevention of Corruption Act provisions named in the FIR and charge sheet formed only the background to the municipal-funds prosecution. The Court did not decide their offence ingredients, whether a charge should be framed or the accused's guilt. The alleged public nature of the corruption was not treated as creating a right of private prosecution.

4. Issues : (i) Whether Sections 248 and 338(2) BNSS permitted a privately instructed advocate, acting for the councillor whose representation led to the FIR, to intervene in a Sessions prosecution at the stage of framing charges, make oral submissions or cross-examine witnesses; or whether any permissible role remained under the Public Prosecutor's control and was confined to written arguments after the evidence closed, with the Court's permission.

(ii) Whether the petitioner's claim to be the original complainant and a representative of municipal residents, together with his reliance on bail-cancellation decisions, established illegality, perversity or impropriety in the Special Court's refusal. The Court did not determine whether the corruption accusations were true.

5. Ratio / Findings : The Division Bench first examined the statutory text. Section 248 entrusts the Sessions prosecution to the Public Prosecutor. Section 338(2) preserves that control even when a private person instructs counsel: the advocate must act under the prosecutor's directions and may submit written arguments only with the Court's permission and after the evidence has closed. The Court held that privately engaged counsel could not make oral arguments or cross-examine witnesses under this provision. The application was filed while charges were being framed, before the evidence closed. Its refusal at that stage was not contrary to these provisions. The decision did not exclude a later opportunity to file written arguments, subject to the stated conditions.

The Court examined the petitioner's claim to complainant or victim status in light of *Rekha Murarka*. There, the Supreme Court rejected an expanded role for private counsel to make oral submissions and examine witnesses merely because of possible shortcomings by the prosecutor, since that role was unsupported by the relevant CrPC text. The corresponding BNSS provisions led the present Bench to the same limited role in a Sessions trial. In the Court's view, the fact that his representation triggered the FIR did not displace the Public Prosecutor's control or alter the timing prescribed by Section 338(2).

Puran and *R. Rathinam* were distinguished as cases concerning cancellation of bail. The Court did not apply them to the request to assist the prosecution at the stage of framing charges. Considering the statutory timing, supervised scope of participation and cited authority together, it found no illegality, perversity or impropriety in the refusal. The ruling concerns the conduct of and assistance in the trial; it does not decide the validity of the corruption case or the accused persons' liability.

6. Relief : The Hon'ble High Court dismissed the revision. The Special Court's order dated 10

February 2026 refusing the councillor's application under Section 338(2) remained in force. No private counsel was permitted to make oral arguments, cross-examine witnesses or otherwise intervene at the stage of framing charges under that application. The Court described the statutory possibility of written arguments with its permission after the evidence closed, but did not grant that permission at this stage.

Vijay Sharma v. State of Madhya Pradesh and Others, Cr.R. no. 1874/2026, 06/05/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (401) Prev Next

Headnote :- Matrimonial FIR / divorce petition / counterblast - The wife's later FIR under Section 498-A and the dowry provisions was not quashed merely because the husband had first filed a divorce petition. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, explains that efforts to reconcile and preserve the marriage may account for the time taken to report; civil and criminal proceedings can coexist. The Court applied that reasoning to reject an automatic inference of retaliation while leaving the allegations for trial. *Pratibha* also states the limits, based on *Bhajan Lal*, on using extraneous material under Section 482. Those limits prevented the Court from resolving disputed facts from the parallel case.

Civil and criminal findings / separate proof standards / previous judgments - *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775*, and *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, explained, through *Iqbal Singh Marwah, K.G. Premshanker* and *M.S. Sheriff*, that civil cases require proof on a preponderance of probabilities while criminal cases require proof beyond reasonable doubt. Findings of fact do not bind the other forum merely because the subject matter overlaps. *Prem Raj v. Poonamma Menon*, SLP (Cr.) 9778/2018, decided 2 April 2024, reaffirmed the Constitution Bench reasoning and recognized that proceedings may continue simultaneously, subject to the stated qualifications. Evidence Act Sections 40–43 may make a final judgment relevant, and Section 41 may make a specified judgment conclusive; the Court did not hold that all prior judgments were irrelevant. The broad proposition in *Karam Chand* giving civil findings primacy was not followed as the governing rule. The divorce case therefore did not determine the criminal accusations.

Section 482 / disputed residence - A process-server's report on service of notice in the divorce case stated that the wife lived with her in-laws in Indore, which the accused themselves disputed. Her actual residence and the competing account that she had taken shelter in Kareli required proof at trial. The Court did not conclusively resolve that factual defence while considering quashing.

Section 498-A IPC / continuing mental cruelty / Kareli connection - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, recognizes that emotional trauma from abusive conduct and forced separation may continue at the parental home after physical acts at the matrimonial home have ended. Applying that rule, and citing *Amar Singh v. Vimla*, the Court accepted the complainant's asserted residence in Kareli as a prima facie basis for local investigation. The revisional court's finding that ₹5 lakh had been transferred from Kareli supplied a further connection. Neither the wife's residence nor the applicants' guilt was finally adjudicated.

Quashing / alleged mala fides / complainant's lawyer father - The father's profession as a local advocate did not itself establish that the FIR was false. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, drew *on R.P. Kapur and State of Haryana v. Bhajan Lal* to confine Section 482 review to recognized exceptional grounds, considering whether the allegations taken at face value disclosed an offence and examining appropriate material without conducting a trial within the quashing proceedings. Applying that test, the Court noted that counsel had not explained how the father's profession was connected with fabrication. Alleged mala fides of the informant were secondary where a cognizable offence was disclosed. This did not eliminate the distinct *Bhajan Lal* category of malicious prosecution where its conditions are established.

FIR / territorial police jurisdiction / transfer - An FIR disclosing a cognizable offence may be lodged at any police station. If that station concludes that it lacks territorial jurisdiction to investigate, it should transfer the FIR to the competent station; receipt of the FIR alone is no ground for quashing. Here, the reasoning on continuing cruelty and the transfer from Kareli also answered the factual jurisdiction challenge. The transfer rule provided an independent

answer to an objection based solely on territorial jurisdiction.

Charge / incorrect name / correction - An incorrect name for the wife in a framed charge can be addressed by an application under the charge-correction provision; it does not automatically nullify the charge. No amendment of the charge or issue of prejudice was finally decided. The Section 482 application challenging the FIR and charges was dismissed.

Case-note :- ***1. Facts :*** Tamish Saluja and the other applicants filed Misc. Criminal Case No. 16003/2024 under Section 482 CrPC to quash FIR No. 1050/2023 at Police Station Kareli, District Narsinghpur, for Section 498-A read with Section 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961. Charges had been framed, and the applicants' Criminal Revision No. 8/2024 challenging them was dismissed by the First Additional Sessions Judge, Narsinghpur, on 12 March 2024. The application challenged both the FIR and the framed charges; the High Court decided it on 16 May 2024. The order does not reproduce the complete complaint or trial evidence. The alleged matrimonial cruelty and dowry demand remained accusations, not findings of guilt.

The applicants' counsel submitted that the entire cause of action arose in Indore and that the FIR was a retaliatory counterblast to the divorce petition filed by the husband, the first applicant. He said that the complainant wife's father lived in Kareli and practised as an advocate at Narsinghpur, and that the wife did not actually reside in Kareli. Counsel relied on a service report in the divorce proceeding: a notice sent to the father's address had been returned with a statement that she lived with her in-laws in Indore, although the applicants themselves disputed that assertion. They also complained that the framed charge named a different woman. The Court heard the applicants' counsel; the order records no developed argument from the respondents. It addressed each objection at the Section 482 threshold, without adjudicating the parties' disputed evidence.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi and Others, (2007) 12 SCC 369*, was quoted by the High Court on a wife's delay in reporting during attempted reconciliation, the principle that a husband's divorce petition does not itself bar or taint later criminal proceedings, and the limit on using extraneous investigative findings to quash a complaint under Section 482. *Pratibha* drew *on the illustrative categories in State of Haryana v. Bhajan Lal*. Applying that reasoning, the High Court held that a wife who waited while trying to save the marriage and reported when the divorce filing ended that hope was not thereby shown to have lodged a counterblast. It did not hold that every late complaint was explained or that all parallel civil and criminal proceedings had to proceed at identical times.

Kishan Singh (Dead) through LRs v. Gurpal Singh and Others, (2010) 8 SCC 775, was quoted on the independence of civil and criminal findings of fact, the standards of a preponderance of probabilities in civil cases and proof beyond reasonable doubt in criminal cases, and the qualification that prior judgments may be relevant under Evidence Act Sections 41–43. The passage discussed *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, for those different standards. It described how *Syed Askari* and *Vishnu Dutt Sharma* treated the broad rule in *Karam Chand* that civil findings prevail over criminal findings as displaced by the Constitution Bench and *K.G. Premshanker* decisions. The High Court adopted the principle that findings do not automatically bind the other forum, rejecting automatic priority for the divorce case while retaining the statutory relevance exception.

Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528, was separately quoted. Its discussion of *K.G. Premshanker v. Inspector of Police, (2002) 8 SCC 87*, explains that final prior judgments may be relied on only as provided by Evidence Act Sections 40–43. Civil res judicata and CrPC Section 300 have their own conditions, and Section 41 identifies a conclusive class of judgments. The first question is relevance; the second is the judgment's effect in the particular case. Section 43 generally excludes other judgments unless their existence is in issue or another provision makes them relevant. The passage rejects automatic binding force in either direction. It also refers to *Iqbal Singh Marwah*'s distinct discussion of delays in prosecution under Sections 340/343 CrPC and *P. Swaroopa Rani*'s observation that simultaneous proceedings depend on the facts. The present Court used the rule that findings do not automatically bind across forums; it did not make a new ruling under Section 340 or decide the admissibility of a particular divorce decree.

Prem Raj v. Poonamma Menon and Another, Supreme Court SLP (Cr.) No. 9778/2018, decided 2

April 2024, was then quoted on *Karam Chand, K.G. Premshanker, Vishnu Dutt Sharma, Satish Chander Ahuja* and *Iqbal Singh Marwah*. It treats the Constitution Bench explanation in *Iqbal Singh Marwah* of *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, as settling that each forum decides on its own evidence and that conflicting outcomes do not themselves make one forum's finding binding. *M.S. Sheriff* favoured precedence for criminal proceedings where appropriate, but expressly rejected an inflexible sequencing rule and allowed for special circumstances. Within *Prem Raj, Satish Chander Ahuja* was cited for the absence of a bar on a civil court considering evidence led in criminal proceedings; that does not mean the findings automatically bind. The High Court invoked these authorities to reinforce independent assessment, without staying the divorce case or deciding a separate prosecution issue under Section 476/340.

Rupali Devi v. State of U.P., (2019) 5 SCC 384, was quoted on the mental component of Section 498-A cruelty: trauma from cruelty, verbal abuse and being driven away may persist at the parental shelter even without fresh physical violence there. The Court applied it to the alleged shelter in Kareli and the territorial jurisdiction to investigate. *Amar Singh v. Vimla*, MP High Court Criminal Revision No. 2376/2020, decided 22 June 2021, was cited for the proposition that compelling a wife to live at her parental home amounts to cruelty. The High Court treated it as supportive authority, not as proof that these applicants committed the offence.

Renu Kumari v. Sanjay Kumar and Others, (2008) 12 SCC 346, was quoted extensively after consideration of *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, and *Bhajan Lal, 1992 Supp (1) SCC 335*. The test preserves exceptional inherent jurisdiction to prevent abuse and secure justice, including cases of a legal bar, failure of the allegations taken at face value to disclose an offence, manifest absence of legal evidence and established malicious prosecution. It warns against evaluating witness reliability or conducting a trial on incomplete facts within quashing proceedings. The nested quotation names *State of Karnataka v. M. Devendrappa, State of M.P. v. Awadh Kishore Gupta and State of Orissa v. Saroj Kumar Sahoo* as reiterating the position, without separately analysing their facts. The High Court applied the limits concerning face-value allegations and mala fides to reject a claim based only on the complainant's father's profession. It did not abolish the properly established mala fide category in *Bhajan Lal*.

3. Statutes considered : Section 482 CrPC provided the High Court's inherent jurisdiction to quash the FIR and framed charges for abuse of process or failure to disclose an offence. The Court assessed the allegations at the threshold, declined to resolve residence and other factual disputes, and preserved the trial court's function. Section 498-A read with Section 34 IPC and Sections 3–4 of the Dowry Prohibition Act were the FIR offences. The Court explained only the physical and continuing mental dimensions of Section 498-A cruelty relevant to the connection with Kareli. It did not decide all offence ingredients, common intention, proof of demand or guilt.

Evidence Act, 1872, Sections 40–43 were discussed through the Supreme Court quotations on the relevance of a prior judgment and the limited conclusiveness under Section 41. The different civil and criminal standards explain why findings do not automatically bind across forums. CrPC Section 300, civil res judicata, and Sections 340, 341 and 343 appear within *Syed Askari*'s quoted doctrinal discussion; they were not independently applied to this FIR. The husband's divorce petition was procedural context, not a civil determination of the criminal allegations.

The Court stated that any station may receive a cognizable FIR and must transfer it if it concludes territorial investigation belongs elsewhere. It referred to Section 216 for correction of a misnamed wife in a framed charge.

4. Issues : (i) Whether the divorce petition's earlier filing, the time of the FIR and the couple's civil dispute made the Kareli criminal case a retaliatory counterblast requiring quashing, or whether reconciliation and separate civil/criminal processes prevented that inference.

(ii) Whether civil and criminal findings automatically bind one another, in light of distinct burdens and Evidence Act Sections 40–43's qualified relevance and conclusiveness rules.

(iii) Whether a divorce proceeding's returned service report conclusively disproved the wife's claimed Kareli residence at the Section 482 stage.

(iv) Whether Section 498-A mental cruelty could continue where the wife allegedly sheltered with parents at Kareli, and whether the alleged location plus the revisional court's ₹5 lakh transfer finding supported local police investigation.

(v) Whether the complainant's father's practice as an advocate at Narsinghpur established mala fides despite the allegations disclosing a cognizable offence when taken at face value; and whether an objection based only on the receiving station's territorial jurisdiction invalidated the FIR or required transfer if necessary.

(vi) Whether the allegedly incorrect name for the wife in the charge required quashing of the charges or an application for correction under the charge-alteration provision.

5. Ratio / Findings : The Court applied *Pratibha* to the claim that the FIR was a counterblast to the divorce petition. A complainant may delay lodging an FIR while attempting marital reconciliation and report after the husband's divorce petition ends the hope of restoring the marriage; that chronology alone did not establish bad faith. Civil and criminal proceedings may arise from the same facts without the civil case bringing the criminal case to an end. The Court did not make a final factual finding about all the reasons for this wife's delay in reporting, but found no basis for quashing on the ground advanced by the applicants.

The Court separately invoked *Kishan Singh*, *Syed Askari* and *Prem Raj*. Findings of fact in one forum do not automatically bind the other because the civil and criminal standards of proof and evidentiary records differ. The quoted authorities permit limited relevance of final judgments under Sections 40–43, subject to Section 41's special rule of conclusiveness and an assessment of their effect in each case. The categorical proposition in *Karam Chand* that civil findings bind criminal courts was not treated as controlling. The Constitution Bench decisions in *M.S. Sheriff* and *Iqbal Singh Marwah* permit independent adjudication, and precedence for criminal proceedings is not inflexible. No particular final civil finding or objection to admissibility was decided here.

The process-server's report in the divorce case stated that the wife lived with her in-laws in Indore, although the applicants themselves denied that assertion. Her actual residence could be proved only at trial. The Court therefore declined to try those disputed facts under Section 482 on the basis of this inconsistent report. It proceeded on the complaint's asserted Kareli residence only for the preliminary territorial inquiry.

Under *Rupali Devi*, Section 498-A cruelty may include continuing mental trauma at the wife's parental shelter even after physical acts at the matrimonial home have ceased. The High Court also cited *Amar Singh*. If she lived in Kareli as claimed, the continuing effect connected the offence with that locality. The revisional court's finding that ₹5 lakh had been transferred from Kareli provided a second connection. This answered the applicants' territorial objection at the FIR stage without finally proving either the offence or the wife's residence.

No explanation linked the father's local legal practice to a false FIR. Following *Renu Kumari*, *R.P. Kapur* and *Bhajan Lal*, the Court considered the FIR's allegations and declined to treat an unexplained assertion of motive as a ground for quashing where a cognizable offence appeared. Alleged mala fides of the informant were secondary in that setting; the cited categories continued to permit quashing for properly established exceptional abuse. Separately, an FIR may be lodged at any police station. If the receiving station concludes that it lacks territorial jurisdiction to investigate, it must transfer the FIR; initial receipt alone is not a ground for quashing.

The Court did not correct the actual charge itself, resolve a prejudice argument or adjudicate ultimate guilt. Having rejected every quashing ground, it found no case for inherent interference.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. FIR No. 1050/2023 at Kareli and the challenged charges were not quashed, and the earlier dismissal of the revision was not disturbed. The Court made no order staying or deciding the divorce case, determining the wife's residence, amending the name in the charge, transferring the FIR or finally deciding whether the cruelty and dowry allegations were true. The applicants remained free to seek correction of the charge under the provision identified by the Court.

Tamish Saluja and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 16003/2024, 16/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (402) Prev Next

Headnote :- Section 125 CrPC / final quantum / salary deductions - In cross-revisions challenging a final Family Court award of ₹5,000 monthly to the wife and ₹4,000 to the child, the husband produced salary slips for the first time. Only mandatory deductions could reduce the take-home pay assessed

for maintenance; voluntary provident-fund contributions, mess, club, insurance and similar deductions chosen by the husband could not. The January 2021 gross salary of ₹31,942, less ₹1,757 for mandatory provident fund and ₹42 for house rent, yielded ₹30,143, rather than the ₹20,000 asserted by the husband. The August 2017 and January 2021 deduction tables were examined. The Court used the corrected income to assess maintenance for each beneficiary separately.

Minor child / independent needs / enhancement - A daughter's maintenance must account for schooling, uniform, nutritious food, clothing and normal diet. The Court considered the husband's monthly mess recovery of ₹3,547 and found the child's award of ₹4,000 low. *Guided by Rajnesh v. Neha*, Criminal Appeal 730/2020, decided 4 November 2020, on means, status and inflation, it enhanced the daughter's award to ₹7,500 monthly. The comparison was based on the evidence in this case and did not establish a universal formula.

Wife / literacy versus actual income - The husband asserted that the wife was literate and could support herself, but did not claim that she actually earned. Literacy and possible earning capacity alone did not disqualify her. *Rajnesh v. Neha* rejects education or potential self-support as a complete answer to maintenance and excludes the wife's parental means when assessing how much the husband must pay; the able-bodied husband's actual resources and the spouses' standard of living remained material. Her award of ₹5,000 was increased to ₹7,500 monthly. The Court did not find that she was employed or unable to work because of a specified child-care responsibility.

Section 125 / social-justice interpretation / *Rajnesh* factors - *Sanjeev Kapoor v. Chandana Kapoor, (2020) 13 SCC 172*, quoted *Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188*, in support of a purposive interpretation of the continuing duty under Section 125 toward wife, child and parents in its social context. The High Court applied that perspective alongside the factors identified in *Rajnesh*: actual income, reasonable expenses, legally dependent persons, liabilities, status and inflation. It enhanced both final awards without deciding the distinct facts concerning wife status discussed in *Badshah*.

Cross-revisions / effective date / relief - The Family Court's order of 28 January 2017 was affirmed subject to enhancement. The Court made each increased monthly sum of ₹7,500 payable from its order of 17 March 2021, noting that the husband had sought time to argue only on 9 March 2021. It did not direct payment of the increase from the 2015 application. The husband's Revision 283/2017 was dismissed, and the wife and child's Revision 545/2017 was allowed.

Case-note :- ***1. Facts :*** Amit Nimodiya and Bharti Nimodiya married at Kota on 4 February 2010 and had a child. On 7 May 2015, the wife and child applied for maintenance under Section 125 CrPC in the Family Court at Sheopur. They alleged that the husband, a supervisor in an Aditya Birla Group cement factory, earned approximately ₹50,000 monthly, drank and beat the wife, demanded a car and ₹5 lakh with his family, and drove her to her parental home when she wanted to visit her ill father. These were their allegations. The husband denied demanding dowry, said that she was literate and could maintain herself and the child, asserted monthly take-home pay of roughly ₹20,000 and other responsibilities, and referred to her criminal complaints. After recording evidence, the Principal Judge found sufficient reason for separate residence and, on 28 January 2017, awarded ₹5,000 monthly to the wife and ₹4,000 to the child. No salary slip had been filed, so the Judge estimated his income at ₹30,000, while noting his admission of roughly ₹20,000 and the parties' status.

The husband challenged that final order as excessive in Criminal Revision 283/2017; the wife and daughter sought enhancement in Criminal Revision 545/2017. The High Court heard the revisions together. On 17 March 2021, it allowed the husband's I.A. 8974/2021 to place on record salary slips necessary to decide the income issue. The August 2017 slip showed income of ₹28,204 and deductions of ₹6,684. Its deduction table listed mandatory provident fund of ₹1,586, voluntary provident fund of ₹1,586, house rent recovery of ₹42 and other deductions including mess recovery of ₹715, club charges of ₹100, cable charges of ₹65, mediclaim of ₹1,888, mobile charges of ₹13, LIC of ₹552 and canteen charges of ₹137. The January 2021 slip showed gross income of ₹31,942. Its deduction table listed provident fund of ₹1,757, voluntary provident fund of ₹1,904, house rent of ₹42, mess recovery of ₹3,547, club charges of ₹100, cable charges of ₹146, mobile charges of ₹60, LIC of ₹552 and canteen charges of ₹30. The Court treated only ordinary provident fund and house rent recovery as

mandatory in these slips, calculating the monthly income available for maintenance as ₹31,942 - ₹1,757 - ₹42 = ₹30,143.

The Judge compared the husband's subsidised mess food expense with the daughter's allowance of ₹4,000 and considered her schooling, uniform, nutrition and clothing. The husband's objection based on the wife's literacy was rejected because the husband had not established her actual earnings. Each allowance was enhanced to ₹7,500 monthly from the date of the High Court's order.

2. Precedents — Considered : *Sanjeev Kapoor v. Chandana Kapoor and Others, (2020) 13 SCC 172*, was quoted on Section 125 as a continuing social-justice obligation toward wives, children and parents and on interpreting that legislation in its social context. It reproduced *Badshah v. Urmila Badshah Godse and Another, (2014) 1 SCC 188*, on purposive interpretation that advances dignity, equality and support for vulnerable claimants, rather than a mechanically adversarial approach. The quotation includes wider reasoning about gender justice, statutory adaptation and wife status. The High Court applied its approach to support obligations in determining maintenance, without deciding a separate dispute over whether Bharti qualified as a wife. It applied those authorities to the social-justice proposition.

Rajnesh v. Neha and Another, Supreme Court Criminal Appeal 730/2020, order of 4 November 2020, was explained by the Court: the wife's parents' finances do not determine the amount the husband must pay; education or potential self-support does not by itself defeat maintenance. The spouses' status, the payer's capacity and actual income, reasonable personal expenses, legally dependent family members, liabilities, inflation and cost of living must inform an amount suited to the facts. The High Court applied these factors to the proved salary slips, the absence of established earnings by the wife, and the daughter's education and daily needs. It did not hold that every literate claimant receives a fixed fraction of gross pay or that liabilities are categorically irrelevant.

The trial court's finding on separate residence was recited; the High Court did not make a new determination of the underlying dowry allegations. The effective date of the enhancement was chosen on the basis of the recorded litigation conduct.

3. Statutes considered : Section 125 CrPC governed the final obligation of the husband and father toward the wife and minor daughter, whom the Family Court had found entitled to maintenance. Each beneficiary's needs and the payer's means were assessed separately. The High Court considered the provision's purpose of providing support and the evidentiary value of actual income, distinguished mandatory from voluntary payroll deductions, and considered financial capacity, status and living costs. It did not decide a marital-disqualification controversy under Section 125(4) on final evidence or an application for interim maintenance. Sections 397 and 401 CrPC provided the basis for the two revisions, in which the late salary records were admitted and the amounts modified; no general test for admitting evidence in revision was announced. No overlapping maintenance order under another statute required an offset in this case.

4. Issues : (i) On the new salary slips, what income was available for assessment of final maintenance under Section 125: could voluntary deductions reduce it, and were the Family Court's awards to the wife and child excessive or too low?

(ii) Did the wife's literacy, without proof of earnings, disqualify her, and how did Section 125's social-justice purpose and the status, means, dependants and inflation factors in *Rajnesh* affect the separate final amounts for her and the child?

(iii) From what date would the increase take effect in the two cross-revisions, and how would the husband's challenge and the wife and child's enhancement request be disposed of? The Court did not retry the cruelty allegations or decide a separate statutory offset.

5. Ratio / Findings : The salary slips filed for the first time in revision displaced reliance on the husband's assertion of a low net salary. The Court stated that only mandatory and statutory deductions should reduce the take-home salary assessed for maintenance; voluntary deductions should not. In the detailed slips, it treated ordinary provident fund and house rent of ₹42 as mandatory, excluding additional voluntary provident fund and optional benefits and recoveries. From the January 2021 gross salary of ₹31,942, the Court subtracted ₹1,757 and ₹42, leaving ₹30,143. The August 2017 slip, showing income of ₹28,204 and deductions of ₹6,684, provided a historical comparison. The Court did not assess the future value of voluntary savings as separate property or decide a tax deduction absent from these figures.

The Court considered the January mess deduction of ₹3,547 for the husband's food and held that the daughter's original allowance of ₹4,000 was low when education, uniform, nutrition, clothes and ordinary food were taken into account. The daughter had an independent entitlement, and her award was raised to ₹7,500. The husband's objection based on the wife's literacy failed: education does not establish sufficient present earnings, and he did not claim that she actually earned. The employed, able-bodied husband owed support to his wife and child commensurate with his means and their status. The wife's award also rose from ₹5,000 to ₹7,500. These figures were not dictated by an arithmetic formula alone.

The reasoning in *Badshah*, quoted through *Sanjeev Kapoor*, reinforced a purposive reading of the continuing obligation under Section 125 in its social context. *Rajnesh* supplied the specific factors for determining the amount: actual income and capacity to pay, reasonable expenses, legally dependent persons and liabilities, standard of living, inflation and cost of living. The Court weighed the salary slips and the child's concrete expenses and declined to equate the wife's literacy with earnings. It did not treat the Family Court's earlier income estimate as conclusive new proof or make a final appellate determination of the original accusations of dowry violence.

In deciding when the enhancement would take effect, the Court noted from the order sheets that the husband had sought time to argue only on 9 March 2021. The High Court expressly directed payment of the enhanced amounts from its own order of 17 March 2021. The increase therefore operated prospectively from that order, rather than from the 2015 application or the 2017 Family Court judgment; the original awards remained affirmed subject to that modification. The reasoning was confined to the recorded procedural history and did not establish a rule denying maintenance from the application date in other cases.

6. Relief : The Hon'ble High Court dismissed the husband's criminal revision and allowed the wife and daughter's criminal revision. The order of the Principal Judge, Family Court, Sheopur, dated 28 January 2017 in Miscellaneous Case 1300076/2015 was affirmed subject to increasing the wife's monthly award from ₹5,000 and the daughter's from ₹4,000 to ₹7,500 each. The increased amounts were payable from the date of the High Court's order. The judgment made no separate offset, granted no retrospective increase from 7 May 2015, and made no ruling on the criminal allegations against the husband.

Amit Nimodiya v. Bharti Nimodiya and Another, Cr.R. no. 283/2017 & 545/2017, 17/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (403) Prev Next

Headnote :- Section 319 CrPC / evidentiary threshold / review of additional-accused summons - Ajay Khemariya and Rinku Jain were named in a promptly lodged FIR but omitted from the charge sheet after the police accepted an account that they had attended a seminar. Following the complainant's evidence in court, the JMFC added them as accused. *Jogendra Yadav v. State of Bihar, (2015) 9 SCC 244*, places Section 319 on a higher evidentiary footing than the ordinary prima facie assessment for discharge under Section 227. A newly added accused cannot undo the summons merely by seeking discharge on that lower assessment, although an improper summons may be challenged through an available remedy. *Michael Machado v. CBI, (2000) 3 SCC 262*, requires reasonable satisfaction from the evidence that another person committed an offence for which that person could be tried with the existing accused; mere doubt is insufficient. The High Court found sufficient material in the specific FIR, the complainant's evidence, injuries and supporting witnesses, without making a final finding of guilt.

Section 319 / judicial discretion / fresh-trial cost - *Michael Machado* further explains that the power to proceed against another person is discretionary and must be exercised in the interests of criminal justice. The court must consider the stage reached, the amount of evidence, the requirement under Section 319(4) to begin afresh and re-examine witnesses, and a reasonable prospect of conviction. The High Court reproduced that caution and declined to interfere with summoning on this record. It held that sufficient material was available to summon the applicants, while confining its evidentiary observations to the Section 319 stage.

Section 319 / prior notice / omitted police-report suspect - *Anju Chaudhary v. State of U.P., (2013) 6 SCC 384*, expressly states that a person placed in the second column of a police report, or not named as an accused, may be summoned under Section 319

without a hearing before summons. The High Court rejected the applicants' demand for a show-cause notice while recognising a later remedy against unlawful summoning. The extended discussion in *Anju Chaudhary* of Section 154 and the stage before an FIR, including *W.N. Chadha* and *Samaj Parivartan*, formed the quoted context; no independent FIR issue arose in this case.

Section 319 / examination-in-chief / defence in fresh trial - *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92,* treats a witness's completed examination-in-chief as evidence from which the court may assess complicity without waiting for cross-examination. It rejects a compulsory mini-trial before addition because Section 319(4) provides a fresh trial with full rights of cross-examination and defence. The High Court applied that rule to reject the applicants' objection to the timing of summons. The quoted discussion in *Hardeep Singh* of Section 193 and inquiry did not alter the basis for the present exercise of power at trial.

Section 319 / competing alibi and medical opinion / limited finding - The applicants' account before the police that they were at Hotel Sunrise lacked documentary support for an invitation, attendance, publication and the asserted correspondent role; the supporting statements were untested. The doctor said that the knife injury could be self-inflicted, but the MLC, the specific and prompt FIR, Chhotu and Virendra's accounts, and a cross-FIR indicating that some incident had occurred provided material for summoning. Neither FIR's truth nor the alibi was finally determined. The Section 482 petition failed, and the trial court must decide guilt independently.

Case-note :- ***1. Facts :*** Kamaljeet Singh Gill, who was engaged in property business in Priyadarshini Colony, alleged an assault connected with an adjoining plot. At about 12:30 p.m. on 9 February 2013, he reported an incident at about 11:30 a.m. involving Ajay Khemariya, co-accused Gabbar Singh Parihar, Rinku Jain and others. He attributed a knife blow to his left hand/forearm to Ajay, fists and blows to Rinku, and a lathi assault to Gabbar, along with abuse, threats and a demand to hand over the plot. Virendra Kashyap and Chhotu Rajak allegedly intervened. Crime No. 102/2013 was registered for IPC Sections 294, 323, 324, 506B and 34. These were allegations, not findings of guilt. The MLC recorded a dressed, muscle-deep incised wound measuring 6 cm by 1 cm at the left mid-forearm; abrasions and contusions involving the knee, forehead, tongue and cheek; complaints of pain at the eye, lower back and teeth; and injuries less than 24 hours old. In response to a specific query, the doctor opined that the first injury could be self-inflicted. This was a possibility, not a conclusive account of how the injury occurred.

During investigation, Chhotu attributed the knife wound to Ajay and facial blows to Rinku. Virendra described intervening in an assault and relayed the complainant's identification of Ajay and Rinku; this was distinct from directly observing each blow. On 20 February 2013, Rinku applied to the SDO(P), stating that he was a Jagran correspondent and that he and Ajay had covered a police seminar on 'Sensitive Working Culture for Women' at Hotel Sunrise on 9 February, with other invitees. The police recorded statements from persons who said that the seminar ran from 10 a.m. until 4 p.m. and that the applicants attended throughout. Relying on that alibi account, the police filed a charge sheet against Gabbar alone. The Court noted that the SDO(P) application was not accompanied by any newspaper publication, invitation or attendance document establishing the applicants' claimed presence. The application did not specify Ajay's own claimed correspondent affiliation.

After Gill testified before the JMFC, he applied under Section 319 CrPC to add Ajay and Rinku as accused. On 21 May 2015, the JMFC relied on his FIR, police statement and court evidence, described prima facie involvement and issued bailable warrants. The Additional Sessions Judge/Special Judge dismissed Criminal Revision No. 136/2015 on 30 November 2015, holding that cross-examination need not precede action under Section 319. In MCRC No. 693/2016, the applicants invoked Section 482 against both orders. They sought a test requiring evidence sufficient for conviction, completion of cross-examination, notice before summons, and acceptance of their Hotel Sunrise alibi and the doctor's possible self-infliction opinion. The respondents opposed, submitting that no advance hearing was prescribed and that the competing defence had to be considered at trial.

2. Precedents — Considered : *Jogendra Yadav and Others v. State of Bihar and Another, (2015) 9 SCC 244,* was invoked by the applicants in support of a prior hearing, but the quoted Supreme Court passage concerns the relationship between Sections 319 and 227. It states that addition under Section 319 rests on a higher evidentiary footing than the mere prima

facie assessment for discharge. Permitting the same court later to undo the addition by discharging the accused under Section 227 on that lower assessment would defeat the earlier exercise. The passage preserves a summoned person's legal remedy against an illegal or improper order under Section 319. The High Court considered that remedy alongside *Anju Chaudhary* in rejecting a prior hearing. The cited passage establishes neither the advance notice sought by the applicants nor a final adjudication of guilt.

Anju Chaudhary v. State of Uttar Pradesh and Another, (2013) 6 SCC 384, was quoted at length, with its paragraphs 30–34 reproduced. Its discussion of the duty under Section 154 CrPC, fair investigation and the usual absence of a hearing for a suspect before registration of an FIR included citations to *State of U.P. v. Bhagwant Kishore Joshi, AIR 1964 SC 221, Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260*, and *Samaj Parivartan Samuday v. State of Karnataka, (2012) 7 SCC 407*. The directly relevant paragraph 34 of *Anju Chaudhary* states that, even after a police report under Section 173(2), a person placed in column two or not named as an accused may be summoned under Section 319 without a hearing at that stage. The High Court expressly applied that proposition, together with the availability of a later legal remedy, to reject the show-cause notice sought by Ajay and Rinku.

Brindavan Das and Others v. State of West Bengal, (2009) 3 SCC 329, was cited by counsel to urge great care and an evaluation of whether the evidence was sufficient to convict before summoning. The High Court did not reproduce, distinguish or analyse its ratio. Instead, it quoted *Michael Machado v. Central Bureau of Investigation and Another, (2000) 3 SCC 262*. *Michael Machado* requires reasonable satisfaction from evidence in an inquiry or trial that a person not yet arraigned has committed an offence for which that person could be tried with the existing accused; mere doubt about involvement is insufficient. Even when both elements are met, the word 'may' leaves the court with discretion. It must consider the overall circumstances, the stage reached, the amount of evidence, and the need under Section 319(4) to restart proceedings and re-examine witnesses. Where substantial trial work would have to be repeated, a reasonable prospect of conviction matters. The High Court used these principles to assess the prompt report, individual roles, medical findings, supporting witnesses and defence. It did not find guilt before trial or hold that every named suspect must be added.

Hardeep Singh v. State of Punjab and Others, (2014) 3 SCC 92, was quoted on examination-in-chief. In paragraphs 89–92, the Constitution Bench explains that recorded examination-in-chief is evidence, although it may be rebutted. The court may act under Section 319 without awaiting cross-examination, recording reasons for its satisfaction, and need not conduct a miniature trial into the proposed accused's overt act. The quoted passages refer to *Mohd. Shafi v. Mohd. Rafiq, (2007) 14 SCC 544*, and *Harbhajan Singh, (2009) 13 SCC 608*, as part of the Supreme Court's explanation; the High Court did not independently revisit those holdings. *Hardeep Singh* stressed that an added accused participates in a fresh trial under Section 319(4), with rights to cross-examine, lead defence evidence and argue. Requiring that person to cross-examine before being joined would therefore be incoherent. The quoted conclusions in paragraphs 117.1–117.3 separately discuss *Dharam Pal v. State of Haryana, (2014) 3 SCC 306*, on cognizance under Section 193 after committal without waiting for Section 319 evidence, and the scope of inquiry and corroborative material under Sections 200–202 and 398. Those passages provided context in the quotation, rather than a separate route under Section 193 in this Magistrate's trial. The High Court applied the examination-in-chief holding to reject a categorical requirement of prior cross-examination.

3. Statutes considered : Section 319 CrPC was the central power to proceed against a person not already arraigned as an accused when evidence emerging in an inquiry or trial indicated an offence for which that person could be tried with the existing accused. Subsection (4) requires proceedings concerning the added person to begin afresh and witnesses to be re-examined, allowing full participation in the defence. Section 227 appeared through *Jogendra Yadav* as the comparison with the lower prima facie assessment for discharge; no discharge application was before the Court in this Magistrate's case. Section 482 provided the High Court's inherent jurisdiction to examine the JMFC and revisional orders, without determining guilt or accepting an unproved alibi. The earlier criminal revision challenged the summons of May 2015. Sections 154, 156(3), 173(2), 193, 200–202, 299 and 398 CrPC appeared within the quoted Supreme Court passages as descriptions of other stages and examples; their general operation was not

separately adjudicated on these facts. IPC Sections 294, 323, 324, 506B and 34 were the alleged offences registered by the police; their ingredients were not independently interpreted.

4. Issues : (i) What evidentiary threshold and exercise of discretion permitted adding Ajay and Rinku under Section 319 despite their omission by the police: was mere suspicion enough, did conviction already have to be established, and what weight should be given to the fresh trial required and the competing material?

(ii) Were the applicants entitled to show-cause notice and a hearing before the Section 319 order, or did their remedies arise after it?

(iii) Must Gill's examination-in-chief first be tested in cross-examination before it can support Section 319, and how are the added accused's trial rights protected?

(iv) Did the seminar alibi presented to the police and the doctor's opinion that the injury could be self-inflicted make the existing evidence inadequate for addition or justify interference under Section 482, and what remained for the trial court? There was no final finding of innocence or guilt, determination of the rival FIRs' truth, or separate ruling on cognizance under Section 193.

5. Ratio / Findings : The High Court treated Section 319 as a special power exercised during trial, rather than a mechanism for automatic summons. The higher evidentiary footing than discharge described in *Jogendra Yadav*, and the two-part reasonable satisfaction, discretion and fresh-trial considerations in *Michael Machado*, explained why suspicion alone was insufficient. The Court identified support on this record: the main FIR lodged within about an hour, distinct alleged roles involving a knife wound and fists, MLC injuries including a forearm cut, and Chhotu and Virendra's accounts. Gill's testimony in court brought the suspects omitted by the police into the evidence before the trial court. The High Court held that sufficient material existed for summoning and expressly confined its observations to the Section 319 stage. It did not hold that the prosecution had already proved guilt beyond reasonable doubt or that the additional accused had to undergo a completed trial before Section 319 could be used. The need to restart evidence on each addition, emphasised in *Michael Machado*, remained relevant to discretion; the record here justified leaving the JMFC's exercise of power intact.

On notice, paragraph 34 of *Anju Chaudhary* directly answered the demand for a prior hearing: summoning under Section 319 of a person omitted from, or placed in column two of, the police report did not require such a hearing. The surrounding discussion of the stage before an FIR did not turn this trial application, made after the police report, into a Section 154 case. The High Court also noted that an aggrieved summoned person could pursue the legal remedy against an improper exercise of power. It therefore rejected the objection while preserving later procedural protection.

On the timing of witness evidence, *Hardeep Singh* treated completed examination-in-chief as evidence capable of supporting the court's reasoned satisfaction under Section 319 before cross-examination. No mini-trial was required before addition. The newly added person could cross-examine witnesses in fresh proceedings under subsection (4), produce defence material and address the court. The High Court therefore rejected the contention that Gill had to be cross-examined first; it did not hold that untested evidence was immune from later challenge. The quoted discussion of Section 193 and examples of inquiry remained part of the Supreme Court's explanatory context.

The claim that the applicants were at Hotel Sunrise was supported by statements recorded by the police, but lacked documentary confirmation of an invitation, Ajay's journalist role, Rinku's claimed role, a subsequent publication or both men's continuous attendance. Those statements had not been tested in cross-examination. The High Court held that the alibi required cogent evidence at trial and could not be accepted as decisive in this Section 482 challenge. The MLC doctor's opinion that the forearm injury could be self-inflicted did not conclusively disprove the knife allegation; that possibility and the actual manner of injury required evidence at trial. The cross-FIR attributed an altercation to the other side but supported only the limited inference that some incident had occurred. The Court accepted neither narrative as true. All comments on the evidence were expressly confined to whether Section 319 could be invoked, and the trial judge was directed to assess the complete trial record without being prejudiced by them.

6. Relief : The Hon'ble High Court dismissed the applicants' Section 482 petition. It left intact the JMFC's order of 21 May 2015 summoning Ajay and Rinku with bailable warrants and the revision

dismissal of 30 November 2015. Proceedings under Section 319 against the additional accused could continue with their rights to a fresh trial and defence. The alibi and competing account of the injury remained to be proved or tested at trial. The observations on available material were confined to that stage and could not prejudice the trial court's ultimate findings. No conviction, final acquittal, separate damages or costs order was made.

Ajay Khemariya and Others v. State of M.P. and Others, M.Cr.C. no. 693/2016, 08/12/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (404) Prev Next

Headnote :- Section 498-A quashing — The wife's FIR was lodged after the husband's divorce petition, but alleged repeated dowry demands, physical and mental abuse, and expulsion from the marital home. Delay while seeking reconciliation did not justify treating it as a counterblast. The parents-in-law's claimed separate residence was a disputed defence. Civil matrimonial litigation did not control the criminal proceedings, and compelling the wife to stay at her parental home was itself alleged to amount to cruelty. The petition was dismissed.

Case-note :- ***1. Facts :*** The wife married in 2014. She alleged that her husband and parents-in-law had demanded ₹20 lakh in addition to marriage gifts, beaten and threatened her, and driven her out of the matrimonial home in November 2019. She returned to her parental home. The husband had initiated restitution proceedings, which were later withdrawn, and filed for divorce in December 2021. She complained in May 2022. The parents-in-law sought quashing of the allegations under IPC Sections 498-A/506/34 and the Dowry Prohibition Act, describing the FIR as retaliatory. They claimed that they lived separately in Indore while the wife lived with her husband in Mumbai.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, rejected quashing merely for delay following failed reconciliation and divorce filing. *Kishan Singh v. Gurpal Singh, Syed Askari Hadi Ali Augustine Imam, Iqbal Singh Marwah and Prem Raj v. Poonamma Menon* addressed independent civil and criminal adjudication and limited relevance of prior judgments. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, addressed continued mental cruelty after ouster.

3. Statutes considered : IPC Sections 498-A, 506 and 34; Dowry Prohibition Act Sections 3–4; CrPC Section 482; Hindu Marriage Act Sections 9 and 13; Evidence Act Sections 40–43 in cited authorities.

4. Issues : Did filing after divorce show a malicious counterblast? Were specific allegations against parents-in-law negated by claimed separate residence? Did enforced stay at parental home support cruelty?

5. Ratio / Findings : At the quashing stage, the FIR's specific allegations of dowry demand and abuse were taken at face value. An abused spouse may delay reporting while trying to preserve the marriage; the divorce petition and the timing of the later FIR did not establish falsity. Matrimonial and criminal proceedings are independent. Findings in matrimonial proceedings are generally not binding in determining criminal liability, subject to the statutory rules on relevance. Claimed residence in another city was a disputed defence to be established by evidence. The alleged ouster because the dowry demand had not been met, and the compelled stay at the parental home, could cause continuing mental cruelty under *Rupali Devi*.

6. Relief : The Hon'ble High Court dismissed the Section 482 application, leaving the prosecution to continue.

Indu Parashar and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 55217/2023, 27/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (405) Prev Next

Headnote :- Train robbery — A passenger lost ₹97,000 and suffered a facial abrasion after confronting a pickpocket; one companion was apprehended at the station. The complainant had seen Insaf in jail before trial. In the absence of an independent incriminating recovery, that prior exposure made his later identification in court unsafe, and his appeal was allowed. No test identification parade was held, but its absence did not by itself invalidate credible identification of the remaining accused. The Court treated Banti's unexplained possession of ₹4,376 as possession of looted cash despite a mismatch in denominations. The remaining convictions under Sections 394/397 IPC and the seven-year terms were upheld.

Case-note :- ***1. Facts :*** Jitendra Rawat (PW2) was travelling in a general coach with ₹97,000. He

caught a person removing money from his pocket. The person's companions intervened, and a knife was pointed near his left eye. Balkrishna was apprehended at Ruthiayi; the police later arrested Insaf, Narendra Meena and Banti alias Girraj. Banti produced ₹4,376. PW2 identified the appellants in court, but admitted that he had met Balkrishna and seen Insaf in jail before trial. He also said that he had seen Banti at the time of the incident. Medical evidence recorded a facial abrasion. The trial court convicted all four under IPC Sections 394/397 and imposed seven years' rigorous imprisonment and a fine of ₹25,000. The three appeals were heard together.

2. Precedents — Considered : *S.K. Umar Ahmed Shaikh v. State of Maharashtra, (1998) 5 SCC 103*, held that showing suspects to witnesses beforehand deprived later identification of probative value; this was applied to Insaf. *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*, and *Prakash v. State of Karnataka, (2014) 12 SCC 133*, explain that identification in court is substantive evidence. A TIP ordinarily provides corroboration, but is neither mandatory nor a right of the accused. *State of Rajasthan v. Daud Khan, (2016) 2 SCC 607*, and *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, explain that the reliability and corroboration of dock identification depend on the facts. *Suraj Pal v. State of Haryana, (1995) 2 SCC 64*, explains the purpose of early identification of unknown suspects. *Dara Singh v. Republic of India, (2011) 2 SCC 490*, states that first-time dock identification of strangers generally calls for independent corroboration. The extended Supreme Court passages themselves refer to *Malkhansingh*, *Dana Yadav* and other identification cases. Those citations occur within the quoted reasoning.

3. Statutes considered : IPC Sections 394/397 (conviction), and Sections 379, 392, 120-B (investigation/charge sheet); CrPC Section 374 (appeals), Section 162 (within cited TIP authorities); Evidence Act Section 9 (within cited identification authorities).

4. Issues : Could Insaf's dock identification be relied on after prior exposure to the complainant? Did failure to hold a TIP defeat identification of the others? Was Banti's partial cash recovery probative despite different denominations from the complainant's account? Should the robbery convictions and sentences stand?

5. Ratio / Findings : PW2 had seen Insaf in jail before identifying him in court, and no incriminating article was recovered from him. His identity and guilt were therefore not proved beyond reasonable doubt. A TIP provides investigative corroboration; it is not substantive evidence or a mandatory condition for the admissibility of identification in court. The Court accepted the other identifications on the particular evidence. Balkrishna was apprehended at the scene. As to Banti, the Court accepted the seizure evidence and reasoned that stolen cash could have been spent or exchanged. It inferred that his unexplained possession of ₹4,376 was linked to the robbery despite the complainant's account of ₹1,000 denominations. The Court considered the train robbery sufficiently serious to retain the seven-year term.

6. Relief : The Hon'ble High Court allowed Insaf's criminal appeal, acquitted him and discharged his bail bonds. It dismissed the connected criminal appeals and affirmed the convictions and sentences of Narendra Meena, Balkrishna alias Rahul and Banti alias Girraj. Narendra Meena was directed to surrender. The appellants already in jail were directed to serve their sentences.

Insaf and Others v. State of Madhya Pradesh, Cr.A. no. 842/2014 & 913/2014 & 1025/2014, 05/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (406) Prev Next

Headnote :- Quashing under BNSS Section 528 — The wife alleged that her uncle-in-law repeatedly touched her intimately and threatened her to compel her to enter into an illicit relationship. The accused relied on his prior police complaint and the absence of this allegation from the parallel cruelty, maintenance and domestic violence proceedings. The allegations in the FIR disclosed offences under IPC Sections 354, 354-A and 506. The differences between the accounts in those proceedings and the alleged mala fides required evidence and an explanation from the complainant. The High Court declined to conduct a mini-trial and dismissed the quashing application.

Case-note :- ***1. Facts :*** Respondent 2 married in February 2024. Her uncle-in-law, Insaf, allegedly entered her room when she was alone about a month later, promised to secure employment for her, and touched her waist, breasts and body. She said that he repeated this conduct during his visits and, on 9 May,

threatened to spoil her life unless she entered into an illicit relationship with him. After she told her husband and mother-in-law, she was allegedly ousted from the matrimonial home. FIR Crime 274/2024 alleged offences under IPC Sections 354, 354-A and 506; RCT 766/2024 followed. Insaf sought quashing under BNSS Section 528, relying on his 10 May complaint to the Superintendent of Police, a later representation, and the absence of allegations of sexual touching from a separate dowry FIR and the maintenance and domestic violence proceedings.

2. Precedents — Considered : *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, set out the limits of the inquiry when quashing an FIR: the allegations must be taken at face value, without assessing their reliability or conducting a mini-trial. A series of Supreme Court cases listed in paragraph 8, including *XYZ v. State of Gujarat, State of Tamil Nadu v. S. Martin, Amit Kapoor v. Ramesh Chander* and *CBI v. Arvind Khanna*, reinforced the test of whether the uncontroverted allegations disclose an offence. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, held that the informant's alleged mala fides are of secondary importance where a cognizable offence is disclosed, and reproduced the quashing categories in *R.P. Kapur* and *Bhajan Lal*. The applicant cited *Naresh Aneja v. State of U.P. (2025) on* mens rea. The Court recorded that submission but declined to interfere in view of the limited scope of the quashing jurisdiction, leaving the allegations and the complainant's explanation to be examined at trial.

3. Statutes considered : BNSS Section 528 (inherent jurisdiction); IPC Sections 354, 354-A, 506 and 498-A (distinction from separate cruelty allegations); BNS Sections 85, 115(2), 3(5) in the parallel FIR; Dowry Prohibition Act Sections 3–4; Protection of Women from Domestic Violence Act Section 12; CrPC Section 482 in cited precedent.

4. Issues : Could a police representation made in anticipation of false implication, together with omissions in related matrimonial filings, justify quashing the sexual harassment FIR? Did the FIR disclose intentional conduct and cognizable offences? Could the High Court assess the complainant's credibility without evidence at trial?

5. Ratio / Findings : The FIR specifically described repeated intimate touching and a threat to compel an illicit relationship, all within three months of the marriage. Cruelty and outraging modesty concern different wrongs. The complainant might explain, during cross-examination, why she had not made allegations of sexual misconduct in the other proceedings. The accused's prior complaints and allegation of a malicious motive did not permit the Court to decide competing factual accounts under BNSS Section 528. The Court applied the Supreme Court's standard of restraint in quashing proceedings and declined to conduct a mini-trial. It made no final finding of guilt or credibility.

6. Relief : The Hon'ble High Court dismissed the application for quashing FIR Crime 274/2024 and RCT 766/2024; the criminal proceedings continue.

Insaf v. State of Madhya Pradesh and Others, M.Cr.C. no. 12477/2025, 29/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (407) Prev Next

Headnote :- Section 482 CrPC — The wife sought prosecution of her husband and his relatives for dowry cruelty, and of her husband under the Muslim Women (Protection of Rights on Marriage) Act, 2019. She alleged oral triple talaq, recurring demands, assaults and expulsion. The husband denied oral triple talaq and relied on a notice described as talaq-e-bain. Section 2(c) concerns the instantaneous and irrevocable effect of the divorce and extends beyond talaq-e-biddat to similar forms of talaq; the notice itself claimed that the divorce had already taken effect. These disputes, and the omissions in the maintenance pleadings, could not be adjudicated in a quashing application. The petition was dismissed.

Case-note :- ***1. Facts :*** The complainant married applicant 1 in December 2016 and alleged that he and his relatives demanded a car and ₹2 lakh, abused or assaulted her, and harassed her over the birth of a daughter. After earlier police complaints and reconciliation, she returned to the matrimonial home. She alleged further assault, her ouster on 7 May 2023, an assault by relatives on 16 June, and oral talaq-e-biddat pronounced by her husband in her mother's presence. A subsequent notice described the divorce as talaq-e-bain and claimed that it had already taken effect from 27 June 2023. The applicants sought quashing of a charge sheet and RCT 13490/2023 under IPC Sections 498-A/34, Dowry Prohibition Act Sections 3/4 and Section 4 of the 2019 Muslim Women Act. They disputed oral triple talaq and relied on omissions from the

maintenance pleadings and an earlier acquittal following a compromise.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337*, cautioned against a roving inquiry under Section 482. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686*; and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021, set out the limits on detailed appraisal of evidence at the quashing stage. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised a narrow exception permitting consideration of defence documents that are public documents or whose veracity is undisputed. Paragraph 24 lists further Supreme Court decisions stating the same general principle. The quoted authorities also refer to *Bhajan Lal* and other decisions.

3. Statutes considered : CrPC Sections 482 and 125; IPC Sections 498-A, 34 and 294 (the latter in a prior compromised case); Dowry Prohibition Act Sections 3–4; Muslim Women (Protection of Rights on Marriage) Act, 2019, Sections 2(c) and 4.

4. Issues : Did the allegation of oral triple talaq and a notice described as talaq-e-bain disclose a possible offence under the 2019 Act? Could inconsistencies and omissions in the allegations be resolved in favour of the accused under Section 482? Did the specific and repeated allegations of cruelty warrant trial?

5. Ratio / Findings : The Court did not finally decide whether oral triple talaq had occurred or the precise operation of talaq-e-bain. It held that Section 2(c) includes talaq-e-biddat and any similar form of divorce pronounced by a Muslim husband that has an instantaneous and irrevocable effect. Whatever the notice was called, it claimed that the divorce had already become operative and irrevocable, while the wife separately alleged oral talaq-e-biddat. The Court noted the handwritten alteration of the date and counsel's submission about the Iddat period, but read the notice as asserting an instantaneous and irrevocable divorce. The earlier complaints, compromised prosecution and renewed allegations provided a detailed account of continuing alleged dowry cruelty. The disputed defence assertions and omissions in the Section 125 application required evidence. Taken at face value, the allegations disclosed offences.

6. Relief : The Hon'ble High Court dismissed the quashing application; the charge sheet and RCT 13490/2023 continue.

Irfan Khan and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 52076/2023, 03/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (408) Prev Next

Headnote :- Criminal medical negligence and police inaction — A father attributed his daughter's death following caesarean surgery to connivance between the doctors and her husband's family, alleging dowry demands and hostility towards a female child. Applying *Jacob Mathew*, the High Court required a report from a Committee of Experts on medical negligence before criminal proceedings could be initiated against the doctors. It declined to direct registration of an FIR on an allegation of negligence alone. As regards the husband and parents-in-law, the applicant was directed to pursue the complaint remedy before the Magistrate. The application under Section 528 BNSS was dismissed with that liberty, without a finding on the merits of the allegations against the relatives.

Case-note :- ***1. Facts :*** The applicant said that his pregnant daughter died following caesarean surgery. She had allegedly told her mother that her husband and his parents demanded a Scorpio because her father had sold farmland, and that they opposed having a female child after an ultrasound. The father alleged that the relatives had connived with two doctors running a nursing home and ultrasound lab to perform an unnecessary operation. He complained that the police had taken no action. He invoked BNSS Section 528 seeking criminal proceedings against the doctors (respondents 3–4), her husband and her parents-in-law (respondents 5–7). The Court treated the relief sought as a direction to register an FIR.

2. Precedents — Considered : *Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*, set out the standard of gross negligence required for criminal liability and the safeguard of an independent opinion from a competent medical expert before proceeding against a doctor. *Kusum Sharma v. Batra Hospital, (2010) 3 SCC 480; Martin F. D'Souza v. Mohd. Ishfaq, (2009) 3 SCC 1; Malay Kumar Ganguly v. Dr. Sukumar Mukherjee, (2009) 9 SCC 221; S.K. Jhunjhunwala v. Dhanwanti Kaur, (2019) 2 SCC 282*; and *Kalyani Rajan v. Indraprastha Apollo Hospital (2023)*

reinforced the principles of reasonable professional care, gross negligence and examination by medical experts before proceedings. The order directly reproduced *Aleque Padamsee v. Union of India, (2007) 6 SCC 171; Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542; Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*; and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, on recourse to the Magistrate where the police fail to act. The High Court's Division Bench ruling in *Shweta Bhadauria* applied the principle of an alternative remedy, subject to the four *Whirlpool* exceptions referred to in the quoted holding.

3. Statutes considered : BNSS Sections 528 and 223; CrPC Sections 154(3), 156(3), 190 and 200 in quoted authorities; IPC Section 304-A in *Jacob Mathew*'s reproduced criminal-negligence test; Article 226 of the Constitution in cited writ cases. The order does not identify a specific charged offence against any respondent.

4. Issues : May the police be directed to prosecute doctors for alleged negligent surgery without an independent expert opinion? Is Section 528 an appropriate remedy for compelling registration of an FIR against the husband and parents-in-law when the police have taken no action?

5. Ratio / Findings : An adverse outcome does not establish criminal medical negligence. Under *Jacob Mathew*, the professional conduct must amount to gross negligence to attract criminal liability, and action against the doctors should be supported by an independent opinion from a competent medical expert. The Court held that no direction to register an FIR against respondents 3–4 could be given unless a Committee of Experts reported medical negligence on their part. The request concerning the family members arose from the police's failure to register an FIR. For that grievance, the cited Supreme Court decisions direct the informant to pursue the complaint or investigation remedy before the Magistrate. The Court did not decide whether a dowry offence or any collusion had occurred, and did not assess medical causation.

6. Relief : The Hon'ble High Court dismissed the application against the doctors and relatives. The applicant has liberty, if he so desires, to approach the Magistrate under CrPC Section 200/BNSS Section 223 in respect of respondents 5–7.

Jabar Singh Lodhi v. State of Madhya Pradesh and Others, M.Cr.C. no. 7802/2025, 22/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (409) Prev Next

Headnote :- Murder by unlawful assembly — A family feud culminated in an armed ambush of relatives travelling to court. Lakhan and 12-year-old Sonu were killed and mutilated, and Rambabu sustained gunshot injuries. The evidence of related witnesses required scrutiny, but their natural presence, the prompt FIR, the injured witness's testimony and the medical and ballistic evidence sustained the essential account. The recovery of a concealed severed head following prior disclosures by three accused was admissible despite the objection that the hill was accessible and that the recovery was joint. Minor differences in the acts attributed to individual accused and the failure of the alibis did not displace the proved common object. The convictions of the thirteen appellants under IPC Sections 302/149 and 307/149, and their concurrent sentences, were affirmed.

Case-note :- ***1. Facts :*** On 12 April 2006, relatives travelling to a court hearing were ambushed near Umarma following an earlier killing in a feud between the families. Lakhan and 12-year-old Sonu were shot and attacked with sharp weapons; Lakhan's head was taken away and Sonu's fingers were severed. Rambabu survived with pellet injuries. The FIR named the armed group, and the post-mortems established homicidal deaths. Separate disclosures by Teerath, Hemraj and Jagdish led the police to Lakhan's head, wrapped in a bag in the hill forest, which was recovered on 20 May 2006. The trial court acquitted six others but convicted the 13 appellants on two counts of murder and one count of attempted murder with Section 149, as well as rioting. Five consolidated appeals challenged witness bias, contradictions, gaps in the forensic evidence, recovery, attribution of individual acts and the rejection of alibis.

2. Precedents — Considered : *State of Maharashtra v. Bharat Fakira Dhiwar, (2002) 1 SCC 622; Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*; and *Kishore Bhadke v. State of Maharashtra, AIR 2017 SC 279*, supported the admissibility under Evidence Act Section 27 of discoveries of concealed objects at places accessible to others, and of a joint recovery following separate

disclosures made in quick succession. *Suresh Chandra Bahri* and *Bakshish Singh* addressed motive arising from animosity. *Mohd. Ishaque* and *Vijendra Singh* supported reliance on injured and related witnesses after careful scrutiny. *Bhagwan Jagannath Markad*, *(2016) 10 SCC 537*, and *Mahendran*, *(2019) 5 SCC 67*, explained common object under Section 149 and liability without proof of a blow by each member. *Motiram Padu Joshi*, *Rohtas* and *Sukhdev Yadav* addressed prompt FIRs, omissions of individual roles and ordinary discrepancies. *Krishna Gope* addressed non-recovery of a weapon. *Shakila Abdul Gafar Khan* rejected automatic rejection of the whole testimony merely because one part was false. *Vijay Pal*, *Sk. Sattar* and *Binay Kumar Singh* addressed alibi after the prosecution has proved presence at the scene. The quoted passages also refer to further authorities.

3. Statutes considered : IPC Section 141 (definition of unlawful assembly); Sections 147, 148, 302/149 and 307/149 (convictions), with Sections 341, 201 and 109 among investigation charges; Arms Act Sections 25/27, 25B and 30 in initial charges; Evidence Act Sections 25 and 27 (discovery) and Section 11 (alibi); CrPC Sections 174, 175 and 293 (investigation and FSL report).

4. Issues : Was the recovery of a concealed head admissible despite the objection that the hill was accessible and the recovery followed three disclosures? Could the evidence of related witnesses with prior enmity, together with a prompt FIR, establish participation despite variations in individual roles and the acquittal of some named persons? Did the conduct of at least five armed attackers establish a common object to murder and attempt murder? Did the alleged school alibis or the absence of blood on the weapons create reasonable doubt?

5. Ratio / Findings : The head, kept in a plastic bag in the forest, was not ordinarily visible. Accessibility to the public did not, by itself, invalidate a discovery; the Court also noted that this hill forest was not easily accessible to the general public. The three disclosure statements preceded the joint recovery. The Court examined the acts attributed to each appellant and the group's conduct, which were corroborated by the post-mortem and injury evidence. A fragment found at the scene fitted Teerath's gun, a fired cartridge matched that gun, and nitrate was found in the seized barrels. The pellets recovered from Rambabu were consistent with the firearms. The witnesses were naturally present while travelling to court, Rambabu was an injured witness, and the FIR was prompt. Prior enmity required scrutiny but also explained the motive of revenge. In an assault by a large group, minor variations in the descriptions of particular blows, and the absence of blood on weapons seized weeks later, did not negate the common object. Raghuvir was named in the FIR's list of accused, although his detailed role was omitted; an FIR need not describe every act. The defence witnesses concerning the school alibis did not reliably establish absence at the time of the attack. Failure to prove an alibi was not, by itself, treated as proof of the prosecution case. The Court found that all 13 appellants were members of the assembly acting in pursuit of the object of killing Lakhan and Sonu and attacking Rambabu.

6. Relief : The Hon'ble High Court dismissed all five appeals. It affirmed the convictions of Jagdish, Hemraj, Radheshyam, Satish, Randhir, Pritam, Jitendra, Ghasilal, Ramdayal, Rameshwar, Kamlesh, Raghuvir and Teerath, together with the sentences of life imprisonment and a ₹1,000 fine on each of the two Section 302/149 counts, seven years and a ₹700 fine under Section 307/149, and one year and a ₹500 fine under Sections 147/148, with default terms and concurrent substantive sentences. The appellants on bail were directed to surrender; those in jail were to serve the remainder of their sentences.

Jagdish and Others v. State of Madhya Pradesh, Cr.A. no. 464/2008 & 461/2008 & 462/2008 & 471/2008 & 526/2008, 03/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (410) Prev Next

Headnote :- Kidnapping for ransom and false prosecution — The three appellants, convicted in a case concerning an alleged forest abduction and a ₹10 lakh ransom, were acquitted. The appellants were not named in the initial report or telephone information. Govind, the first person released, was not promptly examined, and the ransom story emerged in a later statement. Forged memoranda, conflicting accounts of release and cash unconnected to the alleged ransom defeated the prosecution under Sections 364-A and 412. Framing a charge under Section 412 against Jagdish on the day of judgment, after final arguments had been heard, also caused prejudice. The Court ordered proceedings for giving

false evidence, a refund with interest and compensation under Article 21 of ₹1 lakh to Jagdish and ₹3 lakh each to Harnam and Harkanth.

Case-note :- ***1. Facts :*** Govind Singh, his son Vijay and Bablu were said to have been abducted in a forest after a religious gathering in February 2009. Govind allegedly returned after two days; the prosecution claimed that he then paid ₹10 lakh to secure the release of the other two. Harnam, a known forest-department worker, and Harkanth were convicted under IPC Section 364-A read with the MPDVPK Act and sentenced to life imprisonment. Jagdish was convicted under Section 412 after the alleged seizure of ₹1.90 lakh. The trial court itself described Harkanth's memoranda as forged. A charge under Section 412 was first framed against Jagdish on 11 March 2010, after final arguments had been heard on 5 March. Judgment was delivered on the same day as the charge was framed. The three appeals challenged the account of abduction and ransom, the identifications, the link between the cash and the alleged offence, and the fairness of the trial.

2. Precedents — Considered : *M.T. Mydeen v. Assistant Commissioner, Customs* (2021) was cited for the rule that evidence from a separately tried absconder's case could not be read in these appeals. *Dayal Singh v. State, AIR 2012 SC 3046*, addressed designedly defective investigation. *K.T.M.S. Mohd. v. Union of India and State (NCT of Delhi) v. Pankaj Chaudhary* addressed false evidence and the need to consider whether a court complaint was expedient in the interests of justice. *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, and *Amarsang Nathaji v. Hardik Harshadbhai Patel, (2017) 1 SCC 11*, held that a preliminary inquiry under Section 340 was optional where there was a sufficient prima facie record. No prior hearing was mandatory for the persons against whom prosecution was proposed, but their trial rights remained intact. *Ankush Maruti Shinde v. State of Maharashtra, (2019) 15 SCC 470*, supported the right to fair investigation under Articles 20–21. *Rudul Sah* and the other constitutional-compensation authorities, including *Hardeep Singh v. State of M.P. and Inhuman Conditions in 1382 Prisons*, supported public-law relief for grave violations of rights. The Court distinguished an ordinary acquittal from deliberate false prosecution.

3. Statutes considered : IPC Sections 364-A and 412; MPDVPK Act Sections 11/13; Evidence Act Sections 25–27 and 145; CrPC Sections 161, 195(1)(b), 299, 340 and 341, and Section 357 within cited compensation law; Constitution Articles 20 and 21.

4. Issues : Were abduction, ransom demand/payment and the participation of Harnam and Harkanth proved? Did Jagdish's alleged cash recovery establish receipt of property connected to dacoity or ransom under Section 412, and was the late addition of that charge fair? Did fabricated evidence require a complaint under Section 340? Did deliberate false implication and years of detention justify constitutional compensation and restoration of the seized money?

5. Ratio / Findings : The earliest FIR omitted the appellants' names, and the first telephone report named others. Although Govind was available on 26 February, he was not examined until 6 March. The prosecution did not prove the source of the supposed ₹10 lakh demand, the source of the money, or the place or method of payment; the alleged lenders were unidentified. Bablu said that he and Vijay had escaped, which contradicted the later account of payment followed by release. The ransom assertion first appeared in a supplementary statement dated 21 April, more than 45 days after their return. The alleged signatures on currency notes were not mentioned in the contemporaneous seizure memos, and the witnesses disagreed on the denominations. Harkanth's police memoranda had already been found to be fabricated, and Jagdish's confession could not independently prove the crime. Neither the ₹25,000 nor the ₹1.90 lakh was shown to be part of the ransom, and framing the new charge under Section 412 on the day of judgment prejudiced Jagdish. The Court found that the entire case had been concocted and that all three appellants had been deliberately falsely implicated. It formed the opinion that prosecution for giving false evidence was expedient, without a further preliminary inquiry or a hearing before the complaint was made. That direction did not itself determine the guilt of the persons against whom prosecution was proposed. Compensation was awarded because of the proved false implication for oblique motives and the resulting incarceration, rather than the acquittal alone.

6. Relief : The Hon'ble High Court has allowed all the appeals and set aside the convictions. Harnam and Harkanth were to be released if not required in another case; Jagdish's bail bonds were discharged. The trial court was directed to initiate proceedings for giving false evidence against Govind (PW1),

Vijay (PW2), Bablu (PW3), Charan Lal Uike (PW10) and Dilip Singh Yadav (PW11). ₹25,000 was to be refunded to Bhagwan Singh/Harkanth and ₹1.90 lakh to Jagdish, with 7.5% interest, subject to any appeal. Govind, to whom the money had earlier been released by an interim order, was directed to redeposit ₹1.90 lakh within three months of the judgment, with 7.5% interest from 24 April 2009 until actual redeposit. The State was directed to pay ₹1 lakh to Jagdish and ₹3 lakh each to Harnam and Harkanth within three months, with 7% interest if payment was late, and to recover the compensation in equal shares from the five identified witnesses/officers. The Superintendent of Police, Shivpuri, was directed to submit the compensation receipt to the Principal Registrar within four months of the judgment.

Jagdish and Others v. State of Madhya Pradesh, Cr.A. no. 233/2010 & 239/2010 & 281/2010, 09/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (411) Prev Next

Headnote :- Partial quashing of dowry cruelty case — The wife alleged a demand for ₹10 lakh and a car before marriage, entrustment of jewellery to four in-laws living in the same household, renewed demands and desertion. The FIR was lodged after her husband's divorce notice, but was within limitation and alleged continuing mental cruelty; neither the delay nor the timing established that it was a counterblast. Specific allegations of entrustment and non-return disclosed a prima facie case under IPC Section 406 against applicants 1–4, and the cruelty allegations also required trial. The sister-in-law and her husband, who lived separately, were linked only by assurances and general remarks made by telephone. The FIR, charge sheet and charges were quashed against those two applicants alone.

Case-note :- ***1. Facts :*** The complainant, a software engineer, married Kuldeep Parashar in March 2020. She alleged that applicants 1–4, who lived together in Lalitpur, insisted on ₹10 lakh and a large car, retained her ornaments for safekeeping with a promise to return them, and continued to press the car demand. Her husband allegedly abused her in Bangalore, locked her out and moved out with the household articles on 28 June 2020; she stayed with her parents. FIR 394/2021 was lodged on 22 May 2021 under IPC Sections 498-A, 506 and 406 and Dowry Prohibition Act Sections 3–4, after a divorce notice had been served in March. The accused invoked Section 482 to challenge the FIR, charge sheet, criminal case 559/2021 and the charges framed. Applicants 5–6, the married sister-in-law Priyanka Vajpayi and her husband Prashant, lived separately in Kanpur and allegedly assured her that the jewellery would be returned and made general remarks about a car and divorce by telephone.

2. Precedents — Considered : *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explained how mental cruelty persists after a woman is driven from her matrimonial home over dowry demands. *Skoda Auto Volkswagen*, *Ravinder Kumar* and *Mohammad Wajid* addressed why delay alone does not justify quashing an FIR. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, rejected the inference that a complaint was a counterblast merely because it followed a divorce petition after efforts at reconciliation. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, distinguished triable allegations against close relatives from the mere naming of distant relatives; its quoted passage referred to *Kans Raj* and *Kailash Chandra Agrawal*. The applicants relied on *Kans Raj*, *Monju Roy*, *Chandralekha*, *Geeta Mehrotra* and *Preeti Gupta* to challenge the omnibus allegations. The concerns addressed in those authorities were applied to applicants 5–6, rather than to the specific account against applicants 1–4. *State of Rajasthan v. Fatehkaran Mehdu and Soma Chakravarty* were cited by the complainant on the sufficiency of grave suspicion at the stage of framing charges.

3. Statutes considered : CrPC Sections 482 and 468 (three-year cognizance limitation discussed); IPC Sections 498-A, 506/506-II and 406; Dowry Prohibition Act Sections 3–4; Hindu Marriage Act Section 13 (husband's divorce petition).

4. Issues : Did the FIR's timing after desertion and the divorce notice bar or discredit the prosecution? Were the allegations sufficiently specific to disclose prima facie cruelty and breach of trust against the four relatives living in the same household? Did the same material support prosecution of the sister-in-law and her husband, who lived separately?

5. Ratio / Findings : The FIR was lodged within the period discussed for taking cognizance; delay alone could not determine the truth of the allegations. A woman may try to preserve her marriage before reporting abuse, and separation caused by dowry demands can result in continuing mental cruelty at

her parental home. Lodging the FIR after the divorce notice did not itself establish a malicious counterblast. Applicants 1–4 faced specific allegations of demands and of entrustment and non-return of ornaments during a short period of cohabitation. In that setting, the absence of exact dates for every act was not fatal at the threshold; the cruelty allegations and the offence under Section 406 required trial. Applicants 5–6 lived separately. They were not alleged to have received or retained the jewellery, and their alleged assurances and general response by telephone did not identify specific conduct sufficient to support the charged offences. The Court made no final finding of guilt against applicants 1–4.

6. Relief : The Hon'ble High Court has refused to quash the proceedings against Jagdish Parashar, Abhilasha Parashar, Anand Parashar and Anya alias Priyanka; their prosecution continues. FIR 394/2021, criminal case 559/2021 and the charges framed on 11 May 2022 were quashed insofar as Prashant Vajpayi and Priyanka Vajpayi were concerned.

Jagdish Parashar and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 40633/2021, 15/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (412) Prev Next

Headnote :- Cross-case homicide and private defence — Eight men armed with lathis intercepted two brothers on their way to court, causing Rajendra's death from a splenic injury and inflicting 14 injuries on Narendra. Rajendra's dehati nalishi and police statement became admissible as dying declarations. A counter-case alleged that Narendra had shot Roop Singh, but each case had to be decided on its own evidence; that injury alone did not establish that these appellants had acted in private defence. Their coordinated multiple blows proved a common object and ruled out reduction to culpable homicide on the ground of a sudden fight. The convictions under IPC Sections 148, 302/149 and 307/149 and the concurrent sentences were affirmed; the counter-appeal was reserved for a separate judgment.

Case-note :- ***1. Facts :*** On 19 December 2001, Rajendra and his brother Narendra, who was carrying a 12-bore gun, were on their way to court. Eight named appellants allegedly stopped them near the Dudhi river and struck them with lathis. Rajendra reported the attack in a dehati nalishi and a police statement, then died on 22 December; the post-mortem attributed his death to hypovolemic shock resulting from a splenic injury. Narendra had 14 injuries and Rajendra nine. The trial court convicted Jagdish Prasad, Komal, Vijay Singh, Roop Singh, Ghanshyam, Mohan Singh, Rishi Kumar and Arjun Singh of rioting, murder and attempted murder, the latter two offences read with Section 149. A cross-case registered as Crime 148/2001 alleged that Narendra had shot Roop Singh in the same encounter and resulted in a separate conviction and appeal; the three present appeals concerned only the eight appellants' convictions.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs*, Cr.A. 1306/2021, supported deciding cross-cases separately on their own evidence while hearing them together. *Pradeep Bisoi v. State of Odisha, (2019) 11 SCC 500*, held that a deceased person's account recorded under Section 161 was admissible as a dying declaration under Evidence Act Section 32(1), read with CrPC Section 162(2). In its extensive discussion, the Court considered Supreme Court law on murder and sudden fight under Section 300, including *Arjun v. State of Chhattisgarh (2017)*, and on common object under Section 149. *James Martin v. State of Kerala, (2004) 2 SCC 203*, explained that private defence must be assessed on the facts of each case and that an accused's unexplained injury does not invariably defeat the prosecution; *Lakshmi Singh* was discussed within that authority. *Baldev Singh v. State of Punjab, (2014) 12 SCC 473*, addressed when omissions in a statement under Section 161 are material.

3. Statutes considered : IPC Sections 148, 302/149 and 307/149 (convictions), Section 300 Exception 4 and Section 304 Part II (proposed reduction), private-defence provisions including Sections 102 and 105 in cited discussion; original FIR also invoked Sections 147, 341, 294, 323 and 506B. Evidence Act Section 32(1); CrPC Sections 161, 162(2) and 374.

4. Issues : Could the deceased's dehati nalishi and police statement prove the attack as dying declarations? Did the gunshot injury to Roop Singh in the counter-case establish that the eight appellants had acted in private defence, or require rejection of the prosecution case because that injury was unexplained? Was this a sudden fight warranting conviction under Section 304 Part II, and did the

armed group share a common object under Section 149 despite the absence of an individual assignment of each blow?

5. Ratio / Findings : Rajendra's statements described the transaction that caused his death and named the eight attackers; the restriction in Section 162 did not exclude a dying declaration admissible under Section 32(1). The injured witness Narendra gave a consistent account supported by the medical evidence and the recovered lathis, notwithstanding a hostile eyewitness. The counter FIR established that the scene was the same, but evidence from that case could not be imported wholesale into these appeals. The Court found that the appellants were the aggressors: eight men arrived armed with lathis, intercepted two men and inflicted 23 injuries. It did not decide the separate cross-appeal and observed that the single gunshot might have been fired in self-defence. Even if the appellants' plea of private defence were accepted, the repeated blows exceeded the permissible force. The organised assault was not a sudden, unpremeditated fight, and the fatal splenic injury was attributable to the attack; the proposed reduction to Section 304 Part II was rejected. The appellants' conduct, weapons and concerted attack proved the unlawful assembly's common object to kill/attempt to kill. Roop Singh's unexplained gunshot injury did not automatically discredit the prosecution in this case.

6. Relief : The Hon'ble High Court has dismissed the three appeals. It affirmed life imprisonment and a fine of ₹1,000 under IPC Sections 302/149, seven years' imprisonment and a fine of ₹500 under Sections 307/149, and three years' imprisonment and a fine of ₹500 under Section 148, with the stated default terms and concurrent substantive sentences. Jagdish Prasad was directed to serve the balance of his sentence in jail. The seven appellants on bail were directed to surrender forthwith before the trial court to serve their remaining sentences, failing which the trial court could issue arrest warrants. Narendra's counter-case appeal, CRA 2301/2005, was to be decided separately.

Jagdish Prasad and Others v. State of Madhya Pradesh, Cr.A. no. 2360/2005 & 2405/2005 & 30/2006, 16/10/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (413) Prev Next

Headnote :- Anticipatory bail in gang-rape prosecution — Although the police initially filed a closure report after a long investigation, the Magistrate rejected it and took cognizance; the High Court had already upheld that subsequent order. The applicant could not rely on the rejected police opinion, particularly in view of the alleged evasion of arrest when officers went to the house where he had taken shelter. The Court criticised the undue favour shown by the police and drew the DGP's attention to recurring uninterpretable Y-chromosome results, without determining their laboratory cause or treating the DNA material as conclusive proof of guilt. The risk of pressure on witnesses supported refusal of pre-arrest bail.

Case-note :- ***1. Facts :*** Jagdish Prasad Dixit apprehended arrest in Crime 256/2019 under IPC Sections 376-D, 294, 506 and 34. Referring to the five years that had elapsed, he claimed to have cooperated with the police and supplied a blood sample. The police submitted a closure report stating that he had been falsely implicated. In April 2024, an earlier Magistrate's order directing the police to file a charge sheet was set aside under *Abhinandan Jha*. The Magistrate then reconsidered and rejected the closure report and took cognizance; the High Court dismissed the applicant's challenge to that order in July. The State reported that a co-accused had been arrested, proclamation and attachment proceedings were underway, and officers had found the house where Dixit had taken shelter locked. A worker later said that Dixit had been taken to a railway station. Dixit applied for anticipatory bail under BNSS Section 482/CrPC Section 438, as stated in the order.

2. Precedents — Considered : *Abhinandan Jha v. Dinesh Mishra, AIR 1968 SC 117*, governed the earlier decision setting aside the direction to the police to file a charge sheet; the later cognizance order, made after independent reconsideration of the closure report, remained upheld. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was cited for the proposition that the accused cannot control the investigation. The Court quoted its earlier order in *Hariom alias Chhotu Raikwar* (MCRC 45232/2021, 7 February 2022), which reproduced a DGP affidavit and inquiry concerning procurement at the Sagar DNA laboratory and contaminated kits. That material provided background for drawing the DGP's attention to the issue; it did not establish that this applicant's sample had been mishandled. Earlier

orders in the same litigation concerning the closure report and cognizance were also considered.

3. Statutes considered : BNSS Section 482/CrPC Section 438 (pre-arrest bail, as cited in the order); IPC Sections 376-D, 294, 506 and 34; CrPC Sections 82–83 (proclamation and attachment); Prevention of Corruption Act Section 7(a)(b) appears within the quoted earlier DGP inquiry, not as a charge in this case.

4. Issues : Could the police opinion in the closure report support pre-arrest bail after the report had been judicially rejected and cognizance taken? What weight should be given to the subsequent avoidance of arrest and the risk to witnesses? Did the report of low, uninterpretable Y-chromosomes settle the allegation, or did it require separate administrative attention?

5. Ratio / Findings : The initial unlawful direction to file a charge sheet had been corrected, but the subsequent independent rejection of the closure report and the taking of cognizance remained upheld. The Court found that the police had unduly accommodated the applicant despite his availability, and noted the allegations that he had escaped from a place of shelter when officers came. In view of the serious gang-rape accusation and the possibility of pressure on witnesses, anticipatory bail was unwarranted. The Court observed that reports of low, uninterpretable Y-chromosomes recurred across cases and drew the DGP's attention to the issue. It raised questions about possible equipment or analyst problems, without establishing either cause or making any conclusive forensic finding or finding of guilt against this applicant.

6. Relief : The Hon'ble High Court has dismissed the application for anticipatory bail. The DGP's attention was invited to recurring uninterpretable Y-chromosome results; no separate operative direction against laboratory staff was made in this order.

Jagdish Prasad Dixit v. State of Madhya Pradesh, M.Cr.C. no. 37350/2024, 17/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (414) Prev Next

Headnote :- POCSO age proof and Section 311 CrPC — The trial court convicted Jagdish of repeated rape and aggravated penetrative sexual assault and Bhanwarlal of kidnapping/abduction. To find that the prosecutrix was under 18, it relied on the parents' evidence and assumed two-year gaps between their five children. A Class VIII progress report showing her date of birth as 2 April 1997 was included in the charge sheet, but no Headmaster or teacher proved it. Where a material witness is essential to a just decision, the court must exercise its power under Section 311 despite the prosecution's omission. The convictions were set aside and the case remanded for evidence of the school record, a fresh age finding and a fresh judgment within six months.

Case-note :- ***1. Facts :*** The complainant reported his daughter missing on 14 May 2014; she was later recovered. Jagdish Singh and Bhanwarlal were prosecuted for kidnapping/abduction, with rape and POCSO charges against Jagdish. The trial court sentenced Jagdish to three and five years' imprisonment on the kidnapping/abduction counts and ten years' imprisonment on the rape and aggravated POCSO counts; Bhanwarlal received three and five years' imprisonment. The defence disputed proof that the prosecutrix was under 18 and relied on statements describing a voluntary departure and relationship. The prosecution had filed a photocopy of her Class VIII progress report showing her date of birth as 2 April 1997, but did not call its custodian or obtain ossification evidence. The trial court instead relied on the parents' testimony and assumed two-year gaps between their five children.

2. Precedents — Considered : *Natasha Singh v. CBI, (2013) 5 SCC 741*, explained the wide power under Section 311 to summon witnesses essential to a just decision at any stage of the trial. The power must be exercised judiciously, with an opportunity to rebut the evidence and without unfair prejudice. *Zahira Habibullah Sheikh (5) v. State of Gujarat, (2006) 3 SCC 374*, distinguished the discretionary first limb of Section 311 from the mandatory second limb where the evidence is essential to a just decision. Additional fair-trial cases appear as authorities within the quotation from *Natasha Singh*.

3. Statutes considered : IPC Sections 363/34, 366/34 and repeated-rape provision cited at charge as Section 376(2)(n); POCSO Act Sections 5(l) and 6; CrPC Sections 161, 311 and 374; Juvenile Justice (Care and Protection of Children) Rules, 2007, Rule 12, as used for age-document priority.

4. Issues : Could the prosecutrix's minority be determined from her parents' testimony and assumed intervals between siblings without proving an available school document? Should the trial court have summoned the school custodian under Section

311? What relief followed from the failure to resolve a fact foundational to the charged offences?

5. Ratio / Findings : The photocopy recorded a potentially decisive date, but it had not been formally proved by a teacher or Headmaster. Documents of the kinds specified in Rule 12, when available, should be tested before reliance is placed on oral age estimates; the assumed two-year gaps between siblings lacked a scientific basis. The court had the power, and where the evidence was essential, the duty under Section 311 to summon the custodian, even though the investigating officer and prosecutor had failed to list that witness. The convictions were set aside for a fresh finding on age. If the school records conclusively prove age, parental testimony may serve as corroboration; if documentary proof of age fails, the trial court may assess the father's evidence, including the "back to back" inference. The appellate court did not finally determine the prosecutrix's age or the consent defence.

6. Relief : The Hon'ble High Court has set aside the trial judgment and sentences. The case was remanded for examination of the teacher/Headmaster, a fresh determination of age and a fresh judgment within six months of receipt of the record. Bhanwarlal's appellate bail bonds were discharged. He was directed to appear before the trial court on 3 January 2022, failing which his trial bail bonds would automatically stand cancelled and the trial court was to issue an arrest warrant. Jagdish was to remain in custody pending the fresh judgment.

Jagdish Singh and Another v. State of Madhya Pradesh, Cr.A. no. 898/2017, 13/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (415) Prev Next

Headnote :- Inherent powers — FIR quashing during investigation — face-value test and limits of inquiry - The Court observed that where the complaint alleges specific acts constituting a prima facie criminal case, Section 482 CrPC does not permit a premature roving inquiry into the truth of disputed allegations or an assessment of the kind undertaken at trial. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, were applied to require restraint before investigation is complete. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, referring to *Bhajan Lal*, required the power to be exercised sparingly. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, and *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, recognised that quashing remains permissible where the allegations, taken at face value, disclose no offence. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021, prohibited resolving disputed facts through a mini-trial. The Court grouped *Munshiram, Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* as supporting the same restrained approach.

Inherent powers — defence material — public-document exception - *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, was considered for the limited exception permitting consideration of a public document or a document whose veracity the complainant does not dispute. It did not authorise accepting the husband's prior complaint or the applicants' disputed plea of separate residence as proved. Their Samagra IDs and the husband's disclosed address supported only a prima facie observation; the pleas that they lived separately and had no access were left for trial.

Matrimonial complaint — delay and asserted counterblast - Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that filing the FIR after a matrimonial petition and a prior police complaint did not, by reason of timing alone, establish mala fides. A wife's delay while attempting to preserve the marriage cannot automatically be treated as an afterthought; civil matrimonial proceedings do not themselves end criminal proceedings.

Cruelty allegations against relatives — particularity at quashing stage - Allegations that named relatives demanded additional dowry and participated in abuse, instigation or assault on identified dates were sufficiently specific to resist quashing as vague or omnibus. The dismissal expressed no final finding of guilt or truth of the disputed defence.

Case-note :- ***1. Facts :*** The complainant stated that she married Deepnarayan Pandey on 11 July 2016 and moved between her parental and matrimonial homes; she said the marital relationship proceeded without difficulty until 2020. Her complaint alleged that on 10 June 2021 her husband and his elder brothers, applicants 1 and 2, and applicant 2's wife, applicant 3, demanded a further ₹1,00,000 and a motorcycle. She said the husband abused and beat her when she explained that her parents could not

comply; the male applicants allegedly insulted her and instigated him to oust her, while applicant 3 also assaulted her. She claimed to have continued living there because of two young children. She further alleged that on 19 July 2023 the husband and applicant 3 abused, assaulted and threatened her, and the male applicants joined in abuse and instigation. She then contacted her parents, went with her brother, and thereafter resided at her parental home while, according to her, the children remained with the husband. She alleged continuing demands and threats against her return. An FIR, Crime No. 889/2023, was registered on 11 September 2023 at Police Station Rampur Naikain, Sidhi, for Sections 498-A, 294, 323, 506 and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. The three relatives, rather than the husband, brought MCrC No. 17374/2024 under Section 482 CrPC to quash that FIR and consequential proceedings as against them. Their counsel relied on the husband's police complaint of 20 July 2023 and the husband's petition for judicial separation under Section 10 of the Hindu Marriage Act, contending that the later FIR was a false counterblast. They later submitted that, although they lived in the same colony, they occupied a different house. The Court recorded Samagra IDs referring to Ward 13, Anuppur, and the husband's complaint also stating a Ward 13 address. These were competing assertions, not findings on the merits of the alleged offences.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337*, was quoted and applied to caution against a roving inquiry and premature quashing while serious accusations still require investigation; the quoted Supreme Court decision itself concerned allegations of blackmail and a disputed settlement. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, was quoted for the error of assessment before investigation is complete. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, quoted *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, for the recognised quashing categories together with the caution that the power must be exercised sparingly and cannot be used to test the reliability of the FIR at this stage. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, was quoted for the ordinary exclusion of disputed defence material and the limited exception concerning public or undisputed documents; *Yin Cheng Hsiung*, *Harshendra Kumar D.* and *Bhajan Lal* appeared within that quotation. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, was quoted on quashing where allegations taken at face value disclose no offence or a legal bar applies, and on restraint against prematurely bringing a legitimate prosecution to an end. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, reiterated that an FIR or uncontroverted material disclosing no offence may be quashed. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, was quoted to disapprove minute assessment of disputed defence facts in inherent jurisdiction. *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021, order dated 30 June 2021, was quoted against a meticulous trial-like evaluation and for the limited detail expected of an FIR. The Judge then identified *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, as laying down similar law. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was quoted and applied to the contention concerning a counterblast and delay: time spent seeking reconciliation and the existence of a matrimonial civil case cannot alone justify quashing a subsequent criminal FIR; the High Court must assess the allegations without deciding disputed extraneous matters.

3. Statutes considered : Section 482 CrPC provided for the High Court’s inherent jurisdiction and the limits on deciding facts at this stage. The FIR alleged Sections 498-A (matrimonial cruelty), 294 (obscene acts or words), 323 (hurt), 506 (criminal intimidation) and 34 (common intention) IPC, and Sections 3 and 4 of the Dowry Prohibition Act, 1961. The Court did not finally determine the separate ingredients of each offence; it assessed the pleaded participation and refused to stop investigation. Section 10 of the Hindu Marriage Act, 1955, governed the husband's civil judicial-separation petition, whose filing was relevant to the applicants' counterblast argument but supplied no bar to criminal investigation. No later BNS or BNSS provision was applied in the order.

4. Issues : (i) Whether an FIR that attributed a further dowry demand and dated acts of abuse, assault or instigation to each of the three relatives could be

quashed at the investigation stage as vague or insufficient. (ii) Whether the husband's earlier police complaint, his Section 10 matrimonial petition and the interval before the FIR established that the complaint was false and retaliatory, and whether that question could be decided under Section 482. (iii) Whether Samagra IDs and the claim that the applicants resided in another house permitted the High Court to decide residence or access as a defence without trial. The merits of the criminal charges and actual credibility of witnesses were not issues finally decided.

5. Ratio / Findings : The Court first set out the Supreme Court authorities distinguishing examination of allegations at face value from a roving inquiry into their truth. *XYZ* and *S. Martin* cautioned against premature intervention before investigation was complete; *Ajay Kumar Das* and its *Bhajan Lal* quotation demanded circumspection; *Gourishetty Mahesh* and *M. Srikanth* preserved quashing for allegations that, accepted in full, disclose no offence or meet a recognised bar. *CBI v. Arvind Khanna and Kunwar Singh* reinforced that minute weighing of a contested defence belongs to trial, while *Mohd. Akram Siddiqui* acknowledged a limited exception for reliable public or undisputed material. Applying these principles, the husband's police complaint could not be accepted as a true answer to the wife's allegations solely because it predated the FIR. Nor did the timing after his Section 10 petition prove that her report was a counterblast. *Pratibha* explained that efforts to preserve a marriage may account for a later complaint, and that civil matrimonial proceedings do not displace the independent criminal process. The Judge stated that a wife's decision to report after the possibility of reconciliation appeared to have ended cannot automatically be treated as an afterthought. The FIR alleged dates and concrete roles for the three applicants: a demand for money and a motorcycle, abuse and instigation by the two brothers-in-law, and assault or abusive conduct by the female applicant. These particulars defeated the claim that the allegations were purely general or omnibus at this preliminary stage. The Samagra IDs showed addresses in Ward 13, Anuppur; the husband's complaint also described a Ward 13 address. The Court made the qualified observation that, prima facie, they appeared to live in the same premises and left separate residence and lack of access to be proved by the applicants. Neither that observation nor refusal to quash establishes guilt, confirms every charged statutory ingredient, or prevents a trial court from evaluating the defence on evidence.

6. Relief : The Hon'ble High Court dismissed the relatives' Section 482 application. FIR Crime No. 889/2023 and its consequential proceedings were not quashed as against the three applicants. The order did not award costs, grant conditional relief or decide the criminal case on its merits; the applicants' separate-residence defence remains to be established in the proper proceeding.

Madhusunan Pandey and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 17374/2024, 01/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent jurisdiction — evidence appreciation at the quashing stage — oral account and peeli chitthi - The Court observed that the witnesses' statements repeating the allegations of an additional dowry demand could not be disbelieved under Section 482 CrPC merely because the accused said a seized Peeli Chitthi did not concern the engaged couple. The credibility of the invitation and the oral testimony was disputed and had to be determined by the trial court after recording evidence. It could not be decided by the High Court through a mini-trial. *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others* was quoted and applied to preserve that distinction.

Quashing standards — face-value allegations and recognised exceptions - *Neeharika*'s discussion of *R.P. Kapur*, *Bhajan Lal*, *Golconda Lingaswamy*, *Zandu Pharmaceutical Works*, *Sanapareddy Maheedhar Seshagiri*, *Arun Gulab Gawali* and *Satvinder Kaur* was considered for the restricted intervention standard: a legal bar, allegations disclosing no offence, a manifest absence of evidence or recognised abuse can justify quashing, whereas a disputed contradiction or a prediction of acquittal cannot. The quoted material also mentions *Kurukshetra University and State of Orissa v. Ujjal Kumar Burdhan on* premature interference. Here the High Court found the alleged conditional demands for cash, a car and gold, followed by cancellation of the marriage, sufficient for a prima facie Section 4 Dowry Prohibition Act case. The prosecution and trial were permitted to proceed, with evidentiary findings reserved.

Case-note :- ***1. Facts :*** The complainant stated that his daughter's engagement to applicant 4, said to hold a government job, took place on 16 June 2017 at Pavai Mata Temple. According to the FIR, an initial arrangement included ₹5,00,000, a Bullet motorcycle and household articles. The complainant described a God Bharai ceremony on 26 June 2017, exchanges of rings, clothes and ornaments, and payments of ₹51,000 and ₹2,100 to the other family. He said a proposed wedding date of 5 July 2018 was communicated through a Peeli Chitthi sent on 16 January 2018, but the applicants refused it and insisted on a Swift car, ten tolas of gold ornaments for the bride and ₹5,00,000 in cash, warning that applicant 4 would marry someone else otherwise. The complainant alleged that, when he could not meet the later demands, the marriage was broken and his daughter and family suffered social embarrassment. FIR Crime No. 54/2018 was registered at Police Station Gormi, District Bhind on 22 February 2018. The four applicants faced a pending prosecution under Section 4 of the Dowry Prohibition Act in RCT No. 290/2018 before the JMFC at Mehgaon. They petitioned the High Court under Section 482 CrPC to quash both the FIR and the pending proceedings. Their counsel accepted that witness statements repeated the FIR allegations but argued that the seized Peeli Chitthi, part of the charge-sheet, did not relate to applicant 4 and the complainant's daughter. Relying on that alleged contradiction, they urged the Court to disbelieve the oral accounts. The State opposed appraisal of the evidence under Section 482 and submitted that interference is available where even fully accepted allegations disclose no offence. The High Court identified the alleged conflict between the invitation and the testimony as the sole ground advanced; it recorded that the applicants did not say they remained ready to marry the complainant's daughter. These are the parties' positions, not final proof of the dowry demand.

2. Precedents — Considered : The applicants invoked *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra and Others*. The Judge reproduced substantial portions of that Supreme Court decision, especially its discussion of Section 482 CrPC and Article 226 standards, and applied its restraint against testing evidence reliability in the present quashing petition. *Neeharika* quoted *R.P. Kapur* for three recognised classes of intervention: an express legal bar; allegations that on their face fail to constitute the offence; and no legal evidence or evidence manifestly inconsistent with the charge. Its critical qualification is that this differs from evidence which may or may not support the accusation after credibility assessment. *Neeharika* cited *Kurukshetra University* for sparing use and the impropriety of stopping investigation before it begins, and reproduced *Bhajan Lal*'s illustrative categories including absence of an offence or cognizable offence, an express bar, inherent absurdity and demonstrable malicious prosecution; those categories are not a licence to decide contested proof. The quoted discussion of *Golconda Lingaswamy* explained the inherent jurisdiction's purposes—giving effect to Code orders, preventing abuse and securing justice—while distinguishing clear absence of evidence from contested reliability and warning against forecasting conviction. *Zandu Pharmaceutical Works* reiterated that the FIR or complaint is read as a whole and incomplete evidence is not weighed to stifle a legitimate prosecution. *Sanapareddy Maheedhar Seshagiri* emphasised societal interest in allowing investigation or trial when the complaint discloses a crime, subject to a genuine legal bar or abuse. *Arun Gulab Gawali* rejected quashing based simply on a predicted acquittal, including a complainant's apparent retreat, and identified investigation and the State's public interest in prosecution; the distinctive complainant-retreat facts were within *Neeharika*'s quotation, not facts decided in this case. *Neeharika* also referred to *State of Orissa v. Ujjal Kumar Burdhan for* reluctance to interfere prematurely and quoted *Satvinder Kaur* for the face-value FIR test and the normal course of allowing investigation. *Satvinder Kaur*'s discussion of territorial police jurisdiction and Sections 156(2) and 178(c) CrPC was reproduced within the longer quotation but was not an issue in *Mahavir Singh*. The quoted Supreme Court passages also referred to *Janata Dal*, *Raghubir Saran*, *State of W.B. v. Swapan Kumar Guha*, *Pratibha Rani*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar*, *Pepsi Foods*, *G. Sagar Suri* and *Ajay Mitra*. The Court applied *Neeharika* to hold that it could not choose between the disputed Peeli Chitthi and the witnesses' accounts at this procedural stage.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973, preserved the High Court's inherent power to prevent abuse and secure justice; the order concerned its limits in quashing an FIR and an existing trial. Section 4 of the Dowry

Prohibition Act, 1961, was the charge identified in the pending prosecution for alleged demands connected with a proposed marriage. The Judge did not finally construe its ingredients, decide the admissibility or weight of the Peeli Chitthi, or adjudicate guilt. Article 226, Section 561-A of the earlier Code, and CrPC Sections 155(2), 156(1), 156(2), 178(c), 227 and 320 appeared in the Supreme Court passages quoted through *Neeharika* to explain general quashing or other contexts; the present petition was decided under Section 482 and did not turn on territorial jurisdiction, discharge, compounding or an Article 226 prayer.

4. Issues : (i) Whether witness statements supporting the FIR could be rejected at the quashing stage because the seized Peeli Chitthi was said not to name or concern the proposed couple. (ii) Whether the FIR's allegation of additional conditional demands and cancellation of a proposed marriage disclosed a prima facie Section 4 Dowry Prohibition Act case so that the FIR and RCT prosecution should continue. The Court did not resolve the actual addressees or evidentiary value of the invitation, witness credibility, ultimate statutory liability, or any separate issue about territorial jurisdiction.

5. Ratio / Findings : The Court treated the contention that the invitation contradicted the oral statements as a request to weigh the evidence. Although the Peeli Chitthi was said to be seized with the charge-sheet, the asserted inference that it concerned another couple did not automatically disprove the complainant's allegation that the proposed marriage was broken because the complainant could not meet the additional demand. *Neeharika*'s review distinguished assessment of whether the allegations, taken at face value, disclose an offence from an inquiry into credibility, which belongs to the trial court. It also recognised exceptional intervention to prevent abuse. Its quoted *R.P. Kapur* and *Bhajan Lal* framework left intervention possible for a clear legal bar, non-disclosure of an offence on accepted allegations, manifest impossibility or established abuse; *Golconda Lingaswamy* and *Zandu Pharmaceutical Works* warned that disputed probabilities and uncertain evidence cannot be used to predict acquittal, while *Sanapareddy* and *Satvinder Kaur* stressed restraint where the allegations disclose a crime. *Arun Gulab Gawali* illustrated the risk of prematurely terminating a prosecution on assumptions about later proof. The High Court applied that common rule to hold that it could not determine whether the witnesses' account or the Peeli Chitthi should be believed or discarded. That choice must follow recording of evidence before the trial court. The petitioners had not argued that they remained ready to conduct the marriage, and the FIR alleged a prima facie dowry demand and cancellation when the demand was not met. Consequently the Court found no basis to quash the prosecution. This determination was confined to the preliminary question arising on these facts; it did not authenticate the document, decide every element of the charge, or pronounce on guilt.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC. FIR Crime No. 54/2018 registered at Police Station Gormi, District Bhind, and further proceedings in RCT No. 290/2018 before the JMFC, Mehgaon, were not quashed. The order imposed no conditions or costs and left the competing oral and documentary proof for the trial court.

Mahavir Singh and Ors. v. State of M.P. and Ors., M.Cr.C. no. 50855/2021, 09/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Prevention of Corruption Act — sanction — retired public servant and temporal operation of 2018 amendment - The Court observed that the amended Section 19 sanction requirement did not apply retrospectively to this corruption case registered in 2013, despite the applicant's retirement in 2016 and the Special Judge's rejection of the closure report in 2021. The Principal Bench decision in *Kavindra Kiyawat v. State of M.P.*, which considered *Katti Nagaseshanna v. State of Andhra Pradesh*, provided the basis for holding that the amendment was not retrospective and rejecting the sanction objection at the anticipatory-bail stage. The result concerns the temporal position of this case and does not remove the amended protection where it prospectively applies.

Investigation — scope beyond initial FIR - Applying *Kavindra Kiyawat*, the Court considered that an FIR need not set out every fact and an investigator may examine additional allegations or persons revealed in enquiry or investigation. The applicant's objection that he had answered the first two allegations and had not been heard on later

matters did not restrict the EOW's investigation to the initial complaint. The order left merits and evidentiary sufficiency for the appropriate proceedings.

Anticipatory bail — cognizance after closure report — warrant and summons submission - The applicant invoked *Inder Mohan Goswami v. State of Uttaranchal* to challenge direct issuance of an arrest warrant. The Court held that the choice between a warrant and summons made no material difference to this bail request: even if summons were issued, he would have to appear and seek regular bail. Taking the case diary, prima facie allegations and seriousness of the corruption accusation together, the Court refused pre-arrest bail. This was a case-specific disposition, not a broad approval of every direct warrant after cognizance.

Case-note :- ***1. Facts :*** Mahendra Kumar Dubey, a former Assistant Director in the Farmer Welfare and Agriculture Development Department, said he retired in 2016. He sought anticipatory bail under Section 438 CrPC in Crime No. 28/2013 at Police Station EOW, Bhopal, Unit Gwalior, involving Section 420 IPC and Sections 7, 13(1)(c), 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988; the order also records his submission that Section 120-B IPC appeared in the registered allegations. According to his counsel, he had answered two original allegations but investigators later considered additional matters without giving him a hearing. One concerned his residence in Gwalior while posted at Bhind, daily travel to the office and receipt of House Rent Allowance. Other material described alleged improper sanction of grants to persons in respect of land that had fallen in a submergence area. The EOW submitted a closure report. The Special Judge rejected it and took cognizance by order dated 29 January 2021, issuing an arrest warrant; the applicant said this order was separately under challenge. In seeking pre-arrest protection, he argued that the court should have issued summons and that the 2018 amendment to Section 19 of the Prevention of Corruption Act required sanction because he had retired and cognizance was taken in 2021. The EOW responded that an FIR is not exhaustive and investigation can extend to newly discovered facts without a suspect's prior hearing. The High Court read the case diary and the cognizance order. It recorded the investigating officer's view that the allegations against the applicant were prima facie established, a DPO opinion said to agree, a contrary view of the Assistant Inspector General (Crime) on the quality and sufficiency of the documents, and the investigating officer's final treatment of the travel allegation, which left the related HRA claim unexamined.

2. Precedents — Considered : *Kavindra Kiyawat v. State of M.P. through Special Police Department and Others*, W.P. No. 27734/2019, order dated 21 September 2020, was the Principal Bench decision the Judge used on both the 2018 amendment and the scope of investigation. Its quoted paragraph 25 discussed *Katti Nagaseshanna v. State of Andhra Pradesh*, Criminal Petition No. 9044/2018, order dated 16 November 2018, where the Telangana High Court reasoned that extending sanction to retired public servants imposed a new prosecutorial obligation and should not retrospectively undo prior prosecutions. The present Court adopted *Kavindra Kiyawat*'s conclusion that the amendment was not retrospective and applied it to the crime registered in 2013, notwithstanding later cognizance. *Kavindra Kiyawat*'s quoted paragraph 45 also stated that the FIR is not an encyclopedia and later discovered persons or facts may be investigated; the Judge included that principle in considering the applicant's complaint about added allegations. Counsel cited *the Supreme Court's Inder Mohan Goswami v. State of Uttaranchal and Others, (2007) 12 SCC 1*, for issuing summons instead of an immediate arrest warrant. The Court disposed of this submission at the bail stage by reasoning that summons too would require the applicant to appear and seek regular bail.

3. Statutes considered : Section 438 CrPC provided the jurisdiction to grant anticipatory bail. Sections 420 and 120-B IPC appeared in the recorded accusations or the applicant's account; the corruption case concerned Sections 7 and 13(1)(c), 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988. The material legal dispute concerned Section 19 of that Act as amended by the Prevention of Corruption (Amendment) Act, 2018, particularly its extension of sanction protection to a person who has ceased to hold the relevant public office. The Court treated the amendment as nonretrospective in the 2013 case. It did not decide whether the underlying corruption offences were proved, the exact scope of a different sanction provision, or the separate challenge to the cognizance order.

4. Issues : (i) Whether the 2018 Section 19 sanction amendment applied to a retired public servant when the corruption crime began in 2013 but the closure

report was rejected and cognizance taken in 2021. (ii) Whether investigators were restricted to the first two FIR allegations or had to hear the suspect before examining additional matters discovered during investigation. (iii) Whether the direct arrest warrant instead of summons altered the anticipatory-bail assessment, given a separate challenge to the cognizance order. (iv) Whether the case diary, prima facie corruption allegations and surrounding circumstances justified protection against arrest. The Court did not finally determine the merits of the prosecution or the separate cognizance challenge.

5. Ratio / Findings : On sanction, the Court followed *Kavindra Kiyawat* and its discussion of *Katti Nagaseshanna*: the 2018 change extending Section 19 to retired public servants imposed a new obligation and could not retrospectively govern the already registered 2013 case merely because the Special Judge acted in 2021. The applicant's 2016 retirement therefore did not establish the claimed sanction defect in this procedural setting. On investigation, the Judge quoted *Kavindra Kiyawat* that an FIR is not an encyclopedia; the EOW's investigation is not confined to the allegations initially answered by the suspect merely because further matters or persons come to light after registration. The case diary and the Special Judge's order described competing official assessments. One officer considered allegations prima facie established, the DPO was recorded as broadly agreeing that the allegations against this applicant were prima facie established, but not those against the other co-accused, and another official referred to poor documents and insufficient evidence. The investigator declined to pursue the applicant's travel between Gwalior and Bhind as such, while the allegation that he received HRA for that period had not been examined; the Judge also noted a grant-sanction allegation concerning submerged land. Those matters were considered in the bail context, not finally resolved as offences. Counsel's reliance on *Inder Mohan Goswami* to oppose immediate warrant issuance did not persuade the Court that anticipatory bail was warranted: it observed that a summons would still require him to appear and apply for regular bail. The merits of that separate cognizance challenge were not decided. Given the seriousness of the alleged corruption and the case diary as assessed at this stage, the Court declined pre-arrest protection. It did not formulate a general rule that corruption allegations automatically defeat anticipatory bail or that procedural objections to warrants can never be material.

6. Relief : The Hon'ble High Court dismissed the first application for anticipatory bail under Section 438 CrPC.

Mahendra Kumar Dubey v. Economic Offences Wing, Unit Gwalior, M.Cr.C. no. 14254/2021, 31/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Public distribution system / prosecution threshold - Clause 14(3) of the M.P. Public Distribution System (Control) Order, 2015 was read as making prosecution mandatory where stock variation exceeds ten per cent, without prohibiting prosecution below that level. The absence of a finding that the alleged shortage crossed ten per cent did not itself compel quashing under Section 482 CrPC. *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, was invoked for the limited point that a statutory regulatory regime does not, without a provision excluding it, prevent recourse to criminal proceedings; the Court did not determine the shortage percentage or guilt.

Essential Commodities Act / FIR informant - Applying *Jagdish Kushwah v. State of M.P.*, M.Cr.C. No. 2643/2011 (19 January 2017), the Court held that the Collector was not the only person who could set the police in motion on disclosure of a cognizable Essential Commodities Act offence. The earlier decision declined to add the word 'only' to the 2009 Control Order in conflict with Section 10-A of the Act; that reasoning defeated the Collector-only objection raised under the 2015 regime.

Defective investigation / cognizance - *H.N. Rishbud v. State of Delhi, AIR 1955 SC 196*, distinguishes an investigative illegality from a jurisdictional defect in cognizance or trial. Once the charge-sheet was filed, the alleged lack of investigative competence did not automatically nullify the proceedings; this rule remains subject to the Supreme Court's qualifications concerning early correction of a breach of a mandatory requirement and a demonstrated miscarriage of justice.

Investigation / accused's pre-audience - A suspect has no general entitlement to have a show-cause reply adjudicated or to be heard before registration of an FIR. *Romila Thapar v. Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki v.*

State of Gujarat, (2014) 4 SCC 626, were applied to reject an accused's asserted right to choose the investigating agency, control its methods or routinely demand a hearing before investigation. The stated rule does not determine any later evidentiary defence or a properly supported claim of mala fide investigation.

Case-note :- ***1. Facts :*** The applicants were the manager of Sewa Sahakari Samiti, Pipariya and the salesman at the fair price shop operated by that society. According to the complaint, the Naib Tahsildar and Junior Supply Officer initially found the shop closed. The salesman was called, and a physical inspection followed. The inspecting officials reported that the stock register was not produced, the notice board was absent, and physical stock was short by 42 kilograms of rice and 536 kilograms of gram. On the SDO (Revenue)'s written communication dated 13 May 2022, submitted by the Junior Supply Officer, Police Station Isagarh, District Ashoknagar registered Crime No. 179/2022 under Sections 3 and 7 of the Essential Commodities Act for alleged breaches of Clauses 10(3), 10(4), 11(1), 11(3), 11(9), 13(1), 13(2), 15(4) and 18 of the M.P. Public Distribution System (Control) Order, 2015. These inspection allegations were the basis of the accusation, not findings of guilt by the High Court.

The applicants stated that an SDO show-cause notice dated 9 May 2022 had been answered by denying all contraventions. They sought quashing of the FIR and ensuing proceedings under Section 482 CrPC. Their submissions were that the relevant Clause 14 threshold required a shortage exceeding ten per cent of monthly allocation for prosecution, yet no such percentage was found; that the SDO should have considered their defence and heard them before an FIR; and that only a report from the Collector could sustain a prosecution under the Control Order. The police had also filed a charge-sheet. The Court heard counsel for the applicants and considered the asserted exclusivity of the Collector's recommendation, the consequences of the completed investigation, the claimed pre-FIR hearing right and the ten-per-cent argument. The order identifies the applicants by their roles and in the cause title, but does not separately determine their individual culpability.

2. Precedents — Considered : *Jagdish Kushwah v. State of M.P.*, M.Cr.C. No. 2643/2011, order dated 19 January 2017 (Gwalior Bench), was used to answer the Collector-only objection. In construing Clause 11.5 of the earlier M.P. PDS (Control) Order, 2009, that decision reasoned that adding 'only' before the Collector would restrict the cognizable character given by Section 10-A of the Essential Commodities Act. It thus allowed the police to register an FIR on another person's complaint if that complaint discloses a cognizable offence. The present Court treated this interpretive reasoning as dispositive of the exclusivity argument advanced in the prosecution under the 2015 Order. The earlier decision concerned the 2009 Control Order; the current charges were under the 2015 Control Order.

H.N. Rishbud v. State of Delhi, AIR 1955 SC 196, was quoted at length. The Supreme Court distinguished defects in the collection of evidence by an investigating officer from provisions governing a court's competence to take cognizance or try a case. An invalid investigation is not, by itself, a jurisdictional nullity once a police report is before a competent court. At the conclusion of trial, an investigative illegality warrants interference only on a showing of miscarriage of justice. The quotation also explains that a breach of a mandatory investigative requirement brought before the court sufficiently early should be considered and, where appropriate, cured through suitable further investigation; an early objection bears on prejudice. The High Court used the authority to reject the claimed investigative-competence ground after filing of the charge-sheet, without finding that this investigation was in fact illegal or purporting to displace the Supreme Court's prejudice qualification.

Romila Thapar v. Union of India, (2018) 10 SCC 753, was relied upon regarding the suspect's lack of a right to be heard before investigation or to control it. The cited passage traces the rule that an accused cannot demand a particular investigating agency or dictate how investigation is conducted. It recognizes that a constitutional court may intervene under Article 226 on a substantiated case of mala fide investigation, while extraordinary transfer to the CBI demands caution and exceptional grounds. The discussion also distinguishes the investigation stage from the later opportunities to seek bail, discharge or quashing on a proper record. Within the *Romila Thapar* passage, *Narmada Bai v. State of Gujarat* and *Sanjiv Rajendra Bhatt v. Union of India* support the accused's inability to select an agency or dictate investigative method; *E. Sivakumar v. Union of India*

concerns absence of a routine accused hearing before a CBI-investigation order; *Divine Retreat Centre v. State of Kerala* identifies limits on changing an agency in inherent jurisdiction and the distinct constitutional response to proven mala fides; and *State of West Bengal v. Committee for Protection of Democratic Rights* cautions that constitutional transfer to the CBI is exceptional. Those authorities explain *Romila Thapar*'s reasoning as reproduced, rather than additional agency-transfer disputes decided on these applicants' facts. The present Court applied the ordinary no-pre-audience rule to the applicants' objection that their reply was not considered before registration of the FIR; it made no finding of established mala fides or ruling on a CBI transfer.

Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626, was then quoted on the same procedural issue. Its discussion of *Union of India v. W.N. Chadha, 1993 Supp (4) SCC 260*, explains that police collection of material before the final report ordinarily requires no prior audi alteram partem hearing of a proposed accused, and that the accused has no general participation right over investigative method, subject to specific statutory situations. The passage also discusses *CBI v. Rajesh Gandhi, (1996) 11 SCC 253*, on absence of a natural-justice right to select the agency; *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P., (1999) 5 SCC 740*, on no obligatory accused hearing before a further-investigation direction; and *Narender G. Goel v. State of Maharashtra, (2009) 6 SCC 65*, on later trial opportunities to contest collected evidence. These are principles discussed within the Supreme Court passage, rather than separate factual issues tried by the High Court in this case. The High Court used *Dinubhai*, together with *Romila Thapar and its own Prabal Dogra v. Superintendent of Police, Gwalior*, M.Cr.C. No. 10446/2017 (30 November 2017), to reject pre-FIR participation as of right.

State of M.P. v. Rameshwar, (2009) 11 SCC 424, was invoked when construing the prosecution threshold. The quoted Supreme Court passage rejected an argument that remedies under the M.P. Cooperative Societies Act exclusively displaced criminal law, particularly in a case involving Prevention of Corruption Act charges. The present Court drew the narrower analogy that the 2015 PDS Control Order's mandatory-prosecution rule did not itself prohibit recourse to penal law in other cases. The Supreme Court did not decide this particular PDS clause or the applicants' stock position.

3. Statutes considered : Section 482 CrPC furnished the inherent jurisdiction in which the applicants sought quashing of the FIR and consequential proceedings. Sections 3 and 7 of the Essential Commodities Act provided the alleged penal basis for contravention of the applicable control order. Section 10-A of that Act, in the *Jagdish Kushwah* reasoning adopted here, made the offence cognizable and undermined an interpretation limiting police reporting to one specified official. The FIR alleged breaches of the 2015 PDS Control Order's listed Clauses 10, 11, 13, 15 and 18; their individual ingredients were not resolved by this order. The order's quotation of the earlier 2009 Control Order concerns precedent, not the instrument named in the current FIR. Section 173(2) CrPC appears in the quoted Supreme Court discussion of a final police report, Section 190 in the discussion of cognizance, and Section 173(8) in the discussion of further investigation and an accused's participation; they are relevant to the procedural reasoning rather than separate charges. Article 226 is discussed within *Romila Thapar* as a possible exceptional constitutional remedy for mala fide investigation, without being invoked for relief in this Section 482 proceeding.

4. Issues : First, did the 2015 PDS Control Order require an exclusive recommendation or report by the Collector before police could register and investigate a cognizable Essential Commodities Act complaint initiated by the SDO's communication? Second, did the alleged lack of investigative competence remain a defect fatal to the proceedings after filing of the charge-sheet? Third, did the applicants acquire a right to have their response to an administrative show-cause notice considered, or a right to be heard, before the criminal FIR was registered? Fourth, did the absence of a recorded finding of stock shortage above ten per cent preclude prosecution under the Control Order and compel quashing? The Court addressed these legal objections to quashing, not the ultimate truth of the shortage allegations, compliance with each charged clause, or guilt of either applicant.

5. Ratio / Findings : On the reporting issue, the Court considered the Collector-only contention settled by *Jagdish Kushwah*. Reading the earlier order to permit an FIR exclusively on the Collector's complaint would require inserting 'only' and would

curtail the Act's cognizable-offence provision. The Court applied that reasoning to reject the applicants' attempt to invalidate the FIR and charge-sheet merely because the communication originated from the SDO and was submitted through the Junior Supply Officer. It did not find that the Collector had made a report or hold that any complainant could prove the underlying offence by mere assertion.

On the alleged defect concerning the investigator's competence, the Court relied on *H.N. Rishbud*'s separation between the legality of an investigation and the court's competence over a later proceeding. A charge-sheet had already been filed. Accordingly, the applicants' allegation about who could investigate did not automatically nullify the ensuing criminal process or furnish a quashing ground in the circumstances described. The test in the quoted Supreme Court passage allows correction of a breach of a mandatory investigative requirement raised at an early stage and recognizes the consequence of proved miscarriage of justice; the High Court identified neither a proven illegality nor such prejudice here.

On pre-audience, the Court expressly stated that an accused or suspect has no right of pre-audience before registration of an FIR. *Romila Thapar* and *Dinubhai* explained why investigation is a process of collecting material and why a prospective accused cannot ordinarily demand prior notice, select the investigating agency or control its method in the absence of a specific legal obligation. The applicants' answer to the administrative notice and their denial of the alleged contraventions did not, on that reasoning, require a prior criminal-investigation hearing. This finding did not assess the truth of their administrative reply or foreclose ordinary later procedural remedies.

On the threshold, the Court read the provision it identified as Clause 14(3) of the 2015 Order to make prosecution compulsory when variation is more than ten per cent. It rejected the converse inference that prosecution is forbidden at any lower percentage: the provision did not exclude penal law in those circumstances. The cited *Rameshwar* passage supported the proposition that a regulatory mechanism does not necessarily oust the criminal process. Consequently, the lack of an above-threshold finding was not a sufficient Section 482 ground to terminate the case. The Court did not calculate the alleged shortage as a percentage of monthly allocation and did not decide whether a particular charged control-order condition was proved.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC seeking quashing of Crime No. 179/2022 at Police Station Isagarh, District Ashoknagar, for alleged offences under Sections 3 and 7 of the Essential Commodities Act, together with subsequent proceedings. The FIR and filed charge-sheet were left undisturbed by this order. No applicant-specific exoneration, remand, corrective investigation direction, costs or final determination of guilt was granted.

Mahendra Kumar Sharma and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 48206/2022, 20/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Investigation / Section 36 CrPC / parallel enquiry - A superior officer's statutory powers do not permit a separate fact-finding enquiry to proceed in parallel with the investigating officer's pending FIR investigation. *Deepak @ Preetam Verma v. State of M.P.*, M.Cr.C. No. 12592/2018 (11 September 2018), was applied as affirmed by the Supreme Court in *Surendra Singh Gaur v. State of M.P., SLP (Criminal) No. 1345/2019* (18 January 2022). The Supreme Court recognized that the State circular itself conformed to Section 36, while condemning the officers' independent parallel process. The resulting SDO(P) report purporting to find the FIR false was a nullity: it was not to be included in the case diary or final report, and, if already placed on record, was to be disregarded for all purposes. The lawful investigation of the FIR was to be completed under Section 173(1), without the Court predetermining whether a charge-sheet or a closure report would be filed.

Case-note :- ***1. Facts :*** The prosecutrix lodged an FIR on 7 September 2021 alleging offences under Sections 376 and 450 IPC against the petitioner. The police investigation was still pending when the Superintendent of Police, Bhind instructed the Sub-Divisional Officer (Police), Lahar, District Bhind to make a separate enquiry. On 13 January 2022 that officer submitted a report concluding that the prosecutrix's FIR was false. The petitioner relied on this conclusion in a petition under Article 226 of the Constitution. He sought a direction requiring the police to file a final or closure report before the

competent court within one month, and a direction against police interference with his life and liberty while the matter remained pending. These were his submissions and requested reliefs, not judicial findings that the accusation was false.

The State opposed the petition on the ground that an independent enquiry conducted alongside an FIR investigation was not authorised by Section 36 CrPC. It submitted that the Superintendent's direction could not give legal effect to the SDO(P)'s report and that the investigating officer could not use it. The High Court heard both sides, considered the legality and consequence of the parallel process, and later addressed the petitioner's invocation of the Section 173(1) duty to investigate without unnecessary delay. It observed that the petitioner's approach to senior officers for a parallel enquiry had itself caused hurdles in the investigation. The order did not examine the prosecutrix's evidence or determine whether the alleged offences were made out.

2. Precedents — Considered : *Deepak @ Preetam Verma and another v. State of M.P. and another,* M.Cr.C. No. 12592/2018, order dated 11 September 2018, was the High Court authority for the proposition that Section 36 CrPC cannot be used to maintain an independent parallel enquiry while an FIR investigation proceeds. The present Court applied that legal rule directly to the enquiry ordered by the Bhind Superintendent and conducted by the SDO(P); it did not treat the report's favourable conclusion for the petitioner as a substitute for investigation.

The Supreme Court order dated 18 January 2022 in *Surendra Singh Gaur v. State of M.P. and others, SLP (Criminal) No. 1345/2019*, was reproduced in substance in paragraph 5. The petitioners in that matter challenged adverse observations about how officers had conducted an enquiry parallel to the investigating officer's FIR investigation. The Supreme Court found that neither Section 36 nor the cited circular provided for a simultaneous independent enquiry. It distinguished the State circular of 26 June 2010, which was consistent with Section 36, from the officers' procedure, which departed from that circular and the statutory scheme. After considering the High Court's treatment of the independent enquiry and the officers' conduct, it found no Article 136 ground for interference and dismissed the petitions. The present Court treated this affirmance as confirming the rule already stated in *Deepak* and as precluding reliance on the SDO(P)'s later parallel-enquiry report. The Supreme Court order addressed the lawfulness of the parallel procedure, not the truth or falsity of the separate FIR involved in this case.

3. Statutes considered : Article 226 of the Constitution was the jurisdiction invoked for the petitioner's requested directions to the police. Section 36 CrPC, governing powers exercisable by superior police officers, was central to whether a separate superior-officer enquiry could coexist with an investigating officer's ongoing FIR investigation. The Court, through *Deepak* and the Supreme Court affirmance, rejected such an independent parallel use of Section 36 and gave the resulting report no investigative status. Section 173(1) CrPC requires completion of every investigation without unnecessary delay; the Court directed the investigating officer to finish and submit the lawful final report, whether charge-sheet or closure report, in accordance with it. Sections 376 and 450 IPC described the offences alleged in the FIR but their ingredients were not interpreted or resolved. Article 136 appears as the procedural basis on which the Supreme Court declined interference in the cited SLP; it was not an independent source of relief to this petitioner. The State circular mentioned in the Supreme Court extract was not reproduced in full in the present order.

4. Issues : First, could the Superintendent of Police direct an SDO(P) to conduct an independent enquiry under Section 36 CrPC while the investigating officer was already investigating the prosecutrix's FIR, and could the petitioner use that officer's favourable report to require a closure report? Second, if the enquiry was impermissible, what should happen to its report in the police case diary and final report? Third, should the investigating officer nonetheless complete the underlying investigation without unnecessary delay under Section 173(1), and could the Court prescribe its substantive conclusion? The case concerned control of investigative procedure, not an adjudication of the rape allegation or any final exoneration of the petitioner.

5. Ratio / Findings : The Court adopted *Deepak*'s interpretation of Section 36 and the Supreme Court's affirmation in *Surendra Singh Gaur.* Section 36 does not itself authorise an additional independent enquiry to decide the merits of an FIR while its statutory investigation proceeds. The Supreme Court distinguished the circular from the procedure

adopted: the cited State circular conformed to the statutory power; the officers' use of a purported parallel process did not. Accordingly, the Superintendent's instruction to the SDO(P) could not validate the enquiry. The Court expressed disapproval that the Bhind Superintendent had again ordered such a procedure despite the existing judicial pronouncement.

The SDO(P)'s report of 13 January 2022 declaring the FIR false was therefore a nullity for the criminal investigation. The investigating officer was not obliged or permitted to rely on it as an investigative input; the Court directed that it not be put in the police case diary and, if already on record, not be considered for any purpose or included in the final report. This exclusion arose from the process by which the report was made, not an independent judicial determination that its factual conclusion was either right or wrong. Consequently, the report could not support the petitioner's desired judicial direction to file a closure report.

As to delay, the Court noted the petitioner's own steps in seeking senior-officer parallel enquiry, but nevertheless required the investigating officer to complete the valid investigation under Section 173(1). It left the form of the lawful final report open: the officer could file a final report, charge-sheet or closure report according to the investigation. The Court did not compel a one-month deadline, decide the evidence underlying Sections 376 or 450 IPC, or convert the SDO(P)'s assessment into a finding binding on the police or the prosecutrix.

6. Relief : The Hon'ble High Court dismissed the Article 226 petition with express directions concerning the ongoing investigation. The investigating officer was to exclude the SDO(P)'s 13 January 2022 report from the case diary, disregard it entirely if already taken on record, and keep it out of the final police report. The officer was directed to conclude the investigation and file the appropriate report under Section 173(1) CrPC. The requested order compelling a closure report within one month was not granted. The order did not grant a separate operative injunction on the petitioner's general life-and-liberty prayer or finally decide guilt or innocence.

Mahendra Kumar Vaidya v. The State of Madhya Pradesh and Ors., W.P. no. 23876/2022, 03/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial cruelty / relatives / omnibus allegations - In a Section 482 CrPC challenge, applicants 3–7, the husband's brothers and sisters-in-law, could not be required to face trial on the general accusations in the FIR and the corresponding Section 161 statement, which identified no individual act or specific material against them. *Kans Raj v. State of Punjab, (2000) 5 SCC 207, Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, and *Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, were applied in assessing each applicant's alleged role. The FIR and proceedings were quashed only as to those five applicants; proceedings against the husband and mother-in-law continued.

Cruelty / husband and mother-in-law / triable allegations - Particular allegations that the husband demanded Rs 10 lakh, assaulted and expelled the wife, and that the mother-in-law beat and taunted her for insufficient dowry disclosed a case for trial. *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260*, was applied to avoid adjudicating veracity in Section 482 jurisdiction. Proceedings against applicants 1 and 2 continued, without a final finding of guilt.

Section 482 / divorce litigation / alleged counterblast - A criminal complaint following a divorce petition is not ipso facto a retaliatory false case. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, required attention to the FIR allegations rather than extraneous chronology; civil and criminal proceedings remain independent. The coordinate-bench decision in *Amit Kumar Shrivastava* was distinguished because it involved particular Family Court admissions discrediting the cruelty account, rather than merely the sequence of the divorce petition and FIR.

Section 498-A IPC / continuing cruelty / limitation - Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, the Court reasoned that dowry-driven ouster may continue to inflict mental cruelty while the wife is compelled to live at her parental home, notwithstanding cessation of physical assault. On the pleaded facts the offence was treated as continuing with a fresh cause of action each day, defeating the asserted time bar; the truth of the underlying allegations remained for trial.

FIR / delay / quashing - *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, and *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, were applied to

hold that elapsed time alone neither invalidates a delayed FIR nor warrants quashing. Whether reconciliation efforts and other circumstances provide a plausible explanation for the delay, and how the delay affects credibility, must be determined by the trial court after evidence is recorded.

Case-note :- ***1. Facts :*** The complainant said that she married applicant 1, Mahendra Nagpure, on 14 April 2017. According to her FIR of 10 December 2021, after approximately one month of proper treatment the husband and several members of his family began to taunt and harass her for bringing insufficient dowry. She specifically accused her husband and mother-in-law, applicant 2 Ishwari Bai Nagpure, of beating her and pressing for Rs 10 lakh. She said she returned to her parental home and told her family, continued hoping that the husband would change, and was harassed by him even when he visited her parental village, Chikhala. The FIR further referred to their young daughter, her visit to the One Stop Centre, Balaghat on 29 November 2021 in hope of settlement, the husband's nonattendance there, and an alleged July 2021 visit by his family to Chikhala threatening that she should not return to the matrimonial home at Ladsada without the money. The husband had initiated divorce proceedings and sent notice. The complainant nevertheless said she wished to live with him if properly treated. These were allegations, not findings of the truth of the marital dispute. Crime No. 177/2021 was registered at Police Station Hatta, District Balaghat, for Sections 498-A, 294, 323 and 506/34 IPC and Sections 3 and 4 of the Dowry Prohibition Act.

Seven applicants sought Section 482 CrPC quashing. Besides the husband and mother-in-law, applicants 3 and 4 were younger brothers-in-law, applicant 5 was the wife of applicant 3, and applicants 6 and 7 were sisters-in-law. The husband's relatives relied on the general character of accusations against them. Counsel also said the FIR followed a Section 13 Hindu Marriage Act divorce petition and was a counterblast; argued that the case was out of time in light of separation and that the FIR was delayed; and invoked decisions concerning over-implication of matrimonial relatives. Although the application expressly challenged the FIR rather than also naming later proceedings, counsel sought consequential quashing of proceedings resting upon it. The Court assessed each applicant's role and the distinct objections, and ultimately granted relief only to applicants 3–7.

2. Precedents — Considered : *Ravikant Dubey v. State of M.P.,* 2014 Cr.L.R. (M.P.) 162, was quoted only for a short point about maintainability of a quashing petition even at an advanced trial stage; the present Court did not develop a separate stage-based holding. Counsel invoked *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*, to urge particularised allegations against relatives and caution against over-implication. The order does not quote or separately analyse their precise ratio, and those authorities were relied on by counsel in support of those submissions.

Kans Raj v. State of Punjab, (2000) 5 SCC 207, was quoted for the danger of implicating every in-law or relation merely because of family connection. Its passage, arising in dowry-death litigation, cautioned that overt acts attributed to persons other than the husband require proof and conjecture cannot establish guilt. The Court used that caution at the present quashing stage to demand a sufficiently identified role, without deciding whether these applicants were guilty under the standard of proof applicable at trial. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, also quoted *Kans Raj* and distinguished allegations against a husband and close parents from the mere naming of distant relations without tangible role-specific material. Its quoted discussion refers to *Raja Lal Singh v. State of Jharkhand and the* danger of widening the net, and calls for a pragmatic assessment that neither automatically exonerates everyone nor implicates all relatives. *Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, was applied for quashing where extremely general allegations, absence of a specific role and surrounding circumstances made continuation against certain relatives an abuse of process. Together these authorities informed the partial quashing of applicants 3–7 on the Court's comparison of the FIR and Section 161 statement.

Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260, was quoted in considering applicant 2. Its discussion of *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, cautioned against summoning distant relatives without role material. Its separate quashing discussion recognized that a court need not try rival factual versions where harassment by husband or parents on the face of a complaint presents triable issues. The present Court used that distinction to leave the mother-in-law's case for trial because the

FIR attributed beating and dowry taunts specifically to her. The quoted Taramani passage lists other quashing authorities, including *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa*, without developing independent tests from each in the present order.

On the counterblast contention, counsel cited *Amit Kumar Shrivastava v. State of M.P.*, M.Cr.C. No. 10842/2014 (25 January 2019). The Court distinguished it: that coordinate-bench order had noted admissions by the complainant and her father before the Family Court which, in that case, were treated as demolishing the cruelty allegation. The present case showed no comparable admissions establishing that no harassment occurred. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was affirmatively applied. The Supreme Court had disapproved a quashing order founded on extraneous matters such as the interval before an FIR and the existence of divorce proceedings, explaining that reconciliation efforts may precede complaint and that pending civil litigation does not itself terminate an independent criminal case. It confined the quashing inquiry to whether the FIR or complaint discloses a prima facie offence, rather than defence material or a presumed motive.

Kamlesh Kalra v. Shilpika Kalra, Criminal Appeal No. 416/2020 (24 April 2020), was invoked by counsel for a time-bar argument following a long separation. The present Court did not reproduce its full reasoning; it addressed the different allegation of expulsion and persisting harm. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was central: the quoted Supreme Court reasoning explains that cruelty in Section 498-A includes mental suffering, and that the psychological distress of being driven from the matrimonial home and fearing return may persist at the parental home after physical acts stop. The present Court extended this reasoning to the allegation that the complainant was forced to stay with her parents for insufficient dowry and treated such pleaded cruelty as continuous for the limitation objection. It also relied *on Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020 (22 June 2021), for the proposition that compelling a married woman to remain in her parental home can constitute cruelty. This was an application on the alleged facts, not proof of every alleged incident.

Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690, supplied the broader FIR-delay principle. The Supreme Court recognized the advantages of prompt reporting but said no fixed statutory time exists for lodging an FIR; delay may arise for genuine reasons and its presence is not per se illegality, just as promptness does not guarantee truth. *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, was cited for the specific proposition that delay in registration by itself does not justify quashing. The Judge used both to reserve the plausibility and evidentiary effect of any explanation for trial rather than dismiss the prosecution solely on elapsed time.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction for partial or complete quashing of the FIR and ensuing criminal proceedings. Section 161 CrPC identified the complainant's investigative statement, which the Court found added no individualised allegations against applicants 3–7 beyond the FIR; it was not treated as a final credibility finding. Section 498-A IPC was considered for physical and mental matrimonial cruelty, including the claimed continuing impact of dowry-driven expulsion. Sections 294, 323 and 506 read with Section 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act were the offences alleged in the FIR and addressed in the applicant-wise disposition; the order did not independently analyse each offence's elements. Section 13 of the Hindu Marriage Act described the husband's divorce petition, whose filing was not itself a legal defence to criminal proceedings. The applicants' limitation objection was determined by characterising the alleged cruelty as continuous; the order did not identify and construe a particular CrPC limitation provision or calculate a date-specific limitation period.

4. Issues : First, could an FIR and subsequent proceedings continue against five other relatives when the FIR and Section 161 statement made only general and collective accusations, without an incident or overt act attributable to each? Second, did the separately stated allegations of dowry demand, beating, harassment and expulsion against the husband and mother-in-law require their prosecution to continue at the face-value Section 482 stage? Third, could the filing of a divorce petition before the FIR, without comparable evidence that the cruelty allegations were false, itself establish a counterblast and justify quashing? Fourth, did the alleged dowry-driven expulsion and continuing mental consequences while the complainant lived with her parents answer the asserted limitation bar, notwithstanding cessation of physical acts? Fifth,

was FIR delay alone a ground to quash, or did its explanation and impact require trial evidence? The Court did not adjudicate the ultimate truth of the complainant's story, the credibility of every witness, or each charged offence as if conducting a trial.

5. Ratio / Findings : The Court first separated the applicants by relationship and pleaded role. Applicants 3–7 were brothers-in-law and sisters-in-law or related in-laws against whom the FIR made generic accusations of taunts and harassment. The complainant's Section 161 statement followed the same line rather than giving specific acts. Relying on the caution in *Kans Raj*, *Monju Roy* and *Chandralekha*, the Court held that the prosecution of these five on omnibus allegations would impose the ordeal of trial without adequate individualised material. It quashed Crime No. 177/2021 and resulting proceedings only in their favour. This did not discredit the distinct accusations against the husband or mother-in-law.

For applicant 2, the FIR went beyond mere relationship: it said that the mother-in-law beat the complainant on account of dowry demands and taunted her for bringing less. *Taramani Parakh* supported the rule that a court exercising Section 482 power does not decide whether triable harassment allegations are ultimately true. For applicant 1, the Court identified allegations of a Rs 10 lakh demand, physical and mental harassment, habitual assault and expulsion from the home. These particularised allegations sufficed to allow the charged prosecution against both to proceed. No evidentiary finding of guilt was made.

The contention that the later FIR was retaliatory because it followed the husband's divorce petition was rejected. *Pratibha* required the Court to examine the uncontroverted FIR allegations and avoid an inquiry into the accused's defence or reliance on the mere sequence of events. It recognized that reconciliation may explain an interval before complaint and that divorce proceedings are legally independent of criminal prosecution. The Court explained why *Amit Kumar Shrivastava* was different: specific admissions recorded in the Family Court there were treated as negating cruelty. No equivalent material in this record permitted a conclusion that the present allegations were false merely because the husband had filed a Section 13 petition.

On limitation, the Court addressed whether a woman allegedly compelled to live in her parental home because of insufficient dowry could continue to suffer Section 498-A mental cruelty after leaving the matrimonial home. *Rupali Devi*'s account of persisting trauma, supplemented by *Amar Singh*, supplied the reason. Accepting the allegation for this procedural purpose, the Court held that dowry-driven exclusion and compelled residence with parents constituted a continuing offence giving a fresh cause of action each day; hence the FIR could not be quashed as time-barred. This was not a ruling that every old matrimonial allegation automatically continues indefinitely, nor a final finding that expulsion occurred. The *Kamlesh Kalra* citation did not resolve the distinct pleaded continuing-cruelty issue.

The separate objection of delayed FIR also failed as a ground for quashing merely because of delay. *Ravinder Kumar* and *Mohammad Wajid* establish that delay does not by itself make an FIR illegal or justify rejecting the prosecution's account. The complainant's narrative included hope of compromise and approach to the One Stop Centre. Whether that or other evidence provides a plausible explanation, and what weight should be given to the delay, remain questions for the trial court after evidence is recorded. The Court accordingly left the husband's and mother-in-law's prosecution undisturbed rather than assess the merits through a Section 482 mini-trial.

6. Relief : The Hon'ble High Court allowed the application for applicant 3 Jitendra @ Jeetlal Nagpure, applicant 4 Krishn Kumar Nagpure, applicant 5 Roshni Nagpure, applicant 6 Nisha Nagpure and applicant 7 Ritu Lilhare. The FIR in Crime No. 177/2021 at Police Station Hatta, District Balaghat, and criminal proceedings arising from it were quashed as to those five persons for the charged IPC and Dowry Prohibition Act provisions. The application was dismissed as to applicant 1 Mahendra Nagpure and applicant 2 Ishwari Bai Nagpure; their prosecution for those offences was permitted to continue. The judgment thereby quashed the consequential criminal proceedings against the successful applicants even though counsel said the application had originally omitted an express prayer for it. It imposed no further conditions, costs or trial timetable and did not acquit anyone or decide guilt.

Mahendra Nagpure and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 18576/2022, 13/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (421) Prev Next

Headnote :- POCSO Sections 7–8 / breast touching with sexual intent — The child testified that the appellant caught her hand, touched her body and breast, and tried to lead her to a vacant area. Halima Khan saw him taking the child away and intervened by throwing a brick. The school register and Class II mark sheet established that the child was about eight years and seven months old at the occurrence; the doctor recorded abrasions. On this evidence and the quoted definition in Section 7, which covers physical contact without penetration, the High Court held that touching a child's breast with sexual intent is sexual assault. It affirmed conviction under Section 8 POCSO and Section 354 IPC. The Court rejected the asserted false implication and unreliability of related witnesses on the evidence it reviewed.

Section 8 POCSO / statutory range / custody already served — The applicable Section 8 range identified in the judgment was three to five years' imprisonment with liability to fine. The four-year rigorous-imprisonment term was reduced to the period already undergone, comprising more than three years and seven months of actual imprisonment following conviction on 23 November 2015, as well as four days in custody during trial. The one-year Section 354 IPC sentence was maintained. The appeal was partially allowed only as to the POCSO imprisonment; release was directed if the appellant was not required in another offence. This case-specific reduction did not go below the statutory minimum or disturb the convictions.

Precedents — The decision rested on the testimony, corroborating evidence and the text of Sections 7 and 8.

Case-note :- ***1. Facts :*** The appeal arose from the judgment and sentence of the 5th Additional Sessions Judge, Morena, in Special Sessions Trial No. 67/2014 dated 23 November 2015. The trial court convicted Mahendra under Section 354 IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012. It imposed one year's rigorous imprisonment, Rs 1,000 fine and three months' default imprisonment for Section 354, and four years' rigorous imprisonment, Rs 2,000 fine and six months' default imprisonment for Section 8. The record in the appeal described an incident on 12 October 2014 at about 3 p.m. when a young child was playing outside her house in the locality. The child said the appellant, whom she knew, caught her hand, touched her body and breast, tried to take her inside the wire fencing toward a vacant place, and threw her against thorns. She said a woman on a roof threw a brick toward him; he fled and local people apprehended him. Her mother reported the incident, leading to Crime No. 312/2014 and a later charge-sheet under Section 354 IPC and Sections 7–8 POCSO. The reference to Section 4(a) POCSO at initial registration did not become the conviction under review.

The prosecution examined the child (PW-1), her mother (PW-2), brother (PW-3), eyewitness Halima Khan (PW-4), Rahis Khan (PW-5), the school-record witness Wali Mohammad (PW-6), investigating officer Ashok Verma (PW-7), and examining doctor Dr L.R. Khisaniya (PW-8). The child described breast touching and immediate disclosure to her mother; her mother had not personally witnessed the act. Halima stated she saw the appellant gag the child's mouth and take her toward an empty area, threw a brick and raised the alarm. PW-6 proved the school admission register and Class II mark sheet, both recording the child’s birth date and establishing that she was about eight years and seven months old at the incident. PW-8 documented small abrasions on the cheeks and lower lip and an abrasion across the neck. The appellant called no defence witness. Counsel challenged the witnesses as interested or related and alleged false implication; alternatively, counsel sought a sentence confined to custody served. The State opposed leniency.

2. Statutes considered : Section 374 CrPC supplied the criminal appeal route against conviction and sentence. Section 7 POCSO defines sexual assault: with sexual intent touching the vagina, penis, anus or breast of a child, making the child touch such a body part of another person, or another act with sexual intent involving physical contact without penetration. The Court quoted and applied the breast-touching limb; it did not find penetration or analyse a penetrative offence. Section 8 POCSO was the provision of conviction and punishment, which the Court stated prescribed a minimum of three years and maximum of five years, together with liability to fine, on the law it applied. Section 354 IPC was a

concurrent conviction and sentence maintained in the appeal. Section 164 CrPC was mentioned only because the child's statement had been recorded; the order did not develop a rule on Section 164 procedure or the evidentiary status of that statement. The school documents were used to establish the child's birth date. The initial police registration's Section 4(a) reference does not change the charged and adjudicated Sections 7–8 offence.

3. Issues : Did the testimony and surrounding evidence prove touching of a child's breast with sexual intent, bringing the act within Section 7 and sustaining conviction under Section 8 POCSO along with Section 354 IPC despite the claimed unreliability or false implication? If the convictions stood, could the four-year Section 8 prison term be reduced to the period already undergone where actual custody exceeded the identified statutory three-year minimum? How would that modification affect the separate Section 354 sentence and release direction? The Court did not decide a general rule on mandatory corroboration of child testimony, a penetrative-assault allegation, or an entitlement to a below-minimum POCSO sentence.

4. Ratio / Findings : The Judge reviewed the child's specific account that the known appellant grasped her hand, touched her breast and attempted to take her away. Her immediate report to her mother, Halima's intervention when she saw the attempted movement to an empty place, the school records showing the child's age and the recorded abrasions were assessed with that account. Halima's testimony supported the attempted taking of the child and the intervention that interrupted it; it did not provide an eyewitness account of every physical contact described by the child. The mother's evidence included the child's prompt account rather than a claim that the mother had watched the incident. The Judge found the witnesses' evidence sufficient and did not accept the allegation that their relationship or interest established false implication. Quoting Section 7, the Court held that touching a child's breast with sexual intent falls within the non-penetrative sexual-assault definition. It affirmed guilt under Section 8 POCSO and Section 354 IPC.

On sentence, the appellant had remained jailed from the 23 November 2015 conviction after bail was refused and had also spent four days in custody during trial. At the 9 August 2019 decision he had completed more than three years and seven months' actual imprisonment. The Court expressly identified the Section 8 minimum of three years and maximum of five years. Because actual custody had already passed the minimum, it reduced the original four-year rigorous-imprisonment term for Section 8 to the period undergone. It kept the Section 354 sentence in place. The stated reasoning was tied to this custody record and did not authorise a sentence below the minimum or reopen the finding of guilt. The judgment did not separately vary the recorded fines or default stipulations; its expressed modification concerned the Section 8 imprisonment.

5. Relief : The Hon'ble High Court partially allowed the appeal. The trial judgment and convictions under Section 354 IPC and Section 8 POCSO were affirmed. The four-year rigorous-imprisonment sentence under Section 8 was reduced to time already undergone, more than three years and seven months, while the Section 354 sentence was maintained. The Court directed the jailed appellant's immediate release if he was not required in another offence. No acquittal, new trial or other condition was ordered; the judgment did not expressly modify the fines or default terms.

Mahendra v. State of Madhya Pradesh, Cr.A. no. 101/2016, 09/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Sole eyewitness / related witness / murder conviction — A witness's relationship to the victim is no ground by itself to discard her testimony; the testimony of a single competent and honest witness may suffice if it is of sterling quality, with quality rather than number controlling. The Court cited *Sukhdeep Singh v. State of U.P., (2010) 2 SCC 177*, *Ram Bilas Yadav v. State of Bihar, (2002) 2 SCC 131*, and *Ashok Kumar Pandey v. State of Delhi, (2002) 4 SCC 76*, for the related-witness principle and applied *Shivaji Sahabrao Bobade v. State of Maharashtra, (1973) 2 SCC 793*, for a reliable single eyewitness and prudential corroboration. Applying the caution in *Karunakaran v. State of Tamil Nadu, (1976) 1 SCC 434*, and the analogous facts in *Jagdish Prasad v. State of M.P., AIR 1994 SC 1251*, the Court closely examined Poonam's account after she exculpated Bhanu, whom she had earlier placed at the incident. Her conflicting explanations for being there, altered claim concerning her mother's presence, and her account of being kicked and falling without a corresponding injury affected truthfulness

rather than mere memory. The mother could not supply independent eyewitness corroboration given her initial account indicating that she had not witnessed the incident. No reliable independent support cured the defects, so the Section 302 IPC conviction was set aside. The decision does not prescribe corroboration for every related or sole eyewitness.

Forensic human-blood evidence / continuity and cross-examination — Though the FSL report recorded human blood on the seized jeans and jacket, the investigating officer did not testify about safe custody or sealed transfer. Transmission and laboratory documents were marked in evidence only after prosecution evidence closed; the appellant had no chance to cross-examine him on continuity and seal integrity. The Court declined to give the report disproportionate corroborative weight. It also found the stated eve-teasing history too indefinite to establish a murder motive by itself. With the eyewitness account unreliable and no sufficient corroboration, the appeal was allowed, the life sentence and conviction were set aside, release ordered, and any deposited fine directed to be refunded.

Case-note :- ***1. Facts :*** On 4 December 2014 around 6 p.m., Pooja was fatally struck near her home at Mandi Bamora. Her younger sister Poonam alias Chandni (PW-1) alleged that Mahendra and companions abused and restrained them, kicked her, and that Mahendra repeatedly struck Pooja with an axe around the neck. She reported alleged prior eve-teasing and told her family; a Dehati Nalishi, Ex. P/1, was recorded that evening at 7:10 p.m. Police registered an FIR, investigated, seized articles, obtained a post-mortem and forensic documents, and filed a charge-sheet. Three people stood trial for Sections 294, 323 (with Section 34), and 302 (with Section 34) IPC. The Second Additional Sessions Judge, Camp Kurwai, Vidisha, in Sessions Trial No. 80/2015 on 18 October 2019 convicted only Mahendra under Section 302 IPC, imposing life imprisonment, a Rs 1,000 fine and six months' additional imprisonment in default. The other tried persons were not convicted. This judgment addressed Mahendra's jail appeal through legal aid; although his appeal petition stated no grounds, counsel challenged credibility and the lack of independent corroboration at the final hearing.

The prosecution relied on Poonam as its sole direct eyewitness. Her trial narrative placed herself and Pooja returning from school and shopping, but in cross-examination she said that she did not attend school that day or accompany Pooja for shopping and was travelling alone on an errand. The prompt Dehati Nalishi described her relating the incident to her parents and relatives, whereas she later said her mother had been present. She said Mahendra kicked and felled her; her MLC, Ex. P/13, and Dr B.L. Nagesh (PW-5) showed no detected injury. During cross-examination she also denied Bhanu's presence though her examination-in-chief had placed him with Mahendra and others. The mother, Meenabai (PW-3), described herself at trial as an eyewitness, although her police statement indicated that she had been absent from the scene and knew of the incident only from others; the father Khuman Singh (PW-2) too was said to have exculpated one accused. The defence also challenged seizure evidence, including a hostile seizure witness. The State urged that Poonam's direct testimony and a positive forensic result proved repeated axe blows and warranted affirmance. These are the parties' positions and disputed evidence, distinct from the appellate Court's findings.

2. Precedents — Considered : The Court cited *Sukhdeep Singh v. State of U.P., (2010) 2 SCC 177; Ram Bilas Yadav v. State of Bihar, (2002) 2 SCC 131*; and *Ashok Kumar Pandey v. State of Delhi, (2002) 4 SCC 76*, for the proposition that a witness's relationship to the victim is irrelevant if her testimony inspires confidence and is free of material contradictions. The Court cited those decisions for that principle without separately discussing their facts or distinct ratios. It then quoted *Shivaji Sahabrao Bobade v. State of Maharashtra, (1973) 2 SCC 793*, for the rule that even one competent, honest eyewitness of sterling quality can establish guilt; corroboration is ordinarily sought as prudence and the quality of evidence matters more than the count of witnesses. The Court applied this standard by examining whether Poonam's presence, consistency and reliability warranted reliance without other support. Neither her relationship to the victim nor the fact that she was the sole eyewitness was treated as fatal by itself.

Karunakaran v. State of Tamil Nadu, (1976) 1 SCC 434, was explained as a caution where a sole eyewitness's account is rejected for a co-accused: relying on the uncorroborated testimony of the same person to convict another demands close scrutiny, especially where the witness's earliest FIR account

and later testimony diverge. The Court applied that concern because Poonam initially placed Bhanu among the assailants but later denied his presence without explanation. The judgment did not purport to establish an absolute rule that any co-accused acquittal automatically acquits all. Counsel invoked *Jagdish Prasad v. State of M.P., AIR 1994 SC 1251*. The Court expressly discussed its rule that an uncorroborated single witness may suffice only if entirely reliable, while doubtful evidence calls for sufficient corroboration; in that decision the sole eyewitness named several accused yet deliberately omitted one at trial, making his testimony unsafe and leading to acquittal. The present Court applied that analogy to Poonam's changed account concerning Bhanu and the further weaknesses in her natural presence.

3. Statutes considered : Section 302 IPC was the murder conviction and life sentence under appellate review. Sections 294, 323 (alternatively 323/34), and 302 (alternatively 302/34) formed part of the trial accusation against three persons, but the appellate judgment did not separately construe their ingredients or decide a fresh common-intention issue. The Court assessed whether admissible and reliable prosecution proof sustained the appellant's Section 302 conviction beyond reasonable doubt; it cited no particular Evidence Act section for the sole-witness rule, recovery, forensic admissibility or chain of custody. The Dehati Nalishi, MLC, seizure memo, transmission papers and FSL report were evidence considered, not independently interpreted statutory provisions. The appeal was a criminal appeal from conviction, but the judgment did not identify a specific appellate provision.

4. Issues : First, could the Section 302 conviction rest on the only direct eyewitness, the victim's sister, where her accounts of school, shopping, route, mother's presence, her own assault and Bhanu's role materially shifted? The contest was between the State's reliance on direct evidence and the defence's insistence that the contradictions affected natural presence and truthfulness, beyond ordinary lapses of memory. Second, could the mother’s later claim to be an eyewitness and other evidence reliably corroborate Poonam’s account, which was no longer of sterling quality, when no other bystander was produced despite the incident having occurred beside a public road in an inhabited locality? Third, what probative support could be drawn from a positive human-blood FSL report when the investigating officer did not prove safe custody and sealed transit and the transmission documents were marked after the defence lost an opportunity to cross-examine him? Fourth, did an indefinite eve-teasing history independently provide a sufficiently reliable motive to complete proof? The Court did not determine who actually killed Pooja, declare the FSL result fabricated, or decide the culpability of an acquitted co-accused in this appeal.

5. Ratio / Findings : The Division Bench accepted that conviction is legally possible on a single related eyewitness if the evidence is coherent and reliable. Guided by *Shivaji Sahabrao Bobade* and the related-witness cases, it distinguished normal discrepancies from contradictions going to the witness's natural presence and the truthfulness of the prosecution account. Poonam's competing explanations of whether she went to school, accompanied Pooja shopping, returned home, or set off alone on a purchase were internal conflicts about why she was at the scene. Her later claim that her mother was present conflicted with the Dehati Nalishi's description of subsequent narration to family. Although the Court acknowledged that a kick can leave no visible mark, it found her further claim of falling on a hard surface without even a scratch troubling when considered with the rest of the evidence. In cross-examination she exculpated Bhanu without explaining the change from her earlier account. Applying *Karunakaran* and the *Jagdish Prasad* analogy, the Court found the changed co-accused account and other material inconsistencies made it unsafe to treat her as an entirely reliable solitary witness. The decision rested on those material inconsistencies, rather than simply on her relationship or any one trivial discrepancy.

Given that finding, the Bench looked for reliable corroboration. The mother had initially given a police statement indicating that she had not witnessed the incident, but claimed at trial to be an eyewitness, so her testimony could not perform the corroborative function claimed. The Court also noted that no independent resident or passer-by was produced for an episode at about 6 p.m. near a frequented road and inhabited locality, without a suggested isolated or dark setting. This was an assessment of the overall proof, not a universal legal demand for an independent passer-by in every case. No other reliable eyewitness was identified.

The investigating officer Vijay Kumar Vishwakarma (PW-10) testified about the recovery of a pair of blue

jeans and a black jacket, allegedly concealed under the tiled roof in a polythene bag on information from Mahendra. The seizure memo Ex. P/9 noted bloodstains. The FSL report, Article C/3, recorded human blood on the two garments labelled F/1 and F/2. But the officer said nothing about their custody after seizure, safe transfer under intact seals or receipt by the laboratory. The dispatch documents C/1 and C/2 and report C/3 were marked after prosecution evidence had been declared closed, denying Mahendra an opportunity to cross-examine him about the custody chain and seals. Without proof of those links, the Court refused to give the positive report disproportionate weight. It did not say that scientific testing can never corroborate ocular testimony or that the report was automatically inadmissible. The account of recurring eve-teasing lacked sufficient detail and, even if accepted despite the cousin relationship, did not by itself establish a motive to murder. The unreliable sole eyewitness, inadequate corroboration, custody-chain weakness and insufficient motive left reasonable doubt; the Section 302 conviction was unsustainable.

6. Relief : The Hon'ble High Court allowed the appeal. The Bench set aside Mahendra's Section 302 IPC conviction and life sentence and acquitted him. Because he was in custody, it ordered immediate release and directed a copy to the jail authority and a copy with the record to the trial court for compliance and information. Any fine already deposited was to be refunded. It did not remand for a fresh trial or disturb the separate acquittal of the other tried persons.

Mahendra v. The State of Madhya Pradesh, Cr.A. no. 11304/2022, 13/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 226 / direction to arrest FIR-named accused — The petitioner alleged inaction in Crime No. 282/2019 under Sections 307/34 IPC and specified SC/ST Act provisions, and sought arrest of named persons and action against police officers. The Court applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, including its quotation of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*: arrest under Section 41 CrPC is discretionary and must be exercised with caution because it affects liberty and reputation; registration of a cognizable FIR does not automatically require arrest. Courts ordinarily must not dictate how police investigate or direct arrest, seizure and the filing of a charge-sheet, since the investigation may lawfully end in a charge-sheet or closure. The judgment quoted the Supreme Court's warning, drawing *on Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, against drastic investigative directions affecting unheard persons; the present writ did not separately decide a notice dispute. The requested arrest direction was refused.

Section 173(1) CrPC / timely completion — Police discretion as to investigative steps does not authorize indefinite delay. The State said investigation was progressing and a final report would follow. The Court required the investigating officer to conclude it as early as possible without unnecessary delay, take necessary steps according to law, and submit an appropriate final report, whether closure or charge-sheet. No deadline or predetermined prosecution result was imposed. The petitioner could submit a grievance to the Superintendent of Police, Shivpuri, for consideration according to law.

Case-note :- ***1. Facts :*** Mahesh Jatav petitioned under Article 226 of the Constitution in WP No. 16905/2019. On his complaint, Police Station Karera, District Shivpuri, had registered Crime No. 282/2019 for Sections 307 and 34 IPC and Sections 3(2)(5), 3(1)(dd) and 3(1)(dhd) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, as cited in the order. He said the police had neither arrested the persons named in the FIR nor concluded the investigation. He asked the High Court to require respondent authorities 1–4 to secure their arrest, direct respondent 2 to take strict action against officers 3 and 4 for inaction, grant other suitable relief and costs. The State's status report said investigation was proceeding without delay and, once complete, a final report would be submitted to the competent court. There was no judicial finding that the alleged persons were guilty, that the officers had acted unlawfully, or that the report's description of progress was false. The Court considered the complainant's request for a particular coercive step separately from the police's statutory obligation to conclude the investigation.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was extensively quoted and affirmatively applied. In the quoted Supreme Court decision, a High Court had prescribed witness recording, arrest, seizure,

document scrutiny and filing of a charge-sheet, and required completion within six months. The Supreme Court treated judicial directions on the manner of investigation as an encroachment on the police domain, particularly when there was no articulated reason and affected persons had not been heard. It stressed that investigation need not culminate in arrest, seizure or prosecution; a lawful investigation may result either in a charge-sheet or in a finding that no case is made out. Although those passages discuss Section 482 CrPC powers in the earlier case, the present Court used their investigative-restraint principle in an Article 226 writ, without purporting to exercise Section 482 power itself.

The *D. Venkatasubramaniam* quotation reproduces *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC: in enumerated circumstances a police officer may arrest without warrant, but need not do so mechanically upon registration of a cognizable case. The officer may decide after some investigation whether arrest is necessary, exercising caution because arrest impinges on liberty, reputation and status; the alleged offence and persons concerned matter. The Court applied that principle in refusing a direction for compulsory arrest. The same Supreme Court passage quotes *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for reasonable opportunity to be heard before a judicial order likely to have drastic effects on the person targeted by directed investigation. The present Court reproduced that warning as part of *D. Venkatasubramaniam*'s reasoning; it did not independently adjudicate whether a particular accused was entitled to notice in this petition. The quoted case also stated the limited purposes of Section 482, but the present Article 226 writ was not resolved by treating that section as its jurisdictional source.

3. Statutes considered : Article 226 supplied the petition's public-law jurisdiction. Section 41 CrPC, through the Supreme Court authorities adopted in the judgment, makes arrest without a warrant a discretionary police power in the statutorily enumerated circumstances, not a compulsory result of FIR registration. Section 173(1) CrPC expressly requires every investigation under the relevant Chapter to be completed without unnecessary delay. The Court applied it to require timely completion of the investigation and submission of the final report, whether a closure report or charge-sheet, rather than leave the matter pending indefinitely. Section 482 CrPC appears within the quoted Supreme Court discussion of a different High Court order; it was not the provision under which this writ was filed. Sections 307/34 IPC and the specified SC/ST Act provisions identify the registered case but their offence ingredients or special-statute arrest rules were not construed. The judgment did not direct that the eventual police report take a particular form.

4. Issues : Could a complainant obtain an Article 226 direction requiring police to arrest FIR-named persons or effectively dictate filing of a charge-sheet while investigation was pending? What effect did police discretion under Section 41 CrPC and the Supreme Court's restraint against directing investigative steps have on that requested relief? Did the refusal to dictate arrest leave a separate enforceable duty to conclude the investigation without unnecessary delay under Section 173(1), and what limited direction was warranted in light of the State's status report? The prayer for action against individual officers was raised, but the Court did not make a misconduct finding or order disciplinary proceedings.

5. Ratio / Findings : The Court expressly refused the prayer to compel arrest. It adopted *D. Venkatasubramaniam*'s distinction between a statutory police duty to investigate and judicial supervision of the manner of investigation or directions prescribing its outcome. As explained in *M.C. Abraham* within that authority, Section 41 permits but does not mechanically require arrest after an FIR; investigation may inform necessity, and the decision must be made cautiously because arrest seriously affects liberty and reputation. The same investigation might properly end without seizure or a charge-sheet. Directing arrest and charge-sheet filing in this writ would therefore substitute judicial directions for the police’s investigative judgment, rather than merely require the investigation to proceed lawfully. The quoted Supreme Court criticism of ex parte coercive directions and casual observations was part of this restraint, though the present Court made no separate factual ruling on notice to accused persons.

At the same time the Court quoted Section 173(1)'s command that investigations be completed without unnecessary delay. It said the investigating officer could not keep the matter pending and must reach a conclusion whether an offence was made out, then take lawful steps and submit the appropriate final

report as early as possible. The State's status report represented that investigation was proceeding without delay; the order did not decide a contested chronology or fix a completion date. Its direction concerned prompt completion and statutory process, preserving the officer's choice between charge-sheet and closure according to evidence. No adverse finding against respondents 3 and 4 or separate order compelling official action was made.

6. Relief : The Hon'ble High Court finally disposed of the writ petition. The Court refused to direct arrest or prescribe a charge-sheet, directed the investigating officer to conclude the investigation as early as possible and take steps required by law under Section 173(1), and stated that the petitioner could apply to the Superintendent of Police, Shivpuri, about any grievance for consideration according to law. It imposed no specific time limit, disciplinary sanction, costs, compelled arrest or predetermined final-report outcome.

Mahesh Jatav v. The State of M.P., W.P. no. 16905/2019, 03/09/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal incapacity / child below seven — Section 20 BNS, corresponding to Section 82 IPC, provides that an act done by a child under seven is not an offence. Applicants 4 and 5 were described as about seven and three, but their age at the alleged act had not been verified. The Court ordered the investigating officer to verify each age at that time and immediately delete from the FIR the name of either applicant found to have been below seven at that time. It did not find that the applicant said to be seven qualified, determine either child's actual age, or quash the FIR against all applicants.

Alleged forged will / civil suit / quashing — The complainant and her elder sister challenged a Will produced by rival claimants in a pending civil suit and alleged that its photograph and thumb impression were not their father's and that it had been fabricated after his death. The applicants relied on the suit and a temporary injunction to seek quashing of the FIR under BNS Sections 318, 335, 336, 338 and 340. Applying *Jagmohan Singh v. Vimlesh Kumar,* SLP (Cr.) 9339/2021 (5 May 2022), the Court held that a civil plaintiff's burden to establish a Will's genuineness does not prevent criminal proceedings on an allegation of its fabrication. *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765, Pratibha v. Rameshwari Devi, (2007) 12 SCC 369,* and *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555,* supported simultaneous processes and refusal to suppress a criminal case merely because the facts also have a civil character. The Court refused to quash on civil pendency alone and made no finding that the Will was forged.

Civil and criminal findings / differing proof standards — *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775, Syed Askari Hadi Ali Augustine Imam v. State (Delhi Admn.), (2009) 5 SCC 528*, and the discussions of *Iqbal Singh Marwah* and *K.G. Premshanker* distinguish civil proof by preponderance from criminal proof beyond reasonable doubt. Findings in one proceeding do not automatically bind the other; previous judgments may nevertheless be relevant under Sections 40–43 Evidence Act and conclusiveness depends on Section 41 where applicable. *Prem Raj v. Poonamma Menon (2 April 2024) and M.S. Sheriff* explain the qualified preference for prompt criminal justice without an absolute rule that every civil action must stop. The pending suit did not displace this criminal inquiry.

BNSS Sections 175 and 223 / pre-cognizance — The JMFC's 24 December 2024 direction was under Section 175 BNSS before cognizance. Section 223(1)'s suspect-hearing contention did not apply to that investigative order; Section 175 does not prescribe a prior opportunity for the suspect. Judicial application of mind to the need for investigation remains required. The challenge to the order and FIR failed, subject to age verification and conditional deletion of any under-seven child's name.

Case-note :- ***1. Facts :*** Respondent 2 and her elder sister Mahadevi said their father Brij Bihari Kaurav died on 2 June 2023. Their names were entered in the revenue records after his death, and they claimed joint possession of his property. Aniruddh Pratap Singh and Shaurya Pratap Singh filed Civil Suit No. 288/2023 on a purported Will of Brij Bihari; the daughters appeared and obtained the plaint and Will. Respondent 2 alleged that the photograph and thumb impression were not her father's and that the Will was fabricated after his death to deprive the daughters of property. The allegations, including the purported timing and falsity, had not been finally proved. On her complaint the JMFC, Lahar, District Bhind, made an order on 24 December 2024 under Section 175 BNSS directing police to register an FIR. Police

Station Alampur, Bhind, registered Crime No. 05/2025 for Sections 318, 335, 336, 338 and 340 BNS.

Mahesh Kaurav and other applicants invoked Section 482 CrPC/Section 528 BNSS to quash both the FIR and the Magistrate's order. They asserted that applicants 4 and 5 were minors aged approximately seven and three, invoking Section 82 IPC/Section 20 BNS. They also pointed to the pending Will suit, RCSA No. 288/2023, and the trial court's temporary injunction of 29 May 2024 to characterize the complaint as an improper conversion of a civil dispute into criminal process. Finally, they argued that Section 223 BNSS required an opportunity of hearing for the suspect before the Magistrate's order. The High Court considered four legal questions: criminal incapacity below the age of seven, coexistence of civil and criminal proceedings over the alleged forgery, the effect of civil findings on criminal proceedings, and the stage at which the Magistrate directed investigation. No trial of the Will's authenticity or the applicants' guilt was undertaken.

2. Precedents — Considered : *Jagmohan Singh v. Vimlesh Kumar, SLP (Cr.) No. 9339/2021* (5 May 2022), was directly applied. Its quoted rule recognizes that a plaintiff who relies on a Will bears the civil burden of proving genuineness, but a civil defendant may nonetheless initiate a criminal proceeding alleging that the instrument was forged or fabricated. The present Court used it to reject the proposition that the Will suit and injunction by themselves made criminal registration impermissible. *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765*, was quoted for the qualified ability of civil and criminal proceedings to run simultaneously; whether either should be stayed depends on the particular facts, not an automatic rule. The quoted passage also cites *M.S. Sheriff, Iqbal Singh Marwah* and an accountants' association case.

Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775, was quoted and adopted for independent civil and criminal findings. It reproduces *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, on the different proof standards: preponderance in civil litigation, prosecution proof beyond reasonable doubt in criminal litigation, and ordinarily no automatic finality or binding force across the two. *Kishan Singh* explains that the earlier broad *Karam Chand* view giving primacy to civil-court findings cannot be treated as correct law, in light of the Constitution Bench in *M.S. Sheriff* and later *K.G. Premshanker*, and expressly preserves possible relevance of previous judgments under Sections 41–43 Evidence Act. The Court applied that qualified rule against the applicants' claim that the pending suit controlled the criminal case. It did not treat every civil judgment as irrelevant.

Syed Askari Hadi Ali Augustine Imam v. State (Delhi Admn.), (2009) 5 SCC 528, was quoted in substantial detail. It explains *K.G. Premshanker v. Inspector of Police*: a final previous judgment may be relevant under Sections 40–43 Evidence Act, res judicata may operate in civil suits between the same parties, Section 300 CrPC addresses repeat criminal trial after conviction or acquittal if conditions are satisfied, and a civil judgment on a common cause may be relevant but is conclusive only within the statutory ambit, notably Section 41. Relevance and its effect require case-specific determination; Section 43 excludes other judgments unless their existence is itself at issue or otherwise relevant. *Syed Askari* also discusses why *Karam Chand*'s general statement that civil findings bind criminal courts and the view in *V.M. Shah* that civil findings supersede criminal findings are incorrect, and quotes *Iqbal Singh Marwah* on avoiding long delay in prosecuting alleged court-related forgery. The present Court adopted the independent-proceedings and evidence-specific qualification; it did not decide a concrete claim of conclusiveness of an already rendered civil decree here.

Prem Raj v. Poonamma Menon, SLP (Cr.) No. 9778/2018 (2 April 2024), was quoted for the reconciliation of older authorities. It discusses *Karam Chand, K.G. Premshanker, Vishnu Dutt Sharma, Satish Chander Ahuja* and Constitution Bench *Iqbal Singh Marwah*, reiterating that the different standards of proof mean that findings in one proceeding do not automatically bind the other. Its reproduction of *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, recognizes a general public-interest preference for timely criminal justice because a civil suit can last years, but explicitly states that no hard-and-fast rule controls and particular circumstances, including a nearly concluded civil case, can justify another course. The present Court relied on it as support for allowing the criminal process to continue without treating the pending civil case as an automatic bar; it did not order this civil suit stayed. *Vishnu Dutt Sharma v. Daya Sapra, (2009) 13 SCC*

729, was separately quoted by the present Judge for its references to *Iqbal Singh Marwah*'s distinct standards and *P. Swaroopa Rani*'s approach to simultaneous proceedings based on the facts of each case, not for a new fact-specific rule about this Will. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was used to reject an extraneous civil-pendency basis for quashing an FIR. The quoted decision held that a divorce case and an interval before complaint did not justify looking beyond the FIR to quash prima facie criminal allegations; the present case concerned a Will suit, not matrimonial cruelty, and the principle applied here was the independence of criminal process and the face-value inquiry. The quoted *Bhajan Lal* illustrations were not separately applied as a multi-part test here. *Nandkishor Laxminarayan Mundhada v. Dwarkadas Murlidhar Mundhada, 2008 Cri LJ 990*, a Bombay High Court authority, was cited for a forged-Will allegation falling outside a merely civil quashing category; it was supporting, not Supreme Court precedent. *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, was quoted for the strong restraint against quashing at the initial stage merely because civil proceedings exist; its discussion of *Trisuns Chemical*, *Rajesh Bajaj* and *Bhajan Lal* explains that facts may have a civil profile and still disclose cheating or another criminal offence. The Court used it to reject automatic quashing, without deciding the charged BNS ingredients or the Will's authenticity. The *M.S. Sheriff* preference for criminal precedence, as quoted there, retains its express exceptional qualification and does not operate as an order staying the pending suit.

3. Statutes considered : Section 82 IPC and Section 20 BNS were treated as corresponding under-seven absolute criminal-incapacity provisions. The Court quoted Section 20: an act by a child under seven is no offence. The relevant age is at commission, so a presently asserted age of three or seven is not itself a final finding. It did not decide any separate provision concerning a child aged seven or older. Sections 318, 335, 336, 338 and 340 BNS are the FIR's deception/document offences; the order did not independently analyse each offence's ingredients or pronounce a final conviction. Section 482 CrPC/Section 528 BNSS supplied the pleaded inherent jurisdiction to challenge the FIR and Magistrate order. Section 175 BNSS was the source of the JMFC's pre-cognizance order directing investigation/registration; Section 223(1) BNSS was the applicants' proposed suspect-hearing provision, which the Court held inapplicable to this earlier stage. The Court nevertheless required the Magistrate to apply judicial mind to the necessity of a direction under Section 175. The judgment refers to Section 227 BNSS in describing the later cognizance/process stage; its legal holding here is the pre-cognizance distinction, without a separately developed Section 227 interpretation. Sections 40–43 of the Evidence Act, 1872, were considered through the Supreme Court authorities for when previous civil/criminal judgments may be relevant, and Section 41 for its limited conclusiveness; the Court did not apply one of those sections to a final civil adjudication in this still-pending suit. Section 300 CrPC appears within the quoted *K.G. Premshanker* discussion as a conditional bar on repeat criminal trial, not an issue decided for these applicants.

4. Issues : First, did the assertion that applicants 4 and 5 were seven and three establish an under-seven exemption for any act allegedly committed, and what age inquiry was necessary before retaining their names in the FIR? Second, did an existing civil suit, interim injunction and civil dispute over a Will preclude investigation of the daughters' separate allegation of fabrication under the BNS? Third, were civil findings automatically binding on criminal proceedings, or must differing proof standards and the Evidence Act's previous-judgment provisions be respected? Fourth, did Section 223(1) BNSS require a suspect hearing before the JMFC issued a Section 175 pre-cognizance investigation direction; did the Magistrate still need to apply judicial mind? The Court resolved those legal objections at the quashing stage, leaving the children's ages and alleged forgery for investigation and the merits of the Will dispute for the competent proceedings. It did not determine whether this civil suit should actually be stayed.

5. Ratio / Findings : The Court first read Section 20 BNS alongside Section 82 IPC. An act done by a child under seven is not an offence. Applicant 5 was described as about three and applicant 4 as about seven, but the relevant inquiry was each age when the alleged act occurred. The Court ordered the investigating officer to verify both and delete the name of either found to have been below seven then; it did not accept the assertion of age as conclusive or extend the provision to someone exactly seven. This conditional relief was person-specific and did not quash the case against adults.

The Court next rejected the pendency of the civil suit as a ground for quashing by itself. The daughters challenged the Will's alleged thumb impression and photograph and asserted post-death fabrication, allegations which, if true, have a criminal dimension irrespective of inheritance litigation. *Jagmohan Singh* distinguishes the civil plaintiff's proof of genuineness from the daughters' capacity to report suspected forgery. *P. Swaroopa Rani* recognizes that civil and criminal proceedings may continue simultaneously. *Pratibha* and *Kamaladevi* warn against quashing a prima facie FIR because an independent civil proceeding is pending or the facts also have a civil character. *Nandkishor* was consistent on a forged-Will allegation. The existing injunction did not constitute a final determination of authenticity or displace the police inquiry. The Court concluded that criminal registration was not unwarranted merely because Civil Suit No. 288/2023 concerned the same instrument. It did not decide if the allegations would ultimately be proved, identify which applicant created a false document, or finally establish each BNS element.

Separately, the Court examined why findings in civil and criminal proceedings do not automatically bind one another. The Constitution Bench principle in *Iqbal Singh Marwah*, repeated in *Kishan Singh*, uses different burdens: civil preponderance and criminal proof beyond reasonable doubt, with each record's evidence ordinarily evaluated independently. *Syed Askari* and *K.G. Premshanker* qualify this by requiring attention to Sections 40–43 Evidence Act: some final judgments may be relevant and Section 41 can make a limited category conclusive. This rejects both automatic binding force between the proceedings and an overbroad claim that every previous judgment is irrelevant. *Prem Raj* reconciles the older cases and *M.S. Sheriff*'s public-interest preference for prompt criminal adjudication, but without making that preference a fixed requirement to stay this civil suit. *Vishnu Dutt Sharma* reiterated the independent, fact-sensitive approach. The present controversy involved a pending civil suit, not a final decree that the Court applied as conclusive proof; this legal discussion supported refusal to terminate the FIR at inception.

Finally, the Court addressed procedure. Counsel argued that Section 223 BNSS mandated an opportunity of hearing for the suspects before the JMFC's 24 December 2024 order. The Court identified that order as one under Section 175 BNSS, directing police investigation before cognizance rather than taking the later complaint-stage step. Since Section 175 does not provide for such a prior suspect hearing, Section 223(1)'s hearing rule did not invalidate this order. This did not make the order purely mechanical: the Judge expressly said judicial application of mind is required to determine necessity of a Section 175 direction. The Court found no ground for interference on the asserted hearing defect. The order did not further adjudicate whether other procedural preconditions were met or determine the Will's genuineness.

6. Relief : The Hon’ble High Court finally disposed of the application challenging the JMFC’s 24 December 2024 order under Section 175 BNSS and Crime No. 05/2025; it did not quash the entire case. The civil-suit and Section 223 hearing objections failed. The investigating officer was directed to verify the ages of applicants 4 and 5 at the time of the alleged offence and immediately delete from the FIR the name of either found to have been below seven. Otherwise no case for interference was found. The Court did not order a stay of Civil Suit No. 288/2023, decide the Will's validity, convict anyone, or fix a timetable for the age verification.

Mahesh Kaurav and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 5828/2025, 07/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Restored complaint / successive challenge / compliance summons — The JMFC took cognizance of Section 498-A IPC on 5 December 2016. A 20 June 2017 revisional order set it aside for a perceived lack of territorial jurisdiction, but a coordinate High Court Bench on 19 November 2019 set aside that revision and restored the complaint. Notice had been issued to the present applicants, who had engaged counsel, though counsel did not appear at final hearing. The JMFC's 28 December 2020 order issued fresh summons in compliance; it was not a fresh cognizance order. The later revision against it did not give rise to a fresh cause of action to reopen cognizance, and a renewed Section 482 attack on the 2016 order already upheld by the coordinate Bench was misconceived. The judgment itself also refers once to a 28 October 2020 summons; its procedural and operative references identify the challenged order as 28 December 2020.

Complaint cognizance / prima facie sufficient ground — Applying *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, the Court held that 'sufficient ground' in Sections 203, 204 and 209 CrPC means a prima facie case for process, rather than evidence sufficient for conviction. The quoted discussion of *Chandra Deo Singh*, *Kewal Krishan* and *Mohinder Singh* confines an inquiry under Sections 200/202 to determining whether process should issue; trial-level weighing and the accused's defence await trial, while intrinsically untrustworthy or self-contradictory preliminary material may justify refusal. The complaint and complainant's Section 200 statement disclosed Section 498-A IPC allegations sufficient to proceed. The quoted Section 202(2) witness-examination issue was not an independent contested ground here.

Later divorce / disputed defence — The complaint preceded both the divorce petition and the ex parte decree. A decree obtained on 25 April 2016 could not by itself absolve the applicants of liability for the alleged conduct complained of on 13 November 2014. Assertions about eight or nine days' cohabitation, delayed report, falsity and willingness to resume marital life could not be finally adjudicated at cognizance. The application was dismissed; guilt remained for trial.

Case-note :- ***1. Facts :*** Pramila Ahirwar filed a private complaint on 13 November 2014 alleging matrimonial cruelty under Section 498-A IPC. The JMFC at Bina, Sagar, took cognizance and issued summons against Mahesh Kumar and the other applicants on 5 December 2016 in RCT No. 401066/2016. The applicants' Criminal Revision No. 1/2017 succeeded on 20 June 2017: the Additional Sessions Judge thought that, even if the allegations were accepted, the cruelty occurred within Jabalpur District and the Bina JMFC lacked territorial jurisdiction. The complainant challenged that ruling in MCRC No. 11607/2017 under Section 482 CrPC. Notice was issued to the applicants on 18 July 2017 and they engaged counsel, though counsel apparently did not attend final disposal. On 19 November 2019 a coordinate Bench of the High Court held that the Bina JMFC also had territorial jurisdiction, set aside the revisional decision and restored the complaint before that Magistrate. The present judgment did not reanalyse the underlying territorial facts or alter that earlier adjudication. After restoration, the JMFC issued fresh summons on 28 December 2020. The applicants challenged that order in Criminal Revision No. 2/2021, decided by the Second Additional Sessions Judge, Bina, on 27 February 2024. They then filed this Section 482 application challenging the original 5 December 2016 cognizance order, the 28 December 2020 summons and the 2024 revision outcome. Paragraph 9 of the judgment also refers once to summons issued on 28 October 2020, an internal date variation; the orders identified in its opening and procedural account specify 28 December 2020 as the challenged fresh summons. Counsel argued that the complaint and statements, even if read in full, disclosed no Section 498-A offence. On merits the applicants said Pramila stayed in her matrimonial home only eight or nine days, delayed reporting, made false allegations, and that they were willing to keep her with dignity. They relied on a later ex parte divorce decree. The Court separated the maintainability of reopening earlier orders from an alternative prima facie assessment, and did not conduct a final trial of cruelty or credibility.

2. Precedents — Considered : The coordinate Bench's order in MCRC No. 11607/2017 dated 19 November 2019 was an earlier binding adjudication within the proceedings arising from the same complaint. It reversed the 2017 territorial-jurisdiction revision and restored the 2016 cognizance and complaint. The present Court treated its result as precluding the applicants from reattacking the already upheld 2016 order, and identified the later fresh summons as procedural compliance rather than renewed cognizance. It noted that the applicants had notice and representation in the earlier High Court matter notwithstanding counsel's apparent absence at disposal.

Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578, was substantially quoted and applied. It interprets 'sufficient ground' in Sections 203, 204 and 209 CrPC as a Magistrate's prima facie satisfaction that proceedings should issue, not evidence sufficient for conviction. Its discussion of *Chandra Deo Singh v. Prokash Chandra Bose, AIR 1963 SC 1430*, preserves a proposed accused's defence for a later stage where prima facie material exists, while acknowledging that process can be refused if preliminary evidence is self-contradictory or intrinsically untrustworthy. *Kewal Krishan v. Suraj Bhan*, 1980 Supp SCC 499, distinguishes the complaint and Section 202 preliminary inquiry from meticulous trial-like weighing, and notes that its screening standard differs from that applicable at the

stage of framing charges. *Mohinder Singh v. Gulwant Singh, (1992) 2 SCC 213*, reiterates the limited Section 202 inquiry and reserves adequacy for conviction to trial. The present Court used these quoted principles to assess the complaint and Section 200 statement as disclosing a prima facie Section 498-A case, without ruling that the complainant's account was proved.

Shivjee Singh's quoted extract lists *Ramgopal Ganpatrai Ruia, Vadilal Panchal, Nirmaljit Singh Hoon and Chief Enforcement Officer v. Videocon International Ltd.* as supporting citations; the present Judge did not develop separate factual tests from each. The extract also discusses the Section 202(2) proviso in a Sessions-triable complaint: its 'shall' wording does not mean omission to examine every named witness on oath invariably deprives the Magistrate of jurisdiction where prima facie material remains, since 'all' refers to the complainant's material witnesses in context. This was part of the quoted Supreme Court reasoning, but no pleaded omission to examine specified witnesses or Section 465 prejudice question was independently decided in the present Section 498-A complaint.

3. Statutes considered : Section 498-A IPC was the alleged matrimonial-cruelty offence for which the JMFC had taken cognizance; the Court found that the complaint and Section 200 statement disclosed a prima facie case, without testing every statutory element at trial standard. Section 482 CrPC supplied the complainant's earlier High Court challenge and the applicants' present inherent-power application. The prior revision and later revision were part of procedural history, but the order did not construe a specific revision provision. Sections 200 and 202 CrPC frame the complaint statement and limited preliminary inquiry; Sections 203 and 204 concern dismissal or process on sufficient grounds, and Section 209 is included in *Shivjee Singh*'s quoted discussion of that expression. The Court did not separately decide the procedure for an exclusively Sessions-triable case. Section 202(2) and Section 465 appear in the quoted Supreme Court extract on examination of witnesses and nonfatal procedural omission, but that was not an independent issue in this complaint. The later divorce petition and decree were relevant as chronology and a defence contention, not as a statutory extinguishment of Section 498-A exposure; the judgment did not interpret a particular divorce provision.

4. Issues : Could applicants use the JMFC's fresh summons after High Court restoration as a new order of cognizance and obtain a second revision or Section 482 reconsideration of the 2016 cognizance already restored by a coordinate Bench? Apart from that procedural bar, did the complaint and Section 200 statement satisfy the prima facie 'sufficient ground' standard to proceed on Section 498-A, or could the Court at this stage adjudicate contested assertions of falsity, brief cohabitation and delayed complaint? Did an ex parte divorce decree passed after the complaint retroactively absolve the applicants from the alleged prior offence? The original coordinate Bench's territorial-jurisdiction ruling was not reopened; the applicants' ultimate guilt and the complainant's credibility remained for trial.

5. Ratio / Findings : The Court traced the original cognizance, its 2017 jurisdictional reversal and the 2019 coordinate Bench restoration. Once that Bench had set aside the jurisdiction-based revision and restored the JMFC complaint, the 5 December 2016 order stood upheld in this procedural chain. Fresh summons in December 2020 were a procedural consequence of restoration, not a fresh taking of cognizance. The Court therefore held that no fresh cause of action arose to seek revision of the fresh summons merely to attack the revived cognizance, and the present Section 482 application could not relitigate an order already upheld by a coordinate Bench. The fact that applicants' counsel apparently did not appear at final hearing of the prior High Court matter did not lead this Judge to disregard the notice and representation or reopen the earlier result. The ruling was confined to the identity and effect of these orders, not a general ban on all subsequent procedural objections.

On the alternative merits argument, the complaint had been lodged before the divorce proceedings: 13 November 2014 versus a divorce petition on 30 March 2015 and an ex parte decree on 25 April 2016. A later decree did not absolve the applicants of possible liability for the earlier alleged criminal acts. The applicants' claims about a brief matrimonial stay, delayed reporting, willingness to accommodate Pramila in the matrimonial home and factual falsity were matters requiring proof, not reasons for the Magistrate to pronounce the complaint untrue at the initial stage. Applying *Shivjee Singh*'s rule, the Court required sufficient prima facie ground for process, not guilt beyond reasonable doubt; the complainant's

Section 200 statement and complaint met that limited threshold for Section 498-A. The quoted Supreme Court cases distinguish screening from meticulous weighing and preserve refusal in an intrinsically untrustworthy case, but the Court did not identify such a defect here. The alternative finding reinforced the refusal to interfere while leaving the merits open.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The 27 February 2024 revisional order and the JMFC's revived complaint/summons were left undisturbed. The Court did not quash the Section 498-A complaint, remit it, decide guilt or order an acquittal. The complainant's allegations remain subject to the appropriate trial process; no separate costs or further directions were ordered.

Mahesh Kumar and Ors. v. Pramila Ahirwar, M.Cr.C. no. 11836/2024, 08/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial FIR / earlier divorce petition / Section 482 CrPC - A husband's earlier Section 13 Hindu Marriage Act divorce petition did not, by its chronology alone, show that the later Section 498-A IPC and Dowry Prohibition Act FIR was a counterblast. Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court treated civil and criminal proceedings as independent and considered the wife's attempted reconciliation before reporting; it evaluated the allegations against each accused instead of quashing merely because of civil litigation.

Relatives / omnibus accusation / role-specific scrutiny - *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, concerned proof and indiscriminate inclusion in dowry death litigation; *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, cautioned that distant relatives need specific role and material and that omnibus allegations against brothers and sisters differ from allegations against husband and parents. *Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, applied the abuse-of-process response to vague accusations in its particular delayed-FIR setting. The present Court applied their caution, along with *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, on careful scrutiny of separately residing relatives, and *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, on particulars of each accused's acts. Although applicants 4–8 lived in the same village and could not be excluded simply by distance, and applicants 9–10 lived in other cities, the collective allegations of dowry harassment and refusal of entry specified no individual conduct by applicants 4–10. The FIR, charge sheet and consequential proceedings were quashed insofar as they concerned those applicants. *Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*, was quoted for concern about indiscriminate implication and arrest in matrimonial cases, not applied to decide an arrest procedure issue here.

Husband and parents / triable case / no mini-trial - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, applying the Section 482 principles quoted from *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, distinguishes allegations that are absurd or disclose no offence from a triable case and forbids a threshold credibility trial. The Court applied that distinction to the specific allegation that parents 2–3 refused entry unless the dowry demand was met and the husband's particular assault, abandonment and refusal to keep the wife. Their quashing applications failed; the Court made a prima facie threshold decision, not a finding of guilt.

Case-note :- ***1. Facts :*** Mahesh Sahu (applicant 1) was the complainant's husband. Chhakulal and Shantibai Sahu (2–3) were his parents; Harisingh Sahu (4) an uncle-in-law; Ramesh and Pradeep Sahu (5–6) elder brothers-in-law; Vimla and Anita Sahu (7–8) their wives; and Asha and Neera Sahu (9–10) married sisters-in-law. The wife alleged marriage on 22 April 2015, ensuing physical and mental harassment linked to a ₹5 lakh dowry demand, and expulsion while pregnant about eight or nine months before her report. She gave birth at her parents' home. According to her account, a social Panchayat produced a reconciliation and the husband took her to Bhopal, where he again beat her and then left her in Indore without telling her the real position. Following another complaint and assurance against dowry demands and cruelty, he allegedly still refused to keep her. She said that on 11 May 2017 she was denied entry to his Bhopal home and told to go to Pachma; at Pachma, the remaining relatives collectively refused her entry unless she brought ₹5 lakh. The report and the Court's initial summary date the latter episode 22 May 2017, while paragraph 18 calls it 20 February 2017. The complainant reported the matter on 23 May 2017. Her Section 161 CrPC statement reiterated the FIR allegations. Crime No. 429/2017 at Basoda City, Vidisha, alleged Section

498-A IPC and Sections 3/4 of the Dowry Prohibition Act; the police filed a charge sheet. The ten applicants sought quashing of the FIR, charge sheet and criminal proceedings under Section 482 CrPC. They called the complaint a counterblast to the husband's previously filed Section 13 Hindu Marriage Act divorce petition, characterised the family allegations as vague, and supplied residence documents for applicants 4–10. The State relied on the allegedly collective Pachma refusal and ₹5 lakh demand as sufficient to prosecute all. The Court examined the allegations against the husband, parents and other relatives separately at the threshold, without deciding their ultimate truth.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was quoted for the independence of civil and criminal proceedings even if they arise from the same matrimonial facts. A divorce petition and attempts to return to the matrimonial home cannot alone justify quashing the criminal allegations through extraneous considerations. The Court applied it to reject the simple chronology-based counterblast argument and suggested the wife's pursuit of reconciliation could explain her later report; it still scrutinised each accused's pleaded role.

Kans Raj v. State of Punjab, (2000) 5 SCC 207, was quoted from a dowry death context: involvement of every relation cannot be inferred from kinship or conjecture, and the overt acts of persons other than the husband require proof beyond reasonable doubt for guilt. The present Court used its caution against indiscriminate roping in of in-laws at the quashing stage, without treating its trial proof standard as the governing test for quashing after the charge sheet had been filed. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, which itself referred to *Kans Raj* and *Raja Lal Singh, (2007) 15 SCC 415*, was quoted for a pragmatic distinction: the possibility of exaggerated inclusion requires specific role and supporting material before distant relatives are summoned, and omnibus allegations against brothers, sisters and others do not stand on the same footing as those against a husband or parents. The Court applied that differential scrutiny rather than holding that every relative is automatically exempt. The quotations' references to *Raja Lal Singh* and *Kamesh Panjiyar* were nested illustrations, not separately analysed holdings adopted in this case.

Chandralekha v. State of Rajasthan, 2013 (1) UC 155, was quoted for quashing allegations against relatives that were extremely general, lacked assigned roles and arose after an unusually long delay in that case. The Court used its role-specific abuse-of-process principle; it made no separate six-year-delay finding on this FIR. *Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*, was quoted for its description of the risks of indiscriminate inclusion and arrest in Section 498-A cases. The present decision used that caution in its scrutiny of relatives; no arrest, Section 41 CrPC compliance or statistical proposition was adjudicated. *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, was quoted for careful, circumstance-sensitive scrutiny, including the different complexion of allegations against relations living in other cities and rarely visiting the couple. The Court applied this to the married sisters living separately while still testing same-village relatives by the specificity of alleged acts. *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, required particulars of the offence and each person's role rather than a bare statutory recitation; its quoted result quashed a vague complaint against parents after the principal accused husband had died. The Court applied the need for particulars to applicants 4 –10, but did not transpose that case's different facts to the living husband and parents here.

Taramani Parakh v. State of M.P., (2015) 11 SCC 260, was quoted for the other side of the Section 482 boundary: proceedings can be quashed when allegations are absurd, disclose no case or show abuse, but a triable case cannot be rejected by deciding reliability of version and counter-version. It distinguished *Neelu Chopra*, *Manoj Mahavir* and *Geeta Mehrotra* on their facts and rejected an absolute rule of immunity for relatives. *Taramani* reproduced *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, on restrained quashing: examine whether uncontroverted allegations and prosecution documents prima facie establish an offence; avoid meticulous assessment, conviction forecasts and a full evidentiary inquiry; do not rely on an accused's external materials to negate a broadly disclosed offence; yet intervene for patent absurdity, fundamental defects or abuse of process as circumstances warrant. The present Court used this combined threshold to retain the case against the parents and husband while allowing role-specific relief for others.

3. Statutes considered : Section 482 CrPC supplied the High Court's inherent jurisdiction to quash the FIR, police report and consequential prosecution for

abuse of process or failure to disclose a triable offence, subject to the prima facie standard and the limits on conducting a mini-trial explained in the quoted authorities. Section 161 CrPC was the basis of the complainant's police statement, said to reiterate the FIR; the Court did not resolve witness credibility on that statement. Section 498-A IPC and Sections 3/4 of the Dowry Prohibition Act were the alleged cruelty and dowry offences for which the police filed the charge sheet; the Court assessed whether the pleaded demand-linked acts supported continuing the prosecution against each accused, without determining guilt, statutory ingredient proof at trial or the penalty. Section 13 of the Hindu Marriage Act identified the husband's divorce petition, a civil proceeding whose earlier filing did not automatically extinguish the criminal one. The quoted *Amit Kapoor* passage refers to Sections 228 and 173(2) CrPC to explain restraint at charge/quashing stage; no distinct charge-framing or report-defect question was decided here.

4. Issues : (i) Did the earlier divorce petition, by itself or with the alleged reporting delay, establish a retaliatory FIR requiring Section 482 quashing, or was the criminal allegation to be examined independently? (ii) Did the collective assertion of harassment and the Pachma demand/entry refusal particularise an offence by each of applicants 4–10, especially given the same-village location of 4–8 and separate city residences of 9–10? (iii) Were the pleaded acts of the husband's parents and the husband sufficiently particular and triable to resist quashing despite relief for the other relatives? The Court considered each at the pretrial threshold, leaving proof and credibility for the criminal court. No independent arrest-procedure issue was before it.

5. Ratio / Findings : On timing, the Court followed *Pratibha*: a civil divorce petition and a later criminal report can coexist because the two jurisdictions are independent. Filing after the husband initiated divorce did not ipso facto establish mala fides. The Court reasoned that the wife might have first tried to preserve her marriage and reported only when reconciliation appeared exhausted. It therefore rejected the blanket counterblast submission rather than declaring every alleged incident proved.

For applicants 4–10, the Court examined the allegations in the FIR and the corresponding Section 161 statement stage by stage. The initial assertion that all family members demanded ₹5 lakh and caused mental and physical harassment did not explain how these seven persons allegedly acted. The subsequent Bhopal/Indore allegations and assurances concerned the husband himself. The asserted Pachma refusal assigned a collective demand and denial of entry to all, without identifying a specific act by any of the seven. The Court acknowledged that applicants 4–8 lived in Pachma, so it could not infer an impossibility of daily interference from distance; nevertheless, same-village residence could not cure the absence of particulars. Applicants 9–10 were married and resident in different cities, sharpening the concern about omnibus inclusion. It applied the quoted Supreme Court cautions on indiscriminate implication, individual role and surrounding circumstances to hold that continuing Section 498-A and Dowry Prohibition Act proceedings against those seven on this material would be unwarranted. Their separate-residence documents were mentioned; the reasoning did not rest on a categorical rule that documentary residence necessarily defeats every complaint. The operative quashing relates to those accused alone.

For parents 2–3, the Court found a different pleaded position. Beyond initial demand-linked physical and mental harassment, they were alleged to have personally refused entry on 22 May 2017 and threatened to bar residence unless ₹5 lakh was brought. Its reasoning treated their relationship as parents and these allegations as materially different from the undifferentiated allegations against 4–10. Applying *Taramani*'s triable-case threshold and the quoted *Amit Kapoor* restraint, it would not test reliability or choose a counter-version in Section 482 proceedings. For husband 1, the Court identified particular allegations of assault, expulsion during pregnancy, Bhopal mistreatment, leaving the wife in Indore after reconciliation and a further refusal to keep her despite an assurance. It found a prima facie case for the charged provisions and similarly refused quashing. This was an accused-specific threshold assessment, not a conviction or final finding that the dowry demand, cruelty or entry-refusal allegations were true.

6. Relief : The Hon’ble High Court partly allowed the Section 482 application. The FIR in Crime No. 429/2017 at Basoda City for Section 498-A IPC and Dowry Prohibition Act Sections 3/4, its charge sheet and consequential criminal proceedings were quashed against Harisingh, Ramesh, Pradeep, Vimla, Anita, Asha and Neera Sahu (applicants 4–10);

paragraph 23 calls them discharged. Quashing was refused for Mahesh, Chhakulal and Shantibai Sahu (applicants 1–3), against whom the prosecution may proceed subject to trial. No final view on their guilt or credibility was taken. There was no order as to costs.

Mahesh Sahu and Ors. v. State of M.P. and Ors., M.Cr.C. no. 2070/2018, 05/12/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal-side writ / investigation control / arrest discretion - In an Article 226 petition arising from Crime Nos. 75/2020 and 76/2020, the Court declined to direct arrest of accused police officers or prescribe the investigative outcome. It applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, including *the M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, passage on Section 41 CrPC: police investigation and the necessity of arrest require discretionary judgment; neither a cognizable FIR nor a writ makes arrest or a charge sheet automatic. *D. Venkatasubramaniam* also cautioned against directions affecting unheard persons and mechanical directions concerning investigation, though no independent notice ruling was made here. No order for investigation by an officer of a specified rank or for proclamation was granted.

Witness protection / police security / threat during investigation - On the petitioner's account that implicated officers pressured and harassed him, the Court invoked *Mahender Chawla v. Union of India*, recognising nationwide operation of the Supreme Court-approved Witness Protection Scheme. It ordered adequate police protection for the petitioner and other witnesses, with the Inspector General and Superintendent of Police responsible for ensuring it. The order did not decide the truth of the threat allegations.

Investigation / Section 173(1) CrPC / unnecessary delay - The statutory duty to finish an investigation without unnecessary delay justified a direction to complete it as early as possible and take lawful next steps after assessing whether an offence is made out. The Court preserved the investigator's choice of lawful conclusion, while allowing a further grievance representation to the Superintendent of Police; no fixed deadline or predetermined charge sheet was imposed.

Case-note :- ***1. Facts :*** The petitioner, Makhan Singh, asserted that his son had been killed by police officers. He said an FIR in Crime No. 76/2020 at Malanpur Police Station, Bhind, had been registered only with difficulty, and his writ relief referred to both Crime Nos. 75/2020 and 76/2020. The petitioner alleged that the implicated officers remained on duty, investigation was not progressing, and they had not been arrested. His Article 226 petition asked for investigation by an officer equivalent in level to a Superintendent of Police, directions to arrest the accused, a declaration that the accused were absconding or their treatment as absconders, initiation of proceedings under Sections 82–83 CrPC, and costs. He further alleged pressure from the officers to compromise and harassment, and said his representations to the Superintendent of Police, Bhind, and Inspector General of Police, Chambal Division Morena, had not secured protection for him and witnesses. These assertions were the context for relief, not judicial findings that the police killing, obstruction or threats had been proved.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was extensively quoted. The Supreme Court in that matter set aside a High Court order prescribing police steps such as statements, arrest, seizure and charge sheet without a reasoned basis and without hearing affected persons. It explained that investigation is the police's statutory sphere; evidence may justify a charge sheet or disclose no case, and a court exercising inherent power cannot casually dictate the manner or outcome of the investigation. The passage reproduced *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*: Section 41 CrPC permits arrest without warrant in specified circumstances but gives the officer discretion, exercised cautiously because arrest affects liberty and reputation; arrest need not follow immediately on registration even for a cognizable offence. The Court applied the investigation and arrest-discretion principles to reject the requested arrest direction and explain that commanding arrest or charge-sheet filing would supervise the investigation in this Article 226 writ, although *D. Venkatasubramaniam* itself concerned a Section 482 order. The quotation also referred to *Divine Retreat*

Centre v. State of Kerala, (2008) 3 SCC 542, on hearing those affected before drastic investigation orders, and to the limits of Section 482. Those aspects formed part of the caution against judicial directions; the present Court did not decide a separate natural-justice challenge or exercise Section 482 jurisdiction.

Mahender Chawla v. Union of India, W.P. (Criminal) No. 156 of 2016, 2018 (15) Scale 297, was identified for the Supreme Court's approval and nationwide application of the Witness Protection Scheme. The Court applied that protective framework to order security for the petitioner and other witnesses after recording his complaint of compromise pressure and failure to obtain protection. The judgment does not reproduce the Scheme's eligibility categories, threat assessment procedure or particular measures, so no finding on those details was made.

3. Statutes considered : Article 226 of the Constitution was the source of the petitioner's mandamus request concerning investigation, arrest and protection. The Court distinguished the limits of judicial direction of police investigative discretion from permissible protection and lawful-completion directions. Section 41 CrPC was discussed through *M.C. Abraham*'s passage as a discretionary power to arrest, dependent on statutory circumstances and necessity rather than an automatic consequence of a reported cognizable offence. Section 173(1) CrPC was quoted directly: every investigation under the relevant Chapter shall be completed without unnecessary delay. The Court used it to require conclusion and appropriate lawful action, without choosing whether the report should be a charge sheet or a no-case outcome. Sections 82–83 CrPC were part of the petitioner's request for proclamation and attachment steps concerning alleged absconders; their preconditions were not interpreted or found satisfied, and no such process was ordered. Section 482 CrPC appears in the Supreme Court excerpt about a different High Court's inherent-power order; the present petition proceeded under Article 226.

4. Issues : (i) Could the High Court, on the petitioner's allegation of stalled investigation and non-arrest, direct arrest of police personnel, investigation by an officer of a specified rank, the filing of a charge sheet or steps under Sections 82–83 in the two registered crimes? (ii) Did the pleaded pressure on the complainant and witnesses call for protective directions under the Supreme Court-recognised Witness Protection Scheme? (iii) What direction could be given under Section 173(1) CrPC to end delay while preserving the investigating officer's duty to assess the evidence and decide the lawful result? The Court did not decide whether the accused committed the alleged killing, whether they had in fact harassed the petitioner, or whether the evidence ultimately warranted prosecution.

5. Ratio / Findings : The Court first considered the demand for arrest. By applying *D. Venkatasubramaniam*, it recognised that investigation is a statutory police task and that directing arrest and the filing of a charge sheet would amount to judicial supervision of investigative steps and result. *M.C. Abraham*'s Section 41 reasoning, quoted within that judgment, explains why an FIR alleging a cognizable offence does not oblige immediate arrest: an officer must exercise discretion with caution, taking account of the offence, persons and information emerging from investigation, and the intrusion upon liberty and reputation. A judicial order should not decide that discretionary step in advance. The seriousness of the allegation made by the petitioner and the accused officers' continued service did not alter that legal limit in the Court's analysis. The requested arrest direction was therefore unavailable. The Court also did not direct investigation by an officer of a specified rank, declare the accused absconding, order proclamation or prescribe the filing of a charge sheet. The judgment does not separately analyse a legal test for officer rank or Sections 82–83, so the absence of those orders is stated as disposition, not a broad holding on all future applications.

The Court next addressed the distinct safety concern. It recorded the petitioner's account of pressure to compromise and harassment and his unsuccessful representations to the senior officers. Citing *Mahender Chawla*'s nationwide Witness Protection Scheme approval, it directed adequate police protection to him and other witnesses. It placed responsibility on the Inspector General, Chambal Division Morena, and Superintendent of Police, Bhind, to ensure compliance. This was a protective public-law response to reported risk, not proof of a substantive offence or an arrest mandate.

Finally, the Court quoted Section 173(1) and treated its command against unnecessary delay as mandatory. The investigating officer could not leave the FIRs pending without concluding whether an offence was made out. It ordered completion as early as possible and steps required under law after that

assessment. The Court thus directed timely completion according to law in response to the petitioner's concern about inaction, while leaving the evidentiary conclusion to the investigator. No particular six-month period or other calendar deadline was fixed. For later grievances the petitioner was allowed to apply to the Superintendent of Police, who was to consider them according to law.

6. Relief : The Hon'ble High Court disposed of the Article 226 petition. The Court refused to command the accused officers' arrest and did not grant the requested rank-specific investigation, abscondence declaration, Sections 82–83 process or predetermined charge sheet. It directed respondents to furnish adequate police protection to the petitioner and other witnesses under the cited witness-protection authority, with the Inspector General and Superintendent of Police responsible for ensuring it. The investigating officer was directed to conclude the investigation as early as possible without unnecessary delay and then take lawful steps; a further grievance could be made to the Superintendent of Police. A copy of the order was to be sent immediately to the two senior officers for information and compliance. No costs award or finding on the alleged killing was made.

Makhan Singh v. State of Madhya Pradesh and Ors., W.P. no. 13859/2020, 25/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Closure report / offence-wise review / IPC and SC/ST Act - The Special Judge rejected the police closure report for Sections 147 and 427/34 IPC but accepted it for Section 294 IPC and Section 3(1)(x) of the SC/ST Act. As the complainant did not challenge acceptance of the closure report for the latter offences, the High Court confined its review to its rejection for the former offences. Allegations that the accused persons had pelted stones and caused damage of at least ₹50 to the house wall and doors provided a prima facie basis for an offence under Section 427; the applicants' reliance on contrary witness affidavits and their allegation of an ulterior motive were not finally assessed. The rejection of the closure report for the specified IPC offences was upheld.

Unlawful assembly / rioting / Section 34 IPC - Sections 141, 146 and 147 IPC require an unlawful assembly of at least five persons, a qualifying common object, and force or violence in prosecution of that object. On the allegations that five accused persons had pelted stones, the Court upheld cognizance of rioting and considered a separate invocation of Section 34 unnecessary at that stage. It observed that, if the evidence later showed that some accused were not involved, Section 34 might still be invoked against the remaining persons on proof of common intention. The order did not finally determine whether common object or common intention had been proved.

Cognizance / sufficient ground / no meticulous evidence weighing - *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578,* was applied to distinguish prima facie grounds for proceeding under Sections 203, 204 and 209 CrPC from the proof required for conviction. The quoted passages discussing *Chandra Deo Singh*, *Kewal Krishan* and *Mohinder Singh* permit refusal of process where the preliminary material is intrinsically untrustworthy, but prohibit turning the inquiry into a full trial. The applicants' reliance on disputed affidavits did not persuade the High Court to interfere with the Special Judge's order taking cognizance. The point concerning examination of witnesses under Section 202(2), discussed in the quotation, was not independently decided.

Case-note :- ***1. Facts :*** Rajkumar Sonkar alleged in a complaint under Section 200 CrPC that, on 17 July 2008, two accused persons stopped his son as he returned from school near Satyam Tower, insulted and intimidated him by referring to his caste, and assaulted him, causing bleeding and swelling around his lip and face. According to the complainant, his son returned home and reported the incident. The complainant went to Ranjhi Police Station. When he returned after obtaining treatment for his son, his wife allegedly reported that the accused persons had come to their home, pelted stones, used obscene language, insulted and intimidated them, and damaged a wall and doors. He named two persons who, according to him, had witnessed the later incident. The complaint alleged that the accused called them lowly and threatened to make it difficult for them to live. He complained of police delay and political influence and referred to an earlier writ directing the Superintendent of Police to act. The judgment did not treat those allegations as proved.

Police ultimately registered Crime No. 29/2013 and filed a closure report after investigation. On 23

March 2017, a Magistrate returned the report for presentation to the competent court. By order dated 22 September 2017 in MJC No. 599/2017, the Special Judge (SC/ST Act), Jabalpur, accepted the closure report for Section 294 IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act, 1989, but rejected it for Sections 147 and 427 read with Section 34 IPC and took cognizance. Mala Chatterjee and the other accused challenged that rejection under Section 482 CrPC. They contended that witnesses named in the FIR had submitted affidavits to the investigating officer denying that any incident had occurred, that the complainant's criminal history and motive to settle scores discredited the case, and that, even if the closure report were rejected, the Special Judge should have sent the case back to a Magistrate instead of taking cognizance. The complainant had not challenged acceptance of the closure report for the other offences. The reasoned decision concerns the application by Mala Chatterjee and the other applicants.

2. Precedents — Considered : *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, was quoted and applied to explain 'sufficient ground' under Sections 203, 204 and 209 CrPC. The Supreme Court distinguished satisfaction that a prima facie case exists for issuing process from the sufficiency of proof for conviction. The quoted passage referred to a line of cases, including *Ramgopal Ganpatrai Ruia*, *Vadilal Panchal*, *Nirmaljit Singh Hoon and Chief Enforcement Officer v. Videocon*, in support of that standard; the High Court did not independently analyse those cases. The quoted discussion explained *Chandra Deo Singh v. Prokash Chandra Bose, AIR 1963 SC 1430*, as requiring process where prima facie evidence exists despite a possible defence, while permitting refusal where the complainant's material is self-contradictory or intrinsically untrustworthy. It explained *Kewal Krishan v. Suraj Bhan*, 1980 Supp SCC 499, as limiting preliminary scrutiny under Sections 200–204 to a cursory assessment of prima facie evidence, without the meticulous weighing undertaken at trial, particularly in the context of cases triable exclusively by a Court of Session discussed in the quotation. *Mohinder Singh v. Gulwant Singh, (1992) 2 SCC 213*, reinforced that an inquiry under Section 202 determines whether process should issue, rather than guilt or the adequacy of evidence for conviction. The High Court applied these principles in declining to conduct a detailed evidentiary inquiry into the contrary affidavits at the stage of cognizance and the Section 482 challenge. The passage also reproduced *Shivjee Singh*'s construction of the proviso to Section 202(2), including the qualification of 'all' by 'his' and the effect of not examining some witnesses. However, no ground concerning non-examination of witnesses was raised and separately decided in the present case.

3. Statutes considered : Sections 141, 146 and 147 IPC respectively define an unlawful assembly, provide for rioting where force or violence is used in prosecution of its specified common object, and prescribe punishment for rioting. The Court noted that there were five accused persons and allegations of collective stone pelting. Cognizance of mischief to property had been taken with the aid of Section 34 IPC. The Court considered a separate invocation of common intention unnecessary once cognizance of rioting had been taken at that stage, but recognised its possible relevance if the evidence later showed that fewer accused persons were involved. The alleged stone damage of at least ₹50 to the wall and doors provided a prima facie basis for Section 427 IPC. The closure report had been accepted for Section 294 IPC and Section 3(1)(x) of the SC/ST (Prevention of Atrocities) Act; the merits of those offences fell outside the application because the complainant had not challenged that acceptance. The original complaint also mentioned other provisions of that Act, but the Court did not interpret them. Sections 200, 202–204 and 209 CrPC arose in the context of the complaint and issue of process and in the standard quoted from *Shivjee Singh*. The decision applied the distinction between a prima facie basis for cognizance and proof for conviction; it did not separately decide a dispute about examination of witnesses under Section 202(2). The applicants challenged the Special Judge's order under Section 482 CrPC, and the limited review concerned whether taking cognizance and rejecting the closure report warranted interference.

4. Issues : (i) Did the allegations in the complaint provide sufficient grounds to reject the police closure report and proceed under Sections 147 and 427 IPC, despite the defence reliance on affidavits denying the incident and an asserted ulterior motive? (ii) Did the allegation that five persons had pelted stones support cognizance of rioting, and was a separate invocation of Section 34 needed at that stage, given its possible relevance if the evidence later showed that fewer

accused persons were involved? (iii) Did the Special Judge's decision to take cognizance, instead of sending the case concerning the rejected part of the closure report to a Magistrate, warrant interference under Section 482? The Court confined its analysis to the rejected part of the closure report. It did not reopen acceptance of closure for Section 294 IPC and the SC/ST Act offence or decide guilt.

5. Ratio / Findings : The Court confined its review to the part of the order dated 22 September 2017 adverse to the accused, recording that the complainant had not appealed against or otherwise challenged acceptance of the closure report for Section 294 IPC and the SC/ST Act offence. In relation to the remaining offences, the Court identified specific allegations that stones had struck and damaged the wall and doors, causing a loss of ₹50 or more. Those allegations provided a prima facie basis for an offence under Section 427; the Court did not finally determine the amount of damage or the credibility of the allegations. The alleged group comprised five persons. The Court set out the minimum of five persons and the qualifying common object required by Section 141, the use of violence in prosecution of that object under Section 146, and the punishment under Section 147. Applying those provisions to the allegations of stone pelting by the group, the Court upheld cognizance of rioting.

The Special Judge's order referred to Sections 147 and 427 read with Section 34. The High Court observed that, once cognizance under Section 147 had been taken on the allegation of an assembly of five persons, a separate invocation of Section 34 was unnecessary at that stage. This did not finally exclude liability based on common intention: if the trial evidence showed that some of the five accused were not involved and should be acquitted, the remaining participants could be punished with the aid of Section 34, depending on the facts established by that evidence. The distinction concerned the stage of the proceedings and the alternative bases of liability; no final finding of liability on either basis was made.

In declining the requested reassessment of the affidavits and the alleged motive of the complainant, the Court applied the prima facie standard for issuing process stated in *Shivjee Singh*. The accused persons' denial and their account of what the witnesses had stated were not matters for meticulous assessment at the stage of cognizance. The quoted Supreme Court explanation retained the qualification that process may be refused where the preliminary material is self-contradictory or intrinsically untrustworthy. The High Court found no basis to interfere with the Special Judge's rejection of the closure report and order taking cognizance. Although the applicants argued that the case should instead be sent to a Magistrate, the decision did not formulate a general jurisdictional rule on that procedure; the Court upheld the Special Judge's order on the grounds it examined. Proof of the alleged stone pelting and property damage, the credibility of witnesses and the individual liability of the accused on the surviving IPC counts remained matters for trial.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 and upheld the Special Judge's order dated 22 September 2017 in MJC No. 599/2017. Rejection of the police closure report and cognizance under Sections 147 and 427 IPC remained operative, subject to the Court's explanation that a separate invocation of Section 34 was unnecessary at that stage and might become relevant after evidence was recorded. The unchallenged acceptance of the closure report for Section 294 IPC and Section 3(1)(x) of the SC/ST Act was left intact. The judgment did not convict the applicants, revive the closed offences, direct remand to a Magistrate or grant separate relief.

Mala Chatterjee and Ors. v. Rajkumar Sonkar and Ors., M.Cr.C. no. 18452/2018, 19/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Police report / administrative circular / prior permission - The District Prosecution Officer allegedly returned a supplementary charge sheet on the ground that its classification as a 'sensational' case required clearance from Bhopal. In response to the Court's inquiry, the DGP affirmed that CrPC contains no such requirement of prior permission or intimation, that the Police Headquarters circular dated 2 February 2012 cannot override the Code, that clause 3 of the circular requires no IG (Coordination) permission, and that neither the DPO nor the investigating officer may withhold a report on that pretext. The Court treated the clarification and the circular dated 23 March 2022 as addressing the procedure that had delayed filing; it did not direct the

police to reach any particular conclusion in their report or order an arrest.

Fair investigation / sensational classification / common diligence - The Court called on the DGP to explain how special attention to 'Chinhit Apradh' could be reconciled with the fair handling of other offences. It found the first supplementary explanation vague. The affidavit and circular dated 8 April 2022 clarified that all criminal cases require prompt and effective investigation. The Court held that the prosecution cannot classify one case as sensational and investigate it vigilantly while investigating another case involving similar allegations casually. It expected the police to follow the revised directions concerning service of witness summons, execution of warrants and repeated defaults by police personnel. The applicant then declined to press the matter further because his grievance had been redressed. The application was disposed of without a final finding on the alleged gunshot incident or a direction making arrest mandatory.

Case-note :- ***1. Facts :*** Malkhan Singh alleged that he had survived a gunshot injury inflicted at the behest of respondent 4. In an application under Section 482 CrPC, he sought a status report on the steps taken to arrest that respondent and an order for his arrest, stating that he feared for his life. The order did not determine whether the shooting had occurred as alleged or whether the accused was culpable. In its reply dated 11 February 2022, the State said that a supplementary charge sheet against the accused persons had been prepared and would be filed. On 23 February, the State's counsel reported, on instructions, that the investigating officer had attempted to file it, but the District Prosecution Officer, Gwalior, had returned it because the matter was classified as a 'sensational case' requiring permission from Bhopal. Counsel stated that it would be filed on 11 March. The Court questioned that classification and called for explanations from the DPO and DGP. In his reproduced affidavit dated 25 February 2022, DPO Praveen Dixit referred to the intimation requirement in the 2012 circular and stated that the report had been returned on oral instructions from a superior officer. He also stated that CrPC contained no requirement of prior permission in sensational cases.

By order dated 2 March 2022, the Court asked whether the DPO's return of the charge sheet complied with CrPC, whether the Police Headquarters circular dated 2 February 2012 could override the Code or required permission from the IG (Coordination), Crime Investigation Wing, and whether the DPO or investigating officer could withhold the report. It also questioned what the distinction between sensational and ordinary cases meant for diligence in investigation and prosecution. In his affidavit dated 8 March, the DGP stated that neither the statute nor the circular required permission or prior intimation and that withholding the report on that ground was impermissible. He nevertheless described special attention to 'Chinhit Apradh' as intended to secure prompt investigation of a high standard and effective prosecution, while denying that other cases could be handled lethargically. The Court sought further clarification on 14 March. In his affidavit dated 23 March, the DGP referred to circulars clarifying that no clearance was required, that all cases required full attention and prompt investigation, and that trial-court summons and warrants must be served or executed in time. The Court found that response vague as to the actual distinction between the categories and sought a more specific circular. On 8 April, the DGP stated that all crimes, however classified, must be investigated promptly and effectively. He also described directions on summons and warrants, securing the presence of police witnesses, and preliminary inquiries into repeated defaults by police personnel. The Court treated the new circular as correcting the error. Counsel for Malkhan then stated that the grievance had been redressed and that the applicant did not wish to proceed further.

2. Statutes considered : The application was made under Section 482 CrPC. The Court did not examine the matter as a conventional challenge seeking quashing; the original request for arrest-related relief led it to scrutinise the delay in filing the supplementary report and the police policy. Submission of the police report was governed by CrPC. The Court required the DGP to clarify the position and recorded his acknowledgment that no provision of CrPC required prior permission or prior intimation to the IG (Coordination) before a charge sheet could be filed. It did not identify a numbered provision governing submission of the report, fix a statutory filing date, compel a particular conclusion or decide the application of an arrest provision. The circulars dated 2 February 2012 and 29 December 2014 identified 'sensational' or 'Chinhit Apradh' cases. The circulars dated 23 March and 8 April 2022

clarified that clearance was not required and addressed prompt and effective investigation of all cases and compliance with summons and warrants. These police instructions were subordinate to CrPC; they were not statutes and could not create an additional statutory requirement of prior clearance. No offence provision governing the alleged gunshot incident was interpreted.

3. Issues : (i) Could a District Prosecution Officer return a prepared supplementary charge sheet and make its filing depend on permission from Bhopal or the IG (Coordination), or on prior intimation, merely because a police circular classified the matter as a sensational case? (ii) Could Police Headquarters require special attention to investigation and prosecution in sensational cases while allowing delayed or casual investigation of non-sensational cases involving comparable allegations? (iii) After the DGP's successive affidavits and clarificatory circulars, what relief remained to be considered on the applicant's original arrest-related request? The Court did not decide the underlying gunshot allegation, whether respondent 4 had to be arrested, or whether the evidence was sufficient to support the prepared supplementary charge sheet.

4. Ratio / Findings : The initial promise to file a supplementary charge sheet and the subsequent account of its return prompted the Court to question the administrative condition imposed on filing. The nine questions in its order dated 2 March expressly examined the DPO's action in light of CrPC and the 2012 circular. In response, the DGP stated that the Code required neither permission from nor intimation to the IG, that the 2012 circular could not override the Code, and that clause 3 imposed no such clearance requirement. Neither the DPO nor the investigating officer could withhold the report on that pretext. The Court considered that clarification together with the later affidavits and the clarificatory circular dated 23 March. The clarification accepted by the Court meant that classification as a sensational case could neither create an additional requirement before filing nor excuse delay. This addressed the claim that permission was required, without replacing the police assessment of the report warranted by the evidence with a judicial one. The Court's reasoning concerned its procedural orders, the DGP's sworn clarifications, the relationship between police circulars and CrPC, and the need for equal diligence in investigation. The DGP's affidavits and the reproduced circulars stated that prior clearance was unnecessary and that all criminal cases required prompt and effective investigation.

The DGP initially justified the category as a means of securing better and speedier investigation and effective prosecution and trial in grave cases, while maintaining that ordinary cases should not be handled lethargically. The Court required him to explain why the same standard of quality and promptness should not apply to the investigation of all offences. It found the supplementary response dated 23 March and the circulars vague: they stated that both categories deserved full attention without explaining the additional efforts previously claimed or their limits. The further affidavit and circular dated 8 April expressly clarified that sensational and non-sensational crimes alike must be investigated promptly and effectively. The Court then stated the governing principle: every offence affects both an individual and society, and the prosecution cannot use a classification to justify vigilant investigation of one offence and casual handling of another involving similar allegations. It stated that Police Headquarters had corrected its mistake. The circular also addressed effective execution of trial summons and warrants, attendance of police witnesses and preliminary inquiry into repeated failures by police personnel. The Court expressed the hope and belief that officers would comply and that adequate action would be taken in cases of repeated default to protect complainants and witnesses from avoidable harassment.

At the final hearing, the applicant's counsel stated that the grievance had been redressed and that the applicant did not wish to press the matter further. The Court disposed of the application on the basis of the affidavits and circulars, with an expectation that they would be followed in letter and spirit. It did not order arrest, determine whether respondent 4 had evaded the police, or decide criminal liability.

5. Relief : The Hon’ble High Court disposed of the application under Section 482 after the applicant stated that he did not wish to proceed further. The Court expected police personnel and investigating officers to respect the DGP's affidavits and follow all Police Headquarters circulars, including the clarification dated 8 April, in letter and spirit. It did not order arrest, finally determine the status of respondent 4, quash proceedings, convict anyone, require a particular charge-sheet conclusion, or award damages or costs. The judgment did not set a deadline for filing the supplementary report. It

clarified that the report could not be withheld on the supposed requirement of prior clearance for a sensational case and that ordinary cases could not be investigated casually.

Malkhan Singh v. State of M.P. and Ors., M.Cr.C. no. 8892/2021, 25/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR registration / Article 226 mandamus / alternative remedies - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, affirmed the police duty to register an FIR when information discloses a cognizable offence, but directed an informant aggrieved by police inaction to the complaint procedure under Sections 190/200 CrPC. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, identified recourse under Section 154(3), followed by an application to the Magistrate under Section 156(3), as the remedy instead of a routine writ petition before the High Court. In *Shweta Bhadauria*, the Madhya Pradesh Division Bench recognised the four exceptions to the alternative-remedy rule stated in *Whirlpool* and distinguished the police duty explained in *Lalita Kumari* from entitlement to writ relief. Applying these authorities, the Court dismissed the petition seeking action on a complaint, with liberty to file a complaint under Section 200 CrPC/Section 223 BNSS. It did not decide whether the alleged offence had been committed.

Magistrate / police inaction / investigation and process - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, quoted *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, on the Magistrate's powers to inquire into a complaint, direct police investigation on prima facie material, dismiss the complaint or issue process, as appropriate. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* further explained that, on prima facie satisfaction on an application under Section 156(3), a Magistrate can secure FIR registration and proper investigation, monitor the investigation and recommend a change of investigating officer, but cannot investigate personally. These procedures provided the available statutory remedies; the High Court did not itself order an investigation.

Exceptional writ / mala fide investigation / limited judicial direction - *Divine Retreat Centre* preserved intervention under Article 226 in the rarest cases upon a clear showing of mala fide use of investigative power, abuse and non-compliance with Chapter XII, while prohibiting the court from directing how the police investigation should be conducted. The Court quoted that limitation and dismissed the petition by applying the authorities on ordinary statutory remedies. It did not declare writ jurisdiction categorically unavailable.

Case-note :- ***1. Facts :*** Mamta Chourasiya stated that she had approached respondents 1–4 to register an FIR or act on her complaint against respondents 5–6 (Annexure P-8), but no action had followed. Her petition under Article 226 sought production of the complaint record, a writ of mandamus directing the official respondents to consider the complaint, and general further relief. State counsel opposed the writ on the ground that the petitioner had an efficacious remedy by way of a complaint before the Magistrate under Section 200 CrPC, referred to in the judgment as Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The Court framed the question as whether a writ petition seeking a direction to the police to register an FIR was maintainable. It did not adjudicate the accusations against respondents 5–6.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at length. It explained that the police must register an FIR where the facts communicated disclose a cognizable offence, but that police inaction is ordinarily addressed by a complaint under Sections 190 and 200 CrPC. It distinguished the police duty discussed in *Ramesh Kumari* and *Lallan Chaudhary* from the procedural remedy discussed in *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*, thereby explaining the apparent conflict. The Court applied the principle concerning the statutory remedy in declining immediate writ relief; it did not determine whether Mamta's allegations, which were not reproduced, disclosed a cognizable offence. The direction concerning a request for government sanction in the quoted *Aleque Padamsee* passage related to that litigation and had no independent application in this case.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted for two qualifications. It preserved the rare exercise of Article 226 power upon a clear showing of mala fide use of investigative power, abuse and non-compliance with

Chapter XII. Even then, a court may insist on observance of the prescribed process but may not direct how the police should investigate. It also directed an informant facing police inaction to the procedure under Sections 190/200 CrPC instead of a routine writ petition. Its quotation of *Gangadhar Janardan Mhatre, (2004) 7 SCC 768*, explained that a Magistrate may inquire into a complaint, direct police investigation and a report on prima facie material, dismiss a complaint disclosing no offence under Section 203, or take cognizance and issue process when appropriate. The High Court relied on these principles to explain the available remedies and the limits of jurisdiction. The reference within that quotation to *All India Institute of Medical Sciences* provided supporting authority; it was not a separately analysed holding.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted for the remedy of approaching the Superintendent of Police in writing under Section 154(3), followed, if necessary, by an application to the Magistrate under Section 156(3). On a proper application, the Magistrate may direct FIR registration and proper investigation and may monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterated that recourse to the Magistrate should be preferred to an Article 226 writ petition and explained the burden that routine FIR petitions place on the High Courts. It further stated that a Magistrate who is prima facie satisfied may recommend a change of investigating officer and monitor the investigation, but cannot investigate personally. The Court applied these principles concerning the available remedies without itself ordering an investigation.

A Division Bench of the same High Court in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (20 December 2016), was quoted as permitting refusal of mandamus where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, unless one of the four exceptions stated in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, applies. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: the police duty under Section 154 is distinct from the question whether an informant may bypass alternative remedies and seek a writ of mandamus. The Court followed that framework.

3. Statutes considered : The petitioner sought mandamus under Article 226 of the Constitution. The Court treated ordinary police inaction concerning a proposed FIR as a matter for the alternative statutory remedies, while preserving exceptional writ jurisdiction upon a clear showing of mala fide use of investigative power, abuse and non-compliance with Chapter XII. Section 154 CrPC concerned the police duty to register information disclosing a cognizable offence, and Section 154(3) permitted a written approach to the Superintendent of Police. Section 156(3) permitted an application to the Magistrate for appropriate police investigation, including directions and monitoring upon prima facie satisfaction, as explained in the quoted Supreme Court passages. Sections 190 and 200 CrPC provided the alternative procedure of a private complaint and the Magistrate's cognizance and inquiry; the quoted precedent also referred to dismissal under Section 203 and the relevant stage for issuing process. The Court expressly referred to Section 223 BNSS as the corresponding current provision for the petitioner's proposed complaint. Chapter XII CrPC was cited in *Divine Retreat*'s discussion of exceptional cases involving abuse of investigative power. No particular IPC/BNS offence was identified or decided.

4. Issues : (i) Was a petition under Article 226 seeking police registration of an FIR or action on Annexure P-8 an appropriate immediate remedy for the alleged inaction, given the available remedies before superior police officers and the Magistrate? (ii) What powers could the Magistrate exercise when the police declined registration or failed to investigate properly, and what could the High Court exceptionally do upon a clear showing of mala fide abuse of investigative power without taking over the investigation? (iii) Did the statement of the police duty under Section 154, including the rule in *Lalita Kumari*, dispense with consideration of alternative remedies? The Court decided only the procedural remedy. It did not adjudicate whether respondents 5 –6 had committed an offence or whether the police had actually breached their registration duty on facts disclosing a cognizable offence.

5. Ratio / Findings : The Court distinguished the statutory duty to register information disclosing a cognizable offence from the appropriate forum for addressing alleged police inaction. *Aleque Padamsee* expressly stated both principles and explained why decisions concerning police registration duties did not conflict with decisions directing an informant to the Magistrate. Under the framework stated in the quoted *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe*

passages, the aggrieved person may approach the Superintendent of Police under Section 154(3) and, if the grievance remains unresolved, apply to the Magistrate under Section 156(3). On prima facie satisfaction, the Magistrate may require registration or proper investigation, monitor it and recommend a different investigating officer, while leaving the investigation itself to the police. Sections 190 and 200 provide a complaint procedure involving inquiry, issue of process or dismissal at the appropriate stage. The Court declined to entertain Mamta's petition in view of those remedies. It did not examine the facts of her complaint, which were not reproduced, to determine whether the proposed offence was cognizable or non-cognizable.

Divine Retreat qualified the ordinary rule without excluding Article 226 jurisdiction: in a rare case involving clear mala fide investigation, abuse and non-compliance with Chapter XII, the court may insist on observance of the Code's procedure, but may not prescribe how the police should investigate. The Court cited that exceptional jurisdiction but dismissed the petition under the alternative-remedy framework. The Division Bench formulation in *Shweta Bhadauria* likewise permitted denial of mandamus for failure to use alternative remedies, subject to the exceptions stated in *Whirlpool*. It also explained that *Lalita Kumari*'s principle concerning the duty to register an FIR did not itself confer an unconditional right to bypass alternative remedies. The petition was therefore dismissed because of the available procedural remedies; the dismissal did not reject the criminal complaint on its merits.

6. Relief : The Hon'ble High Court dismissed the writ petition. It expressly gave the petitioner liberty, if she wished, to approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS for redress. It did not direct registration of an FIR, call for the record, order prosecution of respondents 5–6, change an investigating officer or award costs. The Court made no finding on the merits of the underlying complaint and prescribed no time limit or mandatory outcome for a future application to the Magistrate.

Mamta Chourasiya v. State of Madhya Pradesh and Ors., W.P. no. 30112/2024, 24/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Habeas corpus / minor recovered / custody - The minor was produced before the High Court and expressed a wish to stay with her mother. The Court permitted her to do so and later held that nothing further remained concerning her production and return. It nevertheless examined the police record of her recovery and issued directions concerning the officers' accountability for identified omissions, without deciding the alleged enticer's guilt.

Kidnapping and sexual offence / minority / claimed voluntariness - Applying *Anversingh alias Kiransinh Fatesinh Zala v. State of Gujarat, (2021) 3 SCC 12*, the Court held that enticing a minor who then leaves home could disclose offences under Sections 363 and 366 IPC despite an initial account of voluntary departure. The later statement naming Sonu Ojha and describing his assurance of marriage and sexual relations called for investigative action. The Court referred to Section 375 IPC to state that a minor girl's consent to intercourse was immaterial. These assessments were made at the investigative stage. The medical report stated that sexual assault could not be ruled out; it did not establish guilt.

Police accountability / Section 166A(c) IPC / nominal FIR - After quoting the duty to record information under Section 154(1) about the sexual offences listed in Section 166A(c), the Court found that registration of an FIR against unknown persons, followed by inactivity, delayed recovery efforts, failure to inform the mother and lack of timely steps for medical examination were inadequate on the facts. It directed registration of an FIR under Section 166A(c) against the investigating officer and SHO, training for both officers, and a compliance report within 15 days. The direction to register an FIR did not establish criminal liability. The judgment uses Parmar in its discussion and Parihar in the operative direction for the investigating Sub-Inspector. It refers to Section 164 CrPC for the recorded statement and, later, for medical examination.

Case-note :- ***1. Facts :*** X (mother of the minor) sought production of her minor daughter in a habeas corpus petition under Article 226 filed on 31 May 2022, together with action against private respondents 5 and 6. The Court sought a police status report on 2 June. The Court's later examination of the case diary indicated that investigative activity had begun only on 8 June, after the police learned of the pending writ petition. The diary was first opened and

a team sent to Bhind on the basis of mobile location on that date. The girl was recovered on 9 June from a house associated with the adult mentioned in the diary and brought to Gwalior. The investigating officer reported that statements under Sections 161 and 164 CrPC had been recorded on the day of recovery. As it was late in the day, the girl was placed at a One Stop Center pending production before the Child Welfare Committee (CWC); on 10 June, the CWC ordered her continued placement there. The case diary showed neither notice to her mother nor an attempt to obtain a medical examination when she was recovered. On 13 June, the child was produced before the Court. She initially stated that she had left her mother voluntarily, rented accommodation in Bhind for ₹1,500 per month using ₹3,000 taken from home, and wished to stay with her mother. The Court permitted her to do so. A police representative stated that an FIR against unknown persons had been registered. A Town Inspector initially explained the lack of action against the landlord by saying that it was uncertain whether he knew that a minor was living there. Considering the police response inadequate, the Court summoned senior officers.

The SSP then personally monitored the matter and filed a status report stating that Sonu Ojha had enticed the minor, rented Madhav's room by presenting her as his wife with a child, and that both men had been arrested. According to the Court's review of the diary, the mother was first interviewed on 14 June. The girl declined medical examination and had not disclosed Sonu's name. In a later statement recorded on 19 June, she named him, referred to his promise of marriage, stated that she had left with him on 25 May, and described living with him as spouses and having voluntary sexual relations. She explained that her fear that he might not be arrested had influenced her earlier failure to name him and her reluctance to undergo examination. A medical examination following a renewed referral was reported as not ruling out sexual assault. The landlord stated that he had been in Gujarat and had learned of the recovery by telephone. His wife described Sonu bringing the girl and a child to the room. The diary contained no information about that child's identity or whereabouts. These were statements obtained during the developing investigation, rather than facts adjudicated at trial. The Court examined the omissions of the investigating Sub-Inspector and the Hazira Town Inspector/SHO and ultimately directed action against the officers. The judgment names the Sub-Inspector as Ragini Parmar in paragraph 6 and as Ragini Parihar in the operative direction in paragraph 21.

2. Precedents — Considered : *Anversingh alias Kiransinh Fatesinh Zala v. State of Gujarat, (2021) 3 SCC 12*, was the only Supreme Court authority materially cited. The Court relied on it for the proposition that, where an accused entices a minor child who then leaves home, the facts can disclose offences under Sections 363 and 366 IPC. An account of voluntary departure does not, by itself, resolve the questions of minority and enticement. The Court applied that principle to the girl's later statement about Sonu's promise and taking her to Bhind, explaining why the investigator should not have remained inactive. The point that a minor's consent is immaterial under Section 375 was stated directly by the Court; it was not attributed to a developed holding in *Anversingh*.

3. Statutes considered : Article 226 of the Constitution provided jurisdiction to secure the minor's production and return through habeas corpus. Sections 161 and 164 CrPC were referred to in connection with the statements recorded after her recovery. In paragraph 17, the judgment attributes the requirement of medical examination of a rape victim to Section 164; paragraph 7 separately refers to Section 164 in connection with the statement. The CWC proceedings and placement at the One Stop Center were procedural facts, rather than an interpretation of a named child-welfare enactment. Sections 363 and 366 IPC were invoked through *Anversingh* in relation to the alleged enticement and kidnapping of a minor. The Court relied on Section 375 IPC in treating the minor girl's consent to intercourse as immaterial. It quoted Section 166A(c) IPC, which concerns a police officer's failure to record information under Section 154(1) CrPC relating to specified offences, including the listed offences under Section 376 and related provisions. The Court relied on that provision in directing registration of an FIR against the officers following registration against unknown persons and the investigative omissions. It did not finally determine their mens rea or establish every statutory ingredient at a criminal trial.

4. Issues : (i) Once the minor had been produced and expressed her wish to live with her mother, what remained to be decided concerning habeas corpus custody relief? (ii) Could the police treat her initial

account of voluntary travel and residence as ending the inquiry when she was a minor and later described enticement, an assurance of marriage and sexual relations? (iii) What did the diary disclose about the officers' response, notice to the mother, steps for medical examination, efforts to trace the named adult and unidentified child, and the adequacy of an FIR against unknown persons in light of the Court's analysis of Section 166A(c)? (iv) What directions concerning officer training, investigation and compliance were warranted? The Court did not determine the guilt of Sonu or the landlord, finally assess the girl's credibility, or convict the police officers.

5. Ratio / Findings : The initial purpose of the habeas corpus petition was fulfilled by the girl's recovery and production and by allowing her to go with her mother in accordance with her expressed wish. As she was a minor, the Court nevertheless examined the police response to her disappearance. Its review of the diary disclosed a delayed start after notice of the writ petition, failure to inform the mother after recovery, placement through the One Stop Center and CWC without contacting her, no early attempt at medical examination, and little further inquiry after the initial statement. The investigating officer conceded that she had taken no further step after producing the girl before the CWC. The SSP's subsequent supervision led to interviews of the mother, landlord and his wife, a later statement from the minor, medical examination and arrests. The Court regarded that sequence as grave negligence or dereliction of duty. It left open whether ignorance of law or outside pressure explained the conduct; it did not establish a corrupt motive. It also noted that the identity and whereabouts of the child seen with Sonu and the minor had not been investigated.

The girl remained a minor despite her statements that she had left voluntarily or had voluntary intercourse. Applying *Anversingh* to the later account that Sonu had enticed her with a promise of marriage and rented accommodation in Bhind, the Court held that offences under Sections 363 and 366 IPC could be made out. It relied on Section 375 in rejecting the minor's consent as a reason not to investigate a possible sexual offence. The medical report did not rule out assault, but did not establish it conclusively. The accounts of the landlord and his wife, the account of Sonu's marriage and child, and the arrests were recorded as developments in the investigation or inferences from the material, rather than final findings of criminal liability.

On the officers' accountability, the Court quoted the failure-to-record requirement in Section 166A(c) and the sexual offences it lists. It reasoned that merely registering an FIR against unknown persons and then ignoring the underlying circumstances did not fulfil the provision's purpose on these facts. It therefore directed the SSP to register an FIR against the investigating Sub-Inspector and the SHO. Paragraph 17 refers to medical examination under Section 164 without separately developing a statutory ratio on that reference. The Court considered that both officers needed training in handling a minor's case. Those directions were remedial measures, rather than a criminal sentence.

6. Relief : The Hon’ble High Court disposed of the habeas corpus petition. By the order dated 13 June, the minor had been permitted to stay with her mother, and nothing further remained concerning production of the corpus. The Court directed that the Sub-Inspector be sent immediately to a police training center chosen by the DGP for at least one year, and that Town Inspector/SHO Manish Dhakad undergo six months' training before a field posting. It directed the SSP, Gwalior, to register an FIR under Section 166A(c) IPC against the investigating Sub-Inspector, named Ragini Parihar in the operative paragraph and Parmar elsewhere, and against Dhakad. A report concerning training and FIR registration was to be submitted to the Principal Registrar within 15 days. The Court did not convict anyone, award damages, conduct a trial for final adjudication of custody, find Sonu guilty or make a separate order for costs.

X (mother of the minor) v. State of Madhya Pradesh and Ors., W.P. no. 12520/2022, 21/06/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO abetment / counsellor / mandatory reporting - Sections 16–17 POCSO require instigation, conspiracy or intentional aid, which may include an illegal omission or facilitation before or at the commission of the offence. The offence must be committed in consequence of the abetment. Section 19(1) required a person with information to inform the Special Juvenile Police Unit or local police. The allegations were that a counsellor responsible for the safety of a minor with a mental disability knew of repeated abuse, saw the

co-accused with the child, but merely asked him to stop and did not report the matter. On those allegations, the Court found a prima facie basis for abetment charges. It also stated that failure to report was separately punishable. It did not hold that every reporting failure was sufficient for liability under Section 16. Intent and causation remained matters for trial.

Charge framing / grave suspicion / limited sifting - *Dilawar Balu Kurane v. State of Maharashtra, (2002) 2 SCC 135*, permits limited sifting and weighing of material under Section 227 CrPC. Grave suspicion that has not been properly explained supports a trial, whereas equally possible views giving rise to mere suspicion may warrant discharge. The Judge must neither act merely as a post office nor assess the evidence as at trial. *Mauvin Godinho v. State of Goa, (2018) 3 SCC 358*, explained the prima facie assessment of material concerning the essential elements without a roving inquiry. The Court also quoted *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, on not deciding the reliability of rival accounts where a triable case exists, while retaining the distinction that the authority concerned quashing in a matrimonial case. The later recording of statements implicating the counsellor did not warrant meticulous findings on credibility at the charge stage. The revision was dismissed. The judgment refers to the challenged order as dated both 10 August 2018 and 10 August 2021.

Case-note :- ***1. Facts :*** Mamta Tiwari was a counsellor who inspected Ashram Shanti Niketan Balika Grih at Birla Nagar, Hazira, Gwalior, where a minor girl with a mental disability resided. According to the counsellor, the child told her that a man known as Jain Baba at the Ashram was repeatedly abusing her sexually. The investigation alleged that Mamta already knew of the abuse and, despite seeing the co-accused's conduct, took no protective or reporting action beyond asking him not to do it. These remained allegations to be tried, rather than final findings of fact. The Special Judge (POCSO Act), Gwalior, framed charges against Mamta under Sections 16 and 17 POCSO in Special Case No. 86/2019. The opening paragraph of the judgment describes the challenged order as dated 10 August 2018; paragraph 4 gives the date as 10 August 2021, and paragraph 6 again refers to 10 August 2018. Mamta challenged the charges in a criminal revision under Sections 397/401 CrPC. She denied the allegations and argued that the witnesses had not initially accused her. Only their supplementary statements alleged that she had seen Jain Baba's acts and merely asked him to stop. She contended that those later statements were an afterthought. The State supported the order framing charges.

2. Precedents — Considered : *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was quoted for the principle that allegations which are absurd or disclose no offence, or proceedings constituting an abuse of process, may warrant quashing. Where a triable case exists, however, the court does not choose between rival accounts or determine their reliability at the threshold. The lengthy factual passage quoted from that authority concerned matrimonial cruelty and allegations against a husband and his parents. The High Court relied on the caution against prematurely deciding credibility when reviewing the POCSO charges. It did not apply the caution concerning allegations against matrimonial relatives to the present facts or decide a quashing petition under Section 482. The matrimonial narrative in the quotation formed no part of the facts of this case.

Dilawar Balu Kurane v. State of Maharashtra, (2002) 2 SCC 135, was quoted on Section 227 CrPC. When considering charges, a Judge may sift and weigh material only to determine whether a prima facie case exists. Grave suspicion that has not been properly explained may justify a charge, while equally possible views giving rise only to some suspicion may justify discharge. The Judge must consider the broad probabilities and the overall effect of the evidence and documents, rather than merely repeat the prosecution case, but must not conduct a roving inquiry or weigh the evidence as at trial. The reference within the quotation to *Union of India v. Prafulla Kumar Samal* supported that test; the High Court did not separately analyse that case. This authority supplied the central standard for reviewing the counsellor's challenge.

Mauvin Godinho v. State of Goa, (2018) 3 SCC 358, was quoted on the prima facie standard for framing charges under Section 227. The material concerning all essential elements must be considered together for its probative value. It should make the relevant facts sufficiently believable or probable for a prudent person to act on the supposition that they exist, without an inquiry equivalent to a full trial. The Court applied this standard with *Dilawar* in declining to make a final finding on the reliability of

the supplementary statements. The references to *Sajjan Kumar, A. Arun Kumar* and *S. Selvi* within the *Mauvin* quotation were supporting citations, rather than authorities separately analysed and applied in this judgment. None of these Supreme Court authorities supplied a POCSO-specific holding on non-reporting under Section 19; the application of those statutory provisions was the High Court's own.

3. Statutes considered : Section 16 POCSO defines abetment as instigation, conspiracy accompanied by an act or illegal omission, or intentional aid by an act or illegal omission. Its explanations address concealment of a material fact which a person is bound to disclose, facilitation before or at the commission of the act, and specified recruitment or movement of a child through coercive or deceptive means. The Court relied particularly on intentional facilitation in the context of alleged continuing abuse; it did not find the conspiracy or recruitment alternatives proved. Section 17 provides punishment for abetment where the act abetted is committed in consequence of it, requiring a causal connection to the instigation, conspiracy or aid. Section 19(1) POCSO imposed the obligation to inform the Special Juvenile Police Unit or local police of the alleged abuse. The Court described failure to communicate the information as required as a punishable offence carrying a term of up to six months, without identifying the separate punishment provision. Sections 397 and 401 CrPC provided revisional jurisdiction. Section 227 CrPC appeared in the quoted Supreme Court standards for framing charges, which the Court used to review the Special Judge's charge decision. The judgment did not identify the exact substantive POCSO offence allegedly committed by Jain Baba.

4. Issues : (i) Could the allegations that a counsellor responsible for a vulnerable child's safety knew of ongoing abuse, had seen it and deliberately failed to report it, merely asking the perpetrator to stop, disclose prima facie intentional aid under Sections 16 and 17 POCSO, rather than only an independent breach of the reporting duty under Section 19? (ii) Did the appearance of incriminating details in supplementary witness statements necessarily make those details an afterthought warranting discharge, or did that dispute about reliability require trial under the standard for framing charges? The Court did not finally determine whether the abuse had occurred, whether Mamta had actually witnessed it, her intent, the causal link to later offending, or the credibility of the witnesses.

5. Ratio / Findings : The Court reproduced Sections 16 and 17 and discussed the reporting duty under Section 19(1) alongside the charged abetment. It treated the alleged counsellor role as including responsibility for the resident girls' safety. According to the prosecution, she learned of repeated sexual abuse of a minor with a mental disability and personally saw the co-accused with the child, but neither informed the designated police unit or local police nor took protective action, and merely asked the perpetrator to stop. The Court reasoned that, in the context of the alleged continuing acts, that conduct could amount to aid or facilitation sufficient for a charge under Sections 16 and 17. It also stated that failure to report was separately punishable. Its conclusion on abetment was a prima facie decision at the charge stage. Intentional aid under Section 16 and commission of the offence in consequence of the abetment under Section 17 remained substantive elements to be established at trial.

As to the supplementary statements, the Court declined to decide whether the later timing made them false. *Dilawar*'s standard permits limited sifting, requires assessment of the overall probabilities and treats grave suspicion as sufficient to frame a charge. It allows discharge where there is only weak suspicion, but prohibits detailed appreciation of evidence. *Mauvin* similarly requires prima facie material concerning the essential elements of the charge, rather than assurance of conviction. *Taramani*'s caution against deciding a triable case by assessing rival accounts reinforced that limited inquiry, although the facts of that authority were different. The alleged observation, knowledge, inaction and failure to report provided sufficient material for the charge at that stage. This did not establish the truth of every witness account, actual aid or causation. The Court therefore declined to interfere with the Special Judge's decision.

6. Relief : The Hon’ble High Court dismissed the criminal revision. The charges under Sections 16 and 17 POCSO against Mamta Tiwari remained for trial. The Court did not convict her, adjudicate the separate non-reporting offence, alter the unidentified underlying offence against Jain Baba or direct a remand. It imposed no separate costs or conditions.

Mamta Tiwari v. State of M.P. and Ors., Cr.R. no. 2020/2021, 02/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Related witnesses / interested witnesses / credibility - *Jayabalan v. Union Territory of Pondicherry, (2010) 1 SCC 199*, requires cautious assessment of interested testimony. The court must look for consistency and must not view evidence with suspicion merely because the witness is related to the victim. *Mohd. Rojai Ali v. State of Assam, (2019) 19 SCC 567*, distinguishes relationship from a direct or indirect benefit or a motive to falsely implicate the accused. Applying those principles, the Court accepted PW1–PW5's accounts of the exhortation and shooting as materially consistent and their presence as natural, despite minor variations. It assessed their evidence in light of cross-examination, the medical injury, recovery and ballistics. The mere presence of a relative who was a Head Constable did not establish manipulation of the investigation.

Common intention / Section 34 IPC / anterior concert and participation - *Jasdeep Singh alias Jassu v. State of Punjab (Criminal Appeal No. 1584/2021, 7 January 2022)* explained that the prosecution must prove common intention and conduct in its furtherance. Mere presence or a similar intention independently held by each accused is insufficient. Its discussion of *Suresh*, *Lallan Rai*, *Chhota Ahirwar*, *Nand Kishore* and *Shyamal Ghosh* addressed overt and covert acts, certain illegal omissions, shared intention and participation. Those nested quotations supplied the consolidated test; they were not treated as independent factual holdings in this case. *Pandurang v. State of Hyderabad*, 1955 SCR (1) 1083, required a prior meeting of minds while recognising that it may occur suddenly. *Virendra Singh v. State of M.P., (2010) 8 SCC 407*, required intention anterior to the act and participation, to be inferred carefully from the evidence. *Chhota Ahirwar v. State of M.P., (2020) 4 SCC 126*, held that a separate overt act is not mandatory, but acting in concert remains necessary. The Court applied those shared requirements to Man Singh's immediate exhortation followed by Narendra's fatal shot. It affirmed Man Singh's conviction under Section 302/34 alongside Narendra's conviction directly under Section 302.

Exhortation / evidentiary caution / murder with common intention - Through *Bhoma Ram v. State of Rajasthan*, 1987 WLN UC 128, *the* Court acknowledged the caution in *Jainul Haque v. State of Bihar, AIR 1974 SC 45*, that verbal exhortation is a weak form of evidence which requires clear, cogent and reliable proof. It explained that spoken incitement, when corroborated, can help establish shared intention. It cited *Sandeep v. State of Haryana on* an immediate exhortation followed by a fatal shot. PW1–PW5 consistently placed Man Singh's direction immediately before Narendra fired, and the medical and firearm evidence supported that sequence. The conclusion rested on proof in this case; it did not establish that every alleged exhortation automatically attracts Section 34.

Case-note :- ***1. Facts :*** On the morning of 15 August 2007, a quarrel arose between juvenile Ramautar, son of Man Singh, and Jeetu, son of Ramveer, on a village lane outside a baithak. Ramveer intervened and scolded Jeetu. According to the prosecution, Man Singh and his son Narendra arrived, and Man Singh and Ramautar exhorted Narendra, who fired a licensed mouser/315-bore gun at Ramveer, hitting his right chest. Ramveer fell unconscious and bled. Ramlakhan (PW1) and Aatar Singh (PW2) were near the baithak. Ramveer's daughter Preeti (PW3), wife Rammoorti Devi (PW4) and son Jitendra (PW5) described seeing the events from the roof and then reaching the scene. Ramveer was taken to Morena Hospital, where Dehati Nalishi Ex. P1 was recorded. He was referred to J.A. Hospital, Gwalior, where he died. A separate charge sheet concerning juvenile Ramautar was filed before the Juvenile Court. Narendra was tried for murder under Section 302 IPC, and Man Singh under Section 302 read with Section 34. The Second Additional Sessions Judge, Morena, convicted both on 14 March 2011 in Sessions Trial No. 204/2007. Each was sentenced to life imprisonment and a ₹1,000 fine, with a default stipulation. Both appealed under Section 374 CrPC. The defence claimed that Jeetu had molested Man Singh's daughter Roobi, causing villagers to gather, and that an unknown person had shot Ramveer. Roobi testified as DW1. The appellants questioned whether the related eyewitnesses were naturally present and credible. They relied on omissions and alleged discrepancies in the roles attributed to the accused, alleged suppression of a report made by Shyam Singh at a police post, the failure to examine independent villagers and the supposed influence of

a relative who was a Head Constable over the investigation. They argued that evidence of verbal exhortation was weak and could not sustain Man Singh's conviction under Section 34. The State relied on consistent eyewitness accounts, an immediate shared plan, medical evidence and firearm recovery. The Court reviewed the testimony of sixteen prosecution witnesses. Dr. Anoop Gupta found an entry wound below the armpit, an exit wound, bleeding, charring and blackening. Dr. J.N. Soni's postmortem examination disclosed an ante-mortem thoracic firearm injury sufficient to cause death. He attributed the death to shock and haemorrhage and classified it as homicidal. A licensed gun attributed to Narendra was recovered from Bheem Singh's house following Narendra's memorandum. Two seizure witnesses were partly hostile, but admitted their signatures and aspects of the memorandum. Police witnesses supported the gun recovery, while Jitendra corroborated the seizure of the empty cartridge and other articles from the scene. FSL Ex. P22 linked firing to the gun, which was in working condition. The Court considered this material as corroboration, without treating it as a substitute for the specific inference required under Section 34.

2. Precedents — Considered : *Jayabalan v. Union Territory of Pondicherry, (2010) 1 SCC 199*, supplied the approach to interested testimony: assess it cautiously, look for consistency and do not reject it solely because the witness is closely related to the victim. *Mohd. Rojai Ali v. State of Assam, (2019) 19 SCC 567*, distinguished a related witness from one who stands to benefit or has a motive arising from enmity to falsely implicate the accused. It required the evidence of a relative naturally present at the scene to be reliable, probable, cogent and consistent. Its embedded reference to *Dalip Singh* illustrated why a close relative would ordinarily not shield the true culprit and implicate an innocent person. The High Court applied those standards to PW1–PW5. It rejected their automatic exclusion on account of relationship and found no material contradiction; it did not presume their evidence true merely because of kinship.

Jainul Haque v. State of Bihar, AIR 1974 SC 45, was relied on by the defence to emphasise the weakness of oral evidence of exhortation. The Court did not quote that judgment directly or treat it as a universal bar. It quoted *Bhoma Ram v. State of Rajasthan*, 1987 WLN UC 128, which acknowledged *Jainul Haque*'s requirement of clear, cogent and reliable proof of exhortation. That passage explained that spoken orders, encouragement, accompanying conduct and surrounding circumstances can establish shared intention under Section 34 or distinct instigation under Section 109, depending on the charge. The present conviction was under Section 302/34. The Court found the evidence of Man Singh's immediate exhortation sufficiently reliable. *Bhoma Ram*'s reference to *Jai Narain* formed part of the quoted reasoning; the High Court did not separately examine that Supreme Court holding.

Jasdeep Singh alias Jassu v. State of Punjab, Criminal Appeal No. 1584/2021 (7 January 2022), was quoted extensively on the history and operation of Section 34. The principle applied was that this legal fiction imposes shared liability only upon substantial proof that the participants consciously shared a common intention at the same time and that a connected act was done in its furtherance. Mere presence and similar purposes independently held do not automatically suffice. A plan may form suddenly, and a connected contribution may be overt or covert or, in defined circumstances, take the form of a deliberate illegal omission. The prosecution bears the burden of proving common intention. Particular care is required where part of its evidence is disbelieved, and the distinction between the actual shooter and a participant remains legally significant. The passages quoted from *Suresh v. State of U.P., (2001) 3 SCC 673*, required an act connected with the offence, potentially including a deliberate omission; intention held in the mind alone was insufficient. *Lallan Rai v. State of Bihar, (2003) 1 SCC 268*, and *Chhota Ahirwar v. State of M.P., (2020) 4 SCC 126*, explained contemporaneous consensus and that a separate overt act by every participant is not invariably required. *Nand Kishore v. State of M.P., (2011) 12 SCC 120*, distinguished the criminal act, common intention and individual participation. *Shyamal Ghosh v. State of West Bengal, (2012) 7 SCC 646*, likewise distinguished intention and participation. These citations and the older Privy Council authorities appeared within the extensive *Jasdeep* quotation. The Court used their shared Section 34 framework rather than separately applying them to new factual disputes. The quoted history of Sections 32–39 did not raise separate statutory issues in this case.

Pandurang, Tukia and Bhillia v. State of Hyderabad, 1955 SCR (1) 1083, was directly cited to distinguish a prior meeting of minds, which may occur in an

instant, from merely identical intentions held independently. Vicarious liability requires an act done in furtherance of the shared plan. *Virendra Singh v. State of M.P., (2010) 8 SCC 407*, was quoted both within *Jasdeep* and directly. It explained that Section 34 creates constructive liability rather than a distinct offence. Intention must precede the act, though it may develop on the spot. Participation may take different forms and must be inferred carefully from conduct; clear evidence is required of a shared purpose to commit a graver offence. *Chhota Ahirwar* was then directly applied for the principle that a separate overt act is not mandatory if concert and common intention are proved. It did not permit conviction on mere presence. *Sandeep v. State of Haryana* was cited for an immediate exhortation followed by the fatal shot supporting liability under Section 302/34. The High Court applied that close analogy in sustaining Man Singh's conviction.

3. Statutes considered : Section 374 CrPC provided the route of appeal against conviction. Section 302 IPC governed Narendra's fatal shooting charge and murder conviction. Section 34 IPC supplied constructive liability for Man Singh. Where several persons commit a criminal act in furtherance of their common intention, each is liable as if he had done it, subject to proof of shared intention, participation and a connected act. The Court referred to Section 109 IPC in the *Bhoma Ram* quotation concerning abetment by instigation. Man Singh's affirmed conviction was under Section 302/34, without a separate conviction under Section 109. Sections 33, 32 and 37–39 IPC appeared in *Jasdeep*'s quoted discussion of acts, omissions and different forms of shared liability; no separate charge under those provisions was decided. The investigation initially referred to Sections 307, 294 and 34 before the death. Those references formed part of the procedural history and were not convictions adjudicated on appeal. The juvenile's separate proceeding was noted without deciding his liability. The doctors' opinions on homicidal death and the FSL firearm finding were evidence relevant to causation under Section 302, rather than new statutory interpretations.

4. Issues : (i) Could PW1–PW5's related eyewitness accounts be relied on after close scrutiny, despite alleged minor inconsistencies and the possible involvement in the investigation of an officer related to them? (ii) Did Narendra fire the fatal shot, as the eyewitness, medical and firearm evidence indicated, or did the defence account of molestation and an unknown shooter create reasonable doubt? (iii) Did clear and credible evidence of Man Singh's immediate exhortation establish an anterior shared intention and participation in the murder under Section 34, despite the caution that evidence of verbal exhortation alone may be weak? (iv) Did the challenges to the seizure, the partly hostile evidence of two witnesses and the defence evidence affect the result? The Court determined criminal guilt on appeal on the standard of proof beyond reasonable doubt and affirmed the existing sentences.

5. Ratio / Findings : The Court examined the five principal eyewitness accounts without treating family ties as inherently discrediting. PW1 and PW2 said they were talking near the baithak. PW3–PW5 described their view from the roof, Man Singh and Ramautar's exhortation, Narendra's shot and the immediate aftermath. Cross-examination did not undermine that material sequence. Applying *Jayabalan* and *Mohd. Rojai Ali*, the Court treated natural presence and internally consistent, cogent testimony as decisive. The minor discrepancies were trivial; they did not contradict the fatal act or the alleged shared purpose. The Court separately considered the claim concerning the relative who was a Head Constable. Witnesses denied acting at his direction, and the Kotwar's acknowledgement of his presence when a panchnama was prepared did not establish manipulation. The failure to examine every independent villager did not lead the Court to reject otherwise reliable eyewitness evidence.

The medical and physical evidence supported the account of the shooting. The surgeon who first examined Ramveer described entry and exit wounds, bleeding, charring and blackening. The forensic doctor found an ante-mortem thoracic firearm injury sufficient to cause death and attributed the death to shock and haemorrhage. He gave the opinion that the death was homicidal. The FSL report supported firing from Narendra's firearm, which was in working condition. The investigating officer and police witnesses described the cartridge at the scene, the memorandum and the recovery of the licensed gun. Although Bheem and Bhanwar were hostile on parts of the seizure, their admitted signatures on the memorandum and the other testimony meant that the recovery evidence was not necessarily discredited. The Court found the principal medical, eyewitness and firearm evidence consistent with one another. No report had been lodged about the alleged molestation, and there was no independent account

supporting that defence. The Kotwar denied that such an incident had occurred. The Court considered Roobi's testimony as DW1 to have been given to save her father and brother. That assessment concerned her evidence in this case; it did not establish that defence testimony is inherently less credible.

On Section 34, the Court distinguished Narendra's act of firing from Man Singh's constructive liability. *Jasdeep*, *Pandurang*, *Virendra Singh* and *Chhota Ahirwar* required more than shared anger or a family relationship. They required a common intention to kill before the shot, which could form on the spot, and Man Singh's participation in its furtherance. The Court found clear evidence of that connection in the consistent eyewitness accounts of his immediate exhortation, Narendra's responsive shot to the chest and their arrival and conduct. It answered the appellant's reliance on *Jainul Haque* through *Bhoma Ram*'s caution that evidence of exhortation must be clear, cogent and reliable. It found the evidence met that standard and relied on the close analogy in *Sandeep*. Man Singh did not have to fire the shot himself, and a long-standing plan was not required. Paragraph 31 also recorded the Court's finding that an elaborate plan to kill the deceased appeared from the record. The findings of direct and constructive murder liability were beyond reasonable doubt, rather than merely prima facie.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the convictions and sentences imposed on 14 March 2011: life imprisonment and a ₹1,000 fine, with a default stipulation, on Narendra under Section 302 IPC and on Man Singh under Section 302 read with Section 34 IPC. Man Singh's bail and surety bonds were cancelled, and he was directed to surrender immediately before the trial court to serve the remaining sentence. Narendra, who was already in jail, was directed to serve the remainder of his sentence. Copies of the judgment were to be sent to the concerned jail and, with the record, to the trial court for information and compliance. No remand, acquittal, sentence reduction or separate costs order was made.

Man Singh and Ors. v. State of M.P., Cr.A. no. 312/2011, 27/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Double jeopardy / pending regulatory penalty / no prior adjudication - Article 20(2) of the Constitution, Section 300 CrPC and Section 26 of the General Clauses Act did not bar an FIR merely because penalty proceedings under the Food Safety Act were pending. The applicant did not assert a previous criminal trial, conviction or acquittal, or an imposed penalty. The Court rejected his double-jeopardy objection at the threshold. It did not decide a hypothetical claim arising later in respect of the same offence.

Food Safety and Standards Act / IPC coexistence / no implied exclusion - *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, rejected the contention that a regulatory statute constituted a complete code excluding general criminal proceedings in the absence of a statutory bar. That decision concerned cooperative societies and corruption law. Applying its principle, the Court found that no provision had been identified in the adjudication, compounding and appeal scheme under Sections 68–71 of the Food Safety Act, 2006, which displaced investigation of the distinct allegations under Sections 420 and 272 IPC. Proceedings under food-safety Sections 51 and 26(2)(ii) could continue alongside them, subject to proof of their respective requirements.

Cheating / misrepresented milk quality / Section 482 threshold - The analyst reported milk fat of 0.4% against a minimum of 4.5%, and SNF of 8.2% against 8.5%. The sample was taken from an operating dairy. The Court reasoned that selling a substandard or adulterated product as pure and safe to unsuspecting customers could constitute cheating under Section 420 IPC. The operator claimed that the substance was residual sapreta which was not for sale. That claim, and the Court's observations concerning the absence of a notice or production licence, did not justify deciding disputed facts on the quashing application. Dishonest representation, inducement and an actual transaction were not finally established.

Adulteration / sale-purpose inference / IPC Section 272 - On the FIR and the circumstances in which the sample was taken, the Court found it premature to accept that the substance stored in the milk shop was residual sapreta which was not for sale. In the absence of a displayed qualification, its presence there could prima facie support an inference that it was intended for sale. The Court

refused to quash the Section 272 allegation, leaving the substance's nature, intended use and the elements of the offence to be proved through the appropriate process. It did not hold that every substandard sample or mere possession in a shop establishes the offence.

Case-note :- ***1. Facts :*** On 18 November 2020, a Food Safety Officer raided Manish Milk Dairy, operated by Manish Gupta, and took a sample of material described as milk kept for sale. The Food Analyst reported that it was substandard: milk fat was 0.4% against a stated minimum of 4.5%, and solids-not-fat (SNF) was 8.2% against 8.5%. Crime No. 13/2021 was registered at Police Station Bairad, Shivpuri, for cheating under Section 420 IPC, food adulteration under Section 272 IPC and offences under Sections 51 and 26(2)(ii) of the Food Safety and Standards Act, 2006. Manish contended that the sampled substance was 'sapreta', a residue left after preparing other milk products, and was not intended for sale. He stated that separate proceedings under the food-safety framework were pending before the Sub-Divisional Magistrate and relied on the Act's adjudication, penalty, compounding and tribunal mechanisms. He argued that the Act was complete in itself and that parallel IPC prosecution fell outside its scheme and amounted to double jeopardy. His application under Section 482 CrPC sought quashing of the FIR. The Court heard his counsel. His explanation of the product and the prosecution's allegation that it was meant for sale remained disputed, rather than established facts.

2. Precedents — Considered : *State of Madhya Pradesh v. Rameshwar, (2009) 11 SCC 424*, was quoted in rejecting the contention that the regulatory enactment was a complete code. In that case, the internal remedies under the M.P. Cooperative Societies Act did not bar recourse to general criminal law, particularly where allegations under the Prevention of Corruption Act and of conspiracy to cheat were involved. Authorities concerning the conversion of civil disputes into criminal cases did not apply to the alleged fraud there. The present Court applied the narrower principle that regulatory remedies do not extinguish distinct IPC allegations without a demonstrated statutory exclusion. It neither treated the Food Safety Act as textually identical to the Cooperative Societies Act nor held that every quality violation automatically establishes cheating. No other Supreme Court decision was materially considered. The Court reasoned directly from the constitutional and statutory double-jeopardy provisions, without attributing that reasoning to an unmentioned case.

3. Statutes considered : Article 20(2) of the Constitution prohibits prosecuting and punishing a person more than once for the same offence. Section 300 CrPC concerns a previous trial by a competent criminal court ending in conviction or acquittal, subject to its stated qualifications concerning distinct offences, later consequences and the court's competence. Its explanation states that dismissal of a complaint or discharge is not an acquittal. The Court quoted the entire provision and held that a pending food-safety proceeding, without a previous judgment on the merits, did not satisfy the premise of the double-jeopardy objection. It also referred to Section 26 of the General Clauses Act, 1897, and rejected the asserted bar because the applicant had not been punished under the Food Safety Act. Section 482 CrPC provided for review of the FIR under the Court's inherent powers at a prima facie stage.

Sections 26(2)(ii) and 51 of the Food Safety and Standards Act, 2006, were the regulatory provisions mentioned in the FIR concerning the sample. The Court recorded the analyst's substandard measurements without finally determining each statutory ingredient. Counsel invoked Sections 68–71 concerning adjudication, compounding and the appellate tribunal. The Court held that this penalty framework contained no identified express bar to ordinary IPC investigation. In its reasoning on Section 420 IPC, the Court considered the dishonest presentation of an adulterated or substandard product to customers as pure and safe, subject to the prosecution proving deception and the other elements. It separately considered Section 272 IPC in light of the disputed claim that the material was not meant for sale. The inference from its presence in the shop was provisional, rather than a final determination of adulteration or an intention to sell. No separate licensing charge was analysed.

4. Issues : (i) Did pending but unresolved food-safety proceedings before the SDM attract Article 20(2), Section 300 CrPC or Section 26 of the General Clauses Act so as to bar registration or continuation of the IPC FIR? (ii) Did Sections 68–71 of the Food Safety Act establish an exclusive regulatory and penalty mechanism which prevented general criminal prosecution for the distinct alleged deception and adulteration? (iii) Could the FIR and analyst's findings, assessed at the Section 482 stage,

support the alleged dishonest presentation to consumers under Section 420 and sale-directed adulteration under Section 272, or did the sapreta explanation dispose of both allegations without evidence? The Court was not deciding guilt or finally adjudicating food quality.

5. Ratio / Findings : The Court first distinguished parallel proceedings from previous jeopardy. Article 20(2) requires previous prosecution and punishment for the same offence. Section 300's bar concerns a completed trial by a competent court and a conviction or acquittal which remains in force, subject to its exceptions. The applicant did not claim that any food-safety penalty had been imposed, still less identify a completed criminal trial or a judgment on the merits. The pending SDM proceeding could not, by itself, bar a later FIR. The Court also found Section 26 of the General Clauses Act inapplicable to the circumstances pleaded. Its analysis was confined to that absence of a previous disposition.

The Court then examined the contention that the Food Safety Act was a complete code. Its adjudication, compounding and appeal provisions could address breaches of that Act, but counsel identified no provision barring general criminal law. *Rameshwar* supplied the analogy that a regulatory remedy could not be assumed to displace a distinct criminal allegation. The High Court distinguished the regulatory counts from the allegations of cheating under Section 420 and adulteration under Section 272, and held that the police could invoke the IPC alongside the 2006 Act. That conclusion permitted statutory coexistence; it did not establish that every quality violation necessarily satisfies either IPC offence.

On Section 420, the Court noted the reported deficiency in milk fat and SNF and the fact that the sample was taken from an operating dairy. It reasoned conditionally that presenting a substandard or adulterated product as pure and fit for consumption, and selling it to unsuspecting consumers, could constitute cheating. It declined to decide on the quashing application the operator's claim that the substance was a residue not intended for sale. It observed that no indication that the material was not for sale had been shown, no licence to produce milk products had been produced and no explanation had been given for keeping the substance in the shop if it was not for sale. These were reasons to leave the allegation for proof. They did not establish that a particular buyer had been deceived, that a transaction had been proved or that dishonest inducement had been conclusively established.

As to Section 272, the claim that the material was not intended for sale remained disputed. From the shop setting and the absence of a notice, the Court inferred prima facie that the sampled substance was meant for sale and was not sapreta as claimed. That assessment did not finally determine the substance's classification or purpose under Section 482. The analyst's report described the sample as substandard, and the judgment also referred to adulterated products. The Court refused quashing at a prima facie stage without finally adjudicating the Section 272 offence. Both IPC allegations and the food-safety counts remained to be tested through the ordinary process.

6. Relief : The Hon'ble High Court dismissed the Section 482 application and refused to quash FIR Crime No. 13/2021 under Sections 420 and 272 IPC and Sections 51 and 26(2)(ii) of the Food Safety and Standards Act. A copy of the order was directed to be sent to the Superintendent of Police, Shivpuri, and the Bairad SHO for placement in the police case diary. No conviction, penalty, final determination concerning sapreta or milk quality, or separate costs order was made.

Manish Gupta v. State of M.P., M.Cr.C. no. 11462/2021, 01/04/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / cognizable FIR / early investigation - *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221, State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, and *XYZ v. State of Gujarat, (2019) 10 SCC 337*, were reproduced on the cautious exercise of inherent power, the importance of police evidence-gathering and the impropriety of a roving inquiry before investigation. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, requires reasons for interference which are grounded in the facts. Applying their common threshold, the Court found that the informant's account of abuse, threats and physical assault disclosed cognizable offences requiring investigation. It did not determine the truth of that account or the ingredients of an unspecified anticipated charge under a special statute. *Lalita*

Kumari v. State of U.P., (2014) 2 SCC 1, was invoked for registration of an FIR on information disclosing a cognizable offence, rather than for deciding between the rival accounts.

Quashing standards / exceptional intervention / no mini-trial - *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, *Varala Bharath Kumar v. State of Telangana, (2017) 9 SCC 413*, and *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, were surveyed on protecting a legitimate prosecution while allowing intervention where allegations taken at face value disclose no offence, are absurd, encounter a legal bar or constitute an established abuse. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reinforced that the inquiry is governed neither by rigid categories nor by an assessment of credibility. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, explained the prima facie ingredients test on the prosecution record, the overlap between civil and criminal liability and the limited relevance of special features in civil disputes. The Court found no ground to quash the cognizable FIR in this case.

Counter-blast / rival account / informant's motive - The applicants' account in their FIR concerning the same incident, including alleged assaults on applicant No. 1 and his sister and a threat of false implication, could not be accepted as true in order to quash the informant's FIR, which disclosed cognizable offences on its face. Applying its earlier *Vijay Singh Jatav* decision and the caution concerning an informant's alleged mala fides in *Renu Kumari* and the quoted *Padal Venkata Rama Reddy* survey, the Court left the rival versions to be tested by evidence. It declined to decide who had initiated the violence. An accusation of retaliation alone did not establish a malicious proceeding of the kind contemplated in *Bhajan Lal* on the material presented.

Defence material / contested facts / narrow exception - *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproved findings on minute disputed defence facts under Section 482. *Amit Kapoor* likewise confined the inquiry to prosecution material. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised exceptional consideration of a public document or one whose veracity the complainant does not dispute. The Court applied the general rule in paragraphs 23–28 because accepting the applicants' case would require choosing between competing FIR allegations. It identified no document falling within that exception and left credibility and guilt to the ordinary process.

Case-note :- ***1. Facts :*** On 21 September 2023, at about 12:30 p.m., a mason went to the Gram Panchayat office in Katangikala to seek processing of his bill for constructing a platform. According to the FIR account placed before the Court, applicant No. 1, a Gram Rojgar Sahayak, abused him, referred to his caste, refused to process the bill and assaulted him with fists and blows. The complaint alleged that applicant No. 1's sister joined in, used caste language and slapped him. It also alleged that the applicants threatened to kill him and that applicant No. 1 tried to use a chair. The Sarpanch and others were said to have intervened. These remained reported accusations whose truth the Court did not determine. The order described registration of Criminal Case No. 460/2023 at N.K.J. Katni police station under IPC Sections 294, 323, 506 and 34. Its account of the caste-related allegations did not itself specify a charge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in that FIR.

The applicants gave an opposing account of the same time and place. Their counsel stated that applicant No. 1 was completing Ladli Laxmi Yojana forms when the Sarpanch and others demanded that he fill in all the women's forms, abused him and struck him with a chair and a rod. His sister was also beaten, and he was threatened with false implication. They described the informant's FIR as a counter-blast and sought its quashing under Section 482 CrPC. They also apprehended a later charge-sheet under the SC/ST Act, but did not identify the particular anticipated offences in their application. The judgment recorded their submissions and the Court's analysis. It did not resolve either account on evidence, record a completed investigation or make a trial finding.

2. Precedents — Considered : The Judge cited and reproduced a broad survey of Supreme Court decisions before applying their common constraints under Section 482. *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, treated quashing before a proper investigation as premature unless continuation would amount to an abuse of process. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, stressed the police's statutory power to investigate an offence

which appears cognizable on the FIR, with rare intervention where the prosecution is malicious and vexatious. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, quoted *Swapan Kumar Guha* on collecting material to prove a disclosed offence and *Jeffrey J. Diermeier* on the three purposes and cautious limits of inherent jurisdiction. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, reversed premature quashing where disputed allegations of coercion and blackmail required investigation and the High Court had conducted a roving inquiry. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, required the quashing court to state the relevant facts and explain interference by reference to the governing principles. The Court used this group of decisions to define restraint during investigation. The facts quoted from those cases were not treated as facts of the panchayat dispute.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, reproduced the *Bhajan Lal* categories concerning allegations which disclose no offence on their face and established malicious prosecution. It also referred to *Medchl Chemicals*, *Zandu Pharmaceutical Works* and *Shakson Belthissor* as instances of exceptional protection against an untenable complaint. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, separately surveyed the principles for quashing charges under Sections 397/482: a prima facie factual foundation and basic ingredients, inherent improbability, express legal bars, the balance between the accused's liberty and legitimate investigation, avoidance of detailed evidence assessment or external defence material, and careful consideration of predominantly civil allegations. Its quoted explanation treated *Madhavrao Jiwajirao Scindia*'s special civil-dispute considerations as limited in scope; it did not permit assessment of the likelihood of conviction in every case. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, added *Bhajan Lal*'s caution against arbitrary quashing or an inquiry into reliability. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, balanced intervention to prevent abuse with the need to allow a genuine prosecution to proceed, leaving ordinary evidential reliability to trial. These authorities formed part of the Judge's survey. Their exceptional grounds remained available in principle, but none was found established here.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, stated the ordinary bar on assessing an accused's defence documents. Citing *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.*, it recognised an exception for a public document or one whose veracity the complainant does not dispute. The present order identified no such document and did not adjudicate the applicants' competing account. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, explained the exceptional and discretionary character of Section 482, alternative statutory remedies, the *Bhajan Lal* categories and *Indian Oil*'s protection of a complaint with a factual foundation despite imprecise pleading. It also addressed the possibility that a civil transaction may constitute a crime and why *Madhavrao* does not generally authorise predictions of conviction. *State of Orissa v. Saroj Kumar Sahoo*, *P.P. Sharma*, *Indian Oil* and *Madhavrao* appeared within that quoted Supreme Court exposition; the High Court did not separately analyse those cases. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, reiterated that allegations which genuinely disclose no offence when accepted at face value may be quashed. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, protected against absurd, inherently improbable or harassing allegations while cautioning against frequent premature interference. The High Court did not find that the complainant's allegations fell within those exceptions.

CBI v. Arvind Khanna, (2019) 10 SCC 686, disapproved detailed findings on disputed facts under Section 482 after cognizance had been taken; the accused's defence was for trial. *Varala Bharath Kumar v. State of Telangana, (2017) 9 SCC 413*, stated the exceptions concerning face-value ingredients and mala fides under Article 226/Section 482, while prohibiting an inquiry in the guise of appeal or revision or the stifling of a legitimate prosecution. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, cautioned against assessing incomplete evidence by the prospect of conviction and treated an informant's alleged mala fides as secondary where a cognizable FIR exists. The additional cases listed within that quotation were not separately examined in this order. The High Court then relied on *its own Vijay Singh Jatav v. State of M.P.*, MCRC No. 18651/2020 (11 January 2022), for the narrower proposition that an alleged counter-blast must be tested on evidence and cannot, by itself, justify quashing an FIR which discloses an offence on its face. Finally, it cited *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, in applying the duty to register an

FIR where the complaint prima facie discloses a cognizable offence. Taken together, these precedents supplied a limited threshold inquiry; they did not independently determine either side's account of the panchayat incident.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973, supplied the jurisdiction to seek quashing of the FIR. The Court recognised inherent power to prevent abuse or secure justice, but ordinarily not to determine guilt, compare rival police accounts or assess reliability before investigation where the FIR discloses a cognizable offence. The quoted Supreme Court passages also discussed Article 226, Section 397 revision, Sections 156(1) and 155(2) on cognizable and non-cognizable police investigation, Section 173(2) reports and Section 228 charge framing. Those were comparative doctrinal contexts. The present application was under Section 482, and no separate relief under the other provisions was decided.

The FIR was described as invoking IPC Sections 294, 323 and 506, read with Section 34, for alleged abuse, assault, threats and common intention. The Court did not finally determine each offence's ingredients or each applicant's liability. Although caste references formed part of the allegations, the applicants only apprehended future SC/ST Act charges and specified no such charged provision. The Court did not determine whether that Act applied. The *Lalita Kumari* principle concerned the threshold for recording cognizable information; no separate claim concerning a refusal to register an FIR was before the Court.

4. Issues : (i) Did the informant's FIR, taken on its own terms at an early stage of investigation, disclose cognizable offences so that collection of evidence should be left to the police, subject to the exceptional grounds under Section 482? (ii) Did the applicants' opposing account of the same incident and allegation of a retaliatory counter-blast establish a ground for quashing without resolving disputed facts? (iii) Could the Court prefer defence material supplied by the accused or determine which version was correct, and was there any document within the narrow exception or any established abuse? (iv) Was a sufficiently specified SC/ST Act charge before the Court for determination? The Court decided the first three issues at the threshold and noted that the fourth was unspecified. It did not determine any possible later charge.

5. Ratio / Findings : The Court first set out the Supreme Court's limits on premature quashing. Where FIR allegations accepted at face value disclose a cognizable offence, investigation should normally proceed so that the police can collect evidence. A court exercising Section 482 powers does not predict the result or conduct an abbreviated trial. Inherent jurisdiction nevertheless permits protection against allegations disclosing no offence, inherent improbability, a legal bar or sufficiently established malicious abuse. The Judge applied the extensive precedent survey to the applicants' request in paragraphs 22–29; it did not produce a separate holding on every hypothetical category. On the FIR account, the alleged public abuse, blows, slap, attempted chair assault and threats arising from payment for masonry work disclosed cognizable wrongdoing. This threshold conclusion did not prove the occurrence or finally classify each allegation in law.

The applicants claimed that applicant No. 1 and his sister had been beaten by the complainant's side and that the impugned FIR was retaliation for their own account. The Court held that choosing between those accounts would require a factual determination beyond Section 482. Its earlier *Vijay Singh Jatav* ruling left an alleged counter-blast to be tested by evidence before the trial court. The Supreme Court survey's caution that an informant's alleged mala fides are not independently decisive reinforced that conclusion. Demonstrated abuse could still justify intervention in a suitable case. Here, however, the applicants supplied a disputed rival account, rather than a basis for holding that the informant's allegations disclosed no offence on their face. The Court therefore neither accepted the complainant's credibility nor found the applicants' defence untrue.

Nor could the Court use the accused's disputed assertions to determine who assaulted whom. *Amit Kapoor and CBI v. Arvind Khanna* prohibit detailed appraisal of defence evidence in an ordinary quashing inquiry, while *Mohd. Akram Siddiqui* recognises a narrow exception for public or undisputed documents. The order identified neither a document within that exception nor a finally established fact which disposed of the FIR. The defence remained to be tested during investigation and trial. The applicants referred to possible future SC/ST Act allegations without specifying the relevant offences in their application. The Court made no independent finding on their ingredients or

on whether a later charge-sheet could lawfully include them. Having found cognizable allegations, it applied *Lalita Kumari*'s registration principle and declined to stop the investigation.

6. Relief : The Hon'ble High Court dismissed the applicants' Section 482 application and refused to quash Criminal Case/FIR No. 460/2023 at N.K.J. Katni for the specified IPC offences. It made no determination of the truth of either side's account or of a prospective SC/ST Act charge, and imposed no special conditions or costs. Investigation and any ensuing proceedings could continue according to law.

Manish Kumar Dubey and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 56088/2023, 26/12/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Alibi / Section 11 Evidence Act / burdens of proof - *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, explain that an alibi is evidence of presence elsewhere which is relevant under Section 11 because it is inconsistent with the alleged presence at the scene. It is not an IPC exception. The prosecution must first prove presence and participation. An accused relying on absence must then provide positive, strict proof, while retaining the benefit of any reasonable doubt. *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, further states that failure to establish an alibi does not itself prove the prosecution case. The Court applied those qualifications to the claimed travel to Leh and Ladakh and the challenge to the FIR's identification of Manish son of Shivlal. Neither factual defence was established in the Section 482 proceeding; guilt was not determined.

Quashing / face-value allegations / mob incident - *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221, State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547, XYZ v. State of Gujarat, (2019) 10 SCC 337*, and the cited *S. Martin* passage cautioned against stopping a cognizable investigation to assess the merits of the evidence. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, required reasons linked to the facts. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460, S. Khushboo v. Kanniammal, (2010) 5 SCC 600, Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226, Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437, M. Srikanth v. State of Telangana, (2019) 10 SCC 373, M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, and *CBI v. Arvind Khanna, (2019) 10 SCC 686*, set out the exceptional grounds concerning allegations taken at face value, legal bars, inherent improbability and abuse of process. They did not authorise a trial of the defence at the quashing stage. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised a narrow exception for a public or undisputed document; the order identified no such document. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021* (30 June 2021), specifically rejected meticulous scrutiny of evidence and any requirement that the FIR be an encyclopedia. Applying the survey, the Court found that the named participant's alleged presence in the coercive procession and the reported attacks on police personnel and property disclosed offences at the threshold. Identity, alibi and the statutory charges remained for proof.

Quashing dismissal / arrest protection / Section 438 CrPC - *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, Criminal Appeal No. 330/2021* (13 April 2021), was applied against routine, unexplained directions prohibiting arrest or coercive steps after refusal to quash, because such orders impair lawful investigation. The quoted passage also recognised exceptional, reasoned interim protection during a pending petition, the fact that arrest does not follow every FIR and the separate anticipatory-bail remedy under Section 438. The Court dismissed the Section 482 application and held that no interim protection from arrest could be issued after declining interference. It did not determine whether a separate anticipatory-bail application would satisfy its conditions.

Case-note :- ***1. Facts :*** On 2 April 2018, a procession of members of a reserved category protesting provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act passed through Lahar, Bhind. The FIR described roughly 300 persons pressuring shopkeepers near Lohiya Check Bazar to close their shops for a Bharat Bandh. Police allegedly told the crowd that compulsory closure was unlawful and tried to restrain and disperse it. A stone thrown from the crowd was said to have struck the SHO's back. According to the complaint, members of the crowd then pelted the police station with

stones, damaging public property and injuring constable Anil Tomar below an eye. The FIR named Manish son of Shivlal among the participants. These were prosecution allegations, not established findings of guilt or of any particular act by this applicant. Crime No. 123/2018 at Lahar police station invoked IPC Sections 353, 332, 336, 147, 148 and 149 and Section 3 of the Prevention of Damage to Public Property Act, 1984. The subject of the protest was background; no SC/ST Act offence was adjudicated.

Manish Kumar Kartroliya sought quashing of the FIR under Section 482 CrPC. His counsel asserted that he had travelled to Leh and Ladakh and was absent from the scene. He also argued that the FIR did not establish that Manish son of Shivlal referred to him rather than a namesake. Alternatively, he sought protection from arrest if quashing was refused. The State opposed the application, pointing out that both his name and his father's name appeared in the FIR and that the alibi required cogent defence evidence. The applicant identified no other Manish son of Shivlal. Asked about the limits of Section 482, his counsel asserted that the Court had unlimited power to protect a person's dignity. The Court determined the threshold application, rather than a trial or a separate anticipatory-bail request.

2. Precedents — Considered : *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, was relied on for the burden and timing of an alibi plea. It reproduced *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, which the Judge also quoted separately. *Binay* places alibi within Section 11 of the Evidence Act as a fact inconsistent with alleged presence, rather than as a statutory exception. In a prosecution for inflicting injury, the prosecution must first satisfactorily prove presence and participation. Only then must the accused's positive evidence of presence elsewhere exclude presence at the scene with strict certainty. Defence evidence of sufficient quality may still raise a reasonable doubt, and the prosecution's burden is not reduced. *Vijay Pal* referred to *Gurpreet Singh*, *Sk. Sattar* and *Jitender Kumar* as reiterations. The Judge also independently quoted *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, for rigorous positive proof of alibi and the qualification that its failure cannot itself establish guilt. The Court applied that law in declining to accept an unproved travel claim on the FIR-quashing record. It did not receive trial evidence on the plea.

The Court then reproduced Supreme Court authorities on quashing as part of its own reasoning. *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, disapproved premature quashing without proper police investigation unless continuation would abuse the process. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, protected investigation of a prima facie cognizable offence, subject to rare intervention in malicious and vexatious cases. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, quoted *Swapan Kumar Guha* on gathering evidence of a disclosed offence and *Jeffrey J. Diermeier* on the three purposes and cautious, non-arbitrary exercise of Section 482. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, identified the error in resolving disputed coercion and settlement facts before investigation. The short '*S. Martin* (Supra)' passage likewise criticised an assessment on the merits before investigation was complete. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, required reasons linked to the facts and precedent. These passages supported the Court's refusal to determine the asserted travel and identity at the initial stage.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, reproduced *Bhajan Lal*'s exceptions for allegations which disclose no offence on their face and manifest mala fides, alongside the safeguards against untenable complaints in *Medchl Chemicals*, *Zandu Pharmaceutical Works* and *Shakson Belthissor. Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, set out the limits on quashing charges under Sections 397/482: an uncontroverted prosecution foundation, basic ingredients, extreme improbability or an express bar, careful balancing of liberty and prosecution, exclusion of external defence material and no meticulous prediction of conviction. Its quotation explained the civil-dispute context of *Madhavrao Jiwajirao Scindia* and the limited role of special features; it did not generally authorise an inquiry into the merits. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, stressed sparing exercise and the absence of an FIR-credibility trial. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised a narrow possibility of considering a public defence document or one whose veracity the complainant does not dispute. No such document was identified as accepted here. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, protected against both an abusive complaint and an accused's attempt to cut short a legitimate prosecution.

Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437, was reproduced extensively on the discretionary power to secure justice, alternative remedies, the *Bhajan Lal* categories, *Indian Oil*'s approach to pleading with a factual foundation, civil/criminal overlap and the limited relevance of *Madhavrao*'s special civil-dispute features to predicting conviction at a preliminary stage. The many cases within that survey did not constitute independent factual determinations by the Judge. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, affirmed quashing where the prosecution case, taken at face value or uncontroverted, disclosed no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, retained protection against inherently absurd or harassing proceedings while warning against routine premature interference. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, rejected findings on disputed facts and detailed appraisal of the defence under Section 482. In paragraph 9, the Judge drew these principles together: ordinarily there can be no roving inquiry, while an uncontroverted account which genuinely discloses no offence may be quashed. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021* (30 June 2021), then supplied the directly relevant caution that an FIR need not be an encyclopedia and its material must not be examined as though the Court were trying the case. The Court applied those principles to the procession and police-station allegations without finally determining personal liability.

On the separate request for arrest protection, the Court applied *M/s Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, Criminal Appeal No. 330/2021* (13 April 2021). The quoted judgment distinguished exceptional, reasoned interim orders in a properly pending quashing case from blanket directions against arrest or coercive steps, particularly after dismissal. Such directions could obstruct police investigation and custodial inquiry. Arrest did not inevitably follow an FIR, and anticipatory bail was available under Section 438 CrPC. *Asian Resurfacing* and *Hema Mishra* were discussed within the *Neeharika* quotation concerning delay, reasoned stay orders and the sparing use of Article 226 for relief before arrest. Those other settings were not separately decided in this case. The Court refused to use the failed quashing petition to protect the applicant from arrest.

3. Statutes considered : Section 11 of the Indian Evidence Act, 1872, and its illustration concerning presence elsewhere supplied the relevance of an alibi. The Court treated the accused's evidentiary burden as heavy once the prosecution had discharged its initial burden of proving presence. The prosecution still had to prove its case independently beyond reasonable doubt, and sufficiently credible defence evidence could entitle the accused to the benefit of a reasonable doubt. Section 482 CrPC governed both the quashing request and the distinct request for interim protection, with factual examination restricted at that stage. Through *Neeharika*, Section 438 CrPC was identified as a separate remedy for apprehended arrest; no application under it was adjudicated here. The quotations also mentioned Article 226 and CrPC Sections 155(2), 156(1), 173(2), 228 and 397 in explaining related limits. No separate claim under those provisions was decided.

The registered offences were IPC Sections 353 and 332, concerning alleged force or injury against police discharging their duty; Section 336, concerning danger to safety; Sections 147 and 148, concerning rioting and alleged armed rioting; and Section 149 (common-object liability). Section 3 of the Prevention of Damage to Public Property Act, 1984, was also invoked. The Court found only that the uncontroverted account of the procession, police assault and station damage prima facie disclosed an offence. It did not conduct a trial-stage examination of every ingredient or determine this applicant's liability on each count. The Scheduled Castes and Scheduled Tribes Act was the reported subject of the procession, rather than a charged offence in this FIR.

4. Issues : (i) Could a suspect named in the FIR obtain quashing under Section 482 by asserting that he was in Leh and Ladakh or was a different person, without evidence establishing alibi or misidentification? (ii) Did the FIR allegations of coerced market closure, stones directed at police and damage to the police station disclose offences at the face-value threshold, while leaving the applicant's individual participation and the charged ingredients for later proof? (iii) After refusing quashing, could the Court nevertheless direct that the applicant not be arrested, or should relief before arrest be considered through the appropriate statutory route and the narrow standards governing reasoned interim protection?

5. Ratio / Findings : The FIR named Manish son of Shivlal. The applicant disputed identification but identified no other Manish with that father's name. The Court placed on him the burden of establishing that the person named in the FIR was not himself. His further claim that he was away in Leh and Ladakh could not be conclusively tested on counsel's assertion alone. The Judge applied *Vijay Pal*, *Binay Kumar Singh* and *Sk. Sattar* on positive, strict proof of presence elsewhere after the prosecution establishes presence, while retaining the prosecution's separate duty to prove its case beyond reasonable doubt. Refusal to accept the alibi at this preliminary stage therefore neither proved presence at the scene nor turned rejection of a defence into proof of guilt. Its precise effect on identification and participation remained for evidence.

In assessing the FIR, the Court did not determine whether every crowd member had committed every alleged act. For the limited quashing inquiry, it accepted the allegations of attempted compulsory shop closure, disregard of police requests, a stone from the crowd injuring the SHO, and a subsequent attack on the station which injured a constable and damaged property. Those allegations prima facie disclosed a cognizable offence. The named participant's denial, travel claim and identity challenge did not mean that the uncontroverted prosecution account disclosed no offence. The Supreme Court survey supplied both the limited grounds for intervention and the prohibition on trying disputed facts. *Kunwar Singh* reinforced that an FIR need not contain every evidential detail. The Court found no justification for Section 482 interference, without determining guilt under the IPC or the public-property statute.

Finally, the Court considered arrest protection separately from quashing. *Neeharika* permits an exceptional, reasoned interim direction in a suitable pending matter within strict limits, but disapproves routine blanket protection, especially where the challenge itself fails. Such protection can impede investigation and possible custodial questioning. Registration of an FIR does not, however, require arrest in every case, and Section 438 provides a distinct remedy where its conditions are satisfied. After declining interference under Section 482, the Court held that no interim order protecting the applicant from arrest could be issued and refused the alternative request. It did not determine the merits of any future bail application.

6. Relief : The Hon'ble High Court dismissed MCRC-39483-2021, leaving Crime No. 123/2018 at Lahar, Bhind, to proceed under the specified IPC and public-property provisions. It neither quashed the FIR nor directed non-arrest, and imposed no further condition in the operative order. Identity, alibi, individual participation, guilt and any properly presented Section 438 request remained for the appropriate lawful forums.

Manish Kumar Kartroliya v. State of M.P. and Others, M.Cr.C. no. 39483/2021, 05/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC Sections 375 and 377 / amended sexual-act definition / cohabiting spouses - The Court compared Section 375 before and after the 2013 amendment. It held that the amended clauses (a)–(d) encompass specified penetration and other sexual acts described as unnatural. It read Exception 2, which its order quoted as applying where the wife was not under fifteen, as excluding a husband's sexual acts with his wife from rape during a valid, subsisting marriage while they lived together. It referred to Section 376B for spouses living separately. On that statutory reasoning, the Court held that the wife's allegations of unwanted acts did not disclose an offence under Section 377 against this husband, even if accepted at face value, and quashed the FIR.

Section 377 / *navtej singh johar* / consent and Constitutional limit - The referring order in *Navtej Singh Johar v. Union of India, (2018) 1 SCC 791*, framed the constitutional question concerning consenting adults. The Constitution Bench decision, *(2018) 10 SCC 1*, invalidated Section 377 insofar as it criminalised consensual same-sex conduct between adults, upheld liberty, equality, dignity and private intimate choice, and overruled *Suresh Kumar Koushal*. The present Court considered consent ordinarily necessary to take adult conduct outside Section 377, but applied its separate analysis of the marital exception to the accused husband and wife. *Navtej* did not itself decide the position of non-consensual marital acts or confer general immunity for non-consensual conduct. The Court found support in the coordinate *Bench* decision in *Umang Singhar v. State of Madhya Pradesh.*

Section 482 CrPC / scope of decision / Section 506 - Accepting the wife's FIR account at face value for

the threshold inquiry, the Court found that no offence under Section 377 arose on its interpretation of the law. It did not decide the husband's claim that the delayed second report was an afterthought. The operative order quashed Crime No. 377/2022 and the applicant's criminal prosecution as a whole. The Court made no factual finding that the allegations were false or that the wife had consented.

Case-note :- ***1. Facts :*** Manish Sahu and respondent No. 2 married on 18 May 2019 according to Hindu rites. She alleged physical and mental harassment by her in-laws over dowry and said that she had lived at her father's home since 14 February 2020. A separate cruelty trial was pending. In her later complaint, she said that, on the night between 6 and 7 June 2019, after returning to the matrimonial home following marriage, her husband subjected her to 'unnatural sex' and repeated the conduct on other occasions. She alleged that he threatened to divorce her if she told anyone, which was why she had omitted the allegation from her first report. She further alleged that, after a Family Court date on 18 July 2022, he threatened to repeat the conduct if she met him. She told her mother about the earlier acts and reported them to the police on 24 August 2022. These remained the complainant's allegations, rather than proved events or judicial findings about actual consent. The FIR was first registered at zero number at Kotwali, Narsinghpur, then transferred to Kotwali, Jabalpur, where it became Crime No. 377/2022 under IPC Sections 377 and 506. The petition referred to the pending Sessions Trial No. 642/2022. The husband sought quashing under Section 482 CrPC. His counsel argued that Section 377 did not criminalise the alleged acts between spouses and challenged the later report as an afterthought because the wife had omitted those allegations from her first complaint. Counsel for respondent No. 2 opposed the asserted marital exemption for unnatural sexual acts and noted that a charge-sheet had been filed. The wife alleged that the parties had separated by February 2020. The sexual acts on which the Court based its analysis were alleged to have occurred in 2019, while they were living together; the later Family Court threat did not specify a new sexual act during separation. The order did not identify the wife's age, make a finding on the evidence about consent, or resolve the merits of the earlier cruelty case.

2. Precedents — Considered : The Court first reproduced the referring order in *Navtej Singh Johar and Others v. Union of India, Ministry of Law and Justice, (2018) 1 SCC 791*. The challenge to Section 377 was confined to consenting sexual acts between adults; carnal intercourse with animals and acts involving children fell outside that referred question. The order recorded the need for a larger Bench to reconsider *Suresh Kumar Koushal v. Naz Foundation* because consent, privacy and constitutional protection were at issue. The present Judge used the referral to frame the consent question and did not treat it as a final decision decriminalising an act.

The Court then quoted the Constitution Bench decision in *Navtej Singh Johar and Others v. Union of India through Secretary, Ministry of Law and Justice, (2018) 10 SCC 1*. The quoted paragraphs addressed the unconstitutional application of Section 377 to consensual conduct between adults of the same sex. They discussed sexual orientation and explained how dignity, autonomy, privacy, liberty, equality and equal citizenship protect intimate choices. The Bench overruled *Koushal* on that point. The High Court inferred that consent would ordinarily take intimacy between adults of the same or different sexes outside Section 377, and recognised the corresponding importance of non-consent. The Supreme Court's constitutional holding was specifically framed around consenting same-sex adults; the reproduced passage did not purport to decide the position of non-consensual acts within marriage. The High Court reached its further conclusion through its own reading of IPC Section 375 and Exception 2, rather than through a direct ruling in *Navtej* on these marital circumstances.

The Judge also cited the coordinate *Bench* decision in *Umang Singhar v. State of Madhya Pradesh* as supporting the result on Section 377 in a marital setting.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction to quash a prosecution that, on the Court's interpretation, disclosed no offence under Section 377 even if the complainant's factual account was accepted. The Court compared the earlier form of IPC Section 375 with the definition introduced by the 2013 amendment. It noted that clauses (a)–(d) included several forms of penetration by the penis, an object or another body part, and oral contact, subject to the provision's listed circumstances and explanations about consent. The Court specifically reasoned that penile penetration of

the mouth, urethra or anus was included after the amendment.

The order reproduced Section 375 Exception 2 with wording that referred to a wife not under fifteen years of age. It treated that quoted marital exception as applicable during a subsisting marriage while the spouses lived together, and referred to Section 376B as governing sexual acts with a wife living separately, whether by judicial separation or otherwise. The Court interpreted IPC Section 377 by reference to *Navtej* and Section 375. IPC Section 506 was listed in the FIR for the alleged threat. The earlier cruelty matter and dowry allegations formed the background; they were not counts adjudicated in this proceeding.

4. Issues : (i) Did an FIR alleging repeated unwanted sexual acts by a husband against his wife while they lived together in a valid marriage disclose an offence under Section 377, given the 2013 expansion of Section 375 and the marital exception as read by the Court? (ii) What bearing did *Navtej*'s Section 377 holding concerning consenting adults have on the complainant's allegation of non-consent, and did that holding itself determine the marital allegation? (iii) Did the omission of the allegation from her earlier complaint and the timing of the later report require a factual finding of fabrication? The Court decided the statutory question under Section 377, treated *Navtej* as relevant but not as the sole statutory basis for its conclusion, and expressly declined to decide the afterthought claim. The petition's prayer for relief encompassed the FIR, which also listed Section 506.

5. Ratio / Findings : The Court began with the 2013 changes to Section 375. It considered acts involving the mouth, urethra and anus to fall within the expanded definition of rape, then asked whether the marital exception excluded those same categories of acts when committed by a husband against his wife during cohabitation. It read the quoted Exception 2 as covering sexual intercourse or sexual acts with his wife where she was not below the age stated in that exception, and referred to Section 376B as the contrasting provision for separated spouses. On the Court's construction, the wife's alleged lack of consent did not create liability for rape in that cohabiting-marriage setting, and the acts could not instead be prosecuted under Section 377. The application was therefore decided as a question of law, taking the allegations at face value. The Court did not determine whether any particular sexual act had occurred or had been consensual.

The *Navtej* referral and Constitution Bench passages addressed the constitutional protection of consenting adults and the invalidity of penalising consensual same-sex intimacy. The Judge stated that consent ordinarily takes adult acts outside Section 377, while absence of consent would ordinarily matter. The Judge reached a different conclusion for this husband by reading the amended Section 375 definition together with the marital exception, and found support in the coordinate Bench reference to *Umang Singhar.* The conclusion rested on that separate reasoning: the quoted Supreme Court decision did not itself hold that non-consensual marital acts were lawful.

Having held that Section 377 did not apply to the allegations as understood, the Court expressly declined further consideration of whether the later complaint was frivolous or an afterthought because of its timing. It made no credibility finding based on the wife's omission from her first report. In paragraphs 20–22, the Court concluded that the accusation, taken at face value, did not disclose an offence under Section 377 and quashed Crime No. 377/2022 and the applicant's prosecution. The FIR and petition also listed Section 506 for threats. The operative order applied to the prosecution as a whole; it neither laid down a separate rule concerning the alleged threat nor found the allegations false.

6. Relief : The Hon'ble High Court allowed the Section 482 application and quashed FIR Crime No. 377/2022 at Kotwali, Jabalpur, and the criminal prosecution of Manish Sahu arising from it. The petition described the prosecution as pending in Sessions Trial No. 642/2022 and listed IPC Sections 377 and 506. The order directed no remand and imposed no condition. It awarded no damages or costs and made no finding about the separate cruelty trial. The reasoned holding concerned Section 377; the operative order did not exclude the listed Section 506 count from the quashing.

Manish Sahu v. State of Madhya Pradesh and Others, M.Cr.C. no. 8388/2023, 01/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 528 BNSS / early FIR quashing / police investigation - The Court applied the Section 482 CrPC authorities to the petition under the corresponding inherent-power provision of the BNSS. It quoted *Neeharika*

Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401, on the police duty to investigate an FIR that discloses a cognizable offence on its face, the exceptional power to stop an investigation that discloses no offence or abuses the process, the prohibition on a mini-trial of the allegations' genuineness, and the principle that an FIR need not be an encyclopedia. In paragraph 7, the Court collectively cited *XYZ v. State of Gujarat, (2019) 10 SCC 337*; *S. Martin, (2018) 5 SCC 718*; *Ajay Kumar Das, (2011) 12 SCC 319*; *Mohd. Akram Siddiqui, (2019) 13 SCC 350*; *Gourishetty Mahesh, (2010) 11 SCC 226*; *M. Srikanth, (2019) 10 SCC 373*; *CBI v. Arvind Khanna, (2019) 10 SCC 686*; *Kunwar Singh* (30 June 2021); *Munshiram, (2018) 5 SCC 678*; *Teeja Devi, (2014) 15 SCC 221*; *Ujjal Kumar Burdhan, (2012) 4 SCC 547*; *S. Khushboo, (2010) 5 SCC 600*; *Sangeeta Agrawal, (2019) 2 SCC 336*; *Amit Kapoor, (2012) 9 SCC 460*; *Padal Venkata Rama Reddy, (2012) 12 SCC 437*; and *M.N. Ojha, (2009) 9 SCC 682*, for that common rule of restraint. It did not reproduce or separately apply each ratio. On the FIR account, the alleged group assault, injuries and threats disclosed a case for investigation; this was not a finding of guilt.

Alibi / photographs / positive proof - *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749,* and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, explain alibi as a matter of relevance under Section 11 of the Evidence Act. They require positive, strict proof that the accused was elsewhere, after the prosecution has satisfactorily established presence at the scene. *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, makes clear that a failed alibi never substitutes for prosecution proof beyond reasonable doubt. Applying these authorities, the Court declined to infer Prince's absence from photographs allegedly placing him 40–50 kilometres away. His factual defence remained open for proper proof; it could not be established on the Section 528 application by merely looking at the photographs.

Cross-FIR / filing sequence / aggressor - The fact that the applicants' FIR was lodged at 10:49 a.m. and the respondent's at 14:58 did not by itself prove that the latter was retaliatory. The later FIR described police referral, medical examination and hospitalisation before reporting. Photographs produced by the applicants showed an encounter, including an image that counsel conceded showed Ashu holding the opposing man's collar, but could not establish who initiated the violence. Even if the incident were treated as a free fight, liability would depend on each participant's own acts. Applying the test of taking the allegations at face value without a mini-trial, the Court declined to identify the aggressor or quash Crime No. 652/2024.

Case-note :- ***1. Facts :*** According to the FIR in Crime No. 652/2024 at Morar, Gwalior, the complainant and his brother-in-law Suraj Pal were sitting outside their home on 24 November 2024 at about 8:30 a.m. Their neighbours, Manish Shivhare, his nephew Anshu or Ashu, and Prince, allegedly came there because of old enmity. The complaint alleged abuse, a push that caused Suraj Pal to fall, kicks and blows, bleeding from his head, a bite by Manish near the right shoulder, and threats to kill if a report was made. It named the complainant's brother Sunil and neighbour Saligram Kankar as witnesses who intervened. It stated that the police sent the injured man to District Hospital, Morar, where he was admitted, before the complainant returned to report the incident. The FIR alleged offences under Sections 296, 115(2), 118(1), 351(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023. These remained allegations, rather than final findings about any individual's conduct or the classification of injuries. The applicants sought quashing of the FIR and any trial proceeding under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. They relied on their own FIR in Crime No. 651/2024, lodged at 10:49 a.m. that day, whereas the complainant's report was recorded at 14:58. According to the applicants, their neighbours accused them over the removal of a roadside platform by a municipal team the previous day, then abused and assaulted them. They alleged a stick blow to Manish's forehead and an injury to his shoulder. They said that, despite their request for a fair investigation, the police pressed them to compromise. They also relied on photographs to assert that applicant No. 3, Prince, was 40–50 kilometres away. Counsel conceded that one image produced by the applicants showed Ashu and Shivkumar Baghel holding each other's collars. The order spells the second applicant's name as Anshu in the FIR narration and Ashu in the photograph discussion. The Court examined the competing allegations for the limited purpose of deciding whether to quash the FIR; it did not conduct a trial of either account.

2. Precedents — Considered : In paragraph 7, the Court grouped sixteen Supreme Court citations in

support of a common rule under Section 482 CrPC/Section 528 BNSS: proceedings may be quashed at the threshold only if the uncontroverted prosecution allegations disclose no offence. The Court does not decide the accused's defence, and the informant's alleged motive becomes secondary where the allegations disclose a cognizable offence. It listed *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021* (30 June 2021); *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The present order stated only their shared test and did not reproduce individual passages or make separate holdings based on their particular facts. The order relied on the listed authorities for that common proposition; it did not separately analyse their unquoted ratios.

Neeharika Infrastructure Private Limited v. State of Maharashtra, (2021) 19 SCC 401, was quoted at length and applied. The quoted summary recognised the police's statutory right and duty to investigate cognizable offences, the ordinary rule against judicial interference at the initial FIR stage, and the prohibition on an inquiry into the allegations' reliability. It also recognised exceptional, carefully exercised quashing where the allegations disclose no offence or non-intervention would cause a miscarriage of justice. An FIR need not state every detail while investigation is ongoing. If the investigation reveals no substance, the police may submit an appropriate report to the Magistrate. The passage distinguished the police's fact-finding role from the court's power to prevent abuse of process, and stressed that 'rarest of rare' in this procedural context differs from the capital-sentencing standard. The present Court applied these principles in declining to choose between the two assault accounts on the basis of photographs or reporting times. *Neeharika*'s nested references to *R.P. Kapur*, *Bhajan Lal* and *Khwaja Nazir Ahmad* formed part of its quoted background; this Judge did not independently analyse them.

On alibi, the Court quoted *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, for the burden of positive proof that follows satisfactory prosecution proof of presence. *Vijay Pal* reproduced *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, which the present Judge also quoted separately. An alibi concerns a fact about the accused's presence elsewhere that is inconsistent with presence at the scene and is relevant under Section 11 of the Evidence Act; it is not an IPC exception. Once the prosecution establishes presence, strict proof that the accused was elsewhere must exclude the possibility of presence at the scene. Defence evidence may nevertheless raise a reasonable doubt, and the prosecution retains its independent burden of proof. *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, was quoted for positive proof and the essential qualification that failure of an alibi never by itself proves guilt. *Gurpreet Singh* and *Jitender Kumar* appeared within the quoted Supreme Court discussion; the present Judge did not separately apply those cases to distinct issues. The Judge used these principles to leave Prince's photographic alibi for proof in evidentiary proceedings, without pronouncing it false.

3. Statutes considered : Section 528 BNSS was expressly invoked to seek quashing in December 2024. In applying the new Code's inherent-power provision, the Judge explained the established limits under Section 482 CrPC; the references to the two provisions did not signify two applications by the parties. The *Neeharika* quotation referred to CrPC investigation provisions and the relationship between police duty and judicial power. The quoted alibi authorities discussed Section 11 of the Indian Evidence Act to explain the relevance of facts placing the accused elsewhere and the sequence of evidentiary burdens.

The impugned FIR alleged offences under BNS Sections 296 (abusive conduct), 115(2) and 118(1) (hurt allegations, including the alleged manner), 351(3) (threat), and 3(5) (common intention), as listed in the judgment. The Court treated the alleged assault and threat as disclosing a cognizable offence on their face for the purpose of deciding the quashing

application. It neither made a final medical classification of the injuries nor established every element of each count or collective liability. The applicants' earlier FIR set out their own factual account, but the Court did not decide its charges or the result of its prosecution.

4. Issues : (i) Did the complainant's FIR disclose a cognizable offence on its allegations for the purposes of Section 528 BNSS, despite the conflicting same-day FIR, photographs and complaint about the fairness of the police? (ii) Did the photographs said to place Prince 40–50 kilometres away establish an alibi at this stage, or did that defence require positive evidence in the appropriate proceeding, with the prosecution's ultimate burden intact? (iii) Did the earlier timing of the applicants' FIR prove that the later report was a retaliatory counter-blast, or did the later report's police and hospital sequence and the images leave the identity of the aggressor to be determined on evidence? The Court decided the threshold question and declined to determine individual guilt, the completeness of the police investigation or ultimate credibility.

5. Ratio / Findings : Applying *Neeharika* and the collectively cited quashing authorities, the Judge considered whether the impugned FIR, taken at face value, disclosed an offence. The inquiry was not which side would succeed after witnesses, photographs and medical material were tested. The alleged assault by three neighbours, head injury and bite, medical referral, intervening witnesses and death threat met that limited threshold. The Court could not conduct a mini-trial or determine the genuineness of the rival allegations in the Section 528 proceeding. It did not thereby find that the injuries were finally proved or that each applicant had committed every charged offence.

Prince's claim that he was away from the scene was also disputed. Merely looking at the submitted photographs could not establish his whereabouts at the material time. The cited alibi authorities require positive, cogent proof in the proper evidentiary sequence, while preserving the prosecution's independent burden to prove presence and participation beyond reasonable doubt. The Court's refusal to quash on the basis of the photographs was not a final finding against Prince's defence.

In considering the counter-blast allegation, the Judge looked beyond the sequence in which the police recorded the reports, without accepting either FIR as true. The applicants' FIR was lodged at 10:49 a.m. and the respondent's at 14:58. The latter, however, stated that the police first sent the injured Suraj Pal for hospital care and that he was admitted before the complainant returned to report the incident. The applicants' photographs showed an actual confrontation. The conceded image of Ashu holding the opposing man's collar showed his involvement in an encounter, but did not by itself identify the initial aggressor or fully establish each person's acts. The Court stated that, even in a free fight, each person would be responsible for his own acts. It rejected the applicants' claim that the later FIR was a counter-blast and declined to adjudicate who initiated the clash. It expressed no view on the findings at a later trial or on every aspect of the alleged police pressure to compromise.

6. Relief : The Hon'ble High Court dismissed the application. It declined to quash Crime No. 652/2024 and any consequential proceeding on the grounds urged under Section 528 BNSS. It made no final finding about the rival Crime No. 651/2024, Prince's whereabouts or any applicant's culpability. The order gave no independent direction for investigation and imposed no conditions or costs.

Manish Shivhare and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 52314/2024, 19/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Attempt to murder / Section 307 IPC / intent and act distinct from wound result - *State of M.P. v. Harjeet Singh, (2019) 20 SCC 524*, drew on *R. Prakash*, *Mohan* and *Jage Ram* to explain that Section 307 requires the requisite intention or knowledge together with an overt act. Intention is assessed from the weapon, words, motive, target, severity and surrounding circumstances; grievous or life-threatening harm or a wound on a vital part is not essential. *State of M.P. v. Kanha, (2019) 3 SCC 605*, and *State of M.P. v. Saleem, (2005) 5 SCC 554*, were separately quoted for the distinction between the act and its result, including the principle that a simple injury does not by itself exclude Section 307. The High Court found the trial judge's reliance on the absence of great force incomplete in the context of an abdominal knife blow and an attempted second blow. It nevertheless left the acquittal undisturbed: the State had not appealed it and, after nineteen years, the Court considered that no useful purpose

would be served by a show-cause notice. The conviction remained under Section 324, rather than Section 307.

Injured witness / undocumented history / Section 324 conviction - The doctor who prepared the MLC stated orally that the patient had described an unknown knife assailant. The MLC contained no such account, the injured witness had not been confronted with it, and the other testimony did not support the claimed hospital inquiry. The Court accepted the injured complainant's identification, the supporting eye-witness account and the treatment record, and affirmed Manish Bhadoriya's responsibility for the knife wound under Section 324. This was a finding on the evidence in the case. It did not disturb the Section 307 acquittal, which the State had not appealed, or the Arms Act acquittals.

Sentence / long appellate delay / conditional fine - Section 324 prescribed no minimum term. Taking account of the absence of any cited criminal history, twelve days already spent in custody and more than nineteen years since the incident, the Court replaced the one-year rigorous-imprisonment sentence with the period already undergone and increased the fine from ₹1,000 to ₹15,000. The fine had to be deposited by 29 February 2024; otherwise the trial court's jail sentence would revive. The Court affirmed the conviction, cancelled the bail and surety bonds and allowed the appeal only to that extent.

Case-note :- ***1. Facts :*** On 10 December 2004 at about 11:30 p.m., Shailesh Saraswat was returning home with friends when he stopped at a paan shop near a medical store. According to the prosecution, Manish Bhadoriya abused and threatened him and his family, pushed him and, as Shailesh tried to leave, stabbed him in the abdomen with a knife. Bystanders allegedly prevented a second blow. Shailesh told his wife Shalini and brother-in-law Avinash, who took him for treatment. Avinash lodged a Dehati Nalishi. The police later seized a knife, and a charge-sheet alleged attempted murder under Section 307 IPC and offences under Arms Act Sections 25/27. This was the prosecution's account of the incident; the High Court examined the identity and injury evidence in the appeal against conviction.

At trial, the prosecution examined the injured Shailesh (PW-2), treating doctor Dr. Ashutosh (PW-1), Shalini (PW-3), Avinash (PW-5), eye-witness Raja Shukla (PW-9) and others. The defence examined Dr. P.K. Jain (DW-1), who had prepared the MLC. On 28 June 2006, the Sessions Judge, Bhopal, in Sessions Trial No. 25/2005, acquitted the appellant of the Section 307 and Arms Act charges but convicted him under Section 324 IPC. The sentence was one year's rigorous imprisonment and a fine of ₹1,000, with a stated default term of three months' rigorous imprisonment. The State filed no appeal against the Section 307 acquittal. Manish appealed against his conviction and sentence under Section 374 CrPC. His counsel chiefly sought a sentence limited to the period already undergone after about nineteen years, referring to his twelve days in custody and the absence of a minimum sentence under Section 324. The State opposed the appeal but acknowledged that it had not appealed the Section 307 acquittal.

2. Precedents — Considered : *State of Madhya Pradesh v. Harjeet Singh, (2019) 20 SCC 524*, was quoted for the requirement under Section 307 of intention or knowledge that the act may cause death, coupled with an overt act. The passage drew *on R. Prakash v. State of Karnataka, (2004) 9 SCC 27*, to distinguish the accused's act from its result: a bodily wound capable of causing death is not essential, although the injury may help establish intention. It drew *on State of M.P. v. Mohan, (2013) 14 SCC 116*, for the principle that hurt need not be inflicted on a vital part, and *on Jage Ram v. State of Haryana, (2015) 11 SCC 366*, for factors including the weapon, words, motive, body part and severity. The present Court stated the governing principle in paragraph 16 and quoted this collection in paragraph 17 when questioning the trial judge's reliance on the absence of great force. It did not use these authorities to convict this appellant under Section 307.

State of M.P. v. Kanha alias Omprakash, (2019) 3 SCC 605, was also quoted independently for the principle that grievous or life-threatening hurt is not essential. Intention may be inferred from the wound and surrounding circumstances, including the weapon and severity. *State of M.P. v. Saleem alias Chamaru, (2005) 5 SCC 554*, was quoted at greater length to explain that a simple or minor injury alone does not require acquittal under Section 307. The requisite intention or knowledge, coupled with an overt act, is sufficient even if no fatal result follows. Its references to *Balram Bama Patil*, *Girija Shankar*, *R. Prakash* and *Sarju Prasad* supported that point within the quotation; they were not separate factual rulings by this High Court. The High Court applied the common legal test in identifying the incomplete premise concerning the injury and force,

but declined to issue a fresh show-cause notice because the Section 307 acquittal had not been appealed and considerable time had passed. No sentencing precedent was cited. The decision on the term and fine rested on the absence of a statutory minimum and this appellant's circumstances.

3. Statutes considered : Section 374 CrPC provided the route for the appeal against conviction. The attempted-murder charge under Section 307 IPC required intention or knowledge and an overt act in the relevant circumstances. The Supreme Court authorities rejected treating the wound's capacity to cause death or its location as an indispensable ingredient. The High Court's legal discussion did not reinstate that charge. Section 324 IPC governed the affirmed conviction for voluntarily causing hurt with a dangerous weapon. The Court relied on the knife injury and noted the absence of a minimum term of imprisonment, which permitted consideration of a sentence limited to the twelve days already served, with an enhanced fine. The operative order did not reclassify the wound as a Section 307 offence. The appellant had been acquitted of the trial charges under Arms Act Sections 25/27, and those charges were not revived. The original sentence and its conditional replacement remain distinct: the judgment directs revival of the trial court's jail sentence if the enhanced fine is not deposited in time.

4. Issues : (i) Did the appellant cause Shailesh's knife wound, or did the defence doctor's oral assertion that the patient had described an unknown assailant undermine identification, although the MLC recorded no such statement and the injured witness had not been confronted with it? (ii) What was the correct legal test under Section 307 where the trial court had acquitted partly because the knife injury lacked great force, and could this appellant's unappealed acquittal be revisited in his conviction appeal after nineteen years? (iii) Was the Section 324 conviction sustainable, and did his age at the offence, the absence of any reported criminal history, twelve days in custody, the absence of a mandatory minimum and the long pendency of the appeal justify replacing the remaining term with the period already served, subject to an increased fine?

5. Ratio / Findings : The treating doctor described profuse bleeding from a stab wound in the lower abdomen, urgent ultrasound and exploratory surgery, removal of accumulated blood, no injury to internal organs, stable vital signs and satisfactory recovery. The defence MLC stated that bleeding prevented assessment of the wound's depth. Dr. Jain's later oral assertion that the patient had described an unknown assailant had no corresponding entry in the MLC. Counsel had not put that account to the injured witness in cross-examination. Shailesh did not say that the claimed MLC inquiry had occurred at Jai Prakash Hospital, and Shalini said that no such inquiry had been made by a doctor at the 1250 hospital. Shailesh's account as the injured witness and Raja Shukla's eye-witness identification supported the finding that Manish caused the wound. Shalini and Avinash had learned of the incident afterwards, and another prosecution witness turned hostile. The Court affirmed the Section 324 conviction and did not accept the undocumented oral history as a reliable contradiction.

The Court explained the legal limit of the trial judge's reasoning under Section 307. The depth of a single wound, the force used or the absence of injury to a vital organ cannot alone determine whether an act was done with intent to kill. *Harjeet Singh*, *Kanha* and *Saleem* require the mental element and an overt act, with the injury and surrounding circumstances serving as evidence. The allegation of an abdominal knife blow and an interrupted second attempt provided the context for that legal observation. However, the State had not appealed the acquittal and the incident was nineteen years old. The Judge considered that no useful purpose would be served by issuing a show-cause notice to the appellant concerning the Section 307 acquittal. The legal explanation therefore resulted in neither a new conviction nor a finding that every element of Section 307 was proved. The Arms Act acquittals also remained undisturbed.

On sentence, the Court considered that the appellant was 25 at the time of the 2004 incident, the prosecution had not alleged any criminal history, he had already served twelve days in prison, more than nineteen years had passed and Section 324 prescribed no minimum term. It relied on those circumstances to reduce the remaining jail term. The Court increased the fine to ₹15,000 and required payment by 29 February 2024. The modified custodial sentence depended on that payment; otherwise the jail sentence imposed in 2006 would revive automatically. The Court did not acquit the appellant or erase his conviction. It considered the passage of time together with the offence, custody already served and statutory sentencing range, rather than treating delay as a universal ground for release.

6. Relief : The Hon'ble High Court allowed the appeal only to the extent of modifying the sentence. It affirmed the Section 324 IPC conviction, held that the twelve days already undergone were sufficient imprisonment, increased the fine from ₹1,000 to ₹15,000, and required payment by 29 February 2024. If payment was not made in time, the trial court's jail sentence would revive. The Court left intact the Section 307 acquittal, which the State had not appealed, and the Arms Act acquittals. It cancelled the bail and surety bonds and directed transmission of the judgment and record to the trial court for compliance. The order prescribed no new standalone term of imprisonment if the enhanced fine was paid.

Manish v. The State of Madhya Pradesh, *Cr.A. no. 1309/2006, 10/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Headnote :- FIR / police inaction / alternate magistrate remedy - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguished the police duty to record information disclosing a cognizable offence from an entitlement to a writ compelling registration. An informant may invoke CrPC Sections 190 and 200 before the competent Magistrate. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, likewise directed a complainant alleging ordinary police inaction to the Magistrate. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explained recourse to the Superintendent of Police under Section 154(3), followed, if necessary, by an application under Section 156(3) for registration or proper investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed the Magistrate's power to secure and monitor proper investigation, rather than treating Article 226 as the routine first remedy. The Madhya Pradesh Division Bench in *Shweta Bhadauria* recognised exceptions to restraint based on an alternate remedy, but the present Court found no basis for an exception on these facts. It dismissed the petition seeking action on representations, with liberty to approach the Magistrate under BNSS Section 223. It did not decide the merits of the complaint.

Investigation / accused's say / exceptional correction - The Court relied on *Romila Thapar v. Union of India, (2018) 10 SCC 753*, for the rule that an accused cannot select the investigating agency or dictate the manner of investigation, including by demanding court monitoring. The quoted discussion preserved exceptional Article 226 intervention where investigative power was shown to have been exercised mala fide, and required sparing use of the power to transfer investigation to CBI. *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, supported the absence of a routine right to participate or receive a prior hearing during investigation. Its extended quotation of *W.N. Chadha* and other cases did not constitute separate adjudications in the present order. *Divine Retreat Centre* explained that, even in the rare case warranting constitutional intervention, the court may insist on lawful process but cannot direct how the police investigate. The Court refused the requested senior-officer inquiry and directions concerning the ongoing Kareli matters. It neither found the alleged mala fides established nor decided the criminal accusations.

Court monitoring / supervision / trial independence - *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, distinguished monitoring progress and fairness in rare, compelling cases from supervising investigative methods or shaping the report under Section 173(2), which could prejudge the trial. Applying that distinction, the Court held that directing the investigating agency to use a particular method would amount to supervision and declined to interfere. It ordered no court-monitored inquiry.

Case-note :- ***1. Facts :*** Mankunwar Bai Jatav petitioned the Madhya Pradesh High Court at Jabalpur under Article 226. She asserted that the police had not inquired into complaints made by her and her husband to several authorities, including the Superintendent of Police, Narsinghpur. She sought directions to the State and police respondents to entertain their complaint against the private respondents and take action. She also sought production of the records of Kareli Police Station Crime No. 434/2024 under Section 25 of the Arms Act, dated 16 May 2024, and Crime No. 533/2024 under IPC Sections 420/380, dated 16 June 2024. She requested appointment of a senior police officer to inquire into her complaint and the timing and manner of the two cases concerning her husband. Her prayer questioned the chronology of complaints dated 4 and 14 May, registration of the Arms Act matter on 16 May, and an arrest or registration

sequence involving 16 June. These were her assertions and requests, rather than facts found by the Court. Paragraph 2 of the order refers to the first crime as No. 434/2023, whereas the reproduced prayer refers to No. 434/2024. The State argued that a writ seeking FIR registration was ordinarily not maintainable because the petitioner could file a complaint before the Magistrate under CrPC Section 200, identified in the order with BNSS Section 223. The Judge treated the petition as seeking both action on representations and scrutiny of investigation in the two registered crimes. The Court did not adjudicate the merits of the complaints or either reported offence. It considered the proper forum and permissible scope of directions at the investigative stage.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at length. It recognises the police's statutory duty to register an FIR disclosing a cognizable offence. If the police fail to do so, however, the aggrieved person may file a complaint before the Magistrate under CrPC Sections 190 and 200; the existence of the police duty does not itself determine entitlement to a writ. The quoted judgment reconciled earlier authorities on the duty with those on the complainant's remedy. The present Court relied on that distinction in declining direct writ relief, without deciding whether this petitioner's accusations were true. *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh*, *Minu Kumari*, *Ramesh Kumari* and *Lallan Chaudhary* appeared within the Supreme Court quotation; they were not independently applied to the present facts.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, supplied two qualifications. The quoted paragraph 42 directed an informant alleging ordinary police inaction to the Magistrate under Sections 190 and 200. Paragraph 41 preserved rare Article 226 directions where investigative power was shown to have been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII required intervention. Even then, the High Court could insist on lawful process but could not dictate investigative technique. The present Court relied on both propositions to reject routine management of investigation through a writ, without denying the constitutional power in every case. The reference to *Gangadhar* formed part of *Divine Retreat*'s explanation.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted for the sequence of a written approach to the Superintendent of Police under Section 154(3), followed, if necessary, by an application to the Magistrate under Section 156(3). The Magistrate can secure registration of an FIR or proper investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, restated that a Magistrate who is prima facie satisfied may order registration or proper investigation and monitor progress. If necessary, the Magistrate may recommend a change of investigating officer to the superior police officer, but does not personally investigate. The institutional reason was that routine Article 226 petitions for FIR registration or investigation would displace the ordinary Magistrate mechanism. The High Court relied on these cases in leaving the petitioner to that mechanism; it neither ordered registration nor decided whether the Magistrate would grant her application. In *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, decided on 20 December 2016, the Madhya Pradesh Division Bench recognised that mandamus may be denied where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the *Whirlpool* exceptions. It distinguished the police duty under *Lalita Kumari* from an automatic entitlement to a writ. *Whirlpool* and *Lalita Kumari* appeared within that Division Bench passage.

Romila Thapar v. Union of India, (2018) 10 SCC 753, was quoted for the rule that accused persons cannot select an investigating agency, dictate its methods or insist on court-monitored investigation as of right. Its discussion preserved Article 226 relief for demonstrated mala fide investigation and treated transfer to CBI as an exceptional constitutional measure requiring caution, rather than a routine response to allegations against local police. The facts concerning named accused and political ideology belonged to that Supreme Court case. The present Court applied the restraint on choosing the agency or method in rejecting the requested oversight. *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar* and the Constitution Bench decision in *Committee for Protection of Democratic Rights* appeared within the *Romila Thapar* quotation; they were not separately applied to the evidence in this petition.

Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626, was reproduced on the limits of a proposed or actual accused's participation during

investigation and the absence of a routine entitlement to a prior hearing before investigative directions. It quoted *W.N. Chadha* to explain that investigation collects material rather than adjudicates against the accused, and *Rajesh Gandhi* on the absence of a right to select an agency. It also discussed further investigation and the opportunity to challenge evidence at trial. The present order decided neither a separate natural-justice application nor an actual CBI transfer. It relied on the quoted authorities for the narrower rule that an accused has no say in the method of investigation. *Prabal Dogra v. Superintendent of Police*, M.Cr.C. No.10446/2017, decided on 30 November 2017, was cited as a local High Court statement of the same rule, without further discussion of its facts.

Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532, was quoted separately. It distinguished rare judicial monitoring of progress, fairness and freedom from external interference from supervision that tells investigators what to do. Such supervision risks influencing the police opinion and compromising the trial court's independence. The present Court adopted that distinction and held that a direction to investigate in a particular manner would amount to impermissible supervision. It did not institute monitoring or equate the Magistrate's statutory monitoring power in *Sakiri Vasu* with judicial direction of how evidence should be gathered.

3. Statutes considered : Article 226 of the Constitution provided the basis for the writ petition. The Court treated extraordinary relief to compel routine FIR registration or direct investigation as constrained by the available criminal-process remedies. Through *Divine Retreat Centre* and *Romila Thapar*, it also acknowledged exceptional intervention for demonstrated abuse or mala fides. CrPC Section 154 imposes the duty to register information revealing a cognizable offence, while Section 154(3) provides written recourse to a superior police officer. On an appropriate application, Section 156(3) permits the Magistrate to direct registration or proper investigation and monitor it. Sections 190 and 200 provide the complaint and cognizance route discussed in *Aleque Padamsee* and *Divine Retreat Centre*. The quoted authorities also discuss Chapter XII investigation and Section 173(2) reports to explain the respective police and court roles; no final-report challenge was decided here. The State and Court referred to BNSS Section 223 as the contemporary Magistrate complaint route, and the operative order expressly gave liberty to approach the Magistrate under that section. Section 25 of the Arms Act and IPC Sections 420/380 identify the two crimes whose records or investigation were mentioned in the petition. No offence ingredients, guilt or validity of either registration were adjudicated.

4. Issues : (i) Where an informant alleges police inaction on representations, can the High Court direct FIR registration or inquiry under Article 226 without recourse to the statutory Superintendent of Police and Magistrate remedies, and was there any exceptional basis for direct intervention here? (ii) Could the petitioner obtain a senior-officer inquiry and High Court scrutiny or directions concerning how the two Kareli crimes were investigated, given the rule that a suspect or accused cannot choose the agency or method and the reserved power to correct mala fide abuse? (iii) What distinguishes permissible rare monitoring of fair progress from impermissible supervision of investigative steps? The order did not decide whether the complaints disclosed an offence, whether the husband committed either reported offence, or the merits of any eventual Magistrate application.

5. Ratio / Findings : The Court first distinguished the police duty to register information disclosing a cognizable offence from a litigant's entitlement to writ mandamus. Under *Aleque Padamsee* and *Divine Retreat Centre*, an informant aggrieved by ordinary police inaction must use the Magistrate complaint mechanism. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* show that the Magistrate has effective powers where registration is withheld or investigation is inadequate. Subject to prima facie satisfaction, Section 156(3) permits directions for registration, proper investigation and monitoring. The Division Bench in *Shweta Bhadauria* recognised exceptions to restraint based on an alternate remedy, but the present Court found no circumstances warranting intervention. The representations and request for action did not lead the Court to decide the merits of cognizability. The petitioner remained free to approach the concerned Magistrate under BNSS Section 223.

As to the second aspect, the Court treated the requests for a senior police officer to examine the sequence of the husband's complaints, arrests and two case registrations, and for scrutiny of the investigative record, as attempts to influence

ongoing investigation. Relying on *Romila Thapar, Dinubhai Boghabhai Solanki* and *Prabal Dogra*, it held that an accused cannot prescribe the agency or method of investigation. The petitioner also asserted her position as a complainant. The quoted *Divine Retreat Centre* principle states that neither an interested accused nor an informant may select the agency. The order did not establish mala fide exercise of police power or a rare case of clear abuse warranting exceptional Article 226 intervention. Its dismissal therefore did not amount to an evidentiary endorsement of the police or a decision against the petitioner on the merits.

Finally, the Court applied *Manohar Lal Sharma*. In rare, compelling circumstances, monitoring may ensure fair and timely progress while leaving evidence gathering and the police opinion under Section 173(2) to investigators. Directing a particular inquiry or method would instead supervise the investigation, risk prejudicing the eventual trial and exceed the judicial role. The relief sought on this record would have required such directions, and the Court found no basis to interfere. It did not order monitoring, transfer the investigation, quash either crime or decide a complaint against any respondent.

6. Relief : The Hon'ble High Court dismissed the writ petition, with liberty to Mankunwar Bai Jatav, if she wished, to approach the concerned Magistrate under BNSS Section 223 for redressal. It issued no direction to register an FIR, consider the representations in a specified manner, appoint a senior officer, produce the two crime records, or alter or monitor the ongoing investigations. The liberty did not predetermine the Magistrate's satisfaction or the outcome of any criminal matter.

Mankunwar Bai Jatav v. The State of Madhya Pradesh and Others, W.P. no. 19888/2024, 14/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- PC Act / sanction / appellate failure of justice - *State of Maharashtra v. Mahesh G. Jain, (2013) 8 SCC 119*, explained sanction as an administrative decision based on prima facie satisfaction. The prosecution must prove a valid sanction through a reasoned order or evidence of the material considered by the authority; the court does not review it as a merits appeal or adopt a hypertechnical approach. *Mohd. Iqbal Ahmed v. State of A.P., AIR 1979 SC 677*, and *State of Rajasthan v. Tarachand, AIR 1973 SC 2131*, identified those alternative modes of proof and the prosecution's burden. *Nanjappa v. State of Karnataka, (2015) 14 SCC 186*, distinguished the Special Judge's ability to reject a prosecution lacking valid sanction from the restriction under Section 19(3)–(4) on appellate reversal without an actual failure of justice, taking account of when objections were raised. Here, the sanction dated 26 July 2016 set out the case in detail. PW-1 produced the record and proved the signature; no timely objection to proof through that witness or failure of justice was shown. The Court found application of mind and rejected the objection while affirming the conviction.

Hostile witness / corroborated admissible portions - *Birju v. State of M.P., (2014) 3 SCC 421, Selvaraj v. State, (2015) 2 SCC 662, Podyami Sukada v. State of M.P., (2010) 12 SCC 142*, and *Ramesh Harijan v. State of U.P., (2012) 5 SCC 777*, were relied on for careful scrutiny of relevant, admissible portions of hostile testimony that may support either side, with corroboration. Hostility does not justify either rejecting the entire testimony or accepting it automatically. Although Yogesh Kushwaha and his father Dara Singh resiled from their earlier accounts, Yogesh admitted voluntarily signing the complaints, transcript, trap papers and sealed articles. He also admitted his Lokayukta visits, travel with the team and entry into the Patwari's house. Panch and officer evidence supported those acts; the account involving an unidentified 'Netaji' was inconsistent. The Court rejected his retraction on the corroborated points, without treating signatures alone as irrefutable proof of every document's allegation.

Trap / returned notes / circumstantial receipt - *Hazari Lal v. State (Delhi Administration), (1980) 2 SCC 390*, recognised that receipt of gratification may be proved by a closely connected chain of circumstances without direct evidence of handover. It distinguished recovery unsupported by reliable surrounding circumstances. Here, the ₹3,000 marked notes were recovered from the complainant after he reported that the appellant had returned them. The appellant's hand wash was positive, the other washes were controlled, the serial numbers matched and the FSL reported positive solutions. The Court rejected a handshake explanation and inferred contact and receipt from the trap evidence taken together; it did not say recovery from the accused's pocket was

necessary or that a positive wash alone proved every PC Act element.

Demand / inferential proof / pending reference - *M. Narsinga Rao v. State of A.P., (2001) 1 SCC 691*, explained factual inference under Evidence Act Section 114 from established surrounding circumstances, its rebuttable nature and the caution against building one discretionary presumption on another. *Neeraj Dutta v. State (NCT of Delhi), (2019) 14 SCC 311*, referred to a larger Bench the disputed question whether guilt could be inferred without the complainant's evidence or direct evidence of demand. The High Court stated that existing precedent remained in force pending that reference. It considered the signed demand complaints and transcript, trap contact and return, appellant's refusal to provide a voice sample, and the pending partition matter together and found the ₹3,000 demand established. The appellant submitted that the recorded conversation was not played in court and that no scientific evidence identified his voice. The Court's conclusion rested on the circumstances taken together in this case; it did not hold that Section 20 alone could supply proof of demand.

Voice sample / adverse inference / recorded conversation - *Ritesh Sinha v. State of U.P., (2019) 8 SCC 1*, recognised a Magistrate's power, in the statutory setting then before it, to direct a person to provide a voice sample for criminal investigation. It expressly declined to decide a privacy issue that had not been argued. The appellant refused the investigator's written request dated 26 February 2015 by his reply of 4 March. The Court drew an adverse inference, considered the complainant-signed transcript and the trap circumstances and found demand; this did not scientifically identify the voice in the recording or amount to a ruling on a newly issued Magistrate order in this case.

PC Act / official capacity / giver's belief - *Chaturdas Bhagwandas Patel v. State of Gujarat, (1976) 3 SCC 46*, construing former IPC Section 161, held that actual power to grant a favour is unnecessary where a public servant holds out an ability to help and induces the giver to act on that belief. The Court used this principle in applying PC Act Sections 7 and 13(1)(d)/13(2): the Patwari had prepared the partition papers, including an unequal proposal relying on affidavits; the Tahsildar had not yet decided the matter and the complainant continued to approach the Patwari. The defence that the Patwari had no remaining role therefore failed. His actual unauthorized steps and the giver's belief were both assessed; no final civil partition was determined.

Section 20 / foundational proof / rebuttal - The Court quoted the PC Act provision creating a rebuttable presumption where acceptance or obtaining of an undue advantage is proved in a Section 7 trial. *M. Narsinga Rao* distinguished factual inference establishing receipt from the subsequent statutory effect. The Court found demand and acceptance on combined evidence and rejected an absolute rule requiring direct complainant testimony. The presumption does not arise from a bare accusation or dispense with proof of the foundational receipt, and the judgment did not make Section 20 a freestanding presumption for Section 13.

False evidence / Section 340 CrPC / threshold complaint - *K.T.M.S. Mohd. v. Union of India, (1992) 3 SCC 178*, and *State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575*, required a prima facie case of a qualifying offence and a separate assessment that an inquiry is expedient in the interests of justice. Inconsistency does not mechanically justify prosecution. *Amarsang Nathaji v. Hardik Harshadbhai Patel, (2017) 1 SCC 113*, and *State of Goa v. Jose Maria Albert Vales, (2018) 11 SCC 659*, recognised that a preliminary inquiry is optional where the court can form the required prima facie opinion; *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, did not require a would-be accused's hearing before that decision. On its view of Yogesh and Dara Singh's contradictory testimony and the partition circumstances, the Court directed the trial court to make a complaint. It made no final finding of guilt for false evidence.

Case-note :- ***1. Facts :*** Manmohan Singh Jatav was the Patwari for a Shivpuri village. Dara Singh, after the death of his mother Binia Bai, sought partition/mutation of approximately 0.61 hectares involving his sisters Ram Bai and Vidhya. A Section 178 Madhya Pradesh Land Revenue Code application was filed on 7 October 2014. The Tahsildar required a Patwari partition proposal; Manmohan submitted the Fard Batwara/Batankan on 23 December. The proposed allocation gave Dara about 0.41 hectares and the sisters 0.20 between them, on the basis of affidavits, although the sisters had not personally appeared before the Tahsildar. The Tahsildar had yet to decide the matter and ultimately rejected the Fard on 20 January 2015.

These revenue details became significant to the defence assertion that the Patwari had nothing left to do, and to the Court's inference concerning the alleged earlier payment and the belief that the Patwari could help.

Dara's son Yogesh submitted a written complaint to the Special Police Establishment (Lokayukta), Gwalior, on 24 December 2014, alleging the Patwari demanded ₹20,000 for map/partition work, had received ₹8,000 and sought ₹12,000 more. The prosecution arranged for the complainant to approach the Patwari with a recorder. Its case was that the conversation on 26 December confirmed the demand. A signed transcript and copies were prepared with a Section 65-B certificate. A trap on 30 December used ₹3,000 in recorded serial-number notes treated with phenolphthalein. Yogesh entered the Patwari's house. On his signal, the trap party caught the appellant. The appellant's hand wash turned pink while the pre-trap and team control washes did not change colour. The money was recovered from Yogesh. At the scene, he reportedly said that the appellant had returned it after detecting powder or noticing the signal. The note numbers matched. FSL tests of the solutions were positive. The original recorder used on the trap day was later reported blank. The defence said that the incriminating audio was not played and the writer of the transcript was not examined. The appellant later declined a request to give a voice sample in writing.

After investigation and a sanction dated 26 July 2016, the Special Judge (Prevention of Corruption Act), Shivpuri, in Special Case No. 06/2016 convicted him on 19 March 2021 under Sections 7 and 13(1)(d) read with 13(2) of the 1988 Act. It imposed three years' rigorous imprisonment and ₹5,000 fine under Section 7, five years and ₹7,000 fine under the Section 13 count, with respective default terms of three and four months' imprisonment. The substantive sentences were concurrent. He appealed against the conviction and sentence under CrPC Section 374. He argued sanction lacked demonstrated application of mind, Yogesh and Dara turned hostile, no direct demand was proved, no notes were found on his person, hand contact came from a handshake, the recording was unproved and the Tahsildar alone could decide partition. The State relied on voluntary signatures, corroborating panch and trap witnesses, the hand-wash sequence and the pending revenue work. After addressing the conviction, the Court also considered whether the hostile father and son should face a Section 340 CrPC complaint for false evidence.

2. Precedents — Considered : *State of Maharashtra v. Mahesh G. Jain, (2013) 8 SCC 119*, was quoted on the prosecution's obligation to prove a valid administrative sanction based on relevant material. That consideration may appear on the face of the order or be established by other evidence. The court does not review the adequacy of the material as a merits appeal or give undue weight to minor technicalities. *Nanjappa v. State of Karnataka, (2015) 14 SCC 186*, distinguished Section 19(3)'s appellate or revisional non-interference absent failure of justice from the Special Judge's own power to reject proceedings lacking valid sanction; Section 19(4) requires consideration of whether the objection should have been raised at trial. *Mohd. Iqbal Ahmed v. State of A.P., AIR 1979 SC 677*, required proof of the facts and satisfaction by the original sanction itself or evidence aliunde. *State of Rajasthan v. Tarachand, AIR 1973 SC 2131*, placed that burden on the prosecution but regarded a factually detailed sanction as sufficient without separately examining the decision maker. *Tarachand*'s discussion of a Privy Council authority and *Madan Mohan Singh* formed part of its quoted reasoning. The High Court applied these four authorities to the detailed order, the record and PW-1, and the belated objection. It found both application of mind and the absence of appellate failure of justice; it did not assume that every defect was harmless.

Birju v. State of M.P., (2014) 3 SCC 421, states that admissible relevant portions of hostile evidence may support either side. *Selvaraj v. State, (2015) 2 SCC 662*, cautions that hostility during cross-examination does not necessarily displace corroborated evidence supporting the prosecution in examination-in-chief, and that reasonable doubt must arise from the evidence. *Podyami Sukada v. State of M.P., (2010) 12 SCC 142*, requires corroboration by reliable evidence as a matter of prudence before a conviction rests on hostile testimony. *Ramesh Harijan v. State of U.P., (2012) 5 SCC 777*, was quoted for careful scrutiny of admitted signatures on a memo and the need to separate dependable portions from embellishment. The Court applied the common rule to Yogesh's admissions and the corroborating panch and officers, and rejected the unspecified ‘Netaji’ narrative. It did not treat the father's hostile statement as affirmative proof of every bribe allegation.

Hazari Lal v. State (Delhi Administration), (1980) 2 SCC 390, was quoted at length for proof of receipt by circumstantial sequence, Evidence Act Section 114's permissible inference and the then statutory corruption presumption once receipt is established. It distinguished *Sita Ram* and *Suraj Mal*: bare recovery with unreliable substantive proof does not establish voluntary acceptance, but recovery together with reliable surrounding facts may. The High Court applied this reasoning to the different recovery circumstances here. The notes were found with the complainant after their reported return, but the positive wash and trap sequence indicated the appellant's contact with them. The Supreme Court's specific thrown-notes facts were not attributed to this Patwari.

M. Narsinga Rao v. State of A.P., (2001) 1 SCC 691, explained the meaning of 'proved' under the Evidence Act and the drawing of rebuttable factual inferences under Section 114 from proved primary circumstances. It cautioned against building one discretionary inference on another. It described how marked notes plus context may show voluntary receipt even where bare possession might admit planting. The High Court invoked it in considering the appellant's submission that possession had no legal significance without direct complainant evidence of demand. *Neeraj Dutta v. State (Govt. of NCT of Delhi), (2019) 14 SCC 311*, was quoted for the referral to a larger Bench of whether inferential guilt under Sections 7 and 13 can be drawn without the complainant's direct or primary demand evidence. That referral was not treated as a final resolution; the Judge stated that existing rulings continued to apply unless displaced. These were the authorities and the procedural position discussed in this 2022 judgment.

Ritesh Sinha v. State of U.P., (2019) 8 SCC 1, recognised a Magistrate's power to order a voice sample for investigation in the CrPC setting then before it. The Supreme Court did so through judicial interpretation and Article 142. Its quoted passage expressly refrained from deciding a privacy question not argued. The Court cited it after reading the appellant's written refusal of an investigator's request, drew an adverse inference and combined that with the signed transcript and trap evidence. The discussion did not establish that a Magistrate had compelled a sample in this case or that *Ritesh Sinha* itself authenticated the recording. *Modern Dental College*, *Gobind* and *K.S. Puttaswamy* appeared within the quoted Supreme Court passage, not as separately applied privacy rulings here.

Chaturdas Bhagwandas Patel v. State of Gujarat, (1976) 3 SCC 46, interpreted former IPC Section 161: a public servant may receive gratification by holding out an ability to help, even without actual power or intention to grant the official favour, where the giver acts on that belief. The Court applied that logic to the Patwari's perceived continuing part in the partition matter; it also found that he had himself accepted and prepared papers without authority. It did not purport to decide the sisters' title.

K.T.M.S. Mohd. v. Union of India, (1992) 3 SCC 178, explained the cautious assessment under Section 340: a prima facie case of an offence affecting a court proceeding and a separate finding that inquiry is expedient in the interests of justice. *State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575*, articulated the same two preconditions and cautioned that contradiction alone does not establish intentional falsehood; it reproduced *Amarsang Nathaji* and *Iqbal Singh Marwah*'s concern for impact on administration of justice. *Amarsang Nathaji v. Hardik Harshadbhai Patel, (2017) 1 SCC 113*, was then quoted independently for the principles that a preliminary inquiry is unnecessary where the court can otherwise form the prima facie opinion and that a complaint does not follow automatically. *State of Goa v. Jose Maria Albert Vales, (2018) 11 SCC 659*, reaffirmed that inquiry is optional and mentioned appeal and ensuing Magistrate procedure under Sections 341 and 343. *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, held the would-be accused has no right to participate before the court decides expediency. The High Court applied these authorities, expressly dispensed with a further preliminary inquiry and prior hearing, and directed a trial-court complaint against two witnesses, without adjudicating their guilt. Authorities nested within these quoted passages were not separately applied to the facts.

3. Statutes considered : CrPC Section 374 provided the route for the appeal against conviction. PC Act Sections 7 and 13(1)(d) read with 13(2) were the charges and convictions concerning the 2014 conduct for demand/receipt of illegal gratification and corrupt or abusive procurement of a pecuniary advantage. Section 19(1) requires previous sanction; subsections (3)–(4) regulate appellate reversal or stay for sanction defect, requiring actual failure of justice and consideration of when the objection

should have been raised. The Court applied those provisions to the sanction order in evidence; it did not merely treat them as curing an absence of proof. Section 20 was quoted as a rebuttable presumption on proved acceptance or obtaining of undue advantage in a Section 7 (or 11) trial; the quoted provision concerns offences under Sections 7 and 11. Evidence Act Section 114 governed discretionary factual inference from proved circumstances; a Section 65-B certificate was described in the preparation of the audio material. The appellant submitted that the conversation was not played in court and that no scientific evidence identified his voice. *Ritesh Sinha* was cited on a Magistrate's power under the then CrPC to direct a voice sample, in the discussion of the appellant's refusal. The partition file arose under Madhya Pradesh Land Revenue Code Section 178 and supplied factual context for the claimed favour and the Patwari's role; the Court's remarks on affidavits and registered relinquishment explained its view of the proposed unequal division, rather than a final civil decree. CrPC Sections 195(1)(b) and 340 governed a court complaint for a qualifying offence affecting administration of justice, requiring a prima facie case and expediency; Section 340 permits, but does not always require, a preliminary inquiry and provides for a written complaint to a Magistrate. Quoted Sections 341 and 343 concerned appeal and later Magistrate procedure. The operative direction neither entered a final perjury conviction nor determined the witnesses' guilt under a particular IPC section.

4. Issues : (i) Did the sanction record and PW-1 establish a valid Section 19 sanction, and did the belated objection that the decision maker had not been examined demonstrate an actual failure of justice in the appeal? (ii) Could corroborated portions of hostile complainant and father evidence, trap paperwork and independent testimony be used, and did the marked-note return and positive wash prove actual contact rather than a handshake? (iii) In the absence of supportive direct complainant testimony and a recording played in court or scientifically matched to the appellant's voice, could demand and acceptance be proved by the cumulative circumstances, refusal of a voice sample and applicable factual/statutory inferences? The order acknowledged the reference to a larger Bench on inferential proof. (iv) Did the Patwari's assertion that only the Tahsildar could order partition negate a corrupt favour when his proposed partition work and the giver's belief remained relevant? (v) After the appeal decision, did the two witnesses' alleged false evidence justify a Section 340 complaint, a further preliminary inquiry or a prior hearing? These are separate from any later adjudication of the witnesses' guilt or the sisters' civil entitlements.

5. Ratio / Findings : On sanction, Arvind Sapate (PW-1) produced the record, identified the sanctioning authority's signature and denied that sanction had been issued without examining the papers. The 26 July 2016 order was detailed. The appellant never objected at trial to proving sanction through this witness or asserted that the decision maker had to testify because application of mind was challenged. Under *Mahesh G. Jain*, *Iqbal Ahmed* and *Tarachand* an order setting out the relevant facts may establish that they were considered; *Nanjappa* and Section 19(3)–(4) required actual failure of justice for appellate reversal, with attention to the delay in raising the objection. The Court affirmatively found application of mind and rejected the objection in the absence of such failure.

Yogesh admitted his signatures on the two complaints, transcript, multiple preparatory and trap panchnamas and sealed solution articles. He also admitted visiting Lokayukta and travelling with its party to the appellant's house, and acknowledged a conversation about partition. His courtroom assertion that an unidentified political 'Netaji' orchestrated everything provided neither a name nor a coherent explanation for those trips. It also conflicted with Dara's evidence that Yogesh had not accompanied him to the Tahsil, as Yogesh claimed. His account of telling officers that he had paid no bribe because none was demanded itself showed awareness of the purpose of the trap. Panch witnesses Anand Naik and R.P.S. Kushwaha described verification and trap steps; officers described the signal, washes, marked notes and recovery. The Court held that the shadow witness's inability to hear the conversation or see the payment did not weaken the prosecution case because he remained outside the house. Applying *Birju*, *Selvaraj*, *Podyami* and *Ramesh Harijan*, the Court accepted only portions corroborated by other material, while the father and son remained hostile.

The trap evidence placed the tainted notes initially with Yogesh; after he came out and signalled, the appellant's fingers produced a pink wash, unlike the earlier control washes, and the matching notes were

taken from Yogesh. Team witnesses recounted Yogesh's immediate statement that the appellant gave them back on detecting the trap, and the laboratory found the solutions positive. The Court rejected Yogesh's trial explanation that a handshake accounted for the contact. It inferred that the appellant had handled the notes, though none were seized from his pocket, in the context described in *Hazari Lal*. The complaint and transcript signed by Yogesh set out the earlier ₹20,000 demand, ₹8,000 payment and subsequent ₹12,000 balance. The Court found that a ₹3,000 instalment had been demanded. The appellant submitted that the recorded conversation was not played in court and that no scientific evidence identified his voice. The investigator proved the appellant's written refusal to provide a voice sample, from which the Court drew an adverse inference in its discussion of *Ritesh Sinha*. Its inference depended on the circumstances taken together; it did not reason that a bare positive test or mere possession conclusively proved the necessary demand. *M. Narsinga Rao* informed the use and limits of factual inference, while the Court expressly acknowledged the *Neeraj Dutta* referral without purporting to resolve it. Section 20's quoted rebuttable presumption was considered in the same discussion; the Court found the foundational facts independently and did not separately extend the statutory presumption to Section 13.

The partition record defeated the claim that the appellant's involvement had ended. The Tahsildar had asked for Patwari papers; the appellant accepted affidavits from sisters who did not attend before the Tahsildar and submitted an unequal Fard. The proposed 0.41 hectares to Dara and 0.20 to the sisters together was rejected in January 2015, after the trap. The Court regarded that conduct as an unauthorized favour in return for the alleged earlier ₹8,000. It considered the son's visit evidence of his belief that the Patwari could still help. *Chaturdas* shows that the absence of actual final legal competence does not defeat liability for corrupt receipt where the public servant holds out an ability to assist. The Court upheld guilt beyond reasonable doubt on both counts. It declined to interfere with the sentence in light of the attempt to deprive the sisters and improper papers; that was the Court's criminal appeal assessment, not a binding partition decree.

On its own motion, the Court considered whether the two hostile witnesses should face proceedings for false evidence. It stated that Section 340/195 required a prima facie qualifying offence and a separate assessment of expediency in the interests of justice. A preliminary inquiry was optional once sufficient material was already before the court. Under *Pritish*, their participation was unnecessary before the Court decided to make a complaint. The Court attributed the father's anger to the failed excessive-share plan and found their retraction sufficiently serious to direct the trial court to lodge a complaint. The Court expressly stated that proceedings under Section 340 reflect a prima facie opinion and do not record the accused's guilt.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the Special Judge's 19 March 2021 conviction and concurrent three-year and five-year rigorous-imprisonment terms with the ₹5,000 and ₹7,000 fines and trial default terms. The appellant, in jail, was to serve the remaining sentence; a free copy of the judgment was to be furnished promptly. Separately, the trial court was directed to make a complaint under CrPC Section 340 concerning Yogesh Kushwaha (PW-2) and Dara Singh (PW-3) for alleged false evidence. The record and judgment were to return to the trial court for information and compliance. No perjury conviction was entered in this appeal, and no final finding on partition entitlement was made.

Manmohan Singh v. State of Madhya Pradesh, Cr.A. no. 2713/2021, 22/07/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Negotiable Instruments Act / corporate cheque / director's vicarious liability - *Himanshu v. B. Shivamurthy, (2019) 3 SCC 797*, held that a director who signs a cheque on a company's behalf cannot be prosecuted alone under Section 138 if the company, as drawer, is not made an accused. Service of the statutory demand notice on the company is a separate requirement under the proviso to Section 138. In that case, the failure to serve notice could not be cured by subsequently adding the company as an accused. The Court applied that rule because the complaint stated that Mukesh Chandra Virmani's ₹13 lakh settlement arose from his investment in Navniketan Builders Pvt. Ltd., and the cheque was issued in the company's name and signed by Manoj Gupta as its director. Notice was issued only to Manoj, and the company was not made an accused. The complaint therefore could not proceed

against him on the basis of vicarious liability. The Court rejected the respondent's contention that the transaction was personal on the basis of the complaint and the cheque.

Section 482 CrPC / legal threshold / premature postponement - The Magistrate deferred the objection that the company had not been made an accused until the conclusion of trial. The revisional court affirmed that decision, taking a prima facie view that the transaction was personal. The Court held that the company's liability, its identity as the drawer, and the absence of a demand notice to it and its arraignment as an accused were ascertainable from the complaint and the existing record. The objection raised a pure question of law concerning maintainability under Sections 138 and 141 and could be decided without awaiting the conclusion of trial. Both courts committed material illegality by postponing that decision. The High Court set aside both orders and dismissed the complaint, although no one appeared for Manoj at the hearing.

Case-note :- ***1. Facts :*** Mukesh Chandra Virmani filed a complaint under Section 138 of the Negotiable Instruments Act in 2006. According to the complaint, he had invested in Navniketan Builders Pvt. Ltd. Professional differences then arose between him and Manoj Gupta. The complaint stated that they agreed to settle his accounts: the goods held by the company would remain with Manoj, who would pay ₹13 lakh to Mukesh in respect of his investment. A post-dated cheque for that amount was dishonoured for insufficient funds. Mukesh sent Manoj a registered demand notice dated 14 December 2005. Manoj allegedly refused to receive the registered notice but accepted the notice sent by UPC. On examining the trial court record, the High Court found that no notice under Section 138 had been issued to the company. The cheque was issued in the company's name and signed by Manoj as its director. The Court rejected the respondent's contention that the settlement concerned Manoj's independent personal debt, relying on the investment pleaded in the complaint and the company's identity as the drawer.

Manoj appeared before the Magistrate in Criminal Case No. 800018/2006 and applied for dismissal of the complaint. He contended that the company, as the principal drawer of the cheque, had neither been made an accused nor served with a demand notice, and that he could not be prosecuted alone under Section 141. The JMFC, Shivpuri, rejected his application on 5 March 2020, deferring the objection until the conclusion of trial. The 6th Additional Sessions Judge, Shivpuri, affirmed that order in Criminal Revision No. 46/2020 on 18 February 2021. The revisional court observed that the complainant would bear the consequences of omitting the company and took a prima facie view that the transaction was personal. Manoj invoked Section 482 CrPC to challenge both orders and the complaint. No one appeared for him at the High Court hearing. Mukesh's counsel supported the concurrent orders, alleged that Manoj had evaded service for about ten years, and argued that evidence should be recorded before maintainability was decided. The High Court heard counsel and examined the complaint and the lower court record.

2. Precedents — Considered : The Court considered *Himanshu v. B. Shivamurthy, (2019) 3 SCC 797*. The passage quoted from that decision held that a complaint against a director who had signed a cheque for and on behalf of a company was not maintainable unless the company was arraigned as an accused. It also held that, in the absence of a demand notice to the company and compliance with the proviso to Section 138, the company could not be added as an accused at that stage. That ruling concerned a company's cheque signed by its director and the director's vicarious liability. The High Court followed and applied *Himanshu* because the pleaded ₹13 lakh liability arose from an investment in the company, the cheque was issued by the company and signed by Manoj as its director, and the trial court record showed that notice had been issued to him alone. The omission of the company as an accused and the failure to issue notice to it were separate defects. The lower courts' procedural decisions were under review.

3. Statutes considered : Section 138 of the Negotiable Instruments Act governs cheque dishonour in respect of a legally enforceable liability and contains the requirement of a demand notice. The Court found that the company was the drawer and that the statutory notice had been issued only to Manoj. Section 141 provides for the vicarious liability of persons such as directors for an offence committed by a company. Applying *Himanshu*, the Court held that prosecution of the company as the principal accused was necessary on these facts. The order describes Manoj's application as one under Section 141 and the complaint as one under Section 138. The High Court exercised its inherent power

under Section 482 CrPC to set aside the lower courts' orders postponing the maintainability objection and to dismiss the complaint for the absence of the company as an accused and the failure to issue notice to it. The proceedings before the Magistrate and the revisional court formed part of the procedural history.

4. Issues : (i) Did the complaint and the cheque disclose a liability of the company or a personal liability of Manoj, and could he be prosecuted alone as its director when Navniketan Builders had neither been served with the demand notice under Section 138 nor made an accused? (ii) Did the objection raise a pure question of law concerning maintainability that was apparent from the complaint and the record, or could the Magistrate and the revisional court postpone its decision until after recording evidence on the view that the settlement might be personal?

5. Ratio / Findings : The Court read paragraphs 2 and 3 of the complaint as showing that the ₹13 lakh liability arose from Mukesh's investment in the company and the settlement of his accounts. Although the goods held by the company were to remain with Manoj, the cheque was not issued in discharge of his separate personal liability. It bore the company's name and was signed by him as its director. The lower court record showed that the statutory demand notice had been addressed only to Manoj. Applying *Himanshu*, the Court held that the company, as the drawer, was the principal accused and that the director could not be held vicariously liable in its absence. The failure to issue notice to the company was a further statutory defect. The Court therefore rejected the revisional court's prima facie view that the transaction was personal and the respondent's contention that omission of the company merely exposed the complainant to the risk of an adverse result at trial.

The facts relevant to this question of maintainability were ascertainable from the complaint, the cheque and the notice record. Both lower courts committed material illegality by postponing the objection until after the conclusion of trial. Despite the applicant's nonappearance, the High Court considered the legal defect after hearing Mukesh's counsel. It applied *Himanshu* to the facts that the company had drawn the cheque, had not been issued a statutory demand notice and had not been made an accused.

6. Relief : The Hon'ble High Court allowed the application under Section 482. It set aside the JMFC's order dated 5 March 2020 in Criminal Case No. 800018/2006 and the 6th Additional Sessions Judge's order dated 18 February 2021 in Criminal Revision No. 46/2020. It dismissed Mukesh's complaint against Manoj under Section 138. The Court did not remand the matter for a trial-stage ruling or add the company as an accused.

Manoj Gupta v. Mukesh Chandra Virmani, M.Cr.C. no. 12084/2021, 31/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Multiple cheated victims / separate transactions and FIRs - *Narinderjit Singh Sahni v. Union of India, (2002) 2 SCC 210*, held that each depositor's agreement constituted a separate transaction where the parties and terms differed. *State of Punjab v. Rajesh Syal, (2002) 8 SCC 158*, held that cases involving different persons allegedly defrauded could not be treated as one transaction by invoking Sections 218 or 220 CrPC. The Court adopted the Delhi High Court's decision in *State v. Khimji Bhai Jadeja*, Cr. Reference No. 1/2014, decided on 8 July 2019. That decision required separate FIRs and reports for distinct investor transactions and distinguished this requirement from the limited possibility of a joint trial under Section 219, to be considered at the stage of framing charges. Here, the allegations concerned gram supplied by several traders, with about ₹4 crore remaining unpaid. One trader could not be treated as the sole complainant and the others merely as witnesses. The police should have registered separate FIRs. However, since charge-sheets had already been filed against the co-accused, the Court declined to direct registration of fresh FIRs. No final decision on joinder of trials or sentence was made.

Compounding / proper forum / all victims - Section 320(2) CrPC requires permission of the court before which prosecution for the compoundable offence is pending. No prosecution by way of an appeal or revision was pending before the High Court. Investigation against Manoj Kumar Goyal remained pending under Section 173(8) because he had not been arrested and seizure had not been effected, while the co-accused were facing trial. Once each trader's transaction was held to be distinct, the named complainant's affidavit could not suffice for all the victims. Photocopies of other affidavits asserting repayment did not constitute affidavits by each victim in support of the Section 320 application.

The Court declined to exercise its power under Section 482 to grant the statutory permission available from the trial court, having regard to the petitioner's non-cooperation and the incomplete supporting material. It observed that he could apply to the competent trial court for compounding the compoundable offences.

Section 482 / settlement and stage / investigative evasion - *Narinder Singh v. State of Punjab, (2014) 6 SCC 466*, distinguished the High Court's inherent power to quash proceedings from statutory compounding. It required a cautious assessment of the gravity of the offence, its impact on society, settlement of the entire dispute, the prospects of conviction and the stage at which settlement was reached. The discussion of Section 307 formed part of the quoted authority; the present FIR alleged different offences. The petitioner's two earlier petitions under Section 482 had been dismissed while further evidence could still emerge. He did not disclose the conditional anticipatory-bail order requiring a deposit of ₹75 lakh and appearance before the investigating officer, or establish compliance with it. The Court drew an adverse inference of non-compliance and found that his non-cooperation had prevented arrest and seizure. The co-accused were facing trial, the allegations involved cheating several persons of about ₹4 crore, and no complete, verified settlement was before the Court. In these circumstances, the Court refused to quash the proceedings on the basis of compromise and held that the alleged offence affected society at large. The Court did not determine guilt.

Case-note :- ***1. Facts :*** Crime No. 158/2016 was registered at Police Station Ganj Basoda City, Vidisha, for offences under Sections 406, 420 and 409 read with Section 34 IPC. The allegations concerned gram supplied by traders to Priya Traders and Ashutosh Enterprises, for which about ₹4 crore allegedly remained unpaid. The FIR named Manohar Lal Parikh, Chiraunji Lal Parikh and Devendra Garg. Manoj Kumar Goyal was not named in it but was implicated during investigation, including through a co-accused's statement under Section 27 of the Evidence Act that the gram had been stored in his godown. Charge-sheets had been filed against some co-accused, who were facing Sessions Trial No. 200239/2016. Investigation against Manoj remained pending under Section 173(8) CrPC because he had not been arrested and the property had not been seized. These were allegations and statements about the investigation, rather than findings of criminal liability in the Section 482 proceedings.

Manoj first sought quashing in M.Cr.C. No. 11136/2017. A Division Bench dismissed that petition on 5 February 2018 as premature because further incriminating material might emerge. He obtained anticipatory bail in M.Cr.C. No. 14485/2018 on 4 May 2018, subject to depositing ₹75 lakh, appearing before the investigating officer by 4 June, furnishing a ₹2 lakh bond with local sureties and cooperating in the investigation. He subsequently sought deletion of the deposit condition but then undertook to pay and requested an extension of time. The order dated 18 May extended the time and provided for refund with the specified interest if he was acquitted. The present petition did not disclose that bail history or establish compliance with the conditions. His second quashing petition, M.Cr.C. No. 35886/2018, was dismissed on 19 November 2018 because investigation remained pending and compromise had not been properly advanced as the ground for quashing.

The present, third petition under Section 482 sought quashing of the FIR and the consequential proceedings. Manoj contended that settlement of the commercial dispute with the complainant and the other traders made further prosecution futile. He referred to a compounding application, I.A. No. 320/2019, under Section 320(2). Only he and the named complainant filed affidavits in support of that application; photocopies of affidavits attributed to 21 victims, containing identical statements, were annexed. The complainant had been served and was represented earlier but did not appear at the hearing. Counsel for the State argued that each trader's transaction was distinct and that all victims should be impleaded. He also relied on the stage of investigation and Manoj's non-cooperation. When asked about the bail proceedings and his appearance before the investigating officer, Manoj's counsel declined to address those matters and invited a decision on the petition and the photocopied affidavits. The Court examined its records of the earlier petitions and the conditional bail orders. The sample affidavit stated that Manoj had compensated the declarant for the loss, that no balance remained due and that no action against him was sought. The Court noted the absence of documentary or bank records showing repayment and held that the photocopies could not be treated as affidavits by each victim in support of the application.

2. Precedents — Considered : In *Narinderjit Singh Sahni v. Union of India, (2002) 2 SCC 210*, a three-judge Bench of the Supreme Court considered deposits induced by financial companies. It held that each individual agreement was a separate transaction because the parties, amounts and periods differed. In *State of Punjab v. Rajesh Syal, (2002) 8 SCC 158*, another three-judge Bench rejected consolidation of distinct fraud cases involving different persons under the proviso to Section 218 CrPC or the concept of the same transaction under Section 220. The proviso to Section 218 did not authorise a Magistrate to have cases pending before different Magistrates transferred to that Magistrate for a joint trial. Applying those decisions, the Court held that the transactions of the different gram traders could not be treated as one transaction or their distinct claims subsumed in one complainant's prosecution and settlement. The quoted Supreme Court passages concerned separate agreements or alleged frauds involving different victims.

In State v. Khimji Bhai Jadeja, Delhi High Court Cr. Reference No. 1/2014, decided on 8 July 2019, the Court held that each induced investor's deposit required a separate FIR where the complaint disclosed a cognizable offence, followed by a separate report. It distinguished that requirement from the limited possibility of trying up to three qualifying offences together under Section 219 CrPC, to be considered at the stage of framing charges. Its discussion of sentences under Section 31 and multiple trials was reproduced. The Madhya Pradesh High Court adopted the principle that the transactions were separate and held that the police should have registered separate FIRs. It declined to direct fresh registration because charge-sheets had already been filed against the co-accused. No question of sentence arose in the present petition.

Narinder Singh v. State of Punjab, (2014) 6 SCC 466, was quoted extensively to distinguish compounding under Section 320 from the High Court's inherent power under Section 482 to quash proceedings after settlement, including proceedings for some non-compoundable offences. The latter power must be exercised cautiously to secure justice or prevent abuse of process. Relevant considerations include the private or societal nature of the harm, the gravity of the offence, settlement of the entire dispute, whether the prospects of conviction were strong or remote, and the timing of settlement. Investigation, the early stages of evidence, an advanced trial and proceedings after conviction call for different assessments. The discussion of Section 307, grave violence and offences by public servants belonged to the Supreme Court's statement of the governing principles and did not describe the allegations in the present FIR. The Court applied the considerations of stage and societal impact to allegations of fraud against several traders and to an accused whose non-cooperation had prevented completion of the investigation against him.

The Division Bench's dismissal of M.Cr.C. No. 11136/2017 and the order in M.Cr.C. No. 35886/2018 were earlier orders in the same investigation. The first declined premature quashing because further evidence might emerge. The second also held the request premature while investigation remained pending and compromise had not been properly advanced as the ground for quashing. Those orders were relevant because the investigating agency had still been unable to arrest Manoj or seize the relevant material. The anticipatory-bail and extension orders were examined as part of his litigation history.

3. Statutes considered : The petition invoked the High Court's inherent, discretionary power under Section 482 CrPC to quash the FIR and proceedings. Section 320(2) permits specified IPC offences to be compounded, by the specified persons, with permission of the court before which prosecution for the offence is pending. Section 320 also identifies who may compound and provides that composition has the effect of acquittal. No compounding was permitted in this case. Manoj contended that offences under Sections 406 and 420 IPC were compoundable with permission and that no offence under Section 409 was made out. The Court refrained from deciding the allegations in detail and did not finally determine that contention or the compoundability of each alleged offence. Section 173(8) CrPC concerned the further investigation pending against him after charge-sheets had been filed against the co-accused. Section 438(2) concerned the conditions of anticipatory bail, including cooperation; failure to comply with those conditions and furnish bail was material to the exercise of discretion under Section 482. Sections 218, 219 and 220 CrPC were considered through *Rajesh Syal* and *Khimji Bhai Jadeja* in relation to separate offences and limited joinder at the stage of framing charges. The text concerning sentencing under Section 31 appeared in the quotation from the latter decision and was not

applied in the present petition. Sections 406, 420 and 409 read with Section 34 IPC were the alleged offences; the Court refrained from a detailed determination of criminal liability. Section 27 of the Evidence Act arose in the background account of a co-accused's statement; its admissibility against Manoj was not decided.

4. Issues : (i) Did the separate transactions with the numerous traders require each trader to be treated as a victim of a distinct offence, rather than treating one as the complainant and the others merely as witnesses in a consolidated FIR, and what direction was appropriate after charge-sheets had been filed against the co-accused? (ii) Could the High Court grant permission under Section 320(2) when no prosecution of Manoj was pending before it, investigation against him remained pending, and all the separately affected victims had not filed proper supporting affidavits? (iii) Should the Court exercise its wider power under Section 482 to quash proceedings on the basis of compromise, having regard to the earlier dismissals as premature, the trial of the co-accused, Manoj's undisclosed and apparently unfulfilled anticipatory-bail conditions, his non-cooperation in investigation and the impact on several victims? The Court did not determine guilt.

5. Ratio / Findings : Applying *Narinderjit Singh Sahni* and *Rajesh Syal*, together with the Delhi High Court's reference decision, the Court held that each allegedly cheated trader's transaction was distinct and required a separate FIR. Registration of a consolidated FIR could not reduce the other victims to witnesses while treating only one trader as the complainant. The Court nevertheless declined to direct fresh registration because charge-sheets had already been filed against the co-accused. The limited possibility of a joint trial for up to three qualifying offences under Section 219 was to be considered at the stage of framing charges. It did not permit the investigating agency to treat all the traders as witnesses to one transaction. Since each victim was a complainant in respect of a separate transaction, one complainant's compromise could not suffice for all the victims. Section 320(2) requires permission of the court before which prosecution is pending. No prosecution by way of appeal or revision was pending before the High Court. Manoj had not surrendered or joined the investigation, which remained pending under Section 173(8); the pending trial of the co-accused did not make the High Court the competent forum for his compounding application. Only his affidavit and that of respondent No. 2 supported the application. The annexed photocopies containing identical statements attributed to 21 traders could not be treated as affidavits by each victim in support of the present application. Although all victims could be directed to be impleaded, the Court declined to quash the proceedings on compromise because investigation remained incomplete owing to Manoj's non-cooperation and the other circumstances considered by it.

The Court examined the undisclosed bail history. Its order dated 4 May 2018 had made anticipatory release conditional on a deposit of ₹75 lakh and appearance before the investigating officer; the order dated 18 May extended the time. Manoj neither disclosed those orders nor established compliance, and his counsel declined to address the Court's inquiry. The Court drew an adverse inference of non-compliance. Arrest and seizure had not been effected, further evidence could still emerge, and the co-accused were facing trial. Applying *Narinder Singh*, the Court considered that the stage of investigation and the societal impact of the alleged cheating of several persons of about ₹4 crore did not justify quashing on compromise while Manoj remained away from investigation. Relying on the statements in the photocopied affidavits that he had refunded the traders' money, the Court rejected as false his assertion that he had no connection with the co-accused's acts. In view of the earlier Division Bench's refusal to quash and his continuing non-cooperation, the Court refrained from examining the allegations in detail and declined quashing on the settlement material and procedural circumstances before it. The Court did not determine the authenticity of the claimed refunds or examine their accounting.

6. Relief : The Hon’ble High Court dismissed the third petition under Section 482 seeking quashing of the FIR. It granted no permission to compound and, despite holding that the transactions required separate FIRs, issued no direction for fresh registration. The investigation against Manoj and the trial of the co-accused were left to proceed according to law. The Court directed that a copy of its order be sent to the Director General of Police, Madhya Pradesh, for necessary instructions to investigating officers to follow *Narinderjit Singh Sahni*, *Rajesh Syal* and *Khimji Bhai Jadeja*. It also directed that a

copy be sent to the 2nd Additional Sessions Judge, Vidisha, in Sessions Trial No. 200239/2016 for information. No finding of guilt or order cancelling the earlier conditional bail was made.

Manoj Kumar Goyal v. State of M.P. and Others, M.Cr.C. no. 15521/2019, 09/07/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal revision / merits despite concession / supervisory restraint - *Nagpal Traders v. Devinder Singh, (2017) 11 SCC 431*, expressly agreed with *Jeetu*, as quoted in that decision, that a conviction must be examined on merits even when counsel does not challenge it and seeks only a reduction of sentence. *State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 650*, explained that the appellate powers conferred by Section 401 aid supervision under Section 397. They do not confer a second appellate jurisdiction for a minute reappraisal of the evidence, although overlooked material evidence or perversity may justify interference. *Sheonandan Paswan v. State of Bihar, (1987) 1 SCC 288*, similarly confined revision to scrutiny of legality, propriety and regularity, without substituting a fresh factual conclusion. *Akalu Ahir v. Ramdeo Ram, AIR 1973 SC 2145*, described the extraordinary power to correct grave injustice or serious legal infirmity. The Court examined the record despite counsel's concession. It found no perversity in the concurrent findings concerning impersonation of a co-owner and a fraudulent sale of her land, and affirmed the conviction under Section 467 IPC. *Jeetu* and *Duli Chand* were referred to in the quoted Supreme Court authorities. They were not separately applied as fact-specific rulings concerning these parties.

Compromise / non-compoundable forgery / sentence - The compromise under Section 320 CrPC during the appeals resulted in acquittal of the applicants under Sections 419, 420 and 423 IPC. They were also acquitted under Section 468 on merits, but their conviction under the non-compoundable Section 467 remained. The appellate court had already reduced the sentence from three years' rigorous imprisonment to one year, with a fine of ₹2,000. The applicants and co-owner Kalia were related and had compromised. However, the sale deed had been executed in 2004 by presenting Narayani as Kalia, and the prosecution and appeals continued for years before compromise was sought in February 2021, six years after the trial court's conviction. The application did not disclose terms showing reconveyance of the land or payment of compensation at its current market value. The Court expressed uncertainty about possible pressure on Kalia, without finding that coercion had been proved. It held that no further leniency was justified, refused to reduce the sentence to the period already undergone and maintained the one-year term. The applicant on bail was directed to surrender; the others were to serve their remaining imprisonment.

Case-note :- ***1. Facts :*** Kalia and Ramprakash jointly owned land bearing survey No. 308, measuring about 0.96 hectares. According to the prosecution, Ramprakash arranged a sale deed dated 19 March 2004 conveying Kalia's share by presenting Narayani as Kalia. Ramgopal, who died during the appeals, was the beneficiary. Manoj Kumar Sharma and Vinod signed as witnesses. The FIR was lodged on 25 May 2004 and the charge-sheet was filed on 31 December 2004. On 4 November 2015, the JMFC, Pohari, convicted the applicants in RCT No. 587/09 under Sections 419, 420, 423, 467 and 468 IPC. The High Court examined the evidence within the limits of its revisional jurisdiction.

Four connected appeals, Cr.A. Nos. 405, 400, 409 and 396 of 2015, were heard by the VIth Additional Sessions Judge, Shivpuri. On 10 February 2021, the compromise application under Section 320 CrPC, based on the parties' family relationship, was partly allowed and the applicants were acquitted under Sections 419, 420 and 423. Sections 467 and 468 were non-compoundable, and the appeals concerning those offences were heard on merits. By judgments dated 19 March 2021, the appellate court acquitted the applicants under Section 468, affirmed their conviction under Section 467 and reduced the sentence from three years' rigorous imprisonment to one year, with a fine of ₹2,000 and two months' rigorous imprisonment in default. The connected revisions, Cr.R. Nos. 1210 and 1128 of 2021, were heard together on admission. Counsel for all applicants declined to challenge the conviction on merits and sought reduction of the remaining sentence to the period already undergone on the basis of compromise. The Court nevertheless examined the findings supporting conviction before considering sentence. Ramprakash, the applicant in

Cr.R. No. 1128, was on bail; Manoj Kumar, Vinod and Narayani were in jail.

2. Precedents — Considered : *Nagpal Traders v. Devinder Singh, (2017) 11 SCC 431*, was quoted for the obligation to examine a conviction on merits even when defence counsel does not challenge it and confines submissions to sentence. In that decision, the Supreme Court expressly agreed with *Jeetu* that merely recording the absence of a challenge to conviction and then adjusting sentence defeats the judicial function. The High Court followed that principle by examining the conviction despite counsel's choice not to contest it. *Jeetu* was discussed in the quoted passage from *Nagpal Traders*. It was not separately applied to these parties.

State of Maharashtra v. Jagmohan Singh Kuldip Singh Anand, (2004) 7 SCC 650, explained the relationship between Sections 397 and 401. A revisional court may exercise appellate powers to assist its supervisory examination of correctness, legality, propriety and regularity, but cannot act as a second appellate court and reappraise the entire record. The decision identified overlooked material evidence as a possible ground for interference. It quoted *Duli Chand* to explain that the record may be examined for evidence supporting concurrent findings and for perversity, without routinely reassessing the facts. *Sheonandan Paswan v. State of Bihar, (1987) 1 SCC 288*, arose from proceedings concerning withdrawal under Section 321 and was quoted for the limited purpose of revisional scrutiny. *Akalu Ahir v. Ramdeo Ram, AIR 1973 SC 2145*, described revision under the earlier Code as an extraordinary, discretionary power to correct grave injustice or serious legal infirmity, rather than an appeal in disguise. Applying those limits, the Court examined the sale-deed evidence and the concurrent findings for perversity and found none.

3. Statutes considered : Sections 397 and 401 CrPC governed the High Court's revisional scrutiny of conviction and sentence after the appeals. The jurisdiction was supervisory and did not permit a fresh determination of the facts as an appellate court. Section 320 governed the partial compromise during the appeals, which resulted in acquittal under Sections 419, 420 and 423 IPC. Sections 467 and 468 IPC were treated as non-compoundable. The applicants were separately acquitted under Section 468 on appeal; Section 467, concerning forgery of a valuable security or a qualifying document, remained the sole conviction under review. The appellate sentence of one year's rigorous imprisonment, a fine of ₹2,000 and two months' rigorous imprisonment in default was maintained. The compromise of the compoundable offences did not extinguish the Section 467 conviction or entitle the applicants to a further reduction of sentence.

4. Issues : (i) Could the High Court consider only the requested reduction of sentence because counsel did not challenge the conviction, and to what extent could it examine the concurrent findings concerning the sale deed in revision under Sections 397 and 401? (ii) After the compoundable offences had been resolved and the applicants acquitted under Section 468, did their family relationship with the complainant and the compromise of February 2021 justify reducing the already reduced one-year sentence under Section 467 to the period undergone, having regard to the impersonation, deprivation of land, delay and undisclosed terms concerning restoration or compensation? The Court made no finding that coercion had occurred.

5. Ratio / Findings : Applying *Nagpal Traders*, the Court held that counsel's decision not to challenge conviction did not dispense with judicial examination of its merits. *Jagmohan Singh*, *Sheonandan Paswan* and *Akalu Ahir* confined that examination to legality, propriety, overlooked material evidence or perversity, rather than a second appeal on facts. On examining the lower court record, the Court found support for the concurrent findings that Ramprakash, a co-owner, had conveyed Kalia's share by having Narayani impersonate her. Manoj Kumar and Vinod had witnessed the deed, and Ramgopal, who had since died, was its beneficiary. The Court found no perversity and affirmed the conviction under Section 467. It did not make a fresh determination of each witness's credibility or disturb the earlier acquittals.

The Court then considered the request for a further reduction of sentence. The appellate court had already reduced the original three-year term of rigorous imprisonment to one year. The deed involving impersonation had been executed about seventeen years before the revision. The prosecution and trial continued until conviction in 2015; appeals were filed that year, but the compromise application was made only on 10 February 2021. The Court regarded the compromise as belated rather than evidence of early remorse. It noted that Kalia had been deprived of her share of the land and subjected to prolonged proceedings. Although the compromise

reflected a resolution between relatives, the application did not disclose its terms or establish whether the land had been reconveyed or compensation paid at the current market rate. The Court referred to possible pressure on Kalia as an uncertainty, not a proved fact. Having regard to the fraud, the delay and the reduction already granted, it refused to reduce the sentence to the period undergone.

6. Relief : The Hon'ble High Court dismissed both revisions at admission. It affirmed the appellate judgments dated 19 March 2021 and the conviction under Section 467 IPC, with one year's rigorous imprisonment, a fine of ₹2,000 and the stated default term. The prior acquittals on partial compounding and the acquittal under Section 468 remained undisturbed. Ramprakash's bail bonds were cancelled, and he was directed to surrender immediately before the trial court to serve the remaining sentence. Manoj Kumar Sharma, Vinod and Narayani, who were in jail, were to serve their remaining sentences. The Court directed that the applicants receive a free copy of the judgment and that the lower court records be returned immediately for compliance.

Manoj Kumar Sharma and Others v. State of M.P., Cr.R. no. 1210/2021 & 1128/2021, 01/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR / prompt first version / evidentiary corroboration - *Nanhey v. State of U.P., (1973) 3 SCC 317, Krishnan v. State, (2003) 7 SCC 56, Jarnail Singh v. State of Haryana, 1993 Supp (3) SCC 91, State of U.P. v. Harban Sahai, (1998) 6 SCC 50, Dahari v. State of U.P., (2012) 10 SCC 256, Kirpal Singh v. State of U.P., (2010) 3 SCC 347*, and *Satpal Singh v. State of Haryana, (2010) 8 SCC 714*, were quoted for the evidentiary value of prompt, detailed reporting in checking subsequent fabrication and supporting witness presence. Questions of delay and credibility depended on the circumstances. Shyam Kumar reported that Manoj Sen, whom he knew, had fired the shot at 11:15 p.m. He lodged the FIR at 11:25 p.m. The police station was about one furlong from the scene. The Court relied on that timing to support the two eyewitness accounts. It also examined the challenges to those accounts and the independent forensic evidence, without treating the FIR alone as conclusive proof.

Related eyewitnesses / acquaintance and prior hostility - *Dahari* required careful scrutiny of a related witness's evidence but permitted reliance on a cogent and truthful account. *Manga alias Man Singh v. State of Uttarakhand, (2013) 7 SCC 629*, held that family relationship alone did not discredit otherwise reliable eyewitnesses. The injured-witness examples in that decision were not facts of the present case. Shyam was the deceased's brother, and Sangram knew the parties. The defence questioned their credibility by referring to property and insurance interests, the deceased's criminal history and Sangram's earlier prosecution. The Court accepted their explanations of presence and their accounts of the shooting, supported by the prompt FIR, the postmortem findings concerning the chest wound and the ballistic evidence, notwithstanding the suggested interests. The Court did not establish a general presumption in favour of related witnesses.

Night identification / familiar assailant / actual scene - *Ramesh v. State by Madhugiri Police, (2010) 15 SCC 49*, held that the identification of a known accused by his neighbours need not be disbelieved solely because the light was weak. The rural setting in that precedent provided an analogy, rather than evidence of the lighting at the present scene. The incident occurred at Manoj's own shop, and the place of occurrence was undisputed. Some shops in the narrow market were open, the witnesses knew him, and no power failure was alleged. On those facts, the Court rejected the contention that the shooter could not have been identified at about 11:15 p.m., without laying down a general minimum-light rule.

Ballistics / medical and eyewitness convergence - The doctor described a single chest-entry wound caused by a shot fired at close range, ruptures of the heart and liver, and a bullet recovered from the body. The .315 pistol, the fired cartridge and the live round seized after Manoj's arrest were examined. The FSL report attributed the fired cartridge to the seized pistol and found that the barrel marks on the bullet recovered from the body matched that weapon. The Court treated this evidence as substantial independent corroboration of Shyam and Sangram and affirmed the convictions under Section 302 IPC and Sections 25(1-B)(a) and 27 of the Arms Act. The defence challenged the proof of proper custody after seizure; the Court relied on the recovery and the FSL report in finding the eyewitness accounts corroborated.

Witness number / two unexamined FIR witnesses - *Yanob Sheikh v. State of West Bengal, (2013) 6 SCC 428*, explained that the prosecution's burden of proof beyond reasonable doubt requires evidence of sufficient quality, rather than any fixed number of witnesses, quoting *Namdeo* and *Bipin Kumar Mondal*. *S.P.S. Rathore v. CBI, (2017) 5 SCC 817*, also held that credible eyewitness testimony need not be rejected merely because not every bystander was examined. *Manga* stated that relationship alone did not discredit reliable witnesses. Balveer and Laxman were named in the FIR but were not examined. After scrutinising the accounts of the two witnesses who testified and the corroborating evidence, the Court accepted their testimony. The non-examination of Balveer and Laxman did not require an adverse conclusion in these circumstances.

Case-note :- ***1. Facts :*** At about 11:15 p.m. on 25 March 2011, Rammohan Tiwari, his brother Shyam Kumar Tiwari, Laxman Purohit and Balveer Thakur were walking back after a visit to Anand Belpatri. Near the supermarket in Datia, they passed Manoj Sen's shop. According to the prosecution, Manoj, who was known to them, fired one shot from a .315 country-made pistol at Rammohan's chest. The FIR also referred to two unidentified companions, one of whom threatened onlookers. They were never traced, and only Manoj was tried. The alleged motive was a debt of ₹30,000 owed to Rammohan. Shyam promptly went to Police Station Kotwali, about one furlong from the scene, and his FIR was recorded at 11:25 p.m., ten minutes after the alleged shooting. The police inspected the scene, prepared a map, seized blood-stained and plain earth, and sent the body for postmortem examination. The doctor found a chest-entry wound at the sternum, fractures, ruptures of the heart and liver, and a bullet lodged near the thoracolumbar vertebra. He estimated that the shot had been fired from within six feet and attributed death to the firearm injury. Manoj was arrested on 28 March. The police recorded a memorandum and recovered a .315 pistol, a fired cartridge lodged in it and a live round from his house. An armourer and the FSL examined the articles, and permission to prosecute under the Arms Act was obtained. The FSL report attributed the fired cartridge and the bullet recovered from the body to that pistol.

On 17 November 2011, the Sessions Judge, Datia, convicted Manoj in Trial No. 87/2011 under Section 302 IPC and Sections 25(1-B)(a) and 27 of the Arms Act. The respective sentences were life imprisonment and a fine of ₹5,000, with three months' simple imprisonment in default; one year's imprisonment and a fine of ₹1,000, with one month's imprisonment in default; and three years' rigorous imprisonment and a fine of ₹1,000, with one month's imprisonment in default. The sentences were to run concurrently. In the appeal under Section 374 CrPC, the defence challenged identification at night, Shyam's interest as the deceased's brother and possible false implication, the failure to examine Laxman and Balveer, and the lack of proof of proper custody of the seized pistol. The State supported the conviction. The appellate Bench examined the medical evidence, eyewitness accounts, FIR, seizure and ballistic evidence. Shyam's extensive cross-examination covered the visit and route, the deceased's past criminal cases, possible property and insurance interests, his connections with Sangram and the FIR's reference to unidentified men. Sangram was questioned about his route, observations, acquaintances and an earlier murder prosecution that had ended in acquittal. These suggestions were considered as challenges to credibility and were not accepted as proved facts establishing an alternative shooter.

2. Precedents — Considered : *Nanhey v. State of U.P., (1973) 3 SCC 317*, treated the prompt and detailed FIR, in the absence of material showing police bias, as inconsistent with the contention that a false account had immediately been fabricated. *Krishnan v. State, (2003) 7 SCC 56*, stated that almost immediate reporting reduced the opportunity for deliberation. *Jarnail Singh v. State of Haryana, 1993 Supp (3) SCC 91*, treated a prompt murder FIR as the first version against which prosecution testimony could be checked, with support from the medical evidence. *State of U.P. v. Harban Sahai, (1998) 6 SCC 50*, regarded prompt and detailed reporting as reassuring about the informant's truthfulness. *Dahari v. State of U.P., (2012) 10 SCC 256*, treated the prompt report following travel to the police station as supporting the eyewitnesses' presence. It also required careful scrutiny of related witnesses while permitting reliance on trustworthy evidence. *Kirpal Singh v. State of U.P., (2010) 3 SCC 347*, was quoted for corroboration by a promptly lodged FIR that was not ante-timed, in the circumstances of that case. *Satpal Singh v. State of Haryana, (2010) 8 SCC 714*, explained the risk of afterthought and embellishment where delay

remained unexplained, referring to *Madhusudhan Rao* in the quoted passage. The High Court applied these evidentiary principles to Shyam's FIR, lodged within ten minutes, without treating timing alone as necessarily establishing the truth of the prosecution case; it also considered the remaining evidence. *Dahari*'s caution concerning related witnesses also informed the credibility assessment. The cases mentioned within *Dahari*'s quoted passage were not individually applied.

Ramesh v. State by Madhugiri Police, (2010) 15 SCC 49, rejected the assumption that neighbours who knew the accused could not identify him in weak evening light. The quoted reasoning considered their familiarity with him and the local visual conditions. In *Reference (Suo Moto) v. Manoj*, CRRFC No. 8/2019, decided on 28 July 2021, a coordinate Bench similarly discussed identification by familiar villagers from a person's gait or build in poor light. The Court applied the principle of recognition of a familiar person to the present circumstances: a partly open urban market, witnesses who knew Manoj, his own shop and no alleged power failure. The Court did not decide the identification of a stranger or establish a general rural-versus-urban vision test.

Yanob Sheikh v. State of West Bengal, (2013) 6 SCC 428, reaffirmed the prosecution's burden of proof beyond reasonable doubt and the principle that evidence must be weighed rather than counted. Its quotations from *Namdeo* and *Bipin Kumar Mondal* explained that Section 134 of the Evidence Act does not prescribe a fixed number of witnesses. *S.P.S. Rathore v. Central Bureau of Investigation, (2017) 5 SCC 817*, held that truthful, consistent and confidence-inspiring eyewitness testimony may suffice without examining every bystander. *Manga alias Man Singh v. State of Uttarakhand, (2013) 7 SCC 629*, rejected a challenge based merely on the eyewitnesses' relationship with the deceased. In that decision, the witnesses' own injuries and the medical evidence supported their accounts. The present Court applied the principle concerning relationship, rather than treating those injured-witness facts as facts of this case. The further list of seven cases appeared within the quotation from *Manga*. Applying these authorities, the Court declined to reject Shyam and Sangram merely because two named companions were not called, after examining the witnesses' accounts and their corroboration.

3. Statutes considered : Section 374 CrPC provided the appeal against conviction. Section 302 IPC concerned the conviction for intentional murder, for which the Court stated that life imprisonment was the mandatory minimum sentence. Although the charge-sheet had referred to Section 34 and unidentified companions, the trial charges and the operative conviction concerned Manoj personally. Section 25(1-B)(a) of the Arms Act concerned the seized country-made firearm, and Section 27 concerned its use. Both convictions were affirmed with the existing concurrent sentences and fines. The decision turned on identification and proof of the shooting, rather than a separate interpretation of those Arms Act provisions. Section 134 of the Evidence Act appeared in the quoted discussion in *Yanob Sheikh* concerning the number of witnesses. The Court recorded the memorandum and seizure and relied on the FSL findings as corroboration. The FIR, lodged within ten minutes, was also considered as corroborating evidence.

4. Issues : (i) Was Rammohan's death homicidal and caused by a firearm, and did Shyam and Sangram reliably identify Manoj as the shooter despite the late hour, alleged poor light, relationship or acquaintance, suggestions of false implication and minor discrepancies? (ii) What corroboration did the prompt FIR, medical findings concerning the bullet's course, seizure and FSL findings connecting the cartridge and bullet to the pistol provide, having regard to the alleged lack of proof of custody? (iii) Did the failure to examine two other persons named in the FIR undermine proof beyond reasonable doubt despite the evidence of the witnesses who testified? (iv) If conviction was upheld, was any change of sentence permissible, particularly under Section 302? The Court did not identify or convict the two unknown companions.

5. Ratio / Findings : The postmortem findings of a close-range chest-entry wound, damage to the sternum, heart and liver, and a bullet retained in the body established a homicidal death caused by a firearm. Shyam identified Manoj, whom he knew, as standing just outside his own shop and firing a single shot from a few feet away as the group passed. He explained the visit to a relative and his presence with Rammohan. In his separate account, Sangram stated that he was behind the group and saw the shot; his movements and acquaintance with the parties were examined in cross-examination. The Court considered the attempts to discredit the witnesses in the light of the surrounding circumstances.

Relationship alone did not justify rejecting their evidence.

The FIR was lodged at the nearby police station about ten minutes after the shooting. The Supreme Court authorities explained why prompt and detailed reporting reduces the opportunity for deliberation and supports the informant's presence. Here, the FIR corroborated the oral evidence rather than replacing it. The place of occurrence at Manoj's shop was undisputed, some businesses in the market remained open, no power failure was alleged, and the witnesses already knew Manoj. Applying *Ramesh* by analogy, the Court found recognition plausible in those circumstances. The seizure witness and the investigating officer described the recovery of the .315 pistol, a fired cartridge and a live round from Manoj's house after his arrest. The FSL report connected the fired cartridge with the seized pistol and found that the barrel marks on the bullet recovered from the body matched that weapon. The defence questioned the proof of custody; the Court relied on the recovery and the FSL findings as corroboration. The medical and forensic evidence together strongly supported the eyewitness accounts. Although Balveer and Laxman were named as present, they were not examined. *Yanob Sheikh* and *S.P.S. Rathore* required assessment of the quality of the evidence rather than the number of witnesses, while leaving the burden of reliable proof on the prosecution. The Court found Shyam and Sangram credible, with support from the prompt FIR and forensic evidence. The absence of the other two witnesses therefore did not leave a decisive gap in proof in this case. The prosecution proved the appellant's guilt beyond reasonable doubt on the murder and Arms Act charges. The Court stated that life imprisonment was the minimum sentence under Section 302 and found no ground to alter the concurrent sentences imposed at trial. No separate adjudication concerning the unidentified persons or alleged alternative shooters was made.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. It affirmed the conviction and sentence dated 17 November 2011: life imprisonment and a fine of ₹5,000 under Section 302 IPC; one year's imprisonment and a fine of ₹1,000 under Section 25(1-B)(a) of the Arms Act; and three years' rigorous imprisonment and a fine of ₹1,000 under Section 27. The sentences were concurrent, with the stated default terms of simple imprisonment. Manoj, who was in jail, was to serve the remaining sentence. The Court directed that he immediately receive a free copy of the judgment and that the record be returned to the Sessions Judge, Datia, for compliance. No relief was granted concerning the two untraced persons.

Manoj Sen v. State of Madhya Pradesh, Cr.A. no. 20/2012, 07/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Police inaction / inherent application / magistrate complaint remedy - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, recognised the police duty to register information disclosing a cognizable offence, while distinguishing that duty from an informant's entitlement to an immediate judicial direction. An aggrieved informant may proceed under Sections 190 and 200 CrPC. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, held that an informant should ordinarily approach the Magistrate when the police take no action. It preserved rare intervention under Article 226 for demonstrated mala fide abuse, without permitting the Court to dictate the method of investigation. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explained the remedies under Section 154(3) before the Superintendent of Police and Section 156(3) before the Magistrate for registration of an FIR or a proper investigation, including monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed that course. Upon prima facie satisfaction, the Magistrate may recommend a change of investigating officer to superior police officers but cannot investigate personally. *Shweta Bhadauria*, a Division Bench decision of the Madhya Pradesh High Court, distinguished the police duty in *Lalita Kumari* from an entitlement to bypass alternative remedies, subject to the stated exceptions. Applying those principles, the Court dismissed the Section 528 BNSS application seeking action within two weeks and left Manoj Sharma free to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS. It did not examine whether his unspecified complaint disclosed a cognizable offence or adjudicate an exceptional-abuse claim on developed facts.

Case-note :- ***1. Facts :*** Manoj Sharma applied to the Madhya Pradesh High Court, Gwalior Bench, under

Section 528 of the Bharatiya Nagarik Suraksha Sanhita. He sought a direction requiring the respondent to take cognizance of his complaint expeditiously, within two weeks. Counsel explained that the police had not registered an FIR despite his complaint. The order does not describe the underlying incident, proposed offence, date of complaint, persons accused, any previous approach to a superior police officer or supporting material. The Court framed the question as whether an application seeking a direction to the police to register an FIR was maintainable. The State opposed the application and submitted that the applicant could approach the concerned Magistrate if the police took no action. The Court considered the forum and remedy, rather than the merits of the undisclosed complaint.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at length for the distinction between the police duty to register an FIR when the facts disclose a cognizable offence and the complainant's remedy before the Magistrate under Sections 190 and 200 CrPC if the police fail to act. The Supreme Court reconciled its earlier decisions on police duty with those addressing the informant's subsequent remedy and expressly reserved the merits of the allegations before it. The Court in the present case adopted that distinction; it did not find that Sharma had in fact shown a cognizable offence. *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh*, *Minu Kumari*, *Ramesh Kumari* and *Lallan Chaudhary* appeared within the quotation from *Aleque Padamsee*. They were not independently applied to an identified offence in this order.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted for the ordinary remedy of approaching the Magistrate under Sections 190/200 when the police take no action. It also recognised a narrow exception under Article 226 where an investigating officer acts mala fide and a clear case of abuse of power and non-compliance with Chapter XII warrants rare intervention. Even then, the High Court may insist on observance of the statutory process but cannot dictate how the police should investigate. The Court quoted that exception as part of the governing authorities. The passage from *Gangadhar* reproduced within *Divine Retreat* explained the Magistrate's alternatives on a complaint, including inquiry, police investigation or dismissal, according to the prima facie assessment.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted for the remedy of applying in writing to the Superintendent of Police under Section 154(3). If that course does not secure registration of an FIR or a proper investigation, the informant may apply to the Magistrate under Section 156(3). The Magistrate may order registration or a proper investigation and monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed that an aggrieved informant should ordinarily approach the Magistrate rather than invoke Article 226. Upon prima facie satisfaction, the Magistrate may require a proper investigation, monitor its progress and, if necessary, recommend a change of investigating officer to superior police officers. The Magistrate cannot investigate personally. The High Court used both authorities to explain the available remedy under the criminal procedure, without holding that the Magistrate must grant this applicant any particular order.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016, decided on 20 December 2016, is a Division Bench decision of this High Court. The quoted passage permits refusal of mandamus to register an FIR where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the exceptional alternative-remedy categories in *Whirlpool*. It distinguished *Lalita Kumari*'s ruling on mandatory police registration from an entitlement to an immediate writ direction. *Whirlpool* and *Lalita Kumari* appeared within that quotation; they were not independently applied to the facts of this complaint. The judge cited the Division Bench decision in dismissing the Section 528 application while preserving the remedy before the Magistrate. Although the quoted Supreme Court cases frequently address Article 226 and the CrPC, the present order dismissed an application under Section 528 BNSS with liberty to approach the Magistrate.

3. Statutes considered : The applicant invoked the inherent jurisdiction under Section 528 BNSS. The Court held that an immediate direction to the police to register an FIR was not appropriate in this application when the concerned Magistrate could be approached. It expressly granted liberty to make a complaint under Section 200 CrPC/Section 223 BNSS. The quoted authorities referred to Section 154 CrPC for the duty concerning information

disclosing a cognizable offence and subsection (3) for recourse to the Superintendent of Police; Section 156(3) for Magistrate-directed registration or a proper investigation; and Sections 190/200 for the complaint and cognizance procedure. Article 226 and Chapter XII CrPC appeared in the discussion of exceptional writ intervention in *Divine Retreat* and the Division Bench decision. They were part of that comparative discussion, rather than the jurisdiction invoked in this case. The operative order expressly identified Section 200 CrPC/Section 223 BNSS as the available complaint remedy.

4. Issues : Could Manoj obtain a High Court direction under Section 528 BNSS requiring the police to act on his complaint or register an FIR within the short period requested, when ordinary remedies for police inaction were available before superior police officers and the Magistrate? The Court did not decide the contents or legal sufficiency of the complaint, order registration of an FIR, determine the Magistrate's likely disposition or make a finding of mala fide investigation.

5. Ratio / Findings : The Court distinguished the police duty from the choice of judicial forum. *Aleque Padamsee* recognises the duty to register information disclosing a cognizable offence but directs an informant complaining of police inaction to the Magistrate's complaint procedure. *Divine Retreat* preserves a narrow exceptional constitutional power where clear mala fides and abuse are shown, while excluding ordinary judicial management of police investigation. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explain the effective remedies within the police hierarchy and before a Magistrate who may, on suitable material, secure registration or a proper investigation and monitor it. *Shweta Bhadauria* explains that mandatory police registration does not automatically entitle an informant to a direct writ of mandamus before using alternative remedies, subject to exceptions. On the bare assertion that the police had not registered an FIR, the judge found that Manoj could approach the Magistrate and dismissed the inherent application with liberty. The operative order granted liberty to seek redress before the concerned Magistrate. The decision concerned the proper forum; it did not permit police refusal or reject the merits of any eventual complaint.

6. Relief : The Hon'ble High Court dismissed the application. Manoj Sharma was given liberty, if he wished, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS for redress. The Court did not direct registration of an FIR, impose a two-week deadline, order an investigation or predetermine the Magistrate's decision.

Manoj Sharma v. The State of Madhya Pradesh, M.Cr.C. no. 45827/2024, 15/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Territorial jurisdiction / Gwalior property transactions / CrPC Sections 177–179 - *Sunita Kumari Kashyap v. State of Bihar, (2011) 11 SCC 301*, explained the ordinary place of inquiry and trial, offences spanning local areas and the place where consequences ensue under Sections 177–179. Applying that territorial reasoning to the challenge to Sirol police investigation, the Court held that the alleged sham sales of Gwalior flats and shops through deeds executed in Gwalior gave the local police jurisdiction. The company's Noida office and the assertion that decisions were taken there did not make Noida the exclusive location. Even on that assumption, each police station within whose area part of the offence occurred could investigate it. The ruling determined jurisdiction on the allegations; it did not establish fraud.

Companies Act and IPC / concurrent penal provisions / Section 26 General Clauses Act - The applicant conceded that no Companies Act provision excluded the applicability of the IPC. *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, rejected the contention that the cooperative-societies remedy was exclusive in the absence of a bar. *State (NCT of Delhi) v. Sanjay, (2014) 9 SCC 772*, was quoted for its prima facie view that there was no complete IPC bar in the special-statute setting considered there. *State of Maharashtra v. Sayyad Hassan Sayyad Subhan, Criminal Appeal No. 1195/2018* decided 20.09.2018, explained that another statute's penalties do not by themselves prohibit prosecution under the IPC where its ingredients are satisfied. Applying those principles, the Court rejected the contention that the IPC proceedings for alleged cheating, forgery, breach of trust and conspiracy should be quashed merely because Companies Act offences were also invoked. Section 26 permits the applicable prosecutions but prohibits punishment twice for the same offence. The ruling did not establish guilt.

Companies Act Section 430 / civil-court bar / criminal jurisdiction - Section 430 excludes civil-

court jurisdiction in the specified Tribunal matters. Its express reference to civil courts could not be extended by implication to criminal courts. A jurisdictional bar requires specific language and must be strictly construed. The Court rejected this separate ground for quashing the FIR and sessions proceedings.

Case-note :- ***1. Facts :*** Manoj Shrivastava applied under Section 482 CrPC to quash Crime No. 27/2017 at Police Station Sirol, Gwalior, and the consequent proceedings in S.T. No. 437/2017 before the Ninth Additional Sessions Judge, Gwalior. The FIR cited Sections 420, 467, 409 and 120-B IPC read with Sections 166 and 188-B of the Companies Act, as printed in the judgment. Complainant Rajiv Shrivastava alleged that Assotech C.P. Infrastructure Pvt. Ltd. developed the Windsor Hills residential township in Gwalior and entrusted the applicant with its flats, villas and shops. According to the complaint, the applicant and named co-accused arranged the sale of 36 flats and shops to co-accused at low prices. Those purchasers then resold the properties to bona fide purchasers at higher prices. The consideration was allegedly not deposited in the company's account and was diverted to the bank accounts of the applicant and his family members. These were accusations recorded from the FIR, rather than findings that fraud had been committed. The judgment recorded that some co-accused were shown as absconding in the charge-sheet. It also referred to the rejection of three bail applications and the Supreme Court's dismissal of SLP (Criminal) No. 5987/2018 on 30 July 2018. Those bail orders were not treated as findings of guilt or as an independent test for quashing.

At admission, the applicant argued that the company's registered office was in Noida and its decisions were taken there, so Sirol police lacked territorial jurisdiction. He also argued that prosecution could proceed only under the Companies Act, rather than for the cited IPC offences, referring to Sections 439, 436, 441, 442, 435 and 445. His third contention was that Section 430's exclusion of civil-court jurisdiction impliedly excluded criminal courts as well. The State submitted that the township and sale deeds were in Gwalior and that the Companies Act contained no provision excluding the IPC. The complainant's counsel stated that the applicant had approached the National Company Law Tribunal but had subsequently withdrawn those proceedings.

2. Precedents — Considered : *Sunita Kumari Kashyap v. State of Bihar, (2011) 11 SCC 301*, was quoted on Chapter XIII CrPC, particularly Sections 177–179. Ordinarily, an offence is inquired into and tried by the court within whose local jurisdiction it was committed. Section 178 covers uncertainty about the place of commission, offences committed partly in different areas, continuing offences spanning areas and offences consisting of several acts in different areas. Section 179 also permits inquiry or trial where a legally relevant consequence ensues. The Court applied that territorial reasoning to the alleged Gwalior sales, deeds and diversion connecting the offence with Sirol. The Supreme Court passage concerned the venue of inquiry and trial; the present Court used it to reject the objection to investigation by Sirol police. Even if decisions had been taken at Noida as asserted, that would leave several connected locations rather than exclude Gwalior.

State of M.P. v. Rameshwar, (2009) 11 SCC 424, was quoted for rejecting the contention that the M.P. Cooperative Societies Act constituted an exclusive criminal code when it did not bar general criminal law, particularly when Prevention of Corruption Act charges were involved. *State (NCT of Delhi) v. Sanjay, (2014) 9 SCC 772*, was quoted for its prima facie view that there was no complete and absolute bar to IPC prosecution where the alleged conduct also fell within a special statute and the IPC offences were penal and cognizable. *State of Maharashtra v. Sayyad Hassan Sayyad Subhan, Criminal Appeal No. 1195 of 2018* decided 20 September 2018, was quoted for the principle that penalties under the Food Safety and Standards Act did not by themselves preclude IPC prosecution. The passage also referred to *Hat Singh* on Section 26 and double jeopardy, and to *Sanjay* in the mining-statute context. The Court applied the common principle of non-exclusion to the Companies Act argument, supported by the applicant's concession that the Act contained no provision excluding the IPC. The three reproduced passages did not concern Companies Act decisions. The Court rejected the contention that prosecution could proceed exclusively under the Companies Act. *Hat Singh* appeared within the *Sayyad Hassan* quotation and was not separately analysed in the present order.

3. Statutes considered : Section 482 CrPC was invoked to seek quashing of the FIR and sessions proceedings. The IPC charges identified were under

Sections 420, 467, 409 and 120-B; the Court did not decide the evidentiary merits or whether the individual ingredients of those offences were proved at trial. The judgment recorded Sections 166 and 188-B of the Companies Act as part of the FIR. The applicant relied on Sections 439(1)/(2), 436(1)/(2), 441, 442, 435 and 445 to contend that prosecution could proceed only under that Act, but his counsel conceded that no Companies Act provision excluded the applicability of the IPC. Section 430 expressly excludes civil-court jurisdiction over matters which the Tribunal or Appellate Tribunal is empowered to determine and restrains related injunctions. The Court refused to read 'civil court' as 'criminal court'. Section 26 of the General Clauses Act permits prosecution and punishment under either or any of two or more enactments where the same act or omission constitutes offences under them, but prohibits punishment twice for the same offence. Sections 177–179 CrPC appeared in the court-venue discussion quoted from *Sunita Kumari Kashyap*, which the Court used to support its conclusion on Gwalior's territorial jurisdiction.

4. Issues : First, did the alleged Gwalior transactions give Sirol police territorial jurisdiction despite the company's Noida office and the assertion that decisions were taken there? Second, did the Companies Act provisions invoked by the applicant exclude IPC prosecution for the alleged conduct and justify quashing at this stage? Third, did Section 430's bar of civil-court jurisdiction over Tribunal matters impliedly extend to criminal courts? The Court did not try the truth of the alleged scheme, determine the correct value or ultimate destination of the consideration, decide the liability of the absconding co-accused or adjudicate the withdrawn Tribunal proceeding.

5. Ratio / Findings : On territorial jurisdiction, the Court noted that the Windsor Hills site was in Gwalior and all the impugned sale deeds had been executed there. According to the FIR, the purported first sales at prices far below the scheduled price and the subsequent sales at higher prices were central acts of the alleged scheme; the consideration was allegedly not paid to the company. The alleged conduct therefore had a substantial connection with Sirol/Gwalior. The registered office's location alone did not make Noida the exclusive forum. Even assuming that a relevant decision had been taken at Noida, the Court reasoned that each police station in whose area part of the offence occurred could investigate it. The Court used *Sunita Kumari Kashyap*'s explanation of Sections 177–179 concerning court venue across local areas to support that conclusion and rejected the first objection. This assessment concerned the alleged location of the offence at the quashing stage, rather than a final finding that the transactions were fraudulent.

On the coexistence of penal provisions, the applicant's counsel fairly conceded that the Companies Act did not expressly exclude the applicability of the IPC. Section 26 of the General Clauses Act permits prosecution under overlapping enactments while prohibiting punishment twice for the same offence. *Rameshwar, Sanjay* and *Sayyad Hassan* provided analogical support for the principle that a special statute does not, by itself, exclude otherwise applicable general criminal law in the absence of a bar. The Court therefore rejected the argument that only the penal provisions of the Companies Act could be invoked against the accused, excluding the identified IPC charges. The conclusion allowed the IPC allegations to proceed; it did not permit double punishment or determine that every charge would necessarily be proved.

On Section 430, the Court applied the express exclusion of civil-court jurisdiction. It declined to extend that wording to criminal courts or to treat it as implicitly excluding the applicability of the IPC. If the legislature had intended to exclude criminal jurisdiction, it could have made an express provision. Exclusion of jurisdiction must be specific, is strictly construed and cannot be presumed. The separate argument based on Tribunal and civil-court jurisdiction therefore failed. The withdrawn NCLT proceedings mentioned by counsel were not a merits adjudication displacing that reasoning. No other argument was advanced.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. It refused to quash Crime No. 27/2017 at Police Station Sirol or the proceedings in S.T. No. 437/2017 before the Ninth Additional Sessions Judge, Gwalior. It made no finding of guilt, acquittal or final determination of the evidence, and gave no direction concerning the absconding co-accused or the withdrawn Tribunal proceeding.

Manoj Shrivastava v. State of M.P. and Ors., M.Cr.C. no. 31088/2018, 20/09/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Investigation control / suspected accused / disputed signatures and expert referral - *Romila Thapar v. Union of India, (2018) 10 SCC 753*, was quoted for the principle that an accused cannot select the investigating agency or dictate the manner of investigation or mode of prosecution. Its discussion of *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar* concerned those limits. Its discussion of *Divine Retreat Centre* distinguished agency selection from appropriate intervention to secure a fair process under Article 226 where mala fide exercise of investigative power is established. The High Court applied the principle against accused-controlled investigation to a Section 482 CrPC request for FSL examination of signatures attributed to the applicant on transaction documents during the pending investigation under Sections 420/406 IPC. In its own *Prabal Dongra* decision, the Court had explained that a defence claim of false implication alone neither establishes bias nor entitles an accused to insist that the police investigate from his preferred standpoint. Here, no bias was alleged against the investigating officer. The applicant had not stated whether he was a company director when the duplex agreement was made, and directing the requested expert examination would amount to supervising the investigation. The Court dismissed the application but preserved his opportunity to challenge authenticity if a charge-sheet relies on the signatures and to seek a handwriting-expert reference from the trial court at the appropriate stage. It did not find that the signatures were genuine.

Case-note :- ***1. Facts :*** Manoj Shrivatava applied under Section 482 CrPC for forensic examination of signatures attributed to him on certain documents in Crime No. 08/2020 at Police Station Sirol, Gwalior, concerning alleged offences under Sections 420 and 406 IPC. According to the complaint narrated in the order, Kavita Agarwal booked duplex No. B-5, measuring 1,700 square feet, on 9 November 2013. She paid Rs. 5 lakh in advance and Rs. 40 lakh on 26 December 2013 with bank finance. The remaining Rs. 8 lakh was to be paid on execution of the sale deed. She dealt with project manager Keshav Upadhyay and was promised possession within two years. She complained that possession and execution of the sale deed were delayed despite repeated approaches. She later learned that the duplex had been sold to Jitendra Bhadoriya, who had put a tenant in possession. She alleged that the company had misappropriated Rs. 45 lakh despite having received more than 85 per cent of the price, while she continued to repay the bank. Her husband's dialysis and her transfer to Gwalior were recorded as part of the complaint history, rather than issues adjudicated by the Court. She sought registration of an FIR against Upadhyay and the applicant, whom the complaint described as a partner in the company. None of those allegations was found proved in this interlocutory order.

The applicant stated that he had neither met nor negotiated with the complainant and had received none of her payment. He said that other persons were the company's signatories and that he was only a former director. According to his account, he was summoned by the police on 28 August 2020 through a notice under Section 91 CrPC. He was shown an allotment letter and a tripartite agreement and asked whether the signatures were his. He denied the signatures, alleged forgery and sought examination by the FSL or a competent authority. The Court noted that he had not disclosed whether he was a director on 9 November 2013, the agreement date. The earlier anticipatory-bail order in MCRC No. 19795/2020 had directed extreme police steps only when necessary and if he failed to cooperate. The direction recorded in this judgment concerned extreme police steps. At the hearing, the Court asked counsel to address whether a suspected accused had any right to control a particular investigative step. The State opposed judicial supervision while the investigation remained pending.

2. Precedents — Considered : The Court directly quoted paragraphs 24–27 of *Romila Thapar v. Union of India, (2018) 10 SCC 753*. That passage reproduced *Narmada Bai v. State of Gujarat on the* rule that an accused cannot choose the investigating agency, and *Sanjiv Rajendra Bhatt v. Union of India on the absence of* an accused's right to dictate the manner of investigation or mode of prosecution. Several further cases were named in the latter quotation but were not independently examined here. *E. Sivakumar v. Union of India concerned the* absence of an accused's entitlement to a hearing as a matter of course when a CBI investigation was ordered in that case. The discussion of *Divine Retreat Centre v. State of Kerala* cautioned against using inherent jurisdiction as a general means of replacing the investigator and stated that neither an accused nor an informant may choose the agency. It also recognised appropriate directions under Article

226 at an aggrieved person's instance if the investigating officer acts mala fide. The High Court used the combined limits in *Romila Thapar* to assess the requested handwriting examination; it did not hold that courts could never correct demonstrably mala fide investigation. The nested cases supplied the content of the *Romila* quotation. The present judgment neither separately decided their distinct factual disputes nor appointed an investigating agency.

The Court also quoted *its own Prabal Dongra v. Superintendent of Police, Gwalior and State of M.P.*, MCRC No. 10446/2017, order dated 30 November 2017. That decision distinguished a fair investigation from one directed towards the accused's preferred defence. It required concrete allegations of bias, mala fides or extraneous influence before directing investigative conduct and refused supervision under Section 482 merely because an accused claimed false implication and sought investigation from a particular viewpoint. A further passage quoted from *Prabal Dongra* concerned that case's FIR, an officer who had not been joined, a medical report and questions for trial. Those were features of the earlier case, rather than events in Shrivatava's duplex matter. The present Court applied the narrower point that no bias had even been alleged against this investigating officer and that authenticity could be disputed later. *Prabal Dongra*'s emphatic formulation concerning proof of taint was reproduced. The present decision rests on the absence of a bias allegation and does not determine the standard for every future petition seeking a fair investigation.

3. Statutes considered : The applicant invoked the inherent jurisdiction under Section 482 CrPC. He sought a direction during the pending investigation into offences under Sections 420 and 406 IPC, rather than an evidentiary ruling after charges. Section 91 CrPC appeared in his account of being shown the company documents and denying the signatures. The *Romila* quotation discussed inherent jurisdiction and Article 226 as distinct settings. It recognised appropriate constitutional intervention for mala fide investigation but did not convert the present Section 482 application into an Article 226 writ petition. The Court preserved the applicant's opportunity to challenge authenticity and apply to the trial court if the prosecution relies on the alleged signatures after filing a charge-sheet.

4. Issues : Does a person suspected in an ongoing IPC investigation, who denies that certain transaction documents bear his signatures, have a right to a direction under Section 482 requiring the police to send them to a handwriting expert while the investigation is pending? In support of that request, had he identified bias or mala fides on the investigating officer's part that would justify interference with investigative discretion? The Court did not decide whether he had signed the documents, whether the complainant's allegations established cheating or breach of trust, or whether a future trial-court application for expert examination should ultimately be granted.

5. Ratio / Findings : The Court treated the applicant as a suspected accused seeking a particular investigative technique for his defence. The Court noted his admission that he was a former director, but he had not stated whether he held that position on 9 November 2013. The disputed signatures were part of his defence; forgery had not been established on the present record. *Romila Thapar* supplied the principle that an accused cannot dictate the agency or manner of investigation. *Prabal Dongra* applied a corresponding limit to requests that the police investigate from the accused's preferred viewpoint. Although the cited material recognises exceptional correction of proved mala fide exercise of investigative power, the applicant alleged no bias against this investigating officer. The Court considered that directing immediate FSL examination would amount to supervising the pending investigation and refused that particular direction. It neither found the questioned signatures genuine nor barred later forensic examination. If a charge-sheet alleges that the allotment letter and tripartite agreement bear his signatures, he may challenge their authenticity in his defence and apply to the trial court for a handwriting-expert reference at the appropriate stage. The judgment also recorded the earlier anticipatory-bail direction concerning extreme police steps. Its comments on counsel seeking an unnecessary adjournment were incidental observations on case management, rather than a separate legal issue decided in the application.

6. Relief : The Hon’ble High Court dismissed the application under Section 482 CrPC. It did not direct the police to send the documents to the FSL or prescribe the next investigative step. The applicant's opportunity to challenge the alleged signatures and seek expert examination before the trial court, if a

prosecution case relying on them is filed, was expressly preserved. The trial court's decision was not predetermined.

Manoj Shrivatava v. State of M.P., M.Cr.C. no. 18636/2021, 16/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Limitation / private complaint / CrPC Section 468 - The complaint alleged IPC Sections 420 and 468 (each carrying up to seven years) and Section 467 (carrying up to life imprisonment). Section 468 CrPC prescribes no limitation period for an offence punishable beyond three years; the Court rejected a statutory time-bar to the 2013 complaint concerning the 2002–03 transactions. This ruling is separate from the complaint's delay as a matter of credibility.

Delay / quashing / disputed facts - *Skoda Auto Volkswagen (India) Pvt. Ltd. v. State of U.P., (2021) 5 SCC 95*, was applied for restraint against testing disputed allegations at the initial stage or quashing proceedings merely because an FIR or complaint was delayed. *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, explained that the law fixes no time for lodging an FIR. Prompt reporting assists investigation and reduces the opportunity for fabrication, but does not guarantee truth; genuine causes may explain delay. *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, likewise held that delay alone was insufficient to quash an FIR. Applying those principles to the private complaint, the Court refused to terminate the proceedings solely because it had been filed belatedly, without deciding the credibility of the evidence.

Cheating / two registered conveyances of same flat - The applicant's registered deed of 2002 conveyed first-floor Flat No. 10. His deed of 2003 purported to sell the same described unit to the complainant after he had lost title to it. He claimed that the first deed mistakenly described a ground-floor flat as a first-floor flat, but no registered correction had been made. The Court found a prima facie case of cheating under Sections 415/420 IPC on the second sale. The question of bank-loan default and subsequent eviction was independent of the issue concerning the deed.

Forgery / specific declarations in later deed - *Mohammed Ibrahim v. State of Bihar, (2009) 8 SCC 751*, was relied on by the applicant for the proposition that lack of title alone does not make a deed forged. In response, the Court relied on the second deed's affirmative declarations that the seller had authority to sell and that the identified flat had never been sold or otherwise encumbered, despite the earlier registered deed. It found the allegations under Sections 467/468 IPC sufficient to proceed. This was the Court's particular prima facie treatment of the facts, rather than a general rule addressing every element of forgery.

Co-accused acquittal / applicant absent from their trial - The acquittal of two co-accused while the applicant was absconding did not require discharge or quashing of the proceedings against him. No basis was shown for treating evidence taken in his absence as binding in his case. The Court did not review the reasons for the co-accused's acquittals and left the applicant to face his own trial on the prima facie allegations. The Section 482 application was dismissed.

Case-note :- ***1. Facts :*** Manoj Shukla, one of the builders of residential premises under the Indira Awas Yojana in Bara, Rewa, applied under Section 482 CrPC to quash the private complaint, its registration order dated 17 October 2013 and S.T. No. 128/2019 pending before the Eleventh Additional Sessions Judge, Rewa. A registered deed dated 1 June 2002 conveyed first-floor Flat No. 10 to Ramesh Singh Kalchuri. On 7 February 2003, the applicant and co-accused executed a deed in favour of respondent complainant Pratibha Mishra for the same described first-floor Flat No. 10. The later deed declared that the seller had authority to sell, that the flat had not previously been sold, otherwise transferred or encumbered, and that it was free from encumbrances. The complainant said that she was given possession, but Kalchuri later asserted his earlier registered purchase and demanded that she vacate. She obtained a certified copy of the 2002 deed.

The complaint further alleged that, under an initial financing arrangement, she paid instalments to Shukla. He arranged for her to sign blank bank forms and told her that an account would be opened. She continued paying him. False financing papers were allegedly created in connivance with a bank manager. She disputed taking the bank loan, yet the bank later had the flat vacated over loan repayment. Those financing allegations remained unproved in this order. She said that her police complaints had produced no action and filed a complaint under

Section 200 CrPC on 4 June 2013 alleging offences under Sections 420, 467 and 468 IPC. The applicant contended that the complaint was time-barred or unjustifiably late, that no offence was made out and the allegations were false, and that the 2002 deed mistakenly described a first-floor flat when he had actually sold a ground-floor flat. He also sought the benefit of the acquittal of two co-accused on 7 February 2022. He conceded that no registered instrument had corrected the first-floor description in the 2002 deed. He had absconded while the co-accused were tried. The High Court considered these contentions at admission, without conducting his trial.

2. Precedents — Considered : *Skoda Auto Volkswagen (India) Pvt. Ltd. v. State of U.P., (2021) 5 SCC 95*, was cited by the Court for the rule that disputed factual reliability or correctness cannot be determined at the initial quashing stage, and that delay in lodging an FIR or complaint cannot by itself defeat criminal proceedings. The Court used it to reject the applicant's belated-filing ground, rather than determine how long the complainant had known about the prior deed. *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, was invoked for its qualified explanation of FIR delay. There is no fixed statutory time for lodging an FIR; prompt reporting assists timely investigation and reduces the opportunity for concoction. A prompt FIR, however, is not an unreserved guarantee of genuineness, and genuine causes may explain delay. The Court applied that caution to the challenge to this private complaint; it did not find any particular explanation proved. *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, was cited for the principle that delay in FIR registration alone is insufficient for quashing. These authorities address related questions. The Court's account of *Ravinder Kumar* retains the qualifications concerning both promptness and delay; these authorities do not decide the separate statutory limitation issue.

Mohammed Ibrahim v. State of Bihar, (2009) 8 SCC 751, was expressly relied on by the applicant to argue that execution of a sale deed by a person without ownership does not, by itself, amount to forgery. The Court recorded that submission and responded by referring to the later deed's declarations of authority, no previous sale and freedom from encumbrances, together with the earlier registered deed for the same described first-floor flat. The forgery conclusion was the High Court's prima facie application to the stated facts. The Court did not comment on the reasons for the co-accused's acquittals.

3. Statutes considered : Section 482 CrPC was invoked to quash the complaint, its registration and the pending trial. Section 200 CrPC provided the private-complaint procedure after the alleged police inaction. Section 468 CrPC prescribes limitation periods according to the maximum punishment; on the Court's reading, it prescribes none for offences punishable beyond three years. Section 420 IPC carries a maximum sentence of seven years, Section 467 may extend to life imprisonment, and Section 468 IPC may extend to seven years. Although both bear the number 468, the CrPC provision concerns limitation and the IPC provision concerns the alleged forgery offence; they are distinct provisions. The Court referred to cheating as defined in Section 415 IPC and punishable under Section 420, and found a prima facie case on the alleged second sale. It also held that the later deed's particular declarations could bring the conduct within Sections 467 and 468 IPC at the prima facie stage. The applicant mentioned Section 471 IPC in his submission summarising *Mohammed Ibrahim*, but the complaint and disposition concerned Sections 420, 467 and 468.

4. Issues : Was the Section 200 complaint barred by limitation under Section 468 CrPC, given the maximum punishments for the charged IPC offences? Separately, did the delay before the complaint, by itself, require quashing? Did the two registered deeds for the same described first-floor flat make out a prima facie case of cheating despite the asserted description error and the separate bank-loan dispute? Did the later deed's express ownership and no-prior-transfer declarations permit the forgery allegations to proceed notwithstanding the applicant's reliance on *Mohammed Ibrahim*? Finally, did the co-accused's acquittals in a trial held while the applicant was absconding automatically dispose of his prosecution? The Court did not determine ultimate title, whether the 2002 deed described the wrong physical flat, the genuineness of the bank papers, the applicant's guilt or the correctness of the co-accused's acquittals.

5. Ratio / Findings : On limitation, the Court compared the maximum punishment for each charged offence with Section 468 CrPC's three-year threshold. Sections 420 and 468 IPC each carried up to seven years, while Section 467 carried up to life imprisonment. No statutory limitation period under that provision therefore barred the complaint. On the

separate contention of delay, the Court applied *Skoda Auto Volkswagen* to avoid a factual inquiry at the threshold and the principles in *Ravinder Kumar* and *Mohammad Wajid* that delay alone does not invalidate or extinguish a criminal accusation. It did not determine credibility merely from elapsed time. The statutory limitation and belated-filing objections were rejected for distinct reasons.

On cheating, the Court treated the first registered deed as conveying first-floor Flat No. 10 and the later deed as purporting to convey that same identified flat after the applicant had lost title to it. The Court found the second sale sufficient at this stage for cheating within Section 415 IPC and the alleged Section 420 charge. The claimed ground-floor error did not displace the registered description, particularly in the absence of a registered correction instrument. Even if the bank later evicted the complainant for loan default, that independent transaction did not answer the alleged earlier double sale. These were prima facie reasons for allowing the trial to proceed, rather than a conviction or a finding that all the payment allegations were true.

On forgery, the Court addressed the applicant's narrower contention that lack of ownership alone did not establish offences under Sections 467/468 IPC. It referred to clauses 7 and 11 of the later deed, which contained a claim of complete authority to sell and a declaration that the flat had never been sold, mortgaged, gifted, willed, transferred or otherwise encumbered. Read with the earlier registered sale of the same described flat, the Court said that those affirmative declarations brought the case within Sections 467 and 468. It therefore rejected absence of an offence as a ground for quashing. The ruling was confined to its stated facts and did not establish that every sale without title amounted to forgery.

As to the co-accused, the Court asked for a legal basis on which a judgment and evidence from a trial conducted in the applicant's absence could be used to discharge him. None was identified. The acquittal of the other two accused in 2022 did not automatically benefit him, and the Court declined to comment on the reasons for those acquittals. It found that the distinct prima facie allegations against Shukla warranted his own trial. Beyond that refusal, the Court did not lay down a general evidentiary rule governing every trial of an absent accused or the use or proof of evidence recorded in an earlier trial.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The private complaint, registration order and S.T. No. 128/2019 were not quashed, and the applicant was left to face the pending prosecution. The Court made no finding of guilt, did not disturb the two co-accused's acquittals and did not decide the independent bank dispute.

Manoj Shukla v. Pratibha Mishra and Ors., M.Cr.C. no. 17913/2024, 08/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder / Section 300 thirdly / homicidal injury - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was considered for the objective proof of a bodily injury and its nature, the intention to inflict the injury found, and the injury's objective sufficiency in the ordinary course of nature to cause death. An intention to cause death itself is unnecessary under that clause once its distinct elements are established. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079/2005, explained the progression from Section 299 to Section 300, its exceptions and Section 304 Parts I/II. The Court accepted that the death was homicidal and resulted from gunshot injuries traversing the lungs. It credited the eyewitness account of Umesh's shot during the group assault and affirmed his Section 302 conviction and the other surviving appellants' Section 302/149 convictions. The judgment also recited *Anda*, *Mahesh Balmiki*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *Kanhaiyalal* and *Bavisetti Kameswara Rao* on intention, weapons, injury and the absence of a mechanical single-blow rule, and *Dhirajbhai Nayak* on Exception 4. It made no distinct single-blow or sudden-fight finding on these facts.

Unlawful assembly / common object / Section 149 IPC - *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, requires membership of an unlawful assembly and a shared unlawful object; mere presence does not establish guilt. A common object may form or change during events, and members may differ in their objects or knowledge. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, requires an express finding of the unlawful object supported by evidence. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, addressed the assembly and rioting ingredients implicit in Section 149 charges. On the substantive common-object issue, the Court found that five armed accused jointly seized, removed and attacked Raghvendra, with Umesh firing the fatal shot. These

findings supported murder liability based on the common object and the Section 148 convictions. Bal Singh's appeal alone abated following his death.

Related eyewitnesses / careful scrutiny / quality of proof - *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, including its discussion of *Darya Singh* and *Raghubir Singh*, rejects the automatic exclusion of related witnesses but requires careful assessment of their presence, the probabilities and any infirmities. Independent corroboration is not mandatory in every case, and the probative quality of the evidence prevails over the number of witnesses. The Court accepted Rahul (PW5) and Vimlesh Devi (PW7) after cross-examination. It regarded their core account as medically supported despite their family relationship, minor omissions and five other witnesses turning hostile.

Hostile witnesses / remaining credible evidence - PW1, PW2, PW3, PW4 and PW6 did not support the case. Their hostility did not nullify PW5/PW7's credited account and the postmortem support; the Court relied on quality rather than a fixed number of eyewitnesses, without extracting an affirmative fact from the hostile depositions.

FIR delay / explanation and embellishment risk - *State of H.P. v. Gian Chand, AIR 2001 SC 2075*, and *Tara Chand v. State of Punjab, AIR 1991 SC 63*, require inquiry into the explanation for delay and the possibility of embellishment. Unexplained prejudicial delay may matter, but delay is not a ritual formula for rejection. The Court accepted that the witnesses went in fear to Raja Saheb at Machhand and reported the incident after the deceased's father returned. This explained the delay of approximately three hours. Both appeals were dismissed and the surviving convictions and sentences affirmed; no separate Section 307 conviction was recorded in the operative order.

Case-note :- ***1. Facts :*** These connected appeals challenged the judgment of 22 December 2009 in Sessions Trial No. 155/2007, Bhind. Criminal Appeal No. 99/2010 was filed by Umesh Singh, who was convicted under IPC Section 302 and sentenced to life imprisonment and a Rs. 5,000 fine, and under Section 148 and sentenced to one year's rigorous imprisonment and a Rs. 1,000 fine, with default stipulations. Criminal Appeal No. 37/2010 was filed by Manoj Singh and three others. They were convicted under Section 302/149 and sentenced to life imprisonment and a Rs. 5,000 fine each, and under Section 148 and sentenced to one year's rigorous imprisonment and a Rs. 1,000 fine each, likewise with default stipulations. Bal Singh, appellant 4 in the latter appeal, died on 24 April 2021; his appeal abated. The Court decided the surviving appellants' appeals together.

The prosecution said that at about 8:30 a.m. on 17 November 2006, Umesh, Manoj, Upendra Singh, Bal Singh and Yashpal alias Kallu came to Rahul Singh's house in village Ahroli, Bhind. Umesh had a gun, Manoj and Upendra Singh had lathis, and Bal Singh and Yashpal alias Kallu had axes. They seized Rahul's approximately 17-year-old brother Raghvendra, moved him towards Suresh Singh's field, threatened Rahul and assaulted Raghvendra. Umesh allegedly fired at Rahul without striking him and later shot Raghvendra; the other members allegedly struck Raghvendra with weapons, kicks or fists. Rahul (PW5) and their mother Vimlesh Devi (PW7) were the principal eyewitnesses. Inspector L.P. Chanderiya recorded a Dehati Nalishi at the spot, followed by an FIR. The investigation included a postmortem, spot maps, the seizure of soil and clothing, weapon seizures and statements. The charge-sheet listed IPC Sections 302, 307, 147, 148, 149 and 201 and Arms Act Sections 25/27. The trial court framed charges under Section 148, Section 302 or alternatively Section 302/149, and Section 307 or alternatively Section 307/149 against Umesh, and under Sections 148, 302/149 and 307/149 against the others. The appellate judgment's stated convictions and final affirmance concern Sections 302 or 302/149 and 148; it does not record a separate Section 307 conviction.

The defence denied involvement, called Balwan Singh (DW1), asserted that unknown assailants had committed the offence, and challenged the reliability of the related witnesses and the medical corroboration. It argued that the interval of roughly two-and-a-half to three hours before the FIR allowed fabrication. Five prosecution witnesses did not support the case. The State relied on the two material eyewitnesses and the postmortem evidence.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was directly quoted on Section 300 Thirdly. The prosecution must first establish, objectively, the presence and nature of the bodily injury. It must then prove an intention to inflict that particular injury, rather than an accidental injury or a different intended injury. The final inquiry is objective: whether the injury was sufficient in the ordinary course of nature to cause death. The

prosecution bears the burden throughout. An intention to kill or knowledge of likely death is not an additional requirement of that clause. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079 of 2005, was quoted on the progression from culpable homicide under Section 299 to the clauses and exceptions of Section 300. It also distinguished Section 304 Part I, based on intention, from Part II, based on knowledge alone, when murder is not made out. These authorities framed the Court's legal discussion of homicidal death and murder. The Court found that the accused murdered the deceased in furtherance of their common object.

Anda v. State of Rajasthan, 1966 Cri LJ 171, explained the significance under Section 300 Thirdly of an intentionally inflicted injury sufficient in the ordinary course of nature to cause death. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, rejected the automatic exclusion of murder merely because there was one blow, emphasising the weapon, bodily site, force, manner and circumstances. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, provided a nonexhaustive list of circumstances indicating intention. It warned against both unjustified conversion from Section 302 to Section 304 and unjustified classification of an offence as murder. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, inferred intention from a forceful crowbar strike to the skull. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, discussed the single-blow point through other decisions. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, rejected mechanical classification based on the number of injuries and reproduced *Virsa Singh*'s distinction between the intention to inflict the actual injury and its objective seriousness. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, was quoted on the cumulative requirements of Section 300 Exception 4: no premeditation, a sudden mutual fight in the heat of passion, no undue advantage or cruel or unusual conduct, and combat with the person killed. These authorities appear in the Court's legal exposition; it did not find a single-blow episode or apply a sudden-fight exception to reduce the convictions. Decisions mentioned within *Kanhaiyalal* or *Bavisetti* were not independently applied to this fact pattern.

Hari Singh v. Sukhbir Singh, (1988) 4 SCC 551, was invoked in the discussion of IPC Section 307. It requires the intention or knowledge necessary for murder to be inferred from all the circumstances, rather than the resulting wounds alone. The judgment extensively recited Section 307 doctrine and some non-Supreme Court illustrations, but its final reasoning and operative disposition did not separately decide a Section 307 conviction.

Dani Singh v. State of Bihar, (2004) 13 SCC 203, explained the requirement of an assembly of at least five persons with a shared unlawful object. Liability does not arise from mere presence, nor is proof of an individual overt act invariably required. The common object may form or be modified during events, and members may share it to different extents. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, explained that the underlying assembly and rioting ingredients are implicit in Section 149 charges, so a separate Section 147 charge need not invariably be framed. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, required a clear finding identifying the unlawful common object and supporting evidence. The Court used *Dani Singh* and *Kuldip Yadav* on the substantive common-object issue after finding a coordinated armed seizure, removal and attack; it did not treat mere proximity to Umesh as sufficient. *Mahadev Sharma*'s separate point about charges was recited without a specific dispute about defective charges requiring its application.

Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418, was quoted on the careful scrutiny of related or interested witnesses. Its discussion included *Darya Singh*'s inquiry into presence, probabilities and infirmities, and the principle that the quality of evidence matters more than the number of witnesses, including the discussion of *Raghubir Singh* within that decision. The Court applied it to Rahul and Vimlesh, accepting their core testimony despite their relationship and other witnesses turning hostile. *State of H.P. v. Gian Chand, AIR 2001 SC 2075*, and *Tara Chand v. State of Punjab, AIR 1991 SC 63*, were directly invoked together. Delay in lodging the FIR calls for inquiry into the explanation and the risk of embellishment. A satisfactory explanation prevents delay alone from defeating the case, but unexplained delay with a real risk of fabrication may be fatal. The Court found the explanation satisfactory in this case: fear, the intervening visit to Raja Saheb, and reporting after the father returned.

3. Statutes considered : IPC Sections 299 and 300 supplied the definitions of culpable homicide and murder. Section 300 Thirdly was extensively

discussed, including the distinction between the intention to inflict the injury and its objective sufficiency to cause death in the ordinary course of nature. Section 302 was the murder punishment provision. Section 304 Parts I/II and Section 300 Exception 4 appeared in the legal discussion as possible different classifications, but the convictions were not converted and no sudden-fight defence was accepted. IPC Sections 141 and 149 required an unlawful assembly of at least five persons and a shared object or the requisite knowledge of a likely offence; Section 148 punished armed rioting. The Court affirmed Umesh's conviction directly under Section 302, the other surviving appellants' convictions under Section 302/149, and each appellant's conviction under Section 148. Section 307's attempt-to-murder elements were discussed at length because charges had been framed, but the judgment does not identify an appellate conviction under it or a separate operative disposition. The charge-sheet also cited IPC Sections 147 and 201 and Arms Act Sections 25/27, without recorded affirmed convictions under those provisions. CrPC Section 313 was used for the accused's statements; Evidence Act Section 27 appeared in the account of recovery memoranda.

4. Issues : Was Raghvendra's death homicidal, and did the accepted evidence sustain the murder convictions, including the legal significance under Sections 299–300 of intentionally inflicted fatal injuries? Did the prosecution prove a five-person unlawful assembly and a common object to commit murder, making the non-shooters constructively liable under Section 149 and sustaining the rioting convictions? Could Rahul and Vimlesh be relied on despite their relationship, contradictions, five other witnesses' hostility and the asserted gaps in medical corroboration? Did the interval before the FIR reasonably permit an inference of concoction, or was it satisfactorily explained? Although the introductory question and legal survey mention Section 307, the Court did not decide a distinct surviving Section 307 conviction in its operative analysis. The Court did not make a separate conversion to Section 304, find Exception 4 applicable, or resolve each quoted single-blow illustration as an issue in this multi-assailant case.

5. Ratio / Findings : PW8 Dr. Dinesh Kumar Gupta recorded an incised neck wound, neck and chest abrasions, a gunshot entry and exit through the right hand, and another entry through the right arm passing through the lungs, with a bullet recovered from the left chest. He attributed death to syncope associated with lung injuries and bleeding, and described the death as homicidal. *Virsa Singh*'s four-step principle under Section 300 Thirdly and *Arun Nivalaji More*'s framework for murder and culpable homicide informed the legal exposition. The Court did not convert the affirmed murder convictions on the basis of the single-blow or sudden-fight precedents it recited.

The Court credited Rahul (PW5) and his mother Vimlesh (PW7) after cross-examination as witnesses to the group's arrival, the taking of Raghvendra to the field and the deadly attack. Rahul identified Umesh with the gun, Manoj and Upendra with lathis, and Bal and Yashpal/Kallu with axes. He described Umesh firing towards him and the fatal assault, and denied the defence account that unknown persons had committed the offence. Vimlesh supported the essential narrative. Under *Harbeer Singh*, the family relationship required careful scrutiny but did not itself disqualify the witnesses. The Court treated some omissions and contradictions as nonfatal and found the core oral account supported by the postmortem and surrounding circumstances. Five other witnesses—PW1, PW2, PW3, PW4 and PW6—turned hostile. The Court assessed the quality of the two accepted eyewitnesses rather than counting witnesses, and did not rely on a specific inculpatory portion of the hostile evidence. The investigating officer admitted that he had not recorded a Rojnamcha Sanha after receiving information by mobile telephone. He said that he immediately reached the spot with police.

For Section 149, the Court stated that there must be at least five members and a shared unlawful object. That object must be discerned from the time and place of the gathering, the weapons and the collective conduct, rather than isolated individual acts. It found that five armed participants arrived together, seized Raghvendra, carried him to the field and attacked him, with Umesh using the gun. The Court applied *Dani Singh* and *Kuldip Yadav* to that sequence. It recited *Mahadev Sharma*'s separate point about charges without making a distinct ruling on defective charges. It concluded that the murderous act was committed in furtherance of their common object. Umesh's direct conviction under Section 302, the others' Section 302/149 convictions and their Section 148 convictions were sustained. Bal Singh's death terminated only his appeal.

On the timing of the FIR, the incident was placed at around 8:30 a.m. and the FIR at about 11:30 a.m. Rahul and Vimlesh described their fear, their search for safety at Raja Saheb's house at Machhand, and their wait for the deceased's father before reporting. Under *Gian Chand* and *Tara Chand*, the delay required scrutiny of the explanation and possible embellishment, rather than automatic rejection. The Court accepted that sequence as explaining about three hours and declined to infer fabrication fatal to the prosecution. It found no failure of justice warranting appellate interference and approved the trial court's convictions and sentences. These findings rest on the particular evidence and do not make kinship, hostility of other witnesses or every reporting interval irrelevant as a general rule.

6. Relief : The Hon'ble High Court dismissed Bal Singh's criminal appeal as abated because he had died. The criminal appeals otherwise failed; the convictions and sentences of 22 December 2009 in Sessions Trial No. 155/2007 were affirmed for the surviving appellants. Appellants on bail were directed to surrender immediately to serve their remaining sentences; those in jail were to be informed through the Jail Superintendent, and the records were to be returned to the trial court. The order did not announce a fresh Section 307 conviction or reduce the murder charges to culpable homicide not amounting to murder.

Manoj Singh and Ors. v. State of Madhya Pradesh, Cr.A. no. 37/2010 & 99/2010, 10/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Cross-examination / defective trial order-sheet / exclusion of untested evidence - Hariom (PW10) gave eyewitness and seizure-related evidence, but the court adjourned for the day before defence cross-examination, which was deferred. Although the order sheet described him as examined and cross-examined, the record showed the accused had no opportunity to question him. The appellate Court excluded PW10's testimony against the appellant and assessed the remaining evidence; the erroneous notation could not replace actual cross-examination. Exclusion did not itself negate proof supplied by other witnesses.

Medical evidence / alternative mechanism without foundation - The first doctor accepted as a general possibility that broken bottle glass could cause such injuries, but no circumstance suggested that Neera had fallen on glass. Her MLC, X-ray and surgeon's evidence established multiple sharp injuries, abdominal penetration with exposed viscera, and amputation of her left little finger; the surgeon considered the abdominal wound dangerous to life. The Court found multiple stab wounds proved and accepted medical corroboration of the admissible eyewitness account, without treating an unsupported hypothetical as reasonable doubt.

Attempt to murder / intention from knife attack - Injured Neera (PW3), her mother (PW1), and cross-examined eyewitnesses PW12/PW13 were credited; witnesses who arrived later and those giving hearsay evidence were not substituted for direct proof. The immediate Dehati Nalishi, medical findings and blood-positive recovered knife reinforced the attack account. Multiple knife blows to neck and abdomen with dangerous penetration, other wounds and finger amputation supported an inference of intention to kill under IPC Section 307. The Court affirmed conviction notwithstanding the untested PW10 testimony, open-place knife recovery and omissions concerning prior marital conduct; it did not hold that serious injury alone always proves an intention to cause death.

Sentence / proportionality / victim harm - *Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77*, explained sentencing by the offence's nature and manner, social and victim impact, proportionality, deterrence and opportunities for reform where appropriate, citing *Jameel*, *Shailesh Jasvantbhai*, *State of M.P. v. Babulal and Gopal Singh* within its passage. *Raj Bala v. State of Haryana, (2016) 1 SCC 463*, required a rational and proportionate exercise of discretion, citing further adequacy-of-sentence cases. Applying those principles to a separated husband bringing a knife and repeatedly attacking his wife on vital parts, with finger loss, the Court refused to reduce the sentence of ten years' rigorous imprisonment and affirmed the Rs. 10,000 fine. The rape victim in *Shyam Narain*'s quotation was part of that authority, not this case.

Case-note :- ***1. Facts :*** Manoj appealed under Section 374 CrPC from the Sessions Judge, Ashok Nagar's 8 October 2015 conviction under IPC Section 307 in S.T. No. 15/2014, imposing ten years' rigorous imprisonment, a Rs. 10,000 fine and default imprisonment. Injured Neera was his wife, worked as an Anganwadi worker and lived with her mother

Kaushalya amid marital disputes and court cases. According to the prosecution, at about 2:45 p.m. on 8 November 2013, Manoj approached Neera and Kaushalya near the Anusuchit Jati Girls Hostel with a knife and repeatedly attacked Neera. She sustained a penetrating abdominal injury, cuts to her neck, arm and subcostal area, and amputation of her left little finger. On hearing her cries, witnesses arrived; the appellant fled on seeing them. Kaushalya conveyed information in a Dehati Nalishi at the government hospital about 3:20 p.m.; the FIR followed. Medical examination, surgery and X-ray documented the wounds. Police prepared a map, seized soil and clothing, arrested Manoj that evening, recorded a disclosure and seized a blood-stained knife from an open place accessible to the public; the FSL reported blood on it. The charge-sheet cited IPC Sections 307 and 326, but the framed charge and conviction were under Section 307. Manoj denied guilt and testified as DW1.

On appeal he challenged witness reliability and called the ten-year term excessive. The State relied on prompt reporting, several injuries including vital areas and finger loss. The Court examined the injured witness, her mother, medical witnesses, other claimed eyewitnesses and the procedural status of one witness whose cross-examination had not occurred. No acquittal or sentence reduction was granted. The precise default-imprisonment duration was not set out in the appellate judgment.

Shyam Narain v. State (NCT of Delhi), (2013) 7 SCC 77, was quoted at length for the social goal of punishment and a proportionate response to the gravity and manner of the offence and its impact on the victim and society, with deterrence and reform assessed in context. Its internal quotations of *Jameel v. State of U.P.*, *Shailesh Jasvantbhai v. State of Gujarat*, *State of M.P. v. Babulal* and *Gopal Singh v. State of Uttarakhand* illustrated a proper sentence, adjustment to the facts, the aims of punishment and reasoned judicial discretion. The quoted case itself concerned a serious sexual offence against a child; the present Court took general sentencing principles, without treating the facts of that offence as analogous, and applied them to an attempted murder of a wife. *Raj Bala v. State of Haryana, (2016) 1 SCC 463*, was quoted for adequate, just and proportionate punishment according to gravity, manner, victim impact and rational rather than capricious discretion. Its nested references to *State of M.P. v. Bablu*, *State of M.P. v. Surendra Singh* and *State of Punjab v. Bawa Singh* were not independently analysed in this case. Both directly quoted authorities supported the Court's refusal to reduce the ten-year term after assessing the weapon, repeated attack, vital parts of the body and lasting injury; neither required a fixed sentence in every Section 307 case.

2. Statutes considered : CrPC Section 374 provided the basis for the appeal against the conviction and sentence. IPC Section 307 was the sole framed charge and affirmed conviction, despite the charge-sheet's Section 326 reference. The Court inferred an intention to cause death from the proved repeated stab/cut injuries to vital regions and circumstances; it did not separately convict under Section 326 or apply a presumption that any serious wound satisfies Section 307. Evidence Act Section 27 appeared in the account of Manoj's disclosure leading to knife seizure; the Court noted open public access and the FSL finding of blood on the knife and recorded the discovery circumstances. CrPC Section 161 arose from omissions about past marital conduct in Neera's police statement; it accepted her explanation that police had not asked about that history and found no material contradiction about the assault itself. For PW10, the Court excluded his testimony because he was never made available for defence cross-examination.

3. Issues : Could the appellant's Section 307 conviction survive when one apparent eyewitness, PW10, had never been cross-examined despite a contrary completion notation in the order sheet? Once his testimony was excluded, did the injured woman's account, admissible eyewitnesses and doctors prove the knife attack and the intention to cause death beyond reasonable doubt, in the face of a hypothetical broken-glass explanation, incidental omissions and seizure of the knife from an open place? Was ten years' rigorous imprisonment with a fine disproportionate to this particular attack? The Court did not decide a Section 326 conviction, a separate evidentiary rule on public-place recovery, or an alternative post-conviction relief.

4. Ratio / Findings : Dr. Santosh Raghuvanshi (PW7) recorded a deep stab wound to the left lumbar region with viscera protruding, further sharp cuts near the ribs, left arm and neck, and an amputated left little finger. Radiologist Dr. S.S. Chhari (PW2) corroborated the finger loss by X-ray; treating surgeon Dr. Pradeep Kayal (PW6) repaired the viscera and considered the abdominal injury dangerous to life. The initial doctor admitted that a

fall onto broken glass might generally cause injuries, but no evidence suggested Neera had fallen in that way. The Court therefore found her multiple stab wounds proved beyond reasonable doubt. It distinguished a general medical possibility from an alternative explanation supported by the evidence. The Court excluded the untested PW10 testimony because the defence had no opportunity to cross-examine the witness. Its inference of intent under Section 307 depended on the evidence it identified.

Kaushalya (PW1) described the attack and immediate hospital reporting. Neera (PW3) directly identified her husband; the trial court had seen her missing finger and scars. She explained omissions in her Section 161 account about the appellant's earlier conduct by saying police did not ask those questions; the defence made no specific challenge to her account of the assault beyond a general suggestion, which she denied. Vikas (PW12) and Virendra (PW13), each cross-examined, supported the actual attack. Yogesh (PW4) reached after the assault and saw the appellant flee; Vishnu (PW5) and Rajesh (PW9) were hearsay for the assault. The Court did not elevate these latter persons into eyewitnesses. Hariom (PW10) gave apparently direct evidence of the assault and evidence concerning the recovery, but proceedings stopped at the end of court hours before the defence cross-examined him. The order sheet said he was examined and cross-examined, contrary to the underlying record. Because the accused never had that opportunity, the Court held PW10's testimony could not be read against him and assessed the other evidence without it.

The investigating officer described the disclosure, knife and blood-positive FSL result, acknowledging seizure from an open place with regular public movement. The Dehati Nalishi came about 35 minutes after the alleged attack. Considering the admissible eyewitnesses, medical corroboration and prompt complaint, the Court found it proved that Manoj had committed the repeated knife attack. From the number and location of blows to abdomen and neck, dangerous penetrating injury and amputation, it inferred intention to cause death, satisfying Section 307. The Court based its assault finding on Kaushalya, Neera, Vikas and Virendra, medical corroboration and prompt reporting.

On sentence, the Court noted Neera had separated after alleged cruelty and lived with her mother and minor child, while the appellant arrived carrying a knife and inflicted repeated wounds to vital regions with lasting finger loss. *Shyam Narain* and *Raj Bala* required proportionate sentencing sensitive to the manner of the offence and the harm to society and the victim, without substituting abstract mercy or severity for judicial assessment. On these facts the Court held ten years' rigorous imprisonment was not excessive and made no reduction. Its decision was a fact-specific exercise of sentence review, not a mandatory minimum of ten years for all attempts.

5. Relief : The Hon'ble High Court dismissed the criminal appeal. The 8 October 2015 judgment in S.T. No. 15/2014 was affirmed: IPC Section 307 conviction, ten years' rigorous imprisonment, Rs. 10,000 fine and the trial court's default-imprisonment stipulation. The appellant was already in jail and the Court made no further direction; he was to serve the sentence imposed.

Manoj v. State of M.P., Cr.A. no. 992/2015, 21/02/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Juvenile justice — Section 94 age inquiry — conflicting documentary dates - A Class 1 admission register and certificate proved by the school principal recorded the accused's birth as 08.12.1998 and Class 1 admission on 29.07.2004, while a later Class 10 mark-sheet recorded 09.03.2003. The mother produced the latter without explaining the change, when or under whose authority it was made. The Court found the earlier entry consistent with admission at about six and the later entry suspicious in light of the 2017 Class 10 examination and the age at Class 1 admission inferred from it. The Board had to make a reasoned finding as to which document was reliable instead of treating a documentary discrepancy itself as a ground to use medical estimation; the preference here depended on the proved records and their unexplained inconsistency.

Juvenile justice — Section 94(2)(iii) — medical age estimation as fallback - Where the documentary evidence specified in Section 94(2)(i) and (ii) of the Juvenile Justice (Care and Protection of Children) Act, 2015 is available, ossification or another medical age test does not become the basis for determining age simply because competing records require evaluation. The dental and radiological opinions of 17–18 years were given undue weight when the first admission record was

available. On that record the respondent was above 21 on the incident date, 01.08.2020. The Court quashed the Board's juvenility order and the appellate order affirming it, stopped the trial before the Board and directed transfer of the charge-sheet to the regular court for trial along with co-accused; it did not determine guilt.

Case-note :- ***1. Facts :*** The criminal revision arose from a fatal assault alleged to have followed a dispute over earth falling on Gopal Sikarwar's field during construction of a mud road. According to the complainant Gabbar Singh's FIR of 01.08.2020, a group armed with lathis and farsas attacked his brother Padam Singh when he went towards his field that morning. The FIR attributed specific blows against Padam Singh and intervening relatives to different persons and also alleged that Tunda alias Vikas fired a firearm. These are the prosecution allegations explaining the gravity and context of the case, not findings of guilt in this age inquiry. Applicant Manvendra Singh was Gabbar Singh's son and Padam Singh's nephew; respondent No. 2 Satyabhan was sent by police to the Juvenile Justice Board because police treated him as a juvenile.

Gabbar Singh applied under Section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2015, saying Satyabhan was an adult and should face trial before the regular court with the others. On 09.11.2020 the Board in Case No. 123/2020 held that he was 17 years, five months and 22 days old on 01.08.2020 and directed trial before it. The 7th Additional Sessions Judge, Morena dismissed the challenge in Criminal Appeal No. 5/2021 on 01.02.2021. Manvendra brought this revision under Section 397 CrPC read with Section 102 of the 2015 Act. Counsel had indicated on 14.03.2022 that he would not press it, but the High Court rejected withdrawal because the age question involved important fact and law, considered suo motu cognizance and heard the matter. The respondent also sought deferral pending a Board report on any Section 15 order, while fairly conceding that such an order would not affect this revision.

The competing dates were 08.12.1998 in the Government Higher Secondary School, Pachekha Class 1 admission register and date-of-birth certificate, and 09.03.2003 in Satyabhan's Class 10 mark-sheet. Principal Kailash Chandra Sharma (PW1) produced the original register covering 2004 –2018, entry 1847, showing admission to Class 1 on 29.07.2004. He said entries were normally made in the course of school business and denied manipulation, while admitting he was not posted there when the admission occurred and that dates disclosed by parents had formerly been entered in school records. Satyabhan's mother Narmada (PW2) supported the 2003 date, said she delivered him at home and his father went for admission, and produced the Class 10 mark-sheet (Ex. P/4). She said she was illiterate and could not recall her other children's birth dates or identify the school; the High Court found no explanation for the change in the recorded date. Dr R.C. Mishra, on the basis of a dental X-ray, and radiologist Dr V.K. Som each estimated his age at 17–18 years. The applicant urged reliance on the first register and the sequence of documentary evidence under Section 94; the respondent defended the Board's use of the medical opinions because the documents disagreed.

2. Precedents — Considered : The applicant's counsel cited *Ashwini Kumar Saxena v. State of M.P., (2012) 9 SCC 750; Ram Suresh Singh v. Prabhat Singh alias Chhotu Singh, AIR 2009 SC 2805*; and *Sanjeev Kumar Gupta v. State of Uttar Pradesh, (2019) 12 SCC 370*. Counsel also cited the coordinate Bench decision *Vipin alias Chotu Bhadouriya v. State of M.P.*, 2020 (I) MPWN (SN) 3. The judgment records these as authorities supporting the applicant's submission about competing school records and resort to ossification. The Court's stated reasoning applies Section 94(2)(iii) and evaluates the school records and age evidence. The operative analysis is the Court's own application of Section 94(2)(iii) and appraisal of the evidence. No additional precedent is substantively considered by the deciding Judge.

3. Statutes considered : Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 governs determination of age. The Court specifically relied on clause (iii), under which age is determined by an ossification test or another latest available medical test, conducted on the Board's or Committee's order, only in the absence of documents specified in clauses (i) and (ii). The school admission record was available, so the first task was to determine its reliability in the face of the later Class 10 mark-sheet; disagreement between documents did not dispense with that task or elevate a medical estimate above the statutory process based on documents. Section 14 was the provision invoked in the application to the Board; Section 102 was invoked with Section 397 of the Code of Criminal

Procedure, 1973 for revision of the appellate and Board orders. Section 15's potential preliminary assessment was mentioned in a request to defer hearing; no Section 15 assessment or its merits was decided. The alleged assault and accompanying charges were background to the age and forum dispute, and the Court did not decide offence elements or criminal responsibility.

4. Issues : First, where the original Class 1 admission register and the later Class 10 mark-sheet gave incompatible birth dates, which record was credible on the evidence, and could the Board simply treat the conflict as a reason to adopt dental and radiological estimates? This required attention to the sequence in which the two dates were entered in the records and to what the witnesses could actually establish. Second, did Section 94(2)(iii) permit medical age determination when school documents of the specified kind were on record, and was Satyabhan under 18 on the incident date? Third, what orders concerning the finding of juvenility, the pending Board proceeding and trial forum followed if the lower courts used the wrong method? The proposed deferral for a Section 15 report was not material on the respondent's own concession. The Court did not decide the underlying assault allegations or any final guilt question.

5. Ratio / Findings : On the documents, the original school register and the principal's evidence supported a date of 08.12.1998 and admission in Class 1 on 29.07.2004 at approximately six years. The Court noted the principal had not personally been present at admission and had acknowledged the older practice of recording parents' disclosed dates, but nonetheless treated the original entry as a normal school record without demonstrated interpolation. The mother's later Class 10 mark-sheet, issued on 12.05.2017 and recording 09.03.2003, was not explained by evidence showing when, how or on whose authority the original school date had changed. The mother could not provide corroborating context; the father, who according to her arranged school admission and was also a co-accused in jail, was not called. The Court reasoned that, on the later birth date and the 2017 Class 10 examination, the inferred Class 1 admission age would have been about four, below the minimum of five it said the law permitted. It found the earlier admission date more convincing and the later mark-sheet surrounded by unexplained suspicious circumstances. The reliability finding rested on this comparison, rather than merely on how old the documents were or the order in which they were issued. On method, Section 94(2)(iii) made medical determination a fallback if the documentary categories in clauses (i) and (ii) were absent. The Class 1 admission record was before the Board. The dental and radiological opinions placing age between 17 and 18 could not serve as a substitute for resolving the evidentiary conflict between school documents. The Board and appellate court committed material illegality by giving undue importance to the ossification evidence and describing the documents as discrepant without deciding which was reliable under the Act. The High Court held Satyabhan was an adult, more than 21 on the occurrence date. It did not announce that all first admission records invariably prevail over matriculation records, nor did it decide how age must be determined if the statutory documents are genuinely absent. The Court rejected withdrawal, stating that an important question of fact and law was involved and that suo motu cognizance of the revision could be taken.

6. Relief : The Hon'ble High Court allowed the revision. The High Court quashed the Juvenile Justice Board, Morena order of 09.11.2020 in Case No. 123/2020 and the 7th Additional Sessions Judge, Morena order of 01.02.2021 in Criminal Appeal No. 5/2021. It declared respondent No. 2 an adult, above 21 years of age on 01.08.2020, directed the Board to stop proceeding with his trial and transfer the charge-sheet to the regular court for his trial with the other co-accused. There was no determination of guilt, no remand for a fresh age inquiry, and no separate adjudication on any Section 15 assessment.

Manvendra Singh v. State of M.P. and Ors., Cr.R. no. 2609/2021, 28/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Abetment of suicide — Sections 306 and 107 IPC — instigation, intention and proximate conduct - *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, requires conduct from which purposeful goading or a reasonably certain incitement may be inferred, including a course of conduct leaving the deceased with no other option but suicide; words in anger without the intended consequence do not suffice. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, makes intention and the circumstances

decisive, with no rigid formula; *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, and *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, explain the three forms of abetment under Section 107—instigation, conspiracy and intentional aid—and the mens rea of instigation. *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, M. Mohan v. State, AIR 2011 SC 1238, S.S. Chheena v. Vijay Kumar Mahajan, 2010 AIR SCW 4938*, and *Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433*, emphasise a positive intentional act pushing the deceased towards suicide; *Amalendu Pal v. State of West Bengal, (2010) 1 SCC 707*, requires scrutiny of direct or indirect incitement and proximity rather than harassment alone. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, cautions against attributing suicide to ordinary discord solely because of individual hypersensitivity. The Court used these principles to find that seeking return of money paid on an unfulfilled appointment assurance and the assertion of membership of a non-prohibited association did not, in its analysis, establish the applicants' abetment. The witness statements also alleged a death threat; the Court nevertheless held that no Section 306 offence was made out against these applicants.

M.P. Money Lending Act — Section 11 — character of the payment - On the prosecution account, applicants 1 and 3 had given money to the deceased because he represented that he could secure government computer-operator jobs; after the appointments failed, they sought its return. The Court held this was not money lent to him by the applicants and therefore did not make out the charge under the State money-lending enactment against them. This is a finding about the transaction alleged, without a general construction of all money-lending activities or a finding about other persons named in the suicide note.

Section 482 CrPC — quashing after charge-sheet — legal ingredients on the alleged facts - *Praveen Pradhan, (2012) 9 SCC 734*, and *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, caution that the quashing or charge stage calls for a tentative view of the allegations, not a final assessment of the evidence; *Amit Kapur* allows instigation to be inferred from a course of conduct that leaves the victim no option, in the proper case. After obtaining the suicide note and considering the witness statements, the Court held the Section 306 and Section 11 ingredients absent on the allegations it analysed and quashed the FIR and proceedings only as to these applicants. It did not acquit or resolve the prosecution against other named persons.

Case-note :- ***1. Facts :*** Ateeq and his wife Sohlat were found dead in their room on the morning of 30.01.2017 after Ateeq did not respond to a family call and the door was broken open. His brother Mohd. Adnan reported that Ateeq was hanging and Sohlat lay on the floor; papers lay on a sofa. A merg inquiry and spot inspection followed. A multi-page suicide note referred to several persons and transactions. The note attributed to Deepak Khatik a Rs. 50,000 payment and a Rs. 3,00,000 demand connected with compromise of a Section 138 Negotiable Instruments Act case, and referred to a report by Guddibai Rajput. As to these applicants, it referred to money taken from applicants 1 and 3 upon an assurance of government computer-operator appointments, the failure of the appointments, demands for return, and threats. The suicide note refers to asserted Bajrang Dal membership and a threat to have him killed and his body disposed of. The judgment's summary of witness statements likewise records a visit on 29.01.2017 and an alleged threat that Ateeq would be killed if he failed to pay by the next day. These are allegations in the order, not findings that the threats were proved.

Police registered Crime No. 44/2017 at Dehat Basoda, District Vidisha under Sections 306 and 34 IPC and Section 11 of the M.P. Money Lending Act against the applicants and other named persons, including Deepak Khatik, Guddibai Rajput and Laxminarayan Namdev. Ateeq's brother Munabbar Ali stated that Ateeq had first killed Sohlat and then hanged himself, and explained that funds from applicants 1 and 3, routed through Brijesh Kushwah, were passed to a Bhopal contractor; the promised jobs failed after a CM Helpline complaint, repayment was pressed and Ateeq was distressed. Other brothers, Ateeq's son and niece gave similar Section 161 CrPC statements. The Court said the applicants' portion of the suicide note was corroborated by the witness accounts. Initially the note was absent from the case diary, so the High Court ordered its production on 02.04.2018 and reviewed it after the State supplied it. The police had already filed a charge-sheet.

The applicants sought quashing under Section 482 CrPC, saying that, even accepting the note and witness statements, a demand for the return of money taken on a failed and unlawful job assurance could

not be abetment or money lending. The State and complainant argued that the demand was accompanied by a killing threat, distinguishing it from a simple repayment request. The complainant also stressed the invocation of Bajrang Dal; counsel conceded that association was not prohibited. The Court's final analysis concentrated on the repayment demand and asserted membership. The Court held that membership of a non-prohibited association did not itself establish abetment and that the applicants could demand repayment of money given on the failed job assurance.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, supplied the Court's explanation that instigation involves goading, urging, provoking or encouraging the act. Express words urging suicide are unnecessary if the accused's acts, omissions or continued conduct create circumstances in which suicide appears the only option; the circumstances must show an intention to incite and a reasonably certain tendency to bring about the consequence. An angry utterance without intended consequence does not suffice. The High Court drew from it the need for active suggestion or stimulation, direct or indirect, in paragraph 23.

Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734, distinguished the abettor's intention from the eventual act, rejected a fixed formula for circumstantial instigation, and noted that at quashing the court forms a tentative view rather than finally assessing the evidence. Its quoted references to *State of Punjab v. Iqbal Singh*, *Surender v. State of Haryana*, *Kishori Lal* and *Sonti Rama Krishna* were nested citations, not separate High Court analyses. *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, identified the three forms of abetment under Section 107 and the necessary mens rea for instigation. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, was quoted separately for the same three forms of abetment and the relationship between abetment and a proved specific offence; the Court did not apply Section 109 independently. These decisions were considered in examining whether an offence under Section 306 was made out against these applicants.

Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, and *M. Mohan v. State represented by the Deputy Superintendent of Police*, *AIR 2011 SC 1238*, were used for the mental process, clear mens rea and positive or direct act intended to push the deceased into suicide rather than an inference of causation based on distress alone. The quotation attributed to *Gangula* also addressed ordinary discord and hypersensitivity, as did *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*: the latter urged great care in assessing whether conduct actually induced suicide and warned against inferring abetment from ordinary petulance where an unusually sensitive person reacts by suicide. Those facts concerning domestic discord are precedent context, not facts of this financial dispute. *Amalendu Pal alias Jhantu v. State of West Bengal, (2010) 1 SCC 707*, required careful examination of direct or indirect incitement, active instigation or intentional facilitation and a positive act sufficiently proximate to the occurrence; mere harassment by itself is insufficient. Its longer quotation discussed the third clause and Explanation 2 of Section 107 in its own case. The High Court did not make a separate finding that these applicants intentionally facilitated Ateeq's suicide.

Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460, was quoted for the tentative approach at the stage of framing charges and the possibility that a continued course of conduct by the accused creates circumstances leaving no apparent option but suicide. Its internal discussion of *Chitresh* and *Ramesh Kumar* was an embedded Supreme Court quotation, not a separate High Court application of *Ramesh Kumar. S.S. Chheena v. Vijay Kumar Mahajan, 2010 AIR SCW 4938*, brought together case-specific assessment, intent to provoke, and the need for active conduct and mens rea. It quoted *Orilal* and *Chitresh* again, without generating independent additional High Court holdings; its own observation about an unusually sensitive deceased was tied to its facts. *Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433*, reaffirmed *S.S. Chheena*'s clear mens rea and active/direct-act formulation. Applying these authorities together, the Court concluded that the applicants' conduct, as it assessed it, fell short of instigation, and held that no Section 306 offence was made out against the applicants.

3. Statutes considered : Section 306 IPC penalises abetment of a suicide; Section 107 defines abetment through instigation, conspiracy with an act or illegal omission in pursuance, or intentional aid, with explanations concerning wilful misrepresentation/concealment and facilitation. Section 34 IPC was in the FIR as an allegation of

common intention; the Court quashed the Section 306 read with Section 34 proceedings against the applicants. Section 11 of the M.P. Money Lending Act was invoked in the FIR; the Court resolved it by holding the money passed on a promised job placement was not a loan from applicants 1 and 3 to Ateeq. Section 482 CrPC provided the basis for exercising inherent jurisdiction to quash when the charged offences were not disclosed on the allegations examined, despite the charge-sheet. Section 161 CrPC statements supplied the prosecution narrative. The Negotiable Instruments Act Section 138 matter concerned a separately named person's transaction in the note, not an issue adjudicated against these applicants.

4. Issues : First, treating the applicants' attributed suicide-note contents and corroborating witness statements as allegations for the Section 482 inquiry, did demands to return payment made on failed job assurances, a visit the previous day, claimed association membership and the alleged threats amount to instigation, conspiracy or intentional aid under Sections 107 and 306 IPC? The parties differed over whether the alleged killing threat took the case beyond a simple repayment demand. Second, did receipt of money for the appointment assurance make applicants 1 and 3 lenders so as to disclose a Section 11 M.P. Money Lending Act offence? Third, after the charge-sheet, could the High Court quash the FIR and proceedings against the applicants on the ground that the allegations, taken at face value, did not disclose the legal ingredients of the offences, without deciding factual guilt or the cases of others named in the note?

5. Ratio / Findings : The Court reproduced Sections 306 and 107 and a substantial sequence of Supreme Court decisions. It understood instigation as purposeful goading, urging or stimulation, whether by words, acts, omissions or a sustained course of conduct, involving an intentional role sufficiently connected with the suicide; evidence of distress or a person's reaction to a demand does not alone establish the defined abetment. *Praveen Pradhan* and *Amit Kapur* also guarded against replacing the preliminary inquiry with a final assessment of the evidence and allowed an inference based on the circumstances of the case rather than requiring explicit words inviting suicide. The Court accepted for present purposes that applicants 1 and 3 had paid Ateeq on his promise of government employment, the jobs had not materialised, applicants sought repayment, and a visit occurred one day before the deaths. It found they could seek their money back, even though it called the deceased's assurance and receipt of funds false and illegal. The complainant's point that applicants identified themselves as Bajrang Dal members did not, without more in the Court's analysis, establish abetment, especially when the association was conceded not to be prohibited. Thus it found no Section 306 offence against the applicants. The judgment had also recorded threats that Ateeq would be killed and the suicide note contains a stark threat to have him killed and his body disposed of. The Court did not attribute the separate note allegations against Deepak, Guddibai or Laxminarayan to these applicants. The alleged visit and death threat on 29 January 2017 remain part of the factual account. The conclusion on mens rea and proximity is confined to the allegations assessed in this case; it is not a categorical rule that debt-recovery threats can never support Section 306 IPC. On the State enactment, the Court distinguished money paid to Ateeq for his claimed ability to procure jobs from money lent to him. Because the underlying payment arose from that failed assurance, the Court held the applicants had not lent money and the Section 11 charge was not disclosed. On the exercise of Section 482, after calling for the actual suicide note and considering it with Section 161 accounts and the charge-sheet, the Court took the attributed allegations as its starting point but, on its assessment of those allegations, found that the necessary offence ingredients were not disclosed against these applicants. This was a decision on whether the allegations disclosed the offences, not a criminal trial, an acquittal on proved facts, or a universal bar to Section 306 where a repayment demand is accompanied by intentional coercion.

6. Relief : The Hon’ble High Court allowed the Section 482 application. Crime No. 44/2017 at Police Station Dehat Basoda, District Vidisha under Sections 306 and 34 IPC and Section 11 of the M.P. Money Lending Act, together with subsequent criminal proceedings, was quashed against the applicants; the order states that they were discharged. Its wording expressly limits the quashing to the applicants and does not resolve proceedings against the other named accused. No compensation, costs, further investigation or merits finding about those persons was ordered.

Mayank Sharma and Ors. v. State of M.P. and Ors., M.Cr.C. no. 3107/2018, 06/12/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- M.P. Rajya Suraksha Adhiniyam, 1990 — Section 5(b) — two conditions for externment - *Arvind Singh alias Pappu v. State of M.P., 2017 (4) MPLJ 579*, states that the authority must have reasonable grounds to believe that the person is engaged, or is about to engage, in the specified offences involving force or violence or the listed IPC offences. It must also form an opinion, supported by material, that witnesses fear for their person or property and will not testify in public. The Court required specific findings of statutory grounds; five registered cases plus a Section 110 CrPC proceeding, without material of current alarm or unwilling witnesses, did not satisfy them. Registration of cases does not itself prove witness fear.

Externment — stale antecedents — live link and public order - Three minor 2014 cases had ended in acquittals and were separated by seven years from two 2021 cases under Sections 294, 323, 506, 34 and 336 IPC. *Rajjan Yadav v. State of M.P.*, ILR (2021) MP 1512, required consideration of the cases' nature, outcome, staleness and why removal was needed. The Court held the older matters lacked a live link and the later ordinary offences did not show harm to public order, as distinct from ordinary law and order, on the material presented. The authority's reliance on the number of cases did not supply the required reasons or material.

Article 19(1)(d) and 19(5) — extraordinary externment and reasonable restriction - *Deepak son of Laxman Dongre v. State of Maharashtra, Criminal Appeal No. 139/2022*, decided 28.01.2022, described externment under the Maharashtra 1951 Act as an extraordinary interference with movement, home and possibly livelihood. It must be used sparingly, statutory satisfaction must rest on objective material, and the restriction must be constitutionally reasonable. The High Court used that principle in reviewing a one-year order covering Guna and five adjoining districts under the M.P. statute. Because the Section 5 grounds and current necessity were not established, the restriction did not satisfy the test of reasonableness; the District Magistrate's order and its appellate affirmance were set aside. The quoted Maharashtra provision was an analogy, not the enactment directly governing the petitioner.

Case-note :- ***1. Facts :*** The District Magistrate, Guna issued Mayank Sharma a show-cause notice under Section 8(1) of the M.P. Rajya Suraksha Adhiniyam, 1990, alleging criminal activity since 2014 and proposing externment. The petitioner said he replied on 07.09.2021: Crime Nos. 75/2014, 168/2014 and 251/2014 had ended in acquittals, while Crime Nos. 101/2021 and 312/2021 falsely implicated him. The table of antecedents from the notice/order on page 2 lists the 2014 matters with offences including Sections 452 or 341, 323, 294, 506 and 34 IPC, the 2021 cases with Sections 294, 323, 506 and 34 IPC and Section 336 IPC respectively, and a preventive Section 110 CrPC entry. The petitioner also asserted that police had issued a character certificate referring to four acquittals and no pending criminal case, a description differing from his account of three 2014 acquittals. These positions are reported as his submissions; the High Court's own analysis treated the three old cases as acquittals and considered the two 2021 entries.

The petitioner alleged that the District Magistrate failed to consider his reply or allow him to lead evidence. On 27.01.2022 the Magistrate ordered him to leave Guna and five specified adjoining districts, Bhopal, Rajgarh, Shivpuri, Vidisha and Ashoknagar, for one year. The Commissioner, Gwalior Division, dismissed Appeal No. 5/Externment/2022 on 06.05.2022. In Writ Petition No. 12150/2022 under Article 226, Mayank sought to set aside both orders and appropriate other relief. He argued that old, minor, acquitted cases lacked a live connection with current necessity, the 2021 cases did not justify public-order action and there was no evidence that witnesses were unwilling to testify because of fear. He said he worked for Bajaj Finance. The State responded that five cases showed continuing criminal activity and respectable members of society feared giving evidence; the Court found no material showing that witnesses were unwilling to testify because of apprehension for their person or property. The Court set aside both orders for failure to satisfy Section 5 and the test of reasonableness.

2. Precedents — Considered : *Arvind Singh alias Pappu v. State of M.P. and others, 2017 (4) MPLJ 579*, a coordinate Bench decision, was quoted for the two cumulative requirements under Section 5(b):

reasonable grounds that the person is engaged or about to engage in specified violent or listed IPC offences, and the District Magistrate's opinion that witnesses will not come forward publicly through apprehension for person or property. The Court adopted that statutory structure and tested the material relating to the Guna order against it. It did not treat the existence of FIRs as a substitute for the second condition.

Deepak son of Laxman Dongre v. State of Maharashtra and others, Supreme Court Criminal Appeal No. 139/2022 decided 28.01.2022, was quoted at length. Under Section 56 of the Maharashtra Police Act, 1951, the Supreme Court reasoned that an externment order interferes with Article 19(1)(d) free movement and must be a reasonable restriction under Article 19(5); removal is extraordinary and should be used sparingly, since it may exclude a person even from family home or livelihood. Objective material must support the authority's subjective satisfaction that acts cause or are calculated to cause alarm, danger or harm or that the person is engaged or about to engage in specified offences. Under the statutory clause concerning witnesses unwilling to testify because of fear, the competent authority must record that satisfaction from material; a number of registered offences is not by itself enough. The High Court carried that analysis of personal liberty, the need for objective material and the exceptional nature of externment into review of M.P. Section 5, whose text it reproduced. The Court did not assert that Maharashtra Section 56 governed the petition directly. *Deepak* itself cited *Pandharinath Shridhar Rangnekar* for the exceptional nature of externment and strict hearing requirements under Maharashtra Section 59; this was a nested citation within the quoted passage, and the High Court did not separately decide the complaint about the hearing under the M.P. statute by applying Section 59.

Rajjan Yadav v. State of M.P. and others, ILR (2021) MP 1512, was cited from this Court's Principal Seat. It reiterated the statutory conditions and faulted an authority for failing to examine the nature, outcome and staleness of cases or explain why newer conduct required removal from multiple districts. The present Court used that reasoning to reject unexplained reliance on the number of old and new cases registered against the petitioner. *Rajjan* reproduced *Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496*, on the duty of administrative and quasi-judicial decision-makers to record cogent reasons based on relevant facts, constraining arbitrariness and enabling review. The lengthy *Kranti* passage was nested in the quoted *Rajjan* extract; the High Court required a supported statutory satisfaction under Section 5. The operative concern was that the Magistrate's satisfaction under Section 5 lacked supporting material and reasons.

3. Statutes considered : Section 8(1) of the M.P. Rajya Suraksha Adhiniyam was invoked for the show-cause notice issued by the District Magistrate, and Section 5 supplied the substantive removal power. The Court reproduced Section 5: clause (a) addresses movements or acts causing or calculated to cause alarm, danger or harm to person or property; clause (b) addresses reasonable grounds for specified violence, IPC Chapters XII, XVI or XVII, or Sections 506/509 or their abetment, together with an opinion that witnesses are unwilling to testify publicly because they fear for their person or property; clause (c) concerns a different epidemic-disease situation involving an immigrant and was not invoked. Section 5 also allows directions concerning conduct or removal from the district and contiguous areas. The Court required the competent authority's grounds and satisfaction under the applicable clause to be supported by material and reasons. The antecedent IPC sections were background entries, not offences of which this writ court determined guilt. Section 110 CrPC was an entry concerning preventive proceedings relied upon in the criminal history, not proof that Section 5 was fulfilled. Article 226 supplied the writ jurisdiction. Articles 19(1)(d) and 19(5) framed the fundamental right of free movement and the requirement that a statutory restriction be reasonable. *Deepak*'s Maharashtra Section 56 was an analogous precedent, not the applicable local Act.

4. Issues : First, had the District Magistrate identified objective grounds and recorded the required Section 5 satisfaction about current alarm, specified offending and, insofar as clause (b) applied, witnesses genuinely unwilling to testify from fear? Second, could the three minor 2014 matters ending in acquittals, after a seven-year gap, together with two 2021 ordinary cases and a preventive entry establish a continuing connection with the need to maintain public order sufficient to justify externment from six districts for one year? Third, did an externment of that breadth meet the constitutional reasonableness required by Article 19,

and should the writ court set aside both the original and appellate orders? The petitioner also alleged that his reply was ignored and that he had no opportunity to lead evidence. The Court did not try the two newer FIRs or determine the correctness of the police character certificate.

5. Ratio / Findings : The Court treated externment as an extraordinary restriction on movement, citing *Deepak*'s Article 19(1)(d) and 19(5) reasoning. The District Magistrate's statutory satisfaction had to be based on objective material and specific reasons; the two conditions identified in *Arvind Singh* for Section 5(b) could not be replaced by a bare history of registration. The State asserted unwilling witnesses, but the Court found no material to show that witnesses would not come forward publicly through apprehension for their persons or property. Nor did it find material that Mayank's acts caused or were calculated to cause alarm, danger or harm to persons or property. This was a review of the preventive order.

The District Magistrate had relied on five cases and one preventive proceeding. The three 2014 cases were minor and had resulted in acquittals; after them there was a gap of seven years. The Court found they lacked a live link with the necessity for a 2022 externment. The two 2021 cases involved ordinary penal provisions, including abuse/hurt/intimidation and a Section 336 allegation. On the record here the Court distinguished ordinary law and order from public order and found no basis to say these registrations prejudiced public-order maintenance. The Court cited *Rajjan Yadav* on the need to consider the nature, outcomes and staleness of cases and explain the necessity of externment. The Court did not declare that any fixed period automatically renders every old case irrelevant, nor that a newer prosecution could never support externment with proper material.

Because neither a sufficient statutory finding under Section 5 nor a reasonable justification for this one-year order across Guna and five other districts was made out, the Court refused to approve the order. The Court required satisfaction under Section 5 supported by reasons and material, citing *Rajjan Yadav*'s extract from *Kranti Associates* on the recording of reasons.

6. Relief : The Hon'ble High Court allowed the Article 226 petition. The High Court set aside the District Magistrate, Guna externment order dated 27.01.2022 and the Commissioner, Gwalior Division appellate order dated 06.05.2022. The one-year restriction covering Guna and the five named districts consequently ceased under those orders. The Court did not remand for a new decision, order damages, adjudicate the 2021 criminal cases, or make a separate operative ruling about the alleged denial of evidence opportunity.

Mayank Sharma v. State of Madhya Pradesh and Ors., W.P. no. 12150/2022, 12/07/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR and earliest account — suppression of claimed report - The hospital intimations described an injured man in a fight, without naming his wife, although relatives later said they knew the assailant. Rajendra (PW2) claimed he telephoned police and Anguribai (PW1) lodged an earlier night report; the alleged report, station-diary record of the call and original merg statements were absent, and PW1 herself did not speak of lodging it. The Court distinguished a cryptic hospital message from a full FIR but found the claimed earlier report suppressed and questioned registration of the exhibited FIR only after the death inquiry. Its conclusion arose from the witnesses' accounts and missing records together, not from a rule that every hospital intimation is an FIR.

Recovery — accessible scene and contradictory chronology - The alleged discovery of a heavy bloodstained stone from under a dressing table on 02.05.2010, on the basis of Meena's disclosure, was not proved. Two witnesses said police produced Meena on the third day, whereas the officer placed the seizure and arrest on 02.05.2010. The room remained unsealed and open. The first inspecting officer said she saw no stone, while Rajendra placed it next to the earlier soil collection. The Court accepted Meena's Section 313 explanation that she was arrested in Bhopal as trustworthy and found the alleged seizure on her disclosure unproved; it did not prescribe an automatic exclusion for every unsealed scene.

Section 313 CrPC — defence suggestion and accused's contrary account - A cross-examination suggestion implied that Meena slept at the matrimonial house. The Court acknowledged that counsel's questions cannot be disregarded simply because they later prove inconvenient, but there was no proof that this suggestion came from her

instructions. Her explicit Section 313 account of living in Bhopal, not visiting Vidisha and being arrested there had to be assessed with the whole record. The suggestion was not treated as a conclusive personal admission overcoming the serious prosecution defects.

Related witnesses — contextual credibility - Anguribai asserted an actual stone assault, Rajendra saw its aftermath and alleged flight, and Lalita described the preceding household events. Their family connection was not the sole basis for the credibility finding: pending divorce hostility, unexplained arrival with Meena's daughter and silence about that child after the alleged flight, failure to disclose the known assailant's identity at the hospital, suppression of the first report and false arrest account collectively discredited the household version. The prosecution failed to establish Meena's guilt beyond reasonable doubt; the Court stated that the household witnesses had to show how and in what circumstances Kamlesh died, and separately held that the prosecution had not proved Meena's guilt beyond reasonable doubt.

Medical and physical evidence — claimed stone mechanism - The MLC and post-mortem established grave head injury and intracranial haemorrhage, but stitched wounds appeared at autopsy without a treatment sheet being produced or a hospital witness explaining them; the surgeon had not opened the stitches or measured depth. The Court saw no expected crush injury from the alleged 15–20 kg stone and held that medical evidence did not corroborate the eyewitness account of the assault and, on its evaluation, ruled it out. The bottle produced later was found to contain ethyl alcohol, consistent with evidence of Kamlesh's drinking rather than proof Meena drugged him; alleged bloodstained earth below a cemented floor and other investigative omissions reinforced reasonable doubt. These are case-record findings, not universal medical or seizure presumptions.

Case-note :- ***1. Facts :*** Meena appealed under Section 374 CrPC from the Sessions Judge, Vidisha judgment of 06.07.2011 in Sessions Trial No. 219/2010 convicting her of murdering her husband Kamlesh Nagar under Section 302 IPC and sentencing her to life imprisonment, a Rs. 2,000 fine and six months' rigorous imprisonment in default. She denied the charge. The couple had been living apart during divorce proceedings, and Meena said she had lived at her parental home in Bhopal for three years. The prosecution case was that in the intervening night of 01/02.05.2010 she was in Kamlesh's family house in Vidisha, struck his head with a heavy stone and fled. A family member allegedly heard a fall or groan, saw the assault, alerted others and unbolted the mother-in-law's room, which had been secured from outside. Kamlesh was taken to Vidisha District Hospital unconscious around 03:30, referred to Hamidia Hospital, Bhopal and, according to the family, died en route; he was brought back and his death was intimated at 07:45. The earliest hospital papers described an injury in a fight and another used the name Kamlesh Gurjar, while the case identified the deceased as Kamlesh Nagar.

ASI Hemlata Solanki prepared the inquest, spot map and first soil seizure; FIR Crime No. 313/2010 for Section 302 was registered against Meena. Head Constable Rambabu Goswami then took over, recorded a purported memorandum, seized a bloodstained stone allegedly disclosed beneath a dressing table and arrested her on 02.05.2010. Lalita bai later produced a red bottle on 03.05.2010. Fourteen prosecution witnesses included Anguribai (PW1), her husband Rajendra (PW2), Kamlesh's mother Lalita bai (PW3), relatives Pradeep and Kuldeep, the examining doctor Sudhir Jain, post-mortem doctor K.M. Goyal and the police witnesses. There was no defence witness. The appellate defence challenged the reliability of the household witnesses and location of arrest, asserted suppression of an earlier FIR, contested the claimed discovery of the stone, and questioned the unexplained medical details. The State defended the conviction.

2. Statutes considered : Section 302 IPC was the sole offence of conviction and appeal; the Court assessed whether the prosecution proved Meena's participation in the homicidal head injury beyond reasonable doubt. Section 374 CrPC provided the basis for the appeal. Section 313 CrPC supplied her personal opportunity to answer incriminating circumstances: she denied presence at the matrimonial home before arrest and said she was arrested in Bhopal, an answer the Court compared with counsel's cross-examination suggestion and police chronology. The prosecution alleged recovery on the basis of Meena's disclosure; the Court tested whether the alleged disclosure and seizure were genuine on the record, against the witnesses' conflicting accounts and the condition of the scene. FIR, inquest, police diary and seizure records were

evaluated as proof and investigative steps, not as a separate statutory violation with an independent remedy. The judgment did not determine a secondary poisoning offence from the bottle or charge another person with the death.

3. Issues : First, did the early hospital and police history, Rajendra's account of a phone call and his claim that Anguribai lodged an FIR show suppression of an earlier report and impair the later FIR's reliability? Second, was Meena genuinely arrested at the family house on 02.05.2010 and did her disclosure lead to an authentic recovery of the heavy stone, given the other witnesses' third-day account and the room's condition? Third, what evidentiary value did counsel's suggestion implying her presence have when considered alongside her contrary Section 313 answer, the unexplained circumstances of her arrival with her daughter and the absence of any account of the child after her alleged flight? Fourth, were the interested household witnesses reliable after the medical, documentary and physical contradictions, including the bottle, floor seizure and failure to search for her bloodstained clothing? Fifth, did the MLC, post-mortem and alleged stone mechanism establish that she committed murder beyond reasonable doubt, and what relief followed? The Court addressed the fatal head injury but the decisive question was identity and proof of the alleged assault.

4. Ratio / Findings : On the first report, the hospital's initial information recorded a fight and no identified attacker even though the family later claimed to have witnessed Meena's assault. Rajendra said he called police and was told to take Kamlesh to hospital before formal recording; he asserted Anguribai filed a report around 04:00–05:00 with Anand. Anguribai did not testify that she filed such a report, Anand was not examined, and the police produced neither the claimed night FIR nor a station-diary record of the call nor the original merg statements. The Court expressly recognized that a cryptic offence message is not necessarily an FIR, so the hospital paper itself was not automatically the original report. But it found, from the family's account and the missing records, that the prosecution suppressed Anguribai's original FIR, and questioned why the exhibited FIR was registered after the death inquiry if the attacker was known at the start. It treated non-disclosure as part of the cumulative loss of confidence in the prosecution’s account of how the incident arose, not merely a formal registration defect. The Court decided the appeal through the testimony, the documentary and medical record, the appellant's Section 313 answer and the beyond-reasonable-doubt standard.

The accounts of the arrest and alleged recovery were inconsistent. Anguribai and Lalita said police brought Meena on the third day; the investigating officer placed the memorandum at 17:25, stone seizure at 17:40 and arrest at 17:55 on 02.05.2010, yet Meena said in her Section 313 answer that she was arrested in Bhopal. The household witnesses had described her as fleeing after the assault, without any account of her daughter, and did not explain how she remained at or returned to the house for the asserted next-day arrest. The Court found her explanation that she was arrested in Bhopal trustworthy and the prosecution's account of the place and date of arrest wrong. The incident room had remained open and unsealed. The first officer said she inspected it closely and saw no stone; Rajendra nevertheless placed a stone close to the blood-soil collection from earlier that day, contradicting the account that its hidden location was discovered only on Meena's later disclosure. The 20-inch by 9-inch by 4-inch stone, said to weigh about 15–20 kg, was not satisfactorily connected to her by the seizure process. The Court therefore rejected the alleged recovery on Meena’s disclosure because of these particular inconsistencies and the opportunity to alter the accessible scene.

The court did not ignore that defence counsel had suggested Meena slept in Lalita's room. It said lawyers' questions can matter and should be framed competently; counsel's lapse cannot simply be erased. But no material showed Meena instructed the suggestion, and her personal Section 313 answer squarely denied visiting Vidisha before arrest. The Court weighed the overall record rather than deeming the suggestion a conclusive concession. Anguribai claimed a direct view of stone blows after hearing a fall or groan, whereas Rajendra described what she told him and seeing Meena run; Lalita spoke of dinner, a quarrel and the bolted room, not an observation of the head blows. Their kinship, co-residence and strained relations during the divorce furnished a possible motive for false implication, but the Court's adverse credibility judgment depended also on the unreported named assault at hospital, suppressed report, unexplained visit from Bhopal with a daughter, silence as to the daughter after the alleged flight and apparently fabricated account of

arrest and recovery. The Court stated that the household residents bore a burden to show how and in what circumstances Kamlesh died, and concluded that the prosecution had failed to prove Meena's guilt beyond reasonable doubt.

Dr Sudhir Jain's MLC documented two forehead lacerations, ear injury, cheek abrasion and unconsciousness, with a referral for neurosurgical care. Dr K.M. Goyal found stitched forehead wounds, a skull-base fracture, bilateral frontal subdural haemorrhage and death from coma due to intracranial haemorrhage, with the time since death recorded as within 24 hours; the injuries were ante-mortem. The Court did not deny the fatal head injury. It found serious gaps in reconciling the claimed assault: the MLC did not note first aid, the treatment sheet was missing, and Dr Sudhir Jain did not state that he applied stitches. No Hamidia witness was examined to establish that Kamlesh was brought dead. The autopsy doctor neither opened the stitches nor measured the depth of the injuries. He had not identified a crush injury that the Court considered expected from the claimed very heavy stone. It concluded on this medical record that the claimed stone assault described by the eyewitness was unsupported and, in its words, ruled out. That inference is confined to the testimony and wound details here, not a medical rule about every stone assault.

Other physical and investigative features compounded the doubt. Lalita's claim that Meena put something in Kamlesh's vegetable was not established as drugging: the FSL result for the bottle produced later showed ethyl alcohol, while relatives admitted he sometimes drank. The Court stated that the bottle must have been the deceased's and that the story of Meena mixing its contents into the vegetable was concocted. The seizure of bloodstained earth after removing a cement floor, rather than a sample of stained cement, was characterized as a police camouflage. The failure to make any attempt to find Meena's bloodstained clothes was unexplained. The assignment of investigation to a head constable when a senior SHO, SI and ASI were listed was also unexplained, though the Court did not state that rank alone invalidated the investigation. Taken with the report, arrest, recovery, witness and medical defects, the prosecution had not proved Meena committed the Section 302 murder beyond reasonable doubt; the Court considered false implication apparent.

5. Relief : The Hon'ble High Court allowed the appeal. Meena was acquitted of Section 302 IPC, and the Sessions Judge's conviction and sentence of 06.07.2011 in S.T. No. 219/2010 were set aside. As she was in jail, the Bench directed immediate release if she was not required in another case, immediate free supply of its judgment to her and return of the trial record with a copy for information and compliance. It made no conviction finding against household witnesses or police personnel and ordered no separate inquiry or compensation.

Meena v. State of M.P., Cr.A. no. 777/2011, 04/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial cruelty — mother-in-law — specific allegations and omnibus-implication safeguard - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, permits Section 482 quashing where allegations are absurd, disclose no offence or amount to abuse, and urges caution with generic allegations against relatives; where particular harassment allegations disclose a triable case, their reliability is a matter for trial. The complainant attributed car demands, dowry taunts and physical assault to Meera Chauhan personally, including conduct alongside her son in Jaipur. The High Court applied the distinction and declined to quash the FIR and charge-sheet as to this mother-in-law. It did not decide that the allegations were proved or that kinship alone sufficed.

Section 482 CrPC — counter-version and limited cheque observation - *Taramani Parakh* quoted *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, for testing uncontroverted allegations at face value, sparing use of quashing power and avoiding a miniature trial of witness or defence reliability. Meera relied on her son's bank complaint and a Jaipur counter-FIR alleging a fraudulent Rs. 10 lakh cheque, but that investigation was pending; the first email did not deny his signature, though a later complaint did. The Court quoted Section 20 of the Negotiable Instruments Act and observed that a signed blank cheque could prima facie authorize completion of entries. It did not resolve whether this cheque was signed, delivered, valid or forged, and the counter-version did not nullify the specific cruelty allegations at the threshold. Nested comparisons in *Taramani* to *Neelu Chopra, Manoj*

Mahavir and *Geeta Mehrotra* illustrated fact-dependent outcomes, not automatic immunity for relatives.

Case-note :- ***1. Facts :*** Meera Chauhan, mother-in-law of respondent No. 2, applied under Section 482 CrPC to quash Crime No. 336/2020 at Police Station Kotwali, Shivpuri, its charge-sheet and consequential proceedings. The complainant's FIR, as narrated by the Court, alleged that she married Meera's son Saurabh Singh Chauhan about ten years earlier. He worked in the Merchant Navy and spent periods at home between voyages. She said that, after her father provided Rs. 10 lakh cash, 20 tolas of gold and household articles by borrowing from relatives, Saurabh and his mother taunted her over insufficient dowry and demanded a car. On her saying her father could not afford it, they allegedly beat her and threatened removal from the matrimonial home. The complainant said her father later transferred a Vakeel Colony, Sheopur plot to Saurabh by registered deed; Saurabh built a house with a bank loan, yet the demands and mistreatment continued. These are allegations, not findings of guilt.

The FIR further attributed to Saurabh drunken assaults and, during a Jaipur episode after the complainant had visited her parental home, a car-money demand, a beating by him and Meera that allegedly caused grievous injuries, and a knife threat by Saurabh with Meera assisting. Relatives called Mahesh Nagar police after the complainant locked herself in a room; she said social pressure kept her from lodging a report then, and her father took her home. In September 2019 she sought funds for debts and maintenance; according to her, a Rs. 10 lakh cheque was issued to meet a construction-related loan, then payment was stopped after Saurabh asserted forgery. The FIR also narrated nonpayment and a Sheopur incident on 01.10.2020 involving Saurabh, police and neighbours, but those later acts were chiefly attributed to him rather than to Meera.

The petitioner claimed that references to her were vague and omnibus. Her counter-version was that Saurabh had complained to the bank of fraudulent withdrawal and, after a Section 156(3) application, a Jaipur FIR in Crime No. 39/2021 had been registered against the complainant. Counsel could not say the investigation had ended; the complainant's counsel said it remained pending and that she was on bail.

The Court examined the son's 21.01.2020 bank email. Counsel initially said he had sent it while in India, but the email said he was aboard a ship near China; counsel then accepted he was on the ship. Counsel also accepted that the first email did not deny the signature on the presented cheque, although a later Section 156(3) application did allege a signature issue. The Court noted that Meera had not addressed the complainant's construction-loan account or pleaded repayment. These observations tested the weight of the applicant's counter-version at the quashing stage; they were not final determinations of the Jaipur FIR, cheque authenticity or loan liability.

2. Precedents — Considered : *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was the material Supreme Court decision expressly quoted and applied. It states that proceedings may be quashed if the allegations are absurd, fail to make a case or constitute abuse, but a triable matrimonial complaint calls for trial of the version and counter-version. It urges care with omnibus allegations against relatives who may not be involved in the couple's affairs, while refusing to turn that caution into a fixed exemption where actual harassment and cruelty are alleged. The High Court used this precise distinction: Meera was alleged to have personally demanded a car, taunted and assaulted the complainant, so reliability and eventual proof could not be decided at the Section 482 stage. *Taramani*'s own facts concerned harassment by a husband and his parents and a complainant separated from the matrimonial home; the present Court applied the legal framework to the detailed allegations before it, not those precedent facts as if they occurred here.

The reproduced *Taramani* passage quoted *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, on the wide but carefully and sparingly exercised Section 482 power: test uncontroverted record allegations and basic ingredients prima facie; intervene in patently absurd, legally barred or abusive cases; do not marshal disputed material to predict conviction; a parallel civil claim does not by itself extinguish criminal ingredients; and prefer continuation where an offence is broadly disclosed. This exposition appears within the reproduced *Taramani* passage and supports its threshold approach.

Taramani also discussed *Neelu Chopra*, *(2009) 10 SCC 184*; *Manoj Mahavir*, *(2010) 10 SCC 673*; and *Geeta Mehrotra*, *(2012) 10 SCC 741*, as quashing decisions depending on their particular facts involving relatives or an absurd jewellery allegation. The High Court reproduced *Taramani*'s explanation that those cases do not lay down an inflexible rule

beyond the settled principles of quashing. The material effect was *Taramani*'s caution against generic implication and its countervailing rule that concrete triable allegations proceed. No independent precedent was invoked to adjudicate the cheque-forgery case initiated on the counter-complaint.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973 provided the basis for invoking inherent jurisdiction to seek quashing of the FIR, charge-sheet and later proceedings. The Court assessed whether the allegations, taken at face value, disclosed the legal ingredients of an offence, without conducting a mini-trial. The FIR recited alleged dowry demand, assault, threats and continuing cruelty; the judgment does not specify the IPC offence numbers. Section 156(3) CrPC was invoked in Saurabh's separate Jaipur complaint and resulted in registration of Crime No. 39/2021; that investigation was unresolved and did not itself establish the defence. Section 20 of the Negotiable Instruments Act, 1881 was reproduced concerning a signed and delivered stamped paper left wholly blank or incomplete, prima facie authority to complete it subject to its amount and holder-in-due-course limitations. The Court expressed its observation about the practical effect of a signed blank cheque; it did not find as a fact that this particular cheque met every statutory condition, that it was validly delivered, or that the signature dispute was finally decided. The plot sale deed and house loan formed background, not a land-title or civil-debt adjudication.

4. Issues : First, did the complainant's specific allegations about Meera's car demand, dowry taunts, beating and participation in the Jaipur episode disclose a triable matrimonial criminal case, or were they only vague allegations against a relative that warranted Section 482 quashing? Second, could the son's bank email, later Section 156(3) complaint and still-pending Jaipur FIR about the Rs. 10 lakh cheque defeat the complainant's account at the quashing stage, particularly when the first email did not deny his signature and the debt/loan narrative was not addressed? Third, what did the Court's Section 20 observation add, and what matters had to remain for investigation or trial rather than become final factual findings in this petition? The Court did not determine actual cruelty, cheque forgery, who owed the loan or the outcome of the Jaipur case initiated on the counter-complaint.

5. Ratio / Findings : *Taramani Parakh* set out the governing limits. A court may terminate inherently impossible or legally insufficient allegations, and should scrutinize general allegations against family members; it may not decide which of two factually contested matrimonial versions is true where specific conduct supporting a triable accusation is set out. The FIR did more than identify Meera as Saurabh's mother: it attributed to her statements that the complainant's family gave inadequate dowry, a car demand, physical beating after refusal, and assistance or participation in the described Jaipur violence. The Court expressly called the allegations against Meera specific. It therefore found no basis to quash the FIR against her and left proof and reliability to the proper proceedings. It did not make a finding sufficient to sustain a conviction or separately decide the charge against Saurabh.

The counter-version did not change that threshold. Saurabh's bank email originated while he was on a ship, contrary to counsel's first description, and did not at first deny his signature on the cheque. A later Section 156(3) application asserted that issue, and the Jaipur FIR had been registered, but the investigation still remained open. The Court quoted Section 20 and stated that, if a blank cheque is issued with a signature, the payee may be presumed authorized to fill the remaining entries. It also noted the applicant's silence on the loan for house construction and repayment. The Court considered these matters when rejecting her threshold challenge to the complainant’s allegations at the Section 482 stage. It did not adjudicate that the disputed instrument was valid, that the complainant was exonerated in Jaipur, or that the statutory proviso concerning an incomplete stamped instrument had been finally satisfied.

The quoted *Amit Kapur* guidelines, through *Taramani*, also warn against conducting an evidentiary mini-trial, considering external defence material as conclusive or predicting an acquittal; a separate civil/financial issue may coexist with criminal allegations. The High Court's final paragraph turns on the specific allegations against Meera rather than on a broad pronouncement that any in-law allegation survives, and the quoted examples of other relatives' quashing were not mechanically extended to her.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. The request to quash Crime No. 336/2020 at Police Station Kotwali, Shivpuri,

the charge-sheet and all consequential proceedings was refused as to Meera Chauhan; the underlying prosecution could continue. The Court did not direct an outcome in Jaipur Crime No. 39/2021, decide the civil/cheque dispute, grant costs or declare the complainant's accusations proved.

Meera Chauhan v. State of M.P. and Ors., M.Cr.C. no. 10981/2021, 19/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Investigation — judicial restraint — no compulsory arrest or charge-sheet - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, explains that the police have a statutory duty to investigate, while courts ordinarily should not dictate particular investigative steps or a predetermined result; investigation may end in a charge-sheet or a finding that no case is made out. Its cited *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, treats arrest under Section 41 CrPC as a matter of police discretion to be exercised cautiously, not an automatic consequence of an FIR. The Court applied that principle to decline the complainant's requested directions that officers arrest the accused and file a charge-sheet in her cheating FIR. The quoted *Divine Retreat Centre* hearing concern addressed the danger of coercive orders against unheard persons, but this Court issued no such order or independent ruling on notice.

Section 173(1) CrPC — completion without unnecessary delay - The applicant said Crime No. 794/2023, registered on 04.08.2023, remained under investigation and her statement had not been recorded. The Court held that police could not leave it pending indefinitely: the investigating officer must decide whether an offence is disclosed and complete the investigation and lawful final report, whether charge-sheet or closure, as early as possible. The application was disposed of with a direction to conclude the investigation and take steps required by law; a grievance could be presented to the Superintendent of Police, Morena. No fixed date, arrest command or direction to reach a particular result was imposed.

Case-note :- ***1. Facts :*** Meera Gupta filed Miscellaneous Criminal Case No. 42215/2024 under Section 482 CrPC seeking fair investigation of Crime No. 794/2023 at Kotwali Morena, District Morena, for an alleged Section 420 IPC cheating offence. The FIR was registered on 04.08.2023. Her counsel stated that, even by the hearing on 13.11.2024, the investigation had not been completed and the complainant's own statement had not been recorded. She sought an order for speedy completion, arrest of the accused and filing of a charge-sheet. The Court considered the request for directions concerning completion, arrest and a charge-sheet. The High Court heard counsel and addressed what directions could lawfully be made. The Court directed lawful completion of the investigation without requiring an arrest or a charge-sheet.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, 2009:INSC:1132, (2009) 10 SCC 488*, was quoted extensively and expressly applied. In that case the Supreme Court set aside a High Court order that had directed police to record statements, make arrests, seize property and file a charge-sheet as mandatory investigative steps, with no adequate reasons or hearing of those facing the coercive consequences. Police possess a statutory investigation duty, but ordinarily courts do not steer the manner of investigation or assume its outcome. A lawful investigation may warrant a charge-sheet or a conclusion that no case is made out. Section 482 power is limited to giving effect to Code orders, preventing abuse of court process and securing justice, exercised sparingly and with reasons; casual judicial observations can influence police action. The present Court used that ratio to refuse the requested mandatory arrest and charge-sheet while leaving the investigative decision with police. The Supreme Court's concern about unheard affected parties was part of the quoted authority's context; the present Court declined to direct arrest and filing of a charge-sheet.

Within *D. Venkatasubramaniam*, the quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explained that Section 41 CrPC gives an investigating officer discretion, after assessing a cognizable allegation and circumstances, whether arrest is needed. FIR registration does not require mechanical arrest; arrest intrudes on liberty, reputation and status. The High Court's refusal of an arrest command adopted that aspect through the controlling *D. Venkatasubramaniam* passage, but it did not adjudicate whether an arrest here would independently be necessary. The quoted *Divine*

Retreat Centre v. State of Kerala, (2008) 3 SCC 542, required reasonable opportunity to be heard before judicial orders likely to affect persons drastically, particularly by directing investigation against them on an anonymous petition. This was nested precedent explaining why the Supreme Court disapproved the High Court order under challenge; the present matter did not turn on an actual anonymous petition or a separate notice ruling. No other cited authority was judicially analyzed.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973 was invoked for the requested fair-investigation directions. The Court applied the limits stated in *D. Venkatasubramaniam* rather than treating inherent power as authority to manage every step of the police investigation. Section 173(1) CrPC was set out: investigation under the relevant Chapter must be completed without unnecessary delay. The Court interpreted that as an obligation to decide, through police investigation, whether the offence was made out and submit an appropriate final report, charge-sheet or closure, without unjustified delay. Section 41 CrPC appeared in *M.C. Abraham*'s quoted explanation of arrest discretion, not as an order to arrest anyone here. Section 420 IPC identified the registered allegation, with no decision on its elements, proof or whether a final report must accuse anyone.

4. Issues : First, could the High Court, on the complainant's Section 482 request and while investigation remained pending, direct the officer to arrest proposed accused and file a charge-sheet in a Section 420 IPC FIR, thereby selecting investigative means and result? Second, did Section 173(1) impose a positive duty to bring the investigation to a conclusion without unnecessary delay, and what neutral direction could the Court make after an FIR of 04.08.2023 remained open according to the applicant? Third, what remedy was left for the complainant if a grievance persisted? No issue of whether accused had committed cheating, whether an arrest was factually justified, or whether the applicant's statement had actually been withheld by police was finally determined.

5. Ratio / Findings : The Court separated process from outcome. The Supreme Court's *D. Venkatasubramaniam* decision forbids casual, unreasoned judicial instructions that displace the police's statutory assessment by mandating the recording of witness statements, seizure, arrest and the filing of a charge-sheet. It recognized that police might investigate and find a case for a charge-sheet or find no sufficient case; arrest is not automatic, as the nested *M.C. Abraham* discussion of Section 41 and liberty explains. A direction to arrest and file a charge-sheet here would amount to supervision of the investigation. The Court therefore did not grant those specific demands or decide credibility and ultimate prosecution. It did not use the quoted notice principle as a reason to declare any present order a nullity; that was a feature of the Supreme Court precedent.

At the same time, Section 173(1) forbids leaving an investigation pending without justification. The applicant's claim that more than a year had passed and her statement remained unrecorded supplied the setting, and the Court grounded its direction in Section 173(1)'s requirement of completion without unnecessary delay. It said the investigating officer must reach a lawful conclusion about whether an offence is made out, complete the investigation as early as possible and file the appropriate final report without delay. The phrase covers closure as well as charge-sheet. Its direction to take necessary lawful steps did not set a calendar deadline, require any arrest or predetermine the conclusion. The Superintendent of Police was identified as a route for a later grievance, to be looked into in accordance with law.

6. Relief : The Hon'ble High Court finally disposed of the Section 482 application. The Court directed the investigating officer to conclude Crime No. 794/2023 as early as possible and take necessary steps under law, consistent with Section 173(1)'s requirement of completion without unnecessary delay. It declined to direct arrest or compulsory filing of a charge-sheet. If Meera Gupta remained aggrieved, she could apply to the Superintendent of Police, Morena for consideration in accordance with law. The order gave no fixed completion date, finding of cheating, damages, or coercive relief against unnamed proposed accused.

Meera Gupta v. State of Madhya Pradesh and Ors., M.Cr.C. no. 42215/2024, 13/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Limitation and reporting delay — A Section 498-A IPC FIR of 12.03.2021 concerning a marriage of 08.03.2019 was held within the three-year period discussed under Section 468 CrPC; the

Court rejected a limitation-based quashing request. The Court also held that the alleged cruelty was continuous. Delay after an earlier complaint and after the husband's restitution petition was not by itself proof of a false counterblast. Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court recognized that a complainant may wait in hope of saving the marriage rather than immediately initiate a criminal FIR. The explanation was assessed at the quashing threshold, not as a finding of ultimate credibility.

Matrimonial cruelty — The complaint alleged a post-marriage demand for a car or Rs. 4 lakh, expulsion while pregnant, threats against return and continued residence with her parents. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted and applied to the continuing mental impact of expulsion: Section 498-A cruelty can persist in the parental home despite cessation of physical acts at the matrimonial home. The quoted Supreme Court reasoning also discussed Section 179 CrPC; no independent territorial-jurisdiction issue was decided here. The Court held the specific allegations sufficient to resist quashing, without proving their truth.

Parallel matrimonial proceedings — The Section 9 Hindu Marriage Act restitution case and Section 125 CrPC maintenance application did not automatically defeat the criminal FIR. Following *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, and *Pratibha*, the Court separated civil and criminal procedures and standards, and held that future restitution findings would not bind the criminal court. It rejected the suggested counterblast on this record.

Section 482 CrPC — *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, was applied: a court considering quashing should not conduct a meticulous comparison of the FIR and maintenance pleadings as if trying the case; an FIR is not expected to contain all evidence. Basic cruelty allegations also appeared in the maintenance application. With specific allegations against the six applicants, the Court dismissed their joint quashing application. It did not adjudicate guilt or collateral matrimonial proceedings.

Case-note :- ***1. Facts :*** The six applicants were the complainant's mother-in-law Meera Soni, father-in-law Chhotelal Soni, brother-in-law Pankaj Soni, his wife Rinki Soni, another brother-in-law Vikram alias Vicky Soni, and husband Neeraj Soni. They sought quashing under Section 482 CrPC of Crime No. 52/2021 registered at Police Station Seondha, Datia under Sections 323, 498-A and 506/34 IPC and Sections 3/4 Dowry Prohibition Act. The complainant said that she married Neeraj on 08.03.2019, with Rs. 8 lakh and seven tolas of gold given at marriage. After Pankaj's accident, she alleged that family members complained that her father had provided insufficient dowry and demanded a car or Rs. 4 lakh. She said her father lacked the means, and that the demand was repeated to her brother during Diwali. She alleged expulsion from the matrimonial home with her brother while pregnant, withholding of ornaments, threats if she returned without fulfilling the demand, and a specific statement by Meera Soni that the complainant would not be allowed to remain in her matrimonial home if she gave birth to a girl. She resided thereafter with her parents. These were allegations recorded from the written complaint, not adjudicated facts; the judgment does not separately find that each applicant committed every pleaded act.

The applicants pointed to a written complaint dated 25.11.2019, paragraphs 3–5 of the complainant's Section 125 CrPC maintenance application, the interval before the FIR of 12.03.2021, and the husband's Section 9 Hindu Marriage Act restitution proceedings. They submitted that the FIR was false and filed as a counterblast after notice of that case. The State answered that the allegations disclosed cognizable offences, that the maintenance pleading was substantially consistent and that waiting for marital improvement was a plausible context. In a preliminary procedural matter, the applicants' counsel had previously said Pankaj had died and then sought recall because he was alive; the Judge sharply criticized the false statement and suspected adjournment or bench hunting. That admonition did not itself decide the FIR's legal sufficiency, and the application remained on the merits.

2. Precedents — Considered : *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted at length and applied in paragraph 10. The Supreme Court explained that Section 498-A IPC cruelty includes mental as well as physical harm: the fear, emotional distress and psychological effects of conduct driving a wife to shelter with her parents may continue there, even though physical abuse at the matrimonial house has stopped. Its quoted reasoning connected such consequences to Section 179 CrPC's place-of-consequence jurisdiction and described repeated

cruelty at the parental home. The present Court took from it that the alleged cruelty here was continuous in considering the delay and the non-fulfilment of dowry demand. It did not decide a venue objection or make a finding that every alleged act occurred. The quote also contrasted the Domestic Violence Act's civil remedy with Section 498-A's criminal remedy; no relief under that Act was sought.

Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555, was quoted and applied to reject termination of criminal process because matrimonial civil litigation was pending. The Supreme Court distinguished the civil balance-of-probabilities standard from proof beyond reasonable doubt in criminal proceedings, and said a pending civil suit does not justify quashing or stopping the criminal case as a matter of course. Its embedded passage from *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, explained the ordinary precedence of prompt criminal adjudication and the absence of a hard-and-fast stay rule, with exceptional case-specific considerations possible. The present Court used the independence and non-binding character of civil findings; it did not order a stay, decide sequencing, or decide either collateral case. *M.S. Sheriff* was nested within the quoted authority, not separately applied to grant priority relief.

Pratibha v. Rameshwari Devi, (2007) 12 SCC 369, was also quoted and applied. It faulted quashing on an adverse inference from a wife's delayed FIR when the parties had attempted reconciliation, and held that a divorce petition and civil proceeding, despite common facts, do not alone terminate criminal proceedings under Section 482. A quashing court should not go beyond the FIR or rely on extraneous considerations. The High Court adopted those limits to reject the counterblast and delay arguments in this record. *Bhajan Lal* is mentioned within the reproduced *Pratibha* passage; the High Court applied *Pratibha* to the delay and counterblast submissions.

State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021, order dated 30.06.2021, was quoted and applied directly to the maintenance-pleading comparison. The Supreme Court disapproved meticulous scrutiny of materials as if at trial during Section 482 review and explained that an FIR is not an encyclopedia. The Court therefore refused to resolve purported pleading differences in detail, observed that the basic cruelty allegation also appeared in the Section 125 application, and confined itself to whether the specific FIR allegations justified continuation. No other Supreme Court authority was independently analysed by the Judge.

3. Statutes considered : Section 482 CrPC provided the basis for invoking inherent jurisdiction to quash the FIR; the Court applied the threshold constraints from *Pratibha* and *Kunwar Singh*, not trial proof standards for factual determination. Section 468 CrPC was invoked as providing a three-year limitation where the maximum sentence is three years. The Court compared the marriage date, 08.03.2019, with the FIR date, 12.03.2021 and found the allegations not time barred. The Court also held, applying *Rupali Devi*, that the alleged cruelty was continuous. Section 498-A IPC supplied the cruelty offence for which *Rupali Devi*'s mental-cruelty reasoning mattered; Sections 323 and 506/34 IPC and Sections 3/4 Dowry Prohibition Act were alleged offences but their separate ingredients were not interpreted. Section 179 CrPC and the Protection of Women from Domestic Violence Act appeared in the quoted *Rupali Devi* discussion, without an independent territorial or civil-remedy ruling here. The wife's Section 125 CrPC maintenance application and the husband's Section 9 Hindu Marriage Act restitution proceeding were background to the delay and alleged counterblast, not determinations of those claims.

4. Issues : First, did the time between the marriage, earlier complaint and March 2021 FIR make the matrimonial allegations barred by limitation or so delayed as to justify quashing at the Section 482 threshold? Second, could the pleaded dowry demand, expulsion and continued residence at the parental home support Section 498-A cruelty in light of the Supreme Court's treatment of continuing mental harm? Third, did the husband's Section 9 petition and the wife's Section 125 pleading show the criminal FIR to be a false counterblast, or make civil findings binding on the criminal court? Fourth, could the High Court conduct a detailed comparison of the maintenance pleading and FIR, or infer falsity, to decide disputed facts at the Section 482 stage? The application required an assessment of legal sufficiency at the threshold; it did not call for a final determination of guilt, damages, restitution, maintenance or venue, or for findings on the evidence against each accused.

5. Ratio / Findings : On limitation, the Court described Section 468's three-year period for an offence with a three-year maximum sentence. Since

the marriage was on 08.03.2019 and the FIR on 12.03.2021, it rejected the argument that the FIR's allegations were barred. Apart from that statutory ground, it refused to regard belated reporting as conclusive proof of malice: a wife may delay approaching police in hope that family behavior improves. *Pratibha* supplied a concrete Supreme Court example where reconciliation efforts explained a wife's reporting interval before a later matrimonial civil petition. The Court rejected this delay ground for quashing on the record, without deciding the ultimate truth of the complaint.

On cruelty, the allegations included a demand for a specified amount or a car, repeated demand to the complainant and her brother, expulsion while pregnant, threatened consequences of return without dowry and residence with parents. *Rupali Devi* explained that the mental and psychological consequences of conduct at the matrimonial house may persist in the parental home and can constitute continuing cruelty under Section 498-A even absent fresh physical acts there. The Court concluded that being forced to live at the parental home for non-fulfilment of alleged dowry demands could amount to cruelty. This was a legal basis for retaining the FIR, not a final finding that an identified relative made every alleged statement or that all charged offences were proved. It did not separately apply *Rupali Devi* to resolve Section 179 territorial jurisdiction.

On counterblast, the Court rejected the proposition that the husband's Section 9 restitution case invalidated a later FIR. *Kamaladevi Agarwal* explained the different purposes and standards of proof in civil and criminal proceedings and why civil pendency cannot mechanically quash a criminal case; the nested *M.S. Sheriff* discussion does not create a mandatory stay order in this judgment. *Pratibha* likewise treated a matrimonial civil petition and criminal complaint as independent despite overlapping facts. The Court said findings to be made in the restitution case would not bind the criminal court; the husband would still have to prove his own position there. The sequence in which the proceedings were filed and the anticipated civil findings, by themselves, did not establish a malicious counterblast, especially where a delay could be explained by hope of marital improvement. It made no adjudication in the restitution proceeding.

On the maintenance pleading and the sufficiency of the factual allegations, the Court read the Section 125 application sufficiently to note that its basic cruelty allegation was present. It declined to compare each paragraph meticulously with the FIR; *Kunwar Singh* bars trial-style evidentiary scrutiny at the Section 482 stage and recognizes that an FIR need not narrate every detail. The complaint's specific allegations against the family applicants supplied a sufficient threshold for the criminal process to continue as to all six. That conclusion did not settle credibility, individual criminal responsibility or the merits of charges. The earlier inaccurate statement about Pankaj's death drew an ancillary judicial admonition, but it neither extinguished the FIR nor became a test for its quashing.

6. Relief : The Hon’ble High Court dismissed the six applicants' Section 482 CrPC application and refused to quash the FIR in Crime No. 52/2021 alleging offences under Sections 323, 498-A, 506/34 IPC and Sections 3/4 of the Dowry Prohibition Act. No part of the FIR was quashed for any applicant. The Court imposed no separate operative direction resolving the maintenance or restitution proceedings, finding guilt, determining limitation at eventual cognizance, or deciding territorial jurisdiction. The ruling leaves investigation and subsequent criminal adjudication to proceed according to law.

Meera Soni and Ors. v. State of M.P. and Ors., M.Cr.C. no. 22116/2021, 07/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- MGNREGA good-faith protection — Section 30 of the Mahatma Gandhi National Rural Employment Guarantee Act protects the specified public servants and deemed public servants only in respect of acts done or intended to be done in good faith under the Act, rules or schemes. The Court reproduced the overriding provision in Section 28 and examined the protection claimed under Section 30. Applying the requirement of due care and attention in Section 52 IPC, the Court declined to extend protection to the petitioner, a Sarpanch, at the FIR stage. The National Level Monitor alleged payment of Rs. 0.91 lakh for a road that had not been built, effective control of Panchayat work by her son while she merely signed documents, and burning or partial burning of records sought by inspectors. The Court assessed those allegations and the immunity objection for the purpose of writ relief, without finally determining guilt.

Panchayat civil recovery and criminal process — Sections 89 and 92 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 provide for inquiry and civil recovery. No express exclusion, or exclusion by necessary implication, of the IPC or CrPC was shown. *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, rejected a similar contention that a statute was a complete code in the absence of a bar to criminal proceedings. *Dhanraj N. Asawani v. Amarjeetsingh Mohindersingh Basi, Criminal Appeal No. 2093/2023*, explained Section 4 CrPC and held that a special procedure displaces the Code only where exclusion is express or follows by necessary implication. In the absence of a statutory restriction on who may complain, cognizable offences may ordinarily be reported by anyone. Applying those principles, the Court rejected the contention that an inquiry into civil loss under the Panchayat Act had to be completed before registration of the FIR. The civil recovery claim remained undecided.

Article 226 control of an ongoing FIR — On the allegations in the FIR and the monitor's report, the disputed claims that the road existed, the records burned accidentally and the son had not taken over Panchayat work required investigation or trial. *Teeja Devi*, *Ujjal Kumar Burdhan*, *XYZ v. State of Gujarat and Varala Bharath Kumar* were relied on to explain the restraint required during an early investigation into a cognizable offence, while preserving the recognised exceptions where no offence is disclosed on the face of the allegations or the proceedings constitute manifest abuse. Under *Renu Kumari*, once cognizable allegations were disclosed, an unsupported accusation of mala fides against the informant was of secondary importance. That principle did not remove the exception for a manifestly malicious proceeding. The Court refused to quash the FIR against the petitioner or the administrative direction to register it, without finally deciding the disputed evidence.

Preliminary inquiry — *Lalita Kumari, (2014) 2 SCC 1*, requires registration of an FIR under Section 154 CrPC when information discloses a cognizable offence. In appropriate circumstances, a limited inquiry may ascertain whether such an offence is disclosed; it may not test the truth of the information. *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045/2021*, reconciled the illustrative references to corruption cases with the absence of a mandatory right of the accused to an inquiry before registration. The Court held that failure to conduct a preliminary inquiry did not vitiate this FIR because cognizable allegations were disclosed. The other Supreme Court decisions discussed within the quoted CBI judgment supplied its context; they were not separate findings of corruption liability in this case. The writ petition was dismissed, and the interim protection dated 28.04.2022 was vacated.

Case-note :- ***1. Facts :*** Meera Yadav, described in the judgment as the Sarpanch of Gram Panchayat Nadiya, brought Writ Petition No. 9743/2022 under Article 226 challenging a direction to lodge an FIR following a National Level Monitor (NLM) inspection and seeking protection against coercive action. The judgment's opening account dates the challenged direction 22.04.2022. An FIR was registered on 29.04.2022 while the writ petition was pending, and she amended the petition to challenge it. The NLM report alleged that Rs. 0.91 lakh had been recorded or used for a road that had not been built, that her son had effectively taken over Panchayat work while she merely signed documents, and that records sought by inspectors had been burned or partly burned, although the table itself had not burned. The Collector's communication dated 19.04.2022 called for a report against the implementing agency and persons responsible for maintaining muster rolls, valuation and payments. The petitioner contended that it did not name her, whereas the subsequent CEO communication named her for registration of the FIR.

The petitioner disputed all the substantive allegations. She maintained that the road had been built, no money had been embezzled, her son had not taken over her duties and the records had burned accidentally. She relied on Sections 28 and 30 of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) as protecting official acts done in good faith. She argued that an inquiry into civil loss and recovery under Sections 89 and 92 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 had to precede criminal action. She further contended that the Collector's direction was vague, no cognizable offence was disclosed, the FIR was malicious, and *Lalita Kumari* required a preliminary inquiry before registration. The State submitted that the recovery provisions did not impose a condition on registration of a criminal FIR and that good faith was disputed. The judgment does not specify the IPC offence

numbers in the registered FIR. The matters described were allegations in the pleadings or investigation, not findings proved at trial.

2. Precedents — Considered : *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, was quoted for rejecting the contention that the M.P. Cooperative Societies Act provided a complete remedial code where it contained no bar to the general criminal law, particularly when allegations under the Prevention of Corruption Act also arose. The Court applied that principle by analogy to the Panchayat Act's civil recovery machinery. It did not hold that the two Acts contained identical provisions or that a PC Act charge necessarily arose in this case.

Dhanraj N. Asawani v. Amarjeetsingh Mohindersingh Basi, Criminal Appeal No. 2093/2023, decided 25.07.2023, was reproduced extensively and applied. It explained Section 4(1) and (2) CrPC: IPC offences follow the Code, and offences under other laws also follow it subject to a special enactment regulating investigation, inquiry or trial. Displacement requires express exclusion or necessary implication, not a general claim that another statute is complete. In the cooperative-audit context, a duty on an auditor or Registrar to report irregularities did not prohibit another person from setting criminal law in motion; absent a statutory complainant restriction, crime is a matter of public concern and police retain an independent investigative duty. The quotation distinguished MCOCA's express prior-approval, rank and sanction safeguards from a mere positive reporting obligation, and explained a necessary-implication example under the Transplantation of Human Organs Act. It also referred to *Lalita Kumari*'s FIR purpose, *A.R. Antulay* on complainant locus, *Bhajan Lal*'s express legal-bar category, and other nested decisions. Those authorities were incorporated as *Dhanraj*'s explanation of the test, not independently decided as MCOCA, organ-transplant or cooperative-law issues in this Panchayat writ. The High Court identified no express or implied bar in Sections 89 and 92 and rejected the petitioner's claimed civil precondition.

Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221, explained that Section 482 should not ordinarily be used to prevent police investigation when the FIR allegations prima facie disclose a cognizable offence; rare cases of malicious and vexatious prosecution remain exceptional. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, emphasised sparing intervention at an early stage, consideration of allegations at face value and the possibility of intervention for gross abuse. The *Swapan Kumar Guha* passage quoted within that decision explained the importance of collecting evidence through investigation. Its *Jeffrey J. Diermeier* passage identified the three purposes and limits of Section 482. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, disapproved a roving factual inquiry and premature quashing before serious allegations had been investigated. *Varala Bharath Kumar v. State of Telangana, (2017) 9 SCC 413*, stated the exceptions under Article 226 or Section 482 where the allegations disclose no offence or its ingredients, or the prosecution is manifestly malicious. It required cautious exercise of the power so as not to stifle legitimate proceedings. The Judge applied those directly quoted principles to the Article 226 petition; the proceeding was not reclassified as a Section 482 application. The petitioner's disputed explanations concerning the road and burning of records could not be tried at that stage.

Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346, was directly quoted and applied. Once information disclosing a cognizable offence has been registered, a bare allegation of mala fides against the informant is of secondary importance. When the facts are incomplete, the Court should not speculate whether conviction is likely; the material collected in investigation and the evidence at trial determine the case. The lengthy quotation listed earlier authorities on mala fides and referred to *Janata Dal* and *Raghubir Saran* on cautious exercise of inherent power. Those citations occurred within *Renu Kumari* and were not separately applied to decide additional issues. The Court rejected the unsupported allegation of malice in the present case, while leaving intact the exception for a manifestly abusive FIR described in *Varala*.

Lalita Kumari v. Government of U.P., (2014) 2 SCC 1, was directly quoted for its conclusions under Section 154 CrPC. Information disclosing a cognizable offence requires registration of an FIR. Where disclosure is uncertain, a preliminary inquiry may ascertain only whether such an offence is disclosed, without testing the truth of the information. Illustrative categories, including corruption cases, may warrant inquiry according to the facts; diary entries and prompt, limited procedures for closure provide safeguards. The Court relied specifically on the duty to register and the limited purpose of inquiry, rather than any

mandatory hearing before registration for this Sarpanch. *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045/2021*, decided 08.10.2021, was quoted at length and applied to the claim that inquiry was mandatory. That decision considered *P. Sirajuddin*'s concern for harm to the reputation of public servants, the illustrative corruption category in *Lalita Kumari*, and the later reasoning in *Managipet*. An inquiry that is permissible or desirable in some corruption cases does not give every accused a right to one or invalidate an FIR where reliable information already discloses a cognizable offence. The quotation also considered *Nirmal Singh Kahlon*, *Yashwant Sinha*, *Charansingh*, *K. Veeraswami* and examples from the CBI Manual. It distinguished investigation from an adjudicatory opportunity for a public servant to explain disproportionate assets. Those discussions formed part of the quoted reasoning in *Thommandru*. The present case concerned alleged misappropriation in rural works and handling of records, rather than adjudication of a disproportionate-assets charge, mandatory CBI Manual procedure or a right to explain matters before a charge sheet. The High Court applied the conclusion that failure to hold an inquiry did not automatically invalidate this FIR.

3. Statutes considered : Article 226 of the Constitution was the jurisdiction invoked to quash the administrative direction and subsequent FIR and to restrain coercive action. The judgment repeatedly referred by analogy to the standards governing inherent power under Section 482 CrPC, but the proceeding did not become a Section 482 petition. Sections 28 and 30 MGNREGA were reproduced. Section 28 gives the Act and its schemes precedence over inconsistent law, subject to its provisos. Section 30 protects the listed programme officials or other deemed public servants only for acts done or intended to be done in good faith under the Act, rules or schemes. Section 52 IPC defines good faith by reference to due care and attention. The Judge applied that requirement to the claimed protection and refused immunity in view of the alleged conduct, without finally determining any charged IPC offence. Sections 89 and 92 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 provided the civil inquiry or recovery procedure relied on by the petitioner. They were held not to exclude the CrPC and IPC expressly or by necessary implication. Section 4(1)–(2) CrPC, quoted through *Dhanraj*, supplied the framework governing general and special procedures. Section 154 CrPC, discussed through *Lalita Kumari* and *Thommandru*, governed registration on disclosure of a cognizable offence and the limited role of preliminary inquiry. The other special enactments and provisions within the lengthy *Dhanraj* and *Thommandru* quotations supplied analogies or distinctions; they were not independently governing statutes in this petition.

4. Issues : First, did Section 30 MGNREGA protect the petitioner as Sarpanch on the basis that the reported acts were programme work done in good faith, and did Section 28 create an overriding bar? Second, did loss arising from Panchayat works have to be established and recovered under Sections 89 and 92 of the 1993 Adhiniyam before an FIR could be lodged, or did those provisions expressly or impliedly exclude criminal proceedings? Third, did the direction and FIR disclose a cognizable offence at face value, despite the general terms of the Collector's communication and the petitioner's competing account of the road, her son's involvement and damaged records? Fourth, did her allegation of malice justify quashing at the early writ stage? Fifth, did *Lalita Kumari* require a preliminary inquiry, and did its omission by itself invalidate this FIR? Whether misappropriation had actually occurred, the exact recoverable amount and criminal culpability following investigation were not finally determined in the writ petition.

5. Ratio / Findings : In considering protection, the Court read the good-faith condition in Section 30 with the requirement of due care and attention in Section 52 IPC. The NLM report alleged that Rs. 0.91 lakh was recorded as expenditure on an unbuilt road, that the petitioner acted as a nominal Sarpanch signing documents while her son controlled Panchayat operations, and that records sought by inspectors were partly burned. At that threshold stage, the Court found that the alleged acts did not represent work done in good faith under the MGNREGA scheme. It held that the petitioner was not entitled to protection under Section 30. It therefore rejected the statutory shield. The petitioner disputed the allegations. The conclusion justified refusal of writ protection at that stage; it was not a finding at trial that she had deliberately burned records or committed embezzlement.

On the relationship between the remedies, the Court applied *Rameshwar* and *Dhanraj* to examine whether the special State Panchayat statute expressly, or by necessary implication, barred

reporting a cognizable IPC offence. Counsel identified no such bar. The availability of inquiry or recovery under Sections 89 and 92 did not by itself displace Section 4 CrPC or ordinary police powers. The Court stated that registration required disclosure of a cognizable offence and that, absent a statutory bar, anyone could set the criminal law in motion. The right of anyone to report cognizable information to the police, unless a statute provides otherwise, reinforced that conclusion. Civil recovery and criminal investigation could proceed according to their respective requirements. Neither civil liability nor criminal guilt was determined in this proceeding. In examining whether the allegations disclosed an offence, the Court distinguished the NLM material and FIR allegations from the petitioner's denials. Her proposed evidence that the road existed, her son had not assumed her functions and the records burned accidentally required investigation or proof. *Teeja Devi*, *Ujjal Kumar Burdhan*, *XYZ* and *Varala* explained why early intervention under Article 226/Section 482 is exceptional where a cognizable offence appears, while preserving intervention for legal insufficiency on the face of the allegations or demonstrated abuse. Taking the alleged expenditure on the road, unauthorised control of Panchayat work and condition of the records at face value, the Court found triable allegations and declined a roving inquiry or substitution of the defence account. The Section 482 precedents supplied a standard for considering the writ; they did not create a separate procedural disposal.

On malice, *Renu Kumari* prevented an unsupported allegation about the informant's motive from overriding information disclosing a cognizable offence before evidence had been collected. The Court treated the bare allegation of mala fides as secondary to that information and the subsequent evidentiary process. It did not hold that every proceeding proved to be malicious must continue: *Varala* permits extraordinary intervention where proceedings are manifestly motivated by vengeance. The alleged vagueness of the earlier administrative communication did not negate the specific NLM material and the later report naming the petitioner.

On preliminary inquiry, *Lalita Kumari* required registration where information discloses a cognizable offence and permitted a limited inquiry, depending on the facts, where necessary to ascertain such disclosure. It did not permit an inquiry into the truth of the information at that stage. *Thommandru* explained that the illustrative reference to corruption and the earlier concerns for protection of public servants do not make inquiry mandatory in every such case. Failure to conduct one does not by itself justify quashing where sufficient information disclosing a cognizable offence is available. The Court found such allegations here and held that a preliminary inquiry was not a necessary prerequisite; its omission did not vitiate the FIR. It did not adjudicate the CBI-specific or disproportionate-assets issues discussed within the quoted *Thommandru* judgment.

6. Relief : The Hon'ble High Court dismissed the Article 226 petition. It refused to quash the direction to register the FIR or the FIR registered on 29.04.2022, and vacated the interim order dated 28.04.2022. The requested protection against coercive action therefore ceased. The judgment neither directed the filing of a particular charge sheet nor finally found the petitioner guilty. Investigation and any subsequent proceedings remained subject to law.

Meera Yadav v. State of Madhya Pradesh and Ors., W.P. no. 9743/2022, 26/09/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial cruelty FIR — The mother-in-law sought Section 482 CrPC quashing of Crime No. 17/2015. The wife alleged a demand for a car or two bigha of land, confinement or restrictions on communication with her family, abuse, beating and threats by identified in-laws, alongside a disputed LPG-gas incident and the husband's conduct. On a face-value reading and by application of *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, the Court found a prima facie case against the applicant and refused to equate the complaint with bare, generalised allegations implicating relatives. This was a threshold decision, not proof of cruelty, common intention or other charged offences.

Section 482 test — The judgment directly considered *Munshiram, Teeja Devi, Ujjal Kumar Burdhan, XYZ v. State of Gujarat, S. Khushboo, Amit Kapoor, Ajay Kumar Das, Mohd. Akram Siddiqui, State of A.P. v. Gourishetty Mahesh, Padal Venkata Rama Reddy, M. Srikanth, M.N. Ojha and CBI v. Arvind Khanna*. The common principle applied from these authorities was that scrutiny at the quashing stage must be cautious: prima facie cognizable

allegations should be investigated, and the Court should not conduct a trial, test disputed defence assertions or predict conviction. The quoted standards preserve quashing for a failure to disclose the ingredients of an offence, patent improbability in the allegations, an express legal bar or manifestly malicious abuse. *Mohd. Akram* recognized an exception for certain undisputed or public defence documents, but no such document controlled this application. *S. Khushboo* and *Amit Kapoor* also explained the balance between protecting an apparently innocent person and avoiding premature stifling of legitimate process.

Delayed FIR and divorce proceedings — The applicant called the wife's FIR an afterthought following her son's divorce petition and relied on lack of earlier complaint. Following *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court accepted that a spouse may wait in the hope that the marital relationship will improve, and civil divorce proceedings do not automatically end an independent criminal process arising from overlapping facts. No present proof of malicious institution displaced the specific FIR allegations. The application was dismissed; the FIR under Sections 498-A, 294, 506-B and 34 IPC and Sections 3/4 Dowry Prohibition Act was not quashed.

Case-note :- ***1. Facts :*** Meera, the complainant's mother-in-law, sought quashing under Section 482 CrPC of Crime No. 17/2015 at Police Station Kotwali, Morena, registered under Sections 498-A, 294, 506-B and 34 IPC and Sections 3/4 Dowry Prohibition Act. The complainant married Meera's son Deepak on 31.01.2013. In her FIR of 04.01.2015, she said her family had spent substantial sums and given dowry at the wedding. She alleged that Meera, Meera's daughter and Meera's husband repeatedly taunted her and demanded a car or two bigha of land; she said Deepak left for Delhi shortly after marriage, her phone was taken, contact with parents restricted, she was abused, beaten and had her hair pulled. She further alleged that the LPG supply had deliberately been left open with the intention of killing her. She also alleged threats that she would not remain in the matrimonial home without the demanded property, hearing difficulty from assaults and the husband's involvement with another woman. She said she had initially refrained from reporting the matter to the police to preserve her marriage, but contact and reconciliation efforts failed. All of these are FIR allegations, not proved facts. The order did not separately decide the sister-in-law's liability or the husband's alleged relationship.

The applicant argued that the FIR failed to disclose an offence, was an afterthought or personal-vendetta counterblast to her son's divorce petition under Section 13(1) of the Hindu Marriage Act, and that the absence of an earlier police complaint showed that the allegations were false. The High Court heard counsel and evaluated the permitted Section 482 inquiry, using numerous directly quoted Supreme Court authorities. The Court assessed whether the allegations disclosed a prima facie case without deciding their factual correctness.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, was quoted to caution against prematurely quashing an FIR before proper investigation, unless continuing investigation would be abusive. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, directly explained that Section 482 ordinarily should not displace statutory police investigation of a prima facie cognizable offence, leaving exceptional malicious and vexatious cases. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, was quoted through its adoption of *Swapan Kumar Guha* on the need to collect evidence before an offence can be proved and its *Jeffrey J. Diermeier* passage on the three purposes and sparing exercise of inherent power. The present Court applied the restraint on intervention at an early stage of investigation; it did not independently resolve the factual settings of those nested authorities. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, condemned a roving Section 482 inquiry into disputed allegations and a premature factual conclusion that had stalled investigation. Paragraph 10 refers to *S. Martin* ('Supra') and quotes its disapproval of an assessment made before investigation was completed. Together these decisions supported assessing the complaint at face value rather than weighing Meera's account of events.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, reproduced two relevant *Bhajan Lal* categories—a failure to disclose an offence on the face of the allegations and manifest mala fides or vengeance—and examples underscoring that an apparently innocent person should not be persecuted on the basis of a wholly untenable complaint. It recognized a narrow, reasoned abuse-of-process intervention rather than mechanical continuation of every FIR; *Medchl Chemicals*, *Zandu Pharmaceutical* and *Shakson Belthissor* were discussed inside its

quotation, not separately applied to the facts here. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, furnished a long list of principles for Sections 397/482, principally in the charge-quashing setting: take uncontroverted record material at face value; do not conduct meticulous evidence appraisal or calculate conviction prospects; preserve legally established bars and manifest abuse; civil facts may also disclose a crime; and external defence material supplied by an accused ordinarily cannot displace the prosecution's factual foundation. Its list of prior authorities and the clarification that *Madhavrao Jiwajirao Scindia* is not universally applicable were inside the quoted passage. The present case concerned FIR quashing; charge-framing particulars were not separately decided. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterated that the power must be exercised sparingly and relied on *Bhajan Lal*'s prohibition on an inquiry into the reliability of the allegations.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, stated the usual refusal to appreciate an accused's defence or test the veracity of the documents relied on by the accused at the quashing stage, with a limited appropriate-case exception for an undisputed or public document. *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* were named in that quoted exception; no particular defence document was found to qualify here. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, balanced avoiding a private complainant's harassment with preventing an accused from prematurely bringing a prima facie prosecution to an end; reliability remains for trial unless a failure to disclose an offence on the face of the allegations, a legal bar or sufficiently established malice supports exceptional intervention. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, described Section 482's broad but discretionary ends-of-justice power, alternative-remedy considerations, *Bhajan Lal*'s categories and nested discussions of *Indian Oil*, *Madhavrao and State of Bihar v. P.P. Sharma*. It expressly rejected a universal rule that a prediction that conviction is unlikely requires quashing in every case; neither an alternative-remedy objection nor a compromise was independently decided against Meera. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, restated the tests of whether the allegations taken at face value, or the uncontroverted material, disclose an offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, required both caution against uncalled-for obstruction and intervention in genuinely absurd or harassing prosecutions. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproved a Section 482 order that decided contested defence and investigative facts in minute detail before trial. These authorities were individually quoted, but they addressed the common issue of scrutiny at the quashing stage; their varied factual contexts were not treated as independent findings in this matrimonial FIR.

Taramani Parakh v. State of M.P., (2015) 11 SCC 260, was expressly invoked by the Judge in paragraph 21 as the comparison applied to the specific allegations against Meera. The Court concluded, in light of *Taramani*, that the allegations disclosed a prima facie case warranting prosecution against the applicant. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was quoted and applied on delay and the claim that the FIR was a counterblast to the divorce petition. Its Supreme Court setting involved a wife trying reconciliation after departure from the matrimonial home before filing an FIR, with a divorce petition also pending. It rejected a mechanical adverse inference from that delay and recognized civil and criminal proceedings as independent even on overlapping facts. The present Court relied on that ratio in rejecting the argument that this FIR should be quashed because it followed a divorce petition; it did not find every alleged act true. *Bhajan Lal*'s categories appear within the reproduced Supreme Court passages, including *S. Khushboo* and *Padal Venkata Rama Reddy.*

3. Statutes considered : Section 482 CrPC was the jurisdiction invoked to quash the FIR and was interpreted through the quoted Supreme Court standards: intervention to prevent abuse and secure justice is wide but sparing; allegations are ordinarily read at face value without evaluating disputed defence evidence or predicting acquittal, while facial non-disclosure, legal bar and manifest abuse can warrant relief. Section 397 CrPC and Section 228 CrPC were discussed within *Amit Kapoor*'s charge and revision context, not operative provisions for this FIR application. Sections 155(2), 156(1) and 173(2) CrPC appeared within the reproduced authorities' discussions of cognizable information, investigation, non-cognizable offences and the charge-sheet; no independent police-power or final-report dispute was decided. Sections 498-A, 294, 506-B and 34 IPC and Sections 3/4 Dowry Prohibition Act were the offences stated in the FIR.

The Court's specific evaluation concerned the facial allegations of dowry demand and cruelty as to Meera; its decision was that the allegations disclosed a prima facie case warranting prosecution. Section 13(1) Hindu Marriage Act governed the son's divorce proceeding, which was relied on in the argument about timing or motive; the divorce merits were not before this criminal court.

4. Issues : First, did the FIR, taken as pleaded, contain a specific factual foundation against the mother-in-law capable of constituting a prima facie criminal case, or was it facially insufficient? Second, how far could the High Court under Section 482 look into disputed factual correctness and defence assertions while police investigation or prosecution was still in progress, in light of the extensive Supreme Court jurisprudence on scrutiny at the quashing stage and its stated exceptions? Third, did delayed reporting after the son's divorce petition establish a mala fide counterblast justifying quashing despite the pleaded demands and assaults? The Court did not decide the truth of the LPG incident, medical condition, marital disputes, guilt of other relatives, charge-wise proof or the ultimate outcome of the divorce proceedings.

5. Ratio / Findings : The Court first assembled the restraints and safeguards in the Supreme Court quashing cases. *Munshiram* and *Teeja Devi* warned against replacing investigation into a cognizable offence with premature findings of fact under Section 482; *Ujjal Kumar Burdhan* and *XYZ* emphasized the need to gather materials and avoid a roving inquiry. *S. Khushboo*, *Amit Kapoor*, *Ajay Kumar Das*, *Gourishetty Mahesh*, *Padal Venkata Rama Reddy*, *M. Srikanth* and *M.N. Ojha* preserved the countervailing power to intervene for a failure to disclose the ingredients of an offence on the face of the allegations, absurd allegations, an express legal bar or a genuinely malicious use of process, but forbade routine credibility adjudication or prediction of conviction. The exception in *Mohd. Akram* for an undisputed or public document did not provide a basis for relying on any defence document in this case. *CBI v. Arvind Khanna* reinforced that contested defence detail belongs at trial. The Court thus reconciled the accused's protection from an untenable case with the complainant's and State's interest in a legitimate investigation. It applied a provisional test of legal sufficiency on the face of the allegations; this did not presume guilt or establish a rule that a matrimonial FIR cannot be quashed. The FIR contained more than a bare allegation implicating a distant relative. It specifically attributed car or land demands and forms of restraint, abuse and assault to Meera and other identified members, besides the disputed LPG and threat allegations. The Court said that, in light of *Taramani Parakh*, one could not say no prima facie prosecution case existed against the applicant. It held that the factual correctness of the allegations could not be examined at that stage. Its adverse ruling was as to this applicant's request to quash the FIR in its entirety.

The applicant's inference from the husband's earlier divorce petition and the absence of an earlier police complaint was insufficient on this record. The Court reasoned that the complainant may have hoped for marital improvement and approached police when reconciliation looked unlikely. It applied *Pratibha*'s rejection of an automatic adverse inference from delayed reporting and its distinction between independent civil divorce and criminal proceedings. That reasoning addressed the timing objection without resolving competing marital accounts or ruling out a proven abuse claim in an appropriately supported case. As the allegations continued to disclose a prima facie case, the Court would not stifle the prosecution midway.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. The High Court refused to quash Crime No. 17/2015, Police Station Kotwali, Morena, under Sections 498-A, 294, 506-B and 34 IPC and Sections 3/4 Dowry Prohibition Act. There was no partial quashing, discharge, finding of guilt, fact-finding remand or direction disposing of the civil divorce case. The contested allegations remain for the ordinary criminal process.

Meera v. State of M.P., M.Cr.C. no. 10353/2015, 05/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Prima facie attribution to each accused — The complainant sought interference under Section 439(2) with the anticipatory bail granted to her husband's parents. She alleged that her husband committed an unnatural sexual act and that the parents, after hearing of it, told her to comply with him. Counsel conceded no record showed the husband shared bedroom matters with them; no specific prior knowledge or instigation by them was

identified. *Jagjeet Singh v. Ashish Mishra, Criminal Appeal No. 632/2022*, permits a bail court to consider prima facie reasonable grounds and the gravity of the offence without adjudicating the evidence in detail. The High Court held the Sessions Court could distinguish the husband's alleged Section 377 act from the parents' own alleged dowry harassment. It did not resolve guilt or negate the latter allegations.

Duration of pre-arrest protection — The Sessions Court had also referred to apparent non-compliance with *Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*, and Section 41A CrPC; the complainant did not show that the observation was erroneous. Her further contention that protection without a time limit was inappropriate led to a limited modification under *Sushila Aggarwal v. State (NCT of Delhi), (2020) 5 SCC 1*, which recognizes that a court may in suitable circumstances limit the duration of anticipatory bail. Protection of respondents 1 and 2 was upheld until filing of the charge-sheet. They must then seek regular bail, to be decided afresh without influence from the preliminary observations in either court's bail order. The ruling did not cancel their bail for misconduct or impose a universal rule that anticipatory bail expires when the charge-sheet is filed.

Case-note :- ***1. Facts :*** Meghna Agarwal applied under Section 439(2) CrPC concerning the anticipatory bail granted on 29.09.2021 by the First Additional Sessions Judge, Ganj Basoda, in Bail Application No. 402/2021 to respondents 1 and 2, Manju Bagadiya and the other parent of her husband, Anurag Bagadiya. The FIR alleged marriage on 20.01.2020, substantial dowry, further demands for an Audi car and Rs. 50 lakh, physical and mental harassment, beating allegedly by Anurag and Manju, jewelry retained by the in-laws and expulsion on 16.11.2020. Meghna also alleged that Anurag committed an unnatural sexual act on 05.08.2020 and threatened her, and that the in-laws, when subsequently told, urged her to accept his wishes. She reported to her mother on 21.09.2021 after a period during which she said she had sought to preserve her marriage. These remain FIR allegations; the disputed Section 377 act was attributed to the husband, not alleged to have been physically performed by his parents.

The Sessions Court found the alleged sexual act specifically against Anurag and treated the parents' response as a separate allegation; it regarded their principal accusation as dowry-related physical and mental harassment and noted apparent failure to follow *Arnesh Kumar* and Section 41A CrPC. Meghna argued that the response demonstrated the parents' consent and knowledge of the husband's act and later that an anticipatory-bail order without a time limit would allow the parents to avoid applying for regular bail at the charge-sheet stage. Her counsel conceded no record showed Anurag shared his private bedroom acts with his parents. The judgment disposes of this separate application concerning the two in-laws; it does not set aside or affirm the husband's bail order in another case.

2. Precedents — Considered : *Jagjeet Singh and Ors. v. Ashish Mishra alias Monu and Anr., Criminal Appeal No. 632/2022*, order dated 18.04.2022, was cited and applied for the distinction at the bail stage between a permissible prima facie assessment of reasonable grounds and the seriousness of the offence, and an extensive evaluation of evidence that may prejudice either side at trial. The High Court held that the Sessions Court's accused-specific observation about the absence of apparent parental knowledge or instigation of the alleged Section 377 act was of the former kind. The High Court did not adjudicate whether the husband's alleged sexual offence occurred or decide whether evidence after investigation could change the assessment.

Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273, appeared in the Sessions Court's stated reason and was examined as part of the challenge. It concerns the proper exercise of arrest powers and notice under Section 41A in the relevant class of cases; the judgment did not reproduce its full test or make a separate finding about a particular officer's conduct. The petitioner could not explain why the lower court's observation about apparent non-compliance was wrong. Accordingly the High Court did not reject that reason, but its result did not turn on declaring that every Section 41A lapse automatically entitles the accused to anticipatory bail.

Sushila Aggarwal and Ors. v. State (NCT of Delhi) and Anr., (2020) 5 SCC 1, was invoked by the complainant and applied for the proposition that, depending on facts and circumstances, a court may set a limited duration for anticipatory bail. The High Court exercised that discretion to limit the grant to the period until submission of the charge-sheet. It then required a fresh application for regular bail and a decision unaffected by the provisional bail observations. The order does not quote *Sushila Aggarwal*'s full treatment of the ordinary duration of

Section 438 protection; this order is a case-specific limit, not a claim that all anticipatory bail expires upon charge-sheet.

3. Statutes considered : The complainant's application concerning bail previously granted was made under Section 439(2) CrPC; the order modified rather than wholly canceled it. Section 438 CrPC governed the parents-in-law's pre-arrest protection. Section 41A CrPC was invoked with *Arnesh Kumar* concerning police notice or arrest procedure, but the order did not establish which notice was served, resolve an illegal-arrest claim or expound the full Section 41/41A scheme. Section 377 IPC identified the separate unnatural-sex allegation against the husband; the High Court considered whether there was a specific allegation that could prima facie attribute knowledge and instigation to his parents, without deciding the act's occurrence or all ingredients. Dowry-related physical and mental cruelty allegations remained a separate reason to evaluate bail, but this order did not analyze the final elements or proof of Section 498-A IPC or other FIR charges. On filing of a charge-sheet, regular bail must be sought and assessed afresh according to law.

4. Issues : First, did the Sessions Court improperly assess evidence by separating the alleged Section 377 act by the husband from the two in-laws' later response, or was there a sufficient specific prima facie allegation of their knowledge and instigation? Second, was its reference to *Arnesh Kumar* and Section 41A shown to be legally or factually flawed on the present record? Third, should anticipatory bail for the parents remain in force without a time limit or be limited until the charge-sheet with a fresh regular-bail hearing? The Court did not decide the husband's alleged act, the parents' guilt of dowry harassment, the merits of a future regular-bail application or other respondents' bail.

5. Ratio / Findings : The High Court accepted that the complainant had alleged serious separate dowry harassment against the in-laws, but refused to attribute the husband's alleged private sexual act to them merely because they later told her to live according to his wishes. Her counsel could identify no record of prior communication about bedroom conduct and no particular allegation of knowledge and instigation. *Jagjeet Singh* permitted the Court, at the bail stage, to assess that attribution prima facie and consider the gravity of the offence without evaluating the evidence as it would at trial. The Sessions Court therefore had not impermissibly undertaken a detailed merits inquiry by making the prima facie distinction; the matter remained open to further investigation and proof. The complainant likewise did not show why the lower court's observation about apparent non-compliance with Section 41A and *Arnesh Kumar* was wrong, so the High Court did not overturn the grant on that ground. These findings did not erase or prove the dowry allegations.

The alternative submission about duration was accepted in part. *Sushila Aggarwal* permitted a time limit where warranted by the circumstances. The investigation was incomplete, and counsel had argued that the parents should be required to seek regular bail at the charge-sheet stage. The Court kept their pre-arrest protection in place until filing of the charge-sheet but required a new regular-bail application on its filing. That application would be independently considered, with no prejudice from provisional observations by either court. The Court neither treated charge-sheet filing as an event that universally ends anticipatory bail nor itself decided the future application.

6. Relief : The Hon'ble High Court disposed of the application under Section 439(2) by modifying the Sessions order dated 29.09.2021. Anticipatory bail for respondents 1 and 2 remained effective until filing of the charge-sheet; on that day they must apply for regular bail, to be considered afresh without influence from observations in the two bail orders.

Meghna Agarwal v. Manju Bagadiya and Ors., M.Cr.C. no. 4200/2022, 19/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Investigation and coercive directions — Mevaram Singh's son had made the complaint leading to Crime No. 671/2021. Mevaram sought proper investigation, arrest of suspects and filing of a charge-sheet; the suspected persons were not parties. Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court declined to direct particular investigative steps or predetermine the result under Section 482 CrPC. The Supreme Court passage explained the police's statutory duty to investigate, the discretion to arrest under Section 41 as explained in *M.C. Abraham*, the possibility of either prosecution or closure, and the danger of making coercive orders against affected

persons without a hearing, as discussed in *Divine Retreat Centre*. Those latter decisions appeared within the controlling quoted authority; the Court did not independently invalidate an order for lack of notice or decide on the facts whether arrest was necessary.

Section 173(1) CrPC — The Court also held that investigation must be completed without unnecessary delay. It required the investigating officer to bring the investigation arising from the FIR to a lawful conclusion as early as possible, consider whether an offence was disclosed and file the appropriate final report, whether a charge-sheet or a closure report. The applicant could approach the Superintendent of Police, Gwalior with a later grievance. The application was disposed of with a direction to complete the investigation without predetermining its outcome, compelling arrest, fixing a date, finding guilt or mandating a charge-sheet.

Case-note :- ***1. Facts :*** Mevaram Singh applied under Section 482 CrPC concerning Crime No. 671/2021 at Police Station Maharajpura, District Gwalior. The FIR followed a complaint by his son and was originally for Sections 323, 324, 294, 506 and 34 IPC; Section 326 IPC was later added. Counsel said the police had taken no further action and had not arrested the persons suspected. The applicant sought proper investigation, arrest of the absconding accused and presentation of a charge-sheet. The judgment does not set out the underlying altercation facts, the identities or responses of the proposed accused, the case diary, the investigative steps already taken or the reasons for any delay. The suspected persons were not impleaded. It therefore decided whether the requested directions could lawfully be made on the limited record, not whether any named suspect committed assault or whether police actually failed in a particular investigative task.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was reproduced at length and directly applied. The Supreme Court had set aside a High Court's unexplained direction under Section 482 requiring witness statements to be recorded, arrests and seizures to be made, and a charge-sheet to be filed during an investigation. It held that police have the statutory duty and corresponding sphere of discretion to investigate, while courts should not supervise the choice of every step or decide the outcome in advance. An investigation may disclose sufficient grounds for a charge-sheet or may disclose that no case is made out; arrest and property seizure do not inevitably follow FIR registration. Section 482 exists to give effect to Code orders, prevent abuse of court process or secure the ends of justice and must be used sparingly with reasons, especially where observations from a higher court could distort the investigation. This High Court applied that holding to reject Mevaram's demand for arrest and a charge-sheet, but did not forbid the officer from using lawful powers if evidence later warranted them.

Within *D. Venkatasubramaniam*, the quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explained that arrest under Section 41 CrPC in a cognizable-offence investigation is a matter of police discretion to be exercised cautiously, rather than an automatic consequence of lodging a report. Liberty, reputation, the nature of the allegation and the persons involved bear on the need for arrest. The present Court adopted that reasoning through its controlling authority without conducting an independent hearing on the need for arrest. The same Supreme Court extract cited *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on an opportunity to be heard before orders with drastic consequences against affected persons. Here the High Court noted the suspects were not impleaded and made no coercive order against them. It did not decide that a particular order already issued was a nullity, or adopt *Divine Retreat Centre*'s anonymous-petition facts as present facts.

3. Statutes considered : The application invoked the Court's inherent jurisdiction under Section 482 CrPC. The Court applied the limited role explained in *D. Venkatasubramaniam* and refused to take over investigation by dictating arrest or a charge-sheet. Section 41 CrPC appeared within the quoted *M.C. Abraham* discussion of discretionary arrest, not as an order to the officer to arrest or release a named person. Section 173(1) CrPC was expressly set out and applied: every investigation under the relevant Chapter is to be completed without unnecessary delay. The Court construed this as requiring the officer to decide if an offence was made out and submit an appropriate final report, whether a charge-sheet or a closure report, as early as possible. Sections 323, 324, 294, 506 and 34 IPC and the later addition of Section 326 were the FIR's alleged

offence provisions; the order did not analyse their elements or proof, or determine the final charges.

4. Issues : First, could the applicant obtain a Section 482 order compelling police to arrest the suspected persons and file a charge-sheet in his son's FIR while investigation was pending, particularly when those persons were not before the Court? Second, notwithstanding judicial restraint over the outcome, did Section 173(1) require the officer to complete the pending investigation without unnecessary delay, and what lawful direction could the Court make without predetermining the outcome? Third, what avenue remained to complain of inaction? The Court did not decide the truth of the FIR, whether the added Section 326 charge was sustained, the suspects' defence or the necessity for an arrest on case-specific evidence.

5. Ratio / Findings : The Court separated the police's duty to investigate from the result sought by a private applicant. *D. Venkatasubramaniam* demonstrated why an unreasoned High Court direction requiring arrest, seizure, the recording of particular witness statements and the filing of a charge-sheet would displace statutory police judgment, even though the Court may require lawful process. The nested *M.C. Abraham* passage underscored that Section 41 arrest is not mechanical and can affect liberty and reputation. The discussion of *Divine Retreat Centre* within the quoted authority concerned the need to hear affected persons. The suspects here had not been impleaded, and the Court refused coercive relief without declaring any existing order invalid for lack of a hearing. An investigation may lawfully end in a closure report as well as a charge-sheet, and the Court would not predetermine which. Thus it denied the specific arrest and charge-sheet demands without granting the suspects immunity from investigation or from future lawful process.

Section 173(1) nevertheless imposes a separate obligation to complete the investigation without unnecessary delay. The applicant's account of the investigation still pending in the 2021 FIR provided the factual setting, but the Court did not examine a detailed case diary or make a misconduct finding. It directed the officer to conclude the investigation promptly, decide whether an offence was made out and file an appropriate final report. The direction to take the necessary lawful steps did not predetermine the outcome and set no calendar deadline. A further grievance could be presented to the Superintendent of Police, Gwalior to be considered according to law.

6. Relief : The Hon'ble High Court finally disposed of the application under Section 482. The investigating officer was directed to conclude the investigation in Crime No. 671/2021 as early as possible and take necessary steps required by law, including a lawful final report. The High Court refused to direct arrest of the unimpleaded suspected persons or to require a charge-sheet. Mevaram remained free to apply to the Superintendent of Police, Gwalior if a grievance persisted. There was no adjudication of guilt, fixed completion date or coercive order against proposed accused.

Mevaram Singh v. State of Madhya Pradesh and Ors., M.Cr.C. no. 12195/2022, 06/06/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 498-A IPC — continuing mental cruelty after separation - Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, the Court held that physical separation and the absence of recent overt violence did not necessarily end mental cruelty: alleged demands for a flat and car, earlier confinement and police rescue, and continuing allegations that she had run away with gold and money, alongside threats of divorce and loss of custody, could continue to traumatise the wife at her parental home. The High Court also referred to *its Amar Singh v. Smt. Vimla* ruling on compelling such residence. These were charge-stage allegations, not adjudicated guilt.

Sections 306/511 IPC — proximity of alleged continuing conduct to attempted suicide - The complainant survived after consuming sleeping pills. The framed charge was Section 306 read with Section 511, correcting counsel's misleading premise that the applicants had been charged for a completed suicide despite the complainant's survival. The Court found prima facie proximity between continuing mental cruelty, the report of intended second marriage, divorce and custody proceedings, and the attempt, despite about a year without physical cruelty. It did not independently expound all Section 107 abetment ingredients or convict any applicant.

Charge and quashing — grave suspicion and limited sifting - The Court applied *M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768*, distinguishing supported grave suspicion from mere suspicion and allowing limited examination of prosecution material without a roving merits inquiry

or premature defence case. *Soma Chakravarty v. State, (2007) 5 SCC 403*, added that charge requires material and judicial attention to different accused categories, not unsupported suspicion. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, supplied the inquiry into whether the material taken at face value discloses the ingredients of the offence and is capable of becoming evidence at trial; *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, rejected the application of the final test of guilt. On the survivor's statement and attributed allegations, the High Court found grave suspicion sufficient to decline Section 482 interference with the existing charges, leaving guilt for trial.

Case-note :- ***1. Facts :*** Misbhah-Ul Aijaz Nizami, his mother Shahin and sisters Farha and Iqra sought quashing under Section 482 CrPC of FIR No. 182/2022, Police Station Ashoka Garden, Bhopal, and the ensuing prosecution. Sana Nijami married Misbah on 4 January 2018 and they had a daughter, about three years old at the time described in the order. The FIR account alleged that the four applicants demanded a flat and car and subjected her to cruelty soon after marriage. She had previously complained to the police. According to her subsequently recorded hospital statement, she had been confined at her matrimonial home and was rescued by police about a year before the later incident; she and the child then lived with her parents. She alleged that the family continued to disparage her among relatives as having run away with 15 tolas of gold and ₹2 lakh, although she said police had brought her home, and that divorce had been threatened earlier. These are the complainant's attributed allegations, not proved findings against particular relatives.

On or about 3 March 2022 she learned from a conversation involving her maternal uncle (Mousa) that her husband might marry again, she would be divorced and the family might seek custody of her child. Her reproduced statement says her maternal uncle had gone to discuss the relationship; the husband and his family reportedly refused to keep her and spoke of child custody and divorce. She said she felt profound mental distress, had taken sleeping pills, and remained troubled by the family. The statement gives 6 March 2022 as the date when she consumed the pills and was recorded at the hospital on 7 March 2022; the order's FIR account gives the date of the information reaching her as 3 March. Police had received information about hospitalisation and recorded her statement and a Section 161 statement. Timely treatment allowed her to survive. The Court referred to the hospital statement styled a dying declaration and said that, since its maker survived, it could be treated as a Section 164 CrPC statement; it did not conduct a fuller admissibility analysis.

The trial court's order of 3 September 2022 had framed charges under Sections 498-A/34 IPC, Sections 3/4 of the Dowry Prohibition Act read with Section 34 IPC, and Section 306 read with Section 511 IPC. Applicants' counsel had earlier suggested that Section 306 alone was charged despite the complainant being alive. On receiving the charge order, the High Court called this premise misleading and proceeded on the actual attempted-offence framing. Counsel then argued that, even if the FIR were taken at face value, the alleged offences were not disclosed; in particular, about a year without physical cruelty severed proximity to the attempt. The Court heard the application on admission and dismissed it.

2. Precedents — Considered : *Rupali Devi v. State of U.P., 2019:INSC:479, (2019) 5 SCC 384*, was quoted and applied on Section 498-A. The quoted Supreme Court reasoning distinguishes physical acts in the matrimonial home from their continuing emotional and psychological effects when the wife has been driven to her parental home and fears return; cruelty includes mental suffering, and cessation of overt violence at the new location need not terminate that trauma. The High Court applied this continuity principle to alleged dowry-driven separation, previous confinement and rescue, ongoing imputations about valuables, and the renewed threats concerning marriage, divorce and the child. *Rupali Devi* was not a holding that separation or any unpleasant matrimonial dispute automatically establishes every ingredient of cruelty. The High Court also cited *its own Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020, decided 22 June 2021, for the proposition that compelling a married woman to live in her parental home amounts to cruelty. Its short reference was used to support the application of Section 498-A. *M.E. Shivalingamurthy v. CBI, Bengaluru, 2020:INSC:6, (2020) 2 SCC 768*, was quoted at length for the Section 227 charge/discharge inquiry. The Supreme Court extract allows the judge to sift prosecution statements and documents and consider broad probabilities and basic infirmities, but not to weigh

probative value as at trial or conduct a roving inquiry. Where two reasonable views are possible, one giving rise only to suspicion rather than grave suspicion may justify discharge; strong or grave suspicion must be supported by some material. If the proposed prosecution evidence, even if fully accepted, could not show commission of the offence, there would be no sufficient ground to proceed. It also ordinarily confines the record at the charge stage to prosecution material and excludes the production of defence documents at that stage. The High Court applied the grave-suspicion and restraint principles when declining to decide the applicants' factual defence under Section 482. The quoted extract referred to *P. Vijayan v. State of Kerala* as an earlier synthesis and to *State of J&K v. Sudershan Chakkar and State of Orissa v. Debendra Nath Padhi on* defence material. They were nested support within the reproduced Supreme Court passage; the High Court did not separately compare their facts or decide a new question about defence documents.

Soma Chakravarty v. State, through CBI, 2007:INSC:551, (2007) 5 SCC 403, was independently quoted. The lower threshold for framing a charge requires a view based on the judicial assessment of material that the accused might have committed the offence, with final proof beyond reasonable doubt reserved for trial. It specifically cautions that a trial judge must consider the different categories of accused and find material for a prima facie conclusion; suspicion alone, without anything more, is insufficient. The High Court used this to support refusal of quashing on the allegations it recited against husband, mother and sisters, without holding that a shared family relationship proves common intention.

State (NCT of Delhi) v. Shiv Charan Bansal, 2019:INSC:1321, (2020) 2 SCC 290, was quoted on Section 227. The limited examination asks whether the prosecution facts, taken at face value, disclose the ingredients of the offence and give rise to grave suspicion; it does not assess veracity or likely conviction, and there must be material capable of becoming evidence at trial. That extract in turn invoked *State of Bihar v. Ramesh Singh and Dipakbhai Jagdishchandra Patel*. They explain strong suspicion founded on material and the requirement that the prosecution material be capable of becoming evidence at trial, but appeared within *Shiv Charan Bansal* rather than as independently applied fact-specific authorities here. The High Court treated that framework as supporting the existing charge rather than conducting a mini-trial.

State of Rajasthan v. Fatehkaran Mehdu, 2017:INSC:104, (2017) 3 SCC 198, was separately quoted on Section 397 review once a charge has been framed: the court asks whether material raises strong suspicion which, if proved at trial, could establish guilt, and must not demand a present conclusion of certain guilt. Although that extract addresses revisional interference, the High Court applied its distinction between the proof required at the charge stage and at trial in this Section 482 application. The judgment does not equate the two jurisdictions for every purpose. These four decisions on framing charges apply a prima facie threshold based on material, while *Soma*'s accused-specific safeguard and *M.E. Shivalingamurthy*'s mere/grave suspicion distinction retain independent significance.

3. Statutes considered : The applicants sought quashing of the FIR and proceedings by invoking the Court’s inherent jurisdiction under Section 482 CrPC. The High Court assessed the face-value prosecution material and charge order rather than conducting a full trial or deciding ultimate guilt. Sections 227 and 228 CrPC were addressed through the Supreme Court extracts as the charge/discharge threshold, with Section 397 appearing in *Fatehkaran Mehdu*'s original revisional context; the High Court did not purport to dispose of a standalone Section 397 revision. The Court called the survivor's hospital statement capable of treatment under Section 164 CrPC and also mentioned a Section 161 police statement. The order did not state whether a magistrate recorded the hospital statement, set out a foundation under Section 32 of the Evidence Act, or decide its admissibility at trial.

Section 498-A IPC supplied the mental/physical cruelty issue. Sections 306 read with 511 IPC provided the basis of the charge of attempted abetment in light of her survival; the court assessed proximity of continuing alleged mental cruelty and the attempt, without independently stating a complete Section 107 instigation or intentional-aid test or finding mens rea proved. Section 34 IPC and Sections 3/4 of the Dowry Prohibition Act formed part of the framed charges. The flat/car demand and family allegations explained the prima facie context, but the order did not separately analyse each statutory ingredient, identify exact acts of each relative for those provisions, or determine guilt.

4. Issues : First, did the applicants' premise that a charge under Section 306 IPC for a completed suicide had been framed despite the complainant's survival accurately describe the trial court's 3 September 2022 order? The actual provision was Section 306 read with Section 511. Second, could the alleged dowry-driven displacement and continuing disparagement and threats amount to mental cruelty under Section 498-A notwithstanding a year without alleged physical abuse, and did that ongoing conduct and the news about remarriage, divorce and custody bear sufficient proximity to the suicide attempt at this preliminary stage? Third, what threshold governed the Section 482 attack on charges under Sections 498-A/34, 306/511 and Dowry Prohibition Act Sections 3/4/34: whether prosecution material on its face supplied grave suspicion or whether counsel's objections required a roving assessment of proof and the probable defence? Trial guilt, individual culpability on full evidence, and the admissibility or final weight of the hospital statement were not decided.

5. Ratio / Findings : The charge order defeated counsel's initial suggestion of a charge concerning a completed suicide despite the complainant's survival; it in fact used Sections 306/511. The High Court did not quash on that misdescription. It read the complainant's account of flat/car demands, prior confinement and police rescue, separate parental residence, allegation that she had absconded with gold and cash, and threats concerning the marriage and child. *Rupali Devi* supplied the reason why cessation of physical cruelty at the former home does not necessarily sever the mental effects of dowry-related expulsion and abusive exchanges at the parental home. *Amar Singh* was added as supporting High Court authority. Here the alleged continuing accusations and threatened divorce/custody supplied further post-separation conduct. The Court expressly found, on those allegations, that mental cruelty continued even though there had been no physical cruelty for a year. That is a charge-stage application, not a final factual resolution of every disputed event. As to the attempt, the Court treated the newly conveyed plans for a second marriage, divorce and custody as particularly distressing in the setting of alleged continuing cruelty. It described this as the last precipitating blow and rejected the argument that there was no close proximity because the alleged mental cruelty had not stopped. This supplied the Court's prima facie nexus for retaining the Section 306/511 charge. The Court did not separately articulate the full elements of abetment under Section 107, particularise each applicant's intent, or resolve whether the proof ultimately sustains that charge. The named relatives were included on the basis of allegations attributing joint cruelty and dowry demands to them; family status by itself was not announced as enough.

On charge review, *M.E. Shivalingamurthy, Soma Chakravarty, Shiv Charan Bansal* and *Fatehkaran Mehdu* provided the applicable threshold: a court does not merely act as a post office for the prosecution and may examine the material to a limited extent, including whether, taken at face value, it could satisfy the ingredients of the offence; but it cannot conduct a roving examination of credibility, probative value or defence evidence. Bare suspicion without supporting material differs from grave suspicion permitting charge, and conviction needs proof beyond reasonable doubt. *Soma* requires attention to categories of accused. The High Court found prima facie material raising grave suspicion that applicants might have committed the charged offences and refused Section 482 interference. Its language is one of possibility and suspicion, not an adjudication that all three offence groups or all four applicants are guilty. The order's specific reasoning focuses on cruelty and the proximity to the attempt; it does not separately analyse all the ingredients of the dowry statute.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 at admission; the High Court found no case for interfering with FIR No. 182/2022 and the already framed charges. The prosecution therefore remained pending before the trial court. There was no quashing, alteration of charge, acquittal, bail ruling or final finding on the truth of the complainant's assertions. No additional condition, costs or separate direction appears in the operative order.

Misbhah-Ul Aijaz Nizami and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 453/2023, 02/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Private complaint — sufficient ground for process and limited preliminary inquiry - Applying *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, the Court treated

'sufficient ground' under Sections 203–204 CrPC as a prima facie basis to proceed, distinct from proof for conviction and from meticulous weighing at trial. The cited Supreme Court extract also described the limited inquiry under Section 202, the deferral of a plausible defence to trial, and the different standard for framing charges; its separate discussion of the Section 202(2) proviso on witnesses was not a disputed issue here. The complaint and Section 200/202 statements alleged diversion of MGNREGA well funds; an Assistant Engineer's report showed ₹1,55,000 recorded on the portal although no well was found, while bank records showed ₹75,000 credited to the complainant. The applicants' measurement book and relatives' affidavits did not resolve the prima facie discrepancy at this stage. The CJM's order taking cognizance of IPC Sections 420 and 120/34 was affirmed, leaving actual misappropriation and the factual defence for trial.

Case-note :- ***1. Facts :*** Kamthua Pal, claiming possession and cultivation of his land for about fifty years, lodged a private complaint under Section 200 CrPC. He asserted that his family had dug an old well about fifteen years earlier without government benefit. He alleged that the Sarpanch, Secretary and Janpad CEO later drew around ₹2,50,000 under MGNREGA on the basis of a well on the land, although no new well had been dug or payment made to him. The complaint described a villager's information on 8 June 2020, complaints to the local authorities and CM Helpline, alleged pressure to withdraw, an allegedly forged affidavit from his children used to close the helpline complaint, and threats and an assault when he considered legal action. The judgment records that he obtained muster-roll details on 9 January 2020, a date preceding the June information in the same narrative; the High Court did not reconcile this chronology and the order does not resolve it. He maintained that the listed workers had not dug a well there. These were the complainant's assertions, not adjudicated facts.

The Chief Judicial Magistrate, Tikamgarh, recorded complainant and witness statements under Sections 200 and 202 CrPC, and by order dated 15 December 2022 in RCT No. 2282/2022 took cognizance of IPC Sections 420 and 120/34. Mithibai Ahirwar and other applicants challenged that order under Section 482 CrPC. Counsel argued that a Collector's inquiry had found the complaint false, that some money had been deposited in the complainant's account, that the well had not been entirely dug, that an Assistant Engineer had conducted an inquiry, and that withdrawals followed progress in the work, with none made before 2016. The High Court referred to the Assistant Engineer's report: a well was sanctioned on the complainant's khasra No. 293 on 28 November 2016; the MGNREGA portal reflected ₹1,55,000 in expenditure, yet no well was found on the spot. According to the villagers' account in the report, digging started in 2017 and reached earth level. The applicants' bank statement showed ₹75,000 in the complainant's account; those figures did not tally. A measurement book produced by them related to 2017. The complaint had alleged approximately ₹2,50,000, whereas the judgment's later account refers to an alleged withdrawal of ₹2,30,000. These figures describe different sources and assertions; the Court did not finally reconcile the amounts. Relatives' affidavits were raised as defence material. The dispute was whether the CJM could proceed on this record, rather than a determination at trial of fraud or actual expenditure.

2. Precedents — Considered : *Shivjee Singh v. Nagendra Tiwary and Others, 2010:INSC:355, (2010) 7 SCC 578*, was the single Supreme Court decision independently selected and applied by the High Court. The quoted paragraphs explain 'sufficient ground' in Sections 203, 204 and 209 CrPC as satisfaction that a prima facie case exists against the proposed accused, not proof sufficient to convict. They distinguish a cursory preliminary view of the complaint and Section 200/202 evidence from meticulous evaluation and even from the standard for framing charges. The inquiry under Section 202 is confined to determining whether the allegations justify issuing process or dismissing the complaint; it is not a full-dress trial. Prima facie evidence calls for process despite a proposed defence, unless the complaint evidence is self-contradictory or intrinsically untrustworthy. The present High Court applied this threshold to the complaint, witness statements, Engineer's report and expenditure discrepancy, and deferred resolution of the relatives' affidavits to trial. It did not hold that every discrepancy in the accounts itself establishes dishonest intention or conspiracy.

Within the *Shivjee Singh* passage, the Supreme Court attributed aspects of the rule to *Ramgopal Ganpatrai Ruia v. State of Bombay, Vadilal Panchal v. Dattatraya Dulaji Ghadigaonkar, Chandra Deo Singh v. Prokash Chandra Bose, Nirmaljit Singh Hoon v. State of W.B., Kewal Krishan v. Suraj*

Bhan, Mohinder Singh v. Gulwant Singh and *Chief Enforcement Officer v. Videocon International Ltd. The* quoted *Chandra Deo* explanation leaves a proposed defence for the proper stage while recognising self-contradictory or intrinsically untrustworthy complaint evidence; *Kewal Krishan* describes a cursory assessment and explains that the standard for framing charges differs; *Mohinder Singh* describes the scope of Section 202 as restricted and distinguishes issuing process from determining guilt.

The quotation from *Shivjee Singh* also considers the proviso to Section 202(2). Read with Chapter XV and Sections 226, 227 and 465, its apparently mandatory wording about witnesses does not automatically deprive a Magistrate of jurisdiction merely because not all named witnesses were examined on oath, provided a prima facie case exists; the complainant chooses the material witnesses. That was part of the long Supreme Court extract, but this proceeding contained no argument or finding about an omitted Section 202(2) witness.

3. Statutes considered : Section 200 CrPC governed the private complaint and the examination of the complainant; Section 202 governed the preliminary witness inquiry. Sections 203 and 204 CrPC, as explained through *Shivjee Singh*, distinguish dismissal for lack of sufficient ground from issuance of process when prima facie ground exists. Section 209 appeared in the quoted Supreme Court formulation but the High Court did not decide committal. The Section 202(2) proviso, Sections 226, 227 and 465 occurred in the authority's separate witness discussion and no procedural omission of that kind was alleged here. Section 482 CrPC was invoked to challenge the CJM's order and the High Court refused to interfere after finding no jurisdictional error. IPC Sections 420 and 120/34 specify the offences for which cognizance was taken; the judgment did not parse each ingredient, determine conspiratorial agreement or resolve individual liability. MGNREGA supplied the public works and portal context, not a separately construed offence or statutory defence in this order.

4. Issues : Did the complaint and preliminary material under Sections 200/202 disclose ‘sufficient ground’ for the CJM's order concerning IPC Sections 420 and 120/34, as distinct from proof adequate to convict? Did the Collector’s and engineering inquiries, partial credit to the account, 2017 measurement book and defence based on relatives’ affidavits defeat that threshold at the stage of Section 482? The High Court did not decide the correct final quantum, the actual source and destination of all funds, the genuineness of an affidavit, or the applicants' guilt. Although the quoted Supreme Court passage addressed Section 202(2) witness examination, that statutory proviso was not a live dispute in this application.

5. Ratio / Findings : The High Court first selected the preliminary standard from *Shivjee Singh*. Under Sections 203–204, the question is whether the accusation discloses a prima facie case for proceeding; a court must not demand proof sufficient for conviction or transform the Magistrate’s limited inquiry into a trial on the merits. The recognition of a defence does not require refusal of process where complaint evidence remains prima facie credible, and the lower court must not act mechanically on unsupported accusations. Counsel relied on competing factual accounts in support of the submission that the complaint was false.

On the actual record, the Court noted the alleged withdrawal against a pre-existing or incomplete well and that the applicants did not deny all withdrawal. The Assistant Engineer's material showed ₹1,55,000 uploaded as expenditure despite the absence of a well found on the site. The bank entry of ₹75,000 to the complainant did not tally with the uploaded expenditure. Those unresolved details, rather than a final audited calculation, provided a prima facie indication of misappropriation sufficient at this stage. A 2017 measurement book did not compel dismissal: the Court read the complainant's Section 200 statement and complaint as suggesting that measurements occurred after he started making allegations. Relatives' affidavits were matters for proof at trial. The Court did not independently find those affidavits forged, hold that no work had ever occurred, or establish the dishonest mental element of every applicant beyond reasonable doubt.

The limited decision was that the CJM had sufficient ground on the complaint and supporting material and committed no jurisdictional error in taking cognizance. The order applies the Supreme Court’s rule on issuing process to assess the challenged order taking cognizance; it does not separately resolve whether a summons issued on a particular day or add a new legal rule about the MGNREGA scheme. No final finding on the disputed amount, engineering history or conspiracy followed.

6. Relief : The Hon'ble High Court affirmed the order of the CJM, Tikamgarh, dated 15 December 2022 in RCT No. 2282/2022 and dismissed the application under Section 482. The complaint prosecution for IPC Sections 420 and 120/34 remained in place. It did not acquit or convict the applicants, finally assess misappropriation, direct recovery, award costs or separately determine the factual defences.

Mithibai Ahirwar and Ors. v. Kamthua Pal, M.Cr.C. no. 61591/2022, 20/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 226 — FIR-registration mandamus and alternate remedy - Applying *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, the Court distinguished the police duty to register an FIR when the information discloses a cognizable offence from the ordinary remedial course when the police fail: Sections 190/200 CrPC before the Magistrate. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, confirms that the ordinary remedy of an informant whose information prompts no police action lies before the Magistrate, but recognizes rare Article 226 intervention for a clear case of mala fide abuse of investigative power and non-compliance with Chapter XII, without dictating investigative steps. The Madhya Pradesh Division Bench in *Shweta Bhadauria* explained that alternative remedies generally justify refusing FIR mandamus subject to established writ exceptions, and that the question of the police's duty in *Lalita Kumari* differs from entitlement to bypass statutory remedies. No such exception was shown on this record; the writ and associated representation prayer were dismissed, with no merits finding on the proposed BNS offences.

Police inaction — magistrate's statutory powers - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explained recourse first to the Superintendent of Police under Section 154(3) CrPC and then to a Magistrate under Section 156(3) for registration, proper investigation and limited monitoring if prima facie satisfied. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterated that the ordinary remedy is to approach the Magistrate rather than file a petition under Article 226. The Magistrate can direct a proper investigation and, if necessary, recommend a change of investigating officer, but cannot personally investigate. The Court gave Mohammad Khan liberty to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS; it ordered no FIR or particular investigation and did not direct that the Supreme Court's analyses under the CrPC be retroactively converted to the new statute.

Case-note :- ***1. Facts :*** Mohammad Khan brought Writ Petition No. 26366/2024 under Article 226, stating that he had approached the State and police respondents Nos. 1–4 for an FIR against private respondents Nos. 5–8 but had obtained no action. He sought a mandamus to decide representations annexed as P/2 through P/5, a further mandamus to register an FIR against the private respondents under appropriate Bharatiya Nyaya Sanhita provisions, costs and other suitable relief. The order does not recite what acts the proposed accused allegedly committed, the dates or contents of those representations, a specific cognizable offence, a reason for the police's refusal to act, or evidence of mala fides. The State contested the maintainability of the writ petition on the ground that Khan could file a complaint before the Magistrate under Section 200 CrPC/Section 223 BNSS. The High Court framed the question whether an FIR-registration writ was maintainable in these circumstances. It decided the remedial route, not the truth of Khan's allegations or whether they disclosed criminal conduct.

2. Precedents — Considered : *Aleque Padamsee and others v. Union of India and Others, 2007:INSC:760, (2007) 6 SCC 171*, was directly quoted. It accepts the police obligation to register an FIR when supplied facts disclose a cognizable offence. It then distinguishes that duty from the remedy available when the police fail to act: Sections 190 and 200 CrPC before the Magistrate. The Supreme Court distinguished the question of the police's duty in *Ramesh Kumari* from the question of the appropriate remedy addressed in *All India Institute of Medical Sciences Employees' Union* and *Gangadhar Janardan Mhatre*, while discussing *Hari Singh*, *Minu Kumari* and *Lallan Chaudhary* in its reconciliation. The High Court adopted the remedy distinction to decline a direct writ compelling registration and leave open a complaint before the Magistrate, without deciding that the particular representations disclosed a cognizable offence. The *Aleque Padamsee* extract also mentions an unrelated sanction direction and a no-merits qualification from its own case; no sanction issue arose in Khan's

petition. Those decisions are nested context within the quoted authority, not independent holdings by this High Court on the facts of those cases.

Divine Retreat Centre v. State of Kerala and Others, 2008:INSC:341, (2008) 3 SCC 542, was separately quoted. Paragraph 42 reaffirms the Sections 190/200 route when police do not act, drawing on a quoted *Gangadhar* explanation of the Magistrate's options: inquire into a complaint, direct investigation where appropriate, dismiss under Section 203 if no offence is disclosed, or take cognizance and issue process if prima facie material supports it. Paragraph 41 preserves intervention under Article 226 in a rare, clear case involving mala fide exercise of investigative power, abuse and non-compliance with Chapter XII, with the court entitled to insist on compliance with the procedure under the Code but not dictate the particular manner of investigation. The High Court invoked both limbs; the order describes no fact making the exceptional limb applicable. It did not find that a writ can never issue under any circumstances.

Sakiri Vasu v. State of Uttar Pradesh and Others, 2007:INSC:1243, (2008) 2 SCC 409, was quoted independently. The sequence of statutory remedies it describes begins with a written Section 154(3) CrPC application to the Superintendent if the police station refuses registration; persistent non-registration or deficient investigation may then be taken to a Magistrate under Section 156(3). The Magistrate may direct FIR registration, order proper investigation and monitor compliance. The High Court used it to locate effective remedial powers with the Magistrate rather than the High Court in writ proceedings; it neither issued those directions itself nor adjudicated the sufficiency of Khan's material for relief under Section 156(3).

Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others, (2016) 6 SCC 277, was separately quoted as a reaffirmation of *Sakiri Vasu*. It explains that a Magistrate who is prima facie satisfied can order registration or proper investigation, may recommend to the police superiors that the investigating officer be changed, and can monitor the investigation, but cannot personally investigate. It also explains the systemic reason for directing routine petitions about police inaction to that statutory forum rather than adding them to High Court writ lists. The present Court used that remedy principle. It did not order the police to change an officer in Khan's case.

The Madhya Pradesh Division Bench in *Shweta Bhadauria v. State of M.P. and Others*, W.A. No. 247/2016, decided 20 December 2016, was also directly quoted. It says mandamus under Article 226 may be denied when Sections 154(3), 156(3), 190 and 200 remedies have not been pursued, subject to the four recognized *Whirlpool Corporation* alternative-remedy exceptions. It distinguishes *Lalita Kumari*'s rule on the police's Section 154 duty from entitlement to bypass those remedies and obtain writ mandamus. The High Court applied that forum distinction, but the order does not describe or find the facts of any particular *Whirlpool* exception. *Whirlpool* and *Lalita Kumari* appear within the Division Bench's analysis; this Court did not independently analyse their facts.

3. Statutes considered : Article 226 supplied the public-law jurisdiction invoked for directions to police and State respondents. The Court treated alternative statutory remedies as governing the ordinary exercise of that discretion, while *Divine Retreat Centre* preserved rare exceptional intervention for clear abuse of investigative power exercised mala fide, with non-compliance with Chapter XII; no blanket removal of constitutional jurisdiction was decided. Section 154 CrPC concerns police registration upon cognizable information and Section 154(3) concerns recourse to a superior officer. Section 156(3) concerns registration or proper investigation directed by a Magistrate upon prima facie satisfaction, with limited monitoring. Sections 190 and 200 concern the private-complaint and cognizance route, expressly left open. The quoted Supreme Court passage also described Section 203 dismissal and issue of process after sufficient material, but the present case had not yet reached the stage of those decisions by a Magistrate. The High Court's operative order refers to Section 200 CrPC/Section 223 BNSS, 2023, as a possible route in September 2024. It did not analyse transitional applicability or map every CrPC provision in the quoted precedents to a corresponding BNSS provision. The prayer mentioned unspecified BNS provisions, but no offence ingredient was analyzed.

4. Issues : Could Khan obtain an Article 226 mandamus ordering registration of an FIR and decisions on police representations when he alleged police inaction but the statutory escalation, Section 156(3) application and private complaint routes were available? Did the acknowledged police duty to

record cognizable information make a direct writ the ordinary remedy, and was there any identified rare abuse warranting exceptional writ control? What forum remained open after dismissal? The judgment did not decide whether the private respondents committed a BNS offence, whether a specific representation gave adequate cognizable information, or what result the Magistrate should reach.

5. Ratio / Findings : *Aleque Padamsee* framed the central distinction: the police must register if facts disclose a cognizable offence, but the informant's ordinary remedy for police inaction lies before the Magistrate under the statute rather than a High Court writ commanding an FIR. *Divine Retreat Centre* reinforced that forum rule while preserving Article 226 for a clear and rare case of mala fide abuse and non-compliance with Chapter XII; even then the High Court may enforce lawful process without taking over how police investigate. The Division Bench's *Shweta Bhadauria* added the ordinary alternative-remedy ground for denying mandamus and the possibility of established writ exceptions. Its explanation distinguishes *Lalita Kumari*'s principle concerning the police's duty from a principle governing entitlement to a writ. On the limited record before it, the High Court identified no exceptional facts and did not test the underlying alleged crimes. The representations were included in Khan's prayer, but the order made no separate merits determination requiring authorities to decide P/2–P/5.

Sakiri Vasu and *Sudhir Bhaskarrao Tambe* explained what the alternative remedy provides. Section 154(3) provides recourse to the police superior; Section 156(3) lets the Magistrate, if prima facie satisfied, direct registration and proper investigation and monitor it within judicial limits. The complaint route under Sections 190/200 allows the Magistrate to consider the allegations and take steps authorised by the Code. That availability explained why the writ was dismissed with liberty to seek redress before the Magistrate under the order's reference to the CrPC and BNSS. The High Court did not itself instruct police to register an FIR, change an officer, make a particular inquiry or predetermine the Magistrate's assessment. The dismissal was a decision about the remedy and forum, not a factual exoneration of respondents Nos. 5–8.

6. Relief : The Hon'ble High Court dismissed the writ petition. Khan remained at liberty, if he wished, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS for redress. The Court did not grant either requested mandamus, award costs, order an FIR, or decide whether the alleged private conduct was criminal. No merits ruling or exceptional writ direction was made.

Mohammad Khan v. The State of Madhya Pradesh and Ors., W.P. no. 26366/2024, 06/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC — police inaction, pending merg and complaint remedy - An applicant whose merg inquiry remained pending sought High Court directions that would effectively require registration of an FIR followed by the filing of a charge-sheet against suspected persons who were not parties. Applying the remedy for police inaction explained in *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, including the complaint route under Sections 190/200 CrPC and the limited exceptional power under Article 226 in a clear case of mala fide investigative abuse and Chapter XII non-compliance, the Court found that a complaint before the Magistrate was an efficacious remedy. It also used the Madhya Pradesh Division Bench's *Shweta Bhadauria* decision, which distinguishes the police's duty under Section 154 from entitlement to a writ in the ordinary course and preserves alternative-remedy exceptions. The present Section 482 application was dismissed with liberty to file a complaint; no FIR, arrest, charge-sheet or guilt finding was directed. *Sakiri Vasu* and *Aleque Padamsee* were cited by the State, while the Court directly reproduced *Divine Retreat Centre* and *Shweta Bhadauria*; no broader rule abolishing every exceptional High Court power was decided.

Case-note :- ***1. Facts :*** Mohan Prasad Sharma brought Miscellaneous Criminal Case No. 23327/2022 under Section 482 CrPC in connection with merg inquiry No. 4/2022. His counsel said the police had not completed the inquiry and asked that the investigation be completed and a charge-sheet filed. The prayer asks the Court to allow the petition and direct action on his application and evidence concerning the proposed accused, including their arrest and submission of a challan by the police. The High Court read the prayer and counsel's submission together as effectively seeking registration of an FIR and thereafter a charge-sheet. It noted that the

suspected persons had not been impleaded. The order does not give details of the underlying death or event, the applicant's relationship to any victim, what the merg file contained, the suspected persons' identities or response, or which cognizable offence was disclosed. The State argued that the ordinary remedy before the Magistrate made the request under Section 482 untenable.

2. Precedents — Considered : *Divine Retreat Centre v. State of Kerala and Others, (2008) 3 SCC 542*, was directly reproduced and used. Its paragraph 42 directs a person complaining of police inaction to the Magistrate under Sections 190 and 200 CrPC rather than treating a writ as the ordinary route. Within it, *Gangadhar Janardan Mhatre* described a Magistrate's complaint inquiry, a possible direction for a police investigation, dismissal under Section 203 if no offence appears, or cognizance and process on prima facie material. An *All India Institute of Medical Sciences Employees' Union* citation appears in that nested passage. Paragraph 41 preserves Article 226 directions in the rare clear case of mala fide investigative abuse and Chapter XII non-compliance, while forbidding a High Court from prescribing exactly how police must investigate. The present Court relied on the principles governing the remedy and judicial restraint to decline an order requiring an FIR followed by a charge-sheet; it did not find a mala fide officer or decide the contours of Article 226 on a separate writ petition.

The Madhya Pradesh Division Bench in *Shweta Bhadauria v. State of M.P. and Others*, Writ Appeal No. 247/2016, decided 20 December 2016, was separately quoted. It permits refusal of a mandamus directing registration of an FIR under Section 154 CrPC when the informant has not used Sections 154(3), 156(3), 190 and 200 remedies, subject to the established *Whirlpool Corporation* exceptions. It also explains that *Lalita Kumari* concerns the police's FIR duty and does not itself entitle a person to a writ bypassing alternative remedies. This High Court invoked that forum analysis in the Section 482 setting; the order did not separately test a pleaded *Whirlpool* exception. *Whirlpool* and *Lalita Kumari* appeared as explained within the Division Bench extract, rather than as Supreme Court decisions whose facts were independently analysed here.

The State's counsel also cited *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, in a list supporting non-maintainability. The Court did not separately quote, explain or apply their full tests in this order; their treatment of police inaction overlaps the rule directly reproduced from *Divine Retreat Centre*.

3. Statutes considered : Section 482 CrPC was the provision conferring inherent power invoked to seek coercive directions in a pending merg matter. The High Court resolved this application on the availability of a complaint before the Magistrate, rather than deciding whether an FIR must be registered on a particular cognizable disclosure. Sections 190 and 200 CrPC governed the complaint and cognizance remedy explained in *Divine Retreat Centre* and expressly left open by the Court. Section 154 CrPC and Sections 154(3)/156(3) featured in the Division Bench's alternative-remedy framework. Section 203 and Chapter XII occurred in the quoted Supreme Court passage describing the Magistrate's preliminary assessment and rare intervention under public law in an investigation; no complaint dismissal, final police report or Chapter XII abuse was actually adjudicated here. The Court did not analyse an IPC offence.

4. Issues : Could an applicant under Section 482 obtain direct High Court orders effectively requiring an FIR and a charge-sheet while merg inquiry No. 4/2022 was pending, especially when the suspected accused were not impleaded? Was the available complaint process before a Magistrate an efficacious alternative that resolved the request? The court did not decide the death/inquiry facts, the sufficiency of any criminal accusation, arrest necessity, the proper content of a final police report, or whether police officials had acted mala fide.

5. Ratio / Findings : The Court identified the substance of the request from the prayer and submission: although counsel spoke of completing the merg inquiry, the desired outcome was an FIR and charge-sheet against absent suspects. *Divine Retreat Centre* supplied the ordinary route when police fail to act: the informant may take material to a competent Magistrate under Sections 190/200, who has options under the Code, rather than obtain directions from the High Court controlling the outcome of the prosecution process. Its narrow Article 226 exception and investigative restraint were quoted, but the order records no finding of clear abuse or malice on this limited record. *Shweta Bhadauria* further supported recourse to police superiors and to the Magistrate under the statute while preserving recognized writ exceptions and

distinguishing a duty to register from a right to a writ. The High Court applied these remedial propositions to find a criminal complaint to be an efficacious remedy and to decline the Section 482 application. It did not conduct an independent evaluation under Section 154 of whether the information disclosed a cognizable offence or determine that lawful police investigation could not later produce an FIR or charge-sheet. In formulating the question, the Court noted that the suspects had not been impleaded; its operative reason was the alternative remedy of filing a complaint.

6. Relief : The Hon'ble High Court dismissed the application under Section 482, with express liberty to lodge a criminal complaint before the competent court. No direct FIR registration, arrest, charge-sheet, fixed investigation deadline, costs or adverse finding against suspected persons was ordered. The Magistrate's later assessment and the lawful course of police action remained open.

Mohan Prasad Sharma v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 23327/2022, 09/05/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Dying declaration — fitness, exact recording and surrounding reliability - *Khushal Rao v. State of Bombay, AIR 1958 SC 22*, permits an otherwise reliable declaration to be the sole basis of conviction and rejects an invariable corroboration requirement, while demanding case-specific appraisal; a statement properly recorded by a Magistrate in the maker's words has greater evidentiary force. *Uka Ram v. State of Rajasthan, (2001) 5 SCC 254*, requires confidence in the maker's fitness, accuracy and absence of tutoring, even though Section 32 permits admission without an expectation of death; *Lakhan v. State of M.P., (2010) 8 SCC 514*, likewise allows sole reliance only on a true, voluntary declaration made by a person who is fit to give it; *Nanhar v. State of Haryana, (2010) 11 SCC 423*, requires a genuinely reliable, doubt-free account. Applying those limits, the Court rejected Ex. P.5: Ratan arrived unconscious, his later fitness was undocumented while his condition was deteriorating, the written requisition and material words were missing, and the recorder's, doctor's and officer's accounts of timing and content conflicted. No general prohibition on relying on magistrate declarations was imposed.

Poison murder — accused's link and complete circumstantial chain - *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, supplied both the four material circumstances in a poisoning case—motive, death from the poison, possession by the accused, and opportunity to administer it—and the five principles requiring fully established, conclusive links consistent only with guilt and excluding other reasonable hypotheses. The FSL finding of aluminum phosphide in viscera did not prove possession or administration by the appellants. After Ex. P.5 was rejected, no reliable evidence identified a supplier of the poison or sweet, the place where the sweet was adulterated, or a genuine witness to its administration; the delayed spot map and the sequence of events at the police station left the chain of evidence incomplete. IPC Sections 328/34 and 302/34 convictions were set aside.

Prosecution proof — withheld complaint and contemporaneous records - The investigating officer's denial of Mohar Bai's earlier complaint conflicted with his admitted inquiry and witness evidence. The complaint/inquiry record, written requisition to the Tahsildar, treatment and transit records, and vomit were missing, and the officers who escorted Ratan were not examined; medical fitness and the chronology remained unproved. The Court held that the initial prosecution burden was not shifted by the appellants' failure to seek the official requisition under Section 91 CrPC. These omissions materially undermined Ex. P.5 and the alleged sequence in which poison was administered, rather than creating an automatic acquittal rule for isolated irregularities.

Case-note :- ***1. Facts :*** Mohar Bai, Lalaram and Khema appealed under Section 374 CrPC against an Additional Sessions Judge, Sironj judgment of 29 August 2008 in Sessions Trial No. 141/2007. Each had been convicted under IPC Sections 328/34, with seven years' rigorous imprisonment and a ₹1,000 fine (six months' default imprisonment), and under Sections 302/34, with life imprisonment and a ₹1,000 fine (six months' default imprisonment), to run concurrently. The prosecution alleged that, after a dispute involving Mohar Bai and Ratan Singh, the appellants gave Ratan tea and a peda containing poison at a bus stand. Ratan later became ill, was taken to the Community Health Centre, Lateri, referred to Hamidia Hospital, Bhopal, and declared

dead there. The postmortem doctor found no external or internal injuries, suspected poisoning as the cause of cardiorespiratory failure and preserved viscera; forensic analysis detected aluminum phosphide. That medical result established a poisonous substance in viscera but did not itself identify who administered the poison.

Ratan's purported dying declaration, Ex. P.5, states that he had been at Lateri police station from noon concerning an inquiry and statement, met Mohar Bai and others around 5 p.m. at a bus stand, was offered tea, then a bitter peda by Lalaram, became dizzy, went to the police station and was taken by two police personnel who left him by the hospital gate. The order identifies the recorder as Tahsildar Ram Niwas (PW6) and states that Dr. Ghanshyam Sahu (PW8) gave fitness certificates at about 8:00 and 8:15 p.m. The Tahsildar did not put date or time on the declaration itself. The initial hospital message described an unconscious patient said to have consumed something. The first inquiry officer Ram Singh was not examined and the requisition he purportedly sent to the Tahsildar was not filed. Ratan's brothers Shanker Singh (PW1) and Chhotelal (PW4), among others, were examined; Chhotelal said he saw police personnel escort Ratan toward hospital and that Ratan remained unconscious. Naresh (PW5), a supposed witness to the incident, did not support prosecution.

The defence challenged Ex. P.5's authenticity, Ratan's consciousness and the disputed timing, saying Mohar Bai had first complained against Ratan for humiliation or assault and that he had been called to or held at the police station. It also disputed the plausibility of accepting food from the appellants during that quarrel, drew attention to a brother's evidence about dining practices based on caste, and questioned the absence of evidence tracing the sweet shop, purchase of poison or place where it was mixed with the sweet. The Court did cite a medical-jurisprudence description of phosphine gas released by aluminum phosphide and the purported bitter taste, but its credibility assessment was cumulative rather than a universal scientific finding that such a sweet could never be consumed. The State supported the conviction and said preserved vomit was unnecessary because poison was found in viscera. The appellate court examined whether the death was homicidal, accidental or suicidal and, decisively, whether these appellants had administered poison with the common intention alleged in the charges.

2. Precedents — Considered : *Khushal Rao v. State of Bombay, AIR 1958 SC 22*, was quoted in the Court's detailed assessment of Ex. P.5. Its six propositions reject any absolute requirement of corroboration before a dying declaration can alone support conviction, reject a general assumption that a dying declaration is weaker evidence, and require each declaration to be weighed in its own setting. A declaration properly recorded by a competent Magistrate in question-and-answer form, as far as practicable in the maker's own words, stands on a stronger footing than oral recollection; opportunity to perceive, mental capacity, consistency, promptness and tutoring remain critical. Here the recorder admitted omitting answers and using an account that conflicted with other witnesses. The Court applied the quality tests and rejected this document; it did not make corroboration a legal precondition.

Uka Ram v. State of Rajasthan, (2001) 5 SCC 254, was separately reproduced after the assessment of the trial record. The quoted Section 32 Evidence Act principle admits a deceased person's statement about the cause or transaction of death without requiring an expectation of death. Reliance on it still requires full confidence in its correctness because cross-examination is unavailable: the court must rule out tutoring, prompting, vindictiveness and imagination, and be satisfied about fitness, truth and voluntariness. If these conditions are met, a declaration can sustain conviction without corroboration. Corroboration is not required as a rule of law, though it may still be prudent. The High Court applied the caution, not an automatic exclusion rule, to the inconsistencies in the chronology, doctor/recorder evidence and possible police involvement.

Lakhan v. State of M.P., (2010) 8 SCC 514, was quoted for a related but qualified test: a true, reliable, voluntary declaration recorded when physically and mentally fit, free of tutoring or duress, can alone form the basis of conviction. Where there are multiple declarations, an officer's rank may favour a Magistrate's record only if there are no circumstances making its truth doubtful; the court must scrutinize doubtful or mutually inconsistent accounts in context. There was one disputed Ex. P.5 here, so the multiple-declaration preference did not mechanically make it reliable merely because a Tahsildar recorded it. *Nanhar v. State of Haryana, (2010) 11 SCC 423*, was likewise quoted for the need

for an account that genuinely inspires confidence and is untutored and free from substantial doubt. The High Court applied these principles with their stated qualifications to reject Ex. P.5, observing that it appeared to be a created and concocted document; it did not find that every official recording is false.

Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116, was quoted after the declaration was rejected. Its poison-murder analysis, drawing on a nested passage from *Ramgopal*, asks whether the deceased died of the poison, whether the accused had that poison, and whether the accused had an opportunity to administer it, with clear motive also material to the inference. Paragraph 165 lists motive, death by that poison, possession by the accused and opportunity as four circumstances to examine carefully. Its separate five golden principles require circumstances to be fully established ('must' rather than 'may'), consistent only with guilt, conclusive, excluding other reasonable hypotheses and forming a chain that leaves no reasonable ground consistent with innocence. The quotation nests *Shivaji Sahabrao Bobade* for the distinction between 'may be guilty' and 'must be guilty'; the High Court did not independently examine *Shivaji*'s facts. The present Court applied both parts of *Sharad*: the toxicology result alone did not establish possession or administration by the accused and the remaining chain did not exclude a sequence of events in which poisoning occurred at the police station.

3. Statutes considered : Section 374 CrPC was the appeal route for scrutiny of convictions and sentence. IPC Section 328 concerned administration of a harmful poison; Section 302 concerned murder; Section 34 extended the charged liability on common intention. The appellate court reversed both convictions for all three appellants because it was not proved that they had administered the poison and the chain of circumstances establishing guilt was incomplete; it did not separately decide conversion to a lesser offence or analyse an alternative theory under Section 304. Section 32(1) of the Evidence Act appeared through *Uka Ram* as the admissibility basis for a statement concerning cause or circumstances of death; admissibility did not settle its credibility. Section 91 CrPC appeared in the prosecutor’s argument that the accused could have sought production of the official requisition; the Court held the initial prosecution burden could not be shifted by their failure to make that request. No statutory presumption or burden reversal was invoked. The postmortem, FSL report, medical treatment papers, police diary and spot map were evidence examined, not independent statutory offence provisions.

4. Issues : First, did the official recording and fitness evidence make Ratan's alleged dying declaration a truthful, voluntary and reliable account, despite his admission to hospital in an unconscious condition, deteriorating signs, missing requisition and inconsistent witnesses? Second, could the prosecution prove the charged administration of aluminum phosphide in tea or peda by these appellants, as distinct from a finding that poison was in Ratan's viscera? Third, did the circumstantial chain—including motive, possession, opportunity, police and hospital chronology, witness testimony, suppressed records and medical gaps—exclude a reasonable alternative and prove guilt under Sections 328/34 and 302/34 beyond reasonable doubt? Fourth, what relief followed for the jailed and bailed appellants? The Court did not try any officer for custody wrongdoing or finally assign criminal liability for Ratan's death to a different actor.

5. Ratio / Findings : The Court first separated medical detection from the manner of death and the identity of the person who administered the poison. Dr. Vimla Prajapati (PW3) found no injury and described suspected poisoning; FSL Ex. P.16 established aluminum phosphide in viscera. But the allegation that the appellants had delivered it depended heavily on Ex. P.5. The Court applied *Khushal Rao*, *Uka Ram*, *Lakhan* and *Nanhar* as reliability, voluntariness and capacity safeguards, not a universal corroboration rule. Ratan was initially described as unconscious. Dr. Sahu asserted later recovery from memory but the contemporaneous intimation did not record it; his own evidence placed the decline in blood pressure, pulse and breathing, and the decision to refer Ratan, at roughly 7:45 p.m., before the claimed 8:00–8:15 p.m. recording, without recorded vital signs or a documented examination before and after. Chhotelal said Ratan remained unconscious. The Tahsildar said a sealed written request arrived at 7:30 p.m. but kept it in a personal file and did not produce it; the hospital intimation itself was prepared about 7:30. The recorder said the narrative was given in one go and recorded over 5–6 minutes; the doctor described slow questioning, stammering and 15 minutes. The recorder conceded omission of material patient answers about movements near the police station and the bitter peda. The officer's claimed hospital arrival

and already completed declaration conflicted with the doctor's recorded times. The two constables said to have escorted Ratan and the preliminary inquiry officer were not examined. These matters and the surrounding concerns about the account of feeding Ratan made Ex. P.5 untrustworthy. The Court rejected it, observing that it appeared to be a created and concocted document. This finding rested on the total record, not one formal defect.

The Court also examined the dispute and investigative history. Officer J.P. Dangi (PW11) denied receiving Mohar Bai's report while acknowledging her visit and an inquiry into her dispute with Ratan; Shanker and other evidence supported the account that a report had been made and the police had summoned Ratan. The complaint, inquiry notes, her and others' recorded statements, and Ratan's statement were absent. The Court found material evidence suppressed, inferred that Ratan remained at the station and questioned the police version that he became ill elsewhere and voluntarily went to the hospital. Chhotelal saw two police personnel take him there; they were not called, there was no reliable record of when he left custody at the police station or was handed to medical staff, and the interval before recorded hospital notice and treatment was unexplained. The same officer’s later account of speaking to Ratan was neither recorded in a statement nor entered in the diary. The Court criticised the absence of the transport log, escort testimony, indoor register, drug administration records and purchase receipts; it could not verify the times of referral and death or reliably trace the medicines. Vomit after a hypertonic solution was not retained, which mattered to the sequence in which poisoning was alleged to have occurred notwithstanding the later viscera finding. The trial court had also declined without reasons to summon a drug register. The prosecutor's suggestion that accused could have demanded the Tahsildar requisition under Section 91 failed because the initial burden of proof lay on the prosecution. The Court drew serious case-specific credibility consequences from the aggregate omissions; it did not hold each missing record alone proved police guilt.

The other circumstances did not overcome the rejection of the declaration. The alleged provision of tea and peda arose amid an active dispute, and the Court found it implausible that Ratan accepted food in that setting, taking account of the brother's testimony about caste practices, alleged bitter taste and the quoted medical-jurisprudence property of aluminum phosphide. The prosecutor did not prove a sweet purchase, identify a shopkeeper, show acquisition or possession of poison by appellants, or establish where adulteration occurred. An alleged witness to feeding was hostile; the delayed spot map was prepared on information from a person not examined as an eyewitness. The Court expressly found these gaps after detailed cross-examination, rather than treating caste or a medical textbook as independent proof of an alternative cause. Under *Sharad*'s poison circumstances and five principles governing circumstantial proof, motive alone, toxicology alone or mere opportunity could not establish guilt. The suppressed account of events at the police station and medical uncertainties left an alternative hypothesis; the Court stated its inference that Ratan was within police control and consumed poison at the station. That inference undermined the prosecution narrative underlying the charges but was not an operative criminal adjudication against police. The manner of poisoning, the responsible actor and precise death location remained unproved by the prosecution as a basis for convicting these appellants.

The Court therefore found that guilt had not been proved beyond reasonable doubt for each of Mohar Bai, Lalaram and Khema under both Sections 328/34 and 302/34. It did not merely reduce the sentence or convert murder to another offence. The same failure to prove administration of poison and to establish a complete chain of circumstances defeated the allegation of common intention against all three.

6. Relief : The Hon’ble High Court allowed the appeal; the 29 August 2008 conviction and sentence in Sessions Trial No. 141/2007 were set aside, and all appellants were acquitted of every charge. Mohar Bai (appellant 1) and Khema (appellant 3), who were on bail, had their bonds discharged. Lalaram (appellant 2), who was in jail, was directed to be released immediately unless required in another case. The Registry was directed to send the judgment and record immediately to the trial court for information and compliance. The judgment made no compensation, recovery, or officer-prosecution order.

Mohar Bai and Ors. v. State of M.P., Cr.A. no. 692/2008, 28/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO / JJ Act — proof of child status at framing of charge - The husband's FIR described X as about twenty, but the school admission register and Headmaster's certificate produced by the prosecution stated a birth date of 20 December 2003; she was below eighteen in June 2021 on that material. The Court preferred the documentary route it set out from Section 94 of the Juvenile Justice Act, 2015, over an informal estimate, and rejected the applicants' challenge to the IPC and POCSO charges insofar as it rested on the claim that X was an adult. It cited *Joginder Singh v. State of Haryana, (2014) 11 SCC 335*, on the assessment of a victim's age. The age assessment was prima facie at the charge stage.

Kidnapping from lawful guardianship — minor's assent and accused's active role - Applying *Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat, Criminal Appeal No. 1919/2010*, decided 12 January 2021, the Court treated a minor's consent as immaterial to the protection of guardianship under Section 361 IPC. The *S. Varadarajan* exception, as distinguished in *Anversinh*, requires that the minor be capable of appreciating the act, leave voluntarily and receive no inducement or assistance from the accused. Although X's statements under Sections 161/164 portrayed her as taking the initiative in seeking to marry applicant 1, he arranged her travel and accommodation and applicant 2 transported her without claiming that her guardian had consented; a prima facie kidnapping case remained. The quoted Supreme Court passage addressed Section 366, while the framed provisions were Section 366-A IPC and POCSO Section 11(vi) read with Section 18. The Section 397/401 revision against charges was dismissed on the basis that grave suspicion can justify framing a charge and that the Court must not conduct a mini-trial, without determining guilt.

Case-note :- ***1. Facts :*** Mohd. Amir Khan and another applicant filed Criminal Revision No. 2843/2021 under Sections 397 and 401 CrPC against the order dated 27 September 2021 passed by the Special Judge (POCSO Act), Mungaoli in Special Sessions Trial No. 39/2021 framing IPC Sections 363 and 366-A and POCSO Section 11(vi) read with Section 18 charges. The complainant husband reported his wife X missing after he stayed away overnight on 25 June 2021. He had initially described her as twenty. A later school record produced on 30 June indicated a birth date of 20 December 2003, making her about seventeen and a half in June 2021. The narrative describes a call from X to applicant 1 on 24 June and her departure around midnight after 25 June, while a later paragraph states that she went missing on 24 June; the Court does not resolve this date discrepancy.

In her accounts recorded under Sections 161 and 164 CrPC, X said she liked applicant 1, remained in contact after her marriage, asked him to take her for marriage and left the house voluntarily while relatives were asleep. Applicant 1 allegedly told her he would send applicant 2 to take her to Sagar and arrange a room before joining her. Applicant 2 took her there; when no accommodation could be arranged, she was directed to Bhopal, where applicant 1 allegedly took her by motorcycle and a room was arranged. She later returned by bus when he did not come and was found by police. She denied physical violation. These are accounts attributed to X's statements, not final findings on the exact conduct. The applicants argued that the husband's first estimate showed she was an adult and that her initiative and preference ruled out kidnapping or enticement and an offence under POCSO. The State opposed revision.

2. Precedents — Considered : The High Court cited *Joginder Singh v. State of Haryana, (2014) 11 SCC 335*, while addressing how to assess a victim's age, then reproduced Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The provision's hierarchy gives preference to available school or matriculation/equivalent documents, followed by a municipal or panchayat birth certificate. Only in the absence of both categories does it permit a medical age test ordered by the Committee or Board, subject to the fifteen-day proviso. The present Court applied this preference for documentary evidence to the school admission register and Headmaster certificate rather than the husband's informal age statement.

Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat, Criminal Appeal No. 1919/2010, decided 12 January 2021, was quoted and materially applied. The Supreme Court treated the voluntary companionship plea of a girl under eighteen as

insufficient against Section 361 IPC because guardians hold the right to make protective decisions and the minor's own assent is legally immaterial. It carefully distinguished *S. Varadarajan v. State of Madras*: a kidnapping charge would not be made out on a truly unassisted voluntary departure only if the minor knew and was capable of understanding her acts, left voluntarily, and received no inducement or active assistance from the accused. The quoted *Anversinh* passage also explains enhanced Section 366 IPC punishment upon proof of kidnapping with the intention or knowledge of compelled marriage or illicit intercourse. This High Court used Section 361 and the distinction drawn in *Varadarajan* to find prima facie active assistance by applicant 1 and transportation by applicant 2. The actual framed provision was Section 366-A, while Section 366 appeared in the quoted authority. *S. Varadarajan* appeared within the *Anversinh* extract.

Applicants' counsel cited *Satishchandra Ratanlal Shah v. State of Gujarat, (2019) 9 SCC 148*, on the requirement to apply a judicial mind and the consequences for liberty when framing charges. The Court responded that roving inquiry and meticulous appreciation of evidence are impermissible and that grave suspicion supported by the material suffices.

3. Statutes considered : Sections 397 and 401 CrPC supplied revisional control over the Special Judge's charge order. Sections 161 and 164 CrPC identify X's investigation and recorded statements, whose trial weight was not determined. Section 94 of the JJ Act, 2015 was quoted and applied in giving preference to documentary evidence of age. IPC Sections 361 and 363 governed the question of taking or enticing a minor and the punishment for the kidnapping charge framed. IPC Section 366-A was charged; Section 366 appeared within the quoted *Anversinh* passage. POCSO Section 11(vi) read with Section 18 was among the framed provisions. The result is a prima facie charge determination, not final guilt.

4. Issues : Did the husband's FIR estimate of twenty displace the school records establishing prima facie that X was a child in June 2021? Did X's expressed willingness to leave and marry applicant 1 remove the essential taking or enticement when he arranged her relocation and applicant 2 escorted her without claimed guardian consent? Should the charge order be disturbed in revision under the threshold of grave suspicion rather than after a full assessment of credibility? Final proof of age and the applicants' guilt remained for trial.

5. Ratio / Findings : The Court first refused to treat an informal FIR age estimate as conclusive in the face of the school admission register and Headmaster's certificate produced. The documented 20 December 2003 birth date placed X below eighteen on the relevant June 2021 departure. It used the sequence for documentary evidence under Section 94 to support that preliminary conclusion.

X's own initiative did not resolve the question under Section 361. On the attributed statements, applicant 1 was in contact and arranged for applicant 2 to take her from the matrimonial home to Sagar, for her further travel and for accommodation in Bhopal; applicant 2 actually escorted her without suggesting that the in-laws or guardian had consented. *Anversinh*'s rule makes a minor's apparent agreement insufficient, while the qualified rule in *S. Varadarajan* concerns an informed, truly unassisted voluntary departure. The Court found it impossible to say applicant 1 had absolutely no role in enticing her and rejected applicant 2's implied defence based on consent. Those were prima facie findings founded on prosecution material, not a final credibility judgment or a determination that every romantic contact with a minor is kidnapping.

The Court answered counsel's concern about the framing of charges by saying judicial assessment is required but a roving or meticulous merits inquiry is not; grave suspicion that an accused might have committed the offence can justify framing a charge. It found sufficient material to leave the framed IPC and POCSO charges for trial and refused revision.

6. Relief : The Hon'ble High Court dismissed the revision, leaving the Special Judge's 27 September 2021 order framing IPC Sections 363 and 366-A and POCSO Section 11(vi) read with Section 18 charges in place. No charge was quashed, altered or converted, and no bail or merits acquittal was granted. The underlying trial and all final proof issues remained open.

Mohd. Amir Khan and Ors. v. The State of M.P. and Ors., Cr.R. no. 2843/2021, 10/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR delay — matrimonial reconciliation and trial explanation - Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that an interval after a wife leaves her matrimonial home does not, without more, make an

FIR alleging dowry-related cruelty false or justify quashing under Section 482 where reconciliation may have been attempted. The explanation is for trial testing. Respondent 2 alleged ouster in January 2017 and a renewed demand at her parental home in January 2019; her February 2019 report was not rejected merely for the elapsed time.

Divorce petition — criminal case not extinguished by civil process - *Pratibha* also held that a husband's prior divorce proceeding and a later FIR do not automatically establish retaliatory abuse; civil and criminal proceedings can coexist on related facts, and divorce may explain why reconciliation ended. The High Court rejected the applicants' inference that the FIR was a counterblast because the divorce petition had been filed in October 2018. It did not adjudicate their factual defence.

Section 498-A IPC / Section 4 Dowry Prohibition Act — specific allegations and relatives - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, warns against omnibus claims against uninvolved relatives while permitting trial on supported specific cruelty allegations. Its contextual distinctions from *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra* do not create automatic immunity for family members. The FIR alleged specific shared demands for car, money, gold and a house, abuse, threats of the husband's second marriage, and a January 2019 parental-home ultimatum by the husband and parents-in-law. The Court found allegations requiring trial, not final guilt.

Section 482 CrPC — face-value threshold and disputed defence - *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, caution against premature merits appraisal; *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, applies the framework in *Bhajan Lal* requiring sparing exercise of the quashing power; *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, balances abuse prevention and genuine prosecution; *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, states the ground for quashing where the allegations on their face disclose no offence; *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, reject detailed findings on disputed defence facts; *Taramani* adds that the reliability of the version and counter-version must be assessed at trial. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, preserves a narrow exception for a public document or one whose veracity is undisputed. Applying these limits, the Court declined to try Iliyas's disputed alibi: his chart showed 20:00–08:00 duty, leaving the daytime on the date of the alleged visit potentially available for an approximately five-hour round trip. The application for quashing was dismissed.

Case-note :- ***1. Facts :*** Mohd. Iliyas, his mother Zahida Behum and his father Sheikh Ikrar sought quashing under Section 482 CrPC of the charge-sheet for IPC Section 498-A read with Section 34 and Section 4 of the Dowry Prohibition Act. The complainant wife alleged all three repeatedly demanded an Innova car, ₹5 lakh, 100 grams of gold and a house in Katni, scolded and assaulted her when she objected, disparaged her complexion and threatened that Iliyas would marry again. She said they sent her to her parental home with her brother on 8 January 2017. At first her parents hoped matters would improve. She alleged all applicants came to her parental home at Dhanpuri on 6 January 2019 and renewed demands for the vehicle, money, house and gold/silver ornaments as a condition of taking her back. An FIR was registered on 21 February 2019. These are attributed allegations, not established acts.

The applicants denied cruelty. Counsel said the delay after departure was unexplained, a divorce petition had been filed by Iliyas on 26 October 2018 before the FIR, and the report was therefore a retaliatory counterblast. Later, counsel offered a duty chart to assert that Iliyas was at work on 6 January 2019 and could not have joined the alleged Dhanpuri visit. The Court decided whether the prosecution should be stopped at the threshold, not whether the charge-sheet would result in conviction.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, 2007:INSC:929, (2007) 12 SCC 369*, was directly quoted and applied. The Supreme Court held that a High Court exceeded Section 482 by drawing a negative inference merely from a wife's reporting months after she left the matrimonial home while her family attempted reconciliation; a husband's intervening divorce filing did not itself terminate a criminal prosecution. Civil and criminal proceedings are distinct even if their facts overlap. The High Court should ask whether the complaint or FIR allegations taken at face value disclose a prima facie cognizable offence, not decide the matter from extraneous investigation reports or a contested defence. Here the Court used the analogy to reject

the argument that the approximately two-year interval and prior divorce petition were automatic grounds for quashing, while leaving the complainant's actual explanation to cross-examination.

XYZ v. State of Gujarat, 2019:INSC:1199, (2019) 10 SCC 337, was quoted to condemn a Section 482 roving inquiry into disputed allegations and a settlement document allegedly procured by threat before investigation was complete. This Court used its rule requiring restraint at that stage of proceedings against weighing the applicants' denial; the allegations about intimate pictures and coercion in *XYZ* were not allegations in the present case. *State of Tamil Nadu v. S. Martin and Others, 2018:INSC:284, (2018) 5 SCC 718, supplied the quoted warning against premature High Court assessment during incomplete investigation.*

Ajay Kumar Das v. State of Jharkhand, 2011:INSC:655, (2011) 12 SCC 319, was quoted for the categories in *Bhajan Lal*, the absence of watertight guidelines, and the need for caution and sparing exercise of Section 482 without testing the reliability of FIR allegations or using inherent powers arbitrarily. *State of A.P. v. Gourishetty Mahesh, 2010:INSC:405, (2010) 11 SCC 226*, was separately quoted at greater length. It locates credibility and likely conviction at trial while allowing quashing where even the allegations taken in their entirety at face value disclose no offence, a statutory bar exists, or sufficient material shows malicious vengeance. Courts must guard against needless vendetta but cannot use Section 482 to bring a legitimate prosecution to a premature end. The High Court applied the test based on taking the allegations at face value to the stated dowry and cruelty allegations and did not find a clear exception on the applicants' contentions.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, was quoted for an important qualification: ordinarily the accused's defence or defence documents are not examined when deciding an application for quashing, but an appropriate public document or a document whose veracity the complainant does not dispute may be considered, as recognized in *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* Those three are nested sources of the exception. The present duty chart was neither incontrovertible proof that his presence was physically impossible nor a basis for a trial of alibi; the Court did look at its stated shift before concluding the daytime journey remained possible.

M. Srikanth v. State of Telangana, 2019:INSC:1172, (2019) 10 SCC 373, was quoted for the corresponding threshold for quashing: if the FIR or complaint allegations taken at face value, or the uncontroverted allegations with their supporting material, disclose no offence against the accused, quashing is justified. This Court held that this threshold was not met on the claimed demands and cruelty. *CBI v. Arvind Khanna, 2019:INSC:1152, (2019) 10 SCC 686*, was quoted to condemn Section 482 findings resolving minute disputed details after cognizance; the accused's defence must be tested at trial. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709 of 2021*, order of 30 June 2021, supplied the related prohibition on meticulous scrutiny and the caution that an FIR is not an encyclopedia. These authorities collectively supported refusal to adjudicate the applicants' false-report contention or travel evidence as conclusive.

Taramani Parakh v. State of M.P. and Others, 2015:INSC:221, (2015) 11 SCC 260, was quoted extensively. Its own paragraph 10 permits quashing for absurd allegations, absence of an offence or abuse but prohibits testing version versus counter-version where a triable case exists; it urges caution over omnibus matrimonial allegations against remote relatives. The judgment reproduced *Taramani*'s long quotation of *Amit Kapoor v. Ramesh Chander*: judicial caution; whether the record taken as a whole at face value discloses the ingredients of an offence; no conviction-level appraisal; an express statutory bar or a purely civil wrong may justify quashing; parallel civil claims do not alone bar criminal process; and accused external materials are ordinarily outside threshold review. It also reproduces *Taramani*'s application to specific husband/parent harassment allegations and the distinctions it drew on the facts from *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra*, in which material against relatives was inadequate or the case absurd. The present High Court used those limits to treat allegations against the husband and his parents here as triable, without saying family membership alone makes a person liable or that the earlier cases establish fixed immunity for relatives. *Amit Kapoor* and the many decisions in its bracketed reference string are nested within the adopted *Taramani* extract.

In paragraph 18, the Court listed *Munshiram*, *Teeja Devi*, *State of Orissa v. Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* as adopting a similar view.

3. Statutes considered : Section 482 CrPC supplied the inherent jurisdiction over the charge-sheet. The Court asked whether the uncontroverted allegations disclosed a cognizable offence and rejected a roving inquiry into the correctness or credibility of the allegations or the defence of alibi; it recognized the established grounds based on failure to disclose an offence on the face of the allegations or exceptional abuse of process explained in its cited cases. IPC Section 498-A/34 and Section 4 of the Dowry Prohibition Act were the prosecuted provisions; the FIR's attributed demands, verbal humiliation, assault and renewed return condition furnished the preliminary factual basis. The husband's divorce petition was a civil procedural fact used in the counterblast argument.

4. Issues : Did the interval between the January 2017 separation and the February 2019 FIR, with an alleged January 2019 parental-home demand, warrant terminating the prosecution before trial? Did Iliyas's October 2018 divorce filing make the FIR a retaliatory counterblast or foreclose criminal proceedings? Did the specific allegations of dowry demands and cruelty by the husband and parents, taken at face value, make a triable Section 498-A/34 and Dowry Act Section 4 case notwithstanding *Taramani*'s caution about omnibus allegations against relatives? Did Iliyas's night-duty chart establish a conclusive alibi on the record under Section 482? The Court did not determine the final credibility of either spouse, a completed divorce, a definitive travel history, or ultimate guilt.

5. Ratio / Findings : On delay, the Court reasoned that a wife may hope to save her marital relationship rather than report immediately after being sent away. *Pratibha* made it improper to draw a conclusive adverse inference from such an interval or from a civil divorce proceeding; any explanation offered must be tested by trial cross-examination. It found the nearly two-year interval no bar to continuing proceedings at this stage on this record. The FIR also alleged renewed demands in January 2019. The prior divorce filing did not show malicious retaliation as a necessary inference: the Court instead inferred that its filing marked the end of her hopes of reconciliation. That interpretation supported rejection of this ground for quashing. Civil and criminal processes may coexist.

On the allegations, the Court took at face value the asserted car, money, gold and house demands, humiliating language about appearance, assault, threat of second marriage, January 2017 departure and January 2019 condition for returning. Those were attributed to the three named applicants rather than simply based on their relationship. *Taramani* demanded care when allegations are omnibus and explained why cases against relatives not shown to be involved can be distinguished from allegations of concrete conduct requiring trial. The Court refused to decide whether the FIR was false, consistent with *XYZ*, *Martin*, *Ajay Kumar Das*, *Gourishetty*, *M. Srikanth*, *Arvind Khanna* and *Kunwar Singh*. Those authorities also preserve genuine grounds based on failure to disclose an offence on the face of the allegations, patent absurdity, a statutory bar or abuse of process; none was found established merely through the accused's contrary assertions. The order is a refusal to stop trial, not a finding that guilt under Section 498-A or the Dowry Act has been proved.

On alibi, the Court stated that the accused must establish it by cogent evidence beyond reasonable doubt. It treated whether his presence was physically impossible as a disputed question of fact, ordinarily for trial. The duty chart supplied by Iliyas showed a shift from 20:00 to 08:00, leaving the daytime of 6 January free. Accepting the State's approximate 140-km Katni–Dhanpuri distance and roughly two-and-a-half-hour travel each way, the Court considered a round trip possible before the night shift. Even the chart, if read on its terms, did not conclusively exclude his presence. The Court did not treat the contestable schedule and travel inference as a conclusive alibi at the Section 482 stage. The stated burden formulation and time estimate are the High Court's reasoning at the quashing stage; final evidence of actual attendance and the alleged visit remains open.

6. Relief : The Hon'ble High Court dismissed the application under Section 482, leaving the police charge-sheet under IPC Section 498-A/34 and Section 4 of the Dowry Prohibition Act to proceed. There was no quashing, discharge of any individual accused, costs, or final guilt ruling. The complainant's allegations and the applicants' alibi and other defences remained for trial.

Mohd. Iliyas and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 30505/2019, 20/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 195(1)(b)(ii) CrPC — antecedent forgery / court complaint bar - *Iqbal Singh Marwah v. Meenakshi Marwah, 2005:INSC:129, (2005) 4 SCC 370*, confines the court-complaint requirement for specified document offences to those committed after the document has been produced or given in evidence and while it remains in custodia legis; later filing does not turn an earlier forgery allegation into an offence requiring the court's own written complaint. The applicants did not assert fabrication in court custody. Their objection failed without deciding whether the will or any identified certificate was forged or whether the applicants committed forgery.

Civil and criminal process — forged property document / coexistence - *Iqbal Singh Marwah* distinguished the proof standards; *M. Krishnan v. Vijay Singh, 2001:INSC:499, AIR 2001 SC 3014*, rejected quashing a document-forgery complaint merely because a civil suit existed; *Kamaladevi Agarwal v. State of West Bengal, 2001:INSC:517, AIR 2001 SC 3846*, likewise rejected civil pendency as a categorical bar. *M.S. Sheriff v. State of Madras, 1954:INSC:32, AIR 1954 SC 397*, favoured criminal precedence as a general expedient while disavowing a hard rule and recognising case-specific embarrassment; *P. Swaroopa Rani v. M. Hari Narayana, 2008:INSC:299, (2008) 5 SCC 765*, allowed simultaneous proceedings and fact-sensitive stay decisions. Applying those principles to the disputed mutation and claimed 1995 will, the Court refused to stop the criminal complaint simply because the controversy also had civil dimensions.

Prior civil findings — relevance and non-conclusiveness in criminal case - *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), 2009:INSC:290, (2009) 5 SCC 528*, and *Kishan Singh v. Gurpal Singh, 2010:INSC:509, (2010) 8 SCC 775*, were applied for independent civil and criminal proof. Their quoted discussion of *K.G. Premshanker* preserves possible relevance under Evidence Act Sections 40–43 and Section 41's specified conclusiveness; it does not make every civil fact finding binding on the criminal court. *Kishan Singh* rejected the broad contrary *Karam Chand* statement and noted *V.M. Shah*'s non-approval in light of the Constitution Bench *M.S. Sheriff* principle. The High Court rejected any requirement of prior civil adjudication but did not decide the effect of a particular final civil judgment.

Section 482 CrPC — prima facie threshold / no mini-trial - *CBI v. Aryan Singh, Criminal Appeal Nos. 1025–1026 of 2023*, decided 10 April 2023, was cited for the limited quash inquiry into sufficient material to proceed, not an advance determination that charges are unproved or that the complaint is malicious. Two conflicting death certificates gave 1984 and 1995, respectively, as the alleged testator's year of death, directly affecting the purported will dated 15 May 1995. The revisional remand for more evidence was held justified and had not been timely challenged; the later Magistrate order took cognizance and issued process for IPC Sections 467, 468, 471 read with 120-B. A negative police inquiry and alleged retaliatory cross-cases did not justify a Section 482 merits trial. The petition was dismissed and interim protection vacated; authenticity and guilt remain open.

Case-note :- ***1. Facts :*** A private complainant, Mohd. Amir Haseeb, accused Mohd. Iqbal Hafiz Khan and other applicants of cheating, forging and using documents and conspiracy in relation to 32.33 acres in Bhopal recorded in the name of Sarvari Begum. The complaint alleged that the applicants sought mutation on a purported will dated 15 May 1995 and that the will was forged. The judgment initially records her death as 31 August 1984, but later notes two conflicting death certificates: one gives that date, and the other gives 31 October 1995. These dates are the contents of competing documents, not judicial certification of either death date. If the former is genuine, a will executed in 1995 would be impossible; if the latter is genuine, the earlier death certificate could not be authentic. Given the incompatible dates, the High Court stated that at least one death certificate was forged. It did not identify which one, who was responsible, or whether the will itself was forged. The mutation proceeding itself was dismissed for want of prosecution on 7 February 2017.

The complainant initially applied under Section 156(3) CrPC. The Judicial Magistrate First Class did not order registration or investigation under that provision, treated the matter as a Section 200 private complaint, recorded the complainant's and witnesses'

statements under Sections 200 and 202, and requested a police inquiry report. The police reported no offence. On 27 July 2018 the Magistrate dismissed the complaint. The complainant's Revision No. 442 of 2018 succeeded on 11 April 2019 before the 20th Additional Sessions Judge, Bhopal, who set aside the dismissal and remanded with an opportunity to adduce further oral and documentary evidence. The applicants did not challenge that remand at the proper time. On 1 August 2019 the Magistrate directed registration of the complaint, took cognizance and issued process for IPC Sections 467, 468 and 471 read with Section 120-B. The applicants then invoked Section 482 CrPC to challenge both the revisional and later Magistrate orders and to quash the complaint proceedings.

Their counsel submitted that Section 195 CrPC required a written complaint by the court because the supposedly forged document had been filed in court; the police had already examined the matter and found no crime; the property dispute was essentially civil; and the private complaint was a counterblast to an FIR alleging offences under IPC Sections 294, 327 and 506 and another Section 156(3) application alleging those and other offences against the present complainant. These were submissions, not findings on either set of cross-allegations.

2. Precedents — Considered : *Iqbal Singh Marwah v. Meenakshi Marwah, 2005:INSC:129, (2005) 4 SCC 370*, was the direct authority for Section 195(1)(b)(ii) CrPC. The Supreme Court's temporal and custody distinction means that the enumerated document offence attracts the exclusive written court-complaint route when committed in respect of a document after its actual production or giving in evidence in a court proceeding, while it is in custodia legis. An alleged forgery committed before production may therefore be pursued through a private complaint even if the document is subsequently filed in court. The High Court expressly adopted and applied that distinction: there was no applicant assertion of forgery during court custody, so the claimed Section 195 obstacle failed. It also invoked *Iqbal Singh Marwah* for the separate proposition that civil and criminal standards of proof differ and one forum's findings are not simply final and binding in the other. The High Court did not treat the rule in *Iqbal Singh Marwah* as determining whether the disputed documents were in fact forged.

M.S. Sheriff v. State of Madras, 1954:INSC:32, AIR 1954 SC 397, was quoted for the general view that criminal proceedings should ordinarily receive precedence over civil proceedings because delayed prosecution risks faded memory and because conflicting decisions alone are not a proper reason to stop it. The very quoted passage disclaims a hard-and-fast rule: special circumstances and the likelihood of embarrassment may make a different sequencing just, including a civil matter or another criminal proceeding near completion. The High Court relied on this qualified coexistence principle rather than ordering a stay in either forum. *M. Krishnan v. Vijay Singh, 2001:INSC:499, AIR 2001 SC 3014*, was quoted extensively. In an alleged forgery/document-based acquisition case, that Supreme Court decision rejected a rule that pending civil litigation must first determine document genuineness before any criminal action. The criminal accusation must be independently proved; failure of proof permits discharge or acquittal at the proper stage, not automatic quashing on the basis of a civil suit. It contrasted proof beyond reasonable doubt in criminal proceedings with the preponderance of probabilities in civil proceedings and warned that an automatic bar based on a pending civil suit could encourage strategic litigation. The High Court applied this rule to the applicants' property-dispute defence without treating every civil disagreement as criminal.

Kamaladevi Agarwal v. State of West Bengal, 2001:INSC:517, AIR 2001 SC 3846, was expressly cited for the procedural separation: a pending civil action, even before a court of higher status, does not by itself require quashing a criminal matter governed by CrPC. *P. Swaroopa Rani v. M. Hari Narayana, 2008:INSC:299, (2008) 5 SCC 765*, was quoted for simultaneous civil and criminal proceedings and a stay choice depending on the facts and stages. Its embedded references to *M.S. Sheriff* and *Iqbal Singh Marwah* supported that stated rule. The Court relied on those authorities to reject the contention that the dispute's civil character barred criminal proceedings. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), 2009:INSC:290, (2009) 5 SCC 528*, was quoted on the separate question of civil judgments' effect. It explains that criminal cognizance requires prima facie satisfaction, that a stay depends on the nature and stage of the particular proceedings, and that a civil suit must be decided on its own evidence. Its reproduced *K.G. Premshanker*

v. Inspector of Police analysis says a prior final judgment may be relevant under Evidence Act Sections 40–43, with Section 41 conclusive where its conditions are met; res judicata may operate in civil litigation and Section 300 CrPC limits a second criminal trial after acquittal or conviction where applicable. Relevance and its extent require a case-specific inquiry rather than a global binding rule. The High Court used the non-automatic-binding principle.

Kishan Singh v. Gurpal Singh, 2010:INSC:509, (2010) 8 SCC 775, was reproduced at length and treated as crystallising the relationship. It explains that the broad proposition in *Karam Chand Ganga Prasad*, that civil findings bind criminal courts, failed to account for the Constitution Bench's ruling in *M.S. Sheriff*; *V.M. Shah*'s claimed civil precedence was doubted and not approved in *K.G. Premshanker.* It quoted the Privy Council's *King Emperor v. Khwaja Nazir Ahmad* for independent criminal appraisal and referred to *P. Swaroopa Rani* and *Iqbal Singh Marwah* for coexistence and distinct standards. The concluding rule is that factual findings in one proceeding ordinarily do not bind the other, while Evidence Act Sections 41–43 may make a particular earlier judgment relevant. The High Court adopted this qualified rule. *Karam Chand*, *V.M. Shah*, *K.G. Premshanker*, *Vishnu Dutt Sharma* and the Privy Council reference appeared within the reproduced Supreme Court analysis.

CBI v. Aryan Singh, Criminal Appeal Nos. 1025–1026 of 2023, decided 10 April 2023, was directly invoked in paragraph 27 for Section 482 restraint. The High Court described the Supreme Court rule as forbidding a mini-trial of whether charges are proved and focusing at this stage on prima facie material sufficient to require trial. It stated that alleged malice should be assessed at the conclusion of the trial, rather than through the weighing of competing factual accounts at the Section 482 stage. Applied here, the contradictory certificates and claimed will could not be resolved in favour of the applicants by preferring the negative police inquiry or retaliatory explanation in inherent jurisdiction.

3. Statutes considered : Section 195(1)(b)(ii) CrPC was the substantive statutory bar argued: for its enumerated document offences committed in relation to a document in court custody, cognizance requires the concerned court's written complaint. The Court construed the time of the alleged offence, not mere later filing of a purportedly forged document, as decisive under *Iqbal Singh Marwah*. Section 482 CrPC supplied the applicants' inherent-jurisdiction route to challenge the revisional and Magistrate orders and the complaint; its limited preliminary inquiry excluded a trial of disputed authenticity or alleged retaliatory motive. Sections 156(3), 200 and 202 CrPC explain the initial police-investigation request, conversion to complaint, recording of statements and pre-process inquiry.

IPC Sections 467, 468 and 471 read with Section 120-B were the offences for which the Magistrate issued process, concerning alleged forgery, forgery for cheating, use of forged document and conspiracy. Section 420 and Section 34 also appeared in the original complaint, but the order describes the 1 August 2019 process under the narrower set and does not decide Section 420 or 34 liability. The separate cross-case sections were mentioned only as a retaliation submission. Evidence Act Sections 40–43, especially Section 41, arose through the quoted Supreme Court analysis of the relevance and sometimes conclusiveness of prior judgments. Section 300 CrPC appeared in the nested *K.G. Premshanker* passage about second criminal trial, not as a live double-jeopardy issue.

4. Issues : First, whether Section 195(1)(b)(ii) barred the private forgery complaint merely because the allegedly forged document was later presented to a court, when no fabrication after its entry into court custody was alleged. Second, whether the property mutation/civil character of the dispute, civil proceedings or possible civil findings compelled quashing or prior civil adjudication of document authenticity; and, distinctly, what relevance a prior judgment could have under the Evidence Act rather than categorical binding effect. Third, whether the revisional remand following a negative police inquiry was erroneous when two death certificates gave incompatible dates material to a 1995 will; and whether the applicants' belated challenge to the remand and the subsequent process warranted interference under Section 482 CrPC. Fourth, whether the complaint's alleged counterblast character, negative inquiry report and competing documents meant the forgery charges were unproved at the threshold, or only presented triable questions. The Court did not decide title, the genuine date of death, the will's authenticity, each applicant's participation or final guilt.

5. Ratio / Findings : The Court first observed that the applicants did not allege the document had been

forged in custodia legis. Under *Iqbal Singh Marwah*, Section 195(1)(b)(ii) ordinarily applies when the specified offence is committed after a document is produced or given in evidence while in court custody. Where forgery was alleged to have occurred before the document entered court custody, its subsequent filing did not require a written complaint by that court. This rejected a cognizance bar only; the prosecution still had to prove the alleged offence.

For the revisional order, the Court compared the two dates on the certificates with the purported will's 15 May 1995 date. The Court concluded that at least one of the mutually inconsistent death certificates was forged. If Sarvari Begum died in August 1984 she could not have made a May 1995 will; if she died in October 1995, the 1984 certificate would be forged. This created a material unresolved issue, and the revisional court did not err in setting aside the earlier dismissal and offering the complainant more verbal and documentary evidence after the Magistrate's negative police inquiry. The applicants had not attacked that remand at the appropriate time. The High Court did not identify which certificate was forged or infer who prepared or used it from that contradiction alone.

The Court next rejected the notion that a mutation/civil dispute or civil suit automatically excludes prosecution for alleged fabrication. *M. Krishnan* and *Kamaladevi Agarwal* expressly disallow treating civil pendency as a quashing bar, *Iqbal Singh Marwah* preserves different proof standards, *M.S. Sheriff* prefers prompt criminal justice without a mandatory precedence rule, and *P. Swaroopa Rani* makes simultaneous proceedings and any stay dependent on circumstances. Civil cases are decided on the preponderance of probabilities; criminal cases require proof beyond reasonable doubt. Each forum decides on the evidence adduced before it. The Supreme Court material quoted in *Syed Askari* and *Kishan Singh* further prevents importing civil findings as final criminal determinations merely because property and parties overlap, while allowing statutory relevance under Evidence Act Sections 40–43 where a specific prior judgment meets their conditions. No particular final civil ruling or stay application was decided here.

Lastly the Court invoked *CBI v. Aryan Singh's* limited Section 482 test. The complaint and contradictory documentary dates supplied enough prima facie material to continue the process under Sections 467, 468 and 471 read with 120-B. The applicants' reliance on the police inquiry report, other cross-proceedings and claims of fabrication or retaliatory motive called for evaluation of conflicting evidence, not a declaration that charges had failed before trial. The Court therefore found no ground for interference under Section 482 CrPC. The order's threshold findings do not resolve the authenticity of the will or either certificate, the accused persons' intent, conspiracy, or eventual offence proof.

6. Relief : The High Court dismissed the Section 482 application. The order vacated the interim order of 28 August 2019. The 11 April 2019 revisional remand and 1 August 2019 Magistrate cognizance/process order were not set aside, so the private complaint under IPC Sections 467, 468 and 471 read with 120-B could proceed. No civil suit was adjudicated or stayed, no applicant was convicted, and the judgment gave no further substantive directions or costs order.

Mohd. Iqbal Hafiz Khan and Ors. v. Mohd. Amir Haseeb, M.Cr.C. no. 35081/2019, 20/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 226 — police inaction / alternative remedy and exception - *Aleque Padamsee v. Union of India, 2007:INSC:760, (2007) 6 SCC 171*, distinguishes the Section 154 CrPC duty to register cognizable information from the remedy when police default; the informant can invoke Sections 190 and 200 before a Magistrate. *Divine Retreat Centre v. State of Kerala, 2008:INSC:341, (2008) 3 SCC 542, ordinarily directs complainants to the Magistrate while preserving rare Article 226 intervention where mala fide investigative action, clear abuse of power and Chapter XII non-compliance are established; even then, courts cannot dictate the method of investigation.* The *Madhya Pradesh Division Bench Shweta Bhadauria v. State of M.P.*, W.A. 247/2016, permits denial of mandamus for bypassing Sections 154(3), 156(3), 190 and 200 unless a *Whirlpool* alternative-remedy exception applies, and distinguishes *Lalita Kumari*'s police duty from writ maintainability. The Court identified no exceptional circumstances on the petition's stated account of police inaction. The writ was dismissed without deciding whether the underlying information disclosed an offence.

Magistrate — complaint and Section 156(3) remedy - *Aleque Padamsee* and *Divine Retreat* identify the complaint procedure under Sections 190 and 200 CrPC. After examining the complainant, the Magistrate may order investigation, issue process or dismiss the complaint under Section 203, as the record warrants. *Sakiri Vasu v. State of U.P., 2007:INSC:1243, (2008) 2 SCC 409*, adds a written Section 154(3) approach to the Superintendent of Police and a Section 156(3) application; on prima facie satisfaction the Magistrate may require FIR registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, follows that alternative route, including a possible recommendation about investigating officer, but the Magistrate cannot personally investigate. The High Court expressly reserved Sohil's liberty to approach the Magistrate under Section 200 CrPC / Section 223 BNSS, 2023; it did not adjudicate or grant relief under the other routes on these facts.

Case-note :- ***1. Facts :*** Mohd. Sohil filed an Article 226 petition stating that he had approached police for registration of an FIR but received no action. The relief clause asked the High Court to direct the concerned authorities to decide his representation (Annexure P-02), order an investigation, and grant any appropriate further order. The order does not describe the alleged incident, proposed accused, date or text of the representation, particulars of the information given to police, or any written approach to the Superintendent of Police or Magistrate. These omissions limit any inference about the alleged offence, not the procedural question the Court chose to decide. State counsel contended that a direct FIR writ was not maintainable because Sohil had a Magistrate complaint remedy under Section 200 CrPC / Section 223 BNSS, 2023. The Court considered the writ and framed the issue as whether it should direct the police to register an FIR when the petitioner says no action followed his approach.

The order decides Sohil's petition on its stated facts and does not make a separate factual finding or award relief in W.P. No. 25169/2024.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, 2007:INSC:760, (2007) 6 SCC 171*, was quoted at length. Its Supreme Court passage accepts a statutory duty to register an FIR when police receive information disclosing a cognizable offence, but distinguishes the appropriate remedy for a police default. For police inaction, it identifies a complaint to the Magistrate under Section 190 read with Section 200 CrPC as the ordinary remedy instead of a writ commanding FIR registration. *Aleque* explains that *Ramesh Kumari v. State (NCT of Delhi)* concerns the police's duty upon cognizable information, whereas *All India Institute of Medical Sciences Employees' Union, Gangadhar Janardan Mhatre, Hari Singh* and *Minu Kumari* address the complainant's procedural remedy. It also mentions *Lallan Chaudhary* as reiterating the duty; those cases are nested within *Aleque*'s reconciliation and were not separately fact-analysed by this High Court. The direction concerning a government sanction request in *Aleque* belonged to that case's separate facts; it was not a direction made in Sohil's petition. The High Court adopted its remedial distinction, not a finding about Sohil's unidentified alleged offence.

Divine Retreat Centre v. State of Kerala, 2008:INSC:341, (2008) 3 SCC 542, was quoted for a qualified jurisdictional rule. It retains Article 226 power in rare cases where a clear mala fide exercise or abuse of investigative power and Chapter XII non-compliance justifies intervention at an aggrieved person's instance, while forbidding judicial prescription of how police should conduct the investigation; a court may insist on the Code's process. The following quoted paragraph places ordinary police inaction within the Sections 190 and 200 complaint remedy rather than routine writ jurisdiction. Through its quotation of *Gangadhar Janardan Mhatre*, it describes the Magistrate's options on a complaint: examine, seek investigation where appropriate, dismiss under Section 203 if no offence emerges, or issue process on prima facie material. The High Court applied the usual remedy here; it did not find rare mala fide investigation on the sparse petition.

Sakiri Vasu v. State of U.P., 2007:INSC:1243, (2008) 2 SCC 409, was quoted to set out an additional statutory sequence. A person alleging failure to register under Section 154 may send a written application to the Superintendent of Police under Section 154(3); if registration or adequate investigation remains wanting, the person may seek a Section 156(3) order from the Magistrate. On such an application, the Magistrate may direct FIR registration or proper investigation and monitor compliance. This route is contingent on the Magistrate's lawful exercise of jurisdiction, not a command by this High Court that Sohil's FIR be registered. *Sudhir Bhaskarrao Tambe v. Hemant*

Yashwant Dhage, (2016) 6 SCC 277, was quoted as applying *Sakiri Vasu* and explaining why routine FIR/investigation writs should be routed to Magistrates. It describes the Magistrate's prima facie satisfaction, ability to monitor investigation and, if necessary, recommend a different investigating officer; the Magistrate does not personally investigate. The passage's setting aside of a different High Court judgment and directions in that case were not orders made for Sohil.

Shweta Bhadauria v. State of M.P., Writ Appeal No. 247 of 2016, decided 20 December 2016 (Gwalior Bench), was the local Division Bench rule adopted by the single Judge. It says mandamus to enforce Section 154 duty may be declined for non-use of Sections 154(3), 156(3), 190 and 200 unless one of the four exceptions identified in *Whirlpool Corporation v. Registrar of Trade Marks* applies. It separately states that *Lalita Kumari v. Government of U.P.* addresses FIR-registration duty, not the entitlement to bypass alternative remedies and demand a writ. *Whirlpool* and *Lalita Kumari* were mentioned within this quoted Division Bench formulation; the order did not independently examine which specific *Whirlpool* exception Sohil pleaded or perform a new statutory registration analysis under *Lalita Kumari*. The High Court relied on that distinction when dismissing the writ and preserving the Magistrate complaint remedy.

3. Statutes considered : Article 226 of the Constitution was the jurisdiction invoked for mandamus. The Court treated alternative criminal-procedure remedies as the ordinary route, while the *Divine Retreat* and *Shweta* passages preserve exceptional writ intervention on appropriate facts; it did not hold that Article 226 jurisdiction is unavailable in every FIR-registration dispute. Section 154 CrPC provides the police-registration duty when cognizable information is received; subsection (3) permits the written supervisory approach described in *Sakiri Vasu*. Section 156(3) gives the Magistrate the power described in the quoted authorities to direct and monitor proper investigation on prima facie satisfaction. Sections 190 and 200 supply the Magistrate complaint and cognizance route that the Court expressly left open; Section 203's dismissal option and the issuance of process were explained by *Gangadhar* as quoted in *Divine Retreat*. These provisions were discussed as remedies and judicial options, not applied to decide the unspecified underlying offence.

The State's submission and final order expressly pair Section 200 CrPC with Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The judgment does not analyse their temporal application, any transitional saving, or the content of Section 223's provisos, so the pairing is recorded as the Court stated it without importing an unconsidered BNSS issue. No particular IPC/BNS offence or special statute was identified in the order.

4. Issues : Whether Sohil's assertion that police did not register an FIR justified an Article 226 mandamus to decide his representation, compel registration or command investigation despite alternative remedies; how the police's Section 154 duty differs from the informant's remedial forum; which Magistrate complaint or Section 156(3) avenues the cited Supreme Court authorities identify; and whether any exceptional ground for writ intervention was shown. The Court did not determine whether the undisclosed underlying facts constitute a cognizable offence, whether the police deliberately refused a legally sufficient complaint, or whether a Magistrate would eventually direct registration.

5. Ratio / Findings : The Court treated maintainability of a direct writ for FIR registration as the central question. *Aleque Padamsee* established that the police's duty to register cognizable information is distinct from the route an informant should use when registration fails. *Divine Retreat* emphasized complaint under Sections 190/200 for simple inaction and preserved exceptional Article 226 power when a clear mala fide or abuse of investigative power is shown, while limiting judicial control of investigative technique. On Sohil's stated failure of police action alone, the Court did not identify such exceptional facts and declined writ intervention; it made no determination of the allegation's truth or legal classification.

Sakiri Vasu and *Sudhir Bhaskarrao Tambe* supplied the other remedial sequence: supervisory approach under Section 154(3) and, if necessary, Section 156(3) Magistrate consideration on prima facie material, including direction and monitoring of investigation. The nested *Gangadhar* discussion supplied the Sections 190/200 complaint process and the Magistrate's alternative outcomes. The Division Bench in *Shweta Bhadauria* explained the alternative-remedy rule and its *Whirlpool* exceptions, while distinguishing *Lalita Kumari*'s separate holding on the police duty to register an

FIR. That authority supported dismissal of the direct writ without a categorical abolition of High Court jurisdiction. The Court's ultimate liberty specifically named Section 200 CrPC / Section 223 BNSS; no police-registration, representation-decision or investigation direction was granted.

6. Relief : The High Court dismissed the petition but expressly reserved Sohil's liberty, if he wished, to approach the concerned Magistrate under Section 200 CrPC / Section 223 BNSS, 2023 for redress. The Court did not compel respondents to decide Annexure P-02, register an FIR or investigate; it did not order a Section 156(3) application for him, impose a deadline, determine the suspected offence, or award costs.

Mohd. Sohil v. The State of MP and Ors., W.P. no. 25140/2024, 17/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Social-media group / administrator participation and public-order FIR - A minor member allegedly posted a 33-second false mosque-demolition video on a WhatsApp group with 127 members and urged it be made viral. The applicants, who described themselves as administrators and group office-bearers, admitted the video was fake but denied vicarious liability, asserted that a group IT head immediately corrected it, and said admins then lacked another member's deletion facility. The Court recorded no demonstrated message by the applicants themselves rebutting or opposing the false video. The State separately questioned whether the incomplete WhatsApp record established that the uploader had promptly deleted the post. The Court treated the applicants' possible shared object with the uploader as a matter for investigation, drawing an inference only for FIR registration. That inference remained preliminary; the Court did not hold that administrator status or silence alone conclusively proved criminal intent, common object or any religion-related offence.

Section 482 CrPC — ongoing investigation / exceptional early quashing - *Vinod Raghuvanshi v. Ajay Arora, 2013:INSC:647, (2013) 10 SCC 581*, cautions against stifling evidence collection midstream; *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, ordinarily reserves interference when a cognizable offence is disclosed, with exceptional malicious or vexatious prosecution. *State of Telangana v. Managipet, 2019:INSC:1333, (2019) 19 SCC 87*, holds that lack of preliminary inquiry does not itself vitiate a facially cognizable FIR and invokes *Bhajan Lal*'s no-offence/mala-fide exceptions. *State of T.N. v. S. Martin, 2018:INSC:284, (2018) 5 SCC 718*, disallows premature assessment of a disputed explanation before investigation ends. *State of Orissa v. Ujjal Kumar Burdhan, 2012:INSC:139, (2012) 4 SCC 547*, tempers wide inherent power with restraint absent gross investigative abuse or facial absence. Counsel could not say whether a charge-sheet had been filed. The Court therefore assumed that investigation was pending, confined its review to the FIR allegations and dismissed the Section 482 application.

Quashing test — face-value ingredients / no mini-trial - *Jitul Jentilal Kotecha v. State of Gujarat, 2021:INSC:718, (2022) 13 SCC 652*, quotes *Mahendra K.C.* for assessing allegations as they stand, without a trial judge's credibility exercise. *State v. M. Maridoss, (2023) 4 SCC 338*, condemns an early mini-trial and reproduces *Neeharika Infrastructure*'s balance: investigation normally proceeds; an FIR is not a complete evidence book; but facial absence of any offence and exceptional abuse remain valid quash grounds, within the *R.P. Kapur*/*Bhajan Lal* framework. The High Court applied those limits to the applicants' concession that the upload was false and the competing accounts concerning rebuttal and administrator participation. The Court did not decide who uploaded or endorsed it, whether a corrective message existed, or guilt on any specified section.

Case-note :- ***1. Facts :*** Moh. Shahid Ansari and other applicants invoked Section 482 CrPC in relation to an FIR arising from a 2020 video in the M-RSS Ghoghar (Rewa) WhatsApp group. The prayers sought quashing of the FIR and consequential proceedings, restraint against harassment, return of seized mobile phones and SIM cards, compensation, costs and other consequential relief. The judgment's later reasoning deals with the requested interference at the FIR/investigation stage; it does not make separate merits findings about the alleged seizures or compensation. Applicant 1 said he was convenor of an unregistered Muslim Rashtriya Swayam Sevak Sangh group, applicant 2 its joint convenor, and they were WhatsApp administrators with six others in a group of 127 members. Counsel said a 17-year-old member uploaded a 33-second video falsely claiming that a mosque in Allahabad, connected with a long-pending

case, had been demolished by the Modi Government and urging the video to go viral. The FIR alleged the false and objectionable content intended to disturb harmony, promote religious enmity and insult religious feeling. These are FIR allegations, not proved offence elements.

The applicants acknowledged that the video was fake, but submitted that an IT-cell head named Shahid immediately posted a correction calling it fake and asking for deletion; administrators at that time allegedly lacked the technical ability to delete another member's upload. They argued that administration alone creates no vicarious liability and cited *the Bombay High Court's Kishor v. State of Maharashtra* and *Delhi High Court's Ashish Bhalla v. Suresh Chawdhary*. The State submitted that the applicants had not filed the complete WhatsApp messages to show that the uploader had promptly deleted the video. It urged the Court not to prevent investigation into the group's activities and membership. The State also noted unregistered status and minors' membership; those features did not become independently proved criminal elements in the Court's analysis. Counsel for the applicants could not tell the Court the investigation's status or whether a charge-sheet had been filed. The Court therefore stated that it would decide on FIR allegations on the assumption investigation remained pending.

2. Precedents — Considered : *Vinod Raghuvanshi v. Ajay Arora, 2013:INSC:647, (2013) 10 SCC 581*, was cited for the direct caution that an incomplete investigation should not be stifled before police collect evidence. The High Court relied on that caution to leave the administrators' possible participation for investigation rather than treat their alleged roles as proved. *Teeja Devi alias Triza Devi v. State of Rajasthan, (2014) 15 SCC 221*, was quoted for ordinary non-interference under Section 482 where FIR allegations prima facie disclose a cognizable offence, subject to rare circumstances in which a court is satisfied that prosecution is malicious and vexatious. The Court did not find that exceptional condition proved by admin-status and correction assertions alone.

State of Telangana v. Managipet, 2019:INSC:1333, (2019) 19 SCC 87, was quoted from a disproportionate-assets FIR setting. It says a preliminary inquiry may screen frivolous or motivated complaints, but is not a universal precondition once credible information prima facie discloses a cognizable offence. An FIR is not quashed merely for no such inquiry; complete face-value reading may still reveal no offence. The extract refers to *State of Haryana v. Bhajan Lal for* facial absence of offence and manifestly malicious vengeance grounds. The High Court relied on the FIR-stage threshold and its exceptions, not on the corruption-specific facts of *Managipet*, when considering the video allegation. No missing preliminary inquiry in this case was independently established. *State of T.N. v. S. Martin, 2018:INSC:284, (2018) 5 SCC 718*, was quoted for rejection of a premature High Court assessment in its own cash-recovery and sale-agreement case; a disputed explanation should be tested at the appropriate later stage and investigation completed. The different cash facts were illustrative of the stage limit, not facts in this WhatsApp matter.

State of Orissa v. Ujjal Kumar Burdhan, 2012:INSC:139, (2012) 4 SCC 547, was quoted more fully. It treats Section 482 as broad but not arbitrary; early intervention is sparing, especially where facial allegations disclose an offence and no gross investigative abuse is shown. Its nested quotation of *State of W.B. v. Swapan Kumar Guha* explains the need to collect evidence once an offence is disclosed and makes disclosure fact-dependent. Its nested *Jeffrey J. Diermeier* passage identifies the Section 482 ends-of-justice, abuse-prevention and Code-order purposes and cautions against whim. The High Court applied the restraint against premature interference without excluding the recognised grounds of an FIR disclosing no offence or an exceptional abuse of process. It did not determine the facts of the authorities quoted within *Ujjal Kumar Burdhan*.

Jitul Jentilal Kotecha v. State of Gujarat, 2021:INSC:718, (2022) 13 SCC 652, was directly quoted for its reproduction of *Mahendra K.C. v. State of Karnataka*: the High Court takes complaint allegations as pleaded, neither adding nor subtracting facts, to see if offence ingredients are prima facie present, and does not assess veracity or conduct a trial based on later evidence. *Mahendra K.C.* is the nested source of this test. *State v. M. Maridoss, (2023) 4 SCC 338*, was quoted because the Supreme Court overturned quashing conducted as a mini-trial. Its lengthy reproduced *Neeharika Infrastructure v. State of Maharashtra* paragraph 13 outlines the police's statutory right and duty to investigate cognizable offences; rare, circumspect quashing; non-interference in credibility testing during

ongoing investigation; incompleteness of an FIR as an evidence narrative; and continued jurisdiction to stop an FIR disclosing no offence or falling within recognised *R.P. Kapur* and *Bhajan Lal* exceptions. The phrase 'rarest of rare' in that discussion is expressly separate from the capital-sentencing standard. The High Court relied on that distinction to avoid deciding at the investigation stage the disputed correction, the alleged inability to delete another member's post and whether the applicants shared the uploader's common object. *Neeharika*, *R.P. Kapur* and *Bhajan Lal* were quoted within *M. Maridoss*; the present order did not conduct a separate fact analysis of their original cases.

Kishor v. State of Maharashtra, Criminal Application (APL) 573/2016, decided 1 March 2021 (Bombay High Court), and *Ashish Bhalla v. Suresh Chawdhary*, CS(OS) 188/2016, decided 29 November 2016 (Delhi High Court), were cited by applicants' counsel for non-vicarious administrator liability. The deciding Judge recorded these submissions but did not quote, analyse or expressly distinguish their reasoning. They therefore cannot be presented as judicially adopted holdings of this order; the Court instead focused on a possible shared object from the unrebutted false message at the preliminary stage. The parties' dispute over whether the IT-cell message existed remained unresolved.

3. Statutes considered : Section 482 CrPC was the applicants' quash route. The Court applied the face-value FIR and investigation-restraint limits, while the quoted Supreme Court cases recognise exceptional facial-absence, malicious-prosecution and abuse routes. The FIR's alleged promotion of religious enmity, harm to harmony and deliberate insult to religious feeling supplied the asserted criminal character. The order does not specify an IPC provision number for those allegations, charge-sheet sections, or the exact legal source for 'common object'; the judgment does not establish a more specific adjudicated charge. It likewise does not apply a WhatsApp or intermediary-liability statutory provision or decide whether administrator status creates a statutory vicarious offence. The Court applied Section 482 CrPC and the principles limiting interference with investigation of an FIR prima facie disclosing a cognizable offence. It did not undertake a BNS or BNSS transition analysis.

4. Issues : Whether the FIR could be stopped under Section 482 before its investigation or charge-sheet status was established; whether applicants' status as administrators and group office-bearers, a conceded false religiously charged video and absence of a demonstrated rebuttal permitted police investigation into shared object; whether counsel's assertion that an administrator posted a prompt correction and lacked member-post deletion tools could be accepted as conclusive defence at the FIR stage; and whether the material showed a facial no-offence or exceptional malicious-abuse ground for quashing. The Court did not decide the real uploader's criminal liability, the exact charge sections, a later charge-sheet's contents, the authenticity of all group messages, the technical deletion feature, or guilt of individual administrators.

5. Ratio / Findings : Because applicants' counsel could not identify whether a charge-sheet existed, the Court expressly proceeded on an assumption that investigation remained pending. It noted that the applicants themselves did not claim the uploaded video was true. Against the FIR allegation of a fake mosque-demolition clip urging circulation, it identified the administrator defence as the live question. Counsel asserted an IT-cell correction and inability to remove another's post; the State said the complete group record was missing. Paragraph 17 records the Court's contrary view that the applicants had not shown a message rebutting or opposing the fake video in the group. For the limited purpose of FIR registration, it inferred possible sharing of the uploader's common object by the applicants, leaving the actual existence of that object to the investigating agency. The Court said whether they actually shared it was for the investigating agency to ascertain. This remains a narrow, contested preliminary inference, not a settled rule that WhatsApp administrators are automatically vicariously liable for member content or that a failure to rebut conclusively establishes intent.

The Supreme Court authorities supplied the procedural consequence. *Vinod Raghuvanshi* and *Teeja Devi* cautioned against interrupting the statutory police task where cognizable allegations are facially present. *Managipet* did not make an independent preliminary inquiry mandatory, and *S. Martin* forbade accepting a disputed explanation as a conclusive ground to end investigation. *Ujjal Kumar Burdhan* preserved exceptional intervention while rejecting arbitrary, premature fact appraisal. *Jitul Kotecha*'s *Mahendra K.C.* extract and *M. Maridoss*'s *Neeharika* extract defined the face-value test, including the reciprocal ability to quash when the

FIR itself reveals no offence or a clear exceptional abuse. Applying those limits, the Court did not resolve which admin knew of or endorsed the upload, whether the corrective message existed, or whether any later evidence would support offence ingredients. It found no present ground for Section 482 interference.

6. Relief : The High Court dismissed the Section 482 application. The FIR and investigation were not quashed or restrained. The Court did not separately grant the prayer's consequential requests concerning harassment, seized mobile devices or SIM cards, compensation or costs. It did not find any applicant guilty or direct a charge-sheet. Its holding was limited to refusal of early inherent interference on the allegations and record described.

Moh. Shahid Ansari and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 44348/2020, 15/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Bail / dignity — slum residence and sex-work inference - At the hearing of the first regular-bail application under Section 439 CrPC, concerning allegations under Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act and Section 370-A IPC, counsel invoked *Budhadev Karmaskar v. State of West Bengal*, Criminal Appeal No. 135/2010, order of 19 May 2022, for the Supreme Court's direction to formulate a rehabilitation policy for sex workers. Counsel asked the Court to presume compulsion from the applicant's slum address in Delhi. The Court rejected a categorical inference that a woman living in a slum enters sex work under compulsion. It declined to generalise about women's dignity, chastity or reasons for entering sex work on the basis of residence. On the contested travel and hotel-record material, the Court expressed only a prima facie bail-stage inference that participation might have been for 'pleasure' rather than under compulsion.

Section 149 IPC — conditional common object / unresolved charge - Counsel submitted that neither Section 34 nor Section 149 IPC had been invoked and that the applicant therefore could not incur liability under Section 370-A IPC for another person's conduct. The Court responded conditionally: if the applicant were proved to be a consenting participant in the alleged sex trade and to share a common object with the hotel owner, constructive liability under Section 149 IPC might arise. It expressly acknowledged ongoing investigation and uncertainty whether Sections 147–149 would be in any eventual charge-sheet. The Court did not determine whether an unlawful assembly of at least five persons had been proved, decide the other elements of Sections 149 and 370-A IPC, or make any final finding of guilt. The Court considered the case diary, disputed hotel entries and check-in account, the State's objections to the diabetes documents, and earlier refusals of bail to two co-accused. With the investigation continuing, it declined first bail. Pregnancy was asserted but did not lead to a separate statutory determination.

Case-note :- ***1. Facts :*** Moni sought first regular bail under Section 439 CrPC following arrest on 17 October 2022 in Crime No. 487/2022, Police Station Subhashpura, District Shivpuri, for Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act and IPC Section 370-A. The prosecution alleged she was found in Hotel Mayur in Gwalior in circumstances connected with prostitution. Counsel maintained that she had travelled from Delhi for tourism and occupied room 215. Alternatively, he urged sympathetic consideration on the ground that, even if she had engaged in sex work, poverty had compelled her to do so to earn her livelihood. Counsel described a Delhi slum address, cash payment without receipt, pregnancy of three months and diabetes, and said the husband was present in court. He could not identify a hotel-register entry or exact arrival date. Those were competing submissions and asserted circumstances, not established facts.

The State opposed bail, arguing that the documents showed only the applicant's assertion that she was taking antidiabetic medicines, rather than a medical diagnosis. It also submitted that the recorded sugar readings did not indicate diabetes. It said she was from Delhi, shared a room with five women from different regions, and hotel records produced by a co-accused in M.Cr.C. 50567/2022 contained no information about her stay. Counsel's tourism and extreme-poverty accounts were challenged as inconsistent. In reply he conceded he could not specify when she reached Gwalior. Because the applicant had travelled before 17 October, the Court asked whether her husband had lodged a missing-person report in Delhi. Counsel answered that none had been lodged. From that answer, the Court inferred that her family knew of her alleged

involvement in sex work. That was a bail-stage inference, not a finding reached after evidence was tested at trial. Earlier bail applications M.Cr.C. 50567/2022 and 53558/2022 of two co-accused, one the hotel owner's grandson, had been dismissed. The case diary was before the Court and investigation continued.

2. Precedents — Considered : *Budhadev Karmaskar v. State of West Bengal and others, Criminal Appeal No. 135 of 2010*, order dated 19 May 2022, was invoked by applicant's counsel for the Supreme Court's direction to formulate a policy for rehabilitation of sex workers. The High Court referred to that authority while considering whether Moni's alleged involvement was voluntary or compelled. The Court rejected counsel's proposed categorical inference and considered the hotel, travel and health submissions when deciding bail. It did not determine the applicant's criminal liability by applying that authority.

3. Statutes considered : Section 439 CrPC governed the first regular-bail application. The Court considered the case diary and surrounding circumstances in determining bail, not guilt after trial. Sections 3, 4, 5 and 7 of the Immoral Traffic (Prevention) Act and Section 370-A IPC were registered allegations. The Court did not determine whether the ingredients of any registered offence were established. IPC Sections 34 and 149 were raised by counsel because they were absent from the currently registered offences; the Court discussed potential Section 149 constructive liability only if shared common object and underlying participation were later proved. It acknowledged the investigation had not ended and did not know whether IPC Sections 147, 148 and 149 would be charged. The Court made no finding that the requisite five-person unlawful assembly or the other statutory conditions for constructive liability had been proved.

4. Issues : Whether the case diary and competing accounts about hotel stay, travel, livelihood, health and pregnancy justified first regular bail; whether the applicant's slum address justified presuming that any participation in sex work was compelled rather than voluntary; and whether the omission of Sections 34 and 149 IPC from the registered allegations foreclosed a possible common-object basis of liability in relation to the offences under consideration. The Court did not finally determine consent, trafficking or proof of the registered offences. It also did not decide whether the asserted pregnancy or diabetes conferred an entitlement to bail, or whether investigators would add a common-object charge.

5. Ratio / Findings : Responding to counsel's *Budhadev*-based argument, the Court rejected an automatic connection between living in a slum and being compelled into sex work, expressly warning against general statements about women's dignity and chastity based on residence. It recognised that poverty might explain an individual's participation, but would not support a general presumption based on slum residence. Considering travel between cities and a hotel stay without a corresponding register entry, the Court expressed a prima facie view that participation might be for 'pleasure' rather than under compulsion. This was an inference for the bail application, not a final finding on consent or guilt.

On the particular record, counsel could not point to a register entry, receipt or arrival date; the State challenged the asserted diabetic diagnosis; and the Court asked whether her husband had lodged a missing-person report. From the absence of a missing-person report, the Court inferred family awareness; it made no trial determination of that fact. The Court rejected the contention that the omission of Sections 34 and 149 IPC from the registered offences necessarily excluded constructive liability. It stated conditionally that proof of consenting participation and a shared common object with the hotel owner could engage Section 149 IPC. Its conditional statement did not prove an unlawful assembly or substitute for charge-sheet and trial assessment. It expressly left open whether investigators would add Sections 147–149. With investigation ongoing and two related bail refusals already made, it found no case for release. The conclusion was confined to bail, without a finding of guilt.

6. Relief : The High Court dismissed the first application for regular bail under Section 439 CrPC. *Moni v. The State of Madhya Pradesh, M.Cr.C. no. 53700/2022, 16/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Headnote :- First report / deliberated implication — accused-specific evidentiary effect - Five related witnesses stated that Darru first approached the police, but the initial information was not produced and the radio constable was not examined. Darru stated that his first report named Rajesh and

Kallu as the killers. Binda, Dilip and Prem acknowledged deliberation before the later Dehati Nalishi named additional members of Rajesh's family. The medical findings disclosed no firearm injuries in the three persons allegedly injured by the other five appellants. Taken with the reporting defects, this undermined the allegations that Monu, Sonu, Kamlesh, Pejram and Mahesh were present and fired shots. It did not erase the earliest accusation and consistent proof against Rajesh.

Section 149 IPC — proof of membership and common object - Personal injury is not indispensable for constructive liability. Here, however, the alleged firing by five members of the asserted unlawful assembly was contradicted by medical certificates and material omissions and improvements in witness testimony. The Court declined to infer their participation from family relationship, group allegation or Rajesh's proved gunshot. All five were acquitted of rioting, the two murder counts, attempted murder and hurt. The alleged injuries to Prem, Dilip and Shyamveer were not proved to be firearm injuries sustained in this incident.

Related testimony / falsus in uno — sift truth by accused - *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749, State of A.P. v. Pullagummi Kasi Reddy Krishna Reddy, (2018) 7 SCC 623, Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, and *Yogendra v. State of Rajasthan, (2013) 12 SCC 399*, hold that partial falsity does not invariably require rejection of the entire testimony when reliable portions can be separated. *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475; Shamim v. State (NCT of Delhi), (2018) 10 SCC 509; Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*; and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567* distinguish a witness's natural relationship to the victim from an established motive to secure a false conviction; *Leela Ram v. State of Haryana, (1999) 9 SCC 525; State of M.P. v. Dal Singh, (2013) 14 SCC 159; Babulal v. State of M.P., (2003) 12 SCC 490; Dinesh Kumar v. State of Rajasthan, (2008) 8 SCC 270*; and *Jeevan v. State of Uttarakhand, (2012) 13 SCC 598* demand careful scrutiny of core versus peripheral discrepancies. The Court rejected the account attributing indiscriminate firing to five appellants. It nevertheless accepted the related witnesses' identification of Rajesh as the person who shot Ravindra, supported by Darru's earliest disclosed report and the post-mortem findings. Binda's different attribution of the victim and later assertions about two shots did not require Rajesh's acquittal.

Ocular and medical evidence — distinct contradictions and fatal wounds - *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, and *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, give weight to credible eyewitness testimony unless medical findings exclude the possibility of the eyewitness account. The absence of firearm injuries in the three alleged victims undermined the prosecution's attribution of indiscriminate firing to the five appellants. Each deceased had one through-and-through fatal gunshot wound. The original account of one shot each remained medically possible despite some witnesses' later assertions of two shots in cross-examination. Downward tracks did not prove a shooter stood at a height.

Spot map / Section 162 CrPC — witness statements versus officer observation - *Tori Singh, (1962) 3 SCR 580*; *Sant Kumar, (1974) 3 SCC 643*; and *State of Rajasthan v. Bhawani, (2003) 7 SCC 291*, restrict witness-derived investigative marks under Section 162, while *Rameshwar Dayal, (1978) 2 SCC 518*, preserves personally observed features under Evidence Act Section 60. The investigating officer's stated firing distance of 64–66 feet came from information supplied to him, not from his own observation, and no witness was confronted with it for contradiction. That entry could not be treated as substantive proof to displace the eyewitness estimates of a shorter distance.

Weapon and independent witnesses — no automatic evidentiary failure - *Gulab v. State of U.P.*, Criminal Appeal 81/2021, decided 9 December 2021; *Rakesh v. State of U.P., (2021) 7 SCC 188*; *Nankaunoo, (2016) 3 SCC 317*; and *Yogesh Singh, (2017) 11 SCC 195*, hold that recovery of the firearm is not indispensable where reliable eyewitness and medical evidence otherwise support conviction. *Mahesh v. State of Maharashtra, (2008) 13 SCC 271; Sarwan Singh v. State of Punjab, (2003) 1 SCC 240*; and *Sadhu Suran Singh v. State of U.P., (2016) 4 SCC 357* reject automatic disbelief of otherwise credible eyewitnesses solely because no independent witness testified. The isolated house and reliable Rajesh-specific core supported that limited application, while the same principles did not save the disproved allegations against the five.

Murder / Section 304 — no sudden fight on an armed return - *Lavghanbhai Devjibhai Vasava v.*

State of Gujarat, (2018) 4 SCC 329, identifies the circumstances, weapon, vital target, provocation, mutual fight and heat of passion among the relevant factors. Following the earlier hand-pump quarrel, Rajesh and Kallu came armed to the complainant family's house. No fresh provocation or mutual fight was shown, and their shots caused fatal injuries. The Court rejected a Section 304 Part I conversion and retained the two murder counts.

Section 149 to Section 34 — charge substitution and actual prejudice - *Mala Singh v. State of Haryana, (2019) 5 SCC 127*, applies CrPC Sections 216, 386 and 464: failure of a Section 149 charge does not automatically preclude liability under Section 34 if the overlapping evidence establishes common intention and the accused has not been misled or prejudiced. Because common object and common intention are distinct requirements, substitution may otherwise cause prejudice. Its *Willie Slaney*, *Lachhman Singh*, *Karnail Singh* and *Chittarmal* extracts supply the qualified test. After the five acquittals, the Court maintained Rajesh's liability for both murders by substituting Section 302 read with Section 34 for Section 302 read with Section 149, on its finding of common intention with Kallu. His other convictions were set aside. Both life terms run concurrently. Kallu's separately tried appeal was reserved for a separate judgment, and Bablesh's appeal had abated on death.

Case-note :- ***1. Facts :*** The three connected criminal appeals arose from the First Additional Sessions Judge, Bhind's judgment dated 30 October 2010 in Sessions Trial No. 181/2009. Criminal Appeal 938/2010 was brought by Monu and Sonu Sharma, 940/2010 by Kamlesh, Pejram and Mahesh alias Pappu, and 1031/2010 by Rajesh. All six had been convicted under IPC Section 148, two counts of Section 302/149, Section 307/149 and three counts of Section 323/149; the murders drew life imprisonment and fine, with lesser terms and fines as stated by the trial court. Co-accused Kallu alias Brajesh was arrested later and tried on different evidence. His separate Criminal Appeal No. 710/2012 was heard simultaneously but reserved for a separate judgment. Bablesh's Appeal 951/2010 had abated on his death.

The prosecution's Dehati Nalishi described a dispute at a village hand-pump on 27 April 2008, during which Darru's water utensils were allegedly thrown away. According to the complainant Kaptan Singh, a group later came armed to the family's house; Rajesh fired at Ravindra and Kallu at Rai Singh, both of whom died, while the five present appellants allegedly fired indiscriminately and wounded Prem, Dilip and Shyamveer. Police registered Crime No. 10/2008. The investigation included post-mortems, a spot map, witness statements and arrests; the charge-sheet cited Sections 302, 147–149 and 294 IPC. The trial court framed the more specific counts. The defence pleaded false implication of Rajesh's extended family after consultation, missing first information from Darru, non-recovery of guns, no independent witness, disagreement between ocular and medical evidence, a disputed map distance, and sudden fight warranting Section 304 rather than murder. Prosecution supported the convictions.

Dr. R.N. Rajouria found one through-and-through fatal firearm injury in each deceased. Ravindra's left costal entry passed through ruptured abdominal organs including liver and kidney; Rai Singh's left chest entry passed through damaged lung and pleura. Both deaths were homicidal from gunshot haemorrhage and vital-organ injury. The doctor found no blackening or charring and placed the shots at more than approximately six feet. He could not determine from the downward track alone whether the shooter stood higher or the gun barrel pointed downward; the Court found no steep trajectory establishing an elevated firing position. The allegations against Monu, Sonu, Kamlesh, Pejram and Mahesh were different. They were not alleged to have shot the deceased, but to have fired at Prem, Dilip and Shyamveer. Dr. Kushwaha found blunt contusions on Prem and Shyamveer, and Dr. Dixit a healing thumb laceration and leg abrasion/contusion on Dilip; neither doctor accepted firearm or pellet injury for these three. Witness accounts of individual gunfire or gun-handle blows shifted and often omitted material details from earlier police statements. The Court assessed the evidence separately for Rajesh and for the five other appellants.

2. Precedents — Considered : *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749*, was quoted at length for the principle that falsus in uno, falsus in omnibus is not a mandatory rule of evidence. Courts must sift truthful, severable evidence from exaggeration; only when separating truth would require reconstructing a wholly new case from inseparable falsehood should the entire account be discarded. Its discussion distinguishes ordinary memory/observation discrepancies from material

ones. *State of A.P. v. Pullagummi Kasi Reddy Krishna Reddy, (2018) 7 SCC 623*, makes the accused-specific consequence explicit: the same witness may be disbelieved as to acquitted persons and believed against another on credible material. *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, explains whole-testimony assessment, Evidence Act Sections 145/155 for genuine prior-statement impeachment, rejection of mere peripheral variations, and careful handling of related testimony. *Yogendra v. State of Rajasthan, (2013) 12 SCC 399*, likewise requires every effort to separate grain from chaff, reserving wholesale rejection for inseparable cases. The High Court applied these authorities to acquit the five appellants without disregarding the evidence it considered reliable against Rajesh.

Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475, and *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, were quoted for the absence of any automatic credibility defect from kinship with the deceased. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, explains cautious fact-specific scrutiny rather than a rule of corroboration, while its Dalip Singh and Masalti extracts reject a mechanical interested-witness label without foundation of motive to falsely implicate. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, distinguishes a naturally related witness from one who has a benefit, enmity or other motive to secure a false conviction. It requires consistent, credible testimony despite the absence of any automatic defect arising from relationship. *Leela Ram v. State of Haryana, (1999) 9 SCC 525*, permits sifting trustworthy core from embellishment. *State of M.P. v. Dal Singh, (2013) 14 SCC 159*, distinguishes marginal elaboration from omissions materially affecting the core. *Babulal v. State of M.P., (2003) 12 SCC 490*, accepts credible relative testimony after careful appraisal. *Dinesh Kumar v. State of Rajasthan, (2008) 8 SCC 270*, and *Jeevan v. State of Uttarakhand, (2012) 13 SCC 598*, allow conviction of one accused after co-accused acquittal when residual testimony is cogent. The Court applied these principles while separately recognising that the evidence against five relatives had been materially discredited.

Bhajan Singh v. State of Haryana, (2011) 7 SCC 421, explains that credible eyewitness evidence generally carries greater weight than medical opinion, but medical improbability remains relevant and evidence excluding every possibility of the eyewitness account may justify disbelief. *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, was quoted at greater length, reproducing *Yogesh Singh*, Sunil Kundu and Bastiram to emphasize the same limit; the Kapildeo Mandal example specifically concerns medically ruled-out firearm injuries. Here no firearm pathology supported the claimed shots into Prem, Dilip or Shyamveer, while fatal single entry/exit wounds remained compatible with the initial Rajesh and Kallu account despite later two-shot embellishments.

Tori Singh v. State of U.P., (1962) 3 SCR 580, and *Sant Kumar v. State of Haryana, (1974) 3 SCC 643*, were quoted for the Section 162 CrPC restriction on site-plan markings derived from witnesses' investigative statements, subject to their limited use for contradiction. *State of Rajasthan v. Bhawani, (2003) 7 SCC 291*, draws the same line between hearsay witness marks and personally observed features. *Rameshwar Dayal v. State of U.P., (1978) 2 SCC 518*, provides the important qualification: an officer's own direct observation in a map, inquest or seizure note remains admissible under Evidence Act Section 60, while witness-supplied investigative matter does not become substantive proof through the document. The Court applied this distinction to the stated firing distance of 64–66 feet: the information had been supplied to the officer and had not been put to the relevant witness for contradiction. *Gulab v. State of U.P.*, Criminal Appeal 81/2021, decided 9 December 2021, was cited for non-recovery of a gun not discrediting corroborated eyewitness accounts of a gunshot death. *Rakesh v. State of U.P., (2021) 7 SCC 188*, explains that even a recovered gun shown not to match may be treated as non-recovery; actual recovery of the weapon used is not an indispensable condition of conviction. *Nankaunoo v. State of U.P., (2016) 3 SCC 317*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, similarly require the credible direct and medical record to be assessed without an automatic weapon-recovery veto. The Court applied the non-recovery principle to Rajesh's fatal shot, which it found proved by other evidence. *Mahesh v. State of Maharashtra, (2008) 13 SCC 271*, *Sarwan Singh v. State of Punjab, (2003) 1 SCC 240*, and *Sadhu Suran Singh v. State of U.P., (2016) 4 SCC 357*, were quoted to reject an automatic failure from no independent witness if the available family eyewitnesses pass deep scrutiny, particularly where outsiders may be absent or reluctant. The High Court also relied on the isolated

location shown by observed map features; it did not deem kinship a universal credibility guarantee.

Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329, reproduced the factors from *Dhirendra Kumar* for distinguishing murder from culpable homicide: the circumstances, whether the weapon was carried or obtained at the scene, the target and force, mutual fight, provocation, previous enmity, heat of passion, undue advantage and cruel conduct. The Court used those factors to reject Rajesh's sudden-fight plea because he came armed later to the victims' house without new provocation, and the shots struck vital regions.

Mala Singh v. State of Haryana, (2019) 5 SCC 127, was quoted for appellate conversion of a charge from Section 149 to Section 34 IPC, read with CrPC Sections 216, 386 and 464. An omitted or altered charge does not automatically invalidate conviction unless it misled the accused and caused a failure of justice. Any substitution must rest on overlapping evidence establishing common intention without denying a fair defence. Its quoted *Constitution Bench Willie (William) Slaney v. State of M.P. and the Lachhman Singh*, *Karnail Singh* and *Chittarmal* line differentiate common object from prearranged common intention and permit substitution only when the same proof could have supported an alternative Section 34 charge without prejudice. *Kantilal Chandulal Mehta* was also quoted within *Mala Singh* on fair notice and opportunity. The High Court adopted this conditional rule after the five assembly acquittals and converted Rajesh's two murder counts to Section 302/34, without separately resolving Kallu's distinct appeal.

3. Statutes considered : Sections 148 and 149 IPC supplied the trial's rioting and unlawful-assembly liability framework. Membership and common object were not proved against the five acquitted appellants. Sections 302/149 on two deaths, 307/149 on alleged attempts, and 323/149 on three hurt allegations were the framed and convicted counts below. The High Court rejected the attempted-murder and hurt foundation and acquitted Rajesh of those counts and Section 148, while sustaining two murders under Section 302 read with Section 34 on its finding of shared fatal action with Kallu. Common intention under Section 34 differs from common object under Section 149. The reduction of proved participants below five did not dispense with proof of common intention. Section 304 Part I was urged as an alternative, but the Court rejected a sudden, unpremeditated fight. The original registration also mentioned IPC Sections 147 and 294, which were not independent operative convictions in this appellate disposition.

Section 162 CrPC restricted use of witness-derived investigative statements reproduced in a spot map, except for legally permitted contradiction. Evidence Act Section 60 preserved direct observation by the officer. Evidence Act Sections 145 and 155 were discussed through Bhagwan Jagannath Markad for confrontation and impeachment of material earlier inconsistencies. CrPC Sections 216, 386 and 464 were quoted through Mala Singh on altering a charge, appellate powers and a failure-of-justice/prejudice inquiry. The Court did not invoke those sections to authorise a new trial; it altered the murder finding in Rajesh's appeal.

4. Issues : Whether both deaths were homicidal, the downward bullet path compelled an elevated-shooter conclusion, and the non-firearm medical findings rendered the five appellants' alleged indiscriminate firing and assembly membership unproved; whether the omission of Darru's initial information and the later family deliberations affected the prosecution case against the five other appellants and, separately, against Rajesh; whether partially unreliable related eyewitnesses could still prove Rajesh's act after careful sifting; whether one fatal entry wound contradicted core eyewitness identification merely because some later accounts claimed two shots; whether the witness-supplied 64–66-foot firing distance recorded on the spot map was admissible as substantive evidence under Section 162 CrPC; and whether missing guns and independent witnesses mandated acquittal. The further issues were whether the fatal acts constituted murder or were reducible under Section 304 on a sudden-fight theory; whether the Section 307/149 and 323/149 counts survived; and whether the Section 302/149 murder findings could be maintained under Section 302/34 without impermissible prejudice after the unlawful-assembly theory failed. Kallu's separate appeal and Bablesh's abated appeal were not merits issues decided here.

5. Ratio / Findings : The autopsy evidence established two homicidal gunshot deaths and one through-and-through wound for each victim. The downward bullet track did not establish that either shooter stood higher; the doctor could not exclude a lowered barrel, and the Court also considered relative height. Against Monu, Sonu, Kamlesh, Pejram and Mahesh, the Court found a different

evidentiary picture. Their alleged post-fatal indiscriminate fire supposedly wounded Prem, Dilip and Shyamveer, but the three MLCs did not disclose any bullet or pellet injury. Witnesses materially changed which person shot or hit whom, including unexplained omissions from police statements about gun-handle blows. Binda, Dilip and Prem admitted a family discussion before naming thirteen people in the Nalishi. Darru's first police information had not been produced and the radio constable was not examined; Darru himself said his earliest account identified only Rajesh and Kallu. The Court accepted the State's general proposition that causing personal injury is not essential to Section 149 liability. On the combined record, however, it found the presence and participation of those five appellants in an unlawful assembly with the requisite common object unproved. Their familial relationship to Rajesh and later naming could not fill those gaps; all their counts failed.

For Rajesh, the earliest disclosed names included him; the Nalishi and Kaptan, Dilip, Darru, Prem and Shyamveer consistently attributed Ravindra's shooting to him. Binda's different account of which victim Rajesh shot, and later assertions by some witnesses that two shots were fired, did not displace the initial account of one shot each. Each deceased had only one fatal entry and one exit, and the Court distinguished a mistaken counting of exit wounds from a medically impossible gunshot injury in the three other persons. Applying *Shakila*, *Pullagummi*, *Bhagwan Jagannath*, *Yogendra* and the related-witness line, it sifted reliable evidence against Rajesh from disproved allegations against five others. Kinship was not automatic disqualification; the particular material evidence was scrutinised. The distance entered in the investigating officer's map came from information supplied to him rather than his own observation; no witness had been confronted with that information for contradiction. *Tori Singh*, *Sant Kumar*, *Bhawani* and *Rameshwar Dayal* made that Section 162 content inadmissible as substantive proof while preserving observed features; the asserted 64–66 feet did not negate the core. Missing recovery of Rajesh's gun and no independent witness likewise were not automatic vetoes given credible direct and post-mortem proof and the isolated home. None of these rules restored the separate, medically defeated allegations against the five.

The earlier hand-pump altercation had ended before the armed men came to the complainant family's house. Rajesh carried a gun; the victims had not retaliated or joined a mutual fight; Ravindra's fatal injury and Kallu's alleged fatal shot to Rai Singh occurred at the house. Applying *Lavghanbhai*'s contextual factors, the Court rejected heat-of-passion or sudden-fight conversion to Section 304 Part I and retained Section 302 on two counts. It did not prove the alleged attempts or hurt to Prem, Dilip, Shyamveer or Kaptan and acquitted Rajesh of Sections 307/149, 323/149 and 148. With the five other appellants acquitted and Section 149 unavailable on the Court's view, *Mala Singh*'s fact-sensitive, actual-prejudice test allowed a Section 34 finding on substantially overlapping armed-attack facts. The Court stated that less than five persons does not bar Section 34 liability, then held Rajesh liable for both murders through common intention with Kallu. Kallu's separately tried appeal remained reserved for a separate judgment.

6. Relief : The High Court allowed Criminal Appeals Nos. 938/2010 and 940/2010 and dismissed Criminal Appeal No. 1031/2010. The 30 October 2010 conviction and sentence were set aside entirely for Monu Sharma, Sonu Sharma, Kamlesh, Pejram and Mahesh alias Pappu; they were acquitted of all charges, and their bail bonds discharged. Rajesh's criminal appeal was dismissed in the operative formulation, although his Sections 148, 307/149 and three Section 323/149 counts were expressly set aside and the two murder findings were altered from Section 302/149 to Section 302/34. His two life sentences and fines were maintained, with both life sentences running concurrently; he was to serve the remaining term. A free copy was to be supplied to Rajesh and the trial record returned. Kallu's Appeal 710/2012 was reserved for a separate judgment on its own trial evidence; Bablesh's Appeal 951/2010 had abated earlier. Those separate appeals were not decided on their merits in this common judgment.

Monu Sharma and Ors. v. State of M.P., Cr.A. no. 938/2010 & 940/2010 & 1031/2010, 31/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR registration / cognizable information / separate remedy - *Applying Aleque Padamsee v. Union of India, (2007) 6 SCC 171, the Court distinguished the police duty to register an FIR upon receiving information disclosing a cognizable offence from the remedy available when*

the police fail to do so. The quoted Supreme Court discussion identified *Ramesh Kumari*, (2006) 2 SCC 677, and *Lallan Chaudhary*, (2006) 12 SCC 229, as authorities on the police obligation. It distinguished the procedure for redress under Sections 190 and 200 CrPC, explained in *All India Institute of Medical Sciences Employees' Union*, (1996) 11 SCC 582, *Gangadhar Janardan Mhatre*, (2004) 7 SCC 768, *Hari Singh*, (2006) 5 SCC 733, and *Minu Kumari*, (2006) 4 SCC 359. The High Court did not decide whether the applicant's allegations in fact disclosed an offence.

Magistrate's remedial powers / police inaction and investigation - *The Court also considered Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, on the Magistrate complaint route:* after a complaint under Sections 190 and 200, Chapter XV inquiry may lead to investigation, dismissal under Section 203 if no offence appears, or cognizance and process where warranted. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, supplies the sequence of written approach to the Superintendent under Section 154(3) and, if registration or proper investigation remains wanting, recourse under Section 156(3); a prima facie satisfied Magistrate can direct registration and proper investigation and monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277, reiterates that remedy and describes the Magistrate's discretion to recommend a change of investigating officer while clarifying that the Magistrate cannot conduct the investigation personally.* The Court used these authorities to identify the applicant's statutory alternative, without ordering a Magistrate to decide the accusation in a particular way.

High Court direction to register FIR / maintainability of Section 482 application - In an application under Section 482 CrPC alleging that police had not registered an FIR despite his complaint, the Court refused to direct registration and dismissed the application as not maintainable because a remedy before the Magistrate was available. The applicant retained liberty to approach the Magistrate under Section 200 CrPC/Section 223 BNSS. No finding was made on the accusation's merits or the duty's application to its facts.

Writ mandamus / exceptional investigation oversight - *Divine Retreat Centre* preserves exceptional Article 226 directions in a rare, clearly established case of mala fide investigation, abuse of power and non-compliance with Chapter XII CrPC, but does not permit the Court to dictate investigative methods. The Division Bench decision in *Shweta Bhadauria v. State of M.P.* treated unexhausted remedies under Sections 154(3), 156(3), 190 and 200 as a ground to deny a mandamus for FIR registration subject to the stated *Whirlpool* exceptions, and distinguished the registration duty in *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, from automatic entitlement to such a writ. The Court referred to this qualified framework but neither found such exceptional circumstances nor made an order under Article 226.

Case-note :- *1. Facts :* Monu Sharma brought Miscellaneous Criminal Case No. 44128 of 2024 before the Gwalior Bench under Section 482 CrPC. He requested that the High Court obtain a status report on his application in Marg No. 18/2024, direct Police Station Vishwavidyalaya, Gwalior, to register an FIR against the persons accused, and require prompt action. Counsel said that, despite the applicant's complaint, the police had not lodged an FIR. The State opposed direct High Court relief and pointed to recourse before the Magistrate under Sections 190 and 200 CrPC. The order contains no account of the underlying incident or the complaint's particulars, no account of any police response beyond the alleged inaction, and no finding that the information disclosed a cognizable offence. Having heard the parties, the Court considered whether it could directly order the police to register an FIR.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at length. It distinguished the police's duty under Section 154 CrPC upon receiving cognizable information from the complainant's remedy under Sections 190 and 200 CrPC when police do not register an FIR. In reconciling earlier decisions, *Aleque* described *Ramesh Kumari, (2006) 2 SCC 677*, and the reiteration in *Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, as addressing police action upon cognizable information, whereas *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582, Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768, Hari Singh, (2006) 5 SCC 733*, and *Minu Kumari, (2006) 4 SCC 359*, were identified for the route when that duty is not performed. The Court invoked this distinction in refusing a direct direction to register the FIR.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted for two connected but distinct

points. Article 226 intervention remains available in a rare and clearly established case of mala fide investigation, abuse of power and non-compliance with Chapter XII CrPC. Even then, the High Court may require adherence to lawful procedure but cannot prescribe investigative methods. Ordinarily, when information to police draws no response, Sections 190 and 200 supply a complaint remedy rather than a writ. Within the quoted passage, *Gangadhar Janardan Mhatre* explains the Magistrate's Chapter XV inquiry, possibility of referring a prima facie matter for Chapter XII investigation, dismissal under Section 203 if no offence appears, and cognizance and process where prima facie material warrants; it refers to the AIIMS Employees' Union decision. The present order uses this procedural alternative and does not purport to find a rare case or make investigation directions.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted for a further sequence: written request to the Superintendent of Police under Section 154(3), followed if ineffective by an application under Section 156(3) to a Magistrate. Upon prima facie satisfaction the Magistrate may order FIR registration or proper investigation and monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277, reiterated the preference expressed in Sakiri Vasu for the Magistrate remedy over an ordinary Article 226 petition.* The quoted ruling also recognises that the Magistrate may, when necessary, recommend a change of investigating officer through the police superior and may monitor the investigation, but cannot personally undertake it. These passages informed the Court's refusal to act as the first forum; their examples of a registered but defective investigation did not become findings about this applicant's complaint.

The Court also relied *on the Madhya Pradesh Division Bench's Shweta Bhadauria v. State of M.P.,* W.A. No. 247/2016, decided 20.12.2016. As quoted, it permits denial of mandamus to compel the Section 154 duty when alternatives under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four exceptions it attributed to *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. *Shweta* distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: the latter's FIR registration duty did not decide entitlement to bypass alternative remedies for writ mandamus. The Court referred to *Shweta* on the availability of alternative remedies. This application was under Section 482 CrPC, and no Article 226 exception was separately decided.

3. Statutes considered : Section 482 CrPC was the applicant's invoked High Court jurisdiction. Section 154 CrPC is the police registration duty discussed in *Aleque* and *Shweta*; Section 154(3) provides the stated avenue to the Superintendent of Police. Sections 190 and 200 CrPC govern approaching a competent Magistrate by complaint; Chapter XV CrPC governs inquiry into a complaint, and Section 203 permits dismissal where the inquiry reveals no offence warranting further action, as explained through *Gangadhar Janardan Mhatre* in the quoted *Divine Retreat Centre* passage. Section 156(3) permits a prima facie satisfied Magistrate to order registration or appropriate investigation and monitor it, as described in *Sakiri Vasu* and *Sudhir.* Chapter XII CrPC is the police-investigation framework referenced in the quoted exceptional writ discussion. Article 226 of the Constitution appears in those quoted precedents on exceptional public-law relief; no Article 226 petition was adjudicated here. In the operative liberty the Court mentioned Section 223 BNSS alongside Section 200 CrPC as a route to the Magistrate. No question about the transitional application of the CrPC and BNSS was adjudicated.

4. Issues : The principal issue was whether alleged police inaction entitled the applicant to a direct High Court direction for FIR registration under Section 482 CrPC or whether the available remedy before the Magistrate rendered such an application not maintainable. That question required distinguishing a police duty upon receipt of cognizable information from the forum and sequence for enforcing the duty. The Court considered the breadth of the Magistrate's remedial powers and the qualified Article 226 case law as reasons against routine direct High Court intervention. It did not decide whether the underlying allegations were true, disclosed a cognizable offence, justified any particular investigative step, or met an exceptional writ threshold.

5. Ratio / Findings : The Court framed maintainability, not the truth of the applicant's accusation, as the decisive issue. *Aleque Padamsee* recognises that information disclosing a cognizable offence creates a police duty to register an FIR. It distinguishes that duty from the statutory remedy available to the complainant, so the duty alone does not require the High Court to direct registration in a Section 482 proceeding. In *Aleque*'s account, the *Ramesh Kumari* line establishes what police must do,

while the AIIMS Employees' Union, *Gangadhar, Hari Singh* and *Minu Kumari* line addresses the statutory Magistrate route after inaction. The Court placed the applicant's allegation of no FIR on the latter side of that distinction; no material in the order establishes the underlying offence's cognizability.

Divine Retreat Centre reinforced that the complaint route under Sections 190 and 200 can result, according to the Magistrate's inquiry and prima facie assessment, in investigative referral, dismissal or process. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* identified the further remedies under Sections 154(3) and 156(3) CrPC when registration is refused or an investigation is inadequate. Their discussion of Magistrate monitoring and a possible recommendation to change an investigator explains the remedy's practical reach; it is neither a High Court command in this case nor an entitlement to dictate police methods. The Court consequently found no basis for its own direction to register the offence.

As reflected in the quoted *Divine Retreat Centre* and *Shweta Bhadauria* decisions, exceptional intervention under Article 226 remains possible: clear mala fide investigation or abuse with Chapter XII non-compliance may justify a rare Article 226 direction, and *Shweta* recognises the stated *Whirlpool* exceptions to alternative-remedy restraint. Even such intervention cannot tell police how to investigate. *Lalita Kumari*'s registration principle, as distinguished by *Shweta*, does not answer the separate writ-remedy question. The present Court did not find the exception facts, independently adjudicate Article 226, or decide any police official's culpability. It held that the application directly seeking FIR registration under Section 482 CrPC was not maintainable, and expressly preserved the remedy before the Magistrate.

6. Relief : The High Court dismissed the application under Section 482 CrPC as not maintainable. No FIR registration direction, police investigation order, or merits determination was made. The applicant was expressly left at liberty, if he considered an offence to have been committed against him, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS. The order imposes no deadline or conditions on that liberty and gives no direction predetermining the Magistrate's independent assessment.

Monu Sharma v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 44128/2024, 22/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / matrimonial prosecution / no mini-trial - *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260*, was applied to distinguish allegations that are absurd or disclose no offence from a triable complaint, whose credibility cannot be decided by choosing between the prosecution version and a counterversion at the quashing stage. Its quotation of *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, requires cautious and sparing intervention. The High Court examines the uncontroverted allegations and prosecution record for a prima facie offence or patent abuse, without meticulously assessing the defence, the likelihood of conviction, or the admissibility or reliability of evidence. The present Court refused to determine the applicants' asserted separate residence, changes in workplace location and false implication on the applicants' version alone; those disputed matters require evidence and cross-examination. The further Supreme Court decisions cited in paragraph 11 were used for the same face-value test.

Section 498-A IPC / relatives / specificity of cruelty allegations - *Taramani Parakh* cautioned against proceeding mechanically on omnibus allegations against relatives who may not ordinarily be involved in the couple's affairs, while distinguishing *Neelu Chopra v. Bharti, (2009) 10 SCC 184, Manoj Mahavir Prasad Khaitan v. Ram Gopal Poddar, (2010) 10 SCC 673*, and *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, on their different factual settings. Those decisions supply no inflexible immunity for in-laws. Here, the complainant alleged that the mother-in-law, father-in-law and elder brother-in-law were involved in repeated demands for money and a car, taunts, abuse, threats and her expulsion. The Court found those allegations specific and triable, rather than vague or omnibus. *Meera v. State, Inspector of Police, (2022) 3 SCC 93*, was cited on the seriousness of a woman's cruelty to a daughter-in-law, but did not establish guilt of the identified female relative. No final finding on the charged IPC or Dowry Prohibition Act offences was made.

Territorial jurisdiction / continuing mental cruelty at parental home - Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, the Court explained

that psychological distress caused by matrimonial cruelty which drove a wife from her home may continue at the parental home even if physical abuse does not occur there; its continuing psychological effect is relevant to Section 498-A IPC territorial jurisdiction. The High Court also cited *Amar Singh v. Smt. Vimla* for the proposition that compelling a married woman to live at her parental home amounts to cruelty. As the complainant alleged that she had been driven from the matrimonial home and was residing in Bhopal, the Court held that Mahila Thana, Bhopal also had territorial jurisdiction to investigate, notwithstanding the applicants' assertion that the principal events occurred in Bangalore. The ruling did not resolve the disputed facts, which remained for trial.

Case-note :- ***1. Facts :*** Mool Kawar Mehta and two other applicants invoked Section 482 CrPC in Miscellaneous Criminal Case No. 2964 of 2024 before the Jabalpur Bench, seeking to quash charge-sheet No. 01/2022 dated 04.11.2022, the related FIR and RCT No. 14430/2022 pending before a Judicial Magistrate First Class in Bhopal.

According to respondent 2's FIR, she married Hitesh Mehta on 25.11.2020 and thereafter experienced daily dowry-related taunts and ill-treatment by her husband and his family. She alleged inadequate food, demands for money although she had been paying half her salary from private employment to her in-laws, pressure to obtain Rs 7 lakh and a car from her parents, encouragement of her husband's demands by his relatives, abusive words and threats to her life, and a threat that he would remarry if she failed to bring money and a car. She said that her father attempted to persuade them and that she was eventually turned out of the matrimonial home. The Court recounted these as allegations, without deciding their truth or recording any finding of guilt. The applicants argued that the allegations against them were false and lacked sufficient particulars; they said the complainant had lived separately, her job shifted from Bangalore to Mumbai, she wanted her husband to leave Bangalore and his parents, and health problems in his family explained why he declined. They said she returned to Bhopal on 12.02.2022 without good reason and that the alleged principal acts in Bangalore could not properly found a Bhopal FIR. The medical and employment-related assertions formed part of the applicants' defence, not findings made by the Court. The High Court framed the dispute at the Section 482 threshold and asked whether a triable accusation and Bhopal jurisdiction existed without resolving disputed questions of fact.

2. Precedents — Considered : *Meera v. State, Inspector of Police, (2022) 3 SCC 93*, was cited in paragraph 9 on the seriousness of cruelty inflicted by a woman upon her daughter-in-law and the protective role expected of a mother-in-law. The High Court placed this after observing that the complaint was directed at a female relative as well, but it had not found any cruelty proved.

Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260, was quoted at length in paragraph 10 and provided the quashing principles applied by the High Court. Absurd allegations, failure to disclose an offence and abuse of process can justify quashing; a triable matrimonial complaint cannot be decided by choosing between complaint and counterversion or testing credibility before trial. Particular caution is warranted for omnibus allegations against relatives not generally involved in the couple's affairs. The quoted decision also discussed *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, whose enumerated guidance requires cautious and sparing Section 482 intervention, especially with a framed charge; the basic inquiry takes uncontroverted prosecution allegations and accompanying records as a whole and asks whether a prima facie offence, patent absurdity, inherent improbability, a statutory bar or abuse is shown. The threshold balance includes the accused's liberty and the complainant's right to prosecution; civil and criminal consequences can coexist, and an accused cannot establish non-disclosure of an offence merely by supplying external defence materials. Those principles preclude a full evidentiary inquiry into the likelihood of conviction or the admissibility or reliability of evidence, while preserving intervention necessary to prevent a patent miscarriage of justice.

In paragraph 15, *Taramani Parakh* distinguished *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, involving aged parents and allegations principally against a deceased husband; *Manoj Mahavir Prasad Khaitan v. Ram Gopal Poddar, (2010) 10 SCC 673*, involving an allegedly absurd jewellery-theft complaint from a relative during an earlier Section 498-A case; and *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, involving siblings of the husband after divorce. *Taramani* rejected turning those fact-bound quashings into an inflexible rule. The present High Court applied that caution to the

complainant's concrete allegations against each relative, finding a case to be tried.

In paragraph 11, the High Court also cited *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, order dated 30.06.2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*; *Amit Kapoor,* already discussed; *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The High Court cited these decisions for the proposition that proceedings may be quashed if the uncontroverted allegations do not disclose an offence. On its face-value reading, the High Court concluded that the FIR did disclose a cognizable offence.

Rupali Devi v. State of U.P., (2019) 5 SCC 384, was quoted for the physical and mental dimensions of cruelty under Section 498-A IPC and the continuing psychological injury a wife may experience at her parental home after being driven from the matrimonial home. Physical assaults need not recur there for the distress from earlier acts and humiliating words to persist. The High Court applied that reasoning to reject the Bangalore-only territorial objection and to recognise Bhopal police jurisdiction where the complainant resided after alleged expulsion. The High Court also cited *Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020, decided 22.06.2021, for treating the compelled stay at a parental home as cruelty.

3. Statutes considered : Section 482 CrPC supplied the High Court's inherent-power quashing jurisdiction. The Court tested whether the allegations underlying the filed police report and FIR disclosed a triable offence without deciding the applicants' proposed evidence or external factual defence. Section 498-A IPC was central to the allegations of dowry-connected cruelty and to the territorial ruling about persistent mental suffering away from the matrimonial home. Sections 506 and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961, appeared as charges in the quashing prayer and FIR description. The charge-sheet, final report and pending proceedings before the Magistrate were the subject of the quashing prayer. Sections 228 and 173(2) CrPC occur within the quoted *Amit Kapoor* principles on charge-stage restraint and police reports.

4. Issues : First, did the allegations against the mother-in-law, father-in-law and elder brother-in-law describe particular conduct capable of constituting a triable matrimonial offence, or were they the vague, omnibus allegations against relatives for which the quashing cases require caution? Second, could the High Court decide in Section 482 proceedings the applicants' asserted separate residence, explanations for the spouse's Bangalore/Mumbai employment choices, alleged falsity and alternative reasons for her departure without evidence and cross-examination? Third, did the alleged earlier Bangalore conduct deprive Mahila Thana, Bhopal of territorial jurisdiction when the complainant said she had been driven to her parental home there and continued to suffer the impact? The Court addressed these issues only at the threshold, leaving the truth of the allegations and the culpability or guilt of each accused for trial.

5. Ratio / Findings : For the first two issues, the Court read the complaint as making specific dowry and cruelty allegations against the applicants, not a bare reference to their family relationship. It found that the demand for Rs 7 lakh and a car, taunts, ill-treatment, threats and asserted expulsion, when taken at face value, disclosed a cognizable accusation fit for trial. *Taramani Parakh* recognises quashing for patently absurd, offence-deficient or abusive allegations while warning against vague implication of peripheral relatives. It does not permit a full evidentiary inquiry at the quashing stage; its distinctions of *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra* show why other relative-quashing outcomes are not categorical immunity. The High Court treated the present allegations as particularised. The High Court cited *Meera*'s observation concerning cruelty by a woman to her daughter-in-law, but did not determine guilt or sentence in these proceedings.

The applicants' alternative story that they resided apart, that the complainant wanted her husband to relocate, that illness explained his refusal, and that

the allegations were false would be matters for determination after evidence is adduced. The Court said those issues could not be adjudicated in Section 482 jurisdiction and would need cogent evidence and cross-examination before the trial court. *Taramani* and its *Amit Kapoor* quotation preclude a mini-trial and the preference of an accused's disputed counterversion when the prosecution allegations disclose a prima facie offence. Paragraph 11's additional authorities were invoked collectively for the face-value rule. It therefore found no occasion to quash the pending charge-sheet or related proceedings, without determining whether any accused committed cruelty, criminal intimidation or a dowry offence.

On territorial jurisdiction, the Court rejected the submission that principal alleged events in Bangalore made Bhopal police action a misuse of procedure. Under *Rupali Devi*, cruelty may produce continuing mental trauma at the parental home after the wife is driven from the matrimonial residence. The Court treated the complainant's alleged expulsion and subsequent residence in Bhopal as sufficient at this stage for Mahila Thana, Bhopal also to investigate; *Amar Singh* was cited consistently. The holding depends on that alleged continuing impact and neither determines every disputed historical fact nor treats residence at the parental home, by itself, as an automatic basis of jurisdiction. With both the triable complaint and territorial objection resolved against the applicants, the limited Section 482 scope foreclosed interference.

6. Relief : The High Court dismissed the application under Section 482 CrPC. The FIR, charge-sheet No. 01/2022 dated 04.11.2022 and consequential RCT No. 14430/2022 remained undisturbed; The Court held that Mahila Thana, Bhopal also had territorial jurisdiction to investigate the allegations. No final finding of guilt was recorded. The applicants' factual defences remained open to be proved in the trial court under the ordinary process.

Mool Kawar Mehta and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 2964/2024, 26/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 376(2)(f) IPC / penetrative assault of a young child / proof - The Division Bench assessed together the evidence of the parents, the direct adult eyewitness Siyasharan, the defence witnesses and Dr Laghate. The mother saw the accused take the child away and bring her back; Siyasharan saw him committing the act with her in his house. The child returned crying and bleeding from the genital area, and the medical examination disclosed a hymenal tear and perineal laceration. The father did not witness the taking or assault; his hearsay evidence could be considered as corroborative evidence. The injuries established penetration, but its cause and the offender's identity had to be determined from the remaining evidence. The Court rejected the suggested fall and accidental insertion of wood in view of the pattern of injuries, the failure to put the wood account to the mother and weaknesses in the defence evidence. It held guilt proved beyond reasonable doubt under the then-applicable charge after examining that evidence, rather than presuming guilt from the medical injury alone.

Sexual-assault testimony / everyday expression / sensitive interpretation - Applying *Annu @ Anoop Kumar v. State of M.P., Criminal Appeal No. 687/1994*, decided 20.08.2008, the Court understood Siyasharan's expression “Bura Kaam” in context, without requiring a graphic description or the use of statutory terminology. The passage from *Wahid Khan* quoted in *Annu* favoured understanding regional expressions in the light of the evidence as a whole. The child did not testify; the direct description came from the adult witness. *Sham Singh v. State of Haryana, (2018) 18 SCC 34*, considered with *State of Punjab v. Gurmit Singh, (1996) 2 SCC 384*, and *the passage from Raju v. State of M.P.* quoted in it, rejects a mandatory requirement of corroboration where a prosecutrix's testimony is inherently reliable. It also requires careful scrutiny of the particular case for false implication and discrepancies of a fatal nature. The present Court assessed the evidence sensitively and in context, with direct adult testimony and independent medical findings before it.

Medical and forensic evidence / absent FSL report - A hymenal tear and perineal wound, without other external injury, supported penetration. The doctor and the Court nevertheless examined the suggested accidental causes. A fall would ordinarily cause other injuries. The account of accidental insertion of wood was not put to the mother and was inconsistent with the absence of external injury. The police had sent

specimens for FSL examination, but no report was produced. The Court held that the omission was not decisive in view of the reliable direct and medical evidence on record. It also reasoned that an interrupted or partial act might not have resulted in discharge. *Sham Singh*'s principle concerning corroboration was applied with the qualification stated in *Raju*.

FIR timing / sexual offence reporting - Applying *Gurmit Singh*, the Court held that stigma and concern for the victim may naturally explain an interval before a sexual offence is reported. In the present case, it found that the FIR was lodged within about two hours and found no evidence of antedating. The later receipt of a copy by the Court did not justify an inference of antedating, particularly when the officer had not been questioned about its transmission.

Related witnesses / interest and false implication - *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, were considered on the distinction between a close relationship and an interest in falsely implicating an accused. The latter two decisions require a foundation for alleged enmity and careful assessment of whether the evidence is credible and consistent. Kinship alone does not establish either truth or falsity. The alleged land dispute involving a maternal uncle was unsupported by documentary evidence and did not establish a motive for the parents or Siyasharan to implicate the accused falsely while shielding the actual offender.

Sentence / disposition - The Court upheld the conviction under Section 376(2)(f) IPC and the trial court's sentence of life imprisonment, a fine of Rs 10,000 and one year's rigorous imprisonment in default. It emphasised the seriousness of the assault on an infant and the need for deterrence. The appeal was dismissed. The appellant remained in jail to serve the remainder of his sentence; a free copy of the judgment was to be supplied to him and the trial record returned.

Case-note :- ***1. Facts :*** *Moolchand* appealed under Section 374 CrPC against the judgment dated 13.05.2010 of the Additional Sessions Judge, Seondha, District Datia, in Sessions Trial No. 46/2009. The trial court convicted him under the then-applicable Section 376(2)(f) IPC and sentenced him to life imprisonment, a fine of Rs 10,000 and one year's rigorous imprisonment in default. The charge-sheet referred to Sections 376 and 511 IPC, whereas the charge was framed, and the conviction affirmed, under Section 376(2)(f).

The child's father, anonymised as A, stated that the appellant took the child from the platform outside the family's home in the afternoon and brought her back about half an hour later. The mother, B, testified that she saw him take the child away and bring her back. The child was crying and bleeding from the genital area, and her underwear was stained with blood. Siyasharan, a relative and neighbour who was passing the accused's home, testified that he heard cries, entered the house and saw the appellant doing “Bura Kaam” with the child. He said that, after he intervened, the appellant left through another door and returned the child. In cross-examination, the father acknowledged that he had not seen the appellant take the child away or bring her back and had learned those facts from his wife. The doctor found a hymenal tear at the six o'clock position, perineal laceration and bleeding, without any other external injury. Clothes, slides, a shirt and nail clippings were seized and sent for forensic examination, but no FSL report was produced.

The defence disputed whether the expression “Bura Kaam” meant rape, relied on the absence of the FSL report, alleged a land-related motive for false implication and contended that the prosecution relied on relatives. Its witnesses, Kalyan Singh and Hari Singh, stated that the child was injured accidentally when a piece of wood entered her private part while she was playing. Other suggestions put to the mother and the doctor concerned a fall from the platform. The Court had to assess the prosecution and defence evidence to determine whether the injury resulted from rape or an accident.

2. Precedents — Considered : *Annu @ Anoop Kumar v. State of M.P., Criminal Appeal No. 687/1994*, decided 20.08.2008, is an earlier High Court decision quoted by the present Bench. It requires ordinary expressions such as “Galat Kam,” “Bura Kam” and “Ulta Kam” in an account of sexual assault to be understood in context. A witness need not give graphic particulars; accompanying direct or indirect evidence and circumstances may clarify the expression's meaning. The passage from *Wahid Khan* quoted in *Annu* emphasises regional ways of describing acts and the judge's duty to understand what a witness means, without insisting on statutory terminology. The present Court applied this

approach to the adult eyewitness Siyasharan's testimony, the child's distress and injury, and the defence's own acknowledgement that penetration had occurred.

Sham Singh v. State of Haryana, (2018) 18 SCC 34, was quoted extensively on the sensitive but careful assessment of evidence of sexual assault. It explains that minor or immaterial discrepancies do not undermine an otherwise reliable account and that, where a prosecutrix's testimony inspires confidence, corroboration in material particulars need not be required as a rule. If the Court finds it difficult to rely implicitly on that testimony, it may look for other evidence lending assurance, without applying the standard of corroboration required for an accomplice. *Sham Singh* refers to *State of Punjab v. Gurmit Singh and Ranjit Hazarika on* these points. It also quotes *Raju v. State of M.P.*, which cautions that these principles cannot be applied universally or mechanically. A false allegation can harm the accused, particularly where several accused are involved, and a witness's presence at the incident does not establish that every part of the account is accurate or free from embellishment. In the quoted passage, the Supreme Court stated that it had reassessed the material in the light of those principles. In the present case, the Court rejected the argument based on the missing FSL report after considering the direct adult evidence, medical findings and the defence's alternative explanation for penetration. The infant had not testified.

State of Punjab v. Gurmit Singh, (1996) 2 SCC 384, was also cited on the timing of the FIR. The quoted Supreme Court passage recognises that a complainant or family may hesitate to report a sexual offence because of stigma and concern for the victim and family. The present Court found that the FIR was lodged within about two hours and rejected the allegation of suspicious delay. It declined to infer antedating solely from the later acknowledged receipt of the copy sent to the Magistrate.

The Court cited *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, and *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, for the principle that a close relative is not inherently untrustworthy and ordinarily has no reason to shield the actual assailant by implicating an innocent person. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, requires a factual foundation for a plea of false implication and careful scrutiny of whether the related witness's evidence is cogent and credible. Its quotation from *Dalip Singh v. State of Punjab* rejects a general distrust of relatives but recognises that a personal grudge may lead to an innocent person being implicated. Its references to *Guli Chand*, *Vadivelu Thevar, Rameshwar, Masalti*, *Jagir Singh* and *Lehna* support this assessment according to the facts of each case. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, was quoted on the distinction between a related and an interested witness. An interested witness has a direct or indirect stake in the accused's conviction, arising from a benefit, prior enmity or another reason that supplies a motive for false implication. Kinship alone does not make a natural witness interested, although the evidence must still be tested for consistency, probability and reliability. Its references to *Kalki*, *Amit*, *Gangabhavani*, *Ganapathi*, *Dalip Singh* and *Jayabalan* supported that distinction. The Court applied these principles to the mother, father and Siyasharan and rejected the unsupported allegation of a land-related motive.

3. Statutes considered : Section 374 CrPC governed the appeal against conviction and sentence. The conviction affirmed by the Bench was under Section 376(2)(f) IPC as applicable to the conduct in 2008. The investigation and charge-sheet were described as concerning Sections 376 and 511 IPC, but the appeal concerned conviction for the completed offence under the charge framed under Section 376(2)(f). The Court treated penetration, including possible partial penetration, as material to the offence of rape and considered whether the injury was caused by the accused or by an accident. It assessed the FIR and the medical and forensic investigative steps as part of the evidence.

4. Issues : The principal issue in the appeal was whether the prosecution had proved beyond reasonable doubt that the appellant raped the very young child by penetration. This required consideration of Siyasharan's everyday expression, the mother's direct observations, the father's indirect knowledge, the medical evidence and the defence of accidental injury from wood or a fall. The Bench also considered whether the missing FSL report left a material gap in proof; whether the interval of about two hours before reporting, or the later receipt of the FIR copy, indicated antedating; and whether family relationships or the alleged land dispute affected the witnesses' credibility. After deciding the question of conviction, it examined the propriety of the sentence of life imprisonment.

5. Ratio / Findings : In determining the occurrence and the offender's identity, the Bench distinguished direct from indirect knowledge. A admitted that he had not seen the appellant take the child away or bring her back. His repetition of B's account was hearsay that could be considered as corroborative evidence. B said that she saw the appellant take the child away and bring her back and immediately noticed that the child was crying and bleeding. Siyasharan described hearing cries from the appellant's house, entering it and seeing the appellant's act before the child was returned. The medical examination disclosed a hymenal tear, perineal laceration and continued bleeding, strongly consistent with penetration. Dr Laghate stated that penetration would not necessarily cause a labial laceration in a child of that age and explained why a fall would be expected to cause other injuries. The Court first recognised that medical evidence of penetration by a hard object did not, by itself, establish whether the injury resulted from rape or an accident. It then determined the cause of the injury and the offender's identity by assessing the eyewitness and defence accounts.

The Bench did not treat Siyasharan's expression “Bura Kaam” as a self-contained legal definition. It understood the expression in context. Applying *Annu @ Anoop Kumar* and its explanation of regional usage, the Bench did not require an explicit description of the physical details of the act. The witness's account, the child's immediate condition, the medical findings and the defence's assertion that penetration had occurred through wood clarified what was in dispute. The infant did not testify. The Court also emphasised sensitive recording of testimony in sexual-assault cases, avoiding unnecessary graphic detail.

The defence witnesses described accidental insertion of wood, but one could not state the date or month of the incident and was related to the appellant. The mother denied the suggestion that the child had fallen; the specific account involving wood was not put to her. The doctor found no external injury consistent with a fall. The Court also reasoned that a rough piece of wood would probably have injured the outer genital region, whereas the observed injuries were internal. The defence evidence acknowledged the mother's presence and the child's injury, but the Court found its accidental explanation unconvincing. No FSL report had been produced. The Court held that its absence was not fatal in view of the direct and medical evidence and the rejection of the alternative account. It referred to the possibility that the interrupted act had not resulted in discharge and to the stated inability to prepare a vaginal slide because of the child's age as reasons why a forensic result might not have been decisive. *Sham Singh*'s principle against routinely requiring corroboration was invoked together with the warning in *Raju* that each case requires scrutiny and that false implication remains possible.

On timing, the Bench found that the FIR was lodged within about two hours of the incident. It found no basis for inferring antedating merely because a copy reached the Magistrate later. The head constable, who stated that the copy had been sent earlier, had not been questioned about the time taken for it to reach the Court. *Gurmit Singh* explained why a family might naturally deliberate before reporting a sexual offence, even if there had been some delay.

On credibility and motive, the Bench rejected the contention that the child's parents and Siyasharan were unreliable merely because they were related. *Rupinder Singh Sandhu*, *Shamim*, *Rizan* and *Mohd. Rojali Ali* require careful assessment of consistency and probability, with an evidentiary foundation for an alleged interest in falsely implicating the accused. They distinguish such an interest from kinship alone. The alleged land dispute concerned the child's maternal uncle rather than her parents. Although suggestions were put to the witnesses, the appellant produced no documentary evidence of the dispute. The Court did not rely on family status alone; it assessed the independently observed injury, B's account and Siyasharan's direct observations together. After considering the prosecution and defence evidence, it held guilt proved beyond reasonable doubt and affirmed the conviction under Section 376(2)(f).

The Bench then considered sentence. It emphasised the gravity of the rape of a child described as about one year old and the need for deterrence. It found no illegality in the trial court's sentence of life imprisonment and upheld it.

6. Relief : The Hon’ble High Court dismissed the criminal appeal and affirmed the judgment and sentence dated 13.05.2010 in Sessions Trial No. 46/2009. The conviction under Section 376(2)(f) IPC and the sentence of life imprisonment, a fine of Rs 10,000 and one year's rigorous imprisonment in default remained in force. The appellant was already in jail and was directed to undergo the remainder of

his sentence. The office was directed to supply him with a free copy of the judgment immediately and to send the trial record, together with a copy of the judgment, to the trial court for information and compliance. There was no remand, acquittal, altered charge or separate relief for another accused.

Moolchand v. State of M.P., Cr.A. no. 443/2010, 06/12/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder — Section 300 thirdly — intended injury and sufficiency - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, sets out four requirements. The prosecution must prove the bodily injury, its nature and the intention to inflict that particular injury. Whether the injury was sufficient in the ordinary course of nature to cause death is then assessed objectively. A separate intention to cause death is unnecessary under clause Thirdly. The Court applied the framework of Sections 299–300 and upheld the conviction for murder by strangulation.

Homicide — Section 302 or 304 — single-blow factors and sudden fight - *Arun Nivalaji More* (Criminal Appeals 1078–1079 of 2005), *Anda (1966 Cri LJ 171*), *Mahesh Balmiki* (*(2000) 1 SCC 319*), *Pulicherla Nagaraju* (*(2006) 11 SCC 444*), *Sangapagu Anjaiah* (*(2010) 9 SCC 799*), *Kanhaiyalal* (*(2019) 5 SCC 639*) and *Bavisetti Kameswara Rao* (*(2008) 15 SCC 725*) were discussed on intention, knowledge and the circumstances governing conviction for murder or alteration of that conviction. A single injury does not automatically bring the offence under Section 304. *Dhirajbhai Gorakhbhai Nayak* (*(2003) 9 SCC 322*) requires every condition of Exception 4 to be satisfied, including a sudden mutual fight and the absence of undue advantage or cruelty. No factual foundation for a sudden fight was established in the present case, and alteration of the conviction to Section 304 Part I was refused.

General exceptions — Section 85 IPC — voluntary intoxication - The exception requires intoxication caused by an intoxicant administered without the person's knowledge or against his will, rendering him incapable of knowing the nature of the act or its wrongfulness. Voluntary drinking does not, by itself, excuse homicide. *Basdev v. State of Pepsu, AIR 1956 SC 488*, requires intention to be determined from the circumstances with due regard to the degree of intoxication; knowledge is attributed as if the accused were sober. The appellant failed to prove involuntary administration, and the Court rejected his plea of intoxication.

Evidence — child eyewitness — competence and corroboration - Competence under Section 118 depends on the ability to understand questions and give rational answers, rather than age alone. *Rameshwar* (*AIR 1952 SC 54*), *Arbind Singh* (*1995 Supp (4) SCC 416*), *Panchhi* (*(1998) 7 SCC 177*), *Bhagwan Singh* (*(2003) 3 SCC 21*), *Ratansingh Dalsukhbhai Nayak* (*(2004) 1 SCC 64*) and *Golla Yelugu Govindu* (*(2008) 16 SCC 769*) were considered on the need to guard against tutoring and to consider corroboration as a matter of prudence, subject to the circumstances. Reliable child testimony can sustain a conviction. The twelve-year-old daughter's consistent account of strangulation was supported by PW1 and PW2.

Evidence — homicidal death — medical and eyewitness assessment - The ante-mortem abrasions on the neck, the postmortem doctor's opinion that the death was homicidal and the child witness's consistent account supported the finding of death by strangulation. The defence disputed the cause of death and alleged a discrepancy in the scarf material. The Court affirmed the conviction after assessing the evidence before it.

Case-note :- ***1. Facts :*** Morari appealed against the judgment dated 24 December 2009 of the Additional Sessions Judge, Ambah, District Morena, in Sessions Trial No. 06/2009. He was convicted under Section 302 IPC of murdering his wife, Anguri Devi, and sentenced to life imprisonment, a fine of ₹1,000 and six months' rigorous imprisonment in default. According to the prosecution, on 17 September 2008 at about 9 p.m., Morari quarrelled with and assaulted his wife at home. Their daughter Priyanka cried out. Nephew Raghuveer Sakhwar (PW1) and Balveer Singh (PW2) entered and described Morari strangling Anguri with a scarf (safi). He then left the scene. A merg under Section 174 CrPC preceded registration of Crime No. 81/2008 under Section 302 IPC. After investigation, the case was committed for trial. The prosecution examined ten witnesses, including Priyanka (PW4), the investigation witnesses and Dr S.N. Mevafarosh (PW10), who conducted the postmortem. In his statement under Section 313 CrPC, Morari denied guilt and alleged that relatives seeking his agricultural land and house had tutored his two minor daughters. He examined

no defence witness. On appeal, he relied on alleged omissions and contradictions in the evidence. He disputed the medical evidence concerning the cause of death, referred to the deceased's advanced pregnancy, and alleged a difference between the cotton scarf seized and the material sent for forensic examination. He also relied on the absence of motive or intention to kill, an alleged absence of eyewitnesses, and intoxication. He sought acquittal or alteration of the conviction to Section 304 Part I. The State supported the conviction. The High Court identified as its principal questions whether the death was homicidal, whether the offence amounted to murder and whether Section 304 Part I applied.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, sets out the requirements of Section 300 Thirdly. The prosecution must prove the bodily injury and its nature, the intention to inflict that particular injury rather than an accidental or different injury, and the objective sufficiency of the injury to cause death in the ordinary course of nature. The burden remains on the prosecution throughout. The Court reproduced and applied the distinction between intending the injury and intending death. Its conclusion in the present case was expressed in terms of the neck injury, intention and the likely fatal consequence. *Arun Nivalaji More v. State of Maharashtra* (Criminal Appeals 1078–1079 of 2005) explained the sequence of considering Section 299, the four clauses of Section 300 and its exceptions. Where the offence does not amount to murder, intention ordinarily attracts Section 304 Part I and knowledge alone attracts Section 304 Part II. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, explained the high probability of death inherent in an injury sufficient in the ordinary course of nature to cause death, and the relevance of the weapon and the site of injury. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, rejected an automatic reduction of the offence merely because a single blow was inflicted. The weapon, site, manner of infliction and surrounding circumstances must be considered. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, set out non-exhaustive factors bearing on intention, including the weapon, force, injury to a vital part, a chance occurrence or premeditation, prior hostility, provocation, sudden fight, undue advantage and the number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, inferred intention on its facts from the weapon, the selection of the head as a vital part and the force of the injury. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, also held that the number of blows is not decisive and discussed Exception 4 through quotations from *Arun Raj, Ashokkumar Magabhai Vankar* and *Leela Ram*. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, emphasised the circumstances accompanying a single injury. It quoted *State of Karnataka v. Vedanayagam, (1995) 1 SCC 326*, and *Virsa Singh* on the need to distinguish the intention to inflict the particular injury from the seriousness of that injury. The Court discussed these authorities as part of the framework for distinguishing murder from culpable homicide not amounting to murder; it did not find that the present case involved a single blow. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, explained that Exception 4 requires a sudden mutual fight, absence of premeditation, heat of passion and absence of undue advantage or cruel conduct. All these conditions must be satisfied. The Court found no evidentiary foundation for the exception in the present case.

On intoxication, the Court referred to *Mirza Ghani Baig v. State of Andhra Pradesh*, 1997 (2) Crimes 19 (AP), where the conviction was altered on the particular facts involving intoxication and a subsequent attempt to rescue the victim. It did not treat that decision as controlling the present case. The Court discussed *Director of Public Prosecutions v. Beard*, (1920) AC 479, and other writings and decisions on the distinction between intoxication that prevents formation of a required specific intention and drinking that merely lowers inhibition. It relied on the Supreme Court decision in *Basdev v. State of Pepsu, AIR 1956 SC 488*. Voluntary intoxication does not prevent the attribution of knowledge, but intention must be inferred from the circumstances with due regard to the degree of intoxication. The Court rejected Morari's plea because the statutory requirement of involuntary administration had not been established on the evidence. *Chet Ram v. State of H.P. and State of Orissa v. Kabasi* were also cited for the proposition that voluntary drinking does not provide the exception under Section 85.

On the child witness, the Court quoted the Privy Council decision in *Mohamed Sugal Esa v. The King, AIR 1946 PC 3*, and the Supreme Court decision in *Rameshwar v. State of Rajasthan, AIR 1952 SC 54*, on corroboration as a matter of prudence rather than an invariable legal requirement. *Arbind Singh v. State of Bihar, 1995 Supp (4) SCC 416*, warned of the risk of tutoring and the need to seek

corroboration, particularly where the evidence shows signs of it. *Panchhi v. State of U.P., (1998) 7 SCC 177*, rejected automatic exclusion of a child's testimony while requiring greater care in its evaluation. It treated corroboration as a matter of practical wisdom, referring to *Prakash*, *Baby Kandayanathil*, *Raja Ram Yadav* and *Dattu Ramrao Sakhare*. *Bhagwan Singh v. State of M.P., (2003) 3 SCC 21*, required special caution and supporting evidence in the circumstances of a particularly immature six-year-old witness. *Ratansingh Dalsukhbhai Nayak v. State of Gujarat, (2004) 1 SCC 64*, held that the assessment of a child's competence rests primarily with the trial judge, subject to appellate correction where the record shows error. It permits conviction on a child's sole testimony where careful scrutiny establishes reliability. *Golla Yelugu Govindu v. State of A.P., (2008) 16 SCC 769*, explained that Section 118 sets no fixed age limit: the test is the ability to understand questions and give rational answers. The Court applied these principles to PW4's consistent account, which was also supported by PW1 and PW2. *Sidhartha Vashist v. State (NCT of Delhi), AIR 2010 SC 2352*, was cited on the limits of judicial questioning under Section 165 of the Evidence Act. *Sakshi v. Union of India, (2004) 5 SCC 518*, was quoted on measures for child victims of sexual offences and Section 273 CrPC. The discussion of Section 273 CrPC formed part of that reproduced passage.

3. Statutes considered : Section 299 IPC concerns death caused with the intention to kill, the intention to cause an injury likely to cause death, or knowledge that death is likely. Under Section 300, culpable homicide is murder where one of its clauses applies, unless an exception applies. Clause Thirdly concerns an intentionally inflicted injury that is objectively sufficient in the ordinary course of nature to cause death. Exception 4 requires a sudden fight without premeditation, heat of passion, and the absence of undue advantage or cruel or unusual conduct. Section 302 prescribes the punishment for murder. The appellant sought alteration of the conviction to Section 304 Part I; the Court also explained Part II where the offence does not amount to murder and knowledge alone is established. Section 85 IPC concerns involuntary intoxication that renders a person incapable of knowing the nature of the act or its wrongfulness, where the intoxicant was administered without his knowledge or against his will. Section 118 of the Evidence Act concerns the ability to understand questions and give rational answers. Section 165 governs the trial judge's power to ask questions, subject to its statutory limits. Section 174 CrPC arose in connection with the merg, and Section 313 governed Morari's examination. Section 273 CrPC was discussed in the reproduced *Sakshi* passage on the testimony of child victims of sexual offences.

4. Issues : (i) Did the prosecution establish that the death was homicidal and that Morari was responsible for strangulation with the scarf, despite his objections concerning the cause of death, witness accounts and scarf material? (ii) Did the proved assault and the requisite mental element constitute murder under Sections 299–300, punishable under Section 302, or did the alleged absence of intention, intoxication or sudden quarrel warrant application of Section 304 Part I? (iii) Was the exception under Section 85 established by evidence of involuntary administration and incapacity, and how did the degree of intoxication bear on intention? (iv) Was Priyanka competent and reliable as a child eyewitness under Section 118, after scrutiny for tutoring and consideration of corroboration?

5. Ratio / Findings : The Court accepted the postmortem doctor's evidence of ante-mortem neck abrasions, a forehead abrasion and his opinion that the death was homicidal; it noted that his evidence was unshaken in cross-examination. It treated the case as principally dependent on the child witness's testimony. PW4 said that her father strangled her mother with a scarf and identified him. The Court found her account unchanged in cross-examination and supported by PW1 and PW2, who had arrived at the house. It referred to these two adults as witnesses to the last-seen circumstances and also described them as eyewitnesses. Their supporting accounts and the appellant's abscondence were considered in determining identification and guilt. The Court referred to seizure and investigation witnesses in paragraphs 68–69.

The Court examined the distinction between culpable homicide and murder. It reproduced the requirements of clause Thirdly explained in *Virsa Singh*, the sequential classification in *Arun Nivalaji More*, and the Supreme Court's approach to determining intention and the effect of a single blow from the surrounding circumstances. On the evidence of strangulation with a scarf, fatal neck injuries and eyewitness testimony, it found the

ingredients of murder established. It refused alteration of the conviction to Section 304 Part I because there was no evidence that the assault occurred on the spur of the moment or in the heat of an exchange of words, and no evidentiary basis for the proposed exception. The single-injury decisions explained the legal approach but did not govern the facts of this case.

On intoxication, the Court examined the express requirement under Section 85 that the intoxicant must have been administered without the person's knowledge or against his will. Voluntary drinking was insufficient to attract that exception. The appellant had not proved that another person administered the intoxicant without his knowledge. The Court considered *Basdev*'s distinction between knowledge attributed as if the accused were sober and intention inferred from the circumstances with regard to the degree of intoxication. It rejected the claim under Section 85 and the request to alter the conviction to Section 304 Part I on the evidence before it.

On the child's testimony, the Court applied the functional test of competence under Section 118 and the Supreme Court's requirement of careful scrutiny for reliability and tutoring. It found Priyanka's account consistent and independently supported by the two adult witnesses. It also considered Morari's abscondence as one of the circumstances.

6. Relief : The Hon'ble High Court dismissed the jail appeal and affirmed the conviction under Section 302 IPC and the sentence of life imprisonment, a fine of ₹1,000 and six months' rigorous imprisonment in default. It refused alteration of the conviction to Section 304 Part I and the exception claimed on the ground of intoxication. Morari remained in jail. The Court directed that the result be communicated to him through the Jail Superintendent and that the trial record be returned with a copy of the judgment.

Morari v. State of M.P., Cr.A. no. 153/2010, 22/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (479) Prev Next

Headnote :- Evidence — common witnesses — acquittal of co-accused - *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749; Kameshwar Singh v. State of Bihar, (2018) 6 SCC 433; Mahendran v. State of Tamil Nadu, (2019) 5 SCC 67*; and *T.G. Krishnamurthy v. State of Karnataka, Criminal Appeal No. 1265/2012* decided 17.08.2023, were considered. Falsus in uno, falsus in omnibus does not apply in India as a mandatory rule; evidence insufficient against one accused may still prove another's guilt if trustworthy portions can be separated without reconstructing a new case. Ganesh's acquittal therefore did not itself require Moti Singh's acquittal; on independent scrutiny the prosecution evidence against him failed to prove his guilt.

Proof — defence witnesses — reasonable doubt - Defence witnesses stand on the same evaluative footing as prosecution witnesses. The partly torn internal register pages, divergent accounts of their damage, unexplained participation of nonmembers in a meeting outside the Panchayat building, the accused's contemporaneous countercomplaint and defence witnesses together undermined proof of assault and caste abuse. The prosecution failed to prove guilt beyond reasonable doubt; all three convictions were set aside. These circumstances were considered cumulatively, without an automatic inference from any single discrepancy.

Case-note :- ***1. Facts :*** Moti Singh, the Up-Sarpanch of Gram Panchayat Bhiyantal, appealed under Section 374 CrPC from the Special Judge, Chhatarpur's judgment of 14 June 2002 in Special Case No. 57/2001. He had been sentenced to three months' rigorous imprisonment under Section 294 IPC, three months under Section 323 IPC, and one year under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, with a ₹500 fine and one month in default on the special-statute count; substantive terms were concurrent. His co-accused Ganesh had been acquitted of all charges. The prosecution alleged that at a Panchayat meeting on 2 August 2000 Moti demanded the proceedings register, tore its pages, pushed or struck Sarpanch Chutua (PW1), and insulted Chutua and Panchayat Karmi Ramlal (PW4) by caste name. A complaint, FIR, seized register and medical examination followed; charges included Section 506 Part II IPC, but the appealed conviction did not. Eight prosecution witnesses and four defence witnesses were examined. Moti argued that acquittal of Ganesh on the witnesses' account made his own conviction untenable. The State opposed the appeal.

2. Precedents — Considered : The Court relied directly *on Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749*, for the

absence in Indian law of a mandatory falsus in uno, falsus in omnibus rule. A lie or weakness in one part does not automatically destroy all testimony; the court must sift truth from falsehood, recognise ordinary discrepancies, and reject the whole account if inseparable falsity would require constructing a materially new prosecution story. Its quoted passage references *Nisar Ali*, *Sohrab*, *Ugar Ahir*, *Zwinglee Ariel*, *Balaka Singh*, *Kalki*, *Krishna Mochi*, *Gangadhar Behera* and *Rizan* as supporting or qualifying illustrations.

Kameshwar Singh v. State of Bihar, (2018) 6 SCC 433, similarly rejected the maxim as a rule of law or practice, required examination of a trustworthy residue and retained the benefit of doubt if serious suspicion survives careful appraisal. *Mahendran v. State of Tamil Nadu, (2019) 5 SCC 67*, reproduced *Gangadhar Behera v. State of Orissa, (2002) 8 SCC 381*: despite acquittal of other accused on some common testimony, conviction may survive if the residue proves a particular accused's guilt; the court must differentiate the cases and cannot reject all evidence mechanically. The nested passage also explains ordinary versus material discrepancy and the limit where truth and falsehood are inseparable; it cites *Jagir Singh*, *Lehna*, *Gurcharan Singh* and other earlier cases within that reasoning. *T.G. Krishnamurthy v. State of Karnataka, Criminal Appeal No. 1265/2012* decided 17 August 2023, reinforced that Indian courts must separate chaff from grain rather than discard testimony merely because a co-accused was acquitted. The Court applied this shared principle by refusing Moti's automatic-acquittal submission, then scrutinised the particular evidence and ultimately acquitted him for failure of proof, not because Ganesh was acquitted.

3. Statutes considered : Section 374 CrPC governed the conviction appeal; Section 161 CrPC appeared in examining omissions from PW7's police statement. IPC Sections 294 and 323 and Section 3(1)(x) of the SC/ST Act, as applicable to the 2000 occurrence, were the convictions reviewed. Section 506 Part II IPC was charged but did not form part of the appealed conviction. The Court decided that the alleged abusive words and assault were not proved on the evidence. The requirement of proof beyond reasonable doubt and non-mandatory status of falsus in uno controlled the appellate evidence assessment.

4. Issues : (i) Did Ganesh's acquittal on related testimony legally compel the acquittal of Moti, or was the evidence against each accused to be weighed separately? (ii) After that separate appraisal, did the prosecution prove Moti's alleged assault, obscene abuse and caste-based humiliation beyond reasonable doubt, taking into account the condition of the register, discrepancies among the witnesses, the countercomplaint and defence evidence?

5. Ratio / Findings : The Court first rejected the claimed automatic effect of Ganesh's acquittal. The four Supreme Court decisions establish that partial unreliability is a matter of evidentiary weight rather than a command to discard every part of a witness's statement. The factual basis and trustworthy residue as to each accused must be examined, while material contradictions and inseparable falsehood may defeat proof. Thus the appellant could not obtain acquittal merely because another accused had been acquitted.

In its own appraisal, the Court recounted Chutua's account of a dispute about the register, caste words, threats and a push or blows, including his denials of suggested Panchayat irregularities and assault on Moti. PW2 described torn pages occurring during a snatching scuffle, while PW4 described a fist blow and scuffle but did not give the same account of the register being snatched during writing; PW5's claimed presence was contradicted by PW4. PW7 admitted omissions in his Section 161 statement. The hardbound register showed only two partly torn internal pages concerning the meeting; the Court viewed this physical condition as suspicious against the shifting accounts of deliberate tearing or accidental damage in a snatching. The meeting was held at Raikwar Bhawan although the Panchayat had a building, and several attendees were not elected Panchas. The register also contained disputed resolutions, including a wage withdrawal connected to a well; the Court used this as context for the quarrel, not as a final adjudication of embezzlement or election of a Moharir. PW3 found no external injury on Chutua but recorded ear pain. Defence witness Ramsharan denied abuse and assault; the police diary and Moti's medical examination supported a contemporaneous countercomplaint, and Narayan Singh described objections to how resolutions were being recorded and an assault on Moti. The Court expressly held that defence witnesses cannot be evaluated on a lower footing. In combination, the evidence left reasonable doubt about the alleged abuse and assault; the Court held that the prosecution had not proved guilt rather than applying the falsus maxim or treating one document or medical detail as automatically decisive.

6. Relief : The Hon'ble High Court allowed the appeal. The judgment and sentences of 14 June 2002 were set aside; Moti was acquitted of Section 294 and 323 IPC and Section 3(1)(x) SC/ST Act charges. His bail and surety bonds were discharged, he was no longer required in the case, and a copy of the judgment with the record was ordered back to the trial court. Ganesh's earlier acquittal was only background and was not altered.

Moti Singh v. State of Madhya Pradesh, Cr.A. no. 898/2002, 18/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (480) Prev Next

Headnote :- Criminal appeal — absent appellant's counsel — decision on merits - Following *Surya Baksh Singh v. State of Uttar Pradesh, (2014) 14 SCC 222*, the Court proceeded to examine the record and appeal grounds after repeated nonappearance by counsel. Absence did not foreclose merits review: the Section 306 conviction was ultimately reversed.

Evidence — related or interested witnesses — scrutiny and hostility - *Mahavir Singh v. State of M.P., (2016) 10 SCC 220; Harbeer Singh v. Sheeshpal, (2016) 6 SCC 418; Vijendra Singh v. State of U.P., (2017) 11 SCC 129; Raju v. State of T.N., (2012) 12 SCC 701; Jodhan v. State of M.P., (2015) 11 SCC 52*; and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, were considered. Kinship alone neither discredits a witness nor invariably demands corroboration; genuine hostility or interest requires discerning scrutiny of intrinsic reliability and, in a proper case, supporting evidence. *Raju* qualifies any blanket classification of a natural relative as disinterested. The deceased's relatives established a loan, but their claim of complete repayment and further coercive demands did not withstand examination against available records.

Proof — alleged overpayment and further demand — available evidence — failure of proof - The transaction diary had not been proved or shown to concern this loan; the son who produced it and the purchaser were not examined, and the land-sale deed was not produced. With earlier hostility and a genuine underlying loan admitted, the prosecution did not prove repayment of the loan or the additional payment of ₹3,00,000 said to have preceded the allegedly unlawful demand for ₹2,00,000. The adverse inference and resulting doubt arose on this record, without creating a categorical documentary-corroboration requirement.

Abetment of suicide — Sections 107 and 306 IPC — instigation and loan recovery - *Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605; Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734; Sanju v. State of M.P., (2002) 5 SCC 371; Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750; M. Mohan v. State, AIR 2011 SC 1238; Kishori Lal v. State of M.P., (2007) 10 SCC 797; Amalendu Pal v. State of W.B., (2010) 1 SCC 707*; and *Orilal Jaiswal, (1994) 1 SCC 73*, informed the requirements of intentional instigation or aid, a positive act or sufficiently linked course of conduct, and careful fact-specific assessment. The proved demand for return of the lender's own money did not show incitement of suicide; conviction under Section 306 was set aside.

Case-note :- ***1. Facts :*** Motilal appealed under Section 374 CrPC against the First Additional Sessions Judge, Dewas's conviction of 4 May 1999 in Sessions Trial No. 40/1998 under Section 306 IPC and sentence of five years' rigorous imprisonment, ₹2,000 fine and default imprisonment. The appeal was heard on its merits without appellant's counsel: the record showed counsel at the initial June 1999 listing, suspension of sentence and bail in July 1999 despite absence, and further nonappearance on 16 April and 2 August 2018. The Court relied on *Surya Baksh Singh* to examine the record rather than leave the appeal unresolved.

Kailashchand died on 30 May 1997 after consuming a poisonous substance. The police recorded a Section 174 CrPC merg, recovered sulphas tablets and material near the body, and charged Motilal and Yusuf alias Irshad with abetment of suicide. Their alleged harassment concerned money advanced by Motilal. The trial court convicted Motilal but acquitted Yusuf; that acquittal was not challenged and was mentioned only to understand the prosecution case against Motilal. Motilal's appeal asserted that he merely requested return of his loan, that family witnesses had earlier hostility and that a purported transaction diary did not prove any harassment or unlawful demand. The State said the debt was fully repaid, an extra ₹3,00,000 paid after a land sale and a further ₹2,00,000 demanded, driving Kailash to suicide. Earlier criminal litigation between the families was undisputed, including a case initiated on the report of Kailash's wife Laxmibai. The prosecution examined twelve

witnesses; the accused called two defence witnesses. The doctor noted no external injury and described asphyxia; although an FSL report arrived during trial it was not exhibited. The Court inferred suicide from the scene, sulphas tablets and vomiting, while focusing the contested appeal on abetment.

2. Precedents — Considered : *Surya Baksh Singh v. State of Uttar Pradesh, (2014) 14 SCC 222*, supplied the approach to a conviction appeal repeatedly listed without the appellant's counsel: the High Court examined the record and decided the appeal on its merits.

On family testimony, *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, required close scrutiny of an interested witness for a credible ring of truth and cautioned that contradicted interested testimony is not usually conclusive. *Harbeer Singh v. Sheeshpal, (2016) 6 SCC 418*, discussed hostility shared by a relative, careful assessment of infirmities and the fact that independent corroboration is not indispensable merely because interested witnesses testify; its quoted *Darya Singh* and *Raghubir Singh* passages are limited to the witness assessment and proof context reproduced. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, reproduced *Hari Obula Reddy*'s rule that intrinsically reliable interested evidence may suffice without mandatory independent support, and contrasted a related natural witness with a genuinely interested witness by reference to *Kartik Malhar. Raju v. State of T.N., (2012) 12 SCC 701*, supplied a substantial qualification: relying on *Basawan Singh*'s treatment of an interested trap witness, it described *Kalki*'s narrow suggestion that a natural relative cannot be interested as too general; categories matter less than case-specific scrutiny, with extra care where relationship and hostility coincide. It also quoted *Dalip Singh* and *Darya Singh* against automatic exclusion or mandatory corroboration, and *Waman*'s summary that kinship alone does not destroy consistent testimony. *Jodhan v. State of M.P., (2015) 11 SCC 52*, restated that family or partisan evidence can support conviction if reliable, but suspicious testimony or a demonstrated motive for false implication calls for careful appraisal and, in an appropriate case, material corroboration. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, surveyed *Dalip Singh*, *Piara Singh*, *Hari Obula Reddy* and *Ramashish Rai*: enmity is double edged, potentially explaining both the offence and false implication, and no rigid exclusion arises merely from kinship. The present Court distilled these authorities to a test of evidentiary reliability; it did not find the family witnesses inherently incompetent but tested their asserted repayments and demands against the available proof and prior hostile litigation.

On abetment, *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, explained that instigation is goading, urging, provoking or encouraging; a particular form of words is unnecessary, and a sustained course of conduct leaving the deceased no apparent option can supply an inference, but there must be reasonably ascertainable incitement. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, distinguished intended instigation from angry words and rejected a rigid formula for circumstantial inference; the cited passage also concerns tentative quashing-stage evaluation. *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, required mens rea for instigation within Section 107's alternatives of instigation, conspiracy and intentional aid. *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750*, required a positive act and clear mental process directed to abetment; it cautioned against attributing a hypersensitive suicide to ordinary discord without sufficient causal and intentional link. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, was quoted for the careful factual assessment underlying that caution, in its own domestic-cruelty setting. *M. Mohan v. State, AIR 2011 SC 1238*, similarly required a clear mens rea and an active or direct act intended to leave the deceased with no option but to commit suicide. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, articulated the three forms of abetment under Section 107 and the specific offence connection under Section 109. *Amalendu Pal v. State of W.B., (2010) 1 SCC 707*, required proof of direct or indirect incitement and a positive proximate act, and explained intentional aid under Section 107's third clause. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, was quoted for circumstantial instigation and the limit of tentative charge-stage review. *Ghusabhai Raisangbhai Chorasiya v. State of Gujarat, (2015) 11 SCC 753*, reproduced a separate Section 498A marital-cruelty example to show that a moral wrong alone is not necessarily the statutory cruelty driving suicide. The Court applied the shared standard under Sections 107 and 306 to a proven lender's demand for return of money, not a proved campaign of extortion after repayment.

3. Statutes considered : Section 374 CrPC governed the appeal and Section 174 CrPC the initial death enquiry. IPC Section 306 requires a suicide and its abetment. Section 107 defines abetment by instigation, conspiracy with an act or illegal omission pursuant to it, or intentional aid; the Court focused on instigation, examining the mental element and actual conduct. Section 109 appeared in the reproduced *Kishori Lal* and *Amalendu Pal* passages. Sections 294, 323 and 506 Part II IPC concerned earlier litigation between the parties. Section 228 CrPC appeared inside the quoted *Praveen Pradhan* passage concerning a preliminary stage. The Court treated the deceased's transaction diary and the unproduced registered land-sale evidence as evidentiary issues in establishing the prosecution's premise of repaid debt and fresh unlawful demand.

4. Issues : (i) Could and should the conviction appeal be decided on its merits despite the appellant's counsel's repeated absence? (ii) Was Kailash's death suicidal on the available medical and scene evidence, and was there a distinct act of abetment by Motilal? (iii) Were family witnesses with previous adversarial history credible as to full repayment, additional payment after a land sale and a further coercive demand, given the unproved diary and absent sale deed or purchaser? (iv) Did the proven request for return of a genuine loan meet the Section 107 test of instigation, conspiracy or intentional aid so as to sustain Section 306 at the final conviction standard? Yusuf's unchallenged acquittal and earlier criminal case were contextual matters, not appeals decided here.

5. Ratio / Findings : The Court followed *Surya Baksh Singh* to examine the appeal record notwithstanding counsel's nonappearance. It found Kailash's death suicidal: the doctor found no external injury and gave asphyxia as cause, though the postmortem report did not attribute it specifically to poison; the scene had sulphas tablets and vomiting, and homicide or natural death was not supported. The FSL report had not been exhibited, a qualification the Court acknowledged. Suicide still required separate proof of abetment by this appellant.

The Court accepted that Motilal had lent Kailash money. Applying the detailed related-witness authorities, it did not discard relatives' testimony merely for kinship. The earlier assault case and hostility required close appraisal of their assertions about repayment and later demands. The deceased's diary was produced but never proved or exhibited as a record of this transaction, and the son who produced it was not called. The land-sale deed was not produced and the purchaser was not examined to verify the asserted source of the extra payment of ₹3,00,000. Where a registered conveyance could have been produced and examined, the failure to produce that available evidence permitted an adverse inference on this record. With the fundamental fact of a loan accepted and the alleged repayments or overcharge unproved, the Court did not accept that the additional ₹2,00,000 demand was an extortionate demand after full discharge. It inferred a demand for the lender's own money. The central failure was proof of repayment and subsequent unlawful exaction.

Section 107's instigation limb requires a purposeful act or course of conduct capable of inciting suicide, though express exhortation is not the only form and the inquiry remains fact-specific. The Court considered the cited Supreme Court cases on mens rea, positive act, proximity and causation, while preserving the fact that some cited passages addressed domestic disputes or preliminary criminal stages. On the facts found, Motilal had asked for repayment of a genuine debt. The prosecution did not prove conduct which goaded, provoked, incited, urged or intentionally aided Kailash's suicide. Suicide following pressure to repay did not by itself convert legitimate recovery into abetment. The Court therefore held that guilt under Section 306 had not been proved beyond reasonable doubt and reversed the conviction. The decision is confined to the evidentiary premise and conduct established here.

6. Relief : The Hon'ble High Court allowed the appeal. The conviction and sentence dated 4 May 1999 under Section 306 IPC were set aside; Motilal was acquitted. He was on bail, and his bail bond and surety bond were discharged. The unchallenged acquittal of Yusuf alias Irshad was left untouched. No retrial or modification of the unrelated earlier case was ordered.

Motilal v. State of Madhya Pradesh, Cr.A. no. 689/1999, 20/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (481) Prev Next

Headnote :- Evidence — related and interested witnesses — natural presence, interest and

reliability - *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475; Shamim v. State (NCT of Delhi), (2018) 10 SCC 509; Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*; and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, were considered. Kinship or common caste alone does not establish a motive to falsely implicate; a concrete interest arising from hostility or another benefit and intrinsic inconsistencies require scrutiny. Four neighbours came naturally on hearing screams, but their observation of the appellant fleeing did not cure the doubts emerging from the prosecutrix's admissions and the disputed shawl account.

Proof — quality rather than number — limits on adverse inference from absent witnesses - *Sarwan Singh v. State of Punjab, (1976) 4 SCC 369; Yanob Sheikh v. State of W.B., (2013) 6 SCC 428; Mahesh v. State of Maharashtra, (2008) 13 SCC 271; Nagarjit Ahir v. State of Bihar, (2005) 10 SCC 369; Vijendra Singh v. State of U.P., (2017) 11 SCC 129*; and *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, distinguish unnecessary witness multiplication from withholding a genuinely material available witness. Section 134 of the Evidence Act imposes no numerical minimum; trustworthiness and the prosecution's burden control. Neighbours testified here, yet material defects in the testimony left reasonable doubt.

Sections 457 and 354 IPC — witness discrepancies and alternative inference supported by the evidence - The prosecutrix said the appellant grabbed her hand, tried to remove clothing and threatened her. Her reproduced cross-examination admitted his visits and her husband's suspicion and quarrels. Ramwati said two men caught the appellant, Shankarlal said only his shawl was caught, and Heera described a chase with the shawl inside the home. The Court considered a possibility of consent or false implication, did not find either proved, and found that guilt had not been proved beyond reasonable doubt. Both convictions and sentences were set aside; the earlier acquittal under Section 3(1)(11) of the SC/ST Act was not reversed.

Case-note :- ***1. Facts :*** Motiram Bisen appealed under Section 374 CrPC from the Special Judge (SC/ST Act), Balaghat's judgment of 31 May 2008 in Special Sessions Case No. 9/2008. The trial court had convicted him under Section 457 IPC, with one year’s rigorous imprisonment, ₹500 fine and three months’ default imprisonment, and Section 354 IPC, with six months’ rigorous imprisonment, ₹500 fine and one and a half months’ default imprisonment. It acquitted him of the alternative Section 3(1)(11) SC/ST Act charge. The police charge-sheet had referred to Section 456 and Section 354 IPC and Section 3(1)(11), but the charges framed and the convictions challenged in appeal were under Sections 457 and 354.

The prosecution alleged that at about 9 p.m. on 2 January 2008 the appellant entered the prosecutrix Belabai's house from the rear, held her hand with an objectionable intention and said he would do “bura kaam.” She testified that he tried to remove her clothes and threatened to kill her when she shouted. Her husband Heera returned on hearing the screams; neighbours Ramwati, Sonu, Shankarlal and Lakhan gathered, and the appellant was reportedly seen running away. A shawl said to be his was seized. The FIR was lodged at 12:40 p.m. the following day, the stated reason for delay being the late hour. Police sent the Section 157 CrPC report to the Magistrate, arrested the appellant, sought the prosecutrix's medical examination and recorded statements. He pleaded not guilty and called no defence witness.

Lakhan (PW-1) did not see the incident and recounted what he heard from the husband and prosecutrix. Ramwati (PW-2) and Sonu (PW-3) heard screams and saw the appellant fleeing; Shankarlal (PW-4) described trying to catch him and obtaining his shawl. Heera (PW-5) said he chased the appellant for a distance. The prosecutrix (PW-6) was the direct source of the alleged hand-grabbing and attempted undressing. Radheylal (PW-7) recorded the FIR and Santosh (PW-8) investigated. On appeal, the defence asserted interested testimony, earlier enmity, a possible consensual encounter or false accusation, next-day FIR delay and a spot-map objection to rear entry. The State supported the conviction.

2. Precedents — Considered : *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, was quoted for the proposition that relationship with the deceased does not alone make a witness untrustworthy and relatives are ordinarily unlikely to exonerate the true culprit in favour of an innocent person. *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, gave weight to natural family testimony while recognising the ordinary reason for a spouse or child not to shield the real offender. These are general credibility principles, not automatic validation of the present testimony.

Rizan v. State of Chhattisgarh, (2003) 2 SCC 661, required a foundation for an asserted false implication and careful testing of related testimony for cogency. Its reproduced *Dalip Singh* discussion rejects a general corroboration requirement based merely on relationship or the witness's sex, but recognises that real enmity can create a reason to implicate another; each case remains fact-specific. *Rizan* referred in the reproduced passage to *Guli Chand*, *Vadivelu Thevar*, *Masalti*, *Jagir Singh* and *Lehna*; *Masalti* in particular rejects mechanical exclusion of partisan evidence while requiring caution. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, distinguished a related natural witness from a genuinely interested person who gains from conviction or bears prior enmity and motive. Its reproduced discussion invokes *Kalki*, *Amit*, *Gangabhavani*, *Ganapathi*, *Dalip Singh* and *Jayabalan* to distinguish relationship from benefit and to require consistency, probability and cogency rather than either automatic distrust or uncritical acceptance. The High Court used these authorities to test the neighbours and prosecutrix, not to exclude them simply for family or caste affiliation.

Sarwan Singh v. State of Punjab, (1976) 4 SCC 369, explained the prosecution's choice of witnesses and the distinction between withholding an available, essential eyewitness and failing to multiply witnesses on minor or repetitive points; only the former may support a contextual adverse inference. *Yanob Sheikh v. State of W.B., (2013) 6 SCC 428*, held that the prosecution's beyond-reasonable-doubt burden concerns quality as well as quantity. It reproduced *Namdeo*'s Section 134 Evidence Act rule that a solitary reliable witness may support conviction, while several witnesses may still fail, and *Bipin Kumar Mondal*'s "weighed and not counted" reliability test. The latter qualification applied in the present case: several witnesses testified but their accounts did not establish guilt.

Mahesh v. State of Maharashtra, (2008) 13 SCC 271, addressed a reliable injured eyewitness and reluctance of strangers to testify; relationship or absence of independent witnesses is no automatic reason to reject otherwise credible evidence, but scrutiny remains. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, assessed the non-examination of other witnesses by first considering the trustworthiness of the available evidence. Its reproduced *Gian Chand* and *Takhaji Hiraji* passages distinguish cumulative testimony from an available person who could unfold the genesis or fill a material gap; *Dahari*, *Manjit Singh* and *Joginder Singh* illustrate when adequate other proof prevents an adverse inference. *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, rejects automatic failure for absent independent witnesses given public reluctance, conditional on trustworthy eyewitness evidence. These authorities explained why the four naturally present neighbours could be considered; they did not preclude the Court from finding their accounts materially inconsistent and the prosecution proof inadequate.

3. Statutes considered : Section 374 CrPC provided the conviction appeal. IPC Section 457 concerned the house-trespass conviction and Section 354 the allegation of outraging the prosecutrix's modesty. The Court set both convictions aside because the prosecution's evidence did not establish guilt beyond reasonable doubt. Police had initially invoked Section 456 IPC as stated in the charge-sheet; the court framed charges under Section 457 instead, and the appeal concerned that provision. Section 3(1)(11) of the SC/ST (Prevention of Atrocities) Act was an alternative trial charge ending in an acquittal and was not independently reinterpreted or revived on this appeal. Section 134 of the Indian Evidence Act, 1872 appeared in the Supreme Court's reproduced witness-number discussion: no particular number is necessary for proof.

4. Issues : (i) Did the neighbours' family or caste connections, the prosecutrix's relationship to Heera and the asserted prior hostility make their testimony inherently unworthy of reliance, or did the Court have to assess specific interest, natural presence and credibility? (ii) What weight should be given to the quantity of eyewitnesses and to the principle concerning unexamined independent or truly material witnesses where four neighbours did testify? (iii) Did the prosecutrix's cross-examination about the appellant's visits and her husband's suspicion, together with the conflicting accounts of capture, chase and shawl, leave reasonable doubt on the Section 457 and 354 charges?

5. Ratio / Findings : The Court applied the Supreme Court's related-versus-interested distinction. Mere relationship or common caste did not taint the witnesses, and the neighbours' presence after screams between 9 and 10 p.m. was natural. Lakhan's account of the assault, however, was hearsay; Ramwati, Sonu and Shankarlal saw a fleeing person rather than the alleged hand-grabbing

itself. Their testimony had to be assessed for consistency and any demonstrated motive for false implication, not simply counted.

The prosecutrix supported the allegation of a hand being caught, attempted disrobing and a threat. Her cross-examination was reproduced in paragraph 35; it admitted that the appellant visited her house and that her husband suspected her on that account, causing marital quarrels. The Court inferred a genuine possibility of a consensual encounter or false implication based on enmity. That was an alternative inference sufficient to create doubt, not a judicial finding that consent was actually proved. The Court then identified a material discrepancy: Ramwati said Shankarlal and Heera caught the appellant, Shankarlal said they managed to hold only his shawl, whereas Heera said he chased the appellant some distance and the shawl was with the prosecutrix inside the house. The disagreement went to pursuit and the physical item said to connect the appellant to the event. On the whole record, the prosecution failed to establish either charged IPC offence beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the appeal. The convictions and sentences under Sections 457 and 354 IPC in the Special Judge's judgment of 31 May 2008 were set aside and Motiram Bisen was acquitted of those charges. His bail and surety bonds were discharged; he was no longer required in this case, and the judgment with the trial record was directed back for compliance. The trial court's existing Section 3(1)(11) SC/ST Act acquittal was not converted into a conviction or separately reviewed.

Motiram Bisen v. The State of M.P., Cr.A. no. 1214/2008, 17/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (482) Prev Next

Headnote :- Child sexual offence — testimony and dock identification - *Sakshi v. Union of India, (2004) 5 SCC 518*, and Section 36 POCSO were invoked to protect a child from seeing the accused while testifying, while ensuring that the accused could hear the testimony and communicate with counsel. The two-year-old was not examined; the Court found that her conventional dock identification could not be demanded where adult eyewitnesses identified the appellant as the person who took the child and medical evidence established rape and injury.

Evidence — last seen, Section 106 and recovery - *Teja v. State of U.P., (1956) 1 SCC 481*, and *Ravasaheb alias Ravasahebgouda v. State of Karnataka, (2023) 5 SCC 391*, were considered. The child was taken in the presence of witnesses, and an FIR naming the appellant was lodged two hours later. About nineteen hours after the taking, she was recovered at a distant site on information given by the appellant. Her undergarment was also recovered on his information. With those foundational circumstances proved, his failure to explain when and how he parted company with her strengthened the inference. Section 106 did not replace the prosecution's burden of proof. The child survived, and the interval was considered together with the recovery evidence.

Forensic proof — absence of DNA report - *Sunil v. State of M.P., (2017) 4 SCC 393*, permits conviction without DNA when the remaining evidence is clinching. The substantially unchallenged medical report, eyewitnesses to the taking, the prompt FIR naming the appellant and the recovery evidence supported the conviction here. The appellant had not sought production of a potentially helpful DNA report at trial; its absence alone did not require acquittal.

Attempted murder — abandonment of a badly wounded two-year-old child - The Court inferred intent under Section 307 IPC from the appellant's deliberate removal of the two-year-old, the proved rape and injuries, and her abandonment overnight in distant roadside bushes, where her life was endangered. The conclusion was drawn from this entire sequence, and convictions under Sections 366, 376(2)(i) and (m), and 307 remained intact.

Sentence — child rape and concurrent terms - The Section 376(2)(i) life term, understood by the trial court as lasting for natural life, was reduced to twenty years of actual rigorous imprisonment without remission after considering the statutory sentencing range and absence of proved antecedents. The ten-year terms under Sections 366 and 307 and the fines remained unchanged. The substantive sentences were directed to run concurrently. On these facts, the absence of a separate sentence under Section 376(2)(m), which the State had not challenged, was not treated as an illegality. The offences remained distinct.

Case-note :- ***1. Facts :*** Mukesh Jatav filed Criminal Appeal No. 906 of 2017 against the judgment dated 6 February 2017 of the Fifth Additional Sessions Judge, Gwalior, in Sessions Trial No. 530/2014. He had been convicted under IPC Sections 366, 376(2)(i) and (m), and 307. The trial court imposed ten years' rigorous imprisonment and a fine of ₹5,000 under Section 366, a single sentence of life imprisonment and a fine of ₹10,000 under the rape provisions, and ten years' rigorous imprisonment and a fine of ₹10,000 under Section 307, with default stipulations. The victim was two years old on 13 July 2014; the appellant knew her father. These aspects of age and acquaintance were undisputed.

The prosecution account was that the father and child were outside their house near a motorcycle with its key in the ignition. The appellant appeared to play with the child, took her in his arms, started the motorcycle and drove away. Her father and neighbour Indresh pursued without catching him. After a search, the father named the appellant in the Mohna police FIR, Ex. P/1, at about 8 p.m., two hours after the alleged taking. The child was recovered on 14 July at about 1 p.m. from bushes by A.B. Road near Nayagaon, far from home, on information given by the appellant; her undergarment was also recovered on his information. Medical report Ex. P/12, proved by Dr. Achla Sahaya (PW-8), documented rape and multiple bruises. Investigating officer Hemlata Agrawal (PW-10) testified to the information and recoveries. The appellant had met with a road accident and was examined at a primary health centre, but asserted that it was unrelated to a falsely attributed offence.

In the appeal, the appellant alleged a financial dispute with the child's father and false implication. He asserted that he had spent more than twelve years in custody and relied on the absence of a proved DNA report and the child's own identification testimony. He said he had been summoned from home and arrested. The State relied on the prompt named FIR, adult witnesses, the undisputed age of the victim and the medical evidence, and the absence of established hostility. The father (PW-1), Pradeep (PW-3) and Indresh (PW-6) witnessed the taking; the mother (PW-2) recounted the father's account. Minor uncertainty about signatures on investigative papers did not undermine the direct incident account, in the Bench's assessment. The suggested financial dispute was not particularised or proved, and no enmity with the independent witnesses was alleged.

2. Precedents — Considered : *Sakshi v. Union of India, (2004) 5 SCC 518*, was cited in paragraph 12 for the use of a screen or equivalent arrangement in trials concerning child sexual abuse so that the victim or witness need not see the accused. The Bench connected this to Section 36 POCSO's protection of a child from exposure to the accused during testimony, while preserving the accused's right to hear the testimony and communicate with counsel. It treated conventional dock identification by a two-year-old as an inappropriate demand, especially because her vocabulary was limited and adult witnesses identified the person who took her.

Teja v. State of U.P., (1956) 1 SCC 481, was discussed in relation to last-seen evidence, incriminating recoveries of the victim’s property at the accused's instance and an unsatisfactory explanation consisting of a complete denial. The Bench treated it as support for evaluating the appellant's silence after independent proof that he carried the child away and information given by him led to the recoveries. *Ravasaheb alias Ravasahebgouda and Others v. State of Karnataka, (2023) 5 SCC 391*, qualified the Section 106 inference: last seen coupled with recovery, temporal proximity and other proved factors may require an explanation. An incorrect explanation or failure to explain contributes to the inference only where the circumstances exclude reasonable competing hypotheses. Although *Ravasaheb* concerned a deceased victim, the child in this case survived; the Bench used the principle only with the direct taking, prompt FIR, medical proof and recovery roughly nineteen hours later, not silence alone.

Sunil v. State of M.P., (2017) 4 SCC 393, was cited for the proposition that the absence of DNA testing does not invariably preclude conviction where the remaining evidence is clinching. Applying it, the Bench rejected the asserted necessity of a proved DNA report because medical evidence of rape and injury, identification by the adult eyewitnesses who saw the taking, and the recoveries together provided strong evidence. The Bench also noted that the appellant had made no trial request to call for the report.

3. Statutes considered : IPC Section 366 concerned kidnapping for the purpose of sexual assault as found on the proven sequence. Section 376(2)(i) governed the conviction for rape of the child and the applicable sentencing range. The Bench stated that the provision permitted a minimum sentence of

imprisonment for a definite term as well as imprisonment for the remainder of the convict's natural life. Section 376(2)(m) concerned rape causing grievous bodily harm, maiming, disfigurement or life endangerment; the Bench kept the distinct conviction but examined the absence of a separate trial sentence for it in light of the punishments already imposed for rape and under Section 307, and the absence of a State appeal on that issue. Section 307 governed the attempted-murder finding based on grave injury and abandonment.

Section 106 of the Indian Evidence Act concerned the circumstances in which the appellant parted company with the child, which were especially within his knowledge. The provision was applied after the prosecution had established the direct and recovery evidence. It was not an independent presumption dispensing with foundational proof. Section 36(1) and (2) POCSO was quoted: a Special Court ensures that a child testifying is not exposed to the accused while the accused can hear the child's statement and communicate with counsel; video conferencing, a single-visibility mirror, curtains or another device may be used. The Bench referred to it when considering identification by the child, although the judgment stated no POCSO charge or conviction. CrPC Section 388 concerned certification and transmission of the appellate judgment for compliance.

4. Issues : (i) Could the adult eyewitness account of the appellant taking this two-year-old, with prompt named FIR, medical findings and recovery on information given by the appellant, establish the kidnapping and sexual assault despite the child's absence from the witness box and lack of dock identification? (ii) Did the last-seen and recovery foundation call for an explanation under Section 106, and was the alternative financial-enmity account proved or reasonably supported? (iii) Did failure to prove DNA evidence require acquittal notwithstanding the other evidence? (iv) Did the serious injuries and abandonment in remote bushes support Section 307 intent, alongside rape and kidnapping? (v) Should the Section 376(2)(i) natural-life sentence be reduced within the statutory range, and did the absence of a separate Section 376(2)(m) sentence require intervention on this appeal brought by the appellant alone?

5. Ratio / Findings : The father, Pradeep and Indresh directly identified the appellant taking the child. A two-hour interval between the 6 p.m. occurrence and named FIR, and her next-day recovery with medical evidence of rape and bodily violence, provided a corroborating sequence of events. The independent eyewitnesses were not alleged to have a grudge; imperfect recall of paperwork signatures did not contradict their observations. The appellant neither specified nor supported the supposed financial dispute and produced no defence witness. The Bench treated the mother's account as derivative of her husband, rather than as another eyewitness account of the abduction.

At age two, conventional dock identification by the victim was not a required link where the adult evidence supplied identity and rape/injuries were not seriously challenged. *Sakshi* and Section 36 POCSO reinforced protected child testimony and the need to preserve the accused's ability to hear and consult counsel. Direct evidence of the taking, the timely FIR, recovery of the child and undergarment on information given by the appellant, the officer's materially unshaken cross-examination, and the medical report created the evidentiary foundation. Applying *Teja* and *Ravasaheb*, the Bench held that when the appellant parted company with the child and her physical condition at that time were matters especially within his knowledge, which he was required to explain. He offered none. His silence strengthened an inference of guilt founded on the other evidence; the Bench considered the combined circumstances sufficient to exclude the unparticularised false-implication hypothesis.

The Court inferred the purpose of sexual assault from taking the child away despite the pursuit and her condition when recovered, which showed that she had been raped. It inferred an intention to cause death from leaving a badly wounded two-year-old in distant roadside bushes overnight where her life was in grave danger. *Sunil* answered the objection concerning DNA evidence: there was no rule making DNA proof compulsory in every case, and the available evidence was clinching. The appellant had made no trial request to call for a report that he suggested could assist his defence.

On sentence, the trial judge's sentence of "life imprisonment" under Section 376(2)(i) did not specify its duration. Reading it with paragraph 51 of the trial decision, the Bench understood the sentence to mean imprisonment for the remainder of natural life. The Bench considered the permissible finite-term alternative and absence of proved antecedents, and reduced the term to twenty years' actual rigorous

imprisonment without remission. The appellant asserted that he had completed more than twelve years in custody. The ten-year sentences under Sections 366 and 307 and the fines were considered proportionate. Section 376(2)(m) was distinct, but no separate sentence had been passed; considering the punishments already imposed for rape and attempted murder, and the absence of a State challenge, the Bench found no illegality requiring it to intervene.

6. Relief : The Hon'ble High Court partly allowed the appeal solely in respect of the sentence under Section 376(2)(i), reducing the term of imprisonment for the remainder of natural life to twenty years of actual rigorous imprisonment without remission. All convictions under Sections 366, 376(2)(i) and (m), and 307 IPC were upheld. The other two ten-year sentences and the fines were not altered, and all substantive sentences were directed to run concurrently. The judgment was to be certified under Section 388 CrPC. A copy was to be sent to the jail authorities for delivery to the appellant, and the trial record was to be sent with a copy of the judgment to the trial court for compliance.

Mukesh Jatav v. The State of Madhya Pradesh, Cr.A. no. 906/2017, 01/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (483) Prev Next

Headnote :- Police official — Section 197 CrPC — duty nexus, not office alone - The complaint alleged a late-night forcible entry and search, abuse, assault, removal to the station and damage. The Town Inspector relied on an account of patrolling and gambling, but produced no document showing registration of a gambling case or any warrant, and did not explain what had happened to the other alleged gamblers. *D. Devaraja v. Owais Sabeer Hussain, AIR 2020 SC 3292*, was distinguished because it concerned allegations of police atrocities in custody; *Dr. S.M. Mansoori v. Surekha Parmar, (2023) 6 SCC 156*, supported the conclusion that the alleged unauthorised entry and offences had no apparent connection with official duty at the initial stage. The Court denied pretrial protection on this record.

Sanction — provisional threshold decision — later trial inquiry - Section 197 protects acts falling within its scope that are done in actual or purported discharge of official duty; it does not protect every act of a public servant. The Section 482 challenge to cognizance and proceedings failed because the alleged entry and removal were not shown to be connected to a lawful operation. The trial court must decide the sanction question afresh at final hearing on evidence and documents, without being influenced by the High Court's preliminary observations. Trial was directed to finish within six months, with directions for frequent hearings and compliance with arrest warrants.

Case-note :- ***1. Facts :*** Mukesh Khamparia, described in the order as a Town Inspector, invoked Section 482 CrPC in Misc. Criminal Case No. 45626 of 2022 to quash the orders dated 7 February 2020 and 25 June 2022 of the Judicial Magistrate First Class, Harrai, and the entire complaint proceeding, RCT/9/2020. The Magistrate had taken cognizance of IPC Sections 323 read with 34, 294, 506 and 427. The applicant also sought discharge under Section 245 CrPC on the ground that the alleged conduct occurred in the discharge of official duty and required sanction under Section 197.

According to the complainants, the incident occurred on 12 September 2019 between about 11:30 p.m. and midnight, when the applicant, Constable Harsh Patel and four or five other police personnel forced entry into their house, abused them, searched cupboards and containers, scattered clothes and grain, tore the first complainant's clothes in a scuffle over her attempted video recording, seized a mobile telephone, assaulted and removed the second complainant to the police station and kept him there until about 4 a.m. They alleged damage of ₹40,000, deletion of the video before the telephone was returned, a retaliatory threat, and complaints to the Superintendent of Police, CM Helpline, women's commission and Inspector General. These were allegations in the complaint considered in the quashing proceeding, rather than findings after trial.

The applicant said he had been on regular patrol, encountered the second complainant gambling outside his house, brought him to the station and recorded the incident in a Rojnamcha. He cited *D. Devaraja* for the sanction defence and also complained that copies of complaints to superior officers had not been produced. The respondents disputed both points. When asked whether a case under the Public Gambling Act had been registered, the applicant's counsel had no document showing registration and sought an adjournment; the Section 245(2) application itself did not say a case was registered or account for any other gamblers. No

search or arrest warrant was claimed. The High Court refused additional time, examined the connection with official duty on the existing record and dismissed the quashing petition while expressly leaving final reconsideration of sanction to the trial court.

2. Precedents — Considered : *D. Devaraja v. Owais Sabeer Hussain, AIR 2020 SC 3292*, was advanced by the applicant for Section 197 protection. The High Court described that case as one alleging police atrocities while the complainant was in custody. It distinguished that context from the alleged unauthorised late-night entry into the complainants' home and removal to the police station, where no case or warrant had been shown.

Dr. S.M. Mansoori (Dead) through Legal Representatives v. Surekha Parmar, (2023) 6 SCC 156, was applied. As described by this Court, police personnel entered a home early without authority and allegedly committed offences; the Supreme Court held that such alleged acts could not at the initial stage be treated as actual or purported official duty requiring Section 197 sanction. It set aside a quashing order that had required sanction, while recognizing that a final view on the nexus could be taken after trial evidence. Applying that reasoning to the alleged entry and removal to the police station, for which no authority had been shown, the High Court found sanction unnecessary at the present stage and left the Magistrate to decide the question later on the evidence.

3. Statutes considered : Section 197 CrPC provides a prior-sanction bar on cognizance for specified Judges, Magistrates and public servants not removable except by or with government sanction when the alleged offence was committed while acting or purporting to act in official duty. The applicant sought discharge before the trial court under Section 245(2) CrPC; Section 482 provided the High Court’s limited power to examine the Magistrate’s orders and the pending complaint proceedings; the Court was not trying the allegations. Sections 323/34, 294, 506 and 427 IPC were the complaint offences of which cognizance was taken, not separately interpreted. The Public Gambling Act was invoked only in the applicant's explanation; the High Court found no registered case shown.

4. Issues : (i) Did the allegation of a police officer's forcible entry, search, abuse and removal of a resident bear a sufficient connection to actual or purported official duty to require previous Section 197 sanction before cognizance? (ii) Could the applicant's unparticularised patrol and gambling account, Rojnamcha assertion and request for time establish that connection or justify postponing its examination in the Section 482 proceeding when no gambling prosecution or warrant was shown? (iii) Was the sanction question finally settled at the threshold, or should the trial court decide it on the evidence at the final hearing of the complaint? The High Court was not determining whether the alleged assault, obscenity, threat and damage offences were ultimately proved.

5. Ratio / Findings : The operative nexus is between the alleged conduct and lawful or purported official function, not the status of the accused as an officer. The applicant's own discharge application said the second complainant had been found gambling on patrol and taken to the police station, yet did not claim registration of a gambling case or explain other supposed gamblers. Counsel could show no registration document and sought time only after inquiry from the Bench. The Court found no bona fide reason to defer the Section 482 review and inferred, for the purpose of deciding the sanction question at that stage, that no gambling offence had been registered. There was also no claim of executing an arrest warrant. Merely holding the post of Town Inspector did not authorise a search of a person against whom no case or search warrant had been shown. The alleged home entry and removal thus had no apparent official-duty link on the present record.

Devaraja concerned allegations arising in police custody and did not govern the alleged entry without authority in this case. *Mansoori* provided the applicable principle for the initial assessment of sanction. The Court held that Section 197 sanction was unnecessary at the initial stage, so the Magistrate's orders and complaint survived the Section 482 challenge. The trial court was instructed to decide whether sanction is required after evidence at final hearing, without being influenced by the High Court's observations and with regard to documents relied upon by the parties.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. The Magistrate’s orders dated 7 February 2020 and 25 June 2022 and the complaint proceedings in RCT/9/2020 were not quashed. The trial court must determine Section 197 sanction independently at final hearing and conclude

trial within six months; if necessary, it should hear the case from day to day and must not adjourn it for more than four days. If an accused police officer fails to appear, the Superintendent of Police, Chhindwara was made personally responsible for the immediate execution of the arrest warrant; if the Superintendent fails to execute the warrant, the trial court must immediately send a PUD to the High Court.

Mukesh Khamparia v. Anjali Agrawal and Others, M.Cr.C. no. 45626/2022, 01/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (484) Prev Next

Headnote :- Section 197 CrPC — two conditions and provisional duty nexus - *Centre for Public Interest Litigation v. Union of India, (2005) 8 SCC 202; State of H.P. v. M.P. Gupta, (2004) 2 SCC 349; S.K. Zutshi v. Bimal Debnath, (2004) 8 SCC 31*; and *Devinder Singh v. State of Punjab, (2016) 12 SCC 87*, were considered. Protection requires the prescribed employment and removal conditions to be satisfied, as well as a reasonable connection between the act and official duty. An act in excess of duty may still be protected if reasonably connected to it; an unrelated prohibited act is not. The forest permit prohibited digging up earth from forest land and using machinery, but both acts were alleged in the charge. Employment with SECL did not, on the existing record, establish employment in connection with the affairs of the Union. At the quashing stage the Court found that neither requirement was satisfied on the available material, while reserving both for determination after trial evidence.

Forest permission — supervisory delegation - The SECL manager's letter assigning crack-filling work to a subordinate did not automatically absolve him where the duties he described in his application included oversight of mine operations and no rule or instrument authorising delegation of that responsibility was shown. Alleged JCB excavation and collection of forest earth contrary to express permit conditions remained for trial.

Inherent powers — alleged bona fide location mistake - *Mahmood Ali v. State of U.P.* permits careful consideration of the surrounding record when vengeance or manifestly vexatious prosecution is plausibly alleged; *Chilakamarthi Venkateswarlu*, *Akhil Sharda* and *Sunder Babu* affirm the restriction against conducting a mini-trial under Section 482. The claimed proximity of forest land to the mining area, the contractor's alleged mistake and the asserted absence of mens rea required evidence. The permit conditions and the alleged excavation of a drain with a JCB precluded quashing.

Contradictions — materiality and assessment of the evidence as a whole - *Mritunjoy Biswas*, *Shyamal Ghosh*, *S. Govindaraju*, *Sunil Kumar Sambhudayal Gupta*, *U.P. v. Naresh*, *Brahm Swaroop*, *Yogesh Singh* and *Ahmed Shah Khan Durrani* distinguish normal variation from omissions or contradictions reaching the core. The alleged differences between the statements did not go to the root of the case; the High Court would not conduct a trial of credibility under Section 482. The trial court remains free to assess the evidence.

Case-note :- ***1. Facts :*** Mukesh Kumar Sharma, then SECL Sub Area Manager/Deputy General Manager overseeing Rajendra and Khairaha mines near Shahdol, applied under Section 482 CrPC to quash forest-offence complaint POR No. 20078/2022 of 25 December 2022 and JMFC Budhar proceeding RCT No. 933/2023. He had worked in the area from June 2021 until 27 May 2023 and later transferred to NCL Singrauli. SECL had Forest Department permission from 2011, extended on 10 June 2022, to fill mining-related cracks as a safety measure. The permission expressly prohibited taking loose earth from forest land or using machinery. A contractor, Mohammad Ismail, had a 9 October 2021 work order and was also facing trial. The applicant's 17 June 2022 letter assigned implementation to the Mine/Colliery Manager and instructed compliance.

Forest officers sent repeated notices from 30 August 2022 into 2023; the applicant or successor responded with the permit, delegation and the mine manager's assertion that monsoon crack filling was urgent and compliant. The Forest Department alleged that contrary to the explicit conditions a JCB dug a drain in forest land to obtain loose earth. A POR named the applicant as accused no. 2 and the charge-sheet was accepted by the Magistrate on 20 December 2023. The proceeding referred to Section 26(1)(h) of the Forest Act. The applicant said his broad executive and employee-welfare duties and employment on the SECL payroll made him a public servant under Section 21 IPC entitled to protection under Section 197; he denied personal culpability after delegating the work. He argued proximity of forest and mine land could explain an honest mistake by the contractor without mens rea, invoked *Mahmood Ali* for close reading of the record, and attacked witness

consistency. The State said the permit's two clear restrictions were breached. At argument counsel acknowledged both the restriction and the allegation of a JCB-dug forest drain. These were threshold allegations; guilt was not tried.

2. Precedents — Considered : *Centre for Public Interest Litigation v. Union of India, (2005) 8 SCC 202*, explained the purpose of Section 197: to protect officials from vexatious proceedings for acts reasonably connected to official duty, while preventing official status from being used as a cloak for objectionable acts. An excess committed while performing an act reasonably connected to duty can be protected. Its test asks whether failure to perform the act complained of could itself expose the official to a charge of dereliction of duty. *State of H.P. v. M.P. Gupta, (2004) 2 SCC 349*, reiterated the requirement of a connection with duty and explained the bar on cognizance where the statutory conditions are satisfied: it quoted *P. Arulswami* on the quality of the act, *B. Saha*'s approach between an unduly narrow interpretation and unlimited protection, and *Matajog Dobey*'s requirement that a claim of connection with duty be reasonable rather than fanciful. It also described initial strict identification of duty, followed by a liberal view of conduct once actual duty is established. *S.K. Zutshi v. Bimal Debnath, (2004) 8 SCC 31*, reiterated that colour of office protects an act reasonably related to duty, not an unrelated criminal act merely occurring during service, again quoting *Matajog*. *Devinder Singh v. State of Punjab, (2016) 12 SCC 87*, emphasized the stage and material then available: the allegations are taken as alleged for the sanction inquiry, not tried for truth. Its reproduced *Satyavir Singh Rathi* and *B. Saha* passages and police-beating examples illustrate conduct outside duty; the examples from *Atma Ram* and *Bhanuprasad* appeared within the quoted passage and were not separately applied to the facts of the forest excavation. The High Court drew from these four authorities its qualified test, treated a permit violation as outside duty on the present charge-sheet, and expressly left status and nexus open after evidence.

Mahmood Ali v. State of U.P. was the applicant's principal Section 482 authority. Its reproduced passage directs closer examination of the surrounding record, rather than only the wording of a carefully drafted complaint, where abuse or personal vengeance is alleged, including materials collected during investigation. The Court considered that authority but did not treat it as permission to determine the disputed questions of proximity, mistake and mental state. *Chilakamarthi Venkateswarlu v. State of A.P., (2020) 17 SCC 595*, permits intervention for grave and clear injustice where no other provision of law offers relief, or where the ingredients of an offence are altogether absent, while forbidding assessment of the reliability of evidence; the references to *Zandu Pharmaceutical Works*, *S.W. Palanitkar*, *Annamalai*, *Sharda Prasad Sinha*, *Nagawwa* and *Dharampal* within that passage explained those limits and did not constitute separate findings on the present facts. *State of U.P. v. Akhil Sharda, 2022 Cri LJ 4374*, forbids a mini-trial and cautions against curtailing a wider prosecution on an isolated point. The quoted passage concerned an excise conspiracy; those facts were not findings in the present case. *Sunder Babu v. State of T.N., (2009) 14 SCC 244*, reproduced *Minu Kumari*'s approach requiring inherent powers to be exercised sparingly and cautiously to prevent abuse or secure justice, without stifling a legitimate prosecution. The quoted judgment allowed the appeal and quashed the proceedings before it; the High Court nevertheless declined to quash the present proceeding. Applying these principles, the Court left the asserted forest/mine boundary mistake and mens rea to trial.

Mritunjoy Biswas v. Pranab, (2013) 12 SCC 796, requires a discrepancy to go to the root of the matter and create a serious doubt before it undermines the case. *Shyamal Ghosh v. State of W.B., (2012) 7 SCC 646*, elaborated that an omission under the Explanation to Section 162 CrPC "may" amount to a contradiction only if significant in context, requiring the testimony to be assessed as a whole rather than through isolated excerpts; it referred to *Leela Ram*, *Rammi*, *Sunil Kumar Sambhudayal Gupta* and *Subhash* on that point. *S. Govindaraju v. State of Karnataka, (2013) 15 SCC 315*, contrasted normal variations with contradictions materially affecting trial and cautioned that appellate review of credibility requires reasons. *State of U.P. v. Naresh, (2011) 4 SCC 324*, *Brahm Swaroop v. State of U.P., (2011) 6 SCC 288*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, likewise require cautious evaluation of the whole account and do not discard it for trivial embellishments; the examples cited within *Yogesh* support that test. The High Court found no discrepancy going to the root of the case in the statements placed before it, but did not adjudicate ultimate trial credibility.

3. Statutes considered : Section 197(1) CrPC was the main sanction provision: previous sanction applies only to a specified protected public servant who is not removable except by or with government approval, for an act done or purportedly done in official duty; subsection (1)(a) concerns Union employment. The Court quoted the fuller provision including exclusions for enumerated IPC offences and armed-force clauses, but those were not operative here. The applicant's claim to be a public servant under Section 21 IPC was not treated as satisfying the separate employment and removal conditions under Section 197, especially since SECL is a company rather than the Central Government itself. These points were provisional at this stage.

Section 482 CrPC framed the challenge to POR and JMFC proceedings and the limits on resolving disputed facts; the Explanation to Section 162 CrPC appeared in the witness-omission authorities. Section 26(1)(h) of the Forest Act was the alleged forest offence identified in the notices; the express permit conditions and alleged JCB excavation supplied the context for refusing quashment. Counsel's argument about lack of mens rea and contractor mistake remained a defence requiring evidence.

4. Issues : (i) Did the applicant qualify for Section 197 protection as an SECL employee, and did alleged digging of forest earth with a JCB contrary to the permit reasonably relate to his actual or purported official duties? Were those answers final at the Section 482 stage? (ii) Could his delegation letter and lack of direct operation of the machinery automatically end his exposure as the manager tasked with mine oversight, absent an identified power to delegate? (iii) Did proximity of forest and mine land, contractor mistake, asserted absence of mens rea and perceived witness variations warrant quashing, or require trial evidence? (iv) How should the contextual review of the record described in *Mahmood Ali* where abuse is alleged be reconciled with the restriction against a mini-trial and the test for material contradictions in the other cited authorities? The Court was not deciding whether the forest offence or any individual's guilt was finally proved.

5. Ratio / Findings : Section 197 involves two separate prerequisites. The forest permission prohibited collection of earth from forest land and use of machinery. Counsel acknowledged those conditions and that the prosecution alleged excavation of a drain in forest land with a JCB contrary to them. Applying the Supreme Court's tests concerning a reasonable connection with duty, the distinction between an excess in duty and an independent wrong, and the stage of the proceeding, the Court held this alleged activity could not, on the present material, be treated as an act done in the actual or purported discharge of official duty. It also observed that an SECL employee was not, on the existing record, a Central Government employee under Section 197(1)(a), despite the applicant's Section 21 IPC claim.

The applicant had described his duties of overseeing mine operations, including approvals and supervision. He offered a letter assigning execution to a subordinate, but no governing instrument authorising delegation of that responsibility. The Court rejected the assertion that delegation by itself absolved him. It stated that unauthorised delegation coupled with failure to supervise would amount to negligence and would not relieve him of what it described as "vicarious liability". The disputed facts and the defence of mistake and absence of mens rea remained for trial. The proximity of the forest land to the mining area and the contractor's bona fide mistake were disputed factual matters, although counsel acknowledged that digging in forest land was alleged; the Court would not decide them by inspecting drawings at the Section 482 stage.

Mahmood Ali calls for contextual scrutiny where a prosecution is alleged to be vexatious or retaliatory. The Court nevertheless held that it could not conduct a mini-trial to determine the disputed facts in this case. *Chilakamarthi*, *Akhil Sharda* and *Sunder Babu* supported restraint where the alleged conduct could constitute an offence and factual defences require proof. The Court examined the witness statements and rejected the claim of a contradiction going to the root of the case, explaining through the eight direct Supreme Court discussions that normal variations do not vitiate a case; materiality depends on whether a discrepancy affects the core of the case when the evidence is considered as a whole. It left final credibility to trial. The continuing proceeding, rather than a finding of criminal liability, was the legal consequence.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC to quash forest complaint POR No. 20078/2022 and RCT No. 933/2023. The prosecution before JMFC Budhar could proceed. The trial court remained free to

decide, after recording evidence, whether the applicant qualified for protection under Section 197 and whether the act was connected with official duty, as well as the factual defence and guilt. The preliminary observations did not amount to a conviction.

Mukesh Kumar Sharma v. The State of Madhya Pradesh and Others, M.Cr.C. no. 11791/2024, 29/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (485) Prev Next

Headnote :- Revision — concurrent findings in fatal road accident - *Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, limits reappraisal of concurrent factual findings without perversity or a jurisdictional defect. The applicant's truck struck a stopped motorcycle from behind in a jam, running over its pillion rider. The motorcycle rider was not confronted with a sudden-entry theory, and another witness described high truck speed. The High Court found that the concurrent findings were neither perverse nor contrary to the record and affirmed the Sections 279 and 304-A convictions; the existence of a possible alternative account alone did not permit substitution of the High Court's own factual findings.

Sentence — Section 304-A IPC — deterrence and distinction from a case involving compensation - *Sagar Lolienkar v. State of Goa, (2022) 1 SCC 161*, involved a seven-month custody term and ₹3,00,000 compensation; no comparable compensation was deposited here. *Dalbir Singh v. State of Haryana, AIR 2000 SC 1677*, emphasised deterrent imprisonment for professional drivers whose rash driving causes death and cautioned against probation in that context. The absence of an intoxication allegation did not warrant reducing the sentence of one year's rigorous imprisonment for this heavy-vehicle collision during a traffic jam. The ₹500 fine and default term stood.

Case-note :- ***1. Facts :*** Mukesh Kumar sought revision under Sections 397 and 401 CrPC against the judgment dated 14 September 2021 of the Third Additional Sessions Judge, Guna, dismissing Criminal Appeal No. 63/2019. That appeal had affirmed the JMFC Aron judgment of 21 February 2019 in Criminal Case No. 665/2013. The trial court convicted him under Sections 279 and 304-A IPC, imposing one year's rigorous imprisonment and a fine of ₹500, with one month's rigorous imprisonment in default, under Section 304-A. It imposed no separate sentence under Section 279, describing it as the lesser driving offence. The charge framed and affirmed was under Section 279 IPC.

The prosecution alleged that on 5 October 2013 Rakesh Singh (PW-1) stopped his motorcycle in a traffic jam near Kamneshwar Dhaba on the Aron–Guna route with Devendra Shrivastava riding pillion. The applicant's truck, MP09 GF 7624, struck it from behind; the pillion rider fell and the truck ran him over, causing immediate death. Bystanders stopped the truck and driver. Rakesh reported the event, leading to Crime No. 433/2013 under Sections 279, 337 and 304-A IPC. The investigation included postmortem, scene map, seizure of the truck from the applicant, arrest, mechanical inspection and witness statements. Nine prosecution witnesses testified; the applicant called none. The challenge in revision relied on part of the account given by Lalaram (PW-4) to suggest that Rakesh suddenly came into the road and was negligent. The State supported the two earlier decisions.

The applicant also sought a reduced sentence by relying on *Sagar Lolienkar*, in which seven months already undergone had been treated as the substantive sentence. The High Court considered the compensation paid and the circumstances of that case, addressed deterrence for a heavy-vehicle driver after a fatal collision, and left the one-year term unchanged. The applicant was in jail when the revision was decided.

2. Precedents — Considered : *Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, was quoted for the restriction on a revisional court disturbing concurrent findings of fact in the absence of perversity. It also precluded reanalysis or reinterpretation of the evidence merely to reach another view. The reproduced passage referred to *Southern Sales & Services v. Sauermilch Design, (2008) 14 SCC 457*, to emphasise the need for a jurisdictional error, rather than ordinary disagreement on the facts, to justify revisional interference. Although the quotation mentions Section 482, the present Court applied the principle in a Sections 397/401 criminal revision and stated that the concurrent findings had to be perverse and contrary to the record before interference was warranted. It examined the PW-1/PW-4 submission enough to find no such defect, without undertaking a fresh appeal on facts.

Sagar Lolienkar v. State of Goa, (2022) 1 SCC 161, was cited by the applicant to support a sentence limited to time served, described as seven months. The High Court identified an important distinguishing fact: the offender there deposited ₹3,00,000 compensation, whereas the present applicant offered none.

Dalbir Singh v. State of Haryana, AIR 2000 SC 1677, was quoted extensively on the need to protect public safety through deterrent sentences when rash driving causes death, particularly where professional drivers operate vehicles throughout their working hours. It warned that routine leniency or probation can diminish the needed caution and discussed Section 4 of the Probation of Offenders Act for a Section 304-A road death. The High Court applied that deterrence principle in declining to reduce the one-year sentence for the truck striking a motorcycle during a traffic jam.

3. Statutes considered : Sections 397 and 401 CrPC governed revision and the limited grounds for interference with concurrent findings. Section 304-A IPC concerned causing death by rash or negligent driving; Section 279 IPC concerned rash driving on a public way and was a concurrent conviction without a separate sentence in the trial court's order. Section 337 IPC appeared in the initial FIR but not as an affirmed conviction. The Court considered a driver's duty of attention, impact from behind, traffic jam and high speed in sustaining the 304-A finding.

4. Issues : (i) Did the alleged sudden movement or negligence of the motorcycle rider reveal perversity in the concurrent findings that the truck driver caused the fatal collision by rash or negligent driving, permitting factual intervention in a Sections 397/401 revision? (ii) Should the one-year rigorous imprisonment under Section 304-A be reduced to the period already undergone by analogy to *Sagar Lolienkar*, where a seven-month term had been treated as sufficient, in light of the absence of compensation, lack of intoxication allegation and public-safety deterrence emphasized in *Dalbir Singh*? The revision did not re-open a distinct Section 337 charge or seek a new trial on the full evidence.

5. Ratio / Findings : Relying on *Bir Singh*, the Court stated that it could not replace the concurrent factual findings unless they were perverse and contrary to the record. The quoted authority also referred to revisional restraint in the absence of a jurisdictional error. PW-1 testified from personal knowledge that the truck hit his stopped motorcycle from behind during a jam, after which the truck ran over the pillion rider. The asserted sudden-entry theory was not put to PW-1 in cross-examination. Lalaram spoke of high truck speed. Even assuming an entry immediately before impact, the driver of a heavy truck still had to remain attentive and maintain control of the vehicle. No perversity was shown, so the Section 279 and 304-A convictions were affirmed without a new evidentiary trial.

On sentence, the Court treated safe passage on public roads and deterrence of professional drivers as central. It distinguished the reduction to time served in *Sagar* on the ground that ₹3,00,000 had been paid as compensation in that case; none had been offered here. There was no intoxication allegation, but the fatal rear-end collision during a traffic jam remained serious. Drawing on *Dalbir Singh*'s deterrent reasoning, it declined any reduction of the one-year rigorous term and fine. The sentence was maintained on the facts of this collision and the comparison advanced by the applicant.

6. Relief : The Hon'ble High Court dismissed the criminal revision in limine. The trial conviction and appellate affirmance under Sections 279 and 304-A IPC, the sentence under Section 304-A of one year's rigorous imprisonment, the fine of ₹500 and the default term of one month's rigorous imprisonment were upheld. The applicant, already in jail, was to serve the remainder; the records were ordered to be returned immediately to the courts below with a copy of the High Court judgment for compliance.

Mukesh Kumar v. The State of M.P., Cr.R. no. 1041/2022, 06/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (486) Prev Next

Headnote :- Inherent powers — successive quashing challenge — genuinely changed circumstances - *Superintendent and Remembrancer of Legal Affairs, West Bengal v. Mohan Singh, (1975) 3 SCC 706*, allowed a later petition on a materially changed record after an earlier refusal without a decision on the merits, followed by a prolonged lack of progress in the prosecution. *Bhisham Lal Verma v. State of U.P., 2023:INSC:955*, and *M.C. Ravikumar v. D.S. Velmurugan, SLP (Criminal) No. 12715/2022*, decided 23 July 2025, preclude repeated Section 482 applications based on grounds that were available earlier, without imposing an absolute ban on a

second petition; Section 362 prevents disguised review of a final order. The applicants had withdrawn fully argued charge revisions with limited liberty, then challenged the same charge-sheet under Section 482 on admissibility and hearsay grounds that had already been available. Six prosecution witnesses had testified, and the applicants had not produced complete trial order sheets showing a halt in the proceedings comparable to that in *Mohan Singh*. The subsequent application was dismissed on maintainability alone; the trial merits remained open.

Case-note :- ***1. Facts :*** Mukesh Swaroop Johri and co-applicants invoked Section 482 CrPC in Misc. Criminal Case No. 18259 of 2025 to quash the CBI prosecution in Sessions Trial No. 728/2014 before the Special Judge (CBI/Vyapam) and Fourth Additional Sessions Judge, Gwalior. Applicant no. 1 had challenged the order framing charges in Criminal Revision No. 1865/2020; applicant no. 2 in No. 1916/2020. Those revisions sought to set aside charges and discharge the applicants under Section 227. After extensive argument on 17 October 2024, each applicant sought withdrawal with liberty to raise grounds before the appropriate court at the appropriate stage in accordance with law. The Division Bench granted that request and dismissed both as withdrawn, without a merits ruling.

The later petition asserted a change in circumstances and relied on *Mohan Singh* on the ground that the criminal trial had not concluded. The CBI disputed maintainability but offered no case citation despite requests. The applicants acknowledged that trial was underway and six prosecution witnesses had been examined. They did not submit complete trial order sheets showing that the prosecution had failed to progress despite cooperation by all the accused, or that no accused was responsible for the delay. The new petition challenged the admissibility of a co-accused's confession on the grounds that it had been recorded on oath, was not in question-and-answer form and had been recorded without a warning about its consequences. It also raised a hearsay objection to Vinay's account of his brother Vijay arranging a postgraduate seat for applicant no. 2, relied on the alleged death of a witness without producing a certificate, and invoked Sections 25–26 of the Evidence Act against police confessions that had not led to discovery. These were counsel's grounds, not merits findings by this Bench. The Court found all were based on the same charge-sheet and were available when charges and the revisions were argued.

2. Precedents — Considered : *Superintendent and Remembrancer of Legal Affairs, West Bengal v. Mohan Singh, (1975) 3 SCC 706*, concerned an earlier application under Section 561-A of the 1898 Code rejected without adjudication because factual questions needed evidence. A subsequent application was held maintainable after the criminal case had made no progress at all for about one and a half years. The present Court distinguished that case on the basis of the changed circumstances and complete lack of trial progress there: here the charge revisions were argued, withdrawn at the applicants' election when an unfavourable merits order was impending, and six trial witnesses had testified. The passage of time alone, without complete order sheets showing that neither the applicants nor any co-accused was responsible for the delay, did not establish circumstances comparable to *Mohan Singh*.

Bhisham Lal Verma v. State of U.P., 2023:INSC:955, was quoted for the principle that there is no absolute bar to a second Section 482 petition, but grounds already available cannot be raised in successive instalments. In that case a second challenge to the charge-sheet/cognizance followed an earlier petition limited to sanction, although the material predated the first petition. The reproduced discussion of *Simrikhia v. Dolley Mukherjee, Sooraj Devi v. Pyare Lal and R. Annapurna* explained the restriction under Section 362 on using inherent power to review final orders. The Madras High Court's observation in *S. Madan Kumar* that known grounds should not be withheld was quoted and approved in *Bhisham Lal*; the present Court used the principle to assess the applicants' unchanged charge-sheet grounds, not to say that withdrawal itself was a merits dismissal.

M.C. Ravikumar v. D.S. Velmurugan, SLP (Criminal) No. 12715/2022, decided 23 July 2025, held that the petitioner must show changed circumstances for a later quashing petition; a plea that was available but omitted earlier cannot provide a fresh basis for a petition merely because it is advanced later. It reiterated *Bhisham Lal* and Section 362, and reproduced the explanation in *Simrikhia* that *Mohan Singh* concerned different circumstances, together with the rule in *Sooraj Devi* that inherent power cannot be exercised contrary to an express bar in the Code. The Court adopted the qualified rule in considering a Section 482 petition filed after revisions against the framing of charges:

despite the different statutory provisions, the earlier revisions sought discharge and the later petition again challenged the sufficiency of the same prosecution material. The discussion of the property complaint in the reproduced judgment concerned *Ravikumar*; the present proceedings concerned the Vyapam trial.

3. Statutes considered : Section 482 CrPC preserves the High Court's inherent power to prevent abuse and secure justice but cannot serve as repeated review of an unchanged earlier challenge. The review bar under Section 362 CrPC was discussed through *Bhisham Lal* and *Ravikumar*; the principle bears on successive petitions, while this particular earlier disposition was withdrawal rather than a merits adjudication. Sections 397 and 401 governed the prior charge revisions, and Section 227 the discharge relief sought there. The earlier Supreme Court *Mohan Singh* proceeding arose under Section 561-A of the 1898 Code, treated as the analogous inherent-power context.

4. Issues : (i) Did withdrawal of the earlier fully argued charge revisions with liberty to raise grounds later make this Section 482 petition maintainable even though it relied on the same charge-sheet and grounds then available? (ii) Did the examination of six prosecution witnesses, in the absence of complete order sheets or any demonstrated new event, distinguish the case from *Mohan Singh*, where the later petition followed a halt in the prosecution? (iii) Would allowing successive challenges on old objections circumvent the qualified rules on finality and abuse of process stated in *Bhisham Lal* and *Ravikumar*? The Court explicitly considered maintainability before merits and did not decide whether the confessions, hearsay or deceased-witness assertion would succeed at trial.

5. Ratio / Findings : The first proceeding was not decided on merits; the applicants themselves withdrew after lengthy argument with liberty to raise the grounds before the appropriate court at the appropriate stage in accordance with law. That liberty was not an unconditional licence to repeat the same charge challenge under a new provision. The new Section 482 application and the earlier revisions both asked the High Court to decide whether the existing charge-sheet contained sufficient material for prosecution. The alleged confession defects, hearsay and other evidence objections existed when charges were framed and the revisions were argued. A claimed witness death was unsupported by a certificate in either the petition or trial court. No fresh material was shown. Formal reliance on Section 482 could not transform already available pleas into changed circumstances.

Mohan Singh was different because the first inherent-power refusal left facts for trial and the case then wholly ceased progressing for about eighteen months. Here six witnesses had testified, and applicants omitted complete order sheets needed to assess responsibility for any delay. *Bhisham Lal* and *Ravikumar* recognise that a second petition may be maintainable depending on the facts, but preclude raising available grounds in separate petitions and seeking review through inherent power. On this record the applicants had not established a new circumstance; entertaining the petition would reopen their earlier challenge to the charges and impede the ongoing trial. The Court therefore dismissed it as not maintainable. It did not rule that every second petition or every petition after withdrawal is barred, nor determine the contested CBI evidence or eventual guilt.

6. Relief : The Hon’ble High Court dismissed the Section 482 application to quash Sessions Trial No. 728/2014 as not maintainable.

Mukesh Swaroop Johri and Others v. Central Bureau of Investigation, M.Cr.C. no. 18259/2025, 11/11/2025, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (487) Prev Next

Headnote :- Cruelty — Section 498-A IPC — short residence and household witnesses - A wife is not required to remain in an allegedly abusive matrimonial home for a minimum period. Laxmibai's 30–35 days over four visits did not discredit her account of repeated ₹50,000 and motorcycle demands, assault, and a renewed demand during an attempt at reconciliation. Her brother and father supported her; independent witnesses were unlikely to have witnessed the conduct within the home. The husband had not put to these witnesses any suggestion that he had taken steps to bring her back. On this evidence the conviction stood.

Revision — concurrent factual findings - Following *Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, Sections 397 and 401 CrPC do not allow substitution of factual findings unless the concurrent findings are perverse or contrary to law, or the court lacked jurisdiction to try the offence. The applicant

established no such ground for interference with the concurrent Section 498-A findings. The revision was dismissed at admission and the sentence of one year's rigorous imprisonment and the fine of ₹1,000 were affirmed.

Case-note :- ***1. Facts :*** Mukesh sought revision under Sections 397 and 401 CrPC against the decision dated 7 April 2022 of the Additional Sessions Judge, Pichhore, in Criminal Appeal No. 26/2017, which affirmed the JMFC Khaniyadhana judgment of 4 October 2016 in RCT No. 373/2015. He had been convicted under Section 498-A IPC and sentenced to one year's rigorous imprisonment and a fine of ₹1,000, with two months' rigorous imprisonment in default. The prosecution alleged that after marriage to Laxmibai on 26 May 2013 he and his father demanded ₹50,000 and a motorcycle and harassed her for nonfulfilment. The father-in-law died during the appeal; this revision concerned Mukesh's own conviction.

Laxmibai (PW-1) said that the harassment began soon after marriage. She was beaten, informed her brother Hariram, and later lived in her parental home at Kundanpur. She testified that the husband and his father reiterated the demand even when they came for reconciliation. In cross-examination she accepted that she had visited the matrimonial home three or four times, stayed about 30–35 days in all, and lived apart from 25 December 2014. Her brother Hariram (PW-2) and father Narayan Ju (PW-3) supported her account. The husband argued that her short stay could not sustain a finding of cruelty, the family witnesses were interested, no independent witness had testified, and reconciliation remained possible. The State responded that household conduct rarely has independent eyewitnesses and her account was trustworthy. The High Court examined those submissions and the limited revision standard.

2. Precedents — Considered : The Court applied *Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, and held that revision is not another factual appeal from concurrent findings and that an alternative or even erroneous view is not enough unless the findings are perverse or contrary to law, or the court lacked jurisdiction to try the offence. It applied that restraint after explaining why Laxmibai's short total stay did not make her evidence inherently unreliable and why corroboration by family members was unsurprising in a domestic dispute.

3. Statutes considered : Section 498-A IPC was the conviction provision for alleged matrimonial cruelty connected to the monetary and motorcycle demands and physical ill-treatment. The Court's finding concerned the evidence: a short stay did not make her account of ill-treatment during repeated visits unreliable. Sections 397 and 401 CrPC governed the High Court's revisional review. Interference with concurrent findings was limited to perversity, findings contrary to law or absence of jurisdiction to try the offence. The applicant's counsel could identify no provision requiring an ill-treated wife to remain in the matrimonial home. The Court considered the absence of efforts by the husband to bring her back when assessing the testimony.

4. Issues : (i) Did the complainant's approximately 30–35 days in the matrimonial home over several visits, and the mainly family testimony about domestic harassment, make the Section 498-A conviction unsustainable? (ii) Did the husband establish that the concurrent findings were perverse or contrary to law, or that the court lacked jurisdiction to try the offence, so as to justify admitting and allowing a revision under Sections 397/401?

5. Ratio / Findings : The Court noted that the applicant's counsel could identify no provision requiring a wife to remain in the matrimonial home despite ill-treatment. Laxmibai described multiple visits and repeated demands and assault, including a demand renewed during a later reconciliation discussion. Her decision to return to her parental home after a total of 30–35 days therefore did not make her account unreliable. Her brother and father corroborated it. The absence of an independent witness was not decisive because the alleged conduct occurred within the home; the Court also noted that no suggestion was put to the witnesses of any effort by the husband to bring her back or any legal recourse for restitution of conjugal rights. These circumstances supported the credibility of her evidence. The applicant's conviction, recorded by the trial court and affirmed in appeal, was upheld.

Applying *Bir Singh*, the High Court could not reassess the same family testimony merely to substitute its own findings under Sections 397 and 401. The applicant did not show that the concurrent findings were perverse or contrary to law, or that the courts lacked jurisdiction to try the offence. Having found the wife's evidence credible and the argument based on her short stay unsound, the Court held the revision did not merit admission.

6. Relief : The Hon'ble High Court dismissed the revision. The appellate judgment of 7 April 2022 and JMFC judgment of 4 October 2016 were affirmed, leaving Mukesh's conviction under Section 498-A IPC, the sentence of one year's rigorous imprisonment and the fine of ₹1,000, with two months' rigorous imprisonment in default, in place.

Mukesh v. State of M.P., Cr.R. no. 1360/2022, 22/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Bail — witness credibility / prima facie inquiry - *Satish Jaggi v. State of Chhattisgarh, (2007) 11 SCC 195*, permits a prima facie assessment at bail that takes account of the nature and gravity of the offence, while reserving findings on the credibility and evidential value of prosecution witnesses for trial. In this seventh Section 439 application, alleged discrepancies in recorded testimony did not justify a final assessment of credibility that could prejudice the pending prosecution.

POCSO — proof of victim's age - Relying on the approach to age documents in *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, and referring to Section 94 of the Juvenile Justice Act, 2015, the Court held that the school record indicating minority at the time of the incident was not conclusively displaced for bail by the prosecutrix's asserted declaration at her 2018 marriage that she was 22.

Successive bail — custody and trial delay - Custody since 13 June 2018 and a renewed assertion of delay did not establish that the applicant was not responsible for the trial delay, because he again failed to produce the trial court's order sheets despite the earlier rejection of that contention for the same omission. On this record, and with the merits and age contentions unresolved at trial, the seventh bail application was dismissed.

Case-note :- ***1. Facts :*** Mukesh moved his seventh application under Section 439 of the Code of Criminal Procedure, 1973 in MCRC No. 28229/2020. He had been arrested on 13 June 2018 in connection with Crime No. 27/2017 at Police Station Aswar, Bhind, for alleged offences under Sections 363, 366 and 376 of the Indian Penal Code and Sections 3/4 of the Protection of Children from Sexual Offences Act. These were allegations in the pending prosecution, not findings of guilt in this bail decision. A previous application had been rejected on merits by order dated 25 September 2018 in MCRC No. 29669/2018. A further order dated 25 February 2020 in MCRC No. 8167/2020 had rejected the asserted trial-delay ground because the trial court's order sheets had not been produced.

By the present hearing, the material prosecution witnesses had testified. Counsel for Mukesh submitted that their evidence contained material discrepancies. Counsel also submitted that the prosecutrix married in 2018 and stated her age then to be 22, whereas the school record relied on by the prosecution indicated that she was a minor when the alleged incident occurred. The period of custody was also invoked as a ground for release. The Court heard the application finally by video conference on 21 August 2020 and considered whether those contentions justified bail at this stage.

2. Precedents — Considered : *Satish Jaggi v. State of Chhattisgarh and Others, (2007) 11 SCC 195*, was quoted at length in paragraph 4. The passage recognises that even for a non-bailable offence circumstances may justify bail, with the nature and gravity of the offence a primary consideration; the bail court may examine whether a prima facie case exists. It criticises an order that reached findings on prosecution witnesses' credibility and evidential value during an ongoing trial, in effect deciding the criminal charges before trial and risking prejudice to the prosecution. Reliability must be tested at trial. The High Court applied this distinction to the proposed inquiry into discrepancies in already-recorded material testimony: it declined to make a final assessment of credibility on the seventh bail application. The quoted passage permits a prima facie inquiry and recognises that, although the nature and gravity of the offence are primary considerations, the facts and circumstances may justify bail in a non-bailable offence. Findings on witness credibility remain for trial.

Jarnail Singh v. State of Haryana, (2013) 7 SCC 263, was cited in paragraph 6 for applying the Juvenile Justice procedure for determining age to a victim of crime. That decision concerned Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007. In the present case, the High Court referred to Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and treated the school record as indicating that the prosecutrix was a minor at the time of the incident. It left the effect of

her asserted later declaration of age in other proceedings to the trial court.

The High Court's orders of 25 September 2018 and 25 February 2020 formed the procedural history of the case. The former denied bail on the merits; the latter had already rejected the same delay argument because the trial court's order sheets had not been produced.

3. Statutes considered : Section 439 CrPC supplied the jurisdiction for a regular bail application, including this successive request. The Court addressed the permissible scope of assessment of witness evidence at bail and whether the custody-delay record supported release; the inquiry remained one of bail. IPC Sections 363, 366 and 376 and POCSO Sections 3/4 were invoked in the alleged kidnapping and sexual-offence prosecution. They were relevant to the gravity of the allegations and the significance of age, while the prosecution remained pending and guilt was not determined in the bail proceedings. Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 was identified for the relevance of documents to age assessment, with the school record contrasted against a subsequent age statement.

4. Issues : (i) Whether the bail court should resolve the credibility of material witnesses whose trial evidence had been recorded, in light of claimed discrepancies, or confine itself to the permissible prima facie appraisal. (ii) Whether the prosecutrix's asserted declaration of age 22 at a 2018 marriage displaced the school record indicating minority at the incident for purposes of the present bail decision, or required trial assessment. (iii) Whether the length of custody since June 2018 and alleged trial delay justified bail in a seventh application when trial order sheets had not been placed on record after the same omission had led to the rejection of an earlier contention based on delay. The Court was deciding bail, not guilt, the ultimate credibility of the witnesses or final age.

5. Ratio / Findings : On the alleged discrepancies in witness testimony, the Court applied the distinction in *Satish Jaggi* between a permissible prima facie inquiry at bail and a premature determination of the reliability and credibility of prosecution evidence. The material witnesses had testified, and counsel for the applicant relied on alleged inconsistencies in their evidence. Given the ongoing prosecution and the risk of prejudicial merits findings, the Court declined to make that final appraisal. The decision leaves the trial judge to test the credibility and reliability of the evidence, while permitting the bail court to consider the prosecution material for a prima facie assessment.

On age, the applicant relied on a later declaration of adulthood at the prosecutrix's reported 2018 marriage. The Court identified the school record as indicating that she was a minor when the alleged incident occurred and relied on the approach to age documents in *Jarnail Singh* and referred to Section 94. It did not treat the later statement as conclusively correcting the earlier school record.

On trial delay, the Court found that the necessary evidentiary basis for determining responsibility had not been supplied: Mukesh had not filed the trial court order sheets to show he was not responsible, despite the February 2020 rejection of the same contention for that reason. With the earlier merits refusal, the request for an assessment of witness credibility at bail, and the age question properly reserved, no ground for bail was shown on this record.

6. Relief : The Hon'ble High Court dismissed the seventh application for regular bail under Section 439 CrPC.

Mukesh v. State of MP and Ors., M.Cr.C. no. 28229/2020, 21/08/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal revision — post-conviction surrender / exemption - Applying *Vivek Rai v. High Court of Jharkhand, (2015) 12 SCC 86*, the Court recognised that a revision under Sections 397/401 CrPC could be registered despite a High Court rule requiring surrender. Posting it for admission without surrender remained subject to the High Court granting exemption in an exceptional case under its inherent power. *Deepak Sahu v. State of M.P., 2012 (3) MPLJ 534*, was also cited on maintainability. Mullu's conviction under Section 379 had been affirmed, but his exemption application relied only on the asserted absence of a CrPC requirement to surrender and his earlier bail; he had neither supplied an exceptional reason nor surrendered after several adjournments. The Court refused exemption and dismissed the revision as not maintainable. The Court acknowledged that surrender could be exempted in an exceptional case, but found that no such case had been made out.

Case-note :- ***1. Facts :*** Mullu Prajapati was convicted under Section 379 IPC by the Judicial Magistrate First Class, Bhander, in Criminal Case No. 334/2015 on 7 September 2018. The sentence was one year's rigorous imprisonment and a fine of ₹1,000, with two months' further rigorous imprisonment in default. The First Additional Sessions Judge, Datia, dismissed Criminal Appeal No. 113/2018 and affirmed the conviction and sentence on 13 August 2021. Mullu then filed Criminal Revision No. 3174/2021 under Sections 397 and 401 CrPC on 26 November 2021. He had not surrendered after the appeal. The High Court addressed surrender and exemption without reviewing the merits of the conviction.

Counsel conceded that the applicant had not surrendered, but disputed the proposition that the Court could not entertain a revision without a surrender certificate. Relying on *Vivek Rai*, he submitted that the Court had discretion to exempt him from surrender and asked for time to surrender. IA No. 32509/2021 sought exemption, saying there was no CrPC mandate to surrender and that Mullu had remained on bail at trial and on appeal. It stated no circumstance explaining why exemption should be granted in this case. A separate IA No. 32507/2021 for exemption from surrender had been withdrawn at the 30 November 2021 listing. The Court granted time on 8 December to file a surrender certificate; the matter was adjourned again on 20 December and, on counsel's request, on 3 January 2022. As of the 18 January hearing he still had not surrendered.

The High Court considered how registration of a revision, the surrender rule for admission and the power to grant exemption in an exceptional case operate together. This was a question of custody after conviction and appellate affirmance.

2. Precedents — Considered : *Vivek Rai and another v. High Court of Jharkhand through Registrar General and others, (2015) 12 SCC 86*, was relied on, and paragraph 11 was quoted. The Supreme Court rule as the present Court understood it allows a revision under Sections 397/401 CrPC to be registered even where High Court rules prescribe surrender, since the rules cannot defeat the substantive revisional jurisdiction. The Court distinguished registration from posting a revision for admission without surrender. The quoted paragraph preserves an inherent power to grant exemption in exceptional situations on an application that makes out a case, having regard to its nature and circumstances; when exemption is granted and listing directed, the rule cannot preclude that exercise of jurisdiction. The High Court accepted that framework, then asked whether Mullu had shown any exceptional circumstance. It did not hold that the rule itself categorically eliminated revision jurisdiction, nor that exemption followed merely because trial and appeal bail had previously been granted.

Deepak Sahu and others v. State of M.P., 2012 (3) MPLJ 534, a coordinate Bench decision, was cited in paragraph 6 on whether a revision is maintainable when the accused has not surrendered.

3. Statutes considered : Sections 397 and 401 CrPC supplied the High Court's revisional jurisdiction over the affirmed criminal conviction. The judgment explains that a High Court procedural surrender rule does not conflict with or override that substantive jurisdiction and acknowledges an inherent judicial discretion, in exceptional circumstances, to exempt surrender so that the matter can be posted for admission. Section 379 IPC was the offence of conviction from which the question of surrender after conviction arose.

4. Issues : (i) Does failure to surrender after appellate affirmance prevent registration or listing for admission of a revision under Sections 397/401 CrPC, and how does the exception to the High Court's surrender rule operate? (ii) Did Mullu's application, based only on lack of an express CrPC surrender mandate and his previous bail status, show exceptional circumstances for exemption or more time in light of the months after the appellate order and repeated adjournments without surrender?

5. Ratio / Findings : The Court relied on *Vivek Rai* in addressing counsel's argument about the effect of the High Court's surrender rule: a High Court surrender rule does not extinguish the ability to register a criminal revision or the High Court's inherent power to exempt surrender in a suitable exceptional case. The cited Supreme Court paragraph requires an application that makes out a case for exemption in light of the nature and circumstances of the matter before the court grants exemption and permits listing for admission. *Deepak Sahu* was noted as a coordinate Bench authority on maintainability without surrender. The Court acknowledged the power to register a revision and to grant exemption, and confined its inquiry to whether this applicant had made out an exceptional situation.

The application relied only on the assertions that the CrPC did not require surrender and that the applicant had been on bail during the trial and appeal. Neither assertion explained why an exceptional exemption from surrender should be granted after appellate affirmance. The Court also considered the timeline: the appellate decision was on 13 August 2021, the revision came on 26 November after more than 90 days, one exemption request was withdrawn, and adjournments in December and January gave opportunities to furnish a surrender certificate. Counsel still conceded non-surrender on 18 January. On those facts, the Court found no basis to exercise its extraordinary power to exempt the applicant from surrender.

Having found no exceptional circumstance warranting exemption from surrender, the Court declined exemption and dismissed the revision as not maintainable.

6. Relief : The Hon'ble High Court declined to exempt Mullu from surrender and dismissed the criminal revision as not maintainable. The affirmed appellate conviction and sentence were not altered by this order.

Mullu Prajapati v. State of M.P., Cr.R. no. 3174/2021, 18/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 319 CrPC — trial evidence / heightened threshold - In a murder and assault prosecution, police had filed a closure report for Mukesh Singh Rawat, but the complainant Raghuveer Singh Rawat gave specific testimony in examination-in-chief after the trial against eleven other accused had begun. The Court applied *Hardeep Singh*: an additional accused may be summoned on strong and cogent evidence, stronger than the prima facie case required for framing a charge but without a finding of guilt or insistence on completed cross-examination. The testimony about his presence, assault with an iron rod and exhortation formed the basis for summoning him; the alibi material collected during investigation was insufficient to displace it.

Section 319 CrPC — closure report / distinct stages - The closure report remained pending before the Magistrate. The earlier unsuccessful revision concerned a Section 193 cognizance request made while further investigation was pending. By the time that revision was disposed of, the police had filed the closure report. The earlier revision did not prevent the trial court from later exercising Section 319 on the basis of evidence given before it. The trial court did not have to await a decision on the closure report, which lost effect after the valid summons under Section 319; under *Brijendra Singh* the reviewing court nevertheless had to evaluate reliable contrary investigative material and could not simply disregard it.

Electronic alibi — CCTV source / Section 65-B - The home DVR footage, photographs provided by Mukesh's wife and ATM recording did not conclusively establish that he was in Bhopal. No certificate was obtained from the custodian of the original DVR; the technician's certificate related only to the extracted footage. The ATM images did not identify the person who withdrew the money, and the forensic laboratory received a mobile phone in the packet listed as containing a pen drive. The possibility of altered timestamps, the lack of independent identification and corroborating travel and attendance records, and the mismatch of exhibits warranted caution at the stage of summoning. The Court did not finally declare fabrication or inadmissibility.

Alibi — threshold / trial autonomy - The accused must support a plea of alibi with cogent and reliable evidence; the police had exonerated Mukesh on material that the Court found insufficient to exclude his participation when assessed against PW-1's specific testimony. The Court made these observations only to assess whether summoning under Section 319 was justified. They did not resolve guilt, final admissibility or the ultimate prosecution burden. The revision was dismissed and the Sessions Judge instructed to adjudicate the trial without being influenced by these provisional findings.

Case-note :- ***1. Facts :*** Mukesh Singh Rawat sought revision under Sections 397 and 401 CrPC against the order dated 14 June 2022 of the Third Additional Sessions Judge, Gwalior, in Sessions Trial No. 476/2021, summoning him as an additional accused under Section 319. The underlying Dehati Nalishi dated 26 May 2021 at 23:50 described a violent episode arising from prior enmity near the complainant's tube-well around 22:15. Poshan allegedly shot Ramnivas, who died; Bharat Singh was injured in an assault. The FIR and ensuing Crime No. 31/2021 named Mukesh among others, and the police charged eleven accused under Sections 302,

147, 148, 149, 294, 323 and 120-B IPC, while keeping the inquiry against Mukesh open under Section 173(8). The police later filed a closure report on the basis that the home CCTV footage placed Mukesh in Bhopal. While that report remained pending, the trial began against the charged accused, including Saroj Rawat.

Before the Section 319 application, the complainant had applied to the Sessions Court to take cognizance against Mukesh under Section 193. The trial court rejected that application in November 2021 because further investigation was still pending. On 29 April 2022 the High Court dismissed a revision of that rejection after the police had submitted a closure report. The High Court explained that, after considering objections, the Magistrate could accept the report, reject it and take cognizance, or order further investigation; a later remedy would be available if accepted. Meanwhile Raghuveer Singh Rawat (PW-1) gave examination-in-chief at the co-accused trial. The prosecution then applied for Mukesh to be added under Section 319, and the trial judge granted the application on 14 June. The closure report had not yet been adjudicated by the Magistrate.

Mukesh argued that the trial court should have awaited the closure result, the earlier revision prevented consideration of the closure report in the present proceedings, and the forensic and ATM material collected by the police established that he was elsewhere. He relied on *Brijendra Singh*, in which a summons under Section 319 was set aside for failure to consider reliable alibi material collected during investigation, and stressed that the threshold was higher than that for framing a charge. The State relied on specific witness accusations and observed that an FIR is not an encyclopedia. The complainant alleged police bias, challenged the dates and identification shown in the ATM and house footage, the certification of the source footage, the photographs, attendance and toll records, and the inconsistency between the listed and received forensic exhibits. Counsel's allegations of corrupt collusion and manipulation remained submissions, not established facts. The Court examined the available records because *Brijendra Singh* required consideration of the contrary investigative material rather than mere repetition of the trial court's conclusion.

2. Precedents — Considered : *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*, supplied the governing Section 319 test. The power is discretionary and extraordinary, and must be exercised sparingly. Strong and cogent evidence emerging before the court must support more than a mere possibility of involvement; the threshold is higher than the prima facie case required for framing a charge, but falls short of satisfaction that the evidence, if unrebutted, would lead to conviction. Examination-in-chief can qualify without completed cross-examination, and the words 'could be tried' do not authorize a finding that the person 'could be convicted'. The High Court applied that test to PW-1's testimony and expressly left the determination of guilt to the trial court.

Brijendra Singh v. State of Rajasthan, (2017) 7 SCC 706, was invoked by Mukesh as an objection that police exoneration barred the summons. There the Supreme Court found the lower courts had ignored extensive reliable investigation indicating the proposed accused were 175 km away and had relied on testimony repeating the FIR account without evaluating the exculpatory record. This Court accepted the duty to consider credible contrary material, including a closure report in revision, but found the contrary material less persuasive here: the source, identification and timing of the CCTV footage, the identity of the ATM user, and the travel and attendance records raised unresolved doubts, while Raghuveer's court evidence specifically implicated Mukesh. *Brijendra Singh* did not hold that the pendency of a closure report legally barred Section 319, nor that every police alibi conclusively defeated a later summons based on evidence given in court. The earlier High Court revision about Section 193 cognizance was a procedural disposition at another stage, not a controlling merits determination under Section 319.

3. Statutes considered : Section 319 CrPC permitted the court to proceed against an additional person during an inquiry or trial when the evidence disclosed an offence for which that person could be tried with the existing accused; subsection (4) requires proceedings against the added person to begin afresh and witnesses to be re-heard. Section 193 concerned the earlier application for cognizance; those proceedings did not prevent the later exercise of Section 319 on the basis of evidence given at trial. Section 173(8) explained the continuing investigation against Mukesh and the police closure report, whose pendency did not suspend Section 319. Sections 397 and 401 supplied revisional

jurisdiction. Section 161 statements, the FIR and police materials were context and corroborative or contrary material, not a substitute for evidence given by PW-1 before the trial court. Section 65-B of the Evidence Act arose in relation to the technician's certificate for the extracted footage and the absence of a certificate from the custodian of the original home DVR; the Court assessed the resulting weakness of the video alibi at this threshold rather than definitively excluding an exhibit.

4. Issues : The first question was whether an unadjudicated police closure report and the prior Section 193 cognizance revision prevented the Sessions Judge from exercising Section 319 after PW-1's examination-in-chief, and whether the revisional court could consider the closure material despite that earlier order. The second was whether the trial evidence, assessed alongside any reliable contrary material collected during investigation in accordance with *Hardeep Singh* and *Brijendra Singh*, was sufficiently stronger than mere suspicion or the prima facie case required for framing a charge to justify summoning Mukesh. The factual assessment included whether the house CCTV, ATM transaction, photographs, work roster, claimed travel and laboratory records conclusively placed him in Bhopal. The court had to preserve the accused's full trial opportunity and avoid deciding the contested alibi and culpability in advance.

5. Ratio / Findings : The High Court separated the procedural stages. The earlier Section 193 application had been refused while investigation was pending, and its revision was disposed of after a closure report was filed but before a Magistrate decided it. The later exercise of Section 319 was based on evidence recorded after the trial had begun. There was no statutory prohibition on acting while the closure report awaited the Magistrate. Once a valid summons under Section 319 was issued to the person concerned, the report lost effect and no further decision on it was required. The reviewing court could and should consider the material collected during investigation to test the strength of the evidence given before the court. *Brijendra Singh* required proper consideration of reliable exculpatory material. It did not prohibit the exercise of Section 319 merely because a closure report existed. PW-1's testimony before the court remained the primary basis for exercising Section 319; the Section 161 statements and closure material were considered in assessing that testimony.

The CCTV footage from Mukesh's home was seized from the DVR in his wife's possession on 7 June, after footage had been emailed to the police on 29 May. That delay left room for a possible timestamp alteration, although the Court did not finally find one. The technician Gaurav Pawar certified under Section 65-B only that he had not manipulated the part extracted from the DVR; the wife, as source custodian, supplied no certificate for the original footage. The wife also provided two identification photos; four additional comparison photographs were prepared from those photographs, without a fresh independently taken police photograph of Mukesh. The forensic lab found a person resembling him on home images, yet the foundation and authenticity of the comparison remained contested. The ATM images did not enable the laboratory to identify the person who withdrew the money, and the withdrawal shown by the bank was Rs 5,000 at 00:26 on 27 May, after the reported 22:15 incident; possession of a card and PIN would not prove which person used it. The exhibit memo described a pen drive as exhibit C, but the lab reported a mobile in that packet. The office roster scheduled work arrangements, but the Court noted that no attendance register had been seized to establish actual attendance. The complainant had also objected to the absence of biometric proof. The Court noted the absence of toll receipts supporting the claimed return from the village to Bhopal on 23 May; the complainant had also pointed to the absence of toll footage. These specific gaps undercut the claimed conclusive alibi and the police's conclusion exonerating him at the Section 319 stage, not necessarily each item's admissibility for the eventual trial. The Court also found support in Janki's statement for the complainant's account of an earlier assault at the police station. This observation, like the other factual observations, remained confined to the Section 319 inquiry.

In his examination-in-chief before the court, PW-1 identified Mukesh and attributed specific conduct to him, including an assault with an iron rod, placing his foot on injured Bharat's head, and exhorting Poshan before the gunshot. The FIR named Mukesh, and Section 161 statements gave detailed allegations; the Court noted that a prompt FIR need not catalogue every detail. After examining the alibi material collected by the police, the Court found that the trial testimony met the threshold of evidence stronger than that required for framing a charge, but

short of that required for conviction. The Court affirmed the summons but emphatically confined its analysis of the closure report and PW-1 to the Section 319 question, saying it had addressed the detailed investigative record at counsel's insistence in view of *Brijendra Singh*. The Sessions Judge must decide the case solely on evidence properly coming before it without prejudice from this preliminary assessment.

6. Relief : The Hon'ble High Court dismissed the criminal revision and affirmed the 14 June 2022 Section 319 order adding Mukesh Singh Rawat as an accused in Sessions Trial No. 476/2021. The Magistrate need not dispose of the pending closure report for him following that later order. The trial court was expressly directed to conduct the trial on its own record without being influenced by the revision's factual discussion.

Mukesh Singh Rawat v. State of Madhya Pradesh and others, Cr.R. no. 2319/2022, 03/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (491) Prev Next

Headnote :- Evidence — ocular and medical variance - *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457*, *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, *Ramanand Yadav v. Prabhu Nath Jha, (2003) 12 SCC 606*, and *Shamsher Singh v. State of Haryana, (2002) 7 SCC 536*, were applied for the principle that credible oral evidence has qualified primacy. Medical evidence that makes the eyewitness account improbable is relevant to its assessment; that account may be disbelieved where the medical findings completely rule out its truth or are wholly irreconcilable with it. The sword blow attributed to Ashish was not necessarily incompatible with the lacerated wound on Dinesh's head; a blunt part or dulled blade might explain the wound, and the injured accounts were otherwise medically corroborated. The convictions under Sections 325/149, 324/149 and 323/149 IPC were affirmed.

Sentencing — probation by individual role - In a sudden water-tanker quarrel, the Court distinguished Chaman Bai's later arrival and assault on Ramsakhi's knee with a danda from the other appellants' attacks on heads with rods and sticks. It left every conviction intact, granted her conditional Section 4 probation with a bond and ₹5,000 Section 5 compensation, and refused sentence interference for appellants 1–4, requiring them to surrender immediately, and no later than 15 February 2024. Her failure to comply would revive the custodial sentence.

Case-note :- ***1. Facts :*** A quarrel arose on 7 April 2012 near Ramprakash's home at a government water tanker. According to the prosecution, Munna claimed priority because he had called the tanker; Ramprakash objected that all could use it. Abuse followed, and a group of Munna's relatives arrived. The allegations attributed a sword strike on Dinesh's head to Ashish, rods and sticks to other participants, injuries to Ramprakash and Ramphal, and a danda strike on Ramsakhi to Chaman Bai. Pawan and Rekha were also said to be injured. The initial FIR at Ashoka Garden police station, Bhopal, invoked Sections 294, 307 and 34 IPC; investigation included medical examinations, clothing and earth seizures, arrests and weapon recoveries, and the charge sheet also referred to Sections 325 IPC and 25 of the Arms Act. The trial court framed charges under Sections 294, 323/149 and 307/149 for injuries to six named persons.

The prosecution examined 18 witnesses, including the injured family, other eyewitnesses, medical doctors and investigation witnesses. Ramprakash (PW-1) described the tanker dispute but accepted that he had become unconscious after sustaining injury and could not say who had assaulted him. Ramsakhi (PW-2) described armed participants and her own injury, but gave inconsistent answers in cross-examination about whether she had gone to fetch water. Dinesh (PW-3) and Ramphal (PW-4) recounted the occurrence, with cross-examination about their arrival and sight of the event. Rekha (PW-5), child Pawan (PW-6), Harnarayan (PW-7) and Dinesh Kumar Rathore (PW-8), a relative of the injured persons, spoke to the incident; Harnarayan was declared hostile only on limited seizure details. Other seizure witnesses and doctors testified, while PW-11, PW-15 and PW-16 were hostile. The defence called no witness. The appellate court noted that cross-examination had not effectively undermined the shared account.

Dr Shamim Ahmad's X-ray examinations showed a fracture of Ramphal's right clavicle, but no bony injury in Ramprakash, Dinesh or Ramsakhi. Dr Ameer Singh recorded scalp lacerations for Ramprakash, Ramphal and Dinesh and a bruise and swelling at Ramsakhi's right knee. He accepted that injuries could arise from a fall on a hard surface. The XI Additional Sessions Judge, Bhopal convicted the

appellants in S.T. No. 579/2012 on 9 July 2015 under Sections 325/149, 324/149 and 323/149 IPC. The respective sentences were one year's rigorous imprisonment and a fine of ₹200, with one month's rigorous imprisonment in default; six months' rigorous imprisonment; and a fine of ₹500, with one month's rigorous imprisonment in default. The sentences were to run concurrently. The Section 374 CrPC appeal was decided after examination of the record and hearing State counsel, as no one appeared for the appellants.

2. Precedents — Considered : *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457*, was quoted on an apparent discrepancy between the use of an axe and an injury caused by a blunt object. The Supreme Court did not discard an injured eyewitness merely because he might not have seen which side of the axe struck, the edge might have been blunt, or the axe might have been reversed before the blow; his own injuries and corroboration by other witnesses supported his account. The High Court used that reasoning as an analogy for the possibility that a sword's blunt portion or dulled edge caused Dinesh's laceration. It did not claim to know the actual contact surface.

Bhajan Singh v. State of Haryana, (2011) 7 SCC 421, quoted *State of U.P. v. Hari Chand for* the primacy of oral evidence unless it is totally irreconcilable with the medical evidence, and referred to *Abdul Sayeed* for the qualification: medical evidence rendering the ocular account improbable is relevant to evaluation, and if it rules out all possibility of truth, the ocular account may be disbelieved. *Ramanand Yadav v. Prabhu Nath Jha, (2003) 12 SCC 606*, similarly characterises medical evidence as opinionative and reserves an adverse inference for an injury specifically ruled out by the medical evidence. The High Court applied these rules with their qualifications, assessing whether the medical evidence completely ruled out the eyewitness account.

Shamsher Singh v. State of Haryana, (2002) 7 SCC 536, was quoted for the need to read a doctor's statements as a whole. A doctor's observation about a sharp-edged weapon could not be isolated from evidence that the same axe's blunt head or stick portion could cause the injury; the irreconcilable cases were factually different. This reinforced the High Court's refusal to discard Ashish's alleged sword blow solely because the head wound was lacerated. The court also referred to Modi's medical jurisprudence as an explanatory text on scalp wound appearances and blunt weapons, not as a binding judicial precedent. The Court considered these authorities together, applying their distinct examples and qualifications when assessing whether the eyewitness account and medical evidence could be reconciled.

3. Statutes considered : Section 374 CrPC was the appellate route. The affirmed offences were Sections 325/149 (grievous hurt with constructive group liability), 324/149 (hurt by dangerous means with Section 149), and 323/149 IPC (simple hurt with Section 149). The earlier charges under Sections 307 and 294 IPC and the Arms Act allegation were distinct from the hurt convictions affirmed in this appeal. The clavicle fracture and wound findings mattered to the actual hurt convictions and sentences. Section 325 IPC had no prescribed minimum imprisonment, but the Court weighed the targeting of vital areas against sentence alteration.

Sections 4 and 5 of the Probation of Offenders Act, 1958, governed Chaman Bai's conditional bond and ₹5,000 compensation to Ramsakhi. The order requires her appearance and compliance with mandatory requirements by 15 February 2024, with the original jail term to revive on failure. The statutory probation route was applied to one appellant only; convictions remained affirmed.

4. Issues : (i) Whether eyewitness evidence assigning a sword blow to Ashish was so inconsistent with a lacerated, rather than expressly incised, wound on Dinesh's head that the prosecution account and group hurt convictions could not stand; the assessment also required considering other injured witnesses and medical corroboration. (ii) Whether sentence should be individually modified for Chaman Bai, who joined later and struck a knee with a danda, while the other four appellants had struck head areas, and what conditions, compensation and surrender directions should follow.

5. Ratio / Findings : The Court found a consistent central narrative: Munna disputed public use of the tanker; the quarrel drew in armed participants; injured witnesses described blows and medical evidence recorded several head injuries and Ramphal's clavicle fracture. Cross-examination brought out darkness, unconsciousness, witness relationships and details of presence, but the Court regarded the attacks as sufficiently corroborated and found no material discrepancy rendering the testimony unreliable. Dr Ameer Singh's admission

that the injuries could have resulted from a fall on a hard surface was recorded in the evidence; it was not treated as a specific medical exclusion of assault. The Court's central question was whether Dinesh's laceration made Ashish's sword blow impossible.

Applying the four Supreme Court authorities together, medical opinion must be used to test eyewitness reliability, yet an apparent discrepancy between the wound and the alleged weapon does not compel rejection where the medical findings leave a reasonable physical explanation open. A sword may strike with its blunt part or a blade may have become blunt; scalp-wound appearance may also be deceptive. The judgment offered these as possibilities, rather than as a proven account of how the injury occurred. Dinesh's head laceration therefore did not completely rule out the described blow. With the injured witnesses' accounts and the medical evidence accepted, the Court affirmed each appellant's Sections 325/149, 324/149 and 323/149 convictions. The rule retains the qualification that medical evidence may displace an eyewitness account where it completely rules out its truth or is wholly irreconcilable with it.

On sentence, the absence of a minimum Section 325 term did not require a reduction. The Court distinguished the other appellants' blows with rods or sticks on vulnerable head areas and refused to interfere with their sentences. Chaman Bai joined later, with a danda, and was implicated in a knee strike on Ramsakhi rather than the head attacks; the court noted that she was a woman and had not spent any time in custody, but its decision was grounded in the limited role and injury site as well. It affirmed her convictions and sentences, subject to the grant of probation under Section 4 on furnishing the bond required by the trial court, coupled with Section 5 compensation of ₹5,000 to Ramsakhi. Noncompliance would revive the custodial sentence. Probation was granted to Chaman Bai alone; all the appellants' convictions remained affirmed.

6. Relief : The Hon'ble High Court dismissed the appeal insofar as it concerned appellants 1–4; their 9 July 2015 convictions and sentences were affirmed. Their bail and surety bonds were cancelled. They were directed to surrender immediately, and no later than 15 February 2024, failing which the trial court was directed to issue arrest warrants to compel them to serve their terms of rigorous imprisonment. Appellant 5 Chaman Bai's appeal was allowed only to the stated sentencing extent: convictions affirmed, conditional probation under Section 4, a required bond and ₹5,000 compensation to Ramsakhi under Section 5. Her bail and surety bonds were cancelled, she had to appear by 15 February 2024 and complete probation requirements, and failure would automatically revive the trial jail sentence. A copy of the judgment, along with the record, was directed to be sent back to the trial court for compliance. No conviction was set aside.

Munna and Ors. v. State of Madhya Pradesh and Ors., Cr.A. no. 1822/2015, 19/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (492) Prev Next

Headnote :- Writ mandamus — FIR and investigation / exceptional jurisdiction - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognises Article 226 intervention at an aggrieved person's instance in the rarest cases where investigative power has been exercised mala fide and abuse of power and noncompliance with Chapter XII are clearly established. Even then, the High Court may insist on the Code's procedure but cannot direct how the police conduct the investigation. *Shweta Bhadauria*, W.A. No. 247/2016, applies the rule on alternative remedies subject to the exceptions in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, and distinguishes the duty to register an FIR under *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, from an automatic entitlement to writ relief. Applying those authorities, the Court refused the requested mandamus to the officers, Lokayukta and EOW, and dismissed the writ with liberty to file a complaint.

FIR non-registration / inadequate investigation - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, identify the ordinary statutory remedy of approaching the Superintendent of Police under Section 154(3) CrPC and, if necessary, the Magistrate under Section 156(3). On being prima facie satisfied, the Magistrate can order registration or proper investigation, monitor progress and, where appropriate, recommend a change of investigating officer; the Magistrate does not personally investigate. Those remedies supported refusal of an immediate Article 226 investigative direction, without deciding the complaint's criminal merit.

Private complaint — magistrate remedy - *Divine Retreat Centre*, with the quoted *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768* and *AIIMS Employees' Union, (1996) 11 SCC 582*, explains how a complaint may be initiated under Sections 190 and 200 CrPC after police inaction, and the Magistrate's subsequent choices concerning investigation, dismissal under Section 203, or cognizance and issue of process. The petition was dismissed with express liberty to Munnalal to file a Section 200 complaint; no offence, investigation outcome or issue of process was determined.

Case-note :- ***1. Facts :*** Munnalal Wadiwa petitioned the Jabalpur Bench under Article 226 of the Constitution in Writ Petition No. 3867 of 2024. He sought a writ of mandamus directing the Principal Secretary and Commissioner to investigate his complaint, Annexure P/3, and take action against the allegedly erring officials and contractors. It would also direct the Lokayukta, Director General of EOW and another respondent to investigate the complaint and register a criminal offence.

The State opposed this direct writ route, citing *Sakiri Vasu*, *Aleque Padamsee*, *Divine Retreat Centre* and the M.P. Division Bench's *Shweta Bhadauria* decision. It submitted that the petitioner had an alternative criminal complaint remedy under Section 200 CrPC rather than a writ compelling FIR registration. The Court heard the parties and reproduced pertinent precedent passages on police inaction, Magistrate supervision and exceptional writ intervention. The matter was decided on 22 February 2024 by dismissal with liberty to file a complaint.

2. Precedents — Considered : *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was quoted in paragraph 4. Paragraph 41 recognises the power to issue appropriate Article 226 directions at an aggrieved person's instance where the High Court is convinced that investigative power has been exercised mala fide. It confines that power to the rarest cases in which abuse of power and noncompliance with Chapter XII are clearly made out. Even then, the High Court may insist on observance of the Code's procedure but cannot direct how the police investigate. Paragraph 42 of *Divine Retreat Centre* states that an informant faced with police inaction may file a complaint under Sections 190 and 200. Within that passage, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, is quoted to explain the Magistrate's inquiry, potential direction of police investigation before process, Section 203 dismissal and cognizance/process alternatives; *All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India, (1996) 11 SCC 582*, is identified there as support for not entertaining a direct writ in ordinary police-inaction cases. The present Court relied on this statutory remedy and the qualified scope of Article 226 when dismissing the petition with complaint liberty.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted directly in paragraph 5. If the police do not register an FIR under Section 154, an aggrieved person can write to the Superintendent of Police under Section 154(3), then approach the Magistrate under Section 156(3) if registration or investigation remains unsatisfactory. The Magistrate may order an FIR, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, quoted in paragraph 6, reiterates that the ordinary remedy is the Magistrate rather than an Article 226 writ even for deficient investigation after registration. It adds that on prima facie satisfaction the Magistrate may direct proper investigation and, where necessary, recommend a change of investigating officer and monitor progress, but cannot investigate personally. The stated reason was to prevent the High Courts from being overwhelmed by direct writ petitions seeking registration or investigation. The High Court applied these routes to Munnalal's requested directions; it did not command that a specific officer be changed or any FIR be entered.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016 (decided 20 December 2016), a Division Bench authority quoted in paragraph 7, states that a writ of mandamus compelling the police to perform their duty under Section 154 may be denied if the informant has not availed of the remedies under Sections 154(3), 156(3), 190 and 200, subject to the four exceptions from *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It also states that *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, concerns the Section 154 registration duty rather than entitlement to mandamus bypassing alternative remedies.

3. Statutes considered : Article 226 was invoked to seek public law mandamus for investigation and FIR registration. The Court treated it as a jurisdiction available in narrow exceptional circumstances,

rather than an ordinary substitute for the CrPC remedies. Chapter XII CrPC governs police investigation and Section 154 concerns cognizable information; Section 154(3) provides recourse to the Superintendent of Police. Section 156(3) provides for an application to the Magistrate for registration or proper investigation; the cited authorities explain the Magistrate's supervisory powers. Sections 190 and 200 provide the complaint and cognizance route; Section 203 was mentioned in the passage quoted from *Divine Retreat Centre* as permitting dismissal after inquiry where sufficient grounds were lacking.

4. Issues : (i) Could the Court grant an immediate Article 226 mandamus requiring the named authorities to investigate allegations about officials and contractors and register a criminal case, where the CrPC supplies complaint and Magistrate remedies? (ii) What exception permits intervention in a rare case of mala fide investigation involving clearly established abuse of power and noncompliance with Chapter XII, and did that exception apply to the relief sought? (iii) What procedural remedy should remain available to Munnalal after dismissal? The Court was not determining whether the allegations in Annexure P/3 were cognizable or true, the propriety of a particular completed investigation, or the result of a future Magistrate complaint.

5. Ratio / Findings : The Court accepted the Supreme Court and Division Bench distinction between police duty, complainant remedy and discretionary writ relief. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* provide the ordinary remedy for non-registration or inadequate investigation: recourse under Section 154(3), followed where necessary by judicial oversight under Section 156(3), without asking the High Court to manage a particular investigation at first instance. *Divine Retreat Centre* also recognises a private complaint under Sections 190 and 200. It preserves Article 226 intervention in the rarest cases where investigative power is exercised mala fide and abuse of power and noncompliance with Chapter XII are clearly made out. Even then, the High Court cannot direct how the investigation is conducted. *Shweta Bhadauria* subjects a direct mandamus to alternative remedies while expressly retaining *Whirlpool* exceptions; *Lalita Kumari* on the registration duty does not itself settle writ maintainability.

Munnalal sought investigation and registration of a criminal offence against officials and contractors on the basis of his complaint. Applying the cited authorities on statutory remedies and the limits of writ intervention, the Court refused the requested writ. It expressly left him free, if advised, to file a criminal complaint under Section 200 before the competent criminal court. Under the complaint procedure described in the cited authorities, the competent Magistrate would independently assess the complaint and the available procedural choices. The order did not adjudicate the merits of the allegations.

6. Relief : The Hon'ble High Court dismissed the writ petition. No direction was issued to the Principal Secretary, Commissioner, Lokayukta, EOW or police to register an FIR or commence a specific investigation. Munnalal was expressly given liberty, if advised, to file a criminal complaint under Section 200 CrPC before the competent criminal court.

Munnalal Wadiwa v. State of Madhya Pradesh and Ors., W.P. no. 3867/2024, 22/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (493) Prev Next

Headnote :- Regular bail — COVID-19 decongestion / incomplete diary - *In Re: Contagion of COVID 19 Virus in Prisons* (Supreme Court order, 23 March 2020) required High Powered Committees to identify categories of prisoners eligible for parole or interim bail in light of Article 21 and prison overcrowding. The Committees were to consider the gravity of the offence, sentence and other relevant factors. In this first Section 439 CrPC application for alleged Sections 8/20 NDPS Act offences, the case diary was absent; on the limited material in the application and impugned order, the Court considered the submissions about her age, having taken a lift, lack of knowledge, short period in custody and expected trial time, alongside the need to decongest prisons, and granted bail without a merits finding.

Release conditions — health screening and safe transit - *In Re: Contagion of COVID 19 Virus in Prisons* (Supreme Court order, 7 April 2020) addressed transport or shelter of persons released during lockdown. The High Court required a ₹1,00,000 personal bond and a surety for the same amount to be furnished later, medical examination and testing if indicated, transport home if not suspected of infection or if the test was negative, hospital treatment if positive, compliance with

public-health directions, and verification of criminal antecedents before release. If further registered cases were found before release, or if she violated a condition or jumped bail, the order would automatically cease to have effect; otherwise, it remained in force until the trial concluded. The quoted Supreme Court transport direction governed the arrangements for her release; the bail order did not determine the merits of the NDPS allegation.

Case-note :- ***1. Facts :*** Munni Bai filed her first application for regular bail under Section 439 CrPC in MCRC No. 30338/2020. She had been arrested on 30 July 2020 in Crime No. 66/2020 at Police Station Lanch, Datia, on an allegation under Sections 8 read with 20 of the Narcotic Drugs and Psychotropic Substances Act. Counsel said she was around 65 years old, had taken a lift from a co-accused and did not know that he was carrying ganja. Counsel submitted that she had no criminal history, had been in custody since her arrest and faced a trial likely to take a long time. The State opposed bail but, because the case diary was unavailable, could not inform the Court of her antecedents. These were the parties' submissions; the Court did not determine that she lacked knowledge or had no criminal antecedents.

The Court heard the parties by video conferencing on 28 August 2020. It expressly proceeded on the bail application and facts in the impugned order, without the case diary. At that phase of the COVID-19 pandemic, the Court considered Supreme Court prison decongestion directions from March and safe-transit directions from April. It granted bail subject to medical, transport, antecedent-verification and deferred-surety conditions.

2. Precedents — Considered : *In Re: Contagion of COVID 19 Virus in Prisons*, Suo Motu W.P. (C) No. 1/2020, Supreme Court order dated 23 March 2020, was quoted in paragraph 7. The Supreme Court treated overcrowding and the risk of viral spread in prison as an Article 21 concern and directed every State/Union Territory to constitute a High Powered Committee comprising the Chairman of the State Legal Services Committee, the Principal Secretary responsible for Home or Prisons, and the Director General of Prisons to determine categories of prisoners who could be released on parole or interim bail. It gave as an example prisoners convicted of, or awaiting trial for, offences punishable with imprisonment up to seven years or less, with or without a fine, where the sentence imposed was less than the maximum, but expressly left the categories to the Committee, depending on the nature of the offence, the sentence imposed or the severity of the charge, and other relevant factors. The High Court cited that policy reason while granting Munni Bai's individual regular bail.

The order of 7 April 2020 in the same Supreme Court proceedings, quoted in paragraph 9, directed that released prisoners not be stranded during lockdown: the Union was to ensure transport to homes or an option of temporary shelter, potentially through directions under the Disaster Management Act, 2005, and States/Union Territories through police leadership were to provide safe transit. The High Court incorporated that separate practical direction into its release arrangements, linking a doctor's pre-release assessment and any indicated virus test to safe home transfer or hospital treatment.

Both Supreme Court directions addressed the pandemic: the March order concerned categories of prisoners eligible for release to decongest prisons, and the April order concerned safe transit after release.

3. Statutes considered : Section 439 CrPC was the power invoked for the first regular bail application; Section 437 and Section 439 ordinary conditions were expressly retained. Sections 8 and 20 NDPS Act identified the charged narcotic offence. Article 21 featured in the quoted Supreme Court overcrowding directive, while the Court granted bail without commenting on the merits. The Supreme Court's April order mentioned the Disaster Management Act, 2005 as a possible source of Union directions for safe transit; the High Court imposed medical and transport conditions.

4. Issues : (i) Whether, on a record lacking the case diary and therefore confined to the application and impugned-order facts, an older applicant seeking bail for the first time on an allegation under Sections 8/20 NDPS Act should be released under Section 439 in the pandemic circumstances without prejudging knowledge or culpability. (ii) How to implement the Supreme Court's March decongestion and April safe-transit directions through concrete conditions while guarding against unverified criminal antecedents, public-health risk, breach and flight.

5. Ratio / Findings : The Court expressly identified the missing case diary and the consequent narrow factual basis. The explanation that she had taken a lift and did not know about the ganja was a submission by her counsel. The State opposed

release but could not check antecedents without the diary. The Court considered the allegations, custody since 30 July, age and delay contentions on the available material, and the Supreme Court's direction to address overcrowded prisons in a public-health emergency. It granted bail without commenting on merits.

The Court then attached safeguards that determined whether release could actually occur. She was to furnish a ₹1,00,000 personal bond to the satisfaction of the Trial Court, Chief Judicial Magistrate or Remand Magistrate, whichever was available. She would undertake to obey Central, State and local COVID instructions. She was also required to furnish one surety for the same amount to the satisfaction of the Trial Court within one month after the lockdown was completely lifted. Before release, a competent doctor was to examine her, with testing if medically indicated; if she was not suspected of infection, or if her test report was negative, the local administration was to arrange transport home in accordance with the 7 April Supreme Court order, while a positive result required her immediate transfer to the appropriate hospital for treatment in accordance with medical norms. She had to give the residence-area police a copy of the order. The lower court was to verify antecedents before release, and if further registered cases appeared the order would lose effect and the lower court had no obligation to release her. The Court also retained the other conditions under Sections 437/439. If she violated any public-health instruction, whether general or specific, the order would automatically cease to have effect, and the local administration or police were to take her into custody immediately and return her to the same jail. The order was to remain in force until the trial concluded, but would automatically cease to have effect if she jumped bail or violated any condition.

6. Relief : The Hon'ble High Court allowed the application for regular bail, subject to verification of criminal antecedents before release; if additional registered cases were found, the order would lose effect and release would not be required.

Munni Bai v. State of MP, M.Cr.C. no. 30338/2020, 28/08/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (494) Prev Next

Headnote :- Writ mandamus — non-registration / alternative remedy - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognises Article 226 intervention at an aggrieved person's instance where the High Court is convinced that investigative power has been exercised mala fide. The power is confined to the rarest cases where abuse of power and noncompliance with Chapter XII are clearly established. Even then, the High Court may insist on the Code's procedure but cannot direct how the police conduct the investigation. *Shweta Bhadauria*, W.A. No. 247/2016, states that mandamus to enforce the police duty under Section 154 may be denied if the informant has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, subject to the exceptions in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, concerns the duty to register an FIR and does not itself establish an entitlement to writ relief without using alternative remedies. Applying those authorities, the Court dismissed Munni Bai's writ because she had an effective alternative remedy of filing a criminal complaint.

De novo investigation — cited authority distinguished - *Neetu Kumar Nagaich v. State of Rajasthan*, W.P.(Crl.) No. 141/2020 (Supreme Court order, 16 September 2020), involved an unacceptable closure report despite a homicidal death and directed de novo investigation; it did not direct the initial registration of an FIR. Its facts did not govern this writ seeking both registration and fair investigation. The Court rejected that reliance without deciding the underlying allegations.

Private complaint — police inaction - *Divine Retreat Centre*, quoting *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768* and referring to *AIIMS Employees' Union, (1996) 11 SCC 582*, recognises the remedy of a complaint before the Magistrate under Sections 190 and 200, followed, as appropriate, by inquiry, investigation, dismissal under Section 203, or cognizance and issue of process. The writ was dismissed with express liberty for Munni Bai to lodge a complaint before the competent court, which must assess it independently.

Case-note :- ***1. Facts :*** Munni Bai petitioned the Gwalior Bench in WP No. 18117/2021 under Article 226, asking the respondent police to conduct a fair and impartial investigation and register an FIR against the accused person. Her counsel said she had

made several complaints to respondent 4, without action, and sought de novo investigation by relying on a Supreme Court order in *Neetu Kumar Nagaich*. Her allegation was that the police had not acted on her complaints; the writ did not determine the underlying offence or the merits of an investigation.

The State opposed the writ, contending that an effective Section 200 CrPC private complaint remedy existed and citing *Sakiri Vasu*, *Aleque Padamsee*, *Divine Retreat Centre* and the M.P. Division Bench decision in *Shweta Bhadauria*. The High Court framed the issue as whether an Article 226 petition for FIR registration was tenable. It quoted *Divine Retreat Centre* and *Shweta Bhadauria*, distinguished the Supreme Court authority cited by the petitioner because it concerned a different procedural setting and an unacceptable closure report, then dismissed with liberty to approach a competent criminal court by complaint. The hearing included counsel through video conferencing and concluded on 1 October 2021.

2. Precedents — Considered : *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was quoted for two related propositions. First, the High Court may issue appropriate Article 226 directions at an aggrieved person's instance if it is convinced that investigative power has been exercised mala fide. That power is confined to the rarest cases where abuse of power and noncompliance with Chapter XII are clearly established. Even then, the High Court may insist on compliance with the Code's procedure but cannot dictate how the investigation is conducted. Second, when police do not act on information, the informant has the Sections 190 and 200 complaint remedy and an ordinary writ for registration is not to be entertained. The quoted passage reproduces *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, explaining the Magistrate's inquiry, possible order for police investigation before process, Section 203 dismissal or cognizance and process according to a prima facie case. It refers to *All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India, (1996) 11 SCC 582*, as support for that complainant-remedy approach. The High Court applied this reasoning to Munni Bai's complaint of police inaction and dismissed the writ with liberty to file a criminal complaint.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016, was the Division Bench decision quoted in paragraph 9. It states that mandamus compelling the police to perform their duty under Section 154 may be denied to an informant who has not used the remedies under Sections 154(3), 156(3), 190 and 200 CrPC, unless one of the four exceptions identified in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, comes to the informant's aid. It distinguishes *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, on the duty to register cognizable information from a litigant's entitlement to bypass the statutory remedies through Article 226. *Neetu Kumar Nagaich v. State of Rajasthan and Ors.*, W.P.(Crl.) No. 141/2020, order dated 16 September 2020, was invoked by the petitioner. The High Court explained that the Supreme Court there directed de novo investigation after finding a closure report unacceptable where the death was homicidal but the offender was said to be unknown. It was not a direction to register an FIR. The High Court distinguished it on that procedural and factual basis. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, were cited by counsel for the State in support of its objection to maintainability.

3. Statutes considered : Article 226 was the source of requested mandamus; the Court treated it as a qualified public-law discretion ordinarily withheld when the complainant has adequate Code remedies, subject to the quoted exceptions. Section 154 CrPC concerns the police FIR duty; Section 154(3) provides recourse to the Superintendent of Police, as referred to in *Shweta Bhadauria*. Section 156(3) permits an application to the Magistrate for an investigation order. Sections 190 and 200 permit initiation of a private complaint before the competent Magistrate; the quoted *Divine Retreat Centre* passage describes inquiry and possible Section 203 dismissal or cognizance/process.

4. Issues : (i) Whether unacted-upon requests to police for FIR registration and a fair investigation warranted immediate Article 226 mandamus, given the statutory complainant remedies and the exceptional writ possibility. (ii) Whether *Neetu Kumar Nagaich*'s de novo investigation following an unacceptable closure report applied to Munni Bai's request for initial registration and fair investigation in response to her complaints of police inaction. (iii) Which remedy remained open after refusing the writ.

5. Ratio / Findings : The Court adopted *Divine Retreat Centre*'s distinction: ordinary police inaction may be addressed by a complaint before the Magistrate. Article 226 intervention remains

possible where the High Court is convinced that investigative power has been exercised mala fide, in the rarest cases where abuse of power and noncompliance with Chapter XII are clearly established. Even then, the High Court may insist on the Code's procedure but cannot prescribe how the police investigate. *Shweta Bhadauria* reinforces the Sections 154(3), 156(3), 190 and 200 alternatives and preserves *Whirlpool* exceptions. Its *Lalita Kumari* distinction keeps the police registration duty separate from judicial selection of a remedy. The Court dismissed the writ because Munni Bai had an effective alternative remedy of filing a criminal complaint before the competent court.

The petitioner's *Neetu Kumar Nagaich* analogy failed for a separate reason. A Supreme Court direction to reinvestigate after a filed but unacceptable closure report in a homicidal-death case concerns a different procedural setting from asking the High Court to compel a first FIR for complaints on which police allegedly have not acted. The order itself says *Neetu* did not direct FIR registration. The High Court therefore distinguished that decision when refusing the relief sought by Munni Bai. The proper immediate route was a criminal complaint in a competent court, left for that court's independent consideration.

6. Relief : The Hon'ble High Court dismissed the writ petition with express liberty to Munni Bai to file a criminal complaint before the court of competent jurisdiction. No direction for FIR registration or de novo investigation was issued, and the underlying allegations were not adjudicated. The future complaint, if filed, would be judged under the ordinary CrPC process rather than predetermined by this writ dismissal.

Munni Bai v. State of M.P. and Ors., W.P. no. 18117/2021, 01/10/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC — divorce, delay and disputed property - *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, applying *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, precludes quashing a matrimonial FIR that, on its face, discloses a cognizable offence merely because a divorce petition preceded it or the wife delayed reporting while seeking reconciliation. Civil litigation and criminal allegations are assessed independently. Documents relied on by the defence cannot replace an examination of the FIR allegations taken at face value. The complainant explained her earlier silence and alleged later dowry-linked harassment, exclusion and assault. The applicants' public notice severing relations, proof of residence, reliance on employment elsewhere and claim to ownership of the house remained disputed matters. The FIR and proceedings were not quashed.

Relatives — specificity / prima facie scrutiny - *Kans Raj v. State of Punjab, (2000) 5 SCC 207, Monju Roy v. State of W.B., (2015) 13 SCC 693, Chandralekha, Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741,* and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*, were cited for protecting near relatives from vague allegations; *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, limits that protection where specific allegations of cruelty in connection with dowry require trial. The Court identified an allegation that applicants 1 and 2 had taken a ₹10 lakh loan and harassed the complainant when repayment was sought, as well as specific allegations of maltreatment and expulsion from the matrimonial home against the others.

Section 498-A IPC — continuing mental cruelty - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explains that trauma from matrimonial abuse and being driven away may persist at the parental home even after acts of physical cruelty at the matrimonial home cease. The High Court applied that principle to the alleged ouster and harassment, and referred to *Amar Singh v. Vimla* on compelling a wife to reside at her parental home. *Meera v. State, (2022) 3 SCC 93*, was quoted about cruelty by a mother-in-law. The uncontroverted allegations in the FIR were sufficient for the proceedings to continue; the allegation under Section 377 IPC was made only against the husband, who was not an applicant, and all questions concerning that offence were expressly left open.

Case-note :- *1. Facts :* Four applicants related to Vivek Singh sought quashing under Section 482 CrPC (the order also refers parenthetically to Section 528 BNSS) of Crime No. 627/2023 and ST No. 23/2024. The FIR cited Sections 377, 498-A, 323, 294, 506 read with 34 IPC and Sections 3/4 of the Dowry Prohibition Act. The complainant said she married Vivek, a member of the Indian Navy, on 25 February 2020 and that her parents had given cash, ornaments and articles. She alleged recurring dowry-related mistreatment by in-laws and husband, an additional ₹10 lakh loan from her parents to two of

the applicants followed by harassment when repayment was demanded, intermittent improvement in their behaviour when Vivek was on leave, and her own silence to preserve the marriage and avoid social consequences. She said Vivek later filed a divorce petition without informing her after taking her to her parents' place, and that she was locked out of the matrimonial home, beaten on later visits, and injured in July 2023. She also alleged a non-consensual sexual act by Vivek. These matters were allegations in the FIR, rather than facts proved at trial.

Charges against applicants 1–3 and Vivek had been framed while the quashing application was pending; a separate charge sheet against applicant 4 had been filed before the Juvenile Justice Board, whose proceedings were not expressly included in the prayer. The High Court declined to take a hypertechnical view and considered the allegations against all four, while its operative dismissal was of the application before it.

Applicants contended that the FIR followed Vivek's 10 August 2022 divorce petition as a retaliatory measure. They invoked a newspaper notice severing ties, a 2019 sale deed for the disputed house, a complaint alleging that the complainant and her brother were occupying it unlawfully, separate voter and Samagra IDs, and applicant 2's employment in Bharuch to argue false implication and separate residence. They denied the Section 377 allegation but acknowledged that it was not made against them. The State pointed to address entries in arrest memos and said that even separate residence would not negate the specific loan and harassment allegation against applicant 1 or the other applicants' alleged acts. Respondent 2 did not appear despite service. The Court heard the parties, examined the FIR allegations and cited Supreme Court authorities on inherent-power limits and matrimonial relatives.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi and Ors., (2007) 12 SCC 369*, is quoted in paragraph 8. It applied the illustrations in *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, to hold that a High Court should not quash a matrimonial FIR on extraneous considerations, including an inference that it is false merely because it was lodged after separation and the institution of the husband's divorce case. Attempts at settlement can explain why a wife reported later; civil and criminal proceedings arising from overlapping facts remain independent. In the prima facie inquiry under Section 482, the allegations in the FIR or complaint are examined to determine whether they disclose a cognizable offence; they are not treated as conclusively disproved by material outside those allegations. The High Court applied this principle to the complainant's express explanation that she hoped to preserve her marriage and to the applicants' contentions that the FIR was retaliatory and arose from a dispute over the house. It found that those contentions did not justify quashing at that stage.

Kans Raj v. State of Punjab, (2000) 5 SCC 207; Monju Roy v. State of W.B., (2015) 13 SCC 693; Chandralekha v. State of Rajasthan, 2013 (1) UC 155; Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741; and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*, were considered together by the Court for the proposition that near relatives should not face the ordeal of trial on allegations that are not specific and clear. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, is quoted for the allegations in the complaint against the husband and parents-in-law and the Supreme Court's conclusion that, where the allegations on their face disclosed a case, whether the alleged dowry harassment had occurred was a matter for trial. The High Court applied that caution, subject to this qualification, to the specific allegations concerning the loan, dowry demands and physical harassment against the applicants.

Rupali Devi v. State of U.P., (2019) 5 SCC 384, is quoted for the principle that cruelty under Section 498-A may be physical or mental: stress, fear and trauma caused by being driven from the matrimonial home can continue at a parental home even after acts of cruelty at the matrimonial home cease. The High Court used that principle in assessing the alleged exclusion and cruelty, and cited its own *Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020 (22 June 2021), on compelling a married woman to live at her parental home. *Meera v. State by Inspector of Police, (2022) 3 SCC 93*, was quoted for a stern observation about a woman subjecting her daughter-in-law to cruelty.

Paragraph 17 cites a series of Supreme Court decisions on quashing proceedings, including *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v.*

Kunwar Singh, Cr.A. No. 709/2021 (30 June 2021); *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The order relies on these decisions collectively for the rule that proceedings may be quashed if the uncontroverted allegations fail to disclose an offence. The Court found that the allegations in the FIR, taken at face value, disclosed a cognizable offence.

3. Statutes considered : Section 482 CrPC, with a parenthetical Section 528 BNSS reference in this 2024 order, was invoked as the source of the Court's inherent power to quash proceedings. The Court examined the allegations taken at face value and declined to resolve disputes arising from the applicants' documents and defences. Section 498-A IPC concerned alleged dowry-linked physical and mental cruelty; the passage from *Rupali Devi* explained how mental cruelty may continue after a wife has been driven from her matrimonial home. Sections 323, 294 and 506 read with 34 IPC and Sections 3/4 Dowry Prohibition Act were among the recorded offences. Section 377 IPC concerned only the husband's alleged conduct, and the husband was not an applicant; the Court explicitly kept all questions about that charge open. Section 13 of the Hindu Marriage Act, 1955, was the provision under which the divorce case relied on for the counterblast submission had been filed; that civil proceeding did not bring the criminal proceedings to an end.

4. Issues : (i) Did the husband's earlier divorce petition and the applicants' documents concerning the property, severance of relations and separate residence show, at the Section 482 stage, that the FIR was retaliatory or failed to disclose a cognizable offence, despite its explanation for the delay? (ii) Were the allegations against individual relatives sufficiently specific to overcome the caution against omnibus prosecution, and did claims of dowry, harassment over repayment of the loan, assault or exclusion require trial? (iii) Could the complainant's alleged expulsion from the matrimonial home still support a Section 498-A mental-cruelty case in view of *Rupali Devi*? (iv) Was any question about Section 377 concerning the husband, who was not an applicant, properly before this Court?

5. Ratio / Findings : The Court rejected the counterblast argument as legally insufficient. *Pratibha* required the Court to examine the allegations in the FIR rather than infer falsity merely because the complaint followed the divorce petition. The FIR itself mentioned Vivek's divorce notice and explained that the complainant initially kept quiet to preserve the marriage. A later report could therefore coexist with prior efforts at reconciliation. Neither the civil findings nor the pendency of the divorce proceedings determined the criminal case; the standards of proof in civil and criminal cases differ. The claim to ownership of the house, notice severing relations, identity documents, employment records and countercomplaint raised disputed defences. They did not justify conducting a mini-trial or rejecting the allegations taken at face value. The Court noted the complainant was already living in the house according to applicant 3's own complaint, but did not determine ownership or lawful possession.

The Court applied the authorities cautioning against the prosecution of near relatives to the allegations against each applicant. The Court identified an allegation that applicants 1 and 2 took ₹10 lakh from the complainant's parents in the guise of a loan and harassed her when repayment was sought. Applicants 2–4 faced further particularised allegations of dowry-related mistreatment and the complainant's ouster. *Taramani Parakh* showed why specific allegations may require trial even when parents-in-law or relatives deny them; whether those allegations are true is a matter for trial. Claimed separate addresses did not negate the alleged involvement in the loan and related harassment or the other described acts when the allegations were considered at face value. The Court assessed the conduct attributed to each numbered applicant.

Rupali Devi explained that physical separation from the matrimonial home does not itself end mental cruelty. The alleged stress, exclusion and fear of return could continue at the parental home even without new physical abuse there. The Court referred to *Amar Singh* and *Meera*; its conclusion was confined to whether the allegations disclosed a cognizable offence. The authorities cited in paragraph 17 reinforced the applicable test under Section 482: if the FIR's uncontroverted allegations disclose a cognizable offence, quashing is unavailable merely to examine the competing

defence account. The Court concluded that the allegations disclosed such an offence in the present case and refused to interfere. It did not reach the merits of the Section 377 accusation because that was against Vivek, who had not filed this application, and expressly left those questions open.

6. Relief : The Hon'ble High Court has dismissed the application. The Court declined to quash Crime No. 627/2023 or the challenged criminal proceedings in respect of the applicants. The order did not set aside the charges already framed or the proceedings separately instituted before the Juvenile Justice Board. Quashing of the latter proceedings had not been expressly sought, but the Court considered the allegations against all four applicants rather than taking a hypertechnical view. The Section 377 question concerning the non-applicant husband remained open.

Munni Lal Singh Bhadoriya and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 6925/2024, 12/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (496) Prev Next

Headnote :- Rape allegation — consent / lawyer-client pressure - The applicant advocate was alleged to have made success in his client's pending divorce case conditional on her obeying his instructions, had repeated sexual relations with her by exerting pressure and threatened that refusal would cause her to lose the case and disclosure would lead to public defamation. The Court treated these specific allegations, when taken at face value in the application under Section 482 CrPC, as inconsistent with free consent despite the complainant's married status and the applicant's assertion that the relations were consensual. A later Section 13B divorce decree and compromise-based acquittal of her husband under Section 498-A IPC confirmed that the matrimonial proceedings were pending at the relevant time. The Section 376(2)(n) IPC FIR and trial proceedings were not quashed; guilt and whether consent was freely given remain matters for trial.

Statements — FIR, Section 161 and Section 164 CrPC / quashing - The applicant relied on a later Section 164 statement said to deny rape and describe a dispute over legal fees and hospital signatures. The Court held that differences between the accounts in the FIR and Section 161 statement and the account in the Section 164 statement may be used to test omissions and contradictions but do not require the High Court to disregard the earlier allegations in a quashing proceeding. It declined to resolve the disputed accounts conclusively at that stage and dismissed the application to quash Crime No. 164/2024 and RCT No. 230/2024. The Section 164 statement remained available for testing omissions and contradictions.

Case-note :- ***1. Facts :*** Munshilal Dhakad, an advocate, invoked Section 482 CrPC in Misc. Criminal Case No. 23671 of 2024 to quash Crime No. 164/2024 at Police Station Sabalgarh, Morena, registered for an alleged offence under Section 376(2)(n) IPC, and the consequential proceedings in RCT No. 230/2024. The prosecutrix was his client in a pending divorce case against Deewan. According to the FIR as described in the order, she was a labourer, had been married about twelve years and had two daughters, then aged approximately twelve and nine years. She said her husband had harassed her, leading to the divorce case. This was her account of the matrimonial dispute, rather than findings reached at trial.

She alleged that around noon on 15 March 2022 the advocate visited her home, said the divorce claim was weak but he could make her win if she followed every instruction, and had physical relations with her. She said he threatened to defame her and harm the future of her children if she told anyone. According to the complaint, he returned repeatedly and exploited her vulnerable position. The judgment records a further alleged incident on 19 March 2024 at about 3 p.m., when she objected and he allegedly threatened to ensure she lost the pending case and would be publicly disgraced if she disclosed it. She claimed she had paid his full fee. The allegation was of repeated rape.

The applicant relied on a later statement of the prosecutrix recorded under Section 164 CrPC. As summarised by his counsel, it did not support the allegation of rape and instead described a 12 April 2024 dispute over the lawyer's fee, police taking her to the station, illness and signatures being obtained at the hospital; it said he had threatened her over fees but had not raped her. Counsel argued false implication and consent. The State opposed quashing. The applicant submitted a later divorce decree under Section 13B of the Hindu Marriage Act; a separate Section 498-A IPC prosecution against the husband had ended in acquittal following

compromise. The High Court considered those documents as showing that the divorce proceedings were pending at the relevant time; they did not resolve the allegation of rape.

2. Statutes considered : Section 482 CrPC was invoked as the source of the Court's inherent power to quash the FIR and consequential trial proceedings. The Court considered the disputed material in deciding whether the proceedings should be quashed, rather than recording evidence and determining guilt. Sections 161 and 164 CrPC concerned the separate statements of the prosecutrix recorded by the police and the Magistrate. The Court said both statements could be used to test omissions and contradictions, and refused to discard the FIR and Section 161 version automatically because the Section 164 account differed. The later divorce decree was passed under Section 13B of the Hindu Marriage Act, and the husband was acquitted in the separate Section 498-A IPC case following a compromise; neither document was treated as determining consent to the alleged acts.

3. Issues : (i) Could a lawyer's alleged repeated sexual relations with a client be regarded as freely consensual where he allegedly made success in her pending divorce case conditional on her complying with his demands and threatened that she would lose the case or be publicly defamed? Her married status and the later divorce decree formed part of the procedural background; they did not resolve whether she had acted under pressure. (ii) Did a later Section 164 statement denying rape and describing a fee dispute compel quashing despite the FIR and Section 161 account, or instead raise contradictions for trial? The application concerned quashing of the criminal proceedings, rather than a determination of guilt.

4. Ratio / Findings : The Court framed the question as whether the prosecutrix could be regarded as having consented. It noted that she was married but litigating divorce and that the applicant was her advocate. The FIR alleged that he assured a favourable result in a case said to lack merit only if she obeyed him, and that he later threatened adverse litigation consequences and social disgrace while obtaining sexual relations with her. On those allegations, the Court held that the alleged consent had been obtained through coercion or pressure and could not be treated as free consent for the purpose of quashing. The Section 13B decree and the husband's compromise-based Section 498-A acquittal showed that the divorce proceedings were pending at the material time, but neither established that her rape allegations were proven. The Court assessed the alleged pressure and the competing statements in deciding whether the proceedings should be quashed.

The later Section 164 statement conflicted with the earlier account. According to counsel, that statement described a dispute over fees and expressly denied rape, whereas the FIR and Section 161 account described repeated coerced acts. The Court refused to prefer the later denial over the earlier accounts as a conclusive reason to quash. It stated that Sections 161 and 164 statements may be used to test omissions and contradictions, but the Section 161 account cannot simply be ignored because the Section 164 statement does not repeat it. As the prosecution account still contained specific allegations of pressure, threats and repeated acts, the inconsistency remained for consideration in the criminal proceedings and did not warrant terminating the FIR or prosecution.

5. Relief : The Hon’ble High Court has dismissed the Section 482 application. Crime No. 164/2024 under Section 376(2)(n) IPC and consequential RCT No. 230/2024 proceedings were not quashed. The parties' competing accounts remained to be tested in the pending criminal proceedings.

Munshilal Dhakad v. State of Madhya Pradesh and Ors., M.Cr.C. no. 23671/2024, 04/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (497) Prev Next

Headnote :- Murder — Section 300 thirdly / firearm injuries - A Division Bench upheld Ashok's conviction for the double murder of Mataprasad and Tejram under Sections 302/34 IPC. Gunshot injuries to the chest and head caused fatal bleeding; the post-mortems described multiple entry and exit wounds. Applying *Virsa Singh*, the Court held that the required intention is to inflict the particular injury proved; whether that injury is sufficient in the ordinary course of nature to cause death is an objective question. A separate intention to cause death is unnecessary under clause Thirdly. The coordinated firearm attack, weapon used, parts of the body targeted and pattern of injuries supported murder rather than a Section 304 classification. The Court dismissed Ashok's appeal and affirmed his life sentence.

Common intention — Section 34 IPC / armed participation - The group arrived armed at the field, surrounded the fleeing victims, and Murarilal fired while Ashok carried a 12-bore double-barrel gun. Section 34 requires a joint criminal act, common intention and participation, which can be inferred from conduct; mere accompaniment does not suffice. On the evidence it accepted, the Court found a prior meeting of minds and participation by Ashok in the joint attack, although it did not identify a particular fatal projectile as fired by him. His conviction with the aid of Section 34 was sustained.

Evidence — related witnesses / medical corroboration - Harendra (PW-4) and Shailendri (PW-9), children of Tejram, were scrutinised as related witnesses. Their accounts, which the Court regarded as natural, Harendra's immediate FIR, the evidence of three independent witnesses from adjoining fields and the post-mortem findings supported the prosecution. Defence attacks on non-examination of two named witnesses, the alleged late arrival of some witnesses, missing breakfast articles and non-recovery of the alleged weapons did not undermine the prosecution evidence accepted by the Court. The Court affirmed the conviction, while deciding the State's appeal against other accused by a separate judgment.

Case-note :- ***1. Facts :*** Criminal Appeal No. 196 of 2003 under Section 374 CrPC challenged the 4 February 2003 conviction and life sentence in Sessions Trial No. 347/2000, Bhind, for the killing of Mataprasad and Tejram on 16 October 1999. The cause title retained Murarilal and others, but appellant No. 1 Murarilal died while the appeal was pending and his name was deleted under an order of 9 March 2011. This decision concerns the surviving appellant, Ashok. A State appeal from the acquittal of Ramavtar and Subhash was heard at the same time but decided by a separate judgment. The appeals of other accused, who had been tried separately after absconding, had been delinked. The Court affirmed Ashok's conviction and sentence under Section 302 read with Section 34 on two counts, one for each death.

The prosecution said Mataprasad and Tejram went to their field early to plough and asked their family members to bring breakfast. Harendra (PW-4), Shailendri (PW-9) and Dharmendra arrived while the men were cutting grass. An armed group came in a tractor-trolley; the victims tried to flee and start a tractor, were surrounded, and Murarilal fired at Mataprasad's chest. The children hid in a bajra field. Further gunfire and assaults resulted in both men dying at the spot. Neighbours working adjoining fields came to the scene. Harendra lodged the FIR that day. A spot map, bloodstained soil and cartridge cases were collected, and statements were recorded under Section 161 CrPC.

Ashok challenged the eyewitness accounts on the grounds of discrepancies, improvements and deliberation. He argued that enmity over land provided a motive for false implication and that Sitaram and Dharmendra had not been examined. He relied on Shailendri's account of the timing to contend that certain witnesses from adjoining fields arrived after the incident. He also submitted that the weapons said to have been used had already been deposited in connection with another crime in 1990 and none was recovered from him. The failure to recover breakfast articles or show them on the spot map, he argued, made the prosecution story suspect. The State supported the trial judgment. These were defence submissions, not findings that the prosecution witnesses had fabricated evidence.

Dr O.P. Kashtwar (PW-5) found seven injuries to Mataprasad, including blackened wounds to the neck and chest, a large back wound and fractured ribs; he identified three firearm entry wounds and three exit wounds. Tejram's post-mortem described three injuries, with two firearm entry wounds and one exit wound. He attributed both deaths to shock from excessive external and internal bleeding caused by gunshot injury; foreign material was sealed and handed over to the police. Shriprakash (PW-2), Ramkumar (PW-7) and Jaiprakash (PW-8) were described as independent field witnesses, while Harendra and Shailendri were Tejram's children.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, set out the four elements applied by the Court for Section 300 Thirdly: objective proof of the presence of a bodily injury and of its nature, intention to inflict that particular injury, and objective sufficiency in the ordinary course to cause death. The Court quoted and applied it to the deliberate firearm wounds and rejected the contention that the absence of a separate intention to kill necessarily excluded murder. *Arun Nivalaji More v. State of Maharashtra* explained the distinctions between culpable homicide under Section 299, the four clauses of Section 300 and Parts I and II of Section 304; its discussion of knowledge under clause Secondly provided the legal

background; the present Court's decision rested on clause Thirdly. *Anda v. State of Rajasthan* emphasised sufficiency to cause death in the ordinary course of nature and the significance of the weapon used and the part of the body injured.

Mahesh Balmiki v. State of M.P. explained that a single blow does not invariably determine the classification of the offence; the injury, weapon and circumstances must be assessed. The Court considered that principle in this case involving multiple shots. *Pulicherla Nagaraju v. State of A.P.* listed non-exhaustive circumstances for discerning intention and distinguishing Sections 302 and 304, including weapon, vital part, force, premeditation, enmity and provocation. *Sangapagu Anjaiah v. State of A.P.* similarly inferred intention from the force of an assault directed at the head. *Bavisetti Kameswara Rao v. State of A.P.*, including its account of *State of Karnataka v. Vedanayagam and Virsa Singh*, likewise did not regard the number of injuries as decisive by itself and distinguished the intention to cause the particular injury from the seriousness of that injury. The Court relied on that principle in its analysis under clause Thirdly in this case involving multiple shots.

For Section 34, *Suresh Sankharam Nangare*, *Shyamal Ghosh* and *Mrinal Das* were cited on participation, common intention and prior concert; *Ramashish Yadav* recognised that the meeting of minds may develop at the spur of the moment. The Court then cited *Bijay Singh* on presence and prior plan, *Hem Raj* on the consequence of disbelieving co-accused participation, *Dashrathlal* on the insufficiency of mere accompaniment, *Rajagopalswamy Konar* on differing roles in a land-dispute assault, and *Sheikh Nabab* on failure to prove an overt act. In applying these authorities, the Court did not require proof that every participant had fired a gun. On the evidence it accepted, the Court found that Ashok participated in the joint attack while armed and shared the common design; his role was not confined to mere presence. Paragraph 15 quotes a test proposed by the UK Law Commission and a discussion of knowledge.

3. Statutes considered : Sections 299, 300 (especially clause Thirdly), 302 and 304 IPC framed the homicide distinction. Clause Thirdly requires consideration of whether the offender intended to inflict the particular bodily injury and whether it was objectively sufficient in the ordinary course of nature to cause death. The judgment discussed the knowledge required by clause Secondly, the other clauses of murder and Exception 4 concerning sudden fights to explain the classification; it ultimately held murder under clause Thirdly and did not reduce the offence to either part of Section 304. Section 34 IPC supplied joint liability for a criminal act done by several persons in furtherance of their common intention. Section 149 appeared in the account of the charges and co-accused acquittal, but the conviction affirmed in this appeal was under Section 34; the Court did not make a fresh finding of liability under Section 149. Sections 374 and 378 CrPC governed Ashok's appeal against conviction and the separate State appeal against acquittal respectively; Section 161 CrPC identified investigative witness statements.

4. Issues : The appeal required the Court to decide whether the prosecution's ocular and medical evidence established an intentional fatal firearm assault amounting to murder under Section 300 Thirdly, rather than a lesser culpable homicide classification, and whether Ashok's participation and common intention supported conviction for both murders with the aid of Section 34. The defence also contested credibility in light of related witnesses, alleged contradictions and omissions, land enmity, non-examination of two named witnesses, weapon history and missing breakfast articles. The separate State appeal and proceedings involving the absconding accused were dealt with separately and were outside the operative decision in this appeal.

5. Ratio / Findings : The Court accepted that both deaths resulted from the firearm assault. Dr Kashtwar's evidence recorded multiple blackened entry and exit wounds to vital areas, extensive blood loss, and shock as the cause of death. The Court used the nature and placement of the injuries and the weapons described in the evidence to infer that the bodily injuries were intentional and sufficient in the ordinary course to cause death. *Virsa Singh* separates subjective intention to inflict the injury actually proved from objective sufficiency of that injury; a separate intention to cause death is not an additional element of Section 300 Thirdly. Its review of the single-blow and sudden-fight authorities provided the legal context, without a finding that the victims entered a mutual fight or that Exception 4 applied. The conclusion was murder under Section 302, not a Section 304 conviction.

The Section 34 analysis stated that a criminal act committed by several persons must be in furtherance

of their common intention and each must participate in the joint activity, although an individual need not perform a separately identifiable fatal act. The Court's general illustrations included remote assistance and deliberate omission, while several cited cases warned against conviction based on mere accompaniment or unproved participation. In the present case, the prosecution evidence placed Ashok among the armed group that came to the field and surrounded victims who sought to escape; he had a 12-bore double-barrel gun as Murarilal fired. Independent witnesses identified both in the assault, and the Court found sufficient evidence of a prior meeting of minds. It inferred a common intention to inflict the fatal firearm injuries from the coordinated attack and repeated gunshot injuries to vital parts of the body. The Court did not attribute a specific cartridge or wound to Ashok. On the evidence it accepted, Section 34 supported his liability for the joint criminal act.

Harendra and Shailendri were related to Tejram, so the Court said their evidence needed careful scrutiny; it regarded their accounts as natural and consistent with the prompt FIR and the evidence of the independent witnesses from adjoining fields. Dr Kashtwar's post-mortems corroborated a fatal shooting. It found that the material testimony of the independent witnesses remained unrebutted in cross-examination. The non-examination of Sitaram and Dharmendra, the alleged late arrival of some witnesses, missing breakfast articles and weapons objection were stated by the defence, but the appellate reasons did not treat them as undermining the prosecution evidence it accepted.

6. Relief : The Hon’ble High Court has dismissed surviving appellant Ashok's appeal. It confirmed the trial conviction under Section 302 read with Section 34 IPC on two counts, with life imprisonment and a fine of ₹5,000 on each count and six months' rigorous imprisonment on each count in default of payment. It directed communication of the result to him through the Jail Superintendent and return of the trial record. Murarilal had died during the pendency of the appeal and was deleted from the appeal. The separate State appeal against the acquittal of Ramavtar and Subhash was disposed of by a separate judgment and was not decided by the operative order in this appeal.

Murarilal and Ors. v. State of Madhya Pradesh, Cr.A. no. 196/2003, 30/04/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (499) Prev Next

Headnote :- Dying declaration — mental fitness / delayed testimony - Rajendra, gravely injured in a 1992 assault, gave Ex. P.16 to a Naib-Tahsildar at about 4:40 p.m. after a medical fitness endorsement at 4:30 p.m. The recording officer's inability to recall peripheral details in 2010 did not by itself undermine the promptly recorded declaration: Nathu Singh's absconding had delayed his separate trial, the officer said Rajendra was conscious, Dr Taneja's MLC recorded responsiveness, and the reported injuries around the eyes and legs matched the account. The post-mortem doctor's general opinion that unconsciousness was likely after the head injury did not establish that Rajendra had actually lacked the capacity to make the declaration. Applying *Laxman* and related authorities, the Court held that medical certification is a precaution and a reliable voluntary declaration can support conviction without corroboration being an absolute requirement. This declaration was also supported by medical and eyewitness evidence.

Hostile testimony — identification / sifting - Bhan Singh identified Nathu in his examination-in-chief, then denied his identity in cross-examination, which had been deferred for four months at the defence's request. Under *Khujji* the Court treated this as a retreat from earlier testimony, and checked Nathu's identity against the evidence of Pan Singh, who knew him, the dying declaration and the medical record. Other witnesses turned hostile; an error in testimony or rejection of a witness's evidence concerning the separately acquitted Babu Singh did not require all testimony to be discarded under falsus in uno. The same-day FIR, medical findings concerning the eyes and legs and the evidence accepted by the Court supported Nathu's presence and role. A separate ruling under Section 174 CrPC rejected the claim that missing assailant names in the inquest showed an ante-timed FIR: the inquest records the apparent cause of death, while the assailant's identity was assessed through the prompt FIR, declaration, accepted testimony and medical evidence.

Alibi — burden / independent prosecution proof - The defence claimed Nathu was attending his mother-in-law's thirteenth-day ceremony elsewhere. A certificate issued ten years after the alleged death and the failure to examine his wife or in-laws to establish the relationship, death and his attendance left the alibi unproved. The defence's burden to establish that he was elsewhere did not reverse the prosecution's burden of proving his presence and participation. The Court found that burden discharged by evidence independent of the failed alibi.

Related witnesses — enmity / corroboration - Bhan and Pan were Rajendra's brothers, while Pan's involvement in an earlier murder case provided a possible source of animosity. Relationship alone did not make them interested witnesses; motive could support false implication or retaliatory assault, and reliability had to be assessed on the evidence in the case. Their accepted accounts were corroborated by a prompt FIR, Ex. P.16 and injuries. Nathu's separate conviction under Section 302/34 IPC and life sentence were affirmed on the evidence recorded in his own trial, rather than evidence taken in the co-accused's proceedings.

Case-note :- ***1. Facts :*** Nathu Singh's appeal under Section 374 CrPC challenged the 29 June 2010 judgment of the Third Additional Sessions Judge, Bhind, in Sessions Trial No. 177/1993. The operative trial disposition acquitted him of Sections 394, 147 and 302/149 IPC but convicted him under Section 302 read with Section 34 and imposed life imprisonment, a fine of Rs 2,000 and, in default of payment, two years' rigorous imprisonment. He was initially charged with others, was granted bail, which was later cancelled under Section 439(2) CrPC, and failed to appear after his revision was dismissed. A perpetual warrant of arrest was issued against him in August 1994. The judgment records that, on 30 April 1994 in Criminal Revision No. 71/1994, operation of an order dated 27 April 1992 was stayed. Three co-accused were convicted in March 1999 and Babu Singh acquitted; their appeal and SLP failed. Nathu was re-arrested and produced on 10 May 2007 and separately tried. Applying *A.T. Mydeen*, the Court expressly confined its assessment to the evidence recorded in his separate trial, excluding the evidence from the earlier co-accused proceedings.

Bhan Singh reported at about 16:05 on 21 August 1992 that, while grazing buffaloes with Sagar, he heard his brother Rajendra's cries near Bhopatpura culvert. He described Jagat and others stopping Rajendra on his scooter, Surendra striking his head with a farsa, and Nathu and Vishram using lathis on his legs. Bhan reported that, before losing consciousness, Rajendra had said that Nathu sat on his chest and pierced his eyes with a pointed object. Rajendra also said that money and watch parts had been taken. The injured was examined at Mehgaon, a Naib-Tahsildar recorded Ex. P.16, and Rajendra died after transfer to Gwalior. The charge-sheet referred to Sections 302, 394 and 34 IPC. The defence disputed the reliability of the declaration and Bhan's changed identification, relied on an alibi for a funeral ceremony, cited Babu Singh's acquittal and alleged bias from a previous murder case. The State supported the conviction.

Dr R.K. Taneja (PW-7) recorded a serious occipital incised wound, incised injuries around both eyes, leg and wrist wounds and conjunctival injury, but noted that the patient was responding to questions. He considered the head wound potentially fatal but did not say that unconsciousness would invariably follow. Dr Vijay Kumar Diwani (PW-8) performed the post-mortem, attributed death to shock, multiple injuries and haemorrhage and described it as homicidal. He had not seen Rajendra alive and could not say whether he had actually remained conscious after the head injury; several other injuries could conceivably result from a rough fall. The Court found homicidal death established, and separately assessed the reliability of Rajendra's account and the evidence of Nathu's identity and role.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Criminal Appeal No. 1306/2021, required the trial records to be kept separate for evidentiary purposes: evidence taken in a co-accused's trial could not be used as evidence against Nathu in his later separate trial. *Jeewan v. State of Uttarakhand* cautioned against demanding arithmetical precision when testimony is recorded after a long delay. The Court applied that principle to the Naib-Tahsildar's cross-examination eighteen years after the event. *Laxman v. State of Maharashtra* rejected an overly rigid demand that a doctor certify mental fitness in a prescribed form of words; it discussed *Harjit Kaur*, disapproved the broad formulation in *Paparambaka Rosamma* and affirmed *Koli Chunilal Savji*. *Govindappa* treated medical certification as a rule of caution, while *Jagbir Singh* insisted that the recorder still ensure physical and mental capacity even

without a doctor's certificate. In the present case, the doctor endorsed fitness, the officer observed that Rajendra was conscious, and the contemporaneous MLC recorded that he was responding to questions.

Ravi Kumar v. State of T.N. explained Section 32(1) of the Evidence Act and the need to scrutinise the possibility of tutoring, the opportunity to observe, fitness, truthfulness and voluntariness; corroboration is not an absolute prerequisite to reliance on a trustworthy declaration. Its further listed authorities —*Paniben*, *Uka Ram*, *Laxman*, *P.V. Radhakrishna*, *State of Maharashtra v. Sanjay and Muthu Kutty*— were cited within the discussion quoted from *Ravi Kumar*. *Laltu Ghosh* cautioned against demanding a meticulous account from a gravely injured declarant and unsupported fabrication accusations. *Kalawati* assembled the *Paniben* principles, including accepting a true voluntary declaration alone, caution on suspicious or infirm ones, and no automatic rejection for brevity or missing details; the nested illustrative cases were quoted as part of that test. *Ramilaben Hasmukhbhai Khristi* rejected an excessively technical approach where the substance of the statement inspires confidence. The Court applied these authorities to the prompt, medically consistent Ex. P.16.

Khujji v. State of M.P. was applied to Bhan's delayed cross-examination and denial of identity after identifying Nathu in his examination-in-chief, while the Court also sought independent confirmation from Pan Singh and the declaration. *Brahm Swaroop v. State of U.P.*, referring to Section 174 CrPC and *Radha Mohan Singh* and other nested decisions, established that an inquest identifies apparent cause of death; it need not set out the assault, all accused or witnesses. The absence of assailant names in the inquest therefore did not undermine the direct evidence or by itself establish that the FIR was ante-timed. *Rai Singh v. State of Haryana*, *Shakila Abdul Gafar Khan* and *Ranjit Singh* rejected falsus in uno as a mandatory rule: the Court must separate trustworthy parts unless truth and falsehood are inextricably mixed. Babu Singh's acquittal in another trial did not establish Nathu's innocence without an assessment of the evidence against him.

Jitender Kumar v. State of Haryana, *Sk. Sattar v. State of Maharashtra*, and *Mukesh v. State (NCT of Delhi)*, with *Mukesh* quoting *Binay Kumar Singh*, were applied to alibi: the accused must produce positive evidence excluding his presence once the prosecution has reliably established it, but failure of alibi does not itself prove guilt or lighten the prosecution's primary burden. Other authorities appeared as supporting citations within the quoted passages. *Rupinder Singh Sandhu*, *Shamim*, *Rizan* and *Mohd Rojali Ali* explained that close kinship alone does not make a witness interested; *Rizan* quoted *Dalip Singh* and several other authorities and *Mohd Rojali Ali* cited the test of an interest in the result or a motive arising from enmity and the need for consistency. *State of U.P. v. Moti Ram* described motive as a double-edged weapon where the opposing groups were mutually hostile. The Court applied that caution to brothers Bhan and Pan in conjunction with corroboration.

3. Statutes considered : Section 32(1) of the Evidence Act made Rajendra's statement about the cause and circumstances of his death relevant as a dying declaration; fitness, voluntariness, identification and truth governed its weight. Section 11 of the Evidence Act was identified through the Supreme Court quotation as the basis for the relevance of alibi evidence, rather than a provision reversing the burden of proof and relieving the prosecution of its obligation. Section 174 CrPC limited the inquest's object to the apparent cause and circumstances of unnatural death, not an exhaustive list of assailants. Section 374 CrPC provided the appeal, and Section 439(2) appeared in the history of bail cancellation. The operative conviction was under Sections 302/34 IPC, affirming murder liability through common intention; earlier charges and acquittals under Sections 148, 149, 394 and 147 were part of the distinct procedural history.

4. Issues : The Court had to determine whether Rajendra's death was homicidal; whether Ex. P.16 was a trustworthy declaration when the injured had sustained a severe head injury and the recording officer could not recall many formal details eighteen years later; and whether Nathu was reliably identified and participated in the assault despite Bhan's later reversal on identity, other hostile witnesses and possible family animosity. It also had to decide whether Babu Singh's acquittal or absence of names in an inquest undermined the proof, whether the asserted funeral alibi created reasonable doubt, and whether evidence from the earlier co-accused trial could be used against the separately tried appellant. The conviction and life sentence under Section 302/34 also required appellate review. These questions were decided on Nathu's own trial record; the co-accused's verdicts were not reopened.

5. Ratio / Findings : The medical evidence showed a fatal head injury, multiple incised and blunt-force injuries, haemorrhage and homicidal death. Dr Diwani's opinion that consciousness after such a head injury was unlikely was qualified by the fact that he had not attended Rajendra while alive and could not determine his actual condition after the injury. Dr Taneja had examined Rajendra contemporaneously and noted responses to questions. The recording officer testified to consciousness; Ex. P.16 carried a doctor's fitness certification at 4:30 p.m. and was recorded about 4:40 p.m. Cross-examination occurred some eighteen years after the 1992 incident, a delay materially attributable to Nathu's absconding. The officer's inability to recall the doctor's name, requisition and some formal surroundings, and the absence of separate endorsements of fitness throughout the recording and of the statement having been read over, did not, on the evidence as a whole, make the declaration untrustworthy. The reported puncturing around the eyes and lathi assault on the legs matched the MLC. The Court treated the declaration as prompt, voluntary and reliable. The finding of reliability rested on the fitness evidence, prompt recording and medical corroboration in the present case.

Bhan promptly lodged the FIR and stated in his examination-in-chief that Nathu was known to him and assaulted Rajendra. His cross-examination took place four months later, after being deferred at the request of counsel for the appellant. Bhan then denied that the accused was the Nathu whom he had identified. Applying *Khujji*, the Court inferred that something had occurred in the interval to influence his testimony, but did not rest the case solely on that inference: Pan knew Nathu from a prior murder proceeding, placed him at the scene and gave an account of eye injury, while Rajendra's declaration and contemporaneous eye and leg findings supplied further support. Pan's omissions or inconsistent recollection after eighteen years were assessed in context. Sagar, Mehtab and Lakhan did not support the prosecution; Raja Bhaiya's assertion that Rajendra was already dead at the spot was inconsistent with Dr Taneja's treatment and the Naib-Tahsildar's recording. The Court accepted only portions it found reliable. The inquest's failure to list assailants did not contradict the FIR because Section 174 does not demand it. Babu Singh's earlier acquittal did not require application of the falsus in uno rule or rejection of the evidence against Nathu in his own trial.

The proposed alibi required proof that Chirojabai, whose death was said to have occurred on 9 August, was Nathu's mother-in-law and that he attended her thirteenth-day ceremony in Khirauli on 21 August. The death certificate was issued ten years after the stated death; no wife or in-law was examined to establish relationship or attendance, and the defence failed to exclude the possibility of his presence at the scene of the assault. The Court nevertheless applied the rule that prosecution bears the independent obligation to prove Nathu's presence and participation beyond reasonable doubt. It found that obligation satisfied by the declaration, accepted eyewitness portions and corresponding injuries, rather than by inferring guilt merely from the failure of the alibi.

Bhan and Pan's relationship to Rajendra called for careful scrutiny but was not a legal ground to reject them. Pan's admission that Nathu had testified against him in an earlier murder case disclosed a possible source of enmity and also confirmed acquaintance for identification. Enmity could provide a motive either for false implication or for retaliation, so the Court checked the promptly lodged FIR, declaration and injuries. It found their evidence trustworthy on the material points and described a possible retaliation arising out of Dhan Singh's death. That possible motive was not treated as a substitute for reliable proof. On the whole record of this separate trial, Nathu's acts with others in furtherance of common intention were proved and the conviction under Section 302/34 was sustained.

6. Relief : The Hon’ble High Court has dismissed the criminal appeal and affirmed the trial judgment of 29 June 2010 convicting Nathu Singh under Section 302 read with Section 34 IPC and imposing life imprisonment, a fine of Rs 2,000 and two years' rigorous imprisonment in default of payment. It noted that life imprisonment was the minimum sentence for the affirmed murder conviction and found no reason to interfere. The appellant was in jail and was directed to serve the remainder of his sentence; a free copy of the appellate judgment was to be given to him and the trial record returned with a copy for compliance. Neither Babu Singh's acquittal nor the earlier co-accused proceedings were altered by this appeal.

Nathu Singh v. State of M.P., Cr.A. no. 515/2010, 13/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (500) Prev Next

Headnote :- Section 482 CrPC — matrimonial complaint / divorce counterblast allegation - The wife alleged repeated demands for a Fortuner and twenty tolas of gold, beatings, threats and expulsion from the matrimonial home. The accused in-laws said her 30 November 2021 FIR followed service of the husband's divorce petition and was retaliatory, particularly as she had made no complaint for several years. Applying *Pratibha*, the Court held that a wife may remain silent while trying to preserve her marriage; the filing of a divorce petition and later criminal complaint do not automatically establish mala fides or justify quashing. Civil and criminal proceedings have different standards of proof. Findings in one are not ordinarily binding in the other, subject to the relevance and effect of judgments under Sections 40–43 of the Evidence Act. The uncontroverted allegations disclosed a cognizable case of cruelty; their truth was a matter for trial.

Dowry cruelty — specific allegations / defence material - The allegations specified dowry demands, violence, threats of death or exclusion from the matrimonial home, and forcible return to her parents when the demands were not met. The Court regarded compelling her to live with her parents because the dowry demands were not met as potential mental cruelty. The allegation that she had attacked her husband with a knife was contradicted by his own written statement that he had injured himself; counsel conceded that no criminal case had been registered against her. The acknowledgement relied on to establish removal of stridhan did not establish the quantity of ornaments, since they had not been weighed. The wife was the owner of her stridhan. Those disputed defence claims could not be conclusively adjudicated in the quashing proceedings; both connected applications were dismissed, without a finding of guilt.

Case-note :- ***1. Facts :*** By a common order dated 7 May 2024 the Jabalpur Bench decided M.Cr.C. No. 12469/2024 filed by the complainant's elder brothers-in-law and M.Cr.C. No. 48243/2023 filed by Seema Saraf, described as the wife of one applicant. The applicants sought to quash an FIR lodged by the complainant on 30 November 2021. She said she married Satyendra Saraf on 11 May 2017. She alleged that, after about four months, her husband and the applicants began scolding and beating her over inadequate dowry. They demanded a Fortuner and twenty tolas of gold and threatened that she would be allowed to stay only if these demands were met and would otherwise be killed. On 30 October 2021 they allegedly beat and expelled her. Her parents could not meet the demand and brought her back to her parental home. These are the FIR allegations, not findings after a criminal trial.

The applicants advanced three principal contentions. They asserted that the wife had stabbed her husband Satyendra in the abdomen and that a criminal case had been registered against her. They contended that her complaint was a counterblast to his divorce petition under Section 13 of the Hindu Marriage Act, filed on 16 November 2021, of which she received notice on 23 November. They also argued that the absence of a police complaint for four and a half years contradicted the allegation of continuing cruelty. They further said she had taken all her stridhan before departure, relying on an acknowledgement by Kuldeep Nigam, vice-president of Nagar Palika Parishad, Shahdol. The Court considered a complete charge-sheet filed after its order of 20 April 2024 and examined the applicants' documents for these specific objections; the factual truth of the allegations remained outside the determination required in the Section 482 proceedings.

The husband's written complaint to the Superintendent of Police, filed by the applicants themselves, said he caused his own abdominal knife injury. The Court found counsel's contrary assertion misleading, particularly because the relevant lines had been underlined and the underlining was then partly covered with whitener. When confronted with this, counsel admitted that no criminal case had been registered against the complainant. As to the property, Nigam admitted in his deposition that the ornaments had not been weighed; the Court observed that if the wife took her own stridhan, no complaint could be made against her on that account. The precise quantity of articles and the truth of the cruelty allegations remained for trial.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was directly applied. It rejected a quashing order that drew an adverse inference from delayed matrimonial

reporting and relied on extraneous investigative or civil circumstances beyond the FIR; the wife in that case had tried to reconcile before a divorce petition, and a civil proceeding could not by itself end an otherwise cognizable criminal one. It referred to the *Bhajan Lal* illustrations as the framework for the quashing inquiry. The High Court applied that reasoning to the possibility that the present complainant maintained silence to preserve her marriage and acted after the divorce petition showed reconciliation had failed. That possibility explained why the timing alone was not conclusive.

Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775, was quoted for the different standards of proof in civil and criminal proceedings and the absence of any general rule making factual findings in one binding in the other. Its discussion cited *Iqbal Singh Marwah*, *Syed Askari Hadi Ali Augustine Imam*, *Vishnu Dutt Sharma* and *K.G. Premshanker*, and recognised that judgments may be relevant in the circumstances defined by Sections 41–43 of the Evidence Act. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Admn.), (2009) 5 SCC 528*, was then quoted at length. It explained the framework under Sections 40–43 discussed in *K.G. Premshanker*: a final judgment can be relevant as the Evidence Act provides, sometimes for a limited fact or motive, but is not generally conclusive outside Section 41; it rejected the general proposition in *Karam Chand* that civil decisions bind criminal courts and examined the Constitution Bench reasoning in *M.S. Sheriff* and *Iqbal Singh Marwah*. The discussion of Sections 340, 341 and 343 CrPC and delay in perjury proceedings formed part of the quoted passage from *Iqbal Singh Marwah*; it was not a procedural issue decided in the present quashing proceedings.

Prem Raj v. Poonamma Menon, SLP (Crl.) No. 9778/2018, decided 2 April 2024, was also quoted in discussing the *Karam Chand* line of authority in light of *K.G. Premshanker, Vishnu Dutt Sharma, Satish Chander Ahuja, Iqbal Singh Marwah* and *M.S. Sheriff*. The principle applied in this order was that the proceedings must be decided independently under their distinct standards; the existence of a related civil matter does not automatically require a stay or bar criminal proceedings. *M.S. Sheriff* noted that criminal proceedings are often given priority, while rejecting an invariable rule. The Court did not order a stay of either proceeding.

3. Statutes considered : Section 482 CrPC was invoked as the source of the Court's inherent jurisdiction to quash the FIR and consequential proceedings. The test at this stage is whether the uncontroverted allegations disclose an offence; disputed defence accounts concerning the injury, articles, timing and credibility could not be finally determined in this jurisdiction. The order describes allegations of dowry demand and matrimonial cruelty. Section 13 of the Hindu Marriage Act concerned the husband's separate divorce petition, whose filing and service were relied on as part of the chronology but did not create a legal bar to the criminal proceedings. Sections 40–43 of the Evidence Act, discussed through the Supreme Court cases, govern the relevance and possible conclusiveness of previous judgments in specified statutory circumstances. In the present case, the divorce petition was pending; there was no conclusive civil finding determining the FIR allegations.

4. Issues : The Court addressed whether the applicants' version that the wife stabbed the husband had any foundation in the material they themselves filed; whether the chronology of divorce filing, service and FIR, with absence of an earlier police report, compelled a finding that the complaint was a false counterblast; whether the related civil proceedings or any civil findings automatically barred the criminal proceedings; whether a receipt describing removal of stridhan defeated the complaint; and whether the actual FIR allegations of specific dowry demands, violence and expulsion disclosed an offence on their face. These issues arose in connected petitions by different relatives, but were disposed of together. The Court could not determine ultimate guilt or the factual truth of the allegations in the quashing proceedings.

5. Ratio / Findings : First, the alleged criminal case concerning the stabbing had been materially misrepresented. The document filed by the applicants themselves attributed the knife injury to Satyendra himself, and counsel conceded that no criminal case against the wife had been registered. The Court treated the underlining and attempted erasure as an effort to mislead it. That finding concerned the contents of the document and counsel's oral submission; it did not establish all the allegations in the wife's FIR. The Court then rejected an automatic adverse inference from the sequence in which the proceedings were instituted. Marriage-related silence may be a genuine attempt to preserve or repair a relationship, and an eventual divorce

petition may explain a decision to report earlier alleged cruelty. The law permits civil and criminal proceedings founded on overlapping facts to continue independently. Their standards of proof differ, and any previous judgment's evidentiary use must be assessed under Sections 40–43 rather than presumed to bind the criminal court. The pending divorce petition did not conclusively answer the FIR allegations. These principles defeated the asserted counterblast rationale for immediate quashing, while leaving credibility and the significance of the timing to be assessed on the evidence at trial.

Second, the contention based on removal of stridhan was not established by the material relied on. The vice-president admitted in his deposition that the recorded ornaments had not been weighed, so the acknowledgement did not conclusively establish the quantity of property; more fundamentally, the wife's taking property belonging to her did not by itself make the cruelty allegation false. Finally the FIR identified the relatives, the approximate onset of the alleged cruelty after the 2017 marriage, the vehicle and gold demanded, repeated scolding, assault and threats, and the date of expulsion. The Court held that compelling her to live with her parents because those demands were not met could itself constitute mental cruelty. At the Section 482 stage, these uncontroverted allegations disclosed a prima facie offence, and their factual truth could not be resolved by weighing competing assertions in the petition and charge-sheet. The conclusion rested on the specific conduct attributed to these applicants. It did not determine their guilt or finally resolve the evidentiary effect of the disputed defence documents.

6. Relief : The Hon'ble High Court has dismissed the application and the connected application. The Court refused to quash the FIR. The prosecution and the separate matrimonial proceedings remained to be decided in the ordinary course.

Neeraj Kumar Saraf and Ors. v. State of Madhya Pradesh and Ors.; Seema Saraf v. State of Madhya Pradesh and Ors., M.Cr.C. no. 12469/2024 & 48243/2023, 07/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (501) Prev Next

Headnote :- FIR registration — Section 482 CrPC / alternative magistrate remedy - Neetu Goyal sought directions for registration and investigation of a police case arising from alleged dowry harassment and eviction from the matrimonial home. The Court considered whether an application under Section 482 seeking a direction to the police to register an FIR was tenable. *Divine Retreat Centre* identified the remedy of a complaint before the Magistrate having jurisdiction under Sections 190 and 200 CrPC after police inaction, with the Magistrate able to conduct the statutory inquiry and, where appropriate, direct investigation. The Division Bench in *Shweta Bhadauria* identified remedies under Sections 154(3), 156(3), 190 and 200 as alternatives to seeking a writ of mandamus, subject to recognised exceptions. Because the applicant had an efficacious criminal complaint remedy, the Court dismissed her application with express liberty to pursue it. It did not adjudicate the truth of the family allegations. The exceptional constitutional remedies discussed in the quoted authorities were distinct from the Section 482 request before it.

Case-note :- ***1. Facts :*** Neetu Goyal brought M.Cr.C. No. 24023/2022 under Section 482 CrPC. She asked the High Court to allow the application and direct the police to register a case and investigate her allegations concerning dowry demands and removal from the matrimonial home by her husband and his family. She also sought consequential directions concerning her husband's litigation, an opportunity for her to be heard and receive assistance, and consideration by senior police authorities of the failure to register an FIR. The merits of these ancillary requests concerning the family dispute were not separately addressed. The Court treated the controlling question as whether to direct FIR registration.

The State objected to maintainability and cited *Sakiri Vasu v. State of U.P., Aleque Padamsee v. Union of India, Divine Retreat Centre v. State of Kerala and the Madhya Pradesh Division Bench* in *Shweta Bhadauria v. State of M.P. The Court* did not resolve disputed factual questions about the family or assess the evidence of dowry harassment. The question it expressly considered was whether the inherent power under Section 482 could be invoked to obtain registration of an FIR when a statutory complaint remedy was available.

2. Precedents — Considered : *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, were relied on by the State in support of the availability of ordinary statutory remedies when police do not register a case.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted substantively. It recognised that the High Court could issue directions under Article 226 if convinced that the investigation was mala fide, but only in the rarest cases where a clear abuse of power and non-compliance with Chapter XII warranted interference. Even then, the Court could insist on observance of the statutory process but could not direct how the investigation should be conducted. For a complainant faced with police inaction, it identified a complaint under Sections 190 and 200 CrPC and the inquiry before the competent Magistrate under Chapter XV, including an available direction for investigation and a decision whether the complaint prima facie discloses an offence warranting process or should be dismissed. That passage quoted *Gangadhar Janardan Mhatre* and referred to the *All India Institute of Medical Sciences Employees' Union*. The Court dismissed the application on the ground that an efficacious criminal complaint remedy was available.

Shweta Bhadauria v. State of M.P., Writ Appeal No. 247/2016, a Division Bench authority, was quoted for the proposition that a writ of mandamus to enforce the duty under Section 154 may be refused where the informant has not availed of the remedies under Sections 154(3), 156(3), 190 and 200, unless one of the four *Whirlpool* exceptions referred to by the Division Bench applies; it also clarified that *Lalita Kumari* on the duty to register does not itself establish an entitlement to bypass alternative remedies and obtain a writ. That precedent concerns writ mandamus, whereas Neetu's application invoked Section 482; the present order relied on its reasoning concerning statutory remedies and dismissed the inherent-power application.

3. Statutes considered : Section 482 CrPC was invoked as the source of the Court's inherent jurisdiction, but the Court found an efficacious alternative remedy for the specific FIR-registration request. Sections 190 and 200 CrPC provide for a complaint before the Magistrate having jurisdiction, examination and inquiry under Chapter XV, and a decision on whether investigation or issue of process is warranted. Section 203 CrPC appeared in the quoted *Divine Retreat Centre* passage as a possible dismissal after inquiry if no offence is disclosed. The quoted ruling in *Shweta Bhadauria* also identified recourse to superior police officers under Section 154(3) and investigation directed by the Magistrate under Section 156(3), and Article 226 for a mandamus subject to the ordinary alternative-remedy rule and recognised exceptions. The application concerned the availability of Section 482 relief for FIR registration in view of the alternative criminal complaint remedy.

4. Issues : The dispositive issue was whether this application under Section 482 seeking a direction for registration of an FIR was tenable despite the available criminal complaint remedy. The State's authorities also raised the relationship between police duty, Magistrate control and exceptional writ intervention. The order did not decide whether the husband's family had in fact demanded dowry, whether an offence would be established after inquiry, or the ancillary requests concerning the family dispute in the prayer.

5. Ratio / Findings : The Court identified an efficacious remedy before the criminal court of competent jurisdiction. A person on whose information the police have taken no action can lodge a complaint before the Magistrate under Sections 190 and 200; that court can examine the material and take the action provided by law, including investigation where warranted. The cited Division Bench also identified Sections 154(3) and 156(3) among the available alternative remedies, while distinguishing *Lalita Kumari*'s registration duty from an automatic right to a High Court writ of mandamus without availing of alternative remedies. The exceptional Article 226 power discussed in *Divine Retreat Centre*, requiring mala fide investigation, clear abuse of power and non-compliance with Chapter XII, formed part of the quoted law. The order made no finding that such extraordinary circumstances existed in Neetu's case. The conclusion was that an inherent-power petition asking the High Court to compel an FIR was not the appropriate route when an effective complaint remedy before the Magistrate was available. The applicant was expressly granted liberty to file a criminal complaint before the competent court.

6. Relief : The Hon’ble High Court has dismissed the application under Section 482 CrPC, with express liberty to Neetu Goyal to file a criminal complaint before the competent court. No FIR was ordered, and no determination was made about the alleged dowry harassment, husband's litigation, or guilt of any proposed accused.

Neetu Goyal v. State of Madhya Pradesh and Ors., M.Cr.C. no. 24023/2022, 12/05/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (502) Prev Next

Headnote :- Section 482 CrPC — fabricated loss narrative / cheque-theft FIR quashed - Two connected applicants challenged the charge-sheet in Crime No. 151/2016 and S.T. No. 24/2021 for Sections 420, 467, 468, 471, 379 and 120-B IPC. One had already filed a Section 138 NI Act complaint on a ₹25 lakh signed cheque in 2014; the drawer later alleged that the cheque had previously been lost, that Mangal had filled in its particulars and that Chauhan had misused it. On the Court's direction the original police inward register was produced; the State confirmed it contained no 20 May 2014 loss complaint. The seized cheque leaves from the old and new series, the undisputed signature and the chronology undermined the asserted four-year retention of an old signed blank leaf. The Court held the supposed police complaint fabricated and the FIR a false defence to dishonour proceedings, quashing both FIR and sessions trial.

Sterling defence material / *Rajiv Thapar* - The usual restraint against considering an accused's defence under Section 482 did not preclude reliance on the particular verified material in this case. *Rajiv Thapar* requires sound, indubitable material that decisively refutes the accusation; material not refuted by the prosecution or complainant and/or incapable of justifiable rebuttal; and continuation of trial amounting to an abuse of process rather than serving the ends of justice. The original station register, the seized records of cheque numbers and undisputed signature supported the Court's conclusion; allegations of a bank stop-payment request did not explain the alleged loss of cheques from the old series or the missing police entry.

Signed blank cheque / *Bir Singh* - A holder may fill the particulars of a voluntarily given signed blank cheque; that fact alone does not invalidate the instrument or relieve the signatory of the rebuttable statutory presumption that it was issued for a debt or liability. The Court used this principle against the allegation that filling in the particulars of the cheque by itself established the alleged forgery. It did not determine the merits of the pending Section 138 prosecution, which remained a separate proceeding.

Case-note :- *1. Facts :* This common order decided M.Cr.C. No. 12431/2021 filed by Rajendra Kumar Mangal and M.Cr.C. No. 12403/2021 filed by Upendra Singh Chauhan. Both invoked Section 482 CrPC against the charge-sheet following FIR Crime No. 151/2016, Police Station Dabra, District Gwalior, for Sections 420, 467, 468, 471, 379 and 120-B IPC, and against S.T. No. 24/2021 before the Second Additional Sessions Judge, Dabra. Chauhan had lodged a complaint under Section 138 of the Negotiable Instruments Act on 26 August 2014 after statutory notice. He said the private respondent/drawer signed and issued cheque No. 099440 dated 2 July 2014 for ₹25 lakh on account of hiring a JCB, two dumpers, a hot mixer, a roller, a trolla, a paver and a tanker; on deposit it was returned with a stop-payment endorsement.

The drawer said he had misplaced signed blank cheque leaves numbered 099433, 099434 and 099440 while travelling between Dabra and Tekanpur on 20 May 2014 and had reported the loss to the police station and bank. He alleged that Mangal later filled in the particulars of the disputed cheque and Chauhan misused it. A prior W.P. No. 350/2016 had directed the police to look into his complaint in light of *Lalita Kumari*; an FIR followed on 10 March 2016. In M.Cr.C. No. 67/2017 the Court directed expeditious completion of the investigation and filing of a final report. Further applications in 2018 and 2019 concerned the inclusion of parties, the investigation and protection from arrest while specimen signatures were obtained. These earlier procedural orders did not adjudicate the truth of the loss allegation. The applicants called the later theft/forgery prosecution a counterblast to the pre-existing NI Act case, relying on the drawer's admitted signature and failure to appear in that proceeding; the drawer defended the charge-sheet and relied on a purported acknowledgment of his May 2014 loss report.

The police had seized cheque leaves 099426, 099427, 099429 and 099430, which had been used in 2010–11, and leaves 694242 and 694247 from a newer series. The disputed No. 099440 belonged to the older series although dated in 2014. The Court directed production of the original Police Station Dabra inward/outward records for May 2014 because the offered copy of the supposed loss complaint had no official seal and only an unidentified small signature. State counsel examined the original inward register and specifically reported

that no complaint was received on 20 May 2014. The drawer urged that the bank had acknowledged a corresponding request or stop-payment instruction. The Court treated that as insufficient to account for the absent station entry, the retention of a signed blank leaf from the old series for four years despite the issue of a new cheque book, and the stop-payment endorsement on a cheque said to be out of circulation. The Court found that the purported police complaint was forged and that the FIR was lodged to create a false defence in the pending cheque case.

2. Precedents — Considered : *Lalita Kumari v Government of Uttar Pradesh, (2014) 2 SCC 1,* was referred to because the earlier writ order had directed police consideration of a complaint in its light. The earlier case-specific orders in W.P. No. 350/2016, M.Cr.C. No. 67/2017, M.Cr.C. No. 37721/2018 and M.Cr.C. No. 5481/2019 recorded the procedural steps concerning investigation, a final report, inclusion of parties and specimen signatures.

Rajiv Thapar v Madan Lal Kapoor, (2013) 3 SCC 330, was applied in answering the private respondent's objection that the accused's defence cannot be considered under Section 482. The Court quoted its four-step test: first, material advanced by the accused must be sound, reasonable, indubitable, sterling and impeccable; second, it must decisively rule out the accusation's factual basis; third, the material must not have been refuted by the prosecution or complainant and/or must be incapable of justifiable rebuttal; fourth, continuation must be an abuse of process and must not serve the ends of justice. A court satisfied on every step may quash to avoid a trial that would serve no useful purpose. Here the High Court relied on a register it had called for and the State had checked, the chronology established by the seized cheques and the undisputed signature, rather than merely an untested assertion made in the accused's own interest. The Court found that the purported loss report was forged and quashed the FIR and subsequent proceedings.

Bir Singh v Mukesh Kumar, Criminal Appeals Nos. 230–231/2019, judgment dated 6 February 2019, was quoted on a signed blank cheque: Sections 20, 87 and 139 of the NI Act provide that a person who signs and makes over a cheque remains liable unless evidence rebuts the presumption of debt or liability, and the payee's filling in the amount or particulars alone does not invalidate it or avoid Section 138 if the cheque is otherwise valid. The Court used this to answer the claim that Mangal's filling of entries necessarily supported a criminal forgery case. The quoted decision preserves the drawer's opportunity to rebut the presumption by evidence.

3. Statutes considered : Section 482 CrPC was invoked to prevent abuse of process and secure the ends of justice after investigation and filing of the charge-sheet. The applications sought quashing of both the FIR and the ensuing sessions proceedings. The alleged IPC offences were cheating (Section 420), forgery of a valuable security (Section 467), forgery for the purpose of cheating (Section 468), use of forged document (Section 471), theft (Section 379) and conspiracy (Section 120-B). The Court rejected the asserted loss narrative and found that the FIR had been lodged to create a false defence in the cheque case. The pending complaint concerning the dishonoured cheque was under Section 138 of the NI Act; Sections 20, 87 and 139 of the NI Act were discussed in the passage from *Bir Singh* concerning completion of signed instruments, alteration and the statutory presumption. The Court neither tried the NI complaint nor directed payment.

4. Issues : Could the Court quash a prosecution for theft, forgery and cheating after completion of the investigation where the signed-cheque drawer's claimed prior loss was contradicted by original station records and cheque chronology, notwithstanding the normal caution against entertaining an accused's factual defence? Was the alleged completion of a signed blank cheque inherently improper, and what did the parallel Section 138 complaint prove or leave open? The earlier orders concerned investigation or protected participation in it; they did not finally adjudicate the accusation. The question was whether verified material meeting the conditions in *Rajiv Thapar* made continuation of this particular criminal case an abuse of process. The merits of the ₹25 lakh cheque complaint and the drawer's guilt in that proceeding were not decided.

5. Ratio / Findings : The Court inferred from the seized older-series leaves dated 2010–11 and newer-series leaves in use by 2012 that cheque 099440 came from an older book; it regarded the carrying of a signed but unused leaf from the old series in 2014 as implausible. More decisively, the copy of the supposedly contemporaneous police loss report had no official seal, and the original May 2014 inward register produced on the Court's direction bore no entry for it. State counsel confirmed the absence. The

Court described the loss complaint as a fabricated or forged document and found that the drawer had issued the cheque, then sought to construct a false defence in the existing dishonour case. The alleged bank notice was considered, but the Court found it did not account for the missing police entry or explain the chronology of the cheque series. The Court also found the stop-payment endorsement unexplained when the leaf was said to be out of circulation. It inferred an intention to cheat the intended recipient.

The Court expressly confronted the argument that a quashing court must not consider material relied on by the accused. *Rajiv Thapar* permits the narrow exception where the material is objectively impeccable and decisively refutes the accusation; it has not been refuted by the prosecution or complainant and/or cannot justifiably be refuted; and continuation of trial would be an abuse of process rather than serve the ends of justice. The original official register, seized cheque records, admitted signature and the 2014 Section 138 chronology were considered together and found to meet that standard in this case.

Under *Bir Singh*, the drawer's signature and voluntary delivery of a blank cheque permit the holder to fill in its particulars without thereby invalidating it; the statutory presumption against the signatory remains rebuttable by evidence. In the context of the Court's rejection of the theft narrative, the allegation that Mangal filled entries did not justify continuation of the proceedings based on the charge-sheet. The quoted *Bir Singh* passages state that completion of a voluntarily delivered signed blank cheque does not itself invalidate the instrument and that the statutory presumption remains rebuttable.

6. Relief : The Hon'ble High Court has allowed both M.Cr.C. applications and quashed Crime No. 151/2016 at Police Station Dabra and further proceedings in S.T. No. 24/2021 before the Second Additional Sessions Judge, Dabra. It made no order as to costs.

Rajendra Kumar Mangal and others v. State of Madhya Pradesh and others, M.Cr.C. no. 12431/2021 & 12403/2021, 01/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (503) Prev Next

Headnote :- Section 482 CrPC — face-value offence / defence not a mini-trial - A husband and mother-in-law sought to quash the charge-sheet already filed and the pending criminal case under Sections 498-A, 294, 323, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act. They attributed the marriage to prior police pressure after a live-in relationship and the wife's complaint to retaliation against the husband's earlier approach to police. The Court did not treat that contested narrative as established. Following the Supreme Court's limits on inherent jurisdiction, it held that the uncontroverted accusations disclosed a cognizable offence; reliability, credibility and the competing defence account were matters for trial, rather than detailed evaluation of evidence under Section 482. *Taramani Parakh*'s caution about omnibus accusations against relatives formed part of the quoted standard.

Mala fides — secondary where offence disclosed / continuing abuse exception - The applicants asserted a false, retaliatory case. The Court applied *Renu Kumari* and the *Bhajan Lal* framework: the absence of offence ingredients, a legal bar, inherent improbability or demonstrable abuse of process may warrant exceptional intervention, but mere allegations about an informant's motive cannot by themselves justify quashing a triable case. Once the allegations here were found to disclose a cognizable offence, the asserted malice was secondary; its factual basis was not decided. The application was dismissed without a guilt finding, and the applicants remained free to prove their defence at trial.

Case-note :- ***1. Facts :*** Rajendra Kumar Shah and other applicants moved under Section 482 CrPC to quash FIR Crime No. 16/2021 at Mahila Thana, Singrauli, and Criminal Case No. 1635/2021 before the JMFC, Waidhen. The reported charges were Sections 498-A, 294, 323, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act. Applicant 1 was the husband and applicant 2 his mother; the Court recorded that those relationships were undisputed. Investigation had concluded and the police had filed a charge-sheet by the time of the quashing application.

The applicants asserted that the couple had previously lived together and that the wife pressed for marriage. They claimed that a police complaint and compromise led to a marriage on 30 June 2021 against the husband's wishes, after which she

demanded that he move away from his widowed mother. They said the husband made a complaint to a women's help desk against the wife and her relatives, she threatened false implication, and the dowry/cruelty FIR was registered immediately after the police called her in relation to his complaint. Counsel characterised the allegations as false and malicious. These were the applicants' submissions, and their disputed factual claims remained to be proved at trial. The procedural question was whether the competing defence account could justify quashing a prima facie case disclosing a cognizable offence under the Court's inherent jurisdiction.

2. Precedents — Considered : The Court considered and applied a series of Supreme Court decisions on restraint in exercising Section 482 powers. *XYZ v State of Gujarat, (2019) 10 SCC 337*, criticised pre-investigation quashing through a roving assessment of disputed consent and an allegedly coerced settlement in a blackmail complaint; it was cited here for the prohibition on prematurely deciding disputed assertions. *State of Tamil Nadu v S. Martin, (2018) 5 SCC 718*, was quoted for the error of merits assessment before investigation was complete; in the present case, a charge-sheet had already been filed. *Ajay Kumar Das v State of Jharkhand, (2011) 12 SCC 319*, reproduced *Bhajan Lal*'s caution that the inherent power to quash must be exercised sparingly and does not permit an inquiry into reliability or an arbitrary exercise of discretion. *Mohd. Akram Siddiqui v State of Bihar, (2019) 13 SCC 350*, stated the general restraint against evaluating defence documents and the qualified exception for a public document or one whose veracity is not disputed by the complainant. *State of A.P. v Gourishetty Mahesh, (2010) 11 SCC 226*, distinguished a challenge based on the failure of allegations, taken at face value, to disclose an offence or on a legal bar from an attempt to secure an acquittal through premature evaluation of evidence. It warned against both using judicial process for a vendetta and using Section 482 to terminate a legitimate prosecution prematurely. *M. Srikanth v State of Telangana, (2019) 10 SCC 373*, explained that the uncontroverted FIR allegations and supporting material may be examined to determine whether they disclose an offence; it was not used to find an ingredient absent here.

CBI v Arvind Khanna, (2019) 10 SCC 686, rejected detailed findings by a High Court on disputed facts after cognizance, holding that the defence must be tested at trial. *State of M.P. v Kunwar Singh*, Criminal Appeal 709/2021, stated that the FIR need not be an encyclopedia and a Section 482 court cannot scrutinise allegations in the manner of a trial court. *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*, collected in paragraph 15, were cited for similar principles of restraint. *Taramani Parakh v State of M.P., (2015) 11 SCC 260*, was quoted more extensively: a triable case of matrimonial cruelty is not quashed merely because the reliability of the allegations is disputed, although courts should watch for omnibus allegations against relatives. Its quotation of *Amit Kapoor* set out the test based on allegations taken at face value, absence of offence ingredients, inherent absurdity and legal bars. It also addressed the limits of the prosecution record to be considered, the competing interests of personal liberty and prosecution, and the prohibition on detailed examination aimed at predicting conviction. Numerous authorities in that nested *Amit Kapoor* citation list, and *Taramani*'s discussion distinguishing *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra*, appear within the passage quoted from *Taramani Parakh*. The Court held that the uncontroverted allegations disclosed a cognizable offence and that the applicants' defences required proof at trial.

Renu Kumari v Sanjay Kumar, (2008) 12 SCC 346, was quoted for the three purposes for which inherent power may be exercised, the categories in *R.P. Kapur* concerning a legal bar, absence of an offence and absence of legal evidence, *Bhajan Lal*'s illustrative seven categories and the distinction between a manifest absence of legal evidence and a dispute about the weight of evidence that must be decided at trial. It also explained why mere allegations of mala fides against an informant, if an offence is disclosed, do not by themselves justify quashing a case. *R.P. Kapur* and *Bhajan Lal* were thus considered through *Renu Kumari*'s extended quotation and the Court's express reliance on it. The Court used that analysis to reject the proposed false-implication ground.

3. Statutes considered : Section 482 CrPC was invoked to prevent abuse of process or secure the ends of justice, but did not authorise a determination of disputed defence facts or a premature assessment of credibility. The investigation was complete and a charge-sheet filed; the relief sought was quashing of the FIR and pending case, rather than an order of

acquittal. Sections 498-A, 294, 323, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act were the reported accusations. The High Court held that the uncontroverted allegations disclosed a cognizable offence and declined to assess their credibility at the quashing stage. The quoted references to Sections 156(1), 155(2), 173(2) and 228 CrPC formed part of the general discussion in *Bhajan Lal* and *Amit Kapoor* of possible grounds for quashing or caution at the stage of framing charges; they were not independently adjudicated procedural defects here.

4. Issues : The principal issue was whether the prosecution allegations and record, taken at face value, failed to disclose a cognizable offence; whether the allegations were inherently absurd or a legal bar applied; or whether the proceedings amounted to a demonstrated abuse of process justifying quashing of the FIR and charge-sheet proceedings under Section 482. More concretely, the applicants asked the High Court to decide the credibility of the woman's dowry and cruelty allegations against their claim of a coerced marriage, separate-residence dispute, earlier police complaint and threatened false implication. The Court also had to decide whether alleged retaliatory motive alone could justify quashing once the allegations were capable of constituting an offence. The test was whether the allegations taken at face value disclosed a cognizable offence, rather than whether guilt had been proved beyond reasonable doubt.

5. Ratio / Findings : The Court treated the applicants' narrative as a defence. It could examine the allegations and uncontroverted supporting material to determine whether they disclosed an offence, but could not decide whether the wife in fact pressured the husband to marry, demanded separate residence, harassed the husband, threatened him or fabricated the FIR. *XYZ*, *Arvind Khanna*, *Kunwar Singh*, *Ajay Kumar Das* and *Taramani* supported the rule against conducting a mini-trial under Section 482: a quashing court does not weigh rival factual probabilities, conduct a roving enquiry into reliability or require the FIR to contain an exhaustive account of every detail. *Gourishetty Mahesh*, *M. Srikanth* and *Amit Kapoor* allowed intervention where the allegations taken at face value do not constitute an offence, an express legal bar applies, or an abuse of process is demonstrated. The Court concluded that the uncontroverted allegations did make out a cognizable offence.

The applicants relied on the chronology of the husband's police complaint and the wife's FIR to allege a mala fide motive. *Renu Kumari*'s application of *Bhajan Lal* preserves exceptional quashing where a prosecution is manifestly malicious or the allegations taken at face value disclose no offence, but warns that unproved hostility or personal grievance does not by itself justify quashing a triable accusation. Here, after finding a cognizable offence on the uncontroverted record, the Court treated the informant's motive as secondary. The Court did not decide whether the complainant was in fact malicious or determine the factual merits of the applicants' defence. The credibility of the complaint, the counter-version and any evidence for or against an accused were left to the competent trial court.

6. Relief : The Hon'ble High Court has dismissed the application and refused to quash Crime No. 16/2021 and Criminal Case No. 1635/2021. The charge-sheet prosecution was left to proceed before the JMFC, Waidhen, subject to ordinary trial defences and proof.

Rajendra Kumar Shah and others v. State of Madhya Pradesh and others, M.Cr.C. no. 20135/2022, 22/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (504) Prev Next

Headnote :- Section 482 CrPC — police inaction / alternative magistrate remedy - The applicant sought a police progress report and explanation for not acting on a complaint he asserted disclosed a cognizable offence and had led to a preliminary enquiry finding. The Court framed the question as whether a petition invoking its inherent jurisdiction for registration of an FIR was tenable, rather than adjudicating the truth of the underlying allegations. Applying *Divine Retreat Centre* and the Madhya Pradesh Division Bench's *Shweta Bhadauria* formulation, it found an efficacious criminal-complaint remedy before the competent Magistrate and dismissed the Section 482 application with liberty to file such a complaint. No FIR or progress report was ordered and no finding on commission of an offence was made.

Police non-registration — statutory complaint route / limited writ exception - *Divine Retreat Centre*, through *Gangadhar Janardan Mhatre*, described a complainant's Sections 190/200 route and the Magistrate's options to inquire, seek

investigation, issue process or dismiss. *Shweta Bhadauria* identified Sections 154(3), 156(3), 190 and 200 as alternative avenues that can justify refusal of mandamus, subject to recognised *Whirlpool* exceptions; it distinguished *Lalita Kumari*'s duty to register from an unrestricted right to bypass remedies. The Supreme Court's statement on the High Court's exceptional power under Article 226 to intervene in a mala fide investigation was quoted; that power was not exercised in this Section 482 matter.

Case-note :- ***1. Facts :*** Rajendra Sharma filed M.Cr.C. No. 21172/2021 under Section 482 CrPC. His prayer asked that the respondents be directed to submit a progress report on his complaint, explain their inaction even after what he described as a preliminary enquiry finding that a crime was established, and take appropriate action. Counsel said the complaint pointed to a cognizable offence but the police had not acted. These were the applicant's assertions and requests; the Court did not adjudicate their merits. The State resisted maintainability, saying the complainant could file a criminal complaint under Section 200 CrPC and invoking Supreme Court and Madhya Pradesh Division Bench authority.

The Court expressly framed the question whether a Section 482 petition for registration of an FIR was tenable. Its disposition turned on the availability of an efficacious criminal complaint remedy. The prayer also sought a report and police explanation; the Court treated the application as an attempt to obtain intervention in the police's failure to register an FIR or otherwise act on the complaint.

2. Precedents — Considered : The State cited *Sakiri Vasu v State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, for the proposition that statutory remedies should ordinarily be pursued where a complaint allegedly disclosing cognizable crime has not led to an FIR. The State also cited *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, which the Court quoted. *Divine Retreat Centre* distinguishes ordinary police inaction from the rarest cases warranting intervention under Article 226: the High Court must be convinced that investigative power has been exercised mala fide, and a clear abuse of power and noncompliance with Chapter XII CrPC must be established. Even in such a case, the High Court may insist on observance of the process prescribed by the Code but cannot dictate the manner of investigation. Where the police fail to act on information, its quoted passage points to Sections 190 and 200 rather than routine writ intervention. In the present case, the Court did not determine that such exceptional mala fides existed or exercise jurisdiction under Article 226.

Divine Retreat Centre reproduced *Gangadhar Janardan Mhatre v State of Maharashtra*: a complainant may lay a complaint before the jurisdictional Magistrate under Section 190 read with Section 200; the Magistrate must inquire into the complaint under Chapter XV and, on finding a prima facie case after recording evidence, may direct police investigation and a report instead of issuing process. The Magistrate may dismiss the complaint under Section 203 if it discloses no offence, or take cognizance and issue process if the complaint or recorded evidence prima facie discloses an offence. The nested passage also mentioned *All India Institute of Medical Sciences Employees' Union*. These authorities describe the available statutory remedy. The Court left Sharma at liberty to file a complaint without deciding how the Magistrate should dispose of it.

The Court separately quoted the Division Bench ruling in *Shweta Bhadauria v State of M.P.*, cited in the order as *Smt. Reeta Bais v State of M.P.*, W.A. No. 247/2016. It stated that mandamus to enforce the police's Section 154 duty can be denied where Sections 154(3), 156(3), 190 and 200 alternative remedies have not been used, unless the recognised exceptions in *Whirlpool Corporation v Registrar of Trade Marks, (1998) 8 SCC 1*, apply to the informant or victim. It also said *Lalita Kumari v Government of U.P., (2014) 2 SCC 1*, concerns the statutory registration duty, rather than entitlement to mandamus without pursuing alternative remedies. The Court dismissed the application because an efficacious criminal-complaint remedy was available.

3. Statutes considered : Section 482 CrPC was the source of the inherent power invoked. The applicant sought High Court directions concerning police action, but the Court found the application inappropriate because a complaint could be filed before the competent court. Section 154 CrPC appears in the Division Bench's statement of the FIR-registration duty, with Section 154(3) as an escalation alternative; Section 156(3) is the Magistrate-directed investigation route. Sections 190 and 200 provide the complaint and cognizance

mechanism highlighted by *Divine Retreat Centre*, while its quotation describes Section 203 dismissal and Chapter XV inquiry. Article 226 of the Constitution is mentioned in the Supreme Court excerpt as an exceptional supervisory power where the High Court is convinced that investigative power has been exercised mala fide and clear abuse of power and Chapter XII noncompliance are established; it was not the jurisdiction invoked or relief granted here.

4. Issues : The narrow issue was whether Sharma could obtain a Section 482 direction for a police progress report, explanation and action to secure registration of an FIR on his assertion that the complaint disclosed a cognizable offence but the police had failed to act, or whether he should instead use the statutory complaint process. The cited authorities also raised the distinction between the police's substantive Section 154 duty, the available statutory remedies before superior police officers and the Magistrate, and exceptional constitutional oversight where abuse is independently shown.

5. Ratio / Findings : The Court upheld the objection based on the available alternative remedy in these proceedings. *Divine Retreat Centre*'s quoted passage describes the judicial remedy where the police fail to act: the complainant may file a complaint before the jurisdictional Magistrate, who must inquire into it and may order investigation, take cognizance and issue process, or dismiss the complaint, as the statutory conditions permit. The Division Bench's *Shweta Bhadauria* formulation reinforces that availability of Sections 154(3), 156(3), 190 and 200 may justify refusal of a direct request for mandamus, subject to recognised exceptions. *Lalita Kumari*'s statutory rule about registration does not by itself dispense with the alternative remedies or establish entitlement to a High Court writ. Thus the Court declined the requested directions for a progress report and registration of an FIR under Section 482 because an efficacious remedy by complaint before the competent Magistrate remained available.

The quoted Supreme Court passage preserves intervention under Article 226 in the rarest cases where the High Court is convinced that investigative power has been exercised mala fide and clear abuse of power and Chapter XII noncompliance are established. Even then, the Court may insist on observance of the prescribed process but cannot direct how the investigation is to be conducted.

6. Relief : The Hon'ble High Court has dismissed the application expressly reserving liberty to file a criminal complaint before the competent court. It issued no direction to register an FIR, submit a progress report, explain the alleged inaction or conduct an investigation in a particular way. It did not determine the truth of Sharma's accusations or the outcome of a future Magistrate complaint.

Rajendra Sharma v. State of Madhya Pradesh and others, M.Cr.C. no. 21172/2021, 16/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (505) Prev Next

Headnote :- SC/ST Act — Sections 18/18-A anticipatory-bail bar / prima facie allegation - In an appeal under Section 14-A(2), the appellants faced Crime No. 75/2021 for offences under the IPC concerning obstruction of and assault on a public servant and related acts, as well as under the SC/ST Act arising from a dispute over MGNREGA work and payment. They contended that there was no allegation of insult by reference to caste. The State and complainant could not clarify whether the appellants were contractors or labourers entitled to payment; the FIR did not reproduce the actual words uttered. The Court held the anticipatory-bail bar may not apply on the material before it at this stage and granted conditional protection, without finally adjudicating the allegations or the financial dispute. The charged Section 3(1) sub-clauses are printed as "(द)" and "(ध)" in the judgment.

Pre-arrest conditions / pandemic and victim notice - Police stated they did not wish to arrest and had issued a Section 41(1)(a) appearance notice. The Court cited the Supreme Court's prison-decongestion order during COVID-19, required appearance before the investigating officer on or before 23 September 2021 and a ₹1 lakh personal bond with one surety in the same amount for each appellant, and imposed compliance with public-health directions and the other conditions under Section 438. It directed that the complainant be informed of the bail grant in light of *Aparna Bhat*; a breach would cause the order to cease to have effect in accordance with its terms. The Court also examined whether the prima facie allegations attracted the SC/ST Act bar.

Case-note :- ***1. Facts :*** This was the first criminal appeal, CRA No. 5412/2021, under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act seeking anticipatory

bail. The appellants apprehended arrest in Crime No. 75/2021, Police Station Jamner, District Guna. The order lists Sections 353, 332, 186, 294 and 34 IPC and Section 3 provisions of the SC/ST Act, including Section 3(2)(va); the judgment prints the two Section 3(1) sub-clauses as "(द)" and "(ध)". The Court had the case diary; the State and complainant appeared.

The appellants contended that they demanded money legitimately payable for MGNREGA work and that the complainant wanted more work done. They said the FIR contained no caste-name humiliation or insult and that Sections 18/18-A's anticipatory-bail exclusion should not apply. They promised cooperation and stated that there was no risk of absconding or tampering with the prosecution case. The State and complainant opposed the application but could not clarify whether the appellants were contractors or workers themselves, or why payment was sought. The State said police did not wish to arrest them and had issued a notice under Section 41(1)(a) CrPC asking them to appear before the trial court.

2. Precedents — Considered : *In Re: Contagion of COVID-19 Virus in Prisons*, Suo Motu W.P.(C) No. 1/2020, order of 23 March 2020, was quoted at length. The Supreme Court, considering prison overcrowding and Article 21 during the pandemic, directed States and Union Territories to constitute High Powered Committees comprising the specified officials from legal services and the home and prison administrations to determine categories of prisoners eligible for parole or interim bail, with offences punishable by up to seven years among the possible categories and the seriousness of the offence, sentence or custody among the relevant factors. That order concerned prison decongestion and left the identification of categories to the High Powered Committees. It did not determine whether these appellants had committed an offence under the SC/ST Act. The High Court quoted the order and then considered the absence of the actual words from the FIR and the uncertainty about the appellants' MGNREGA work when assessing the Sections 18/18-A bar.

Aparna Bhat v State of M.P., Criminal Appeal No. 329/2021, decided 18 March 2021, was invoked specifically to require that notice of the grant of bail be sent to the complainant. The direction to inform the complainant forms part of the conditions attached to the grant of bail.

3. Statutes considered : Section 14-A(2) of the SC/ST Act provided the appeal route. Sections 18 and 18-A imposed the statutory bar on anticipatory bail, which the Court held might not apply on the prima facie allegations before it. The order lists Section 3(2)(va) and two Section 3(1) sub-clauses printed as "(द)" and "(ध)". Sections 353, 332, 186, 294 and 34 IPC remained among the reported police allegations, without a charge-by-charge merits ruling. Section 41(1)(a) CrPC was the State's reported notice to appear; Section 438 supplied the other conditions governing anticipatory bail. Article 21 appeared in the quoted COVID prison-decongestion order.

4. Issues : The immediate issue was whether the allegations, as presented at the anticipatory-bail stage, attracted the bar under Sections 18/18-A or permitted anticipatory bail, given the absence from the FIR of the actual words allegedly uttered and uncertainty about who performed the MGNREGA work and why payment was demanded. The conditions of bail concerned cooperation, appearance, surety, compliance with COVID-19 directions and notice to the complainant. The Court did not finally determine the alleged IPC or SC/ST Act offences or the merits of the claim for MGNREGA payment.

5. Ratio / Findings : The Court considered the parties' submissions and relied on two matters: counsel for the State and the complainant could not clarify whether the appellants were contractors or workers under MGNREGA, and the FIR did not disclose the actual words they allegedly uttered. In light of the appellants' submission that there was no caste-name humiliation, the Court reached the cautious conclusion that the Sections 18/18-A bar 'may not apply.' This was a prima facie assessment at the bail stage. The Court did not finally determine whether the complainant had been insulted, whether a caste-based offence was established or whether the appellants' monetary demand was lawful. The Court granted anticipatory bail subject to conditions.

The reproduced prison-decongestion order referred to Article 21 and the High Powered Committee mechanism. The present appellants sought anticipatory bail; the High Court did not place them in a committee category or order the release of existing prisoners. It required appearance before the investigating officer on or before 23 September 2021, a ₹1 lakh personal bond with one surety in the same amount for each appellant, to the investigating

officer's satisfaction. The appellants were required to furnish an undertaking to comply with all general or specific COVID-19 instructions issued from time to time by the Central Government, State Government or local administration, strictly follow those instructions, and supply a copy of the bail order to the police station having jurisdiction over their residence. It directed that a breach of those COVID-19 instructions would automatically cause the order to cease to have effect and that the local administration or police authorities must immediately take the appellants into custody. A breach of any other stated condition would also automatically cause the order to cease to have effect. The other conditions under Section 438 remained applicable. The Court directed that the complainant be informed of the bail grant under *Aparna Bhat*.

6. Relief : The Hon'ble High Court has allowed the appeal for anticipatory bail.

Rajendra Singh Meena and others v. State of Madhya Pradesh and others, Cr.A. no. 5412/2021, 16/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (506) Prev Next

Headnote :- Section 482 CrPC — private property compromise / non-compoundable count - FIR Crime No. 246/2021 alleged offences under Sections 420 and 409 IPC after a housing-society president took payments totalling ₹37 lakh from a member's family but allegedly refused to grant them plots or refund their money. The parties reported a settlement involving return of money, affidavits, postdated cheques and surrender of society membership and plot claims. The Principal Registrar verified that the appearing family members and applicant compromised voluntarily. The mother did not attend; the Court accepted counsel's account that she was bedridden and relied on her affidavit and counsel's statement made on her authority. The verification report noted that Section 420 could be compounded with the Court's permission but Section 409 was not compoundable. Treating the matter as a private property dispute in which no government agency was alleged to have been defrauded, the Court applied *Gian Singh* and *Narinder Singh* and quashed the whole FIR under Section 482.

Case-note :- ***1. Facts :*** Rajendra Upadhyay applied under Section 482 CrPC to quash Crime No. 246/2021, Police Station Sirol, District Gwalior, under Sections 420 and 409 IPC, on a compromise. The complainant said government land of 6.218 hectares at Alapur was leased to Annapurna Grih Nirman Sahkari Sanstha Maryadit, whose president was the applicant. To raise ₹1,87,35,859 for the lease, he allegedly induced the complainant and his family to become members, and allotted plots to them before execution of the society's lease. The complainant, brother and father each paid ₹9 lakh on 24 March 2009; the mother Shakuntala Sancheti paid ₹10 lakh in June 2009, altogether ₹37 lakh. The complainant alleged violation of Clause 8 of the allotment order, subsequent execution of a lease to the society on 14 August 2009, failure to execute plot leases in their favour despite granting leases to other members, and eventual refusal to grant them plots or refund the money with interest after family inquiries in March 2021. These are the FIR allegations, not facts finally established by this quashing order.

The applicant stated that the money had been returned, affidavits and postdated cheques had been given, and the four family members resigned from the society and relinquished their claims to plots or other property interests. By an order dated 21 April 2022, the Court had directed the parties to appear before the Principal Registrar for verification of the compromise. The Registrar recorded statements of the applicant, complainant, father and brother and reported their voluntary compromise without threat, inducement or coercion; the mother did not attend. The report noted the Section 320 CrPC distinction: Section 420 IPC may be compounded with court permission, while Section 409 IPC is not compoundable. Counsel stated that the mother was bedridden. She had provided an affidavit, resigned from the society and specifically authorised counsel to state on her behalf that she had no objection to the compromise and that her grievances had been redressed. The Court found no reason to disbelieve counsel's statement.

2. Precedents — Considered : *Gian Singh v State of Punjab, (2012) 10 SCC 303*, and *Narinder Singh v State of Punjab, (2014) 6 SCC 466*, were expressly invoked by the Court in paragraph 11 as authority for Section 482 quashing on compromise. The Court applied these authorities in exercising its inherent power to quash the FIR arising from this predominantly private dispute on the basis of the settlement and the nature of the allegations. This exercise of power under Section 482 was distinct from statutory compounding under Section 320. The

Court relied on the dispute over society plots and payments between the applicant and the family, the verified voluntary compromise and the absent mother's separate affidavit and authority. It also noted that no government agency was alleged to have been defrauded. The Section 409 charge was non-compoundable under the Registrar's report but this did not prevent the Court from quashing this FIR under Section 482.

3. Statutes considered : Section 482 CrPC was the source of inherent quashing power. Section 320 CrPC arose in the Registrar's verification report to distinguish compounding of Section 420 IPC with permission from the non-compoundability of Section 409. The High Court did not purport to compound Section 409 under Section 320; it quashed the FIR under Section 482 based on the private nature of the dispute and compromise. Sections 420 and 409 IPC were the offences in the FIR; their ingredients or evidentiary proof were not adjudicated.

4. Issues : The legal issue was whether, notwithstanding a non-compoundable Section 409 count alongside Section 420, the High Court could exercise inherent power to quash the entire FIR alleging cheating and criminal breach of trust on the basis of the reported settlement of the private property dispute. The factual questions were whether the settlement was voluntary, whether all affected family members' interests were addressed despite the mother's absence from personal verification, and whether any government agency was alleged to have been defrauded.

5. Ratio / Findings : The Registrar verified the voluntary compromise of the appearing complainant/family members and applicant. As to the absent mother, the Court considered counsel's statement of incapacity, her affidavit, resignation and authority for counsel to speak on her behalf, and found no reason to disbelieve it. Her consent was accepted on that basis, rather than through her personal appearance for verification. The settlement described repayment, postdated cheques and the relinquishment by all four family members of their society membership and plot claims. The Court characterised the allegations as a property dispute between the applicant and the family. It noted that no government agency was alleged to have been defrauded, although the dispute arose against the background of the government lease and the payments. In these circumstances, it held that the FIR could be quashed on the basis of the compromise.

The Registrar's observation that Section 409 cannot be compounded under Section 320 did not prevent the Court from considering quashing under Section 482. The Court, expressly relying on *Gian Singh* and *Narinder Singh*, concluded that this verified private settlement permitted it to quash the FIR as a whole. This was an exercise of the inherent power to prevent abuse of process or secure the ends of justice, rather than a declaration that a non-compoundable offence was compoundable.

6. Relief : The Hon’ble High Court has allowed the application and quashed FIR Crime No. 246/2021 at Police Station Sirol for Sections 420 and 409 IPC. The FIR was thus quashed on the basis of the compromise accepted by the Court in this private property dispute.

Rajendra Upadhyay v. State of Madhya Pradesh and others, M.Cr.C. no. 19106/2022, 06/05/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (507) Prev Next

Headnote :- JJ Act Section 94 — disputed school record / medical age inquiry - In a murder case, the Sessions Judge held the accused wife to be 17 years 11 months on the incident date on the basis of a date-of-birth entry in a school register and transferred the case to the Juvenile Justice Board. The father who supplied that date at admission testified that he had deliberately understated her age by one year and maintained that account on cross-examination. A 2013 voter list recorded her age as 18, which was inconsistent with the other age evidence, and no corporation/municipal/panchayat birth certificate was produced. The Sessions Judge gave no cogent reason for rejecting the father's testimony yet relied on the school entry. Applying the documentary hierarchy in Section 94(2) and the principle in *Ashwani Kumar Saxena* that medical testing is a fallback when the specified documents are unavailable, the High Court found the school entry unreliable, set aside the finding of juvenility and ordered an ossification test or another medical test using the latest methods of age determination. It remanded to the Sessions Judge for a fresh determination of age within one month, staying the JJB proceedings in the meantime. The order did not declare the woman an adult or decide the IPC accusations.

Case-note :- ***1. Facts :*** Criminal Revision No. 693/2020 under Sections 397/401 CrPC challenged the First Additional Sessions Judge, Sabalgarh order of 9 December 2019 in S.T. No. 315/2017. The Sessions Court had held respondent 2, the deceased man's wife accused in Crime No. 307/2017, to be 17 years 11 months at the time of the incident. It held that it lacked jurisdiction and transferred the murder-related prosecution to the Juvenile Justice Board. The FIR involved Sections 302, 201, 120-B, 506 and 34 IPC following discovery of an unidentified body and a merg inquiry. The revision concerned her age and the proper forum for trial; it did not determine guilt on the underlying accusations. The charge-sheet had shown respondent 2 as a major. She sought juvenility, citing a school-register birth date of 20 July 1999.

Two witnesses, Mahesh Meena and Immamuddin Khan, proved the school-register entry. Her father Bheralal Rawat, who had supplied the date when enrolling her, testified in examination-in-chief and maintained under extensive cross-examination that he had falsely understated her age by one year and that the recorded date of birth was incorrect. The prosecution also filed a 2013 Sabalgarh voter list naming respondent 2, recording age 18; counsel pointed out it named her husband, suggesting a post-marriage entry. The Sessions Judge observed inconsistencies between that list, the register and the father's account but gave no cogent reason to reject the father's testimony and instead accepted the register and sent the case to the Board. The revision petitioner sought an ossification examination rather than reliance on a school entry whose accuracy had been repudiated by the person who supplied the date of birth. Respondent 2 defended the school-record finding.

2. Precedents — Considered : *Ashwani Kumar Saxena v State of Madhya Pradesh, (2012) 9 SCC 750*, was quoted for the age-inquiry sequence under the earlier Section 7-A and Rule 12 of the 2007 Rules: seek matriculation or equivalent certificate if available, then the birth certificate from the school first attended, other than a play school, then corporation/municipal/panchayat certificate; obtain medical opinion from a duly constituted board only if those documents are unavailable. Where exact assessment is impossible, the Court may, if it considers this necessary and records reasons, give the child or juvenile the benefit of an age on the lower side within a one-year margin. That quoted qualification does not establish an automatic benefit of one year in every contested case. The High Court read this documentary-priority principle alongside Section 94 of the 2015 Act and applied it where the person who supplied the school entry had repudiated its accuracy and no birth certificate from a corporation, municipal authority or panchayat had been produced.

The cited precedent's reference to the older statutory framework was used for the hierarchy and medical-test fallback; the present case was decided under the 2015 Act's Section 94. The Court applied these principles to the particular doubts about the school entry and its source and the absence of a birth certificate from a corporation, municipal authority or panchayat, and remanded the matter.

3. Statutes considered : Sections 397 and 401 CrPC supplied criminal revision jurisdiction. Section 94(1) of the JJ Act, 2015 requires the Board or Committee, where the person brought before it under the Act for a purpose other than giving evidence is obviously a child, to record the age as nearly as possible and proceed with the inquiry under Section 14 or 36 without awaiting further confirmation of age. Subsection (2) requires an age inquiry where there are reasonable grounds for doubting whether the person is a child, first seeking a date-of-birth certificate from the school or a matriculation or equivalent certificate, then in its absence a corporation/municipal/panchayat birth certificate, and only in the absence of those documents an ossification or other latest medical age test on the order of the Board or Committee. Such a test must be completed within fifteen days from the date of that order. Subsection (3) provides that the age recorded by the Board or Committee is deemed to be the person's true age for the purposes of the Act. The Court's application recognised that the school entry could not be treated as determinative in this case when the person who supplied the date had repudiated its accuracy and that evidence had not been cogently rejected; with no civic birth certificate, medical assessment was required before jurisdiction was transferred. Sections 302, 201, 120-B, 506 and 34 IPC identify the underlying prosecution, not an offence-ingredient finding in this revision.

4. Issues : The key issue was whether the Sessions Judge could accept the school date as determinative of juvenility while failing to give a cogent reason for rejecting the father who had supplied it and later admitted falsifying it, particularly in the face of a

discordant voter list and absent statutory civic birth certificate. If not, the Court had to identify the next lawful step in obtaining age evidence and decide how the pending proceedings should be treated until a fresh age decision. The revision did not finally determine the correct date of birth on the basis of the father's testimony or the voter list, or whether the accused participated in the murder. The age conclusion would determine whether the Sessions trial or the Board could proceed.

5. Ratio / Findings : The Sessions Judge had treated the school certificate as controlling but had not specifically disbelieved the father who enrolled respondent 2 and repeatedly said he misstated her age by one year. That testimony made the authenticity and correctness of the date of birth recorded in the register doubtful. The 2013 voter list, recording her as 18 with her husband's name, reinforced the inconsistency rather than conclusively establishing the exact age at the time of the 2017 incident. No birth certificate from a corporation, municipal authority or panchayat was produced as the next category of statutory evidence. Applying Section 94(2) and the documentary-priority principle in *Ashwani Kumar Saxena*, the Court held that an ossification test or another medical test using the latest methods of age determination was required in these circumstances. The High Court therefore found material illegality in the finding that respondent 2 was a minor and the consequent transfer.

The Court set aside the age order but did not itself determine adult status. It remanded for the Sessions Judge to fix a date for production before a Medical Board, receive the test result and adjudicate age within one month. The JJB's ongoing proceedings were held in abeyance until the Sessions Judge authoritatively determined age. The quoted *Ashwani Kumar Saxena* passage also mentions the possibility of a reasoned determination on the lower side within a one-year margin where exact age cannot be assessed; this Court did not calculate or award such a margin on the present record and instead ordered a fresh inquiry.

6. Relief : The Hon’ble High Court has disposed of the revision by setting aside the First Additional Sessions Judge's 9 December 2019 order in S.T. No. 315/2017, remanding for medical age determination and a fresh age adjudication. The entire exercise was directed to be completed within one month of the date of this order. Proceedings before the Juvenile Justice Board, Morena, were to remain in abeyance pending that result. The applicant was to produce certified copies before the Sessions Judge and Board. *Rajendra v. State of Madhya Pradesh and others, Cr.R. no. 693/2020, 16/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (508) Prev Next

Headnote :- Section 273 CrPC — accused absent with dispensation / counsel present - The robbery complainant testified while the three appellants were personally absent, but the trial order recorded their Section 317 exemption requests, representation through counsel for cross-examination and an express statement that identity would not be disputed. Section 273 permits evidence in the pleader's presence when attendance is dispensed with. Following *Mohan Meakins* and distinguishing *Atma Ram*, where the defence had objected and there was neither consent nor dispensation, the High Court found no violation on this specific record. Although the exemption application bore no date, the Court read its terms together with the trial order.

Identification / discovery - The police TIP provided corroboration rather than substantive evidence. The Court relied on identification in court, the earlier parade and the defence's recorded concession that identity would not be disputed. Recovery of the motorcycle from Rahul in a separate case was proved. The number-plate fragment was recovered at Rajesh's instance from a field with a standing crop of mustard. The Court held that it was not readily discoverable merely because the field was open. The Court found it difficult to identify the unmarked cash as the money taken from the complainant and the seized shoes had not been identified in court. The Court nevertheless held the identification and recovery evidence, considered together, sufficient to affirm all three convictions, with Laxman's identity established although no distinctive article was seized from him.

Section 397 IPC minimum - The appellants asked that their sentences be reduced to the period already undergone, citing post-bail compliance. The Court found that the robbery had been committed at gunpoint. As Section 397 prescribes a minimum sentence of seven years, it affirmed that term and refused a reduction.

Case-note :- ***1. Facts :*** This common judgment decided Criminal Appeals Nos. 678/2011 (Rajesh), 882/2011 (Laxman alias Bhura) and 701/2018

(Rahul alias Chhaviram) under Section 374 CrPC. On 20 January 2009 the complainant Veerendra Singh Parihar was allegedly waylaid near Mauch Ghati at gunpoint by three persons, dragged into a forest area, bound with his belt and shoelaces, and deprived of motorcycle MP 07 KA 8675, a mobile, ₹12,200 and shoes. After freeing himself he reported at Police Station Panihar. Rahul was later found with a motorcycle in a different police case; the investigation recorded Section 27 disclosures and seized a broken plate fragment, shoes and some cash. The trial court framed charges under Sections 392 and 397 IPC read with Section 13 of the Madhya Pradesh Dakaiti aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981. Eight prosecution witnesses testified. The judgment's opening account records that Rajesh and Laxman were convicted in 2011 and sentenced to seven years' rigorous imprisonment and a fine of ₹500, with three months' rigorous imprisonment in default. Rahul absconded during trial, was arrested in 2017, was examined under Section 313 and was separately convicted and sentenced to seven years' rigorous imprisonment and a fine of ₹5,000, with three months' rigorous imprisonment in default.

The appellants challenged identification and the absence of recovery of any incriminating article. The State relied on the police test identification parade, the complainant's trial testimony, the exemption under Section 317 on 21 December 2010 and the concession that identity would not be disputed, recovery of motorcycle from Rahul, the plate fragment at Rajesh's instance and other seized items. The central procedural issue was whether the complainant's evidence was lawfully taken without the appellants' physical presence. Some Section 317 applications in the trial record were undated, but the order of 21 December 2010 recorded the dispensation and the concession on identity. Laxman's subsequent temporary nonappearance and Rahul's later abscondence and separate trial were procedural history distinct from the consent to take the complainant's evidence on 21 December 2010.

2. Precedents — Considered : *U.P. Pollution Control Board v Mohan Meakins Ltd, (2000) 3 SCC 745*, was quoted for the trial court's power, after an accused's first appearance, to dispense with continued personal attendance subject to conditions such as attendance by counsel, an undertaking not to dispute identity and personal appearance when imperatively needed. The Court applied that principle of conditional dispensation to the appellants' Section 317 requests, counsel's cross-examination and identity concession.

Atma Ram v State of Rajasthan, (2019) 20 SCC 481, was explained as recognising an accused's valuable Section 273 right to observe a prosecution witness and confining exceptions to express Code provisions such as Sections 299 and 317. There the defence objected when evidence was recorded in the accused's absence, and neither consent nor a court order dispensing with attendance existed; the Supreme Court regarded infringement as curable by re-examination rather than automatically invalidating the trial. The present Court distinguished those facts because the trial order in this case recorded the requested dispensation, counsel's participation and non-dispute of identity. The Court therefore found no infringement to cure in this case.

The High Court assessed identification under Section 9 of the Evidence Act and Section 54-A CrPC, the recoveries under Section 27 of the Evidence Act, and the minimum sentence under Section 397 IPC. The Court expressly held that a police TIP is not substantive evidence and that identification in court is substantive evidence. It relied on the statutory minimum in Section 397 when refusing to reduce the sentence.

3. Statutes considered : Section 374 CrPC supplied appeal jurisdiction. Section 273 required trial evidence in the accused's presence or, where personal attendance is dispensed with, in the pleader's presence; Section 317 was the recorded exemption mechanism. Sections 299 and 317 were mentioned through *Atma Ram* as express exceptions, not a finding that the appellants were absconding during the complainant's 2010 evidence. Section 313 governed later accused statements, including Rahul after arrest. Section 54-A CrPC and Section 9 Evidence Act supported identification relevance; a police TIP remained corroborative of identification in court. Section 27 Evidence Act governed the disclosures leading to recovery, whose evidentiary value depended on the particular articles and the place of recovery. Sections 392/397 IPC and Section 13 MPDVPK Act were the provisions under which the appellants were convicted; Section 397's seven-year minimum controlled the sentence-reduction request.

4. Issues : First, did Section 273 prohibit using the complainant's testimony because the appellants were

absent, or did their Section 317 applications, counsel's participation and recorded concession permit evidence to be taken in counsel's presence under the statutory alternative? Second, was their identity established by the corroborative TIP and substantive identification in court, rather than a police parade treated as substantive proof by itself? Third, did the recoveries reliably connect any of the three to the robbery, distinguishing common unmarked cash and unidentified shoes from the motorcycle and concealed number-plate fragment? Fourth, after conviction for gunpoint robbery under Section 397, could the court reduce seven years to the period already undergone?

5. Ratio / Findings : The trial order of 21 December 2010 showed that the complainant was present and all appellants sought exemption under Section 317; counsel undertook to cross-examine and said identity would not be disputed. Although the application the High Court found was undated and the judge had not dated a signature beneath it, its terms were consistent with the trial order. The Court held this was lawful dispensation and pleader participation under Section 273. *Mohan Meakins* supported conditional exemption; *Atma Ram* concerned the recording of evidence despite a defence objection, without consent or dispensation of personal attendance, and was therefore distinguishable. The Court found no violation of Section 273 on the recorded exemption requests and counsel’s undertaking. The complainant had identified appellants in police TIP Ex. P/14, which was not substantive by itself; the Court treated identification in court as reliable substantive evidence because it had been preceded by a TIP and identity had not been challenged in view of the express concession. Laxman was identified even though only generic cash, not a distinctive robbery item, was recovered from him.

The Court assessed the evidentiary value of each recovery separately. Laxman's initial disclosure led to a search of his house in which neither a mobile phone nor cash was found. Five ordinary ₹100 notes or other unmarked currency were not reliably identifiable as the money taken from the complainant. Shoes seized from Rahul were not identified by the complainant in court. The separate seizure of the motorcycle from Rahul by Police Station Pichhore on 28 January 2009 was proved through the seizure witness and memo Ex. P/11. A broken registration plate connected to the same vehicle was found following Rajesh's disclosure in another person's mustard field. The defence called this an open place; the Court rejected that objection because standing crop concealed the fragment, requiring knowledge of the exact location. It viewed the motorcycle and separated plate together as evidence that the plate had been broken and thrown after the theft. The Court relied on those corroborative links together with identification to find Rahul's and Rajesh's involvement proved beyond reasonable doubt. Laxman's identity was established despite the absence of a distinctive article recovered from him. The Court affirmed all three convictions under Sections 392/397 read with Section 13 MPDVPK.

On sentence, counsel asked for sentences limited to the period already undergone because Rajesh and Laxman had complied with bail and Rahul remained imprisoned. The Court rejected reduction because gunpoint robbery engaged Section 397 IPC's minimum seven years. In its operative sentencing paragraph, the Court stated that seven years' rigorous imprisonment and a fine of ₹500, with four months' rigorous imprisonment in default, were affirmed. It ordered the appellants on bail to surrender, while Rahul remained in custody.

6. Relief : The Hon’ble High Court has dismissed all three appeals. Convictions under Sections 392/397 IPC read with Section 13 MPDVPK Act and seven-year terms were affirmed. Rajesh and Laxman's bail bonds were cancelled and they were directed to surrender immediately before the trial court to serve the remaining sentence; Rahul was already in jail and was to serve his balance. A free copy of the judgment was directed to be given to the appellants. No re-examination of the complainant was ordered because the Court found lawful dispensation on this record.

Rajesh and others v. State of Madhya Pradesh, Cr.A. no. 678/2011 & 882/2011 & 701/2018, 19/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (509) Prev Next

Headnote :- Criminal medical negligence — professional standard / grossness - The patient alleged that improper treatment during an operation to remove a stone, including a right-leg injection, culminated in amputation. Crime No. 818/2019 under Section 338 IPC and a charge-sheet followed. The Court examined *Jacob Mathew* and the later Supreme Court medical-negligence authorities: reasonable professional practice accepted at the time

of treatment is the benchmark, a mere error or unsuccessful outcome does not by itself establish criminal negligence, and criminal liability requires negligence of a gross or very high degree, distinct from civil liability. The discussion of death under Section 304-A formed part of the cited precedents; that was not the offence charged in this case. The Court did not resolve causation or actual breach by making its own findings on the medical evidence.

Independent expert screening / relief limit - The doctor relied on the absence of a competent expert-committee report. *Jacob Mathew* requires an independent opinion from a suitably qualified medical practitioner before an investigating officer proceeds against a doctor, and discourages routine arrest; *Martin F. D'Souza*'s quoted safeguard addresses specialist referral before a court issues notice. No such expert assessment had been obtained in this case. The High Court set aside the charge-sheet and further proceedings in RCT No. 86/2020, allowing the complainant to approach an expert committee and pursue available legal remedies if it found negligence. Although the application requested FIR quashing, the operative order does not expressly quash it; the order also does not finally acquit the doctor or bar future proceedings.

Case-note :- ***1. Facts :*** Dr Rajesh Batra sought Section 482 CrPC relief against Crime No. 818/2019, Police Station Kotwali, Katni, under Section 338 IPC, and the ensuing RCT No. 86/2020 before the Chief Judicial Magistrate. The State said investigation was complete and charge-sheet filed. The complainant's registered-post notices were treated as deemed served under Section 27 General Clauses Act and Rule 11(1), Chapter XV of the High Court Rules when no service report returned. This procedural service point did not determine negligence. According to the patient's FIR, he attended Dharmlok Hospital for stomach pain on 21 April 2019, was told of a stone and operation cost of ₹27,000 plus other charges, and underwent an operation on 23 April. He alleged an improper method of treatment and an injection in the leg, loss of sensation in his right leg on return home, further hospitalisation at Dharmlok, referral to Nagpur and back, and eventual treatment at Netaji Subhash Chandra Bose Government Medical College, Jabalpur where the leg was amputated. He attributed that grave injury to the doctor's improper treatment and said he spent about ₹1 lakh on subsequent care. This was the patient's account of the treatment and its consequences; the High Court did not independently determine medical causation.

The doctor's sole legal contention was that police had not obtained an expert committee report before registering or proceeding with the medical-negligence case. The State opposed, emphasising amputation. The Court framed whether police could investigate alleged medical negligence of a doctor and considered the principles governing professional negligence and procedural safeguards. Its decision turned on the absence of an independent expert assessment before proceeding with the prosecution, in which a charge-sheet had already been filed. The Court made no finding about the injection's causal role and did not compare clinical records to reach its own medical conclusions. The Court recorded that the patient had not approached the expert committee and held that the prosecution could not continue.

2. Precedents — Considered : *Jacob Mathew v State of Punjab, (2005) 6 SCC 1*, was the central authority extensively quoted and applied. It identifies duty, breach and resulting damage as the components of negligence, and distinguishes the standard applicable to medical professionals from the higher threshold required for criminal liability. A doctor is assessed by the standard of an ordinarily competent practitioner exercising ordinary skill in the field, with reference to the knowledge and accepted practice available at the time. The standard is not that of the most skilled specialist and is not applied with hindsight; a simple error, accident or reasonable alternative treatment choice does not prove professional negligence. The *Bolam* standard remains relevant. To support criminal prosecution, the negligence must be gross or of a very high degree. The doctor must have acted or failed to act in a way that no ordinarily prudent medical professional would have done in those circumstances; the likelihood of injury and mens rea are also emphasised. Civil res ipsa loquitur cannot per se establish criminal negligence. *Jacob Mathew*'s quoted guidelines additionally require a credible competent medical opinion for a private complaint and an independent competent opinion, preferably from a qualified government doctor of the branch, before an investigating officer proceeds against a doctor. The guidelines also caution against routine arrest unless it is necessary to further the investigation or collect evidence, or the investigating officer is satisfied that the doctor would otherwise not make himself available to face prosecution. Its quotation describes Section 304-A IPC, but the

present FIR was under Section 338 for causing grievous hurt by a rash or negligent act; the High Court invoked the general standard for criminal medical negligence and the safeguard of expert assessment, not a Section 304-A death charge. The Court's conclusion that the prosecution could not continue without the committee opinion directly rests on this authority.

Kusum Sharma v Batra Hospital and Medical Research Center, (2010) 3 SCC 480, was quoted for eleven guiding propositions including duty, culpable or gross negligence for criminal prosecution, ordinary reasonable skill, genuine differences of medical opinion, legitimate higher-risk treatment chosen in a patient's interest, and protection from harassment or compensation pressure while placing patient welfare first. The Court relied on these principles without deciding that Batra's injection conformed to accepted practice or that the patient had acted maliciously. *Martin F. D'Souza v Mohd Ishfaq, (2009) 3 SCC 1*, repeated the standard of an ordinarily skilled doctor under the *Bolam* test and the caution against equating unsuccessful treatment with negligence. The quoted passage also directed consumer fora and criminal courts to refer a complaint to a competent specialist or committee of specialists before issuing notice. Notice is to be issued only after that doctor or committee reports a prima facie case of medical negligence. The passage also cautioned police about arrest contrary to *Jacob Mathew*. The present order invoked these safeguards in requiring expert assessment. *Bolam* itself is a common-law test quoted within those Supreme Court opinions, not a separate Indian Supreme Court decision.

Malay Kumar Ganguly v Dr Sukumar Mukherjee, (2009) 9 SCC 221, was quoted for the different standards of proof and culpability in civil, tort and consumer proceedings and in criminal proceedings, discussing Section 304-A death elements, gross breach, direct or proximate causation, and the inadequacy of simple lack of care or error of judgment for criminal medical liability. The High Court did not determine death, direct cause of death or a Section 304-A count here. *S.K. Jhunjhunwala v Dhanwanti Kaur, (2019) 2 SCC 282*, was quoted for *Jacob Mathew*'s accepted *Bolam* yardstick, reasonable competence rather than a guarantee of outcome, ordinary skilled practice accepted at the time and a genuine choice between reasonable courses. *Eckersley* and *Hucks* appear within the passage quoted from *S.K. Jhunjhunwala*. *Kalyani Rajan v Indraprastha Apollo Hospital, 2023:INSC:921*, was cited as laying down similar law. The authorities together stated the applicable legal threshold and the need for expert assessment before prosecution; the deciding Court's case-specific application was the admitted absence of expert assessment.

3. Statutes considered : Section 482 CrPC was the invoked power to end a prosecution that proceeded without the professional-negligence safeguard. Section 338 IPC was the actual FIR offence concerning grievous hurt by a rash or negligent act; the Court did not parse its injury and causation elements on the basis of expert evidence or decide guilt. Section 304-A IPC appears only in quoted Supreme Court death-negligence discussions and was not the offence charged in this case. Section 27 General Clauses Act and Rule 11(1), Chapter XV High Court Rules governed deemed service of the private respondent; deemed service did not fulfil the separate requirement for a medical opinion. The cited Medical Council professional ethics material and *Bolam* rule described expected professional practice, not an independent statutory offence charged against Batra.

4. Issues : The decisive issue was whether a completed Section 338 criminal medical-negligence case could continue where an independent competent expert opinion or committee assessment of the doctor's conduct had not been obtained, notwithstanding a severe outcome alleged by the patient. The wider legal question was what distinguishes criminally gross negligence from negligence attracting civil liability or an unfortunate treatment outcome, and how the police or a criminal court should screen professional accusations. The Court did not decide whether the doctor's method fell below ordinary competent practice, whether the injection caused the amputation or whether a competent expert would find gross negligence. It reserved the complainant's liberty to pursue available legal remedies if the expert committee found negligence.

5. Ratio / Findings : The Court considered the Supreme Court decisions distinguishing severe harm to a patient from a doctor's criminally gross departure from reasonable professional practice accepted at the time. The alleged amputation did not dispense with the requirement of expert assessment. Ordinary clinical skill, accepted choices among

treatments and the higher criminal threshold require expert assessment. *Jacob Mathew*'s specific safeguard expects a competent, independent medical view, preferably from a government practitioner qualified in the relevant branch, before the investigating officer proceeds against the doctor; its warning against routine arrest and the *Martin F. D'Souza* court-referral passage reduce the risk of harassment from an untested allegation. *Kusum Sharma*, *Malay Kumar Ganguly* and *S.K. Jhunjhunwala* reinforce these standards from their respective contexts, with *Kalyani Rajan* cited as similar. The Court did not use a clinical expert report to decide whether this doctor's injection was appropriate, nor hold that no medical negligence could ever be established; it found the required expert assessment absent from the prosecution record.

On that ground the Court stated the prosecution could not continue and set aside the charge-sheet and further proceedings in RCT No. 86/2020. It expressly left the complainant free to approach the expert committee; if that body concluded the doctor was negligent, he could take any legal remedy then available. The application sought quashing of both the FIR and the criminal case. Paragraph 20 of the order, however, sets aside only the charge-sheet and further RCT proceedings. The order did not grant express quashing of the FIR or a final acquittal, and did not impose a permanent bar on fresh lawful action.

6. Relief : The Hon'ble High Court has allowed the Section 482 petition. The charge-sheet and further proceedings in RCT No. 86/2020 before the Chief Judicial Magistrate, Katni, were set aside. The complainant retained liberty to approach an expert committee and, if it found negligence, pursue whatever legal remedy was available. The operative paragraph did not expressly say Crime No. 818/2019 FIR itself was quashed, despite that relief being prayed.

Rajesh Batra v. State of Madhya Pradesh and others, M.Cr.C. no. 8190/2020, 12/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (510) Prev Next

Headnote :- Section 439(2) CrPC — perverse grant / forum and later misconduct distinguished - The deceased's father sought cancellation of the mother-in-law's Sessions bail in a dowry-death/cruelty case, challenging the original unexplained finding of parity and failure to consider the record rather than post-release misconduct. *Puran v Rambilas* distinguishes correction of an illegal or perverse bail grant from cancellation for supervening conduct; it permits an aggrieved person or State to approach the High Court where the challenged order was made by the Sessions Judge. The lower court neither examined the specific allegations of dowry demands and cruelty nor gave reasons. The High Court set aside its order and directed surrender within one week.

Parity — material differences in custody and conduct - The father-in-law had obtained Supreme Court bail after roughly 17 months in custody, while the mother-in-law had been in custody for less than two months. Her earlier conditional humanitarian anticipatory bail, obtained by presenting photographs of another woman's diabetic feet as her own, had been recalled with costs for fraud; she surrendered only over a year later. The lower court did not account for those differences, the death within three years of marriage, or the reported ₹2 lakh and four-wheeler demand. Parity did not justify the unreasoned grant. The order concerns the exercise of discretion in granting bail; it does not determine final culpability.

Case-note :- ***1. Facts :*** Rajesh Depuriya, father of deceased Archana, applied under Section 439(2) CrPC to cancel bail granted to respondent 2, Archana's mother-in-law, by the Twelfth Additional Sessions Judge, Gwalior on 30 September 2020 in B.A. No. 2290/2020. Crime No. 42/2019, Police Station Maharajpura, involved Sections 498-A, 304-B and 34 IPC. The prosecution alleged Archana married respondent 2's son on 16 April 2016, was harassed for ₹2 lakh and a four-wheeler, and died in suspicious circumstances on 23 January 2019, within three years. Those allegations were relevant to the bail decision; this order did not determine guilt at trial.

Respondent 2 had earlier obtained a conditional humanitarian anticipatory-bail order on 30 May 2019 on the basis of photographs said to show her diabetic feet. That order required the investigating officer to have a District Medical Board verify that she personally had the depicted ailment before release. She then applied to recall the order, acknowledging that the feet pictured belonged to her mother-in-law, not her. The High Court recalled the order on 28 June 2019 as fraud on the court and

imposed ₹25,000 costs. The complainant's own recall application was disposed of in light of that order. The cost, counsel said, had been paid on 16 August 2021. Respondent 2 surrendered on 7 August 2020, more than a year after recall. Her husband, the deceased's father-in-law, had been granted bail by the Supreme Court on 22 September 2020 in SLP(Crl.) No. 2957/2020 after about one year and five months in custody; respondent 2 had spent under two months in jail when the Sessions Judge granted bail on the ground of parity. She opposed cancellation and called the allegations against her vague and omnibus, and contended that the applicant should have approached the Sessions Court.

2. Precedents — Considered : *Puran v Rambilas, (2001) 6 SCC 338*, was expressly relied on and then quoted to distinguish an unjustified, illegal or perverse original bail order, made by ignoring material evidence and without giving reasons, from cancellation based on later misuse of liberty or new facts. An aggrieved person as well as the State may seek correction. Its quotation discusses *Dolat Ram v State of Haryana, (1995) 1 SCC 349*: cancellation of bail already granted ordinarily requires cogent and overwhelming grounds. Interference with justice, evasion of justice and abuse of the concession are illustrative grounds, rather than an exhaustive list. *Puran* explained that an initial perverse grant in a serious case is a distinct ground, which does not depend on proof of later misconduct. The High Court applied that distinction to the unreasoned order granting bail on parity; the application did not allege a fresh breach of bail.

Puran quoted *Gurcharan Singh v State (Delhi Administration), (1978) 1 SCC 118*: if new facts arise, the State may go to the Sessions Judge, but where the grievance is the Sessions Judge's own grant on material already before it, the State may approach the superior High Court under Section 439(2). The present Court applied that principle to reject the respondent's forum objection. *Puran*'s facts involved an in-law dowry demand and death; the High Court referred to the need to assess the material allegations and give reasons, without making a final finding of guilt against respondent 2. *Taramani Parakh v State of M.P., (2015) 11 SCC 260*, was invoked by the applicant and briefly referenced by the Court concerning taunts by in-laws. The Court's actual bail rationale was the specific allegations of dowry demands and cruelty, the period between marriage and death, the earlier fraud and delayed surrender, and the different periods in custody, all overlooked below.

The Supreme Court's order dated 22 September 2020 granting bail to respondent 2's husband was referred to because he had spent about seventeen months in custody. The High Court held that respondent 2's much shorter period in custody did not support the Sessions Judge's finding that the cases were identical.

3. Statutes considered : Section 439(2) CrPC empowered the High Court to review and cancel bail granted by a subordinate court. The two routes—correction of an initially perverse or unreasoned grant and later cancellation for misconduct—were distinguished in applying *Puran*. Sections 498-A and 304-B read with 34 IPC were the reported underlying cruelty and dowry-death allegations, not guilt findings. Section 438 CrPC governed the earlier conditional anticipatory-bail order and its verification of a medical claim, later recalled for fraud; it was not the order now under direct challenge. The Court's reference to a Supreme Court order concerning respondent 2's husband established the comparison on which parity had been claimed, not a statutory right to equal custody periods.

4. Issues : Was it necessary for the father to show later misuse or newly arisen facts, or could he invoke Section 439(2) in the High Court because the Sessions grant was unreasonable from the outset and had ignored material evidence? Was a return to the Sessions Judge required to ask it to correct its own merits decision? On the record, did the husband's bail after seventeen months of custody support parity for the mother-in-law after less than two months, when her earlier fraud, delayed surrender and specific allegations had not been weighed? The High Court did not finally determine proof of the demand, cruelty or the applicability of a dowry-death presumption. The earlier recall of anticipatory bail was not reopened.

5. Ratio / Findings : The Court rejected the forum objection: this was not a complaint of breach after release, but a challenge to the Sessions Judge's original assessment of the law and evidence. *Puran* and its *Gurcharan Singh* discussion allowed an aggrieved person to seek correction by the High Court under Section 439(2) without returning to the same Sessions Court where there were no new circumstances. *Dolat Ram*'s caution against cancelling bail casually does not preclude setting aside a bail order made by ignoring material

evidence and without giving reasons. The lower court's unexplained statement of parity and failure to consider the merits meant that the bail order could not stand.

The Court identified the overlooked material: Archana's death within three years of marriage and the specific allegations of a demand for ₹2 lakh and a four-wheeler and cruelty for non-fulfilment; the earlier anticipatory-bail order recalled as fraud when photographs of another woman's feet were presented as those of respondent 2; a delay of over a year before surrender; and the husband's substantially longer custody underlying his Supreme Court bail. Counsel for respondent 2 stated that the earlier costs had been paid on 16 August 2021. The mother-in-law's less than two months of detention was not comparable to the husband's one year and five months. The Court held that these circumstances required a reasoned assessment of respondent 2's individual case and did not justify bail on parity alone.

6. Relief : The Hon'ble High Court has allowed the application for cancellation of bail and set aside the bail order dated 30 September 2020 of the Twelfth Additional Sessions Judge. Respondent 2 was directed to surrender immediately before the trial court within one week of the order, failing which the trial court was to issue a non-bailable warrant of arrest. The Registry was directed to communicate the order to the trial court immediately for information and compliance.

Rajesh Depuriya v. State of Madhya Pradesh and others, M.Cr.C. no. 4311/2021, 17/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (511) Prev Next

Headnote :- Section 125(3) CrPC — monthly imprisonment unit / six-month aggregate - A wife and daughter had obtained interim maintenance in 2009 and a final award in 2012, but the applicant admittedly paid only ₹1,500. The Family Court ordered custody for six months or until payment of ₹1,14,500, whichever earlier. The High Court held that the statutory one-month ceiling attaches to each month's allowance remaining unpaid after execution of the recovery warrant, rather than to all defaults taken together; an application to levy an amount must be made within the one-year period prescribed by the proviso. The multiple monthly defaults justified the total term of six months on this record. An offer of ₹20,000 did not require release in light of prolonged wilful non-compliance.

Continuing arrears / custody not discharge - Applying *Poongodi* and its quotation of *Kuldip Kaur*, the Court held that jail is a mode of enforcing payment, rather than satisfaction of the maintenance obligation; actual payment alone discharges the obligation. *Shantha* described a continuing liability and *Shahada Khatoon* recognised the remedy of successive applications for later defaults. The one-year warrant-application proviso was not treated as automatically extinguishing all older arrears.

Case-note :- ***1. Facts :*** Rajesh Dubey brought Criminal Revision No. 1257/2018 under Sections 397/401 CrPC against Family Court, Vidisha orders of 19 and 21 February 2018 in MJC No. 2/2015. His wife Rachna Tiwari and daughter had sought Section 125 maintenance. Interim maintenance of ₹1,500 per month was ordered on 17 December 2009. The final order, made in 2012, provided monthly maintenance of ₹1,500 to the wife and ₹1,000 to the daughter. Counsel conceded that the applicant had paid only ₹1,500 since 2009 and had not paid the balance. The judgment states arrears of ₹1,14,500. The dependants sought Section 125(3) recovery. After notice was issued and the applicant failed to appear, a warrant was issued, the applicant was arrested and produced on 19 February 2018, and the Family Court ordered imprisonment for six months or until payment of ₹1,14,500, whichever earlier. His request for release on an offer to pay ₹20,000 was rejected on 21 February.

The revision argued that Section 125(3) permitted imprisonment for at most one month, not six, and that amounts more than one year old could not be claimed. At the hearing he offered ₹20,000 and sought time to pay the balance and release in the meantime. The High Court considered the monthly basis of imprisonment under the provision, the time limit for making an application for a recovery warrant and the persistent non-payment.

2. Precedents — Considered : *Poongodi v Thagavel, (2013) 10 SCC 618*, was quoted and applied to explain that the obligation to pay maintenance under Section 125 continues until payment is made. Its passage reproduced *Kuldip Kaur v Surinder Singh, (1989) 1 SCC 405*, distinguishing imprisonment as a mode of enforcement from actual satisfaction of arrears. Jail is meant to induce compliance by a person who refuses to comply without sufficient cause; it cannot

provide the wife or child with food or essential funds and does not wipe out their accrued entitlement. The High Court expressly adopted this distinction to reject the proposition that the one-year proviso or a term of imprisonment by itself cancels the liability to pay maintenance. It did not treat confinement as a substitute for recovery.

The *Poongodi* quotation also referred to *Shantha v B.G. Shivananjappa, (2005) 4 SCC 468*, for the continuing nature of maintenance liability, and *Shahada Khatoon v Amjad Ali, (1999) 5 SCC 672*, for successive Section 125(3) applications concerning subsequent defaults, in a somewhat different context. The High Court considered these decisions through the passage quoted from *Poongodi*. Its own reading of Section 125(3) treated each monthly default as a separate basis for imprisonment and supported the total term of six months for multiple monthly defaults.

3. Statutes considered : Section 125 CrPC supplied the interim and final wife/child maintenance obligations. Section 125(3) allows a Magistrate, where a person fails to comply without sufficient cause, to issue a warrant to levy the amount as a fine and, after execution of the warrant, sentence the person to imprisonment for up to one month for the whole or any part of each month's allowance remaining unpaid, or until payment is made if sooner. Its proviso requires application to levy any amount within one year of its due date. Under this reading of the monthly basis for imprisonment, a six-month total may comply with the maximum of one month for each monthly default when multiple months remain unpaid. The proviso regulates the warrant application; the Court's reasoning under *Poongodi* does not equate it with extinguishment of the underlying debt. Sections 397/401 supplied revision jurisdiction.

4. Issues : Was a six-month imprisonment order unlawful on its face under the Section 125(3) one-month cap, or could distinct monthly defaults support cumulative confinement? Did the one-year proviso to a levy application erase old maintenance obligations, or did it limit the enforcement remedy while leaving the liability continuing until payment? Finally, did a partial ₹20,000 offer compel release notwithstanding years in which almost no maintenance had been paid? The Court was reviewing two coercive-enforcement orders, not reopening the original maintenance entitlement or reconsidering the amount awarded.

5. Ratio / Findings : Reading Section 125(3), the Court rejected the argument that imprisonment for all defaults together could not exceed one month. The statute speaks of the whole or any part of each month's allowance remaining unpaid after execution of the recovery warrant and permits up to one month for every monthly breach. It stated that defaults for twelve preceding months could support twelve months of imprisonment and that six months here was therefore not invalid merely because the maximum for one monthly default was one month. It also stated the warrant application must be filed within one year of the relevant amount becoming due. The continuing liability did not alter the quoted proviso that an application to levy an amount must be made within one year of that amount becoming due. The holding that six months' imprisonment was permissible rested on successive monthly defaults.

The distinction in *Poongodi* and *Kuldip Kaur* between enforcing payment and satisfying liability answered the applicant's broader contention that the arrears had become barred or discharged. Maintenance is for a wife and child's subsistence; the liability is satisfied by payment, rather than by imprisonment or the mere expiry of the period for seeking enforcement. *Shantha* and *Shahada Khatoon* supplied continuing liability and successive applications for later defaults through the quoted authority. The applicant had paid only ₹1,500 since the interim order, despite the later final award. The High Court saw his prolonged non-compliance as lacking bona fides and rejected his request for release on an offer to pay ₹20,000 and for time to pay the balance; it affirmed the order for six months' imprisonment or earlier payment. The Family Court's orders were affirmed on the recorded non-payment and the interpretation of Section 125(3) permitting imprisonment for each monthly default.

6. Relief : The Hon'ble High Court has dismissed the revision affirming the Family Court's orders of 19 and 21 February 2018: the applicant remained liable under the direction for six months' imprisonment or payment of ₹1,14,500, whichever occurred earlier, and the offer to deposit ₹20,000 did not secure release. The Court did not hold the maintenance debt discharged by the custodial period.

Rajesh Dubey v. Rachna Tiwari and others, Cr.R. no. 1257/2018, 21/03/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (512) Prev Next

Headnote :- Externment — Article 19(1)(d) / close current nexus - An order under Section 5 of the MP Rajya Suraksha Adhiniyam excluded the petitioner from Balaghat, Seoni, Mandla and Dindori for one year. *Deepak v State of Maharashtra* treats externment as an extraordinary interference with free movement requiring reasonable restriction, objective material and, for witness-intimidation grounds, satisfaction based on material showing that witnesses are unwilling to testify because of fear. The Court found that the cases from 2012, 2018 and 2020 lacked the required close connection in time to the proposed externment, while it regarded the 2022–23 IPC cases as relatively minor; no witness refusal was shown and the SHO acknowledged convictions in some cases. The Court also found that the proceedings had been initiated to keep the petitioner away from election proceedings. Applying MP decisions requiring a close connection in time, the Court quashed the externment and appellate orders, not the underlying prosecutions.

Fair hearing — undisclosed post-argument material / cross-examination - After final arguments, the SHO supplied information about a new 2024 FIR and preventive proceedings under Section 122, which the District Magistrate considered. The petitioner had not received the letter or an opportunity to answer it. He had requested cross-examination of departmental witnesses; the order-sheet did not record that he had refused to cross-examine, and he was not given the opportunity. The authority should have disregarded the additional material or reopened the hearing to allow him to answer it. These separate procedural defects also supported setting aside the order.

Case-note :- ***1. Facts :*** Rajesh Nagpure filed a writ petition under Article 226 challenging the District Magistrate, Balaghat's Section 5 MP Rajya Suraksha Adhiniyam externment decision and the Commissioner, Jabalpur Division's appellate affirmance. The SP's recommendation of 17 October 2023 described a pattern of public abuse, threats and alleged intimidation and listed Crime Nos. 46/2012, 313/2018, 41/2020, 112/2020, 156/2022 and 169/2023. The cases were mainly under Sections 294, 323, 506 and 34 IPC, with Sections 147, 148 and 341 also included in one case. Three preventive steps, including Sections 107/116(3) and 110 CrPC reports, were also cited. Notice was issued on 18 October 2023. The petitioner appeared with counsel. The SHO testified on 6 November, but the record did not show that the petitioner had refused to cross-examine him. Multiple adjournments followed, departmental evidence closed on 18 January 2024 when the petitioner was absent, and on 7 March he requested cross-examination. Government meetings and election work led to further adjournments. The judgment records that final arguments were heard on 1 April 2024 and the final order was passed on 6 April 2024. A letter sent by the SHO on 2 April added Crime No. 36/2024 and an Ishtagasa under Section 122 CrPC. The District Magistrate considered that material without supplying a copy or allowing the petitioner to respond. The appellate order was dated 29 July 2024.

The petitioner said old and comparatively minor cases did not justify externment as a preventive measure, no evidence showed witnesses too afraid to testify, and the SHO's election concern suggested an improper motive. He argued the late letter and denial of cross-examination violated hearing rights. The State opposed. The Court obtained the externment record in sealed cover. The order excluded him from Balaghat, Seoni, Mandla and Dindori for one year; the High Court ultimately set it and the appellate order aside.

2. Precedents — Considered : *Deepak v State of Maharashtra*, Criminal Appeal 139/2022, was extensively quoted and applied. Under Maharashtra's Section 56 externment law, the Supreme Court considered the right to free movement under Article 19(1)(d) alongside the power to impose reasonable restrictions under Article 19(5): externment is extraordinary, may prevent a person living with family or earning a livelihood, and must be sparingly used. A competent authority needs objective material on which to base its subjective satisfaction concerning the anticipated danger or violence; when relying on the provision concerning witness intimidation it must also be satisfied that witnesses are unwilling to come forward because of fear for safety or property. The registration of multiple FIRs concerning the specified offences is not enough. *Deepak*'s quotation of *Pandharinath Shridhar Rangnekar* emphasized extraordinary circumstances and strict compliance with statutory hearing. The present High Court applied these principles when reviewing the record under Section 5 of the MP Act; it did not claim that Maharashtra Section 56 text governed directly.

Gangaram v Commissioner, Indore Division, 2022 (1) MPLJ 711, and *Meena Sonkar v State of M.P., 2017 (2) MPLJ 565*, were quoted as MP authorities requiring a close connection in time. *Gangaram*, discussing *Sudeep Patel*, explained the preventive aim, how delay between the alleged conduct and proposed externment can break the necessary connection, and why the authority must act promptly rather than treat externment as a formality even without an express limitation period. Its quotation from *State of Maharashtra v Bhaurao Punjabrao Gawande, (2008) 3 SCC 613*, distinguished preventive from punitive action. It included, through further quotations, statements in *Haradhan Saha, Khudiram Das, V.G. Row* and *Naresh Kumar Goyal* concerning anticipated risk and delay. The present Court applied the proximity principle to the old cases relied on for externment. *Meena Sonkar* reproduced *Ashok Kumar Patel* and other MP cases for a close connection in time between the relevant offences and proposed action under Section 5(b), and for genuine hearing and application of mind. The Court applied that local line to the old cases relied on in this proceeding.

3. Statutes considered : Article 226 provided for judicial review of the District Magistrate and Commissioner. Article 19(1)(d) protects movement throughout India and Article 19(5) permits reasonable restrictions; externment directly restricts that freedom. Section 5 MP Rajya Suraksha Adhiniyam, 1990 supplied the local preventive power under review. Its prospective focus required sufficiently recent conduct and, on the relied-upon intimidation theory, an objective basis for finding that witnesses were unwilling to testify. Sections 294, 323, 506 and 34 IPC (with Sections 147, 148 and 341 in one FIR) described reported cases, not guilt findings in this writ. Sections 107/116(3), 110 and 122 CrPC described preventive reports, including the post-hearing 2024 addition. The Supreme Court quotation concerned Section 56 of Maharashtra's 1951 Act as an analogous externment framework, not the exact MP text.

4. Issues : Did the District Magistrate have sufficiently current, relevant objective material to justify a restriction on movement across four districts for one year, including the specific proposition that witnesses feared giving evidence, or were old and trivial cases being used for a punitive or election-related purpose? Separately, could the authority rely on a new case and preventive report supplied after final arguments without notice and response, and deny the petitioner the requested opportunity to cross-examine, although the record did not show that he had refused to do so? The High Court assessed the legality of the externment and appeal.

5. Ratio / Findings : The principles stated in *Deepak* required externment, as an exceptional restriction on free movement, to be reasonable and based on material relevant to preventing future harm. The SP's October 2023 recommendation drew on 2012, 2018 and 2020 cases too old to establish the required connection with the proposed preventive action; the 2022 and 2023 cases involved the relatively minor listed IPC offences. No material identified proceedings in which witnesses stayed away due to intimidation. The SHO stated that there had been convictions in some trials. The Court inferred from this that witnesses had come forward to give evidence. The Court also found from the SHO's statement that the purpose of the proceedings was to keep the petitioner away from election proceedings. Applying *Gangaram* and *Meena Sonkar*, the Court held that reliance on old and stale cases and the relatively minor later offences, without material showing witnesses' fear, did not justify Section 5 externment.

There was also a separate denial of a fair hearing. The 2 April 2024 letter introducing Crime No. 36/2024 and Ishtagasa No. 01/24 arrived after final arguments on 1 April, yet the District Magistrate used it without giving the petitioner a copy or opportunity to answer it. The authority could have excluded the new material or reopened the hearing. The petitioner requested cross-examination, and the 6 November 2023 order-sheet did not record that he had refused to cross-examine; the opportunity should have been afforded. The Court set aside the appellate order along with the externment order. Together with the absence of a sufficiently current and supported basis for action under Section 5, these flaws required the externment order to be quashed.

6. Relief : The Hon’ble High Court has allowed the writ. The District Magistrate's order excluding the petitioner for one year from Balaghat, Seoni, Mandla and Dindori and the Commissioner's 29 July 2024 appellate order were quashed.

Rajesh Nagpure v. State of Madhya Pradesh and others, W.P. no. 22524/2024, 14/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (513) Prev Next

Headnote :- Section 482 CrPC — prima facie FIR / disputed defence - Applicants sought quashing of a police FIR alleging that they damaged Dr B.R. Ambedkar's statue at about 11:15 p.m. amid a local dispute over government land. They relied on a purported allotment and later gift of the land to the Shakya community, an earlier confrontation between the complainant's community and the police, a counter-FIR and their claim that they were at the police station. These matters did not establish that the allegations taken at face value failed to disclose the alleged IPC offences. The Sarpanch's consent letter did not establish an allotment by a competent authority. The community Panchanama did not show a gift by Bhauran or his wife and was not a registered gift deed. The claim to an easement required civil adjudication. Following Supreme Court caution against a roving inquiry during investigation, the Court dismissed the quashing application, without determining the applicants' guilt or finally deciding title.

Supreme Court authority — exceptional quashing - *Bhajan Lal*, *Amit Kapoor* and the other reproduced Supreme Court decisions permit intervention where the allegations, accepted as stated, do not disclose an offence or are inherently improbable, or where the proceedings are legally barred or manifestly an abuse of process, but prohibit a mini-trial on contested defence material. The Court applied that distinction to the allegations in the FIR and the plea of alibi.

Case-note :- ***1. Facts :*** In his report dated 22 February 2021, Shanker Jatav alleged that he had seen Rajesh Shakya and the other applicants damaging an Ambedkar statue near his home at about 11:15 p.m. He said that he was afraid to speak and informed other members of his community. He also alleged that the applicants fled after damaging the statue. The statue had been installed on 2 January 2021 on land described in the FIR as government land. Police Station Vijaypur, Sheopur registered Crime No. 42/2021 under Sections 295, 427 and 147 IPC. The applicants invoked Section 482 CrPC to quash the FIR at the admission stage.

The applicants disputed the land description, pointing to a purported Sarpanch allotment to Bhauran for tethering cattle and a Dharamshala, and a 31 December 2020 Panchanama said to give land to the Shakya community for a community centre and Jhalkari Bai Bhavan. They said that the police had summoned them to the station the previous night and that they therefore could not have been at the statue. One of the applicants was a postman. They described an 8 January police FIR after officials respectfully removed an unauthorised statue and Jatav-community members allegedly blocked a road, damaged police vehicles and reinstalled it. Ratani Bai, described as Bhauran's wife, had also lodged a 16 February FIR about an alleged assault when she objected to the use of the land. The applicants alleged that the FIR was retaliatory because some relatives of respondent No. 2 had been named as accused in other FIRs. These were the applicants' competing allegations; they were not findings in their favour.

2. Precedents — Considered : *Munshiram v State of Rajasthan, (2018) 5 SCC 678*, and *Teeja Devi v State of Rajasthan, (2014) 15 SCC 221*, were used for the caution against prematurely quashing an FIR disclosing a cognizable offence before proper police investigation, subject to exceptional abuse or malicious and vexatious prosecution. *State of Orissa v Ujjal Kumar Burdhan, (2012) 4 SCC 547*, quoting *Swapan Kumar Guha* and *Jeffrey J. Diermeier*, explained why investigation should ordinarily collect evidence where an offence is disclosed and why the wide inherent jurisdiction must nevertheless be exercised sparingly and to secure justice. *XYZ v State of Gujarat, (2019) 10 SCC 337*, and *S. Martin* were cited against a roving inquiry into disputed facts that obstructs investigation.

S. Khushboo v Kanniammal, (2010) 5 SCC 600, recited *Bhajan Lal*'s face-value absence-of-offence and manifest-mala-fide categories and discussed *Medchl Chemicals*, *Zandu Pharmaceutical* and *Shakson Belthissor*: exceptional quashing protects against plainly untenable prosecution but not genuine complaints. *Sangeeta Agrawal v State of U.P., (2019) 2 SCC 336*, required the Court to set out the factual background and give reasons for applying the law. *Amit Kapoor v Ramesh Chander, (2012) 9 SCC 460*, supplied detailed principles, including the balance between accused liberty and prosecution, the prohibition on weighing the likelihood of conviction, and the difference between purely civil disputes and facts also amounting to offences. *Ajay Kumar Das v*

State of Jharkhand, (2011) 12 SCC 319, repeated *Bhajan Lal*'s caution that the power is not arbitrary and its exercise cannot be confined to rigid categories.

Mohd. Akram Siddiqui v State of Bihar, (2019) 13 SCC 350, noted a limited exception allowing a public document or a document whose veracity is not disputed by the complainant to be considered, while stating that the Court would ordinarily refrain from assessing the defence or verifying its documents when considering quashing. *State of A.P. v Gourishetty Mahesh, (2010) 11 SCC 226*, and *Padal Venkata Rama Reddy v Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, again distinguished the Court's abuse-prevention function from prematurely terminating a prosecution by evaluating the evidence; the latter reproduced *Bhajan Lal*'s seven illustrative categories and other authorities in nested passages. *M. Srikanth v State of Telangana, (2019) 10 SCC 373*, reiterated the ground that the allegations taken at face value fail to disclose an offence. *M.N. Ojha v Alok Kumar Srivastav, (2009) 9 SCC 682*, recognised intervention where inherently improbable allegations are used for harassment, while cautioning against routine interference. *CBI v Arvind Khanna, (2019) 10 SCC 686*, warned against judicial findings on contested defence facts in a Section 482 petition. The High Court applied the face-value offence test and declined to resolve the disputed defences in this quashing application.

3. Statutes considered : Section 482 CrPC was the source of the requested inherent-power relief; the judgment addressed the boundary between investigating a disclosed cognizable crime and preventing abusive process. The FIR invoked Sections 295, 427 and 147 IPC in relation to the alleged damage to the statue, mischief and rioting. The charges remained allegations, and the order recorded no conviction. Section 397 CrPC, Section 228 CrPC, Section 173(2) CrPC, Sections 156(1) and 155(2) CrPC and Article 226 were mentioned principally within quoted Supreme Court explanations of quashing and revision, framing of charges and police investigation; the present application was not a revision, writ, charge order or dispute about authority to investigate a non-cognizable offence. The Court referred to the need for a registered gift deed when assessing the applicants' account of the purported transfer of land, without adjudicating a land-title suit or specifying a registration section.

4. Issues : Did the face-value FIR alleging group damage to the statue disclose a cognizable criminal case such that the applicants' counter-FIR narrative, alleged land rights and plea that they were at the police station could not justify immediate quashing? Could the Court resolve whether a Sarpanch had authority to allot the parcel, whether the Panchanama transferred title, or whether the applicants had an easement, in a Section 482 proceeding? The issue was whether the proceedings should continue at that stage. The Court was not determining proof of each alleged ingredient beyond reasonable doubt, the legality of installing the statue or final ownership.

5. Ratio / Findings : Drawing on the quoted Supreme Court decisions, the Court held that it must not conduct a roving inquiry into disputed facts as though conducting a trial, although an FIR may be quashed where the uncontroverted allegations themselves disclose no offence. On this record, the alleged deliberate damage by identified applicants in a group supplied sufficient allegations, taken at face value, for the investigation to proceed. The prior incidents and counter-allegations did not conclusively displace that account merely by showing hostility or a competing claim to the land.

The Sarpanch consent letter did not establish that the site was Abadi land or that the Gram Panchayat was competent to allot it to Bhauran. The 31 December Panchanama recorded Shakya-community members purporting to gift the parcel to themselves, not a gift by Bhauran or his wife; there was also no registered gift deed. The State described the land as government land, and the Court rejected the Panchanama as a basis for the applicants' title defence. Nor had the applicants obtained a civil declaration of the easement they claimed on the ground that their houses faced the open land. A petition invoking the Court's inherent power could not adjudicate that contested civil claim. The applicants' claim that they were at the police station was a disputed plea of alibi to be established at trial. The judgment stated that the accused must prove that plea beyond reasonable doubt. None of these defences warranted premature quashing.

6. Relief : The Hon’ble High Court has dismissed the Section 482 application. Crime No. 42/2021 at Police Station Vijaypur, District Sheopur under Sections 295, 427 and 147 IPC was not quashed.

Rajesh Shakya and others v. State of Madhya Pradesh and others, M.Cr.C. no. 14082/2021, 24/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (514) Prev Next

Headnote :- Cheating versus civil default — deferred potato purchases / onward sale - The FIR alleged that the applicant, who ran a school, purchased 325 quintals of the complainant's potatoes at Rs 2,140 per quintal, paid Rs 1,30,000 in advance and failed to pay the balance. It further alleged that he similarly failed to pay several farmers, sold the produce, retained the proceeds and disappeared from his home. Subsequent nonpayment alone would not establish an intention to cheat from the inception of the transaction. On the allegations of resale and retention of the proceeds, however, the High Court drew a prima facie inference of such intention, distinguishing a case in which the purchaser had been unable to resell the produce. It declined to quash the FIR under Sections 406/420 IPC in the application under Section 528 BNSS. This was an assessment at the quashing stage, not a determination of guilt or proof of every ingredient of the offences at trial.

Civil/criminal overlap and disputed defence - The principles stated in *Amit Kapoor* and *Naresh Kumar*/*Paramjeet Batra* require the Court to examine whether the essential ingredients of a criminal offence are present and to prevent criminal proceedings from being used as a means of harassment in a civil dispute. The existence of a claim for the unpaid purchase price did not exclude the alleged criminal elements in this case. The applicant's account of abduction and a forcibly signed blank cheque, set out in his complaint to the Superintendent of Police, had not been proved. No order sheets were produced to show the status of his father's complaint under Section 175(3) BNSS. The application was dismissed.

Case-note :- ***1. Facts :*** Rajesh Upadhya applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash Crime No. 603/2024, registered at Police Station Ambah, Morena, under Sections 406 and 420 of the Indian Penal Code. The FIR described the applicant as having run Saraswati Shishu Mandir for four years, rather than as a potato trader, and alleged that he had promised farmers Rs 2,140 per quintal for their potatoes. The complainant stated that he supplied 325 quintals on 15 April 2024, received Rs 1,30,000 in advance and was promised a further Rs 5,22,000 within ten days. The FIR alleged that the balance remained unpaid, that the applicant had sold the potatoes and retained or misappropriated the money, and that he had disappeared from his home in Datia. It also alleged unpaid balances of Rs 3,37,000 to Rajkumar, Rs 5,74,000 to Raghvendra, Rs 1,55,000 to Vinod Parashar, Rs 90,000 to Annu and Rs 1,80,000 to Raju, besides amounts due to other farmers. Handwritten calculations and a blank cheque were said to be available.

The applicant stated that Omveer Singh Tomar and others had abducted him on 10 August 2024, taken Rs 90,000 from him and forced him to sign blank papers and the cheque. He complained to the Superintendent of Police on 27 August. His counsel submitted that his father had also lodged a complaint under Section 175(3) BNSS against Omveer, Pope Singh and several of the farmers, but produced no order sheets showing its status. Counsel described the dispute over the purchase price as civil. The State submitted that the transaction involved the misappropriation of money belonging to several farmers and the applicant's flight from his home, and was not merely a business transaction. The application was heard and dismissed on 15 April 2025.

2. Precedents — Considered : *Amit Kapoor v Ramesh Chander, (2012) 9 SCC 460*, was reproduced at length. The directly relevant principles require the power to quash to be exercised sparingly and the allegations to be taken at face value when examining whether the essential ingredients of an offence are disclosed. They prohibit weighing the evidence or conducting a mini-trial and distinguish a predominantly civil wrong involving no criminal element from a transaction giving rise to both civil relief and criminal prosecution. The judgment also discusses the balance between personal liberty and lawful prosecution, statutory bars, inherently improbable allegations, use of the process for an ulterior purpose and material supplied by an accused from outside the prosecution record. Paragraph 28 explains that *Madhavrao Jiwajirao Scindia* does not lay down a universal rule requiring every proceeding arising from a transaction with civil elements to be terminated. The High Court quoted these principles while considering criminal proceedings involving civil elements.

Naresh Kumar and another v State of Karnataka and another, SLP (Cr.) No. 1570/2021, decided 12 March 2024, was quoted for the principle that criminal proceedings should not be used as a means of harassment in an essentially civil dispute. The passage quoted from *Paramjeet Batra v State of Uttarakhand, (2013) 11 SCC 673*, requires careful examination of whether the essential ingredients of a criminal offence are present despite the civil nature of a transaction, and permits quashing where a civil wrong is merely presented as a crime. The references in *Naresh Kumar* to *Randheer Singh v State of U.P., (2021) 14 SCC 626*, and *Usha Chakraborty v State of West Bengal, 2023:INSC:86*, reinforce the same principle. The High Court accepted that a mere breach should not be treated as a criminal offence, but distinguished the allegations of resale and retention of the proceeds in this case. It therefore declined to quash the FIR as a purely civil dispute.

3. Statutes considered : Section 528 BNSS 2023 was the provision under which the applicant invoked the High Court's inherent power in this 2025 application for quashing. Section 482 of the earlier CrPC appeared in the quoted Supreme Court authorities as the provision governing the analogous power. Sections 406 and 420 IPC were the offences stated in the FIR. The Court considered whether nonpayment alone, as distinct from the alleged resale and retention of the proceeds, disclosed a prima facie intention to cheat. Counsel also referred to the applicant's father's complaint under Section 175(3) BNSS, but did not produce the order sheets showing its status. Other CrPC provisions in the *Amit Kapoor* quotation, including Sections 397, 228 and 173(2), formed part of the Supreme Court's discussion of the general principles governing quashing.

4. Issues : Was the FIR merely a civil claim for recovery of the purchase price presented as an offence under Sections 406/420 IPC, without an intention to cheat from the inception of the transaction? Or did the allegations of purchases from several farmers, followed by resale, nonpayment and retention of the proceeds, disclose a prima facie criminal element? Did the applicant's unproved account of abduction and forced signatures, or the asserted complaint by his father under Section 175(3) BNSS, require a different conclusion at the quashing stage?

5. Ratio / Findings : A subsequent failure to fulfil a promise to pay does not, by itself, constitute cheating or criminal breach of trust. The facts must indicate an intention to cheat from the inception of the transaction. This requirement prevents criminal proceedings from being used to recover a purely civil debt. In this case, however, the FIR described a series of transactions in which a person running a school agreed to purchase potatoes from several farmers, allegedly resold them in the open market and retained the proceeds without paying the purchase price. The Court distinguished a case in which the purchaser had been unable to sell the potatoes, which could have supported an innocent explanation. Here, the alleged resale and retention of the proceeds permitted an inference that the applicant had intended to cheat the farmers from the outset. The Court regarded the allegations as disclosing criminal ingredients alongside the civil claim and declined to quash the FIR at that stage. The decision concerned quashing and did not determine whether misappropriation or the requisite state of mind had been proved beyond reasonable doubt at trial.

The applicant's complaint to the Superintendent of Police alleged that he had been forced to sign the blank cheque and writings during an abduction, but those allegations had not been proved. Counsel conceded that the order sheets relating to his father's complaint under Section 175(3) BNSS had not been filed. The Court found the account of abduction solely to obtain signatures on blank papers implausible in the absence of any shown prior enmity. It expressed the prima facie view that the complaint to the Superintendent of Police appeared to have been made to create a defence to the handwritten accounts of the potato purchases. These were prima facie assessments made in deciding whether to quash the FIR.

6. Relief : The Hon'ble High Court dismissed the application under Section 528 BNSS and declined to quash the FIR under Sections 406/420 IPC in Crime No. 603/2024.

Rajesh Upadhya v. State of Madhya Pradesh and others, M.Cr.C. no. 55597/2024, 15/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (515) Prev Next

Headnote :- MP externment — current nexus / fearful witnesses - The District Magistrate ordered the petitioner's externment for one year from Jabalpur and seven adjoining districts on the basis of old cases dating back to 1997 and one FIR registered in 2020. The Court stated two necessary conditions:

the alleged conduct must have close proximity to the externment order, and there must be some material showing that witnesses are not coming forward to give statements against the proposed externee. The police witness's bare assertion that witnesses were afraid, for which no documentary support was produced, did not provide the required reasoned assessment. The order did not examine the nature and outcomes of the earlier cases or explain why externment was necessary.

Hearing and reasons — cross-examination / mechanical appeal - The petitioner was required to advance final arguments before cross-examining the police witness and was given no further hearing to address her answers. The District Magistrate's order largely reproduced earlier material without explaining why the record justified externment from eight districts. The Commissioner overlooked these defects. Applying the principles on recording reasons stated in *Kranti Associates*, the Court set aside both orders and imposed costs of Rs 20,000 on the District Magistrate.

Case-note :- ***1. Facts :*** Rajjan Yadav filed a petition under Article 226 challenging the Commissioner, Jabalpur Division's order dated 11 November 2020 dismissing his appeal against the District Magistrate's order dated 28 July 2020. The latter order externed him for one year from Jabalpur, Mandla, Dindori, Narsinghpur, Seoni, Katni, Damoh and Umaria under the MP Rajya Suraksha Adhiniyam. He had complied with an externment order made in 2016. A recommendation by the Superintendent of Police in March 2018 led to another externment order in 2018. On 20 February 2019, the Commissioner set that order aside because no departmental witness had been examined and remanded the matter for a fresh decision after giving the petitioner a full opportunity to present his defence. On 8 July 2020, Crime No. 184/2020 was registered at Khamariya against the petitioner and two others under Sections 327, 294, 506, 427/34 IPC. The Superintendent of Police renewed the recommendation for externment that day. The District Magistrate's record showed that notice was issued on 8 July; counsel appeared and Sub Inspector Nirupa Pandey was examined-in-chief on 10 July; a detailed reply was filed and arguments were heard on 14 July; the witness was cross-examined on 17 July; and the externment order was passed on 28 July. The petitioner submitted that no new case or preventive action had been taken during the long interval in 2017–19 and that only one case had been registered in 2020. He relied on the coordinate Bench's order dated 9 February 2021 in *Ramlakhan Yadav*, W.P. 18605/2020. The State conceded that the decision covered the case, but sought to distinguish it on the basis of the police witness's statement that people were afraid to depose. It acknowledged that no documentary support for that assertion had been produced.

2. Precedents — Considered : *Ramlakhan Yadav v State of M.P. and others*, W.P. No. 18605/2020, decided 9 February 2021, was relied on as a closely comparable coordinate Bench decision on externment. The State conceded that it covered the case, while relying on the additional statement of the Sub Inspector. *Kranti Associates (P) Ltd. v Masood Ahmed Khan, (2010) 9 SCC 496*, was quoted and applied on the duty to give reasons. It requires decisions prejudicial to a person, including quasi-judicial decisions, to state cogent and intelligible reasons showing that relevant factors have been considered. Reasons restrain arbitrariness and enable review; a rubber-stamp conclusion is insufficient. Paragraph 46 refers to *S.N. Mukherjee* and foreign authorities. Applying *Kranti Associates*, the High Court found that the District Magistrate had reproduced material verbatim and reached an unsupported conclusion, showing an absence of reasons and non-application of mind. The Commissioner had failed to scrutinise those defects on appeal.

3. Statutes considered : The petition invoked judicial review under Article 226 of the Constitution. The Superintendent of Police's request dated 8 July 2020 invoked Sections 4, 5 and 6 of the MP Rajya Suraksha Adhiniyam. Section 5 was the specific provision for externment identified in the earlier recommendation and relevant to the order under challenge. Externment is a preventive restriction on residence and movement and may affect livelihood. Sections 327, 294, 506 and 427 read with 34 IPC were the provisions under which Crime No. 184/2020 had been registered. The findings on proximity, the reluctance of witnesses, a fair hearing and reasons concerned the exercise of the discretionary power of externment and the appellate decision.

4. Issues : Could externment for one year from eight districts be ordered on the basis of numerous old cases, including cases from decades earlier, and one recent alleged offence without a reasoned assessment

of their proximity to the order, their nature and outcomes, and reliable material showing that witnesses were unwilling to come forward? Was the hearing fair when final arguments preceded cross-examination of the police witness, no later opportunity was given to address her answers, and the record did not clearly show the position concerning defence evidence? Did an order largely reproducing earlier material, followed by a mechanical appellate decision, satisfy the duty to give reasons in proceedings affecting liberty and livelihood?

5. Ratio / Findings : The Court stated that the alleged offences must have close proximity to the externment order and that there must be some material showing that witnesses are not coming forward to give statements against the proposed externee. The case history relied on by the petitioner included offences dating back to 1997, groups of cases from 1998 and 2014, and later cases up to 2017. The petitioner also submitted that no case had been registered during 2017–19 and that only one FIR had been registered in 2020. The Sub Inspector's general assertion that witnesses were afraid, which the State conceded had no documentary support, did not dispense with a reasoned examination of the required conditions. The District Magistrate had not assessed the seriousness, outcomes and age of the individual cases or explained why externment from the specified districts was warranted.

The Court examined the order sheets even though the petitioner had not specifically challenged the sequence of the hearing. The police witness's examination-in-chief was recorded on the day counsel sought time, and final arguments were heard before cross-examination. Although the witness was later cross-examined, counsel was given no opportunity to address that evidence afterward. The record also did not clearly show whether the petitioner had sought to lead defence evidence. The Court held that cross-examination was not a mere formality: requiring final arguments before it and allowing no further hearing on the answers violated natural justice. It expressly left open whether recording the examination-in-chief before supplying the Superintendent of Police's papers and awaiting the reply was itself improper. The procedural holding concerned the requirement to argue before cross-examination and the denial of a subsequent hearing.

The District Magistrate's 2020 order reproduced the 2018 order and successive procedural materials, then relied on the new FIR to reach a conclusion without reasons. Under *Kranti Associates*, an adverse quasi-judicial order must give clear reasons revealing the basis for the exercise of discretion and enabling review. This order did not do so. The Court held that the hasty procedure and unreasoned order were arbitrary and mala fide, noting that the earlier remand had already followed a failure to examine any departmental witness. The Commissioner had failed to examine and address the defects. An appeal required real scrutiny, particularly when removal from a person's home could deprive him of his livelihood. The finding of mala fides related to the procedure and administrative record in this case.

6. Relief : The Hon'ble High Court allowed the writ petition and set aside the District Magistrate, Jabalpur's externment order dated 28 July 2020 and the Commissioner, Jabalpur Division's appellate order dated 11 November 2020. The District Magistrate was directed to deposit costs of Rs 20,000 in the High Court Registry within 30 days. Rajjan Yadav was entitled to withdraw the amount.

Rajjan Yadav v. State of Madhya Pradesh and others, W.P. no. 18600/2020, 31/05/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (516) Prev Next

Headnote :- Rape allegation — Section 90 IPC / job dependence - A hospital receptionist accused its director of repeated sexual violation during her employment and alleged that, after terminating her services, he induced further sexual acts by promising to restore her employment. He sought quashing on the ground that the continued relationship and her supplementary statements showed consent. The Court held that failure to complain did not conclusively establish voluntary participation where the employer was in a position to dominate the employee's wishes. An alleged false promise of reemployment could render apparent consent one given under a misconception of fact within Section 90 IPC. At the stage of considering quashing of the FIR and charge-sheet, the allegations were capable of constituting offences. The application was dismissed without finally determining voluntariness or guilt on the evidence to be recorded at trial.

Trial independence — limited Section 482 observations - The Court directed the trial judge to decide the case on the evidence adduced at trial,

without being influenced by its observations at the quashing stage.

Case-note :- ***1. Facts :*** Rajkishore Shrivastava, the director of a hospital, applied under Section 482 CrPC to quash the FIR in Crime No. 8/2021 registered at Police Station AJK, Bhind, the charge-sheet and all consequential proceedings. The recorded offences were Sections 376(2)(n), 323, 294 and 506 IPC and Sections 3(2)(v), 3(2)(va), 3(1)(r), 3(1)(s), 3(1)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The prosecutrix alleged that she joined the hospital as a receptionist in June 2020 and that, after returning from Gwalior and Delhi in July, the applicant sexually violated her repeatedly on the pretext of providing employment. She alleged that he pressured her to have sex with others and terminated her services when she refused. Thereafter, he allegedly continued to have sexual relations with her until December 2020 by promising reinstatement, but did not restore her employment. She also alleged beating, humiliation on account of her caste and threats. According to her account, the applicant made a complaint in his defence after she threatened to inform his wife of his conduct.

The applicant relied on four supplementary statements and submitted that the prosecutrix had consented, pointing in particular to the alleged continuation of the sexual relationship after termination of her employment. He argued that the continuation excluded consent under a misconception of fact. Counsel appeared for the State. The Court dismissed the application on 2 August 2021 and expressly directed that the trial be decided independently of its preliminary observations.

2. Precedents — Considered : The Court reproduced Section 90 IPC and stated the settled principle that an FIR or charge-sheet may be quashed where the uncontroverted allegations do not disclose an offence. It applied the provision and that principle to the allegations concerning employment and the promise of reinstatement. Its observations on the applicant's alleged domination of the prosecutrix's wishes and consent under a misconception of fact were made within the limited scope of the quashing application. The trial judge was expressly directed to assess the evidence independently.

3. Statutes considered : Under Section 90 IPC, consent given under fear of injury or a misconception of fact is not the consent contemplated by the Code if the person doing the act knows, or has reason to believe, that the consent was given in consequence of that fear or misconception. The order also reproduced the provisions concerning incapacity and consent by a child, but applied the rule concerning fear or misconception to the employee's circumstances. Section 376(2)(n) IPC concerned the alleged repeated sexual acts. Sections 323, 294 and 506 IPC and the listed SC/ST Act subsections were the offences recorded in the FIR. Section 482 CrPC governed the Court's inherent jurisdiction to consider quashing of the FIR and charge-sheet at that stage; the observations did not determine guilt at trial.

4. Issues : Could the applicant establish free and legally effective consent at the Section 482 stage merely by relying on the absence of an immediate complaint, the continued relationship after termination and four supplementary statements, when the prosecutrix alleged dependence on the hospital director and a renewed promise of employment? Did the uncontroverted allegations disclose sexual acts capable of constituting an offence, so that the FIR and charge-sheet should proceed? What effect should the Court's preliminary observations on consent have on the trial judge's assessment of the evidence?

5. Ratio / Findings : Section 90 requires consideration of the circumstances in which apparent consent was given, including fear and misconception of fact. The Court rejected a conclusive inference of voluntary participation from the failure to complain. The Court considered that, as her employer, the hospital director was in a position to dominate her wishes. Even after termination, the alleged promise of reemployment could account for the continued relationship: if she participated in the hope and belief that her job would be restored, her apparent consent could not be treated as free from a misconception of fact. On the allegations, the Court regarded the consent as having been obtained through a false promise of reemployment and under a misconception of fact. It directed the trial court to decide on the evidence adduced at trial, without being influenced by these observations.

At the quashing stage, the question was whether the uncontroverted allegations failed to disclose an offence, rather than whether the applicant's interpretation of the supplementary statements would ultimately be accepted. On the allegations, the Court found no ground to quash the FIR in Crime No. 8/2021 or the charge-sheet. It expressly confined

its observations to deciding the application and directed the trial court to decide strictly on the evidence recorded at trial, without being prejudiced or influenced by the High Court's comments.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC. The FIR, charge-sheet and consequential proceedings were not quashed. The trial court was reminded to decide the trial independently on the evidence adduced before it, without being influenced by the observations in the order.

Rajkishore Shrivastava v. State of Madhya Pradesh and others, M.Cr.C. no. 38456/2021, 02/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (517) Prev Next

Headnote :- Criminal writ — quashing / alleged counterblast - A former party officeholder sought quashing of four FIRs registered in Sagar, alleging that they were retaliatory responses to his representations against a private respondent. At the quashing stage, the FIR allegations, rather than the suspect's disputed defence, determine whether cognizable offences are disclosed. *Renu Kumari*, restating *R.P. Kapur* and *Bhajan Lal*, permits sparing intervention where no offence is disclosed or the process is abused, but treats the informant's alleged malice as secondary where the report discloses offences. The petitioner identified no ground arising from the allegations in any particular FIR that warranted quashing. Prayer A was rejected.

Police-action mandamus / CBI transfer - Counsel conceded that a direction to the police merely to examine the petitioner's complaints against the private respondent would, in substance, direct registration of an FIR. Applying *Divine Retreat Centre*, *Sakiri Vasu*, *Sudhir Bhaskarrao Tambe* and *Shweta Bhadauria*, the Court declined to issue that direction and left the remedies under Sections 154(3), 156(3), 190/200 CrPC open. The request for transfer to the CBI also failed because no malice by the investigating authorities was identified. Prayer B was disposed of with liberty to pursue the statutory remedies; prayers A and C were dismissed. The cited authorities preserve exceptional intervention under Article 226, while ordinarily requiring recourse to statutory remedies.

Case-note :- ***1. Facts :*** Rajkumar Singh Thakur filed a petition under Article 226 seeking quashing of four FIRs registered against him in Sagar district, investigation of his complaints against respondent No. 8, and transfer of the investigations against him to the Central Bureau of Investigation. Crime No. 45/2023 at Motinagar concerned allegations under Sections 506, 507 and 34 IPC; Crime No. 23/2023 at Civil Lines concerned Sections 342, 506 and 120-B; Crime No. 9/2023 at Civil Lines concerned Section 419; and Crime No. 11/2023 at Rahatgarh concerned Sections 409, 420, 467, 468, 471 and 477-A. The petitioner stated that he had been president of a party's Kisaan Morcha, was removed from that post on 11 October 2022 and was suspended from party membership for six years on 14 October. His representations to the Prime Minister's Office, Chief Ministers, senior police authorities and Lokayukta alleged threats to his family and offences by respondent No. 8 and his relatives. He alleged that the FIRs were a counterblast to those representations. These were the petitioner's assertions, not judicial findings that the FIRs had been registered in retaliation.

The High Court considered the prayers separately. In relation to prayer B, counsel submitted that he sought only consideration of the petitioner's complaints, rather than an express direction to register an FIR. On being questioned by the Court, however, he accepted that such a direction would indirectly require FIR registration. He identified no malice by the investigating authorities to support prayer C. The petition was disposed of on 19 January 2024, with a separate disposition for each prayer.

2. Precedents — Considered : *Renu Kumari v Sanjay Kumar, (2008) 12 SCC 346*, was quoted at length on the exercise of inherent power to quash, including the categories stated in *R.P. Kapur* and the seven illustrative categories in *Bhajan Lal*. Exceptional intervention remains available where the report, accepted as a whole, discloses no offence, where there is a legal bar or inherent improbability, or where abuse of process is demonstrated. The Court should not assess the reliability of incomplete evidence or quash proceedings merely because ill will is alleged against the informant when a cognizable offence is disclosed. *Renu Kumari* also refers to *State of Karnataka v M. Devendrappa*, *State of M.P. v Awadh Kishore Gupta and State of Orissa v Saroj Kumar Sahoo* as reiterating these principles. The High Court applied the principle that the accused's disputed claim of retaliation did not, by itself, justify quashing.

Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542, recognises exceptional intervention under Article 226 where a clear case of abuse of investigative power and non-compliance with Chapter XII CrPC is shown. Even then, the High Court cannot dictate how the investigation is to be conducted. On police inaction, it refers the informant to the Magistrate's complaint procedure under Sections 190 and 200, quoting *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union*. *Sakiri Vasu v State of U.P., (2008) 2 SCC 409*, explains the remedies: a written representation to the Superintendent of Police under Section 154(3), followed, if necessary, by an application to the Magistrate under Section 156(3) for registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, applies the same approach to alternative remedies. In an appropriate case, the Magistrate may recommend a change of investigating officer, but cannot personally investigate. The MP Division Bench in *Shweta Bhadauria v State of M.P.*, W.A. 247/2016, holds that a writ of mandamus for registration may be refused where these alternatives have not been used, unless the *Whirlpool* exceptions apply. It distinguishes the police duty to register under *Lalita Kumari* from an unconditional entitlement to a writ of mandamus. The High Court applied these authorities after counsel conceded that the reformulated prayer still sought registration, and found no exceptional ground for writ intervention.

The Court treated transfer to CBI as exceptional and found no malice by the investigating authorities necessitating transfer.

3. Statutes considered : Article 226 was the jurisdiction invoked for quashing the FIRs, a mandamus for police action and transfer of the investigations to the CBI. The quoted authorities on the inherent power under Section 482 CrPC supplied analogous principles of restraint, although the petition was under Article 226. Sections 154(3), 156(3), 190 and 200 CrPC provide the alternatives identified for an informant aggrieved by non-registration or inadequate investigation. Chapter XII governs police investigation, while Chapter XV concerns inquiry into complaints. Sections 155(2), 203 and related provisions appeared in the Supreme Court quotations explaining the Magistrate's functions. The IPC provisions mentioned in the four FIRs were allegations of offences, rather than findings of guilt.

4. Issues : Could the four FIRs be quashed merely on the petitioner's disputed account of political retaliation, without showing from their allegations, taken at face value, that no cognizable offence was disclosed or that a recognised ground of abuse existed? Could the Court direct the police to examine his complaints against respondent No. 8 when that apparently narrower direction would, in effect, require registration of a new FIR despite the available remedies before senior police officers and the Magistrate? Was there material justifying the exceptional transfer of the investigations to the CBI when no malice by the investigating authorities was identified? The three prayers concerned distinct exercises of Article 226 jurisdiction and were considered separately.

5. Ratio / Findings : On prayer A, the Court considered the FIR allegations for the purpose of quashing and declined to examine the accused's defence. *Renu Kumari* recognises intervention to prevent abuse, but states that the informant's mala fides are secondary where cognizable offences are disclosed. An allegation of retaliatory purpose does not, by itself, justify stopping the investigation. The petitioner identified no ground arising from the allegations in any particular FIR, taken at face value, that warranted quashing at that stage.

On prayer B, *Divine Retreat* recognises exceptional writ intervention in a clear case of abuse of investigative power and non-compliance with Chapter XII, while the ordinary statutory scheme provides remedies before senior police officers and the Magistrate. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explain that Section 156(3) permits the Magistrate to direct registration and proper investigation, and to monitor the investigation after appropriate recourse to the statutory remedies. *Shweta Bhadauria* distinguishes the police duty to register information disclosing a cognizable offence from an automatic entitlement to a writ of mandamus without using the alternatives. Counsel conceded that a direction merely to 'look into' his complaint would, in substance, direct FIR registration. The Court declined to grant that indirect relief, but expressly left the petitioner free to pursue the appropriate remedies under the CrPC.

On prayer C, transfer of an investigation to another agency is exceptional. The petitioner had identified no malice by the investigating authorities

necessitating transfer to the CBI. The Court rejected the request.

6. Relief : The Hon'ble High Court dismissed the petition insofar as it concerned prayers A, for quashing the FIRs, and C, for transfer to the CBI. Prayer B, concerning investigation of the petitioner's complaints against respondent No. 8, was disposed of with the liberty recorded in paragraph 18 to pursue the appropriate remedies under the CrPC. No writ direction to register an FIR was issued.

Rajkumar Singh Thakur v. State of Madhya Pradesh and others, W.P. no. 4612/2023, 19/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (518) Prev Next

Headnote :- Cheating versus breach — builder investment / flat agreement - A retired police officer alleged that persons known to him induced him to invest in, or lend money for, flats, received two cheques totalling Rs 5 lakh on a promise to repay double, failed to repay the balance after returning Rs 1 lakh, and misrepresented the building's location. The applicants relied on an agreement to sell identified flats. They stated that the complainant had refused to execute sale deeds and that they had filed a civil suit; applicant No. 2 had also lodged an FIR against him in Ahmedabad. The complainant admitted signing the Gujarati-language agreement but claimed that he could not understand it. The Court applied the requirement of due care under Section 52 IPC and relied on Section 92 of the Evidence Act. It found no foundation for dishonest intention at the inception of the transaction under Section 420 IPC and regarded the loan or sale dispute as predominantly civil. Crime No. 22/2024 under Sections 420, 406 and 34 IPC was quashed, leaving the complainant free to seek civil redress.

Section 482 — civil colour and authority limits - *Vijay Kumar Ghai*, including its discussion of *Indian Oil* and *Hridaya Ranjan*, and *Radheshyam* support restraint against using prosecution to compel contractual performance. The extensive discussion of forum shopping and repeated FIRs formed part of the quoted authorities; the Court's application concerned the distinction between civil and criminal liability. The order quashed only the specified Gwalior FIR and did not extend to the applicants' Ahmedabad FIR.

Case-note :- ***1. Facts :*** A retired Deputy Superintendent of Police lodged Crime No. 22/2024 at Police Station Thatipur, Gwalior, alleging offences under Sections 420, 406 and 34 IPC against Rajkumar Vasudev Prasad Sharma and others. Applicant No. 1, who was known to the complainant and visited him, described himself as a prosperous property dealer and a partner of Ahmedabad builder Dharmeshbhai Kantibhai Patel. In 2017, he offered two flats. When the complainant said that he did not need a residence in Ahmedabad, applicant No. 1 sought a loan of Rs 40 lakh, with the flats as security, promising to repay double within two years. The person introduced as his partner visited in September and described a building with 200 flats, including two flats worth at least Rs 1 crore. The complainant stated that he could not provide the amount sought, but signed a document in Gujarati, which he said he did not understand, and delivered cheques for Rs 2 lakh and Rs 3 lakh. He alleged that he repeatedly sought repayment, that the building's location was uncertain and was later stated to be Mahemdavad rather than Ahmedabad, and that he had been informed that applicant No. 1 was not the builder's partner and Patel was making losses. He alleged that Rs 1 lakh was deposited only after he threatened to lodge an FIR. These were pleaded accounts, not findings establishing the document's authenticity or the alleged partnership.

The applicants described the document as an agreement to sell Flat No. 501 on the fifth floor of Viththal Vinayak and Flat No. 601 on the sixth floor of Block E. They submitted that the complainant's refusal to execute sale deeds prevented resale and that they had filed a civil suit concerning the contract. Patel had also lodged an FIR in Ahmedabad against the complainant under Sections 211, 506(2) and 294(b) IPC. The State and the complainant opposed quashing. The State submitted that an interim order of the High Court had prevented police action. The Court identified the central dispute as the applicants' wish to complete the sale deeds and the complainant's wish to recover his money. It allowed the quashing application on 5 December 2024.

2. Precedents — Considered : *Vijay Kumar Ghai v State of West Bengal*, 2022 LiveLaw (SC) 305, was quoted extensively. Its relevance to the decision lay in the distinction between a contractual dispute and criminal cheating or breach of trust. It referred to *Indian Oil Corpn. v NEPC India Ltd., (2006) 6 SCC 736*, for the caution against using criminal

prosecution to press civil claims, and to *Hridaya Ranjan Prasad Verma v State of Bihar, (2000) 4 SCC 168*, on fraudulent intention when a promise is made. The reproduced passages also discuss forum shopping through *Cipla* and the examples considered there; parallel complaints through *Krishna Lal Chawla* and *T.T. Antony*; disclosure of litigation through *K. Jayaram*; and the limits on quashing stated in *Bhajan Lal*, *R.P. Kapur*, *Inder Mohan Goswami* and *Awadh Kishore Gupta*. In this case, the Court applied the distinction between a civil dispute and allegations disclosing the ingredients of a criminal offence.

Radheshyam and others v State of Rajasthan and another, Criminal Appeal No. 3020/2024, decided 22 July 2024, was separately cited for the principle that a breach of contract should not be given a criminal character to compel execution of a sale deed. Criminal proceedings cannot be used to enforce specific performance of an agreement. The Court applied that principle in rejecting prosecution over this agreement and expressly preserved the complainant's civil remedy.

3. Statutes considered : Section 482 CrPC was the provision under which the High Court's inherent power to quash was invoked. The Court stated that Section 420 IPC requires fraudulent or dishonest intention at the inception of the transaction; a later unfulfilled promise does not, by itself, establish that intention. The FIR also invoked Section 406 IPC and Section 34 on common intention. The Court treated the pleaded arrangement as a civil agreement. Section 52 IPC excludes from good faith an act or belief lacking due care and attention. The Court applied that provision to the retired officer's explanation for signing an agreement in Gujarati without understanding it. It also invoked Section 92 of the Evidence Act as prohibiting oral evidence contrary to the written terms. The IPC provisions cited in the Ahmedabad FIR identified a separate case, which was not decided in this order.

4. Issues : Did the allegations disclose deception or entrustment accompanied by criminal intent when the cheques were delivered and the written agreement was executed, or was the dispute over repayment, as opposed to conveyance of two identified flats, a civil contractual dispute? Could the complainant disown his signed Gujarati agreement merely by saying that he did not understand it and had trusted the applicants, in light of the Court's reasoning on due care under Section 52 and written terms under Section 92? Was criminal prosecution being used to obtain repayment or performance of the sale agreement when a civil remedy remained available?

5. Ratio / Findings : The Court identified the parties' opposing positions under the transaction. The applicants treated the payments and document as an agreement for flats requiring execution of sale deeds, while the complainant sought repayment on the basis of a promise to return double the amount. Section 420 requires dishonest intention at the inception of the transaction; subsequent nonpayment or failure to deliver a flat does not, by itself, establish that intention. The complainant admitted executing the document. Applying the requirement of due care under Section 52, the Court rejected, for the purpose of deciding the quashing application, his attempt to disown the agreement merely because it was in Gujarati and he did not understand it. The Court also relied on Section 92 of the Evidence Act, which it treated as barring oral evidence contrary to the document's terms.

Vijay Kumar Ghai and *Radheshyam* reinforce the principle that a contractual dispute over repayment or sale cannot be presented as an offence under Sections 420/406 merely to compel performance. On the record before it, the Court found the FIR predominantly civil and lacking a foundation for dishonest intention at the inception of the transaction. It declined to allow criminal investigation to be used to obtain repayment or conveyance. The complainant remained free to pursue civil proceedings.

6. Relief : The Hon’ble High Court allowed the application under Section 482 CrPC and quashed Crime No. 22/2024 at Police Station Thatipur, Gwalior, under Sections 420, 406 and 34 IPC. Respondent No. 2 was expressly left free to initiate civil proceedings for redress of his grievance.

Rajkumar Vasudev Prasad Sharma and others v. State of Madhya Pradesh and others, M.Cr.C. no. 5872/2024, 05/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (519) Prev Next

Headnote :- Section 304-A IPC — revision / long pendency and sentence - A bus driver convicted of causing Annu's death by rash and negligent driving in 2002 was sentenced to one year's simple imprisonment and a fine of Rs 1,000. The appellate

court reduced the imprisonment to six months. After more than 22 years, he sought a further reduction to the period already undergone, with an increased fine. *State of Punjab v Dil Bahadur*, reproducing *Saurabh Bakshi* and *Surendra Singh*, cautions against unduly lenient sentences in fatal road-accident cases merely because time has elapsed or compensation has been paid. Punishment must be proportionate to the act and take account of the victim's family and society. Applying those principles, the Court refused a further reduction, affirmed the appellate sentence, cancelled bail and directed the applicant to surrender immediately, and no later than 20 March 2025.

Case-note :- ***1. Facts :*** On 28 June 2002, Raju Jaat drove bus MP07-F-0982 and, as found in the conviction, struck Annu while driving rashly and negligently, causing his death. On 15 February 2007, the JMFC, Vijapur, Sheopur, convicted him under Section 304-A IPC and sentenced him to one year's simple imprisonment and a fine of Rs 1,000, with one month's simple imprisonment in default. The Special Judge under the SC/ST Act, deciding Criminal Appeal No. 11/2007, partly allowed the appeal on 1 May 2008 and reduced the custodial sentence to six months' simple imprisonment. Raju filed a revision under Sections 397/401 CrPC against the conviction and sentence. His recorded submission sought reduction of imprisonment to the period already undergone, with an increased fine, because approximately 22 years had elapsed since the incident. The State opposed the revision.

2. Precedents — Considered : *State of Punjab v Dil Bahadur, Criminal Appeal No. 844/2023*, decided 28 March 2023, was quoted extensively and applied. It emphasises the punitive and deterrent purpose of Sections 279/304-A IPC, proportionality in sentencing, the permanent loss suffered by the victim's family and the need to avoid merely nominal imprisonment through misplaced sympathy in fatal-driving cases. *Dil Bahadur* refers to *State of Himachal Pradesh v Ramchandra Rabidas and* considers the warning in *State of Punjab v Saurabh Bakshi* against reducing a Section 304-A sentence to a few days because compensation has been paid. It also reproduces *State of M.P. v Surendra Singh*, which disapproved reducing a two-year sentence to the period already undergone with modest compensation following a fatal accident caused by rash driving. The High Court applied these sentencing principles in rejecting Raju's request for reduction to time served. The passage from *Surendra Singh* reproduced in *Dil Bahadur* refers to *Sevaka Perumal*, *Dhananjoy Chatterjee*, *Mahesh*, *Hazara Singh*, *Shailesh Jasvantbhai*, *Ahmed Hussein Vali Mohammed Saiyed and State of M.P. v Bablu.* These passages address deterrence, relevant mitigating and aggravating circumstances, the interests of the victim and society, and proportionate punishment. The Court applied those principles to the request for reduction of the driver's sentence. The quotation also recognises the corrective aspect of sentencing and the need to consider the facts of each case.

3. Statutes considered : Section 304-A IPC was the provision under which the applicant was convicted and sentenced for causing death by rash or negligent driving. Section 279 IPC appeared in the quoted Supreme Court discussion of road-traffic offences; the applicant's stated conviction was under Section 304-A. Sections 397 and 401 CrPC governed the revision against the appellate judgment. The fine remained Rs 1,000, with the trial court's stated one month's imprisonment in default. The High Court affirmed the appellate judgment without imposing a new fine or compensation order. The Special Judge under the SC/ST Act was the appellate forum. Cancellation of bail bonds and the direction to surrender gave effect to the affirmed custodial sentence.

4. Issues : After the appellate court had reduced one year's simple imprisonment to six months for causing death by negligent driving, should the revisional court reduce the sentence further to the period already undergone and substitute an increased fine merely because the accident had occurred 22 years earlier? How should proportionality, deterrence, the irreversible loss suffered by the victim's family and the passage of time be weighed when considering that request?

5. Ratio / Findings : The Court held that the passage of time did not, by itself, justify reducing the six-month sentence for fatal negligent driving to the period already undergone. The principles in *Dil Bahadur*, supported by *Saurabh Bakshi* and *Surendra Singh*, require the consequences of vehicular negligence and the family's loss to be given due weight, with punishment governed by proportionality rather than mere sentiment. The Court noted the increase in road casualties and the irreparable loss caused by a death. It held that undue sympathy would not serve the interests of justice and found no ground for a further reduction in

imprisonment. The appellate court had already reduced the original term by half, and the High Court affirmed that sentence.

6. Relief : The Hon'ble High Court dismissed the criminal revision and affirmed the Special Judge's appellate judgment dated 1 May 2008 and the sentence of six months' simple imprisonment under Section 304-A IPC, with the fine recorded by the trial court. Raju's bail bonds were cancelled. He was directed to surrender before the trial court immediately, and no later than 20 March 2025. On failure to surrender, the trial court was at liberty to issue a warrant of arrest for the remaining sentence. The lower-court records were directed to be returned for compliance.

Raju Jaat v. State of Madhya Pradesh, Cr.R. no. 311/2008, 17/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (520) Prev Next

Headnote :- Section 482 — alleged rape, threats, delayed report and consent - The prosecutrix alleged rape on 21 March 2020, threats to kill her and her brother, a journey to a temple under threat on 30 March, confinement at Bhitarvar and rescue on 1 April, followed by the FIR on 2 April. The applicant relied on the reporting interval and her journey to the temple to contend that the relationship was consensual. The FIR attributed her silence and travel to fear. Delay may be explained; whether the threat explanation was credible and whether she went voluntarily were disputed questions for trial. Applying the Supreme Court's cautions against conducting a mini-trial under Section 482, including the observation in *Kunwar Singh* that an FIR need not be an encyclopedia, the Court held that the allegations, taken at face value, prima facie disclosed a cognizable offence. It declined to quash Crime No. 173/2020 or the trial, without determining guilt or finally deciding consent.

Case-note :- ***1. Facts :*** Raju Parihar applied under Section 482 CrPC to quash Crime No. 173/2020, registered at Police Station Karera, District Shivpuri, under Sections 376, 366, 342 and 506 IPC, and to terminate the criminal trial. The prosecutrix lodged her report on 2 April 2020 at 15:39. She alleged that, while she was alone at home at about 2 p.m. on 21 March, the applicant entered the house and raped her. He allegedly threatened to kill her and her brother if she told anyone, and she stated that fear prevented her from informing her family. On 29 March, he allegedly insisted that she come to Mangla Devi Temple to marry him and repeated the threat. She left home at about 4 p.m. on 30 March without informing anyone. According to the report, he took her from the temple to Bhitarvar and locked her in a rented room. Her neighbour Mohan Parihar reportedly rescued her on 1 April. She went to police outpost Sunari, her father was informed, and she returned home and described the events. The FIR was lodged the following day.

The applicant argued that the interval between 21 March and 2 April was substantial and that the prosecutrix's conduct showed consent, so no offence under Section 376 was disclosed. The State submitted that the adequacy of the explanation for the delay and the temple visit, and the question of consent, were disputed matters for the trial court. The High Court dismissed the application under Section 482 on 12 January 2022. The order concerned quashing and did not determine these allegations on evidence recorded at trial.

2. Precedents — Considered : *Munshiram v State of Rajasthan, (2018) 5 SCC 678*, and *Teeja Devi v State of Rajasthan, (2014) 15 SCC 221*, were quoted for caution against prematurely quashing an FIR disclosing a cognizable offence before completion of investigation, subject to exceptional cases of malicious and vexatious abuse. *State of Orissa v Ujjal Kumar Burdhan, (2012) 4 SCC 547*, reproducing passages from *Swapan Kumar Guha* and *Jeffrey J. Diermeier*, explains the public interest in investigating a disclosed offence and the need to exercise inherent power sparingly to secure justice. *XYZ v State of Gujarat, (2019) 10 SCC 337*, and *State of Tamil Nadu v S. Martin, (2018) 5 SCC 718*, caution against a roving examination of disputed allegations under Section 482 when they must be established through investigation or trial. *S. Khushboo v Kanniammal, (2010) 5 SCC 600*, reproduces the *Bhajan Lal* categories concerning absence of an offence and manifest mala fides. *Sangeeta Agrawal v State of U.P., (2019) 2 SCC 336*, requires the principles to be applied to the stated factual matrix.

Amit Kapoor v Ramesh Chander, (2012) 9 SCC 460, was reproduced extensively on examining uncontroverted allegations and the basic ingredients of an offence without marshalling evidence, predicting conviction or accepting contested defence material at face value. *Ajay Kumar Das v State of*

Jharkhand, (2011) 12 SCC 319, emphasises the sparing exercise of power within the illustrative *Bhajan Lal* categories. *Mohd. Akram Siddiqui v State of Bihar, (2019) 13 SCC 350*, recognises the limited exception permitting consideration of defence documents that are public documents or whose veracity the complainant does not dispute. *State of A.P. v Gourishetty Mahesh, (2010) 11 SCC 226*, and *Padal Venkata Rama Reddy v Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, balance prevention of abuse against interference with a genuine prosecution. *Padal Venkata Rama Reddy* reproduces the seven *Bhajan Lal* categories and discusses the limits on applying principles drawn from predominantly civil disputes. *M. Srikanth v State of Telangana, (2019) 10 SCC 373,* addresses quashing where the allegations, taken at face value, disclose no offence. *M.N. Ojha v Alok Kumar Srivastav, (2009) 9 SCC 682*, concerns truly absurd allegations used for harassment, while *CBI v Arvind Khanna, (2019) 10 SCC 686*, disapproves findings on disputed facts at the quashing stage.

State of M.P. v Kunwar Singh, Criminal Appeal No. 709/2021, decided 30 June 2021, cautions against a detailed examination of evidence under Section 482 as though the Court were conducting a trial. It also states that an FIR need not be an exhaustive encyclopedia. *Lalita Kumari v Government of U.P., (2014) 2 SCC 1*, was cited for the duty to register an FIR when the information discloses a cognizable offence. The Court applied these authorities to the disputes concerning delay and consent.

3. Statutes considered : Section 482 CrPC governed the request to quash the FIR and criminal trial. At that stage, the Court considers whether the uncontroverted allegations disclose an offence and whether intervention is necessary to prevent clear abuse of process. It does not assess credibility or predict acquittal. Sections 376, 366, 342 and 506 IPC were the recorded allegations of rape, abduction, confinement and intimidation. *Lalita Kumari* was cited for the duty to register an FIR where the complaint discloses a cognizable offence. Sections 397, 228, 173(2), 156(1) and 155(2), appearing in the Supreme Court quotations, formed part of the discussion of the general principles governing quashing.

4. Issues : Was the interval of approximately twelve days between the alleged first assault and the FIR, by itself, fatal despite the specific explanation of threats and the later alleged rescue? Did the prosecutrix's journey to the temple establish voluntary sexual consent as an incontrovertible fact, or did her account that she went under threat require examination at trial? Did the uncontroverted allegations disclose cognizable offences of rape, abduction, confinement and intimidation, warranting rejection of quashing without assessing credibility or predicting conviction?

5. Ratio / Findings : The Court held that delay in reporting does not, by itself, justify disbelieving the prosecution where the delay is plausibly explained. The FIR specifically attributed the prosecutrix's fear and failure to inform her family to the applicant's threats to kill her and her brother. It also described subsequent travel under threat, confinement and rescue. Whether fear adequately explained the reporting interval required assessment on the evidence. Deciding that issue under Section 482 would prematurely determine credibility and intrude on the trial.

The same limitation applied to consent. The applicant relied on the journey to the temple as showing voluntary participation, while the FIR attributed that journey to threats and described subsequent confinement in a locked room. Those competing accounts required findings on facts. The cited Supreme Court authorities, particularly *Kunwar Singh*, precluded a demand for encyclopedic detail in the FIR or a decision on consent based on weighing evidence under Section 482. Taking the FIR allegations at face value, the Court found a prima facie cognizable offence and declined to terminate the prosecution. Its reliance on *Lalita Kumari* concerned the duty to register an FIR disclosing a cognizable offence, rather than proof of guilt. The conclusion was procedural and provisional, leaving proof of the charges, credibility and consent for the trial court.

6. Relief : The Hon’ble High Court dismissed the application under Section 482 CrPC. Crime No. 173/2020 and the criminal trial under the stated IPC provisions were not quashed.

Raju Parihar v. State of Madhya Pradesh and others, M.Cr.C. no. 1868/2022, 12/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (521) Prev Next

Headnote :- NDPS Act — Section 67 statement — confessional use and police-officer bar - In the applicant's first application for bail under Section

439 CrPC, concerning 474 kg of ganja seized from a truck driven by a co-accused, the High Court applied *Tofan Singh v. State of Tamil Nadu, Criminal Appeal No. 152/2013*, decided 29.10.2020. Under the rule stated by the Supreme Court, NDPS officers exercising powers under Section 53 are police officers within Section 25 of the Evidence Act, and a statement recorded under Section 67 cannot be used as a confessional statement in an NDPS trial. The respondent's contention that *Tofan Singh* merely prevented conviction on a co-accused's confession, without affecting the statement's admissibility, was rejected. The co-accused Sonu's confession could not be used against this applicant in the present bail assessment. The applicant was apprehended at a dhaba, not in the truck, and the allegation of 13 calls was unsupported by call-detail records, which had not been collected. The Court also treated Sonu's statement described as having been made under Section 27 of the Evidence Act as inadmissible against this applicant. Bail was granted on stringent terms without deciding guilt or the merits of the trial.

Prison overcrowding during COVID-19 — release safeguards - The High Court also considered the Supreme Court's orders of 23.03.2020 and 07.04.2020 in *In Re: Contagion of COVID 19 Virus in Prisons*, Suo Motu W.P. (C) No. 1/2020. The order of 23.03.2020 required High Powered Committees in the States and Union Territories to determine which classes of prisoners were suitable for parole or interim bail in view of Article 21 and prison overcrowding; it did not itself make every prisoner eligible for release. The order of 07.04.2020 required arrangements for safe transit home or temporary shelter for prisoners released during lockdown. During the second wave, these considerations informed this particular bail order. Its safeguards included cash surety of ₹1,00,000, medical examination and testing if the doctor considered it necessary, hospital care if the applicant tested positive, and arrangements by the local administration for travel home if he was cleared, alongside compliance and appearance conditions.

Case-note :- ***1. Facts :*** The Narcotics Control Bureau, Indore, registered Crime No. 03/2020 for alleged offences under Sections 8/20(B)(ii)(C), 25, 27-A and 28 read with Section 29 of the NDPS Act, 1985. The applicant P. Laxman was arrested on 20.06.2020. According to the account advanced for the applicant, investigators stopped a truck from which 474 kg of ganja was seized; co-accused Sonu was driving it. The applicant was apprehended at a dhaba, rather than in the truck, allegedly on the strength of Sonu's confessional statement. These are the circumstances discussed in the bail order, rather than findings at trial on the charges.

In his first application under Section 439 CrPC, the applicant argued that *Tofan Singh* barred the use of a confession recorded under Section 67 of the NDPS Act and that no admissible material connected him with the seizure. He offered to comply with stringent conditions, including cash surety, and submitted that the trial would take considerable time and that he would neither abscond nor tamper with evidence. The respondent opposed bail, contending that *Tofan Singh* only prohibited conviction on a co-accused's statement and did not hold such a statement inadmissible. Counsel additionally asserted that the applicant and Sonu had spoken by mobile telephone 13 times, while conceding that call-detail records had not yet been collected. The Court had the case diary and heard the first bail application by video conferencing.

2. Precedents — Considered : *Tofan Singh v. State of Tamil Nadu, Criminal Appeal No. 152/2013*, decided 29.10.2020: the High Court quoted the Supreme Court's answer to the reference. The first part of that answer characterizes officers invested with powers under Section 53 of the NDPS Act as police officers for the purposes of Section 25 of the Evidence Act. A confession made to them is therefore barred under that provision and cannot be used to convict an accused under the NDPS Act. The second part states that a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement at an NDPS trial. The High Court treated the Supreme Court's answer as directly governing Sonu's alleged confession and rejected the respondent's narrower characterization. It applied the principle at the preliminary bail stage, without purporting to decide guilt. It also treated Sonu's statement described as having been made under Section 27 of the Evidence Act as inadmissible against this applicant.

In Re: Contagion of COVID 19 Virus in Prisons, Suo Motu W.P. (C) No. 1/2020, orders of 23.03.2020 and 07.04.2020: the first Supreme Court order, quoted by the High Court, addressed overcrowding and the concern under Article 21 arising from the spread of COVID-19 in prisons. It directed States and Union Territories to constitute High Powered Committees to determine categories of prisoners for parole or

interim bail. The committees could consider the nature of the offence, punishment, sentence and other relevant factors. The quoted direction left the relevant categories to the High Powered Committees, mentioning offences punishable with up to seven years' imprisonment as an example. The second order required the Union and States/Union Territories to make safe transit or temporary shelter available to released prisoners during lockdown. The High Court relied on the first order when considering prison decongestion during the second wave. Its release order gave effect to the second order through directions for examination, testing if necessary and travel arrangements by the local administration.

3. Statutes considered : Section 439 CrPC supplied jurisdiction for the first application for regular bail; the order also maintained the conditions under Sections 437 and 439. The cited NDPS charge provisions were Sections 8/20(B)(ii)(C), 25, 27-A, 28 and 29. Sections 53 and 67 of the NDPS Act were relevant to the evidentiary issue under *Tofan Singh*: officers invested with powers under Section 53 were treated as police officers for the purposes of Section 25 of the Indian Evidence Act, 1872, and statements recorded under Section 67 could not be used as confessions in an NDPS trial. The High Court also referred to Section 27 of the Evidence Act while declining to use Sonu's statement against the applicant. Article 21 formed the constitutional context of the Supreme Court's prison-decongestion order. The Disaster Management Act, 2005 was mentioned in the quoted Supreme Court transit direction as one possible source of directions by the Central Government.

4. Issues : (i) Whether, in assessing this applicant's first regular-bail request, the prosecution could rely on Sonu's alleged confessional statement under Section 67 NDPS Act in the face of the Supreme Court's decision in *Tofan Singh*, and whether the respondent's restrictive reading of that decision was tenable. (ii) What, if any, independent material connected the applicant, apprehended away from the truck, to the seizure when the respondent asserted 13 telephone conversations but conceded that call details had not been collected. (iii) Whether the applicant should be released under stringent conditions in the circumstances, including the second wave of COVID-19 and the Supreme Court's prison-decongestion and safe-transit directions.

5. Ratio / Findings : On the principal evidentiary issue, the Court reproduced both parts of the Supreme Court's answer in *Tofan Singh*. It expressly disagreed with the respondent's submission that the Supreme Court had not held a statement recorded under Section 67 inadmissible as a confession. Because Sonu's alleged statement was confessional, the Court concluded that it could not be used against this applicant in the bail assessment. That conclusion applied whether the statement was described as having been made under Section 67 of the NDPS Act or, in the Court's wording, under Section 27 of the Evidence Act.

The applicant was undisputedly not in the seized truck; the prosecution's own account placed him at a dhaba. The Court found the asserted telephone link unsatisfactory as presented: respondent's counsel simultaneously asserted that the complaint referred to 13 calls and conceded that call-detail records had not been collected. The Court therefore declined to treat either the co-accused's confession or the unsupported assertion of calls as establishing the connection relied on to oppose release.

Considering these circumstances, the Court held that the applicant could be released only on stringent conditions. It further noted the second COVID-19 wave and the need to decongest prisons, quoting the Supreme Court's March 2020 direction for High Powered Committees and its April 2020 safe-transit direction. It expressly refrained from commenting on the merits.

6. Relief : The Hon’ble High Court allowed the first application for regular bail under Section 439 CrPC. *P. Laxman v. Union of India, M.Cr.C. no. 10079/2021, 27/04/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (522) Prev Next

Headnote :- Murder — Section 300 thirdly — intentional injury sufficient to cause death - The High Court discussed *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, with *Anda v. State of Rajasthan, 1966 CrLJ 171*, on proof that the particular injury was intentionally inflicted and that, assessed objectively, it was sufficient in the ordinary course of nature to cause death. An intention to kill is unnecessary under clause Thirdly once the prosecution proves each of its distinct elements. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, and *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, including the latter’s discussion

of *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram*, reject a mechanical inference based on the number of blows and direct attention to the weapon, force used, vital part struck and circumstances. The Court introduced these rules before the evidence analysis; its final acquittal turned on failure to prove who caused the injuries, rather than a finding that the test of intentional injury was satisfied or that a single blow legally excludes murder.

Culpable homicide — Sections 299, 300 and 304 — intention and knowledge - The Court quoted *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079/2005, on the successive inquiries under Sections 299 and 300 and the distinction between intention under Section 304 Part I and knowledge without that intention under Part II; *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, on the non-exhaustive circumstances from which intention may be inferred; and *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, as an illustration involving a forceful crowbar strike on the skull. The discussion set out how the offence might be classified. It was not applied to alter the conviction to one for a lesser offence because the identity of the assailants was not proved.

Sudden fight — Section 300 Exception 4 — cumulative requirements - *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, was reproduced on a fight involving mutual provocation, absence of premeditation, heat of passion, and absence of undue advantage or cruel or unusual conduct. *Kanhaiyalal*'s quotation of *Leela Ram* reiterated these requirements, all of which must be satisfied. The High Court did not find these facts established or grant Exception 4 relief; the prosecution's evidence of the assault itself failed.

Common intention — Section 34 IPC — participation and concert - The Court discussed *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, *Shyamal Ghosh v. State of West Bengal, AIR 2012 SC 3539, Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, and *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, on joint participation and common intention. Common intention may form at the spur of the moment but cannot be inferred from mere association. *Hem Raj v. Delhi (Administration), AIR 1990 SC 2252, Dashrathlal v. State of Gujarat, 1979 CrLJ 1078* (SC), *Rajagopalswamy Konar v. State of Tamil Nadu, 1994 CrLJ 2195* (SC), and *Sheikh Nabab v. State of Maharashtra, 1993 CrLJ 43* (SC), illustrated the limits of liability where a co-accused's role or common intention is not proved. The present Court did not sustain the alleged collective assault.

Hearsay — village informant and basis of report - Heera (PW-3) had seen Veer Singh's body but learned the accusation against the appellants from Ramkrishna Raghuvanshi, whom the prosecution did not examine. The High Court treated the allegation repeated by Heera as hearsay, declined to rely on it to identify the attackers, and held that the Dehati Nalishi and FIR, based on that untested source, had no evidentiary value in support of the prosecution's account in this case.

Eyewitness credibility — related witnesses — physical corroboration and reasonable doubt - Although post-mortem evidence proved homicidal death by blunt-force head injury, the Court found the prosecution's case based on purported eyewitnesses unreliable: Komal Bai's account of the location and her claim to have been the only person present conflicted with the spot map and other claimed eyewitnesses; no blood or drag marks supported the claim that the body had been dragged along the alleged route; lathi recoveries from all accused were inconsistent with the prosecution's account of only Phoolabai using one. Taken together, these defects meant that the surviving appellants' individual or joint responsibility was not established beyond reasonable doubt. Their Sections 302 and 302/34 convictions were set aside and they were acquitted; the separately dealt-with juvenile Halke was not the subject of a further operative order.

Case-note :- ***1. Facts :*** On 8 May 2000 Veer Singh, husband of Phoolabai and father of Kalyan Singh and Halke, sustained bleeding head injuries and died. Phoolabai and the sons were said to have assaulted him in a public area near the home of daughter Komal Bai and her husband Basora and then taken or dragged his body to their house. It was accepted that the deceased bore head injuries and was moved to the accused persons' house, but the fact of their assault was contested. On 9 May village Kotwar Heera (PW-3) reported an allegation received from Ramkrishna Raghuvanshi; Heera had seen the body but had not witnessed the attack. A Dehati Nalishi and police report followed. The investigation recorded witness accounts, prepared inquest and site maps, seized blood-stained soil and clothes, and recovered lathis from the three accused after memoranda. Dr Mahesh Chand (PW-12) found nine

injuries, including facial and parietal lacerations, and attributed death to head injury affecting the brain from a hard blunt object.

The First Additional Sessions Judge, Guna, in Sessions Trial 229/2000 on 31 October 2000 convicted each appellant separately under Section 302 IPC and under Section 302 read with Section 34 IPC, imposing concurrent life sentences and ₹5,000 fine on each count, with six months' simple imprisonment in default of each fine. Phoolabai, Kalyan and Halke appealed under Section 374 CrPC in Criminal Appeal 744/2000. Pending appeal, the Juvenile Justice Board found Halke a juvenile on the date of the incident and subsequently acquitted him in a separate proceeding; it found Kalyan not juvenile. A High Court order of 19 February 2019 accordingly recorded that no further appellate order was required for Halke. The present merits decision concerns Phoolabai and Kalyan.

They disputed both the alleged intention and the allegation that they had committed the assault. The defence challenged Komal Bai's vantage point and conduct, inconsistencies among purported eyewitnesses, the unexamined source Ramkrishna, absent independent roadside witnesses, absence of drag marks or road blood, and the recovery of three lathis despite the prosecution version that only Phoolabai used one. The defence also relied on the prosecution witnesses' admission that Kalyan was barehanded. The State defended the convictions. These were submissions to be tested against evidence, not accepted facts. Phoolabai had been on bail after a 30 July 2018 suspension order; a 12 August 2021 jail report showed Kalyan remained imprisoned.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was quoted at length for Section 300 Thirdly. The prosecution must establish the existence and nature of the bodily injury and the accused's intention to inflict the particular injury found; the sufficiency of that injury to cause death in the ordinary course is assessed objectively. The quoted rule retains the prosecution burden throughout and distinguishes intent to inflict the injury from intent to kill or awareness of its fatal seriousness. *Anda v. State of Rajasthan, 1966 CrLJ 171*, was discussed in the same context on whether the injury was sufficient in the ordinary course of nature to cause death, with the weapon and the part of the body being relevant. These authorities framed the Court's account of the homicide law; they did not establish the identity of an assailant in this case.

Arun Nivalaji More v. State of Maharashtra, Criminal Appeals 1078–1079 of 2005, was quoted on the sequence of inquiry under Sections 299 and 300, including the exceptions, and the distinction between Section 304 Part I, which turns on intention to cause death or bodily injury likely to cause death, and Part II, which turns on knowledge without that intention. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, set out a non-exhaustive list of factors for carefully inferring intention: the weapon and its availability, the vital part targeted, force, sudden quarrel, prior animosity, provocation, heat of passion, unfair advantage and number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, illustrated inference of intention from a forceful crowbar blow causing skull fractures. The High Court set out these tests of intention and knowledge, but did not alter the conviction to one under Part I or Part II or find that the defendants had inflicted the fatal injury.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, rejected a categorical rule that one blow excludes Section 302; weapon, vital site, manner and circumstances determine the requisite state of mind. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, was quoted with its discussions of *Arun Raj v. Union of India, (2010) 6 SCC 457, Ashokkumar Magabhai Vankar v. State of Gujarat, (2011) 10 SCC 604*, and *Leela Ram* on single-blow assessment and, for *Leela Ram*, Exception 4. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, rejected classification of an offence mechanically on the basis of a single injury; its quotation also discussed *State of Karnataka v. Vedanayagam, (1995) 1 SCC 326*, and further passages from *Virsa Singh* on the separate inquiries into intention and the sufficiency of the injury to cause death, including the possibility of an accidental injury unlike that intended. Those authorities were reproduced within the quoted decisions, not separately applied to the facts. The Court's actual result did not depend on counting the blows.

Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322, was reproduced on Exception 4 to Section 300: a sudden fight involving both sides in the heat of passion, without premeditation, undue advantage, or cruel or unusual conduct; a quarrel alone is insufficient. *Kanhaiyalal*'s quoted *Leela Ram* passage expressed the same cumulative

conditions. The High Court did not find a specific appellant proved to have fought Veer Singh and did not grant the exception.

On Section 34, *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, was cited for proof of common intention with participation, without a requirement of a separately attributed overt blow, but with prior concert. *Shyamal Ghosh v. State of West Bengal, AIR 2012 SC 3539*, and *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, were cited on a concerted plan and the prosecution's burden to prove joint participation. *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, allowed common intention to develop at the spur of the moment while requiring a meeting of minds. *Hem Raj v. Delhi (Administration), AIR 1990 SC 2252*, illustrated acquittal of other accused whose participation was disbelieved when one assailant alone was proved; *Dashrathlal v. State of Gujarat, 1979 CrLJ 1078* (SC), said mere accompaniment does not attract Section 34. *Rajagopalswamy Konar v. State of Tamil Nadu, 1994 CrLJ 2195* (SC), illustrated liability according to each accused's role in the offence, rather than liability of all alike under Section 302/34; *Sheikh Nabab v. State of Maharashtra, 1993 CrLJ 43* (SC), was cited for failure to prove the attributed overt act. *Bijay Singh v. State of M.B., 1956 CrLJ 897*, was cited on the Court's formulation requiring presence and prior concert. None of these precedents was treated as a replacement for proof of the appellants' actual participation.

The rejection of the witnesses and the hearsay informant was the High Court's own case-specific evidentiary assessment, not an extension of the quoted homicide authorities.

3. Statutes considered : Section 374 CrPC provided the appellate route against conviction. IPC Sections 299 and 300 supplied the culpable-homicide and murder definitions; the Court set out Section 300's four clauses, particularly clause Thirdly, and discussed the statutory exceptions through Exception 4. Section 302 was the substantive murder charge and the provision under which the trial court convicted the appellants. Section 304 Parts I and II appeared as possible lesser classifications in the legal discussion, with intention and knowledge differentiated, but neither part was the final disposition. Section 34 IPC supplied the basis of the charge of constructive liability: criminal act by several persons, participation in its doing, and furtherance of common intention were discussed. The Court quoted Section 8 of the Indian Evidence Act, 1872, on motive, preparation and conduct; it made no separate finding that accused conduct proved the murder. A Juvenile Justice Board inquiry and Halke's separate acquittal were reported procedurally, without interpretation of any cited juvenile justice enactment.

4. Issues : (i) Whether the post-mortem and other evidence established a homicidal death, and, separately, whether Phoolabai or Kalyan had caused or joined the fatal assault. (ii) If a particular assailant were proved, what mental element and injury-sufficiency tests under IPC Sections 299 and 300, including possible Exception 4 and Section 304, would govern classification; the failure to prove who committed the assault ultimately made it unnecessary to determine a lesser offence. (iii) Whether common intention under Section 34 and participation in the criminal act had been proved for each surviving appellant, as distinct from familial association and being involved in moving the body. (iv) Whether the Kotwar's report from an unexamined source, Komal Bai and other claimed eyewitnesses, scene and recovery evidence collectively met the criminal standard of proof. (v) What appellate relief was due for Phoolabai and Kalyan, given Halke's separately adjudicated juvenile status.

5. Ratio / Findings : The Court accepted homicidal death. Dr Mahesh Chand's post-mortem described facial, head, chest, elbow and ankle injuries, including bone-deep parietal wounds, and attributed death to a head injury affecting the brain, caused by hard blunt force. There was no dispute that Veer Singh had bled from the head and been moved to the house. Those observations established the cause and homicidal nature of death, rather than the identity of the assailants.

The Court first set out the statutory and Supreme Court tests that would apply if the offender's identity were proved. *Virsa Singh* requires proof of intentional infliction of the particular injury and objective sufficiency of that injury to cause death in the ordinary course of nature; single-blow precedents make context rather than blow count decisive. *Arun Nivalaji More* and *Pulicherla Nagaraju* distinguish intention and knowledge, while *Dhirajbhai* states Exception 4's cumulative conditions. Section 34 requires both proof of a joint criminal act or contribution to it and common intention; separate blows by everyone are

unnecessary, mere presence or association insufficient. The Court did not go on to determine whether the conviction should be altered to a lesser offence, because it found that the appellants' commission of the assault had not been proved.

Heera (PW-3) personally observed the body but learned the supposed perpetrators' identities from Ramkrishna Raghuvanshi, whom the prosecution did not call. The Court treated the account he repeated as hearsay and declined to rely on the Dehati Nalishi and FIR to establish the accusation. Komal Bai (PW-1), presented as the direct observer, placed the beating at her doorway while the spot map located her house farther away. Her account that no one else was present and that Nanda and Pran Singh arrived after the event undermined their claim to have witnessed the incident; the claim that Ramkali and Basora were eyewitnesses was likewise rejected. The Court additionally viewed Komal Bai's failure to intervene or visit her father as unnatural in the particular setting, and noted that no independent roadside observer was examined. These are the Court's reasons for disbelieving these witnesses, rather than a legal rule applicable in every case concerning a relative's conduct.

The claimed dragging of a bleeding body along a public road was unsupported by road blood stains or drag marks. Witness accounts differed on whether the body was inside or in front of the accused persons' house. Lathis recovered from every accused did not accord with the prosecution account that Phoolabai alone used a lathi while Kalyan and Halke used fists and kicks. The Court treated moving the body into a family house, rather than concealing it, as another reason to doubt the account. Prathi Singh (PW-9) spoke of peaceful relations. The Court held that the gaps and inconsistencies, taken together, prevented proof beyond reasonable doubt of Phoolabai's and Kalyan's individual or joint guilt.

6. Relief : The Hon'ble High Court allowed the appeal under Section 374 insofar as it concerned the remaining appellants, Phoolabai and Kalyan Singh. The Sessions Trial 229/2000 convictions and concurrent life sentences under Sections 302 and 302/34 IPC were set aside; Phoolabai and Kalyan Singh were acquitted of both charges. Phoolabai's bail bonds, following earlier suspension of her sentence, were discharged and she was not required to appear further in this case. Kalyan Singh, recorded as still in Central Jail, Gwalior, was directed to be released forthwith if he was not required in another case. The judgment and trial record were to be sent back. Halke had already been found juvenile on the date of the incident and acquitted by the Juvenile Justice Board; the High Court expressly passed no further order in this appeal concerning him. No alternative Section 304 conviction was entered.

Phoolabai and Ors. v. State of Madhya Pradesh, Cr.A. no. 744/2000, 25/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Successive regular bail — examined witnesses — complete assessment - In a sixth application under Section 439 CrPC, following rejection of the previous application on the merits on 02.03.2020, completion of material eyewitness examination did not itself require release. The witnesses supported the prosecution; the reduced risk of future tampering was only one factor. The nature and gravity of the charges under Sections 302/307 IPC and the Arms Act, supporting material, the possibility of a life sentence, securing presence at trial and the interests of justice also required consideration. The Court applied *its order in Bhupat Singh v. State of M.P.*, MCRC 14129/2018, which quoted *Virupakshappa Gouda v. State of Karnataka, (2017) 5 SCC 406*. That Supreme Court decision, citing *Chaman Lal*, *Prasanta Kumar Sarkar and CBI v. V. Vijay Sai Reddy*, set out the factors governing a prima facie inquiry at the bail stage, which does not require proof of guilt beyond reasonable doubt. Its quotations from *Neeru Yadav* and *Dinesh M.N.* warned against arbitrary grants of bail and reliance on irrelevant material. The High Court stated that its *Bhupat Singh* order had been affirmed by the Supreme Court's order of 21.06.2018 in SLP (Crl.) No. 5103/2018. Three years' custody did not outweigh the other factors in view of the serious charges in the present case.

Bail-stage evidence — witness credibility — limits - The applicant asked the Court to infer that the witnesses were unreliable because they allegedly chose which accused to implicate. The Court declined to assess that contention on the merits in this bail application. Applying *Satish Jaggi v. State of Chhattisgarh, (2007) 11 SCC 195*, the Court declined to examine their reliability and credibility at this stage. In the earlier *Bhupat Singh* reasoning, *Dinesh M.N. (S.P.) v. State of Gujarat, (2008) 5 SCC*

66, was invoked against a bail order based on irrelevant factors. The rejection of bail is provisional and does not pre-judge witness truthfulness or ultimate guilt.

Case-note :- ***1. Facts :*** Pradeep Singh was arrested on 9 June 2017 in Crime 435/2017 at Police Station Janakganj, Gwalior, concerning allegations under IPC Sections 302 and 307 and Arms Act Sections 25/27. A prior bail application had been rejected on the merits on 2 March 2020 in MCRC 7414/2020. In this sixth Section 439 CrPC application, heard finally by video conference with the case diary available, counsel argued that prosecution witnesses had testified, so tampering was no longer possible. Counsel also attacked their reliability for allegedly supporting the prosecution selectively against some accused. The order acknowledges that the examined witnesses supported the prosecution. Roughly three years of pre-trial custody was also in issue. The State was represented by a panel lawyer.

2. Precedents — Considered : The High Court expressly reproduced its earlier *Bhupat Singh v. State of M.P.*, MCRC 14129/2018, order of 11 May 2018 as the relevant ruling on whether testimony already recorded alone justifies bail. *Bhupat Singh* had quoted *Virupakshappa Gouda and Another v. State of Karnataka, (2017) 5 SCC 406*, on the factors to be considered in a bail inquiry: prima facie grounds and the nature of supporting evidence, seriousness and potential punishment, absconding and repeat offence concerns, witness influence, and the interests of justice. *Virupakshappa* reproduced factors from *Chaman Lal v. State of U.P., Prasanta Kumar Sarkar v. Ashis Chatterjee* and *CBI v. V. Vijay Sai Reddy.* The quoted *Vijay Sai Reddy* passage expressly distinguishes reasonable grounds and prima facie evidence at bail from proof of guilt beyond reasonable doubt. *Virupakshappa* further quoted *Neeru Yadav v. State of U.P. on* the lawful limits of liberty in the interests of society, and *Dinesh M.N. v. State of Gujarat on* the vulnerability of an order that disregards relevant material and relies on irrelevant material. These authorities appear through the quoted Supreme Court and High Court passages; the present Court adopted their framework of relevant bail factors through *Bhupat Singh*, rather than separately deciding a bail-cancellation proceeding under each nested case.

Bhupat Singh additionally discussed *Dinesh M.N. (S.P.) v. State of Gujarat, (2008) 5 SCC 66*, directly on the danger of ignoring grave allegations and sentence merely because witnesses had testified. The present Court endorsed that reasoning in this sixth application. It noted that the Supreme Court had affirmed *Bhupat Singh* by an order of 21 June 2018 in SLP (Crl.) 5103/2018, *Bhupat Singh Rawat v. State of Madhya Pradesh*.

Satish Jaggi v. State of Chhattisgarh and Others, (2007) 11 SCC 195, was directly applied to decline the requested examination on the merits of prosecution witnesses' reliability and credibility at the bail stage. The Court declined to examine witness reliability and credibility at the bail stage.

3. Statutes considered : Section 439 CrPC supplied jurisdiction for the sixth application for regular bail. IPC Sections 302 and 307 and Arms Act Sections 25/27 were the alleged offences; the High Court treated their seriousness and the potential life sentence for murder as bail factors, without adjudicating offence ingredients or Arms Act proof. The quoted decisions explain the ordinary prima facie inquiry under Section 439 and that proof meeting the trial standard is not required at the stage of considering release.

4. Issues : (i) Whether the examination of material prosecution witnesses, coupled with the reduced risk of influencing them, furnished a sufficient change to grant bail after a prior merits rejection, despite their supporting testimony and the seriousness of the accusations. (ii) Whether their allegedly selective testimony concerning different accused could be assessed as unreliable in this bail proceeding, rather than by the trial court. (iii) What weight the approximately three years' pre-trial detention carried against charges that could result in life imprisonment.

5. Ratio / Findings : The Court relied on *Bhupat Singh* and the Supreme Court framework for bail reproduced in that decision. The disappearance or reduction of a concern about future tampering after a witness has testified does not, by itself, determine whether release is justified. The bail court must consider the prosecution's prima facie support, the gravity of the offence and potential sentence, securing presence at trial, potential interference and the interests of justice together. Here, witnesses already examined had supported the prosecution, the previous application had failed on merits, and the charges included murder and attempted murder. The Court concluded that witness examination alone did not warrant granting bail after the earlier rejection. It

noted the Supreme Court's later affirmation of *Bhupat Singh*.

The assertion that witnesses were unreliable because they did not implicate every accused alike asked the bail court to decide credibility. Under *Satish Jaggi* the Court declined that detailed assessment at this stage. It did not declare the testimony true for final adjudication; its assessment remains for the trial court under the governing standard of proof. The Court also found that three years of detention did not, in the circumstances of a prosecution carrying life imprisonment, by itself suffice for release.

6. Relief : The Hon'ble High Court dismissed the sixth application for regular bail under Section 439 CrPC.

Pradeep Singh v. State of M.P., M.Cr.C. no. 25682/2020, 13/08/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR delay — explanation and evidentiary effect - *Sher Singh v. State of Haryana, (2015) 3 SCC 724*, was considered on the principle that a delayed report need not be treated as fabricated if the delay is satisfactorily explained. Following the appellant's repeated stone assault on Prabhu and attempted attack on Kamlesh, she fled with two minor sons to Jigani, sought help from relatives, and only then lodged the FIR about five hours later. The Court accepted this sequence of seeking safety and then reporting as an adequate explanation; delay alone did not discredit the eyewitness account.

Alibi — Section 11 Evidence Act — positive proof and continuing prosecution burden - Applying *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, and its quotation of *Binay Kumar Singh v. State of Bihar*, the Court distinguished the prosecution's continuing duty to establish the accused's presence from the accused's burden, once that presence is proved, to establish that he was elsewhere and could not have been at the scene. Defence evidence of sufficient quality may still raise reasonable doubt. The bridge attendance register lacked the supervisor's signature, and his purported supervisory position was not proved. The worksite near Jigani was open. These features did not establish that the appellant could not have been at the place of the killing. The alibi was rejected for want of adequate proof; its rejection did not reverse the prosecution's burden.

Murder and culpable homicide — sudden attack — Sections 302 and 304 Part I IPC - *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, quoting *Dhirendra Kumar v. State of Uttarakhand*, set out the relevant contextual factors: how the incident began and whether it occurred in the heat of passion, whether the weapon was brought or picked up, the vital part targeted, force, prior enmity, provocation and undue advantage. The Court found a sudden confrontation over Kamlesh's departure, an unarmed appellant who picked up stones at the site, and repeated blows causing grave head injuries. It found that the culpable homicide was committed in the heat of passion and substituted a conviction under Section 304 Part I for the Section 302 conviction, imposing the 11½ years already served and ₹3,000 fine with three months' rigorous imprisonment in default.

Case-note :- ***1. Facts :*** Kamlesh Adivasi, widowed after Banna's death and subsequently living as the appellant Prahalad's wife, set out with her young children and Prabhu, the brother of her father-in-law from the first marriage, toward Harinagar on 5 June 2010. Her FIR described a quarrel about the appellant's liquor consumption. Her testimony additionally spoke of earlier drinking-related assaults and a strained relationship, though some details of motive and the precise quarrel differed from the FIR and police statement. The appellant met and followed the group near Chharch. At about 3:30 –4 p.m. near Sumer Pond he threw Prabhu down and struck his head with stones, according to Kamlesh and her eight-year-old son Risdam (PW-2). Kamlesh said he tried to attack her when she intervened; she fled with the children to Jigani, notified relatives and then reported at Police Station Chharch at about 9:10 p.m. The five-hour interval and differing prior accounts were contested.

Crime 28/2010 was registered under IPC Section 302. Investigators mapped the site, recovered ten large and small blood-stained stones and soil, obtained the post-mortem and, after the appellant's arrest on 8 June 2010, seized blood-stained clothes. Dr Chandrashekhar Gupta (PW-3) recorded bilateral parietal hematomas, a mastoid laceration, compound fractures of both parietal bones and temporal bone, extradural hemorrhage and brain laceration. He attributed coma and death to the head trauma, found the death homicidal and rejected the suggested accidental vehicle impact or simple fall. Several relatives recounted what Kamlesh later told them;

the Court treated them as hearsay on the attack, not additional eyewitnesses. Risdam's direct account contained no material discrepancy identified by the defence.

The Sessions Judge, Shivpuri, in Sessions Trial 127/2010 on 22 December 2010 convicted Prahalad under Section 302 and imposed life imprisonment with ₹1,000 fine and three months' rigorous imprisonment in default. In this Section 374 CrPC appeal he disputed the FIR timing, raised alibi through bridge supervisor Rajendra Awasthy (DW-1) and an attendance register, and alternatively sought Section 304 Part I treatment and a sentence limited to the period already spent in custody, over eleven and a half years. The State accepted that the confrontation was sudden but emphasized repeated fatal blows to the head. The appellant had not been released on bail during trial or appeal.

2. Precedents — Considered : *Sher Singh v. State of Haryana, (2015) 3 SCC 724*, was quoted on claimed FIR delay: the Supreme Court had held that a report lodged after ten hours, on the day after the incident, was not automatically to be treated as inordinately delayed, fabricated or an afterthought, in view of the journey and the family's need to come to terms with the tragedy. The High Court applied the conditional principle that mere delay does not vitiate a prosecution if satisfactorily explained and applied it to Kamlesh's escape with minor children and intervening contact with relatives before police reporting.

Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1, was directly considered on alibi. Its reproduced *Binay Kumar Singh v. State of Bihar* passage explains that alibi is a rule under Section 11 of the Evidence Act concerning the relevance of facts inconsistent with the fact in issue, not an IPC exception; the prosecution must always prove presence at the scene and participation, and only after satisfactorily doing so does the accused carry a substantial burden to prove a location incompatible with presence at the scene. Even then reliable defence evidence raising reasonable doubt about presence benefits the accused. *Mukesh* said the principle was reiterated in *Gurpreet Singh*, *Sk. Sattar*, *Jitender Kumar* and *Vijay Pal*. The High Court applied the test to the attendance register's evidentiary defects and the open nearby worksite, finding that presence at the scene had not been shown to be impossible, without shifting the prosecution's original burden.

Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329, quoted *Dhirendra Kumar v. State of Uttarakhand for* factors distinguishing murder from culpable homicide: the encounter's circumstances, weapon type and whether it was carried or picked up, choice of vital part and force, participation in a sudden fight, previous enmity or sudden provocation, heat of passion and undue advantage or cruel conduct. The High Court expressly used those considerations to weigh stones available on the ground, repeated fatal head injury, the appellant's fear of losing Kamlesh and the sudden encounter.

3. Statutes considered : Section 374 CrPC governed the appeal. Section 302 IPC was the provision under which the appellant was charged and convicted at trial; the appellate court considered the homicide's legal nature and substituted Section 304 Part I. The medical evidence and witness accounts supported causation and participation; the Court's discussion of intention and heat of passion led to the lesser classification. Section 11 of the Indian Evidence Act, 1872, entered through *Mukesh*/*Binay Kumar Singh* as the basis for the relevance of facts inconsistent with presence at the scene when an alibi is claimed. The Court did not apply a statutory presumption that a failed alibi proves guilt, or alter the prosecution's burden at trial.

4. Issues : (i) Whether Prabhu's death was homicidal and whether Kamlesh and Risdam's account, with the medical and scene evidence, established Prahalad as the assailant despite differences in narrated motive and blow count. (ii) Whether the approximately five-hour interval in lodging the FIR signalled fabrication or was explained by the witness's flight to protect herself and her children and the subsequent reporting sequence. (iii) Whether the bridge-work attendance evidence demonstrated an alibi incompatible with the direct evidence of presence. (iv) Whether a sudden confrontation, on-site stones and surrounding marital tension warranted substituting Section 304 Part I for the conviction under Section 302, notwithstanding repeated blows to the head, and what sentence then followed.

5. Ratio / Findings : The post-mortem's severe multiple head injuries, fractures, extradural hemorrhage and brain laceration established homicidal death and contradicted the suggested accidental impact or fall. Kamlesh directly described the stone attack and the attempted attack on her that led her to flee. Her son Risdam independently related

the occurrence; the defence showed no material discrepancy in his evidence. The Court recognized that other relatives were told of the event afterward and did not treat them as direct eyewitnesses. It noted particular shifts or omissions in Kamlesh's account of earlier domestic discord, immediate quarrel and the number of stones, but the core assertion of assault with stones remained supported by the child and medical evidence. Ten blood-stained stones and soil were seized from the scene, although no reliable weight of each stone was proved.

On reporting time, the Court followed the approach in *Sher Singh*, which requires consideration of the facts. After the fatal attack and the attempt to attack her, Kamlesh prioritized the safety of herself and her sons, went to Jigani, contacted Pillu and Shrichand, and then accompanied relatives to view the body and report. That sequence explained the approximately five hours. The interval did not, without other proof, establish that the prosecution's account had been fabricated.

On alibi, the Court first accepted positive prosecution evidence of the appellant's presence at the scene. DW-1 purported to be bridge supervisor and brought an attendance register, but it omitted his signature despite a signature column and carried no serial number; he produced no independent document establishing his supervisory role. In any event, the bridge work was near Jigani in an open area, so attending work did not make a trip to the incident site impossible. Applying *Mukesh* and *Binay Kumar Singh*, the Court found the defence had not credibly established that the appellant was at a location incompatible with his presence at the scene. That rejection did not alone establish participation; the eyewitness and medical evidence provided the affirmative basis for that finding.

For offence classification, the Court considered the contextual factors in *Lavghanbhai* and *Dhirendra Kumar.* The appellant met and followed Kamlesh, who was leaving with Prabhu; he feared she might not return. He carried no weapon and used stones at the scene. The injuries were grave and repeated—about three blows inferred by the Court—but the weight of the stones was unproved and the scalp bones, though compound fractured, were not described as crushed. The Court nevertheless found that the incident occurred suddenly, in the heat of passion, and warranted a conviction under Section 304 Part I rather than Section 302.

6. Relief : The Hon'ble High Court partly allowed the appeal. The appellant was acquitted of the Section 302 charge and convicted under Section 304 Part I IPC. Having been continuously in custody since 8 June 2010 for over eleven and a half years, he was sentenced to the period of imprisonment already undergone plus ₹3,000 fine, with three months' rigorous imprisonment in default. The Court ordered his immediate release if he was not required in another case, directed that he receive a free copy, and ordered the return of the trial record. The judgment also described the trial sentence as affirmed "with aforesaid modification".

Prahalad v. State of M.P., Cr.A. no. 72/2011, 03/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent power — Section 482 CrPC — face-value offence test - The Court considered *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, and *XYZ v. State of Gujarat, (2019) 10 SCC 337*, on restraint in quashing proceedings where an offence is disclosed and in deciding matters requiring investigation. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, and *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, set out the *Bhajan Lal* categories, the exceptional grounds for preventing abuse of process, and the caution against arbitrary assessments of credibility. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, further distinguished the existence of a factual foundation for prosecution from an assessment, resembling a trial, of the likelihood of conviction; *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, and *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, recognise that quashing may be justified where the allegations, taken at face value, disclose no offence. The applicants established no such ground for quashing proceedings arising from the alleged wrongful confinement of a public official and others during MGNREGA monitoring. The Court applied the cited authorities to determine the scope of interference without making a finding of guilt.

Quashing — claimed political enmity — cognizable allegations - *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, recognises the power to intervene against inherently improbable complaints that result in oppression, while cautioning against routine interruption of prosecution. *Renu Kumari*, adopting *Bhajan Lal and State of Orissa v. Saroj Kumar Sahoo*, and *Padal Venkata Rama Reddy*'s account of *Saroj Kumar Sahoo*, distinguish manifestly malicious prosecution from a mere allegation that the informant is hostile. The Court held that asserted political vendetta could not be adjudicated under Section 482 where the allegations themselves disclosed a cognizable offence; it left questions of motive and culpability to be determined in the ordinary course of the proceedings.

No mini-trial — disputed defence video — Section 207 CD - *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognises a limited exception permitting consideration of defence documents that are public documents or whose veracity is undisputed, while *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021 (30 June 2021), caution against deciding disputed facts or meticulously assessing evidence at the Section 482 stage. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, likewise cautions against roving inquiry. The applicants had not filed the CD supplied under Section 207 CrPC; their claim that they did not appear in the prosecution videograph could be tested by questioning witnesses at trial, but could not be decided in this petition. The Court made no finding on the authenticity of the video or the applicants' guilt.

Case-note :- ***1. Facts :*** Arvind Mishra, describing himself as a sub-engineer at Janpad Panchayat Niwas in Mandla district, reported that at about 8:30 a.m. on 13 May 2020 he went to monitor work under MGNREGA at Gram Panchayat Bhikampur. According to his complaint, near petitioner Prahlad Gothiya's field Prahlad, his wife (petitioner no. 2 and Up-Sarpanch), and Ved Sharan Mishra caught Mishra, Sarpanch Lakhan Gotiya, Gram Rozgar Sahayak Bihari Lal Redhas and Virendra Pandey and tied them to a tree with rope. Labourers allegedly witnessed the event. Mishra said he called the Janpad Panchayat Chief Executive Officer, and about an hour later the Vice President of the Janpad Panchayat, Sanjeet Pandey, came with police and untied him. Crime No. 56/2020 was registered at Police Station Niwas under IPC Sections 342 and 353 read with Section 34. The report contained allegations; the Court did not determine the accused's participation or whether the ingredients of the offences were proved.

The applicants said the report was false and politically motivated. They claimed that a videograph taken by villagers and filed by the prosecution with the charge sheet showed that the villagers, rather than the applicants, had tied the officials; they also argued they did not appear in the footage. They invoked Section 482 CrPC to challenge the order dated 25 November 2023 passed by the Additional Sessions Judge, Niwas, District Mandla, in Criminal Revision No. 9/21. The High Court heard counsel for the petitioners and examined the limits of interference under its inherent powers without trying the charges.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, cautioned against prematurely quashing an FIR before proper police investigation, unless continuation would amount to an abuse of process. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, emphasised that investigation of a prima facie cognizable offence should ordinarily proceed, subject to exceptional cases of malicious or vexatious prosecution. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, quoted *Swapan Kumar Guha* on the need for investigation to collect evidence of a disclosed offence, and *Jeffrey J. Diermeier* on the three purposes of Section 482 and the cautious exercise of its wide powers. The High Court quoted these principles on the limits of deciding factual questions at this stage. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, rejected a roving inquiry into contested allegations before investigation into the facts had run its course; *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, cautioned against evaluating the material prematurely. These authorities address the limits of interference at the relevant stage; they do not determine the particular allegations in the present case.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, reproduced the *Bhajan Lal* categories concerning allegations that disclose no prima facie offence and proceedings manifestly attended by mala fides and stressed that genuinely untenable complaints should be stopped without suppressing a genuine

prosecution. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, called for explaining facts, governing principles and reasons in a quashing order; the High Court quoted that principle. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, set out principles governing the quashing of charges under Sections 397 and 482: consider the uncontroverted allegations as a whole, recognise clear legal bars or the absence of the ingredients of an offence, avoid minute assessment of evidence and speculation about conviction, distinguish purely civil disputes from conduct that also constitutes a criminal offence, and exercise caution where the prosecution has a factual foundation. Its quoted treatment of *Madhavrao Jiwajirao Scindia*, *P.P. Sharma* and *M.N. Damani* confines the 'bleak conviction' observation to its context; it does not authorise assessment of the prospects of conviction in every prosecution. The High Court invoked that distinction when examining the limited scope of its inherent powers; it did not find that the present case involved a purely civil dispute or a statutory bar. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterated the caution in *Bhajan Lal* that the power must be exercised sparingly and that the truth of the FIR allegations must not be tested as though at trial. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, states that defence documents are ordinarily not evaluated when considering quashing, but recognises an exception, in an appropriate case, for public documents or documents whose veracity is undisputed, referring to *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* The High Court quoted the exception but did not find the contested video within it. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, distinguishes allegations that disclose no offence, for which quashing may be appropriate, from premature assessment of reliability that would bring a legitimate prosecution to an end. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, sets out the cautious exercise of inherent powers, the *Bhajan Lal* categories, and the principle in *Indian Oil Corpn.* that a complaint must contain a sufficient factual foundation. Its quoted *Saroj Kumar Sahoo* and related passages explain that the probabilities of the prosecution case are not to be assessed at this stage and that the informant's alleged mala fides are ordinarily secondary where an offence is disclosed. The High Court relied on these principles without excluding intervention in an appropriate exceptional case.

M. Srikanth v. State of Telangana, (2019) 10 SCC 373, recognises the power to quash where allegations taken at face value, or the uncontroverted allegations and evidence collected in their support, disclose no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, balances restraint in interrupting an inquiry against the need to intervene where an inherently improbable complaint results in harassment. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproved a High Court's findings on disputed defence facts in a Section 482 petition after cognizance. *State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021, order of 30 June 2021, similarly prohibits meticulous scrutiny of evidence as though at trial and observes that an FIR need not be encyclopedic. The High Court applied these limits to the request for a finding on what the video showed; it did not decide the video's admissibility.

Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346, reproduced the purposes for which Section 482 preserves inherent powers, the *R.P. Kapur* categories concerning a legal bar, allegations that disclose no offence when taken at face value, or the absence of legal evidence, and the full illustrative *Bhajan Lal* categories. It distinguished a complete absence of legal evidence or evidence manifestly inconsistent with the accusations from evidence whose weight must be assessed at trial, and explained through *Saroj Kumar Sahoo* that alleged animosity on the part of the informant is secondary where the allegations disclose a cognizable offence. The High Court drew a direct conclusion on political vendetta from this passage.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973, governed the exercise of jurisdiction. It preserves the High Court's inherent powers to give effect to an order under the Code, prevent abuse of the process of a court or secure the ends of justice, to be exercised cautiously in an appropriate case; the case was a challenge to a revisional order. Section 207 CrPC appears in relation to the CD furnished to the accused with the prosecution papers: the petitioners had not filed their copy, and the High Court declined to resolve whether the footage showed them. IPC Sections 342, 353 and 34 are the provisions under which the alleged wrongful confinement and obstruction of a public servant, read with common intention, were registered, as recorded in the order. The Court neither

held the charges proved nor separately examined whether their ingredients were established. Section 173(2) and Section 228 CrPC, and the distinction between investigations under Sections 156(1) and 155(2), occur within Supreme Court quotations on the general standards for quashing proceedings or charges.

4. Issues : (i) In a Section 482 challenge following Criminal Revision No. 9/21, did the allegations and the material described by the Court justify quashing the FIR in Crime No. 56/2020 and the related criminal proceedings at this stage? (ii) Could alleged political vendetta or inimical relations with the informant alone support quashing when the reported account otherwise disclosed a cognizable offence? (iii) Could the High Court determine the accused's identity or absence from the prosecution videograph, when the CD supplied under Section 207 had not been filed and the applicants sought a factual determination from the footage, or should the question be put to witnesses at trial? The Court did not decide whether the accused actually tied anyone to the tree, whether the informant was politically biased, or the final evidentiary meaning of the video.

5. Ratio / Findings : The High Court reviewed and applied the Supreme Court's principles governing quashing under the inherent jurisdiction. The power is broad enough to stop proceedings where allegations accepted at face value make out no offence, an express bar exists, or an exceptional abuse of process is shown; the court cannot, in exercising that power, act as an appellate court to determine disputed facts or prematurely predict an acquittal. Where there is a factual foundation for the prosecution and the evidence is disputed, the proceedings should ordinarily continue. The complaint recounted the alleged tying of a sub-engineer and others during official monitoring, release by officials and police, and registration of cognizable IPC offences. The Court found no ground to quash the proceedings on those allegations. It did not convert the allegations into trial findings.

The applicants alleged that the prosecution arose from political vendetta. Reading *Renu Kumari* and the *Saroj Kumar Sahoo* principle in the Supreme Court passages, the Court held that the informant's alleged mala fides are secondary where the allegations disclose a cognizable offence. A mere allegation that the informant is hostile does not, by itself, justify quashing the prosecution at this stage. This conclusion concerns the limited scope of interference at this stage.

The video contention would require deciding whether the applicants appeared in the footage and who tied the officials. Although the applicants described a prosecution videograph accompanying the charge sheet, they had not filed the CD provided under Section 207. Even apart from the absence of the CD, the Court could not determine the applicants' disputed identity in the recording under Section 482. The Court left them free to question the witnesses at trial about their identity and presence in the video. In view of the limited scope of interference and the material before it, the Court found no basis to exercise its inherent powers.

6. Relief : The Hon'ble High Court dismissed the Section 482 CrPC application against the Additional Sessions Judge's order of 25 November 2023 in Criminal Revision No. 9/21. The Court refused to quash the FIR and related criminal proceedings; it expressly left the applicants free to question trial witnesses about identity and presence in the video.

Prahlad Gothiya and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 5558/2024, 16/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (526) Prev Next

Headnote :- Juvenile bail — Section 12 and Section 15 — order of decision - Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 permits the Board to consider bail for a person who is apparently a child and is alleged to have committed a bailable or non-bailable offence without awaiting the Section 15 preliminary assessment of a child aged sixteen or more accused of a heinous offence. The assessment determines the appropriate mode of trial under Sections 15 and 18; it is not a prerequisite to the initial bail decision. Following *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*, on trial beginning only upon framing of charge, the Court reasoned that bail may precede that stage. The grounds for refusing bail under Section 12 and the requirement to record reasons remain applicable; the Board must subsequently perform its Sections 14, 15 and 18 duties. The absence of a prior assessment did not invalidate the bail order.

Juvenile bail — transfer to Children's Court — continued effect - Section 18(3) of the 2015 Act allows transfer for adult trial following a Section 15

assessment, while Rule 13 of the Juvenile Justice Model Rules, 2016 prescribes the Children's Court's procedure. The Court found no provision requiring a fresh bail determination by that court merely because the case moves there. A Board's Section 12 bail grant therefore remains in force through conclusion of trial even if the eventual forum differs.

Case-note :- ***1. Facts :*** The Principal Magistrate of the Juvenile Justice Board, Morena, ordered release on bail of respondents Nos. 2 and 3 on 24 August 2021 under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Prahlad Singh Parmar brought Criminal Revision No. 3085/2021 under Section 102 of the Act to challenge that order. The sole substantive legal question, framed by the High Court on 11 March 2022, was whether the Board could decide a Section 12 application before completing a Section 15 preliminary assessment, or had to await completion of that assessment.

The Court reproduced Sections 12, 15 and 18 of the Act and Rule 13 of the 2016 Model Rules to determine the order in which bail and preliminary assessment could be considered and the effect of a later change in the trial forum.

2. Precedents — Considered : *Hardeep Singh v. State of Punjab and others, (2014) 3 SCC 92*, was the sole Supreme Court authority considered on the issue. The judgment quoted paragraph 38: in the criminal trial context addressed there, trial is the adjudication of guilt or innocence after the accused is told the charge, begins when charges are framed, and does not commence merely on cognizance. The High Court relied on that distinction between procedural stages to explain why a bail application can be heard before a trial, and why a preliminary assessment concerning the eventual mode of trial is not a statutory precondition to Section 12 bail. The passage from *Hardeep Singh* concerns the commencement of trial, rather than juvenile bail or the interpretation of Sections 12 and 15 of the 2015 Act. The conclusion that the two provisions operate independently rests on the High Court's reading of their text and scheme.

3. Statutes considered : Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provided the revisional jurisdiction. Section 12(1) governs bail for a person who is apparently a child and is alleged to have committed a bailable or non-bailable offence, notwithstanding the CrPC or other law, with or without surety, or under suitable supervision or care. Its proviso withholds release where there are reasonable grounds to believe that release is likely to bring the child into association with a known criminal or expose the child to moral, physical or psychological danger, or that release would defeat the ends of justice. The reasons for refusing bail and the circumstances leading to that decision must be recorded. Section 12(2)–(4) provide for keeping the child in an observation home until production before the Board, placement following the Board's refusal of bail, and reconsideration of bail conditions that remain unfulfilled after seven days. The Court reproduced these safeguards but did not reassess their application to the two respondents.

Section 15(1) requires a preliminary assessment for an alleged heinous offence by a child who has completed sixteen years, concerning the child's mental and physical capacity, understanding of the consequences, and the circumstances of the alleged offence; its explanation says the assessment is not a trial. Section 15(2) provides that, where the Board retains the matter, it must dispose of it by following, as far as may be, the procedure for trial of a summons case. Section 18(3) allows transfer to the Children's Court if the Board considers an adult trial necessary. Sections 14 and 18 continue to govern the subsequent proceedings and orders; these continuing duties do not make a preliminary assessment a prerequisite to bail. Rule 13 of the Juvenile Justice Model Rules, 2016, sets out the Children's Court's decision on trial route, appeals concerning age or assessment, child-friendly trial procedure and post-disposition monitoring. No provision in that rule required the Children's Court automatically to reconsider bail. The Court quoted Section 165 of the Evidence Act inside Rule 13's child-friendly witness procedure. The quoted CrPC provisions govern the procedure for a later trial rather than the decision on bail under Section 12.

4. Issues : (i) Is a completed Section 15 preliminary assessment a statutory prerequisite to the Juvenile Justice Board deciding a Section 12 bail application where a child is alleged to have committed a heinous offence and may be subject to that assessment? (ii) If the Board first grants bail and later orders transfer to the Children's Court for adult trial under Section 18(3), does the change of forum automatically call for a fresh bail determination, or does the original bail continue? (iii) Does deciding bail first relieve the Board of its subsequent duties under Sections 14, 15 and 18?

5. Ratio / Findings : On the first issue, the Court found no wording in Section 12 barring the Board from entertaining and deciding bail before assessment under Section 15. The provisions have different functions: Section 12 governs immediate release and the protective exceptions to bail for a person who is apparently a child; Section 15 addresses the capacity and circumstances relevant to determining the mode of trial for a child aged sixteen years or more who is alleged to have committed a heinous offence. Sections 15(2) and 18(3) contemplate either Board disposal or transfer to the Children's Court after assessment. Relying on the principle in *Hardeep Singh* that trial commences upon framing of charges, the Court reasoned that bail ordinarily can be considered before trial begins, and that the assessment's role in determining the mode of trial cannot, by itself, postpone consideration of bail. The decision does not declare every child entitled to bail regardless of Section 12's exceptions.

On the continued operation of bail, the Court acknowledged material differences between Board disposal and a Children's Court adult trial, including the possible punishment and the consequences for custody upon reaching the relevant age, as described in the judgment. Yet neither the Act nor Rule 13 required the Children's Court automatically to reconsider a bail order granted by the Board under Section 12 solely because the case had been transferred. It held that the existing bail order remained operative until the conclusion of trial.

The Board retains its statutory duties after the initial bail order. It must complete the inquiry and any preliminary assessment required, and pass the necessary orders under Sections 14, 15 and 18 as the case requires. The Court accordingly rejected the contention that the absence of a prior assessment invalidated the order dated 24 August 2021.

6. Relief : The Hon'ble High Court dismissed the criminal revision challenging the Juvenile Justice Board's bail order dated 24 August 2021. The Court stated that Board-granted bail would continue until conclusion of trial and made clear that the Board remained obliged to pass the necessary orders under Sections 14, 15 and 18.

Prahlad Singh Parmar v. State of M.P. and Ors., Cr.R. no. 3085/2021, 24/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Unlawful assembly — Section 149 IPC — common object and coordinated assault - Where the appellants and other assailants waylaid Indar Singh with lathis and struck relatives intervening to save him, injured witnesses' accounts, prompt FIR and medical findings for seven persons, including two fractures, supported a common object. The Court treated prior hostility as capable of motivating both an attack and a false accusation, but found the Section 151 CrPC counter-proceedings and unsupported assertion that the accused had sustained injuries insufficient to discredit this evidence. It rejected the contention that only separately attributed blows could support liability once a common object and participation in the unlawful assembly were proved; mere presence was not the test it applied.

Attempt to murder — Section 307 IPC — intention and injury site - The statutory question was whether the lathi attack was accompanied by intention or knowledge such that death, if caused, would amount to murder; injury severity alone was not decisive. The blow by Prakash to the head, the blow by Om near the eye, Indar Singh's loss of consciousness and the frontal fracture confirmed by x-ray, viewed with the coordinated assault, supported the Court's inference of the required intention or knowledge and its affirmance of the conviction under Section 307/149. The doctor did not attribute the full injury pattern to a possible fall. The finding rests on the attack on vital parts in the particular circumstances, rather than an automatic presumption arising from a fracture.

Sentence — appellate disposition - The Court did not reduce the sentence of seven years' rigorous imprisonment under Section 307, referring to deterrence and the appellants' failure to appear before the High Court Registry for years. The convictions and sentences imposed by the trial court were affirmed, bail bonds cancelled, and the appellants directed to surrender for the remaining imprisonment.

Case-note :- ***1. Facts :*** At about 8–9 p.m. on 21 March 1995, Indar Singh was returning home when, according to his account, Prakash, Om, Ramesh, Nandu, Jivan, Mohan and other participants waylaid and surrounded him with lathis. Jivan struck his lips, Om his eye area and Prakash his head, after which several blows were delivered and he lost consciousness. His family members heard his alarm

and came to help; they were also beaten. Relatives took him by bullock-cart to Police Station Fatehpur, where he regained consciousness and reported the matter at about 1:30 a.m. The police registered Crime No. 40/1995, sent the injured for examination and, after the medical and x-ray findings, added Sections 325 and 307 IPC.

Indar Singh's parents Dayaram and Rajobai, grandmother Gangabai, aunt Kasturibai and other relatives gave supporting accounts. Phool Singh, also injured, did not support the prosecution fully and was declared hostile. Dr Sitaram Singh Raghuvanshi recorded lacerations or contusions among the injured persons. Indar Singh had a deep parietal scalp laceration, frontal contusion, blackened eye and other blunt injuries, was semi-conscious when examined, and x-ray showed a right frontal fracture. Phool Singh's right first metacarpal was fractured. The doctor accepted that a fall onto stones might cause some injuries, but stated that it would not explain all of Indar Singh’s injuries and that a lathi could have caused the head lacerations.

The defence denied guilt and said the complainant party had attacked Prakash earlier that day, leading to Section 151 CrPC proceedings against them, and had lodged a retaliatory false report. At trial the accused called no defence witness. The Third Additional Sessions Judge (Fast Track), Guna, in Sessions Trial No. 220/1995 on 27 November 2003 convicted the four appellants under IPC Sections 147, 341, 307 and 323 read with Section 149 where applicable, as detailed in the judgment, including a term of seven years’ rigorous imprisonment and ₹500 fine for Section 307. In this Section 374 CrPC appeal they argued that the incident arose suddenly without a common object, that the injuries did not establish attempted murder, and that the family witnesses were untrustworthy because of enmity. The State defended the convictions and relied on the parts of the body targeted in the attack. The appellants had ceased appearing before the High Court Registry from 2012 or 2013; the Court appointed experienced legal aid counsel as amicus curiae after repeated failures to appear and heard the appeal on its merits.

2. Statutes considered : Section 374 CrPC governed the conviction appeal. IPC Section 149 imposed constructive liability for offences committed in prosecution of the common object of an unlawful assembly whose existence was proved; the Court found that common object from coordinated waylaying and the attack on those intervening. Section 147 covered rioting, Section 341 concerned the conviction for wrongful restraint, and Section 323 concerned the simple injuries caused to others. The Court reproduced Section 307 IPC, which turns on an act done with such intention or knowledge, and in such circumstances, that the offender would be guilty of murder if the act caused death; actual hurt affects the penalty, but the extent of injury alone does not determine whether the offence is established. Section 151 CrPC described earlier preventive proceedings against members of the complainant party; those proceedings did not adjudicate the truth of either assault. The police initially investigated Sections 148, 506 Part II and 325 among others; their inclusion in the charge-sheet or initial FIR did not amount to separate appellate findings on those offences.

3. Issues : (i) Whether the injured family members' testimony, physical injuries and prompt report remained credible despite an earlier counter-report and alleged enmity. (ii) Whether the common object required by Section 149 was established by the waylaying and coordinated lathi assault on Indar Singh and rescuers, despite the different roles attributed to the assailants and the contention that the incident arose suddenly. (iii) Whether the act and mental element for Section 307/149 were proved from the lathi attack to vital parts and the medical evidence, rather than solely by the classification of the injuries ultimately sustained. (iv) Whether the convictions or sentences warranted appellate interference and what consequences the appellants’ prolonged failure to appear before the Registry had for the continuation of bail and their surrender.

4. Ratio / Findings : The Court examined Indar Singh's direct account and cross-examination, the relatives' supporting observations and Dr Raghuvanshi's examination. It acknowledged Phool Singh's hostile testimony and that the injured witnesses were related to Indar Singh. Yet the record showed seven injured people, two fractures, an FIR lodged without material delay and medical findings consistent with lathi blows. The doctor did not say a fall explained all injuries. Proceedings under Section 151 had been instituted on the accused party’s report, but the defence produced no document substantiating its claim of injuries in the alleged earlier assault; the record did not justify treating the extensive injuries as self-inflicted to fabricate a counter-case. Hostility may motivate either a false

accusation or the crime, so the Court assessed the evidence rather than treating animosity as decisive. The High Court stated the enmity principle and interpreted Sections 149 and 307 IPC from the facts and statutory text.

For Section 149, the group waylaid and surrounded Indar Singh with lathis, continued beating him and attacked people who attempted rescue. From this coordinated conduct, supported by eyewitness accounts and medical evidence, the Court found an unlawful assembly with a common object to assault the complainant party. It therefore rejected the contention that liability had to be confined to the individual blow attributed to each accused. Its conclusion rests on the specific conduct of the group that was proved.

For Section 307, the Court examined the statutory requirement of intention or knowledge in circumstances in which the assailant would be guilty of murder if the act caused death. The lathi blows were aimed at the head or eye area; Indar Singh lost consciousness and sustained a frontal fracture. The location and severity of the injuries, considered in the context of the group attack, permitted the inference that the assailants intended or knew their act could cause death. It affirmed the conviction under Section 307 read with Section 149 and the findings under Section 323/149 for other injured persons. The Court's analysis did not depend on the injury's seriousness alone.

On sentence, the Court referred briefly to deterrence and the appellants' failure over several years to appear before the Registry. It found no reason to alter the sentences imposed by the trial court.

5. Relief : The Hon'ble High Court dismissed the appeal. The High Court affirmed the 27 November 2003 conviction and sentence of Prakash, Om, Ramesh and Nandu in Sessions Trial No. 220/1995, with the Section 147, 341, 307/149 and Section 323/149 dispositions set out. The sentence of seven years' rigorous imprisonment and the fine of ₹500 imposed for Section 307 were not reduced. Since the appellants were on bail, their bail bonds were cancelled and they were ordered to surrender immediately before the trial court to serve the remaining sentence.

Prakash and Ors. v. State of M.P., Cr.A. no. 707/2003, 16/12/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR registration — cognizable rape allegation — preliminary enquiry limits - *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, requires registration under Section 154 CrPC where the information discloses a cognizable offence; where the initial information does not clearly disclose such an offence but calls for inquiry, that inquiry is confined to whether an offence is disclosed, without testing the truth of the information. Requirements concerning diary entries, time limits and notice of closure also apply. *National Confederation of Officers Association v. Union of India, (2022) 4 SCC 764*, quoted *CBI v. Thommandru Hannah Vijayalakshmi, (2021) 18 SCC 135*, and *Manohar Lal Sharma, (2014) 2 SCC 532*, on converting a limited preliminary enquiry into a regular case once material disclosing a cognizable offence is available; the Court relied on the principles discussed in their CBI context without treating the CBI Manual as governing the State police station. The prosecutrix reported rape by a head constable, yet the station conducted two enquiries that found the allegation false and registered FIR only after district intervention. The Court rejected the use of internal assessments of truthfulness to avoid registering a report disclosing a cognizable offence.

Closure of enquiry — informant notice and magistrate scrutiny - The closure-entry requirement in *Lalita Kumari*, the reporting safeguard under Section 157 and the subsequent final-report procedure under Section 173 do not permit police to withhold an internal finding of exoneration from the informant and judicial scrutiny. *National Confederation of Officers Association* considered the closure of a CBI preliminary enquiry despite conflicting internal opinions, and quoted the limited exceptional judicial power discussed in *Shashikant v. CBI, (2007) 1 SCC 630*; it illustrated that closing a preliminary enquiry does not place material disclosing a cognizable offence beyond independent scrutiny. The SDO(P) and Additional SP reports clearing the head constable were neither supplied to the prosecutrix nor placed before the Magistrate, yet the applicant had copies. The Court held that they had not attained finality, declined to accept them as proof that the allegation was false and dismissed the Section 482 challenge.

Fair investigation — police influence and contemporaneous record - The Court regarded the

prolonged failure to register the FIR, the applicant's access to undisclosed enquiry reports, the Collector's intervention, the misleading reason recorded for the delay, and the State's account that the applicant was avoiding blood-sample collection as relevant to the fairness of the investigation. It declined to infer that the pending counter-FIR against the prosecutrix's husband proved her report a counterblast and reserved further comment on that trial. It directed the competent authority or DGP to transfer the applicant head constable to another part of the State, allowed consideration of service action, vacated the interim order restraining coercive action and left police free to take him into custody. Those directions protected the pending investigation without finally determining whether the rape allegation was proved.

Case-note :- ***1. Facts :*** The prosecutrix said she lived in a rented room at Ishagarh with her three children while her labourer husband worked elsewhere. Head Constable Prakash Pawaiya, known to her after attending a family dispute involving her husband, had begun visiting. She alleged that on 9 January 2018, when her husband was away and the children at school, he came to her room intoxicated, restrained and gagged her and raped her. She described losing consciousness and being awakened by her young daughter, then phoning her husband and attempting to lodge a report at Police Station Ishagarh the same day. She alleged a later attempt at sexual assault on 27 February 2018. The applicant disputed her account and his culpability; the Court did not determine guilt in this proceeding.

The applicant asserted the allegation was fabricated in reaction to Crime No. 87/2018, an FIR lodged by his daughter on 28 February 2018 against the prosecutrix's husband under IPC Section 354A. He relied on enquiry reports finding the allegation false, submitted by the SDO(P), Chanderi, dated 26 April 2018, and Additional SP, Ashok Nagar, dated 24 May 2018, and on a separate complaint the prosecutrix had made against her husband and mother-in-law involving alleged pressure to demand money from others. Her husband and mother-in-law were later acquitted after she turned hostile. He argued that the roughly eleven-month gap before the 2 December 2018 FIR in Crime No. 388/2018 under IPC Sections 342 and 376, and her earlier conduct, warranted Section 482 quashing. The prayer sought quashing of FIR Crime No. 388/2018 at Police Station Ishagarh and all proceedings arising from it.

The prosecutrix opposed quashing. She said the station where the accused was posted refused her complaint; his daughter's FIR was lodged in retaliation; and the internal police reports exonerating him were tainted and not put before a Magistrate. A Woman Empowerment Officer's inquiry and an Additional District Magistrate's opinion led the Collector to write the Superintendent of Police on 12 November 2018, criticizing non-registration and forwarding records including a CD for action. An FIR was registered at Serial No. 0 at Kotwali, Ashok Nagar, and sent to Ishagarh, where Crime No. 388/2018 was registered. The State said investigation was still pending and the applicant was unavailable when police sought a blood sample. The interim order dated 3 January 2019 had permitted the inquiry to continue while restraining coercive action. The High Court examined the police station's handling of the complaint, the two reports and the later FIR without determining the truth of the rape allegation.

2. Precedents — Considered : *Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1*, was quoted at length. The Constitution Bench distinguishes the lower threshold under Section 154 for registering information disclosing a cognizable offence from the later decision under Section 157 on whether sufficient grounds exist to investigate and Section 173's post-investigation final report. Registration is mandatory where the information itself discloses a cognizable offence; where it does not yet disclose one but calls for inquiry, the inquiry is limited to determining whether a cognizable offence is disclosed and may not test the truth of the information. If the inquiry ends in closure, reasons must be recorded and a copy of the closure entry supplied to the informant within a week; the General Diary must record information and the choice to inquire, and the inquiry should ordinarily be completed within fifteen days and, exceptionally, within six weeks, with reasons recorded. *Lalita Kumari* lists illustrative circumstances such as matrimonial, commercial, medical-negligence, corruption and unexplained abnormal-delay matters without making them automatic exceptions to the duty to register an FIR where a cognizable offence is disclosed. The High Court used these safeguards to reject a police practice of deciding that a rape report was false and withholding the resulting enquiry report. Its source quotation also discusses the Magistrate's role under Section 157.

National Confederation of Officers Association of Central Public Sector Enterprises v. Union of India, (2022) 4 SCC 764, was the second directly cited Supreme Court authority. It concerned a CBI preliminary enquiry into disinvestment, conflicting internal recommendations and a self-contained note closing that enquiry. Its quoted paragraphs reiterated *Lalita Kumari*'s distinction and CBI Manual paragraph 9.1: a preliminary enquiry is permissible when the information is insufficient to register a regular case, but must be converted into a regular case once material disclosing a cognizable offence becomes available. The quotation discusses *CBI v. Thommandru Hannah Vijayalakshmi, (2021) 18 SCC 135*, which explains that corruption cases do not all require preliminary enquiry and an FIR is not vitiated by omission of one; *Manohar Lal Sharma v. Union of India, (2014) 2 SCC 532*, which describes conversion and exceptional court monitoring without directing the mode or manner of investigation; and *Shashikant v. CBI, (2007) 1 SCC 630*, which recognises exceptional judicial intervention despite the CBI's closure of an enquiry, while maintaining the ordinary rule against interference in its functioning. The High Court relied on this passage when considering scrutiny of the police's internal closure of an enquiry. Other authorities referred to within the Supreme Court quotation, including *Managipet*, reiterate the principles governing conversion into a regular case; the High Court did not discuss them separately.

The quoted Supreme Court rules were applied to the police procedure and the unresolved allegation, without deciding the accused's guilt.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR; the Court refused interference. Section 154 CrPC, as explained through *Lalita Kumari*, required police to register information disclosing a cognizable offence. Sections 157 and 173 distinguish the decision to investigate and the subsequent final report, subject to scrutiny by the Magistrate, from the initial registration threshold; the Court stressed that police should not conceal a negative enquiry from informant or Magistrate. The Court stated that a police finding that the complaint appears false must be supplied to the complainant and forwarded to the Magistrate under Section 169 CrPC/Section 189 BNSS. The allegation was registered under IPC Sections 342 and 376; Section 354A concerned the daughter's separate, pending case against the prosecutrix's husband. Rules 9 and 14 of the M.P. Civil Services (Classification, Control & Appeal) Rules, 1966 were cited as possible service action for the head constable, left for the competent authority. The Right to Information Act arose only in noting his copies of the internal reports were not issued under it.

4. Issues : (i) Could police, after receiving an allegation disclosing rape, conduct preliminary enquiries into the truth of the allegation and exonerate the accused instead of promptly registering an FIR? (ii) If two officers closed such enquiries, could the department keep their findings to itself without furnishing the complainant a reasoned closure entry or placing the matter before judicial scrutiny, and could the accused use those reports as conclusive exoneration on Section 482 review? (iii) Did the delayed FIR, the daughter's earlier counter-FIR, and the separate complaint involving the prosecutrix's family demonstrate that Crime No. 388/2018 was an abuse of process requiring quashing, or did the police's non-registration explain the delay? (iv) What protective directions were appropriate for an ongoing investigation involving a head constable at the station where the report was initially refused? The guilt or innocence in either pending case was outside this proceeding.

5. Ratio / Findings : The Court set out the events in chronological order: alleged assault on 9 January, non-registration at Ishagarh, daughter's 28 February counter-FIR, April and May internal police reports clearing the applicant, 12 November Collector intervention after Woman Empowerment Officer and ADM examination, and 2 December registration after an FIR registered at Serial No. 0 at Kotwali. It regarded a rape allegation as disclosing a cognizable offence and questioned the police choice to conduct enquiries into the truth of the allegation instead of registering it. *Lalita Kumari* does permit a limited preliminary inquiry when initial disclosure is unclear, but forbids using that process to assess veracity of information already disclosing an offence. The *National Confederation* passage reinforces that a preliminary enquiry cannot delay registration of a regular case once material disclosing a cognizable offence is available.

The two reports exonerating the applicant were retained within the police department, not put before the Magistrate or furnished to the prosecutrix. The applicant, a head constable, nevertheless produced

copies that were not issued under the RTI Act. The Court considered closure confined to the police department without judicial scrutiny to be dangerous because police could suppress an unwanted case by withholding the result. It found the reports lacked finality and declined to treat them as conclusive proof exonerating the applicant. The Court required the finding to be supplied to the complainant and forwarded to the Magistrate, citing Section 169 CrPC/Section 189 BNSS.

The Court rejected the applicant's counterblast and delay arguments. It noted that the daughter's 2018 FIR against the prosecutrix's husband remained pending after more than seven years and she had not entered the witness box according to instructions relayed by counsel. It indicated the daughter's FIR appeared to be retaliatory, but expressly withheld further comment while that trial remained pending; this was not a finding that the daughter had committed an offence. The court found the prosecutrix had pursued multiple authorities and that the delay was attributable to the police, rather than to the absence of her mother. The explanation in the later FIR that it was lodged after her mother arrived was found misleading in view of the Collector's recorded intervention and the complainant's prolonged efforts. The Court also regarded the applicant's access to the closed enquiry reports and the State's account of the applicant's avoidance of blood-sample collection as signs of influence while investigation remained pending, not proof of the alleged rape.

In this setting the internal reports and the long interval did not justify quashing the cognizable FIR. To protect a free and fair investigation while it remained pending, the Court directed removal of the head constable from that part of the State, permitted consideration of service action and vacated the protection against coercive action. Those directions followed its findings about the police procedure and possible influence on the investigation; they did not determine guilt or dictate the final outcome of the investigation.

6. Relief : The Hon'ble High Court dismissed the Section 482 CrPC application; Crime No. 388/2018 was not quashed. The competent authority or Director General of Police was directed immediately to transfer Prakash Pawaiya to another part of Madhya Pradesh so that he could not influence the ongoing investigation, and the authority could consider action under Rules 9 and 14 of the State Civil Services CCA Rules. The interim order dated 3 January 2019 restraining coercive action was vacated, and police were left free to take him into custody in accordance with law.

Prakash Pawaiya v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 50860/2018, 22/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (529) Prev Next

Headnote :- Age of prosecutrix — school proof — Evidence Act Section 35 and Rule 12(3) - *Ram Suresh Singh v. Prabhat Singh, (2009) 6 SCC 681*, requires proof of an entry recording age in a school record and separates its relevance from evidentiary weight. *Jarnail Singh v. State of Haryana, (2013) 3 SCC 263*, applies the 2007 Juvenile Justice Rule 12(3) documentary hierarchy to a child victim, resorting to medical opinion only after the listed documents are unavailable. The headmaster brought the original school record underlying a transfer certificate recording a date of birth that established minority, supported by the accounts of the prosecutrix and her parents concerning her age. The Court found her below sixteen at the November 2007 incident, without relying on a later age threshold.

Age estimation — ossification margin — no automatic two-year advantage - *Mukarrab v. State of U.P., (2017) 2 SCC 210*, distinguished the uncertainty in medical age assessment considered on the particular facts of *Darga Ram* and declined to apply that approach mechanically in every case. The 2007 Rule 12(3)(b) medical route, reached only when preferred documents are absent, permits a reasoned adjustment of the child's estimated age to the lower side; it does not require an automatic upward adjustment of two years for the benefit of the accused. Although the school record controlled, the Court also weighed the radiological estimate of above fifteen but below sixteen-and-a-half years and the dental estimate of fifteen–sixteen years, together with the family's evidence; the estimates did not undo the finding of minority below the relevant sixteen-year limit.

Kidnapping and abduction — prior enticement — minor leaving willingly - *Anver Singh v. State of Gujarat, (2021) 3 SCC 12*, distinguishes actual taking or enticement, including earlier subtle inducement, from mere later custody; its explanation limits *S. Varadarajan* to a minor who understands the consequences and independently leaves the

guardian's care without inducement by the accused. Section 366 also requires the relevant marriage or illicit-intercourse purpose. The appellant had proposed taking the prosecutrix to Jaipur before calling her out at night. Her acknowledgment that she went voluntarily did not negate the Court's finding of enticement, and the Sections 363 and 366 convictions were affirmed.

Statutory rape — 2007 Section 375 sixthly — consent of girl below sixteen - *Iqbal v. State of Kerala, (2007) 12 SCC 724*, applies the pre-amendment under-sixteen threshold. *Satish Kumar Jayanti Lal Dabgar v. State of Gujarat, (2015) 7 SCC 359*, explains that apparent willingness by a girl below sixteen neither supplies legally effective consent nor mitigates the offence on that basis. The Court accepted the prosecutrix's statement that intercourse was consensual as a factual claim, but her proved age made it immaterial under the then applicable clause. The FSL finding of semen and sperm supported the account of intercourse despite the absence of fresh injury and the doctor's inability to give a definite opinion.

Prosecutrix evidence — reliability, medical limits and defence - The Court distinguished *Sunil v. State of Haryana, (2010) 1 SCC 742*, because reliable school records, radiological evidence and dental evidence had been adduced here, and *Sham Singh v. State of Haryana, (2018) 18 SCC 34*, because its combination of adverse medical evidence, unshaken defence, absent crucial witnesses and possible fabrication was not established. The appellant admitted presence in Morena, did not substantiate a stay with his aunt, and FSL supported the prosecutrix; the father's statement that his separate attempted-murder case arose after this prosecution was not rebutted. The Court affirmed convictions but reduced the sentence of rigorous imprisonment under Section 376 from ten to seven years, retained the fine and other terms, ordered concurrency and surrender.

Counsel of choice — record-based appointment of amicus - The appellant's retained lawyer reported no instructions after an unanswered letter. The Court found that the appellant had appeared before the Registry with that lawyer's identification, filed no change application and had missed one later date after the appeal was set for final hearing. It acknowledged counsel choice but found no demonstrated wish to replace counsel; appointing the same lawyer as amicus and hearing the appeal with his assistance did not infringe that choice in these circumstances.

Case-note :- ***1. Facts :*** On 7 November 2007 the prosecutrix, who lived in the same locality as the appellant, left home at night after he had proposed the previous day that she accompany him to Jaipur. She said he called at her door, took her to a forest near Ghaorna Wala Temple and had intercourse with her there; they remained together overnight and later reached his house. Her father reported her missing the next day, after a relative had said he saw her going toward the market with Pramod following. Police recovered her from the appellant's house on 10 November. In testimony she described prior enticement and the sexual act, but also said she had gone willingly, had stayed without complaint and that intercourse was not without her consent. These apparently mixed statements were central to the kidnapping and rape issues.

The prosecution alleged she was a minor under sixteen. She said she was about fourteen; her father and mother placed her around thirteen or fourteen. Headmaster Rishi Kumar Sharma issued transfer certificate Ex. P.1 from school records recording a date of birth that established minority and brought original school records to court. Radiologist Dr Ashok Singh estimated more than fifteen but less than sixteen-and-a-half; dentist Dr R.C. Mishra estimated fifteen–sixteen. Dr Meera Bandil found no external or fresh genital injury and could not definitely opine on recent intercourse, but the FSL detected human semen and sperm on vaginal slides, swabs and clothes. The Court nevertheless found that she was below sixteen after considering the evidence as a whole and the prescribed order of preference.

The appellant denied guilt, argued that she was an adult and had left voluntarily, and claimed false implication because her father faced a prosecution for attempted murder involving the appellant's mother. He testified that he had come from Jaipur to Morena on 7 November and stayed at his aunt's village home; defence witness Asgar Khan supported seeing him there. The aunt was not called and there was no ticket or residence certificate. The prosecution examined the victim, parents, headmaster, doctors, other witnesses and investigators; the appellant and Khan were the two defence witnesses. The IV Additional Sessions Judge, Morena, in Sessions Trial No. 08/2008 on 30 September 2008 convicted Pramod under IPC Sections 363, 366 and 376 and imposed respectively

one, three and ten years' rigorous imprisonment with fines and default terms. He appealed under Section 374 CrPC. An interlocutory surety-change application was withdrawn. Counsel initially reported no instructions after a letter, but the appellant had appeared regularly before the Registry and been identified by that counsel, and had made no application to change counsel; the Court asked the counsel to act as amicus and heard the merits, finding no infringement of the appellant's right to counsel of choice on those facts.

2. Precedents — Considered : *Ram Suresh Singh v. Prabhat Singh, (2009) 6 SCC 681*, concerned proof of age under Section 35 Evidence Act and the juvenile scheme. The quoted passage requires proof of the school register entry, permits a teacher familiar with the record to prove its contents, recognises that a photocopy unsupported by the original may fail, and places medical opinion after the relevant first-school certificate under the then Rules. The High Court applied its distinction between admissibility and evidentiary weight: the headmaster testified and brought original records for Ex. P.1, so the objection that a separate admission register had not been brought as asserted did not defeat the proved certificate.

Jarnail Singh v. State of Haryana, (2013) 3 SCC 263, directly extended Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007, from children in conflict with law to child victims. The options are sequential: matriculation or equivalent certificate, then first-attended school birth entry, then corporation/municipal/panchayat certificate, and finally medical opinion. A higher available and properly proved option controls over lower ones. The High Court used this hierarchy in an IPC prosecution arising in 2007; it did not describe this as a POCSO prosecution. *Mukarrab v. State of U.P., (2017) 2 SCC 210*, was considered separately on the medical age margin. Its quoted distinction says *Darga Ram*'s plus-or-minus two-year and juvenile-benefit approach rested on its particular facts and cannot be generalised. The High Court rejected the appellant's request automatically to add two years to the estimated age for his benefit, weighed the actual radiology, dental, school and family evidence, and noted the distinct benefit under Rule 12 permitting the estimated age to be reduced by up to one year in favour of the child where the medical route applies.

Anver Singh v. State of Gujarat, (2021) 3 SCC 12, set out the ingredients of kidnapping under Section 361: minority, lawful guardianship, and taking or enticement by the accused. Enticement may precede the actual departure or operate through gaining the minor's affection; recovery from custody alone does not establish it. Its discussion of *S. Varadarajan* limits the contention based on a minor's independent voluntary departure to a minor who understands the consequences and leaves without the accused's assistance or inducement. The quoted passage also describes Section 366's additional marriage or illicit-intercourse purpose. The High Court applied this to the appellant's prior proposal and calling the minor out, despite her admission of willingness. It did not purport to make mere recovery sufficient.

Iqbal v. State of Kerala, (2007) 12 SCC 724, was applied to the then Section 375 Sixthly IPC: intercourse with a girl under sixteen amounts to rape regardless of consent. *Satish Kumar Jayanti Lal Dabgar v. State of Gujarat, (2015) 7 SCC 359*, explained the child-protection reason why purported consent below sixteen lacks legal force and cannot be offered as mitigation merely because the girl appeared willing. The High Court applied both to the age it found proved and the prosecutrix's own admission of consent, while still addressing whether intercourse occurred.

Sunil v. State of Haryana, (2010) 1 SCC 742, was relied on by defence for unreliable school records concerning age and the failure to obtain radiological and dental evidence despite referral for those examinations. The Court distinguished it because the original school material and both kinds of medical age evidence, as well as family testimony, were available here. *Sham Singh v. State of Haryana, (2018) 18 SCC 34*, recognised that a trustworthy prosecutrix need not be corroborated as a mechanical rule but also cautioned against conviction where discordant medical evidence, unshaken defence, missing vital witnesses and possible false implication collectively weaken her case. The High Court found that combination absent: age witnesses were examined, FSL supported the intercourse account, the defence admitted Morena presence and the proposed aunt alibi was not proved. The Court did not lay down a general requirement of medical proof or corroboration.

3. Statutes considered : Section 374 CrPC governed the appeal. The relevant version is the IPC as it stood in November 2007 before later sexual-offence amendments. Sections 361 and 363 concern taking or enticing a girl under eighteen out of the keeping

of her lawful guardian without guardian consent. Section 366 requires the further purpose of compelling marriage or forcing or inducing illicit intercourse; the Court found enticement and upheld both counts. Section 375 Sixthly then made intercourse with a girl under sixteen rape with or without consent; Section 376(1) carried a seven-year minimum term on the Court's account. The applicable age thresholds were distinct: under eighteen for girl-kidnapping, under sixteen for the 2007 rape clause. The Court applied no later POCSO, BNS or amended IPC threshold.

Section 35 of the Indian Evidence Act, 1872, governs the relevance of an entry of fact in an official record or a record kept in performance of a duty, subject to proper proof and assessment of its evidentiary weight. Rule 12(3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007, prescribed an order of preference for documentary age evidence, with an opinion from a duly constituted Medical Board sought only when the specified records are unavailable, and a possible reasoned adjustment to the lower side under clause (b). Through *Jarnail Singh*, the Court used that age method for a crime victim. The medical slides and FSL report were weighed as evidence of sexual intercourse. The default imprisonment and the direction that the sentences run concurrently formed part of the operative order.

4. Issues : (i) Was the prosecutrix below sixteen on 7 November 2007, given the proved school certificate, family testimony and higher radiological and dental age estimates, and did a two-year medical margin automatically require treating her as adult? (ii) Did her apparent voluntary departure prevent Sections 363 and 366 liability, or had the appellant taken or enticed her from guardianship with the requisite additional purpose? (iii) Did her admission of consent negate the 2007 Section 375 Sixthly/376 charge, and did the medical/FSL and witness evidence establish intercourse and identity despite the doctor's limited opinion and no fresh injury? (iv) Did the alleged prior hostility, separate prosecution of her father or account of staying at his aunt's house create reasonable doubt; were *Sunil* and *Sham Singh* factually controlling? (v) What sentence and consequential surrender order followed affirmed convictions? (vi) Did the retained counsel's unanswered letter show that the appellant wanted to change representation and prevent final hearing with that counsel as amicus, given the Registry record and absence of a replacement application?

5. Ratio / Findings : Before reaching the merits, the Court rejected counsel's inference that an unanswered letter meant the appellant sought replacement. It examined the repeated Registry appearances at which that counsel had identified the appellant, the absence of an application to change counsel, and the single missed appearance after final hearing was scheduled. The right to counsel of choice did not require another adjournment on this record; counsel accepted the amicus request and argued the appeal. This finding depends on the absence of an actual replacement request, not a power to deny a stated choice.

On age, the Court separated Section 35 relevance from weight and found Ex. P.1 proved by the headmaster with original school records. The family and prosecutrix's accounts likewise placed her under sixteen. Under *Jarnail Singh*'s application of Rule 12(3) to victims, the available school record, which had priority under the prescribed hierarchy, removed the need to determine age from ossification alone. It nonetheless considered the radiology and dental ranges. Rejecting an automatic addition of two years for the benefit of the accused under *Mukarrab*, it held the combined evidence showed she was below sixteen when she disappeared in 2007. The Rule's benefit of reducing the estimated age by up to one year applies in favour of the child when the conditions for medical assessment are met; it does not support the upward adjustment sought by the appellant.

On kidnapping, the appellant had made a prior proposal to go to Jaipur and called her out at night. She said she willingly accompanied and stayed with him, but *Anver Singh* requires examining whether her departure resulted from taking or inducement, not simply whether she walked without physical force. The Court found prior enticement and later recovery from his home, and affirmed Sections 363 and 366, finding that the kidnapping was intended to compel her to marry. Recovery alone is not the rule it adopted.

On intercourse and rape, the doctor found no fresh injury and offered no definite recent-intercourse opinion. The Court nevertheless considered the prosecutrix's account and FSL's human semen and sperm on slides, swabs and clothes. It accepted that she described the intercourse as consensual, then applied the pre-amendment under-sixteen clause: her

willingness did not constitute legally effective consent for the purposes of Section 376. *Iqbal* and *Satish Kumar Jayanti Lal Dabgar* supplied the controlling threshold and its limits. The finding is for the November 2007 offence, and does not state the age thresholds under later statutory provisions.

The father acknowledged a Section 307 case against him, but said it arose after his daughter's case; the appellant supplied no refuting document, so the chronology did not support the alleged counterblast. The appellant's own testimony admitted he was in Morena on 7 November. His claim of staying at his aunt's house was not supported by her testimony, a ticket or proof of residence; Asgar Khan's account did not resolve that gap. The Court distinguished *Sunil*'s missing age proof and *Sham Singh*'s combination of serious corroborative weaknesses. It accepted the prosecutrix with the evidence actually adduced rather than inferring guilt solely from an unproved alibi. On sentence, it concluded that the statutory minimum sentence of seven years' rigorous imprisonment, rather than the ten years imposed by the trial court under Section 376(1), would serve the interests of justice in the case.

6. Relief : The Hon'ble High Court affirmed the convictions under IPC Sections 363, 366 and 376. The sentence of rigorous imprisonment under Section 376 was reduced from ten to seven years, with ₹5,000 fine and one-year rigorous imprisonment in default retained. The one-year rigorous imprisonment and ₹1,000 fine with three-month default term under Section 363, and three-year rigorous imprisonment and ₹3,000 fine with six-month default term under Section 366, remained intact. The sentences were ordered to run concurrently. Bail bonds were cancelled and Pramod Mahor, then on bail, was directed to surrender immediately before the trial court to serve the remaining sentence; the record was to be transmitted for compliance. The appeal was disposed of to this extent, without acquittal or remand.

Pramod Mahor v. State of M.P., Cr.A. no. 875/2008, 16/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (530) Prev Next

Headnote :- Investigation control — Section 482 — arrest and charge sheet not predetermined - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, rejected mechanical High Court directions compelling police to arrest, seize property and file a charge sheet. The passage quoted from *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that arrest under Section 41 CrPC involves a discretion that must be exercised cautiously because it affects liberty. Arrest is not an automatic consequence of FIR registration. The reference to *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, stresses the need to hear persons likely to be affected by drastic judicial orders directing investigation. Applying those limits, the Court refused the informant's demand to direct arrest and challan in Crime No. 5/2022 under IPC Sections 307/34. It did not decide the evidence or preclude arrest if lawfully found necessary.

Timely investigation — Section 173(1) — choice of final report - The investigation of a registered FIR cannot be allowed to remain pending without necessary progress. Section 173(1) CrPC requires completion of investigation without unnecessary delay; *D. Venkatasubramaniam* also recognises that the lawful result may be a charge sheet or a closure report. The Court directed the investigating officer to conclude the investigation promptly and take necessary steps according to law while leaving arrest, evidence collection and the final report to police assessment. The applicant could bring any continuing grievance to the Superintendent of Police. No fixed deadline or compulsory charge sheet was ordered.

Case-note :- ***1. Facts :*** Pramod Singh Tomar made a complaint at Police Station Mahua, District Morena, on which Crime No. 5/2022 was registered for IPC Sections 307 and 34. He then applied under Section 482 CrPC, saying that despite registration the police had taken no further action and had not arrested the persons accused. His quoted prayer asked the High Court to order arrest, a challan after due inquiry and proceedings under "Section 82 and 82" CrPC. The Court therefore addressed the propriety of directing investigative acts and the general duty to complete the investigation, rather than the merits of the attempted-murder accusation. A proxy counsel appeared for the applicant and State counsel appeared. The Court first ruled that it could not grant an order to arrest named persons. It then considered the statutory duty of expedition and disposed of the application with a direction to the investigating officer, while leaving the applicant free to bring any grievance to the Superintendent of Police.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted at length and directly applied. The Supreme Court had set aside a High Court order that, without adequate reasons and without hearing persons affected, directed police to record statements, arrest, seize property and file a charge sheet. It distinguishes between the police's statutory duty to investigate and judicial efforts under Section 482 to prescribe its method or result. A lawful investigation need not invariably end in arrest, seizure or a charge sheet; it may instead support a negative report. The exercise of inherent power is confined to its three statutory purposes and requires restraint. The present Court followed that ratio to reject the informant's request for arrest and a compulsory challan while retaining a limited direction for timely completion of the investigation.

Within that Supreme Court passage, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that Section 41 permits but does not require arrest in investigations into cognizable offences. Police must assess necessity after relevant inquiry, exercising caution because arrest affects liberty, reputation and status. The High Court incorporated this rule by quoting *D. Venkatasubramaniam*. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, is quoted on a reasonable hearing before judicial orders that set criminal law in motion and gravely affect reputation. In *D. Venkatasubramaniam*, the Supreme Court treated the unreasoned order made without notice to the affected persons as a nullity. The High Court reproduced that qualification.

3. Statutes considered : Section 482 CrPC was the basis of the request to exercise inherent jurisdiction. It permits orders to give effect to an order under the Code, prevent abuse of a court's process or secure the ends of justice; the judgment rejects using that power to control the conduct of a police investigation or command a specified arrest or charge-sheet decision. Section 41 CrPC appeared in *M.C. Abraham*'s quoted discussion of police arrest discretion and the liberty consequences of its use. Section 173(1) CrPC expressly requires investigations under its Chapter to be completed without unnecessary delay; the Court used that positive duty to require prompt conclusion and a lawful final report, leaving the choice between a charge sheet and a closure report to the police on the basis of the evidence. IPC Sections 307 and 34 identify the alleged offence and joint liability referred to in the FIR; no element was determined. The prayer's “Section 82 and 82” reference appears in the quoted prayer.

4. Issues : (i) After registration of an FIR, could an informant obtain orders under Section 482 requiring the police to arrest the accused persons and file a challan, or would that predetermine investigative discretion and prejudice persons not heard? (ii) What judicial response was justified by the claim that the investigation following registration of the FIR had not progressed: could the Court insist on lawful and timely completion under Section 173(1) without commanding a particular outcome?

5. Ratio / Findings : The rule stated by the Supreme Court in *D. Venkatasubramaniam*, including the passage quoted from *M.C. Abraham*, limits judicial interference under Section 482 with police methods of investigation. Registration of an FIR for a cognizable offence does not itself oblige immediate arrest. Police must exercise their discretion under Section 41 carefully in view of liberty and reputation and decide after inquiry whether a charge sheet or a closure report is warranted. Unreasoned commands to arrest or charge, particularly without hearing affected persons, can inflict serious consequences. The applicant's specific demands would have put the High Court in charge of the manner of investigation in Crime No. 5/2022. The Court therefore refused those demands.

The refusal to direct particular investigative steps did not permit delay in completing the investigation. Section 173(1)'s mandate of completion without unnecessary delay required the officer to bring the investigation to a conclusion and file the legally appropriate report. The Court therefore directed prompt completion and necessary lawful steps. The direction does not require a charge sheet, fix a deadline or decide the merits. It preserves police discretion over the manner and outcome of the investigation while enforcing the statutory duty not to leave the investigation pending. Any continuing grievance could be brought to the Superintendent of Police, who would consider it according to law.

6. Relief : The Hon’ble High Court disposed of the Section 482 application. No order for arrest, compulsory challan or the requested Section 82 process was granted. The investigating officer was directed to conclude the investigation as early as possible and take necessary steps under law; the applicant was free to make an application concerning any grievance to the Superintendent of Police,

Morena, for consideration according to law. The FIR remained under investigation, with no guilt finding, quashing, fixed deadline or direction requiring either prosecution or closure.

Pramod Singh Tomar v. State of M.P., M.Cr.C. no. 10674/2022, 04/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (531) Prev Next

Headnote :- Commercial transaction — civil and criminal overlap — quashing limit - *Indian Oil Corporation v. NEPC India Ltd., (2006) 6 SCC 736*, requires taking a complaint as a whole at face value without a mini-trial; a complaint containing a factual foundation for a criminal offence is not defeated by the availability of a parallel civil remedy, while quashing may be ordered sparingly where the allegations disclose no offence or constitute a manifest abuse of process. *Trisuns Chemical Industry v. Rajesh Agarwal, (1999) 8 SCC 686*, adds that arbitration does not adjudicate criminal culpability. *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555, Lalmuni Devi v. State of Bihar, (2001) 2 SCC 17*, and *M. Krishnan v. Vijay Singh, (2001) 8 SCC 645*, reject the pendency of civil proceedings alone as a reason to stop the criminal process. The complainant's alleged investment and entrustment of partnership assets, followed by removal of machinery and unaccounted funds, provided a prima facie basis under Sections 405/406; the Court dismissed the challenge without finding guilt.

Discharge — defence documents — stage-specific Section 91 limit - *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, distinguishes the prosecution record relevant when a charge is being framed from disputed defence materials. The need for such materials must be assessed at the relevant procedural stage. Section 91 is ordinarily unavailable to an accused at that point to compel documents intended to show innocence. Accounts, balance sheets, machinery and loan records offered outside the charge sheet required proof and could not be weighed in this challenge under Section 482 to the refusal of discharge under Section 239. The Magistrate's refusal to discharge and the revisional affirmation stood; merits were left for trial.

Case-note :- ***1. Facts :*** Krishna Mahobiya, the applicant Pramod Vishvaiya's sister, made a complaint concerning Mangeshi Construction Company, described as a partnership firm. She alleged that she had contributed ₹30 lakh for a 50% share, with accounts maintained through the firm; machinery was bought with a ₹20 lakh loan secured by a house. According to her, Pramod removed machinery intended for the company's work and failed to account for entrusted property or funds. Those assertions were the prosecution allegations, not findings that he had converted any particular machine or amount. A prior High Court writ order dated 15 June 2016 prompted FIR registration.

Pramod argued that a business and arbitration dispute had been turned into a criminal case. He denied embezzlement and asserted that the ingredients of Sections 405/406 IPC were absent, particularly dishonest conversion of company property against an obligation. He filed I.A. No. 2477/2019 asking to place partnership accounts, balance sheets, machinery purchase and loan-payment documents on record to support his explanation. The State opposed quashing because a civil aspect does not alone exclude a crime. The JMFC, Gwalior, in Criminal Case No. 1343/2017 rejected his Section 239 CrPC discharge application on 22 August 2017; the 10th Additional Sessions Judge, Gwalior affirmed in Criminal Revision No. 453/2017 on 16 May 2018. The present MCRC No. 22856/2018 invoked Section 482 to quash the revisional order and thereby overturn the refusal of discharge.

2. Precedents — Considered : *Indian Oil Corporation v. NEPC India Ltd., (2006) 6 SCC 736*, was quoted for a structured test under Section 482: the complaint must be read as a whole and its allegations taken at face value, without assessing their truth or conducting a mini-trial; intervention is permissible where no offence is disclosed or there is clear malice or absurdity; the power must be used sparingly so that a legitimate prosecution is not stifled; and sufficient basic facts are required, rather than a verbatim statement of every element. It distinguishes purely civil, purely criminal and mixed wrongs. The High Court treated the sister's allegations of entrustment and diversion of partnership assets as a prima facie basis for criminal proceedings despite a civil remedy, without deciding the evidence.

Trisuns Chemical Industry v. Rajesh Agarwal, (1999) 8 SCC 686, says the civil character of a dispute and an arbitration clause cannot automatically replace criminal prosecution for an act

disclosing an offence; quashing at the threshold remains confined to exceptional cases. *Kamaladevi Agarwal v. State of West Bengal, (2002) 1 SCC 555*, reproduced and endorsed that principle against stopping criminal proceedings solely because civil litigation is pending. *Lalmuni Devi v. State of Bihar, (2001) 2 SCC 17*, accepts quashing where no offence is disclosed but rejects the assumption that the maintainability of a civil claim makes a prima facie criminal complaint untenable. *M. Krishnan v. Vijay Singh, (2001) 8 SCC 645*, concerned alleged forged documents and explained that criminal proceedings do not have to await a civil ruling on the authenticity of the documents, and the criminal allegations must be proved independently; the different burdens and possible eventual acquittal do not justify premature quashing. The High Court considered these authorities on the common principle governing the overlap between civil and criminal proceedings. It did not find document forgery in this partnership case.

State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568, was considered on the second issue. The quoted passage explains that production under Section 91 CrPC depends on necessity, the party seeking production and the procedural stage. When deciding whether to frame a charge, the court uses the Section 173 prosecution record; an accused ordinarily cannot invoke Section 91 to compel material to support a defence requiring proof before the appropriate stage. The High Court applied that limitation to Pramod's accounting, balance-sheet, purchase and loan documents outside the charge sheet. It does not finally examine the truth of the disputed documents.

3. Statutes considered : Section 482 CrPC was invoked to challenge the revisional order affirming the refusal of discharge. Section 239 governs discharge by the Magistrate in a warrant case on the police report; the decision here was a threshold review, not a trial verdict. Section 91 appeared in *Debendra Nath Padhi*'s discussion of compelled production and its stage-specific limits; Section 173 identifies the police record considered when a charge is being framed in that precedent. Counsel invoked IPC Sections 405 and 406 in disputing entrustment and dishonest misappropriation or conversion. The Court found prima facie material to frame a Section 406 charge on allegations of entrusted partnership property and misappropriated funds. The Court found allegations sufficient at the prima facie stage but did not determine the precise ownership or evaluate the accounting evidence. Civil/arbitration remedies were material background.

4. Issues : (i) Did the complaint about partnership investment, machinery and allegedly unaccounted entrusted property disclose a prima facie Section 405/406 offence, notwithstanding the civil or arbitration character of the relationship, or was prosecution manifestly abusive? (ii) Could the accused place accounting and machinery documents not forming part of the charge sheet on record and have the High Court evaluate them to show innocence at Section 239 discharge and Section 482 review? (iii) Should the High Court interfere with the JMFC and revisional refusal to discharge, or leave contested facts and final determination of the ingredients of the offence to trial?

5. Ratio / Findings : The Court quoted and applied the Supreme Court distinction between the availability of a civil claim and whether the complaint on its face discloses an independent criminal offence. A partnership can generate civil disputes, but that alone cannot justify quashing the prosecution if a basic factual foundation for entrustment and dishonest diversion exists. The sister alleged substantial contribution, a 50% interest, loan-financed machinery, the applicant's removal of equipment and failure to account for entrusted funds. At this stage those assertions supplied a prima facie Section 406 case. They were not tested as established facts, and the Court deliberately avoided detailed observations that could prejudice the trial. It did not say that every accounting disagreement proves dishonest misappropriation.

Pramod's accounts, balance sheet, machinery purchase and loan-payment material were outside the charge sheet and would require formal proof and contextual evaluation. Under *Debendra Nath Padhi*, Section 91 is not an ordinary route for the accused to bring a factual defence into the initial decision on framing a charge; nor could proceedings under Section 482 become a trial on the merits of those documents. The Magistrate's rejection of discharge, affirmed in revision, therefore warranted no interference on that basis.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. The revisional order of 16 May 2018 affirming the JMFC's 22 August 2017 rejection of Section 239 discharge remained in force; the Section 406 prosecution could proceed. It

expressly withheld merits observations to avoid prejudice to the trial court.

Pramod Vishvaiya v. State of M.P. and Ors., M.Cr.C. no. 22856/2018, 20/01/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (532) Prev Next

Headnote :- False certificate — created outside court before filing — Section 340 complaint objection - *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, was applied for the distinction between manipulation of a document in custodia legis and alleged fabrication outside court before use in a judicial proceeding. The Court rejected the applicant's claim that the only procedure available in respect of a Sarpanch's suspected false repair certificate was a complaint by the court under Section 340 CrPC; a police FIR could follow if an inquiry established that the certificate had been falsely prepared before filing. The applicant produced no proof of sawmill ownership, licence or repair work, but the suspicion remained subject to a directed Superintendent of Police inquiry. Registration against the Sarpanch was conditional on a finding in that inquiry that the applicant was not a sawmill owner. Bail under Section 438 was independently refused in light of the large quantity of seized liquor and the packing material, alleged flight and Section 59-A of the M.P. Excise Act; no final finding of forgery or liability was made.

Case-note :- ***1. Facts :*** Pran Singh Lodhi applied for anticipatory bail under Section 438 CrPC in Crime No. 150/2021 at Police Station Basai, Datia, under Sections 34(2) and 49-A of the M.P. Excise Act. The State's account was that police received information he and Salikram were packing illicit country-made liquor in Salikram's premises. The police allegedly saw both men packing liquor when they arrived, and both men ran into the nearby forest. Officers said they seized two 200-litre drums and four 50-litre containers of “OP” concentrated liquor, totalling 600 litres, 200 quarters of country-made liquor, a packing machine, empty quarters, caps and measurement apparatus. The applicant disputed identification and produced an address document showing that he resided in another village. The State responded that residence elsewhere did not make his presence at the site impossible. These were bail-stage accounts, not findings of guilt after trial.

Pran also filed what he described as an original certificate from the Sarpanch of Gram Panchayat Garetha stating that he had been getting a machine repaired at the relevant time. The certificate did not identify the machine. Counsel later described it as his sawmill, but he had produced no document showing ownership of a sawmill, a licence under the M.P. Kashtha Chiran (Viniyaman) Adhiniyam, 1984, or the actual repair work. The Court regarded the certificate as apparently false and potentially created for use in the proceeding before it. It refused bail, then ordered an inquiry into the sawmill and the certificate. When counsel argued that only a court complaint could be made for a false document used in court, the Court separately addressed whether the document had allegedly been created before filing or while it was in the custody of the court.

2. Precedents — Considered : *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, was relied on in the Court's reasoning. The High Court cited it for the procedural distinction that an allegedly concocted document made outside court before production is not treated as one forged while in custodia legis for the court-complaint restriction counsel invoked. The present Court applied that distinction to a certificate supposedly issued by a Sarpanch and subsequently produced before the court in the bail proceeding, concluding that if the inquiry established that the certificate had been falsely prepared before filing, an FIR could be registered.

3. Statutes considered : Section 438 CrPC governed the application for protection from arrest. Sections 34(2) and 49-A of the M.P. Excise Act were the alleged liquor offences, and Section 59-A of that Act was expressly among the reasons to refuse anticipatory bail. The M.P. Kashtha Chiran (Viniyaman) Adhiniyam, 1984, was invoked to test whether the asserted sawmill could have a licence; the Court directed verification, not a final finding of an offence under that law. Counsel invoked Section 340 CrPC as requiring a complaint by the court as the sole procedure for an allegedly false document filed in court. The Court described a “bar” under that section and, through *Iqbal Singh Marwah*, distinguished creation outside court before filing from fabrication while the document was in the custody of the court. No criminal-document offence section was charged against the Sarpanch in the operative order; any registration depended on the inquiry.

4. Issues : (i) Did the liquor seizure allegations, reported flight, proposed alibi certificate and the M.P. Excise Act restriction warrant anticipatory bail? (ii) Did the absence of sawmill ownership, licence and repair details warrant an inquiry into the certificate issued by the Sarpanch, and was its suspected falsity at this point a final determination? (iii) If a document was fabricated outside court before being filed in a judicial proceeding, did counsel's objection that Section 340 required a complaint by the court prohibit a police FIR, and what conditional direction followed? The Court did not decide the Sarpanch's guilt, the authenticity of the certificate after full inquiry, or the applicant's culpability for the liquor offence.

5. Ratio / Findings : The State argued that the material concerning the address established where the applicant lived but did not negate his possible presence at another village. The Sarpanch certificate referred only to an unspecified machine. The later explanation concerning a sawmill was unsupported by proof of ownership, a licence or repair work. On this record the Court suspected that the certificate had been made for use in the bail proceeding. The Court considered the alleged seizure of 600 litres of concentrated liquor, the additional quarters and packing equipment, the alleged flight and Section 59-A together, and found no case for anticipatory bail. These are bail-stage assessments and do not prove the underlying offence or a forged certificate beyond reasonable doubt.

The Court directed the Superintendent of Police, Shivpuri to investigate whether Pran owned a sawmill and had a licence. It directed that an FIR be registered against the Sarpanch who issued the certificate if the inquiry found that the applicant was not a sawmill owner. Counsel then asserted that a case concerning a false document could proceed only on a complaint by the court under Section 340. The Court distinguished creation or manipulation while the document is in custodia legis from a certificate made outside court before filing. Applying the principle it drew from *Iqbal Singh Marwah*, the Court held that a certificate made outside court before filing was not subject to the asserted bar requiring a complaint by the court. An ordinary FIR could be registered if its falsity was established.

6. Relief : The Hon’ble High Court dismissed the application for anticipatory bail under Section 438 CrPC. The Superintendent of Police, Shivpuri was directed to inquire into sawmill ownership and licence and, if the inquiry found that the applicant did not own a sawmill, to register an offence against the Sarpanch for issuing a false certificate intended for court use. The inquiry was to finish within two months and its report was to reach the Principal Registrar of the High Court by 5 April 2022. The order did not itself convict anyone or finally declare the certificate forged.

Pran Singh Lodhi v. State of M.P., M.Cr.C. no. 5067/2022, 03/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR mandamus / alternative remedy - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, recognises the duty under Section 154 CrPC to register an FIR on information disclosing a cognizable offence but directs an informant faced with inaction to the complaint procedure before the Magistrate under Sections 190 and 200; its discussion distinguishes the question of police duty in *Ramesh Kumari* from the question of the proper remedial forum. Applying that distinction, the High Court declined the purchaser's Article 226 demand for registration, without deciding the underlying land-fraud allegations.

Exceptional writ control / investigative abuse - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, reserves intervention under Article 226 for rare cases in which mala fide abuse of investigative power and non-compliance with Chapter XII are clearly established and forbids the court from prescribing how police investigate; it also identifies the remedy of a complaint before the Magistrate where police take no action. The present Court reiterated this limit and issued no exceptional direction concerning the investigation on the basis of the alleged inaction.

Police inaction / statutory sequence - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, identifies a written Section 154(3) application to the SP and, if the FIR remains unregistered or the investigation remains inadequate, a Section 156(3) application; the Magistrate may order registration or proper investigation and monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, applies that route, permitting a recommendation to the SP to change the investigating officer if necessary, while making clear that the Magistrate cannot investigate personally. The Court applied the

alternative-remedy principle and left the petitioner free to approach the Magistrate; it made no prima facie finding that an offence had been committed.

Mandamus discretion / exceptions - *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (M.P. Division Bench, 20 December 2016), permits refusal of a mandamus directing FIR registration where the informant has not used Sections 154(3), 156(3), 190 and 200 unless the *Whirlpool* exceptions apply. It distinguishes *Lalita Kumari*'s Section 154 police duty from entitlement to a writ without resort to those remedies. The present single Judge followed that framework and dismissed the writ, with liberty under Sections 156(3), 200 and 202 CrPC; the refund claimed against the private parties and the costs sought were not awarded.

Case-note :- ***1. Facts :*** Pranav Tiwari brought Writ Petition No. 11935 of 2024 before the High Court of Madhya Pradesh at Jabalpur under Article 226 of the Constitution. His petition described a land purchase and named a vendor, two brokers and a bank manager as persons against whom he wanted a criminal case under Section 420 IPC, a colonizer law and the Gram Panchayat Swaraj Adhiniyam. He asked for a mandamus to the police and other authorities to register a case. He also sought reimbursement of the asserted purchase price of Rs. 6,50,000, registration expenditure of Rs. 25,000, approximately Rs. 1,11,000 paid as monthly instalments, interest and Rs. 1,00,000 litigation expenses. He referred to correspondence involving the Collector and Superintendent of Police and complained that no appropriate action had followed. The figures and allegations formed the basis of the relief sought in the petition; they were not findings of fraud or established loss.

Counsel submitted that despite the petitioner's complaint, the police had taken no action. The Court narrowly framed the question on which the petition turned: whether in Article 226 proceedings it should direct the police to register an FIR. The Court drew on four Supreme Court decisions and the M.P. Division Bench decision concerning the route for an aggrieved informant, and disposed of the petition on that procedural ground.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, 2007:INSC:760, (2007) 6 SCC 171*: the quoted Supreme Court passage accepts that police must register an FIR on information showing a cognizable offence under Section 154 CrPC. It addresses the different question of what an informant should do if police fail, identifying a complaint before the Magistrate under Sections 190 and 200. It distinguishes *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, as addressing police action on cognizable information rather than the proper route for the complainant, and relies on the procedural approach stated in *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. The present Court invoked *Aleque* to distinguish the mandatory police duty from an automatic entitlement to a High Court mandamus directing FIR registration. The quoted *Aleque* disposition also says it did not determine the merits of its own underlying allegations.

Divine Retreat Centre v. State of Kerala, 2008:INSC:341, (2008) 3 SCC 542: the quoted Supreme Court paragraphs preserve the power to issue exceptional directions under Article 226 at an aggrieved person's instance in the rarest of rare cases where mala fide exercise of investigative power and clear non-compliance with Chapter XII amounting to abuse are shown. Even then the High Court cannot instruct police how to investigate, though it may insist on observance of the statutory process. Where police take no action on information, the passage directs an informant to the remedies under Sections 190 and 200 rather than to an ordinary writ petition. It quotes *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, for the Magistrate's complaint inquiry, possible Chapter XII investigation, Section 203 dismissal, or cognizance and process on a prima facie case, also mentioning *AIIMS Employees' Union*. The present Court used *Divine Retreat Centre* to preserve the exception while declining intervention on the petitioner's inaction complaint; it made no affirmative finding that the identified exceptional abuse occurred.

Sakiri Vasu v. State of U.P., 2007:INSC:1243, (2008) 2 SCC 409: its quoted paragraph 11 gives the remedial sequence. For non-registration, the informant can apply in writing to the SP under Section 154(3); if the FIR is still not registered or investigation is deficient, a Section 156(3) application to the Magistrate permits an order for registration or proper investigation and monitoring of the investigation. The Court cited that authority as a reason for directing Tiwari to the statutory forum, without itself granting a Section 156(3) order or assessing the merits that a Magistrate would assess.

Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277: the reproduced Supreme

Court discussion follows *Sakiri Vasu*. If prima facie satisfied on an application under Section 156(3), the Magistrate can ensure registration or proper investigation, monitor police progress and, if necessary, recommend a change of investigating officer to the SSP/SP. The Magistrate cannot investigate personally. It explains the institutional reason for using that mechanism: indiscriminate writ petitions seeking FIRs and investigation directions would overwhelm High Courts. The present Court applied this approach based on the alternative remedy, without purporting to appoint an investigator or alter an existing investigation.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016 (M.P. Division Bench, Gwalior, 20 December 2016): the quoted division-bench formulation says mandamus to perform the Section 154 duty can be denied if the informant has not used Sections 154(3), 156(3), 190 and 200, unless the four *exceptions stated in Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, apply. It also says *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, addresses police registration duty rather than entitlement to bypass alternative remedies through a writ. The present single Judge followed that controlling approach of the Division Bench. *Whirlpool* and *Lalita Kumari* appear through the Division Bench passage.

3. Statutes considered : Article 226 of the Constitution supplied the jurisdiction invoked for mandamus to police and other public authorities. The Court treated this jurisdiction as available in principle but declined its use in an ordinary non-registration grievance given statutory alternatives; the qualification in *Divine Retreat Centre* concerning rare cases of clearly established abuse and the Division Bench's stated *Whirlpool* exceptions remain part of the quoted framework. Section 154 CrPC describes the police duty where information discloses a cognizable offence, and subsection (3) supplies a written approach to the Superintendent of Police when the police station fails to act. Section 156(3) provides a remedy before the Magistrate, who may on prima facie satisfaction direct registration or proper police investigation and monitor it, as the quoted Supreme Court cases explain. Sections 190 and 200 provide the procedure for a private complaint and cognizance, and Section 202 was expressly included in the liberty to approach the Magistrate in the operative paragraph. The *Divine Retreat Centre* quotation describes complaint inquiry under Chapter XV, possible dismissal under Section 203 and the issuance of process where the complaint or evidence prima facie discloses an offence; it is context for the alternative forum, not an order taking cognizance here. Chapter XII appears in the exceptional investigation-control passage. Section 420 IPC and the unspecified colonizer and Panchayat enactments occurred in the prayers as alleged offences; the Court did not construe their elements, choose charges or decide that an FIR was legally required on these specific allegations.

4. Issues : The immediate question, expressly framed in paragraph 3, was whether the High Court should, in proceedings under Article 226, compel the police to register an FIR because the petitioner said that no action had been taken on his complaint. That required distinguishing the statutory duty to register an FIR on information disclosing a cognizable offence from the proper judicial remedy after inaction, identifying the ordinary remedies before the Magistrate and the SP, and retaining the narrow possibility of extraordinary intervention where justified. The prayer for relief also sought criminal action against the named private persons and repayment of the amounts relating to the land purchase and loan. The Court did not adjudicate fraud, the applicability of a colonizer or Panchayat statute, private monetary liability, or the credibility or adequacy of any particular police response; those were not treated as separate decided criminal-law propositions.

5. Ratio / Findings : The Court began with *Aleque Padamsee*'s distinction between the police obligation and the informant's remedy: even if facts brought to the police disclose a cognizable offence requiring FIR registration, an informant faced with inaction ordinarily has the remedies under Sections 190 and 200 before a Magistrate. Thus the existence of the police's Section 154 duty does not itself establish entitlement to an Article 226 mandamus in the first instance. The quoted *Aleque* treatment of *Ramesh Kumari* makes clear that the holding on police duty does not itself determine that the writ forum is the proper remedy.

Divine Retreat Centre added that constitutional intervention remains possible in rare cases where clearly established mala fide abuse of investigative power and non-compliance with Chapter XII warrant it, while even such intervention cannot dictate the investigation's method. It also reinforced complaint remedies for mere non-action. *Sakiri Vasu* supplied

the Section 154(3) written application to the SP followed, if needed, by Section 156(3) recourse. Under that provision, the Magistrate may, on the required satisfaction, order registration and proper investigation, and may monitor the investigation. *Sudhir Bhaskarrao Tambe* reinforced the institutional and statutory reasons for directing these disputes to the Magistrate and explained a possible recommendation to change the investigating officer, without personal investigation by the Magistrate. The Court did not find a need to exercise the rare Article 226 power on this record or perform the Magistrate's prima facie evaluation itself.

Finally, *Shweta Bhadauria* provided the governing M.P. Division Bench approach: a mandamus to enforce Section 154 may be refused where the enumerated alternative remedies have not been pursued, subject to the stated qualification concerning the *Whirlpool* exceptions, and the rule on police duty in *Lalita Kumari* does not independently dispense with those alternatives.

6. Relief : The Hon'ble High Court has dismissed the writ petition. Tiwari was expressly given liberty, if he chose, to approach the concerned Magistrate under Sections 156(3), 200 and 202 CrPC for redress. There was no direction to police to register an FIR, to an officer to investigate or to a private person or bank to reimburse the sums claimed. The eventual assessment by the Magistrate and any proceedings concerning the alleged land transaction remained open; the dismissal did not declare the named persons guilty or decide the requested money relief.

Pranav Tiwari v. State of Madhya Pradesh and Ors., W.P. no. 11935/2024, 09/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (534) Prev Next

Headnote :- Minor-child maintenance / earning mother - *Padmja Sharma v. Ratan Lal Sharma, (2000) 4 SCC 266*, was applied for the principle that both earning parents must contribute to their children's maintenance in proportion to their income. The Family Court could not reject a minor daughter's Section 125 claim solely because her mother, an Anganwadi worker, received an honorarium of Rs. 2,500, particularly when that sum could not support both. The High Court assessed the child's need at Rs. 6,000 monthly and, applying a 2:1 apportionment on the facts of this case, fixed her father's contribution at Rs. 4,000. The 2:1 figure is an application here, not a fixed statutory allocation.

Income evidence / adverse inference - The father admitted working as an ambulance driver, while claiming that the employment was temporary, but did not testify to his own salary or produce an available salary slip. A witness's estimate of Rs. 4,500 and the unproved allegation of farmland did not justify placing the entire burden of proving the father's income on the mother. Both sides had withheld material earnings evidence, and the mother initially concealed her Anganwadi appointment; the trial court's reaction to that conduct could not replace an assessment based on evidence and law or extinguish the child's independent right to maintenance. The Court stated that an adverse inference can be drawn where a party suppresses the best evidence available to him, referring to the father's available salary slip.

Effective date / delay - *Rajnesh v. Neha, (2021) 2 SCC 324*, was applied for awarding maintenance from the date of filing the Section 125 application. The Court examined the 2015–22 procedural history and found no unnecessary delay by the child; the unavailability of the court and adjournments sought by the respondent could not deprive her of the earlier start date. The father's Rs. 4,000 monthly contribution was ordered from 25 April 2015. The Family Court's rejection was set aside only for the child, while the mother's revision was dismissed as withdrawn.

Case-note :- ***1. Facts :*** Pratigya and her minor daughter, shown as applicants 1 and 2, respectively, sought maintenance from Neelesh Kumar under Section 125 CrPC. The marriage was recorded as having taken place on 15 May 2009; the daughter was born of that marriage. Pratigya was appointed as an Anganwadi worker by an order dated 31 August 2010, with a monthly honorarium of Rs. 2,500, a fact initially suppressed according to the Family Court and later established by the appointment order that Neelesh himself supplied. In MJC No. 66/2015, the Principal Judge, Family Court, Vidisha, dismissed both claims on 31 August 2016 mainly because the mother worked and could supposedly maintain herself and the child. The application had been filed on 25 April 2015.

The applicants invoked Sections 397 and 401 CrPC in Criminal Revision No. 983 of 2016. Counsel acknowledged the mother's employment and sought permission to withdraw the revision as to her own maintenance. He maintained that her earnings did not

excuse the father's support obligation to the daughter. Neelesh opposed the daughter's revision, describing his private job as low-paid and saying the mother could support the child. In his response below, he had acknowledged working as a driver of a 108 ambulance but said the engagement was temporary. The applicants alleged Rs. 10,000 monthly wages and 10–20 acres of farmland, while a defence witness stated that Neelesh's monthly earnings were Rs. 4,500 and the father's own evidence omitted a salary figure. The child was about four on 18 August 2015, the date of her mother's examination. The Court had to address the child's independent entitlement, the parents' respective contributions and arrears after lengthy proceedings.

2. Precedents — Considered : *Padmja Sharma v. Ratan Lal Sharma, (2000) 4 SCC 266*, was cited for the proposition that both an earning father and an earning mother must contribute to their children's maintenance in proportion to their income. The present order says the Supreme Court directed payment by the parents in a 2:1 proportion in that case. The High Court then applied the 2:1 proportion to the child's assessed needs of Rs. 6,000, assigning Rs. 4,000 to the father and the balance implicitly to the earning mother. The Court applied that proportion in this case; it did not lay down a universal fixed statutory allocation or treat the honorarium of Rs. 2,500 as sufficient for both mother and child. The Court applied the precedent in allowing the child's revision and fixing the father's contribution.

Rajnesh v. Neha, (2021) 2 SCC 324, was quoted on the date from which maintenance is awarded. The excerpt from its paragraph 131 states that maintenance in all cases will run from the date of filing the maintenance application, with a reference to its own Part B-IV. The High Court adopted that rule on the commencement date and separately examined whether the applicants' procedural conduct presented any obstacle to applying it; it found no unnecessary adjournments by the child.

3. Statutes considered : Section 125 CrPC governed the wife's and minor daughter's original maintenance applications and the assessment of means and support. The Court kept the child's entitlement independent of the mother's decision not to contest dismissal of her personal claim. It assessed each earning parent's contribution rather than treating the mother's small honorarium as a full discharge of the father's duty. Sections 397 and 401 CrPC provided the revisional jurisdiction under which the Family Court order was examined and partly set aside. The Court applied its inference from the withholding of income evidence on the facts of this case when fixing maintenance.

4. Issues : (i) After withdrawal of the mother's personal revision, could the Family Court's refusal of the minor child's maintenance stand merely because her mother, an Anganwadi worker, earned Rs. 2,500 per month? (ii) How should both parents' means and a child's needs be evaluated where the father acknowledged employment as an ambulance driver but did not disclose his salary or produce the documents showing it, and where the mother had initially concealed her own work? (iii) What monthly amount should the father contribute and should it run from the 25 April 2015 application or the eventual order, given the procedural history? No final determination was sought or made on the mother's personal Section 125 entitlement after withdrawal, the father's alleged earnings of exactly Rs. 10,000 or landholding of 10–20 acres, or any criminal allegation.

5. Ratio / Findings : The Court separated applicant 2's independent need from applicant 1's own claim. The mother was an Anganwadi worker, but her Rs. 2,500 monthly honorarium was plainly insufficient to maintain both herself and a young daughter. The Family Court had reacted to her suppression of employment, yet a maintenance court must decide on evidence and law rather than allow disapproval of the mother's conduct to defeat the child's right. Applying *Padmja Sharma* as expressed in this order, both earning parents contribute in proportion to their income.

The income evidence did not justify placing the entire burden of proving Neelesh's income on Pratigya. Neelesh admitted in his reply that he drove a 108 ambulance and had the means to produce a salary slip, yet omitted his income from examination-in-chief and in cross-examination only denied the asserted Rs. 10,000 figure. Laxman Chaurasiya (DW-3) mentioned Rs. 4,500 per month. Ramkrishna Chaurasiya (DW-2), Neelesh's father, remained silent on the alleged farmland; neither the alleged landholding nor the claimed salary of Rs. 10,000 was established as a precise measure of his income. Pratigya's father Bhanwarlal had acknowledged her Rs. 2,500 honorarium, and Neelesh filed the appointment order. The Court expressly said both sides suppressed material

earnings evidence, and stated that an adverse inference can be drawn against a party suppressing the best evidence available to him, referring to Neelesh's salary slip.

Considering the child's approximate age of four when her mother was examined on 18 August 2015, the price index and the cost of ordinary needs, the Court fixed the child's monthly maintenance at Rs. 6,000. It applied a 2:1 apportionment under *Padmja Sharma* and directed the father to pay Rs. 4,000 per month. The mother's share follows from that calculation; the operative order only imposes the father's liability and does not direct a separate payment by her. As to the commencement date, *Rajnesh v. Neha* required maintenance to be awarded from the date of filing the application. The Court traced that the mother was examined on 18 August 2015, her father on 24 February 2016, the respondent's evidence was fixed for 24 May 2016, and the Family Court decided on 31 August 2016. The reasons for adjournment included the absence of a presiding officer and a bar reference following an advocate's death. In the revision, notice was initially issued in October 2016, and the matter was heard and later released by the judge. Requests by the respondent and a proposed compromise also delayed the hearing. It found no unnecessary adjournment attributable to the child.

6. Relief : The Hon'ble High Court has set aside the order dated 31 August 2016 passed by the Principal Judge, Family Court, Vidisha in MJC No. 66/2015 only as it related to applicant 2. The minor daughter's revision was allowed and Neelesh was directed to pay her Rs. 4,000 per month with effect from 25 April 2015, the date of her Section 125 application. Pratigya's revision as applicant 1 was dismissed as withdrawn on her request.

Pratigya and Ors. v. Neelesh Kumar, Cr.R. no. 983/2016, 02/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Police investigation / refusal to compel arrest and charge sheet - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, disapproved unreasoned judicial directions prescribing arrest, seizure, the recording of statements and the filing of a charge sheet. *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, quoted in that decision, explains that the power of arrest under Section 41 CrPC is discretionary and must be exercised cautiously because it affects liberty and reputation; an FIR does not compel automatic arrest. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, also quoted in that decision, requires a reasonable opportunity of hearing before drastic judicial directions against affected persons. Applying these limits under Section 528 BNSS, the Court refused the informant's demands to arrest persons accused in Crime No. 117/2024 and require prosecution.

Timely conclusion / report left to evidence - Section 173(1) CrPC was quoted for the requirement that every investigation under that Chapter be completed without unnecessary delay, with Section 193 BNSS named alongside it in the order. The investigating officer must reach a lawful conclusion and submit a charge sheet or closure report as warranted; the Court can require expedition without choosing the report or managing investigative technique. It directed the investigating officer to complete the investigation as early as possible and take the necessary steps according to law, and permitted the applicant to raise any grievance before the Superintendent of Police, Datia. The Court did not direct mandatory arrest or the filing of a charge sheet, prescribe a deadline, or adjudicate liability under the IPC.

Case-note :- ***1. Facts :*** Pratap Ahirwar filed an application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in the High Court of Madhya Pradesh, Gwalior Bench. On his complaint, Police Station Badoni in Datia had registered Crime No. 117/2024 alleging IPC Sections 307, 341, 323 and 34. He said police had taken no further action and had not arrested the accused persons. The prayer sought fair investigation, arrest of the accused, and protection for him and his family. Paragraph 3 of the Court's order separately characterises the requested direction as arrest and filing of a charge sheet. This is an application by an informant seeking directions concerning the investigation, not a trial or bail adjudication.

This order concerns Pratap Ahirwar's case; it makes no separate finding in MCRC 51065/2024. The Court addressed the request for coercive steps and the distinct statutory obligation to complete an investigation.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan*

Krishnamachari, 2009:INSC:1132, (2009) 10 SCC 488, was reproduced at length. There the Supreme Court examined a High Court order that had directed police to record witnesses' statements, arrest, seize property, inspect records and file a charge sheet within a specified period. The Supreme Court held that investigating crimes is ordinarily the police's statutory domain, and a High Court cannot mechanically prescribe those steps or predetermine the outcome under Section 482 CrPC. Depending on the investigation, a charge sheet may be filed or a finding that no case is made out may follow. Its discussion also identifies the limited statutory purposes of inherent power, the need for reasons and caution against casual judicial observations that influence the course of events. The present Court applied that governing restriction to refuse Ahirwar's demand for arrest and charge sheet under Section 528 BNSS; it did not treat the factual allegations in the Supreme Court case as facts of Crime No. 117/2024.

M.C. Abraham v. State of Maharashtra, 2002:INSC:575, (2003) 2 SCC 649, appears within the *D. Venkatasubramaniam* quotation. The reproduced paragraph explains that Section 41 CrPC gives police discretion to arrest in specified cognizable-offence circumstances without warrant, not a mechanical duty to arrest when a report is lodged. An investigator may first consider the evidence and necessity; the power affects personal liberty, status and reputation and must be cautiously exercised with regard to the offence and the persons concerned. The present Court treated this nested principle as part of the reason not to command immediate arrest, but did not itself assess whether the conditions under Section 41 were satisfied in relation to the particular suspects.

Divine Retreat Centre v. State of Kerala, 2008:INSC:341, (2008) 3 SCC 542, is also quoted within *D. Venkatasubramaniam*. Its paragraph 51 insists on a reasonable opportunity of hearing before a judicial order with drastic reputational consequences sets criminal law in motion against an affected person. *D. Venkatasubramaniam* separately found an unreasoned direction for investigation against appellants who had neither been impleaded nor heard to be unsustainable. The present Court reproduced that caution.

3. Statutes considered : Section 528 BNSS was the provision conferring inherent power that the applicant invoked. The Court used *D. Venkatasubramaniam*'s construction of former Section 482 CrPC, including the restricted purposes of giving effect to a Code order, preventing abuse of court process and securing justice, to decline to prescribe the police's decisions on arrest and the filing of a charge sheet. Section 41 CrPC was discussed inside the quoted *M.C. Abraham* passage as discretionary arrest power. The Court then quoted the requirement in Section 173(1) CrPC that an investigation under the Chapter be completed without unnecessary delay, and styled its reference “Section 173(1) of Cr.P.C./193 of BNSS”. The text it quoted was that of the former provision. This duty to complete the investigation formed the basis of the limited direction for timely conclusion and submission of a lawful final report, which may be a closure report or a charge sheet. IPC Sections 307, 341, 323 and 34 were the registered allegations only. No element or charge was adjudicated.

4. Issues : (i) Could an informant invoke Section 528 BNSS to direct police to arrest the accused persons in a registered IPC case and file a charge sheet, or would those directives impermissibly predetermine police discretion? (ii) While refusing those specific commands, should the Court require the investigating officer to complete the pending investigation without unnecessary delay and submit a lawful final report under the cited provision requiring completion? The Court did not decide the factual truth of the FIR, the necessity of any particular arrest, the identity or guilt of the alleged offenders, or what final report the evidence would warrant.

5. Ratio / Findings : The Court distinguished decisions on arrest and the filing of a charge sheet from the obligation to investigate. *D. Venkatasubramaniam* demonstrated why an order made in exercise of inherent jurisdiction compelling steps such as arrest, seizure and the filing of a charge sheet could direct the investigation along a course chosen by the court despite uncertain evidence and potentially severe consequences for unheard persons. *M.C. Abraham*'s quoted analysis of Section 41 explains that arrest is discretionary and requires caution, rather than following automatically from FIR registration alone. *Divine Retreat Centre*'s quoted hearing principle marks a further safeguard against drastic judicial directions. In Crime No. 117/2024, the applicant complained that the investigation had not progressed and no arrests had been made. The Court found it could not grant his

requests to direct arrest and require the filing of a charge sheet because that would amount to supervising the investigation. It did not state that the accused were entitled to avoid arrest or that no charge sheet could eventually be filed. The refusal did not relieve the officer of the obligation to complete the investigation. The Court expressly quoted Section 173(1) CrPC alongside its reference to the BNSS provision and held that every investigation should conclude without unnecessary delay. The officer must reach a conclusion on whether an offence is made out and submit the appropriate final report, including a closure report if no case is made out or a charge sheet if a case is made out. It therefore directed the investigating officer to complete the investigation as early as possible and take the necessary steps according to law, leaving the procedural choices and the substantive content of the report to the investigator. The order prescribed no fixed period and permitted the applicant to raise any grievance before the SP.

6. Relief : The Hon'ble High Court has disposed of the Section 528 application. The High Court refused directions to arrest accused persons and file a charge sheet. It directed the investigating officer to conclude the investigation as early as possible and take lawful steps, and permitted the applicant, if aggrieved, to make an application to the Superintendent of Police, Datia, to be considered in accordance with law. It did not direct an arrest, prescribe the outcome of the report or the manner of investigation, fix a deadline, or award compensation.

Pratap Ahirwar v. State of Madhya Pradesh and Ors., M.Cr.C. no. 51064/2024, 16/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Abetment of suicide / contextual instigation - Section 107 IPC covers instigation, conspiracy or intentional aid; Section 306 requires a suicide and abetment. *Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605*, permits an inference of instigation from the context where the conduct leaves the person feeling that there is no alternative, while excluding words uttered in anger without intending the consequences; *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, requires consideration of intention and circumstances, with only a tentative view at the stage of framing a charge. *Sanju v. State of M.P., (2002) 5 SCC 371*, requires mens rea for instigation; *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, explains Section 107's three modes. The Court treated the allegation of continuing harassment, grasping the girl's hands, demanding that she accompany the applicants and then challenging her to die immediately before she jumped into the well as more than an isolated angry utterance for the purpose of framing a prima facie charge, without finding guilt.

Positive act / causal caution - *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, M. Mohan v. State, AIR 2011 SC 1238*, and *Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433*, require, for conviction, clear mens rea and an active or direct act that pushes the deceased towards suicide. *Amalendu Pal v. State of W.B., (2010) 1 SCC 707*, demands direct or indirect incitement with positive action proximate to the occurrence rather than mere harassment; *S.S. Chheena v. Vijay Kumar Mahajan, 2010 AIR SCW 4938*, rejects a mechanical formula and reiterates intended active conduct. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, cautions about ordinary discord and a victim's hypersensitivity. The Court considered these protections and found the alleged course of conduct, considered together with the immediate confrontation, sufficient to retain the Section 306 charge for trial; proof at trial and the assessment of causation remain open.

Framing charge / strong suspicion - *Ajay Kumar Parmar v. State of Rajasthan, AIR 2013 SC 633*, and *Soma Chakravarty v. State (CBI), 2007 AIR SCW 3683*, distinguish permissible judicial examination of the ingredients of an offence from a final evaluation of the evidence. *P. Vijayan v. State of Kerala, 2010 Cri LJ 1427, Union of India v. Prafulla Kumar Samal, AIR 1979 SC 366, State of Bihar v. Ramesh Singh, AIR 1977 SC 2018*, and *Niranjan Singh v. Jitendra Bhimraj Bijjaya, AIR 1990 SC 1869*, permit limited sifting for grave or strong suspicion and discharge where only weak suspicion remains; trial guilt requires a different standard. Applied here, the witness narrative taken at face value justified retaining the charge, with no final credibility decision.

Inherent quashing / stage and delayed witnesses - *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, was invoked twice: instigation under Section 107 can be inferred from the context when forming a tentative view under Section 228, and quashing of charges under Section 482 is exceptional where the uncontroverted material on record fails to constitute

an offence even broadly or reveals grave abuse, without conducting a mini-trial or considering external defence evidence. The 38-day interval before Juli and Sunita's Section 161 statements did not by itself render them unreliable at the stage of framing a charge; the prosecution could explain delay and the trial court would determine reliability. The defence suggestion of a possible accidental fall, based on the father's statement, did not establish absence of strong suspicion.

Case-note :- ***1. Facts :*** Pratap and other applicants challenged the order dated 28 April 2018 passed by the Second Additional Sessions Judge, Sabalgarh, Morena in Sessions Trial No. 320/2017 framing IPC Sections 354-A and 306 charges. Their application was under Section 482 CrPC. The deceased girl's father initially informed police that she had fallen into a well and her body remained there, resulting in a marg intimation. In investigation, Juli and Sunita later stated that applicants had harassed her for several days. According to their account, they were with the deceased at about 4 p.m. on the day in question, when applicants allegedly came, caught her hands, insisted she accompany them, and on refusal scolded and challenged her to die; she then jumped into the well. The witnesses attributed initial silence to fear and their Section 161 statements were recorded after a delay described by the applicants as 38 days.

Police filed a charge sheet for IPC Sections 354 and 306 and POCSO Sections 7 and 8, while the order under challenge framed IPC Sections 354-A and 306. The applicants relied on the father's reference in his Section 161 statement to the deceased's poor mental condition, suggesting an accidental fall, on the delay and earlier omission in witness accounts, and on the assertion that “go and die” showed no intention to incite suicide. The State answered that the words marked the culmination of persistent harassment, physical restraint and coercion, rather than an isolated angry outburst. The High Court evaluated whether the materials could sustain a tentative Section 306 charge, not whether anyone was ultimately guilty.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605*, explained instigation as goading, urging, provoking or encouraging. Its quoted paragraphs say precise words commanding suicide are unnecessary if the conduct can be understood with reasonable certainty as inciting the consequence, including a continued course leaving a person feeling no alternative, while an unintended word in anger or emotion is insufficient. The Court applied this distinction to the alleged conduct before the deceased jumped into the well, refusing to isolate the final expression from the grasping and coercion. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, was quoted for intention of the alleged abettor, Section 107's modes, circumstantial inference where direct proof is absent, rejection of an unintended angry remark, and the tentative view appropriate when considering quashing or framing a charge under Section 228. Its own citations to *State of Punjab v. Iqbal Singh*, *Surender, Kishori Lal* and *Sonti Rama Krishna* support that quotation.

Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371, was used for the three statutory modes and mens rea inseparable from instigation. *Gangula Mohan Reddy v. State of A.P.*, printed as (2010) I SCC 750, was discussed for the requirements of a clear mental element and a positive or direct intended act, and for caution where ordinary discord affects an unusually sensitive person; the text recounts the outcome in that precedent, not a finding about the deceased in the present case. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, cautions at trial that ordinary petulance and hypersensitivity do not by themselves establish that the accused induced suicide. *M. Mohan v. State, AIR 2011 SC 1238*, reiterates clear mens rea, active conduct and an intended act that leaves the deceased perceiving no alternative. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, explains each Section 107 mode and the link of Section 109 punishment to the specific abetted offence. The Court quoted these convergent doctrinal limits, but applied a provisional threshold appropriate to the stage of the proceedings to the actual allegations.

Amalendu Pal alias Jhantu v. State of W.B., (2010) 1 SCC 707, was quoted for careful assessment before conviction: mere harassment without positive action proximate to the occurrence is inadequate; the accused must have a proved active instigating or aiding role with a nexus to suicide. Its quoted exposition distinguishes instigation under the first clause from intentional aid under the third clause, read with Explanation 2 to Section 107. *S.S. Chheena v. Vijay Kumar Mahajan, 2010 AIR SCW 4938*, reproduces *Orilal* and *Chitresh* cautions, recognises that individuals differ in their susceptibility to suicide, rejects a straitjacket

formula, and insists on clear mens rea and active conduct for conviction. *Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433*, is quoted briefly as adopting the principle in *S.S. Chheena* requiring a direct act. These authorities do not establish that allegations of grabbing, coercion and an immediate verbal challenge must be discarded without trial; the Court differentiated them from an isolated fit of anger on the allegations in the record.

Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460, appears twice. Its quoted paragraph 35 says a Section 306/107 charge after alleged contextual pressure is a tentative decision from the record, not the stage at which to marshal the evidence to reach a verdict, referring internally to *Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618*, on a continued course leaving no option. Its longer extract differentiates Sections 227 and 228, strong suspicion from trial proof, the sparing exercise of jurisdiction under Section 482 to quash charges, the ingredients disclosed by allegations taken at face value, patent improbability, abuse, legal bars, and the prohibition on a mini-trial or external defence materials. Some enumerated principles and a long list of references concern other factual settings and are not independent holdings applied to this case. The High Court used the charge-stage and quashing safeguards in retaining the order, without drawing a broad conclusion about the unrelated examples concerning civil disputes.

Ajay Kumar Parmar v. State of Rajasthan, AIR 2013 SC 633, is quoted on preliminary judicial scrutiny of the complaint, case diary and statements under Sections 161 and 164, without finally weighing credibility. *Soma Chakravarty v. State (through CBI), 2007 AIR SCW 3683*, separates an opinion that the accused might have committed an offence from proof beyond reasonable doubt for conviction and requires judicial application of mind to prosecution material. *P. Vijayan v. State of Kerala, 2010 Cri LJ 1427*, permits limited Section 227 sifting; where two views are equally possible and the material gives rise only to suspicion rather than grave suspicion, discharge may be justified, and the judge is not a prosecution post office. *State of Bihar v. Ramesh Singh, AIR 1977 SC 2018*, says strong suspicion permits a charge though it could not replace proof at trial, subject to the limit that the prosecution material, even if accepted at face value, must be capable of showing commission of the offence. *Union of India v. Prafulla Kumar Samal, AIR 1979 SC 366*, allows limited sifting of broad probabilities and basic infirmities but no roving inquiry equivalent to a trial. *Niranjan Singh v. Jitendra Bhimraj Bijjaya, AIR 1990 SC 1869*, similarly limits weighing to whether record facts constitute the charged offence, quoting *Ramesh Singh* and *Prafulla Kumar Samal*. The Court deployed this group to reject a final determination of credibility or of the accidental-fall theory at the stage of framing a charge.

3. Statutes considered : Section 306 IPC punishes abetment where a person commits suicide. Section 107 IPC defines instigation, conspiracy with an act or illegal omission in pursuance, and intentional aid by act or illegal omission, with explanations on wilful misrepresentation/concealment and facilitation. The Court treated intention, active conduct and contextual nexus as material to the instigation theory. Section 109 IPC appeared in *Kishori Lal* and *Amalendu Pal* quotations explaining punishment where an act is committed in consequence of abetment; no independent Section 109 charge is adjudicated. Sections 227 and 228 CrPC govern the threshold for discharge or framing a charge; Section 482 supplied the applicants' inherent-jurisdiction challenge. Section 161 governed the challenged witness statements, the delay in recording which was left for explanation and examination at trial; Section 164 appeared only in a precedent's general list. Sections 354 and 354-A IPC appear in the charge-sheet account and the description of the framed charges, respectively; POCSO Sections 7 and 8 appear in the charge-sheet account. The 2019 decision applied the IPC, CrPC and POCSO provisions then considered by the Court.

4. Issues : (i) Taking the charge-sheet allegations at their face value, could a pattern of harassment, grasping and insisting on accompaniment, followed by a challenge to die immediately before the deceased jumped into the well, support a prima facie Section 306/107 instigation charge, or were the words necessarily an angry remark that could not attract criminal liability? (ii) Could the alleged mental condition and possible accidental fall, omissions in initial accounts, and 38-day delay in the Section 161 statements negate a charge at this preliminary stage, or were those trial questions? (iii) What degree of judicial scrutiny and Section 482 restraint applies to a Sessions Court's Section 228 charge, distinguishing strong suspicion from proof of

guilt? The Court dismissed the challenge to the charge order as a whole.

5. Ratio / Findings : The Court read Sections 306 and 107 together and tested the applicants' legal contention on the prosecution's account, rather than on findings reached after evidence was recorded. Supreme Court authority distinguishes a casual unintended “go and die” from intended pressure or conduct that could provoke a suicide. Alleged harassment over several days, the physical catching of the girl's hands, insistence that she accompany the applicants and the challenge on refusal, followed by her immediate jump into the well, could, at this stage, suggest instigation when considered in context rather than a mere emotional utterance. This is a provisional inference supporting a trial, not a settled finding that the witnesses' account is true, that mens rea is proved or that causation is established beyond reasonable doubt. The order attributes the collective conduct to the applicants without assigning different acts to named individuals.

The statements of Juli and Sunita were not automatically disqualified because they had been recorded late. The witnesses had said fear explained their earlier silence; the Court held the prosecution should be allowed to explain the delay and the trial should assess reliability. The father's reference to the deceased's mental condition gave rise to an accidental-fall theory, but the Court did not adopt it by conducting a trial of credibility at the stage of framing a charge. The account could support grave suspicion if taken as true. At Sections 227–228, the judge may sift whether the material broadly establishes ingredients and whether suspicion is grave, yet may not demand the proof required for conviction or decide contradictions through meticulous examination of the evidence. Under *Amit Kapoor,* Section 482 intervention to quash a charge is rare where face-value material is capable of constituting an offence and the factual dispute calls for trial. The Court found sufficient prima facie material and no demonstrated illegality in framing charges.

6. Relief : The Hon’ble High Court has dismissed the Section 482 application. The Second Additional Sessions Judge's order dated 28 April 2018 framing charges under IPC Sections 354-A and 306 remained undisturbed; the High Court did not quash or alter either charge. It expressly said its observations were confined to the limited interference inquiry and directed the trial court to decide strictly according to law and the evidence to be led. No applicant was convicted or acquitted.

Pratap and Ors. v. State of M.P. and Ors., M.Cr.C. no. 31741/2018, 12/12/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Writ control / arrest and report not predetermined - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, disapproved mechanical High Court directives requiring investigative steps, arrest, seizure and a charge sheet. Its quotation of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649,* emphasises Section 41 CrPC arrest discretion and the consequences for liberty and reputation; *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, also quoted in it, requires an opportunity of hearing before drastic orders affecting reputation. The present Court used those principles in an Article 226 petition to refuse directions requiring arrest and the filing of a predetermined charge sheet. The precedent's own procedural setting under Section 482 was not described as a holding in a writ proceeding.

Timely FIR investigation / alternative final reports - Section 173(1) CrPC mandates completion without unnecessary delay. The Court required the investigator of Crime No. 1224/2023, registered under Sections 420 and 34 IPC, to reach a conclusion and submit a lawful closure report or charge sheet as warranted by the evidence, as early as possible. Any further grievance could be raised before the SP, Jabalpur. The prayers sought addition of IPC Sections 467, 468 and 471, non-interference by respondent 7 and inquiry into an alleged diary-regulation breach. The Court disposed of the petition with the investigation-completion direction and SP grievance liberty.

Case-note :- ***1. Facts :*** Prateek Shukla and others filed Writ Petition No. 30937 of 2023 under Article 226 in the High Court of Madhya Pradesh at Jabalpur. Their complaint had led to Crime No. 1224/2023 at Police Station Panagar, Jabalpur under IPC Sections 420 and 34. Counsel said police had not arrested those accused and had not finished the investigation. The prayers asked for a speaking decision on a pending representation, the addition of the IPC provisions on forgery and use of forged documents, Sections 467, 468 and 471, protection of

the investigation from interference by respondent 7, and inquiry against that officer for an alleged breach of a police general-diary regulation, relying on the Madhya Pradesh High Court decision in *Rajendra Singh Pawar.* The Court's narrative also identifies a demand for arrest. These were allegations and prayers, not findings that the suspected persons had committed forgery, that the officer had interfered or that a regulation had been violated.

The Court addressed the general limits on directing particular police steps in the writ proceeding and the distinct statutory duty to complete the pending investigation. It reproduced a substantial Supreme Court passage concerning unreasoned High Court intervention in another investigation.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, set out the principle that investigation ordinarily falls within the police's statutory domain. There the Supreme Court set aside a High Court's unreasoned directions prescribing the recording of witness statements, arrest, seizure, protection of accounts and the filing of a charge sheet. It explained that investigation is ordinarily the police's statutory task and may end in the filing of a charge sheet or a finding that no case is made out; inherent power under Section 482 CrPC cannot be used casually to dictate methods or results. The present Court applied that restraint by analogy in an Article 226 proceeding and declined to direct arrest or the filing of a charge sheet; it did not claim *D. Venkatasubramaniam* itself was an Article 226 case.

M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649, was quoted substantively within *D. Venkatasubramaniam*. Section 41 CrPC permits police arrest in specified situations, but does not oblige immediate arrest on every cognizable complaint. An officer may investigate first and carefully decide whether arrest is necessary, since arrest affects liberty, reputation and status. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, also appeared within the Supreme Court quotation. It warned that no drastic judicial direction setting criminal law in motion against a person, particularly one impacting reputation, should issue without a reasonable opportunity of hearing. *D. Venkatasubramaniam* considered the absence of notice to its own accused appellants decisive.

Rajendra Singh Pawar v. State of M.P., ILR [2021] MP 289, was named only in the petitioners' prayer concerning respondent 7 and a general diary regulation. The Judge did not quote, analyse or apply its ratio.

3. Statutes considered : Article 226 of the Constitution was the petition's chosen jurisdiction. The Court declined to use it to supervise particular police decisions on arrest and the filing of a charge sheet. Section 41 CrPC appears in the nested *M.C. Abraham* reasoning on discretionary arrest; Section 482 appears as the inherent-power setting of *D. Venkatasubramaniam*, not as the jurisdiction invoked by the petitioners here. Section 173(1) CrPC was quoted and applied for the duty to complete the investigation without unnecessary delay, with the lawful report depending on the police's evaluation. IPC Sections 420 and 34 identified the existing FIR; Sections 467, 468 and 471 appeared only in the request to add those offences, without any determination of their ingredients. The prayer referred to police General Diary Regulation 634 and an alleged breach. The 2024 judgment applies the CrPC provisions it quotes.

4. Issues : (i) Could the High Court, at the complainants' instance in an Article 226 writ, direct arrests and a particular charge-sheet outcome in a pending cognizable investigation? (ii) Was a limited direction for prompt conclusion justified by the explicit Section 173(1) duty while leaving the lawful outcome and manner of investigation to the police? The Court did not decide guilt, precise investigative status, officer misconduct or the eventual report type.

5. Ratio / Findings : The Court said compulsory arrest could not be ordered. *D. Venkatasubramaniam*'s criticism of an unreasoned order prescribing the course of an investigation, its reliance on *M.C. Abraham*'s principle that arrest is discretionary and *Divine Retreat Centre*'s safeguard of a hearing for affected persons supplied the reason. A registered IPC FIR triggers investigative duties but does not make arrest or prosecution automatic. A judicial command to arrest and file a charge sheet would substitute the Court's decision for the investigator's evolving assessment and prejudge the outcome. Although the precedent concerned Section 482 and the present case was a writ, the Court applied the same restraint against prescribing the conduct of an investigation.

The refusal to prescribe particular steps did not relieve the police of the duty to complete the investigation. The text of Section 173(1) requires completion without unnecessary delay. The officer

must decide whether an offence is made out and then file a closure report or charge sheet as legally appropriate. The Court instructed early conclusion and necessary lawful action, without fixing a calendar deadline or directing the result. The stated remedy of raising a grievance before the SP, Jabalpur, remained open.

6. Relief : The Hon'ble High Court has disposed of the writ petition. No arrest or compulsory charge sheet was ordered. The investigating officer was directed to complete the investigation as early as possible and take steps required by law, and the petitioners were allowed to apply to the Superintendent of Police, Jabalpur in case of further grievance for consideration in accordance with law. The operative part does not separately require a speaking order on the representation, addition of IPC forgery charges, an inquiry or disciplinary action against respondent 7, or a prescribed method of investigation. The FIR remains subject to the eventual lawful police report and later criminal process.

Prateek Shukla and Ors. v. State of Madhya Pradesh and Ors., W.P. no. 30937/2023, 05/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Cheating / broker's separate role and pleaded duty - Where a buyer deposited Rs. 4,70,000 directly into the seller company's account for chicken feed and the seller did not deliver, a person described in the complaint as a dalal or broker was not automatically responsible for the seller's obligation to supply the goods. The complaint and Sections 200/202 CrPC record did not state any specific duty or legal liability of this broker, and the complainant's counsel could identify none when asked. Section 2(5) CGST Act defined agent to include a broker; *Namdeorao Krishnaji Gajabhiye v. Agricultural Produce Marketing Committee*, 1992 (1) MhLJ 49, distinguished a broker who arranges a bargain from a commission agent who holds goods and collects sale proceeds. The Court applied that limited role distinction, without treating the tax or market statute as the criminal charge, and found no prima facie Section 420 case against the applicant. The JMFC's order taking cognizance was set aside insofar as it concerned him and he was discharged; no merits relief for the seller or other accused followed.

Case-note :- ***1. Facts :*** Parag Traders complained in JMFC Gwalior Complaint No. 4217/2019 that M/s Manglam Seeds Company and its proprietor Arun Sharma failed to supply chicken feed after a payment of Rs. 4,70,000. Praveen Gangil was described as a broker. According to the complaint, Gangil and Arun Sharma visited on 10 November 2018 to propose a sale and continued to urge a purchase after the buyer hesitated. On 14 November the buyer deposited Rs. 4,70,000 into Manglam Seeds Company's account on the assurance of supply. The company did not deliver. When Aadwani visited its warehouse with a truck on 3 December, Arun Sharma allegedly said the money had been used personally and the stock was mortgaged to a bank; supply would follow release of the goods. Later attempts to contact them reportedly failed, and Rajesh Aadwani's Section 200 account referred to a newspaper report about seizure by the bank and an auction. These remained complaint allegations rather than adjudicated proof of cheating by any party.

On 4 September 2019 the JMFC took cognizance of Section 420 IPC against the company, Arun Sharma and Gangil. The broker sought quashing under Section 482 CrPC, saying he had not received the payment and the seller alone had undertaken delivery. The complainant's counsel argued that the broker's assurances induced payment and that he should ensure supply. When asked to identify the broker's duties in the complaint or Sections 200/202 statements, or a statutory basis for an obligation to ensure delivery, counsel conceded that no such duties had been pleaded and identified no provision. The High Court examined the alleged role and differentiated brokerage from the seller's obligations.

2. Precedents — Considered : *Namdeorao Krishnaji Gajabhiye v. Agricultural Produce Marketing Committee*, 1992 (1) MhLJ 49 (Bombay High Court, Nagpur Bench), was quoted in paragraph 13. It distinguished a licensed adtiya/commission agent from a broker under the Agricultural Produce Market Committee Act, 1963. The quoted broker definition covers an agent who arranges and concludes bargains for the principal for remuneration but does not receive, deliver or transport the produce or collect or pay purchase/sale money. By contrast, the commission agent definition includes buying and selling for another, custody and control of the goods during the transaction, collection and payment of the price, and receipt of a commission. The present Court used that distinction

to understand the role the complainant had assigned to Gangil, who was not described as a commission agent.

3. Statutes considered : Section 420 IPC was the sole offence in respect of which the challenged order took cognizance against Gangil. The Court assessed whether the material alleged an obligation or role capable of justifying criminal proceedings against a broker for the seller's non-supply. Section 482 CrPC supplied the High Court's power to set aside the process qua him. Sections 200 and 202 CrPC provided the record of the complainant's preliminary statement and inquiry, which lacked the claimed broker duty; the cited JMFC order was the cognizance decision. Section 2(5) of the Central Goods and Services Tax Act, 2017 defines an agent to include broker and other mercantile intermediaries acting on behalf of another in supply or receipt of goods or services. The definition assisted in identifying the broker's role; the case was not a CGST prosecution, and the definition did not establish that every broker must ensure delivery. The APMC Act definitions of broker and commission agent were quoted through *Namdeorao* for the functional distinction, not applied as an independently governing statute for a chicken-feed transaction.

4. Issues : The central question expressly framed by the Court was whether the broker could be criminally liable for the seller's failure to supply feed after the buyer deposited purchase money into the seller company's account. It required identifying any pleaded duty to ensure delivery or participation beyond persuasion, and whether the broker's role could be equated with that of a commission agent who has custody of goods and handles payment. It also required deciding whether the existing complaint and preliminary statement justified taking cognizance against this applicant under Section 420.

5. Ratio / Findings : The Court compared the complaint with Aadwani's Section 200 account. For the purpose of this preliminary inquiry, it accepted that Gangil accompanied Arun Sharma and urged the purchase, while the buyer sent the money directly to Manglam Seeds and Sharma promised delivery. The complainant's assertion that the broker should guarantee supply did not identify how such an obligation arose. Repeated requests to counsel produced neither a broker's duty pleaded in the complaint or preliminary statements nor a statutory duty supporting the proposed criminal liability. The inclusion of a broker within the broad definition of agents in the CGST Act did not, by itself, make the broker the party receiving the money or holding the stock. *Namdeorao*'s description showed why a person who merely arranges the transaction differs from a commission agent who buys and sells for a principal, holds goods and handles payment. The complainant called this applicant dalal/broker, not commission agent, and alleged no specific contrary conduct that would justify equating his role with that of a commission agent. The Court therefore held that on the allegations, no prima facie case justified taking cognizance under Section 420 against Gangil for the seller's non-delivery. Its finding is confined to the pleading and record against this applicant.

6. Relief : The Hon'ble High Court has allowed the Section 482 application. The JMFC Gwalior cognizance order dated 4 September 2019 in Complaint No. 4217/2019 was set aside only insofar as it concerned Praveen Gangil, and he was discharged. The criminal complaint as to M/s Manglam Seeds Company and Arun Sharma was not quashed by this order, and no repayment or civil damages were awarded.

Praveen Gangil v. Parag Traders, M.Cr.C. no. 53597/2021, 02/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Parallel investigation / Section 36 limits - *Deepak alias Preetam Verma v. State of M.P.*, MCRC 12592/2018 (11 September 2018), held that a separate inquiry by a superior officer conducted alongside a pending FIR investigation is not authorised by Section 36 CrPC. *Surendra Singh Gaur v. State of M.P.*, Supreme Court SLP (Cri) 1345/2019 (18 January 2022), affirmed the objection, distinguishing a conforming police circular from the officers' unlawful parallel procedure; the earlier State challenge had also been dismissed. *Mahendra Kumar Vaidya v. State of M.P.*, WP 23876/2022, followed that approach. Here a report from an SDO(P) inquiry obtained while the investigation against the applicant remained pending stated that he had not participated. The Court treated its findings as a nullity for want of jurisdiction and refused to use it to quash proceedings; this did not itself prove the FIR.

Alibi / allocation of proof and stage - *Vijay Pal v. State (NCT of Delhi), (2015) 4 SCC 749*, quoted

Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283, on Section 11 Evidence Act: the prosecution must first prove presence at the scene and participation, after which a pleaded alibi requires positive and strict proof excluding presence; strong defence evidence that creates reasonable doubt still benefits the accused. *S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, separately cautions that failed alibi does not relieve prosecution of proof beyond reasonable doubt. The applicant's claim of being 40 km away conflicted with the FIR's second-phase axe-blow allegation and was left for evidence; the impugned cognizance and proceedings survived without a guilt finding.

Separate accused and prior orders - The FIR described an initial assault by Moti, Badam and Sultan against Ramsevak and a later arrival of Bharat, Mansingh and the applicant against intervening Ramesh. Charge sheets against several others and a disputed police closure concerning the applicant did not erase the Magistrate's 17 February 2021 cognizance, already upheld in revision on 5 April 2022. In MCRC 21356/2022 the applicant challenged only the immediate issue of a non-bailable warrant and obtained a modification directing his appearance, not quashing on the merits. This petition was dismissed, leaving the trial's assessment of participation and alibi open.

Case-note :- ***1. Facts :*** Pravendra Sharma appeared in person in Misc. Criminal Case No. 9460 of 2025 and chose to argue himself; on his request his advocate and associates were discharged from the case. He sought quashing under the order's combined reference to Section 482 CrPC and Section 528 BNSS of Sessions Trial No. 20/2021 arising from Police Station Bahadurpur, Ashoknagar Crime No. 163/2020, alleging IPC Sections 307, 294, 324, 325 and 34. The FIR in the prosecution case described two phases on 24 July 2020 around 8 a.m. in a field. Moti, Badam and Sultan, said to carry an axe, pharsa and ballam, allegedly abused and assaulted Ramsevak, injuring his head and hands. When Ramesh attempted to intervene, those three fled. Bharat Adivasi, Mansingh and Pravendra allegedly then arrived; the applicant was said to strike Ramesh near the left eye with an axe, and the other two allegedly struck him with lathis. Those are FIR allegations, not findings after trial.

Police initially filed a charge sheet against Motilal and Badam and left investigation pending for others under Section 173(8) CrPC. A supplementary charge sheet was later filed against Mansingh, Sultan Singh and Bharat Singh on 17 February 2021, while the investigation against the applicant was said to remain pending. At his request, the SP directed the SDO(P), Mungavali, to conduct a separate inquiry. Its report dated 28 September 2020 reportedly found no indication that Pravendra participated. The judgment records that a closure report was rejected by JMFC Mungavali and cognizance under Section 190 CrPC was taken against him on 17 February 2021 with a non-bailable warrant. His revision of cognizance failed on 5 April 2022. In MCRC 21356/2022, decided 4 February 2025, he challenged only the immediate issue of a non-bailable warrant; the Court substituted an appearance direction for 28 February with liberty to issue a bailable warrant on default. The present application instead asserted the SDO(P) exoneration, a 40-kilometre alibi, old property enmity and alleged retaliatory cases including Crime Nos. 22 and 221/2020.

2. Precedents — Considered : *Deepak alias Preetam Verma v. State of M.P.*, MCRC 12592/2018 (M.P. High Court, 11 September 2018), was cited for the absence of authority under Section 36 CrPC to conduct a separate inquiry while the police investigation of the same FIR is pending. *Surendra Singh Gaur v. State of M.P.*, SLP (Cri) No. 1345/2019 (Supreme Court order 18 January 2022), was reproduced at length because it upheld that result. The Supreme Court addressed petitions by senior officers challenging critical observations about their parallel procedure, recorded that the State's earlier SLP 10015/2018 was dismissed, and concluded that neither Section 36 nor cited circulars permitted the independent inquiry alongside the FIR investigation. It distinguished the State's 26 June 2010 circular, which itself conformed to Section 36, from the officers' actual procedure, found no reason to interfere under Article 136 and dismissed their petitions. The present Court applied the affirmed jurisdictional principle to this applicant's SDO(P) report and did not treat it as a lawful exoneration. *Mahendra Kumar Vaidya v. State of M.P.*, WP 23876/2022 (3 November 2022), was separately mentioned as reinforcing the same parallel-inquiry rule.

Vijay Pal v. State (Govt. of NCT of Delhi), 2015:INSC:194, (2015) 4 SCC 749, was quoted on alibi. Once prosecution establishes presence, an accused claiming to be elsewhere has to offer positive evidence; the quoted analysis from *Binay*

Kumar Singh v. State of Bihar, (1997) 1 SCC 283, explains why alibi under Section 11 Evidence Act is a relevant inconsistent fact rather than an exception. Prosecution still carries the initial and ultimate burden to prove participation. The claimed presence elsewhere must be sufficiently incompatible with presence at the scene, but strong defence proof that creates reasonable doubt yields benefit of doubt. The present Court applied this to leave the asserted 40-kilometre alibi as a disputed question requiring proper evidence, without reversing the prosecution's burden or declaring that the accused was present. *Vijay Pal* refers to *Gurpreet Singh*, *Sk. Sattar* and *Jitender Kumar* for reiteration, without a separate factual analysis of those decisions in the present order.

S.K. Sattar v. State of Maharashtra, 2010:INSC:546, (2010) 8 SCC 430, was quoted separately. It requires positive alibi proof with a stringent standard excluding presence, where the prosecution case requires the alibi to be examined, but explicitly holds that failure of alibi does not automatically establish guilt; the prosecution must independently prove its case beyond reasonable doubt. A nested *Gurpreet Singh* quotation relates to factual findings on alibi. *Binay Kumar Singh* was then independently reproduced in paragraph 14, reiterating prosecution's first burden, Section 11 relevance, the heavy burden on the defence that arises only after the prosecution has discharged its initial burden and possible benefit of doubt. The present Court used all three materially discussed Supreme Court authorities as a reason for declining to decide contested presence at the scene on the record in this quashing application, not as a trial verdict.

3. Statutes considered : The order describes the requested inherent jurisdiction as “Section 482 of Cr.P.C / 528 of B.N.S.S”, preserving its own transitional slash reference. Section 36 CrPC was decisive for the authority of superior police officers: neither it nor the circular in *Surendra Singh Gaur* permitted a parallel independent inquiry alongside an active FIR investigation. Section 173(8) CrPC provided the context for the pending investigation and supplementary charge sheets against different accused; this order did not state a general prohibition on lawful further investigation under it. Section 190 CrPC governed the Magistrate's challenged cognizance after rejecting the reported closure; Section 397 governed the prior dismissed revision. Section 11 of the Indian Evidence Act was discussed through *Vijay Pal* and *Binay Kumar Singh* for the relevance of an alibi fact inconsistent with presence at the scene. IPC Sections 307, 294, 324, 325 and 34 were the alleged charges, not proved offences. Article 136 was the Supreme Court procedural setting of the cited officers' petitions, not the applicant's invoked jurisdiction.

4. Issues : (i) Could the accused use an SP-directed SDO(P) parallel inquiry report asserting non-participation, made while the statutory investigation against him was pending, to challenge the Magistrate's cognizance and obtain quashing of the trial proceedings? (ii) Could his claimed presence 40 km away be conclusively accepted in inherent-jurisdiction proceedings against an FIR placing him in the second phase and attributing an axe injury, and how do the burden of proving an alibi and the prosecution's burden interact? (iii) What was the effect, if any, of the already dismissed merits revision and the later MCRC order confined to the issue of the warrant? The Court did not decide the veracity of either phase, injury causation, the alibi after evidence, or guilt of any named person.

5. Ratio / Findings : The Court first kept the chronology concerning each accused separate. Police filed reports against some first- and second-phase participants while investigation as to Pravendra was said to be pending. The FIR specifically placed him with Bharat and Mansingh in the second phase against Ramesh and alleged an axe blow near the eye. The SDO(P) report in his favour resulted from a parallel inquiry ordered after he approached the SP. Applying *Deepak* and the Supreme Court's *Surendra Singh Gaur* affirmance, the Court found that a separate concurrent inquiry had no basis in Section 36 and that a finding by an authority without jurisdiction was a nullity. This ruling prevented reliance on the parallel report as a lawful basis for quashing; it did not itself establish the truth of the FIR or invalidate all actions of a superior officer taken through lawful investigation channels.

The applicant's assertion he was 40 km away, the theory of enmity over property and the allegations about the other cases required factual proof. *Vijay Pal*, *Binay Kumar Singh* and *S.K. Sattar* require prosecution first to prove participation, while an accused's alibi, if it becomes material after that showing, must be established by cogent positive evidence incompatible with presence; strong defence evidence capable of creating reasonable doubt may

succeed, and its failure does not prove the prosecution case. The Court therefore declined to treat the disputed alibi and invalid exonerating inquiry as conclusive under Section 482/528. The earlier Section 397 revision had already failed on the cognizance merits, and the intervening MCRC decision only changed immediate warrant process with an appearance direction. The present application did not establish grounds for quashing the trial. The rejection concerned jurisdiction and the preliminary stage at which factual disputes were raised, not a finding that the accused had struck Ramesh.

6. Relief : The Hon'ble High Court has dismissed the application to quash Sessions Trial No. 20/2021. The proceedings arising from Crime No. 163/2020 and the Magistrate's cognizance remained in place. No final finding of scene presence, alibi failure after trial, guilt, or liability for the described injuries was made; those matters remained to be adjudicated in accordance with law. Separately, counsel Anil Kumar Mishra and his associates were discharged from representing the applicant at his request so he could argue in person. The order recounted the earlier modification concerning the warrant and did not reverse it.

Pravendra Sharma v. State of Madhya Pradesh and Ors., M.Cr.C. no. 9460/2025, 03/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Arrest and report / police discretion - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, rules out mechanical court directions requiring arrest, seizure and the filing of a charge sheet. The passage it quotes from *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that arrest under Section 41 CrPC is discretionary and must be exercised cautiously because it affects liberty, while *the passage it quotes from Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, requires a hearing before drastic directions affecting the reputation of persons who have not been joined as parties. Applying the principle to this Article 226 case, the Court refused to direct arrest or require a particular prosecution outcome in Crime No. 683/2024. The petitioner's counsel conceded that a cognizable FIR does not invariably require arrest; the accused persons were not impleaded.

Closure report / magistrate options - *Abhinandan Jha v. Dinesh Mishra, AIR 1968 SC 117*, recognises that on a police final report stating that no case is made out a Magistrate can accept closure, direct further investigation under Section 156(3) CrPC if the investigation is unsatisfactory or incomplete, or take cognizance under Section 190(1)(b) on reported facts despite the officer's opinion. The High Court explained that a complainant may be heard before closure is accepted and may oppose the proposed closure at that hearing. No closure was yet filed here; a free and fair investigation did not guarantee a charge sheet in the complainant's favour.

Fair investigation / monitoring and transfer - *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, allows rare monitoring of progress, fairness and freedom from external influence but distinguishes impermissible court supervision that directs investigative methods or the conclusion in a report under Section 173(2) and may compromise the trial court's independence. Transfer of investigation requires exceptional grounds supported by the record. The State submitted that no IG direction for a second handwriting opinion was shown and that even such an opinion would not establish police collusion. The Court declined to change the investigating officer, transfer the investigation to CID or direct investigative methods on the basis of an unfounded impression, without resolving the handwriting merits.

Case-note :- ***1. Facts :*** Preeti Garg petitioned under Article 226 in Writ Petition No. 5413 of 2025 concerning Crime No. 683/2024. She alleged that persons had used a forged agreement to sell to pressure her to execute a sale deed. Police had registered an FIR after considering her complaint, what its opening description called a Q.D. report, and annexed documents. She requested a fair and impartial inquiry, arrest of the accused, a change of investigating officer and non-interference by police superiors, and transfer to CID for inquiry. Counsel said the existing investigator, allegedly under instructions of the Inspector General of Police, Gwalior, was seeking a second handwriting expert opinion, which, counsel alleged, indicated that the police were acting in concert with the accused. Those allegations were not judicial findings of forgery, collusion or improper police directions.

The State disputed the petition. It invoked Section 30 BNSS for superior-officer directions and said there was no record showing an IG direction to obtain a

second handwriting report. In its submission, even a further opinion would not establish collusion; a fair investigation does not guarantee a result in the complainant's favour. It also noted that persons against whom the petitioner sought arrest or other consequences were not impleaded. The Court questioned counsel, who acknowledged police need not arrest in every cognizable case. It then assessed the evidentiary basis for alleged unfairness, the limited avenues for court intervention, and the safeguards available if the police later recommended closure.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, 2009:INSC:1132, (2009) 10 SCC 488*, was extensively quoted. The Supreme Court had set aside an unreasoned High Court order instructing police to record statements, arrest, seize property and file a charge sheet, observing that investigation lies primarily with police and may conclude with a report that no case is made out. The order under challenge in that case arose under Section 482 CrPC; the present Judge used the police-autonomy principle while exercising Article 226, without changing the precedent's procedural setting. The Supreme Court criticised the consequences of directions issued without hearing the affected persons and without reasons from the higher court. The present Court noted the petitioner's non-joinder of accused and refused compulsory arrest or a directed report.

M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649, was quoted within *D. Venkatasubramaniam* on Section 41 CrPC: arrest without warrant is permissive within statutory conditions, not an automatic consequence of cognizable information; an investigator may first inquire and assess necessity with caution because liberty, reputation and status are affected. The petitioner conceded that point. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, also appeared in the quotation from *D. Venkatasubramaniam* for reasonable hearing before drastic judicial orders affecting an unjoined person's reputation. *D. Venkatasubramaniam* found an order made without notice a nullity in its own case. The present Court relied on these quoted authorities to define the limits of intervention, but the present Court did not make arrest-necessity findings about individual suspects.

Abhinandan Jha v. Dinesh Mishra, 1967:INSC:112, AIR 1968 SC 117, was quoted for the Magistrate's independent consideration of a police report stating that no case is made out. The Magistrate can accept it and close proceedings, direct further investigation under Section 156(3) CrPC if the investigation is incomplete or unsatisfactory, or take Section 190(1)(b) cognizance if reported facts constitute an offence despite the police opinion. After further investigation the police still may submit either type of report. The present Court added that the complainant should receive a hearing at closure stage; this preserved a later remedy and did not pre-empt the judgment of either the police or the Magistrate before a report existed.

Manohar Lal Sharma v. Principal Secretary, 2013:INSC:839, (2014) 2 SCC 532, supplied a distinct public-law limit. In rare cases, court monitoring may track progress, impartiality, freedom from outside interference and completion according to law, while court supervision directs investigative methods and the formation of the police opinion, risking undue influence on the trial court that later considers the report under Section 173(2). The present Court used the distinction to refuse control of the investigation or its transfer on the basis of the petitioner's unsupported suspicion. The Supreme Court passage concerned CBI court-monitored inquiries; it was applied for the general monitoring/supervision distinction, not as a finding that this state police case had been court monitored.

3. Statutes considered : Article 226 was the petition's jurisdictional basis for relief concerning an active investigation. Section 30 BNSS was cited in the State's submission as permitting a superior officer to issue directions to an investigating officer. The Supreme Court quotation of Section 41 CrPC addressed cautious discretionary arrest, and its Section 482 CrPC discussion concerned its original inherent-jurisdiction case, not the petitioner's chosen constitutional writ. *Abhinandan Jha*'s Sections 173, 156(3) and 190(1)(b) CrPC framework governed the possible police closure report and the Magistrate's subsequent powers; Section 173(2) appears in *Manohar Lal Sharma*'s caution about court supervision of a final police opinion. The Court also stated that police may file a closure report under the provisions of BNSS, subject to judicial scrutiny. The alleged agreement to sell and handwriting evidence were factual subjects, not a final statutory forgery adjudication.

4. Issues : (i) Did the alleged failure to arrest after an FIR, coupled with a claimed second handwriting

examination, give a sound factual basis for ordering arrests or directing an investigation in the complainant's preferred direction? (ii) Could a future police closure report be treated as conclusive against the complainant, or would a Magistrate hear her and independently choose among the lawful options? (iii) Did supported exceptional circumstances justify replacing the investigating officer, transferring the case to CID or court direction of investigative methods, and what separates permissible monitoring from supervision? The Court did not decide handwriting authenticity, criminal guilt, the contents of an eventual report, or a later Magistrate decision.

5. Ratio / Findings : The petitioner focused on lack of arrests. Counsel conceded that police are not required to arrest every suspect after registration of a case involving a cognizable offence. *D. Venkatasubramaniam* and *M.C. Abraham* show why an unreasoned order compelling arrest or a charge sheet would intrude on discretion and liberty. The notice principle quoted from *Divine Retreat Centre* was relevant because the persons whose arrest was sought were not parties. The Court therefore rejected the premise that non-arrest itself established a biased investigation or entitled the complainant to a prescribed outcome. It did not hold that the police must never arrest in this case.

The State submitted that no IG direction to obtain a second handwriting opinion was shown and that even such a direction would not establish collusion. The Court stated that transfer cannot be ordered on an unfounded impression and that the allegations against investigating officers need not be considered at this stage. *Manohar Lal Sharma* permitted independent monitoring of progress in rare cases without a superior court prescribing investigative methods or the conclusion in the report; transfer or change of agency on an unfounded impression was refused.

Finally, fair investigation encompasses lawful closure if evidence warrants it. Under *Abhinandan Jha*, a report that no case is made out is not conclusive: the Magistrate can accept it, seek further investigation, or take cognizance on facts despite the police opinion. The High Court said the petitioner would have an opportunity to be heard if closure were filed and could present her objections then. This prospective safeguard was a reason not to interfere prematurely, not a finding that closure was imminent or justified.

6. Relief : The Hon'ble High Court has dismissed the writ petition for want of grounds warranting interference. The Court did not order arrest, replacement of the investigating officer, transfer to CID, compulsory filing of a charge sheet or a court-directed handwriting procedure, or make a finding against the police officers. The Court left the investigation to proceed according to law and identified the complainant's opportunity to oppose a future closure report before the Magistrate. That future statutory review had not occurred in the judgment.

Preeti Garg v. State of Madhya Pradesh and Ors., W.P. no. 5413/2025, 14/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial cruelty / individual role - In a prosecution under IPC Sections 498A, 506 and 34 and Section 4 of the Dowry Prohibition Act, merely including a relative's name in a collective account of a dowry demand does not by itself justify compelling that relative to face trial when the charge-sheet material supplies no particular act or instance attributable to that relative. The Court applied *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, on avoiding the attribution of guilt merely on the basis of relationship or conjecture, *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, on specific tangible material and pragmatic scrutiny, and *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, on careful assessment of relatives' alleged participation. Here the uncle-in-law and unmarried sister-in-law appeared in the general assertion of a ₹5 lakh demand, while the detailed 22 March 2018 incident did not name them. This does not determine the allegations against the husband or other relatives.

Section 482 CrPC / omnibus accusations - *Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, was considered for quashing vague allegations against relatives that specify no individual role; *K. Subba Rao v. State of Telangana, (2018) 14 SCC 452*, for cautious but available intervention at an interlocutory stage to prevent abuse; *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, for particulars concerning each accused; and *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, for the inadequacy of casual naming. The Court applied their connected principle after discharge under Section 239 had been refused and that refusal affirmed in revision: the two

orders, charge sheet and pending prosecution were set aside only as to the applicants, who were discharged. The discussion of *Raja Lal Singh* reproduced in *Monju Roy* and the quotation from *G.V. Rao* in *Geeta Mehrotra* reinforced the caution but did not create separate holdings on these facts.

Case-note :- ***1. Facts :*** The complainant married Virendra Chandel on 18 November 2013. In the FIR lodged on 19 April 2018, she alleged substantial expenditure and transfers around the engagement and wedding, followed by mental and physical harassment by her husband and a number of his relatives over a further demand of ₹5 lakh. She described restrictions on food, communication, education and medical care, removal to her parental home during pregnancy, a daughter born on 9 September 2014, continuing threats to her and the child, and an unsuccessful reconciliation attempt. She separately narrated a visit to her parental home on 22 March 2018 by her husband, father-in-law, mother-in-law and two younger brothers-in-law: they allegedly renewed the ₹5 lakh demand, abused and beat her and mistreated her mother before neighbours arrived. The present applicants, Prem Kumar (her uncle-in-law) and an unmarried sister-in-law, were among those named collectively in the earlier account but were not named as participants in that dated visit. These are allegations recorded from the FIR, not independent findings that the described conduct occurred.

Police filed a charge sheet against the applicants and other accused for IPC Sections 498A, 506 and 34 and Section 4 of the Dowry Prohibition Act. The applicants sought discharge under Section 239 CrPC. The JMFC, Gwalior refused discharge on 10 December 2018 in Criminal Case 1543/2018; the Xth Additional Sessions Judge affirmed on 19 February 2020 in Criminal Revision 23/2019. They invoked Section 482 CrPC in MCRC 37680/2020 against those orders. Their counsel said the uncle-in-law resided separately, the unmarried sister-in-law studied in Bhopal, and both were implicated to pressure the husband without an individual act being alleged. The State and complainant opposed and maintained that the applicants had participated in demanding dowry from the beginning. The High Court resolved the case on the specificity of the allegations; it did not make an evidentiary finding that the asserted residence or studies were established. The FIR alleged that the complainant's father spent approximately ₹20 lakh on the marriage and associated payments, apart from the later alleged additional ₹5 lakh demand. The expenditure allegation is part of the recorded complaint, not a finding establishing the applicants' individual involvement.

2. Precedents — Considered : *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, was quoted at length. In the context of evidence in a dowry-death case, it rejected the attribution of liability to a husband's relatives merely through relationship, conjecture or implication and called for proof of their attributed acts. The High Court used its caution against indiscriminately implicating relatives as part of the framework for assessing whether a specific role had been attributed to these applicants; it did not purport to apply the dowry-death proof standard as the final standard at a pretrial discharge stage.

Monju Roy v. State of West Bengal, (2015) 13 SCC 693, was reproduced. While accepting findings of dowry harassment there, the Supreme Court recognised the possibility of exaggeration in naming all family members, required tangible material for distant relatives, and also warned that an unnatural-death complaint must be assessed pragmatically, without demanding perfect precision. Its quoted discussion included *Kans Raj and Raja Lal Singh v. State of Jharkhand, (2007) 15 SCC 415*, which in turn mentioned *Kamesh Panjiyar*; the present judgment reproduces the concern about implicating other relatives without sufficient basis. The High Court applied *Monju Roy*'s distinction between an accusation supported by specific material and a general, collective accusation, without rejecting the complainant's entire account.

Chandralekha v. State of Rajasthan, 2013 (1) UC 155, involved extremely general FIR allegations against relatives, no individual role, uncertainty about whether they lived together and a long interval before the complaint. The Supreme Court quashed their prosecution as an abuse of process. The High Court invoked the specificity and abuse-of-process reasoning; it did not find the same delay or living arrangements proved on the present record.

K. Subba Rao v. State of Telangana, (2018) 14 SCC 452, dealt with a charge sheet against maternal uncles containing only bare assertions that they supported dowry harassment and were involved in a conspiracy. It explained both restraint in interrupting proceedings at an interlocutory stage and the ability

to intervene to secure justice when omnibus allegations against relatives make continuation abusive. Its passage cited *Bhajan Lal*, *Kans Raj* and *Kailash Chandra Agrawal* as supporting context. The High Court applied that principle to these two applicants because the allegations against them did not specify any instances of their individual involvement.

Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363, warned that matrimonial complaints can implicate many relations and require careful, pragmatic scrutiny, especially where a relative is said to live elsewhere; on its own facts the Supreme Court quashed a complaint against its appellants. The High Court used this caution when reviewing the alleged role here, without accepting the applicants' disputed residence assertions as proved.

Neelu Chopra v. Bharti, (2009) 10 SCC 184, required particulars of the offence and the part played by each accused; a bare recital of statutory provisions and a vague accusation did not justify prosecution of the aged parents in that case. *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, treated casual naming of family members without active involvement as insufficient in its matrimonial-dispute context. The latter passage quoted *G.V. Rao v. L.H.V. Prasad* concerning unnecessary escalation of family disputes; the High Court relied on the caution that an individual role must be specified, rather than making the quoted social observations an independent test. The cases collectively supported the finding that these applicants should not face trial on the present undifferentiated material. No cited authority was used to decide the guilt or innocence of the remaining accused.

3. Statutes considered : Section 239 CrPC governed the applicants' request for pretrial discharge on the police report; the lower courts refused it. Section 482 CrPC supplied the High Court's inherent jurisdiction to examine whether continuation against these applicants on vague allegations would be an abuse of criminal process. IPC Section 498A concerned the alleged matrimonial cruelty; Sections 506 and 34 IPC and Section 4 of the Dowry Prohibition Act appeared among the charge-sheet offences and were included in the limited quashing and discharge. The IPC and CrPC provisions were the law applied to this proceeding.

4. Issues : (i) Whether the FIR and charge-sheet narrative supplied a sufficiently particular act or material role for the uncle-in-law and unmarried sister-in-law in the alleged dowry demand and harassment, or merely grouped them with the husband's family.

(ii) Whether, after refusal of discharge by the Magistrate and affirmance in revision, continuing the stated prosecution against those two applicants warranted intervention under Section 482 CrPC; and, if so, which orders and proceedings were to be affected. The Court was not asked here to finally adjudicate the allegations against the husband and other relatives.

5. Ratio / Findings : The High Court first considered the Supreme Court's related principles: relationship alone cannot establish a role in a criminal offence; courts should seek particular acts and supporting material when a distant or other relative is accused in a matrimonial prosecution; vague collective accusations may make continuation abusive. *Kans Raj* and *Monju Roy* arose against dowry-death evidence and caution against indiscriminate implication, while *Chandralekha*, *K. Subba Rao*, *Preeti Gupta*, *Neelu Chopra* and *Geeta Mehrotra* illustrate the need to examine individual roles and when quashing is justified. *Monju Roy* also requires a pragmatic view of serious complaints rather than a demand that every detail be weighed with artificial exactness. The High Court did not pronounce that every relative is immune, that a mere relationship category disposes of a charge, or that the complaint as a whole was false.

Applying that test, the Court compared the general first part of this FIR, in which the two applicants were named with other relatives in an asserted ₹5 lakh dowry demand and harassment, with the detailed allegation concerning 22 March 2018. The latter specified the husband, his parents and two brothers, but did not say these applicants were present. No other particular act was attributed to the uncle-in-law or unmarried sister-in-law. That omission was material to the case against these applicants individually, despite the State and complainant's claim of harassment from the outset. The assertions that one lived separately and the other studied in Bhopal remained counsel's submissions; the actual finding rested on the absence of specific accusation. On those allegations, compelling these two applicants to undergo a criminal trial would be unjustified. The Court therefore set aside the refusal of discharge and the revisional order affirming it and used its inherent power to terminate the charge sheet and prosecution as against them. The result is

confined to this record and these two persons, without determining the liability of each remaining family member.

6. Relief : The Hon'ble High Court has allowed the Section 482 application. The order of the Xth Additional Sessions Judge, Gwalior dated 19 February 2020 in Criminal Revision 23/2019 and the JMFC order dated 10 December 2018 in Criminal Case 1543/2018 were set aside in relation to these applicants. The charge sheet for IPC Sections 498A, 506 and 34 and Section 4 of the Dowry Prohibition Act, and the pending prosecution in Criminal Case 1543/2018, were quashed as against them; both were discharged from those offences. The judgment does not discharge the other accused or quash the prosecution against them and imposes no further conditions.

Prem Kumar and Ors. v. State of M.P. and Ors., M.Cr.C. no. 37680/2020, 24/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (543) Prev Next

Headnote :- Article 226 / FIR registration / alternative remedy - A request for police action where no action has been taken on a complaint does not ordinarily justify an immediate writ in a criminal matter compelling FIR registration. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was quoted for the complaint procedure under Sections 190 and 200 CrPC and the Magistrate's powers, including its reproduction of *Gangadhar Janardan Mhatre*; the Division Bench ruling in *Shweta Bhadauria v. State of M.P.*, W.A. 247/2016, explained the relevance of Sections 154(3), 156(3), 190 and 200 and the recognised exceptions to an alternative-remedy objection. Its quoted distinction was that *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, addresses the police's duty to register an FIR, not automatic entitlement to mandamus without using available remedies. The High Court cited *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, and dismissed this petition without deciding the complaint's merits, preserving liberty to lodge a criminal complaint before the competent court.

Investigation writ / exceptional intervention - The qualification in *Divine Retreat Centre* considered by the Court preserves Article 226 intervention in rare cases where mala fide exercise of investigative power, clear abuse and Chapter XII CrPC non-compliance are established; even then, a court may require adherence to lawful procedure without dictating the investigative method. The High Court reproduced that limitation when considering whether the writ petition was tenable. The petitioner was given liberty to file a criminal complaint before the competent court.

Case-note :- ***1. Facts :*** Premwati sought an Article 226 direction requiring the respondents to take action against persons she described as accused on a complaint she had made. The question the High Court expressly posed was whether a writ for FIR registration was tenable. It heard the matter in Writ Petition 22979/2019 and examined the statutory complaint procedure and the limits of writ intervention in criminal matters. No criminal prosecution, charge or investigative outcome was adjudicated in this order.

2. Precedents — Considered : *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was reproduced in substance. It recognises an exceptional Article 226 direction where an aggrieved person establishes mala fide investigative action, clear abuse of power and non-compliance with Chapter XII CrPC, while distinguishing a court's insistence on lawful process from prescribing the manner of investigation. Its further passage says that ordinarily, where the police take no action on information given to them, the informant can invoke the Magistrate's complaint jurisdiction under Sections 190 and 200, rather than demand a writ. The quoted passage in turn reproduces *Gangadhar Janardan Mhatre v. State of Maharashtra on the Magistrate's* inquiry, possible direction for investigation, dismissal under Section 203 or cognizance and issue of process; it refers to *All India Institute of Medical Sciences Employees' Union* for the ordinary alternative-remedy proposition. These nested cases were considered through *Divine Retreat Centre*'s quotation, rather than independently applied on separately stated facts. The High Court used these principles together to assess whether the writ petition was tenable; it made no finding that the exceptional abuse threshold was met.

The binding Division Bench decision in *Shweta Bhadauria v. State of M.P.*, Writ Appeal 247/2016, order of 20 December 2016, was quoted. It states that mandamus to perform the Section 154 CrPC duty can be refused when the informant has not availed of the remedies under Sections 154(3), 156(3), 190 and

200, subject to the four recognised exceptions referred to in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. The quoted Division Bench also distinguishes *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: the FIR-registration obligation does not itself resolve entitlement to a writ bypassing alternative remedies. The High Court followed that distinction between the statutory duty and entitlement to a writ.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, and *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, were cited by the deciding Court as support for the efficacious remedy of a criminal complaint before a competent court. The Court relied on them in identifying the criminal-complaint remedy. *Smt. Sudami Devi v. State of U.P.*, Writ-C 47416/2016, an Allahabad High Court order, was also cited for that result. No precedent was applied to determine whether the underlying allegations were true or whether an FIR must ultimately be registered.

3. Statutes considered : Article 226 of the Constitution provides the writ jurisdiction invoked to seek police action. Chapter XII CrPC governs criminal investigation; the *Divine Retreat Centre* passage limits exceptional writ intervention to clearly established mala fide exercise of investigative power involving abuse of power and non-compliance with Chapter XII. It also states that a court cannot dictate investigative methods. Section 154 concerns recording cognizable information, while Section 154(3) supplies recourse to a superior police officer, and Section 156(3) permits a Magistrate to direct investigation; the Division Bench identified these as alternatives. Sections 190 and 200 allow a complainant to approach the Magistrate for cognizance and complaint examination. The quoted Supreme Court passage describes possible inquiry, investigation report, dismissal if no offence is disclosed under Section 203, or cognizance and process if a prima facie offence appears. These were procedural routes, not findings that the complaint in this case satisfied their requirements.

4. Issues : (i) Whether Premwati could obtain an Article 226 direction for FIR registration or police action merely on an asserted complaint when the CrPC provided recourse to police superiors and a competent Magistrate.

(ii) Whether the exceptional scope for writ intervention in a criminal investigation displaced the ordinary statutory remedies on the record before the Court.

5. Ratio / Findings : The Court expressly framed the question whether the writ petition was tenable. *Divine Retreat Centre* supplied both halves of the legal framework: mala fide exercise of investigative power, with a clear case of abuse of power and non-compliance with Chapter XII, can justify rare constitutional intervention, but the High Court may insist on statutory process rather than control investigative technique; where the police simply take no action, the informant has the remedy of a complaint before the Magistrate under Sections 190 and 200. The Division Bench in *Shweta Bhadauria* reinforced the alternative paths through Sections 154(3) and 156(3), while preserving the recognised writ exceptions. Its distinction of *Lalita Kumari* prevented conflating the police's statutory duty to register cognizable information with an unqualified right to immediate Article 226 mandamus. *Sakiri Vasu* and *Aleque Padamsee* were then cited for the availability of the remedy of a complaint before the competent criminal court.

The Court dismissed the petition with liberty to file a criminal complaint, expressly without entering into the merits of the case. It did not hold that the police had lawfully refused a cognizable complaint, that the described persons were innocent, or that Article 226 is categorically unavailable where a statutory remedy exists. The decision is a ruling on the proper forum and procedural remedy with express liberty to pursue a criminal complaint.

6. Relief : The Hon'ble High Court has dismissed the writ petition. Premwati was given liberty to file a criminal complaint before a court of competent jurisdiction. No direction to register an FIR or prescribe investigative methods was issued, and no factual or penal merits determination was made.

Premwati v. State of M.P. and Ors., W.P. no. 22979/2019, 07/11/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (544) Prev Next

Headnote :- Section 125 CrPC / minor child - A child's maintenance entitlement is independent of the parents' marital dispute and an asserted Section 125 disqualification of the mother. The Court rejected the father's argument that the Family Court's refusal of Priyanka's maintenance necessarily defeated the maintenance awarded to their minor son Virat;

considering his age and Priyanka's assertion that the father's monthly income was ₹30,000–35,000, it affirmed ₹4,000 per month and dismissed the father's Criminal Revision 5206/2019. No universal quantum rule or new effective date for the child was decided.

Wife / separate residence / restitution - Mere filing of a Section 9 Hindu Marriage Act petition does not by itself prove that a wife resides separately without sufficient reason or bar her Section 125 CrPC claim. The Court considered *Rina Kumari alias Rina Devi alias Reena v. Dinesh Kumar Mahto*, SLP (Crl.) 5896/2024, decided 10 January 2025, for the principle that even a restitution decree does not automatically extinguish maintenance. Given the parties' conflict and the Section 498A FIR, it could not uphold the Family Court's rejection of Priyanka's claim; the husband's alleged withdrawal of his restitution proceeding was a submission. The order does not decide criminal guilt or finally prove each cruelty allegation.

Final quantum / commencement - After setting aside the rejection of the wife's claim, the Court awarded her ₹6,000 monthly. Applying *Rajnesh v. Neha, (2021) 2 SCC 324*, it made the amount payable from the date of her maintenance application. The figure is a case-specific assessment on the recorded circumstances, while the son's separate ₹4,000 award remained affirmed. Her Criminal Revision 4107/2019 succeeded to that extent; no costs were ordered.

Case-note :- ***1. Facts :*** This common order disposes of Criminal Revision 4107/2019 by Priyanka Rajawat and her minor son Virat and Criminal Revision 5206/2019 by Rahul Singh alias Vijay Singh Rajawat, the husband and father. The revisions arose from the order dated 23 July 2019 passed by the Principal Judge, Family Court, Bhind in Case 138/2017 MJCR. The Family Court rejected the wife's Section 125 CrPC application on the view that she lived separately without sufficient reason, but awarded their son ₹4,000 each month.

The marriage on 30 April 2015 and Virat's parentage were undisputed. In the maintenance application Priyanka alleged that her husband and his family were dissatisfied with the dowry because a four-wheeler had not been given, subjected her to physical and mental harassment during pregnancy, left delivery expenses to her family, and resumed mistreatment after temporary reconciliation efforts through panchayats. She said her parents-in-law assaulted and expelled her with the child on 23 May 2017. These were her allegations, not findings in a criminal trial. She said she had no independent livelihood; she described Rahul as a Panchayat Secretary earning ₹15,000 salary, with land and a house, and claimed total monthly income of ₹30,000 –35,000. Rahul denied the allegations, asserted that he paid delivery expenses, blamed her conduct and said she left voluntarily despite his attempts to bring her back in January and June 2017. He referred to his Section 9 Hindu Marriage Act petition for restitution of conjugal rights.

The Family Court recorded the statements of witnesses before deciding the applications. Rahul's revision challenged the son's ₹4,000 award on the ground that the mother's separate residence also defeated the child's entitlement. Priyanka's revision challenged the rejection of her own claim. Before the High Court the parties also disputed the significance of an IPC Section 498A FIR and a submission that Rahul had withdrawn the restitution petition. The Court addressed each beneficiary separately.

2. Precedents — Considered : *Rina Kumari alias Rina Devi alias Reena v. Dinesh Kumar Mahto alias Dinesh Kumar Mahato*, SLP (Crl.) 5896/2024, Supreme Court decision of 10 January 2025, was invoked in the Court's own reasoning. The High Court described its operative proposition as preserving a wife's maintenance claim even where a decree for restitution under Section 9 of the Hindu Marriage Act has been passed. The present dispute involved only a petition said to have been filed and, according to the wife's counsel, later withdrawn. The Court applied the distinction to reject an automatic disqualification.

Rajnesh v. Neha, (2021) 2 SCC 324, was expressly applied to make the wife's final maintenance award payable from the date of the application. Neither judgment was invoked to transfer the child's entitlement to the mother or to fix a universal quantum.

3. Statutes considered : Section 125 CrPC supplied the wife and minor child's maintenance claims. The Family Court's refusal of maintenance to the wife rested on her allegedly unjustified separate residence, the issue addressed under the Section 125(4) sufficient-reason principle; the High Court rejected treating the husband's filing under Section 9 as conclusive of that question. The child's claim was assessed as an independent paternal obligation and could not be defeated through the mother's alleged

conduct. Section 9 of the Hindu Marriage Act concerns restitution of conjugal rights; the Court distinguished a mere petition from an automatic maintenance bar and considered the Supreme Court's rule even concerning a decree. IPC Section 498A appeared as the subject of an FIR between the parties, supplying context for their conflict, not a determination of offence ingredients or guilt. The final award's effective date followed *Rajnesh v. Neha*.

4. Issues : (i) Whether the minor child's ₹4,000 monthly maintenance could be refused or reduced solely because the Family Court had found his mother to be living apart without sufficient reason, and whether that amount was supportable on the limited circumstances recorded.

(ii) Whether the husband's Section 9 restitution proceeding automatically disqualified Priyanka from Section 125 maintenance, and whether the Family Court's separate-residence conclusion survived the circumstances considered by the High Court.

(iii) If the rejection of her claim was set aside, what monthly amount and commencement date should be ordered. The revisions did not call upon the High Court to decide the Section 498A FIR's criminal merits.

5. Ratio / Findings : For Virat, the Court treated his minority and admitted parentage as establishing the father's independent duty to maintain him. A child cannot be blamed for the dispute between his parents. Rahul's attempt to defeat Virat's claim on the basis of Priyanka's alleged disqualification therefore failed. Looking at the child's age and Priyanka's assertion of Rahul's ₹30,000–35,000 monthly income, the Court considered the Family Court's ₹4,000 award neither excessive nor inadequate and affirmed it. This was a case-specific quantum assessment, not a finding on every asserted property or source of income.

For Priyanka, the Court framed the precise Section 9 question. It stated that cruelty, where present, is a reason a wife cannot be compelled to remain in the matrimonial home; merely bringing a restitution petition cannot itself establish that she left without cause. *Rina Kumari* was considered because it preserves maintenance even in the face of an actual restitution decree, which goes beyond the mere filing of the petition referred to here. The parties were in conflict and a Section 498A FIR had been lodged; the Family Court's conclusion that she lived separately without sufficient reason could not be affirmed on that basis. The Court did not conduct a criminal trial or pronounce the dowry and assault allegations proved. It set aside the refusal of her maintenance.

It then considered quantum separately. The order records her assertion about Rahul's earnings and his argument that her father was a police head constable; Rahul admitted his own father also worked in the police department. The Court regarded ₹6,000 monthly as sufficient in her circumstances. Applying *Rajnesh v. Neha*, the Court made this amount payable from the date of the maintenance application. No change was made to Virat's separate ₹4,000 award.

6. Relief : The Hon'ble High Court has dismissed Rahul's criminal revision and affirmed the son's ₹4,000 monthly maintenance. Priyanka and Virat's criminal revision was allowed to the extent of Priyanka's claim: the Family Court's rejection of her maintenance was set aside, and Rahul was directed to pay her ₹6,000 per month from the date of her application. The judgment made no order as to costs and did not decide the pending or past Section 498A allegations.

Priyanka Rajawat and Ors. v. Rahul Singh Rajawat, Cr.R. no. 4107/2019 & 5206/2019, 21/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (545) Prev Next

Headnote :- Bail order / appellate correction versus later cancellation - *Mahipal v. Rajesh Kumar alias Polia, (2020) 2 SCC 118*, was quoted and applied to distinguish two inquiries: the original grant may be set aside for perverse, illegal, arbitrary or unjustified exercise of discretion, while later cancellation for misuse generally concerns supervening conduct or breach. Its discussion of *Neeru Yadav v. State of U.P., (2014) 16 SCC 508*, makes later misconduct unnecessary when a superior court examines a grant that was legally defective from the outset. The Court also considered *Vipan Kumar Dhir v. State of Punjab and its* quotation of *Daulat Ram* on cogent reasons for a conventional post-grant cancellation, and *Dr. Naresh Kumar Mangla v. Anita Agarwal on* an order that ignores material or rests on irrelevant factors. Respondent 2's submission that no new threat or misuse had been alleged did not defeat the prosecutrix's challenge to the Special Judge's original reasoning; that bail grant

was set aside, without a finding of post-release misconduct.

Serious allegation / reasons in regular bail - *Mahipal*, quoting *Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528*, requires a reasoned prima facie bail order without conducting an elaborate examination of the merits; formulaic statements that records and circumstances were considered do not show engagement with the decisive material. *Dr. Naresh Kumar Mangla*, drawing *on Puran v. Ramvilas, (2001) 6 SCC 338, Kanwar Singh Meena v. State of Rajasthan, (2012) 12 SCC 180*, and *Myakala Dharmarajam v. State of Telangana, (2020) 2 SCC 743*, reinforces intervention when grave accusations or crucial material are ignored. The Special Judge referred to the risk of absconding or tampering, antecedents and delay but failed to address the allegation that a teacher had repeatedly sexually assaulted a minor pupil, or the gravity of that allegation. The High Court set aside the order and directed surrender by 17 January 2022, with warrants on default. The extensive discussion of anticipatory-bail authorities reproduced within *Mangla* provides context; their special pre-arrest conditions were not applied as independent regular-bail holdings here.

Case-note :- ***1. Facts :*** The prosecutrix applied under Section 439(2) CrPC to set aside the order dated 28 August 2021 passed by the Special Judge (POCSO Act), Gwalior in Bail Application 2352/2021 granting regular bail to respondent 2. She asserted that she was a Class 10 pupil and a minor, about sixteen years old; the respondent had come to her home to teach from September 2020, then allegedly touched her private parts and sexually assaulted her repeatedly when her mother was away. She alleged a further rape on 29 March 2021 after he threatened her disabled brother, compelled her to consume pills, and caused bleeding and abdominal pain. She said he later called and threatened her mother, and she disclosed the events when her mother inquired. These are prosecution allegations recited for bail review, not adjudicated facts or findings of guilt.

The FIR was lodged on 9 July 2021 after the last specified incident on 29 March. The prosecutrix's counsel acknowledged that interval and referred to treatment at Lok Nayak Hospital, New Delhi, producing an outpatient registration card; the High Court did not finally determine the delay explanation or medical proof. Respondent 2 was arrested on 12 July 2021 and obtained the challenged bail. The prosecutrix argued that the Special Judge gave generic reasons without applying its mind to the seriousness of the allegations, the relationship between teacher and pupil, and the material allegations. Respondent 2 answered that bail could be cancelled only for post-release abuse of liberty and that no later threat or breach was alleged. The High Court recorded that it had not itself granted the bail under challenge and examined the Special Judge's original order.

2. Precedents — Considered : *Mahipal v. Rajesh Kumar alias Polia, (2020) 2 SCC 118*, was quoted at length and applied. It distinguishes superior-court review of whether a grant was an improper, arbitrary, perverse, illegal or unjustified exercise of discretion from conventional cancellation because the accused subsequently breached bail or new circumstances arose. Its quotation of *Neeru Yadav v. State of U.P., (2014) 16 SCC 508*, explains that an initial order based on irrelevant considerations or overlooking relevant bail factors may be set aside without proving a later violation. Its further passage requires the judge to state the material reasons for bail: a formulaic recital that the record and circumstances were perused is insufficient. It quotes *Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528*, for a judicious prima facie bail assessment and reasons, especially for serious allegations, while avoiding elaborate evidence adjudication. The High Court used *Mahipal* to reject the respondent's asserted post-release-misuse prerequisite and to examine the Special Judge's failure to consider the alleged conduct.

Vipan Kumar Dhir v. State of Punjab, for which the order gives no full reported citation, was also reproduced in para 6. It quotes *Daulat Ram v. State of Haryana for the* conventional need for cogent and overwhelming reasons where bail already granted is cancelled because of subsequent interference with justice, absconding risk or abuse. Its own discussion also recognises intervention where the original order ignored relevant material or considered irrelevant factors, including gravity, accused conduct and investigation risk. It refers to *X v. State of Telangana*. The High Court distinguished these two bases for interference; it did not find that this respondent had in fact intimidated a witness after release.

Dr. Naresh Kumar Mangla v. Anita Agarwal, cited as 2021 (1) MPLJ (Cri.) (SC) 353, was quoted extensively and considered as support for setting

aside a legally untenable grant separately from later misconduct. Its passage invokes *Puran v. Ramvilas, (2001) 6 SCC 338*, for intervention where orders granting bail in serious cases ignore material or lack reasons; *Kanwar Singh Meena v. State of Rajasthan, (2012) 12 SCC 180*, and *Myakala Dharmarajam v. State of Telangana, (2020) 2 SCC 743*, for serious infirmities and miscarriage-of-justice review, with a prima facie assessment rather than the meticulous examination appropriate at trial. *Mangla* also reproduces *Siddharam Satlingappa Mhetre*, *Jai Prakash Singh*, the Constitution Bench in *Sushila Aggarwal*, and *Pokar Ram*'s discussion of *Gurbaksh Singh Sibbia* on factors distinctive to anticipatory bail, including accusation gravity, specific role, flight/witness risks, investigative freedom and the difference between pre-arrest and post-arrest release. Those anticipatory-bail principles formed the quoted Supreme Court context; the actual impugned order was regular bail, so their special pre-arrest standard did not become an independent holding in this case. *Mangla*'s own fact discussion of a dowry-death FIR and a later heading about CBI transfer were not transposed into this prosecution.

3. Statutes considered : Section 439(2) CrPC was the procedural basis of the prosecutrix's challenge to the lower court's release order. The Court explained its review function by reference to the Supreme Court's distinction between original-order invalidity and post-bail misconduct. The challenged bail order was passed by the Special Judge designated under the POCSO Act. The High Court's finding concerns the rational exercise of bail discretion in relation to the alleged serious sexual offence against a minor, not a final determination of criminal liability. The quoted Supreme Court material includes Section 438 anticipatory-bail standards and Section 439 regular-bail factors; those arise through precedent and the order under review was post-arrest regular bail.

4. Issues : (i) Whether absence of an allegation that respondent 2 misused liberty after release barred the prosecutrix from challenging a bail grant said to be initially arbitrary, unreasoned or inattentive to crucial circumstances.

(ii) Whether the Special Judge's recitals about non-absconding, non-tampering, antecedents, trial delay and general circumstances amounted to an adequately reasoned prima facie assessment given the specific allegations against a teacher concerning a minor pupil.

(iii) What consequence should follow if the grant was set aside, without adjudicating guilt, the disputed FIR delay or medical material.

5. Ratio / Findings : The High Court applied *Mahipal* and the connected Supreme Court line to distinguish two legally different bases for setting aside bail. Conventional cancellation following a sound grant may call for new misconduct, breach or supervening circumstances and cogent reasons. A superior court may also examine the original decision's legality and soundness and set it aside if the bail judge disregarded material considerations, relied on irrelevant ones or supplied no meaningful reasons. Respondent 2's assertion that there was no post-bail threat therefore did not answer the prosecutrix's actual challenge. The judgment's paragraph 7 describes these alternatives as misuse of liberty and grant without due application of mind; it did not find both established.

On reading the lower court's order, the Court found that it mentioned no likelihood of absconding or tampering, criminal antecedents, probable trial delay and general circumstances but did not address the central allegation: respondent 2, in the role of teacher, had repeatedly raped a pupil said to be about sixteen. It found no meaningful assessment of that role or the gravity of the accusation. The requirement to give reasons stated in *Mahipal* called for more than a stock formula even though bail does not call for full evidentiary adjudication. The omission constituted non-application of mind, so the order could not stand. The High Court did not find the respondent guilty or decide whether the outpatient card proved the alleged consequences. The lengthy *Mangla* extract about anticipatory bail did not change the procedural character of this regular-bail review.

6. Relief : The Hon'ble High Court has allowed the application under Section 439(2) CrPC and set aside the Special Judge's bail order dated 28 August 2021 in Bail Application 2352/2021.

Prosecutrix v. State of M.P. and Ors., M.Cr.C. no. 58368/2021, 10/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (546) Prev Next

Headnote :- Writ monitoring / investigation autonomy - *Manohar Lal Sharma v. Union of India, (2014) 2 SCC 532*, was applied: Article 226 monitoring of a demonstrably tainted investigation

checks fairness, the progress of the investigation and freedom from external influence in exceptional circumstances, while judicial supervision of its investigative conclusions would compromise the trial. The Court examined the police process, not the truth of the rape charge, and limited its factual observations to the writ and an independent CBI investigation.

Case diary / witness recording / evidence - Regulation 742(a) of the M.P. Police Regulations required investigative actions and their times to be recorded in the case diary. Written Section 161 CrPC statements omitted or added material when compared with the video recordings; footage was absent from the diary, preparation of the initial spot map and seizure of clothing and the DVR were delayed, and the police treated the implicated landlord's material differently from the complainant's. The Court found manipulation and a partisan investigation and ordered appropriate criminal inquiry. The findings do not decide guilt of the alleged sexual offences.

Custodial abuse / FIR against officers - The Section 164 CrPC complaint, magistrates' intervention, medical injuries and station chronology led the Court to find, for writ purposes, assault and overnight detention of the prosecutrix without authority, contrary to Article 21; Section 46(4) CrPC was invoked by analogy, not as an arrest charge against her. *Chandra Deo Singh v. Prakash Chandra Bose, (1964) 1 SCR 639; Mohd. Yusuf v. Afaq Jahan, (2006) 1 SCC 627; Lalita Kumari v. State of U.P., (2014) 2 SCC 1; Satishkumar Nyalchand Shah v. State of Gujarat, (2020) 4 SCC 22; Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*; *W.N. Chadha, 1993 Supp (4) SCC 260; Anju Choudhary v. State of U.P., (2013) 6 SCC 384*; and *Samaj Parivartan Samudaya v. State of Karnataka, (2012) 7 SCC 407*, were used to reject a general right to a hearing before registration or a requirement to join the suspected officers as parties. FIR, identification inquiry and departmental measures were directed, without convicting the officers.

SC/ST Act / public view - The prosecutrix's recorded version placed Ganga Singh Bhadoria outside her room when he allegedly used her caste name and threatened her. The Court treated that place as within public view at the prima facie stage and directed his addition to Crime 87/2021 with Sections 3(1)(r) and (s) of the SC/ST Act and Section 506 Part II IPC, leaving the ultimate ingredients to investigation and trial.

Suspect's role / victim's fair investigation - *Romila Thapar v. Union of India, (2018) 10 SCC 753*, with its treatment of *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar*, denied suspects control over the agency or investigative mode; *Nirmal Singh Kahlon v. State of Punjab, (2009) 1 SCC 441*, recognized the victim's equal entitlement to fairness, and *Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158*, supplied the caution against an investigative agency assisting the accused. The police's repeated reliance on the implicated landlord while neglecting the complainant made a further change of local investigating officer inadequate.

CBI transfer / exceptional power - *State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, and *State of Punjab v. CBI, (2011) 9 SCC 182*, preserve Article 226 power to direct CBI investigation while requiring exceptional, cautious use. *R.S. Sodhi v. State of U.P., 1994 Supp (1) SCC 143; Kashmeri Devi v. Delhi Administration*, 1988 Supp SCC 482; *Rubabbuddin Sheikh v. State of Gujarat, (2010) 2 SCC 200*; and *Mithilesh Kumar Singh v. State of Rajasthan, (2015) 9 SCC 795*, were considered in relation to allegations against the police, confidence in the investigation, and a reasonable apprehension of partisan investigation based on the particular facts. After finding both original and changed local investigators tainted, the Court ordered CBI investigation of Crime 87/2021 and transfer of the original records; its merits observations are confined to the writ.

Victim identity / digital statements - Video statements missing from the case diary were produced with WhatsApp captions. The Court treated their unexplained transmission as a prima facie privacy and identity problem and directed registration of Section 228-A IPC against the officers responsible for recording or retaining the footage. Actual statutory guilt and individual roles remain for the independent investigation.

Police station CCTV / oversight - *D.K. Basu v. State of W.B., (2015) 8 SCC 744; Shafhi Mohd. v. State of H.P., (2018) 5 SCC 311*; and *Paramvir Singh Saini v. Baljit Singh, (2021) 1 SCC 184*, were considered on custodial CCTV, videography and oversight. Because Morar's CCTV had reportedly remained out of order for months, the Court directed the DGP to implement *Paramvir* and the SP to ensure functioning cameras providing comprehensive

coverage of police stations. Protection of the prosecutrix, ₹50,000 costs and liberty to seek Article 21 compensation in a proper forum were separately ordered; compensation was not awarded.

Case-note :- ***1. Facts :*** The prosecutrix brought Article 226 W.P. 5321/2021 seeking police accountability, arrest of suspects, change of investigator and protection. She alleged that while living and working in the house of Ganga Singh Bhadoria, his grandson Aditya and another man came to her room on 31 January 2021, the other man raped her while Aditya watched, and she was threatened. Crime 87/2021 at Morar police station initially recorded IPC Sections 376 and 506 and SC/ST Act Sections 3(2)(va) and 3(1)(w)(ii). Her age was disputed: an Aadhaar copy indicated 1 January 2007 while school material indicated 7 March 2002; police declined POCSO registration on its adult-age view. The High Court did not finally determine age or sexual-offence guilt. The prosecutrix reported rape through Dial 100 around 20:29; the police were informed before the response vehicle delivered her to Morar around 21:04, yet the FIR was registered at 23:50. The State defended the investigation as honest and pointed to allegedly inconsistent accounts, disputed medical consent, competing allegations by Ganga Singh and his family, and an asserted plot arising from another murder case.

The Court obtained the case diary, time-stamped Dial 100 record, station diary, the file of the SP's incomplete internal inquiry and video recordings; the police initially withheld the diary portion recording investigative actions and the videos were absent from the diary. After the first hospital visit the prosecutrix remained at the police station through the night and next day, said she was beaten and pressed to change her account, and gave two further police statements. Before the Magistrate under Section 164 CrPC she complained of the assault; the Magistrate informed the CJM, who verified the complaint, sought examination, ordered a change of investigator and safe accommodation. The CSP sent her to One Stop Centre without a written judicial direction; a related habeas corpus petition later let her return to her parents. Medical records of 1 and 2 February described multiple injuries. The Court examined differences in the descriptions and timing of those injuries without treating the medical records as a determination that sexual assault had occurred. The subsequent investigator still failed to remedy the deficiencies in the case diary and handling of evidence. The Court's 188-paragraph order reviewed the entire chronology and the limited Article 226 remedy; it did not try the underlying offence.

2. Precedents — Considered : *Manohar Lal Sharma v. Union of India, (2014) 2 SCC 532*, was quoted in paragraph 16 and applied in 17: police normally investigate cognizable offences independently, but a constitutional court may exceptionally monitor a mala fide, abusive or legally improper process to secure a fair, timely investigation. Monitoring does not mean supervising individual investigative acts or predetermining the police opinion under Section 173(2) CrPC, which would prejudice trial. The High Court accordingly said it would assess the manner of investigation rather than pronounce upon the police's proposed merits conclusion.

On directions to register a case against officers who were not parties, *Chandra Deo Singh v. Prakash Chandra Bose, (1964) 1 SCR 639*, supplied the limit on participation before process is issued; *Mohd. Yusuf v. Afaq Jahan, (2006) 1 SCC 627*, explained that a Section 156(3) pre-cognizance investigation order may entail FIR registration under Section 154; *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, supplied the mandatory-registration rule for information disclosing a cognizable offence. *Satishkumar Nyalchand Shah v. State of Gujarat, (2020) 4 SCC 22*, with nested *W.N. Chadha*, *Narender G. Goel*, *Dinubhai Boghabhai Solanki* and *Sri Bhagwan Samardha*, and *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, addressed absence of an automatic proposed-accused hearing before further investigation. *W.N. Chadha, 1993 Supp (4) SCC 260*, explained why audi alteram partem does not ordinarily apply during the collection of evidence under Chapter XII and why an accused cannot dictate the mode of investigation. *Anju Choudhary v. State of U.P., (2013) 6 SCC 384*, addressed the absence of a general right of a suspect to be heard before FIR registration and the Code's registration scheme. *Samaj Parivartan Samudaya v. State of Karnataka, (2012) 7 SCC 407*, recognized possible judicial discretion to hear affected persons on agency transfer in particular cases, not a universal requirement. Together these authorities supported the narrow conclusion that non-joinder of suspected police personnel was no bar to a direction to register an FIR; they did not determine individual guilt.

Romila Thapar v. Union of India, (2018) 10 SCC 753, was quoted in paragraph 168 to establish that an accused cannot select the investigator or dictate the

method; the quoted paragraphs trace *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar* and their nested *Dinubhai* and *Narender G. Goel* propositions. *Nirmal Singh Kahlon v. State of Punjab, (2009) 1 SCC 441*, was quoted for a victim's entitlement to fair investigation alongside the accused's Article 21 right, and *Zahira Habibulla H. Sheikh v. State of Gujarat, (2004) 4 SCC 158*, for the failure of justice when an investigative agency assists the accused. The Court used them to reject the local police's continued reliance on Ganga Singh's account while the complainant's account and evidence were mishandled.

D.K. Basu v. State of W.B., (1997) 1 SCC 416, was invoked in paragraph 172 for the gravity of custodial torture and the court's human-rights duty. *State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571* (Constitution Bench), held that Articles 32/226 preserve judicial review and permit an exceptional court-directed CBI investigation without treating the State-consent restriction imposed on the executive by Section 6 of the Delhi Special Police Establishment Act as a restriction on constitutional courts; *State of Punjab v. Central Bureau of Investigation, (2011) 9 SCC 182*, stressed cautious, sparing use to restore confidence or enforce rights. *R.S. Sodhi v. State of U.P., 1994 Supp (1) SCC 143*, and *Kashmeri Devi v. Delhi Administration*, 1988 Supp SCC 482, treated allegations against local police and shielding of officers as reasons to move investigation outside the force. *Rubabbuddin Sheikh v. State of Gujarat, (2010) 2 SCC 200*, illustrated independent investigation despite an already filed charge sheet where police were implicated. *Mithilesh Kumar Singh v. State of Rajasthan, (2015) 9 SCC 795*, rejected transfer merely on request and required the Court's satisfaction, based on the facts of the case, that shoddy or partisan investigation endangers a credible search for the truth, without requiring an incontrovertible case of abuse. These were applied to transfer both the underlying crime investigation and records to CBI after the CJM's earlier change of local officer had failed.

The Court separately considered *D.K. Basu v. State of W.B., (2015) 8 SCC 744*, on police-station CCTV safeguards; *Shafhi Mohd. v. State of H.P., (2018) 5 SCC 311*, on phased investigative videography and oversight, including its reference to *Karnail Singh*; and *Paramvir Singh Saini v. Baljit Singh, (2021) 1 SCC 184*, on functioning audio-video coverage, maintenance and reporting by SHOs, oversight committees, retention of recordings and access to complaint mechanisms for citizens. It used *Paramvir* to require restoration and comprehensive coverage. *Mahender Chawla v. Union of India, (2019) 14 SCC 615*, on the Witness Protection Scheme, was noted to reinforce the CBI's specific duty to protect this prosecutrix.

3. Statutes considered : Article 226 supplied constitutional jurisdiction over a criminal investigation, confined by the separation between monitoring fairness and directing a Section 173(2) CrPC police opinion. Article 21 protected the victim's dignity, bodily security and entitlement to fair investigation as well as the accused's rights; the Court held the overnight confinement without lawful basis an Article 21 violation. Section 46(4) CrPC, ordinarily prohibiting a woman's after-dark arrest save exceptional safeguards and prior Magistrate permission, was invoked by analogy to show the impropriety of holding a rape complainant overnight; the Court did not purport to apply it as though she had been formally arrested. Sections 154, 156(3), 161, 164, 172 and 173 CrPC respectively informed FIR registration, pre-cognizance direction, police-statement and video-recording practices, judicial statements, limits on referring to case-diary proceedings, and autonomy in preparing the investigative report. Regulation 742(a) of the M.P. Police Regulations required the time of investigative action to be contemporaneously entered. Section 44 of the Police Act was discussed in relation to the station general diary. Police circulars of 2017 and 2019 concerned videography of sexual-offence investigation. Sections 82–83 CrPC were identified as unpursued absconder process despite SP instructions.

The initial FIR included IPC Sections 376 and 506 and SC/ST Act Sections 3(2)(va) and 3(1)(w)(ii); on the omitted video-recorded caste insult and threat the Court directed addition of Sections 3(1)(r),(s) of the 1989 Act and Section 506 Part II IPC against Ganga Singh on a prima facie footing. It directed registration of IPC Section 341 for alleged unlawful detention, Section 228-A for prima facie disclosure of rape-victim identity through video transmission, Sections 467, 468 and 471 for alleged statement manipulation, Section 201 for evidence suppression, and other offences disclosed by independent inquiry. These were directions to register and investigate, not convictions based on findings that every statutory

ingredient was established. The POCSO Act was discussed only in the police's disputed age decision; the Court did not decide POCSO applicability. Section 6 of the Delhi Special Police Establishment Act arose through the constitutional precedent on transfer of investigation to CBI, not a bar to this Article 226 order. Compensation for the Article 21 violation was not sought and remained available in a proper forum.

4. Issues : (i) Whether Article 226 review could examine a claimed biased investigation without improperly supervising the investigator's substantive opinion.

(ii) Whether the FIR chronology, mismatched written/video statements, incomplete diary, police-station detention and medical record, failure to preserve scene evidence and treatment of the landlord's competing representations demonstrated a departure from fair investigation and custodial safeguards.

(iii) Whether the officers' absence as parties and a claimed pre-FIR hearing right prevented criminal registration for apparent custodial assault, falsified official statements, privacy breach and suppression of evidence; and whether the recorded caste insult and death threat required investigation of Ganga Singh.

(iv) Whether another local officer would cure the problem or exceptionally independent CBI investigation was needed under Article 226, preserving trial independence and suspect/victim rights.

(v) What CCTV, protection, discipline, costs and compensation-related orders followed from the findings.

5. Ratio / Findings : The Court first applied *Manohar Lal Sharma*'s boundary. It had no role in determining which of the conflicting versions of the alleged rape was true or prescribing the content of the Section 173(2) report. It could, however, examine whether a police force acted impartially. The Dial 100 chronology made the near three-hour gap before FIR material. Comparison of the first video with the written Section 161 statement showed omitted accusations against Ganga Singh; supplementary recordings and other witnesses' footage likewise differed from the writing, and the officer did not reduce the accounts verbatim. The case diary omitted timings contrary to Regulation 742 and excluded the recorded videos; the initial investigators failed promptly to prepare a site map, seize torn clothing, secure the house DVR or preserve the room, while allowing the implicated landlord and relatives prolonged access to the evidence and their preferred theories. The changed investigator's diary, missing documents supporting the claimed searches for the absconding accused, repeated receipt of Ganga Singh's submissions, attempt to obtain court CCTV footage through the district prosecution office, and neglect of the complainant's father's complaint confirmed the continuing problem. The Court found the investigation tainted, but limited its observations to deciding this writ and left CBI free to investigate.

The Court evaluated the Magistrate's prompt response to the Section 164 complaint, the CJM's order, station chronology and the two medical examinations. It rejected a shifting claim that the victim had been kept safely at the station's Urja desk merely because her parental home was 25 km away; it found no court permission, diary explanation or evidence that she refused to leave. It concluded that she was detained at the police station overnight and next day and beaten to alter her version. The injury descriptions and disputed internal-examination consent did not determine the rape accusation, but supported an inquiry into the police treatment. It also rejected the CSP's alleged oral judicial order to send her to One Stop Centre, considered the cursory internal inquiry inadequate, and directed identification of additional assailants. These writ findings under Article 21 triggered registration, independent investigation and departmental measures, without foreclosing criminal proof and defence at trial.

Applying the Supreme Court authorities on FIR registration and the absence of a right to a prior hearing, the Court held that suspected officers' non-joinder did not prevent a direction for FIR registration. It identified the SHO Ajay Singh Pawar and SI Kirti Upadhyaya with other unknown officers for the alleged beating and detention; directed inquiry and registration under Section 341 and other applicable IPC offences; directed Section 228-A registration for the apparent disclosure of the victim's identity through videos transmitted on WhatsApp; and Sections 467, 468, 471 and 201 inquiry for alleged statement falsification and evidence suppression, leaving the independent investigator to determine the roles of all involved. The video-recorded account placed Ganga Singh outside the room while allegedly uttering the caste insult and

threat. It found a place within public view and directed his addition under SC/ST Act Sections 3(1)(r),(s) and IPC Section 506 Part II, prima facie and without adjudging liability.

Romila Thapar prevented a suspect from steering the investigation; *Nirmal Singh Kahlon* and *Zahira* supported the complainant's equal fair-investigation claim. Ganga Singh's recurrent police access, the treatment of his DVR and allegations, the complainant's confinement and the first and replacement officers' actions made the proposal for a further change of local investigator unpersuasive. Under *Committee for Protection of Democratic Rights, State of Punjab v. CBI and the* cases concerning allegations against the police and the credibility of investigation, this was the exceptional record warranting transfer of Crime 87/2021 and related materials to CBI despite the petition's narrower express prayer for change of officer. The Court expressly kept its case-specific observations from binding the new investigation or trial. It also applied *Paramvir*'s CCTV obligations to cameras reportedly out of service since July 2020, directing working coverage.

6. Relief : The Hon'ble High Court has allowed the writ petition with ₹50,000 costs, payable by the respondents into the High Court Registry within ten days for withdrawal by the petitioner. The SP Gwalior was directed to register the identified FIRs against the named and unknown officers, add the offences against Ganga Singh as directed, investigate other involved public and private persons, and identify the alleged police assailants. The DGP/competent officers were directed to institute departmental inquiries against the listed original and replacement investigators, CSP, Additional SP and participants in the assault, and to transfer the listed officers outside the Gwalior and Morena Range immediately. Crime 87/2021 was transferred to CBI; the SP must deliver the original case diary, Additional SP inquiry file, Dial 100 and station records in sealed cover, and the CBI Director must assign a senior officer. CBI must examine the specified telephone records. If those records show that Ganga Singh was in contact with any of the specified police officers, CBI must immediately forward the call-detail records to the DGP for action under service law and register an offence under Section 201 IPC and other applicable provisions. CBI must also protect the prosecutrix against pressure and preserve her dignity. The DGP must implement *Paramvir Singh Saini* and the SP ensure functioning comprehensive police-station CCTV. The Court retained a copy pen drive under seal, allowed the prosecutrix to pursue Article 21 compensation separately because none was prayed for, and left factual merits to independent investigation and trial.

Prosecutrix v. State of M.P. and Ors., W.P. no. 5321/2021, 23/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Arrest / investigative discretion - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was applied. Its quotation of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that Section 41 CrPC permits, but does not mechanically require, arrest merely because a cognizable offence is alleged; the power must be exercised cautiously because arrest affects liberty and reputation. The Supreme Court disapproved a Section 482 order dictating arrest, seizure, statements and charge sheet where police might lawfully conclude otherwise. The High Court therefore refused the prosecutrix's request to order arrest in the registered rape/kidnapping case. *D. Venkatasubramaniam* also quoted *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on notice to persons directly affected by an investigation ordered on an anonymous petition in that separate case; the present order did not issue such a directive against an unheard non-party.

Timely report / no predetermined result - Section 173(1) CrPC commands completion of Chapter XII investigation without unnecessary delay. The officer must decide on the collected material whether to file a charge sheet or closure report, rather than hold the case indefinitely. Applying *D. Venkatasubramaniam's* restraint against supervising investigative steps, the Court directed early completion and lawful action without ordering either arrest or a charge sheet; it left a further grievance to the SP Gwalior. The Section 482 application was disposed of.

Case-note :- ***1. Facts :*** The prosecutrix applied under Section 482 CrPC in M.Cr.C. 10230/2021. On her complaint, Crime 382/2020 had been registered at Police Station Vishwavidyalaya, District Gwalior, under IPC Sections 376(2)(n) and 365. Her prayer

sought acceptance of her application and an order for proper investigation of the offence and arrest of the accused. Counsel alleged that the investigation had not advanced and the accused had not been arrested. The State was represented through a panel lawyer. The High Court considered the limits of its inherent power and the officer's separate duty to finish investigation without unnecessary delay.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, is reproduced at length in paragraph 4 and directly applied in paragraph 5. The Supreme Court had set aside a High Court's unreasoned Section 482 command for police to record statements, arrest, seize property and file a charge sheet, observing that the method and outcome of investigation are matters for the statutory agency. Arrest is not mandatory on every cognizable FIR, and investigation may legitimately culminate in either a charge sheet or no-case/closure report. A High Court may use Section 482 sparingly to give effect to Code orders, prevent process abuse or secure justice, but cannot dictate a particular investigative angle or make casual remarks with far-reaching consequences. The present Court applied that rule in refusing to direct arrest or the filing of a charge sheet.

Within *D. Venkatasubramaniam*, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, is quoted on Section 41 CrPC. Police have discretion, on reasonable complaint, credible information or suspicion in the statutory situations, to assess whether arrest is necessary as the investigation progresses. They need not arrest automatically after registration; the power must be exercised cautiously because it intrudes on liberty and affects reputation, with regard to the allegations and the persons involved. That rule was substantively considered through the quoted Supreme Court passage and supplied the specific answer to the applicant's arrest prayer.

The longer extract also cites *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on a different setting in which a court, acting on an anonymous petition, ordered investigation against persons without a hearing, with consequences for their reputation. The order’s quotation of paragraphs 33–34 of *D. Venkatasubramaniam* discusses that defect.

3. Statutes considered : Section 482 CrPC was the procedural source of the application and inherent jurisdiction. It did not entitle the applicant to choose whom the police should arrest or demand a direction to file a charge sheet. Section 41 CrPC, addressed in the *M.C. Abraham* extract, makes warrantless arrest permissive on specified grounds and requires the officer to exercise judgment rather than act automatically. Section 173(1) CrPC expressly requires every investigation under Chapter XII to be completed without unnecessary delay. The Court distinguished that statutory timing obligation from judicial control over the gathering of evidence or the final report; the final report could be a closure report or charge sheet. IPC Sections 376(2)(n) and 365 identify the registered allegations only.

4. Issues : (i) Whether a Section 482 court should direct arrest of the persons named in a registered cognizable case, or require a particular charge sheet or investigative sequence, merely because the complainant says that police have taken no further action.

(ii) Whether the High Court could still insist on compliance with Section 173(1)'s independent command to complete investigation without unnecessary delay while preserving the officer's discretion over the investigation and its outcome.

(iii) What forum the prosecutrix could approach if she retained a grievance after that limited direction.

5. Ratio / Findings : The High Court adopted *D. Venkatasubramaniam*: an arrest order would substitute judicial choice for the statutory judgment of investigators. Section 41 does not make arrest obligatory merely because an FIR has been registered, and even a serious accusation cannot itself justify a mechanical judicial command to arrest. A direction to file a charge sheet would similarly assume the result before investigation concluded; police may lawfully submit a closure report if the evidence fails. The Court therefore declined to supervise investigative methods or predetermine a report under Section 482.

Conversely, the quoted text of Section 173(1) imposes a positive duty to finish investigation without unnecessary delay. The officer must evaluate whether an offence is disclosed and take the steps required by law to complete the investigation and submit the appropriate final report. This supports a neutral direction for early completion, not an order for a specific arrest, seizure, statement or charge sheet. The Court left room for the prosecutrix to present any remaining grievance to the SP, who must consider it under law. The narrow disposition

preserves both the complainant's interest in timely action and investigative independence.

6. Relief : The Hon'ble High Court finally disposed of the Section 482 application. The High Court refused to order the accused's arrest or to supervise the investigative outcome. It directed the investigating officer to conclude Crime 382/2020 as early as possible and take necessary steps in accordance with law under Section 173(1), without a numerical deadline or predetermined final report. The applicant remained free to make a grievance application to the Superintendent of Police, Gwalior, for consideration in accordance with law.

Prosecutrix v. State of M.P. and Ors., M.Cr.C. no. 10230/2021, 26/02/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Person identification / TIP versus dock - *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*, including *Malkhansingh v. State of M.P., (2003) 5 SCC 746*, and *Pramod Mandal v. State of Bihar, (2004) 13 SCC 150*, distinguishes substantive courtroom identification from investigative TIP corroboration, without imposing an inflexible requirement to hold a parade or a fixed period for doing so. *Prakash v. State of Karnataka, (2014) 12 SCC 133, State of Rajasthan v. Daud Khan, (2016) 2 SCC 607*, and *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, confirm that reliability must be assessed in context even without a TIP, including where the accused was already known to the witness; *Suraj Pal v. State of Haryana, (1995) 2 SCC 64*, and *Dara Singh v. Republic of India, (2011) 2 SCC 490*, stress the prudential weakness of first-time dock identification of a stranger without corroboration. Here the complainant had promptly named and previously knew Purshottam, identified him in court from close range, and her injuries matched her account. A failed TIP, plausibly affected by eyesight, did not defeat that combined proof. Ghanshyam and Preetam were neither named in the FIR nor identified in the parade or dock, and their involvement remained unproved.

Recovered property / ownership proof - The Section 27 Evidence Act disclosures and seizure testimony proved recovery of silver articles from Ghanshyam and Preetam and gold tops from Purshottam, including a hidden item at a public place. The complainant and the witness said to have conducted the property identification stated that the police displayed and handed over the jewellery at the outpost before the memo; that process did not prove the seized articles were hers. Recovery could not repair the missing person identification of Ghanshyam and Preetam, who were acquitted. Purshottam's gold-top recovery lost probative value, yet his independent prompt naming, reliable dock identification and medical corroboration sustained Sections 452 and 397 IPC. His ten-year rigorous-imprisonment term under Section 397 was reduced to the statutory seven-year minimum; the convictions and sentences of the other two appellants were set aside.

Case-note :- ***1. Facts :*** Three connected appeals arose from a nighttime robbery at the house of Gendibai on 7 November 2013. She reported that four men entered while she was alone, tied or gagged her, took silver ornaments, gold tops, a ring and cash, and inflicted injury to her ears and teeth. The FIR was lodged within about four hours, naming Purshottam, whom she later described as a known family relation by marriage, but not Ghanshyam or Preetam Dhakad. Police eventually seized a gold top from Purshottam, silver Khangwari from Ghanshyam and silver Kade from Preetam. All three were convicted of house trespass and robbery with Section 397 IPC in the same sessions trial. Separate judgments were delivered because two of them absconded after the evidence was recorded. Each received ten years' rigorous imprisonment for the robbery count.

The key dispute was identification. At the TIP of persons, Gendibai identified only another person, Laxminarayan, not these three. She later identified Purshottam in court when she moved closer to him, and the trial judge recorded that proximity; she had impaired vision after the attack and had known him before. She did not identify Ghanshyam or Preetam either at the parade or in court, and their names were absent from her early FIR. Her son Balram and neighbour Madan reported her prompt naming of Purshottam and corroborated the occurrence of the robbery and the injuries sustained; Madan did not support implication of the other two. Medical evidence recorded damaged teeth, ear wounds and other injuries. The complainant said the police had shown both accused persons and recovered property at the outpost. The alleged independent property-identification witness, Sarpanch Ramcharan, said the police handed over the items there and prepared the

memo; this undermined the claimed property parade. The court distinguished proof of recovery of each item from proof that it belonged to the complainant and then assessed each appellant independently.

2. Precedents — Considered : *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*, is quoted in paragraph 33 and applied in paragraphs 34–35. It holds that courtroom identification is substantive evidence; a prior TIP tests and corroborates identification of a person otherwise unknown to the witness. A TIP is not compulsory under CrPC, nor can an accused demand one as of right; a failed or omitted parade does not make a court identification inadmissible, but weight depends on the witness and case circumstances. Its quotation of *Malkhansingh v. State of M.P., (2003) 5 SCC 746*, anchors this distinction in Section 9 Evidence Act and the prudent search for earlier identification of a stranger, subject to exceptions. *Kanta Prashad*, *Vaikuntam Chandrappa*, *Budhsen* and *Rameshwar Singh* are cited within that quoted discussion as examples of the same principle. *Sheo Shankar Singh* also quotes *Pramod Mandal v. State of Bihar, (2004) 13 SCC 150*, against any universal TIP time limit or required number of identifying witnesses; *Malkhansingh* and *Aqeel Ahmad* are named as consistent. The Court used that contextual rule to avoid treating Purshottam's failed identification at the parade as conclusive when she knew and promptly named him, yet did not use the rule to fill the total absence of identification of the other two.

Prakash v. State of Karnataka, (2014) 12 SCC 133, was quoted twice: a parade aids investigation and corroborates sworn evidence, is especially desirable for a complete stranger, and can be unnecessary where the witness already knows the suspect or otherwise saw him sufficiently. The quoted passage invokes *Ravi Kapur, R. Shaji*, *Rameshwar Singh, Mulla, Kishore Chand, Boota Singh, Malkhansingh* and *Visveswaran*, including the qualification that identification is not a sine qua non where circumstantial proof otherwise establishes guilt. *State of Rajasthan v. Daud Khan, (2016) 2 SCC 607*, was considered for the admissibility of reliable dock evidence without a parade and its fact-specific weight; its references to *Ashok Debbarma* and *Manu Sharma* likewise illustrate the conditional, not automatic, acceptance of in-court identification. *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, repeated the *Malkhansingh* distinction and recognized that corroborative strength depends on the case, citing *Santokh Singh*, *Visveswaran* and *Manu Sharma* in its quoted treatment.

Suraj Pal v. State of Haryana, (1995) 2 SCC 64, was quoted for TIP's two safeguards where identity is initially unknown: checking the witness's visual memory early and protecting a suspect against a sudden unsupported dock identification. *Dara Singh v. Republic of India, (2011) 2 SCC 490*, was quoted for caution where identification of previously unknown offenders occurs for the first time at trial without a reliable earlier parade or other corroboration, while acknowledging that absence of TIP is not invariably fatal. *Dara Singh's* extended extract discusses photo identification and quotes *Manu Sharma*, *Umar Abdul Sakoor Sorathia* and *Dana Yadav* to distinguish an investigative aid from substantive sworn evidence. The Court applied the caution concerning identification of strangers alongside the substantive value of dock identification, taking account of prior acquaintance, prompt FIR naming, the judge's close-range observation and corroborative medical evidence.

The finding on property identification rested on the complainant's admission of advance exposure and Ramcharan's evidence that the supposed independent procedure occurred at the outpost. The Court accepted the actual seizures under Section 27 but found the link to the complainant's property unproved. It is a fact-specific evidentiary application based on the identification evidence in this record.

3. Statutes considered : Section 9 of the Indian Evidence Act makes facts establishing identity relevant; a TIP provides corroboration during investigation, whereas the witness's identification on oath at trial supplies substantive evidence. Section 162 CrPC governs prior police-stage identification statements as described in the Supreme Court passages. Section 27 Evidence Act concerned the disclosures made by the accused leading to concealed silver and gold recoveries; the court differentiated the fact of discovery from ownership identification. IPC Section 452 covered the house trespass, Sections 394 and 397 the charged robbery and the personal use/injury consequence as treated by the trial and appellate court. Gendibai's broken or dismembered teeth supported the Court's Section 397 affirmation as it framed the conviction. Section 397's statutory seven-year minimum was the stated basis for reducing Purshottam's ten-year rigorous term to seven, not for acquitting him. Paragraph 2

states that the appeals were filed under Section 372 CrPC.

4. Issues : (i) Whether the complainant's failure to identify Purshottam in TIP defeated her subsequent dock identification despite prior acquaintance, prompt naming, closer courtroom viewing and corroboration; and whether Ghanshyam and Preetam could be linked when they were neither named nor identified in either setting.

(ii) Whether proved Section 27 recoveries of hidden ornaments could establish that the articles were the complainant's after police had shown them before an ostensible property identification, and whether the failed article link affected the appellants differently.

(iii) Whether the surviving proof supported Purshottam's Sections 452 and 397 convictions, and how the convictions, terms, bail and custody of all three appellants should be disposed of.

5. Ratio / Findings : The Court held that the robbery and injury occurred: Gendibai's account was materially supported by the medical evidence and the prompt post-event witnesses. That did not by itself establish the identity of every accused. Ghanshyam and Preetam were not named in the FIR; Gendibai could identify neither during the TIP nor in court. The prosecution therefore needed another reliable link. Witness Hazarilal and the investigator proved their Section 27 disclosures and recovery of concealed silver articles, including one hidden in a public location within the discloser's knowledge. Yet Gendibai admitted earlier police display at the outpost, and Ramcharan contradicted an independent property parade by saying the articles were handed over there and the police prepared the memo. The Court found no trustworthy identification of the items as hers and no remaining evidence tying those two men to the offence; it acquitted both because their guilt had not been proved beyond reasonable doubt. Recovery as an event was upheld, but its asserted link to this robbery was not.

Purshottam's position was different. His name was in the promptly lodged FIR, and Gendibai knew him as her Samadhi. Although she failed to identify him at the TIP, she identified him in court at closer range, and the trial judge's note and her reduced eyesight furnished an explanation for the earlier lapse. *Sheo Shankar Singh* and the related Supreme Court cases made dock identification admissible and potentially sufficient in these circumstances; the caution for first-time stranger identification did not turn the earlier unsuccessful TIP into an automatic acquittal. The evidence of Balram and Madan about her prompt naming of Purshottam and the medical evidence of her injuries supplied support. The gold top was recovered from Purshottam, but the tainted property-identification process stripped that recovery of importance; the conviction rested on the independent evidence. The Court affirmed his Sections 452 and 397 liability, referring to the dismemberment of teeth, and reduced the term of rigorous imprisonment under Section 397 from ten to seven years, the stated statutory minimum. It did not use the unreliable property parade against the acquitted co-appellants or treat the failed person TIP uniformly for a previously known and two unidentified suspects.

6. Relief : The Hon'ble High Court allowed the appeals of Ghanshyam and Preetam Dhakad; their distinct convictions and sentences from the 12 May 2015 and 29 July 2017 trial judgments were set aside, and both were acquitted. Preetam's bail bonds were discharged; Ghanshyam, then in jail, was to be released unless wanted in another case. Purshottam's appeal was partly allowed: his Sections 452 and 397 IPC convictions were affirmed, but the Section 397 rigorous-imprisonment term was reduced to seven years with a ₹2,000 fine and six months' rigorous imprisonment in default as the appellate order states. He was on bail; the bonds were cancelled and he was ordered to surrender immediately to serve the remaining sentence.

Purushottam and Ors. v. State of M.P., Cr.A. no. 552/2015 & 607/2015 & 1297/2017, 01/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Territorial jurisdiction / continuing cruelty - Section 178 CrPC *and Rupali Devi v. State of U.P., (2019) 5 SCC 384*, were applied: dowry-related expulsion at the matrimonial home may continue as mental trauma at the parental home, making that location relevant for a Section 498-A IPC investigation, even though physical acts took place elsewhere. The wife alleged that she was expelled from Jaipur for not bringing a further ₹25 lakh and was compelled to reside with her parents at Gwalior, where the applicants repeated their demand. The Court held that Police Station Mahila Thana, Gwalior, could investigate. Its decision rested on the alleged continuing cruelty and a further local act, without deciding the complaint's ultimate truth.

Relatives / specific allegations / quashing - The father-in-law, mother-in-law and husband were alleged to have jointly demanded further dowry, taunted, assaulted, expelled and threatened the wife, including a later visit and demand at Gwalior. Applying *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, on the significance of taunts over non-fulfilment of a dowry demand, the Court held that the allegations of participation by the near relatives were specific rather than vague accusations against the whole family and refused Section 482 quashing. *Kahkashan Kausar*, *Geeta Mehrotra*, *Arnesh Kumar* and *Lalita Kumari* were invoked by the applicants, in support of quashing; the respondents submitted that the husband's separate Jaipur FIR was absent from the charge sheet and its truth could not be determined in this proceeding. The quashing application was dismissed.

Case-note :- ***1. Facts :*** Purushottam Lal Sharma (father-in-law), his wife (mother-in-law) and their son (husband) sought quashing under Section 482 CrPC of Crime 23/2022 registered at Mahila Thana, Gwalior, for IPC Sections 498-A, 506, 34 and Sections 3/4 Dowry Prohibition Act. The wife alleged a Hindu marriage in Jaipur on 16 February 2021, substantial money and valuables at marriage, initial normal treatment, then repeated taunts that her parents had spent less than the husband's family expected and a demand for another ₹25 lakh. She alleged physical and mental harassment, beating, expulsion with a warning not to return unless the demand was met, and a threat to kill her if she returned otherwise. Her brother tried to persuade the family and brought her to her parents' Gwalior home. She further alleged that the applicants visited that home, renewed the demand and told her father not to send her back without payment. Efforts at compromise failed and she lodged the complaint on 25 January 2022; the FIR was registered the same day.

The applicants said a preliminary inquiry should have preceded a matrimonial FIR, the accusations against the family were vague and motivated, and her husband had lodged a separate Jaipur FIR alleging she took jewellery and induced wedding expenditure. They also objected that the main matrimonial events were at Jaipur, outside Gwalior. The respondents answered that a charge sheet had already been filed, the husband's Jaipur FIR was not part of it and its truth could not be adjudicated in quashing, and the present allegations against each applicant were concrete.

2. Precedents — Considered : *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted in paragraph 15 and applied in paragraphs 13–17. It explains that Section 498-A cruelty can include the continuing mental trauma of being driven from the matrimonial home by physical abuse or humiliating dowry-related words and being unable to return for fear of ill-treatment. Emotional effects may persist where the wife shelters with her parents after overt physical acts elsewhere have ceased. The High Court coupled that principle with the alleged fresh local demand and Section 178 CrPC to reject the argument that Jaipur alone supplied territorial jurisdiction.

Taramani Parakh v. State of M.P., (2015) 11 SCC 260, was invoked by the State in paragraph 8 and relied upon expressly by the Court in paragraph 19 for the proposition, as the order states it, that taunts for non-fulfilment of dowry demand may amount to cruelty. The decision was applied to the pleaded repeated demand, taunts, harassment and ouster. The Court held that these specific allegations against the husband and both parents-in-law justified trial-stage examination rather than pretrial quashing.

Lalita Kumari v. Government of U.P., (2014) 2 SCC 1, was cited by the applicants for an asserted mandatory matrimonial preliminary inquiry because the complaint and FIR bore the same date. *Kahkashan Kausar alias Sonam v. State of Bihar*, Criminal Appeal 195/2022, *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741, Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*, and the coordinate-bench *Alok Lodhi* order were relied upon by applicants to urge false implication and vague allegations against the in-laws. The High Court found the complaint specific and clear. These authorities were cited by the applicants; *Rupali Devi* and *Taramani Parakh* were the two Supreme Court authorities materially relied upon in the Court's own reasoning. The respondents submitted that the husband's separate Jaipur FIR was outside the charge-sheet record and its truth could not be assessed here.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR after a charge sheet had reportedly been filed; the Court assessed the specificity of the allegations. Section 178 CrPC permits inquiry or trial in a local area where part of an offence occurs, including a continuing offence across areas. The Court used the claimed continuing

mental effect at Gwalior and a pleaded new demand there to uphold local investigation. IPC Section 498-A provided the cruelty context, Section 506 the alleged threats and Section 34 common intention; Sections 3/4 of the Dowry Prohibition Act concerned the demand allegations. The cited *Lalita Kumari* preliminary-inquiry proposition was a submission, not an operative construction of Section 154 in this judgment.

4. Issues : (i) Whether the Jaipur location of most initial matrimonial conduct deprived Mahila Thana, Gwalior, of jurisdiction where the wife alleged forced residence at her Gwalior parental home, continuing mental cruelty and a further demand there.

(ii) Whether the allegations of a demand, taunts, beating, expulsion and a threat attributed to the husband and both parents-in-law were sufficiently specific for the prosecution to continue, despite the applicants' invocation of the general danger of false or omnibus matrimonial complaints.

(iii) Whether same-day FIR registration and the husband's separate Jaipur counter-FIR, which was not in the charge-sheet record, justified Section 482 quashing on this application.

5. Ratio / Findings : The Court read the complaint as alleging that non-fulfilment of the demand for an additional ₹25 lakh led to the wife being forced from the Jaipur matrimonial home to her parents at Gwalior. *Rupali Devi* establishes that mental consequences of that treatment can continue where she takes refuge; the pleaded renewal of the dowry demand at Gwalior provided a further local act. With Section 178 CrPC, the Court found a part of the alleged cruelty arose within Gwalior and the local Mahila Thana could investigate. That conclusion addresses territorial competence at the allegation stage and does not prove the demand, threat or continuing trauma at trial.

The Court distinguished this complaint from one that merely listed the in-laws. It found specific allegations against the father-in-law, mother-in-law and husband of an additional quantified demand, dowry taunts, physical and mental mistreatment, expulsion and later pressure at the parental home. In the light of *Taramani Parakh's* treatment of dowry-demand taunts, it held that a close relative may be prosecuted when the complaint specifically alleges participation. It did not conduct a mini-trial on the accused's claim of false implication. The respondents submitted that the husband's separate Jaipur FIR was outside the charge-sheet material and its truth could not be assessed here. The applicants' *Lalita Kumari* and other citations were recorded as submissions, and the Court refused interference on the specific allegations and continuing cruelty at Gwalior. Thus no case for Section 482 intervention was shown.

6. Relief : The Hon'ble High Court dismissed the application to quash Crime 23/2022 and the resulting criminal process. The Court upheld Gwalior police territorial authority to investigate and left the specific cruelty, threat and dowry allegations to be tested in the ordinary proceedings. It ordered no arrest, punishment or final finding of guilt, and gave no determination on the husband's separate Jaipur FIR.

Purushottam Lal Sharma and Ors. v. State of M.P. and Ors., M.Cr.C. no. 20822/2022, 28/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Related eyewitness / corroboration - *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, including *Darya Singh* and *Raghubir Singh*, was applied to distinguish careful scrutiny from automatic rejection or a universal demand for independent corroboration. Neeraj was the only actual eyewitness to the charged stabbing; Chhotu admitted that he came down after the assailant had fled. Inconsistent accounts of the prior encounter, concealment of the presence of the wife and daughter, and the son's shaky testimony made corroboration appropriate on these facts. The prosecution's failure to call the widow, despite recording her police statement and citing her as a witness, mattered in that evidentiary setting.

Medical and physical evidence / suppressed genesis - The fatal chest stab established homicidal death, but the FIR's supposed nasal knife blow had no matching incised wound, other injuries and temporal ecchymosis were unexplained, and the chest-wound direction seemed difficult to reconcile with a victim lying on the cot. Chhotu wiped blood at the scene without explanation. The baniyan removed from the body at autopsy had no corresponding cut; the bloodstained torn garment and shirt seized at the scene were not produced for judicial inspection or evaluated for cuts. The court held that the prosecution had withheld material physical evidence and failed to prove its account beyond reasonable doubt.

Section 313 / late FSL report - *Parsuram Pandey v. State of Bihar, (2004) 13 SCC 189, Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, and *Vikramjit Singh v. State of Punjab, (2006) 12 SCC 306*, were applied: an incriminating circumstance not put to the accused during examination under Section 313 cannot be used to convict him. The Section 293 admissibility of the FSL report did not dispense with that opportunity. The report arrived after final arguments and was not marked as an exhibit, and the accused was not questioned about its human-blood finding. The finding of blood on the knife was excluded from consideration against him.

Serology / disputed recovery - *Kansa Behra v. State of Orissa, (1987) 3 SCC 480*, was applied on the limited inference available from human blood where no blood group connected the stain to the victim. The knife seizure itself was doubtful because a seizure witness acknowledged tutoring and could not describe the accused's home. Even if the result were considered apart from Section 313, its ungrouped human-blood description did not positively connect the knife to Devilal. On the evidence as a whole, the Section 302 and 452 IPC convictions and concurrent sentences were set aside; the appellant was acquitted and ordered released unless wanted elsewhere.

Case-note :- ***1. Facts :*** Purushottam Pal appealed under Section 374 CrPC against the IV Additional Sessions Judge, Gwalior's 3 February 2012 judgment in Sessions Trial 257/2011. He had been sentenced to life imprisonment and a ₹1,000 fine with two months' rigorous imprisonment in default for Section 302 IPC, and one year's rigorous imprisonment and a ₹1,000 fine with two months in default for Section 452 IPC; the substantive terms were concurrent. Neeraj reported on 9 March 2011 that his neighbour Purushottam, following an earlier exchange, abused his father Devilal, forced open the door after Neeraj closed it, entered the courtyard and struck the reclining Devilal near the ribs with a knife and then near the nose. The first FIR alleged Sections 307, 452 and 294 IPC; Devilal died in hospital, Section 302 was added, a knife was reportedly recovered on a memorandum, and the eventual charges were Sections 302 and 452. The appellant did not call defence witnesses.

The autopsy surgeon recorded a penetrating left lower chest wound traversing the rib/intercostal and thoracic structures, diaphragm, spleen and lung, fatal in the ordinary course and homicidal. There were a nasal laceration and abrasion, other abrasions, and deep ecchymosis in the temporal region. Thus homicide itself was not in issue after medical proof; the remaining questions concerned the identity of the assailant, the manner of assault and reliability of the prosecution's account. Neeraj (PW1), the deceased's son, became the only claimed eyewitness to the actual attack once his brother Chhotu alias Rameshwar (PW4) admitted in cross-examination that he came downstairs after the appellant had gone. The widow Kunta was cited and her police statement was taken more than a month later but she was given up by the prosecutor. A seized torn, bloodstained baniyan and shirt from the scene were not produced before the court, while the garment taken from the body on autopsy had no cut corresponding to the stab. Chhotu admitted wiping blood at the scene. The alleged knife recovery was witnessed by a son-in-law of the deceased who said an advocate had tutored him and who could not describe the recovery premises. An FSL report received after final arguments and not marked as an exhibit described human blood on the knife without determining its group; the accused was not further examined under Section 313 about that result.

The defence disputed Neeraj's reliability, the hidden presence and non-examination of the wife, the inconsistent blood and clothing evidence, medical contradiction, knife seizure and use of the FSL result; it alternatively urged Section 304 Part I with over eleven years already served. The State supported the trial judgment. The Court acquitted the appellant because the prosecution failed to prove the charges beyond reasonable doubt.

2. Precedents — Considered : *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, was quoted at paragraph 32 and applied at paragraphs 33–35. The quoted passage incorporates *Darya Singh v. State of Punjab on* careful appraisal of an interested relative who may share hostility to an alleged assailant: assess whether a witness was really present, the probabilities and every infirmity. It also explains that independent corroboration is not indispensable whenever the prosecution relies on apparently interested witnesses; quality rather than quantity decides credibility. *Raghubir Singh v. State of U.P.* appears within the same quotation for the related but narrower point that the prosecution need call material witnesses needed to unfold its case, not every possible witness, and the reluctance of outsiders to testify can be relevant. The present court

expressly avoided a universal corroboration rule. It found Neeraj's testimony shaky, noted that Chhotu was not an eyewitness, and considered the widow's non-examination and concealment of the family's presence. In that setting, corroboration was appropriate but lacking. The widow's materiality arose from concrete inconsistencies, not a rule to summon every relative.

Parsuram Pandey v. State of Bihar, (2004) 13 SCC 189, was quoted at paragraph 43. Its Section 313 rule requires the trial court to give the accused a personal chance to answer circumstances appearing in prosecution evidence; an incriminating circumstance not put to the accused cannot support conviction. *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, was quoted at paragraph 44 and reinforces exclusion of circumstances never put to the accused; its quoted discussion refers to the earlier Section 342 CrPC and instances of absconding and human-blood serology, carried into current Section 313. *Vikramjit Singh v. State of Punjab, (2006) 12 SCC 306*, was quoted at paragraph 45, including its use of *Tara Singh v. State*: asking about recovery of a bloodstained item is distinct from asking about a later serologist's human-blood finding. The Court applied those authorities to the same procedural fairness requirement. The court applied them directly to the report received after arguments and the missing supplementary question. The references to *Hate Singh Bhagat Singh*, *Shamu Balu Chaugule*, *Harijan Megha Jesha* and *Tara Singh* occur within the Supreme Court quotations as earlier authorities and illustrations.

Kansa Behra v. State of Orissa, (1987) 3 SCC 480, was quoted in paragraph 46. Its cited passage cautions that human blood without grouping, stain dimensions or a reliable connection to the deceased cannot by itself positively attribute stained clothing to that deceased; small stains can have other sources. The High Court used that limit after excluding the FSL circumstance for failure to question under Section 313: in any event no blood group had been ascertained. The application is bounded by the doubtful recovery and absence of a reliable victim-specific link here.

3. Statutes considered : Sections 302 and 452 IPC were the convicted offences: murder and house trespass after preparation for hurt, assault or wrongful restraint. The case was originally registered under Section 307 with Sections 452 and 294 after the FIR was lodged while the victim was injured. Section 302 was added on his death, and the Trial Court framed charges under Sections 302 and 452. Section 374 CrPC supplied the appeal. The alternative Section 304 Part I IPC submission did not call for conversion once the court held the identity of the assailant unproved. Section 313 CrPC required an opportunity to explain an incriminating circumstance personally; the report's receipt after final arguments could have called for further questioning before reliance, but none occurred. Section 293 CrPC made the FSL report potentially admissible as the judgment states, a different question from its use against an accused who had no opportunity under Section 313 to address its result. The report also was not marked as an exhibit. Its admissibility did not cure the evidentiary and fairness deficiencies. The prosecution's proof remained subject to the criminal beyond-reasonable-doubt standard; the court did not infer guilt merely from proof of homicide or a disputed recovery.

4. Issues : (i) Whether Neeraj's testimony, as the only witness to the actual stabbing, was reliable enough to prove this appellant was the assailant when Chhotu did not witness the assault, family presence was obscured and the widow was withheld.

(ii) Whether the scene, missing cut-mark evidence on garments, unexplained additional injuries and the autopsy wound's direction supported the claimed assault or instead generated material doubt about how the incident began.

(iii) Whether the disputed knife recovery and an unexhibited FSL finding received after final arguments could be used when its human-blood circumstance was never put to the appellant under Section 313; and what further inference could follow absent a blood-group connection to Devilal.

(iv) If guilt under Sections 302 and 452 were proved, whether the defence's alternative Section 304 Part I/period-served position arose for determination; and what order followed if the prosecution failed the proof threshold.

5. Ratio / Findings : The chest stab proved Devilal's homicidal death, but did not establish who inflicted it. Neeraj's account of the outside altercation changed in detail and he had not seen that earlier exchange; his suggestion that Chhotu helped expel the appellant at the first visit was not supported by Chhotu. Neeraj himself placed his brother upstairs until after the blow; Chhotu acknowledged the appellant was gone by the time he descended. Their accounts of the wife's and daughter's presence and

family quarrels mattered because the accused disputed how the injuries arose. Kunta, the widow, was cited but not examined, and the court found the prosecution had kept back a material account in an evidentiary setting where Neeraj needed corroboration. Under *Harbeer Singh*, the witnesses' relationship to the deceased did not by itself discredit their evidence, but these concrete infirmities justified scrutiny and corroboration in this case.

The court also examined the account of the assault against the physical evidence. Chhotu wiped blood from the scene without explaining why and did not accompany his injured father to police or hospital. The autopsy garment lacked a cut despite the asserted penetrating wound, while torn, bloodstained clothing seized at the spot was withheld from production and there was no proof whether it bore matching cuts; the FSL report did not answer the investigator's question about garment cuts. The alleged nasal knife blow did not correspond to an incised wound. The other fresh injuries, temporal ecchymosis and downward direction of the deep stab were not explained in a way consistent with the claimed victim reclining on the cot. In the context of testimony about drinking and family quarrels, the court considered these defects material to whether the prosecution had disclosed the actual genesis. It treated the medical and scene evidence cumulatively. The knife did not repair the gap. The seizure witness, a son-in-law of the deceased, acknowledged tutoring by an advocate and lacked basic knowledge of the accused's home, so the court doubted the recovery. More decisively, the FSL report arrived only after final arguments; although potentially admissible under Section 293, it was not exhibited and its human-blood finding was not put to the accused in a further Section 313 examination. *Parsuram Pandey*, *Sharad Birdhichand Sarda* and *Vikramjit Singh* required exclusion of that incriminating circumstance because it had not been put to the accused. On the independent serological point from *Kansa Behra*, the laboratory did not identify a blood group to connect the stain to Devilal. The finding of merely human blood therefore did not positively identify a victim-specific link, even if procedural use had otherwise been possible. The combination of shaky sole direct testimony, withheld and discordant physical evidence, doubtful recovery and unusable or nonspecific forensic result left reasonable doubt as to whether Purushottam was the assailant. The court did not decide that Devilal's death was nonhomicidal; it found the particular charges against this accused not proved.

6. Relief : The Hon'ble High Court allowed the criminal appeal. The convictions and concurrent sentences under Sections 302 and 452 IPC and the trial judgment dated 3 February 2012 were set aside, and Purushottam Pal was acquitted of those charges. Being in jail, he was directed to be released immediately unless required in another case. The court directed a free copy of the judgment to him and return of the trial record with a copy for compliance. It did not impose a Section 304 Part I substitute conviction.

Purushottam Pal v. State of M.P., Cr.A. no. 433/2012, 25/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Anticipatory bail / co-operative plot allotment / delay - In considering a Section 438 CrPC application in a case alleging offences under Sections 420 and 409 IPC, the Court weighed the March 2009 payments, the April 2009 public cancellation notice, the more than 12-year unexplained delay before police complaint, the 3,000-square-foot-per-member allotment cap, payment to the society or Collector, and the applicant's offer to execute leases within the permitted limit and refund the excess amount. It granted protection subject to investigation and bond conditions while expressly leaving whether 15,600-square-foot promises reflected error or deliberate conduct undecided.

Victim intimation / bail order - The Court directed intimation of the grant to the complainant in light of *Aparna Bhat & Ors. v. State of M.P., Criminal Appeal No. 329/2021* (18 March 2021).

Case-note :- ***1. Facts :*** Rajendra Upadhyay, president of Annapurna Grih Nirman Sahkari Sanstha Maryadit, filed his first application for anticipatory bail under Section 438 CrPC in Crime No. 246/2021 at Sirol Police Station, Gwalior, registered under Sections 420 and 409 IPC. The State opposed. The complainant was represented by counsel, but none appeared for the complainant; the complainant filed an interlocutory application opposing bail and additional allotment, banking and Nazul materials were placed on record. The society had received 6.218 hectares under the State's allotment of 25 September 2008 for residential use,

but clause 8 capped any member's plot at 3,000 square feet. A Collector–society lease followed on 14 August 2009. The applicant disputed the personal description in the lease and claimed the society, not he personally, held the land.

The complainant Sanjay Sancheti and three family members alleged offers of 15,600 square feet each in return for payments totalling Rs. 37 lakh, mostly Rs. 9 lakh each and Rs. 10 lakh for Shakuntala Sancheti. They said leases had been made for other members, but not for them, and accused the applicant of failing to return money with commercial interest. The applicant said an erroneous excess-allotment letter was cancelled through a newspaper notice of 29 April 2009, a little over a month after payments dated 24 March 2009, and offered lawful 3,000-square-foot leases and refund of any excess. The Court did not treat his denial or the complainant's forgery assertion as finally proved.

2. Precedents — Considered : At paragraph 22 the Judge expressly invoked *Aparna Bhat & Ors. v. State of M.P., Criminal Appeal No. 329/2021*, order of 18 March 2021, to direct intimation of the bail grant to the complainant. The Court directed intimation of the bail grant to the complainant.

3. Statutes considered : Section 438 CrPC governed the first application for pre-arrest bail; Section 438(2) supplied additional conditions incorporated into the release order. Sections 420 and 409 IPC were the alleged cheating and criminal-breach-of-trust counts, not convictions. The clause 8 restriction in the State allotment of 25 September 2008 was crucial in determining the permissible size of plots allotted by the co-operative society. The grant was expressly without commenting on the merits of the case.

4. Issues : Whether the allegations of taking money against excessive plot promises called for custodial arrest notwithstanding the long interval, public correction notice, destination of funds, offer to execute leases of the permissible size and refund the excess amount, and investigation at a very early stage; whether any factual dispute about error versus deliberate deception should be decided on bail; and what conditions and complainant notification should accompany a grant. The case was not a final adjudication of the promised land, refund, interest or criminal responsibility.

5. Ratio / Findings : The investigation was at a very early stage: police had requested original allotment letters from the complainant and the Collector's original lease. The Court noted the applicant's public notice of 29 April 2009 and that the complainant's bail-opposition application did not dispute its purported publication. The money had been paid to the society's account or Collector (Nazul) around 24 March 2009, whereas the police complaint was made on 18 October 2021, more than 12 years later, with no explanation for the long silence. Clause 8 prohibited allotment above 3,000 square feet per member. The applicant offered to execute leases of that permissible size and said the society had offered repayment of the excess; the Court took those assertions into account in deciding bail, without treating them as proof that the liabilities had been discharged. Whether the 15,600-square-foot offers were mistake or deliberate conduct was expressly reserved. On these circumstances it considered anticipatory bail appropriate without commenting on merits.

6. Relief : The Hon'ble High Court allowed the application for anticipatory bail without commenting on the merits, subject to the applicant appearing before the Investigating Officer (Arresting Officer) on or before 15/11/2021. On such appearance, he was to be released on furnishing a personal bond of Rs. 1,00,000/- with one surety in the like amount to the satisfaction of that officer. He was required to remain available for interrogation as and when required, provide all original documents required by the Investigating Officer, refrain from tampering with prosecution evidence and witnesses, and comply with the other conditions under Section 438(2) CrPC. If he failed to appear by 15/11/2021, the order would lose its effect and the Investigating Officer would be at liberty to take him into custody. Intimation of the grant was to be sent to the complainant.

Rajendra Upadhyay v. State of M.P., M.Cr.C. no. 53177/2021, 08/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Police recovery witness / independent corroboration - *State (NCT of Delhi) v. Sunil, (2001) 1 SCC 652, Praveen Kumar v. State of Karnataka, (2003) 12 SCC 199*, and *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, were quoted and applied: official testimony about recovery must be assessed on its own merits; independent signatures or corroboration are not rigid legal prerequisites, though careful scrutiny and

corroboration may be prudent where reliability is in doubt. The investigating officer's status alone did not invalidate his account. The decisive deficiency was its content: he failed to state the information said to have led to discovery, while the other seizure witnesses had turned hostile.

Section 27 / proof of disclosure / robbery identity - *Babu Sahebagouda Rudragoudar v. State of Karnataka, (2024) 8 SCC 149*, incorporating *Deoman Upadhyaya*, *Mohd. Abdul Hafeez*, *Subramanya* and *Ramanand*, was applied: Section 27 admits only information distinctly connected to the discovered fact; Section 60 requires the officer who heard it to narrate the accused's relevant words and recovery sequence. Merely marking Ex. P.7 as an exhibit did not prove the disclosure or its connection with the discovery of the motorcycle. The complainant proved the occurrence but did not identify Pushpendra. Counsel submitted that no TIP had occurred. The other witnesses to the occurrence and seizure were hostile, and the motorcycle recovery was not proved. The Section 392 IPC read with Sections 11/13 MPDVPK Act conviction was set aside and the appellant acquitted.

Case-note :- ***1. Facts :*** Pushpendra Singh appealed under Section 374(2) CrPC from a Special Judge (MPDVPK Act), Bhind judgment of 1 August 2012 in Sessions Trial 93/2007 (Dacoity). He alone was convicted under Section 392 IPC read with Sections 11/13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam (MPDVPK Act), receiving four years' rigorous imprisonment, ₹1,000 fine and 15 days' default imprisonment; co-accused Rama Shanker and Pushpraj were acquitted. Diwan Singh had reported that, at about 7:45 pm on 26 June 2007, two of three motorcycle riders stopped him, one brandished a country-made pistol, and they took his motorcycle, generator parts and Nokia phone. The FIR concerned two unknown persons. Police subsequently arrested three people and asserted that a motorcycle was seized from Pushpendra after his Section 27 disclosure.

The appellant argued that the complainant Diwan Singh (PW8) supported the fact of robbery but not the accused's identity, no test identification parade had been conducted, other occurrence and independent seizure witnesses had turned hostile, and the investigating officer Ramesh Singh Bhadouria (PW4) did not state the part of the appellant's supposed information that led to discovery. Even if possession were proved, counsel urged that Section 411 IPC, rather than robbery by this appellant, might be the most that could be alleged; he cited the High Court's *Niran* decision. The State supported conviction. The court examined police testimony rather than treating the officer's status as disqualifying, then distinguished the marking of a document as an exhibit from proof of the information legally admissible on discovery. It ultimately found neither perpetrator identification nor the asserted recovery proved. The appellant was on bail at judgment.

2. Precedents — Considered : *State, Government of NCT of Delhi v. Sunil, (2001) 1 SCC 652*, was quoted in paragraph 15. It rejects a legal presumption that contemporaneous recovery papers are tainted for want of independent signatures or that police conduct begins under automatic distrust. The officer's testimony may be believed on its merits; an accused can expose unreliability by cross-examination or other material, and reasons to suspect a particular record may make the absence of independent persons relevant. The present Court used it to refuse the categorical contention that PW4 must fail because he was investigating officer or the independent witnesses had withdrawn support. It did not use *Sunil* as a substitute for proving the substantive disclosure and its resulting discovery.

Praveen Kumar v. State of Karnataka, (2003) 12 SCC 199, was quoted in paragraph 16 for Section 27's lack of a blanket requirement that information to police be made before independent witnesses. Corroboration where the prosecution relies on police alone is a matter of caution and prudence, not an absolute rule; a reliable officer can be accepted without it. *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, was quoted in paragraph 17: a panch's brother being in police does not disqualify him, and absence of independent corroboration alone does not require rejecting credible official testimony, though greater care in appraisal is called for. The quotation also refers to *Kalpnath Rai* and several other decisions as earlier supporting authorities. The three authorities form one related proposition on the credibility of police recovery evidence. The High Court accepted that principle concerning the assessment of police testimony in paragraph 18 and then found an independent defect in what PW4 actually narrated.

Babu Sahebagouda Rudragoudar v. State of Karnataka, (2024) 8 SCC 149, was quoted extensively in paragraph 21 and directly applied in

paragraph 22. Its quoted reasoning treats an officer's written memorandum as a record of what the accused told him, admits under Section 27 only the information distinctly linked to the fact discovered, and requires the officer to give direct oral evidence under Section 60 of the actual disclosure conversation and recovery sequence. *State of U.P. v. Deoman Upadhyaya* appears within it for the separation of the inadmissible confessional part. *Mohd. Abdul Hafeez v. State of A.P.* underscores who gave the information and what words were spoken, particularly when several accused are involved. *Subramanya v. State of Karnataka* identifies failure to depose to the exact statement said to have led to discovery and describes a two-stage panchanama practice, with witnesses at disclosure and then at the discovery site, to lend credibility. *Ramanand v. State of U.P.* states that exhibiting the memorandum alone does not establish its contents; the officer must narrate the events. The disclosure-proof principles in these quoted authorities formed part of the test reproduced by the High Court and applied to PW4's failure to narrate the disclosure. *Niran v. State of M.P., 1988 JLJ 505*, was counsel's citation to a Division Bench decision, recorded among his submissions.

3. Statutes considered : Section 374(2) CrPC supplied the criminal appeal. Section 392 IPC punished the charged robbery; Sections 11/13 MPDVPK Act accompanied it in the charge and conviction. The Court found the appellant's participation and the alleged recovery unproved. Section 411 IPC arose only as the appellant's alternative submission on the possible effect of possession; because the supposed motorcycle recovery itself was unproved, the court did not convert the conviction to receiving stolen property. Section 27 of the Indian Evidence Act is a limited exception to the exclusion of police-custody confessions: only so much information as distinctly relates to the fact discovered is provable. Section 60 demands direct oral testimony from the witness who heard the information. Merely tendering or marking the written memorandum Ex. P.7 does not prove the spoken words, the distinct discovery link, or the resulting seizure. Counsel submitted that no test identification parade had been conducted; the Court found that the complainant did not identify the appellant.

4. Issues : (i) Whether the complainant's proof that a robbery occurred, without identification of Pushpendra and with the other witnesses to the occurrence having turned hostile, proved he was one of the offenders.

(ii) Whether an investigating officer's evidence on a motorcycle recovery had to be rejected merely because he was a police officer and independent panch witnesses were hostile, or could be evaluated on its own merits.

(iii) Whether saying a Section 27 memorandum was recorded and exhibiting it, without giving the accused's relevant words and discovery sequence in direct testimony, proved the asserted recovery; whether the supposed recovery could sustain the Section 392/MPDVPK conviction or the suggested Section 411 alternative.

5. Ratio / Findings : The complainant supported the occurrence of robbery but not Pushpendra's identity. Kamlesh, Buddhe, Jagdish Kushwaha, Asharam and Sobaran were hostile. Counsel submitted that no TIP was conducted. Thus there was no evidence linking this appellant directly to the act of robbery. The court next considered whether the alleged motorcycle recovery could supply a legally established link. Under *Sunil*, *Praveen Kumar* and *Yakub Abdul Razak Memon*, PW4's police employment did not make him incompetent or presumptively unworthy; lack of independent support was not a conclusive rule of exclusion. The content and reliability of his own direct testimony remained decisive.

PW4 stated only that he had recorded the appellant's confessional/disclosure memorandum Ex. P.7; he did not narrate the words which supposedly led to the motorcycle, their distinct relation to the discovered fact or the sequence of discovery. The rule in *Babu Sahebagouda* and the authorities quoted within it required direct testimony; marking the memorandum as an exhibit could not take the place of proof. The remaining seizure witnesses were hostile. The court therefore declined to rely on PW4 and held the motorcycle seizure from Pushpendra unproved. Nor could the court infer that the appellant was the robber from an unproved recovery when the complainant did not identify him. The trial court's Section 392 read with Sections 11/13 MPDVPK conviction failed. Counsel raised Section 411 alternatively; the Court found the alleged seizure unproved and acquitted the appellant.

6. Relief : The Hon'ble High Court allowed the appeal. The conviction and four-year sentence under Section 392 IPC read with Sections 11/13 MPDVPK

Act and the Special Judge's 1 August 2012 judgment and sentence were set aside as against Pushpendra. He was acquitted of all charges. Because he was on bail, his bail bonds were discharged and he was no longer required in this case.

Pushpendra Singh v. State of M.P., Cr.A. no. 611/2012, 29/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Chance witness / appellate review - Under Section 386(b)(ii) CrPC, the court considered the State's submission that it could alter the trial court's finding rejecting Amar Pandey (PW6) while maintaining sentence. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, *Jarnail Singh v. State of Punjab, (2009) 9 SCC 719*, and *Baby v. Inspector of Police, (2016) 13 SCC 333*, were quoted and applied: a chance witness is not automatically rejected; presence and later conduct require close, context-sensitive scrutiny. The witness, related to the deceased, claimed his arrival there by chance late at night, made no report to nearby police, told no one for 17 days despite normal daily activity, and his claimed disclosure to Ramu found no support in Ramu's evidence. His fear explanation was insufficient and the trial court's rejection stood. The authorities quoted within those decisions distinguished an explained passerby's presence from doubtful, unexplained presence; they did not prohibit reliance on chance-witness testimony.

Hair seizure / DNA foundation - The scientist reported taking two hairs from the dead man's finger before 3:30 a.m.; the formal 6:10 a.m. seizure witness described 8–10 hairs collected by the investigating officer; the officer altered his account, and neither seizure nor laboratory forwarding specified their number. The unexplained discrepancies about who collected the hairs, when they were collected and how many were collected made proof of the tested material's origin doubtful. The knife was rusted, unsuitable for cut-mark comparison, and the blood on it was insufficient for further testing. A DNA profile could not by itself establish that the particular sample was securely recovered from the hand or prove this appellant was the killer.

Section 313 / late DNA report - *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, *Ghulam Din Buch v. State of J&K, (1996) 9 SCC 239*, and *Vikramjit Singh v. State of Punjab, (2006) 12 SCC 306*, were applied: an incriminating circumstance omitted from Section 313 questioning cannot be used to convict. The accused's examination occurred before the DNA report arrived; the court later supplied a copy and marked it Ex. D.2 on no objection, but never put the reported profile to him for explanation. The DNA inference was excluded, separately from doubts about seizure. With the eyewitness unreliable and missing reliable forensic support, the Section 302 and 201 IPC convictions were set aside and the appellant acquitted and ordered released unless required elsewhere.

Case-note :- ***1. Facts :*** Puttu, also named Mohit Sharma in a medical-identification context, appealed against the XV Additional Sessions Judge, Gwalior's 19 April 2024 judgment in Sessions Trial 150/2022. He had been convicted under Section 302 IPC (life imprisonment, ₹1,000 fine and six months' default rigorous imprisonment) and Section 201 IPC (three years' rigorous imprisonment, ₹500 fine and six months' default rigorous imprisonment). The appeal was accompanied by an application for condonation of delay. The Division Bench condoned the delay because he was in jail. Instead of deciding his Section 389 CrPC/430 BNSS suspension application separately, it heard the appeal finally. Section 374 CrPC/415 BNSS is recited as the appellate route.

On 1 December 2021 Ramu alias Rameshwar told police his electrician brother Ganesh, who drank heavily after their mother's death, had been found dead on a handcart near a liquor shop after a neighbour informed him around 3 a.m. He saw bleeding from chest, abdomen and neck. Merg and scene investigation followed, some hairs were said to have been found in a hand of the body, the appellant was arrested, a knife was seized and a blood sample compared with a hair sample by DNA testing. The medical examination established numerous deep penetrating injuries as well as lacerations and death from hypovolaemic shock after multiple organ damage. The court accepted homicide but examined who inflicted it.

The prosecution relied on Amar Pandey (PW6) as an eyewitness and a laboratory profile said to match the appellant's DNA in a hair recovered from the deceased's hand. The trial judge rejected Amar but convicted on the DNA inference. Defence challenged the supposed eyewitness, continuity and count of the hairs, and the late DNA report. State

counsel urged the appellate bench to alter the trial judge's adverse finding on Amar and sustain the convictions. The bench separately considered that permissible appellate task, the recovery foundation, Section 313 fairness, knife results and gaps in the investigation. It also noted unexplained early information received by the police, an unproduced small diary said to contain the deceased's lending accounts, unexplained lacerations alongside the asserted knife attack, and testimony that police beat the appellant after arrest and obtained signatures on papers. Those matters contributed context to overall doubt.

2. Precedents — Considered : *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, was quoted at paragraph 31. It discusses *Puran v. State of Punjab*'s description of a suddenly appearing and disappearing witness, *Mousam Singha Roy*, *Shankarlal* and *Jarnail Singh* on doubtful presence and material contradictions. It does not make the borrowed label "chance witness" automatically fatal in India; presence and conduct must be tested. *Jarnail Singh v. State of Punjab, (2009) 9 SCC 719*, was separately quoted at paragraph 32. Its embedded *Sachchey Lal Tiwari* passage explains that a passerby may be the natural witness to a street crime, though the presence requires explanation; the expression's cultural origin should not generate rigid suspicion. Its other quoted authorities, including *Satbir*, *Harjinder*, *Acharaparambath Pradeepan*, *Sarvesh Narain Shukla*, *Shankarlal* and *Thangaiya*, explain careful scrutiny of presence, later disclosure and natural conduct. *Baby v. Inspector of Police, (2016) 13 SCC 333*, was quoted at paragraph 33 and refers back to *Jarnail Singh*: an explained chance witness can be believed, but contradictions and silence after witnessing a killing may defeat reliability. The present bench applied these related principles to the unexplained silence for 17 days and the unsupported account of disclosure to the victim's brother, rather than treating them as three separate rigid restrictions; it affirmed the rejection of Amar. Its Section 386 discussion allowed review of a finding in the conviction appeal but did not compel acceptance of the State's requested alteration.

Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116, was quoted at paragraph 48 for complete exclusion from consideration of incriminating circumstances not put to the accused under Section 313. The reproduced reasoning refers to earlier Section 342 cases *Hate Singh Bhagat Singh*, *Shamu Balu Chaugule* and *Harijan Megha Jesha* as earlier authorities and illustrations. *Ghulam Din Buch v. State of J&K, (1996) 9 SCC 239*, was quoted at paragraph 49 to show that failing to give the accused an opportunity to explain the central allegation or circumstances makes a conviction relying on them unsustainable. *Vikramjit Singh v. State of Punjab, (2006) 12 SCC 306*, was quoted at paragraph 50 with the embedded *Tara Singh* example: asking about recovery of an item is not the same as asking the accused to explain a later serologist's human-blood result. The same distinction applies to the late DNA result here. The three authorities explain the related Section 313 fairness requirement through distinct formulations, which the Court applied to Ex. D.2.

3. Statutes considered : Section 386(b)(ii) CrPC permits alteration of a finding while maintaining sentence in a conviction appeal, which led the bench to consider the State's request to reverse the trial judge's disbelief of Amar. Section 374 CrPC/415 BNSS framed the appeal and Section 389 CrPC/430 BNSS the suspension application, which became unnecessary for interim decision when the appeal was heard finally. Section 302 IPC concerned the homicidal stabbing and Section 201 IPC the alleged evidence-disappearance charge; after finding it unproved that the appellant had committed the offences, the court acquitted him of both. Section 313 CrPC required the trial court to put material incriminating circumstances to the accused personally. The report's marking as Ex. D.2 after a copy was furnished and counsel made no objection did not supply the omitted personal question. This is distinct from doubts whether a sample from the hand had been proved to reach the laboratory intact and identified. The court assessed proof beyond reasonable doubt, not the abstract accuracy of DNA methodology. The order identifies both the CrPC and BNSS appellate provisions.

4. Issues : (i) Whether appellate power under Section 386(b)(ii) justified altering the trial court's rejection of Amar, whose claimed late-night presence, 17-day silence, lack of help or report and unsupported account of speaking to Ramu were disputed.

(ii) Whether two hairs reportedly removed by the scene scientist before 3:30 a.m. were shown to be the same 8–10 hairs a seizure witness said the investigator removed at 6:10 a.m., when official seizure and dispatch papers gave no number.

(iii) Whether a DNA profile reported after the accused's Section 313 examination and never put to him personally could be used, despite a supplied copy and exhibit marking without counsel objection. (iv) Whether the remaining knife, medical, missing diary and uncertain first-information evidence proved guilt under Sections 302 and 201 beyond reasonable doubt, and what appellate relief should follow.

5. Ratio / Findings : The medical proof established homicide. The State's bid to rely on Amar did not succeed. The bench accepted in principle that chance presence at a public place does not disqualify a witness; it examined his claimed return from Supawali, stop at a liquor shop, family relationship, proximity of posted police at Baradari Square and a station near his home, failure to raise alarm or seek treatment, regular opening of his shop, and no disclosure to anyone for 17 days. His explanation of fear did not fit the whole course of conduct. He said Ramu first heard the story and escorted him to police; Ramu did not mention either event. The investigating officer recorded his first statement on 17 December and confirmed no prior information from Amar. *Harbeer Singh*, *Jarnail Singh* and *Baby* supported scrutiny, not automatic exclusion, and the trial court had rightly found his presence and reliability wanting. The appellate bench considered the adverse finding under Section 386(b)(ii) but declined the State's desired change.

The evidence about the hairs allegedly recovered from the hand did not consistently establish their origin. Scene scientist Akhilesh Bhargava said he found two small hairs with a lens on the left little finger and secured them before his 3:30 a.m. report; the investigator was present. Yet the formal seizure memo was made at 6:10 a.m., and Ramu said he watched the investigator collect roughly 8–10 hairs then. The investigator first claimed he seized the hairs and later attributed the act to the scientist. Neither the seizure memo nor the 22 December laboratory-forwarding memo specified the count. The court asked why a seizure was not documented when the scientist said he removed the material and why it appeared to remain on the hand hours later if already taken. These conflicts made the foundational seizure doubtful, before any inference from a profile. The laboratory could not compare the rusted knife to clothing cuts; too little blood was present on it for the stated test. The knife did not independently prove that the appellant was the assailant.

The accused was examined under Section 313 on 29 January 2024. The DNA report was received only on 18 March, marked Ex. D.2 on 15 April after counsel did not object, and the trial court delivered judgment on 19 April without re-examining him on the profile. *Sharad Birdhichand Sarda*, *Ghulam Din Buch* and *Vikramjit Singh* required exclusion of this central incriminating circumstance because it had not been put to the accused. Receipt of a report, supply of a copy, lack of objection to exhibiting it and a fair opportunity for the accused to explain its content are different steps. The trial judgment had depended on this single DNA inference; it could not stand once the proof of the specimen's origin was doubtful and the reported result could not be used against him. The court further questioned who first alerted police before the recorded merg, observed that a small accounts diary described as seized was missing, and noted unexplained lacerations in a case attributed solely to knife blows. It called the investigation casual and unsatisfactory and observed evidence of police beating and signatures after arrest. Taken together, the prosecution failed to prove that this appellant committed murder or disappearance of evidence beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the appeal. The life and other sentences and 19 April 2024 trial judgment were set aside, and Puttu was acquitted of the Sections 302 and 201 IPC charges. Since he was in jail, the bench ordered immediate release unless required in another case and return of the trial record with the judgment for compliance. The suspension application was not separately determined after the final appeal hearing; the delay in filing had been condoned at the outset.

Puttu v. State of Madhya Pradesh, Cr.A. no. 8991/2024, 25/06/2025, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Hirdesh, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR refusal / magistrate remedies / inherent power - A complaint of police inaction in registering an FIR concerning a cognizable offence ordinarily calls for recourse to the statutory sequence of remedies. *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, and *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, distinguished the police duty to register cognizable information from the informant's remedy before a Magistrate under Sections 190 and 200 CrPC. *Sakiri Vasu v. State of*

U.P., (2008) 2 SCC 409, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explained that the informant may apply in writing to the Superintendent of Police under Section 154(3), followed, if necessary, by Section 156(3), under which a Magistrate may direct registration or proper investigation and monitor it without taking over police work. *Divine Retreat Centre* permits Article 226 intervention only in very exceptional cases involving mala fide exercise of investigative power, where a clear case of abuse of power and non-compliance with Chapter XII is made out. Even then, the High Court may insist on lawful process but cannot dictate how the police conduct the investigation. The quoted local Division Bench decision in *Shweta Bhadauria* recognizes limited writ exceptions. In this Section 482 application, no basis for ordering police to lodge the FIR was shown. It was dismissed as not maintainable with liberty to use Section 200 CrPC/223 BNSS; the Court expressed no opinion on the merits of the alleged offence.

Case-note :- ***1. Facts :*** Radha Kushwah filed Miscellaneous Criminal Case 47365/2024 under Section 482 CrPC saying police had not registered an FIR despite her complaint and seeking a direction to do so. The prayer sought the status report in Merg 55/2024, impartial investigation by CBI or a senior IPS officer, preservation of CCTV footage of the incidents, and an FIR against the accused. The State objected that Sections 190 and 200 CrPC supplied an efficacious Magistrate remedy.

The Court framed the question whether a direction to the police to register an FIR was maintainable, cited four Supreme Court decisions together with the explanations in their quoted passages, as well as a local Division Bench ruling, and dismissed the application as not maintainable while leaving the applicant liberty to approach the Magistrate.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at paragraph 6. It accepts that police should register an FIR when facts brought to them disclose a cognizable offence, but asks what an informant should do if police do not comply. Its answer is the complaint machinery in Sections 190 and 200 CrPC. The passage distinguishes the question of police duty in *Ramesh Kumari* from the remedial procedure considered in *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*; *Lallan Chaudhary* reiterates the registration duty. The quotation distinguishes the police registration duty from the Magistrate remedy for inaction. The present Court applied the remedial route to a Section 482 applicant asking for a direction to the police to register an FIR, without testing whether her allegations themselves disclosed a cognizable offence.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted at paragraph 7. It recognizes that Article 226 may provide relief in very exceptional cases where investigative power has been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is made out. Even then, the High Court may insist on compliance with the Code but cannot dictate how the investigation is conducted. Its discussion of *Gangadhar* explains the Magistrate's complaint procedure: the court may examine under Chapter XV, dismiss a complaint under Section 203 when no prima facie offence appears, take cognizance and issue process where justified, or direct police investigation where the Code allows. For mere police inaction the complaint route, not a routine writ, is indicated. The High Court used this as a qualification to the general remedy.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, quoted at paragraph 8, supplies the complementary sequence: written application to the Superintendent under Section 154(3) for FIR refusal, then Section 156(3) to the Magistrate if that fails or the investigation remains unsatisfactory. The Magistrate can order registration, proper investigation and monitor its progress. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, quoted at paragraph 9, reiterates *Sakiri Vasu* to avoid routine High Court petitions and states that a Magistrate may, where appropriate, recommend a change of investigating officer and monitor investigation but cannot personally conduct it. The latter decision explains the same statutory remedies; its quotation does not independently direct a change of investigating officer in Radha's case. The Court did not direct any particular investigative act.

Shweta Bhadauria v. State of M.P., W.A. 247/2016 (Gwalior, 20 December 2016), was the local Division Bench authority quoted at paragraph 10: alternative remedies under Sections 154(3), 156(3), 190 and 200 can justify denial of a writ mandamus to enforce Section 154, subject to the recognized *Whirlpool* exceptions; *Lalita Kumari* addresses

police registration duty, not an unrestricted entitlement to writ mandamus despite alternative remedies. *Whirlpool* and *Lalita Kumari* occur within this local quotation in the Division Bench's discussion of alternative remedies. The High Court followed the alternative-remedy approach in its Section 482 disposition.

3. Statutes considered : Section 154 CrPC states the police registration duty for cognizable information; Section 154(3) offers written recourse to the Superintendent. Section 156(3) empowers the Magistrate to direct registration or lawful investigation in a supervisory capacity. Sections 190 and 200 allow the Magistrate to entertain and examine a complaint, with further Chapter XV alternatives including dismissal under Section 203 or proceeding on a prima facie offence. The High Court's final liberty specifically identifies Section 200 CrPC and Section 223 BNSS as the corresponding complaint procedure. Section 482 CrPC was the actual petition provision and did not warrant a routine direction to police to lodge an FIR. Article 226 appeared within the quoted Supreme Court and Division Bench discussion as a distinct, rare public-law route, subject to its qualifications; this was not an Article 226 petition. The operative liberty was to approach the Magistrate under Section 200 CrPC/223 BNSS.

4. Issues : (i) Whether a Section 482 applicant whose complaint has not produced an FIR can bypass the remedies before the Superintendent of Police and the Magistrate and obtain a direct High Court direction that police register it.

(ii) What powers do police, the Superintendent and the Magistrate exercise under Sections 154, 154(3), 156(3), 190 and 200, and how does the exceptional Article 226 jurisdiction in cases of abuse of investigative power qualify the general alternative-remedy rule?

(iii) What liberty remains available to the applicant when the application is dismissed without deciding whether a particular cognizable offence has been alleged?

5. Ratio / Findings : The Court accepted the police duty to register cognizable information as stated in *Aleque Padamsee* and the authorities on police duty discussed within its quoted passage, but distinguished the question of remedy when the informant alleges inaction. The aggrieved informant can complain to the Superintendent of Police under Section 154(3) and then seek Section 156(3) action where appropriate; alternatively the Sections 190/200 complaint route brings the allegations before a Magistrate able to consider cognizance, investigation or dismissal as the Code permits. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explain Magistrate monitoring and its limit: the Magistrate may ensure proper investigation but may not personally conduct the police investigation. *Divine Retreat Centre* preserves very exceptional Article 226 intervention where investigative power is exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is made out. Even then, the Court may insist on lawful process but cannot dictate police investigative methods. *Shweta Bhadauria* applies the alternative-remedy principle with acknowledged writ exceptions. The Court found no case for a direction to police to register the offence. The Court therefore declined the Section 482 direction and left statutory Magistrate recourse open. It reached no conclusion on the merits of the underlying complaint and did not order arrest, investigation steps, registration or a charge sheet.

6. Relief : The Hon'ble High Court dismissed the application seeking a direction to the police to register an FIR, holding it not maintainable. The applicant was expressly left free to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS if she considered that an offence had occurred. The Court made no determination on the truth of her complaint and gave no direction to register it.

Radha Kushwah v. Bharat Sarkar and Ors., M.Cr.C. no. 47365/2024, 19/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder / Section 300 thirdly / intended injury - The four-part test in *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, separates intention to inflict the particular proved injury from its objective sufficiency to cause death in the ordinary course; a distinct intention to kill is unnecessary. *Anda v. State of Rajasthan* stresses sufficiency and the nature of the weapon and target. The Bench found close-range pellet injuries, arterial rupture and fatal haemorrhage sufficient and maintained the Section 302 convictions.

Single injury / Section 302 or 304 - *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319,*

Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444, *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, were used to explain why weapon, force, target, manner and surrounding circumstances govern classification rather than a mechanical count of blows. *Arun Nivalaji More* explained the sequence of inquiry under Sections 299, 300 and 304. *Dhirajbhai Gorakhbhai Nayak*'s sudden-fight conditions were quoted.

Common intention / Section 34 IPC - A shared design, formed before the act even if on the spur of the moment, and participation in the combined criminal act are required; identical blows are unnecessary and mere accompaniment is insufficient. *Suresh Sankharam Nangare*, *Shyamal Ghosh*, *Mrinal Das* and *Ramashish Yadav* explained the requirement of prior concert, while *Hem Raj*, *Dashrathlal*, *Rajagopalswamy Konar* and *Sheikh Nabab* illustrated limits on liability where participation in, or a shared intention to commit, the principal offence was not established. The Bench affirmed Raju's direct Section 302 conviction and the Section 302/34 convictions of Pappu and Shivram on the accepted account of firing, restraint and instigation.

Contradictions / eyewitness account - *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, incorporating *Bakhshish Singh*, *Sunil Kumar Sambhudaya Gupta* and *Raj Kumar Singh*, distinguishes trivial discrepancies from omissions that materially affect the core of the prosecution case. The Bench found the challenged Section 161 CrPC omissions and variations insufficient to undermine the prosecution case on this record and relied on material consistency supported by the postmortem.

Related witnesses / careful scrutiny - *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, and its *Darya Singh* and *Raghubir Singh* discussion require scrutiny of presence, hostility and infirmities but impose no inflexible requirement of corroboration by independent witnesses. The Bench accepted the family witnesses after examining their account and medical support; kinship alone did not render their evidence unreliable.

Motive / trustworthy direct proof - *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, was applied: absence of proved motive is not decisive when credible direct evidence establishes the crime. This depended on the Bench's acceptance of ocular and medical proof, not on a presumption of guilt.

Medical evidence / fatal injury - The doctor's evidence of pellet wounds, blackening, arterial rupture and severe haemorrhage established homicidal death and the objective sufficiency of the particular injury to cause death. The Court held that the gunshot injuries were sufficient in the ordinary course of nature to cause death.

Case-note :- ***1. Facts :*** The connected Criminal Appeals Nos. 381 and 390 of 2010 challenged the judgment dated 6 May 2010 passed by the Special Judge (MPDVPK Act), Bhind, in Sessions Trial No. 92/2007. On 3 August 2007 at about 6 p.m., Gangole Rathore was shot near the platform outside his home at Raun, Bhind. The first account attributed the shot from a 12-bore country-made firearm to Raju alias Ravindra Rajawat and alleged that Pappu alias Jitendra Rajawat caught Gangole while Raju and Shivram Singh Rajawat exhorted the assault. The account also alleged theft of cash and a gold necklace from the house; later witnesses differed over precisely who held the deceased, what they personally saw and when they reached the scene. Gangole died there. A merg intimation and Dehati Nalishi led to Crime No. 107/2007. Police drew a spot map and inquest, seized soil, an empty cartridge and material articles, recorded statements and pursued the alleged firearm recovery. The prosecution charge sheet cited IPC Sections 302, 394 and 34, Arms Act Sections 25/27 and MPDVPK Act Sections 11/13. Thirteen prosecution witnesses testified; the accused denied guilt and called no defence witness.

The postmortem on 4 August recorded pellet punctures, blackening and charring in the thigh and adjacent region, ruptured thigh arteries and substantial haemorrhage; the doctor classified death as homicidal and the injuries as sufficient to cause death in the ordinary course. The trial court did not sustain the dacoity or Arms Act charges on the evidence, but sentenced Raju under Section 302 IPC and Pappu and Shivram under Section 302 read with Section 34 IPC to life imprisonment and a fine of ₹5,000 each. A separately filed appeal by Raju, Criminal Appeal No. 573/2010, had already been dismissed as not maintainable because Appeal No. 390/2010 was earlier. The present Bench jointly heard Nos. 381 and 390. The defence disputed the firearm link, common intention and the relatives' eyewitness accounts, pointing to Section 161

omissions, witnesses said to have arrived after the shot, lack of independent corroboration and uncertain motive. The State relied on the eyewitness and medical evidence.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the decisive Section 300 Thirdly sequence: prove the injury and its nature, prove intention to inflict that particular injury rather than an accidental or different injury, and objectively establish sufficiency for death in the ordinary course. The Bench used this distinction to reject the argument that intention to kill itself must be shown. *Anda v. State of Rajasthan* similarly explained the high probability inherent in an ordinarily fatal intended injury and the relevance of weapon and body part. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals Nos. 1078–1079 of 2005, was reproduced for the progression from Section 299 to Section 300, its exceptions and Section 304 Parts I and II; its detailed discussion of the offender's special knowledge under clause Secondly was background, because this Bench resolved the case under clause Thirdly.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, rejected a universal rule requiring a lesser conviction merely because a single blow was inflicted and assessed the weapon, site and circumstances. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, supplied a non-exhaustive set of indicators of intention, including weapon, force, sudden fight, premeditation, provocation, undue advantage and number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, drew intention from a crowbar blow and grave skull injury in its own facts. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, rejected a fixed one-blow rule and discussed *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram* within its extract. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, treated single injury as non-conclusive and discussed *Vedanayagam*'s application of *Virsa Singh*. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, stated the cumulative conditions for applying Exception 4 to a sudden fight: absence of premeditation, sudden mutual fight in the heat of passion, no undue advantage or cruel or unusual conduct, and a fight with the person killed. *Tularam v. State of M.P.* was invoked by counsel on murder ingredients.

On Section 34, *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, distinguished common intention without a separate overt act of inflicting a blow from participation without shared design. *Shyamal Ghosh v. State of West Bengal, AIR 2012 SC 3539*, *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, and *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, were used for prior concert, prosecutorial proof of participation and formation of a design even on the spur of the moment. *Hem Raj v. Delhi Administration, AIR 1990 SC 2252*, *Dashrathlal v. State of Gujarat, 1979 Cri LJ 1078* (SC), *Rajagopalswamy Konar v. State of Tamil Nadu, 1994 Cri LJ 2195* (SC), and *Sheikh Nabab v. State of Maharashtra, 1993 Cri LJ 43* (SC), illustrated the need to prove the other accused's contribution and the basis for joint liability, rather than attribute a principal actor's offence merely because they accompanied that actor. *Balvir Singh* and *Sonu alias Sunil* were cited by appellants.

Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195, supplied the rule that trustworthy direct testimony reduces the significance of an unproved motive; the Bench applied it to the ocular account. *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, was relied on to distinguish immaterial discrepancies from contradictions affecting the core. Its quoted discussion included *Bakhshish Singh*, *Sunil Kumar Sambhudaya Gupta*, *State v. Saravanan and Raj Kumar Singh*; the Bench accepted their common approach of assessing materiality and reading testimony as a whole. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, was applied to relatives' testimony; its reproduced *Darya Singh* reasoning calls for careful scrutiny of interested witnesses' actual presence, probabilities and infirmities, while its *Raghubir Singh* passage rejects unnecessary multiplication of witnesses. The appellants' *Parvat Singh*, *Imrat Singh* and the Madhya Pradesh *Baliraj Singh* citations were relied on by the appellants to challenge the eyewitness evidence.

3. Statutes considered : IPC Section 299 distinguishes intention to cause death or likely fatal injury from knowledge of likely death. Section 300's clauses define when culpable homicide is murder; under clause Thirdly, an intended particular bodily injury sufficient in the ordinary course to cause death attracts murder even without a separately proved desire to kill. The Bench considered the other clauses, the sequence of inquiry leading to Section 304 Parts I and II and the quotation on Exception 4, but affirmed liability under Section 300 Thirdly and punishment under Section 302. IPC Section 34 attributes a joint criminal act done in furtherance of

common intention to each participant; the shared design must be proved, and participation can differ in form. Section 149 appeared only as a comparison in the Court's explanation, not as the charge decided. The alleged Section 394 IPC, Arms Act Sections 25/27 and MPDVPK Act Sections 11/13 formed the investigation and trial background; the judgment records trial acquittal on the special and Arms Act charges and does not independently determine appellate guilt on those charges. The defence used omissions in police statements under CrPC Section 161 to attack witnesses; the Bench assessed their materiality.

4. Issues : (i) Did the proved firearm injuries cause Gangole's homicidal death and, assessed through Sections 299 and 300, particularly clause Thirdly, amount to murder rather than a lesser form of culpable homicide? This required separating the intended injury from an intention to cause death and testing medical sufficiency. (ii) Did the prosecution's account of Raju's shot and the alleged acts of Pappu and Shivram justify direct Section 302 liability for the shooter and Section 302 read with Section 34 for the others, notwithstanding the defence challenge to concert and participation? (iii) Were the related witnesses' claimed presence and accounts reliable after the omissions and variations in police statements, the lack of independent support urged by the defence and the acquittal on other charges? (iv) Did the absence of a proved motive, or the absence of a conviction on the firearm-possession charge, undermine the direct and medical proof? Exception 4's sudden-fight test and Section 304 classifications were quoted within the homicide discussion.

5. Ratio / Findings : The doctor's account of close-range pellet injuries, blackening, arterial rupture and extensive blood loss established an ante-mortem firearm assault and death from haemorrhage. The Bench treated the injury intentionally inflicted by the gunshot as sufficient in the ordinary course to cause death; under *Virsa Singh*'s distinction between subjective intention and objective sufficiency, an express intention to kill or a wound to the chest or head was not required. The cases concerning a single injury and Section 304 ruled out an automatic reduction merely because of the location or number of injuries; the Court concluded that Section 300 Thirdly and Section 302 applied.

On common intention, the Bench explained that a joint criminal act and a prior shared design, which may develop immediately before execution, permit Section 34 attribution; identical acts are unnecessary, but participation cannot be supplied merely by association. It considered the alleged holding of Gangole and instigation alongside Raju's firing. In the detailed witness recitals, Surendra could not explain why instigation was omitted from his first report; Ramsanehi's asserted eyewitness and restraint details were not recorded in his police statement; Gangacharan and Munnesh described seeing the men flee, with parts of their accounts learned from Surendra; Sudha and Suman supported the holding account. The Court then characterised the variations as minor, found the eyewitnesses firm on material aspects and affirmed all three convictions. The Court affirmed the convictions on its assessment of the evidence.

The related witnesses were not discarded for family connection. Applying *Harbeer Singh* and the *Darya Singh* test quoted within that decision, the Court scrutinised the testimony and found Surendra's account materially supported by Munnesh, Gangacharan and Ramsanehi and by the autopsy, even though particular witnesses' claimed personal observation and Section 161 omissions were contested. *Mallikarjun* and the authorities quoted within it directed attention to whether contradictions materially affect the core of the prosecution case, rather than to isolated trivial variations. The Bench decided they did not here. Under *Yogesh Singh*, the apparent absence of prior enmity or an independently proved property motive could not displace the direct evidence that the Bench found trustworthy.

6. Relief : The Hon'ble High Court dismissed both criminal appeals. The trial court's sentences of life imprisonment and fines of ₹5,000 each were affirmed: Raju alias Ravindra Rajawat under Section 302 IPC, and Pappu alias Jitendra Rajawat and Shivram Singh Rajawat under Section 302 read with Section 34 IPC. Pappu and Shivram, the appellant in Criminal Appeal No. 381/2010, who were then on bail, were directed to surrender immediately; their bail bonds were cancelled. Raju, in jail, was to be informed through the Jail Superintendent. The trial record was to be returned.

Shivram Singh Rajawat and Others v. State of Madhya Pradesh, Cr.A. no. 381/2010 & 390/2010, 08/12/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Defence evidence / Section 243(2) CrPC - After entering on the defence, an accused may seek process for relevant documents; the court must consider the request's bona fides and relevance. If it refuses process on the statutory grounds of vexation, delay or defeating the ends of justice, it must record its reasons in writing. *T. Nagappa v. Y.R. Muralidhar, (2008) 5 SCC 633*, recognises that the accused ordinarily determines how to prove the defence. The trial court rejected the request to summon the bank loan and industrial registration records without finding that the records were irrelevant or that the request was intended to delay the proceedings; its order was set aside.

Fair trial / Constitutional opportunity - *J. Jayalalithaa v. State of Karnataka, (2014) 2 SCC 401*, was applied for the Article 21 fair-trial guarantee and the possibility that hindrance to a fair trial may violate Article 14. The accused's opportunity to obtain and lead material defence evidence cannot be defeated by an unexplained preference for another means of obtaining the evidence, though the court may prevent irrelevant proof and unnecessary protraction.

Third-party documents / alternative access - An assertion that the accused could procure records himself under the Right to Information Act was insufficient where he said the loan and registration records were third-party material unavailable to him. The court's summons procedure remained available, and the disputed question of whether proprietorship or use of the premises could form the basis of liability under the Electricity Act was left for trial.

Production / proof and weight - Summoning a document does not prove it, make it conclusive, or establish the accused's defence. The accused must prove it in accordance with law; the trial court then determines its significance for liability. The petition was allowed and the eleven-year-old trial was directed to finish within three months.

Case-note :- ***1. Facts :*** A vigilance team inspected the M/s Deepti Polycon factory at Morena on 7 September 2005 and alleged that its electricity meters had been tampered with so that consumption was not properly recorded. A complaint invoking Sections 135 and 151 of the Electricity Act, 2003, proceeded before the Special Judge (Electricity Act), Morena, in Case No. 194/2005. Ramjidas was described as accused No. 1 and proprietor of the concern. Shivshankar Mandil, accused No. 2, disputed that he was the proprietor. During cross-examination of the complainant's witnesses he put forward that defence. After the prosecution witnesses had been examined, he applied under Section 243(2) of the Code of Criminal Procedure for the State Bank of India, Jiwajiganj branch, records of a loan to the concern and the District Industrial Centre's registration register. He said that these records would show that Ramjidas, rather than Mandil, was the proprietor. The application asserted that he could not obtain third-party records under the Right to Information Act.

The Special Judge rejected the request on 28 May 2016. In the trial court's view a person using the premises could be a consumer liable for electricity theft even if not proprietor, and Mandil could obtain title records from the department himself. Mandil invoked Section 482 CrPC to challenge that refusal, saying he was denied a reasonable chance to prove his defence without any finding that the documents were irrelevant, or that his application was vexatious or dilatory. The respondent pointed to a Commercial Tax certificate already produced for Ramjidas's proprietorship, Mandil's signature on an inspection Panchnama under Sections 126 and 135 of the Electricity Act, and his presence at the premises. These matters supported the respondent's contention about possible liability as a user; they were not final findings of guilt in this petition. The trial had already been pending approximately eleven years.

2. Precedents — Considered : *J. Jayalalithaa and Others v. State of Karnataka and Others*, reported in *(2014) 2 SCC 401*, was cited by the Court for the principle that a free and fair criminal trial is indispensable to Article 21 and that impediments to it may violate Article 14. The High Court used that constitutional principle to assess whether denying process for potentially useful defence records had deprived the accused of a real opportunity.

T. Nagappa v. Y.R. Muralidhar, (2008) 5 SCC 633, was relied on for Parliament's recognition in Section 243(2) CrPC of the accused's right to defend by adducing evidence and for the proposition that the accused generally knows the nature of evidence needed to prove the chosen defence; that choice is not left entirely to the Court's discretion. The High Court applied this to records bearing on Mandil's asserted non-proprietorship. It simultaneously retained judicial screening for bona fides, relevance and unnecessary delay.

3. Statutes considered : Section 243(2) CrPC provides that, after an accused has entered on his defence, the Magistrate shall issue process for a witness or the production of a document or thing on application, unless the court considers the request made for vexation, delay or defeating the ends of justice and records the ground in writing. Its proviso restricts compelling a witness already cross-examined, or whose cross-examination was available, absent necessity for justice. This case concerned documents, not recall of such a witness. The High Court also required attention to whether the material was relevant and the request bona fide; it rejected a refusal that lacked an adverse finding on either relevance or dilatory purpose. Section 482 CrPC supplied the High Court's jurisdiction to correct the trial court order, rather than to determine in advance whether the defence would succeed.

Electricity Act Sections 135 and 151 formed the prosecution background: alleged meter tampering/theft and the complaint. Section 126 was mentioned in the respondent's description of the inspection Panchnama. Whether Mandil's use of the premises could independently attract Section 135 liability was argued and assumed in the trial court's refusal but was not finally adjudicated by the High Court. The Right to Information Act was raised only as a suggested means of obtaining the loan and registration papers; the applicant's third-party access difficulty made that suggestion insufficient to deny court process. Articles 21 and 14 supplied the fair-trial context through *J. Jayalalithaa*.

4. Issues : (i) When the accused had already disputed proprietorship during cross-examination, was he entitled under Section 243(2) to summon bank loan and industrial registration records relevant to that defence, or could the trial court deny process because a user of the premises might also incur liability? (ii) Did an already-produced Commercial Tax certificate and a suggested RTI route justify refusing further third-party records without a finding of irrelevance, vexation or delay? (iii) Would an order summoning documents settle their authenticity, legal effect or the accused's role, and how should the long-pending trial be managed? The High Court decided the opportunity to produce evidence, not the underlying electricity-theft charge.

5. Ratio / Findings : The Court read Section 243(2) in the light of the fair-trial guarantee and the Supreme Court's insistence that an accused may choose evidence to establish a bona fide defence. Mandil wanted to test the allegation that he was proprietor by summoning records relating to the loan and registration of M/s Deepti Polycon. The trial judge had not determined that these records were irrelevant to the asserted defence; nor had he found that the request was made to vex or delay. The possibility that a user, as well as a proprietor, might be a consumer liable under Section 135 did not make the requested records automatically immaterial or justify deciding their ultimate effect before production. The Court granted the opportunity to summon defence evidence despite the respondent's reliance on the Commercial Tax certificate and Mandil's signature on the Panchnama.

The trial court's suggestion that Mandil obtain the papers himself also failed because his application expressly explained the obstacle to accessing third-party information under RTI. The Court did not require him to exhaust that proposed route before invoking the summons procedure. The High Court acknowledged the converse limit: courts should not compel irrelevant witnesses or documents or permit the accused to protract a trial through an application that is not bona fide. Its order did not authenticate any bank or registration record. Production is distinct from proof, and the accused remains responsible for proving the documents according to law. The trial court must then decide what they establish, whether the defence succeeds and whether liability follows from the facts and applicable Electricity Act provisions. Given that the case had been pending since 2005, the Court fixed a time limit for completing the trial.

6. Relief : The Hon'ble High Court allowed the Section 482 petition, set aside the Special Judge's order dated 28 May 2016, and allowed Mandil's application to summon the bank loan documents and District Industrial Centre registration register described in it. It directed the trial court to conclude the trial within three months of communication of the High Court's order. The trial court remained responsible for assessing the proof and effect of the summoned documents.

Shivshankar Mandil v. G.S. Lamba, M.Cr.C. no. 9606/2016, 18/11/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Prosecution witnesses / unexplained abandonment - An Additional Public Prosecutor's

prediction that material eyewitnesses would not support the case did not justify giving them up without an identified basis. The deceased's father Sarnam Singh and Hariom were not present when dropped; the APP's affidavit did not assert prior contact with them, and a different witness who failed to support the case was nonetheless examined. The Court found this choice arbitrary, removed the APP from this trial and directed an inquiry into his continued suitability. No final disciplinary guilt or witness credibility finding was made.

Section 311 CrPC / omitted eyewitnesses - The Public Prosecutor was directed to apply immediately to examine Hariom and Sarnam Singh, but the trial court was to decide the application on their importance. The direction did not compel automatic examination or assume what these witnesses would eventually say.

Bail / distinct disposition - The fourth regular-bail application, based on four examined witnesses not supporting the prosecution, was refused on the Court's assessment of the murder allegations and total circumstances. That factual refusal was distinct from the supervisory directions concerning the prosecutor and witnesses.

Case-note :- ***1. Facts :*** Shivsingh Tomar, arrested on 25 March 2020 in Crime No. 19/2020 of Police Station Baraso, Bhind, faced allegations under IPC Sections 302 and 34 and Arms Act Sections 25/27. The prosecution case, as briefly stated in the order, alleged that Shivsingh and his son Ashok fired upon Ashok, son of Sarnam Singh, causing his death. Shivsingh's fourth application under Section 439 CrPC followed dismissal of an earlier application on 7 May 2021 in MCrC No. 22310/2021; he relied on the fact that four examined eyewitnesses, Ramdas (PW-1), Munnesh Singh (PW-2), Veer Singh (PW-3) and Deepak (PW-4), had not supported the prosecution. A coordinate Bench noticed that on 27 August 2021 the trial court had, at the prosecutor's request, given up two other cited eyewitnesses, Hariom and Sarnam Singh, as prosecution witnesses. Sarnam was the deceased's father. The coordinate Bench sought an explanation. At the present hearing an affidavit of Additional Public Prosecutor Sanjay Kumar Sharma was produced in a sealed envelope, opened and read in court, shown to defence counsel, and taken on record. The affidavit stated that the four witnesses already examined had not supported the prosecution and that Hariom and Sarnam had been given up to avoid wasting court time and delaying the case because the prosecutor believed they would not support it; it disclaimed improper intent. The Court observed, however, that the affidavit did not say those two witnesses had contacted Sharma or conveyed that position. The 27 August order sheet indicated they were not present. Deepak, who also did not support the case, had been examined rather than similarly omitted. The Bench considered this unexplained selectivity while separately deciding bail.

2. Statutes considered : Section 439 CrPC governed the application for regular bail. The Court refused bail after considering the alleged firing and the totality of the circumstances. Section 311 CrPC was invoked for an application to seek examination of Hariom and Sarnam after the APP had given them up. The High Court required the application, while expressly reserving the question of the witnesses' importance and permission to the trial court. IPC Sections 302 and 34 and Arms Act Sections 25/27 identified the offences in the underlying prosecution. The direction temporarily to withdraw other serious trials from the APP referred to murder, attempted murder and sexual offences including POCSO as a protective administrative measure pending inquiry, not a ruling on those statutes' merits.

3. Issues : (i) Did the failure of four examined witnesses to support the prosecution warrant bail in this fourth Section 439 application, notwithstanding the alleged fatal shooting and the remaining trial evidence? (ii) Was the APP's decision to drop two other material eyewitnesses, one the deceased's father, justified by his stated expectation of non-support and desire to save time, when neither was present and no communication from them was identified? (iii) What corrective steps could preserve the trial's opportunity to hear material witnesses while leaving the Section 311 application to the trial court, and how should the APP's conduct be examined? The High Court did not decide the truth of either unexamined witness's anticipated evidence.

4. Ratio / Findings : The Court read the APP's affidavit, including its account that Ramdas, Munnesh Singh, Veer Singh and Deepak had not supported the prosecution and that the other two were dropped to avoid consuming time. It contrasted that explanation with the absence of any assertion that Hariom or Sarnam had communicated an intention not to support the case. The trial order showed they were not present when they were given up as prosecution witnesses. Deepak had been

examined despite also not supporting the prosecution, a difference for which the affidavit supplied no explanation. Particularly because Sarnam was the deceased's father and an alleged eyewitness, the Bench found the unexplained act of giving up both witnesses arbitrary and said the APP had lost the Court's confidence. It deliberately refrained from further findings about motive or misconduct and ordered a competent authority's inquiry into whether he should continue in office. The order refers to the earlier dismissal of Shivsingh's bail application and to the coordinate Bench's request for the APP's affidavit as procedural history.

As to examination of the omitted witnesses, the Court did not itself declare what Hariom or Sarnam would say, whether they would support the prosecution, or that permission to examine them must automatically be granted. It directed the Public Prosecutor to seek permission under Section 311 and required the trial court to decide after assessing importance. It also ordered the existing trial removed from Sharma and, pending the inquiry, serious sessions matters withdrawn from him. Those protective and inquiry measures were distinct from a final disciplinary determination. As to bail, the Court referred to the allegation that Shivsingh and his son fired on the deceased and found the totality of circumstances unsuitable for release, despite the four examined witnesses' lack of support. The bail conclusion is confined to this interlocutory record.

5. Relief : The Hon'ble High Court dismissed the fourth application for regular bail. The Public Prosecutor, Bhind, was directed immediately to take over this trial from APP Sanjay Kumar Sharma and keep him away from it; the competent Principal Secretary, Law and Legislative Affairs, or District Magistrate, Bhind, was directed to inquire into his continuation and decide suitability within two months from the date of the High Court's order. Pending that report, the Public Prosecutor was to withdraw from Sharma all sessions trials involving offences under Sections 302, 307 or 376 IPC or under the POCSO Act, as well as all other important matters. Cases were to be reassigned to him only after receipt of the inquiry report and only if his continuation in office was found desirable. The Public Prosecutor was also to apply immediately under Section 311 CrPC for examination of Hariom and Sarnam, leaving the trial court to decide their importance.

Shivsingh Tomar v. State of M.P., M.Cr.C. no. 45174/2021, 25/10/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (558) Prev Next

Headnote :- Final criminal order / Section 362 CrPC - Once a criminal case has been disposed of by a signed final order, the court cannot alter or review that order except as otherwise authorised by law or to correct a clerical or arithmetical error. *Mohd. Zakir v. Shabana, (2018) 15 SCC 316*, rejects correction on the merits under Section 362 even for an allegedly erroneous earlier order; the remedy must be one known to law. *Daljit Singh Gujral v. Jagjit Singh Arora, (2014) 12 SCC 198*, was cited for the same finality principle. The applicants sought a fresh fifteen-day period for an application concerning documents before the JMFC. Applying those authorities, the Bench held that describing the request as a modification rather than a recall did not change its substantive effect, and dismissed the Section 482 application.

Case-note :- ***1. Facts :*** In MCrC No. 12526/2024, a coordinate Bench had made a final order on 12 April 2024 giving Shreemati The Big Saree Mall and the other applicants fifteen days to present a fresh application before the Judicial Magistrate First Class, Bhopal. They were to explain the proposed documents' relevance and importance, when the documents were obtained, and whom they wished to recall or examine to prove them. The trial court would then decide according to law in the pending case under Section 138 of the Negotiable Instruments Act. The present judgment records the earlier order's reference to the accused's burden in that case.

The applicants said they failed by mistake to apply within fifteen days and that the trial court would not entertain the late request. They characterised the request as an extension, not a recall of the prior order. The question before the Court was the power to make that alteration to a concluded criminal order, rather than the underlying merits of their application concerning documents for the defence.

2. Precedents — Considered : *Mohd. Zakir v. Shabana, (2018) 15 SCC 316*, was relied on for the rule that Section 362 CrPC does not authorise correction of a final order on the merits. Even an earlier order said to be patently erroneous must be challenged or corrected by a procedure known to

law, rather than a rehearing on the merits disguised as correction of a clerical or arithmetical error. The High Court applied that distinction to the applicants' requested extension: it would change the period granted by the earlier order, not repair a transcription or calculation mistake.

Daljit Singh Gujral v. Jagjit Singh Arora, (2014) 12 SCC 198, was cited as laying down similar law on the finality restriction. The Court cited it as laying down similar law.

3. Statutes considered : Section 362 CrPC prohibits a court, after signing its judgment or final order disposing of a case, from altering or reviewing it unless the Code or another law otherwise provides; correction of a clerical or arithmetical error remains permitted. The Bench distinguished a procedural label or form of review from substantive alteration of the order's operative content. Section 482 CrPC was the provision under which this new application was made, but it did not authorise an alteration contrary to the specific Section 362 bar. Section 138 of the Negotiable Instruments Act identified the underlying trial and the context of the proposed documents.

4. Issues : Could the applicants obtain, by a fresh Section 482 application, another fifteen days to exercise an opportunity created by the final order of 12 April 2024 after the original fifteen-day period had expired? More specifically, did describing that request as 'modification' rather than 'recall' place it within Section 362's narrow clerical or arithmetical exception, or would it alter the substance of the signed order?

5. Ratio / Findings : The earlier coordinate Bench had disposed of the prior matter by granting a defined fifteen-day opportunity, coupled with a specified procedure for applying to the trial court and having that application considered. A second fifteen-day period would replace or enlarge that operative limit. The Court held that this was neither a clerical transcription correction nor an arithmetical correction. *Mohd. Zakir* makes clear that Section 362 cannot be used to revisit a final criminal order's merits; *Daljit Singh Gujral* supports the same limitation. The applicants' description of their request as 'modification' rather than 'recall' did not alter the effect of their prayer. Because the proposed change was substantive, Section 482 could not be used to make it in this application.

6. Relief : The Hon'ble High Court dismissed the application for modification and an additional fifteen-day period. The High Court left the 12 April 2024 order as it stood and granted no direction requiring the JMFC to consider a late document application.

Shreemati The Big Saree Mall and Others v. Rai Homes Universal Pvt. Ltd., M.Cr.C. no. 19560/2024, 24/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (559) Prev Next

Headnote :- Private complaint / cognizance / application of mind - At the stage of taking cognizance and issuing process on a complaint, the Magistrate must judicially examine the allegations with the statements and inquiry material to see whether they disclose an offence and sufficient ground to summon the proposed accused; summoning is a serious judicial act, not a mechanical formality. *Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420,* and *Pramatha Nath Talukdar v. Saroj Ranjan Sarkar, AIR 1962 SC 876,* were considered. The requirement of judicial scrutiny does not authorise a trial-level determination of disputed veracity at this preliminary stage.

Section 202 CrPC / limited inquiry / sufficient ground for process - The preliminary inquiry tests whether there is a prima facie basis for proceeding and screens out false, vexatious or harassing complaints; it is not a full trial and does not require evidence sufficient for conviction. *Rosy v. State of Kerala, (2000) 2 SCC 230; Kewal Krishan v. Suraj Bhan,* 1980 Supp SCC 499; *Mohinder Singh v. Gulwant Singh, (1992) 2 SCC 213*; *Pramatha Nath Talukdar, AIR 1962 SC 876*; and *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578,* were considered for the respective limits of Section 202 and the prima facie meaning of "sufficient ground". The alleged execution and signatures on the disputed power of attorney, and the probative value of the handwriting comparison, required adjudication at trial rather than conclusive resolution before process.

Criminal revision / process order / impermissible meticulous appreciation - When reviewing a Magistrate's process order in revision, the Sessions Court exceeded the proper inquiry by disbelieving preliminary witnesses and the handwriting material after detailed evidentiary appraisal. The High Court set aside the revisional order dismissing the private complaint and restored the Magistrate's cognizance

order; it did not decide that the alleged forgery or cheating was proved.

Complaint delay / Section 203 CrPC / limitation distinction - Where cognizance is not barred by limitation, mere lateness in presenting a complaint cannot by itself justify dismissal under Section 203. The complainant's explanation that payments of agricultural income continued until she became suspicious, the timing of her discovery, and the disputed significance of further delay remained matters to be evaluated on evidence at trial; the High Court did not finally accept the explanation or resolve the factual dispute.

Case-note :- ***1. Facts :*** Snehlata brought a private complaint alleging that her relatives had used a power of attorney bearing her forged signatures and thumb impressions to deal with her share in agricultural land, survey no. 693/1 at Sirsod, Gwalior. She stated that her brother-in-law Ravindra Singh Ghuraiya had looked after the land and remitted agricultural income; when payments stopped she made inquiries, obtained copies from the Sub-Registrar, denied having executed or consented to the disputed power of attorney, and approached the police and Superintendent of Police before filing the complaint. The allegations of forgery and dishonest disposal remained unproved at this stage.

In her Section 200 CrPC statement, Snehlata denied signing or putting thumb impressions on the authority and said that she was not at Gwalior at the relevant time. Phayaji and Pakeeja gave Section 202 statements about her presence, pregnancy and bed rest at Rampur Manihar on 13 June 1988. A Sub-Registrar office witness produced the recorded power of attorney; Rajiv Verma said the disputed signatures differed from signatures on the complaint. The respondents contested the relevance and reliability of these materials, including the absence of comparison with indisputably admitted signatures. The Magistrate's order of 31 July 2021 took cognizance under IPC Sections 420, 463, 467, 468 and 471. Three revisions by the proposed accused were allowed by the Additional Sessions Judge on 18 November 2021, setting aside that order and dismissing the complaint. Co-accused Virmadevi died during those revisions. Snehlata invoked Sections 397 and 401 CrPC in the High Court to challenge the revisional court's detailed assessment of preliminary evidence and its treatment of delay.

2. Precedents — Considered : *Mehmood Ul Rehman v. Khazir Mohammad Tunda, (2015) 12 SCC 420*, was used for the positive duty to apply judicial mind before issuing process. The complaint, statements and inquiry must be considered together to ask whether alleged facts constitute an offence warranting the proposed accused's appearance; the exercise cannot be mechanical. The cited passage refers to *Pepsi Foods Ltd.* for the seriousness of activating criminal process. The High Court adopted this scrutiny while rejecting an inquiry into disputed evidence applying the standard required at trial.

Rosy v. State of Kerala, (2000) 2 SCC 230, supplied the two limited purposes of a Section 202 inquiry: to ascertain a prima facie case for process and to prevent process on complaints that are false, vexatious or intended to harass. Its cited passage says that evidence is not meticulously appreciated, the Section 202 standard differs even from the charge stage, and the proposed accused has no right to intervene at that inquiry. *Rosy* itself quoted and cited earlier cases, including *Ranjit Singh*, *Chandra Deo Singh*, *Vadilal Panchal*, *Pramatha Nath Talukdar*, *Nirmaljit Singh Hoon* and *Mohinder Singh*.

Kewal Krishan v. Suraj Bhan, 1980 Supp SCC 499 (also reported at *1981 SCC (Cri) 438*), was quoted at length. Its discussion of Sections 200, 202, 203 and 204, particularly for a complaint concerning an offence triable exclusively by the Sessions Court, contrasts the cursory prima facie threshold for process with both the charge and ultimate conviction standards and warns against weighing preliminary evidence as a trial court. Its additional discussion of commitment, bail and discharge belonged to the quoted source context; the High Court applied that threshold to the present revisions, together with the principle that preliminary evidence must not be meticulously weighed. It did not decide a new bail or committal issue.

Mohinder Singh v. Gulwant Singh, (1992) 2 SCC 213, described a Section 202 inquiry as restricted to whether the complaint and preliminary witnesses provide sufficient ground for process under Section 204 or dismissal under Section 203. It is not a full trial of guilt, and adequacy for conviction is judged later. The High Court used this distinction against the revisional court's assessment of the expert and witnesses.

Pramatha Nath Talukdar v. Saroj Ranjan Sarkar, AIR 1962 SC 876, was quoted for judicial application of mind to the complainant's and witnesses'

statements and any inquiry or investigation result in deciding sufficient ground under Sections 202–204. The reproduced extract also addresses when a second complaint may follow an earlier dismissal. No second complaint was before the High Court, and that separate exception was not applied to Snehlata's case.

Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578, defined "sufficient ground" in Sections 203, 204 and 209 as satisfaction of a prima facie case against the proposed accused, rather than proof sufficient for conviction. The passage cites *Ramgopal Ganpatrai Ruia*, *Vadilal Panchal*, *Chandra Deo Singh*, *Nirmaljit Singh Hoon*, *Kewal Krishan*, *Mohinder Singh* and *Chief Enforcement Officer v. Videocon International Ltd.* in support. Together, these authorities informed the High Court's conclusion that judicial scrutiny was required but final determination of the issues concerning the disputed power of attorney, handwriting opinion and witness credibility had to await trial.

3. Statutes considered : Sections 200 and 202 CrPC governed the complainant's and preliminary witnesses' statements and the limited inquiry before process; Sections 203 and 204 governed dismissal for want of sufficient ground or issuance of process. The Court distinguished prima facie sufficiency for proceeding from trial proof and applied Sections 397 and 401 CrPC in correcting the Sessions Court's exercise of revisional powers over the Magistrate's process order. It expressly addressed limitation as a possible statutory bar to cognizance, but identified no applicable limitation bar on this complaint. IPC Sections 420, 463, 467, 468 and 471 were the offences in the Magistrate's cognizance order; Sections 464, 472 and 120-B/34 appeared among the original complaint allegations. Their ingredients and the respondents' guilt were not finally adjudicated in this revision.

4. Issues : (i) Whether the Section 202 inquiry and the Magistrate's decision to issue process permitted detailed assessment of the credibility of the complainant's supporting witnesses and handwriting opinion, or required a prima facie inquiry with genuine judicial application of mind. (ii) Whether the Sessions Revisional Court could overturn process and dismiss the complaint by concluding that the complainant had not herself asserted pregnancy, that the preliminary witnesses or expert should be disbelieved, and that the allegation concerning the power of attorney was unpersuasive. (iii) Whether delay in presentation of this complaint, absent a bar on cognizance by limitation, justified dismissal under Section 203 at the preliminary stage; the factual sufficiency of the explanation was left for the trial court. The High Court did not decide whether the power of attorney was forged, whether the respondents committed the charged offences, or whether the expert opinion would ultimately be accepted.

5. Ratio / Findings : The High Court held that issuing summons on a complaint requires application of judicial mind, as explained in *Mehmood Ul Rehman* and *Pramatha Nath Talukdar*, but the limited purposes of the Section 202 inquiry are to decide whether there is sufficient prima facie ground to proceed and to guard against abusive complaints. *Rosy*, *Kewal Krishan*, *Mohinder Singh* and *Shivjee Singh* established that this threshold is distinct from framing a charge or proving guilt and that preliminary evidence is not to be meticulously weighed as at trial. The cited authorities were considered for their relevant process-stage tests.

On these allegations, Snehlata expressly denied executing the disputed authority or affixing signatures and thumb impressions. The witnesses' account of her whereabouts and the comparison offered by Rajiv Verma were part of the preliminary material. Whether the expert used reliable exemplars, whether the witness accounts were credible and whether the signatures were forged were disputed evidentiary questions. The Sessions Court exceeded the limited stage by resolving them against the complainant, including by treating the absence of a pregnancy assertion in her own statement as a reason to disbelieve the other witnesses. The High Court did not itself authenticate the document, accept the expert conclusion as conclusive, or make a guilt finding.

The Court further held that a complaint cannot be dismissed under Section 203 solely because it was brought late where cognizance is not time-barred. The complainant's account of receiving agricultural income until suspicion arose and the respondents' challenge to the later timeline presented factual matters for assessment after evidence. A plausible explanation, if established at trial, could render the delay immaterial; whether it was established was not finally determined. The revisional decision therefore could not stand, while the accused retained their

opportunity to contest authenticity, delay and culpability at trial.

6. Relief : The Hon'ble High Court allowed the criminal revision. The Additional Sessions Judge's common order of 18 November 2021 in Criminal Revision Nos. 507/2017, 506/2017 and 497/2017 was quashed, and the JMFC's order of 31 July 2021 in Complaint Case No. 3230/2017 was restored. The parties were directed to appear before the Trial Magistrate on 13 June 2022. The Magistrate was directed to proceed according to law, conclude the trial within one year because the 2017 complaint had remained stalled while the record was in revision, and keep intervals between hearing dates within 15 days. Restoration of process was not a conviction or a final finding on the alleged forgery.

Snehlata v. Vireshwar Singh and Others, Cr.R. no. 3494/2021, 02/05/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO / age of child / school documents - Applying *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, the Court treated the statutory document hierarchy for determination of a child's age as relevant to the sexual-offence victim, with resort to medical opinion in the absence of the preferred documents. The proved school register and Class VIII marksheet established the child's recorded birth date; the entry was made before the incident, no material cross-examination challenged the date, and the child was approximately fifteen on 20 December 2014. The register's admissibility under Section 35 Evidence Act was considered with its provenance; a bare visual estimate was not the sole foundation.

Minor sexual-offence victim / disability / alleged consent - The prosecutrix had substantial speech and hearing difficulty reflected in the trial court's notes. Her failure to cry out when taken from a tent where her parents slept did not, on the evidence assessed, establish willing participation, particularly given her vulnerability and the appellant's age. In any event, once minority was established, the suggested consent could not defeat the Section 376 IPC and Section 4 POCSO findings on these facts. The State relied on the reported finding of human sperm in the vaginal slide in support of the allegation.

Delayed FIR / child sexual offence / evidentiary explanation - The three-day interval before reporting a sexual assault on a fifteen-year-old girl was assessed in the setting of the family's concern for her future and social standing, and the father's evidence that the parents deliberated. The Court rejected the suggestion that the delay alone rendered the allegation fabricated because of an asserted unpaid labour debt; it evaluated the proffered explanation against the actual circumstances.

POCSO and IPC rape / statutory minimum / same act - The appellant's age and time already spent in custody could not justify reducing the seven-year terms below the statutory minima applicable to Section 4 POCSO and the charged form of Section 376 IPC. Although the victim was below sixteen, the appellate court did not substitute a conviction under Section 376(2), as no charge under that provision had been framed; the conviction under Section 376(1) remained. Treating the two convictions as arising from the same sexual act, the Court affirmed the seven-year rigorous-imprisonment term and fine under Section 4 POCSO and imposed no separate sentence under Section 376 IPC.

Case-note :- ***1. Facts :*** In a prosecution arising from the night of 20 December 2014, the minor prosecutrix, who had marked speech and hearing difficulty, was missing from the tent-shed in which she slept between her parents. She was soon found frightened in a nearby relative's hut. Her account, as interpreted by her mother, was that Sukhua, a man known to the family who had performed labour work for them, had taken her near a school, removed her undergarments, sexually assaulted her and threatened her. Her mother said fear and concern for the family led to the report on 23 December 2014. The appellant maintained that the account was false because of a wage dispute, that the girl was an adult and consenting, and that the three-day reporting interval undermined the prosecution. These were defence contentions, not facts established by the Court.

The prosecution relied on the prosecutrix and her parents, the woman who recorded the FIR from the mother's interpretation, medical evidence, school admission register and Class VIII marksheet, seizure and FSL evidence. The trial judge appended notes when the prosecutrix's answers could not be understood. The doctor recorded a torn hymen and sent vaginal slides; the State submitted that human sperm was found in the vaginal slide. The school documents recorded a birth-date entry placing her at about fifteen on the occurrence date. The Special Sessions Judge, Shivpuri, convicted the appellant

under Section 376 IPC and Section 4 POCSO on 6 November 2015, awarding seven years' rigorous imprisonment and Rs. 1,000 fine with one month's default imprisonment for each, concurrently. Section 506 Part II had been charged but was not among the convictions listed in the appellate judgment. Under Section 374 CrPC, the appellant challenged age, consent, delay and sentence, seeking in the alternative a term limited to custody already undergone.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, was the Supreme Court authority relied on by the deciding Judge. Its quoted discussion of Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007, framed under the 2000 Act, sets a hierarchy of documentary proof for an age inquiry: matriculation or equivalent certificate if available; failing that, the date-of-birth certificate of the first school attended other than a play school; failing that, a birth certificate from the competent local authority; and medical-board opinion only when the preferred documents are unavailable. The quoted rule also requires a recorded age finding, identifies specified proof as conclusive for the inquiry, and limits repeated inquiry after the prescribed documentary proof, subject to the rule's qualifications. In applying this hierarchy to the prosecutrix's child status, the High Court considered the Class VIII marksheet and proved admission register, the basis of the register entry, its admissibility under Section 35 Evidence Act, its creation before any incentive to fabricate this incident, and the absence of material challenge to the date in cross-examination. It found her fifteen at the incident and accordingly rejected the adult-consent premise. The Court did not direct a medical-board inquiry because it found adequate documentary material.

3. Statutes considered : Section 4 of the Protection of Children from Sexual Offences Act, 2012 governed the child sexual assault conviction and seven-year minimum sentence applicable to the incident and charge as addressed by the Court. Section 376 IPC governed the parallel rape conviction; the appellate court identified a statutory minimum of seven years for the offence as charged. It said that although the girl was under sixteen, the trial court had not framed a charge under Section 376(2), so the appellate conviction remained under Section 376(1). Sections 376 and 506 IPC and Section 4 POCSO had been charged; the listed convictions were for rape and the POCSO offence, with no appellate adjudication of a separate criminal-intimidation conviction. Section 374 CrPC supplied the appellate route. Section 35 of the Indian Evidence Act was invoked for admissibility of the regularly maintained school record. *Jarnail Singh*'s quotation considered Rule 12 of the 2007 Juvenile Justice Rules and its enabling 2000 Act for the age-proof sequence.

4. Issues : (i) Whether the school register and marksheet proved the prosecutrix was a child on 20 December 2014, in light of the appellant's majority claim and the *Jarnail Singh* documentary hierarchy. (ii) Whether the three-day FIR delay and asserted wage dispute made the accusation unreliable, and how the family's stated reasons for delay affected that inference. (iii) Whether the prosecutrix's failure to raise an alarm while being taken from her parents' tent proved consent, considering her communication disability and, separately, the legal consequence of her established minority. (iv) Whether the convictions and punishment could be disturbed or reduced to time served given statutory minimum terms, the absence of an aggravated Section 376(2) charge, and the two convictions for the same sexual act.

5. Ratio / Findings : First, the Court applied the age-proof approach in *Jarnail Singh* rather than treating apparent age or an unsupported assertion of adulthood as decisive. The Class VIII marksheet and admission register agreed on the recorded birth-date entry. The register witness proved the record and said the entry came from a transfer certificate; the Court treated a register maintained according to law as admissible under Section 35 Evidence Act. The records predated the alleged assault and their date-of-birth entry was not materially challenged in cross-examination. Against the incident date of 20 December 2014, the Court found the prosecutrix about fifteen. This finding made any suggested consent legally immaterial to the charged child sexual offence.

Second, the Court assessed the three-day FIR interval in its actual setting. The mother attributed it to fear, and the father described parental deliberation; the Court accepted that parents of a minor sexual-assault complainant might consider her future and family reputation before reporting. It therefore declined to infer fabrication merely from this interval, despite the suggested wage dispute. The

Court assessed the delay in the circumstances of this case.

Third, it examined the contention based on her failure to raise an alarm in the light of the girl's testimony, her mother's ability to interpret her communication, and the trial judge's contemporaneous notes that some answers could not be understood. Her difficulty in speech and hearing, the circumstances in which she was taken and the substantial age difference did not support the claimed voluntary participation. The State relied on the vaginal-slide result; the Court held the appellant guilty under Section 376 IPC and Section 4 POCSO. Its separate minority finding meant that even a suggestion of voluntary participation could not provide a defence to the child sexual offence charged.

Fourth, the appellant's age and custody already served could not override the seven-year minimum terms that the Court identified for the charged Section 376 IPC and Section 4 POCSO offences. Although the victim was under sixteen, the Court held that it could not substitute a conviction under Section 376(2), because no charge under that provision had been framed; the Section 376(1) finding stood. Because both convictions reflected the same sexual act, the Court declined to add a separate rape sentence while affirming the seven-year rigorous imprisonment and Rs. 1,000 fine, with one month's default imprisonment, under Section 4 POCSO.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the conviction under Section 376(1) IPC and Section 4 POCSO. The appellant's request to reduce the sentence to custody already undergone failed. The appellate court affirmed the seven-year rigorous-imprisonment term and Rs. 1,000 fine, with one month's default imprisonment, for Section 4 POCSO, and directed that no separate sentence be awarded for Section 376 IPC because it concerned the same act. It did not introduce a conviction on the unframed aggravated rape charge. The appellant, already in jail, was directed to undergo the entire custodial sentence.

Sukhua v. State of Madhya Pradesh, Cr.A. no. 87/2016, 09/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence / injured eyewitnesses / credibility - *State of U.P. v. Naresh, (2011) 4 SCC 324, Baleshwar Mahto v. State of Bihar, (2017) 3 SCC 152, Balwan v. State of Haryana, (2014) 13 SCC 560*, and *Jodhan v. State of M.P., (2015) 11 SCC 52*, were considered for the special evidentiary weight of testimony by a witness injured in the occurrence: the injury supports presence, though major contradictions or strong contrary grounds can defeat reliance. The High Court applied that qualified principle to Narottam, Ramu, Veeru and Prakash, whose injuries were medically recorded; the defence witness also accepted the presence of several of them. Cross-examination and the initially confused attribution of Ganga Singh's fatal forehead blow did not, after clarification, discredit the material account.

Evidence / related versus interested witnesses - *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475, Shamim v. State (NCT of Delhi), (2018) 10 SCC 509, Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, were invoked to reject automatic exclusion or a requirement of corroboration solely because of kinship. A related witness is not interested merely because of relationship; a concrete motive for false implication and the evidence's inherent reliability, probability and consistency remain material. The High Court scrutinised the relatives' accounts and recorded injuries, and accepted them notwithstanding the absence of an independent eyewitness and the existence of a cross-case; it did not hold that relationships or hostility can never affect credibility.

Evidence / ocular-medical variance / axe and laceration - *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457, Bhajan Singh v. State of Haryana, (2011) 7 SCC 421, Ramanand Yadav v. Prabhu Nath Jha, (2003) 12 SCC 606*, and *Shamsher Singh v. State of Haryana, (2002) 7 SCC 536*, supplied the Court's distinction between a possible medical inconsistency and a medical opinion that completely rules out the eyewitness account. Applying it, a lacerated head wound on Prakash did not make testimony that Sultan struck with an axe impossible: its edge might have been blunt or its blunt side or handle might have struck. The eyewitness account was not discredited by this particular objection, while the medical proof

separately established Ganga Singh's fatal cranial injury.

Section 34 IPC / common intention / sudden dispute - *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, was considered for the requirements of shared intention and participation, the possibility of concert developing at the scene before the act, and the distinction between similar individual intentions and an intention shared by all. The High Court found that renewed discharge of waste water despite the previous day's objection brought about a sudden confrontation. On this record it could not infer a shared intention to commit murder, notwithstanding the three appellants' participation in the assault; Sultan and Jitendra were relieved of Section 302/34 liability, and each appellant was held accountable for his own proved acts.

Sections 300 Exception 4 and 304 Part I IPC / sudden fight / undue advantage - *Raj Paul Singh v. State, (2012) 10 SCC 144*, was considered for the limitation that a sudden quarrel does not attract Exception 4 if an assailant takes undue advantage, acts cruelly or inflicts fatal violence on an unarmed non-threatening intervener; *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, supplied a multifactor assessment including weapon, target, force, participation, provocation and undue advantage. In the particular waste-water confrontation, Brijendra used a hockey stick, delivered a single fatal forehead blow, did not repeat head blows and, as found by the Court, took no undue advantage and did not act cruelly. His Section 302 conviction was altered to Section 304 Part I. Suddenness alone did not decide the conversion.

Section 323 IPC / individual hurt liability - After rejecting murder liability under Section 34, the Court separately considered the blows to Prakash, Narottam, Ramu and Veeru and the medical records of simple injuries. It affirmed or recorded convictions under Section 323 for the appellants' proved personal assaults. The counter FIR and assertion of a free fight did not establish collective murder liability or erase the individual hurt findings; the complainant party's acquittal in the cross-case was expressly acknowledged.

Sentence / altered convictions / custody already undergone - Sultan and Jitendra's life sentences under Section 302/34 were set aside, while their Section 323 punishment was limited to custody already undergone, the Court recording 11 months and 26 days against the one-year term and considering remission. Brijendra's Section 304 Part I sentence was fixed at imprisonment already undergone, more than ten years, with a Rs. 10,000 fine and six months' rigorous imprisonment in default, and release if not required in another case. The appeal was allowed to that extent; the trial judgment was otherwise affirmed subject to these express modifications.

Case-note :- ***1. Facts :*** A dispute arose on 23 February 2010 between Sultan Singh and Prakash Singh over waste water from Prakash's house. According to the prosecution, Sultan called his sons Jitendra and Brijendra from Gwalior; the three came to Prakash's house the next morning, objected again to discharge of water and assaulted members of his family. The written complaint made by injured Narottam attributed an axe blow on Prakash's head to Sultan, a hockey blow on Ganga Singh's forehead to Brijendra, and further assaults on Ramu and Veeru to Jitendra. The record contains some divergent descriptions of assailants and implements among witnesses, especially in Prakash's examination-in-chief; the appellate court assessed the material attribution after cross-examination. Ganga Singh sustained multiple head injuries and a skull fracture, was treated at Bhind and Gwalior, and died on 3 March 2010. The post-mortem recorded fractured right parietal-temporal bones and subdural and subarachnoid haemorrhage, with head injury causing cardio-respiratory failure. The Court found his death homicidal. Prakash, Narottam, Ramu and Veeru also had medically recorded injuries.

The initial FIR was registered under Sections 294, 323, 506B and 34 IPC; investigation after Ganga's death led to a charge-sheet including Sections 302, 294, 323, 506(2) and 34. There was a counter FIR, Crime No. 31/2010, by the appellants' side. Defence witness Vinod asserted the complainants had attacked the appellants over the water discharge; the appellants' counsel acknowledged that the complainant party had been acquitted in that cross-case. The trial court framed Section 302 or alternatively Section 302/34 charges, together with other hurt, abuse and intimidation counts. By judgment dated 1 November 2011 in Sessions Trial No. 255/2010, the 1st Additional Sessions Judge, Bhind convicted Sultan and Jitendra under Sections 302/34 and 323/34, and Brijendra under Sections 302 and 323/34, imposing life imprisonment and a fine of Rs. 5,000 on each murder conviction and one year's rigorous imprisonment and Rs. 1,000 fine on

the hurt conviction, with the specified default terms and concurrent sentences. The three invoked Section 374 CrPC in Criminal Appeal No. 971/2011. They argued that the incident was sudden, the cross-case showed a free fight with individual rather than shared liability, and Brijendra's act at most fell under Section 304 IPC. The State supported the conviction. The appeal required separate scrutiny of the eyewitness evidence, medical consistency, common intention, the offence committed by the assailant who inflicted the fatal injury, the remaining hurt convictions and their sentencing consequences.

2. Precedents — Considered : On injured witnesses, the High Court quoted *State of U.P. v. Naresh, (2011) 4 SCC 324*, for due weight to the testimony of a witness whose injury supports presence, subject to major contradictions or discrepancies. *Baleshwar Mahto v. State of Bihar, (2017) 3 SCC 152*, reproduced *Abdul Sayeed*'s reasoning that injury is an inbuilt indication of presence and convincing grounds are needed to discredit the witness; that passage also discussed *Jarnail Singh* and other supporting decisions. *Balwan v. State of Haryana, (2014) 13 SCC 560*, and *Jodhan v. State of M.P., (2015) 11 SCC 52*, reiterated the special evidentiary weight, which could be displaced by sufficient contrary grounds. These authorities were applied, rather than treated as an irrebuttable presumption: the High Court compared the medically documented injuries, defence admission of presence, cross-examination and the clarification of which accused delivered Ganga's forehead blow before finding the prosecution witnesses reliable.

On kinship and alleged interest, *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, held that relationship alone does not make evidence untrustworthy. *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, recognised the usual weight of close family testimony, without making it conclusive. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, required a foundation for a claim of false implication and careful assessment of whether the evidence was cogent; its quotation of *Dalip Singh* rejected an automatic corroboration rule for relatives while recognising the possible effect of enmity and the need to judge each case on its facts. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, distinguished a related witness from one who has a direct or indirect stake in falsely securing punishment, and called for inherently reliable, probable, cogent and consistent testimony rather than mechanical rejection. The present Court adopted the distinction and found the injured family witnesses' material account trustworthy despite the family relationship and the cross-case.

On medical and ocular evidence, *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457*, explained that an axe may strike with a blunt edge or reverse side and a laceration does not of itself refute eyewitness identification of the weapon. *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, drew on *Hari Chand* and *Abdul Sayeed* to distinguish medical evidence that makes an oral account less probable, which remains relevant to evaluation, from evidence that completely rules out its truth; oral evidence normally has primacy unless that incompatibility is established. *Ramanand Yadav v. Prabhu Nath Jha, (2003) 12 SCC 606*, likewise treated medical opinion as insufficient to override oral testimony unless it specifically excludes the claimed injury. *Shamsher Singh v. State of Haryana, (2002) 7 SCC 536*, cautioned against isolating a doctor's sharp-weapon observation where the blunt head or stick portion of an axe could account for the wound. Applying those qualifications, the High Court did not discard testimony about Sultan's axe blow merely because Prakash had a lacerated rather than incised wound; it did not assert that all ocular-medical conflicts are immaterial.

For Section 34, *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, explained the requirement that the participants share the intended result and participate in the criminal act. It also addressed the possibility that concert develops on the spot but anterior to the offence, the distinction from merely similar intentions, and the insufficiency of mere presence. The High Court applied it to the facts of the renewed water dispute and declined to infer a common intention to murder, limiting the appellants to their own acts. For Exception 4, *Raj Paul Singh v. State, (2012) 10 SCC 144*, reproduced the important qualification that a sudden quarrel cannot excuse taking undue advantage, cruelty, or fatal violence against an unarmed non-threatening intervener; its reference to *Narayanan Nair* and *Kikar Singh* informed that limit. *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, quoted *Dhirendra Kumar*'s contextual factors for choosing between Sections 302 and 304: circumstances, weapon, source of weapon, vital target, force, deceased's participation, prior enmity, provocation,

heat of passion and undue advantage or cruelty. The High Court applied the multifactor inquiry to Brijendra's one hockey blow, lack of repetition and the sudden water dispute, found no undue advantage or cruelty on this record, and altered his murder conviction to Section 304 Part I. It did not treat the cross-case as proof that the complainants were convicted or that every sudden quarrel qualifies.

3. Statutes considered : Section 374 of the Code of Criminal Procedure, 1973 supplied the appeal against the Sessions conviction and sentence. The Indian Penal Code, 1860 supplied the substantive counts. Section 302 governed murder; Section 304 Part I governed Brijendra's altered culpable-homicide conviction when the Court found the sudden-fight exception applicable while retaining culpability for the intentional fatal assault. Exception 4 to Section 300 was assessed through the absence or presence of premeditation, sudden fight in the heat of passion, undue advantage and cruel or unusual manner; the Court's factual finding was that Brijendra had not taken undue advantage or acted cruelly. Section 34 concerns constructive liability only where the participants shared the relevant common intention and acted in its furtherance; it was rejected for murder in this incident, so each appellant's liability depended on his own acts. Section 323 governed the simple hurt injuries, retained or recorded separately against the appellants. The original FIR, charge-sheet and framing also referred to Sections 294, 325 and 506(2), but the appealed convictions and the final modification identified in the judgment concerned Sections 302, 302/34, 323/34, 323 and 304 Part I; the appellate court did not announce a separate conviction on the other charged counts. The Court addressed statutory punishment for Section 323 as up to one year and Section 304 Part I as life imprisonment or imprisonment up to ten years, with the sentence and fine described in the operative order. References to remission and custody already served were used in its individual sentence calculation; no general remission entitlement was adjudicated.

4. Issues : (i) Whether Ganga Singh's death was proved homicidal and the medically supported and cross-examined eyewitness accounts reliably identified the assailants, despite family relationships, the cross-case and Prakash's initially inconsistent attribution of the fatal blow. (ii) Whether Sultan's alleged axe assault was excluded by a lacerated wound rather than a sharp incised wound, in light of the governing threshold for rejecting ocular testimony because of medical evidence. (iii) Whether Sultan, Jitendra and Brijendra shared an intention to murder Ganga under Section 34, or whether the sudden renewed water-discharge dispute required their culpability to be separated according to individual acts; the existence of a cross-case was advanced for a free-fight theory. (iv) Whether the fatal hockey blow by Brijendra remained murder under Section 302 or fell under Section 304 Part I through the sudden-fight analysis and its qualifications concerning absence of undue advantage and cruelty. (v) Which Section 323 hurt findings survived separately for the individual appellants and how custody already undergone, fine and release were to be reflected in the modified sentences. The Court did not decide a right to discharge waste water or a separate conviction in the cross-case.

5. Ratio / Findings : The contemporaneous medical examination documented several injuries to Ganga's skull, the X-ray showed a frontal-bone fracture, and the post-mortem found extensive cranial fracture and haemorrhage causing death from head injury. The High Court found homicide proved. Narottam, Ramu, Veeru and Prakash were injured witnesses whose examinations showed actual injuries; Vinod for the defence conceded several were present. Applying the Supreme Court's rule that such testimony carries special weight but may be discredited on sufficient grounds, it examined the extended cross-examination and found no major contradiction discrediting their material account. Although Prakash's examination-in-chief confused which son struck Ganga's forehead, the appellate judgment treated his cross-examination as clarifying Brijendra's blow; that conclusion was considered with the other accounts. Kinship did not automatically make these witnesses interested in a false conviction, and the absence of independent witnesses did not mandate rejection. The Court acknowledged the counter FIR and the counsel's concession that the complainants had been acquitted in that case, rather than treating it as a conviction of the complainants or conclusive proof of a mutual free fight.

Prakash's lacerated head wound was the basis for the defence's contradiction argument against the evidence of Sultan's axe. The medical-ocular precedents required the Court to ask whether the

medical evidence actually excluded the asserted manner of attack, not merely whether a sharp edge would normally produce another kind of wound. A blunt axe edge, reverse side or handle could explain a laceration, and Prakash could not specify whether sharp or blunt side had struck him. The Court therefore held this variance insufficient to discredit the eyewitness account. This was a compatibility finding for this injury; it was not a ruling that medical evidence never overcomes oral evidence.

Turning to liability for murder under Section 34, the Court used *Dani Singh*'s distinction between common intention, which entails shared design and participation, and simultaneous but unshared intentions. The spot map showed the houses separated by a stone road. There had been an objection and a heated exchange on 23 February, but Prakash again discharged water on 24 February; the judgment found that renewed act prompted a sudden incident. Despite the appellants' collective arrival and their various blows, the Court held it difficult on these facts to find a shared intention to murder. It set aside Sultan and Jitendra's Section 302/34 convictions and concluded each appellant was liable for his own proved conduct. It did not absolve the two of every assault merely because Section 34 murder liability failed.

For Brijendra, a single hockey blow on Ganga's forehead proved fatal. The High Court considered the *Raj Paul Singh* limit that a sudden fight cannot justify undue advantage or a cruel or unusual fatal attack, and the factors reproduced in *Lavghanbhai*, including the implement, target, force, prior dispute and participation. It found the dispute over continuing waste water sudden and unpremeditated; a hockey stick was not treated as a lethal weapon in these circumstances, no further head blow by Brijendra was proved, and the Court found no undue advantage or cruel conduct. It accordingly altered Brijendra's Section 302 conviction to Section 304 Part I. This conclusion is specific to the Court's assessment of this fatal blow and its qualifications, not an automatic classification of a single blow as culpable homicide.

The evidence and medical records also established simple injuries inflicted on Prakash, Narottam, Ramu and Veeru. For Sultan and Jitendra, the Court calculated custody as approximately 11 months and 26 days against a one-year hurt term, considered remission, and imposed the period already undergone if the full year had not already been completed. For Brijendra, whose custody exceeded ten years by the appeal judgment, it imposed custody already undergone on the altered Section 304 Part I conviction plus a Rs. 10,000 fine, six months' rigorous imprisonment in default, and concurrent operation as ordered.

6. Relief : The Hon'ble High Court allowed the criminal appeal to the stated extent. Sultan Singh and Jitendra Singh were acquitted of Section 302/34 IPC liability; their Section 323 convictions were retained, with imprisonment limited to the period already undergone if the one-year term including remission had not already been served. Their bail bonds were cancelled and they were no longer required in this case. Brijendra Singh was acquitted of Section 302 and convicted under Section 304 Part I, sentenced to the period of imprisonment already undergone, a Rs. 10,000 fine, and six months' rigorous imprisonment in default. The Court held the appellants answerable under Section 323 for their individual simple-hurt acts and ordered the relevant sentences to run concurrently. Brijendra, then in custody, was to be released immediately if not required in another case. The trial judgment dated 1 November 2011 stood only as modified by these party-specific and offence-specific directions; copies were to be provided free to the appellants and the trial record returned for compliance.

Sultan Singh and Others v. State of Madhya Pradesh, Cr.A. no. 971/2011, 04/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Wife maintenance / separate residence / lawful lifestyle - The husband sought to set aside only his wife's monthly maintenance, pointing to her Facebook posts and a "modern" way of life as inconsistent with his orthodox family. The Court observed that lawful personal choices could not be condemned merely by the husband's moral preferences. Without material showing that she lived separately without reasonable justification, that objection did not disentitle her to maintenance. The Court did not find any criminal activity by the wife or determine the full factual cause of separation; it rejected the specific ground advanced for denying maintenance.

Rule of law / morality / Supreme Court precedent - *Nagarathinam v. State through the Inspector of*

Police, Criminal Appeal No. 1389/2023, decided 04.05.2023, was judicially considered for its caution that a court should not sermonise on societal morality and ethics at the expense of the rule of law. Though *Nagarathinam* arose in a different criminal context, the High Court applied that limited institutional principle to the husband's request for a moral judgment on his wife's lawful lifestyle. The quoted passage did not itself decide Section 125 maintenance eligibility; the High Court's separate-residence reasoning supplied the application of that principle in this case.

Quantum and relief / Section 482 CrPC - The High Court held that ₹5,000 per month for the wife was not excessive in light of price levels, living costs and daily necessities, and found no jurisdictional error in the maintenance order. The husband expressly did not challenge the separate ₹3,000 monthly award to the other respondent and undertook to pay it. His Section 482 application was dismissed. The order expressly left respondents free to seek enhancement by an application under Section 482; it neither granted enhancement nor resolved any future claim.

Case-note :- ***1. Facts :*** The Judicial Magistrate First Class at Amarpatan, District Satna, by an order dated 23 September 2022 in M.J.C.R. No. 115/2017, awarded monthly maintenance of ₹5,000 to Sneha, respondent No. 1 and the applicant's wife, and ₹3,000 to respondent No. 2. The Second Additional Sessions Judge at Amarpatan made an order dated 2 August 2023 in Criminal Revision No. 16/2022 arising from that maintenance proceeding. Sukhendra Chatuvedi approached the High Court under Section 482 of the Code of Criminal Procedure to challenge the revision order and the wife's maintenance. He did not object to the award to respondent No. 2 and said he would continue paying it.

The applicant's counsel said he came from a very orthodox family while his wife led a modern life, as he claimed her Facebook posts annexed to his application showed. He urged the Court to quash her ₹5,000 monthly maintenance because of that lifestyle. When asked whether a court could bypass legal provisions in favour of morality, counsel maintained that law could not exist apart from morality and that morality should prevail. These were the applicant's submissions, not findings of immoral or unlawful conduct. The Court heard his counsel, considered the cited posts as the asserted basis of the objection, and examined whether any other material was pointed out to show that the wife lived separately without reasonable justification.

2. Precedents — Considered : The deciding Judge quoted and applied *Nagarathinam v. State through the Inspector of Police, Criminal Appeal No. 1389 of 2023*, decided 4 May 2023 (Supreme Court). The quoted paragraph 17 arose in a different criminal case involving an appellant's attempted suicide with her children following a quarrel connected with an illicit relationship; the Supreme Court rejected an imputed motive that she tried to murder her sons in order to continue the relationship. Its institutional observation was that the court's role is to apply the rule of law rather than deliver sermons on morality and ethics. The High Court used that limited observation to answer counsel's proposition that his subjective moral disapproval of his wife's lawful modern lifestyle should determine maintenance entitlement. It did not adopt the different case's facts as facts about Sneha or attribute to *Nagarathinam* a specific holding about maintenance, Facebook posts, separation or quantum. The High Court's own reasoning was that lawful personal choice was not a statutory ground for denying maintenance and no material beyond the lifestyle assertion had been identified to show separate residence without reasonable justification.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973, was the jurisdiction expressly invoked to challenge the maintenance and revisional orders. The Court rejected interference after finding no jurisdictional error in the ₹5,000 monthly award and dismissed the application. The Court expressly addressed whether the wife could be denied maintenance for residing separately without reasonable justification. The applicant's moral objection could not bypass the governing legal entitlement. The cited *Nagarathinam* passage concerned the judicial duty to apply law, not an amendment or exception to the maintenance provision. The Court's final statement leaves respondents at liberty to file an application under Section 482 for enhancement; it is a reservation in this order, not a decision fixing a different amount or interpreting the general procedural route to enhancement.

4. Issues : (i) In a Section 482 challenge to the revisional order arising from the maintenance proceeding, could the husband's disapproval of his wife's "modern" lifestyle and Facebook posts itself establish a legally sufficient reason to quash her

₹5,000 monthly maintenance, or was material needed to show she resided separately without reasonable justification? (ii) Did the Court have any basis to regard the wife's ₹5,000 monthly award as excessive in light of prevailing prices and daily living needs or to identify a jurisdictional error warranting interference? (iii) What was the scope of relief when the husband expressly accepted respondent No. 2's separate ₹3,000 monthly maintenance, and did dismissal foreclose a later enhancement request by respondents? The Court did not adjudicate a separate factual finding on the exact cause of marital separation or a future enhancement application.

5. Ratio / Findings : On the first issue, the Court pressed counsel to explain whether a preference for morality could override legal provisions, and whether merely living a modern life made Sneha's behaviour immoral. Invoking *Nagarathinam*'s rule-of-law caution, it held that the husband's moral assessment could not make lawful lifestyle choices blameworthy. As long as no criminal activity was shown, the wife was free to make her own choices, orthodox or modern. The maintenance objection required a legally relevant showing that she was residing separately without reasonable justification. Apart from asserting that her lifestyle, illustrated by Facebook posts, was unacceptable to him, the applicant identified nothing to establish that condition. The Court therefore rejected the ground he advanced for denying maintenance. This is not a finding that all circumstances of living separately were proved in the wife's favour; it is the rejection of the particular unsupported ground he advanced.

On the second issue, the Court considered the ₹5,000 monthly amount awarded to the wife against the price index, cost of living and cost of ordinary daily goods. On that assessment, it found the amount could not be called excessive and found no jurisdictional error in the maintenance award. It did not state a general minimum or prescribe a formula for every wife's maintenance. On the third issue, the applicant expressly did not challenge the ₹3,000 monthly maintenance for respondent No. 2 and undertook to continue paying. The order consequently contains no adverse determination of that recipient's entitlement. The Court expressly said its dismissal would not prevent respondents from applying under Section 482 for enhancement; the reservation neither decides whether enhancement is justified nor increases the sums awarded.

6. Relief : The Hon'ble High Court dismissed the application. It declined to quash the wife's ₹5,000 monthly maintenance, finding no jurisdictional error and no sufficient basis in the asserted Facebook posts or lawful modern lifestyle to deny it. The applicant's stated acceptance of respondent No. 2's ₹3,000 monthly award was recorded; no modification of that award was made. The Court expressly preserved respondents' freedom to bring an application under Section 482 CrPC seeking enhancement. There was no enhancement, remand, new payment timetable or finding of criminal wrongdoing in this order.

Sukhendra Chatuvedi v. Sneha and Others, M.Cr.C. no. 54170/2023, 04/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Separate trials / evidence / connected appeal - Applying *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Criminal Appeal No. 1306/2021, the High Court held that evidence recorded in the separately conducted trial of Ram Kumar and Shiv Kumar could not be read as evidence in the later trial of the six appellants. Ram Kumar's remanded Criminal Appeal No. 1670/2010, although heard analogously, was reserved for separate decision. Witnesses initially examined while Pramod alone faced trial were re-summoned after the other appellants' arrest; the Court distinguished that record from evidence in the earlier, separate trial. Joint hearing of the appeals did not permit evidence from one separate trial to be used in the other.

Evidence Act Sections 141, 142 and 154 / leading questions / fair trial - *Varkey Joseph v. State of Kerala, 1993 Supp (3) SCC 745*, was applied to disallow prosecution questions that suggested answers on disputed, material facts in examination-in-chief. Age of the witness and elapsed time did not bring the proposed instigation allegations within Section 142's introductory, undisputed or sufficiently proved matters; permission under Section 154 had not been granted for the non-hostile Phoolmati. The answers elicited by leading questions were excluded, so her prompted allegations that Omkar and Sai Lal instigated the killing could not be used. The ruling concerned the improperly elicited part, not a wholesale rejection of everything the witness said.

Evidence Act Section 145 / prior police statement / unproved omission - *Major Som Nath v. Union of India, (1971) 2 SCC 387*, and *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588*, required the intended contradictory part of a prior written statement to be put to the witness and, if denied, proved through the investigating officer. Mohwati was not confronted with the suggested omission concerning Omkar; it therefore could not be read for the defence merely because the police statement differed. This procedural bar did not compel acceptance of her entire court account: the High Court separately disbelieved her assertion that Omkar strangled Manraman because her own cross-examination placed her unconscious or away from observation at the material time.

Sections 141 and 149 IPC / common object / individual strangulation - *Manjit Singh v. State of Punjab, (2019) 8 SCC 529*, *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, *Bhanwar Singh v. State of M.P., (2008) 16 SCC 657*, and *Kirtan Bhuyan v. State of Orissa, 1993 Supp (1) SCC 558*, were considered for the two limbs of constructive liability: an offence committed in prosecution of the shared object or one members knew likely in its pursuit. Common object may arise on the spot; an overt act by each is unnecessary once sharing and membership at the crucial stage are proved, but a mere bystander or member unaware of an independent escalation must not be held liable for murder on that basis. Here the group's unarmed entry, dragging and fist assault proved a common object to assault, while Shiv Kumar's sudden strangulation with the deceased's shirt was his individual act and was not shown to be within the other appellants' object or foresight. Their Sections 147, 323/149 and 452/149 convictions stood; all six were acquitted under Section 302/149.

Party-specific evidence and disposition / hostile witnesses / sentences - The Court found Pramod's participation in dragging and beating proved from the FIR and usable testimony despite conflicting accounts, but no instigation or strangulation by him. The same collective assault was proved against Sai Lal, Awdhesh, Rakesh, Rajendra and Omkar, subject to exclusion of prompted instigation and scrutiny of Mohwati's claimed perception. Their one-year rigorous-imprisonment terms for rioting, hurt and house trespass, the ₹1,000 fine and one-month default term under Section 452/149, and the direction that the sentences run concurrently were affirmed. The Court recorded that the appellants had served more than one year, discharged their bail bonds, and allowed the two appeals only to the extent of setting aside their Section 302/149 convictions. Ram Kumar's remanded appeal was not disposed of in this judgment.

Case-note :- ***1. Facts :*** On 11 March 2009 at about 2:30 p.m. in village Kumharwara, Manraman Patel confronted Shiv Kumar Patel about an earlier dispute and alleged ruckus involving Sai Lal and Awdhesh. Biharilal's report said he pacified the initial exchange and took Manraman into his house. The prosecution alleged that Shiv Kumar returned after some minutes with seven others; several entered the house, brought Manraman into a courtyard and struck him with fists. It attributed words of instigation to Omkar and Sai Lal, said Awdhesh twisted Manraman's arm and stated Shiv Kumar strangled him using Manraman's shirt. Manraman died shortly thereafter. The post-mortem described neck ecchymosis and a ruptured trachea and gave asphyxia from throttling as cause of death. The doctor found no ligature mark and said pressure from a hard, blunt object could account for the neck injuries. The Court held death homicidal. There was no other external or internal injury recorded that established the alleged fractured arm or severe fist blows. An FIR was registered under IPC provisions including rioting, house trespass, murder, abuse, intimidation and Section 149; the defence disputed whether all participants shared or foresaw the killing. Initially only Shiv Kumar and Ram Kumar were tried. They were convicted by a 19 August 2010 judgment; their appeals were dismissed on 14 September 2018. The Supreme Court remanded Ram Kumar's appeal because it had been dismissed without him and his counsel, and his revived Cr.A. No. 1670/2010 was heard analogously with the present matters. Shiv Kumar did not further challenge his dismissal and was reported to have completed his sentence. The other six accused were apprehended later, between 2011 and 2012. Pramod @ Bholi was charged and some witnesses examined while he alone faced trial; after the other five were arrested, witnesses were re-summoned and all six were tried under the common judgment of the IV Additional Sessions Judge, Katni, dated 30 January 2020 in Sessions Trial No. 172/2009. The six were convicted under Sections 147, 452/149, 323/149 and 302/149 IPC. The first three carried concurrent one-year rigorous-imprisonment terms (with a ₹1,000

fine and one-month default term on the house-trespass count); the murder count carried life imprisonment, ₹5,000 fine and three months in default. Sai Lal, Awdhesh, Rakesh @ Tidku, Rajendra @ Chiju and Pramod filed Cr.A. No. 2874/2020; Omkar filed Cr.A. No. 3171/2020.

They argued that the deceased initiated the exchange, none of the group came armed, the group intended at most a fist assault, and no appellant knew Shiv Kumar would use the deceased's shirt to strangle him. The State said the coordinated return, entry, dragging, assault and alleged exhortations established a common object to kill. Because some testimony had been taken at different procedural stages, the Court evaluated the testimony recorded earlier in Pramod's trial separately, scrutinised testimony after re-summons and ruled on the admissibility and use of answers elicited by leading questions and alleged contradictions.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Criminal Appeal No. 1306/2021, described in this judgment as decided on 31 October 2021, was applied for the proposition that evidence from an independent trial of a co-accused cannot simply be read in another accused's trial. The High Court accordingly separated Ram Kumar's remanded appeal from the two appeals decided here, despite analogous hearing.

Varkey Joseph v. State of Kerala, 1993 Supp (3) SCC 745, was quoted at length and applied. It addressed prosecution examination-in-chief that put suggested answers to witnesses on the material connection between accused and offence without properly treating them as hostile. Sections 141–143 Evidence Act distinguish a question suggesting a desired answer, the restricted permission for leading in chief or re-examination, and leading in cross-examination; Sections 145 and 154 provide structured means to confront a prior statement or seek leave to question one's own witness as on cross-examination. The Supreme Court held the prosecution's use of material suggestive yes-or-no questions unfair to the accused's Article 21 fair-trial right, and not a mere curable irregularity. The present Court found the trial court's permission to lead Phoolmati because of her age and the time elapsed could not justify suggesting the contested instigation narrative; she was not declared hostile and the alleged facts were not introductory, undisputed or already sufficiently proved. Her answers to those questions could not be used against Omkar or Sai Lal. It did not turn every fact she had independently stated into inadmissible evidence.

Major Som Nath v. Union of India, (1971) 2 SCC 387, explained that a prior written statement may be used to contradict only after the witness's attention is called to the relevant passage under Section 145; merely proving the witness signed the writing does not make the whole earlier statement substantive evidence. *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588*, set out the sequence: put the exact part to the witness; an admitted part needs no further proof; if denied, mark the intended contradiction and prove it through the investigating officer. A court cannot itself treat an unconfronted police statement as a proved contradiction. The High Court used those principles to refuse the appellants the benefit of Mohwati's alleged omission about Omkar in her police statement, since she was not confronted. It separately assessed her ability to perceive the event and disbelieved her new allegation that Omkar himself strangled Manraman.

Manjit Singh v. State of Punjab, (2019) 8 SCC 529, explained Sections 141, 142 and 149 IPC and reproduced *Sikandar Singh*, *Masalti* and *Subal Ghorai* on formation and proof of a common object and caution against sweeping passive onlookers into vicarious guilt. The two alternatives in Section 149 require the actual offence to further the common object or to be one the members knew likely in pursuing it. A shared object can form at the scene, need not be the product of prior consultation, and can be inferred from conduct, words, arms, motive and the sequence; proof of an overt act by each member is not required once membership and the relevant object at the crucial stage are shown. Yet the object and its evolution must be proved against the persons concerned, so mere presence or a general allegation against a crowd is insufficient. The present Court applied these limits to distinguish the proven collective beating from Shiv Kumar's independent fatal escalation.

Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537, likewise explained that conduct and surrounding circumstances establish common object and that an eyewitness need not allocate a separate blow to every member; it reproduced *Gangadhar Behera* and *Masalti* for the genuine crowd-assault setting. The High Court considered this as permitting collective assault liability without erasing the requirement that

murder fall within the object or known likelihood. *Bhanwar Singh v. State of M.P., (2008) 16 SCC 657*, through *Charan Singh*, explained that a Section 141 object must be shared, may be adopted or changed as the incident develops, and differs from common intention because prior concert is unnecessary. This required inquiry into when the common object existed or changed, rather than an assumption that an object to beat was always an object to kill. *Kirtan Bhuyan v. State of Orissa, 1993 Supp (1) SCC 558*, illustrated attribution of a fatal neck injury to its author under Section 302 while other group members remained liable for rioting and hurt under Sections 147 and 323/149. The High Court used that distinction in limiting liability here.

3. Statutes considered : Sections 141 and 142 IPC define an unlawful assembly of at least five with an enumerated common object and membership with awareness; the third clause of Section 141 includes criminal trespass or other offence, and an initially lawful group can become unlawful later. Section 149 attaches constructive liability for an offence a member commits in prosecution of the common object or that the others knew was likely to be committed in its prosecution. The Court held the common object here supported the convictions for Section 147 rioting, Section 323/149 simple hurt and Section 452/149 house trespass, but not Section 302/149 murder. Section 302 remained applicable to the separately convicted direct actor Shiv Kumar in the background, whose appeal was not reopened here; the six appellants' Section 302/149 convictions were set aside. Section 294 and other initial charges appear in the procedural history, but the appealed 2020 conviction and final disposition did not retain a separate Section 294 count.

Sections 141 and 142 of the Indian Evidence Act, 1872 govern definition and restrictions on leading questions in examination-in-chief and re-examination, with introductory, undisputed or already sufficiently proved matters treated specially; Section 154 allows the court to permit a party to put to its own witness questions available to the adverse party and allows the party to rely on usable portions of the witness's evidence. Section 145 requires confrontation with the precise prior writing before it may be proved as a contradiction, with the investigating officer's proof required if denied. The High Court applied these provisions to Phoolmati and Mohwati, respectively, with Article 21 fair-trial concerns expressed through *Varkey Joseph*. Section 428 CrPC supplied the certificate of undertrial detention used in the final custody reckoning; the Court recorded concurrent one-year sentences and discharge of bail bonds, not a fresh general interpretation of set-off.

4. Issues : (i) Whether Ram Kumar's evidence from a separate trial could be used to decide these six appellants' case merely because his remanded appeal was heard analogously, and how to treat the re-summoned witnesses in Pramod's later combined trial. (ii) Whether the trial court could let the prosecutor prompt non-hostile Phoolmati with suggested answers about material instigation because she was elderly and years had passed, and what use could be made of those answers under Evidence Act Sections 142 and 154. (iii) Whether Mohwati's police-statement omission about Omkar could be used as a contradiction without putting the passage to her under Section 145, and whether her in-court assertion of Omkar's strangulation was independently credible. (iv) Whether the witnesses proved the six appellants' roles in entering the house, dragging and assaulting Manraman, particularly Pramod amid the conflicting initial testimony, and whether the FIR was delayed in a way affecting that assessment. (v) Whether the established unlawful assembly shared an object to kill, or knew Shiv Kumar's use of the deceased's shirt for fatal strangulation was likely, so as to sustain Section 302/149 in addition to Sections 147, 323/149 and 452/149. (vi) What offence-wise and party-specific conviction, sentence and custody consequences followed for the six appellants while the separate appeal of Ram Kumar remained pending for another decision.

5. Ratio / Findings : The Court first applied the rule in *A.T. Mydeen* that evidence from one separate trial could not be used in another. Ram Kumar's earlier independent trial had its own evidence and the Supreme Court had remanded his appeal for hearing in his and counsel's presence. Listing the appeals for analogous hearing did not make that record admissible against these appellants. Ram Kumar's revived appeal would therefore receive a separate judgment. Within this six-appellant trial, some prosecution witnesses first testified while Pramod alone faced proceedings, and after the others were arrested they were re-summoned; the Court examined the evidentiary histories separately rather than borrowing the earlier Ram Kumar trial testimony. The witnesses examined earlier in

Pramod's trial gave conflicting accounts. Biharilal at one point described him as trying to save Manraman, but also admitted his role in dragging and spoke of involvement; Jagroop's cross-examination suggested Pramod was absent at the murder; Phoolmati and Sudama did not support his presence in that phase. Mohwati described his participation in dragging and beating. The FIR named him and attributed dragging and fist blows to him, and it was lodged about four to four-and-a-half hours after the event with the police station roughly 25 km away and conveyance difficulties explained. The Court did not regard it as materially delayed and held beyond reasonable doubt that Pramod had dragged and assaulted Manraman, but not that he instigated or strangled him. For the other five, the court reviewed later Biharilal, Jagroop, Phoolmati, Mohwati and Sudama testimony, including hostility, changes in account and discrepancies as to who pressed the neck. Medical evidence showed fatal throttling, without a hand fracture or other material assault injury. It distinguished proof of collective entry and beating from proof of participation in the lethal act.

Phoolmati's unprompted testimony did not initially attribute words of instigation to Omkar and Sai Lal. She later agreed with the prosecutor's suggestions after the trial judge permitted leading questions on account of age and a six-year gap, without declaring her hostile. Applying *Varkey Joseph* and Sections 142 and 154 Evidence Act, the High Court held the suggested material facts were neither introductory, undisputed nor already sufficiently proved, and that the questions were not those the adverse party would have put on cross-examination. The prompted answers could not be read; the allegations of instigation elicited through them therefore could not be used against Omkar and Sai Lal. This exclusion directly affected the assessment of whether murder was within the shared common object.

Mohwati's police statement lacked the later allegation concerning Omkar, but the defence had not confronted her with the passage it wanted to use. *Major Som Nath* and *V.K. Mishra* prevented the Court from treating an unproved omission as a proved contradiction in the appellants' favour. In her cross-examination, she acknowledged being pushed and falling unconscious, and said the incident was over by the time she reached the courtyard. The High Court accordingly disbelieved her claim that Omkar himself strangled Manraman for lack of reliable observation.

Finally, under *Manjit Singh*, *Bhagwan Jagannath Markad* and *Bhanwar Singh*, the Court inferred a shared object to enter Manraman's home, drag him out and beat him with fists; no appellant had brought a weapon. The earlier exchange began with Manraman's scolding of Shiv Kumar, the group assembled thereafter, and Shiv Kumar used Manraman's own shirt for fatal strangulation. No appellant was proved to have acted during the strangulation or to have expected that sudden escalation. Although Section 149 needs no separate overt act by every member once the requisite common object or known likelihood is established, neither limb was proved for murder. *Kirtan Bhuyan* supported separating the direct killer's fatal act from the others' rioting and hurt. The Court thus maintained the six appellants' Sections 147, 323/149 and 452/149 convictions and removed Section 302/149. The one-year rigorous terms for the retained counts, ₹1,000 fine and one-month default term on Section 452/149, and the direction that the sentences run concurrently remained. It recorded individual undertrial periods and post-conviction custody exceeding the surviving one-year sentence for all, and ordered their bail bonds discharged.

6. Relief : The Hon'ble High Court allowed the criminal appeals in part. Sai Lal Patel, Awdhesh Patel, Rakesh @ Tidku Patel, Rajendra @ Chiju Patel, Pramod @ Bholi Patel and Omkar Prasad Patel were acquitted of Section 302/149 IPC. Their convictions for Sections 147, 323/149 and 452/149 IPC, the concurrent one-year rigorous-imprisonment terms, the ₹1,000 fine for Section 452/149 and its one-month rigorous-imprisonment default term were affirmed. The trial court's Section 428 CrPC certificate recorded undertrial periods of 167 days for Pramod, 29 days each for Rajendra and Rakesh, 355 days for Awdhesh, 158 days for Sai Lal and 117 days for Omkar; the High Court considered ensuing custody and found all had already served more than the surviving one-year imprisonment. Their bail bonds were discharged and no further custody in these appeals was required. The record and judgment were to be returned to the trial court for compliance. Ram Kumar's remanded Cr.A. No. 1670/2010, although heard analogously, was expressly reserved for a separate decision; this order did not dispose of it or revisit Shiv Kumar's completed appeal.

Sai Lal Patel and Others v. State of Madhya Pradesh; Omkar Prasad Patel v. State of Madhya Pradesh, Cr.A. no. 2874/2020 & 3171/2020, 04/10/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / pending FIR investigation / arrest and charge sheet - Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the High Court refused the informant's request to direct arrest of the accused in Crime No. 661/2020 or to require a charge sheet. Investigation is the police's statutory domain; a court exercising inherent power does not routinely supervise witness examination, arrest, seizure or the ultimate report. The cited Supreme Court decision explains, with *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, that Section 41 gives the officer discretion and a cognizable allegation does not make arrest automatic. The investigation may end in a charge sheet or a closure report according to the material found. The Court applied this restraint to the requested investigative outcome; the separate fair-hearing discussion quoted from *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was part of the Supreme Court passage, not an independently decided nonjoinder question here.

Section 173(1) CrPC / completion without unnecessary delay / lawful final report - The refusal to direct arrest or prosecution did not permit the police to leave the investigation pending indefinitely. Section 173(1) mandates completion of every investigation under the relevant Chapter without unnecessary delay. With FIR No. 661/2020 pending and the applicant complaining that the police had taken no further action, the High Court directed the investigating officer to conclude the investigation as early as possible and take the steps required by law, including submission of the appropriate final report, whether closure report or charge sheet. It fixed no particular investigative method or outcome, and left the applicant free to raise any grievance with the Superintendent of Police, Shivpuri, for consideration in accordance with law.

Case-note :- ***1. Facts :*** Sapna Prajapati invoked Section 482 of the Code of Criminal Procedure, 1973, in MCRC No. 13285/2021 before the Gwalior Bench. On her complaint, Police Station Karera, District Shivpuri, had registered Crime No. 661/2020 for offences alleged under Sections 376 and 506 of the Indian Penal Code, 1860. Her counsel said that the police had taken no further action and had not arrested the accused persons. The application sought intervention during the pending investigation; the operative analysis addresses the request to compel arrest and filing of a charge sheet. The prayer reproduced in paragraph 1 seeks prompt arrest of the accused in Crime No. 661/2020, investigation and filing of a charge sheet before the competent court. The High Court had to decide whether its inherent power could direct particular police action and what the Code required of the officer despite the Court's refusal to supervise the investigation. It disposed of the application on 10 March 2021.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was expressly quoted and applied. In the passage reproduced here, the Supreme Court set aside a High Court order that, without adequate reasons and without hearing affected persons, had described recording witness statements, arrest, seizure and filing a charge sheet as obligatory police steps. Investigation is a statutory police function; Section 482 is exercised sparingly and cautiously on its stated grounds to give effect to orders under the Code, prevent abuse of a court's process or secure the ends of justice. A court must not prescribe a particular investigative angle or assume that every investigation produces arrest, seizure and a charge sheet: the lawful conclusion may instead be that no case is made out, resulting in a final closure report. The quoted Supreme Court order also cautioned that even casual judicial observations may influence the investigation and affect persons' reputation. The present High Court used this authority to refuse the requested arrest and charge-sheet directions as impermissible supervision. It did not find the merits of the underlying FIR proved or decide whether the police should ultimately prosecute.

Within that quotation, the Supreme Court invoked *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC. The officer may arrest without a warrant on statutory grounds, but need not mechanically arrest upon receipt of a cognizable complaint. The need for arrest is judged during investigation, with caution because arrest intrudes on liberty and affects reputation; the nature of the

alleged offence and the persons concerned matter. This nested principle supplied the specific reason the High Court could not command arrest merely because the informant alleged inaction. The quoted passage also cited *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for a reasonable opportunity of hearing before a judicial order likely to affect a person, especially an order setting criminal law in motion with reputational consequences. *D. Venkatasubramaniam* applied that principle to persons not joined or heard in its own proceedings. This fair-hearing principle forms part of the quoted *D. Venkatasubramaniam* passage. These nested authorities were considered through the controlling Supreme Court extract, not as new findings of fact in this FIR.

3. Statutes considered : Section 482 CrPC is the inherent jurisdiction invoked. As explained through *D. Venkatasubramaniam*, it permits necessary orders to give effect to an order under the Code, to prevent abuse of a court's process or to secure the ends of justice; it is exercised sparingly and does not ordinarily authorise the Court to run a pending police investigation or dictate its methods and outcome. Section 41 CrPC, discussed in the Supreme Court passage through *M.C. Abraham*, confers a discretionary power to arrest without a warrant on specified grounds rather than a mandatory arrest obligation on every cognizable FIR. Section 173(1) CrPC, quoted and independently applied by the High Court, states that every investigation under the relevant Chapter must be completed without unnecessary delay. The officer must reach a lawful conclusion on whether an offence is made out and submit the appropriate final report, whether closure report or charge sheet; the Court did not require either result. IPC Sections 376 and 506 identify the offences alleged in Crime No. 661/2020 and were not interpreted on their ingredients or proved facts.

4. Issues : First, when an informant complains in a Section 482 application that police have not acted on an FIR alleging Sections 376 and 506 IPC, can the High Court direct arrest of the accused and filing of a charge sheet, or would that impermissibly control the investigating officer's statutory discretion? This required separating the officer's power to arrest from any supposed automatic obligation following an FIR and distinguishing a lawful final report from a compelled prosecution. Second, despite the refusal to direct those steps, does Section 173(1) require a pending investigation to be concluded without unnecessary delay, and what relief can be given while leaving investigative methods and the outcome open? The Court did not determine the truth of the complaint, the necessity for arrest on facts not recorded, the ultimate sufficiency of evidence, or a distinct nonjoinder/fair-hearing issue discussed within the quoted Supreme Court decision.

5. Ratio / Findings : On the requested arrest, the High Court stated that it could not issue the direction. It adopted *D. Venkatasubramaniam*'s distinction between the police obligation to investigate according to law and an order spelling out what evidence to collect or coercive acts to perform. The Supreme Court's *M.C. Abraham* discussion made clear that Section 41 allows but does not compel arrest merely because a cognizable offence is reported; the decision calls for investigation, caution and attention to liberty and reputation. A charge sheet is likewise contingent on the evidence gathered and the investigating officer's lawful assessment; a closure report remains possible. For those reasons, a judicial command to arrest the accused and file a charge sheet would make the Section 482 Court the supervisor of the ongoing investigation. The Court refused those commands in paragraphs 3–5. The Supreme Court extract's separate warning about not passing adverse orders without hearing affected persons supported restraint in *D. Venkatasubramaniam*, but the High Court did not make a separate procedural ruling about parties to this application.

The High Court then quoted Section 173(1) and identified a distinct statutory duty under it. An investigating officer cannot leave a case pending indefinitely and must determine whether any offence is made out. The Court directed completion as early as possible and necessary steps under law so that an appropriate final report, closure or charge sheet, is filed without unnecessary delay. This was a direction to perform the statutory investigation and reporting duty, not to predetermine the finding, arrest, evidence collection, or the kind of report. No fixed calendar deadline or order against a named accused was made. The applicant's further grievance could be put to the Superintendent of Police, Shivpuri, who would consider it according to law.

6. Relief : The Hon'ble High Court disposed of the Section 482 application. The Court denied any direction requiring arrest of the accused or filing of a charge sheet. It directed the investigating officer to conclude the investigation as early as possible and

take necessary lawful steps under Section 173(1), leaving the eventual report to the evidence and governing law. The applicant was given liberty to apply to the Superintendent of Police, Shivpuri, with any grievance; such application was to be looked into in accordance with law. The order did not quash the FIR, adjudicate guilt, grant a predetermined investigative outcome, or fix a specific completion date.

Sapna Prajapati v. State of M.P. and Others, M.Cr.C. no. 13285/2021, 10/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (565) Prev Next

Headnote :- Section 125 CrPC — wife's status — summary proof of marriage - Strict proof of an asserted temple ceremony and its rituals was not required as a precondition to the respondent's maintenance claim where the Magistrate had made no specific finding that she was not the applicant's legally wedded wife, but found that the parties had cohabited as spouses for a considerable period and had a child. Applying *Kamala v. M.R. Mohan Kumar, (2019) 11 SCC 491*, and the *Chanmuniya* principle discussed there, the Court affirmed that such cohabitation supports a rebuttable presumption of marriage for the summary Section 125 remedy; it did not convert an unproved particular ceremony into proof of a valid marriage for every purpose. The objection to status failed and the maintenance award stood.

Precedents — *Kamala* and nested authorities - *Kamala* distinguished Section 125's summary standard from strict matrimonial or Section 494 IPC proof and treated long cohabitation and children as grounds for a rebuttable marriage presumption. Its reproduced account of *Dwarika Prasad Satpathy* permits maintenance on evidence supporting living together; the quoted *Chanmuniya* reasoning favours a broad reading of "wife" to advance Section 125's social object, while acknowledging divergent authority. *Kamala*'s discussion of *Gokal Chand*, *Badri Prasad* and *Tulsa* described the presumption and its rebuttable character. The High Court applied that line to the findings before it, cited *Chanmuniya* directly and also cited *Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188*. The contrary *Yamunabai* and *Savitaben* holdings appeared within *Kamala*'s quoted discussion of divergent views, not as an independently resolved invalid-marriage issue in this case.

Case-note :- ***1. Facts :*** Anita Bopche obtained an order from the Magistrate, Gram Nyayalaya, Balaghat, in MJC No. 36/2010 dated 16.07.2012 directing Shailesh Bopche to pay her ₹1,500 per month under Section 125 CrPC. His Criminal Revision No. 54/2015 was dismissed by the First Additional Sessions Judge, Balaghat, on 03.12.2015. He then invoked Section 482 CrPC in MCRC No. 30262/2023 to challenge both orders. Counsel acknowledged the interval of approximately nine years after the revision order but submitted that Section 482 had no limitation period and the petition was not barred merely by delay. The trial court had not accepted proof of the particular alleged temple marriage and rituals, yet found that the parties had lived as husband and wife for a considerable period and that Anita had given birth to a child. Shailesh argued that the absence of proof of a lawful marriage defeated her status under Section 125. He also raised an age difference, caste and family circumstances, alleged false implication, a past Section 376 IPC case in which he said he had been acquitted by the Juvenile Justice Board, and his own asserted work as a labourer in Nagpur. Counsel did not have the Board's judgment or know the reasons for acquittal. These were submissions, not findings establishing that Anita was not his wife. The Court identified the marriage-status objection as the sole substantive controversy before it; the ₹1,500 quantum was not challenged.

2. Precedents — Considered : *Kamala and Others v. M.R. Mohan Kumar, (2019) 11 SCC 491*, was extensively reproduced and applied. In the quoted passage, the Supreme Court explained that Section 125 provides a summary remedy intended to prevent vagrancy and does not require the strict proof of marriage demanded in matrimonial proceedings. It invoked *Dwarika Prasad Satpathy v. Bidyut Prava Dixit, (1999) 7 SCC 675*, for the less exacting Section 125 standard and the relevance of evidence of living together, and recognised a presumption of marriage where a couple cohabit for years as spouses. *Kamala*'s account of *Chanmuniya v. Virendra Kumar Singh Kushwaha, (2011) 1 SCC 141*, explained an expansive interpretation of "wife" in cases of long cohabitation to advance the provision's social purpose, while acknowledging that *Chanmuniya* recorded divergence and referred questions to a larger Bench. The quoted discussion

traced older Privy Council authorities, *Gokal Chand v. Parvin Kumari, (1952) 1 SCC 713*, *Badri Prasad v. Director of Consolidation, (1978) 3 SCC 527*, and *Tulsa v. Durghatiya, (2008) 4 SCC 520*, on the presumption favouring wedlock. *Gokal Chand* emphasised that circumstances can weaken or destroy it; *Badri Prasad* placed a heavy burden on one denying legal origin after a long spell of cohabitation. These authorities appear within the quoted *Kamala* passage. *Kamala* also quoted *Chanmuniya*'s account of *Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav, (1988) 1 SCC 530*, and *Savitaben Somabhai Bhatiya v. State of Gujarat, (2005) 3 SCC 636*, which had taken a restrictive view where a woman was not lawfully married; the present Court did not adjudicate a proved subsisting marriage or other invalidating impediment. It applied *Kamala* and expressly cited *Chanmuniya and Badshah v. Urmila Badshah Godse, (2014) 1 SCC 188*, in its conclusion. The Court also mentioned its earlier *Smt. Pushpa Pandey v. Suresh Pandey*, Criminal Revisions Nos. 348/2006 and 356/2006, decided 24.11.2016, as taking a similar view.

3. Statutes considered : Section 125 CrPC governed the respondent's summary maintenance claim. The legal question was whether the applicant's contention that the marriage ceremony had not been proved prevented recognition of her entitlement despite findings of cohabitation as husband and wife and childbirth. Section 482 CrPC supplied the procedural jurisdiction invoked against the Magistrate's and revisional orders. Section 494 IPC appeared only in the quoted *Kamala* comparison concerning stricter proof of marriage in a criminal offence trial. Section 376 IPC arose only in the applicant's account of an earlier prosecution and was not adjudicated here.

4. Issues : (i) Did inability to prove the asserted temple ceremony and rituals, without a specific finding that Anita was not legally married, defeat her Section 125 claim despite considerable spousal cohabitation and the birth of a child? (ii) Was there any reason within the issue actually argued and decided to interfere under Section 482 with the maintenance order affirmed on revision? The asserted absence of a Section 482 limitation period was a submission, not a separately decided issue. The amount of maintenance was expressly left unexamined because it was not challenged.

5. Ratio / Findings : The Magistrate's inability to accept proof of a particular temple ceremony was distinct from an affirmative finding that the parties were not legally married. The Court relied on the trial court's findings that they had lived as husband and wife for a considerable time and had a child. *Kamala* supplied the governing Section 125 standard: the summary remedy intended to prevent destitution does not demand the strict ceremonial proof required in other proceedings; sustained cohabitation as spouses may support a presumption of marriage for the claim. The presumption described in *Kamala*'s quoted authorities is rebuttable, with *Gokal Chand* requiring attention to circumstances that undermine it. The present Court found no specific trial-court finding of non-marriage to displace the maintenance order. It did not resolve a case of a proved legal impediment, pronounce on the ultimate validity of a temple marriage for all legal purposes, or establish that childbirth by itself conclusively proves marriage. The applicant's assertions about age, caste, wealth, the prior criminal case and his work did not alter the identified marriage-status analysis. In light of *Kamala*, *Chanmuniya*, *Badshah* and the similar High Court decision cited, the Magistrate had committed no error in awarding maintenance. No further quantum analysis was warranted because the figure was not challenged.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The Magistrate's direction to pay Anita ₹1,500 per month, already affirmed in revision, remained undisturbed. The Court imposed no new condition, modification, costs or independent direction and expressed no separate decision on the quantum or the delay submission.

Shailesh Bopche v. Anita Bopche, M.Cr.C. no. 30262/2023, 02/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (566) Prev Next

Headnote :- FIR registration — police inaction — statutory complaint remedy - An allegation that police have not registered an FIR does not, without more, warrant a direct Section 482 direction to investigate and register an FIR if an offence is found. *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was applied for the distinction between the police duty on cognizable information and the informant's recourse under Sections 190 and 200 CrPC when police fail to act. *Sakiri Vasu v. State of*

U.P., (2008) 2 SCC 409, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, supplied the remedies before the superior police officer and the Magistrate under Sections 154(3) and 156(3), with a prima facie Magistrate assessment and power to secure proper investigation. The Court dismissed the application with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS; it did not decide the merits of the proposed FIR.

High Court intervention — limits and exceptions - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was considered for the distinction between ordinary police inaction, addressed through the Magistrate, and rare Article 226 intervention where mala fide exercise of investigative power is established and a clear case of abuse of power and noncompliance with Chapter XII is made out; even an exceptional direction must insist on Code compliance rather than dictate the manner of investigation. The Division Bench ruling in *Shweta Bhadauria* treated alternate remedies as a ground to deny FIR mandamus, subject to the recognised *Whirlpool* exceptions, and distinguished *Lalita Kumari*'s police-registration duty from an automatic right to High Court mandamus. The present order did not find an exceptional basis for direct intervention.

Case-note :- ***1. Facts :*** Shreepat Shakya complained to the police about persons whom he sought to have investigated and prosecuted. He asserted that the police had not registered an FIR despite the complaint. In Misc. Criminal Case No. 54768/2024 he invoked Section 482 CrPC before the High Court of Madhya Pradesh, Gwalior Bench, asking for a direction to investigate his application and, if an offence were found, register an FIR. His counsel relied on police inaction. The Public Prosecutor opposed the petition on the ground that the applicant could approach the trial Magistrate by private complaint under Section 200 CrPC, now Section 223 BNSS. There was no adjudication of the allegations' truth or of whether any cognizable offence actually arose.

The order does not identify the underlying transaction, the proposed accused, the contents of the police complaint or any prior approach to the Superintendent of Police.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted for two linked, distinct propositions. Police ought to register an FIR when disclosed facts show a cognizable offence; if police fail, the aggrieved person has the Code's Section 190 read with Section 200 Magistrate complaint route. Its discussion reconciled *Ramesh Kumari*'s account of the police duty with the procedure for seeking a remedy in *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. Those underlying cases and *Lallan Chaudhary* appear inside the quoted *Aleque* passage. *Aleque* had expressly left the underlying merits undecided, a distinction relevant to the present refusal to prejudge the proposed FIR.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted for the ordinary Magistrate remedy under Sections 190 and 200 and the confined possibility of Article 226 directions in a rare case of clear mala fides, abuse and noncompliance with Chapter XII. Even then the court cannot prescribe how the police must investigate. Its quotation from *Gangadhar* explained that the Magistrate may inquire into a complaint, dismiss it under Section 203 if no offence is disclosed, take cognizance and issue process on a prima facie case, or direct investigation under the Code.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted for sequential access to the Superintendent of Police under Section 154(3) and the Magistrate under Section 156(3) if the FIR is still not registered or a proper investigation is not conducted. The Magistrate may, on the application, direct registration and investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, restated that route instead of routine Article 226 petitions, subject to the Magistrate's prima facie satisfaction; its quoted passage allows Magistrate supervision and a recommendation to change an investigating officer where necessary, while stressing that the Magistrate does not investigate personally. The present Court relied on these remedial principles, not on a finding that an FIR was already required on Shreepat's unspecified allegations.

The Division Bench decision *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, decided 20.12.2016, was quoted. It permits denial of FIR mandamus for failure to use Sections 154(3), 156(3), 190 and 200, subject to the four recognised exceptions discussed in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, on the police's statutory registration

duty from the separate question of entitlement to High Court mandamus without first using alternative remedies. *Whirlpool* and *Lalita Kumari* appear as part of the quoted Division Bench formulation.

3. Statutes considered : Section 482 CrPC was the provision invoked for direct High Court relief. Section 154 CrPC concerns police registration of cognizable information, with subsection (3) providing recourse to the Superintendent of Police; Section 156(3) permits a Magistrate to order investigation and, as the quoted authorities explain, oversee its proper conduct. Sections 190 and 200 CrPC provide the complaint/cognizance route before the Magistrate; the quoted *Gangadhar* passage also describes Section 203 dismissal if the complaint fails to disclose an offence. Section 223 BNSS, 2023, was identified by counsel and in the operative liberty as the current complaint provision corresponding to Section 200 CrPC. Article 226 was discussed in the cited authorities as a distinct writ jurisdiction, including its rare public-law exception, but the present application was styled under Section 482.

4. Issues : Whether the High Court should entertain this Section 482 application to compel the police to investigate and register an FIR conditionally when the applicant alleges police inaction, or require him to use the statutory remedies before the superior police officer and the Magistrate. A subsidiary distinction was between the police's duty to register cognizable information and the judicial remedy available to an informant when police allegedly fail. The underlying offence, factual merits and any exceptional mala fide or abuse justifying unusual writ intervention were not determined.

5. Ratio / Findings : The Court framed the matter as the maintainability of a petition seeking a direction to the police to register an FIR. *Aleque Padamsee* recognises the duty of police to register when facts disclose a cognizable offence but directs an aggrieved informant facing police inaction to the Magistrate complaint procedure. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* supply the more specific Section 154(3)/156(3) route and the Magistrate's power, on prima facie satisfaction, to direct registration or proper investigation and monitor it. *Divine Retreat Centre* reserves exceptional Article 226 oversight for clearly established mala fide exercise of investigative power where a clear case of abuse of power and noncompliance with Chapter XII is made out, and confines even that oversight to lawful process. *Shweta Bhadauria* reinforces that *Lalita Kumari*'s police duty does not itself establish a right to bypass statutory remedies by asking the High Court for FIR mandamus; its formulation recognises limited exceptions to the ordinary alternative-remedy principle. Applying this body of law to the relief Shreepat sought, the Court declined a direct High Court command and preserved the available Magistrate remedy. It made no finding on whether his unspecified police complaint satisfied the cognizable-offence threshold, whether any proposed accused committed an offence, or whether a Magistrate should ultimately direct investigation. The decision is a procedural forum ruling, not a merits dismissal of his allegations.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. Shreepat was expressly left free, if he wished, to approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS for redressal. No FIR, investigation, or police action was directly ordered; the Magistrate's future assessment was not prejudged.

Shreepat Shakya v. The State of Madhya Pradesh and Others, M.Cr.C. no. 54768/2024, 20/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (567) Prev Next

Headnote :- Food adulteration — manufacturer added after shelf life — retesting prejudice — A 500 g packet of Kamdhenu Shuddh Ghee was sampled from a vendor on 17 March 2011; the Public Analyst reported adulteration on 11 April 2011. After the vendor's evidence and final arguments, he moved in August 2018 to add the stated manufacturer under Section 20A of the Prevention of Food Adulteration Act, 1954. The sample's shelf life had ended in November 2011, while the manufacturer was brought into the proceedings in 2018 and charged on 7 May 2019. Section 13(2) gives a person receiving the analyst report a ten-day opportunity to seek analysis of the retained sample by the Central Food Laboratory. The Court found that this very late impleadment made the manufacturer's retesting right practically unavailable; the vendor had himself been acquitted following delayed supply of the analyst report near the sample's expiry. The summons and charge against the manufacturer were set aside.

Warranty — manufacturer–vendor link — Section 14 requires the prescribed written warranty accompanying sale to a vendor and treats a bill, cash memorandum or invoice from the manufacturer,

distributor or dealer as such a warranty. The vendor produced no receipt connecting the applicant manufacturer to the sampled ghee, and no trial witness was said to implicate him. The Court treated the absent document as an additional defect in fixing him with responsibility, observing that adulteration could have occurred after supply. This was a finding on the record and statutory warranty route before the Court, not a blanket rule immunising every manufacturer whenever a retailer lacks a receipt. The vendor's earlier acquittal and the applicant's discharge are separate dispositions.

Case-note :- ***1. Facts :*** Shyam Agrawal challenged under Section 482 CrPC the Special Magistrate (Food Adulteration and Prevention Act), Bhopal's order of 7 May 2019 in Criminal Case No. 8439/2011, which framed a charge under Section 7(i) read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, 1954. He described himself as manufacturer of Kamdhenu Shuddh Ghee and disputed any direct dealership or retail relationship with respondent 2. The Food Inspector had inspected that respondent's establishment on 17 March 2011 and purchased three 500 g ghee packets, among other foods, for ₹369. The Public Analyst's report dated 11 April 2011 treated the ghee sample as adulterated. After sanction under Section 20(1), a complaint was pursued against the vendor. The three prosecution witnesses and the vendor as defence witness were said not to implicate Agrawal. Final arguments in the vendor's trial were heard on 13 July 2018; judgment was deferred when the vendor was absent. On 3 August 2018 the vendor sought to join Agrawal as manufacturer under Section 20A. The order says notice to Agrawal was not received by him. On 18 December 2018 the trial court acquitted the vendor because the analyst report had been supplied to him only on 15 November 2011, with sample shelf life lasting only until November 2011, and permitted destruction of the sample under Section 18. The trial court nonetheless proceeded against Agrawal and framed charge in May 2019. He argued that his late addition destroyed the Section 13(2) opportunity for Central Laboratory retesting and that no Section 14 manufacturer-to-vendor receipt or warranty had been produced. Respondent 2 supported the trial court order.

After the final arguments of 13 July 2018, judgment had initially been fixed for 26 July 2018 but was deferred because the vendor was absent. An arrest warrant was subsequently issued against the applicant before the charge-framing order of 7 May 2019.

2. Statutes considered : Section 7(i) read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act supplied the charge the Magistrate framed. Under Section 13(2), after institution of prosecution the Local (Health) Authority must forward the adverse Public Analyst report to specified concerned persons and inform them of the ten-day right, on receipt, to apply to court for Central Food Laboratory analysis of the retained sample. The Court treated expiry of the sample's shelf life before the manufacturer, who was added later as an accused, could exercise that right as substantial procedural prejudice. Section 20A was the vendor's route to seek impleadment of a manufacturer during the existing prosecution; its use in 2018 could not restore an already lost practical retesting opportunity. Section 20(1) appeared in the account of sanction for the original prosecution. Section 14 requires a manufacturer, distributor or dealer selling to a vendor to give a written prescribed warranty; its proviso deems a bill, cash memorandum or invoice in respect of that sale to be a warranty. Section 18 appears in the vendor's earlier order permitting destruction of the sample. Section 482 CrPC was the High Court jurisdiction invoked to challenge the charge order.

3. Issues : (1) Did joining the stated manufacturer as an additional accused many years after the 2011 sampling, and after the sample's shelf life expired, deprive him of the effective Section 13(2) Central Laboratory retesting right and vitiate the subsequent charge? (2) Was a sufficient manufacturer–vendor documentary sale or warranty link shown under Section 14, given the absence of any receipt from the vendor and the possibility of adulteration after supply? (3) Could the order summoning the manufacturer and framing the charge survive those combined defects notwithstanding the earlier Public Analyst report and separate vendor prosecution? The Court was not asked to retest the sample or finally determine how, when and by whom adulteration in fact occurred.

4. Ratio / Findings : Reading Section 13(2), the Court identified a valuable procedural right to apply for analysis by the Central Food Laboratory. The analyst had reported in April 2011 and the ghee shelf life ended in November 2011; Agrawal was added only in 2018 and charged in 2019. A merely formal opportunity after expiry could not provide effective

retesting, so the delayed addition impaired his valuable right. The vendor's earlier proceeding had itself resulted in acquittal because the analyst report was supplied late. Independently, the Court read Section 14 as requiring a written manufacturer/distributor/dealer warranty to the vendor, with a bill, cash memorandum or invoice deemed to fulfil it. Respondent 2 produced no receipt connecting the applicant to his purchase; the Court accordingly found that no warranty or indemnification link had been shown and noted that goods might be adulterated after supply. On the combination of a lost effective opportunity for retesting and an absent transaction record, it found error in summoning Agrawal and framing charge. The vendor's trial-court acquittal of 18 December 2018 is a procedural fact relevant to prejudice. The High Court reasoned directly from Sections 13(2) and 14 of the Prevention of Food Adulteration Act, the dates of sampling, report, addition and charge, and the absence of a vendor purchase receipt.

5. Relief : The Hon'ble High Court allowed the Section 482 application, set aside the Special Magistrate's order dated 7 May 2019 in Criminal Case No. 8439/2011, and discharged Agrawal. The earlier acquittal of the vendor is recorded as background and was not the direct order under challenge.

Shyam Agrawal v. State of Madhya Pradesh and Others, M.Cr.C. no. 33063/2019, 20/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (568) Prev Next

Headnote :- POCSO Act — Section 7 — physical contact at charge stage - Section 7 requires physical contact with sexual intent and without penetration; *the Supreme Court's Attorney General of India v. Satish, Criminal Appeal No. 1410/2021*, decided 18.11.2021, rules that skin-to-skin contact is unnecessary. On allegations of possession of the minor girl's photographs and threats to post them, the High Court inferred some contact sufficient for a prima facie Section 7 charge under the limited charge standard. The particular contact and sexual intent were not finally proved.

IPC Section 354C — voyeurism — images and disclosure - The Court quoted Section 354C, including the private-act requirement and Explanation 2 on consent to capture without consent to third-party dissemination. The alleged threat to circulate photographs and the girl's Section 164 statement that images were sent to her father were held sufficient to sustain the charge prima facie.

Framing charge — material-based grave suspicion — limited revisional scrutiny - *M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768*, permits sifting the prosecution record and considering broad probabilities without a roving inquiry or assessment of probative value as at trial; it distinguishes suspicion from grave suspicion supported by material. *Soma Chakravarty v. State through CBI, (2007) 5 SCC 403*, requires judicial application of mind and a prima facie view, based on material, that the accused might have committed the offence, not proof beyond reasonable doubt. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, likewise confines evaluation to whether the material, taken at face value, discloses offence ingredients and gives rise to strong suspicion; *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, applies that limit to Section 397 revision after charge. Applying these standards, the Court found no ground to interfere with the two contested charges and dismissed the revision.

Case-note :- ***1. Facts :*** A Special Judge under the POCSO Act at Gwalior framed charges against Shivam Sharma on 26.11.2021 in Special Sessions Trial No. 191/2021 under Sections 354C, 354D and 506 Part II IPC and Sections 7 read with 8 POCSO. Shivam sought revision under Sections 397 and 401 CrPC, expressly limiting his challenge to voyeurism under Section 354C and sexual assault under POCSO Sections 7–8. According to the FIR and statements recounted in the order, the approximately 16-year-old girl knew him from school for about a year. She alleged persistent harassment and stalking, proposals of marriage, and threats to kill her if she refused. She described his approaching and staring at her while driving near her and her elder sister on the way to a temple around 5 p.m. on 28.03.2021; she also alleged calls and messages and a threat to upload her video and photographs on social media. The allegations were reported to her father and an FIR followed. Counsel for Shivam argued that, even accepting the allegations, there was no physical contact under POCSO Section 7 and no Section 354C offence. The Court further referred to photographs said to be held by him and to the girl's Section 164 CrPC statement that images had been sent to her father. These remained prosecution

allegations and charge-stage material, not findings after trial.

2. Precedents — Considered : *Attorney General of India v. Satish, Criminal Appeal No. 1410/2021*, judgment dated 18.11.2021, was invoked by the Court for the narrow Section 7 POCSO proposition that skin-to-skin contact is not required. The present order used that principle in addressing the applicant's objection that there was no physical contact; it does not dispense with Section 7's physical-contact and sexual-intent requirements.

M.E. Shivalingamurthy v. Central Bureau of Investigation, Bengaluru, (2020) 2 SCC 768, was extensively quoted for the charge/discharge threshold. It allows limited sifting of police statements and documents, attention to broad probabilities and basic infirmities, and discharge where only weak suspicion arises or the proposed prosecution proof taken at face value cannot disclose the offence. The judge is not a mere post office. At the same time, grave suspicion grounded in material can justify trial, without roving evaluation of probative value or a defence evidentiary trial. Its quotation referred to *P. Vijayan*; its separate discussion cited *State of J&K v. Sudershan Chakkar and State of Orissa v. Debendra Nath Padhi on the* prosecution record and the limits on accused-produced defence material at Section 227.

Soma Chakravarty v. State through CBI, (2007) 5 SCC 403, was quoted to distinguish a judicial view, based on material, that an accused might have committed an offence, enough for a charge, from proof beyond reasonable doubt needed to convict. It cautions that strong suspicion must rest on some materials and the court must apply its mind to the different accused where relevant. The High Court used its general standard.

State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290, was quoted for limited sifting and weighing to see whether face-value material discloses alleged offence ingredients, without a roving inquiry or meticulous assessment as at trial. Its passage referred to *State of Bihar v. Ramesh Singh and Dipakbhai Jagdishchandra Patel on* strong suspicion founded on material capable of becoming evidence, not a prediction of conviction. These authorities appear within the quoted *Shiv Charan Bansal* passage.

State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198, was applied for the restricted scope of revision under Section 397 after charges have been framed: the inquiry is whether strong suspicion is supported by material, not final proof or certain guilt. These four charge-stage authorities collectively informed refusal to interfere.

3. Statutes considered : Section 7 POCSO defines sexual assault by touching specified parts of a child's body with sexual intent, causing the child to touch such parts, or another act with sexual intent involving physical contact without penetration. Section 8 supplies punishment for that offence and was part of the challenged charge; the Court did not decide sentence. Section 354C IPC defines voyeurism by watching or capturing an image of a woman engaged in a private act in circumstances of expected privacy, or dissemination of such image; Explanation 1 elaborates "private act," and Explanation 2 treats dissemination without consent as an offence despite consent to capture. Sections 354D and 506 Part II IPC remained charges but were not substantively challenged or independently reviewed in the revision. Section 164 CrPC concerned the girl's recorded statement, referred to for the image allegation. Sections 397 and 401 CrPC governed the revision; the cited charge cases discussed Section 227 and Sections 227–228 standards. The Court did not make a final finding under any charged statute.

4. Issues : (i) Whether the applicant's no-physical-contact contention defeated, at charge stage, a Section 7 POCSO accusation despite the child's reported images and the controlling no-skin-to-skin rule. (ii) Whether the alleged threat to circulate images and the Section 164 account of sending them to her father sufficed to sustain a Section 354C charge, subject to its actual statutory private-act and dissemination ingredients. (iii) What degree of scrutiny and suspicion the revisional court may apply to the charge order without trying the prosecution evidence or determining guilt. The unchallenged stalking and intimidation charges and final credibility or guilt were not decided.

5. Ratio / Findings : On POCSO, the Court set out Section 7's physical-contact definition, recognised the applicant's argument that the narrated pursuit and threats included no direct contact allegation, and relied on his alleged possession of photographs to infer some contact. It cited *Satish* to reject any requirement of skin-to-skin contact and found a prima facie Section 7 charge. This was a provisional inference from the materials as described, not a final account of which act involved sexual contact.

On Section 354C, the Court quoted the definition and Explanations, then referred to the alleged threat to make images viral and the girl's statement that they had been sent to her father. It held the charge prima facie supportable. The charge was sustained at the prima facie stage; the statutory ingredients remained to be proved at trial.

For charge scrutiny, *M.E. Shivalingamurthy, Soma Chakravarty, Shiv Charan Bansal* and *Fatehkaran Mehdu* collectively require a foundation in actual prosecution material and grave suspicion, while prohibiting detailed merits inquiry and leaving proof sufficient for conviction to the trial. The Court determined that the allegations before it raised grave suspicion that Shivam might have committed the contested offences. It did not weigh defence proof as at trial or interfere with the Special Judge's charge order. The dismissal did not determine the final truth of the child's allegations or dispense with proof at trial of the essential elements of an offence.

6. Relief : The Hon'ble High Court dismissed the criminal revision for want of a ground to interfere. The charge order dated 26.11.2021 continued, including the challenged Section 354C IPC and Sections 7–8 POCSO charges. The High Court did not convict, sentence, quash any charge, remand the matter, or issue further conditions. Sections 354D and 506 Part II IPC were present in the order below but not the subject of counsel's confined challenge.

Shivam Sharma v. State of M.P. and Others, Cr.R. no. 448/2022, 02/05/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (569) Prev Next

Headnote :- Regular bail / prosecution sanction / stalled trial - Where sanction had not been received and, according to the CBI's own position, the trial could not proceed, the High Court held that a person could not remain in custody without progress in the trial merely because the investigating agency had not removed that impediment. The alleged corruption by a CBI inspector and the claimed recovery of ₹2 lakh were serious considerations, but the liberty concern justified temporary bail subject to a bond, appearance and surrender upon production of sanction. The Court expressly distinguished this basis from default bail under Section 167(2) CrPC or Section 187 BNSS. The reproduced *Preeti Tilakwar* order treated the timing of the charge-sheet in relation to that earlier bail request as immaterial to its liberty-based ground for bail.

Complainant intimation - The Court invoked *Aparna Bhat v. State of M.P., (2021) 16 SCC 179*, for sending notice of the grant of bail to the complainant.

Case-note :- ***1. Facts :*** Sushil Kumar Majoka, described in the order as an Inspector in the CBI, was arrested on 19 May 2024 in Crime No. RC 216-2024-A0004 of the CBI Anti-Corruption Branch/Unit-I, New Delhi. The prosecution alleged offences under Section 120-B IPC and Sections 7, 7-A, 8, 9, 10 and 12 of the Prevention of Corruption Act. In the Court's account when deciding bail, the applicant was involved in verification of nursing and paramedical colleges under High Court orders, allegedly demanded ₹2 lakh as illegal gratification and the money was recovered from his possession. These allegations and the Court's seriousness assessment were not a final finding of guilt. The applicant had remained in jail while the CBI filed a charge-sheet without obtaining prosecution sanction. His counsel argued that cognizance and further proceedings before the trial court were consequently blocked, and described the filing as potentially incomplete. The investigating officer acknowledged that sanction had not been received. The CBI sought an adjournment because the case diary had not been sent, although advance notice of the application had reached the agency on 22 October 2024. The Court heard the matter, deprecated the agency's handling of a detained accused's liberty, and reproduced its earlier order in *Preeti Tilakwar* concerning the same officer's conduct. The Director of CBI was asked to consider that conduct. Majoka's first regular bail application was decided on 25 October 2024.

2. Precedents — Considered : The Court reproduced its order in *Preeti Tilakwar v. Union of India*, M.Cr.C. No. 28035/2024, principally so the Director of CBI could assess the investigating officer's conduct. In that reproduced order, the Court had distinguished a liberty-based bail request arising from the inability of the prosecution to proceed for want of sanction from statutory default bail, and had rejected the officer's argument based on whether the bail application preceded the charge-sheet. The reproduced order concerned another applicant, described there as a private person, and its separate bond terms and duration belonged to that earlier order; they did not govern Majoka's temporary bail. *Aparna Bhat & Ors. v. State of M.P., Criminal Appeal No. 329/2021*, reported in the order as *(2021)*

16 SCC 179, was invoked for the direction to intimate the complainant of the grant of bail. The name 'XYZ' in paragraph 25 is immediately corrected parenthetically to *Aparna Bhat* in the order.

3. Statutes considered : The application was presented as the first regular bail request under Section 439 of the Code of Criminal Procedure, 1973 / Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The Court considered the absence of prosecution sanction as an impediment to cognizance and trial progress on the prosecution's own position. Section 167(2) CrPC / Section 187 BNSS was expressly distinguished: temporary release was granted because continued detention accompanied a stalled trial, not because the applicant had established the statutory default-bail entitlement. Section 120-B IPC and Sections 7, 7-A, 8, 9, 10 and 12 of the Prevention of Corruption Act were listed as alleged offences; their ingredients were not adjudicated.

4. Issues : (i) Whether the matter should be adjourned because the investigating agency had failed to send the case diary despite notice while the applicant remained in custody. (ii) Whether the applicant should continue in jail when sanction had not been obtained and, according to the prosecution's own stance, the trial could not progress, despite the gravity of the alleged corruption and recovery. (iii) Whether temporary release was justified by the stalled trial rather than statutory default-bail provisions, and what temporary release and surrender conditions were appropriate. The alleged legal incompleteness of the charge-sheet was raised by counsel. The investigating officer's conduct was separately referred to the Director of CBI for consideration.

5. Ratio / Findings : The CBI had been informed of the application but failed to place the case diary before the Court. The Court refused to let that omission dictate an adjournment affecting a detained person's liberty and heard the matter. The investigating officer conceded that prosecution sanction had not been obtained. The Court proceeded on the stated position that the trial could not, for the time being, advance because of that legal hurdle. It regarded the allegation of a CBI inspector exploiting a court-ordered college inspection and receiving ₹2 lakh as grave, yet held that gravity did not justify custody without progress in the trial. Temporary release addressed the lack of progress in the trial and preserved the ability to require surrender once sanction was produced. The Court did not grant default bail: Section 167(2) CrPC / Section 187 BNSS was expressly excluded as the basis. The reproduced *Preeti Tilakwar* order rejected the investigating officer's timing objection to that earlier bail application. The prior *Preeti Tilakwar* order was quoted for the Director's consideration of the investigating officer's conduct; it was not an independent disposition of Majoka's application.

6. Relief : The Hon'ble High Court allowed the application for temporary bail, requiring the applicant to surrender when the CBI produced prosecution sanction. Separately, the Director of CBI was directed to consider the investigating officer's conduct and whether he should remain in the agency. *Sushil Kumar Majoka v. Central Bureau of Investigation, M.Cr.C. no. 45219/2024, 25/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (570) Prev Next

Headnote :- Group murder and private defence — Two injured, related witnesses were found credible, and their accounts were supported by medical evidence despite peripheral inconsistencies. Four armed appellants jointly attacked after a grass dispute, causing fatal head wounds with sharp weapons and other injuries. Minor superficial injuries on accused, a cross-case and small site-plan differences did not establish complainant aggression, private defence or a false occurrence. No sudden fight or provocation sufficient to displace the finding of murder was established. The convictions under Section 302/34 and for the associated hurt offences, and the concurrent sentences including life imprisonment, were affirmed.

Case-note :- ***1. Facts :*** Rambali and Ramveer encountered Gudda, Sangram, Kutaria and Kaptan over bundles of grass on 26 January 2011. The group used lathi, farsa, axe and luhangi; Rambali and intervening Rambai were injured and Ramveer suffered several head wounds from sharp weapons and also sustained skull fractures; he subsequently died. A cross-case reflected minor injuries on accused, who claimed complainant aggression, alibi, private defence and sudden provocation. The trial court imposed concurrent sentences of life imprisonment and imprisonment for the hurt offences.

2. Precedents — Considered : *Virsa Singh v. State of Punjab and* later Supreme Court homicide

authorities were discussed for intended bodily injury and Section 300 Thirdly. *Jayabalan v. Union Territory of Pondicherry, Seeman v. State* and *Jodhan v. State of M.P.* addressed injured and related testimony. *Jai Dev v. State of Punjab, Rizan v. State of Chhattisgarh* and *Sucha Singh v. State of Punjab* addressed the duration and limits of private defence; *Hare Krishna Singh v. State of Bihar* concerned unexplained minor accused injuries. Other authorities on Sections 34 and 307 were canvassed as general principles.

3. Statutes considered : IPC Sections 34, 96–102, 105, 299, 300, 302, 307, 323, 324 and 341; Evidence Act Section 8; CrPC Sections 174, 313 and 374.

4. Issues : Did witness interest, differences in site and roles, or alibi undermine proof of a joint fatal assault? Did accused injuries and the cross-case establish private defence? Could a grass dispute or old enmity reduce murder to culpable homicide?

5. Ratio / Findings : Rambali and Rambai were injured natural witnesses whose accounts were supported by the medical findings. Devendra's doubtful claimed presence and inconsistencies about Bholaram's minor wounds did not defeat the core account. The police plan located the event at the crossroads along the victims' route, and the Court did not require the first report to describe every blow. Alibi lacked substantial proof. Superficial accused injuries did not compel an inference that the complainant party was the aggressor, and the circumstances established did not justify the use of deadly force. Armed joint action and repeated blows to the head with sharp weapons proved common intention and murder; the evidence did not show a qualifying sudden fight or deprivation of self-control.

6. Relief : The Hon'ble High Court dismissed the appeal. The convictions and concurrent sentences, including life imprisonment under Section 302/34, were affirmed. The bail of Gudda and Kaptan was cancelled and they were directed to surrender; steps were ordered to secure custody of Sangram and Kutaria, who were on parole.

Gudda alias Lal Sahab and Others v. State of Madhya Pradesh, Cr.A. no. 202/2012, 24/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (571) Prev Next

Headnote :- Murder acquittal — Homicidal death was medically proved, but the child eyewitness on whose evidence the prosecution case ultimately depended gave inconsistent accounts of her school attendance, residence and the route to hospital. A school register showed repeated alteration from present to absent, and the asserted 4 p.m. incident could not be reconciled with the 7:35 p.m. FIR and the doctor's account that the injured was brought to hospital by police alone. The recovery of an axe did not corroborate the allegation that Gudda had used a lathi; seizure timing and forensic proof were weak. The benefit of doubt required the appellant's acquittal and release.

Case-note :- ***1. Facts :*** Keshav was assaulted on 26 October 2009 and died days later. His 12-year-old daughter Bharti reported that Gudda struck him with a lathi near a temple; the trial court disbelieved the other claimed eyewitness and a hearsay witness and convicted Gudda under Section 302. On appeal, the court examined Bharti's opportunity to witness the assault, a school attendance record, timing of FIR and hospital visit, the delayed site plan, and an axe recovered from Gudda.

2. Precedents — Considered : The disposition turned on appraisal of the trial evidence and reasonable doubt.

3. Statutes considered : IPC Sections 302 and 34; CrPC Section 374.

4. Issues : Could the child's solitary account establish Gudda's identity and participation beyond reasonable doubt? Did the chronology of the first report and recovered axe supply independent support despite contradictions?

5. Ratio / Findings : The child first said she attended school until 5 p.m. but then denied attendance on the incident date, gave inconsistent residence accounts, and acknowledged being in Kurwai even before her father's death. The school register appeared altered from P to A for her alone across consecutive dates. Her version of an initial family trip to hospital conflicted with the doctor's account that police alone had brought the injured to hospital. The account of a 4 p.m. attack and a short journey was not reconciled with the 7:35 p.m. FIR and 7:45 p.m. examination; the map was made two days later. The recovery of an axe did not support the prosecution case: Gudda was alleged to have wielded a lathi, the seizure witness gave conflicting accounts of the time, and the forensic blood test was inconclusive. Homicidal

death was established, but Gudda's responsibility for causing it was not proved.

6. Relief : The Hon'ble High Court allowed the appeal; the Section 302 conviction and life sentence were set aside. Gudda was acquitted and ordered to be released unless required in another case.

Gudda v. State of Madhya Pradesh, Cr.A. no. 347/2012, 20/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (572) Prev Next

Headnote :- Sentence appeal — Even where an appellant states that he does not wish to contest the conviction and seeks reduction of the sentence to the period already undergone, the appellate court must examine the merits. Multiple witnesses and medical evidence proved a blow to the head with a lathi fitted with copper and injuries to an intervenor. Although Section 307 does not require a potentially fatal wound and the trial acquittal reasoning was unsound, no appeal against the acquittal had been filed and the court declined late suo motu notice. The passage of seventeen years did not justify reducing the concurrent one-year and three-month hurt terms.

Case-note :- ***1. Facts :*** Following a complaint about the cutting of forest wood, Gulabnath attacked Chokhelal with a copper-fitted lathi on the head and injured Chokhelal's father, Roop Singh, when he intervened in January 2007. The trial court acquitted him under Sections 307, 294 and 341 but convicted under Sections 324 and 323 with concurrent one-year and three-month terms. In 2023 the appellant stated that he would not contest the conviction and sought reduction to roughly one month already spent in custody.

2. Precedents — Considered : *Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*, discussing *Jeetu v. State of Chhattisgarh*, required merits review despite a concession on conviction. *State of M.P. v. Harjeet Singh, (2019) 20 SCC 524, State of M.P. v. Kanha, (2019) 3 SCC 605*, and *State of M.P. v. Saleem, (2005) 5 SCC 554*, set out Section 307's focus on intention and overt act rather than the fatality of the resulting injury.

3. Statutes considered : IPC Sections 294, 307, 323, 324 and 341; CrPC Section 374.

4. Issues : Could the appeal be disposed of on the concession and custody served? Were the remaining hurt convictions and concurrent sentences justified? Did the Section 307 acquittal's doubtful reasoning warrant reopening without an acquittal appeal?

5. Ratio / Findings : Counsel's concession did not relieve the appellate court of examining evidence. The injured complainant, another injured witness and others consistently described the blow; bleeding, vomiting and dizziness were medically recorded. An injury sufficient in the ordinary course of nature to cause death is not essential for Section 307, so the trial court's reason for acquittal was not approved. There was no appeal against that acquittal, however, and the Court declined to issue a suo motu notice after roughly 17 years. The sentences actually imposed under Sections 324 and 323 were already lenient for the proved attack and were not reduced to the period already undergone.

6. Relief : The Hon'ble High Court dismissed the appeal against conviction. The existing concurrent sentences and fines were affirmed without changing the acquittal under Section 307. Bail was cancelled and the appellant was directed to surrender by 15 January 2024.

Gulabnath v. State of Madhya Pradesh, Cr.A. no. 1354/2008, 14/12/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (573) Prev Next

Headnote :- Dacoity with murder appeals — A temple caretaker died of grave head injuries, but the injured eyewitness changed the named attackers between the initial report and court testimony; his medical history referred to unknown thieves and no identification parade was held. The family members' evidence was hearsay, and another witness had a wage dispute. The presence of human blood without a determined blood group, coupled with unproved ownership of the seized articles, did not establish the attackers' identity. Homicidal death alone did not prove the five appellants' Section 396 participation. All convictions and life sentences were set aside.

Case-note :- ***1. Facts :*** Jagannath Maharaj and attendant Sunil were attacked at an ashram in December 2007 and property was said to be missing. Jagannath died from head injuries. Five appellants were convicted under Section 396 and sentenced to life imprisonment. Sunil was injured, but changed his account of the assailants; police recovered assorted articles, clothes and weapons, some bearing human blood. Defence counsel and later amicus

failed to appear, so the appellate court reviewed the record and heard the State.

2. Precedents — Considered : *Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, permitted merits disposal despite absent counsel. *Ramvilas v. State of M.P., (2016) 16 SCC 316*, and *Raja Ram v. State of M.P., 1997 SCC (Cri) 908*, addressed weight and limits of injured-witness evidence. *Uma Shankar v. State of U.P., Vidyadharan v. State of Kerala* and *Akalu Ahir v. Ramdeo Ram* informed careful scrutiny of enmity and false implication. *Kansa Behra v. State of Orissa, (1987) 3 SCC 480*, concerned inconclusive human-blood grouping.

3. Statutes considered : IPC Sections 307, 323, 396 and 460.

4. Issues : Did Sunil's injury make his shifting assailant identification reliable? Could witnesses arriving after the event, blood whose group had not been determined or unproved ownership of seized goods establish the five appellants' Section 396 participation?

5. Ratio / Findings : The fatal skull injury proved homicide. Sunil's first report and police statement attributed his assault to Gorelal and Ramlal, while at trial he named Som Singh and Baliram without having named them earlier, without an identification parade and without explaining the change; he had told the doctor of unknown thieves. An injured witness deserves weight, but this material change in identifying his assailants made his account unreliable. Jagannath's sons lacked direct knowledge. Bhaskar's later sighting of two men and ear injury did not connect them to the ashram attack, especially amid a wage dispute. Human blood on some exhibits could not be assigned to the deceased without a blood group or other dependable link. Recovered items were never identified as the deceased's by his sons in court or by parade. The evidence taken together did not prove dacoity with murder beyond doubt.

6. Relief : The Hon'ble High Court allowed both appeals; all five convictions under Section 396 and life sentences were set aside. The bail bonds of four appellants were discharged and Baliram was ordered to be released if not wanted in another matter.

Gulsingh and Others v. State of Madhya Pradesh; Gorelal and Others v. State of Madhya Pradesh, Cr.A. no. 411/2009 & 704/2010, 05/09/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (574) Prev Next

Headnote :- Stolen property appeals — The court decided both conviction appeals on the record despite repeated nonappearance of defence counsel. Police evidence of Gurujlal's motorcycle seizure could be relied upon after careful scrutiny despite independent witnesses turning hostile; the matching chassis and engine numbers and his diary supported knowing possession. Lala, charged only with robbery under Section 394 and acquitted of it, could not be convicted instead under the uncharged Section 411, whose ingredients were different. Gurujlal's conviction stood, but his custodial sentence was reduced to about three months already served and the fine was enhanced; Lala was acquitted.

Case-note :- ***1. Facts :*** A complainant was waylaid and deprived of his motorcycle, phone, card and keys in May 2013. Police later seized the motorcycle and a diary from Gurujlal. The trial court convicted Gurujlal and Lala under Section 411, although Lala had been charged under Section 394 and acquitted of that charge. Both appealed. Their lawyers failed to appear at consecutive listings, so the court considered the record and State submissions.

2. Precedents — Considered : *Suryabaksh Singh v. State of U.P., (2014) 14 SCC 222*, supported deciding a criminal appeal on its record when counsel remained absent. *Baldev Singh v. State of Haryana, (2015) 17 SCC 554*, explained that a police witness's evidence can be relied on after careful scrutiny without an automatic independent-corroboration requirement.

3. Statutes considered : IPC Sections 383, 390, 392, 394 and 411; CrPC Sections 215, 221 and 374; Evidence Act Section 73.

4. Issues : Did hostile seizure witnesses invalidate the proof of Gurujlal's possession? Could Lala's Section 411 conviction stand despite absence of that charge and his acquittal under Section 394? What punishment remained appropriate for Gurujlal a decade later?

5. Ratio / Findings : Police evidence was not rejected merely for official status. The chassis and engine numbers of the seized motorcycle matched

those of the complainant's motorcycle; Gurujlal's seized diary noted a mortgage by Naresh and Lala; the trial court's Section 73 comparison attributed the entries to his handwriting, and he offered no explanation for possession. His conviction for receiving stolen property was sustained. Lala was charged with robbery, whose elements, on the allegations of extortion in this case, differed from those of receiving stolen property; no charge under Section 411 had been framed, even in the alternative, and the absence of that charge was not a harmless irregularity. For Gurujlal, the Court noted that Section 411 prescribed no minimum term, that no criminal history had been placed on record and that about three months had been served; the fine was increased to reflect dealing in stolen goods.

6. Relief : The Hon'ble High Court set aside Lala's conviction and sentence under Section 411 and acquitted him. Gurujlal's conviction was affirmed, his custodial sentence was reduced to the period already undergone and the fine was raised to ₹5,000, payable within three months of the judgment; failure to pay would revive the original one-year term of rigorous imprisonment. The appeals were allowed to those extents.

Gurujlal Panika v. State of Madhya Pradesh; Lala alias Rajkumar Kewat v. State of Madhya Pradesh, Cr.A. no. 548/2015 & 783/2015, 21/12/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (575) Prev Next

Headnote :- Ransom kidnapping and murder — A skeleton recovered on Gyani's disclosure from beneath stones in a remote hill area was identified by DNA as the missing 19-year-old. The Court rejected the suggestion of an animal attack because the remains had been concealed and bore no animal bite marks. A ₹6 lakh ransom letter seized well before Mahendra's arrest was matched to his handwriting. Those circumstances, with ransom communications and missing-person evidence, formed a complete chain supporting Sections 364-A, 302 and 201 convictions with special Act provisions. The life sentences were affirmed.

Case-note :- ***1. Facts :*** Brajesh Kumar, 19, went for yoga in November 2007 and vanished. His father received ransom calls and a letter demanding ₹6 lakh. Police later recovered hidden skeletal remains after Gyani's disclosure; DNA testing identified the remains as those of the parents' biological son. A handwriting expert attributed the seized ransom letter to Mahendra. The trial court convicted both of kidnapping for ransom, murder and concealment, with the applicable Madhya Pradesh dacoity/kidnapping special Act provisions, while three co-accused were acquitted.

2. Precedents — Considered : *State of H.P. v. Jeet Singh, (1999) 4 SCC 370, Gurjinder Singh v. State of Punjab, (2011) 3 SCC 530, Asar Mohd. v. State of U.P., (2019) 12 SCC 253, Sunder v. State* and *Anuj Kumar Gupta v. State of Bihar* discussed discovery of a body and the probative value of knowledge of its location. *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, governed a complete circumstantial chain.

3. Statutes considered : IPC Sections 201, 302, 364-A, 365 and 120-B; Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam Sections 11/13; Evidence Act Sections 8 and 27; CrPC Sections 174, 313 and 374.

4. Issues : Was the skeleton Brajesh's and was its discovery on Gyani's information incriminating despite an open hill location? Was the death consistent with an animal attack? Did a letter already seized before Mahendra's arrest prove the ransom connection, and was the circumstantial chain complete?

5. Ratio / Findings : DNA testing established that the remains were those of the biological son of both parents. Remains concealed under stones in a remote place were discovered at Gyani's instance; he offered no convincing innocent explanation for knowing the spot. The panchas' suggestion of an animal attack, which the Court regarded as casual, was unsupported by bite marks and could not account for deliberate concealment. Mahendra's handwriting matched the ransom letter, which police had seized long before his arrest. The call and letter sequence, discovery, DNA and concealment collectively excluded a reasonable innocent hypothesis.

6. Relief : The Hon'ble High Court dismissed the appeal. The convictions under Sections 364-A and 302 IPC read with Sections 11/13 of the special Act, and under Section 201 IPC, were affirmed, as were the life sentences. The trial court was directed to issue perpetual arrest warrants following the reported failure to return from parole.

Gyanichandra alias Gyani and Another v. State of Madhya Pradesh, Cr.A. no. 481/2010, 25/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (576) Prev Next

Headnote :- Dowry death appeal — Conflicting evidence about the period since marriage failed to prove death within seven years of marriage, so the Section 113B presumption did not arise. Allegations of ₹10,000 and gold demands lacked dates and proof of cruelty soon before death. The family informed neighbours and parents and waited for the deceased's mother before cremation; the asserted suppression of post-mortem and evidence was unproved. The convictions under Sections 304B, 498A and 201/34 were set aside.

Case-note :- ***1. Facts :*** Chanderbai died at her matrimonial home in July 1994 and was cremated without post-mortem. Her mother later alleged injuries, a demand for ₹10,000 and two tolas of gold, and hasty last rites. The trial court convicted her husband and relatives under Sections 304B, 498A and 201/34. One appellant died pending appeal and his appeal abated. The surviving appellants disputed the marriage period, alleged cruelty and suppression.

2. Precedents — Considered : *Rajaram v. State of Rajasthan* concerned use of an unchallenged prosecution witness. *Baijnath v. State of Madhya Pradesh, (2017) 1 SCC 101*, and *Bakshish Ram v. State of Punjab, (2013) 4 SCC 131*, explained foundational proof of proximate dowry cruelty before the Section 113B presumption and the appellate court's duty to assess facts independently.

3. Statutes considered : IPC Sections 176, 201/34, 304B and 498A; Evidence Act Section 113B; CrPC Section 374.

4. Issues : Was death within seven years of marriage proved, and was dowry-linked cruelty established soon before it? Did cremation without autopsy and the relatives' conduct prove destruction of evidence?

5. Ratio / Findings : The mother's six-year estimate and uncle's 11–12-year account did not establish marriage within seven years; the unconfronted prior statement of the mother could not supply proof. Alleged demands were not tied to a reliable time or incident, and several witnesses did not support them. The presumption could not substitute for those foundational facts, nor was Section 498A cruelty independently proved. Neighbours and parents were informed, and the last rites were performed only after the mother arrived; no credible proof supported the claimed ignored post-mortem objection or concealment. The prosecution failed to prove any of the charges beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the surviving appellants' appeal. Their convictions and sentences under Sections 304B, 498A and 201/34 were set aside, and their bail bonds were discharged. The deceased appellant's appeal had abated.

Hakamsingh and Others v. State of Madhya Pradesh, Cr.A. no. 594/1999, 21/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (577) Prev Next

Headnote :- Unlawful assembly murder appeal — Evidence identifying the armed attackers in examination-in-chief was not automatically rendered unreliable by recantations in cross-examination after a break of ten months or overnight, where the record indicated that the witnesses had been influenced. An omission from a police statement could not be used without drawing the witness's attention to it as required by Section 145. The injured widow knew the accused as neighbours and had an opportunity to identify them even in poor evening light. The circumstances of her treatment explained the delay in giving her police statement. Medical evidence and the evidence of witnesses found reliable sustained the murder and hurt convictions under Section 149 and the life terms.

Case-note :- ***1. Facts :*** Due to old enmity, eight persons attacked Kashiram's family in October 2009. Kashiram was chased and fatally assaulted on the head. Goverdhan suffered jaw and leg fractures, and Santosh and Bandrobai were also injured. Six appellants challenged their convictions and sentences. The judgment's opening sentencing table records two counts under Section 302/149, along with the hurt offences, and states that all sentences shall run concurrently. Two other accused were held guilty but absconded before sentence could be imposed. Several witnesses turned hostile or changed their evidence after adjournments.

2. Precedents — Considered : *Khujji v. State of M.P., (1991) 3 SCC 627*, supported scrutiny of a witness's attempt to resile from examination-in-chief during cross-examination held after a delay. *V.K. Mishra v. State of Uttarakhand* and *Tahsildar Singh v. State of U.P.* governed the proof of omissions by

drawing the witness's attention to the relevant part of the previous statement as required by Section 145 of the Evidence Act. *State of U.P. v. Naresh, (2011) 4 SCC 324*, concerned the weight to be given to the evidence of an injured witness. *Ramesh v. State by Madhugiri Police, (2010) 15 SCC 49*, addressed the identification of familiar neighbours when there was less light in the evening.

3. Statutes considered : IPC Sections 148, 302/149, 307/149, 325/149, 323/149 and 506; Arms Act Sections 25/27; Evidence Act Section 145; CrPC Sections 161, 162 and 374.

4. Issues : Could the witnesses' initial accounts be relied on after they resiled from them in cross-examination held after a delay? Had an omission from a police statement been proved by drawing the witness's attention to it? Could the injured widow have seen and identified the familiar assailants in darkness, and did the delays or the fact that other witnesses had turned hostile defeat the case under Section 149?

5. Ratio / Findings : Sanju gave a direct account supporting the prosecution case in examination-in-chief but resiled from that evidence in cross-examination ten months later. The record contained circumstances indicating that he had been won over during that period, and the Court disregarded the later recantation. The defence had not drawn his attention to the relevant omission from his police statement as Section 145 required; that omission could not therefore be used against the prosecution. Gyarsi's evidence that the accused were present at the spot with weapons was found reliable despite his change of testimony the next day. His improved account that he had witnessed the fight was excluded because he had been confronted with the relevant omission and it had been proved. Bandrobai was an injured witness who knew the accused as neighbours. Her route to the spot and the nearby line of sight gave her an opportunity to witness the incident. The treatment of her family members and her bereavement explained the delay in recording her police statement. The medical evidence of the injuries and other eyewitness evidence accepted by the Court established the joint attack, even though some injured victims did not support the prosecution case.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the murder and hurt convictions and the sentences awarded by the trial court, including the concurrent life terms for two murder counts recorded in the judgment's opening sentencing table. Halkai's bail bonds were cancelled, and he was directed to surrender to undergo the remaining jail sentence. The other appellants were to undergo their remaining sentences. The trial court was directed to take coercive steps to secure the arrest of the absconding accused.

Halkai and Others v. State of Madhya Pradesh, Cr.A. no. 76/2012, 07/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (578) Prev Next

Headnote :- Compromise quashing — Although the minor and her father voluntarily entered into a compromise with the accused, the allegations concerned about two years of stalking, catching hold of her hand in public and threats to kill her or throw acid on her. The POCSO charges could not be compounded, and the alleged sustained conduct constituted an offence affecting the girl's dignity and public interest. The High Court refused to quash the pending criminal and POCSO proceedings under Section 482.

Case-note :- ***1. Facts :*** A 17-year-old girl reported that Hani Sharma had stalked and harassed her for about two years, caught her hand in public during a holiday visit and threatened to kill her and throw acid on her if she reported the incident. A charge sheet had been filed under the IPC and POCSO provisions, and the trial was pending. The trial court rejected an application for compounding; the High Court registrar subsequently verified that the victim, her father and the accused had entered into a voluntary compromise.

2. Precedents — Considered : The Court assessed whether the proceedings could be quashed on the basis of compromise in light of the specific allegations and the non-compoundable POCSO charges.

3. Statutes considered : IPC Sections 354, 354D and 506; POCSO Act Sections 7, 8, 11 and 12; CrPC Sections 320 and 482.

4. Issues : Should the verified settlement end the prosecution for alleged continuing stalking and sexual harassment of a minor?

5. Ratio / Findings : The registrar found the compromise voluntary, but the child merely stated that she had now compromised the matter. The FIR alleged continuing harassment during her school

years and renewed physical misbehaviour and grave threats after she had moved away. In view of the non-compoundable POCSO charges and society's interest in a minor's dignity and safety, the Court held that the proceedings could not appropriately be quashed on the basis of compromise in exercise of its inherent powers.

6. Relief : The Hon'ble High Court dismissed the Section 482 application; the criminal trial remained pending.

Hani Sharma v. State of Madhya Pradesh and Others, M.Cr.C. no. 58525/2021, 14/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (579) Prev Next

Headnote :- Electricity prosecution quashing — The complaint alleged not only unpaid consumption dues but also illegal reconnection after the supply had been disconnected. The applicant was alone in the house during inspection, and her claim that only her husband occupied the official residence involved disputed facts. The uncontroverted allegations in the complaint disclosed a prima facie offence under the Electricity Act. The Court therefore refused to quash the proceedings, leaving the trial court to determine the merits fully.

Case-note :- ***1. Facts :*** Electricity dues of ₹1,47,641 had accrued on a connection in the name of an earlier allottee of the official accommodation. The company disconnected the supply on 4 December 2020 and alleged that an inspection on 5 April 2021 revealed that it had been illegally reconnected. Hansraja, who was alone in the house during the inspection, argued that she visited only occasionally and that the accommodation was allotted to her husband. She sought to quash the complaint under Section 138 of the Electricity Act.

2. Precedents — Considered : Supreme Court decisions on quashing, including *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460, State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718,* and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, were cited in support of examining the uncontroverted allegations rather than disputed defence evidence at this stage.

3. Statutes considered : Electricity Act, 2003 Section 138; CrPC Section 482; BNSS, 2023 Section 528.

4. Issues : Did the complaint allege more than unpaid bills? Could a factual claim about the husband's allotment and applicant's residence negate the prima facie case in inherent jurisdiction?

5. Ratio / Findings : The allegations of disconnection followed by unlawful reconnection and use disclosed a prima facie offence, rather than a mere dispute over payment. Hansraja conceded that she was alone in the house at the time of inspection, and there was no pleading or proof of her husband's exclusive possession. These disputed facts concerning residence could not be adjudicated under Section 482/528. The Court expressed only a preliminary view and left the merits for trial.

6. Relief : The Hon'ble High Court dismissed the quashing application; the special complaint proceedings remained to be tried on the evidence.

Hansraja v. MP Vidyut Bitaran Co. Ltd., M.Cr.C. no. 1495/2025, 24/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (580) Prev Next

Headnote :- Oral dying declaration and molestation appeal — The prosecution produced only an unexhibited copy of the hospital notes and did not examine the doctor who had recorded the alleged account and could assess the severely burnt patient's ability to speak. The relatives' testimony could not be rejected merely because of their relationship with the deceased, but omissions from earlier statements and a disputed, delayed police statement undermined their accounts of the oral dying declarations. The appellant had already been acquitted of rape and abetment, and the remaining conviction under Section 354 could not stand on the evidence. The appeal was allowed.

Case-note :- ***1. Facts :*** Lalita Bai sustained severe kerosene burns and died after an alleged sexual assault during a visit to the forest. Her husband, son and brothers spoke of disclosures made in hospital. The trial court acquitted Hari Narayan under Sections 376 and 306 but convicted him under Section 354 and sentenced him to one year's imprisonment. The original bed-head ticket was not produced, and the doctor who reportedly recorded the hospital history was not examined, despite opportunities.

2. Precedents — Considered : *Shamim v. State (NCT of Delhi) and* other Supreme Court authorities explained that relationship with a victim does not, by itself, make a witness interested or justify rejection of the testimony. *Sadhu Saran Singh v. State of*

U.P., (2016) 4 SCC 357, addressed the non-examination of independent witnesses. Here, however, the failure to produce the treating doctor and original record left an essential gap in the evidence.

3. Statutes considered : IPC Sections 306, 354 and 376; CrPC Sections 161 and 374.

4. Issues : Could the relatives' oral accounts support a conviction under Section 354 when the original medical notes, treating doctor and proof of the dying woman's fitness were absent? Were their earlier statements sufficiently consistent to prove the declaration and the alleged molestation beyond reasonable doubt?

5. Ratio / Findings : The family members' presence in hospital was natural, and their relationship with the deceased did not, by itself, discredit their testimony. Nevertheless, the prosecution failed to prove the original clinical notes or examine the doctor who could address the deceased's capacity to make a statement shortly before her death. An unexhibited photocopy produced by the prosecution could not be used against the accused. One brother had stated earlier that she was already dead when he arrived, another had omitted any disclosure from his earlier statements, and a third's delayed police statement was disputed. The son had not himself heard any statement. The husband's statement remained insufficient in view of the acquittal on the rape charge and the other gaps in the evidence. The alleged act under Section 354 was not proved beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the appeal, set aside the conviction under Section 354 and the one-year sentence, acquitted the appellant and discharged the bail bonds.

Hari Narayan v. State of Madhya Pradesh, Cr.A. no. 2446/2005, 17/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (581) Prev Next

Headnote :- Post-appeal sentence challenge — The trial court convicted the applicants of cruelty and dowry death. On appeal, they were acquitted of dowry death, but their conviction for cruelty and the existing one-year sentence were affirmed. A fresh hearing on sentence under Section 235(2) is required when an appellate court converts an acquittal into a conviction or proposes to enhance the sentence. Mere affirmation of the trial court's conviction and sentence did not require such a hearing. The application under Section 482 seeking probation or a reduction of sentence to the period already undergone was dismissed. The interim order was vacated, and the applicants were directed to surrender.

Case-note :- ***1. Facts :*** The trial court sentenced the applicants for offences under Sections 498A and 304B of the IPC. In their earlier appeal, they were acquitted of dowry death, but their conviction under Section 498A and the one-year sentence were affirmed. They then applied under Section 482 for probation or a reduction of sentence to the period already undergone, alleging that the appellate court had not heard them separately on sentence.

2. Precedents — Considered : *Shankar Kerba Jadhav v. State of Maharashtra, (1969) 2 SCC 793*, addressed notice and hearing where the accused participates in the appeal. *Fedrick Cutinha v. State of Karnataka*, 2023 INSC 384, required an opportunity of hearing on sentence when the appellate court convicted persons who had been acquitted. *Narayan Singh v. State of M.P., 1989 MPLJ 298*, similarly concerned reversal of an acquittal.

3. Statutes considered : IPC Sections 304B and 498A; CrPC Sections 235(2), 360 and 482; the applicants sought the benefit of the Probation of Offenders Act.

4. Issues : Did partial acquittal, coupled with affirmation of the existing sentence for cruelty, require a fresh appellate hearing on sentence and permit alteration of that sentence after the appeal through inherent jurisdiction?

5. Ratio / Findings : The earlier appellate court had neither convicted an acquitted person for the first time under Section 498A nor enhanced the trial court's sentence. Authorities requiring an opportunity of hearing when a conviction is recorded for the first time on appeal were therefore distinguishable. Affirmation of the one-year sentence did not require a second hearing under Section 235(2). Accordingly, the asserted procedural ground for granting probation or reducing the sentence to the period already undergone failed.

6. Relief : The Hon'ble High Court dismissed the Section 482 application, vacated the interim order and directed the applicants to surrender to undergo the remaining sentence.

Hari Singh and Others v. State of Madhya Pradesh, M.Cr.C. no. 35883/2022, 13/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (582) Prev Next

Headnote :- Police-recorded dying declaration — After first aid, the shooting victim, who was conscious though restless, dictated a Dehati Nalishi. The officer read it back to him and obtained his thumb impression. The doctor's statement that the victim could not speak at an earlier examination was considered alongside the MLC and the officer's evidence of their conversation; a formal medical certificate was not invariably required. On the victim's death, the report became admissible under Section 32, even though it had formed the basis of the FIR. The pellet injuries and firearm evidence corroborated the declaration despite many witnesses turning hostile. The convictions for murder and offences under the Arms Act were affirmed.

Case-note :- ***1. Facts :*** Pritam Singh sustained injuries from a .12-bore firearm in July 2008. The police took him for immediate treatment and then recorded his Dehati Nalishi, obtained his thumb impression and registered the FIR on that basis. He died after being transferred. Many civilian witnesses turned hostile. Harimohan was convicted of murder and offences under Sections 25 and 27 of the Arms Act and sentenced to life imprisonment and three-year terms, to run concurrently. He challenged the victim's capacity to speak.

2. Precedents — Considered : *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, rejected an inflexible requirement of formal medical certification where fitness is otherwise established. *Dharam Pal v. State of U.P., (2008) 17 SCC 337*, supported treating a report dictated by the victim as a dying declaration after his death. *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, supported an overall assessment of the evidence despite an adverse answer by a prosecution witness.

3. Statutes considered : IPC Section 302; Arms Act Sections 25 and 27; Evidence Act Section 32(1); CrPC Section 374.

4. Issues : Was the deceased fit to make the Dehati Nalishi recorded by the police despite the doctor's contrary answer in cross-examination? Could that report be used as a dying declaration, and did it prove guilt despite the hostile witnesses?

5. Ratio / Findings : The MLC described Pritam as conscious but restless. The officer spoke with him during transport, gave priority to treatment, and then recorded his statement and read it back to him. The officer's account was not effectively challenged as to the victim's ability to speak or mental fitness at that time. The doctor's answer concerning his earlier examination did not conclusively negate the victim's later capacity to make the statement. After the victim died from the documented pellet wounds, his account of the circumstances resulting in his death became admissible under Section 32. The medical evidence of gunshot injuries, the seized country-made gun found to be in working condition, and the official witnesses' testimony supported the declaration and established guilt of murder and the Arms Act offences.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the life sentence under Section 302, the convictions under the Arms Act and the concurrent terms of imprisonment.

Harimohan v. State of Madhya Pradesh, Cr.A. no. 195/2011, 18/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (583) Prev Next

Headnote :- State and complainant appeals against acquittal — Three people were killed in an ambush by several gunmen using vehicles. Umesh directly identified Dinesh as an armed participant. His relationship with Sughar Singh, the nine-day delay in recording his police statement that was not explored in cross-examination, minor differences in the sequence of events, and non-recovery of the gun nearly 21 months later did not discredit his account. Hariom corroborated the occurrence, but his evidence as to Dinesh's identity was hearsay. Injured witness Yuvraj proved the manner of the attack, but did not identify the assailants. The High Court held that the trial court's acquittal rested on an erroneous appraisal of the evidence. It reversed the acquittal in respect of the three murder charges under Section 302 read with Section 149 and rioting, while affirming the acquittal under Section 307. Life terms were imposed after a hearing on sentence.

Case-note :- ***1. Facts :*** In July 2006, armed men using a Scorpio and a motorcycle surrounded councillor Sughar Singh's Safari vehicle and fired at it amid political enmity. Sughar Singh, driver Jagdish

and bystander Sintu died; Yuvraj survived. Dinesh Singh Yadav was arrested nearly 21 months later, tried separately and acquitted. The State and the complainant appealed. The High Court re-examined Umesh's eyewitness identification, the accounts of Hariom and Yuvraj, the timing of the first report and site plan, and the non-recovery of the gun.

2. Precedents — Considered : Supreme Court decisions on review of acquittals discussed the rule applicable where two views are possible and intervention where findings are contrary to credible evidence. *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588, John Pandian v. State* and *Sheo Shankar Singh v. State of Jharkhand* addressed delayed statements under Section 161. *Rakesh v. State of U.P., (2021) 7 SCC 188*, and *Krishna Gope v. State of Bihar* concerned non-recovery of weapons. *Sambhu Das v. State of Assam* discussed measures taken at the scene before registration of the FIR.

3. Statutes considered : IPC Sections 120B, 147, 148, 149, 302 and 307; Arms Act Sections 25/27; CrPC Sections 157, 161 and 162.

4. Issues : Was the trial court's acquittal based on a reasonably possible view of the evidence? Could Umesh, a relative, reliably identify Dinesh despite the delay in recording his statement, the omission of his name from the first report and his taking cover? Did preliminary preservation of the scene before registration of the formal FIR and non-recovery of Dinesh's gun undermine proof of guilt? What sentence should follow reversal of the acquittal?

5. Ratio / Findings : Umesh described Dinesh firing as a member of the unlawful assembly and had seen the attack begin under streetlight before taking cover. His relationship with Sughar Singh did not discredit his testimony; the defence had not asked him or the investigator to explain the nine-day delay in recording his statement. Hariom's account supported the occurrence, but his knowledge of Dinesh's identity came from Umesh. Injured witness Yuvraj supported the manner of the attack, although he turned hostile on identity. Hariom's immediate departure for hospital with his brother explained the absence of his signature on the early spot map, which mainly recorded conditions visible at the scene. Under Section 162, details in the site plan based on information supplied by witnesses could be used only for omissions or contradictions, while the investigator's own observations were admissible. Protective seizures following cryptic telephonic information did not invalidate the FIR registered later. The prolonged abscondence explained the non-recovery of the firearm, and recovery was not essential in the face of trustworthy direct evidence. The High Court held that the trial court had rejected this evidence on flimsy grounds. The three murders through firing in furtherance of the common object, and rioting with deadly weapons, were proved. The evidence of Yuvraj's injuries was insufficient to sustain a conviction under Section 307.

6. Relief : The Hon'ble High Court allowed the State's and the complainant's appeals in part. Dinesh was convicted under Section 302/149 on three counts and under Sections 147 and 148. No separate sentence was imposed under Section 147, as it was the lesser offence. His acquittal under Section 307 was affirmed. After a separate hearing on sentence, the Court imposed life imprisonment and a fine of ₹15,000 on each murder count, and one year's imprisonment under Section 148, with all sentences to run concurrently. His bail was cancelled, and he was directed to surrender.

Hariom Yadav v. State of Madhya Pradesh and Another; State of Madhya Pradesh v. Dinesh Singh Yadav, Cr.A. no. 912/2011 & 181/2012, 31/10/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (584) Prev Next

Headnote :- Fratricide appeal — The victim's own signed FIR, recorded the next morning before he died on the way to hospital, was treated as a dying declaration concerning the fatal transaction. His wife consistently testified that Hariram restrained his arms while Veer Singh struck his head with an axe; the autopsy revealed a depressed skull fracture and brain injury. Several family members and local witnesses turned hostile, but reliable direct evidence did not require a particular number of corroborating witnesses. The overnight reporting interval and absence of bloodstains on the recovered axe did not establish an accidental fall. The convictions under Section 302 and Section 302 read with Section 34 were affirmed, as were the life sentences.

Case-note :- ***1. Facts :*** Brothers Hariram and Veer Singh had a dispute with Shishupal over land and a tractor. On the evening of 15 December 2010, Shishupal's wife Rajkumari saw Hariram hold Shishupal's hands while Veer Singh struck his head and eye with an axe. Shishupal reported the incident

the next morning, underwent medical examination and died during transfer. The trial court convicted Veer Singh under Section 302 and Hariram under Section 302/34 and sentenced each to life imprisonment. Several family members and local witnesses later suggested an accidental fall or turned hostile.

2. Precedents — Considered : The judgment discussed Supreme Court authorities on clause Thirdly of Section 300 and on Section 34, including *Jasdeep Singh alias Jassu v. State of Punjab*, concerning constructive liability arising from a common intention. It applied the established principles that the quality of evidence, rather than the number of witnesses, is decisive and that the timing of the FIR must be assessed in context.

3. Statutes considered : IPC Sections 34, 299, 300 and 302; Evidence Act Section 27; CrPC Sections 161, 174, 313 and 374.

4. Issues : Did the hostile witnesses' accounts and the delay until the next morning in lodging the FIR undermine the wife's eyewitness account? Could the deceased's own report be used after his death? Did Hariram's act of restraint establish common intention, and was the theory of an accidental fall reasonably supported?

5. Ratio / Findings : Rajkumari's testimony remained consistent and was corroborated by Shishupal's written report made the next morning, which was proved by the officer who recorded it. After Shishupal's death, his report concerning the fatal transaction was treated as a dying declaration. The incident occurred at night, and the police station was about 20 km away; the timing of the report was therefore assessed in light of the circumstances concerning transport and treatment. The autopsy revealed extensive skull and brain injuries consistent with the account of the assault. The hostile witnesses' accounts, including the child's admission that his account of a fall had been coached, did not displace the reliable evidence. Hariram intentionally restrained the victim while Veer Singh delivered the fatal blow, attracting Section 34. Although the recovered axe had no bloodstains, the direct testimony and medical evidence were sufficient.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the murder convictions and life sentences. Hariram's bail was cancelled, and he was directed to surrender; Veer Singh remained in prison.

Hariram and Another v. State of Madhya Pradesh, Cr.A. no. 408/2012, 27/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (585) Prev Next

Headnote :- Private complaint and process — A complainant alleged that his brother-in-law induced him to invest ₹10,000 by promising ₹8.25 lakh at maturity and supplied a receipt and certificate. The revisional court wrongly required examination of attesting witnesses to prove a receipt that did not require attestation by law. It also wrongly required a detailed inquiry into the certificate's authenticity before process could be issued. The complaint and supporting statements provided sufficient prima facie grounds for proceeding under Sections 200–204. The revisional remand was set aside, and the Magistrate was directed to proceed.

Case-note :- ***1. Facts :*** Hariram alleged that Harnarayan persuaded him in 1997 to pay ₹10,000 into a forest-company scheme promising ₹8.25 lakh after twenty years. He relied on a signed receipt, witnesses and a Teak Certificate; the promised sum was not paid. The Magistrate issued process under Section 420. The revisional court set that order aside and remanded the matter for examination of the receipt's attesting witnesses and an inquiry into the certificate. Hariram challenged the remand.

2. Precedents — Considered : *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, and the authorities it discussed, including *Chandra Deo Singh* and *Kewal Krishan*, explained that Sections 203–204 require sufficient prima facie grounds rather than proof sufficient for conviction or an inquiry equivalent to a full trial.

3. Statutes considered : IPC Sections 420, 467, 468, 471 and 506B; CrPC Sections 200, 202, 203, 204 and 482; Evidence Act Sections 64, 65, 71 and 72.

4. Issues : Was examination of attesting witnesses legally necessary to rely on the receipt? Must a Magistrate fully investigate a possibly forged certificate before finding sufficient ground to proceed on a cheating complaint?

5. Ratio / Findings : A receipt that is not required by law to be attested can be proved as if it were unattested under Section 72. Witnesses described the payment and the promised return. If the Teak Certificate was found to be forged, that would provide additional evidence at trial, but such a

finding was not a condition for issuing process. The Magistrate's task was to determine whether the complaint materials disclosed prima facie grounds for proceeding, rather than to weigh the evidence as though deciding guilt. The revisional court imposed an erroneous evidentiary prerequisite and required an unduly detailed inquiry.

6. Relief : The Hon'ble High Court allowed the Section 482 application, set aside the revisional order and directed the trial Magistrate to proceed with the complaint. No final finding on guilt was made.

Hariram v. Harnarayan, M.Cr.C. no. 38325/2022, 28/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (586) Prev Next

Headnote :- Civil and criminal proceedings / forged affidavit in pending title litigation - *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, was applied for the ordinary precedence of criminal proceedings in the interest of timely justice, while rejecting a rigid rule and requiring consideration of the likelihood of embarrassment. *M. Krishnan v. Vijay Singh, AIR 2001 SC 3014*, requires independent proof of forgery in criminal court and rejects quashing merely because a civil suit concerns the document; *Kamaladevi Agarwal v. State of West Bengal, AIR 2001 SC 3846*, and *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765*, likewise permit parallel proceedings, with any stay depending on the circumstances. The pending second appeal and civil character of the land dispute did not justify rejecting the complaint alleging a forged affidavit.

Civil judgment findings / independent criminal proof / limited relevance - *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, and *K.G. Premshanker v. Inspector of Police, (2002) 8 SCC 87*, reproduced within it, were explained: a prior civil judgment's relevance is tested under Evidence Act Sections 40–43 and is generally not conclusive except to the extent specified in Section 41; the court determines its effect in context. *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775*, explains the differing civil and criminal proof standards, rejects automatic binding effect and discusses the incompatibility of the earlier *Karam Chand* dictum and *V.M. Shah* with the controlling authorities. A civil court's disbelief of the affidavit without a forgery finding neither resolves the criminal allegation nor prevents its independent examination.

Court-complaint bar / pre-existing forged document filed in court - *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, was applied: Section 195(1)(b)(ii) CrPC applies to the specified offences committed in relation to a document after it has been produced in court and while it is in the court's custody. An allegation that respondents filed an affidavit forged before its production in court therefore did not require a complaint by the civil court; a Section 200 private complaint was maintainable at this threshold. The Court did not adjudicate whether the affidavit was in fact forged.

Private complaint / Section 203 dismissal / inherent correction - The Magistrate and revisional court erred in rejecting the forgery complaint at the outset because a civil suit was pending, no complaint had been made by the court and the civil court had not declared the document forged. Both orders were set aside under Section 482 CrPC and the matter remanded for lawful further proceedings, without an order to summon respondents or a final finding on offence ingredients.

Case-note :- ***1. Facts :*** Kailash brought a civil suit for declaration of title and permanent injunction over agricultural land, survey Nos. 307 (0.836 hectares) and 308 (0.251 hectares), in village Garethi, Tahsil Isagarh, Ashoknagar. Respondents 1–6 filed a copy of an affidavit attributed to him, dated 18 June 2001, stating that a sale deed executed by his father was security for a loan rather than an outright sale. Kailash denied executing it and alleged that the respondents had filed a forged affidavit to undermine his title. The civil trial court decreed his suit on 16 November 2015 in Civil Suit No. 63-A/2015 and disbelieved the copy. The District Judge dismissed Civil Appeal No. 82-A/2015 on 10 August 2016 and likewise treated it as suspicious, without recording a finding that it was forged. A second civil appeal remained pending; counsel said it had not been admitted.

Kailash filed an unregistered criminal complaint alleging IPC Sections 193, 196, 465, 471 and 120-B. On 9 April 2018 the JMFC, Ashoknagar, dismissed it under Section 203 CrPC: the civil court itself had not complained, Kailash complained after the first civil appeal, and the dispute was civil. The First Additional Sessions Judge dismissed Criminal Revision No. 6/2019 on 21 September 2021. It emphasized that the civil courts had disbelieved,

rather than declared forged, the unregistered copy of the affidavit in contrast to the registered sale deed; no civil court had directed prosecution; and Kailash had examined only himself without a witness or document establishing forgery. In his Section 482 application Kailash argued that the alleged forgery preceded filing in court, that civil and criminal proceedings can coexist, and that handwriting-expert evidence was not a precondition to process. Respondents defended the lower orders. The High Court addressed the legal grounds for threshold dismissal, rather than trying the document's authenticity.

2. Precedents — Considered : *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, was quoted for giving criminal proceedings ordinary priority over parallel civil proceedings because delay can undermine criminal justice. Its Constitution Bench rule expressly avoids a hard-and-fast stay rule; the possibility of conflicting outcomes is not by itself decisive, whereas likely embarrassment and special case circumstances may affect which proceeding waits. The High Court used it to reject dismissal merely because civil litigation continued, without directing a stay here.

M. Krishnan v. Vijay Singh, AIR 2001 SC 3014, was quoted at length. Allegations of forged documents and gain from their use must be independently established in criminal court; the mere pendency of a civil suit about the same documents cannot justify quashing the criminal case, since such a rule could be exploited to frustrate prosecution. The civil standard of probability differs from the criminal requirement of proof beyond reasonable doubt. The High Court applied this to reject the reasoning that the dispute was civil in nature, without assuming the allegation ultimately proved. *Kamaladevi Agarwal v. State of West Bengal, AIR 2001 SC 3846*, was considered for the distinct point that even pending civil action in a court of higher status does not itself quash criminal proceedings under the CrPC. *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765*, was quoted for simultaneous proceedings and a stay depending on the circumstances. Its embedded mentions of *M.S. Sheriff, Iqbal Singh Marwah and Institute of Chartered Accountants of India v. Association of Chartered Certified Accountants, (2005) 12 SCC 226*, identified the authorities on which that proposition rested.

Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528, was quoted on concurrent civil and criminal proceedings, cognizance on a prima facie criminal case, a stay depending on the circumstances, and separate assessment of the records in the two proceedings. It reproduces *K.G. Premshanker v. Inspector of Police, (2002) 8 SCC 87*: a final prior judgment may be relied on as Evidence Act Sections 40–43 permit; res judicata may apply in civil litigation between the same parties and Section 300 CrPC addresses repeat criminal trials; a civil judgment on the same cause is relevant when those evidence provisions make it so, but ordinarily not conclusive, save for Section 41's statutory operation. Its effect must be assessed case by case, including any limited relevance. The High Court applied the independent-proof principle to the absence of a finding of forgery by the civil courts; it did not rule that the decrees were categorically inadmissible.

Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775, was also quoted extensively. It contrasted the older *Karam Chand Ganga Prasad v. Union of India* dictum suggesting civil findings bind criminal courts with *M.S. Sheriff*'s Constitution Bench approach, noted that *V.M. Shah v. State of Maharashtra* was not approved in *K.G. Premshanker*, and described the *Karam Chand* approach as per incuriam for overlooking the larger Bench. It explained separate standards and evidence, with possible relevance of prior judgments under Evidence Act Sections 41–43. The quotation also invokes *King Emperor v. Khwaja Nazir Ahmad*, *P. Swaroopa Rani*, *Iqbal Singh Marwah*, *Syed Askari and Vishnu Dutt Sharma v. Daya Sapra* to explain the development of that principle. The present Court used *Kishan Singh* to reject any automatic binding effect of the civil findings on the forgery complaint.

Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370, supplied a second, distinct controlling rule. The quoted paragraph 33 approves *Sachida Nand Singh* and confines Section 195(1)(b)(ii) CrPC to specified offences committed with respect to a document after its production or admission in evidence, while in custodia legis. The High Court applied that distinction based on when the forgery occurred and whether the document was then in court custody to the allegation that the copy was already forged before filing. *Iqbal Singh Marwah*'s separately quoted paragraph 32 within *Kishan Singh* also explains different civil and criminal proof standards and absence of an automatic binding finding. The Court made no forgery finding.

3. Statutes considered : Section 195(1)(b)(ii) CrPC governs when a complaint by the court is required for enumerated offences concerning a document produced or given in evidence in court. As interpreted through *Iqbal Singh Marwah*, the relevant bar attaches to the specified offence committed after production in court custody, not merely to the subsequent use in litigation of a document allegedly forged beforehand. Section 200 CrPC supplies the route for Kailash's private complaint on the allegation of forgery before production in court. Section 203 governed the Magistrate's dismissal; Section 482 supplied High Court jurisdiction to correct the materially erroneous orders rejecting the complaint at the threshold. IPC Sections 193, 196, 465, 471 and 120-B were alleged in the complaint, but the Court did not finally decide their individual ingredients or guilt. Evidence Act Sections 40–43 frame the relevance of prior judgments; Section 41 has the statutory conclusive operation identified in *K.G. Premshanker.* Section 300 CrPC and civil res judicata appeared in the incorporated precedent's explanation, not as independent bars decided on these facts.

4. Issues : (i) Whether the pending civil proceedings and title dispute justified dismissal of a private complaint alleging a forged affidavit, or required a stay; (ii) whether the civil courts' disbelief of the affidavit, without a formal forgery finding, controlled the criminal court's threshold decision and what legal relevance a prior judgment could have; (iii) whether Section 195(1)(b)(ii) barred a private complaint because the disputed copy had been filed in civil court, where the alleged forgery occurred beforehand; and (iv) whether the Section 203 dismissal and revisional affirmation could stand or the Magistrate should reconsider the complaint. The Court did not decide the authenticity of the document, the ultimate proof of each IPC offence or entitlement to summons.

5. Ratio / Findings : First, parallel civil and criminal proceedings are legally possible. *M.S. Sheriff* recognizes ordinary priority for criminal justice but no inflexible stay rule. *M. Krishnan, Kamaladevi Agarwal* and *P. Swaroopa Rani* reject the premise that civil litigation alone extinguishes a criminal allegation, with any stay evaluated on circumstances. Thus the pending second appeal and the fact that the underlying dispute concerned property could not justify rejection under Section 203 of the complaint alleging forgery. The complainant's timing after the civil appeal likewise did not make the complaint legally untenable on the grounds used below.

Second, the criminal court must examine its own evidence and the applicable requirements at the preliminary stage, rather than require the civil court to have labelled the affidavit forged. The civil courts had disbelieved a copy and found it suspicious; those civil findings did not bind the criminal court. The difference between the civil standard of preponderance of probabilities and the criminal requirement of proof beyond reasonable doubt matters. *K.G. Premshanker*'s qualification remains: a previous judgment may be relevant under Evidence Act Sections 40–43, and its precise effect must be determined under those provisions; Section 41 gives the specified judgments conclusive effect. *Kishan Singh* rejects automatic binding effect of civil findings on criminal courts. The High Court did not determine that Kailash's sole preliminary testimony would ultimately prove the charged offences; it found the lower courts' reliance on the lack of an earlier civil forgery declaration and their related reasoning for dismissal at the threshold materially erroneous.

Third, the Section 195(1)(b)(ii) restriction depends on when the alleged offence concerning the document occurred and whether the document was then in court custody. Under *Iqbal Singh Marwah*, it applies when an enumerated offence occurs after production in court, while the document is in custodia legis. Kailash alleged the affidavit was forged before the respondents filed it. On that pleaded basis, a complaint by the civil court was not a prerequisite and the complainant could proceed under Section 200. Whether forgery actually occurred remained to be addressed through lawful process. Taken together, these errors made the dismissal at the outset and its affirmation in revision unsustainable. They warranted correction under Section 482 without deciding guilt or directing issuance of process against the respondents.

6. Relief : The Hon’ble High Court allowed the application, set aside the First Additional Sessions Judge's order of 21 September 2021 in Criminal Revision No. 6/2019 and the JMFC's Section 203 order of 9 April 2018 in the unregistered 2016 complaint, and remanded to the Magistrate for further proceedings in accordance with law. It made no costs order. The civil proceedings were not stayed, and no final determination of affidavit

authenticity, cognizance, summons or criminal liability was made.

Kailash v. Arjun Singh and Others, M.Cr.C. no. 57102/2021, 21/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence / police and seizure witnesses / hostile independent witness - *Baldev Singh v. State of Haryana, (2015) 17 SCC 554*, was applied: official testimony is not inadmissible or inherently unreliable merely because the witness is a police officer and an independent witness does not support the prosecution. The incorporated *Girja Prasad v. State of M.P.* principle permits conviction on trustworthy police evidence after careful scrutiny; its nested references to *Aher Raja Khima* and *Tahir* reinforce the rejection of a categorical corroboration requirement. After independently assessing the seizure officers' evidence, the documents and the ballistic report, the Court affirmed the Section 5 Explosive Substances Act conviction notwithstanding a hostile independent witness.

Sentencing / long appellate delay / custody undergone - The 1992 incident preceded appellate disposal by over 31 years; Section 5 carried no minimum sentence, and the appellant had already served 10 months and four days of a one-year term. The Court reduced imprisonment to time served while enhancing the fine from ₹250 to ₹5,000, subject to payment by 29 February 2024. Failure to pay would revive the trial court's sentence of imprisonment and permit a warrant for the remaining term. The conviction was affirmed and the appeal allowed only to this qualified sentencing extent.

Case-note :- ***1. Facts :*** On 19 September 1992, police acting on information searched a house in New Anand Nagar Colony, Jabalpur, in the presence of officers and independent witnesses. The prosecution alleged recovery of six country-made hand grenades, raw explosive material, tools and an unfinished .315-bore country-made pistol; seizure was recorded in Ex. P/2. After arrest, FIR and investigation, the seized articles went for ballistic examination, prosecution sanction was obtained, and a charge-sheet was filed under Section 25 Arms Act and Sections 3 and 5 Explosive Substances Act. The trial court framed charges under Section 5 and Section 25 on 2 April 1993. The prosecution examined five witnesses; the appellant led no defence evidence. The Seventh Additional Sessions Judge, Jabalpur, convicted him under Section 5 on 6 January 2000 and imposed one year's rigorous imprisonment and a ₹250 fine. In his Section 374 CrPC appeal, no one appeared for the appellant, so the High Court examined the trial record itself. It reviewed the search and seizure officers, the district magistrate's sanction clerk, one independent witness who turned hostile, and the ballistic report, which was exhibited before the appellant was examined under Section 313 CrPC. The appellant's custody certificate showed 10 months and four days as an undertrial.

2. Precedents — Considered : *Baldev Singh v. State of Haryana, (2015) 17 SCC 554*, was expressly quoted and applied. It rejects any legal rule that police officers' evidence is unworthy without independent support; because an official may be interested in the investigation's outcome, prudence requires careful scrutiny and independent appreciation, but police status alone creates no presumption of untruthfulness. The quoted *Baldev* passage includes *Girja Prasad v. State of M.P., (2007) 7 SCC 625*, which explains that a conviction may rest on otherwise reliable and trustworthy official testimony, with careful scrutiny a prudential safeguard rather than a mandatory corroboration rule. *Girja Prasad* in turn refers to *Aher Raja Khima v. State of Saurashtra, AIR 1956 SC 217*, on the presumption of honesty and to *Tahir v. State (Delhi), (1996) 3 SCC 338*, on reliable police testimony despite absent local corroboration. Those latter decisions appear within the incorporated Supreme Court quotation.

3. Statutes considered : Section 5 of the Explosive Substances Act supplied the conviction that was affirmed; the Court stated that no minimum imprisonment was prescribed for the offence in this case. Section 25 Arms Act and Section 3 Explosive Substances Act appeared in the charge-sheet, and Section 25 was charged, but the order under appeal and the High Court's dispositive ruling addressed conviction under Section 5 rather than a separate conviction under those provisions. Section 374 CrPC governed the appeal. Section 313 CrPC was relevant because the ballistic report was exhibited and specifically put to the accused in his examination. The Section 428 CrPC certificate supplied the verified undertrial custody period used for sentence modification.

4. Issues : (i) Whether the seizure and related evidence remained sufficient to sustain the Section 5 conviction when the independent witness turned hostile and the case substantially depended on police officers; and (ii) whether the one-year custodial term should remain in full after the appellant had served most of it and more than three decades had passed since the incident. The Court reviewed the record despite the appellant's nonappearance.

5. Ratio / Findings : C.K. Tiwari (PW/1), Satish Kumar (PW/4) and investigating officer K.S. Bhatia (PW/5) described the search and recovery; Bhatia proved the seizure memorandum, search panchnama, arrest memo, lodging of the FIR and ballistic referral. C.P. Pandey (PW/2) proved the prosecution sanction; Ajay Kanojiya (PW/3) did not support the prosecution. Bhatia explained that a crime number appearing on the seizure memo was entered after return to the police station. The ballistic report was tendered immediately before the appellant's Section 313 statement and its substance was put to him. Applying *Baldev Singh*, the Court refused to reject the officers solely for their employment or the hostile independent witness. It accepted their evidence and held the conviction well founded. On sentence, it distinguished affirmation of guilt from the remaining custodial consequence. The offence was committed in 1992, no minimum sentence constrained the Court, and the certified detention of 10 months and four days covered most of the one-year term. The Court considered that returning the appellant to jail for approximately two further months would serve no useful purpose in the circumstances and balanced reduction of imprisonment with a higher fine and a clear default consequence. It did not set aside the conviction.

6. Relief : The Hon'ble High Court affirmed the conviction under Section 5 Explosive Substances Act. Imprisonment was reduced to the 10 months and four days already undergone; the fine was increased to ₹5,000, to be deposited by 29 February 2024. If unpaid, the trial court's original jail sentence would revive and it could issue a warrant to secure service of the remaining term. Bail and surety bonds were cancelled, a copy and record were to be sent to the trial court, and the appeal was allowed only to the stated sentencing extent.

Kajju v. The State of Madhya Pradesh, Cr.A. no. 130/2000, 18/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal medical negligence / professional standard / grossness - *Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*, was applied: a doctor's negligence must involve a gross or very high degree of departure from the conduct of an ordinarily competent practitioner, assessed by accepted practice and the knowledge available at the time, to attract criminal liability; a poor outcome, treatment risk, error of judgment or available alternative is insufficient. *Kusum Sharma v. Batra Hospital, (2010) 3 SCC 480*, reinforced reasonable skill, acceptable alternatives and the need to guard against misuse of criminal process; *Martin F. D'Souza v. Mohd. Ishfaq, (2009) 3 SCC 1*, reiterated the *Bolam* professional standard and that unsuccessful treatment alone is not culpability. *Malay Kumar Ganguly v. Dr. Sukumar Mukherjee, (2009) 9 SCC 221*, distinguished civil and criminal thresholds, duty, causation and grossness under Section 304-A IPC; *S.K. Jhunjhunwala v. Dhanwanti Kaur, (2019) 2 SCC 282*, restated ordinary competence and contemporaneous accepted practice; *Kalyani Rajan v. Indraprastha Apollo Hospital, 2023:INSC:921*, was cited as similar law. The present Court found no material establishing a departure in treatment amounting to criminal negligence despite the patient's death.

Criminal negligence complaint / independent medical opinion / Section 175(3) BNSS - *Jacob Mathew* requires a credible opinion from a competent doctor before a private complaint proceeds and an independent, qualified medical opinion before proceeding against a doctor; *Martin F. D'Souza* addresses specialist or committee screening before notice and safeguards against routine arrest. On this record, the magistrate's FIR direction could not stand: the available CMHO committee report did not identify treatment contrary to medical protocol, and the complaint lacked the necessary evidentiary basis for gross negligence. This did not foreclose a later FIR or complaint if an expert committee substantiates negligence or record manipulation.

Medical records / alleged fabrication / evidentiary inference - Employment of a doctor at another

private hospital did not prove that he could not visit the treating hospital or that prescriptions in his name were fabricated. The alleged change in the husband's consent time was unsupported by his affidavit and was not shown to affect the medical conclusion. The Court declined to treat unsupported suspicions as proof of falsification while preserving inquiry into the allegation. The JMFC and revisional orders were set aside; the Section 175(3) application was dismissed with the specified liberty.

Case-note :- ***1. Facts :*** The complainant, Dinesh Kumar Sharma, brought his pregnant daughter-in-law to Dr. Kanti Lahariya on 1 January 2024; she was admitted to Sarvodaya Hospital, Gwalior. He alleged that plasma was transfused unusually rapidly on 2 January, that injections caused chest pain and breathing difficulty, and that Dr. Kanti Lahariya, Dr. Prashant Lahariya and associates then conducted a hurried caesarean delivery. The infant was referred to the NICU at Link Hospital and remained there until 13 January. The mother was transferred to Birla Hospital after her condition deteriorated and died there on 15 January 2024. These are the complainant's allegations and sequence, not a judicial finding of negligent causation. After claiming that police had not accepted or acted on his complaint, he applied to the JMFC under Section 175(3) BNSS. The JMFC, by order of 19 February 2025 in Unregistered Complaint Case No. 0/2024, directed FIR registration; the IX Additional Sessions Judge dismissed the doctors' Criminal Revision No. 83/2025 on 28 March 2025. The doctors invoked Section 528 BNSS to challenge both orders. They relied on the Supreme Court's criminal medical-negligence safeguards. The complainant, an advocate appearing personally, further alleged an altered consent time, treatment notes supposedly created later in Dr. Rohit Khandelwal's handwriting, his fee despite asserted nonattendance, and treatment before laboratory reports. He argued that the allegation of fabrication was independent of medical negligence. The Court also considered a CMHO-appointed two-doctor inquiry into the care.

2. Precedents — Considered : *Jacob Mathew v. State of Punjab, (2005) 6 SCC 1*, was the central authority expressly quoted and applied. Its conclusions separate ordinary/civil negligence from gross criminal negligence, recognize the *Bolam* standard of an ordinary competent professional following an accepted practice in light of knowledge then available, reject liability solely from a better alternative or a treatment mishap, require an act or omission no ordinarily prudent medical professional would undertake with likely imminent injury, and limit res ipsa loquitur in criminal liability. Its paragraph 52 safeguards require a credible competent medical opinion before entertaining a private complaint and independent qualified opinion before proceeding against a doctor; arrest should not be routine. *Kusum Sharma v. Batra Hospital, (2010) 3 SCC 480*, was quoted for reasonable skill and care, the legitimacy of medically acceptable treatment choices and treatment involving greater risk reasonably selected for the patient's welfare, and the need to prevent malicious pressure on professionals; the Court used it consistently with grossness, not as immunity from accountability. *Martin F. D'Souza v. Mohd. Ishfaq, (2009) 3 SCC 1*, was quoted for the *Bolam* ordinary-skill test, the difference between an unsuccessful outcome and substandard conduct, and referral to a competent specialist or committee before notice on a medical-negligence complaint, with a caution against routine police arrest. Its nested references to *Bolam*, *Jacob Mathew and Indian Medical Assn. v. V.P. Shantha* were part of that quoted reasoning, rather than separate new holdings by the Court in the present case. *Malay Kumar Ganguly v. Dr. Sukumar Mukherjee, (2009) 9 SCC 221*, was quoted for the Section 304-A IPC ingredients and the distinction between civil or consumer negligence and criminal culpability: death, a causative rash or negligent act, duty, breach, proximate causation and gross degree must be considered; error or ordinary lack of care does not suffice. *S.K. Jhunjhunwala v. Dhanwanti Kaur, (2019) 2 SCC 282*, was quoted for its discussion of *Jacob Mathew* and *Bolam*, restating the ordinary competent practitioner benchmark, acceptable contemporaneous practice and no guarantee of successful surgery. *Kalyani Rajan v. Indraprastha Apollo Hospital, 2023:INSC:921*, was cited as similar law. The complainant cited *Rajinder Prasad*, *Neeharika Infrastructure*, *Lalita Kumari*, *Sindhu Janak Nagargoje*, *SAS Infratech*, *Vinubhai Haribhai Malaviya* and two High Court cases; those authorities were relied upon by the complainant.

3. Statutes considered : Section 528 BNSS was invoked for High Court interference with the magistrate's and revisional orders. Section 175(3) BNSS was the complainant's route for seeking a judicial direction for police investigation or FIR registration, and that application was ultimately

dismissed. The Court mentioned the first proviso to Section 223(1) BNSS, requiring an opportunity of hearing before cognizance, when commenting on the complainant's omission to array the doctors; its observation was ancillary to the decisive lack of a supported criminal-negligence case. Section 304-A IPC appears in the Supreme Court authorities quoted on causing death by criminal negligence, including the difference from civil liability.

4. Issues : (i) Whether the allegations about plasma transfusion, caesarean delivery and subsequent death, considered with the available professional inquiry, met the gross criminal-negligence standard that permits a Section 175(3) FIR direction against the doctors without credible independent medical support; (ii) whether the alleged later-created prescriptions and altered consent time supplied a supported, independent record-fabrication basis that could change the outcome; (iii) what significance should be given to the complainant's omission of the doctors from the Section 175(3) application and to the Section 223 hearing observation; and (iv) whether both lower-court orders should stand, and what remedy remained available after expert investigation. The Court did not decide the doctors' ultimate guilt or civil liability.

5. Ratio / Findings : The Court considered the allegations made in the complaint and applied the distinct criminal standard from *Jacob Mathew* and the reinforcing authorities. It rejected an inference of a gross departure from accepted professional practice based only on rapid plasma administration, an emergency operation, an adverse reaction and the later death. The CMHO inquiry by Dr. Swechha Dandotiya and Dr. Nitesh Mudgal recorded that prophylactic platelet transfusion before major surgery could reduce bleeding risk in thrombocytopaenia; the decision was documented, treatment for the reaction included Avil, Dexa and Efcorlin, the operating and post-operative areas had necessary equipment, and the operation involved another doctor with a pediatrician present. The report did not find a violation of medical protocol; its inability to obtain CCTV about two months later did not establish negligence. The Court then distinguished the allegation of fabrication from proof of it. Dr. Khandelwal's employment at Birla Hospital did not prevent a visit to Sarvodaya Hospital, the complainant had not arrayed him as a suspect, and the assertion that notes in his handwriting were created later did not follow merely from the complainant's belief that he did not attend. As to a purported 4:40-to-4:10 pm change in transfusion consent, the person who signed—the complainant's son—supplied no affidavit, and the Court found that no effect on the negligence assessment had been shown. The doctors were not arrayed in the Section 175(3) request, which the Court criticized in connection with the opportunity before cognizance under Section 223(1), but it returned to the substantive insufficiency of the negligence and manipulation allegations. On those materials the magistrate should not have ordered FIR registration; the revisional court's affirmation also could not stand. The findings concern the present threshold and record, not a categorical prohibition on pursuing evidence-supported medical misconduct.

6. Relief : The Hon'ble High Court allowed the application under Section 528 BNSS. The IX Additional Sessions Judge's order dated 28 March 2025 and the JMFC's order dated 19 February 2025 were set aside, and the complainant's Section 175(3) application was dismissed. The complainant was expressly given liberty to approach the Medical Council of India for a committee of expert doctors to examine both alleged negligence and record interpolation. If that committee supports either allegation, he may lodge an FIR or file a complaint before a competent court. The order did not itself finally determine professional misconduct, liability or innocence.

Kanti Lahariya and Ors. v. Dinesh Kumar Sharma and Ors., M.Cr.C. no. 14792/2025, 05/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers / quashing / matrimonial cruelty / husband's relatives - Vague and general accusations against relatives are insufficient, but the FIR attributed assault and expulsion to all five applicants and a vehicle demand to the husband and mother-in-law. *Kans Raj v. State of Punjab, Monju Rai v. State of West Bengal* and *Geeta Mehrotra v. State of U.P.* were invoked for scrutiny of accusations against brothers-in-law, and *Taramani Parakh v. State of M.P. for* those against parents-in-law; applying those authorities did not warrant quashing on the facts alleged in the FIR. A brother-in-law's transfer and separate residence did not establish absence from the alleged incident.

Cruelty / alleged disease / dowry demand - An asserted pre-marital concealment of the complainant's psoriasis, even if assumed for argument, could not justify mistreatment or ouster. Specific allegations of demand, beating and expulsion were capable of sustaining an allegation of cruelty at the stage of considering quashing under Section 528 BNSS; guilt remained for the competent court to determine.

Cruelty / continuing mental effect / parental home - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was applied for the principle that distress flowing from matrimonial cruelty may continue at the wife's parental home after physical abuse at the matrimonial home ends. The Court also applied *Amar Singh v. Vimla on* dowry-driven forced residence with parents. The application to this case was tied to the alleged dowry demand and expulsion; the quashing application was dismissed.

Case-note :- ***1. Facts :*** The complainant married applicant No. 4 in 2022. In Crime No. 79/2024 at Police Station Veerpur, District Sheopur, she alleged that after an initially peaceful period her in-laws taunted her, that the mother-in-law and husband accused her of mental illness and demanded a four-wheeler, and that all five applicants assaulted and expelled her when her family could not meet a further dowry demand. She said she had lived with her parents for about a year; following a June police approach, the husband allegedly promised to take her back but did not. The FIR dated 13 August 2024 invoked Sections 498-A and 506 IPC and Sections 3/4 of the Dowry Prohibition Act. The applicants comprised two brothers-in-law (Nos. 1 and 5), the father-in-law (No. 2), mother-in-law (No. 3) and husband (No. 4). They sought quashing under Section 528 BNSS. Their counsel asserted that the wife had psoriasis concealed before marriage, that they had themselves complained to police, and that applicant No. 1, a forest guard transferred to Sheopur in 2021, lived separately. The State opposed quashing, emphasizing the individual allegations. These were competing allegations and submissions, not trial findings.

2. Precedents — Considered : The Judge invoked *Kans Raj v. State of Punjab, (2000) 5 SCC 207; Monju Rai v. State of West Bengal*; and *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, when testing the FIR against the brothers-in-law. The common principle expressly stated in the order is that near relatives of a husband should not be made to face trial on vague, general allegations: their alleged conduct must be examined specifically. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was invoked to test the allegations against the parents-in-law. The Court used these authorities as the framework for assessing specificity and concluded that the actual FIR allegations survived it. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted and applied to the alleged continuing mental effect: mental trauma caused by physical cruelty or abusive conduct at the matrimonial home can continue after a wife takes shelter with her parents, even though the physical acts there have stopped. This explained why the alleged ouster and continuing separation remained relevant. The Court also relied *on its own Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020, decided 22 June 2021, for the proposition that compelling a married woman to live with her parents because of a dowry demand constitutes cruelty. These authorities formed the basis of the refusal to quash; none was treated as a finding that the applicants had already been proved guilty.

3. Statutes considered : Section 528 BNSS supplied the High Court's inherent jurisdiction to consider quashing the FIR. The FIR alleged Section 498-A IPC, criminal intimidation under Section 506 IPC, and Sections 3/4 of the Dowry Prohibition Act, 1961. The order set out the text of Sections 85 and 86 of the new penal statute, describing cruelty in terms of wilful conduct likely to cause grave injury or danger to mental or physical health and harassment to coerce an unlawful demand for property or valuable security.

4. Issues : (i) Whether the FIR contained only omnibus accusations against the brothers-in-law and parents-in-law or specific allegations sufficient to withstand quashing; (ii) whether an alleged illness concealed before marriage could justify the complained-of conduct or negate the cruelty allegations at this stage; (iii) whether the wife's alleged dowry-driven removal and subsequent residence with her parents remained relevant to mental cruelty; and (iv) whether the first brother-in-law's asserted separate residence conclusively excluded his participation. The application did not call for a trial finding on the truth of the competing accounts.

5. Ratio / Findings : The Court distinguished vague implication of relatives from the FIR before it. It found an allegation that all five applicants beat the

complainant when expelling her, and a specific vehicle demand against the mother-in-law and husband. On those pleaded facts, the Supreme Court authorities about general allegations did not justify terminating proceedings against the brothers-in-law or parents-in-law. The asserted concealment of psoriasis could not furnish a legal justification for cruelty or expulsion even if a disease existed; the question whether the allegations were ultimately proved was left open. Applying *Rupali Devi*, the Court treated the alleged psychological effects of compelling the wife to reside with her parents as capable of continuing after she left the matrimonial home. *Amar Singh* supplied the further proposition concerning forced residence with parents on account of a dowry demand. As to applicant No. 1, transfer to another location in 2021 and alleged separate residence did not demonstrate his absence on the unspecified day in the second half of 2023 when assault and ouster were alleged. These findings concerned whether interference with the FIR was warranted, not a determination of guilt or an independent adjudication of each charge.

6. Relief : The Hon'ble High Court held that no case for interference was made out and dismissed the Section 528 BNSS application. The FIR remained in force against the five applicants. No acquittal, conviction or final resolution of the disputed illness and presence claims was ordered.

Kaushal Sharma and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 37490/2024, 20/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Anticipatory bail — superior-court review — initial illegality versus later misuse - An application under Section 439(2) may seek review of whether the original bail grant ignored material allegations and relevant context; proof of post-grant misconduct is needed for the distinct inquiry into cancellation on that ground, rather than this form of review. The victim's application was therefore maintainable even though no later misuse or non-cooperation was alleged (¶¶6–10).

Dowry cruelty and alleged sexual assault — delayed disclosure at bail stage - The wife alleged demand of Rs. 50 lakh and an Audi car, cruelty, and a specified 05.08.2020 non-consensual unnatural act accompanied by a threat. The Court held that the Sessions Judge's adverse view of the delayed complaint was casual: an attempt to preserve married life may explain silence, and the FIR alleged disclosure to her in-laws. With the seriousness of the allegations inadequately considered, the anticipatory-bail grant was set aside, without any adjudication of guilt (¶¶2, 5, 11–14).

Case-note :- ***1. Facts :*** Meghna Agarwal applied under Section 439(2) CrPC to challenge the First Additional Sessions Judge, Ganj Basoda's 05.10.2021 anticipatory-bail order in Bail Application No. 407/2021 for her husband Anurag Bagadiya. The underlying FIR alleged their January 2020 marriage, substantial dowry at marriage, later demands for Rs. 50 lakh and an Audi car, physical and mental harassment, retention of jewellery and expulsion from the matrimonial home in November 2020. It separately alleged that Anurag forced an unnatural sexual act on 05.08.2020 while they stayed at her parental home and threatened to kill her if she disclosed it; she said she told her in-laws, later told her mother in September 2021 and lodged the FIR. These remain allegations. The Sessions Judge noted roughly ten months after her return home and thirteen months after the alleged sexual act before the written complaint, no medical injury, and a view that custodial interrogation was unnecessary. Meghna contended that saving the marriage could account for delayed disclosure and the lower court had improperly discounted grave allegations. The respondent's answer stressed the absence of any subsequent misuse of liberty or non-cooperation.

2. Precedents — Considered : *Manoj Kumar Khokhar v. State of Rajasthan*, Supreme Court Criminal Appeal No. 36/2022, 11.01.2022, was extensively quoted for the need to consider the actual accusation, prima facie material, severity, risk to witnesses, antecedents and reasons in the grant of bail, with a review of an illegal or perverse original grant distinct from later-misconduct cancellation (¶9). Its excerpt assembled *Gudikanti Narasimhulu*, *Prahlad Singh Bhati*, *Ram Govind Upadhyay*, *Kalyan Chandra Sarkar*, *Prasanta Kumar Sarkar*, *Ash Mohammad*, *Neeru Yadav*, *Anil Kumar Yadav*, *Ramesh Bhavan Rathod*, *Bhoopendra Singh/Mahipal*, *Brijmani Devi* and *Kranti Associates*. These nested authorities support the consolidated bail-discretion and reasons propositions. *Ms. Y v. State of Rajasthan*, Supreme Court Criminal Appeal No. 649/2022, was quoted on the same distinction between forms of bail review:

superior review asks whether the bail grant ignored relevant factors or was arbitrary, illegal or perverse, while cancellation for later misconduct turns on supervening events (¶10). Its quoted discussion refers to *Prasanta Kumar Sarkar, Mahipal, Jagjeet Singh* and *Neeru Yadav*; this Court applied the distinction to the husband's answer that he had not misused his liberty rather than treating the quotations as separate holdings on this case. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was materially invoked to explain that compelling a wife to stay at her parental home following dowry-related maltreatment may itself constitute cruelty, supporting the contextual assessment of the alleged continuing harm (¶11). No authority was used to decide the truth of the charge.

3. Statutes considered : Section 438 CrPC was the husband's anticipatory-bail jurisdiction below. Section 439(2) CrPC supplied the victim's challenge to that grant, while the Court distinguished same-court cancellation for misuse from superior-court annulment of an initially unsound order. The FIR's alleged unnatural act was discussed as Section 377 IPC and the alleged dowry harassment as cruelty; the judgment did not finally adjudicate those offences. The Court assessed the FIR and surrounding circumstances at a provisional bail stage, not at trial. The bail order's delayed-disclosure and injury observations could not be treated as findings disproving the allegations.

4. Issues : Could the complainant seek a superior court's correction of the original anticipatory-bail order without proving post-bail misconduct? Did the Sessions Judge exercise bail discretion on all material allegations and their context, including the delayed disclosure of a marital sexual allegation, the threats and dowry demands? What operative effect should follow if its order materially omitted those considerations? The judgment did not decide whether Anurag committed any charged act, whether evidence ultimately proves consent or injury, or the outcome of investigation.

5. Ratio / Findings : The Court rejected the respondent's treatment of the two forms of bail review as the same. A court that granted bail may cancel it if liberty is misused; a superior court may set aside the original grant if it ignored material on the record, even absent later misconduct. Supreme Court authority required brief but meaningful attention to the nature of accusation, prima facie material and pertinent risk factors. Here the FIR specified demands for money and a car, alleged physical and mental harassment and a dated unnatural sexual act with a threat. The lower court's emphasis on the time before reporting and lack of medical injury did not adequately consider why a wife might delay approaching police while attempting to preserve marriage. The FIR alleged that she did tell her in-laws about the sexual act, rebutting the inference that she had maintained complete silence; the Court also applied *Rupali Devi*'s understanding of continued cruelty through compelled parental residence. The High Court called the delay observation casual and unwarranted, and held the seriousness of the allegations had been overlooked in granting anticipatory bail. Its assessment concerned the legality of the anticipatory-bail protection on the allegations on record and did not prove the underlying charges. The conclusion was tied to these alleged circumstances and the lower court's reasoning.

6. Relief : The Hon'ble High Court allowed the application for cancellation of anticipatory bail and set aside the First Additional Sessions Judge's order dated 05.10.2021 in Bail Application No. 407/2021. The respondent No. 1, Anurag Bagadiya, was directed to surrender before the Investigating Officer immediately and no later than 30 April 2022.

Meghna Agarwal v. Anurag Bagadiya and Others, M.Cr.C. no. 4173/2022, 19/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Maintenance / Section 125 CrPC / voluntary loan deduction - The house-loan instalment repaid a voluntary advance and was not treated as a statutory or mandatory deduction from the husband's earnings when fixing maintenance; on this record, he could not reduce his July 2024 net-salary figure by ₹13,700 merely by invoking that instalment. This was a fact-specific assessment of capacity, not an exclusion of all liabilities.

Maintenance / quantum / *Rajnesh v. Neha, (2021) 2 SCC 324* - The Supreme Court's multifactor approach balances the claimant's needs, parties' status and accustomed standard of living against the payer's actual capacity, reasonable expenses, lawful dependants and liabilities, with attention to inflation; an award should be realistic and neither oppressive nor inadequate.

Overlapping remedies / Section 125 CrPC and Section 20 DV Act / adjustment and commencement - The enhanced Section 125 figure remained subject to adjustment against maintenance awarded under the DV Act or another statute and became payable from the date of application. The Court reasoned on the assumption that adjustment applied without determining whether the separate DV Act amount had actually been paid; its order did not authorise double recovery.

Case-note :- ***1. Facts :*** Monika sought maintenance from her husband Praveen under Section 125 CrPC. By order dated 14.12.2023 in M.Cr.C. No. 1049/2018, the Second Additional Principal Judge, Family Court, Indore awarded ₹5,000 per month, subject to adjustment of amounts received under other statutes. She filed a revision under Sections 397/401 CrPC read with Section 19(4) of the Family Courts Act, maintaining that the figure was too low. A July 2024 salary slip furnished by the husband showed net salary of ₹38,373. He opposed enhancement by referring to an order dated 13.12.2019 in Criminal Appeal No. 176/2019 awarding ₹7,500 per month under Section 20 of the Protection of Women from Domestic Violence Act, a ₹13,700 monthly house-loan instalment, and responsibility for parents living in Badwani. He argued that the loan left only about ₹25,000 monthly. Monika said the loan was taken after separation and had been used to depress take-home pay. Her counsel did not know whether the separate DV Act award was regularly paid. The High Court addressed the loan, the adjustment and whether the resulting total allowance was adequate.

2. Precedents — Considered : The High Court expressly relied *on Rajnesh v. Neha, (2021) 2 SCC 324*, quoting its paragraphs 77–85 on interim and permanent maintenance. In that discussion the Supreme Court said maintenance is protective rather than punitive, has no straitjacket formula, and calls for a fair balance between claimant need and payer capacity. It identified status, reasonable wants, adequate independent income, previous standard of living, employment history, family care responsibilities, litigation cost, actual income, reasonable personal expenses, legally dependent family members, liabilities, inflation and cost of living as relevant considerations. A reasonable and realistic amount should avoid both oppressive excess and penury. The High Court applied that framework to reject the claimed reduction of income by the voluntary loan instalment and assess the effective ₹7,500 total as inadequate. The *Rajnesh* extract itself refers to *Jasbir Kaur Sehgal v. District Judge, Dehradun, (1997) 7 SCC 7* and *Vinny Parmvir Parmar v. Parmvir Parmar, (2011) 13 SCC 112* concerning factors; *Manish Jain v. Akanksha Jain, (2017) 15 SCC 801* concerning the immateriality of the claimant wife's parents' means and insufficiency of education alone; *Reema Salkan v. Sumer Singh Salkan, (2019) 12 SCC 303* on an able-bodied payer's duty; *Chaturbhuj v. Sita Bai, (2008) 2 SCC 316* on balanced quantum; and *Delhi High Court's Bharat Hegde v. Saroj Hegde*, (2007) 140 DLT 16 on practical factors and adjustment. These authorities appeared within the reproduced Supreme Court discussion.

3. Statutes considered : Section 125 CrPC governed the wife's maintenance and the Family Court award under revision. Sections 397 and 401 CrPC and Section 19(4) of the Family Courts Act, 1984 were the stated revision route. Section 20 of the Protection of Women from Domestic Violence Act, 2005 supplied the husband's asserted concurrent ₹7,500 monetary-relief award; adjustment against that or another statutory award remained a condition of the Section 125 order. The quoted *Rajnesh* passage referred to the criterion in Section 20(2) DV Act that relief be adequate, fair, reasonable and consistent with the accustomed standard of living and Section 23(2) of the Hindu Adoptions and Maintenance Act, 1956 as guidance on status, reasonable wants and resources.

4. Issues : (i) Whether the husband's voluntary house-loan instalment should reduce the income considered for fixing his wife's Section 125 maintenance, notwithstanding the disclosed salary slip. (ii) Whether ₹5,000 under Section 125, subject to adjustment against a separate claimed ₹7,500 DV Act award, produced an adequate and realistic effective allowance under the *Rajnesh* factors. (iii) What enhanced amount, adjustment condition and commencement date should be ordered. Whether the DV Act award was being regularly paid was unknown to the applicant's counsel and was not factually determined in this revision.

5. Ratio / Findings : The loan was a voluntary repayment of a lump sum received in advance, not a compulsory statutory deduction. The Court therefore declined to subtract its ₹13,700 instalment from the July 2024 net salary of ₹38,373 to accept the husband's proposed lower effective income. It

recorded the wife's allegation that the loan was taken after separation and noted the voluntary nature of the deduction and the advance already received. The Court then applied the quoted *Rajnesh* guidance: maintenance is meant to protect a dependent spouse, without punishing the payer, through a realistic balance of resources, needs, status and prices rather than a formula. The husband said a separate DV Act award was ₹7,500, while payment regularity was unknown. Assuming that the Family Court's adjustment condition applied to that award, the additional ₹5,000 Section 125 order would have no practical effect and the total monthly entitlement would remain ₹7,500. In view of the price index, the parties' status and the cost of daily necessities, the Court regarded that amount as too low. It raised the Section 125 figure to ₹7,500 but retained adjustment against the DV Act or other statutory maintenance; the finding concerns the adequacy of maintenance on this record and does not provide for double payment.

6. Relief : The Hon'ble High Court allowed the criminal revision. The ₹5,000 monthly Section 125 award was enhanced to ₹7,500, subject to adjustment of maintenance awarded under the DV Act or another statute. The enhanced amount is payable from the date of Monika's application, not merely from the revision order.

Monika v. Praveen, Cr.R. no. 205/2024, 09/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Domestic Violence Act — interim residence / concurrent Section 125 rent - A rent component in an existing Section 125 CrPC maintenance order does not, by itself, bar interim residence in the shared household under Sections 19 and 23 of the Protection of Women from Domestic Violence Act, 2005. The Court rejected the respondents' claim that the two forms of relief were mutually exclusive; an alteration of maintenance may instead be sought under Section 127 CrPC. A pending divorce petition did not sever the admitted subsisting marital ties or make the 2005 Act inapplicable.

Domestic Violence Act — shared household / interim prima facie burden - Where the wife asserted that she had lived in the house after marriage and the respondents could point to no reply or material to the contrary, the Court held that the Magistrate and appellate court erred in putting a reverse burden on her at the interim stage. It set aside both refusals and ordered peaceful residence; the main Section 12 proceeding remained pending, with no final title or domestic-violence merits finding.

Adjournment — counsel's preparedness / court control - After respondents had appeared for months without filing a reply, their request for further time was refused. Relying on its earlier *Nandu @ Gandharva Singh* decision and its discussion of *N.G. Dastane v. Shrikant S. Shinde, (2001) 6 SCC 135*, and *Noor Mohammed v. Jethanand, (2013) 5 SCC 202*, the Court stressed counsel's duty to prepare, avoid needless delay and assist timely adjudication. The quoted Supreme Court discussions concern misconduct and the systemic harm of routine adjournments; this order did not finally adjudicate a disciplinary complaint against the respondents' counsel.

Case-note :- ***1. Facts :*** Neha Jain, describing herself as the legally wedded wife of respondent Rahul Jain, pursued an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005. She sought an interim order under Section 23 permitting her to reside in a house that she said was the shared household where she had lived after marriage. The Judicial Magistrate First Class, Bhopal, rejected the interim request on 13 April 2022 in MJC R No. 2991/2019. The 14th Additional Sessions Judge, Bhopal, affirmed that decision on 12 January 2023 in Criminal Appeal No. 305/2022. The stated reason was that an earlier maintenance order under Section 125 CrPC already included rent for her separate residence. The wife invoked Section 482 CrPC to have those orders set aside.

At the High Court hearing the respondents, whose counsel had appeared in August 2023, sought time to file a reply; no reply had been filed. The Court first dealt at length with this request and rejected the adjournment. It also noticed that the original vakalatnama had not been filed and that the online copy lacked the requisite court-fee and welfare-fund contributions under the High Court Rules. It directed the Registrar General to seek explanations from identified Registry personnel and take lawful action, and directed initiation of a proceeding concerning a dealing assistant's conduct in Court. These were separate administrative directions, not a judicial finding that the respondents' counsel was guilty in a completed disciplinary process.

On the merits, the wife argued that the 2005 Act permitted relief notwithstanding maintenance and rent under Section 125. The respondents relied principally on that existing rent component, although the maintenance order itself was not placed on the High Court record, and referred to a pending divorce petition. They also contended that she had not filed documents proving that the house was a shared household. When asked, counsel could not point to a reply to the interim application, saying evidence could be led in the still pending Section 12 case. The Court determined interim relief on this record rather than finally trying title, domestic violence, or the main application.

2. Precedents — Considered : On adjournment, the Judge quoted the High Court's earlier order in *Nandu @ Gandharva Singh v. Ratiram Yadav and others*, M.P. No. 1887/2017, dated 9 January 2019. That discussion treated repeated, unjustified postponement and an advocate's duty to the Court as serious professional concerns. The present Judge used it to refuse an adjournment requested after prolonged inaction; the cited matter did not supply a finding of misconduct against this counsel in an independent disciplinary proceeding.

Nandu reproduced substantial extracts from *N.G. Dastane v. Shrikant S. Shinde, (2001) 6 SCC 135*. The quoted Supreme Court reasoning distinguishes professional misconduct from mere inadvertent negligence, explains an advocate's duty when court proceedings and witnesses are needlessly delayed, and describes the Section 35 Advocates Act referral threshold for a genuine complaint. The present order adopted the need to resist unnecessary delay.

The quoted *Nandu* passage also reproduced *Noor Mohammed v. Jethanand, (2013) 5 SCC 202*. *Noor Mohammed*'s treatment of procedural time limits cautions that a directory provision should not be turned into an automatic substantive bar to a defence merely because of delay; its extensive discussion of routine adjournments stresses effective progress, reciprocal duties of Bar and Bench, and public confidence in timely justice. The present Court relied on that discussion of avoiding delay to deny further time on the facts. Authorities appearing only inside those long Supreme Court quotations—among them *Shiv Cotex*, *Ramon Services*, *Lt. Col. S.J. Chaudhary*, *Mahabir Prasad Singh*, *Babu Singh*, *Hussainara Khatoon* and *Zahira Habibulla H. Sheikh*—were part of the quoted *Nandu* discussion.

3. Statutes considered : Section 12 of the Protection of Women from Domestic Violence Act, 2005 governed the main pending application. Section 23 supplied the mechanism for interim orders, including interim residence relief under Section 19. The Court read Section 19 as remaining available despite a rent component in a separate maintenance order. Section 20(1)(d), invoked by the wife concerning monetary relief alongside Section 125 CrPC, formed part of her submission; the Court's operative reasoning on residence centred on Sections 19 and 23. Section 125 CrPC was the source of the pre-existing maintenance/rent order, which was not produced before the High Court; Section 127 CrPC was identified as the route by which respondents could seek alteration of that maintenance amount if appropriate. Section 482 CrPC was the jurisdiction invoked to challenge the Magistrate's and appellate court's orders. The High Court Rules were separately invoked for original vakalatnama, court-fee and welfare-fund filing requirements.

4. Issues : (i) Whether an existing Section 125 CrPC order said to include rent for separate accommodation automatically excludes interim residence in a shared household under Sections 19 and 23 of the 2005 Act.

(ii) Whether the pendency of a divorce petition, while the parties' marital ties admittedly subsist, prevents application of the 2005 Act.

(iii) What prima facie treatment of the claimed shared household was required on the interim application when the wife alleged prior residence there and the respondents could identify no filed reply or contrary material.

(iv) Whether respondents who had appeared months earlier without a reply were entitled to an adjournment, and what weight should be given to the cited judicial discussion of counsel's preparedness and delay. The separate Registry directions concerned filing irregularities, not the merits of residence.

5. Ratio / Findings : The Court rejected the proposition that the Section 125 rent component made Section 19 inapplicable. It observed that a residence order under Section 19 was not subject to the exclusion claimed by the respondents merely because they had been directed to pay rent for separate accommodation. The two forms of relief were not treated as automatically mutually exclusive; the respondents remained free to seek alteration of the Section 125 amount under Section

127 CrPC. Because the divorce petition was pending and the marriage had admittedly not been dissolved, the Court found no basis to decline to apply the 2005 Act on that ground.

The wife's assertion that she had lived in the house after marriage supplied the factual basis for the interim request. The respondents offered no identified reply to the Section 23 application and no material showing that the property was not a shared household. The Court held that, at this provisional stage, placing a reverse burden on the complainant to prove the character of the house through documents before granting any interim protection was erroneous. It therefore found material illegality in both orders refusing interim residence. This conclusion is tied to the interim record and does not decide ownership, every statutory ingredient in the pending Section 12 case, or the final merits after evidence.

On the adjournment, respondents' counsel had entered appearance on 19 August 2023, but no reply had followed. The Court reasoned that notice calls for a defence rather than repeated requests for postponement and that counsel must prepare and assist the Court. In relying on *Nandu* and the reproduced *N.G. Dastane* and *Noor Mohammed* discussions, it stressed the harm that unjustified adjournments cause to the administration of justice while recognising that the quoted authorities arose in their own contexts. It refused time. The quoted *Nandu* order contained broader comments about professional misconduct and expressly declined action at that stage in that earlier matter. The specific action directed against Registry personnel was separate from this conclusion.

6. Relief : The Hon'ble High Court allowed the Section 482 petition, set aside the appellate order dated 12 January 2023 in Criminal Appeal No. 305/2022 and the Magistrate's order dated 13 April 2022 in MJC R No. 2991/2019, and directed respondents to allow Neha Jain to reside in the shared household without hindrance to peaceful possession or harm during her stay. The adjournment was refused. The main Section 12 application was still pending on the record described by the Court; no final ownership or domestic-violence adjudication was made. Separately, the Registrar General was directed to seek explanations and take lawful action concerning the original vakalatnama, court fee and welfare-fund issues, and to initiate a proceeding concerning the dealing assistant's conduct.

Neha Jain v. Rahul Jain and Others, M.Cr.C. no. 19092/2023, 13/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Related and interested witnesses / prior enmity - The Court followed *Jayabalan v. UT of Pondicherry, (2010) 1 SCC 199*: relationship alone did not disqualify testimony; the evidence required cautious scrutiny for consistency, without automatic suspicion. Prior hostility could cut either way. On the evidence, the Court accepted the deceased's family witnesses after considering their accounts with the dying statements and medical evidence.

Contradictions and omissions / materiality - The Court treated the identified variations, including an omission in Vinod's police statement and differing accounts of participation, as insufficient to overturn what it regarded as the consistent core of the prosecution case. Its conclusion depended on the entire record.

Seizure / independent witnesses - Although the two named witnesses denied that Ex. P9 was prepared in their presence, the investigating officer's testimony supported seizure of the burnt clothing, matchbox and container and dispatch to FSL. The Court did not accept that this objection alone left the seizure unproved.

Dying declaration / truth, voluntariness and corroboration - Applying *Mannu Raja v. State of M.P.*, [1976] 2 SCR 764, *State of U.P. v. Ram Sagar Yadav*, and *Ramawati Devi v. State of Bihar, (1983) 1 SCC 211*, the Court held that a true, voluntary declaration can form the basis of a conviction without a mandatory corroboration rule. It considered *Surajdeo Oza v. State of Bihar*, 1980 Supp SCC 769, on brevity not itself requiring rejection, and found Ex. P7 trustworthy, with other evidence also supporting it.

Police-recorded dying statement / fitness and form - Following *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, and *Nanhau Ram v. State of M.P., 1988 Supp SCC 152*, the Court accepted that a definite oral statement reduced to writing by police is not inadmissible merely for want of an oath, Magistrate or doctor's fitness certificate. Fitness, truth and voluntariness must still be established from the circumstances; the Court accepted Rambai's Ex. P7 on that basis.

Dying declaration / serious burns and communication - Considering *Mafabhai Nagarbhai Raval v. State of Gujarat*, and *State of M.P. v. Dal Singh, (2013) 14 SCC 159*, the Court rejected an automatic inference of incapacity from the extent of burns. It found Rambai capable of speaking despite severe injuries and relied on her statement after assessing its reliability.

Case-note :- ***1. Facts :*** On 18 October 2009 in Sarkhandi, Vidisha district, Rambai was burned after a confrontation outside her house. Her Dehati Nalishi, Ex. P6, recorded on the spot by Head Constable Bharat Singh Thakur, alleged that Pooran poured kerosene on her and Omkar lit it with a match, with Chintoo and Pooran holding her; she also named Pratap, Hukum and Kallu in the encounter. The account attributed a prior dispute with neighbour Pratap. Police registered Crime No. 247/2009 initially under IPC Sections 147, 148 and 307. Bharat Singh also reduced Rambai's further account to writing as Ex. P7. At medical examination Dr P.K. Jain recorded extensive burns, assessed at about 70%, and testified that Rambai identified Pooran and Omkar as having set her alight. She was transferred for burn treatment at Hamidia Hospital, Bhopal and died. The post-mortem doctor described second- to third-degree burns and cardio-respiratory failure resulting from those injuries; he could not determine from the examination alone whether the burning was suicidal, homicidal or accidental.

Police seized burnt clothing, a matchbox and a container under Ex. P9 and sent articles for forensic examination. Two seizure witnesses said that the memo had not been prepared in their presence; the investigating officer testified to the seizure and dispatch. Shakunbai (PW7), Vinod (PW8) and Rupabai (PW11), all family members, supplied testimony about the encounter or its immediate aftermath. Their descriptions of the participants varied, Vinod's earlier police statement omitted the asserted pouring and lighting, and the defence pointed to earlier hostility. Rupabai's evidence placed her arrival when Rambai was already burning. The defence also relied on Randhir Singh (DW1), who attributed the burning to Rambai's husband Harisingh. It alleged false implication arising from enmity and argued that Rambai's severe burns, lack of a doctor's recorded statement or certification and police recording made Ex. P7 unreliable. The judgment records Harisingh's subsequent death after taking a sulphur tablet.

After a Sessions trial, the First Additional Sessions Judge, Vidisha convicted and sentenced the appellants under IPC Section 302 to life imprisonment, a fine of ₹5,000 each and five months' further rigorous imprisonment in default. In Criminal Appeal No. 646 of 2011 under CrPC Section 374, they sought reversal for alleged errors in evaluating related witnesses, contradictions, seizure and Rambai's statements. The State defended the conviction.

2. Precedents — Considered : *Jayabalan v. UT of Pondicherry, (2010) 1 SCC 199*, was quoted for a careful but not pedantic approach to interested testimony: the court should look for consistency without disregarding a witness solely for close relationship to a victim. The Division Bench used that approach in evaluating the deceased's relatives and the alleged enmity, rather than treating kinship as disqualification.

Mannu Raja v. State of M.P., [1976] 2 SCR 764, was invoked for the absence of an absolute rule of law or prudence demanding corroboration of a dying declaration. *State of U.P. v. Ram Sagar Yadav*, and *Ramawati Devi v. State of Bihar, (1983) 1 SCC 211*, supplied the associated true-and-voluntary test permitting conviction on a declaration without corroboration. These authorities framed the Bench's acceptance of Ex. P7; the Bench also examined eyewitness and medical evidence.

Nanhau Ram v. State of M.P., 1988 Supp SCC 152, was cited on assessment of the maker's mental fitness: medical opinion is ordinarily sought, while evidence that the declarant was conscious and fit may establish capacity. *Laxman v. State of Maharashtra, (2002) 6 SCC 710* (five-Judge Bench), was discussed at length. It recognises declarations made orally, in writing or through another positive and definite form of communication, and recording by a police officer as well as a doctor or Magistrate; a Magistrate, oath and doctor's certificate are not absolute conditions. The recorder's satisfaction about fitness and the court's assessment of voluntariness and truth remain central; certification is a caution, and evidentiary weight depends on the facts. The Bench applied these principles to Ex. P7, an oral account written by police, despite the absence of a doctor's statement or certificate. It did not hold that any police-recorded statement is automatically reliable.

Surajdeo Oza v. State of Bihar, 1980 Supp SCC 769, was cited for the proposition that brevity alone does

not justify rejecting a dying declaration. The Bench included this among the reliability principles before accepting Rambai's account.

Mafabhai Nagarbhai Raval v. State of Gujarat, and *State of M.P. v. Dal Singh, (2013) 14 SCC 159*, were discussed for the limited point that even extensive burns do not necessarily prevent a person from making a reliable dying declaration. The Bench used those authorities, together with the medical description and its view of Rambai's consciousness, to reject the appellants' capacity objection. It also referred to Mody's Medical Jurisprudence on burn degrees; that reference was explanatory medical material, not a judicial precedent or a substitute for proof of capacity in this case.

3. Statutes considered : Section 32 of the Indian Evidence Act, 1872 governed the relevance and evaluation of Rambai's statements concerning the cause of her death. The Bench assessed the trustworthiness and voluntariness of her police-recorded Ex. P7, the adequacy of her ability to communicate, and whether a doctor's certificate, Magistrate or corroboration was legally essential.

IPC Section 302 was the offence of conviction and sentence under appeal. The FIR initially invoked Sections 147, 148 and 307; the police report and charges also referred to Sections 149 and 302 after Rambai's death. Those sections appear in the procedural background. CrPC Section 374 supplied the appellate route. Section 313 CrPC statements recorded the accused's denials and false-implication defence; Section 174 concerned the inquest after death.

4. Issues : (i) Whether close relationship to Rambai and the prior dispute required rejection of the prosecution witnesses, and whether contradictions and omissions undermined the core account of the burning. (ii) Whether the two seizure witnesses' denial of presence rendered Ex. P9 unproved despite the investigating officer's evidence. (iii) Whether Rambai's Ex. P7 and Ex. P6 could be relied on as statements concerning her fatal injuries, including whether a police-recorded oral declaration required a Magistrate, doctor's recording or fitness certificate, or mandatory corroboration. (iv) Whether the severity of her burns showed incapacity to communicate. (v) Whether DW1's alternative accusation against Harisingh and the post-mortem doctor's inability to classify the manner of burning created reasonable doubt requiring reversal of the murder conviction.

5. Ratio / Findings : On witness credibility, the Bench adopted *Jayabalan*'s distinction between careful scrutiny and automatic suspicion. It acknowledged variations in the relatives' evidence and the earlier hostility, but regarded the discrepancies as minor in the totality of what it considered a consistent account. It held that enmity could be a motive for assault or false implication and called for deeper scrutiny, not an automatic adverse presumption. The court compared the eyewitness accounts, Rambai's own statements and medical evidence before affirming the trial court's reliance on those witnesses.

On seizure, PW4 and PW5 said Ex. P9 was not prepared in their presence. PW12, the investigating officer, described seizure of the burnt articles and container and their dispatch to FSL Sagar. The Bench held that this testimony answered the defence contention that the seizure was unproved. The Court relied on the statements, witnesses and medical cause of death.

On Rambai's statements, the Bench applied Section 32 and the Supreme Court principles requiring truth and voluntariness, without an inflexible corroboration prerequisite. It treated Ex. P7 as Rambai's oral account reduced to writing by police and also relied on the earlier Dehati Nalishi Ex. P6. *Laxman* supplied the distinction between a useful medical fitness certification and a legal condition of admissibility; the absence of a Magistrate, oath or doctor's recording did not by itself defeat this statement. The Bench found Rambai conscious, able to speak and trustworthy when she gave the account. Its use of *Mafabhai* and *Dal Singh* concerned this factual capacity and reliability inquiry, while fitness still had to be established. The Court also noted that a short declaration is not automatically suspect under *Surajdeo Oza*.

The doctor attributed death to burn injuries, while conceding that the post-mortem examination alone could not determine whether the fire was inflicted, accidental or self-caused. The Bench used the accepted declarations and other testimony to resolve that evidentiary question. It disbelieved DW1's account implicating Harisingh, noting his asserted position at the scene and failure to help extinguish the flames and finding his defence version unreliable. It concluded that the trial court's murder conviction and sentence warranted no appellate interference.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the First Additional Sessions Judge's judgment of 10 June 2011 in Sessions Trial No. 03/2010, including the appellants' life imprisonment under IPC Section 302, fine of ₹5,000 each and five months' additional rigorous imprisonment in default. The appellants stated to be in jail were directed to remain there to serve the remaining sentence. Copies were directed to the jail authorities and, with the lower court record, to the trial court for information and follow-up. No acquittal, offence conversion or sentence modification was ordered.

Omkar and Ors. v. State of MP, Cr.A. no. 646/2011, 05/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR non-registration / High Court route and alternative remedy - Applying *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, and *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, the Court distinguished the police duty to register cognizable information from the complainant's procedural remedy for inaction. The Court declined a routine direction to the police in view of the remedies before the Magistrate; the quoted authorities preserved rare Article 226 intervention for a clear abuse or mala fide investigation. *Shweta Bhadauria*, W.A. 247/2016, applied restraint in view of the alternative remedies subject to recognised exceptions. The Section 482 petition was dismissed without assessing the complaint's merits.

Magistrate redress / FIR and proper investigation - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, were adopted: after recourse to the police superior under Section 154(3) CrPC, an aggrieved person may invoke Section 156(3), and a Magistrate who is satisfied that prima facie grounds exist may order registration, proper investigation and monitoring without investigating personally. *Aleque Padamsee* and *Divine Retreat Centre*, drawing on *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union*, also identified the Sections 190/200 complaint route. Liberty was given to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.

Case-note :- ***1. Facts :*** Omprakash Jatav asserted that he had complained to police but no FIR was registered. He filed Misc. Criminal Case No. 54263 of 2024 under Section 482 CrPC, seeking a direction to police to register an FIR. The prayer reproduced in paragraph 1 sought registration of an FIR against respondents 5–8 and legal action against the police-station officer identified in that prayer. Counsel for the State objected that an effective remedy lay before the Magistrate under Section 200 CrPC, identified also as Section 223 BNSS. The Court considered whether this direct High Court route for FIR registration was maintainable, cited Supreme Court and Madhya Pradesh Division Bench authority, and reserved the applicant's recourse to the Magistrate.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at length. It distinguished the substantive police duty to register information revealing a cognizable offence under Section 154 CrPC from the remedy for failure: complaint to the competent Magistrate under Sections 190 and 200. Its treatment of *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, concerned the procedural route. It explained that *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, reiterated in *Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, spoke to the police's registration duty, not to bypassing that Magistrate route. The present Court used this distinction to reject routine direct relief.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted for the exceptional Article 226 power where a clear abuse of investigation or mala fide action and Chapter XII non-compliance are shown. Even then, a court may demand observance of the statutory process but not dictate how police investigate. Its quotation of *Gangadhar Janardan Mhatre*, which in turn referred to *AIIMS Employees' Union*, explained a Magistrate's options on a private complaint: enquire, direct police investigation and a report when warranted, dismiss under Section 203 if no offence emerges, or take cognizance and issue process on a prima facie case. The Bench adopted the alternative-remedy framework.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, supplied the staged recourse to the Superintendent of Police under Section 154(3), then to the Magistrate

under Section 156(3) if registration or proper investigation still fails. A Magistrate may order registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, applied that line to prefer Section 156(3) over routine Article 226 petitions; upon prima facie satisfaction a Magistrate may ensure proper investigation, monitor it and, if necessary, recommend a change of investigating officer, but cannot investigate personally. The present Bench quoted and applied these as available procedural remedies.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016 (Division Bench, Gwalior, 20 December 2016), was treated as the local Division Bench authority on restraint in issuing mandamus for FIR registration when Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four recognised *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, exceptions. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, as governing the police's Section 154 duty rather than automatic entitlement to a High Court writ without exhausting statutory alternatives. *Whirlpool* and *Lalita Kumari* entered through that adopted Division Bench passage.

3. Statutes considered : The application invoked Section 482 of the Code of Criminal Procedure, 1973. Section 154 concerned police registration of cognizable information and subsection (3) recourse to a senior police officer. Section 156(3) permits a Magistrate, upon appropriate satisfaction, to direct registration or proper investigation. Sections 190 and 200 provide the complaint and cognizance route on police inaction; the quoted *Gangadhar* passage discussed a Magistrate's inquiry, police referral, dismissal under Section 203 and process if a prima facie offence appears. Article 226 was addressed in the precedents and the Division Bench's writ-remedy discussion, while Jatav's application was labelled Section 482. The final order referred to Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 as the corresponding complaint route. The liberty was expressed in both statutory references.

4. Issues : (i) Whether the applicant's allegation of non-registration warranted a direct High Court direction under Section 482 when ordinary remedies before the senior police officer and Magistrate were available. (ii) How the police's Section 154 duty relates to the procedural course for an aggrieved informant, including a Magistrate's power to order and monitor investigation. (iii) Whether any exceptional constitutional intervention displaced the alternative-remedy approach on the material stated in this order.

5. Ratio / Findings : The Court adopted *Aleque Padamsee*'s distinction: police must register information that discloses a cognizable offence, but an aggrieved informant ordinarily pursues the specified statutory remedies if the officer does not comply. The Court did not treat that substantive duty as entitling the informant to a writ of mandamus as a matter of course. The Supreme Court's reconciliation of *Ramesh Kumari* and the complaint-route cases prevented confusion between what police must do and what an informant aggrieved by police inaction may ask a High Court to compel in the first instance. On the petition as presented, Jatav had an effective remedy before the Magistrate.

Divine Retreat Centre preserved rare Article 226 intervention for demonstrable mala fides or clear abuse of statutory investigative power, while limiting a court's ability to prescribe particular police methods. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* provided the more direct Sections 154(3) and 156(3) course and the Magistrate's conditional power to secure proper investigation. The Division Bench in *Shweta Bhadauria* applied restraint in view of alternative remedies while preserving *Whirlpool* exceptions and distinguishing *Lalita Kumari*'s treatment of the duty to register an FIR. The present Court therefore declined to issue the FIR-registration direction, while making clear that a Magistrate could entertain the applicant's grievance according to law.

6. Relief : The Hon'ble High Court dismissed the application. It granted liberty, if Jatav wished, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS for redress. The requested direction to register an FIR and take legal action against the station officer was declined.

Omprakash Jatav v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 54263/2024, 18/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Adverse judicial strictures / prior hearing - Applying *Manish Dixit v. State of Rajasthan, (2001) 1 SCC 596*, including its reliance *on Dilip Kumar Deka v. State of Assam*, the Court held that serious remarks affecting an identifiable officer's reputation or career require an opportunity

to answer the proposed criticism. The Single Judge's paragraphs 12–13 had been issued without notice; they were set aside. Paragraph 12 was treated only as prima facie reasons supporting a show-cause notice, the officer was allowed one month to reply, and the Single Judge was to reconsider any final adverse remarks or DGP referral. Writ-appeal maintainability remained pending before a Full Bench; bail granted in the underlying criminal appeal was left intact.

Case-note :- ***1. Facts :*** In Criminal Appeal No. 13186/2024, a Single Judge had granted bail and, in paragraphs 12 and 13 of the same order dated 23 January 2025, made adverse remarks about the working and integrity of Omprakash Rawat, an officer connected to the prosecution/investigation, with consequential directions to the Director General of Police. The appeal against those paragraphs was Writ Appeal No. 267 of 2025 under Section 2(1) of the M.P. Uchcha Nyayalaya (Khand Nayaypeeth Ko Appeal) Adhiniyam, 2005. Rawat's only stated challenge to the strictures was the absence of prior hearing or show-cause notice.

The State raised a preliminary objection that an intra-court writ appeal could not lie against remarks made in a criminal appeal, suggesting Supreme Court recourse. Rawat replied that the same maintainability question was pending before a Full Bench in W.A. No. 990/2021. The Division Bench expressly did not resolve that larger question. It addressed the specific denial of an opportunity to be heard without waiting for the reference, because this dispute did not call for factual adjudication of the officer's alleged lapses at that stage. The Bench made no finding that Rawat was innocent of any investigative lapse or that final strictures were justified.

2. Precedents — Considered : *Manish Dixit v. State of Rajasthan, (2001) 1 SCC 596*, was quoted for the Supreme Court's repeated caution that a court should first hear a person before making castigating remarks, especially where career consequences may follow. The quoted passage expressly framed the requirement as natural justice, not a determination of the truth of the proposed criticism. It also referred to earlier Supreme Court rulings, including *State of U.P. v. Mohd. Naim*, *Ch. Jage Ram v. Hans Raj Midha*, *R.K. Lakshmanan v. A.K. Srinivasan*, *Niranjan Patnaik v. Sashibhusan Kar*, and *State of Karnataka v. Registrar General, High Court of Karnataka*, as a supporting line.

Manish Dixit reproduced the material reasoning of *Dilip Kumar Deka (Dr.) v. State of Assam*: severe aspersions on persons who were not parties to the proceeding, made without an opportunity to defend themselves, could affect character, reputation and career and violated fundamental natural justice. The present Division Bench adopted that precise notice rule for Rawat, whose integrity had been questioned without a show-cause notice. The Full Bench reference in W.A. No. 990/2021 was pending, not a precedent deciding maintainability, and the Division Bench made no contrary holding on it.

3. Statutes considered : Section 2(1) of the M.P. Uchcha Nyayalaya (Khand Nayaypeeth Ko Appeal) Adhiniyam, 2005 was the provision invoked for the intra-court writ appeal. The State disputed its application to an order in criminal proceedings, and a related question awaited the Full Bench. The Division Bench did not finally construe the section or settle the jurisdictional objection; it confined its decision to the denial of an opportunity to be heard. The bail in the underlying Criminal Appeal No. 13186/2024 remained governed by the Single Judge's order and was expressly preserved.

4. Issues : (i) Whether adverse remarks questioning a person's working and integrity, with possible DGP action, could stand when the person had not been notified or heard before the criminal appellate order. (ii) What limited corrective order would allow a fair response without prejudging the officer's conduct or disturbing the bail already granted. (iii) Whether the State's objection to intra-court appeal maintainability had to be decided while an equivalent question remained with the Full Bench; the Division Bench expressly left that issue unresolved.

5. Ratio / Findings : The Bench accepted that honest and efficient investigation matters to public order, but held that this did not remove the affected officer's entitlement to an opportunity to answer proposed integrity findings. The *Manish Dixit* and *Dilip Kumar Deka* passages supplied the natural-justice rule for serious strictures that could affect a person's career. Since no show-cause notice was issued before paragraphs 12 and 13 were made, those final observations could not stand in their existing form. The court did not test the substance of the prosecution lapses or the officer's defence. It converted paragraph 12 into prima facie reasons and a show-cause notice only, expressly withholding any finding of guilt, then required the Single Judge to decide afresh whether adverse remarks or a DGP referral remained justified after the reply and the

available prosecution and defence material were considered.

The court noted the State's jurisdictional objection and the pending Full Bench reference, but resolved this appeal's specific hearing defect for complete justice without announcing a general rule that such writ appeals are maintainable. The Court expressly left the maintainability question open and confined the remand to the adverse remarks. It did not alter the criminal appeal's bail determination.

6. Relief : The Hon'ble High Court set aside the observations in paragraphs 12 and 13 of the Single Judge's order of 23 January 2025 as final strictures. Paragraph 12 was treated as a show-cause notice and prima facie grounds only. Rawat was directed to file his reply in criminal appeal within one month of the date of this order. The Single Judge was requested to decide thereafter whether any adverse remarks or referral to the DGP, Bhopal, should be made after considering the prosecution lapses and Rawat's defence. The matter was remanded for that purpose alone; the previously granted bail remained intact. The writ appeal was disposed of, with its general maintainability question left to the pending Full Bench.

Omprakash Rawat v. Deepak Sengar and Ors., W.A. no. 267/2025, 13/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial FIR / civil proceeding and alleged counterblast - Following *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, the Court held that a criminal complaint after divorce proceedings is not retaliatory merely because it was filed later. The High Court cannot quash under Section 482 CrPC by substituting extraneous civil findings for the FIR's allegations; civil and criminal questions proceed independently with different standards. The pending appeal from dismissal of the civil suit did not, by itself, establish bad faith or defeat the Section 498-A/34 IPC and dowry allegation.

Preliminary inquiry / cognizable matrimonial information - Applying *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, and *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045/2021* (8 October 2021), the Court held that an inquiry may be desirable in some family disputes but is not a mandatory pre-registration safeguard whose omission vitiates an FIR. Section 154 CrPC requires immediate registration where information discloses a cognizable offence; any permissible inquiry tests whether the information discloses a cognizable offence, rather than whether the accusation is true. *Thommandru*'s discussion of *Yashwant Sinha*, *Managipet* and *Charansingh* reinforced the contextual, non-mandatory nature of preliminary inquiry. The quashing application failed.

Case-note :- ***1. Facts :*** Omprakash Uikey and other applicants challenged Crime No. 0006/2024 at Mahila Thana, Mandla, registered on 23 February 2024 for IPC Sections 498-A and 34 and Section 4 of the Dowry Prohibition Act. The FIR had been lodged by respondent No. 2. The applicants had already instituted proceedings under Section 27 of the Special Marriage Act. According to counsel, respondent No. 2 appeared and moved an Order VII Rule 11 CPC application on 20 December 2023; the civil court allowed it and dismissed the suit as not maintainable on 11 January 2024. First Appeal No. 447/2024 against that dismissal remained pending. The applicants argued that the later FIR was a retaliatory counterblast to the civil proceedings, that police had conducted no preliminary inquiry before registering it, and that applicant No. 4's cancer and kidney ailment made her prosecution untenable.

In Miscellaneous Criminal Case No. 13457 of 2024 under Section 482 CrPC, the relief as reproduced primarily asked the High Court to call for the FIR record, but the Court addressed counsel's express grounds for quashing the FIR/proceedings. The Public Prosecutor appeared. The Court dealt successively with chronology and alleged counterblast, the claimed preliminary-inquiry requirement, and applicant No. 4's medical position.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was quoted and applied to the matrimonial counterblast argument. In that case the Supreme Court found it wrong to quash by adverse inference from delay and pendency of a divorce petition, since attempted reconciliation could explain waiting to complain and civil litigation cannot itself extinguish independent criminal proceedings. It invoked *the State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, illustrations and required the Section 482 court to assess the complaint or FIR allegations for a prima facie offence rather than rely on extraneous investigation or civil material. The present Judge used that limited principle to reject an automatic

inference from the Special Marriage Act chronology. The Court observed that civil findings do not bind a criminal court and standards of proof differ. The suit had been dismissed on maintainability and its appeal was pending.

Lalita Kumari v. Government of U.P., (2014) 2 SCC 1 (Constitution Bench), was quoted for Section 154's mandatory registration when information reveals a cognizable offence, the limited inquiry to determine cognizability when it is not clear, and the rule that preliminary inquiry does not test veracity. Its illustrative possible inquiry categories included matrimonial/family disputes, commercial offences, medical negligence, corruption and abnormal reporting delay; they were not an exhaustive list or an automatic entitlement for accused persons. The quoted directions included prompt recording, closure reasons and diary entries, with a seven-day inquiry limit in the cited ruling. The Judge concluded that inquiry in a family matter may be desirable but its absence did not automatically invalidate this FIR.

CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045/2021, decided 8 October 2021, was then quoted extensively for its analysis of *Lalita Kumari*. It held that a preliminary inquiry is not mandatory even in the illustrated corruption category and cannot be made a precondition to an FIR on prima facie cognizable information; the CBI Manual is administrative guidance, not a statute overriding Section 154. *Thommandru* discussed *P. Sirajuddin v. State of Madras, (1970) 1 SCC 595*, for the sensitivity of corruption accusations against public servants; the *Yashwant Sinha* concurrence for a permissible preliminary inquiry where public-figure corruption or delay raises the question; *Managipet for the* absence of an accused's right to an inquiry and for assessment of the FIR as a whole under *Bhajan Lal*; and *Charansingh* for a permissible, contextual pre-FIR inquiry in disproportionate-assets allegations. Those corruption examples were part of the quoted Supreme Court reasoning; they were not held to be facts of this matrimonial FIR. The present Court adopted the common non-mandatory inquiry conclusion to reject the applicants' objection.

3. Statutes considered : Section 482 CrPC was invoked to challenge the FIR under the Court's inherent powers. The Court used the prima facie FIR and abuse-of-process limits described in *Pratibha*, without conducting an evidentiary trial. Section 154 CrPC governed police registration of cognizable information and the limited place of preliminary inquiry explained in *Lalita Kumari* and *Thommandru*. IPC Sections 498-A and 34 and Section 4 of the Dowry Prohibition Act were the alleged offence provisions in Crime No. 0006/2024. Section 27 of the Special Marriage Act governed the earlier matrimonial proceedings; Order VII Rule 11 CPC concerned dismissal of that suit as not maintainable, with a civil first appeal pending. The Court held that civil-court findings are not binding on the criminal court. Applicant No. 4's potential personal-appearance exemption was left to the trial court on a supported future application.

4. Issues : (i) Did the FIR's lodging after notice of Special Marriage Act proceedings alone show a retaliatory counterblast warranting quashing under Section 482? (ii) Was a preliminary inquiry mandatory before registration of this matrimonial FIR, such that omission vitiated it? (iii) Did applicant No. 4's asserted serious illness justify quashing her prosecution, and what narrower procedural remedy could she request?

5. Ratio / Findings : On counterblast, the Court rejected an inference based on timing alone. *Pratibha* explained why efforts to preserve a marriage may precede a later complaint after divorce litigation begins and why civil and criminal processes are independent even if their facts overlap. The Judge considered the 23 February FIR after the earlier suit and its 11 January dismissal, but found no basis in that sequence alone to label the FIR malicious. Civil-court findings were not to control the criminal case, and the burdens of proof differ. The ruling was confined to the ground advanced, not an independent finding that every FIR allegation was true or that genuine mala fides could never justify quashing.

On preliminary inquiry, the Court adopted *Lalita Kumari*'s governing distinction: if the information discloses the commission of a cognizable offence, police must register an FIR. If it does not itself disclose a cognizable offence but calls for inquiry, that inquiry may be limited to whether such an offence is disclosed, rather than whether the information is true. Matrimonial disputes appear in an illustrative list in which inquiry may be considered, not as a mandatory procedural step. The *Thommandru* quotation reinforced through the corruption-related cases that the absence of an inquiry does not itself confer a right to have the FIR quashed. The Judge therefore rejected omission of

preliminary inquiry as a defect automatically vitiating Crime No. 0006/2024.

Applicant No. 4's illness was not doubted for purposes of this narrow decision but, without more, did not bring the criminal proceedings to an end. The Court separated prosecution from the practical burden of attendance and permitted her to seek permanent exemption from personal appearance and representation through counsel, with the trial court to decide upon medical documents. This was a case-specific procedural liberty, not an acquittal or a finding on her alleged role. No other argument was advanced; the Section 482 application disclosed no ground for interference on the matters argued.

6. Relief : The Hon'ble High Court dismissed the application and did not quash the FIR or prosecution. Applicant No. 4 could apply to the trial court for permanent exemption from personal appearance, asking to be represented by counsel; the trial court was directed to consider and decide any such application after reviewing her medical documents. No exemption was granted outright.

Omprakash Uikey and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 13457/2024, 04/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Public-servant sanction / reasonable official-duty nexus - Applying *Gauri Shankar Prasad v. State of Bihar, (2000) 5 SCC 15, K. Kalimuthu v. State, (2005) 4 SCC 512, Shambhoo Nath Misra v. State of U.P., AIR 1997 SC 2102*, and *D. Devaraja v. Owais Sabeer Hussain, (2020) 7 SCC 695*, the Court held that Section 197 CrPC requires a reasonable connection between the alleged act and the protected public servant's actual or purported official duty. Excess does not alone remove protection; duty cannot be a cloak for an unrelated crime. *Gauri Shankar Prasad* and *Kalimuthu* also explained that sanction may be considered at a later procedural stage on appropriate material. The Court found the ranger's forest-protection arrest and ensuing scuffle sufficiently connected, so the CJM should not have taken cognizance without sanction.

Sanction / former officer - Section 197(1) expressly says "is or was"; retirement did not defeat protection for an otherwise qualifying act while the applicant was a forest ranger. The complainant's retired-status objection failed, subject to the same protected-status and official-nexus requirements.

Quashing / no prima facie hurt offence on the assessed account - Independently, the Court found the arrest memo and two FIR accounts showed forest personnel acting to protect land and custody against a village attack. It held that reasonable force in that setting did not disclose IPC Sections 323 or 325 by the ranger on the facts it assessed, rejected the unsupported Section 4 Forest Rights Act claim, set aside the 20 March 2018 cognizance order, and accepted the police closure report.

Case-note :- ***1. Facts :*** The dispute arose around forest officials' taking Ramdas into custody on 11 July 2007 near Village Thega, District Harda. According to Munni Bai's FIR (Crime No. 90/07, lodged 12 July), ranger Omprakash Patel and forest staff took her husband from their home, villagers intervened to release him, a scuffle followed, and officials assaulted her, Rambhaors and Phoolwati; police registered IPC Sections 323 and 325. Patel's separate FIR, Crime No. 76/07, alleged that the party found Ramdas and others ploughing forest land unlawfully, arrested Ramdas in forest-protection work, and was then surrounded, assaulted, held overnight and deprived of articles by villagers seeking his release. That counter-FIR named numerous IPC offences, and counsel said police charge-sheeted multiple villagers. The Court referred to an arrest memo in the case diary. These were competing accounts; the order ultimately assessed them for the sanction and cognizance issues.

Police filed a closure report in Munni Bai's case. After recording statements of the complainant and witnesses, the Chief Judicial Magistrate, Harda, rejected it and on 20 March 2018 took cognizance of Sections 323 and 325 against Patel in Criminal Case No. 190/2018. Patel applied under Section 482 CrPC to set aside the cognizance order and ensuing proceedings and to have the closure report accepted. His counsel argued, even assuming the complainant's account for the limited purpose of the petition, that the incident was inseparable from an official arrest and forest work and required previous sanction under Section 197. He also disputed the assault allegation. Respondent No. 2 acknowledged his former public office but argued he was no longer a government servant, and invoked forest dwellers' rights under Section 4 of the Forest Rights Act, 2006 to resist allegedly unlawful forest action. When asked for material showing qualifying possession of

the forest land at the relevant commencement date, her counsel conceded none was on record. The Court held the statutory protection applicable to the facts and status it assessed.

2. Precedents — Considered : *Gauri Shankar Prasad v. State of Bihar, (2000) 5 SCC 15*, was quoted extensively for Section 197's two threshold conditions: an eligible public servant not removable except with government sanction and an alleged offence committed while acting or purporting to act in official duty. The offence must have a reasonable and rational connection to that duty, not simply occur during service. The quoted ruling drew *on Matajog Dobey v. H.C. Bhari, AIR 1956 SC 44*, to explain that even an act exceeding what was necessary can retain the requisite connection if reasonably related to performance. It used *Suresh Kumar Bhikamchand Jain v. Pandey Ajay Bhushan, (1998) 1 SCC 205*, for the mandatory jurisdictional bar on cognizance and the possibility of raising sanction at any stage with relevant material; *State v. B.L. Verma, (1997) 10 SCC 772*, for purported-duty protection despite alleged abuse; and *N.K. Ogle v. Sanwaldas, (1999) 3 SCC 284*, as an illustration of a revenue officer's ostensibly official seizure. The present Court adopted the nexus and cognizance bar, not the facts of those other officials' cases.

K. Kalimuthu v. State, (2005) 4 SCC 512, was quoted for the middle course between treating every service-time offence as protected and denying all protection because crime is never an official duty. It reproduced *B. Saha v. M.S. Kochar, (1979) 4 SCC 177*, and *Matajog Dobey*'s reasonable-connection formulation: colour of office and even excess may suffice, but a fanciful duty claim or unrelated private crime cannot. The quoted ruling referred to *State of H.P. v. M.P. Gupta, (2004) 2 SCC 349*, *State of Orissa v. Ganesh Chandra Jew, (2004) 8 SCC 40*, *S.K. Zutshi v. Bimal Debnath, (2004) 8 SCC 31*, and *P.K. Pradhan v. State of Sikkim, (2001) 6 SCC 704*, for the same nexus and the possibility that sanction be evaluated at successive stages. The present Judge used that standard to assess the ranger's conduct at the cognizance challenge stage.

Shambhoo Nath Misra v. State of U.P., AIR 1997 SC 2102, was quoted for sanction where the charged act is integral to public duty, coupled with the important limit that public office cannot camouflage a crime unrelated to duty. *D. Devaraja v. Owais Sabeer Hussain, (2020) 7 SCC 695*, was quoted for the same distinction in the context of a police officer: the nexus is not lost merely by excess or illegality in an official investigation, but an unrelated assault is outside Section 197. That case also considered Section 170 of the Karnataka Police Act, which did not itself govern this Madhya Pradesh forest ranger. The Judge applied the general Section 197 test, not a Karnataka-specific sanction rule.

Counsel additionally cited *Rishipal Singh v. State of U.P.*, (2014) 7 SCC 215, and the Madhya Pradesh decision *Lalaram Khattar v. Himanshu Singh*, (2002) 1 MP Weekly Note 11.

3. Statutes considered : Section 197(1) CrPC barred cognizance without previous Central or State Government sanction, as applicable, for an eligible person who "is or was" a public servant not removable except with government sanction where the alleged offence was committed while acting or purporting to act in official duty. The court applied the official-duty nexus and the temporal wording after Patel's retirement. Other subsections of Section 197 were reproduced in the judgment, including their Armed Forces, President's Rule and prosecutorial-selection provisions. Section 190 CrPC was the general cognizance power displaced by the sanction prerequisite where Section 197 applies; Section 482 supplied the High Court's route to test the cognizance order and allegations. IPC Sections 323 and 325 were the hurt charges in Munni Bai's FIR and the CJM order. Patel's counter-FIR listed other IPC allegations against villagers.

Patel's account invoked Section 26 of the Indian Forest Act for the arrest in forest-land protection. Respondent No. 2 invoked Section 4 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Judge asked for evidence of possession at the relevant commencement date, found none presented, and rejected that assertion as an answer on this record. Section 170 of the Karnataka Police Act appeared only in the quoted *D. Devaraja* precedent and was not a governing local statute.

4. Issues : (i) Whether Section 197(1) prior sanction was necessary before the CJM could take cognizance against this ranger for alleged hurt occurring during an arrest and resistance to forest officials, including the boundary between reasonably connected official conduct and unrelated crime. (ii) Whether retirement at the time of cognizance removed the protection despite the statutory phrase "is or was". (iii) Whether, apart from sanction, the complaint's allegations and record as assessed disclosed Sections

323 or 325 against Patel, in light of his arrest record and counter-FIR. (iv) Whether respondent No. 2's claimed forest rights displaced the official-duty context on material actually before the Court.

5. Ratio / Findings : The Judge first set out the Supreme Court authorities on Section 197. *Gauri Shankar Prasad* and *K. Kalimuthu* required protected public-servant status and a real, rational official-duty nexus. *Matajog Dobey*, *B. Saha* and *D. Devaraja* showed that conduct in excess of duty can still be connected, while *Shambhoo Nath Misra* and *Devaraja* warned that office is not a shield for an unrelated private crime. *Suresh Kumar Bhikamchand Jain* and *P.K. Pradhan* explained the bar on cognizance and the possibility of assessing the need for sanction at different stages. Applying those rules, the Court noted that even Munni Bai's version involved officials taking Ramdas in custody and villagers obtaining his release, while Patel's FIR and the arrest memo described enforcement against attempted encroachment and an attack on the forest party. It found Patel acting in forest protection and the disputed force arising from that duty. It held that Section 197 sanction was required and the CJM had not addressed it before taking cognizance. The judgment's conclusion concerns this record, not an automatic entitlement for every forest employee or any assault simply occurring on duty.

The retirement objection failed separately because Section 197 expressly covers a person who "is or was" in protected public office when alleged official conduct occurred. The timing of retirement did not remove a protection otherwise established by status and nexus. On the Forest Rights Act argument, respondent No. 2 supplied no documents establishing qualifying possession of the land as counsel was asked to do. The Court rejected that justification for the villagers' intervention in the context of this petition.

The Court gave an additional, independent ground. It read the competing FIRs and the arrest record as showing that the forest party was attacked while taking a lawfully arrested person and could use reasonable force to prevent his removal from custody. In the Court's assessment, even the complainant's account taken at face value did not disclose hurt offences by Patel in this setting and instead supported the essentials of his counter-FIR. That is the judgment's finding on whether the material prima facie disclosed an offence, not a final acquittal after trial of every participant's disputed conduct. The combination of the sanction bar and no-offence conclusion required reversal of the CJM's rejection of the closure report.

6. Relief : The Hon'ble High Court allowed the application. It set aside the Chief Judicial Magistrate, Harda's order of 20 March 2018 in Criminal Case No. 190/2018 taking cognizance under IPC Sections 323 and 325 against Ompraksh Patel, and accepted the police closure report in Crime No. 90/07. The challenged criminal proceedings against this applicant consequently did not continue on that cognizance order.

Ompraksh Patel v. State of Madhya Pradesh and Ors., M.Cr.C. no. 21846/2018, 06/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Homicide — Section 300 thirdly / intentional injury - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, required proof of the bodily injury and its nature, intention to inflict that very injury, and its objective sufficiency in the ordinary course of nature to cause death; an intention to kill or an appreciation of the injury's lethal gravity is not a further element of Thirdly. The Bench explained the Section 299/300 distinction with *Arun Nivalaji More v. State of Maharashtra (Criminal Appeals 1078–1079 of 2005)* and *Anda v. State of Rajasthan, 1966 Cri LJ 171*, before testing the fatal head injuries and, separately, whether the appellant inflicted them. Homicidal deaths were proved, but it was not proved that the appellant inflicted the injuries.

Homicide — single injury / intention / exception - *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444, Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799, State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, were considered for the proposition that a killing by a single blow does not automatically fall under Section 304: the weapon, vital site, force and surrounding circumstances determine intention; a single deliberately inflicted injury may amount to murder. *Kanhaiyalal* discussed *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram*; *Bavisetti* discussed *State of Karnataka v. Vedanayagam and Virsa Singh*. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, and *Kanhaiyalal* explained Exception 4's cumulative requirements of sudden mutual fight,

heat of passion, no premeditation and no unfair advantage or cruelty. The Bench considered these principles before evaluating the evidence and ultimately acquitted the appellant.

Evidence — FIR / hearsay / eyewitness reliability - Atar Singh's immediate FIR named Battu and Shobharam; he arrived after the attack, and his attribution rested on what others told him, which the Court treated as inadmissible hearsay. The original informant was not examined; Diman described only a blow to one victim; other purported eyewitnesses were hostile, and material witnesses contradicted one another. These combined defects prevented reliable identification of Pahalwan as the assailant.

Evidence — recovery and medical proof - The officer recovered a luhangi from Pahalwan's room, while Diman described a lathi blow and expressly excluded a luhangi; Dr. Shakya considered the fatal injuries to both victims consistent with a lathi, which was not recovered from the appellant. The postmortems established homicidal deaths, but did not establish that he caused them. The inconsistency added substantial doubt to the defective ocular case.

Evidence — motive and rival suspects - The house-possession dispute, a quarrel with Battu and Shobharam two days earlier, and the FIR against those men supported a rival line of investigation; the prosecution established no motive for Pahalwan to kill his mother and daughter. Motive was one element in the cumulative assessment, not a substitute for proof that the other men were guilty.

Investigation — accountability / further investigation - Following *Ankush Maruti Shinde v. State of Maharashtra, (2019) 15 SCC 470*, and the guidance quoted in it requiring the responsible investigating or prosecuting officials to be identified after acquittal and their lapses assessed as innocent or blameworthy, the Court ordered DIG and Chief Secretary inquiries into what it found to be S.D. Nayar's intentional fabrication of the prosecution story and appropriate departmental action against erring serving officers within two months. It also ordered further investigation under Section 173(8) CrPC against the FIR-named Battu and Shobharam; their guilt remained to be investigated. A proposed investigation app and supervisory access under Section 165 Evidence Act were ancillary expectations, not the ground of acquittal.

Constitution — Article 21 / public-law compensation - The appellant's almost six years of incarceration following false implication warranted more than acquittal. *Ankush Maruti Shinde*'s Article 142 award was considered alongside *State of Gujarat v. Islamic Relief Committee of Gujarat, (2018) 13 SCC 687*, which confined public-law compensation to serious fundamental-right violations rather than every official default, and *S. Nambi Narayanan v. Siby Mathews, (2018) 10 SCC 804*, on malicious investigation violating liberty and dignity. *Islamic Relief* discussed *Hindustan Paper Corporation*, *Rabindra Nath Ghosal* and *Nilabati Behera* concerning the distinction between constitutional and private-law remedies; *Nambi Narayanan* reproduced *Delhi Judicial Service Association*'s fair-investigation principle. The Bench applied these principles to award ₹2,00,000 from the State, payable within one month with proof of payment within 45 days, while allowing recovery from the investigator and two witnesses and preserving a further civil suit without adjustment.

Case-note :- ***1. Facts :*** On 28 October 2000, Brijrani and Chandni, respectively the mother and daughter of Pahalwan Singh, suffered fatal head injuries in a village house associated with Pahalwan and his brother Atar Singh. Atar had bought the house for ₹12,000, paid by Pahalwan, while Battu Jatav and Shobharam Jatav occupied part of it and resisted vacating it. An informant told Atar of a quarrel; when he arrived, Brijrani was dead and Chandni injured. His prompt FIR named Battu and Shobharam as the killers and recorded their presence with a lathi. Chandni later died. The investigating officer, S.D. Nayar, instead prosecuted Pahalwan, relying in part on a memorandum and recovery of a luhangi from his room. Dr. M.M. Shakya's postmortems established homicidal death from destructive head injuries to both victims. In Sessions Trial 46/2001, the Additional Sessions Judge at Camp Seondha convicted Pahalwan under Section 302 IPC on two counts on 22 December 2003, imposing life imprisonment and ₹200 fine on each count, concurrent sentences and two months' additional rigorous imprisonment on each count in default. In his appeal under Section 374(2) CrPC, Pahalwan challenged the eyewitness accounts, the weapon mismatch, omission of named witnesses from the spot map, lack of motive and alleged false implication. The State defended the conviction. He had served almost six years in custody by the appellate decision.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the four-stage

enquiry under Section 300 Thirdly: injury and its nature, intention to inflict that injury, and its objective ordinary-course sufficiency to cause death. The Court explained and used the test as the governing legal framework, without treating fatal injury as proof that Pahalwan inflicted it. *Arun Nivalaji More v. State of Maharashtra (Criminal Appeals 1078–1079 of 2005)* explained Section 299's intention and knowledge limbs, the movement to the clauses and exceptions of Section 300, and the corresponding application of Section 304 Parts I and II when murder is not made out; the Bench reproduced this framework. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, explained the ordinary-course sufficiency threshold and relevance of weapon and bodily site. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, rejected automatic conversion of a single-blow killing to Section 304, emphasizing weapon, injury, site and manner. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, supplied a non-exhaustive set of circumstances for inferring intention and distinguishing Sections 302 and 304; *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, illustrated intention from a forceful crowbar strike on a vital part. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, reinforced that the number of blows is not decisive and discussed *Arun Raj v. Union of India, (2010) 6 SCC 457* (weapon and vital site), *Ashokkumar Magabhai Vankar v. State of Gujarat, (2011) 10 SCC 604* (forceful pestle blow) and *Leela Ram* (Exception 4 conditions). *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, likewise rejected a mechanical single-injury approach and quoted *State of Karnataka v. Vedanayagam, (1995) 1 SCC 326*, and *Virsa Singh* on the distinction between intending the actual injury and intending death. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, set out the conjunctive Exception 4 conditions: no premeditation, mutual sudden fight and heat of passion, and no undue advantage or cruel or unusual conduct. The Bench considered those homicide authorities before the evidence. *Ankush Maruti Shinde v. State of Maharashtra, (2019) 15 SCC 470*, was used for the requirement to identify and act on culpable investigative/prosecutorial lapses, and separately as an example of an exceptional ₹5 lakh Article 142 award to falsely implicated accused. The quoted passage within *Ankush* refers to *Kishanbhai*. *State of Gujarat v. Islamic Relief Committee of Gujarat, (2018) 13 SCC 687*, supplied the limit that judicial-review compensation in public law depends on infringement of Article 21 rather than every statutory or official wrong; its reproduced discussion of *Hindustan Paper Corporation*, *Rabindra Nath Ghosal* and *Nilabati Behera* differentiated constitutional compensation from private damages and required a sufficiently grave rights violation or conscious abuse. *S. Nambi Narayanan v. Siby Mathews, (2018) 10 SCC 804*, treated malicious criminal proceedings as an injury to liberty and dignity calling for a public-law remedy; its reproduced *Delhi Judicial Service Association* passage stressed fair police investigation and respect for an arrestee's constitutional rights. The Bench applied the compensation line to this appellant's unjust custody, while acknowledging that the Supreme Court's *Ankush* award rested on Article 142 and that compensation remains fact-sensitive.

3. Statutes considered : IPC Sections 299 and 300 distinguish culpable homicide from murder by intention, knowledge, injury and the specified exceptions; clause Thirdly of Section 300 concerns an intended bodily injury sufficient in the ordinary course of nature to cause death, and Exception 4 requires the conditions of a sudden fight without premeditation or unfair advantage. Sections 302 and 304 provide the corresponding murder and lesser-homicide consequences. The original conviction was under Section 302 on two counts; the Court did not enter a Section 304 conviction. CrPC Section 374(2) supplied the appellate jurisdiction; Section 161 statements, the recovery memorandum and Section 173(8) further investigation arose in the inquiry, with the latter expressly ordered against Battu and Shobharam. Article 21 protected personal liberty and grounded this Court's compensation order for unjust incarceration; the cited Supreme Court's ₹5 lakh award was expressly under Article 142, and Articles 226 and 32 arose in the quoted discussion of public-law relief. Section 165 of the Evidence Act was mentioned only in the Bench's ancillary expectation for technology-enabled access to investigation material during trial; it was not a basis for the acquittal or compensation.

4. Issues : (i) Were the deaths culpable homicide and, applying Sections 299 and 300 and the Supreme Court's injury/intention tests, murder? (ii) Did the FIR, eyewitness evidence, medical opinion, weapon recovery and motive establish beyond reasonable doubt that Pahalwan caused both deaths, despite the initial attribution to Battu and Shobharam? (iii) What

response was required to the investigator's apparent diversion of the case and the outstanding suspicion against the FIR-named men? (iv) Did almost six years of confinement following false implication infringe Article 21 so that compensation and ancillary recovery or civil remedies should follow? The cited sudden-fight exception and single-injury distinction were examined as legal context.

5. Ratio / Findings : The postmortems showed severe ante-mortem skull fractures and brain injury to both victims, sufficient to cause death, so homicidal death was established. Under *Virsa Singh*, intention to inflict the specific proved injury and objective fatal sufficiency are conceptually distinct, while the single-blow authorities reject automatic reclassification from murder. Those propositions did not establish that this appellant had inflicted the injuries, which required separate proof. Atar Singh had not witnessed the attack, and the Court treated his account of what others said about the perpetrators as hearsay. The original informant was not examined. Diman spoke of Pahalwan's lathi blow to Brijrani but did not account for the injury to Chandni; several purported eyewitnesses failed to support the prosecution, and material omissions and contradictions affected Battu, Shobharam and Dayaram. The claimed recovery was a luhangi, whereas Diman specifically denied that implement and the doctor considered the head injuries caused by a lathi; no lathi was recovered from Pahalwan. The FIR instead named Battu and Shobharam, and the house-possession dispute and their recent quarrel suggested a motive for them, while no motive was established for Pahalwan to kill his own mother and daughter. In the totality, the Bench found that Nayar had molded the investigation to implicate Pahalwan, rejected the two-count conviction and directed official inquiry under the accountability approach reproduced from *Ankush Maruti Shinde*. Its Section 173(8) direction reopened investigation into the other two men without determining their guilt. The idea of a police investigation app and access for trial judges was an ancillary expectation, not a condition of guilt. On compensation, the Court distinguished an ordinary acquittal from this finding of false implication and almost six years of unjust confinement. *Islamic Relief Committee* confined public-law damages to a qualifying fundamental-right injury; *Nambi Narayanan* addressed liberty and dignity harmed by malicious prosecution. Applying those limits, the Bench found an Article 21 infringement and awarded compensation, preserving separate civil relief.

6. Relief : The Hon’ble High Court allowed the criminal appeal; the 22 December 2003 conviction and life sentences under Section 302 IPC on both counts were set aside, and Pahalwan Singh alias Chimme was acquitted. The concerned Deputy Inspector General was directed to inquire into investigator S.D. Nayar and take necessary action; the Chief Secretary, Home Department, was directed to inquire and take departmental action against erring serving officials within two months. Further investigation under Section 173(8) CrPC was ordered against Battu Jatav and Shobharam Jatav. The State was ordered to pay Pahalwan ₹2,00,000 within one month and file proof before the Principal Registrar within 45 days. It was permitted to recover that sum from Nayar's salary or pension and from Battu and Shobharam as land-revenue arrears. Pahalwan was left free to sue those three for additional compensation without adjustment of this award. Although then released on a 90-day parole, he was to be released forthwith if not wanted in another case; the trial record and a copy of judgment were to be returned promptly. The Chief Secretary and Director General of Police were also expected to consider the proposed investigation software and supervision arrangements.

Pahalwan Singh v. State of Madhya Pradesh, Cr.A. no. 73/2004, 01/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers — FIR threshold / police investigation - Section 482 CrPC permits quashing when uncontroverted allegations, read as a whole, disclose no prima facie offence or reveal a recognised abuse of process; the High Court cannot decide disputed evidence or conduct a trial before the investigation is complete. *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221, State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547, XYZ v. State of Gujarat, (2019) 10 SCC 337, State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226, CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, were considered in support of restraint against premature interference. The alleged offline grain

distribution and later payment demand presented matters for investigation; an accurate POS record of online transfers did not resolve them.

Inherent powers — recognised quashing grounds / qualifications - *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, reproduced the categories in *Bhajan Lal* concerning allegations that disclose no offence when accepted at face value and proceedings instituted mala fide; *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, required caution and confined intervention to cases involving the absence of basic ingredients or exceptional abuse. It prohibited a mini-trial and ordinarily excluded reliance on material tendered by the accused. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437, M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, reinforced the same exceptional threshold; a narrow exception permits consideration of a public document or a document whose veracity the complainant does not dispute. The civil features of a dispute do not exclude criminal proceedings where the allegations otherwise disclose an offence. The Bench did not find any of the listed exceptions on the allegations before it.

FIR — public servant / preliminary inquiry - *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, requires registration under Section 154 CrPC where cognizable information is disclosed and permits a limited, time-bound preliminary inquiry only in appropriate circumstances to ascertain disclosure, not to verify truth. The Bench rejected the contention that a preliminary inquiry was mandatory merely because the complaint concerned a public servant. The Collector's Food Branch had complained of the officers' alleged demand, so the absence of a prior inquiry alone could not vitiate the FIR.

Special statute — general criminal law - *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, was applied for the rule that a separate statutory procedure does not by itself bar general criminal law. No bar to applying IPC Sections 420 and 409 to the alleged misconduct connected with PMGKA foodgrains was shown merely because a procedure under the Essential Commodities Act might also apply; those allegations remained investigable.

Quashing — disputed stock and official authority - The allegation was that officers promised POS adjustment for offline foodgrain distribution and later demanded payment of half the supposed shortage under threat of FIR. The applicant's reliance on online POS reconciliation, his transfer date, the absence of physical verification and his objection concerning formal authority did not resolve the alleged offline shortfall or demand. His nodal role and the shopkeepers' possible impression of authority made his actual participation an investigative issue, not a judicial finding of guilt.

Proceedings — earlier bail / material suppression / counsel remarks - The Court would not review its concluded anticipatory-bail refusal within the Section 482 case. *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar, (2004) 7 SCC 166*, held that suppression has consequences only if the suppressed fact could affect the merits; *Neeraj Garg v. Sarita Rani*, Civil Appeals 4555–4559/2021, cautioned against unnecessary criticism of counsel. Since prior inquiry was not mandatory, the alleged misstatement about its occurrence was immaterial to quashing; the Bench did not determine whether counsel had misled it.

Arrest protection — no coercive steps after dismissal - *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*, Criminal Appeal 330/2021, following *Habib Abdullah Jeelani* and *Ravuri Krishna Murthy*, held that a blanket no-arrest direction after refusing to quash an FIR effectively bypasses Section 438 CrPC and obstructs a live investigation. The Bench declined the applicant's alternative request, particularly as anticipatory bail had already been refused, and dismissed the quashing application.

Case-note :- ***1. Facts :*** Fair-price shopkeepers at Dabra reported that Junior Supply Officer Surbhi Jain had directed distribution of foodgrains under the pandemic PMGKA scheme offline and promised that those quantities would later be deducted from the electronic POS closing balances. According to the report, the adjustment was not made and Jain threatened prosecution over the apparent stock shortage. They alleged that on 9 March 2021 she and Pankaj Karoriya visited and demanded 50% of the market value of the shortage, threatening an FIR if it was not paid. The Collector's Food Branch made the complaint; the Collector had suspended Jain. The police registered Crime 251/2021 at University Police Station, Gwalior, under IPC Sections 420 and

409. Karoriya, a public official who said he had left Dabra by 30 April 2020, sought quashing under Section 482 CrPC. He asserted that no preliminary inquiry preceded the FIR, the matter arose under a special foodgrain scheme or the framework of the Essential Commodities Act, POS data revealed no discrepancy in online allotment and distribution, no physical stock check established loss, and he had neither received money nor held authority to direct the alleged offline distribution. He relied on a claimed May 2020 permission for offline supply. The State answered that the real allegation concerned quantities distributed offline on an unfulfilled promise of POS adjustment and the later demand under threat of prosecution, so reconciliation of online POS figures and the dispute about his tenure did not resolve that allegation. His anticipatory-bail application had already been refused; he also sought no-coercive-action protection if the FIR challenge failed and complained of a possibly misleading statement at the bail hearing about preliminary inquiry.

2. Precedents — Considered : On premature quashing and the legitimate investigation of a disclosed offence, the Bench quoted *Munshiram v. State of Rajasthan, (2018) 5 SCC 678* (caution before quashing an uninvestigated FIR); *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221* (the statutory police investigation ordinarily proceeds, subject to exceptional malicious and vexatious cases); *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547* (public interest in collecting evidence for a disclosed offence and the three purposes for which Section 482 may be exercised carefully and without arbitrariness, quoting *Swapan Kumar Guha* and *Jeffrey J. Diermeier*); *XYZ v. State of Gujarat, (2019) 10 SCC 337* (no roving factual inquiry while allegations of blackmail or coercion remained matters for investigation); *S. Martin* (cited only for disapproval of a pre-completion assessment); *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226* (no assessment of the reliability of evidence or premature termination of prosecution, with recognised exceptions); *CBI v. Arvind Khanna, (2019) 10 SCC 686* (an accused's contested defence and minute factual findings belong at trial); and *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, 30 July 2021 (the FIR is not an encyclopedia, particularly for financial irregularities in a public scheme). These authorities supported refusal to decide Karoriya's stock and tenure disputes on a Section 482 petition.

The Bench also explained the limits of that restraint. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, reproduced *State of Haryana v. Bhajan Lal on* allegations that disclose no offence when accepted at face value and on proceedings manifestly attended with mala fides, and cited *Medchl Chemicals, Zandu Pharmaceutical* and *Shakson Belthissor* on exceptional intervention to prevent a plainly false prosecution. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, called for a reasoned application of quashing principles to the particular facts. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, furnished the fuller Section 397/482 framework: examine the uncontroverted prosecution record for essential ingredients, patent improbability, legal bars and process abuse; balance liberty with investigation; avoid a mini-trial, ordinarily exclude external defence material, and recognise that a civil claim may coexist with a crime. Its discussion limited *Madhavrao Jiwajirao Scindia*'s special civil-dispute observation through *State of Bihar v. P.P. Sharma* rather than accepting a universal rule permitting quashing merely because the prospects of conviction appeared bleak. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterated *Bhajan Lal*'s exceptional and cautious character. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognised consideration of a public or genuinely undisputed document as a narrow exception to the usual bar on considering defence documents. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, reproduced the full *Bhajan Lal* categories, alternative-remedy caution and *Indian Oil Corporation*'s point that basic factual allegations need not reproduce the legal ingredients verbatim and civil as well as criminal consequences can coexist; it explained the restricted *Madhavrao* civil-dispute setting. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, confirmed quashing if full face-value allegations disclose no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, balanced intervention against absurd, harassing proceedings with caution against obstructing genuine inquiries. The Court applied the shared threshold and found that the allegations in this FIR provided an adequate basis for investigation.

For registration, *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, supplied the Section 154 requirement: cognizable information mandates an

FIR, while a limited, ordinarily time-bound preliminary inquiry in illustrative categories depending on the facts, including corruption and commercial allegations, asks whether an offence is disclosed rather than whether the informant is truthful. The Court applied this to reject automatic invalidity merely because no inquiry preceded the registration of a case against a public servant. *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, rejected the contention that the special statute provided the exclusive remedy when it did not bar recourse to general criminal law; by analogy the Bench refused to exclude IPC allegations merely because a foodgrain scheme or Essential Commodities Act procedure might also govern. *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar, (2004) 7 SCC 166*, confined suppression consequences to facts material to the decision; *Neeraj Garg v. Sarita Rani*, Civil Appeals 4555–4559/2021, 2 August 2021, counselled restraint in irrelevant remarks about advocates. The Bench treated the disputed assertion about preliminary inquiry as immaterial, declining to find misconduct. *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*, Criminal Appeal 330/2021, 13 April 2021, reiterated *Habib Abdullah Jeelani* and *Ravuri Krishna Murthy* against blanket no-arrest or no-coercive-step relief after declining quashing, because it effectively grants protection under Section 438 without its safeguards; the Bench applied that rule to reject the alternative prayer.

3. Statutes considered : Section 482 CrPC preserved the High Court's inherent power to implement Code orders, prevent abuse of process and secure justice, exercisable with caution at the FIR stage where cognizable allegations are made. Section 154 CrPC governed FIR registration and the limited role of preliminary inquiry under *Lalita Kumari*. Section 438 CrPC supplied the distinct anticipatory-bail framework that a no-arrest direction could not bypass; the prior bail refusal was not reviewable in this Section 482 application. IPC Sections 420 and 409 were the registered accusations; their ingredients, proof and ultimate culpability were left to investigation or trial and were not finally adjudicated. PMGKA distribution rules, an alleged later offline permission and a suggested Essential Commodities Act procedure provided context, but no legal bar to investigation under the general provisions of the IPC was identified. Article 226 and CrPC Sections 397, 156(1), 155(2), 173(2) and 228 appeared within cited quashing authorities to explain the scope or illustrative categories; the present petition was decided under Section 482.

4. Issues : (i) Whether the allegations, taken at face value and in their entirety, disclosed a cognizable offence warranting investigation against Karoriya, or his POS balance, lack of physical verification, transfer date and asserted absence of authority made quashing proper without a factual inquiry. (ii) Whether a public-servant or scheme-related complaint required a preliminary inquiry before FIR registration and whether a special statutory or scheme procedure barred IPC Sections 420 and 409. (iii) Whether this petition could reopen the rejected anticipatory-bail request, or the alleged statement about inquiry at that hearing warranted adverse remarks. (iv) Whether the Court could dismiss the FIR challenge yet direct that no coercive steps be taken during the ongoing investigation. The legitimacy of actual offline instructions, shortage, demand, and participation remained investigative questions, rather than factual issues finally decided on their merits.

5. Ratio / Findings : The Supreme Court authorities establish a test based on allegations taken at face value, with recognised exceptions where essential ingredients are not disclosed, a legal bar applies, the allegations are inherently improbable or the proceedings are manifestly malicious; they also prohibit assessing contested evidence or the prospect of conviction as though conducting a trial. The alleged request to distribute foodgrains offline, uncorrected POS balance and 50% payment demand under threat of prosecution formed the nucleus of the Collector's complaint. Figures showing correct online stock transactions did not answer whether offline distribution occurred or should have been credited. Whether the officers ordered it, how the stock was handled, whether money was demanded, the applicant's actual dates of involvement and the shopkeepers' impression of his authority required inquiry; his appointment as a nodal officer meant that his assertion that participation was impossible could not be resolved at this initial stage. The Court treated these as sufficient prima facie allegations, not as established guilt or an express final finding on the legal elements of IPC Sections 420 and 409. Under *Lalita Kumari*, mandatory registration follows cognizable information. A preliminary inquiry may be desirable in a matter involving a public servant, but it is not a universal prerequisite whose absence invalidates an FIR; a complaint by the Collector's

Food Branch strengthened the context. *Rameshwar* precluded automatic displacement of the IPC merely because a special law or scheme supplies another procedure, unless a bar is demonstrated. The rejected anticipatory-bail order could be challenged in the appropriate forum but not reargued as the Section 482 case. Since preliminary inquiry was not a legal prerequisite here, the Court considered the alleged misstatement on that question immaterial under *S.J.S. Business Enterprises* and applied *Neeraj Garg* to avoid gratuitous criticism, without deciding whether counsel actually misled the Court at the earlier hearing. Finally, *Neeharika* barred the requested blanket arrest protection when investigation was to proceed and bail had already been refused; the proposed order would evade Section 438's conditions.

6. Relief : The Hon'ble High Court has dismissed the application under Section 482 to quash Crime 251/2021. No interim or final no-coercive-action direction was granted, and the earlier anticipatory-bail refusal was not reopened. Investigation into the allegations under IPC Sections 420 and 409 could continue; the Court made no final finding of criminal guilt, actual shortage or receipt of money.

Pankaj Karoriya v. The State of M.P. and Others, M.Cr.C. no. 40229/2021, 12/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (601) Prev Next

Headnote :- Matrimonial cruelty — husband and relatives / scope of earlier quashing - *Priyanka Sharma v. State of M.P.*, 2023 (2) MPLJ (Cri) (SC) 586, had quashed the proceedings against the husband's parents and sister because their alleged involvement was general and the FIR was retaliatory as to those appellants. The Bench read the Supreme Court's express limitation in paragraphs 21–23 and distinguished the husband, against whom the wife alleged specific demands, assault, abuse and continuing harassment. A decision quashing proceedings only against the relatives does not extinguish the husband's separate Section 498-A/34 IPC and Section 4 Dowry Prohibition Act case.

Foreign judgment — divorce / Section 13 CPC conclusiveness - The husband described the Swedish divorce as one by mutual consent, but his own petition sought divorce for the wife's alleged cruelty and she had not jointly petitioned. The decree gave no reasons on those allegations, contained unclear observations about the wife's right to divorce, and did not adjudicate the merits of the material allegations in a manner consistent with the applicable Indian law. The Court treated it as inconclusive under Section 13 CPC and of no assistance to quashing; it made no universal pronouncement against foreign decrees.

Inherent powers — face-value allegations / no mini-trial - *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, was quoted for the police duty to investigate cognizable allegations, exceptional quashing where none are disclosed, and restraint against testing the truth of the allegations or treating the FIR as an exhaustive account of every detail. The Bench applied that framework to the wife's specific allegations against the husband and left the assessment of their reliability to the appropriate process for determining the facts. Its paragraph 19 list of earlier Supreme Court quashing cases was invoked collectively for the same threshold.

Inherent powers — mala fides / legal evidence distinction - *Renu Kumari v. Sanjay Sharma, (2008) 12 SCC 346*, discussed the Section 482 purposes, *R.P. Kapur* and *Bhajan Lal* categories, and the distinction between absence of legal evidence and contested evidence requiring assessment at trial. It further explained that an informant's alleged mala fides are secondary where the allegations disclose a cognizable offence. The Bench followed that qualification in rejecting the husband's retaliation claim at the quashing stage; dismissal did not establish guilt.

Case-note :- ***1. Facts :*** The complainant married Pankaj Kumar Mishra on 3 February 2014. In her FIR she alleged that her father gave ₹5 lakh, gold, a diamond ring, clothes and household articles at marriage, but her husband and his family later demanded more dowry and taunted her family for insufficient spending. She attributed physical assault to her husband in Rewa, abuse during a pregnancy and its termination, further monetary demands around family engagements in Gwalior, and continuing harassment while living with him in Sweden. She alleged a renewed ₹50 lakh demand, assault in 2016, a threat to her parents in March 2017, and deprivation of food and sustained humiliation. These remained her allegations, not findings of guilt. Crime 139/2018 at Mahila Thana, Padav, Gwalior, invoked Section 498-A/34 IPC and Section 4 of the Dowry Prohibition Act. The husband applied under

Section 482 CrPC to quash the FIR, charge sheet and consequential proceedings. He relied on the Supreme Court's earlier quashing of proceedings against his parents and sister in *Priyanka Sharma*, asserted that a Swedish court had already divorced the spouses, and alleged a false retaliatory FIR. The State and complainant opposed him. The Court examined the Swedish petition and decree and distinguished the allegations against the relatives from those against the husband.

2. Precedents — Considered : In *Priyanka Sharma v. State of M.P.*, 2023 (2) MPLJ (Cri) (SC) 586, the Supreme Court had quashed the case against this husband's parents and sister. The present Court read paragraphs 21–23 closely: the description of the FIR as retaliatory was expressly confined to those appellants, and the absence of a convincing occasion for the wife to visit and reside with relatives after the Swedish divorce affected their alleged involvement. The Supreme Court applied the need for clear and specific allegations before relatives are put on trial. The Bench distinguished the husband's directly alleged conduct, so it did not extend that disposition to him. Paragraph 19 of the present judgment names *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The Court cited these authorities together for the accepted rule that Section 482 does not permit a roving credibility inquiry where the allegations, taken at face value, disclose an offence.

Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401, was discussed in detail. Its quoted principles recognize the statutory police investigation of cognizable offences, exceptional intervention if the FIR discloses none, the requirement that quashing be rare and undertaken cautiously, no premature credibility assessment, and the fact that an FIR is not an encyclopedia. The passage also preserves the Court's jurisdiction under *R.P. Kapur* and *Bhajan Lal* parameters to prevent abuse; it does not make police investigation immune from judicial review. The Bench applied those limits to the present detailed allegations. *Renu Kumari v. Sanjay Sharma, (2008) 12 SCC 346*, was quoted on the three purposes of inherent power, its exceptional use, and *R.P. Kapur* categories of a legal bar, allegations that disclose no offence when accepted at face value, or clear absence of supporting legal evidence. Its reproduced *Bhajan Lal* illustrations address absence of cognizable allegations, patent improbability, legal bar and manifestly malicious proceedings. *Renu Kumari* distinguishes plainly absent legal evidence from evidence whose probative force requires assessment at trial and observes that informant mala fides are secondary when the complaint states a cognizable offence. The Bench expressly applied that last limit to the husband's claim. Other cases named in the nested *Renu* quotation were supporting references in that Supreme Court passage.

3. Statutes considered : Section 498-A IPC governed the allegations of cruelty to a married woman, Section 34 the alleged shared action, and Section 4 of the Dowry Prohibition Act the alleged dowry demands. The Court did not try or conclusively determine whether their ingredients were established in the Section 482 application. Section 482 CrPC, whose counterpart in Section 528 BNSS was also mentioned in the judgment, supplied the power to quash where accepted allegations disclose no offence or continuation of the proceedings would be an abuse of process, subject to the restrictions explained by the cited authorities. Section 13 CPC was applied to test whether the Swedish divorce judgment was conclusive: the Court focused on the absence of adjudication on the merits and the treatment of applicable Indian law among the section's listed exceptions. The other exceptions, including competence, natural justice, fraud and breach of Indian law, were reproduced from the statute but were not all found to exist independently on the facts.

4. Issues : (i) Did *Priyanka Sharma*'s quashing of the FIR as to the husband's relatives also determine this husband's application, given the distinct allegations against each? (ii) Was the Swedish divorce a conclusive foreign judgment given on the merits

under Section 13 CPC that displaced the later criminal allegations, and was the petition genuinely joint? (iii) Did the wife's accusations against the husband, taken as true solely for assessment under Section 482, disclose the registered offences, or could the Court decide his denial and accusation of retaliatory malice without a trial? The Court did not determine whether the alleged assaults, demands or miscarriage-related events were true.

5. Ratio / Findings : The Supreme Court's *Priyanka Sharma* decision dealt with parents and sister, and qualified its retaliatory-FIR observation to those appellants. Its concern that general accusations against relatives should not force them into trial did not address the present husband's separately pleaded demands, assaults and conduct in Rewa, Gwalior and Sweden. On the foreign judgment, the husband's Swedish filing itself sought divorce for her alleged cruelty and stated that she would not agree to mutual divorce; the decree's short formulation did not explain the pleaded ground, gave no reasons on material issues and referred unclearly to her right to divorce although she had not sought it. The Bench regarded that decree as inconclusive under Section 13 CPC and unable to support his request, without deciding matrimonial status for every purpose. Applying the Section 482 test stated in *Neeharika* and the cited quashing cases to the allegations taken at face value, the Bench found specific prima facie cruelty and dowry allegations against the husband. Their disputed truth and the assertion of malice could not be resolved through a roving enquiry in this proceeding. *Renu Kumari* did not make motive alone decisive once a cognizable offence was alleged; investigation and trial would determine the evidentiary merits. The finding that allegations sufficed for prosecution remained a determination at the preliminary stage and did not amount to a conviction.

6. Relief : The Hon'ble High Court has dismissed the husband's application. The FIR, charge sheet and consequential proceedings in Crime 139/2018 under Section 498-A/34 IPC and Section 4 of the Dowry Prohibition Act were not quashed as to him. The judgment did not disturb the Supreme Court's separate relief already granted to his parents and sister, did not grant other protective directions, and left the question whether the wife's accusations were proved or disproved to the continuing proceedings.

Pankaj Kumar Mishra v. The State of Madhya Pradesh and Others, M.Cr.C. no. 12294/2022, 21/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (602) Prev Next

Headnote :- Trial — Section 319 CrPC / additional accused - *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*, was quoted and applied. The evidence produced before the court need not yet have been tested by cross-examination. It must show more than a mere probability of involvement and make out a stronger case than the prima facie case required at the stage of framing a charge. However, the required satisfaction falls short of a conclusion that the evidence, if unrebutted, would lead to conviction; the Court must not form an opinion on guilt at this stage. The complainant's examination-in-chief specifically attributed instigation of an assault to Pankaj Yadav, as did his FIR and police statement; the Bench held the trial evidence sufficient to uphold the summons for him to be tried with the existing accused.

Trial — police exoneration / trial evidence - The investigating officer had omitted Pankaj from the charge sheet after obtaining statements of witnesses who said he was absent. The Court considered the consistent direct allegation by the complainant and expressed concern that the officer had sought to protect the applicant, a head constable, against the background of a strained family dispute and a separate prosecution under Section 498-A. The police conclusion did not bind the trial court's assessment under Section 319. The summons and revisional order were affirmed without deciding the applicant's guilt.

Case-note :- ***1. Facts :*** After a complaint concerning an altercation at a funeral, police registered Crime 268/2019 at Civil Line, Harda, for IPC Sections 294, 323, 506 and 34. Complainant Hari Narayan Yadav alleged in the FIR and Section 161 CrPC statement that Pankaj Yadav scolded him and instigated Santi Devi, who assaulted him. The families' relations were strained because a complaint by Hari Narayan's daughter had already led to a Section 498-A prosecution involving Pankaj's family. The police interviewed several persons who stated that Pankaj was not present and excluded him from the charge sheet. During trial, Hari Narayan repeated the specific instigation account in his examination-in-

chief. The Chief Judicial Magistrate, Harda, in RCT 659/2019 summoned Pankaj as an additional accused under Section 319 CrPC by order dated 1 September 2022. A criminal revision, No. 90/2022, was dismissed on 10 January 2023. Pankaj invoked Section 482 CrPC to challenge both orders, arguing that, in view of the police witnesses' contrary accounts and his omission from the charge sheet, the Supreme Court's standard under Section 319 had not been met. His counsel disclosed that he was a police head constable and that the complainant too was a constable.

2. Precedents — Considered : *Hardeep Singh v. State of Punjab and Others, (2014) 3 SCC 92*, paragraph 106, supplied the controlling Section 319 standard. Evidence before the trial court can be considered at the examination-in-chief stage without necessarily waiting for cross-examination. Mere probability of a person's involvement is insufficient: the degree of satisfaction is higher than the ordinary prima facie standard at the stage of framing a charge, though below the level of assurance that the evidence, if unrebutted, would compel conviction. The statutory phrase concerns a person who could be tried with the accused, not a person already found guilty. The Bench applied this standard to Hari Narayan's trial testimony, supported by his consistent earlier accounts, and sustained the summons notwithstanding the police decision to omit Pankaj. The applicant himself relied on *Hardeep Singh* for the opposite conclusion; the Court did not adopt his appraisal of the police witnesses.

3. Statutes considered : Section 319 CrPC allows a trial court, on evidence emerging during trial, to proceed against an additional person who appears to have committed an offence for which that person could be tried with the existing accused; its heightened threshold and absence of a guilt determination governed the decision. Section 161 CrPC statements and the FIR were part of the consistency and investigation background; the decisive in-court evidence was the complainant's examination-in-chief. Section 482 CrPC was invoked to correct alleged jurisdictional error in the summoning and revision orders. IPC Sections 294, 323, 506 and 34 were the registered offences, and Section 498-A was background to family hostility, without a finding of those offences in this application.

4. Issues : The issues were whether the complainant's in-court allegation that Pankaj instigated Santi Devi's assault met Section 319's threshold for summoning an additional accused even though the police had omitted him from the charge sheet and recorded several statements asserting his absence; and whether the trial or revisional court had committed a jurisdictional error warranting Section 482 intervention. The truth of the alleged instigation and the applicant's guilt were reserved for trial.

5. Ratio / Findings : The Court identified the complainant's specific accusation at three stages: the FIR, his Section 161 statement and his examination-in-chief. Under *Hardeep Singh*, the in-court account was available for Section 319 consideration before cross-examination, subject to a standard higher than the prima facie standard applicable at the stage of framing a charge. The Bench considered the statements recorded by the police asserting the applicant's absence but was concerned by the investigating officer's apparent effort to obtain accounts that Pankaj was absent; it expressly inferred that the investigating officer had attempted to protect him. The earlier Section 498-A case explained strained relations and context, while the applicant's police rank was noted in assessing the officer's approach. On the specific trial evidence, the Bench held the threshold satisfied and found no jurisdictional error. Section 319 concerns joint trial and does not permit an opinion on guilt.

6. Relief : The Hon'ble High Court has dismissed the application under Section 482. The Chief Judicial Magistrate's Section 319 order dated 1 September 2022 and the revisional order dated 10 January 2023 were affirmed; Pankaj remained summoned as an additional accused for trial. No finding of guilt or sentence was imposed.

Pankaj Yadav v. The State of Madhya Pradesh and Others, M.Cr.C. no. 27121/2023, 02/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (603) Prev Next

Headnote :- Charge — misdescription / Section 216 CrPC - The FIR named Najma Begum as the informant, whereas the charge incorrectly named Jaswant Singh. The applicant had not moved the trial court under Section 216 for alteration or correction of the charge and had not shown that the mistake would cause serious prejudice. The Court held that he could apply to the trial court for correction. The error did not justify setting aside the charge or the revisional order in the Section 482 proceeding.

Charge — defence material / limited judicial review - *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was followed for the rule that charges must be framed on the material relied on by the prosecution, without considering the accused's defence. The claim of old enmity was not substantiated. The reference to hot curry in the medical history, as against hot meat in the FIR, did not displace the recorded burning sensation in both eyes. The charges were upheld, with an express direction that the trial court must decide independently on the evidence led at trial. The order records one of the charges as '504-A IPC'.

Case-note :- ***1. Facts :*** The prosecution case was that Pappan had thrown hot meat on Muskan's face, causing a burning sensation in her eyes. The medical record mentioned a history of hot curry being thrown into her eyes and recorded burning in both eyes. The applicant also relied on the interval between the MLC on 17 September 2018 and hospital treatment on 20 September. Najma Begum had lodged the FIR, but the framed charge incorrectly named Jaswant Singh as the complainant. Pappan alleged false implication on account of old enmity. On 13 February 2020, the JMFC, Gwalior, framed charges described in the order as IPC Sections 352, 324 and '504-A' in Criminal Case 4430/2020. The 17th Additional Sessions Judge affirmed that order in Criminal Revision 112/2020 on 2 September 2021. Pappan then sought interference under Section 482 CrPC.

2. Precedents — Considered : *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was invoked and followed for the rule that, at the stage of framing charges, the accused is not entitled to raise a defence to oppose the charges. The trial court considers the prosecution material for that limited purpose. The Court applied this rule in declining to conduct a detailed inquiry into the applicant's asserted enmity and the factual inferences he sought to draw from the medical wording and treatment interval. It did not decide whether the accusation was true or finally assess the evidentiary weight of the medical record.

3. Statutes considered : Section 216 CrPC permits alteration or addition of a charge and enabled the applicant to bring the incorrect complainant's name to the trial court's attention. Section 482 CrPC was the inherent jurisdiction invoked after revision. The Court did not exercise it in place of the available application for correction of the charge when no serious prejudice had been shown. The order describes the framed charges as IPC Sections 352 and 324 and, in its own wording, '504-A'.

4. Issues : Did the incorrect mention of Jaswant Singh instead of Najma Begum in the charge require the charge order to be set aside when an application under Section 216 was available and no serious prejudice was claimed? Did the applicant's asserted enmity, the reference to hot meat in the FIR as against hot curry in the MLC, and the interval before treatment sufficiently undermine the prosecution material to justify interference under Section 482 at the stage of framing charges? The nature of the substance and injury, and the applicant's guilt, remained questions for trial.

5. Ratio / Findings : The Court accepted that the complainant's name in the charge differed from the name in the FIR. However, the applicant had not sought correction from the trial court under Section 216 and had not shown that the mistake caused serious prejudice to the defence. He could apply for correction under that provision; the error was not treated as fatal to the charge. Applying *Debendra Nath Padhi*, the Court considered the prosecution material and declined to determine the unsupported defence of old enmity. The FIR could not be discarded merely because the medical history referred to hot curry rather than hot meat. A burning sensation in both eyes was recorded. These limited findings justified allowing the charges to stand, but were expressly not to prejudice the trial court's assessment of the evidence led at trial.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The JMFC's charge order dated 13 February 2020 and the revisional order dated 2 September 2021 affirming it remained in place. The applicant could apply to the trial court under Section 216 CrPC to correct the complainant's name. The High Court directed that its observations, made within the limited scope of review at the stage of framing charges, must not prejudice the trial. The trial court was to decide the case strictly on the evidence subsequently brought on record.

Pappan v. State of M.P. and Others, M.Cr.C. no. 52364/2021, 07/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (604) Prev Next

Headnote :- Criminal appeal — sentence completed / surviving conviction challenge - The

appellants completed the five-year sentences and paid the fines in this case during pendency of their Section 374 CrPC appeal. The Court held that completion of punishment does not make an appeal against conviction infructuous; it considered the evidence and set the convictions aside. They remained under life imprisonment in another case, so their acquittal in this case did not result in an order for their immediate release.

Identification — dock evidence without a prior test identification parade of the accused - Absence of a test identification parade is not by itself fatal if reliable dock identification establishes identity. Here, the injured Meerabai did not identify anyone. Ramjilal admitted that he was attacked while asleep and lost consciousness. Mohan's claim at trial that he could identify the assailants and that there was adequate light was materially inconsistent with his police statement and the spot map, which showed no source of light in the field. The Court found no reliable identification of Pappu, Chand Khan or Shaukat beyond reasonable doubt.

Identification — seized property / contaminated parade - The later seizure of ornaments from Pappu could not connect the appellants to the robbery. Meerabai had been shown the very articles by police before identification. No similar pieces were mixed despite what the identification memo recorded; officers were present, the memo was signed at the police station on the SHO's instruction and the conducting officer was not examined. The earlier memoranda had stated that the stolen articles had been sold to a jeweller in Aligarh, who was never questioned; the mangalsutra was not recovered. The Court rejected the property identification and acquitted all three on the charged IPC and MPDVPK Act offences.

Case-note :- ***1. Facts :*** In the early hours of 8 June 2013, an attack by intruders was reported at a family's home. Kalyan Singh heard his nephew Mohan's cries and found Mohan, Ramjilal and Meerabai injured; ornaments were missing, and the injured were initially unable to identify the attackers to him. His prompt report, approximately 45 minutes after the alleged event, led to Crime 72/2013 under Section 394 IPC against unknown persons. The prosecution alleged that Pappu alias Sartaj, Chand Khan alias Chandmiya and Shaukat alias Toofan had assaulted the family and robbed gold and silver ornaments. The police did not conduct a test identification parade of the accused. The initial memoranda recorded after arrest stated that the stolen articles had been sold to a jeweller in Aligarh; a later Pappu memorandum led to seizure of earrings, a nose pin and bangles from his house, followed by a disputed identification of the ornaments. The Special Judge (MPDVPK Act), Gwalior, in Special Sessions Trial 30/2014 convicted the three under Section 394 IPC read with Section 13 of that Act on 11 August 2017 and imposed rigorous imprisonment for five years with fines and default terms, with the main sentences concurrent. In their jail appeal under Section 374 CrPC, they denied that identification and recovery proved guilt. By December 2021 the appellants had served the custodial terms in this case and paid the fines, but they remained imprisoned for life in another crime. The Court therefore first determined that their conviction appeal still required adjudication.

2. Precedents — Considered : The Court assessed the witness testimony, police statements, spot map, seizure memoranda and identification procedure in deciding the appeal.

3. Statutes considered : Section 374 CrPC provided for the appeal against conviction; completion of the sentence did not dispose of it. IPC Section 394 was the provision under which robbery causing hurt was charged, read with Section 13 of the MPDVPK Act as named in the judgment. The police had also filed a charge sheet referring to Sections 11/13 of that Act, while the framed charges and appealed conviction were described as Section 394 IPC read with Section 13. The decisive issue was proof of identity and connection to the loot beyond reasonable doubt. The police statements and identification of the material objects were assessed as evidentiary circumstances.

4. Issues : (i) Did the injured witnesses reliably identify each appellant as an attacker when no test identification parade of the accused had been conducted and their accounts identifying the appellants in court conflicted with their opportunities to observe the assailants and their prior statements? (ii) Were the ornaments genuinely recovered and reliably identified as the victims' stolen property, considering the inconsistent memoranda, the prior police display, lack of mixed articles and the unexamined identification officer? (iii) Did completion of the custodial sentence end the appeal, and could acquittal result in their release when the appellants were serving life imprisonment in a separate case?

5. Ratio / Findings : The Court held that the appeal remained for adjudication despite completion of the five-year sentence. As to the identity of the assailants, the absence of a prior test identification parade did not automatically rule out identification in court; its reliability still depended on whether the witnesses had seen the assailants and could consistently recognise them. Meerabai did not identify any of the appellants. Ramjilal's claim in examination-in-chief could not be relied on in view of his admission that he was assaulted while asleep and immediately became unconscious. Mohan's claim to recognise the assailants and to have had light in the field was weakened by material omissions and contradictory details in Ex. D/2, and neither a pole nor a bulb or other light appeared in the spot map. Thus no reliable identification of the three appellants was established. As to the identity of the property, Pappu's first memorandum stated that the articles had been sold; a later memorandum led to the recovery of ornaments said to be at his home, while the named Aligarh jeweller was not questioned and the mangalsutra mentioned in the FIR was not recovered. More decisively, the purported identification was suggestive: police displayed the pieces to Meerabai beforehand, no comparable jewellery was intermingled, officers attended, Ramjilal signed the memo at the station on the SHO's instruction, and the person conducting identification did not testify. The Court found that the apparent recovery could not be reliably linked to the victims' property. With neither the appellants nor the articles reliably identified, the prosecution had failed to prove the charges beyond reasonable doubt as to any appellant.

6. Relief : The Hon'ble High Court allowed the appeal. All three appellants were acquitted of the charged offences, and the Special Judge's conviction and sentence dated 11 August 2017 were set aside. The Court issued no release order because the appellants were serving life imprisonment in a separate Crime 237/2014; service of the sentence and payment of the fine in this case had already been reported.

Pappu and Others v. State of M.P., Cr.A. no. 1219/2017, 07/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (605) Prev Next

Headnote :- Connected criminal appeals / separate trials - *A.T. Mydeen v. Assistant Commissioner (Criminal Appeal 1306/2021, 29 October 2021)* was applied: the testimony recorded in Pappu's trial could not be read for or against Phulle in the latter's separate trial, or conversely, although their appeals were heard together. Separate judgments were delivered. The present appeal concerned the murders of Imambaksh and Jameel; the connected Jainuddin case also arose from a distinct trial.

Identification / evening light - *Ramesh v. State, (2010) 15 SCC 49*, cautions against discounting identification by rural witnesses familiar with the accused solely because illumination was meagre and against measuring their accustomed visual capacity by urban standards. Applying that context-dependent rule, the Court found sufficient opportunity at the market on the April evening: a gas lantern, residual light, firearm wounds indicating firing from close range and longstanding acquaintance supported the eyewitness identification despite power shedding. The principle did not substitute for examination of their actual viewing opportunity.

Related and interested witnesses / credibility - *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, and *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, reject kinship as an automatic reason to disbelieve witnesses who are close relatives. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, quoting *Dalip Singh* and *Masalti* and referring to *Guli Chand*, *Jagir Singh* and *Lehna*, requires a foundation for false-implication claims and cautious appraisal without mechanical rejection or a universal corroboration rule. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, drawing on *Kalki*, *Ganapathi* and *Jayabalan*, distinguishes a naturally present relative from one who derives a benefit from conviction or has a motive to secure punishment through false implication. It requires evidence that is probable, cogent and consistent. The Court applied these principles to the relatives' natural presence near adjoining shops and contemporaneous hospital attendance, then accepted their accounts after scrutiny; it did not equate relationship alone with interest.

Motive / inimical witnesses - *State of A.P. v. Dr M.V. Ramana Reddy, (1991) 4 SCC 536*, recognises that bitterness can lead to deliberate false implication or mistaken inference. *Anil Rai v. State of Bihar, (2001)*

7 SCC 318, requires anxious scrutiny for exaggeration or the false implication of others, but permits otherwise convincing direct evidence despite prior disputes; *Sushil v. State of U.P., 1995 Supp (1) SCC 363*, also treats enmity as a possible motive for both crime and accusation and requires caution and reliable corroboration. Applying these authorities, the Court examined the competing Section 307 cases and counterblast theory, found the eyewitness account credible, and treated pressure to compromise as the motive for the attack. Mere enmity did not create reasonable doubt.

Firearm proof / inconclusive FSL - The seized pistol showed firing but could not be linked conclusively to empty cartridges lacking percussion caps. *Rakesh v. State of U.P., (2021) 7 SCC 188*, treats a recovered gun that does not match the ballistic evidence, at most, as a case of non-recovery of the actual weapon; recovery is not a sine qua non for conviction. *Gulab v. State of U.P. (Criminal Appeal 81/2021, 9 December 2021)* found that non-recovery does not discredit otherwise proved gunshot injury, and *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, rejected benefit from failure to find a concealed firearm. The Court applied these limited principles in light of the accepted eyewitness testimony and medical findings of firearm injuries; it did not claim the FSL positively matched this pistol to the murders.

Independent witnesses / public reluctance - *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, applying *State of U.P. v. Anil Singh*, explains why independent persons may avoid investigation and court attendance and rejects an automatic adverse inference or a requirement of independent corroboration when the testimony of the examined eyewitnesses is otherwise true and acceptable. The Court therefore did not reject the established family eyewitness accounts merely because no independent market bystander testified.

Murder / differentiated participation - On the accepted evidence, Pappu shot Imambaksh, while Phulle shot Jameel when he intervened. Pappu's Section 302 IPC conviction for the first murder, Section 302 read with 149 IPC conviction for the second, Section 148 IPC conviction and Sections 25 and 27 Arms Act convictions were affirmed. The finding in this appeal did not determine Phulle's separately tried appeal by using this trial's evidence.

Concurrent sentences / default imprisonment - Section 427(2) CrPC makes a subsequent sentence of imprisonment for life or for a fixed term run concurrently with an existing life term. *O.M. Cherian v. State of Kerala, (2015) 2 SCC 501*, was applied to the concurrent operation of life and fixed sentences; Pappu's substantive sentence in this trial was directed to run with the earlier life term in Sessions Trial 125/2008. *Sharad Hiru Kolambe v. State of Maharashtra, (2018) 18 SCC 718*, was applied to keep default sentences consecutive. The appeal was dismissed and the conviction and sentence affirmed subject to that direction concerning execution of the sentences.

Case-note :- ***1. Facts :*** Pappu alias Matiuddin appealed under Section 374 CrPC from the judgment of 23 April 2010 in Sessions Trial 84/2008 at Datia. The trial court convicted him under Section 148 IPC (two years' rigorous imprisonment and ₹2,000 fine, three months' default), Section 302 IPC for Imambaksh's murder (life and ₹3,000 fine, one year's default), Section 302/149 IPC for Jameel's murder (life and ₹3,000 fine, one year's default), and Sections 25 and 27 Arms Act (respectively two and three years' rigorous imprisonment, ₹2,000 fine and three months' default each), with substantive sentences concurrent. The prosecution alleged that on 21 April 2008 around 7:30 p.m. Pappu and four armed companions approached Imambaksh's shop, pressed him to compromise a pending Section 307 case, and Pappu shot Imambaksh twice. When Jameel intervened, Phulle alias Kabuluddin shot him. According to the differing accounts, Imambaksh died at the scene or hospital; Jameel was examined at Bhander, referred to Gwalior and died in transit or on arrival. Ali Baksh reported after the journey at about 11:50 p.m. The police registered Crime 79/2008, examined the scene and witnesses, recovered cartridges and medical materials, seized a .315-bore pistol after Pappu's arrest, obtained an FSL report and filed a charge sheet while the others were absconding. The framed charges included Section 148, two counts of Section 302 or alternatively Section 302/149, and Arms Act Sections 25/27. Pappu denied guilt and called a defence witness on the whereabouts of Lalu and Balle. Medical witnesses detailed fatal firearm wounds caused by close-range firing in each deceased and the bullets recovered from each deceased. Ali Baksh, Nazeer, Rashid, Basheer and Shakeel described the shooting and nearby shops; Islam was hostile and was not an eyewitness of these two killings. Pappu argued that family witnesses, contradictions, inadequate light,

FIR delay, failure to call independent witnesses and inconclusive weapon comparison defeated the case. He also contended the report was a counterblast to his FIR alleging murder of his father Jainuddin by the complainant side. That killing produced a distinct Sessions Trial 125/2008 and connected Criminal Appeal 246/2010. Phulle, apprehended later, was separately tried and appealed in Criminal Appeal 2567/2018, heard simultaneously but decided independently. The present record and judgment concern Pappu's own trial for Imambaksh and Jameel.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner* (Supreme Court, Criminal Appeal 1306/2021, 29 October 2021) was invoked at the outset for the separation of evidentiary records of separately tried accused: material in Pappu's trial could not be used for or against Phulle in his later trial, or conversely; the Court accordingly issued separate judgments despite joint hearing. *Ramesh v. State, (2010) 15 SCC 49*, concerned identification by rural witnesses who knew the accused and saw him in reduced evening light; the Court used its caution about villagers' visual capacity in their accustomed conditions alongside the proved lantern, twilight, close range and familiarity here, without treating rural residence alone as proof of visibility.

On kinship, *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, holds that relationship does not inherently make evidence untrustworthy and ordinarily a relative would not shield a culprit to accuse an innocent. *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, recognises the weight often due to the testimony of a deceased's close family without a categorical rule. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, requires a foundation for a plea of false implication and careful assessment of the cogency of the evidence; its reproduced discussion of *Dalip Singh v. State of Punjab* rejects an automatic rule demanding corroboration from relatives while recognising that intense personal grudge can cause innocent persons to be dragged in. The *Rizan* passage also cites *Guli Chand* and *Vadivelu Thevar*, quotes *Masalti* against mechanical exclusion of partisan witnesses while insisting on caution, and mentions *Jagir Singh* and *Lehna* to similar effect. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, distinguishes a related witness naturally present from an interested one who benefits from conviction or has a motive to implicate falsely, relying in its quoted reasoning *on State of Rajasthan v. Kalki*, *Amit*, *Gangabhavani*, *Ganapathi*, *Dalip Singh* and *Jayabalan*; the relevant test is inherent reliability, probability, cogency and consistency and calls for cautious assessment rather than suspicion. The High Court used these authorities to assess the witnesses' locations, family practice and Basheer's recorded hospital attendance before accepting their accounts.

On enmity, *State of A.P. v. Dr M.V. Ramana Reddy, (1991) 4 SCC 536*, warns that animosity can prompt deliberate false accusation or an honest but erroneous assumption about a rival's guilt. *Anil Rai v. State of Bihar, (2001) 7 SCC 318*, explains the dual function of enmity as motive and basis for false implication, requires anxious scrutiny for exaggeration and the false implication of additional accused, and permits otherwise convincing consistent eyewitness evidence. *Sushil v. State of U.P., 1995 Supp (1) SCC 363*, applies the same two-sided approach and recognises the value of positive direct evidence. It requires caution in assessing relatives' testimony and attention to its reliability and independent corroboration. The Court applied these to the reciprocal Section 307 proceedings, the alleged counterblast and the accepted evidence of the shooting; it also referred to its separate companion judgment about the sequence of Jainuddin's death, which remains a distinct appeal and record.

On the gun, *Rakesh v. State of U.P., (2021) 7 SCC 188*, treats a recovered firearm inconsistent with the ballistic evidence as no recovery of the actual weapon, which is not indispensable to conviction on adequate other evidence. *Gulab v. State of U.P.* (Supreme Court, Criminal Appeal 81/2021, order of 9 December 2021) says non-recovery of the weapon does not by itself discredit a prosecution based on a gunshot injury; *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, holds that an accused cannot claim an advantage merely because the police did not find a concealed country-made gun. The High Court did not turn the inconclusive FSL into a positive match; it applied the limited non-recovery principle to credible eyewitness and medical evidence. *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, explains public reluctance to become witnesses because of safety and repeated court attendance, and reproduces *State of U.P. v. Anil Singh* against automatic rejection merely because all bystanders were not examined or independent corroboration was absent when the examined accounts are otherwise acceptable; this answered the objection that the incident occurred at a public place but no

independent witness was examined. For sentence execution, *O.M. Cherian v. State of Kerala, (2015) 2 SCC 501*, discussed Section 31 CrPC and the practical impossibility of requiring fixed terms to be served after imprisonment lasting for the convict's natural life, favouring concurrent life and fixed terms or multiple life terms. The Court applied Section 427(2) CrPC across the separate trial sentences and, citing *Sharad Hiru Kolambe v. State of Maharashtra, (2018) 18 SCC 718*, expressly kept default imprisonment consecutive.

3. Statutes considered : Section 374 CrPC governed Pappu's conviction appeal. IPC Section 148 punished his armed participation in a rioting/unlawful-assembly offence; Section 302 supported direct liability for shooting Imambaksh, and Section 302 read with 149 supported liability for Jameel's killing in the assembly even though Phulle fired the shot. Section 307 IPC appears as the pending attempt-to-murder litigation and alleged pressure for compromise; no Section 307 conviction was under appeal here. Arms Act Sections 25 and 27 were the separate weapon convictions upheld, with the trial evidence including sanction from the District Magistrate. CrPC Section 427(2), quoted and expressly applied, makes a later term or life sentence concurrent where the convict was already undergoing life imprisonment; Section 427(1) generally governs the different situation of an earlier imprisonment term subject to a concurrency direction. The quoted analysis of Section 31(1) in *O.M. Cherian* addresses multiple sentences at one trial, while the present direction applies Section 427(2) across the March and April 2010 trial judgments. The Court separately directed default sentences to run consecutively under the cited *Sharad Hiru Kolambe* ruling.

4. Issues : (i) Could evidence from Phulle's later separate trial be read in the appeal from Pappu's own trial, notwithstanding simultaneous hearing? (ii) Did the medical record prove homicidal firearm deaths, and did the eyewitnesses have an adequate opportunity to identify familiar assailants in evening light with load shedding? (iii) Were the related witnesses naturally present, sufficiently reliable despite possible omissions or contradictions, old enmity and the claimed counter-case, and did the absence of independent bystanders undermine them? (iv) Did an inconclusive FSL linkage of seized pistol and cartridges create reasonable doubt even if the actual firearm could be treated as unrecovered? (v) Were Pappu's own shooting of Imambaksh and his assembly liability for Phulle's shooting of Jameel established distinctly, along with the rioting and Arms Act convictions? (vi) How should this trial's life and other substantive sentences operate in relation to the earlier life sentence in Sessions Trial 125/2008, and how should imprisonment in default of payment of fine operate?

5. Ratio / Findings : The Court first kept the trial records distinct under *A.T. Mydeen*; Phulle's separately tried appeal would receive a separate judgment. Dr Parihar's examination and postmortem of Jameel, and Dr Shakya's postmortem of Imambaksh, disclosed firearm entry/exit wounds with blackening and tattooing, internal damage, haemorrhage and recovered bullets; despite omissions in medical recording and inability to identify the exact gun, both deaths were found homicidal. Ali Baksh and other examined family witnesses placed the armed group at the shop and distinguished Pappu's two shots at Imambaksh from Phulle's shot at Jameel. Islam did not see those murders and his hostile account was not recast as direct proof. The Court evaluated the 7–7:30 p.m. time in April, an operating gas lantern, nearby shops, close firing evidenced by medical marks and the longstanding familiarity of the rival groups; with *Ramesh*'s qualified rural-vision principle, it found an actual and adequate opportunity to see and identify the assailants despite power shedding.

The eyewitnesses were relatives, but the shops' proximity, shared residence and routine gathering at the elder brother's shop made their presence natural; Basheer appeared as Jameel's attendant in the 7:40 p.m. medical record. The Court applied the distinction between related and interested witnesses and the requirement of cautious assessment for consistency from *Rupinder Singh Sandhu*, *Shamim*, *Rizan* and *Mohd. Rojali Ali*. It did not reject them because of kinship and accepted their testimony after considering actual circumstances. Competing Section 307 cases and the allegation that the prosecution case countered Pappu's report about Jainuddin required scrutiny, not automatic belief or rejection. The pending date for Imambaksh's evidence on 25 April and the pressure to compromise supplied a motive, while the direct accounts, natural presence and supporting medical evidence answered the possibility of false attribution. *Dr M.V. Ramana Reddy*, *Anil Rai* and *Sushil* were relied on for the principle that enmity can motivate the offence and

prompt false implication, requiring careful evaluation of the evidence. Paragraph 54 referred to the companion appeal's finding that Imambaksh and Jameel died before Jainuddin and to the rejection of the asserted defence there; the present conviction was affirmed on the evidence in this trial, without transferring testimony from the other trial.

The FSL found evidence of firing in the recovered .315 pistol but could not attribute empty cartridges to it without percussion caps. The Court did not find a conclusive ballistic match. Applying *Rakesh*, *Gulab* and *Krishna Gope*, it treated the uncertainty, taken at its highest, as non-recovery of the actual weapon, which did not displace accepted direct and medical evidence. No independent market witness was called, but *Ambika Prasad* and its *Anil Singh* passage rejected an automatic adverse inference when otherwise acceptable witnesses had testified; reluctance of outsiders was an explanation, not a substitute for assessing this evidence. On that assessment of the evidence as a whole, the Court found Pappu present as an armed member of the unlawful assembly, personally shooting Imambaksh, and liable under Section 302/149 for Jameel when Phulle shot him upon intervention. It affirmed Sections 148, 302, 302/149 IPC and 25/27 Arms Act, and found no basis to alter the minimum life punishment under Section 302.

Although counsel had not sought concurrency, the Court addressed sentence execution. The life sentence in Trial 125/2008 dated 9 March 2010 preceded this trial's 23 April 2010 life sentences. Section 427(2) CrPC requires the later sentence to run concurrently when the prisoner is already undergoing life imprisonment; *O.M. Cherian* supplied the reasoning on concurrent operation of life sentences and fixed terms. The Court directed the substantive sentence in this appeal to run with that earlier trial sentence but, under *Sharad Hiru Kolambe*, directed default sentences to run consecutively.

6. Relief : The Hon'ble High Court has dismissed the criminal appeal. The Datia Special Judge/Additional Sessions Judge's judgment and sentence of 23 April 2010 in Sessions Trial 84/2008 were affirmed: Pappu's separate Imambaksh and Jameel murder convictions, armed rioting and Arms Act convictions remained in force with the fines and default terms imposed at trial. The substantive sentence in this case was directed to run concurrently with the sentence in Sessions Trial 125/2008; imprisonment in default of payment of fine was expressly directed to run consecutively. Pappu was already in custody and was to undergo the remaining term. A copy of the judgment was to be provided to him without charge, and the trial record returned with the judgment for compliance. The connected Phulle appeal and the Jainuddin appeal were separate judgments, not additional disposals within this order.

Pappu v. State of M.P., Cr.A. no. 401/2010, 07/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Cognizance / omitted suspects / defence alibi - The FIR specifically accused Badshah and Rakesh of separate shootings injuring Parimal and Dharmendra, but police excluded them based on medical records, witness statements and CCTV footage. *Harjinder Singh v. State of Punjab* (Supreme Court, SLP (Crl.) 1891/2024, 6 May 2025) was applied for the principle that an accused bears the burden of proving an alibi, and unproved defence documents cannot be accepted as conclusive at the preliminary stage in preference to the prosecution allegations. The quoted holding in *Harjinder* arose under Section 319 CrPC, which requires evidence emerging in court, in a case of alleged abetment under Section 306 IPC. The present Court applied its caution on alibi in the distinct context of Section 193 cognizance, without deciding the truth of the shootings or the eventual defence. Rakesh's April 2021 COVID prescription did not establish inability to leave home on 1 June; no record showed that he was confined to bed.

Electronic proof / CCTV alibi - The private-house DVR date and time could be entered manually, allowing footage of an entry or departure to be presented with a different time. On this record the father's and neighbours' statements and footage did not establish the two suspects' absence. The Court relied on its earlier *Mukesh Singh Rawat v. State of M.P. (Criminal Revision 2319/2022, 3 August 2022)*, whose quoted passage additionally noted unidentified footage and the absence of a certificate under Section 65B of the Evidence Act in that separate case, and *its Chandrakant Yadav v. State of M.P. (MCRC 25903/2024, 30 July 2024)*; the cited Supreme Court orders declining to disturb those decisions were mentioned. The Court found the present material insufficient, without finding actual

alteration or separately deciding a Section 65B defect here.

Committal / sessions cognizance / active versus passive magistrate - *Balveer Singh v. State of Rajasthan, (2016) 6 SCC 680*, distinguishes a committal Magistrate's active consideration on the merits from a merely passive committal. If the Magistrate actively considers and refuses to summon persons omitted from a charge sheet, a similar Section 193 application before Sessions ordinarily cannot be used to reverse that refusal; Section 319 then operates on trial evidence. The Magistrate here rejected the Section 190 request only because the offence under Section 307 IPC was triable by the Court of Session and expressly left involvement to that court. Applying *Balveer*, Section 193 remained available. The High Court set aside the Sessions Judge's refusal and directed cognizance against Badshah and Rakesh for Sections 307 and 294 IPC and any other offence supported by the case's circumstances.

Case-note :- ***1. Facts :*** On the complainant Ramvilas Gurjar's account, he was riding with applicant Parimal Singh Gurjar at about 4 a.m. on 1 June 2021, while Dharmendra travelled on another motorcycle. At a farmhouse on Piparsa Station Road they encountered Badshah, Rakesh, Rahul and Lalla alias Janavar, allegedly armed with lathis amid prior enmity. After abuse and an objection, Badshah allegedly shot Parimal in the back of the waist, and Rakesh allegedly shot Dharmendra in the back of the waist. They fled, leaving a scooter. The injured were taken to Morena hospital, referred to Gwalior and admitted there before the FIR was lodged. These were allegations at the cognizance stage, not findings of guilt. Police charged Rahul and Lalla but omitted Badshah and Rakesh. The applicant said the omission rested on Badshah and Rakesh's complaint of false implication, Rakesh's COVID medical material, other statements and neighbourhood CCTV. A Section 190 CrPC application to include them failed before the committal Magistrate, whose stated reason was that the offence under Section 307 IPC was triable by the Court of Session and the issue belonged there. The applicant then applied under Section 193 before the Third Additional Sessions Judge, Morena in Sessions Trial 315/2023; that court rejected the request on 24 June 2024. In this Section 482 challenge, the applicant argued that unproved medical material and footage could not conclusively establish an alibi against a specific FIR account. Respondents 2 and 3 contended that the Magistrate had already considered the request, leaving only Section 319 CrPC after trial evidence emerged.

2. Precedents — Considered : *Harjinder Singh v. State of Punjab and Another* (Supreme Court, SLP (Criminal) 1891/2024, decided 6 May 2025) was quoted and applied to the alibi issue. Its Section 319 context required evidence surfacing in court, not conjecture, before adding an accused. The accused's parking, chemist, OPD and CCTV documents were unproved and, even taken at face value, did not necessarily exclude presence during an alleged earlier confrontation. The Supreme Court cautioned against elevating an untested defence before the prosecution had led its full evidence, reversing High Court interference under Section 482 and leaving guilt in its Section 306 IPC abetment case for trial. Its quoted reference to *Mahendra Awase* concerned the standard for proving abetment at trial, not a separate issue decided here. The present Court used the burden of proving alibi and the principle concerning the reliability of defence material at the preliminary stage in a different Section 193 setting; it did not declare that Section 319's trial-evidence trigger governed this application. The Court also quoted its decision in *Mukesh Singh Rawat v. State of Madhya Pradesh (Criminal Revision 2319/2022, 3 August 2022)*, which had found a home-video alibi inadequate where identification, manually set date/time, Section 65B Evidence Act certificate and other circumstances remained unresolved; the judgment states that the Supreme Court affirmed that order on 7 November 2022 in SLP (Criminal) 10484/2022. *Chandrakant Yadav and Another v. State of M.P. and Another (MCRC 25903/2024, 30 July 2024)* was cited for a similar view, with a Supreme Court order of 16 December 2024 in *Jagdish Prasad Dixit v. State of M.P.* (SLP (Criminal) Diary 48079/2024) reported as affirming it.

Balveer Singh v. State of Rajasthan, (2016) 6 SCC 680, was quoted and applied to the Section 190/193 jurisdiction dispute. There the committal Magistrate heard a complainant's application against people whom the police had not charged and, after applying its mind to the merits, rejected it; the Supreme Court called that an active rather than passive role and held that a similar application to the Sessions Court ordinarily could not simply reverse that decision. It contrasted a Magistrate's mere forwarding of the request with the committed case. The High Court

here examined the 30 September 2023 committal order as described in a certified copy provided by respondents' counsel (the order was otherwise not in the record) and found no merits adjudication, so *Balveer* did not bar Sessions cognizance under Section 193. The Court identified Section 319 on trial evidence as the route relevant when a Magistrate had already made an active merits decision, not the only route in this passive-committal case.

3. Statutes considered : Section 482 CrPC supplied the applicant's route to challenge the Sessions Judge's refusal. Section 190 CrPC concerned the earlier committal-stage request; Section 193 CrPC was the Sessions Court's cognizance power after committal, available here because the Magistrate had not determined the omitted suspects' involvement on the merits. Section 319 CrPC was invoked by the respondents as the exclusive power available later and discussed by *Balveer* and *Harjinder* in the distinct setting of adding persons on evidence arising during trial. IPC Section 307 was the alleged attempt-to-murder offence making the case Sessions triable, while Section 294 was another offence for which the High Court expressly directed cognizance. The Court left other offences open only to the extent made out by the case facts; it did not predetermine them. The defence burden to establish alibi was explained by reference to *Harjinder*; the defence was not finally determined in this order.

4. Issues : (i) At the stage of seeking cognizance against two suspects omitted from the charge sheet despite direct FIR allegations, could the COVID prescription, statements of witnesses related to the suspects and private-house CCTV collected by the police conclusively establish their alibi and preclude examination of that defence at trial? (ii) Could Sessions exercise Section 193 CrPC after a committal Magistrate had rejected a Section 190 request because the offence under Section 307 was triable by the Court of Session, or did that earlier order constitute an active merits decision making Section 319 trial evidence the only later route? (iii) If the refusal rested on those grounds, what relief was warranted in the Section 482 application? Actual presence and guilt, the ultimate value of defence exhibits after proof, and possible other charges were left to ordinary trial processes.

5. Ratio / Findings : The Court acknowledged the FIR's precise attribution of a shot to each omitted suspect, then rejected the premise that the police material conclusively excluded them at this preliminary stage. *Harjinder* placed the alibi burden on the accused and warned that unproved defence records cannot be accepted in preference to allegations or sworn testimony before those records are tested, while its Section 319 setting remained distinct. Rakesh's prescription related to COVID in April 2021; it did not establish that he was bedridden or unable to leave home one month later on 1 June. No document showing confinement to bed was supplied. Statements of the suspects' father and neighbours did not establish their absence either. The date and time on a home DVR may be set manually, so the apparent chronology of an entry or exit could be recreated by altered settings; the Court found the CCTV-based inference insufficient, not that actual tampering was proved. Its *Mukesh Singh Rawat* and *Chandrakant Yadav* references reinforced caution, but the missing Section 65B certificate described in *Mukesh*'s separate record was not an independent finding about this footage.

On the jurisdiction issue, *Balveer* distinguishes a committal Magistrate's active merits rejection from passive forwarding. The Magistrate here said only that Section 307 was triable by Sessions and that Sessions should decide whether Badshah and Rakesh participated or were falsely named. The certified copy was provided by respondents' counsel; the order itself was not otherwise on the record. The stated reasons showed no application of mind to the merits of summoning them. Accordingly, the Magistrate had played a passive committal role and the Sessions Court retained Section 193 power. The contention that Section 319 after trial evidence was the exclusive route was rejected. In view of the direct allegations, the insufficient basis for the inference excluding the suspects and the available jurisdiction under Section 193, the Sessions Judge materially erred by declining cognizance. This is a threshold cognizance decision, not proof beyond reasonable doubt of either person's guilt.

6. Relief : The Hon’ble High Court has allowed the application. The order dated 24 June 2024 passed by the Third Additional Sessions Judge, Morena, in Sessions Trial 315/2023 was set aside, and Parimal's Section 193 application was allowed. The trial court was directed to take cognizance against respondents 2 and 3, Badshah Dandotiya and Rakesh Dandotiya, under IPC Sections 307 and 294, as well as any other offence made out on the facts and circumstances. The order did not convict them, finally reject a proved

alibi, or make a separate Section 319 summoning order.

Parimal Singh Gurjar v. State of Madhya Pradesh and Others, M.Cr.C. no. 31252/2024, 09/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Investigation / arrest discretion / Section 482 CrPC - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was applied in refusing an informant's request that the High Court order arrest and the eventual filing of a charge sheet. That decision invokes *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*: Section 41 CrPC permits police arrest on a cognizable allegation but does not require automatic arrest; liberty and reputation call for caution and an assessment of necessity in the course of investigation. The Supreme Court also rejected unreasoned directions compelling arrest, seizure and prosecution under Section 482, observing that police may lawfully find a case for prosecution or no case and that persons affected by directions with drastic consequences should be heard; its quoted discussion of *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, concerns that hearing safeguard. The High Court accordingly refused to supervise the investigation by specifying an arrest or charge-sheet result. It did not decide whether any accused was guilty or whether arrest would ultimately be lawful.

Investigation / prompt completion / Section 173(1) CrPC - The separate duty to finish an investigation without unnecessary delay remained enforceable. The Court read Section 173(1) as requiring the investigating officer to reach a conclusion on whether an offence is made out and promptly file a lawful final report, either a closure report or charge sheet according to the evidence, without a predetermined outcome. It directed early completion and necessary lawful steps, and allowed the applicant to approach the Superintendent of Police, Morena, with any grievance. This was a direction concerning prompt completion and lawful procedure, not an order to arrest, seize property or prosecute.

Case-note :- ***1. Facts :*** Parimal Singh Gurjar filed an application under Section 482 CrPC concerning Crime 326/2021 at Police Station Civil Line, District Morena. He said the police had registered the case on his complaint under IPC Sections 307, 294 and 34 but had taken no further effective action, including no arrest of the accused. The prayer reproduced in paragraph 3 sought arrest of the absconding accused, completion of investigation in that crime and presentation of a charge sheet before the trial court. The State was represented. The case reached the High Court while investigation remained pending, before a police final report or any guilt determination. The Court considered the proposed arrest direction, the boundary of its inherent power over an ongoing investigation and the separate statutory obligation to complete the investigation without undue delay.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted at length and applied. In the quoted Supreme Court case a High Court had, without giving adequate reasons or hearing the accused persons, directed police to record witnesses, arrest, seize property and file a charge sheet. The Supreme Court held that investigation is a statutory police duty and that courts normally may not dictate its manner or outcome. An investigation need not produce arrest, seizure or prosecution; it may lawfully lead to a finding that no case is made out. Section 482 CrPC is confined to securing the ends of justice, giving effect to an order under the Code or preventing abuse of court process and requires sparing, careful use. The present Court used those principles to decline an arrest direction and to avoid compelling a charge sheet. Within *D. Venkatasubramaniam*'s quoted reasoning, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, construes Section 41 CrPC as discretionary even for cognizable offences: officers must consider whether arrest is necessary during the investigation, mindful of personal liberty, reputation, the allegation and the accused's circumstances, instead of arresting automatically when an FIR is lodged. This principle was directly relevant to the applicant's requested arrest. The quoted Supreme Court passage also relies *on Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for a reasonable opportunity to be heard before a judicial direction for investigation likely to affect a person's reputation; *D. Venkatasubramaniam* treated the unreasoned order made there without hearing the affected persons as unsustainable. The present Court did not itself issue such an adverse direction or make a separate factual hearing determination about the accused.

3. Statutes considered : Section 482 CrPC supplied the inherent jurisdiction invoked by the applicant, but the Court held that it could not use that power to supervise and dictate police arrest or filing of a charge sheet on this complaint. The *D. Venkatasubramaniam* quotation explains its limited statutory purposes and cautious exercise. Section 41 CrPC, discussed through *M.C. Abraham* within the adopted Supreme Court reasoning, makes arrest without warrant a discretionary police power in specified cognizable situations, subject to a careful assessment of necessity rather than an automatic consequence of an FIR. Section 173(1) CrPC expressly requires every investigation under the relevant chapter to be completed without unnecessary delay. It allows an instruction to finish the inquiry and submit a lawful final report after the officer assesses whether an offence is made out; it does not prescribe closure or charge sheet in advance. IPC Sections 307, 294 and 34 identify the registered allegations and were not interpreted on their merits.

4. Issues : (i) Could the High Court, on the informant's Section 482 application after registration of a cognizable crime, compel police to arrest the persons named in the FIR or predetermine the investigative steps and charge-sheet outcome? The applicant relied on the alleged lack of progress; the countervailing legal issue was the statutory independence and discretion of investigation. (ii) Despite that limit, what relief follows from Section 173(1)'s command that an investigation be completed without unnecessary delay, and can a grievance still be placed before the Superintendent of Police? The Court did not decide whether the alleged offences were proved, whether a particular suspect should ultimately be arrested, or whether the final police report should be a charge sheet or a closure report.

5. Ratio / Findings : On the first issue, the Court expressly declined the requested arrest direction. It adopted *D. Venkatasubramaniam*'s analysis that police must investigate according to law but the High Court ordinarily must not guide the manner of inquiry by imposing arrest, seizure and a charge sheet. *M.C. Abraham*, quoted within that authority, explains why an officer may arrest in appropriate Section 41 circumstances but is not bound to do so mechanically on registration of a cognizable offence; coercive arrest affects liberty, status and reputation and calls for discretion exercised in light of the investigation. *D. Venkatasubramaniam* also states that Section 482's inherent power is limited and that sweeping and unreasoned directions about investigation can have serious consequences for persons who have not been heard, drawing on *Divine Retreat Centre*. The present Court concluded that ordering both arrest and filing a charge sheet would amount to supervising the investigation. It did not hold that police could never arrest or that no case existed.

On the second issue, the Court separately quoted Section 173(1) and applied its requirement that investigation be completed without unnecessary delay. The investigating officer cannot leave an FIR pending indefinitely. The officer must decide, based on the lawful investigation, whether an offence is made out and submit the appropriate final report, whether closure or charge sheet, as early as possible. The Court accordingly directed early completion and necessary steps under law, preserving police discretion on evidence and final outcome rather than ordering a specific arrest or prosecution. It also permitted the applicant to submit an application setting out his grievance to the Superintendent of Police, Morena, to be considered according to law. The Supreme Court's caution about orders affecting suspects who have not been heard forms part of the reasoning in *D. Venkatasubramaniam* applied here; no such coercive direction was made in this case.

6. Relief : The Hon'ble High Court has finally disposed of the Section 482 application. No arrest, seizure or charge sheet was ordered. The investigating officer was directed to conclude the pending investigation as early as possible and take steps required by law, including a lawful final report after determining whether an offence was made out. The applicant could apply to the Superintendent of Police, Morena, about any grievance, and that application would be considered according to law. The Court fixed no numerical deadline and made no finding of guilt or of the proper content of the police report.

Parimal Singh Gurjar v. State of M.P. and Others, M.Cr.C. no. 402/2022, 06/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR refusal / statutory route - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the police's duty to register an FIR

upon cognizable information from the procedure to enforce the duty when police fail. It applied *All India Institute of Medical Sciences Employees' Union, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre, (2004) 7 SCC 768*, *Hari Singh, (2006) 5 SCC 733*, and *Minu Kumari, (2006) 4 SCC 359*, to direct aggrieved informants to Magistrate complaint remedies under Sections 190 and 200 CrPC; it distinguished *Ramesh Kumari, (2006) 2 SCC 677*, and *Lallan Chaudhary, (2006) 12 SCC 229*, which concerned the police duty rather than the remedy available when police fail to act. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, additionally prescribes written recourse to the Superintendent of Police under Section 154(3) and then an application under Section 156(3) before a Magistrate who, on being properly satisfied, may direct FIR registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed that route, including the possible recommendation of a change of investigating officer, while the Magistrate cannot personally investigate. Applying these propositions to a Section 528 BNSS request about police inaction, the High Court declined to direct registration and did not determine the complaint's merits.

Magistrate complaint / exceptional High Court intervention - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, applying *Gangadhar* and *AIIMS Employees' Union*, explains that an informant may present a complaint under Sections 190 and 200 CrPC; depending on the initial material and inquiry, a Magistrate may seek police investigation, issue process or dismiss it. Its quoted Article 226 exception concerns rare cases of clearly established mala fide investigation, abuse of power and non-compliance with Chapter XII of the Code, and even then a High Court may insist on observance of the prescribed procedure but cannot dictate how the police investigate. The Court also considered *its Division Bench's Shweta Bhadauria v. State of M.P. (W.A. 247/2016, 20 December 2016)*, which recognises alternative remedies subject to exceptional writ cases under *Whirlpool Corporation, (1998) 8 SCC 1*, and distinguishes *Lalita Kumari, (2014) 2 SCC 1*, on FIR duty from writ entitlement. Those writ discussions supplied limits and context; the present matter was under Section 528 BNSS. The application was dismissed with liberty to file before a Magistrate under Section 200 CrPC / Section 223 BNSS, without deciding the allegations of misconduct.

Case-note :- ***1. Facts :*** Parmal Singh Rawat applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). His prayer sought a direction to respondents 1 and 2 to take affirmative steps on his representation against respondent 3, Arun Singh Jadoun, a traffic subedar, and respondent 4, Ranveer Singh Yadav, in charge of Traffic Police Station Shivpuri. Counsel asserted that no FIR had been registered despite his complaint. The State responded that police inaction could be pursued before the Magistrate. The Court framed the question as whether a direct application for a police FIR direction could be maintained in this procedural setting, considered the established statutory alternatives and finally dismissed the application with liberty to approach the Magistrate.

2. Precedents — Considered : *Aleque Padamsee and Others v. Union of India and Others, (2007) 6 SCC 171*, was quoted for both the substantive duty to register an FIR when information discloses a cognizable offence and the distinct remedy when police fail. It accepted the Magistrate complaint route in Sections 190 and 200 CrPC. Its discussion follows *All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh, (2006) 5 SCC 733*, and *Minu Kumari, (2006) 4 SCC 359*. *Aleque Padamsee* treated *Ramesh Kumari, (2006) 2 SCC 677*, and *Lallan Chaudhary, (2006) 12 SCC 229*, as addressing the police's required response to cognizable information, rather than contradicting the procedure of making a complaint before the Magistrate; the present Court reproduced and relied on that distinction.

Divine Retreat Centre v. State of Kerala and Others, (2008) 3 SCC 542, was quoted for a limited Article 226 exception in a rare case of clearly established mala fide investigation, abuse and noncompliance with criminal procedure, while prohibiting a court from dictating the investigation's method even there. The cited passage follows *Gangadhar* and *AIIMS Employees' Union*: an aggrieved informant may complain under Sections 190 and 200; after Chapter XV inquiry, a Magistrate can direct investigation and report if a prima facie case appears, dismiss the complaint under Section 203 if no offence appears, or take cognizance and issue process. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, was applied for

sequential recourse to the Superintendent of Police under Section 154(3) and, if unsatisfactory, the Magistrate under Section 156(3), who may order registration or proper investigation and monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed *Sakiri Vasu* and the Magistrate's discretion to recommend a change of officer, while making clear that the Magistrate cannot personally investigate. The High Court applied these authorities and left the applicant to pursue the proper statutory forum instead of issuing a direct order for FIR registration.

The Court quoted its Division Bench decision *Shweta Bhadauria v. State of M.P. and Others (Writ Appeal 247/2016, 20 December 2016)*: a writ of mandamus for FIR registration may be denied where Sections 154(3), 156(3), 190 and 200 CrPC have not been pursued, subject to the four established *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, alternative-remedy exceptions. The quoted *Shweta* holding also distinguishes *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: its police FIR duty does not decide entitlement to an immediate writ without pursuing the alternative remedies. *Whirlpool* and *Lalita Kumari* appear through the quoted High Court precedent.

3. Statutes considered : Section 528 BNSS was the inherent-jurisdiction provision invoked by the applicant in 2025. The Supreme Court and Division Bench precedents quoted the earlier CrPC provisions in Sections 154 (registration), 154(3) (written approach to superior police officers), 156(3) (Magistrate-directed registration/investigation and monitoring), 190 and 200 (Magistrate cognizance and complaint procedure), and 203 (dismissal of complaint if no sufficient basis); these were discussed in their original statutory contexts. In the operative direction the Court itself stated the available complaint route as Section 200 CrPC / Section 223 BNSS. Article 226 was discussed through *Divine Retreat* and *Shweta* for the limits and possible exceptional writ route; the present application remained a Section 528 BNSS proceeding. No substantive offence section or sanction question was adjudicated.

4. Issues : (i) On the applicant's assertion of an unregistered complaint against traffic officers, did the police's duty to register an FIR on information disclosing a cognizable offence justify a direct High Court direction on this Section 528 BNSS application, or should the applicant use the mechanisms described by the Supreme Court for recourse to superior police officers and the Magistrate? (ii) What distinct complaint remedy could the applicant use before the Magistrate, and did the quoted narrow possibility of extraordinary Article 226 intervention or the general FIR duty alter the disposition on the facts supplied? The Court did not decide the alleged officers' conduct, whether a cognizable offence was actually disclosed, or how a future Magistrate should rule on a complaint.

5. Ratio / Findings : The Court adopted *Aleque Padamsee*'s distinction between the police duty and the method of seeking redress for police inaction. Cognizable information must be recorded, but failure to do so does not in ordinary circumstances require the High Court to issue an original registration direction. *Aleque Padamsee* resolved the apparent tension with *Ramesh Kumari* by explaining that the latter deals with the police obligation, whereas the former's related line of cases addresses the procedure available to the complainant. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* set out sequential recourse under Section 154(3) and then Section 156(3) CrPC: a Magistrate can order FIR registration and proper investigation after the required initial satisfaction, monitor progress and, where necessary, recommend a new officer, but cannot conduct the police investigation. *Divine Retreat* and *Gangadhar* explain the Sections 190/200 complaint route, where the Magistrate examines the material and may direct inquiry, issue process or reject a meritless complaint. The exceptional Article 226 discussion in *Divine Retreat* does not authorise routine judicial directions about the manner of investigation, and *Shweta Bhadauria* reserves established exceptions to the alternative-remedy rule while distinguishing *Lalita Kumari*'s substantive police-duty holding. The High Court dismissed the Section 528 application and left the Magistrate remedy open without deciding the matter in advance.

6. Relief : The Hon'ble High Court has dismissed the application. Parmal Singh Rawat retained express liberty, if he wished, to approach the concerned Magistrate under Section 200 CrPC / Section 223 BNSS for redress. The Court did not order registration of an FIR, prescribe action against respondents 3 and 4, direct police investigation, or decide the merits of the representation.

Parmal Singh Rawat v. State of Madhya Pradesh and Others, M.Cr.C. no. 11480/2025, 07/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Negotiable Instruments Act / Section 138 / compromise in revision - A voluntary compromise after conviction and appellate affirmance was verified by the Principal Registrar; the reported payment comprised ₹1,55,000 to the complainant and ₹25,000 said to have been deposited earlier, the latter to be paid if the deposit had not occurred. Applying *Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663*, the Court imposed a compounding cost of 15% of the cheque amount for a compromise in Sessions Court or High Court appeal/revision. The Supreme Court's quoted graduated guideline permits no cost at the first or second Magistrate hearing, 10% for later Magistrate compounding, 15% at Sessions/High Court appeal or revision and 20% at the Supreme Court. Subject to the 15% deposit, the trial and appellate judgments concerning the Section 138 conviction were set aside and the applicant was acquitted. The trial court could issue a release order only after production of the original deposit receipt with an attested copy; release was also subject to his not being required in another case.

Case-note :- ***1. Facts :*** Parmanand had been convicted by the Judicial Magistrate First Class, Ratlam, in SC NIA 1401717/2013 on 23 July 2016 for Section 138 of the Negotiable Instruments Act. The First Additional Sessions Judge, Ratlam, affirmed in Criminal Appeal 2400149/2015 on 9 September 2021, with a sentence described as one year's rigorous imprisonment and a ₹2,00,000 fine. He did not surrender after the appellate judgment; he was arrested on 17 May 2024 and jailed. On 30 May 2024 he brought this revision under Sections 397 and 401 CrPC with a delay-condonation application. The respondent did not oppose condonation, which the Court allowed. The parties then moved compromise application IA 12897/2024, reporting ₹1,55,000 paid to complainant Sushil Munat and another ₹25,000 deposited under a lower-court order, for a stated ₹1,80,000 total. They agreed that if the ₹25,000 had not in fact been deposited it would be paid to the complainant. By an order of 4 September 2024 the Court referred them to the Principal Registrar. The applicant appeared before the Registrar by video connection, and the respondent also appeared. The Registrar inquired into voluntariness and reported that the settlement was free of undue influence, force or coercion. Applicant's counsel said he was prepared to pay the 15% compounding cost prescribed at this stage by *Damodar S. Prabhu*. The Court assessed the compromise and the cost before disposing of the revision.

2. Precedents — Considered : *Damodar S. Prabhu v. Sayed Babalal H., (2010) 5 SCC 663*, was expressly invoked, quoted and applied. Its graduated compounding guidelines for cheque dishonour cases seek early settlement and attach increasing costs according to the forum and stage: an application at the first or second hearing before the Magistrate may be allowed without cost; a subsequent Magistrate application carries 10% of the cheque amount, deposited with the Legal Services Authority or another designated authority as provided in the guideline; compounding before the Sessions Court or High Court in appeal or revision carries 15%; and an application before the Supreme Court carries 20%. This was a High Court revision after trial and appellate conviction, so the Court applied the 15% tier rather than the no-cost or 10% tiers. The Registrar's verification of voluntary consent supplied a factual safeguard in this case.

3. Statutes considered : Section 138 of the Negotiable Instruments Act was the offence of conviction. Sections 397 and 401 CrPC supplied criminal revisional jurisdiction over the conviction and appellate judgment. The condition applicable at this stage was taken from *Damodar S. Prabhu*. The ₹2,00,000 fine formed part of the sentence for the Section 138 conviction, distinct from the 15% cheque-amount compounding cost; the order does not state the cheque amount or equate those figures.

4. Issues : After an affirmed Section 138 conviction and delayed revision filed following arrest, had the parties made a genuine voluntary settlement that could support compounding at the High Court revision stage? If so, which cost under the staged guidelines in *Damodar S. Prabhu* applied, and how should the conviction, acquittal and release direction be framed while ensuring proof of the deposit and addressing the possibly unpaid ₹25,000? The delay application was unopposed and allowed, without any separate contested question of legal principle.

5. Ratio / Findings : The Principal Registrar's inquiry established that both parties voluntarily entered the settlement without pressure, duress or

coercion. The Court accepted that verified compromise and allowed IA 12897/2024. It then reproduced *Damodar S. Prabhu*'s graded framework and selected the tier requiring 15% of the cheque amount because compounding arose in a High Court revision after conviction and appeal, not at the first two Magistrate hearings or later before the Magistrate. This was a specific application of the Supreme Court's stage distinction, with proof of deposit still required. The parties' account of payment remained conditional as to ₹25,000: if not deposited earlier, the applicant was to pay it to the complainant. Subject to deposit of the compounding cost in this case, the Court set aside the two judgments of conviction and acquitted the applicant. It conditioned the trial court's release order on seeing the original deposit receipt with an attested copy, preserving verification of compliance rather than assuming payment. The order did not state the cheque amount or quantify the 15% cost, and made no separate determination about refund of the prior fine.

6. Relief : The Hon'ble High Court has condoned the delay on the unopposed application and allowed the compromise application. The criminal revision was allowed. Subject to the applicant's deposit of 15% of the cheque amount as compounding fee/cost, the 9 September 2021 appellate judgment and 23 July 2016 trial conviction were set aside and he was acquitted of the charge. He had to produce the receipt before the trial court; the trial court was to issue a release order only after the original receipt and its attested copy were produced. He could be released if not required in another case. If the stated ₹25,000 earlier deposit had not occurred, it remained payable to the complainant.

Parmanand v. Sushil Munat, Cr.R. no. 2771/2024, 11/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Related witnesses / oral dying declarations - *Raju v. State of T.N., (2012) 12 SCC 701*, explained that a related witness may also be interested and, particularly where hostility exists, requires discerning scrutiny as a matter of prudence rather than automatic exclusion; it discussed *Basawan Singh*, *Dalip Singh* and *Darya Singh*. *Jodhan v. State of M.P., (2015) 11 SCC 52*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, require careful credibility assessment, while allowing intrinsically reliable interested testimony without invariably requiring independent corroboration. *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, reject discrediting testimony solely on the ground of kinship, distinguish benefit or false-implication motive from natural relationship and require cogent and consistent evidence. The Court tested the wife, mother and father's accounts of Pratipal naming Bhura and found them reliable, while recognising that they had not implicated Munna, whose acquittal was unchallenged. *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, quoting *Anil Singh*, supported rejecting an objection based merely on the absence of independent neighbours, provided the other evidence was acceptable.

Dying declaration / fitness and freedom from tutoring - *P.V. Radhakrishna v. State of Karnataka, (2003) 6 SCC 443*, citing the Constitution Bench in *Laxman*, and *Ravikumar v. State of T.N., (2006) 9 SCC 240*, make actual capacity and the recorder's satisfaction central; lack of a particular medical certification is not by itself fatal where fitness is proved, though available medical opinion is a sound safeguard. Here the Naib-Tahsildar obtained Dr Harishchandra's certificates before and after the 3:20 –3:40 p.m. recording, both testified to Pratipal's speech and fitness, and relatives were excluded; no tutoring was shown. The Court accepted Ex. P.6 as voluntary and made by a mentally fit declarant.

Dying declaration / custody, oral support and sufficiency - The recorder sent Ex. P.6 sealed to the CJM at Jhansi; the investigator recovered the sealed envelope there and deposited it with the JMFC at Karera. That chain defeated the delayed-production objection; immediate oral declarations to the wife, mother and father corroborated the written account. The synthesis of *Paniben* in *P.V. Radhakrishna* and the decisions in *Ravikumar*, *Laltu Ghosh v. State of W.B., (2019) 15 SCC 344*, and *Ramilaben Hasmukhbhai Khristi v. State of Gujarat, (2002) 7 SCC 56*, permit conviction solely on a true, voluntary declaration made by a competent declarant, but require caution for tutoring, inconsistent or suspicious accounts; corroboration is not an inflexible legal precondition. *Ramakant Mishra v. State of U.P., (2015) 8 SCC 299*, treats Section 32(1)

Evidence Act as encompassing cause and circumstances of the death transaction, without an absolute rule requiring death within hours or the declarant's specific expectation of death; genuineness remains decisive. The Court applied those tests to Ex. P.6 naming Bhura and relied additionally on the consistent oral statements, not a presumption that every written declaration is truthful.

Section 302 versus Section 304 / deliberate burning - *Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329*, adopting *Dhirendra Kumar*'s contextual factors including provocation, premeditation, prior enmity, force, undue advantage and cruel or unusual manner, was applied to reject the sudden-fight conversion plea. Pouring kerosene and burning Pratipal alive was found cruel and involved undue advantage. *Khokan v. State of Chhattisgarh, (2021) 3 SCC 365*, rejected any automatic proposition that death by septicaemia entails Section 304 Part I, and on its own facts involved an unpremeditated sudden quarrel and a different assault; the Court declined to extend that Exception 4 outcome to this deliberate burning.

Homicide causation / subsequent septicaemia - Dr Yadav attributed death to septicemic shock caused by ante-mortem burns. *State of Rajasthan v. Arjun Singh, (2011) 9 SCC 115*, *Munnawar v. State of U.P., (2010) 5 SCC 451*, *Antram v. State of Maharashtra, (2007) 13 SCC 356*, and *Jagtar Singh v. State of Punjab, (1999) 2 SCC 174*, were materially applied: later infection and speculation that better treatment might have saved the victim do not displace an injury-caused death where the original injuries are ordinarily sufficient and causal connection remains proved. *Antram* expressly invokes Explanation 2 to Section 299 IPC, which deems the person who inflicted the bodily injury to cause death even if proper remedies could have prevented it. The Court held Bhura's intentional burning to be the cause, affirmed Section 302 and life imprisonment, and dismissed the appeal; Munna's earlier acquittal remained undisturbed.

Case-note :- ***1. Facts :*** The Additional Sessions Judge, Karera, convicted Parmeshwar Das (called Bhura in the witness account) in Sessions Trial 85/2010 on 11 February 2011 under Section 302 IPC, sentencing him to life imprisonment, a ₹500 fine and three months' default rigorous imprisonment. Co-accused Munna, tried under Section 302 or alternatively 302/34, was acquitted; the State did not challenge that acquittal. The prosecution alleged that on 10 December 2009 a dispute concerning opening a door led Bhura to pour kerosene on Pratipal and set him alight. Pratipal was taken to a Jhansi hospital and died on 15 December during treatment. Dr D.K. Yadav recorded ante-mortem burns affecting limbs, abdomen, pelvis, thighs, genitalia and legs and attributed death to septicemic shock from those injuries. Pratipal's wife Meena Bai testified that Bhura took him away and that after hearing cries she found him burning in the street, with Bhura nearby; Pratipal named Bhura to her. His mother Kapoori Bai and father Ram Prasad gave oral dying-declaration accounts; neither the wife nor mother supported the accusation against Munna, and Kallu did not support the prosecution. A Naib-Tahsildar, Subodhmani Sharma, recorded Pratipal's written declaration at Jhansi from 3:20 to 3:40 p.m., with separate medical fitness assessments by Dr Harishchandra before and after recording, and stated he excluded the relatives from the ward. In Ex. P.6 Pratipal described an invitation to a chicken meal, a prior quarrel and Bhura's pouring of kerosene and ignition. The recorder sent the declaration sealed to the CJM Jhansi; the investigating officer later collected the sealed cover and lodged it at the JMFC Karera. Investigation included the scene map but did not seize burnt clothing or the kerosene container. Bhura's Section 374 CrPC appeal challenged fitness, safe custody, belated production and reliability of related oral witnesses; alternatively he sought Section 304 Part I for a supposedly sudden trivial altercation. He also suggested the death from septicemia resulted from medical negligence. The State defended the conviction. These positions remained distinct from the unappealed acquittal of Munna.

2. Precedents — Considered : On related witnesses, *Raju v. State of T.N., (2012) 12 SCC 701*, quoted the Constitution Bench in *State of Bihar v. Basawan Singh* to resist an overbroad proposition that a natural witness can never be interested, and discussed *Dalip Singh*, *Darya Singh*, *Waman* and *Sarwan Singh*: relationship and even interest do not automatically invalidate evidence, but shared hostility may call for a higher degree of discerning scrutiny, including possible corroboration where appropriate, as a prudential assessment rather than universal rule. Its description of a deceased's wife as interested differs from the formulation in *Mohd. Rojali Ali, (2019) 19 SCC 567*, distinguishing natural kinship from an

actual benefit or motive to falsely implicate. Both require scrutiny of the evidence rather than its mechanical exclusion. *Jodhan v. State of M.P., (2015) 11 SCC 52*, quoted *Dalip Singh* and *Hari Obula Reddy*: reliable interested testimony may itself sustain conviction, while suspicious evidence or a proven motive for false implication may require material corroboration. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, surveyed *Dalip Singh*, *Piara Singh*, *Hari Obula Reddy* and *Ramashish Rai* and concluded that truthful, cogent testimony from relatives is not discredited by kinship alone, while enmity is capable of motivating offence or false charge. *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, and *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, likewise resist distrust solely because witnesses are close family. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, with reproduced *Dalip Singh* and *Masalti* principles, calls for a factual foundation to assert false implication and cautious appraisal. *Mohd. Rojali Ali*, drawing on *Kalki*, *Ganapathi* and *Jayabalan*, distinguishes mere relationship from a benefit in the litigation or a hostile motive and tests consistency and inherent probability. *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, reproduced *State of U.P. v. Anil Singh on* public reluctance to testify and the absence of any mechanical independent-bystander requirement where examined evidence is otherwise acceptable. The Court accepted the three relatives' specific oral reports of Bhura's act, but not an accusation against acquitted Munna.

P.V. Radhakrishna v. State of Karnataka, (2003) 6 SCC 443, quoted *Laxman v. State of Maharashtra and Rambai on* mental fitness: the record and the doctor's testimony can prove a conscious, fit declarant, and the recorder's satisfaction about fitness may suffice even without a doctor's formulaic certificate. *Ravikumar v. State of T.N., (2006) 9 SCC 240*, discussed Section 32(1) Evidence Act as a hearsay exception and required caution about tutoring, imagination, opportunity to identify and mental condition; its discussion of *Kanchy Komuramma* and *Laxman* treated available doctor opinion as an important safeguard while not invalidating all otherwise proved declarations lacking a certificate. The Court had stronger direct evidence here: the doctor certified before and after the recording and the officer verified conscious speech and excluded family. *P.V. Radhakrishna*'s *Paniben* synthesis was quoted again on a declaration as a sole basis: truth, voluntariness, capacity, identification opportunity and freedom from suspicious infirmity must inspire full confidence, with corroboration prudent for a suspect declaration but no absolute corroboration rule. Its quoted catalogue referred to *Munnu Raja*, *Ram Sagar Yadav*, *Ramawati Devi*, *K. Ramachandra Reddy*, *Rasheed Beg*, *Kake Singh*, *Ram Manorath*, *Krishnamurti Laxmipati Naidu*, *Surajdeo Ojha*, *Nanhau Ram*, *Madan Mohan* and *Mohanlal Gangaram Gehani* for particular reliability cautions. *Laltu Ghosh v. State of W.B., (2019) 15 SCC 344*, applied the same reliable-declaration principle with corroborating witnesses. *Ramilaben Hasmukhbhai Khristi v. State of Gujarat, (2002) 7 SCC 56*, stressed substance and trustworthiness over technical recording form, though ordinary Executive Magistrate and medical safeguards were described. *Ramakant Mishra v. State of U.P., (2015) 8 SCC 299*, explained that Section 32(1)'s cause-of-death transaction is broader than a rigid common-law imminent-death conception: written or oral statements and other reliable communication can qualify, with authenticity, fitness and the declarant's state of mind still material; there is no fixed number of hours or days before death. The Court used this group to accept Ex. P.6 and its oral corroboration rather than treating either as automatically sufficient.

Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329, quoted *Dhirendra Kumar*'s contextual Section 302/304 factors: setting, weapon source, target, force, participation in fight, previous enmity, provocation, heat of passion, undue advantage and cruelty. The Court applied the cruelty and undue-advantage limits to reject conversion for a kerosene burning. *State of Rajasthan v. Arjun Singh, (2011) 9 SCC 115*, found death from septicemia after ordinarily fatal gunshot injury compatible with murder; *Munnawar v. State of U.P., (2010) 5 SCC 451*, rejected speculation that allegedly deficient treatment, rather than serious close-range injuries, caused infection and death. *Antram v. State of Maharashtra, (2007) 13 SCC 356*, quoted *State of Haryana v. Pala and Sudershan Kumar and*, materially, Explanation 2 to Section 299 IPC: the person who inflicted the bodily injury remains responsible for causing death even if skillful care could have averted death. *Jagtar Singh v. State of Punjab, (1999) 2 SCC 174*, accepted causation from a fatal head injury despite death 16 days later from infection, with a quoted reminder that Section 300

murder still needs an applicable clause unless an exception applies. *Khokan v. State of Chhattisgarh, (2021) 3 SCC 365*, expressly rejected a categorical rule converting all septicemia deaths into Section 304 Part I and, on its distinct facts of a sudden unpremeditated quarrel without a carried weapon, applied Exception 4; the High Court declined to equate deliberate burning with that case.

3. Statutes considered : Section 374 CrPC governed the conviction appeal. IPC Section 302 was the affirmed offence; the alternative Section 302/34 charge reflected the original allegation involving Bhura and Munna, but Munna was acquitted and his acquittal unchallenged, so no vicarious guilt was imposed on him here. The proposed Section 304 Part I conversion was tested against Section 300's Exception 4 considerations of sudden fight, lack of premeditation, no undue advantage and no cruel or unusual action; deliberate kerosene burning failed that route. Section 299 Explanation 2 IPC, expressly quoted through *Antram*, preserves causation from bodily injury even if skilled treatment could have prevented death. Section 32(1) of the Indian Evidence Act permits a deceased person's statements about the cause of death or circumstances of the resulting transaction, while requiring judicial appraisal of capacity, authenticity and reliability; it does not impose a rigid expectation-of-imminent-death timing rule in Indian law. The medical and custody records bore on the weight of the declaration and did not create a new statutory exception.

4. Issues : (i) Was death from septicemic shock proved to result from Pratipal's ante-mortem burns, and were those burns intentionally inflicted by Bhura rather than an accident or self-infliction? (ii) Could the wife, mother and father's oral accounts be relied on despite relationship, the absence of independent bystanders and their lack of support for the case against Munna? (iii) Was Ex. P.6 authentically recorded by the Naib-Tahsildar while Pratipal was conscious, fit and free from tutoring, and did the sealed movement through two courts answer the alleged late-production and custody defect? (iv) What weight may a trustworthy oral or written Section 32(1) declaration bear, including its possible use as the sole basis for conviction? (v) Could a purported sudden quarrel or later septicemia and suggested poor treatment justify Section 304 Part I rather than Section 302, bearing in mind the actual burning and medical cause?

5. Ratio / Findings : The postmortem tied death to septicemic shock following the extensive ante-mortem burns; the Court deferred the homicidal-versus-suicidal question until it had evaluated the circumstances. Meena Bai described Bhura taking Pratipal away, Pratipal's later burning in the street and his immediate attribution to Bhura; Kapoori Bai and Ram Prasad described the same oral attribution. Kallu did not support the case. The relatives did not implicate Munna, which remained a material distinction between the two accused; the Court did not extend the evidence against Bhura to the acquitted co-accused. It weighed their testimony with the cautious interested-witness principles of *Raju*, *Jodhan*, *Yogesh Singh*, *Rupinder Singh Sandhu*, *Shamim*, *Rizan* and *Mohd. Rojali Ali*. Although those authorities differ in terminology on a relative's interest, none mandates automatic rejection; truthful consistent testimony can be used after scrutiny. *Ambika Prasad* addressed the limited independent-witness objection, subject to the evidence otherwise being acceptable. The Court found these oral witnesses credible on Bhura's role.

Subodhmani Sharma testified to his contemporaneous recording from 3:20 to 3:40 p.m., Pratipal's account of the meal, earlier disagreement and kerosene ignition, and his sending the written declaration to the CJM sealed. Dr Harishchandra assessed mental fitness before and after, testifying that Pratipal could speak and had been asked questions; relatives were outside the ward. *P.V. Radhakrishna* and *Ravikumar* require actual capacity and protection from tutoring rather than a mechanical certificate formula; both the recorder and doctor supplied direct evidence here. No specific tutoring basis was shown. Investigator Kavindra Singh obtained the declaration in sealed custody from the CJM Jhansi and lodged it with JMFC Karera; the envelope bore the recorder's seal. The Court found that the written declaration was voluntary, made by a mentally fit declarant and safely preserved, rejecting the claimed unexplained delay or substitution. The oral accounts named the same assailant and corroborated Ex. P.6.

The Court applied the Section 32(1) authorities to distinguish admissibility and weight: a declaration can alone sustain conviction only if true, voluntary and credible, and made by a competent declarant, with careful scrutiny for possible prompting, identification error, inconsistency or suspicious features; corroboration is a prudential response to

risk, not an automatic prerequisite. *P.V. Radhakrishna*, *Laltu Ghosh*, *Ramilaben* and *Ramakant Mishra* supplied the related principles; the wider scope of statements concerning the transaction resulting in death recognised in *Ramakant* did not dispense with scrutiny of authenticity. On this record the declaration passed those tests and actually had additional oral support. The Court attributed no statement implicating Munna to the declarant.

The appellant's alternative relied on a trivial sudden dispute, but *Lavghanbhai*'s factors include absence of cruel or unusual conduct and undue advantage. Setting a person on fire with kerosene while he was alive was found gruesome, cruel and outside the proposed Exception 4 mitigation. Septicemia did not itself reduce culpability: medical evidence linked the infection to burns sufficient in the ordinary course of nature to cause death. *Arjun Singh*, *Munnawar*, *Antram* and *Jagtar Singh* support assessment of the original injury and causal chain; Explanation 2 to Section 299 precludes avoiding responsibility on speculation that better treatment might have saved the victim. *Khokan* was distinguished because its Section 304 outcome came from different facts involving a sudden fight and expressly rejected an absolute infection-based conversion rule. The Court held Bhura guilty under Section 302, retained life imprisonment as the statutory minimum and rejected Section 304 Part I.

6. Relief : The Hon'ble High Court has dismissed the criminal appeal. The Additional Sessions Judge, Karera's judgment and sentence of 11 February 2011 in Sessions Trial 85/2010 were affirmed: Parmeshwar Das remained convicted under Section 302 IPC with life imprisonment, ₹500 fine and the stated three-month default rigorous imprisonment. He was already in jail and was directed to undergo the remaining sentence. A copy of the appellate judgment was to be provided free of cost, and the trial record sent back for compliance. The acquittal of co-accused Munna, who was tried along with the appellant in the same trial, had not been appealed by the State and was not disturbed.

Parmeshwar Das v. State of M.P., Cr.A. no. 360/2011, 26/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 319 CrPC / additional accused - *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*, was applied: the evidence led at trial must be substantially stronger than a mere probability of involvement and must exceed the prima facie standard required for framing a charge. It must, however, remain short of satisfaction that the evidence, if unrebutted, would lead to conviction. The power concerns a person who could be tried together with the existing accused; it does not permit a premature opinion on guilt. The testimony need not have been tested in cross-examination. The three witnesses whose evidence was recorded implicated Patiram Yadav and Hakim alias Bhura, who were named in the prompt report but omitted from the charge sheet. No perversity was shown, at this stage, in the order summoning them for offences under Sections 302, 307, 147, 148 and 149 IPC. Their guilt was not determined.

Ocular and medical evidence / provisional assessment - *Ram Bali v. State of U.P., (2004) 10 SCC 598*, holds that speculative alternatives drawn from medical textbooks do not displace credible eyewitness evidence, while recognising the significance of medical evidence that is wholly irreconcilable with it. *Umesh Singh v. State of Bihar, (2013) 4 SCC 360*, quoting *Abdul Sayeed*, *Bhagirath* and *Solanki Chimanbhai Ukabhai*, requires an independent assessment of eyewitness evidence for consistency, powers of observation and probability. Expert opinion is relevant when it makes the eyewitness account improbable and can discredit that account when it completely excludes the alleged occurrence. *Darbara Singh v. State of Punjab, (2012) 10 SCC 476*, applies the same requirement of an extreme contradiction. The applicants alleged that two shots were attributed to the assailants although only one gunshot wound was found, and that another alleged firearm injury had no corresponding medical finding. The Court left the final assessment of these alleged contradictions to the trial court after cross-examination. In the absence of a finding that the medical evidence completely excluded the eyewitness account, these objections did not justify setting aside the Section 319 order.

Polygraph / voluntariness / victim refusal - *Selvi v. State of Karnataka, (2010) 7 SCC 263*, was applied for its safeguards of reliability and voluntariness against compelled testing and its express holding that a victim of an offence cannot be forced to undergo

such techniques. The need to expedite investigation does not justify an intrusion into the victim's mental privacy and dignity. Its discussion of *Miranda* explained custodial safeguards in the United States and distinguished the Indian position. The applicants' voluntary participation in polygraph tests and their claimed favourable results did not conclusively establish their truthfulness. The complainant's refusal did not justify an adverse inference about his credibility. The High Court's earlier decision in *Ram Lakhan* reiterated *Selvi*'s holding concerning victims. The revision against the summoning order and non-bailable warrants was dismissed.

Case-note :- ***1. Facts :*** On 27 October 2014, Albel Singh Rana reported an attack by an armed group involving Patiram Yadav, his son Hakim alias Bhura and others. The State placed the time of the attack at about 5:34 p.m. According to the report, Hakim son of Sagarsingh Jat died and several persons, including Albel Singh, were seriously injured. Dehati Nalsi was said to have been recorded at 6 p.m., followed by the formal FIR at 7 p.m. Police filed a charge sheet against other persons but not Patiram and Hakim, while keeping the investigation against them pending as described in the order. According to the applicants, the prosecution sought permission for polygraph tests of them and the complainant. The applicants consented by affidavits, while the complainant declined. A Magistrate directed that the applicants undergo the tests. The applicants claimed that the results were favourable to them. After charges were framed against the accused already facing trial, the evidence of Mukesh Rana (PW-1), Raghvendra (PW-3) and Albel Singh (PW-4) was recorded. Albel applied under Section 319 CrPC. On 3 April 2017, the Additional Sessions Judge/Special Judge (Electricity Act)-4, Gwalior, in Sessions Trial 80/2015, summoned Patiram and Hakim as additional accused for offences under IPC Sections 302, 307, 147, 148 and 149 and issued non-bailable arrest warrants. In this revision under Sections 397 and 401 CrPC, the applicants contended that the roles attributed by the witnesses were inconsistent with the medical findings: two shots were alleged, but only one gunshot wound was found, and another alleged firearm injury to the head had no corresponding medical finding. Paragraph 4 of the order names Sagarsingh in connection with the alleged head injury; paragraph 2 identifies the deceased as Hakim son of Sagarsingh. The applicants also contended that their voluntary participation in the tests and the complainant's refusal showed false implication. The State relied on the witnesses' evidence, the applicants' names in the prompt report and their possible membership of an unlawful assembly sharing a common object. It accepted that Section 319 required stronger evidence.

2. Precedents — Considered : *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*, paragraph 106, supplied the threshold for exercising power under Section 319. The evidence led before the court, which need not have been tested in cross-examination, must be substantially stronger than a mere probability of involvement. It must exceed the prima facie standard required for framing a charge, but remain short of satisfaction that the evidence, if unrebutted, would lead to conviction. The purpose is to try the additional person together with the existing accused where the evidence indicates an offence, without forming an opinion on guilt. The High Court accepted this intermediate standard and found no perversity, at that stage, in summoning the two persons named in the report. It did not determine their final liability.

Ram Bali v. State of U.P., (2004) 10 SCC 598, cautioned that hypothetical opinions or assumptions drawn from textbooks, without proof of their factual premises, do not displace credible and cogent eyewitness testimony. The effect of medical evidence must be considered where the eyewitness account is wholly inconsistent with it. *Umesh Singh v. State of Bihar, (2013) 4 SCC 360*, reproduced *Abdul Sayeed v. State of M.P. and its* citations to *State of Haryana v. Bhagirath and Solanki Chimanbhai Ukabhai*. A medical opinion must be tested for logic and probability, and eyewitness evidence must be independently assessed for powers of observation, consistency and credibility. A medical alternative is relevant when it makes the eyewitness account improbable. Medical evidence that completely excludes the alleged manner of injury can discredit the oral account; eyewitness testimony does not invariably prevail over medical evidence. The facts concerning rigor mortis and digestion in the quoted authorities related to those cases, not the present trial. *Darbara Singh v. State of Punjab, (2012) 10 SCC 476*, citing *Hari Chand* and *Bhajan Singh*, reiterated that only a wholly irreconcilable contradiction may justify rejecting otherwise reliable eyewitness evidence. Here, the Court applied the principle provisionally. Whether

the alleged discrepancies concerning gunshot injuries contradicted the witnesses' accounts remained for decision after cross-examination and consideration of the further trial evidence. Without a finding of complete inconsistency, the Section 319 order could not be set aside.

Selvi and Others v. State of Karnataka, (2010) 7 SCC 263, was quoted on protection against compelled investigative techniques. Paragraphs 102–103 explain the reliability and voluntariness rationales of the right against self-incrimination: compelled statements may be false, encourage shortcuts in investigation and infringe dignity and bodily integrity. Its discussion of *Miranda v. Arizona* concerned custodial warnings in the United States. *Selvi* expressly distinguished the Indian position: compulsion is not automatically presumed in every custodial statement, but statements are excluded where compulsion is proved. Paragraph 254 directly prohibits the forced administration of the techniques in question to victims, even to expedite investigation, because such testing intrudes into mental privacy and may cause further stigma. The High Court also quoted its earlier decision in *Ram Lakhan and Another v. State of M.P. and Others (MCRC 7219/2017, 23 July 2019)*, which reiterated *Selvi*'s protection of victims. Applying *Selvi*, it rejected the contention that the applicants' consent established their truthfulness or that the complainant's refusal made his account false.

3. Statutes considered : Section 319 CrPC governed the summoning of additional persons on evidence emerging during trial; its intermediate evidentiary threshold was the central legal test. Sections 397 and 401 CrPC supplied the jurisdiction to review the summoning order and the issue of non-bailable warrants in revision. The revision did not involve an independent retrial on the merits. IPC Sections 302, 307, 147, 148 and 149 concerned the offences, including liability arising from an unlawful assembly, for which the applicants were summoned; they had not been convicted. The Court treated the question of a common object as a matter still to be determined at trial. Article 20(3) of the Constitution and the rationale against self-incrimination appeared in the passages quoted from *Selvi*. Its prohibition on compelled testing of victims, based on mental privacy, meant that the complainant could not be forced to undergo a polygraph test. The order states that police kept the investigation pending under 'Section 178 Cr.P.C.'.

4. Issues : (i) Whether the evidence of the three trial witnesses met the standard in *Hardeep Singh* for summoning, under Section 319, two persons who were named in the FIR but omitted from the charge sheet, without forming an opinion on their guilt. (ii) Whether the alleged discrepancy between two shots and one gunshot wound, and the absence of a corresponding medical finding for another alleged injury, completely undermined the eyewitness account at this stage, or required assessment after cross-examination and full consideration of the medical evidence at trial. (iii) Whether the applicants' voluntary participation in polygraph tests established their innocence, or the complainant's refusal justified an adverse inference about his credibility or compelled testing despite *Selvi*'s protection of victims. (iv) Whether perversity had been shown in the trial court's order under Section 319 and its issue of non-bailable warrants, warranting interference in revision. Each summoned person's causal role, common object and guilt remained to be determined.

5. Ratio / Findings : The Court accepted the stringent but intermediate standard under Section 319 stated in *Hardeep Singh*. The applicants were named in an early report, and the sworn evidence of PW-1, PW-3 and PW-4 subsequently implicated them. The State relied on their prompt naming; the Section 319 application followed the evidence given by the three witnesses at trial. The Court did not find their guilt proved. It found no demonstrated perversity in summoning them to be tried together with the existing accused on the evidence that had emerged. It separately considered the objection based on medical evidence. *Ram Bali*, *Umesh Singh*, quoting *Abdul Sayeed*, and *Darbara Singh* establish that eyewitness testimony cannot be rejected merely because an expert suggests an alternative possibility. Medical evidence that wholly excludes the alleged occurrence can, however, discredit that testimony. At the Section 319 stage, no conclusive finding had been made that the alleged injury discrepancies excluded the prosecution account. Cross-examination and full consideration of the trial evidence were still required. The High Court expressly declined to decide finally whether the eyewitness accounts could be reconciled with the medical evidence. It therefore declined to set aside the summoning order on the basis of the alleged contradiction.

On the polygraph contention, the applicants' consent did not create a presumption of truthfulness or establish their innocence. *Selvi*'s requirements of voluntariness and reliability, and its protection of human dignity, guard against using such testing as a shortcut to proof. The complainant, as a victim of the alleged offences, could not be compelled to undergo a technique that intruded into mental privacy. The Court therefore rejected the contention that his refusal made his sworn testimony unreliable. The passage quoted from *Ram Lakhan* reinforced this protection of victims. Neither the applicants' voluntary testing nor the complainant's refusal established perversity in the Section 319 order.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The order dated 3 April 2017, summoning Patiram Yadav and Hakim alias Bhura as additional accused in Sessions Trial 80/2015 for offences under IPC Sections 302, 307, 147, 148 and 149 and issuing non-bailable warrants, remained undisturbed. The trial court was to assess the eyewitness accounts and medical evidence after cross-examination and determine individual culpability and common object on the evidence ultimately adduced. The revision resulted in no conviction or final finding that the polygraph reports proved guilt or innocence.

Patiram Yadav and Others v. State of M.P. and Others, Cr.R. no. 801/2017, 30/01/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Negotiable Instruments Act / company arraignment / Section 141 - *Himanshu v. B. Shivamurthy, (2019) 3 SCC 797*, applied *Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661*, to the requirement that, where the alleged drawer under Section 138 is a company, commission of the offence by that company and its arraignment as an accused are preconditions to the vicarious liability of its directors or signatory under Section 141. Liability also remains subject to the necessary averments and proof of responsibility. The passage quoted from *Himanshu* referred to *Charanjit Pal Jindal, (2015) 15 SCC 768*, as following *Aneeta Hada*. Ganpat Megha Builders Pvt. Ltd. had not been made an accused, and the applicants had been impleaded only in their capacity as its directors. Their prosecution was therefore quashed. No finding was made on the underlying commercial debt.

Cheque dishonour / demand notice to corporate drawer - *Himanshu* also applied the proviso to Section 138 and the conditions explained in *MSR Leathers v. S. Palaniappan, (2013) 1 SCC 177*, and *N. Harihara Krishnan v. J. Thomas, (2018) 13 SCC 663.* Valid presentation and dishonour of the cheque, a written demand to the drawer within thirty days of receiving the bank's information, and the drawer's failure to pay within fifteen days of receiving the notice are statutory preconditions. The respondent conceded that notice had been sent only to K. Shreekant as the signatory, and not to Ganpat Megha Builders or the applicants. Applying the corporate-drawer holding in *Himanshu*, the Court held that the absence of notice to the company, together with its omission as an accused, prevented prosecution of these directors. The complaint was quashed against the applicants. The Court did not decide unrelated merits of the complaint or lay down that every director must always receive a separate notice.

Case-note :- ***1. Facts :*** Manikchand Petroleum Deori filed a complaint under Section 138 of the Negotiable Instruments Act concerning a cheque associated with Ganpat Megha Builders Pvt. Ltd. The order describes the cheque as having been issued in the company's name and proceeds on the basis that the company was the corporate drawer, while the persons prosecuted were its directors. The company had neither been prosecuted nor given notice. Following an earlier remand, the JMFC, Sagar, dismissed the complaint on 24 January 2022 because, despite repeated opportunities, the complainant had not produced the document concerning the company's authorised officer. The Seventh Additional Sessions Judge, Sagar, allowed the complainant's Criminal Revision 71/2022 on 15 February 2023. The applicant directors challenged the restoration of the complaint under Section 482 CrPC. They submitted that the company had not been arraigned as an accused or served with the demand notice under Section 138, and that its directors could therefore not be prosecuted vicariously. Counsel for the respondent conceded that notice had been sent only to K. Shreekant, who had signed the cheque. Neither the company nor the applicant directors had received notice, and the company had not been made an accused in the complaint. Paragraph 2 of the judgment refers to a remand order dated 30 September 2021 while describing a dismissal dated 24 January 2022.

2. Precedents — Considered : *Himanshu v. B. Shivamurthy, (2019) 3 SCC 797*, was quoted extensively and directly applied. It adopted the three-Judge Bench rule in *Aneeta Hada v. Godfather Travels & Tours (P) Ltd., (2012) 5 SCC 661*, that commission of the offence by the company is an express condition for vicarious liability under Section 141 and that arraigning the company as an accused is imperative for prosecution of a person responsible for its affairs. The quotation also referred to *Charanjit Pal Jindal v. L.N. Metalics, (2015) 15 SCC 768*, as following that rule. On the separate statutory requirement of notice, *Himanshu* considered the proviso to Section 138 through *MSR Leathers v. S. Palaniappan, (2013) 1 SCC 177*. The cheque must be presented within the relevant six-month period or its period of validity, whichever is earlier. A written demand must be made to the drawer within thirty days of receiving information that the cheque has been returned, and the drawer must have failed to pay within fifteen days of receiving the notice. *N. Harihara Krishnan v. J. Thomas, (2018) 13 SCC 663*, was quoted within *Himanshu* on the factual ingredients that a complaint under Section 138 must contain, including the account on which the cheque was drawn, its return unpaid, valid presentation and timely demand to the drawer. In *Himanshu*, a director had signed for a company, but the notice and complaint were directed against him alone. The Supreme Court held that the absence of both company arraignment and notice to the corporate drawer was fatal. The High Court did more than reproduce that decision: it applied both defects to Ganpat Megha Builders and its directors.

3. Statutes considered : Section 138 of the Negotiable Instruments Act governs cheque dishonour and the mandatory conditions in its proviso, particularly written notice to the drawer and failure to pay within fifteen days of receiving it. The order quoted *Himanshu*'s account of the period for presentation and the thirty-day period for demand. Section 141 imposes responsibility on persons in charge of the company's business when the company commits an offence under Section 138. Vicarious liability requires the company to be made an accused and the necessary averments and proof against the person concerned. Section 482 CrPC was the inherent jurisdiction invoked to challenge the restored complaint. The Court quashed the proceedings only against these applicants. The statutory periods were explained as part of the Supreme Court rule; they were not calculated against cheque or notice dates, which the order did not supply.

4. Issues : (i) Could a complaint under Section 138/141 proceed against the directors when the company on whose behalf the cheque was issued had not been arraigned, despite the earlier remand and revisional restoration? (ii) Did service of the statutory demand on K. Shreekant as signatory, without service on the alleged corporate drawer, satisfy the notice requirement under Section 138 for prosecution of the directors? (iii) Could the Sessions Judge's restoration stand against these applicants in view of those admitted defects? The Court did not decide the debt, the other ingredients relating to the cheque, or whether a differently constituted complaint could satisfy the requirements of limitation and procedure.

5. Ratio / Findings : The respondent's concession established that the company had not been given the statutory notice or made an accused. Under *Himanshu* and *Aneeta Hada*, the absence of the company as an accused was fatal to vicarious liability under Section 141. A company's offence cannot be attributed to its directors through that provision while omitting the juristic person whose commission of the offence and arraignment are required. The Court made no separate finding on whether each applicant managed the company's business. The second ground in *Himanshu* gave separate significance to the absence of notice to the company. An offence under Section 138 by a corporate drawer requires compliance with the proviso, including a written demand to that drawer followed by failure to pay. In the admitted circumstances recorded in the order, notice only to the signatory K. Shreekant did not constitute notice to Ganpat Megha Builders. The Court held that prosecution of the applicant directors was bad in law and quashed the complaint against them.

6. Relief : The Hon'ble High Court allowed the Section 482 application. The complaint under Section 138 of the Negotiable Instruments Act was quashed against Pavan Kumar and the other applicants, who had been impleaded as directors. The absence of both arraignment of Ganpat Megha Builders Pvt. Ltd. and a demand notice to it was decisive. The order did not decide the criminal liability of the absent company or K. Shreekant in any other proceeding. No finding was made on the commercial merits.

Pavan Kumar and Others v. Manikchand Petroleum Deori and Others, M.Cr.C. no. 3905/2024, 20/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal-side writ / revisable summons - *Urmila Devi v. Yudhvir Singh, (2013) 15 SCC 624*, adopted *the test in K.K. Patel v. State of Gujarat, (2000) 6 SCC 195*, which drew on *Madhu Limaye*, *V.C. Shukla* and *Rajendra Kumar Sitaram Pande*. If upholding an objection would terminate the prosecution, the order deciding that objection is not merely interlocutory and is not barred from revision by Section 397(2) CrPC. *Amar Nath* also formed part of the Court's discussion. The JMFC's order taking cognizance of offences under Sections 406 and 120B IPC and issuing summons was therefore revisable under Sections 397 and 401. *K.K. Patel* also permitted an additional ground to be raised in revision before the Sessions Court. The petitioners' wish to rely on further documents did not, by itself, justify entertaining their Article 226 petition despite that remedy. The writ petition was dismissed with liberty to seek revision.

Pre-trial defence material / exceptional quashing - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, reproduced the categories in *R.P. Kapur* and *Bhajan Lal* concerning exceptional quashing to prevent abuse of process or where no offence is disclosed. It cautioned against weighing disputed evidence and against quashing solely on the informant's alleged mala fides where the allegations disclose a cognizable offence. *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, restricts the accused's use of defence documents at the stage of framing charges. *Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330*, prescribes four conditions for exceptional quashing under Section 482 on the basis of defence material: the material must be of sterling and indubitable quality; it must wholly displace the accusation; it must not have been refuted or must be incapable of justifiable refutation; and continuation of the trial must amount to abuse of process and fail to serve the ends of justice. *Prashant Bharti v. State (NCT of Delhi), (2013) 9 SCC 293*, reiterated that test. Applying these limits to the request to entertain the Article 226 petition despite the remedy of revision, the Court held that FIRs against the complainant's wife did not establish her guilt or the complainant's mala fides. The MSME award did not conclusively exonerate the petitioners. The remaining grounds on merits were left to the revisional court.

Civil and criminal overlap / cognizance - *Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712*, *Mohammed Ibrahim v. State of Bihar, (2009) 8 SCC 751*, *Mahmood Ali v. State of U.P.*, *Usha Chakraborty v. State of W.B.*, and *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, were cited and applied for the proposition that parallel civil proceedings do not themselves bar criminal proceedings where the conduct involves criminality. A predominantly civil dispute lacking criminal ingredients may, however, warrant quashing. The Council award and the petitioners' failure to pursue the remedy under Section 34 of the Arbitration and Conciliation Act did not establish that the complaint under Sections 406 and 120B was necessarily civil. The Court considered noncompliance with the award only in the context of prima facie cognizance. It did not finally determine guilt, the vicarious liability of company officers or the contention that no demand for return of property had been made.

Case-note :- ***1. Facts :*** Pawan Kumar Ahluwalia and the other petitioners challenged, under Article 226, the JMFC, Maihar's order dated 26 February 2024 in RCT 104/2024, taking cognizance of offences under IPC Sections 406 and 120B on Gurjeet Singh's complaint and issuing summons. Counsel accepted that the order was revisable under Sections 397 and 401 CrPC, but sought direct writ intervention on the ground that documents concerning the competing disputes, which were not part of the Magistrate's record, could not be considered in revision. The petitioners described the dispute as civil and contractual, involving MSME proceedings. They denied criminal breach of trust, contended that petitioner 1 had received no demand to return property, relied on the police view that the dispute was civil, and argued that KJS Cement (India) Pvt. Ltd. was the primary actor but had not been made an accused, so its officers could not be held vicariously liable. They relied on *Dayle De'souza* and several High Court decisions for these contentions. Those authorities were cited by counsel; the Court did not substantively apply them to decide company liability in this order. The petitioners also relied on complaints and FIRs lodged by their company against respondent 1's wife, alleging that the present complaint was retaliatory. On 6 September 2023, the

MSME Facilitation Council, Bhopal, had made an award in respondent 1's favour in MSEFC 1152/2020. The petitioners' separate writ petition challenging that award was dismissed on 6 May 2024 with liberty to seek relief under Section 34 of the Arbitration and Conciliation Act. Counsel conceded that they had not pursued that remedy. The Court first considered the availability of revision, then examined the documents relied on to justify bypassing it. It disposed of the writ petition without finally determining the complaint's merits.

2. Precedents — Considered : *Urmila Devi v. Yudhvir Singh, (2013) 15 SCC 624*, quoted *K.K. Patel v. State of Gujarat, (2000) 6 SCC 195*, which drew on *Madhu Limaye*, *V.C. Shukla* and *Rajendra Kumar Sitaram Pande*. If acceptance of an objection would terminate the prosecution, an order deciding that objection is not merely interlocutory within Section 397(2). Applying that test, the Court held that the order taking cognizance and issuing summons was revisable. It also cited *Madhu Limaye*, *V.C. Shukla* and *Amar Nath* to that effect. In paragraph 6, the Court referred to *K.K. Patel* as permitting an additional ground in revision before the Sessions Court. These authorities supported recourse to the statutory remedy rather than direct adjudication under Article 226.

Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346, was quoted extensively on the sparing exercise of power under Section 482 CrPC to prevent abuse of process, give effect to an order under the Code or secure the ends of justice, without undertaking a trial or exercising revisional jurisdiction. It reproduced *R.P. Kapur*'s broad categories concerning a legal bar, allegations disclosing no offence, and absence of legal evidence. It also reproduced the seven illustrative categories in *Bhajan Lal*, including proceedings instituted for manifest private vengeance, while cautioning that an allegation of malice by the informant assumes secondary importance where the conduct alleged discloses a cognizable offence. The quoted discussion distinguished absence of legal evidence, or evidence manifestly inconsistent with the accusation, from disputed evidence requiring assessment at trial. It referred to the difficulty of deciding on incomplete facts and cautioned against stifling a legitimate prosecution through a mini-trial. The Court applied that caution when rejecting the contention that the petitioners' counter-complaints conclusively established mala fides in the present complaint. *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was cited for the rule that an accused has no right to tender defence documents at the stage of framing charges. The Court then referred to the distinct, narrow exception in *Rajiv Thapar v. Madan Lal Kapoor, (2013) 3 SCC 330*, for quashing under Section 482 on the basis of defence material. Its four conditions require sound and indubitable material of sterling quality; complete displacement of the factual accusation; material that has not been refuted or cannot justifiably be refuted; and continuation of proceedings amounting to abuse of process and failing to serve the ends of justice. All four conditions must be satisfied before quashing without recording evidence. *Prashant Bharti v. State (NCT of Delhi), (2013) 9 SCC 293*, was cited as reiterating that exceptional test. The Court assessed the proposed documents against these limits to decide whether the petitioners could bypass revision through Article 226. The filing of an FIR against the complainant's wife did not establish her guilt, and the Council award did not exclude the possibility of a criminal offence.

Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712; Mohammed Ibrahim v. State of Bihar, (2009) 8 SCC 751; Mahmood Ali v. State of U.P.; Usha Chakraborty v. State of W.B.; and *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, were cited together for the principle governing overlapping civil and criminal proceedings. Both may proceed concurrently where the conduct involves criminality; a complaint concerning a predominantly civil dispute without criminal ingredients may be quashed. The petitioners' counsel cited *Dayle De'souza*, *Vaikundamani*, *Savitha*, *Sanjay G. Revankar*, *Jitha Sanjay*, *Mansoor Ali* and *Rajpal* in support of their arguments.

3. Statutes considered : Article 226 was invoked to challenge the Magistrate's order. The petitioners argued that the availability of revision was a self-imposed restraint on writ jurisdiction and that their proposed reliance on documents outside the Magistrate's record justified direct intervention. Sections 397 and 401 CrPC provide for criminal revision, while Section 397(2) bars revision against interlocutory orders. An order taking cognizance and issuing summons, where a successful challenge would terminate the proceedings, is not subject to that bar. Section 482 CrPC arose through the Supreme Court authorities on exceptional quashing before trial and the limited use of defence

documents. The present proceeding was a writ petition under Article 226, not an application under Section 482. IPC Sections 406 and 120B were the offences of which the Magistrate took cognizance. The Court did not finally determine entrustment, dishonest misappropriation, conspiracy or the liability of company officers. Section 34 of the Arbitration and Conciliation Act was the remedy preserved in the separate challenge to the MSME Council award; it was neither a criminal charge nor an automatic bar to cognizance.

4. Issues : (i) Whether the Magistrate's order issuing summons after taking cognizance was revisable, rather than merely interlocutory within Section 397(2). (ii) Whether the petitioners' proposed reliance on FIRs lodged against the complainant's wife and Council documents, or their allegation of perversity, justified direct intervention under Article 226 despite the remedy of revision, and whether those documents met the strict standard for defence material relied on for exceptional quashing before trial. (iii) Whether the MSME award and civil or contractual litigation conclusively precluded criminal cognizance, or whether the complaint could still disclose criminality at this preliminary stage. The effect of the absence of a demand for return of property under Section 406, the need to make KJS Cement an accused, and the sufficiency of the complaint evidence to prove an offence remained matters for the appropriate forum. They were not finally decided by this order.

5. Ratio / Findings : The Court held that the order issuing summons was revisable. Under *Urmila Devi* and *K.K. Patel*, an order is not merely interlocutory for the purposes of Section 397 if upholding the objections would terminate the prosecution. An additional ground could be raised before the Sessions Court in revision. The petitioners contended that documents outside the Magistrate's record required writ intervention. The Court examined the categories of documents offered to support that contention and found no basis to bypass revision. *Renu Kumari*'s cautions against undertaking a mini-trial or treating the informant's alleged malice as conclusive, *Debendra Nath Padhi*'s rule concerning defence documents at the stage of framing charges, and *Rajiv Thapar*'s strict exception for defence material of sterling quality governed that assessment. The petitioners' complaints against respondent 1's wife established that those complaints had been lodged; they did not establish their truth or her guilt, or make the allegation of retaliation indisputable. The Council award showed the existence of a parallel civil remedy but did not conclusively displace the criminal accusation. *Prashant Bharti* was cited as reiterating *Rajiv Thapar.* The Court did not find that all four conditions had been satisfied.

On the distinction between civil and criminal proceedings, the Court cited five Supreme Court decisions for the principle that both may proceed simultaneously where the conduct has criminal ingredients, while a dispute that is merely civil may warrant quashing. It noted that the petitioners had not pursued the remedy under Section 34 after dismissal of their writ petition challenging the Council award. It reasoned that noncompliance with the award could support an inference of criminal intent for the purpose of taking cognizance. This reasoning was confined to that preliminary stage; it was not a conviction or a final determination of the ingredients of offences under IPC Sections 406 and 120B. The Court expressly left the other contentions for revision, including the alleged absence of a demand for return of property, the company's omission as an accused and the assessment of the Magistrate's record. The Court considered these matters to decide whether the statutory remedy could be bypassed, without finally deciding the merits left for the revisional court.

6. Relief : The Hon’ble High Court dismissed the writ petition. It granted the petitioners liberty, if they wished, to challenge the JMFC's order dated 26 February 2024 taking cognizance and issuing summons before the Sessions Court under Section 397 CrPC. No complaint was quashed, no final finding of guilt was made, and the unexamined grounds on merits were not definitively rejected. This order did not dispose of the separate MSME award or the available remedy under Section 34.

Pawan Kumar Ahluwalia and Others v. Gurjeet Singh and Others, W.P. no. 15273/2024, 08/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Constitutional criminal jurisdiction — Article 226 — FIR quashing — alibi founded on court attendance - An advocate accused of directly participating in an assault in a village at about 10:30 a.m. relied on his attendance in courts at nearby Sagar on the same date. The order-sheets

generally recorded no time; in one matter, an 11 a.m. notation appeared below his own signature. Even if his attendance at that hour were accepted, the village was about 10 km away, making his presence at the earlier incident humanly possible. An alibi must be established by cogent evidence showing that presence at the scene was impossible. This disputed defence did not justify quashing in writ proceedings. Factional enmity could explain either false implication or a motive to commit the offence and also required factual examination.

Separate trial — acquittal of co-accused - The petitioner contended that the witnesses' hostility and the acquittal of the co-accused already tried made a trial against him pointless. *CBI v. Akhilesh Singh, (2005) 1 SCC 478*, was distinguished. In that conspiracy case, no independent evidence connected the respondent after the principal alleged conspirator had been discharged; the present FIR alleged that this petitioner personally participated in the assault. *A.T. Mydeen v. Assistant Commissioner, Customs Department*, CrA 1306/2021 (31.10.2021, as cited), was applied for the rule that evidence recorded in the co-accused's trial cannot simply be treated as evidence in another accused's case. Their acquittal did not automatically terminate this petitioner's prosecution. The added offence under Section 302 IPC was not compoundable.

Investigation — agency selection and Constitutional limits - *Romila Thapar v. Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, were cited for the principles that an accused cannot choose the investigating agency, dictate the manner of investigation or demand a hearing as a matter of course during investigation. The quoted Supreme Court discussion also preserves exceptional constitutional directions where investigation is mala fide or seriously deficient. It cautions that transfer to CBI must be ordered sparingly, not routinely merely because allegations are made against the police. No basis was established for the requested inquiry by a gazetted officer or CBI. Quashing of the FIR and the requested control over investigation were refused. The interim protection against arrest granted on 3 August 2009 was vacated, and the petitioner was directed to surrender on 4 November 2024. If he failed to do so, the trial court was free to issue a warrant.

Case-note :- ***1. Facts :*** FIR No. 103/2009, registered at Police Station Baheriya, Sagar, alleged that advocate Pawan Kumar Kurmi joined an assault on Jai Singh in village Gidwani on 6 May 2009 at about 10:30 a.m. The original allegations concerned IPC Sections 307, 147, 148, 149, 294, 323, 324, 450 and 506. According to the State, Jai Singh later died and Section 302 was added. The petitioner attributed his implication to rival village factions and his representation of one side as counsel. He relied on court order-sheets and affidavits to contend that he had attended court in Sagar that morning. A coordinate Bench had stayed his arrest on 3 August 2009. A charge sheet was filed against the other accused. According to the petitioner, witnesses in their trial had turned hostile, and the co-accused were acquitted. The State reported that the trial matter had been adjourned after being listed on 30 September 2024. In his petition under Article 226, the petitioner sought, among other reliefs, an independent inquiry by a gazetted officer or CBI, protection of his life and liberty against police harassment, and a direction to the SP concerning closure on the basis of the witnesses' statements. The Court addressed the petition as seeking quashing of the FIR or transfer of investigation. The allegations against the petitioner were not tried in the writ proceedings.

2. Precedents — Considered : *CBI v. Akhilesh Singh, (2005) 1 SCC 478*, was relied on by the petitioner. The Court explained that, in that conspiracy case, the principal accused was alleged to have planned the killing and to have had a motive for it. His discharge had attained finality, and no separate evidence connected the respondent with the supply of weapons or assistance to the assailants. The Supreme Court had approved quashing of the conspiracy-related charges in those circumstances. The present case was distinguished because the petitioner was alleged to have directly participated in the assault. Acquittal of the other accused after the witnesses turned hostile did not place his case on the same footing as the absence of connecting material in *Akhilesh Singh*. The petitioner also relied on *Rashpal Singh v. State of Punjab (P&H High Court, CRM-M-36584/2011)*, which concerned an amicable settlement. The Court noted that the present offence under Section 302 IPC could not be compounded. *A.T. Mydeen v. Assistant Commissioner, Customs Department*, CrA 1306/2021 (31 October 2021 as stated in this judgment), was applied for the rule concerning separate trials: prosecution evidence recorded in the trial of one set of accused is not automatically

evidence against another accused. The Court rejected the contention that hostile testimony and the co-accused's acquittal, by themselves, required quashing of the FIR against this petitioner.

Romila Thapar v. Union of India, (2018) 10 SCC 753, was extensively reproduced and applied on the selection of an investigating agency. It referred to *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar* on the absence of an accused's right to choose the agency or manner of investigation, or to be heard as a matter of course before a transfer of investigation. Its discussion of *Divine Retreat Centre* preserves the High Court's power under Article 226 to issue directions where investigation is shown to be mala fide. Its account of the Constitution Bench decision in *Committee for Protection of Democratic Rights* explains that an extraordinary direction to CBI must be issued sparingly where credibility, complete justice or fundamental rights require it, rather than merely because allegations have been made against local police. The quoted passage from *Romila Thapar* also leaves disputed questions about evidence in an ongoing investigation to appropriate remedies at the relevant stages, including bail, discharge and quashing where no legal evidence exists. The Court applied the limit on an accused's choice of agency and found no exceptional ground for the transfer sought here; it did not hold that constitutional transfer powers could never be exercised. *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*, was then quoted. The passages concerning *W.N. Chadha* and *Rajesh Gandhi* explain the absence of an ordinary right of participation or hearing during investigation and of a right to veto the selection of investigators. The discussion of *Sri Bhagwan Samardha* and *Narender G. Goel* concerns further investigation under Section 173(8) CrPC, the absence of an obligatory prior hearing for the accused, and the opportunity to test the evidence at trial. The quoted authorities also describe court-directed CBI investigation where the police inquiry was deficient. They were used here to reject the accused's claimed right to control the agency, without eliminating the Court's exceptional supervisory powers. *Prabal Dogra v. Superintendent of Police, Gwalior* (MP High Court, MCRC 10446/2017, 30 November 2017), was also cited for the absence of an accused's right to determine the course of investigation.

3. Statutes considered : Article 226 of the Constitution was invoked for quashing and investigation-related relief. The Court declined to determine the disputed alibi or the competing inferences arising from enmity in writ proceedings. The Supreme Court passages it applied nevertheless recognise a narrow constitutional power, dependent on the facts, to correct mala fide investigation or exceptionally direct investigation by another agency. IPC Sections 307, 147, 148, 149, 294, 323, 324, 450 and 506 appeared in the original FIR as allegations forming the background. The State said that Section 302 was added after Jai Singh's death, and the Court expressly treated the offence under that section as non-compoundable. The ingredients of the other IPC offences were not separately construed. Section 173(2) CrPC appeared in the quoted rule concerning investigation, and Section 173(8) in the discussion of further investigation, including after submission of a report. No further investigation was directed in this petition. The references to IPC Sections 120-B, 302 and 109 in *Akhilesh Singh* concerned the conspiracy charges in that precedent; they were not additional charges in this writ proceeding.

4. Issues : (i) Whether the petitioner's appearance in a Sagar court on 6 May 2009 established an alibi sufficient to quash the FIR under Article 226, despite the allegation of an assault at 10:30 a.m. about 10 km away. (ii) Whether the co-accused's acquittal following hostile testimony, or the decisions concerning conspiracy and settlement relied on by the petitioner, made a separate trial of an alleged direct assailant futile or legally impermissible. (iii) Whether factional enmity permitted the truth of the accusation to be determined in writ proceedings. (iv) Whether the accused had a right to select a gazetted officer or CBI for an independent inquiry, or dictate its course, and whether a basis for exceptional constitutional intervention had been established. The petitioner's actual presence, the witnesses' credibility and ultimate criminal liability remained for determination in appropriate proceedings; they were not finally decided by this order.

5. Ratio / Findings : The Court held that an alibi required cogent evidence showing that presence at the scene was humanly impossible. The order-sheets from different courts recorded no time, apart from an 11 a.m. notation below the petitioner's own signature on a document from a court that was vacant. The Court questioned why he had written that time and referred to the usual handling of files when a court was vacant. Even assuming attendance at 11 a.m., the distance of about 10 km between the village and

Sagar made presence at the incident at 10:30 a.m. possible. The Court therefore declined to accept the alibi as a ground for quashing in writ proceedings. It did not determine guilt or finally rule on all the alibi evidence that might be led at trial. The co-accused's acquittal did not determine this petitioner's case. He was specifically alleged to have hit Jai Singh, unlike the respondent in the conspiracy case of *Akhilesh Singh*. Under *A.T. Mydeen*, the evidence in the other trial could not be read wholesale in his case. The decision concerning settlement was factually different, and the offence of murder was not compoundable. Enmity could support either false implication or a motive to commit the offence. The competing inference remained a disputed factual question and did not justify quashing.

On the request to control investigation, the Court held that an accused could not demand a change of agency or dictate how the investigation should be conducted. *Romila Thapar* and *Dinubhai* supplied those limits, reinforced by *Prabal Dogra*. The quoted Supreme Court reasoning also recognises relief under Article 226 where investigative powers are shown to have been exercised mala fide, and exceptional transfer to CBI where justice or confidence in the investigation requires it. Those passages do not turn the absence of an accused's choice into an absolute prohibition on judicial intervention. The petitioner's allegations of falsity and factional motive, disputed alibi and reliance on the co-accused's trial evidence did not establish a basis for that intervention. The Court therefore refused to quash the FIR or direct the proposed transfer.

6. Relief : The Hon’ble High Court dismissed the writ petition. No FIR, charge or investigation was quashed or transferred. The interim order dated 3 August 2009 protecting the petitioner from arrest was vacated. He was directed to surrender before the trial court on 4 November 2024; if he failed to do so, the trial court was free to issue a warrant of arrest. No independent inquiry or general protective direction was granted. The charge and evidence remained for adjudication by the trial court.

Pawan Kumar Kurmi v. State of Madhya Pradesh and Others, W.P. no. 6380/2009, 14/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (615) Prev Next

Headnote :- Bail — addition of murder offence after earlier attempted-murder bail - The applicant had been granted bail when the case involved Section 307 IPC. The injured person later died, Section 302 IPC was added, and the trial court took the applicant into custody. He contended that Section 302 was not an aggravated form of the offence under Section 307 and that the earlier High Court bail order had to be cancelled before he could be taken into custody. The Court expressly rejected these contentions and held that the trial court had committed no mistake in taking him into custody on the altered accusation.

Successive regular bail — prior rejection and statement of deceased - In his fifth application under Section 439 CrPC, the applicant relied on his custody since 10 April 2017 and the witnesses' hostility. The order rejecting the previous application on 24 October 2017 had already noted that the deceased's statement under Section 161 CrPC identified the applicant's participation and, in the Court's assessment, fell within the category of a dying declaration after the injured person's death. The applicant showed no change in circumstances. Considering that statement, the Court rejected the renewed application for bail. It made no final trial finding on the statement or the charge.

Case-note :- ***1. Facts :*** Crime No. 433/2014 at Police Station Karera, Shivpuri, concerned allegations under Sections 307 and 34 IPC and, later, Sections 302 and 34 IPC. The applicant said that he had received bail from the High Court when the case was initially registered as attempted murder. The injured person later died, a murder offence was added, and the trial court took the applicant into custody. The order records his arrest on 10 April 2017. His preceding application for regular bail, MCRC 10612/2017, had been rejected on 24 October 2017. In this fifth application under Section 439 CrPC, he challenged his custody without prior cancellation of the initial bail order, arguing that Section 302 was not merely an aggravated form of the offence under Section 307. He also submitted that all the witnesses had turned hostile and had not supported the prosecution, and that he had remained in jail. The case diary was before the Court.

2. Precedents — Considered : The Court referred to its earlier order dated 24 October 2017 in MCRC 10612/2017 when evaluating the renewed application. The present judgment records that the

earlier order had noted the deceased's police statement naming the applicant, notwithstanding the eyewitnesses' hostility.

3. Statutes considered : Section 439 CrPC governed the successive application for regular bail. Section 161 CrPC was the provision under which the police had recorded the injured person's statement. Following his death, the Court treated that statement as falling within the category of a dying declaration for the limited purpose of assessing bail. Sections 307 and 34 IPC concerned the original accusation of attempted murder with common intention, for which bail had been granted earlier. Sections 302 and 34 IPC concerned the accusation of murder with common intention added after the injured person's death. The Court rejected the proposition that the initial bail order necessarily protected the applicant against custody on the later charge without a separate cancellation order.

4. Issues : (i) Did the earlier High Court bail order for the offence under Section 307 IPC prevent the trial court from taking the applicant into custody after the injured person died and Section 302 IPC was added, unless the initial order was first cancelled? (ii) Did the eyewitnesses' hostility, the period of custody and the renewed application justify bail despite the earlier rejection and the deceased's recorded statement identifying the applicant? The merits of conviction and final proof of the statement were not decided.

5. Ratio / Findings : The Court rejected the applicant's contention that Section 302 IPC was not an aggravated form of the offence under Section 307 and that the trial court could not take him into custody without first cancelling the earlier bail order. It held that the trial court had committed no mistake in taking him into custody after the murder offence was added. In considering the renewed request for bail, the Court relied on the assessment in its previous order. Although the eyewitnesses had turned hostile, the deceased's police statement under Section 161 CrPC specifically mentioned the applicant's participation and was treated as a dying declaration after the injured person's death. The applicant did not point to any change in circumstances since the preceding rejection of bail. Together, these considerations led to rejection of the fifth application. The decision is confined to bail and custody at this procedural stage. It does not determine what all the hostile witnesses actually said or finally test the deceased's statement under the rules of evidence.

6. Relief : The Hon'ble High Court dismissed the fifth application for regular bail under Section 439 CrPC. It held that the trial court had committed no mistake in taking the applicant into custody after Section 302 IPC was added. Cancellation of the earlier bail order was not ordered as a prerequisite to custody in this proceeding.

Pawan Rawat v. State of Madhya Pradesh, M.Cr.C. no. 692/2018, 09/01/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (616) Prev Next

Headnote :- Criminal appeal — sentence already undergone - Completion of the sentence did not render the jail appeal under Section 374 CrPC infructuous. The appeal challenged convictions under Sections 354 and 363 IPC and Sections 7/8 POCSO. Although prison records showed that the appellant had been released after serving his sentence, the Court reviewed the trial evidence on the merits and affirmed the conviction. No further action was required regarding custody.

POCSO — proof of child status - The school director produced the original admission register, marked as Ex. P/6, and a photocopy compared with it was marked as Ex. P/6(c). The objection to the manner of exhibiting the photocopy failed because it had not been raised when the document was marked. Failure to produce the initial admission form did not, by itself, invalidate the register. The Court adopted the June entry as the child's date of birth and found that she was about ten and a half years old at the time of the incident on 29 September 2017. The judgment also records that the certificate, Ex. P/5, stated a date in February of the same year.

Prosecutrix — credibility and alleged tutoring - The child described being taken to the appellant's house and his attempt to remove her clothing. She immediately disclosed the incident to her father and Preeti Ojha. The FIR was lodged within about three hours. The Court assessed their evidence and Ramdulari's account of what the father had told her. It also addressed the omitted detail of the threat, the hostility of the appellant's mother as a witness, the medical evidence of a bruise and the alleged family dispute. Discussion with her father and aunt about what she would state in court was insufficient,

without demonstrated false implication, to reject her testimony as tutored.

Investigation — spot map omission - Failure to mark the nearby shop on the spot map did not undermine testimony independently found reliable. The accused received no benefit merely from that defect in the investigation. The Court held that guilt was proved beyond reasonable doubt and affirmed the conviction and sentences.

Case-note :- ***1. Facts :*** The prosecution alleged that on 29 September 2017 a young girl went to buy popcorn, where Pawan Sharma met her and forcibly took her to his house. According to the prosecution, he threatened her in connection with marriage, pushed or kicked her and attempted to remove her clothing. She screamed and, according to her, the appellant's mother and sister-in-law came to the house, whereupon he ran away. She soon told her father and neighbour Preeti Ojha about the incident. The FIR was registered at about 16:01 for an incident described as occurring at about 13:10. Crime No. 248/2017 initially cited Sections 354, 363 and 342 IPC and Sections 7/8 POCSO. The police recorded her statement, had her medically examined, collected school records and filed a charge sheet under those provisions. The trial court framed charges against the appellant on 8 December 2017 and heard nine prosecution witnesses. The appellant called no witnesses. On 11 August 2018, the Special Sessions Judge, Shivpuri, convicted him under Sections 354 and 363 IPC and Sections 7/8 POCSO. The sentences were three years' rigorous imprisonment and a fine of ₹2,000 under POCSO, and four years' rigorous imprisonment and a fine of ₹2,000 under Section 363, with the specified six months' imprisonment in default. No separate sentence was imposed under Section 354 because the same act attracted overlapping punishment. The order does not state a conviction under Section 342. The appeal was filed from jail under Section 374 CrPC. A prison communication dated 4 August 2021 stated that the appellant had been released on 8 January 2021 after serving his entire jail sentence. The Court nevertheless heard the appeal on its merits. The appellant challenged the age evidence, the omission of the shop from the spot map, the alleged coaching by the child's father and the lack of an independent eyewitness. The State supported the trial court's decision.

2. Precedents — Considered : The Court held that completion of the sentence does not render an appeal against conviction infructuous. It also held that an objection to the method of exhibiting a document cannot ordinarily be raised later if it was not made when the document was marked, and that an accused does not automatically benefit from a faulty investigation.

3. Statutes considered : Section 374 CrPC provided the route for the appeal against conviction. Section 354 IPC concerned the alleged assault or criminal force affecting the girl's modesty, and Section 363 concerned the alleged taking or kidnapping. Section 342 appeared in the FIR and charges but not among the convictions recited or affirmed. Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012, governed the conviction for sexual assault and the three-year sentence. The girl's status as a child made the age evidence material. The Court examined the school records rather than developing an independent statutory hierarchy for determining age. It recorded and affirmed the trial court's decision to impose no separate sentence under Section 354, to avoid punishing the same act twice. Section 164 CrPC arose because the child had previously given a judicial statement which did not record the threat to kill in connection with marriage. This omission was used in cross-examination; no distinct procedural dispute under that provision was decided. The original charge sheet also included Section 342 IPC, but the appellate judgment made no finding establishing confinement under that section.

4. Issues : (i) Did full service of the custodial sentence extinguish the appellant's right to a decision on the merits of his appeal against conviction? (ii) Was the girl's age established by the original admission register and the compared photocopy, despite the appellant's claim that the original had not been produced, the absence of the admission form and the witness's admission that whitener had been applied? (iii) Was the child's account credible in light of her immediate disclosures, the evidence of relatives and the neighbour, the omission of the threat from her prior statements, the hostility of the appellant's mother as a witness, the alleged coaching, the asserted family hostility and the limited medical support? (iv) Did the investigating officer's failure to mark the popcorn shop on the spot map create a reasonable doubt despite the testimony which the Court otherwise accepted?

5. Ratio / Findings : The Court first held that service of the sentence did not render the appeal against conviction under Section 374 CrPC infructuous, and

it accordingly considered the merits. On age, PW-8, the school director, produced the original Class I admission register, Ex. P/6. The photocopy compared with it was Ex. P/6(c), and he had issued the certificate, Ex. P/5. The witness admitted that an admission form would have been filled in and that whitener had been applied. He denied withholding the form to conceal a different birth entry. Since the original register had been produced, the objection based on its supposed nonproduction was contrary to the record. An objection to the mode of marking the document, if not taken at that time, could not be raised later. The Court held that nonproduction of the admission form was insufficient to discredit the register. It adopted the June birth-date entry and calculated the child's age as about ten and a half years on the date of the incident.

On the occurrence and credibility, PW-2 described being taken from the shop to the appellant's house and his attempt to remove her clothing. The Court relied on her immediate account to her father, PW-3, and Preeti Ojha, PW-6, and on PW-1 Ramdulari's evidence of the father's prompt telephone report. Ramdulari was not an eyewitness; her account corroborated the disclosure rather than providing direct evidence of the assault. The FIR was lodged within roughly three hours. The doctor found a facial bruise and recorded a complaint of chest pain, without an external chest injury. In cross-examination, the child could not explain why the particular threat to kill in connection with her refusal to marry was absent from her statements under Sections 161 and 164 CrPC. She and her father acknowledged discussing what she would say in court. The Court held that discussion with family did not, by itself, establish tutoring or false implication. It found that the alleged family dispute had not been specified or sufficiently supported, although the appellant's mother, PW-5, had referred to some enmity and denied witnessing the event. On the totality of the evidence, the Court concluded that guilt was proved beyond reasonable doubt.

On the map, the investigating officer, PW-9, had not marked the shop from which the child said she had bought popcorn. The Court held that an accused does not gain an advantage from a faulty investigation when otherwise reliable evidence remains. The omission did not undermine the child's testimony, which the Court accepted and which her prompt disclosures supported. This was an assessment of the particular record, rather than a rule that every omission from scene documentation is immaterial.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the trial judgment and sentence dated 11 August 2018 in Special Sessions Trial No. 92/2017. Since the prison communication showed that the appellant had already served his entire jail sentence, the High Court directed that no further action was required in the matter. It did not order a new trial or alter the fines, the default term or the trial court's decision to impose no separate sentence under Section 354.

Pawan Sharma v. State of Madhya Pradesh, Cr.A. no. 7611/2018, 31/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (617) Prev Next

Headnote :- Section 482 CrPC — road-work death — individual contractor responsibility - A motorcyclist died after riding into an open ditch at a culvert diversion which allegedly had no warnings. The contract had passed from TDM Infrastructure to P.D. Agrawal Infrastructure. The subcontract required P.D. Agrawal Infrastructure to take advance precautions for road users' safety and put up traffic signs; site instructions required banners and flags at both ends of the culvert. The applicant claimed to be merely the managing director and relied on authorities against automatic vicarious criminal liability. The power of attorney he had executed described him as a partner. The Court treated him as an owner responsible for executing the work and, on these facts, refused to quash the prosecution. This characterization did not establish a general rule that a person's designation alone creates personal criminal guilt.

Negligent death — direct causation - *Sushil Ansal v. State through CBI, (2014) 6 SCC 173*, was quoted for the requirement under Section 304A IPC that rashness or negligence must be a direct, immediate and proximate cause of death. In the cinema-fire case, the safety breaches which delayed escape, rather than simply the initial fire, were identified as the operative causa causans. That assessment depends on the circumstances of the occurrence. The Court applied the test to the alleged failure to put up site signs, which caused the road user to ride straight into the ditch, and held that interference under Section 482 was unwarranted.

Non-joinder of company - Citing Sections 190, 193 and 319 CrPC, the Court observed that the company could be arraigned later. It did not itself summon the company or determine the separate preconditions for exercising those powers. The quoted prayer describes cognizance under Section 304/34 IPC, whereas the judgment describes the registered FIR as being under Section 304A/34 IPC. The application was dismissed, and the interim order dated 9 March 2007 was vacated.

Case-note :- ***1. Facts :*** A culvert on the Sagar–Damoh–Jabalpur Road was being strengthened or widened under a contract originally awarded to TDM Infrastructure Pvt. Ltd. and sublet to M/s P.D. Agrawal Infrastructure Ltd. A diversion and open ditch allegedly had no warning signs, banners or flags. Motorcyclist Charan Singh proceeded straight, fell into the ditch and died. Paragraph 2 describes FIR Crime No. 66/2005 at Katangi, Jabalpur, as being under Sections 304A and 34 IPC. The quoted prayer in the applicant's Section 482 petition, however, describes the JMFC's cognizance order dated 29 December 2006 as being under Section 304/34. The applicant sought quashing of the FIR, charge sheet and cognizance order, and his discharge. He asserted that he was the infrastructure company's managing director, that the company alone had executed the work, that no Penal Code provision automatically made him vicariously liable and that the company itself had not been arraigned. The State relied on the cinema-fire negligence decision in *Sushil Ansal* against him. The case diary contained a power of attorney executed by the applicant which described him as a partner of the infrastructure concern. The subcontract assigned to that concern the duty to take precautions for road users' safety during shoulder and culvert work. Specific site directions required conspicuous signs and flags at both ends. The applicant had obtained anticipatory bail on 6 November 2006, but the Court recorded that he had not appeared before the investigating officer or the trial court. The charge sheet was filed in his absence under Section 299 CrPC, and a perpetual warrant followed on 30 March 2010. Counsel submitted that he later surrendered on 23 October 2018 while the trial court was awaiting the result of this petition. The judgment uses the terms 'company' and 'firm' for the concern and 'partner' for the applicant, without explaining the concern's formal corporate status.

2. Precedents — Considered : The applicant cited *Maksud Saiyed v. State of Gujarat, (2008) 5 SCC 668; Sunil Bharti Mittal v. CBI, (2015) 4 SCC 609; Sharad Kumar Sanghi v. Sangita Rane, (2015) 12 SCC 781; Shiv Kumar Jatia v. State (NCT of Delhi), (2019) 17 SCC 193*; and *Ravindranatha Bajpe v. Mangalore SEZ, (2022) 15 SCC 430*, as authorities for his objection to attributing a company's crime vicariously to a director absent a statutory basis and personal role. He also cited *S. Rajgopal v. State of Haryana (P&H High Court, CRM-M-35036/2019, 2 April 2024)*.

The State relied on *Sushil Ansal v. State through CBI, (2014) 6 SCC 173*, which the Court extensively quoted and applied. In the Uphaar cinema-fire prosecution, the Supreme Court identified numerous established breaches of safety duties. They included dysfunctional public-address and emergency lighting systems, missing or blocked exits and passageways, bolted doors and inadequate evacuation assistance. Under Section 304A IPC, the rash or negligent act must directly, immediately and proximately cause death. An event without which the deaths would not have occurred is not necessarily the operative causa causans. In that case, the victims died of asphyxiation because safety breaches prevented their timely escape from smoke. The causal inquiry therefore focused on those impediments rather than simply on where the fire had begun. The Supreme Court emphasized that the immediate causal factor must be identified in the circumstances of each case. It discussed *Kurban Hussein*, *Bhalchandra Waman Pathe*, *Bhalchandra v. State of Maharashtra and Rustom Sherior Irani* as different applications of that principle. Those cases appear within the *Sushil Ansal* extract; they were not individually analyzed or newly decided by this Bench. The High Court applied the duty-and-causation analogy to the missing road signs: without advance signs and flags at the culvert, the motorcyclist continued into the ditch. The Supreme Court's cinema decision concerned concurrent findings after trial; the present case was a pre-trial review under Section 482 of the allegations and contract materials.

3. Statutes considered : Section 482 CrPC governed the application to quash the FIR, charge sheet and cognizance order. The judgment describes the registered offence as Section 304A read with Section 34 IPC, but quotes a prayer describing cognizance under Section 304/34 IPC. The Supreme Court discussion it adopted analyzes Section 304A's

requirement of a direct, immediate and proximate causal connection to the negligent death. The judgment refers to Section 299 CrPC when recording that the charge sheet was filed in the applicant's absence after he was treated as absconding. The Court mentioned that history and the warrant but did not adjudicate a challenge to that procedure. Sections 190, 193 and 319 CrPC were cited together as possible routes for adding the company as an accused later. Their distinct stages and statutory conditions were not applied to an actual summoning application. The contractual safety clause and site instructions supplied the specific duty alleged; they did not themselves enact a statutory offence.

4. Issues : (i) Could the applicant avoid prosecution for negligent death merely by presenting himself as a salaried managing director rather than an owner personally connected with the road work and its safety precautions? What did the power of attorney and subcontract show for the limited quashing inquiry? (ii) Was the omission of traffic signs and other prescribed warnings sufficiently connected with the road user's fatal fall to warrant trial under the direct-and-proximate-causation principle in *Sushil Ansal*? (iii) Did the infrastructure concern's absence as an accused necessarily invalidate the applicant's prosecution, or could its arraignment be considered later?

5. Ratio / Findings : The Court found that the power of attorney in the case diary described the applicant as a partner of P.D. Agrawal Infrastructure Ltd., contrary to his claim of being merely its managing director. It described a partner as an owner, as distinct from a paid managing director. The judgment itself uses the terms 'company' and 'firm' without explaining the corporate form. For the Section 482 inquiry, the Court treated the applicant as an owner responsible for executing the road work. TDM's terms for subletting the work expressly required advance safety precautions and traffic signs for culvert work. Site instructions required banners and flags at both ends. The Court noted that these precautions had not been taken. It also stated that, because the applicant had not participated in the investigation, the police had not collected material about the extent of his liabilities. These were reasons for declining pre-trial quashing on this record; they did not impose personal criminal liability generally on every officer for every corporate omission.

Sushil Ansal supplied the second part of the analysis: to establish a negligent death, a remote condition is insufficient. The accused's rash or negligent breach must be the direct and proximate operative cause. The Court compared the absence of evacuation safeguards which caused fatal smoke exposure with the allegation that missing diversion signs had caused the rider to continue into an open ditch. It concluded that the contractor concern, partially owned by the applicant, had breached its site-safety duties and that the accident resulted from the missing signs. It held that *Sushil Ansal* covered the case and that interference under Section 482 was unwarranted. This causal conclusion was reached at the quashing stage, without a conviction after trial or a final resolution of the order's differing references to Sections 304A and 304. On non-joinder, the Court stated that the company could be added later under Sections 190, 193 and 319 CrPC. It therefore did not treat the company's initial omission as conclusive.

6. Relief : The Hon’ble High Court dismissed the application under Section 482 CrPC. No part of FIR Crime No. 66/2005, the charge sheet or the JMFC's cognizance order dated 29 December 2006 was quashed, and no discharge was ordered. The High Court vacated its interim order dated 9 March 2007.

P.D. Agrawal v. State of Madhya Pradesh, M.Cr.C. no. 445/2007, 23/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (618) Prev Next

Headnote :- Rape — sole testimony of prosecutrix - Corroboration is not a legal precondition to conviction where the prosecutrix's evidence is credible and inspires confidence. *Aslam v. State of U.P., (2014) 13 SCC 350, State of Haryana v. Basti Ram, (2013) 4 SCC 200*, and *Narendra Kumar v. State (NCT of Delhi), (2012) 7 SCC 171*, were considered together. The qualifications stated in those authorities remain applicable: the Court must examine the whole evidence and material improbabilities, may seek assurance where compelling reasons exist, and cannot presume that every allegation is true. The prosecutrix described each participant's role in the assault at night, promptly told her mother-in-law and husband, and reported the matter to the police about fourteen hours later. Her detailed cross-examination did not establish the suggested retaliatory motive concerning ₹3,000. Her husband denied the alleged earlier police custody, and no document supported it. Her account was accepted beyond reasonable doubt.

Evidence — character, injury and burden - The quoted discussion in *Narendra Kumar* rejects any assumption that a survivor's sexual history establishes consent or destroys credibility. Under the discussion of Sections 53–54 of the Evidence Act, character is irrelevant unless character itself has properly been placed in issue. Lack of external injury alone does not disprove rape. The authority also protects the accused: serious inconsistency or improbability cannot be overlooked, and the prosecution must prove every element beyond reasonable doubt. The examining doctor was unavailable. The medical report recorded no external injury, while the FSL detected human sperm and semen in the petticoat and vaginal samples. There was insufficient material for further semen examination in the specified samples. These findings did not identify an assailant. The Court relied principally on the credible account; its description of a prior sexual history was not elevated into a permissible adverse inference.

Appeal - The acquittal in 2001 had been set aside on the prosecutrix's revision, and the trial had been remanded. Co-accused Ramdeen died while the revision was pending. After further examination of witnesses and the conviction in 2012 under the then-applicable Section 376(2)(g) IPC, the present appeal under Section 374 CrPC was dismissed and the ten-year sentence affirmed. Since actual completion of the sentence was uncertain, the appellant was to serve any remainder if he had not already been released after serving the sentence. If he had, no further custody action was required.

Case-note :- ***1. Facts :*** On the night of 5 November 1994, the prosecutrix was visiting her parents-in-law at village Kuleth for Diwali. At about 11 p.m., she went outside to answer the call of nature. She alleged that Petu and Ramdeen caught her, gagged her mouth and raped her in turn, and that Ramdeen warned her against reporting the incident. She had previously complained that Ramdeen had molested her. After returning, she told her mother-in-law. The next morning, without bathing, she went to her husband. A report was lodged at Mahila Thana Gwalior at about 1 p.m. on 6 November, about fourteen hours after the alleged incident. The police station was about 18 km away. The matter was transferred to the police station with territorial jurisdiction, Tighra, as Crime No. 51/1994 under Section 376/34 IPC. Clothes, vaginal slides and swabs were sealed and sent to the FSL. A site memo was prepared, and the two accused were arrested. They were initially charged under Section 376(1); the charge was amended to Section 376(2)(g) in July 1999. Eight prosecution witnesses testified, and the accused called none. The Sessions Court acquitted both accused on 25 July 2001. In the complainant's Criminal Revision No. 413/2001, the High Court set aside the acquittal as to Petu and remanded the case in October 2011. Ramdeen had died during the revision, which abated as to him. Petu surrendered and was initially released on bail. Repeated adjournments when the prosecutrix attended led to cancellation of bail and his arrest in April 2012. Two witnesses concerned with medical examination and investigation were further examined; the prosecutrix and her husband were later further cross-examined. Another witness was not recalled at defence counsel's request, and the doctor who had examined the prosecutrix could not be served. The appellant made a statement under Section 313 CrPC. On 24 December 2012, the trial court convicted Petu under the then-applicable Section 376(2)(g) and sentenced him to ten years' rigorous imprisonment and a fine of ₹1,000, with two months' rigorous imprisonment in default. In this appeal under Section 374 CrPC, he challenged reliance on the prosecutrix's sole testimony without corroboration. The trial court's certificate credited about three years, four months and twenty-two days of custody under Section 428 CrPC. He had remained in jail after conviction without seeking suspension of sentence. The appellate record suggested, but did not establish, that his ten-year term might already have been completed.

2. Precedents — Considered : *Aslam v. State of U.P., (2014) 13 SCC 350*, was directly quoted for the principle that, on consideration of the prosecution case as a whole, a rape survivor's testimony which inspires confidence may be acted on without requiring formal corroboration. Through its discussion of *Rajinder v. State of H.P. and State of Punjab v. Gurmit Singh*, it emphasized that a victim is not an accomplice and that minor, immaterial differences do not displace otherwise reliable evidence. Assurance may be sought as a matter of prudence in the particular circumstances; it cannot be demanded as an inflexible rule. The authority did not permit uncritical acceptance of every account: probability and reliability remain essential. After reviewing the complainant's account and the other

evidence, the Court applied this rule to reject the categorical objection based on lack of corroboration. *State of Haryana v. Basti Ram, (2013) 4 SCC 200*, was also quoted. Referring to *Vijay v. State of M.P. and State of Rajasthan v. Babu Meena*, it stated that a rape survivor's sole testimony, if reliable and credible, can sustain a conviction. This reinforced the same principle without introducing a separate factual test. The High Court considered it with the other authorities, rather than treating the absence of a further eyewitness as fatal. *Narendra Kumar v. State (NCT of Delhi), (2012) 7 SCC 171*, received the longest quotation and supplied important limits. Its paragraphs 20–21 permit conviction on trusted solitary evidence and allow the Court to seek assurance as a matter of prudence where compelling reasons exist. Paragraphs 22–25 require scrutiny of serious inconsistencies, material improvements and inherent improbability, and caution against presuming that every survivor's account is invariably correct. Paragraphs 26–27 reject inferences of consent or untrustworthiness based on sexual history or supposed character and refer to Sections 53 and 54 of the Evidence Act. Paragraphs 28–29 require sensitive but rigorous evaluation, preserve the presumption of innocence and leave the burden of proving each ingredient beyond reasonable doubt on the prosecution. The present Court adopted the combined principle that corroboration is not mandatory, then tested the witness's account and the particular financial motive suggested by the defence. Other cases named within the quotations included *Raju*, *Tameezuddin* and *Gurmit Singh*.

3. Statutes considered : Section 374 CrPC governed the appeal against conviction, and Section 428 governed credit for the earlier detention certified by the trial court. Section 376(2)(g) IPC was the applicable gang-rape provision under which the appellant was convicted and sentenced to ten years for the 1994 incident. A charge under Section 376(1) had first been framed and was amended in 1999; the initial FIR had cited Section 376/34. The judgment describes these distinct procedural stages without replacing the historical IPC provisions with later amendments. Section 313 CrPC governed the accused's statement on remand. Sections 53 and 54 of the Evidence Act appeared in the quoted analysis of character evidence in *Narendra Kumar.* The medical report was proved through the prosecutrix because the examiner could not be traced. The FSL report and witness testimony were assessed for their actual evidentiary value, without a newly articulated statutory presumption.

4. Issues : (i) Could the conviction after remand stand on the prosecutrix's own testimony, or did the law require independent corroboration because no separate eyewitness to the isolated assault at night had testified? (ii) Was her account credible on the full record, considering the timing of her disclosures and the FIR, the earlier allegation against Ramdeen, her mother-in-law's and husband's evidence, the lengthy cross-examination, the absence of visible injuries, the unavailable examiner, the FSL limitations and the suggested false-implication motive concerning a debt? (iii) How should the authorities' caution against inferences from sexual history be reconciled with the prosecution's continuing burden to prove every element beyond reasonable doubt? (iv) What order concerning any remaining imprisonment was appropriate given the uncertainty about actual completion of the sentence? The Court was not deciding Ramdeen's guilt afresh after his death and the abatement of the revision as to him.

5. Ratio / Findings : Following *Aslam*, *Basti Ram* and *Narendra Kumar*, the Court held that corroboration was not mandatory if the survivor's evidence was credible and inspired confidence. It did not infer truth merely from the accusation. The incident occurred at night; the FIR was recorded about fourteen hours later, after travel and disclosures to family. The prosecutrix's detailed narrative assigned separate roles to the two accused and was substantially repeated in court. Her mother-in-law described the immediate report that night; a variation in her recollection of the time did not displace the core account. Her husband recounted the disclosure the next morning. The officer who recorded the FIR and the seizure and investigation witnesses explained the procedural chain. The examiner could not be traced, and the medical report did not provide positive identification. It recorded no external injury and gave no definite opinion. The FSL report, Ex. P/9, found human sperm and semen in the petticoat and vaginal slides or swabs, but insufficient material for further semen examination of the specified samples. The Court relied principally on the survivor's accepted testimony; it did not find that the samples had been matched to Petu.

The defence suggested that Ramdeen had spent ₹3,000 to obtain the husband's release from police custody, had demanded repayment and had consequently been falsely accused. The survivor

denied this account. Her husband stated that he had never been arrested, and no custody document was produced. The Court found the particular motive unproved and the cross-examination insufficient to undermine the assault narrative. The judgment also made an observation based on chastity about the improbability of fabricating rape for that sum. Its holding remains confined to the credibility assessment; it does not create a presumption that complainants never make false allegations. *Narendra Kumar* expressly preserves protection against false implication, the need to examine serious contradictions and the prosecution's own burden of proof beyond reasonable doubt. The Court concluded that Petu and Ramdeen had committed the alleged assault, while the operative conviction before it was Petu's; the revision as to Ramdeen had abated on his death. Finding the charge proved beyond reasonable doubt, the Court affirmed the conviction and sentence under Section 376(2)(g).

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the conviction and sentence imposed by the 8th Additional Sessions Judge on 24 December 2012 in Sessions Trial No. 07/1996. It did not establish the appellant's precise release date or grant a fresh suspension of sentence. It directed that, if the ten-year jail term had not been completed, the appellant must serve the remainder. If he had already been released after serving the sentence, nothing further was required. The fine of ₹1,000 and the two-month default term were not varied.

Petu v. State of Madhya Pradesh, Cr.A. no. 296/2013, 14/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (619) Prev Next

Headnote :- Matrimonial cruelty — individualized accusation at charge stage - The wife alleged demands for dowry and her salary after the marriage in 2012, withholding of jewellery, monthly payments to her in-laws, and a later demand for ₹10 lakh for business, accompanied by threats. Eight applicants challenged the charges framed by the JMFC under Section 498A IPC and Sections 3/4 of the Dowry Prohibition Act. Applicant 3, the elder brother-in-law living in Shivpuri, and applicants 5–8, living in Guna, faced vague collective allegations without individual roles being specified. The alleged newspaper action was attributed to the husband. Applying *K. Subba Rao v. State of Telangana (CrA 1045/2018), Kans Raj v. State of Punjab, (2000) 5 SCC 207, Monju Roy v. State of W.B., (2015) 13 SCC 693, Chandralekha v. State of Rajasthan, Preeti Gupta v. State of Jharkhand* and *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, the Court held that family relationship and omnibus allegations alone could not require these five applicants to face trial. Their prosecution in Criminal Case No. 500/2017 was quashed, their charges were set aside, and they were discharged.

Prima facie charge — husband and parents-in-law - The complaint and police statement also contained allegations directly concerning the husband and his parents. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, explains that cases concerning distant relatives do not, by themselves, justify quashing where the complaint, taken as true, discloses a triable case against the husband or parents. Proof of actual cruelty remains a matter for trial. The Court found sufficient prima facie material against applicants 1, 2 and 4 and retained their charges, without finding them guilty. The extract from *Arnesh Kumar* concerning arrest and misuse was quoted as a caution; it was not made the basis of an arrest order. The revision was allowed for applicants 3 and 5–8 and dismissed for applicants 1, 2 and 4.

Case-note :- ***1. Facts :*** Respondent 2 married applicant 4 on 1 May 2012. Her FIR alleged that, at the engagement, her father gave ₹2 lakh, a gold chain, a gold ring and a motorcycle, and that he gave further articles and ₹4 lakh at the marriage. When she reached the matrimonial home, the jewellery earlier provided by her in-laws was taken back on the assertion that it belonged to applicant 8 and would be returned later. She alleged pressure for dowry, opposition to her studies and mental harassment by the applicants. She returned to her parental home to study, joined the police as a Sub-Inspector in 2013 and stated that her father had paid for her training. She alleged that the applicants then pressed her to surrender her salary. She stated that she paid ₹10,000 –15,000 a month to her in-laws, while her vehicle loan required monthly payments of ₹13,000. She attributed demands for money and pressure to live in Shivpuri to her unemployed husband, and alleged threats to defame her socially when she could no longer continue the payments. According to the FIR, the applicants came to her room at Ashok Nagar on 14 February 2017 and demanded ₹10 lakh for

business. She alleged that her husband told her he had already made a false police complaint and threatened to defame her through news publication. She also alleged that he later disseminated false news which affected the discharge of her duties. Her statement under Section 161 CrPC substantially repeated the allegations. Crime No. 110/2017 at Kotwali Ashok Nagar led to a charge sheet under Sections 498A and 506 IPC and Sections 3/4 of the Dowry Prohibition Act, 1961. On 26 May 2017, the JMFC framed charges under Section 498A read with Sections 3/4; the charges recited in this order did not include Section 506. Eight applicants brought a revision under Sections 397 and 401 CrPC. Applicants 1 and 2 were the father-in-law and mother-in-law, applicant 3 was the husband's elder brother, and applicant 4 was the husband. Applicants 5–8 were other in-laws, including spouses. The Court identified applicant 3 as a resident of Shivpuri and applicants 5–8 as residents of Guna. Paragraph 4 of the judgment uses 'respondent No. 8' twice, although the remaining text treats her as applicant 8 and the operative order names her.

2. Precedents — Considered : *K. Subba Rao v. State of Telangana (Supreme Court, CrA 1045/2018, 21 August 2018)* was quoted for restraint in interference at an interlocutory stage, while permitting intervention where abuse of process is shown. It cites *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, and cautions against drawing distant relatives into matrimonial and dowry prosecutions on omnibus allegations without concrete incidents. The Bench applied this principle to the five relatives whose individual conduct had not been particularized. *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, was quoted on the danger of assuming that all relatives participated in a husband's dowry wrongdoing. Its discussion includes the trial burden of proving an attributed overt act beyond reasonable doubt. The present Court applied its caution about individual accusations when reviewing charges; it did not use the trial standard of proof to determine guilt. *Monju Roy v. State of W.B., (2015) 13 SCC 693*, following *Kans Raj*, required specific material supporting the role attributed to relatives, particularly those living away from the matrimonial home, rather than general accusations against all of them. It also cautioned that allegations of dowry harassment following an unnatural death should not be weighed mechanically. The present case was not a dowry-death prosecution, so its application here was confined to the inclusion of relatives without sufficient individual allegations. *Chandralekha v. State of Rajasthan* (citation in the judgment: *2013 (1) UC 155*) was quoted for quashing extremely vague allegations against separately situated relatives in its particular circumstances, including an extraordinary delay in making the complaint. The present Court did not base its own decision on an identical six-year delay.

Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273, was excerpted on concerns about indiscriminate arrests and misuse of Section 498A. The judgment did not apply that decision's directions on arrest compliance to a disputed arrest. The statistics and rhetoric in the extract were contextual, rather than a separate holding in this case. *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, was quoted on careful scrutiny of allegations against relatives who live elsewhere and on ending an abusive trial on its particular facts. *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, required particulars of each person's acts, rather than mere recitation of the statutory section, and was applied to the relatives whose roles had not been specified. These authorities require individual review; they do not provide for automatic discharge of the husband's entire family. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was then quoted and applied to applicants 1, 2 and 4. Where allegations of cruelty by the husband and parents could establish an offence if proved, the existence of a triable case prevents quashing before trial. *Taramani* distinguished *Neelu Chopra*, *Manoj Mahavir* and *Geeta Mehrotra* on their records and expressly rejected reading them as an inflexible rule. The Bench relied on this distinction to retain the charges against the husband and his parents.

3. Statutes considered : Sections 397 and 401 CrPC provided revisional jurisdiction over the JMFC's charge order. Section 498A IPC concerned the charge of matrimonial cruelty, accompanied by the dowry provisions in Sections 3 and 4 of the Dowry Prohibition Act, 1961. The FIR and charge sheet included Section 506 IPC, but the impugned charges and operative relief in this revision were stated under Section 498A and Sections 3/4. The order did not purport to decide a separate charge under Section 506. Section 161 CrPC concerned the recorded police statement which was consistent with the complaint. At the stage of framing charges, the judgment examined whether the allegations against each applicant provided prima facie material. It did

not determine whether every element of cruelty or each dowry offence had been proved beyond reasonable doubt. The Supreme Court passages on dowry death and arrest law provided cautions; they were not used to decide an uncharged dowry-death offence or a question of arrest.

4. Issues : (i) Did the FIR and Section 161 statement specify the conduct of the elder brother-in-law and four other separately resident relatives sufficiently to sustain the charges dated 26 May 2017? Or were the collective allegations of dowry demands, salary demands and harassment insufficient despite the family relationship? (ii) Were the husband and his parents differently situated because the complaint alleged direct pressure in the matrimonial home, retention of jewellery, demands for payments and the husband's specific later actions, leaving a prima facie case for trial? (iii) What was the precise effect of the revision on each applicant's charges under Section 498A and Sections 3/4? The Court did not decide actual guilt, a question of arrest or the independent ingredients of an unframed charge under Section 506.

5. Ratio / Findings : Applicants 3 and 5–8 were not in the same factual position as the husband and his parents. The elder brother-in-law lived in Shivpuri, and the other four were shown as residents of Guna. The complaint and police statement made vague collective accusations without specifying individual conduct sufficient to require these applicants to face trial. The Court also found no apparent reason, on the allegations, for them to demand the complainant's salary. It attributed the alleged publication of false news to the husband. Guided by *K. Subba Rao*, *Kans Raj*, *Monju Roy, Chandralekha*, *Preeti Gupta* and *Neelu Chopra*, it held that prosecution of these five applicants under Section 498A and the Dowry Prohibition Act was unwarranted and set aside their charges. It did not hold that living elsewhere alone creates immunity. The result depended on the absence of a sufficiently specified role on this record. As to the father-in-law and mother-in-law, applicants 1 and 2, the complaint described pressure in the matrimonial home and issues concerning money and jewellery. Applicant 4 was the husband and was specifically accused of repeated demands, harassment and the later threatening action concerning publication of news. The Court relied on *Taramani Parakh*'s distinction between allegations which do not specify distant relatives' roles and a complaint disclosing a triable case against the husband and parents. It found prima facie material for framing charges against these three applicants. Whether the complainant had actually been subjected to cruelty remained a matter for trial. The Court retained the charge order only as to applicants 1, 2 and 4. It did not convert its prima facie finding into a conviction or determine the defence evidence after trial.

6. Relief : The Hon'ble High Court set aside the JMFC Ashok Nagar's charge order dated 26 May 2017 in Criminal Case No. 500/2017 as to applicant 3, Naresh, and applicants 5, Praan Singh Kashyap; 6, Vidya Bai; 7, Inder Singh; and 8, Rani alias Janki Bai. Their prosecution under Section 498A IPC read with Sections 3/4 of the Dowry Prohibition Act was quashed, and they were discharged. The same charges remained against applicant 1, the father-in-law; applicant 2, the mother-in-law; and applicant 4, the husband. The revision succeeded for the five discharged applicants and failed for the other three. The entire matrimonial prosecution was not quashed. *Phitorilal and Others v. State of Madhya Pradesh and Others, Cr.R. no. 3716/2017, 11/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (620) Prev Next

Headnote :- Article 226 — mandamus to register FIR - The petitioner alleged police inaction on her written complaint dated 17 August 2023 and the communication dated 4 December 2023. The duty to register information disclosing a cognizable offence is distinct from the remedy available to an informant when the police fail to act. *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, directs the aggrieved person to the Magistrate by a complaint under Sections 190/200 CrPC. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, describe escalation to the SP under Section 154(3) and recourse to a Magistrate under Section 156(3) for registration or proper investigation. The Magistrate may monitor the investigation but cannot investigate personally. The writ petition was dismissed with liberty to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS, as recorded in the order.

Exceptional Constitutional power - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, preserves the power to issue directions under Article 226 in the rarest of rare cases. The High Court must

be convinced that investigative power has been exercised mala fide and that clear abuse of power and noncompliance with Chapter XII are made out requiring its intervention. Even then, the Court cannot dictate the precise method of investigation. The MP Division Bench decision in *Shweta Bhadauria* (WA 247/2016, 20 December 2016) permits refusal of a mandamus for FIR registration where remedies under Sections 154(3), 156(3), 190 and 200 have not been exhausted, subject to the recognized alternative-remedy exceptions in *Whirlpool*. It distinguishes *Lalita Kumari*'s rule requiring registration of cognizable information from an automatic remedy by direct writ petition. The petition was dismissed with liberty to pursue the Magistrate complaint remedy; no factual determination was made on the proposed underlying offence.

Case-note :- ***1. Facts :*** Phool Bai filed a petition under Article 226 seeking a direction to respondent 2 to take expeditious action against an allegedly erring person pursuant to a communication dated 4 December 2023. She also sought an expeditious decision on her pending written complaint dated 17 August 2023, incidental relief and costs. Her counsel stated that she had approached the authorities for registration of an FIR, but no action had followed. The State opposed writ relief because she could file a complaint before the trial Magistrate under Section 200 CrPC, which the order identifies alongside Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The Court framed the question as whether a writ could compel police registration when complaint and Magistrate remedies were available.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted. It affirms the police duty to register an FIR when information discloses a cognizable offence, but distinguishes that duty from the remedy for refusal. Sections 190 read with 200 CrPC provide for a complaint to the Magistrate. The decision reconciled the authorities on the duty to register, including *Ramesh Kumari* and *Lallan Chaudhary*, with those addressing the remedy, including *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. A direction about the police duty did not, by itself, establish that a direct writ petition was the proper remedy for every informant. The present Court adopted this procedural distinction; it did not decide the merits of Phool Bai's undisclosed allegations.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted. Its paragraphs 41–42 preserve intervention under Article 226 in the rarest of rare cases. The High Court must be convinced that investigative power has been exercised mala fide and that clear abuse of power and noncompliance with Chapter XII are made out requiring its intervention. The quoted passages also prohibit the Court from dictating how officers must investigate. Ordinarily, an informant facing police inaction should use Sections 190/200. Through *Gangadhar Janardan Mhatre*, the passage describes the Magistrate's possible courses after evidence on the complaint: dismissal if no offence is disclosed, cognizance and process if an offence appears prima facie, or a direction for police investigation where appropriate. The Court applied the ordinary-remedy rule and dismissed the petition with liberty to approach the Magistrate.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted. It describes a written application to the SP under Section 154(3), followed by an application under Section 156(3) if the FIR is still not registered or proper investigation is not undertaken. A Magistrate who finds a prima facie case may direct registration or proper investigation and may monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, was also quoted. Applying *Sakiri Vasu*, it explains that the Magistrate may recommend a change of investigating officer to the SP where necessary, but cannot investigate personally. It discourages routine petitions under Article 226 which bypass this effective remedy. The present Court treated these procedures as alternative statutory remedies; it did not appoint or change an investigating officer.

Shweta Bhadauria v. State of M.P. (MP High Court Division Bench, WA 247/2016, 20 December 2016) was quoted and followed. It holds that mandamus to compel compliance with Section 154 may be refused where the informant has not pursued Sections 154(3), 156(3), 190 and 200. This is subject to the four alternative-remedy exceptions which the quoted Division Bench passage attributes to *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It also explains that *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, concerns the police duty to register cognizable information. That duty does not confer an unconditional entitlement to mandamus under Article 226 without pursuing statutory remedies.

3. Statutes considered : Article 226 provides the constitutional writ power. Section 154 CrPC concerns registration of information about a cognizable offence, and Section 154(3) provides for approaching the Superintendent of Police. Section 156(3) permits the Magistrate to direct and supervise investigation within the provision's legal scope. Sections 190 and 200 provide the route for a complaint and cognizance, with inquiry and possible process or dismissal as described in the quoted Supreme Court passages. Section 203 was mentioned there for dismissal where no offence appears. The quoted exception concerning Chapter XII CrPC is confined to the rarest of rare cases where investigative power has been exercised mala fide and clear abuse of power and noncompliance with that Chapter are made out requiring intervention. The order itself identifies Section 223 BNSS, 2023, alongside Section 200 CrPC as the petitioner's available complaint remedy.

4. Issues : Did the informant's allegation that the police had failed to act on her written complaint entitle her, on this record, to an Article 226 direction for FIR registration or a police decision? Or should she pursue the available SP and Magistrate remedies? Despite the ordinary rule, did the law preserve exceptional constitutional power where there was clear mala fide investigation or an applicable exception to the alternative-remedy rule?

5. Ratio / Findings : The Court treated the request as one for a writ directing registration of an FIR. *Aleque Padamsee* establishes the police duty to register cognizable information, but police inaction ordinarily requires the aggrieved person to approach the Magistrate under Sections 190/200; it does not automatically justify writ mandamus. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* describe the route in greater detail: the SP under Section 154(3), then the Magistrate under Section 156(3) for registration or proper investigation, with monitoring subject to a prima facie judicial assessment. The quoted passage from *Divine Retreat Centre* preserves intervention under Article 226 in the rarest of rare cases. The High Court must be convinced that investigative power has been exercised mala fide and that clear abuse of power and noncompliance with Chapter XII are made out requiring its intervention. Even then, the Court cannot dictate how the investigation must be conducted. *Shweta Bhadauria* supplies binding Division Bench guidance that available alternative remedies can bar mandamus unless the exceptions in *Whirlpool* apply. *Lalita Kumari*'s rule on the duty to register addresses a different question.

6. Relief : The Hon'ble High Court dismissed the writ petition. The petitioner was given liberty, if she wished, to approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS for redress of her grievance. No direction to register an FIR, police inquiry, award of costs or decision on the merits of the alleged misconduct was made.

Phool Bai v. State of Madhya Pradesh and Others, W.P. no. 16013/2024, 02/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (621) Prev Next

Headnote :- Article 21 — speedy trial and government-witness process - The applicant, seeking regular bail for the seventh time, had been detained since 22 December 2016 on a murder allegation. The High Court had earlier summoned the Vidisha SP because summons and warrants for doctors and police personnel had not been served or returned. On 16 September 2019, the SP promised to remedy the failures. The subsequent trial order-sheets showed repeated failures, unreturned process and examination of only a few witnesses. The SP conceded that neither he nor a gazetted officer had monitored compliance. He could not support his claim that two witnesses had attended on a date when the order-sheet did not record their presence. The lockdown imposed in late March 2020 could not explain the earlier delay. The Court held the prosecution responsible for the stalled trial and ruled that the accused could not be kept in jail indefinitely at its mercy. Bail was granted without deciding guilt.

Bail — COVID-19 conditions - The Supreme Court's orders dated 23 March and 7 April 2020 in *In Re Contagion of COVID-19 Virus in Prisons* were reproduced on prison decongestion, review by high-powered committees of the categories of prisoners eligible for release, and safe travel or shelter after release. In this case, bail was granted on the independent ground of prosecution-caused delay. The Court required a personal bond of ₹1 lakh. The applicant also had to furnish a surety for the same amount within one month after the lockdown was completely lifted. It also required a medical examination before release, testing if advised, treatment if the test was positive, assisted transit if cleared, and compliance with applicable pandemic directions. The order was to remain effective until

the trial concluded, but would cease to have effect on breach of its conditions or a bail jump.

Police accountability - The Court did not initiate contempt proceedings against the SP. It left consideration of possible departmental action against him and the absent official witnesses to the competent authorities. It directed that a copy of the order be placed in the SP's service book and required a compliance report to the Principal Registrar within fifteen days.

Case-note :- ***1. Facts :*** Phool Singh was arrested on 22 December 2016 in Crime No. 254/2016 at Lateri Police Station, Vidisha, for alleged offences under Sections 327/34, 506B, 294, 323 and 302/34 IPC. The order records the prosecution allegation that he and the co-accused demanded money from Mukesh to buy liquor. When Mukesh refused, he was allegedly struck on the head with a lathi and died. This was the applicant's seventh application for regular bail under Section 439 CrPC, principally on the ground of delay. In an earlier application on that ground, MCRC 37605/2019, the Court had found police failures to execute and return summons, bailable warrants and warrants for doctors and police witnesses. It had called SP Vinayak Verma to explain. In September 2019, he reported that a head constable and court moharrir had failed to enter process in the register, had been suspended and faced a preliminary inquiry. He promised service without further fault and was directed to report progress in the disciplinary proceedings. On that assurance, the previous bail application was dismissed. The trial order-sheets filed with the present application showed further failures to serve or return process and continued absence of official witnesses. Appearing by video conference, the SP disputed several entries, which the Court examined date by date. Process for 19 September 2019 had not been returned. A doctor failed to appear in October despite a bailable warrant, doctors and police witnesses were absent again in December, and later warrants were not returned. Constable Jai Singh eventually testified on 7 March 2020 about a narrow matter in the chain of seizure; other official witnesses remained absent. The nationwide COVID-19 lockdown disrupted a hearing in April, but the Court distinguished that later interruption from the preceding months of police delay. The SP admitted that he had not monitored the case after his undertaking and that his gazetted officer had not complied with the March 2019 police circular. After making baseless assertions about the trial order-sheet and suggesting that closure of the court explained the failure, he apologized and sought permission to withdraw his statement. The Court considered bail before turning to administrative accountability.

2. Precedents — Considered : The Court applied Article 21 when examining the actual court process and the applicant's custody. *In Re Contagion of COVID-19 Virus in Prisons*, Supreme Court suo motu WP(C) 1/2020, orders dated 23 March and 7 April 2020, was quoted and applied to the arrangements for release. Responding to prison overcrowding during COVID-19 and the requirements of Article 21, the order of 23 March directed States and Union Territories to constitute high-powered committees. With representatives of legal services, the home or prison department and prison leadership, these committees were to determine categories eligible for parole or interim bail, considering the seriousness of the offence and other factors. The present High Court granted regular bail because the prosecution had delayed the trial. The Supreme Court's order of 7 April required safe transport home or shelter options for prisoners released during lockdown, with the Union and States arranging measures through their authorities. The High Court applied it by requiring a medical examination, treatment first if infected, and safe transport by the local administration after clearance. Its conditions also required compliance with governmental COVID-19 instructions. The order dated 16 September 2019 in the applicant's earlier bail matter was reproduced as procedural history and as the source of the SP's assurance.

3. Statutes considered : Article 21 of the Constitution protected the detained accused's right to a speedy trial and informed the Supreme Court's orders on prison safety. Section 439 CrPC governed this successive application for regular bail; the ordinary conditions under Sections 437 and 439 were maintained. The underlying IPC Sections 327/34, 506B, 294, 323 and 302/34 described the prosecution's alleged extortion-linked assault, threats, abuse, hurt and homicide. The quoted Supreme Court direction on safe transit mentioned possible measures under the Disaster Management Act, 2005. The police-headquarters circular dated 30 March 2019 was referred to as a monitoring obligation which had not been followed.

4. Issues : (i) Did police failures to serve, execute or return process for government and medical witnesses

after a specific undertaking by the SP cause prolonged delay attributable to the prosecution, engaging Article 21? (ii) Given nearly four years in custody and the serious homicide allegation, did that delay justify regular bail without deciding the merits? (iii) What health, surety and transit conditions were required for release during the pandemic, and what consequences would follow a breach? (iv) Did the SP's handling of the matter warrant contempt proceedings or an administrative response? The Court left departmental action to the competent authorities; it did not finally impose disciplinary punishment.

5. Ratio / Findings : The Court examined the trial order-sheets rather than accepting the SP's general assurance. One witness had been examined in October 2019 and Constable Jai Singh in March 2020. Nevertheless, process often had not been returned even as unserved, and doctors and police witnesses had repeatedly failed to appear. The SP's claim that two witnesses had attended on 4 December 2019 was unsupported by any record of their presence or their signatures. The issue of fresh arrest warrants was inconsistent with a witness having attended and merely been bound over. The SP could not explain the other absences or how the April lockdown could account for missed dates before it. He admitted that he had not monitored the case after 16 September 2019; nor had the gazetted officer exercised the oversight required by the circular. His eventual apology did not remove the objective delay. The Court noted the applicant's custody since December 2016, the few witnesses examined over an extended period and the prosecution's failure to secure the attendance of its own official witnesses. It held the prosecution responsible for the delay and found indefinite continued custody as an undertrial untenable. It expressly refrained from commenting on the merits of the homicide allegation. The seventh bail application therefore succeeded.

The Supreme Court's prison orders supplied release arrangements and public-health conditions, rather than the decisive justification for bail in this Section 302 case. The applicant had to furnish a personal bond of ₹1 lakh to the available trial court, CJM or remand magistrate. He also had to furnish a surety for the same amount within one month after complete lifting of the lockdown. Before release, the jail had to obtain an examination by a competent doctor and arrange testing if advised. If the test was positive, the applicant was to be sent for treatment. If infection was not suspected or the test was negative, safe travel home was to be arranged. He had to comply with governmental pandemic directions and supply a copy of the bail order to the police station with jurisdiction over his residence. The Court stated that breach of the pandemic directions or any other bail condition, or a bail jump, would cause the order to cease to have effect and result in his return to custody. The general statutory conditions remained applicable until the trial concluded. The Court did not initiate contempt proceedings against the SP. It left consideration of departmental action concerning the SP to the competent authority, and concerning the absent doctor and police witnesses to the Chief Secretary and DGP. A copy of the order had to be placed in the SP's service book, and a report was required within fifteen days.

6. Relief : The Hon’ble High Court allowed the seventh application for regular bail under Section 439 CrPC. The SP was not adjudged guilty of contempt. The competent authority was left to consider whether his conduct warranted departmental action; the Chief Secretary and DGP were left to consider such action for the nonappearance of doctor and police witnesses. The Chief Secretary was directed to place the order in SP Vinayak Verma's service book and file a compliance report with the Principal Registrar within fifteen days.

Phool Singh v. State of Madhya Pradesh, M.Cr.C. no. 36488/2020, 01/10/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (622) Prev Next

Headnote :- Separate trials — evidentiary autonomy - Applying *A.T. Mydeen v. Assistant Commissioner (Criminal Appeal No. 1306 of 2010, decided 29.10.2021)*, the Court confined Phulle's appeal to his supplementary trial record; evidence adduced there could not be used for or against Pappu @ Matiuddin, who was tried separately, or vice versa, despite simultaneous hearing of appeals.

Related and interested witnesses — credibility - *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475, Shamim v. State (NCT of Delhi), (2018) 10 SCC 509, Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, were applied to reject kinship as an automatic disqualification. *Rizan*'s discussion of

Dalip Singh, *Masalti* and allied decisions required cautious appraisal where an actual foundation for partisanship exists; *Mohd. Rojali Ali* distinguished a related witness from one with a motive to secure conviction. The nearby shops, family practice, Basheer's name on Jameel's contemporaneous MLC and the consistent core eyewitness account supported presence and reliability, subject to careful scrutiny in view of the hostility.

Identification — evening light and acquaintance - *Ramesh v. State, (2010) 15 SCC 49*, was applied for its limited rural visibility principle: known persons are not automatically unidentifiable in meagre evening light. The April hour, gas lantern, shop-front location, prior acquaintance and close-range wound features supported an actual opportunity to identify these assailants.

Motive — rival enmity - *State of A.P. v. Dr M.V. Ramana Reddy, (1991) 4 SCC 536, Anil Rai v. State of Bihar, (2001) 7 SCC 318*, and *Sushil v. State of U.P., 1995 Supp (1) SCC 363*, were considered and applied: animosity can motivate the crime or false implication, so reliable direct testimony must be scrutinised, not discarded merely for earlier disputes. Here the pending attempt-to-murder cases explained the compromise demand and, on the Court's assessment of the direct evidence, the subsequent killings.

Firearm proof — non-recovery - *Rakesh v. State of U.P., (2021) 7 SCC 188, Gulab v. State of U.P. (Criminal Appeal No. 81 of 2021, order dated 09.12.2021)*, and *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, were considered for the proposition that recovery of the actual firearm is not indispensable. Five years passed before Phulle's arrest; the accepted eyewitness accounts and firearm injuries meant that non-recovery of the weapon was insufficient by itself to negate guilt.

Public witnesses — non-examination - *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, including its reliance *on State of U.P. v. Anil Singh*, was applied to reject the automatic exclusion of otherwise acceptable testimony for want of independent bystanders. Nearby shopkeepers reportedly declined police statements amid enmity; the Court evaluated the actual witnesses, MLC naming the attendant, scene and medical evidence.

Unlawful assembly — two homicidal shootings - Accepting the direct and medical evidence in Phulle's own trial, the Court upheld Section 148 IPC and two counts under Section 302/149 IPC: the armed group arrived to compel a compromise, Pappu shot Imambaksh, and Phulle shot intervening Jameel. Both deaths were medically found homicidal.

Sentence — concurrent life terms and default - Section 427(2) CrPC governed the subsequent life sentence where an earlier life sentence had been imposed in S.T. No. 125/2008. *O.M. Cherian v. State of Kerala, (2015) 2 SCC 501*, was considered on concurrence of life terms, and *Sharad Hiru Kolambe v. State of Maharashtra, (2018) 18 SCC 718*, on the separate consecutive fine-default term. The Court affirmed the conviction and substantive sentence, ordered concurrence with the earlier sentence, and preserved consecutiveness of default imprisonment.

Case-note :- ***1. Facts :*** On 21 April 2008 around 7–7:30 p.m., at a shop near Sarsai Tiraha, Bhander, Imambaksh and his son Jameel sustained fatal firearm injuries. The prosecution alleged that longstanding criminal litigation between the families, including a pending Section 307 IPC proceeding, led Pappu @ Matiuddin, his brother Phulle @ Kabuluddin and three other armed men to arrive at Imambaksh's shop to demand compromise. According to eyewitnesses, Pappu fired twice at Imambaksh before the latter could respond; Phulle fired at Jameel when he came to Imambaksh's aid. Imambaksh was declared dead at Bhander Hospital. Jameel was examined there, referred to Gwalior and died during the journey according to the complainant side. The complainant Alibaksh lodged Crime No. 79/2008; the judgment records the investigating officer's time as 23:50 on 21 April, while Alibaksh in testimony described a report at about 1 a.m. after returning from Gwalior.

The police seized earth and several firearm-related items from the scene, prepared a spot map and inquest papers, recorded witness statements and obtained post-mortems. Pappu was arrested and tried earlier; Phulle was arrested years later and faced a supplementary trial. Co-accused Javeli reportedly absconded during his supplementary trial. The present trial examined, among others, Alibaksh (PW1), Nazeer (PW4), Islam (PW5), the doctors (PW6 and PW7), Rashid @ Mouzu (PW8), Basheer (PW10), Shakeel (PW11) and the investigating officer (PW12); Phulle called four defence witnesses. The trial court convicted Phulle under Section 148 IPC (three years' rigorous imprisonment) and Section 302 read with Section 149 IPC on two counts (life imprisonment and

₹1,000 fine with one month's default imprisonment on each count), with the sentences in this case concurrent. He appealed under Section 374 CrPC from the judgment dated 10 January 2018 in S.T. No. 84/2008 (Supplementary). A different supplementary trial, S.T. No. 125/2008, concerning the death of the accused men's father Jainuddin had produced a judgment on 21 December 2016. Pappu's separate appeal was heard simultaneously but reserved for separate judgment.

The defence alleged that related and inimical witnesses had given contradictory accounts, the shop-front was too dark for reliable identification, the FIR was delayed, the countercase lodged by Pappu over Jainuddin's killing prompted a retaliatory accusation, the relevant weapon was not recovered, and no independent bystander was examined. The prosecution supported the trial findings. The Court expressly restricted its evidentiary assessment to this appellant's record.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner (Criminal Appeal No. 1306 of 2010*, decided 29 October 2021) supplied the threshold evidentiary separation between trials of accused arrested at different times. The Court applied it in paragraph 2: no evidence from Phulle's trial could be read for or against Pappu in his separate appeal, and conversely.

On disputed identification at dusk, the Court quoted *Ramesh v. State, (2010) 15 SCC 49*. That decision declined to reject identification of a known neighbour by villagers solely because the evening light was poor, recognising adaptation to rural lighting. The Court applied that limited principle together with its own findings on the April hour, gas lantern, close-range wounds, open shop-front and prior acquaintance; it did not treat the precedent as dispensing with an inquiry into the actual opportunity to see.

For the related-witness objection, *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, and *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, were quoted for the absence of an automatic adverse inference from familial relationship and the ordinary weight of immediate family evidence. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, was quoted at greater length: a false-implication plea requires a foundation; the testimony must be assessed cautiously for cogency and credibility, but kinship or partisanship alone does not require rejection or universal corroboration. Its reproduced discussion referred to *Dalip Singh, Guli Chand, Vadivelu Thevar, Rameshwar, Masalti, State of Punjab v. Jagir Singh and Lehna. Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, supplied the conceptual difference between a related witness and a witness interested in obtaining a conviction because of benefit, prior enmity or another motive to falsely implicate. Its quoted passage in turn referred to *State of Rajasthan v. Kalki*, *Amit*, *Gangabhavani*, *Ganapathi*, *Dalip Singh* and *Jayabalan*; these nested references supported the quoted distinction and careful reliability inquiry. The Court used this body of law to assess the witnesses' actual presence and core consistency, particularly Basheer's place in the contemporaneous medical record.

On motive and hostility, *State of A.P. v. Dr M.V. Ramana Reddy, (1991) 4 SCC 536*, warned that bitter animosity may lead to deliberate false implication or sincere but erroneous inference against rivals. *Anil Rai v. State of Bihar, (2001) 7 SCC 318*, developed both sides of that risk and required anxious scrutiny of inimical witnesses while permitting otherwise convincing testimony. *Sushil v. State of U.P., 1995 Supp (1) SCC 363*, similarly treated animosity as both possible offence motive and motive to falsely implicate, with cautious consideration of credible direct evidence. The Court applied these propositions to the pressure for compromise and the competing countercase, accepting the direct account rather than automatically inferring guilt or false implication from the enmity.

For the absent firearm, *Rakesh v. State of U.P., (2021) 7 SCC 188*, was quoted for the narrow proposition that conviction does not require recovery of the weapon used, even where ballistic mismatch makes an actually recovered gun unusable as the murder weapon. *Gulab v. State of U.P. (Criminal Appeal No. 81 of 2021*, order dated 9 December 2021) was quoted to say that non-recovery need not discredit a gunshot prosecution. *Krishna Gope v. State of Bihar, (2003) 10 SCC 45*, rejected advantage from an accused's concealment and consequent non-recovery. The Court treated these authorities as answering the non-recovery of Phulle's firearm after the five-year interval before his arrest, against direct and medical proof.

Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646, was quoted on the reluctance of independent witnesses to assist investigations or endure repeated court appearances. Its quotation of *State of U.P. v. Anil Singh* stated that failure to examine all possible

public witnesses or obtain independent corroboration does not alone defeat an otherwise true and acceptable prosecution case. The Court applied that conditional proposition after considering the investigating officer's explanation and the credibility of the witnesses actually heard.

At sentencing, *O.M. Cherian v. State of Kerala, (2015) 2 SCC 501*, was quoted on the unworkability of a fixed prison term following life imprisonment and the concurrent operation of multiple life sentences in its discussion of Section 31 CrPC. The present Court addressed the separate statutory situation in Section 427(2) CrPC: the earlier life sentence and the subsequent conviction here. It then cited *Sharad Hiru Kolambe v. State of Maharashtra, (2018) 18 SCC 718*, to preserve consecutive operation of the fine-default term.

3. Statutes considered : Sections 148 and 302 read with 149 IPC defined the rioting/armed-group and constructive homicide convictions under review. The two deaths, group arrival, armed conduct and Phulle's own firing were assessed against the trial record; Sections 147 and the Arms Act Sections 25/27 appear in the investigation and earlier co-accused charge background, without separate appellate determination against Phulle. The pending Section 307 IPC disputes supplied alleged motive, not a charge decided in this appeal. Section 374 CrPC supplied the appeal route. Section 427(2) CrPC governed whether a subsequent term or life sentence for one already undergoing life imprisonment runs concurrently; the Court directed concurrence with the earlier supplementary-trial life sentence. It treated fine-default imprisonment separately and consecutively under *Sharad Hiru Kolambe*.

4. Issues : (i) Which trial evidence could be considered for Phulle, given that Pappu had been tried separately and his appeal was heard simultaneously? (ii) Were the two deaths homicidal and did the admissible eyewitness, medical and circumstantial record prove Phulle's participation in the armed group and the two Section 302/149 counts beyond reasonable doubt, or did the countercase, asserted discrepancies, timing and alleged FIR delay create doubt? (iii) Did the evening light afford identification, and were close relatives affected by hostility, lack of neutral bystanders and non-recovery of Phulle's gun nevertheless reliable on actual scrutiny? (iv) Given the earlier life sentence in S.T. No. 125/2008, what was the operation of the present substantive imprisonment and its fine-default term?

5. Ratio / Findings : The Court first excluded cross-use of evidence between the later supplementary trial and Pappu's prior trial under *A.T. Mydeen*. The two doctors' injury descriptions and post-mortem evidence showed firearm wounds, extensive hemorrhage and homicidal deaths of Jameel and Imambaksh. Dr Parihar had examined the injured Jameel and produced his MLC before post-mortem; Dr Shakya dealt with Imambaksh. Their cross-examination raised matters of wound direction, distance and records, including Dr Shakya's concession that he had not written 'homicidal' in the report. The Court nonetheless found each death homicidal and treated wound blackening and tattooing as supporting shooting at close range. These findings supplied objective support but did not establish that any recovered firearm was Phulle's.

Alibaksh described Pappu's compromise demand, two shots at Imambaksh and Phulle's shot at intervening Jameel. Nazeer, Rashid, Basheer and Shakeel gave supporting accounts. Islam arrived after shots; the Court expressly described him as hearsay rather than an eyewitness to these killings, although he observed the injured and said he saw a separate shooting of Jainuddin. The Court considered lengthy cross-examination about the location, shops, visibility, transport, countercase, timings, seized articles and proposed alternative version of mutual firing. Basheer's shop was near the scene on the spot map and his name appeared as attendant in Jameel's 7:40 p.m. MLC. These particulars supported his presence and prompt transport. The order records differences between Alibaksh's account of FIR timing and the investigating officer's 23:50 registration.

The Court rejected the objection that the light was insufficient on a combined factual assessment: April evening, a gas lantern, a non-isolated shop frontage, close-range wound features and prior familiarity among the parties. *Ramesh* supported its refusal to infer inability to identify solely from rural evening light. It did not dispense with visibility proof. On kinship, it adopted the Supreme Court distinction between related and truly interested witnesses and examined their natural presence and the central consistency of their accounts. The very enmity supporting the defence's false-implication theory also supplied a motive for pressure to compromise; under *Ramana Reddy, Anil Rai* and *Sushil*, both

possibilities required caution. The Court credited the direct accounts after that scrutiny. Paragraph 52 refers to a separate judgment on the Jainuddin episode. The present appeal's finding as to the shootings of Imambaksh and Jameel is separately grounded in this trial's evidence.

The appellant's weapon was not recovered after his arrest five years later. *Rakesh*, *Gulab* and *Krishna Gope* allowed the Court to assess guilt without treating non-recovery as decisive; it relied on the eyewitness and wound evidence instead. The officer said he had sought statements from nearby shopkeepers, who refused in view of enmity. *Ambika Prasad* and the *Anil Singh* principle quoted in it prevented automatic rejection merely because no independent public witness testified. The Court found that Pappu shot Imambaksh and Phulle shot Jameel in the armed group's compromise-demand episode, upheld Phulle's Section 148 conviction and both Section 302/149 counts, and declined to disturb the life terms, the statutory minimum for murder.

Although neither side argued concurrence, the Court addressed it for complete justice. An earlier life sentence arose from the 21 December 2016 judgment in S.T. No. 125/2008, before the 10 January 2018 judgment under appeal. Section 427(2) CrPC supported concurrent operation of the present substantive sentence with the previous sentence; *O.M. Cherian*'s discussion of life terms informed the treatment. The fine-default sentence was specified to run consecutively under *Sharad Hiru Kolambe*. The direction for concurrent sentences therefore did not extend to the default term.

6. Relief : The Hon’ble High Court has dismissed the appeal under Section 374 CrPC. The trial court's 10 January 2018 conviction and sentence in S.T. No. 84/2008 (Supplementary) were affirmed: three years' rigorous imprisonment under Section 148 IPC and life imprisonment plus ₹1,000 fine with one month's default rigorous imprisonment on each of two Section 302/149 counts, subject to the trial court's concurrence within this case. The High Court directed the substantive sentence in this case to run concurrently with the sentence imposed on 21 December 2016 in S.T. No. 125/2008 (Supplementary), while the default sentence runs consecutively. Phulle remained in jail to serve the balance. A free copy of the judgment was to be supplied to him and the trial record returned with a copy for compliance.

Phulle v. State of M.P., Cr.A. no. 2567/2018, 07/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (623) Prev Next

Headnote :- Criminal appeal — merits before sentence - *Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*, was applied when counsel argued only for reduction of the sentence to the period already served: the appellate court first reviewed conviction on the evidence and law rather than deciding the sentence without examining the merits.

POCSO — victim age and proof hierarchy - *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, extended Rule 12(3) of the Juvenile Justice Rules, 2007 from juveniles in conflict with law to child victims. The highest-ranked available documentary category takes precedence—matriculation or equivalent proof, then first-attended school birth record, then specified civic certificate; medical opinion follows only absent those documents. The proved school register and certificate supported an age of about fourteen, preferred over a defence ossification estimate of sixteen to eighteen subject to an approximate margin of error. The prosecutrix's oral birth date differed in month from the school entry; either date made her a child on 23 February 2015.

Child sexual assault — testimony and corroboration - The prosecutrix's account of the attack near a well, her sister's evidence of the encounter immediately before the assault, parental evidence of disclosure, medical findings of penetration within 48 hours and FSL detection of semen and sperm supported conviction. The sister had not witnessed rape, and DNA was not performed to identify the semen donor; the Court treated FSL findings as corroborative without treating them as identifying the semen donor and found guilt beyond reasonable doubt on the combined record.

Age of consent — amended IPC threshold - The trial court had described the fourteen-year-old as below sixteen when addressing consent. The High Court identified the 2013 amendment to IPC Section 375 sixthly, which set eighteen as the relevant threshold, while affirming convictions under IPC Section 376(1) and POCSO Section 4 after proof of the assault and child status.

Sentencing — POCSO Section 42 and parallel IPC minimum - For the February 2015 offence, the High Court reasoned that IPC Section 376(1) carried a ten-year minimum after the 2013 amendment, whereas POCSO Section 4 then carried seven years; the trial court imposed one ten-year Section 4 sentence in light of Section 42. The High Court refused to reduce it to the claimed period of over seven years including remission given the parallel IPC minimum. It mentioned the 2019 increase in POCSO's minimum as a later correction of the mismatch, not as a retroactive provision governing the 2015 conduct.

Case-note :- ***1. Facts :*** According to the prosecution case, on 23 February 2015 around 6 p.m., a schoolgirl and her younger sister took cattle to a well in the locality. The appellant Pinki gave the younger sister ₹40 to share and asked her to stand aside. The prosecutrix said he seized and gagged her, took her to a nearby place, raped her and threatened to kill her if she told her family. She returned and disclosed the incident to her parents. They went to the police the next day, explaining that it had become late and they were afraid. The defence suggested a false case related to a dispute over jointly held land, a joint well and money, which the prosecutrix and her father denied. The sister corroborated the encounter and payment but had not seen the alleged rape. The parents testified to the disclosure. The medical examiner observed hymenal tearing, congestion and slight tenderness and opined that penetration had occurred within 48 hours. Slides and clothing from both persons were sent for forensic analysis; semen and sperm were reported on specified exhibits, without DNA comparison to identify the donor. A school admission register and certificate were produced for age; a defence doctor gave an ossification range of sixteen to eighteen.

Following investigation, the trial court framed IPC Sections 376(1), 506 Part II and POCSO Section 4 charges. It found the prosecutrix fourteen and rape proved, convicted under IPC Section 376(1) and POCSO Section 4, acquitted on the criminal-intimidation charge, and, applying POCSO Section 42, did not award a separate IPC rape sentence. By judgment of 4 August 2016 in S.S.T. No. 16/2015 it imposed ten years' rigorous imprisonment and ₹5,000 fine, with three months' default imprisonment, under POCSO Section 4. Pinki appealed under Section 374 CrPC. Counsel said he had been in jail from 24 February 2015 and claimed more than seven years' custody including remission, asking for the period served rather than contesting the merits. The claim is recorded as counsel's submission, not a verified calculation of elapsed calendar time at the June 2021 judgment date.

2. Precedents — Considered : *Nagpal Traders v. Davinder Singh*, reported at *(2017) 11 SCC 431*, was invoked and applied for the order in which the appellate questions must be decided: sentence cannot be determined in a conviction appeal without first examining its merits. The High Court accordingly examined the record on its own initiative after defence counsel declined to argue conviction, evaluated the child-status and assault evidence, and only then considered custody-based reduction.

Jarnail Singh v. State of Haryana, (2013) 7 SCC 263, was quoted in detail on age determination. It held that Rule 12 of the Juvenile Justice Rules, 2007, although framed for a child in conflict with law, provides the method for determining a child victim's age. Its hierarchy takes the highest-ranked available category as conclusive: matriculation or equivalent certificate; if absent, the birth-date entry at the school first attended; if absent, a corporation, municipality or panchayat birth certificate; medical opinion only if these documents are unavailable. The High Court adopted this ordering, preferred the school record produced and proved by PW7 to the ossification estimate offered by DW2, and found the prosecutrix fourteen. Its separate observation that the medical range could extend down to fourteen under an approximate error margin reinforced the result, but the documentary priority was the legal basis.

3. Statutes considered : Section 374 CrPC was the appeal route. The police charged IPC Sections 376(1) and 506 Part II and POCSO Section 4; the intimidation charge ended in acquittal at trial and was not a conviction affirmed in appeal. POCSO Sections 3/4 concerned penetrative sexual assault and punishment. Section 42 governed the interaction of punishment for overlapping IPC and POCSO offences; the trial court awarded a single Section 4 sentence after convicting under both. IPC Section 375 sixthly was amended in 2013 to set eighteen as the age below which consent is immaterial; the High Court corrected the trial court's below-sixteen formulation. The High Court stated that the minimum for IPC Section 376(1) was ten years, while the then operative Section 4 POCSO minimum was seven; the Court recorded that a 2019 amendment subsequently raised POCSO's minimum

to ten and did not apply that later increase as the law governing the February 2015 offence. Section 293(i)(iv)(a) CrPC was referred to for exhibiting the FSL report. Section 7A of the Juvenile Justice Act, 2000 and Rule 12 of the 2007 Rules were reproduced as the age-inquiry framework appropriate to the offence date; the Court noted that the 2015 Juvenile Justice Act came into force later. *Jarnail Singh* supported applying the juvenility-inquiry framework to proof of the victim's minority.

4. Issues : (i) Could a request confined by counsel to a sentence limited to the period already served be granted without review of the conviction merits? (ii) Did the proved school entry establish that the prosecutrix was a child despite a higher radiological estimate, and how did the applicable hierarchy of age proof work for a victim? (iii) Did her account, the limited corroboration from her sister and parents, the MLC and the FSL findings establish penetrative sexual assault by this appellant beyond reasonable doubt, despite absence of DNA comparison and an asserted property-dispute motive? (iv) What age threshold governed consent under the amended IPC, and what was the interaction of the concurrent IPC and POCSO convictions? (v) Could the ten-year sentence be reduced to the appellant's claimed seven-plus years including remission in light of the applicable minimum sentences and Section 42? The trial court's intimidation acquittal was background, not an appellate finding of guilt on that charge.

5. Ratio / Findings : *Nagpal Traders* required examination of the merits before deciding the sentence; the High Court therefore examined the merits itself. PW1 described the encounter, separation from her sister, attack and threat and rejected the suggested false implication. PW2 corroborated the appellant's arrival and ₹40 payment but was expressly not an eyewitness to rape. PW3 and PW5 recounted their daughter's disclosure and denied the alleged property-dispute explanation. The examining doctor found a torn hymen, congestion and tenderness and gave a penetration-within-48-hours opinion. The FSL report showed semen and sperm on the prosecutrix's panty and slide and the appellant's underwear and slide. The Court acknowledged that no DNA test identified whether sperm in the prosecutrix's vaginal slide came from the appellant. It used the FSL result to corroborate, without treating it as independently identifying the donor, and accepted the victim's account in conjunction with medical evidence beyond reasonable doubt.

The victim described an April birth date, while the proved school record listed a February date in the same year. The judgment used the school date; the difference of two months did not alter the finding that she was about fourteen on 23 February 2015. DW2's ossification report estimated sixteen to eighteen, but under the *Jarnail Singh* application of Rule 12(3), school documentary proof has priority over a medical estimate in the applicable hierarchy. The Court also noted a roughly two-year medical error range that could reach fourteen. It concluded that the child-status element was proved. The trial court's consent discussion had used a below-sixteen age formulation; the High Court corrected that IPC Section 375 sixthly had been raised to eighteen in 2013. It affirmed both IPC Section 376(1) and POCSO Section 4 convictions.

Only after affirming conviction did the Court decide the sentence request. The trial court had imposed one ten-year term under Section 4 POCSO and no separate IPC term under Section 42. For the 2015 incident, the Court contrasted the then seven-year POCSO Section 4 minimum with the ten-year IPC Section 376(1) minimum following Amendment Act 13 of 2013. It observed that Amendment Act 25 of 2019 later raised the POCSO minimum to ten. The Court considered the claimed custody with remission below the ten-year term and declined reduction on the basis of the parallel rape conviction and the minimum as it described it. It rejected the sole submission seeking reduction of the sentence.

6. Relief : The Hon'ble High Court has dismissed the appeal. The 4 August 2016 judgment and sentence of the POCSO Special Judge at Karera in S.S.T. No. 16/2015 were affirmed: convictions under IPC Section 376(1) and POCSO Section 4, one ten-year rigorous-imprisonment term under POCSO Section 4 with ₹5,000 fine and three months' default imprisonment, and no separate sentence on the IPC count under Section 42. The prior acquittal on IPC Section 506 Part II remained part of the procedural history. Pinki was in jail and directed to undergo the whole trial sentence; a free copy of the appellate judgment was to be supplied to him.

Pinki v. State of Madhya Pradesh, Cr.A. no. 764/2016, 28/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (624) Prev Next

Headnote :- Inherent power — police arrest discretion - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was applied to refuse a Section 482 CrPC direction that the police arrest persons named in the applicant's registered FIR. The quoted Supreme Court reasoning, including *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, treats Section 41 arrest as a decision involving discretion and caution during investigation even for a cognizable offence, not an inevitable consequence of the FIR. It rejects judicial specification of arrest, seizure or charge-sheet steps and recognises that a lawful investigation can instead end in a closure report. Its discussion of *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, supplies the caution against drastic investigative orders affecting persons who have not been heard.

Investigation — timely lawful conclusion - Section 173(1) CrPC requires completion without unnecessary delay. The Court directed the officer to conclude the investigation as early as possible and take the appropriate steps under law, leaving the outcome—charge sheet or closure report—and arrest decision to the statutory process. It allowed the applicant to bring any grievance to the Superintendent of Police, who would consider it according to law.

Case-note :- ***1. Facts :*** Pinky Mahor stated in an application under Section 482 CrPC that Police Station Maharajpura, District Gwalior had registered Crime No. 470/2021 on her complaint for IPC Sections 376D, 506, 507 and 34. She alleged that the police had taken no further action and had not arrested the accused persons. The prayer reproduced in paragraph 3 asks for a direction to the Maharajpura station officer to arrest respondents 2 and 3 promptly. Paragraph 5 expressly addresses that arrest request. No advocate appeared for the applicant when the matter was heard; the State was represented by its public prosecutor. The question was what direction a High Court could properly issue while a registered FIR remained under police investigation.

2. Precedents — Considered : The Court reproduced and applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*. There, the Supreme Court set aside an unreasoned High Court direction that effectively instructed police to record statements, arrest, seize property and file a charge sheet, describing investigation as the police's statutory domain. It explained that an investigation need not result in any specified arrest, seizure or prosecution: the police may find either sufficient cause for charge sheet or grounds for a closure report. Section 482 power remains confined to its statutory purposes and must be exercised sparingly, with reasons and care for the consequences of observations. The present Court used that principle to decline the applicant's requested direction for arrest and a direction compelling prosecution, while separately requiring timely lawful conclusion under Section 173(1).

Within that Supreme Court passage, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, was quoted on Section 41 CrPC: a police officer may arrest in the statutory situations without warrant, but need not arrest mechanically as soon as a cognizable allegation is reported; necessity, evidence, offence type, liberty and reputation require cautious judgment during investigation. The present Court adopted this constraint as part of its refusal to command arrest. The passage also quoted *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on giving a reasonable opportunity of hearing to persons likely to be seriously affected by an investigative judicial order. That was a qualification to the Supreme Court's criticism of the order before it. Its discussion of the three purposes for which Section 482 may be invoked and the danger of casual higher-court observations likewise informed the Court's restraint.

3. Statutes considered : IPC Sections 376D, 506, 507 and 34 identify the offences recorded in the FIR as alleged, not guilt or legal ingredients determined here. Section 482 CrPC was the invoked inherent jurisdiction; the Court applied its limited role to prevent an instruction dictating arrest or final prosecution while investigation remained in police hands. Section 41 CrPC, through *M.C. Abraham* as quoted in *D. Venkatasubramaniam*, concerns discretionary warrantless arrest subject to the statutory grounds and careful judgment, not an obligation arising from every registered FIR. Section 173(1) CrPC expressly requires investigation to be completed without unnecessary delay. The resulting police report may be a charge sheet or closure report depending on the evidence and law.

4. Issues : (i) Could the applicant obtain a Section 482 order directing police to arrest the persons she named and effectively require the filing of a charge sheet simply because a cognizable FIR had been

registered and she complained of inaction? (ii) What duty to finish an investigation promptly could the Court enforce under Section 173(1) while preserving the police's discretion about arrest and the final report? (iii) What further avenue was left if the applicant continued to have a grievance?

5. Ratio / Findings : The Court expressly denied the arrest prayer. *D. Venkatasubramaniam*, incorporating *M.C. Abraham*, made clear that Section 41 permits arrest when the statutory grounds and the officer's assessment during investigation warrant it, but does not command a mechanical arrest for every reported cognizable offence. Even a judicial direction couched as proper investigation can unlawfully dictate particular police acts and assume that a charge sheet must follow. The quoted Supreme Court decision stressed the police's domain, the possibility of a lawful closure report, the limits of Section 482 and the need to avoid prejudicial directions affecting persons not heard. The present Court characterized an arrest and charge-sheet command as supervision of the ongoing investigation and refused it.

The Court then applied the distinct obligation in Section 173(1). The officer could not leave the investigation pending unnecessarily. He had to reach a lawful conclusion on whether an offence was made out and file the appropriate final report. It accordingly directed the officer to conclude the investigation as early as possible and take the necessary legal steps. It also stated that the applicant could approach the Superintendent of Police, Gwalior if she had a grievance, with the SP to look into it according to law. Thus the direction addressed timeliness and statutory performance, while leaving the investigative choice itself open.

6. Relief : The Hon'ble High Court has finally disposed of the Section 482 application. The Court refused to direct arrest of the accused or compel a charge sheet. It directed the investigating officer to conclude the pending investigation as early as possible and take necessary steps required by law, including the appropriate final report, without a fixed deadline. Pinky Mahor could submit a grievance to the Gwalior Superintendent of Police for consideration according to law.

Pinky Mahor v. State of M.P. and Others, M.Cr.C. no. 49904/2021, 18/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (625) Prev Next

Headnote :- Quashing — prima facie livelihood dispossession allegation - In an IPC Section 306/34 case, the Court refused Section 482 CrPC quashing where the State's account was that the deceased's mother held a government patta for seasonal cultivation of pond catchment land and the applicants, lacking authority, forcibly dispossessed the family by threats. The handwriting report authenticated the suicide note and the Court treated loss of the right to cultivate the land lawfully as capable of depriving the deceased of his livelihood.

Quashing — other possible accused omitted - *M/s Suvarna Cooperative Bank Ltd. v. State of Karnataka (Criminal Appeal No. 1535 of 2021, decided 09.12.2021)* was quoted and applied: proceedings against persons charge-sheeted on a prima facie case are not invalid simply because other possible participants were not arraigned or charge-sheeted. Section 319 CrPC leaves a trial-stage route if evidence supports adding others.

FIR — explained interval after immediate dehati nalishi - The initial report followed the suicide by one day. The suicide note and comparison material went to a handwriting expert in August 2019, the expert reported in January 2021 that the note was in the deceased's handwriting, and the formal FIR was registered in March 2021. The Court held that, in this sequence, the interval did not prejudice the applicants and did not justify quashing.

Case-note :- ***1. Facts :*** Ramniwas died by hanging on 29 December 2018. His brother Sunil Sahu gave a Dehati Nalishi on 30 December: the family cultivated land in the catchment area of a pond that was seasonally submerged, had lost a mustard crop during heavy rain and said village residents forcibly cultivated the land afterward. The State's position was that the deceased's mother had a government patta allowing cultivation when the land was not under water, and that the applicants dispossessed the family by threatening them. The applicants disputed the family's entitlement and said it was an encroachment on government land. The suicide note, reproduced in the order, complained of land being taken, ongoing threats and the family's plight and named several people. The police obtained handwriting comparisons, including material from the deceased's brother and father to test for fabrication. An expert reported on 30 January 2021 that the note was in the deceased's handwriting. A formal FIR, Crime No. 31/2021 at Police Station

Sehrai, Ashoknagar, was registered on 3 March 2021 under IPC Section 306 read with 34. Police later filed a charge sheet and the JMFC at Mungawali took cognizance.

The applicants sought to quash the FIR, charge sheet and proceedings under Section 482 CrPC. They argued that no abetment offence emerged even accepting the allegations, that the formal FIR came too late, and that the authorities had dealt inconsistently with possible co-accused. Counsel asserted that 38 persons were named in the FIR and 32 were charge-sheeted; the order also refers to cognizance against 35 persons and to three remaining outside the proceedings. The State answered that the patta supplied lawful possession, threats and forcible displacement affected livelihood, the note was authenticated after cautious investigation, and prosecution of those charge-sheeted was not invalid merely because others had not been included.

2. Precedents — Considered : *M/s Suvarna Cooperative Bank Ltd. v. State of Karnataka and Another (Criminal Appeal No. 1535 of 2021*, judgment dated 9 December 2021) was the materially considered Supreme Court authority. The High Court quoted its rejection of a quashing order that had treated a charge sheet against some investigated persons as incomplete merely because other suspected participants were missing. The Supreme Court held that a person charge-sheeted after investigation on a prima facie case cannot obtain quashing just because possible accomplices were not arraigned; if trial evidence warrants, Section 319 CrPC may allow the court to add others. The cited case concerned alleged banking offences under IPC Sections 408 and 409, while this application concerned alleged abetment of suicide. The High Court applied the procedural principle concerning persons not arraigned as accused, not the banking merits, to reject the applicants' argument about persons not charge-sheeted or not brought within cognizance.

3. Statutes considered : Section 482 CrPC supplied the inherent quashing jurisdiction invoked against the FIR, police report and subsequent proceedings. IPC Section 306 read with Section 34 described the alleged abetment of suicide and joint liability; the Court assessed whether the asserted lawful lease, dispossession, threats, note and investigative material permitted the prosecution to proceed at a prima facie stage. Section 319 CrPC, as explained in *Suvarna Cooperative Bank*, offers a possible trial-stage mechanism to add persons not originally charge-sheeted if evidence supports it.

4. Issues : (i) On the pleaded and investigated material, did the alleged government lease to the deceased's mother and forcible displacement with threats permit the Section 306/34 prosecution to proceed, despite the applicants' assertion of encroachment? (ii) Could the proceedings against these applicants be quashed solely because other persons named or suspected were not charge-sheeted or cognizance had not been taken against all of them? (iii) Did the interval between the death, immediate Dehati Nalishi, handwriting expert's report and formal FIR cause prejudicial delay warranting quashing?

5. Ratio / Findings : The Court treated the State's description of a patta to the deceased's mother for cultivation of seasonally available catchment land as supporting lawful possession for this stage. The applicants did not claim authority to dispossess the family. On that premise, forcibly taking the cultivated land could deprive the deceased of livelihood. The note's handwriting had been attributed to him after comparison designed to exclude fabrication. Together, these matters supported the investigating officer’s conclusion that a prima facie cognizable offence was disclosed and defeated the assertion that the allegations necessarily disclosed no Section 306 case.

The Court then applied *Suvarna Cooperative Bank*. The investigation and prima facie case against the applicants do not become invalid merely because six persons reportedly were not charge-sheeted or three reportedly were not proceeded against when cognizance was taken. If trial evidence implicates other persons, Section 319 supplies the distinct statutory possibility identified in the Supreme Court ruling.

The timing objection failed on the actual sequence. The brother's Dehati Nalishi followed the 29 December 2018 death on 30 December. The police sent the note and comparison material through a draft dated 7 August 2019; the expert reported on 30 January 2021, and the formal FIR was registered on 3 March 2021 once the investigator accepted the note as genuine and the possession/displacement circumstances as supporting a cognizable case. The Court found no prejudice from the formal registration interval.

6. Relief : The Hon'ble High Court has dismissed the Section 482 application. The Court declined to quash Crime No. 31/2021, the charge sheet or resulting proceedings concerning IPC Section 306/34. The criminal case remained before the competent court for ordinary adjudication.

Pitta and Others v. State of M.P. and Others, M.Cr.C. no. 53221/2021, 23/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (626) Prev Next

Headnote :- Criminal-side writ — no predetermined arrest or charge sheet - In an Article 226 petition following registration of an FIR for IPC Sections 406, 420, 494, 498-A and Dowry Prohibition Act Sections 3–4, the Court declined to direct arrest simply because no suspect had been arrested. It applied the investigative restraint in *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*: the judiciary should not dictate arrests, seizures or charge-sheet filing and the police may lawfully find either grounds for prosecution or for a closure report. The quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explained Section 41 CrPC's cautious discretionary arrest power; the quoted *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, highlighted notice before severe directions affecting persons who have not been heard. Though the cited Supreme Court case addressed Section 482, the High Court applied its principle against dictating investigative steps in this Article 226 proceeding.

Investigation — Section 173(1) timeliness - An officer cannot leave the investigation of a registered case pending unnecessarily. The Court directed completion as early as possible, determination whether an offence was made out and the appropriate final police report—charge sheet or closure—without selecting the outcome or setting a calendar deadline. A grievance to the Superintendent of Police remained available for consideration according to law.

Case-note :- ***1. Facts :*** Pooja Jadon filed a writ petition under Article 226 after her complaint led to a police FIR under IPC Sections 406, 420, 494 and 498-A and Sections 3 and 4 of the Dowry Prohibition Act. The petitioner said the police had neither arrested the accused persons nor concluded the investigation. She sought legal action, fair and impartial investigation, protection of fundamental rights and other just relief. Her counsel argued the complaint of inaction; the State appeared through its government advocate. The Court had to decide whether it could order a specific arrest or prosecution while the FIR investigation remained pending and what limited direction could address the time taken.

2. Precedents — Considered : The Court reproduced and applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*. In that case the Supreme Court set aside an order directing the police, without adequate reasons, to take particular investigative steps including arrest, seizure and filing a charge sheet. Police have a statutory duty to investigate but discretion to choose lawful investigative measures and may conclude either that a charge sheet is justified or that a closure report is appropriate. The Supreme Court emphasized restrained use of inherent power, reasoned orders and the potential consequences of casual observations. Although that decision analysed the High Court's Section 482 CrPC jurisdiction, the present High Court applied its central warning against supervising investigation to refuse comparable arrest and charge-sheet commands in an Article 226 writ.

D. Venkatasubramaniam quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC: a cognizable accusation permits arrest within statutory grounds but does not oblige a mechanical arrest immediately on registration; an investigator assesses the necessity of arrest during investigation, with careful regard to liberty, reputation, the offence and the accused's situation. That rule directly supported refusal of the requested arrest. It also quoted *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on a reasonable hearing before judicial orders with drastic consequences for affected persons.

3. Statutes considered : Article 226 of the Constitution was the writ jurisdiction actually invoked. The FIR's IPC Sections 406, 420, 494 and 498-A and Dowry Prohibition Act Sections 3 and 4 were background allegations, not interpreted or held proved. Section 41 CrPC, discussed in the incorporated Supreme Court authority, governs discretionary warrantless arrest subject to its statutory circumstances and careful judgment. Section 173(1) CrPC supplied the express and independently applied duty: each investigation must be completed without unnecessary delay, with the appropriate police report on completion. Section 482 CrPC appears in the cited Supreme Court decision,

whose reasoning on judicial restraint in investigation the Court applied by analogy; it was not the petition's jurisdictional basis.

4. Issues : (i) Did Article 226 permit a command to arrest the persons named in the registered matrimonial and dowry FIR or to ensure filing of a charge sheet because investigation had not yet ended? (ii) Could the Court require a timely conclusion under Section 173(1) while leaving the police to decide, on the evidence, whether to submit a charge sheet or closure report? (iii) What recourse did the petitioner retain for a future grievance?

5. Ratio / Findings : The Court rejected the requested arrest direction. By applying *D. Venkatasubramaniam* and the quoted *M.C. Abraham* passage, it treated the registration of a cognizable FIR as the beginning of a police inquiry, not a mandate for arrest. Arrest is a serious discretionary step affecting liberty and reputation; investigative evidence may or may not warrant it. Likewise, an order prescribing a charge sheet would prejudge the result and supervise the police in a domain committed to their lawful investigation.

The Court then quoted Section 173(1) and applied a distinct, narrower duty: the investigator must not keep the case indefinitely pending, must reach a conclusion on whether an offence is made out and file the appropriate final report without unnecessary delay. The direction to finish as early as possible and take steps required by law left arrest, evidentiary choices and charge-sheet versus closure to police judgment under the statute. Any grievance could be brought to the Superintendent of Police, Gwalior for lawful consideration.

6. Relief : The Hon'ble High Court has finally disposed of the Article 226 petition. The investigating officer was directed to conclude the investigation as early as possible and take necessary lawful steps, submitting the appropriate final report without unnecessary delay. The petitioner was left free to approach the Gwalior Superintendent of Police if aggrieved, for consideration in accordance with law.

Pooja Jadon v. State of M.P. and Others, W.P. no. 2589/2020, 24/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (627) Prev Next

Headnote :- FIR non-registration — statutory complaint route - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, accepted the police duty to register information disclosing a cognizable offence under Section 154 CrPC but distinguished that duty from a complainant's route when police fail: a Magistrate complaint under Sections 190 and 200. The quoted decision separated the registration question addressed by *Ramesh Kumari* and *Lallan Chaudhary* from the remedy considered in *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explained escalation under Section 154(3) and Magistrate power under Section 156(3) to direct registration and monitor proper investigation; *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, followed that route in place of an ordinary Article 226 petition. The Court dismissed the direct petition and left recourse under Sections 156(3), 200 and 202 CrPC.

Constitutional investigation control — rare exception - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was considered for its qualified Article 226 power in a clear and rare case of mala fides, abuse and Chapter XII non-compliance; even then the court may require observance of the prescribed procedure but cannot dictate investigative methods. The High Court's Division Bench ruling in *Shweta Bhadauria v. State of M.P. (W.A. 247/2016, 20.12.2016)* held that failure to use alternative remedies ordinarily justified refusal of direct mandamus, subject to the recognised *Whirlpool* exceptions, and separated *Lalita Kumari*'s police-registration duty from entitlement to bypass those remedies. The present order found no basis to depart from the ordinary Magistrate course.

Case-note :- ***1. Facts :*** Poojabai filed Miscellaneous Petition No. 2919 of 2024 in the Jabalpur Bench. The petition sought acceptance of the petition, an impartial inquiry into her complaint and a direction to register an offence against the persons named in her complaint, with other appropriate relief. Counsel said the complaint pointed to a cognizable offence but police had not registered an FIR. The Court framed the issue in paragraph 3 as whether it could direct registration in exercise of Article 226, notwithstanding the Article 227 filing description. The State appeared through a Deputy Advocate General. The petition ultimately turned on the proper remedy for a person complaining of police inaction, not an adjudication of the complaint's truth.

2. Precedents — Considered : *Aleque Padamsee v. Union of India and Others, (2007) 6 SCC 171*, was quoted extensively. It acknowledged the police duty to register a cognizable offence when disclosed by information but separated that obligation from the remedy when police fail to act. Sections 190 and 200 CrPC provide access to a Magistrate complaint. The quoted reasoning explained that *Ramesh Kumari v. State (NCT of Delhi)*, reiterated in *Lallan Chaudhary*, concerned police action on cognizable information, while *AIIMS Employees' Union v. Union of India, Gangadhar Janardan Mhatre v. State of Maharashtra, Hari Singh* and *Minu Kumari* dealt with the complainant's remedial course.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, supplied a qualification to ordinary restraint: Article 226 intervention may be justified at an aggrieved person's instance in a clear and rare case of mala fide exercise of investigative power, abuse and non-compliance with Chapter XII CrPC. Even then the High Court cannot prescribe how police investigate; it can insist upon observance of the Code's procedure. The quoted decision also adopted *Gangadhar Janardan Mhatre*'s explanation of a complaint under Sections 190 and 200, in which a Magistrate may inquire, direct police investigation, dismiss under Section 203 or issue process if warranted.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted on the statutory remedies to be pursued in sequence: Section 154(3) written application to the Superintendent of Police after station-level non-registration; if ineffective, Section 156(3) application to the Magistrate, who may direct FIR registration, proper investigation and monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, followed *Sakiri Vasu* and stressed that the ordinary complainant should use the Magistrate rather than Article 226. It recognized that, on prima facie satisfaction, the Magistrate can direct a proper investigation, potentially recommend a change of investigating officer, and monitor without personally investigating. The Court applied these authorities in dismissing the petition while preserving the Magistrate avenue.

The *Madhya Pradesh Division Bench's Shweta Bhadauria v. State of M.P. and Others (Writ Appeal No. 247/2016, decided 20 December 2016)* was quoted as binding guidance from the Division Bench. It said direct mandamus to perform Section 154 duty may be denied for failure to use Sections 154(3), 156(3), 190 and 200, unless the four recognised exceptions from *Whirlpool Corporation v. Registrar of Trade Marks* apply. It further distinguished *Lalita Kumari v. Government of U.P. on the* police's mandatory registration duty from a person's entitlement to immediate writ mandamus without alternative remedy. *Whirlpool* and *Lalita Kumari* were referred to within that Division Bench formulation.

3. Statutes considered : The petition's opening says Article 227; the legal question and quoted writ authorities address Article 226. Section 154 CrPC concerns registration of cognizable information and Section 154(3) written recourse to the police superior. Sections 156(3), 190 and 200 supply Magistrate routes for a failure to register or act on a complaint; the final liberty additionally names Section 202. Under the quoted *Gangadhar* analysis, the Magistrate's inquiry and possible Section 203 dismissal or issuance of process depend on the evidence and procedural stage. Chapter XII CrPC frames the police-investigation obligations and the rare *Divine Retreat Centre* qualification.

4. Issues : (i) With a complaint said to disclose a cognizable offence and no police FIR, was direct constitutional relief directing registration the proper course? (ii) How do the mandatory police registration duty and the statutory remedies of superior-officer review, Magistrate-directed investigation and private complaint relate? (iii) In what exceptional investigative circumstances may an Article 226 court intervene notwithstanding ordinary alternative remedies, and was one shown here?

5. Ratio / Findings : *Aleque Padamsee* established the key distinction: the police ought to register cognizable information, yet an informant whose complaint is ignored normally uses the Magistrate complaint route instead of obtaining an immediate writ command. *Sakiri Vasu* supplied the Section 154(3) superior-officer step and a Section 156(3) application; *Sudhir Bhaskarrao Tambe* reinforced the Magistrate's ability to secure and monitor proper investigation on prima facie satisfaction without taking over police duties. *Shweta Bhadauria* applied the alternative-remedy principle in Madhya Pradesh and preserved recognised writ exceptions, separating police duty under *Lalita Kumari* from the availability of a direct mandamus. The Court followed the course prescribed by the Division Bench and the Supreme Court, giving liberty to use Magistrate remedies.

Divine Retreat Centre did not impose an absolute bar on Article 226 intervention in an investigation. It permits rare intervention on a clear case of mala fide exercise of investigative power, abuse of power and non-compliance with Chapter XII, but forbids a court from specifying the police's investigative methods even then. The record summarized in this order was the petitioner's assertion that her cognizable complaint had not produced an FIR.

6. Relief : The Hon'ble High Court has dismissed the miscellaneous petition. Poojabai was given liberty, if she wished, to approach the competent Magistrate under Sections 156(3), 200 and 202 CrPC for redress of her grievance.

Poojabai v. The State of Madhya Pradesh, M.P. no. 2919/2024, 28/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (628) Prev Next

Headnote :- Anticipatory bail — accurate state assistance in a remote hearing - With the physical case diary available only to Government counsel during video conferencing, the Court had to rely on counsel's description. He repeatedly identified a notarized instrument as an agreement to sell but read its title as 'Written Sale Deed' when pressed. The Court held an accurate account of the allegations and document in the case diary especially important in that setting, criticized the lapse and accepted the prosecutor's unconditional apology after he said he misunderstood the queries.

Anticipatory bail — sale deed distinguished from agreement - The actual title of the instrument materially affected the Section 438 assessment: the applicants had consented to the mother's notarized sale deed in favour of the complainant for an alleged consideration of ₹9.4 lakh, although counsel had described an agreement to sell; the Court observed the registration requirement for a sale deed of property above ₹100 and apparent stamp-duty evasion. A subsequent notarized deed in favour of the mother's daughter without consideration made the defence's asserted loan-document explanation unpersuasive at this stage. In the totality, pre-arrest bail was refused in the case alleging offences under IPC Sections 420 and 120-B.

Case-note :- ***1. Facts :*** The applicants sought first anticipatory bail under Section 438 CrPC in Crime No. 499/2021 at Madhoganj Police Station, Gwalior, for alleged IPC Sections 420 and 120-B offences. The prosecution alleged that the mother of applicant No. 1 executed a notarized document involving inherited property in favour of the complainant for ₹9.4 lakh, with the applicants standing as consenters, and then executed another notarized document in favour of her daughter Sonam without consideration. The complainant asserted cheating and loss of the payment. The order under challenge described notarized sale deeds, but counsel initially described the first document as an agreement to sell. The State prosecutor repeatedly answered that it was a notarized agreement to sell until the Court required him to read the instrument's title, which he identified as 'Written Sale Deed.' The hearing took place by video conference, with the physical case diary held by Government counsel rather than available for the judge's direct inspection.

The applicants' counsel argued that a loan document had been intended and that the purported sale deed was procured by fraud on the mother and applicants. The Court examined that claim against the later instrument in favour of Sonam. The prosecutor eventually offered an unconditional apology for inadequate assistance, saying he had misunderstood the Court's questions. The issue was whether this limited bail record warranted pre-arrest protection and how accurately the State was required to present the decisive document.

2. Precedents — Considered : The Court reasoned from the nature of the two instruments, the recorded allegations, the distinction between sale and agreement, and the responsibilities of State counsel in the remote hearing.

3. Statutes considered : Section 438 CrPC supplied the anticipatory-bail jurisdiction. IPC Sections 420 and 120-B were the registered allegations of cheating and conspiracy, not findings after trial. The Court stated that a sale deed concerning property valued above ₹100 requires registration and treated mere notarization as material to its assessment. It also described apparent evasion of stamp duty while observing that stamp duty is payable by the purchaser.

4. Issues : (i) What document did the mother actually execute in favour of the complainant, and could a Section 438 court accept counsel's 'agreement to sell' characterization when the instrument was titled a sale deed? (ii) What obligation of accurate assistance rested on the Public Prosecutor where video conferencing left the physical case diary with Government counsel? (iii) Did the alleged ₹9.4 lakh

first transaction, consent by applicants, subsequent deed to Sonam without consideration and asserted loan-document defence justify anticipatory bail? (iv) What practical response to counsel's incorrect description was appropriate after his apology?

5. Ratio / Findings : The Court established the document's actual title by requiring counsel to read it aloud. An agreement to sell and a sale deed carry substantially different legal consequences; the judgment states that a sale deed for property worth more than ₹100 must be registered. Here the applicants had admittedly consented to the mother's notarized deed to the complainant. The Court remarked on apparent stamp-duty evasion and asked whether the mother had actually accepted ₹9.4 lakh, but did not resolve that contested payment conclusively. It then considered the prosecution's allegation of a later notarized deed in favour of her daughter Sonam without consideration. If the first instrument had merely been an unintended loan document procured by fraud, the Court found no plausible explanation in counsel's submission for executing the later deed in favour of Sonam. In the totality it found no fit case for pre-arrest bail.

The video-conference setting was also material. Because only counsel physically possessed the case diary, the Court could not check the document during the hearing and depended on a faithful account. It found the prosecutor had failed his duty to state the allegations and nature of the document correctly, noting either inability to understand or possible deliberate suppression. Both State and applicant counsel had used the agreement description. After the prosecutor said he misunderstood and apologized unconditionally, the Court accepted the apology and expressed the hope that he would understand the duties attached to the Advocate General's office.

6. Relief : The Hon'ble High Court has dismissed the first application for anticipatory bail under Section 438 CrPC. The State prosecutor's unconditional apology for inadequate assistance was accepted.

Poonam Bhadoriya and Others v. State of Madhya Pradesh, M.Cr.C. no. 64007/2021, 17/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (629) Prev Next

Headnote :- FIR non-registration — police duty and complainant's remedy - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was considered for the distinction between Section 154 CrPC's police duty on cognizable information and the complainant's remedy under Sections 190 and 200 where the police fail to act. The quoted discussion separated *Ramesh Kumari* and *Lallan Chaudhary* on the registration duty from *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari* on the remedy available. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, supplied the sequence of recourse to the superior police officer under Section 154(3) and the Magistrate under Section 156(3). *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, emphasized Magistrate-directed and monitored investigation upon prima facie satisfaction instead of routine Article 226 recourse. The petitioner received liberty under Section 200 CrPC or Section 223 BNSS, 2023, the latter expressly named by the Court.

Article 226 — limited investigation exception - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was considered for the High Court's qualified power of intervention under Article 226 in the rarest of rare cases. The High Court must be convinced that investigative power has been exercised mala fide and that a clear case of abuse of power and non-compliance with Chapter XII is made out requiring its intervention. Even then, it cannot direct the police's methods of investigation. The High Court's Division Bench in *Shweta Bhadauria v. State of M.P. (W.A. 247/2016, 20.12.2016)* stated the ordinary alternative-remedy rule subject to recognised *Whirlpool* exceptions and distinguished *Lalita Kumari*'s registration duty from writ entitlement. The direct request for a senior officer and investigation was dismissed while a Magistrate complaint route remained open.

Case-note :- ***1. Facts :*** Poonam Malviya filed Writ Petition No. 13104 of 2024 under Article 226 in the Jabalpur Bench. She asked the Court to call for the record, have respondent No. 3 take the matter in hand and have a senior officer investigate according to law, direct other respondents to investigate lawfully, and grant related relief and costs. Her counsel said she had approached the authorities for registration of an FIR but no action had been taken. The State submitted that a writ for registration of an FIR was not maintainable because the petitioner had an efficacious remedy before the Magistrate under Section 200 CrPC, identified in its submission with Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The legal controversy was the forum and remedy for a complaint on which no FIR had

been registered and a request for investigation by a senior officer.

2. Precedents — Considered : *Aleque Padamsee v. Union of India and Others, (2007) 6 SCC 171*, was quoted to distinguish two questions. Police ought to register an FIR when facts brought to them disclose a cognizable offence; a person aggrieved by non-registration must use the statutory complaint mechanism, especially Sections 190 and 200 CrPC, rather than infer direct writ relief from the police duty. The quoted precedent discussed *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari* as concerning the remedy available, and the view in *Ramesh Kumari*, reiterated in *Lallan Chaudhary*, as concerning police registration.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted for the narrow residual power under Article 226 in the rarest of rare cases. The High Court must be convinced that investigative power has been exercised mala fide and that a clear case of abuse of power and non-compliance with Chapter XII is made out requiring its intervention. Even there a court may insist on lawful Code procedure but cannot specify the police's methods of investigation. Its reproduced *Gangadhar* passage explained that a Magistrate can inquire into a complaint, direct police investigation, dismiss if no offence appears or issue process on a prima facie case.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, supplied the practical steps: first a written approach to the Superintendent under Section 154(3) following police-station non-registration, then a Section 156(3) application to the Magistrate if necessary; the Magistrate may direct registration and a proper investigation, and may monitor that investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, followed *Sakiri Vasu* and cautioned against routine High Court writs, while recognizing a Magistrate's power, on prima facie satisfaction, to direct and monitor an investigation and to recommend a change of investigating officer if necessary, without personally investigating. The Court used this route to decline the requested writ. The *Madhya Pradesh Division Bench's Shweta Bhadauria v. State of M.P. (W.A. 247/2016, decided 20 December 2016)* further stated that unused Sections 154(3), 156(3), 190 and 200 remedies ordinarily defeat a direct registration mandamus, subject to what the quoted Division Bench passage described as the four exceptions in *Whirlpool Corporation v. Registrar of Trade Marks*. It distinguished *Lalita Kumari v. Government of U.P.*, which concerns the police's duty, from an informant's entitlement to bypass alternative remedies. *Whirlpool* and *Lalita Kumari* entered through that quoted Division Bench treatment.

3. Statutes considered : Article 226 was the jurisdiction invoked. The judgment discusses CrPC Section 154 for the police's registration duty; Section 154(3) provides a written superior-officer step, Section 156(3) a Magistrate's capacity to direct registration or proper investigation, and Sections 190 and 200 the complaint and cognizance pathway discussed in *Aleque* and *Divine Retreat Centre*. Chapter XII concerns investigation and its prescribed process. The State submission and operative order expressly identify Section 223 of BNSS, 2023 alongside Section 200 CrPC as the complaint route stated in the order.

4. Issues : (i) Could Poonam Malviya obtain an Article 226 direction to register an FIR and have a senior officer investigate based on her assertion that authorities had not acted? (ii) Which police-superior and Magistrate routes were available for alleged non-registration, and how did these differ from the police's own duty to register cognizable information? (iii) What exceptional Article 226 circumstances might justify intervention despite those routes, and were they established by this order's record?

5. Ratio / Findings : The Court took from *Aleque Padamsee* the separation of a police obligation from judicial remedial choice. Sections 154(3), 156(3), 190 and 200 CrPC offered a structured path: a written application to the superior police officer or recourse to the Magistrate for investigation or through a complaint. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explained that the Magistrate may, on an adequate prima facie basis, secure registration or proper investigation and monitor its progress, and can recommend a change of investigating officer if necessary without conducting an investigation personally. The State raised the Section 200 CrPC/Section 223 BNSS complaint route, which the final order expressly retained. The Court did not order the direct registration or transfer-to-senior-officer relief.

Divine Retreat Centre preserves a narrow power to issue directions under Article 226 in the rarest of rare cases. The High Court must be convinced that investigative power has been exercised mala fide and that a clear case of abuse of power and non-

compliance with Chapter XII is made out requiring its intervention. Even then, it cannot dictate the methods of investigation. *Shweta Bhadauria* supplied the local alternative-remedy rule and its recognised exceptions, while distinguishing *Lalita Kumari*'s substantive police duty. The order quoted these qualifications and dismissed the petition with liberty to pursue the Magistrate complaint route.

6. Relief : The Hon'ble High Court dismissed the writ petition. Poonam Malviya was expressly at liberty, if she wished, to approach the competent Magistrate under Section 200 CrPC or Section 223 BNSS, 2023 for redress.

Poonam Malviya v. The State of Madhya Pradesh and Others, W.P. no. 13104/2024, 17/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (630) Prev Next

Headnote :- Article 226 — exceptional investigation control - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, was expressly quoted. At the instance of an aggrieved person, the High Court may intervene under Article 226 if convinced that investigative power has been exercised mala fide. This power is confined to the rarest of rare cases where a clear case of abuse of power and non-compliance with Chapter XII CrPC is made out requiring its intervention. Even then, the High Court may insist on observance of the procedure prescribed by the Code but cannot direct how the police investigate. The *Madhya Pradesh Division Bench's Shweta Bhadauria v. State of M.P. (W.A. 247/2016)* preserved recognized *Whirlpool* exceptions to the ordinary alternative-remedy rule, while distinguishing *Lalita Kumari*'s police-registration duty from entitlement to immediate writ relief. The petition alleged failure to register an offence against the petitioner's husband.

FIR non-registration — magistrate complaint remedy - The Court adopted *Shweta Bhadauria*'s statement that direct mandamus under Section 154 CrPC can ordinarily be denied where the informant has not used Sections 154(3), 156(3), 190 and 200. *Divine Retreat Centre*'s quoted discussion of *Gangadhar Janardan Mhatre* explained the Magistrate's complaint inquiry, possible Chapter XII investigation, dismissal under Section 203 or issue of process where the complaint or recorded evidence prima facie discloses an offence. On that basis the writ was dismissed with liberty to file a criminal complaint before the competent court.

Case-note :- ***1. Facts :*** Poonam Sharma petitioned under Article 226 following a complaint dated 17 April 2021 about an alleged offence against her husband. She asserted that the police had taken no action and requested a direction to the Kailaras police station officer in Morena to register an offence. The prayer also asked a superior authority to initiate and conclude departmental action against that station house officer and another respondent to file a complaint case against him under IPC Section 166-A(c), together with other relief and costs. The hearing was by video conference. The State argued that Supreme Court and Madhya Pradesh precedent required the alternative Magistrate route instead of a registration writ. The Court framed the question as whether an Article 226 FIR-registration petition was tenable and dismissed the petition with liberty to pursue the criminal complaint remedy.

2. Precedents — Considered : *Divine Retreat Centre v. State of Kerala and Others, (2008) 3 SCC 542*, was the principal Supreme Court authority quoted by the judge. Its paragraph 41 recognizes a narrow Article 226 power at the instance of an aggrieved person if the High Court is convinced that investigative power has been exercised mala fide. The power is confined to the rarest of rare cases where a clear case of abuse of power and non-compliance with Chapter XII CrPC is made out requiring its intervention. The High Court may insist on lawful procedure but cannot instruct the police how to investigate. Its paragraph 42 quotes *Gangadhar Janardan Mhatre v. State of Maharashtra* on Sections 190 and 200: a Magistrate can receive and inquire into a complaint, direct a police investigation and report if appropriate, dismiss under Section 203 if no offence appears or issue process on prima facie material. That quoted passage also mentions *AIIMS Employees' Union* as supporting the complaint route. The Court quoted *Divine Retreat Centre* on the ordinary remedy for non-registration and the exceptional power of writ intervention.

The Court then quoted its Division Bench in *Shweta Bhadauria v. State of M.P. and Others*, Writ Appeal No. 247/2016. It said an informant's failure to use Sections 154(3), 156(3), 190 and 200 CrPC may justify denying mandamus to perform the police's Section 154 duty, subject to what the quoted Division Bench passage described as the four recognized exceptions in *Whirlpool Corporation v. Registrar of*

Trade Marks. It distinguished *Lalita Kumari v. Government of U.P. on the* police's mandatory registration duty from a right to bypass available remedies by writ. The present judge adopted that distinction and left a complaint remedy. *Whirlpool* and *Lalita Kumari* appear within the quoted Division Bench rule.

3. Statutes considered : Article 226 of the Constitution was invoked for the requested registration and ancillary directions. Section 154 CrPC was the underlying police-registration duty, while Sections 154(3), 156(3), 190 and 200 were identified in the Division Bench authority as alternative recourse; the quoted *Gangadhar* passage further describes a Magistrate's Section 203 dismissal and Chapter XII investigative route. IPC Section 166-A(c) appeared in the petitioner's prayer against the station officer. The final order grants liberty to file a criminal complaint before a competent court.

4. Issues : The Court expressly asked whether Article 226 was the appropriate vehicle for an FIR-registration direction after Poonam Sharma's complaint allegedly drew no action. That required considering the usual statutory complaint route and the limited exceptional public-law intervention recognized by *Divine Retreat Centre*.

5. Ratio / Findings : The Court quoted *Divine Retreat Centre* for the proposition that, at the instance of an aggrieved person, the High Court may intervene under Article 226 if convinced that investigative power has been exercised mala fide. This power is confined to the rarest of rare cases where a clear case of abuse of power and non-compliance with Chapter XII is made out requiring its intervention. Even then, the High Court may insist on the prescribed Code procedure but cannot dictate the methods of investigation. The order recorded the petitioner's allegation that police had not acted. The Division Bench's *Shweta Bhadauria* then supplied the ordinary remedy rule: performance of Section 154 duty can be pursued through Sections 154(3), 156(3), 190 and 200 before a court exercises direct registration mandamus, subject to recognized exceptions. The quoted authority carefully separated *Lalita Kumari*'s police duty from the writ-remedy issue. Because an efficacious criminal complaint was available, the Court dismissed this petition with liberty to take it to the competent court.

6. Relief : The Hon'ble High Court dismissed the writ petition, with liberty to Poonam Sharma to file a criminal complaint before the competent court.

Poonam Sharma v. State of M.P. and Others, W.P. no. 9800/2021, 03/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (631) Prev Next

Headnote :- Multiple FIRs — same transaction across successive days - The alleged obstruction of electricity employees and threats to their lives during anti-theft repairs on 2 May 2008 were connected to their 3 May inspection detecting an unauthorized direct LT-line connection. The Court treated them as one transaction; separate FIRs were not required or permissible on its assessment, and the trial court could consider the first day's conduct when framing charges.

Cognizance — Section 195(1)(a)(i) CrPC complaint bar - For IPC Section 186, which falls within the listed Sections 172–188, a written complaint from the concerned public servant or his administratively superior public servant is the statutory condition for cognizance. There was no such qualifying written complaint in the police case. The Court therefore set aside the Section 186 charge added under Section 216 CrPC while leaving the prosecution's other charges for trial.

Distinct offences — Section 353 unaffected by Section 186 complaint defect - *Durgacharan Naik v. State of Orissa, AIR 1966 SC 1775*, was quoted and applied: Section 186 concerns voluntary obstruction, whereas IPC Section 353 additionally requires assault or criminal force to a public servant on duty; Section 353 is a distinct cognizable offence and falls outside Section 195's bar even where facts substantially overlap. *Durgacharan Naik* discussed *Basir-ul-Haq v. State of West Bengal, AIR 1953 SC 293*, and the earlier *Satish Chandra Chakravarti* decision for the proposition that an offence not requiring the special complaint can proceed separately. The High Court retained Sections 353 and 506 Part II IPC and Section 135 Electricity Act for trial.

Case-note :- *1. Facts :* On 2 May 2008 electricity-board employees allegedly undertook repairs in Ramgarh, Ward No. 3 to prevent theft. The complaint said that Pooran Singh Jatav obstructed them in the discharge of their duties and threatened employee Narayan Prasad's life, saying that he would either

have him killed or implicate him falsely under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. During a further inspection on 3 May, the team allegedly found the applicant drawing electricity directly from an LT line; a panchnama was prepared and wires seized. Narayan Prasad lodged an FIR that day covering obstruction, threats and theft. Police filed a charge sheet after investigation. The trial court initially framed a charge under Section 135 of the Electricity Act, 2003; on 17 December 2015 it used Section 216 CrPC to alter the charges and add charges under IPC Sections 186, 353 and 506 Part II in Special Sessions Trial No. 623/2011. The order prints 'Electricity Act, 20013' and '203' at different places while itself indicating 2003.

Under Section 482 CrPC the applicant challenged the alteration. He argued the incidents occurred on different days and needed separate FIRs, so the first-day allegations could not be charged in this case. He further invoked Section 195(1)(a)(i) CrPC: without a written complaint by the public servant concerned or an administratively superior servant, the Court could not take cognizance of an offence under Section 186 IPC. He relied on a coordinate-bench decision, *Ashok and Others v. State*, 1987 Cr LJ 1950. His submission also referred to 'Section 195 of IPC' in one passage and 'Section 153' in another. The State answered that the two dates formed one transaction and Section 353 was distinct from Section 186 notwithstanding overlapping facts.

2. Precedents — Considered : *Durgacharan Naik and Others v. State of Orissa, AIR 1966 SC 1775*, was the controlling Supreme Court precedent expressly quoted and applied by the High Court. It rejected the argument that an invalid Section 186 prosecution for want of a Section 195 complaint necessarily invalidates Section 353 on substantially the same facts. Section 186 requires voluntary obstruction of a public servant's functions; Section 353 requires assault or criminal force while the public servant is discharging official duties and is a distinct cognizable offence. The quoted judgment also distinguished their locations in the IPC and explained that Section 195 does not bar trial of a distinct offence outside its ambit. The High Court used that rule to remove Section 186 while retaining Section 353 for trial, not to pronounce that force had already been established.

Durgacharan Naik's quoted reasoning discussed *the Calcutta Full Bench's Satish Chandra Chakravarti v. Ram Dayal De*, 24 Cal WN 982, and its approval in *the Supreme Court's Basir-ul-Haq v. State of West Bengal*, 1953 SCR 836, *AIR 1953 SC 293*. The principle illustrated was that where the same report or statement discloses genuinely distinct offences and only one attracts a special complaint or sanction condition, the other may be independently pursued. Those decisions were incorporated in the quotation as support for distinct-offence treatment.

3. Statutes considered : Section 482 CrPC was the challenge route; Section 216 empowered the trial court to alter or add charges. Section 195(1)(a)(i) CrPC bars cognizance of IPC Sections 172–188 and specified attempt, abetment or conspiracy without the written complaint of the concerned public servant or a public servant to whom that servant is administratively subordinate. IPC Section 186 concerns voluntary obstruction of official functions and was within that range; absent the qualifying complaint, the charge could not stand. IPC Section 353 concerns assault or criminal force to a public servant in discharge of duty and is distinct, so the specific Section 195 bar did not apply merely because the factual basis overlapped. Section 506 Part II alleged aggravated intimidation. Section 135 of the Electricity Act, 2003 concerned the alleged direct unauthorized electricity connection and likewise remained for trial.

4. Issues : (i) Did the obstruction and threats on 2 May and electricity-theft detection on 3 May constitute one transaction for FIR and charge purposes, or did the gap in date require a separate FIR and exclude the first incident? (ii) Did the absence of a written public-servant complaint make cognizance and a Section 186 charge impermissible under Section 195(1)(a)(i)? (iii) If so, did that bar also remove a distinct Section 353 charge, or the retained Section 506 Part II and Electricity Act charges, merely because the facts overlapped?

5. Ratio / Findings : The Court linked the two dates through the same anti-theft activity: repair work to prevent theft allegedly met obstruction and threats on 2 May, followed by inspection and alleged direct-line theft on 3 May. It considered the conduct one transaction and rejected the argument that separate FIRs were required. On that basis the trial court could consider the first day’s conduct when framing charges.

The written-complaint objection succeeded as to Section 186. The Court reproduced Section 195(1)(a)(i), identified the Section 186 obstruction allegation within the barred IPC range and found no

complaint from the concerned or superior public servant. The trial court should neither have taken cognizance of that offence on this police case nor framed its charge. It then applied *Durgacharan Naik*'s ingredients distinction: obstruction under Section 186 and assault or criminal force under Section 353 are not the same offence, and the latter is not listed by Section 195. Overlapping facts alone cannot expand the complaint requirement to Section 353. The Court therefore left the Section 353 charge for trial. It also preserved Section 506 Part II and Electricity Act Section 135 as stated in its final order. The Section 195 defect was neither cured for Section 186 nor allowed to collapse the other charges.

6. Relief : The Hon'ble High Court partly allowed the Section 482 application. The order of 17 December 2015 was modified only to set aside the IPC Section 186 charge. Special Sessions Trial No. 623/2011 could continue on IPC Sections 353 and 506 Part II and Electricity Act Section 135.

Pooran Singh Jatav v. State of M.P., M.Cr.C. no. 4309/2016, 08/12/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (632) Prev Next

Headnote :- Section 482 — investigation cannot be predetermined - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted and applied to a complainant's demand for arrest and early charge-sheet filing in a registered IPC Section 420 matter. That decision rejected unreasoned judicial directions requiring specific police acts and recognised that an investigation may lawfully culminate in a closure report. The passage quoting *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explained that arrest under Section 41 CrPC is discretionary, must not be mechanical and requires due regard for personal liberty. The discussion of *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, within the reproduced passage cautioned against serious orders affecting persons who had not been heard. The High Court declined to direct arrest or the filing of a charge sheet.

Section 173(1) — timely investigation and open outcome - The Court required the officer to conclude Crime No. 852/2021 as early as possible, take lawful steps and submit a final report without unnecessary delay after determining whether an offence was made out. The report may be a closure report or a charge sheet, depending on the investigation. The applicant could approach the Gwalior Superintendent of Police with any grievance.

Case-note :- ***1. Facts :*** Pradeep Chouhan made a complaint on which Police Station Murar, Gwalior registered Crime No. 852/2021 for an alleged IPC Section 420 cheating offence. Chouhan claimed that after registration the police took no further action and had not arrested the persons he accused. He filed an application under Section 482 CrPC seeking a fair and impartial investigation and a direction to file a charge sheet in the appropriate court as early as possible. The High Court addressed the demand for arrest made in his submission and the requested direction to file a charge sheet. It then considered the distinct statutory requirement that a pending investigation be completed without unnecessary delay. The public prosecutor represented the State.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was the central Supreme Court decision expressly reproduced. It set aside an unreasoned High Court order directing the police to record statements, make arrests, seize property and file a charge sheet. The quoted passage explained that police investigation is a statutory responsibility: an investigation may lawfully result in either a charge sheet or a closure report, and Section 482 cannot be used casually to control the manner of investigation or make observations with far-reaching consequences. In Chouhan's case, that principle was applied to refuse directions to arrest or file a charge sheet, while directing prompt completion under Section 173(1).

The reproduced passage from *D. Venkatasubramaniam* quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*. Section 41 CrPC gives an investigating officer authority to arrest in defined situations, with discretion to decide whether arrest is necessary in light of the investigation; neither the report of a cognizable offence nor an allegation of seriousness makes arrest automatic. Arrest affects personal liberty and reputation and requires careful consideration of the circumstances. *D. Venkatasubramaniam* also relied *on Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, to criticise drastic High Court directions issued without hearing the persons they affected. Its account of the purposes of Section 482—giving effect to an order under the Code, preventing abuse

of process or securing justice—further qualified the jurisdiction.

3. Statutes considered : IPC Section 420 was the offence alleged in the registered FIR. Section 482 CrPC was the provision under which the applicant invoked the Court's inherent power, subject to the quoted Supreme Court authority's caution against directing police to arrest or file a predetermined report. Section 41 CrPC was discussed through *M.C. Abraham* as conferring discretion to arrest without a warrant within statutory conditions. Section 173(1) CrPC expressly requires each investigation to be completed without unnecessary delay, so the officer must conclude the process and file the appropriate police report, which may be a closure report or a charge sheet.

4. Issues : (i) Could a complainant use Section 482 to obtain a High Court order requiring the police to arrest the persons named in an existing cheating FIR and file a charge sheet before the outcome of the investigation was known? (ii) Despite the limits on directing particular investigative steps and prescribing the result, could the Court insist that the investigation be completed promptly under Section 173(1)? (iii) What avenue for further grievance remained?

5. Ratio / Findings : On the first issue, the Court applied the Supreme Court's distinction between judicial power and the police's investigative judgment. The registration of Crime No. 852/2021 did not oblige the police to arrest every named person. Under the quoted *M.C. Abraham* rule, the officer decides whether and when lawful arrest is necessary. The investigation may end in a charge sheet or a closure report, depending on the evidence. Directing arrest and the filing of a charge sheet would dictate both the method and the result of the investigation. The Court therefore refused those aspects of Chouhan's prayer.

On the second issue, the Court reproduced Section 173(1): an investigation must be completed without unnecessary delay. It required the officer to reach a lawful conclusion on whether any offence was made out and submit the appropriate final report as early as possible. This did not mean that a charge sheet was inevitable; the order expressly allowed a closure report as the other possible outcome. It permitted Chouhan to apply to the Superintendent of Police, Gwalior if aggrieved, with any application to be considered according to law.

6. Relief : The Hon’ble High Court finally disposed of the Section 482 application. It directed the investigating officer to complete the pending investigation in Crime No. 852/2021 as early as possible under Section 173(1), take necessary lawful steps and submit a final report without unnecessary delay. Chouhan could make a grievance application to the Gwalior Superintendent of Police.

Pradeep Chouhan v. State of M.P. and Others, M.Cr.C. no. 52832/2021, 07/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (633) Prev Next

Headnote :- Evidence — accused's injury and prosecution genesis - A left-ulna chip fracture did not establish that the prosecution had concealed a counter-assault during the occurrence. The appellant was arrested six days after the 23 October 2004 incident. No immediate complaint, treatment record or explanation for his six-day absence connected the fracture to the same event; an intervening cause remained possible. The testimony of the injured Govind and Shivrani was accepted, supported by medical evidence of incised wounds and other testimony, including that of a witness who was not related to the appellant.

Attempt to murder — intention, overt act and injury severity - *State of M.P. v. Harjeet Singh, (2019) 20 SCC 524*, was considered for the test of intention or knowledge and its discussion of *R. Prakash v. State of Karnataka, (2004) 9 SCC 27*, *State of M.P. v. Mohan, (2013) 14 SCC 116*, *Jage Ram v. State of Haryana, (2015) 11 SCC 366*, and *State of M.P. v. Kanha, (2019) 3 SCC 605*. Under that test, an act towards murder with the required state of mind, inferred from the weapon, blows, parts of the body and surrounding circumstances, need not cause a fatal or grievous injury, or an injury to a vital part. *Kanha* was also quoted directly, and *State of M.P. v. Saleem, (2005) 5 SCC 554*, was separately quoted for the distinction between the act and its result; *Saleem* referred to *Balram Bama Patil*, *Girija Shankar*, *R. Prakash* and *Sarju Prasad* in support. The Court found it unsound for the trial court to acquit under Section 307 solely because the injuries were not life-threatening, particularly given the wounds to the head, neck and chest.

Appellate limit — unappealed acquittal - The State had filed no appeal against the Section 307 acquittal on two counts. Despite disapproving its

reasoning, the High Court declined, after more than nineteen years from the incident, to issue a show-cause notice proposing to set it aside. It affirmed only the Section 324 conviction on the appeal before it.

Sentence — time served request - The time elapsed since 2004 did not persuade the Court to reduce the one-year term of rigorous imprisonment under Section 324 in view of the repeated injuries inflicted with a sharp weapon to the victims' head, neck, chest and arm. The sentence and fine were affirmed; bail and security bonds were cancelled and surrender was required by 15 February 2024, failing which a warrant would issue.

Case-note :- ***1. Facts :*** On 23 October 2004 a dispute arose after Shivrani's cattle entered another field. The prosecution alleged that Pradeep Jain abused her, struck Govind twice on the head and back of the neck and injured his left ear pinna, then struck Shivrani's wrist and elbow as she intervened. The judgment variously calls the implement a 'Sabbal' and a 'tabbal'; the medical witness described injuries consistent with a hard sharp-edged weapon. FIR, medical examination, arrest and investigation followed. A charge sheet alleged IPC Sections 307 and 447 and Arms Act Section 25; the trial court framed two Section 307 counts. The prosecution examined the injured witnesses Govind and Shivrani, Gaya Prasad, Hari Shankar and medical witnesses among others. The trial court acquitted Jain of Section 307 on both counts but convicted him under Section 324 IPC, imposing one year's rigorous imprisonment and a ₹2,000 fine, with two months' rigorous imprisonment in default, by judgment of 4 June 2008 in Sessions Trial No. 81/2005. The sentencing table at the beginning of the judgment gives Section 324 without specifying the number of counts, while later paragraphs describe two counts.

Jain appealed under Section 374 CrPC. His principal challenge on the merits was that he too had suffered a left-hand fracture during the encounter and that the prosecution had concealed the true origin of the incident. He relied on a pre-MLC prepared on 29 October 2004 and an X-ray showing a chip fracture of his left ulna. The State opposed the appeal. It also conceded that it had not appealed his acquittal under Section 307. Counsel later sought to reduce the Section 324 sentence to the period already undergone because the case concerned a 2004 incident. The High Court assessed the injured witnesses' testimony, the medical findings, the timing of Jain's injury, the correctness of the trial court's Section 307 reasoning, the procedural status of that acquittal and the sentence.

2. Precedents — Considered : *State of M.P. v. Harjeet Singh, (2019) 20 SCC 524*, was quoted in detail on IPC Section 307. It identified the actor's intention or knowledge of a possible fatal consequence and an overt act giving effect to that state of mind as central; the actual wound is evidence of intention, but a fatal or grievous injury is not indispensable. The excerpt reproduced *R. Prakash v. State of Karnataka, (2004) 9 SCC 27*, which distinguished the act from its result and accepted that a first blow to a vital temporal region could support intention despite other blows to non-vital parts; *State of M.P. v. Mohan, (2013) 14 SCC 116*, on the absence of a requirement that the injury be to a vital part; *Jage Ram v. State of Haryana, (2015) 11 SCC 366*, on proof of intention and an act, with contextual indicators including the weapon, words, motive, part of the body targeted and severity; and *State of M.P. v. Kanha, (2019) 3 SCC 605*, on the absence of a requirement of grievous or life-threatening hurt. The High Court used that body of law to reject the trial court's reason for acquittal under Section 307, without entering a conviction under that provision.

Kanha was separately quoted in paragraph 17, emphasising that intention may be inferred from the wound and surrounding circumstances, including the weapon and blows. *State of M.P. v. Saleem, (2005) 5 SCC 554*, was quoted at length in paragraph 18. It explained that Section 307 criminalises an act done with murderous intention or knowledge without requiring an injury capable of causing death, the cutting of a vital organ or hurt more serious than simple hurt; intention coupled with an overt act may suffice, and the attempt need not be the penultimate act. The passage from *Saleem* cited *State of Maharashtra v. Balram Bama Patil, (1983) 2 SCC 28, Girija Shankar v. State of U.P., (2004) 3 SCC 793, R. Prakash and Sarju Prasad v. State of Bihar, AIR 1965 SC 843*, for convergent principles. The present Court compared the rules with the repeated blows to Govind's head and neck and Shivrani's chest, expressly disapproving the trial court's reasoning based on injury severity while leaving the acquittal undisturbed for procedural reasons and because of the time elapsed.

3. Statutes considered : Section 374 CrPC was the provision under which Jain appealed against his conviction. IPC Section 324 governed the conviction for causing hurt with a sharp weapon under review

and its one-year term of rigorous imprisonment, fine and imprisonment in default. IPC Section 307, under which the trial court had acquitted Jain on two counts, requires an act accompanied by intention or knowledge and circumstances such that, if death were caused by the act, it would be murder. The actual injury and its severity may help establish intention, but life-threatening hurt is not a statutory prerequisite. The State did not appeal the Section 307 acquittal, and the High Court did not replace it with a conviction. IPC Section 447 and Arms Act Section 25 appeared in the investigation and charge-sheet narrative but were not separately disposed of in the appellate operative order.

4. Issues : (i) Did Jain's left-ulna chip fracture establish that the prosecution had suppressed an assault on him during the same incident, given that his pre-MLC was prepared six days after the occurrence? (ii) Were the injured witnesses' testimony and medical record sufficient to sustain the conviction under Section 324 despite that alternative account? (iii) Was the trial court legally correct in holding that nonfatal injury alone ruled out Section 307, and what course was open to the High Court regarding that acquittal in the accused's appeal against conviction when the State had filed no appeal against acquittal and nineteen years had passed? (iv) Did the long interval justify reducing the affirmed custodial term to the period already undergone? The Court discussed the law under Section 307 while leaving the unappealed acquittal in place.

5. Ratio / Findings : Dr M.K. Jain recorded incised wounds to Shivrani's right upper arm and chest and Govind's ear pinna, posterior skull and neck; the ear was cut. The two injured witnesses identified Jain as their assailant, and the medical descriptions supported an assault with a hard sharp-edged implement. Gaya Prasad supported the prosecution and was not related to the appellant; Hari Shankar also supported it but acknowledged that Shivrani was his mother and Govind his brother. Jain's pre-MLC was prepared on 29 October, six days after the alleged 23 October assault; an X-ray showed a chip fracture of his left ulna. With no contemporaneous complaint, treatment record or explanation for his avoiding the police, a separate intervening cause of the chip fracture could not be excluded. The Court thus rejected the contention that the prosecution had concealed the origin of the occurrence and accepted the injured witnesses' testimony, sustaining the conviction under Section 324. The trial court had acquitted Jain under Section 307 because it considered the victims' injuries insufficient to cause death; paragraph 13 of the appellate judgment refers to 'injuries sustained by the appellant' in recounting that reasoning, but the surrounding discussion and medical evidence concern Govind and Shivrani. *Harjeet Singh*, *Kanha* and *Saleem* established that intention or knowledge, coupled with an overt act and assessed in the circumstances, governs the application of Section 307; an actual life-threatening or grievous wound is not essential. Repeated injuries to Govind's head, neck and ear and Shivrani's chest made the trial court's reasoning legally unsatisfactory. Yet the State conceded that it had not challenged the acquittal, and the Court declined, after more than nineteen years, to issue a show-cause notice to reconsider it. It expressly affirmed the Section 324 conviction 'under compulsion' without approving the Section 307 reasoning.

The sentencing request failed separately. Although the appeal was decided long after the 2004 assault, the Court weighed the weapon, repeated wounds and sensitive parts of both victims' bodies and found no reason to reduce the jail term to the period already undergone. It left the trial court's sentence intact and required Jain to surrender, cancelling his existing bonds.

6. Relief : The Hon’ble High Court dismissed the appeal. The Section 324 conviction and sentence imposed by the judgment of 4 June 2008—one year's rigorous imprisonment, a ₹2,000 fine and two months' rigorous imprisonment in default—were affirmed. The trial court's acquittal under Section 307 on two counts remained in place, although the High Court disapproved its reasoning and declined to issue a show-cause notice after nineteen years. Bail and security bonds were cancelled. Jain was directed to surrender before the trial court by 15 February 2024; if he failed, the trial court was to issue a warrant to secure service of the sentence. The record and a copy of the judgment were to be returned for compliance.

Pradeep Jain v. The State of Madhya Pradesh, Cr.A. no. 1251/2008, 17/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (634) Prev Next

Headnote :- Maintenance / Section 125(3) CrPC / offer conditioned on wife living with husband - The statutory proviso calls for an actual offer to

maintain the wife on condition that she live with the husband and permits the Magistrate to consider her grounds for refusal; maintenance may be ordered despite the offer if there is just ground for doing so. The husband's bare assertion in his reply was not accepted as an offer: he conceded through counsel that he had filed no specific application, had not put the offer to the wife in cross-examination and had not stated it specifically in his evidence. His challenge to the ₹3,000 monthly award failed.

Case-note :- ***1. Facts :*** The Principal Judge, Family Court, Vidisha, by order dated 21.11.2024 in MJCR No. 13/2023 awarded Baby Shivhare monthly maintenance of ₹3,000. Pradeep Kumar challenged that order by filing Criminal Revision No. 6279 of 2024 under Section 19(4) of the Family Courts Act read with Sections 397 and 401 CrPC. His only ground was that he was willing to keep the respondent with him and that she was therefore not entitled to maintenance. Counsel fairly conceded that the husband had not moved an application before the Family Court offering to keep and maintain the wife and child. The High Court noted an assertion in his reply but no specific offer in an application, evidence or cross-examination.

2. Precedents — Considered : The Court relied on the quoted statutory proviso and the procedural record rather than a judicial authority.

3. Statutes considered : The further proviso to Section 125(3) CrPC concerns an offer by the person liable for maintenance to maintain his wife on condition that she live with him. If she refuses, the Magistrate may consider her stated grounds and make an order notwithstanding the offer if satisfied that there is just ground for doing so. Section 19(4) of the Family Courts Act, 1984 and Sections 397 and 401 CrPC were the provisions under which revision was sought.

4. Issues : Did the husband's assertion in his reply that he was willing to keep the wife with him defeat the Family Court's maintenance award under the Section 125(3) proviso, when he had not made a specific offer to maintain her on that condition through an application, his evidence or her cross-examination? The adequacy of ₹3,000 was considered only briefly as a possible ground for interference.

5. Ratio / Findings : The Court reproduced the proviso: a conditional offer permits consideration of the wife's reasons for refusing to live with the husband, and maintenance may still be ordered where there is just ground for the refusal. Counsel for the husband conceded that no application offering to keep the wife and child had been made before the Family Court. The Court found that the stand taken in the written reply did not constitute an offer on the record. It identified the steps by which a specific offer could have been placed before the Court: specifically asking the wife about it in cross-examination, stating it in the husband's own evidence or filing a specific application. As he had taken none of these steps, his sole argument did not establish that the wife was not entitled to maintenance. The Court also found that ₹3,000 per month could not be regarded as excessive on this record. Its ruling concerns failure to establish an actual offer, not an automatic duty for a wife to cohabit.

6. Relief : The Hon'ble High Court dismissed Pradeep Kumar's revision, finding no ground to interfere with the Family Court's order dated 21.11.2024. The ₹3,000 monthly maintenance award in favour of Baby Shivhare remained undisturbed.

Pradeep Kumar v. Baby Shivhare, Cr.R. no. 6279/2024, 06/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (635) Prev Next

Headnote :- Charge — material-founded grave suspicion - *M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768*, drawing on *P. Vijayan*, distinguished mere suspicion from grave suspicion. It allowed limited sifting of prosecution material and consideration of broad probabilities, but barred a roving inquiry into the merits or examination of defence material under Section 227 CrPC. Its passage cited *Sudershan Chakkar* and *Debendra Nath Padhi*. *Soma Chakravarty v. State through CBI, (2007) 5 SCC 403*, likewise required judicial application of mind and some supporting material. It distinguished the possibility that the accused had committed an offence, sufficient at the stage of framing charges, from proof beyond reasonable doubt, required for conviction. *Shiv Charan Bansal, (2020) 2 SCC 290*, whose quoted passage referred to *Ramesh Singh* and *Dipakbhai Jagdishchandra Patel*, required an assessment of whether the facts, taken at face value, disclosed the ingredients of the offence and a strong suspicion founded on material capable of becoming evidence at trial. The High Court applied these limits to refuse to find, at the

stage of framing charges, that the prosecutrix's account was false.

Sexual assault allegation — delayed disclosure at charge - The prosecutrix's later written rape complaint and initial statement that she had left voluntarily were relied on in seeking discharge. Her explanation of fear and a threat to her child, together with the truth of the allegation of repeated forced intercourse, required assessment at trial; delay alone could not justify discharge.

Criminal revision — challenge to charge order - *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, supplied the limit on scrutiny of a charge under Section 397: whether the material gives rise to strong suspicion, not whether final guilt is established. Counsel conceded that there was material for charges under Sections 366, 344, 323 and 365 IPC. The Court found no jurisdictional error in framing those charges together with charges under Sections 376(2)(n), 376(2)(f) and 506 Part II, and dismissed the revision. All allegations remained for trial.

Case-note :- ***1. Facts :*** The applicant Pradeep Kushwah was described as related to the prosecutrix through her husband's sister. According to her written complaint, on 25 August 2019 he said he would take her to her parental home because of harassment by her husband but took her to Rajkot, kept her in a rented room and repeatedly forced sexual intercourse. She also alleged that he took and sold her mangalsutra and anklets. Her husband filed a missing-person report. She said she escaped on 9 November 2019, reached Agra, used another person's telephone to contact her husband, and was taken to a police station. She initially said she had gone voluntarily, later attributing that account to fear of the applicant and alleging his continuing threat to kill her child if she did not return. The judgment reports that incriminating articles and the applicant's blood sample were sent for DNA testing; the report had not arrived.

The Sixth Additional Sessions Judge, Gwalior, by order of 16 February 2021 in Sessions Trial No. 59/2021 framed charges under IPC Sections 366, 344, 323, 365, 376(2)(n), 376(2)(f) and 506 Part II. The applicant invoked Sections 397 and 401 CrPC in Criminal Revision No. 1113/2021. He argued that her initial statement after recovery that she had left voluntarily, and her later rape complaint allegedly made only after deliberation, undermined the allegation sufficiently to prevent the framing of a rape charge. Counsel conceded that there was otherwise enough material for charges under Sections 366, 344, 323 and 365. The High Court heard counsel and considered the restricted scope of scrutiny at the stage of framing charges and in revision.

2. Precedents — Considered : *M.E. Shivalingamurthy v. Central Bureau of Investigation, Bengaluru, (2020) 2 SCC 768*, was quoted for a structured test for discharge under Section 227 CrPC. The distinction stated in *P. Vijayan v. State of Kerala, (2010) 2 SCC 398*, cited in the reproduced passage, allows discharge where two views are possible and one of them gives rise only to suspicion rather than grave suspicion. A trial judge must independently sift the prosecution statements and documents, consider the broad probabilities and basic infirmities of the case, and ask whether, even if fully accepted, the material could show that the accused committed the offence; the judge is not a prosecution 'post office.' Yet this limited scrutiny cannot become a roving inquiry into the merits, assess the material's probative value as if tested in cross-examination, or use the accused's proposed defence documents. Paragraph 18 of the quoted decision invoked *State of J&K v. Sudershan Chakkar, (1995) 4 SCC 181*, and *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, on the prosecution record and the absence of an accused's right to adduce defence documents at the stage of framing charges. The High Court used these limits to leave the assessment of the prosecutrix's credibility and the applicant's alternative inference to the trial.

Soma Chakravarty v. State through CBI, (2007) 5 SCC 403, was quoted separately: material which permits an opinion that the accused might have committed the offence can justify framing a charge, whereas conviction requires proof beyond reasonable doubt. The judge must apply a judicial mind to the different categories of accused and find some material for a prima facie conclusion; unsupported suspicion alone is insufficient. This reinforced the requirement that a charge be based on material, without prematurely resolving credibility. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, was also quoted: the court may sift and weigh the material only to determine whether the facts, taken at face value, disclose the ingredients of the offence and give rise to grave suspicion; meticulous testing of veracity and assessment of the defence belong to trial. Its passage invoked *State of*

Bihar v. Ramesh Singh, (1977) 4 SCC 39, on strong suspicion as a ground for trial, and *Dipakbhai Jagdishchandra Patel v. State of Gujarat, (2019) 16 SCC 547*, on material capable of being translated into evidence at trial, without requiring assurance of conviction.

State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198, was separately cited on the scope of revision under Section 397 where a charge has already been framed. The court asks whether the material leads to strong suspicion and could prove guilt if tested at trial, not whether the accused is certainly guilty. The High Court applied that procedural distinction, found no jurisdictional error and dismissed the revision.

3. Statutes considered : Sections 397 and 401 CrPC were the provisions under which the applicant sought criminal revision of the charge order. Section 227 CrPC was discussed through the Supreme Court passage concerning discharge; the quoted Section 228 framework concerns framing charges when sufficient ground appears. The court was required to assess grave suspicion based on material at the stage of framing charges, rather than proof beyond reasonable doubt or a roving inquiry into credibility. IPC Sections 366, 344, 323 and 365 were the charges relating to abduction, confinement and hurt for which counsel conceded prima facie material; Sections 376(2)(n) and 376(2)(f) were the rape charges challenged by relying on the delayed complaint and the statement made on recovery; Section 506 Part II concerned the alleged threat. The order retained all listed charges.

4. Issues : (i) Could the court, when revising an order framing charges, decide that the prosecutrix's delayed rape complaint was false because she initially said after recovery that she left voluntarily? (ii) Did the charge-stage material, including her allegation of forced intercourse and her stated explanation of fear, meet the limited grave-suspicion test despite the challenged credibility and outstanding DNA report? (iii) Had the applicant shown a jurisdictional error requiring interference with the Sessions Judge's charges, especially given the express concession as to Sections 366, 344, 323 and 365?

5. Ratio / Findings : The High Court held that credibility and reliability cannot be finally determined at the stage of framing charges. Through *M.E. Shivalingamurthy*, *Soma Chakravarty* and *Shiv Charan Bansal*, it identified a duty to apply the judicial mind: to sift the prosecution record to determine whether the facts, taken at face value, disclose the ingredients of the offence and create grave suspicion. Discharge may follow where two views are possible and one of them gives rise only to suspicion rather than grave suspicion, or where even full acceptance of the prosecution material cannot show that the accused committed the offence. It also rejected a detailed inquiry into competing versions, the probable defence or probative weight at this stage. The Supreme Court's strong-suspicion test does not lower the trial standard of proof beyond reasonable doubt. *Fatehkaran Mehdu* stated the same distinction in the context of a Section 397 challenge to a charge already framed.

Here the prosecutrix's account alleged that the applicant deceptively took her to Rajkot, kept her there and repeatedly forced intercourse; the applicant relied on her initial statement that she had left voluntarily and the delay before her written rape accusation. Whether her claim of fear at recovery was genuine, whether her later version was fabricated after deliberation, and whether the delay had a plausible explanation were matters for evidence and cross-examination. The Court stated that delay itself could not justify discharge and that plausibly explained delay may still permit conviction after trial. The DNA result was reported only as pending. Counsel conceded that there was sufficient material for framing charges in respect of the four non-rape offences. The Court found no jurisdictional error in retaining the entire listed charge order, including the contested rape and threat charges.

6. Relief : The Hon’ble High Court dismissed the criminal revision. The order of 16 February 2021 in Sessions Trial No. 59/2021 framing charges under IPC Sections 366, 344, 323, 365, 376(2)(n), 376(2)(f) and 506 Part II was left undisturbed.

Pradeep Kushwah v. State of M.P. and Others, Cr.R. no. 1113/2021, 27/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (636) Prev Next

Headnote :- Abetment of suicide — instigation through coercive course of conduct - *Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605*, relying on *Ramesh Kumar, (2001) 9 SCC 618*, treats instigation as goading or urging a person to act. Explicit words are unnecessary if a continued course of conduct reasonably incites the

consequence, while a spontaneous word uttered in anger without that intention is insufficient. The alleged pressure on the deceased to have unwanted sexual relations with the applicant, leave her husband and marry him, backed by threats of public exposure, was treated as prima facie active instigation or aid, unlike a bare extramarital relationship.

Abetment of suicide — mens rea, proximate act and ordinary discord - *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750*, required a clear mental element and positive instigation or intentional aid, distinguishing a hypersensitive response to ordinary discord. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, required careful assessment of whether the alleged cruelty caused the suicide. *Amlendu Pal v. State of W.B., (2010) 1 SCC 707*, required direct or indirect incitement and positive action proximate to the suicide, and explained the routes of abetment under Section 107, including intentional aid. The High Court applied these standards for conviction provisionally to the alleged coercive threats and declined to classify the deceased as hypersensitive.

Inherent powers — uncontroverted offence ingredients - A Section 482 CrPC applicant seeking to quash a Section 306 FIR must show that the uncontroverted allegations do not disclose the offence. The alleged conduct beyond the relationship itself supplied a prima facie basis; the applicant's denial and retaliatory-implication account were not resolved on the merits. The application was dismissed.

Witnesses — delayed statements and relationship - Mere delay in recording the statements of family witnesses under Section 161 CrPC does not automatically justify rejecting their evidence outright. The prosecution can explain the delay, which is to be assessed with the testimony. A witness's relationship to the deceased does not, by itself, establish that the witness is interested or discredit the evidence. Neither delay nor kinship warranted quashing on this record, with credibility left for trial.

Case-note :- ***1. Facts :*** The police registered Crime No. 281/2021 at Ambah Police Station, Morena, under Section 306 IPC following a married woman's death by hanging on 31 March 2021. The FIR alleged that Pradeep Sakhawar pressed her to speak with him against her wishes, to leave her husband and marry him, and to have physical relations with him. When she refused, he allegedly threatened public defamation by disclosing their illicit relationship. The police allegation linked the pressure and threat to her suicide.

Sakhawar applied under Section 482 CrPC to quash the FIR. He denied the allegations, argued that she could have reported any harassment to the police instead of ending her life, questioned the credibility of the related family witnesses and objected to the delay in recording their statements. He also asserted that he had been falsely implicated because the family had been convicted of murdering Malkhan, to whom he was related. He cited *the High Court's Ramsingh Yadav v. State of M.P.*, 2018 (4) Crimes 230 (M.P.). The State opposed the application, submitting that the alleged demands and threat amounted to abetment.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Government of NCT of Delhi), (2009) 16 SCC 605*, was quoted for the meaning of instigation under Sections 107 and 306 IPC. The passage relied on *Ramesh Kumar, (2001) 9 SCC 618*, a decision of a three-judge Bench: to instigate is to goad, provoke, urge or encourage an act. Specific words suggesting suicide are not indispensable, but reasonable certainty of inciting the consequence must be discernible. A continued course of conduct creating a situation with no apparent option may support an inference of instigation, unlike a word uttered in anger without an intention that the consequence should follow. The Court applied this distinction to the alleged repeated sexual coercion and pressure to leave the husband and marry the applicant, together with the threat of public exposure, at the prima facie stage of considering quashing.

Gangula Mohan Reddy v. State of Andhra Pradesh, (2010) 1 SCC 750, was reproduced in summary form. It requires a mental process of instigation or intentional aid, clear mens rea and a positive, active or direct act leading to suicide. A conviction should not rest on a victim's hypersensitive reaction to commonplace domestic discord that would not be expected to produce the same result in a similarly placed person. The High Court used it to assess whether the alleged demands and threats went beyond ordinary discord, finding a prima facie case rather than entering a conviction. *State of West Bengal v. Orilal Jaiswal, (1994) 1 SCC 73*, was quoted on the need for careful assessment at trial of whether cruelty actually induced suicide, with the

same caution against treating ordinary petulance as abetment because of a victim's unusual sensitivity. The present Court expressly rejected treating this alleged coercion as merely a hypersensitive response for the purposes of quashing.

Amlendu Pal alias Jhantu v. State of West Bengal, (2010) 1 SCC 707, stated the requirement of direct or indirect incitement, an active part in instigation or facilitation and positive action proximate to the occurrence; harassment alone, without that link, is not enough for conviction. The quoted analysis located the modes of abetment in the clauses of Section 107 and explained intentional aid under clause Thirdly and Explanation 2 as facilitating an act before or at its commission. Section 109 was mentioned in the quoted passage as providing punishment where the abetted act follows from the abetment. The High Court compared those standards with the alleged pressure and threat and found that, if the allegations were accepted at face value, an active role could be inferred. *Ramsingh Yadav* was cited by the applicant's counsel.

3. Statutes considered : Section 306 IPC was the offence in the FIR: suicide coupled with abetment by the accused, with intentional instigation or aid and the relevant causal connection at issue. Section 107 IPC, analysed in the reproduced *Amlendu Pal* passage, defines abetment through instigation, conspiracy or intentional aid; clause Thirdly and Explanation 2 explain purposeful facilitation. Section 109 IPC was mentioned in that precedent's quotation, not independently applied to charge Sakhawar. Section 482 CrPC was the provision under which the applicant invoked the Court's inherent power; the Court asked whether the uncontroverted allegations could disclose the ingredients of Section 306 and refrained from a final credibility determination. Section 161 CrPC governed the police statements whose recording was said to have been delayed; the Court preserved the prosecution's opportunity to explain the delay.

4. Issues : (i) Did the FIR's uncontroverted allegations of unwanted sexual demands, insistence that the deceased leave her husband and marry Sakhawar, and threats of public disclosure make out a prima facie case of active instigation or aid of her suicide, or did they amount merely to an extramarital relationship and harassment without the ingredients of Section 306? (ii) Did his denial and claim of retaliatory implication justify quashing at this stage? (iii) Did the delayed recording of related family witnesses' Section 161 statements or their kinship render the prosecution allegations legally unusable at the threshold?

5. Ratio / Findings : The Court set out the principles stated in four Supreme Court decisions on Section 306. *Chitresh Kumar Chopra* and the passage from *Ramesh Kumar* address affirmative instigation, including a continued course of coercive conduct, while excluding a chance word uttered in anger without an intended consequence. *Gangula Mohan Reddy* requires clear mens rea and a positive act, and cautions against treating ordinary discord as abetment because of a victim's hypersensitivity. *Orilal Jaiswal* requires care in determining whether cruelty actually induced the suicide. *Amlendu Pal* requires direct or indirect incitement, proximity and active instigation or facilitation, and explains the statutory modes under Section 107. These are demanding tests for establishing guilt, but the question in the present Section 482 application was whether the allegations, if uncontroverted, could meet them. The High Court did not equate extramarital involvement itself with abetment. It treated the additional alleged pressure for unwanted intercourse and remarriage under threat of public defamation as coercion beyond ordinary discord, found prima facie that the applicant had played an active role in instigating or aiding the suicide, and declined to describe the deceased's response as merely hypersensitive.

Sakhawar's claim of retaliatory implication in connection with Malkhan's murder and his assertion that the deceased could have complained to the police did not warrant quashing an FIR that, on its face, disclosed a possible offence. He sought rejection of the family witnesses' accounts on factual grounds without a trial. The Court separately held that delay in recording Section 161 statements does not by itself justify discarding the witnesses' evidence; the prosecution may explain the delay, and the fact-finder can then assess that explanation. Relationship does not itself make a witness interested or render the testimony unreliable. Neither objection justified quashing at this stage.

6. Relief : The Hon’ble High Court dismissed the Section 482 application to quash Crime No. 281/2021, Ambah Police Station, for the offence under Section 306 IPC. The FIR and proceedings remained in force.

Pradeep Sakhawar v. State of M.P. and Others, M.Cr.C. no. 35848/2021, 25/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (637) Prev Next

Headnote :- Investigation — independent parallel police enquiry - *Deepak alias Preetam Verma v. State of M.P.*, MCRC 12592/2018, decided 11 September 2018, held that Section 36 CrPC does not authorise a separate enquiry running alongside the investigation of an FIR. The Supreme Court affirmed that conclusion in *Surendra Singh Gaur v. State of M.P., SLP (Criminal) No. 1345/2019*, order dated 18 January 2022: neither Section 36 nor the cited circular authorised that process. Although the circular was lawful, it did not validate the officers' procedure, which was inconsistent with it. The applicant's claimed exoneration in Additional S.P. Kamal Maurya's parallel report therefore lacked the legal status he attributed to it.

Trial witness — relevance under Section 311 - The proposed testimony would present the officer's opinion arising from that impermissible enquiry rather than legally relevant evidence of innocence. Summoning him would improperly lend legitimacy to the report and serve no purpose. The refusal under Section 311 was affirmed on this ground, which differed from the trial court's reported emphasis on the four-year pendency, the co-accused's custody and early disposal.

Case-note :- ***1. Facts :*** The Special Judge under the MPDVPK Act at Shivpuri was trying S.T. No. 10/2020. While the underlying investigation was pending, the then Superintendent of Police, Shivpuri, allegedly ordered Additional Superintendent Kamal Maurya to conduct a separate enquiry. Pradeep Sharma said Maurya had found the prosecution witnesses' allegations false and had exonerated him. Sharma asked the Special Judge to summon Maurya under Section 311 CrPC. The court refused on 7 November 2024. As the applicant described its reasons, the trial had been pending four years, co-accused Veerendra and Devendra had spent more than two years in jail, and the High Court had directed expeditious completion. Sharma brought Criminal Revision No. 5719/2024 under Sections 397 and 401 CrPC. He argued that a speedy-trial instruction could not replace a merits decision on a material witness application. The State opposed the revision. The High Court instead examined the legality of the underlying parallel enquiry and the relevance of its author's proposed testimony.

2. Precedents — Considered : *Deepak alias Preetam Verma and Another v. State of M.P. and Another*, MCRC No. 12592/2018, High Court order of 11 September 2018, held that a separate parallel enquiry under Section 36 CrPC while the FIR investigation continues is impermissible. The present Court applied that ruling to determine the legal status of Maurya's enquiry; it did not treat the ruling as a factual finding about the current FIR.

Surendra Singh Gaur v. State of M.P. and Others, Supreme Court order dated 18 January 2022 in SLP (Criminal) No. 1345/2019, affirmed *Deepak*'s treatment of Section 36. The reproduced paragraphs 9–12 and 14 explained that neither Section 36 nor police circulars provided for an independent enquiry running concurrently with the regular investigation of the FIR referred to there. The State's circular of 26 June 2010, issued under the instructions of the Inspector General, was consistent with Section 36, but the officers' method of conducting an independent enquiry was inconsistent with that circular and the prescribed procedure. The Supreme Court found no ground to interfere under Article 136 and approved the High Court's conclusion that the separate enquiry was not contemplated by law. The present Court applied this authoritative limit to Maurya's asserted exoneration: his testimony would tend to lend legitimacy to a forbidden parallel report, and his personal opinion would not be legally relevant evidence of innocence.

3. Statutes considered : Section 36 CrPC concerns police officers superior in rank to the officer in charge of a police station and their exercise of powers within their jurisdiction; as explained in the cited Supreme Court decision, it does not itself provide for a separate enquiry alongside an existing FIR investigation. Section 311 CrPC was the provision under which the applicant sought to summon the Additional S.P. The High Court rejected the proposed examination because it would only endorse an unlawful parallel report and place an irrelevant opinion before the trial court. Sections 397 and 401 CrPC were the provisions under which criminal revision was sought against the Special Judge's rejection order.

4. Issues : (i) Could the Superintendent of Police order a separate independent enquiry under Section 36 CrPC at the same time as the FIR investigation, and could its asserted exoneration be treated as a

lawful source of proof? (ii) Was Additional S.P. Maurya a useful and legally relevant Section 311 witness merely because he had authored that separate report? (iii) Should the refusal be set aside because the trial court had emphasised delay and the custody of two co-accused instead of analysing the witness's relevance?

5. Ratio / Findings : The High Court identified the legality of the separate enquiry as the primary issue. *Deepak alias Preetam Verma* had held that a Section 36 enquiry running independently in parallel with the regular FIR investigation was not maintainable. *Surendra Singh Gaur* affirmed that neither the powers of superior police officers nor the cited administrative circular authorised such a separate process. In that precedent the circular itself was lawful; the officers' departure from it was the defect. The Court in the present case applied the distinction to the alleged enquiry by Maurya, conducted on the Superintendent's order while the investigation was pending, and held it impermissible.

The purpose of calling Maurya was to rely on his asserted exoneration. Examining him under Section 311 would therefore confer apparent legitimacy on a report prepared through the impermissible parallel enquiry. The Court also treated his proposed opinion that the witnesses' allegations were false as legally irrelevant to establishing innocence. It therefore held that summoning him would serve no purpose and that the trial judge's refusal was correct on this independent ground concerning the merits of the application. The applicant's argument that mere haste could not replace a decision on the merits did not lead to reversal; the High Court expressly affirmed the earlier order on different grounds.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The Special Judge's order dated 7 November 2024 rejecting the Section 311 application to summon Additional S.P. Kamal Maurya in S.T. No. 10/2020 was affirmed, expressly for the High Court's different reasons concerning the invalid parallel enquiry and the irrelevance of the officer's opinion.

Pradeep Sharma v. The State of Madhya Pradesh, Cr.R. no. 5719/2024, 18/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Homicidal death — medical proof - The post-mortem evidence of P.W. 10 described a close-range pellet wound in the lower abdomen, blackening, a wad, 29 pellets, and damage to vessels and tissue. It established homicidal death caused by a firearm. Absence of a .315 bullet and holes in upper garments did not contradict the lower-body injury; FSL found shot marks with lead on trousers and lead/nitrate on underwear.

Hostile and sole witness — dependable portions - *Rameshbhai Mohanbhai Koli, (2011) 11 SCC 111*, *Radha Mohan Singh, (2006) 2 SCC 450*, and *Arjun, (2017) 3 SCC 247*, required careful scrutiny of the reliable portions of hostile witnesses' evidence, rather than rejection of their entire testimony; *Arjun* reproduced *Paramjeet Singh* and allied authorities. Raghuvir and Sonu did not support the appellant's identification but corroborated the hotel shooting and hospital journey. Their denial of Omprakash's presence did not displace his promptly recorded Dehati Nalishi, scene and hospital participation, identification of a known assailant, and the evidence about cooking and the scene that supported visibility.

Delayed further cross-examination — ocular and medical distance - *Vinod Kumar v. State of Punjab, (2015) 3 SCC 220*, criticised long postponements that allow prevarication and required fair and prompt examination of witnesses; *Khujji v. State of M.P., (1991) 3 SCC 627*, evaluated a whole deposition despite a later attempted retreat. Omprakash's single 2012 answer placing the shot at 30 feet, over three years after his evidence was fully recorded in 2009, conflicted with close-range medical signs and the eight-foot shop; the Court treated the answer as an unreliable attempt to depart from his earlier evidence, rather than a contradiction that undermined the eyewitness account.

Defective investigation — witness clothing - *Visveswaran v. State, (2003) 6 SCC 73*, required greater caution in evaluating the evidence, rather than automatic acquittal; *Ganga Singh v. State of M.P., (2013) 7 SCC 278*, recognised entitlement to acquittal if investigative defects cast reasonable doubt on the remaining prosecution evidence; *Abu Thakir v. State of T.N., (2010) 5 SCC 91*, quoting *K. Yarappa Reddy*, required independent scrutiny of the testimony of witnesses to the occurrence. Non-seizure of the transport witnesses' bloodstained clothes did not defeat their credible accounts.

Arms Act — difference between seized firearm and firearm inspected for sanction - The investigating officer and seizure memo concerned a .12-bore katta, but the armourer, FSL and Arms Act

sanction concerned a .315-bore exhibit. The Court inferred exhibit substitution, found the sanction invalid and set aside the Section 27 conviction, calling for departmental attention. *Rakesh v. State of U.P., (2021) 7 SCC 188*, treated a mismatch between a recovered firearm and the ballistic evidence as a case without reliable recovery. It did not make recovery indispensable for a murder conviction. *Gulab v. State of U.P.*, Criminal Appeal 81/2021, 9 December 2021, considered *Sukhwant Singh*'s linkage concern but followed *Gurucharan Singh* and *Jugraj Singh* in rejecting an inflexible requirement to examine a ballistic expert where direct evidence and injuries are persuasive. The firearm flaw did not undo the separate Section 302 proof.

Independent witnesses — public reluctance and scrutiny - *Mahesh v. State of Maharashtra, (2008) 13 SCC 271, Nagarjit Ahir v. State of Bihar, (2005) 10 SCC 369*, and *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, did not make independent market witnesses indispensable when the witness actually examined is trustworthy; the evidence of related witnesses requires careful scrutiny. The officer reported non-cooperation, and the Court relied on its specific assessment of Omprakash, not a presumption of reliability.

Motive — relevance without rigid requirement - The prior water-service altercation, two slaps and threat furnished a possible motive. *Bikau Pandey, (2003) 12 SCC 616*, *Hari Shanker, (1996) 9 SCC 40*, and *Molu, (1976) 4 SCC 362*, establish that failure to prove motive cannot, by itself, defeat credible direct evidence. *State of U.P. v. Babu Ram, (2000) 4 SCC 515*, preserves motive's relevance in every case while recognising the difficulty of proving exactly how the offender's motive developed, with *Nathuni Yadav* and *Jeet Singh* cited. The Court rejected the motive objection on the supported facts.

Inquest — apparent cause, not assailant names - *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, *Sk. Ayub v. State of Maharashtra, (1998) 9 SCC 521*, and *Brahm Swaroop v. State of U.P., (2011) 6 SCC 288*, explain that the report under Section 174 is not substantive evidence. Its object is to record the apparent cause of death, injuries and their likely mechanism; it need not name the culprit. *Brahm Swaroop*'s *Radha Mohan Singh* passage requires confronting the author about an alleged discrepancy. Omprakash's failure to name Pradeep in the Lash Panchnama did not itself establish an ante-timed FIR.

Sentence and relief — distinct counts - Section 428 records showed 323 undertrial days and custody from 1 June 2012, about eleven years rather than the asserted fourteen. The minimum sentence of life imprisonment under Section 302 was affirmed, with a ₹5,000 fine and one year of rigorous imprisonment in default. The conviction under Section 27 of the Arms Act, its three-year term and ₹1,000 fine, with six months of imprisonment in default, were set aside. The appeal was partly allowed, and the appellant was to serve the remaining murder sentence.

Case-note :- ***1. Facts :*** On 22 June 2008 Pradeep Singh allegedly came to Omprakash Shivhare's Laziz Tiffin Center at about 4 p.m. and slapped employee Anand Rai over a delay in serving water. Omprakash, the proprietor and a relative by marriage of Anand, was then away in Gwalior. Around 7 p.m. Anand told him of the encounter. Omprakash said he questioned Pradeep, who slapped him, was separated by neighbours and threatened to return. Around 8 p.m. Pradeep allegedly came with three or four companions and shot Anand in the hotel while Anand was preparing food. Omprakash, his brother Raghuvir and Sonu took the wounded man to J.A. Hospital, where doctors declared him dead. Omprakash made a Dehati Nalishi at hospital at about 9 p.m.; the investigator corroborated writing it there. The order's witness narrative once says Pradeep returned at "8 A.M." while the FIR, surrounding account and judgment treat the fatal event as around 8 p.m.

Police registered an FIR, made an inquest and spot map, seized bloodstained and plain earth, arrested Pradeep and purportedly seized a katta on his memorandum. Articles went to the FSL and an Arms Act prosecution sanction was obtained. The charge sheet alleged IPC Sections 302/34 and Arms Act Sections 25 and 27, with investigation continuing against companions. The Sessions Judge actually framed charges under Section 302 and Section 25(1-B)(a) read with Sections 3 and 27 of the Arms Act. Fourteen prosecution witnesses and two defence witnesses testified. On 1 June 2012 the First Additional Sessions Judge, Dabra, in S.T. No. 326/2008 convicted Pradeep under Section 302, sentencing him to life imprisonment and ₹5,000 fine with one year rigorous imprisonment in default, and under Section 27 Arms Act, sentencing him to three

years rigorous imprisonment and ₹1,000 fine with six months rigorous imprisonment in default; terms were concurrent. In his Section 374 CrPC appeal, Pradeep contested Omprakash's reliability and opportunity, hostile witnesses, absence of independent witnesses and motive, the missing witness-clothing seizure, medical distance, firearm bore and chain, upper-garment holes, inquest omission and custody length. The State maintained the direct account and disputed his claimed fourteen years of jail time.

2. Precedents — Considered : For hostile witnesses, *Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111*, was quoted for use of dependable parts for prosecution or defence after careful scrutiny. It reproduced *C. Muniappan*'s caution that trivial omissions or contradictions do not erase the remaining credible evidence. *Radha Mohan Singh v. State of U.P., (2006) 2 SCC 450*, independently said a hostile prosecution witness's account is not washed off the record. *Arjun v. State of Chhattisgarh, (2017) 3 SCC 247*, allowed corroborative portions despite hostility and reproduced *Paramjeet Singh*'s approach of considering the evidence as a whole with caution and ordinarily looking for corroboration, as well as *Mahesh*, *Rajendra*, *Govindappa*, *Mrinal Das* and *Khachar Dipu*. The High Court applied this group to the parts of Raghuvir and Sonu confirming the number of intruders, shooting inside the hotel and immediate hospital transport, while rejecting the argument that their denials of the appellant's identity and Omprakash's presence automatically required rejection of Omprakash's account.

Visveswaran v. State represented by S.D.M., (2003) 6 SCC 73, said a defective investigation calls for extra caution but not acquittal solely for the defect. *Ganga Singh v. State of M.P., (2013) 7 SCC 278*, stressed that proof beyond reasonable doubt remains necessary: defects causing reasonable doubt still entitle an accused to acquittal, but defects alone cannot undo adequate independent proof. *Abu Thakir v. State of T.N., (2010) 5 SCC 91*, quoted *State of Karnataka v. K. Yarappa Reddy for* independent scrutiny of occurrence witnesses even when investigation is irregular or suspicious. The Court applied these qualified rules to police failure to seize any transport witness's bloodstained clothing.

Vinod Kumar v. State of Punjab, (2015) 3 SCC 220, was quoted extensively on serious harm from postponing cross-examination for months or years, the possibility of pressure and prevarication, the importance of completing it promptly, and the fair-trial interests of prosecution, defence, victim and society. *Khujji v. State of M.P., (1991) 3 SCC 627*, examined an eyewitness's entire deposition notwithstanding a later cross-examination effort to retract identification after a month; the witness's opportunity to observe, disclosed by his own evidence, and independent circumstances supported the earlier account. Applying these to Omprakash, the High Court treated his single answer in 2012 about a 30-foot firing distance, after his evidence had been fully recorded in 2009 and repeated Section 311 applications, as an unreliable attempt to depart from his earlier account, in view of the close-range medical evidence, the eight-foot shop and the evidence that the shooting took place inside it.

Rakesh v. State of U.P., (2021) 7 SCC 188, held that a firearm mismatch can mean no reliable recovery of the actual weapon, which is not an indispensable condition of murder conviction. *Gulab v. State of U.P., Criminal Appeal No. 81/2021*, judgment of 9 December 2021, considered the absence of recovered weapon and ballistic evidence against credible eyewitness testimony. *Gulab* explained *Sukhwant Singh*'s concern where both a firearm and crime cartridge are recovered but their expert comparison is inexplicably omitted; it adopted *Gurucharan Singh*'s fact-dependent qualification of *Mohinder Singh*, rejecting an inflexible ballistic-expert rule when the direct testimony and the injuries are clearly consistent; it also described *Jugraj Singh*'s acceptance of persuasive surrounding circumstances without ballistic examination. The High Court applied these principles to uphold the murder conviction on the independent proof supporting it despite unreliable weapon recovery, while refusing to save the Arms Act sanction based on a different exhibit.

Mahesh v. State of Maharashtra, (2008) 13 SCC 271, considered both cautious scrutiny of related witnesses, with *Salim Sahab* and *Masalti* in its quotation, and the fact that independent bystanders often do not testify; trustworthy eyewitness evidence need not be discarded for their absence. *Nagarjit Ahir v. State of Bihar, (2005) 10 SCC 369*, rejected a universal demand that all people in a crowd testify, on its facts stressing several credible injured witnesses. *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, recognised reluctance of the public to enter criminal trials and retained credible testimony despite no independent witness. The Court had

independently evaluated Omprakash's prompt report, presence and opportunity to observe the incident and credited the officer's account that bystanders would not give statements.

Bikau Pandey v. State of Bihar, (2003) 12 SCC 616, and *Hari Shanker v. State of U.P., (1996) 9 SCC 40*, say an unproved motive cannot alone defeat credible direct testimony. *State of U.P. v. Babu Ram, (2000) 4 SCC 515*, explains the limits of the proposition that motive is irrelevant in cases based on eyewitness testimony: motive is relevant in all criminal cases, although the exact development of an offender's mind is difficult to prove and failure to establish the precise motive need not defeat an otherwise proved case. *Babu Ram* quoted *State of H.P. v. Jeet Singh and* cited *Nathuni Yadav* on that difficulty. *Molu v. State of Haryana, (1976) 4 SCC 362*, regarded motive as less decisive after credible ocular evidence. The Court noted the water-service quarrel, slaps and threat and relied principally on its acceptance of Omprakash's direct account.

Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195, held that Section 174's inquest report is not substantive evidence of identity; it establishes apparent cause and injuries and may test inquest witnesses. *Sk. Ayub v. State of Maharashtra, (1998) 9 SCC 521*, held that there was no legal duty to name the accused in an inquest panchnama. *Brahm Swaroop v. State of U.P., (2011) 6 SCC 288*, treated inquest omissions as insufficient by themselves to prove an ante-timed FIR, and quoted *Radha Mohan Singh* on putting an alleged discrepancy to the author for explanation before reliance on it. The High Court applied these authorities to Omprakash's failure to name Pradeep in the Lash Panchnama.

3. Statutes considered : IPC Section 302 governed the intentional homicide conviction and minimum sentence of life imprisonment, which the appellate court affirmed after evaluating identification and medical proof. The charge sheet referred to Section 34 and continuing investigation of companions, but the recorded trial conviction and this appeal concerned Pradeep's own Section 302 act. Arms Act Sections 25, 3 and 27 appeared in the charge and sanction narrative. The operative trial conviction under Section 27 depended on legally relevant firearm proof and prosecution sanction. The .12-bore item documented by the seizure officer was not the .315-bore item examined by the armourer and FSL and inspected for sanction, making that sanction invalid for the seized weapon. Section 174 CrPC limited the object of inquest to apparent cause rather than identity. Section 311 CrPC appeared in the procedural history of recalling Omprakash for further cross-examination. Section 374 supplied the conviction appeal. The certificate issued under Section 428 was used to check the argument about the period of custody.

4. Issues : (i) Was Anand Rai's death homicidal, and did the medical and clothing evidence fit the claimed lower-abdominal shot? (ii) Could Omprakash's sole identifying account be accepted when Sonu and Raghuvir turned hostile on identity and his presence, and were the evidence about visibility and his prompt hospital report credible? (iii) Did non-seizure of bloodstained witness clothing, absence of market witnesses and the late 30-foot-distance answer create reasonable doubt? (iv) What was the effect on the Arms Act count of the difference between the .12-bore seizure record and the .315-bore armourer, FSL and sanction records, and could the murder count survive without reliable recovery? (v) Did a prior confrontation supply motive, and what weight would its absence have against direct proof? (vi) Did the omission of the accused's identity from the Section 174 inquest report show that the FIR was ante-timed? (vii) Did the actual custody record permit reduction of the murder life term? The decision produced different outcomes for the murder and Arms Act counts.

5. Ratio / Findings : The post-mortem evidence of P.W. 10 documented an ante-mortem lower-abdominal pellet entry wound with blackening, downward track, wad and 29 pellets and vascular and muscle damage; homicide was established. The order lists J.N. Soni as P.W. 10 in paragraph 6 but calls the post-mortem doctor J.N. Joshi in paragraphs 13–15. The absence of a .315 bullet, relied on by the defence, supported concern about the claimed firearm exhibit; it did not disprove the pellet wound. The FSL documented gunshot residues or marks in trousers and underwear at the appropriate lower-body level, defeating reliance on unmarked shirt and vest.

Raghuvir and Sonu did not support Pradeep's identification and offered parts favourable to the defence, but confirmed a group entering the hotel, shooting Anand while he cooked, and removing him to hospital. Applying *Rameshbhai*, *Radha Mohan Singh* and *Arjun*, the Court used those dependable portions but refused to treat their hostile denial of Omprakash's presence as overriding his whole

account. Omprakash knew Pradeep, described the earlier slaps and threat, and made the hospital Dehati Nalishi within about an hour; the investigator confirmed writing it. He identified the body, provided instructions for preparation of the spot map and participated in material seizures. His hotel was the scene, his phone contact and journey were consistent with presence, and even defence witness Neeraj placed him on the hospital journey, though denying his presence at the firing. Cooking inside the shop, blood inside and no evidence of load shedding supported sufficient light to recognise a known man; the witness did not attempt to identify or over-implicate unknown companions. The Court credited him after scrutiny.

The police failure to take any of the three transport witnesses' bloodstained clothes was a defect. Under *Visveswaran*, *Ganga Singh* and *Abu Thakir* it required careful evaluation and could matter if it created reasonable doubt; it did not do so in light of the specific accounts found reliable in this case. The doctor described blackening and a shot from about 1 –1½ feet. The claimed 30-foot shot and 70–75-foot viewing position emerged only from one answer in Omprakash's 2012 further cross-examination after repeated recall efforts, three years after his evidence was fully recorded in 2009. Invoking *Vinod Kumar* and *Khujji*, the Court regarded it as an attempt to retreat; it considered the eight-foot shop, the blood found inside it and all the accounts placing the shooting inside, and did not treat the later answer as a reliable medical contradiction. It also rejected the independent-bystander objection after the investigating officer said market witnesses were unwilling, while the scrutinised identifying testimony remained credible.

The firearm evidence had a different defect. The seizure memo and investigating officer identified a .12-bore katta; he said he did not dispatch it. The armourer and FSL described a .315-bore firearm, and the Arms Act sanction was granted after inspection of that other bore. The Court inferred substitution by someone in the prosecution agency, called for departmental attention and held the sanction invalid; the Section 27 conviction could not stand. It treated the offence weapon as not reliably recovered. *Rakesh* and *Gulab* explained why recovery of the offence weapon was not indispensable to a murder conviction supported by independently credible eyewitness evidence, even without a conclusive ballistic link. The water-service dispute, two slaps and threat supplied possible motive; *Babu Ram* recognised that motive remains relevant, although its precise development in the offender's mind may be difficult to prove. The asserted absence of motive did not defeat credible eyewitness proof. Given the limited purpose of an inquest under Section 174, Omprakash's failure to name the appellant in the Lash Panchnama did not establish that the FIR was ante-timed; his prompt Dehati Nalishi was supported separately.

The custody argument failed factually and legally. The Section 428 certificate showed arrest on 8 July 2008, release on bail on 29 May 2009 after 323 undertrial days, and custody from the 1 June 2012 conviction, for about eleven years at decision rather than the claimed more than fourteen. The minimum life-imprisonment sentence under Section 302 could not be reduced on the asserted custody period. The Court affirmed the finding of guilt for murder beyond reasonable doubt while reversing only the Section 27 count, preserving the difference between an unreliable firearm exhibit and credible independent proof of the shooting.

6. Relief : The Hon'ble High Court partly allowed the appeal. Pradeep's Section 302 IPC conviction, life imprisonment and ₹5,000 fine with one year rigorous imprisonment in default were affirmed. His Section 27 Arms Act conviction and its term of three years of rigorous imprisonment and ₹1,000 fine with six months rigorous imprisonment in default were set aside because of the invalid sanction and firearm chain. The original concurrent-sentence direction consequently left the murder sentence to be served; the appellant remained in jail and was directed to undergo its remainder. A free copy of the appellate judgment was to be given to him immediately and the trial record returned with a copy for information and compliance.

Pradeep Singh v. State of Madhya Pradesh, Cr.A. no. 465/2012, 22/08/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Anticipatory bail — applicant-specific disposition - In Crime No. 215/2021, counsel withdrew applicant 1 Pradeep Singh's Section 438 request after acknowledging his blow caused a nasal fracture, and it was dismissed as withdrawn. Applicant 2 Nitesh Singh disputed the

alleged demand and the allegation that he had caused grievous injury, offered to cooperate and was granted conditional anticipatory bail after the Court considered the State's separate same-day assault allegation and the pandemic context, without a merits finding.

COVID-19 and bail — prison decongestion context - *In Re: Contagion of COVID 19 Virus in Prisons*, Supreme Court suo motu WP(C) No. 1/2020, order of 23 March 2020, directed States and Union Territories to constitute High Powered Committees to identify categories of prisoners for parole or interim bail. The direction addressed Article 21 concerns arising from overcrowding and required consideration of the circumstances of the offences. The High Court considered the second wave in Nitesh's individual pre-arrest application.

Bail conditions — appearance and expiry - Nitesh had to appear before the investigating officer by 8 September 2021, furnish a ₹1,00,000 personal bond, undertake compliance with COVID-19 instructions, and observe the other Section 438 conditions. The order was to remain in force until the conclusion of trial. It would automatically lose effect if he failed to appear by the deadline, jumped bail or violated a condition.

Victim notice — bail intimation - Following *Aparna Bhat v. State of M.P.*, Supreme Court Criminal Appeal No. 329/2021, decided 18 March 2021, the Court directed intimation of Nitesh's bail grant to the complainant.

Case-note :- ***1. Facts :*** Pradeep Singh and Nitesh Singh were apprehending arrest in Crime No. 215/2021 at Gohad Chouraha Police Station, Bhind. The initial IPC sections listed were 327, 323, 294 and 506 read with 34; State counsel said Section 329 had also been added. In seeking withdrawal of Pradeep's request, counsel proceeded on the basis that his blow had fractured the injured person's nasal bone. Nitesh contested the alleged ₹200 liquor demand and said he caused no grievous injury. He described a neighbour dispute, his age as about twenty, the potential harm of incarceration to his career and willingness to cooperate. He asserted that he would neither abscond nor tamper with the prosecution case. These were application-stage contentions, not trial findings.

The State and complainant opposed Nitesh's relief, citing a separate earlier incident on the same day in which he allegedly assaulted the complainant's elder brother. A complaint lodged by Saurabh Bhadoriya had led to Crime No. 213/2021 under IPC Sections 323, 294 and 506. The Court had a case diary and heard the complainant's counsel by video conferencing. Counsel withdrew Pradeep's application, which was dismissed as withdrawn. The Court then addressed Nitesh separately in light of the deteriorating prison situation during the second wave of COVID-19.

2. Precedents — Considered : *In Re: Contagion of COVID 19 Virus in Prisons*, Supreme Court suo motu WP(C) No. 1/2020, order dated 23 March 2020, was reproduced at length. Confronted with prison overcrowding and the threat of COVID-19 spread, the Supreme Court invoked Article 21 and directed each State or Union Territory to constitute a High Powered Committee comprising the chair of the State Legal Services Committee, the Principal Secretary for Home/Prisons and the Director General of Prisons. The committee was to identify categories of prisoners for parole or interim bail and the appropriate periods for release, considering offence nature and severity, sentence length and other relevant factors. The quoted example concerned offences with prescribed punishment of up to seven years; category choice was left to the committee. The High Court used the public-health context during the second wave in its own Section 438 assessment of Nitesh, who was seeking protection before arrest.

Aparna Bhat and Others v. State of M.P., Supreme Court Criminal Appeal No. 329/2021, judgment dated 18 March 2021, was expressly invoked only to direct intimation of the bail grant to the complainant. The complainant's counsel had already appeared and opposed relief, yet the communication direction was added.

3. Statutes considered : Section 438 CrPC governed the first anticipatory-bail application and the usual conditions that the Court continued to apply. IPC Sections 327, 323, 294 and 506/34 were the Crime No. 215/2021 offences initially recited; the State reported addition of Section 329. The separate Crime No. 213/2021 against Nitesh was said to allege IPC Sections 323, 294 and 506; it was not tried or disposed of here. Article 21 was part of the Supreme Court prison decongestion order quoted as pandemic context.

4. Issues : (i) What disposition applied to Pradeep's anticipatory-bail request after counsel withdrew it in light of the attributed nasal fracture? (ii) Could Nitesh receive pre-arrest protection despite the contested liquor-demand allegation, the State's

report that an offence under Section 329 had been added, and the separate same-day crime alleged against him, with second-wave prison conditions considered? (iii) What appearance, bond, public-health and continuing conduct terms would govern any protection, and when would it lapse? (iv) What complainant notice followed the grant under the authority cited by the Court?

5. Ratio / Findings : Pradeep's lawyer sought withdrawal because the blow attributed to him had fractured the injured person's nasal bone. The Court dismissed only his application as withdrawn. For Nitesh the Court recorded his denial of the liquor-demand and grievous-injury characterisation, his age and cooperation assurances, and the State and complainant's objection based on an alleged assault earlier that day and a distinct FIR. It considered both those allegations and the deteriorating COVID-19 second-wave situation. The quoted Supreme Court prison order furnished an Article 21 decongestion consideration but concerned committee assessment of prisoners for parole or interim bail; the High Court made a discretionary, applicant-specific Section 438 order without declaring guilt or innocence.

The protection was conditional. Nitesh had to appear before the investigating officer by 8 September 2021 and furnish a ₹1,00,000 personal bond to that officer's satisfaction, together with an undertaking to follow governmental and local COVID-19 instructions. Other Section 438 conditions remained. Though stated to continue through the conclusion of trial, it would automatically lose effect if Nitesh jumped bail, breached a condition or failed to appear by the specified date. The Court cited *Aparna Bhat* for a further direction to send intimation of the grant to the complainant.

6. Relief : The Hon'ble High Court dismissed applicant 1 Pradeep Singh's application for anticipatory bail as withdrawn and allowed applicant 2 Nitesh Singh's application for anticipatory bail.

Pradeep Singh and Others v. State of M.P., M.Cr.C. no. 41715/2021, 01/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Maintenance / separate residence / cruelty and restitution proceedings - The wife's pleaded dowry demand and cruelty, the husband's failure to explain why he did not prosecute his transferred Section 9 Hindu Marriage Act petition, his failure to produce his pay slip and his reference to a divorce petition when asked whether he would take her back supported a sufficient reason to live apart; the desertion defence failed on this record.

Section 125(3) CrPC / conditional offer to maintain - The husband's statement in a reply that he would keep the wife did not establish an effective offer that would defeat maintenance in circumstances where he filed no specific application, abandoned restitution proceedings and stated in cross-examination that he sought divorce.

Maintenance / financial disclosure / *Rajnesh v. Neha, (2021) 2 SCC 324* - The Supreme Court's guidelines on affidavits of disclosure were applied to the husband's refusal to produce his pay slip despite a direction to do so. Using his ₹82,872 monthly admission and tax information showing ₹12,35,123 annual gross income, the Court estimated compulsory deductions at 10% because exact figures were unavailable and arrived at about ₹92,634 monthly take-home income.

Maintenance / voluntary EMI / quantum - A ₹13,600 instalment repaying the husband's ₹6,20,000 bank loan was not a statutory salary deduction and did not reduce the income used for this award. Considering his position as an Assistant Engineer and the standard of living the wife would have enjoyed in her matrimonial home, the final Section 125 allowance was increased from ₹8,000 to ₹30,000 monthly, with credit for interim maintenance paid.

Maintenance / effective date / *Rajnesh v. Neha, (2021) 2 SCC 324* - The Family Court gave no reason to start the award on its order date. The trial record showed delay principally attributable to the husband and disclosed no exceptional circumstance justifying postponement of the wife's entitlement. The enhanced award commenced on her application date, 19.08.2019, with arrears due in three months.

Case-note :- ***1. Facts :*** Pragati Rashinkar (Dixit) filed a Section 125 CrPC application on 19.08.2019 before the Family Court at Gwalior, alleging dowry demand and cruelty and seeking maintenance from Rohan Dixit. The Additional Principal Judge's order of 24.08.2024 in MJCR No. 20155/2019 granted her ₹8,000 monthly only from the order date. She brought Criminal Revision No. 4888/2024 for higher maintenance and commencement from the application. Rohan brought Criminal Revision No. 6325/2024 to set the award aside, claiming she was educated, had worked part-time as a lecturer, and had

left without sufficient reason. He had earlier pursued restitution under Section 9 Hindu Marriage Act at Korba; after transfer by the Supreme Court to Gwalior, he did not appear and that petition was dismissed for nonprosecution on 21.12.2021. He invoked an asserted willingness to keep her, but in cross-examination answered the question whether he would take her back by pointing to his divorce petition. The Family Court had directed production of his pay slip; he did not produce it. His disclosure affidavit gave monthly income as ₹82,872 and claimed a ₹13,600 EMI on a ₹6,20,000 SBI loan. Income-tax information produced by the wife showed 2022–23 gross income of ₹12,35,123. She also said he retained her educational certificates, preventing work; he disputed possession after previously promising their return during reconciliation. The maintenance record showed that ex parte proceedings were repeatedly set aside, interim payments were irregular, cross-examination was deferred and settlement discussions were unsuccessful. These two cross-revisions were decided together.

2. Precedents — Considered : *Rajnesh v. Neha, (2021) 2 SCC 324* was invoked by the wife and expressly quoted and applied by the Court. Its paragraph 72 requires applicable affidavits of assets and liabilities from parties in maintenance proceedings, a timely reply and disclosure by the respondent, limits on adjournments, and permits a court faced with wilful delay or missing information to proceed on the available record or use appropriate procedural means to obtain income material. The quoted directions also address interrogatories, document production, Evidence Act Sections 106 and 165, amended affidavits upon changed circumstances, irresponsible pleadings, exceptions for EWS and BPL parties and casual labourers, as well as prompt interim decisions. The High Court specifically used the disclosure duty and the missing pay slip to justify estimation on the basis of the husband's affidavit and the income-tax information. The Court also applied *Rajnesh*'s principle that maintenance is ordinarily awarded from the application date rather than the order date; absence of any Family Court reason and the husband's delay defeated a later start. *Kaushalya v. Mukesh Jain, (2020) 17 SCC 822* appears within the *Rajnesh* quotation in connection with wilful disclosure delay.

3. Statutes considered : Section 125 CrPC governed the wife's claim and the assessment of separate residence, amount and commencement. The husband invoked the further proviso to Section 125(3) on an offer to maintain on a cohabitation condition; the Court rejected the asserted offer on the record and the wife's separate residence was supported by cruelty allegations and his conduct. The abandoned restitution proceeding was under Section 9 of the Hindu Marriage Act, 1955; it had not resulted in a subsisting decree. The *Rajnesh* quotation refers to constitutional Articles 136 and 142 as the Supreme Court's basis for uniform guidelines; Order 11 and Order 10 CPC, Evidence Act Sections 106 and 165, and Section 340 CrPC as possible procedural tools. The application for production of certificates is described as one under Section 91 CrPC; an earlier source passage prints CPC, while paragraph 25 uses CrPC; the Court's operative direction rests on the reconciliation admission.

4. Issues : (i) Whether the wife had sufficient reason to live separately in light of her cruelty allegations, the husband's abandoned restitution petition, his reply and cross-examination positions, and his desertion plea. (ii) Whether his asserted willingness to take her back constituted an effective cohabitation-conditioned maintenance offer. (iii) What income could fairly be found when a directed pay slip was withheld, the *Rajnesh* affidavit disclosed income, tax information showed a higher gross figure, and a voluntary EMI was claimed. (iv) Whether ₹8,000 monthly should be enhanced and whether final maintenance should begin on the application date given the procedural history. (v) What ancillary certificate-return direction and payment adjustments were required.

5. Ratio / Findings : The husband's Section 9 petition had been actively pursued at Korba but, once transferred to Gwalior, was dismissed because he did not prosecute it. The Court rejected his later explanation based on the Section 498-A case because he had not formally withdrawn restitution on that ground. It considered the wife's dowry and cruelty account, his refusal to produce the salary document despite direction, and his statement about a divorce petition when directly asked whether he would take her back. Together these circumstances defeated his contention that she lacked reason to live apart; a bare reply asserting willingness to keep her did not overcome the actual conduct. Under the quoted *Rajnesh* disclosure framework, parties must give financial information; his failure to produce the pay slip meant that the Court could not calculate the

precise compulsory deductions. His affidavit admitted ₹82,872 monthly, while 2022–23 tax material gave ₹12,35,123 gross. The Court explicitly estimated statutory deductions at 10% (₹1,23,512), producing ₹11,11,611 net annual and about ₹92,634 monthly. The ₹13,600 EMI was repayment of an amount he had voluntarily borrowed and already received. The Court did not treat it as a compulsory salary deduction. Considering the standard of living the wife would have enjoyed in her matrimonial home and the husband's income as an Assistant Engineer, the Court raised maintenance to ₹30,000. *Rajnesh* required application-date commencement unless a reason justified otherwise. The Family Court gave none; the chronology showed repeated husband-side delay, ex parte proceedings set aside on payment of costs, irregular interim payments, deferred evidence and unsuccessful settlement discussions, so the Court found no exceptional circumstance to defer commencement. On educational certificates, his recorded reconciliation statement to return them supported a specific remedial direction.

6. Relief : The Hon'ble High Court allowed Pragati's criminal revision and dismissed Rohan's criminal revision. The Family Court's 24.08.2024 order was modified: Pragati receives ₹30,000 per month from the filing date, 19.08.2019, rather than ₹8,000 from the order date. Interim maintenance actually paid is adjustable. Arrears are payable within three months of the High Court order. Rohan must return her original educational certificates within one month, or must himself obtain and hand over duplicates within two months.

Pragati Rashinkar (Dixit) v. Rohan Dixit, Cr.R. no. 4888/2024 & 6325/2024, 24/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (641) Prev Next

Headnote :- Negotiable Instruments Act / Section 141 / nonsignatory directors - *Sunita Palita v. Panchami Stone Quarry, (2022) 10 SCC 152*, and *National Small Industries Corporation Ltd. v. Harmeet Singh Paintal, (2010) 3 SCC 330*, required averments in the complaint that directors other than a Managing or Joint Managing Director were in charge of and responsible for the conduct of the company's business at the relevant time. *Standard Chartered Bank v. State of Maharashtra, (2016) 6 SCC 62*, and *Gunmala Sales (P) Ltd. v. Anu Mehta, (2015) 1 SCC 103*, allowed process on a sufficient basic averment when the complaint was read as a whole. The complaint here specifically alleged the applicants' daily operation of the business and sharing of profit and loss; their actual role remained for trial.

Section 482 CrPC / director's defence / sterling material - *Gunmala Sales* permitted exceptional quashing despite a basic Section 141 averment on incontrovertible material or wholly acceptable circumstances showing that requiring the director to stand trial would be an abuse of process; a mere demand for further particulars of the director's role or a disputed defence did not suffice. The internal notarized MoU and bank requests did not establish a basis for quashing; no actual change of the bank mandate was shown. The cheques were not dishonoured because of stop-payment instructions. *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was applied by analogy to the limits on an accused's participation before cognizance. Cognizance stood.

Case-note :- ***1. Facts :*** Mohit Builders and Associates Private Limited was formed with Mohit Rai, Anurag Baderia and Prateek Agrawal as directors. The two applicants invoked a notarized memorandum of understanding under which, they said, Rai alone managed daily operations while they were promised a share of the units to be available on completion of the project. They said that, as differences with Rai developed, the three directors jointly wrote to IDBI Bank on 06.12.2019 requesting an account mandate requiring any two signatures, and they later asked the bank to stop a cheque series. Rai nevertheless issued seven company cheques dated 02.07.2020 for materials allegedly supplied by Pagaria Marbles and Ceramic Firm. They were dishonoured; the complainant served a Section 138 NI Act notice on the company, the applicants and Rai. The applicants' 14.08.2020 reply disputed their responsibility and suggested Rai may have purchased personally. They also lodged a 2021 police FIR against Rai. Other IPC complaint proceedings by the respondent remained separate. The respondent's complaint under Sections 138 and 142 NI Act against the company, Rai and the two applicants led the JMFC, Jabalpur to take cognizance on 18.02.2021. In M.Cr.C. No. 2230/2024 the two directors sought Section 482 CrPC quashing of that complaint and cognizance order. The complaint's paragraphs 4 and 5, reproduced in the order, alleged

that the applicants, with Rai, operated the firm through daily contact, jointly shared profit and loss, and gave a false denial in their notice reply. These were complaint allegations.

2. Precedents — Considered : *Sunita Palita v. Panchami Stone Quarry, (2022) 10 SCC 152*, was used for the requirement that the complaint sufficiently plead that a nonsignatory director was in charge of and responsible for the conduct of the company's business, with the Managing/Joint Managing Director distinction. *National Small Industries Corporation Ltd. v. Harmeet Singh Paintal, (2010) 3 SCC 330*, required the complaint to spell out how and in what manner the director had that role. *Standard Chartered Bank v. State of Maharashtra, (2016) 6 SCC 62*, was quoted at length on reading the complaint as a whole, sufficient basic averment, later proof of role, and the exceptional possibility of quashing upon incontrovertible defence material. Its extract discussed *Gunmala Sales (P) Ltd. v. Anu Mehta, (2015) 1 SCC 103*, and also referred to *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla, (2005) 8 SCC 89*, and *T.N. News Print & Papers Ltd. v. D. Karunakar, (2016) 6 SCC 78*. The High Court separately reproduced *Gunmala* paragraph 31 and the differentiated conclusions in paragraph 34: a basic averment concerning the relevant time supports process; exceptionally, clear, unimpeachable material may show a director could not have been responsible and that trial would be abusive; Section 482 must be exercised cautiously without a roving inquiry or mini-trial. The Court applied that distinction to reject these applicants' contested private documents, expressly preserving trial determination. *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was cited on considering prosecution material at the charge stage and was applied by analogy to the absence of a right for the accused to participate before cognizance in a complaint case. *Aparna A. Shah, Alka Khandu Avhad* and *K.K. Ahuja* appeared as applicants' cited cases. *Gunmala*'s embedded discussion of *Anita Malhotra* concerned proof of an earlier resignation in that precedent.

3. Statutes considered : Section 138 of the Negotiable Instruments Act, 1881 governed the dishonoured-cheque complaint, statutory notice and cognizance under challenge; Section 142 was cited as the complaint provision. Section 141 governed vicarious responsibility of those in charge of and responsible to a company for the conduct of its business at the relevant time; the applicants' status as directors alone did not establish vicarious liability. Section 482 CrPC governed the High Court's limited exercise of inherent jurisdiction to quash complaint proceedings for abuse of process, based on the complaint and, exceptionally, incontrovertible material. Section 156(3) and Section 200 CrPC concerned the respondent's separate IPC complaint procedure. The applicants' police FIR invoked IPC Sections 420, 467, 468, 471 and 406 as background, not as charges finally adjudicated here.

4. Issues : (i) Whether the respondent's Section 138/141 complaint made sufficiently specific relevant-time allegations that the applicant directors controlled the company's business, rather than merely naming them as directors. (ii) Whether their MoU, bank mandate and stop-payment requests, and dispute or FIR against Rai were incontrovertible exculpatory circumstances permitting Section 482 quashing of the complaint and 18.02.2021 cognizance order. (iii) Whether the actual nature of their role could be conclusively decided at this pretrial stage.

5. Ratio / Findings : The Court first distinguished the pleading requirements for nonsignatory directors from those for Managing or Joint Managing Directors and reviewed *Sunita Palita* and *National Small Industries Corporation* on the pleading foundation. *Standard Chartered Bank*'s treatment of *Gunmala* and the direct *Gunmala* extract explained that a sufficient relevant-time averment ordinarily permits process while exceptionally unimpeachable circumstances may establish abuse without a mini-trial. The complaint did more than name the applicants: the reproduced paragraphs alleged daily contact, joint operation and sharing of the firm's profit and loss, and disputed the applicants' notice reply. The High Court treated those as a specific alleged role at the threshold, not as proved facts. It then tested the defence against the narrow quashing standard. The complainant was not a party to the internal MoU, which was merely notarized and had not been lodged with the Registrar of Companies. The document required proof, and the Court could not take judicial notice of it. The 06.12.2019 bank request did not establish that the bank actually changed the account's mode of operation. The Court also found that the cheques were not dishonoured because of stop-payment instructions, weakening reliance on those instructions. Its discussion of the applicants' investment and equal profit share

formed part of this provisional assessment. Following *Debendra Nath Padhi* by analogy, it declined to resolve the disputed defence at the cognizance threshold. With material facts remaining for evidence, the applicants had not demonstrated a basis to quash. The trial court was expressly told to decide their actual role independently, without influence from these observations.

6. Relief : The Hon'ble High Court dismissed the application. The respondent's Section 138 NI Act complaint and the JMFC's cognizance order of 18.02.2021 were not quashed. The trial court must decide whether the applicants were sleeping directors or responsible for daily business on the evidence at trial, uninfluenced by the High Court's threshold observations.

Prateek Agrawal and Others v. Pagaria Marbles and Ceramic Firm, M.Cr.C. no. 2230/2024, 13/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (642) Prev Next

Headnote :- Bigamy / cognizance threshold - The Court applied *K. Neelaveni v State represented by Inspector of Police, (2010) 11 SCC 607*, for the limited proposition that an allegation of a second marriage while the first marriage subsists can support cognizance under IPC section 494/BNS section 82 without proof of the actual Saptapadi rites at that stage. The husband denied marrying the woman with whom he lived, while the wife asserted that they had married.

Non-cognizable report / complaint - The Court referred to the Explanation to CrPC section 2(d), under which a police report on a non-cognizable offence is deemed to be a complaint and the reporting officer is treated as the complainant. It distinguished registration of an FIR from the court's taking cognizance. The order made no determination under CrPC section 155(2) and left the police free to proceed with or close the investigation.

Minor child / able-bodied father / ancillary support - The Court invoked *Rajnesh v Neha, (2021) 2 SCC 324*, to hold that an able-bodied parent cannot avoid maintaining his child by choosing to earn a meagre amount. The husband admitted paternity, stated that his monthly income was ₹13,000 and offered to pay at least ₹6,000 per month. The Court directed him to deposit ₹6,000 in the child's bank account by the second day of each month. It reserved liberty to seek enhancement and stated that default would be treated as contempt. The spouse's separate statutory remedies were also reserved. This was an ancillary order in the habeas proceeding, without an adjudication under section 125.

Habeas corpus / adult choice - The missing husband appeared voluntarily and said that he wished to live with another woman rather than the petitioner. The Court dismissed the Article 226 petition and left him free to choose his place of residence, subject to law. He was required to furnish a ₹1 lakh personal bond with one surety in the like amount and to comply with the continuing cooperation and contact obligations.

Case-note :- ***1. Facts :*** Radha Prajapati filed Writ Petition 31612/2026 under Article 226 seeking a writ of habeas corpus, alleging that her husband was missing. At an earlier in-camera proceeding on 14 August 2026, the investigating officer displayed a video apparently showing the husband with his father and grandfather. In the video, the grandfather was berating an informer who had disclosed the husband's address. The adult husband appeared at the hearing on 18 August and identified himself and his relatives in the video. He said that he had left with the daughter of his wife's aunt, whom he described as his wife's cousin. They stayed in Bhopal and Rajkot, then travelled to Panvel and Goa before returning. He acknowledged switching off their phones to prevent the police from tracing their location and later living in a rented room in Jaipur. He said that he earned ₹13,000 per month delivering food, while the woman did stitching work. He had used another person's Aadhaar to obtain a new SIM and returned to court after his aunt told him that family members were in difficulty. The police described his return as voluntary. He admitted having a physical relationship with the woman but denied marrying her; the petitioner asserted that they had married. A missing-person report concerning the woman had also been investigated, and she had been placed in a One Stop Centre before her statement was recorded before the SDM. The husband did not wish to resume cohabitation with the petitioner but acknowledged their minor child. While deciding the habeas corpus petition, the Court considered the legal threshold for cognizance of bigamy, the treatment of a police report concerning a non-cognizable offence, and child maintenance.

2. Precedents — Considered : *K. Neelaveni v State represented by Inspector of Police and others*,

2010:INSC:160 : (2010) 11 SCC 607, was used to distinguish allegations sufficient for taking cognizance from proof of the actual performance of marriage rituals such as Saptapadi. The Court stated that an allegation that a husband had married a second woman while his first marriage subsisted could permit cognizance under IPC section 494/BNS section 82 without proof of the ritual at that preliminary stage. *Rajnesh v Neha, 2020:INSC:631 : (2021) 2 SCC 324*, was applied to the responsibility of an able-bodied parent to maintain a minor child. The Bench considered the father's admission of paternity and his stated modest employment income. It held that his choice to earn a meagre amount did not relieve him of that responsibility. The amount fixed in this case was consistent with his offer.

3. Statutes considered : Article 226 provided the habeas corpus jurisdiction to locate and hear the missing adult. After he appeared and chose his place of residence, the petition was dismissed subject to cooperation conditions. IPC section 494 and BNS section 82 were cited as the bigamy provisions in the discussion of cognizance. The Explanation to CrPC section 2(d) was invoked to treat a police report concerning a non-cognizable offence as a complaint and the reporting officer as the complainant. The judgment also refers to “Section 2(h) of BNS” as an equivalent. Maintenance for the child was ordered in the Article 226 proceeding with reference to *Rajnesh*; no claim under Section 125 CrPC or the corresponding BNSS provision was adjudicated. The petitioner's other matrimonial and maintenance remedies were expressly left open.

4. Issues : Whether the husband remained missing or was unlawfully detained so as to require further habeas corpus relief after his voluntary appearance before the Court, and whether he could be compelled to live with the petitioner. Whether, despite the husband's denial, the wife's allegation of a second marriage required proof of the performance of Saptapadi at the stage of taking cognizance of bigamy. Relatedly, how a police report concerning a non-cognizable offence could be treated procedurally without determining in advance whether investigation should proceed or cognizance be taken. Whether a father who admitted having a minor child, but chose a low-paid job and to live elsewhere, remained obliged to provide meaningful support for the child in this proceeding, and what directions could be made while leaving separate matrimonial claims open.

5. Ratio / Findings : The adult husband appeared before the Court and admitted that he had deliberately made it difficult for the police to trace him, including by switching off phones and obtaining a new SIM using another person's Aadhaar. The video and his own account showed that he was no longer missing in circumstances suggesting unexplained detention. His wish not to live with the petitioner was respected, subject to law. The Bench noted the conflicting accounts of the alleged second marriage. Applying *K. Neelaveni*, it distinguished taking cognizance on prima facie allegations, without immediate proof of the marriage rituals, from finally proving the marriage. The Court added that a police report concerning a non-cognizable offence could be treated as a complaint under the cited CrPC definition.

The husband acknowledged paternity and stated that he earned ₹13,000 per month delivering food. The Bench considered his voluntary choices, his capacity as an able-bodied person and the principle in *Rajnesh*. It held that his present modest salary was not decisive of his obligation to maintain the child. The Bench also referred to his well-placed relatives. As he had offered to deposit at least ₹6,000 per month, the Court directed him to pay that amount into an account opened for the child by the second day of each month, with liberty to seek enhancement. The wife remained free to pursue other statutory matrimonial or maintenance remedies.

6. Relief : The Hon’ble High Court dismissed the writ petition after the husband appeared. Before leaving for a place of his choice, he was required to execute a ₹1 lakh personal bond with one surety in the like amount before the investigating officer and undertake to appear whenever summoned. He was also required to provide his mobile number, keep it operational, answer police calls and receive the child's bank account details. The petitioner was directed to open an account for the child and communicate its details; the husband was to deposit ₹6,000 in it by the second day of every month. The Court stated that default would be treated as contempt and reserved the child's liberty to seek enhancement. It left the police free to continue or close the investigation as permitted by law and left the petitioner's matrimonial and maintenance remedies open. The case diary was returned. The Court did not direct the husband to reside with his

wife, finally determine the allegation of bigamy or record a conviction.

Radha Prajapati v. The State of Madhya Pradesh and Ors., W.P. no. 31612/2026, 18/08/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (643) Prev Next

Headnote :- Criminal procedure — Section 319 CrPC — summoning additional accused — extraordinary power and evidentiary threshold - The power under Section 319 is discretionary and must be exercised sparingly, on strong and cogent evidence emerging before the court. *Hardeep Singh* requires evidence substantially stronger than a mere probability of complicity or the prima facie case sufficient to frame a charge, without requiring a final opinion on guilt. The material must be assessed separately for each proposed accused. The Court upheld the order summoning Pawan Pandey and set it aside as to Radhe and Vivek Pandey.

Additional accused — false alibi material in anticipatory-bail application — deponent's sworn support affidavit - Pawan Pandey specifically stated on oath that the existing accused's application under Section 438 was her first bail application. That application was supported by an allegedly false certificate showing that she was in hospital at the time of the incident. The Court inferred knowledge from his specific statement on oath and rejected his reliance on the narrow wording of the affidavit. It applied the Supreme Court's explanation that an affidavit is a solemn declaration and not an empty formality.

Additional accused — alleged conspiracy to fabricate medical certificate — mere presence at police station - CCTV footage or other evidence placing Radhe and Vivek at the police station with the existing accused did not satisfy the requirement of strong evidence under Section 319 when there was no evidence linking them to preparation of the certificate. Conspiracy could not be presumed merely from that association. The order summoning them was therefore set aside.

Section 319 CrPC — evidence and stage — examination-in-chief before cross-examination - *Hardeep Singh* permits a witness's examination-in-chief to be considered under Section 319 without waiting for cross-examination. Acting on the complainant's recorded examination-in-chief was not premature merely because cross-examination had not taken place. The separate test of evidentiary strength continued to govern the decision whether to summon each applicant.

Case-note :- ***1. Facts :*** This criminal revision under Sections 397/401 read with Section 482 CrPC challenged the order dated 31 January 2022 passed by the Second Additional Sessions Judge, Dabra, in Sessions Trial No. 104/2021. That order allowed the complainant's application under Section 319 and summoned three persons as additional accused. Crime No. 455/2017 had initially named Dharmendra Pandey, Ragini Pandey and two others under Sections 324, 323, 294, 341, 506 and 34 IPC; Sections 323 and 307 were later added after receipt of the medical report. The prosecution alleged that a certificate from Civil Hospital, Dabra, falsely showed Ragini as admitted to the hospital at the time of the incident, enabling her to plead an alibi in her anticipatory-bail application. The judgment recounted an inquiry linking the certificate to the existing accused and Dr Virendra Gaur. Police-station CCTV footage placed Ragini elsewhere, an unrelated patient's OPD visit was allegedly used, and a handwriting report identified the writing as the doctor's. The judgment also recorded that Ragini's special leave petition was dismissed with time to surrender, but that she then failed to surrender for a prolonged period. These allegations and inquiry conclusions formed the background to the revision. The question was whether the three additional persons could be summoned, rather than final proof of the certificate's falsity or their guilt.

After a charge sheet was filed against Ragini, Dharmendra, the doctor and others, the complainant, Mukesh Parashar, gave evidence in examination-in-chief and applied under Section 319 to have the present applicants summoned. Applicant 2, Pawan Pandey, had filed an affidavit supporting Ragini's application under Section 438 before the trial court and the High Court, declaring that it was her first bail application. He stated that he was her relative and had engaged counsel. He argued that he had not sworn to the accuracy of the factual assertions in the application or the annexed hospital record. Applicants 1 and 3, Radhe alias Radheshyam Pandey and Vivek Pandey, were said to have been at the police station with the existing accused on 4 June 2017. The complainant and the State contended that their presence suggested involvement in preparing the certificate. All three applicants argued that the

complainant's examination-in-chief could not support action under Section 319 before cross-examination. The State and the complainant opposed their objections.

2. Precedents — Considered : *Hardeep Singh v. State of Punjab and others, AIR 2014 SC 1400*, was relied on by the applicants and applied by the High Court. Paragraphs 98–99 describe Section 319 as an extraordinary power to be exercised sparingly. It requires strong and cogent evidence exceeding both a mere probability of complicity and the prima facie case sufficient to frame a charge, without a final opinion on guilt. The High Court adopted that threshold and assessed the material against Pawan separately from the material against Radhe and Vivek. It also quoted paragraph 110 of *Hardeep Singh* on the stage at which the power may be exercised and the meaning of "evidence". Examination-in-chief recorded before the court can be sufficient without waiting for cross-examination; material from an inquiry may corroborate evidence recorded in court in the circumstances explained in that passage. The High Court applied the rule to reject the timing objection while retaining the stringent test of sufficiency for each applicant. The quoted discussion in *Hardeep Singh* referred to *Dharam Pal* on the distinct power under Section 193 after committal.

New Okhla Industrial Development Authority v. Ravindra Kumar Singhvi (dead) through legal representatives, Civil Appeal No. 382/2012, decided 15 February 2022, was quoted and applied to explain the solemn nature of an affidavit. The quoted paragraphs 17–18 state that a sworn statement made before a person authorised to administer an oath is more than a sheet of paper. That passage reproduced *M. Veerabhadra Rao v. Tek Chand*, 1984 (Supp) SCC 571, on an affidavit, its oath or affirmation, and the statutory definitions in the Oaths Act and the General Clauses Act. The High Court relied on those passages to reject Pawan's contention that the narrow wording of his affidavit made it inconsequential. The judgment also records the dismissal of Ragini's special leave petition as part of the procedural history.

3. Statutes considered : Section 319 CrPC was the decisive provision. The Court considered its extraordinary power to summon a person who was not already an accused, the strength of evidence required, and whether examination-in-chief could suffice before cross-examination. The High Court quoted the Supreme Court's discussion of inquiry and trial under Section 319 and the fresh proceeding contemplated by Section 319(4). Section 193 and the inquiry provisions appeared in the quoted passage from *Hardeep Singh*; they were not independently decided in this revision. Sections 397 and 401 CrPC provided the revisional jurisdiction, read with Section 482 as stated in the application. Sections 438 and 439(2) CrPC arose in the earlier anticipatory-bail application and the application for cancellation. The original FIR's IPC Sections 324, 323, 294, 341, 506 and 34, and the later addition of Section 307, formed the prosecution background. The revision did not separately determine the ingredients of those offences. The Supreme Court passage explaining the solemn nature of an affidavit referred to Section 3(2) of the Oaths Act, 1969 and Section 3(3) of the General Clauses Act, 1897.

4. Issues : (1) Did the material before the trial court meet the stringent requirement under Section 319 for summoning each of Pawan Pandey, Radhe alias Radheshyam Pandey and Vivek Pandey? In particular, could Pawan's sworn statement that Ragini's anticipatory-bail application was her first support an inference that he knowingly participated in filing an application supported by a false hospital certificate? Could the other applicants' presence at the police station support an inference of conspiracy? (2) Could the trial judge act under Section 319 on the complainant's examination-in-chief before cross-examination? The revision did not finally determine the proposed accused's criminal responsibility at trial or the underlying dispute concerning bail and the certificate.

5. Ratio / Findings : Applying *Hardeep Singh*, the Court held that Section 319 is not a means of adding anyone who might be guilty. Strong and cogent evidence recorded before the court must establish more than the prima facie case sufficient to frame a charge, but the judge must not form a final opinion on guilt. In Pawan's case, the Court considered his specific statement on oath that this was the first bail application, his role as a relative who had engaged counsel, and the disputed application with its annexed alibi certificate. It reasoned that he could have made that specific declaration only after examining the application. The absence of a general verification of every factual assertion did not make his supporting affidavit inconsequential. Relying on *New Okhla*'s discussion of affidavits as solemn declarations, the Court treated the affidavit as

material supporting an inference of knowing involvement for the limited purpose of summoning him. The Court's conclusion about Pawan's knowledge formed part of its Section 319 assessment; it was neither a final conviction nor a general rule that such knowledge was conclusively established in every case.

For Radhe and Vivek, the material and allegations showed their presence at the police station with Ragini and Dharmendra, but no further link to preparation of the false medical certificate was pointed out. The Court declined to presume a conspiracy merely from their presence and found that the Section 319 requirement was not met as to either of them. It assessed the material against each proposed accused separately. These summoning decisions did not finally determine the existing accused's guilt or acquit Radhe and Vivek.

Finally, the Court rejected the argument that the complainant's examination-in-chief was not "evidence" until cross-examination. *Hardeep Singh* expressly permits exercise of the Section 319 power at that stage. The quoted passage explains the distinction between inquiry and trial and the statutory procedure protecting the newly summoned person. The absence of cross-examination did not by itself invalidate the trial court's order. The order nevertheless failed as to the two applicants against whom the requisite individual evidence was lacking.

6. Relief : The Hon'ble High Court allowed the criminal revision in part. It affirmed the trial court's order dated 31 January 2022 under Section 319 as to applicant 2, Pawan Pandey, and set it aside as to applicant 1, Radhe alias Radheshyam Pandey, and applicant 3, Vivek Pandey. Pawan alone therefore remained summoned under the challenged order.

Radhe and Others v. The State of Madhya Pradesh, Cr.R. no. 467/2022, 22/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence — circumstantial murder case — complete chain and standard of proof - The prosecution must firmly establish circumstances consistent only with guilt and excluding every reasonable hypothesis of innocence. The possibility that the accused "may be guilty", or even grave suspicion, is insufficient. The Bench applied the Supreme Court authorities from *Sharad Birdhichand Sarda* to *Padala Veera Reddy, Ramreddy Rajesh Khanna Reddy, Balwinder Singh, Sunil Clifford Daniel* and *Satish Nirankari*. It emphasised the quality and reliability of the complete chain of circumstances rather than the number of witnesses. On this record, it found the chain sufficient. An unsuccessful defence cannot fill a gap in the prosecution case.

Evidence — extra-judicial confession — caution, corroboration and application - An extra-judicial confession is ordinarily a weak piece of evidence and must inspire confidence. Supporting evidence is important, but corroboration is not required in every case. Raju (PW-1) testified that the appellant had personally admitted killing his wife. The Court regarded his account as supported by the body and the medical evidence concerning the cause of death, and rejected the challenge based on *Chandrapal* and *Sahadevan*. Raju's direct account, the hearsay accounts of others and the medical proof of homicidal injury served distinct evidentiary purposes.

Evidence — alibi — conditional burden and prosecution's continuing onus - Once the prosecution proves presence and participation by reliable evidence, an accused pleading alibi must establish the claimed absence convincingly enough to exclude his presence. The Bench rejected the appellant's defence account after accepting the prosecution evidence. Having stated that the prosecution had proved its case, the Bench further observed that the appellant had failed to discharge the burden of proving how, by whom and why his wife was murdered.

Evidence — hostile witnesses — surviving probative material and absence of eyewitness - The fact that several witnesses turn hostile does not automatically deprive the remaining reliable testimony of probative value. Despite the absence of an eyewitness, the Court assessed Raju's direct account, the report, the scene evidence and the doctor's evidence, and affirmed the conviction under Section 302 IPC. Every essential link still had to be proved beyond reasonable doubt.

Case-note :- ***1. Facts :*** The appeal under Section 374 CrPC challenged the judgment dated 10 January 2012 passed by the Second Additional Sessions Judge (FTC), Ganjbasoda, in Sessions Trial No. 119/2009. The appellant, Radhe, had been convicted under Section 302 IPC of murdering his wife, Shardabai, and sentenced to life imprisonment with a fine of Rs 1,000 and a default stipulation.

According to the prosecution, village chowkidar Mohan (PW-3) received information through Devraj that Radhe had killed his wife. On reaching Radhe's house in Rampura, the police found Shardabai's bloodstained body in the kitchen. The prosecution also attributed to Radhe a statement that he had killed her with an axe during a dispute concerning his sister's share in the land. A dehati nalishi and an FIR were recorded. The police prepared the scene and body documents, seized bloodstained and control soil and a hair braid, arrested Radhe, recovered an allegedly bloodstained axe pursuant to a memorandum, and sent the seized items to the RFSL. The prosecution examined twelve witnesses, and Radhe examined his sister, Sakhi Bai, as DW-1. No witness claimed to have seen the killing itself. Several prosecution witnesses did not support the prosecution case in full. Raju (PW-1), however, stated that Radhe had told him he had killed his wife and was standing outside when the villagers assembled. Pritam (PW-2) recounted what he had heard from another person. Mohan described the information passed to the police and the body he had seen, while the investigating officer described the report, visit to the scene, seizures and investigation. Dr Prashant Kumar Jain (PW-11) described several incised wounds on the neck and a contusion near the eye. He attributed death to asphyxia following a cut to the trachea; the autopsy was conducted on 24 November 2008. The appellant argued that the case rested on circumstantial evidence, the chain of circumstances and motive were not established, and the witnesses were hearsay or hostile witnesses. He also relied on his father-in-law's evidence and Sakhi Bai's account to support an alternative explanation or alibi, and challenged the trial court's assessment of the bloodstained clothing. The State supported the conviction. The High Court evaluated the trial evidence and these contentions in appeal.

2. Precedents — Considered : *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, supplied the five conditions quoted and applied by the Bench. The proved circumstances must be conclusive, point only to guilt, exclude reasonable explanations consistent with innocence and form a complete chain. The distinction between “may” and “must” be guilty is material. *Padala Veera Reddy v. State of A.P., 1989 Supp (2) SCC 706*, restated the need for cogently proved circumstances pointing unerringly to guilt and cumulatively permitting no reasonable conclusion other than guilt. *Ramreddy Rajesh Khanna Reddy v. State of A.P., (2006) 10 SCC 172*, emphasised that grave suspicion cannot replace reliable and clinching proof. *Balwinder Singh v. State of Punjab, 1995 Supp (4) SCC 259*, required every link to be proved beyond reasonable doubt and cautioned against allowing suspicion or emotional considerations to replace proof. The Bench applied these authorities together.

Sunil Clifford Daniel v. State of Punjab, (2012) 11 SCC 205, quoted *Sharad* at length, maintained the prosecution's continuing burden and cautioned that an untenable defence cannot cure a serious gap in the prosecution case. *Satish Nirankari v. State of Rajasthan, (2017) 8 SCC 497*, restated the requirements of full proof and conclusive circumstances which exclude, to a moral certainty, the guilt of anyone other than the accused. The Bench held that the quality and reliability of the proved circumstances, rather than their quantity, governed the assessment, and found the prosecution evidence adequate in this case.

The appellant relied *on Chandrapal (Earlier MP) v. State of Chhattisgarh*, and *Sahadevan v. State of Tamil Nadu, Criminal Appeal No. 1405/2008*, concerning the weakness of extra-judicial confession. The High Court stated that such evidence requires caution and credible support, but that corroboration is not required in every case. It found Raju's account sufficiently supported by the scene and medical evidence on this record. On alibi, the appellant cited *Shivaji Chintappa Patil v. State of Maharashtra, Criminal Appeal No. 1348/2013*, decided 2 March 2021, and *Kallu alias Laxminarayan v. State of MP, Criminal Appeal No. 1677/2010*, decided 7 November 2019. The Bench stated the accused's conditional burden after the prosecution had proved his presence. It also referred to Supreme Court decisions concerning the absence of eyewitnesses.

3. Statutes considered : Section 302 IPC was the only provision under which the conviction was affirmed. The appeal principally concerned the evidentiary basis of the murder finding, rather than a distinction between Section 302 and a lesser form of homicide. Section 374 CrPC provided the appeal against conviction and sentence. The judgment examined circumstantial evidence. The dehati nalishi, FIR, seizure and memorandum formed part of the record.

4. Issues : (1) Did the prosecution establish a complete, reliable circumstantial chain beyond

reasonable doubt despite no eyewitness, several hostile witnesses and asserted weaknesses in motive and other proof? (2) Could the alleged statement to Raju be relied on as an extra-judicial confession, and what role did corroborative scene and medical facts play? (3) Did the appellant's suggested alibi or his sister's account raise a reasonable alternative after the Court evaluated the prosecution proof? (4) Did hostility of several prosecution witnesses require rejection of their evidence and acquittal, or could reliable surviving parts be considered?

5. Ratio / Findings : The Bench assembled and explained the Supreme Court rules requiring proof of each circumstance and a complete chain inconsistent with innocence. It treated suspicion, even grave suspicion, as inadequate. It then concluded that the accepted portions of oral testimony, information to police, discovery of the body at Radhe's house and medical findings were qualitatively reliable and adequate to sustain the conviction. The finding rests on the links actually identified.

On confession, Raju stated that Radhe had told him directly that he had killed Shardabai. The Court distinguished the need for caution with a weak piece of evidence from a rule that would exclude extra-judicial confession altogether or invariably require corroboration. It regarded the injuries described by the doctor and the body and scene circumstances as sufficient support in this case, and rejected the appellant's contention. Pritam's account from an unidentified source was hearsay. The doctor's opinion established the cause and manner of death.

On alibi, the Court stated that the prosecution must first establish the accused's presence and participation. Only then must an accused who asserts that he was elsewhere prove that absence with convincing certainty. The Bench accepted the contrary prosecution evidence, found Sakhi Bai's account unreliable and rejected the suggested alibi. In paragraph 25, after stating that the prosecution had proved its case, the Bench further stated that the burden lay on the appellant to prove how the crime was committed, who had murdered his wife and why she was murdered. It found that he had failed to establish those facts and that Sakhi Bai's evidence did not establish them either. The earlier passage quoted from *Sunil Clifford Daniel* maintained the prosecution's continuing burden and stated that defects in the defence could not cure deficiencies in the prosecution case.

Finally, the Bench held that the absence of an eyewitness and the fact that several witnesses had turned hostile did not automatically require acquittal. It assessed the remaining testimony alongside the alleged confession, the body and the medical evidence concerning the cause of death, emphasising the quality rather than the number of witnesses.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the judgment dated 10 January 2012 convicting Radhe under Section 302 IPC and sentencing him to life imprisonment with a fine of Rs 1,000 and the stated default stipulation. If he was on bail, his bail and surety bonds were cancelled and he was directed to surrender forthwith. If he failed to surrender, the trial court was to take steps to return him to custody to serve the remaining sentence. Copies were directed to the jail authorities and the trial court, and the lower court record was to be returned for compliance and the necessary register entries.

Radhe v. State of Madhya Pradesh, Cr.A. no. 259/2012, 13/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal procedure — Section 319 CrPC — strong trial evidence and uncharged FIR-named person - *Hardeep Singh v. State of Punjab*, as quoted in *Sagar v. State of U.P. (Criminal Appeal 397/2022, 10 March 2022)*, requires strong and cogent evidence exceeding the prima facie standard at the charge stage, but falling short of satisfaction that the evidence, if unrebutted, would lead to conviction. *Sartaj Singh v. State of Haryana, (2021) 5 SCC 337*, permits reliance on an injured witness's examination-in-chief without awaiting cross-examination. It also permits summoning a person named in the FIR but not charge-sheeted by the police. A person judicially discharged stands on a different footing and is subject to the Section 398 procedure. Kamlesh's direct account of the assault supported summoning this applicant; his guilt remained to be decided.

Investigation — Section 36 CrPC — independent parallel senior-officer inquiry - Section 36 did not authorise a separate inquiry while the investigation was pending. The Bench applied *Deepak alias Preetam Verma v. State of M.P. (MCRC 12592/2018, 11 September* 2018). The result in that case was

affirmed by the Supreme Court's order in *Surendra Singh Gaur v. State of M.P.* (SLP (Crl.) 1345/2019, 18 January 2022), which examined the circular and found the parallel inquiry impermissible. The police decision not to charge-sheet the applicant, based on that inquiry, mobile location and treatment unsupported by documents, did not bar a later summons founded on trial evidence.

Evidence — alibi at Section 319 stage — phone location and affirmative records - A device's location does not conclusively establish its holder's location, and there were no contemporaneous medical records showing treatment elsewhere. The Court distinguished *Brijendra Singh v. State of Rajasthan, AIR 2017 SC 2839*, where the duty log, certificate, prescriptions and medical evidence provided substantially stronger proof of absence. Rejection of the alibi while reviewing the summons did not prevent the applicant from proving his absence at trial. The trial court was required to decide that issue independently.

Evidence — injured witness and medical consistency — weapon side and scalp wound - The witness's later statement that the blunt side of a Farsa struck his head, considered with the lacerated scalp injury, did not require rejection of the Section 319 application. Applying *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC 457*, the Bench left the precise effect of the alleged improvement and the manner in which the injury was caused for trial. It could not simply be presumed that the weapon's edge was sharp or that an earlier paralytic stroke, whose affected part was unspecified, had caused total incapacity.

Case-note :- ***1. Facts :*** Radheshyam Kushwah sought revision under Sections 397 and 401 CrPC against the order dated 19 July 2019 passed by the Fourth Additional Sessions Judge, Morena, in Sessions Trial 84/2018, summoning him as an additional accused under Section 319 CrPC. The prosecution arose from a dispute on 28 June 2017 over a public way and revenue demarcation near his house. In the FIR lodged that evening, the complainant, Neelam Dandotiya, alleged that Radheshyam and Raju carried Farsas, while Laxman, Sudama, Pradeep and Khachera carried other implements. She alleged that Radheshyam and Raju struck her father-in-law, Kamlesh, on the head. Her husband, Kapil, and brother-in-law, Sahdev, were allegedly injured when they intervened; the complainant and her mother-in-law were also allegedly assaulted. The complainant repeated the central allegation in her statement under Section 161. These are prosecution allegations.

During investigation, a Deputy Superintendent of Police conducted a separate inquiry. On the basis of mobile location and witness accounts, it concluded that Radheshyam was at Jaura Khurd receiving treatment after paralysis and was absent from the scene. The investigating officer reportedly also checked the phone location and witnesses, then sought permission to charge-sheet the others without him. He was not charge-sheeted. The judgment records no contemporaneous prescription, hospital admission entry or discharge paper confirming treatment at the time of the incident. At trial, injured Kamlesh (PW-1) attributed a Farsa blow on the head to the applicant and specified that the blunt side had been used. The pre-MLC recorded a lacerated wound on the right parietal region of the skull. The applicant challenged the summons on the ground of an alleged contradiction with the FIR and police statement, relied on the police alibi inquiry and *Brijendra Singh*, and contended that paralysis made the assault impossible. The State and the complainant opposed the revision. The complainant's counsel challenged the separate inquiry under Section 36 and the sufficiency of mobile location and treatment unsupported by records.

2. Precedents — Considered : The Court quoted *Sagar v. State of U.P. and another*, Criminal Appeal 397/2022, decided 10 March 2022, which reproduced paragraphs 105–106 of *the Constitution* Bench decision in *Hardeep Singh v. State of Punjab and others, (2014) 3 SCC* 92. Section 319 is an exceptional and discretionary power requiring strong and cogent trial evidence. The evidence must exceed the prima facie standard for framing a charge, but fall short of satisfaction that, if unrebutted, it would lead to conviction. Cross-examination need not be completed first. The Bench applied the standard stated in *Sagar* and *Hardeep* to Kamlesh's trial account.

Sartaj Singh v. State of Haryana, (2021) 5 SCC 337, was quoted and adopted on timing and the position of a person named in the FIR but omitted from the charge-sheet. Its quotation from *Hardeep* distinguishes a person judicially discharged, for whom Sections 300(5) and 398 CrPC govern recourse, from one investigated but not charge-sheeted. It also explains that a first informant's repetition in examination-in-chief of the account

given in the FIR does not, merely because it is repeated, defeat an application under Section 319. The present applicant had been omitted by the police, rather than discharged by a court. Injured Kamlesh's trial evidence could therefore be assessed for summoning without waiting for cross-examination.

Deepak alias Preetam Verma and another v. State of M.P. and another, MCRC 12592/2018, order dated 11 September 2018, was this Court's earlier decision holding that a superior officer could not conduct a parallel inquiry under Section 36 while investigation was pending. In *Surendra Singh Gaur v. State of M.P. and others*, SLP (Criminal) 1345/2019, decided 18 January 2022, the Supreme Court examined the Code and the state circular, found no authority for the separate parallel inquiry and declined to interfere under Article 136. The Bench applied that procedural ruling when assessing reliance on the separate inquiry in this case, together with the evidentiary weaknesses in the claimed alibi.

The applicant relied *on Brijendra Singh and others v. State of Rajasthan, AIR 2017 SC 2839*, for consideration of an alibi verified by the police at a Section 319 hearing. The Bench did not reject that possibility as a general rule. It distinguished the duty certificate and log, medical prescription, doctor's evidence and medicines slip supporting absence in *Brijendra Singh* from the undocumented treatment and inconclusive phone location in this case. On the discrepancy between the weapon and the injury, the Court considered *Putchalapalli Naresh Reddy v. State of A.P., (2014) 12 SCC* 457. Uncertainty about which side of an axe was used did not necessarily justify discarding the injured witness's account. The Court also referred to Modi's medical jurisprudence on scalp wounds. These authorities supported leaving the alleged variation and medical consistency for appraisal at trial, rather than setting aside the summons at this preliminary stage.

3. Statutes considered : Section 319 CrPC supplied the trial court's power to summon an additional accused on evidence emerging during trial and governed the central issue. The judgment distinguished its threshold from the ordinary standard for framing a charge; no charge against the applicant was finally adjudicated. Sections 397 and 401 CrPC provided the High Court's revisional jurisdiction over the order of 19 July 2019. Section 36 CrPC concerned superior police powers, but the Bench held that it did not authorise an independent inquiry alongside the pending investigation. Section 161 CrPC concerned the complainant's police statement and the alleged omission about use of the Farsa's blunt side. The quoted distinction in *Hardeep* and *Sartaj* refers to Sections 300(5) and 398 CrPC for a person previously discharged. That qualification was not applied as the procedure governing this applicant.

4. Issues : (1) Could the injured witness's examination-in-chief, accusing an FIR-named person omitted from the charge-sheet, meet Section 319's elevated but preliminary threshold without awaiting cross-examination? This included the difference between police omission and judicial discharge. (2) Did a senior officer's separate Section 36 inquiry during an ongoing investigation legally or factually prevent summoning, when the investigating officer said he had checked its phone-location and treatment leads? (3) Was the asserted alibi sufficiently supported to defeat summons at this stage, in light of *Brijendra Singh*, and would its rejection foreclose an alibi at trial? (4) Did the difference between the FIR's weapon allegation and the injured witness's specification of the Farsa's blunt side, viewed with the lacerated scalp wound and asserted paralysis, make the trial evidence too unreliable to summon? The revision tested the additional-accused order, not final culpability or proof of the medical mechanism.

5. Ratio / Findings : The Bench treated Section 319 as an exceptional power exercisable during trial, requiring strong and cogent evidence above the ordinary prima facie standard at the charge stage. *Sagar* and *Hardeep* supplied that threshold. *Sartaj* confirmed that examination-in-chief may suffice before cross-examination and that the police decision not to charge-sheet a person does not protect him from being summoned. The Bench referred to Kamlesh's trial evidence attributing an active role with a Farsa to the applicant, as well as the earlier central allegation in the FIR and statements recorded during investigation. It also described the applicant as the mastermind of the public-way dispute. The applicant had not been judicially discharged, so the quoted qualification concerning Section 398 did not govern his case.

On police procedure, the Court held that the superior officer's separate inquiry under Section 36 was impermissible while investigation remained pending, consistently with *Deepak* and the Supreme Court's order in *Surendra Singh Gaur.* Even accepting the investigating officer's claim of

independent verification, the mobile location established the location of the device, not conclusively that of its holder, at Jaura Khurd. The account of treatment rested on witnesses whose reliability could not be conclusively assessed without cross-examination, and the police had collected no documentary treatment record. The Court distinguished the several affirmative records supporting the alibi in *Brijendra Singh* and rejected the claimed absence for the purposes of this revision. It expressly preserved the applicant's opportunity to prove alibi at trial by cogent and reliable evidence. The trial court was not to treat these provisional observations as a final finding.

On the scalp injury, the Court noted that Neelam had lodged the FIR and Kamlesh was the injured witness. His statement at trial that the blunt side of a Farsa had been used was not automatically fatal to the application merely because the initial report had not specified an edge. Drawing on *Putchalapalli Naresh Reddy* and the medical observations, the Bench declined to treat the lacerated wound as necessarily contradicting his account. It did not decide precisely which side had struck or finally accept his testimony. It also declined to infer total physical incapacity from an earlier paralytic stroke when the affected part of the body was unspecified. The weight of the alleged improvement, injury and defence remained for trial. Considering the trial testimony, inadequately supported alibi, impermissible parallel inquiry and weapon discrepancy that did not require rejection at this stage, the Bench found no error in the Section 319 summons. That preliminary decision could not predetermine conviction.

6. Relief : The Hon'ble High Court affirmed the order dated 19 July 2019 passed by the Fourth Additional Sessions Judge, Morena, in Sessions Trial 84/2018, summoning Radheshyam Kushwah as an additional accused under Section 319 CrPC, and dismissed the criminal revision. It expressly reiterated that its observations concerned only the limited scope of revisional interference at the summons stage. The trial court was to decide the case on the material produced before it, without influence or prejudice from the High Court's observations, including those concerning the proposed alibi.

Radheshyam Kushwah v. State of M.P. and Ors., Cr.R. no. 3816/2019, 06/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal procedure — Sections 145–146 CrPC — preventive possession jurisdiction - Section 145 addresses a dispute likely to cause a breach of the peace through a provisional inquiry into actual possession, rather than title or the ultimate right to possession. Section 146 permits emergency attachment pending determination by a competent court. The Bench relied on *M. Siddiq (Ram Janmabhumi Temple Case) v. Mahant Suresh Das, (2020) 1 SCC 1*, for this distinction and the primacy of the civil court. That decision's discussion of *Bhinka*, *R.H. Bhutani*, *Shanti Kumar Panda*, *Surinder Pal Kaur* and *Deo Kuer* explains the temporary nature of the Magistrate's orders and their non-binding effect on a competent civil court. Here, both the police and the revisional court acknowledged joint possession, rather than exclusive possession of a defined portion.

Criminal procedure — Section 145 and civil proceedings — same property and adequate protective relief - *Ram Sumer Puri Mahant v. State of U.P., (1985) 1 SCC 427*, cautions against parallel criminal proceedings concerning possession where civil litigation over the same property provides effective protection. *Amresh Tiwari v. Lalta Prasad Dubey, (2000) 4 SCC 440*, clarifies that a final civil adjudication of possession need not already have taken place. It distinguishes *Jhummamal*, where a concluded Section 145 order preceded the civil suit, and expressly rejects a universal bar merely because a civil suit has been filed. Here, several suits concerning title, a Will and a deed, together with a partition matter, concerned the same land, and the respondents' application for a civil injunction had been rejected. The criminal process could not be used to obtain substantially the same protection.

Criminal procedure — Section 146(1) — emergency crop attachment - After initially refusing attachment, the SDM attached the standing mustard and wheat on a renewed request without recording a finding of emergency. The parties could seek protective orders in the civil proceedings concerning the same property. The Bench held that the attachment suffered from material illegality and quashed both the SDM's order and the revisional order.

Property dispute — co-sharers — joint possession and exclusive-possession exception - Each co-sharer is treated as being in possession of undivided joint land. Ordinarily, one co-sharer cannot obtain an

injunction restraining another unless exclusive possession of a separately held portion is established. While possession remains joint, partition is the normal remedy. The Court applied that principle in rejecting the criminal attachment of the co-sharers' crop, which operated as a restraint resembling an injunction, without deciding their final rights.

Case-note :- ***1. Facts :*** Raghuraj Singh and the other applicants invoked Section 482 CrPC to challenge the order dated 31 March 2022 passed by the First Additional Sessions Judge, Gohad, Bhind, dismissing their revision against the SDM's order of 22 March 2022 attaching the standing crop under Section 146(1) CrPC. The police had filed Istagasa 2/2021 on 15 March under Sections 145 and 146, alleging a possible breach of the peace over numerous survey and khasra parcels in Mouza Lodhe Ki Pali. The police account described the applicants and respondents 2 and 3 as joint landholders in joint possession and cultivation, with standing mustard and wheat crops. It alleged that applicants 1–4 and others might harvest the crop by force. The competing shares, actual cultivation and risk were matters alleged in the preventive proceedings, not final findings on title.

The SDM initially rejected the application for attachment under Section 146 on 15 March and called for a Patwari report. The presiding officer was on leave on 16 March. A revenue-inspector report was received on 17 March, and the case was adjourned on 21 March. On 22 March, respondents 2 and 3 renewed their request for attachment of the crop. The applicants objected to the Patwari report and sought a fresh report. The respondents contended that a breach of the peace was possible, the entire land was disputed and no partition had taken place. The SDM ordered attachment of the standing crop and entrusted it to the local Kotwar. The revision was dismissed. The revisional court accepted joint ownership and possession but stated that it was unclear which part either side physically possessed. It discussed civil suits concerning declaration of shares, a Will dated 20 September 2016 and a sale deed dated 22 October 2007, and regarded the Will made by father Ramnath as a cause of the family dispute.

The applicants contended that one joint co-owner could not be restrained without proof of exclusive possession. They relied on their suit for title and shares, the respondents' challenges to the Will and sale deed, a partition application under Section 178 of the M.P. Land Revenue Code, and the rejection on 13 November 2017 of respondents 2 and 3's application under Order XXXIX Rules 1–2 CPC in Civil Suit 208-A/2015. They argued that the proceedings under Sections 145 and 146 had been used to obtain protection which the civil court had refused. The respondents supported the orders. The Court treated the joint status of the land and its overlap with the pending civil litigation as undisputed.

2. Precedents — Considered : *Ram Sumer Puri Mahant v. State of U.P., (1985) 1 SCC 427*, was quoted directly. A suit for possession and injunction concerning the very property had been decided and was under appeal. The Supreme Court held that parallel proceedings under Section 145 and attachment were unnecessary where the civil court could grant protective interim orders. It emphasised that civil adjudication binds the criminal forum and that duplicative litigation wastes resources. The High Court applied the principle where an effective civil forum was available; it did not treat the mere filing of any suit as sufficient.

M. Siddiq (Ram Janmabhumi Temple Case) v. Mahant Suresh Das, (2020) 1 SCC 1, was reproduced at length. It describes Section 145 as preventive, provisional and concerned with possession, attachment under Section 146 as an emergency measure, and the competent civil court as the forum for determining title and entitlement. Within the reproduced passage, *M. Siddiq* considered *Bhinka v. Charan Singh* on the temporary Magistrate's order ending with civil adjudication; *R.H. Bhutani v. Mani J. Desai* on actual possession; *Shanti Kumar Panda v. Shakuntala Devi, (2004) 1 SCC 438*, on the summary process, custodia legis and the civil court's power exceptionally to depart from the Magistrate's order even at the interim stage; *Surinder Pal Kaur v. Satpal, (2015) 13 SCC 25*, on the non-binding effect of Section 145 observations; and *Deo Kuer v. Sheoprasad Singh* on property held by the court under attachment.

The reproduced passage from *M. Siddiq* considered *Amresh Tiwari v. Lalta Prasad Dubey, (2000) 4 SCC* 440. It explained that a prior final civil finding is unnecessary where the civil court is already considering possession of the same property and can protect it. It distinguished *Jhummamal v. State of M.P., (1988) 4 SCC 452*, which concerned a concluded Section 145 order followed by a civil suit. *Amresh* also expressly cautioned that filing any civil

suit does not automatically terminate proceedings under Section 145: the civil litigation must concern possession or title to the same property, with protective relief available. The High Court separately quoted *Amresh* in paragraph 14 and applied that qualified test to the pending suits and rejected injunction application in this case.

3. Statutes considered : Sections 145 and 146 CrPC governed the police Istagasa, the Magistrate's limited preventive jurisdiction over a threatened breach of the peace concerning possession of land, and emergency attachment of the standing crop. Section 146(1) supplied the impugned interim power, but no finding of emergency had been recorded. The applicants invoked Section 482 CrPC after their Sessions revision failed, and the High Court exercised that jurisdiction to quash both orders for material illegality. Order XXXIX Rules 1–2 CPC governed the respondents' earlier application for an interim injunction, which had been rejected. Section 178 of the M.P. Land Revenue Code was cited in relation to an asserted partition application; its text was not construed. The declaratory suits and challenges to the Will and sale deed were civil proceedings relevant to the overlap, rather than criminal charges.

4. Issues : (1) Could Sections 145–146 CrPC be used to attach a standing crop amid an acknowledged joint co-sharer possession dispute, without a finding that any side held an exclusive defined part? (2) What is the preventive Magistrate's limited role as to actual possession and breach of peace as compared with the competent civil court's authority over title, possession and interim protection? (3) When do pending civil suits on the same property, a partition application and an available injunction or receiver remedy make parallel Section 145 proceedings inappropriate, given the qualifications in *Ram Sumer, Amresh* and *M. Siddiq*? (4) Did the SDM's Section 146 attachment satisfy the emergency condition after it had initially refused attachment and the respondents had failed to obtain civil interim injunction? (5) Was the revision court's refusal to interfere sustainable under these circumstances?

5. Ratio / Findings : The Court proceeded on the undisputed joint interests and joint possession. Ordinarily, every co-sharer is treated as possessing the undivided land; an injunction restraining another co-sharer requires proof of exclusive possession of a defined part. While the parties remained in joint possession, partition was the proper means of separating their shares. The revisional court's uncertainty about which part belonged to each party did not by itself justify taking the crop out of their possession under Section 146. This conclusion concerned the provisional criminal restraint and left civil title undecided.

Ram Sumer and the Court's direct quotation from *M. Siddiq* explained why parallel proceedings under Section 145 should be avoided when the civil court was examining title or possession of the same parcels and could grant protective orders. *Amresh* clarified that a completed civil adjudication was unnecessary. *Jhummamal* concerned a different chronology and did not establish that any later civil suit nullifies a final Magistrate's order. The pending suits for declarations concerning shares, the Will and the deed, together with the partition application, provided a competent forum. The respondents had sought and been refused an interim injunction in Civil Suit 208-A/2015. Attachment of the crop through criminal proceedings could not be used as a shortcut to substantially the same protection. The conclusion rested on litigation concerning the same property and the availability of civil relief, rather than the mere existence of unrelated litigation.

The SDM initially refused attachment under Section 146 but later ordered it on the respondents' renewed request, without a finding of emergency. Section 145 serves a preventive purpose, and urgent provisional custody under Section 146 does not determine civil rights. The absence of an emergency finding, the joint-possession premise, the pending civil proceedings and the earlier refusal of a civil injunction together made the crop attachment materially illegal. The Court quashed both the SDM's order and the revisional order. It did not determine ownership of the produce.

6. Relief : The Hon'ble High Court allowed the application under Section 482. It quashed the order dated 31 March 2022 passed by the First Additional Sessions Judge, Gohad, Bhind, dismissing the revision, and the order dated 22 March 2022 passed by the SDM, Gohad, attaching the standing crop and placing it with the Kotwar. The parties remained free to seek suitable interim and final relief in the pending civil proceedings.

Raghuraj Singh and Ors. v. State of M.P. and Ors., M.Cr.C. no. 17494/2022, 27/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal procedure — Sections 227 and 91 CrPC — defence documents at charge stage - The record under Section 227 comprises the prosecution's case materials. When charges are framed, the accused cannot introduce external exculpatory material to prove innocence. *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, rejected the contrary approach in *Satish Mehra*. It held that the necessity or desirability of a document under Section 91 must be assessed by reference to the stage of the proceedings and the party seeking its production. An accused's production of defence material ordinarily awaits trial. The police report submitted to the Additional Advocate General in a separate bail proceeding formed no part of the charge-sheet or case diary in the present case. It could be used, if appropriate, at the defence stage, but could not compel discharge from Section 333 IPC at the charge stage.

Criminal procedure — Sections 226–227 CrPC — grave suspicion and limited sifting - *M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768*, drawing *on P. Vijayan v. State of Kerala, (2010) 2 SCC 398*, permits limited sifting of the prosecution material. Discharge is permissible where that material gives rise only to mere suspicion or, taken at face value, cannot support the offence. The judge is not a post office but cannot conduct a roving enquiry or assess probative value. The accused's defence falls outside the record under Section 227, as the quoted decision in *State of J&K v. Sudershan Chakkar* also states. The prosecution's medical material recording a linear finger fracture supported a charge under Section 333 at this preliminary stage.

Case-note :- ***1. Facts :*** Raghuraj Singh Raghuvanshi and the other applicants challenged the order dated 23 July 2022 passed by the Sessions Judge, Ashoknagar, in Sessions Trial 50/2022 (Registration 38/2022). That order framed charges under Sections 294, 186, 332, 333, 353 and 506 Part II IPC. The complainant Yashvant Rathore's report alleged an assault on a Municipal Officer, the tearing of three official files and disturbance of the office. His mobile phone was also said to be missing. Crime 71/2022 initially involved Sections 353, 332, 186, 427 and 506 read with Section 34 IPC. Following medical examination, the prosecution recorded a linear fracture of the injured officer's left ring finger and added Section 333, alleging grievous hurt to a public servant. These were allegations and reported medical material before trial.

According to the order's narration, the applicants had sought and obtained bail on the basis of medical material. They then invoked Sections 226/227 CrPC to seek discharge specifically from Section 333, rather than from every accusation. In revision, they argued that the Sessions Judge should have relied on a police station report dated 21 May 2022, submitted to the Additional Advocate General in MCRC 21089/2022, a separate High Court proceeding. They said that the report recorded no fracture. It was undisputed that the document was absent from the charge-sheet and case diary. The High Court heard the applicants' counsel and examined the legality of the framing of charges.

2. Precedents — Considered : *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, was directly quoted and applied. It reads the "record of the case" in Section 227 together with Section 209 as referring to the prosecution materials sent on committal. An accused has no right to file defence evidence when charge or cognizance is considered. It rejected the constitutional argument that supposedly unimpeachable defence material must be introduced at that early stage and disapproved *Satish Mehra v. Delhi Administration, (1996) 9 SCC 766*, on that point. Its analysis of Section 91 explains that summoning a necessary or desirable document depends on the stage of the proceedings and the party making the request. A police officer may seek material at a relevant stage, but an accused ordinarily cannot use Section 91 during proceedings under Section 227 to prove a defence that is not yet relevant. The Bench applied that rule to the separate SHO report without declaring that the document could never be used at trial.

M.E. Shivalingamurthy v. Central Bureau of Investigation, Bengaluru, (2020) 2 SCC 768, was also quoted and applied. It drew together the principles in *P. Vijayan v. State of Kerala, (2010) 2 SCC 398*, and earlier decisions. A judge may sift the prosecution material and consider its broad probabilities to decide whether sufficient ground exists for proceeding. Mere suspicion, as distinct from grave suspicion supported by material, permits discharge; the evidence, accepted at face value, must be capable of showing the offence. The judge is not a mere post office for prosecution allegations, but cannot conduct a roving inquiry, determine probative weight or assess competing defence evidence. The

quoted passage also cites *State of J&K v. Sudershan Chakkar, (1995) 4 SCC 181*, and *Padhi* to reiterate the exclusion of defence material at this stage. Those authorities formed part of *Shivalingamurthy*'s stated framework; their facts were not separately adjudicated by the High Court.

3. Statutes considered : Sections 397 and 401 CrPC provided the basis for the revision. Sections 226/227 governed the applicants' application to avoid the charge under Section 333 IPC. The quoted *Padhi* passage construed the "record of the case" in Section 227 by reference to Sections 209 and 173 CrPC and explained the power under Section 91 to summon documents according to the procedural stage. The judgment refers to Section 239 when quoting the rejected argument in *Padhi*; that provision was not independently applied to this Sessions trial. The IPC charges framed were under Sections 294, 186, 332, 333, 353 and 506 Part II. The initially registered case also referred to Sections 427 and 34. The contested accusation under Section 333 depended, in this case, on a fracture recorded in the prosecution's medical material.

4. Issues : (1) Could the applicants obtain discharge from Section 333 IPC by relying on the police station's purported no-fracture report to the Additional Advocate General when that report was outside the charge-sheet and case diary? (2) Could Section 91 CrPC be used to introduce or summon such defence material at the charge stage under Section 227? (3) What degree of sifting of the prosecution material was required and permitted when deciding discharge or framing a charge, particularly where medical evidence of a fracture was disputed, without turning the hearing into a trial? (4) Did the Sessions Judge commit a jurisdictional error amenable to revision by framing a charge under Section 333 along with the other charges, notwithstanding the possibility of conviction for a lesser offence at trial?

5. Ratio / Findings : The Bench treated the separate SHO report dated 21 May 2022 as falling outside the prosecution's case record. *Padhi*'s construction of Sections 209 and 227 excluded it from consideration at the charge hearing, even though the applicants asserted that it contradicted the report of a fracture. Section 91 did not provide an indirect means of introducing defence documents at a stage when the accused's defence was not yet to be adjudicated.

On the standard for framing a charge, the Bench adopted *Shivalingamurthy*'s complete statement of principles. The judge must exercise independent judgment and may sift the prosecution material to determine whether it supports grave suspicion rather than bare conjecture. Prosecution evidence that cannot show the offence even if accepted does not justify a trial. At the same time, the judge may not weigh competing evidence, resolve a medical conflict through a roving inquiry, or decide credibility and probative value. In the present case, the prosecution's medical material reported a linear fracture of the ring finger, which had led to the addition of Section 333. The contrary report from outside the case record could be considered, if at all, at a later stage. The High Court therefore found no jurisdictional error in refusing discharge on that basis and affirming the charges framed.

The Court added that the applicants had not sought complete discharge and that a person tried for a graver offence may be convicted of a lesser offence.

6. Relief : The Hon'ble High Court dismissed the criminal revision and affirmed the order dated 23 July 2022 passed by the Sessions Judge, Ashoknagar, in Sessions Trial 50/2022 (Registration 38/2022), framing charges under Sections 294, 186, 332, 333, 353 and 506 Part II IPC. It refused to use the separate SHO report to discharge the applicants from Section 333 at the charge stage. The applicants' defence and the medical issue remained to be adjudicated on proper evidence at trial.

Raghuraj Singh Raghuvanshi and Ors. v. State of Madhya Pradesh, Cr.R. no. 2979/2022, 23/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Homicide — Sections 299–300 thirdly IPC — intended injury and objective sufficiency - The Court surveyed *Virsa Singh v. State of Punjab, AIR 1958 SC 465*. Under that decision, the prosecution must prove the existence and nature of the bodily injury, the intention to inflict the injury actually found, and the sufficiency of that injury in the ordinary course of nature to cause death. A separate intention to kill is not essential under clause Thirdly. *Arun Nivalaji More v. State of Maharashtra, Criminal Appeal Nos. 1078–1079/2005*, distinguishes offences punishable under Section 302, Section 304 Part I and Part II according to the statutory requirements of intention or knowledge and the applicable exceptions. *Anda, Mahesh Balmiki, Pulicherla Nagaraju, Sangapagu Anjaiah,*

Kanhaiyalal and *Bavisetti Kameswara Rao* set out related principles for assessing injury and intention in the circumstances of each case; *Dhirajbhai* addressed Exception 4. In the present case, the medical evidence established homicidal strangulation, and the two appellants' convictions under Section 302/34 were affirmed.

Kidnapping for ransom — Section 364A IPC — distinct statutory components - *Shaik Ahmed v. State of Telangana*, Criminal Appeal 533/2021, decided 28.06.2021, was extensively reproduced. It requires proof of abduction or detention; a threat of death or hurt, reasonable apprehension of such harm, or actual harm under the statutory alternatives; and the purpose of coercing action or obtaining ransom. Describing an abduction as being for ransom does not dispense with these distinct requirements. The statutory use of conjunctions and alternatives must be respected. *Shaik Ahmed* confines the observation in *Arvind Singh* concerning a child of tender age to its factual context: no legal presumption dispenses with proof of the threat or harm component. Its discussion distinguishes *Malleshi*'s ruling on communication of a ransom demand and explains *Anil alias Raju*, *Suman Sood*, *Vishwanath Gupta* and *Vikram Singh* on the ingredients of the offence. The Bench relied on the child's disappearance with the two appellants, evidence of a Rs 5 lakh ransom call, his death and the corroborating circumstances to affirm their convictions under Section 364A/34.

Evidence — last-seen theory — time gap and corroboration - *Ramreddy Rajeshkhanna Reddy, (2006) 10 SCC 172*, *Hatti Singh*, *State of U.P. v. Satish, (2005) 3 SCC 114*, and *Bodhraj, (2002) 8 SCC 45*, emphasise a short interval and corroboration before last-seen evidence can support a strong inference excluding the involvement of others. The Court accepted the accounts of witnesses who saw the boy with Raghuveer and Shailendra, although his body was discovered roughly two weeks later. The Court considered that evidence together with the other circumstances.

Evidence — circumstantial chain — party-specific proof - The Bench treated the medical finding of strangulation, the reported ransom demand, the last-seen witnesses' evidence, the concealed body and the seizures made pursuant to the two appellants' memoranda as a complete chain of circumstances. It held that the alleged discrepancies in the witness and forensic evidence were not fatal. It affirmed their convictions under Sections 120-B, 364A/34, 302/34, 201/34 IPC and Section 13 MPDVPK Act. The evidence was insufficient against Shankar, Surendra and Kampoter, whose acquittals were upheld in the State's appeal.

Witnesses — hostile testimony — dependable part retained - *Khujji v. State of Madhya Pradesh, AIR 1991 SC 1853*, was applied to Sonu (PW/4). A witness's adverse or hostile testimony during delayed cross-examination does not erase the entire deposition; the portion found dependable after careful scrutiny may be used. The Court accepted Sonu's earlier evidence supporting the last-seen account together with the evidence of the other witnesses. It attributed the delay in cross-examination to the accused appellants' tactics.

Unlawful assembly — Sections 141 and 149 IPC — common object and acquitted persons - *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, requires a shared common object of the kind specified by statute; mere presence is insufficient, although proof of a separate overt act is not always necessary. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, requires a clear finding that the common object was unlawful. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, explains that separate charges under Sections 143/147 are not invariably required alongside Section 149. The Bench reproduced those tests but rejected the State's appeal against the three acquitted persons for insufficient evidence. It affirmed the other two appellants' convictions as recorded with Section 34 and did not enter a fresh conviction under Section 149.

Case-note :- ***1. Facts :*** This common judgment disposed of Raghuveer Savita's Criminal Appeal 625/2009, Shailendra Sharma alias Sonu's Criminal Appeal 713/2009 and the State's Criminal Appeal 1046/2014, arising from Special Case 91/2006 (Dacoity). The two convicted men challenged the convictions recorded on 7 September 2009 by the Special Judge (MPDVPK Act), Morena, under Sections 120-B, 364A/34, 302/34 and 201/34 IPC and Section 13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981. Their principal sentences included 14 years' rigorous imprisonment under Section 120-B and life imprisonment under each of Sections 364A/34 and 302/34, together with the listed lesser terms and fines. The sentences were directed to run concurrently. The State appealed against the acquittals of Shankar Singh Gurjar, Surendra Singh

and Kampoter Singh Gurjar alias Pappu. The original charges included alternatives framed under Sections 120-B and 149; the operative convictions set out by the High Court used Section 34 for the substantive offences.

According to the prosecution, ten-year-old Shubham alias Shailu, son of Neeraj Sharma, failed to return after leaving for tuition/skating on 23 June 2006. His grandfather, Moharman Lal, lodged a missing report that evening. The judgment states that an FIR under Section 365 IPC was registered on 1 July after the boy remained missing. On 7 July, a foul smell led the police to a house associated with Shankar Singh Gurjar that was locked from outside. The boy's decomposed body was found in a plastic bag in a lavatory wall compartment sealed with bricks and cement. His family identified him, and Dr J.N. Soni's post-mortem opinion attributed his death to strangulation. The prosecution alleged that Raghuveer and Shailendra, former tenants who had returned shortly before the incident, knew of the grandfather's retirement payment and abducted the child for ransom. Moharman Lal referred to a demand of Rs 5 lakh. The judgment attributes receipt of the call to him in one paragraph and to his daughter-in-law Manoj in another.

Bafatan, Ameena and Sonu were said to have seen the boy with the two appellants on the day he disappeared. The police seized a cycle, sandals, skating shoes, a key and construction-related articles pursuant to memoranda attributed to the appellants, and sent materials for scientific examination. The defence challenged the omission of names from the first missing report, contradictions in the witnesses' evidence, delayed reporting, alleged inconsistencies in the forensic descriptions of the rope and lock, the failure to examine certain independent witnesses and the ransom-call recipient, and the absence of the ingredients of Section 364A or the MPDVPK Act. In his later cross-examination, Sonu denied the incident. The State maintained that the combined evidence proved the appellants' guilt and that the three acquitted persons shared the conspiracy/common object. These were the parties' opposing contentions. The High Court examined homicidal death, abduction, ransom, concealment and joint liability. The judgment is dated 05.10.2021.

2. Precedents — Considered : On homicide, *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was quoted for the four inquiries under Section 300 Thirdly: the existence and nature of the bodily injury, the intention to inflict that very injury, and its objective sufficiency in the ordinary course of nature to cause death. The last inquiry does not require a separate intention to cause death. *Arun Nivalaji More v. State of Maharashtra, Criminal Appeal Nos. 1078–1079 of 2005*, explained the distinction between Sections 299, 300 and 304 and the different roles of intention and knowledge. *Anda v. State of Rajasthan* explained the sufficiency of an intentionally caused injury. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, cautioned against mechanically reducing the offence merely because a single blow was inflicted. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, identified a non-exhaustive set of circumstances from which intention may be inferred. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, and *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, likewise focused on the weapon, the part of the body targeted, the force used and the circumstances. *Kanhaiyalal* reproduced *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram* on single-blow cases and Exception 4. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, quoted *State of Karnataka v. Vedanayagam and Virsa Singh* to distinguish the intention to inflict the particular injury from knowledge of its seriousness. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, was quoted on all the requirements of Exception 4: absence of premeditation, a sudden mutual fight, heat of passion, and absence of undue advantage or a cruel/unusual manner of acting. The Court set out this broad doctrinal survey before finding homicidal strangulation and affirming the murder convictions. It did not analyse the facts of the present case as involving a single blow or a sudden fight.

On kidnapping for ransom, *Shaik Ahmed v. State of Telangana*, Criminal Appeal 533/2021, decided 28 June 2021, was quoted at length. It reads Section 364A's conjunctive and disjunctive language as requiring abduction/detention and the relevant threat, apprehension or harm, linked to coercing action or obtaining ransom. It rejects a presumption that the kidnapping of a child of tender age automatically proves the threat/harm component. Its treatment of *Arvind Singh v. State of Maharashtra* explains that the observation about an inherent threat in the particular facts of that child-ransom case did not dispense with proof of a statutory component. *Shaik Ahmed* distinguished *Malleshi v. State of*

Karnataka, (2004) 8 SCC 95, as a case concerning communication of the ransom demand, rather than a decision examining all the ingredients. It drew *on Anil alias Raju Namdev Patil v. Administration of Daman & Diu, (2006) 13 SCC 36, Suman Sood v. State of Rajasthan, (2007) 5 SCC 634* (individual proof and acquittal), *Vishwanath Gupta v. State of Uttaranchal, (2007) 11 SCC 633* (abduction, threat/demand and death at different places), and *Vikram Singh alias Vicky v. Union of India, (2015) 9 SCC 502* (three components). The tax/excise examples concerning conjunctions within the *Shaik Ahmed* quotation served as interpretive analogies; they were not adopted as separate criminal-law holdings on the present facts. The High Court also referred to *Omprakash Shrivastava v. State, 2007 Cri LJ 696* (Del), on communication of a ransom demand. It ultimately affirmed the Section 364A convictions on the reported call, last-seen evidence, death and other circumstances, without expressly applying each ingredient identified in *Shaik Ahmed* to the record.

On Section 149, *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, explained the need for a shared unlawful object and the possibility that the object may evolve. Mere presence is insufficient, while proof of an overt act by every member is not invariably required. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, concerned the relationship between charges under Sections 143, 147 and 149. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, required a clear finding, supported by the evidence, identifying the unlawful common object. The High Court recited these tests and then declined to disturb the three acquittals for insufficient proof. It neither made a fresh finding of an unlawful assembly nor used Section 149 as the basis of the two appellants' operative convictions.

On last-seen evidence, *Ramreddy Rajeshkhanna Reddy v. State of A.P., (2006) 10 SCC 172, Hatti Singh v. State of Haryana, State of U.P. v. Satish, (2005) 3 SCC 114*, and *Bodhraj v. State of Jammu and Kashmir, (2002) 8 SCC 45*, were reproduced on the need for proximity between the last sighting and death, the risk of an intervening actor during a long interval, and corroboration. *Ramreddy*'s references to *Anil Kumar Singh* and *Reddy Sampath Kumar* appeared within the quoted discussion and were not individually analysed in the present case. *Khujji alias Surendra Tiwari v. State of Madhya Pradesh, AIR 1991 SC 1853*, was applied to hold that Sonu's subsequent hostile testimony did not erase all his evidence; only the portion found dependable after scrutiny could be used.

3. Statutes considered : Sections 299, 300 (especially clause Thirdly and the quoted Exception 4), 302 and 304 IPC provided the framework for the homicide discussion. The medical opinion established homicidal strangulation, and the actual conviction recorded was under Section 302 read with Section 34. Section 364A IPC concerns kidnapping/abduction or detention accompanied by the statutory threat/apprehension/harm and the purpose of coercing action or obtaining ransom. Section 365 was the initially registered offence and also appeared in the statutory discussion. Sections 120-B, 201 and 34 IPC formed part of the affirmed convictions. The judgment quotes Section 201's requirements concerning concealment and describes the body hidden behind a brick wall. Sections 141 and 149 concern unlawful assembly and common object, which the Court examined when considering the State's allegations while upholding the acquittals; the operative convictions of the other two accused were recorded with Section 34. The quoted *Mahadev Sharma* passage mentions Sections 143, 147 and 148 in the context of charges, rather than as separate offences adjudicated in the present case. Section 374 CrPC provided the convicted men's right of appeal. The conviction under Section 13 of the MPDVPK Adhiniyam, 1981, with a reference in the text to Section 11, was affirmed on the Court's statement that the locality from which the abduction took place was notified. The original description of the charges mentions Section 149 alternatives and combinations with the special statute.

4. Issues : (1) Was the child's death homicidal, and did the prosecution's circumstantial evidence establish beyond reasonable doubt that the two convicted appellants participated in the abduction, ransom demand, murder, conspiracy and concealment? This included the interval relevant to the last-seen evidence, the non-examination of the ransom-call recipient, alleged inconsistencies in the witness and forensic evidence, and the defence's contention that the chain was incomplete. (2) What ingredients had to be proved under Section 364A, especially the coercive threat/harm component explained in *Shaik Ahmed*, and did the Court consider the ransom evidence sufficient in this case? (3) Could the dependable portion of Sonu's earlier evidence be used after he denied the incident in later

cross-examination? (4) Did the evidence establish the common object required by Section 149 or otherwise justify reversing the acquittals of the three co-accused, as sought by the State? (5) What relief followed in the three connected appeals, including the direction concerning custody?

5. Ratio / Findings : The Court accepted the family's identification of the boy's decomposed body and Dr Soni's finding of fatal strangulation. In discussing Sections 299–300, it adopted the broad distinction between intention and knowledge and the *Virsa Singh* test: the particular injury must be intended and must be objectively sufficient in the ordinary course of nature to cause death. It also quoted further Supreme Court illustrations concerning single injuries. The finding of murder formed part of the Court's conclusion that the complete chain of circumstances proved the two appellants' participation.

On participation, the Bench accepted Bafatan's, Ameena's and Sonu's accounts of seeing the child with Raghuveer and Shailendra, together with the family's account of a ransom demand linked to the grandfather's recent retirement. It cited the Supreme Court's caution that last-seen evidence is strongest when the interval before discovery excludes the involvement of an intervening actor, and that corroboration is desirable. The boy disappeared on 23 June, and his body was found on 7 July. The Bench considered the last-seen testimony together with the hidden body, recoveries made pursuant to the memoranda and the scientific material, and found a complete chain of circumstances. The judgment initially states that the FIR was registered on 1 July after the missing report, but later states that it was registered after discovery of the body. The Court rejected the delay objection without resolving that internal discrepancy. It rejected the alleged contradictions as immaterial. It also rejected the objections concerning the non-examination of independent persons and Manoj, the disputed identity of the rope sent for examination and the differing accounts of pressure marks on the lock. In its reasoning, the strangulation opinion and the recovery of the concealed body were more material.

The Court quoted *Shaik Ahmed*'s careful reading of the three components of Section 364A, including the qualification that the victim's tender age does not dispense with proof of threat or harm. On the facts, it found the Rs 5 lakh telephone demand, abduction, fatal strangulation and corroborating circumstances sufficient to uphold the convictions under Section 364A/34. Paragraphs 50 and 61 of the judgment attribute receipt of the ransom call to different persons. The Court held that Manoj's non-examination was not fatal in the context of the wider chain of circumstances.

Khujji permitted careful use of a reliable portion of Sonu's testimony despite his later denial. The Bench attributed the delay in cross-examination to the accused appellants and agreed with the trial court's reliance on his earlier evidence together with that of the other witnesses. As to concealment of the corpse, the Court described the walling up of the lavatory compartment and affirmed the conviction under Section 201/34 along with the other counts. It did not separately discuss, ingredient by ingredient, each accused's intention to screen the offender. It likewise stated that the site was notified under the MPDVPK Act and affirmed the Section 13 conviction, without advancing a new interpretation of that Act.

Finally, the discussion of Section 149 required an assembly of five or more persons and proof of a common unlawful object; presence alone was insufficient. The State alleged that Shankar, Surendra and Kampoter had participated, but the High Court found the evidence insufficient against those three accused and upheld their acquittals. That finding concerned those accused: the prosecution's chain of circumstances was insufficient to establish their guilt.

6. Relief : The Hon'ble High Court dismissed the criminal appeals filed by Raghuveer Savita and Shailendra Sharma alias Sonu. Their trial convictions and concurrent sentences under Sections 120-B, 364A/34, 302/34 and 201/34 IPC and Section 13 MPDVPK Act were affirmed. In view of the jail report that both men were on parole, the trial court was directed to take steps to secure their custody so that they could serve the remainder of their sentences. The State's criminal appeal was rejected, leaving intact the acquittals of Shankar Singh Gurjar, Surendra Singh and Kampoter Singh Gurjar alias Pappu. The trial record was directed to be returned with the judgment.

Raghuveer Savita and Ors. v. State of Madhya Pradesh and Ors., Cr.A. no. 625/2009 & 713/2009 & 1046/2014, 05/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence — dying declaration — mental and physical fitness; medical endorsement - *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, rejects an inflexible requirement of a medical certificate and disapproves the broader contrary formulation in *Paparambaka Rosamma*. The person recording the declaration must be satisfied of the declarant's capacity. *Govindappa v. State of Karnataka, (2010) 6 SCC 533*, treats medical certification as a rule of caution, while *Jagbir Singh v. State (NCT of Delhi), (2019) 8 SCC 779*, retains the requirement of mental and physical fitness. In the present case, the treating doctor examined Sonkali and certified her fitness, and the Naib-Tahsildar independently found her responsive. Writing the certificate in the duty room after examining her did not invalidate it. The Court considered the serious burns and treatment; no sedation was proved.

Evidence — three dying declarations — consistency, omission and recording times - The Dehati Nalishi, police statement and Naib-Tahsildar's declaration consistently identified Raghuvir as the person who poured kerosene on Sonkali and set her on fire. Omission of the suggested motive from the third statement did not contradict that central account because no question about the quarrel had been asked. On the particular testimony, the Court accepted a difference of 10–15 minutes between watches as explaining the apparently simultaneous recording. It rejected the husband's suicide account as a reason for discarding the declarations. *Ravikumar v. State of T.N., (2006) 9 SCC 240*, *Laltu Ghosh v. State of W.B., (2019) 15 SCC 344*, and *Kalawati v. State of Maharashtra, (2009) 4 SCC 37*, require scrutiny of fitness, truthfulness, voluntariness and material inconsistency.

Evidence — Section 32(1) Evidence Act — victim's complaint and Section 161 statement - A complaint made before investigation by a person who later dies, and a police statement concerning the cause of death, may be used as evidence under Section 32(1), subject to assessment of genuineness. *Pradeep Bisoi v. State of Orissa, (2019) 11 SCC 500*, concerned the Section 161 statement of a person who later died. *Munnu Raja v. State of M.P., (1976) 3 SCC 104*, distinguished an FIR given before investigation, while *Jai Prakash v. State of Haryana, 1999 Cri LJ 837*, addressed an initial police complaint subsequently treated as a dying declaration. Given the police witness's explanation, the recorded time and the two other declarations, the Court did not infer fabrication merely from the FIR number on Ex. P.4.

Evidence — dying declaration as sole basis — corroboration a matter of prudence - *Ravikumar*, *Laltu Ghosh* and *Kalawati* reject a mandatory requirement of corroboration once a declaration is found truthful and voluntary after careful scrutiny of capacity, the opportunity to identify, tutoring and infirmities. The principles collected in *Kalawati* caution that a suspicious or infirm declaration may require corroboration or have to be rejected, and that multiple statements must be compared. The Bench found the three consistent accusations reliable, together with the supporting medical evidence and evidence of their recording. It also considered the later recovery and conduct, without treating those supporting circumstances as a statutory condition of admissibility or conviction.

Evidence — alibi — positive proof and prosecution's continuing burden - *Jitender Kumar v. State of Haryana, (2012) 6 SCC 204*, *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, and *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, with *Binay Kumar Singh* quoted in it, require positive proof of absence once the prosecution evidence places the accused at the scene. Failure to prove an alibi cannot itself establish guilt. The husband's assertion that Raghuvir had accompanied him to work was unsupported by an employer or another defence witness. The Court rejected the alibi after accepting the victim's statements and the physical circumstances, while retaining the prosecution's burden of proof beyond reasonable doubt.

Evidence — post-occurrence conduct — abscondence of limited weight - *Sujit Biswas v. State of Assam, (2013) 12 SCC 406*, discussing *Bipin Kumar Mondal* and *Matru*, holds that even an innocent person may evade arrest out of fear. Such conduct is only a minor circumstance to be assessed in context. Raghuvir's absence until his arrest three days after the burning was considered with the accepted declarations, the failed alibi and the recovery of a kerosene container and matchbox pursuant to his memorandum. The conviction did not rest on flight alone.

Case-note :- *1. Facts :* Raghuvir appealed under Section 374 CrPC against the judgment dated 26 July 2010 passed by the Sessions Judge, Morena, in Sessions Trial 143/2009, convicting him of Sonkali's

murder under Section 302 IPC and sentencing him to life imprisonment. He was Sonkali's younger brother-in-law; her husband, Shobharam, was his brother. The marriage was described as having taken place about twelve years earlier, with a later gauna; two daughters had died. According to Sonkali's statements, Raghuvir reproached her for the family's misfortune and for Rs 10,000 allegedly taken by her father. She said that at about 8 p.m. on 7 February 2009, while Shobharam was away at work, Raghuvir abused her. When she objected, he poured kerosene on her and set her on fire. She said that her neighbour Banwari extinguished the flames and that her husband took her to hospital. These were her allegations recorded while she was injured, requiring assessment as evidence rather than being independent eyewitness findings.

Hospital information led Sub-Inspector V.V.S. Kushwaha to record Sonkali's Dehati Nalishi, Ex. P.3, followed by her statement under Section 161 CrPC, Ex. P.4. Naib-Tahsildar L.K. Mishra separately recorded a question-and-answer declaration, Ex. P.5, with Dr D.K. Soni's fitness endorsements before and after its recording. The initial examination recorded deep burns over the face, neck, chest, back, arms and thighs, affecting about 50 percent of the body, a smell of kerosene on the clothing and body, and a serious general condition. Sonkali died at about 5 a.m. the next morning. The post-mortem recorded about 70 percent ante-mortem burns and death from shock due to extensive burns. The Court first established death from burns, leaving their accidental, suicidal or homicidal origin for consideration on the merits.

Shobharam brought his wife to hospital but later testified that he had been told she had attempted suicide. He claimed that she had previously tried to jump into a well, could not speak, and that Raghuvir had accompanied him to work. He was treated as hostile concerning the accusation, although the Court accepted his evidence that she was injured in the house and that he took her to hospital. Raghuvir called no defence witness. The police arrested him on 10 February and reported the seizure, pursuant to his memorandum, of a kerosene container holding about 50 grams and a matchbox. The container had not been found during the initial inspection of the scene. The judgment states that articles were sent for forensic examination, but the FSL report had not been received. The prosecution gave up Banwari despite having cited and summoned him.

In appeal, the defence attacked the three statements as fabricated or unreliable. It relied on the FIR number on Ex. P.4 despite the stated registration time, the omission of the alleged quarrel from Ex. P.5, the apparently identical clock times for two later statements, and the writing of the doctor's endorsement in a duty room. It also alleged that the burns prevented speech and that the Naib-Tahsildar had not read the declaration back. It relied further on Shobharam's suicide account and alibi testimony and on Banwari's non-examination. The Court analysed the evidentiary objections.

2. Precedents — Considered : *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, was applied to the challenge to the doctor's fitness certificate. It rejected *Paparambaka Rosamma v. State of A.P.*'s categorical distrust of a Magistrate's satisfaction in the absence of an express medical endorsement of mental fitness, affirmed *Koli Chunilal Savji v. State of Gujarat*, and referred to *Harjit Kaur v. State of Punjab on* the placement of an endorsement. The governing rule requires the recorder to be satisfied from the declarant's condition and answers; a medical certificate is a valuable precaution rather than a rigid legal precondition. *Govindappa v. State of Karnataka, (2010) 6 SCC 533*, likewise treats certification as cautionary and permits other evidence that the declaration was made voluntarily and truthfully. *Jagbir Singh v. State (NCT of Delhi), (2019) 8 SCC 779*, retains the recorder's responsibility to ensure mental and physical fitness. Here, the treating doctor examined Sonkali and certified her fitness, while the Naib-Tahsildar described her responsive condition. Writing the certificate in the duty room after examination was found harmless on the actual evidence; the finding did not rest on examination being unnecessary.

Ravikumar v. State of T.N., (2006) 9 SCC 240, explains the hearsay exception in Section 32(1) of the Evidence Act for statements concerning the cause of death or the transaction resulting in it. It requires scrutiny of fitness, the opportunity to observe and identify, truthfulness and absence of tutoring or prompting, and rejects a categorical requirement of corroboration for a reliable declaration. It cites *Paniben*, *Uka Ram*, *Laxman*, *P.V. Radhakrishna*, *Sanjay* and *Muthu Kutty* as supporting authorities. *Laltu Ghosh v. State of W.B., (2019) 15 SCC 344*, warns against expecting an injured victim to give minute details mechanically and permits an independently reliable declaration to sustain a

conviction. The quotation also cautions against unsupported allegations that public officers fabricated the declaration. *Kalawati v. State of Maharashtra, (2009) 4 SCC 37*, sets out fuller safeguards, drawing on *Paniben* and other cases. Corroboration is not automatically required, but suspicious or infirm declarations require appropriate support or cannot sustain guilt. Consciousness, voluntariness, the ability to identify, tutoring, consistency and the relationship between multiple statements must be examined, without treating brevity as fatal. The Bench applied those principles in accepting the three statements' consistent attribution of the burning, their medical and official support, and the absence of proved tutoring.

Pradeep Bisoi alias Ranjit Bisoi v. State of Orissa, (2019) 11 SCC 500, was cited for the admissibility under Section 32 of the Evidence Act of a police statement made by a person who later dies, provided that it relates to the cause of death or the transaction. *Munnu Raja v. State of M.P., (1976) 3 SCC 104*, distinguished an FIR made by an injured person before investigation began from a statement made to an officer already acting as investigator. *Jai Prakash v. State of Haryana, 1999 Cri LJ 837*, rejected the objection that a complaint recorded by the police from a person who later died was necessarily untrustworthy because a Magistrate had not separately recorded it or a doctor had not endorsed it as a formal dying declaration. In that case, treatment and subsequent capacity, the sequence of transmission and registration, and cross-examination supported the record. The Bench used these authorities in considering Ex. P.3 and Ex. P.4, while separately examining the FIR-number objection.

Jitender Kumar v. State of Haryana, (2012) 6 SCC 204, and *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, require positive evidence of an alibi strong enough to exclude presence. *Sk. Sattar* expressly retains the prosecution's burden of proof beyond reasonable doubt despite an unproved alibi. *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, reproduced *Binay Kumar Singh v. State of Bihar*: alibi is a fact relevant under Section 11 of the Evidence Act because it is inconsistent with presence, rather than a general or special IPC exception. The prosecution must first prove presence and participation; the accused may then produce strong evidence of absence or evidence raising a reasonable doubt. *Mukesh* also traced *Gurpreet Singh*, *Sk. Sattar*, *Jitender Kumar* and *Vijay Pal*. After accepting the victim's accusations, the Court applied that framework and found only Shobharam's unsupported assertion that Raghuvir had worked elsewhere. No employer or other positive defence evidence was produced. *Sujit Biswas v. State of Assam, (2013) 12 SCC 406*, drew on *Bipin Kumar Mondal* and *Matru* to explain that flight may be an innocent person's act of self-protection and is at most a minor circumstance, whose weight depends on the other evidence. The Bench treated Raghuvir's absence after the incident in that contextual manner, although it described the absence as supporting a guilty mind when considered alongside independent evidence.

3. Statutes considered : Section 302 IPC governed the conviction and the minimum sentence of life imprisonment. Section 374 CrPC provided the route of appeal. Section 32(1) of the Indian Evidence Act, 1872, governed the statements of the person who later died concerning the cause of death or the transaction. The police statement was originally recorded under Section 161 CrPC, and the judgment applied the evidentiary exception in Section 32 to assess it after death. The governing section is in the Evidence Act. The initial Dehati Nalishi served as the source of the complaint/FIR. *Munnu Raja* and *Jai Prakash* distinguish a complaint recorded before investigation from a later investigative statement. Section 11 of the Evidence Act, discussed through *Mukesh* and *Binay Kumar Singh*, treats an alibi as a relevant fact inconsistent with presence. An unproved alibi does not lessen the prosecution's burden under Section 302. The seizure of the container and matchbox pursuant to the memorandum was discussed as supporting evidence.

4. Issues : (1) Did Sonkali die from burns, and did the evidence establish that Raghuvir intentionally caused them, rather than their being accidental or suicidal? (2) Was Sonkali fit to make the three statements, were they voluntary and genuine, and were they sufficiently consistent to identify the assailant despite the severe burns, the location of the doctor's endorsement, the alleged failure to read the declaration back, the absence of motive from Ex. P.5 and the apparently overlapping recording times? (3) Could the initial Dehati Nalishi and Sonkali's Section 161 statement be considered under Section 32(1) after her death, and did the FIR number on Ex. P.4 establish fabrication or ante-timing on this record? (4) Did Shobharam's testimony establish that Raghuvir was away at work, and what effect did

an unproved alibi have on the prosecution's burden? (5) What limited weight could be given to the appellant's absence until arrest, the recovery pursuant to his memorandum and the prosecution's failure to examine Banwari? (6) Did the cumulative admissible evidence sustain a conviction for murder and life imprisonment?

5. Ratio / Findings : Dr Soni recorded extensive deep burns and a smell of kerosene. The post-mortem attributed death to shock from extensive ante-mortem burns. The two estimates—about 50 percent at the initial examination and about 70 percent at post-mortem—were recorded at different stages. The Court found fatal burn injury but expressly deferred its origin until it had evaluated the other evidence. It then accepted the deceased's direct attribution to Raghuvir in the hospital complaint, police statement and Naib-Tahsildar's declaration. All three accounts identified the critical act of pouring kerosene and setting her on fire. The omission of a monetary motive from the third document was explained by the absence of a question about motive; the Bench did not infer a contradictory version. The reasoning concerned the material account common to the three statements.

As to capacity, the treating doctor had examined Sonkali, administered antibiotics, topical treatment and IV fluid, certified consciousness, and testified that he checked her condition before endorsing the declaration. The Naib-Tahsildar obtained the endorsement and said that she was fit while he recorded her answers. The Court rejected the inference that writing an endorsement in the doctor's duty room meant that it had been issued without examination. It considered her serious condition and the post-mortem doctor's evidence that congestion might cause difficulty in speaking but did not necessarily prevent it. No sedative was shown to have been administered, and the Court rejected the speculative objection that she was drowsy. Under *Laxman*, *Govindappa* and *Jagbir*, actual capacity and responsible assessment by the recorder mattered more than the form of the doctor's certificate. The Court found no circumstance supporting the allegation of tutoring. Shobharam had brought her to hospital, yet she named his younger brother. Applying *Ravikumar*, *Laltu Ghosh* and *Kalawati*, it treated truthfulness, voluntariness and careful scrutiny as essential, while corroboration remained a matter of prudence rather than an invariable requirement.

On chronology and form, the Bench accepted the investigating officer's explanation for the crime number on Ex. P.4 and reasoned that a person fabricating the record might not have entered an earlier time. It noted that Sonkali's condition was declining and that the three statements were taken in quick succession. It accepted differences between the witnesses' watches as a plausible explanation for the apparent overlap of about 10–15 minutes between the police and Naib-Tahsildar's records. These were case-specific credibility findings. The Naib-Tahsildar's document was identified as Ex. P.5. *Pradeep Bisoi*, *Munnu Raja* and *Jai Prakash* supported consideration of the deceased's police statement and initial complaint under Section 32(1), subject to the Court's assessment of genuineness.

Shobharam's hostile testimony established that his wife was burnt at home and that he took her to hospital, but his suicide account and assertion that Raghuvir accompanied him to work did not displace the accepted declarations. The Court noted that Raghuvir produced no employer, co-worker or other positive witness to support an alibi and did not return with Shobharam after news of the injury. Following *Jitender Kumar*, *Sk. Sattar* and *Mukesh*, the Bench held that the alibi was not proved, while expressly retaining the prosecution's independent burden. Its inference concerning suicide was supported by the absence of the kerosene container during the initial inspection, compared with its later reported seizure pursuant to Raghuvir's memorandum. The FSL report was unavailable. The prosecution had listed and summoned Banwari but gave him up. The Bench held that his non-examination was not fatal in view of the three statements, while expressly acknowledging that the accused's failure to examine him could not itself establish guilt.

Raghuvir was arrested on 10 February, three days after the incident, and was absent at the inquest. Relying on *Sujit Biswas*, the Court treated abscondence as a minor circumstance capable of supporting a case otherwise established, rather than a determinative link. With the three declarations found reliable, the rejected alibi, the physical recovery and that conduct of limited weight, it held that intentional homicide under Section 302 was proved beyond reasonable doubt. Life imprisonment was the statutory minimum for the sustained murder conviction, and the sentence was therefore not reduced.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. It affirmed the conviction under Section 302 IPC and the life sentence imposed by the Sessions Judge, Morena, on 26 July 2010 in Sessions Trial 143/2009. Raghuvir, who was already in jail, was directed to serve the remaining sentence. The Court directed that a copy be supplied to him free of cost and that the trial record be returned for information and compliance.

Raghuvir v. State of M.P., Cr.A. no. 667/2010, 11/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Headnote :- Bail — dictated withdrawal — reconsideration before finalisation - An order dismissing a bail application under Section 439 CrPC as withdrawn at counsel's request had been dictated in open court. The High Court recorded that it had not yet been typed or signed. Counsel retracted the withdrawal request before finalisation and was heard again. The Court applied *Kushalbhai Ratanbhai Rohit v. State of Gujarat, (2014) 9 SCC 124*, on Section 362 CrPC, including its discussion of *Surendra Singh v. State of U.P., AIR 1954 SC 194*, concerning alteration of a draft before formal delivery. It entertained the renewed submission and granted conditional bail. The ruling concerned the unfinished procedural state of the order.

Case-note :- ***1. Facts :*** Raghvendra Singh Rawat filed his first application under Section 439 of the Code of Criminal Procedure, 1973, after being arrested on 18 December 2021 in Crime No. 1031/2021 at Police Station Dabra City, District Gwalior. The registered offences were under Sections 382, 392 and 34 IPC, Sections 11 and 13 of the MPDVPK Act, and Sections 25 and 27 of the Arms Act. According to the prosecution account recounted by counsel, two or three unidentified persons took about Rs 30,000–40,000 from a shop at gunpoint. The applicant disputed the alleged seizure from him of a photocopy of the complainant's Aadhaar card, pointed to the absence of a test identification parade, and relied on the expected delay in trial and absence of a risk of flight or tampering. The State opposed bail and relied on his criminal history. These were rival submissions, rather than findings at trial.

As the State alleged five other registered cases, the Court asked whether the applicant would accept stringent conditions. Counsel initially sought withdrawal with liberty to renew the request after the charge-sheet was filed. The Court dictated an order of dismissal as withdrawn in open court. Before it was typed or signed, counsel said that a technical glitch had caused him to misunderstand the Court's query and sought to retract the withdrawal. The Court expressed displeasure at the intervening conduct concerning another listed bail application, but heard counsel again at 1:30 p.m. Counsel then accepted stringent conditions and volunteered a contribution towards the Covid-19 response. The Court noted that it had initially been inclined to grant bail and had dictated dismissal as withdrawn only because counsel requested it. The question was whether that unfinished dictated order prevented continuation of the bail hearing. The Court then considered bail conditions without deciding guilt.

2. Precedents — Considered : *Kushalbhai Ratanbhai Rohit and Others v. State of Gujarat, (2014) 9 SCC 124*, was invoked and applied in paragraph 11. The High Court relied on its discussion of Section 362 CrPC to change the earlier dictated disposition before signing. The quoted Supreme Court passage distinguishes an unsigned and unsealed judgment from a final judgment and recognises a limited ability to alter it before finalisation. That proposition was applied to this record: withdrawal had been dictated, but the Court stated that the order had not yet been typed or signed, and counsel retracted the request before that stage. Paragraph 11 later uses "typed and dictated," whereas paragraph 8 says that the order had not been typed or signed. The conclusion was confined to the clearly stated absence of a signature, without resolving that difference in wording.

The passage quoted from *Kushalbhai* discusses *Surendra Singh and Others v. State of U.P., AIR 1954 SC 194*. That reasoning identifies formal delivery as the point at which even a signed draft becomes an operative judgment and recognises that a judge may change the draft until delivery. The High Court used that discussion within *Kushalbhai* to explain why a judicial decision remains open to correction before it crystallises, applying it to the bail order in the circumstances described above. The passage also refers to *Amodini Dasee*, *Emperor v. Pragmadho Singh*, *State of Bombay v. Geoffrey Manners & Co.*, and *Sangam Lal* as authorities recited within the Supreme Court quotation.

Aparna Bhat and Others v. State of M.P., Criminal Appeal No. 329/2021, decided 18 March 2021, was cited in paragraph 15 only to direct intimation of the bail grant to the complainant.

3. Statutes considered : Section 439 CrPC provided jurisdiction for the applicant's first regular-bail application. Section 362 CrPC raised the question of finality considered through *Kushalbhai*. The Court treated the earlier dictated but unsigned withdrawal order as capable of alteration before it became a completed order. The IPC, MPDVPK Act and Arms Act provisions listed in the registration described the accusation and seriousness of the alleged robbery; their ingredients were neither construed nor proved in these proceedings.

4. Issues : (i) Did counsel's initial request to withdraw the bail application, followed by an order dictated in open court but not typed or signed, prevent the Court from entertaining the retraction and continuing the same hearing, in light of Section 362 CrPC and the Supreme Court's analysis of finality?

(ii) If the hearing could continue, what bail order and conditions should follow in the applicant's circumstances, including the prosecution's criminal-history objection and counsel's willingness to accept stringent conditions? The order considered detention and imposed conditions without deciding identity, recovery or guilt.

5. Ratio / Findings : The Court distinguished the dictated withdrawal from a signed final order. Although it criticised counsel's conduct when he sought to retract the withdrawal, it heard him again that afternoon. Relying on *Kushalbhai* and the *Surendra Singh* discussion reproduced in it, the Court concluded that the order could still be changed before signing in the procedural circumstances recorded. It therefore accepted retraction of the withdrawal request and decided the Section 439 application. The holding concerned the unfinished state of that disposition.

On bail, the Court recorded its earlier inclination to release the applicant, counsel's acceptance of stringent terms and the period of detention. It expressly refrained from commenting on the merits. Counsel offered the Rs 15,000 contribution, which became a condition of this order rather than being derived from a reasoned general statutory rule. The monthly reporting requirement and bond likewise formed part of the individual disposition. *Aparna Bhat* was applied only for intimation to the complainant.

6. Relief : The Hon'ble High Court allowed the application for regular bail subject to deposit of Rs 15,000 in the High Court Registry for upgrading the Civil Dispensary on the court premises for the Covid-19 response. The applicant was also required to furnish a personal bond of Rs 1,00,000 with one surety in the like amount to the satisfaction of the Trial Court/Committal Court and to appear before the concerned court on the dates fixed. He was directed to appear before the SHO, Police Station Dabra City, District Gwalior, on the 1st of every month during the trial. The order would lose effect in the event of bail jump or failure to appear before the police station as directed. Intimation of the grant of bail was to be sent to the complainant.

Raghvendra Singh Rawat v. State of M.P., M.Cr.C. no. 1464/2022, 12/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Seized motorcycle / interim custody / stolen owner - The claimant had reported his motorcycle stolen and was not an accused in the separate truck-robbery case in which miscreants had used it with a changed registration number. The Special Judge refused custody solely because the vehicle was material evidence in the robbery and theft cases. Applying *Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283*, the High Court held that Section 451 CrPC requires prompt and judicious orders to prevent deterioration of property in police custody. A proper panchnama, detailed description and photographs can preserve its evidentiary character. The quoted Supreme Court passage calls for return of seized vehicles on suitable bond, guarantee and security where appropriate, with production when required. It also discusses unclaimed and insured vehicles, which were not the facts of this case. The applicant's prior theft FIR was undisputed; he was neither alleged to have participated in the robbery nor accused in it. Mere evidentiary use of his stolen vehicle did not justify keeping it indefinitely. The Court directed interim delivery on supurdaginama, subject to documents showing registered ownership, a bank guarantee of Rs 30,000, undertakings not to change its colour or alter it and to produce it when directed, and non-alienation until both trials concluded. Those were

protective conditions, rather than an adjudication of title or guilt in either FIR. Paras 2–8.

Case-note :- ***1. Facts :*** This application under Section 482 CrPC challenged the order dated 30 July 2020 passed by the Special Judge, MPDVPK Act, Bhind, dismissing a request under Sections 451 and 457 CrPC for interim custody of a motorcycle. The order described Crime 336/2019 at Mehgaon, Bhind, as an investigation into the looting of a truck. Its introductory paragraph mentioned Sections 394, 420, 482, 483, 488 and 489 IPC and Sections 11/13 of the MPDVPK Act. Miscreants allegedly used a motorcycle displaying registration UP 76 K 8164. On seizure, its correct registration was found to be MP 30 MK 4055, and it was identified as the subject of the claimant's earlier theft FIR, Crime 260/2019, registered on 29 June 2019 under Section 379 IPC. The claimant said that it had been stolen from him on 28 June 2019. The trial court retained the motorcycle because it was evidence in the truck case. For the interim-custody decision, the High Court accepted that the claimant had lodged the theft report and was not accused in the robbery case; the State did not dispute those matters.

The applicant relied on *Sunderbhai Ambalal Desai v. State of Gujarat and* argued that retaining the motorcycle with the police served no useful purpose when he was himself the victim of theft. The State relied on the vehicle's relevance to two registered offences. The issue was whether evidentiary use alone justified refusing interim possession to an apparently innocent owner, and what safeguards were needed to preserve the vehicle for both cases.

2. Precedents — Considered : *Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283*, was specifically relied on by the applicant and quoted by the Court in paragraph 6. Paragraph 7 of the quotation requires expeditious and judicious exercise of the power under Section 451. It identifies four linked purposes: preventing loss to the owner through disuse or misappropriation; relieving the police and courts of continued storage; enabling a properly prepared panchnama to serve as evidence instead of production of the article, with a detailed record of its nature where necessary; and reducing opportunities for tampering by promptly recording evidence. In the present case, the order required verification of the proper claimant and safeguards for trial evidence.

The same quotation reproduces the Supreme Court's discussion of vehicles in paragraphs 15–18. It addresses deterioration of vehicles kept at police stations and recognises disputes about delivery to the person from whom a vehicle was seized, its true owner or another claimant. It calls for immediate and appropriate Magistrate's orders on bond, guarantee and security for return when required. Suitable photographs and a detailed panchnama should be prepared before delivery. The quoted discussion of unclaimed vehicles, notice to an insurance company and possible auction within six months concerns a different situation: this motorcycle was actively claimed and was not ordered to be auctioned. In paragraph 7, the High Court applied the reasoning concerning prompt release and preservation of evidence. It required documentary proof of ownership and substantial security.

3. Statutes considered : Sections 451 and 457 CrPC governed the application to the Special Judge for interim custody of the property. Section 482 CrPC was invoked to challenge the refusal. The quoted Supreme Court analysis focuses expressly on Section 451 and the judicious, expeditious handling of property produced before the court or held in its custody. The introductory IPC and MPDVPK Act references identify the two criminal cases and the evidentiary setting; they do not record a finding that the applicant committed those offences. Crime 260/2019 concerned the owner's own theft report, while Crime 336/2019 was the separate case in which the stolen vehicle was allegedly used. Both cases remained relevant to the non-alienation condition. No confiscation provision, forfeiture statute or final-disposal ruling was adjudicated.

4. Issues : (i) Could the trial court refuse interim custody merely because the seized motorcycle was evidence in a robbery prosecution and also the subject of a theft FIR, despite the undisputed theft report lodged by an applicant who was not accused in the robbery?

(ii) How does *Sunderbhai* reconcile prompt return and prevention of deterioration with preservation and later production of physical evidence?

(iii) What proof, guarantee, preservation undertaking and non-alienation terms did the High Court impose, and what was left for the court below to verify before physical delivery?

5. Ratio / Findings : The respondent did not dispute that the applicant had reported the theft of motorcycle MP 30 MK 4055. He was not accused in Crime 336/2019 and was, in the Court's description, himself a victim of theft. The Special Judge's bare

reliance on the vehicle's evidentiary significance in two prosecutions did not explain why it had to remain in police custody rather than be delivered subject to effective safeguards. Following *Sunderbhai*, the High Court held that no useful purpose would be served by withholding interim custody in those circumstances. The holding was a conditional application to an identified claimant.

The Court required the applicant to file documents in the trial court showing that he was the registered owner and to furnish a bank guarantee of Rs 30,000 as security. He had to undertake not to change the motorcycle's colour or alter it, and to produce it whenever the trial court directed. He was also prohibited from alienating it until the trials arising from both Crime 260/2019 and Crime 336/2019 concluded. These requirements preserved the ability to identify and produce the property while avoiding needless storage and deterioration. The guarantee amount was a condition of this case.

6. Relief : The Hon'ble High Court disposed of the application under Section 482 by directing interim release of the motorcycle to the applicant on supurdaginama notwithstanding the earlier refusal, once the court below was satisfied that the specified proof, bank guarantee of Rs 30,000 and undertakings had been furnished. Production when ordered and non-alienation until both trials concluded remained operative safeguards.

Raghvendra Singh v. State of M.P., M.Cr.C. no. 12765/2021, 22/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- The Court observed that —

Negotiable Instruments Act, 1881, Sections 118, 138 and 139 — debt and statutory presumption — Once execution of a signed cheque is proved or admitted, a rebuttable presumption arises that it was issued for consideration and in discharge of a legally enforceable liability. Mere denial is insufficient; the accused may rely on a probable defence arising from the entire record. The complainant's failure to file an income-tax return or disclose the loan in it does not, by itself, establish a lack of funds or negate the debt. Financial capacity and the transaction are assessed with the other evidence. Here, the payee explained that he had Rs 4 lakh of his own and had borrowed Rs 6 lakh from his father. The accused's changing account failed to rebut the presumption.

Signed cheque — entries completed by another — The mere fact that the payee or another person filled in the remaining particulars of a cheque does not, by itself, absolve its drawer. Applying *Bir Singh v. Mukesh Kumar*, the Court distinguished an assertion about handwriting in the other entries from proof that the drawer had not signed the instrument or had not voluntarily issued it. In the circumstances, the unsupported account of theft did not displace the statutory presumption.

Disputed signature and alleged theft — The accused's earlier notice referred to completion of the other entries but did not deny her signature. She specifically denied the signature only in her defence evidence. Her accounts of the place of theft and her acquaintance with the complainant conflicted. She lodged no theft FIR and did not seek expert comparison, although the complainant attempted to obtain it. Her admission that the cheque signature resembled the bank specimen, together with its return because the account was blocked rather than for a signature mismatch, supported rejection of the belated defence.

Criminal revision — Concurrent factual findings on execution and liability were not reopened merely to reappreciate the evidence. Following *Bir Singh* on the limited revisional role in the absence of perversity or jurisdictional error, the Court affirmed the trial and appellate findings that the transaction was proved and the presumption had not been rebutted.

Sentence and compensation — *Suganthi Suresh Kumar* cautions that imposing a merely nominal sentence for an unpaid dishonoured cheque defeats Section 138's object. The trial court had imposed admonition and awarded compensation of Rs 12,69,000. The complainant had not challenged that leniency. The High Court therefore declined to enhance the punishment but directed that the compensation carry interest at 9% per annum from 23 January 2018 until payment. The original compensation had included interest at 9% through the trial judgment.

Case-note :- ***1. Facts :*** Piyush Dutt Sharma alleged in his complaint that Ragini Gupta borrowed Rs 10 lakh in June 2013, promised repayment within six months and delivered Andhra Bank cheque No. 119954 dated 28 January 2014. He presented it through Axis Bank on 3 February 2014. It was returned on 4 February because the account was blocked. His later statutory demand notice was

returned with an endorsement that the addressee had left the premises. Ragini denied the loan and alleged that Piyush and Pankaj had taken her cheque from her husband's shop, prompting her to instruct the bank to block the account. She and her husband testified for the defence. On 23 January 2018, the JMFC convicted her under Section 138 NI Act, imposed admonition and awarded Rs 12,69,000 compensation. The compensation included interest at 9% through the judgment date. The 14th Additional Sessions Judge dismissed her Criminal Appeal No. 83/2018 on 12 October 2018. She then brought this revision under Sections 397/401 CrPC.

The revisionist disputed her signature and the existence of an enforceable loan. She contended that the complainant had not established his income or disclosed the alleged advance in income-tax returns, that she did not know him, that a cheque whose other entries were not in her handwriting could not bind her, and that she had received no demand notice. The complainant relied on the statutory presumption, his explanation that he had Rs 4 lakh of his own and had borrowed Rs 6 lakh from his father, the bank's reason for return, the absence of a theft FIR, and the accused's own registered notice, Ex. P7, sent through her advocate in October 2014. Ex. P7 described him as her husband's family friend and a frequent visitor. It stated that a cheque was missing from her computer-table drawer and accused him of completing its other entries, but did not deny her signature. In her evidence, she instead alleged theft from her husband's shop, denied knowing him, sought to disown the notice and her advocate, and specifically denied the cheque signature for the first time. The complainant then applied under Section 45 Evidence Act for expert comparison. The accused opposed the application, and the Magistrate rejected it. She had made no application for expert comparison herself. She acknowledged that the disputed signature resembled her specimen with the bank. The High Court weighed these circumstances in the cheque case; it did not adjudicate the allegations as separate crimes.

2. Precedents — Considered : *Bir Singh v. Mukesh Kumar, Criminal Appeal Nos. 230–231/2019*, was expressly quoted and applied twice. In its discussion of a signed blank cheque, it distinguished subsequent completion of the unfilled particulars from a material alteration. Voluntary signature and delivery, and evidence of the circumstances in which the cheque was issued, were central to the statutory inference. It also held that the mere absence of a cheque or receipt for the underlying loan did not automatically defeat a Section 138 complaint. The present Court applied that reasoning after finding that the record supported the signature and loan. It rejected the contention based on different handwriting in the remaining entries. *Bir Singh* was also cited on the limited revisional role where the trial and appellate courts have made concurrent factual findings: in the absence of perversity or jurisdictional error, the revisional court does not retry the evidence.

Kishan Rao v. Shankargouda, (2018) 8 SCC 165, was quoted on the operation of Section 139 once execution is proved and the insufficiency of a bare denial. The quoted passage explained and adopted the principles in *Kumar Exports v. Sharma Carpets, (2009) 2 SCC 513*. Sections 118 and 139 create rebuttable presumptions of consideration and debt. The accused may rely on direct evidence or surrounding circumstances that make the absence of consideration or debt reasonably probable; direct proof of a negative is not invariably required. In *Kishan Rao* itself, the stolen-cheque defence had failed on the evidence. The present Court used these authorities to assess whether Ragini's inconsistent account of theft and denial of signature supplied a probable rebuttal, and found that it did not. *T.P. Murugan v. Bhojan, (2018) 8 SCC 469*, was quoted on the same rebuttable Section 139 presumption and the rejection, for lack of credibility, of a long-unexplained account that cheques had been given as security. It reinforced the need for cogent circumstances. The pronote and seven-year delay in that case were not facts of the present case.

John K. John v. Tom Varghese, JT 2007 (13) SC 222, was quoted as an example where an unusually large undocumented, interest-free advance and the complainant's conduct could support rebuttal. *Suganthi Suresh Kumar v. Jagdeeshan, (2002) 2 SCC 420*, was quoted for the concern that an unpaid dishonoured cheque should not attract a token punishment that defeats Section 138's legislative object. Its caution informed the sentencing discussion, although this Court left the unchallenged admonition in place and maintained compensation with further interest.

Sadhna Pandey (Smt.) v. P.C. Jain, a coordinate Bench decision, was quoted on the evidentiary relevance of a bank memo giving a reason other than signature mismatch where denial of the signature was belated. That extract in turn discussed the

Supreme Court decision in *L.C. Goyal v. Suresh Joshi and* other High Court decisions. The present Court relied on this reasoning when assessing the cheque and the bank's blocked-account reason. The authorities within the extract were considered only for the point reproduced, without independent analysis of their other holdings. *John K. Abraham v. Simon C. Abraham, (2014) 2 SCC 236, K. Subramani v. K. Damodara Naidu, (2015) 1 SCC 99, Krishna Janardhan Bhat v. Dattatraya G. Hegde, AIR 2008 SC 1325*, and two MP High Court decisions were cited by the revisionist in submissions.

3. Statutes considered : Section 138 of the Negotiable Instruments Act supplied the offence and the demand-notice context. Sections 118 and 139 governed the rebuttable presumptions of consideration and legally enforceable debt or liability upon proof of execution. Section 20 was referred to when the Court rejected the proposition that another person's completion of the remaining cheque entries alone exonerated the drawer. Section 45 of the Evidence Act provided for the proposed handwriting-expert examination. The Court noted the complainant's unsuccessful application and the accused's failure to seek that comparison herself. Sections 397 and 401 CrPC were the basis of the revision after the unsuccessful conviction appeal. The quoted *Bir Singh* passage referred to Section 482 when describing revisional restraint; this petition was brought under Sections 397 and 401. Section 315 CrPC provided for the accused's own defence testimony. Income-tax reporting was an evidentiary contention, rather than a statutory prerequisite under the NI Act. Possible revenue action for tax non-compliance was expressly kept separate from adjudication of the cheque debt.

4. Issues : (1) After evaluation of the cheque, signature and transaction, did Sections 118 and 139 require an inference of legally enforceable liability, and could the accused rebut it by relying on the alleged absence of recorded or disclosed income of the complainant? (2) Did the assertions that the cheque was stolen or that someone else filled in its other particulars make it unreliable, given that the accused's prior notice did not deny her signature, her account had changed, and the bank returned it because the account was blocked? What was the significance of the attempted expert examination and the absence of a theft FIR? (3) Could a criminal revision disturb concurrent trial and appellate findings on those facts without perversity or jurisdictional error? (4) Did the lenient admonition and compensation require interference, and what interest was payable after the trial judgment? The returned demand notice was a factual contention addressed in light of the accused's own later registered communication.

5. Ratio / Findings : The Court found that the accused's admission about the resemblance of her signature, the bank's failure to object to the signature, her October 2014 notice referring only to other entries, her admitted acquaintance with the complainant, and his explanation of the source of Rs 10 lakh supported execution of the cheque and the debt. It applied the rebuttable Section 139 presumption, as explained in *Kishan Rao* and *Kumar Exports*, and assessed whether the defence made the absence of liability reasonably probable. Failure to file a tax return or disclose income could attract tax-law consequences, but did not by itself establish that no funds or loan existed. The complainant had been cross-examined on his means and had explained that he contributed Rs 4 lakh and borrowed Rs 6 lakh from his father.

The alleged theft defence was inconsistent about where the cheque disappeared and whether Piyush was known to the family. Ragini's Ex. P7 notice described the cheque as missing from her computer-table drawer and the complainant as a family friend. Her testimony placed it in her husband's shop and denied acquaintance with him. She also disowned the notice and counsel despite having engaged that lawyer. Ex. P7 alleged that someone else completed the other entries, but did not deny her signature; she specifically denied the signature only in her evidence. She lodged no theft FIR and did not seek handwriting comparison, whereas the complainant sought it after that late denial. The bank memo recorded a blocked account rather than a signature mismatch, and she admitted that the signature resembled her bank specimen. Together, these circumstances supported rejection of the defence. The bank's return reason and the absence of an expert report were evidentiary circumstances in this case. Applying *Bir Singh*, the Court held that completion of particulars by someone other than the drawer did not alone defeat liability on the proved signed cheque.

The Court also found that, after the complainant's demand notice was returned, the accused had sent a registered notice to his counsel. It rejected her

attempt to deny sending Ex. P7 through an advocate whom she acknowledged engaging. The Court concluded that the transaction and legally recoverable liability were established and that the concurrent conviction findings disclosed no error warranting revisional intervention. *Bir Singh* supplied the principle that evidence should not be reweighed in the absence of perversity or jurisdictional defect. The revision was dismissed; it was not treated as a fresh factual appeal.

On sentence, *Suganthi Suresh Kumar* cautioned against nominal punishment for an unpaid cheque. The complainant, however, had not challenged the trial court's admonition. The Court left that punishment and the Rs 12,69,000 compensation intact. It separately directed that the compensation carry interest at 9% per annum from 23 January 2018 until actual payment. The trial compensation already included interest at 9% on the cheque amount through that date.

6. Relief : The Hon'ble High Court dismissed the criminal revision and affirmed the Sessions appellate judgment of 12 October 2018 and the JMFC judgment of 23 January 2018, including Ragini Gupta's Section 138 conviction, admonition and compensation of Rs 12,69,000. It directed that the compensation additionally carry interest at 9% per annum from the trial judgment date, 23 January 2018, until actual payment. There was no remand, acquittal, enhancement of imprisonment or independent adjudication of tax liability.

Ragini Gupta v. Piyush Dutt Sharma, Cr.R. no. 5263/2018, 07/03/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- The court observed that adults may choose to live together without interference. A sufficiently specific complaint identifying criminal acts and alleged offenders calls for lawful police action in the light of *Lata Singh v. State of U.P., (2006) 5 SCC 475*. In an Article 226 petition seeking protection against relatives and others, the couple relied on an Arya Samaj Mandir certificate. Applying the Supreme Court's order in *Secretary, Madhya Bharat Arya Pratinidhi Sabha v. State of M.P., SLP (Civil) No. 5315/2022*, the High Court held that the Mandir had no authority to issue a marriage certificate. It did not accept the document as competent certification of the marriage. The complaint sent by post identified no threat, date, name or offence. The Court therefore granted neither an unconditional protective declaration nor a blanket bar on coercive action. It instead directed the Superintendent of Police, Morena, to take necessary action if the petitioners submitted a complaint specifying instances of offences and naming the offenders. Any existing FIR was expressly left unaffected. The right of adults to choose their life together was preserved without deciding the validity of the alleged marriage or granting immunity from lawful investigation.

Case-note :- ***1. Facts :*** Rahul and another petitioner approached the Madhya Pradesh High Court, Gwalior Bench, under Article 226 in Writ Petition No. 13785/2022. They claimed to be adults who had married in an Arya Samaj Mandir and faced threats from respondent No. 4, the second petitioner's family or other persons. They sought police protection and an order preventing coercive action on allegedly false complaints. They also sought a declaration that the threats and interference with their married life were unlawful, an order restraining such conduct, costs and other suitable relief. Their counsel relied on the Arya Marriage Validation Act, 1937, and their freedom as adults to live as they wished. The State disputed the Mandir's authority to issue a marriage certificate.

The petitioners relied on a certificate recording an alleged marriage on 31 May 2022. Their complaint, sent by registered post on 14 June 2022, gave no concrete instance of a threat, date, telephone number or name of an alleged offender. The Court treated this general complaint as an attempt to lay a foundation for the writ, rather than as proof of a specific offence. The petitioners claimed to be above 23 and 20 years of age respectively. The Court considered the certificate and the unsupported threat allegations separately from the adults' freedom to choose their life together.

2. Precedents — Considered : The Supreme Court's order dated 4 April 2022 in *Secretary, Madhya Bharat Arya Pratinidhi Sabha v. State of Madhya Pradesh and others*, SLP (Civil) No. 5315/2022, was expressly applied. The High Court recorded that the Supreme Court permitted Arya Samaj Mandirs to perform marriages strictly in accordance with Annexure P/5 to that SLP. The reproduced conditions required compliance with the Hindu Marriage Act, proof of age, voluntary consent, a joint application with witnesses, integrity of documents, Vedic

Saptapadi, reporting to the Sabha, photographs, a marriage register and preservation of files. On the question before it, the High Court held that permission to perform marriages did not confer authority on a Mandir to issue a marriage certificate. *Lata Singh v. State of U.P., (2006) 5 SCC 475*, was invoked in the operative direction concerning protection of consenting adults from unlawful interference.

3. Statutes considered : Article 226 of the Constitution provided the writ jurisdiction for the requested police-protection remedy. The petitioners invoked the Arya Marriage Validation Act, 1937. The Court stated that marriages between Arya Samajists are not invalid under that Act, but noted that the petitioners had not claimed to be Arya Samajists. Annexure P/5, reproduced by the High Court, required compliance with the Hindu Marriage Act and laid down detailed procedural conditions. The Court stated that a marriage certificate could be issued by the competent authority under the Special Marriage Act and rejected the Mandir certificate as competent certification. No penal provision or charge was adjudicated. Any possible existing FIR was expressly left unaffected.

4. Issues : (1) Could the petitioners rely on an Arya Samaj Mandir certificate as authoritative proof of marriage for the protection writ, in view of the Supreme Court's conditions and the limited scope of the Arya Marriage Validation Act invoked? (2) Did their registered-post complaint establish identifiable threats justifying the requested blanket protective and non-coercion orders? (3) Independently of proof of a legally certified marriage, what protection could adults receive to exercise their freedom to live together, and how should that protection interact with any pre-existing FIR? These questions concerned writ relief and police action.

5. Ratio / Findings : The Court distinguished the adults' autonomy from their reliance on the Mandir certificate as evidence of marriage. The Supreme Court order permitted marriage ceremonies subject to the recorded conditions, but did not authorise the Mandir to issue a marriage certificate. The High Court therefore did not treat the purported certificate as competent certification or declare the couple's marriage valid.

The alleged threat lacked particulars. The complaint was sent about two weeks after the alleged ceremony, but gave no instance of a threat, name, date, telephone number or specific offence. The Court regarded the complaint as imaginary and as an attempt to lay a foundation for the writ. It refused the unconditional relief sought on that material.

The Court accepted the general principle that two adults may choose how to live and that others have no right to interfere with their life. It directed that, if the petitioners complained to the Superintendent of Police, Morena, specifying instances of an offence and naming the offenders, the Superintendent must take necessary action under the law in the light of *Lata Singh*. The direction was conditional on such a complaint. Any FIR already lodged was expressly left unaffected; the adult-choice principle was not used to quash or suspend a case against either petitioner.

6. Relief : The Hon'ble High Court disposed of the petition with a direction to the Superintendent of Police, Morena, to take necessary action if the petitioners submitted a sufficiently specific complaint identifying criminal acts and alleged offenders. It declined to treat the Arya Samaj Mandir document as a marriage certificate and did not grant the broad declaration, blanket non-coercion order or unconditional police protection sought. Any existing FIR remained unaffected. No costs, finding of criminal guilt or final declaration of marriage validity was recorded.

Rahul and others v. State of Madhya Pradesh and others, W.P. no. 13785/2022, 22/06/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal order / recall / counsel default and Bar Council - The applicant sought recall under Section 482 of the High Court's final order dated 13 May 2024. He alleged that his former counsel had received papers and fees, failed to file a reply and concealed that failure. He had complained to the State Bar Council. *Rafiq v. Munshilal, (1981) 2 SCC 788*, establishes that a party who has done all that can reasonably be expected should not suffer because of an advocate's default. *State of Punjab v. Davinder Pal Singh Bhullar, (2011) 14 SCC 770*, distinguishes the Section 362 CrPC bar on altering or reviewing a signed final judgment from recall of an order that is a nullity for want of jurisdiction or breach of natural justice. The applicant seeking recall must establish absence of fault. Here, the alleged failure to file depended on disputed assertions about delivery of documents and instructions to counsel.

Deciding those allegations would effectively determine professional misconduct, a matter within the Bar Council's disciplinary jurisdiction under *R. Muthukrishnan v. Registrar General, (2019) 16 SCC 407*. The complaint was pending before that body, and the former advocate had not been impleaded. The Court declined to make even a provisional finding that would prejudice that process. It dismissed the recall application with liberty to revive it after counsel's guilt is established by the Bar Council. Paras 2–17.

Case-note :- *1. Facts :* Rahul Jain applied under Section 482 CrPC in MCRC 22950/2024 for recall of the High Court's order dated 13 May 2024 in MCRC 19092/2023, which involved Neha Jain and others. The substantive disposition of the earlier order is not reproduced in this judgment, and the merits of that proceeding were not decided in this order. Rahul said that counsel's Vakalatnama had been filed on 19 August 2023. He alleged that, on visiting Jabalpur on 1 February 2024, he gave counsel the documents and signed papers needed for a reply, but was repeatedly told that a return had been filed when none was on record. He also alleged that he had paid counsel's fee, yet even the fee payable on the Vakalatnama had not been paid. He filed a complaint with the State Bar Council on 27 May 2024. As reproduced in the judgment, the complaint described the initial engagement and assurances, alleged non-filing and lack of notice of hearing, access to the 13 May order, and later efforts to obtain a copy. These remained the applicant's allegations, rather than judicially established facts. Paragraph 5 separately quoted the application's allegations of a breach of natural justice. The former advocate was not made a party to the recall application.

The applicant relied on *Rafiq* for relief from an advocate's mistake and on *Davinder Pal Singh Bhullar* for the distinction between prohibited review and permissible recall of a nullity. The Court framed the question as whether its earlier order should be recalled. It reproduced both Supreme Court rules and considered whether it could determine the alleged default while the misconduct complaint was before the Bar Council. It dismissed the application with conditional liberty to revive it.

2. Precedents — Considered : *Rafiq v. Munshilal, 1981:INSC:95 : (1981) 2 SCC 788*, was cited by the applicant and quoted in paragraph 8. In that case, a represented party who had chosen and briefed counsel and paid the fees was not required to monitor counsel's attendance at the High Court. The Supreme Court restored an appeal dismissed because counsel was absent and directed that costs be recovered from the advocate. In paragraph 9, the present Court accepted the general principle that a litigant should not suffer because of counsel's mistake.

State of Punjab v. Davinder Pal Singh Bhullar, 2011:INSC:839 : (2011) 14 SCC 770, was relied on for maintainability and extensively quoted in paragraph 10. Its paragraphs 44–45 and 47–49 state the finality rule: once a final criminal judgment is signed, the court is functus officio. Section 362 bars substantive alteration or review, except to correct a clerical or arithmetical error or where the law expressly authorises it. Section 482 cannot be used to do what the Code prohibits. Paragraph 46 permits a distinct power of recall where the apparent judgment is a nullity for want of jurisdiction, breach of natural justice or denial of a hearing, or an abuse of process with the same effect. The person seeking recall must establish absence of fault. The passage cites *Hari Singh Mann*, *Chhanni*, *Moti Lal* and *M.M. Manikantan Nair* on finality; *Chitawan*, *Deepak Thanwardas Balwani*, *Habu*, *Swarth Mahto*, *Makkapati Nagaswara Sastri*, *Asit Kumar Kar* and *Vishnu Agarwal* on exceptional recall; and *K.V. Rajendran* and *Sooraj Devi* on review authority. Those cases were part of the quoted doctrinal discussion. The High Court did not reject the possibility of recall for a breach of natural justice. It found that the necessary premise concerning misconduct and the applicant's absence of fault had not been established on this record.

R. Muthukrishnan v. Registrar General, High Court of Judicature at Madras, 2019:INSC:99 : (2019) 16 SCC 407, was invoked by the Court in paragraph 11 on the Bar Council's exclusive jurisdiction over an advocate's professional misconduct. The applicant's complaint was already before the State Bar Council. A finding that he had delivered particular documents and that counsel had disregarded his instructions would effectively prejudge that complaint. In paragraphs 12–16, the Court declined to make even a prima facie finding. The former advocate was not a party to the proceeding. The conditional disposition rested on these disputed allegations and the pending complaint.

3. Statutes considered : Section 482 CrPC was invoked to seek recall of the earlier High Court order. Section 362 CrPC, as quoted from *Davinder Pal Singh Bhullar*, prohibits a criminal court from

altering or reviewing a signed final judgment or order disposing of a case, except to correct a clerical or arithmetical error or under an express statutory exception. Inherent jurisdiction does not override that bar. The distinction is between changing a valid final decision and recalling an order that is void for the specified jurisdictional defect or breach of audi alteram partem. This application alleged a breach of natural justice arising from counsel's omissions. The Court declined to determine that disputed premise because the misconduct complaint was before the State Bar Council and the former advocate had not been impleaded. It relied on *R. Muthukrishnan* for the Bar Council's disciplinary jurisdiction.

4. Issues : (i) When can Section 482 support recall of a signed criminal order despite the Section 362 finality bar, and what must an applicant establish to invoke the nullity/natural-justice exception?

(ii) Does *Rafiq*'s protection for an innocent client warrant immediate relief merely on allegations that former counsel failed to file a reply after receiving documents, or must those disputed facts first be established?

(iii) Can the High Court give even a provisional finding on the advocate's professional conduct while a State Bar Council complaint is pending and the advocate is not before the Court?

(iv) What present relief and later route did the Court actually allow?

5. Ratio / Findings : The High Court accepted the *Rafiq* principle that a litigant who had done what was expected should not be penalised for counsel's default. Under *Davinder Pal Singh Bhullar*, substantive review of a signed final criminal order is prohibited. Exceptional recall concerns a genuine nullity caused by denial of a hearing or another recognised foundational defect, and the applicant must establish absence of fault. Here, the alleged denial of an effective hearing depended on disputed assertions that Rahul had provided the relevant documents and instructions and that former counsel had falsely assured him that a reply was filed. Even a prima facie determination would affect the disciplinary complaint. Applying *R. Muthukrishnan*, the Court held that professional misconduct was within the Bar Council's domain. The former counsel's absence was an additional reason to refrain from ruling on the accusation.

The words 'after the guilt of earlier counsel is established in the Bar Council' in paragraph 17 state the condition for revival in this particular order. The Court had accepted the *Rafiq* principle that a litigant should not suffer for counsel's mistake. The decision turned on an unresolved factual premise and the respective institutions' competence. Section 362 continued to bar mere reconsideration of the merits.

6. Relief : The Hon'ble High Court dismissed the Section 482 recall application with express liberty to revive it after the former counsel's guilt is established before the State Bar Council. Revival remained open on that stated condition, while the original final order remained operative.

Rahul Jain v. Neha Jain and Ors., M.Cr.C. no. 22950/2024, 31/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (655) Prev Next

Headnote :- Food safety / manufacturer impleadment / seller proof - In a pan masala prosecution, the seller applied under Section 78 of the Food Safety and Standards Act, 2006, to add the manufacturer as a co-accused. The Chief Judicial Magistrate refused because the seller had produced no bill showing purchase from that manufacturer. On the Section 482 challenge, the High Court required prima facie material showing that the article seized from the seller had been purchased from the named manufacturer in the same condition in which it was seized. Merely naming the manufacturer or asserting that it was equally responsible did not establish its criminal liability. Counsel identified no perversity in the Magistrate's order, and the application was dismissed. Paras 1–6.

Case-note :- ***1. Facts :*** Rahul Jain, a pan masala seller facing prosecution under unspecified provisions of the Food Safety and Standards Act, 2006, challenged the order dated 22 January 2024 passed by the Chief Judicial Magistrate, Harda, in RCT 176/2020. The Magistrate had rejected his Section 78 application to implead the manufacturer as a co-accused. The applicant argued that, as an ordinary seller, he should not alone face liability because the manufacturer was equally responsible. The Magistrate relied on the absence of a purchase bill linking the seized article to that manufacturer. The matter concerned the threshold for adding another accused to a pending food prosecution; it did not determine adulteration or finally attribute liability.

2. Precedents — Considered : The Court set out its reasoning on the Section 78 application in

paragraphs 4–6. The High Court's account of the rejected trial order was confined to its stated ground for refusal.

3. Statutes considered : Section 78 of the Food Safety and Standards Act, 2006, was the applicant's stated basis for seeking to add the manufacturer as a co-accused. The Court required prima facie evidence linking the seized article to its purchase from the named entity in the same condition. Section 482 CrPC was invoked to challenge the Magistrate's refusal, but the applicant could identify no perversity in that order. The prosecution was described only as arising under various provisions of the Food Safety Act. No separate issue concerning laboratory analysis, limitation, a written warranty or the final burden at trial was decided.

4. Issues : (i) Was the assertion that the applicant was an ordinary seller and that the named manufacturer was equally responsible sufficient to add the manufacturer as a co-accused under Section 78 without preliminary proof that the seized article had been purchased from it in the same condition?

(ii) Did the Magistrate act perversely in refusing the application where no bill had been furnished and no alternative prima facie linkage was identified in the High Court order?

(iii) What does the High Court's dismissal decide and leave open about the seller's and manufacturer's substantive criminal liability?

5. Ratio / Findings : The Court upheld the Magistrate's refusal based on the missing purchase bill and stated the general threshold in paragraph 5. Before an industry named as the manufacturer can be prosecuted, there must be sufficient prima facie material indicating its criminal liability, including evidence that the seized article was purchased from it in the same condition in which it was seized from the seller. The Court expressed that threshold in terms of sufficient prima facie material. In this record, the missing proof identified was a purchase bill, and counsel showed no perversity in the order. The seller's general assertion that the manufacturer was equally responsible did not supply the missing evidentiary link.

6. Relief : The Hon'ble High Court dismissed the Section 482 application challenging the Chief Judicial Magistrate's refusal. The manufacturer was not added as a co-accused on the application before the Court. So far as the order disclosed, RCT 176/2020 remained pending. The order did not dispose of the underlying food-safety prosecution or seizure, or determine guilt.

Rahul Jain v. The State of Madhya Pradesh, M.Cr.C. no. 7719/2024, 27/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers / FIR alleging sexual offences - The complaint and the Section 161 account alleged intercourse on a promise of marriage from 2014, including an incident on 20 September 2016. The complainant, whose age at the FIR was recorded as more than 18, gave a different account in her Section 164 CrPC statement. She said that the report had been procured under pressure, that the applicant had committed no offence or wrong against her, and that she wished to marry him. The State acknowledged that account and that her father's statement did not refer to earlier sexual abuse. On the material in this case diary, the High Court held that continuation of the FIR under Section 376 IPC and POCSO Sections 5(b)(i), 6 would be an abuse of process. It quashed the FIR under Section 482 CrPC without determining the validity of the asserted marriage.

Adult choice / *Lata Singh v. State of U.P.; AIR 2006 SC 2522* - The Supreme Court's rule that adults may choose whom to marry and must not face threats or harassment on that account was invoked in assessing the complainant's stated wish and the asserted coercion behind the report.

Quashing threshold / *State of Haryana v. Bhajan Lal; 1992 Supp (1) SCC 335* - The Court reproduced the Supreme Court's illustrative, non-exhaustive grounds for intervention to prevent abuse of process. These include cases in which the allegations and supporting material disclose no offence or the proceedings are mala fide. It applied the abuse-of-process principle to the prosecutrix's judicial statement and her father's account.

Section 482 restraint / *Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460* - The Court invoked the Supreme Court's caution that quashing requires circumspection, a prima facie review of the case record and basic ingredients, and no meticulous weighing of evidence or premature assessment of conviction. Its conclusion was confined to the material and concessions recorded in this case.

Case-note :- ***1. Facts :*** Rahul Jatav sought quashing of Crime No. 732/2016 at Police Station Karera,

District Shivpuri, under Section 482 CrPC. The FIR alleged offences under Section 376 IPC and Sections 5(b)(i) and 6 of the Protection of Children from Sexual Offences Act, 2012. On 20 September 2016, the prosecutrix, accompanied by her father Ghasiram Jatav, reported her age as about 18 years and two months. She alleged that, while she was at school about two years earlier, Rahul had repeatedly called her to his house and had intercourse with her on a promise to marry her once she turned 18. Her Section 161 account identified 22 March 2014 as the date of the first intercourse and described later occasions, including an incident on 20 September 2016 at Kua Teela Road, followed by his refusal to marry. These were allegations. Her father's Section 161 statement described their acquaintance and his earlier willingness to arrange their marriage after she attained 18. He said that the applicant and his father later refused his request after the reported September incident.

In her judicial statement under Section 164 CrPC, reproduced in the order, the prosecutrix gave a different account. She said that she loved Rahul and wanted to marry him, had not been allowed to speak with him, and had been pressured into lodging the report. She alleged no offence or wrongdoing by him and did not seek action against him. Counsel for Rahul and for the prosecutrix relied on that account and contended that her father had procured the FIR through coercion. They also stated that the two had married according to Hindu rites on 13 October 2016 and supplied photographs. After consulting the case diary, the State acknowledged the Section 164 account and noted that the father's statement did not say that she had reported sexual abuse before 20 September 2016.

2. Precedents — Considered : *Lata Singh v. State of U.P. and another, AIR 2006 SC 2522*, was quoted for the principle that a major may choose a spouse and that family disapproval, including of inter-caste or inter-religious marriage, cannot justify threats, violence, harassment, or criminal-process abuse. The Supreme Court had directed police protection and action against such harassment. The High Court used the adult-choice principle in assessing the prosecutrix's expressed wish and the claimed pressure behind the FIR.

State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335, supplied illustrative, non-exhaustive categories for intervention under Article 226 or Section 482 to prevent abuse of process and secure justice. The quoted categories include cases where the allegations taken at face value disclose no offence; where the uncontroverted allegations and supporting material disclose no offence; where the allegations are inherently improbable; where an express legal bar applies; and where the proceedings are manifestly mala fide. The High Court applied the abuse-of-process principle when considering the case diary and the prosecutrix's judicial statement.

Amit Kapoor v. Ramesh Chander and another, (2012) 9 SCC 460, was quoted at length on the distinction between revisional and inherent jurisdiction and the caution required in quashing. The reproduced principles require a prima facie assessment of uncontroverted allegations and the basic ingredients of the offence, with sparing intervention. They prohibit meticulous appraisal of evidence or prediction of conviction, and reliance on external defence material to decide whether to quash a charge. They also require a balance between individual liberty and the complainant's right to prosecution.

3. Statutes considered : Section 482 CrPC provided the High Court's inherent jurisdiction to quash the FIR to prevent abuse of process. During the investigation, statements were recorded under Sections 161 and 164 CrPC. The latter was the complainant's judicial account and was central to the decision; her father's Section 161 account was also considered. Section 376 IPC and POCSO Sections 5(b)(i) and 6 were the offences named in the FIR. Sections 156(1), 155(2), 173(2), 228 and 397 CrPC and Article 226 appeared in the quoted Supreme Court passages on quashing.

4. Issues : (1) Should the FIR and ensuing proceedings continue when the prosecution's Section 161 account alleged intercourse on a false promise of marriage, including conduct said to have begun before the complainant was 18, but her Section 164 judicial statement disavowed wrongdoing and described coercion in lodging the report? (2) How did the Supreme Court's adult-choice principle and the restrained Section 482 standards for preventing abuse of process apply to this record? The validity of the asserted October marriage, and a separate statutory determination of child status or the elements of aggravated penetrative sexual assault, were not decided.

5. Ratio / Findings : The Court examined the police diary and placed decisive weight on the prosecutrix's Section 164 statement that she loved the applicant,

wished to marry him, had been pressured into lodging the FIR and alleged no offence. State counsel fairly acknowledged that account and that her father's Section 161 statement did not mention her reporting sexual abuse before 20 September 2016. The Court inferred that the earlier allegations had been made under coercion, as she had stated, and concluded that continuing criminal proceedings against this applicant would be an abuse of law. It also treated her as a major at the time relevant to her stated choice of spouse and applied *Lata Singh*'s autonomy principle. The quoted *Bhajan Lal* categories provided the framework for preventing abuse of process, while *Amit Kapoor* required caution against a mini-trial or routine quashing. The reasoning was confined to these particular statements and the State's concession. The Court expressly refrained from commenting on the marriage.

6. Relief : The Hon'ble High Court allowed the Section 482 petition. Crime No. 732/2016 at Police Station Karera, District Shivpuri, for Section 376 IPC and POCSO Sections 5(b)(i) and 6 was quashed. *Rahul Jatav v. State of M.P. and Ors., M.Cr.C. no. 12804/2016, 24/11/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Headnote :- Regular bail / undertrial on COVID parole / custody - The applicant obtained bail on his third Section 439 petition on the stated ground that he had spent six months in actual custody. He had, however, been released on pandemic parole from 19 May to 16 August 2021 and had not disclosed it. Under *Niranjan Singh v. Prabhakar Rajaram Kharote, AIR 1980 SC 785*, custody for Section 439 requires physical control or physical presence before the court coupled with submission to its jurisdiction. *Sunil Fulchand Shah v. Union of India, (2000) 3 SCC 409*, treated parole under COFEPOSA as constructive custody, countable towards preventive detention according to that enactment and the terms of release. The High Court distinguished that setting from this undertrial's parole. *State of Haryana v. Mohinder Singh, (2000) 3 SCC 394*, distinguishes parole from furlough and bail. *Kanaksinh Mohansinh Mangrola, (2006) 9 SCC 540*, concerned temporary bail, rather than parole. The contrary local decision in *Budh Singh Baghel* was held per incuriam for overlooking that distinction and Section 31-A(4) of the Prisoners Act. The Court held the Section 439 application filed during parole unmaintainable without surrender. It recalled the bail granted on 30 July 2021, permitted renewal after surrender and directed disclosure of parole status in future Section 439 applications. Its discussion of sentence credit expressly used the convict provisions as guidance, rather than as rules directly applicable to undertrials. Paras 1–31.

Case-note :- ***1. Facts :*** Rahul Kumar was an undertrial in Crime 438/2020 at Police Station Gwalior for offences under IPC Sections 406 and 420. Two bail applications had been rejected. He filed his third Section 439 CrPC application, MCRC 35888/2021, on 15 July 2021, relying principally on about six months in actual custody. The High Court granted bail on that understanding on 30 July 2021. He had, however, been released on COVID pandemic parole on 19 May 2021, effective until 16 August 2021. The bail petition did not disclose that release. While the parole remained unexpired, he brought the omission to the Court's notice in this application under Section 482, MCRC 38747/2021. The Court examined whether an undertrial on that parole could seek regular bail without first surrendering, what detention period was being claimed and the consequence for the earlier grant.

The applicant argued that judicial or State control over a parolee was sufficient custody, relying on decisions concerning temporary bail and preventive detention. The State contended that actual custody was indispensable. The issues concerned Section 439 maintainability, nondisclosure and recall. The Court did not treat a parolee as free of all legal control. It held that constructive control did not fulfil the particular Section 439 custody requirement in these circumstances.

2. Precedents — Considered : *In Re: Contagion of COVID-19 Virus in Prisons*, Suo Motu W.P.(C) 1/2020, provided the Supreme Court's pandemic decongestion setting for the applicant's temporary release. In paragraphs 6 and 10, the High Court considered the effect of that release on a later ordinary Section 439 application. The lawfulness of the pandemic release itself was not in issue.

Sunil Fulchand Shah v. Union of India, (2000) 3 SCC 409, was relied on by the applicant. In paragraph 13, the Court quoted paragraph 30 of that decision: a COFEPOSA detenu temporarily released under Section 12 generally remains in constructive State custody, and the detention period continues to run

unless the release order, rules or instructions exclude that period. The Court reproduced COFEPOSA Section 12 in full in paragraph 14 and observed in paragraph 15 that it contained no exclusion of parole from the calculation of preventive detention. In paragraph 21, it also quoted paragraphs 24–27 on the different control and legal character of bail and parole. The quotation addresses release outside Section 12 and the applicable conditions. The High Court did not treat constructive custody under that detention regime as fulfilling the Section 439 requirement for this undertrial.

State of Haryana v. Mohinder Singh, (2000) 3 SCC 394, was quoted in paragraphs 18 and 20. Under the Haryana temporary-release statute, parole did not count towards a convicted prisoner's sentence, whereas furlough did. Paragraph 10 of that authority also distinguishes bail, furlough and parole. The High Court relied on that distinction and Section 31-A(4) of the Prisoners Act, 1900. It expressly stated in paragraph 11 that the Prisoners Act provision and MP Prisoners Leave Rules, 1989, directly governed convicted prisoners, rather than undertrials, and used them as guidance for the undertrial question. In paragraph 17, the Court broadly stated that parole could not count towards detention. That statement followed its comparison of the statutory settings. It had distinguished *Sunil*'s quoted COFEPOSA counting rule as governed by that preventive-detention regime.

Niranjan Singh v. Prabhakar Rajaram Kharote, AIR 1980 SC 785, quoted in paragraph 23, supplies the operative Section 439 concept: custody means physical control or at least physical presence before the court coupled with submission to its jurisdiction and orders, as distinct from anticipatory bail. *Kanaksinh Mohansinh Mangrola v. State of Gujarat, (2006) 9 SCC 540*, was invoked in relation to an applicant already on temporary bail. The temporary-bail submission was recorded in paragraph 19, and the Court distinguished it in paragraph 22 because temporary bail differs from administrative parole. The coordinate *Bench decision in Budh Singh Baghel v. State of M.P.*, MCRC 18164/2020 (23 July 2020), had allowed a Section 439 application without surrender during parole, relying on *Kanaksinh*. In paragraphs 24–25, the present Court respectfully held that decision per incuriam for overlooking the interim-bail/parole distinction and Section 31-A(4). *State of Haryana v. Dinesh Kumar,* (2008) 3 SCC 222, was also cited by the applicant in submissions. The State referred to a further coordinate Bench order in MCRC 1837/2021, without an elaborated account of its reasoning.

3. Statutes considered : Section 439 CrPC was the regular-bail power invoked in the third application. The Court required custody in the *Niranjan Singh* sense and did not equate conditional release on parole with that procedural state. Section 482 CrPC was used in this application to bring the omitted circumstance before the High Court and recall the bail order because the earlier application was unmaintainable. Sections 406/420 IPC identified the pending accusations only. Section 31-A(4) of the Prisoners Act, 1900, as reproduced, excludes temporary-release periods from a convicted prisoner's sentence. The 1989 MP Prisoners Leave Rules also concern convicts. Neither applies directly to Rahul as an undertrial, as the Court expressly noted. COFEPOSA Section 12 governs the distinct preventive-detenu release regime considered in *Sunil Fulchand Shah*, including bonds, surrender and counting according to the terms of release. The Haryana statutory setting in *Mohinder Singh* is different again. The High Court reasoned by comparison about parole, interim bail, constructive control and detention credit. Its operative decision concerned Section 439 maintainability during this undertrial's pandemic parole.

4. Issues : (i) Could an undertrial temporarily released on pandemic parole be regarded as in the custody necessary to maintain a fresh Section 439 regular-bail application without surrender?

(ii) Should constructive State or judicial control, preventive detention credit, a convicted prisoner's parole rule, or a temporary-bail decision determine the undertrial's Section 439 position?

(iii) What significance did omission of ongoing parole have when the prior bail grant rested on a mistaken six-month actual-custody premise, and what declaration should future applicants make?

(iv) Did *Budh Singh Baghel* remain a sound local precedent after the parole versus interim-bail distinction was considered?

5. Ratio / Findings : The Court distinguished legal control during parole from the actual custody, or submission by physical presence, required under Section 439. It rejected the attempt to apply *Sunil Fulchand Shah*'s COFEPOSA detention-counting conclusion to an undertrial's pandemic parole: that conclusion was governed by the specific preventive statute and terms of release. Section 31-A(4) and the

1989 Rules directly concern convicts and were used only as guidance. *Mohinder Singh* illustrated the different consequences of different forms of release. *Kanaksinh* concerned interim bail and therefore did not support a Section 439 application made during parole. *Niranjan Singh* supplied the relevant custody requirement. The Court accordingly held that the applicant was not in Section 439 custody without surrender before the trial court. It held the contrary coordinate Bench decision per incuriam because it had overlooked the distinction and the statute.

The parole was in force when MCRC 35888/2021 was filed and remained so at the present hearing. The applicant's silence had led the Court, on the third bail application, to treat him as having spent six months in actual detention. That was a material misapprehension. Because the application was unmaintainable, the bail order dated 30 July was recalled. The applicant was given liberty to renew his bail prayer after surrender; the merits of that renewed prayer were not decided. The Court also directed future Section 439 applicants to declare affirmatively that they are not on parole. Its conclusion concerned the Section 439 custody requirement and expressly distinguished convicts from undertrials. It did not determine how every lawful parole period should be counted under all detention statutes.

6. Relief : The Hon'ble High Court recalled its bail order dated 30 July 2021 in MCRC 35888/2021 and held the third bail application, filed during parole, unmaintainable. It allowed the applicant to revive his bail prayer after surrender before the trial court and required applicants filing Section 439 petitions to declare that they are not on parole.

Rahul Kumar v. State of M.P., M.Cr.C. no. 38747/2021, 09/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Rape trial / late DNA test / Section 311 fairness - After defence evidence had closed in a rape trial, an FSL report showing human sperm and semen on the prosecutrix's undergarments led the Sessions Court to order comparison with the accused's DNA. Section 53A CrPC authorises medical examination of an accused and collection of material for DNA profiling. *Krishan Kumar Malik v. State of Haryana, (2011) 7 SCC 130*, emphasised DNA testing in such cases. *Siva Vallabhaneni v. State of Karnataka, (2015) 2 SCC 90*, rejected a categorical objection to later examination, while leaving any delay-based benefit open for trial. A local *Raja Burman* direction required comparison where sperm was found on victim samples. *Rajaram Prasad Yadav v. State of Bihar, (2013) 14 SCC 461*, requires Section 311 evidence to be essential to a just decision and germane to the issues, with an opportunity to rebut it and no serious prejudice. *Rajendra Prasad v. Narcotic Cell, (1999) 6 SCC 110*, distinguishes correction of an oversight from filling a genuine lacuna. Applying these standards, the High Court found the DNA order necessary for adjudication. Its timing, before final arguments, did not by itself make it an impermissible attempt to fill a lacuna. The revision was dismissed. Paras 1–14.

Case-note :- ***1. Facts :*** Rahul Pandey faced Sessions Trial 545/2017 for offences under IPC Sections 376, 376-A, 376(2)(n), 506 and 454. After defence evidence had closed and the case was due for final arguments, the Sixth Additional Sessions Judge, Gwalior, noticed an FSL report, Exhibit B, showing human sperm and semen on the prosecutrix's undergarments. By order dated 3 March 2021, the Sessions Court directed DNA comparison with the accused, referring to the coordinate Bench directions in *Raja Burman*. Rahul challenged that order in a revision under Section 397 CrPC. He argued that Section 311 could not be used at that late stage to fill a lacuna in the prosecution case. The High Court considered the provision for examining the accused, the DNA authorities and Section 311's fair-trial limits, and dismissed the revision.

The Court addressed two related but distinct propositions. First, Section 53A does not confine DNA examination to an early stage of investigation. Second, the trial court's Section 311 power to obtain essential evidence is subject to fairness, but an earlier omission does not by itself make the exercise an impermissible attempt to fill a 'lacuna'.

2. Precedents — Considered : *Krishan Kumar Malik v. State of Haryana, (2011) 7 SCC 130*, quoted in paragraph 6, observes that, after Section 53A's insertion in 2006, the prosecution should resort to DNA analysis in rape cases of the kind before it. Failure to compare semen on the victim's clothing with the accused may have evidentiary consequences. The High Court used the decision to explain the value of testing, rather than to find that a comparison had already proved the accusation. *Siva Vallabhaneni v. State of Karnataka, (2015) 2 SCC 90*, quoted in paragraph 7, rejected the argument that

Section 53A examination must take place immediately after arrest and cannot be sought later following an earlier examination, which State counsel described as serving a different purpose. The accused must cooperate, while any disadvantage from delayed testing may be urged at trial. In paragraph 8, the High Court adopted the absence of a categorical timing bar. The present order was made later still, at trial, and was also assessed under Section 311. *Siva Vallabhaneni* left any entitlement to a benefit from delay to be urged at trial.

Rajaram Prasad Yadav v. State of Bihar, (2013) 14 SCC 461, quoted in paragraph 9, sets out fourteen numbered principles under Section 311 read with Section 138 of the Evidence Act. A court asks whether further evidence is needed for a just decision and exercises its wide power judiciously to find the truth and avoid an incomplete record. Not every correction of an omission amounts to filling a prohibited lacuna. Serious prejudice and miscarriage of justice remain limits. The evidence must be germane, and the parties must have an opportunity to rebut it. The court must not use the power to disguise a change in the nature of the case or arbitrarily repair the prosecution case. Fair trial concerns the accused, the victim and society. The High Court applied the essentiality requirement to the existing positive FSL material. It rejected the view that correcting the earlier omission necessarily filled a prohibited lacuna.

Rajendra Prasad v. Narcotic Cell, (1999) 6 SCC 110, quoted in paragraph 10, explains that a prosecutorial oversight in presenting relevant material differs from a substantive lacuna that the court must leave unfilled. The quotation also mentions Section 165 of the Evidence Act as a judicial power to ascertain the truth. The local coordinate Bench decision in *Raja Burman @ Rahu v. State of M.P.*, MCRC 6476/2016 (4 May 2016), quoted in paragraph 11, directed comparison of suspect samples with DNA from slides or clothing where the FSL confirmed human sperm in Section 376 cases. Its other limbs addressed pregnancy and foetal scenarios. The present decision applied the clothing-and-semen limb; it did not make separate present-case holdings on the pregnancy, foetal-testing or death-during-pregnancy limbs.

3. Statutes considered : Section 53A CrPC, reproduced in paragraph 5, concerns medical examination of a person arrested on a charge of rape or attempted rape where reasonable grounds exist to believe that examination will provide evidence. It specifies the authorised medical practitioner and police request, reasonable force, a prompt report describing DNA-profile material, reasons and timing, and forwarding through the investigating officer to the Magistrate. The High Court relied on that examination and DNA purpose and on *Siva Vallabhaneni*'s treatment of timing. Section 311 CrPC supplied the disputed trial-stage power to obtain evidence essential to a just decision. The accused's objection that the case had reached final arguments did not make its use automatically impermissible. Section 397 was the route for revision. Sections 138 and 165 of the Evidence Act appeared in the quoted Supreme Court discussions of cross-examination and judicial control of evidence. The IPC charges identified the trial; their ingredients were not adjudicated.

4. Issues : (i) Does Section 53A permit DNA comparison with semen on the prosecutrix's clothing at a stage later than arrest or investigation, including after defence evidence has closed? Does delay necessarily invalidate that examination?

(ii) Did the trial judge identify an evidentiary step arising from Exhibit B that was genuinely essential to a just decision, or use Section 311 merely to fill a prejudicial lacuna in the prosecution case?

(iii) What procedural fairness and rebuttal considerations govern the late evidence, and what was the limited consequence of revision dismissal?

5. Ratio / Findings : The FSL report disclosed human sperm and semen on the relevant clothing, and the trial court considered comparison with the accused's DNA necessary for a just decision. *Krishan Kumar Malik* supported the evidentiary importance of that comparison. *Siva Vallabhaneni* rejected a rigid view that Section 53A operates only immediately after arrest; delay may bear on the value or fairness of the examination at trial. *Raja Burman*'s first limb addressed semen-positive victim clothing. On the separate Section 311 objection, *Rajaram Prasad Yadav* supplied the requirements of essentiality, germane evidence, avoidance of miscarriage of justice and an opportunity to rebut. *Rajendra Prasad* supplied the distinction between oversight and a genuine lacuna. Together, these principles explained why late acquisition of relevant scientific evidence was not automatically an impermissible repair of the prosecution case. The High Court found no jurisdictional error in this order and dismissed the revision.

The quoted Section 311 principles require a fair opportunity for the accused to confront or rebut the DNA evidence. The Section 53A timing discussion preserves the possibility that delay may prejudice the accused; it does not rule out such a contention. The operative finding concerned the propriety of directing this comparison on the identified FSL record at this stage of the proceedings.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The Sessions Court's 3 March 2021 direction to conduct a DNA comparison remained in force.

Rahul Pandey v. State of M.P. and Ors., Cr.R. no. 1020/2021, 06/04/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- DNA examination / omission during investigation - In a challenge under Section 482 CrPC to a POCSO Special Court's order permitting the prosecution to conduct a DNA test, the High Court rejected the contention that the police failure to obtain the test during investigation deprived the trial court of power to permit it later. With the prosecutrix appearing to have turned hostile and scientific evidence potentially material, the Court upheld permission for a just decision. The order quotes Section 53 CrPC and expressly relies on Section 53-A in its concluding analysis, describing DNA examination as imperative or mandatory in this case. The decision concerned permission to obtain evidence, rather than a DNA result or final proof of guilt.

Hostile witness / *Hemudan Nanbha Gadhvi v. State of Gujarat; (2019) 17 SCC 523* - The Supreme Court decision, quoted and applied, establishes that a complainant's hostile testimony does not by itself require acquittal where dependable medical, forensic, identification and other evidence proves the offence. That case considered serological and corroborating evidence on its own facts, including expert opinion under Section 45 of the Evidence Act. The High Court applied the principle in support of obtaining scientific evidence in the present case.

Trial evidence / Sections 91 and 311 CrPC - The Court read the provisions concerning production of material and material witnesses as empowering the trial court to secure material necessary or desirable for an investigation, inquiry or trial. It may also summon or recall a witness whose evidence is essential to a just decision. The earlier investigative omission did not deprive the trial court of jurisdiction to permit the requested DNA examination during this POCSO trial.

Avoidance of examination / adverse inference - The Court observed that the petitioner was avoiding the DNA test and that this situation might lead to an adverse inference. It dismissed the Section 482 application because no jurisdictional error was shown in the order granting permission.

Case-note :- ***1. Facts :*** Rahul Saket invoked Section 482 CrPC to challenge the order dated 23 September 2023 passed by the Special Court under the Protection of Children from Sexual Offences Act at Sirmour, District Rewa. The Special Court had allowed the prosecution's application for permission to conduct a DNA test. Rahul's counsel argued that, because the police had not conducted the test during investigation, the trial court lacked jurisdiction to permit it later. State counsel submitted that the police could conduct further investigation with the trial court's permission and relied on *Hemudan Nanbha Gadhvi* to support the continuing value of scientific evidence even when the prosecutrix turns hostile. The High Court recorded that the prosecutrix appeared to have turned hostile and that the prosecution sought the test thereafter. It also observed that the petitioner was avoiding examination. The application concerned permission to gather evidence, rather than the charged conduct or guilt.

2. Precedents — Considered : *Hemudan Nanbha Gadhvi v. State of Gujarat, (2019) 17 SCC 523*, was the Supreme Court authority applied. Its quoted paragraphs 10–12 reject automatic acquittal merely because the prosecutrix turns hostile or fails to identify the accused in court, where other dependable evidence proves the assault. The Supreme Court considered the presumption of innocence alongside the victim's rights and the public interest in a trial directed to the truth. On its facts, the medical report, test identification, semen on clothing, vaginal smear and swab, and the serologist's expert opinion under Section 45 of the Evidence Act supported identification. The quoted passage expressly recognises that different evidentiary circumstances could lead to a different result. The High Court applied the principle to obtaining scientific evidence after hostile testimony. *Hemudan* itself concerned available serology and corroboration. References to *Zahira Habibullah Sheikh*, *Mahila Vinod Kumari*

and *Iqbal* occurred within the reproduced Supreme Court reasoning.

The Court also stated that its view was fortified *by Parveen alias Dilla and another v. State of Haryana*, Punjab and Haryana High Court Criminal Revision No. 1268/2019, decided 10 June 2019.

3. Statutes considered : Section 482 CrPC governed the High Court application. The order reproduced Section 53 CrPC, concerning a registered medical practitioner's reasonably necessary examination of an arrested accused at the request of a police officer not below the rank of sub-inspector where the stated evidentiary grounds exist. It includes the female-practitioner safeguard for examination of a woman. Paragraphs 11 and 12 expressly invoked Section 53-A CrPC in the sexual-offence examination and DNA-testing analysis. Section 91 CrPC, also quoted, permits a court or police officer to require production of a document or thing considered necessary or desirable for an investigation, inquiry, trial or other proceeding, subject to the stated statutory limits. Section 311 CrPC permits summoning, examination or recall at any stage and requires it where the evidence appears essential to a just decision. The Court relied on those provisions as powers to obtain material evidence during trial. Section 45 of the Evidence Act arose in *Hemudan*'s discussion of its serologist report, not a present test result. The POCSO Act identified the Special Court and the prosecution context.

4. Issues : (1) Whether police failure to obtain a DNA test during investigation removed the POCSO trial court's jurisdiction to permit the prosecution to undertake it later, after the prosecutrix turned hostile. (2) Whether the potential utility of scientific evidence and the court's statutory trial powers justified retaining the permission order despite the petitioner's objection.

5. Ratio / Findings : The High Court rejected the contention that the investigative omission barred the trial court from granting permission. After referring to Section 53 CrPC, it relied on Section 53-A in concluding that the prosecution's DNA examination was imperative or mandatory in this case. It also quoted Sections 91 and 311 to explain that the trial court could secure documents or witnesses at any stage where necessary for a just decision. *Hemudan* showed that hostile testimony does not preclude proof through independent scientific evidence; the conviction in that case rested on the combined evidence on its record. Applying that principle to the prosecution's request, the High Court held that the police failure to obtain the test earlier did not remove the trial court's power to permit it. The Court also observed that Rahul was avoiding the test, which might lead to an adverse inference. These conclusions concerned the request for DNA examination in this procedural setting.

6. Relief : The Hon'ble High Court found no jurisdictional error in the Special Court's order allowing the prosecution's application for a DNA test. It dismissed Rahul Saket's application under Section 482. The permission to conduct the test during trial remained in force.

Rahul Saket v. The State of Madhya Pradesh, M.Cr.C. no. 13203/2024, 21/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder — Section 300 thirdly / intended injury - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was applied for its four-stage test. The prosecution must prove the bodily injury, its nature, and the intention to inflict that particular injury. It must then establish objectively that the injury was sufficient in the ordinary course of nature to cause death; a further intention to kill is unnecessary. *Arun Nivalaji More v. State of Maharashtra* explained the progression from Sections 299 to 300 and 304 and the distinction between intention and knowledge. *Anda v. State of Rajasthan*, 1966 Cr LJ 171, explained the sufficiency inquiry by reference to the weapon and the site of injury. The Court accepted the eyewitness account of the axe injury to Uday Singh's head and the medical opinion that his death was homicidal. It affirmed the five convictions for murder under Sections 302/149 IPC.

Single blow / Exception 4 - *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319; Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444; Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799; State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*; and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, were considered in assessing intention from the facts. A single blow does not automatically reduce murder to a lesser offence; the weapon, vital site, force and circumstances matter. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, requires all the conditions of Exception 4 to be satisfied, including the absence of undue advantage or cruel or unusual conduct. Despite injuries to both

sides, the Court found the fatal head attack intentional and upheld the convictions under Section 302/149.

Unlawful assembly / common object - *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, explains that a common object may emerge or change during an assembly, but requires awareness and concurrence rather than mere presence. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, requires a clear finding of an unlawful common object. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, explains the elements of unlawful assembly and rioting implicit in a Section 149 charge. Applying Sections 142 and 149 IPC, the Court held that the successive arrival of armed participants did not negate the proved common object. The convictions in both cases were affirmed.

Free fight / cross-cases - *State of Bihar v. Ishwar Chand Rai*, (2008) 3 PLJR 60, discussing *Gajanand v. State of U.P., AIR 1954 SC 695*, and *Dharman v. State of Punjab, AIR 1957 SC 324*, explained the distinction between a free fight and an assault in furtherance of a common object. The discussion describes a pitched battle in which both groups set out to fight. On this record, reciprocal injuries and cross-cases did not establish such a free fight without a common object. The Court sustained Section 149 liability on the proved assaults.

Private defence / accused injuries - *Banwar Singh v. State of M.P., (2008) 16 SCC 657*, discusses *Onkarnath Singh v. State of U.P., (1975) 3 SCC 276*, and *State of M.P. v. Ramesh, (2005) 9 SCC* 705. The discussion recognises the evidentiary significance of unexplained injuries to the accused but rejects an automatic presumption of private defence. The Court acknowledged injuries to both sides, accepted the prosecution accounts supported by medical evidence, and dismissed both appeals arising from the cross-cases.

Case-note :- ***1. Facts :*** The common judgment disposed of Criminal Appeals Nos. 1025 and 1030 of 2010 under Section 374 CrPC. They arose from separate cross-cases tried by the Third Additional Sessions Judge, Bhind, after a clash on 12 January 2010 at about 8:30 p.m. The accounts differed as to the location and who began the incident. In the first case, following an earlier altercation involving Devendra and Gajendra, the complainant's side alleged that Uday and Ajmer came armed, Ajmer struck Bhan Singh, and Jitendra, Omkar, Rahul and Ranveer took part in assaults on Kunwar and Vedram. In the cross-case, Jitendra's side alleged that Bhan and Vishwanath came to his field, Vishwanath struck Uday Singh's head with an axe, and other members of that group arrived with lathis and an axe and assaulted Jitendra's relatives. Uday died. These were opposing prosecution accounts in connected proceedings, rather than an agreed account of the incident.

In Session Trial 167/2010, the court convicted Ajmer and Omkar under Section 324 IPC; Rahul, Ranveer and Jitendra under Section 324/149; Rahul, Ranveer and Jitendra under Section 323; and Ajmer and Omkar under Section 323/149. For the Section 324 counts, it imposed three years' rigorous imprisonment and a fine of Rs 200 each. For the Section 323 counts, it imposed one year's rigorous imprisonment. The sentences were concurrent. They were acquitted under Sections 452, 294 and 506-B. Jitendra's appeal later abated following his death on 5 December 2017. In Session Trial 55/2010, Bhan, Vedram, Devendra, Indraveer and Vishwanath were convicted under Section 302/149 and sentenced to life imprisonment with fines of Rs 1,000 each. They were also convicted under Sections 148, 324/149 and 323/149 and sentenced to three years, three years and one year respectively. Those sentences were concurrent. They were acquitted under Section 506 Part II.

The appellants challenged the witnesses as interested and inconsistent. They relied on inadequately explained injuries to the accused, the cross-case and their claimed right of private defence. The second group also alleged poor lighting and a free fight inconsistent with Section 149 liability. Dr R.L. Sharma described sharp and blunt injuries to people on both sides, including sharp head wounds to Uday, Ajmer, Omkar, Bhan and Pushpa. Dr Ajay Gupta attributed Uday's homicidal death to head injury and its complications. Ranveer attributed the head blow to Vishwanath and other blows to named participants. The Court found that his evidence was supported by Jitendra, Ajmer and Omkar and had withstood cross-examination. The State supported both trial judgments.

2. Precedents — Considered : On homicide, *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the four requirements of Section 300 Thirdly. The bodily injury and its nature must be proved objectively, followed by the intention to inflict that particular injury. The final inquiry is whether the injury was objectively sufficient in the ordinary

course of nature to cause death. The Court reproduced the distinction between intending the injury and intending death and used it as the governing framework. *Arun Nivalaji More v. State of Maharashtra* (Criminal Appeals 1078–1079 of 2005) described the progression from Section 299 to Section 300. Where an exception applies or murder is not made out, Section 304 Parts I and II apply according to intention or knowledge. *Anda v. State of Rajasthan*, 1966 Cr LJ 171, explained that the intended injury's sufficiency in the ordinary course of nature may be judged from the weapon, the part of the body or both. The Court applied these principles to the sharp fatal head injury and the medical evidence.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, rejects a mechanical rule that a single blow cannot amount to murder; the weapon, vital site, manner and circumstances govern the assessment. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, identifies contextual factors for inferring intention in a group clash and cautions against mechanically treating murder as an offence under Section 304, or the reverse. In *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, intention was inferred from the use of a crowbar, the selection of the skull as the site of assault and the fractures caused. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, reiterates the single-blow principle while discussing *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram*. Those three authorities occur within the quoted discussion. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, likewise rejects a mechanical reduction because there was only one injury and quotes the *Virsa Singh* distinction through *Vedanayagam*. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, sets out the cumulative conditions of Exception 4: no premeditation, a sudden mutual fight with the deceased in the heat of passion, and no undue advantage or cruel or unusual manner. These authorities provided the framework for the Court's application of the law in affirming the trial result.

On common object, *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, explains that mere presence is insufficient. An unlawful object may form, be adopted, change or cease as members join, and individual knowledge may differ. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, explains that Section 149 may be charged without separate charges under Sections 143 or 147 when their necessary ingredients are included. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, requires the court to identify an unlawful common object and supporting evidence before applying Section 149. The Court adopted this framework and held that successive arrival did not exclude membership. *State of Bihar v. Ishwar Chand Rai*, (2008) 3 PLJR 60, a Patna High Court decision, was quoted on free fight. Its discussion reproduced *the Supreme Court's* definition in *Gajanand v. State of U.P., AIR 1954 SC 695*, of a pitched battle in which both sides set out to fight. It also discussed *Dharman v. State of Punjab, AIR 1957 SC 324*, concerning armed contending groups. The present Court considered those principles but found a common object on its facts.

On private defence, *Banwar Singh v. State of M.P., (2008) 16 SCC 657*, was quoted for its discussion of *Onkarnath Singh v. State of U.P., (1975) 3 SCC 276*, and *State of M.P. v. Ramesh, (2005) 9 SCC 705*. Those decisions treat unexplained injuries to an accused as relevant to credibility in the circumstances of the case and as potentially supporting private defence. They reject an automatic presumption of that defence. *Ramesh* also explains that defence of person or property is circumscribed by Sections 96–101 IPC. Defensive force extending to death requires reasonable grounds to fear death or grievous hurt. The Court acknowledged injuries to both sides and rejected the appeals on the assault evidence it accepted.

3. Statutes considered : Sections 299 and 300 IPC distinguish culpable homicide from murder. Clause Thirdly of Section 300, read with Section 302, governed the analysis of the intended injury and its sufficiency in the ordinary course of nature to cause death. Exception 4 to Section 300 and Section 304 Parts I and II were discussed in considering possible distinctions, but the convictions were not altered. Sections 141, 142 and 149 govern an unlawful common object, knowing membership and constructive liability; Section 148 concerns rioting while armed. Sections 323 and 324 provided the conviction categories for hurt and hurt by dangerous weapons. Sections 96–101 were discussed in the private-defence quotation, particularly the limits of the right and the conditions for force extending to death. Section 374 CrPC provided the appellate route. The acquittals under Sections 452, 294 and 506-B/Part II formed part of the procedural background.

4. Issues : (i) Whether the fatal head injuries and the proved manner of assault supported murder under Section 300/302, or called for a lesser offence in light of the altercation and injuries on both sides. (ii) Whether five or more persons acting with an unlawful common object could be held under Section 149 despite reaching the scene successively, or whether the encounter should be treated as a free fight requiring individual liability. (iii) Whether injuries to the accused, competing FIRs, allegedly interested witnesses and poor night lighting undermined the prosecution evidence or established private defence. (iv) Whether the convictions for the separate hurt offences in the cross-case should be disturbed. The earlier abatement of Jitendra's individual appeal was recorded, not redecided.

5. Ratio / Findings : The Court set out the distinction between Sections 299 and 300 and *Virsa Singh*'s test under Section 300 Thirdly. It also considered the authorities rejecting an automatic reduction because of a single blow and explaining Exception 4. Dr Gupta found Uday's death homicidal, resulting from head injury and its complications. Dr Sharma documented two sharp head injuries while Uday was unconscious. The postmortem evidence identified sharp and blunt injuries and described the injuries as sufficient to cause death in the ordinary course of nature. Ranveer attributed the axe injury to Vishwanath, and his evidence was supported by Jitendra, Ajmer and Omkar. The Court concluded that the fatal injuries were inflicted with the intention to commit murder. It affirmed the convictions of Bhan, Vedram, Devendra, Indraveer and Vishwanath under Section 302/149.

For Section 149, the Court stated the minimum group size, the unlawful common object and the awareness required of a member. It stressed the assembly's conduct rather than requiring a separate overt act from each member, and considered the distinction concerning a free fight. As assessed by the Court, the evidence showed armed participants inflicting sharp and blunt injuries in the connected incidents. The Court held that neither the absence of substantial prior enmity nor the participants' successive arrival provided a defence. Under Section 142, a person aware of the facts making an assembly unlawful may intentionally join it. The Court found that the acts were committed in furtherance of the common object and affirmed Section 149 liability in both cases. The trial court's individual Section 323/324 conviction categories and the Section 148 convictions also remained in force.

The medical record confirmed injuries on both sides, and the Court took their existence into account. It quoted authority requiring assessment of unexplained injuries to the accused in their context and a genuine need for defence, rather than an automatic presumption of private defence. It rejected the appellants' competing accounts, including the asserted free fight, alleged poor lighting and challenge to the witnesses as interested, because it accepted the injured eyewitness evidence and its medical support. The convictions for hurt by dangerous weapons and simple hurt in the cross-case were affirmed on the evidence of the corresponding assaults and injuries.

6. Relief : The Hon’ble High Court dismissed both appeals and affirmed the trial judgments and concurrent sentences. Jitendra Singh's appeal had already abated after his death. The bail bonds of appellants on bail were cancelled, and they were directed to surrender immediately to serve their remaining sentences. Appellants in custody were to be informed through the Jail Superintendent. The trial record was directed to be returned.

Rahul Singh and Ors. v. State of Madhya Pradesh; Bhan Singh and Ors. v. State of Madhya Pradesh, Cr.A. no. 1025/2010 & 1030/2010, 25/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (661) Prev Next

Headnote :- Complaint cognizance / counterblast FIR / no mini trial - The accused challenged the Magistrate's order taking cognizance of alleged gunfire, assault and Arms Act offences, describing the private complaint as a counterblast to their earlier FIR. They described their own FIR but did not produce the complainant side's earlier FIR. The complaint alleged a separate incident after a visit to the police station. *Neeharika Infrastructure v. State of Maharashtra, (2021) 19 SCC 401*, requires the allegations to be considered at face value and prohibits a mini trial of their reliability at the quashing stage. The other cited Supreme Court decisions reinforce that threshold. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, with *R.P. Kapur* and *Bhajan Lal*, explains that an informant's alleged mala fides are secondary when the complaint discloses an offence. Old enmity could motivate

either a false accusation or an actual attack and had to be adjudicated after evidence. The High Court declined to interfere under Section 482 CrPC/Section 528 BNSS and dismissed the application. Paras 1–13.

Case-note :- ***1. Facts :*** Rahul Singh Sikarwar and others challenged the Magistrate's order dated 3 September 2024 taking cognizance in Complaint Case 224/2023. The Additional Sessions Judge, Ambah, had affirmed it on 28 December 2024 in Criminal Revision 114/2019. The complaint alleged offences under IPC Sections 307, 323, 294, 506-B and 34 and Arms Act Sections 25 and 27. The applicants stated that they had lodged an FIR on 6 June 2023 against Dileep Tomar and others concerning abuse, stone throwing and assaults arising from old enmity. They described the complaint as retaliatory and false. Counsel conceded that the complainant side's FIR had not been placed before the High Court. As narrated in paragraph 3, the private complaint alleged a later episode after the complainant party returned from the police station. The applicants allegedly abused them, climbed onto a roof with a rifle and instigated Rahul to fire two shots, which missed. The police allegedly refused to register a second FIR, leading to the complaint proceedings.

The application invoked Section 482 CrPC/Section 528 BNSS after cognizance had been taken and the revision dismissed. The central question was whether the accused's allegations that the complaint was a false counterblast justified examining its merits before trial. The Court applied two related principles: it could not conduct a mini trial of allegations considered at face value, and motive or enmity had to be assessed separately.

2. Precedents — Considered : *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021:INSC:253 : (2021) 19 SCC 401*, was quoted at paragraph 7. The quoted principles recognise the police's statutory role in investigation, make quashing exceptional and require caution by the High Court. The Court should not test the reliability or genuineness of allegations, examine their merits during investigation, or require an FIR to contain every detail as an encyclopaedia would. It nevertheless retains jurisdiction where the report or complaint, taken at face value, discloses no offence or another *R.P. Kapur*/*Bhajan Lal* ground is established. The present challenge concerned a Magistrate's complaint proceeding after cognizance, rather than an ongoing police investigation alone. The Court applied the requirement to consider the complaint's allegations at face value without trying their truth. The quoted 'rarest of rare' standard is expressly distinguished from that used in death-penalty sentencing.

Paragraph 8 lists *XYZ v. State of Gujarat*, *State of Tamil Nadu v. S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *CBI v. Arvind Khanna*, *State of M.P. v. Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*. The Court treated these decisions collectively. Paragraph 9 reiterates that the Court cannot conduct a mini trial to determine the truth of the allegations.

Renu Kumari v. Sanjay Kumar, 2008:INSC:278 : (2008) 12 SCC 346, was quoted at length at paragraph 10. The passage explains Section 482's purposes of securing justice and preventing abuse, the *R.P. Kapur* categories and *Bhajan Lal*'s illustrative grounds for quashing. An informant's alleged mala fides do not alone defeat a prosecution where an offence is disclosed; the material collected and evidence at trial determine the result. The passage distinguishes the absence of legal evidence or a manifest legal bar from questions about the reliability of evidence that require adjudication. The references to *Janata Dal*, *Raghubir Saran*, *Dhanalakshmi*, *P.P. Sharma*, *Rupan Deol Bajaj*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar*, *Satvinder Kaur*, *Rajesh Bajaj*, *M. Devendrappa*, *Awadh Kishore Gupta* and *Saroj Kumar Sahoo* occur within *Renu Kumari*'s supporting discussion. At paragraph 11, the High Court applied the qualification concerning mala fides: old enmity may lead either to false implication or to commission of an offence, and its effect cannot be determined without a trial.

3. Statutes considered : Section 482 CrPC and Section 528 BNSS were cited together as the route for invoking inherent powers. Those powers did not permit a full evidentiary appeal. The revision had already failed in the Sessions Court, and the High Court considered the current challenge within the limits governing quashing. IPC Sections 307, 323, 294, 506-B and 34 and Arms Act Sections 25 and 27 identify the offences of which the Magistrate took cognizance. The question was whether the disputed assertion that the complaint was a counterblast, together with denial of its allegations, justified quashing at the threshold. The *Neeharika* quotation

mentions police powers under Chapter XIV, and the *Renu Kumari* quotation reproduces the Section 156(1)/155(2) categories. The operative proceeding concerned the private complaint; it was not a judicial direction to investigate the FIR.

4. Issues : (i) May the High Court, on a Section 482/528 attack on cognizance, choose between rival factual accounts of the FIR and a later complaint by deciding credibility or truth before trial?

(ii) Does the applicants' earlier FIR and assertion of retaliatory motive by themselves establish abuse of process where the complaint alleges a separate gunfire episode and cognizable offences?

(iii) How does the inability to examine the complainant-side FIR, which applicants did not put on record, affect the asserted counterblast premise, and what relief followed?

5. Ratio / Findings : For the threshold inquiry, the Court considered at face value the private complaint's allegations of rooftop rifle shots, assault and threats, leaving proof for trial. The accused's own FIR, their denial and their claim of retaliation did not permit a mini trial of the rival accounts. The complainant side's FIR had not even been produced. *Neeharika Infrastructure* and the other cited decisions require caution. They recognise exceptional quashing where uncontroverted allegations fail to disclose an offence, while prohibiting a determination of factual reliability at this stage. The Court found no ground to interfere with cognizance on the argument presented.

Renu Kumari provides the qualification concerning motive. Enmity may explain a false accusation, but it may equally provide a motive to commit the charged act. The Court therefore left the disputed prior relationship and occurrence to evidence before the trial court. The quoted *Bhajan Lal* categories include a manifestly malicious prosecution, as well as a failure to disclose an offence at face value or a clear legal bar. In this case, the bare allegation of hostility did not justify deciding the disputed facts before trial. The holding was confined to dismissing the attempt to end this complaint proceeding on disputed counterblast allegations.

6. Relief : The Hon'ble High Court dismissed the Section 482 CrPC/Section 528 BNSS application. The Magistrate's cognizance order dated 3 September 2024, as affirmed in revision, remained undisturbed.

Rahul Singh Sikarwar and Ors. v. Dileep Singh, M.Cr.C. no. 5587/2025, 11/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (662) Prev Next

Headnote :- Police enquiry / Article 226 mandamus / alternative remedy - Raj Mathur sought an enquiry report within one month and a decision on his representation. The High Court framed the issue as the maintainability of a writ seeking FIR registration or police action. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, explains that ordinary police inaction is addressed by a complaint to the Magistrate under Sections 190 and 200 CrPC. It recognises exceptional Article 226 intervention where investigation power is exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII is made out. Even then, the Court may insist on lawful procedure but cannot dictate how the police investigate. The local Division Bench in *Shweta Bhadauria/Reeta Bais* permits refusal of mandamus where Sections 154(3), 156(3), 190 and 200 have not been used, subject to *Whirlpool*'s recognised exceptions. It distinguishes *Lalita Kumari*'s police-registration duty from entitlement to a writ. The State cited *Sakiri Vasu* and *Aleque Padamsee* as further authorities on statutory remedies. The High Court dismissed the writ because an efficacious criminal complaint remedy was available, expressly preserving liberty to approach the competent court. Paras 1–6.

Case-note :- ***1. Facts :*** Raj Mathur filed Writ Petition 27427/2021 under Article 226. His quoted prayer sought directions to respondents 2 and 3 to conduct an enquiry within one month and submit its report to the High Court. He also sought a decision on his representation, Annexure P/3, and communication of the enquiry report. The State objected on the basis of the remedies before the Magistrate and the Supreme Court and local precedents. The Court dismissed the writ with liberty to file a criminal complaint.

2. Precedents — Considered : The State cited *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, at paragraph 2 in support of the statutory remedies available for police inaction.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, is directly quoted at paragraph 4. Its

paragraph 41 recognises rare Article 226 intervention where investigation power is exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII is made out. Even then, courts may insist on compliance with lawful procedure but cannot dictate how the police investigate. Paragraph 42 states that the ordinary remedy for police failure to act lies under Sections 190 and 200 CrPC, citing *Gangadhar Janardan Mhatre*. That reproduced passage explains the Magistrate's options after examining a complaint. Where a prima facie case warrants further action, the Magistrate may direct investigation or take cognizance and issue process; where no offence is disclosed, the complaint may be dismissed under Section 203. The passage also refers to *AIIMS Employees' Union*. The High Court relied on *Divine Retreat*'s limits in declining the writ.

The local Division Bench decision in W.A. 247/2016, described as *Smt. Reeta Bais / Shweta Bhadauria*, is quoted immediately thereafter. It states that mandamus enforcing Section 154 may be denied where the informant has not used Sections 154(3), 156(3), 190 and 200 CrPC, unless the four exceptions recognised in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, apply. It distinguishes *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which concerns the statutory police duty, from entitlement to a writ despite alternative remedies. The High Court applied the alternative-remedy principle and preserved liberty to file a complaint. The denial of a writ does not negate the duty to register cognizable information or exclude exceptional Article 226 jurisdiction.

3. Statutes considered : Article 226 was invoked for mandamus from the High Court. Section 154 CrPC imposes the registration duty discussed by the local Division Bench, and Section 154(3) provides recourse to superior police officers. Section 156(3) provides recourse to the Magistrate for investigation. Sections 190 and 200 permit a complaint before the competent Magistrate and its examination. The quoted *Gangadhar* explanation describes dismissal under Section 203 or, where warranted, investigation, cognizance and process. Chapter XII governs investigation. Exceptional writ intervention may insist on lawful process where investigation power is exercised mala fide and a clear case of abuse of power and noncompliance with that Chapter is made out, without dictating police methods. The prayer sought an enquiry report, whereas the Court framed the issue as FIR registration. The final order expressly preserved the criminal complaint remedy.

4. Issues : (i) Was direct Article 226 relief compelling police enquiry/response or FIR action warranted despite the Code's superior-police and Magistrate complaint avenues?

(ii) How do *Divine Retreat Centre*'s clear mala fide/Chapter XII exception and *Shweta Bhadauria*'s *Whirlpool* qualification limit the alternative-remedy principle?

(iii) What route remained open to the petitioner when the High Court declined the writ without investigating the complaint merits?

5. Ratio / Findings : The Court held that the statutory remedy of a criminal complaint before the competent Magistrate was efficacious in this case. The quoted *Divine Retreat Centre* passages explain that ordinary police inaction is addressed through the Magistrate rather than writ control of investigative work. They preserve rare Article 226 intervention where investigation power is exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII is made out. *Shweta Bhadauria* identifies the associated alternatives under Sections 154(3) and 156(3), subject to the recognised exceptions to the alternative-remedy principle. The Court declined the requested police enquiry/FIR-related intervention and left the criminal complaint remedy open.

Lalita Kumari's registration duty, mentioned in the local quotation, does not automatically entitle every informant to a writ of mandamus when an FIR is not registered. Nor is Article 226 categorically unavailable: *Divine Retreat* preserves narrow intervention for mala fide exercise of investigation power and clear abuse and noncompliance with the statutory process. The request for an enquiry and the Court's formulation of the issue as FIR registration remain distinct in the record.

6. Relief : The Hon’ble High Court dismissed the writ petition with express liberty for Raj Mathur to file a criminal complaint before the competent court. The underlying allegation remained open for consideration through the statutory procedure, if invoked.

Raj Mathur v. State of M.P. and Ors., W.P. no. 27427/2021, 15/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (663) Prev Next

Headnote :- CIVIL share decree / demolition FIR / mala fides - The applicants relied on a 1999 sale deed and earlier civil proceedings to seek quashing of a 2020 FIR. The FIR alleged that they disconnected electricity, damaged an occupied house and threatened its resident. The civil appellate decree reproduced in the judgment recognised the transfer only of an undivided 1.95-acre share and permitted possession after partition. No partition was shown. A purchaser of an undivided share steps into the seller's shoes and cannot rely on civil title to take forcible possession of a specific parcel or demolish the complainant's house. The Court therefore rejected the contention that a civil dispute had merely been given a criminal form. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, with *R.P. Kapur* and *Bhajan Lal*, explains that an informant's alleged mala fides are secondary when the report discloses a cognizable offence and do not by themselves warrant quashing at the threshold. The applicants invoked *Ahmad Ali Quraishi* and *Bhajan Lal*, but the Court rejected their premise because of the decree's limited effect. It dismissed the Section 482 application; the demolition and guilt remained matters to be proved. Paras 1–18.

Case-note :- ***1. Facts :*** Raja Pandey and others applied under Section 482 CrPC to quash FIR Crime 621/2020, registered at Churhat, Sidhi, on 12 September 2020. Complainant Balmik Vishwakarma alleged that, on 26 June 2020 while he was bathing at home, the applicants disconnected electricity, abused him and demanded that he vacate. He alleged that they demolished the roof, damaged household articles with sticks and threatened to kill him if he remained. The applicants relied on a sale deed dated 24 May 1999 concerning khasra 334 and a kachcha house, and on a civil title suit filed by the complainant and others. The suit was dismissed at first instance on 18 November 2011. Civil Appeal RCA 103-A/2014 was partially allowed on 23 August 2016. Its operative decree recognised the undivided interests of the co-sharers. It made the sale binding on the parties only to the extent of the seller's undivided 1.95-acre share and conditioned the purchaser's possession on partition. The applicants did not claim to have initiated partition proceedings after the decree.

The applicants argued that the FIR improperly converted an already resolved civil dispute into a criminal case and had been lodged maliciously. The State and complainant opposed the application. The High Court considered these as two questions, examined the actual decree instead of accepting the claim of an unrestricted right of ownership, and refused to quash the FIR.

2. Precedents — Considered : At paragraph 4, the applicants invoked *Ahmad Ali Quraishi v. State of Uttar Pradesh, 2020:INSC:112 : (2020) 13 SCC 435*, against converting a civil dispute into a criminal case. They also invoked *Bhajan Lal, 1992 Supp (1) SCC 335*, on the ground of ulterior motive.

Renu Kumari v. Sanjay Kumar, 2008:INSC:278 : (2008) 12 SCC 346, is reproduced extensively at paragraph 12. It explains Section 482's purposes of preventing abuse and securing justice, and *R.P. Kapur*'s categories of a legal bar, failure to disclose an offence at face value and absence of legal evidence. It distinguishes a case with no legal evidence from one in which the reliability of evidence requires assessment by the trial court. The passage quotes *Bhajan Lal*'s seven illustrative grounds for quashing, including manifest mala fides, while cautioning against stifling a legitimate prosecution. It states that the informant's motive becomes secondary where an offence is disclosed, and that the material collected and evidence at trial determine the result. The High Court applied that principle at paragraph 13 and related it to the limited civil decree at paragraphs 14–15.

3. Statutes considered : The applicants invoked Section 482 CrPC to quash the FIR and consequential proceedings. The alleged disconnection of electricity, abuse, destruction and threats formed the criminal allegations. The civil decree concerned undivided title and possession after partition; it did not determine criminal guilt. Sections 156(1) and 155(2), together with examples of a statutory bar, appear within the quoted *Bhajan Lal* categories. The civil suit and appeal were examined to test the applicants' asserted right to the specific occupied land.

4. Issues : (i) Did a sale deed and a partially allowed civil title appeal establish an immediate right to occupy a particular house site when the transfer covered only an undivided 1.95-acre share and the decree conditioned possession on partition?

(ii) Could alleged unilateral demolition, damage, abusive demands to vacate and threats be treated as a merely civil claim so that the FIR should be quashed?

(iii) Did the accusation of ulterior motive, without a proved right to the precise parcel or another exceptional quashing ground, warrant Section 482 intervention?

5. Ratio / Findings : The civil appellate decree did not give the applicants possession of the particular house. It made the old sale binding only to the extent of an undivided share and stated that the purchaser could obtain possession after partition. A co-sharer may transfer an undivided interest, but that transfer does not entitle the purchaser to seize a specific part before partition. No partition proceeding was shown. The Court therefore rejected the contention that the FIR alleging forcible roof demolition and intimidation merely gave a civil dispute a criminal form. The criminal issue concerned the alleged conduct, rather than simply the validity of the 1999 conveyance.

Renu Kumari's principle also answered the allegation of malice. Where the report discloses cognizable destructive and threatening conduct, alleged ill will does not by itself justify ending the criminal proceedings. The applicants' civil decree did not establish the claimed entitlement to the particular parcel. The Court rejected their contention that the FIR resulted from ulterior motive. Motive is not invariably irrelevant: the quoted *Bhajan Lal* categories include manifest malicious abuse. In this case, reliance on civil litigation and the sale of an undivided share did not establish that ground.

6. Relief : The Hon'ble High Court dismissed the application and refused to quash FIR Crime 621/2020 and consequential proceedings. The criminal investigation/proceedings were left to continue in the ordinary course.

Raja Pandey and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 44847/2020, 20/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (664) Prev Next

Headnote :- Preventive proceedings / crop seizure / judicial order - The Court held that, once Section 145 CrPC proceedings had been registered and notice issued, the SDM could not direct seizure or appoint a receiver through an ex parte administrative endorsement or letters outside the judicial order sheets. An urgent application required a judicial order, and an order under Section 146 required an opportunity for the opposite party to present its case. In the absence of such an order, the Court quashed the crop seizure and administrative directions and directed return of the harvested crop under the SDM's supervision.

Section 145 / parallel civil litigation / possession - *Ram Sumer Puri Mahant v. State of U.P., (1985) 1 SCC 427*, was applied to the impropriety of parallel preventive proceedings when a civil court considering possession of the same property can grant protective interim relief and its adjudication binds the Magistrate. *Mahar Jahan v. State of Delhi, (2004) 13 SCC 421*, reinforced that the Section 145 result remains subject to the civil court's determination and that the civil court may grant interim protection. Here, the earlier civil adjudications, pending second appeal and status-quo direction made the fresh, unfinished Section 145 proceeding an improper duplication. The Court quashed it.

Civil seisin / non-joinder / protective relief - *Mahant Ram Saran Dass v. Harish Mohan, (2001) 10 SCC 758*, was considered and applied with the authorities on parallel proceedings. On its facts, the Section 145 applicant's absence from the pending civil suit did not justify a second forum: the civil court was already seized of the property, had imposed interim restraints and could grant appropriate relief. The respondents' contention that some persons were not parties did not justify the fresh proceeding here, given the available civil remedies.

Earlier final preventive order / later civil suit / qualification - *Amresh Tiwari v. Lalta Prasad Dubey, (2000) 4 SCC 440*, was applied to explain the limits of the *Ram Sumer* principle. *Jhummamal* concerned a concluded Section 145 order followed by a civil suit; the later suit did not automatically nullify that order. Where civil litigation and a protective order precede an undecided Section 145 proceeding, parallel proceedings should not continue if the civil court can determine title or possession of the same property and grant interim protection. Mere pendency of a civil suit is not a categorical bar in every circumstance. The Court quashed the fresh proceeding and imposed Rs. 20,000 costs on respondents 1–5 after finding that it had been initiated arbitrarily and with mala fide intention on this record.

Case-note :- ***1. Facts :*** Rajabeti Sakhwar and others applied under Section 482 CrPC concerning Case No. 121/145x21 before the SDM, Mehgaon, Bhind, involving rival claims to possession of survey lands

at Gormi. The police had filed Istgasa No. 01/21, apprehending a breach of the peace because of the competing claims, and had seized 26 bags of harvested mustard and a green trolley. The applicants asserted that they had harvested the crop and that it had been taken without a judicial custody order. The private respondents relied on occupancy-tenancy entries and disputed the applicants' title and claim to the crop.

Respondents 1–5 had filed a civil suit for declaration, injunction and invalidation of a 1992 sale deed. The suit was dismissed on 22 December 2006, and their first appeal was dismissed on 6 December 2010. Their Second Appeal No. 158/2011 remained pending, with a status-quo order dated 16 January 2013 and a later refusal to modify it. The parties disputed the effect of that stay, later registration and revenue records. The respondents also relied on another civil suit in which interim injunction had been refused, an appeal that was not pressed, and criminal complaints or FIRs concerning the land. Earlier Section 145 proceedings had been dropped on 23 May 2014 in light of the civil decisions. One FIR had been quashed, while the challenge to a different FIR had failed.

The fresh SDM order sheets recorded notice on 18 March 2021, the applicants' reply and objection on 22 March, a direction for a possession report, adjournments and later abeyance. They contained no interim judicial order for seizure, appointment of a receiver or disposal of the crop. An endorsement on the private respondents' application dated 20 March nevertheless directed police seizure. The SDM also sent administrative directions about custody and recovery of mustard, including a letter dated 24 March permitting entry into premises and use of police force if required. Respondents 1–5 sought dismissal of the Section 482 application, relying on their civil and revenue position and asserting that the absence of some persons from the appeal defeated the applicants' challenge.

2. Precedents — Considered : *Ram Sumer Puri Mahant v. State of U.P., (1985) 1 SCC* 427, was quoted and relied upon. Possession of the same property had been litigated and adjudicated in a civil suit, with an appeal pending. The Supreme Court found little justification for initiating parallel Section 145 proceedings and attachment because the civil decree bound the criminal forum and injunction or receivership could be sought in the civil appeal. The High Court applied that principle to the present fresh proceeding, subject to the qualifications concerning civil litigation discussed below.

Mahar Jahan v. State of Delhi, (2004) 13 SCC 421, was quoted for the principle that a Section 145 result remains subject to the civil court's decision where possession of, or entitlement to, the same property is before it. Criminal proceedings had continued for a decade in that case. The Supreme Court preferred adjudication by the civil court with suitable interim arrangements there. The High Court treated this authority as reinforcing the availability of protection through the pending civil proceedings here.

Mahant Ram Saran Dass v. Harish Mohan, (2001) 10 SCC 758, was quoted concerning a civil suit under Section 92 CPC in which interim injunction and restrictions were already in force. The Supreme Court set aside the Magistrate's Section 145 proceedings and receiver order because relief could be sought from the civil court. It expressly stated that the preventive applicant's absence as a defendant in the civil suit did not alter the conclusion in those circumstances. The High Court relied on this authority with the others, despite the respondents' contention that some persons were not parties to the second appeal.

Amresh Tiwari v. Lalta Prasad Dubey, (2000) 4 SCC 440, was quoted and applied to explain the limits of the principle. It states that *Ram Sumer* addresses duplicative litigation where the civil court can protect possession and does not require a prior civil finding. It distinguishes *Jhummamal v. State of M.P.*, where a civil suit filed after a concluded Section 145 order did not automatically undo that order. In *Amresh Tiwari*, the civil suit and status-quo order preceded an unfinished Section 145 proceeding. The quoted judgment expressly rejects a universal rule that a civil suit always excludes Section 145. The suit must concern possession or title of the same property, and protective relief must be available from the civil court. The High Court applied this qualified principle. *Jhummamal* was considered through *Amresh Tiwari*'s explanation. The respondents' counsel cited *Raghunath Singh v. Pragobai*, ILR (2012) MP 2285; *Mahant Ramratandas v. Mahant Narayandas*, 1988 (II) MPWN 45 SN; and *Rameshchandra v. Jankilal*, 1987 (II) MPWN 183 SN, for the proposition that a civil suit does not invariably end Section 145 proceedings.

3. Statutes considered : Section 145 CrPC governed the preventive proceeding based on an asserted likelihood of breach of the peace over possession.

The Court considered whether it could continue while civil title and possession of the same property were before the civil courts. Section 146 CrPC concerned interim attachment or receivership. The Court required an opportunity for the other side and a judicial order in the recorded proceeding, rather than administrative crop-seizure directions. Section 482 CrPC supplied the invoked jurisdiction to quash the pending proceeding and unlawful ancillary acts. Order 39 Rules 1 and 2 CPC arose in the rival civil litigation, while Order 39 Rule 2-A was identified as a possible civil enforcement remedy. IPC provisions and the separate FIRs formed procedural background only.

4. Issues : (1) Could the SDM, after registering Section 145 proceedings and issuing notice, direct seizure or custody of the harvested crop by endorsement or administrative letter, without an order on the judicial record and an opportunity contemplated for Section 146 action? (2) Should a newly initiated, unfinished Section 145 proceeding over the same land continue while the parties' civil litigation concerning title and possession remained pending in second appeal with a status-quo order and accessible protective relief? (3) Did the respondents' non-party contention or the principle that a civil suit does not invariably bar Section 145 alter that conclusion on this sequence of proceedings? (4) What relief followed from the unlawful seizure and the Court's finding that the fresh process was arbitrary and mala fide?

5. Ratio / Findings : The Court examined the SDM record supplied after argument. It recorded notice, reply and adjournments, but contained no judicial order authorising a receiver, attachment or seizure of the crop. The endorsement dated 20 March on one party's application and the letters directing custody or police recovery were administrative actions taken without hearing the applicants. State counsel could not justify them. Once Section 145 proceedings had begun, an urgent application had to be taken up in those proceedings and decided by an order recorded in the order sheets. A Section 146 order required an opportunity for the opposite party to present its case. By using administrative directions, the SDM exceeded the jurisdiction being exercised. The Court refused to approve the letters and set aside the seizure directions and police seizure memo.

As to continuing Section 145 proceedings, the earlier civil suit and first appeal had been decided, the second appeal remained pending, a civil status-quo order existed, and the respondents could seek interim or enforcement relief in that forum. The earlier Section 145 proceeding had itself been dropped because of the civil proceedings. *Ram Sumer Puri Mahant* and *Mahar Jahan* establish the impropriety of duplicate possession proceedings, subordinate to the civil decision, where the civil court can decide and protect the same property. *Mahant Ram Saran Dass* shows that the preventive applicant's absence from the civil suit did not justify separate Magistrate proceedings in that case's circumstances. *Amresh Tiwari* supplies the qualification: later civil litigation does not by itself annul a concluded Section 145 order, and a civil suit is not invariably a bar. Here, the civil proceedings and protective order preceded the fresh, undecided preventive case. Applying those authorities, the Court found no basis to multiply proceedings or use Section 145 and informal police action to take the crop.

6. Relief : The Hon'ble High Court allowed the Section 482 application. It quashed the police seizure memo dated 18 March 2021, Case No. 121/145x21 under Section 145 and the SDM's administrative proceedings, including the impugned March crop directions. The police and SDM were directed to return to the applicants all seized mustard or crop given to a receiver. The SDM was to ensure return in proper condition within five days and personally bear the cost if any quantity was missing or the quality had diminished. He was directed to report compliance to the Principal Registrar by 14 July 2021. Respondents 1–5 were ordered to deposit Rs. 20,000 costs within seven days. In default, the Principal Registrar was directed to initiate lawful recovery of the costs and register contempt proceedings.

Rajabeti Sakhwar and Ors. v. Darshanlal Sakhwar and Ors., M.Cr.C. no. 18242/2021, 07/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Anticipatory bail / defence audio / reliability - The unverified pen-drive conversation did not support the mother-in-law's allegation that the deceased's family had demanded money to settle the case. The purported speaker had not been authenticated, doctoring had not been excluded, the recording was untested, and its content did not establish the alleged demand. The Court declined to rely on it at the Section 438 CrPC stage.

Dowry cruelty / in-law implication / pre-arrest bail - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was considered for the principle that allegations of taunts or torture by in-laws cannot simply be regarded as disclosing no case against them so as to justify quashing proceedings. In refusing anticipatory bail here, the Court considered the residence documents predating marriage and an unproved certificate alongside material placing the applicant at the matrimonial home and the deceased's specific lifetime complaint. It also noted that other relatives had not been implicated. At this interim stage, the Court did not accept the defences of separate residence and indiscriminate implication. It considered the seriousness of a death within four years of marriage, while preserving the trial court's independent assessment.

Case-note :- ***1. Facts :*** Rajani Awasthy filed her second application for anticipatory bail under Section 438 CrPC. Her earlier application, M.Cr.C. No. 19432/2021, had been dismissed for non-prosecution on 4 May 2021. She apprehended arrest in Crime No. 31/2021 at Khajuraho police station, Chhatarpur, for alleged offences under IPC Sections 498A, 304B and 34 and Sections 3/4 of the Dowry Prohibition Act. She was Parvati's mother-in-law. According to the prosecution, Parvati married her son Niranjan on 28 April 2017 and died by hanging on 20 January 2021 after harassment by both over a demand of Rs. 5 lakh.

The applicant maintained that she lived with her husband at Dhawad, separately from Parvati and Niranjan at Khajuraho. She produced a duplicate ration card, a Samagra ID and a Gram Panchayat certificate. She stated that she had tested positive for Covid and alleged false implication after Parvati's family supposedly demanded Rs. 10 lakh. A pen drive purportedly contained a call between Parvati's brother Rammu and the applicant's other son, Rajesh. Counsel relied on general bail and liberty authorities and argued that separate residence and the alleged settlement demand justified protection. The State disputed separate residence, relying on the applicant's husband's account that she opened the room where Parvati was found. It also relied on Parvati's written police complaint dated 12 September 2020, which named the applicant and Niranjan and alleged dowry harassment and beating.

2. Precedents — Considered : The Court invoked *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, in its reasoning. The Court stated that allegations that a father-in-law and mother-in-law tortured a daughter-in-law through taunts could not be regarded as disclosing no case against them so as to justify quashing the proceedings. The High Court relied on that principle while rejecting the defence of indiscriminate implication in this anticipatory-bail application. It also relied on Parvati's lifetime written complaint specifically naming the applicant and Niranjan.

Dolatram v. State of Haryana, (1995) 1 SCC 349, *Siddharam Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694*, and *Arnab Manorajan Goswami v. State of Maharashtra, (2021) 2 SCC 427*, appeared in the applicant's submissions concerning bail and liberty.

3. Statutes considered : Section 438 CrPC governed the application for pre-arrest protection. At this interim stage, the Court considered the nature and gravity of the accusations and the material relied on by both sides. IPC Sections 498A, 304B and 34 and Dowry Prohibition Act Sections 3/4 identified the alleged cruelty, dowry-death and dowry-demand prosecution. These CrPC and IPC provisions governed the 2021 proceeding.

4. Issues : (1) Did the applicant's older residence documents and Panchayat certificate sufficiently establish that she lived separately from Parvati, in the face of the account of her presence at the Khajuraho home and the deceased's lifetime complaint? (2) Could the unverified audio recording support an inference that Parvati's family had demanded payment to compromise and that the applicant was falsely implicated? (3) Given the specific accusations, the cited Supreme Court threshold principle and the gravity of a death within four years of marriage, should the applicant receive anticipatory bail, and what limits should be placed on the order's observations?

5. Ratio / Findings : The duplicate ration card was issued in 2014 and the Samagra ID in 2013, both before Parvati's marriage in 2017. They did not establish that the applicant lived separately at the relevant time. The Panchayat certificate could not be relied on unless proved at trial. The applicant's husband's information to the police placed her at the Khajuraho house when Parvati was found, contradicting the categorical claim of separate residence. For the interim assessment, the Court also relied on Parvati's written complaint of September 2020, which specifically named the applicant and Niranjan and alleged beatings and dowry demands.

The Court therefore did not accept separate residence on the material presented.

The pen-drive conversation had not been shown to contain Parvati's brother's voice or to be free from doctoring, and it had not been tested in a laboratory. The Court also found that its content did not establish the alleged Rs. 10 lakh demand for a compromise. It was therefore unsafe to rely on it at this stage to infer false implication. The applicant's other children and husband had not been implicated, which undermined her claim that the entire family had been indiscriminately implicated. In considering *Taramani Parakh*'s principle concerning substantive allegations of in-law cruelty, the Court attached significance to the specific lifetime complaint and the other material. It separately considered the nature and gravity of the dowry-death accusation and the death within four years of marriage. It found no fit case for anticipatory bail.

6. Relief : The Hon'ble High Court dismissed the second application for anticipatory bail under Section 438 CrPC.

Rajani Awasthy v. State of M.P., M.Cr.C. no. 27025/2021, 16/06/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR quashing / personal mala fides / necessary parties - Allegations that police officers engineered a case or coerced a compromise could not be examined without joining those officers as parties. *State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222*, requires a person accused of mala fides to be joined by name and given an opportunity to answer. *Federation of Railway Officers Association v. Union of India, AIR 2003 SC 1344*, requires clear rather than vague allegations and joinder of the person concerned. *J.N. Banavalikar v. Municipal Corporation of Delhi, AIR 1996 SC 326*, and *A.I.S.B. Officers Federation v. Union of India*, JT 1996 (8) SC 550, apply the same requirement to allegations of malice in fact. *Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SCC 417*, reinforces the prohibition against adverse remarks or consequences without hearing the person affected. Since the SHO and other personnel had not been joined, the alleged detention of the applicant's daughter was left unexamined; it was not found false.

Section 482 / motive / facial cognizable offence - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was applied for the principle that an informant's alleged mala fides are secondary where the FIR, taken at face value, discloses a cognizable offence. Established abuse may nevertheless fall within the categories in *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, subject to cautious exercise of the power. Enmity may explain false implication or provide a motive to commit an offence. The earlier case and Helpline chronology did not by themselves negate the later FIR's allegations of assault, threats and caste abuse. Their truth remained a matter for evidence.

Quashing standards / face-value review / no mini-trial - *Renu Kumari*'s account of *Bhajan Lal* and *R.P. Kapur* permits intervention for a legal bar, absence of an offence on accepted allegations, absence of a cognizable case, manifest improbability or sufficiently apparent malicious proceedings. It cautions against weighing disputed proof. *XYZ v. State of Gujarat, (2019) 10 SCC* 337; *State of Tamil Nadu v. S. Martin, (2018) 5 SCC* 718; *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC* 319; *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC* 226; *CBI v. Arvind Khanna, (2019) 10 SCC* 686; and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021, were considered for the limits on a roving inquiry or minute assessment before trial. *Kunwar Singh* also states that an FIR need not be an encyclopedia. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, confirms that quashing remains available if the allegations accepted in full disclose no offence. The Court found that this FIR disclosed offences at the threshold and refused to terminate the prosecution at that stage.

Quashing / defence documents / narrow exception - *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, was considered for the ordinary rule against assessing the accused's defence or testing the veracity of disputed documents in Section 482 proceedings. In an appropriate case, a public document or a document whose veracity the complainant does not dispute may be considered. The Court dismissed the petition while expressly leaving the evidence and guilt to the trial court.

Case-note :- ***1. Facts :*** Rajaram Namdeo and another applicant sought quashing under Section 482 CrPC of Crime No. 97/2024 at Devendra Nagar police station, Panna, and its investigation. The prayer described the offences as IPC Sections 294, 323, 506 and 34 and SC/ST (Prevention of Atrocities) Act Sections 3(1)(da), 3(1)(gha) and 3(2)

(va). According to the applicants, Rajaram's daughter Raksha alias Rakhi had earlier complained of defamation by named persons. On 28 November 2022, the JMFC directed registration under Section 156(3) CrPC, leading to Crime No. 450/2022 under IPC Sections 469, 471 and 34. The applicants alleged that those persons and the police then pressured her family to compromise. A CM Helpline complaint made at 3:11 p.m. on 19 February 2024 stated that the SHO and four officers had forcibly taken Rakhi to the station to procure a compromise. It sought her release without signatures being obtained. These assertions were the applicants' account.

At 7:21 p.m. that day, a later FIR was registered on Kunwar Bahadur Choudhary's complaint about an incident at approximately 11 a.m. He alleged that applicant Rampyare and his brother-in-law Rajaram abused him for supporting Munnilal. Rajaram allegedly struck him with his fists and threw him down, while Rampyare kicked his abdomen. The two allegedly humiliated him by referring to his caste and made a death threat. He named two persons who intervened. The applicants described the timing and background as police-instigated retaliation and relied on *Bhajan Lal* to seek quashing. The Court heard their counsel and later recorded the State's submission that a charge sheet had already been filed. It considered the allegations within the limited scope of Section 482.

2. Precedents — Considered : On joinder and natural justice, *State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222*, was quoted for the requirement to join by name a person accused of bias or mala fides and afford an opportunity to answer before an inquiry. *Federation of Railway Officers Association v. Union of India, AIR 2003 SC 1344*, was quoted for clear, specific allegations rather than vague assertions and for joining the allegedly involved Minister. *J.N. Banavalikar v. Municipal Corporation of Delhi, AIR 1996 SC 326*, declined allegations of malice in fact where the allegedly favoured person and the alleged decision-maker were absent. *A.I.S.B. Officers Federation v. Union of India*, JT 1996 (8) SC 550, was quoted to the same effect where the directors and chairman accused of mala fides were not respondents. *Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SCC 417*, was quoted at length. It applies *P.P. Sharma* and explains that serious adverse judicial remarks and consequences against a non-party violate the opportunity to be heard. The High Court applied these authorities to the SHO and officers who had not been joined, and declined to inquire into the alleged taking of Rakhi.

On malice and Section 482, *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was extensively quoted and relied upon. It describes Section 482 as preserving inherent power to give effect to Code orders, prevent abuse and secure justice, to be exercised cautiously rather than as an appeal or revision. Drawing *on R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, the passage identifies a legal bar, absence of an offence on accepted facts and clear absence of legal evidence. It distinguishes absence of evidence from assessment of disputed evidence. It reproduces the illustrative categories in *Bhajan Lal, 1992 Supp (1) SCC* 335: no prima facie offence; no cognizable disclosure justifying police investigation without the required Magistrate's order; uncontroverted material disclosing no offence; a non-cognizable allegation without the necessary order; inherent absurdity; an express legal bar or a specific efficacious remedy; and manifestly mala fide prosecution for private vengeance. These categories do not permit a routine mini trial. Where an offence is disclosed, the informant's alleged mala fides alone are secondary to investigation and proof. The High Court applied that principle to the retaliation account and the FIR's allegations taken at face value. Although the applicants invoked *Bhajan Lal*, the Court considered it within this qualified framework and did not infer malice merely from the sequence of filing.

XYZ v. State of Gujarat, (2019) 10 SCC 337, was quoted against a roving inquiry into disputed allegations and an allegedly coerced settlement before investigation was complete. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, warns against premature assessment before investigation is complete. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, quotes *Bhajan Lal*'s requirement of sparing exercise of the power and prohibits testing the FIR's genuineness as a court deciding facts. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, preserves the power to prevent abusive prosecution and intervene in legal-bar or no-offence cases, while rejecting early closure through assessment of evidentiary reliability. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproves minute findings on disputed facts and the defence in a quashing petition. *State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021, decided on 30 June 2021, likewise prohibits scrutiny as at trial and states that an FIR need not be an

encyclopedia. The High Court set out these authorities together as limits on detailed evidentiary assessment, while preserving the inquiry into allegations taken at face value.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, was quoted for the ordinary rule against assessing the defence or testing document veracity at the quashing stage. In an appropriate case, however, a public document or a document whose veracity the complainant does not dispute may be considered. The passage cites *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* for that exception. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, was quoted for quashing where the FIR allegations, accepted in full, or uncontroverted supporting material disclose no offence. Paragraph 27 states that a similar view was taken in *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*.

3. Statutes considered : The applicants invoked Section 482 CrPC to quash the later FIR and investigation. The Court applied the provision's limited review of allegations at face value to prevent abuse, rather than trying disputed facts. Section 156(3) CrPC concerned the earlier JMFC order and the origin of Crime No. 450/2022; the Court did not determine the validity of that investigation. The later FIR alleged IPC Sections 294, 323, 506 and 34 and SC/ST Act Sections 3(1)(da), 3(1)(gha) and 3(2)(va), as described in the prayer.

4. Issues : (1) Could the Court examine accusations that particular police personnel had coerced Rakhi and engineered the new FIR when none of those officers was a respondent? (2) Did the earlier FIR, alleged compromise pressure, Helpline complaint and timing make the later FIR malicious enough for quashing despite facial allegations of assault, threats and caste-based humiliation? (3) Under Section 482, was the FIR facially incapable of disclosing an offence or subject to a legal bar, or would accepting the applicants' account require a premature inquiry into contested investigation and defence evidence? (4) Did any narrow exception for undisputed or public defence documents change that threshold assessment? These questions concerned continuation of criminal process.

5. Ratio / Findings : The allegations against the SHO and other officers could not be examined in their absence. Under *P.P. Sharma* and the associated natural-justice authorities, an identified person accused of personal malice must be joined and heard before adverse findings are made; vague allegations are insufficient. *Om Prakash Chautala* also cautions against remarks with reputational or practical consequences for non-parties. Since the applicants had joined none of the officers accused, the Court expressly declined to assess whether Rakhi had been taken to the station as alleged.

The Court stated that enmity may provide a motive either for false implication or for commission of an offence. Under *Renu Kumari*, the informant's alleged mala fides are secondary if the FIR discloses a cognizable offence, while the carefully limited abuse categories remain available. The daughter's earlier police case and the sequence of the Helpline complaint and later FIR did not displace Kunwar Bahadur's allegations without resolving disputed facts. Those allegations were that the applicants abused and assaulted him, humiliated him by reference to caste and threatened him in the presence of witnesses.

The Supreme Court authorities required consideration of the allegations at face value for the legal inquiry, without deciding whether the complainant or defence would be believed at trial. The quoted *Bhajan Lal* and *R.P. Kapur* categories preserve intervention where no offence is disclosed, a legal bar exists or abuse is established. *M. Srikanth* reaffirms quashing where even accepted allegations disclose no offence. *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Gourishetty Mahesh*, *Arvind Khanna* and *Kunwar Singh* warn against a roving inquiry or minute assessment of disputed material before trial; *Kunwar Singh* also states that an FIR need not be an encyclopedia. *Mohd. Akram Siddiqui* recognises the limited exception for public documents or documents whose veracity is undisputed. The Court found that the later FIR's allegations, taken at face value, could disclose offences and refused to end the case at that stage. The State submitted that a charge sheet had been filed. The Court maintained its limited review and directed the trial court to decide on its own evidence, unaffected by these threshold observations.

6. Relief : The Hon'ble High Court dismissed the Section 482 application to quash Crime No. 97/2024 and the related proceedings. The State reported that a charge sheet had been filed. The trial court was directed to decide strictly on the evidence placed before it, without being influenced or prejudiced by the High Court's limited quashing-stage findings.

Rajaram Namdeo and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 22656/2024, 04/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 / recruitment impersonation / face-value review - *CBI v. K.M. Sharan, (2008) 4 SCC 471*, was quoted and applied on the cautious exercise of inherent jurisdiction. Where the FIR's allegations, accepted at face value, disclose an offence, investigation normally proceeds. *R.P. Kapur and State of Haryana v. Bhajan Lal* permit intervention in recognised cases involving no offence, a legal bar or abuse, but the High Court cannot assess disputed defence evidence as a trial court would. *K.M. Sharan*'s discussion of *State of W.B. v. Swapan Kumar Guha* distinguishes absence of a cognizable offence from disclosure of an offence requiring investigation. Here, the applicant argued that his agricultural occupation made him incapable of solving an electrician recruitment examination. That assertion could not be resolved under Section 482 against the recorded discrepancies in photograph, ID and retina between the examination taker and the candidate at verification. The request to quash the FIR failed.

Case-note :- ***1. Facts :*** Rajat Kumar Singh applied under Section 482 CrPC to quash Crime No. 129/2021 at Morwa police station, Singrauli, for alleged offences under IPC Sections 419, 420, 120-B, 467, 468, 471 and 34. According to the prosecution case stated in the order, he had appeared as a proxy or 'solver' in another person's place in Northern Coalfields Limited's written recruitment examination for an electrician post. Counsel argued that Rajat was an agriculturist with no knowledge of electricity and therefore could not plausibly have appeared as such a proxy.

The judgment records that the candidate for whom Rajat was alleged to have appeared passed the written examination. At interview and document verification, the authorities found that the examination taker's photograph, identity proof and eye-retina did not match those of the person presenting as the candidate. The High Court heard the applicant and considered whether his factual defence justified quashing the FIR at the threshold.

2. Precedents — Considered : The Court quoted *Central Bureau of Investigation v. K.M. Sharan, (2008) 4 SCC 471*, at length and applied its Section 482 principles to Rajat's assertion. *K.M. Sharan* describes inherent jurisdiction as broad but exceptional, preserving the power to give effect to Code orders, prevent abuse and secure justice without stifling a legitimate prosecution. Its discussion of *Inder Mohan Goswami v. State of Uttaranchal, (2007) 12 SCC 1*, states those three functions and cautions against exercising the power on incomplete or hazy facts. Its discussion of *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, identifies an apparent legal bar, allegations disclosing no offence even if accepted, or an evident lack of legal evidence as grounds for possible intervention. These qualified principles did not permit a decision on a disputed factual defence at this stage.

K.M. Sharan quoted *State of Bihar v. J.A.C. Saldanha, (1980) 1 SCC 554*, against ending an unfinished investigation on findings drawn from affidavits about seriously disputed facts. It discussed the separate concurring and main opinions in *State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC* 561. Where the information discloses no cognizable offence, investigation may be stopped; where an offence is disclosed, investigation ordinarily continues to collect proof. The discussion protects personal liberty against baseless investigation while recognising society's interest in investigating alleged crime. *K.M. Sharan* also cited *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692*, for the prima facie test of uncontroverted allegations and consideration of special features showing an oblique prosecution. *State of Bihar v. Murad Ali Khan, (1988) 4 SCC 655*, cautions against predicting at the quashing stage whether complaint allegations will be proved.

State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335, was reproduced within *K.M. Sharan* for illustrative, non-exhaustive categories under Article 226 or Section 482: no prima facie offence on accepted allegations; no cognizable disclosure without the necessary Magistrate's order; uncontroverted material disclosing no offence;

investigation of a non-cognizable matter without authorisation; inherently absurd allegations; an express legal bar or a specified efficacious remedy; and manifest malicious prosecution for private vengeance. In *K.M. Sharan* itself, the no-offence ground failed in light of allegations of conspiracy and false evidence, because truth and reliability could not be resolved before trial. The High Court applied that caution in declining to decide whether Rajat's occupation disproved his alleged role as a proxy.

The *K.M. Sharan* passage also contains *Janata Dal v. H.S. Chowdhary, (1992) 4 SCC 305*, and *CBI v. Ravi Shankar Srivastava, (2006) 7 SCC 188*, on caution and sound principles in exercising wide inherent power. *State of Karnataka v. L. Muniswamy, (1977) 2 SCC 699*, and *Zandu Pharmaceutical Works v. Mohd. Sharaful Haque, (2005) 1 SCC 122*, address prevention of genuine abuse and quashing where accepted allegations disclose no offence.

3. Statutes considered : Section 482 CrPC governed the request for quashing, with its three recognised purposes and cautious review at the threshold. The FIR listed IPC Sections 419 (personation cheating), 420, 120-B, 467, 468, 471 and 34 in relation to alleged recruitment impersonation. The Court did not determine whether Rajat had actually taken the examination. The distinction between disclosure and absence of a cognizable offence, in the quoted Supreme Court authorities, concerned whether criminal investigation could proceed. The 2023 proceeding was considered under CrPC and IPC.

4. Issues : (1) On a Section 482 petition to quash this recruitment-examination FIR, could the High Court accept the applicant's assertion of an agricultural occupation and lack of electrician knowledge as proof that he could not be the alleged proxy? (2) Did the stated identity and biometric discrepancies, read with the proxy accusation at face value, leave a case fit for investigation and evidentiary assessment rather than establish a no-offence or legal-bar category?

5. Ratio / Findings : The Court stated that Section 482 does not permit a roving inquiry or assessment of disputed evidence. Quashing may be justified where the allegations, accepted in full, make out no offence, subject to cautious exercise of inherent power. Through *K.M. Sharan*, it explained that the power remains available in genuine cases involving a legal bar, absence of an offence or abuse. Where an alleged offence is disclosed at the threshold, investigation should proceed and factual reliability must be tested in the proper forum.

On the stated facts, a candidate passed the written examination, but the examination taker's photograph, ID and eye-retina differed from those of the person appearing at interview and verification. The allegation that Rajat appeared as a solver was not displaced merely by his assertion that he farmed and lacked electrical expertise. Deciding his competence, identity or the evidentiary weight of the discrepancies would require the factual inquiry unavailable at this stage. The Court found no ground to interfere with the FIR. This was a threshold decision, leaving guilt undecided.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC and refused to quash Crime No. 129/2021.

Rajat Kumar Singh v. The State of Madhya Pradesh, M.Cr.C. no. 12341/2023, 06/04/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Investigation / arrest discretion / limits of mandamus - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was applied to hold that the High Court should not direct arrests or predetermine the filing of a charge sheet after registration of an FIR. Its quotation of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that arrest under Section 41 CrPC is a police discretion to be exercised cautiously, rather than an automatic consequence of an allegation of a cognizable offence. *D. Venkatasubramaniam* also recognises that investigation may lead to a prosecution report or closure. Its discussion of *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, cautions against coercive judicial directions affecting persons who are not before the court without hearing them. The Court declined to supervise the manner or predetermine the outcome of the investigation under IPC Sections 420/34.

Investigation / Section 173(1) / no unnecessary delay - The refusal to direct arrest did not permit investigation to remain pending indefinitely. Section 173(1) CrPC required completion without unnecessary delay and a lawful final report, whether a charge sheet or closure report, according to the material. The investigating officer was directed to conclude the investigation as early as possible and

take the steps required by law. The petitioner could raise a grievance with the Superintendent of Police.

Case-note :- ***1. Facts :*** Rajeev Jain filed a writ petition under Article 226 seeking mandamus for further action and a time limit fixed by the Court after police registered an FIR on his complaint under IPC Sections 420 and 34. He submitted that the accused had not been arrested and the investigation had not been completed. The question before the High Court concerned the directions a complainant could obtain about arrest and completion of investigation.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted extensively and applied. The Supreme Court reviewed an order directing the police to record statements, arrest, seize property, safeguard assets and file a charge sheet within a time frame. It explained that investigation is the police's statutory duty and domain. The High Court cannot mechanically prescribe those steps or a predetermined result without reasons; investigation may lead either to a charge sheet or to a finding that no case is made out. The Court applied that principle here in refusing to direct arrest or filing of a charge sheet, while separately enforcing the duty to avoid unnecessary delay.

The *D. Venkatasubramaniam* passage quotes *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*. It explains that Section 41 CrPC permits a police officer to arrest without a warrant in the specified circumstances involving a cognizable offence, but does not require immediate arrest of every person named in an FIR. The need for arrest depends on the investigation, the nature of the offence and the person accused. Because arrest affects liberty and reputation, the power must be exercised cautiously. The Court applied this discretionary-arrest principle in declining to order arrest.

The same passage relies *on Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for a reasonable opportunity of hearing before a judicial order severely affects persons who are not before the court, particularly where it sets criminal law in motion or prejudices reputation. *D. Venkatasubramaniam* disapproved arrest and seizure directions against appellants who had not been notified and warned of the serious consequences of uncalled-for observations by higher courts. The High Court quoted this discussion as part of the restraint against directing police action. The Supreme Court passage also states the three limited purposes of inherent power under Section 482 CrPC; the present petition, however, invoked Article 226.

3. Statutes considered : Article 226 of the Constitution was invoked for mandamus. Section 41 CrPC, through the cited Supreme Court authority, concerns discretionary arrest without a warrant in cognizable investigations; registration of an FIR alone does not compel arrest. Section 173(1) CrPC was directly quoted for the requirement that every investigation under the Chapter be completed without unnecessary delay. The Court applied it to require a prompt lawful conclusion and final report, whether closure or a charge sheet according to the evidence. Section 482 CrPC arose in the quoted Supreme Court discussion of inherent jurisdiction; it was not the provision Rajeev invoked. IPC Sections 420 and 34 identified the registered allegations.

4. Issues : (1) Did Rajeev's status as complainant and the existence of a registered FIR entitle him to a writ commanding immediate arrest of the accused or a particular charge-sheet outcome? (2) Could the court nevertheless require the investigating officer to finish an ongoing investigation without unnecessary delay under Section 173(1), leaving its evidence-based result and lawful investigative steps to the officer?

5. Ratio / Findings : The Court refused to direct arrest. Applying *D. Venkatasubramaniam*, it held that directing arrest and filing of a charge sheet would amount to supervision of police investigation, which the writ court could not undertake on this request. *M.C. Abraham*'s explanation of Section 41 treats arrest as a discretion requiring caution, rather than a mechanical consequence of a report of a cognizable offence. *D. Venkatasubramaniam* also recognises that the final report may be a closure report.

The Court distinguished the statutory duty to complete investigation from control over how it is conducted. It reproduced Section 173(1)'s requirement of completion without unnecessary delay. The officer could not leave the FIR unresolved, but had to determine as early as practicable whether the evidence disclosed an offence and file the appropriate final report. The Court therefore required prompt completion and lawful steps, while leaving the officer to reach the result warranted by the material rather than predetermining arrest or prosecution.

6. Relief : The Hon'ble High Court disposed of the writ petition. It granted no mandamus directing arrest or filing of a charge sheet. The investigating officer was directed to conclude the pending investigation as early as possible and take the steps required by law, including submission of the appropriate final report without unnecessary delay. Rajeev could submit a grievance application to the Superintendent of Police, Ashoknagar, for consideration in accordance with law.

Rajeev Jain v. State of Madhya Pradesh and Ors., W.P. no. 15521/2022, 14/07/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (669) Prev Next

Headnote :- Rape / marriage promise / misconception at inception - *Naim Ahamed v. State (NCT of Delhi), (2023) 15 SCC 385*, and *Dr. Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191*, were applied to distinguish a promise that was false from the outset and made to obtain intercourse from a genuine promise that was later unfulfilled. Under Section 90 IPC, the misconception must cause the woman's consent, and the person doing the act must know or have reason to believe that she consented because of that misconception. A mere breach of promise does not automatically constitute rape. On the facts of this case, the Court relied on the complainant's subsisting marriage to the petitioner's brother, her knowledge of that impediment, the continuing relationship and the later complaint to conclude that her consent was not caused by a misconception arising from the alleged promise of marriage.

Subsisting marriage / cause of consent / comparable Supreme Court case - *XXX Appellant v. State of Madhya Pradesh, 2024:INSC:181*, concerned a married complainant whose alleged promise of marriage did not precede the relationship and whose divorce came later. The Supreme Court applied *Naim Ahamed* and quashed the FIR in that case. The High Court compared those circumstances with the complainant's undissolved marriage and the birth of a child from the relationship in the present case. DNA established the petitioner's paternity, but did not itself establish whether any specific sexual act was consensual. The Court quashed the FIR and the consequent charge sheet on its reasoning under Section 90.

Consent / Sections 90 and 375 IPC / statutory limits - *Naim Ahamed* also explained that misconception under Section 90 must be considered alongside Section 375's separate circumstances in which consent is absent or legally ineffective. Fear, mistaken belief that the man is the woman's husband, incapacity, minority and inability to communicate may independently be relevant. Explanation 2 requires an unequivocal voluntary agreement, and mere non-resistance is insufficient. The discussion of Section 114A Evidence Act concerned a presumption applicable in specified rape trials; the Court did not apply that presumption to decide this writ. The Court found no allegation of a threat before the relationship and examined the alleged promise of marriage.

Case-note :- ***1. Facts :*** Rajendra Aporiya filed a writ petition under Article 226 seeking quashing of Crime No. 0008/2024 registered at Mahila Thana, Morena, under IPC Sections 376(2)(n), 323 and 506, together with the charge sheet and resulting proceedings. Respondent 4, the complainant, had married Dharamveer Jatav, the petitioner's elder brother, on 25 April 2012 and had two children. In the FIR, she alleged that her husband harassed her and that the petitioner, her younger brother-in-law, offered support and promised to live with her and marry her. She alleged that, on one occasion, he came to her home, gagged her and raped her. She further alleged continuing sexual relations, pregnancy, the birth of a daughter on 28 June 2022, his later refusal to marry her, assault and threats when she pressed for marriage, and fear because he had obtained a job in the police department. These are her allegations. She expressed willingness to undergo a DNA test.

The petitioner contended that, even if the allegations were accepted at face value, the later relationship was consensual. He argued that the assurance of marriage could not create a misconception under Section 90 IPC because the complainant remained married to his brother and knew that another lawful marriage could not take place while that marriage subsisted. He also relied on a later statement under Section 164 CrPC in which, according to his submission, she said that she had signed the original application at her husband's instance, that its contents were incorrect, that she wished to withdraw it, and that police pressure had led her to repeat its contents and sign the account. The State and the complainant opposed quashing. The complainant maintained that an intentionally false representation of marriage had induced the physical relationship.

The DNA report established that she was the child's biological mother and the petitioner was the biological father. The Court treated the sexual relationship as established and then considered whether the alleged intercourse amounted to rape for want of legally effective consent.

2. Precedents — Considered : *Naim Ahamed v. State (NCT of Delhi), (2023) 15 SCC 385 (2023:INSC:85*), was extensively quoted and applied. The Supreme Court set out Sections 90 and 375 IPC and distinguished the ordinary burden of proving guilt beyond reasonable doubt from the presumption of non-consent under Section 114A Evidence Act, which applies in specified rape trials when its conditions are met and the woman states in evidence that she did not consent. It explained that the inquiry into misconception of fact under Section 90 must be considered alongside the wider circumstances described in Section 375, Thirdly, Fourthly and Fifthly. Those circumstances concern consent obtained through fear of death or hurt, mistaken belief that the man is the woman's husband, and incapacity through intoxication or unsoundness of mind. The other circumstances in Section 375 and Explanation 2 also remain relevant. The Supreme Court emphasised that the application of a legal principle depends on the legal evidence and surrounding circumstances. It distinguished an intentionally false promise made at the outset to obtain intercourse from a serious promise that was later broken because of unforeseen circumstances or circumstances beyond the accused's control. Every later failure to marry cannot be treated as a lie from the outset. In that case, the woman was married with three children when the relationship began, continued the relationship for years, had a child, learned that the accused was also married, obtained a divorce much later and then complained. On those proved facts, the Supreme Court set aside the rape conviction while leaving intact the accepted direction for compensation for the child.

Dr. Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC 191, was directly quoted and applied. It states the same distinction independently: the Court must examine whether the assurance of marriage was never sincerely intended and was used to obtain sexual intercourse, whether consent arose solely from that deception, whether a genuine intention was frustrated later, or whether the relationship arose from independent affection. The quoted passage explains that an acknowledged consensual relationship does not become rape merely because the promise of marriage is not fulfilled. The High Court applied this distinction to the alleged promise in the present case.

XXX Appellant v. State of Madhya Pradesh, 2024:INSC:181, was directly quoted. The Supreme Court found that the relationship had begun without an initial promise of marriage, that the woman remained married on the relevant dates despite her claim of an earlier divorce, and that the divorce decree came later. It discussed her maturity and continuing relationship, applied *Naim Ahamed*, and quashed the FIR and consequential proceedings in that case. The present Court relied on the comparable, known impediment arising from a subsisting marriage and on the application of *Naim Ahamed*. In the present case, the complainant alleged an initial forced encounter and her marriage remained undissolved.

The Court also reproduced this High Court's decision in *Nishant Jain v. State of Madhya Pradesh*, W.P. No. 18064/2022, order of 7 October 2023. That decision had applied *Naim Ahamed* and *Dhruvaram Sonar* to quash a prosecution based on a promise of marriage which it found apparently malicious, after examining the relationship, marriages, property dispute and other circumstances of that case.

3. Statutes considered : IPC Section 375 defines rape through specified sexual acts committed in seven circumstances, including against the woman's will, without her consent, with consent obtained through specified fear or a mistaken belief that the man is her husband, incapacity, minority, and inability to communicate consent. Explanation 2 requires an unequivocal voluntary agreement communicated for the specific act; mere failure to resist physically does not, by itself, signify agreement. IPC Section 90 renders consent ineffective when it is caused by fear of injury or misconception of fact and the person doing the act knows or has reason to believe that it was given for that reason. The Court chiefly examined the alleged promise of marriage under these provisions. Section 376(2)(n), concerning repeated rape, was the charged provision; the FIR also named Sections 323 and 506. The Court found no allegation that a threat before the relationship had induced intercourse, and distinguished the later threats alleged when the petitioner refused to marry.

The discussion of Section 114A Evidence Act quoted from *Naim Ahamed* concerned the mandatory

presumption of absence of consent in specified rape prosecutions where intercourse is proved, consent is in issue and the woman states in her evidence before the court that she did not consent. Section 164 CrPC provided the procedure for the reported later statement but was not independently interpreted. The order referred to the existing first marriage as an impediment.

4. Issues : (1) With the sexual relationship and paternity scientifically established, did the complainant's allegations disclose intercourse without legally effective consent under Section 375, having regard both to the alleged initial use of force and to the continuing acts? (2) Did a promise to marry made while her marriage to the petitioner's brother remained undissolved cause consent through a misconception of fact within Section 90, or did the alleged sequence and her knowledge of the impediment defeat that contention on the facts of this case? (3) Did the Supreme Court's distinction between a promise that was false from the outset and a later breach of promise permit quashing of the FIR, charge sheet and related proceedings?

5. Ratio / Findings : The DNA result established that the petitioner was the child's biological father and thus established a sexual relationship, but did not itself establish consent. The Court reproduced the circumstances described in Section 375 and the test of fear or misconception under Section 90. It treated the principal question as whether the assurance of marriage had rendered consent legally ineffective. The order stated that no threat to life or limb was alleged before the relationship; the threats in the FIR were alleged to have arisen when the complainant later insisted on marriage. In addressing the FIR's allegation of an initial forced encounter, the Court also stated that the later repeated relations and the birth of the child affected its assessment of the contention that intercourse was against her will.

Applying *Naim Ahamed* and *Dhruvaram Sonar*, the Court examined whether the promise was false from the outset and had induced consent, rather than merely remaining unfulfilled later. It relied on the complainant's continuing marriage to the petitioner's brother, her knowledge that another lawful marriage could not take place while that marriage subsisted, the continuing relationship, the child born on 28 June 2022 and the first written complaint dated 21 September 2023. *Appellant* provided a comparison based on its particular facts, in which the impediment to marriage and the absence of an initial promise defeated the alleged misconception. On the facts before it, the High Court concluded that the continuing physical relationship had not resulted from a misconception arising from the proposed marriage, and quashed the prosecution.

6. Relief : The Hon'ble High Court allowed the writ petition. It quashed Crime No. 0008/2024 registered at Mahila Thana, Morena, for offences under IPC Sections 376(2)(n), 323 and 506, together with the charge sheet already filed and the criminal proceedings arising from it.

Rajendra Aporiya v. The State of Madhya Pradesh and Ors., W.P. no. 33661/2024, 10/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (670) Prev Next

Headnote :- Illegal sand extraction / compounding / independent IPC offence - *Jayant v. State of M.P., Criminal Appeal Nos. 824–825/2020* (3 December 2020), was applied: when an offence is compounded on payment under Section 23A MMDR Act, subsection (2) bars further proceedings for the MMDR Act or rule offence so compounded, but does not terminate proceedings for distinct IPC offences, including Sections 379 and 414. *Banti v. State of M.P.*, M.Cr.C. 37312/2020, had explained the penalty, royalty and environmental controls under the M.P. Sand Rules, 2019. The discussion also drew *on State of M.P. v. Rameshwar, (2009) 11 SCC 424*, concerning the absence of a general statutory bar to prosecution under the IPC. An offer to pay the Rule 20 penalty and the deposit of royalty could not, by themselves, entitle the applicant to bail or absolve him of the surviving IPC allegations.

Bail parity / earlier order / show-cause notice - The Sessions Court had granted co-accused Parshuram anticipatory bail after a penalty deposit without considering the earlier High Court decisions on mining and bail. In examining that order, the High Court also applied *Jayant*'s distinction concerning independent IPC offences. The earlier grant did not require Rajendra's release on his second application under Section 439. The High Court refused him bail and separately issued notice to Parshuram to show cause why the earlier order should not be set aside, directing registration of a separate case. It did not cancel Parshuram's anticipatory bail in this order; he was to be heard in the separate proceeding.

Case-note :- ***1. Facts :*** Rajendra Gurjar's second application under Section 439 CrPC sought regular

bail following his arrest on 8 October 2020 in Crime No. 138/2020 registered at Sirol police station, Gwalior. The offences alleged were under IPC Sections 379 and 414 and Section 4/21 of the mining enactment referred to in the order. His first application had been dismissed as withdrawn on 4 November 2020. The case diary was not available to the High Court at this hearing. Counsel stated that Rajendra did not know whether the department had issued an electronic transit pass (e-TP) and therefore could not produce one.

Counsel relied on the Third Additional Sessions Judge's order dated 9 October 2020 in BA No. 2436/2020, granting anticipatory bail to co-accused Parshuram Baghel because the penalty under Rule 20 of the M.P. Sand (Mining, Transportation, Storage and Trading) Rules, 2019 had been paid. Rajendra offered to pay the same penalty. The High Court examined whether payment under the regulatory provisions removed independent criminal liability and whether the co-accused's earlier order supported bail. It separately considered whether Parshuram should be called upon to show cause against the proposed setting aside of his bail order.

2. Precedents — Considered : *Jayant and others v. State of M.P., Criminal Appeal Nos. 824–825 of 2020*, Supreme Court order of 3 December 2020, was directly quoted and applied. The passage distinguishes compounding under Section 23A(1) MMDR Act and the bar under Section 23A(2) against further proceedings for the MMDR Act or rule offence so compounded from the continuing prosecution of independent IPC offences, expressly including Sections 379 and 414. Payment therefore does not confer immunity from all criminal proceedings. The Court applied *Jayant* to reject Rajendra's argument based on payment of a penalty and to question the legal basis of Parshuram's anticipatory-bail order.

Banti v. State of M.P., M.Cr.C. No. 37312/2020, High Court order of 5 October 2020, was quoted as an earlier decision. It explained that Rules 6 and 7 of the Sand Rules, 2019 regulate quantity and base price, that Rule 12(2)–(4) concerns environmental clearance, water and air consent, and permissible quantity, and that payment of a penalty or royalty under Rule 20 satisfies, at most, a regulatory or civil liability. The Rules did not prohibit action under the IPC or another statute. In the same discussion, *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, was considered on the analogous question of the relationship between a special statute and general criminal law: the M.P. Cooperative Societies Act did not exclude criminal proceedings in the absence of a bar to prosecution for general offences, particularly charges under the Prevention of Corruption Act. The present judgment applied that reasoning on the absence of a statutory bar, while *Jayant* defined the more specific limit on MMDR compounding.

Rajiv Sharma v. State of M.P., M.Cr.C. No. 35538/2020, High Court order of 7 October 2020, was also extensively quoted. It condemned the possible harm caused by illegal sand extraction to river beds, the environment and revenue, and rejected the contention that non-bailable offences triable by a Magistrate confer an automatic right to bail regardless of their gravity. In that case, it also explained that the sixty-day period under Section 437(6) CrPC begins on the first date fixed for evidence, and does not begin before the trial reaches that stage. The Magistrate may record reasons for refusing release even after that period. These propositions formed part of the quotation and informed the Court's assessment that the Sessions order had overlooked relevant mining and bail decisions. Rajendra's counsel did not advance a separate claim under Section 437(6) in the present application.

The Sessions Court's order in favour of Parshuram Baghel was an earlier co-accused bail order, not a binding Supreme Court precedent. The High Court stated that it had not considered *Banti* or *Rajiv Sharma* and, having also applied *Jayant*, directed issuance of notice and registration of a separate case to consider setting the order aside.

3. Statutes considered : Section 439 CrPC governed Rajendra's application for regular bail; the earlier co-accused order concerned anticipatory bail at a distinct procedural stage. IPC Sections 379 and 414 were the independent theft and stolen-property offences identified in *Jayant* as surviving MMDR compounding. The order referred to the mining offence under Section 4/21 of the 'Khanan Adhiniyam' and discussed the MMDR Act and Rules. Section 23A(1) MMDR Act permits compounding on payment of a penalty, while subsection (2) bars proceedings for the offence so compounded under that Act or its rules; it does not extinguish separate IPC liability. Rule 20 of the M.P. Sand (Mining, Transportation, Storage and Trading) Rules, 2019 was the basis of the offer to pay a penalty. The Court also referred to royalty under

Rule 30 in its conclusion. The Rules 6, 7 and 12 discussed in *Banti* concerned permissible sand quantity, price, environmental clearance, and water and air permissions.

4. Issues : (1) Did willingness to pay the penalty under the Sand Rules, 2019, or actual payment by a co-accused, bar independent criminal proceedings under the IPC and warrant regular bail? (2) Did the co-accused's anticipatory-bail order based on payment of a penalty provide a persuasive claim to parity despite the cited High Court decisions and the Supreme Court's distinction concerning independent IPC offences? (3) What directions were made concerning that earlier grant, and did they amount to its immediate cancellation?

5. Ratio / Findings : The Court applied the distinction in *Banti* between regulatory or civil liability and criminal liability, together with *Jayant*'s more specific rule under Section 23A. Valid compounding would bar further proceedings for the particular MMDR Act or rule offence compounded, but the IPC allegations of theft and the offence under Section 414 could still be prosecuted. Payment of royalty or a penalty therefore did not, by itself, answer the criminal allegations or establish entitlement to regular bail. On its assessment of the record, the applicant's statement that he did not know whether an e-TP had been issued provided no ground for release. The Court dismissed the bail application. The co-accused's earlier anticipatory-bail order was based on payment of a penalty without considering *Banti* or *Rajiv Sharma*. In examining that order, the High Court also applied *Jayant*. It did not treat the earlier order as requiring Rajendra's release. Nor did it immediately set that order aside: it directed a show-cause notice to Parshuram and registration of a separate case to consider that question, with service through the Superintendent of Police and listing on 21 December 2020.

6. Relief : The Hon'ble High Court dismissed Rajendra's second application for regular bail. It directed the office to register a separate case and issue a show-cause notice to Parshuram Baghel through the Superintendent of Police, Gwalior, asking why his anticipatory-bail order dated 9 October 2020 should not be set aside. The separate case was to be listed on 21 December 2020.

Rajendra Gurjar v. State of M.P., M.Cr.C. no. 46296/2020, 07/12/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (671) Prev Next

Headnote :- Matrimonial cruelty / ouster / continued mental impact - The Court considered the principle in *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, that a woman compelled to leave her matrimonial home because of dowry demands or cruelty may suffer mental cruelty from that exclusion. The complainant specifically alleged that her father-in-law and mother-in-law had beaten and expelled her in 2021 and, when she returned in 2024, abused her, refused her entry, taunted her inability to conceive, announced that they would remarry their son and threatened to burn her. These specific allegations were sufficient to withstand quashing at the threshold.

Quashing / civil matrimonial remedy / FIR chronology - *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was applied: attempts to reconcile may explain delay in reporting after expulsion, and a civil divorce petition does not, by itself, bring criminal proceedings to an end. The High Court must examine the complaint's allegations without conducting a mini-trial on extraneous civil or investigation material. Here, the cruelty FIR preceded the husband's petition for divorce under Section 13; the wife's wish to seek restitution under Section 9 did not establish that her FIR was false. The further authorities cited on Section 482 supported the same stated limit: the allegations must be taken at face value, without a mini-trial. The application under Section 528 BNSS was dismissed.

Case-note :- ***1. Facts :*** Rajendra Kumar Gupta and Jyoti Gupta, respectively the father-in-law and mother-in-law of respondent 2, applied under Section 528 BNSS, 2023 to quash Crime No. 17/2024 registered at Mahila Thana, Datia. The FIR cited BNS Sections 85, 115(2), 351(3) and 3(5). The complainant stated that she had married their son Priyesh on 3 February 2016. She alleged that dowry gifts had been given, that her husband and in-laws repeatedly harassed her physically and mentally over the alleged inadequacy of dowry, that they taunted her inability to conceive, and that they pressured her to leave or be divorced. According to the FIR, all three beat her and expelled her on 3 November 2021, after which she returned to her parental home in

Datia. She alleged that, when she visited the matrimonial home on 30 May 2024, the applicants refused her entry, threw out her belongings, abused her as infertile, said that they would remarry their son and threatened to burn her. She also described her family's attempts at reconciliation and alleged that her husband made a further demand for Rs. 2 lakh on 18 October 2024.

The applicants contended that the husband's pending divorce petition under Section 13 Hindu Marriage Act made the FIR a counterblast. During arguments, however, their counsel accepted that the FIR had been lodged on 30 October 2024, before the divorce petition was filed on 5 November 2024. They relied on the unsuccessful reconciliation at Mahila Thana and argued that the complainant's application for restitution under Section 9 was inconsistent with her allegations of abuse. The Court examined these submissions in light of the specific allegations in the FIR.

2. Precedents — Considered : *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was considered in the Court's own analysis. It states that a woman compelled to leave her matrimonial home because of dowry demands or cruelty may suffer mental cruelty from that exclusion. The present Court considered that principle in relation to the alleged expulsion and the in-laws' later refusal to allow re-entry, infertility taunts and threats. The authority was used to assess whether the allegations were sufficient at the quashing stage.

Pratibha v. Rameshwari Devi, (2007) 12 SCC 369, was quoted at length and applied. The Supreme Court rejected an adverse inference based on the interval of several months between forced departure and the FIR, because family members were attempting to restore the marriage. It held that a divorce petition in a civil court does not, by itself, terminate independent criminal proceedings, even where they arise from overlapping facts. It also disapproved quashing based on extraneous investigation findings instead of examining whether the complaint or FIR disclosed a cognizable offence. The present High Court applied this principle to reject the divorce-based counterblast argument, which also failed on the admitted chronology, and the contention that a request for restitution established that the complaint was false. The reference to *Bhajan Lal*'s illustrations formed part of the legal context quoted from *Pratibha*.

In paragraph 9 the Court stated the no-roving-inquiry rule and cited *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021, order of 30 June 2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The Court cited these authorities for the single threshold proposition that quashing is available when the uncontroverted allegations, accepted as true, disclose no offence; the disputed truth of those allegations cannot be tried in an application invoking inherent powers.

3. Statutes considered : Section 528 BNSS, 2023 was expressly invoked for inherent jurisdiction in this 2025 application. The order also refers to Section 482 CrPC in the quotation from an older precedent and in its own discussion of the limitation against conducting a mini-trial. BNS Sections 85 (matrimonial cruelty), 115(2) (hurt), 351(3) (criminal intimidation) and 3(5) (common intention) were the offences cited in the FIR. The Court considered whether the alleged acts, taken together, were sufficient at the quashing stage; it did not finally interpret each ingredient separately. Hindu Marriage Act Sections 13 and 9 arose respectively in the husband's divorce petition and the complainant's asserted remedy of restitution.

4. Issues : (1) Did the FIR allege sufficiently specific conduct by these in-laws, including expulsion, later exclusion, taunts and threats, to withstand quashing in the exercise of inherent powers? (2) Did the husband's divorce case, attempts at reconciliation or the complainant's pursuit of restitution establish that the FIR was retaliatory or inherently false, particularly in light of the actual filing sequence? (3) Could the Court decide the disputed truth of the allegations by assessing civil and reconciliation material in a mini-trial?

5. Ratio / Findings : The Court identified specific allegations against each applicant: their alleged participation with the husband in the 2021 expulsion, and their own alleged abuse, refusal of entry, throwing out of belongings, infertility taunts and threat to kill the complainant when she returned in 2024. *Rupali Devi* supported consideration of the forced separation and its mental impact at this stage. The counterblast argument failed on the admitted dates: the FIR had been lodged six days before the husband's divorce petition. *Pratibha* also established that a civil divorce case is not, by itself, a ground to quash an independent cruelty prosecution, and that family attempts at reconciliation may explain an interval after departure from the matrimonial home. A wife's wish to restore the marriage can coexist with allegations of past cruelty; the asserted request under Section 9 therefore did not, by itself, establish that the allegations were false. The Court could not conduct a roving inquiry or mini-trial to determine what the reconciliation record or the parties' competing accounts ultimately proved. Taking the specific FIR allegations at face value, it found no ground for interference and left their evidentiary assessment to the criminal proceedings.

6. Relief : The Hon'ble High Court dismissed the application under Section 528 BNSS seeking quashing of Crime No. 17/2024. The FIR and the ensuing proceedings were not quashed.

Rajendra Kumar Gupta and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 3205/2025, 29/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (672) Prev Next

Headnote :- Inherent powers — Section 482 CrPC — investigation control - A complainant sought arrest and further police action after registration of an FIR alleging offences under the IPC, POCSO Act and SC/ST Act. Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the High Court declined to direct arrest or filing of a charge-sheet. Investigation is a statutory police function; the steps taken and the eventual report depend on the evidence. A coercive judicial direction prescribing those steps would improperly supervise the investigation. The Supreme Court passage also cautioned against unreasoned directions and adverse orders made without hearing the affected persons, drawing *on Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*.

Arrest — Section 41 CrPC — necessity and caution - *D. Venkatasubramaniam* reproduced *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*: registration of an FIR concerning a cognizable offence does not make arrest automatic. The investigating officer assesses the need for arrest and exercises discretion cautiously because arrest affects liberty and reputation. The High Court applied that principle in refusing the complainant's request for a direction to arrest.

Investigation — Section 173(1) CrPC — prompt completion - The Court also applied the statutory requirement to complete investigation without unnecessary delay. It directed the investigating officer to conclude it as early as possible and take the steps required by law. The petitioner could approach the Superintendent of Police, Gwalior with a grievance.

Case-note :- ***1. Facts :*** Rajendri Parihar (Mirdha) filed a petition under Section 482 CrPC in the Madhya Pradesh High Court at Gwalior. According to counsel, her complaint had led to registration of Crime No. 14 of 2021 at Police Station Girwai, Gwalior, for offences under IPC Sections 376, 323, 506 and 34, POCSO Act Sections 5 and 6, and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act Sections 3(1)(w)(ii) and 3(2)(v). Counsel asserted that the police had taken no further action and had not arrested the accused persons.

The Court heard the petitioner's counsel and considered the request for a direction to arrest in light of the police's statutory investigative role and the Supreme Court's caution against coercive High Court directions. It declined to prescribe arrest or filing of a charge-sheet, and separately considered the duty to complete investigation without unnecessary delay. The petition was disposed of with a direction for early completion and liberty to bring a grievance to the Superintendent of Police.

The written prayer sought expeditious and proper investigation, with prompt submission of the resulting report to the court. Counsel also pressed for arrest of the accused. The Court addressed that request separately from the statutory duty to complete the investigation in a timely manner.

2. Precedents — Considered : The High Court expressly quoted *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, at length. That judgment concerned a High Court order

making witness statements, arrest, seizure and filing of a charge-sheet obligatory, although an investigation could lawfully lead to different conclusions. The Supreme Court explained that investigation is a police duty ordinarily within the police's domain. A court should not prescribe the direction of the investigation, the evidentiary steps or a coercive outcome without grounds justifying intervention within its jurisdiction. It also criticised the absence of reasons, the failure to hear affected persons and casual judicial observations capable of influencing proceedings. The present High Court applied the central principle against judicial supervision of investigation in refusing the arrest request.

In *D. Venkatasubramaniam*, the Supreme Court reproduced *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on discretion to arrest under Section 41 CrPC. The specified grounds permit arrest without a warrant; they do not require immediate arrest of every accused after registration of an FIR. The need for arrest may be assessed as the investigation develops, and its effect on liberty and reputation requires caution. The present Court relied on that reasoning, incorporated in *D. Venkatasubramaniam*, to decline a direction to arrest during the pending investigation.

D. Venkatasubramaniam also reproduced *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on the opportunity to be heard before a judicial investigation order carrying serious consequences for the affected person. In *D. Venkatasubramaniam*, the failure to hear those affected was an independent ground for setting aside the order under appeal. The present Court quoted that reasoning as part of the caution against compelled arrest.

3. Statutes considered : The petition was filed under Section 482 CrPC. The Court declined to exercise that power to prescribe arrest or the final conclusion of the investigation. Section 41 CrPC appeared in the substantially reproduced Supreme Court explanation of discretion to arrest without a warrant in the specified circumstances. Section 173(1) CrPC was quoted and directly applied: investigation must be completed without unnecessary delay. The officer must reach a lawful conclusion and take appropriate steps, without a judicially predetermined outcome.

4. Issues : First, could a complainant invoke Section 482 CrPC to require the police to arrest persons named in an FIR and thereby influence the methods and outcome of a pending investigation? The issue concerned the distinction between the police's lawful discretion and a coercive High Court direction. Second, after the Court declined to prescribe investigative steps, could the officer leave the case pending indefinitely, or did Section 173(1) require completion without unnecessary delay?

5. Ratio / Findings : The Court held that it could not direct the police to arrest the accused. *D. Venkatasubramaniam* establishes that a court ordinarily may not supervise investigation by requiring arrest and filing of a charge-sheet. The police must decide the appropriate steps on the evidence and may conclude either that a case for prosecution is made out or that it is not. The reasoning on arrest in *M.C. Abraham*, incorporated in that precedent, explains why registration of an FIR alleging a cognizable offence does not itself require immediate arrest under Section 41.

The Court then applied the express mandate of Section 173(1). An investigating officer cannot leave a registered case pending without taking the necessary steps and reaching a conclusion. The Court directed completion as early as possible and the steps required by law, leaving the investigator to determine whether an offence was made out and what report the evidence justified. The duty to complete investigation promptly justified this limited intervention; the manner and merits of the investigation remained open.

6. Relief : The Hon'ble High Court finally disposed of the application under Section 482. It declined to direct arrest or prescribe the outcome of the investigation. It directed the investigating officer to conclude the investigation as early as possible in accordance with Section 173(1) CrPC and take the steps required by law. If a grievance remained, Parihar could apply to the Superintendent of Police, Gwalior, who was to consider it according to law.

Rajendri Parihar (Mirdha) v. State of M.P. and Ors., M.Cr.C. no. 40869/2021, 16/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence — co-accused's statement — Section 27 Evidence Act - In a second application for regular bail arising from an alleged robbery, the investigating officer accepted that a co-accused's statement merely naming the applicant was not admissible as substantive evidence against him. No recovery had been made from the applicant and

no test identification parade had been held. On the record then produced, the Court found no substantive admissible material justifying his continued custody.

Identification — test identification parade — investigative delay - The earlier refusal of bail had noted that no identification parade had been held. Although the police had known since December 2021 that the applicant was detained in another jail and had secured his production, they sent the request to the Tahsildar for a parade only one day before the April hearing. Framing of charges did not, by itself, supply the missing identification. The prolonged inaction was material to reconsideration of bail.

Investigation — Section 299 CrPC filing — accused subsequently produced - The SHO's reliance on an earlier charge-sheet described as filed under Section 299 CrPC did not answer the need to investigate identification after the applicant was produced on a warrant sought by the police. The officer conceded that further investigation had been necessary. The Court assessed the failure in light of the warrant history, the earlier bail order and the submission of the case diary.

Bail — successive application — uncured evidence gap - On the second application under Section 439 CrPC, the Court granted conditional bail because the earlier concern about identification remained unresolved and the State identified no independent admissible evidence or recovery. In view of the applicant's residence outside the State and recorded criminal history, it required cash surety of Rs. 1,50,000 and attendance, subject to the stated consequences of default.

Police accountability — DGP training direction - After finding persistent inaction and a lack of understanding of production warrants, identification and evidentiary sufficiency, the Court directed at least six months' training for the SHO concerned and required the DGP to submit a compliance report within 15 days. It also directed that the complainant be informed of the bail grant in light of *Aparna Bhat v. State of M.P., Criminal Appeal No. 329 of 2021*, decided 18.03.2021.

Case-note :- ***1. Facts :*** The prosecution arose from Crime No. 494 of 2012 registered at Police Station Dehat, District Bhind, alleging an offence under Section 392 IPC, Sections 25 and 27 of the Arms Act and Sections 11 and 13 of the MPDVPK Act, as abbreviated in the judgment. Rajveer Singh Jatav was detained in another criminal case in a different jail. The SHO stated that he had learned of that custody in December 2021 during a drive to execute pending warrants. The police then sought a production warrant, on execution of which Jatav was brought before the trial court. The judgment records 14 February 2022 as the date of arrest in the present crime. An earlier charge-sheet had been filed under Section 299 CrPC while he was unavailable.

The High Court had rejected the first application for regular bail, MCRC No. 10793 of 2022, on 8 March 2022, noting the long interval before production and the absence of a test identification parade and supplementary charge-sheet. In the second application under Section 439 CrPC, counsel submitted that charges had since been framed, but that there was still no evidence against Jatav beyond a co-accused's disclosure under Section 27 naming him. The State initially explained that a letter requesting a parade had been sent to the Tahsildar. On further questioning, it emerged that the letter had been sent only the previous day, 24 April 2022. The SHO was called to explain why no prompt steps had followed the first bail order.

The SHO initially suggested that the matter had only recently come to his attention and that the earlier filing under Section 299 dispensed with the need for a supplementary report. On questioning, he acknowledged his knowledge of Jatav's whereabouts since December 2021, the police application for the production warrant and its execution, and submission of the case diary with his report in the Sessions bail proceeding. He also acknowledged the inadmissibility of a co-accused's statement merely naming Jatav and the need for further investigation of identification after production. The Court regarded his inaction and answers as serious deficiencies. On the bail merits, it also considered Jatav's residence in Rajasthan, three registered criminal cases, and the absence of any recovery or independent admissible evidence identified on this record.

2. Precedents — Considered : At its conclusion, the order directly referred to *Aparna Bhat and others v. State of M.P., Criminal Appeal No. 329 of 2021*, decided on 18 March 2021. The High Court invoked that judgment in directing that intimation of the bail grant be sent to the complainant. *Aparna Bhat* was invoked for complainant notification. The earlier order dismissing Jatav's first application, MCRC No. 10793 of 2022 dated 8 March 2022, recorded the unresolved concerns about identification and the

incomplete police report; it was not a separate Supreme Court precedent.

3. Statutes considered : Section 439 CrPC governed the second application for regular bail. The SHO referred to Section 299 CrPC in explaining the earlier charge-sheet filed while the applicant was absent. The Court did not regard that filing as an answer to the need for further investigation after the police secured his production. Section 27 of the Evidence Act arose in the applicant's account of the co-accused's disclosure. The officer acknowledged that information merely naming another accused did not furnish admissible substantive evidence against that person on this record. Section 392 IPC, Sections 25 and 27 of the Arms Act, and Sections 11 and 13 of the MPDVPK Act were the offences alleged. The cash-surety and appearance requirements were conditions imposed in this bail order.

4. Issues : First, had the State produced substantive admissible material linking Jatav to the alleged offence when the only identified inculpatory material was a co-accused's disclosure of his name and no recovery had been made? Second, what bearing did the absence of a test identification parade have on renewed bail consideration, given the first bail refusal, the framing of charges, and the police's knowledge of Jatav's whereabouts and role in securing his production? Third, could the SHO rely on the earlier filing under Section 299 to excuse the failure to investigate identification after the applicant was produced before the trial court? Fourth, did the officer's conduct justify specific directions for DGP supervision and training, and could bail be granted on strict conditions despite residence outside the State and criminal history?

5. Ratio / Findings : The High Court questioned the SHO after the State disclosed that the letter requesting a parade had been sent only one day before the hearing. His explanation that the matter had only recently come to his attention was inconsistent with his knowledge of Jatav's custody since December 2021, the police application for a production warrant, Jatav's production, his submission of the case diary to the Sessions court, and the March order noting the outstanding parade. He accepted that identification required further investigation after the applicant's production and that the co-accused's mere disclosure of Jatav's name was not admissible as substantive evidence against him. The Court found that the police had failed to take a material investigative step and that the officer misunderstood both the production-warrant process and the insufficiency of a confessional statement merely naming another person. The earlier filing under Section 299 during the applicant's absence had not supplied the missing identification or recovery.

On the limited record available at the bail stage, the Court found no substantive admissible evidence against Jatav and no recovery of property from him. Framing of charges did not remove that evidential deficiency, and the Court allowed the renewed application. It noted the 2012 occurrence, the long delay before production and the applicant's custody in another case, but considered continued detention unjustified on the evidence before it. To address the risks of non-appearance and non-compliance arising from his residence in Dholpur, Rajasthan and three registered criminal cases, it required substantial cash surety and regular attendance. The order was to remain effective until the end of the trial, but would lapse upon a bail jump. It further provided that a single default in appearance or registration of a new offence would automatically end the order and forfeit the cash surety without reference to the court. Separately, the Court found that the SHO's repeated evasive or uninformed answers required immediate training in law and investigation. It also referred to its broader observation that the police had been filing charge-sheets on confessional statements without collecting substantive material; the specific remedial direction arose from this officer's identified failures. The DGP was directed to arrange training for at least six months at a police training school of his choice and to submit a report to the Principal Registrar within 15 days.

6. Relief : The Hon’ble High Court allowed the second application for regular bail. It directed the DGP, Madhya Pradesh to send SHO Rambabu Singh Yadav for at least six months' training at a police training school selected by the DGP and to submit a compliance report to the Principal Registrar within 15 days.

Rajveer Singh Jatav v. State of M.P., M.Cr.C. no. 18696/2022, 25/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Related eyewitness / scrutiny - *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, requires careful scrutiny of an interested or chance witness. *Raju v. State of T.N., (2012) 12 SCC 701*,

and *State of U.P. v. Kishanpal, (2008) 16 SCC 73*, address related and interested witnesses and the risk of false implication. *Raju* requires careful appraisal, particularly where there is enmity, rather than treating relationship and interest as categorically separate. The Court rejected Guman De's assertion that she saw the assault because she admitted arriving later. It accepted Badami's natural presence and her account, corroborated by independent witnesses Dharam Singh and Dayanand; a claimed land dispute did not discredit them.

Ocular / medical inconsistency - *Bhajan Singh v. State of Haryana, (2011) 7 SCC 421*, and *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, require consideration of medical evidence that makes an eyewitness account improbable; medical evidence that completely excludes the account may justify rejecting it. The latter decision quoted *Yogesh Singh* and other authorities for this qualified rule. The absence of a separate injury on the back corresponding to Kailash's alleged lathi blow did not completely exclude the witnessed joint assault. Multiple blunt head wounds and skull fractures were proved, an accidental fall was medically ruled out, and the roughly five-hour interval before the FIR was explained by lack of transport.

Common intention / fatal blow - Under Section 34 IPC, a participant in a criminal act done in furtherance of proved common intention is liable for the act even if another participant inflicted the fatal injury. The Court found that, after Badu's dispute, Kailash came armed with a lathi and assaulted Pappu alongside Rakesh, who carried a luhangi. The absence of a specifically attributed fatal head blow by Kailash did not reduce his liability under Section 302/34.

Weapon recovery / direct proof - *Goverdhan v. State of Chhattisgarh (Cr.A. 116/2011, 9 January 2025)* quoted *Rakesh v. State of U.P., (2021) 7 SCC 188*, for the rule that recovery of the actual weapon is not indispensable if direct eyewitness evidence is trustworthy and medically supported. *Goverdhan* also quoted *Karamjit Singh v. State (Delhi Admn.), (2003) 5 SCC 291*, against mechanically distrusting police witnesses. The Court treated the absence of bloodstains on the lathi and of FSL support as a failure to prove its link to the offence, but the independent evidence of the assault sustained the conviction.

Murder / disposition - Severe, repeated head trauma, fractures and haemorrhage supported the finding of homicidal death and the Court's inference of intention to cause death in the proved joint attack. Kailash's Section 302/34 conviction and life sentence were affirmed. Rakesh's appeal abated on his death; Badu had died during trial. Kailash's bail was cancelled, and he was directed to surrender immediately. A warrant was permitted if he failed to surrender within one month.

Case-note :- ***1. Facts :*** The appeal under Section 374(2) CrPC challenged the judgment dated 25 October 2013 of the Third Additional Sessions Judge, Shivpuri, in Sessions Trial 252/2011. At a community dinner in Badagaon on 7 September 2011, Pappu asked Badu why he had left. An abusive exchange followed. According to the prosecution, Rakesh, Badu's son, and Kailash arrived, Rakesh with a luhangi and Kailash with a lathi, and the three assaulted Pappu. His wife Badami lodged the FIR, initially under the provisions concerning assault, restraint and threats, with Section 34 IPC. Pappu died during treatment the following day; Section 302 was added. The police seized a lathi attributed to Kailash and a luhangi attributed to Rakesh.

Badu died during trial. The trial court acquitted Rakesh and Kailash of the restraint and threat charges but convicted them under Section 302/34, imposing rigorous life imprisonment, a fine of Rs 5,000 each and three months' rigorous imprisonment in default. During the appeal, Rakesh's death on 2 October 2016 was verified and his appeal abated; only Kailash's appeal remained for decision. Kailash disputed his responsibility for the fatal injury because eyewitnesses described his lathi blow on Pappu's back, but the medical reports showed no back injury, while death resulted from head trauma. He relied on alleged enmity, the possibility of a fall while intoxicated and the absence of a forensic link to the seized lathi. The State relied on four claimed eyewitnesses, severe blunt head trauma and liability under Section 34. The Court later excluded Guman De's claim to have witnessed the assault and relied on the other three.

Dr P.K. Dubey found several fresh head lacerations and contusions caused by hard blunt force, with no signs of intoxication noted. Postmortem surgeon Dr Nikhil Agarwal found several head wounds, extensive fractures and intracranial haemorrhage. He attributed death to cardiorespiratory failure from head injury and rejected the suggested fall from a bicycle. Dharam Singh, Badami and Dayanand described a joint assault. Dharam's initial description

of Rakesh's weapon as a farsa was corrected to luhangi in cross-examination; Badami and Dayanand attributed a lathi blow on the back to Kailash. Guman De, Pappu's mother, claimed to be an eyewitness but admitted in cross-examination that she arrived after Badami informed her. The Court accordingly rejected her claim to have directly observed the assault.

2. Precedents — Considered : *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, requires particularly careful scrutiny of an interested witness and scrutiny of a chance witness's explanation of disputed presence. The evidence must have a ring of truth and be credible. *Raju v. State of T.N., (2012) 12 SCC 701*, addresses related and interested witnesses, questioning a categorical distinction based on relationship alone and requiring careful appraisal of the risk of false implication, especially where there is enmity. It describes meticulous scrutiny as a rule of prudence rather than a statutory bar or an automatic requirement of corroboration. *State of U.P. v. Kishanpal, (2008) 16 SCC 73*, was also considered on the need for careful scrutiny and the rule that relationship alone does not justify rejecting credible evidence. The Court did not accept Guman De as having observed the event. Badami's presence with her husband at the dinner was natural, and independent witnesses Dharam and Dayanand corroborated her account; no reason for false implication by them was shown.

Bhajan Singh v. State of Haryana, (2011) 7 SCC 421, explains that medical evidence rendering eyewitness testimony improbable is a factor to weigh, whereas complete exclusion of that account can justify rejecting it. *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, quoted *Yogesh Singh v. Mahabeer Singh and* other decisions for the qualified primacy of credible direct evidence, while also recognising cases of total medical incompatibility. The Court in the present case found the absence of a back injury insufficient to exclude the witnessed attack by several men. It considered the multiple injuries and the practical difficulty of pinpointing every blow as the victim moved. The cited authorities were applied to this discrepancy; they did not establish that medical evidence can never displace eyewitness testimony.

Goverdhan v. State of Chhattisgarh, Criminal Appeal 116/2011 decided 9 January 2025, was invoked for the proposition that non-recovery of the weapon is not fatal where reliable direct testimony independently proves the offence. It quoted *Rakesh v. State of U.P., (2021) 7 SCC 188*, which dealt with a ballistic mismatch. That decision explained that the disputed gun recovery could be treated as no recovery of the actual weapon, without displacing credible eyewitness and medical evidence. *Goverdhan* also quoted *Karamjit Singh v. State (Delhi Admn.), (2003) 5 SCC 291*, which rejects categorical suspicion of police recovery testimony merely for lack of public corroboration. The Court found the particular lathi's link to the offence unproved in the absence of bloodstains and an FSL report, but applied the principle that recovery was not indispensable in view of the remaining evidence.

3. Statutes considered : Section 302 IPC supplied the murder charge and life sentence. Section 34 IPC made each participant liable for a criminal act done in furtherance of the common intention of all, without requiring every participant personally to inflict the ultimately fatal wound. Section 374(2) CrPC furnished the appellate route. Sections 341 and 506 Part II IPC were the charges of which the two trial appellants were acquitted. Section 294 IPC was included in the initial FIR and charge-sheet and was charged against Badu.

4. Issues : (i) Whether Badami's relationship to the deceased or the alleged enmity made her account unreliable, and whether Dharam, Dayanand and Guman De could properly be treated as eyewitnesses. (ii) Whether the lack of a recorded back wound medically contradicted the allegation of Kailash's lathi assault, and whether Pappu's head injuries could instead have resulted from a fall while intoxicated. (iii) Whether the absence of bloodstains and forensic testing on the seized lathi left the prosecution without essential proof. (iv) Whether Kailash could be convicted of murder under Section 302/34 when the fatal head blow was not individually attributed to him.

5. Ratio / Findings : The Court rejected Guman De's claim to have directly observed the assault after her admission that she came later. It scrutinised Badami's evidence as that of a related witness, found her presence alongside Pappu at the dinner natural, and accepted her account as consistent with those of independent witnesses Dharam and Dayanand. No reason was shown why the latter two would falsely implicate Kailash. An asserted land dispute did not, without more, displace their eyewitness evidence. The FIR named Kailash and was lodged within about five hours despite a journey of roughly 12

kilometres; the witnesses explained that a tractor or other conveyance had not been readily available.

The medical and postmortem records established multiple blunt head wounds, extensive cranial fractures and internal bleeding. The doctors rejected the explanation of a fall, and no sign of drinking was found in the initial examination. The Court recognised that no external back injury corresponded exactly to the lathi blow described by Badami and Dayanand. Applying *Bhajan Singh and CBI v. Mohd. Parvez*, it asked whether that absence wholly ruled out their account. It held that it did not, given the assault by several persons, the victim's movement and the consistency of the central account with the injuries.

The seizure memo for Kailash's lathi recorded no blood; no FSL report was produced, and some seizure witnesses were hostile. The Court held that, at most, the link between the seized lathi and the offence remained unproved. *Goverdhan and Rakesh v. State of U.P.* permitted conviction on independently reliable eyewitness and medical evidence without recovery of the weapon. Kailash's participation was therefore assessed on the evidence of the three accepted eyewitnesses rather than on an asserted laboratory result.

After Badu's quarrel, Rakesh and Kailash came armed and together assaulted Pappu. The Court inferred common intention from their concerted arrival and participation. Under Section 34, Kailash could be held responsible for the fatal head injury caused in that joint act even though his own blow was described as landing on the back. The severe, repeated head injuries, skull fractures and haemorrhage supported the inference of intention to cause death and the Court's finding of murder. It rejected the attempt to confine Kailash's responsibility to the blow on the back where no injury was recorded. These were final appellate findings on the proved record.

6. Relief : The Hon’ble High Court dismissed Rakesh's individual appeal as abated upon verification of his death; Badu had died during trial. Kailash's appeal was dismissed, and his Section 302/34 conviction and rigorous life sentence, with the fine and default term, were affirmed. His bail bonds were cancelled, and he was directed to surrender immediately before the trial court. If he failed to surrender within one month, the trial court was free to issue an arrest warrant. The trial record and a copy of the judgment were ordered to be sent back for compliance.

Rakesh and Ors. v. State of Madhya Pradesh, Cr.A. no. 1059/2013, 16/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO victim age / document sequence - *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, applied the evidentiary order in Rule 12 of the Juvenile Justice Rules 2007 to a child victim: an available matriculation record, then the first school's date-of-birth entry, then a civic birth record, with medical opinion used only in the absence of those documentary records. The headmaster proved a government school admission register and certificate recording the date of birth as 3 February 1999, before the incident on 25 October 2015. The ossification test corroborated minority.

School record / medical margin - *State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736*, recognises the admissibility of school registers under Section 35 Evidence Act while allowing assessment of their evidentiary weight. *Murugan v. State of T.N., (2011) 6 SCC 111*, emphasises records created before litigation, the source of their information and possible corroboration. *Mukarrab v. State of U.P., (2017) 2 SCC 210*, treats radiological estimates as useful but non-conclusive because of individual variation. The Court accepted the school entry, supported by medical evidence, despite the father's admission that he had estimated age at admission. It declined to add the two-year margin sought by the defence automatically.

Minor's consent / sexual offence proof - The prosecutrix described travelling via Jhansi to Hyderabad and being raped by Rakesh. The Court treated the material medical finding, on which the doctor had not been questioned, as corroborative. Having found the prosecutrix under eighteen, it held that apparently voluntary travel or failure to raise an alarm did not make consent material under Section 375 sixthly IPC and Section 4 POCSO. It affirmed the convictions under Sections 363, 366 and 376(1) IPC and Section 4 POCSO.

Sentence / governing 2015 minimum - The Court affirmed seven years' rigorous imprisonment under Section 4 POCSO, finding that the minimum for that provision and Section 376(1) IPC at the time of the offence was seven years. The trial court had imposed

no separate term under Section 376(1) in view of the POCSO sentence. The appeal was dismissed; the separate SC/ST Act acquittal was not disturbed.

Case-note :- ***1. Facts :*** Rakesh appealed under Section 374(2) CrPC against the judgment dated 4 October 2016 of the Special Judge (SC/ST Act), Shivpuri, in Sessions Trial 14/2016. He was convicted under Sections 363, 366 and 376(1) IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012. The court imposed rigorous imprisonment of three years under Section 363, five years under Section 366 and seven years under Section 4 POCSO, with fines of Rs 2,000, Rs 3,000 and Rs 5,000 and default terms of forty days, two months and six months respectively. It imposed no separate term under Section 376(1) because of the POCSO sentence. He had been acquitted of the charged Section 3(2)(v) SC/ST Act offence.

The mother, Laxmi, said that on 25 October 2015 she and her husband went to the fields, leaving the prosecutrix and a son at home. On returning, they learned that the girl had gone to the market around 11 am and had not returned. A report was lodged the next day at Bhaunti police station. The girl was recovered on 1 November, was medically examined and gave a statement under Section 164 CrPC. School date-of-birth documents and forensic samples were collected, and the charge-sheet followed. At trial, the prosecutrix said that Rakesh's sister-in-law, Bharti, persuaded her to go to the market. Rakesh then took her by train through Jhansi to Hyderabad and raped her at a friend's house. She also described subsequent pressure by his associates, before her recovery by the police, to make a statement as they wished. The examining doctor found a torn hymen but no external injuries.

Rakesh argued that the prosecutrix had travelled with him for days without raising an alarm and had consented. He disputed her minority because her father, Badri, said that he had estimated her age when admitting her to school. Rakesh sought a two-year margin which, he argued, would make her an adult. The State relied on the school-recorded date of birth, 3 February 1999, and the statutory irrelevance of a child's apparent consent.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, held that Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules 2007, although designed to determine the age of a child accused of an offence, supplies the basis for determining a child victim's age. The quoted hierarchy prefers a matriculation or equivalent certificate, then the first school's date-of-birth certificate, then a civic birth certificate, and resorts to medical opinion in their absence. The Court in the present case applied that order of documentary evidence in accepting the school admission register and certificate proved by the headmaster.

State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736, held that a school register maintained by officials in the discharge of public duty is admissible under Section 35 Evidence Act, but an entry is not automatically conclusive; evidence about its source and corroboration may support its weight. *Murugan v. State of T.N., (2011) 6 SCC 111*, explained that admissible records made ante litem motam can be reliable, while allowing a court to examine who supplied the date and whether corroboration is needed. These qualifications addressed the objection based on the father's estimate of age at admission. In the circumstances of this case, the Court treated the register, made long before the case arose, as decisive and said that an ossification assessment supported it. *Mukarrab v. State of U.P., (2017) 2 SCC 210*, warned against blind reliance on radiological examination, whose developmental markers vary and cannot determine age precisely. The Court quoted it while declining to displace the school document by automatically allowing a two-year margin.

3. Statutes considered : Section 4 POCSO Act punished the charged penetrative sexual assault, with the seven-year minimum identified by the Court for the 2015 offence. Under Section 375 sixthly IPC, consent was immaterial where the girl was below eighteen for the charged rape under Section 376(1), whose relevant minimum the Court also identified as seven years. Sections 363 and 366 IPC governed the kidnapping and abduction-related convictions affirmed with the sexual offence. Section 35 Evidence Act was considered in relation to the school admission entry made in the discharge of public duty. Rule 12 of the Juvenile Justice Rules 2007, applied through *Jarnail Singh*, supplied the priority of age evidence. Section 164 CrPC governed the statement recorded during investigation, and Section 374(2) provided for the appeal. The SC/ST Act charge resulted in acquittal at trial, which was not reversed.

4. Issues : Whether the prosecutrix was under eighteen on 25 October 2015 despite the father's estimate of age at school admission and the requested two-year adjustment; how the documentary record

and ossification evidence should be weighed under the cited Supreme Court decisions; whether her travel and failure to raise an alarm could amount to legally effective consent once minority was established; whether her account of sexual assault and the medical findings supported the convictions; and whether the relevant statutory minimum permitted interference with the seven-year POCSO sentence.

5. Ratio / Findings : Headmaster Ramesh Singh Bhadoriya proved the government school's admission register (Ex P/13) and certificate (Ex P/14), recording birth on 3 February 1999. He explained that the certificate was based on the register. The father had assessed age at admission. Applying *Jarnail Singh*'s preference for available documentary records and *Lekhram* and *Murugan* on the evidentiary value of earlier school entries, the Court found the record reliable in this case. It described the ossification test as corroboration. *Mukarrab* showed that medical age estimates are not exact, so the Court declined to add two years automatically in the appellant's favour. It found the girl to have been aged about sixteen years and eight months on 25 October 2015.

The prosecutrix identified Rakesh as the person who took her from the market through Jhansi to Hyderabad and raped her there. The Court treated the doctor's material finding, on which the doctor had not been questioned, as corroboration despite the absence of external injuries. It held that minority defeated the consent defence: travelling with him for that period or not calling for help could not make consent legally effective. It therefore affirmed the four convictions.

The Court identified seven years as the minimum then applicable under Section 4 POCSO and Section 376(1) IPC. It affirmed the POCSO term and found no basis to alter the other sentences. It noted that the trial court had imposed no separate term under Section 376 in view of the Section 4 sentence.

6. Relief : The Hon’ble High Court dismissed the appeal and affirmed the conviction and sentence dated 4 October 2016. The terms of three years' rigorous imprisonment under Section 363, five years under Section 366 and seven years under Section 4 POCSO, with the stated fines and default terms, stood affirmed. No separate term was awarded under Section 376(1). Rakesh was in jail and was directed to undergo the remaining sentence.

Rakesh v. State of Madhya Pradesh, Cr.A. no. 1128/2016, 21/09/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Witness credibility / unproved FIR contradiction - Defence counsel had not formally confronted Dev Singh with his earlier FIR account, so the Court did not treat that account as a proved contradiction. In cross-examination, however, he admitted that he went to the well without noticing the bloodied body and first learned of the death from Komal. This was materially inconsistent with his testimony that he discovered the body on waking. The sole witness to the alleged incriminating nighttime circumstance was found unreliable on that independent ground.

Discovery / forensic nexus - The officer described the recovery of a hidden axe following Rakesh's disclosure, but Dev Singh described an axe lying openly nearby, and another seizure witness did not support the prosecution. The Court found that seizure pursuant to the disclosure had not been proved beyond reasonable doubt. The presence of group A blood on both the axe and the deceased's clothes could not identify the accused or overcome the failure to prove the recovery.

Investigation records / reasonable doubt - The arrest documents and those relating to seizure of the blanket and cot bore unexplained overwriting of times, inconsistent with the claimed sequence of events at the spot. The officer did not record the statement of Awadhesh, who had slept close to the deceased, and cited no case-diary entry supporting his claim that Awadhesh had refused to give a statement. The exorcism-related motive advanced by the officer had no witness evidence to support it. Together with Rakesh's continued presence when the police arrived, these defects prevented the circumstances from forming a complete chain, despite medical proof of homicide. The Section 302 IPC conviction and life sentence were set aside. Rakesh was acquitted and ordered to be released if not required in another case.

Case-note :- ***1. Facts :*** Rakesh appealed under Section 374 CrPC against the judgment dated 21 April 2008 of the Additional Sessions Judge, Karera, in Sessions Trial 98/2006. He had been convicted of murder under Section 302 IPC and sentenced to life imprisonment with a fine of Rs 1,000 and six months'

rigorous imprisonment in default. The prosecution said that on 24 March 2006 he, Awadhesh and Komal accompanied their maternal uncle, Premnarayan, to the home of Dev Singh, a grocer. They intended to take Rakesh to Survaya for exorcism-related treatment. The visitors slept outside on cots; Dev Singh was inside. In his FIR, Dev Singh reported that around 3 am, after a dog barked, he saw Rakesh with an axe near the sleeping place and told him to return to bed. Early on 25 March, Premnarayan was found dead on a cot with sharp injuries and a bloodied blanket and mattress. Dev Singh suspected Rakesh. The police arrested him, claimed to have recovered an axe following his disclosure, seized bedding and teeth, and sent articles to the FSL. The trial court convicted him.

Rakesh challenged the chain of circumstances and the axe seizure despite the reported group A blood match. The State defended the judgment. The prosecution examined Khemraj, Dev Singh, Komal, Sitaram, investigating officer Ravi Bhadoriya and Dr Pradeep Sharma; Rakesh called Govind Das in defence. Khemraj witnessed the formalities concerning the body and bedding but was not cross-examined. Komal described the overnight visit and discovery of the body but did not know who had killed Premnarayan. Nothing incriminating emerged from his examination after he was declared hostile. Sitaram, a witness to seizure of the bedding, the arrest and seizure of the axe, did not support the prosecution. The appeal turned on Dev Singh's changing accounts of what he had seen and the officer's documents; there was no direct eyewitness to the killing.

2. Statutes considered : Section 302 IPC was the murder charge and conviction under appeal. Section 374 CrPC supplied appellate jurisdiction. The alleged disclosure and recovery of an axe were examined as an evidentiary circumstance. The Court applied the standard of proof beyond reasonable doubt to whether the appellant had committed the offence and to the cumulative circumstantial case.

3. Issues : Whether the medical evidence established homicidal death; whether Dev Singh was reliable concerning the nighttime axe and morning discovery despite his material admissions in cross-examination; whether an axe was reliably recovered following Rakesh's disclosure and whether the group A result could connect him to the killing; whether the alterations to arrest and seizure times, failure to record Awadhesh's statement, absence of independent proof of motive and Rakesh's presence when the police arrived left the chain of circumstances incomplete. The Court distinguished proof of the violent death from proof that this appellant caused it.

4. Ratio / Findings : Dr Sharma documented three sharp-force wounds to the neck and lip, including an injury to a large vessel, and an abrasion; death resulted from haemorrhagic shock. His cross-examination allowed for the use of one or more sharp weapons but did not undermine the finding of homicide. Komal corroborated only the visitors' presence and discovery of the body; he identified no killer. The Court directly analysed the depositions, exhibits, medical evidence and FSL evidence.

Dev Singh's examination-in-chief suggested that he encountered Rakesh carrying an axe at night and, on waking, saw Premnarayan already dead. In cross-examination, he said that he first walked to a well, where Komal told him about the death, and that until then he had not known of it. The Court considered this improbable if he had passed the occupied cots and bloodied body. It expressly declined to treat differences between the FIR and his testimony as formally proved contradictions because he had not been confronted with the FIR. His independent admissions in court were nevertheless sufficient to discredit his account of the sequence of discovery. There was no direct eyewitness account of the killing.

The investigating officer said that the accused disclosed that he had hidden an axe in a closet made of stones and that it was seized there. Dev Singh, cited as a seizure witness, said that the axe was lying nearby in the open and did not describe any stone closet. Sitaram did not support the seizure. The Court found no reliable recovery from a hidden place at the accused's instance. It therefore declined to use the FSL finding of group A blood on the axe and clothing as a circumstance against him. A matching blood group, without proof of the axe's source and recovery, did not identify the person who used it.

The timing documents created further doubt. Dev Singh's account and the officer's estimate of arrival placed the police at the spot by about 8 am, when Dev Singh said that Rakesh was arrested. The arrest memo bore an overwritten time, apparently changing 12 to 11, while the alleged disclosure and axe seizure were timed at 11:20 and 11:40 am. The bedding seizure memo also bore an altered time without initials. The Court inferred that the paperwork had

been prepared at the police station and required the prosecution to explain the alterations; no explanation resolved the doubt. The officer did not record the statement of Awadhesh, despite his having slept there. His claim that this relative was unwilling to give a statement was unsupported by the case diary. The suggestion that anger over exorcism supplied a motive came from the officer, not Dev Singh or another witness capable of proving it; the proposed exorciser had not been investigated. Rakesh was still at the scene when the police arrived. Taken together, these circumstances failed to prove beyond reasonable doubt that he had caused the death.

5. Relief : The Hon'ble High Court allowed the appeal. The conviction under Section 302 dated 21 April 2008 and the life sentence were set aside, and Rakesh was acquitted. He was in jail and was directed to be released immediately unless required in another matter. The trial record was ordered to be returned with the judgment for compliance.

Rakesh v. State of Madhya Pradesh, Cr.A. no. 449/2008, 13/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Dying declaration — fitness and recorder - Under *Laxman v. State of Maharashtra, (2002) 6 SCC 710* (Constitution Bench), reiterated in *Surendra Bangali v. State of Jharkhand (Cr.A. 1078/2010, 4 February 2021)*, a doctor's formal certificate of fitness is a rule of caution. The essential requirements are reliable proof of the declarant's fitness and a voluntary, truthful account. *State of Haryana v. Harpal Singh, (1978) 4 SCC 465*, permits reliance on coherent communication despite physical distress. Here, the treating doctor himself recorded Lakhan's later declaration. The Court accepted his fitness endorsement and oral evidence, and the postmortem evidence did not establish inability to speak. Recording by an Executive Magistrate was not mandatory in the urgent circumstances.

Dying declarations — successive statements - The Court assessed together Lakhan's detailed FIR, lodged while he was alive and later relevant to the cause of his death under Section 32(1) Evidence Act, and his shorter question-and-answer declaration recorded by the doctor. *Jagbir Singh v. State (NCT of Delhi), (2019) 8 SCC 779*, requires scrutiny of material consistency, fitness, voluntariness and surrounding evidence when declarations differ; minor differences do not automatically invalidate them. The doctor's record contained four assailants' names because he had not asked about additional participants. The FIR named nine, and eyewitness testimony independently supported the convictions of the six participants. *Vikas v. State of Maharashtra, (2008) 2 SCC 516*, explains that necessity underlies Section 32(1), while reliability must still be assessed. The absence of a notation that the doctor's document had been read over, and an attesting witness turning hostile, did not invalidate the statements on this record.

Witness omissions / delayed examination - *Shyamlal Ghosh v. State of W.B., (2012) 7 SCC 646*, and *Menoka Malik v. State of W.B., (2019) 18 SCC 721*, distinguish material contradictions from trivial variations. Pista's improvement about particular weapons did not undermine the account of the assault itself. *State of M.P. v. Man Singh, (2003) 10 SCC 414*, rejects an automatic adverse inference against a witness not named as an eyewitness in the FIR. Malkhan and Raghuvar were named as helping take Lakhan to the police, and their accounts of seeing the incident from a distance were accepted. *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588; Ganeshlal v. State of Maharashtra, (1992) 3 SCC 106*; and *Banti v. State of M.P., (2004) 1 SCC 414*, require assessment of delayed examination under Section 161 in its context. The defence had not asked the investigating officer to explain the delay in recording Pista's statement.

Related witnesses / independent witnesses - *Vijendra Singh v. State of U.P., (2017) 11 SCC 129; Raju v. State of T.N., (2012) 12 SCC 701; Jodhan v. State of M.P., (2015) 11 SCC 52; Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195; Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475; Mahesh v. State of Maharashtra, (2008) 13 SCC 271*; and *Ashok Kumar Chaudhary v. State of Bihar, (2008) 12 SCC 173*, were considered. They require careful appraisal of related witnesses' testimony rather than its mechanical rejection. Non-examination of public witnesses does not invariably justify an adverse inference. The Court found Pista, Malkhan and Raghuvar credible, with no foundation for the allegation that they had an interest in falsely implicating the accused.

Medical proof / weapon - *Krishnan v. State, (2003) 7 SCC 56*, and *Thaman Kumar v. State (UT of Chandigarh), (2003) 6 SCC 380*, require a

distinction between genuine incompatibility with medical evidence and minor variation before credible eyewitness evidence is displaced. The absence of dragging abrasions did not outweigh the account of farsa blows to the head and leg and the evidence of fatal haemorrhage. *Nankaunoo v. State of U.P., (2016) 3 SCC 317*, was considered on the limited value of the weapon recovery. No blood was found on the farsa seized two and a half months later, but that was not decisive because the direct evidence stood independently.

Common object / partial acquittal - *Charan Singh v. State of U.P., (2004) 4 SCC 205*, distinguishes common object under Section 149 from common intention under Section 34, which requires prior concert. Here, the collective restraint and assault supported liability without proof that every member had inflicted a lethal blow. *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749*, holds that falsus in uno is not a mandatory rule. Acquittal of three alleged instigators did not require rejection of the separable evidence against the six convicted participants.

Alibi / motive - *Jitender Kumar v. State of Haryana, (2012) 6 SCC 204; Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*; and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, require an alibi sufficiently specific to exclude presence once the prosecution has proved participation. The vague account that the accused were doing labour work elsewhere failed. Under *Bikau Pandey v. State of Bihar, (2003) 12 SCC 616*, and *Saddik v. State of Gujarat, (2016) 10 SCC 663*, absence of proved motive is immaterial where reliable direct evidence establishes participation.

Unused Section 161 statements - Section 173(5) CrPC requires the statements of witnesses whom the prosecution proposes to examine. It did not require the prosecution to file the statements of two persons from the school whom it did not intend to call. The accused could seek necessary material under Section 91 and call a person as a defence witness. The appeal was dismissed. The surviving appellants' convictions under Sections 147, 148 and 302/149 IPC and their life sentences were affirmed; the deceased appellant's appeal had abated.

Case-note :- ***1. Facts :*** This appeal under Section 374 CrPC challenged the Additional Sessions Judge, Karera's judgment dated 25 June 2004 in Sessions Trial 265/2001. On 18 July 2001, while Lakhan was grazing cattle with his wife Pista, Santosh, Nawab and Dhirendra allegedly pressed him to compromise an old matter. After he refused, a larger group came to the field. Lakhan lodged a detailed FIR at 2:15 p.m. while still alive. He attributed to Rakesh a farsa blow to the forehead and another severing the lower left leg, to Gudda blows with a luhangi, and to Shivraj, Raju, Santu and Rameshwar restraint or dragging. Pista and Ashok were allegedly threatened when they tried to intervene. The police sent Lakhan for treatment with a request to record his declaration. Dr Vinod Chaurasia examined and treated him, then recorded a question-and-answer declaration naming four persons. Lakhan died on the way to the district hospital. Later in the investigation, the prosecution seized a farsa from Rakesh and a luhangi from Gudda.

Dr Govind Singh's postmortem identified traumatic leg amputation, a deep frontal head wound with skull and brain injury, rib and lung injuries and other sharp and blunt trauma, and attributed homicidal death to shock and haemorrhage from multiple injuries. The trial court convicted the appellants under Sections 147, 148 and 302/149 IPC, imposing three years' rigorous imprisonment for the rioting counts and life imprisonment plus Rs 1,000 fine for the murder count, concurrently, but acquitted Santosh, Nawab and Dhirendra. Gudda, appellant 3, died on 30 June 2016 and his appeal had been dismissed as abated.

The surviving appellants disputed Lakhan's ability to speak and relied on differences between his FIR and the doctor's declaration. They challenged the doctor's fitness endorsement and the absence of an Executive Magistrate. They questioned Pista's alleged improvements and delayed police statement, the failure to name other witnesses expressly as eyewitnesses in the FIR, the witnesses' relationships and the absence of independent school witnesses. They also relied on the absence of blood on the seized farsa, the difference between the field and well descriptions, missing dragging abrasions and the absence of motive after a compromise. They disputed the effect of the three acquittals and whether all the remaining appellants shared a common object to murder. Four appellants called Raghunath to support their alibi. The State defended the trial judgment.

2. Precedents — Considered : *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, a Constitution Bench decision, was the central authority on mental fitness and recording a dying declaration. A medical certificate is a rule of caution. What matters is the recorder's satisfaction that the declarant was fit and

the court's confidence that the account was voluntary, truthful and free from tutoring or imagination. *Laxman* rejected the overly broad contrary requirement stated in *Paparambaka Rosamma* and affirmed *Koli Chunilal Savji*. *Surendra Bangali v. State of Jharkhand*, Criminal Appeal 1078/2010, decided 4 February 2021, reiterated *Laxman*'s rule that evidentiary value depends on the facts of the case. *State of Haryana v. Harpal Singh, (1978) 4 SCC 465*, illustrated that coherent speech may be accepted despite a deteriorating physical condition. The Court applied these principles to the two doctors' evidence, the police recorder's account and Dr Chaurasia's direct observation. The small writing used for the subsequent fitness endorsement did not displace that substantive proof. Recording by an Executive Magistrate was not required in these urgent circumstances.

Jagbir Singh v. State (NCT of Delhi), (2019) 8 SCC 779, explained how to assess multiple dying declarations. A credible declaration may by itself sustain conviction, but where several accounts exist, the court must scrutinise material inconsistencies, surrounding evidence, mental fitness and voluntariness rather than automatically accept or discard them all. The Court applied this approach to Lakhan's detailed FIR and the doctor's shorter questioning. The doctor had not asked whether there were other assailants, and other eyewitness evidence was available. *Vikas v. State of Maharashtra, (2008) 2 SCC 516*, explained why Section 32(1) Evidence Act admits such statements without oath or cross-examination; reliability still had to be assessed. *Shyamlal Ghosh v. State of W.B., (2012) 7 SCC 646*, distinguished material contradictions from ordinary omissions. *Menoka Malik v. State of W.B., (2019) 18 SCC 721*, held that embellishment does not require rejection of all the evidence if its reliable parts can be separated. *State of M.P. v. Man Singh, (2003) 10 SCC 414*, rejects an invariable adverse inference merely because a witness is not named as an eyewitness in the FIR. The Court applied these rules to Pista's improvement about weapons, Malkhan and Raghuvar's observations from a distance, and the field and well descriptions. *V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588, Ganeshlal v. State of Maharashtra, (1992) 3 SCC 106*, and *Banti v. State of M.P., (2004) 1 SCC 414*, assessed delay in examination under Section 161 in context, including whether the investigating officer had been asked to explain it. Here, the officer was not asked to explain the delay in recording Pista's statement, and delay alone did not invalidate her account.

On related and interested witnesses, *Vijendra Singh v. State of U.P., (2017) 11 SCC 129, Raju v. State of T.N., (2012) 12 SCC 701, Jodhan v. State of M.P., (2015) 11 SCC 52, Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, and *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, were considered for the distinction between kinship and an interest in securing a false conviction, and the need for careful scrutiny. *Mahesh v. State of Maharashtra, (2008) 13 SCC 271*, and *Ashok Kumar Chaudhary v. State of Bihar, (2008) 12 SCC 173*, also recognise that public witnesses may be reluctant to testify. Their absence does not invariably justify an adverse inference against relatives whose evidence is otherwise credible. The Court examined Pista, Malkhan and Raghuvar's evidence and found no proven motive to falsely implicate the appellants in place of the actual assailants.

Nankaunoo v. State of U.P., (2016) 3 SCC 317, was considered on the limited effect of a missing weapon or a recovery yielding no useful evidence where reliable direct evidence exists. The time before Rakesh's arrest also gave him an opportunity to clean the weapon. *Krishnan v. State, (2003) 7 SCC 56*, and *Thaman Kumar v. State (UT of Chandigarh), (2003) 6 SCC 380*, distinguish medical impossibility from minor variation. Hypothetical medical possibilities do not automatically displace credible eyewitness evidence. The Court applied these rules to the absence of distinct dragging abrasions and the pattern of wounds, while accepting the postmortem evidence of fatal injuries.

Bikau Pandey v. State of Bihar, (2003) 12 SCC 616, and *Saddik v. State of Gujarat, (2016) 10 SCC 663*, explain that absent or uncertain motive does not defeat trustworthy direct evidence. The Court did not rely on motive to prove the assault. *Charan Singh v. State of U.P., (2004) 4 SCC 205*, explains common object under Section 149. Unlike common intention under Section 34, it does not always require prior concert or an individual overt act, but membership, the shared object and the offence's connection with it must be established. The Court inferred the object from the collective holding, assault and dragging. *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749*, holds that falsus in uno falsus in omnibus is not a mandatory rule. The Court

separated the failed accusations against three acquitted alleged instigators from the evidence against the six convicted participants.

Jitender Kumar v. State of Haryana, (2012) 6 SCC 204, *Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, supplied the test for alibi. Alibi is a rule of relevance under Section 11 Evidence Act, not an exception under the IPC. The prosecution must first prove participation. The defence evidence must then be specific and strong enough to exclude presence or raise a reasonable doubt about it. Raghunath's vague assertion that the accused were doing labour work elsewhere failed against the accepted direct evidence.

3. Statutes considered : Section 32(1) Evidence Act permits statements by a person who has died about the cause or circumstances of death. An FIR initially recorded as an ordinary complaint may qualify if it has that connection; fitness and reliability remain factual safeguards. Section 11 Evidence Act makes a genuine alibi relevant. Sections 141, 147, 148 and 149 IPC governed unlawful assembly, armed rioting and constructive liability; Section 302 governed murder and the life sentence. Section 374 CrPC provided the appeal. The Court read Section 173(5) CrPC as requiring documents on which the prosecution proposes to rely and Section 161 statements of persons whom it proposes to call, rather than everyone interviewed. Section 91 provided a means to seek other material necessary for the defence, alongside the option of calling a defence witness. The charge sheet had mentioned Section 3(2)(v) SC/ST Act.

4. Issues : (i) Whether Lakhan's grave injuries prevented him from speaking when lodging his FIR and making the later declaration, and whether the doctor's record was unreliable because of the form of the fitness note, the missing read-over notation or the absence of an Executive Magistrate. (ii) Whether the four names in one declaration and nine in the other, and their other differences, were material contradictions, and whether eyewitnesses provided independent support. (iii) Whether Pista's improvements and delayed police statement, the failure to describe Malkhan and Raghuvar as eyewitnesses in the FIR, the witnesses' kinship and the absence of independent witnesses undermined credibility. (iv) Whether the medical injuries, absence of dragging abrasions and recovery of a farsa yielding no useful evidence contradicted the assault. (v) Whether absence of proved motive and acquittal of three alleged instigators negated the remaining evidence or the common object under Section 149. (vi) Whether the police had to file the statements of two persons from the school who were not cited as witnesses, and whether the alibi raised a doubt about the accused's presence.

5. Ratio / Findings : The postmortem and clinical findings established homicidal death from shock and haemorrhage following severe injuries to the brain and lung and amputation of the leg. The postmortem doctor accepted that speaking would be difficult but expressly rejected the claim that Lakhan could not speak; only part of the frontal brain was damaged. The officer who recorded the detailed FIR repeatedly said that Lakhan spoke normally. Dr Chaurasia described him as conscious, fit and responsive after first aid. Once Lakhan died of those injuries, the Court treated his FIR as a declaration about the cause of death and also accepted the doctor's subsequent record. Under *Laxman*, a formal fitness certificate was not indispensable. The doctor's explanation for writing the subsequent endorsement in small script was accepted, and prompt recording without waiting for a Magistrate was appropriate to Lakhan's condition. The FIR recorded that it had been read over. Although the doctor's document contained no such notation, he was not questioned about that omission in cross-examination. The Court found no suggestion of tutoring.

Lakhan gave a fuller account in the FIR than in the doctor's limited question-and-answer record. The doctor asked for the assailants' names but did not ask whether anyone else had taken part, while also attending to Lakhan's grave injuries. The Court held that the four names in the shorter record did not contradict the nine-name FIR about the central attack or displace the evidence of witnesses who saw other participants. Ashok's refusal to support the prosecution did not by itself invalidate the independent record made by the doctor. Pista's presence was natural and supported by the FIR and her accompanying Lakhan to the police station. Her uncertainty about who lodged it was assessed in light of her shock at her husband's condition. Her later account of particular weapons in the hands of four accused was an improvement, but their presence and collective acts were supported by other evidence. Malkhan and Raghuvar were mentioned as bringing Lakhan to the station. Their accounts of hearing cries and watching from a distance were not disqualified

because the FIR had named Pista and Ashok as direct witnesses. Pista's Section 161 statement was delayed, but the officer was not asked to explain the delay. After assessing these weaknesses, the Court accepted the three eyewitnesses.

The medical evidence corresponded with farsa cuts to the head and leg and other sharp and blunt injuries. The slight difference between the field and well descriptions did not change the scene, since the well stood in the field. Under *Krishnan* and *Thaman Kumar*, the absence of distinct dragging abrasions did not establish medical impossibility so as to defeat the accepted eyewitness account of the assault. Rakesh's farsa was seized after his arrest more than two months later. The absence of detected blood and the objections to sealing did not displace the direct evidence, even if little weight were given to the recovery. Once the direct evidence of the assault was accepted, the alleged old compromise and absence of a proved motive lost significance. The Court distinguished kinship from an interest in securing a false conviction and declined to draw an automatic adverse inference from non-examination of independent persons from the school.

The prosecution did not intend to rely on or call two persons from the school who had told the investigator that they knew nothing of the occurrence. Section 173(5) did not require their Section 161 statements to be forwarded merely because they had been recorded. The defence could seek necessary material under Section 91 or call a person as its own witness. The alibi of four accused rested on a witness who did not identify their employer or place of work. His suggestion that death resulted from a spade injury was inconsistent with the multiple wounds and leg amputation. The alibi did not raise a reasonable doubt about their proved participation.

The Court found Rakesh and Gudda responsible for the farsa and luhangi attacks as narrated. Shivraj, Raju, Santu and Rameshwar joined the group action and held or dragged Lakhan. The Court inferred a common object from their arrival and coordinated conduct and upheld the Section 149 convictions. Acquittal of Santosh, Nawab and Dhirendra did not require the Court, by applying falsus in uno, to reject the separable evidence against the six participants. It found guilt under Section 302/149 proved beyond reasonable doubt.

6. Relief : The Hon’ble High Court dismissed the appeal and affirmed the convictions and concurrent sentences under Sections 147, 148 and 302/149 IPC, including life imprisonment and fine for murder. Gudda's individual appeal had already abated on his death. The bail bonds of the appellants on bail were cancelled, and they were directed to surrender immediately before the trial court to serve the remaining sentence.

Rakesh and Ors. v. State of Madhya Pradesh, Cr.A. no. 450/2004, 10/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR registration / writ remedy - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguished the police duty under Section 154 CrPC when information discloses a cognizable offence from the remedy for refusal: the informant may proceed before a Magistrate under Sections 190/200. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognised rare Article 226 intervention where investigative power was exercised mala fide and a clear case of abuse of power and Chapter XII noncompliance justified interference. Even then, the High Court could not prescribe how the police should investigate. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explained the routes under Sections 154(3) and 156(3), including the Magistrate's power to order registration or proper investigation and to monitor it without personally investigating. Applying *Shweta Bhadauria v. State of M.P.*, W.A. 247/2016 (20 December 2016), the Court declined the ordinary mandamus request because statutory remedies were available. The Division Bench had preserved the recognised *Whirlpool* exceptions and distinguished *Lalita Kumari*'s holding on police duty from entitlement to a writ.

Magistrate complaint / liberty - The petitioner may approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS, as applicable.

Case-note :- ***1. Facts :*** Rakesh Dard Vanshi filed Writ Petition 30505/2024 under Article 226, seeking a mandamus directing Police Station City Kotwali, Umariya, to register an FIR and conduct an inquiry on his complaint dated 25 January 2024. Counsel said that the police had taken no action. The State submitted that the petitioner had an efficacious remedy before the Magistrate under Section 200

CrPC, referred to in the judgment alongside Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, holds that the police must register an FIR when information discloses a cognizable offence, but distinguishes that duty from the procedure available when the police fail to act. Its discussion of *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre* and related decisions identified a complaint before the Magistrate under Sections 190/200 as the remedy. The quoted discussion distinguished *Ramesh Kumari*'s proposition concerning police duty from a general entitlement to mandamus. The present Court adopted that remedial distinction. The separate distinction concerning *Lalita Kumari* appears in the later Division Bench ruling discussed below.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, recognises exceptional writ directions where investigative power is exercised mala fide and a clear case of abuse of power and Chapter XII noncompliance requires intervention. Even in such a case, the High Court cannot prescribe the investigative steps. It also quoted *Gangadhar Janardan Mhatre* on a private complaint: the Magistrate can inquire, order investigation where warranted, dismiss a complaint that discloses no offence, or take cognizance and issue process where a prima facie case appears. The present Court considered this exceptional power while applying the ordinary statutory-remedy rule.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, explains that an informant may first approach the Superintendent of Police under Section 154(3), then move the Magistrate under Section 156(3) for FIR registration or proper investigation. The Magistrate can monitor the investigation but cannot personally conduct it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, followed that route and rejected routine Article 226 petitions in such cases. It observed that, upon prima facie satisfaction, a Magistrate may secure an investigation and recommend a change of investigating officer. The Court invoked both decisions in directing this petitioner to the statutory remedies.

The Madhya Pradesh Division Bench in *Shweta Bhadauria v. State of M.P.*, Writ Appeal 247/2016, decided 20 December 2016, held that the availability of alternative remedies under Sections 154(3), 156(3), 190 and 200 ordinarily justifies denial of mandamus for FIR registration, subject to the four exceptional alternative-remedy situations referred to in its quotation of *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which addresses the police duty to register information, from the question whether an informant can obtain a writ without pursuing those remedies. The present Court applied that binding Division Bench ruling. *Whirlpool* and *Lalita Kumari* were considered through the Division Bench's quotation.

3. Statutes considered : Article 226 confers writ jurisdiction. The Court ordinarily declined to exercise that jurisdiction where adequate, specific remedies were available for police non-registration, while acknowledging exceptional intervention. Section 154 CrPC concerns registration of information disclosing a cognizable offence, and subsection (3) provides recourse to the Superintendent of Police. Section 156(3) permits a Magistrate to order investigation; Sections 190 and 200 govern cognizance and a private complaint. The Court mentioned Section 223 BNSS as the corresponding complaint route in its final liberty.

4. Issues : Whether a complaint of police inaction after a written representation, by itself, entitled the petitioner to an Article 226 mandamus compelling FIR registration and inquiry, or whether he should use the police-superior and Magistrate remedies. A related question was whether the duty to register information disclosing a cognizable offence itself resolved writ maintainability.

5. Ratio / Findings : The Court treated the police's statutory registration duty and the complainant's remedy as different questions. It reproduced Supreme Court authority on the complaint and Section 156(3) remedies and on the limits of High Court control over investigative methods. *Shweta Bhadauria* supplied the Division Bench rule that a writ for registration may be declined when these remedies have not been used, while preserving exceptional cases. Applying that rule, the Court declined mandamus and left the underlying grievance to the competent Magistrate.

6. Relief : The Hon’ble High Court dismissed the writ petition, expressly leaving the petitioner at liberty, if he wished, to approach the concerned

Magistrate under Section 200 CrPC or Section 223 BNSS for redress.

Rakesh Dard Vanshi v. The State of Madhya Pradesh and Ors., W.P. no. 30505/2024, 14/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (680) Prev Next

Headnote :- Inherent quashing / alleged mala fides / face-value offence - *Renu Kumari v Sanjay Kumar, 2008:INSC:278 : (2008) 12 SCC 346*, was applied under BNSS section 528 to assess the FIR's allegations without trying the evidence. Its quoted *R.P. Kapur* and *Bhajan Lal* categories preserve quashing for legal bars, absence of offence ingredients, inherently improbable cases or manifestly abusive mala fides. An allegation of bad motive against the informant, standing alone, does not nullify a disclosed cognizable offence. The husband's earlier police complaint about access to the child and alleged impropriety by his wife did not, by itself, justify disbelieving her FIR allegations of assault and death threats during divorce and guardianship litigation. No custody order entitled him to take their son forcibly. The Court refused to quash Crime 29/2024 and the pending JMFC case.

Case-note :- ***1. Facts :*** In Misc. Criminal Case 1729/2025, Rakesh Jatav sought quashing under BNSS section 528 of FIR Crime 29/2024, registered at Guna Mahila Police Station under BNS sections 85, 115(2) and 351, and RCT 2190/2024 pending before the JMFC, Guna. Respondent 2 had been his wife since 16 December 2012 and had moved with their son, Suryansh, to Guna in March 2024. Her FIR alleged that he arrived while her friend Aashu Parmar was visiting, demanded custody of the son, quarrelled, struck her with his fists and threatened her while leaving. It also alleged a confrontation outside a court on 23 September 2024, pressure to withdraw proceedings, and threats to kill and defame her, which could compel her to leave her job. Rakesh relied on his complaint dated 13 September 2024 to the Inspector General, asserting that she had removed the son from his home, blocked contact, used abusive language and associated with a GRP constable. He relied on the pending divorce proceedings and the dispute under sections 7 and 8 of the Guardian and Wards Act, contending that the FIR was retaliatory. The judgment describes the guardianship application as apparently filed on 11 September 2024. Its concluding analysis refers to an initial FIR incident in February 2024, while the earlier FIR summary uses the approximate formulation “one month back”.

2. Precedents — Considered : *Renu Kumari v Sanjay Kumar, 2008:INSC:278 : (2008) 12 SCC 346*, was quoted at length and applied to the husband's asserted counter-complaint. It describes the inherent jurisdiction preserved by CrPC section 482, invoked here through BNSS section 528, as a power to be exercised sparingly to give effect to orders, prevent abuse and secure justice. At the quashing stage, the High Court can test whether the FIR, taken at face value, discloses an offence. It should not ordinarily decide disputed witness credibility, the probability of conviction or factual issues reserved for trial. *Renu Kumari* reproduced *R.P. Kapur v State of Punjab, AIR 1960 SC 866*, on a legal bar, absence of offence ingredients on the face of the allegations and lack of legal evidence. It distinguished the absence of evidence from a case where the weight of existing evidence could be debated. It also set out the illustrative categories in *State of Haryana v Bhajan Lal, 1992 Supp (1) SCC 335*, including a manifestly malicious proceeding, but cautioned that the categories are not an exhaustive or automatic rule. A report alleging a cognizable offence is not quashed merely because the informant is accused of bad motive; properly supported abuse can still matter. The Court in the present case applied that balance, found cognizable allegations on the face of the FIR and did not accept Rakesh's earlier complaint as conclusive proof of fabrication.

3. Statutes considered : BNSS section 528 supplied the High Court's inherent jurisdiction to quash and was applied with the tests under its predecessor, CrPC section 482, stated in *Renu Kumari*. BNS sections 85 (the marital-cruelty charge), 115(2) (hurt) and 351 (criminal intimidation) were cited as the FIR offences. The Court held that the alleged physical assault and threats disclosed a cognizable offence. The proceedings under sections 7 and 8 of the Guardian and Wards Act and the divorce case formed the background to the competing child-custody claims; no order in the husband's favour entitled him to take the child forcibly.

4. Issues : Whether the applicant's prior complaint to the police and allegation of his wife's retaliatory motive demonstrated an abuse of process that overcame her FIR's allegations when taken at face value. Whether the pending divorce and guardianship case, in the absence of a custody order

for him, made the alleged custody confrontation, fist assault and threats legally non-cognizable or allowed immediate quashing of the FIR and JMFC proceedings.

5. Ratio / Findings : Applying *Renu Kumari*, the Bench recognised that exceptional quashing was available for a manifest legal defect or abuse, but declined to assess the competing marital narratives in the petition. The complaint made to the Inspector General on 13 September 2024 did not, by itself, justify disbelieving the wife's later account. Her FIR described the husband demanding the son, quarrelling, striking her and threatening her at home and during the court-related dispute. The ongoing divorce and custody litigation explained the setting but did not authorise force; the applicant had no favourable custody order. The Court found cognizable criminal allegations on the face of the FIR and therefore no ground to exercise its inherent power to interfere.

6. Relief : The Hon'ble High Court dismissed the application under BNSS section 528. Crime 29/2024 and RCT 2190/2024 before the JMFC, Guna, remained pending.

Rakesh Jatav v. State of Madhya Pradesh and Ors., M.Cr.C. no. 1729/2025, 29/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (682) Prev Next

Headnote :- Circumstantial chain / proof - *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, requires the circumstances to be fully proved and conclusive, consistent only with guilt, and to form a complete chain excluding any reasonable conclusion consistent with innocence. *Pudhu Raja v. State, (2012) 11 SCC 196; Ram Singh v. Sonia, (2007) 3 SCC 1*; and *Inspector of Police v. John David, (2011) 5 SCC 509*, reiterate that suspicion cannot replace proof and that an essential missing link breaks the chain. The Court considered together the driver's departure in a loaded truck, identification of his body near Guna, Rakesh's apprehension while unloading that truck at an abandoned factory, discovery at his instance and the blood evidence. On that cumulative assessment, it affirmed the convictions for murder with common intention, robbery and concealment.

Section 27 discovery / public place - *Anter Singh v. State of Rajasthan, (2004) 10 SCC 657*, limits proof of information given by an accused in police custody to the portion distinctly related to a relevant fact discovered as a result, including the place where the object was found and the accused's knowledge of it. *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, explains that accessibility of the place does not, by itself, negate the accused's knowledge of concealed material. The Court accepted the recovery of bloodstained clothes and a durrie from Amola Ghati at Rakesh's instance despite a witness's confusion about his name and the absence of separate identification of the clothes. This test does not make the rest of a police confession admissible.

Conduct / Section 8 - *State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600*, distinguishes evidence of pointing out a place and other conduct from mere statements subject to Section 162 CrPC or Section 27 Evidence Act. The Court considered Rakesh's knowledge of the place of recovery, his presence while unloading the missing truck and his attempted flight as parts of the cumulative chain. The quoted rule does not make the entire narrative of a custodial confession admissible.

Police recovery / witness assessment - *Baldev Singh v. State of Haryana, (2015) 17 SCC 554*, permits reliance on trustworthy police testimony after careful scrutiny, without an invariable requirement for corroboration by civilian witnesses. *Ashok Kumar v. State of Haryana, (2010) 12 SCC 350*, and *Shyamal Ghosh v. State of W.B., (2012) 7 SCC 646*, require testimony to be read as a whole rather than assessed by isolating a mistaken name or date. The Court accepted the officer's account of recovery and rejected the objections based on isolated portions of Motilal's evidence about the name and Vijay Pratap Singh's evidence about the chronology.

Forensic limits / relief - Human blood was found on the recovered clothes and samples from the truck seats. Group O was reported on a recovered pant and some material from the seats, and group B on other seat covers. The Court considered the reports as corroborative links. It dismissed the appeal and affirmed the concurrent sentences of life imprisonment, six years' imprisonment and seven years' imprisonment under Sections 302/34, 201 and 392 IPC, respectively. Rakesh remained in custody.

Case-note :- ***1. Facts :*** This appeal under Section 374 CrPC challenged the judgment dated 27 December 2006 passed by the Additional Sessions Judge/Special Judge, Guna in Sessions Trial

345/2000. Rakesh Kumar Sharma was convicted under Sections 302/34, 201 and 392 IPC and sentenced, respectively, to life imprisonment, six years' rigorous imprisonment and seven years' rigorous imprisonment, with a fine of Rs 1,000 on each count. The sentences were to run concurrently. He was released on bail in the appeal in April 2009 but subsequently failed to appear, and a warrant was issued in December 2009. A later assertion that he had died was unsupported and was not accepted. He was arrested in December 2019 after remaining absent for roughly ten years. Co-accused Rajkumar had died during the trial.

Truck UP 51 B 4395 was loaded with cloth in Surat for transportation to Kanpur. On 28 April 2000, its driver Bhagwandas told the owner that he would leave the following morning with the cleaner. On 2 May, the Guna police found a severely injured, partly decomposed, unidentified male body near Vilonia and recorded a merg. The postmortem disclosed homicidal injuries. A police team in Kanpur district received information about a suspicious truck in an abandoned factory. On 3 May, the team found four persons unloading cloth bundles from that truck. They ran on seeing the police, and shots were fired at the officers, who apprehended Rakesh and Rajkumar. The police recorded their accounts, seized the truck and cargo, and sent the information to Guna. After the previously buried body was exhumed, Bhagwandas's nephew Radheshyam and Vijay Pratap Singh identified it. The Guna police later recovered bloodstained clothing and a durrie from Amola Ghati at Rakesh's instance. Blood was collected from portions of the truck's cleaner-side seat and adjoining material.

Rakesh challenged the completeness of the circumstantial chain, identification of the recovered clothes, contradictions in the witnesses' evidence and the recovery made by the police officer from an allegedly open place. He disputed whether the clothing had been proved to belong to Bhagwandas. He also relied on an apparent statement by Vijay Pratap Singh that he had learned of the death earlier than the chronology permitted. The State supported the trial findings.

2. Precedents — Considered : *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, supplied the five conditions for conviction on circumstantial evidence: each incriminating circumstance must be fully established; the established facts must be consistent only with guilt; the circumstances must be conclusive and exclude other hypotheses; and, taken together, they must form a complete chain leaving no reasonable explanation consistent with innocence. *Pudhu Raja v. State, (2012) 11 SCC 196*, warned that strong suspicion is not proof. *Ram Singh v. Sonia, (2007) 3 SCC 1*, and *Inspector of Police v. John David, (2011) 5 SCC 509*, reiterated that the absence of an essential link breaks the chain and that a false or weak defence cannot fill a gap in the prosecution case.

Anter Singh v. State of Rajasthan, (2004) 10 SCC 657, explained Section 27 Evidence Act. The fact discovered includes the object, its location and the accused's knowledge of it, but its relevance must be independently established. The information must be supplied by an accused in police custody and must actually lead to discovery. Only the portion distinctly related to the fact discovered is provable. A disclosure ordinarily supplies only one link in the chain. *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, quoted earlier authority for the limited proposition that an object hidden in a public or accessible place may still be within the accused's peculiar knowledge. The Court applied these principles to the Amola Ghati articles while acknowledging the absence of separate identification of their ownership.

State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600, explained Section 8 Evidence Act: the act of pointing out concealed material may be relevant conduct even where the accompanying statement to the police is subject to the limits of Section 162 CrPC or Section 27 Evidence Act. *Baldev Singh v. State of Haryana, (2015) 17 SCC 554*, was considered for the admissibility and possible sufficiency of reliable police testimony after careful scrutiny, without an invariable requirement for independent corroboration. The Court used it to assess the officer's evidence of recovery after one panch witness failed to support the prosecution and another confused a name.

Ashok Kumar v. State of Haryana, (2010) 12 SCC 350, and *Shyamal Ghosh v. State of W.B., (2012) 7 SCC 646*, require testimony to be read as a whole. Material or serious variations affecting its core must be distinguished from an isolated line in an otherwise coherent account. The Court relied on those decisions to reject the alleged chronological contradiction in Vijay Pratap Singh's deposition and read Motilal's mistaken identification of the appellant as ‘Raju’ in context.

3. Statutes considered : Section 302 read with Section 34 IPC concerned the jointly committed homicide; Section 392 concerned robbery of the loaded truck; and Section 201 concerned disposal or concealment of the body and bloodstained articles. Section 397 was charged but was not among the convictions upheld in the order. Section 27 Evidence Act limited proof of information given by an accused in police custody to the portion distinctly related to the discovery. Section 8 Evidence Act concerned relevant conduct, including pointing out a place, and the judgment quoted the distinction between conduct and statements. Section 162 CrPC appeared in the qualification quoted from *Navjot Sandhu*. Section 374 CrPC supplied appellate jurisdiction.

4. Issues : Whether homicidal death and the subsequent identification of the unknown body as Bhagwandas were proved; whether the truck's journey, the apprehension of the accused while unloading its cargo, the Amola Ghati recovery, blood results and the accused's conduct formed a complete chain consistent only with Rakesh's guilt for murder, robbery and concealment; whether accessibility of the recovery site, inconsistencies in the panch witnesses' evidence or the absence of clothing identification broke a material link; and whether isolated mistakes about a date or name rendered the testimony unreliable. The appeal also required consideration of the sentence.

5. Ratio / Findings : The medical report showed a violent homicidal death, though the condition of the body required formal identification. Radheshyam's testimony that he had identified and received his uncle's exhumed body was unchallenged and was supported by Vijay Pratap Singh and the identification memo. The witness connected with the truck owners, whose evidence on this point was likewise not challenged in cross-examination, identified Bhagwandas as the driver of the particular loaded truck departing Surat. The Kanpur police found Rakesh and Rajkumar unloading cloth from that truck in the abandoned factory and recorded their flight when the officers arrived.

The Court found that Rakesh led the Guna police officer to bloodstained clothing and a durrie at Amola Ghati. Motilal referred to the person who made the disclosure as ‘Raju’ in part of his evidence, but had also misnamed the appellant at the outset. The Court read his evidence in that context and together with the officer's testimony about the memorandum and seizure, while noting that another seizure witness had not supported the prosecution. Under *Anter Singh*, discovery of the place and the accused's knowledge of it constituted a relevant link. Possible accessibility of the place did not, by itself, establish that others knew where the articles lay. The prosecution had not had the articles identified as Bhagwandas's.

The unchallenged FSL reports disclosed human blood on the recovered articles and material from the truck seats. Group O was reported on one pant and certain seat and foam samples; group B was found on two other seat covers. The results supported a connection between the recovered articles and the truck. The Court considered these results together with the identified body, timing, possession of the truck and cargo, knowledge of the place of recovery and conduct, and found the chain complete beyond reasonable doubt. It rejected the argument based on a single line suggesting that Vijay Pratap Singh had heard of the murder on 2 May before the unknown body was reported, and declined to discard his otherwise supported identification on that basis. It affirmed the findings of joint murder, robbery and concealment.

6. Relief : The Hon’ble High Court dismissed the appeal and affirmed the judgment of 27 December 2006. It upheld Rakesh Kumar's life imprisonment under Section 302/34, six years' rigorous imprisonment under Section 201 and seven years' rigorous imprisonment under Section 392, together with the fines and the direction that the sentences run concurrently. He was in jail and was directed to serve the remaining term. A copy of the judgment was to be supplied to him free of cost, and the trial record was to be returned.

Rakesh Kumar Sharma v. State of Madhya Pradesh, Cr.A. no. 237/2007, 17/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (683) Prev Next

Headnote :- Circumstantial evidence / murder of cleaner — *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116; Pudhu Raja v. State, (2012) 11 SCC 196; Ram Singh v. Sonia, (2007) 3 SCC 1*; and *Inspector of Police v. John David, (2011) 5 SCC 509*, require a fully proved chain of circumstances excluding any reasonable conclusion consistent with innocence. Suspicion cannot supply a missing link. The identified body of

Pandit @ Punnu @ Vinod bore homicidal injuries. Rakesh was apprehended while unloading the deceased transport crew's truck and 130 bundles of cloth at a closed factory, and did not explain his possession of them. The trial court had found the clothing seizure unproved, so the associated FSL report did not supply a proved link. The Court affirmed the convictions for the cleaner's murder and concealment under Sections 302/34 and 201 IPC.

Conduct / statement boundary — *State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600*, distinguishes relevant conduct under Section 8 Evidence Act from mere statements to the police, which are subject to Section 162 CrPC and the limited rule governing discovery. The Court considered the observed acts of possession, unloading and flight, together with the related conduct.

Witness contradiction — *Ashok Kumar v. State of Haryana, (2010) 12 SCC 350*, and *Shyamal Ghosh v. State of W.B., (2012) 7 SCC 646*, require testimony to be read as a whole. A police witness's isolated reference to the driver as 'Habib' did not displace the independent evidence identifying Bhagwandas as the truck's driver or identifying the body of Pandit, the cleaner who had been separately killed.

Concurrent substantive sentences / consecutive default — The Court considered Sections 31 and 427 CrPC and the decisions in *O.M. Cherian v. State of Kerala, (2015) 2 SCC 501*, and *Sharad Hiru Kolambe v. State of Maharashtra, (2018) 18 SCC 718*. Two deaths in a single transaction had led to separate trials because the bodies were left in different police jurisdictions. The Court directed that the substantive terms of life imprisonment and six years' imprisonment in the cleaner's case run concurrently with the sentences in Criminal Appeal 237/2007. Imprisonment in default of payment of the fines was to run consecutively. The appeal was dismissed on the merits of the convictions but partly allowed on the question of how the sentences were to run.

Case-note :- ***1. Facts :*** Rakesh Kumar Sharma appealed under Section 374 CrPC against the judgment dated 27 December 2006 passed by the Additional Sessions Judge, Guna in Sessions Trial 246/2000. He had been convicted under Sections 302/34 and 201 IPC for the death of Pandit @ Punnu @ Vinod and sentenced to life imprisonment and six years' rigorous imprisonment, with a fine of Rs 1,000 and ten months' rigorous imprisonment in default on each count. Co-accused Rajkumar died during the trial. The killing of the truck driver Bhagwandas was the subject of a separate trial and Criminal Appeal 237/2007; the two appeals were heard together. Rakesh was granted bail during this appeal but failed to appear for about ten years. He was arrested in December 2019 after an unsupported assertion that he had died.

On 2 May 2000, the police found an unidentified naked body near Pagara culvert in the Dharnavada police area, Guna. Dr S.K. Jain found blunt trauma to the skull, a cut across the neck and two deep abdominal stab wounds, all ante-mortem. Haemorrhage and multiple injuries caused death. Balram identified the body as Pandit's. Vijay Pratap Singh, who was related to the owners of truck UP 51 B 4395, said that its driver Bhagwandas had reported loading cloth in Surat for a journey to Kanpur. On 3 May, the police found that truck in a closed factory in Kanpur, where four persons were unloading bundles. They fled on seeing the police, and shots were fired. The officers apprehended Rakesh and Rajkumar and seized the truck and 130 cloth bundles. Driver Bhagwandas's body was found in the Cantt police area of Guna, and cleaner Pandit's body in Dharnavada, leading to separate FIRs and charge sheets. The police asserted that Rakesh had disclosed the location of a kurta and torn pajama. A seizure witness said that the clothes lay in a place open to the public and that he had seen no one other than the police. The trial court found the seizure unproved and the associated FSL result ineffective.

Rakesh argued that the circumstances did not form a complete chain proving guilt beyond reasonable doubt. He also relied on the use of 'Habib', instead of Bhagwandas, as the driver's name in the account of the investigation. The State defended the conviction. Although no request for concurrent sentences was made, the Court considered how the sentences were to run in view of the separate appeal concerning the driver.

2. Precedents — Considered : *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, supplied the five requirements for circumstantial proof: the circumstances must be fully established and conclusive; the established facts must be consistent only with guilt and exclude other reasonable hypotheses; and the circumstances must form a complete chain excluding any reasonable conclusion consistent with innocence. *Pudhu Raja v. State, (2012) 11 SCC 196, Ram Singh v. Sonia,*

(2007) 3 SCC 1, and *Inspector of Police v. John David, (2011) 5 SCC 509*, reinforced the distinction between suspicion and proof and the consequence of a missing essential link. The Court applied that framework to the medical evidence of death, identification of the body, the truck's journey, the arrest at the factory and unexplained possession of the cargo.

State (NCT of Delhi) v. Navjot Sandhu, (2005) 11 SCC 600, explained relevant conduct under Section 8 Evidence Act and distinguished it from statements to the police that are subject to Section 162 CrPC or provable only to the limited extent permitted by Section 27 Evidence Act. The present judgment invoked that decision while considering Rakesh's conduct and the information he was said to have given about the body. *Ashok Kumar v. State of Haryana, (2010) 12 SCC 350*, and *Shyamal Ghosh v. State of W.B., (2012) 7 SCC 646*, require testimony to be read in its full context rather than rejected on the basis of an isolated line. The Court relied on them to reject the objection based on the officer's use of the wrong name for the driver.

O.M. Cherian v. State of Kerala, (2015) 2 SCC 501, explained the operation of Section 31 CrPC where a life sentence and a fixed term, or two life sentences, are imposed. A fixed term cannot begin after a life sentence has been served, and two life sentences must run concurrently. The Court relied on that decision, together with Section 427(2) CrPC, to direct concurrent running of the sentences imposed in the separate prosecutions for the two deaths. *Sharad Hiru Kolambe v. State of Maharashtra, (2018) 18 SCC 718*, supplied the distinct rule that imprisonment in default of payment of fines runs consecutively. The Court expressly preserved that consequence.

3. Statutes considered : Section 302 read with Section 34 IPC concerned the jointly committed murder, and Section 201 IPC concerned concealment or disposal. Sections 392 and 397 IPC appeared in the charge-sheet history but were not among the convictions in the cleaner's trial. Section 374 CrPC supplied appellate jurisdiction. Section 8 Evidence Act concerned relevant conduct; Section 27 Evidence Act and Section 162 CrPC arose in the quoted distinction between conduct and statements. Section 31 CrPC concerns multiple sentences for offences at one trial. Section 427(1) generally provides that a subsequent sentence runs consecutively unless the Court directs otherwise. Under Section 427(2), a term of imprisonment or life sentence imposed on a subsequent conviction runs concurrently with a life sentence already being served. Imprisonment in default of payment of fines was treated separately.

4. Issues : Whether Pandit's death was homicidal and his identity proved; whether the circumstances formed a complete chain linking Rakesh to the killing beyond reasonable doubt despite the rejected clothing recovery and the error in the driver's name; what evidentiary weight could be given to observed conduct and reported statements to the police; and whether the substantive terms of life imprisonment and six years' imprisonment in this separate prosecution for the cleaner's death should run concurrently with the sentences in the companion appeal concerning the driver, including how the terms for default in payment of fines were to run.

5. Ratio / Findings : The doctor was not cross-examined, and the fatal wounds established homicidal death. Balram identified the body as Pandit's. Vijay Pratap Singh identified Bhagwandas as the driver of the loaded truck due to travel from Surat to Kanpur. The police directly observed Rakesh and Rajkumar at the closed factory unloading cloth from that truck and apprehended them after the group fled and fired shots. Rakesh gave no explanation for his possession of the truck and cargo. The Court considered these circumstances together, including the separate locations of the two bodies and the identification of Pandit, and concluded that the chain established guilt beyond reasonable doubt. It noted that the clothing seizure had been rejected and that the FSL report consequently had no evidentiary value.

Reading the police witness's testimony as a whole, the Court found that the solitary reference to ‘Habib’ did not displace the identification of Bhagwandas by the witness connected with the truck owners and Balram's identification of Pandit.

The Court affirmed the life and six-year terms and the fines as imposed, but considered how those sentences were to run in relation to the driver's case. Both victims were killed in one transaction. Their bodies were left in different police station jurisdictions, leading to separate trials. Under Section 427(2), and relying on *O.M. Cherian*, the Court directed that the substantive sentences in this case run concurrently with those in Criminal Appeal 237/2007, although counsel had made no such request. It expressly directed that the terms of

imprisonment for default in payment of fines run consecutively under *Sharad Hiru Kolambe*.

6. Relief : The Hon'ble High Court affirmed the conviction and sentence dated 27 December 2006 in Sessions Trial 246/2000 on merits. The appeal was partly allowed only to direct that the substantive terms of life imprisonment and six years' imprisonment in this case run concurrently with the sentences in the companion case concerning the driver. The two terms of imprisonment for default in payment of fines were to run consecutively as directed. Rakesh was in jail and was to serve his remaining sentence. He was to receive a copy of the judgment free of cost, and the trial record was to be returned.

Rakesh Kumar Sharma v. State of Madhya Pradesh, Cr.A. no. 240/2007, 17/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (684) Prev Next

Headnote :- Abetment of suicide / instigation and intention - Sections 306 and 107 IPC require intentional instigation, conspiracy or aid, with an active or direct act. Ordinary anger, discord or a lawful demand for repayment cannot, by themselves, suffice. *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, permits an inference of instigation from a continuing course of conduct that leaves a person with no apparent option. *Sanju v. State of M.P., (2002) 5 SCC 371, Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, M. Mohan v. State, (2011) 3 SCC 626, S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190*, and *Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433*, emphasise mens rea and positive incitement. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, distinguishes the three modes of abetment under Section 107. The Court applied these tests only provisionally to the allegations that the loan had been repaid but the lenders continued to demand excessive amounts, that a false case had been instituted against the deceased, and that the lenders prevented him from working.

Harassment / causal limits - *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, cautions against treating a hypersensitive response to ordinary friction as abetment. *Amalendu Pal v. State of W.B., (2010) 1 SCC 707*, requires direct or indirect incitement and positive action proximate to the suicide, rather than a general allegation of harassment. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, explains that instigation depends on intention and the circumstances of the case, without a rigid formula. The Court distinguished a legitimate demand for repayment from the alleged continuing pressure for excessive amounts. It read the suicide note together with the witness statements and found prima facie material showing an overt act.

Inherent-power quashing / tentative view - *Praveen Pradhan, (2012) 9 SCC 734*, and *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, were relied on for the limited assessment under Section 482 CrPC. At that stage, the Court does not evaluate the evidence as at trial, but considers whether the prosecution material provisionally supports the alleged offence, including an inference of instigation from the circumstances. The FIR and the subsequent charge-sheet under Sections 306/34 IPC were left intact.

Case-note :- ***1. Facts :*** Rakesh Rathore and the other applicants invoked Section 482 CrPC to quash FIR Crime 497/2016, registered at Narwar police station, Shivpuri, for abetment of suicide under Sections 306/34 IPC. First informant Pawan Jatav stated that his brother Jitendra telephoned him after their father Narayan said that he was heavily in debt and intended to jump from a bridge. Pawan went to the bridge and learned that someone had jumped. Their father was taken to hospital and declared dead. The police recorded witness statements and recovered a suicide note from the deceased's clothing. The statements alleged that loans taken from the applicants and another person had been repaid, but the applicants continued to press Narayan for more money. The Court's account of the note referred to harassment by the lenders, a false case and obstruction of his attendance at duty during the preceding month.

The applicants argued that a demand for repayment of a debt could not amount to abetment. They also disputed whether full repayment had been proved and cited several Supreme Court and Madhya Pradesh decisions. The State relied on the statements and the note, submitted that the charge sheet had already been filed, and opposed termination of the prosecution.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, defined instigation as goading, provoking, inciting or encouraging. Express words urging

suicide are not always necessary, but the conduct must permit a reasonably certain inference of incitement. A continuing course of conduct may create a situation in which the person sees no apparent option, whereas words uttered in anger without intending the consequence do not amount to instigation. The Court applied this distinction to the alleged sustained demands, rather than a single request for repayment. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, distinguished the abettor's intention from the victim's act, recognised all three modes under Section 107 and rejected a rigid formula for inferring instigation from the circumstances, particularly at the tentative stage of quashing. The Court adopted that approach, which depends on the facts of each case.

Sanju @ Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371, explained the three modes under Section 107—instigation, conspiracy and intentional aid—and the requirement of mens rea in incitement. *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750*, and *M. Mohan v. State represented by the Deputy Superintendent of Police, (2011) 3 SCC 626*, required clear mens rea and a positive, active or direct act intended to push the deceased towards suicide. An adverse event or distress alone is insufficient. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, elaborated the three modes of abetment under Section 107 and the connection with the act abetted. The Court set out these principles together before considering whether the alleged conduct went beyond an ordinary demand for repayment.

State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73, urged caution in deciding whether cruelty had actually induced suicide, especially where the response was to ordinary social or domestic friction. *Amalendu Pal @ Jhantu v. State of West Bengal, (2010) 1 SCC 707*, required proof of direct or indirect incitement and positive action proximate to the death for conviction, rather than an unsupported general allegation of harassment. *S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190*, reiterated the requirements of intention and positive action, and explained why differences in individual sensitivity preclude a universal formula. *Gurcharan Singh v. State of Punjab, (2017) 1 SCC 433*, reiterated the requirements of clear mens rea and an active act. The Court considered these safeguards and found that the alleged sequence of events could satisfy the prima facie threshold.

Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460, explained that, at the stage of issuing process or considering quashing, the record is not evaluated as proof at trial. The Court may form a tentative view, and a continuing course of conduct may support an inference of instigation. The Court followed that limited approach in refusing to quash the proceedings.

3. Statutes considered : Section 306 IPC punishes abetment of suicide. Section 107 defines abetment by instigation, conspiracy accompanied by a consequential act or illegal omission, or intentional aid. The decision chiefly concerned instigation and intentional conduct. Section 34 IPC appeared as the charging provision concerning common intention. Section 482 CrPC supplied the power invoked for quashing.

4. Issues : Taking the prosecution allegations at face value, whether the lenders' conduct amounted merely to a legitimate demand for repayment or could constitute intentional instigation of suicide in view of the alleged repayment, continuing pressure for excessive amounts, a false case and obstruction of work. Relatedly, whether the recovered note and witness accounts supplied sufficient prima facie material for the prosecution under Sections 306/34 to continue despite the petition under Section 482, without deciding the contested facts or guilt.

5. Ratio / Findings : The Court quoted Sections 306 and 107 and examined the Supreme Court authorities on intention, a positive act, reasonable inferences from continuing conduct, and the need for caution before treating general harassment or a hypersensitive response as abetment. It recognised the applicants' premise that merely asking for money legitimately due does not, by itself, amount to instigation. The allegations in the record were materially different. The witnesses stated that the debt had been repaid, but the applicants continued to press Narayan for additional money. The note was said to refer to harassment by the lenders, a false case and a month-long restriction on attending duty. Considered together at this limited stage, these matters could disclose a continuing course of coercion that led him to see no option but to end his life. The Court therefore found a prima facie case warranting prosecution under Sections 306/34.

Praveen Pradhan and *Amit Kapur* defined the limits of review: the Court was not required to resolve the applicants' factual dispute about repayment or evaluate witness credibility as at trial in deciding this

petition. The Court noted that the charge sheet had been filed, but expressly stated that it did not know whether charges had been framed.

6. Relief : The Hon'ble High Court dismissed the petition under Section 482. FIR Crime 497/2016 and the charge sheet already filed under Sections 306/34 IPC were not quashed, and the prosecution could continue.

Rakesh Rathore and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 2887/2017, 27/11/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (685) Prev Next

Headnote :- SC/ST Act / public view - *Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710*, applied *Swaran Singh v. State, (2008) 8 SCC 435*, to distinguish a public place from a place within public view. A private place may satisfy the latter requirement when members of the public witness the caste insult, but an incident inside a room where the victim is alone does not. In his own statement under Section 161 CrPC, the complainant said that he was alone in his drawing room when he received the alleged caste abuse and threats by telephone. The offences under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act were quashed in this case.

Section 294 IPC / public place and annoyance - The alleged obscene words spoken during the same call were not uttered in or near a public place, and the complainant did not allege annoyance to others.

Non-cognizable Section 506 IPC / deemed complaint - Under the Explanation to Section 2(d) CrPC, a police report that discloses a non-cognizable offence after investigation is deemed to be a complaint, and the officer making the report is deemed to be the complainant. The Court preserved the allegation of intimidation under Section 506 notwithstanding the quashing of the other counts and directed that the charge sheet be treated as a complaint for that offence.

Case-note :- ***1. Facts :*** Rakesh Sharma sought quashing under Section 482 CrPC of Crime 280/2024, registered at Civil Lines police station, Morena, under Sections 294 and 506 IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Narendra Jatav, the complainant, who belonged to a Scheduled Caste, alleged that Rakesh telephoned him on 7 May 2024, used filthy and caste-related language, and threatened to kill and beat him and prevent him from working in the village. In his statement under Section 161, Narendra said that he had lived with his family in Morena for about twenty years while frequently visiting Silaytha, where his wife was Sarpanch and he assisted her. He described a dispute with Shyamsunder on 6 May about arrangements for an election party. The following evening, he was resting alone in his drawing room in Morena when Rakesh allegedly called at 6:09 pm. The conversation lasted one minute and forty-eight seconds. A written complaint made on 13 May led to the FIR.

Rakesh argued that the admitted private setting did not satisfy the SC/ST Act's requirement of public view, that the ingredients of Section 294 were absent, and that the remaining allegation under Section 506 was non-cognizable. The State and the other respondents opposed quashing.

2. Precedents — Considered : *Hitesh Verma v. State of Uttarakhand, (2020) 10 SCC 710*, supplied the test under Section 3(1)(r): intentional insult or intimidation with intent to humiliate a member of a Scheduled Caste or Scheduled Tribe on account of that status, in a place within public view. It also distinguished a civil or personal dispute from humiliation attributable to caste.

Hitesh Verma quoted *Swaran Singh v. State, (2008) 8 SCC 435*, on the distinction between a 'public place' and a private place 'within public view'. A gate or visible lawn may be within public view. Even an insult inside a building may satisfy the requirement if members of the public, rather than merely relatives or friends, are present. A private exchange inside a room without such an audience does not. Since Narendra stated that he was alone in his drawing room, the Court found that the required setting was absent.

3. Statutes considered : Sections 3(1)(r) and 3(1)(s) of the SC/ST Act concerned intentional caste-based insult or abuse in the prescribed setting within public view. The Court rejected those counts together because the alleged abuse occurred by telephone while the complainant was alone in his room. Section 294 IPC concerned obscene acts or words in or near a public place causing annoyance to others; the Court found both the public-place and annoyance requirements absent on the allegations made. Section 506 IPC concerned the remaining allegation of criminal intimidation, which the judgment treated as non-cognizable without deciding the truth of the

threat or identifying the precise part and punishment. Section 2(d) CrPC and its Explanation deem a police report disclosing a non-cognizable offence after investigation to be a complaint, and the reporting officer to be the complainant. Section 161 governed the complainant's statement during investigation, and Section 482 supplied the power invoked for quashing.

4. Issues : Whether the alleged caste-related abuse during a telephone call received by the complainant while alone at home satisfied the SC/ST Act's requirement of public view, and the consequence for the three cited offences under that Act. Whether the setting and the allegations satisfied the distinct requirements of a public place and annoyance under Section 294 IPC. Finally, whether the entire prosecution had to be quashed because the surviving allegation under Section 506 IPC was non-cognizable, or whether Section 2(d) CrPC permitted it to proceed as a complaint after investigation.

5. Ratio / Findings : Taking Narendra's statement under Section 161 at face value, the Court found that he received the call while alone in his drawing room. Applying *Hitesh Verma* and *Swaran Singh*, the requirement of public view was not satisfied merely by the victim's caste status. No member of the public was present there to hear the alleged insult. The Court held that no prima facie offence under Sections 3(1)(r), 3(1)(s) and 3(2)(va) was made out and quashed those allegations under the Act.

The Court separately held that the private drawing room was not a public place for Section 294 IPC and that the complainant had not alleged annoyance to others. It stated in paragraphs 12 and 13 that no offence under Section 294 was made out. Paragraph 15 expressly referred to Section 294 as having been quashed along with the SC/ST Act offences, although the final quashing sentence in paragraph 16 listed only the SC/ST Act counts.

The applicant's objection that Section 506 was non-cognizable did not bring the case to an end. Under the Explanation to Section 2(d), a police report disclosing a non-cognizable offence after investigation is treated as a complaint, and the officer making it is treated as the complainant. The Court held that the surviving allegation of intimidation could proceed through that route: once the charge sheet was filed, it could be treated as a complaint, with the investigating officer as complainant.

6. Relief : The Hon'ble High Court partly allowed the application under Section 482. The final order expressly quashed Crime 280/2024 in respect of Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the SC/ST Act. The reasons held that no offence under Section 294 IPC was made out, and paragraph 15 expressly treated that offence as quashed, although it was not repeated in the final quashing sentence. The charge sheet was to be treated as a complaint for the remaining allegation under Section 506 IPC, with the investigating officer deemed to be the complainant under Section 2(d) CrPC.

Rakesh Sharma v. State of Madhya Pradesh and Others, M.Cr.C. no. 21469/2024, 07/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (686) Prev Next

Headnote :- Multiple FIRs / different offence ambit - *State of Rajasthan v. Surendra Singh Rathore* (Supreme Court, 19 February 2025, SLP(Crl.) 16358/2024) reviewed the rule in *T.T. Antony v. State of Kerala, (2001) 6 SCC 181*, against successive investigation of the same cognizable offence. It also considered the qualifications recognised in *Anju Chaudhary v. State of U.P., Kari Choudhary v. Sita Devi, (2002) 1 SCC 714, Upkar Singh v. Ved Prakash*, *Babubhai*, and *Nirmal Singh Kahlon* concerning a different ambit, rival versions, a larger conspiracy and newly discovered material. The Court applied the qualification concerning a different ambit. FIR 280/2024 concerned abuse or threats directed at Narendra Jatav. FIR 306/2024, based on a recording he forwarded, additionally alleged incitement between communities under Section 505 IPC, which was absent from the first FIR. The later investigation was not quashed as an impermissible second FIR merely because both reports arose from the same conversation.

Section 505(1)(c) IPC / making versus circulation - The provision applies to a person who makes, publishes or circulates a statement with intent to incite, or which is likely to incite, a class or community to commit an offence against another. Although Narendra, rather than the applicant, forwarded the clip, the Court held that Rakesh's alleged making of the remark directed at the community could prima facie satisfy the provision.

Section 294 IPC / place and annoyance - The alleged obscene words spoken during the private call were not uttered in or near a public place, and no annoyance to others was alleged. The count under Section 294 in FIR 306/2024 was quashed.

Investigation under Section 505 was to continue, and the interim protection was vacated.

Case-note :- ***1. Facts :*** Rakesh Sharma sought quashing under Section 482 CrPC of Crime 306/2024, registered at Kotwali police station, Morena, under Sections 294 and 505 IPC. The complainant described himself as a member of the Kirar/Kshatriya community in Silaytha and alleged that he received an audio clip on WhatsApp at about 7 pm on 7 May 2024. The clip reportedly contained Rakesh's obscene abuse directed at Sarpanch Narendra Singh Semil (Jatav), and a reference to members of the Yadav/Kirar community as ‘Keet’ or insects. The complainant said that several community members possessed the clip and that the words hurt their sentiments and could agitate the community. In his statement under Section 161 CrPC, the complainant said that Narendra had sent him the clip. Narendra stated that he had forwarded it after a dispute and telephone exchange with the applicant.

Narendra had separately lodged Crime 280/2024 at Civil Lines police station concerning the same telephone exchange, alleging personal caste-related abuse and threats. That matter was the subject of a companion application under Section 482, MCRC 21469/2024. Rakesh argued that the Kotwali FIR repeated the same incident and was impermissible as a second FIR. He also contended that he had not circulated the clip; Narendra himself had forwarded it. The State and the complainant opposed quashing. The Court considered whether the two FIRs concerned the same offence and whether the distinct allegations under Sections 294 and 505 could survive. An interim order dated 28 May 2024 was in force before the application was decided.

2. Precedents — Considered : *State of Rajasthan v. Surendra Singh Rathore*, decided by the Supreme Court on 19 February 2025 in SLP(Crl.) 16358/2024, was quoted at length and applied. It begins with the rule in *T.T. Antony v. State of Kerala, (2001) 6 SCC 181*: once information concerning a cognizable occurrence has been recorded, a repetitive FIR and fresh investigation into the same connected offence or transaction may amount to abuse of the powers under Sections 154 and 156 CrPC. Section 173(8), however, permits further investigation, and a counter-case stands on a different footing.

In the reasoning quoted from *Surendra Singh Rathore*, *Anju Chaudhary v. State of U.P.* distinguished a genuinely separate incident or a later crime outside the ambit of the first FIR. *Kari Choudhary v. Sita Devi*, *(2002) 1 SCC 714*, recognised a rival version and cautioned against quashing, on a purely technical ground, proceedings concerning the police's discovery of the real culprits. *Upkar Singh v. Ved Prakash* preserved the counter-complainant's right to present an independent version and explained why *T.T. Antony* did not bar it. The quoted passage referred to *Ram Lal Narang v. State (Delhi Admn.), (1979) 2 SCC 322*, on further information and conspiracy. *Babubhai* supplied the factual test of sameness, distinguishing repetition of the same transaction from different incidents or counterclaims. *Nirmal Singh Kahlon v. State of Punjab* permitted a later FIR based on newly discovered, distinct factual foundations or a wider conspiracy. The High Court applied the qualification concerning a different ambit: incitement between communities under Section 505 was absent from the earlier FIR concerning personal abuse.

3. Statutes considered : Sections 154, 156 and 173(8) CrPC appeared in the Supreme Court's quoted explanation of initial and further investigation. Section 482 CrPC supplied jurisdiction to consider quashing. Section 505(1)(c) IPC was the relevant provision concerning public mischief: making, publishing or circulating a statement with intent to incite, or which is likely to incite, one class or community to commit an offence against another. Section 294 IPC required obscene words in or near a public place causing annoyance to others. That count was quashed because the required setting and allegations of annoyance were absent. The SC/ST Act counts formed part of the background of the first FIR; they were not charges in the present FIR. Section 161 CrPC governed the police statements identifying who had forwarded the clip.

4. Issues : Whether the second FIR concerning the same telephone exchange was barred as a repetition of Crime 280/2024 or concerned an offence under Section 505 of materially different scope. Whether the fact that the applicant had not circulated the clip on WhatsApp defeated the allegation under Section 505 when that provision also applies to the maker of a statement likely to incite members of one community to commit an offence against another. Whether the obscene words spoken by telephone satisfied the separate public-place and annoyance requirements of Section 294 after the recipient later forwarded a recording.

5. Ratio / Findings : Applying the exceptions to the second-FIR rule discussed in *Surendra Singh Rathore*, the Court acknowledged that both reports arose from the same exchange. The first concerned alleged personal caste abuse and threats to Narendra; Section 505 had not been registered in that FIR. The present case concerned words allegedly directed at the Yadav/Kirar community and their potential to incite offences between communities. That offence was outside the ambit of the earlier FIR. The later investigation under Section 505 was therefore not barred merely because the facts were shared.

The statements under Section 161 attributed forwarding of the clip to Narendra rather than Rakesh. The Court nevertheless relied on the alternative words 'makes, publishes or circulates' in Section 505. It found that the alleged maker's statement was prima facie likely to incite one class or community to commit an offence against another. It did not require him to have personally posted the audio.

The alleged filthy abuse directed at Narendra during the telephone exchange was not spoken in or near a public place, and no annoyance to others at that time was alleged. The recipient's subsequent forwarding of the clip did not supply those missing requirements under Section 294. The Court quashed that part of Crime 306/2024 while permitting the police to proceed under Section 505.

6. Relief : The Hon'ble High Court partly allowed the application under Section 482. The offence under Section 294 IPC in Crime 306/2024 was quashed, and the police were directed to continue the investigation under Section 505 IPC. The interim order dated 28 May 2024 was vacated.

Rakesh Sharma v. State of Madhya Pradesh and Others, M.Cr.C. no. 21473/2024, 07/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (687) Prev Next

Headnote :- Section 498-A IPC / continuing cruelty - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, explains that being driven out of the matrimonial home and the fear of returning can cause mental trauma that continues at the parental home, even after the physical abuse has ceased. Applying that principle and *its decision in Amar Singh v. Smt. Vimla* (Criminal Revision 2376/2020, 22 June 2021), the Court treated the alleged expulsion for failure to meet the demand for Rs 5 lakh and a motorcycle, followed by a further demand at the wife's parental home, as prima facie cruelty.

Relatives / specific role at quashing - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, refers *to Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, and *Kans Raj v. State of Punjab, (2000) 5 SCC 207*. Merely naming a distant relative in a dowry case is insufficient without specific material. Where particular allegations raise triable issues, the Court does not choose between the rival versions in proceedings under Section 482 CrPC. The elder brother-in-law, though residing separately, was specifically alleged to have joined the later demand and threat at the wife's parental home. The reconciliation records he relied on also showed his participation in family negotiations. Direct allegations against the husband and parents remained. The charge sheet for Sections 498-A, 506/34 IPC and Sections 3–4 Dowry Prohibition Act was not quashed.

Divorce petition / report timing - *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, held that a wife's delay in reporting while settlement was being attempted, and the husband's subsequent filing of a divorce petition, do not by themselves make an FIR a counterblast. Civil and criminal proceedings are independent, and extraneous findings cannot replace a prima facie assessment of the FIR. The husband filed for divorce on 15 December 2021, and the wife made her report on 30 June 2022. That sequence did not, at this stage, discredit her explanation that she had hoped for reconciliation. The Section 482 application was dismissed, leaving the allegations to be tried.

Case-note :- ***1. Facts :*** Rakesh Singh Jadon, the husband; Hawaldar Singh, the father-in-law; Munni Devi, the mother-in-law; and Raghvendra Singh Jadon, the elder brother-in-law, applied under Section 482 CrPC to quash Crime 187/2022 at Mahila Thana, Gwalior, and the consequential proceedings for Sections 498-A, 506/34 IPC and Sections 3–4 of the Dowry Prohibition Act. The wife alleged that she had married Rakesh on 11 July 2013 and that substantial cash, ornaments and household gifts had been given. She was initially treated cordially, but the applicants later demanded Rs 5 lakh and a motorcycle. According to the FIR, failure to meet the demand led to physical beating, mental harassment and her expulsion, with a direction not to return until the demand was met and a threat that she would be killed if she tried to return. She alleged that

all four applicants later visited her parents' home at Gwalior, repeated the demand and told her family not to send her back until it was met. She had initially tolerated the treatment in the hope that matters would improve. Her parents tried to persuade the applicants before she made the report on 30 June 2022.

Rakesh filed a divorce petition on 15 December 2021. The applicants submitted that the FIR had been lodged after receipt of notice of that petition and was a retaliatory counterblast. Raghvendra claimed that he had lived separately in Gwalior since 2009, worked in private employment and had children studying in schools there. The applicants relied on his request for a fair investigation and produced the reconciliation records of 13 and 30 June 2022. The State and the wife opposed quashing. They relied on the specific allegation of a visit to the parental home at Gwalior and on the reconciliation records showing that Raghvendra had represented the husband and parents. A charge sheet had been filed against all four applicants, and RCT 4396/2022 was pending. The Court separately considered the applicants in their respective groups, rather than proceeding only on the family relationship.

2. Precedents — Considered : *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was applied to the mental trauma that continues after cruelty forces a wife to take shelter at her parental home. Loss of safety in the matrimonial home and fear of returning can continue to affect her even when the physical acts occurred elsewhere. The Court applied that principle along with *its decision in Amar Singh v. Smt. Vimla*, Criminal Revision 2376/2020 decided 22 June 2021, concerning compelled residence at the parental home. These authorities supported treating the alleged continued refusal to take the wife back without dowry as cruelty, including the allegation against the elder brother-in-law that he had joined the later demand.

Taramani Parakh v. State of M.P., (2015) 11 SCC 260, was relied on in refusing to quash substantial allegations against the husband and his parents at the threshold. Whether harassment had occurred and had forced the wife to remain away for want of safety was a matter for trial. Its quoted discussion of *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, and *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, cautioned against implicating distant relatives merely by naming them without tangible and specific material. The Court considered Raghvendra's claim of separate residence alongside the particular allegations of a later visit, demand and threat, and the reconciliation documents he had himself produced.

Pratibha v. Rameshwari Devi, (2007) 12 SCC 369, explained that a wife may delay reporting while attempting reconciliation. The fact that the report follows the husband's divorce petition does not by itself justify an adverse inference. Civil divorce and criminal proceedings remain independent even when they arise from the same facts. In reviewing a case under Section 482, the High Court cannot replace a prima facie assessment of the FIR's allegations with extraneous findings based on the defence. The Court applied this principle in rejecting the husband's counterblast argument based solely on the dates, in light of the wife's stated hope that matters would improve. The passage quoted from *Pratibha* referred to the *Bhajan Lal* illustrations; the present Court applied it to the delay and divorce arguments and the requirement to assess the allegations at face value.

3. Statutes considered : Section 498-A IPC concerned cruelty by the husband or his relatives, including the alleged physical harm and continuing mental harm associated with unlawful dowry demands. Sections 506 and 34 IPC concerned the alleged threats and the charge based on common intention. Sections 3–4 of the Dowry Prohibition Act were included in the FIR and charge sheet in relation to the alleged demand and transactions. Section 482 CrPC supplied the inherent power to quash. The Court assessed the allegations prima facie, without trying the disputed defence facts. The husband's divorce proceeding under the Hindu Marriage Act formed part of the chronology; it did not determine the criminal case.

4. Issues : Did the FIR and charge sheet attribute sufficiently specific conduct to Raghvendra, the separately residing elder brother-in-law, to justify proceeding against him rather than treating him as a relative implicated merely by name? Were there sufficiently particular allegations against the husband and parents of dowry demands, beating, expulsion and threats? Could compelling the wife to remain at her parental home because the demand had not been met amount to continuing mental cruelty? Should a complaint lodged after a divorce petition and attempts at reconciliation be treated as inherently retaliatory?

5. Ratio / Findings : In considering Raghvendra's case, the Court recognised that relatives should not be implicated on omnibus allegations. There was

more than his relationship with the husband: the FIR specifically alleged that he accompanied the husband and parents to the wife's parental home at Gwalior, repeated the demand for Rs 5 lakh and a motorcycle, and threatened that she would not be kept in the matrimonial home without payment. His separate residence in Gwalior did not make that visit implausible, since the wife's parents also lived there. The applicants' reconciliation records showed that Raghvendra had appeared and signed on 13 June as representative of the other applicants and had again attended on 30 June with the husband. Those records supported his participation in the family's affairs. Read with the continuing-cruelty principle in *Rupali Devi*, the specific allegations disclosed a prima facie case and did not justify quashing the proceedings against him.

As to Hawaldar Singh and Munni Devi, the FIR alleged demands for money and a motorcycle, harassment, beating and expulsion. Although the FIR did not give the date on which the wife left, the husband's divorce pleading stated that she had gone to her parental home on 22 July 2021. Applying *Taramani Parakh*, the Court treated the particular allegations against the parents as triable. It could not be said that no offence was disclosed even if that account was accepted. The Court found sufficient material to prosecute them under the charged provisions. It did not finally determine guilt or separately examine every ingredient of Sections 506/34 and the Dowry Prohibition Act in relation to each parent.

As to Rakesh, the sequence of the divorce petition, counselling and FIR did not by itself displace the allegations of cruelty. Under *Pratibha*, fabrication cannot be inferred automatically merely because a wife delays reporting while seeking to restore the marriage. The civil proceeding neither determined nor brought an end to the criminal case. The Court accepted, for this stage, the wife's explanation that she had remained patient in the hope of improvement and had made the complaint when the prospects of reconciliation had failed, even though the divorce petition had already been filed. No other argument was advanced. The Court declined to decide the competing versions in the Section 482 proceeding.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. Crime 187/2022, the charge sheet already filed and pending RCT 4396/2022 against all four applicants remained for trial under Sections 498-A, 506/34 IPC and Sections 3–4 Dowry Prohibition Act.

Rakesh Singh Jadon and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 325/2023, 06/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (688) Prev Next

Headnote :- Double jeopardy / mining-rule civil penalty - Article 20(2) requires prior prosecution and punishment for the same offence; CrPC section 300(1) requires a former trial resulting in conviction or acquittal, subject to its statutory conditions. Payment of a ₹20,625 penalty imposed by the Collector under the Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rules 2019 was treated as civil liability, not earlier criminal prosecution and punishment. The applicant therefore did not establish a double-jeopardy bar to IPC section 379/414 proceedings merely by depositing that amount. The observation arose in his first CrPC section 438 application, which he later withdrew.

MMDR compounding / independent IPC offences - *State of M.P. v Rameshwar, (2009) 11 SCC 424*, was applied for the proposition that IPC provisions continue to operate in the absence of a statutory bar. *Jayant v State of M.P., Criminal Appeal Nos. 824–825/2020* decided 03.12.2020, was quoted for MMDR Act section 23A(1)–(2): compounding prevents proceedings for the compounded MMDR Act/rule offence, while IPC section 379/414 may continue. The Court used that distinction to reject the asserted immunity from the sand-transport criminal case based on his payment of the penalty under the State rules.

Case-note :- ***1. Facts :*** Rakesh Singh filed his first CrPC section 438 application seeking anticipatory bail in Crime 138/2020 at Police Station Sirol, Gwalior, involving IPC sections 379 and 414 and MMDR Act section 4/21. Police had seized tractors and trolleys carrying sand alleged to have been illegally excavated; he was identified as owner of tractor MP07 H2998. He said that an order dated 30 September 2020 passed by the Collector under the Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rules 2019 had imposed a ₹20,625 penalty, which he had paid. He characterised the payment as earlier punishment for the same illegal mining and transport, invoking Article 20(2) to argue that a subsequent criminal case

would be double jeopardy. The State opposed the application, submitting that the penalty related to civil liability and did not constitute a first criminal prosecution. The case diary was available, and after the Court considered the constitutional and statutory argument, counsel sought leave to withdraw the bail application. No evidentiary trial or final determination of possession, excavation or knowledge occurred.

2. Precedents — Considered : *State of Madhya Pradesh v Rameshwar and others, (2009) 11 SCC 424*, was cited for the proposition that in the absence of a bar in the special statute or rules, IPC provisions remain applicable. The High Court applied that principle to reject the assumption that the mining regime excluded section 379/414 proceedings merely because a penalty under the sand rules had been paid. *Jayant etc. v State of M.P., Criminal Appeal Nos. 824–825 of 2020*, decided 3 December 2020, was quoted for the following distinction: valid compounding under section 23A(1), read with section 23A(2), prohibits proceedings or further proceedings for the compounded MMDR Act or rule offence, yet that bar does not extend to IPC section 379 and 414.

3. Statutes considered : Constitution Article 20(2) prevents a person from being prosecuted and punished more than once for the same offence. CrPC section 300(1) prevents a new trial for the same offence, or certain alternative charges on the same facts, after a former trial by a competent court has ended in conviction or acquittal. CrPC section 438 was the procedural route for pre-arrest bail. MMDR Act sections 4 and 21 supplied the mining allegations; section 23A(1)–(2), as discussed in *Jayant*, concerns the limited effect of compounding for MMDR/rule offences. The 2019 Madhya Pradesh Sand Rules supplied the Collector's penalty. IPC section 379 (theft) and section 414 (assisting concealment/disposal of stolen property) were the separate provisions under which proceedings could continue.

MMDR denotes the Mines and Minerals (Development and Regulation) Act, 1957. The Section 300 protection remains subject to its statutory qualifications, including those concerning distinct offences and later consequences; the Court reproduced the provision as a whole.

4. Issues : Whether the penalty paid under the Collector's order was a prior prosecution and punishment for the same offence sufficient to attract Article 20(2) or CrPC section 300, rather than a civil/regulatory liability. Whether the mining statute, sand rules or the section 23A compounding principle excluded distinct IPC section 379/414 proceedings arising from the same sand-transport facts. As this was a first anticipatory-bail application later withdrawn, whether any bail relief remained to be decided after the legal argument was addressed.

5. Ratio / Findings : The Bench quoted Article 20(2) and the full CrPC section 300 text and said a person claiming the protection must plead and prove prior prosecution and punishment for the offence now being pursued. It characterised the ₹20,625 payment as a civil penalty that did not constitute the requisite earlier criminal prosecution and punishment. Thus the asserted double-jeopardy premise failed on this record. It also found no MMDR Act or rule provision making the IPC inapplicable. *Rameshwar* supports the continued operation of the IPC in the absence of a bar. *Jayant* identifies the narrower statutory limit: compounding may end MMDR Act/rule proceedings for that compounded offence but cannot terminate independent IPC section 379/414 proceedings. Payment alone could therefore not absolve the applicant from those IPC charges.

6. Relief : The Hon'ble High Court dismissed the application for anticipatory bail under Section 438 CrPC as withdrawn. For the reasons given, payment of the mining-rule penalty alone did not bar the IPC proceedings.

Rakesh Singh v. State of M.P., M.Cr.C. no. 38324/2021, 11/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Legal insanity / temporal cognitive test - *Hari Singh Gond v State of M.P., (2008) 16 SCC 109, Bapu v State of Rajasthan, (2007) 8 SCC 66, Sudhakaran v State of Kerala, AIR 2011 SC 265*, and *Surendra Mishra v State of Jharkhand, AIR 2011 SC 627*, confine IPC §84 to incapacity, at the time of the act, to know its nature or that it was wrong or contrary to law. Medical illness, later aggression, lack of motive or a fall from a train resulting only in a toe abrasion did not prove the appellant's statutory incapacity on 8 June 2007. His subsequent psychosis and abnormal jail behaviour were acknowledged; the trial enquiry that found him fit to make his defence in 2009 concerned a different question.

Section 84 burden / continuing burden to prove mens rea - *T.N. Lakshmaiah v State of Karnataka, (2002) 1 SCC 219*, reproducing *Dahyabhai Chhaganbhai Thakkar*, treats the presumption under Evidence Act §105 that the exception is absent as rebuttable by the accused on a preponderance of probabilities, including through prosecution evidence. The prosecution must nevertheless prove guilt and mens rea beyond reasonable doubt throughout. Material insufficient for the exception can still raise reasonable doubt on an offence ingredient. The Bench rejected the §84 defence for lack of proof of incapacity at the time of the act but separately examined murderous intent and converted the conviction; it did not infer intent simply from failure to prove insanity.

Last seen / short interval / surrounding proof - *Shailendra Rajdev Pasvan v State of Gujarat, (2020) 14 SCC 750*, *Mahavir Singh* and *Jagroop Singh* require close temporal proximity and assessment of intervening possibilities. *Ashok v State of Maharashtra, (2015) 4 SCC 393*, holds that last seen is not conclusive; Evidence Act §106 does not dispense with prosecution foundations, and other circumstances and explanation matter. Lalitabai saw the appellant, who occupied the adjoining bed, take Abhishek away. Within minutes, Abhishek was found with fresh fatal skull injuries and the same bed-6 patient was caught nearby. The child's earlier medical record showed only an old infected wound. Hearsay and the account of a witness who first claimed in court to have seen the assault, without a police statement, were not relied on as direct proof, nor was absence of blood on a seized brick considered decisive.

Homicide grading / psychosis short of defence - *Veeran v State of M.P., (2011) 11 SCC 367*, quoting *Thangaiya* and *Virsa Singh*, explains that §300 Thirdly requires the particular injury to have been intended and to be sufficient in the ordinary course to cause death. It also explains the distinction concerning a high probability of death under Fourthly; the tests are broad guidelines. The Bench found that Ram Bahadur committed the fatal assault. However, no eyewitness whose account was accepted described its exact manner, no hostility was proved between the appellant and the deceased, who were strangers, and subsequent medical and jail evidence showed psychosis and abnormal behaviour without proving §84 incapacity at the critical time. It reduced §302 to §304 Part I on these facts, sentenced him to the period already undergone, which exceeded 14 years, with ₹1,000 fine and one-month default rigorous imprisonment, and ordered release if no other case required custody.

Case-note :- ***1. Facts :*** Criminal Appeal 881/2011 under CrPC §374 challenged the judgment dated 20 August 2011 passed by the 2nd Additional Sessions Judge, Vidisha, in Sessions Trial 239/2007. That judgment convicted Ram Bahadur Thapa of IPC §302 for the death of eight-year-old Abhishek and sentenced him to life imprisonment, ₹1,000 fine and five months' rigorous imprisonment in default. On 8 June 2007 a railway worker reported an injured man, whose identity was then unknown, being brought by train to Vidisha; he was admitted to bed 6 of the district hospital surgical ward after an examination at about 11:25 a.m. showing only a right-toe abrasion. Abhishek was in the adjoining bed 5 for treatment of a forehead wound inflicted two or three days earlier in a family dispute involving his uncle. At 5 p.m. the child's condition was normal apart from the old infected wound. The prosecution alleged that around 6–6:15 p.m. the adjoining patient, later identified as the appellant and a Nepali national, obtained mother Lalitabai's permission to take Abhishek to play, threw him down and hit his head with a brick near the ward. The boy died at the site; hospital staff encountered a crowd holding the bed-6 man, who was taken into custody and transferred to other hospitals. Lalitabai's Dehati Nalishi led to an FIR; police took site earth, brick pieces, clothing, hospital records and witness statements. The post-mortem found fresh large lacerations, skull and facial fractures, exposed and damaged brain matter. Several claimed eyewitnesses withdrew support, and the trial court disbelieved one witness who first asserted direct observation in court without a police statement. The appellant based his §84 plea on his fall from the train, his failure to speak when examined, his subsequent medical treatment for psychosis and his later aggressive behaviour in jail. After insanity was raised as a ground in bail proceedings, a trial-court enquiry concluded on 3 September 2009 that he was fit to make his defence; no application under CrPC §328 to stay the trial had been made. He argued the case was circumstantial, that the old head injury and post-mortem timing undermined causation, that he lacked motive or mental capacity, and alternatively that the offence could be no more than §304 Part I. The State defended the conviction.

The parents attributed the child's older forehead injury to an axe blow by his paternal uncle. That earlier family occurrence was distinct from the fatal assault attributed to the appellant.

2. Precedents — Considered : *Hari Singh Gond v State of M.P., (2008) 16 SCC 109*, set out IPC §84's legal rather than merely medical cognitive test, the crucial time of commission, the relevance of behaviour shortly before, during and after, the Evidence Act §105 special burden and the prosecution's heavier burden. Its quoted discussion cautioned that oddness, weak intellect, abnormal behaviour, impulse or lack of motive do not automatically prove incapacity, and that proven earlier illness calls for proper investigation; the High Court applied this distinction between incapacity at the time of the act and later illness to the toe injury sustained in the train incident and the subsequent psychosis. *Bapu v State of Rajasthan, (2007) 8 SCC 66*, repeated the test of incapacity at the time of the act and rejected absence of motive or bizarre behaviour alone; its nested *Sheralli Wali Mohammed* example gave the same limit. *Sudhakaran v State of Kerala, AIR 2011 SC 265*, quoted *Ratan Lal* on the time of the act. *Surendra Mishra v State of Jharkhand, AIR 2011 SC 627*, differentiated medical from legal insanity and required proof on a preponderance of probabilities under §105 while considering surrounding conduct; it reproduced *Bapu*, *Hari Singh Gond* and *T.N. Lakshmaiah*. The Bench treated these overlapping authorities together and rejected the §84 defence because the statutory incapacity at the time of the act was not proved, even while acknowledging a diagnosis of psychosis.

T.N. Lakshmaiah v State of Karnataka, (2002) 1 SCC 219, was also quoted directly for the distinct burden principle. It explained that the prosecution must prove the killing with the required mens rea beyond reasonable doubt throughout; §105 presumes the general exception absent unless the accused proves its circumstances on the standard of a prudent person applicable in civil proceedings, using all available evidence. The extract from *Dahyabhai Chhaganbhai Thakkar* further states that material too weak to establish legal insanity may nonetheless raise a reasonable doubt on an offence ingredient, including intention.

Shailendra Rajdev Pasvan v State of Gujarat, (2020) 14 SCC 750, quoted *Bodhraj*, *Rambraksh* and *Anjan Kumar Sarma* for the requirement that the interval in a last-seen case be so short as to exclude a realistic possibility of intervention by a third party. *Ashok v State of Maharashtra, (2015) 4 SCC 393*, stated that prosecution foundation comes first and facts specially known to the accused under Evidence Act §106 may call for explanation; last seen alone is not conclusive, and it must be assessed with the surrounding circumstances. Its reference to *Harivadan Babubhai Patel* also concerned the gap. *Mahavir Singh* and *Jagroop Singh* reinforced the importance of a short interval; the Court applied them to the interval of minutes between Lalitabai seeing the appellant take the boy away and the discovery of his body, together with the bed records, capture and fresh injuries. *Veeran v State of M.P., (2011) 11 SCC 367*, quoted *Thangaiya v State of T.N., (2005) 9 SCC 650*, and its *Virsa Singh* rule. Section 300 Thirdly requires intention to inflict the particular injury found and that injury's ordinary-course fatal sufficiency; §300 Fourthly differs from §299 knowledge by a very high, near-certain risk. These are broad rather than inflexible tests. The Bench invoked the distinction when assessing the uncertainty about the precise manner of the assault, the psychosis and the absence of a prior grudge, and converted to §304 Part I.

The reproduced authorities include *Dahyabhai Chhaganbhai Thakkar v. State of Gujarat*, AIR 1964 SC 1563, on the separate burdens concerning insanity and mens rea, and *Virsa Singh v. State of Punjab*, AIR 1958 SC 465, within the *Thangaiya* discussion of Section 300 Thirdly. The latter test does not require a separate intention to kill once the intended particular injury and its ordinary-course fatal sufficiency are established.

3. Statutes considered : IPC §84 is a general exception for unsoundness of mind at the time of the act causing incapacity to know its nature or that it was wrong or contrary to law; it is separate from a mere medical diagnosis and from procedural fitness to defend. Evidence Act §105 supplies the accused's rebuttable exception burden on a preponderance of probabilities while the prosecution must prove the offence and mens rea beyond reasonable doubt. Evidence Act §106, as discussed in *Ashok*, concerns facts especially known to the accused after foundational last-seen proof and does not reverse the basic prosecution burden. IPC sections 299–300, particularly §300 Thirdly's intended particular fatal injury and Fourthly's high-probability knowledge, controlled grading between §302 murder and §304 Part I culpable homicide not amounting to murder.

CrPC §328 was noted as a possible inquiry into current fitness during proceedings, but the trial court had in fact enquired after the bail contention and found the appellant fit in 2009. CrPC §374 supplied appellate jurisdiction. The earlier family cross-cases under IPC sections 323, 324, 294, 506/34 provided context for Abhishek's old wound and did not establish the appellant's culpability.

4. Issues : Whether Abhishek's fatal brain and skull injuries resulted from a fresh homicidal event rather than from the infected forehead wound that preceded admission, including the defence's reading of a "prior to three hours" medical answer versus the 8 p.m. post-mortem. Whether the neighbouring-bed appellant was the assailant despite hostile or disbelieved eyewitnesses, a mother who did not directly see the final blows, a nurse unable to identify him in court and no blood on the brick. Whether his train fall, non-speaking state, later medical diagnosis, aggressive jail behaviour and absence of motive proved contemporaneous §84 incapacity under the accused's special burden; how the separate decision on fitness to make his defence at trial mattered. If the defence failed, whether the prosecution nevertheless proved the mens rea for §302 under *Veeran*'s section 299–300 distinction, or whether §304 Part I was warranted. Finally, what conviction, custody credit, fine/default term and release order followed.

5. Ratio / Findings : The first medical record showed Abhishek's old infected forehead injury and normal general state at 5 p.m., while the later post-mortem described two large fresh lacerations, multiple skull/facial fractures and brain damage. Although the doctor used wording that injuries were "prior to three hours" in cross-examination, his report and other testimony placed death within three hours of the 8 p.m. post-mortem. The Bench rejected the suggested pre-5 p.m. fatal injury and found a fresh homicidal death near 6–6:15 p.m. The father Chironjilal knew of the alleged assault from others and gave hearsay evidence about its commission; Sanman Singh's claim, first made in court, that he had directly seen the assault was not accepted, and other eyewitnesses were hostile. Lalitabai consistently identified the appellant as the adjacent patient who asked to take her son to play, although her cross-examination indicated that she arrived at the body after hearing the commotion rather than personally observing each blow. Bed-head evidence put the appellant away from bed 6 at 5:15 p.m.; nurse Ismita Sachan described beds 5 and 6 and the immediate capture of the bed-6 person by the mob, though she could not identify the appellant in court. A doctor identified the appellant as the train-fall patient, and the hospital and police records established the connection between his identity and the patient who was captured. The short interval and fresh fatal injuries made third-party intervention implausible on this record. The absence of detected blood on the seized brick did not negate the independent links supplied by the hospital records, the scene and the medical findings. The Bench found that the appellant threw and assaulted Abhishek, without treating a witness's hearsay as direct proof of the precise blows.

For §84, the railway medical examination established only a toe abrasion; a head injury causing loss of mental control was suggested but not proved. There was no reliable contemporaneous evidence that at the time of the killing he could not understand what he was doing or that it was wrong or unlawful. He wrote in Nepali the next day about travel, his brother's death, the train incident and difficulty communicating in India. In later treatment Dr R.N. Sahu described psychosis, but at a February 2009 examination he found him normal and able to make his defence. Jail record Ex D2C showed talking and eating as well as periods of aggression, attacks on inmates and sleeplessness. The court distinguished these later manifestations of illness from the narrower §84 test at the offence time, rejected acquittal on legal insanity, and treated the 2009 enquiry into fitness to make his defence as a separate procedural question. Rejection of the insanity defence did not determine whether the homicide amounted to murder: applying *Veeran*'s intended-injury and knowledge distinctions, the Bench considered the appellant's position as a stranger with no shown hostility, the absence of an accepted direct eyewitness account describing the precise manner of the assault, and the medical evidence of psychosis together with abnormal behaviour in custody. It held that culpable homicide under §304 Part I, rather than murder under §302, had been proved.

6. Relief : The Hon'ble High Court allowed the appeal to the extent of substituting IPC §304 Part I for §302. With uninterrupted custody since arrest on 8 June 2007, exceeding fourteen years by the appellate judgment, the Bench imposed a sentence of imprisonment for the period already undergone, maintained a ₹1,000 fine and set one month's rigorous imprisonment in default instead of the trial

court's five-month default term. It ordered immediate release if the appellant was not required in another case, supply of a free copy of the judgment to him, and prompt return of the trial record with a copy for compliance. The trial judgment was affirmed only with these conviction and sentence modifications; no §84 acquittal was granted.

Ram Bahadur Thapa v. State of M.P., Cr.A. no. 881/2011, 28/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Medical evidence / independent assessment - The first treating doctor recorded an entry wound on the back, an exit wound near the umbilicus and bowel protruding from the latter wound. The postmortem doctor reversed the entry and exit descriptions while also recording bowel protruding from the abdomen. *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, recognises the criminal court's duty to test the whole record, even where official investigation or presentation is defective. The Court favoured the earlier MLC and objective findings consistent with the eyewitness account; it was not bound by a prosecution doctor's report merely because the doctor had not been declared hostile.

Related witness / interest - *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, and *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, were applied to reject automatic exclusion based on kinship. The evidence requires scrutiny for credibility, and a plea of false implication requires a foundation. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, distinguishes being related from having a motive or benefit in an accused's punishment. The presence and accounts of Dinesh and Suresh were supported by the connected roofs, rescue route and medical record.

Chance witness / explained presence - *State of U.P. v. Anil Singh*, 1988 Supp SCC 686, *Dargahi v. State of U.P., (1974) 3 SCC 302*, *Ramvir v. State of U.P., (2009) 15 SCC 254*, *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, *Jarnail Singh v. State of Punjab, (2009) 9 SCC 719*, *Baby v. Inspector of Police, (2016) 13 SCC 333*, and *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, require an explanation for an alleged chance presence and assessment of the testimony's intrinsic reliability, rather than rejection merely because of the label. Pawan explained that he was delivering milk, and Mahesh that he was visiting the shop opposite the house. Both were named promptly in the FIR, and their accounts were corroborated.

Ballistics / direct proof - The percussion cap of the spent cartridge was partly punctured, preventing comparison of its firing marks with those of the seized .12-bore gun. Use of that particular weapon was therefore not proved. The Court drew no adverse inference from an unproved attempt to damage the cap. *Gulab v. State of U.P., Criminal Appeal No. 81/2021* (9 December 2021), following *Gurucharan Singh v. State of Punjab, (1963) 3 SCR 585*, treats the need for a ballistic expert as dependent on the circumstances of the case; its discussion distinguishes *Mohinder Singh*'s weak ocular and discordant weapon record. *Rakesh v. State of U.P., (2021) 3 SCC (Cri) 149*, permits a firearm not linked to the offence to be treated as though it had not been recovered. Here, the four eyewitnesses whom the Court found credible and the consistent medical evidence supported the finding that Ram Khiladi fired the fatal shot.

Acquitted co-accused / divisible testimony - *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749*, *Kameshwar Singh v. State of Bihar, (2018) 6 SCC 433*, and *Mahendran v. State of T.N., (2019) 5 SCC 67*, reject falsus in uno falsus in omnibus as a mandatory rule, while prohibiting reconstruction of a new prosecution case where truth and falsehood cannot be separated. Pankaj's acquittal under Section 302/34 did not erase reliable proof that Ram Khiladi personally fired the fatal shot. His Section 302 life sentence was upheld; the appellate court added six months' rigorous imprisonment in default of the existing Rs 1,000 fine.

Case-note :- ***1. Facts :*** Ram Khiladi appealed under Section 374 CrPC against the judgment dated 30 September 2010 passed by the Second Additional Sessions Judge, Morena, in Sessions Trial No. 144/2009. He had been convicted under Section 302 IPC for fatally shooting Ram Naresh and sentenced to life imprisonment and a Rs 1,000 fine, with no default term at trial. Pankaj, charged under Section 302/34 and tried with him, was acquitted; that acquittal was not challenged. Two other accused, Asharam and Sudhakar, had been proceeded against under Section 299 CrPC as absconders; Asharam

was reported dead and Sudhakar remained absent. Their liability was not adjudicated in this appeal.

According to the prosecution, a dispute on 10 September 2008 arose after Ram Khiladi took a pouch without paying and his daughter plucked a gourd from a field. Ram Naresh went to complain at Ram Khiladi's home. An abusive quarrel and stone pelting followed. Ram Khiladi and Sudhakar allegedly brought firearms and Pankaj a stick. Ram Naresh fled onto the house's roof and attempted to climb onto the roof of a room built there; Ram Khiladi fired, hitting him in the back, while Sudhakar's alleged shot missed. Four witnesses, Dinesh Sharma, Pawan Sharma, Suresh Sharma and Mahesh, described the incident and the rescue across the connected roofs. Ram Naresh received first aid at Morena District Hospital around 5:05 pm, was referred to Gwalior and was declared dead there. An FIR was lodged at Civil Lines, Morena, within whose jurisdiction the incident occurred.

The first treating doctor, Dr Anup Gupta, recorded an entry wound on the back and an exit wound near the umbilicus, with bowel protruding from the latter wound (MLC Ex D.6). Postmortem doctor Dr J.N. Soni recorded an entry wound at the front of the abdomen and an exit wound on the back, but also described bowel protruding from the abdomen. The latter attributed death to shock and haemorrhage from a firearm abdominal injury sufficient in the ordinary course to cause death. The defence argued that a front entry and downward course contradicted the alleged shot from behind and below as the victim climbed. It also questioned why the victim fled to the appellant's roof rather than outdoors, whether the houses were connected, whether the witnesses had in fact accompanied him to hospital, whether related and alleged chance witnesses could be trusted, and whether the seized gun was used. The appellant's Section 313 CrPC account, however, admitted that the roofs were connected and that Ram Naresh sustained a gunshot injury on the appellant's roof, while attributing the shot to an unknown person. The State supported the conviction.

Police found bloodstained and plain cement on the room roof. After Ram Khiladi's arrest on 17 October 2008, officers seized his licensed .12-bore double-barrel gun and an empty cartridge. The FSL later found the gun working and recently fired, but a partly punctured percussion cap prevented comparison of the cartridge's firing marks. No comparison of the cartridge's firing marks with the gun established it as the murder weapon. The prosecution relied principally on the four eyewitnesses, the physical scene and the compatible earlier MLC.

2. Precedents — Considered : *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, was quoted for the criminal court's public duty to reach truth and conduct a fair trial for accused, victim and society. Its discussion of *State of Karnataka v. K. Yarappa Reddy* and *Ram Bali v. State of U.P.* explains that a defective or manipulated investigation requires caution and independent scrutiny of otherwise credible proof, not automatic acquittal. The present Court invoked that principle to assess the two doctors' findings itself rather than accept an unchallenged prosecution postmortem opinion as binding.

Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475, said kinship alone does not make testimony unreliable and family is generally unlikely to shield the real killer to accuse an innocent person. *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, recognised the weight often carried by close family testimony without dispensing with evaluation. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, required a foundation for false implication and careful testing for cogency; its quoted *Dalip Singh* and *Masalti* discussion cautioned against mechanical rejection yet did not create a general presumption that such testimony is credible. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, distinguished a relative from a witness with a direct or indirect benefit or prior enmity motivating false implication, and required reliability, probability, cogency and consistency. The Court applied these authorities to the two brothers, Dinesh and Suresh, after testing their presence and the scene, and rejected the bare relationship objection.

State of U.P. v. Anil Singh, 1988 Supp SCC 686, rejected the 'chance witness' label for a witness naturally present and named in the FIR. *Dargahi v. State of U.P., (1974) 3 SCC 302*, recognised that a road witness can be tested notwithstanding chance presence and enmity, and *Ramvir v. State of U.P., (2009) 15 SCC 254*, considered local presence in daylight natural on its facts. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, recounted the classic description of a witness who appears suddenly without an explanation for being there. *Jarnail Singh v. State of Punjab, (2009) 9 SCC 719*, drawing on *Sachchey Lal Tiwari* and other authorities, required adequate explanation and cautious scrutiny, while

cautioning against transplanting the label mechanically into Indian settings. *Baby v. Inspector of Police, (2016) 13 SCC 333*, repeated that contextual caution. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, through *Rana Partap*, stressed natural presence and intrinsic reliability over a mere label. The Court considered these authorities together when accepting Pawan's explanation that he was delivering milk and Mahesh's explanation that he was visiting the shop. Their accounts were corroborated and they were named promptly; the Court did not treat every passerby as automatically credible.

Gulab v. State of U.P., Criminal Appeal No. 81/2021 decided 9 December 2021, quoted *Gurucharan Singh v. State of Punjab, (1963) 3 SCR 585*, for the contextual need for a ballistic expert. Gurucharan explained that *Mohinder Singh v. State*, (1950) SCR 821, involved serious weaknesses in ocular evidence and a possible gun-versus-rifle inconsistency; it did not impose an invariable requirement of expert examination. Whether expert evidence was essential depended on the circumstances; unimpeachable direct evidence and clearly consistent post-mortem findings could make it unnecessary. *Gulab* also discussed *State of Punjab v. Jugraj Singh on* sufficient surrounding evidence. *Rakesh v. State of U.P., (2021) 3 SCC (Cri) 149*, considered a nonmatching recovered firearm: the unlinked recovered gun may be treated as though it had not been recovered, without necessarily defeating credible eyewitness proof. Here the Court held that the particular seized gun had not been proved to be the murder weapon, rejected an adverse inference from conjectured cartridge tampering, then applied the cited distinctions to the independent eyewitness evidence.

Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble, (2003) 7 SCC 749, rejected falsus in uno falsus in omnibus as an Indian rule of law and directed careful separation of truth and embellishment, while warning against constructing an entirely different prosecution case from inseparable falsehood. *Kameshwar Singh v. State of Bihar, (2018) 6 SCC 433*, repeated that qualified sifting duty and that unresolved real doubt must favour the accused. *Mahendran v. State of T.N., (2019) 5 SCC 67*, reiterated that insufficiency concerning acquitted co-accused does not compel acquittal of a person against whom the credible residue proves guilt. The Court applied this group to Pankaj's separate acquittal and Ram Khiladi's direct role.

3. Statutes considered : Section 302 IPC governed the murder conviction and minimum life term as the Court described; Section 34 formed part of Pankaj's separate charge; Ram Khiladi was convicted for his own act of firing the fatal shot. Section 374 CrPC supplied the appeal. Section 313 CrPC governed his explanation, including the admission of connected roofs and the claim of an unknown shooter. Section 299 CrPC governed procedure against the two absent accused and did not determine their guilt here. The Rs 1,000 fine imposed at trial was retained, and the appellate court added a default rigorous-imprisonment term.

4. Issues : Whether the gunshot death was homicidal and whether the postmortem doctor's reversal of entry and exit, compared with the initial MLC and physical findings, fatally contradicted the eyewitness account; whether the admitted connected roofs, access to the room roof, bloodstained cement and rescue route supported the witnesses despite the defence's proposed alternative; whether Dinesh and Suresh were disqualified by kinship and Pawan and Mahesh by their alleged chance presence; whether inability to match the seized firearm and cartridge left reasonable doubt about the shot specifically attributed to Ram Khiladi; whether Pankaj's unchallenged acquittal required discarding testimony against Ram Khiladi; and whether conviction and sentence required modification. The two absconders' guilt was outside this appeal.

5. Ratio / Findings : The treating MLC placed entry on the back and exit at the abdominal bowel-protrusion wound. Although the postmortem doctor reversed those descriptions and spoke of a downward path, he independently recorded bowel protruding from the same abdominal wound. The Court reasoned that this feature supported the MLC's description of entry at the back and exit at the front, and the account of a shot fired from below and behind the victim as he climbed. Relying on *Dayal Singh*'s judicial duty of independent evaluation, it found the post-mortem report's identification of the entry and exit wounds mistaken and rejected the claim that a prosecution doctor's evidence bound the State because he was not declared hostile. Taken together, the two doctors' accounts supported a fatal firearm injury. The Court found no material contradiction between the eyewitness and medical evidence on this record.

The appellant's Section 313 explanation acknowledged that the roofs connected, undermining counsel's asserted 25-foot separation. The Court found flight toward the neighbouring home over connected roofs plausible. Pawan described climbing stored stones and gripping the overhanging roof edge (chhajja) to reach the six-to-seven-foot room roof; the investigating officer's evidence and the physical seizure supported the finding that the roof was accessible without stairs. Bloodstained cement was seized there, and witnesses described bringing the injured back over the roofs. A hospital intimation naming Vipin as a person accompanying the victim did not exclude others from seeing the incident or helping. The Court considered the transport and Gwalior death chronology before rejecting the claim that the Morena FIR was an afterthought merely because no zero FIR had been registered at Gwalior; it also recognised that an unproved merg document could not be used as substantive prosecution support.

Dinesh and Suresh were the deceased's brothers and were naturally present at the adjoining homes. Their relationship alone did not establish an interest in having an innocent person punished. Pawan, a milk vendor delivering locally, and Mahesh, visiting the deceased's shop opposite the appellant's house, gave explanations for being nearby. Both were named in the FIR and had timely police statements; their evidence was corroborated and no enmity shown. Applying the grouped Supreme Court credibility cases, the Court accepted all four after scrutiny.

The seizure witnesses proved a licensed .12-bore gun and spent cartridge from the appellant, and the FSL found a functioning gun with evidence of recent firing. A punctured percussion cap, however, prevented the necessary firing-mark match. The Court would not draw an adverse inference against Ram Khiladi from speculation that someone, possibly he, deliberately damaged the cap; it held that the seized gun had not been proved to be the weapon used in the killing. *Gulab* and *Rakesh* permitted the direct testimony, corroborated by the injuries and scene, to be assessed independently of that missing link. The appellant's unsupported unknown-shooter version was rejected after considering his admission that the injury occurred on his roof and his failure to report such an incident.

Pankaj's Section 302/34 acquittal remained final and unchallenged, but the Court distinguished the specific evidence that Ram Khiladi fired the shot which struck Ram Naresh. Under *Shakila*, *Kameshwar Singh* and *Mahendran*, a deficiency against one accused did not require the rejection of reliable evidence against another that could be considered separately. It found guilt under Section 302 proved. It found life imprisonment the minimum sentence it could impose for that conviction and therefore did not reduce it. The trial court had omitted a default term for the fine; the appellate court supplied six months' rigorous imprisonment if the fine was not paid.

6. Relief : The Hon'ble High Court dismissed the appeal. Ram Khiladi's Section 302 IPC conviction and life imprisonment with Rs 1,000 fine were affirmed. The appellate judgment directed an additional six months' rigorous imprisonment if the fine was not paid, where the trial order had stated no default imprisonment. Pankaj's acquittal was not disturbed; no conviction of the absent co-accused was made. Ram Khiladi was in jail and was directed to serve the remaining sentence. A free copy of the judgment was directed to be supplied to him, and the trial record was to be returned for information and compliance.

Ram Khiladi v. State of M.P., Cr.A. no. 867/2010, 15/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Age proof / school record - *Mahadeo s/o Kerba Maske v. State of Maharashtra, (2013) 14 SCC 637*, supported the use of the sequence in Rule 12(3) of the Juvenile Justice Rules 2007 to assess a prosecutrix's age, and *Ashwani Kumar Saxena v. State of M.P., (2012) 9 SCC 750*, identified the first-school register as relevant. The primary examination certificate recorded 17 April 1989 as the date of birth. The prosecutrix supplied the certificate to the investigator, who collected it, but no school witness or person who made the entry proved the register, the source of the entry or the date. The Court rejected the certificate as unproved.

Unexhibited favourable material - The Government hospital ossification report, filed by the prosecution with the charge sheet but never proved and exhibited through a witness, assessed age above eighteen and below twenty on 2 July 2005. The Court permitted the accused to rely on this favourable material filed by the prosecution after finding the school entry unproved.

Delay / sole prosecutrix - *Ramdas v. State of Maharashtra, (2007) 2 SCC 170*, permits conviction based solely on the testimony of a wholly credible prosecutrix and treats delay as relevant but not invariably fatal. The Court found the roughly one-year delay insufficiently explained by the parents' claimed long absence for the father's treatment, because there was no supporting evidence of treatment or the travel circumstances, and the father had visited occasionally. It considered the mother's non-examination and the untested paternity claim alongside the prosecutrix's account, and held conviction unsafe on these facts.

DNA / cumulative proof gap - The examining doctor advised testing after childbirth, yet no DNA comparison of the child and the appellant, or explanation for its omission, was produced. In this accusation involving pregnancy and childbirth, the Court found that omission material alongside the difficulties concerning age, delay and testimony. It set aside the Section 376(1) conviction and seven-year sentence, acquitted Ram Kishan and discharged his bail and surety bonds.

Case-note :- ***1. Facts :*** Ram Kishan appealed under Section 374(2) CrPC, challenging the judgment of the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Shivpuri, in Special Sessions Trial No. 53/2007. His separate acquittal under the SC/ST Act was outside the scope of the appeal.

The prosecutrix's father, Bharosa, worked as a village chowkidar in Kutwara and had five children. The prosecutrix was the eldest. The prosecution alleged that, while Bharosa and his wife Ramwati stayed elsewhere for his tuberculosis treatment, their children remained at home. Ram Kishan lived next door and allegedly took the prosecutrix into his room repeatedly and forced her to have intercourse, with further alleged incidents at her home. She became pregnant. She said he threatened to kill her and himself if she disclosed the matter. After the parents learned of the pregnancy, she went to Hatod and gave birth to a boy. Police eventually recorded her allegation, medically examined her, collected a primary school examination mark-sheet said to give her birth date as 17 April 1989, and filed a charge sheet after arresting Ram Kishan about eighteen months later. The Court analysed the reporting interval as approximately a year.

Ram Kishan challenged the trial court's finding of minority, saying the certificate was inadequately proved and the prosecution's ossification material assessed her at 18–20. He argued that the reporting delay until after childbirth was unexplained and, in the absence of DNA evidence concerning paternity, the prosecutrix's testimony could not safely support conviction. The State defended the age and rape findings. The appeal required the Court to assess both age evidence and the independent credibility of the allegation.

2. Precedents — Considered : *Mahadeo s/o Kerba Maske v. State of Maharashtra, (2013) 14 SCC 637*, was invoked by the Court to use Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules 2007 as a reference in determining a prosecutrix's age. Rule 12(3) prioritised matriculation or equivalent certificate, then a date-of-birth certificate from the first school attended, then a birth certificate from the relevant civic authority; assessment by a medical board followed only in the absence of those documentary categories. The present Court applied that order but required the asserted school entry to be proved, rather than treating a mark-sheet whose maker and source had not been established by evidence as conclusive. *Ashwani Kumar Saxena v. State of M.P., (2012) 9 SCC 750*, was cited for the relevance of the first-school admission register. Counsel used it to argue that withholding the underlying register warranted an adverse inference. The Court did not articulate a separate categorical adverse-inference ruling; it found the mark-sheet unproved because no school witness established its basis and the father did not state that he had supplied the recorded date.

Ramdas v. State of Maharashtra, (2007) 2 SCC 170, was relied on by the appellant and substantively applied by the Court. Its principle, as stated in this judgment, permits a rape conviction resting solely on the prosecutrix's testimony if the court is convinced of its truthfulness and no circumstance seriously clouds veracity. Reporting delay alone need not be fatal, but its circumstances and possible effect on reliability must be evaluated. The present Court found the explanation of prolonged parental absence unsubstantiated, considered the father's occasional visits and other proof gaps, and concluded that the testimony did not safely establish this charge.

3. Statutes considered : Section 376(1) IPC was the charged and appealed rape conviction. The Court separately assessed the allegation of forcible intercourse without consent, as well as the disputed age evidence. Section 374(2) CrPC supplied

appellate jurisdiction. Rule 12(3) of the Juvenile Justice Rules 2007, discussed through *Mahadeo*, set the documentary order and medical alternative for an age inquiry; the Court used it as guidance in the question of the prosecutrix's age. The SC/ST Act provisions appeared in investigation and trial, but the appellant's acquittal under that Act was not reversed. The Court did not separately construe the Act's elements.

4. Issues : Whether the prosecution proved the prosecutrix's age at the alleged acts through a 2001 school examination certificate without testimony from any school official, proof of the register entry or evidence of who supplied the date; what weight the defence could place on an ossification report filed with the charge sheet but left unexhibited by the State; whether the substantially delayed FIR was satisfactorily explained by the parents' claimed absence and threats; whether her testimony alone remained sufficiently trustworthy under *Ramdas* in light of that delay, the father's periodic visits and other missing evidence; whether the failure to carry out the recommended DNA test concerning paternity mattered in a case attributing pregnancy and childbirth to the appellant; and whether Section 376(1) guilt remained proved beyond reasonable doubt. The SC/ST Act acquittal was outside the appeal.

5. Ratio / Findings : The primary school examination certificate Ex P-5 recorded 17 April 1989. The prosecutrix handed the certificate to the police, and the investigating officer said he had collected it. That evidence did not establish who had entered the date or the information on which it was based. No headmaster, school official or first-school register entry was proved; the father did not say he had reported that date at admission. Applying *Mahadeo* and Rule 12 while considering *Ashwani Kumar Saxena*, the Court found the certificate not proved according to law. The Government hospital's 2 July 2005 ossification report, though unexhibited by the prosecution, had been filed with the charge sheet and favoured the accused; the Court allowed him to rely on it, noting radiological age above eighteen and below twenty on that date. It inferred a 1987 birth year. In paragraph 18, the Court calculated her age as seventeen at the first alleged act in 2004, but then held that she was eighteen and major even then. The Court also found the rape allegation unproved on separate credibility grounds.

On delay, the Court examined the claimed tuberculosis treatment and the assertion that both parents had lived in Hatod while five children stayed in Kutwara. It found no treatment documents or explanation of the relevant distances and travel circumstances to support such a long absence, and observed that Bharosa sometimes visited the children. The mother was not examined to substantiate the claimed disclosure. Although the prosecutrix alleged threats, the Court found the prosecution's explanation for the reporting delay of approximately one year unconvincing. Under *Ramdas* it expressly recognised that mere delay is not necessarily fatal, but considered the circumstances relevant to whether her sole account was dependable.

Dr Anjana Jain had advised DNA testing following birth of the male child. No DNA comparison of the child and the appellant was produced, and no explanation was given for the failure to carry out the recommendation. Because the prosecution asserted that the appellant's conduct caused the pregnancy, the Court treated the omission as a material gap in corroboration in this record. It considered that gap together with the unproved school entry, age-report treatment, delay and its assessment of the sole testimony, then held that the allegation of rape against the appellant had not been proved.

6. Relief : The Hon'ble High Court allowed the appeal. The Section 376(1) IPC conviction and the seven-year rigorous-imprisonment sentence, Rs 500 fine and default term were set aside. Ram Kishan was acquitted of that charge. He was on bail, and his bail and surety bonds were discharged. A copy of the judgment and the record were directed to be sent to the trial court. The earlier SC/ST Act acquittal was not disturbed.

Ram Kishan v. State of M.P., Cr.A. no. 658/2007, 01/12/2016, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Dying declaration / extensive burns and capacity - *Purshottam Chopra v State (NCT of Delhi), (2020) 11 SCC 489*, applied *Bhagwan* and *Vijay Pal* to hold that even 92–100% burns do not alone establish inability to speak; the decisive considerations are the declarant's actual state of consciousness and fitness, the effects of the injuries and the coherence of the response. Its quotation from

Dal Singh recognises that part of the thumb may remain intact, depending on the facts. The quoted *Gian Kaur* example concerned an unexplained clear thumb impression despite evidence that both thumbs were burnt. The admission MLC gave no burn percentage; the about-100% figure came from the post-mortem after Sakhibai's death. The Court described her death as occurring ten days after the incident. Dr Singh rejected the assumption that such burns necessarily caused unconsciousness or inability to speak. Dr Jain and the Naib Tahsildar supported her fitness. Modi's classification of burn degrees informed the Court's rejection of an inference of incapacity based only on the burn percentage.

Recorder / certificate / authentic impression - *Purshottam Chopra*'s treatment of the Constitution Bench in *Laxman v State of Maharashtra*, affirming *Koli Chunilal Savji* and rejecting *Paparambaka Rosamma*'s hypertechnical certificate requirement, permits reliance on a voluntary and truthful declaration where the recorder is satisfied of the declarant's fitness, without requiring a prescribed form, a Magistrate or particular medical-certificate wording in every case. *Mukesh v State (NCT of Delhi), (2017) 6 SCC 1*, quoted *Laxman* while calling for vigilance about medical fitness and tutoring. Here, a Naib Tahsildar recorded Ex P7, with Dr Jain certifying fitness before and after recording. The missing recording times, unattached requisition and incomplete thumb impression on Ex P14, attributed to inadequate ink, were assessed alongside the testimony rather than treated as fatal defects automatically.

Multiple declarations / sole basis / caution - *Purshottam Chopra, (2020) 11 SCC 489*, permits a coherent and voluntary statement to be the sole basis for conviction, but requires corroboration where material infirmity or suspicion remains. *Madan v State of Maharashtra, (2019) 13 SCC 464*, emphasises cautious assessment of mental fitness and absence of tutoring, particularly because the maker cannot be cross-examined. *Mukesh, (2017) 6 SCC 1*, reproduces *Atbir*'s safeguards and requires comparison of several declarations to determine whether any inconsistencies are material. *Laltu Ghosh v State of W.B., (2019) 15 SCC 344*, permits a reliable and unprompted declaration to be the sole basis for conviction, with other supporting evidence reinforcing it. The oral history to Dr Jain in Ex P6, Dehati Nalishi Ex P14, police statement Ex P16 and Naib Tahsildar's Ex P7 were materially consistent in identifying Ramlal as the person who set Sakhibai alight; kerosene smell and seized articles supported them. Hostile witnesses and his taking her to hospital did not defeat the credited accounts. His §302 conviction and life sentence were affirmed; the appeals of the two deceased co-accused had already abated.

Case-note :- ***1. Facts :*** Ramlal's appeal under CrPC §374 challenged the judgment dated 28 May 2010 passed by the Sessions Judge, Vidisha, in Sessions Trial 266/2009 convicting him of murdering his wife Sakhibai under IPC §302 and sentencing him to life imprisonment, a ₹10,000 fine and two years' rigorous imprisonment in default. His father Ramprasad and mother Ganeshibai had been convicted under section 302/34 but died while the appeal was pending; their appeals were dismissed as abated by orders of 31 July 2014 and 11 March 2015. The present merits decision concerned Ramlal alone. The prosecution alleged that about 8:30 p.m. on 30 July 2009 he arrived drunk, quarrelled with Sakhibai, poured kerosene on her and set her ablaze, with the parents-in-law instigating him. He and others brought her to the community health centre at Kurwai. The admission Pre-MLC Ex P6 described patchy burns on several parts of the body, the smell of kerosene and injuries dangerous to life, without stating a burn percentage, and recorded her immediate account to Dr Pawan Kumar Jain (PW3) that her husband and parents-in-law burnt her. Police received the hospital intimation, and ASI H.S. Chauhan (PW11) recorded her Dehati Nalishi Ex P14 at 22:05 and her subsequent statement under §161, Ex P16, and conducted the site investigation. Naib Tahsildar Devendra Narayan Rishishwar (PW10) recorded written declaration Ex P7 after a medical fitness endorsement; Dr Jain endorsed fitness again at its end. Sakhibai died on 10 August 2009. Dr R.L. Singh's post-mortem Ex P8 reported about 100% burns and infected areas, and identified the cause of death as cardiorespiratory arrest resulting from burns and their complication, septicemia. The site seizure Ex P9 documented a kerosene container, matchbox, burnt cloth, earth and other articles. At trial the other witnesses turned hostile. On appeal counsel argued she was too badly burnt to speak, challenged the declarations and relied on Ramlal's taking her for treatment as a circumstance inconsistent with guilt; the State defended reliance on trustworthy declarations.

2. Precedents — Considered : *Purshottam Chopra v State (NCT of Delhi), (2020) 11 SCC 489*, was quoted extensively to resolve both fitness and evidentiary weight. It drew on the Constitution Bench in *Laxman v State of Maharashtra*: a statement concerning the cause of death requires rigorous scrutiny because its maker cannot be cross-examined; the declarant must be in a fit state of mind and free from tutoring or imagination, but no oath, particular recorder, prescribed statutory form, presence of a Magistrate or medical certificate in every case is a precondition. A doctor's certification is a cautionary safeguard, and the recorder's evidence may establish fitness. *Laxman* affirmed *Koli Chunilal Savji* and held the contrary hypertechnical view in *Paparambaka Rosamma* incorrectly decided; these authorities were considered within the quoted *Purshottam Chopra* discussion, rather than through separate applications to the present facts. *Purshottam Chopra* also discussed *Dal Singh* on whether the thumb skin remained intact on the particular facts and the absence of a universally prescribed recorder or format; *Bhagwan*, *Vijay Pal* and *Mafabhai Nagarbhai Raval* on the possibility of conscious declarations despite 92%, 99% or 100% burns; and *Gian Kaur* on a materially different record where both thumbs were shown burnt yet a clear ridged mark was unexplained. Its examples of *Gopalsingh* (an infirmity concerning identification), *Dalip Singh* (asserted knowledge beyond the maker's perception), *Thurukanni Pompiah* (a materially untrue part of the account), and *Uka Ram* (doubt about mental condition) illustrate when sole reliance is unsafe; it also discussed independent assessment of fitness and the absence of an automatic corroboration requirement in its collected principles. The High Court applied those principles to the testimony of the treating doctor, the recorder and the investigating officer, the admission record and the later post-mortem. It found no material incapacity, fabrication or contradiction.

Madan v State of Maharashtra, (2019) 13 SCC 464, was quoted for caution where weakness near death, self-vindication, prompting, the absence of the accused or the lack of cross-examination may threaten accuracy. Although corroboration is not an absolute legal requirement, a declaration must inspire confidence, reflect a fit mental state and be free from tutoring; an apparently suspicious one needs support. *Madan* cited *Ram Bihari Yadav*, *Suresh Chandra Jana*, *Atbir*, *Paniben* and *Panneerselvam* for these standards. *Mukesh v State (NCT of Delhi), (2017) 6 SCC 1,* was quoted for voluntariness, medical-fitness vigilance, the *Laxman* rule that a formal certificate is a safeguard based on caution rather than an absolute prerequisite, and *Atbir*'s ten safeguards. *Atbir*'s quoted principles include the absence of a categorical corroboration requirement, rejection of a statement attributed to an unconscious maker and acceptance of brief but credible accounts. *Mukesh* also requires careful assessment of several declarations for material inconsistencies, rather than superficial differences, in light of the surrounding facts. The present Court used them to compare four accounts identifying Ramlal. *Laltu Ghosh v State of W.B., (2019) 15 SCC 344*, allowed sole reliance on a reliable declaration where neither false implication nor tutoring appears, and described other reliable evidence as reinforcement in its own facts; the High Court applied its rule to declarations supported here by medical observations and scene articles. The Court's quotation from Modi's Medical Jurisprudence distinguished the extent of superficial burns from their degree and physiological effects.

3. Statutes considered : Evidence Act §32(1), addressed through the *Purshottam Chopra*/*Thurukanni* passage, admits a deceased person's statement about the cause or circumstances of the transaction resulting in death when that cause is in issue; the rule does not require an expectation of death. The Court treated the admission history, Dehati Nalishi, ensuing police statement and written declaration as evidence of the fatal burning. CrPC §161 identified Ex P16 as a police-recorded statement, and §374 supplied the appeal route. IPC §302 governed Ramlal's murder conviction and life sentence. The deceased co-accused's section 302/34 trial findings explain their procedural position but were not affirmed on merits in this appeal. The Court found no sentence below the statutory minimum life term available on the conviction.

Section 34 IPC related to the deceased co-accused's trial convictions.

4. Issues : First, whether Sakhibai died from burns and whether the burning was homicidal, suicidal or accidental when the surviving eyewitnesses did not support the prosecution. Second, whether a patient later recorded as having about 100% burns could have made reliable statements at admission and while under treatment, taking account of the contemporaneous Pre-MLC, the doctors' evidence,

the recorder's observations, medical endorsements and the actual timing of the percentage estimate. Third, whether missing start/end times and requisition, an incomplete thumb impression, hostile witnesses, or Ramlal's taking Sakhibai to hospital gave material reasons to doubt authenticity or voluntariness. Fourth, whether the oral history given to the doctor and the three written or police-recorded accounts were materially consistent and reliable enough to sustain §302 without supporting eyewitness testimony. Finally, whether the conviction and sentence required interference, keeping the earlier abatement of the parents' appeals distinct.

5. Ratio / Findings : Dr Jain found multiple patchy burns and kerosene smell on admission, described Sakhibai as fully conscious, and said he would have recorded loss of consciousness had it occurred; his contemporaneous Ex P6 did not give a percentage. Dr Singh found death caused by burn injury and resulting septicemia and estimated the burns at about 100% in the post-mortem after her death; he denied that such a percentage necessarily meant unconsciousness or inability to speak and could not say whether the thumb skin was burnt. The Bench distinguished the extent of the affected skin from the depth of the burns and the patient's actual mental function, referring to Modi's burn-degree descriptions and *Purshottam Chopra*'s high-burn examples. Its assessment did not rest on an assumption that the later post-mortem figure alone established the exact burn percentage or degree when each declaration was recorded.

The first account was the history given to Dr Jain at admission and reflected in Ex P6. Ex P14, recorded at 22:05, described Ramlal's drunken quarrel with Sakhibai, his pouring kerosene on her and setting her alight, the parents' alleged instigation and her alarm. Chauhan recorded Ex P16 immediately afterwards, containing similar allegations; he explained that she answered clearly, so he did not request another fitness certificate for that police statement. The Naib Tahsildar's Ex P7 identified her husband as the one who burnt her, and he denied incapacity, forgery or absence of a thumb impression. Dr Jain was beside him and certified fitness before and after its 20–25-minute recording. An unattached written requisition and the absence of start and end times were acknowledged, as were the lack of burn percentage and pulse in the Pre-MLC, but did not outweigh this direct evidence of fitness. The appearance of the Ex P14 thumb impression in two parts was explained as the result of inadequate ink when a single impression was taken, and nothing proved complete loss of ridges on her thumb at the relevant time.

Under *Madan*, *Mukesh*, *Purshottam Chopra* and *Laltu Ghosh* the Bench assessed whether the accounts were truthful, coherent and unprompted, rather than imposing corroboration as a fixed prerequisite. It treated all four statements as materially identical in identifying Ramlal's act, notwithstanding Ex P7's shorter reference to the husband and fuller early allegations about his parents. Kerosene smell at admission and seizure of a kerosene container, matchbox and burnt materials reinforced the accounts; the site map's failure to enumerate every burnt item and Ex P9's mistakenly written 30 July instead of 31 July did not persuade the Court of a false seizure. The Court stated that Sakhibai survived ten days after the incident and found the declarations trustworthy even though the other witnesses were hostile. Ramlal's taking her to hospital established that he had brought her for treatment, but did not establish his innocence in the face of her immediate accusation. The Court therefore found he caused her homicidal death by setting her alight with kerosene and upheld his §302 conviction. The early allegations of the deceased parents' instigation did not alter the earlier abatement of their appeals.

6. Relief : The Hon’ble High Court dismissed Ramlal's criminal appeal. The conviction under IPC §302 and sentence of life imprisonment, a ₹10,000 fine and two years' rigorous imprisonment in default, imposed by the Sessions Judge, Vidisha, on 28 May 2010 were affirmed. Ramlal was in jail and was directed to serve the remaining sentence. The Bench directed that he receive a free copy immediately and that the trial record with a copy of the judgment be returned for compliance.

Ram Lal and Ors. v. State of M.P., Cr.A. no. 522/2010, 13/12/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR registration / writ alternative - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the police duty under Section 154 CrPC to register information disclosing a cognizable offence from the remedy of an aggrieved informant:

a complaint before the Magistrate under Sections 190 and 200 when police fail to act. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, prescribe recourse to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3). Applying *Shweta Bhadauria v. State of M.P.*, W.A. 247/2016, the Court declined mandamus to register an FIR in relation to the alleged withdrawal of money from a private trust.

Magistrate's remedial powers - Under *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe*, a Magistrate who is prima facie satisfied on an application under Section 156(3) may direct registration of an FIR and a proper investigation, monitor the investigation and, where appropriate, recommend a change of investigating officer. The Magistrate does not conduct the investigation personally. *Aleque Padamsee and Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, also explain the private-complaint route under Sections 190 and 200 and Chapter XV inquiry. These available procedures informed the refusal to entertain an ordinary writ petition seeking FIR registration.

Exceptional writ supervision - *Divine Retreat Centre* preserves rare Article 226 intervention where investigative power has been exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII requires intervention, without judicially prescribing how police investigate. The MP Division Bench in *Shweta Bhadauria* stated that the ordinary refusal of writ relief on the ground of an alternative remedy is subject to the recognised *Whirlpool* exceptions and distinguished *Lalita Kumari*'s Section 154 duty from a right to mandamus without using available remedies. The High Court applied the ordinary rule requiring recourse to the statutory remedies.

Private trust / separate relief - The Court also held that the Collector and Tehsildar had no role in recovering the funds of the private trust described by the petitioner and indicated a civil suit for recovery. This provided an additional ground for dismissing the petition. The holding concerned the remedy for recovery; it did not determine whether the alleged withdrawals constituted a criminal offence.

Case-note :- ***1. Facts :*** Ram Milan Tiwari petitioned under Article 226 of the Constitution in Writ Petition No. 10868/2024. He sought a writ of mandamus directing the police to register an FIR against identified respondents for alleged serious offences, action against a respondent accused of failing to perform duties and harassing him, and directions to the Collector and Tehsildar to recover money allegedly withdrawn from a trust. He said his father had created the Ram Chandra Mandir private trust, with him and his sister Godavari Bai as trustees; he referred to a finding in a second appeal concerning trusteeship and to an earlier writ finding that one respondent could not be treated as Godavari Bai's legal heir. After her death, according to his submissions, one respondent purported to become a trustee and, together with other respondents, fraudulently withdrew about Rs 10 lakh from the trust account. He said police did not act on his complaint and revenue officials did not recover the amount.

The State appeared. The Court addressed the writ request for FIR registration against the statutory remedies for police inaction, quoted the governing Supreme Court and MP Division Bench law, then separately addressed the request for administrative recovery from a private trust. The order is dated 15 May 2024.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted on the separation between police duty to register information disclosing a cognizable offence and the method of addressing failure to register it. The Supreme Court reconciled *Ramesh Kumari*'s duty holding with *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari* on the informant's remedy: a complaint before the Magistrate under Sections 190 and 200 CrPC. The High Court adopted that distinction while preserving the police duty to register information disclosing a cognizable offence.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was cited on both the ordinary complaint remedy and the exceptional writ jurisdiction. In an ordinary case of police inaction, Sections 190 and 200, with the Magistrate's Chapter XV inquiry, are available and a writ is not entertained merely to secure an FIR. In a rare case with a clear showing that investigative power has been exercised mala fide, with abuse of power and noncompliance with Chapter XII, the High Court may use Article 226 to secure compliance with the proper process; even then the High Court cannot tell police how to investigate. Its quotation of *Gangadhar* explains the Magistrate's ability, after complaint inquiry and

prima facie satisfaction, to take cognizance, issue process or direct investigation and report, or dismiss a complaint that discloses no offence.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted for the statutory sequence: written application to the Superintendent under Section 154(3) if police do not register an FIR, then a Section 156(3) application to the Magistrate if no satisfactory registration or investigation follows. The Magistrate may direct registration of an FIR and a proper investigation, and may monitor that investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterated the Magistrate route instead of routine Article 226 applications, including the discretion to recommend a different investigating officer and to monitor the investigation, without conducting it personally. The Court applied these authorities in declining the requested writ. Its decision concerned the procedural remedy, rather than the truth of the allegations concerning the trust.

The MP High Court Division Bench in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 decided 20 December 2016, was applied as the local binding formulation. It held that mandamus to enforce the Section 154 duty may be declined for failure to use Sections 154(3), 156(3), 190 and 200, subject to the four recognised *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, exceptions. It also distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which concerns the police's registration obligation, from the separate entitlement to a High Court writ without exhausting adequate alternative remedies.

3. Statutes considered : Article 226 provided the jurisdiction invoked for mandamus. The Court declined to exercise it for the ordinary FIR-registration relief in view of the effective remedies under criminal procedure. Section 154 CrPC requires the police to register information disclosing a cognizable offence as described in *Aleque Padamsee*; subsection (3) permits an approach to the Superintendent of Police when the police station fails to act. Section 156(3) allows the Magistrate to direct and oversee proper police investigation on a prima facie basis. Sections 190 and 200, with Chapter XV complaint inquiry, enable an aggrieved person to place a complaint before a competent Magistrate. Chapter XII governs police investigation and provides the statutory context for *Divine Retreat Centre*'s discussion of exceptional intervention to secure compliance with the prescribed process.

4. Issues : Whether Article 226 mandamus should require registration of an FIR on Tiwari's allegation of fraudulent withdrawal from a private trust where police allegedly failed to respond and the CrPC offered remedies before superior police officers and the Magistrate; how the police duty recognised in registration cases differs from the procedural route to enforce it; whether exceptional writ review over mala fide investigation changes the ordinary rule on these pleadings; and whether the Collector and Tehsildar could be compelled by writ to recover money from a private trust, as distinct from a public trust.

5. Ratio / Findings : The Court treated the FIR prayer as an ordinary complaint of police inaction and held that a writ petition for that purpose was not maintainable in the circumstances. *Aleque Padamsee* preserved the underlying police obligation when facts disclose a cognizable offence, while directing an aggrieved complainant to Sections 190 and 200 when police do not comply. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* set out the procedure under Sections 154(3) and 156(3) and the Magistrate's powers to order registration, ensure proper investigation and monitor it. *Divine Retreat Centre* preserved limited intervention under Article 226 where investigative power has been exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII warrants intervention, while confining the Court to securing compliance with lawful process. The High Court applied the ordinary rule requiring recourse to the statutory remedies. *Shweta Bhadauria*'s distinction from *Lalita Kumari* and its alternative-remedy qualification provided the writ standard applied by the Madhya Pradesh High Court.

On the recovery prayer, the petitioner himself described Ram Chandra Mandir as a private trust. The Court held the Collector and Tehsildar had no role in recovering the funds allegedly withdrawn from that private trust and indicated a civil suit as the petitioner's route for recovery. This separate ruling on the recovery prayer formed a further basis for dismissing the petition.

6. Relief : The Hon’ble High Court dismissed the writ petition as the reliefs claimed were not maintainable in the form presented. The authorities quoted identified the statutory remedies before superior police officers and the Magistrate, while the

Court held that the petitioner had to seek recovery of the trust funds by filing a civil suit. The dismissal was based on maintainability and did not adjudicate the merits of those potential proceedings.

Ram Milan Tiwari v. The State of Madhya Pradesh and Ors., W.P. no. 10868/2024, 15/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Injured witnesses / presence - *Mohar v. State of U.P., (2002) 7 SCC 606*, *State of U.P. v. Naresh, (2011) 4 SCC 324*, and *Baleshwar Mahto v. State of Bihar, (2017) 3 SCC 152*, discussing *Abdul Sayeed v. State of M.P., (2010) 10 SCC 259*, give substantial weight to injuries as evidence of an eyewitness's presence, while permitting rejection for convincing material contradictions. Buddhe, Kamlesh and child Suraj had documented injuries; two had incised head wounds, and Kamlesh had fractures. Their accounts were assessed alongside the evidence of the three other eyewitnesses, the postmortems and the MLCs. Their relationship to one another and to the deceased did not negate that supporting evidence.

Related, interested and unexamined witnesses - *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, *Raju v. State of T.N., (2012) 12 SCC 701*, *Jodhan v. State of M.P., (2015) 11 SCC 52*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, demand careful scrutiny, especially with animus; neither relation nor interest automatically defeats otherwise credible proof, nor does independent corroboration invariably become mandatory. *Raju* cautions against a categorical assumption that a related witness can never be interested. *Gian Singh* as quoted, *Mahesh v. State of Maharashtra, (2008) 13 SCC 271*, and *Vijendra Singh* require assessment of whether an unexamined witness would fill a material gap, rather than reliance on the number of villagers examined. The Court credited the six examined witnesses and did not draw an adverse inference merely because other villagers did not testify.

Enmity / competing inference - *Kunwarpal v. State of Uttarakhand, (2014) 16 SCC 560*, *Ruli Ram v. State of Haryana, (2002) 7 SCC 691*, and *State of U.P. v. Kishan Chand, (2004) 7 SCC 629*, treat prior hostility as capable of explaining both false implication and attack. The Court considered the defence-proved 2006 cross-case and the FIR's earlier-dispute allegation, then found that the armed opposition to the Bhujaria apology and the injuries supported the inference of retaliation by the appellants. The Court did not accept the theory of false implication as sufficient.

Group assault / medical fit - *Abdul Sayeed* recognises the limits of precise blow allocation during an attack by several assailants. *Baleshwar Mahto and CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, require independent assessment of ocular evidence. An alternative medical possibility does not displace credible ocular evidence; medical evidence that completely rules out the account is material. The eyewitnesses identified sharp-weapon roles; cuts, head fracture, liver injury and multiple blunt wounds supported those accounts and the participation of the persons armed with lathis. Neither the absence of a penetrating skull wound nor the failure to show the seized weapons to the doctor made the described assault impossible. The Court affirmed each appellant's direct or Section 149 counts according to his proved role, preserving the differing individual convictions.

Delayed statements / other defences - *Banti v. State of M.P., (2004) 1 SCC 414*, *Prithvi (Minor) v. Mam Raj, (2004) 13 SCC 279*, *Sunil Kumar v. State of Rajasthan, (2005) 9 SCC 283*, and *State of U.P. v. Satish, (2005) 3 SCC 114*, require assessment of an explanation for delay in recording statements under Section 161 CrPC rather than an automatic adverse result. The officer was not asked about the roughly two-month delay. The two injured witnesses explained that they had returned after an absence of about two months. Kamlesh linked his absence to treatment. Other accounts were recorded the next day, and the FIR was prompt. The Court also rejected daytime photographs as alibis for a 7–7:30 pm attack and accepted the identification of familiar villagers in limited light, taking into account the suggestion that it was a full-moon night. *Ramesh v. State, (2010) 15 SCC 49*, supports such identification on the facts of the particular case.

Murder / Exception 4 - *Surain Singh v. State of Punjab, (2017) 5 SCC 796*, requires absence of premeditation, sudden fight, no unfair advantage or cruelty, and fighting with the deceased; suddenness alone does not suffice. The Court found an armed retaliatory attack on five people, two of whom died, after rejection of a conciliatory visit and held unfair advantage and cruelty defeated conversion to

Section 304 Part I. Both appeals were dismissed and all trial convictions and sentences were affirmed, with the sentences to run concurrently. The two appellants on bail were directed to surrender.

Case-note :- ***1. Facts :*** Two connected appeals, Criminal Appeal Nos. 235 and 373 of 2010, challenged the judgment dated 8 March 2010 of the Sixth Additional Sessions Judge (Fast Track Court), Lahar, Bhind in Sessions Trial No. 5/2008. Appeal 235 was brought by Ramsewak, Lal Singh, Ajmer and Hardaul; appeal 373 by Ramgopal, Ram Singh, Rambahadur, Ramprakash and Akhilesh. The case concerned the deaths of Mungaram and Rameshwar and injuries to Buddhe, Kamlesh and Suraj in a village assault on 28 August 2007 around 7–7:30 pm. The trial court convicted all nine under Section 148 IPC; the convictions on two Section 302 counts and two Section 307 counts varied between direct liability and liability under Section 149 by appellant and victim. The Section 323 conviction was constructive for every appellant. It imposed one year's rigorous imprisonment under Section 148, life imprisonment and Rs 5,000 fine with one year's rigorous imprisonment in default on each murder count, seven years and Rs 2,500 fine with six months' rigorous imprisonment in default on each attempt count, and six months' simple imprisonment for the hurt count. The judgment states the sentences run concurrently.

The prosecution said Buddhe and Kamlesh went to Sarpanch Ramsewak's house to tie Bhujaria, described in the proceeding as a gesture of apology after an earlier quarrel. A group of appellants, armed with axes, Ballam/Barchhi and lathis, refused to allow the gesture, challenged them and attacked them. Mungaram, Rameshwar and Suraj arrived on hearing the disturbance and were also attacked. Witnesses attributed axe injuries to Akhilesh and Ram Singh, sharp/pointed-weapon injuries to Lal Singh and Ramprakash (also referred to as Prakash), and lathi blows to Ramsewak, Ramgopal, Rambahadur (Bahadur), Ajmer and Hardaul. Mungaram died at the spot and Rameshwar on the way to the police station. Buddhe lodged a same-night FIR. A previous 2006 quarrel had produced a pending case after Buddhe and Kamlesh allegedly assaulted women of Ramgopal's family over cattle; the two sides relied on this history for different purposes.

The postmortem of Mungaram recorded cuts and contusions, fractured rib and lacerated liver, with fatal haemorrhage; Rameshwar had cuts and contusions with an occipital fracture and fatal head injury. Buddhe and Kamlesh had incised scalp wounds and other injuries; Kamlesh had fractures of a finger phalanx and clavicle. Twelve-year-old Suraj had a hand cut and thigh contusion. The prosecution called six eyewitnesses: injured Kamlesh, Buddhe and Suraj, and Janak Singh, another Ram Singh (PW5, not the appellant) and Gaura, Mungaram's widow. They gave varying levels of detail during a multiple-assailant episode. Some police statements were recorded the next day, following the FIR that night, whereas the statements of Kamlesh, Suraj and Janak were recorded about two months later.

The defence contended that the incident was sudden and unplanned, no precise lathi blow was attributed to each appellant, sharp-weapon accounts did not fit the injuries, blood and weapon proof were inadequate, recognition at dusk was doubtful, late statements were suspicious, and independent villagers had not been examined. Akhilesh, Ramgopal and Ajmer advanced alibi accounts using photographs from another village; Ramsewak said he was resting with injuries from an earlier bicycle fall. The State defended all convictions. Alternatively, the appellants sought Section 304 Part I rather than murder.

2. Precedents — Considered : *Mohar v. State of U.P., (2002) 7 SCC 606*, and *State of U.P. v. Naresh, (2011) 4 SCC 324*, were quoted for the special evidentiary weight of a witness injured in the same event: bodily injury tends to establish presence, and convincing grounds or major discrepancies are needed to discredit the account, though it is not irrebuttable. *Baleshwar Mahto v. State of Bihar, (2017) 3 SCC 152*, adopted the same approach by quoting *Abdul Sayeed v. State of M.P., (2010) 10 SCC 259*, and also explained that expert medical opinion must be assessed alongside an independent evaluation of the credibility of ocular evidence. Hypothetical alternatives do not automatically prevail, while medical evidence that completely excludes the account may be material. The present Court applied this to the injuries of Buddhe, Kamlesh and Suraj and the two postmortems, rather than relying merely on their family relationship.

Mahavir Singh v. State of M.P., (2016) 10 SCC 220, called for special scrutiny of a genuinely interested witness and explanation of a chance witness's presence. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, through *Darya Singh*, required careful

testing of testimony of family members sharing hostility towards the accused while rejecting a universal independent-corroboration condition. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, and *Jodhan v. State of M.P., (2015) 11 SCC 52*, allowed credible, carefully evaluated related or interested evidence to support conviction. *Raju v. State of T.N., (2012) 12 SCC 701*, cautioned that a natural family witness may still be interested in punishment and that an inimical relative's account needs discerning scrutiny; it questioned a broad assertion that kinship and interest can never overlap. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, treated enmity as a reason for caution, not mechanical exclusion. The Court quoted this extensive line and accepted the injured and other eyewitnesses after considering their actual presence, physical injuries, medical corroboration and the history of rivalry.

Kunwarpal v. State of Uttarakhand, (2014) 16 SCC 560, Ruli Ram v. State of Haryana, (2002) 7 SCC 691, and *State of U.P. v. Kishan Chand, (2004) 7 SCC 629*, were used for the two possible inferences from animosity: it may prompt a false accusation or motivate the violence. This Court weighed the 2006 cross-case, FIR and conduct at the attempted Bhujaria reconciliation before drawing the inference that the hostility had motivated the violence.

Abdul Sayeed, (2010) 10 SCC 259, also explained why witnesses to an attack by numerous assailants need not identify, with forensic precision, who inflicted each of the many blows. *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, quoted the medical/ocular test from *Abdul Sayeed*: credible eyewitness evidence may survive medical variation unless the medical facts completely rule it out. This Court used these principles to uphold the participation of the persons armed with lathis alongside the specified acts with sharp weapons. It rejected the suggested contradiction arising from the absence of a penetrating head wound.

The judgment introduces an extract as *Gian Singh*, while the discussion reproduced from *Vijendra Singh, (2017) 11 SCC 129*, identifies *State of H.P. v. Gian Chand.* That discussion and *Mahesh v. State of Maharashtra, (2008) 13 SCC 271*, address unexamined independent witnesses. Available credible proof is assessed first; failure to call others does not automatically require rejection. A genuinely withheld material witness who would fill a significant unproved gap may, however, justify an adverse inference. The Court treated additional village witnesses as unnecessary duplication given the injuries and six witnesses, noting that villagers may hesitate in factional disputes. *Ramesh v. State, (2010) 15 SCC 49*, rejected automatic failure of identification of known neighbouring assailants merely due to limited evening light; the Court applied that cautiously with the admitted full-moon suggestion, pre-existing acquaintance and the injured witnesses who identified the assailants.

Banti v. State of M.P., (2004) 1 SCC 414, Prithvi (Minor) v. Mam Raj, (2004) 13 SCC 279, Sunil Kumar v. State of Rajasthan, (2005) 9 SCC 283, and *State of U.P. v. Satish, (2005) 3 SCC 114*, treat delay in Section 161 CrPC statements as contextual, calling for a plausible explanation and, ordinarily, a direct question to the investigating officer rather than an automatic adverse assessment of credibility. The Court applied this to the recording of Kamlesh's and Suraj's statements after their return to the village about two months later. Kamlesh linked his absence to treatment. Buddhe's statement and those of the other early witnesses were recorded promptly, and the FIR was prompt. The officer was not asked a categorical question on the delay.

Surain Singh v. State of Punjab, (2017) 5 SCC 796, supplied the four cumulative Section 300 Exception 4 requirements: lack of premeditation, sudden fight, heat of passion, and no undue or unfair advantage or cruel or unusual conduct; the fight must concern the person killed. The Court applied them to the group violence, previous grudge and attacks on interveners, holding suddenness by itself insufficient to reduce the murder convictions.

3. Statutes considered : Section 148 IPC governed rioting while armed with deadly weapons. Section 149 supplied constructive liability for acts in prosecution of the unlawful assembly's common object on the specified murder, attempt and simple-hurt counts, while direct convictions under Sections 302 and 307 concerned individually identified conduct. Section 302 IPC governed two murders; Section 307 governed attempted killings of Buddhe and Kamlesh, and Section 323 simple injuries to Suraj. Section 300 Exception 4 was invoked as the defence's basis for reducing the murders to Section 304 Part I; all its conditions had to be satisfied and the Court rejected it. Section 161 CrPC concerned timing of police witness statements. Section 374 CrPC supplied appeal jurisdiction.

4. Issues : Whether medical proof showed two homicidal deaths and the three surviving victims' injuries; whether the six eyewitnesses, including three injured and one child, remained credible despite relationship, factional animosity, alleged low light, failure to examine additional villagers and delayed Section 161 recordings; whether the scene evidence and wound pattern supported named sharp-weapon and group lathi roles despite no puncture wounds or doctor opinion on seized weapons; whether prior hostility explained retaliatory assault or raised reasonable doubt of false implication; whether the separate alibis of Akhilesh, Ramgopal and Ajmer, and Ramsewak's claim that he was resting because of injuries, excluded presence; whether Section 148 and each direct or Section 149 murder, attempt and hurt count remained proved for each appellant; and whether a purportedly sudden encounter came within every condition of Section 300 Exception 4 so as to substitute Section 304 Part I.

5. Ratio / Findings : Dr Dinesh Gupta's postmortems proved Mungaram's fatal haemorrhage from a lacerated liver associated with rib fracture and Rameshwar's fatal head injury with occipital fracture. The MLCs proved Buddhe's multiple injuries including a scalp cut, Kamlesh's scalp cut, contusions and two fractures, and Suraj's hand cut and thigh contusion. The Court found both deaths homicidal and the injuries compatible with attacks using sharp and blunt weapons. It did not accept the argument that no injury could have been caused by a sharp edge; several incised wounds were recorded. It reasoned that the blows to the head with Ballam/Barchhi need not leave a penetrating skull wound and that not showing the weapons to the doctor did not alone defeat a reliable eyewitness case. *Baleshwar Mahto* and *Mohd. Parvez* required credible ocular evidence to be independently tested, while medical evidence completely ruling out the ocular account would remain material. Bloodstained earth was seized, and an FSL item showed blood; although the spot map did not explicitly label blood and the transmission draft was unexhibited, no focused cross-examination or competing scene account made those gaps decisive.

The three injured eyewitnesses' wounds supported presence and their accounts named the assailants. Kamlesh and Buddhe initially visited Ramsewak's house and Suraj arrived with the interveners. Janak, prosecution witness Ram Singh and Gaura corroborated the core; the Court did not treat family relationship as establishing interest or disqualification automatically. It considered the prior criminal proceeding against Buddhe and Kamlesh on the accused family's complaint. Under *Kunwarpal*, *Ruli Ram* and *Kishan Chand*, this could support suspicion of false implication, but the Court found an actual retaliatory reason in the armed opposition to the attempted reconciliation, followed by attacks on the two men and those who tried to stop them. It assessed the eyewitness testimony and medical record before accepting motive rather than using motive alone as proof. The failure to examine additional villagers did not leave a material gap warranting an adverse inference; the Court viewed the six examined accounts as adequate, while acknowledging possible reluctance in village faction cases. The incident was around 7–7:30 pm, but witnesses already knew the appellants, and the defence itself elicited a full-moon night; *Ramesh* supported the limited-light recognition conclusion.

The Court separated the sharp-weapon attributions from the lathi group. Akhilesh and appellant Ram Singh were identified with axes; Lal Singh and Ramprakash with Barchhi/Ballam. Witnesses named the remaining lathi bearers, though they could not enumerate which of the roughly 29 injuries each had personally caused. *Abdul Sayeed* allowed realistic testimony amid numerous assailants, and the recorded blunt injuries supported participation. The Court affirmed the original differences between the offence-specific convictions: Ram Singh had direct Section 302 for Mungaram and constructive Section 302/149 for Rameshwar; Lal Singh and Ramprakash had direct Section 302 for Rameshwar and constructive Section 302/149 for Mungaram; Akhilesh had direct Section 307 on the two injured targets and constructive Section 302/149 on both deaths. Ramsewak, Ajmer, Hardaul, Ramgopal and Rambahadur had constructive Section 302/149 for both deaths, Section 307/149 for the two attempted killings, and Section 323/149 for Suraj, along with Section 148. These were final trial findings affirmed on appeal, not a claim that each was proved to have wielded the fatal implement.

The Section 161 statements of Kamlesh, Suraj and Janak were recorded about two months later, but Kamlesh and Suraj said that they had returned to the village then. Kamlesh linked his absence to treatment. The investigator was not specifically challenged on the reason. Buddhe's FIR was same-

night and his, PW5 Ram Singh's and Gaura's accounts were recorded the next day. *Banti*, *Prithvi*, *Sunil Kumar* and *Satish* precluded an automatic adverse consequence based on delay without considering its context. The alibis failed individually. A daytime photograph potentially showing Akhilesh at a village about 35 km away around 3 pm did not exclude his return before the 7–7:30 pm violence, and no independent record established Ramgopal's overnight stay. Ajmer's daytime photographs, uncorroborated by persons pictured or printing records, did not establish his location at the assault. Ramsewak's MLC and X-ray were from 4 September, his arrest date, without treatment evidence tying the injuries to an alleged 26 August bicycle fall or proof he was resting at the material hour.

Finally, a prior grudge, armed gathering, refusal of the Bhujaria gesture and continued unprovoked attacks on five persons, including two who came to intervene, led the Court to describe the assault as revengeful, unfair and cruel. Under *Surain Singh*, even accepting some immediate quarrel would not establish the absence of premeditation and, especially, the no-undue-advantage and no-cruelty conditions of Exception 4. It rejected Section 304 Part I and maintained both murder counts and the attempt/hurt convictions. Life imprisonment was the minimum sentence under Section 302 as applied, and all sentences were directed to run concurrently.

6. Relief : The Hon'ble High Court dismissed both appeals and affirmed the trial judgment and sentence dated 8 March 2010 for all nine appellants with their distinct direct and constructive counts. The two terms of life imprisonment for the murders, the two seven-year attempt terms, Section 148 term, Section 323 term and associated fines/default provisions remained as imposed, with all sentences concurrent. Ramprakash in Appeal 373 and Hardaul in Appeal 235 were on bail; their bonds were cancelled and they were ordered to surrender immediately before the trial court to serve the remainder. The other seven were in jail and were to continue serving their sentences. A free copy of the judgment was directed to be given to each appellant, and the trial record was directed to be returned for compliance.

Ram Sewak and Ors. v. State of M.P., Cr.A. no. 235/2010 & 373/2010, 23/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Injured, related and interested witnesses - *Mohar v State of U.P., (2002) 7 SCC 606*, *State of U.P. v Naresh, (2011) 4 SCC 324*, and *Baleshwar Mahto v State of Bihar, (2017) 3 SCC 152*, with *Abdul Sayeed*, recognise injuries as supporting a witness's presence, while allowing rejection of the testimony for major contradictions. *Mahavir Singh v State of M.P., (2016) 10 SCC 220*, *Harbeer Singh v Sheeshpal, (2016) 16 SCC 418*, *Vijendra Singh v State of U.P., (2017) 11 SCC 129*, *Raju v State of T.N., (2012) 12 SCC 701*, *Jodhan v State of M.P., (2015) 11 SCC 52*, and *Yogesh Singh v Mahabeer Singh, (2017) 11 SCC 195*, require careful assessment of relationship, interest and enmity rather than categorical rejection; *Raju* warns against treating a relative who is a natural witness as invariably disinterested. The three injured witnesses, including child Suraj, and three further eyewitnesses were credited after scrutiny and medical corroboration.

Motive / enmity - *Kunwarpal v State of Uttarakhand, (2014) 16 SCC 560*, *Ruli Ram v State of Haryana, (2002) 7 SCC 691*, and *State of U.P. v Kishan Chand, (2004) 7 SCC 629*, treat prior hostility as capable of motivating assault or false implication. The earlier assault case arising from the buffalo entering the field, and the rejection of the Bhujaria apology, supplied a motive for the armed attack in this case; the Court did not infer guilt from hostility alone.

Medical and ocular evidence / collective assault - *Baleshwar Mahto, Abdul Sayeed and CBI v Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, require an independent assessment of the credibility of ocular testimony. Medical evidence that completely rules out that account is material, while alternative medical possibilities alone do not displace credible testimony. Wounds from edged and blunt weapons, fatal injuries to the skull and liver, and injuries to three survivors supported the witnesses; failure to show the weapons to the doctor and lack of punctured skull wounds did not negate the described assault. *Abdul Sayeed* also explains why a witness to an attack by several assailants need not attribute each

of 29 wounds to a particular attacker, though specific edged-weapon acts were recounted.

Independent witnesses / adverse inference - *State of H.P. v Gian Chand (introduced as "Gian Singh" before one extract), Mahesh v State of Maharashtra, (2008) 13 SCC 271*, and *Vijendra Singh*, with its *Takhaji Hiraji* distinction, treat the failure to examine an available witness as material only where that witness was needed to fill a gap in the prosecution case. Reliable injured testimony and corroboration made the absence of further villagers non-fatal in this incident on a public way in a village affected by factional rivalry.

Delayed police statements / CrPC §161 - *Banti v State of M.P., (2004) 1 SCC 414, Prithvi (Minor) v Mam Raj, (2004) 13 SCC 279, Sunil Kumar v State of Rajasthan, (2005) 9 SCC 283*, and *State of U.P. v Satish, (2005) 3 SCC 114*, reject automatic distrust based on delay. The explanation, questions put to the investigating officer and credibility of the testimony govern the assessment. The FIR was promptly lodged by an injured witness, three accounts were recorded the next day, and Kamlesh and Suraj explained their absence for two months. The delayed accounts were accepted.

Alibi / evening presence - A 3 p.m. photograph at a village 35 km away did not rule out Akhilesh's return by the 7–7:30 p.m. assault and did not independently establish Ramgopal's presence there. It was not proved that Ajmer's daytime photographs were taken on the date of the incident; Ramsewak's medical records were generated after arrest and did not prove confinement at home on the attack date. The prosecution's separate positive evidence remained essential.

Murder / Exception 4 / group liability - *Surain Singh v State of Punjab, (2017) 5 SCC 796*, requires all the conditions governing a sudden mutual fight to be met, including absence of premeditation, undue advantage or cruel conduct. An armed revenge assault with repeated wounds on two deceased and three injured did not qualify for §304 Part I conversion merely because the immediate exchange began suddenly. The convictions under section 302/307 directly and with the aid of §149 remained distinct for each appellant; all sentences were concurrent; the appeals were dismissed.

Case-note :- ***1. Facts :*** Criminal Appeals 235/2010 and 373/2010 challenged the judgment dated 8 March 2010 of the VI Additional Sessions Judge (Fast Track), Lahar, in Sessions Trial 5/2008. On 28 August 2007 about 7–7:30 p.m., brothers Buddhe and Kamlesh approached Sarpanch Ramsewak's house for the Bhujaria custom of tying paddy ears as an apology after a prior dispute. The prosecution said nine appellants and another named participant were armed with axes, ballam, barchhi and lathis, objected to the visit and assaulted them. When their relatives Mungaram and Rameshwar and young Suraj arrived to calm the altercation, the assault extended to them. Mungaram died at or near the site from haemorrhage due to a lacerated liver and fractured rib; Rameshwar died en route with an occipital fracture and head wounds. Kamlesh had incised head and other wounds with fractures of a finger bone and clavicle; Buddhe had an incised scalp wound and multiple contusions; 12-year-old Suraj had a hand incision and thigh contusion. The FIR was lodged by injured Buddhe that evening, followed by post-mortems, MLCs, documentation of the scene and the seizure of earth, witness statements and weapon seizures. The trial court convicted the nine appellants under §148 for armed rioting, on two homicide and two attempt counts, and under §323/149 for the injuries to Suraj, distinguishing direct liability from liability under §149. It imposed life imprisonment on two counts, seven-year terms for the attempts, one year under §148 and six-month terms for simple injuries, as applicable, with fines and default terms. All sentences were concurrent. The appellant groups were Ramsewak, Lal Singh, Ajmer and Hardaul in Appeal 235, and Ramgopal, Ram Singh, Rambahadur, Ramprakash and Akhilesh in Appeal 373.

The defence alleged a sudden quarrel without premeditation, old enmity and false implication, lack of precise lathi-blow allocation, variance between ballam/barchhi claims and wound types, absence of blood at the scene and of independent villagers, poor lighting, delayed §161 statements and failure to show weapons to the doctor. Akhilesh and Ramgopal invoked a visit to Katha village for a function celebrating a birth; Ajmer relied on daytime village photographs; Ramsewak asserted confinement after a bicycle injury. They sought acquittal or conversion from §302 to §304 Part I. The State defended the verdict.

2. Precedents — Considered : For injured eyewitnesses, *Mohar v State of U.P., (2002) 7 SCC 606*, treated injury as strong confirmation of presence and required convincing evidence to discredit an injured witness; *State of U.P. v Naresh*,

(2011) 4 SCC 324, described a "stamped" witness's special status, though material contradictions remain a basis for rejection. *Baleshwar Mahto v State of Bihar, (2017) 3 SCC 152*, quoted *Abdul Sayeed v State of M.P., (2010) 10 SCC 259*, on injuries as supporting presence and the need to assess substantial discrepancies; it also reproduced the medical/ocular caution that a doctor's hypothetical alternative cannot automatically displace credible eyewitness testimony. The Court applied those principles to the documented injuries of Buddhe, Kamlesh and Suraj and the corroborating other witnesses, while separately testing the medical objections.

Mahavir Singh v State of M.P., (2016) 10 SCC 220, required interested-witness evidence to be cogent and trustworthy, and a chance witness to give a plausible explanation for being present. *Harbeer Singh v Sheeshpal, (2016) 16 SCC 418*, quoted *Darya Singh* on careful scrutiny of relatives sharing hostility but rejected compulsory independent corroboration as a rule; it also recognised that the prosecution need call material witnesses rather than every witness whose evidence would be cumulative. *Vijendra Singh v State of U.P., (2017) 11 SCC 129*, quoted *Hari Obula Reddy* and *Kartik Malhar* for cautious reliance on interested testimony where it is intrinsically reliable. *Raju v State of T.N., (2012) 12 SCC 701*, offered a qualification: it considered a natural relative's interest in punishment and warned that the *Kalki* formulation treating a natural relative as necessarily disinterested was too narrow, particularly where enmity may heighten the danger of adding an innocent person. It prescribed more discerning scrutiny as a rule of prudence, rather than an absolute legal requirement of corroboration. *Jodhan v State of M.P., (2015) 11 SCC 52*, quoted *Dalip Singh* and *Hari Obula Reddy* for careful, truth-focused review, seeking material corroboration where actual false-implication motive exists. *Yogesh Singh v Mahabeer Singh, (2017) 11 SCC 195*, surveyed *Dalip Singh*, *Piara Singh*, *Hari Obula Reddy* and *Ramashish Rai* and called enmity a double-edged fact, not automatic exclusion. The Court considered these authorities when assessing kinship, the earlier cross-case and the six prosecution witnesses.

On motive, *Kunwarpal v State of Uttarakhand, (2014) 16 SCC 560, Ruli Ram v State of Haryana, (2002) 7 SCC 691*, and *State of U.P. v Kishan Chand, (2004) 7 SCC 629*, explain that enmity can motivate both the crime and false implication and must be weighed with credible proof. The Court found the earlier case arising from the buffalo entering the field, and the refusal to accept the apology, supported the motive for the assault, rejecting the defence's exclusive false-implication inference. *Abdul Sayeed, (2010) 10 SCC 259*, was later cited directly on the practical difficulty of describing every injury in an attack by several assailants. *CBI v Mohd. Parvez Abdul Kayuum, (2019) 12 SCC 1*, quoted *Abdul Sayeed*'s rule that medical evidence completely excluding ocular possibility may discredit it, while minor conflict and alternative medical possibility do not. The Court applied this principle to the axe and lathi injuries and the blows to the head with pointed weapons that had not caused puncture wounds. It accepted the direct evidence despite the failure to show the weapons to the doctor.

On missing independent witnesses, the judgment introduces an extract as "*Gian Singh* (supra)," but *Vijendra Singh*'s reproduced discussion identifies the rule as *State of H.P. v Gian Chand*. The rule is that absence of a material witness is contextual: reliable testimony is not automatically nullified, but a witness withheld who could fill a genuine gap can support an adverse inference. *Mahesh v State of Maharashtra, (2008) 13 SCC 271*, protected a credible injured roadside eyewitness despite missing bystanders. *Vijendra Singh, (2017) 11 SCC 129*, elaborated *Gian Chand*, *Takhaji Hiraji*, *Dahari* and other cases, contrasting redundant cumulative testimony with an essential unexamined witness. The High Court relied on the existing evidence because six eyewitnesses and medical evidence already supported the assault in a village affected by factional rivalry, near the Sarpanch's home.

For delayed police statements, *Banti v State of M.P., (2004) 1 SCC 414*, rejects universal suspicion and considers plausible explanation and whether the IO was specifically asked about delay. *Prithvi (Minor) v Mam Raj, (2004) 13 SCC 279*, warns against making a fetish of delay, quoting *Mohd. Khalid* on credible testimony despite an explained gap. *Sunil Kumar v State of Rajasthan, (2005) 9 SCC 283*, and *State of U.P. v Satish, (2005) 3 SCC 114*, similarly found the absence of IO questioning and witness explanations material. The Court applied these qualifications to the prompt recording of Buddhe's and other witnesses' statements and the two-month absence explained by Kamlesh and Suraj.

Ramesh v State, (2010) 15 SCC 49, was cited for rural witnesses' ability to recognise known neighbours in meagre light. Here, the accused were known villagers, and defence questioning itself elicited that it was a full-moon night. *Finally Surain Singh v State of Punjab, (2017) 5 SCC 796*, required every Exception 4 element, including a sudden mutual fight without premeditation and no undue advantage or cruel conduct. The Court applied it to reject §304 Part I conversion in view of the repeated armed blows to five people.

3. Statutes considered : IPC §148 punished armed rioting; §149 imposed liability based on the group's common object for the specified homicides, attempts and simple hurt to Suraj, while some appellants retained direct convictions under §302 or §307. The two murder counts under §302 concerned distinct victims. The §307 counts concerned the distinct injured persons Kamlesh and Buddhe, and the count under §323/149 concerned Suraj. Section 300 Exception 4 was central to the requested §304 Part I conversion: a sudden event alone was insufficient unless the additional requirements of a mutual fight, heat of passion, absence of premeditation and absence of unfair advantage or cruel conduct were met. The Court upheld §302, noting life imprisonment as the minimum. CrPC §161 governed the timing objection to witness statements, evaluated for explanation rather than automatic exclusion.

4. Issues : Whether the prosecution's six eyewitness accounts, three from medically injured witnesses including 12-year-old Suraj, were reliable despite family ties, prior hostility and differences in roles or memory. Whether prior enmity more plausibly supported false implication or an armed revenge motive. Whether non-examination of additional independent villagers, delayed §161 statements, lighting, spot blood notation, failure to show the seized weapons to the doctor and alleged ballam/barchhi wound conflict undermined the location and perpetrators. Whether daytime photos or an MLC prepared after arrest established alibis for Akhilesh, Ramgopal, Ajmer or Ramsewak at the evening event. Whether an apparently sudden confrontation qualified for §300 Exception 4 and §304 Part I in light of repeated attacks on five victims. Finally, what findings of direct liability and liability under §149, sentences and custody directions applied to each appellant and victim.

5. Ratio / Findings : Post-mortem and MLC evidence established two homicides and injuries to three survivors, including Kamlesh's fractures. The wounds sustained by Buddhe, Kamlesh and Suraj supported their presence; Janak Singh, prosecution witness Ram Singh and Gaura supported the narrative. The Court examined family connections and the previous quarrel under the cited interested-witness authorities. *Raju* cautions against automatically treating kinship as establishing disinterest, but no substantiated material discrepancy here persuaded the Bench that the six witnesses fabricated the attack. The earlier criminal case arising from the buffalo entering the field was proved by defence exhibits; as *Kunwarpal*, *Ruli Ram* and *Kishan Chand* allow, this hostility also supplied a motive for the accused to reject the Bhujaria apology and attack. The FIR itself referred to the old quarrel. The Court found the assault was a revengeful act, not a provoked mutual fight.

The medical wounds included incisions and blunt trauma consistent with edged weapons, axes and lathis. The Court reasoned that a ballam/barchhi blow to a hard skull need not produce a deep penetrating wound, so lack of one did not completely negate the eyewitness version. It acknowledged that the spot map omitted a written blood notation and the prosecution had not proved the RFSL forwarding draft, but the seizure memo recorded bloodstained earth, the FSL found blood in Article A, the IO was not asked to establish a mismatch, and nobody suggested a changed location. Likewise, the failure to show the weapons to the doctor did not determine the result. Defence questioning disclosed a full-moon night; accused and witnesses knew each other, and the Court considered the proximity of houses and rural visual adaptation under *Ramesh*. These case-specific points supported observation of the assault. In an attack by nine people on five victims, resulting in 29 wounds, *Abdul Sayeed* explained why precise allocation of every lathi blow was unrealistic; witnesses nevertheless described specific edged-weapon acts and injuries caused by blunt weapons corroborated the collective assault. The failure to examine other villagers did not reveal an essential gap in the six accounts accepted by the Court, as *Gian Chand*, *Mahesh* and *Vijendra Singh* require; an adverse inference could arise where an available essential witness is withheld and that evidence is needed to fill a genuine gap, which the Court did not find here.

Buddhe's statement and those of two other witnesses were recorded the next day. Kamlesh and child Suraj

described returning after two months, accounting for their later statements; the IO was not specifically asked about the delay. Applying *Banti*, *Prithvi*, *Sunil Kumar* and *Satish*, the Court held this lapse did not automatically make their medically supported testimony unreliable. The alibis failed on their own facts: a 3 p.m. photograph 35 km away did not prevent return before the 7–7:30 p.m. assault and did not independently establish Ramgopal's presence there; Ajmer's photographs were taken during the day, and it was not adequately proved that they were taken on the date of the incident; Ramsewak's medical examination took place on 4 September after his arrest and did not prove his alleged bicycle fall or that he was resting at home on 28 August. The positive prosecution proof remained independently assessed.

Under *Surain Singh*, a sudden encounter does not satisfy Exception 4 unless there was a mutual sudden fight, without premeditation, unfair advantage or cruel conduct. The armed challenge and repeated injuries killing both interveners and hurting three others showed revenge, unfair advantage and cruelty, so the §302-to-§304 Part I request failed. The Court affirmed direct and constructive liability by victim: Akhilesh's two §302/149 and two direct §307 counts; Ram Singh's direct §302 for Mungaram and §302/149 for Rameshwar; Ramprakash and Lal Singh's direct §302 for Rameshwar and §302/149 for Mungaram. Each of those three retained convictions on two counts under §307/149. The other five appellants retained convictions on two counts under §302/149 and two under §307/149. All retained convictions under §148 and §323/149. It did not assign every individual wound to every appellant.

6. Relief : The Hon’ble High Court dismissed the appeals, affirming the 8 March 2010 Sessions Trial 5/2008 convictions and sentences. All sentences were directed to run concurrently; each term of life imprisonment, seven-year term for attempted murder, one-year term for armed rioting and six-month term for simple hurt, with the trial fines/default terms, remained in force as applicable to each appellant and victim. Ramprakash and Hardaul were on bail: their bonds were cancelled and they were directed to surrender immediately to serve the remaining imprisonment. The other appellants were in jail and were to serve their remaining terms. The Registry was directed to give every appellant a free copy and return the trial record for compliance. No §304 conversion, acquittal or remand was ordered.

Ram Sewak and Ors. v. State of M.P., Cr.A. no. 235/2010 & 373/2010, 23/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Common object and distinct convictions — *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, requires proof of an unlawful assembly of at least five persons sharing an object under Section 141. Mere presence is insufficient, but a separate overt act by each member is not essential. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, requires a clear finding, based on the evidence, of the nature of the unlawful object. The armed group arrived together where Arvind was sitting, several members carrying guns, and Hakim fired repeatedly. The Court inferred a common object to murder. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, addresses the overlapping elements of the rioting charges. The detailed trial table records convictions under Section 148, direct convictions under Sections 302/307 for Jagdish, Santosh, Dalel, Hakim and Atar Singh, and convictions under Sections 302/149 and 307/149 for Chhotelal and Bhure. A general opening sentence also mentions Section 147 without specifying an individual sentence under it. Ram Singh died during the appeal and his name was deleted from the cause title.

Homicide and intention — *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, identifies intention to inflict the particular injury and the objective sufficiency of that injury as distinct elements of Section 300 Thirdly. *Anda*, *Arun Nivalaji More* and *R. Punnayya* explain Sections 299–304. *Mahesh Balmiki*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *Kanhaiyalal* and *Bavisetti Kameswara Rao* require assessment of the facts, weapon, part of the body targeted and force used, rather than application of a fixed rule for a single blow. Multiple firearm wounds included injuries to the neck and abdomen and caused fatal haemorrhage. *Dhirajbhai Gorakhbhai Nayak* and *Kanhaiyalal* require all the conditions of Exception 4 to be met, including the absence of undue advantage or cruelty; *K.M. Nanavati* addresses grave and sudden provocation. The murder convictions were upheld without applying either the

sudden-fight or provocation exception to reduce them.

Alibi and prosecution burden — Under Evidence Act Sections 11 and 103, an accused asserting whereabouts incompatible with presence at the scene must prove that fact. *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, makes clear that failure to establish an alibi does not itself prove presence; *Lakhan Singh alias Pappu* was cited on raising the plea at the earliest opportunity. The claim that Atar Singh, Bhure and Santosh attended a Sevadal meeting did not displace injured Kailashi's identification, which was supported by the objective evidence of injuries.

Injured, related and sole witness — *Jayabalan v. Union Territory of Pondicherry, (2010) 1 SCC 199*, *Seeman v. State, (2005) 11 SCC 142*, and *Jodhan v. State of M.P., (2015) 11 SCC 52*, with its quotation of *Abdul Sayeed*, require cautious assessment of consistency. They recognise the evidentiary significance of a witness's injuries and reject automatic exclusion on grounds of kinship or the absence of a fixed number of independent witnesses. Kailashi, Arvind's mother, had a deep firearm wound to her hand and fractures. Her account of the armed arrival and firing was consistent with the five entrance wounds and associated exit injuries recorded in Arvind's postmortem.

Medical proof and disposition — The doctor attributed Arvind's death to haemorrhage from firearm injuries and stated that it appeared homicidal. The Court accepted the finding of homicidal death. Kailashi's injuries and the pattern of wounds corroborated the occurrence. The Court affirmed all surviving appellants' distinct sentences for murder, attempt and the offence under Section 148, to run concurrently, and dismissed both appeals. Six named appellants on bail were directed to surrender, and a warrant was ordered for absconding Hakim. The deceased Ram Singh's name had already been removed from the appeal's cause title.

Case-note :- ***1. Facts :*** The common judgment disposed of Criminal Appeal Nos. 589 and 681 of 2007, under Section 374 CrPC, against the Additional Sessions Judge, Lahar, Bhind's 10 July 2007 conviction and sentence in Sessions Trial No. 162/2001. Ram Singh, son of Shyam Lal, the first appellant in Appeal 589, died during appeal and was deleted from the cause title by order of 8 May 2013. Hakim Singh was absconding but represented by counsel; his appeal was considered. The seven surviving appellants were Jagdish, Santosh, Dalel, Hakim, Atar Singh, Chhotelal and Bhure. On 14 January 2001 around 1–1:30 pm, Arvind was sitting on a platform near his home when an armed group arrived and fired. His mother Kailashi Bai tried to rescue him, suffered a firearm injury to her hand and fractures, and Arvind died on the spot. Her husband Dhanaram, the complainant, said he had returned from a Sevadal meeting; he lodged the FIR. The initial narrative names eight accused. Kailashi later identified Hakim, Dalel, Jagdish, Atar and Santosh as armed with firearms, Ram Singh and Bhure with lathis and Chhotelal with a farsa. She specifically described Hakim firing five times. The defence asserted election rivalry, alleged false implication and said Atar, Bhure and Santosh attended the Sevadal meeting rather than the assault. It challenged whether Karan Singh and Ashok had seen the event and relied on Dhanaram's statement that he was attending the meeting when the incident occurred.

The trial court's detailed table imposed two years' rigorous imprisonment and Rs 2,000 fine under Section 148 on each surviving appellant, three months' rigorous imprisonment in default; life imprisonment and Rs 20,000 fine for each murder conviction, three years' rigorous imprisonment in default; and seven years' rigorous imprisonment and Rs 10,000 fine for each attempt conviction, with one year's rigorous imprisonment in default for the five direct Section 307 counts and two years for the two Section 307/149 counts. All sentences were concurrent. Jagdish, Santosh, Dalel, Hakim and Atar were convicted directly under Sections 302 and 307; Chhotelal and Bhure were convicted under Sections 302/149 and 307/149. These convictions and sentences are recorded in the table and the disposition.

Dr S.K. Singh Niranjan documented five entrance wounds on Arvind, associated exit wounds to thigh, abdomen and neck, and a retained metallic pellet in the right shoulder/root-of-neck track. Blackening and tattooing accompanied several entrances. The neck track damaged vessels and structures, while the left thigh bone was shattered. He attributed death to syncope from excessive haemorrhage caused by antemortem firearm injuries and stated that it appeared homicidal. The Court accepted the finding of homicidal death. Kailashi had a deep blackened left-hand laceration and a right-thumb contusion, with fractures shown on X-rays. Weapons were seized under memoranda and sent for forensic

examination; the FSL reports were said to show functioning seized articles. The prosecution called 20 witnesses, including Karan Singh, Ashok, Dhanaram, Kailashi, the doctor and investigating officers.

2. Precedents — Considered : *Dani Singh v. State of Bihar, (2004) 13 SCC 203*, was quoted at length: Section 149 depends on an unlawful assembly of at least five persons, a Section 141 common object shared by members or adopted even during the event, and the offence's connection to it or members' knowledge of its likelihood. Mere presence is not enough; a personally attributed overt act is not invariably necessary; different members may have different knowledge as the object changes. *Mahadev Sharma v. State of Bihar, (1966) 1 SCR 18*, explained why Sections 143, 147 and 148 have nested elements and a Section 147 charge need not be separately framed when the relevant Section 149 offence is charged. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, required an express, evidence-based finding of the unlawful object's nature. In paragraph 61, the Court applied the shared-object principle to the armed group's coordinated arrival and firing.

Virsa Singh v. State of Punjab, AIR 1958 SC 465, was quoted for the four Section 300 Thirdly elements: bodily injury, its nature, intention to inflict the particular injury, rather than an accidental injury or a different injury, and objective sufficiency to cause death in the ordinary course. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, stressed the sufficiency of the intended injury and the relevance of the weapon and part of the body injured. *Arun Nivalaji More v. State of Maharashtra* set out the sequential inquiry under Sections 299 and 300 and the difference between Section 304 Parts I and II for intention and knowledge. *State of A.P. v. R. Punnayya, (1976) 4 SCC 382*, distinguished the three degrees of culpable homicide.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, rejected an invariable rule that one fatal blow cannot attract Section 302. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, listed factors for intention, including whether the weapon was carried or picked up, the part of the body injured and whether it was vital, the force used, any quarrel, preparation, prior enmity, provocation, unfair advantage and the number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, inferred intention from a forceful crowbar blow to the head, a vital part of the body. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, reproduced *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram* on the absence of an automatic reduction for a single blow and the importance of injury to a vital part. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, including its discussion of *Vedanayagam* and *Virsa Singh*, likewise required assessment in the factual context.

Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322, was quoted for the cumulative requirements of Exception 4: no premeditation, a sudden mutual fight in the heat of passion, no unfair advantage or cruel or unusual conduct, and a fight with the deceased. *Kanhaiyalal* again reproduced the four conditions. *K.M. Nanavati v. State of Maharashtra, AIR 1962 SC 605*, set out the reasonable-person test for grave and sudden provocation, the possible significance of words or gestures and the background, and the relevance of an interval allowing passions to cool.

Lakhan Singh alias Pappu v. State of NCT of Delhi, Criminal Appeal No. 166/1999, was quoted on raising an alibi at the first opportunity. *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, explained alibi as evidence under Section 11, not a general Penal Code exception, and expressly said failure of the defence does not prove presence: the prosecution must prove it positively. *Jayabalan v. Union Territory of Pondicherry, (2010) 1 SCC 199*, required cautious assessment of the consistency of interested witnesses' evidence, without a pedantic approach. *Seeman v. State, (2005) 11 SCC 142*, said reliable related or even sole testimony may suffice; absence of one named independent witness is not automatically fatal. *Jodhan v. State of M.P., (2015) 11 SCC 52*, quoted *Abdul Sayeed v. State of M.P., (2010) 10 SCC 259*, on the injured witness's enhanced assurance of presence, while preserving rejection for major contradictions. The citations to *Ramlagan Singh*, *Malkhan Singh*, *Vishnu*, *Balraje* and *Jarnail Singh* occur within *Jodhan*'s supporting discussion; they were not separately applied in reasoned findings by this Court.

3. Statutes considered : Section 374 CrPC supplied appellate jurisdiction. IPC Section 141 defines unlawful assembly and Section 149 attaches liability for an offence committed in pursuit of the assembly's shared object or known by its members to be likely in pursuit of that object; Sections 143, 147 and 148 concern membership and rioting, with Section 148 being the armed-rioting offence for which sentences

were imposed. Sections 299 and 300 define culpable homicide and murder; Section 300 Thirdly and possible Exceptions 1 and 4 were discussed, Section 302 provided the affirmed murder punishment, and Section 304 Parts I and II were discussed as legal distinctions; no convictions under them were substituted. Section 307 governed attempted murder of Kailashi, directly or with Section 149. Evidence Act Section 11 makes incompatible whereabouts relevant and Section 103 places proof of the asserted alibi fact on the party asserting it without shifting the prosecution's ultimate burden.

4. Issues : Whether the death of Arvind was homicidal and Kailashi was injured in the same firing; whether her related, interested and injured testimony remained reliable after alleged contradictions, missing FIR overt acts, contested other eyewitnesses and political rivalry; whether Atar, Bhure and Santosh's Sevadal meeting theory established absence, subject to the principle that failure to establish an alibi does not prove presence; whether at least five accused shared a Section 141 unlawful object and whether the fatal shooting and attempted murder occurred in pursuit of that object or were known to be likely in its pursuit; whether firearm injuries, body parts and group conduct supported the distinct findings of direct and constructive liability under Sections 302/307 or some lower homicide category or exception; and whether the concurrent trial sentences should stand for each surviving appellant.

5. Ratio / Findings : The doctor identified five firearm entrance wounds with burn marks/blackening and tattooing in the described areas, related exits, severe tissue and vessel injury, shattered left femur and a pellet. He attributed Arvind's death to excessive haemorrhage and said it appeared homicidal. The Court accepted the finding of homicidal death. The doctor's examination that day and the X-rays documented Kailashi's deep hand injury and fractures. The Court held her injury a strong indicator of presence and found her specific identification of armed, known assailants and her account of Hakim's shots supported by that objective evidence. It considered the fact that she was Arvind's mother and the asserted omissions; in the context of a sudden traumatic event and an illiterate village witness, it judged them non-material. Karan and Ashok's eyewitness status was attacked; the Court referred to trial reliance on them but based its discussion on Kailashi's credible evidence, the medical evidence and the investigation. It rejected witness counting as a test.

The Court stated that all accused reached the platform armed and inferred from their coordinated conduct a common object to kill Arvind. According to Kailashi, Hakim fired five times. It applied *Dani Singh* and *Kuldip Yadav*'s shared unlawful-object requirement, while affirming the distinct direct convictions and convictions with the aid of Section 149 recorded in the final trial table. The defence relied on Dhanaram's statement that he was attending the Sevadal meeting when the incident occurred. The Court accepted the injured witness's evidence of her presence and the assault.

The Court laid out the Section 300 Thirdly, Section 304 Part I/II, sudden fight and provocation doctrines, then upheld the murder convictions on the evidence of the firearm assault and fatal haemorrhage. Multiple shots and the neck and abdominal tracks supported the trial's conclusion. Neither the sudden-fight nor the grave-provocation exception was applied to reduce the convictions. Kailashi's hand gunshot injuries during rescue supported the affirmed attempt convictions. Memoranda/seizures and FSL reports indicating that seized articles functioned reinforced the prosecution case. The introduction mentions Section 147, the charge recital differs from the conviction table, and the general legal discussion refers to Section 34. The detailed convictions recorded in the table were affirmed.

6. Relief : The Hon’ble High Court dismissed both appeals and affirmed the trial conviction and sentence dated 10 July 2007 for the surviving appellants, including two years' rigorous imprisonment under Section 148, life imprisonment under Section 302 directly or Section 302/149, and seven years under Section 307 directly or Section 307/149, with the fines and default terms in the detailed table, all concurrent. Jagdish, Santosh, Dalel, Chhotelal, Atar Singh and Bhure had been on bail under suspended sentences; their bonds were cancelled and they were directed to surrender immediately to serve the balance of their sentences. The trial court was directed to issue an arrest warrant for absconding Hakim Singh. The deceased Ram Singh had already been removed from the cause title, and the trial record was ordered to be returned with a copy of the judgment.

Ram Singh and Ors. v. State of Madhya Pradesh, Cr.A. no. 589/2007 & 681/2007, 24/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Unlawful assembly / common object / §149 IPC - *Dani Singh v State of Bihar, (2004) 13 SCC 203*, requires an assembly of at least five members sharing an unlawful object under §141. Liability extends to offences committed in pursuit of that object or known by members to be likely in its pursuit. Mere presence is insufficient, but an individual overt act is not indispensable. The common object may change, and members' knowledge may differ. *Mahadev Sharma v State of Bihar, (1966) 1 SCR 18*, explains when rioting ingredients are implicit in another charge and when a separate charge is required. *Kuldip Yadav v State of Bihar, (2011) 5 SCC 324*, requires a clear finding of an unlawful common object. The coordinated arrival of eight armed persons and the shooting supported that finding here. Bhure's and Chhotelal's liability under sections 302/149 and 307/149 was sustained without identifying a particular shot fired by either of them.

Culpable homicide / murder / §300 thirdly - *Virsa Singh v State of Punjab, AIR 1958 SC 465*, distinguishes the intention to inflict the particular injury from the objective question whether it is sufficient in the ordinary course of nature to cause death. An intention to cause death is not required. *Arun Nivalaji More* (Criminal Appeals 1078–1079/2005) explains the sequence of inquiry from §299 to §300 and then §304 Part I/II; *Anda v State of Rajasthan, 1966 Cri LJ 171*, addresses the sufficiency of the injury. *Mahesh Balmiki v State of M.P., (2000) 1 SCC 319, Pulicherla Nagaraju v State of A.P., (2006) 11 SCC 444, Sangapagu Anjaiah v State of A.P., (2010) 9 SCC 799, State of Rajasthan v Kanhaiyalal, (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao v State of A.P., (2008) 15 SCC 725*, reject an automatic reduction merely because there was a single blow. They require consideration of the weapon, vital part targeted, force and surrounding circumstances. *State of A.P. v R. Punnayya, (1976) 4 SCC 382*, classifies the grades of homicide. The multiple firearm wounds and fatal blood loss supported §302. *Dhirajbhai Gorakhbhai Nayak, (2003) 9 SCC 322*, *Kanhaiyalal* and *K.M. Nanavati, AIR 1962 SC 605*, set out the limits of Exception 4 and provocation. No exception was applied to reduce the conviction, and no conversion was ordered.

Alibi / burden and prosecution proof - Under Evidence Act sections 11 and 103, *Binay Kumar Singh v State of Bihar, (1997) 1 SCC 283*, holds that failure to establish an alibi does not itself prove presence; the prosecution must still produce positive evidence. *Lakhan Singh @ Pappu v State of NCT of Delhi*, Criminal Appeal 166/1999, requires the alibi to be raised promptly. The Sevadal meeting argument did not displace Kailashi's identification, which the Court accepted. Failure of the alibi was not used as a substitute for prosecution evidence.

Related and injured eyewitness / credibility - *Jayabalan v UT of Pondicherry, (2010) 1 SCC 199*, requires cautious scrutiny for consistency without rejecting evidence because of kinship. *Seeman v State, (2005) 11 SCC 142*, permits reliance on credible testimony from a sole related witness despite the absence of independent corroboration. *Jodhan v State of M.P., (2015) 11 SCC 52*, applying *Abdul Sayeed, (2010) 10 SCC 259*, recognises that injury supports a witness's presence, subject to major contradictions. Kailashi's firearm injury to her hand and Arvind's post-mortem findings corroborated her account; minor omissions did not discredit it. Both appeals were dismissed, with separate surrender and warrant directions for the appellants concerned.

Case-note :- ***1. Facts :*** Criminal Appeals 589/2007 and 681/2007 arose from Sessions Trial 162/2001 and challenged the judgment dated 10 July 2007 of the Additional Sessions Judge, Lahar. According to the prosecution, an armed group arrived on 14 January 2001 at about 1–1.30 p.m., while Dhanaram's son Arvind was sitting near the house, and fired at him. Arvind's mother Kailashi Bai came to help and sustained firearm injuries to her hands. Arvind died at the scene. The earlier narrative identified Hakim, Santosh, Dalel, Jagdish and Atar Singh as carrying guns, and Bhure, Ram Singh and Chhotelal as carrying lathi/farsa. The eyewitness described Hakim firing repeatedly. Police documented the scene, collected weapons and had them tested, recorded witnesses' statements, obtained Kailashi's medical record and Arvind's post-mortem report, and filed charges. The medical evidence recorded injuries to Kailashi's hands and fractured metacarpals. Arvind had multiple firearm entry and exit wounds involving the thigh, abdomen and neck/shoulder, with fatal blood loss. At trial, Jagdish,

Santosh, Dalel, Hakim and Atar Singh were convicted directly under IPC sections 148, 302 and 307 and sentenced respectively to two years' rigorous imprisonment, life imprisonment and seven years' rigorous imprisonment, with fines and default terms. Bhure and Chhotelal were convicted under sections 148, 302/149 and 307/149 with corresponding terms. All sentences were concurrent. Ram Singh, appellant 1 in Appeal 589, died during the appeal, and his name was deleted by order dated 8 May 2013. Hakim was absconding, but his appeal was considered because he was represented by counsel. The appellants disputed identification and the eyewitnesses' presence. They relied on omissions, relationship, a Sevadal meeting alibi for some appellants, political rivalry, the absence of individual overt acts in the FIR, and their objection to §149. The State supported the convictions.

2. Precedents — Considered : *Dani Singh v State of Bihar, (2004) 13 SCC 203*, explains that §149 concerns common object, as distinct from common intention under §34. An assembly of at least five members, with shared awareness of and concurrence in an object under §141, must be shown. Mere presence is insufficient, but a personal overt act is not invariably necessary. The object may form or change over time, and knowledge and liability under §149 may differ between members. The Court used this principle to assess the coordinated armed group. *Mahadev Sharma v State of Bihar, (1966) 1 SCR 18*, explains that the ingredients of rioting may be implicit in charges under §149, and that a distinct charge under §147 need not always be framed separately unless a conviction under it is sought. It formed part of the statutory discussion. *Kuldip Yadav v State of Bihar, (2011) 5 SCC 324*, requires an express finding, supported by evidence, that the object was both common and unlawful. Here, the Court inferred an object to commit murder from the arrival and assault by eight armed persons, rather than treating their mere presence as sufficient.

Virsa Singh v State of Punjab, AIR 1958 SC 465, supplies the four-step test under §300 Thirdly. The presence and nature of the injury must be established objectively. There must be an intention to inflict that particular injury, rather than an accidental or different injury. The injury must then be shown objectively to be sufficient in the ordinary course of nature to cause death. Once those elements are established, an intention to kill or knowledge of the injury's fatal severity is unnecessary. *Arun Nivalaji More v State of Maharashtra*, Criminal Appeals 1078–1079/2005, explains the inquiry from §299 to the clauses and exceptions of §300, followed by the distinction between §304 Part I, based on intention, and Part II, based on knowledge. *Anda v State of Rajasthan, 1966 Cri LJ 171*, emphasises sufficiency in the ordinary course of nature, with the weapon and body part taken into account. *State of A.P. v R. Punnayya, (1976) 4 SCC 382*, distinguishes the three punishment grades of culpable homicide. The Court cited these authorities to classify the fatal repeated gunfire as murder, rather than treating the fact of death alone as sufficient for §302.

Mahesh Balmiki v State of M.P., (2000) 1 SCC 319, rejects a fixed rule that a single blow excludes §302. The weapon, vital part targeted, circumstances, and the offender's intention or knowledge must be assessed. *Pulicherla Nagaraju v State of A.P., (2006) 11 SCC 444*, gives a non-exhaustive list of factors, including whether the weapon was carried or picked up, the force used, the target, sudden fight, premeditation, enmity and provocation. *Sangapagu Anjaiah v State of A.P., (2010) 9 SCC 799*, inferred an intention to cause death from a forceful crowbar strike to the head. *State of Rajasthan v Kanhaiyalal, (2019) 5 SCC 639*, discusses *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram* on the absence of an automatic single-blow rule, and quotes the four conditions of Exception 4. *Bavisetti Kameswara Rao v State of A.P., (2008) 15 SCC 725*, referring in turn to *Vedanayagam* and *Virsa Singh*, again distinguishes the intention to inflict the wound from knowledge of its seriousness. These authorities formed part of the legal discussion; the present case involved multiple shots. *Dhirajbhai Gorakhbhai Nayak v State of Gujarat, (2003) 9 SCC 322*, describes Exception 4 as applying to a sudden, mutual and unpremeditated fight without unfair advantage or cruelty. *K.M. Nanavati v State of Maharashtra, AIR 1962 SC 605*, explains the reasonable-person and cooling-time limits of grave and sudden provocation.

On alibi, *Lakhan Singh @ Pappu v State of NCT of Delhi*, Criminal Appeal 166/1999, was cited for the requirement to raise the defence promptly. *Binay Kumar Singh v State of Bihar, (1997) 1 SCC 283*, explains §11 of the Evidence Act and makes clear that failure of an alibi cannot prove the accused's presence: the prosecution must still establish it by positive evidence. *Jayabalan v UT of Pondicherry, (2010) 1 SCC 199*, requires cautious scrutiny of interested testimony for consistency, without a

pedantic approach. *Seeman v State, (2005) 11 SCC 142*, permits reliance on credible testimony from a sole related witness after careful scrutiny, and rejects automatic disbelief because an independent witness was not examined. *Jodhan v State of M.P., (2015) 11 SCC 52*, quoted *Abdul Sayeed v State of M.P., (2010) 10 SCC 259*: injury corroborates a witness's presence, although strong grounds based on contradictions may justify rejection. The Court applied these principles to Kailashi's testimony and medical injuries, rather than treating kinship as an automatic guarantee of truth.

3. Statutes considered : IPC §141 defines an unlawful assembly and its qualifying objects. Sections 147 and 148 concern rioting and armed rioting, with the punishment table recording sentences under §148. Section 149 imposes constructive liability for an offence committed in pursuit of a common object or known to be likely in its pursuit. It requires five or more members, membership of the assembly and a common unlawful purpose. The direct convictions under §302 and those under section 302/149 were preserved separately, as were the convictions under §307 and §307/149 for Kailashi's firearm injury. The different appellant groups were not merged. IPC §299 distinguishes culpable homicide based on intention or knowledge. Under §300 Thirdly, the intended bodily injury must be objectively sufficient in the ordinary course of nature to cause death. The exceptions, particularly Exception 4, prevent classification as murder only when their conditions are met. IPC §304 Parts I/II were discussed as possible classifications, but there was no conversion to §304. Evidence Act sections 11 and 103 concerned the relevance and burden of an alibi, without shifting the prosecution's duty to prove presence and guilt. CrPC §374 provided the appellate remedy.

4. Issues : (1) Whether the eight armed participants formed an unlawful assembly with a proved common object to commit murder, and whether §149 could apply without a separate overt act attributed to each member in the FIR, while preserving the distinction between direct and constructive liability. (2) Whether the multiple fatal firearm wounds, medical evidence and circumstances justified §302 rather than a reduced classification under §304, and whether the quoted sudden-fight and provocation exceptions had a factual basis. (3) Whether the asserted Sevadal meeting attendance and political rivalry displaced the prosecution evidence, without treating failure of an alibi as positive proof of presence. (4) Whether Kailashi's testimony, as the deceased's mother and an injured witness, could be accepted despite kinship, omissions and challenges to Karan/Ashok, and whether it was consistent with the medical and weapon evidence. (5) Whether the convictions and concurrent sentences of each surviving appellant should stand, with Hakim absent and Ram Singh deceased.

5. Ratio / Findings : The doctor recorded Kailashi's gunshot injury to the hand and fractures, and Arvind's multiple ante-mortem firearm wounds, including severe tracks through the neck and abdomen. He attributed death to syncope caused by excessive haemorrhage, supporting the finding of homicide. Applying *Dani Singh* and *Kuldip Yadav*, the Court explained the five-person threshold under §149, the common object and the connected conduct. Eight armed men arrived together, and the attack followed immediately. Kailashi identified them and described Hakim firing repeatedly. The Court inferred an unlawful object to kill from their collective conduct and affirmed both the direct convictions and those under §149. A separate overt act was not required for each member held constructively liable, but the inference rested on more than mere passive presence. The discussion of §299–300 incorporated *Virsa Singh*'s test of an intended injury objectively sufficient to cause death, and the distinction between intention and knowledge, reinforced by *Arun Nivalaji More* and *Anda*. The wounds, firearm attack and death from haemorrhage were consistent with maintaining the conviction under §302. The Court also set out the alibi principles under §11/§103 and *Binay Kumar Singh*'s rule against treating a failed alibi as prosecution proof.

Kailashi was the deceased's mother and also an injured witness whose presence at the attack was medically supported. The Court applied *Jayabalan*, *Seeman* and *Jodhan*/*Abdul Sayeed* in scrutinising her evidence, rather than rejecting it because of the relationship. It found that her account of all appellants' armed arrival and Hakim's gunfire remained undisturbed on material points. It assessed the minor omissions in light of her illiteracy and the fact that she saw her son die. The doctor's evidence and FSL reports confirming that the weapons were functional supported the central account of the assault. The Court held that the number of witnesses was immaterial where her credible testimony

sufficed. Dhanaram's meeting attendance and alleged omissions in the eyewitness accounts had been relied on by the defence. The Court held that the trial convictions were supported.

6. Relief : The Hon'ble High Court dismissed both criminal appeals and confirmed the conviction and concurrent sentences dated 10 July 2007 in Sessions Trial 162/2001. Jagdish, Santosh, Dalel, Chhotelal, Atar Singh and Bhure were on bail after suspension of their sentences. Their bail bonds were cancelled, and they were directed to surrender immediately to serve the remainder of their sentences. Hakim Singh was absconding; the trial court was directed to issue an arrest warrant to secure his presence to serve his sentence. Ram Singh had died during the appeal and had already been removed from the cause title, so that operative direction did not apply to him. The trial record was ordered to be returned with a copy of the judgment. The punishment table records two years' RI and a fine of ₹2,000 under §148; life imprisonment and a fine of ₹20,000 under §302, either directly or read with §149; and seven years' RI and a fine of ₹10,000 under §307, either directly or read with §149. The default term was one year for direct §307 and two years for §307/149. The sentences were concurrent. There was no acquittal or conversion of the offences.

Ram Singh and Ors. v. State of Madhya Pradesh; Atar Singh and another v. State of M.P., Cr.A. no. 589/2007 & 681/2007, 24/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (702) Prev Next

Headnote :- FIR inaction / police duty and remedy — *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, affirms the duty under Section 154 CrPC to record information disclosing a cognizable offence. It also directs a complainant faced with police inaction to the Magistrate's complaint procedure under Sections 190/200. The quoted discussion distinguishes *Ramesh Kumari* and *Lallan Chaudhary*, concerning police action, from *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*, concerning the citizen's remedy when police do not act. The applicant alleged that the police had not registered an FIR despite his complaint.

Magistrate options — *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, describes a written approach to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3). The Magistrate may direct registration of an FIR and a proper investigation, and may monitor that investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, adds that a Magistrate who is prima facie satisfied may recommend a change of investigating officer, but cannot investigate personally. *Divine Retreat Centre*, quoting *Gangadhar*, explains the complaint inquiry under Sections 190/200, a possible investigation and report, dismissal under Section 203, or cognizance and issue of process. The Court preserved the applicant's liberty to approach the Magistrate under Section 200 CrPC/223 BNSS.

High Court intervention / exceptions — *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognises directions under Article 226 in rare cases of clearly established mala fide investigation, abuse of power and noncompliance with Chapter XII. Even then, the High Court may require compliance with the statutory process, but cannot dictate how the police investigate. In *Shweta Bhadauria*, W.A. 247/2016, the Madhya Pradesh Division Bench referred to *Whirlpool*'s four exceptions to the alternative-remedy rule. It held that *Lalita Kumari, (2014) 2 SCC 1*, addressed the duty to register an FIR, rather than an automatic right to mandamus without using the remedies under Sections 154(3), 156(3), 190 and 200. The present application was brought under Section 482 CrPC, while the quoted passages concerned writ jurisdiction. Applying those authorities, the Court declined to direct registration and dismissed the application as not maintainable, leaving the Magistrate remedy open.

Case-note :- ***1. Facts :*** Ram Singh Vanshkar filed Miscellaneous Criminal Case No. 48043/2024 under Section 482 CrPC against the State of Madhya Pradesh and others. He submitted that he had made a complaint but the police had not lodged an FIR and sought a direction to do so. The State opposed the application on the ground that he could approach the competent Magistrate under Sections 190 and 200 CrPC. The Court framed the question as the maintainability of a High Court request to direct police to register an FIR.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at length. It states that police must register information disclosing a cognizable offence under Section 154, but a citizen aggrieved by police inaction should

approach the Magistrate under Section 190 read with Section 200 CrPC. The quotation reconciled *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, and its reiteration in *Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, concerning police duty, with *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, concerning the procedure to follow when officials fail to act. *Aleque Padamsee*'s additional direction concerning sanction related to that case, and was not an issue in the present application.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted on the High Court's rare corrective jurisdiction under Article 226 where mala fide investigation, clear abuse of power and noncompliance with Chapter XII are established, while precluding directions on particular investigative steps. It also quoted *Gangadhar*'s account of the Magistrate's complaint procedure under Chapter XV. After inquiry, the Magistrate may seek a police investigation and report, dismiss the complaint under Section 203 if no offence appears, or take cognizance and issue process when justified. The decision emphasised that an ordinary grievance about police inaction should be pursued under Sections 190 and 200, rather than by an immediate writ petition.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, set out the sequence of a written approach to the Superintendent of Police under Section 154(3), followed by an application under Section 156(3). A Magistrate may direct registration of an FIR and a proper investigation, and may monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed the Magistrate remedy. It specified the requirement of prima facie satisfaction, the power to recommend a change of investigating officer if necessary, and the distinction between monitoring an investigation and conducting the police investigation personally. It also explained why ordinary grievances about FIR registration and investigation should be directed to the Magistrate.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016 (20 December 2016), was the High Court Division Bench authority applied by the single judge. It held that mandamus to enforce the duty under Section 154 may be refused where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four exceptions recognised in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: the duty to register an FIR does not determine entitlement to writ mandamus without using alternative remedies. *Whirlpool* and *Lalita Kumari* were considered through the quoted Division Bench rule.

3. Statutes considered : Section 482 CrPC was invoked for the present application. Section 154 CrPC imposes the duty to register an FIR on information disclosing a cognizable offence; subsection (3) permits a written approach to the Superintendent of Police. Section 156(3) permits a Magistrate to direct and monitor investigation as described in the authorities. Sections 190 and 200 provide the procedure for a complaint and cognizance; Section 203 provides for dismissal where sufficient ground is lacking after consideration. Chapter XII concerns police investigation, and Chapter XV concerns complaint procedure. The precedents addressed Article 226 as the High Court's exceptional public-law jurisdiction; the present proceeding was filed under Section 482, rather than as a writ petition.

4. Issues : Whether the Court should direct registration of an FIR on an application under Section 482 alleging only police inaction, or require the applicant to use the remedies before the Superintendent of Police and the Magistrate; how the police's substantive duty differs from the aggrieved person's procedural remedy; and whether the cited exceptions concerning rare cases of mala fide investigation or the alternative-remedy rule justified High Court intervention on the facts stated.

5. Ratio / Findings : The Court accepted the distinction drawn in *Aleque Padamsee*: police should register information disclosing a cognizable offence, but where they fail to do so, the Code provides an effective complaint remedy before the Magistrate. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* describe the successive remedies under Section 154(3) and Section 156(3), and the Magistrate's supervisory role. *Divine Retreat Centre* preserves exceptional oversight under Article 226 in cases of clear abuse. The Division Bench rule in *Shweta Bhadauria* governed an ordinary request for FIR mandamus in this High Court and distinguished *Lalita Kumari*'s substantive registration duty. The applicant's stated

case was that police had not registered an FIR despite his complaint. The Court declined to direct registration and dismissed the application under Section 482 as not maintainable.

6. Relief : The Hon'ble High Court dismissed the application as not maintainable. It expressly left the applicant free, if he considered that an offence had been committed against him, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS. It neither directed registration of an FIR nor ordered monitoring of an investigation, and did not decide the merits of any complaint the applicant might file.

Ram Singh Vanshkar v. State of Madhya Pradesh and Ors., M.Cr.C. no. 48043/2024, 26/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (703) Prev Next

Headnote :- Section 145(4) possession and timing — *R.C. Patuck v. Fatima A. Kindasa, AIR 1997 SC 2320*, distinguishes the ordinary inquiry into actual possession on the date of the preliminary order under Section 145(1) from the proviso's protection through deemed possession. That protection applies to a party forcibly and wrongfully dispossessed within two months before receipt of the police report or other information, or between receipt and the preliminary order. The continuing effects of an earlier dispossession do not extend that period. In the dispute over land on which a village school had formerly stood, the SDO's order, which had been set aside, referred to a door constructed about six months earlier. That finding alone did not establish when one party had dispossessed the other. The High Court left the questions of timing and possession to be determined on evidence after remand.

Premature revisional observation — The First Additional Judge to the Court of the First Additional Sessions Judge, Datia, set aside the SDO's direction dated 12 April 2021 requiring the applicant to vacate the land and remanded the police Istgasa for a fair hearing and evidence. Paragraph 6 of the revisional order nevertheless stated that eviction was within the scope of Section 145. The applicant accepted the remand and challenged only that statement. In the absence of a specific finding on the date of dispossession, the High Court held the observation unwarranted and directed that it should not prejudice the SDO.

Evidence and statutory notice — Respondent No. 1's evidence had been deferred, and the SDO obtained a Nayab Tahsildar's report and decided the matter without completing both parties' evidence and hearing them. Such an inquiry report is neither the parties' evidence nor a judgment. Respondent No. 1 suggested Section 133 CrPC or Section 250 of the MP Land Revenue Code as alternative sources of power. The Court left their application undecided and cautioned against surprising the parties with an order under a different statute when they had not prepared their cases on that basis. The application under Section 482 was disposed of with a direction for a fresh decision under Section 145, after determining the relevant date and without being influenced by the revisional observation. The revisional record was ordered to be returned.

Case-note :- ***1. Facts :*** Ram Singh Yadav filed MCRC No. 51066/2021 under Section 482 CrPC, challenging a limited part of the order dated 24 July 2021 passed by the First Additional Judge to the Court of the First Additional Sessions Judge, Datia, in Criminal Revision No. 56/2021. A police Istgasa under Section 145 CrPC concerned land in village Kutoli on which a primary school had formerly stood. The school had moved about 40 years earlier. The applicant and respondent Brij Nandan Yadav both claimed possession and were alleged to be creating a nuisance. Respondent No. 1 claimed that the Education Department had handed him the land after the school moved and that the applicant was interfering with his possession. This was a disputed claim, not a finding of title by the High Court. The SDO, Bhander, began recording evidence but deferred respondent No. 1's evidence on the applicant's objection and sought a Nayab Tahsildar's report. On 12 April 2021, the SDO directed the applicant to vacate the land, stating that the applicant had constructed a door about six months earlier. In revision, the SDO's order was set aside and the matter remanded for a proper hearing and evidence. Yet paragraph 6 of the revisional order stated that the eviction direction was within the scope of Section 145. The applicant accepted the remand and challenged only that prejudicial observation. The High Court had received the revisional record but not the SDO's file. Counsel for both parties consented to a decision on the available material.

The applicant submitted that the proviso to Section 145(4) permits deemed possession and restoration only where forcible and wrongful dispossession

occurred within its defined two-month period. He argued that the finding of a door constructed six months earlier could not sustain eviction. Respondent No. 1 relied on his claim of earlier possession and suggested possible powers under Section 133 CrPC or Section 250 of the Madhya Pradesh Land Revenue Code.

2. Precedents — Considered : *R.C. Patuck v. Fatima A. Kindasa, AIR 1997 SC 2320*, was quoted and applied as the Supreme Court authority. Paragraph 9 explains that the ordinary inquiry under Section 145(4) concerns possession on the date of the order under Section 145(1). The proviso creates a limited legal fiction: a party forcibly and wrongfully dispossessed may be treated as having been in possession on that date if dispossession occurred within two months immediately before receipt of the police report or other information, or after receipt but before the preliminary order. Paragraph 10 refused restoration because admissions placed the loss of possession before that period. It rejected the contention that continued non-possession was a continuing wrong that restarted the period. In paragraphs 11 and 13, the High Court referred to the filing of the complaint when describing the two-month period.

3. Statutes considered : Section 145(1) CrPC provides for a preliminary order in a dispute concerning land or water that is likely to cause a breach of the peace. Under Section 145(4), the Magistrate must consider the written statements, hear the parties and receive evidence to determine possession on the date of the Section 145(1) order, without deciding title or the right to possess. Its proviso permits deemed possession following forcible and wrongful dispossession within the period described above. Section 482 CrPC was the inherent jurisdiction invoked in the High Court to challenge the revisional observation. Respondent No. 1 relied on Section 133 CrPC and Section 250 of the MP Land Revenue Code as possible alternative powers, but their application was expressly left undecided.

4. Issues : Whether the revisional court could express a favourable opinion on the legality of the SDO's eviction direction after setting it aside for incomplete evidence and hearing; how the two-month period in the proviso to Section 145(4) was to be calculated, and whether the finding of a door constructed six months earlier itself established forcible dispossession; whether an administrative inquiry report could replace evidence from both parties; and whether Section 133 CrPC or Section 250 of the MP Land Revenue Code could provide an alternative basis in the remanded case without proper notice of the statutory basis and an opportunity to meet its different requirements. The remand itself was not disputed.

5. Ratio / Findings : The Court quoted the full text of Section 145(4) and *R.C. Patuck*. The ordinary inquiry concerns actual possession on the date of the preliminary order. A party forcibly and wrongfully dispossessed within the limited period in the proviso may be treated as having been in possession; an earlier dispossession does not qualify merely because its consequences continue. Although the SDO had found that a door was constructed about six months earlier, that order had been set aside and had merged in the revisional order. There was no specific finding, based on evidence, of the date on which one party dispossessed the other. The revisional court therefore had no occasion to decide in advance whether the SDO's eviction direction fell within Section 145 or whether the two-month requirement was met. Its observation in paragraph 6 was unwarranted. The High Court neither declared the applicant's possession lawful nor permanently excluded relief under Section 145. It directed the SDO to determine the actual date of dispossession before deciding whether the statutory time requirement was met.

The remand was upheld because the SDO had acted on the Nayab Tahsildar's report without fully recording evidence or giving both parties a complete hearing. An authority's inquiry report is neither the parties' evidence nor a judgment that can replace the statutory inquiry. The applicant accepted the remand. The suggested alternatives under Section 133 and the MP Land Revenue Code were left open without findings on their merits. Parties prepare their evidence and defence under the identified provision and cannot be taken by surprise by a decision under a different statute in the same proceeding.

6. Relief : The Hon’ble High Court disposed of the application under Section 482. It partially upheld the revisional order dated 24 July 2021: the remand for a fresh inquiry under Section 145 in accordance with law remained in force, but the observation in paragraph 6 on the SDO's eviction power was declared unwarranted. The High Court directed that the observation should not prejudice the SDO. Whether the Section 145 proceedings satisfied the

proviso's timing condition was to be decided only after a finding on the date of dispossession. The High Court directed the immediate return of the revisional record; the SDO's record had not been received.

Ram Singh Yadav v. Brij Nandan Yadav and Ors., M.Cr.C. no. 51066/2021, 22/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (704) Prev Next

Headnote :- Investigation control / arrest — *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, disapproves judicial control of the details of an investigation by requiring police to record particular statements, arrest an accused, seize property or file a chargesheet merely because an investigation is pending. It quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on the discretion to arrest under Section 41 CrPC and the effect of mechanical arrest on liberty. A lawful investigation may end in either a chargesheet or a closure report. The petitioner sought completion of the investigation into an FIR under IPC Sections 420/34. The order also recorded a prayer to identify and arrest the accused. The Court refused directions to arrest or to take particular investigative steps.

Timely completion / report — Section 173(1) CrPC, referred to alongside Section 193 BNSS, requires investigation to be completed without unnecessary delay. Crime No. 0399/2023, registered at Misrod police station on the petitioner's complaint, was still under investigation at the hearing in November 2024. The investigating officer was directed to conclude the investigation as early as possible, decide whether an offence was made out, and take the necessary lawful steps towards the appropriate final report. The petitioner was free to submit any grievance to the Superintendent of Police, Bhopal, for consideration in accordance with law.

Affected persons / restraint — *D. Venkatasubramaniam* quoted *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, against adverse judicial directions concerning investigation that affect the liberty and reputation of persons who have not been given notice. That discussion concerned Section 482, whereas the present matter was a writ petition under Article 226. The High Court confined its order to enforcing the statutory duty of timely completion, leaving the method of investigation, the decision to arrest and the outcome of the police report to lawful discretion. The petition was finally disposed of.

Case-note :- ***1. Facts :*** Ram Swaroop Parmar filed Writ Petition No. 32294/2024 under Article 226, seeking a mandamus directing respondent No. 2 to complete the investigation in Crime No. 0399/2023 at Police Station Misrod promptly and in accordance with Section 173 CrPC. He also sought costs and other appropriate relief. He stated that his complaint had led to an FIR under Sections 420 and 34 IPC, but the police had not yet concluded the investigation. The order also recorded a prayer for the police to identify and arrest the accused. The Court heard the petitioner's counsel and disposed of the writ petition by defining the limits of judicial directions concerning investigation while enforcing the duty to complete it in a timely manner.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted extensively. It set aside a High Court direction that treated the recording of particular witness statements, arrest, seizure, protection of bank funds and filing of a chargesheet as obligatory, and imposed a period for completion without adequate reasons or a hearing for the affected accused. Investigation is a statutory police function. Courts should normally refrain from directing its method or the angle from which it is conducted, or requiring coercive steps. Depending on the evidence, police may file a chargesheet or conclude that no case is made out and file the appropriate report. Paragraph 36 of that decision sets out the limited purposes of the inherent power under Section 482, while paragraph 37 warns that unreasoned judicial observations can influence events and harm persons who have not been given notice. Those passages arose in a Section 482 context; the present petition was expressly under Article 226.

In *D. Venkatasubramaniam*, the Supreme Court quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on the discretion to arrest under Section 41 CrPC. Even credible allegations of a cognizable offence do not require immediate arrest. Arrest interferes with liberty and reputation, so the power must be exercised cautiously, following such investigation as the circumstances warrant. The Court also quoted *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on the need to give a reasonable opportunity of being heard before making

a judicial order that sets a criminal investigation against a person in motion and seriously affects that person's reputation. The quoted Supreme Court decision also explained that neither a chargesheet nor seizure is an inevitable result of an investigation.

3. Statutes considered : Article 226 of the Constitution provided the writ jurisdiction invoked. Section 173(1) CrPC requires every investigation under the relevant chapter to be completed without unnecessary delay; the order refers to the corresponding Section 193 BNSS. The investigation arose from an FIR under Sections 420 and 34 IPC. The discretion to arrest under Section 41 CrPC and the limits of the inherent power under Section 482 CrPC were discussed through the quoted Supreme Court decision, rather than as the operative basis of the present writ petition.

4. Issues : Whether a court exercising jurisdiction under Article 226 should order the identification and arrest of suspects, direct the filing of a chargesheet, or supervise particular investigative acts in an existing cheating FIR; whether Section 173(1) CrPC/Section 193 BNSS required the investigating officer to complete the pending investigation without unnecessary delay and submit an appropriate report in accordance with law; and what relief could be given to the informant without predetermining guilt, arrest or the police report.

5. Ratio / Findings : The Court accepted the distinction in *D. Venkatasubramaniam* between police discretion in investigation and judicial oversight of the legal duty to investigate. A direction to arrest or file a chargesheet would amount to supervision of the investigation and could compel a decision not justified by the evidence. Section 41 does not require automatic arrest merely because an FIR discloses a cognizable offence. The quoted Supreme Court decision also emphasised fairness to persons affected by coercive orders.

At the same time, Section 173(1) requires every investigation to be completed without unnecessary delay. The investigating officer cannot leave it pending indefinitely, but must decide on the evidence whether an offence is made out, take the steps required by law, and submit an appropriate final report, whether a closure report or a chargesheet. The case registered in 2023 remained under investigation on 4 November 2024. The Court directed the officer to conclude it as early as possible, without fixing a deadline in days or months or dictating the outcome. If the petitioner subsequently had a grievance, he could apply to the Superintendent of Police, Bhopal, for consideration in accordance with law.

6. Relief : The Hon'ble High Court finally disposed of the writ petition, directing the investigating officer to conclude the investigation in Crime No. 0399/2023 as early as possible under Section 173(1) CrPC/Section 193 BNSS and take the necessary steps in accordance with law. It refused the request for directions to arrest and to control particular investigative outcomes. In case of any grievance, the petitioner was free to apply to the Superintendent of Police, Bhopal, for consideration in accordance with law.

Ram Swaroop Parmar v. State of Madhya Pradesh and Ors., W.P. no. 32294/2024, 04/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (705) Prev Next

Headnote :- Forged will / civil overlap — The FIR in Crime No. 290/2024 alleged that Kamla Devi's grandson fabricated a Will three days before her death to reduce the other heirs' shares in a house in Ward 27, Shivpuri. It invoked IPC Sections 420, 467, 468 and 471. *Jagmohan Singh v. Vimlesh Kumar (05.05.2022)* permits a defendant in a civil claim based on a Will to initiate criminal proceedings alleging its fabrication. The civil plaintiff's burden to prove the Will's genuineness does not prevent such proceedings. *P. Swaroopa Rani v. M. Hari Narayana, (2008) 5 SCC 765*, recognises that civil and criminal proceedings may proceed simultaneously, with a stay depending on the facts of the case. *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, drawing on *Trisuns Chemical*, *Rajesh Bajaj* and *Bhajan Lal*, explains that the civil aspects of a dispute do not, by themselves, extinguish an allegation of a cognizable criminal offence. The Court held that the allegation of a forged Will was not merely a civil inheritance dispute.

Independent forums and standards — *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775*, *Syed Askari Hadi Ali Augustine Imam, (2009) 5 SCC 528*, *Prem Raj v. Poonamma Menon (02.04.2024)*, and *Vishnu Dutt Sharma v. Daya Sapra, (2009) 13 SCC 729*, apply the principles in *Iqbal Singh Marwah*, *K.G. Premshanker* and *M.S. Sheriff*. Civil proof on a preponderance of probabilities differs from the prosecution's burden of proof beyond reasonable doubt; neither forum's factual findings automatically bind the other. Evidence Act Sections 40–43 may

make a particular earlier judgment relevant, and Section 41 may make specified matters conclusive. The broad proposition in *Karam Chand* and *V.M. Shah* that civil findings prevail was disapproved. *M.S. Sheriff*'s general preference for giving criminal proceedings precedence depends on the facts and does not automatically require every civil suit to be stayed.

FIR quashing — *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, disapproves quashing on extraneous material beyond the FIR and applies *Bhajan Lal*'s limited exceptions. *Nandkishor Laxminarayan Mundhada*, a Bombay High Court decision, was cited as persuasive authority on allegations of a forged Will. The applicant sought relief under Section 528 BNSS on the ground that the allegations, even accepted at face value, were predominantly civil. The High Court refused to quash the FIR and dismissed the application. The Will's authenticity, the ingredients of the offences and the parties' inheritance rights remained untried.

Case-note :- ***1. Facts :*** Rama Shankar Agrawal applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the FIR in Crime No. 290/2024 at Police Station Physical, Shivpuri, for alleged offences under IPC Sections 420, 467, 468 and 471. According to respondent No. 2's FIR, his mother Kamla Devi owned an old house in Ward 27 and died on 27 August 2006. He, his elder brother Om Prakash Agarwal, and his sisters Pista Devi Singhal and Sudha Devi Jain claimed equal shares after her death. He alleged that the applicant Ramashankar, Om Prakash's son and Kamla Devi's grandson, forged a Will just three days before her death to cause loss to him and his sisters. These were allegations at the FIR stage, not findings that the Will was false, that any particular person signed it, or that particular property shares had vested. The applicant's counsel argued that, even if the entire FIR were accepted as stated, the matter was predominantly civil. The Court heard counsel for the applicant and considered whether the alleged fabrication of a Will involved criminal ingredients despite its implications for succession.

2. Precedents — Considered : *P. Swaroopa Rani v. M. Hari Narayana alias Hari Babu, (2008) 5 SCC 765*, was quoted for the principle that civil and criminal proceedings may proceed simultaneously, and that a decision to stay either depends on the circumstances. The quotation referred to *M.S. Sheriff v. State of Madras, AIR 1954 SC 397, Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, and *Institute of Chartered Accountants of India v. Association of Chartered Certified Accountants, (2005) 12 SCC 226*. The High Court applied this principle to the alleged forged Will: an overlapping civil inheritance claim does not itself prevent criminal investigation. *Jagmohan Singh v. Vimlesh Kumar, SLP (Cr.) No. 9339/2021* (5 May 2022), supplied directly analogous reasoning on a disputed Will. A civil plaintiff relying on a Will bears the burden of proving its genuineness in that suit, but an opponent may still initiate criminal proceedings alleging forgery. *Nandkishor Laxminarayan Mundhada v. Dwarkadas Murlidhar Mundhada, 2008 Cri LJ 990* (Bombay High Court), was cited as persuasive authority that an FIR alleging a forged Will falls outside the *Bhajan Lal* quashing criteria based on treating the dispute as merely civil. It is not a Supreme Court ruling.

Kishan Singh (deceased) through LRs v. Gurpal Singh, (2010) 8 SCC 775, was quoted on the different standards of proof and the absence of an automatic binding effect between civil and criminal factual findings, subject to the possible relevance of judgments under Evidence Act Sections 41–43. Its discussion of *Iqbal Singh Marwah* distinguished proof on a preponderance of probabilities in civil proceedings from criminal proof beyond reasonable doubt. It also referred to the rejection of *Karam Chand*'s broad proposition that civil findings prevail. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, set out *K.G. Premshanker v. Inspector of Police, (2002) 8 SCC 87*: final judgments may be relevant under Sections 40–43; Section 41 makes its defined category conclusive; and the effect of other relevant judgments depends on their role in the case. Their factual findings do not automatically bind the other forum. Its discussion of *Karam Chand, V.M. Shah, Vishnu Dutt Sharma* and *M.S. Sheriff* rejected a simplistic rule of binding effect. The quotation also included *Iqbal Singh Marwah*'s concern that prosecution should not be delayed indefinitely while civil litigation proceeds.

Prem Raj v. Poonamma Menon (Supreme Court, 2 April 2024, SLP (Cr.) 9778/2018) discussed *Karam Chand, K.G. Premshanker, Vishnu Dutt Sharma, Satish Chander Ahuja* and the Constitution Bench decisions in *Iqbal Singh Marwah* and *M.S. Sheriff*. The High Court quoted its reiteration of the different standards of proof, independent findings, and *M.S.*

Sheriff's general preference for timely criminal proceedings, expressly subject to special circumstances and without a fixed rule of precedence. *Vishnu Dutt Sharma v. Daya Sapra, (2009) 13 SCC 729*, was separately quoted for the same principles in *Iqbal Singh Marwah* and *P. Swaroopa Rani*. These discussions did not constitute separate decisions on this Will's authenticity.

Pratibha v. Rameshwari Devi, (2007) 12 SCC 369, was quoted on the limits of inherent jurisdiction to quash at the FIR stage. A court should examine whether the allegations disclose a prima facie cognizable offence under *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, rather than rely on extraneous investigative or civil material, as occurred in *Pratibha*'s own matrimonial case. *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, quoted *Trisuns Chemical Industry v. Rajesh Agarwal, (1999) 8 SCC 686, Rajesh Bajaj v. State NCT of Delhi, (1999) 3 SCC 259*, *Bhajan Lal* and *M.S. Sheriff* to reject premature quashing merely because civil proceedings exist or the conduct has civil aspects. Special circumstances can affect the timing of proceedings but do not automatically negate criminal ingredients. The Court considered the forged-Will allegation at face value; it did not determine guilt.

3. Statutes considered : Section 528 BNSS, 2023, provided the inherent jurisdiction invoked to quash the FIR; it corresponds to Section 482 CrPC in the older authorities quoted. The FIR cited IPC Sections 420 (cheating), 467 (forgery of valuable security and analogous documents), 468 (forgery for cheating) and 471 (use of a forged document as genuine). Evidence Act Sections 40–43 govern the relevance of earlier judgments, including the defined category of conclusive judgments under Section 41. Section 300 CrPC appears in the quoted *K.G. Premshanker* discussion concerning the conditional bar on a further trial for the same offence after conviction or acquittal. Sections 340, 341 and 343 CrPC appear in the *Syed Askari* quotation on complaints initiated by a court and the delays that may follow a preliminary inquiry, appeal and subsequent proceedings. Neither passage constituted a separate ruling on retrial or an order directing a complaint in this Will case.

4. Issues : Whether, accepting at face value the FIR's allegation that a Will was forged before the death, the matter involved cognizable criminal ingredients or should be quashed as predominantly civil; whether possible litigation over inheritance and proof of the Will barred simultaneous criminal investigation; whether any civil findings would bind the criminal forum, given the different burdens of proof and the limited relevance of earlier judgments; and whether any exceptional ground of the kind identified in *Bhajan Lal* justified intervention under Section 528 before the evidence on forgery, use or cheating was tested. The Court was not deciding the Will's genuineness, the rightful heirs' shares or criminal liability after trial.

5. Ratio / Findings : The allegation concerned more than the allocation of property: it was that a Will had been fabricated three days before Kamla Devi's death to deprive the other claimed heirs of their shares. Forging and using a false document can give the facts a criminal dimension alongside civil succession issues. Taking the allegations at face value at the FIR stage, the Court held that describing the dispute as merely civil did not justify ending the investigation, and that no ground for interference had been made out. *P. Swaroopa Rani* and *Kamaladevi Agarwal* supported simultaneous remedies; *Jagmohan Singh* directly addressed a disputed Will. A civil plaintiff's duty to prove the Will in that suit does not foreclose an opponent's criminal allegation. These findings concern the sufficiency of the allegations taken at face value, not proof that the applicant actually forged or used a document, or dishonestly obtained anything.

The Court's extensive discussion of *Kishan Singh*, *Syed Askari*, *Prem Raj* and *Vishnu Dutt Sharma* rejected any automatic rule that civil findings bind or take priority over criminal findings. The proceedings use different standards of proof and evidence. A particular judgment may be relevant under Evidence Act Sections 40–43, and Section 41 may make it conclusive within that provision's scope. It would therefore be too broad to say that no civil judgment can ever affect a criminal issue. *M.S. Sheriff*'s preference for prompt criminal proceedings is subject to exceptions depending on the facts of the case; it does not require all civil suits to be stayed. *Pratibha* and *Bhajan Lal* caution against going beyond the FIR to decide contested facts at the quashing stage.

6. Relief : The Hon’ble High Court dismissed the application under Section 528 BNSS. It declined to quash the FIR in Crime No. 290/2024 for the four listed IPC offences. The case could proceed in accordance with law.

Rama Shankar Agrawal v. State of Madhya Pradesh and Ors., M.Cr.C. no. 5887/2025, 07/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Erroneous grant versus later misconduct — *Harjit Singh v. Inderpreet Singh (24.08.2021), Mahipal v. Rajesh Kumar, (2020) 2 SCC 118, Neeru Yadav v. State of U.P., (2014) 16 SCC 508, Lachhman Dass v. Resham Chand Kaler, (2018) 3 SCC 187*, and *Puran v. Rambilas, (2001) 6 SCC 338*, distinguish a superior court's review of a perverse, illegal or unjustified bail grant from cancellation for an accused's subsequent breach of conditions or misuse of liberty. The complainant invoked Section 439(2). The Sessions Judge's order dated 15 November 2021 under Section 438 gave no reason for granting pre-arrest bail despite the alleged gunshot injury to Ramveer's left elbow and the taking of cognizance under Section 307/34. Proof of subsequent misuse was not required to set aside that unreasoned order. The respondent was directed to surrender.

Original bailable release / added offence — The chargesheet dated 7 October 2020 listed IPC Sections 147, 148, 149, 323, 294, 506 and 324. Respondent No. 2 had been released by police, and the trial court continued his bail solely because the listed offences were bailable. On the complainant's application under Section 193 CrPC, the Sessions Court found sufficient material on 12 November 2021 to take cognizance under Section 307/34 and cancelled that release. The High Court accepted that the mere addition of a section without new material does not automatically require re-arrest where bail was earlier granted after consideration of the merits. Here, however, the court granting the first release had not assessed the firearm allegation or the gravity of the offence.

Reasoned bail discretion — *Kumer Singh v. State of Rajasthan (20.07.2021) and Harjit Singh* apply *Gudikanti Narasimhulu, Ash Mohammad, Sitaram Popat Vetal, Ram Govind Upadhyay, Prasanta Kumar Sarkar, Ramesh Bhavan Rathod, Chaman Lal, Sonu* and *Mahipal*. A court must form a prima facie view and give reasons addressing the relevant considerations: the gravity of the offence, possible punishment, evidence, risk of absconding or tampering, and risk to the administration of justice, while balancing the accused's liberty. An exhaustive determination of guilt is not required. The impugned order merely recited the allegations and earlier bail history before stating that protection appeared justified.

Complainant standing — *Mahesh Pahade v. State of M.P. (Division Bench, 18.07.2018)* discusses *Amanullah, Puran, P.S.R. Sadhanantham* and the victim's access to justice. A person with a bona fide connection to the case, including a victim or complainant, may challenge an improper bail order even if the State does not act. Courts must, however, guard against strangers pursuing personal vendettas. Ramadhar's complaint formed the basis of the case. The High Court allowed his application, set aside the order dated 15 November and directed respondent No. 2 to surrender immediately.

Case-note :- ***1. Facts :*** Ramadhar Baghel applied under Section 439(2) CrPC to cancel the anticipatory bail granted by the 4th Additional Sessions Judge, Morena, on 15 November 2021 in Sessions Trial No. 289/2020, arising from Crime No. 159/2020 at Police Station Banmore, Morena. On the complainant's report, the police initially registered offences under IPC Sections 147, 148, 149, 323, 294, 506 and 324. The chargesheet was filed and cognizance taken on 7 October 2020. Respondent No. 2, who had been released by police, was present, and the trial court continued his release because the offences in the chargesheet were bailable. The court did not consider the gunshot accusation or a non-bailable charge of attempt to murder. The complainant later applied under Section 193 CrPC, alleging that the police had deliberately omitted Section 307. On 12 November 2021, the Sessions Court found sufficient material to take cognizance under Sections 307 and 34, cancelled the release granted on the basis of bailable offences, and directed respondent No. 2 to appear on 4 December. The respondent then applied for anticipatory bail under Section 438, which was granted by a court at the same level on 15 November. The allegation recorded in the order was that he carried a gun and fired a shot that injured Ramveer's left elbow. The allegations were not final findings of guilt.

The applicant argued that no court had considered the merits and gravity of the case before the protection granted on 15 November. He submitted that the non-bailable Section 307 charge and alleged firearm injury required a proper bail assessment, and that the warrant should have been addressed under Section 70(2) rather than Section 438. Respondent

No. 2 contended that the mere addition of a section should not undo an earlier bail order based on the same allegations, and that bail could be cancelled only for misconduct after its grant. The High Court distinguished the bailable-offence release on 7 October, the cognizance and cancellation order on 12 November, and the fresh anticipatory-bail grant on 15 November.

2. Precedents — Considered : *Harjit Singh v. Inderpreet Singh alias Inder, Criminal Appeal No. 883/2021* (24 August 2021), was quoted extensively on the distinction between appellate or superior-court review of a bail grant and cancellation for a subsequent breach. Its survey of *Gudikanti Narasimhulu v. Public Prosecutor, (1978) 1 SCC 240*, explained that refusal of bail is not punitive and requires balancing liberty with the nature of the charge, evidence and possible penalty, the integrity of the trial, the risk of witness interference, and antecedents. *Ash Mohammad v. Shiv Raj Singh, (2012) 9 SCC 446*, recognised that liberty is subject to lawful restrictions and must be considered alongside social safety. *State of Maharashtra v. Sitaram Popat Vetal, (2004) 7 SCC 521*, required consideration of the accusation, possible penalty, supporting evidence, risk to witnesses or the complainant, and prima facie satisfaction in support of the charge. Failure to consider those factors suggests non-application of mind.

Harjit Singh then applied *Mahipal v. Rajesh Kumar, (2020) 2 SCC 118*, which quoted *Ram Govind Upadhyay v. Sudarshan Singh, (2002) 3 SCC 598*, on reasoned exercise of bail discretion, the gravity of the offence, punishment, evidence, threats to witnesses, and the genuineness of the prosecution. *Mahipal* distinguished review of an arbitrary grant from cancellation for a later violation. It cited *Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496*, on the prima facie case, gravity, risk of flight, character, repetition of the offence, witness influence and obstruction of justice, and *Neeru Yadav v. State of U.P., (2014) 16 SCC 508*, on setting aside an order founded on irrelevant considerations without requiring a supervening event. *Harjit Singh* quoted *Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana*, 2021 (6) SCALE 41, which in turn drew on *Ram Govind*, *Prasanta Kumar*, *Chaman Lal v. State of U.P., (2004) 7 SCC 525*, and *Sonu v. Sonu Yadav* to emphasise consideration of the serious nature of the offence and the need for reasons, even if brief. The High Court applied that distinction to review the original legality of the order dated 15 November. The allegations of conspiracy and antecedents in the quoted *Harjit Singh* decision concerned that separate case, not the present case.

Mahesh Pahade v. State of Madhya Pradesh, Criminal Appeal No. 933/2014 (MP Division Bench, 18 July 2018), was quoted on an affected complainant's or victim's standing to challenge an unjustified bail grant. It considered Supreme Court authorities including *Rattan Singh*, *the Constitution Bench decision in P.S.R. Sadhanantham v. Arunachalam, (1980) 3 SCC 141*, *R. Rathinam*, *Puran v. Rambilas, (2001) 6 SCC 338*, and *Amanullah v. State of Bihar, (2016) 6 SCC 699*. *Amanullah* permits an affected person with a bona fide connection to seek review by a superior court when the State prosecution fails to act, while cautioning against unrelated interlopers or personal vendettas. Its quoted authorities, *Ramakant Rai*, *Esher Singh* and *Rama Kant Verma*, illustrate that standing depends on the circumstances of the case. *Mahesh Pahade*, citing *Puran*, explained that an aggrieved party may challenge a bail order that ignores material even without subsequent misconduct. It also discussed victim participation, the amendment to Section 372, and UN principles on victims' access to justice. The present complainant had a direct connection to the case.

Kumer Singh v. State of Rajasthan, Criminal Appeal No. 571/2021 (20 July 2021), was then quoted in a further extended discussion of *Mahipal*, *Ram Govind*, *Prasanta Kumar Sarkar*, *Neeru Yadav* and *Ramesh Bhavan Rathod*. It reiterated that a judge must record the reasons for the bail decision so that it can be scrutinised, while avoiding an exhaustive examination of the trial evidence at the bail stage. The High Court tested the order dated 15 November 2021 against *Kumer Singh* and found that no reasons had been given.

Lachhman Dass v. Resham Chand Kaler, (2018) 3 SCC 187, was quoted within *Mahesh Pahade* on a challenge to the legal sustainability of a bail order, as distinct from a breach of bail conditions, with reference to *Amarmani Tripathi* and *Prakash Kadam*. *Puran* similarly distinguished setting aside a perverse grant from cancelling valid bail for later misconduct. In paragraph 8, the Court stated that reconsideration by the granting court on the same material may be barred by Section 362 CrPC, whereas a superior court can examine the legality of the grant.

3. Statutes considered : Section 439(2) CrPC was invoked in the High Court to cancel or set aside bail; Section 438 was the respondent's later route to anticipatory bail. Section 362 was discussed as restricting the same court's review of its final order in the absence of later misuse. Recall of a warrant under Section 70(2) was raised in a submission and was not independently decided. The complainant's application under Section 193 CrPC led the Sessions Court to take cognizance under Sections 307/34 IPC. The original FIR and chargesheet listed IPC Sections 147, 148, 149, 323, 294, 506 and 324. After the additional order, the attempt-to-murder allegation required consideration of bail on the merits for a non-bailable offence. The MP Division Bench passage referred to the Section 372 victim-appeal proviso in discussing standing. The present application was under Section 439(2), rather than an appeal against conviction of the kind described in that quoted passage.

4. Issues : Whether the directly affected complainant could challenge the fresh anticipatory-bail order; whether review under Section 439(2) of an originally unjustified grant required proof that respondent No. 2 later misused liberty; whether the earlier release based solely on bailable offences meant that cognizance under Section 307/34 was merely the addition of a section after a fully considered bail decision; whether the court granting bail on 15 November considered the prima facie firearm material, injury, gravity and liberty, and recorded reasons for protection under Section 438; and whether the asserted warrant-recall procedure under Section 70(2) precluded that application.

5. Ratio / Findings : The High Court distinguished cancellation by the granting court for supervening misconduct, subject to the finality concerns under Section 362, from a superior court's correction of an unlawful or perverse grant. *Harjit Singh*, *Mahipal*, *Neeru Yadav*, *Puran* and *Lachhman Dass* do not require proof of misuse of bail before a superior court can examine ignored material or the absence of reasons. Ramadhar was a complainant with a bona fide connection to the case and could seek review. The order dated 7 October 2020 granted release solely because the offences were described as bailable; the trial court had not assessed the alleged firing of a gun or attempted murder. The High Court expressly acknowledged the narrower rule that, where a court has considered the allegations and granted bail, the mere later addition of sections without further material does not automatically require the accused to return to custody. That rule did not apply here. The order dated 12 November found sufficient material for cognizance under Section 307/34, so the basis on which the earlier release had been granted no longer applied.

The court granting anticipatory bail on 15 November recorded the parties' submissions and the bail history, then merely stated that bail appeared justified. It gave no independent reason, even briefly, for protecting respondent No. 2 despite the alleged gunshot injury to Ramveer's left elbow and the newly added serious charge. Under *Kumer Singh* and the authorities requiring reasons for bail, even a preliminary decision in the exercise of discretion must consider the relevant material, gravity of the offence and the accused's role. It need not determine guilt beyond reasonable doubt. That failure showed non-application of mind.

6. Relief : The Hon’ble High Court allowed the application for cancellation of anticipatory bail and set aside the 4th Additional Sessions Judge, Morena’s order dated 15 November 2021 in S.T. No. 289/2020.

Ramadhar Baghel v. State of Madhya Pradesh and Ors., M.Cr.C. no. 58792/2021, 14/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Successive bail after failure to appear — The applicant, accused under IPC Sections 452, 354, 34 and POCSO Section 8, had earlier obtained bail. He failed to attend trial on 11 April 2019 when witness Murari was present; his bail bonds were cancelled, and he was arrested again on 23 February 2021. The first application after that arrest was dismissed on 7 April with liberty to renew the prayer after examination of the witnesses who had been present. On the second Section 439 application, the Court found that Murari had registered the FIR and prepared the spot map and was not a material witness concerning the substantive allegation. The complainant/prosecutrix had already testified before the applicant absconded. Approximately five months in custody and the delay in completing the trial supported conditional release. The earlier breach remained relevant and was addressed by requiring deposit of the previous bond amount and imposing strict conditions.

Pandemic orders and conditions — *In Re: Contagion of COVID 19 Virus in Prisons*, Supreme Court orders of 23 March and 7 April 2020, required High Powered Committees to consider categories for release to reduce prison overcrowding, leaving the nature and severity of the offence for their consideration, and required transport or shelter for released persons. The High Court applied the public-health context prevailing at the time without treating release as automatic. It required a Rs 1 lakh personal bond with a surety for the same amount, deposit of the forfeited bond amount, an undertaking to comply with Covid instructions, medical examination and testing if needed, safe travel or treatment, notice to the local police, and compliance until the trial concluded. The order stated that bail would cease to have effect if the applicant jumped bail or breached a condition. These conditions were specific to this 2021 order.

Victim notice — *Aparna Bhat v. State of M.P.*, Criminal Appeal 329/2021 (18 March 2021), was invoked for intimation of the bail grant to the complainant. Bail was allowed without a finding on the merits of the trial.

Case-note :- ***1. Facts :*** Ramanugrah Singh Gurjar filed a second application under Section 439 CrPC, MCRC No. 31986/2021, in Crime No. 10/2016 at Police Station Deepar, Datia, concerning IPC Sections 452, 354 and 34 and Section 8 of the Protection of Children from Sexual Offences Act. He had initially been granted bail. On 11 April 2019, prosecution witness Murari was present, but the applicant failed to appear. The trial court cancelled his bail bonds and issued a perpetual warrant of arrest. He was arrested on 23 February 2021 and remained in custody for approximately five months. The first application after that arrest, M.Cr.C. No. 18387/2021, was dismissed on 7 April 2021 with liberty to renew the prayer after examination of the witnesses present on the missed hearing date. In support of the present application, he produced the order sheet of 11 April pursuant to the later direction dated 8 July. He submitted that Murari was the officer who had registered the FIR and prepared the spot map, rather than an eyewitness to the alleged offence, and that the complainant/prosecutrix had testified well before he absconded. The State conceded Murari's official role but opposed bail. The applicant submitted that the trial would take time, that he had learnt from his failure to appear, and that he would deposit the amount of the earlier bail bond. The case diary was available, and the application was heard by video conference.

2. Precedents — Considered : *In Re: Contagion of COVID 19 Virus in Prisons*, Supreme Court Suo Motu W.P.(C) No. 1/2020, order of 23 March 2020, was quoted on the pandemic risk arising from prison overcrowding and the need to protect life under Article 21. It directed each State/UT to constitute a High Powered Committee comprising the State Legal Services Committee chair, the Home/Prison Secretary and the Director General of Prisons to determine the categories of prisoners eligible for release on parole or interim bail and the duration of release. Offences punishable with imprisonment up to seven years were given as an illustration, not as creating a mandatory entitlement. The Committee could consider the nature of the offence, the sentence, severity and other relevant factors. The High Court's individual bail reasoning relied on the period in custody and Murari's role; it made no express finding that the applicant fell within a High Powered Committee category.

The Supreme Court's order of 7 April 2020 in the same proceeding was quoted on the obligation of the Union and the States to ensure that released prisoners were not stranded. It required arrangements for travel home or the option of temporary shelter during lockdown, including possible action under the Disaster Management Act. The High Court applied that public-health direction by requiring medical examination before release, testing if recommended, safe travel where infection was not suspected or the test was negative, and hospital treatment if the test was positive. It also required compliance with the government pandemic directions applicable at the time.

Aparna Bhat and Ors. v. State of M.P., Criminal Appeal No. 329/2021 (18 March 2021), was cited in paragraph 13 for sending intimation of the bail order to the complainant.

3. Statutes considered : Section 439 CrPC governed the second application for regular bail; Sections 437 and 439 supplied the other standard conditions. IPC Sections 452 (house-trespass after preparation for hurt or assault), 354 (assault or criminal force to a woman with intent to outrage her modesty) and 34 (common intention), and POCSO Section 8 were the provisions under which the applicant was accused; their merits were not decided. Article 21 and the Disaster Management Act were mentioned in the quoted Supreme Court pandemic orders.

4. Issues : Whether a second bail application could be entertained after the applicant's failure to appear in 2019 and the refusal of bail on 7 April 2021 with liberty to renew the prayer after examination of the witnesses present at the missed hearing; whether Murari's role in registering the FIR and preparing the spot map, the prosecutrix's earlier examination, approximately five months of further custody and the likely delay in completing the trial justified release; how the earlier bond breach and safeguards during the pandemic should be addressed if bail were granted; and whether the complainant should receive intimation of the result.

5. Ratio / Findings : The Court considered the witness-related qualification in the first rejection in its factual context. The order sheet established Murari's presence on 11 April 2019, but he had registered the FIR and prepared the spot map and was not a material witness concerning the substantive allegation. The complainant/prosecutrix had been examined before the applicant absconded. State counsel conceded Murari's police role. Considering approximately five months in custody after the 2021 arrest and the time likely to be taken by the trial, the Court allowed the application, subject to deposit of the earlier bail-bond amount and a new surety. The decision granted discretionary, conditional bail; it was not an acquittal or a finding that the alleged offences were minor.

The applicant was required to deposit the earlier bail-bond amount and furnish a personal bond of Rs 1,00,000 with one surety for the same amount to the satisfaction of the trial court, CJM or available remand Magistrate. He was also required to undertake compliance with the Central, State and local Covid instructions issued from time to time. Jail authorities were directed to obtain a competent doctor's examination and arrange testing if advised. The local administration was to arrange travel home if infection was not suspected or the test was negative. If the test was positive, the applicant was to be sent for hospital treatment. The applicant was directed to give a copy of the order to the police station having jurisdiction over his residence. The other conditions under Sections 437/439 remained applicable. The order was to remain in force until conclusion of the trial, but would automatically cease to have effect if the applicant jumped bail or violated a condition. *Aparna Bhat* was invoked for intimation to the complainant.

6. Relief : The Hon'ble High Court allowed the second application for regular bail, subject to deposit of the amount of the earlier bail bond.

Ramanugrah Singh Gurjar v. State of M.P., M.Cr.C. no. 31986/2021, 22/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR duty versus remedy — *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, affirms the police duty under Section 154 CrPC to register information disclosing a cognizable offence, while directing an informant aggrieved by non-registration to the Magistrate procedure under the Code. It reconciles *Ramesh Kumari* and *Lallan Chaudhary*, which concern the police duty, with *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*, which address the remedy. Ramashankar Rajoriya alleged that respondent No. 7 had not registered an FIR despite his request. The Court refused a direct mandamus under Article 226 without deciding the underlying accusation.

Statutory recourse — *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, describes a written approach to the Superintendent of Police under Section 154(3), followed by an application under Section 156(3) to the Magistrate, who can direct registration and proper investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, requires prima facie satisfaction and permits a recommendation to change the investigating officer when necessary; the Magistrate does not personally investigate. *Divine Retreat Centre*, quoting *Gangadhar*, describes the complaint inquiry under Sections 190/200, the possible direction for investigation and a report, dismissal under Section 203, or cognizance and issue of process. The final order preserved liberty to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.

Writ exceptions — *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, reserves intervention under Article 226 for rare cases in which mala fide exercise of investigative power, abuse and noncompliance with Chapter XII are clearly established. Even then, the Court cannot direct the manner of investigation. *Shweta Bhadauria*, MP Division Bench W.A. 247/2016, recognises *Whirlpool*'s exceptions to the rule requiring use of an

alternative remedy and explains that *Lalita Kumari, (2014) 2 SCC 1*, does not decide entitlement to a writ of mandamus without recourse to Sections 154(3), 156(3), 190 and 200. The order identified no exceptional circumstance warranting intervention. The writ was dismissed with liberty to approach the Magistrate; the Court did not hold that the police may ignore a cognizable offence.

Case-note :- ***1. Facts :*** Ramashankar Rajoriya filed Writ Petition No. 39390/2024 under Article 226 against Rajshankar Rajoriya and others, seeking a direction to the police to register an FIR. He submitted that he had approached respondent No. 7 for registration, but no action had followed. State counsel opposed a writ for registration and relied on the effective remedy of a complaint before the trial Magistrate under Section 200 CrPC, now Section 223 BNSS. The Court considered the narrow question whether an Article 226 petition seeking a direct order for FIR registration was maintainable.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted at length. It affirms that the police must register a case whenever information discloses a cognizable offence, but distinguishes that duty from the procedure available to a citizen when the police fail to act: a complaint to the Magistrate under Sections 190 and 200 CrPC. The quotation explains why *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, and its reiteration in *Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, on the police duty to register a case are consistent with *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, on a Magistrate complaint when registration does not occur. The directions concerning sanction in *Aleque Padamsee* related to that case and were not a separate controversy here. The High Court applied the distinction to refuse intervention without recourse to the ordinary remedy; it did not negate the underlying police obligation.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted on the exceptional power under Article 226 where mala fide exercise of investigative power, abuse and noncompliance with Chapter XII are clearly shown. The Court may insist on observance of lawful procedure, but cannot direct how the police investigate. Through *Gangadhar*, the quotation describes the complaint inquiry under Sections 190/200: the Magistrate examines the evidence, may direct police investigation and a report under Chapter XII, may dismiss the complaint under Section 203 if there is no basis for further action, or may take cognizance and issue process when a prima facie offence appears. Ordinary police inaction is to be addressed through this Magistrate procedure. The order did not identify exceptional circumstances concerning the investigation.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, was quoted on a written application to the Superintendent of Police under Section 154(3), followed, if that remedy is ineffective, by an application under Section 156(3) to the Magistrate. The Magistrate may direct registration of the FIR and a proper investigation, and may monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, affirmed that procedure, the requirement of prima facie satisfaction, the discretion to recommend a change of investigating officer, and the restriction against the Magistrate personally investigating. It explained the burden on the High Courts if every allegation of non-registration were brought to them first. These authorities describe effective statutory remedies without deciding the petitioner's future complaint.

Shweta Bhadauria v. State of M.P., W.A. No. 247/2016 (20 December 2016), was cited as the binding local Division Bench decision. Its quotation permits refusal of a mandamus for FIR registration where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four exceptions to the rule of alternative remedy discussed in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: that decision concerns the police duty to register information and does not itself determine entitlement to a writ without use of the statutory remedies.

3. Statutes considered : Article 226 of the Constitution was the jurisdictional basis of the petition. Section 154 CrPC concerned registration of information disclosing a cognizable offence; subsection (3) provided recourse to the Superintendent of Police. Section 156(3) empowered the Magistrate to direct investigation, as explained in the cited cases. Sections 190 and 200 governed complaint and cognizance, and Section 203 provided for possible dismissal after inquiry. Investigation

under Chapter XII and complaint procedure under Chapter XV were discussed in the quoted precedent. The operative order identified Section 200 CrPC/Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as the remedy available to this petitioner.

4. Issues : Whether the writ court should directly compel police registration merely on the petitioner's assertion of inaction; how the duty to register information disclosing a cognizable offence differs from the citizen's remedy when the police fail to act; whether Sections 154(3), 156(3), 190/200 and the corresponding BNSS complaint provision offered effective recourse; and whether the facts recorded in the order disclosed exceptional abuse or an exception to the rule of alternative remedy.

5. Ratio / Findings : The Court applied the distinction in *Aleque Padamsee*: the police remain obliged to register information disclosing a cognizable offence, but an aggrieved person must ordinarily use the statutory supervisory and complaint procedures before seeking a mandamus for FIR registration. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explain the Magistrate's powers to direct registration and proper investigation where prima facie justified. *Divine Retreat Centre* preserved exceptional writ intervention where mala fide exercise of investigative power, abuse and Chapter XII noncompliance are clearly established. *Shweta Bhadauria* recognised *Whirlpool*'s exceptions while distinguishing *Lalita Kumari*'s statement of police duty from entitlement to a writ. The order records the petitioner's assertion that respondent No. 7 had not registered the FIR. The Court identified no exceptional circumstance warranting immediate High Court intervention; it refused writ relief and left the complainant free to approach the competent Magistrate. It did not find that non-registration was lawful or that no cognizable offence existed.

6. Relief : The Hon'ble High Court dismissed the Article 226 petition with express liberty to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS for redress. It ordered no FIR or arrest, gave no direction on the manner of investigation, and made no finding on the merits of the proposed complaint.

Ramashankar Rajoriya v. Rajshankar Rajoriya and Ors., W.P. no. 39390/2024, 16/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (711) Prev Next

Headnote :- Kidnapping for ransom — Section 364-A IPC — distinct ingredients — Ramasre @ Fakkad appealed against a life sentence under Section 364-A read with Section 13 MPDVPK Act for the alleged abduction of Vidyaram in 1984. The Bench considered whether the appellant had abducted him for ransom and threatened death or hurt, or created a reasonable apprehension of death or hurt. It reproduced the statutory text and the detailed analysis in *Shaik Ahmed v. State of Telangana (28 June 2021)*. Kidnapping, abduction or detention, the threat, apprehension or actual harm, and the purpose of coercion or obtaining ransom must be proved in the relationship required by the provision. The quoted Supreme Court judgment distinguishes the ransom-communication issue in *Malleshi* from the other ingredients, considers *Anil Patil*, *Suman Sood*, *Vishwanath Gupta* and *Vikram Singh*, and rejects treating *Arvind Singh*'s facts concerning a child's abduction as creating an automatic presumption of threat. The Bench applied this framework to the record, but its decisive finding was that the appellant's identity and participation had not been proved.

Identification and proof — Vidyaram (PW1) acknowledged that he had been abducted and confined for 45 days, but said that he did not know the abductors. The Bench found his identification of Ramasre in court irreconcilable with PW1's admission that he had never seen the appellant during detention. The defence also relied on the fact that the accused alone was present for identification. Kedarnath (PW2) and Tehsil Khan (PW3) did not support the prosecution, and no other prosecution witness was examined. The Bench held that there was no evidence against the appellant. It set aside the conviction and life sentence, acquitted him and directed his release unless required in another case.

The judgment records an alleged occurrence in 1984 and the insertion of Section 364-A in 1993.

Case-note :- ***1. Facts :*** According to the prosecution, at about 8 p.m. on 2 October 1984, seven or eight armed persons abducted Vidyaram and Tehsil Khan near village Pulawali. Tehsil Khan was released earlier; Vidyaram was kept in Uttar Pradesh, and a

ransom demand was allegedly made to his brother Kedarnath. The FIR included Sections 364, 365, 386 and 400 IPC and Sections 11 and 13 of the MPDVPK Act. In the 1992 trial of other accused, Sitaram was convicted under Sections 365 and 384 and three co-accused were acquitted. Ramasre @ Fakkad, who had earlier been shown as absconding, was arrested in 2006 and tried separately. The Special Judge (Dacoity), Bhind convicted him under Section 364-A IPC read with Section 13 MPDVPK Act on 12 March 2010 and imposed life imprisonment. In Criminal Appeal 282/2010, the defence argued that the three witnesses examined had failed to identify or implicate him and that the identification in court was unreliable. The State relied on that identification and supported the conviction.

2. Precedents — Considered : The Bench reproduced an extended passage from *Shaik Ahmed v. State of Telangana*, Criminal Appeal 533 of 2021, decided 28 June 2021, on the distinct ingredients of Section 364-A and the need to prove the statutory threat or apprehension rather than assume it from abduction for ransom. That Supreme Court analysis traced the Law Commission's proposed provision, its enactment in 1993 and expansion in 1995, and construed the single conjunction 'and' in relation to the alternatives joined by 'or'. The quoted decision referred to *Punjab Produce and Trading Co.* and *Hyderabad Asbestos Cement Products* as examples of conjunctive and disjunctive construction within *Shaik Ahmed*, rather than as authorities independently applied by the Bench to this record. It explained that *Malleshi v. State of Karnataka, (2004) 8 SCC 95*, decided an issue about communicating a ransom demand: a demand made to the abductee did not cease to satisfy the requirement merely because arrest prevented its transmission to another person. Its abbreviated list of ingredients did not dispense with the separate requirement of threat or apprehension. *Anil alias Raju Namdev Patil v. Administration of Daman & Diu, (2006) 13 SCC 36*, identified abduction together with the necessary threat, apprehension or actual harm and coercion. *Suman Sood v. State of Rajasthan, (2007) 5 SCC 634*, upheld the benefit of doubt for an accused whose participation in pressurising or terrorising the victim or family was not reliably proved. *Vishwanath Gupta v. State of Uttaranchal, (2007) 11 SCC 633*, illustrated how the elements could occur at different places for the purpose of territorial jurisdiction; its facts did not make actual death a requirement in every prosecution under Section 364-A. *Vikram Singh v. Union of India, (2015) 9 SCC 502*, set out the three components of detention, threat or apprehension or actual harm, and coercion or ransom. *Shaik Ahmed* read *Arvind Singh v. State of Maharashtra* in the context of its facts and rejected a rule that tender age alone gives rise to a legal presumption of threat; each condition remains a matter of proof. *Omprakash Shrivastava v. State, 2007 Cri LJ 696* (Del), was separately cited on communication of a ransom demand. The Bench's decisive ground for acquittal concerned proof of identity and participation, rather than the mode of communicating ransom.

3. Statutes considered : Section 364-A IPC was the provision under which the appellant was charged with kidnapping for ransom, and he was convicted under it read with Section 13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam (MPDVPK Act). The Bench reproduced Section 364-A and Section 365 IPC, described the 1993 insertion of the kidnapping-for-ransom provision, and quoted the Supreme Court's account of its later expansion. Sections 364, 365, 386 and 400 IPC and Sections 11 and 13 MPDVPK Act appeared in the FIR history; statements under Section 161 CrPC were recorded during the investigation.

4. Issues : Whether the prosecution proved that it was this appellant who abducted or detained Vidyaram for ransom, rather than unidentified persons; whether the statutory requirement under Section 364-A of a threat, reasonable apprehension of death or hurt, or actual harm was proved under the cited Supreme Court test; whether Vidyaram's identification in court remained reliable despite his admission that he had never seen Ramasre during detention; and whether the other two witnesses or any further evidence established the appellant's guilt.

5. Ratio / Findings : The Bench treated the ingredients of Section 364-A as separate matters requiring proof. Following the quoted analysis in *Shaik Ahmed*, proof of abduction or an account of a ransom demand alone could not dispense with the statutory requirement concerning threat or apprehension. On this record, Vidyaram acknowledged that he had been abducted and confined, but could not reliably identify those who had abducted him. His identification in court in paragraph 3 of his testimony was undermined by his admission in paragraph 6 that he had never seen the appellant during confinement. Kedarnath and Tehsil

Khan did not support the prosecution, and no further prosecution witness was examined. The trial court's reliance on PW1 could therefore not sustain a finding that this appellant committed the charged offence. The Bench held that there was no evidence against him.

6. Relief : The Hon'ble High Court allowed the appeal. The Special Judge's conviction and life sentence dated 12 March 2010 under Section 364-A IPC read with Section 13 MPDVPK Act were set aside, and Ramasre was acquitted. As he was in jail, the Bench directed his immediate release unless required in another case. It also directed that he receive a free copy of the judgment and that the judgment and trial record be sent for compliance.

Ramasre v. State of Madhya Pradesh, Cr.A. no. 282/2010, 11/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (712) Prev Next

Headnote :- Dying declaration — sole basis and reliability — Rambabu Ahirwar, his father Biharilal and mother Puniya Bai were convicted of murdering Rambabu's wife Sooraj Bai by burning her. Biharilal died pending appeal, which abated as to him. The defence challenged the declaration (Ex.P/21) because it was recorded as a narrative rather than in question-and-answer form, questioned the timing of the doctor's certification of consciousness, and relied on relatives who did not support the prosecution. Applying *Atbir v. Government of NCT of Delhi, (2010) 9 SCC 1*, the Division Bench held that a dying declaration may sustain conviction without corroboration when it inspires full confidence, the maker is in a fit state of mind, and the statement is true and voluntary. Corroboration is a safeguard required as a matter of prudence where the statement is suspicious, rather than an absolute requirement for every dying declaration. The Bench found Ex.P/21 coherent and recorded by the Executive Magistrate while Sooraj Bai was conscious. Her Dehati Nalishi, the medical evidence and the evidence concerning its recording supported the declaration. The declaration reproduced in the order describes the husband pouring oil on her and setting her alight after she refused money for liquor, and implicates the in-laws through their conduct. The Section 302 convictions and life terms were affirmed; Puniya Bai was directed to surrender by 7 March 2022.

Case-note :- ***1. Facts :*** Sooraj Bai was married to appellant No. 1 Rambabu Ahirwar. The prosecution alleged that on 20 April 2008 at about 8 p.m., he demanded money to purchase liquor. When she refused, he poured kerosene over her and set her alight, while his parents Biharilal and Puniya Bai shut the house door. He later took her on a cart but, according to the prosecution account, did not obtain treatment for her; her brother-in-law and brother admitted her the next morning. Executive Magistrate Brajesh Kumar Sharma (PW13) recorded her statement (Ex.P/21) at CHC Lateri at 3:30 p.m. on 21 April after a doctor assessed her consciousness. She also made a Dehati Nalishi bearing her thumb impression (Ex.P/17), on which FIR 69/2008 (Ex.P/15) was registered. She died at Hamidiya Hospital on 22 April. The medical evidence described extensive second- and third-degree burns and cardio-respiratory failure due to burns and their complications. Fifteen prosecution witnesses and two defence witnesses were examined. The Special Judge convicted the husband and both parents under Section 302 IPC on 31 August 2010, imposing life imprisonment, a Rs. 500 fine and a default clause. Biharilal died while Criminal Appeal 707/2010 was pending, so his appeal abated. The surviving appellants challenged the form of Ex.P/21, the timing of the medical endorsement, the possible inconsistency between the doctor and the officer who recorded it, and the failure of family witnesses to support the prosecution. The State defended the conviction.

2. Precedents — Considered : *Atbir v. Government of NCT of Delhi, (2010) 9 SCC 1*, was quoted in ten propositions and applied in paras 16–23. A dying declaration may be the sole basis of conviction if it inspires full confidence; the maker must be mentally fit and the statement free from tutoring, prompting and imagination. Once its truth and voluntariness are established, further corroboration is not legally indispensable; where the declaration is suspicious, corroboration is required as a matter of prudence. A purported statement by an unconscious person cannot support conviction. Brevity or failure to include every detail of the incident does not, by itself, destroy reliability. Where an eyewitness establishes that the maker lacked consciousness, a medical opinion cannot override that evidence. Careful scrutiny of the contents for coherence, consistency and freedom from inducement remains necessary. The Bench considered the Magistrate's

evidence about the recording, the doctor's evidence about consciousness, the contents of the declaration, the deceased's own report and the defence objections.

3. Statutes considered : Section 302 IPC governed the murder conviction and life sentence. The FIR, Dehati Nalishi, post-mortem, medical certificate and testimonial record were assessed as evidence.

4. Issues : Could Ex.P/21 reliably establish the surviving appellants' guilt despite its narrative form, the defence assertion that there was no certification before recording, and the alleged inconsistency between the doctor and the Magistrate? Was Sooraj Bai conscious and able to narrate freely what had happened, and did the declaration inspire confidence under *Atbir*? What consequence followed from the relatives' failure to support the prosecution, given the deceased's own report and the evidence of the officer who recorded the declaration and the doctor? The appeal as to Biharilal could not be determined after his death.

5. Ratio / Findings : The Bench accepted *Atbir*'s rule that a truthful, voluntary declaration by a person in a fit state of mind may, after close scrutiny, sustain conviction without corroboration. A suspicious declaration should not be acted upon without corroboration; a purported statement that the maker could not have made because of unconsciousness cannot form the basis of conviction. The Bench found that the Executive Magistrate recorded Ex.P/21 while Sooraj Bai was conscious and that the document clearly attributed the burning to her husband and implicated the parents in shutting the door. The evidence proving the declaration was not discredited in cross-examination. Her Dehati Nalishi, the doctor's evidence and the burn findings reinforced its reliability. The declaration narrates the quarrel over liquor money, beating, the pouring of oil and ignition, and identifies the conduct of the husband and in-laws. The Bench found the objections to form and certification timing, and the relatives' failure to support the prosecution, insufficient to displace the declaration it considered trustworthy. It affirmed the trial court's assessment.

6. Relief : The Hon’ble High Court dismissed the appeal as to the surviving appellants; the Section 302 convictions, life sentences and fines remained in force. Biharilal's appeal had abated upon his death. Rambabu was in jail. Puniya Bai, who was on bail, was directed to surrender before the trial court by 7 March 2022 to serve the remaining sentence; if she failed to surrender, the trial court could issue an arrest warrant.

Rambabu Ahirwar and Ors. v. State of M.P., Cr.A. no. 707/2010, 24/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (713) Prev Next

Headnote :- Murder appeal — individual proof and mixed result — Three appeals against the conviction of a large family group for the killing of Babulal on 13 June 2005 were decided together. The deceased and the witnesses were travelling on motorcycles for medical examination after an earlier clash. The Bench found that an armed assault by Atmaram, Mahesh, Rambabu and Kailash was proved. It acquitted Halkai and seven others because their participation or a shared common object was not proved. Raju and Jagmohan had died during the appeals.

Section 313 CrPC — Rakesh's form contained 222 questions and bore signatures on 29 pages, but only questions 1–3 and 220–222 had answers. The Bench found that the intervening questions had not been asked. *Sharad Birdhichand Sarda*, *Ghulam Din Buch*, *Rautu Bodra* and *Ranvir Yadav* require a meaningful opportunity to explain incriminating circumstances, while *State of U.P. v. Raghuvir* qualifies the consequence by reference to prejudice. The serious omission gave Rakesh an additional ground for acquittal; the prosecution had also failed to prove his role.

Medical and ocular evidence — The autopsy's failure to record the right-hand wound sustained in the earlier altercation did not displace the contemporaneous inquest and medical requisition recording it. Applying *Dayal Singh*, the Bench assessed the entire record despite possible negligence in conducting the autopsy or suppression of the injury. *Palani*, *Darshan Singh*, *Mohd. Parvez Abdul Kayuum* and *Yogesh Singh* distinguish an expert opinion suggesting an alternative possibility from medical evidence completely ruling out credible ocular testimony. The Bench found the wounds in the chest/abdominal region and on the left side of the neck sufficiently consistent with the direct account of the assault by the four armed appellants.

FIR omissions and Section 149 — Applying *Ravi Kumar*'s principle on the purpose of the first report, the Bench accepted the frightened informant's

explanation for failing to specify every blow in the initial Dehati Nalishi concerning the four appellants who used weapons. The omission of Halkai's name, the absence of a head injury and the inability to establish that the blood on a seized lathi was human cumulatively raised doubt about his involvement. *Sukhbir Singh*, *Manjit Singh*, *Vinubhai Ranchhodbhai Patel*, *Kuldip Yadav* and related authorities require proof of a common object or the requisite knowledge for each alleged member. An overt act is not always necessary, but the presence of family members and general allegations of fist-blows, unsupported by contusions, did not prove the seven others' participation. Under *Kunwarpal*, enmity was considered both as a possible motive and as a reason to guard against false implication.

Section 34 substitution — Once participation was proved against fewer than five persons, liability under Section 149 and the conviction for rioting could not be sustained. *Mala Singh* and the authorities on charges and prejudice permit conviction under Section 302/34 despite the absence of a separate Section 34 charge where the same alleged facts and evidence gave fair notice and the omission caused no failure of justice. Atmaram, Mahesh, Rambabu and Kailash were convicted under Section 302/34, with their life sentences undisturbed, and acquitted under Section 148. Halkai, Pola @ Jainarayan, Rakesh, Batol @ Makhanlal, Pappu @ Sitaram, Sanjeev, Rajesh and Dinesh were acquitted of all charges and their bonds were discharged.

Case-note :- ***1. Facts :*** Criminal Appeals 724, 764 and 770 of 2010 challenged the 31 August 2010 judgment of the Sironj trial court in Sessions Trial 167/2005. The trial court had found the appellants guilty under Sections 148 and 302/149 IPC and imposed one year's rigorous imprisonment for Section 148 and life imprisonment plus a Rs. 5,000 fine and a default term for murder. Raju and Jagmohan died pending appeal, and their appeals abated. On 13 June 2005, Atmaram reported a morning assault; later, Babulal also reported an earlier clash and was sent from Deepnakheda police station for medical examination. Babulal rode with Datar Singh, while Rajkumar, Mukesh, Suresh, Ramgopal and constable Bhagirath travelled on two following motorcycles along the Chitholi route. The prosecution alleged that a group connected to Atmaram stopped them near the government park. In their detailed accounts, the eyewitnesses attributed sharp-weapon blows to Atmaram (near the abdomen), Mahesh (neck), Rambabu (below the left ear) and Kailash (back), a lathi blow to Halkai, and fist-blows to the others. Babulal died there of haemorrhagic shock following incised wounds. The defence challenged the presence of the witnesses and contradictions in their accounts, the omission from the post-mortem report of a hand injury reported earlier, the compatibility of the neck and abdominal wounds with the eyewitness accounts, and the claimed unavailability of buses. It also questioned the effect of earlier enmity, relied on Rambabu's alibi, disputed the alleged roles of the bare-handed accused, and raised Rakesh's nearly blank Section 313 form. The Bench examined the prosecution and defence witnesses and contemporaneous records, and assessed the different groups of accused separately before reaching different results in the three appeals.

2. Precedents — Considered : For Section 313, *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, required the exclusion of material circumstances never put to the accused. Its discussion of the earlier authorities *Hate Singh Bhagat Singh*, *Shamu Balu Chaugule* and *Harijan Megha Jesha* was reproduced. *Ghulam Din Buch v. State of J&K, (1996) 9 SCC 239*, held the conviction unsustainable when the core allegation was not put to the accused. *Rautu Bodra v. State of Bihar, 1999 SCC (Cri) 1319*, addressed both exclusion and whether remand after a long lapse of time was justified. *Ranvir Yadav v. State of Bihar, (2009) 6 SCC 595*, rejected treating the examination as a mere ritual. *State of U.P. v. Raghuvir, (2018) 13 SCC 732*, qualified the consequence by reference to actual prejudice or miscarriage of justice. The Bench applied these authorities to Rakesh's signed form, in which only six questions had been answered; the failure to prove his participation independently supported acquittal.

Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263, permitted a court to assess reliable testimony and records independently of a defective or suspect post-mortem, while requiring caution and fairness. Its discussion of *NHRC v. State of Gujarat*, *K. Yarappa Reddy* and *Ram Bali* concerns the court's role and defective investigation; it does not authorise disregarding expert evidence without qualification. *Palani v. State of T.N., (2020) 16 SCC 401*, *State of Uttarakhand v. Darshan Singh, (2020) 12 SCC 605*, *CBI v. Mohd. Parvez Abdul Kayuum, (2019) 12 SCC*

1, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, were quoted on independently assessing the reliability of ocular evidence. *Darshan Singh*'s quotation of *Abdul Sayeed* and *Solanki Chimanbhai* made the limits explicit: an alternative possibility suggested by an expert does not determine the result, but medical evidence completely excluding the alleged manner of injury may discredit the ocular version. The Bench found the wounds compatible with the eyewitness accounts and relied on the inquest and medical requisition as evidence of the omitted hand injury.

Ravi Kumar v. State of Punjab, (2005) 9 SCC 315, treated the FIR as early information rather than an encyclopaedia or substantive proof, allowing a frightened informant's omission of blow-by-blow details to be assessed in context. *Kunwarpal v. State of Uttarakhand, (2014) 16 SCC 560*, described prior animosity as a possible motive as well as a reason to guard against false implication. The Bench accepted the explained omissions and the specific evidence against the four armed attackers, but assessed the discrepancies concerning Halkai cumulatively in finding his involvement unproved.

Sukhbir Singh v. State of Haryana, (2002) 3 SCC 327, required proof that each member shared the common object or had the requisite knowledge, notwithstanding the absence of an individual overt act. *Manjit Singh v. State of Punjab, (2019) 8 SCC 529*, through *Sikandar Singh*, *Masalti* and *Subal Ghorai*, explained how conduct, arms, words and timing can establish a common object formed even on the spot, while warning against treating a passive onlooker as guilty. *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, *Dev Karan v. State of Haryana, (2019) 8 SCC 596*, and *Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*, elaborated the requirement of five members and constructive liability without requiring proof that every member inflicted an injury. *Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324*, rejected liability for every member irrespective of the common object or knowledge. *Kashiram v. State of M.P., (2002) 1 SCC 71*, recognised that a lawful gathering may later become unlawful. The Bench did not find such a transformation or a common object to commit murder proved against the seven bare-handed relatives.

Mala Singh v. State of Haryana, (2019) 5 SCC 127, was reproduced at length on CrPC Sections 216, 386 and 464 and the possibility of liability under Section 302/34 after Section 149 fails, where the facts and evidence overlap and the omission of the charge causes no actual failure of justice. The quotations from *Willie (William) Slaney*, *Lachhman Singh*, *Karnail Singh* and *Chittarmal* distinguished common intention from common object and made prejudice and fair notice decisive.

3. Statutes considered : Sections 141–149 IPC governed whether five or more persons constituted an unlawful assembly, the alleged rioting with deadly weapons under Section 148, and constructive liability for murder under Section 302/149. Section 34 IPC supplied the basis of common intention on which the conviction under Section 302 was ultimately sustained against four persons after liability under Section 149 failed. Sections 341 and 294 IPC and Section 25 Arms Act were mentioned in the charge-sheet narrative, not as independent appellate convictions. CrPC Section 313 governed the accused's opportunity to explain incriminating material; Section 374 provided for the appeals. Sections 216, 386 and 464 were discussed through *Mala Singh* in relation to alteration of charges, appellate powers and the test of failure of justice. Section 145 of the Evidence Act appears in the *Ravi Kumar* discussion of contradictions.

4. Issues : Whether Rakesh was asked to explain the incriminating circumstances in a meaningful examination under Section 313 and whether the omission caused prejudice; whether Babulal's death was homicidal and the direct witnesses' account remained reliable despite the alleged inconsistency with the autopsy; whether the earlier hand injury and the specific blows to the abdomen, neck and back were supported by the evidence; whether the omission of roles from the first report, enmity on the part of the witnesses, Rambabu's alibi and the defence bus records affected reliability; which appellants actually attacked or joined an assembly with a proved common object; whether a lawful family gathering later became unlawful; and whether the four proved attackers could be convicted under Section 302/34 after liability under Section 149 failed, despite the absence of a separate Section 34 charge. The dead appellants' appeals stood abated, not adjudicated on the merits.

5. Ratio / Findings : Rakesh's form contained 222 questions and ran to 29 pages bearing his and the Judge's signatures, yet only questions 1–3 and 220–222 had answers. The Bench found that the

intervening incriminating circumstances were not put to him, rejected treating Section 313 as a mere ritual, and held him entitled to acquittal on that additional ground. *Raghuvir*'s qualification concerning prejudice was expressly noted. The defect here was substantive, and the Court also found no proof of his role.

The doctor's autopsy established homicidal death through incised wounds and haemorrhagic shock but omitted a hand injury sustained in the earlier clash. The inquest report reproduced on page 12 records blood on the fingers and a wound between the right thumb and finger; the police requisition also mentioned that injury. The Bench found those contemporaneous records persuasive and considered that the doctor had either been careless or suppressed the injury, without deciding which. The lower chest wound was near the abdominal region and did not contradict the account of Atmaram's knife blow. The left-neck wound was treated as consistent with the evidence concerning Mahesh and Rambabu despite the doctor's opinion that it resulted from a single assault; Kailash's blow to the back had a corresponding wound. The Court independently assessed the eyewitnesses under the rule concerning complete exclusion by medical evidence and found the alleged acts of the four armed appellants proved. Datar Singh's shock explained his failure to specify their blows in the first report; enmity supplied a plausible motive as well as a reason for caution. The conductor sheets did not prove that buses were running, as their makers were not called. Neither the evidence of Rambabu's relative nor the invitation proved his presence at a memorial ceremony.

Halkai's alleged lathi blow to the head had no corresponding head injury, he was not named initially, and the blood on the lathi seized later was not shown to be human. The seven others — Pola @ Jainarayan, Rakesh, Batol @ Makhanlal, Pappu @ Sitaram, Sanjeev, Rajesh and Dinesh — were relatives or associates said to have used fists and blows, yet the body showed no contusions. Their travel with Atmaram after his medical examination explained their innocent presence. The prosecution did not prove an overt assault by them or establish a common object from their conduct, knowledge and the timing of events. With those eight acquittals, participation was proved against fewer than five persons, and the remaining trial findings could not be sustained under either Section 149 or Section 148. The four appellants proved to have used weapons, however, acted jointly in a case whose facts had been presented and contested. After quoting *Mala Singh*'s test concerning absence of prejudice, the Bench found common intention and maintained their liability for murder under Section 302/34.

6. Relief : The Hon’ble High Court maintained the convictions of Atmaram, Mahesh, Rambabu and Kailash under Section 302 read with Section 34 IPC; their life terms and the associated fine and default sentence were not disturbed. All four were acquitted under Section 148 IPC. Halkai, Pola @ Jainarayan, Rakesh, Batol @ Makhanlal, Pappu @ Sitaram, Sanjeev, Rajesh and Dinesh were acquitted of all charges and, being on bail, their bonds were discharged. Raju and Jagmohan's appeals had abated following their deaths. The appeal concerning Rambabu and Kailash was dismissed as to them and allowed as to its other surviving appellant. The appeal concerning Atmaram and Mahesh was dismissed as to them and allowed as to its other surviving appellants. The remaining connected appeal was allowed. The four imprisoned appellants were directed to serve the remaining life terms and receive free copies of the judgment; the trial record was returned.

Rambabu and Ors. v. State of M.P., Cr.A. no. 724/2010 & 764/2010 & 770/2010, 22/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal procedure — closure report — procedural return and magistrate control — An FIR under Sections 302/34 IPC alleged that police shot the complainant’s son in a staged encounter. The first expunge/closure report was returned in March 2021 solely because it had not been presented through a competent police officer under Police Regulation No. 737. The procedural return did not amount to rejection of the report on its merits and did not oblige the police to file a charge-sheet. A fresh report filed through the Superintendent of Police in January 2025 remained before the Chief Judicial Magistrate, Morena, on the record available to the Division Bench. Applying *Abhinandan Jha v. Dinesh Mishra, AIR 1968 SC 117*, the Bench explained that the Magistrate could accept closure, decline it and direct further investigation under Section 156(3) CrPC if the investigation was incomplete, or take cognizance under Section 190(1)

(b) if the reported facts disclosed an offence notwithstanding the police opinion. The outcome of further investigation was not predetermined.

Protest/objection — The complainant must be notified, allowed to object, and afforded an opportunity to examine supporting witnesses before the pending report is disposed of. His FIR and earlier objection depended on the account attributed to Ran Singh, the alleged eyewitness whom he had not examined at the earlier hearing. If the report had already been finally decided, the complainant could pursue remedies available in law.

Criminal-side writ — The Single Judge's direction to the SP to look into the FIR was set aside because the fresh closure report was pending before the CJM, a circumstance not brought to the Single Judge's attention. The appellate court would not pre-empt the CJM's assessment or express a view on the alleged encounter and investigation. The 21-year delay on the part of the police was deprecated, while the complainant's own delay in seeking judicial intervention was noted. If the report remained pending, the CJM was to dispose of it within three months of receipt of the certified order after giving the complainant the prescribed opportunity to object and examine witnesses.

Fair and independent investigation — *Reviewing State of Punjab v. CBI*, *Dharam Pal*, *Bharati Tamang*, *Babubhai*, *Himanshu Kumar*, *K.V. Rajendran*, *Vishal Tiwari*, *Royden Harold Buthello* and *Anant Thanur Karmuse*, the Bench reiterated that the constitutional power to transfer an investigation to CBI or another independent agency must be exercised sparingly, where an exceptional need to ensure credibility, justice or confidence in an impartial investigation is substantiated. Mere allegations against local police, the complainant's preference for an agency, and delay alone do not automatically warrant transfer; the involvement of senior officials, prima facie taint, influence or serious inadequacy may be relevant if supported by the record. Neither filing of a charge-sheet nor commencement of trial is an absolute bar where an exceptional case exists. Further investigation under the CrPC differs from fresh/de novo investigation under the powers of superior courts. On the record before it, the Bench left the pending report and any decision on further investigation to the CJM and gave no finding on the truth of the fake-encounter allegation. The writ appeal was disposed of by setting aside the Single Judge's direction and issuing conditional directions to the CJM. Transfer to CBI, monetary relief and police protection were not granted.

Case-note :- ***1. Facts :*** Rambabu Singh Tomar appealed under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 against the order of 19 November 2025 in W.P. No. 15661/2023. The Single Judge had directed the Superintendent of Police, Morena, to look into FIR Crime No. 262/2004 of Porsa police station. The father alleged that police officers shot his 29-year-old son, a BSF constable on leave, near Mahavir Temple, Dhaneta, on 3 September 2004 and wrongly portrayed the death as an encounter; the FIR named police personnel under Sections 302/34 IPC. These were allegations, not facts found by the appellate court. The father was not an eyewitness. His FIR attributed the account to Ran Singh. Police filed an expunge/closure report on 21 October 2015. After receiving notice, the father made a statement and raised objections in MJCR No. 389/2016 but did not examine Ran Singh. By order of 27 March 2021, the CJM returned the report for presentation through the Superintendent of Police/competent officer under Police Regulation No. 737; the report was not rejected on its merits. The father brought his writ petition on 5 July 2023. A police letter annexed to the State's return showed that a fresh report had been filed through the SP on 15 January 2025 as MJCR No. 36/2025 before the CJM. The precise stage of that report was not established in the appeal. The father asserted a 21-year failure to investigate fairly, noncompliance with investigative points identified by the DIG, and the police's delay after the 2021 return. He sought independent/CBI investigation, police protection for his family, ₹25 lakh compensation and costs, arguing that the return of the report obliged the police to file a charge-sheet.

2. Precedents — Considered : *Abhinandan Jha v. Dinesh Mishra, AIR 1968 SC 117*, was applied to a Section 173 final report: the Magistrate may accept closure; where the investigation is incomplete or unsatisfactory, decline to accept the report and direct further investigation under Section 156(3); or take cognizance under Section 190(1)(b) on facts disclosing an offence despite the contrary police opinion. Further investigation may result in a charge-sheet or another final report. In the present case, the CJM had not adjudicated the merits of the 2015 report. The fresh report was for the CJM alone to consider in the first instance.

State of Punjab v. CBI, (2011) 9 SCC 182, was considered for the distinction between further investigation under Section 173(8), within the powers conferred by the CrPC on the police and subordinate courts, and the High Court's exceptional inherent or constitutional power to secure justice by fresh investigation or an independent agency despite an earlier charge-sheet. The passage quoted from it discussed *Mithabhai Pashabhai Patel* and *Nirmal Singh Kahlon*, including the difference between supplementing an investigation and ordinarily disfavoured reinvestigation, and the distinction between transferring an investigation and court monitoring, which ends after the charge-sheet is filed. No fresh investigation was ordered here.

Dharam Pal v. State of Haryana, (2016) 4 SCC 160, was considered for the constitutional power, to be exercised sparingly, to intervene to ensure a fair inquiry for victims. Commencement of trial and examination of witnesses do not absolutely bar its exercise, but suspicion must have a factual foundation. *Bharati Tamang v. Union of India, (2013) 15 SCC 578*, was reproduced for the powers, in an appropriate case, to constitute or monitor an independent team, transfer an investigation even after a charge-sheet is filed, and exceptionally direct a de novo inquiry to avert a miscarriage of justice. Its accompanying propositions on admissibility of illegally obtained evidence and prosecutorial disclosure were quoted but were not independent issues decided in this appeal. *Babubhai v. State of Gujarat, (2010) 12 SCC 254*, distinguished further investigation and exceptional independent-agency inquiry from routine reinvestigation; judicial intervention in police investigation requires grave irregularity, mala fides or an inquiry that is improper and lacks objectivity.

Himanshu Kumar v. State of Chhattisgarh, (2023) 12 SCC 592, was extensively considered. It drew *on State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, *Secretary, Minor Irrigation & Rural Engineering Services v. Sahngoo Ram Arya, (2002) 5 SCC 521*, and *K.V. Rajendran* to require that transfer be ordered cautiously and only in rare cases, on material in the record showing, for example, a prima facie tainted investigation, the capacity of high officials to influence it, concerns about credibility, or a need to secure justice or enforce fundamental rights. Allegations against police alone and a request for a chosen agency are insufficient. Its reference to *Romila Thapar* concerned the accused's inability to dictate an investigating agency; the father here was the complainant. The more general principle in *Rajesh Gandhi* was that an aggrieved person may demand proper investigation but cannot select the agency as of right.

K.V. Rajendran v. Superintendent of Police, CBCID, (2013) 12 SCC 480, was separately quoted. Its test of exceptional circumstances emphasized justice, an honest and complete investigation, and public confidence. It also observed that, once an investigation is complete and a charge-sheet has been filed, courts should ordinarily leave the matter to the criminal court and avoid expressing opinions on the merits of accusations against individuals. The encounter case of *Rubabbuddin Sheikh*, cited in that discussion, involved accusations against top police personnel with a credible concern that the State police investigation could not command confidence; it was not treated as requiring automatic transfer whenever police personnel are accused.

Vishal Tiwari v. Union of India, (2024) 4 SCC 115, was considered for the requirement of strong evidence on the record showing glaring and deliberate inaction, inadequacy or prima facie bias, and a likely failure of justice, before displacing the agency entrusted by statute with the investigation. *Royden Harold Buthello v. State of Chhattisgarh* reiterated the CPDR caution. It also discussed the concern in *Mithilesh Kumar Singh* for the victim's confidence and credible discovery of truth in light of the facts of each case, alongside *Arnab Ranjan Goswami*'s insistence on an exceptional, substantiated case. *Anant Thanur Karmuse v. State of Maharashtra* reiterated *Himanshu Kumar*'s rare-case test and the absence of an absolute bar merely because a charge-sheet has been filed or the trial has commenced.

3. Statutes considered : Sections 302 and 34 IPC were the provisions cited in the FIR for the alleged murder with common intention; their ingredients or the officers' guilt were not adjudicated. Sections 173(2) and 173(8) CrPC concerned police reports and the power of further investigation; Sections 156(3) and 190(1)(b) concerned the Magistrate's response to a final report as explained in *Abhinandan Jha*. Section 482 CrPC and Articles 226 and 32 of the Constitution appeared in the cited Supreme Court discussion of exceptional remedies concerning investigation before superior courts; this was a writ appeal from an Article 226 order, not a disposal

under Section 482. Police Regulation No. 737 governed presentation by the competent officer, the defect identified by the CJM. Section 2(1) of the 2005 Madhya Pradesh Adhiniyam provided for the writ appeal.

4. Issues : (i) Whether return of the original closure report for want of presentation by the competent officer amounted to rejection on the merits and obliged the police to file a charge-sheet; (ii) which options the CJM retained upon the fresh report and what notice and opportunities to object and examine witnesses had to be given to the complainant; (iii) whether a writ direction to the SP should remain while the fresh report was pending before the CJM; (iv) whether the alleged delay, failure to address the DIG's points and allegations against police justified independent/CBI investigation at this stage; and (v) how further investigation differs from exceptional fresh/de novo inquiry and whether completion of an investigation bars transfer. The exact stage of MJCR No. 36/2025 was uncertain, so the operative direction was expressly conditional.

5. Ratio / Findings : The CJM's 2021 order concerned presentation of the report under Police Regulation No. 737 and did not adjudicate its merits. The procedural return did not oblige the police to file a charge-sheet. The January 2025 report was before the CJM, who, under *Abhinandan Jha*, could accept closure, direct further investigation if the investigation was inadequate, or take cognizance on the report's disclosed facts despite the police conclusion. Notice and an effective opportunity to object and examine witnesses were essential; the father's failure to call Ran Singh on his earlier objection was a material observation, not a final evaluation of any new evidence. The Single Judge had not been told of the fresh report's pendency. The direction to the SP was unnecessary while the report was pending before the Magistrate and was set aside. The Bench deprecated police delay but noted that the father had not approached a court before the closure report was filed and had not approached the High Court before 2023; with the report still subject to Magistrate scrutiny, it declined to comment on the investigation's merits. The Supreme Court authorities recognized the constitutional power, to be exercised sparingly on sufficient justification, to transfer an investigation to CBI or direct an independent or fresh inquiry even after a charge-sheet is filed or trial commences. This power is distinct from routine further investigation under Section 173(8). The power required material specific to the case showing a real threat to fairness or justice; the request, allegations and lapse of time did not themselves settle that question.

6. Relief : The Hon'ble High Court set aside the Single Judge's 19 November 2025 order and disposed of the writ appeal. If MJCR No. 36/2025 was still pending, the CJM, Morena, was directed to decide it within three months of the filing/receipt of the certified copy of the appellate order, immediately serve notice if not already served, allow the father to object and examine supporting witnesses, hear both sides and apply *Abhinandan Jha*. If a final order had already been passed, the father could pursue such legal recourse as was permissible. The Court expressly left the report's merits to the CJM.

Rambabu Singh Tomar v. State of Madhya Pradesh and Ors., W.A. no. 186/2026, 09/04/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.

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Headnote :- Penal law — Sections 306 and 107 IPC — instigation and abetment of suicide — Six relatives challenged charges arising from Mamta's self-immolation. The deceased's dying declaration attributed her act to a fight with her mother-in-law Rambai, younger sister-in-law Poonam and younger brother-in-law Ummed Singh, and said her husband Shishupal had tried to save her. Her brother's statement alleged a sustained course of deprivation of food, compelled work, beatings, demands for household articles, Panchayat interventions and the husband's abandonment of her without money in Ahmedabad. The Single Judge reviewed *Chitresh Kumar Chopra*, *Praveen Pradhan*, *Sanju*, *Gangula Mohan Reddy*, *Orilal Jaiswal*, *M. Mohan*, *Kishori Lal*, *Amalendu Pal* and *Amit Kapur* on the three forms of abetment under Section 107: instigation, conspiracy and intentional aid. An intentional act or a connected course of conduct may support an inference of goading a person to suicide. Mere harassment without proximate positive action, ordinary domestic discord and a hypersensitive response do not establish the completed offence. The context and mens rea are material. The court's conclusion in this case was limited to whether the prosecution material supported charges, not whether the relatives had actually abetted the suicide.

Matrimonial cruelty — Section 498-A IPC — The dying declaration concerning the immediate quarrel was not the only prosecution material. The account attributed to Bablu described continuing alleged harassment after the initial years of marriage, repeated family interventions and material deprivation. The court regarded the material taken together as sufficient for trial against the applicants. Manorama's residence in nearby Dholpur did not, at this stage, rule out visits to the matrimonial home. These were allegations accepted for the limited inquiry at the stage of framing charges, with individual participation and proof left open.

Framing of charge — Sections 227–228 CrPC — At the stage of framing charges, the court must apply its judicial mind and sift the prosecution material to identify the ingredients of the offence, the broad probabilities and any serious infirmities. It may discharge the accused if two equally possible views give rise only to ordinary suspicion. It must not conduct a roving mini-trial or demand proof beyond reasonable doubt. Grave or strong suspicion, founded on material indicating that the accused might have committed the offence, is enough to proceed; the defence cannot introduce its own evidentiary case at this stage. The Bench applied the Supreme Court principles in *Soma Chakravarty*, *P. Vijayan*, *State of Bihar v. Ramesh Singh*, *Prafulla Kumar Samal*, *Niranjan Singh* and *Shoraj Singh Ahlawat* to affirm the trial court's charges under Sections 306 and 498-A IPC. The criminal revision was dismissed. All questions of credibility, intent and guilt remain for trial.

Case-note :- ***1. Facts :*** Rambai (mother-in-law), Poonam (younger sister-in-law/devarani), Ummed Singh (younger brother-in-law/devar), Subedar Singh (father-in-law), Shishupal alias Banti (husband) and Manorama (sister-in-law/nanad) challenged the First Additional Sessions Judge, Joura's order of 4 February 2020 in Sessions Trial No. 82/2019 framing charges under Sections 306 and 498-A IPC. Mamta married Shishupal in about 2005 and had two children. On 11 April 2018 she poured kerosene on herself and suffered burns. Her recorded dying declaration spoke of a fight with Rambai and Poonam and attributed her act to a quarrel with Rambai, Poonam and Ummed; she said her husband tried to save her. The smell of kerosene was recorded in the pre-MLC. She died while being taken toward Delhi for treatment. Police investigated and filed a charge-sheet; a container was seized on the husband's disclosure. The applicants characterized the event as a domestic dispute and argued that an overly sensitive person's suicide after ordinary discord could not establish an offence under Section 306. The State and the complainant alleged a very different course of events: according to her brother Bablu, after initial years of marriage she was denied food, required to work continuously, beaten and pressed for household goods/money; Panchayats were convened, she was sent to her husband in Ahmedabad, and he left her there without funds until her family sent ₹2,000 for her return. The family alleged renewed harassment on her return, with a further Panchayat about four months before the death and her complaint to Bablu ten days before it. These were prosecution accounts, not final findings that cruelty or abetment had been proved. The court also noted Manorama's Dholpur address but considered that Dholpur's proximity to Morena prevented visits from being ruled out at the stage of framing charges.

2. Precedents — Considered : The applicants cited *Amalendu Pal alias Jhantu v. State of West Bengal, (2010) 1 SCC 707; Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750; State of Kerala v. S. Unnikrishnan Nair, (2015) 9 SCC 639*; and the High Court's decision in *Kalyan Singh*. The Judge then considered the following Supreme Court authorities in the legal discussion.

Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605, explained that instigation may be goading, provoking, urging or encouraging; express words directing the act are unnecessary, and a deliberate course of acts or omissions creating a perceived lack of alternatives may establish the necessary incitement. A remark made merely in anger, without intending the result, is insufficient. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, emphasized the abettor's intention and the need to infer instigation from the circumstances rather than apply a universal formula. It also required that, when considering an application for quashing, the court form a tentative view relevant to Section 228 rather than a firm conclusion. *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, identified mens rea as an element of instigation. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, explained the three forms of abetment under Section 107—instigation, conspiracy and intentional aid—and the connection under Section 109 between the offence abetted and the act committed.

Gangula Mohan Reddy and M. Mohan v. State, AIR 2011 SC 1238, stressed a clear mental element and active or direct conduct intended to push the deceased into suicide, rather than mere discord. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, cautioned against equating a hypersensitive reaction to ordinary petulance in domestic life with proved inducement of suicide. *Amalendu Pal* required direct or indirect incitement and proximate positive conduct beyond a bare allegation of harassment before conviction, with a proved active role under Section 107. These standards and cautions concern conviction. The Bench considered the record at the distinct, preliminary stage of framing charges. *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, citing *Chitresh Kumar Chopra* and *Ramesh Kumar*, was considered for a tentative inference of instigation from the circumstances, without marshalling the evidence as at trial when framing charges.

On charge and discharge, *Soma Chakravarty v. State through CBI* distinguished the possibility that the accused committed the offence, sufficient for framing a charge, from guilt proved beyond reasonable doubt, with prosecution material accepted at face value for the limited inquiry. *P. Vijayan v. State of Kerala* permitted discharge where two possible views give rise only to ordinary suspicion but required judicial scrutiny rather than a mechanical charge. *State of Bihar v. Ramesh Singh, AIR 1977 SC 2018*, recognized strong suspicion as enough initially while disallowing its substitution for trial proof. *Union of India v. Prafulla Kumar Samal, AIR 1979 SC 366*, allowed limited sifting of evidence, broad probabilities and basic infirmities, with grave suspicion justifying a charge, while prohibiting a roving inquiry or weighing the evidence as at trial. *Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya, AIR 1990 SC 1869*, similarly confined evaluation to whether the record at face value discloses the ingredients of the offence. *Shoraj Singh Ahlawat v. State of U.P., AIR 2013 SC 52*, quoted *Onkar Nath Mishra* and other authorities to distinguish the charge threshold from conviction, and reproduced *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, on the accused's inability to adduce defence material to conduct a mini-trial at the stage of framing charges. Its quoted *Rumi Dhar* passage reiterated that a strong suspicion founded on the material can support charges despite a discharge application.

3. Statutes considered : Section 306 IPC punishes abetment of a completed suicide; Section 107 defines abetment through instigation, participation in a conspiracy accompanied by an act or illegal omission, or intentional aid, with its explanations addressing deliberate misrepresentation or concealment and facilitating acts. Section 109 was discussed in the quoted *Kishori Lal* and *Amalendu Pal* extracts, not separately charged in this case. Sections 227–228 CrPC governed the Sessions Court's decision on discharge or framing of charges as discussed in the precedent; the revision was brought under Sections 397 and 401 CrPC. The quoted *Shoraj Singh Ahlawat* extract also discussed Sections 239–240 CrPC in the context of a trial before a Magistrate, by analogy with the common threshold for framing charges. The marriage had taken place well over seven years before the death.

4. Issues : Whether the material disclosed a case for framing charges under Sections 306 and 498-A IPC against the six relatives despite the deceased's account of an immediate quarrel and her statement that her husband attempted rescue; how intentional instigation or aid and the caution concerning ordinary discord and hypersensitivity inform the inquiry at the stage of framing charges; whether the court should consider the brother's account of an alleged continuing course of cruelty; and what degree of judicial sifting is permissible, what level of suspicion is required, and whether the accused may introduce defence material at the stage of framing charges.

5. Ratio / Findings : The Bench read the dying declaration together with Bablu's prosecution account rather than treating the immediate quarrel as the whole case. It noted the alleged deprivation, demands and family interventions in the later years of the marriage, the Ahmedabad episode, and the declaration's specific reference to Rambai, Poonam and Ummed. The court regarded the material taken together as sufficient for framing charges. Its observation that Manorama might visit from nearby Dholpur addressed the objection based on her residence at this preliminary stage; it did not establish her participation. The Supreme Court's Section 306 decisions require intention, a connected inciting or aiding act and a careful distinction between serious oppressive conduct and ordinary discord when guilt is eventually adjudicated. Applying the authorities on framing charges, the court held that a reasoned and limited assessment

showing grave or strong suspicion is sufficient under Section 228. Mere ordinary suspicion is insufficient, but proof sufficient for conviction is not required. It affirmed charges for both offences without making final findings on mens rea or each applicant's liability. The evidentiary and intent questions remain for trial.

6. Relief : The Hon'ble High Court affirmed the order of 4 February 2020 framing charges under Sections 306 and 498-A IPC against all six applicants. The criminal revision was dismissed. There was no acquittal, conviction, sentence or final determination that the alleged cruelty caused the suicide.

Rambai and Ors. v. State of M.P. and Ors., Cr.R. no. 1467/2020, 31/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (716) Prev Next

Headnote :- Arms Act — Section 25(1-B)(a) — identity and custody of firearms — The prosecution alleged that guns had been seized from Ramcharan, Siddhar, Vijay and Kamarlal. The seizure witness did not support the alleged disclosure and had signed the documents without reading them. The officer could not account for the powder and pellets said to have been removed from the guns. The seizure memos lacked specimen seals. The armourer stated that he had returned the guns unsealed, whereas the District Magistrate's clerk stated that they had arrived sealed and had been resealed before being returned. The articles were produced in court unsealed. The prosecution did not explain the intervening sealing and opening. The Court held that the alleged seizures and possession had not been proved beyond reasonable doubt and set aside all four Arms Act convictions, despite the examination of the guns and the grant of sanction.

Evidence — material omission and Section 145 Evidence Act — Ram Singh's trial assertion that a miscreant escorted him and Mangilal two kilometres into the forest was absent from his police statement. His attention had been drawn to the omission, satisfying Section 145 although the statement had not been separately marked as a defence exhibit. Mangilal had not been confronted with his similar omission, so the omission could not formally be used to contradict him; his account nevertheless remained doubtful in light of the other evidence. The Court separately identified major conflicts concerning Durga's movements and use of the phone, how the persons said to have paid the ransom located the captors, the arrangements for and amount of cash, the time of release and the police patrol.

Section 157 CrPC — FIR transmission — The report recorded on 25 March 2009 reached the Special Judge more than 24 hours later. After considering *Rabindra Mahto*, *Suresh Chaudhary* and *Arjun Marik*, the Bench held that prompt forwarding protects against fabrication and allows the Magistrate to oversee the investigation. Delay is a material circumstance to be considered, but does not automatically require rejection of otherwise reliable evidence. Together with the serious contradictions in this case, it deepened the doubt about the prosecution account.

Kidnapping for ransom — Section 364-A IPC with Sections 11/13 MPDVPK act — The alleged detention, demand, delivery of ₹52,000–₹53,000 and release were not proved beyond reasonable doubt on the evidence taken as a whole. Vijay's TIP and dock identification could not take the place of proof of those acts. The medical evidence of injuries to Durga and Mahesh also did not link an assault to Vijay, given the possibility that the injuries resulted from a fall and the prosecution's failure to prove its account of the incident. His convictions under Sections 364-A and 323 IPC and the Arms Act were set aside.

Identification — Under *Manu Sharma*, *Hemudan Nanbha Gadvi* and *Prakash*, identification in court is substantive evidence and a TIP is generally corroborative, particularly when the suspect is a stranger to the witness. Neither the omission nor the failure of a TIP is invariably fatal. Proof of identity does not, by itself, establish commission of the crime. The acquittal of the other accused could not be reversed merely on the basis of dock identification when the substantive allegations had not been proved.

Acquittal appeal — Applying *Abdul Mannan* and *Sunil Kumar Sambhudayal Gupta*, an appellate court should not substitute its own view for a tenable view supporting acquittal merely because another view is possible; intervention is justified for perversity or serious error after review of the whole record. The State demonstrated no such error. Ramcharan, Siddhar and Kamarlal's acquittals of the offences under Section 364-A/MPDVPK and Section 323, and Suresh's full acquittal including the charge under the Arms Act, were affirmed. The four appellants'

Criminal Appeal No. 192/2010 was allowed in full; the State's Criminal Appeal No. 353/2014 was dismissed. Vijay was to be released if not required in another case, and the other accused persons' bonds were discharged.

Case-note :- ***1. Facts :*** Two connected appeals arose from the judgment dated 11 January 2010 passed by the Special Judge (MPDVPK Act), Shivpuri, in Special Sessions Trial No. 60/2009. Ramcharan, Siddhar, Vijay and Kamarlal alias Bhindua appealed their convictions (Cr.A. 192/2010). Vijay had received life imprisonment and fine under Section 364-A IPC read with Sections 11/13 MPDVPK Act, three months' rigorous imprisonment and fine under Section 323 IPC, and three years' rigorous imprisonment and fine under Section 25(1-B)(a) Arms Act read with Sections 11/13 MPDVPK Act. Ramcharan, Siddhar and Kamarlal had been convicted only on the Arms Act charge and acquitted of kidnapping for ransom under the IPC/MPDVPK Act and of hurt. The State's Cr.A. 353/2014 challenged those three partial acquittals and the complete acquittal of Suresh, who had faced charges under Section 364-A/MPDVPK, Section 323 and Section 25(1-B)(b) Arms Act, the last concerning a farsa.

The prosecution alleged that on 25 March 2009 four men stopped bullock carts in a forest, beat the occupants, released Durga to demand ₹60,000 and threatened to kill Mahesh, Narayan and Patiram if police were informed. It alleged that Ram Singh and Mangilal brought about ₹52,000 and that the three captives were released. Durga's Dehati Nalishi was said to have been recorded on patrol and sent for formal FIR registration. About seven weeks later police arrested five suspects and recorded firearm/farsa seizures. Vijay was identified in a TIP. On a full appellate review, the Bench found major unresolved contradictions concerning the movements of the messenger released by the captors and his use of Mahesh's phone; the source and precision of the information by which the alleged payers located the captors; the source and amount of cash; the chronology of payment and release; the police patrol's failure to encounter the alleged payers; and the place and manner in which the Dehati Nalishi was recorded. The FIR reached the Special Judge more than 24 hours after formal registration. The four guns allegedly seized were produced unsealed, with inconsistent accounts of their earlier sealing, testing by the armourer and handling for sanction. The gunpowder and pellets said to have been removed were missing. Durga and Mahesh had some injuries, but the doctor accepted a fall from a bullock cart as a possible cause; Narayan and Patiram were not medically examined.

2. Precedents — Considered : *Rabindra Mahto v. State of Jharkhand, (2006) 10 SCC 432*, was considered for Section 157 CrPC's prompt FIR-forwarding duty and its purposes of preventing later improvement and enabling Magistrate supervision, subject to the important qualification that delay alone does not justify discarding a case supported by reliable proof. *Suresh Chaudhary v. State of Bihar, (2003) 4 SCC 128*, illustrated how a substantial unexplained delay could add to the surrounding doubt. *Arjun Marik v. State of Bihar, 1994 Supp (2) SCC 372*, explained the "forthwith" requirement and the two purposes served by Sections 157 and 159. The Bench assessed the delay of more than 24 hours together with the multiple serious defects in the evidence, rather than treating the delay as automatically fatal.

Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1, was quoted at length for the propositions in *Munshi Singh Gautam* and *Malkhansingh* reproduced in it: identification in court is substantive evidence under Section 9 Evidence Act; a TIP ordinarily tests the first impression of a witness unfamiliar with the suspect and provides corroboration. A prompt TIP is desirable, but a TIP is neither mandatory nor a right of the accused. Identification in court for the first time may be weak and ordinarily calls for corroboration as a matter of prudence, subject to exceptions depending on the facts. *Hemudan Nanbha Gadvi v. State of Gujarat, (2019) 17 SCC 523*, explained that the primacy of identification in court does not invariably exclude consideration of a TIP when identification in court fails and other corroborative evidence exists. *Prakash v. State of Karnataka, (2014) 12 SCC 133*, discussed the value and limits of pretrial identification, stranger identification, possible prior exposure, and circumstances in which proof may exist without a formal TIP or even positive identification. The Bench applied these authorities to distinguish proof of identity from proof of kidnapping, ransom, assault or firearm possession. *Prakash*'s discussion included an explanatory quotation from foreign scholarship.

Abdul Mannan v. State of Assam, (2010) 3 SCC 381, was applied in exercising appellate restraint where

the trial acquittal rested on a tenable view. *Sunil Kumar Sambhudayal Gupta v. State of Maharashtra, (2010) 13 SCC 657*, explained the need to review the whole record, the strengthened presumption of innocence after acquittal, and the exception for perversity where relevant evidence has been ignored, inadmissible material relied on, or a finding is irrational or against the weight of evidence. The State could show no such error.

3. Statutes considered : Section 25(1-B)(a) Arms Act was the firearm-possession charge against Ramcharan, Siddhar, Vijay and Kamarlal, with the sanction for prosecution proved through the District Magistrate's clerk; Suresh faced the distinct charge under Section 25(1-B)(b) concerning a farsa and was acquitted at trial. The decisive Arms Act issue was whether the allegedly seized guns had been reliably identified and attributed to the accused; the decision did not rest on a general challenge to the grant of sanction. Section 364-A IPC and Sections 11/13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam were the provisions under which the kidnapping-for-ransom convictions and acquittals arose in the dacoity-affected area. The judgment resolved those charges on the failure to prove the alleged acts, without separately construing each statutory ingredient. Section 323 IPC governed the hurt counts. Section 145 Evidence Act required that a witness's attention be drawn to a prior written statement for contradiction; the court distinguished the confrontation of Ram Singh from the omission that was not put to Mangilal. Section 9 Evidence Act and Section 54-A CrPC arose in the identification analysis. Sections 157 and 159 CrPC governed prompt FIR transmission and Magistrate oversight; the FIR's registration and later forwarding were distinct events.

4. Issues : (i) Whether the seized guns were reliably linked to each of the four convicted men despite contradictory accounts of sealing and the missing powder and pellets; (ii) whether the testimony established the underlying detention, threat, demand, payment, release and physical assault beyond reasonable doubt; (iii) when an omission from a police statement is usable under Section 145 although the statement was not marked as a defence exhibit; (iv) the significance of a delay of more than 24 hours in forwarding the FIR, considered with the other contradictions; (v) what TIP and dock identification prove and cannot prove; and (vi) whether any trial acquittal was perverse or otherwise liable to reversal in the State's appeal. The Court considered the accused and the charges against them in separate groups.

5. Ratio / Findings : The seizure witness had signed the police documents without reading them and did not support the alleged disclosure. The investigator stated that the guns were loaded when seized and that the powder and pellets had been removed, but he neither produced nor accounted for them. He maintained that the guns had been sealed at the spot. The armourer stated that he had received the guns sealed but returned them unsealed because he had no seal. The District Magistrate's office, however, stated that they had arrived sealed and had been resealed after sanction, whereas they were produced in court unsealed. Neither the intervening resealing nor the subsequent opening was explained, and the seizure memos lacked specimen seals. Possession of the particular guns by Ramcharan, Siddhar, Kamarlal and Vijay was therefore not proved beyond reasonable doubt.

For Vijay's ransom conviction, Durga's claim about going to the police station conflicted with a forest-recorded Dehati Nalishi; his account of informing family by Mahesh's phone and returning it conflicted with Mahesh and the payers. The alleged guide who took Ram Singh and Mangilal two kilometres to the captors was a material improvement in Ram Singh's evidence, properly put to him under Section 145, although the police statement had not been separately marked. Mangilal had not been so confronted, so the omission could not formally be used to contradict him, but the account of how they reached the captors remained doubtful. The sources of the money were not identified. One alleged contributor was not examined, and his father did not corroborate the contribution. The amounts of ₹52,000 and ₹53,000 and the times of release differed. The police allegedly patrolling the forest never encountered the alleged payers. The formal FIR was forwarded after more than 24 hours, a significant additional factor, rather than a defect that was fatal by itself. The Court found the alleged kidnapping, ransom demand/payment and release story unproved beyond reasonable doubt. Vijay's positive TIP and dock identification addressed identity only and could not establish those disputed acts. His conviction under Section 323 was also set aside: the limited injuries were consistent with an alternative fall, two of the alleged victims had not been medically examined, and the Bench did not find

assault by him proved. It referred to possible self-infliction or a fall as alternative explanations; it did not conclusively determine how the injuries had occurred.

In the State's appeal, the other accused had been acquitted of the kidnapping and hurt counts (and Suresh also of the alleged weapon count). Their dock identification could not overcome the same failure to prove the underlying incident. The trial court's view was at least tenable; the State showed no perverse finding warranting substitution. The Bench distinguished between setting aside convictions because the charges had not been proved and refusing to reverse acquittals in the absence of a permissible ground for appellate interference.

6. Relief : The Hon'ble High Court allowed the criminal appeal in full. The Section 25(1-B)(a) Arms Act convictions of Ramcharan, Siddhar, Kamarlal and Vijay were set aside; Vijay's Section 364-A IPC/Sections 11/13 MPDVPK Act and Section 323 IPC convictions were also set aside. Vijay was to be released immediately unless required in another case; the bail bonds of Ramcharan, Siddhar and Kamarlal were discharged. The criminal appeal by the State was dismissed, affirming Ramcharan, Siddhar and Kamarlal's acquittals of the offences under Section 364-A/MPDVPK and Section 323, and Suresh's complete acquittal including the separate Arms Act allegation; Suresh's appeal bond was discharged. The trial records were to be returned and copies of the judgment supplied to the appellants. No order as to costs was made.

Ramcharan and Ors. v. State of M.P., Cr.A. no. 192/2010 & 353/2014, 21/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (717) Prev Next

Headnote :- Mischief by fire — Section 436 IPC — use of the structure and proof of burning — On a private complaint concerning the burning of Babulal's kachcha and pakka houses at midnight, the appellants disputed that the hut had been proved to be a dwelling or used for storing articles. Babulal described the irrigation materials and other goods kept there. The defence witness Bhura admitted that a hut used for tying cattle stood at the site, that it had burnt and that the police visited afterward. The witnesses whom the Court believed stated that Atalbabu set fire to the kachcha house and Ramcharan and Shivraj to the pakka house. On this evidence, the Court upheld the conviction under Section 436/149.

Evidence — contradictions and eyewitness status — Babulal's earlier statement under Section 200 CrPC placed his wife and son at the scene only on the following morning. Their later claim to have witnessed the incident at night was rejected because of the material omission and contradiction. The earlier statement had identified two guests, Rajaram and Santosh, whose accounts withstood detailed cross-examination. Rejection of the wife's and son's claims to be eyewitnesses did not require rejection of the other witnesses' evidence. The defence witness's admissions corroborated the existence, use and burning of the hut, although he did not know who had caused the fire.

Unlawful assembly — Section 149 IPC — Ghanshyam had not personally set a house ablaze, but the Court found that he was identified among the group who arrived at midnight, abused Babulal, dragged him outside and assaulted him before other members set fire to the houses. His participation supported the finding of a common object and his constructive liability for the offence under Section 436. The decision rested on the identified conduct. Narmada's appeal had abated on his death.

Sentence — Section 436 provides no minimum term of imprisonment. The Court considered the lapse of approximately 13 years since the incident in 2009, the burning of the houses, and Babulal's displacement and loss. It affirmed the conviction, reduced the five-year term of rigorous imprisonment to two years, increased the fine from ₹5,000 to ₹20,000 and retained three months' default imprisonment. The appeal was partly allowed only in respect of the sentence.

Case-note :- ***1. Facts :*** In a private complaint under Section 200 CrPC, Babulal alleged that at about midnight on 13 April 2009, five men came to his houses at a remote location, abused him, dragged him outside and struck him. He stated that Atalbabu set fire to his kachcha house and Ramcharan and Shivraj to the other, pakka house, damaging irrigation goods, grain and household effects. He alleged that the police initially took no action and estimated his loss at about ₹2 lakh. After statements were recorded under Sections 200 and 202, the case was committed for trial. The Additional Sessions Judge, Ganj-Basoda, framed charges under Sections 294, 436/149 and 506 Part II IPC and later convicted

the appellants under Section 436/149, imposing five years' rigorous imprisonment, a fine of ₹5,000 and three months' simple imprisonment in default. In the criminal appeal under Section 374 CrPC, the appellants challenged the contradictions, the absence of proof that the structure was used as a dwelling or for storing property, the lack of independent witnesses and the absence of any act of setting fire by Ghanshyam. Babulal (CW-1), his wife Gyarsibai (CW-2), his son Ramkrishna (CW-3), his son-in-law Rajaram (CW-4) and Santosh (CW-5) testified; the defence examined Bhura (DW-1). Babulal's earlier statement under Section 200 placed his wife's and son's arrival on the following morning and identified two guests at the scene. At trial, the wife and son were presented as eyewitnesses; the two guests were Rajaram and Santosh. Bhura knew of the hut, stated that it was used for tying cattle, and acknowledged that it had burnt and that the police had visited. He did not know who had started the fire. Ghanshyam was identified among the group who assaulted Babulal and dragged him out; Narmada, another appellant, had died and his appeal had abated. The appeal also challenged the sentence and the valuation of the damage; the photograph filed with the complaint was not exhibited at trial.

2. Precedents — Considered :

3. Statutes considered : Section 436 IPC was the substantive charge of mischief by fire concerning the burning of a house or a structure used for keeping property. After assessing the established use of the hut for cattle and goods, the Court rejected the appellants' factual contention that it had not been used as a dwelling or for storing articles. Section 149 IPC imposed constructive liability on the basis of membership of an unlawful assembly and its common object; Ghanshyam's presence and his acts of dragging and assaulting Babulal were specifically examined. Charges had been framed under Sections 294 and 506 Part II IPC, but the appeal concerned the conviction under Section 436/149 and did not independently decide those charges. Sections 200 and 202 CrPC governed the private complaint and preliminary witness statements; the appeal was brought under Section 374 CrPC. Section 436 provides for life imprisonment or imprisonment for up to ten years, and fine, with no statutory minimum. The Court expressly relied on the absence of a minimum term in reviewing the sentence.

4. Issues : (i) Whether the testimony and defence admissions proved the burning of a structure used for keeping cattle or property, thereby answering the challenge to the charge under Section 436; (ii) whether the material omission in Babulal's earlier statement in the complaint proceedings excluded his wife and son as eyewitnesses and how that affected the evidence of Rajaram and Santosh; (iii) whether Ghanshyam's identified conduct supported liability under Section 149 despite his not personally setting fire to a house; and (iv) whether the lapse of about 13 years and the disputed extent of the damage warranted modification of the five-year sentence, while taking account of the victim's displacement.

5. Ratio / Findings : The Court rejected Gyarsibai's and Ramkrishna's claims to have seen the fire at midnight because Babulal's statement under Section 200 placed their arrival on the following morning. Rajaram and Santosh, the two guests identified earlier, supported Babulal's evidence and were not discredited in cross-examination. Bhura's testimony as a defence witness independently established the existence of a hut at the disputed site, its use for tying cattle, its burning and the subsequent police visit, although he did not identify who had set it on fire. The Court accepted Babulal's account that Atalbabu set fire to the kachcha house and Ramcharan and Shivraj to the pakka house, destroying the articles kept there. It specifically addressed Ghanshyam's objection: the eyewitnesses identified him as arriving with the group at midnight, abusing Babulal, dragging him outside and striking him before the houses were set on fire. These acts established his membership of the unlawful assembly and his sharing of its common object under Section 149, despite his not personally setting fire to a house. In considering the sentence, the Court weighed the substantial harm and Babulal's move to Semri against the time that had elapsed and the absence of a mandatory minimum term.

6. Relief : The Hon'ble High Court affirmed the conviction under Section 436/149. The five-year term of rigorous imprisonment was reduced to two years and the fine increased from ₹5,000 to ₹20,000, with three months' default imprisonment. The appellants, who were already in custody, were directed to serve the remainder of their sentences. The trial judgment dated 13 August 2012 was otherwise affirmed. A copy of the judgment was to be supplied to the appellants free of cost, and the trial record was to be returned for compliance. Narmada's appeal had already abated on his death.

Ramcharan and Ors. v. Babulal and Ors., Cr.A. no. 653/2012, 11/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (718) Prev Next

Headnote :- Child witness — solitary eyewitness to murder — A seven-year-old son, Devendra, testified that his father Ramdas struck his mother Jashoda Bai on the neck with an axe at about 4 a.m. The trial court first tested his ability to understand and answer questions, then recorded his testimony without administering an oath. His presence in the family home was natural and was accepted by Ramdas in his statement under Section 313 CrPC. His account of the blows was consistent with the fatal incised wounds on the neck. Neither his immediate conduct nor his brief cross-examination revealed tutoring. Ramesh, Hemraj and Dro Bai withdrew their earlier claim to have witnessed the attack, but described the boy's prompt report and their discovery of the body; the limited scope of their evidence did not make the boy's account unreliable. Following *Panchhi v. State of U.P.*, a child's evidence requires careful scrutiny because of susceptibility to influence, but is not rejected on the ground of age alone. On the evidence, he was a trustworthy direct witness.

Section 106 Evidence Act — homicide inside a shared dwelling — The prosecution established homicidal death, co-residence, the death inside Ramdas's home and the son's direct account. The Bench considered *State of J & K v. Vijay Kumar, Ravirala Laxmaiah and State of Rajasthan v. Thakur Singh*, including the limit explained in *Shambhu Nath Mehra*: Section 106 addresses facts especially within an accused's knowledge and does not relieve the prosecution of its burden of proving guilt. Ramdas gave no explanation of how his wife died in their shared home. His failure to explain provided an additional link in the evidence taken together; his silence alone did not prove guilt.

Conduct — abscondence — Ramdas was absent immediately after the killing and was apprehended later that day. The Court recognised that even an innocent person might flee for fear of false implication, so flight does not invariably indicate guilt. Given the proved death in the home, the reliable eyewitness account and the absence of an explanation, his flight reinforced the other evidence. The medical examination established two deep incised wounds on the neck and homicidal death. The Court also considered the seizure of the axe and blood-stained clothing, although the seizure witnesses were partly hostile. The conviction under Section 302 IPC and the life sentence were affirmed; life imprisonment was the statutory minimum. The appeal was dismissed.

Case-note :- ***1. Facts :*** Ramdas appealed under Section 374 CrPC against the conviction under Section 302 IPC recorded by the Additional Sessions Judge, Picchore, on 6 January 2009 and the sentence of life imprisonment, a fine of ₹100 and six months' rigorous imprisonment in default. According to the prosecution, at about 4 a.m. on 7 August 2008, his wife Jashoda Bai was struck with an axe inside their home. Murarilal, the village chowkidar, reported the incident along with the couple's seven-year-old son Devendra. The report stated that the boy and others were present and that Ramdas left with the axe. The postmortem report described two large incised wounds on the neck, including injury to the major blood vessels and trachea. The doctor's examination supported homicidal death, although the axe was not sent to him for comparison. The police seized earth from the home, arrested Ramdas later that day and stated that they had seized a blood-stained axe and clothing. Some seizure witnesses did not support all the details given by the police. Ramesh, Hemraj and Dro Bai, who had earlier been presented as eyewitnesses, testified that Devendra told them his father had killed Jashoda and that they saw the body on arrival. At trial, they did not claim to have witnessed the blows. Rachna and Bhagwan Das gave evidence of the child's prompt communications and the family circumstances, but did not give direct eyewitness accounts. Devendra directly described the attack. Ramdas challenged reliance on the child after the other witnesses withdrew their claims to have witnessed the incident. In his statement under Section 313, he accepted that his wife and Devendra resided with him, but did not explain her fatal injuries in the home.

2. Precedents — Considered : *Panchhi v. State of U.P., (1998) 7 SCC 177*, was expressly applied: a child witness is not unworthy of belief as a matter of law, and the evidence is not automatically excluded. It must be evaluated with greater care because the child is susceptible to suggestion and tutoring. The Bench applied that caution in considering the trial court's assessment of the boy's competence, his natural presence, prompt disclosure and consistency,

and the failure of cross-examination to reveal tutoring.

State of J & K v. Vijay Kumar, (2018) 13 SCC 655, was considered on the need to explain a spouse's homicidal death when the deceased was living with the husband shortly before death. *Ravirala Laxmaiah v. State of A.P., (2013) 9 SCC 283*, was discussed on the circumstances in which failure to explain an incriminating fact or a death in the shared home provides an additional link in the evidence. Its discussion included a quotation from *Trimukh Maroti Kirkan* and cases concerning explanations under Section 313.

State of Rajasthan v. Thakur Singh, (2014) 12 SCC 211, was quoted at length. Its discussion of *Shambhu Nath Mehra* preserved the prosecution's general burden under Sections 101 and 106 Evidence Act: Section 106 covers facts pre-eminently within an accused's knowledge when proof by the prosecution would be extraordinarily difficult. The quoted *Trimukh*, *Ganeshlal*, *Dnyaneshwar*, *Jagdish* and *Mir Mohammad Omar* illustrations concerned proved circumstances involving facts especially within an accused's knowledge and the consequences of a failure to explain them. *Thakur Singh* expressly stated that the husband was not required to prove his innocence. The Bench applied that limited principle only after proof of the death in the home and its homicidal nature, and alongside Devendra's eyewitness account.

3. Statutes considered : Section 302 IPC was the sole charge and conviction adjudicated. The Bench identified life imprisonment as the statutory minimum for murder and therefore did not reduce the trial court's life sentence. The appeal was brought under Section 374 CrPC. Section 313 CrPC was relevant to Ramdas's acknowledgment of co-residence and his failure to explain the death. Section 106 Evidence Act governed facts specially within personal knowledge and was read consistently with the prosecution's burden under Section 101.

4. Issues : Whether Devendra's testimony as the solitary seven-year-old eyewitness was sufficiently trustworthy after an assessment of his competence and in view of the other witnesses' withdrawal of their claims to have directly witnessed the incident; whether the established homicidal death in the shared home called for an explanation from Ramdas under Section 106 without reversing the prosecution's burden; what weight should be given to his absence immediately after the incident and his arrest later that day; and whether the combined direct, medical and circumstantial evidence proved his guilt under Section 302 beyond reasonable doubt. The statutory minimum also governed the review of the sentence.

5. Ratio / Findings : The two severe incised wounds on the neck established homicide. Before recording Devendra's testimony, the trial court had satisfied itself that he could understand and answer questions. His residence with both parents made his presence at 4 a.m. natural, a fact accepted by Ramdas. The boy's account of his father striking his mother's neck with an axe was consistent with the medical findings and his prompt report. The brief cross-examination did not establish that his elder brother or anyone else had tutored him. The other witnesses withdrew their claims to have personally witnessed the blows and therefore were not eyewitnesses to the assault. Their accounts of the child's disclosure, the dead body and the father's absence nevertheless supported the surrounding circumstances. The Court considered the police evidence of recovery and the axe despite the partial hostility of the seizure witnesses.

The Bench applied Section 106 within its limited scope. Once the prosecution had proved homicide in the shared home and adduced credible direct evidence, Ramdas was expected to explain facts concerning the death that were specially within his knowledge. His silence supplemented the existing evidence; it could not replace proof of the circumstances on which the prosecution relied. The Court separately cautioned that flight may result from an innocent person's fear of false accusation, but regarded Ramdas's absence from the shared home immediately after the killing as significant in the circumstances of this case. Taken together, the evidence established his guilt beyond reasonable doubt. The conviction did not rest solely on proximity, silence or an adverse inference.

6. Relief : The Hon'ble High Court affirmed the conviction under Section 302 IPC, life imprisonment, fine of ₹100 and default term imposed on 6 January 2009. The Bench found no scope to reduce the minimum life sentence. Ramdas, who was in jail, was directed to serve the remainder of his sentence, and a free copy of the appellate judgment was to be supplied to him. The criminal appeal was dismissed.

Ramdas v. State of Madhya Pradesh, Cr.A. no. 148/2009, 03/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (719) Prev Next

Headnote :- Criminal-side writ — mandamus to initiate prosecution — alternative statutory remedy - Allegations that private respondents had forged documents concerning land and obtained government compensation did not justify a direction under Article 226 to initiate criminal proceedings when the petitioner could file a criminal complaint before the competent Magistrate. The Court applied *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on exceptional writ intervention against a mala fide exercise of investigative power. That power is exercisable in the rarest cases where a clear abuse of power and non-compliance with Chapter XII are established. Even then, a court cannot prescribe how the police conduct the investigation. The petition was dismissed with liberty to file a complaint.

FIR registration and investigation — magistrate's remedial powers - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, were applied on the remedies under Sections 154(3) and 156(3) CrPC. If prima facie satisfied, the Magistrate may order registration of an FIR or a proper investigation and monitor it. Where necessary, the Magistrate may also recommend a change of investigating officer, but cannot conduct the investigation personally. The Court also relied on *Divine Retreat Centre*'s explanation of the complaint remedies under Sections 190 and 200. *Shweta Bhadauria v. State of M.P.*, W.A. 247/2016, distinguished the duty under *Lalita Kumari* to register an FIR disclosing a cognizable offence from an automatic entitlement to mandamus without first using those remedies, subject to the recognized *Whirlpool* exceptions.

Case-note :- ***1. Facts :*** Ramdayal Singrore filed W.P. No. 20284/2020 under Article 226 seeking a writ of mandamus to respondents 2–5 to initiate criminal proceedings against respondents 6–8. He alleged that the latter had prepared forged documents concerning his land, used them as genuine and thereby defrauded him and the Government. According to the petitioner, he had approached the authorities, and the Collector, Mandla, had found that respondent 8 prepared a forged document that respondent 7 used to obtain government compensation; he asserted that no further action followed. These were the petitioner's allegations and his account of the administrative finding, not findings of criminal guilt by the High Court. Counsel for the respondents opposed the petition. The High Court did not adjudicate the alleged forgery. The immediate question concerned the appropriate forum and remedy for seeking criminal action.

2. Precedents — Considered : Paragraphs 41–42 of *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, were quoted to distinguish exceptional intervention under Article 226 from the ordinary statutory remedy. The decision recognises intervention against a mala fide exercise of investigative power. That power is to be exercised in the rarest cases where a clear abuse of power and non-compliance with Chapter XII CrPC are established. Even then, the court cannot direct how the police conduct the investigation. Where the police do not act on information, Sections 190 and 200 provide a remedy by complaint before the Magistrate. The quoted discussion relied *on Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, for the Magistrate's powers to inquire into a complaint, direct an investigation, dismiss the complaint or issue process. It also referred, within that passage, to *All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India, (1996) 11 SCC 582*. These authorities were reproduced within *Divine Retreat Centre*'s explanation; they were not independently applied to the facts of this land dispute.

Paragraph 11 of *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explained the sequence of remedies when an FIR is not registered or the investigation is alleged to be improper. The aggrieved person may make a written application to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3). The Magistrate may order registration or a proper investigation and monitor it. The Court quoted and relied on this rule in rejecting the requested writ remedy.

Paragraphs 2–4 of *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed *Sakiri Vasu* and explained why such complainants should ordinarily approach the Magistrate. Entertaining such petitions would flood the High Courts with requests for registration of

FIRs. If prima facie satisfied, the Magistrate may direct a proper investigation, monitor it and, where necessary, recommend to senior police officers a change of investigating officer. The Magistrate cannot conduct the investigation personally. The present Court relied on that reasoning to identify an effective alternative forum; it did not find that the investigating officer in this case should be changed.

The Madhya Pradesh Division Bench decision in *Shweta Bhadauria v. State of M.P. and Ors.*, W.A. No. 247/2016 (20.12.2016), was quoted for the rule that mandamus to compel compliance with Section 154 may be denied where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four exceptional grounds described in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: the police's duty on receiving information disclosing a cognizable offence does not itself determine whether a writ of mandamus is available without using the alternative remedies.

3. Statutes considered : Article 226 of the Constitution was invoked to seek mandamus. The Court examined the remedies of approaching the Superintendent of Police under Section 154(3) CrPC and seeking the Magistrate's directions and monitoring of registration or investigation under Section 156(3). It also considered the complaint and cognizance procedure under Sections 190 and 200, and the framework under Chapter XII limiting intervention in police investigation. The Supreme Court quotation also described the Magistrate's options on a complaint under Chapter XV and Section 203. These provisions were considered as remedies, without determining whether the named respondents had committed a particular forgery offence. No IPC charge or statutory ingredient was decided.

4. Issues : The main issue was whether the Court should exercise its power under Article 226 to direct public authorities to initiate criminal proceedings against respondents 6–8 on the petitioner's allegations of forgery, or whether an effective complaint remedy before the competent Magistrate made writ intervention inappropriate. Through the cited authorities, the judgment considered the CrPC remedies for police inaction or deficient investigation and the narrow circumstances permitting High Court intervention by writ.

5. Ratio / Findings : The Court first identified the choice between a writ directing registration of an offence and recourse to the concerned Magistrate. *Divine Retreat Centre* recognised intervention under Article 226 against a mala fide exercise of investigative power. That power is to be exercised in the rarest cases where a clear abuse of power and non-compliance with Chapter XII are established. Even then, the court may insist on observance of the statutory process but cannot prescribe investigative steps. Where the police take no action on information, the complainant can follow the complaint and cognizance procedure before the Magistrate. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* explained the additional remedies under Sections 154(3) and 156(3) and the Magistrate's power, if prima facie satisfied, to require and monitor a proper investigation. *Shweta Bhadauria* confirmed that the duty to register an FIR under *Lalita Kumari* is distinct from an entitlement to immediate mandamus, while preserving the recognized exceptions permitting writ intervention. On the petition as presented, the Court found that a criminal complaint before the competent court provided an efficacious alternative remedy and therefore refused the requested mandamus. The refusal was procedural; it neither endorsed the alleged forgery nor exonerated the private respondents.

6. Relief : The Hon'ble High Court dismissed the writ petition with express liberty to the petitioner to file a criminal complaint before the court of competent jurisdiction. The Court awarded no specified costs or other consequential relief.

Ramdayal Singrore v. The State of Madhya Pradesh and Ors., W.P. no. 20284/2020, 04/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (720) Prev Next

Headnote :- Dying declaration — police recording and medical fitness - The Court accepted Ex. P-15, which ASI Santosh Sharma recorded when an Executive Magistrate was unavailable. Dr. O.P. Sharma had examined Kalyan Singh, certified his ability to speak and remained present during recording. The serious abdominal wound and evidence that Kalyan's condition fluctuated did not displace the evidence of his fitness when the statement was recorded. The declaration identified Rameshwardayal as the gunman and Ramdayal as an armed participant. It was considered with

independent evidence; the decision does not establish that every statement recorded by the police is automatically valid.

Related eyewitnesses — truthfulness despite relationship and enmity - Applying *Karulal v. State of M.P.*, the Court held that relationship alone did not discredit the testimony of Rampal and Sughar Singh. It assessed their account of the material events against the prompt report, police records, the dying declaration and medical evidence. The absence of an independent eyewitness was not fatal on that record.

Contradictions — core of otherwise credible testimony - The Court applied *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, and its quotations from *Bakhshish Singh v. State of Punjab, (2013) 12 SCC 187*, and *Sunil Kumar Sambhudaya Gupta v. State of Maharashtra, (2010) 13 SCC 657*. These passages distinguish trivial omissions and inconsistent details on peripheral matters from contradictions that materially impair the prosecution case. The cited *Raj Kumar Singh v. State of Rajasthan, (2013) 5 SCC 722*, requires the witness's entire account and the specific deficiencies in it to be assessed together. The eyewitnesses' differences about consciousness and the sequence of peripheral events did not undermine their account of the fatal shot. The convictions were affirmed.

Case-note :- ***1. Facts :*** Ramdayal Yadav and Rameshwardayal Yadav appealed under Section 374 CrPC against the judgment dated 6 August 2010 passed by the Sessions Judge, Shivpuri, in S.T. No. 31/2010. Ramdayal had been convicted under Section 302 read with Section 34 IPC and sentenced to life imprisonment and a fine of ₹5,000. Rameshwardayal had been convicted under Section 302 IPC and received the same life sentence and fine. He had also been convicted under Sections 25(1-B)(a) and 27(1) of the Arms Act and sentenced to one year's rigorous imprisonment and a fine of ₹500 for each Arms Act offence, with default stipulations. Megh Singh, the third named participant, was dealt with before the Juvenile Court; this appeal concerned the two adult appellants.

According to the prosecution, on 24 August 2009 Rampal Singh (PW-1), Sughar Singh (PW-2) and Kalyan Singh were returning from agricultural work and had reached a place near Marghat in village Atarvai. Rameshwardayal carried a gun, Ramdayal a lathi and Megh Singh a gadasi; they confronted Kalyan, and Rameshwardayal fired at his abdomen. The witnesses described prior hostility involving land and financial dealings. Rampal telephoned police, and the responding officer recorded a Dehati Nalishi. Kalyan was taken to District Hospital, Shivpuri, then referred to Gwalior, where he died during treatment. The officer recorded Kalyan's statement in hospital as Ex. P-15 after he could not secure the attendance of an Executive Magistrate. Dr. O.P. Sharma certified Kalyan's fitness to speak and witnessed the recording. The deceased attributed the shot to Rameshwardayal and identified Ramdayal and Megh Singh as present with weapons. The medical witnesses described abdominal firearm wounds through which the bullet had passed, intestinal damage and complications contributing to death.

The appellants challenged the presence and credibility of PW-1 and PW-2, pointing to family relationship, previous enmity, darkness, non-examination of independent witnesses, inconsistencies and the injured man's fluctuating consciousness. They also contested the declaration. The State supported the trial court's assessment of the evidence.

2. Precedents — Considered : *Karulal v. State of M.P.* was expressly applied in paragraph 37 to the challenge based on the witnesses' relationship and absence of independent eyewitnesses. The High Court identified the Supreme Court principle that the testimony of a truthful related witness can form the basis of a conviction. It applied that principle only after examining the account of the material events given by PW-1 and PW-2 and the corroborating circumstances.

Mallikarjun and others v. State of Karnataka, (2019) 8 SCC 359, was quoted and applied in paragraph 38 to the contradictions alleged by the defence. The reproduced discussion explains that minor discrepancies do not necessarily destroy testimony that is otherwise credible. Within that quotation, *Bakhshish Singh v. State of Punjab, (2013) 12 SCC 187*, reproduced *Sunil Kumar Sambhudaya Gupta v. State of Maharashtra, (2010) 13 SCC 657*. The latter distinguishes trivial omissions, embellishments or improvements from deficiencies affecting the core of the prosecution case. It also requires a justifiable reason for an appellate court to reassess a finding on credibility. The *Sunil Kumar* passage refers to *State v. Saravanan, (2008) 17 SCC 587*. The further quotation from *Raj Kumar Singh v. State of Rajasthan, (2013) 5 SCC 722*, requires the testimony to be read in its entirety to see whether it has a ring

of truth. The identified infirmities must be assessed in the context of the whole account to determine whether they undermine its credibility. These quotations appear within the *Mallikarjun* passage. The present Court applied their distinction between minor and material discrepancies and found the discrepancies in this case minor.

3. Statutes considered : The appeal was brought under Section 374 CrPC. Section 302 IPC and Section 34 IPC governed the distinct murder and common-intention convictions: Rameshwardayal fired the fatal shot, while Ramdayal was found to have joined the armed confrontation in which Kalyan was surrounded. Section 174 CrPC appears in the death inquiry; Sections 307/34 IPC and 25/27 Arms Act appear in the original Dehati Nalishi/FIR.

4. Issues : The Court addressed whether PW-1 and PW-2 were reliable despite relationship, alleged enmity, absence of independent witnesses, differences about the sequence and the injured man's consciousness; whether the police-recorded hospital statement was supported by proof of Kalyan's fitness and the circumstances of recording; whether medical and contemporaneous records corroborated a homicidal gunshot; and whether the evidence justified the different Section 302/34 and Section 302 findings against Ramdayal and Rameshwardayal.

5. Ratio / Findings : PW-1 described the confrontation and the shot. His prompt report at the scene and the police station Rojnamcha supported the contemporaneous identification of the assailants. PW-2 substantially supported that account, although his cross-examination showed that he turned after hearing the shot and saw the appellants fleeing. The Court found their evidence consistent on the material events. The difference about whether Kalyan initially became unconscious was insignificant to the occurrence. The previous dispute over land and financial dealings could warrant scrutiny of their evidence, but did not conclusively establish false implication. Applying *Karulal*, the Court relied on the testimony of the related witnesses after finding it truthful. On this record, the absence of an independent eyewitness did not require rejection of the two relatives' evidence.

ASI Santosh Sharma said that he recorded Ex. P-15 in question-and-answer form after unsuccessfully trying to secure the attendance of an Executive Magistrate. Dr. O.P. Sharma said that he examined Kalyan, found him conscious and fit to give a statement, certified that fitness on the exhibit and remained present. Another doctor, describing his separate examination, said that Kalyan was seriously injured and semiconscious. The Court accepted the evidence of fitness when the declaration was recorded and found no material discrepancy in the officer's account. It used the declaration to corroborate the gunman's identity and the other participants' presence and roles. It did not state that the absence of a Magistrate is automatically immaterial in every case.

The treating and postmortem doctors described abdominal firearm entry and exit wounds and intestinal complications. The Court found that Kalyan's death was homicidal. On the eyewitness accounts, declaration and medical record considered together, it concluded that Rameshwardayal fired the fatal shot, while Ramdayal and the juvenile Megh Singh jointly confronted and surrounded Kalyan while armed. Applying the distinction in *Mallikarjun* and its quoted authorities between minor and material discrepancies, the Court found that the remaining contradictions concerned peripheral details. It affirmed the trial court's convictions and sentences, including the Arms Act counts, without drawing an independent ballistic inference from the untested ammunition.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the trial court's convictions and sentences. Rameshwardayal (appellant 2), already in jail, was directed to serve the remaining sentence. Ramdayal (appellant 1), who was on bail, was ordered to surrender before the trial court by 18 April 2022; failing that, the trial court could issue an arrest warrant.

Ramdayal Yadav and Ors. v. State of M.P., Cr.A. no. 635/2010, 11/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (721) Prev Next

Headnote :- Quashing — civil property dispute and criminal assault - The pendency of a suit challenging a will and claiming a share in ancestral property did not make the alleged assault a purely civil matter. The FIR alleged that family members beat, bit and threatened the claimant. A claim to property is civil, but a separate assault allegedly committed because of that claim can attract criminal law. The will relied on had not come into effect during the testator's lifetime. The High Court did not

decide title or guilt. Taking the allegations at face value, it refused to quash the FIR under Sections 294, 323, 506 and 34 IPC.

Inherent powers — FIR-stage restraint - The Court applied *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, on the police's duty to investigate allegations of cognizable offences and the exceptional nature of quashing. At the investigation stage, the Court cannot test the genuineness of the FIR's allegations or conduct a mini-trial. The *R.P. Kapur* and *Bhajan Lal* categories remain available where their conditions are met. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was applied to distinguish the absence of an offence on the face of the allegations, or the absence of legal evidence, from contested evidence requiring ordinary adjudication. The applicants' account of the property dispute and their prior police call did not justify quashing the FIR alleging criminal conduct at this preliminary stage.

Informant motive — cognizable allegations - The Court applied *Renu Kumari* and its discussion of *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*. Once the allegations disclose a cognizable offence on their face, an informant's alleged desire for revenge or to exert pressure in civil litigation is secondary. Merely asserting a property feud or apprehending a future false FIR does not establish the exceptional category of a manifestly mala fide proceeding. Proof and individual liability remain open. The Section 482 CrPC/Section 528 BNSS application was dismissed.

Case-note :- ***1. Facts :*** Ramdev Sharma and the other applicants sought quashing of Crime No. 960/2023, Police Station Maharajpura, Gwalior, and consequential proceedings, invoking Section 482 CrPC/Section 528 BNSS in M.Cr.C. No. 1791/2024. The FIR cited Sections 294, 323, 506 and 34 IPC. The complainant, respondent 2, alleged that on 14 November 2023 her husband, father-in-law Munshilal Sharma and brother-in-law Ramdev were discussing ancestral property. She said that obscene abuse followed and that Ramdev, his wife Uma and Munshilal beat her with their fists, causing injuries to her left thumb, chest and head. She also alleged that Deepak, Ramdev's son, bit her back and that she was threatened with death if partition was pursued. Her husband and nearby persons were said to have witnessed or intervened. These are FIR allegations, not findings that the applicants committed the acts. The applicants said the FIR was retaliatory because Munshilal had executed a will to transfer land in favour of applicant 2. They referred to their Dial 100 call on the same day, in which they expressed apprehension of a false report, and to a pending suit for declaration and injunction filed by the complainant's husband challenging the will and claiming a quarter share. They characterised the dispute as civil and alleged that the FIR was intended to exert pressure. The Court heard applicants' counsel, set out the legal principles governing quashing, and assessed whether those submissions justified quashing the FIR when its allegations were taken at face value.

2. Precedents — Considered : *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401* (three-Judge Bench), was quoted at length and applied as the governing framework at the FIR stage. Its principles recognise the police's statutory duty to investigate cognizable offences. They prohibit routine judicial obstruction of investigation or an inquiry into the reliability of contested FIR allegations, and make quashing exceptional. They also preserve the power to intervene if the FIR discloses no offence and the established parameters under *R.P. Kapur* and *Bhajan Lal* are met. An FIR need not contain every detail. Where the facts are incomplete, the police must ordinarily be allowed to develop them through investigation. The present Court applied that test to the allegations of beating and threats without deciding their truth. The references to *Khwaja Nazir Ahmad* and earlier authorities appear within *Neeharika*'s synthesis; they were not independently applied to the facts in this order.

After quoting *Neeharika*, the Court cited *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh*, Cr.A. 709/2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri*

Satyanarayana Reddy, (2012) 12 SCC 437; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The Court stated their combined point: proceedings can be quashed on that basis only if the uncontroverted allegations do not make out an offence.

Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346, was extensively quoted and applied to the plea that the informant acted with mala fides. It explains that Section 482 preserves the High Court's existing inherent powers; it creates no new power. Those powers may be used to give effect to orders under the Code, prevent abuse of process and secure justice. Although wide, the power must be exercised sparingly. At the quashing stage, the Court does not act as an appellate court or determine the reliability of evidence. The passage reproduces *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, on the illustrative categories of a legal bar, allegations that disclose no offence on their face, and absence of legal evidence. It distinguishes the last category from a dispute over the weight of evidence. It also reproduces the seven illustrative categories in *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, including a manifestly mala fide proceeding brought for private vengeance. The concluding reasoning states that, where the FIR reveals a cognizable offence, the informant's alleged motive is secondary. The material collected in investigation and the evidence proved at trial determine the case. The present Court applied that principle to the contention that the FIR was intended to exert pressure in the property dispute. The further cases cited within the *Renu Kumari* passage, including *Janata Dal*, *Dhanalakshmi* and *State of Bihar v. P.P. Sharma*, support that discussion; they were not separately applied on distinct facts in this application.

3. Statutes considered : Section 482 CrPC and Section 528 BNSS were invoked to seek quashing in the exercise of inherent powers. The Court explained the Section 482 standard by referring to the Supreme Court decisions. The CrPC provisions governing police investigation of cognizable offences, including the distinction between Section 156(1) and Section 155(2) in the *Bhajan Lal* quotation, were relevant to that standard. The civil suit's questions of declaration, injunction, share and the will provided the context; the Court did not interpret a succession or property statute. It observed that a will takes effect on the testator's death and that Munshilal was alive when the suit was filed. That observation answered the suggestion that the will itself defeated the husband's claim at this stage; it did not amount to a decree of title.

The registered offences were Sections 294, 323, 506 and 34 IPC, concerning alleged obscene abuse, hurt, criminal intimidation and common intention. These were the criminal allegations to be investigated. The existence of the property dispute did not itself determine their truth.

4. Issues : Whether the applicants' civil litigation about ancestral property and a will made the FIR a misuse of criminal process despite separately pleaded physical violence and threats; whether the prior Dial 100 call and allegation of retaliatory motive established a ground for quashing; and whether the FIR, accepted on its face without a merits inquiry, disclosed enough of a cognizable offence to allow investigation.

5. Ratio / Findings : The Court considered the FIR allegations as they stood. A pending suit claiming a share and challenging a will could coexist with criminal proceedings for an assault allegedly committed because a claimant demanded a share. Failure to give a share may be a civil matter, but beating or threatening a person over that demand has a separate criminal character. The Court noted that the will relied on had not become operative during Munshilal's lifetime and that the applicants had not denied the husband's asserted share. The alleged reason for the confrontation could therefore not be treated as imaginary. These observations were made at the preliminary stage; the Court did not find the allegations proved.

Under *Neeharika*, the Court could not weigh the applicants' competing account or halt investigation when the FIR disclosed a cognizable accusation. The preceding police call showed that the applicants anticipated an FIR; it did not establish that the subsequent report was fabricated. Under *Renu Kumari*'s application of *R.P. Kapur* and *Bhajan Lal*, the existence of a civil property dispute and an alleged motive to exert pressure could not, by themselves, negate the reported assault. A manifestly malicious prosecution remains a possible exceptional ground for quashing, but its conditions must be established rather than assumed from private animosity. The applicants had not shown that the allegations disclosed no offence on their face or established another ground for exceptional interference. The Court therefore declined to quash. The reliability of the evidence, the complainant's

motive and proof against each accused remained for investigation and ordinary adjudication.

6. Relief : The Hon'ble High Court dismissed the Section 482 CrPC/Section 528 BNSS application. Crime No. 960/2023 and consequential criminal proceedings were not quashed.

Ramdev Sharma and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 1791/2024, 11/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (723) Prev Next

Headnote :- Criminal revision — surrender after conviction — exceptional exemption - Rule 48 of Chapter X of the M.P. High Court Rules ordinarily requires a convicted applicant to surrender before a revision under Sections 397 and 401 CrPC can be entertained. Applying *Vivek Rai v. High Court of Jharkhand, (2015) 12 SCC 86*, the Court held that the rule preserves its inherent power to grant exemption from surrender, on an application, in exceptional circumstances. *Deepak Sahu v. State of M.P., 2012 (3) MPLJ 534*, was also considered on whether a revision is maintainable without surrender. The applicant's earlier COVID illness, his wife's health problems and the asserted repayment arrangement did not justify exemption. The exemption and stay applications were dismissed. The revision concerning the Section 138 NI Act conviction was dismissed as not maintainable, with liberty to file a fresh revision after surrender. The conviction's merits were not decided.

Case-note :- ***1. Facts :*** Rameshchandra Sharma was convicted under Section 138 of the Negotiable Instruments Act by the JMFC, Gwalior, on 13 March 2020 in Criminal Case No. 17629/2014. The 8th Additional Sessions Judge, Gwalior, dismissed his criminal appeal on 4 October 2021. The applicant did not surrender after dismissal of the appeal. He nevertheless filed Criminal Revision No. 3547/2021 under Sections 397 and 401 CrPC without a surrender certificate. By I.A. No. 1309/2022, he also sought exemption from personal appearance or surrender. By I.A. No. 1310/2022, he sought a stay of further proceedings in an MJC in which an arrest warrant had been issued.

Counsel stated that the applicant, aged about sixty, had contracted COVID in April 2021. His wife suffered from diabetes and thyroid ailments and needed care. Counsel submitted that imprisonment during the pandemic would harm the applicant's health. He also referred to a proposed compromise and repayment of the cheque amount after the applicant recovered, and asserted that the respondent had agreed to give him time. These submissions were considered only in deciding whether to grant an exceptional exemption from surrender. The Court did not decide the merits of the cheque-dishonour conviction or compound the case.

2. Precedents — Considered : Paragraph 11 of *Vivek Rai v. High Court of Jharkhand through Registrar General, (2015) 12 SCC 86*, was quoted and applied. The Supreme Court held that a rule preventing a criminal revision from being listed for admission before surrender remains subject to the High Court's inherent power to grant exemption in exceptional circumstances. If a case is made out on an application, and the Court grants exemption and directs listing, the rule cannot prevent that exercise of jurisdiction. The present Court distinguished the ordinary surrender requirement from an exceptional exemption granted by the Court. It then assessed whether the applicant's personal circumstances justified exemption. *Vivek Rai* was not treated as conferring a general right to pursue revision while remaining at liberty.

Deepak Sahu and others v. State of M.P., 2012 (3) MPLJ 534, a coordinate Bench decision, was cited on whether a revision is maintainable without surrender. *Vivek Rai* expressly explained the High Court's inherent power to grant exemption in exceptional circumstances, which qualifies the ordinary requirement.

3. Statutes considered : Sections 397 and 401 CrPC governed the revisional proceeding. Rule 48 of Chapter X of the M.P. High Court Rules governed the surrender requirement for a convicted applicant. The Court construed that procedural rule alongside its inherent power to grant an exceptional exemption, as explained in *Vivek Rai*. Section 138 of the Negotiable Instruments Act identified the underlying conviction, but its ingredients, presumptions and merits were not decided. The applicant's claimed COVID illness and his wife's health problems concerned an application for exemption, not a statutory relaxation of the surrender rule.

4. Issues : Whether a person whose Section 138 conviction was affirmed in appeal could maintain a criminal revision without first surrendering under Rule 48; whether the High Court could grant exemption from surrender in exceptional

circumstances despite that rule; and whether this applicant's earlier COVID illness, spouse's medical needs and prospective repayment presented such an exceptional situation. The connected stay application depended on the exemption request. No challenge to the substantive conviction was adjudicated.

5. Ratio / Findings : The Court accepted that Rule 48 ordinarily requires a convicted person to surrender before the revision can be entertained. It rejected an absolute reading that would remove its inherent power to grant exemption. Under *Vivek Rai*, the Court may grant a reasoned exemption in an exceptional situation on a suitable application. It therefore examined the applicant's grounds, rather than treating the absence of a surrender certificate as a bar admitting no exception. The applicant's COVID illness in April 2021, his wife's diabetes and thyroid treatment, the need to care for her and the respondent's asserted willingness to wait for payment did not establish the required exceptional circumstances. On this record, the medical claims and possible settlement did not warrant exemption from surrender after dismissal of the appeal. Since the applicant had neither surrendered nor obtained exemption, the revision was not maintainable under Rule 48. That procedural conclusion did not affirm the NI Act conviction on its merits or decide any future revision properly filed after surrender.

6. Relief : The Hon'ble High Court dismissed I.A. No. 1309/2022 seeking exemption from surrender. Consequently I.A. No. 1310/2022 seeking a stay of the MJC proceedings was also dismissed. The criminal revision was dismissed as not maintainable under Rule 48 because the applicant had neither surrendered nor made out an exceptional ground for exemption. He was expressly granted liberty to file a fresh criminal revision after surrendering before the trial court. The judgment records no adjudication on the Section 138 conviction's merits.

Rameshchandra Sharma v. Ramkhiladi Sharma, Cr.R. no. 3547/2021, 20/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (724) Prev Next

Headnote :- Section 319 CrPC — additional accused — dowry-related death and distant relatives - *Monju Roy v. State of W.B., (2015) 13 SCC 693*, cautions that distant relations cannot be summoned on mere naming or omnibus allegations. Specific material supporting their role is required. The Court applied that caution to the evidence in Sessions Trial No. 277/2018. The witnesses' testimony in court, read with their statements during investigation, specifically attributed to the applicants a demand for ₹5 lakh at vidai and subsequent physical and mental harassment. The police's earlier decision not to file a charge-sheet against them because they lived in a different locality did not negate that material. The Section 319 order was upheld and the revision dismissed. The ruling is confined to the propriety of summoning on this record. It makes no final finding of guilt or final determination of the requirements of Section 304-B IPC and Section 113-B of the Evidence Act discussed in the quoted precedent.

Case-note :- ***1. Facts :*** Pooja married Om Sharma on 7 December 2015. According to the prosecution narrative, her family gave ₹10 lakh in cash, ornaments said to be worth ₹5 lakh, and household goods at the wedding. Her father, respondent No. 2, alleged that the applicants, relatives of the matrimonial family, joined in a further demand for ₹5 lakh at the vidai ceremony and continued to participate in physical and mental harassment concerning that demand. The account included an alleged altercation involving visiting nephews shortly after the marriage, complaints reported by Pooja to her parental family, the continuing demand after childbirth, and an incident connected with the thirteenth-day ceremony for her paternal grandfather. These were allegations recorded in the case narrative and witness statements, not findings of guilt. Pooja died on 14 September 2017; the narrative described her death as suicide by hanging. A merg inquiry was initiated under Section 174 CrPC.

The police did not file a charge-sheet against the present applicants, principally because they lived separately from the other in-laws. After the father and other witnesses gave evidence in Sessions Trial No. 277/2018, the father applied under Section 319 CrPC to add the applicants as accused. The trial court initially allowed a similar application on 30 September 2019. In Criminal Revision No. 4988/2019 the High Court set that order aside on 16 June 2021 and remitted the application for a fresh decision in the light of *Hardeep Singh v. State of Punjab*. On remand the Sixth Additional Sessions Judge, Gwalior, again added the applicants as accused by order dated 12 July 2021. They brought this revision under Sections 397 and 401 CrPC against that order.

The applicants argued that, as distant relatives living separately, they had been implicated through generalised accusations and that the trial court had not applied the standard for adding an accused. The State and complainant answered that both investigation statements and trial testimony assigned them specific roles and that they did not live so far apart as to exclude participation. The complainant later mentioned that a Section 302 IPC charge had also been framed. The High Court recorded that submission without stating a separate categorical rule on that basis.

In opposing the argument based on separate residence, the complainant stated that the applicants lived at Tyagi Nagar, Morar, at a distance of "15–16" from Bilhati. That distance was stated as a submission relevant to alleged participation, rather than as proof of guilt.

2. Precedents — Considered : *Hardeep Singh v. State of Punjab, (2014) 3 SCC 92*, was the authority identified in the earlier remand order directing the trial court to decide the Section 319 application afresh. The applicants' counsel submitted that the evidence must exceed what is needed for framing a charge while remaining below the level of proof required for conviction. The High Court reviewed the material and concluded that the particularised allegations justified leaving the trial court's order undisturbed.

Monju Roy v. State of W.B., (2015) 13 SCC 693, was quoted at length and supplied the caution governing the High Court's assessment. It recognised the possibility that a complainant may exaggerate by naming the whole family in a dowry death case. Summoning a distant relation requires tangible material for a specific role; mere naming cannot substitute for it. It also called for a pragmatic assessment of an unnatural death and alleged dowry harassment. At the same time, it stressed that omnibus accusations against siblings and other relatives do not stand on the same footing as allegations against the husband and parents. In the present revision the High Court examined whether the applicants were assigned a specific role. It concluded that the record went beyond a general accusation against the family and contained specific allegations.

The *Monju Roy* extract drew *on Kans Raj v. State of Punjab for the* warning that indiscriminate implication of in-laws' relations can weaken the prosecution even against the real offenders. It also drew *on Raja Lal Singh v. State of Jharkhand for the* possibility that relatives' names are introduced to widen the net. The latter quotation mentions *Kamesh Panjiyar v. State of Bihar* as a supporting reference, without a developed separate analysis in this order. The extract also used *Amar Singh v. State of Rajasthan* to explain that Section 304-B IPC concerns cruelty or harassment in connection with a dowry demand. The presumption of dowry death under Section 113-B of the Evidence Act arises only when the prosecution first establishes the specified conduct by the person concerned soon before the woman's death. These observations on the offence and the presumption explain the need to identify each person's role.

3. Statutes considered : Section 319 CrPC was the operative power to proceed against persons not previously made accused on the basis of material arising during the trial. The Court assessed the application to add the applicants as accused in the light of the specific roles described by the witnesses and the Supreme Court caution against unsupported implication of the whole family. Sections 397 and 401 CrPC governed the revision in which the High Court reviewed the trial court's renewed order. Section 174 CrPC concerned the initial merg inquiry, and Section 161 CrPC concerned the investigation statements cited by the parties. The Court also expressly considered the witnesses' evidence in court. It did not treat the police's non-filing of a charge-sheet as a legal bar to the trial court's later exercise of Section 319.

The quoted *Monju Roy* passage discussed Sections 498-A and 304-B IPC and Section 113-B of the Evidence Act. It emphasised the need to connect harassment with a dowry demand and the presumption conditional on the specified conduct soon before death.

4. Issues : The issue decided was whether, after the earlier remand, the trial court's Section 319 order adding the applicants in the pending sessions trial called for interference in revision. Were the allegations against relatives living separately only vague and omnibus, or did the material, including trial testimony, assign them sufficiently specific roles to support the order? The applicants invoked *Hardeep Singh*'s asserted evidentiary threshold and the danger of roping in distant relations. The respondents relied on particularised testimony about the dowry demand and harassment.

5. Ratio / Findings : The High Court read *Monju Roy* as requiring care before adding distant relatives on a complainant's broad assertion. The quoted principle does not exempt a relative merely because the relationship is distant. The crucial distinction is whether tangible material supports a concrete role rather than a general accusation against everyone in the matrimonial family. The Court examined the case diary and the evidence recorded in court. It noted that the police omitted the applicants from the charge-sheet only because they lived apart. The in-laws were said to live in Bilhati and the applicants in Tyagi Nagar, Morar.

The witnesses' statements during investigation and their evidence in court attributed to the applicants a demand for ₹5 lakh at vidai, followed by physical and mental harassment of Pooja concerning that demand. On this record the Court regarded the allegations as specific, neither vague nor omnibus. It rejected the suggestion that the applicants had merely been added through exaggerated inclusion of distant relatives. It therefore found no ground to disturb the renewed trial court order. This was a decision on the addition of accused under Section 319 in a pending trial. It did not establish that the allegations were proved for conviction or finally decide the requirements of Section 304-B IPC and Section 113-B of the Evidence Act recited in *Monju Roy.* Nor did it expressly adopt the complainant's proposed categorical consequence of the Section 302 charge.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The order dated 12 July 2021 in Sessions Trial No. 277/2018, by which the applicants were arrayed as additional accused under Section 319 CrPC, remained undisturbed.

Rameshwar Dayal Sharma and Ors. v. State of M.P. and Ors., Cr.R. no. 1616/2021, 25/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (726) Prev Next

Headnote :- Section 482 CrPC — disputed alibi — no mini-trial - Ramgovind Kushwaha, named in the FIR, claimed that his hospitalisation made it impossible for him to be present at the scene of the incident. The Court held that this defence required cogent proof at trial and could not be decided in proceedings for quashing under Section 482. It applied its earlier *Prashant Kumar Nimgani* order and the restriction on considering defence material at the charge stage quoted in *Shoraj Singh Ahlawat v. State of U.P., AIR 2013 SC 52*, especially *Debendra Nath Padhi*'s alibi illustration. The claim of hospital admission was neither established nor rejected on its merits; the Court declined to determine that defence and dismissed the petition, no other ground having been advanced.

Framing of charge — prima facie material and strong suspicion - *Shoraj Singh Ahlawat*, drawing on *Onkar Nath Mishra*, *Som Nath Thapa*, *Mohanlal Soni* and *Rumi Dhar*, explains that Sections 239–240 CrPC require the court to examine the prosecution record to see whether it discloses the ingredients of the alleged offence and a ground for presuming its commission, rather than proof sufficient for conviction. *Prafulla Kumar Samal* permits limited sifting and discharge where two views are equally possible and the record gives rise only to suspicion that is not grave; *Debendra Nath Padhi* excludes a mini-trial of the accused's alibi defence at that stage. The present Court invoked those principles in declining, on procedural grounds, to determine the applicant's claim that he was absent, without itself adjudicating a charge application.

Inherent jurisdiction — exceptional quashing and face-value test - *Padal Venkata Rama Reddy v. Koveuri Satyanarayana Reddy, (2011) 12 SCC 437*, was reproduced on the purposes of Section 482, the recognised grounds for preventing abuse of process and the need to exercise the power sparingly. Its discussion includes *R.P. Kapur* and the limited, context-specific reach of *Madhavrao Jiwajirao Scindia* as explained in *P.P. Sharma*. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, cautions against premature interference with investigation where an offence is disclosed. *Vinod Raghuvanshi v. Ajay Arora, (2013) 10 SCC 581*, rejects an assessment of probability and credibility at the threshold. *Nagawwa v. Veeranna Shivalingappa Konjalgi, AIR 1976 SC 1947*, illustrates the error of weighing defence material at the stage of issuing process. Applying that restraint, the High Court declined to quash solely on a disputed alibi.

Case-note :- ***1. Facts :*** Crime No. 23/2017 concerned allegations under Sections 147, 148, 149, 353, 186 and 307 IPC and Sections 25 and 27 of the Arms Act. Ramgovind Kushwaha was named in the FIR. He brought MCRC No. 30630/2018 under Section 482 CrPC to quash the criminal proceedings, asserting through counsel that he had been admitted to a hospital and therefore could not have been at the

scene of the alleged incident. After hearing that ground, the Court recorded that counsel advanced no other argument.

The Court treated the request to exonerate the applicant at that stage as a disputed alibi defence and assembled extensive Supreme Court material governing charge, discharge, process and inherent quashing. Those authorities concerned different procedural stages. The case before the High Court was a Section 482 petition, not a trial of the alibi or a direct appeal from an order framing charges. The quoted charge-stage law explained why disputed defence evidence cannot simply be adjudicated at the threshold. The final order left the prosecution to proceed and did not decide whether Ramgovind was present or committed any listed offence.

2. Precedents — Considered : *Shoraj Singh Ahlawat and others v. State of U.P. and another, AIR 2013 SC 52*, was quoted in detail. The extract distinguished discharge under Section 239 CrPC, where the charge is groundless, from framing a charge under Section 240, where the prosecution material provides a ground for presuming commission of an offence. It explained that the charge court asks whether facts accepted at face value disclose ingredients, without assessing probative value by the standard required for conviction. The present Court used the extract particularly to reject a defence alibi inquiry in quashing jurisdiction; it did not purport to decide an application under Sections 239 or 240.

Within *Shoraj Singh Ahlawat*, *Onkar Nath Mishra v. State (NCT of Delhi), (2008) 2 SCC 561*, explained the approach of examining the ingredients at face value and considering whether there was strong suspicion. It also distinguished the positions of the husband and parents-in-law in that case. *State of Maharashtra v. Som Nath Thapa, 1996 Cri LJ 2448*, stated that a probable consequence or possibility of commission justifies framing a charge, while conviction requires a different conclusion. *State of M.P. v. Mohanlal Soni, 2000 Cri LJ 3504*, reaffirmed the test of prima facie grounds rather than an assessment of whether the evidence is sufficient for conviction. *Smt. Rumi Dhar v. State of West Bengal & Anr., (2009) 6 SCC 364*, was reproduced for the sufficiency of strong suspicion on the material at discharge stage.

State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568, as reproduced in *Shoraj Singh Ahlawat*, held that the accused cannot produce defence material at the stage of framing charges or taking cognizance, or turn that stage into a roving inquiry or mini-trial. Its express illustration of an alibi places the supporting evidence at the trial stage. The opportunity to address the court under Section 227 remains confined to the prosecution record and the documents submitted with it. *Union of India v. Prafulla Kumar Samal, (1979) 3 SCC 4*, recognised limited judicial sifting under Section 227. Grave suspicion can support a charge, whereas discharge is permitted where two views are equally possible and the suspicion is not grave. The judge neither acts mechanically nor conducts a trial. With due regard to the different procedural stages, the High Court relied on this group of authorities in declining to determine Ramgovind's claimed hospital alibi under Section 482. It did not apply the underlying charge thresholds to the detailed facts of this FIR.

Prashant Kumar Nimgani v. State of M.P. and another, MCRC No. 7480/2016, order dated 20 September 2018, was a coordinate High Court order quoted and applied. It treated alibi as a defence requiring cogent proof at trial. The facts of that rape case concerning travel and presence were illustrative of factual questions that could not be resolved on a Section 482 application; they were not facts about Ramgovind or the present offences.

Padal Venkata Rama Reddy v. Koveuri Satyanarayana Reddy, (2011) 12 SCC 437, was quoted at length on Section 482. The extract identified the inherent power's three statutory purposes: giving effect to a Code order, preventing abuse of process and securing justice. It recognised the power's broad scope, while requiring caution and exceptional circumstances for its exercise. It cautioned against findings on disputed facts, use inconsistent with the Code where a specific remedy is available, and a meticulous assessment before trial of the prospects of conviction. *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, was quoted within it for recognised grounds involving a legal bar, allegations that disclose no offence when taken at face value, manifest failure of legal evidence and abuse of process. *L. Muniswamy, (1977) 2 SCC 699*, was quoted for stopping proceedings that become instruments of harassment. These are possibilities for relief; they do not automatically justify determining the merits of this applicant's hospitalisation defence.

The *Padal* extract also cited *Kavita v. State and B.S. Joshi v. State of Haryana* when discussing the limits arising from an available statutory remedy and inconsistency with the Code. It cited *Dhanalakshmi*

v. R. Prasanna Kumar, Ganesh Narayan Hegde v. S. Bangarappa and *Zandu Pharmaceutical Works v. Mohd. Sharaful Haque for* doing real justice without a meticulous inquiry into guilt. *Bhajan Lal*, *Janata Dal*, *Rupan Deol Bajaj* and *Indian Oil Corpn.* were cited as examples of attempts to identify grounds that are not exhaustive. *State of Orissa v. Saroj Kumar Sahoo* rejected a forecast based on probabilities and treated alleged malice on the informant's part as secondary. *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692*, addressed special features and the use of prosecution for an oblique purpose. The quoted explanation in *State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222*, expressly refused to treat *Madhavrao* as a universal rule for testing the ultimate chances of conviction in every preliminary quashing case. It placed the decision's setting of civil and family disputes and compromise in context. The present Court reproduced these qualifications and did not find the exceptional grounds established by the sole assertion of alibi.

State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547, was quoted for the broad but non-arbitrary power under Section 482 and restraint against premature interference where an offence is disclosed, in the absence of gross abuse of investigative power. The nested *Swapan Kumar Guha* passage explained that proper investigation gathers proof and ordinarily should continue when an offence is disclosed; *Jeffrey J. Diermeier* reiterated the three Section 482 purposes and careful, sparing exercise.

Vinod Raghuvanshi v. Ajay Arora, (2013) 10 SCC 581, was quoted for the initial-stage test: uncontroverted allegations are read prima facie. At that stage, the court does not examine whether the allegations are likely to be proved or assess their probability, reliability or genuineness in a quashing proceeding. *Nagawwa v. Veeranna Shivalingappa Konjalgi, AIR 1976 SC 1947*, was quoted for setting aside a High Court revision that had improperly weighed contradictions and defence documents when a Magistrate's process order was challenged at the Section 202 stage. The latter arose in a different procedural setting, and it was relevant here for the shared caution against premature fact-finding. All these quotations reinforced the Court's conclusion that the alibi must await trial; they do not amount to a factual determination against the defence.

3. Statutes considered : Section 482 CrPC governed the application. It preserves inherent powers to give effect to Code orders, prevent abuse of the court's process and secure justice. The Court exercised its discretion within the threshold limits explained by the quoted authorities and declined to resolve contested defence facts. Sections 239 and 240 CrPC, and Section 227, were discussed through *Shoraj Singh Ahlawat* to distinguish discharge where a charge is groundless, framing a charge on prima facie material, and the restriction on presenting defence documents at that stage. Section 202 arose in *Nagawwa*'s discussion of the stage of issuing process; it was not the provision under which Ramgovind's petition was brought.

Sections 147, 148, 149, 353, 186 and 307 IPC and Sections 25 and 27 of the Arms Act identify the alleged offences in Crime No. 23/2017.

4. Issues : The issues were whether an applicant named in a criminal FIR could obtain quashing of the resulting proceedings under Section 482 merely by asserting that hospital admission made his presence at the scene impossible; whether assessing that assertion would require prohibited appraisal of a contested defence at the threshold; and which limits on the charge stage and inherent jurisdiction, drawn from the quoted Supreme Court cases, applied to that question. No separate ground for quashing was argued. The Court did not decide the factual alibi, the credibility of a hospital record, the ingredients of each alleged offence or the eventual prospects of conviction.

5. Ratio / Findings : The Court first stated that it could not consider Ramgovind's defence in exercising Section 482. Its lengthy quotation from *Shoraj Singh Ahlawat* explained the procedural distinction: strong suspicion supported by prosecution material may suffice for a charge, but a court at that stage cannot hold an alibi mini-trial on documents tendered by the accused. *Prafulla Kumar Samal*'s permission for limited prima facie sifting does not permit a full assessment of the evidence as at trial. The High Court's earlier *Prashant Kumar Nimgani* order directly described alibi as a matter requiring cogent proof at trial. Applying these principles to the only submission made, the Court treated the claims of hospitalisation and absence as disputed matters of defence rather than established facts warranting quashing.

The *Padal*, *Ujjal Kumar Burdhan*, *Vinod Raghuvanshi* and *Nagawwa* extracts explained why

inherent power, though broad and available to stop abuse, must be exercised carefully. It does not generally extend to deciding contested evidence, forecasting ultimate conviction or prematurely stopping a prosecution that discloses an offence. The quoted *R.P. Kapur* categories and the contextual discussion of *Madhavrao* preserve exceptional quashing where the conditions for applying them are met. This order did not decide that Section 482 is unavailable in every case involving an alibi, nor that an accused can never rely on indisputable material in any legal setting. It concluded only that this applicant's asserted hospital admission called for evidentiary proof at trial. The merits of the alleged IPC and Arms Act offences were left open.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC. Criminal proceedings arising from Crime No. 23/2017 were not quashed. The applicant remained able to lead evidence of his asserted alibi before the trial court; the order made no affirmative finding that he was present or guilty and prescribed no special condition or remand direction.

Ramgovind Kushwaha v. State of M.P., M.Cr.C. no. 30630/2018, 28/11/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (727) Prev Next

Headnote :- Successive regular bail — hostile prosecutrix — earlier interference concern - Ramhet's third application under Section 439 CrPC followed dismissal of the first application and dismissal of the second as withdrawn. The Court stated that the prosecutrix's hostile testimony had already been considered. It recalled its earlier finding of attempted witness influence through the applicant's procurement of her vakalatnama and counsel's possession of it to arrange representation and a favourable affidavit. In the present order, the Court noted that her vakalatnama had been obtained before her examination. That witness-influence concern remained material. The earlier order had quoted *Javed Ansari v. State of U.P.* concerning an alleged forged vakalatnama in a different case; its administrative proposals were not adopted as operative directions in the present case. The third bail application was dismissed.

Scientific evidence — hostile testimony not necessarily fatal - *Hemudan Nanbha Gadhvi v. State of Gujarat, (2019) 17 SCC 523*, was applied for the principle that adequate scientific evidence may support a conviction even when the prosecutrix turns hostile. In this case, the FSL report recorded human sperm on the slide and swab, so the prosecutrix's hostility did not itself establish a basis for bail. The Court did not record DNA attribution to Ramhet, finally determine the admissibility of the forensic evidence, or convict him; the assessment was limited to the bail request.

Case-note :- ***1. Facts :*** Ramhet was arrested on 8 July 2021 in Crime No. 341/2021, Police Station Pichhore, Shivpuri, concerning allegations under Sections 376-D, 366 and 506 IPC. His first regular bail application, MCRC No. 39388/2021, was dismissed by order dated 10 August 2021. A second, MCRC No. 46806/2021, was dismissed as withdrawn on 28 September 2021. He brought this third application, MCRC No. 3577/2022, under Section 439 CrPC, on the ground that the prosecutrix had turned hostile. The case diary was available.

The current judgment extensively reproduced the first bail order. In that earlier hearing, counsel had first asserted an engagement between the prosecutrix and co-accused Deepak and a consensual relationship, then changed his account to say that marriage talks were taking place when asked for supporting documents. Counsel also submitted that Ramhet's alleged role was to accompany the co-accused to a hut and stand outside while Deepak allegedly committed rape. When asked for supporting material, counsel disclosed that he held the prosecutrix's vakalatnama and would file an affidavit. The first order treated procurement and possession of her vakalatnama as an effort to arrange her representation and a favourable no-objection affidavit. After the Court expressed that concern, counsel sought withdrawal of the first bail application. These were submissions and procedural findings recorded in the earlier order. In the present order, the Court further noted that the vakalatnama had been obtained before the prosecutrix's examination. It did not determine the underlying sexual offence at trial.

The first order quoted a lengthy Allahabad High Court order in *Javed Ansari* concerning a different case in which advocates were confronted about a forged vakalatnama purportedly given by an informant. In the present third application the Court again noted the prior vakalatnama concern. It added that the FSL report found human sperm in the slide and swab of the prosecutrix and applied a Supreme

Court authority on scientific proof despite hostile testimony.

2. Precedents — Considered : *Hemudan Nanbha Gadhvi v. State of Gujarat, (2019) 17 SCC 523*, was the Supreme Court decision applied to the bail assessment. As the present order stated its principle, the prosecutrix's turning hostile does not prevent conviction where scientific evidence supports guilt; the Court noted that the accused in *Hemudan* was held guilty with the aid of an FSL report. The High Court applied its stated principle at the limited bail stage: because human sperm was reported on the prosecutrix's samples, her hostile testimony could not be treated as automatically defeating the prosecution.

Javed Ansari v. State of U.P., Criminal Misc. Bail Application No. 27194/2021, was an Allahabad High Court order quoted within the first bail decision of 10 August 2021, which was reproduced in the present order. In *Javed Ansari* one advocate purported to represent an informant under a vakalatnama. As alleged and acknowledged in that order, the accused's lawyer had supplied the vakalatnama and paid the advocate's fee. The court treated it as forged, referred one lawyer's conduct to the U.P. Bar Council, proposed verification measures and issued directions specific to that case. The Gwalior Bench used this as an illustration of the danger of manipulating victim or informant representation. It then criticised the defence counsel's possession of the prosecutrix's vakalatnama in Ramhet's case. The present Court did not find that a document was forged in Ramhet's case, issue a Bar Council referral, require Aadhaar proof or bind other courts to the Allahabad administrative proposal. Its earlier recorded concern about influencing witnesses remained relevant to the bail assessment.

The High Court's own order dated 10 August 2021 and the intervening withdrawal dated 28 September 2021 supplied the successive-bail procedural history. The first order had already considered the witness-influence issue; paragraph 7 of this order states that the later hostility had also been considered in detail. The present refusal was therefore not a fresh, final determination of the prosecutrix's credibility.

3. Statutes considered : Section 439 CrPC governed the third regular bail application and the Court's assessment before trial of changed circumstances, witness influence and available prosecution material. Sections 376-D, 366 and 506 IPC identify the alleged offences of gang rape, abduction and intimidation in this crime. The Court did not finally interpret their ingredients or decide guilt. The quoted *Javed Ansari* order involved Section 376(2)(i), Section 506 IPC and Sections 3/4 of the POCSO Act in a different case. The charges under Section 376(2)(i) IPC and the POCSO Act belonged to that case; Section 506 IPC also appears in the allegations against Ramhet. The quoted provisions supplied no special-statute bail restriction in the present application. The FSL report was evidentiary material assessed provisionally at the bail stage, not the subject of a separate statutory ruling on admissibility.

4. Issues : The issues were whether the prosecutrix's hostile testimony justified bail on Ramhet's third Section 439 application, given the earlier concern about procuring her vakalatnama to arrange a favourable affidavit and the present Court's statement that it had been obtained before her examination; and whether the FSL report left a viable prosecution case despite that testimony. The question concerned provisional release and the interests of witnesses and the investigation. It did not concern a final determination of credibility, forensic attribution to this applicant or proof of the alleged IPC offences. The Allahabad order's professional-conduct directions were quoted, but their operative application was not a separate issue for decision.

5. Ratio / Findings : The Court held that hostility had already been considered and did not automatically justify a different bail result. It noted that the prosecutrix's vakalatnama had been obtained before she gave evidence and held by the applicant's counsel to engage a lawyer of the accused's choosing. The first order had found an effort to win over witnesses through the vakalatnama and proposed affidavit. In referring to *Javed Ansari*, it condemned the practice of an accused arranging counsel for the victim to procure a no-objection affidavit, without adopting that other court's specific misconduct findings or directions in the present proceeding.

The Court then noted the FSL report's detection of human sperm on the prosecutrix's slide and swab. Applying *Hemudan* as described in the order, it reasoned that scientific evidence can support conviction despite a hostile complainant, so hostility did not itself make bail appropriate. Its phrase that the present case was covered by *Hemudan* supported its conclusion on bail, not a final finding that the applicant committed rape. Taken with the earlier

witness-influence concern, this was sufficient for the Court to refuse bail on this third application.

6. Relief : The Hon'ble High Court dismissed the third application for regular bail.

Ramhet v. State of MP, M.Cr.C. no. 3577/2022, 11/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (728) Prev Next

Headnote :- Regular bail — prosecutrix representation — witness influence - In a first Section 439 CrPC application concerning Sections 376-D, 366 and 506 IPC, counsel initially asserted that the prosecutrix and a co-accused were engaged. When asked for proof, he said that talks of marriage were taking place. Counsel then said that he held her vakalatnama and would file an affidavit. The Court found that the applicant had obtained the prosecutrix's authority in an attempt to win over witnesses. It held that an accused cannot arrange counsel for a prosecutrix to obtain an affidavit of his choice. The quoted *Javed Ansari v. State of U.P.*, Criminal Misc. Bail Application No. 27194/2021 (Allahabad High Court), concerned a forged vakalatnama purportedly given by an informant in a different case and served as an illustration. Its Bar Council directions and identity-proof proposal were not operative here. The Court refused even the applicant's subsequent request to withdraw the bail application and dismissed it. No final finding on guilt or formal adjudication of forgery in this case was made.

Case-note :- ***1. Facts :*** Ramhet was arrested on 8 July 2021 in Crime No. 341/2021 at Police Station Pichhore, Shivpuri, on allegations under Sections 376-D, 366 and 506 IPC. He filed his first regular bail application, MCRC No. 39388/2021, under Section 439 CrPC. The case diary was available.

For bail, defence counsel submitted that the prosecutrix had been engaged to the co-accused Deepak and suggested that their sexual contact was consensual. He argued that no rape was alleged against Ramhet personally and that Ramhet's stated role was to accompany the co-accused to a hut at Bharatpur Ki Dang and stand outside while Deepak allegedly committed rape. These were counsel's assertions, not factual findings. When asked for a document supporting the claimed engagement, counsel changed his account and said that talks of marriage were taking place. When asked for evidence of those talks, counsel said that he already held the prosecutrix's vakalatnama and would file an affidavit. The Court regarded the defence lawyer's possession of that authority as troubling and indicative of an attempt to control the prosecutrix's representation and obtain a favourable affidavit.

The order then reproduced a long Allahabad High Court ruling in *Javed Ansari* about manipulation of an informant's vakalatnama in a different sexual-offence bail case. The quotation provided context for the Court's concern, but related to other parties, lawyers and offences. After the Court criticised the arrangement in the present case, Ramhet's counsel sought leave to withdraw the bail application. The Court declined even to accept withdrawal and dismissed it.

2. Precedents — Considered : *Javed Ansari v. State of U.P.*, Criminal Misc. Bail Application No. 27194/2021 (Allahabad High Court), was quoted in detail. In that case, an advocate purported to represent the informant, who was the minor victim's father, and initially offered no objection to the accused's bail. Another advocate disputed that authority. The lawyer purporting to act for the informant said that the accused's lawyer had supplied the vakalatnama, arranged his appearance and paid his fee. The Allahabad Court treated the document as forged in that case, criticised both lawyers, allowed one to seek withdrawal of his appearance, referred the other's conduct to the U.P. Bar Council, proposed verification of identity when vakalatnamas are filed and issued notices and administrative circulation directions. It stressed the potential deprivation of victim/informant rights and the need for reliable authority to act for a client.

The Gwalior Bench found a similar risk in counsel's possession of the prosecutrix's vakalatnama and proposed filing of an affidavit for bail in the present case. It did not say this document had been proved forged, institute a disciplinary reference, impose the Allahabad Court's suggested requirement of proof of identity, or grant the other order's relief here. The proposition it drew was narrower and case-specific: an accused may not arrange the prosecutrix's legal representation so as to produce an affidavit of his own choice, and such an attempt to influence witnesses weighs against bail. *Javed Ansari* is a High Court decision, not a Supreme Court authority.

3. Statutes considered : Section 439 CrPC supplied the regular-bail jurisdiction. Sections 376-D, 366 and 506 IPC identified the offences alleged in Ramhet's

crime, but their ingredients and the question whether the co-accused's sexual conduct was consensual were not finally decided. The quoted *Javed Ansari* case concerned Section 376(2)(i), Section 506 IPC and Sections 3/4 POCSO in a different case. Section 376(2)(i) IPC and the POCSO provisions belonged to that case; Section 506 IPC was also alleged against Ramhet. A vakalatnama's function as the client's authority to act was central to the procedural concern. There was no separate determination under a named professional-discipline statute.

4. Issues : The issues were whether Ramhet should be released on his first regular-bail application on counsel's account of an engagement or marriage talks and his submission that the applicant had only a limited role; whether the defence side's possession of the prosecutrix's vakalatnama with a proposed affidavit indicated an effort to influence a witness; and whether the Court should permit withdrawal after that conduct came to light.

5. Ratio / Findings : The Court tested counsel's account by asking first for a document supporting the claimed engagement and then for evidence supporting the revised account of marriage talks. Counsel produced no such substantiation in the recorded exchange, but instead disclosed possession of the prosecutrix's vakalatnama and a plan to file an affidavit. The Court found this an attempt by the applicant to win over witnesses from the beginning, with counsel drawn into the arrangement. Its concern was not merely the content of a possible no-objection affidavit, but the accused's ability to arrange legal representation for the victim or prosecution witness and procure an affidavit of his choosing. The quoted Allahabad order illustrated the importance of an authentic vakalatnama based on the client's independent authority; its distinct forgery finding and administrative measures were not adopted as findings or commands against these participants.

The Court rejected the practice as unacceptable for fair criminal process. In light of all the circumstances, including counsel's possession of the prosecutrix's vakalatnama, it found no case even to accept the request to withdraw the application. It dismissed the bail application rather than permitting withdrawal. Its finding of witness influence was a bail-stage assessment of the recorded conduct; it did not establish the underlying sexual offence, determine what the prosecutrix would later say in evidence, or impose a professional sanction.

6. Relief : The Hon'ble High Court dismissed the first application for regular bail under Section 439 CrPC and refused permission to withdraw it.

Ramhet v. State of M.P. and Ors., M.Cr.C. no. 39388/2021, 10/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (730) Prev Next

Headnote :- Section 482 CrPC — FIR disclosing cognizable offences — alleged mala fide - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was applied. A complainant's alleged personal motive is secondary where the allegations in the FIR, taken at face value, disclose a cognizable offence. Section 482 is exercised cautiously to prevent abuse, not to determine disputed questions of credibility. The applicants attributed Sarita's report of forcible entry, assault, attempted outrage of modesty and damage to a repayment dispute with her father-in-law. The Court did not treat the loan or the alleged threat as proved and refused to quash the proceedings on that disputed basis. *Renu Kumari*'s quoted *R.P. Kapur* and *Bhajan Lal* categories preserve genuine exceptional grounds, including manifest abuse, but no such ground was established merely by alleging malice here.

Quashing — civil/property defence — time of possession and disputed payments - No interim injunction had been granted in the pending suit for specific performance filed by applicant No. 2's wife. A sale deed dated 9 October 2023 recorded delivery of possession on that date, after the alleged incident of 11 December 2022. Even if the same house was involved, the deed did not show that the applicants were in possession when the alleged entry occurred. The asserted large cash loans raised disputed issues, and the Court also invoked Section 269SS of the Income-tax Act in declining to accept that defence at this stage. Citing *XYZ v. State of Gujarat*, *S. Martin* and other Supreme Court quashing cases collectively for the principles that the allegations must be taken at face value and that a roving enquiry is impermissible, the Court dismissed the Section 482 application. The cash-loan assertion and criminal allegations were not finally adjudicated.

Case-note :- ***1. Facts :*** Sarita's FIR in Crime No. 237/2022, Police Station Pahargarh, Morena, alleged that on 11 December 2022 she was at home with her two daughters while her husband and father-in-law were away. According to her account, a group of

about ten to twelve persons, including the applicants and persons identified as Omprakash, Matadeen and Rajpal with others unknown to her, entered her house, assaulted her, attempted to outrage her modesty and damaged the house. An uncle-in-law who intervened was allegedly assaulted too. The order records the FIR under Sections 452, 354, 427, 323, 147 and 149 IPC. These are the complainant's allegations; the Court was considering quashment, not determining their truth.

Ramhet and the other applicants brought MCRC No. 7193/2023 under Section 482 CrPC. Their explanation was a substantial monetary dispute with Sarita's father-in-law Sohanlal Dhakad, a relative. Counsel asserted various advances in 2021–22, including digital transfers and large cash sums, partial repayment after sale of a house, an outstanding balance, an agreement of 17 June 2022 to sell a Kailaras house to Kalavati Dhakad, wife of applicant No. 2, and a separate loan to applicant No. 4. These matters were put forward as the applicants' contentions; they were not judicially established financial transactions. Counsel said Sohanlal threatened false implication when repayment was demanded. Applicants complained to the police on 17 and 22 December 2022 and relied on Kalavati's pending suit for specific performance and injunction. The State opposed, contending that alleged informant malice was secondary once the report disclosed the commission of cognizable offences.

During arguments, the applicants acknowledged that no temporary injunction had been granted in the civil suit, but referred to a sale deed executed by Sohanlal in Kalavati's favour on 9 October 2023. The Court noted that it recorded transfer of possession on that date, nearly ten months after the reported attack.

2. Precedents — Considered : *Renu Kumari v. Sanjay Kumar and others, (2008) 12 SCC 346*, was quoted at length and directly applied. Its Section 482 analysis describes inherent power as exceptional. It is used to give effect to orders under the Code, prevent abuse of process or secure the ends of justice. The High Court does not act as an appellate or revisional court determining facts under that provision. It may examine what the FIR alleges and whether those allegations, accepted in full, disclose an offence, while generally leaving the reliability of evidence to the trial court. *Renu Kumari* holds that once information discloses an offence, the informant's asserted mala fides are secondary and cannot by themselves warrant quashing. The material collected during investigation and the evidence led at trial decide the accused's fate. The present Court applied this proposition to the defence that the FIR was motivated by the repayment dispute. It did not resolve whether Sohanlal or Sarita had in fact acted maliciously.

Renu Kumari's passage reproduced *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, for illustrative circumstances involving a legal bar, allegations that disclose no offence when taken at face value, or manifest absence of legal evidence. It distinguished the last situation from an ordinary dispute about the weight of existing evidence. The passage reproduced all seven illustrative *Bhajan Lal, 1992 Supp (1) SCC 335*, categories, including no prima facie offence, no disclosure of a cognizable offence, absurd and inherently improbable allegations, an express legal bar and manifestly malicious proceedings. These categories remain subject to caution; every alleged grudge does not become a ground for quashing. The quoted explanation cited *Janata Dal* and *Raghubir Saran* for the absence of a rigid rule. It cited *Dhanalakshmi*, *P.P. Sharma*, *Rupan Deol Bajaj*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar*, *Satvinder Kaur* and *Rajesh Bajaj* on mala fides, with *Devendrappa*, *Awadh Kishore Gupta* and *Saroj Kumar Sahoo* as reiterations.

Paragraph 8 of this order additionally listed *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, order dated 30 June 2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The Court stated one collective proposition from this list: quashment requires that the uncontroverted allegations fail to disclose an offence, and Section 482 (with Section 528 BNSS mentioned

parenthetically) does not allow a roving enquiry into their correctness.

3. Statutes considered : Section 482 CrPC governed the quashment application. The order also notes Section 528 BNSS as its counterpart while applying Section 482 to the pending matter. The stated inquiry was whether the uncontroverted FIR allegations disclose a cognizable offence, subject to exceptional grounds involving abuse of process. It was not a trial of disputed loans, title or credibility. Sections 452, 354, 427, 323, 147 and 149 IPC were the FIR offences involving alleged house trespass, assault, attempted outrage of modesty, property damage and group liability. The reproduced quotation from *Bhajan Lal* refers to Sections 156(1) and 155(2) CrPC to distinguish cognizable investigation from non-cognizable offences requiring a Magistrate's order; no such classification dispute was independently decided here.

The Court cited Section 269SS of the Income-tax Act when addressing the applicants' claim of substantial cash payments and stated that a payment exceeding ₹20,000 could not be made in cash. The provision formed part of its reasons for refusing to accept a disputed cash-loan defence in this quashing case. The Court did not undertake a tax assessment or decide any liability or penalty under that Act. That observation formed part of the Court's reasoning on the disputed cash-loan defence and was not an independently adjudicated tax-law holding.

4. Issues : The issues were whether alleged hostility between lender and borrower, and an asserted threat by the complainant's father-in-law, established mala fides sufficient to quash Sarita's FIR despite allegations which, taken at face value, disclosed cognizable offences involving violence and house entry; whether a pending property suit, the subsequent sale deed or contested repayment evidence could be assessed as a defence under Section 482; and whether the date on which possession was conveyed refuted the allegation concerning the December 2022 incident.

5. Ratio / Findings : The Court identified alleged malice arising from the money dispute as the applicants' central ground. Applying *Renu Kumari*, it held that it could not adjudicate whether the FIR was motivated by malice when its allegations disclosed cognizable offences. The *Bhajan Lal* and *R.P. Kapur* passages quoted within that authority preserve genuinely demonstrable exceptions; here, the asserted debt and threats raised contested facts and did not by themselves negate the described entry, assaults, modesty allegation and damage. The Court also invoked the collectively cited Supreme Court cases for an approach under Section 482 that takes the allegations at face value and excludes a roving enquiry. It did not find that the applicants' transactions were fictitious or that the prosecution evidence was ultimately reliable.

No temporary injunction had been granted in the pending suit for specific performance. The 9 October 2023 sale deed recorded possession delivered on that date. Even if the complained-of entry took place in the very house later conveyed, that later acquisition did not show the applicants possessed it on 11 December 2022. The Court therefore regarded the precise identity of the house as immaterial to this defence. The asserted large cash payments remained disputed and were also rejected, with reference to Section 269SS, as a sufficient basis for quashing. This was a threshold assessment of the applicants' documentary and financial account, not a final determination of a civil title or tax dispute. In combination, the assertions did not warrant quashment of an FIR whose allegations disclosed cognizable offences on their face.

6. Relief : The Hon'ble High Court dismissed the application seeking quashment of FIR Crime No. 237/2022. The FIR and consequent criminal process were left undisturbed.

Ramhet and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 7193/2023, 18/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (731) Prev Next

Headnote :- Kidnapping for ransom — direct demand — hearsay telephone account - Shiv Singh Yadav (PW3) recounted an alleged later telephone demand for ₹5 lakh and a death threat based on what Latoo Yadav reportedly told him. Latoo was not examined, and the trial court found no proof that the appellant placed that call; the High Court did not rely on this hearsay account as substantive proof. Siyaram (PW2) directly identified Ramji Gurjar as one of the armed men who waylaid him, Kalli and Lokendra and took Kalli away. He testified to the appellant's demand for ₹2 lakh and warning that ₹5 lakh would be required if a report was lodged. On the basis of the accepted direct evidence and the assessment of identification, the Section 364A IPC read with Sections 11/13

MPDVPK Act conviction was affirmed. Kalli had not returned, but the Court did not find that he was dead. Life imprisonment was retained as Section 364A's minimum.

Identification — dock evidence and corroborative TIP — date and light objections - Siyaram identified the appellant at trial, and the defence did not put a question challenging that dock identification. Naib Tahsildar H.L. Khatri (PW5) explained that an earlier TIP date on the form was struck through when that planned parade did not occur; the date under his signature remained unaltered, and another correction was countersigned. No chance for Siyaram to see the appellant before the parade was shown. Siyaram's conversation with the men at close range took place before Kalli was taken away at 7 p.m. The Court therefore rejected the premise that the entire event had occurred in darkness. *Ramesh v. State, (2010) 15 SCC 49*, was applied to assess a rural witness's visual capacity in context. The Court treated court identification as substantive and the TIP as corroborative, rejected the forgery claim and dismissed the appeal.

Case-note :- ***1. Facts :*** On 15 December 2008 Siyaram, his brother Kalli and nephew Lokendra were returning in a bullock cart after collecting chhole leaves. The prosecution alleged that four armed men, three dressed like police officers, waylaid the three; some carried firearms and one a stick. Siyaram and Lokendra were ultimately let go, but Kalli was taken towards Jamnunia forest with a demand for ransom. The FIR was lodged the next day. Ramji Gurjar was later arrested on 18 February 2009 and placed in a test identification parade. Three other alleged participants were absconding and the police filed a charge-sheet under Section 299 CrPC against them. The case against Ramji involved Section 364A IPC, Sections 11/13 of the MPDVPK Act and, initially, Arms Act provisions. The trial court framed charges under Section 364A IPC read with Sections 11/13 of the MPDVPK Act. The order does not report Kalli's return, and the Court did not adjudicate his death.

The Special Judge, Shivpuri, convicted Ramji under Section 364A IPC read with Sections 11/13 MPDVPK Act on 31 December 2009 and sentenced him to life imprisonment, a ₹1,000 fine and three months' rigorous imprisonment in default. In Criminal Appeal No. 234/2010 under Section 374 CrPC, Ramji challenged identification: Siyaram's FIR had not described the assailants' body build, the parade form contained date changes, Siyaram may have seen him after his arrest, and there was insufficient light during the encounter, which counsel said had occurred at 7 p.m. Counsel also relied on non-examination of Kalli and Lokendra. The State supported the judgment. The prosecution had examined eight witnesses, but Karan Singh (PW1) and Gulli (PW4) did not support it; the appeal therefore turned substantially on Siyaram's evidence, Shiv Singh Yadav's account of an alleged later call, and the evidence of H.L. Khatri, who conducted the parade.

The conviction arose from Special Sessions Trial No. 44/2009. The FIR was lodged on 16 December 2008, the day after the alleged taking. Kalli had not returned at the time of trial; that absence was not a judicial determination of his death.

2. Precedents — Considered : *Ramesh v. State, (2010) 15 SCC 49*, was quoted and applied on identification in meagre evening light. The Supreme Court passage cautioned against equating the conditioned visual capacity of rural witnesses with that of people accustomed to fluorescent urban light. In that case, the Supreme Court found no demonstrated enmity and accepted last-seen evidence. The present Court used the relevant principle concerning visual capacity as one supporting consideration, but rested chiefly on Siyaram's close-range conversation and the chronology showing contact before Kalli was later taken away at 7 p.m.

The order also stated the well-established distinction between TIP as corroborative identification and identification in court as substantive evidence.

3. Statutes considered : Section 374 CrPC governed the conviction appeal. Section 364A IPC supplied the kidnapping-for-ransom offence and, as the Court noted, a minimum sentence of life imprisonment. Once the conviction stood, the imposed life term could not be reduced. The Court applied it to the armed interception, Kalli's abduction and Siyaram's direct account of the demand for money and the threat. Section 299 CrPC described police proceedings against the three absconding alleged co-accused, not Ramji's own appeal. The charge-sheet mentioned Sections 25/27 Arms Act, but the judgment does not record a conviction or separate analysis under them. The identification parade was a procedural investigative step; the Court distinguished it from substantive testimony in court.

4. Issues : Could the alleged ransom telephone call be relied on when its supposed recipient, Latoo Yadav, was not examined and the caller's identity was unproved? Did Siyaram's direct evidence nonetheless establish Ramji's participation, Kalli's abduction and the ransom demand? Did identification in court and at the parade remain reliable despite the absence of an initial description of body build, a changed date on the parade form, the suggested possibility that the witness had seen the appellant earlier and the alleged poor light? Should the conviction and mandatory life sentence stand?

5. Ratio / Findings : The Court separated what witnesses actually perceived from a reported conversation. Shiv Singh Yadav (PW3) said he received a call from Ramji and passed a phone to Latoo; his account of a ransom demand and death threat then depended on what Latoo reportedly told him. The trial court had already found no proof that the call was made by Ramji. With Latoo unexamined, Shiv Singh's account of the demand and threat was hearsay. The High Court therefore did not accept it as substantive proof of the demand and threat during that separate call. Kalli's own non-examination was explained by the prosecution's account that he never returned; the defence suggested that Siyaram was angry for that reason, but did not assert that Kalli had returned alive.

Siyaram (PW2) personally described being stopped with his brother and nephew, tied and assaulted, speaking with the abductors, hearing the appellant's ₹2 lakh demand and further ₹5 lakh warning, and seeing Kalli being taken away. He identified Ramji in court. Although the defence challenged details of timings and firearms, it did not put even a single question contesting that dock identification. The Court considered his account reliable as to the appellant's participation and the ransom demand. It did not treat proof of the separate telephone demand as indispensable once it accepted his direct evidence.

On the parade, H.L. Khatri (PW5), a Naib Tahsildar, explained that the form had been prepared for an earlier parade that did not take place. He struck out that date and entered 4 May 2009. The date written under his signature was unaltered, and another correction concerning the date of birth was countersigned. The Court accepted this explanation and rejected an inference that the memo was forged. Ramji had been in custody in another matter and produced by warrant, but counsel showed no evidence or cross-examination suggestion that Siyaram saw him between arrest and the parade. A mere possibility that the witness had seen him earlier did not invalidate the parade.

The assertion that the encounter began at 7 p.m. misstated the chronology. Siyaram said the waylaying occurred about 2 p.m., he was released about 6 p.m., and the FIR placed Kalli's taking at about 7 p.m. He had spoken to the men at close range before then. The Court also used *Ramesh*'s contextual observation on rural visual adaptation in poor light. Thus there was a sufficient identification opportunity on this record. With the identification in court accepted as substantive evidence, the TIP corroborating it and the direct account of the ransom demand accepted, the Court upheld participation in the Section 364A offence and the MPDVPK conviction.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the Special Judge's judgment of 31 December 2009. Ramji Gurjar's conviction under Section 364A IPC read with Sections 11/13 MPDVPK Act, life imprisonment, ₹1,000 fine and three months' rigorous imprisonment in default remained in force. He was in jail and was directed to serve the remaining term. The Court ordered that he be provided with a copy of the judgment immediately, free of cost, and that the trial court record be returned with a copy for information and compliance.

Ramji Gurjar v. State of M.P., Cr.A. no. 234/2010, 12/11/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (733) Prev Next

Headnote :- Murder — Section 300 thirdly — intentional single head blow - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, separates intention to inflict the injury actually found from the objective question whether that injury ordinarily suffices to cause death. Intention to kill is unnecessary under the third clause. *Anda*, *Mahesh Balmiki*, *Bavisetti Kameswara Rao* and the decisions discussed in *Kanhaiyalal* were considered against automatic conversion to Section 304. Dr. Ajay Gupta found a fresh blunt head injury sufficient in the ordinary course of nature to cause death and resulting in shock and haemorrhage. Eyewitnesses attributed the strike to Laxmi Narayan. His individual Section 302 conviction and life sentence remained effective,

though the original Section 302/34 formulation was set aside.

Murder and culpable homicide — sudden fight — Exception 4 - *Arun Nivalaji More and Paul v. State of Kerala, (2020) 3 SCC 115*, with *Rayavarapu Punnayya*, set out the sequence of inquiry under Sections 299, 300 and 304 IPC. *Dhirajbhai Gorakhbhai Nayak* requires all elements of Exception 4, including a sudden fight, absence of premeditation and no undue advantage or cruel manner. *Pulicherla Nagaraju*, *Sangapagu Anjaiah* and *Kanhaiyalal* require contextual assessment of weapon, vital part and force. The sudden incident and absence of prior concert among all three did not themselves establish an exception for the principal assailant. The Court refused to alter Laxmi Narayan's conviction to Section 304 Part I or II for the fatal blow to the head.

Section 34 IPC — common intention — individual participation - The Court considered *Suresh Sankharam Nangare*, *Shyamal Ghosh*, *Mrinal Das*, *Ramashish Yadav*, *Hem Raj* and *Dashrathlal* on shared purpose and participation. Ramji and Govind Das were unarmed and accused of kicks, fists and exhortation in a sudden altercation. Despite their participation, the Court did not find a proved common intention to murder Virendra. Their Section 302/34 convictions were replaced with Section 323 IPC convictions. The five months already undergone by Ramji and six months by Govind Das were treated as sufficient sentences.

Evidence — medical and ocular assessment — weapon description - Gorabai, Ram Singh, Kamta Prasad and Poonam supplied the eyewitness account. The post-mortem opinion supported homicidal death from a blunt head injury sufficient to cause death in the ordinary course of nature. The defence's objections concerning related witnesses, omitted names and the description of the weapon as a lathi or luhangi did not displace the core attribution to Laxmi Narayan; the seized stick had no iron cover. The differing acts of the companions remained relevant to the Section 34 and Section 323 outcome. The appeal was allowed in part, with release of Ramji and Govind Das if detained and not wanted in another case.

Case-note :- ***1. Facts :*** The appeal arose from an incident on 18 July 2009 in Village Dharmpura, Datia district. The prosecution said that Virendra Singh and his wife Gorabai (PW1) were returning from Bhagwapura after concerns about their daughter Poonam's recurring unconsciousness had led to consultation with a local religious healer. A quarrel began near Laxmi Narayan's house. The prosecution alleged that Laxmi Narayan, Ramji and Govind Das assaulted Virendra, including with kicks and fists. According to the prosecution, Laxmi Narayan struck Virendra's head with a lathi or luhangi. According to Gorabai, the other two exhorted him to kill, after which he delivered another blow to the head. Ram Singh (PW2) and Kamta Prasad (PW5) intervened. This was the prosecution version to be evaluated against the evidence; it was not a finding that all three had inflicted the fatal injury.

An FIR for Section 307/34 IPC was registered as Crime No. 98/2009. Virendra was medically examined by Dr. Anand Unaya (PW4), and later died during treatment. A Section 174 CrPC merg, inquest and post-mortem followed. Dr. Ajay Gupta (PW11) performed the autopsy; the police seized a blood-stained towel and a stick attributed to Laxmi Narayan, sent articles to FSL and eventually filed a charge-sheet against all three under Section 302/34 IPC. The prosecution examined eleven witnesses; the accused were examined under Section 313 CrPC and called Ranjana (DW1). The Additional Sessions Judge, Seondha, convicted all three under Section 302/34 on 31 January 2011 and imposed life imprisonment and ₹1,000 fine each, with three months' rigorous imprisonment in default.

In Criminal Appeal No. 223/2011 under Section 374 CrPC, counsel questioned the individual roles, the number and location of injuries, the initial medical account, alleged inconsistencies with the FIR, the precise description of the weapon as a lathi or luhangi and the absence of a pre-arranged common intention. He sought substitution of Section 304 Part I or II on the ground that there had been a sudden fight without premeditation, citing several Supreme Court cases; the State supported conviction. The Division Bench framed issues concerning homicidal death, common intention and the act causing death. Its final disposition distinguished Laxmi Narayan from Ramji and Govind Das.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was quoted as the central Section 300 Thirdly test. The prosecution must objectively establish the presence and nature of the injury. It must also prove that the accused intended to inflict the particular injury found, rather than some other injury, and that the injury was not accidental. It

must then establish objectively that the injury is sufficient in the ordinary course of nature to cause death. The latter inquiry does not concern the assailant's subjective knowledge or desire to cause death. The Court used this to reject the argument that lack of an express intention to kill necessarily removes Laxmi Narayan's act from murder. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, similarly stressed the intentional injury and its ordinary-course sufficiency, with weapon and body part relevant. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, held that a single blow does not invariably fall within one statutory classification; weapon, vital part, manner, surrounding circumstances and intention determine whether Section 302, 304 or another offence fits. Here the High Court applied those tests to a proved fatal head strike, not merely to a count of blows.

Arun Nivalaji More v. State of Maharashtra, Appeals (Criminal) 1078–1079 of 2005, was reproduced on the sequence of culpable homicide under Section 299, murder clauses and exceptions under Section 300, and Section 304 Part I (intention) versus Part II (knowledge without the specified intention). Its quoted discussion of knowledge under Section 300 Secondly distinguished virtual certainty from mere probability. The High Court stated that Secondly was not established on its analysis and focused on Thirdly. *Paul v. State of Kerala, (2020) 3 SCC 115*, was quoted to reject treating Section 304 as an alternative when the proved culpable homicide meets a Section 300 murder clause without a proved exception. The quoted discussion in *State of A.P. v. Rayavarapu Punnayya, (1976) 4 SCC 382*, articulated a three-stage inquiry: causation, Section 299 culpable homicide, then the applicable clause of Section 300 and any exception. The present Court proceeded through that structure before maintaining murder liability for Laxmi Narayan.

Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322, was quoted on Exception 4. Absence of premeditation, a sudden fight in the heat of passion with the victim, and absence of undue advantage or cruel or unusual conduct must coexist. A sudden quarrel alone is insufficient. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, gave a non-exhaustive set of intention indicators, including weapon, how acquired, vital target, force, chance quarrel, enmity, provocation, heat, advantage and blow count. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, inferred intent from the force of a crowbar blow to the skull. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, through its *Arun Raj, Ashokkumar Magabhai Vankar* and *Leela Ram* discussion, rejected a universal one-blow reduction and reiterated all Exception 4 conditions. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, quoted *Vedanayagam* and *Virsa Singh* on the separate questions of the subjective intention to inflict the injury and its objective sufficiency to cause death; the cited single-blow cases reinforced contextual classification. The Court preferred an assessment under the third clause and Exception 4.

On Section 34 IPC, the Court discussed *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, on common intention and participation. *Shyamal Ghosh v. State of W.B., AIR 2012 SC 3539*, concerned a prior shared plan and action in furtherance of it. *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, addressed the prosecution's burden of proof. *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, recognised that shared intent may develop on the spur of the moment, though concert must be found. The Court cited *Hem Raj v. Delhi Administration, AIR 1990 SC 2252*, for acquitting companions whose participation was not accepted while retaining the conviction of the person who committed the murder. It cited *Dashrathlal v. State of Gujarat, 1979 Cri LJ 1078* (SC), for mere accompaniment being insufficient; *Rajagopalswamy Konar* for different individual offences; and *Sheikh Nabab* for an unproved overt act. It also mentioned *Akaloo Ahir* in counsel's argument and *Bijay Singh*, an Allahabad decision. Later, it referred to *Shyamlal Ghosh & Others v. State of Tripura* and *Pandurang Tukia & Bhillia v. State of Hyderabad on* the absence of a meeting of minds. The present Court concluded that the sudden occurrence and the different, unarmed roles of Ramji and Govind Das did not establish a common intention to murder, even though the evidence described their participation in the assault and their exhortation.

3. Statutes considered : The appeal against conviction was brought under Section 374 CrPC. Sections 299 and 300 IPC defined culpable homicide and murder. The Court distinguished Section 300 Secondly from Thirdly, applied the Thirdly inquiry to the intentional injury ordinarily sufficient to cause death, and discussed Exception 4 as a possible route to Section 304 only if its cumulative conditions were proved. Section 302 IPC provided the punishment

for the murder committed by Laxmi Narayan individually. Section 34 IPC could make each participant liable for a joint act in furtherance of common intention, but the Court did not find the shared murderous intention proved for the two companions. Section 323 IPC provided for their substituted convictions for simple hurt. Section 307/34 IPC was the initial FIR classification before Virendra died, not the final conviction. Section 149 IPC was mentioned in a doctrinal comparison to Section 34, not charged or applied to this three-person incident. Section 304-A IPC appeared in the judgment's taxonomy of homicide but was not the outcome.

4. Issues : First, was Virendra's death homicidal and causally linked to the deliberate blunt head injury? Second, did that injury satisfy Section 300 Thirdly notwithstanding a single fatal blow, an abrupt quarrel and the request to convert murder to Section 304 Part I or II? Third, did Ramji and Govind Das share a murderous common intention with Laxmi Narayan under Section 34, or were they individually liable only for the kicks and fists proved against them? Fourth, did objections concerning related eyewitnesses, omitted names and the discrepancy between descriptions of the weapon as a lathi or luhangi undermine the medically supported core of the prosecution? Finally, what conviction and sentence followed for each appellant?

5. Ratio / Findings : The Bench found homicidal death on Dr. Ajay Gupta's post-mortem evidence: fresh ante-mortem blunt injuries, a head injury sufficient in the ordinary course of nature to cause death, and death from shock and haemorrhage following it. The initial examination and defence description of consciousness did not displace the later fatal course and post-mortem opinion. Gorabai, Ram Singh, Kamta Prasad and Poonam supplied the material eyewitness account. The Court rejected the defence's broad attack based on their relationship or non-mention of Poonam and Rajat in the FIR because medical evidence supported the central account that the fatal injury was inflicted on the head. It acknowledged that the seized stick lacked an iron covering, although witnesses sometimes called it a luhangi; this difference did not displace the evidence attributing the blow to the head to Laxmi Narayan. The Court also found no basis for private defence.

For Laxmi Narayan, the Court separated an intention to kill from the intention to inflict the actual injury. *Virsa Singh*'s subjective requirement was satisfied by the deliberate blow to the head; the autopsy established objectively that the injury was sufficient in the ordinary course of nature to cause death. No automatic reduction followed from a single injury. It described the incident as sudden and the group's advance planning as unproved, but did not find the full Exception 4 test established for Laxmi Narayan. Consequently the proposed alteration to Section 304 Part I or II was rejected in his case. It set aside the conviction framed under Section 302/34 but found him individually guilty under Section 302. In its final disposition, the Court affirmed the judgment and sentence as to him, preserving the life sentence and fine with the trial court's default term.

For Ramji and Govind Das, the evidence attributed kicks and fists and also reported exhortation before the fatal strike; neither was shown to carry the fatal weapon. The Bench reasoned that a sudden altercation did not demonstrate a proved prior meeting of minds or shared intention to murder and declined to hold them liable under Section 34 for Laxmi Narayan's fatal act. Their individual assault supported Section 323 simple hurt. The Court treated the five months undergone by Ramji and six by Govind Das as sufficient sentence, rather than acquitting them of all participation.

6. Relief : The Hon'ble High Court allowed the appeal in part. The three collective convictions and sentences under Section 302/34 IPC were set aside. Laxmi Narayan remained convicted of murder under Section 302 IPC individually, and his trial court sentence was affirmed. Ramji and Govind Das instead stood convicted under Section 323 IPC and were sentenced to the periods already undergone, five and six months respectively. If in prison, they were to be released forthwith unless required in another case. The Court directed copies to the jail and the trial court with the record for information and compliance.

Ramji and Ors. v. State of M.P., Cr.A. no. 223/2011, 31/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (734) Prev Next

Headnote :- Section 482 CrPC — exceptional quashing; alleged vengeance — *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted and applied: inherent power is exercised sparingly to prevent abuse or secure justice, without assessing the reliability of evidence as an appellate court or

predicting whether a conviction will follow. Its discussion of *R.P. Kapur v. State of Punjab and State of Haryana v. Bhajan Lal* identifies illustrative situations where quashing may be justified, including a legal bar, allegations disclosing no offence, and manifestly malicious institution of proceedings. An alleged grudge alone cannot justify ending a prosecution where the accusation and supporting material disclose a prima facie case. The applicant failed to prove that Awdhesh Tiwari instigated the complainant, and the committee report supported important parts of her account. The FIR and consequential proceedings were not quashed.

Internal committee report — claimed clean chit — The professor relied on a committee formed following *Vishaka v. State of Rajasthan, (1997) 6 SCC 241*, a case cited in his submission. The report recorded that he had awarded zero marks in two CCE papers and withheld the student's admission card until the principal issued a duplicate. Its one-line opinion that the hand-grabbing allegation was unclear lacked discussion or reasons; it also failed to explain the decisions concerning the marks and admission card. The Court treated the report as incomplete and adverse to the applicant, rather than exculpatory. The committee's view did not settle the disputed criminal accusation at the quashing stage.

FIR — delay by student complainant — The Court considered the teacher–student relationship, the prior complaints to the principal and collector, and the fact that the accused had not pleaded any bar of limitation. A student need not report alleged misconduct by a teacher to police immediately; the delay objection furnished no ground to quash this FIR. The ruling did not determine whether the charged conduct was proved.

Case-note :- ***1. Facts :*** Ramji Sharan Dangi, a professor at Government P.G. College, Datia, applied under Section 482 CrPC to quash Crime No. 247/2019 at Police Station Kotwali, Datia, initially registered under Section 354 IPC, and all consequential proceedings. During the pendency of the petition, the investigation concluded with a charge-sheet under Sections 354 and 509 IPC. The complainant, an M.A. first-semester student, alleged that he repeatedly made sexual propositions, invited her to his house, offered favourable examination results in exchange, threatened her examination prospects upon refusal, caught her hand, withheld her admission card and awarded zero marks in continuous comprehensive evaluation (CCE). These are allegations, not established findings of the charged offences. She reported the matter to the principal and collector; the principal ultimately issued a duplicate admission card after the original was not supplied.

The applicant asserted that an internal committee constituted in the wake of *Vishaka* had cleared him, that the charge-sheet omitted its report despite an interim direction dated 17 July 2019 allowing the investigating officer to scrutinise the documents, and that an adversary, Awdhesh Tiwari, had induced a false complaint. He referred to an earlier FIR he had lodged against Tiwari under Section 353 IPC and to Tiwari's alleged conduct in another FIR against a third person under Section 354 IPC and Sections 7/8 POCSO Act. Those other accusations were submissions, not proof that this student complained at Tiwari's behest. The State opposed quashing and stressed the alleged misuse of a teacher's position.

The Court examined the committee report reproduced in the judgment. The committee concluded that two CCE papers received zero marks from the professor and that he did not issue the student's admission card in time; a duplicate was supplied after the principal intervened. On the alleged hand-grabbing, the report gave an unexplained one-line conclusion that the allegation did not seem specific or clear. The Court evaluated what the report actually said, not the applicant's description of it as a clean chit.

2. Precedents — Considered : *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted at length and applied. In the setting of Section 482 CrPC, its reproduced discussion describes the inherent power as preserving the authority to give effect to orders under the Code, prevent abuse of process and secure the ends of justice. Though wide, it is exceptional and exercised sparingly with caution; it is not an appeal or revision on evidentiary merits and may not stifle a legitimate prosecution. The High Court may inspect allegations and accompanying material to see if an offence is made out on their own terms, but it ordinarily must not decide whether witnesses are reliable, weigh contested evidence, predict the likelihood of conviction or reach a premature decision on incomplete facts.

The passage from *Renu Kumari* recounts three illustrative categories identified in *R.P. Kapur v. State of Punjab*: an express legal bar, allegations accepted in full that do not constitute the offence, and

the absence of legal evidence or the presence of material plainly inconsistent with the accusation. The qualification to the last category distinguishes it from a case in which legal evidence exists but its persuasive value must be assessed at trial. It also recounts *State of Haryana v. Bhajan Lal*'s non-exhaustive illustrations: allegations disclosing no prima facie offence; no disclosure of a cognizable offence justifying police investigation under Section 156(1) without a Magistrate's order under Section 155(2); uncontroverted material disclosing no offence; a solely non-cognizable offence investigated without the requisite order; inherently absurd allegations; an express bar or specific efficacious statutory remedy; and manifestly malicious institution of proceedings for private vengeance. These are illustrations subject to careful, sparing exercise, not a mechanical entitlement to quashing whenever enmity is alleged. In particular, the quoted principle treats informant mala fides as secondary after a cognizable case is registered: investigation and trial evidence decide its fate, and an assertion of malice alone cannot terminate it. The High Court applied that principle to reject the unproved claim that Tiwari had instigated the complaint in the face of the committee's corroborative findings and the complaint.

Vishaka v. State of Rajasthan, (1997) 6 SCC 241, was cited by the applicant to explain the constitution of an internal committee. The long quotation also lists *Dhanalakshmi*, *P.P. Sharma*, *Rupan Deol Bajaj*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar*, *Satvinder Kaur*, *Rajesh Bajaj* and *M. Devendrappa*.

3. Statutes considered : The applicant invoked the High Court's inherent jurisdiction under Section 482 CrPC to quash the FIR and later proceedings. The Court applied its restrained, prima facie review framework, without adjudicating guilt. The FIR invoked Section 354 IPC, and the subsequent charge-sheet invoked Sections 354 and 509 IPC; the Court did not separately resolve the ultimate proof of either offence. Sections 156(1) and 155(2) CrPC arose only inside the quoted *Bhajan Lal* illustrations about cognizable and non-cognizable investigations. Section 353 IPC and Sections 7/8 POCSO Act arose solely in the applicant's account of other cases involving Tiwari or a third person; they were not charges against the applicant in this matter.

4. Issues : Should the complaint, investigation and later charge-sheet be quashed under Section 482 because the committee supposedly exonerated the professor? Did the delay between the student's experiences, institutional complaints and FIR undermine the prosecution at the threshold? Did alleged enmity with Tiwari and supposed instigation establish manifest mala fides sufficient to terminate the case? The Court had to distinguish a prima facie examination of the allegations and material from a final determination of the student's account, the propriety of the grading, or criminal liability.

5. Ratio / Findings : The committee did not exonerate the applicant as he claimed. He admitted awarding zero marks to two CCE answer sheets; the committee recorded that finding and that the admission card was withheld until the principal arranged a duplicate. Although the student had complained to the principal on 3 May 2019, the committee disposed of the hand-grabbing allegation in a single unexplained line. The Court observed that reasons reveal whether the decision-maker applied his or her mind to the question. Two of the three allegations were found in substance against the applicant, while the rejection of the third was unsupported by reasons; the report was incomplete and in fact adverse to his quashing plea. This did not amount to a High Court finding that the sexual allegation had been finally proved.

On delay, the Court considered the practical reluctance of a student to lodge an immediate police complaint against a teacher, her previous institutional complaints, and the progression to a police report after the situation worsened. No limitation bar was asserted. It rejected delay as a basis to quash this FIR, without prescribing that every delayed accusation must be accepted or barring scrutiny of the timing at trial. On alleged malice, it found no proof that the student acted at Tiwari's instance. The professor's admitted dispute with Tiwari and the separate FIR narratives did not erase the student's prima facie allegations or the committee's findings about examination marks and admission card. Applying the *Renu Kumari* restraint and its treatment of possible mala fides, the Court held that the asserted motive was secondary once the material supported the complaint. The accusation would be determined on the evidence, rather than speculation about an adversary.

The Court therefore found no basis to quash the FIR or consequential proceedings. The Section 482 decision preserves the prosecution's course and the applicant's opportunity to contest evidence there.

6. Relief : The Hon'ble High Court dismissed the application. Crime No. 247/2019 and the consequential proceedings, including the intervening charge-sheet under Sections 354 and 509 IPC, were not quashed. No conviction, sentence or separate committee remedy was ordered.

Ramji Sharan Dangi v. State of M.P. and Ors., M.Cr.C. no. 28479/2019, 01/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Ocular and medical evidence — scalp wound — *Latesh v. State of Maharashtra, (2018) 3 SCC 66*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, were followed for the rule that a discrepancy in medical evidence does not displace direct evidence unless it rules out the occurrence described. Eyewitnesses described Brajesh's axe blow to Roop Singh's occiput; the doctor recorded a lacerated wound that was dangerous to life and attributed it to a blunt object. The presence of scalp hair, the hardness of the skull and the unknown condition of the unrecovered axe meant that the medical evidence did not exclude the eyewitness account. The four injured witnesses' MLCs supported the collective assault.

Alibi — burdens and proof — *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749, Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, were applied: the prosecution must first establish the accused's presence. An accused who then relies on an alibi must produce convincing positive evidence excluding that presence. However, credible evidence to the contrary may raise reasonable doubt, and a failed alibi cannot take the place of prosecution proof. The unsubstantiated evidence of a society meeting did not establish Horilal's claim that he was absent from the field.

Injuries to accused — unexplained minor contusions — *Mano Dutt v. State of U.P., (2012) 4 SCC 79*, and *Gurwinder Singh v. State of Punjab, (2018) 16 SCC 525*, were applied to the requirements that the accused's injuries be serious and sustained in the same occurrence. Non-explanation does not automatically discredit the prosecution; *Gurwinder Singh* recognises that the omission assumes greater significance where the evidence is partisan or the defence version is comparably probable. *Krishnegowda v. State of Karnataka, (2017) 13 SCC 98*, and *Kumar v. State, (2018) 7 SCC 536*, were quoted on material investigative lapses and suppression of injuries in the circumstances of those cases. Ramjilal's MLC showed three small contusions, while his own driver confirmed his initial stone throwing. The origin of the incident was independently established, so the failure to explain these minor injuries was not fatal to the prosecution case.

Unlawful assembly — collective liability — *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537, Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*, and *Mahendran v. State of T.N., (2019) 5 SCC 67*, were used to assess Sections 141, 146–149 IPC. There must be at least five members and a common object enumerated in Section 141. Membership, a shared object or knowledge of a likely offence may be inferred from the group's conduct, the weapons carried and the surrounding circumstances. Prior agreement or an identical act by each member is unnecessary. Innocent presence alone does not suffice. Here the other appellants actively assaulted victims after Brajesh's head blow; the Court upheld the convictions based on constructive liability and for rioting.

Related witnesses — injured participants — *Bhagwan Jagannath Markad and Harbeer Singh v. Sheeshpal, (2016) 16 SCC 426*, required careful evaluation of the evidence of partisan relatives. Such evidence cannot be rejected mechanically, and corroboration by independent witnesses is not invariably required. The MLCs supported the presence of the four injured family members and material parts of their accounts of the assault. The defence driver also placed Baikunthi at the scene. The family relationship and land dispute did not render the accepted testimony unreliable.

Unrecovered weapons — *Nankaunoo v. State of U.P., (2016) 3 SCC 317*, and *Mritunjoy Biswas v. Pranab, (2013) 12 SCC 796*, were followed for the conditional rule that failure to recover weapons does not nullify trustworthy direct and medically supported proof. No weapons were seized, but the injured witnesses' evidence supported the convictions.

Voluntary defence testimony — The Court cited *its own Rakesh Garg v. State of M.P.*, Cr.A. No. 6426/2017 (10 May 2019), for the proposition that an accused who elects to testify under Section 315 CrPC is subject to cross-examination. The Court

found Ramjilal's account of being dragged from a tractor and Roop Singh falling on a spade unsupported by his driver. This was an evaluation of the defence he chose to give, without relieving the prosecution of its burden.

Sentence — Section 307 IPC — The convictions were affirmed, but the Court found the terms of ten years' rigorous imprisonment excessive on these facts and, there being no prescribed minimum, reduced each appellant's Section 307/149 or Section 307 term to five years' rigorous imprisonment with a fine of ₹10,000 and six months' rigorous imprisonment in default of payment. The other punishments remained unchanged, and all sentences were to run concurrently.

Case-note :- ***1. Facts :*** In a dispute about a mud boundary between adjoining fields on 25 October 2007, Ramjilal allegedly began throwing stones into Roop Singh's field. Seven appellants then confronted and assaulted Roop Singh and family members who came to assist him. The witnesses attributed the axe blow to Roop Singh's head to Brajesh, the lathi blow to his thigh to Jagmohan, and the farsa blow to Shivnarayan's forehead to Khema/Khemraj. They attributed the blows to Shivnarayan, Bir Singh and Baikunthi to other members of the group. A hospital intimation led to Shivnarayan's Dehati Nalishi, police FIR No. 69/2007, investigation and trial. Roop Singh, Shivnarayan, Bir Singh and Baikunthi testified as injured eyewitnesses; Hazarilal also described the episode. The doctor recorded an 8 cm laceration in the occipital region that was dangerous to life and a thigh contusion on Roop Singh; Shivnarayan had a frontal incised wound and other injuries; Bir Singh and Baikunthi had contusions/abrasions. No assault weapon was recovered.

The Second Additional Sessions Judge, Sabalgarh, convicted Brajesh under Section 307 IPC, Khema under Section 324 IPC, and the appropriate appellants under Sections 307/149 and 324/149 IPC, with each convicted under Section 323 on two counts and Sections 147/148 IPC. The judgment's opening sentencing table lists ten years' rigorous imprisonment and ₹2,000 fine for Section 307 or 307/149, two years for Section 324 or 324/149, one year for each Section 323 count and one year under Section 148, with Section 147 attracting no separate term in view of Section 71 IPC. The seven appealed under Section 374 CrPC. They disputed the origin of the incident and the compatibility of the eyewitness account with the medical evidence. They relied on Ramjilal's injuries and disability and Horilal's claimed alibi, challenged the reliability of the related witnesses and relied on the failure to recover weapons. They also denied that the other appellants shared the common object and sought a reduction in sentence. The Court examined prosecution and defence witnesses, including Ramjilal himself (DW6), tractor driver Tole Sharma (DW7), a purported society officer Anant Singh (DW1), the examining doctor and the police record of Ramjilal's counter-report.

2. Precedents — Considered : On ocular versus medical evidence, *Latesh v. State of Maharashtra, (2018) 3 SCC 66*, and *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, were quoted and applied. They treat medical opinion as corroborative in relation to reliable eyewitness testimony; a discrepancy matters decisively where the medical evidence completely excludes the narrated occurrence. The Court applied that qualification rather than treating oral evidence as invariably superior. It explained that an axe blow to a hard skull covered with hair could produce a wound that appeared lacerated; the actual axe and the condition of its edge were unknown. Modi's Medical Jurisprudence was also quoted on scalp-wound appearances, as a text rather than a Supreme Court holding.

On Horilal's alibi, *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, *Sk. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, were each quoted. *Binay Kumar* explains that alibi is a rule of relevance under Section 11 Evidence Act concerning facts inconsistent with a fact in issue, rather than an exception under the IPC. The prosecution must first prove presence and participation. Once it has done so, an accused relying on a specific claim of being elsewhere must produce strong affirmative evidence excluding presence at the scene. Evidence credible enough to raise reasonable doubt may still benefit the accused, and failure of alibi is not itself proof of the charge. *Vijay Pal* quoted *Binay Kumar*'s discussion, including the reasonable-doubt qualification. *Sk. Sattar* also reaffirmed that a failed alibi does not relieve the prosecution of its burden. The Court applied their common rule to the asserted society meeting. DW1 did not satisfactorily establish the society's registration, its office bearers or the

relevant documentary particulars; the Court accepted the injured eyewitnesses instead.

On injuries to an accused, *Mano Dutt v. State of U.P., (2012) 4 SCC 79*, and *Gurwinder Singh v. State of Punjab, (2018) 16 SCC 525*, were quoted for the necessary inquiry into seriousness and connection with the same occurrence. *Gurwinder*, quoting *Takhaji Hiraji* and earlier three-Judge cases, rejects an invariable rule that an unexplained injury to an accused makes the prosecution case false; the omission becomes more significant with partisan witnesses or a comparably probable defence, yet clear credible evidence can survive it. The Court also quoted *Krishnegowda v. State of Karnataka, (2017) 13 SCC 98*, concerning failure to investigate and disclose an accused's injuries and counter-complaint, and *Kumar v. State, (2018) 7 SCC 536*, concerning investigative neutrality and materially unexplained injury in its factual setting. *Kumar* reproduced the propositions in *Mohar Rai* and *Lakshmi Singh* about suppression of genesis, dishonest denials and a probable competing defence; those are contextual, not an automatic rule overriding the minor-injury qualification. The Court acknowledged that line of authority but distinguished the present case because Ramjilal's three contusions were minor and the origin of the incident had been independently established. It did not treat the stronger prosecution concerns in *Krishnegowda* or *Kumar* as factually present.

For the group offence, *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, *Vinubhai Ranchhodbhai Patel v. Rajivbhai Dudabhai Patel, (2018) 7 SCC 743*, and *Mahendran v. State of T.N., (2019) 5 SCC 67*, were quoted and followed. *Bhagwan* derives common object from collective acts, language, weapons and surrounding conduct and recognises that every participant need not inflict a blow; it quoted *Gangadhar Behera* and *Masalti* on careful sifting in a crowd. *Vinubhai* distinguished an unlawful assembly under Section 141, comprising at least five persons with a prescribed common object, from rioting under Sections 146/147 involving force used in pursuit of that object. It also identified the distinct requirement under Section 148 that the rioter charged be personally armed with a deadly weapon. Section 149 provides for constructive liability where an offence is committed in prosecution of the common object or is one that the members knew was likely to be committed in its pursuit. *Vinubhai* cautions against inferring the group mental state solely from individual overt acts, while insisting on proven assembly membership and object; the identity of each of the five persons need not necessarily be proved. *Mahendran* explained that object is not Section 34 common intention and needs no prior concert, that innocent presence is insufficient, and that the total circumstances and particular facts matter. Its discussion included quotations referring to *Masalti*, *Lalji*, *Dan Singh*, *Gangadhar Behera* and *Sanjeev Kumar*. The present Court found actual collective participation by seven and a common object arising on the spot, rather than presuming liability from proximity alone.

On family eyewitnesses, *Bhagwan Jagannath Markad* was separately quoted for careful, non-mechanical assessment of partisan testimony. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 426*, quoted *Darya Singh*'s need for closer scrutiny of a relative with hostility, and rejected independent corroboration as an inflexible requirement; quality, not number, governs. Its quotation from *Raghubir Singh* addressed the selection of material witnesses without unnecessary multiplication of witnesses. The Court considered injury records and the defence driver's account when rejecting the blanket objection.

On weapon non-recovery, *Nankaunoo v. State of U.P., (2016) 3 SCC 317*, and *Mritunjoy Biswas v. Pranab, (2013) 12 SCC 796*, were quoted and applied. *Nankaunoo* held that the failure to recover a pistol did not undermine unimpeachable oral evidence corroborated by medical material. *Mritunjoy* reproduced *Lakshmi v. State of U.P.*, *Lakhan Sao v. State of Bihar and State of Rajasthan v. Arjun Singh* to show that recovery can be important but is not an invariably essential condition where direct evidence is acceptable. The Court treated the omission as nonfatal on this evidentiary record, without dispensing with proof of the assault. Its *own Rakesh Garg v. State of M.P., Criminal Appeal No. 6426/2017* (10 May 2019), was also quoted regarding voluntary defence testimony under Section 315 CrPC and cross-examination under Section 132 Evidence Act; it is not a Supreme Court authority.

3. Statutes considered : Section 374 CrPC governed the conviction appeal. Section 315 CrPC and Section 132 Evidence Act were mentioned in the Court's discussion of Ramjilal's choice to become a defence witness; Section 11 Evidence Act provided the alibi

relevance rule in the quoted Supreme Court precedents. Sections 141 and 143 IPC define and punish an unlawful assembly; Sections 146 and 147 concern rioting by an unlawful assembly using force, and Section 148 adds the deadly-weapon requirement for the charged individual. Section 149 creates vicarious guilt for an offence committed in prosecution of the common object or known to be likely to be committed in its prosecution. The convictions involved Section 307 IPC (Brajesh directly, others with Section 149), Section 324 IPC (Khemraj directly, others with Section 149), two Section 323 counts and Sections 147/148; Section 71 IPC explained no separate Section 147 punishment in the trial table. Section 294 and Section 506-B IPC were in the original FIR/charges but are not listed among the convictions affirmed; the judgment makes no separate appellate determination of guilt under them. No special statute controlled this appeal.

4. Issues : Did the injured and related eyewitnesses reliably prove the field assault despite the medical description of the wound and the failure to recover weapons? Did Horilal's meeting alibi, Ramjilal's account of a fall on a spade, his disability and his unexplained contusions raise reasonable doubt about presence or the origin of the fight? Did the group share the common object under Section 141 or possess the knowledge required under Section 149 so as to sustain constructive liability under Sections 307/324 and the rioting convictions, although Brajesh alone delivered the blow to the head? Should the term of ten years' imprisonment under Section 307 be reduced after the conviction was affirmed?

5. Ratio / Findings : The Court distinguished the competing accounts. Tole Sharma (DW7), produced by the defence and said by Ramjilal to have driven the tractor, agreed that Ramjilal began throwing stones into Roop Singh's field and Roop Singh threw some back. He did not support Ramjilal's further claims that Roop Singh dragged him from the tractor or fell on a spade, and said he left after Baikunthi pelted stones. Ramjilal's disability certificate did not disprove his own admitted presence in the field; the Court rejected the contention based on his alleged inability to walk without help. *Rakesh Garg* was invoked to explain the consequences of electing to give defence evidence, but the Court rejected Ramjilal's account because it was not supported by his own driver's evidence. The prosecution still bore the ultimate criminal burden.

Roop Singh's occipital injury and thigh contusion, Shivnarayan's incised frontal wound and other injuries, and Bir Singh's and Baikunthi's injuries supported material parts of the eyewitness account. The doctor classified the head laceration as caused by a blunt object, but the Court explained why an axe blow to a hair-covered hard skull could appear lacerated and why the condition of the axe's edge could not be assumed when the axe had not been recovered. *Latesh* and *Yogesh Singh* required medical impossibility, not a speculative mismatch, to displace otherwise accepted direct evidence. The doctor's correction of a location note regarding Shivnarayan's forehead did not invalidate the medically documented injury. The Court accepted Brajesh's axe blow, Jagmohan's leg blow, Khemraj's farsa injury and the other described assaults, without treating medical support as a substitute for evaluating all the witness evidence.

Horilal's alibi failed on the actual proof tendered. Anant Singh (DW1) claimed a society meeting in Joura until 4 p.m. but supplied no satisfactory registration or office-bearer record and could not state later meeting dates despite claiming numerous meetings. In light of accepted direct presence evidence, this did not establish a sufficiently reliable account of his presence elsewhere. The Court's phrase that alibi cannot be proved by mere preponderance was applied with the qualification in the discussions of *Vijay Pal*, *Sk. Sattar* and *Binay Kumar* that sufficiently credible defence evidence can create reasonable doubt; rejection of DW1 was not affirmative proof replacing the prosecution case.

Ramjilal's counter-MLC listed three small contusions (back, below eye, wrist) and chest pain without external injury; the police recorded his non-cognizable report. The Court took those injuries into account but found them minor. The defence's own driver substantiated the initial stone throwing, so the failure to explain his injuries did not establish that a different origin of the incident had been concealed. *Mano Dutt* and *Gurwinder*'s contextual test permitted the otherwise credible injured-witness account to stand; *Krishnegowda* and *Kumar*'s concerns about material suppression did not compel acquittal on these facts.

Seven appellants came to the scene and collectively assaulted the four victims with the described implements. The Court found more than passive or curious presence: the others played active roles after Brajesh's axe strike. Under the distinct provisions of

Sections 141 and 146–149 discussed in *Vinubhai*, the collective conduct allowed a common object formed at the scene to be inferred; *Bhagwan* and *Mahendran* showed why an identical blow or advance meeting of minds was unnecessary. The Court affirmed the respective direct and constructive Section 307/324, Section 323 and Sections 147/148 convictions. Its rejection of the related-witness challenge rested on scrutiny of the injuries, testimony and DW7's evidence placing Baikunthi in the field. *Nankaunoo* and *Mritunjoy* made the lack of weapon recovery nonfatal given accepted direct and medical proof.

As to sentence, the Court found the term of ten years' rigorous imprisonment under Section 307 or 307/149 excessive in view of the manner in which the incident occurred and noted that Section 307 prescribes no minimum. It reduced that count to five years' rigorous imprisonment and increased the fine to ₹10,000 for each appellant, with six months' rigorous imprisonment in default. It did not disturb the other terms, which were to run concurrently. This exercise of sentencing discretion on the facts did not treat Brajesh's roughly four years already served as an automatic limit or establish a general rule that a sentence under Section 307 must be five years.

6. Relief : The Hon'ble High Court partly allowed the appeal only in respect of the sentence under Section 307/149 or Section 307 directly. For that count, each appellant's term of ten years' rigorous imprisonment and fine of ₹2,000 were replaced by five years' rigorous imprisonment and ₹10,000 fine, with six months' rigorous imprisonment in default. The other convictions and sentences from Sessions Trial No. 170/2008, judgment of 8 October 2015, remained; all terms run concurrently. Ramjilal, Horilal, Jagmohan, Khema/Khemraj, Hukum Singh and Barelal, who were on bail, were ordered to surrender; Brajesh, already jailed, was to serve the remaining term. The judgment and sentence were affirmed with these modifications; no appellant was acquitted.

Ramjilal and Ors. v. State of Madhya Pradesh, Cr.A. no. 1014/2015, 14/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Abetment of suicide — Sections 107 and 306 IPC — The Court considered *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605, Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734, Sanju v. State of M.P., (2002) 5 SCC 371, Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, M. Mohan v. State, AIR 2011 SC 1238, Kishori Lal v. State of M.P., (2007) 10 SCC 797*, and *Amalendu Pal v. State of W.B., (2010) 1 SCC 707*. The principles stated in these authorities require intentional instigation, conspiracy within Section 107, or intentional aid; distress followed by suicide does not by itself establish abetment. Instigation may be inferred from acts or a sustained course of conduct leaving no other option; it need not be expressed in words. It nevertheless requires a sufficiently certain link and the necessary mental element. Anger, ordinary discord and bare harassment lack that ingredient without a proximate positive act. *State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73*, and *Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618*, caution against equating a hypersensitive response to ordinary social friction with abetment. *Kumar @ Shiva Kumar v. State of Karnataka, Criminal Appeal No. 1427/2011* (1 March 2024), was mentioned as stating the same law. These authorities were applied to the particular alleged property damage, repeated abuse and assaults, including the day before death. Even on those allegations, no instigation or intended aid of suicide was disclosed.

Section 482 CrPC — threshold inquiry — *Praveen Pradhan and Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, were quoted to distinguish a tentative view of the allegations and record from marshalling evidence as at trial. They also recognise that an indirect course of conduct may support an inference of instigation in an appropriate case. The Court assumed the uncontroverted accusations true, despite the absence of material then placed before it to substantiate the shop damage or repeated abuse. Neeraj Singh had been accused in an earlier sexual-offence FIR, and the parties were hostile. The alleged conduct did not, in the Court's view, include the requisite Section 107 incitement to his suicide. The FIR under Section 306/34 IPC and consequential proceedings were quashed; the Court did not adjudicate the truth of the alleged assaults or a separate charge for them.

Case-note :- ***1. Facts :*** Ramkhilawan Dwivedi and other applicants invoked Section 482 CrPC against FIR Crime No. 101/2023, Police Station Unchehra, District Satna, registered under Section 306 read with Section 34 IPC after Neeraj Singh died by hanging during the intervening night of 8–9 April

2023. Neeraj himself had earlier been named in an FIR of 1 March 2023 alleging Section 354 IPC and POCSO offences concerning the daughter of applicant No. 2. The prosecution alleged ensuing hostility: five persons damaged articles in Neeraj's shop and assaulted Alka Singh on 4 March; they frequently abused him; and on 8 April, while Neeraj was returning from Nagod Court, he and Suresh Singh were stopped, abused and assaulted. The complainant argued the repeated threats and violence left him no choice but suicide. The applicants argued that even if all the allegations were accepted together, they did not disclose abetment of suicide. The State acknowledged that a hypersensitive victim's suicide is not, by itself, enough for Section 306.

The Court expressly assumed the allegations of damage to the shop and abuse to be true for this application even though it said nothing had been placed on record to substantiate those allegations. The Court's acceptance of those allegations for this application was not a factual acquittal or a finding that the alleged violence did not occur. The alleged initial POCSO case supplied background for hostility, not an adjudication of Neeraj's guilt or an ingredient of suicide abetment.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, was quoted on "instigation" under Section 107. Instigation means goading, urging, provoking or encouraging a consequential act. It need not take the form of literal commands, but the circumstances must permit reasonable certainty of incitement. An act, omission or sustained course of conduct creating a situation in which the deceased saw no other option may permit that inference; words spoken in anger without intending the consequence do not. The Court applied the requirements of incitement and intent to the alleged abuse and assault, rather than treating proximity alone as conclusive.

Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734, was quoted for the abettor's intent, the three Section 107 modes, and an inference drawn from the facts of the case where no direct exhortation is recorded. It also stated that, at the quashing or threshold stage, a tentative view is formed from the circumstances and record, rather than a firm conclusion on the merits; the quoted passage mentions Section 228 CrPC. *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460*, likewise cautioned against marshalling evidence to decide whether Section 306/107 is proved at that stage, yet recognised that continued conduct leaving the deceased with no option may warrant inference. The present Court accepted the alleged conduct at face value, then held that it still did not disclose that legal ingredient.

Sanju @ Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371, was quoted for Section 107's three modes and mens rea in instigation. *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750*, and *M. Mohan v. State represented by Deputy Superintendent of Police, AIR 2011 SC 1238*, were reproduced on the mental process of instigation or intentional aid and the need for a positive act, active or direct, intended to push the deceased toward suicide. Their conviction language served as guidance to identify the offence; the High Court's actual holding was on prima facie ingredients under Section 482, not a post-trial acquittal. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, set out instigation, conspiracy and intentional aid and the link to the specific abetted offence; its Section 109 discussion was explanatory, not a separate Section 109 charge here. The quoted *Praveen Pradhan* passage also cites *Iqbal Singh*, *Surender*, *Kishori Lal* and *Sonti Rama Krishna*.

Amalendu Pal @ Jhantu v. State of W.B., (2010) 1 SCC 707, was quoted in detail: scrupulous examination of the circumstances is required; harassment alone, without direct or indirect incitement and a positive action sufficiently proximate to suicide, cannot sustain Section 306. Intentional aid under Section 107's third clause requires doing or illegally omitting something to facilitate commission, as its Explanation 2 specifies. That Supreme Court case discussed its own factual theory under the third clause; the High Court did not convert it into a requirement that every Section 306 case must involve that clause alone. It found no incitement or aid on the sequence of events alleged in the present case.

State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73, cautions that a hypersensitive victim's suicide following ordinary petulance or discord, which would not lead a similarly placed person to suicide, is insufficient to infer abetment; assessment remains contextual. *Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618*, was cited for words uttered in anger without intended consequences and the same ordinary-discord qualification. *Gangula Mohan Reddy* also reiterated hypersensitivity in its quoted

passage. The Court invoked those limits, but the alleged shop damage and assault were not described as lawful or trivial merely because the Section 306 threshold failed. The Court applied these authorities' requirements of a connection under Section 107 and the necessary mental element, without creating a general exemption from liability for abusive conduct.

3. Statutes considered : Section 107 IPC defines abetment by instigation, conspiracy accompanied by a relevant act or illegal omission, or intentional aid by act or illegal omission; its explanations address misrepresentation/concealment in instigation and facilitation in aid. Section 306 IPC penalises abetment of suicide. The High Court's inherent jurisdiction to quash the proceedings was invoked under Section 482 CrPC. Section 228 CrPC appeared in the quoted *Praveen Pradhan* discussion of a tentative threshold view; it was not the operative relief provision. Section 109 IPC appeared within *Kishori Lal/Amalendu Pal* passages as general abetment context, not a separate charge. Section 354 IPC and POCSO were part of the earlier allegation against the deceased, not a determination in this case.

4. Issues : Did the alleged destruction of shop property, repeated filthy abuse, physical assaults and final encounter on the day before Neeraj's hanging, even if assumed true, disclose intentional instigation, a relevant conspiracy or intentional aid of suicide within Section 107 so as to establish a prima facie case under Section 306/34? How should a court under Section 482 apply that test of the offence's ingredients without trying contested evidence? Did a person's distress or hypersensitive response to hostility suffice without the abettor's necessary mental state and conduct?

5. Ratio / Findings : The Court recounted the 1 March sexual-offence FIR against Neeraj, the alleged 4 March damage and assault of Alka Singh, continued abuse, and the 8 April obstruction and assault of Neeraj and Suresh Singh, followed by Neeraj's hanging in the intervening night. It inferred hostility between the parties. Although the Court noted that supporting material for the shop-damage and continued-abuse allegations had not been placed before it, it expressly took the uncontroverted allegations as true for the quashing analysis. The absence of that supporting material was therefore not treated as a finding on the merits against the complainant.

The governing authorities permit an inference of instigation from a directed course of conduct, even without express words inviting suicide; the inference nevertheless requires the specific Section 107 mental element, an act of instigation or intentional aid, and a sufficiently clear connection to the suicide. The Court concluded that the FIR and witness statements alleged wrongdoing toward Neeraj but did not allege an act that instigated his taking his life. Suicide following the alleged criminal mistreatment, even with the last assault so close in time, was insufficient without the distinct ingredient of abetment. The Court referred to the hypersensitive-victim principle in rejecting liability from Neeraj's reaction alone, while not making an evidentiary psychiatric finding that he was in fact hypersensitive. Nor did the Court hold that all threats, abuse, assaults or property damage are incapable of being offences under other provisions; those were outside the charged Section 306/34 disposition.

With no prima facie abetment disclosed on the allegations taken at face value, there was no need to decide the ultimate evidentiary proof or the collective element under Section 34. The conclusion concerned the legal sufficiency of the allegations before the Court; it was not an acquittal after trial and did not rule out a finding of instigation from a genuinely coercive course of conduct in a different case.

6. Relief : The Hon'ble High Court allowed the Section 482 application. FIR Crime No. 101/2023 at Police Station Unchehra, District Satna, under Section 306/34 IPC and its consequential proceedings were quashed.

Ramkhilawan Dwivedi and Ors. v. State of Madhya Pradesh, M.Cr.C. no. 25836/2023, 08/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (738) Prev Next

Headnote :- Age proof — school entry and ossification — *Mukarrab v. State of U.P., (2017) 2 SCC 210*, and *Ramdeo Chauhan v. State of Assam, (2001) 5 SCC 714*, were applied for the principles that medical age estimates have limited precision and must be considered with other material. *Arjun Singh v. State of H.P.*, cited by the Court for Section 35 Evidence Act, treats a school register entry as admissible and valuable but not conclusive. *Ram Suresh Singh v. Prabhat Singh, (2009) 6 SCC 681*, states that whether the lower, upper or average

estimated age should be adopted depends on the facts of the case. *Jaya Mala v. Govt. of J&K, (1982) 2 SCC 538*, recognised an approximate two-year radiological margin either way. The girl's 2002 primary-school marksheet gave 2 January 1991 as her date of birth. The April 2005 ossification estimate placed her age above 16 but below 18. That examination took place more than a year after she was taken in March 2004; the Court rejected automatically adding two years to that estimate and found her to be under 16 when she was taken.

Kidnapping and compelled marriage — The father had not consented to the appellant taking his daughter out of his lawful guardianship. Her evidence described threats, movement to several cities, being held and beaten, and being passed off as the appellant's wife. She was under 18 for Section 363/366 IPC purposes; prolonged cohabitation and childbirth did not amount to the guardian's consent. The Sections 363 and 366 convictions were affirmed; co-accused Kamlesh's acquittal was not reopened.

Rape — historical Section 375 sixthly age threshold — *Satish Kumar Jayanti Lal Dabgar v. State of Gujarat, (2015) 7 SCC 359*, and *Kailash v. State of M.P., (2013) 14 SCC 340*, were followed: for the law applicable to the 2004 events, a girl under 16 could not give legally valid consent to intercourse. The appellant's reliance on a year of travel and the birth of a child failed after the age finding. The prosecutrix described repeated rape and coercion; the Section 376 conviction and term of ten years' rigorous imprisonment were affirmed.

Case-note :- ***1. Facts :*** The appeal under Section 374 CrPC challenged a December 2005 Sessions judgment convicting Ramkishan alias Raja under Sections 363, 366 and 376 IPC. The girl, who had gone to Chinor for a Class VIII examination on 24 March 2004, failed to return. Her father Atar Singh lodged a missing-person report on 1 April; inquiries led to the kidnapping FIR. When she was recovered from Ramkishan in April 2005, she had an infant son. She said Ramkishan threatened to kill her and her brother unless she accompanied him, took her through Gwalior, Indore, Ujjain, Devas, Bhopal, Guna and Sadhora, repeatedly had intercourse against her will, beat her, prevented her return, held her out as his wife and later pressured her to compromise. Lodging-house and gurudwara records traced some stays, and medical records documented childbirth. These were the assertions in her evidence, evaluated by the appellate Court; cohabitation was not generally assumed to prove consent.

The defence said she was over 16 when taken, relying on Dr J.S. Sikarwar's 11 April 2005 ossification estimate of above 16 and below 18, and had willingly travelled and lived with the appellant for about a year. The school marksheet of the 2002 primary examination recorded 2 January 1991 as her date of birth; she affirmed it. The State relied on the school record and uncertainty in radiological age assessment. Kamlesh, another charged person, had been acquitted, and that acquittal was not appealed. The trial court sentenced Ramkishan to three years' rigorous imprisonment and a fine of ₹1,000 under Section 363, five years' rigorous imprisonment and a fine of ₹5,000 under Section 366, and ten years' rigorous imprisonment and a fine of ₹10,000 under Section 376, with default provisions. The terms were concurrent, and ₹10,000 out of the fine was to be paid to the prosecutrix as compensation.

The appeal arose from Sessions Trial No. 191/2005 before the First Additional Sessions Judge, Dabra, and the investigation was Crime No. 53/2004. The medical examination found no external injury; that later finding did not establish legally effective consent under the historical age provision applied by the Court.

2. Precedents — Considered : *Mukarrab v. State of U.P., (2017) 2 SCC 210*, was quoted at length on the limitations of radiological age estimation. It treats ossification and other physical/dental evidence as useful guides, subject to individual and regional variation, not conclusive proof of a precise date of birth or age. The quoted material mentions *Babloo Pasi and State of M.P. v. Anoop Singh for the* principle that ossification cannot be the sole criterion for determining age and cites medical literature about variability; the present Court used the broader caution when reading the April 2005 estimate against evidence from the earlier incident date. *Ramdeo Chauhan alias Raj Nath v. State of Assam, (2001) 5 SCC 714*, was also quoted: an X-ray may be more informative than some expert impression but cannot fix a precise date, and no abstract formula supplants all material and circumstances. The Court did not deem medical evidence valueless.

The Court quoted *Arjun Singh v. State of H.P., (2009) 4 SCC 18*, on the admissibility and evidentiary value of a school register entry under Section 35 of the Evidence Act, without treating the entry as conclusive; the passage cites *State of Chhattisgarh v.*

Lekhram. Here the primary-school marksheet, rather than a newly created record at the time of litigation, recorded the girl's date of birth and was considered alongside oral and medical evidence.

Ram Suresh Singh v. Prabhat Singh, (2009) 6 SCC 681, was quoted on the absence of a universal formula selecting the upper, lower or average end of an age range. *Jaya Mala v. Govt. of J&K, (1982) 2 SCC 538*, noted a radiological margin of about two years either side. The Court applied those qualifications to reject the defence argument that the two-year margin must always be added in favour of an accused. Its assessment of the marksheet from the 2002 primary examination, the interval between the relevant dates and the ossification result on the facts of this case supported the finding that she was under 16 on 24 March 2004; it did not state that every school entry overrides an incompatible properly supported medical assessment.

Satish Kumar Jayanti Lal Dabgar v. State of Gujarat, (2015) 7 SCC 359, was quoted on clause sixthly of Section 375 IPC as applicable to a girl below 16: consent is legally immaterial, and her purported assent cannot mitigate the adult's act on that basis. *Kailash v. State of M.P., (2013) 14 SCC 340*, likewise treated claimed consent as irrelevant once the 13–14-year-old prosecutrix's age was established. The Court applied those authorities to reject the reliance on travel, living together and childbirth as a defence to the sexual offence. The age thresholds in those authorities were applied under the statutory wording in force for the relevant events.

The reproduced school-record passage identifies *State of Chhattisgarh v. Lekhram*, (2006) 5 SCC 736.

3. Statutes considered : Section 374 CrPC governed the appeal. Sections 363 and 366 IPC were the basis for the charges of kidnapping from lawful guardianship and taking for compelled marriage or a related purpose. The Court addressed the girl's age, the father's lack of consent, threats, course of taking and representation as a wife. In its general description of kidnapping from lawful guardianship, the judgment referred to a male under 16 and a female under 18; this case concerns the female threshold. Section 375 sixthly IPC, in the form applicable to the March 2004 occurrence, used the under-16 threshold to make the girl's consent irrelevant for rape; Section 376 supplied punishment. That threshold concerned the law applicable to the offence in this case, rather than the law governing later offences. Section 35 Evidence Act governed the admissibility and evidentiary value of the school record in the quoted authority. The State invoked Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 as an age-assessment analogy, but the judgment resolved the actual record through the marksheet and medical evidence, not an independent holding that the Rules directly governed this 2004 complainant. Her Section 164 CrPC statement was part of the investigative record, not an independently analysed statutory question.

4. Issues : Was the prosecutrix below 16, the relevant age under the historical Section 375 sixthly, when she was taken in March 2004, having regard to the 2002 marksheet and an ossification examination conducted more than a year later? Did the supposed two-year radiological margin necessarily have to be applied on the upper side? Did the taking from her father's guardianship and its purpose establish the offences under Sections 363 and 366? Could prolonged travel, cohabitation and childbirth provide legally effective consent? Did the term of ten years under Section 376 require appellate reduction?

5. Ratio / Findings : The girl affirmed her 2 January 1991 birth date on the primary-school marksheet Ex. P/2. The 11 April 2005 ossification report described her then as older than 16 but below 18. Since the examination followed the March 2004 taking by more than a year, it was not a contemporaneous measurement of her age when taken. The Court considered it with the school record. *Mukarrab* and *Ramdeo Chauhan* precluded treating the medical range as exact, while *Arjun Singh* recognised the school record's evidentiary value. *Ram Suresh Singh* and *Jaya Mala* precluded mechanically adding two years to a radiological estimate in every case. It found her below 16 on the incident date.

The father did not consent to Ramkishan taking the girl, and she did not say she left home with permission. Her evidence of threats and forced movement, stays at identified places, the appellant's presentation of her as wife despite an existing marriage and children, and childbirth supported the finding that the appellant had taken a minor from lawful guardianship for the purpose of compelling marriage under Section 366. The appellate Court affirmed Sections 363 and 366 without reopening Kamlesh's acquittal or holding that every underage departure automatically proves every purpose required by Section 366.

Once it found the girl under 16 in 2004, the Court applied the then operative Section 375 sixthly and

Satish Kumar Jayanti Lal Dabgar and *Kailash*. Neither her alleged willingness to accompany Ramkishan nor the facts of travel and childbirth could amount to legally valid consent to intercourse under that provision. Moreover, her testimony described coercion, repeated intercourse and beatings. The Court affirmed Section 376; it did not need to infer consent from the absence of a fresh physical injury at the later medical examination. As to sentence, his existing marriage and three children, taking a minor across places for around a year and the resulting childbirth led the Court to decline reduction of the ten-year term. This appellate conclusion rested on the facts of the case and did not establish a mandatory ten-year rule.

6. Relief : The Hon'ble High Court dismissed the appeal. The convictions and sentences under Sections 363, 366 and 376 IPC imposed by the First Additional Sessions Judge, Dabra, on 13 December 2005, including concurrent terms, fines and the trial court's compensation direction, were affirmed. Ramkishan's bail and surety bonds were cancelled and he was directed to surrender immediately before the trial court to serve the remaining term. Kamlesh's unchallenged acquittal was not disturbed.

Ramkishan v. State of M.P., Cr.A. no. 24/2006, 26/07/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (740) Prev Next

Headnote :- Article 226 — medical care of under-trial — hospital admission and special ward — The earlier writ order directed an assessment and prompt hospital referral if medical attention was needed; it did not decide entitlement to a special ward. In this petition the Court recognised every under-trial's entitlement to treatment, left clinical necessity to doctors, and declined a special-ward direction where counsel identified hypertension, anaemia and diabetes but gave no medical reason for the requested placement. Hospital beds should not be occupied solely for an under-trial's convenience if proper treatment can be supplied in jail. Doctors were directed to reassess the patient every fifteen days and give a specific reason for continued admission. The jail authorities were to forward the doctors' recommendations to the relevant criminal court, together with the superintendent's report on the jail's capacity to provide treatment. The Court directed that the petitioner's brother be returned to jail immediately once doctors found that admission was no longer necessary, with proper treatment to continue there. The Court expressed no view on the accused brother's guilt and laid down no universal clinical rule for those conditions.

Case-note :- ***1. Facts :*** Ramkrishan Sharma filed an Article 226 writ for his brother Dr B.K. Sharma, an under-trial in Crime No. 170/2018 of Police Station Biloua, Gwalior. The FIR, as recounted from the petition, alleged rape of a resident with an intellectual disability at a shelter home run by the brother, forced abortion and destruction of the fetus; those allegations explained the context of his custody and were not adjudicated. In an earlier W.P. No. 27577/2018, the petitioner claimed his brother urgently needed medical attention but jail staff shortages delayed referral. The order of 7 December 2018 directed the authority to act on the representation and refer him to J.A. Hospital forthwith if the assessment showed that he needed medical attention. It expressly stated that no opinion on the merits was being expressed.

He was later placed in Room 13 of the hospital, with fees paid for a special ward. Following media coverage, he was shifted to a general ward on 13 January 2019. The new petition sought transfer to a special ward, consideration of his representations and a direction concerning any charges payable. Counsel identified hypertension, anaemia and diabetes but gave no medical basis for hospital admission or the special ward when questioned; counsel's statement that the brother had come from abroad did not establish a need for the special ward. The Court did not itself diagnose the patient or find that those conditions can never require admission.

2. Statutes considered : The petitioner invoked the High Court's writ jurisdiction under Article 226 of the Constitution. The serious FIR allegations did not change the under-trial's entitlement to appropriate treatment; nor did the allegations establish guilt. The CJM, committal court or trial court was designated to receive medical recommendations and the jail superintendent's report, not to replace medical judgment with a judicial diagnosis.

3. Issues : Had the under-trial, who had already been referred for medical attention, shown an entitlement to a special hospital ward? Who should decide whether hospital admission remained necessary? How should the need for continued treatment in hospital rather than jail be documented and reviewed while he remained in criminal custody?

4. Ratio / Findings : The Court acknowledged its lack of medical expertise and left clinical assessment to doctors. Every under-trial is entitled to treatment, but hospital admission must depend on medical need. Where adequate care can be provided in jail, a preference for remaining outside jail does not justify occupying a scarce hospital bed. It was not shown that the brother's stated conditions required either hospital admission or treatment in a special ward. The Court therefore refused to direct a transfer to a special ward, while maintaining his entitlement to care. It directed doctors to review his condition every fifteen days, give a specific finding on the need for continued hospital admission and inform the jail authorities of his condition and the need for continued admission. The jail authorities were to forward the recommendations to the competent criminal court with the superintendent's report on whether treatment could be provided in jail. Once doctors found that hospital admission was no longer necessary, he was to be returned to jail immediately, with proper treatment ensured there. These directions required continued review on the facts of this case; they did not lay down a general clinical rule about hypertension, anaemia or diabetes. The order quoted the earlier direction of 7 December 2018 as procedural history. That direction required prompt medical evaluation and referral if needed; it did not confer an entitlement to a special ward or authorise indefinite hospital admission.

The alleged shelter-home crimes remain allegations. The Court left clinical judgment to doctors and required documented custodial oversight, subject to the actual medical condition and capacity for treatment in jail.

5. Relief : The Hon'ble High Court disposed of the writ petition with the fifteen-day review and reporting directions. The requested transfer from general to special ward was refused. The Court directed immediate return to jail once doctors concluded that hospitalization was no longer necessary, with proper treatment to continue in jail.

Ramkrishan Sharma v. State of M.P. and Ors., W.P. no. 1751/2019, 28/01/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (741) Prev Next

Headnote :- Section 482 CrPC — investigation — no judicial command to arrest or file charge sheet - Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court declined to direct police to arrest the accused. The Supreme Court authority, drawing *on M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that police must exercise their discretion to arrest under Section 41 CrPC cautiously. Arrest does not follow automatically from a complaint of a cognizable offence. Courts normally cannot dictate arrest, seizure, the filing of a charge sheet or the course of investigation. The Supreme Court authority also cautions against far-reaching directions without notice to persons likely to be affected, by reference to *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*.

Investigation — Section 173(1) CrPC — completion without unnecessary delay - The Court distinguished an impermissible direction to arrest or to reach a particular conclusion in the final report from a lawful requirement to complete investigation without unnecessary delay. It directed the investigating officer to conclude the investigation as early as possible and take steps required by law. The statutory assessment of whether an offence was made out remained with the officer. The petitioner could raise a grievance with the Superintendent of Police, Gwalior.

Case-note :- ***1. Facts :*** Ramkrishna Bohare filed M.Cr.C. No. 19587/2021 under Section 482 CrPC. He sought a direction to file a charge sheet against the accused persons before the competent court; the order also addresses a request for a direction to the police to arrest them. Counsel appeared for the petitioner and the State. The Court considered whether it could order arrest or other specified investigative outcomes and whether the investigation should be completed promptly. The order was made on 26 April 2022.

2. Precedents — Considered : The Court quoted and applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*. The quoted passages examine an earlier High Court order that had treated recording witness statements, arrest, seizure, filing a charge sheet and protecting property as obligatory. The Supreme Court held that the investigating police ordinarily decide how to proceed, rather than the court. An investigation need not result in arrest, seizure or a charge sheet; the police may find that no case is made out. Section 482 is to be used sparingly for its statutory purposes, with reasons and due regard to the consequences. The present Court applied this to reject the requested

arrest direction and to avoid dictating the final investigative outcome.

In the passage quoted from the Supreme Court, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, was discussed in relation to the discretion under Section 41 CrPC to arrest without a warrant when legally justified. Arrest neither follows automatically from an FIR nor is mandatory in every cognizable case. Because it affects liberty and reputation, the power requires caution, taking into account the nature of the alleged offence and the persons accused. The present Court relied on this principle as stated in *D. Venkatasubramaniam*; it did not make a fresh assessment of the facts to decide whether arrest was necessary. The quoted passage also refers to *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on the need to hear persons likely to be affected by investigative directions with drastic adverse consequences for their reputation. *D. Venkatasubramaniam* held that the earlier High Court order was a nullity because those affected had not been heard.

3. Statutes considered : Section 482 CrPC governed the inherent jurisdiction sought and its limits concerning judicial control of police investigation. The quoted Supreme Court discussion addresses Section 41 CrPC as a discretionary power of arrest that must be exercised cautiously, rather than mechanically on allegations. Section 173(1) CrPC was separately quoted by the High Court: "Every investigation under this Chapter shall be completed without unnecessary delay." That duty justified a direction to complete the investigation expeditiously; it did not justify directing a particular outcome as to the filing of a charge sheet.

4. Issues : (i) Could the High Court under Section 482 compel the police to arrest persons named as accused or predetermine the filing of a charge sheet in a pending investigation? (ii) Could it require an investigating officer to conclude the investigation promptly under Section 173(1), while preserving police discretion over lawful methods and the outcome?

5. Ratio / Findings : The Court treated a judicial order to arrest particular persons and file a charge sheet as supervision of the investigation itself. Following *D. Venkatasubramaniam*, it held that the court cannot force an investigator to choose arrest, seizure or prosecution regardless of evidence. The discussion of *M.C. Abraham* in the quoted Supreme Court passage explains why the discretion to arrest under Section 41 must be exercised cautiously and cannot be replaced by a mechanical judicial command. The quoted *Divine Retreat Centre* passage warns that far-reaching adverse directions made without a hearing can damage reputation and be invalid. The High Court's own reason for refusing relief here, however, was that directing these steps would improperly control the investigation. The Court thus refused the requested arrest direction.

The High Court then considered Section 173(1) and stated that an investigation cannot be kept pending unnecessarily. The officer must determine in accordance with law whether an offence is made out and complete the investigation as early as possible. The Court also permitted the petitioner to submit a grievance to the Superintendent of Police, Gwalior, and directed that any such application be considered in accordance with law.

6. Relief : The Hon'ble High Court disposed of the petition. The Court refused to direct arrest or dictate the filing of a charge sheet, but directed the investigating officer to conclude the investigation as early as possible and take necessary lawful steps under Section 173(1) CrPC. It permitted the petitioner to approach the Superintendent of Police, Gwalior, with any grievance and directed that any such application be considered in accordance with law.

Ramkrishna Bohare v. State of M.P. and Others, M.Cr.C. no. 19587/2021, 26/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (742) Prev Next

Headnote :- Section 482 CrPC — quashing FIR — disputed bona fide purchase of government land - An FIR alleged that survey land recorded as forest/government land was entered in the names of private Bhumiswamis, that its area was enlarged by 52.794 hectares and that records for the intervening years were shown as missing through collusion with revenue officials. The applicants' assertion that their housing company had purchased in good faith from the recorded vendors could not be determined on a Section 482 petition while investigation remained pending and commercial use allegedly continued after restoration of government entries. A vendor without title could not confer better title. At the quashing stage, the Court considered whether the uncontroverted allegations disclosed offences under

Sections 420, 467, 468, 471, 120-B and 201 IPC and declined to conduct a roving inquiry into their truth.

Limitation — old revenue entry and alleged continuing conduct - The Court rejected the argument that the proceedings were time-barred merely because the alleged manipulation occurred in 1969–70. Some of the alleged offences were punishable with imprisonment exceeding three years. The Court also considered the alleged connivance of revenue officers and the continued possession and use of the land. It characterised the offence as continuing and referred to Sections 472 and 473 CrPC concerning cognizance.

FIR — delay in registration — quashing threshold - Following *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, the Court noted that the law fixes no period for lodging an FIR. A prompt FIR may reduce the risk of fabrication but does not guarantee truth, while delay may have genuine causes. Applying *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, it held that delay by itself does not justify quashing. The applicants' plea of belated reporting was therefore insufficient. The Court found no statutory time bar and noted that the complainant could explain any delay, with the explanation to be assessed at the appropriate stage.

Case-note :- ***1. Facts :*** Ramkumari Gupta and other applicants sought to quash Crime No. 366/2020 at Police Station Kotwali Datia under Section 482 CrPC. The FIR, lodged on a complaint by the Tahsildar, alleged offences under Sections 420, 467, 468, 471, 120-B and 201 IPC. The Tahsildar referred to his order of 8 May 2018 in revenue Case No. 0002/v-6-v/2017-18 declaring Survey Nos. 2467, 2468 and 2469 government land. According to the FIR, the land had been recorded as forest land and the field map corresponded to that status, but in 1969–70 it was entered as private Bhumiswami land without a competent order or forest release. The areas were alleged to have increased from 37.536, 32.128 and 16.00 hectares in 1943–44 to 38.838, 32.505 and 68.794 hectares. The FIR alleged an unauthorised increase totalling 52.794 hectares. Revenue records from 1944–45 to 1968–69 were said to be missing, allegedly to conceal the alteration. The FIR estimated a ₹56 crore loss by reference to the stated present value of 140.137 hectares; those figures remained allegations, not assessed damages in this order.

The applicants claimed that they had purchased in good faith after checking revenue records and could not be criminally liable for the original entry; they also argued that the FIR was belated by decades. The State responded that investigation was pending, that the applicants were directors of Maa Pitambara Housing Pvt. Ltd., and that they continued commercial activity and possession even after the disputed land was re-recorded for the Forest Department/State. It challenged their claim of good faith, contended that a vendor without title could not pass title, and suggested that any claim against the vendors should be pursued through a suit for compensation.

2. Precedents — Considered : In paragraph 8, the Court referred collectively to *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021, order of 30 June 2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The Court relied on these authorities collectively for the rule that, under Section 482, it considers whether the uncontroverted allegations disclose an offence; it does not conduct a roving inquiry into the evidence to decide whether disputed allegations are true.

The Court then explained the principle in *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*: the law fixes no time for lodging an FIR. Prompt reporting benefits investigation and reduces the opportunity to concoct a version. Nevertheless, delay does not necessarily invalidate the FIR, and promptness does not conclusively establish its genuineness. Genuine explanations for delay may exist. It followed that principle in rejecting the contention that delay automatically made the FIR illegal. It also applied *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, specifically for the rule that delay in FIR registration by itself cannot be a ground for quashing. In paragraphs 10–13, the Court discussed

and applied the specific principles on delay from these two authorities, whereas it had relied on the authorities in paragraph 8 collectively.

3. Statutes considered : Section 482 CrPC, with a parenthetical reference in the order to Section 528 BNSS, provided the inherent jurisdiction invoked to quash the FIR. The Court applied the uncontroverted-allegation test and refused to evaluate the applicants' disputed bona fide purchaser defence in a roving inquiry. Sections 472 and 473 CrPC were invoked concerning a continuing offence and extension of the period for taking cognizance. The Court stated that some alleged offences were punishable with imprisonment exceeding three years and rejected the applicants' argument based solely on limitation. It also referred to continuing conduct and late discovery. The underlying land classification and title history arose from revenue and forest records.

4. Issues : (i) Could the applicants' claim of good-faith purchase based on revenue entries, and their dispute over the vendors' title, justify immediate quashing when the FIR alleged collusive conversion of government forest land and enlargement of its area, and commercial use allegedly continued after restoration of the State's entry? (ii) Did the alleged alteration in 1969–70 and the delay in lodging the FIR in 2020 create a statutory bar of limitation, taking into account the punishment prescribed for the alleged offences, the alleged continuing conduct and Sections 472–473 CrPC? (iii) Did delayed reporting alone justify quashing under the principles on FIR delay adopted from *Ravinder Kumar* and *Mohammad Wajid*?

5. Ratio / Findings : The Court took the State's allegations of forest-land conversion, excess area and official connivance as the account relevant to deciding the quashing application and noted that the applicants allegedly continued possession and commercial activity after re-recording for the State. It reasoned that a vendor without right or title could not transfer a better title and that the applicants' asserted bona fides and knowledge required factual inquiry, not resolution under Section 482 on a disputed record. For the purposes of quashing, it held that unlawful sale and purchase of government land would amount to the IPC offences alleged and invoked the Supreme Court authorities in paragraph 8 for the proposition that uncontroverted allegations, not a roving inquiry into their truth, govern quashing. On limitation, the Court held that the age of the entries alone was insufficient to establish a bar. It noted that some alleged offences were punishable with imprisonment exceeding three years and referred to the alleged connivance that could delay discovery. In view of the alleged ongoing possession and commercial use, it characterised the conduct as continuing. It cited Sections 472 and 473 CrPC as relevant to taking cognizance after expiry of a limitation period. Separately, it applied *Ravinder Kumar*'s distinction between promptness, reliability and genuine reasons for delay, and *Mohammad Wajid*'s express rule that delay alone does not justify quashing. A complainant could explain the delay if relevant; unless a prosecution was legally barred, the applicants' assertion that the FIR was belated was insufficient at this stage.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The Court declined to quash Crime No. 366/2020; investigation and further lawful proceedings were left to continue.

Ramkumari Gupta and Others v. The State of Madhya Pradesh, M.Cr.C. no. 36885/2022, 27/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (743) Prev Next

Headnote :- Separate trials — evidence of co-accused — common appellate judgment - Applying *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Cr.A. No. 1306 of 2021 (29 October 2021), the Division Bench held that testimony recorded in one accused's separate trial could not be used for or against another appellant. It heard three connected abduction appeals together but analysed each trial record separately. Punjab Singh's examination under Section 313 CrPC took place later because he had failed to appear after the prosecution evidence closed.

Identification — previously unknown abductors — FIR and dock testimony - The complainant said he did not know the alleged abductors' names when he lodged the FIR. Its narrative named only Surendra, yet other names appeared in the accused-details column without explanation. No test identification parade was held. In Punjab Singh's trial, Surendra, whom the complainant identified as the source of the names, was formally arrested only after the original FIR. In Avtar Singh's later trial, the dock identification was weakened by the

complainant's account of covered faces, lack of prior acquaintance and uncertainty about the names learned from Surendra. Identity was not proved on the cumulative evidence assessed separately for each appellant. The absence of a parade was not treated as an automatic rule excluding identification evidence.

FIR record — unexplained insertion and deficient investigation — proof beyond reasonable doubt - The Court examined proof of the missing-person Rojnamcha entry, the failure to investigate the house and forest sites where confinement was alleged, the failure to seize the ransom letter and the unexplained names in the accused-details column alongside the witness accounts. It found that Ramlakhan and Punjab Singh had been falsely implicated and that Avtar Singh's guilt was not proved beyond reasonable doubt. All three appeals were allowed, and the convictions under Section 364-A IPC and Sections 11/13 MPDVPK Act, carrying life imprisonment, were set aside. Ramlakhan and Avtar Singh's bail bonds were discharged; Punjab Singh was directed to be released if not required in another case.

Case-note :- ***1. Facts :*** Three appeals arose from an alleged abduction of shopkeeper Mohan Prasad Rathore on 7 May 2003. The prosecution said armed persons stopped him on his way home, abandoned his motorcycle by a nala, held him for an extended period including in a forest and in Surendra Dubey's house, and compelled him to write a letter demanding a ₹10 lakh ransom before he escaped. He reported the episode on 4 June 2003 at Police Station Kailaras as Crime No. 0/2003; it was transmitted to Police Station Chharch and registered as Crime No. 26/2003. The police filed an initial charge sheet against Surendra and Ramlakhan under Sections 364-A and 368 IPC and Sections 11/13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam (MPDVPK Act); Punjab Singh and Avtar Singh were later arrested and supplementary charge sheets followed. The appellants were not tried in one joint proceeding.

Ramlakhan alias Mohar Singh appealed in Cr.A. No. 405/2005 against his conviction by the Special Judge, Shivpuri, on 6 June 2005 in S.S.T. No. 112/2003 under Section 364-A IPC read with Sections 11/13 MPDVPK Act, carrying life imprisonment, a fine of ₹5,000 and three years' rigorous imprisonment in default. Avtar Singh appealed in Cr.A. No. 510/2008 against the separate 11 June 2008 judgment in the same numbered S.S.T.; he was convicted under Section 364-A/34 IPC and Sections 11/13 MPDVPK Act and sentenced to life imprisonment, a fine of ₹5,000 and three years' rigorous imprisonment in default. He was acquitted under Section 365/34 IPC. Punjab Singh appealed in Cr.A. No. 454/2010 against the 5 April 2010 judgment in S.S.T. No. 12/2005, imposing life imprisonment, a fine of ₹5,000 and one year's rigorous imprisonment in default under Section 364-A IPC and Sections 11/13 MPDVPK Act. Surendra's appeal abated after his death. The three appeals were heard together, but the prosecution had led evidence separately for each appellant. The prosecution evidence in Punjab Singh's trial had closed in 2005. He then failed to appear and was declared absconding. His examination under Section 313 CrPC and the judgment followed in March–April 2010.

Ramlakhan challenged the unexplained entry of names in the FIR accused-details column when the complainant had named only Surendra in its narrative, the lack of reliable identification of previously unknown abductors, the asserted missing-person record, the failure to investigate the place of confinement and the lack of a seized ransom letter. In Punjab Singh's trial the abductee's account attributed the names to Surendra after the FIR, while the chronology in the record placed Surendra's formal arrest on 23 June 2003. In Avtar Singh's later trial the complainant identified him in court, but accepted that faces were covered during abduction and that the men had not been known to him earlier. The Court considered each trial record separately, without pooling the testimony.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Supreme Court, Criminal Appeal No. 1306 of 2021, judgment dated 29 October 2021, was expressly relied on in paragraph 20. Where accused persons have been tried separately, evidence recorded in one accused's trial cannot be read either in favour of or against another in a different trial. The Division Bench applied this rule by deciding each of the three appeals under its own heading notwithstanding simultaneous hearing and a common judgment.

3. Statutes considered : The principal conviction under review was for abduction for ransom under Section 364-A IPC. In Avtar Singh's case, the charge and conviction were under Section 364-A read with Section 34 IPC, based on common intention. Section 365/34 IPC formed a separate charge on which Avtar

had already been acquitted; Section 368 IPC, alongside Section 364-A, appeared in the charge-sheet history, rather than among the convictions under review. Sections 11/13 MPDVPK Act accompanied the trial convictions; the High Court set aside the convictions because these appellants' involvement was unproved. Section 313 CrPC concerned Punjab Singh's later examination after the evidence in his separate trial had been recorded.

4. Issues : (i) In a common judgment on appeals arising from separate trials, could evidence from one trial be used to establish or disprove another appellant's guilt? (ii) In each trial, had the prosecution proved the particular appellant's identity and participation beyond reasonable doubt despite the complainant's unfamiliarity with the abductors, the absence of that appellant's name from the FIR narrative, the unexplained name in its accused-details column, the lack of a test identification parade and the deficient investigation of the place of captivity? (iii) Did the later and varying testimony in Punjab Singh's and Avtar Singh's trial records provide reliable identification independently of Ramlakhan's record?

5. Ratio / Findings : The Court began with *A.T. Mydeen*'s separate-trial rule and kept the evidence of Ramlakhan, Punjab Singh and Avtar Singh apart. In Ramlakhan's trial, the abductee (PW2) said he had not known the kidnappers' names when he lodged the FIR and learned them from Surendra later. The father and the other witnesses who searched for him established the discovery of the motorcycle, but did not reliably connect the names to the abductee's immediate account. Some witnesses turned hostile. The FIR writer and investigating officer acknowledged that Ramlakhan appeared in the accused-details column but not the narrative, without explaining the discrepancy. The officer had not investigated or established the location of the house, its occupants or the forest sites and had seized no ransom letter. The Rojnamcha entry tendered for a missing-person report was not proved by its writer, and the original enquiry material was incomplete. The Court held that Ramlakhan's abduction of Mohan was not proved and described his implication as false.

In Punjab Singh's trial, Mohan, the family witnesses, the FIR officers and the investigator were examined separately. The father named Punjab on information from Mohan. Pooran's account of his police statement was inconsistent. Mohan admitted that he had not known Punjab before the incident, had not named him in the FIR narrative and had not participated in a test identification parade. Although he identified Punjab in court, he attributed the name to Surendra and could not clearly date that disclosure. Surendra's formal arrest was on 23 June 2003, later than the 4 June FIR in which Punjab's name inexplicably appeared in the accused-details column. The Court examined proof of the missing-person Rojnamcha entry, the lack of investigation of the place of confinement and the failure to seize the ransom letter on this trial record. It found that the case had been concocted and Punjab's involvement was unproved, describing it as false implication.

The evidence in Avtar Singh's trial was recorded after the evidence in the other trials. The Court observed that the witnesses were aware of the weaknesses in their earlier evidence. The father and brother gave varying names said to come from Mohan; Mohan in Avtar's trial said that the kidnappers' faces were covered, he had not known them beforehand, and Surendra supplied their names, yet he did not establish an opportunity for that disclosure during captivity. He identified Avtar in the dock, but the initial FIR did not name him in its narrative; the author of that FIR was not examined, and the officer had not investigated the village where confinement was alleged. Ramdayal, said to have taken Mohan to the police station, was not examined, and no document supporting that account was filed. The Court found Avtar's guilt unproved beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed all three appeals. The convictions and sentences in the respective Special Judge judgments of 6 June 2005 (Ramlakhan), 11 June 2008 (Avtar) and 5 April 2010 (Punjab Singh) were set aside, and all three appellants were acquitted of the charges against them. Ramlakhan and Avtar Singh were on bail; their bail bonds were discharged. Punjab Singh, who was in jail, was ordered to be released immediately if not required in another case. A free copy of the judgment was directed to be supplied to the appellants, and the trial records returned immediately with a copy of the judgment for information and compliance. Surendra's separate appeal had already abated upon death and was not granted an acquittal by this order.

Ramlakhan @ Mohar Singh v. State of M.P.; Punjab Singh v. State of M.P.; Avtar Singh v. State of M.P., Cr.A. no. 405/2005 & 454/2010 & 510/2008, 24/03/2022, D.B., Hon'ble Justice Shri G.S. Ahluwalia & Satish Kumar Sharma, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (744) Prev Next

Headnote :- Sentence — appellate alteration — prior merits review - Applying *Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*, the Court held that the quantum of sentence cannot be altered solely on a plea of long delay without considering the merits of the case. It reviewed the injured complainant's testimony and the medical corroboration, including the doctor's distinction between injuries that could have resulted from a fall and those that could not. It also considered the hostile witness and the absence of the counter-case record. The Court affirmed the appellants' convictions under Sections 324/34 and 323/34 IPC before modifying the sentence.

Sentencing — long pendency and no minimum term — fine in place of imprisonment - After reviewing the merits, the Court took account of the passage of more than twenty years since the 2003 incident, its trivial origin, intoxication and the injuries. It also noted that Sections 323 and 324 IPC prescribed no minimum custodial term and that, according to the record, the appellants had not remained in jail. It substituted fines of ₹1,000 per appellant under Section 323/34 and ₹10,000 per appellant under Section 324/34 for the concurrent rigorous-imprisonment terms. The fines had to be paid by 29 February 2024. On default, the original jail terms would automatically revive and the trial court was required to issue arrest warrants. The conviction otherwise stood affirmed.

Case-note :- ***1. Facts :*** Ramlal and another appellant appealed under Section 374 CrPC against the judgment dated 15 March 2005 passed by the Additional Sessions Judge, Beohari, District Shahdol, in Sessions Trial No. 245/2004. The trial court had convicted them under Sections 324/34 and 323/34 IPC, imposing respectively one year and six months of rigorous imprisonment, to run concurrently. The prosecution alleged that on 26 October 2003 the appellants assaulted Teedu Kol after an altercation while under the influence of liquor. The narrative of the assault included lathi blows, pressure on his neck and a bite. Teedu lodged an FIR the next day and underwent medical examination. Police investigated and filed a charge sheet for Sections 324, 323 and 506-B read with Section 34 IPC. The trial court framed charges that differed by appellant in their use of Section 34; both pleaded not guilty. Prosecution witnesses were Dr Ram Sanehi Pandey (PW1), Teedu (PW2), Panda alias Tumai (PW3) and investigating officer Brijlal Tripathi (PW4); no defence witness was examined. On appeal, counsel principally sought reduction of sentence, arguing that more than twenty years had elapsed since the incident and no grievous injury had been caused. The State opposed the appeal. The High Court considered the merits of the conviction before considering sentence. PW1's MLC recorded a lip laceration, abrasions and a contusion. In cross-examination, the doctor accepted that injuries 4–6 could result from a fall but maintained that injuries 1–3 could not. PW2 described the prior meal and liquor, the altercation near a nala, the assault by both appellants, the subsequent FIR and examination. He denied a fall, was confronted with minor FIR omissions, acknowledged intoxication and said that a counter FIR had been lodged against him. PW3 did not support the prosecution; PW4 prepared the spot map and investigated. The counter FIR, any resulting charge sheet and its outcome were not on record.

2. Precedents — Considered : The Court expressly relied *on Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*, for the proposition that an appellate court cannot interfere with the quantum of sentence without considering the merits of the case. The High Court applied it by examining the prosecution evidence and affirming the convictions before assessing whether the custodial sentence should be changed.

3. Statutes considered : The appeal against conviction was filed under Section 374 CrPC. Sections 324 and 323 IPC, read with Section 34 for common intention, were the offences of conviction and the basis for separate sentences. The Court noted that neither hurt provision prescribed a minimum sentence in the circumstances and treated that as relevant to replacing imprisonment with fines. Section 506-B IPC was included in the investigation and charge background, but no conviction or sentence under it was affirmed in this order.

4. Issues : (i) Could the High Court alter the custodial sentence on the appellants' plea based on delay and the nature of the injuries without first considering the merits of the conviction, as governed

by *Nagpal Traders*? (ii) Did the evidence support the hurt convictions despite the hostile witness, the possible explanation that some injuries resulted from a fall and the mention of a counter FIR that was not on record? (iii) After affirming conviction, did the passage of more than twenty years, the circumstances of the offences and the absence of a mandatory minimum justify substituting fines for imprisonment, and on what terms in default?

5. Ratio / Findings : Following *Nagpal Traders*, the Court refused to decide the sentencing request on elapsed time alone and examined the merits. It found PW2's account of assault corroborated by Ex. P-1 medical evidence. In cross-examination, the doctor accepted that a fall could explain injuries 4–6 but not injuries 1–3. Although PW3 turned hostile, the medical evidence continued to corroborate PW2's account. PW2 admitted that a counter FIR had been lodged, but its contents, any resulting charge sheet and disposition were not produced. The Court concluded that the appellants were the aggressors and, noting no serious challenge to conviction, affirmed the Sections 324/34 and 323/34 convictions.

On sentence, the Court noted the lapse of twenty years, the trivial origin of the incident, intoxication of the participants, the counter FIR mentioned by the complainant and the absence of minimum sentencing requirements under Sections 323 and 324 IPC. Referring to the record, it also stated that the appellants "did not remain in jail". Taken together, these circumstances of the case justified replacing the one-year and six-month concurrent rigorous-imprisonment terms with fines. This was a sentence modification only; payment of the fines was subject to a fixed date, with automatic revival of the original custodial terms on default.

6. Relief : The Hon'ble High Court allowed the appeal to the extent of modifying the sentence. Each appellant was ordered to pay ₹1,000 for Section 323/34 IPC and ₹10,000 for Section 324/34 IPC by 29 February 2024. If payment was not made by then, the trial court's jail sentence automatically revived and the trial court was directed to issue arrest warrants to compel the appellants to serve those terms. The convictions were affirmed; the sentence under the judgment of 15 March 2005 stood modified on the stated conditions. Bail and surety bonds were cancelled, and the trial court was to receive the order and record for compliance.

Ramlal and Others v. The State of M.P. and Others, Cr.A. no. 741/2005, 10/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (745) Prev Next

Headnote :- Criminal-side writ — mandamus to register FIR — statutory alternative remedies - On a petition alleging police failure to register an FIR after a District Prosecution Officer described the dispute as civil, the Court applied *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, and *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016. The Court held that a complaint of police inaction should ordinarily be pursued through the Code's remedies before the Magistrate, including Sections 190 and 200 CrPC. Mandamus under Article 226 may be denied where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used. *Shweta Bhadauria* recognises the *Whirlpool* exceptions and distinguishes the statutory duty to register an FIR under *Lalita Kumari* from a right to bypass those remedies. The petition was dismissed as not maintainable, leaving recourse under Section 200 open.

Judicial control of investigation — exceptional writ interference - *Divine Retreat Centre*, as quoted and relied upon by the Court, preserves rare intervention under Article 226 on a clear showing that investigative power has been exercised mala fide, with abuse of power and noncompliance with Chapter XII CrPC. Even in such a case, the High Court can require observance of the Code's process, but cannot dictate the manner of investigation. The present order did not find such an exceptional case on the limited record before it.

Case-note :- ***1. Facts :*** Ramlali invoked Article 226 of the Constitution in W.P. No. 29550 of 2023. She sought a mandamus directing respondents 4 and 5 to register an FIR against respondents 6 and 7, investigate and then take appropriate steps towards prosecution; she also sought other suitable relief and costs. Counsel said that the police had not registered an FIR because the District Prosecution Officer had opined that the matter was civil in nature. The State opposed writ intervention, citing Supreme Court authority and a Madhya Pradesh High Court Division Bench ruling on alternative remedies, and submitted that the petitioner could file a complaint under Section 200 CrPC. The Court heard both sides and decided the writ on 9 January 2024.

2. Precedents — Considered : *Divine Retreat Centre v. State of Kerala and others, (2008) 3 SCC 542*, was quoted at length and applied. It recognises that, in rare cases, the High Court may exercise its power under Article 226 to require observance of Chapter XII CrPC where a clear case of mala fide exercise of investigative power, abuse of power and statutory noncompliance is shown. Even in such a case, the High Court cannot direct the manner of police investigation. Where the police fail to act on information, it directs the informant to the remedies under Sections 190 and 200 CrPC before a Magistrate, rather than routine writ proceedings. The quoted Supreme Court passage refers in turn to *Gangadhar Janardan Mhatre v. State of Maharashtra and All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India*: the Magistrate must inquire into the complaint as provided in Chapter XV. Where appropriate, the Magistrate may direct investigation, dismiss a complaint disclosing no offence under Section 203, or take cognizance and issue process upon a prima facie case.

The State also cited *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*. The Court separately quoted and adopted the Division Bench decision *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016. It states that mandamus to compel performance of the statutory duty under Section 154 can be denied if the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four exceptions in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It further states that *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, addresses the registration duty and not an unconditional entitlement to a writ without using Code remedies. These authorities supplied the basis for declining the present writ and preserving the Magistrate remedy.

3. Statutes considered : Article 226 of the Constitution provided the jurisdiction invoked to seek mandamus. Section 154 CrPC concerns the statutory duty to register information disclosing a cognizable offence, and Section 154(3) provides a further remedy when the police fail to act. Section 156(3) concerns a Magistrate's direction for investigation. Sections 190 and 200 provide for approaching the Magistrate by complaint and examination. The *Divine Retreat Centre* passage also describes the Magistrate's subsequent Chapter XV options, including Section 203 dismissal or process on a prima facie case, and Chapter XII investigation. These procedural remedies governed disposal of the writ; the Court did not decide the merits of the proposed FIR. The Court applied CrPC without identifying an underlying penal offence or deciding whether registration of an FIR was legally mandatory on the alleged facts.

4. Issues : The issue was whether the Court should entertain a writ seeking a direction to the police to register an FIR and take prosecution steps when the petitioner said the police relied on a District Prosecution Officer's civil-dispute opinion and the State pointed to available CrPC complaint remedies. The Court's quoted authorities also address the limited exceptional scope of Article 226 over mala fide investigation and the difference between the police's Section 154 duty and a litigant's access to writ mandamus.

5. Ratio / Findings : The Court reproduced *Divine Retreat Centre*'s rule that police inaction is ordinarily to be raised through a complaint before the Magistrate under Sections 190 and 200 rather than an Article 226 petition. The same passage recognises rare intervention where a clear case of mala fide exercise of investigative power, abuse of power and breach of Chapter XII is shown. Even then, the Court may require observance of the statutory process but cannot dictate how the police investigate. The Court then reproduced *Shweta Bhadauria*'s holding that mandamus directing registration of an FIR may be denied for failure to use the remedies under Sections 154(3), 156(3), 190 and 200, subject to the recognised *Whirlpool* exceptions. It also adopted the Division Bench's distinction that *Lalita Kumari*'s holding on Section 154 does not itself settle whether statutory remedies may be bypassed by invoking writ jurisdiction. Applying these principles to the relief sought, the Court found no case for directing police to register the offence and stated that the petitioner could approach the Magistrate under Section 200.

6. Relief : The Hon'ble High Court dismissed the writ petition as not maintainable. No FIR-registration, investigative or prosecution direction was issued. The petitioner was expressly left at liberty to approach the concerned Magistrate under Section 200 CrPC if she considered that an offence had been committed. No costs or further directions were awarded.

Ramlali v. The State of Madhya Pradesh and Others, W.P. no. 29550/2023, 09/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (746) Prev Next

Headnote :- Cancellation of bail / supervening conduct and witness influence - The Court observed that bail is a temporary release pending trial, not an acquittal; the liberty of an undertrial must be balanced with the interests of the complainant, society and a fair trial. On a Section 439(2) CrPC application, the accused's post-release glorification in a large public procession, coupled with a video showing him firing into the air and a supporter challenging the complainant, furnished grounds to cancel bail for misuse of liberty. The Court considered the video in open court; after viewing it, counsel for the accused did not dispute its contents. The Court also noted that witnesses had begun turning hostile, while describing a causal link with the accused's glorification or release as a possibility, not a proved finding.

Supreme Court precedent / public display after release and fair-trial apprehension - Applying *Ms. P. v. State of Madhya Pradesh and another, AIR 2022 SC 2183*, paras 28–32, the Court treated public displays following release and their effect on a complainant's bona fide fear of witness influence as material supervening circumstances for cancellation. *Ms. P.* had also addressed relevant material overlooked when bail was granted; the present cancellation was expressly grounded in subsequent misuse of liberty. The Supreme Court's observations were limited to bail and subsequent conduct, without deciding trial merits or foreclosing a fresh bail request upon new circumstances.

Case-note :- ***1. Facts :*** Ramlesh Bai applied under Section 439(2) of the Code of Criminal Procedure, 1973, to cancel bail granted to respondent No. 2 by the High Court on 16.08.2022 in M.Cr.C. No. 38920/2022. Respondent No. 2 was facing trial in Crime No. 133/2021 at Police Station Kachnar, District Ashoknagar, for alleged offences under Sections 420, 467, 468, 409 and 471 of the Indian Penal Code. The bail order required a cheque deposit of ₹5,00,000 in the account of the Chief Executive Officer, Zila Panchayat, Ashoknagar, and a cash surety of ₹1,00,000 before release. Those were conditions of the earlier bail order, rather than fresh conditions imposed in this proceeding. The applicant alleged that, immediately after release, more than 100 supporters garlanded the accused, touched his feet, chanted slogans and accompanied him in a procession as he stood and waved in an open jeep. She further alleged that he later fired shots in the air and a supporter challenged her. She filed a CD of the events with a certificate stated to be under Section 65-B of the Evidence Act, and submitted that the display undermined the morale of witnesses, some of whom were turning hostile. Relying *on Ms. P. v. State of Madhya Pradesh and another,* she sought cancellation. The accused opposed the application. He alleged that it was motivated by hostility arising from his complaints against the applicant's husband, and also referred to the husband's criminal antecedents. His counsel characterised the welcome as ordinary social conduct and initially alleged that the CD was doctored. The Court played the CD in open court in the presence of counsel. After viewing it, counsel did not dispute its contents or identify a basis for the tampering allegation. He also admitted the public welcome and procession.

2. Precedents — Considered : *Ms. P. v. State of Madhya Pradesh and another, AIR 2022 SC 2183*, was the Supreme Court authority quoted and applied by the Court. In the quoted paragraphs 28–32, the Supreme Court considered post-release social-media posters and celebratory captions projecting the accused's influence, and assessed their effect on the complainant's bona fide apprehension of an unfair trial and witness influence. On that record, it held that relevant material had been overlooked when bail was granted and that the subsequent adverse conduct also warranted cancellation. It set aside bail and directed surrender. It expressly confined its observations to the bail order and subsequent conduct, leaving the merits to be decided at trial and allowing an application for fresh bail if new circumstances arose. The present Court applied that reasoning to a different form of public display: the admitted mob reception and procession, a video showing firing in the air and a supporter's challenge. The Court grounded its order on misuse of liberty after release.

3. Statutes considered : Section 439(2) CrPC was the provision invoked for cancellation of bail; the Court applied it to the accused's conduct after release and its effect on the administration of justice. Sections 420, 467, 468, 409 and 471 IPC identify the alleged offences in the pending trial and were not

interpreted or adjudicated. The applicant stated that the CD was accompanied by a certificate under Section 65-B of the Indian Evidence Act, 1872; the Court viewed it in open court, and the accused's counsel ceased to dispute its contents.

4. Issues : (i) In light of *Ms. P.*, did the accused's conduct following conditional bail, particularly the public procession, display of support, recorded firing in the air and challenge to the complainant, amount to misuse of liberty warranting cancellation under Section 439(2) CrPC? (ii) Did the allegation that the CD was doctored, or the claim that the reception was an ordinary social welcome, displace the applicant's account after the video was played and counsel made admissions? The underlying IPC charges and the merits of the trial were not for determination.

5. Ratio / Findings : The Court examined the CD in open court because the accused had alleged manipulation. After viewing it, counsel did not dispute the contents or identify a reason for alleging fabrication; he also admitted the gathering, garlanding, slogans and procession. The Court therefore evaluated the public display following release on the basis of the video and these admissions. It also noted the scene in which the accused was seen firing in the air and a supporter was heard challenging the applicant.

Applying the Supreme Court's reasoning in *Ms. P.*, the Court held that presenting an accused on release as a public hero through such conduct was adverse to society and to the administration of justice. It stressed that bail had been granted after considering the period of detention and subject to the stipulated deposit and surety; bail is temporary respite and cannot be equated with acquittal. The interests of the undertrial, complainant and society must be kept in balance. The Court noted that witnesses had begun turning hostile, but said that this "may" have resulted from the glorification or release; it did not make a definitive finding of causation or guilt. Considering these circumstances together, it found misuse of the liberty conferred by bail and cancelled the earlier order. In *Ms. P.*, the Supreme Court confined its observations to the bail order and subsequent conduct, leaving the trial merits open and permitting a fresh bail application if new circumstances arose.

6. Relief : The Hon'ble High Court allowed the application for cancellation of bail and cancelled its order dated 16.08.2022 in M.Cr.C. No. 38920/2022 on the ground of misuse of liberty. Respondent No. 2 was directed to surrender before the trial court within one month, by 16.11.2022.

Ramlesh Bai v. State of Madhya Pradesh and Ors., M.Cr.C. no. 45937/2022, 17/10/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (747) Prev Next

Headnote :- Eyewitness identification / darkness and cross-examination - The Court observed that an asserted identification of an assailant fleeing a night-time scene cannot be accepted by disregarding admissions in cross-examination that the scene was dark, the injuries could be seen only after a chimney was lit, and the assailant was initially unknown. Banwari (PW1) did not name the appellant either in the FIR or in his police statement; Guddya's claim to have identified him and informed Shivraj (PW5) was contradicted by Shivraj's account that he was told only that somebody had assaulted their father. The trial court's two-line dismissal of cross-examination failed to assess the witnesses' credibility in the light of material admissions affecting the appellant's liberty.

Chance witness / explanation and subsequent silence - Following *Jarnail Singh v. State of Punjab, (2009) 9 SCC 719*, the Court held that the label "chance witness" does not itself require rejection in the Indian setting, but presence and conduct require cautious scrutiny. The quoted Supreme Court passage treated explanation for presence and subsequent disclosure to others as material to credibility. Gajraj (PW4) claimed to have seen the appellant flee while checking his cow, yet did not tell the family or others at the scene, although he reached there. He disclosed the alleged sighting only in his police statement two days later. The scene was also dark. The Court found his claim that he had seen the appellant fleeing unreliable.

Forensic report / exhibit and proof of blood - Although an FSL report had been produced before the trial court, it was not exhibited under Section 293 CrPC and could not be read against the appellant or for the prosecution. In the absence of usable forensic proof of blood, still less human blood, on the seized farsa or clothing, the alleged recovery did not establish its incriminating character. An independent witness's failure to support the seizure did not automatically preclude proof of seizure through police witnesses; the forensic link remained missing on this record.

Circumstantial evidence / incomplete links and acquittal - The prosecution relied on two asserted circumstances: the appellant seen running away and recovery of a bloodstained farsa and shirt. The identification testimony failed, the chance witness was unreliable, and the alleged blood link lacked usable FSL proof. The Court found the death homicidal on the medical evidence. That evidence did not identify the perpetrator. With no other circumstance connecting the appellant, the prosecution failed to prove guilt under Sections 452 and 302 IPC; conviction and sentence were set aside.

Constitutional compensation / faulty investigation and prolonged incarceration - Referring to *Ankush Maruti Shinde v. State of Maharashtra, (2019) 15 SCC 470*, in which the Supreme Court awarded compensation under Article 142 for false prosecution, the Court observed that acquittal alone does not invariably require compensation. Here it found a faulty investigation, false implication of an appellant suffering from psychosis, and incarceration since 21.12.2008—approximately 13 years—in violation of his life and liberty under Articles 20 and 21. It ordered the State to pay ₹3 lakh within one month, preserved a civil damages suit, and permitted the State to recover the amount from witnesses if it chose.

Case-note :- ***1. Facts :*** Ramnarayan appealed under Section 374 CrPC against the judgment dated 22.02.2010 passed by the Additional Sessions Judge, Chachoda, District Guna, in Sessions Trial No. 9/2009. He had been convicted under Section 452 IPC and sentenced to three years' rigorous imprisonment and ₹500 fine (one month's rigorous imprisonment in default), and under Section 302 IPC to life imprisonment and ₹1,000 fine (two months' rigorous imprisonment in default). At about 9 p.m. on the relevant night, Jaswant was found injured in the courtyard after cries and sounds of beating. The initial report by his son Banwari did not identify an assailant. Doctors noted multiple head and other injuries; Jaswant died after referral to Guna on 20.12.2008. The appellant was arrested on 21.12.2008. Police claimed to have seized a farsa and clothing said to be bloodstained. The appellant denied guilt. The trial included a period of treatment for psychosis after the jail reported his condition; a defence witness was also called on mental instability.

The State's case on appeal depended on two asserted circumstances: the appellant was seen running from the scene, and a bloodstained farsa and clothing were recovered from him. The defence challenged the ability of witnesses to identify anyone in darkness, the inconsistent and belated accounts, and the absence of usable forensic proof connecting the articles to blood. It also alleged false implication arising from property interests and referred to the appellant's mental condition. The State supported the conviction while conceding that the purported sighting was its only other incriminating circumstance. The appellate court assessed the medical evidence, each significant witness, the effect of cross-examination, the FSL report, and the consequences of the resulting acquittal.

2. Precedents — Considered : *Jarnail Singh v. State of Punjab, (2009) 9 SCC 719*, paragraphs 21–23, was quoted and applied to Gajraj (PW4). The Supreme Court passage explained that a chance witness is not inherently suspect merely because present by chance; the expression is especially ill-suited to ordinary Indian social life. Such testimony nevertheless calls for cautious scrutiny of a plausible explanation for presence, and later conduct, including whether the witness promptly told others, may matter. The passage referred to *Sachchey Lal Tiwari v. State of U.P. on the* terminology, and cited *Satbir, Harjinder Singh*, *Acharaparambath Pradeepan*, *Sarvesh Narain Shukla*, *Shankarlal* and *Thangaiya* on scrutiny and conduct. Applying *Jarnail*, the High Court found that Gajraj's silence at the scene and until the police recorded his statement two days later, together with the darkness, undermined his asserted identification.

Ankush Maruti Shinde v. State of Maharashtra, (2019) 15 SCC 470, was cited for the Supreme Court's award of compensation to persons falsely prosecuted in exercise of Article 142. The High Court invoked the example while grounding its own compensation direction in the appellant's rights under Articles 20 and 21, the faulty investigation, false implication and almost 13 years in custody. The Court qualified that proposition by observing that mere acquittal does not, in every case, require compensation.

3. Statutes considered : The appeal against conviction was brought under Section 374 CrPC. Section 293 CrPC was materially applied because an FSL report produced before the trial court had not been exhibited; the Court held it could not be read against the appellant or for the prosecution. Other IPC sections 307 and 324 appeared in the police

charge-sheet background but were not convictions determined in the appeal. Articles 20 and 21 of the Constitution were invoked for the appellant's life and liberty and the compensation direction. Article 142 was mentioned as the source of the Supreme Court's power in *Ankush Maruti Shinde*, not as a power exercised by the High Court. No Section 84 IPC defence was adjudicated merely because psychosis was described.

4. Issues : (i) Did the medical record establish homicidal death and, separately, was the appellant proved to be the perpetrator? (ii) Could Banwari, Guddya and Kamleshbai reliably identify a fleeing person in darkness when their cross-examination, the FIR naming no assailant and Shivraj's account were considered, and had the trial court properly assessed those admissions? (iii) Did Gajraj's claimed chance sighting withstand scrutiny of his presence and failure to tell anyone until his police statement? (iv) Did the unexhibited FSL report or the seizure testimony establish blood on the farsa or the appellant's clothing, and was the circumstantial case complete? (v) Upon acquittal after prolonged imprisonment, did faulty investigation and false implication justify public-law compensation, and what relief should follow?

5. Ratio / Findings : The doctors described incised and lacerated wounds, head fracture, subdural haematoma and death from shock due to head injuries; one doctor accepted that a fall could cause injuries and neither identified a particular weapon. The High Court nevertheless found Jaswant's death homicidal. It treated this as distinct from proof that Ramnarayan committed the offence.

On identification, Banwari (PW1) conceded in cross-examination that it was dark and he could not identify the fleeing person; no assailant was named in the FIR or his police statement, and he did not disclose the source from which he claimed to have learned the assailant's name the following day. Kamleshbai (PW3) said the injuries themselves became visible only when a chimney was lit, and her account of who arrived and when was inconsistent. Guddya (PW2) claimed to see the appellant with an axe but acknowledged the darkness and differing arrival sequence; Shivraj (PW5) said Guddya had told him only that somebody had assaulted their father, not that Ramnarayan was identified. The Court rejected the asserted sighting by these witnesses. It specifically faulted the trial court for dismissing cross-examination in two lines: credibility must be assessed against material admissions elicited by the defence before life and liberty are curtailed.

Gajraj (PW4), saying he was checking his cow, also claimed to see the appellant fleeing with a farsa. He accepted darkness and did not tell family members or others at the scene of such an observation. His account emerged only with the police statement on 21.12.2008, two days after the incident. Applying the chance-witness principles from *Jarnail Singh*, the Court did not reject him for the label alone; it found his conduct and unexplained silence made the claimed sighting untrustworthy. The hearsay evidence of Murarilal (PW11) and the derivative account given by Mishrilal (PW6) did not overcome the failure of identification.

The FSL report had been produced before the trial court but never exhibited under Section 293 CrPC; it was not usable as evidence for the prosecution or against the accused. An independent witness did not support seizure of the farsa, although the Court acknowledged that police testimony can still prove a seizure. On this record there was no usable proof that the seized farsa or the appellant's clothing bore blood, let alone human blood. The Court therefore rejected the second alleged circumstance. With neither fleeing identification nor an incriminating recovery proved and no other link, guilt under Sections 452 and 302 IPC was not established.

For compensation, the Court cited *Ankush Maruti Shinde* and observed that acquittal does not automatically entitle every accused to compensation. It considered the investigation faulty and the appellant falsely implicated, noted his psychosis and custody from 21.12.2008 for approximately 13 years, and treated his life and liberty as infringed under Articles 20 and 21. The Court considered Pappu's suicide, the property interests and Mishrilal's connection to Pappu's widow, and found that the appellant had been falsely implicated with the sole intention of taking control of his share in the property. The Court found the honourable acquittal alone inadequate redress and ordered monetary compensation while leaving civil damages open.

The Court also noted that the unexhibited FSL report was not available on the record. The Court suggested that Pappu might have been the assailant; this was not a finding identifying another killer. Its conclusion that the appellant had been falsely implicated to obtain his property share was distinct from that tentative suggestion. The Court described

the period of custody from 21 December 2008 to 4 August 2021 as approximately thirteen years.

6. Relief : The Hon'ble High Court allowed the appeal. The convictions and sentences under Sections 452 and 302 IPC in the judgment of 22.02.2010 were set aside and Ramnarayan was acquitted. As he was in jail, immediate release was directed unless required in another case. The State was directed to pay ₹3 lakh within one month of the date of this order for false and malicious prosecution. He remained free to sue for additional civil damages; the State, if it wished, could seek recovery of the amount from witnesses.

Ramnarayan v. State of M.P., Cr.A. no. 171/2010, 04/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (749) Prev Next

Headnote :- Successive bail / examination of prosecutrix - The Court observed that the fact that a prosecution witness has already testified cannot, by itself, justify bail merely on the claim that the risk of future pressure or tampering has thereby been reduced. This was a fifth Section 439 CrPC application in a prosecution alleging gang rape, house-trespass, intimidation and POCSO offences; the prosecutrix had been examined and supported the prosecution. Applying its earlier *Bhupat Singh* ruling and the Supreme Court's analysis of bail factors reproduced there, the Court held that witness examination could not be considered in isolation from the nature and gravity of the accusation, supporting material and potential punishment.

Bail parameters / material relevance and earlier refusal - The quoted discussion of *Virupakshappa Gouda v. State of Karnataka, (2017) 5 SCC 406*, draws on *Chaman Lal*, *Prasanta Kumar Sarkar and CBI v. V. Vijay Sai Reddy* to require a reasoned, prima facie assessment of accusation, evidence, punishment, the accused's presence at trial, risk to witnesses and broader justice interests. It also invokes *Neeru Yadav and Dinesh M.N. v. State of Gujarat, (2008) 5 SCC 66*, against arbitrary bail based on irrelevant material while relevant factors are omitted. The quoted discussion also cautions against repeated applications on the same factual footing. In the present application, the Court applied the limited point that prior examination of witnesses could not override all other factors; the co-accused parity discussion belongs to the quoted *Bhupat Singh* case, not a new finding on parity here.

Case-note :- ***1. Facts :*** Ramniwas filed his fifth repeat application for regular bail under Section 439 CrPC. He had been arrested on 02.09.2017 in Crime No. 115/2017 at Police Station Bijoli, District Gwalior, on allegations of offences under Sections 376-D, 450 and 506 read with Section 34 IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012. His current ground was that the prosecutrix had now been examined, so the risk of influencing or pressuring prosecution witnesses had ended. The State opposed bail and said the prosecutrix had supported its case. The case diary was available. The Court cited its earlier *Bhupat Singh* bail order, recited the Supreme Court standards contained in that order, and dismissed this application.

2. Precedents — Considered : *Bhupat Singh v. State of M.P.,* M.Cr.C. No. 14129/2018, order dated 11.05.2018, was quoted as the Court's earlier ruling on the argument that examination of witnesses removes risk of tampering. It held that where the witnesses have supported the prosecution, their examination alone is not a ground for bail; the gravity of the accusation, evidence and punishment must also be considered. The Court noted that SLP (Crl.) No. 5103/2018 against that order was dismissed on 21.06.2018.

The quoted *Bhupat Singh* order contained a detailed discussion of *Virupakshappa Gouda and another v. State of Karnataka, (2017) 5 SCC 406*. The reproduced Supreme Court paragraphs 15–19 explain the relevant bail factors: prima facie support for the accusation, nature and gravity of the charge, severity of sentence, risk of failure to appear at trial, accused's conduct and standing, likelihood of repetition, witness influence and threat, and the larger risk to justice. The evaluation is prima facie, not proof of guilt beyond reasonable doubt. The passage draws *on Chaman Lal v. State of U.P.*, *Prasanta Kumar Sarkar v. Ashis Chatterjee* and *CBI v. V. Vijay Sai Reddy for* those factors. It quotes *Neeru Yadav v. State of U.P. on the* high value of liberty coupled with lawful, reasoned limits, and *Dinesh M.N. v. State of Gujarat, (2008) 5 SCC 66*, on the vulnerability of bail orders that rely on irrelevant considerations while excluding relevant ones. The earlier order also separately cited *Dinesh M.N.* and rejected a co-accused parity claim in its own fact setting. In the present application, the Court

applied that combined assessment of bail factors to the ground now advanced.

3. Statutes considered : Section 439 CrPC governed the repeat regular-bail application. No charge or guilt determination arose in this interlocutory order.

4. Issues : Was the prosecutrix's completion of testimony, said to remove the risk of pressuring or tampering with witnesses, by itself a sufficient ground for bail on a fifth application when she had supported the prosecution and the alleged offences carried serious consequences?

5. Ratio / Findings : The Court adopted its earlier *Bhupat Singh* analysis, which in turn relied on *Virupakshappa Gouda* and the Supreme Court's assessment of the relevant bail factors. Examination of a witness addresses one possible risk, but does not displace consideration of the prima facie case, the nature and gravity of the accusation, potential punishment and the larger interests of justice. The State stated that the prosecutrix's testimony supported the prosecution rather than undermined it. Accordingly, the bare assertion that her examination ended a tampering risk did not justify release on this fifth application. The quoted warning in *Dinesh M.N.* concerns bail orders driven by irrelevant material or failure to consider relevant facts; it was used as part of the governing analysis, not as a finding that any order granting bail to Ramniwas had been annulled.

6. Relief : The Hon'ble High Court dismissed the fifth application for regular bail.

Ramniwas v. The State of Madhya Pradesh, M.Cr.C. no. 37083/2019, 09/09/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (750) Prev Next

Headnote :- Investigation / accused's defence documents - The Court observed that an accused under investigation cannot use Section 482 CrPC to dictate the manner of investigation by requiring acceptance of documents selected for his defence. Applying *Romila Thapar v. Union of India, (2018) 10 SCC 753*, which reiterates that an accused has no entitlement to choose the investigating agency or control the manner of investigation, the Court refused the direction sought in Crime No. 166/2021.

Judicial monitoring / no supervision of an investigator's opinion - The Court relied *on Prabal Dogra v. Superintendent of Police, Gwalior*, M.Cr.C. No. 10446/2017, which quotes *Manohar Lal Sharma* on the distinction between monitoring an investigation, in rare and compelling circumstances, to ensure fairness, timeliness and freedom from interference, and supervising its direction and the investigator's conclusion. A Section 482 direction to receive selected defence papers would indirectly supervise this investigation. The absence of specific material alleging mala fides was noted in *Romila Thapar*; the absence of an allegation of dereliction was recorded in *Prabal Dogra*. The earlier decision's reproduction of *Lalita Kumari* on FIR registration and the allegations in that case concerning an MLC formed part of the quoted context; they were not issues decided in the present application.

Charge-stage material / limited analogy - The Court cited *State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568*, for the proposition that at the stage of framing charges an accused cannot insist on tendering defence documents for consideration. It used that charge-stage rule as an additional reason against compelling the investigator to accept selected defence papers during investigation.

Case-note :- ***1. Facts :*** Ramniwas Niranjan applied under Section 482 of the Code of Criminal Procedure, 1973, in relation to FIR Crime No. 166/2021 at Police Station Dursada, District Datia, in which offences under Sections 409 and 420 IPC were alleged against him and the co-accused. He submitted that he had supplied certain defence documents to the investigating officer, who refused to accept them, and requested a direction to receive those documents so that the investigation would be free and fair. The State opposed the request on the ground that an accused cannot direct the investigating officer to proceed in a chosen manner. The Court heard both sides, examined authorities on the accused's role and judicial control of investigation, and dismissed the application.

The refusal to compel receipt of the defence documents did not determine their authenticity, evidentiary value or ultimate admissibility.

2. Precedents — Considered : *Romila Thapar and others v. Union of India and others, (2018) 10 SCC 753*, paragraphs 24–30, was quoted at length and applied to the applicant's request for a direction. It set out the Supreme Court's consistent position that an accused ordinarily has no say in selecting an agency or determining the mode of investigation and prosecution. The quoted discussion referred to *Narmada Bai v. State of Gujarat on* agency selection, *Sanjiv Rajendra Bhatt v. Union of India on the*

manner of investigation, and *E. Sivakumar v. Union of India and Narender G. Goel on* the absence of an automatic right to be heard at the investigation stage. It also explained *Divine Retreat Centre v. State of Kerala*: neither accused nor complainant can select an agency, while Article 226 relief remains possible upon a convincing showing of mala fide exercise of investigative power. *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, was reproduced within *Romila Thapar* for sparing use of extraordinary CBI-transfer power; that transfer question was not before this Court. The other case names listed within *Sanjiv Rajendra Bhatt* and the paragraph-specific arrest facts of *Romila Thapar* formed part of the quoted context, rather than holdings independently examined in deciding this application. The High Court applied the controlling no-dictation principle.

Prabal Dogra v. Superintendent of Police, Gwalior and State of M.P., M.Cr.C. No. 10446/2017, order dated 30.11.2017, was the Court's earlier decision quoted in paragraph 8. In that decision, the Court reasoned that a fair trial protects both accused and complainant and that a court must not predetermine the investigating officer's opinion. Its quotation from the Supreme Court's *Manohar Lal Sharma* decision distinguishes monitoring in rare and compelling circumstances to ensure a fair, timely and independent investigation from supervision that directs its execution and could prejudge the Section 173(2) report and trial. The present Court adopted that distinction in refusing to direct the investigator's treatment of the applicant's papers. *Prabal Dogra* also reproduced *Lalita Kumari v. State of U.P., (2014) 2 SCC 1*, on mandatory registration under Section 154 CrPC and limited preliminary inquiry. The quoted passage states that judicial directions about the manner of investigation are impermissible unless bias arising from extraneous considerations or mala fides is shown.

State of Orissa v. Debendra Nath Padhi, (2005) 1 SCC 568, was invoked for the charge-stage rule that an accused cannot insist on filing defence documents for consideration at framing of charge. The High Court relied on that rule as an additional reason for refusing the direction sought at the earlier stage of investigation, not as a determination of a pending charge hearing.

3. Statutes considered : The application invoked the Court's inherent jurisdiction under Section 482 CrPC; the Court considered the limits on directing a particular course of investigation. Sections 409 and 420 IPC identify the alleged offences in the FIR but their ingredients or proof were not examined. The quoted *Prabal Dogra* passage discusses Sections 154 and 173(2) CrPC to distinguish FIR registration and the investigator's final opinion. Article 226 appears within the Supreme Court discussion as a possible route for appropriate relief on demonstrated mala fides, but this was a Section 482 proceeding.

4. Issues : (i) Whether, during the continuing investigation of the FIR, Section 482 CrPC could be used to compel the investigating officer to accept defence documents proffered by an accused and thus conduct the inquiry from that point of view. (ii) Whether the claim to a fair investigation justified judicial control of investigative steps, having regard to the distinction between limited monitoring and supervision and the principles governing intervention for mala fides or extraneous influence stated in the quoted authorities.

5. Ratio / Findings : The Court applied *Romila Thapar*'s summary of Supreme Court precedent: an accused cannot choose the investigating agency or dictate how the investigation or prosecution is conducted. The requested order would oblige the investigator to accept documents selected by the person being investigated and thereby direct the manner of investigation rather than merely protect its fairness. The Court's earlier *Prabal Dogra* decision, quoting *Manohar Lal Sharma*, explained why monitoring an investigation in rare and compelling circumstances to ensure freedom from delay or interference differs from supervising the investigative task and opinion; predetermining the investigator's opinion in the report under Section 173(2) risks encroaching on the trial court's role. The quoted authorities address intervention for substantiated mala fides or bias arising from extraneous considerations; their observations about the absence of specific allegations concerned those earlier cases. The Court also cited *Debendra Nath Padhi*'s charge-stage exclusion of defence documents as supporting its refusal to compel acceptance of defence documents at the earlier stage of investigation. This reasoning rejected the specific mandatory direction sought.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. No direction was issued to the investigating officer to accept the applicant's defence documents or investigate from his chosen perspective. The FIR and ongoing investigation were

not quashed; the Court gave no finding of guilt under Sections 409 or 420 IPC.

Ramniwas Niranjan v. State of MP, M.Cr.C. no. 51818/2021, 26/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (752) Prev Next

Headnote :- Ocular and medical evidence / weapon not recovered - The Court observed that non-recovery of the alleged iron rod does not by itself defeat otherwise credible direct evidence from the injured witness, especially where the MLC corroborates the injury account. Applying *Gulab v. State of Uttar Pradesh, Criminal Appeal No. 81/2021*, decided 09.12.2021, and *Rakesh v. State of U.P., (2021) 7 SCC 188*, it rejected the applicant's sole challenge to a Section 324 IPC conviction. *Gulab* distinguishes a case where both a firearm and a cartridge are recovered but the prosecution fails, without explanation, to obtain a ballistic comparison from a case in which no weapon is recovered; ballistic opinion is not an inflexible requirement in every case with credible eyewitness evidence. The present case involved an iron rod, not a firearm, and the Court relied on Devendra Singh (PW1) and MLC Ex. P/3 rather than an assumed forensic link.

Criminal revision / concurrent factual findings - Relying *on Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197*, the Court held that revisional power does not permit a fresh analysis of concurrent findings of fact in the absence of perversity, inconsistency with the record or jurisdictional error. The mere possibility of error is insufficient. It found no such defect in the courts' reliance on the injured witness and medical corroboration, and affirmed the conviction. It also declined to alter the three-month sentence because the applicant had absconded after dismissal of his appeal and remained at large until his arrest in 2021.

Case-note :- ***1. Facts :*** Rampal sought revision under Sections 397 and 401 CrPC against the Additional Sessions Judge, Ambah, District Morena's dismissal of Criminal Appeal No. 285/2015 on 15.09.2016, which affirmed the JMFC's conviction dated 21.11.2015 for the offence under Section 324 IPC. The trial court imposed three months' rigorous imprisonment, a ₹1,500 fine and fifteen days' further rigorous imprisonment in default. Complainant Devendra Singh alleged that on 23.06.2006, while returning toward Silawali from Dodri, Rampal waylaid him, struck him on the head and back with an iron rod and demanded ₹5,000 before leaving when Devendra promised payment. The doctor recorded a wound on his head; the prosecution examined Devendra (PW1), another witness, the doctor and the investigating witness. No iron rod was recovered. The applicant's appeal was dismissed while he was absent; he was arrested on 07.01.2021 after not surrendering. The delay in his revision was condoned on 09.02.2021 and he obtained bail pending revision. His sole challenge on the merits was that, because the alleged rod had not been seized, it could not be proved to have caused the injuries. The State relied on the injured witness's account, its medical corroboration and the limited scope of revision.

2. Precedents — Considered : *Gulab v. State of Uttar Pradesh, Criminal Appeal No. 81/2021*, decided 09.12.2021, was quoted at length and applied to the effect of non-recovery on credible ocular evidence. The Supreme Court held that failure to recover a weapon does not automatically undermine consistent eyewitness accounts supported by injuries. Within the *Gulab* passage, *Sukhwant Singh v. State of Punjab* was distinguished: when both the firearm and the cartridge used in the crime were recovered, an unexplained failure to obtain a ballistic comparison could materially weaken the prosecution. *Gurucharan Singh v. State of Punjab and State of Punjab v. Jugraj Singh* were quoted to show that there is no inflexible requirement of ballistic examination irrespective of compelling direct testimony and the surrounding circumstances. These firearm-specific qualifications were considered by analogy; Rampal's alleged weapon was an iron rod and the Court did not itself decide any issue of ballistic evidence. *Rakesh and another v. State of U.P. and another, (2021) 7 SCC 188*, was also quoted for the limited proposition that a mismatch between a recovered firearm and bullet may mean the actual weapon was not recovered, rather than automatically disproving a credible prosecution case. The Court used these authorities to reject the categorical objection based on non-recovery, not to declare every failure of recovery irrelevant.

Bir Singh v. Mukesh Kumar, (2019) 4 SCC 197, was quoted for restraint in disturbing concurrent findings of fact in revision in the absence of perversity; the

passage referred to *Southern Sales & Services v. Sauermilch Design and Handels GmbH, (2008) 14 SCC 457*, for the principle that even an erroneous order should not be interfered with where there is no jurisdictional error. Although the reproduced paragraph from *Bir Singh* mentions Section 482, the present application invoked Sections 397 and 401 and the Court applied the broader revisional restraint it articulated in paragraph 15. These authorities supported refusal to reassess the injured witness's testimony and the MLC as though hearing a second appeal.

3. Statutes considered : Sections 397 and 401 CrPC governed the criminal revision and its limited scope for reviewing concurrent findings of fact. Section 324 IPC was the offence of conviction; the Court affirmed the conviction on the injured witness's testimony and MLC, without undertaking a fresh, detailed interpretation of the provision. Section 5 of the Limitation Act was mentioned only because delay in filing revision had earlier been condoned. The original charge-sheet also referred to Section 323 IPC, but the charge and conviction determined here were under Section 324.

4. Issues : (i) Whether non-recovery of the alleged iron rod necessarily created reasonable doubt notwithstanding the direct account of the injured complainant and MLC corroboration. (ii) Whether the concurrent conviction contained perversity or inconsistency with the record sufficient for intervention in revision, and whether the short custodial sentence should be altered in view of the applicant's failure to surrender after appeal.

5. Ratio / Findings : The applicant relied on non-recovery of the weapon as his only substantive challenge. The Court distinguished proof by reliable direct testimony from a requirement to produce the physical weapon in every case. The Supreme Court's decision in *Gulab* supported reliance on reliable direct testimony while preserving circumstances in which an available but untested firearm and cartridge may make the missing forensic link material. *Rakesh* likewise did not treat a mismatch as automatically entitling the accused to acquittal. Devendra Singh (PW1), the injured complainant, supported the account of assault, and MLC Ex. P/3 corroborated the injury; non-recovery of the rod did not undermine that evidence taken together.

Independently, the High Court held that Sections 397 and 401 did not authorise revisiting concurrent factual findings merely because an alternative view of the evidence could be advanced. Under *Bir Singh*, interference required perversity or inconsistency with the record; no such defect was pointed out in relation to the injured witness and the MLC. The Court affirmed the conviction under Section 324. It also refused to reduce the trial court's three-month term: following dismissal of the appeal in 2016, Rampal had absconded until arrest in 2021, conduct that was material to the decision on sentence.

6. Relief : The Hon'ble High Court dismissed the revision in limine. The judgments and the Section 324 IPC conviction and sentence were affirmed. Rampal was then on bail; his bail bonds were cancelled and he was directed to surrender immediately before the trial court to undergo the remaining jail sentence. The trial record was ordered to be returned with a copy of the judgment for compliance.

Rampal v. State of M.P., Cr.R. no. 186/2021, 18/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (753) Prev Next

Headnote :- Unlawful assembly — Section 149 IPC — *Bhargavan v. State of Kerala, (2004) 12 SCC 414*, was quoted and applied: the common object of an assembly of five or more persons may develop during an incident and may be inferred from their acts, words, arms and surrounding conduct, but the first limb concerns an offence in prosecution of that object and the second requires positive knowledge of its likelihood, beyond a mere possibility. *Baladin v. State of U.P., AIR 1956 SC 181*, was quoted against liability from mere presence without proof of membership in the unlawful assembly. The field dispute showed a common object to stop Gopali from ploughing. Hanumandas fired the single proved fatal shot through the thigh; the general, uncorroborated allegations that everyone fired, considered with the injuries to persons on the opposing side, did not prove that the other appellants shared a common object to kill or had the necessary knowledge that killing was likely. Their Section 302/149 convictions were set aside; Hanumandas's direct Section 302 conviction and life term stood.

Injured and inimical relatives — *Raju alias Balachandran v. State of Tamil Nadu, (2012) 12 SCC 701*, incorporating *Dalip Singh*, required scrutiny in light of the facts of each case: family ties do not mechanically discredit witnesses, while proved

enmity may explain the implication of innocent persons along with the guilty. Narendra and Ramlakhan were present and injured. Their account of Hanumandas's one shot and specific injuries caused by lathi and axe matched the medical record, but the allegation of numerous other gunshots striking or nearly striking the party had no corresponding gunshot injuries; election and land disputes heightened the risk of exaggerated inclusion. The Court accepted the corroborated part of the account and did not impose constructive liability for murder on the others.

Rioting armed with deadly weapons — The Court cited *Jugat Ram v. State of Chhattisgarh, (2020) 9 SCC 520*, in assessing, in the circumstances of this case, an axe as an agricultural implement and the carriage of lathis during agricultural activity in a village. Mere carriage did not establish that these persons had come armed with deadly weapons for the purposes of Section 148; actual use could change that assessment. The hurt caused with lathi and axe remained proved. Santosh, Damodar and Pramod were convicted directly under Section 324 IPC and, on the State's acquittal appeal, Homesingh's acquittal was reversed to that extent; each received one year's rigorous imprisonment. The convictions under Section 148 and the broader convictions under Section 324/149 were set aside in the convicted appellants' appeals. The State did not obtain murder convictions against the previously acquitted Ramdutt or Satyaprakash.

Case-note :- ***1. Facts :*** This Division Bench decided four appeals by convicted accused (Criminal Appeal Nos. 212, 219, 268 and 285/2010) and one State appeal against partial acquittals (No. 346/2016), arising from Sessions Trial No. 165/2007, judgment of 11 March 2010. The prosecution said a large armed group arrived by Tata Sumo on 3 July 2007 as Ramgopal alias Gopali ploughed a field amid a dispute about land and its sale. Narendra (PW3), Gopali's brother, and Ramlakhan (PW6), their father, said Hanumandas fired the shot that struck Gopali's right thigh below the abdomen. The femur fractured, blood vessels were injured, and he bled to death. They also alleged many gunmen fired and that lathi/axe wielders assaulted the rescuers. Narendra and Ramlakhan had documented head and other injuries. The defence invoked election rivalry, disputed land ownership, enmity, alleged inconsistencies between claims of numerous shots and only one gunshot wound, as well as injuries to Homesingh and Munna and a claim that Rambaran was in hospital at the time. Other family witnesses asserted involvement, but the Court found that they reached the scene after the crucial shot or had serious credibility defects.

The trial court had convicted the appellants under Sections 302/149, 148 and 324/149 IPC, with life imprisonment and ₹500 fine for the murder count and one year's rigorous imprisonment for each other count. It had acquitted Homesingh, Ramdutt and Satyaprakash of the charged group offences, including Section 307/149; the State appealed with leave.

2. Precedents — Considered : *Bhargavan and others v. State of Kerala, (2004) 12 SCC 414*, was quoted at length and applied to Section 149 IPC. A common object, unlike common intention under Section 34, does not require prior concert; it may arise at the scene, and the number of persons, their conduct as a group, their words, the arms carried and the circumstances inform the inference. The first limb of Section 149 covers an offence in prosecution of the shared object; the second concerns an offence the members knew was likely in pursuit of it. "Knew" requires positive knowledge, not merely that a consequence might have been known or was possible. The High Court accepted stopping cultivation as the group's proved aim, then refused to extend it to the fatal shot on this record.

Baladin and others v. State of U.P., AIR 1956 SC 181, was quoted against inferring unlawful-assembly membership from physical presence alone, subject to acts or omissions establishing membership or the circumstances covered by Section 142. That principle did not negate direct evidence that some participants had caused hurt.

Raju alias Balachandran and others v. State of Tamil Nadu, (2012) 12 SCC 701, was quoted on a related and interested witness who is also inimical to the accused. *Through Dalip Singh v. State of Punjab*, it rejects a sweeping presumption that relatives lie; ordinarily a relative would not screen the real culprit, but a personal grudge supported by the record may prompt the inclusion of another innocent person. Each witness's testimony must be assessed in light of the facts of the case. The High Court applied that distinction: the two injured relatives' specific account of Hanumandas and the assaults with lathis and an axe that were consistent with the medical evidence stood, while their collective account of numerous additional gunshots was not accepted

amid proved hostility arising from election and land disputes.

Jugat Ram v. State of Chhattisgarh, (2020) 9 SCC 520, was cited in the Court's assessment of whether lathis and an axe carried at an agricultural field by these assailants established that they had come prepared with deadly weapons for the purposes of Section 148. It also cited *Ram Charan v. State of U.P.*, Criminal Appeal No. 1164/2000, decided 23 April 2020, as contextual support.

3. Statutes considered : Sections 141 and 149 IPC concerned the disputed unlawful assembly, common object and constructive liability for murder and hurt; Section 142 was mentioned in *Baladin*'s qualification. Section 148 IPC concerned rioting while armed with a deadly weapon. Section 302 IPC formed the basis of Hanumandas's direct conviction for murder after the Court removed the reference to constructive liability; the other appellants' Section 302/149 liability failed. Section 324 IPC governed the directly proved hurt by Santosh, Damodar, Pramod and Homesingh. Section 307/149 was among the charges in the trial and State appeal, but no Section 307 conviction was entered in the final order. The FIR and investigation also mentioned Section 147, but the final disposition records no separate Section 147 conviction. Prior criminal cases and an SC/ST Act allegation were defence material about hostility, not substantive statutory holdings here.

4. Issues : Which witnesses actually saw the fatal shot; whether their injury records and the post-mortem supported one shot by Hanumandas and assaults by named lathi/axe wielders while undermining sweeping additional firing claims; whether the group intended or positively knew that Gopali would be killed when it arrived to stop cultivation; whether kinship, combined with established animosity arising from election and land disputes, required partial rejection rather than wholesale acceptance or disbelief; whether carriage of an axe and lathis in an agricultural setting established the offence under Section 148; and whether the State could reverse the three acquittals in whole or in part.

5. Ratio / Findings : The Court identified Narendra (PW3) and Ramlakhan (PW6), themselves injured, as the witnesses of the crucial shot. Other family and purported eyewitnesses arrived after hearing cries or firing, or had material delays in the recording of their statements, omissions and problems concerning their conduct. The post-mortem showed a single gunshot entrance in the inner right thigh and a large exit wound with a fracture of the femur and injury to blood vessels causing fatal blood loss. MLCs showed incised and lacerated wounds, not gunshot wounds, on Narendra and Ramlakhan. That supported Hanumandas's identified shot and particular assaults with blunt and sharp objects, but not the allegation that every named gunman fired numerous shots that supposedly hit or narrowly missed the group. The Court noted the prior election defeat, disputed temple/field sale and boundary controversy, and injuries to Homesingh and Munna. It considered the relatives' account usable in part under *Raju*, giving the other appellants the benefit of doubt about the exaggerated allegations of wider participation while retaining the supported part of the account.

The common purpose that the Court could infer was to stop Gopali's tractor and prevent him from cultivating the land. The ensuing dispute led Hanumandas to shoot him; on these facts the other participants were not proved to share a common object to kill or have positive knowledge that killing was likely under *Bhargavan*'s distinct limbs. *Baladin* cautioned against treating mere presence as proof of membership of an unlawful assembly. The Court therefore set aside the other convicts' convictions under Sections 302/149 and 324/149 and the conviction under Section 148. Hanumandas's fatal act remained proved directly under Section 302, with life imprisonment and ₹500 fine.

Santosh, Damodar and Pramod were identified by the injured witnesses in the lathi/axe assault, and the injuries to Narendra and Ramlakhan were consistent with the medical reports. Homesingh, previously acquitted, was similarly implicated in causing hurt supported by the medical evidence. The Court reasoned that an axe in the agricultural setting and lathis commonly carried by villagers did not, by possession alone, establish that deadly weapons had been carried for the purposes of Section 148. Actual use causing hurt still sustained direct Section 324 convictions. The State appeal succeeded only as to Homesingh's Section 324 liability, leaving the acquittals of Ramdutt and Satyaprakash and the acquittals on the other more serious charges undisturbed. A hospital certificate tendered for Rambaran was denied by its purported doctor and the hospital register contained overwriting.

6. Relief : The Hon'ble High Court allowed the criminal appeals to the extent of setting aside Sections 302/149, 148 and 324/149 convictions of Ramprakash, Ramsuresh, Munna, Ramvaran, Pramod Kumar, Totaram, Santosh and Damodar. Santosh, Damodar and Pramod were instead convicted under Section 324 IPC and sentenced to one year's rigorous imprisonment. Hanumandas Baba's criminal appeal was dismissed; his conviction was specified as direct Section 302 IPC with life imprisonment and ₹500 fine. The State's criminal appeal was partly allowed: Homesingh was convicted under Section 324 and given one year's rigorous imprisonment; no other reversal is recorded. Hanumandas was directed to surrender by 25 April 2022 to serve the remaining jail sentence, failing which the trial court could issue an arrest warrant. The four persons convicted directly under Section 324 were also directed to surrender by 25 April 2022 to serve their one-year terms, if not already served, with the same consequence for noncompliance. No fresh sentence under Sections 148, 302/149 or 324/149 remained against the relieved appellants.

Ramprakash and Ors. v. State of M.P., Cr.A. no. 212/2010 & 219/2010 & 268/2010 & 285/2010 & 346/2016, 12/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (754) Prev Next

Headnote :- Unlawful assembly — common object — Section 149 IPC - Applying *Bhargavan v. State of Kerala, (2004) 12 SCC 414*, the Court held that an assembly's purpose can be inferred from conduct and surrounding circumstances and can develop at the scene; the first limb of Section 149 requires an offence committed in prosecution of the common object; the second requires positive knowledge that the offence was likely, rather than a mere possibility. *Baladin v. State of Uttar Pradesh, AIR 1956 SC 181*, was considered on mere presence and Section 142 membership. The established object was to stop cultivation of disputed land; Hanumandas's later fatal shot was not shown to be within the common object or to be an offence that the others positively knew was likely. Their murder convictions by constructive liability were set aside.

Related and inimical witnesses — selective credibility - Applying *Raju alias Balachandran v. State of Tamil Nadu, (2012) 12 SCC 701*, including its quoted discussion of *Dalip Singh*, the Court scrutinised the injured relatives with care because of proved land and election enmity. Relationship alone did not invalidate their account of the identified shooter and the assaults corroborated by injuries; it also did not compel acceptance of the broader, uncorroborated allegations against every alleged gunman.

Witness observation — later arrivals and material improvements - The other claimed eyewitnesses had arrived after the shot or gave materially doubtful accounts, including Manish's delayed statement and improvements. Their presence near or after the occurrence did not establish direct observation of the fatal firing.

Ocular and medical evidence — accused-specific corroboration - A single fatal gunshot wound to the thigh and the absence of firearm injury to the two injured witnesses supported the identified shooting by Hanumandas but exposed the sweeping account of repeated firing by the others to reasonable doubt. The injured witnesses' incised and lacerated wounds supported the separately identified lathi and axe assaults.

Hurt and implements — possession distinguished from proved use - The Court declined to infer a common object to murder solely from the carriage of an agricultural axe and a lathi at the field. Separately, with reference to *Jugat Ram v. State of Chhattisgarh, (2020) 9 SCC 520*, and *Ram Charan v. State of U.P. (Allahabad High Court, 23.04.2020)*, it held that carrying those implements in that agricultural setting did not establish that the accused had come prepared with deadly weapons. Their proved use against the injured witnesses sustained direct Section 324 IPC liability for Santosh, Damodar, Pramod and Homesingh, while the collective convictions under Sections 302/149, 148 and 324/149 were set aside as specified in the order.

Case-note :- ***1. Facts :*** On 3 July 2007 Ramgopal alias Gopali was ploughing land at Bazariya near village Dhidhona. His father Ramlakhan and brother Narendra were nearby. The parties had a dispute about the land: the complainant family asserted a temple or ancestral connection, while a sale through Hanumandas and an intermediary to Totaram's wife was contested; there was also local election rivalry. According to the prosecution, a group arrived in a Marshal/Tata Sumo, several members carrying firearms, while Santosh, Damodar and others carried lathi or axe. The tractor was stopped and Hanumandas fired one shot at Ramgopal, striking his

right thigh. Narendra and Ramlakhan sustained injuries in the ensuing altercation. The dehati nalishi led to Crime No. 34/2007 at Pavai under IPC provisions including Sections 302, 307, 147, 148 and 149. Ramgopal died, and the post-mortem attributed death to a gunshot wound fracturing the femur and damaging blood vessels with excessive bleeding.

The prosecution examined fifteen witnesses and the defence three. Narendra (PW-3) and Ramlakhan (PW-6) were injured witnesses. Other relatives or asserted observers included Guddan (PW-4), Surendra (PW-5), Manish (PW-8) and Shashikant (PW-15). The defence alleged false implication because of the land and election disputes, challenged the omnibus firing allegation given the single firearm injury and the absence of gunshot injuries to the two injured witnesses, and relied on inconsistencies and delayed or improved accounts. Evidence also showed injuries to Homesingh and Munna on the accused side; the investigating officer had not established who inflicted them. The trial court's judgment of 11 March 2010 convicted the appellants under Sections 302/149, 148 and 324/149 IPC and acquitted Homesingh, Ramdutt and Satyaprakash. Four conviction appeals under Section 374 CrPC (Nos. 212, 219, 268 and 285 of 2010) and the State's appeal against the three acquittals (No. 346 of 2016) were decided together.

2. Precedents — Considered : *Bhargavan v. State of Kerala, (2004) 12 SCC 414*, was quoted and applied to Section 149 IPC. The common object need not be preceded by a meeting of minds and may emerge during the occurrence; it is inferred from the assembly's acts, language, arms and behaviour. The first limb requires the offence to be committed in prosecution of that object. The second requires knowledge that the offence was likely to be committed in prosecution of the common object; the quoted passage stresses that 'knew' demands positive knowledge, not what merely might have been known. The Court used these distinctions to refuse to impute Hanumandas's killing to the other appellants.

Baladin v. State of Uttar Pradesh, AIR 1956 SC 181, was quoted on the point that mere presence in an assembly does not, without an act or omission establishing membership or circumstances covered by Section 142 IPC, make a person a member of an unlawful assembly. The Court considered it alongside the common-object analysis; it did not treat mere arrival in the vehicle as conclusive of shared murder liability.

Raju alias Balachandran v. State of Tamil Nadu, (2012) 12 SCC 701, was quoted and applied for careful scrutiny of a related witness who also has enmity with the accused. The quotation reproduces *Dalip Singh v. State of Punjab*, 1954 SCR 145, which rejects a general assumption that relatives are unreliable but acknowledges that established animosity can motivate implication of an innocent person; each case turns on its facts. The Court accepted the injured relatives' corroborated account of the fatal shot and assault while rejecting their expanded account of other firing.

Jugat Ram v. State of Chhattisgarh, (2020) 9 SCC 520, and *the Allahabad High Court's Ram Charan v. State of U.P. (Criminal Appeal No. 1164 of 2000, decided 23 April 2020)* were referred to when the Court assessed carrying an axe or lathi in an agricultural setting. It then distinguished carrying the implements from their proved use to cause hurt.

3. Statutes considered : Sections 141, 142 and 149 IPC governed unlawful assembly, membership and constructive liability. The judgment distinguished an offence committed in pursuit of a common object from an offence members positively knew was likely; it also considered that an object may arise during the occurrence. Section 302 IPC governed the fatal shooting. Sections 148 and 324 IPC concerned the charges of rioting while armed with a deadly weapon and causing hurt; the final order replaced the collective Section 324/149 conviction with direct Section 324 convictions for the four persons found to have assaulted the injured. Section 307 IPC appeared among the FIR and acquittal charges but was not sustained or separately reasoned as a final conviction. Section 374 CrPC supplied the conviction-appeal jurisdiction; the State appealed the acquittals after leave.

4. Issues : First, whether the prosecution had reliably established Hanumandas as the shooter and proved the alleged participation of the remaining appellants, given the injured witnesses' family relationship, prior disputes, the medical findings and the accounts of the other asserted eyewitnesses. Second, whether the common object of the persons who came to the field was to kill Ramgopal, or whether his killing could otherwise be imputed to them under the two limbs of Section 149 IPC. Third, whether the lathi and axe bearers' possession and actual assaults justified the collective convictions or distinct Section

324 liability. Fourth, whether the State's challenge to the three acquittals succeeded on the evidence as to each acquitted person.

5. Ratio / Findings : The Court found that only Narendra and Ramlakhan witnessed the fatal firing and were themselves injured. Guddan and the others reached after the shot or failed to establish reliable observation; Manish's police statement was recorded after a substantial delay and omitted important particulars, Shashikant acknowledged that no assault took place before him, and Surendra's own account placed him away when the firing occurred. The injured witnesses consistently identified Hanumandas as the person whose shot hit Ramgopal. The post-mortem showed one gunshot injury in the right thigh and fatal vessel damage. Narendra's and Ramlakhan's incised and lacerated wounds were compatible with sharp and blunt assaults. Those parts of their account were corroborated, despite their relationship to the deceased.

The Court also found established enmity concerning both land and the Sarpanch election. It applied *Raju*'s cautious, case-specific approach without discarding all related testimony. The assertion that several other armed accused fired repeatedly at the deceased and injured witnesses was inconsistent with the single gunshot wound to the deceased, the absence of gunshot wounds to Narendra and Ramlakhan, and the absence of other corroboration. Against the background of enmity, the Court treated that part as exaggeration and gave the other alleged gunmen the benefit of doubt.

The evidence showed that the immediate purpose in approaching the tractor was to stop ploughing on disputed land; a dispute then arose and Hanumandas fired the fatal shot. Under *Bhargavan* and *Baladin*, arrival together, arms and presence alone could not establish that the other appellants shared an object to kill or positively knew that the killing was likely. Hanumandas remained personally answerable for murder, but the Section 302/149 convictions of the others could not stand. The Court also declined to infer that they had come prepared with deadly weapons merely because some persons carried lathi and an agricultural axe at the field, referring briefly to *Jugat Ram* and *Ram Charan*. It separately accepted the injured witnesses' medically supported identification of Santosh, Damodar, Pramod and Homesingh as assailants who used lathi or axe. Homesingh's trial acquittal could not be sustained for that hurt despite the enmity concern. The proof did not similarly justify disturbing the acquittals of Ramdutt and Satyaprakash. The Court's order differentiated personal murder liability, direct hurt liability, and unproved collective liability.

6. Relief : The Hon'ble High Court allowed the criminal appeals to the extent that the convictions and sentences of Ramprakash, Ramsuresh, Munna, Ramvaran, Pramod Kumar, Totaram, Santosh and Damodar under Sections 302/149, 148 and 324/149 IPC were set aside. Pramod, Santosh and Damodar were convicted under Section 324 IPC and sentenced to one year's rigorous imprisonment. Hanumandas Baba's criminal appeal was dismissed, but he was convicted under Section 302 IPC with life imprisonment and a fine of Rs. 500. The State's criminal appeal was partly allowed only as to Homesingh, who was convicted under Section 324 IPC and sentenced to one year's rigorous imprisonment; the acquittals of Ramdutt and Satyaprakash were left undisturbed. Hanumandas was directed to surrender by 25 April 2022 to serve the remaining life sentence. Santosh, Damodar, Pramod and Homesingh were directed to surrender by the same date to serve the one-year term if not already served. The trial court could issue arrest warrants on default.

Ramprakash and Ors. v. State of M.P., Cr.A. no. 212/2010 & 219/2010 & 268/2010 & 285/2010 & 346/2016, 12/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (755) Prev Next

Headnote :- Arrest — police discretion under Section 41 CrPC — Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, which quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, the Court held that a cognizable FIR does not require immediate mechanical arrest. Statutory power is exercised cautiously in light of necessity, offence, liberty and reputation. The complainant's Section 482 request to compel arrest in Crime No. 05/2022 was refused, without forbidding a later lawful arrest.

Investigation — no predetermined charge sheet — *D. Venkatasubramaniam* was also applied for the distinct rule that courts ordinarily do not direct police to record particular evidence, seize property, arrest or file a charge sheet: investigation may end in a charge sheet or a closure report on its findings. The

quoted Supreme Court decision noted the need for reasons and an opportunity to hear persons likely to be affected by drastic orders, referring to *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*. An order compelling both arrest and challan would improperly supervise this investigation; the Court declined it.

Section 173(1) CrPC — completion without unnecessary delay — The Court nonetheless applied the statutory duty to conclude investigation promptly and submit an appropriate final report. It directed the investigating officer to complete the case as early as possible and take lawful necessary steps, leaving the decision between closure and charge sheet open. The complainant could apply to the Superintendent of Police, Gwalior, for consideration of any grievance.

Case-note :- ***1. Facts :*** Ramprakash Singh Gurjar complained that, after his report led to registration of Crime No. 05/2022 at Police Station Behat, Gwalior, under Sections 427, 323, 294, 506 read with 34 IPC, police had taken no further effective action and had not arrested the named suspects. In a Section 482 CrPC application he sought a direction to respondent No. 2 to arrest them and file a challan before the competent court at the earliest. The question was the scope of judicial control over arrest, the form of the police's final report, and the pace of investigation.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted at length and applied. That Supreme Court case set aside a High Court order telling police to record statements, arrest, seize property and file a charge sheet on a schedule without sufficient reasons. Police have a statutory duty to investigate but ordinarily decide their own steps, and the product may be a charge sheet if the case is supported or a closure report if it is not. Section 482 is exercised sparingly for its stated purposes, not to predetermine the course of an investigation or require it to proceed from a chosen angle. The Supreme Court also faulted an order with drastic consequences for persons not heard and warned about casual superior-court observations influencing investigation. The present Court used the limits on judicial directions concerning investigation and arrest stated in *D. Venkatasubramaniam* to refuse Ramprakash's requested commands.

Within that passage, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, supplied the Section 41 CrPC distinction between permission to arrest in enumerated situations and an obligation to arrest immediately on an FIR. Cautious exercise depends on the nature of the accusation, necessity and the individual because arrest affects liberty and reputation. The High Court incorporated that distinction in its refusal. *D. Venkatasubramaniam* also quoted *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on hearing a person likely to be affected before a judicial order setting drastic criminal process in motion.

3. Statutes considered : Section 482 CrPC was the jurisdiction invoked; it did not authorise this complainant to control arrest or guarantee a charge sheet. Section 41 CrPC, through *M.C. Abraham*, gives police an arrest power and discretion in prescribed circumstances rather than an unconditional duty. Section 173(1) CrPC expressly requires every investigation under the chapter to be completed without unnecessary delay; the Court used it for the limited timing direction. The appropriate final report could be a closure report or charge sheet according to investigation. Sections 427, 323, 294, 506 and 34 IPC identify the FIR's allegations and common-intention allegation, but their elements were not determined.

4. Issues : Whether a complainant can compel police by an order under Section 482 to arrest named persons and submit a charge sheet once an FIR is registered; how the cautious Section 41 arrest discretion and possible closure outcome constrain that relief; and whether the Court may still require completion without unnecessary delay under Section 173(1) while leaving investigative choices to the officer.

5. Ratio / Findings : The Court rejected arrest as an automatic consequence of the FIR. *D. Venkatasubramaniam* and its *M.C. Abraham* quotation show that an investigator may assess circumstances before deciding whether arrest is legally necessary. The requested order would have selected both a coercive step and the final prosecutorial outcome before investigation was complete. Because the police can lawfully conclude that no case warrants a charge sheet, such an order would amount to judicial supervision and predetermine the investigation.

The Court then applied Section 173(1): police may not leave the investigation pending unnecessarily. It directed the officer to complete it as soon as possible, choose the legally appropriate final report, and take

necessary steps under law. This limited instruction controls timeliness and statutory compliance without ordering arrest, seizure or a challan. It left a grievance route to the Superintendent of Police. The factual assertion of police inactivity was not converted into a merits finding that the FIR allegations were established.

6. Relief : The Hon'ble High Court disposed of the application. The requested arrest and compulsory charge-sheet directions were denied. The investigating officer was directed to conclude Crime No. 05/2022 as early as possible and take the necessary lawful steps, with the choice of charge sheet or closure left to the evidence and law. Ramprakash could make an application to the Superintendent of Police, Gwalior, about any remaining grievance.

Ramprakash Singh Gurjar v. State of M.P. and Ors., M.Cr.C. no. 15039/2022, 30/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (757) Prev Next

Headnote :- Section 482 CrPC — offence disclosed by allegations taken at face value and exceptional intervention — *Padal Venkata Rama Reddy v. Koveuri Satyanarayana Reddy, (2011) 12 SCC 437*, was quoted and applied on the wide inherent power to be exercised sparingly to prevent abuse or secure justice, including the *R.P. Kapur* illustrations of legal bar or allegations that disclose no offence. It explained *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692*, through *State of Bihar v. P.P. Sharma*: its special, predominantly civil context does not create a universal licence to predict conviction by weighing contested proof. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, and *Vinod Raghuvanshi v. Ajay Arora, (2013) 10 SCC 581*, were also applied against prematurely stifling an investigation with substantial allegations. A hospital OPD slip and register entry were allegedly fabricated to place Ragini Pandey in hospital during an earlier assault, and a medical certificate was used to secure anticipatory bail later cancelled after an enquiry. The material supported prima facie prosecution of the applicant under Sections 420, 465, 466, 468 and 120-B IPC; the FIR was not quashed.

No mini-trial — defence representation and medical records — *Padal Venkata*, *Ujjal Kumar Burdhan* and *Vinod Raghuvanshi* precluded determining the reliability of witnesses and documents or the prospects of ultimate conviction at the quashing stage. *Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi, AIR 1976 SC 1947*, was quoted for the related limit on examining defence documents when reviewing process at the Section 202 complaint stage; the present case was an FIR investigation, so that authority supplied caution by analogy. The present Court found the allegation of a forged OPD slip and the institutional enquiry sufficient to allow the prosecution to proceed. The applicant's omission to disclose an earlier rejection of his own anticipatory-bail application was noted as a clean-hands concern, not made a substitute for the offence analysis.

Case-note :- ***1. Facts :*** Ramprasad Jatav and others applied under Section 482 CrPC to quash Crime No. 101/2018 at Police Station Dabra City, Gwalior, under Sections 420, 465, 466, 468 and 120-B IPC. The alleged fabrication grew out of another case, Crime No. 455/2017, in which Ragini and Dharmendra Pandey and others were accused of assault at about 5 p.m. on 4 June 2017. The new case alleged that they and Dr Virendra Gaud, a doctor at Civil Hospital Dabra, colluded to create a certificate showing Ragini's hospital admission from 9 a.m. that day to 10 a.m. the following day, furnishing an alibi. The applicant was accused of making a forged OPD slip or hospital-register entry to support the document. Ragini used the medical certificate for anticipatory bail in M.Cr.C. No. 7358/2017, granted 10 July 2017; after a State enquiry found the certificate forged, the High Court cancelled bail on 27 March 2018 in M.Cr.C. No. 9375/2017. The Supreme Court dismissed her special-leave challenge on 12 June 2018 and granted time to surrender.

Ramprasad's counsel said he was a driver with no responsibility for making OPD entries. His son's representation to the Superintendent of Police asserted that Dr Gaud and Jaswant Jatav fabricated medical material for money and that the doctor was shifting blame. The State relied on the enquiry and the use of the certificate in court. The judgment also noted that Ramprasad had not disclosed the rejection of his own anticipatory-bail application, M.Cr.C. No. 23726/2019, on 28 June 2019. The Court invoked a clean-hands principle but then proceeded to the prima facie merits; nondisclosure was not its sole ground.

The underlying assault case initially involved Sections 324, 323, 294, 341 and 506/34 IPC, with Sections 326 and 307 added after the injured person's medical report. In dismissing Ragini's special-leave challenge on 12 June 2018, the Supreme Court allowed seven days to surrender. Those proceedings concerned Ragini's bail and did not decide Ramprasad's guilt.

2. Precedents — Considered : *Padal Venkata Rama Reddy v. Koveuri Satyanarayana Reddy, (2011) 12 SCC 437*, was quoted extensively and supplied the central Section 482 framework. It describes three statutory purposes: giving effect to a Code order, preventing abuse of a court's process and securing justice. The power is wide but discretionary and exceptional; it is not an appeal on disputed facts, cannot override an effective specific statutory remedy or be used inconsistently with the Code, and should not predict conviction by conducting a meticulous examination of the merits. Its reproduced *R.P. Kapur v. State of Punjab* categories include a legal bar, face-value allegations not constituting the offence, no legal evidence or evidence that plainly fails to prove the charge, and abuse or justice concerns. The High Court accepted that framework, not an automatic rule that every allegation of false implication requires quashing.

Padal Venkata reproduced *State of Karnataka v. L. Muniswamy on* preventing a proceeding becoming a weapon of harassment, and *State of Orissa v. Saroj Kumar Sahoo on* avoiding an early probability calculation and treating alleged informant mala fides as secondary. It discussed *Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, (1988) 1 SCC 692*, and explained it through *State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222*. *Madhavrao*'s reference to special features and bleak conviction prospects in a predominantly civil dispute does not establish a universal power to weigh contested evidence and predict acquittal at the outset.

State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547, was separately quoted: Section 482 does not confer arbitrary power, and absent gross investigative abuse a court should be slow to interrupt an early investigation where allegations taken at face value disclose an offence. Its nested *State of W.B. v. Swapan Kumar Guha* discussion explains why gathering material for a disclosed offence ordinarily should continue; *Jeffrey J. Diermeier* restates sparing inherent power. *Vinod Raghuvanshi v. Ajay Arora, (2013) 10 SCC 581*, was also separately quoted and applied: a prosecution at its initial stage, supported by allegations of substance, should not be stifled by examining the likely proof or probability of conviction; uncontroverted allegations must first be tested for a prima facie offence. The present Court found the hospital fabrication accusation and enquiry to pass that threshold. It did not adopt a categorical ban on quashing every early investigation, as both authorities preserve exceptional abuse and absent-ingredient cases.

Smt. Nagawwa v. Veeranna Shivalingappa Konjalgi, AIR 1976 SC 1947, was quoted about a High Court impermissibly weighing defence documents, contradictions and probabilities when quashing process issued after a Section 202 CrPC complaint inquiry. This case involved an FIR and Section 482 application, so the High Court used the caution against conducting a mini-trial by analogy.

The nested authorities in *Padal Venkata* include *R.P. Kapur v. State of Punjab*, AIR 1960 SC 866; *State of Karnataka v. L. Muniswamy*, (1977) 2 SCC 699; and *State of Orissa v. Saroj Kumar Sahoo*, (2005) 13 SCC 540. They supply the recognised grounds of a legal bar, absence of offence ingredients and abuse of process and the restraint against premature probability assessment, rather than separate factual findings about this alleged hospital fabrication.

3. Statutes considered : Section 482 CrPC supplied the inherent quashing jurisdiction. Sections 420, 465, 466, 468 and 120-B IPC were the charged cheating, forgery of documents or public records, forgery for cheating and conspiracy allegations on which the Court found sufficient prima facie material for prosecution. Sections 324, 323, 294, 341, 506/34 and later 326/307 IPC belonged to the underlying 2017 assault case, not the charges decided here. Section 438 CrPC explained Ragini's and the applicant's anticipatory-bail proceedings. Section 202 CrPC appeared inside *Nagawwa*'s complaint-process setting, not the procedural stage of this FIR. Article 226 was mentioned in the *P.P. Sharma* passage quoted in *Padal Venkata* as an alternative constitutional route in other circumstances, not the application here.

4. Issues : Whether the allegations that the applicant prepared a false OPD slip or register entry, forming part of a forged hospital alibi certificate used for anticipatory bail, disclosed offences warranting investigation or prosecution; whether the Court should accept his contention that he was only a driver

and his son's accusations against the doctor or another worker at the Section 482 stage; and whether the broad inherent jurisdiction or the reference to special features in *Madhavrao* justified ending this case before contested facts were tried.

5. Ratio / Findings : The Court viewed the alleged creation of a false hospital stay for an accused at the time of an earlier assault as a direct attempt to influence judicial process through a public hospital record. It noted the use of the certificate in a bail hearing, the subsequent State enquiry finding fabrication and bail cancellation. The allegation against Ramprasad was concrete: he prepared an OPD slip or entry supporting that certificate, and the in-house enquiry found the register entries fabricated. His claim about his occupational role and his allegations against Dr Gaud or Jaswant Jatav raised a disputed factual defence. Under *Padal Venkata*, *Ujjal Kumar Burdhan* and *Vinod Raghuvanshi*, the Court would not resolve those competing accounts by weighing probabilities or trying the disputed authorship of the documents under Section 482. *Nagawwa* reinforced caution against using defence assertions to undo criminal process prematurely, with its distinct complaint-stage context acknowledged.

The Court also criticised the applicant's failure to mention his own prior anticipatory-bail rejection, but paragraph 13 returned to the alleged OPD fabrication and enquiry. It concluded only that enough material existed prima facie for Sections 420, 465, 466, 468 and 120-B prosecution. Nor did the Supreme Court's refusal of Ragini's special-leave challenge amount to an independent adjudication of Ramprasad's responsibility.

6. Relief : The Hon'ble High Court dismissed the application. The FIR in Crime No. 101/2018 and prosecution under Sections 420, 465, 466, 468 and 120-B IPC were not quashed.

Ramprasad Jatav and Ors. v. State of M.P. and Ors., M.Cr.C. no. 9138/2021, 17/02/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Charge — strong suspicion — limited sifting - *M.E. Shivalingamurthy v CBI, (2020) 2 SCC 768*, with its discussion of *P. Vijayan*, *Sudershan Chakkar* and *Debendra Nath Padhi*, requires prosecution material supporting grave suspicion and judicial sifting to determine whether the allegations, taken at face value, disclose the offence ingredients. It excludes a roving inquiry into the merits and consideration of defence evidence at the §227 CrPC stage. *Soma Chakravarty v State through CBI, (2007) 5 SCC 403*, requires accused-specific prima facie material and distinguishes material indicating possible commission of an offence from the proof required for conviction. *State (NCT of Delhi) v Shiv Charan Bansal, (2020) 2 SCC 290*, with *Ramesh Singh* and *Dipakbhai Patel*, confirms the scope for limited weighing, the need for material capable of being translated into evidence at trial, and the exclusion of an assessment of the probable defence. The CMHO inquiry was charge-stage material concerning the hospital register, not a merits determination.

Evidence Act Sections 25–26 — departmental statement - A co-accused's statement to a non-police departmental inquiry officer, outside police custody, did not fall within the prohibitions in those provisions concerning confessions to police officers or while in police custody. Its account of Ramprasad's OPD-register duties could be considered in the inquiry report for charge purposes, while the report's findings themselves still required proof at trial.

Handwriting proof — expert opinion - *Manorama Naik v State of Odisha*, Criminal Appeal 423/2022 (14.03.2022), explained that Evidence Act sections 45, 47 and 73 provide modes of proving handwriting or signatures beyond an expert opinion. The report attributing entries to another person was an opinion and was not before the trial court when charges were framed; it did not conclusively negate the material available at that stage or decide the trial issue.

Criminal revision — charge order - *State of Rajasthan v Fatehkaran Mehdu, (2017) 3 SCC 198*, rejects a test requiring certainty of guilt under section 397 CrPC at the charge stage. The revision against charges under IPC sections 120-B, 420, 467, 468 and 471 was dismissed; all defences were reserved and no High Court observation was to be treated as a merits finding.

Case-note :- ***1. Facts :*** In an earlier section 307 IPC prosecution, Ragini Pandey sought anticipatory bail using a medical certificate suggesting that she was hospitalised at Civil Hospital, Dabra at the incident time. The Sessions Court refused bail but the High Court granted it on 10 July 2017. Respondent no. 2 then sought cancellation, alleging that the certificate and hospital records had been falsified to secure bail.

A CMHO-directed inquiry found the hospital records manipulated; co-accused Dr Virendra Gaur stated in the departmental inquiry that Ramprasad Jatav, formally a driver, also maintained names in the OPD register. The High Court cancelled Ragini's bail on 27 March 2018; the Supreme Court dismissed her SLP on 12 June 2018 with liberty to surrender. Following the inquiry, Dabra police registered Crime 101/2018 concerning the alleged false medical certificate and official records. The charge sheet implicated Ramprasad and others. On 8 January 2022 the Second Additional Sessions Judge, Dabra, S.T. 104/2021, framed a charge of conspiracy and charges of cheating, forgery and use of forged documents read with conspiracy under IPC sections 120-B, 420, 467, 468 and 471; Ramprasad invoked sections 397 and 401 CrPC. He argued that Dr Gaur's inquiry statement was barred by Evidence Act sections 25–26, he was only a driver with no register duties, and a handwriting expert attributed the entries to Dr Gaur rather than him. The State and complainant distinguished the non-police inquiry and said expert opinion was not conclusive.

2. Precedents — Considered : *M.E. Shivalingamurthy v CBI, Bengaluru, (2020) 2 SCC 768*, was quoted for the section 227 discharge/charge test: if the prosecution's material, taken at face value, could not establish commission of the offence, there is no ground to proceed, while material supporting strong or grave suspicion suffices without assessing its probative value as at trial. A judge must sift for offence ingredients, broad probabilities and basic infirmities, not act as a prosecution post office or conduct a roving inquiry. Its discussion of *P. Vijayan v State of Kerala, (2010) 2 SCC 398*, developed the distinction between mere suspicion and grave suspicion; its references to *State of J&K v Sudershan Chakkar, (1995) 4 SCC 181*, and *State of Orissa v Debendra Nath Padhi, (2005) 1 SCC 568*, confined charge-stage consideration to the prosecution record and excluded a right to introduce defence documents. The High Court used this composite framework to resist a premature exoneration based on competing interpretations of the inquiry.

Soma Chakravarty v State through CBI, (2007) 5 SCC 403, was quoted for the distinction between material indicating that an accused might have committed an offence (charge) and proof beyond reasonable doubt (conviction), and for a judicially reasoned, accused-specific basis rather than suspicion alone. *State (NCT of Delhi) v Shiv Charan Bansal, (2020) 2 SCC 290*, quoted *State of Bihar v Ramesh Singh, (1977) 4 SCC 39*, and *Dipakbhai Jagdishchandra Patel v State of Gujarat, (2019) 16 SCC 547*: limited sifting and weighing may ask whether the facts, taken at face value, disclose the offence, but no meticulous credibility assessment, weighing of the probable defence or certainty of conviction is required; the strong suspicion must rest on material capable of translation into evidence at trial. The Court adopted this preliminary standard and expressly preserved trial proof.

State of Rajasthan v Fatehkaran Mehdu, (2017) 3 SCC 198, addressed section 397 revision when a charge has been framed: the revisional judge tests material supporting strong suspicion of an offence that could be proved at trial, not the final test of guilt. This directly limited interference in Ramprasad's revision. *Manorama Naik v State of Odisha*, Criminal Appeal 423/2022, order of 14 March 2022, explained that Evidence Act sections 45, 47 and 73 offer ways to prove handwriting or signatures and expert opinion is not exclusive; the High Court applied it to the report naming Dr Gaur, while separately observing that this report had not been before the trial court at charge framing. The earlier Ragini bail and cancellation orders and Supreme Court dismissal of her SLP were case history, not legal precedents used to establish Ramprasad's guilt.

3. Statutes considered : CrPC §227 supplied the discharge/charge threshold as explained by the Supreme Court precedents, and sections 397 and 401 supplied the High Court's criminal revision jurisdiction. Evidence Act section 25 prohibits proof against an accused of a confession made to a police officer; section 26 likewise restricts a confession made in police custody unless immediately before a Magistrate. Neither prohibition was triggered by Dr Gaur's statement to a departmental officer when not in police custody. The inquiry statement/report could inform charge-stage assessment but was not substantive proof of its contents: the prosecution must prove them at trial. Evidence Act sections 45, 47 and 73 concerned expert opinion, handwriting familiarity and judicial comparison as potential means of proving a signature or writing. IPC Sections 120-B, 420, 467, 468 and 471 identified the conspiracy, cheating, forgery and use-of-forged-document charges framed by the trial court. IPC section 307 belonged to the earlier offence

underlying Ragini's bail application, not the forgery revision charge.

4. Issues : (1) Whether the charge-stage record created legally sufficient, individualised strong suspicion against Ramprasad despite his nominal driver appointment and claim of no OPD-register duties. (2) Whether Evidence Act sections 25–26 prohibited the use of Dr Gaur's statement in an inquiry run by non-police health officers and, if not, whether the report was proof at trial or only preliminary material. (3) Whether an expert opinion attributing the entries to Dr Gaur, unavailable to the trial court at charge framing, compelled discharge or could be examined with other handwriting proof at trial. (4) Whether the limited section 397/401 revisional standard allowed the High Court to overturn the charges by resolving such factual disputes now.

5. Ratio / Findings : The Court applied *M.E. Shivalingamurthy*, *Soma Chakravarty* and *Shiv Charan Bansal* to require prosecution material capable of supporting grave suspicion, while forbidding a premature weighing of credibility or probable defence. The health inquiry, made part of the case diary, recorded both alleged manipulation of the Civil Hospital record and a duty attributed to Ramprasad to enter patient names in the OPD register. His official driver designation did not, at this stage, conclusively exclude additional register work; the Court noted possible temporary allocation due to staffing constraints. It read Evidence Act sections 25 –26 according to their conditions concerning a police officer or police custody: Dr Gaur had spoken to a District Leprosy Officer/DHO who was neither police nor holding him in police custody. The statement could therefore be considered for the inquiry report's limited charge-stage purpose. Crucially, the report was not itself substantive evidence, so its assertions remained for the prosecution to prove in trial. *Manorama Naik* prevented treating handwriting expert opinion as the sole route to identifying a writer; the report relied on was not before the trial court when charges were framed and, even if considered as an opinion, did not by itself negate the other prima facie material. *Fatehkaran Mehdu* required the revision inquiry to focus on strong suspicion founded on material, rather than certainty of guilt. Sufficient preliminary material remained to require trial on the framed charges. Its observations were expressly confined to charge-stage review; the applicant retained all lawful defences.

6. Relief : The Hon’ble High Court dismissed the criminal revision and the 8 January 2022 charge-framing order in S.T. 104/2021 stood. The High Court expressly directed that its observations not be treated as findings on merits and left the applicant free to raise all lawful defences before the trial court. It expressly directed that its observations not be treated as findings on merits and left the applicant free to raise all defences before the trial court in accordance with law.

Ramprasad Jatav v. State of Madhya Pradesh and Ors., Cr.R. no. 600/2022, 25/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Circumstantial evidence — complete chain - *Sharad Birdhichand Sarda v State of Maharashtra, (1984) 4 SCC 116*, supplied the five strict conditions; *Pudhu Raja v State, (2012) 11 SCC 196*, rejected grave suspicion as proof; *Ram Singh v Sonia, (2007) 3 SCC 1*, and *Inspector of Police v John David, (2011) 5 SCC 509*, required clinching links that exclude reasonable innocence. *John David* reproduced the formulations in *Ram Balak*, *C. Chenga Reddy*, *Padala Veera Reddy*, *Raja Ram* and *Jagbir Singh*. The Court examined each claimed link and upheld the convictions on reliable identification of the accused and supporting firearm evidence despite the failed stolen-article link.

Property identification — mangalsutra - Seizure from Ramdas was established, but Radha was shown the item by the police before the parade, described only one article there, and never identified it in court; the parade officer was not examined. *Ashish Batham v State of M.P., (2002) 7 SCC 317*, required caution about an identification parade without comparable articles. *Rajesh v State of Haryana, (2021) 1 SCC 118*, and *Dana Yadav v State of Bihar, (2002) 7 SCC 295*, distinguish substantive in-court identification from investigative corroboration; Evidence Act section 9 and CrPC section 162 informed the Court's rejection of the police identification and the unreliable later parade. The recovery consequently ceased to link Ramdas to the stolen mangalsutra.

Identification of accused — prior display — injured eyewitness - *C. Muniappan v State of T.N., (2010) 9 SCC 567*, rendered Munni Devi’s parade

identification ineffective because she had already seen the arrested men. Dataram denied exposure and identified the three in a parade and in court with distinct assigned acts; the parade officer supported him despite misaligned memo annotations. *Noorahammad v State of Karnataka, (2016) 3 SCC 325*, applying *Dana Yadav*, treats prior identification as prudential corroboration, subject to reliable observation exceptions. *Baleshwar Mahto v State of Bihar, (2017) 3 SCC 152*, with *Abdul Sayeed* and *Jarnail Singh*, supported the reliability of his account, given his presence confirmed by injury, subject to major contradictions. The medical wounds, close view and recorded light sustained the identity finding; *Ramesh v State, (2010) 15 SCC 49*, was cited on rural witnesses' ability to identify in limited light, although here the light was expressly on.

Ballistics — distinct arms liability - The spot cartridge was forensically matched to the pistol recovered from Kunjilal; the bullet comparison was only approximate because rifling marks were inadequate. Dataram's evidence and Hotam's fatal firearm injury corroborated use. Due prosecution sanction was recorded. All appellants' IPC section 396 with MPDVPK Act section 11/13 convictions and life sentences stood; Kunjilal's additional Arms Act section 25(1-B)(a) and section 27 convictions and concurrent seven-year terms stood.

Case-note :- ***1. Facts :*** In the early hours of 20 November 2006, five intruders entered Dataram's home, where Mangal and Radha slept downstairs with their infant. According to the prosecution witnesses, the intruders took jewellery, cash and a phone; Dataram, Mangal, Radha and Munni Devi were hurt. Dataram described sharp-weapon blows to his head by Ramdas and an older assailant, later identified as Ramratan, and a firearm held by Kunjilal. Munni suffered a through-and-through gunshot wound to her hand, with Mangal injured on the jaw. When the men fled, Hotam pursued them and was shot in the chest. Post-mortem showed damage to the lungs and heart, shock and haemorrhage, and a homicidal death. The FIR named unknown offenders but asserted an ability to identify them. The police seized a cartridge and bullet from the scene; recovered a pistol from Kunjilal and a mangalsutra from Ramdas; conducted person and article parades; obtained forensic evidence; and charged three apprehended men while investigation continued against the others. The trial court framed IPC section 395, 396 and 397 with MPDVPK Act section 11/13, and Arms Act charges. On 2 December 2011 the Special Judge (MPDVPK Act), Bhind, in Special Sessions Trial 23/2007, convicted all three under IPC section 396 read with MPDVPK Act section 11/13 and sentenced each to life imprisonment and a fine of ₹10,000, with six months' rigorous imprisonment in default. Kunjilal was additionally convicted under Arms Act section 25(1-B)(a), and separately under section 27 read with the MPDVPK provisions. For each Arms conviction, he was sentenced to seven years' rigorous imprisonment and a fine of ₹1,000, with one month's rigorous imprisonment in default. All sentences awarded to him were to run concurrently. The appellants' section 374 CrPC appeal attacked the accused and property identification, recoveries and completeness of the chain; the State invoked ocular and FSL corroboration.

2. Precedents — Considered : On circumstantial proof, *Sharad Birdhichand Sarda v State of Maharashtra, (1984) 4 SCC 116*, was quoted for five prerequisites: proven, conclusive circumstances consistent with guilt alone and a complete chain excluding a reasonable innocence hypothesis; "may be" guilt falls short of "must be." *Pudhu Raja v State, (2012) 11 SCC 196*, required reliable and clinching proof of each link and disallowed even grave suspicion as a substitute. *Ram Singh v Sonia, (2007) 3 SCC 1*, likewise warned against conjecture filling a missing link. *Inspector of Police v John David, (2011) 5 SCC 509*, repeated that rule and quoted the synthesis in *State of U.P. v Ram Balak*, which itself recalled the conclusive, no-gap tests of *C. Chenga Reddy*, *Padala Veera Reddy* and *Sharad Sarda* and cited *State of Rajasthan v Raja Ram and State of Haryana v Jagbir Singh*.

For property identity, *Ashish Batham v State of M.P., (2002) 7 SCC 317*, cautioned that a chain with a distinctive iron-wire hook had not been mixed with genuinely comparable chains, weakening that test. The Court applied this caution to Radha's description of a one-item mangalsutra display despite the memo's statement that similar articles had been mixed, and the parade officer's absence. *Rajesh v State of Haryana, (2021) 1 SCC 118*, set out that a parade tests memory at investigation, should ordinarily follow arrest promptly without prior display, is not statutorily compelled, is governed by CrPC section 162, and may corroborate, while in-court identification is substantive; omission of a

parade does not automatically make in-court evidence inadmissible and weight depends on the case. *Dana Yadav v State of Bihar, (2002) 7 SCC 295*, explained Evidence Act section 9 relevance, the in-court/parade distinction and the ordinary prudential need for corroboration where a witness identifies strangers. The Court used these principles both to reject the article identification and later to evaluate the accused separately. It held police identification unavailable as corroboration and a subsequent display-tainted parade untrustworthy.

Baleshwar Mahto v State of Bihar, (2017) 3 SCC 152, reproduced *Abdul Sayeed v State of M.P. and its* discussion of *Jarnail Singh v State of Punjab*: proof that a witness was injured supports the witness's presence and ordinarily the reliability of the account, but strong grounds such as major contradictions can discredit the account. The High Court used that principle for Dataram's evidence and medical corroboration, without accepting Munni's identity evidence after a separate defect. *C. Muniappan v State of T.N., (2010) 9 SCC 567*, held that a parade after the suspect or photograph has been shown to the witness loses its investigative purpose and stressed keeping a suspect screened before the parade. It was applied to Munni Devi's admitted pre-parade viewing, but not extended by speculation to Dataram. *Noorahammad v State of Karnataka, (2016) 3 SCC 325*, quoted *Dana Yadav* in depth: first-time in-court identification of a stranger normally needs earlier corroboration as prudence, not an absolute admissibility rule; a trustworthy witness's sustained observation, interaction or distinctive features can justify an exception. The High Court used it to support Dataram's independently corroborated identification. *Ramesh v State, (2010) 15 SCC 49*, was cited for the contextual ability of rural witnesses to identify in poor light; here the spot map and Dataram said a light was on, and victims saw intruders at close quarters.

3. Statutes considered : IPC section 396 governed the dacoity-murder conviction of all three; section 395 and 397 were earlier registered/framed charge provisions but no distinct final conviction under them was affirmed in the operative order. MPDVPK Act section 11/13 accompanied the section 396 conviction and Kunjilal's section 27 Arms Act conviction. Arms Act section 25(1-B)(a) and section 27 supported only Kunjilal's additional possession/use convictions, with due sanction for prosecution noted, but without a detailed separate licence or sanction analysis. Evidence Act section 9 made facts identifying a person or thing relevant, while CrPC section 162 affected the worth of police-stage identification as corroboration; a later fair parade remains investigative corroboration and in-court identification substantive. The investigating officer proved Kunjilal's section 27 Evidence Act memorandum and pistol recovery. CrPC section 313 examination initially omitted the FSL report; once the trial court exhibited it as C-1/C-2, further questions were put to Kunjilal. The High Court exercised appellate jurisdiction under CrPC section 374.

4. Issues : (1) Was Hotam's death homicidal, and did the witnesses' injuries corroborate presence and their account of the assault? (2) Under the circumstantial-evidence principles cited, were the recoveries, identities and forensic evidence individually reliable and jointly sufficient? (3) Was the mangalsutra proved as Radha's stolen property where police showed it before a delayed article parade, she described no comparable items, the officer did not testify, and there was no in-court production? (4) Did Munni's admitted pre-parade exposure also invalidate Dataram's distinct person identification, given his denials, parade memo alignment objections and his in-court account assigning different acts to the accused? (5) What did the pistol/cartridge comparison prove, despite an inconclusive bullet-to-weapon comparison, and did it sustain Kunjilal's Arms charges? (6) Did lighting and the witnesses' opportunity to see support identification, and should the trial convictions and sentences be disturbed? No independent defence trial evidence was led; the appeal sought reversal, while the State supported the judgment and relied on the forensic report.

5. Ratio / Findings : The post-mortem described the bullet traversing the chest and damaging both lungs and heart, an injury sufficient in the ordinary course to cause death; the doctor considered death nearly immediate. MLCs documented Munni's hand gunshot injury, Mangal's jaw wound, Radha's neck/scapula injuries and two bleeding, bone-deep incised wounds on Dataram's skull. The Court found their presence established, while evaluating their identity evidence separately. It recited *Sharad Sarda*, *Pudhu Raja*, *Ram Singh* and *John David* to insist on established, coherent circumstances rather than an inference built on suspicion. Gopal and Ramhet supported seizure of the mangalsutra from Ramdas; their kinship with Hotam, without

demonstrated interested falsehood, did not by itself disprove recovery. But Radha admitted seeing the item in the hands of the police before a parade three months later, described one object on a table despite the memo's statement of three similar ones, and the conducting Tahsildar was not examined. Crucially the mangalsutra was never produced and identified in court. Under *Ashish Batham*'s comparator caution and *Rajesh*/*Dana Yadav*'s investigation-versus-substantive evidence distinction, the article parade could not establish the item's identity and the recovered article lost its incriminating effect. The Court carefully separated proof of seizure from proof that the recovered article was the stolen property.

Gopal, Ramhet and the investigating officer established Kunjilal's pistol seizure. Seizure of a fired cartridge and bullet from the spot was not meaningfully challenged. FSL C-1 linked the cartridge to the pistol; a bloodstained bullet had barrel marks, but inadequate rifling marks for a firm comparison, and was only described as nearly matching the cartridge. This supported, without overstating the weaker bullet inference, Dataram's evidence that Kunjilal shot Hotam. The trial court's supplemental section 313 questions addressed the report after initial omission. As to persons, Munni had admitted that police showed her the arrested appellants before the parade, so *C. Muniappan* rendered her later identity evidence ineffective. That admission did not prove Dataram himself saw them: neither her precise answers nor Dataram's cross-examination established it. He identified the three in the parade and at trial, described Kunjilal's shot, Ramdas's farsa blow and the older Ramratan's sharp-weapon blow, learned their names only later, and said light was on. His parietal incised wounds matched the nature of the two described blows. The parade officer Michael Tirki testified to identification; ticks before all three names and written endorsements just above Kunjilal and Ramdas on a blank-paper form resolved the alignment objection, while Ramratan's age and Dataram's dock description reinforced his identity despite the absence of an aligned endorsement. Under *Noorahammad* and *Dana Yadav*, the corroborated in-court evidence was reliable; the Court also noted *Ramesh* on rural visual capacity, with the stronger record fact that light was actually on and victims had close encounters. It therefore upheld all three section 396 with MPDVPK convictions, and only Kunjilal's additional Arms convictions in light of recovery, FSL, firearm use and recorded sanction. It gave no freestanding detailed analysis of every ingredient of section 11/13 MPDVPK or of the earlier section 395/397 charges.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the Special Judge's conviction and sentence dated 2 December 2011 in Special Sessions Trial 23/2007. All three remained liable to life imprisonment, ₹10,000 fine each and six months' rigorous imprisonment in default under IPC section 396 read with MPDVPK Act section 11/13. Kunjilal's further conviction under Arms Act section 25(1-B)(a), and his conviction under section 27 read with the MPDVPK provisions, carried the recorded seven-year rigorous imprisonment and ₹1,000 fine with one month's default rigorous imprisonment for each; his sentences were clarified to run concurrently as ordered below. Ramratan, appellant no. 1, was on bail: his bonds were cancelled and he was directed to surrender immediately to serve the remainder. Kunjilal and Ramdas, appellants 2 and 3, were in jail and were to serve the remainder. Free copies to appellants and return of trial records for compliance were directed.

Ramratan and Ors. v. The State of Madhya Pradesh, Cr.A. no. 17/2012, 22/06/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (762) Prev Next

Headnote :- Negotiable Instruments Act — Section 138 — successive dishonour and notice - *MSR Leathers v S. Palaniappan, (2013) 1 SCC 177*, overruled *Sadanandan Bhadran v Madhavan Sunil Kumar, (1998) 6 SCC 514*: a cheque may be presented again within its validity and a fresh dishonour may provide the basis for prosecution even after an earlier notice, provided the notice and payment-default requirements of Section 138 and the complaint timing under Section 142 are satisfied. The present Court applied its *Devendra Prajapati* order to distinguish a third notice issued outside thirty days from information of a single cheque return: merely repeating notice without re-presentation creates no fresh statutory window. *Vishwanath Ghosh, 2010(4) MPLJ 99*, which had addressed avoidance of service of initial notices under the former one-cause approach, was considered in light of *MSR Leathers*. The revisional order challenged by the current applicant was set

aside and the JMFC complaint dismissal restored on a different ground.

Case-note :- ***1. Facts :*** Ramsingh Prajapati applied under Section 482 CrPC in MCRC 28445/2024 against a revision order of 18 April 2024 made by the II Additional Sessions Judge, Ganjbasoda, Vidisha, in Criminal Revision 9/2023. That order had displaced the JMFC's 10 December 2022 dismissal of a Section 138 Negotiable Instruments Act complaint in UN.CR. 83/2021. His counsel argued that the case was covered by the High Court's 6 December 2024 order in *Devendra Prajapati v Sachin Dixit*, MCRC 28446/2024, but invoked co-ordinate Bench authority *Vishwanath Ghosh v Ramesh Chandra Sindhi*, Criminal Revision 1569/2009, decided 11 February 2010, on unserved first two notices followed by a third notice issued later and treated as served. The High Court explained its treatment of that authority, then reproduced substantial portions of *Devendra*. That earlier, different case involved Cheque No. 022563 dated 23 November 2019 for ₹1,50,000, one dishonour on 9 January 2020, notices on 21 January, 1 February and 28 February, the third returned with refusal endorsement on 4 March, and complaint filed 5 April 2021. Its JMFC had dismissed the complaint on a different calculation; a Sessions revision had restored it, partly reasoning from refusal of the third notice and pandemic limitation extension. The *Devendra* High Court order restored its JMFC dismissal because the third notice was beyond thirty days from the single cheque return and no fresh presentment occurred. These detailed 2020 facts belong to *Devendra* and are not attributed to Ramsingh's own transaction. The present Court said Ramsingh's case was covered by the same legal conclusion, set aside his different revision order and restored his JMFC dismissal.

2. Precedents — Considered : *MSR Leathers v S. Palaniappan and another, (2013) 1 SCC 177*, was the controlling Supreme Court decision discussed directly and in the reproduced *Devendra* reasoning. It overruled *Sadanandan Bhadran v Madhavan Sunil Kumar, (1998) 6 SCC 514*, which had treated the first notice/cause as foreclosing prosecution on a later dishonour. *MSR Leathers* held that Sections 138 and 142 do not extinguish the holder's right to present an unpaid cheque again within its validity; a successive dishonour may be chosen as the basis of one prosecution if the statutory presentment, timely notice and payment-default conditions are freshly fulfilled. It was concerned both with the statutory wording and avoiding forced litigation when the holder wishes to allow time for settlement. That is different from sending repeated notices tied only to the same original dishonour after the Section 138 notice window has elapsed. The present Court applied this distinction through *Devendra*, without suggesting multiple prosecutions for the same dishonour or unlimited time after a single return.

Vishwanath Ghosh v Ramesh Chandra Sindhi, 2010(4) MPLJ 99, was a co-ordinate Bench authority put forward by the applicant. Its reasoning addressed a drawer evading service of initial notices and the difficulty under the then-prevailing *Sadanandan* approach if a later third notice was issued after the first thirty days but was treated as served. The Court explained that *MSR Leathers* has since removed the former bar on fresh presentment: a payee can re-present the cheque during its validity and send a new notice following a fresh dishonour. The Court declined protection for a later notice unsupported by a new presentment. *Devendra Prajapati v Sachin Dixit*, MCRC 28446/2024, order of 6 December 2024, was the High Court decision directly applied in the present case and was reproduced at length. Its discussion of the Supreme Court's *In Re: Cognizance for Extension of Limitation* order of 10 January 2022 recounted the revision court's pandemic argument on a cause said to arise in March 2020; the *Devendra* court instead resolved the earlier failure to issue a valid notice within thirty days of the January dishonour.

3. Statutes considered : Section 138 of the Negotiable Instruments Act, 1881, with its proviso, was decisive: a cheque must be presented within validity, written demand notice issued within thirty days of the payee's information about its return unpaid, and the drawer must fail to pay within the prescribed fifteen days after receipt. Section 142 governs the subsequent cause of action, complaint and time for institution. *MSR Leathers* permits a fresh compliant sequence after a new presentment and dishonour; a new notice on the same original dishonour cannot by itself restart the first thirty-day clock. The former Supreme Court restriction in *Sadanandan* had been overruled. Section 482 CrPC was the High Court jurisdiction through which the present applicant challenged the revisional revival of the complaint.

4. Issues : Whether a later notice treated as served after two initial unserved notices could sustain a

Section 138 complaint when, according to the applied *Devendra* reasoning, it was issued more than thirty days after information of a single dishonour and no fresh cheque presentation supplied a later return. Whether the reasoning of the co-ordinate Bench in *Vishwanath Ghosh* about service avoidance survived as a basis to overlook that timing after *MSR Leathers* allowed a fresh valid presentation. Whether the Sessions revision order in Ramsingh's case should stand or the JMFC dismissal be restored.

5. Ratio / Findings : The Court regarded the present case as covered by *Devendra* and explained why the applicant's reliance on *Vishwanath Ghosh* did not validate a late notice based on a single cheque return. Under *Sadanandan*, issuing the first notice had been treated as fixing the cause and barring a later presentment-based cause, prompting the co-ordinate concern that a drawer could evade service. *MSR Leathers* overruled that bar: a holder can present the cheque again within its validity and, if it is again dishonoured, issue a timely notice and proceed on the later default. In the reproduced *Devendra* reasoning, however, the cheque had been presented only once and returned on 9 January 2020. The notices of 21 January and 1 February were within thirty days but returned unserved; the 28 February notice on which prosecution was launched was outside the thirty-day period from that same return. The payee had not presented the cheque again after the second notice, so no later dishonour supplied a fresh statutory window. The perceived 4 March refusal and the later pandemic-extension discussion could not cure the missing timely notice condition. The present Court applied the same rule to set aside Ramsingh's revisional revival and restore dismissal on a different ground.

6. Relief : The Hon'ble High Court allowed the Section 482 application. The II Additional Sessions Judge, Ganjbasoda's 18 April 2024 order in Criminal Revision 9/2023 was set aside, and the JMFC, Ganjbasoda's 10 December 2022 dismissal in UN.CR. 83/2021 was restored, although the High Court supplied a different legal ground. The reproduced *Devendra* order separately concerned Criminal Revision 10/2023 and UN.CR. No. 81/2021.

Ramsingh Prajapati v. Rahul Dixit, M.Cr.C. no. 28445/2024, 17/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (763) Prev Next

Headnote :- Article 226 — police inaction on FIR request — alternative remedy - *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, distinguished the duty to register information revealing a cognizable offence from the remedy for police nonregistration: a complaint before the Magistrate under Sections 190 and 200 CrPC. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, allowed exceptional writ control upon clear mala fide abuse and Chapter XII noncompliance, but not judicial direction on how investigation is to be conducted; the ordinary remedy for police inaction lies before the Magistrate. *Shweta Bhadauria v State of M.P.*, W.A. 247/2016, applied the alternative-remedy rule subject to recognised exceptions and distinguished *Lalita Kumari*'s police-duty question. Direct mandamus was refused and liberty to use Section 200 CrPC/Section 223 BNSS was granted.

Magistrate remedy — distinction between Section 156(3) and complaint procedure - *Sakiri Vasu v State of U.P., (2008) 2 SCC 409*, explained written recourse to the Superintendent of Police under Section 154(3) and then a Section 156(3) application enabling a Magistrate to direct FIR registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed the need for the Magistrate to be prima facie satisfied, the possibility of recommending a change of investigating officer, and the Magistrate's inability to investigate personally. *Aleque Padamsee* identified Sections 190/200 complaint procedure as the response to continued inaction. The High Court's final liberty expressly concerned the Magistrate complaint route.

Case-note :- ***1. Facts :*** Ramsingh Thakur filed Writ Petition 18731/2024 under Article 226 seeking a mandamus to respondent No. 2 to consider and decide his application-cum-complaint at Annexure P/1 in light of *Lalita Kumari v Government of U.P., (2014) 2 SCC 1*, and such further relief as appropriate. He said that he had approached police for FIR registration but no action had been taken. The State argued that a direct FIR writ was not maintainable because an efficacious Magistrate complaint lay under Section 200 CrPC, which the order paired with Section 223 BNSS, 2023. The Court considered the pleaded contentions and State submission, framed the maintainability question, quoted Supreme Court and Madhya Pradesh

Division Bench authorities, and dismissed the petition with liberty to use the Magistrate route.

2. Precedents — Considered : *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, distinguished the police's Section 154 duty to register a cognizable offence from the correct forum when police fail to act. Sections 190 and 200 CrPC let the aggrieved person place a complaint before the Magistrate. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, was quoted to preserve rare Article 226 intervention for clear mala fide investigative abuse and Chapter XII noncompliance, while forbidding the writ court to dictate how police conduct investigation. For non-action on information, its quotation of *Gangadhar* described a Magistrate's complaint inquiry, possible investigation direction, dismissal under Section 203 or cognizance and process. The High Court invoked this to decline an ordinary writ for registration.

Sakiri Vasu v State of U.P., (2008) 2 SCC 409, was quoted for a staged response: written approach to the Superintendent under Section 154(3), followed, if necessary, by a Section 156(3) Magistrate application for FIR registration or proper investigation, with monitoring. *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed *Sakiri Vasu* and explained that a Magistrate who is prima facie satisfied may ensure registration or proper investigation and, if needed, recommend replacement of the investigating officer, while investigation remains a police function. It cautioned that direct writ petitions on routine nonregistration would flood High Courts. The present Court used these authorities to support the alternative-remedy rule. *Shweta Bhadauria v State of M.P.*, W.A. 247/2016 (20 December 2016), a Division Bench of this High Court, stated that mandamus to perform the Section 154 duty can be declined for failure to exhaust Sections 154(3), 156(3), 190 and 200 remedies, unless a recognised *Whirlpool Corporation* exception applies. It explained that *Lalita Kumari* addresses the police duty to register a cognizable report, not automatic entitlement to a writ bypassing remedies.

3. Statutes considered : Article 226 of the Constitution supplied the mandamus jurisdiction invoked, subject here to the ordinary availability of adequate criminal-process remedies and the narrow possibility of exceptional writ intervention in an investigation recognised in *Divine Retreat Centre*. Section 154 CrPC governed the police duty on cognizable information and Section 154(3) the written supervisory approach to the Superintendent of Police. Section 156(3) CrPC was quoted as a Magistrate's pre-cognizance power to direct registration or a proper police investigation and to monitor it when satisfied. Sections 190 and 200 CrPC supplied the cognizance and private-complaint route that the High Court expressly left open. Chapter XII CrPC was discussed in *Divine Retreat* concerning investigative abuse.

4. Issues : Whether alleged police inaction on Annexure P/1 justified Article 226 mandamus for consideration or FIR registration on the petitioner's *Lalita Kumari* reliance; whether statutory police and Magistrate remedies under Sections 154(3), 156(3), 190 and 200 ordinarily had to be pursued first; and whether an exceptional writ ground was established on this record.

5. Ratio / Findings : *Aleque Padamsee* supplied the critical distinction between the police duty to register cognizable information and the informant's ordinary judicial remedy if police do not act, a Magistrate complaint under Sections 190/200. *Divine Retreat Centre* preserved rare Article 226 intervention for clear mala fide investigative abuse and Chapter XII noncompliance, while forbidding a writ court to dictate police investigative steps. *Sakiri Vasu* explained written recourse to the Superintendent under Section 154(3) followed, if necessary, by a Section 156(3) Magistrate application permitting FIR registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe* made such action by the Magistrate conditional on prima facie satisfaction, permitted a recommendation to change the investigating officer, and left the investigation itself to the police. *Shweta Bhadauria* reconciled the ordinary alternative-remedy rule with *Whirlpool* exceptions and specifically distinguished *Lalita Kumari*, which Thakur invoked in his prayer: its police-duty principle does not itself create an unconditional direct writ remedy in disregard of Sections 154(3), 156(3), 190 and 200. Applying those authorities, the Court declined the writ and left a Section 200 CrPC/Section 223 BNSS complaint open.

6. Relief : The Hon'ble High Court dismissed the writ petition with liberty to Ramsingh Thakur, if he desired, to approach the Magistrate concerned under Section 200 CrPC or Section 223 BNSS, 2023, for redress of his grievance.

Ramsingh Thakur v. The State of M.P. and Ors., W.P. no. 18731/2024, 24/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (764) Prev Next

Headnote :- Abetment of suicide — Sections 107 and 306 IPC — intentional nexus - Instigation may be inferred from words, omission or a sustained course of conduct with a reasonable nexus that leaves the deceased feeling without another option; mental element and an active instigating or aiding role remain essential. *Chitresh Kumar Chopra v State (NCT of Delhi), (2009) 16 SCC 605, Praveen Pradhan v State of Uttaranchal, (2012) 9 SCC 734, Sanju @ Sanjay Singh Sengar v State of M.P., (2002) 5 SCC 371, Gangula Mohan Reddy v State of A.P., (2010) 1 SCC 750, M. Mohan v State, AIR 2011 SC 1238, Kishori Lal v State of M.P., (2007) 10 SCC 797,* and *Amalendu Pal v State of W.B., (2010) 1 SCC 707*, supplied the related tests. *State of W.B. v Orilal Jaiswal, (1994) 1 SCC 73*, cautioned that ordinary domestic discord and a victim's hypersensitivity do not themselves establish abetment. Refusal of the son's claimed property share and strained family relations, as alleged, disclosed no intentional inducement or aid by the father.

Section 482 — absence of offence ingredients in allegations taken at face value - The FIR, charge sheet and proceeding under Section 306/34 IPC were tested assuming the prosecution's allegations true. *Amit Kapur v Ramesh Chander, (2012) 9 SCC 460*, was considered for a tentative threshold assessment and the possibility of circumstantial instigation, not a full evidence trial. No specific positive act or proximate intentional assistance could be identified in the father's alleged refusal of property or belongings, so the proceeding against him was quashed. The Court had previously quashed the stepmother's proceeding by a separate 18 September 2017 order; this disposition concerned the applicant father.

Case-note :- ***1. Facts :*** Ramsingh Yadav, father of Sunil Yadav, petitioned under Section 482 CrPC to quash Crime No. 258/2016 at Police Station Shamshabad, Vidisha, its charge sheet and the consequential proceeding under Section 306 read with Section 34 IPC. Sunil was brought to the Community Health Centre after consuming poison and died during treatment; his father had taken him to hospital. The police made a marg inquiry, arranged postmortem and recorded maternal relatives' statements. The prosecution allegation was that Sunil's mother Rukmani Bai died when he was five or six months old; Ramsingh later married Rekha Bai and had two sons with her. Sunil married Puja Bai and had a daughter, but Puja also died by suicide. Sunil reportedly told his maternal relatives that relations with his father and stepmother were strained, left his child with the maternal grandfather, and went to Vidisha to work. He later came home for belongings but allegedly was refused; his asserted share in property was also denied. The father argued that even if all allegations were accepted, no Section 107 abetment ingredient was shown. The State asserted that denial of belongings and property left Sunil with no option but suicide. A separate 18 September 2017 order in MCRC 3448/2017 had already quashed proceedings against the stepmother Rekha Bai; the present application concerned the father.

2. Precedents — Considered : *Chitresh Kumar Chopra v State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, explained instigation under Section 107 as goading, provoking or encouraging an act. Specific imperative words are not indispensable, but conduct or omission must allow a reasonably certain inference of incitement; a sustained course of conduct creating circumstances in which the deceased feels there is no other option can suffice, while an angry utterance without intended consequence does not. *Praveen Pradhan v State of Uttaranchal, (2012) 9 SCC 734*, emphasised the alleged abettor's intention and a contextual inference, with no fixed formula; it also noted that at a quashing or charge stage the view is tentative rather than a final weighing. *Sanju @ Sanjay Singh Sengar v State of M.P., (2002) 5 SCC 371*, set out the Section 107 alternatives and required mens rea for instigation. The Court used these together to reject an inference that a property refusal itself intentionally urged suicide.

Gangula Mohan Reddy v State of A.P., (2010) 1 SCC 750, required a positive instigating or aiding act, clear mens rea and a direct role intended to push a person into suicide; it cautioned against attributing a death caused by hypersensitivity to ordinary domestic discord. *State of W.B. v Orilal Jaiswal, (1994) 1 SCC 73*, supplied the careful, context-specific warning that ordinary petulance and domestic differences not expected to drive a

similarly situated person to suicide should not be treated as abetment. *M. Mohan v State represented by Deputy Superintendent of Police, AIR 2011 SC 1238*, reiterated positive act, intention and direct conduct intended to drive the deceased to suicide, leaving no other option. *Kishori Lal v State of M.P., (2007) 10 SCC 797*, explained the distinct instigation, conspiracy and intentional-aid alternatives in Section 107 and Section 109's linkage to the specific abetted offence. *Amalendu Pal @ Jhantu v State of W.B., (2010) 1 SCC 707*, required proof of direct or indirect acts of incitement and cautioned that mere harassment without positive proximate action does not sustain Section 306; it explained intentional facilitation under Section 107's third clause.

Amit Kapur v Ramesh Chander, (2012) 9 SCC 460, cautioned that a court at the threshold forms a tentative view from the record and that incitement can sometimes be inferred from a series of acts or omissions that leave a person no alternative. The High Court checked the pleaded acts and found no intentional nexus here. *Ramesh Kumar v State of Chhattisgarh* appears within the *Amit Kapur* quotation on circumstantial instigation, and *Iqbal Singh*, *Surender*, *Kishori Lal* and *Sonti Rama Krishna* appear within the *Praveen Pradhan* quotation; only *Kishori Lal* was also quoted independently.

3. Statutes considered : Section 306 IPC punishes abetment when a person commits suicide. Section 107 IPC supplies three modes: instigation; conspiracy plus a further act or illegal omission in pursuance; or intentional aiding by act or illegal omission. Its explanations address wilful deception in instigation and conduct before or at an act that intentionally facilitates its commission. The cited Supreme Court cases required a mental process and sufficiently connected positive conduct, while recognising that intentional sustained acts or omissions may sometimes permit an inference. Section 482 CrPC supplied inherent jurisdiction to test whether allegations taken at face value established a prima facie offence.

4. Issues : Whether the father's refusal to give Sunil a claimed property share or allow removal of belongings, together with strained family relations after remarriage, could amount to Section 107 instigation, conspiracy or intentional aid of the suicide if every prosecution allegation were accepted. Relatedly, whether Section 482 permitted quashing the FIR, charge sheet and pending Section 306/34 proceeding at this threshold despite the State's inference that the deceased had no other option.

5. Ratio / Findings : The Court set out Sections 306 and 107 and surveyed the Supreme Court distinction between a merely distressing act and intentional incitement or facilitation of suicide. Instigation can be inferred without express words when a continued course of conduct attributable to the accused reasonably creates a situation in which the deceased feels there is no other option; mens rea and proximate causal connection still have to emerge from allegations. The Court acknowledged through *Praveen Pradhan* and *Amit Kapur* that threshold assessment is tentative and circumstantial evidence can matter. It therefore accepted the complaint narrative for the purpose of its legal test rather than resolving witness credibility. Sunil's mother's early death and Ramsingh's remarriage did not themselves show poor upbringing or cruelty from childhood. No such long-standing neglect was alleged; the alleged non-cordial relations with father and stepmother and refusal of a property share and belongings did not amount to the father goading, urging or intentionally aiding suicide. On this record, the father's refusal to give a share did not satisfy Section 107. The Court noted Rekha Bai's earlier quashing order, then concluded there was no prima facie material connecting this applicant to abetment.

6. Relief : The Hon'ble High Court allowed the Section 482 application. Crime No. 258/2016 at Police Station Shamshabad, Vidisha, the charge sheet for Section 306/34 IPC and the pending criminal proceeding were quashed as against Ramsingh Yadav. Rekha Bai's proceeding had already been quashed in MCRC 3448/2017 on 18 September 2017.

Ramsingh Yadav v. State of M.P. and Ors., M.Cr.C. no. 11138/2017, 22/03/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (765) Prev Next

Headnote :- Article 226 — police inaction on an FIR request — alternative remedy - *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, distinguished the police duty to register information disclosing a cognizable offence from the remedy when police fail to do so: a complaint before the Magistrate under Sections 190 and 200 CrPC. *Divine*

Retreat Centre v State of Kerala, (2008) 3 SCC 542, allowed exceptional writ control upon clear mala fide abuse and Chapter XII noncompliance, but not judicial direction on how investigation is to be conducted; the ordinary remedy for police inaction lies before the Magistrate. *Shweta Bhadauria v State of M.P.*, W.A. 247/2016, applied the alternative-remedy rule subject to recognised exceptions and distinguished the question of police duty considered in *Lalita Kumari*. Direct mandamus was refused and liberty to use Section 200 CrPC/Section 223 BNSS was granted.

Remedies before the magistrate — distinction between Section 156(3) and the complaint procedure - *Sakiri Vasu v State of U.P., (2008) 2 SCC 409*, explained written recourse to the Superintendent of Police under Section 154(3) and then a Section 156(3) application enabling a Magistrate to direct FIR registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed the requirement that the Magistrate be prima facie satisfied, the possibility of recommending a change of the investigating officer, and the Magistrate's inability to investigate personally. *Aleque Padamsee* identified Sections 190/200 complaint procedure as the response to continued inaction. The High Court's final liberty expressly concerned the Magistrate complaint route.

Case-note :- ***1. Facts :*** Ramsubhag Prajapati filed Writ Petition 17148/2024 under Article 226 complaining that police authorities had not acted on his reports or complaints dated 10 and 14 May 2024. His prayer referred to a preliminary medical examination on 10 May and asked for appropriate action by police on the reports, with costs and other suitable relief. Counsel said he had approached police for FIR registration but no action followed. The State responded that a writ for FIR registration was not maintainable given the efficacious route of a Magistrate complaint under Section 200 CrPC, referenced in the order alongside Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The court posed the maintainability question, quoted a series of Supreme Court judgments and a Madhya Pradesh Division Bench decision, and disposed of the petition without a factual merits ruling.

2. Precedents — Considered : *Aleque Padamsee v Union of India, (2007) 6 SCC 171*, distinguished the police's Section 154 duty to register a cognizable offence from the correct forum when police fail to act. Sections 190 and 200 CrPC let the aggrieved person place a complaint before the Magistrate. *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, was quoted to preserve rare Article 226 intervention for clear mala fide investigative abuse and Chapter XII noncompliance, while forbidding the writ court to dictate how police conduct investigation. For police inaction on information, the passage from *Gangadhar* quoted in *Divine Retreat Centre* described a Magistrate's complaint inquiry, possible investigation direction, dismissal under Section 203 or cognizance and process. The High Court invoked this to decline an ordinary writ for registration.

Sakiri Vasu v State of U.P., (2008) 2 SCC 409, was quoted for a staged response: written approach to the Superintendent under Section 154(3), followed, if necessary, by a Section 156(3) Magistrate application for FIR registration or proper investigation, with monitoring. *Sudhir Bhaskarrao Tambe v Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed *Sakiri Vasu* and explained that a Magistrate who is prima facie satisfied may ensure registration or proper investigation and, if needed, recommend replacement of the investigating officer, while investigation remains a police function. It cautioned that direct writ petitions on routine nonregistration would flood High Courts. The present Court used these authorities to support the alternative-remedy rule. *Shweta Bhadauria v State of M.P.*, W.A. 247/2016 (20 December 2016), a Division Bench of this High Court, stated that mandamus to perform the Section 154 duty can be declined for failure to exhaust Sections 154(3), 156(3), 190 and 200 remedies, unless a recognised *Whirlpool Corporation* exception applies. It explained that *Lalita Kumari* addresses the police duty to register a cognizable report, not automatic entitlement to a writ bypassing remedies.

3. Statutes considered : Article 226 of the Constitution supplied the mandamus jurisdiction invoked, subject here to the ordinary availability of adequate criminal-process remedies and the narrow exceptional power to intervene in investigation recognised in *Divine Retreat Centre*. Section 154 CrPC governed the police duty on cognizable information and Section 154(3) the written supervisory approach to the Superintendent of Police. Section 156(3) CrPC was quoted as a Magistrate's pre-cognizance power to direct registration or a proper police investigation and to

monitor it when satisfied. Sections 190 and 200 CrPC supplied the cognizance and private-complaint route that the High Court expressly left open. Chapter XII CrPC was discussed in *Divine Retreat* concerning investigative abuse.

4. Issues : Whether the petitioner, asserting police inaction on two May 2024 complaints and relying on a medical examination, could obtain an Article 226 mandamus for FIR registration or police action directly; whether the available complaint and pre-cognizance Magistrate procedures required him to use the statutory forum; and whether the cited principle governing exceptional writ intervention in investigation altered that ordinary result on this record. The Section 156(3) power was explained in precedent but was not the express operative liberty.

5. Ratio / Findings : The Court began with *Aleque Padamsee*'s two distinct legal questions. Police must register information disclosing a cognizable offence, but a failure to do so does not ordinarily make direct Article 226 mandamus the first judicial remedy; the complainant can move the Magistrate under Sections 190/200. This distinction reconciles authorities on the duty to register an FIR with those on the proper forum for a complaint. *Divine Retreat* preserved exceptional High Court intervention in the rarest of rare cases where clear mala fide abuse of investigative power and noncompliance with Chapter XII require it, with the writ court insisting on lawful process but not choosing investigative steps. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* showed a separate statutory path through Section 154(3) and then Section 156(3), under which a Magistrate who is prima facie satisfied can direct registration or proper investigation, monitor it and potentially recommend an officer change, but cannot investigate himself. *Shweta Bhadauria* applied the alternative-remedy rationale to a mandamus request while acknowledging exceptional writ situations and distinguishing the police-duty rule in *Lalita Kumari*. Given these remedies, the Court declined the present writ and left the petitioner to the complaint forum.

6. Relief : The Hon'ble High Court dismissed the writ petition with liberty to Ramsubhag Prajapati, if he wished, to approach the Magistrate concerned under Section 200 CrPC or Section 223 BNSS, 2023, for redress of his grievance.

Ramsubhag Prajapati v. The State of M.P. and Ors., W.P. no. 17148/2024, 01/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (766) Prev Next

Headnote :- Murder — Section 300 thirdly — nature of the intended injury - *Virsa Singh v State of Punjab, AIR 1958 SC 465*, was applied for the distinction between intention to inflict the particular injury proved and the separate, objective question whether that injury was sufficient in the ordinary course of nature to cause death; intent to kill need not independently be proved under clause Thirdly. *Arun Nivalaji More* explained the Section 299, 300 and 304 hierarchy; *Anda* emphasised ordinary-course sufficiency. *Mahesh Balmiki*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *State of Rajasthan v Kanhaiyalal and Bavisetti Kameswara Rao* treated number of blows as non-conclusive and directed attention to weapon, vital site, force and attendant circumstances. The fatal head injuries to both deceased, with accepted joint assault evidence, sustained Section 302/34 rather than conversion to Section 304. *Dhirajbhai Gorakhbhai Nayak*'s Exception 4 conditions were quoted.

Common intention — constructive liability - Section 34 IPC requires the criminal act in furtherance of a shared intention proved from participation and circumstances; agreement may arise at the scene before the act, but merely parallel intent or presence does not suffice. *Jasdeep Singh alias Jassu v State of Punjab, Criminal Appeal No. 1584/2021* (7 January 2022), required concrete evidence of common intention and connected assistance; *Suresh*, *Pandurang*, *Chhota Ahirwar* and *Virendra Singh*, with the other quoted Section 34 authorities, explained action in concert, possible formation at the scene, different roles and the need for careful inference. Evidence of Ramswaroop's axe, Ramesh's lathi and Hemant's spade attacks on both deceased, and blows to four intervenors, supported both murder counts and four hurt counts with Section 34.

Injuries to an accused — prosecution explanation - *Bhaba Nanda Sharma v State of Assam, (1977) 4 SCC 396*, *Ramlagan Singh v State of Bihar, (1973) 3 SCC 881*, and *Bhagwan Tana Patil v State of Maharashtra, (1974) 3 SCC 536*, were used for the contextual rule that unexplained injury to an accused is not necessarily fatal to the prosecution case; the

defence's failure to ask prosecution witnesses about it matters. Ramesh's simple abrasions, assessed days later and potentially caused by running or falling, did not displace the accepted proof.

Related and inimical witnesses — medical evidence - The prior dynamo dispute could supply both motive and a reason for caution, and relationship with the deceased did not itself make the injured eyewitnesses unreliable. The Court accepted the witnesses' account of a coordinated attack, the postmortem findings of fatal head injuries, and MLCs of four intervenors, while rejecting the unproved alibi. The judgment stated that medical evidence corroborated the testimony.

Case-note :- ***1. Facts :*** This Section 374 CrPC appeal challenged the Additional Sessions Judge, Chachoda, Guna's 28 September 2011 judgment in Sessions Trial 256/2008. Ramswaroop, Ramesh and Hemant had each been convicted of murder under Section 302 read with Section 34 IPC on two counts for Kallu and his father Shivlal and of hurt under Section 323/34 on four counts for intervenors, with life imprisonment and ₹1,000 fine for the murders and six months' rigorous imprisonment for the hurt counts, sentences concurrent and default stipulations. The prosecution traced a dispute to theft of Ramswaroop's dynamo some four to six months earlier. On 10 June 2008 the accused allegedly demanded its return or ₹40,000 while Nathu Patel and Dheeraj Meena were called to resolve the dispute. Near noon, as Kallu and Dheeraj were leaving, Ramswaroop allegedly struck Kallu's head with an axe, Ramesh used a lathi, and Hemant used a spade when Shivlal tried to intervene. Mahendra, Karibai, Dheeraj and Ishwar were also injured in the episode. Shivlal died at or near the scene and Kallu on the way to hospital. Mahendra lodged Ex. P8; FIR Crime 160/2008 initially cited Sections 302, 307, 324 and 323/34 IPC. The charge sheet and convictions were for the two murder and four hurt counts. Thirteen prosecution witnesses, including injured eyewitnesses, doctors and investigating/seizure witnesses, were examined. The accused denied presence, alleged false implication from previous enmity and called Rambharose (DW1), Ramhet (DW2) and Badrilal (DW3). On appeal they pointed to claimed contradictions, sharp axe/spade descriptions versus hard-and-blunt medical descriptions, and Ramesh's unexplained injuries. The State supported the convictions. The doctors described fatal head trauma to both deceased: Shivlal's occipital injury led to coma and shock; Kallu had two grave head wounds, occipital fracture and ruptured brain membrane with fatal bleeding. The record also described wounds to the four intervenors and simple abrasions on Ramesh, examined on 15 June and estimated five to seven days old.

2. Precedents — Considered : On homicide, *Virsa Singh v State of Punjab, AIR 1958 SC 465*, supplied the four-part Section 300 Thirdly test: objective existence and nature of injury, intention to inflict that very injury, and objective sufficiency of that injury to cause death in the ordinary course of nature, with prosecution bearing the burden; intention to kill or knowledge of fatal seriousness is not an added requirement. The Court adopted this framework after holding that clause Secondly did not apply. *Arun Nivalaji More v State of Maharashtra*, Criminal Appeals 1078–1079/2005, explained that Section 299's intention and knowledge limbs must be compared with Section 300's clauses and exceptions before Section 302, 304 Part I or 304 Part II follows. *Anda v State of Rajasthan, 1966 Cri LJ 171*, stressed the high probability embodied in ordinary-course sufficiency. *Mahesh Balmiki v State of M.P., (2000) 1 SCC 319*, rejected a mechanical one-blow reduction and evaluated weapon, site, manner and circumstances. *Dhirajbhai Gorakhbhai Nayak v State of Gujarat, (2003) 9 SCC 322*, explained Exception 4: no premeditation, sudden mutual fight, heat of passion, no undue advantage or cruel or unusual manner, and a fight with the person killed; a sudden quarrel alone is insufficient. *Pulicherla Nagaraju v State of A.P., (2006) 11 SCC 444*, listed non-exhaustive intent factors including weapon, prior possession, vital targeting, force, quarrel, chance, premeditation, enmity, provocation, heat, unfair advantage and number of blows. *Sangapagu Anjaiah v State of A.P., (2010) 9 SCC 799*, inferred murderous intention from crowbar, vital skull site and fracture-causing force. *State of Rajasthan v Kanhaiyalal, (2019) 5 SCC 639*, rejected a fixed single-blow exclusion from Section 302 and discussed Exception 4. *Bavisetti Kameswara Rao v State of A.P., (2008) 15 SCC 725*, likewise required circumstances rather than counting injuries, and quoted *Virsa Singh* on intention to inflict the actual injury.

On Section 34, *Jasdeep Singh alias Jassu v State of Punjab*, Criminal Appeal 1584/2021, decided 7 January 2022, was reproduced at length: common

intention and action in furtherance must be proved by substantial, clear evidence, a participant's assistance can differ from the final physical blow, mere presence is not invariably assistance, intent may be inferred cumulatively and withdrawal or a graver act outside the shared plan must be evaluated. The quotation's historical *Queen v Gorachand Gope* and IPC Sections 33–39 discussion furnished context, not independently decided issues here. *Suresh v State of U.P., (2001) 3 SCC 673*, described a connected overt, covert or in some circumstances omission-based act and cautioned that intention kept only in mind is insufficient; its later passage explained joint participation without a separate independent offence by each. *Lallan Rai v State of Bihar, (2003) 1 SCC 268*, treated presence with a shared intention and cautioned against a rigid rule based on distance from the scene. *Chhota Ahirwar v State of M.P., (2020) 4 SCC 126*, required simultaneous consensus for the particular crime, potentially developed on the spot, while not demanding an individual overt blow where shared intention and participation are proved. *Pandurang, Tukia and Bhillia v State of Hyderabad*, 1955 SCR (1) 1083, distinguished prior concert from merely simultaneous independent intent; the plan can form suddenly but must precede the joint act. *Virendra Singh v State of M.P., (2010) 8 SCC 407*, required intention and participation, stressed careful evidence before inferring a common plan formed at the scene, and warned about a graver result than initially designed. The Court quoted it directly and also within a longer Section 34 compilation. *Rambilas Singh v State of Bihar, (1989) 3 SCC 605*, declined any requirement that every member perform an overt act but demanded material connecting an act to shared intention. *Krishnan v State of Kerala, (1996) 10 SCC 508*, distinguished a helpful overt act from an invariable legal requirement. *Surendra Chauhan v State of M.P., (2000) 4 SCC 110*, addressed presence facilitating the joint venture. *Gopi Nath v State of U.P., (2001) 6 SCC 620*, explained diverse acts and common intention arising during the event; *Ramesh Singh @ Photti v State of A.P., (2004) 11 SCC 305*, tied responsibility for another's deed to the shared intent; *Nand Kishore v State of M.P., (2011) 12 SCC 120*, required a joint criminal act, shared intent and individual participation, distinguishing common intention from ordinary mens rea; and *Shyamal Ghosh v State of W.B., (2012) 7 SCC 646*, recognised that a plan could form on the spur of the moment while retaining common intent and participation. *Barendra Kumar Ghosh v King Emperor, AIR 1925 PC 1*, and *Mehbub Shah v Emperor, AIR 1945 PC 148*, were Privy Council authorities quoted in the compilation on connected separate acts and prior concert; they were not Supreme Court holdings. The High Court used this body of doctrine to infer a common design from the three appellants' accepted weapon-specific assaults on both deceased and four intervenors. References to *Brathi*, *Dharnidhar*, *Amrik Singh* and *Asoke Basak* are nested in the cited passages, without a separate application by the High Court.

On Ramesh's injuries, *Bhaba Nanda Sharma v State of Assam, (1977) 4 SCC 396*, made the effect of unexplained accused injuries depend on circumstances; *Ramlagan Singh v State of Bihar, (1973) 3 SCC 881*, stated that absent defence questions to prosecution witnesses about the injuries, the prosecution may have had no occasion to explain; and *Bhagwan Tana Patil v State of Maharashtra, (1974) 3 SCC 536*, warned against rejecting the entire prosecution case merely because the accused's injuries were not explained. The High Court applied these to Ramesh's simple abrasions and the doctor's possible fall or running explanation. The Court scrutinised the related eyewitnesses' testimony on the record.

3. Statutes considered : Section 374 CrPC supplied the appeal against conviction. IPC Section 299 defines culpable homicide through two intention limbs and a knowledge limb; Section 300 identifies murder, including clause Thirdly, which concerns an intentionally inflicted injury that is objectively sufficient in the ordinary course of nature to cause death, subject to its statutory exceptions. The judgment distinguished the Section 300 clauses and discussed Exception 4 as quoted in *Dhirajbhai*, while its dispositive focus was clause Thirdly. Section 302 carried the two murder convictions. Section 304 Parts I and II were the alternative categories discussed when intention or knowledge falls below murder, but no conversion was ordered. Section 323 covered four hurt counts for the intervenors. Section 34 imposed constructive responsibility where a criminal act was done in furtherance of all participants' common intention; its theory requires both the shared mental element and connected participation, without requiring a plan formed long before the event or an identical blow from each.

Sections 307 and 324 appeared in the initial FIR narrative, not the ultimate convictions.

4. Issues : First, did the evidence of targeted and fatal head injuries, evaluated under Sections 299 and 300 Thirdly, prove two murders under Section 302 rather than a lesser Section 304 offence, notwithstanding the dynamo altercation and the defence's claimed sharp/blunt mismatch? Second, was common intention under Section 34 proved against each of Ramswaroop, Ramesh and Hemant, whose weapons and alleged blows differed, for both deceased and all four injured intervenors? Third, were the injured and related eyewitnesses unreliable because of earlier enmity, contradictions or the three defence witnesses' claim that the appellants were absent from the scene? Fourth, did the prosecution's failure to explain Ramesh's abrasions reasonably undermine its account? The order quotes Exception 4 and single-blow jurisprudence; the discrepancy alleged between the weapon descriptions and the medical evidence was raised, and the Court stated that the medical evidence corroborated the testimony.

5. Ratio / Findings : On death and mental element, the appellate bench set out Section 299's genus of culpable homicide, Section 300's murder conditions and the Section 304 intention/knowledge alternatives. It used *Virsa Singh*'s distinction between intending the proved injury and the objective fatal sufficiency of that injury, together with the cited case-specific single-blow and Exception 4 principles. The postmortem account attributed Shivlal's death to coma and shock from occipital head trauma and Kallu's to bleeding from brain injury, two grievous head wounds, fracture and ruptured membrane. The Court found the injuries sufficient in the ordinary course of nature to cause their deaths. It accepted testimony of repeated blows from an axe, lathi and spade directed to the victims' heads during the same encounter. It thus affirmed murder and declined to alter the convictions on the grounds that the dispute began in an argument or that a separate intention to kill was absent. The argument that sharp weapons had no matching sharp wounds was recorded.

On Section 34, the Court reproduced extensive Supreme Court material distinguishing a shared plan with participation from simultaneous but independent intentions and from mere presence. The plan need not be long prearranged and may arise during the event before the relevant criminal act; an overt blow by each is not invariably needed, while the prosecution bears the burden of a clear inference of conduct in furtherance, especially for murder as a graver outcome. Mahendra (PW8) attributed an axe strike to Ramswaroop, a lathi strike to Ramesh and a spade strike to Hemant; he and Karibai (PW1) described the combined assault on Kallu and then Shivlal. Dheeraj (PW2), Ishwar (PW4) and Anitabai (PW5) supported the occurrence and intervenor injuries. The doctors' reports recorded harm to Karibai, Mahendra, Dheeraj and Ishwar, and the investigating/seizure witnesses described the spot, weapons and relevant exhibits. The bench found the three acted with common intention to cause grave, likely fatal harm to both deceased and caused injuries to four rescuers; it affirmed two Section 302/34 and four Section 323/34 counts. The judgment states that shared intention was proved from these witnesses and their weapon-specific roles. On credibility, prior enmity was double edged and kinship alone could not disqualify an otherwise reliable witness. The trial court had scrutinised them carefully; the appellate bench found cross-examination had disclosed no ground to reject the core account. DW1–DW3 did not furnish positive alibi proof that the appellants were elsewhere. On Ramesh's abrasions, PW13 called them simple, compatible with falling or running, and examined days after the assault. Relying on *Bhaba Nanda*, *Ramlagan* and *Bhagwan Tana Patil*, the Court held that non-explanation was not inevitably fatal, depending on the questions put and circumstances; the accepted prosecution evidence survived.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. The conviction and sentence of 28 September 2011 were affirmed: the three appellants remained liable under Section 302/34 IPC on two murder counts and Section 323/34 on four hurt counts, with life imprisonment and fine for murder and six months' rigorous imprisonment for hurt, concurrent and subject to trial-court default stipulations. Ramswaroop (appellant No. 1) and Hemant (No. 3), then on bail, had bail and surety bonds cancelled and were directed to surrender immediately to serve the remaining sentence. Ramesh (No. 2), stated to be in jail, was to remain there. Copies were directed to the jail authorities and the trial court with the record.

Ramswaroop and Ors. v. The State of Madhya Pradesh, Cr.A. no. 862/2011, 09/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Speedy trial — delay without automatic quashing - Investigation lasting about two years and a trial said to have proceeded for over four years without a witness did not, merely by passage of time, end the prosecution. *P. Ramachandra Rao v State of Karnataka, (2002) 4 SCC 578*, was applied: reaffirming *A.R. Antulay*'s illustrative Article 21 guidance, it rejected mandatory outer limits in *Common Cause* and *Raj Deo Sharma*; courts assess the circumstances for oppressive, unwarranted delay and can use powers to manage the trial or suitable inherent and constitutional powers. *High Court Bar Association, Allahabad v State of U.P., Criminal Appeal No. 3589/2023* (29 February 2024), was additionally cited for the absence of a universal trial-completion outer limit. No order sheets were filed to attribute the delay solely to prosecution; quashing was refused on this ground.

Quashing — disputed damage to cement poles - An accused's explanation that tractors driven by others might have broken cement poles raises a factual contest for trial. Section 482 CrPC does not authorise a mini-trial on whether the allegation is true; a proceeding may be quashed on the face-value ground only if uncontroverted allegations do not make out an offence. The applicants did not show that the allegations under Sections 447, 427 and 34 IPC failed to disclose an offence when accepted at face value.

Illness — appearance at trial - An applicant's asserted illness and need for frequent dialysis did not itself justify quashing the criminal proceedings. If regular personal attendance causes difficulty, an exemption application may be moved before the trial court; no exemption was granted or medical finding made in this Section 482 order.

Case-note :- ***1. Facts :*** An FIR alleging offences under Sections 447, 427 and 34 IPC was registered on 21 June 2018 over damage to cement poles. As presented by counsel, police took about two years to investigate and filed the charge sheet in 2020; the applicants said that even after more than four further years no witness had been examined. They sought quashing of the FIR or charge sheet/proceedings on that delay. They also denied destroying the poles and suggested tractors driven by others might have damaged them. Counsel additionally submitted that an applicant suffered illnesses requiring frequent dialysis and therefore sought quashing, or relief from the burden of proceedings. The State appeared through the Government Advocate. The High Court considered these submissions in Misc. Criminal Case No. 24094 of 2024. No trial-court order sheets were filed to demonstrate the actual sequence of listings, causes of postponement, or exclusive prosecution responsibility for the absence of witness testimony.

2. Precedents — Considered : *P. Ramachandra Rao v State of Karnataka, 2002:INSC:203 : (2002) 4 SCC 578*, was quoted extensively and applied to the demand for termination on elapsed time. The quoted Supreme Court conclusion reaffirmed the propositions in *A.R. Antulay v R.S. Nayak, (1992) 1 SCC 225*, concerning Article 21 speedy trial, but described them as illustrative and dependent on circumstances, not hard-and-fast rules. It held that fixed limitation periods mandating closure, discharge or acquittal in *Common Cause (I)*, as modified in *Common Cause (II)*, and *Raj Deo Sharma (I)* and (II), were impermissible and not good law. Their time periods could serve as reminders to examine relevant factors and determine whether a case had become inordinately delayed, oppressive and unwarranted; they did not automatically bar continuance. The quotation also identified existing CrPC Sections 309, 311 and 258 as powers with which a diligent criminal court may effectuate speedy trial, and recognised suitable High Court relief under Section 482 CrPC and Articles 226 and 227 in appropriate cases. It ended by reminding governments of the need for judicial resources. Those earlier decisions appear within the quoted passage from *P. Ramachandra Rao*. *High Court Bar Association, Allahabad v State of U.P. and others, Criminal Appeal No. 3589/2023*, decided 29 February 2024, was separately cited alongside *P. Ramachandra Rao* for the proposition that no universal outer limit can be fixed for the trial court to complete trial. The High Court applied the shared no-automatic-termination principle to the unsupported allegation of prosecution-caused delay.

3. Statutes considered : Section 482 CrPC was the jurisdiction invoked to quash the FIR, charge sheet or criminal proceedings. The Court held that such inherent jurisdiction did not permit a factual mini-

trial and could intervene on the face-value ground when uncontroverted allegations failed to constitute an offence. Article 21 of the Constitution, through the quoted *P. Ramachandra Rao* discussion of *A.R. Antulay*, protects speedy trial by a contextual inquiry rather than an absolute limitation period. Sections 309, 311 and 258 CrPC were identified in the quoted Supreme Court conclusion as examples of trial-court powers to advance the speedy-trial guarantee; Section 482 and Articles 226 and 227 were identified there as possible High Court routes for suitable relief in an appropriate case. Sections 447, 427 and 34 IPC were the charged trespass, property-damage and common-intention provisions recited as background. Exemption from personal appearance was left to an application before the trial court, without a particular exemption provision specified in the order.

4. Issues : First, did the two-year investigation followed by a claimed four years without an examined witness make the case automatically liable to quashing, or establish a particularised oppressive delay attributable to prosecution? Second, could a Section 482 court accept the applicants' possible tractor-damage explanation and reject the criminal allegations without trying the disputed evidence, when counsel showed no deficiency even on accepting those allegations? Third, did the asserted medical need for frequent dialysis itself require quashing, or could the applicant seek a narrower attendance accommodation at trial?

5. Ratio / Findings : On delay, the High Court adopted *P. Ramachandra Rao*'s rejection of an automatic lapse-of-time rule. Its quotation retained the Article 21 concern for speedy trial and the possibility that, after examining case-specific factors, delay could be oppressive and unwarranted; it did not turn the four-year figure into a bar or deny the existence of all speedy-trial remedies. *High Court Bar Association, Allahabad* was cited to reinforce the absence of a general outer limit for completing trials. No order sheets established the course or attribution of adjournments, much less that the prosecution alone was responsible. Accordingly the time taken in investigation or the pendency of the trial, by itself, could not justify quashing the FIR, charge sheet or proceedings. On the merits, the Court separated a face-value legal defect from a contested factual explanation. Whether the applicants broke the cement poles or other tractors did so required evidence at trial; inherent jurisdiction could not test credibility through a mini-trial. Counsel did not identify a circumstance showing that the full uncontroverted allegations, assumed true for this limited purpose, failed to disclose an offence against the applicants. On illness, even assuming the stated inconvenience from repeated dialysis, it was not a reason to extinguish the prosecution. The Court pointed to a trial-court application for exemption from regular personal appearance. These were grounds for refusing Section 482 interference, not findings that the allegations were proved, that delay could never yield tailored relief, or that exemption must be granted.

6. Relief : The Hon'ble High Court dismissed the application. The High Court declined to quash the FIR, charge sheet or pending criminal proceedings on delay, illness or the proposed alternative cause of damage. The applicant affected by illness remained free to move the trial court for exemption from personal appearance. The factual defence and culpability remained for the trial.

Ramswaroop Patidar and Ors. v. The State of Madhya Pradesh, M.Cr.C. no. 24094/2024, 01/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Kidnapping of a minor — voluntary accompaniment and enticement - The prosecutrix was aged under sixteen and was a minor in June 2019. Her alleged willingness to meet Ravi and accompany him did not, at the charge stage, dispose of allegations that Ramu assisted Ravi in taking her. *Anversinh @ Kiransinh Fatesinh Zala v State of Gujarat, Criminal Appeal No. 1919/2010* (12 January 2021), was applied: distinguishing *S. Varadarajan*, it confined the voluntary-departure exception to a minor capable of appreciating the act who leaves guardianship without assistance or inducement; a minor's consent does not negate active enticement.

Forensic evidence — prosecutrix's denial of sexual contact - The State reported Ravi's DNA profile on the prosecutrix's clothes seized before his arrest. Against her reported denial of rape or any physical relationship, the High Court considered the denial apparently false on that material. *Hemudan Nanbha Gadhvi v State of Gujarat, (2019) 17 SCC 523*, was invoked for the principle that scientific evidence may support conviction despite a prosecutrix turning hostile.

Criminal revision — refusal of discharge and framing of charges - In a revision under Sections 397 and 401 CrPC against rejection of a Section 227 application, the Court found no ground to interfere with the 5 January 2022 order framing IPC and POCSO charges.

Case-note :- ***1. Facts :*** The complainant reported on 23 June 2019 that the prosecutrix had been taken away after going outside in the evening. The prosecution case describes her eloping with co-accused Ravi and Ramu during the night. The recorded date of birth showed that she was under sixteen and a minor on either account. Police recovered her on 24 June. As narrated in the applicant's submissions, she said Ravi and four others had taken her in a four-wheeler, kept her in a room, and left her at a location in Gwalior, on 23 June after someone asked her age. FIR Crime No. 59/2019 was registered at Police Station Pavai, Bhind, initially under Section 363 IPC. The investigation produced a charge sheet invoking Sections 363, 366, 366-A, 34 and 376(3) read with 109 IPC and Sections 3, 4, 16 and 17 of the POCSO Act. The Fifth Additional Sessions Judge/Special Judge (POCSO Act), Bhind, rejected Ramu's Section 227 CrPC discharge application on 5 January 2022 and framed charges against him under Sections 363, 366, 366-A and 376(3) read with 109 IPC and Section 3 read with Sections 4 and 17 POCSO. Ramu brought this revision under Sections 397 and 401 CrPC. He relied on the prosecutrix's statement that she went out to meet Ravi voluntarily, that Ramu had only arrived with Ravi on a motorcycle and Ravi took her toward Gwalior on Ramu's motorcycle, and that nobody raped her; she could not explain semen detected on her panty. The description of two other persons in the darkness was uncertain. On 9 March 2022, after hearing the competing positions, the High Court called for Ravi's DNA report. The State later reported a match to Ravi on her previously seized clothing.

2. Precedents — Considered : *Hemudan Nanbha Gadhvi v State of Gujarat, (2019) 17 SCC 523*, was invoked for the evidentiary proposition that a prosecutrix turning hostile does not preclude conviction where scientific or forensic evidence establishes the case. The High Court used that principle to reject reliance on her denial of physical contact in the face of the State's reported Ravi DNA result. *Anversinh @ Kiransinh Fatesinh Zala v State of Gujarat, Criminal Appeal No. 1919/2010*, decided 12 January 2021, was quoted at paragraphs 17–19 and applied to the voluntary-accompaniment argument. The Supreme Court distinguished *S. Varadarajan*'s limited 'taking' situation from enticement: that exception requires a minor who understands the full import of her conduct and voluntarily leaves guardianship without assistance or inducement by the accused. Where an accused actively draws the minor out, her consent is no defence to kidnapping; *Anversinh* had sustained a Section 366 conviction on its own facts. Here the High Court relied on the distinction because Ramu was alleged to have assisted Ravi in kidnapping a minor.

3. Statutes considered : Sections 397 and 401 CrPC supplied revisional jurisdiction over the Special Judge's charge order, and Section 227 CrPC governed the discharge application which had been rejected. Sections 363, 366 and 366-A IPC were among the framed kidnapping and related charges; the Court's express reasoning addressed the alleged minor status, assistance and enticement rather than separately construing every element of each section. Section 376(3) read with Section 109 IPC and Section 3 read with Sections 4 and 17 of the POCSO Act were also framed. Section 34 IPC and Section 16 POCSO appeared in the charge sheet as recounted, without being listed in the final enumeration of charges framed against Ramu.

4. Issues : First, whether the prosecutrix's stated voluntary decision to meet and travel with Ravi removed the basis for kidnapping-related charges against Ramu, who was alleged to have come with Ravi and furnished transport, given her established minority. Second, whether her denial of rape or sexual relationship required the charge order to be set aside when forensic material was said to link Ravi to semen on clothing seized earlier. Third, whether those matters warranted revisional interference with the 5 January 2022 refusal of discharge and framing of the specified IPC and POCSO charges.

5. Ratio / Findings : The Court first recorded the State's report that co-accused Ravi's DNA profile was found on the prosecutrix's clothes seized substantially before Ravi's arrest. It treated her denial of a physical relationship as apparently false on that record, citing *Hemudan Nanbha Gadhvi* for the legal possibility of relying on forensic proof notwithstanding a hostile prosecutrix. The finding is tied to the DNA result reported by the State and the present revision, and the DNA was attributed to Ravi,

not Ramu. On kidnapping, the Court noted the recorded birth-date entry establishing minority at the event. Although the applicant presented her trip as voluntary, the allegation that he assisted Ravi in kidnapping her meant that her voluntary departure alone did not negate enticement. The *Anversinh* quotation explained why *S. Varadarajan* could aid an accused only if capacity to understand, voluntary departure and absence of accused assistance or inducement were established; a minor's consent could not negate active enticement. The Court applied that distinction to the asserted joint departure and Ramu's alleged role, then concluded there was no case to interfere with the charge order.

6. Relief : The Hon'ble High Court dismissed the criminal revision. The High Court affirmed the Fifth Additional Sessions Judge/Special Judge (POCSO Act), Bhind's order of 5 January 2022 rejecting discharge and framing the enumerated charges against Ramu. The pending prosecution therefore continued under the affirmed charge order.

Ramu v. State of M.P. and Ors., Cr.R. no. 138/2022, 19/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (769) Prev Next

Headnote :- Defence evidence — Section 233 CrPC — court-directed preservation and production of CDRs - The accused had sought preservation of call details and mobile locations to contest the alleged presence of witnesses; the trial court ordered preservation on 7 September 2018, expressly reserving access and use. The then SP received the data on his official email on 17 September 2018, although police later claimed that the material had never been preserved and could not be produced after two years. Rejection of the Section 233 production request on that false premise was set aside; the present SP was directed to file the complete records within ten days, if not already filed.

Investigation and trial fairness — suppressed official digital record - A prosecution agency must bring relevant material before the trial court or give an accurate account of its nonproduction. The senior officer's withholding of records already received, a reply reporting only the steps taken in response to the 2018 compliance request, and the later false unavailability assertion impaired the truth-finding process. The trial court erred in casually accepting the explanation and excusing responsibility. The records were to be produced for lawful consideration.

Personal accountability — conditional compensation for police suppression - The then SP's unexplained withholding was found mala fide, but the Court could not determine without fuller inquiry which side he meant to favour. It directed him personally to deposit ₹5,00,000 within a month, with ultimate payment to the complainant side upon conviction or the accused side upon acquittal. Default required recovery and a separate contempt case.

Police discipline — differential officer responsibility - *Union Territory of Jammu and Kashmir v. Abdul Rehman Khandey,* SLP (C) 5873/2025, 7 March 2025, was considered for departmental action against officers disregarding court orders. The DGP was directed to inquire into Mayank Awasthi's concealment and issue a charge sheet within one month; a copy was to enter his service record. Yatendra Singh Bhadoriya had sent the preservation request promptly and may not have known the SP had received the data, so no present stricture was passed, subject to further inquiry. The current SHO's false reply was separately left for trial-court consideration.

Judicial supervision — preservation order — contempt reference - The trial judge, having ordered preservation, was required to address conscious noncompliance rather than accept a bare assertion of loss. A contempt process was directed against the then SP, with questions concerning the individual responsibility of the former and current SHO left for the trial court.

Case-note :- ***1. Facts :*** Ramu faced Sessions Trial 2/2018 at Seondha for offences under Sections 147, 148, 149, 294, 307, 336 and 302 IPC arising from the alleged killing of Kailash and attempt on the complainant on 24 September 2017. His defence asserted that the deceased, injured person and witnesses were at Amayan in Bhind rather than at the alleged crime scene within Police Station Deepar, Datia's jurisdiction. On an application of 13 August 2018 seeking preservation of specified phone and SIM call details and locations, the trial court ordered preservation on 7 September 2018. It expressly said the order conferred no vested right of use, and the data could not be shared without its leave. Former SHO Yatendra Singh Bhadoriya sent the request upward on 8 September; the Cyber Cell contacted providers and sent reminders. The providers

delivered records for all ten listed numbers to then SP Mayank Awasthi's official email on 17 September 2018. Yet when the accused sought a compliance report, the SHO's 1 October reply stated only that steps had been taken to preserve the records, and the trial court disposed of that request on 4 October. Later, on the accused's Section 233 CrPC application for production as defence evidence, police asserted that records older than two years had not been preserved and could no longer be produced. The trial judge accepted that assertion and rejected production on 18 September 2024. In this Section 482 application, both the accused and the complainant criticised police handling but suggested opposite possible beneficiaries of the suppression. The former SP responded that the records were later recovered from the State Crime Records Bureau's stored official emails and were now in the present SP's possession; he blamed the SHO for the later unavailability statement. The former SHO relied on his prompt letter, lack of notice that the SP had received the material, and his transfer on 17 November 2018. At earlier hearings in March 2025 the High Court required explanations and put the officers on notice of possible inquiry, compensation and contempt consequences. The trial was reportedly at final-argument stage; the interim order had restrained final disposal until the next listing.

2. Precedents — Considered : *Deepak alias Preetam Verma and Anr. v. State of M.P. and Anr.*, MCRC 12592/2018, 11 September 2018, was an earlier High Court order reproduced at length to assess Mayank Awasthi's prior conduct, not to adjudicate a new parallel-inquiry challenge in Ramu's trial. It had condemned a superior officer's independent parallel enquiry during a pending FIR investigation following an MLA's intervention, explained Section 36 CrPC and the police circular, refused quashing based on a collateral exoneration report, and ordered service-record consequences. The present Judge used the earlier order as evidence of repeated disregard of legal process. The Supreme Court's order of 18 January 2022 dismissing SLP (Cri.) 1345/2019 and 8982/2018, after the State's earlier SLP had also failed, was reproduced: neither Section 36 nor the relevant circular authorised a simultaneous independent enquiry of the kind undertaken there, and the Supreme Court found no reason to disturb the prior High Court observations about the officers. *Union Territory of Jammu and Kashmir and Ors. v. Abdul Rehman Khandey and Ors.*, SLP (Civil) 5873/2025, order dated 7 March 2025, was expressly invoked before the DGP direction. The Supreme Court had regarded departmental action against officers failing to comply with judicial orders as appropriate, although it refrained at that stage from exemplary costs and disciplinary recommendation because contempt proceedings were pending and requested expeditious hearing.

3. Statutes considered : Section 482 CrPC was invoked to correct the trial court's order; Section 233 CrPC concerned the accused's application for production of defence evidence. Section 36 and Section 172 CrPC appeared within the fully reproduced earlier *Deepak* order on unauthorised parallel enquiry and case diaries, not as controlling statutory provisions for the present CDR production question.

4. Issues : First, whether the Section 233 request could be rejected as impossible to satisfy when the directed 2018 CDR and location data had actually been received and recovered. Second, what a trial court and police were required to do after a preservation order, a response reporting only the steps taken and a later claim of nonavailability. Third, whether the then SP's admitted receipt and unexplained withholding justified a personal compensatory deposit, disciplinary process and a contempt reference, despite uncertainty whether he meant to favour the accused or complainant. Fourth, whether the former SHO's prompt escalation, alleged ignorance and later transfer called for the same present stricture, and whether the current SHO's false response should be investigated.

5. Ratio / Findings : The Court accepted the former SP's own account and recovered official email material as establishing that all directed CDRs and locations were received by him on 17 September 2018 and remained retrievable. He had not explained why he failed to forward them to the police station or trial court or disclose their receipt. The 1 October 2018 reply that steps were being taken obscured the fact of receipt; the later statement that the data had never been preserved was false. The Judge characterised this as conscious suppression and a fraud on the court, damaging a truth-finding trial where an accused faced the most serious penalties and a complainant's family had lost a member. The trial court knew it had ordered preservation; it should have required production or an explanation identifying responsibility, and should not have

simply excused the agency. It was directed to initiate a contempt process against the former SP. As to motive, the Court considered two possibilities: concealment might have enabled the accused to seek an adverse inference, or might have favoured the complainant by hiding the actual locations of the witnesses and the deceased. Without a detailed inquiry it could not choose between them, but found mala fide favour to one side. That finding led to a personal ₹5 lakh deposit, with the recipient determined by conviction or acquittal. The earlier *Deepak* case and its Supreme Court SLP outcome were considered as context for the officer's prior conduct, and *Abdul Rehman Khandey* supported disciplinary accountability. The DGP was directed to initiate a departmental inquiry with specified charges. The former SHO sent the request the next day, may not have learned that the SP had the data and was transferred shortly thereafter; the Court declined a present stricture while expressly leaving open inquiry into what he knew and whether contempt should proceed. It likewise left to the trial court whether to proceed against the current SHO for the false unavailability reply. Finally, the data's present possession rendered the Section 233 refusal unsustainable. The High Court ordered production for consideration by the trial court under law.

6. Relief : The Hon'ble High Court allowed the petition and set aside the First Additional Sessions Judge's 18 September 2024 refusal in ST 2/2018. The current SP, Datia, was directed to file the complete records specified in the 7 September 2018 preservation order within ten days, unless already filed; the trial court was to continue in accordance with law. The trial judge was directed to initiate contempt proceedings against former SP Mayank Awasthi. The trial court could decide whether to proceed in contempt against former SHO Yatendra Singh Bhadoriya after specifically finding whether Awasthi had informed him of receipt of the records; it could separately consider whether to proceed against current SHO Amar Singh Gurjar for filing the false reply. Awasthi was directed personally to deposit ₹5,00,000 with the Principal Registrar within one month, failing which recovery and a separate contempt case were directed. On deposit the money was to go to the trial court for disbursement to the complainant side upon conviction or the accused side upon acquittal. The DGP was directed to institute departmental inquiry and issue a charge sheet within one month, intimate the Principal Registrar by 20 May 2025, and preserve a certified copy of the order in Awasthi's service record. No present stricture was imposed on Bhadoriya, without binding any later inquiry.

Ramu v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 4578/2025, 16/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (770) Prev Next

Headnote :- Investigation — registered FIR — informant's grievance about proper investigation — Section 156(3) CrPC and magistrate's supervisory powers - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, was applied: even after registration of an FIR, a person complaining that investigation is improper may approach the concerned Magistrate, who can order and monitor a proper investigation and take necessary incidental steps if satisfied. The applicant alleged that investigation into his minor daughter's death was deficient and named respondents 6–8, but the basis of those accusations was unclear to the High Court. His Section 482 application was dismissed with liberty to approach the Magistrate with his grievances and prima facie material.

Case-note :- ***1. Facts :*** Ramveer Baghel, the father of a minor daughter, approached the High Court under Section 482 CrPC in relation to Crime No. 40/2023 at Police Station Dehat Bhind, District Bhind. The registered offences were Sections 302 and 201 IPC. He alleged that his daughter had been raped and killed, that Ashish, Ranu and Harnam were responsible for the alleged rape, and that the police were not carrying out the investigation properly. The prayer embedded in the order sought directions concerning the investigation, arrest of respondents 6 –8, DNA testing of those respondents, and protection of the applicant and his family. These were his allegations and requests, not findings or directions of the Court. The State opposed the application and submitted that the police were investigating freely and fairly. The High Court therefore addressed the proper forum for the asserted investigative grievance, rather than determining criminal responsibility or the adequacy of each proposed investigative step.

2. Precedents — Considered : *Sakiri Vasu v. State of U.P., 2007:INSC:1243, (2008) 2 SCC 409*, was expressly invoked and extensively quoted by the High Court. The reproduced passages explain a

staged remedy: a person complaining that police refuse to register a cognizable FIR may first address the Superintendent of Police under Section 154(3) CrPC; if that fails, or if an FIR has been registered but investigation is improper, an application under Section 156(3) lies to the Magistrate. On satisfaction, the Magistrate can direct registration where necessary, direct proper investigation, make suitable incidental orders and monitor investigation. The latter remedy remains available after registration and during investigation; the present Court applied that aspect to the father's complaint about an existing FIR. The *Sakiri Vasu* quotation also refers to *Mohd. Yousuf v. Afaq Jahan, (2006) 1 SCC 627*, for the pre-cognizance Magistrate's ability to direct registration as part of an investigation order, and to *Dilawar Singh v. State of Delhi, (2007) 12 SCC 641*, for the same general position. The reproduction was materially used for the Section 156(3) route, not to resolve the truth of the applicant's allegations.

3. Statutes considered : Section 482 CrPC was the jurisdiction invoked for the High Court application. The decision applied Section 156(3) CrPC, including the Magistrate's power, as stated in *Sakiri Vasu*, to secure and monitor proper investigation even when an FIR is already registered. Section 154(3) CrPC appears in the reproduced Supreme Court explanation of a complaint to the Superintendent of Police concerning non-registration; non-registration was not the factual problem in this case. Sections 302 and 201 IPC identify the offences recorded in Crime No. 40/2023. The alleged rape was part of the applicant's account, not a charge or offence independently adjudicated in this order.

4. Issues : The material question was whether the father's dissatisfaction with a police investigation already underway, including his accusations against respondents 6–8, warranted direct relief from the High Court under Section 482, or whether his grievance should be brought with prima facie material before the Magistrate empowered under Section 156(3).

5. Ratio / Findings : The Court observed that the applicant was dissatisfied with the police investigation and had made allegations against respondents 6–8, but the basis for making those allegations was not clear from the matter before it. It applied *Sakiri Vasu* to identify the Magistrate as the available judicial forum for a complaint that a registered case is not being investigated properly. The quoted Supreme Court reasoning is broader than FIR registration alone: Section 156(3) carries the incidental powers needed for a proper investigation and permits Magistrate monitoring when the Magistrate is satisfied. In the present case the High Court left the applicant at liberty to place his grievances and prima facie material before the Magistrate. This was a ruling on the appropriate forum and available remedy at the stage of the pending investigation.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The applicant was expressly given liberty to approach the concerned Magistrate, stating his grievances and placing prima facie material supporting his allegations against respondents 6–8. Any exercise of Section 156(3) powers remained for the Magistrate upon a proper application.

Ramveer Baghel v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 21040/2023, 25/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (772) Prev Next

Headnote :- Murder — Section 300 thirdly — intended injury and objective fatal sufficiency - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, set out the four inquiries: presence and nature of injury, intention to cause the injury actually found, and its sufficiency in the ordinary course of nature to cause death. Intention to kill or awareness of fatal seriousness is not an additional requirement under clause Thirdly. The Bench applied the *Virsa Singh* framework to the firearm wounds and the post-mortem findings of homicidal death to sustain the murder conviction. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, was considered for the high probability of death and the relevance of the weapon and body part.

Culpable homicide — Sections 299, 300, 302 and 304 IPC — intention, knowledge and exceptions - *Arun Nivalaji More v. State of Maharashtra (Criminal Appeals 1078–1079 of 2005)* explained the sequence from Section 299 to Section 300 and its exceptions, with Section 304 Part I addressing intention and Part II addressing knowledge where the homicide is not murder. The Court set out that framework and declined to disturb the Section 302 conviction for successive shots fired at the victim against a background of continuing prior enmity.

Murder conversion — sudden fight and the single-blow analogy - *Dhirajbhai Gorakhbhai*

Nayak v. State of Gujarat, (2003) 9 SCC 322, required every Exception 4 condition, including a sudden mutual fight without premeditation or undue advantage. *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, required a contextual assessment of weapon, force, target, prior enmity and surrounding circumstances; *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, drew intention from the weapon, vital target and injury. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, rejected mechanical conversion solely because an attack involved one injury. The Bench cited those tests and affirmed murder on the evidence of multiple shots in the present case.

FIR — Section 154 CrPC — police response before registration - A police station roughly 50–60 metres from the firearm attack could respond to a noticed cognizable crime before the FIR was formally registered. The appearance of a tractor engine number in the FIR before its recorded seizure and disputed timing did not, in these circumstances, fatally undermine the prosecution case; registration was not a prerequisite to the police taking initiative.

Medical and ocular evidence — firearm injuries and sequence - The doctor's opinion that the shots entering from the back appeared to have struck while the victim was standing did not conclusively negate eyewitness accounts of his running, falling after Ramveer fired, and Kailash firing thereafter. Three entries, two exits, charring or blackening and the fatal cause supported a firearm attack; the expert opinion was treated as indicating probability rather than conclusively establishing the victim's precise posture and the sequence of shots.

Witness contradictions — two shooters and brief occurrence - The Court accepted the testimony of PW-1, PW-2 and PW-4 identifying both appellants despite prior enmity, family relationship, alleged omissions and the acquittal of other accused. In an attack lasting only a few seconds and directed at one victim, inability to say which gun caused each wound and minor sequencing differences were not fatal in light of this evidence.

Case-note :- ***1. Facts :*** Ramveer and Kailash, two brothers, appealed under Section 374(2) CrPC against the Second Additional Sessions Judge, Morena's judgment of 23 November 2005 in Sessions Trial No. 79/2001. Both had been sentenced to life imprisonment under Section 302 IPC and five years' rigorous imprisonment under Section 27(1) of the Arms Act, concurrently. Three other accused brothers, Balveer, Shatrughan and Siyaram, had been acquitted. The families had a history of reciprocal murder cases following the deaths of Vasudev, a brother of the accused, and Feli Ram, the father of deceased Mahendra; the parties had compromised in those earlier trials, but the prosecution maintained the hostility continued.

On 14 November 2000 Mahendra, his cousins Rajendra Singh (PW-1) and Balram (PW-2) had gone to visit their relative Ramjilal in Morena Jail and waited for a bus at Noorabad. According to the prosecution, the accused arrived by tractor with firearms, lathi and luhangi; the three men ran toward the nearby police station. Ramveer fired his licensed gun at Mahendra, who fell, and Kailash then fired a katta; the others allegedly struck him. Rajendra and Balram reported the event. Police prepared a spot map, seized cartridges, soil and a tractor, registered the death and obtained a post-mortem before filing the charge sheet. The post-mortem recorded three firearm entries, two exits, a pelvic-region wound without an exit and a frontal abrasion, and concluded that the gunshot injuries caused homicidal death. The doctor's evidence included an opinion about the victim's posture when back-entry wounds were inflicted.

At trial the two appellants faced charges including Sections 148, 302 or alternatively 302/149, and 307 or alternatively 307/149 IPC, as well as an Arms Act charge. The appealed convictions were under Section 302 IPC and Section 27(1) of the Arms Act. They argued that the same evidence had led to other accused being acquitted; the related eyewitnesses were interested due to prior enmity; the FIR was suspicious or antetimed because the tractor engine number appeared before a later seizure and the reported time varied; the witnesses' account that the victim had fallen conflicted with the doctor's inference that he was standing when shot; and omissions and contradictions undermined guilt. The State supported the trial judgment. The Bench heard the appeal and reviewed the record, including PW-1, PW-2, PW-4, the doctor PW-5, and the investigating officer PW-7.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was quoted for the four elements of Section 300 Thirdly: an actual injury, proof of its nature, an intention to inflict that very injury rather than an accidental or different wound,

and the injury's objective sufficiency in the ordinary course of nature to cause death. The Bench explained that an intention to kill, or to cause an injury understood to be fatal, is not additionally needed. The later *Bavisetti* quotation reiterated *Virsa Singh*'s separation of intended injury from its seriousness. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, was quoted for the high probability of death represented by ordinary-course sufficiency and the relevance of weapon and body part; it reinforced that inquiry.

Arun Nivalaji More v. State of Maharashtra (Criminal Appeals 1078–1079 of 2005) was reproduced for the sequence of inquiry: Section 299 culpable homicide, the four clauses and exceptions of Section 300, and then the distinction between intentional homicide under Section 304 Part I and homicide based on knowledge without intention under Part II if murder is not established. Its discussion of the criminal-law sense of knowledge under Section 300 Secondly distinguished virtual certainty from mere probability.

Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322, was quoted at length on Exception 4 to Section 300: a sudden mutual fight in the heat of passion, no premeditation, and no undue advantage or cruel or unusual conduct, all on facts involving the deceased. It explained that mutual provocation and combat distinguish it from unilateral provocation.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, was cited for classification of an offence involving even one knife blow according to the injury, whether a vital part was affected, the weapon and the manner of assault, with no rule automatically excluding Section 302. *Pulicherla Nagaraju alias Nagaraja v. State of A.P., (2006) 11 SCC 444*, furnished a nonexhaustive contextual list for intention: the weapon and whether it was carried, whether a vital body part was targeted, the force used, a quarrel or chance occurrence, prior enmity, provocation, heat of passion, advantage and number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, was quoted for inferring intention from the weapon, chosen body part and force reflected by the injury. The Bench invoked these complementary tests and then accepted the evidence of firearms directed at the victim, continuing enmity and fatal injuries, rather than reducing the charge merely on the basis of the number of injuries.

State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639, was reproduced on the absence of a fixed single-blow exemption from Section 302 and on the cumulative conditions of Exception 4. Within its quotation the Supreme Court discussed *Arun Raj v. Union of India, (2010) 6 SCC 457*, on vital part and weapon, *Ashokkumar Magabhai Vankar v. State of Gujarat, (2011) 10 SCC 604*, on a forceful fatal pestle strike, and *Leela Ram* on the four Exception 4 conditions. These nested authorities supplied *Kanhaiyalal*'s explanation rather than distinct factual applications by this Bench. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, likewise cautioned that one injury cannot mechanically imply Section 304 Part II; premeditation, weapon and assault context matter. Its embedded discussion of *State of Karnataka v. Vedanayagam, (1995) 1 SCC 326*, and *Virsa Singh* concerned the distinction between intending the actual injury and its degree of seriousness. These single-injury authorities were used as classification guidance; this case involved multiple firearm wounds and two identified shooters.

3. Statutes considered : Sections 299 and 300 IPC supplied the governing culpable-homicide and murder definitions. Section 299 requires death caused by an act done with intention to cause death, intention to cause bodily injury likely to cause death, or knowledge that death is likely. Section 300's four clauses identify murder, subject to its exceptions; the judgment particularly explained clause Thirdly's intended injury and objective ordinary-course sufficiency, clause Secondly's knowledge aspect, and Exception 4's sudden-fight conditions through precedent. Section 302 prescribes the affirmed murder liability; Section 304 Parts I and II were considered as possible lesser classifications dependent on intention or knowledge when murder is not made out. Section 154 CrPC governed information about a cognizable offence and the FIR timing contention, while Section 374(2) supplied appellate jurisdiction. Section 27(1) Arms Act was part of the affirmed sentence, and the charge was described as Section 27(1) read with Section 5.

4. Issues : (i) Whether Mahendra's firearm death was culpable homicide amounting to murder attributable to Ramveer and Kailash, or whether the applicable mental element and exceptions warranted an offence under Section 304 rather than Section 302. (ii) Whether the FIR's timing and its tractor engine number before the documented later seizure showed antetiming or fabrication that undermined the

prosecution, and whether police could have acted before formal FIR registration. (iii) Whether the eyewitness identification and shooting sequence survived the medical posture opinion, the related witnesses' prior hostility, alleged contradictions and omissions, and the difficulty of attributing individual wounds to two shooters. (iv) Whether the convictions and concurrent sentences, including Section 27(1) Arms Act, should be set aside.

5. Ratio / Findings : The Bench first set out the Sections 299–300 distinction and *Virsa Singh*'s Section 300 Thirdly test. It treated the intention to cause the particular bodily injury, not a separately proved desire for death, as decisive under Thirdly once that injury's sufficiency in the ordinary course of nature to cause death was shown. It also set out the knowledge-based Section 304 Part II distinction and all the conditions for a sudden fight under Exception 4 through the cited Supreme Court authorities. Their contextual approach to intention precluded mechanical reliance on the number of injuries. On the case record, it found a homicidal firearm death: the post-mortem documented three entry wounds and two exits, with a fatal pattern. The continuing hostility furnished motive despite earlier compromises. PW-1, PW-2 and PW-4 said Ramveer fired first and Kailash fired immediately afterward as Mahendra fled, and their account was supported by the gunshot injuries.

On the FIR objection, the station was about 50–60 metres from the scene. Officers could hear the shots, notice a cognizable event and begin action before a Section 154 report was formally registered. The Bench therefore rejected the defence inference that the tractor details recorded before seizure and the timing discrepancies necessarily established antetiming that was fatal to the prosecution case.

The doctor's opinion that back-entry wounds could have been inflicted while the deceased stood was expert evidence indicating probability, rather than conclusive proof of the exact sequence. The Bench related it to the evidence that Mahendra was running before he fell. The blackening, charring, entry and exit findings substantiated gunfire and did not discredit identification of the two appellants. In a rapidly unfolding attack with both firing at one target, reliably attributing each injury to a particular gun was impracticable. Omissions and variations in the witnesses' account of an incident lasting only a few seconds were not fatal; the investigating officer and seizure witnesses supported the investigative record. The Bench concluded that the trial court did not err in convicting and sentencing these two appellants.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. The Sessions Trial No. 79/2001 judgment dated 23 November 2005 was confirmed as to Ramveer and Kailash: life imprisonment under Section 302 IPC and five years' rigorous imprisonment under Section 27(1) Arms Act, running concurrently. The Bench noted the Central Jail, Gwalior report of 9 August 2021 that Ramveer was on 30 days' parole from 4 August and Kailash on 16 days' parole from 28 July through 12 August 2021. It directed the trial court to take steps ensuring both returned to custody to serve the remaining sentence, and ordered the judgment and trial record sent back.

Ramveer and Ors. v. State of Madhya Pradesh, Cr.A. no. 82/2006, 01/09/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (774) Prev Next

Headnote :- Homicide — Sections 302 and 304 Part II IPC; Section 300 exceptions 1 and 4 — The husband was convicted of murdering his wife Mamta, who had sustained extensive blunt injuries in their home. An earlier missing-person report from September 2017 corroborated her previous departure and was considered in the accused's favour although it had not been exhibited. It established neither adultery nor sudden provocation at the time of the occurrence in July 2018. No immediate triggering act was proved. There had been ample time to cool down, and the blows were repeated and cruel. *B.D. Khunte* was applied to grave and sudden provocation; *K. Ravi Kumar, Abdul Latif, Bagdi Ram* and *Adu Ram* were cited by the appellant in support of conversion. The murder conviction and life sentence were affirmed.

Evidence — Section 106 Evidence Act — The prosecution established homicidal death in the appellant's house, his presence with the deceased and their prior quarrel through PW1's unchallenged testimony before the appellant was called upon to explain facts especially within his knowledge. Section 106 does not relieve the prosecution of its burden or complete an otherwise incomplete chain of circumstances. The account of a fall from the roof was rejected in view of the pattern of injuries, the

absence of any indication of a toilet on the roof and the appellant's conduct. *Rajinder Singh*, *Nagendra Sah*, *Ram Gulam Chaudhary*, *Mir Mohammad Omar* and *Tulshiram Sahadu Suryawanshi* were considered.

Medical and forensic proof — Ex.P/27 recorded numerous ante-mortem abrasions and contusions, arm and hand fractures, occipital fracture and subdural hematoma; the autopsy opinion was that death was homicidal. Some isolated injuries could occur from a fall, but the overall pattern could not be explained by a single-storey fall. The doctor's omissions in his oral account did not negate the exhibited report; the Court criticised the prosecutor's failure to seek clarification. Ex.P/29 reported human blood on the knife, danda and towel.

Witnesses — partial hostility — PW1 testified to the fight and the appellant's refusal to allow intervention, though he denied actually seeing the assault. This part was not challenged in defence cross-examination. PW2–PW4, examined in the accused's absence with counsel consenting to cross-examine, did not support the prosecution. The evidence of other hostile witnesses and the investigating officers was also considered.

Conduct — absconding — The appellant did not alert the police, arrange treatment, identify the body or participate in the inquest, and was arrested the next day near a bus stand. *Kundula Bala Subrahmanyam* was applied: flight alone is not proof and may have innocent explanations, but it corroborated the other established circumstances. The appeal was dismissed, and the appellant was to serve the remainder of his life sentence.

Case-note :- ***1. Facts :*** The Division Bench heard an appeal under Section 374(2) CrPC against a 22 August 2019 conviction by the First Additional Sessions Judge, Sabalgarh, Morena, in Sessions Trial No. 350/2018. The appellant received life imprisonment and Rs. 2,000 fine, with three months' rigorous imprisonment in default, under Section 302 IPC. He and Mamta had been married for roughly twelve to fifteen years and had two children. On 14 July 2018 villagers and her family found her body in the courtyard of his house. A merg was registered, followed by inquest, scene seizures, postmortem, statements, arrest, recoveries and FSL analysis. The accused proposed that she had climbed to the roof to relieve herself and died in a fall; alternatively he sought Section 304 Part II on grave and sudden provocation arising from alleged infidelity and a quarrel. The State disputed both accounts. The judgment framed questions of homicidal death, authorship, explanation and provocation. The appellate court evaluated the autopsy, neighbour Banwarilal's account, relatives' hostile evidence, the appellant's absence and subsequent arrest, and an unexhibited 2017 Jaipur missing-person report.

2. Precedents — Considered : *Rajinder Singh v. State of Haryana, (2013) 15 SCC 245; Nagendra Sah v. State of Bihar, (2021) 10 SCC 725; Ram Gulam Chaudhary v. State of Bihar, (2001) 8 SCC 311; State of W.B. v. Mir Mohammad Omar, (2000) 8 SCC 382*; and *Tulshiram Sahadu Suryawanshi v. State of Maharashtra, (2012) 10 SCC 373* were cited or quoted for Section 106: prosecution must first establish a basis for inference, and the accused's silence or false explanation about facts especially within his knowledge can only add a link, not replace an incomplete prosecution chain. *Kundula Bala Subrahmanyam v. State of A.P., (1993) 2 SCC 684* was quoted for absconding as potentially corroborative but not conclusive. *B.D. Khunte v. Union of India, (2015) 1 SCC 286* was quoted at length on all ingredients of grave and sudden provocation, loss of self-control and cooling time; *Holmes* and *Mancini* appeared within its quoted discussion, not as independently analysed authorities. The appellant relied *on K. Ravi Kumar v. State of Karnataka, (2015) 2 SCC 638; State of M.P. v. Abdul Latif, (2018) 5 SCC 456; Bagdi Ram v. State of M.P., (2004) 12 SCC 302*; and *Adu Ram v. Mukna, (2005) 10 SCC 597* for a Section 304 Part II outcome even with multiple injuries after loss of self-control. The Bench recorded these citations but found the necessary provocation absent and established that the conduct was cruel and dangerous.

3. Statutes considered : Section 374(2) CrPC governed the appeal. Section 302 IPC and Section 300 Exceptions 1 and 4 supplied the murder and mitigation inquiry; Section 304 Part II was the alternative requested by defence. Section 106 Evidence Act concerned facts especially within the accused's knowledge, without shifting the prosecution's ultimate burden of proving guilt beyond reasonable doubt; Section 114 was mentioned in the *Tulshiram* extract. Section 313 CrPC statement supplied the appellant's account and certain admissions. Section 174 CrPC related to the initial unnatural-death inquiry. The Bench mentioned Section 233 CrPC in relation to PW2–PW4 evidence taken when the accused was absent,

but expressly declined to decide the supposed violation because no prejudice resulted from their hostile evidence. It accepted that a defence explanation is assessed on preponderance of probabilities, distinct from the prosecution's criminal standard.

4. Issues : Whether injuries and autopsy established homicide rather than accidental fall; whether the prosecution proved foundational circumstances linking appellant and deceased, permitting a limited Section 106 inference; whether partially hostile and other witnesses, recoveries, FSL and post-event conduct sustained authorship; whether the earlier disappearance and contemporaneous dispute amounted to grave and sudden provocation or an Exception 4 sudden fight warranting Section 304 Part II; and whether any procedural prejudice arose from recording three hostile witnesses with defence counsel participating while appellant was absent.

5. Ratio / Findings : The post-mortem report, Ex.P/27, prepared by Dr S.R. Mishra (PW10), described multiple abrasions and contusions on extremities, buttocks and thighs, fractures of the left little finger and metacarpal and right humerus, occipital fracture with subdural hematoma, facial abrasion, cheek blister and burnt hair. Death was attributed to head and multiple body injuries and was classified as homicidal. Cross-examination elicited that a fall might cause some injuries, but the court considered the overall widespread pattern inconsistent with a fall from the single-storey home. The doctor's oral description omitted some abrasions and buttock contusions in the exhibited report. The Bench criticised his apparent assistance to the accused and the prosecutor's lack of clarifying questions, yet held Ex.P/27 proved because its contents and the opinion of homicidal death had not been challenged. PW1 said the husband brought Mamta back at about 10 p.m., they dined and fought, and he went to intervene only to be told it was a personal matter; the next morning the appellant was absent and Mamta lay dead. PW1 denied seeing blows and was partly hostile, but his material account went unchallenged in defence cross-examination. PW2–PW4, relatives examined with counsel willing to cross-examine though the accused was not present, supported only an accident account received from others and turned hostile. Other witnesses were partly or wholly hostile; the investigating officers and constable proved inquest, scene seizure, arrest and recovery evidence. Knife and wooden danda were produced in sealed cover; some other sealed exhibits were not opened at trial. The court noted they were ordinary common objects. FSL Ex.P/29 found human blood on the knife, danda and towel. The prosecution established homicide at the marital house after the couple had been together and had fought. Applying the cited Section 106 cases, the Bench found the appellant's explanation of facts especially within his knowledge inadequate, without treating Section 106 as a substitute for its prior proof. No toilet on the roof was shown in the site plan, nor was its existence suggested to any witness. The appellant neither took Mamta for treatment nor informed police, was absent from the inquest and postmortem identification and was arrested on 15 July at 2 p.m. near Sujarma bus stand. Flight was corroborative, not individually decisive. For provocation, an unexhibited prosecution missing-person report was usable in the accused's favour and corroborated his concern about her disappearance in 2017, but it did not prove adultery. Her staying at her parental home and the husband's bringing her back did not disclose a grave, sudden triggering event. About ten months had passed since that report, and the immediate quarrel's cause was not shown; he did not call children said to be in the house. The court treated the old incident, if anything, as potential motive rather than a continuing loss of self-control. The repeated severe beating, cruel conduct and undue advantage also precluded the suggested mitigation on the basis of a sudden fight. It found that he had intended to kill her, had known that his acts would cause her death, and had inflicted injuries sufficient in the ordinary course of nature to cause death, and rejected Section 304 Part II.

6. Relief : The Hon’ble High Court affirmed the Section 302 IPC conviction and life-imprisonment sentence with Rs. 2,000 fine and the trial court's three-month default rigorous imprisonment. As life imprisonment was the minimum punishment applicable to the sustained murder conviction, the Bench made no sentence reduction despite the appellant's submission that he had served about seven years and eleven months. The appellant remained in jail and was to serve the remaining sentence. The appeal was dismissed and the record with judgment returned to the trial court for information and compliance.

Ramvilas Dhakad v. The State of Madhya Pradesh, Cr.A. no. 9150/2019, 15/06/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (775) Prev Next

Headnote :- Bail — successive application — fourth Section 439 CrPC request following rejection of third application on 29 may 2024 — The applicant produced the trial order sheets in support of his claim of delay. The chargesheet was filed on 5 December 2023; from 2 January 2024, defence counsel repeatedly sought time to argue on the framing of charges; the charges were eventually framed on 20 April 2024. Later concerns about summons and a co-accused's absconding did not persuade the Court that prosecution caused the asserted delay. The record disclosed no fresh basis for granting bail.

Regular bail — Sections 420 and 406/34 IPC — The applicant, arrested on 6 October 2023, was alleged to have taken vehicles on rent and mortgaged them for money. The Court described him as the mastermind, took account of the delay attributable to the defence at the stage of framing charges and the co-accused's absconding, and dismissed the application. The applicant was given liberty to revive his bail prayer after Ankit Sharma surrenders; meanwhile, he could seek separation of his trial from Ankit Sharma's. These are allegations and bail-stage observations, not a final finding of guilt.

Supervisory correction — trial record — Handwritten order sheets of 24 February, 9 March and 23 March 2024 listed absence of prosecution witnesses and evidence dates although arguments on framing charges had not yet concluded; other entries were typed. Later directions to issue witness summons lacked endorsements in the margins of the order sheets, and the entry of 14 June referred to summons that apparently had not been issued. The Principal District and Sessions Judge, Bhopal was directed to inquire into how the entries were made and signed and to complete the proceedings within two months. If judicial negligence was found, it was to be reported to the Chief Justice for administrative action; if the clerk was also found responsible, departmental proceedings were to be initiated against him. A copy of the order was directed to be sent for compliance.

Case-note :- ***1. Facts :*** This was the applicant's fourth regular-bail application under Section 439 CrPC in Crime No. 891/2023 of Police Station Nishatpura, Bhopal, registered for offences under Sections 420 and 406 read with Section 34 IPC. Arrested on 6 October 2023, he was alleged to have rented vehicles, then mortgaged them and retained the money. Counsel relied on custody and delay in trial. An earlier, third application had been dismissed on 29 May 2024 in M.Cr.C. No. 21121/2024. In response to that order, the applicant supplied trial-court order sheets to support his renewed delay argument. The High Court reviewed the sequence from chargesheet to the June 2024 hearing dates and found substantial concerns about how the record was maintained. Its decision both refused bail and made conditional administrative inquiry directions. The case diary was available.

2. Statutes considered : Section 439 CrPC governed the regular-bail request. The registration of the underlying crime was under Sections 420 and 406/34 IPC, dealing respectively with alleged cheating, criminal breach of trust and common intention. The sequence of charge framing and witness summons was evaluated from the trial order sheets. The High Court directed a district judicial inquiry and possible administrative or departmental action conditionally.

3. Issues : Whether the period in custody and the order sheets supplied after the third bail rejection showed delay justifying release on the fourth application; how the seriousness of the alleged scheme of mortgaging vehicles taken on rent and the conduct of accused and co-accused affected bail; and whether the apparent trial-record anomalies required a separate supervisory inquiry.

4. Ratio / Findings : The chargesheet was filed on 5 December 2023. From 2 January 2024, counsel for the accused repeatedly sought time to argue on framing charges. The 10 February entry listed the matter for that purpose, but handwritten entries on 24 February, 9 March and 23 March recorded absent prosecution witnesses and repeatedly listed evidence, before any charge had been framed. The court returned to arguments on framing charges on 5 April and framed charges on 20 April. The High Court observed that the anomalous handwritten entries appeared to have been written by a clerk and signed by the trial court without scrutiny; it ordered an inquiry rather than declaring responsibility finally established. At the evidence stage, entries of 17 and 31 May directed summons, but no endorsements in the margins of the order sheets showed that the summons had been issued; the 14 June notation that

issued summons had not returned appeared prima facie inaccurate in light of the 31 May sheet. The co-accused Ankit Sharma absconded on 27 June; his bail bonds were cancelled and an arrest warrant issued. On these facts, the High Court attributed the earlier delay at the stage of framing charges to defence counsel, observed no delay on the prosecution's part for the bail determination, and considered the absconding co-accused and the applicant's alleged leading role. It held that no case for bail had been made out. The description of the applicant as a mastermind is the court's bail-stage characterization of an allegation, not a conviction. The third bail rejection dated 29 May 2024 was a procedural antecedent.

5. Relief : The Hon'ble High Court dismissed the fourth application for regular bail. The applicant was given liberty to renew his prayer once co-accused Ankit Sharma surrenders; meanwhile he could apply to separate his trial from that of the absconder. The Principal District and Sessions Judge, Bhopal was directed to inquire into the writing and signing of the 24 February, 9 March and 23 March entries. If judicial negligence is found, a report is to go to the Chief Justice for administrative action; if the clerk is also found responsible, departmental proceedings are to be initiated. The entire inquiry process was to conclude within two months of the date of this order. *Ranjeet Singh Johal v. The State of Madhya Pradesh, M.Cr.C. no. 29009/2024, 24/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (776) Prev Next

Headnote :- Sexual offences — Section 376 IPC — pre-amendment Section 375 sixthly — prosecutrix born 2 april 1990 and occurrence on 20 july 2006 — above sixteen at occurrence — Consent was accordingly material to the rape charge. Assessing her court testimony, cross-examination and circumstances of travel and stays over ten to twelve days, the High Court found consent on this record and acquitted the appellant of rape. *Kaini Rajan* was applied to assess voluntary consent in its factual context. The Court applied the law governing the 2006 occurrence.

Kidnapping and procuration — Sections 361, 363 and 366-A IPC — girl below eighteen — minor's willingness did not replace guardian's consent — Accused's taking or enticement remained in issue. The Court considered the request to run away, her account of being taken under threat and their subsequent travel. It found the necessary persuasion or taking and affirmed both convictions. *Jinish Lal Sah*, *Mahendra Subhashbhai Vankhed* and *S. Varadarajan* were cited by the appellant on the need for an act of the accused and proximate causation.

Evidence — case-diary statement ex. D-1 — Section 145 Evidence Act — The statement was not substantive proof of alleged earlier intercourse that was not repeated in testimony; the State could not rely on it to establish an earlier occasion of statutory rape. The Court considered omissions and contradictions when assessing the testimony.

Proof of age — unproved and unexhibited school marksheet filed by prosecution with charge-sheet — The Court accepted the date of birth stated in it in favour of the accused, as the trial court had done, without treating the document as adverse substantive proof. Age over sixteen governed the 2006 rape issue, while age below eighteen governed kidnapping and procuration.

Sentence — partial allowance of appeal — Section 376 conviction and seven-year sentence set aside; Sections 363 and 366-A affirmed — Approximately one year and twenty-six days of custody was treated as sufficient imprisonment for the surviving counts; the fine was enhanced to Rs. 10,000 on each count. The enhanced fines were to be deposited within three months. Default would revive the original three-year rigorous imprisonment and Rs. 500 fine on each count and require surrender; the bail bonds would be discharged on timely deposit.

Case-note :- ***1. Facts :*** The appellant challenged the judgment of the Second Additional Sessions Judge (Fast Track), Ganjbasoda, Vidisha, dated 21 April 2009 in Sessions Trial No. 205/2006. The trial court convicted him under Sections 363, 366-A and 376 IPC and imposed respectively three, three and seven years' rigorous imprisonment with Rs. 500 fine for each offence; the custodial terms were concurrent. The complainant father reported his daughter missing on 21 July 2006 after finding her absent at night. Investigation led to her recovery, witness statements, medical examinations, the appellant's arrest and a charge-sheet. The prosecutrix said the appellant met her when she went outside at night, threatened her with a knife, took her to relatives and other places, and had intercourse. She also described a ten-to-twelve-day stay, travel with him, an alleged promise of marriage and eventual return to a police station. Her cross-examination and the earlier case-

diary statement were contested. The school marksheet attached to the prosecution charge-sheet gave her date of birth as 2 April 1990. The incident was on 20 July 2006, so she was over sixteen and under eighteen. The school document had not been proved or exhibited. The High Court treated it as a prosecution document usable in favour of the accused, upheld the trial court's age finding, and examined the separate consequences under the then rape provision and the kidnapping provisions.

2. Precedents — Considered : *Kaini Rajan v. State of Kerala, (2013) 9 SCC 113*, was quoted and applied for the proposition that consent under Section 375 is voluntary, reasoned participation and is assessed from all relevant circumstances, with Section 90 identifying circumstances that negate consent. *State of H.P. v. Mango Rami* appeared within the *Kaini Rajan* passage, rather than as a separately analysed authority. The appellant relied *on Jinish Lal Sah v. State of Bihar, (2003) 1 SCC 605; Mahendra Subhashbhai Vankhed v. State of Gujarat, 2018 (1) SCC (Cri) 840*; and *S. Varadarajan v. State of Madras, AIR 1965 SC 942*, to contend that a minor's voluntary departure with the accused is insufficient without an act by the accused proximately causing her departure from guardianship. The High Court set out that contention, distinguished the meaning of taking and enticing, and found an act attributable to the appellant on its assessment of the evidence.

3. Statutes considered : Section 374(2) CrPC supplied appellate jurisdiction. Section 375 sixthly IPC as applicable to the July 2006 occurrence used sixteen years as the relevant age for the rape charge; Section 376 prescribed the conviction under appeal. Sections 361 and 363 IPC concerned taking or enticing a female under eighteen from lawful guardianship without the guardian's consent. Section 366-A IPC, quoted in the judgment, concerned inducing a girl under eighteen to go from any place or do an act with the specified intent or knowledge of likely illicit intercourse. Section 90 IPC was addressed through the cited consent precedent. Section 145 of the Evidence Act governed contradiction by a prior statement; the case-diary statement Ex. D-1 was treated as non-substantive.

4. Issues : Whether the prosecutrix's age and the evidence of consent permitted the appellant's Section 376 conviction to stand under the provision applicable in 2006; whether, despite her voluntary travel as found for that issue, the appellant took or enticed a girl under eighteen from her guardian without permission and induced her for purposes of Sections 363 and 366-A; whether an allegation of earlier sexual relations contained in Ex. D-1 but absent from sworn testimony could sustain the State's alternative theory; whether the unproved school document could be used in the accused's favour to ascertain age; and what sentence was appropriate on the surviving convictions.

5. Ratio / Findings : The High Court accepted the birth date in the marksheet filed with the charge-sheet in the accused's favour despite the prosecution's failure to prove or exhibit it. The trial court's corresponding finding meant that the prosecutrix was above sixteen at the time of the incident, so her consent was material to the rape allegation under the then applicable Section 375 sixthly. The High Court considered her travel and stays with the appellant and relatives, encounters with other people and with police at a railway station without making a complaint, admissions about friendship and her accounts in examination and cross-examination. It concluded on this particular record that she had voluntarily accompanied him and participated in intercourse; accordingly, it set aside the Section 376 conviction. The judgment also mentioned a medical characterization of prior sexual experience and FSL findings. The State argued that earlier intercourse while under sixteen would constitute rape independently. The court rejected that route because the allegation of the prior occasion appeared only in Ex. D-1 and was not part of the evidence given in court. It said a case-diary statement is not substantive evidence and may be used in the context of contradiction under Section 145; an allegation appearing solely in it could not count against the accused. For the remaining offences, the court treated the prosecutrix's age under eighteen and absence of the guardian's consent as material, and recognised the distinct question whether the accused took or enticed her. It discussed taking by force or fear and enticing by persuasion. The appellant invoked Supreme Court authorities for the need for a proximate causal act. The court referred to her account of a knife, their travel and, expressly, the Ex. D-1 account that he asked her to run away; it characterised the latter request as persuasion and affirmed Sections 363 and 366-A.

6. Relief : The Hon’ble High Court partly allowed the appeal. The appellant was acquitted of the Section 376 IPC charge and the related seven-year term was set aside. Convictions under Sections 363

and 366-A were sustained. The court calculated custody of about one year and twenty-six days, taking into account detention from 30 July to 1 December 2006 and later custody reflected in the trial and appellate records, and substituted the period already undergone for the three-year rigorous imprisonment on both surviving counts. It enhanced the fine from Rs. 500 to Rs. 10,000 for each count. The enhanced amounts were payable within three months of the date of this order. On default, the original three-year rigorous imprisonment and Rs. 500 fine on each surviving count would automatically revive, and the appellant had to surrender to serve the remainder. He was then on bail; timely payment meant no surrender and discharge of his bail and surety bonds. The balance of the trial judgment was affirmed subject to those changes.

Ranu Kushwaha v. State of M.P., Cr.A. no. 358/2009, 04/10/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (777) Prev Next

Headnote :- Rash driving — overloaded bus — roof passengers — Sections 279, 337 and 304-A IPC - The bus overturned, killing eight and injuring twenty-six. Pawan (PW-1) and Ashok (PW-18) identified the applicant as the driver. His identification was not challenged in cross-examination; a Dehati Nalishi lodged within thirty minutes named him. Several witnesses described rash driving and some specifically described roof passengers. The Court held that allowing passengers to sit on the roof itself amounted to rash and negligent driving and that the driver was not to permit passengers beyond the bus's capacity. On the combined evidence, it found guilt proved beyond reasonable doubt. Accident alone was not used as a substitute for proof.

Criminal revision — concurrent factual findings — perversity - The JMFC's convictions and the Sessions appellate court's dismissal were not open to a fresh factual reassessment in revision merely because the driver repeated his denial. The High Court stated the need to show perversity, found none identified, and independently noted the testimony and prompt report supporting the findings. It affirmed the convictions for IPC Sections 279, 337 (26 counts) and 304-A (eight counts), the conviction under Sections 66/192(a) of the Motor Vehicles Act and the concurrent sentences. The earlier Section 338 acquittal and co-accused's separate liability were not reopened.

Case-note :- ***1. Facts :*** Rashid Kha drove bus MP08-F-9685 in an incident in which the bus overturned, eight people died and twenty-six were injured. The prosecution alleged rash and negligent driving and carriage of passengers above the bus's capacity, including people on the roof. The police charge-sheeted him under IPC Sections 279, 337 (initially described as 21 counts), 338 (14 counts) and 304-A (eight counts), as well as Sections 66/192(a) of the Motor Vehicles Act, 1988. Co-accused Santosh faced the Motor Vehicles Act accusation. Both pleaded not guilty. The prosecution examined numerous witnesses, including passengers and witnesses to identity; the applicant called no defence witness.

On 14 December 2016 in Criminal Case No. 126 of 2010, the JMFC, Guna acquitted Kha of Section 338 on fourteen counts but convicted him under Section 279, Section 337 on twenty-six counts, Section 304-A on eight counts and the Motor Vehicles Act provisions. The judgment imposed three months' rigorous imprisonment and a Rs. 500 fine for Section 279, three months' rigorous imprisonment per Section 337 count, two years' rigorous imprisonment per Section 304-A count, and a Rs. 2,000 fine for the Motor Vehicles Act offence with default imprisonment. The imprisonment terms were to run concurrently. Santosh was separately convicted and fined under the Motor Vehicles Act. The order reports different Section 337 counts at the charge-sheet and conviction stages.

The Sixth Additional Sessions Judge, Guna dismissed Kha's Criminal Appeal No. 110 of 2017 on 8 March 2018. He then invoked Sections 397 and 401 CrPC in Criminal Revision No. 1537 of 2018. He denied that the prosecution proved his identity as driver and argued that rash and negligent operation had not been established even if he was driving. The State supported the concurrent findings. He was in jail at the time of the High Court's final order.

2. Statutes considered : IPC Section 279 governed rash driving on a public way, Section 337 the hurt counts, and Section 304-A the negligent-death counts affirmed by the Court. Section 338 was charged on fourteen counts, and the JMFC acquitted Kha on those counts. Sections 66/192(a) of the Motor Vehicles Act, 1988 were among the conviction provisions and fine orders. The bus capacity and roof-passenger conduct were material to the High

Court's finding of negligent operation. Sections 397 and 401 CrPC provided the revisional jurisdiction and the stated limit on interference with concurrent findings of fact absent perversity.

3. Issues : First, was Kha proved to have driven the bus at the time of the overturning, given his denial, the testimony of Pawan and Ashok, the scope of their cross-examination and the prompt Dehati Nalishi? Second, did the witness evidence, particularly excessive passenger carriage and seating on the roof, support the criminal finding of rash and negligent operation that had led to deaths and injuries? Third, in revision after a trial conviction and dismissed appeal, had any perversity in the concurrent factual findings been identified that would justify interference?

4. Ratio / Findings : Pawan (PW-1) and Ashok (PW-18) expressly said Kha was driving. The defence did not cross-examine them on the driver's identity. A Dehati Nalishi lodged within thirty minutes of the incident also identified Kha as driver. On the combined strength of this evidence, the High Court held his identity proved. On the manner of driving, it considered testimony of multiple passengers and other prosecution witnesses describing rashness, including specific descriptions of people seated on the roof. It reasoned that the driver was not supposed to permit passengers beyond the bus's capacity and that allowing passengers to travel on the roof was itself rash and negligent. The bus's overturning and the resulting fatalities and injuries formed the factual setting, but the Court relied on the identified testimony and conduct rather than treating the occurrence alone as decisive. It found the prosecution established rash and negligent driving beyond reasonable doubt. The Court applied the settled limit on revisional interference with findings of fact to the record.

The Court then applied the limited revisional standard: findings of fact concurrently made by the trial and appellate courts should not be disturbed unless shown to be perverse. Kha's counsel pointed to no perversity. The High Court also expressly endorsed the evidentiary basis for the lower courts' conclusions. It affirmed the IPC convictions and the Motor Vehicles Act conviction, and affirmed the sentences, all of which were concurrent as ordered below.

5. Relief : The Hon'ble High Court dismissed the criminal revision. The convictions and sentences affirmed by the Sixth Additional Sessions Judge on 8 March 2018, arising from the JMFC judgment of 14 December 2016, remained in force: IPC Sections 279, 337 (26 counts), 304-A (eight counts) and Sections 66/192(a) of the Motor Vehicles Act, with the previously ordered concurrent imprisonment and fines. The applicant was in jail; the High Court gave no release or sentence modification direction.

Rashid Kha v. State of Madhya Pradesh, Cr.R. no. 1537/2018, 17/01/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (778) Prev Next

Headnote :- Cheating — business advances — dishonest intention at inception - The FIR and Section 161 CrPC statements described payments to fund stocking liquor under the applicants' one-year licence, followed by failures both to refund the money and to induct the complainant as a partner. They did not allege that partnership was promised before the money was advanced. The later partnership theory was an afterthought on that record. Following the distinction discussed in *Naresh Kumar v. State of Karnataka, SLP (Crl.) No. 1570 of 2021*, decided 12.03.2024, including *Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293*, and *Jay Shri v. State of Rajasthan, SLP (Crl.) No. 14423 of 2023*, decided 19.01.2024, a mere breach or non-refund did not demonstrate the dishonest intention required at inception for Section 420 IPC. Civil and criminal remedies may coexist where the ingredients of a criminal offence are pleaded; they were missing here.

Criminal breach of trust — Section 405/406 IPC — entrustment and dishonest diversion - *Sachin Garg v. State of U.P., 2024:INSC:72*, quoted *Deepak Gaba v. State of U.P., (2023) 3 SCC 423*: entrustment of property or dominion, dishonest misappropriation/conversion/use/disposal, and violation of the relevant legal direction or trust obligation are necessary. A wrong monetary claim or non-refund does not by itself establish any of these elements. *Sachin Garg*'s related references to *Prof. R.K. Vijayasarathy, (2019) 16 SCC 739*, *Vijay Kumar Ghai, (2022) 7 SCC 124*, and *Dalip Kaur, (2009) 14 SCC 696*, reinforced the need to test the pleaded ingredients. The allegations of a business advance and demand for repayment did not disclose the necessary Section 406 foundation.

Inherent powers — civil dispute given criminal colour — Section 482 CrPC - *Naresh Kumar*

applied *Paramjeet Batra, (2013) 11 SCC 673*, and referred to *Randheer Singh, (2021) 14 SCC 626*, and *Usha Chakraborty, 2023:INSC:86*, on the need for caution while permitting quashing where a civil transaction is clothed as an offence without its ingredients. *Jay Shri* discouraged using prosecution to pressure a person to repay a purely civil debt; *Jaswant v. State of Punjab, Criminal Appeal No. 1233 of 2021*, supplied another abuse-of-process illustration. On the complainant's own FIR and statements, the primary demand was return of Rs. 35,31,000 allegedly advanced. The Court found predominantly civil allegations and quashed the FIR under Sections 406, 420 and 34 IPC and consequential proceedings.

Quashing threshold — discharge remedy — pleaded offence ingredients - *Sachin Garg*'s reproduced discussion of the suggestion to seek discharge did not prevent the High Court from testing the FIR and Section 161 material on their face. The High Court concluded that the prosecution's own case lacked an allegation of deceit before the advances were made or the material breach-of-trust ingredients, making continued criminal process abusive.

Case-note :- ***1. Facts :*** The applicants, including Ratan Singh Chouhan and Ashutosh Singh Chouhan, sought quashing under Section 482 CrPC of Crime No. 115 of 2023 at Police Station Madhoganj, Gwalior, registered for Sections 406, 420 and 34 IPC. According to respondent No. 2's FIR, a well-wisher told him on 10 February 2022 that the Chouhan applicants held a liquor licence for Jaurasi and Bilaua and needed about Rs. 30–40 lakh to stock liquor for a one-year contract. Aakash Singh Rajawat arranged a meeting; Gajendra Sen accompanied respondent No. 2. The FIR said Rammurari Singh Tomar gave Rs. 1,50,000 cash, respondent No. 2 gave Rs. 4 lakh cash after three days, respondent No. 2 later transferred a total of Rs. 20,41,000 by bank on several occasions, and Rammurari transferred Rs. 9,40,000 by bank. The asserted aggregate was Rs. 35,31,000.

The complainant alleged that the money was not returned, he was not made a partner and repayment demands were avoided. The FIR requested that the applicants return the asserted amount and that legal action follow. The applicants characterised this as a loan or business advance and argued that a civil recovery suit, rather than prosecution, was the appropriate remedy. They said the FIR and Section 161 CrPC statements revealed a desire to recover money. Respondent No. 2 countered that they had induced him with a promise of partnership in a licence awarded to an individual, allegedly knowing that a partner could not be inducted, thus showing deceit from inception. The High Court compared that later contention with the actual FIR and witness statements.

2. Precedents — Considered : *Naresh Kumar and Another v. State of Karnataka and Another, SLP (Crl.) No. 1570 of 2021*, decided 12 March 2024, was quoted and applied. It framed the need to distinguish a true criminal allegation from a predominantly contractual dispute and reiterated that dishonest or fraudulent intention must exist when a promise is made for cheating, not be inferred automatically from later non-performance. Within its quoted discussion, *Paramjeet Batra v. State of Uttarakhand, (2013) 11 SCC 673*, stated that Section 482 power is sparing but should prevent abuse where essential criminal ingredients are absent and an essentially civil dispute is given a criminal cloak. That passage acknowledged that civil transactions can also carry a criminal texture. *Naresh Kumar* cited *Randheer Singh v. State of U.P., (2021) 14 SCC 626*, against using criminal process as harassment, and *Usha Chakraborty v. State of West Bengal, 2023:INSC:86*, on quashing a civil dispute clothed as crime. It also cited *Sarabjit Kaur v. State of Punjab, (2023) 5 SCC 360*, that a breach is not necessarily an offence, and *Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293*, for fraudulent intent at the inception of the transaction.

Jay Shri and Another v. State of Rajasthan, SLP (Crl.) No. 14423 of 2023, decided 19 January 2024, was then cited directly for the proposition that mere breach does not amount to Section 420 or 406 IPC unless dishonest or fraudulent intention is shown from the start, and that criminal prosecution should not be used as pressure to settle purely civil claims. The Court relied on that caution when identifying the complaint's repayment objective. *Jaswant v. State of Punjab and Another, Criminal Appeal No. 1233 of 2021*, order of 20 October 2021, was quoted at length as a separate abuse-of-process illustration. The reproduced Supreme Court account concerned money paid for promised overseas employment, earlier investigative views favouring closure, later Section 420 proceedings, a compromise with the principal accused, and summons against persons abroad without specific cheating allegations. It

criticised declining relief under the inherent powers merely because an accused was named in an FIR.

Sachin Garg v. State of U.P. and Others, 2024:INSC:72, 2024 (1) SCR 1134, was relied on by the applicants and substantially quoted in the Court's own analysis. The passage recorded a suggestion in the appealed judgment that discharge remained available, then addressed whether a commercial dispute disclosed Sections 405/406 IPC. It reproduced *Deepak Gaba v. State of U.P., (2023) 3 SCC 423*, on entrustment or dominion, dishonest misappropriation/conversion/use/disposal, and breach of a legal direction or contract touching that trust. *Deepak Gaba*'s concrete example of an allegedly wrongful monetary demand lacked those ingredients. *Sachin Garg* also identified *Prof. R.K. Vijayasarathy v. Sudha Seetharam, (2019) 16 SCC 739*, and *Vijay Kumar Ghai v. State of West Bengal, (2022) 7 SCC 124*, as expressing the same view, and cited *Dalip Kaur v. Jagnar Singh, (2009) 14 SCC 696*, for the question of inducement and intention at inception where an advance is not refunded, alongside Section 405's separate definition. The High Court incorporated those tests in assessing its FIR.

3. Statutes considered : Section 482 CrPC conferred the inherent power invoked to prevent abuse of criminal process. The Court exercised it after testing the FIR and Section 161 statements rather than holding a trial. Sections 405 and 406 IPC concerned criminal breach of trust: entrustment or dominion, dishonest dealing with the property, and violation of the legally relevant obligation were central to the discussion in *Sachin Garg* quoting *Deepak Gaba*. Section 420 IPC concerned cheating, requiring dishonest inducement from the time of the transaction, as distinguished from subsequent non-performance. Section 161 CrPC supplied the witness statements whose content the Court compared with the FIR. The liquor licence formed the commercial setting.

4. Issues : First, did the FIR and statements allege an assurance of partnership before respondent No. 2 and Rammurari advanced the money, such that dishonest inducement was pleaded at inception for Section 420? The complainant's counsel advanced that theory, while the applicants said the record showed only funds advanced for stocking a licensed liquor business and a later demand for repayment. Second, did the described lending and non-refund identify entrusted property and dishonest appropriation or conversion in violation of a relevant obligation for Sections 405/406, rather than an unmet business payment? Third, could Section 482 relief be granted where the factual allegations were predominantly civil and aimed at recovery of money, notwithstanding that civil and criminal remedies sometimes coexist and a discharge application might be available?

5. Ratio / Findings : The Court read the FIR and Section 161 statements together. Both described payments because the applicants needed money to store liquor; neither said that, before the payments, the applicants promised to induct respondent No. 2 as partner. A later statement that he was not inducted did not establish that partnership was the condition inducing the original advances. The Court therefore called counsel's theory that a promise preceded payment an afterthought. The Court found no allegation disclosing dishonest intention when the money was obtained; the eventual failure to induct a partner or repay the advances did not by itself supply that ingredient. *Naresh Kumar* and its cited *Vesa Holdings* principle, together with *Jay Shri* and the *Dalip Kaur* discussion in *Sachin Garg*, explained why the timing of dishonest intention distinguishes breach from cheating. The ruling did not hold that a contract or loan can never coexist with a criminal offence; it assessed the particular ingredients absent from the prosecution's own account.

The Section 406 allegation likewise could not be established merely by a demand that the amount be returned. The *Sachin Garg* extract, through *Deepak Gaba*, required property entrusted for a legally relevant purpose and a dishonest dealing with it in violation of that trust, not merely a wrong monetary demand. The FIR described funding of liquor stock, failed repayment and a requested return of money, without a separately identified act of misappropriating entrusted property. The Court's final conclusion described the allegations as predominantly civil and the complainant's primary object as recovery of the asserted Rs. 35,31,000. The Supreme Court's principles in *Paramjeet Batra*, quoted through *Naresh Kumar*, supported examining the alleged facts beyond their criminal label; *Jaswant* illustrated why mere presence in an FIR is insufficient without individual offence allegations. The Court found that continuation of the case would abuse process. This was a threshold conclusion on the FIR and Section 161 record, not a trial finding

about the actual use of every bank transfer or a civil adjudication of debt.

6. Relief : The Hon'ble High Court allowed the Section 482 application. Crime No. 115 of 2023 at Police Station Madhoganj, Gwalior, for Sections 406, 420 and 34 IPC, together with all consequential proceedings, was quashed.

Ratan Singh Chouhan and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 46674/2023, 05/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (780) Prev Next

Headnote :- Criminal appeal — limitation — condonation on medical ground - An appeal filed after a delay recorded as ten years and nine days was accompanied by an unsupported assertion of serious illness and treatment. The applicant had not surrendered after judgment and appealed only following arrest on a perpetual warrant. Even allowing a lenient approach to Section 5 of the Limitation Act, the High Court found no convincing evidence of sufficient cause before the Sessions court or in revision and upheld the dismissal as time-barred; the ruling did not treat illness as a ground inherently incapable of constituting sufficient cause.

Criminal revision — appeal disposed of on limitation — sentence merits - Where the Sessions court had not entered the merits of a conviction appeal, the revision against its refusal to condone delay addressed the legality of that refusal. Relying *on Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*, on the need to consider the merits before dealing with sentence, the Court declined to substitute custody already undergone for the trial sentence. It made no fresh determination of the merits of the conviction.

M.P. Excise Act — Section 34(2) — minimum imprisonment - The Court also held that the one-year minimum sentence identified for the Section 34(2) offence precluded reducing the sentence to the approximately six months already served. The revision was dismissed, the bail bonds were cancelled, and immediate surrender was ordered to serve the remaining imprisonment; the fine was not modified.

Case-note :- ***1. Facts :*** In Criminal Case No. 21 of 2006, the Judicial Magistrate First Class, Shivpuri convicted Ravi Rajak under Section 34(2) of the M.P. Excise Act by judgment dated 31 August 2010. The sentence was one year's imprisonment and a fine of Rs. 26,000, with default imprisonment. Counsel for Rajak had been heard on sentence by the trial court. He did not surrender after conviction, and a perpetual warrant was issued. The record indicated that he was arrested in execution of that warrant.

Rajak filed Criminal Appeal No. 94 of 2020 after a delay stated in the judgment as ten years and nine days, with an application under Section 5 of the Limitation Act. He attributed the delay to serious illness and treatment and urged a sympathetic approach to condonation without undue technicality. The State opposed the application, pointing out that no medical document supported the claimed incapacity and that the appeal came only after arrest. On 4 August 2020, the Seventh Additional Sessions Judge, Shivpuri dismissed the appeal for delay without addressing its merits. Rajak then invoked Sections 397 and 401 CrPC in Criminal Revision No. 1937 of 2020 to challenge that order. He also argued that, having undergone roughly six months of the one-year imprisonment, the sentence should be confined to custody already served. The High Court considered the appeal's procedural stage, the claimed explanation and the statutory sentence.

2. Precedents — Considered : The Court expressly considered *Nagpal Traders v. Davinder Singh, (2017) 11 SCC 431*. As the present judgment states its relevant proposition, a question of sentence cannot be dealt with unless the merits of the case are considered. This proposition mattered because the Sessions court had dismissed Rajak's appeal on limitation alone. The High Court applied it in declining to grant the proposed reduction to time served while reviewing that limited order.

3. Statutes considered : Sections 397 and 401 CrPC furnished the revisional jurisdiction invoked against the Sessions court's order rejecting the conviction appeal as time-barred. The High Court confined review to whether the stated reasons for rejecting condonation disclosed illegality. Section 5 of the Limitation Act was the provision invoked by Rajak for condonation of late filing. The Court examined whether his stated illness, viewed leniently, supplied sufficient cause and found that no medical records were produced before either relevant court. Section 34(2) of the M.P. Excise Act was the conviction offence; the Court identified one year as its minimum imprisonment, foreclosing the requested reduction to six months.

4. Issues : First, was the Sessions court's refusal to condone a delay recorded as ten years and nine days in Rajak's conviction appeal legally sustainable when he asserted illness but supplied no evidence of illness or treatment and had appealed only after arrest on a warrant? The question required consideration of the actual explanation and the surrounding circumstances of his failure to surrender, without treating a sympathetic approach as a substitute for sufficient cause. Second, could the High Court, in revision from an order disposing of an appeal on limitation, assess the merits or reduce the imprisonment to about six months already served? That involved the procedural limit arising from the absence of appellate consideration of the merits and the independently stated minimum sentence under Section 34(2) of the State Excise Act.

5. Ratio / Findings : The Court reviewed the Sessions order and noted that trial counsel had been heard on sentence, yet Rajak apparently did not surrender after conviction. A perpetual warrant was issued; his appeal followed execution of the warrant and arrest. Before the Sessions court he had merely asserted that he was seriously ill and undergoing treatment. He filed no document showing a physical ailment or treatment, and he likewise produced no supporting material in revision. The Court considered the request with what it described as the most lenient approach but found no convincing account for the entire delay recorded as ten years and nine days. Therefore no sufficient reason for condonation was demonstrated and no illegality in the Sessions court's order justified revisional interference. This was a rejection of the explanation on the record before it, not an assessment of guilt under the Excise Act.

The Sessions court had decided only limitation. For that reason the High Court framed the revisional question as the propriety of the rejection of condonation and declined to examine the merits of the conviction or the adequacy of the sentence for the first time in this revision. *Nagpal Traders* supported the Court's conclusion that sentence could not be dealt with without consideration of the merits. The requested reduction to custody already undergone also encountered Section 34(2)'s stated mandatory minimum of one year. Since about six months served was less than that minimum, the Court stated that it could not impose a shorter term of imprisonment in these circumstances.

6. Relief : The Hon'ble High Court dismissed the criminal revision and the Sessions court's order of 4 August 2020 refusing condonation remained undisturbed. The conviction appeal thus was not revived for merits hearing, and the trial sentence was not reduced to time already served. Rajak had been released on bail under an order dated 22 September 2020; the High Court cancelled his bail bonds and directed him to surrender immediately before the trial court to undergo the remaining imprisonment.

Ravi Rajak v. State of M.P., Cr.R. no. 1937/2020, 11/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (781) Prev Next

Headnote :- Article 226 / arrest direction / police discretion - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, quoting *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, held that Section 41 CrPC confers a discretionary power of arrest that must be exercised cautiously; registration of an FIR disclosing a cognizable offence does not automatically require arrest. Courts ordinarily may not direct arrest, seizure or the filing of a charge sheet as mandatory steps in an investigation. Applying that restraint to an FIR under Sections 406 and 420 IPC, the High Court refused the complainant's request to compel immediate arrest or supervise the police's investigative choices.

Investigation direction / hearing affected persons - *D. Venkatasubramaniam* also adopted the safeguard stated in *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, concerning the serious consequences of coercive investigation directions issued without hearing the persons affected. The quoted reasoning criticized directions for arrest, seizure and filing of a charge sheet issued without reasons or notice to the affected accused. The present High Court quoted that safeguard as part of its refusal to direct such action.

Section 173(1) CrPC / prompt completion / final report - Police discretion over how to investigate does not permit indefinite delay. Section 173(1) requires completion without unnecessary delay. After lawful investigation, the officer must decide whether an offence is made out and submit the appropriate final report—a closure report or a charge sheet. The High Court directed prompt completion of the investigation and necessary steps according to law, leaving the outcome to the investigating officer.

It also left the petitioner free to submit a grievance application to the Superintendent of Police, Gwalior for consideration according to law.

Case-note :- ***1. Facts :*** Ravi Sharma filed a petition under Article 226 of the Constitution concerning a complaint on which police had registered an FIR for offences under Sections 406 and 420 IPC. He said that the accused had not been arrested and the investigation had not been concluded. He sought a direction for immediate arrest, punishment of the respondent authorities for alleged illegal action, custody of certain vehicles and other relief including costs. The Court heard counsel finally through video conferencing.

The principal question in the petition was whether a court exercising writ jurisdiction under the Constitution should direct the police to arrest identified suspects after registration of an FIR. The Court also considered the continuing duty to complete the investigation without unnecessary delay and submit the appropriate report. It quoted at length the Supreme Court's explanation of the limits on judicial control of investigation before disposing of the matter with a limited direction.

2. Precedents — Considered : The Court quoted *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*. In that case, the Supreme Court set aside a High Court order requiring the police to record statements, arrest the accused, seize property, file a charge sheet and complete the investigation within a specified period. The Supreme Court explained that investigation is the police's statutory duty and ordinarily falls within its domain. The evidence may justify a charge sheet or a report concluding that no case is made out; arrest and seizure are not compulsory outcomes. Directions prescribing a particular course of investigation or coercive steps without adequate reasons can have far-reaching effects. The present High Court adopted that central limit in declining to direct arrest.

In *D. Venkatasubramaniam*, the Supreme Court quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC. An officer may arrest without a warrant in the prescribed circumstances, but the power is discretionary and must be cautiously exercised because arrest affects the accused's liberty, reputation and status. Registration of an FIR disclosing a cognizable offence does not impose an automatic duty to arrest. The High Court applied that proposition to the specific relief sought here. The longer passage from *D. Venkatasubramaniam* also discusses Section 482 CrPC as a power to be exercised sparingly and criticizes observations that casually direct the course of a prosecution; this petition itself was under Article 226, not Section 482.

D. Venkatasubramaniam further reproduced *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on the requirement of a reasonable opportunity of being heard before a judicial direction that could seriously affect an accused's reputation and interests. The Supreme Court set aside the earlier order also because the persons against whom arrest and seizure were directed had not been impleaded or heard. The High Court quoted this procedural safeguard when declining to direct the course of the police investigation.

3. Statutes considered : Article 226 of the Constitution supplied writ jurisdiction. The FIR alleged criminal breach of trust and cheating under Sections 406 and 420 IPC. Section 41 CrPC appeared in the *M.C. Abraham* quotation as a discretionary power, subject to statutory conditions, to arrest without a warrant. Section 173(1) CrPC was directly reproduced and applied: investigation must be completed without unnecessary delay. The investigating officer must then submit the report warranted by the results, whether a closure report or a charge sheet. Section 482 CrPC appeared in the quoted Supreme Court decision concerning limits on an earlier High Court's directions in exercise of its inherent powers; Ravi Sharma's petition was not brought under that provision.

4. Issues : (i) Could the Court order the immediate arrest of accused persons merely because an FIR under Sections 406 and 420 IPC had been registered and the complainant was dissatisfied with the progress of the investigation? This raised the scope of the officer's discretion under Section 41 and the limits on a constitutional court's power to direct an investigation. (ii) What procedural safeguards and risks arise if a court were to direct arrest, seizure or filing of a charge sheet against persons without hearing them, as explained in the quoted Supreme Court authority? Requests for punishment of officials and custody of vehicles were pleaded but were not separately addressed in the reasons or granted.

5. Ratio / Findings : On the question of arrest, the Court held that it could not direct the police to take the accused immediately into custody. *D. Venkatasubramaniam* and *M.C. Abraham* distinguish

the lawful discretionary power to arrest from a complainant's entitlement to require its exercise. In appropriate cases, the police may decide whether arrest is necessary after some investigation, having regard to the circumstances and the accused's liberty and reputation; an FIR does not automatically require arrest. Directing arrest or the filing of a charge sheet would substitute the writ court's chosen investigative steps for the judgment of the police.

The quoted Supreme Court discussion also warned against requiring seizure and the filing of a charge sheet irrespective of what the evidence might establish, and against imposing serious consequences on persons who had not been given a hearing. The fair-hearing rule in *Divine Retreat Centre* formed part of that reasoning.

The Court distinguished that restraint from the statutory duty to complete the investigation. Section 173(1) requires every investigation to be completed without unnecessary delay. The officer cannot keep the matter open indefinitely, but must determine whether an offence is disclosed and submit the appropriate final report—a closure report or a charge sheet—according to the evidence. On that basis, the Court directed completion of the investigation as early as possible and necessary steps according to law, without directing arrest, a particular report or a factual finding. The petitioner remained free to make an application to the Superintendent of Police, Gwalior; the order required the Superintendent to consider any such application according to law.

6. Relief : The Hon'ble High Court disposed of the writ petition. It refused to direct immediate arrest, directed the investigating officer to conclude the investigation as early as possible and take necessary steps according to law, and left the petitioner free to submit a grievance application to the Superintendent of Police, Gwalior for consideration according to law.

Ravi Sharma v. State of M.P. and Others, W.P. no. 14168/2020, 25/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (782) Prev Next

Headnote :- Injured witness / medical omission / assailant identity - *Bhargavan v. State of Kerala, (2004) 12 SCC 414*, following *Pattipati Venkaiah v. State of A.P., (1985) 4 SCC 80*, explains that a treating doctor's primary duty is treatment, not establishing who caused the injury; failure to give the assailant's name to the doctor has no automatic adverse implication. The High Court therefore did not treat Sonu's omission in the hospital record as establishing that the Dehati Nalishi naming Ravi was ante-timed or that his identification of Ravi was false. It still assessed the injured witness and medical record in context.

Ocular evidence / minor variation / core account - The Dehati Nalishi said Ravi offered liquor and Sonu refused, while Sonu's testimony said Ravi demanded money for liquor and Sonu refused. The Court treated both as a dispute over liquor followed by a gunshot to the right side of the chest and found no material variation in the origin of the incident, recognizing possible minor deviations after injury.

Forensic report / Section 293 CrPC / Section 313 opportunity - An RFSL report said the recovered bullet was fired from the seized pistol, and the report was received by the trial court and supplied to defence counsel. It remained unexhibited, however, and no question on it was put to the appellant in his Section 313 CrPC examination. The High Court refused to use the report against him despite the provisions of Section 293 governing reports of government scientific experts. On the other evidence, it affirmed the finding that Ravi had fired the shot, without relying on the ballistic match.

Attempt to murder / intent from targeted gunshot - A sudden liquor dispute and absence of prior enmity did not require conversion from Section 307 to Section 308 IPC where Ravi carried an illegal country-made pistol at night and fired into the chest, a vital part of Sonu's body, causing a gunshot injury and an embedded bullet. The Court inferred the requisite intention or knowledge and held that the offence under Section 307 was proved beyond reasonable doubt. It separately upheld the sentence of five years' rigorous imprisonment as not excessive on these facts and affirmed the sentences under the Arms Act.

Case-note :- ***1. Facts :*** Ravi Shivhare appealed under Section 374 CrPC against the judgment of the Third Additional Judge to the Court of the First Additional Sessions Judge, Gwalior, in Sessions Trial No. 468/2010, dated 24.02.2012. The trial court convicted him under Section 307 IPC and Sections 27(1) and 25(1-B) of the Arms Act. For Section 307 it imposed five years' rigorous imprisonment, a fine of ₹3,000 and six months' imprisonment in default; for the Arms Act offences the order records three years' rigorous imprisonment and a fine of ₹500 with

three months' imprisonment in default, with the sentences running concurrently. It directed ₹2,000 from the total fine to the complainant and confiscation of the seized .315-bore country-made pistol subject to the outcome of the appeal.

At about 1:30 a.m. on 01.09.2010, Sonu, the injured complainant, lodged a Dehati Nalishi while at J.A. Hospital, Gwalior. He alleged that around 12:30 a.m. he met Ravi while returning home near Laxmanpura Kalari, refused Ravi's proposal to drink liquor, and Ravi fired a country-made pistol into the right side of his chest. His mother and neighbours reportedly came after he raised an alarm. Crime No. 557/2010 was registered. Police prepared a spot map, seized earth and a bullet removed from Sonu's body, arrested Ravi after his court surrender on 28.09.2010, recorded a Section 27 Evidence Act memorandum, and seized a .315-bore pistol said to have been recovered on his disclosure. An armoury official examined it, the Additional District Magistrate gave permission to prosecute under the Arms Act, and items were sent to the regional forensic laboratory. After investigation, police filed a charge sheet for offences under Section 307 IPC and Section 25 of the Arms Act. The trial court initially framed a Section 25-A charge, then amended it to Section 27(1); Ravi pleaded not guilty and called no defence witness.

In his appeal, Ravi contended that an unknown person shot Sonu and that he was falsely implicated. He pointed to Sonu's hospital history, which mentioned unidentified persons and liquor drinking without naming Ravi, and to a change between an offer of liquor in the first account and a demand for liquor money in court. He argued that the sudden encounter and lack of prior enmity negated the intention required under Section 307, so that, at most, Section 308 applied. The State defended the trial result and suggested a ballistic report matched the bullet to the seized pistol. The High Court examined the trial order and whether each item of evidence could be used, before considering conviction and sentence. It did not accept the proposed substitution of offence.

2. Precedents — Considered : The Court expressly cited *Bhargavan v. State of Kerala, (2004) 12 SCC 414*, and *Pattipati Venkaiah v. State of Andhra Pradesh, (1985) 4 SCC 80*, on the limited significance of an injured person not telling the treating doctor the assailant's name. It quoted *Bhargavan*'s explanation that the doctor's priority is treatment rather than investigating who inflicted the injury; *Bhargavan* itself cited *Pattipati* for the same view. The High Court used this rule to reject the proposed automatic inference that the Dehati Nalishi naming Ravi was ante-timed or that Ravi was falsely implicated merely because the hospital record omitted his name. The principle did not eliminate scrutiny of a particular record: the Court considered the voluntary hospital history of unidentified assailants, Sonu's contrary testimony and the other circumstances before deciding the identification issue.

3. Statutes considered : Section 374 CrPC provided the appeal. Section 307 IPC governed the attempted-murder charge. The Court assessed its mental element and application to the facts against the suggested alternative under Section 308 IPC. Section 27 of the Indian Evidence Act was the stated basis for Ravi's disclosure memorandum before pistol recovery. Section 293 CrPC concerned use of the RFSL government scientific expert report without the ordinary mode of proving such a report, yet did not make the particular ballistic finding usable against Ravi here when the report had not been exhibited and that circumstance had not been put to him. Section 313 CrPC required an opportunity to explain the incriminating circumstance; the ballistic match was never put in his examination. The trial court's initial Section 25-A Arms Act charge was corrected to Section 27(1), a procedural history point rather than a conviction under the former provision.

4. Issues : (i) Whether the medical and radiographic evidence established a gunshot wound to the chest and whether Sonu credibly identified Ravi notwithstanding his hospital history, omitted assailant name and variation between the accounts of the liquor dispute. (ii) Whether the RFSL bullet-to-pistol match could be read for the prosecution when the report was received and supplied to the defence but was never exhibited, and the ballistic finding was not put to Ravi under Section 313, despite Section 293. (iii) Whether firing at the vital chest area after a sudden dispute without demonstrated earlier hostility supported Section 307 IPC beyond reasonable doubt or only the proposed Section 308 offence. (iv) Whether the custodial and fine sentences, Arms Act terms, compensation and related operative directions should stand.

5. Ratio / Findings : The Court first established the injury. Surgeon Dr Rajesh Prajapati (PW-8) said

Sonu arrived with a chest gunshot wound; he and his team operated on 02.09.2010 and removed the bullet that had been felt on palpation. Dr Tusar Somwanshi (PW-7) saw a foreign body near T8–T9 on the x-ray of the right side of the chest. The date of 31.08.2010 recorded for the x-ray and the uncertainty about its timing emerged in cross-examination, but the Court accepted the two doctors' evidence that Sonu sustained a gunshot injury with a lodged bullet. This medical conclusion established the injury but did not, by itself, establish the assailant's identity.

Sonu (PW-4), a neighbour who knew Ravi, identified him as the shooter in court and in the Dehati Nalishi. The two versions varied on whether Ravi offered to share liquor or demanded money to buy it. The Court held that the variation was not material in context: the confrontation in both accounts concerned liquor, Sonu refused, and a shot to the chest followed; a seriously injured witness might not reproduce every detail identically. His mother Shashikala (PW-3) said she knew Ravi, saw Sonu injured and was told who had fired the shot, though parts of her account varied and she was declared hostile; she was not presented as an independent eyewitness to the firing. Other investigative witnesses described the first report, recovery and handling of bullet and pistol. The High Court characterized Sonu as the solitary eyewitness and assessed his testimony accordingly.

The hospital history recorded through PW-8 differed more substantially: it said Sonu was drinking in a liquor shop when some persons came and fired, without naming an assailant. The doctor testified that the patient supplied the account voluntarily and that no name was given during hospitalization; Sonu denied giving it and said he was unconscious when doctors asked. The Court invoked *Bhargavan* and *Pattipati* to reject the proposed conclusive inference from the absence of a name in treatment records. It held that omission alone did not prove that the first report naming Ravi was ante-dated or that he had been falsely implicated.

The Court expressly declined to use the ballistic corroboration proposed by the State. A report from RFSL in Sagar matching the bullet recovered from Sonu's body to the seized pistol reached the trial court on 03.03.2011 and a copy went to defence counsel. It had nevertheless not been exhibited, and the Section 313 examination did not put that incriminating ballistic finding to Ravi for an explanation. The Court refused to read it for the prosecution, even considering Section 293 CrPC. The Court nevertheless found, on the accepted evidence of the injured eyewitness, that Ravi had caused Sonu's injury. The conviction was affirmed without relying on the RFSL finding that the Court had declined to use.

On the offence, the Court relied on the shot to the right side of the chest, a vital area, the recovered bullet and the presence of an illegal country-made weapon with Ravi around 12:30 a.m. Even if the encounter began suddenly over liquor and the families had no prior enmity, firing into a vital part demonstrated the requisite intention or knowledge for Section 307. It found the prosecution had proved that offence beyond reasonable doubt and refused conversion to Section 308. On reviewing the sentence, the Court held that five years' rigorous imprisonment was not excessive for an illegal firearm used against the chest in such circumstances. The fact that Sonu was brought from jail to testify, while facing trial in another case, gave Ravi no right to shoot him or any basis for reducing the punishment.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the trial judgment and sentences of 24.02.2012 in ST No. 468/2010, including the convictions under Section 307 IPC and Sections 27(1) and 25(1-B) of the Arms Act, the concurrent sentences, fines, and the recorded compensation and confiscation directions. Ravi was on bail; his bail bonds were cancelled and he was directed to surrender immediately before the trial court to serve the remaining term. The trial record was ordered returned with the judgment for information and compliance.

Ravi Shivhare v. The State of M.P., Cr.A. no. 209/2012, 12/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (783) Prev Next

Headnote :- Quashing / Family Court decree / criminal court's independent assessment - Dismissal of the wife's Section 13 Hindu Marriage Act divorce petition and grant of the husband's Section 9 restitution petition did not bind the criminal court or establish that the allegations in her cruelty FIR were false. The High Court examined the family judgment, identified its erroneous criticism of directly reporting Section 498-A IPC cruelty and its unexplained inference from a jointly held locker,

then refused to quash on the civil decree alone. The questions and proof in the criminal case remained distinct from those in the family proceeding.

Section 498-A IPC / scope of cruelty / direct police report - Cruelty under Section 498-A is not confined to dowry or property demands; conduct of the requisite statutory gravity that may drive a woman to suicide or gravely endanger her life, limb or health also falls within its scope. The Family Court's suggestion that the wife should have made other police complaints before directly reporting an offence under Section 498-A was contrary to law.

Cruelty FIR / specificity over a short matrimonial stay - Absence of separately stated dates for every alleged atrocity did not make an otherwise specific FIR vague where the wife had stayed in her matrimonial home for only 25 days. *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260,* incorporates *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*: merely naming distant relatives without attributing a role to them or providing tangible supporting material warrants caution, but particularized, triable allegations against husband and close relatives cannot be tested for truth in proceedings for quashing. The Court found this FIR specific and left disputed merits for trial.

Case-note :- ***1. Facts :*** Ravi Shrivas and the other applicants applied to the High Court under Section 482 CrPC to quash FIR No. 67/2021 dated 09.02.2021 at Police Station Kohe Fiza, Bhopal, and all ensuing proceedings. Respondent No. 2 was the wife of applicant No. 1. Counsel submitted that she had lived in her matrimonial home for only 25 days and lodged the FIR after applicant 1 instituted a petition for restitution of conjugal rights under Section 9 of the Hindu Marriage Act on 09.01.2021. She had also sought divorce under Section 13. Counsel maintained that the later Family Court result, rejecting her divorce petition and allowing his restitution petition, proved that the cruelty allegations were false.

The applicants submitted a judgment and decree of the Additional Principal Judge, Family Court, Bhopal, dated 10.05.2023, in RCS HM No. 120/2022 (Section 13) and RCS HM No. 85/2021 (Section 9). The High Court inspected its reasons rather than relying only on the applicants' characterization of it. Paragraph 30 of the family judgment criticized the wife for directly lodging an FIR under Section 498-A IPC instead of making other complaints to police about disputes with in-laws. Paragraph 34 treated the existence of a joint bank locker as evidence of the mother-in-law's affection rather than an attempt to take the wife's property. The High Court noted undisputed details overlooked there: the locker was in respondent 2's name, she bore opening expenses and owned the fixed deposit required by the bank; counsel fairly conceded that the mother-in-law retained its key. The Court questioned the inference drawn from joint operation of the locker and the unexplained retention of its key, without itself deciding a property offence or making a final finding of motive.

2. Precedents — Considered : The Court reproduced *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260*. *Taramani* explains that a complaint alleging dowry-related harassment by a husband and his parents and the wife's departure from the matrimonial home cannot be quashed merely because the accused dispute the facts: whether cruelty occurred is a matter for trial. A prosecution that is plainly an abuse of process may still be quashed, but the court at that stage does not resolve the veracity of rival versions. *Taramani* quoted *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551,* where distant relatives were unnamed in the FIR and later named in a complaint without a specified role. *Kailash Chandra*, referring to *Kans Raj v. State of Punjab, (2000) 5 SCC 207,* warns that indiscriminate implication of relations can prejudice even a case against actual wrongdoers; mere naming of a distant relation without tangible material supporting a specific role does not suffice.

Taramani's extract refers within its quashing discussion to *K. Ramakrishna, Pepsi Foods, State of Haryana v. Bhajan Lal and Asmathunnisa*. The High Court applied *Taramani*'s distinction between specific cruelty allegations requiring trial and proceedings that are an abuse of process on their face to reject the applicants' contention that the FIR was vague. The family-court judgment was case material, not a binding criminal-law precedent.

3. Statutes considered : Section 482 CrPC was the provision under which the applicants invoked the Court's inherent jurisdiction to quash FIR No. 67/2021 and subsequent proceedings. Section 498-A IPC was the cruelty offence expressly discussed. The Court rejected the Family Court's implied view that cruelty means only harassment for property or dowry: the statutory conception also covers wilful conduct of the requisite gravity likely to drive a woman to suicide or cause grave injury or danger to

her life, limb or health. Sections 9 and 13 of the Hindu Marriage Act, 1955 governed the competing restitution and divorce petitions that culminated in the family judgment; those civil outcomes did not bind the criminal court's assessment of the FIR.

4. Issues : (i) Whether an adverse Family Court decision on the wife's divorce application and a favourable restitution decree for the husband compelled the conclusion that the allegations in her earlier cruelty FIR were false, thereby requiring quashing. This required attention to whether the family judgment's reasoning correctly understood Section 498-A and whether civil fact findings control the criminal case. (ii) Whether she had to pursue a different preliminary complaint to the police rather than directly reporting conduct alleged to amount to statutory cruelty. (iii) Whether, in light of a 25-day matrimonial stay, the absence of a separate calendar date for each alleged atrocity made the FIR vague despite the Court's assessment that its allegations were specific.

5. Ratio / Findings : The Court held that findings in a civil or family proceeding are not binding on the criminal court. It therefore refused to infer that dismissal of the Section 13 divorce petition and grant of the Section 9 restitution petition established that the allegations in the earlier FIR were false. Its review of the decree disclosed a further difficulty with treating that decree as conclusive: the family judge faulted a direct Section 498-A report as though the wife first had to file a different complaint. The High Court called that finding illegal. Section 498-A's definition of cruelty extends beyond conduct connected with property demands to other conduct of statutory seriousness threatening the woman's life, limb or health or likely to drive her to suicide. If a report discloses such cruelty, the police must register the applicable offence; the complainant is not barred from identifying Section 498-A merely because she did not make another complaint first.

The High Court also criticized the family judgment's locker inference. The wife paid the locker expenses and owned the required fixed deposit, while the mother-in-law admittedly held the key. A joint locker did not by itself establish affection or answer why the key remained with the mother-in-law. The Court described the family finding as apparently wrong for failing to consider these circumstances. The observation is not a conclusive finding of appropriation, guilt or the mother-in-law's intention.

Turning independently to the FIR, the Court said its allegations were specific. The applicants themselves asserted that the wife's stay at the matrimonial house was only 25 days. The absence of a separate date for each act within such a brief period did not necessarily make the allegations general; more precise dates could become important when the alleged conduct spans years, a contrast the Court expressly drew. The caution stated in *Taramani* against implicating distant relatives without specifying their roles remains applicable where the facts warrant it, while specific triable cruelty allegations should not be disbelieved on a Section 482 application. The Court found no basis for quashing here.

6. Relief : The Hon'ble High Court dismissed the application. The request to quash FIR No. 67/2021 of Police Station Kohe Fiza, Bhopal, and subsequent proceedings was refused.

Ravi Shrivas and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 12726/2024, 20/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (784) Prev Next

Headnote :- Matrimonial cruelty / notarized separation / alleged divorce - A private notarized agreement at Vadodara did not itself dissolve the marriage of the non-Muslim spouses; for these parties, divorce by mutual consent required approaching the court. The purported separation therefore did not terminate their marriage for the purposes of the applicants' objection under Section 498-A IPC. The Court added, as an alternative observation, that even a valid later divorce would not erase cruelty alleged to have occurred before it.

Criminal recourse / agreement not to sue - The complainant's alleged undertaking not to take legal action could not bar her FIR. The Court applied Section 28 of the Indian Contract Act, 1872, to treat an absolute restraint on legal proceedings as void, and referred to Section 41 of the Specific Relief Act, 1963, in support of its view that an injunction could not restrain legal recourse.

Dowry cruelty / specific roles / quashing - *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260*, quoting *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, cautions against roping in distant relatives without a specific role and tangible supporting material, but

leaves allegations of cruelty that raise triable issues for trial rather than resolving rival versions at quashing. Here the FIR and witness statements alleged demands for ₹10 lakh and a car, beatings by the husband and father-in-law, and dowry taunts and mistreatment by the parents-in-law. The Court rejected the contention that all the allegations were general.

Section 482 CrPC / disputed prior-marriage document - The applicants' certificate from Vaidic Vivah Avam Sanskar Samiti, Indore, offered to suggest the complainant had previously married, was a private document of which the Court could not take judicial notice. Its authenticity and legal effect had to be established through defence evidence. Her pending Section 11 Hindu Marriage Act application did not adversely affect the FIR; the Court said it supported her account.

Case-note :- ***1. Facts :*** Respondent 2 said that she married applicant 1, Ravindra Pratap, at Vadodara on 21.04.2022. Her parents allegedly spent about ₹20 lakh on the marriage, including ₹8 lakh cash and household articles. According to her FIR, she was treated well for five days, then the applicants taunted her for insufficient dowry. She alleged that her husband avoided physical relations and, when asked, answered that he had married her and that was enough. She initially hoped matters would improve and returned to Bhopal. On 26.05.2022, she alleged, her husband came to Bhopal, assaulted her and demanded ₹10 lakh and a car from her and her parents. After her parents tried to persuade him, she returned with him to the matrimonial home on 30.05.2022. She alleged further abuse, assault and insistence that her parents supply the money and car as a condition of proper treatment.

The FIR further alleged that on 16.06.2022 the husband quarreled over trivial matters and assaulted her, injuring her right hand and leg. Her parents were informed, attempted telephone discussions and visited the matrimonial home, but could not resolve the dispute; she returned to Bhopal. In May or June 2023, the husband and father-in-law reportedly attended counseling in Bhopal. When she asked them to take her back, she alleged they beat her, repeated the demand for money and a car, and refused to take her. She said she made a report at Police Station M.P. Nagar and continued living with her parents because she had no choice. The present FIR was registered on 20.12.2023 as Crime No. 388/2023 at Mahila Thana, Bhopal, for IPC Sections 498-A, 506 and 34 and Dowry Prohibition Act Sections 3 and 4.

The applicants moved under Section 482 CrPC to quash. Counsel relied on a notarized mutual-separation agreement executed at Vadodara on 22.06.2022, arguing that the parties were already divorced before the FIR and could not sustain a matrimonial cruelty accusation. Counsel also referred to the complainant's Section 11 Hindu Marriage Act application to declare the marriage null, described the allegations as general, and invoked an alleged undertaking by her not to resort to legal action. The application additionally alleged an earlier marriage of the complainant and annexed a certificate issued by Vaidic Vivah Avam Sanskar Samiti, Indore; counsel did not argue that point orally. The Court addressed the asserted legal bars, the allegations against each participant and the private document relied on by the defence.

2. Precedents — Considered : The Court quoted *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260*, for the distinction between an FIR containing triable, particularized dowry cruelty allegations and a proceeding that is an evident abuse on its face. *Taramani* held that allegations against the husband and parents of harassment causing the wife to leave the matrimonial home could not be held insufficient to disclose an offence at the pretrial stage; whether harassment actually occurred was for trial. The quoted passage in turn reproduces *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, which warns against summoning distant relatives who are only named without a specific role or tangible material. Its quotation of *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, explains why indiscriminate implication of relations in dowry matters can weaken a prosecution.

The *Taramani* extract also refers to *K. Ramakrishna, Pepsi Foods, State of Haryana v. Bhajan Lal and Asmathunnisa for* recognized quashing parameters. The High Court applied the distinction between assessing the allegations on their face and testing their truth at the quashing stage: the allegations and witness statements disclosed specific dowry-related conduct, leaving their truth to be determined in the ordinary proceedings. The conclusions about the notarized deed, Section 28 of the Contract Act, Section 41 of the Specific Relief Act and the private certificate were those of the High Court.

3. Statutes considered : Section 482 CrPC governed the application invoking the Court's inherent powers

to quash the FIR. IPC Section 498-A was the principal cruelty offence invoked in the applicants' asserted divorce defence; Sections 506 and 34, and Sections 3 and 4 of the Dowry Prohibition Act, 1961, were the other registered allegations. Section 11 of the Hindu Marriage Act, 1955 was identified as the complainant's pending nullity application, not a decree in this case; the Court held that its pendency did not bar the FIR. The Court reasoned that these non-Muslim spouses could not achieve mutual-consent divorce solely by notarizing a separation agreement, without going to court. It also observed that a later divorce would not erase alleged cruelty before it, while finding no divorce here.

The order reproduced Section 28 of the Indian Contract Act, 1872, including the provision voiding an absolute restriction on enforcement through the usual legal proceedings and exceptions concerning arbitration and certain bank or financial-institution guarantee terms. Its application was to the asserted undertaking against legal action; none of the quoted exceptions arose for consideration or decision. The Court also invoked Section 41 of the Specific Relief Act, 1963, for the proposition that an injunction could not restrain a person from legal recourse. The private prior-marriage certificate was treated as a defence document that required proof, rather than as proof of an earlier marriage of which the Court could take judicial notice.

4. Issues : (i) Whether a notarized mutual-separation agreement executed after the alleged 2022 incidents had legally dissolved the marriage and made a Section 498-A FIR in December 2023 unsustainable; and whether prior cruelty would in any event remain actionable after a later valid divorce. (ii) Whether an alleged no-legal-action undertaking or the complainant's pending marriage-nullity application barred criminal recourse. (iii) Whether the FIR and witness statements contained specific acts by the applicants rather than only general allegations of dowry harassment, under the *Taramani* and *Kailash Chandra* standards for quashing. (iv) Whether a privately issued certificate tendered to show the complainant's alleged earlier marriage could be accepted as conclusive at the Section 482 stage.

5. Ratio / Findings : The Court refused to treat the 22.06.2022 notarized separation as a judicial divorce. It questioned how a notary could notarize an instrument apparently intended to grant divorce and held that a notary cannot dissolve this marriage through such an agreement. For these parties, mutual-consent divorce required approaching the court. The purported agreement thus lacked the asserted legal effect, so the husband's claim that the spousal relationship had ended failed because the agreement had not dissolved the marriage. Even if an actual divorce had occurred, the Court observed, allegations of cruelty before it could still support an FIR under Section 498-A.

The asserted undertaking that the complainant would take no judicial action did not defeat her complaint. The Court applied Section 28 of the Contract Act to invalidate a contract absolutely prohibiting recourse to legal proceedings, and cited Section 41 of the Specific Relief Act against restraining legal recourse by injunction. Her Section 11 Hindu Marriage Act application did not adversely affect the FIR; the Court said it supported her account.

On specificity the Court compared the whole FIR and witness statements with *Taramani*'s rule. It identified demands for ₹10 lakh and a car, an alleged beating by the husband and father-in-law around the reconciliation date, and continuing taunts, filthy language and assault attributed to the father-in-law and mother-in-law. These were sufficient allegations specifying the participants' acts to reject the contention that all the allegations were general. *Taramani*'s caution against needlessly implicating distant relations remained intact; that caution did not require quashing allegations specifying close family members' conduct. The Court found a triable accusation, not a proven demand, injury or joint intention.

Finally, the Court noted the unargued application allegation that respondent 2 had married previously. The applicants relied on a marriage certificate issued by a private Indore organization. The private certificate could not establish the asserted prior marriage by judicial notice; it had to be proved through defence evidence. Considering these matters together with the specific allegations and the failed procedural objections, the Court found no ground for interference.

6. Relief : The Hon'ble High Court dismissed the application. Quashing of FIR Crime No. 388/2023 at Police Station Mahila Thana, Bhopal, under IPC Sections 498-A, 506 and 34 and Dowry Prohibition Act Sections 3 and 4 was refused.

Ravindra Pratap and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 14908/2024, 16/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR / preliminary inquiry / cognizable information - *CBI v. Thommandru Hannah Vijayalakshmi, Criminal Appeal No. 1045/2021* (08.10.2021), extensively considered *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, and *State of Telangana v. Managipet*. Section 154 CrPC requires registration when the information itself discloses a cognizable offence. Where a preliminary inquiry is appropriate, its purpose is to determine whether the information discloses a cognizable offence, rather than whether the allegation is true. Such an inquiry is not required before every FIR, even in corruption cases. The High Court also relied *on Meera Yadav v. State of M.P.*, W.P. No. 9743/2022 (26.09.2023). The absence of a preliminary inquiry before this FIR did not vitiate it.

Inherent powers / alleged enmity and mala fides / face-value test - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, reproduced *the* categories of cases identified in *R.P. Kapur and State of Haryana v. Bhajan Lal* in which proceedings may be quashed. It also reiterated that disputed evidence cannot be assessed as at trial in proceedings under Section 482 CrPC. A manifestly malicious proceeding may justify intervention. Previous enmity, however, can provide a motive either for false implication or for committing the offence. A bare assertion of enmity cannot displace allegations which, taken at face value, disclose a cognizable offence. Applying that standard under Section 528 BNSS, the Court declined to quash the FIR and charge sheet on this disputed ground.

Alibi / Section 11 Evidence Act / burden of proof - *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, and *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*, treat alibi as relevant evidence, not a Penal Code exception. The prosecution must first prove the accused's presence and participation. The accused then bears a strict burden to establish through positive evidence that he was elsewhere, although sufficiently persuasive defence evidence can raise reasonable doubt. *S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, confirms that failure to establish an alibi does not relieve the prosecution of its obligation to prove its case independently beyond reasonable doubt. These tests were quoted without finally determining the applicant's whereabouts.

Quashing / disputed medical alibi / trial-stage proof - The applicant tendered a haematology report and a prescription written on plain paper to support his claim that he was receiving treatment in Ambah at the time of the incident. Whether those materials established an alibi was a disputed question of fact requiring cogent evidence. The Court could not assess that disputed evidence as at trial in proceedings under Section 528 BNSS. The plea remained to be proved at the appropriate evidentiary stage. Dismissal of the quashing application did not determine the truth of the alibi or the eventual merits of the IPC charges.

Case-note :- ***1. Facts :*** Ravindra Sakhwar sought to quash FIR Crime No. 40/2023 registered at Police Station Mahua, District Morena, and challenged the continuation of proceedings after the police had filed a charge sheet. The alleged incident occurred at about 4 p.m. on 25.03.2023. According to the complainant's FIR, he was at home when Dinesh Sakhbar and Ravindra Sakhbar came there amid a dispute about the post of President of Sakhbar Dharamshala at Porsa. They allegedly abused him in filthy language. When the complainant objected, Dinesh allegedly drew a sword and threatened to kill him. The complainant said that his uncle Ramlal Sakhbar and son Shyambir Sakhbar witnessed the incident and intervened. Police registered offences under Sections 294, 506 and 34 IPC.

The applicant invoked Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Counsel asserted that the FIR had been registered without a preliminary inquiry, arose from prior enmity and mala fides, and falsely placed the applicant at the scene. The applicant claimed that he was instead in Ambah receiving treatment from Dr Rakesh Singh on 25.03.2023. A haematology report and a prescription written on plain paper were filed to support this alibi. The Court heard counsel for the applicant and decided the application to quash the FIR. It did not try the charge or finally assess the defence.

2. Precedents — Considered : On preliminary inquiry, the Court reproduced a lengthy extract from *Central Bureau of Investigation v. Thommandru Hannah Vijayalakshmi alias T.H. Vijayalakshmi, Criminal Appeal No. 1045/2021*, decided

08.10.2021. That Supreme Court decision concerned a CBI FIR alleging disproportionate assets, the source information on which it was based and the asserted need for a preliminary inquiry under CBI practice. The quoted analysis gives primacy to the Constitution Bench decision in *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*. Information that on its face discloses a cognizable offence requires registration of an FIR under Section 154 CrPC. Where the information does not itself disclose such an offence but warrants an inquiry, a limited inquiry can determine whether it does. The inquiry does not test credibility or decide whether the accusation is true. The illustrative categories in *Lalita Kumari*, including corruption, allow consideration of an inquiry according to the facts; they do not make an inquiry mandatory in every such case. The CBI Manual provides internal administrative guidance and cannot override the Code.

The quoted discussion in *Thommandru Hannah Vijayalakshmi* considers *P. Sirajuddin v. State of Madras, (1970) 1 SCC 595*, and *Nirmal Singh Kahlon*, concerning caution before public accusations against officials and CBI practice, in light of the controlling principles in *Lalita Kumari*. It also considers the concurring discussion in *Yashwant Sinha* about the desirability of an inquiry into allegations of corruption against a public figure. It does not treat that setting as creating a general right for an accused to delay registration of an FIR. *State of Telangana v. Managipet*, as quoted, rejected the contention that a preliminary inquiry was mandatory even for disproportionate-assets allegations where the information already disclosed an offence. The absence of an inquiry alone would not justify quashing the FIR. The discussion in *Charansingh* addresses the separate question whether an anti-corruption inquiry before registration of an FIR is permissible or desirable. In the same quoted analysis, *K. Veeraswami v. Union of India* rejected an asserted right of an accused public servant to give the investigator a satisfactory explanation before a charge sheet was filed. Still less did it confer a right to such an opportunity before registration of an FIR. Other Supreme Court cases named within these passages include *CBI v. Tapan Kumar Singh and W.N. Chadha*. The High Court applied the principle that a preliminary inquiry is not invariably mandatory to the present FIR; it did not treat the disproportionate-assets facts in those authorities as facts of the present case. It also quoted *its own decision in Meera Yadav v. State of M.P.*, W.P. No. 9743/2022, decided 26.09.2023: failure to hold an inquiry does not itself vitiate an FIR containing allegations of a cognizable offence.

On mala fides, the Court quoted *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*. That decision explains the inherent jurisdiction preserved by Section 482 CrPC to give effect to orders under the Code, prevent abuse of process and secure justice. It requires those powers to be exercised carefully and sparingly. The extract reproduces *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, on quashing where there is a legal bar or the allegations, taken at face value, disclose no offence. It also preserves the distinction between the absence of legal evidence and a dispute about the weight of evidence. The extract further reproduces *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, including cases where no offence or no cognizable offence is disclosed, the allegations are inherently improbable, a legal bar applies, or proceedings are manifestly instituted maliciously to wreak vengeance. These are illustrative exceptional grounds. They do not permit an assessment of whether disputed evidence will ultimately sustain a conviction. *Renu Kumari* states that the informant's alleged mala fides become secondary once an offence is disclosed; the material collected during investigation and the evidence at trial determine the accused's fate. The High Court applied these principles to the applicant's bare assertions of enmity and false implication. Enmity could motivate either a false complaint or the alleged offence, and the Court did not resolve that disputed question in the quashing proceedings. Cases appearing within the quotations or citation strings in *Renu Kumari* include *Janata Dal*, *Dhanalakshmi*, *P.P. Sharma* and *M. Devendrappa*.

On alibi, the Court directly quoted *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*. That extract incorporates *Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283*: a fact showing that the accused was elsewhere is inconsistent with presence at the scene and is relevant under Section 11 of the Evidence Act. Alibi is not a special or general IPC exception. The prosecution must first establish the accused's presence and participation; raising an alibi does not lessen that obligation. Once the prosecution has satisfactorily established the accused's presence, the accused must strictly prove through positive evidence that he was elsewhere, excluding his

presence at the scene. However, defence evidence that creates reasonable doubt about his presence entitles him to the benefit of that doubt. The Court then separately reproduced *S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, on the accused's obligation to prove an alibi by positive evidence. That authority also makes clear that failure to establish an alibi does not establish the prosecution case: guilt must independently be proved beyond reasonable doubt. Finally, the Court quoted *Binay Kumar Singh* directly, reiterating both the sequence of burdens and the qualification concerning reasonable doubt. The High Court applied these authorities to the procedural question before it. The applicant's disputed documents and whereabouts required proof at the evidentiary stage and could not be conclusively determined on the merits in the quashing application.

3. Statutes considered : The applicant sought quashing under the Court's inherent powers in Section 528 BNSS, 2023. The alibi authorities explained Section 11 of the Indian Evidence Act, 1872, with illustration (a): a fact showing presence elsewhere, inconsistent with the alleged presence, is relevant evidence. Alibi was expressly not treated as an IPC general exception. Pleading an alibi did not create a statutory presumption transferring the prosecution's underlying burden of proving guilt beyond reasonable doubt.

4. Issues : (i) Whether failure to conduct a preliminary inquiry before registering this FIR, whose recited allegations disclosed a cognizable offence, invalidated registration or justified quashing. (ii) Whether alleged prior enmity and mala fides warranted the exceptional remedy under the Court's inherent powers despite the accusation taken at face value and the disputed inferences about motive. (iii) Whether a haematology report and a prescription written on plain paper, relied on to show that the applicant was receiving treatment in Ambah, could conclusively establish his absence in Section 528 proceedings, or whether the alibi required evidence at trial under the sequence of burdens described in the Supreme Court authorities.

5. Ratio / Findings : The Court first considered whether the absence of a preliminary inquiry vitiated the FIR. It adopted the account of *Lalita Kumari* and *Managipet* in *Thommandru Hannah Vijayalakshmi*. Information disclosing a cognizable offence calls for registration. A limited inquiry may be appropriate where it is necessary to determine whether the information discloses such an offence; there is no general requirement for an inquiry whose omission automatically vitiates an FIR. The High Court also referred to the statement in *Meera Yadav* that failure to hold an inquiry will not vitiate an FIR. The complainant's account identified the alleged participants, place, time, abuse and sword threat. The Court treated the FIR as disclosing a cognizable offence and therefore rejected the applicant's objection based on the absence of an inquiry. That conclusion did not determine the eventual reliability of the account or whether the police should believe it after investigation.

The Court next applied the principles in *Renu Kumari* governing allegations taken at face value and the use of inherent powers to prevent abuse of process. Manifestly malicious proceedings can fall within an illustrative category in *Bhajan Lal*, and inherent powers remain available on proper grounds. Here, however, the effect of the alleged prior enmity was disputed. Enmity could provide a motive either for false implication or for the alleged misconduct. Since the FIR, taken at face value, disclosed a cognizable offence, the informant's alleged mala fides alone did not determine the validity of the case. The Court could not resolve the competing factual accounts or weigh the prospective evidence as though conducting a trial.

Finally, the Court declined to determine the applicant's alibi on the basis of the haematology report and the prescription written on plain paper. His claim that he was receiving treatment at Ambah at the material time was disputed and required cogent proof. *Vijay Pal* and *Binay Kumar Singh* explain that Section 11 makes evidence of presence elsewhere relevant. Only after the prosecution has satisfactorily established presence does the accused bear the strict burden of establishing his alibi. The quoted requirement of 'absolute certainty' describes that stringent defence burden. The same authority, however, preserves the accused's entitlement to the benefit of reasonable doubt where the defence evidence creates such doubt about his presence. *S.K. Sattar* further makes clear that failure to establish an alibi does not itself prove guilt; the prosecution must independently establish its case beyond reasonable doubt. The High Court held only that the disputed alibi materials could not justify terminating the proceedings at this stage. Rejection of the three grounds left the substantive criminal case to proceed in the ordinary course.

6. Relief : The Hon'ble High Court dismissed the application, finding no case for interference under Section 528 BNSS. It refused to quash FIR Crime No. 40/2023 at Police Station Mahua, Morena, for IPC Sections 294, 506 and 34. The charge sheet already filed was not set aside. The order imposed no special condition or separate direction and made no finding of conviction, acquittal, established alibi or final credibility. The prosecution and the applicant's evidentiary defence remained matters for the ordinary subsequent proceedings.

Ravindra Sakhwar v. The State of Madhya Pradesh and Others, M.Cr.C. no. 51224/2024, 06/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Police / cognizable information / duty and remedy on refusal - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the police duty under Section 154 CrPC to register an FIR when information discloses a cognizable offence from the remedy available when police fail to act. The informant may follow the complaint procedure before the Magistrate under Sections 190 and 200 rather than demand an immediate direction from the High Court. The police duty to register an FIR does not itself confer a right to mandamus in every case of refusal.

Magistrate / registration and investigation / statutory supervision - The Court applied *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*. After approaching the Superintendent of Police under Section 154(3), an aggrieved informant may apply to the Magistrate under Section 156(3). If prima facie satisfied, the Magistrate can direct registration of an FIR or proper investigation and monitor its progress. The Magistrate cannot personally investigate. A complaint under Sections 190 and 200 CrPC, also referred to by the Court as Section 223 BNSS, remained available to this applicant.

High Court / FIR mandamus / alternative remedy and exceptional intervention - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, explains that intervention under Article 226 is exceptional. It requires a clear case of mala fide exercise of investigative power, abuse and non-compliance with Chapter XII calling for interference. Even then, the court may insist on lawful process but cannot prescribe the method of investigation. The Division Bench in *Shweta Bhadauria v. State of M.P.*, W.A. 247/2016, applied the rule requiring recourse to alternative remedies, subject to the recognised *Whirlpool* exceptions. It distinguished the police duty explained in *Lalita Kumari* from entitlement to writ mandamus. On the applicant's claim that his complaint had not resulted in an FIR, the application under Section 482 CrPC/Section 528 BNSS for a direction to police was dismissed as not maintainable, with liberty to approach the Magistrate.

Case-note :- ***1. Facts :*** Ravindra Singh Gurjar stated that he had complained to the police but no first information report had been registered. The order does not set out the complaint's date, its alleged offence, documents, persons accused, prior recourse to the Superintendent of Police or any reasons communicated by police for declining registration. Gurjar filed Misc. Criminal Case No. 35612/2024 in the High Court at Gwalior under Section 482 CrPC/Section 528 BNSS, seeking a direction requiring police to lodge an FIR.

The State opposed intervention by the High Court on the ground that the applicant could approach the Magistrate under Sections 190 and 200 CrPC. The Court considered whether an application seeking a direction to police to register an FIR was maintainable. It examined the procedural remedies prescribed by the Supreme Court and the Madhya Pradesh High Court. In its final order, the Court referred to the complaint remedy under Section 200 CrPC/Section 223 BNSS, granted liberty to pursue it and dismissed the application.

2. Precedents — Considered : The Court quoted *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, at length for the central distinction between the police duty and the remedy for inaction. Police must register an FIR when information discloses a cognizable offence. What an informant should do when police fail to act is a separate question. The Supreme Court directed the aggrieved informant to follow the procedure under Sections 190 and 200 CrPC before the Magistrate. The present Court applied that distinction concerning remedies; it did not conclude that Gurjar's complaint, whose details were not set out, necessarily disclosed a cognizable offence.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, paragraphs 41–42, was quoted for two qualifications. Article 226 permits exceptional

intervention where mala fide exercise of investigative power, clear abuse and non-compliance with Chapter XII CrPC justify interference. Even then, the High Court cannot dictate the method of investigation; it can insist only on observance of the legal process. Where police simply fail to act on information, the informant's ordinary remedy is under Sections 190 and 200 CrPC. The quotation incorporated the explanation of complaint inquiry in *Gangadhar Janardan Mhatre*. Upon prima facie satisfaction, the Magistrate may direct police investigation or take cognizance and issue process. If no offence emerges, the Magistrate may dismiss the complaint under Section 203.

The Court directly quoted paragraph 11 of *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, on the successive remedies: a complaint to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3). If satisfied on the material placed before him, the Magistrate can direct registration and proper investigation, and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, was quoted for the same alternative remedy rather than routine petitions under Article 226. It also recognised the Magistrate's discretion, where necessary, to recommend a change of investigating officer to the police hierarchy. It expressly stated that the Magistrate cannot investigate personally.

The Court quoted the binding approach of the Division Bench in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, decided 20.12.2016. Mandamus to compel performance of the police duty under Section 154 may be declined where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used. This rule is subject to the four exceptions referred to in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. The Division Bench distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which concerns the police duty to register an FIR, from a litigant's entitlement to immediate writ mandamus despite the other remedies. The quoted authorities did not treat High Court jurisdiction as absolutely excluded in every case of refusal.

3. Statutes considered : Section 154 CrPC governs the recording of information disclosing a cognizable offence. Subsection (3) permits a written application to the Superintendent of Police when the police station refuses registration. Section 156(3) empowers a competent Magistrate to order investigation, including registration where appropriate on a prima facie showing, with judicial oversight as explained in the precedents. Sections 190 and 200 CrPC provide for a complaint and cognizance before the Magistrate. A quoted authority refers to Section 203 as permitting dismissal of a complaint that discloses no offence. In granting liberty to pursue the complaint remedy, the Court referred to Section 223 BNSS, 2023 as the corresponding provision. It referred to Section 528 BNSS alongside Section 482 CrPC as the provision invoked for the High Court application.

4. Issues : (i) Where police have allegedly failed to register an FIR, does their statutory duty to register an FIR on information disclosing a cognizable offence itself entitle this applicant to a High Court direction under Section 482 CrPC/Section 528 BNSS, or must he first pursue the remedies before superior police officers and the Magistrate? (ii) What powers can the Magistrate exercise on the informant's complaint or application under Section 156(3), and what limits apply to judicial directions about the method of investigation? (iii) Is recourse to alternative remedies invariably required, or do the cited authorities preserve exceptional intervention under Article 226 where established mala fides, clear abuse and non-compliance with Chapter XII require it? The Court did not decide the merits or cognizability of Gurjar's underlying allegations; it left him free to pursue the statutory forum.

5. Ratio / Findings : Following *Aleque Padamsee*, the Court distinguished the police duty to register an FIR from the remedy for failure to perform that duty. Police must register an FIR when information discloses a cognizable offence, but their inaction does not automatically entitle the informant to approach the High Court first for a direction to register an FIR. The affected person can complain to a competent Magistrate under Sections 190 and 200 CrPC; the final order also referred to Section 223 BNSS. The Court decided only whether it should intervene on this application.

The Court also relied on *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* for an additional statutory remedy. The informant may apply in writing to the Superintendent of Police under Section 154(3), followed by an application under Section 156(3). If prima facie satisfied, the Magistrate may direct registration of an FIR or an investigation, or monitor an existing investigation. The Magistrate does not

personally take over the police investigation. The complaint procedure described in *Divine Retreat* and *Gangadhar* includes an appropriate inquiry, dismissal where no case emerges, or taking cognizance and issuing process where justified. These are distinct statutory options; they do not require every item of information automatically to result in registration of an FIR.

Divine Retreat and *Shweta Bhadauria* preserve exceptional constitutional oversight while limiting its exercise. A clear case of mala fide abuse and statutory non-compliance can justify rare intervention under Article 226, and the quoted Division Bench recognised the *Whirlpool* exceptions to the requirement of alternative remedies. Even then, the court can require adherence to lawful process but cannot select the method of investigation. The police duty explained in *Lalita Kumari* does not dispense with the prescribed remedies. The Court found no case for directing registration of an FIR. It refused the requested High Court direction without rejecting on the merits any complaint that might later be made to the Magistrate.

6. Relief : The Hon'ble High Court dismissed the application as not maintainable for the requested direction to police to lodge an FIR. It expressly preserved Gurjar's liberty, if he believed an offence had occurred, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS.

Ravindra Singh Gurjar v. Shriman Police Adhikshak and Others, M.Cr.C. no. 35612/2024, 22/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers / pending investigation / premature quashing - The Court relied on *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, and *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, in declining to interfere while police collected material concerning allegations of a cognizable offence. Investigation may be stopped only on sound grounds showing an abuse of process, not merely because the accused disputes the complainant's account. The allegation that the applicants had procured a false school record of age to have a murder accused treated as a juvenile required investigation.

FIR quashing / face-value and malicious-prosecution exceptions - *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, reproduced the examples in *Bhajan Lal* permitting quashing where an FIR, taken at face value, discloses no offence or the proceeding is manifestly mala fide. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reproduced the caution in *Bhajan Lal* against inquiring into the reliability of the allegations. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, likewise required intervention to rest on sound grounds and cautioned against stifling a genuine prosecution.

Quashing / defence documents and disputed facts - *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognises a limited exception to the ordinary rule against considering the accused's disputed defence at the quashing stage. In an appropriate case, a public document or a document whose veracity the complainant does not dispute may be considered. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapprove premature findings on disputed facts and a roving inquiry. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, similarly cautions against assessing evidence before investigation is complete. The applicants' account of the later age proceedings and the competing records of date of birth did not permit the Court to determine authenticity or innocence while investigation of the FIR was pending.

Case-note :- ***1. Facts :*** The respondent complainant alleged that his elder son Pranam Jain was shot dead on 08.03.2024 by Mikku alias Vishal Bhadoriya and Bhola Bhadoriya. After the suspects' arrest, Mikku reportedly gave his age as 19 during police interrogation and was initially produced before a regular criminal court. According to the written complaint, his father Randeep Singh, applicant 2, and uncle Ravindra Singh, applicant 1, conspired with him to present fabricated school records giving Mikku a birth date of 02.07.2006. The alleged purpose was to have him treated as a juvenile at the time of the killing and thereby avoid consequences applicable to an adult. The trial court directed his production before the Juvenile Justice Board.

The complainant referred to conflicting age records. The admission register of Government Integrated Middle School, Vindwa reportedly recorded the date of birth as 08.06.2005; the Aadhaar card recorded 08.05.2000; the local voter list gave an age of 22; and the Anganwadi record gave 07.07.2003. He alleged manipulation of an entry in Jai Gurudev

Primary/Middle School, Vindwa recording 02.07.2006 as the date of birth, and of admission entry 355 dated 22.06.2011. According to the District Education Officer, the school's recognition period ran from 26.07.2011 to 31.03.2013. The complainant relied on that period to question the earlier admission entry. Police conducted a preliminary inquiry into his written complaint and then registered Crime No. 833/2024 at Police Station Kotwali, Bhind for offences under Sections 420, 467, 468, 471 and 120B IPC.

Ravindra Singh and Randeep Singh sought quashing under Section 528 BNSS. Counsel submitted that, after multiple proceedings, Mikku had ultimately been declared an adult. He also submitted that, in Criminal Revision No. 3522/2024, the High Court had dismissed Mikku's challenge to a direction of the VII Additional Sessions Judge, Bhind to inquire into his age. Counsel argued that the FIR did little more than describe the applicants as conspirators and allege forged documents, without sufficient allegations to justify investigation. The question before the Court was whether to halt the collection of evidence at that stage; it was not finally deciding juvenility or guilt.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, was quoted for the need for caution against quashing an FIR prematurely, before proper investigation. Investigation may be stopped where its continuation would be an abuse of process, but police must ordinarily be allowed to gather material. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, was quoted for the statutory power to investigate a cognizable offence disclosed on the face of an FIR. Intervention is rare and requires satisfaction that the prosecution is malicious and vexatious. The High Court applied this restraint against premature interference to the allegations of forged age documents.

State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547, was reproduced on the importance of completing investigation where an offence is disclosed. It also explains that the wide powers under Section 482 must be exercised sparingly to prevent abuse of process and secure justice. *Swapan Kumar Guha* and *Jeffrey J. Diermeier* appear as authorities quoted within that Supreme Court extract. Their passages explain why investigation ordinarily continues and why inherent power cannot be exercised arbitrarily.

XYZ v. State of Gujarat, (2019) 10 SCC 337, was quoted against resolving contested facts through a roving inquiry and stalling investigation before evidence is collected. Its facts concerned alleged blackmail and a disputed settlement; they illustrated the principle and were not facts of the present case concerning age records. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, was quoted briefly against assessing evidence before investigation is complete. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, was quoted against making detailed findings on disputed facts and the accused's defence in proceedings under Section 482. The High Court applied these principles concerning the stage of proceedings and restraint in assessing evidence. Factual verification was left to police investigation and the later court proceedings.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, was quoted on exceptional quashing where allegations, taken at face value, do not constitute an offence or the proceeding is manifestly mala fide. Its discussion quotes the categories in *Bhajan Lal* and refers to *Medchl Chemicals*, *Zandu Pharmaceutical* and *Shakson Belthissor* on the sparing exercise of power and protection against baseless proceedings. Those subsidiary authorities appeared within the quoted discussion. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, likewise reproduced the caution in *Bhajan Lal*: the High Court should not inquire into the reliability of FIR allegations, and its inherent power does not confer unrestricted authority.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, was quoted on the ordinary rule against considering the accused's disputed defence documents and its limited exception. In an appropriate case, the Court may consider a public document or a document whose veracity the complainant does not dispute. *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* appear within that quotation as sources of the exception. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, was quoted on both the restraint required and the grounds for intervention. Section 482 should not be used to end a genuine prosecution prematurely by assessing evidence as at trial. It may nevertheless be exercised sparingly where the allegations taken at face value lack the ingredients of an offence, a legal bar applies, or manifestly malicious prosecution is shown. These principles supported the refusal to prejudge the pending investigation.

3. Statutes considered : The applicants invoked the Court's inherent powers under Section 528 BNSS, 2023 to seek quashing. IPC Sections 420, 467, 468, 471 and 120B identify the reported allegations of cheating, forgery, use of a forged record and conspiracy under investigation. The earlier revision and age inquiry formed the procedural background. The High Court addressed whether police could continue investigating the alleged fabrication.

4. Issues : (i) Whether the applicants' assertions about the later determination of age and their criticism of the FIR justified quashing Crime No. 833/2024 before police had completed investigation into the alleged forged school entries and their use before a court. (ii) What limits concerning allegations taken at face value, abuse of process and mala fides govern the exercise of inherent powers at that stage, including whether purported public or undisputed defence documents may be considered without trying disputed questions of authenticity. (iii) Whether the Court could at that stage decide the competing dates of birth, the school's existence or recognition, the applicants' role, and the entry's authenticity or the intention behind it, or whether those questions should be left to investigation and subsequent proceedings.

5. Ratio / Findings : The Court stressed that investigation should not routinely be stopped before completion where the FIR alleges a cognizable offence. The alleged fabrication of a later date of birth, use of school documents to claim juvenile status for a murder accused, and conflict with other official age entries justified the collection of evidence. The alleged date on which school recognition began called for investigation of the 2011 admission entry. It was not a judicial finding that the school did not exist or that every cited register was authentic. The Court treated the seriousness of the accusation as a reason against premature interruption. It did not decide whether any particular applicant had actually created a document. The quoted Supreme Court decisions permitted quashing where allegations, taken as true, disclose no offence or a clearly abusive or malicious proceeding is shown. They also cautioned that the wide inherent power is subject to limits and cannot be used for a roving inquiry into disputed evidence. The applicants relied on the earlier age proceedings and argued that the FIR contained only a conclusory allegation of conspiracy. Counsel's assertion that Mikku had later been declared an adult did not, by itself, preclude investigation into the alleged earlier fabrication or use of records to claim a particular age. Nor did the earlier judicial inquiry prevent investigation of the separate allegation that documents had been falsified.

The exception explained in *Mohd. Akram Siddiqui* does not make every purported register or Aadhaar entry conclusive at the quashing stage. The Court quoted the qualified rule permitting consideration, in an appropriate case, of a public document or one whose veracity the complainant does not dispute. It did not decide the authenticity of the competing age records or treat a particular defence document as conclusively answering the accusation. The conflicting dates and disputed origin of the school entry remained matters requiring evidence. The Court held that the serious allegations of forged age documents required the collection of evidence and found no reason to halt the investigation under Section 528 BNSS.

6. Relief : The Hon'ble High Court dismissed the application. It refused to quash the investigation arising from FIR Crime No. 833/2024 at Police Station Kotwali, Bhind, for IPC Sections 420, 467, 468, 471 and 120B. Police remained free to gather evidence.

Ravindra Singh and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 5402/2025, 02/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (788) Prev Next

Headnote :- Negotiable instruments / Section 18 / different sums in figures and words - Where a cheque states different amounts in figures and words, Section 18 of the Negotiable Instruments Act, 1881 makes the amount in words the sum undertaken or ordered to be paid. The Court considered the bank's return of the cheque on account of that discrepancy prima facie unwarranted. The bank, however, was not a party, and that observation did not dispose of the separate cheating charge.

Cheating / loan transaction / dishonest intention at inception - Applying *Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293*, and *V. Ravi Kumar v. State, (2019) 14 SCC 568*, the Court reiterated that Section 420 IPC requires an intention to deceive from the inception of the transaction. A mere breach of a promise to repay is insufficient. Whether the discrepancy was deliberate or a bona

fide error remained for trial. Counsel could not say whether the amount stated in words had been tendered after registration of the case. The Court separately held that failure to tender after knowledge of dishonour could support an inference of initial dishonest intention for the limited purpose of framing a charge. This was not a finding of guilt.

Cheque dishonour / Sections 138 NI Act and 420 IPC / distinct ingredients - The Court followed *Sangeetaben Mahendrabhai Patel v. State of Gujarat, (2012) 7 SCC 621*. Section 138 involves a rebuttable presumption that the cheque was issued to discharge an antecedent liability and does not require proof of fraudulent intention when the cheque was issued. Section 420, by contrast, requires dishonest inducement and mens rea. An IPC prosecution is therefore not barred merely because the facts overlap with a possible remedy under Section 138. The ingredients of each offence must still be established.

Framing of charge / grave suspicion / limits of scrutiny - The Court applied *M.E. Shivalingamurthy v. CBI, (2020) 2 SCC 768*, *Soma Chakravarty v. State, (2007) 5 SCC 403*, *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, and *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*. A charge requires material supporting grave or strong suspicion, rather than proof beyond reasonable doubt. The judge may sift the material to determine whether it is sufficient to proceed, but cannot conduct a roving inquiry as at trial or assess its ultimate probative value. On the alleged discrepancy in the cheque and the unanswered question of subsequent tender, the Court left the Section 420 charge and the revisional order undisturbed.

Case-note :- ***1. Facts :*** The complainant's case, as recorded by the High Court, was that Ravindra Thakur borrowed money and assured repayment of ₹4,20,000. After approximately three years without repayment, he gave a cheque for ₹4,21,000. The prosecution alleged that he filled all the entries himself. Syndicate Bank, Katra Bazar returned the cheque because the sums appearing in figures and in words differed. The complainant treated the discrepancy and dishonour as a dishonest device to avoid the loan. Following investigation, police filed a charge sheet. The Judicial Magistrate First Class, Sagar framed a charge under Section 420 IPC in Criminal Case No. 1805/2019 on 21.12.2021. The Sessions Judge, Sagar dismissed Criminal Revision No. 37/2022 on 12.04.2022. Thakur invoked Section 482 CrPC to challenge both orders.

The applicant submitted that, under Section 18 of the Negotiable Instruments Act, 1881, the amount in words prevails where it differs from the amount in figures. He therefore argued that the bank should not have returned the cheque. He said that he had received neither information from the bank about its return nor notice from the complainant, and contended that these circumstances could not establish cheating. He further argued that cheque dishonour fell under Section 138 of the NI Act rather than Section 420 IPC. The complainant alleged that the mismatch had been deliberately entered to avoid repayment.

2. Precedents — Considered : The Court relied on *Vesa Holdings (P) Ltd. v. State of Kerala, (2015) 8 SCC 293*, and *V. Ravi Kumar v. State, (2019) 14 SCC 568*, to distinguish civil non-performance from cheating. Section 420 requires a dishonest intention to deceive from the inception of the transaction. Applying that test, the Court asked whether the different cheque amounts were a deliberate means of deception or a bona fide error. It considered the later conduct as possible evidence of initial intention only for the purpose of framing a charge.

The Court quoted and applied paragraphs 37–39 of *Sangeetaben Mahendrabhai Patel v. State of Gujarat, (2012) 7 SCC 621*, in rejecting the argument that Section 138 was the exclusive remedy. An NI Act complaint involves a rebuttable presumption concerning antecedent liability and does not require fraudulent intention when the cheque is issued. IPC cheating requires mens rea, has different ingredients and follows a different procedural route. Some overlap in the facts does not itself bar the IPC case. The Court applied that distinction to uphold the Section 420 charge despite the applicant's reliance on the Section 138 remedy.

M.E. Shivalingamurthy v. CBI, Bengaluru, (2020) 2 SCC 768, was reproduced on the judge's duty to sift police statements and prosecution documents, distinguish simple suspicion from grave suspicion, and consider broad probabilities and basic infirmities. Discharge is warranted if the prosecution material, even if accepted, cannot establish the offence. The decision also prohibits a roving inquiry into ultimate proof and ordinarily excludes defence documents when discharge is sought under Section 227 CrPC. The reproduced reasoning draws on *P. Vijayan v. State of Kerala*, (2010) 2 SCC 398. It

refers to *State of J&K v. Sudershan Chakkar,* (1995) 4 SCC 181, and *State of Orissa v. Debendra Nath Padhi*, (2005) 1 SCC 568, for the limits on material produced by the defence at that stage.

Soma Chakravarty v. State through CBI, (2007) 5 SCC 403, was quoted for the distinction between an opinion at the charge stage that the accused might have committed the offence and proof beyond reasonable doubt for conviction. The court must apply its mind to material supporting a prima facie case; suspicion without material is insufficient. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290,* was quoted on limited sifting and weighing under Section 227. The facts taken at face value must disclose the ingredients of the offence, grave suspicion must rest on material, and the court must avoid a miniature trial. *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, was quoted on revisional interference with a charge. Strong suspicion capable of yielding proof at trial suffices; certainty of guilt is not required. Together, these authorities supplied the limited standard by which the two lower court orders were examined. They did not call for a final assessment of the cheque or the applicant's intention.

Within the passage quoted from *Shiv Charan Bansal*, *State of Bihar v. Ramesh Singh*, (1977) 4 SCC 39, and *Dipakbhai Jagdishchandra Patel v. State of Gujarat*, (2019) 16 SCC 547, reinforce that the ground for presuming an offence must rest on material capable of becoming evidence at trial. At the charge stage, no weight is to be attached to the accused's merely probable defence.

3. Statutes considered : Under Section 18 of the Negotiable Instruments Act, 1881, where an instrument states different sums in figures and words, the amount in words is the sum undertaken or ordered to be paid. Applying that provision to the bank's stated reason for return, the Court observed that prima facie the cheque should not have been returned on that ground. The bank was not impleaded, and no binding direction or adjudication against it followed. The applicant relied on Section 138 NI Act as the exclusive remedy for cheque dishonour. Through *Sangeetaben*, the Court distinguished the ingredients of that offence and its presumption.

Section 420 IPC punishes cheating coupled with dishonest inducement to deliver property or deal with a valuable security. The Court stressed the need for dishonest intention at inception, rather than mere subsequent non-payment. Section 482 CrPC was invoked to challenge the order framing the charge and the order dismissing the criminal revision. The quoted Supreme Court passages on Section 227 CrPC supplied the general standard for charge and discharge. Section 397 CrPC was discussed through *Fatehkaran Mehdu* in relation to review at the charge stage.

4. Issues : (i) What effect did Section 18 give to the difference between the cheque amounts, and did the bank's reason for return by itself defeat the prosecution allegation? (ii) On the prosecution account of the loan, delayed repayment and discrepant cheque, was this necessarily a mere civil breach, or was there material supporting suspicion of dishonest intention at inception for Section 420 IPC? (iii) Did a possible remedy under Section 138 NI Act exclude prosecution under Section 420 IPC on overlapping cheque facts? (iv) What degree of suspicion and scrutiny was permissible when framing the charge and reviewing it in revision or under inherent powers, and did the challenged orders exceed those limits? Whether the discrepancy was deliberate or a bona fide error, and ultimate criminal liability, remained matters for trial; they were not conclusively determined in this petition.

5. Ratio / Findings : The Court read Section 18 as making the amount in words controlling. It observed that prima facie the bank should not have returned the cheque solely because that amount differed from the figures. Whether the mismatch was a bona fide mistake or a deliberate means of avoiding payment could not be conclusively determined in the challenge to the charge.

The Court applied the requirement of dishonest intention at the inception of the transaction, explained in *Vesa Holdings* and *V. Ravi Kumar.* Later conduct could shed light on that earlier intention. Asked whether the amount written in words had been tendered after registration of the criminal case, counsel said that he had no information. The Court separately considered the inference that could follow from failure to tender after knowledge of the cheque's return. Such failure could support an inference of initial dishonest intention for the limited purpose of framing a charge. This was an inference for assessing suspicion at that stage, rather than a final finding that the applicant was dishonest or had received notice at a particular time. The Court did not hold that non-payment alone automatically constituted an offence.

Applying *Sangeetaben*, the Court rejected the argument that Section 138 NI Act excluded Section 420 IPC. The NI Act presumption and the absence of a requirement to prove mens rea there differ from the elements of IPC cheating. The same cheque transaction may give rise to overlapping facts without making the offences identical. Each offence must be established through its own ingredients and process. The possibility of one does not bar a sufficiently supported charge for the other.

The quoted authorities required the Court to assess whether the material supported grave suspicion within the limits applicable at the charge stage. They permitted sifting for the essential ingredients and basic infirmities, but prohibited a roving inquiry into credibility or the application of the standard for conviction. Suspicion had to rest on material. Here, the Court relied on the prosecution account of the cheque containing inconsistent amounts and the unanswered tender question, rather than an allegation unsupported by material. On that limited review, it found no illegality in the Magistrate's Section 420 charge or the Sessions Judge's affirmance. The applicant could contest intention and the prosecution material at trial.

6. Relief : The Hon'ble High Court dismissed the Section 482 CrPC application and left undisturbed the JMFC, Sagar order dated 21.12.2021 framing a Section 420 IPC charge and the Sessions Judge's revisional order dated 12.04.2022. There was no acquittal, conviction, final finding that the cheque error was deliberate, or adjudication of any actual Section 138 prosecution.

Ravindra Thakur v. The State of Madhya Pradesh and Others, M.Cr.C. no. 24357/2022, 14/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (790) Prev Next

Headnote :- Section 482 CrPC / matrimonial allegations against husband's relative / particularised support of dowry demand - The Court observed that merely naming a relative in a matrimonial FIR does not justify making him face a criminal trial. The protection against vague and omnibus allegations, however, does not exclude a specifically attributed act. The Court considered *Kans Raj v. State of Punjab, (2000) 5 SCC 207; Monju Roy v. State of West Bengal, (2015) 13 SCC 693; Chandralekha v. State of Rajasthan; Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*; and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*, together on the need for specific allegations about the relative's role. Applying *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, it found specific allegations which, taken at face value, raised triable issues. The complainant alleged that, after her husband assaulted her and referred to an unfulfilled demand for ₹2 lakh and a four-wheeler, the applicant abused her, supported the husband's statement about dowry and said that he would deal with the situation. His assertions that he lived separately, 2.5 km away, and was estranged from the family did not conclusively establish his defence at that stage. The Court refused to quash the FIR.

Accused's investigation request / agency and method / limited judicial control - The Court observed that applying to the Superintendent of Police for a free and fair investigation did not entitle the applicant to require police to investigate from his point of view. It quoted and applied *Romila Thapar v. Union of India, (2018) 10 SCC 753*: an accused has no right to choose the agency or method of investigation, or to require court-monitored investigation. The quoted passage preserves exceptional directions under Article 226 where mala fide investigation is substantiated. *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626, was reproduced on the limited participation of an accused and the absence of an automatic right to a hearing during investigation, subject to statutory and exceptional qualifications. Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532, was cited on the distinction between monitoring and supervision.* The Court found a prima facie case warranting investigation and dismissed the Section 482 application.

Case-note :- ***1. Facts :*** R.D. Mishra sought quashing under Section 482 CrPC of FIR Crime No. 0021/2024 dated 02.04.2024 at Women Police Station, Panna. The complainant said that she married Praveen alias Rohit on 05.05.2018 and that cash, ornaments and household items were given at the wedding. She alleged that, after an initially satisfactory year, her husband assaulted her on 15.06.2019 for not preparing food and complained that her father had not supplied a further ₹2 lakh and a four-wheeler. When she complained about his conduct to her in-laws, including Mishra, he allegedly abused her, agreed with the husband's statement that her father had not given sufficient dowry, and said that he would settle or deal with the

situation. Her father came to persuade the in-laws. She said that her brother took her to her parental home for Rakshabandhan in August 2023 and that she remained there with a four-year-old child because of cruelty by her in-laws.

Mishra claimed that he had been falsely implicated. He said that his house was about 2.5 km from the matrimonial home, that he had not been on talking terms with the family for 30 years, and that he had applied to the Superintendent of Police, Panna for a free and fair investigation. This was his second application under Section 482. The first, M.Cr.C. No. 17064/2024, had been rejected with liberty to refile because he had unnecessarily described himself in the cause title as State President (Ex Officio) of Vidyut Pensioners Hit Rakshak Association without explaining the inclusion of that office. The earlier rejection did not decide the FIR challenge on its merits.

2. Precedents — Considered : *Kans Raj v. State of Punjab, 2000:INSC:251 : (2000) 5 SCC 207; Monju Roy v. State of West Bengal, (2015) 13 SCC 693; Chandralekha v. State of Rajasthan; Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*; and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667* were expressly invoked together, without separate quoted passages, on the need for clear and specific allegations before requiring a husband's relative to stand trial. The High Court examined the FIR in light of that protection. It identified words attributed to the applicant and his alleged support for the husband's assault in connection with the dowry demand. These authorities did not give a relative categorical immunity merely because he lived outside the matrimonial home or was distantly related.

Taramani Parakh v. State of M.P., 2015:INSC:221 : (2015) 11 SCC 260, was directly quoted on the distinction between cases warranting quashing and those requiring trial. Allegations that are absurd, disclose no offence or show an abuse of process may justify quashing. Where a case requires trial, the court does not determine the truth of the rival versions at that stage. The reproduced passage contrasts the mere naming of distant relatives, discussed in *Kailash Chandra Agrawal*, with concrete allegations against the husband and parents that require trial. *Kans Raj*, *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* also appear within the quoted Supreme Court discussion, rather than as separate analyses of Mishra's case by the High Court. The complainant and facts described in that quotation belong to *Taramani*, not the present FIR. The High Court applied that principle to Mishra's alleged endorsement and threat, leaving their truth to investigation and trial.

Romila Thapar and Others v. Union of India and Others, 2018:INSC:912 : (2018) 10 SCC 753, was quoted at length and applied in rejecting the accused's claimed right to control the investigation. The passage collects decisions establishing that an accused cannot select the investigating agency or prescribe the manner or mode of investigation, including court-monitored investigation as a matter of entitlement. *Narmada Bai* and *Sanjiv Rajendra Bhatt* are cited for that rule. *E. Sivakumar* discusses a hearing for the accused before transfer of investigation in a distinct writ context. *Romila* also recognises exceptional intervention under Article 226 where an aggrieved person convincingly establishes mala fide investigation. It reproduces the Constitution Bench's caution in *Committee for Protection of Democratic Rights* against routine transfer to CBI. The politically charged investigative facts in the *Romila* quotation were not facts of this matrimonial FIR.

Dinubhai Boghabhai Solanki v. State of Gujarat, 2014:INSC:139 : (2014) 4 SCC 626, was directly reproduced on the limits of an accused's participation while investigators collect evidence. There is no automatic right to a prior hearing before every investigative step or further investigation. The quotation from *W.N. Chadha* addresses statutory exceptions and distinguishes investigation from trial. It also discusses *CBI v. Rajesh Gandhi*, *Sri Bhagwan Samardha* and *Narender G. Goel* in the context of transfer or further investigation in that separate case. The quoted material preserves the later opportunity to test evidence at trial and recognises lawful further investigation under court supervision. It does not establish that an accused has no procedural rights at any stage. In the present case, it supported the refusal to let Mishra dictate the police point of view.

Manohar Lal Sharma v. Principal Secretary and Others, 2013:INSC:839 : (2014) 2 SCC 532, was cited in support of the Court's statement that it could not supervise this investigation and that supervision differs from monitoring.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR under the High Court's inherent jurisdiction. The Court considered whether the allegations, taken at face value, raised a triable issue. It did not apply a final standard of proof or

determine whether every detail of the complainant's account was true. The order does not set out the registered penal sections, although its factual account concerns mistreatment related to dowry and physical assault. The quoted *Dinubhai* passage mentions Sections 173(2), 173(8), 204 and 202 CrPC in the procedural context of that authority. Those provisions were not independently applied here to decide any police final-report or further-investigation question. *Romila*'s discussion of Article 226 preserves an exceptional public-law remedy where mala fide investigation is convincingly established. The present proceeding was a Section 482 quashing application, not a decision on an Article 226 claim to transfer the investigating agency.

4. Issues : (i) Did the FIR merely name Mishra among the in-laws, or did it attribute a specific act connecting him with the husband's alleged demand and assault, sufficient to warrant investigation rather than quashing under Section 482? His claims of separate residence and estrangement were the competing factual account.

(ii) Did the application to the SP for a free and fair investigation entitle the accused to require police to investigate from his point of view or the High Court to supervise the investigation, subject to the exceptional constitutional remedies described in the cited authorities?

(iii) What effect did the defect in the first petition's cause title and the Court's comment about it have on the present proceedings? The first rejection permitted a properly constituted application and did not decide the merits.

5. Ratio / Findings : The Court accepted the Supreme Court's caution against vague and omnibus allegations implicating relatives, but found specific conduct alleged here. According to the FIR, Mishra was approached after the husband's assault on 15.06.2019 and complaint about the unmet demand for ₹2 lakh and a four-wheeler. Mishra allegedly abused the complainant, endorsed the husband's complaint and said that he would deal with the situation. The Court treated this as specific support for the husband's alleged mistreatment in connection with dowry, rather than an accusation based only on Mishra's status as an in-law. In paragraph 9, it observed that the alleged challenge appeared correct because he had tried to impress the Court by using his association title in the first application. It then said, 'Be that whatever it may be,' before returning to the acts attributed to him. The first petition's rejection on a procedural ground did not amount to an admission of criminal conduct.

Applying *Taramani*, the Court declined to decide whether the FIR or Mishra's account of separate residence and decades of estrangement was true. Those claims could be investigated and tested in the ordinary proceedings. They did not justify quashing the specific allegations which, taken at face value, raised a triable issue in this Section 482 application. The Court found a prima facie case warranting investigation. It did not find guilt, conclusively establish actual cruelty or direct that the applicant must be charged.

Applying to the SP did not entitle Mishra to prescribe the point of view from which police should investigate. *Romila Thapar* and *Dinubhai* explain that an accused ordinarily has no right to select the agency or method, or to require court monitoring during an ongoing investigation. They preserve statutory opportunities and exceptional constitutional intervention on appropriate proof. The Court accordingly declined to supervise the investigation or require it to proceed from the applicant's point of view.

6. Relief : The Hon'ble High Court dismissed the Section 482 application to quash FIR Crime No. 0021/2024. Investigation was left to proceed; the Court ordered no change of agency, no particular investigative act, and no prosecution outcome.

R.D. Mishra v. The State of Madhya Pradesh, M.Cr.C. no. 19711/2024, 28/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (791) Prev Next

Headnote :- Section 482 CrPC / pending FIR investigation / no compelled charge sheet - The Court observed that a complainant may seek lawful completion of a pending investigation but cannot require the High Court to direct police to file a charge sheet. It applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*: directing a report with a predetermined conclusion would supervise and pre-empt the investigation. Depending on the material collected, the officer may submit a charge sheet or a closure report. The quoted Supreme Court passage also reproduced *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on discretion to arrest. It referred to *Divine Retreat*

Centre v. State of Kerala, (2008) 3 SCC 542, on notice before prejudicial judicial directions.

CrPC Section 173(1) / unnecessary delay / neutral final report - The statutory command to complete investigation without unnecessary delay prevented the officer from leaving Crime No. 293/2017 indefinitely pending. The Court directed the Investigating Officer to conclude it as early as possible and take the steps law requires, including an appropriate final report. The applicant could approach the Superintendent of Police, Bhind if she had a further grievance. The application was disposed of with those limited directions, not with an order for prosecution of a named person.

Case-note :- ***1. Facts :*** Reenadevi filed an application under Section 482 CrPC relating to Crime No. 293/2017 at Police Station Bhind Dehat, District Bhind. On her complaint police had registered an FIR for Sections 498-A, 323 and 34 IPC. Counsel said that the investigation had not been concluded and asked the High Court to direct the respondents to file a charge sheet. The question was what form of judicial intervention, if any, was permissible while police investigation remained pending.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted extensively and directly applied. In that case, the Supreme Court rejected a High Court order which, without adequate reasons, virtually made the recording of witness statements, arrest, seizure and filing of a charge sheet obligatory investigative steps. Paragraphs 25 and 31–32 distinguish the police duty to investigate from a judicial direction prescribing the manner or result of investigation. After inquiry, police may find material warranting a charge sheet or conclude that no case is made out. The Supreme Court objected to the High Court choosing a particular line of investigation and directing several coercive steps before the officer could exercise discretion on the developing material. Paragraph 36 explains that the inherent power preserved by Section 482 may be used to give effect to an order under the Code, prevent abuse of court process or secure the ends of justice. Its scope is confined to those three grounds. The present Court applied that limit to refuse Reenadevi's request for a compulsory charge sheet, while preserving the requirement of timely and lawful completion.

Within the passage from *Venkatasubramaniam, M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, is reproduced on arrest under Section 41 CrPC. Allegations of a cognizable offence do not make arrest automatic. The officer must exercise discretion cautiously because arrest affects liberty and reputation. In an appropriate case, the officer may decide whether arrest is necessary after some investigation, rather than act mechanically on registration of the case. The quoted Supreme Court decision also addresses prejudicial judicial directions about investigation issued without hearing those affected. It reproduces *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on notice before a judicial order with drastic consequences for a person's reputation. The absence of reasons and a hearing supported setting aside the directions in that Supreme Court case. The High Court here relied on the broader holding in *Venkatasubramaniam* to refuse compulsory filing of a charge sheet. The quoted discussion of nullity and reversal concerns that precedent, not the present application.

An allegation of delay did not entitle the applicant to a direction requiring a charge sheet. The Court required timely completion under the statute while preserving the investigating officer's freedom to reach the appropriate conclusion.

3. Statutes considered : Section 482 CrPC was invoked for relief under the High Court's inherent powers. Their limited scope did not permit the Court to dictate how the officer should collect evidence or what conclusion the investigation should reach. Section 173(1) CrPC was expressly set out: an investigation under the Chapter must be completed without unnecessary delay. It supported a direction to conclude the investigation and take the steps required by law, without requiring a particular type of police report. The Supreme Court quotation refers to Section 41 CrPC to explain the discretion to arrest; no arrest direction was sought or given here. Sections 498-A, 323 and 34 IPC identified the registered allegations.

4. Issues : (i) Could the High Court, under Section 482, direct police to file a charge sheet at the complainant's request before investigation was complete, or would that take over the officer's lawful assessment of the evidence and foreclose a possible closure report?

(ii) Could the Court nonetheless enforce Section 173(1)'s duty against unnecessary delay by requiring prompt completion, while leaving the report's nature

and other investigative acts to the lawful process? What relief remained for a later grievance?

5. Ratio / Findings : The Court refused the requested direction to file a charge sheet on the facts before it. Under *Venkatasubramaniam*, the investigating officer must decide which investigative acts are needed and whether the collected material makes out a case. A court acting under Section 482 cannot prescribe the outcome sought by the complainant. Directing a charge sheet would supervise the investigation and predetermine its result. The officer is not bound to adopt the complainant's preferred conclusion; a finding that no case is made out is a lawful possible outcome of investigation, subject to the ordinary process. Refusing a compulsory charge sheet does not, however, approve delay or prevent the Court from requiring completion of the investigation.

The officer's discretion over the outcome did not permit indefinite inactivity. The Court treated the express requirement in Section 173(1) to avoid unnecessary delay as binding. It directed the officer to conclude the investigation as early as possible and take the consequential steps required by law. The final police report could be a closure report or a charge sheet, depending on the lawful result of the investigation. The limited relief thus required completion of the process without compelling prosecution. The applicant remained free to apply to the Superintendent of Police, Bhind, who would consider any grievance according to law.

6. Relief : The Hon'ble High Court finally disposed of the application. The prayer to command a charge sheet was refused; the Investigating Officer was directed to conclude investigation promptly and take lawful necessary steps without a predetermined report. An application to the Superintendent of Police remained available for a further grievance. The FIR was neither quashed nor found proved. The Court ordered no arrest or seizure and set no fixed deadline for filing a charge sheet.

Reenadevi v. State of M.P. and Others, M.Cr.C. no. 18806/2018, 29/11/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Interim maintenance / salary assessment / voluntary loan EMI - The Court observed that voluntary repayment of a loan whose proceeds the spouse has already received cannot be deducted from current salary when assessing the means available to support his wife and child. On the February 2024 salary slip, it deducted the listed statutory recoveries of ₹14,278 from gross salary of ₹68,228, arriving at take-home income of ₹53,950. It did not deduct the further loan EMI of ₹23,125. Against those means, the interim awards of ₹2,000 and ₹1,000 per month were shockingly low. The family was entitled to the status it would have enjoyed in the matrimonial or parental home. The Court increased the awards to ₹10,000 and ₹5,000 per month respectively.

Interim maintenance / commencement and overlapping awards - Applying paragraph 113 of *Rajnesh v. Neha, 2020:INSC:631 : (2021) 2 SCC 324*, the Court made the enhanced maintenance payable from the application date because the applicants do not control the duration of the proceedings. The award was subject to adjustment for maintenance actually received in any other proceeding, preventing overlapping recovery while preserving the present entitlement. The revision under Sections 397/401 CrPC and Section 19(4) of the Family Courts Act was allowed without costs.

Case-note :- ***1. Facts :*** Rekha Ahirwar and another applicant challenged the order dated 03.07.2024 passed by the Principal Judge, Family Court, Gwalior in Case No. 989/2023 MJC. They sought enhancement of interim maintenance under Sections 397 and 401 CrPC read with Section 19(4) of the Family Courts Act. The Family Court had awarded ₹2,000 per month to applicant No. 1 and ₹1,000 to applicant No. 2. The order describes the supported family as the wife and child or children. It does not give applicant No. 2's name or age or assess that applicant's needs separately.

According to counsel, the respondent's February 2024 salary slip showed gross pay of ₹68,228 and recoveries of ₹14,278, leaving take-home pay of ₹53,950. Deduction of the further loan EMI of ₹23,125 was opposed because the respondent had already received the loan proceeds and repayment was voluntary. Counsel disputed the explanation that the loan had met marriage expenses: the marriage took place on 09.05.2019, whereas the loan was taken in February 2022. The respondent did not appear despite service. The matter had also been adjourned after his nonappearance on 29.11.2024.

2. Precedents — Considered : In paragraph 8 of the present judgment, the Court directly quoted paragraph 113 of *Rajnesh v. Neha and Another,*

2020:INSC:631 : (2021) 2 SCC 324. That paragraph directs that maintenance be awarded from the application date to ensure uniformity and consistency. Its stated reason is that the applicant does not control the period for which the proceedings remain pending. The High Court expressly applied that rule to the enhanced interim amounts.

3. Statutes considered : Sections 397 and 401 CrPC and Section 19(4) of the Family Courts Act are identified as the revision route against the Family Court's interim order.

4. Issues : (i) Which deductions from the respondent's February 2024 salary should be taken into account when fixing interim maintenance? In particular, should voluntary repayment of a loan whose proceeds had already been received reduce take-home income in addition to the recoveries treated by the Court as statutory?

(ii) Were monthly awards of ₹2,000 and ₹1,000 proportionate to the income so assessed and the applicants' ordinary standard of family support, and what higher amounts did the record justify? The Court fixed a separate amount for each applicant in its operative order.

(iii) From what date should the increase operate, and how should an award actually received in another maintenance proceeding interact with it?

5. Ratio / Findings : The salary slip recorded basic pay of ₹36,400, dearness allowance of ₹16,744, house rent allowance of ₹9,828 and transport allowance of ₹5,256, giving gross pay of ₹68,228. For its calculation, the Court listed recoveries of ₹30 for the Railway Employees Insurance Scheme, ₹5,314 for NPS Tier I, ₹6,334 in income tax, ₹800 in Maharashtra professional tax and ₹1,800 for CMTD-ECC Bank. These totalled ₹14,278. Deducting them from gross pay gave take-home income of ₹53,950.

The further EMI of ₹23,125 repaid a loan whose proceeds the respondent had already received. The Court held that arranging such voluntary repayment could not reduce the income considered for his family's support. On take-home pay of ₹53,950 under the accepted calculation, the existing awards were disproportionately low. A wife and child were entitled to the standard they would otherwise enjoy in the family home; undue sympathy for the husband without good reason was contrary to the interests of justice. The Court increased applicant No. 1's monthly interim maintenance fivefold to ₹10,000 and applicant No. 2's to ₹5,000. This was an interim assessment based on the particular salary slip. It did not lay down a universal income percentage or finally determine permanent maintenance.

Applying the quoted paragraph 113 of *Rajnesh*, the Court made the enhancement payable from the original application date, rather than the revision decision. The claimants could not control the delay while proceedings were pending. The Court also directed that maintenance actually received by either applicant in another proceeding be adjusted against this award.

6. Relief : The Hon'ble High Court allowed the revision. Interim maintenance rose from ₹2,000 to ₹10,000 monthly for applicant No. 1 and from ₹1,000 to ₹5,000 monthly for applicant No. 2, payable from the application date and subject to adjustment for maintenance received in another proceeding. No costs were ordered.

Rekha Ahirwar and Others v. Nirmal Chandra, Cr.R. no. 3457/2024, 02/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 498-A IPC / dowry allegations against husband's aunt / individual role - The Court observed that a distant relative's family connection cannot substitute for a specific allegation of dowry demand or cruelty. It applied *Kans Raj v. State of Punjab, (2000) 5 SCC 207; Monju Roy v. State of West Bengal, (2015) 13 SCC 693; Chandralekha v. State of Rajasthan; K. Subba Rao v. State of Telangana, (2018) 14 SCC 452; Preeti Gupta v. State of Jharkhand; Neelu Chopra v. Bharti, (2009) 10 SCC 184*; and *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, on the need for allegations identifying the relative's act and material supporting that role. The FIR attributed to Revti Devi only a statement outside the Family Court after the marital dispute. It did not allege that she made the ₹5 lakh demand or harassed the complainant for nonpayment. Her prosecution under Section 498-A and the Dowry Prohibition Act could not continue merely because the other in-laws were accused. The quoted Supreme Court passages from dowry-death and trial cases supported caution against indiscriminate implication; they did not require proof sufficient for conviction at the FIR stage.

IPC Sections 503 and 506 / conditional reference to a possible killing - The Court observed that the aunt's alleged statement that the family could buy the

police even if the complainant were killed, together with the assertion that money would not be returned, did not allege that the aunt herself threatened to kill her. Section 503 requires a threat of injury with intent to cause alarm or compel conduct. Applying that requirement to this particular FIR, the Court held that Section 506 was not disclosed against Revti. The FIR and criminal case were quashed only as against her.

Matrimonial FIR / reconciliation and divorce petition / specific allegations against immediate in-laws - The Court observed that silence about the other in-laws during reconciliation intended to preserve the marriage did not establish that the later FIR allegations were false. Filing the FIR after notice of the husband's divorce petition did not by itself prove that it was a counterblast. *Kamaladevi Agarwal v. State of West Bengal, (2002) 1 SCC 555*, and *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, were quoted and applied on the independence of criminal proceedings, the different standard of proof, and efforts to settle before reporting. Applying *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, the Court found a triable case in the specific allegations of a ₹5 lakh demand and harassment against K.K. Naroliya, Radha Naroliya and Surendra Naroliya. K.K.'s different posting did not by itself defeat allegations that did not require continuous physical presence. Their quashing applications were dismissed.

CrPC Section 36 / independent parallel police inquiry - The Court observed that the powers of a superior officer did not authorise an independent inquiry alongside the FIR investigation without withdrawal of the assigned investigation. It followed its order in *Deepak alias Preetam Verma* and the Supreme Court's dismissal in *Surendra Singh Gaur v. State of M.P., SLP (Crl.) No. 1345/2019*, 18.01.2022, which addressed Section 36 and the circular in that separate case. The Court refused to give legal effect to the CSP report in the present case. In any event, the report recommended waiting for the divorce case; it did not find the FIR allegations false.

Case-note :- ***1. Facts :*** This common order decided two petitions under Section 482 CrPC concerning FIR Crime No. 568/2018 at Kotwali, Morena and Criminal Case No. 308/2019 before the JMFC. Revti Devi and Surendra Naroliya filed M.Cr.C. No. 35599/2021; K.K. Naroliya and Radha Naroliya filed M.Cr.C. No. 37501/2021. The offences stated in the order were Sections 498-A, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act. The Court expressly assessed the allegations separately for each applicant, rather than treating the accusations against the family as one indivisible case. The husband, Mrigendra, was described as a co-accused but was not one of the four quashing applicants.

The complainant, respondent No. 2, said that she married Mrigendra on 22.04.2015 and described the expenditure and cash given at the marriage and engagement. In her FIR dated 14.06.2018, she alleged that her husband, his father K.K. Naroliya, mother Radha and younger brother Surendra demanded a further ₹5 lakh and harassed her mentally and physically. She described repeated pressure concerning childbearing and contraceptive pills, isolation and abuse while in Delhi with her husband, and attempts at family reconciliation. Later, Radha and Surendra allegedly refused to let her enter the matrimonial home in Morena unless she brought ₹5 lakh. She also alleged that Mrigendra threatened to kill her and took out a knife when her mother visited Delhi. At a separate encounter outside the Family Court, her husband and his aunt Revti allegedly said that she could not harm the in-laws or recover money and that the police could be bought even if she were killed.

As regards Revti, the Court found no assertion in the FIR that she demanded dowry or harassed the complainant for failing to provide it. K.K., Radha and Surendra disputed the allegations by relying on the complainant's failure to name them during reconciliation, the FIR following the husband's divorce petition under Section 13 of the Hindu Marriage Act, her restitution petition under Section 9, and K.K.'s different official posting. They also relied on a CSP report from an independent inquiry purportedly under Section 36 CrPC. The report proposed waiting for the divorce case before considering the allegations.

2. Precedents — Considered : *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, was quoted against implicating all of a husband's relatives in a dowry case on the basis of kinship or conjecture. The reference in that extract to proof beyond reasonable doubt concerned overt acts in a dowry-death trial. The High Court applied the requirement of individual allegations under Section 482 without demanding conviction-level proof at the FIR stage. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, was quoted for caution about omnibus accusations against siblings and distant relatives. It

also acknowledged the real possibility of harassment by close family members and required a pragmatic assessment, rather than mechanical weighing of every allegation.

Chandralekha v. State of Rajasthan was quoted on quashing general allegations against relatives where no specific role was attributed to them. That case also involved uncertainty about whether they lived with the couple and extraordinary delay. *K. Subba Rao v. State of Telangana, (2018) 14 SCC 452*, concerned maternal uncles implicated in dowry litigation without specific allegations and the exceptional power to prevent abuse of process.

Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363, was quoted on the hardship caused by sweeping matrimonial prosecutions and the need to scrutinise allegations against relatives, particularly those living elsewhere. *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, required particulars identifying the alleged act of each accused, rather than a mere recitation of offence sections. *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, was quoted on the insufficiency of a casual reference to a family member without active involvement. Its quotation from *G.V. Rao* concerns the risk of drawing the wider family into matrimonial litigation; it is not a factual finding about the present complainant. Applying these authorities separately to each applicant, the Court distinguished the absence of a dowry or cruelty allegation against Revti from the specific allegations against the father, mother and younger brother.

Kamaladevi Agarwal v. State of West Bengal, (2002) 1 SCC 555, was quoted and applied on the independence of civil and criminal proceedings and their different standards of proof. A pending civil suit alone cannot terminate a criminal prosecution. The passage quoted from *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, discusses a preference for prompt criminal proceedings in context, while expressly rejecting a rigid rule. The present Court applied the principle of separate proceedings; it did not order a stay of the matrimonial case. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was quoted and applied against automatically treating a wife's FIR after failed reconciliation and a divorce petition as belated or retaliatory. It also restricts quashing on extraneous material beyond the allegations. The Court treated the effort to save the marriage as a possible explanation for the timing, without finally deciding motive.

The Court invoked its earlier order in *Deepak alias Preetam Verma v. State of M.P.*, M.Cr.C. No. 12592/2018, dated 11.09.2018, against an independent parallel police inquiry without withdrawal of the assigned investigation. It directly quoted the Supreme Court's order in *Surendra Singh Gaur v. State of M.P., SLP (Crl.) No. 1345/2019*, dated 18.01.2022, dismissing the challenge to that order. The quoted reasons state that neither Section 36 CrPC nor the circular cited in that case authorised a simultaneous independent inquiry. The circular itself was consistent with Section 36. The High Court applied that distinction in disregarding the CSP report here; it did not prohibit lawful control by superior officers or a proper transfer of investigation. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was directly quoted and applied to the remaining applicants. Absurd allegations or allegations disclosing no offence may justify quashing, especially where relatives are named in omnibus terms. Where specific allegations raise a triable case against the husband and close family, their reliability and the competing version are not assessed under Section 482. The complaint and outcome quoted from *Taramani* concern that separate case. Here, the Court identified specific allegations against K.K., Radha and Surendra and left their truth for trial.

3. Statutes considered : Section 482 CrPC provided the limited inherent jurisdiction to consider quashing separately for each applicant in the FIR and pending JMFC case. Section 498-A IPC required cruelty within the statutory matrimonial context. On the allegations against Revti, the isolated encounter outside the Family Court, without any attributed dowry demand or harassment for nonpayment, did not disclose that charge. Sections 503 and 506 IPC governed criminal intimidation, requiring a threat of injury with the statutory intent to cause alarm or compel conduct. The Court distinguished that requirement from Revti's alleged statement that the police could be bought if the complainant were killed.

Section 36 CrPC was relied on for the CSP's inquiry as a superior officer. The Supreme Court principle adopted by the High Court prohibited an independent inquiry parallel to the assigned FIR investigation in the circumstances described; it did not make lawful superior control itself impermissible. Sections 9 and 13 of the Hindu Marriage Act concerned the parties' restitution and divorce proceedings respectively. The

Court treated those proceedings as background, rather than bars to investigation. The different standards of proof in civil and criminal proceedings mattered when rejecting the argument that the FIR was automatically a counterblast or that the civil proceedings precluded it.

4. Issues : (i) Did Revti's attributed statement outside the Family Court disclose her own cruelty or dowry demand, and did it amount to a threat of injury with the intent necessary under Sections 503/506, as distinct from the specific accusations against the closer in-laws?

(ii) Did filing the FIR after divorce notice, or omitting allegations against the in-laws during reconciliation, establish that the later detailed complaint was false? Or would that amount to deciding disputed facts under Section 482 while the matrimonial and criminal proceedings remained independent?

(iii) Could the independent CSP inquiry purportedly under Section 36 override the assigned FIR investigation and justify quashing, and what did its actual text decide?

(iv) Did K.K.'s different posting defeat the specific prima facie allegations of a ₹5 lakh demand and harassment against K.K., Radha and Surendra, or did it raise a factual defence to be tested at trial?

5. Ratio / Findings : The Court examined the FIR separately for each applicant. It found no allegation that Revti demanded dowry or took part in harassment for its nonfulfilment. Even assuming that she spoke the words attributed to her in the Family Court incident, that allegation did not disclose the cruelty alleged against her under Section 498-A. For criminal intimidation, the Court considered the particular accusation: she allegedly spoke about money, influence over police and what might happen if the complainant were killed, but the FIR did not allege that Revti herself threatened to kill the complainant. Applying the threat and intent requirements in Section 503, it held that this allegation did not disclose Section 506. In light of those deficiencies and the Supreme Court's insistence on a specific individual role in matrimonial prosecution, continuing the case against Revti would result in a failure of justice.

The FIR contained sufficiently specific allegations against K.K., Radha and Surendra at this stage. K.K. and Radha were among those alleged to have demanded ₹5 lakh and harassed the complainant. Radha and Surendra allegedly refused her entry unless she paid, and Surendra was also named in the earlier demand. The reconciliation counsellors sought to preserve the marriage, rather than determine each relative's criminal liability. The complainant's silence about the relatives there could be consistent with an attempt at reconciliation and was not a conclusive contradiction. *Pratibha* and *Kamaladevi* supported the refusal to quash merely because divorce proceedings existed or the FIR followed divorce notice. The Court noted that the hope of saving the marriage could explain the later resort to an FIR. Civil findings did not determine the criminal case, which was governed by a different standard of proof.

The Court declined to treat the CSP report as a lawful basis for exoneration. Following *Deepak* and the quoted Supreme Court order in *Surendra Singh Gaur,* it held that reliance on Section 36 could not validate an independent parallel inquiry without withdrawal of the assigned investigation. On that basis, it refused to consider the report. As a separate ground, the report did not find the allegations false; it proposed waiting until the divorce petition was decided. That recommendation could not make the divorce case determinative of the criminal process. Nor did K.K.'s postings at Panna and Jabalpur establish that he could not have demanded dowry or harassed the complainant. The Court contrasted a murder allegation, in which alibi might arise, with the alleged dowry demands and harassment, which did not require continuous physical presence. Applying *Taramani*, it concluded that the uncontroverted specific allegations against the three warranted prosecution rather than interference under Section 482.

6. Relief : The Hon'ble High Court allowed Revti Devi's application in M.Cr.C. No. 35599/2021 and quashed FIR Crime No. 568/2018 and further Criminal Case No. 308/2019 proceedings only qua her. It dismissed Surendra Naroliya's application in the same M.Cr.C. and K.K. Naroliya's and Radha Naroliya's application in M.Cr.C. No. 37501/2021; their prosecution was not quashed. The husband's position was not disposed of as a petitioner in these two applications. No guilt or acquittal was decided.

Revti Devi and Others v. State of M.P. and Others; K.K. Naroliya and Others v. State of M.P. and Others, M.Cr.C. no. 35599/2021 & 37501/2021, 21/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 125 CrPC — subsequent maintenance application — changed circumstances - Rejection of an earlier application because the wife could maintain herself did not bar a later application when her means were no longer sufficient. In *LeelaBai v. Mohan Lal (Criminal Revision No. 18/1987, decided 01.01.1987)*, a coordinate Bench permitted a second claim when earnings no longer sufficed. Bina said that her parents, who were alive when her claim was rejected in 2004, had since died. She described herself as now alone and receiving a destitute allowance. The Court upheld the finding that she was unable to maintain herself. A later claim requires assessment of the changed circumstances; repeating the application does not by itself establish entitlement.

Wife's maintenance — actual self-sufficiency and husband's support capacity - Applying *Rajnesh v. Neha, (2021) 2 SCC 324*, the Court held that the ability to earn or receipt of some earnings does not necessarily establish that the wife can adequately maintain herself. The discussion in *Rajnesh* of *Shailja v. Khobbanna, (2018) 12 SCC 199*, *Sunita Kachwaha v. Anil Kachwaha, (2014) 16 SCC 715*, and *Chaturbhuj v. Sita Bai, (2008) 2 SCC 316*, required consideration of actual sufficiency and sustenance beyond mere survival. *Rajnesh* also discussed an able-bodied husband's presumed earning capacity and his burden to establish inability to support his family, including the principle in *Shamima Farooqui v. Shahid Khan, (2015) 5 SCC 705*. Rikhiram's unsupported assertion that he depended on his son did not discharge that burden; he did not establish disability. In view of basic living costs, monthly maintenance of Rs. 1,500 was not excessive. The Article 226 petition was dismissed.

Case-note :- ***1. Facts :*** Rikhiram filed Writ Petition No. 19364 of 2012 under Article 226 of the Constitution to set aside the appellate order dated 24 July 2012 in Criminal Case No. 55/2012. That order had upheld the award dated 30 April 2012 granting his wife Bina monthly maintenance of Rs. 1,500 under Section 125 CrPC. The maintenance order in Miscellaneous Case No. 58/2011 described the court as Gram Nyayalaya, Mandla/JMFC, Mandla. Rikhiram contended that no notification had established a Gram Nyayalaya in Mandla and that it therefore lacked jurisdiction. Bina replied that the same presiding officer was the JMFC, Mandla and was competent to entertain Section 125 proceedings even if the Gram Nyayalaya designation were ineffective.

Rikhiram also relied on the rejection of Bina's earlier Section 125 application in 2004, when she could maintain herself. In the later application, Bina said that her parents, who were alive when the earlier claim was rejected, had since died, leaving her alone, receiving a destitute allowance and unable to support herself. She also alleged that Rikhiram had remarried. The JMFC found that she was unable to maintain herself and awarded Rs. 1,500 per month. Rikhiram argued that the earlier rejection barred a new award. He also said that he depended on his son, but produced no proof that disability prevented him from working. Bina opposed the petition on the ground that entitlement under Section 125 could change over time. The parties' marriage was admitted.

2. Precedents — Considered : The Court followed the coordinate Bench decision in *LeelaBai v. Mohan Lal* (Criminal Revision No. 18/1987, decided 1 January 1987), which permitted a second Section 125 application when the claimant's earnings were no longer sufficient. It rejected the argument that the 2004 refusal barred a later claim, taking into account Bina's stated loss of parental support and present inability to maintain herself.

Rajnesh v. Neha, 2020:INSC:631 : (2021) 2 SCC 324, was quoted extensively on the principles governing maintenance. Paragraph 90 discussed Supreme Court and other court decisions distinguishing earning capacity from sufficient means of support. *Shailja v. Khobbanna, (2018) 12 SCC 199*, distinguished the ability to earn from sufficient earnings and required consideration of whether the wife could maintain herself according to the marital standard. *Chaturbhuj v. Sita Bai, (2008) 2 SCC 316*, was cited within that discussion, which explained that sustenance means more than mere survival. *Sunita Kachwaha v. Anil Kachwaha, 2014:INSC:744 : (2014) 16 SCC 715*, rejected denial of maintenance merely because a postgraduate wife earned some income as a teacher. The extract from *Rajnesh* also referred to *P. Suresh v. S. Deepa, 2016*

Cri LJ 4794 (Kar), Vipul Lakhanpal v. Pooja Sharma, 2015 Cri LJ 3451 (HP), and *Sanjay Damodar Kale v. Kalyani Sanjay Kale (Bombay High Court)*, in discussing the distinction between earnings and their actual sufficiency.

Rajnesh further discussed *Chander Parkash v. Shila Rani, AIR 1968 Del 174*, on the presumption that an able-bodied husband can earn enough to support his family. The husband bears the burden of showing that reasons beyond his control prevent him from doing so; an adverse inference may be drawn if he does not disclose his income. *Shamima Farooqui v. Shahid Khan, 2015:INSC:283 : (2015) 5 SCC 705*, cited *Chander Parkash* with approval and emphasised the husband's maintenance obligation. The High Court applied these principles in holding that Rikhiram's unsupported assertion of dependency on his son did not defeat his maintenance obligation, and in sustaining the modest award. It did not calculate his particular income or treat the destitute allowance as sufficient to support Bina.

3. Statutes considered : Section 125 CrPC provided the basis for the wife's application and the inquiry into her ability to maintain herself and the husband's duty to support her. The Court permitted a renewed application after a material change in financial circumstances and upheld the monthly amount in view of basic living costs. Article 226 of the Constitution was invoked to challenge the order after dismissal of the appeal. The Court dismissed the writ petition.

4. Issues : (i) Did rejection of Bina's Section 125 claim in 2004 because she could maintain herself bar a second claim based on the asserted loss of parental support and changed need? (ii) Did her destitute allowance or potential means defeat her present entitlement, had Rikhiram shown inability to support her, and was monthly maintenance of Rs. 1,500 excessive? (iii) Rikhiram questioned whether the Gram Nyayalaya could make the award when, according to him, no notification had established it. Bina answered that the presiding officer also acted as the competent JMFC. The marriage was undisputed.

5. Ratio / Findings : The earlier refusal was based on Bina's ability to maintain herself at that time. Following *LeelaBai*, the Bench held that a second Section 125 application could be made when the claimant's means were no longer sufficient. Bina's parents had been alive when her first claim was rejected. She later described herself as alone, receiving a destitute allowance and unable to support herself. The 2004 rejection did not invalidate the JMFC's finding of her present inability to maintain herself. The Court assessed the changed circumstances; it did not decide afresh that the earlier refusal had been erroneous.

In assessing the present claim, the Bench applied the distinction in *Rajnesh* between earning capacity or some receipts and adequate maintenance. Bina was admittedly Rikhiram's legally wedded wife. Rikhiram merely asserted that he depended on his son, without producing material showing disability or inability to work. That unsupported assertion did not relieve him of his maintenance obligation. Having regard to the price index and the cost of basic living needs, the Court held that monthly maintenance of Rs. 1,500 was not excessive.

6. Relief : The Hon'ble High Court dismissed the Article 226 petition. The order dated 24 July 2012 and the underlying award dated 30 April 2012 granting Bina Rs. 1,500 per month remained effective.

Rikhiram v. Bina, W.P. no. 19364/2012, 05/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- BNSS Section 528 / FIR quashing / face-value cognizable-offence test - The Court observed that inherent powers at the investigation stage must be exercised sparingly. Quoting and applying *Neeharika Infrastructure (P) Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, it held that the police should ordinarily investigate an FIR disclosing a cognizable offence. A court considering quashing does not assess the allegations' reliability or decide the merits. It may, however, intervene when no offence is disclosed or an exceptional ground is established within the recognised parameters. The Court also cited a group of Supreme Court decisions for the narrower proposition that proceedings may be quashed when the uncontroverted allegations disclose no offence. It did not analyse each cited decision separately.

Inherent powers / civil suits and rival FIRs / disputed retaliatory motive - The informant's earlier complaints, the accused side's later civil suits and a further FIR gave rise to competing claims that one proceeding was a counterblast to another. The Court held that it could not resolve those disputed retaliatory motives in inherent jurisdiction on the

parties' rival assertions. It quoted and applied *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*: alleged mala fides of the informant cannot by themselves justify quashing when the FIR discloses a cognizable offence. The evidence must be assessed in investigation and at trial. On this record, the applicants' claim of coercive litigation and request for police-station CCTV footage did not establish an exceptional ground for quashing. The Section 528 application was dismissed.

Case-note :- ***1. Facts :*** Rinku Choudhari and the other applicants applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) to quash FIR Crime No. 71/2024 and all subsequent proceedings. Respondent No. 2, described as the wife of applicant No. 2, alleged that her husband Balli Chaudhary and younger brother-in-law Rinku Chaudhary demanded ₹10,000 from her at about 5 p.m. on 11.07.2024. She alleged that, when she said she had no money, they abused her and threatened that she would not be allowed to remain in the home and would be killed if she came out. She named her son-in-law Shayam Sundar Dubey and daughter Nisha as witnesses.

The applicants said that applicant No. 2 had filed two civil suits challenging a registered gift deed and seeking a declaration of title and a permanent injunction. They alleged that the FIR was intended to pressure them to withdraw those suits. They also requested police-station CCTV footage to support the claim that applicant No. 2 was a victim. The Court noted the wider family dispute. Respondent No. 2 had lodged FIR No. 183/2022 at Police Station Karhiya, Gwalior, on 09.11.2022 and FIR No. 184/2022 at the same station on 10.11.2022. The civil suits were filed after those FIRs.

2. Precedents — Considered : *Neeharika Infrastructure Private Limited v. State of Maharashtra and Others, 2021:INSC:253 : (2021) 19 SCC 401*, was directly quoted on the principles governing early quashing of an FIR under Section 482 CrPC. The extract recognises the police's statutory duty to investigate cognizable allegations. It cautions courts against deciding their truth or reliability, stopping investigation on incomplete facts, or requiring an FIR to contain an exhaustive account. Quashing must be sparing and circumspect, although intervention is available where the FIR discloses no offence or an established ground for quashing is made out. The Court applied this framework to the analogous request under Section 528 BNSS and held that the applicants' factual defence and competing account of motive did not justify interference. The quotation referred to *R.P. Kapur* as a source of the established quashing parameters.

Paragraph 7 collectively invokes *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021, order dated 30.06.2021; *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*. The order provides this collective citation for the conclusion that quashing is available where uncontroverted allegations fail to disclose an offence.

Renu Kumari v. Sanjay Kumar and Others, 2008:INSC:278 : (2008) 12 SCC 346, was directly quoted at length and applied to the allegation of mala fides. The extract distinguishes the exceptional use of inherent powers to prevent abuse of process or secure justice from an assessment of disputed evidence as if on appeal. It recalls the illustrative categories in *R.P. Kapur* and *Bhajan Lal*, including manifest mala fides, but retains an important qualification: when the FIR discloses a cognizable offence, the informant's alleged improper motive is secondary and cannot by itself end the prosecution. The case is decided on evidence collected and tested through the ordinary process. The Court applied that qualification, together with the unresolved competing accounts of the litigation, in refusing to quash the FIR. The reproduced Supreme Court passage also refers to *Dhanalakshmi, P.P. Sharma, Rupan Deol Bajaj, O.C. Kuttan, O.P. Sharma, Rashmi Kumar, Satvinder Kaur, Rajesh Bajaj* and *M. Devendrappa*.

3. Statutes considered : Section 528 BNSS was invoked to seek quashing of the FIR and subsequent proceedings through the High Court's inherent powers. The Court explained the limits of those

powers by quoting decisions under Section 482 CrPC, the predecessor provision. The quotations also discuss the CrPC framework for cognizable offences and investigation, particularly the police's statutory investigative role and the illustrative exceptions concerning Sections 156(1) and 155(2) in *Bhajan Lal*. The gift deed and civil suits formed the background to the alleged motive; they did not automatically bar criminal investigation.

4. Issues : (i) Did the FIR, taken at face value, disclose allegations requiring ordinary investigation at the Section 528 stage? Or could the Court quash it by assessing the allegations' genuineness and the applicants' denial, including their request for police-station CCTV footage? The distinction was between the legal sufficiency of uncontroverted allegations and a premature assessment of their disputed reliability.

(ii) Could the applicants' claim that the 2024 FIR was intended to force withdrawal of the civil gift-deed suits justify quashing, when respondent No. 2 had lodged two FIRs in 2022 before those suits were filed and the rival claims of retaliatory motive remained disputed? The Court considered the alleged mala fides separately from whether the FIR disclosed a cognizable offence.

5. Ratio / Findings : Applying *Neeharika*, the Court held that a court considering quashing of an FIR does not ordinarily assume the investigator's role, require a complete evidentiary account at registration, or decide whether the informant is believable. The police must be allowed to investigate cognizable allegations. Inherent powers may still be exercised when the allegations, taken at face value, disclose no offence or an exceptional recognised ground is established. The Court also relied on the collective Supreme Court citations in paragraph 7 for the conclusion that proceedings could be quashed when the uncontroverted allegations disclosed no offence.

On the alleged retaliatory motive, the Court noted that the wife's 2022 FIRs preceded the civil suits. The applicants claimed that the 2024 FIR was intended to pressure them to withdraw the suits. The competing possibility was that the suits had been filed in retaliation for the earlier FIRs. Those rival accounts raised a disputed factual question that could not be decided in inherent jurisdiction at this stage. Applying *Renu Kumari*, the Court also held that an allegation of the informant's mala fides is secondary when the FIR discloses a cognizable offence. Factual truth and evidentiary weight must be assessed in investigation and at trial. The dismissal did not determine the factual defences or the ultimate criminal and civil outcomes.

6. Relief : The Hon'ble High Court dismissed the Section 528 BNSS application. FIR Crime No. 71/2024 and subsequent proceedings were not quashed.

Rinku Choudhari and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 8134/2025, 01/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Regular bail / third application / witnesses already examined / parity with co-accused - The Court held that examination of most prosecution witnesses, with the resulting reduction in the opportunity to influence them, does not by itself justify bail under Section 439 CrPC. The court must also consider the nature and gravity of the charge, the potential punishment and the prima facie supporting material. It adopted the reasoning in its earlier *Bhupat Singh* order, which applied *Virupakshappa Gouda v. State of Karnataka*, (2017) 5 SCC 406, requiring reasoned consideration of all relevant bail factors rather than one circumstance alone. Bail granted to a co-accused after one witness failed to support the prosecution did not determine this applicant's request: another witness supported the seizure of batteries from him. The refusal was based on the bail-stage record and did not determine guilt.

Case-note :- ***1. Facts :*** Rinku Kushwah filed his third application for bail under Section 439 CrPC in Crime No. 48/2017 at Police Station Gohad Chaurah, District Bhind. He had been arrested on 02.05.2017. The registered offences were Sections 407 and 396 IPC, Sections 25/27 of the Arms Act and Sections 11/13 of the MPDVPK Act. His first two applications had been dismissed as withdrawn; they had not been rejected on the merits.

Counsel for the applicant relied on the coordinate Bench's order dated 29.01.2020 in M.Cr.C. No. 3957/2020, granting bail to co-accused Ramjeet Singh after Ramkumar Tomar (PW-29) had not supported the prosecution. Counsel also argued that most witnesses had been examined and that continued pretrial detention was unwarranted. The State replied that Ajeet Sikarwar (PW-13) had

supported the prosecution's account of the seizure of batteries from this applicant.

2. Precedents — Considered : The Court quoted at length and adopted *Bhupat Singh v. State of M.P.*, M.Cr.C. No. 14129/2018, order dated 11.05.2018. That order held that examination of eyewitnesses or material witnesses does not by itself require bail when other relevant factors and supporting testimony remain. In *Bhupat Singh*, the eyewitnesses had supported the prosecution, and bail granted to other co-accused was not accepted as a precedent for release. The present Court noted that, on 21.06.2018, the Supreme Court had dismissed SLP (Crl.) No. 5103/2018 challenging that order. It applied the reasoning in *Bhupat Singh* to reject witness examination as the sole ground for bail.

Virupakshappa Gouda and Another v. State of Karnataka, (2017) 5 SCC 406, was reproduced extensively within the quotation from *Bhupat Singh*. Paragraphs 15–18 discuss the relevant bail factors: prima facie support for the accusation, its nature and gravity, the severity of possible punishment, flight risk, the accused's circumstances, the likelihood of repetition, interference with witnesses, public interest and obstruction of justice. The extract cautions against arbitrary grants of bail and reliance on irrelevant matters while excluding material factors. It recognises the importance of liberty while requiring adherence to established legal parameters. Paragraph 19 disapproves a later grant of bail on the same facts after earlier refusals. The present Court adopted *Bhupat Singh*'s application of these factors to the witness-examination argument. Rinku Kushwah's first two applications, however, had been withdrawn, rather than rejected on the merits.

Chaman Lal v. State of U.P., Prasanta Kumar Sarkar v. Ashis Chatterjee, CBI v. V. Vijay Sai Reddy, Neeru Yadav v. State of U.P. and Dinesh M.N. v. State of Gujarat appear in the reproduced *Virupakshappa Gouda* discussion of general bail factors and the vulnerability of an order based on irrelevant considerations. *Bhupat Singh* also separately referred to *Dinesh M.N. (S.P.) v. State of Gujarat, (2008) 5 SCC 66*. These passages identify the authorities supporting the rule adopted through *Bhupat Singh*; the present Court did not independently apply their facts to this applicant. The co-accused's bail order was relied on by counsel as a comparator, rather than accepted as a binding precedent determining the present request.

3. Statutes considered : Section 439 CrPC provided the basis for the application for regular bail after arrest. Sections 407 and 396 IPC, Sections 25/27 of the Arms Act and Sections 11/13 of the MPDVPK Act were the alleged offences in the registered case.

4. Issues : (i) Was examination of most prosecution witnesses, reducing the opportunity to influence them or tamper with their evidence, sufficient by itself to justify bail when the State relied on supporting testimony about a seizure from this applicant? The issue concerned the proper assessment under Section 439, rather than whether the testimony ultimately proved the accusation.

(ii) Did bail granted to Ramjeet Singh after PW-29 failed to support the prosecution give Rinku Kushwah a comparable entitlement despite the State's reliance on PW-13's support for a seizure from Rinku Kushwah? The question required consideration of their specific evidentiary positions, without assuming identical roles or parity merely because they were co-accused.

5. Ratio / Findings : Adopting *Bhupat Singh*, the Court held that the absence of a further opportunity to influence witnesses or tamper with their evidence is only one factor in deciding bail. The quoted principles in *Virupakshappa Gouda* also require consideration of the nature and seriousness of the alleged offence, the severity of possible punishment, the prima facie material and other relevant risks and circumstances. Witnesses may support the prosecution when they testify; completion of their examination therefore does not automatically entitle an accused to release. Applying that limited proposition from the earlier order, the Court held that mere examination of prosecution witnesses did not justify bail for this applicant.

The applicant relied on Ramjeet Singh's release because PW-29 had not supported the prosecution. The State, however, cited PW-13's testimony supporting the seizure of batteries from this applicant. Relying on that testimony, the Court found no good ground to grant bail. The claim of parity did not displace the particular prima facie material recorded against this applicant in the present application.

6. Relief : The Hon'ble High Court dismissed the third application for regular bail under Section 439 CrPC.

Rinku Kushwah v. State of M.P., M.Cr.C. no. 3866/2020, 03/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Compromise-based quashing — rape allegation — renewed application - *Narinder Singh v. State of Punjab, 2014:INSC:217, (2014) 6 SCC 466*, distinguishes statutory compounding under Section 320 CrPC from the sparing exercise of inherent powers under Section 482 to quash non-compoundable proceedings. The relevant considerations include securing justice or preventing abuse of process, the nature and societal impact of the offence, the prospects of conviction and the timing of settlement. Heinous offences such as rape ordinarily fall outside the category of private disputes that may be quashed on compromise. The High Court applied that serious-offence limitation to Crime No. 482/2023 under Sections 376 and 506 IPC. It stated that a coordinate Bench had already refused compromise-based quashing on the merits after questioning consent. Although a new Principal Registrar report verified a voluntary settlement, the applicant had not disclosed the earlier refusal in the renewed applications or his statement.

Criminal-side proceedings — material suppression — costs and conditional contempt - The Court described the applicant's failure to disclose the earlier refusal on the merits as an attempt to play fraud on the Court. It dismissed MCRC No. 43501/2024 with costs of ₹25,000, payable personally by the applicant into the Registry within thirty days of 22 January 2025. If he failed to pay, the Principal Registrar was directed both to initiate recovery and to register a contempt case. Those directions were conditional on nonpayment; they did not themselves decide contempt or establish that proceedings had begun.

Case-note :- ***1. Facts :*** Rinku Mourya filed Misc. Criminal Case No. 43501/2024 to quash the FIR in Crime No. 482/2023 at Police Station Dabra, District Gwalior, in which offences under Sections 376 and 506 IPC were alleged. During its pendency, an interlocutory application sought quashing on compromise. Paragraph 3 of the order identifies it as I.A. No. 23928/2023 under Section 359 BNSS; the later narrative and Principal Registrar's report refer to I.A. Nos. 23928/2024 and 23930/2024. Arjun Singh Jatav sought intervention through I.A. No. 303/2025. As no one appeared for the applicant to oppose it, the Court allowed intervention. The intervenor's counsel said that a coordinate Bench had refused an earlier compromise-based quashing application concerning the same FIR, MCRC No. 42955/2023, on 11 October 2023. According to counsel, the Bench had found the prosecutrix's consent doubtful under *Narinder Singh*. Counsel alleged that the renewed compromise applications did not disclose that refusal. On 17 December 2024, a coordinate Bench directed the accused and prosecutrix to appear before the Principal Registrar. They appeared on 19 December with counsel, identification, affidavits and compromise applications. After recording their statements, the Registrar reported that the prosecutrix had agreed voluntarily, without threat, inducement or coercion. The present Court stated that a similar verification had preceded the earlier rejection and reproduced the earlier order. That quotation contains inconsistent material, including a rape narrative followed by unrelated cheating and Indian Navy allegations and different petition numbers. The present Court itself stated that compromise-based quashing of this FIR had previously been dismissed on the merits and that the applicant had not disclosed the refusal in his renewed application or Registrar statement.

2. Precedents — Considered : *Narinder Singh and others v. State of Punjab and another, 2014:INSC:217, (2014) 6 SCC 466*, paragraph 29, was expressly invoked and reproduced extensively in the quoted coordinate Bench order, and was cited and applied by the present Court in paragraph 8. It distinguishes the High Court's sparing Section 482 power to quash non-compoundable proceedings after settlement from statutory compounding under Section 320. The guiding objectives are to secure justice or prevent abuse of process. Serious offences of mental depravity or societal impact, including rape, murder and dacoity, are not private matters to be quashed merely because the victim and offender agree. Corruption offences and offences committed by public servants acting in that capacity likewise have public dimensions. Predominantly civil, commercial, matrimonial or family disputes may, conversely, favour quashing after complete settlement. In other cases, the likelihood of conviction, possible oppression from continuation, and the timing and stage of settlement are material. For an alleged Section 307 IPC offence, injury and evidence may be examined rather than relying on the

label alone. The present Court described the earlier order dated 11 October 2023 as questioning voluntariness despite Registrar verification and refusing compromise-based quashing. Its quoted text, however, combines the rape narrative with unrelated cheating and Indian Navy allegations and ends with different petition numbers. The present Court described the earlier decision as a refusal to quash this FIR on compromise; that description is distinct from the inconsistent factual reasoning in the quotation.

3. Statutes considered : Sections 376 and 506 IPC were the offences recorded in the FIR. The quoted earlier order and the *Narinder Singh* framework addressed the inherent quashing jurisdiction under Section 482 CrPC. They distinguished statutory compounding under Section 320 CrPC from quashing non-compoundable proceedings; reference to Section 320 did not make rape compoundable. The Registrar's verification concerned the fact of voluntary agreement; it did not confer an entitlement to compound or quash a serious offence. The order gave directions for costs, recovery and conditional contempt proceedings without citing a separate costs or contempt provision.

4. Issues : (i) Did the newly verified voluntary settlement warrant quashing the rape and intimidation FIR when an earlier compromise-based request had been refused on the merits and that refusal had not been disclosed? (ii) Did the material nondisclosure justify costs and further directions if those costs were not paid?

5. Ratio / Findings : The Court first permitted Arjun Singh Jatav to intervene, as no one appeared for the applicant to oppose I.A. No. 303/2025. It then considered the Principal Registrar's new verification of voluntary compromise. The Court stated that an earlier similar verification had not removed the coordinate Bench's doubts about the prosecutrix's consent and that the earlier compromise-based quashing request had been dismissed on the merits. Applying *Narinder Singh*, it held that rape is a heinous offence affecting society and cannot be treated as a purely personal dispute to be disposed of on settlement alone. The new verification therefore did not require quashing. The Court also found that the applicant had suppressed the earlier rejection in his subsequent quashing applications and omitted it from his statement before the Registrar. It characterised the suppression as an attempt to play fraud on the Court and considered a firm response necessary. The reproduced earlier order contains an apparent internal mismatch: its rape narrative is followed by forged naval material and cheating allegations, and it ends with different case numbers. The present Court's own stated findings concerned the legal limits of settlement, the prior refusal and the applicant's nondisclosure. Its quotation contains the inconsistencies described above.

6. Relief : The Hon'ble High Court dismissed the application. It directed the applicant to deposit costs of ₹25,000 in the High Court Registry within thirty days from the date of the order. If he failed to deposit the costs, the Principal Registrar was directed both to initiate recovery proceedings and to register a case for contempt of Court. The FIR and prosecution were not quashed.

Rinku Mourya v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 43501/2024, 22/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Closure report / magistrate's pending decision / statutory control - A police closure report expresses the investigating officer's opinion; filing it does not finally dispose of the FIR while the competent Magistrate's decision remains pending. The State, relying on *Abhinandan Jha v. Dinesh Mishra, AIR 1968 SC 117*, identified three available courses: accepting the report, rejecting it and taking cognizance, or directing further investigation. The Court recognised the Magistrate's responsibility to decide whether closure was proper or the investigation remained incomplete. The report in Crime No. 1268/2020 was still pending, and its eventual treatment could not be assumed.

Section 482 CrPC / compromise in non-compoundable Section 308 IPC case / pending closure report - The Court distinguished statutory compounding from compromise-based quashing through inherent powers. The alleged Section 308/34 IPC offence was not compoundable under Section 320 CrPC; quashing therefore required a separate, cautious exercise of Section 482 jurisdiction. The Court quoted *Narinder Singh v. State of Punjab, (2014) 6 SCC 466*, on that distinction, securing justice or preventing abuse of process, seriousness of the offence, the evidentiary context and the timing of settlement. It also invoked the governing parameters in *Gian Singh v. State of Punjab, (2012) 10 SCC 303*. As the closure report awaited the Magistrate's

statutory decision, the Court declined to exercise Section 482 powers at that stage and dismissed the application.

Case-note :- ***1. Facts :*** Rinku and the other applicants applied under Section 482 CrPC to quash FIR Crime No. 1268/2020 at Police Station Kotwali, District Morena, for an alleged offence under Section 308 read with Section 34 IPC. During arguments, both sides conceded that the police had completed the investigation and filed a closure report, which the competent Magistrate had not yet decided. By its order dated 09.03.2022, the High Court had therefore given the applicants' counsel time to address whether a compromise-based application was maintainable while the closure report remained pending.

The applicants' counsel argued that closure reports and charge sheets were both nonbinding opinions of the investigating officer. A Magistrate could reject closure and take cognizance, just as an accused could seek discharge despite a charge sheet. Counsel maintained that Section 482 powers remained available before cognizance. The State opposed immediate High Court intervention. It submitted that the Magistrate could accept the report, reject it and take cognizance, or order further investigation, and that the complainant should have an opportunity to address the closure report.

2. Precedents — Considered : Counsel for applicants cited *Satya Narain Musadi v. State of Bihar, AIR 1980 SC 506; H.S. Bains v. State (UT of Chandigarh), AIR 1980 SC 1883; Swil Ltd. v. State of Delhi, (2001) 6 SCC 670; Fakhruddin Ahmad v. State of Uttaranchal, (2008) 17 SCC 157; Vasanti Dubey v. State of M.P., (2012) 2 SCC 731; G. Sagar Suri v. State of U.P., (2000) 2 SCC 636; Madhavrao Jiwajirao Scindia v. Sambhajirao Chandrojirao Angre, AIR 1988 SC 709; Laxminarayana v. North East Securities Ltd., (2004) 13 SCC 447*; and Delhi High Court's *Gangesh Kumar Nayak* decision dated 07.01.2009. The judgment lists these as authorities advanced for the applicants' propositions about closure reports and pre-cognizance power, without extracting or deciding a distinct test from each. They are not presented as separate High Court holdings.

The State relied on *Abhinandan Jha and Others v. Dinesh Mishra, AIR 1968 SC 117*, for the Magistrate's three options on a closure report: acceptance, rejection and cognizance, or further investigation. The citation appeared in the State's submissions. In paragraph 8, the Court itself recognised the Magistrate's responsibility to decide whether the report should be accepted or the investigation was incomplete and further investigation was needed. That statutory process remained pending and formed the basis for declining immediate interference.

The Court directly quoted *Narinder Singh and Others v. State of Punjab and Another, (2014) 6 SCC 466*, at length. Paragraph 29 distinguishes quashing on settlement under Section 482 from compounding under Section 320. It requires sparing and cautious exercise of inherent powers to secure justice or prevent abuse of process, and distinguishes serious offences affecting society from predominantly civil, commercial or matrimonial disputes. The quoted guidance also addresses the remoteness of conviction, injustice from continuing the proceedings, the prima facie supporting material and the timing of settlement. Its Section 307 IPC example allows consideration of substance, injury and evidence, rather than reliance on the statutory label alone.

Gian Singh v. State of Punjab, (2012) 10 SCC 303, was expressly invoked with *Narinder Singh* as governing the circumstances relevant to compromise-based quashing. The Court did not decide whether the actual compromise justified quashing this FIR. Its reference to those authorities therefore did not determine whether the FIR should ultimately be quashed.

3. Statutes considered : The applicants invoked the High Court's inherent jurisdiction under Section 482 CrPC. Section 320 CrPC did not permit compounding of the alleged Section 308 IPC offence. Direct statutory compounding therefore had to be distinguished from a discretionary request for compromise-based quashing under Section 482. The closure report remained for the Magistrate to decide, including whether it should be accepted or further investigation was required.

4. Issues : (i) What was the legal effect of a police closure report that had been filed but not decided, both on the FIR and on the Magistrate's authority? The applicants described it as a nonbinding opinion but sought immediate High Court intervention before cognizance. The State relied on the Magistrate's remaining statutory options and the complainant's opportunity to be heard.

(ii) Should the High Court immediately exercise Section 482 powers to quash on compromise a non-compoundable Section 308/34 IPC case while the Magistrate had not considered the closure report, or

should the statutory decision on that report come first?

(iii) Did the Court determine whether the alleged compromise satisfied the fact-sensitive criteria in *Gian Singh* and *Narinder Singh*? It described those standards but declined to entertain the application at this stage, without assessing the actual allegations and settlement.

5. Ratio / Findings : The closure report remained the investigating officer's opinion, subject to the Magistrate's decision. The Court explained that the Magistrate could accept the officer's conclusion if satisfied that closure was proper, or find the investigation incomplete and direct further investigation. The parties' submissions also addressed rejection of closure and taking cognizance. As the Magistrate had not acted, the High Court did not assume that the proceedings had ended or decide the consequences of a hypothetical final outcome. On these facts, the pending statutory process provided an available and efficacious remedy.

The Court distinguished non-compoundability from inherent quashing. Section 308 IPC was not compoundable under Section 320; compromise-based quashing required a justified exercise of Section 482 powers. The quoted *Narinder Singh* guidance and the reference to *Gian Singh* required consideration of more than the existence of a settlement. Because the closure report remained pending, the Court declined to examine whether the particular allegations and compromise justified quashing before the Magistrate's decision. The ruling rested on the effective statutory process and the stage of the proceedings. It did not impose a categorical bar on Section 482 powers before cognizance, hold every Section 308 case too serious for compromise-based quashing, or finally accept or reject the compromise.

6. Relief : The Hon'ble High Court dismissed the Section 482 application, and the FIR was not quashed. The closure report remained for the competent Magistrate to decide in accordance with law.

Rinku and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 38076/2021, 01/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (799) Prev Next

Headnote :- Immoral Traffic (Prevention) Act — Section 5 procurement — paying customer - The Court read 'procure' in context as obtaining a person for prostitution. The allegation that the applicant paid to obtain a girl, together with his presence with her during the raid, provided a prima facie basis for the charge. The Court followed *X v. State of Kerala*, Criminal Revision Petition No. 1208/2023 (Kerala High Court, 21 December 2023), on customer liability. It distinguished *Naman Laddha v. State of Madhya Pradesh*, MCRC No. 34970/2022 (19 December 2022), because that case involved no allegation of payment to procure a person. Describing himself as a customer did not defeat the Section 5 charge at this stage.

Framing of charge — material-founded grave suspicion — Section 227 CrPC principles - Quoting and adopting *M.E. Shivalingamurthy v. CBI, Bengaluru, (2020) 2 SCC 768*, the Court recognised that the judge may sift the prosecution record, consider broad probabilities and basic infirmities, and discharge where the accepted material discloses no offence or gives rise only to ordinary suspicion. Strong suspicion must rest on actual material; a roving inquiry into the merits is impermissible. *Soma Chakravarty v. State through CBI, (2007) 5 SCC 403*, distinguishes the possibility of an offence at the charge stage from proof beyond reasonable doubt at trial, while requiring more than unsupported suspicion. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, permits limited sifting and examination of the ingredients at face value, on material capable of becoming evidence at trial. Applying these principles, the Court found that the alleged payment and raid material justified proceeding under Section 5. It left the Section 6 detention and abetment questions, including the applicant's consent to the detention, for assessment on trial evidence.

Criminal revision — framed charge — limited interference - The Court quoted *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, on review under Section 397 CrPC after a charge has been framed. Strong suspicion founded on material is sufficient for the case to proceed to trial; a final opinion of guilt is not required. Applying that restraint, the High Court declined to interfere with the charge order already affirmed in revision.

Case-note :- ***1. Facts :*** On 6 January 2021, police received information that prostitution was taking

place and searched a house associated with co-accused Deependra/Deepesh Vishwakarma, also called Vicky. Officers reported several persons in the hall, including a punter sent by the police, and a male and female in each of two rooms. They reported finding Rishabh Khare with a woman identified in the judgment as Y in one room, where condoms were recovered. According to the prosecution account, the room had been taken for payment, and Prakhar Dubey and Nilesh Patel had supplied the girl. Police reported recovering currency from co-accused persons, including identified notes given by the punter, and ₹600 and a phone from the applicant. After an FIR and charge sheet mentioning Sections 3 –6 of the Immoral Traffic (Prevention) Act, 1956, the JMFC, Jabalpur, framed charges against the applicant under Sections 5 and 6 on 15 March 2021. The 18th Additional Sessions Judge dismissed Criminal Revision No. 125/2021 on 28 July 2021. The applicant challenged the charge order in MCRC No. 15353/2022, arguing that a customer could not be prosecuted under those provisions. At the hearing on 13 March 2024, the High Court drew attention to the alleged payment to procure the girl and gave counsel time to address Section 5. When the matter resumed, counsel sought a further adjournment because the arguing lawyer was away. The Court refused: the point had already been argued extensively and additional time granted. The State defended the charges on the alleged payment and procurement.

2. Precedents — Considered : The applicant relied on the Madhya Pradesh coordinate Bench decision in *Naman Laddha v. State of Madhya Pradesh*, MCRC No. 34970/2022 (19 December 2022), for the proposition that a customer could not be prosecuted. The Court distinguished it because there had been no allegation of paid procurement in that case, whereas there was such an allegation here. Counsel also cited *Bikas Kumar Jain v. State of Odisha*, CRLMC No. 3390/2023 (Orissa High Court, 9 February 2024), on customer non-liability, and *X v. State of Kerala*, Criminal Revision Petition No. 1208/2023 (Kerala High Court, 21 December 2023). The Court found that *X* supported the contrary conclusion: in context, ‘procure’ in Section 5 includes obtaining a person and can cover a customer. It adopted that interpretation in considering the allegation of paid procurement.

The Court quoted and applied four Supreme Court decisions on the standards for framing charges and reviewing them. *M.E. Shivalingamurthy v. CBI, Bengaluru, (2020) 2 SCC 768*, sets out principles drawn from *P. Vijayan*. Under Section 227 CrPC, the judge may undertake limited sifting of police statements and prosecution documents, consider broad probabilities and basic infirmities, and discharge where the material, accepted at face value, discloses no offence or raises only ordinary suspicion. The judge is not a mere post office. Strong suspicion requires material support, without a roving trial or assessment of ultimate probative worth. The extract also cites *State of J&K v. Sudershan Chakkar and State of Orissa v. Debendra Nath Padhi on the* ordinary restriction of discharge submissions to prosecution material and the absence of a general defence right to produce documents at the charge stage. *Soma Chakravarty v. State through CBI, (2007) 5 SCC 403*, distinguishes a possible offence sufficient for framing a charge from proof of guilt beyond reasonable doubt at trial. It also requires supporting material: suspicion alone is insufficient. The High Court relied on both qualifications. *State (NCT of Delhi) v. Shiv Charan Bansal, (2020) 2 SCC 290*, permits limited sifting and examination of offence ingredients at face value where material capable of becoming trial evidence supports grave suspicion. Its quotation refers to *State of Bihar v. Ramesh Singh and Dipakbhai Jagdishchandra Patel*. Finally, *State of Rajasthan v. Fatehkaran Mehdu, (2017) 3 SCC 198*, states the restrained Section 397 CrPC standard after charge: the question is whether strong suspicion exists, rather than whether guilt is certain. The Court relied on that restraint in refusing interference at this stage. These authorities concern the charge threshold; they do not establish that the prosecution allegations are proved.

3. Statutes considered : The Court interpreted Section 5 of the Immoral Traffic (Prevention) Act, 1956 as covering procurement for prostitution, including possible customer liability on an allegation of paid procurement. Section 6 concerns detention of a person in a brothel or on other premises with the specified sexual-intercourse intent, whether or not the detained person consents. The order quoted the punishment but left for assessment after trial evidence whether the detention had the applicant’s consent and whether his procurement amounted to abetment. It did not finally decide those questions. Section 397 CrPC appeared in *Fatehkaran Mehdu*’s discussion of revisional interference with a framed charge.

4. Issues : (i) Could 'procure' in Section 5 cover the alleged paying customer, despite his claim of categorical customer immunity, and did *Naman Laddha* govern despite the different allegations? (ii) Did the alleged payment, use of the room and raid material meet the threshold for framing a charge, as distinct from proving guilt? (iii) Could Section 6 detention, including the applicant's consent to detention and possible abetment through his procurement, be decided at this stage, or did those matters require trial evidence? Should the High Court interfere with the charge order already affirmed in revision?

5. Ratio / Findings : The Court interpreted 'procure' in context as obtaining a person and adopted the Kerala High Court's view that a customer could fall within Section 5. It distinguished *Naman Laddha* because this applicant was specifically alleged to have paid to procure the girl. The label 'customer' did not confer categorical immunity; the Court did not hold that all customers automatically commit the offence. The prosecution material included the applicant's alleged presence in a room with Y and his payment to obtain her. In discussing Section 6, the Court described the detention offence and referred to a person detained in a room used as a brothel and the applicant's alleged procurement. *M.E. Shivalingamurthy*, *Soma Chakravarty* and *Shiv Charan Bansal* distinguished unsupported suspicion from grave suspicion founded on material, and both from the ultimate test for conviction. They permitted limited sifting, without a roving inquiry into the merits. The restraint described in *Fatehkaran Mehdu* governed interference after framing of charge. On the alleged paid procurement and surrounding record, the High Court found no ground to interfere with the framed charges. Its reasoning concerned the prosecution case at the charge stage.

6. Relief : The Hon'ble High Court dismissed the application. It did not set aside the JMFC's order dated 15 March 2021 framing charges under Sections 5 and 6, affirmed by the Sessions Judge in Criminal Revision No. 125/2021 on 28 July 2021. The evidence and unresolved Section 6 detention and abetment questions remained for the trial court to decide.

Rishabh Khare v. The State of Madhya Pradesh, M.Cr.C. no. 15353/2022, 20/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (800) Prev Next

Headnote :- Matrimonial cruelty / relative-specific allegations / Seema Agrawal - The allegation against Seema, a sister-in-law residing in the matrimonial home, was confined to an initial taunt about small silver coins and money in envelopes when the complainant entered the matrimonial home. No particular later act of cruelty was attributed to her. On those allegations, her residence in the matrimonial home did not establish a prima facie case under Section 498-A IPC. The Court quashed the FIR and charge-sheet only against Seema.

Dowry demand / separate residence / neema agrawal or jain - Neema, the other sister-in-law, lived approximately 500 steps from the matrimonial home, but the allegations against her included a specific ₹10 lakh demand and threats of servitude, death and divorce. The Court considered *Dara Lakshmi Narayana v. State of Telangana*, 2024 INSC 953, on vague and omnibus allegations against relatives. It distinguished the vague instigation attributed to the relatives in that case from the direct allegations against Neema and refused to quash her prosecution. The truth of the alleged conduct remained for trial.

Case-note :- ***1. Facts :*** The complainant married Rishi Agarwal on 16.02.2022. In her FIR, she alleged that her family had given household goods and ornaments according to its means, but her husband and his relatives demanded more. She attributed an initial taunt about money in envelopes and small silver coins to Seema Agrawal, a divorced sister-in-law living in the matrimonial home. Neema, a married sister-in-law living roughly 500 steps away, allegedly kept silver coins and instigated a demand for ₹10 lakh. The complainant alleged that Neema warned her that she would have to live as a servant unless she brought the money, later threatened death and divorce, and took part in continuing pressure. She also alleged that her husband assaulted her, pressured her to obtain a ₹28 lakh loan and then sought another. She moved to her parental home. Crime No. 37/2023 at Mahila Thana, Vidisha, was registered for offences under Sections 498-A, 323, 506 and 34 IPC and Sections 3/4 of the Dowry Prohibition Act. After investigation, a charge-sheet was filed, and RCT No. 198/2024 was pending at Vidisha. Rishi and his two sisters sought quashing under Section 528 BNSS. Rishi withdrew his application at the outset. The sisters contended that

the allegations were vague. Neema relied on her separate residence; Seema claimed no involvement in the couple's family affairs despite living in the matrimonial home. The State and complainant relied on their access to the home and the specific accusations. These were allegations and submissions at the quashing stage, rather than findings at trial.

2. Precedents — Considered : The applicants cited *Dara Lakshmi Narayana v. State of Telangana*, 2024 INSC 953, arising from SLP (Criminal) No. 16239/2024. The High Court expressly analysed and distinguished it. The Supreme Court had examined vague, collective allegations that relatives living elsewhere merely instigated the husband, and cautioned against prosecuting family members without a clear prima facie case. The High Court required sufficiently specific instances. It declined to apply the decision indiscriminately to Neema because the alleged personal demands and threats were materially more concrete. It also applied the requirement of specificity to Seema, whose only attributed act was the isolated taunt.

3. Statutes considered : Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 provided the inherent jurisdiction invoked to quash the FIR and ensuing proceedings. Section 498-A IPC was the central cruelty charge against which the Court assessed the allegations relating to each accused. The Court read the police witness statements under Section 161 CrPC alongside the FIR.

4. Issues : (i) After Rishi's withdrawal, did the FIR and police statements disclose an individual prima facie allegation of cruelty against Seema beyond the isolated initial taunt and her residence with the couple? (ii) Did Neema's married status and separate residence make the alleged ₹10 lakh demands and threats too remote or vague to warrant trial? (iii) How should the Supreme Court's caution against omnibus implication of relatives be applied to the different conduct attributed to the two sisters? The truth of the accusations and final guilt under the individual offences remained untried.

5. Ratio / Findings : The Court assessed the allegations against each applicant separately. Against Seema, the FIR and Section 161 statement identified only the initial taunt about envelopes and silver coins. Her residence in the matrimonial home and the collective assertion that the family's behaviour had not improved supplied no further specific allegation of cruelty. Even accepting the alleged taunt, the Court found no prima facie basis to require her to face trial and quashed proceedings only against her. Neema's residence some 500 steps away gave her ready access and did not itself exclude involvement. The FIR and statements attributed to her a specific ₹10 lakh demand, a warning that nonpayment would require the complainant to live as a servant, a threat to kill her and pressure concerning divorce. The Court distinguished the vague instigation alleged against relatives in *Dara Lakshmi Narayana* from those direct words and acts attributed to Neema. The result depended on the particular allegations against each sister; neither living with the couple nor living separately was conclusive.

6. Relief : The Hon'ble High Court dismissed Rishi's Section 528 BNSS application as withdrawn. It allowed Seema's application and quashed the FIR and charge-sheet only against her. It dismissed Neema's application, leaving her prosecution in RCT No. 198/2024 to continue on the charged provisions. *Rishi Agarwal and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 38585/2024, 17/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (801) Prev Next

Headnote :- Section 482 CrPC / matrimonial cruelty FIR / specific accusations against husband and parents - Applying *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260*, the Court refused to quash the prosecution of Rishi Bajaj, Kishanlal Bajaj and Meera Bajaj. The wife alleged that, during her approximately two-and-a-half-month stay in the matrimonial home, her husband and his parents demanded ₹20 lakh and a vehicle and subjected her to abuse, assault and cruelty when the demand was not met. Her Section 161 statement repeated those allegations. Their truth and the competing versions were matters for trial. At this threshold, a legitimate prosecution could not be stifled mid-way.

Section 482 CrPC / distant matrimonial relative / vague instigation and unparticularised abortion allegation - Applying *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, *Monju Roy v. State of W.B., (2015) 13 SCC 693*, *Chandralekha v. State of Rajasthan*, and the consistent requirement of specificity noted in *Kahkashan Kausar*, *Geeta Mehrotra* and *Preeti Gupta*, the Court quashed the FIR and charge sheet only against Manjula Bajaj. The FIR and Section 161 statement placed the sister-

in-law in Mumbai, away from the matrimonial home in Kota. They did not identify when she instigated the others or explain the basis for alleging that the husband administered pills at her direction. The timing of pregnancy and abortion was also unspecified. Her relationship and the general allegations did not supply tangible individual material requiring her to face trial.

Case-note :- ***1. Facts :*** Rishi Bajaj, his father Kishanlal Bajaj, mother Meera Bajaj and sister Manjula Bajaj applied under Section 482 CrPC to quash Crime No. 52/2024 at Police Station Stationganj, District Narsinghpur. The alleged offences were Sections 498-A, 294, 323 and 506 IPC and Sections 3/4 of the Dowry Prohibition Act. Rishi was respondent No. 2's husband; the other applicants were her father-in-law, mother-in-law and sister-in-law respectively. Their counsel described the allegations as omnibus, alleged an unexplained four-and-a-half-month delay in lodging the FIR, and claimed that it was a counterblast to the husband's divorce petition.

In her FIR, the wife stated that she married Rishi on 27 June 2023 and that her husband and his parents began mistreating and threatening her soon afterwards. She alleged that, when she became pregnant, her husband administered pills at Manjula's instance, resulting in an abortion. Around Rakshabandhan, the parents allegedly demanded ₹20 lakh and a vehicle as a condition for her to visit her parents and for the husband to go to Narsinghpur. When she refused, her husband and his parents allegedly abused and assaulted her. She informed her brother Vijay by phone and returned to her parental home on 4 September 2023, where she remained. She alleged mental and physical cruelty over dowry. Her Section 161 CrPC statement substantially repeated the FIR.

The Court assessed applicants 1–3 separately from applicant 4. The wife had stayed in the matrimonial home for only about two-and-a-half months, but her complaint attributed a specific demand, abuse, assault and cruelty during that period to the husband and his parents. The FIR and statement placed Manjula in Mumbai, while the matrimonial home was in Shrinathpuram, Kota. No occasion or time was given for her alleged instigation. The husband, rather than Manjula, was alleged to have supplied the pills. The FIR did not specify when pregnancy or abortion occurred or explain the basis for attributing his act to her direction. By the operative paragraph, the police had also filed a charge sheet, which the Court quashed only against Manjula.

2. Precedents — Considered : The Court reproduced and applied *Taramani Parakh v. State of Madhya Pradesh, 2015:INSC:221 : (2015) 11 SCC 260*, to the husband and parents. The extract distinguishes distant relatives named without specific roles from identifiable allegations of dowry harassment against the husband and parents. If the allegations, taken at face value, disclose a triable case, their truth and the rival versions are for trial; Section 482 should not be used to quash prematurely. The quotation referred to *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, and *Kans Raj* on caution against mechanically implicating distant relatives. It also mentioned *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* as authorities on quashing.

Kans Raj v. State of Punjab, 2000:INSC:251 : (2000) 5 SCC 207, was directly quoted for caution against implicating all relations in a dowry case merely because of kinship and conjecture. Its reproduced passage also speaks of proving overt acts of persons other than the husband beyond reasonable doubt in the dowry-death trial context.

Monju Roy v. State of W.B., (2015) 13 SCC 693, was then quoted. It recognises that evidence of dowry harassment cannot be weighed mechanically, while distinguishing omnibus accusations against siblings and other relatives from allegations against the husband and parents. The extract repeats the warning in *Kans Raj* and requires specific material linking a distant relative to harassment, acknowledging the possibility of exaggerated naming. The Court applied *Monju Roy* to the absence of an identified act or occasion of instigation by Manjula.

Chandralekha and Others v. State of Rajasthan and Another, 2013 (1) UC 155, was directly quoted. In that case, general allegations attributing no specific role to the relatives, uncertainty about shared residence and extraordinary delay supported quashing for abuse of process. The present Court relied on the need for specificity in assessing Manjula's separate Mumbai residence and alleged involvement without particulars.

The Court expressly invoked together *Kahkashan Kausar alias Sonam v. State of Bihar, 2022:INSC:163 : (2022) 6 SCC 599; Geeta Mehrotra v. State of U.P., 2012:INSC:478 : (2012) 10 SCC 741*; and *Preeti Gupta v. State of Jharkhand, 2010:INSC:512 : (2010) 7 SCC 667*. These authorities state that vague, general and

omnibus allegations without a clear, specific role do not justify prosecuting relatives. The Court applied that collective principle to quash Manjula's prosecution while allowing the specific allegations against applicants 1–3 to proceed.

3. Statutes considered : Section 482 CrPC provided the limited inherent jurisdiction to consider whether quashing would prematurely stifle a triable prosecution or whether continuing proceedings against a particular applicant would amount to abuse of process. The Court read the complainant's police statement under Section 161 CrPC, which repeated her allegations, with the FIR when assessing each applicant. The offence provisions were Sections 498-A, 294, 323 and 506 IPC and Sections 3/4 of the Dowry Prohibition Act. Both the FIR and charge sheet were quashed only against applicant 4.

4. Issues : (i) Did the FIR and Section 161 statement disclose sufficiently individual allegations of dowry demand and cruelty against the husband and parents to warrant trial, without weighing their competing version under Section 482? The applicants described the case as omnibus, delayed and retaliatory; the Court examined the specific narrative concerning the short matrimonial stay.

(ii) Did the allegations against the Mumbai-based sister-in-law identify a sufficiently specific act, occasion or material link to the alleged cruelty and administration of pills to justify requiring her to face trial? Or would continuing her prosecution amount to abuse of process under the cited Supreme Court standards?

(iii) What was the party-specific scope of quashing, including the charge sheet, while proceedings against the husband and parents continued?

5. Ratio / Findings : For applicants 1–3, the Court considered the approximately two-and-a-half-month period between marriage and separation and the wife's specific allegations that Rishi, Kishanlal and Meera demanded ₹20 lakh and a vehicle, abused and assaulted her when the demand was not met, and treated her with cruelty. Her Section 161 statement repeated the allegations. Applying *Taramani Parakh*, the Court held that whether harassment had actually occurred was a matter for trial where the complaint disclosed such allegations against the husband and parents at face value. It found no ground to interfere and stated that a legitimate prosecution should not be stifled mid-way. The alleged FIR delay and divorce counterblast remained the applicants' recorded grounds; the Court did not separately resolve them as factual defences defeating this prosecution at that stage.

For Manjula, the Court separately read the FIR and Section 161 statement. Both placed her in Mumbai, away from the Kota matrimonial home. No time or occasion was specified for her alleged instigation of applicants 1–3. The timing of pregnancy and abortion was also unspecified. The husband was alleged to have administered pills, but the complaint did not explain why his act was attributed to Manjula's direction. Her relationship and the assertion of instigation did not fill that gap. The Court relied on *Kans Raj*, *Monju Roy*, *Chandralekha* and the collective principle in *Kahkashan Kausar*, *Geeta Mehrotra* and *Preeti Gupta* requiring clear and specific allegations against other relatives. It found the allegations insufficient to require her to face a criminal trial and quashed the case only against her.

The different outcomes depended on the conduct attributed to each accused. They did not establish an automatic exemption for a sister-in-law or automatic prosecution of a husband or parent. Some quoted Supreme Court decisions concerned different procedural settings, including proof in a dowry-death case and delayed complaints. The High Court applied the role-specific Section 482 test to this FIR and statement.

6. Relief : The Hon'ble High Court dismissed the application of Rishi Bajaj (applicant 1), Kishanlal Bajaj (applicant 2) and Meera Bajaj (applicant 3); their prosecution in Crime No. 52/2024 continues. It allowed Manjula Bajaj's application (applicant 4). The FIR at Police Station Stationganj, District Narsinghpur, for Sections 498-A, 294, 323 and 506 IPC and Sections 3/4 of the Dowry Prohibition Act, and the charge sheet, were quashed only against Manjula.

Rishi Bajaj and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 9965/2024, 15/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (802) Prev Next

Headnote :- Investigation / arrest and charge sheet / limits of Section 482 directions - Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court refused the complainant's request to direct the arrest of the persons named in the FIR and the filing of a charge sheet. Investigation is a statutory police function. Arrest under Section 41 CrPC requires the

investigating officer to exercise discretion with care; the investigation may lawfully end in either a charge sheet or a closure report. A direction requiring arrest and prescribing the final report's conclusion would supervise both the manner and the outcome of investigation through Section 482 CrPC.

Investigation / Section 173(1) CrPC / completion without unnecessary delay - The refusal to direct arrest or the filing of a charge sheet did not permit indefinite police inaction. Section 173(1) requires every investigation under that Chapter to be completed without unnecessary delay. The investigating officer must decide lawfully whether an offence is made out and submit the appropriate final report, whether a closure report or a charge sheet. The Court directed the investigating officer to complete the investigation as early as possible and take necessary steps according to law. It prescribed no arrest, particular report or fixed deadline. The applicant remained free to approach the Superintendent of Police, Vidisha, with a grievance.

Case-note :- ***1. Facts :*** Rishita applied under Section 482 of the Code of Criminal Procedure for directions to the respondents to arrest the accused and file a charge sheet in Crime No. 384/2019 at Police Station Basoda City, District Vidisha. The police registered the FIR on the complainant's complaint for alleged offences under Sections 376(2)(n) and 384 IPC, Section 67(A) of the Information Technology Act, 2000, and Sections 3/4 of the Protection of Children from Sexual Offences Act.

Counsel submitted that the police had neither arrested the accused nor concluded the investigation. The Court was not adjudicating the allegations against the accused. It considered whether to compel particular police action or require completion of the statutory investigation without unnecessary delay.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was extensively quoted and applied. In that case, a High Court had directed specified investigative steps, including arrest, seizure and the filing of a charge sheet. The Supreme Court held that investigation is a statutory police duty whose method courts should not normally direct. An investigation need not result in arrest, seizure or a charge sheet. Depending on the evidence, the police may file a charge sheet or conclude that no case is made out. Section 482 powers must be exercised carefully and for their statutory purposes; they do not justify an unreasoned direction to investigate from a particular angle.

In paragraph 25 of the reproduced passage, *D. Venkatasubramaniam* quoted *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC. An officer may arrest in the statutory circumstances but is not mechanically bound to do so when a cognizable case is registered. The need for arrest must be assessed cautiously because arrest affects liberty, reputation and status. This reasoning supported the refusal to compel arrest. The present Court did not determine under *Abraham* whether arresting these accused would have been justified on their individual facts. The reproduced *D. Venkatasubramaniam* passage also referred to *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on hearing affected persons before a judicial order likely to have drastic consequences for them. That reference supported judicial restraint in applying *Venkatasubramaniam*; it was not an independent holding on notice in the present matter.

3. Statutes considered : The applicant invoked the High Court's inherent jurisdiction under Section 482 CrPC. The Court declined to use it to supervise the investigation by predetermining arrest and the final report. It expressly reproduced and independently applied Section 173(1) CrPC, which requires every investigation under the relevant Chapter to be completed without unnecessary delay. That duty to conclude promptly leaves the police to choose lawful investigative steps and determine whether to file a closure report or a charge sheet.

The IPC, Information Technology Act and POCSO provisions were listed as alleged FIR offences.

4. Issues : (i) Could the High Court, on a complainant's Section 482 application concerning a pending FIR investigation, direct the police to arrest the accused and file a charge sheet because counsel said those steps had not been taken? The issue concerned the distinction between police discretion over the manner and outcome of investigation and the Court's inherent jurisdiction.

(ii) Once the Court refused those directions, what duty did Section 173(1) impose to complete the pending investigation, and what limited direction could the Court give without requiring a particular police conclusion?

5. Ratio / Findings : On the first issue, the Court expressly refused the prayer for arrest. Quoting *D. Venkatasubramaniam* at length, it held that directing

arrest and the filing of a charge sheet would amount to supervising the investigation. The Supreme Court discussion explains that the police's statutory task includes deciding whether arrest is warranted and whether the collected material supports prosecution. The Section 41 passage in *M.C. Abraham* rejects mechanical arrest immediately after an FIR. The officer must assess the need for arrest during investigation, having regard to the alleged offence and the person concerned, with caution for liberty and reputation. A charge sheet is likewise not an inevitable result of an FIR.

On the second issue, the Court applied Section 173(1)'s requirement to complete investigation without unnecessary delay. The police could not simply leave the matter pending. The investigating officer had to decide whether an offence was made out and file the lawful final report, whether a closure report or a charge sheet. The Court directed the investigating officer to complete the investigation as early as possible and take necessary steps according to law. That limited direction addressed delay while leaving the conclusion and specific investigative acts to the officer.

The lengthy quotation's discussion of hearing affected persons was part of the Supreme Court's reasons for setting aside the overbroad order in that case.

6. Relief : The Hon'ble High Court finally disposed of the Section 482 application. It refused to compel arrest or the filing of a charge sheet and directed the investigating officer to conclude the investigation as early as possible and take the steps required by law. Whether the lawful final report would be a closure report or a charge sheet remained open. If Rishita had a grievance, she could apply to the Superintendent of Police, Vidisha, who was to examine it according to law. The Court made no finding on guilt or the necessity of arresting any accused and set no fixed deadline.

Rishita v. State of M.P., M.Cr.C. no. 35421/2020, 11/01/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (803) Prev Next

Headnote :- Negotiable Instruments Act, Sections 138 and 141 / foundational complaint averment for company officers - Section 141 extends liability for a company's cheque-dishonour offence to persons who were in charge of and responsible for its business when the offence was committed. This is subject to the statutory defences and the separate route under subsection (2) based on consent, connivance or neglect. *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla, (2005) 8 SCC 89*, was applied to require an allegation in the complaint of responsibility for day-to-day business. *Standard Chartered Bank v. State of Maharashtra, (2016) 6 SCC 62*, was examined on the sufficiency of substantive allegations about company roles and cheque signatories. Although "Karta Dharta" was awkward wording, the complaint alleged that these applicants managed the company and were authorised signatories who supplied the cheque with an assurance that it would be honoured. Those allegations provided the basic assertion of responsibility. The cheque was allegedly returned for insufficient funds. Proof of the allegations remained for trial; cognizance and summons were sustained.

Section 482 CrPC / disputed corporate role at the process stage - The applicants relied on a memorandum of association in which, they said, their names did not appear as directors. The Court distinguished counsel's account of resignation before the cheque in *Ajay Agrawal v. Integrated Finance Company Ltd., Criminal Appeal Nos. 586–594 of 2018* (decided 20 April 2018). Here, evidence was needed to establish the director list in existence when the cheque was issued, any changes to that list, actual day-to-day control and authorised-signatory status. The Magistrate at cognizance and the High Court in this Section 482 challenge did not resolve those disputes by accepting the defence document. The orders of 3 and 18 May 2016 were affirmed.

Case-note :- ***1. Facts :*** Dainik Bhaskar, respondent No. 1, filed a complaint under Section 138 of the Negotiable Instruments Act against Ritesh Ajmera and the other applicants, as well as two co-accused who were named as respondents. The complaint described the applicants and other accused as the private company's "Karta Dharta" and authorised signatories. Its reproduced paragraphs alleged that they supplied the company's cheque to the complainant with an assurance that it would be honoured. The cheque was returned for insufficient funds. The Additional Chief Judicial Magistrate, Indore, took cognizance on 3 May 2016 and summoned the applicants on 18 May 2016 in Criminal Case No. 13658/2016.

The applicants sought quashing of both orders under Section 482 CrPC. Their counsel argued that

describing them as "Karta Dharta" and authorised signatories did not explain how each managed and was responsible for the company's daily business. They therefore disputed vicarious liability under Section 141 and claimed that the Magistrate had issued process mechanically. They produced the memorandum of association of Mayuri Herbal Care Private Limited and asserted that their names were absent from its list of directors. Counsel cited *K.K. Ahuja*, *Sabitha Ramamurthy*, *Jugesh Sehgal* and *Ajay Agrawal* on the alleged deficiency in the complaint, also relying on the last case's example of resignation before the cheque. The Court considered those submissions, the actual complaint allegations and the defence material.

Respondents Nos. 2 and 3 had not been served. The applicants explained that they were co-accused inadvertently named as respondents, not necessary adverse parties to the quashing petition. The Court found it unnecessary to hear them and disregarded non-service.

2. Precedents — Considered : The Judge invoked *S.M.S. Pharmaceuticals Ltd. v. Neeta Bhalla and another, (2005) 8 SCC 89*, for the pleading requirement under Section 141: the complaint must allege that the persons named as accused were responsible for the company's day-to-day business. The High Court applied that requirement to the description of these applicants as "Karta Dharta" and authorised signatories who gave the cheque. It understood "Karta Dharta" to convey management or control, leaving actual responsibility to be established by evidence.

Standard Chartered Bank v. State of Maharashtra and others, (2016) 6 SCC 62, was quoted and explained. Paragraphs 31–32 examined a complaint naming a chairman, managing director, executive and whole-time directors, and cheque signatories. The allegations expressly linked them to responsibility for the company's daily business when the offence was committed and alleged consent, connivance or neglect. The Supreme Court found those averments sufficient. The High Court compared their substance with the less polished "Karta Dharta" wording in this complaint. It required neither identical designations nor a fixed verbal formula: the alleged controlling role and authorised issuance of the cheque sufficed for process, subject to proof at trial. The applicants also cited *Ajay Agrawal v. M/s. Integrated Finance Company Limited*, Criminal Appeal Nos. 586–594 of 2018 arising from SLP (Crl.) Nos. 7122–7130 of 2017, decided 20 April 2018. Counsel said that the Supreme Court had quashed proceedings there because the appellant resigned before the cheque was issued and the resignation was communicated to the Registrar of Companies well before presentation. The Judge distinguished the present memorandum of association. Whether its director list was current when the cheque was issued or had later changed, and whether these applicants controlled the business or were authorised signatories, required evidence. The order records that comparison; it does not set out a full independent analysis of *Ajay Agrawal*'s ratio.

K.K. Ahuja v. V.K. Vora, (2009) 10 SCC 48; Sabitha Ramamurthy v. R.B.S. Channabasavaradhya, (2006) 10 SCC 581; and *Jugesh Sehgal v. Shamsher Singh Gogi, (2009) 14 SCC 683*, were invoked together by counsel to support the need for adequate complaint allegations of responsibility for the company's business.

3. Statutes considered : Section 138 of the Negotiable Instruments Act, 1881, was the complaint offence concerning the dishonoured company cheque. Section 141(1), reproduced in the judgment, deems the company and anyone who was in charge of and responsible to it for conducting its business when the offence was committed liable. Such a person may prove that the offence was committed without their knowledge or that they exercised due diligence. The second proviso excludes a qualifying government or financial-corporation nominee director from prosecution under the chapter. Section 141(2) separately extends liability to a director, manager, secretary or other officer where the company's offence is proved to have been committed with that person's consent or connivance, or to be attributable to their neglect. The explanation includes a firm or other association within "company" and defines a firm's "director" as a partner.

The applicants invoked the High Court's jurisdiction under Section 482 CrPC to challenge the cognizance and summons orders. At that preliminary stage, the Court assessed the complaint's basic allegations. It did not decide the disputed corporate records, management duties or authorised-signatory status on evidence.

4. Issues : (i) Did the Section 138 company complaint contain the basic allegation needed for process under Section 141, although it described the applicants as "Karta Dharta" and authorised

signatories without a more precise account of individual daily duties? The Court tested that wording against the statute and the Supreme Court's approach to complaint allegations.

(ii) Could the memorandum said to show that the applicants were not directors justify quashing cognizance and summons? Or did the director list's timing and possible changes, actual responsibility and authorised-signatory status require trial evidence? The Court compared those unresolved matters with counsel's account of resignation before the cheque in *Ajay Agrawal*.

(iii) Was service on co-accused respondents Nos. 2 and 3 necessary to decide the applicants' petition?

5. Ratio / Findings : Section 141 creates a defined form of vicarious or constructive liability for a company's Section 138 offence. *S.M.S. Pharmaceuticals* requires the complaint to connect an accused with responsibility for day-to-day business; *Standard Chartered Bank* illustrates the sufficiency of substantive allegations about corporate roles and responsibility at the process stage. Here, the complaint described these applicants and others as "Karta Dharta" and authorised signatories who supplied the company's cheque with an assurance that it would be honoured. The Court regarded "Karta Dharta" as awkward drafting but understood it to mean someone exercising powers and managing daily affairs. Read with the cheque allegations, it provided the necessary basic assertion of responsibility. The Magistrate could rely on that assertion when deciding prima facie whether to issue process.

The applicants' memorandum did not conclusively establish their position when the cheque was issued. The director list might have changed, and directorship did not by itself answer the question of business control or authorised-signatory status. Their actual corporate roles, whether they were authorised signatories and any resulting statutory liability required evidence. The Court distinguished counsel's account of *Ajay Agrawal*, where resignation before the cheque had been communicated to the Registrar before presentation.

According to the applicants, respondents Nos. 2 and 3 were co-accused named as respondents by mistake. The Court did not need their participation to decide these applicants' petition, so non-service did not prevent its determination. This ruling concerned service on parties; it did not separately determine the elements of Section 138 or those respondents' liability.

6. Relief : The Hon'ble High Court dismissed the Section 482 petition. It affirmed the orders of the Additional Chief Judicial Magistrate, Indore, taking cognizance on 3 May 2016 and issuing summons on 18 May 2016 in Criminal Case No. 13658/2016. The Section 138 complaint was left to proceed, with the disputed company roles and authorised-signatory status to be determined on trial evidence.

Ritesh Ajmera and others v. Dainik Bhaskar and others, M.Cr.C. no. 10582/2016, 14/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (804) Prev Next

Headnote :- Negotiable Instruments Act, Section 138 / legally enforceable debt under an agreement to sell - The buyer issued a ₹6 lakh cheque for the balance of the land price, but the seller did not execute the sale deed. The agreement did not make time of the essence. The seller's complaint nevertheless asserted a three-month period for payment, ending on 12 April 2016; the cheque was issued on 5 October 2016 and returned on stop-payment instructions on 30 December 2016. The Court distinguished this from a case in which the seller had conveyed the land and the buyer then stopped payment. Here, the seller had not performed her reciprocal obligation, so the cheque did not discharge a legally recoverable debt. The later civil decree refused specific performance because the buyer had not proved readiness and willingness, but required the seller to refund the ₹8.5 lakh advance with 6% interest from the agreement date. In light of that decree, the seller could recover no further amount from the buyer. The Court set aside the order registering the Section 138 complaint and dismissed the complaint under Section 482 CrPC. Its decision turned on the unperformed sale and this civil decree; it did not create a general exemption for stopped cheques.

Case-note :- ***1. Facts :*** Riya Bajaj and Rajni Kori entered an agreement on 13 January 2016 to sell land for ₹14,50,000. Bajaj paid ₹8,50,000 in advance, with the ₹6,00,000 balance payable when the sale deed was executed. The agreement did not make time of the essence. Kori's cheque complaint, however, alleged an understanding that the balance would be paid within three months, ending on 12 April 2016. Bajaj issued a ₹6,00,000 cheque on 5 October 2016.

Kori did not execute the sale deed, and Bajaj instructed her bank to stop payment. The cheque was returned on that ground on 30 December 2016. The Court considered these transaction facts and the complaint's timing assertion when examining whether there was a legally recoverable debt.

Kori filed Complaint Case SCNIA No. 202/2018 under Section 138 of the Negotiable Instruments Act before the JMFC, Jabalpur. The complaint was registered by order dated 7 February 2018. Bajaj also sued for specific performance. By judgment and decree dated 20 November 2023 in RCAS No. 10A/2020, the I Civil Judge, Senior Division, Burhar, District Shahdol, refused specific performance because Bajaj had not proved her readiness and willingness to perform her part. The civil court nevertheless directed Kori to refund Bajaj's ₹8,50,000 advance with interest at 6% per annum from the agreement date. Bajaj applied under Section 482 CrPC to quash the cheque complaint and its registration order.

Bajaj submitted that the balance cheque arose solely from the uncompleted sale and that, after the civil decree, Kori had no legally recoverable claim against her. Kori maintained that Bajaj was obliged to perform her part when she issued the cheque. Kori nevertheless fairly acknowledged the decree requiring her to refund the advance. After hearing both sides, the High Court confined its question to whether the cheque discharged a legally recoverable debt.

2. Statutes considered : The complaint alleged an offence under Section 138 of the Negotiable Instruments Act, 1881. The Court treated the existence of a legally recoverable debt or liability represented by the cheque as decisive. It examined the ₹6,00,000 cheque for the balance price, the seller's unperformed obligation to execute the deed and the later civil decree requiring her instead to refund the advance.

Section 482 of the Code of Criminal Procedure, 1973, was the provision under which the High Court set aside the complaint's registration and terminated the pending Section 138 proceeding. On its finding about the debt, allowing the complaint to continue would serve no useful purpose.

3. Issues : (i) Did Bajaj's ₹6,00,000 cheque for the balance price discharge a legally recoverable debt to Kori when Kori had not executed the promised sale deed? The cheque was issued months after the payment period asserted in the complaint and returned on stop-payment instructions. Bajaj relied on the failed sale; Kori maintained that the buyer still owed performance when the cheque was issued.

(ii) What effect did the later civil decree, refusing Bajaj specific performance but requiring Kori to refund the advance with interest, have on the seller's claim that this uncompleted transaction supported a Section 138 prosecution?

4. Ratio / Findings : The Court examined the agreement and found no term making time of the essence. It separately noted the complaint's assertion that the remaining ₹6,00,000 was payable within three months of 13 January 2016. That period ended on 12 April 2016 without a cheque being given; the cheque was issued on 5 October 2016. More fundamentally, Kori had not executed the sale deed. The Court distinguished the position if the seller had executed the deed and the buyer had then stopped payment: that would have been a clear case of legally recoverable debt. Here, because Kori had not performed her corresponding obligation, the cheque for the balance price was not shown to discharge such a debt. The Court reached that conclusion by examining the agreement, the absence of an executed deed, the cheque chronology and the civil decree.

The civil decree reinforced the Court's conclusion about the parties' obligations and was decisive when the High Court determined the criminal challenge. The civil court refused Bajaj the discretionary relief of specific performance because she had not established readiness and willingness. It nevertheless directed Kori to repay the ₹8,50,000 advance with 6% annual interest from 13 January 2016. After the decree, Kori could recover no amount from Bajaj on this transaction and instead owed her a refund. The Court therefore held that the cheque had not been issued to discharge a legally recoverable debt and that continuing the Section 138 complaint would serve no useful purpose.

5. Relief : The Hon'ble High Court allowed Bajaj's Section 482 application. It set aside the order dated 7 February 2018 by which the JMFC, Jabalpur, had registered SCNIA No. 202/2018, and dismissed Kori's complaint against Bajaj for the Section 138 offence.

Riya Bajaj v. Rajni Kori, M.Cr.C. no. 40510/2022, 03/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (805) Prev Next

Headnote :- Private complaint / sufficient ground for process / unsupported suspicion - Following *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, the Court held that "sufficient ground" under Sections 203 and 204 CrPC requires a prima facie case. It does not require proof sufficient for conviction or a full trial at the complaint stage. The complainant's Section 200 account and the Section 202 witness expressed suspicion that Mukesh Ladiyai had killed her husband, but provided no substantial facts connecting him to the killing. His Section 174 inquest statement described waking to find the deceased injured; it contained no admission that Ladiyai had killed the deceased and no assertion that they had locked the outpost from inside before sleeping. His later disposal of the keys and shirt, and his fear of suspicion, did not by themselves supply the missing prima facie link. The Court refused the requested Section 106 Evidence Act inference because the statement did not contain the inside-lock premise. It affirmed dismissal of the private complaint under Section 203. The outcome of the police closure report was unknown to the Court; this order did not decide it.

Case-note :- ***1. Facts :*** Rohani Ahirwar alleged that her husband was killed in a forest outpost at Village Bagwara in December 2015. The police conducted an inquest and, according to her submission, did not file a charge sheet. She then filed a private complaint under Section 200 CrPC. The complaint gave 10 December as the incident date, while her Section 200 statement mentioned 19 December. Her counsel explained that she learned of the death on the latter date. The Magistrate at Deori, Sagar, dismissed the complaint on 15 March 2022 in UNCR No. 15/2019. The Additional Sessions Judge dismissed Criminal Revision No. 06/2022 on 23 January 2024. Ahirwar applied under Section 482 CrPC to set aside both orders and sought prosecution for the IPC offences listed in her prayer, including Section 302.

Counsel argued that the Magistrate had wrongly treated Ahirwar as a hearsay witness and overlooked Mukesh Ladiyai's alleged extra-judicial confession during the police inquest. The Court examined his actual Section 174 statement. It described him and the deceased using ganja at the outpost and sleeping there. He said that, on waking the next morning, he found the deceased unresponsive, with blood at his ear and a stone nearby. He said he panicked, took a motorcycle and later abandoned his shirt and keys. He did not tell others because he feared being suspected. The statement did not say that he had killed the deceased or that they had locked themselves inside before bed. When questioned by the Court, counsel conceded that both assertions were absent. The outside lock described on their initial arrival did not establish that they had locked the room from inside during the night.

Ahirwar's counsel challenged the Magistrate's treatment of her information from others as hearsay. In recounting her Section 200 statement, the Court noted her exclusion from the matrimonial home and her suspicion of Ladiyai because he allegedly knew that the deceased had money and had not promptly reported the incident. Durga Prasad Ladiya, examined under Section 202, also expressed suspicion without identifying a substantive basis. The Court said that a non-expert witness's opinion alone carried no legal weight for this purpose.

2. Precedents — Considered : *Shivjee Singh v. Nagendra Tiwary and Others, 2010:INSC:355 : (2010) 7 SCC 578*, was quoted and applied. It explains that "sufficient ground" in Sections 203, 204 and 209 CrPC means a prima facie case, rather than evidence sufficient to convict. Its discussion of *Chandra Deo Singh*, *Kewal Krishan* and *Mohinder Singh* explains the limited Section 202 inquiry. Where prima facie evidence exists, process is not refused merely because the proposed accused has a defence. The Magistrate must not weigh the evidence meticulously as at trial.

The Court applied that prima facie standard while requiring more than an allegation or suspicion. It examined the Section 174 statement and the Section 200/202 accounts and found no admission, assertion that the room had been locked from inside, or substantial statement connecting Ladiyai to the homicide. *Shivjee Singh*'s rejection of a conviction-level threshold did not require process where the complainant's own material provided no sufficient basis.

3. Statutes considered : Sections 200 and 202 CrPC governed the complainant's and supporting witness's statements in the private complaint. Sections 203 and 204 respectively provide for dismissal for want of sufficient ground and issue of process on a prima facie basis. Section 209 appears in the quoted Supreme Court explanation of the same phrase. The Court read the police inquest statement under Section 174 for what it actually said, without treating it as a confession. Section 482 CrPC was the route

for challenging the Magistrate's and revisional orders. Counsel invoked Section 106 of the Indian Evidence Act on the premise that the room had been locked from inside. The requested inference could not be drawn because the statement did not contain that premise.

4. Issues : (i) Did the complainant's preliminary material under Sections 200 and 202 CrPC, read with the inquest statement, provide prima facie "sufficient ground" to issue process for her husband's alleged killing, as distinct from proof sufficient for conviction? Counsel argued that the alleged confession and circumstantial inferences had been overlooked; the Court checked whether the statement supported them.

(ii) Could an inference under Section 106 of the Evidence Act be drawn from the claim that only two persons were in the outpost, locked from inside during the night, when the inquest statement did not assert an inside lock and the complainant's witnesses provided only suspicion?

5. Ratio / Findings : Applying *Shivjee Singh*, the Court required a prima facie case at the complaint stage, rather than proof beyond reasonable doubt or the weighing of a defence as at trial. The preliminary statements nevertheless had to disclose concrete grounds for proceeding. The statement relied on by counsel did not support his assertion that Ladiyai had confessed, and counsel acknowledged the absence of any admission. The claim that the room had been locked from inside likewise lacked support in the statement. The Court declined to infer guilt merely because, on Ladiyai's account, he had been asleep nearby while both men were affected by ganja and had later feared suspicion. His account of disposing of the objects remained part of the material considered.

Ahirwar's statement and the Section 202 witness's account expressed suspicion without substantial facts connecting the proposed accused to the killing. Non-expert opinion could not fill that gap. The Court found no sufficient ground even under the preliminary prima facie standard and affirmed the Section 203 dismissal and the revisional order.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. It affirmed the order dated 15 March 2022 of the JMFC, Deori, dismissing private complaint UNCR No. 15/2019 under Section 203 CrPC and the Additional Sessions Judge's order dated 23 January 2024 in Criminal Revision No. 06/2022.

Rohani Ahirwar v. Mukesh Ladiyai, M.Cr.C. no. 8052/2024, 10/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (806) Prev Next

Headnote :- Cheating / adulterated food presented as genuine / FSSA overlap - The Court refused to quash a Section 420 IPC FIR alleging that 43 kg of apparently adulterated mawa had been transported in 24 packets without lot numbers or packaging dates. The possibility that the Food Safety and Standards Act, 2006 also applied to the product did not, by itself, warrant quashing. Applying *Manish Gupta v. State of M.P. (M.Cr.C. No. 11462/2021, decided 01.04.2021)*, the Court treated a seller's representation of adulterated or substandard food as pure and safe to unsuspecting consumers as capable of constituting cheating. The quoted *Manish Gupta* order had invoked *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, for a limited proposition: where a distinct criminal wrong is alleged, a special regulatory regime does not automatically exclude general criminal law in the absence of a relevant bar. The Court held that Rohit Jain's case was covered by that reasoning, dismissed his Section 482 CrPC application and vacated interim protection.

Case-note :- ***1. Facts :*** Police received information that adulterated mawa was arriving at a bus stand. The prosecution alleged that Rohit Jain arrived by bus carrying 24 packets of New Radhika Brand Mix Cake Food, weighing 43 kg in total. According to the order, the packets bore neither lot numbers nor packaging dates, and the label displayed a picture of a sweet. In those circumstances, the officers considered that the mawa appeared adulterated. Samples were collected, and the remaining mawa was handed to police. Crime No. 19/2021 was registered at Police Station Kotwali, Chhatarpur, for the alleged offence under Section 420 IPC.

Jain sought quashing under Section 482 CrPC. He submitted that, even if the FIR were taken at face value, no offence under Section 420 was made out and any offence would fall only under the Food Safety and Standards Act, 2006 (FSSA). The State opposed the application. The Court considered whether adulteration of an eatable could also constitute cheating and applied its earlier *Manish Gupta* order. That order concerned a different dairy and allegations that adulterated or substandard milk

was offered as pure. Those dairy-specific facts were not proved facts in Jain's case.

2. Precedents — Considered : *Manish Gupta v. State of M.P. (M.Cr.C. No. 11462/2021, order of 01.04.2021)* was quoted extensively and expressly applied. In that order, the applicant operated a dairy and argued that the sampled material was not saleable milk. The Court there treated the undisclosed sale of adulterated or substandard food as pure and safe as capable of deceiving innocent purchasers under Section 420 IPC. In that separate matter, it also addressed a charge under Section 272 IPC, the absence of a pleaded prior punishment under the FSSA, and an objection under Section 26 of the General Clauses Act.

The quoted *Manish Gupta* passage itself invoked *State of Madhya Pradesh v. Rameshwar and Others, 2009:INSC:456 : (2009) 11 SCC 424*. *Rameshwar* rejected the argument that a special statutory remedy concerning co-operative societies categorically displaced the general criminal process where there was no applicable bar and a conspiracy to cheat was alleged. Jain's Court reproduced that authority within its quotation of the earlier court's reasoning; it did not separately analyse the authority against specific provisions of the FSSA. The analogy adopted was limited to the proposition that a special statute does not automatically exclude an independently supportable cheating allegation. *Rameshwar* did not determine whether this mawa was adulterated or whether all IPC provisions concerning food survive the FSSA.

3. Statutes considered : Section 420 IPC was the sole offence identified in Jain's FIR and the offence for which he sought quashing. The Court treated the presentation of adulterated food as genuine, thereby deceiving consumers, as potentially constituting cheating. The elements of the offence and the evidence remained matters for the ordinary criminal process. Section 482 CrPC was the provision invoked to seek quashing. Section 272 IPC, Sections 51 and 26(2)(ii) FSSA, and Section 26 of the General Clauses Act appear only in the reproduced *Manish Gupta* order concerning a different FIR. They were not additional charges or matters of relief adjudicated in Jain's case.

4. Issues : The issue was whether the Section 420 IPC FIR should be quashed at the threshold because it concerned suspected adulterated mawa and the FSSA provided a food-safety regime. The defence submitted that, even if accepted, the allegations disclosed no cheating and fell only under that Act. The Court considered whether adulteration of an eatable could also constitute an offence under Section 420 and applied the earlier ruling on deception through misrepresentation.

5. Ratio / Findings : The Court adopted the reasoning in *Manish Gupta*. That ruling identified a potentially distinct offence of cheating where adulterated or substandard food is offered to unsuspecting customers as pure and safe. The existence of food-regulatory penalties would not, by itself, defeat an otherwise supportable allegation under Section 420. The *Rameshwar* analogy within the quoted order provided a limited reason for rejecting automatic exclusivity of a special statute in the absence of an operative bar. The Court held that this reasoning covered Jain's Section 420 FIR and refused to quash it. The factual account in the present order was confined to alleged transportation, labelling defects and an appearance of adulteration that led to sampling.

The broad Section 272 and concurrent-prosecution statements inside the 2021 *Manish Gupta* quotation belong to that cited order.

6. Relief : The Hon’ble High Court dismissed the application under Section 482 CrPC and vacated the interim order dated 2 November 2023. The Section 420 FIR remained in place. The Court did not convict Jain, make a laboratory determination or find the precise degree of adulteration. It added no charge under the FSSA or Section 272 IPC.

Rohit Jain v. State of Madhya Pradesh, M.Cr.C. no. 14294/2021, 23/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (807) Prev Next

Headnote :- Investigation control / accused's choice of agency or method - Applying *Romila Thapar v. Union of India, (2018) 10 SCC 753,* and *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626,* the Court held that a suspect ordinarily has no right to choose the investigating agency, dictate investigative steps or insist on a hearing during investigation. The quoted authorities preserve exceptional constitutional intervention where a mala fide exercise of power is established and caution that transfer to the CBI is not a routine measure. The applicant asserted that an encroachment dispute had motivated Crime No. 52/2025 and requested a “fair and impartial” inquiry

conducted in his preferred manner. Those grounds did not justify directing the investigation under Section 528 BNSS in this case.

Alibi / CCTV claimed by suspect / threshold inquiry - The Court considered *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, drawing on *Binay Kumar Singh*, and *S.K. Sattar v. State of Maharashtra, (2010) 8 SCC 430*, on alibi as a factual defence requiring proof. The prosecution must first prove the accused's presence and the offence. If it does so, the accused bears a heavy burden to establish, by positive evidence, that he was elsewhere, sufficiently excluding his presence at the scene. Failure to establish an alibi does not itself prove guilt. Koli claimed that his home CCTV showed that he had left before the alleged 10:30 p.m. incident and returned later. The Court left the truth and weight of the footage to be established by evidence and declined to quash the FIR on the asserted alibi.

Court monitoring / no judicial direction of investigative method - Relying on *Manohar Lal Sharma*, the Court distinguished exceptional monitoring of an investigation's progress and fairness from supervision that directs its method or report. Directing police how to investigate Koli's asserted alibi would cross that boundary and risk influencing the trial. The Court dismissed the Section 528 BNSS application to quash the FIR or direct a particular inquiry.

Case-note :- ***1. Facts :*** Rohit Koli invoked the inherent power under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) in relation to Crime No. 52/2025, registered on 15 February 2025 at Police Station Khaniyadhana, Shivpuri. On respondent No. 3's report, police had recorded offences under Sections 331(4), 115(2), 296 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS). The judgment sets out neither the full allegations in the FIR nor the eventual evidentiary record; the ingredients of the offences and guilt cannot be established from this order. Koli sought quashing of the FIR and consequential proceedings or, alternatively, a direction to police to conduct a fair and impartial inquiry or investigation.

Koli said that he had opposed influential villagers' alleged encroachment and had therefore been falsely implicated. He submitted that the incident was alleged to have occurred at 10:30 p.m., whereas he had left home at about 9 p.m. and returned late. He claimed that footage from a camera at his house showed his absence. The Court framed the question as whether a suspect had a right to interfere with an ongoing investigation.

2. Precedents — Considered : *Romila Thapar and others v. Union of India and others, 2018:INSC:912 : (2018) 10 SCC 753*, was quoted at length. It rejects an accused's entitlement to choose an investigating agency or dictate the manner of investigation. Its quoted reasoning draws on *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar.* It also preserves the qualification in *Divine Retreat Centre* that directions under Article 226 may issue where mala fide investigation is demonstrated. Citing the Constitution Bench in *State of W.B. v. Committee for Protection of Democratic Rights, the quotation states that transfer to the CBI must be* sparing and exceptional, rather than a routine response to allegations. It distinguishes opportunities to seek relief at remand or through bail, discharge and quashing from control over the current investigation. The underlying authorities formed part of *Romila Thapar*'s explanation; they were not separately applied to new facts in this order.

Dinubhai Boghabhai Solanki v. State of Gujarat, 2014:INSC:139 : (2014) 4 SCC 626, was also quoted. It reproduces passages from *Union of India v. W.N. Chadha*, *CBI v. Rajesh Gandhi*, *Sri Bhagwan Samardha* and *Narender G. Goel* explaining why a proposed accused ordinarily need not receive notice or participate in decisions about the investigating agency or further investigation. Those passages preserve the opportunity to contest the evidence at trial. They discuss further investigation under Section 173(8) CrPC and the exceptional facts in *Dinubhai* that justified transferring a deficient local investigation to the CBI.

Vijay Pal v. State (Govt. of NCT of Delhi), 2015:INSC:194 : (2015) 4 SCC 749, quoted *Binay Kumar Singh v. State of Bihar on* alibi as a relevant fact under Section 11 of the Evidence Act because it is inconsistent with presence, rather than an exception under the IPC. The prosecution initially bears the burden of proving presence and participation. Once reliable prosecution evidence establishes presence, an accused relying on alibi must produce strong positive proof that he was elsewhere. Nevertheless, sufficiently credible defence evidence may raise a reasonable doubt. *S.K. Sattar v. State of Maharashtra, 2010:INSC:546 : (2010) 8 SCC 430*, likewise required affirmative and stringent proof of alibi, while maintaining that failure

to establish it never substitutes for independent prosecution proof beyond reasonable doubt. The Court applied the need for factual proof of this defence to Koli's asserted CCTV alibi and left its evaluation to the proper evidentiary stage.

Manohar Lal Sharma was quoted on the distinction between court monitoring and supervision. In rare and compelling cases, monitoring checks progress, impartiality, timely investigation and freedom from external interference. Supervision, by contrast, would direct investigative steps and assist in formulating the police report, risking prejudice to the trial. The Court relied on that limit in declining to direct the manner of this investigation.

3. Statutes considered : Section 528 BNSS was the provision under which the applicant invoked the Court's inherent power to seek quashing or directions concerning investigation. The Court did not regard that procedural stage as entitling a suspect to control the investigating agency or method.

Section 11 of the Indian Evidence Act, 1872 arose in *Vijay Pal*'s quoted explanation of alibi as a relevant fact inconsistent with presence. The quotation places the initial burden of proving the offence and presence on the prosecution and addresses the defence's subsequent burden to prove an asserted alibi. It does not determine whether Koli's video satisfied the requirements for admission in evidence or authentication of its source.

4. Issues : (i) Could a suspect named in an FIR invoke Section 528 BNSS to have the High Court dictate the investigating agency or method, or order a preferred "fair and impartial" inquiry, on his allegation of false implication arising from a village dispute? The Court considered the requested control in light of *Romila Thapar* and *Dinubhai*, including their qualifications concerning exceptional public-law intervention.

(ii) Did Koli's asserted home CCTV and alleged absence around 10:30 p.m. establish an alibi warranting immediate quashing, or was it a disputed factual defence to be proved at the evidentiary stage? The Court considered *Vijay Pal* and *S.K. Sattar*, including the prosecution's continuing burden.

(iii) Would directing police to verify the alibi in a specified way amount to judicial supervision rather than permissible exceptional monitoring? The Court addressed this through the quoted *Manohar Lal Sharma* distinction.

5. Ratio / Findings : The Court read *Romila Thapar* and *Dinubhai* as establishing that a suspect has no general entitlement to select the investigating agency, control its method or demand a hearing as of right during investigative decisions. The qualifications permitting intervention for a demonstrated mala fide exercise of investigative power and extraordinary constitutional transfer remain applicable. Mere demands or unsupported suspicions do not, by themselves, satisfy those exceptions. Koli's allegation concerning influential encroachers and his alternative request for a preferred inquiry did not justify the directions sought under Section 528.

The asserted CCTV alibi raised a disputed question of fact. The Supreme Court rules quoted in *Vijay Pal* and *S.K. Sattar* preserve the prosecution's initial obligation to prove presence and the offence. If that burden is discharged, the accused must adduce positive evidence that he was elsewhere; failure to establish that defence does not automatically prove guilt. The High Court left the claimed CCTV alibi to be proved by evidence, without deciding the footage's authenticity, timing or probative effect at the FIR-quashing stage.

Finally, the Court distinguished exceptional judicial monitoring to ensure a free, fair and timely investigation from supervision that directs evidence collection or the police report. It regarded a direction about the manner of investigating Koli's alibi as impermissible supervision that could prejudice the later trial. On these combined grounds, it declined to interfere, leaving ordinary lawful investigation and later evidentiary remedies available.

6. Relief : The Hon'ble High Court dismissed the application under Section 528 BNSS. It refused to quash Crime No. 52/2025 and declined to direct police to investigate by Koli's chosen method.

Rohit Koli v. State of Madhya Pradesh and Ors., M.Cr.C. no. 11150/2025, 11/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (808) Prev Next

Headnote :- Kidnapping from lawful guardianship / minor's professed consent / active inducement - Applying *Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat (Criminal Appeal No. 1919/2010, decided 12.01.2021)*, the Court held at the charge stage that a minor's affection for an accused and claim that she accompanied him voluntarily do not, by themselves, defeat a case under Sections 361/363 IPC. *Anversinh*

distinguished the narrow situation in *S. Varadarajan*: the minor must know and be capable of appreciating the full import of her actions, leave guardianship voluntarily, and receive no assistance or inducement from the accused. The school record gave her date of birth as 16.02.2002, making the complainant's daughter below 18 when she left on 27.06.2019. Her account of travelling and residing with the applicant, together with their marriage affidavit, provided prima facie material of active inducement. The affidavit did not disclose her age, and no marriage ceremony was proved.

Minor wife / sexual offence / marriage affidavit - Applying *Independent Thought v. Union of India, (2017) 10 SCC 800*, the Court held that, under Exception 2 to Section 375 IPC as read down, marriage does not exclude rape liability for sexual relations with a wife below 18. In her Section 161 CrPC account, the prosecutrix said that she and the applicant lived as spouses and had physical relations. Her Section 164 account stated that the applicant had not committed any “Bura Kaam”; the Court read this as a denial of force. It left the contrast for trial, rather than treating it as conclusively negating the prima facie case under Section 376 and the POCSO Act at the charge stage. It also held that an affidavit does not itself solemnise a marriage. The assessment was only prima facie; the factual accounts of voluntariness and intercourse, and proof of the offences, remained matters for evidence.

Charge and discharge / competing statements / no roving assessment - Following *State of Tamil Nadu v. N. Suresh Rajan, (2014) 11 SCC 709*, including its discussion of Sections 227, 239 and 245 CrPC *and R.S. Nayak v. A.R. Antulay, (1986) 2 SCC 716*, the Court applied the preliminary prima facie test. It declined to give the Section 164 statement categorical preference over the Section 161 account. The Sessions Judge's charges under Sections 363, 366-A and 376(2)(n) IPC with Section 5/6 POCSO were affirmed in revision. The trial court was expressly cautioned to decide on tested evidence without being influenced by these provisional observations.

Case-note :- ***1. Facts :*** Radhe Yadav reported his daughter missing on 27 June 2019, leading to Crime No. 179/2019 at Police Station Shahdhora, Ashoknagar. The prosecution recovered her from Ahmedabad on 8 July, recorded her statements under Sections 161 and 164 CrPC and collected a school record showing her date of birth as 16 February 2002. She was therefore below 18 on the alleged date of departure. The FSL report was said to have found human semen and sperm on her clothes. In her Section 161 statement, she described being in love with Rohit Panchal, going to Ahmedabad with him, marrying or purporting to marry, living as spouses and having physical relations. She also said that she had not been kidnapped or forcibly subjected to “Bura Kaam.” Her Section 164 statement said that the applicant had not committed any “Bura Kaam”; the Court read this as addressing the absence of force. These statements and the prosecution material were not final findings on the truth of the allegations. The prosecution produced an English translation of an affidavit jointly sworn at Ahmedabad on 31 May 2019. It declared that a marriage had taken place on 22 January 2019 and that there was no other documentary proof of the marriage. The affidavit described both signatories as adults but did not disclose the prosecutrix's actual age. The Court found no showing that the marriage had been solemnised according to Hindu rites. The date of birth in the school record showed that she was a minor both at the alleged January marriage and when she left in June.

On 14 November 2019, the First Additional District Judge, Ashoknagar framed charges in Special Sessions Trial No. 30/2019 under Sections 363, 366-A and 376(2)(n) IPC read with Section 5/6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO). Rohit Panchal challenged the order in Criminal Revision No. 311/2021 under Sections 397 and 401 CrPC. He submitted that her voluntary departure, their romance and the absence of forcible intercourse meant that the kidnapping and sexual offences were not made out.

2. Precedents — Considered : *Anversinh @ Kiransinh Fatesinh Zala v. State of Gujarat (Criminal Appeal No. 1919/2010, decided 12.01.2021)* was quoted and applied. It treats a minor's supposed consent as immaterial to the protection of lawful guardianship under Section 361 IPC. Affection for an accused cannot, by itself, defeat a kidnapping charge. It discusses the additional intention or knowledge required under Section 366 concerning compelled marriage or illicit intercourse. It distinguishes *S. Varadarajan*, cited only by its short name, as confined to a minor who knows and can appreciate the full import of her actions, leaves her guardian voluntarily, and receives no assistance or inducement from the accused. The Supreme Court

passage lists these conditions. The present Court treated the earlier purported marriage and joint affidavit as material showing active inducement, rather than a departure without the accused's assistance. This was an inference at the charge stage, not a final finding that every statutory ingredient had been proved.

Independent Thought v. Union of India and another, (2017) 10 SCC 800, was invoked for reading down Exception 2 to Section 375 IPC: a sexual relationship with a wife below 18 is not exempt merely because of marriage. The Court applied this rule when considering the minority shown by the school record, the affidavit of an unproved marriage and the Section 161 account of physical relations.

State of Tamil Nadu v. N. Suresh Rajan and others, (2014) 11 SCC 709, was quoted on the differences in statutory language and timing of discharge under Sections 227, 239 and 245 CrPC, and the common preliminary inquiry into whether a prima facie case exists. The quoted passage referred to *Sajjan Kumar* and *Dilawar Balu Kurane* as not supporting a roving assessment of evidence. It also cited *R.S. Nayak v. A.R. Antulay, (1986) 2 SCC 716*, for the preliminary prima facie test. Applying that restraint to the competing Section 161 and 164 accounts, the Court affirmed the charges and expressly left credibility for trial.

3. Statutes considered : Sections 361 and 363 IPC concern kidnapping from lawful guardianship and its punishment; the legal value of a minor's claimed consent and the accused's active inducement was central.

Sections 397 and 401 CrPC conferred revisional jurisdiction. The quotation from *N. Suresh Rajan* compared discharge under Sections 227, 239 and 245 CrPC, preserving their procedural differences while emphasising the prima facie inquiry. The Court's final direction expressly required the evidence to be tested at trial through cross-examination.

4. Issues : (i) In revision against a Sessions charge order, did a minor's account of leaving voluntarily with a man she loved, together with a purported marriage affidavit, negate a prima facie case of kidnapping or enticement where the school record showed minority and the material suggested the accused's participation? The defence emphasised voluntariness; the Court examined the conditions stated in *Anversinh*.

(ii) Did the asserted marriage and the Section 164 statement denying any “Bura Kaam” eliminate the prima facie sexual-offence charges, despite the Section 161 account of marital cohabitation and physical relations and *Independent Thought*'s rule concerning a minor wife? The issue concerned preliminary charges, distinct from proof after trial.

(iii) Could the revisional court resolve the apparent tension between Sections 161 and 164 by preferring one account or undertaking a roving assessment at the charge stage, and what effect would affirmance have on the later trial?

5. Ratio / Findings : For the provisional assessment of the charges, the Court relied on the school record's date of birth, 16 February 2002, as establishing minority at the relevant stages. It applied *Anversinh*'s rule that a minor's consent is immaterial under Section 361 and that *S. Varadarajan*'s exception for an informed departure without assistance is subject to limiting conditions. The complainant's daughter had described an earlier purported marriage to the applicant, and the prosecution had a jointly sworn affidavit. On this material, the Court inferred at this stage that she had been induced to leave under the impression that she was his wife. It observed that an affidavit alone does not solemnise a marriage and that performance of the required rites had not been alleged.

Under *Independent Thought* and Exception 2 to Section 375 as read down, even a valid marriage would not, by itself, immunise intercourse with a wife below 18. The Section 161 account described physical relations; the Section 164 account stated that the applicant had not committed any “Bura Kaam”. Reading the latter in context, the Court understood it as addressing the absence of force, rather than necessarily denying all relations. It nevertheless declined to give that account definitive preference over the Section 161 statement. The FSL material was reported, without being conclusively weighed. The sexual-offence charges remained a prima facie matter, with every element and the actual evidence left for trial.

Applying *N. Suresh Rajan*, the Court held that scrutiny at the charge or discharge stage concerns the existence of a prima facie case and does not permit a roving assessment as at trial. It found sufficient material to sustain the trial judge's order and dismissed the revision. It stressed that the trial court must decide strictly on evidence tested by cross-examination, without being influenced by the High Court's limited observations. The judgment thus distinguishes a provisional threshold inference from

a trial determination of guilt, the factual account of voluntariness, the weight of the age evidence or the validity of the marriage.

6. Relief : The Hon'ble High Court affirmed the order dated 14 November 2019 framing charges in Special Sessions Trial No. 30/2019 and dismissed the criminal revision. It cautioned the trial court to decide according to law on the evidence tested through cross-examination, without being influenced or prejudiced by the High Court's comments at the charge stage. Dismissal of the revision did not amount to a conviction or final factual determination.

Rohit Panchal v. State of M.P. and Ors., Cr.R. no. 311/2021, 19/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers — FIR quashing — specific assistance in kidnapping and confinement - In Crime No. 597/2021, the applicant asserted that the prosecutrix was an adult who had voluntarily married a co-accused. The High Court relied on her earlier statement in habeas corpus proceedings that the marriage had been forced and on the continuing restraint against the institution said to have solemnised it. The allegations specifically attributed assistance to this applicant: driving the motorcycle, providing a room, locking her inside and supplying food while the co-accused allegedly committed rape. On that prima facie material, the Court refused to quash the FIR under Section 482 CrPC.

POCSO age determination — statutory document hierarchy — contested supplementary affidavit - The Court reproduced the co-accused's earlier bail order and expressly reaffirmed its rejection of his contention that the prosecutrix was an adult. In that order, *Joginder Singh v. State of Haryana, (2014) 11 SCC 335*, was invoked for age assessment under the Juvenile Justice Act. The quoted Section 94 gives first priority to a school date-of-birth certificate or a matriculation or equivalent certificate from the examination Board. In their absence, a birth certificate from a corporation, municipal authority or panchayat is to be obtained. Only if both categories are absent may age be determined by a medical test ordered by the Committee or Board. The school register and a medical report were already available. The alleged corrected school record, Samagra ID and unattested caste-certificate application did not establish majority at that stage.

Case-note :- ***1. Facts :*** Rohit Rajput sought quashing under Section 482 CrPC of Crime No. 597/2021 at Police Station Thatipur, Gwalior. The order described the case as involving Sections 366-A, 343, 376(2)(n), 376(3), 506 and 34 IPC and POCSO provisions. The applicant claimed that a school principal's later affidavit corrected the school record and established that the prosecutrix was an adult. He also claimed that the POCSO offences had been deleted and that she had voluntarily married co-accused Yogesh Gahlot. He argued that prosecution would damage his career. The State opposed the application. His anticipatory-bail request in MCRC No. 18/2022 had been rejected on 11 January 2022, and he had not surrendered. Earlier, the co-accused had filed habeas corpus W.P. No. 16082/2021, claiming that he had married the prosecutrix. She appeared before the High Court on 20 September 2021, denied being unlawfully confined by her father and said that the writ petitioner had forcibly married her. A complaint dated 6 September had been made to the Superintendent of Police and dispatched to Thatipur police on 8 September. On 22 September, however, a sub-inspector told the habeas court that the complaint had not arrived. The Superintendent's affidavit contradicted the officer's statement, and an FIR was registered on 23 September. The habeas court ordered separate show-cause contempt proceedings against the officer, and the writ petitioner did not press his petition. These were orders in the earlier writ, not fresh directions or a determination of contempt in this MCRC. The present judgment reproduced the co-accused's bail order dated 17 November 2021, which rejected a request for fresh ossification and the age materials relied on, discussed the asserted Arya Samaj marriage and refused bail. The present Court noted that the applicant's own bail refusal and the co-accused's age challenge had already addressed much of the quashing argument. It recorded the prosecution's allegations that the applicant helped transport the prosecutrix, provided a room, locked her inside and supplied food during her alleged confinement and repeated rape by Yogesh.

2. Precedents — Considered : The present Court reproduced the co-accused's prior bail order and relied on its earlier rejection of the majority contention. That order quoted *Joginder Singh v. State of Haryana, (2014) 11 SCC 335*, on using the

Juvenile Justice age-determination process for a victim, and set out Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. It also invoked *Independent Thought v. Union of India, (2017) 10 SCC 800*, on Exception 2 to Section 375 IPC as read down in relation to intercourse with a wife under eighteen. The earlier bail order applied *Shalu Sharma v. State of M.P.*, W.P. No. 762/2020 (9 December 2020), concerning the restraint on Mool Shankar Arya Samaj Vaidik Sanstha's marriage ceremonies. In the present order, the Court noted that W.A. No. 95/2021 had been dismissed on 17 December 2021.

3. Statutes considered : Section 482 CrPC governed the request to quash the FIR. The earlier bail order reproduced Section 94 of the Juvenile Justice Act, 2015. It gives first priority to a school date-of-birth certificate or a matriculation or equivalent certificate from the examination Board. In their absence, a birth certificate from a corporation, municipal authority or panchayat is to be obtained. Only in the absence of both categories may age be determined by a medical test ordered by the Committee or Board. Exception 2 to Section 375 IPC, as read down in *Independent Thought*, arose only within the earlier bail quotation.

4. Issues : (i) Did the specific allegations that the applicant helped take the prosecutrix to a room, confined her and supported the co-accused make quashing the kidnapping and sexual-offence FIR inappropriate, despite his claims of a consensual marriage and majority? (ii) What effect did the contested school-principal affidavit, age documents and earlier co-accused bail determination have at the present quashing stage, given the applicant's separate claim that the POCSO provisions had been deleted? (iii) How did nondisclosure of his earlier anticipatory-bail refusal affect the Court's view of the petition? The show-cause proceeding against the police officer arose in the earlier writ and was not before the Court for disposal in this application.

5. Ratio / Findings : The Court did not accept the applicant's bare assertion of a voluntary marriage. It relied on the prosecutrix's statement in the habeas corpus proceeding that the co-accused had forced the marriage, and on the continuing restraint against the institution said to have performed it. It also noted the dismissal of the institution's writ appeal. The age argument had been considered in the co-accused's anticipatory-bail order. Under the approach based on *Joginder Singh* and Section 94 reproduced there, the school register and existing medical report provided no basis for requiring a fresh ossification test; the informal or unattested alternative records did not establish majority. The prosecution attributed specific assistance to Rohit: transporting the prosecutrix by motorcycle, providing a room, locking her inside and supplying food during her alleged confinement and rape by Yogesh. The Court relied on these specific allegations of assistance in finding no ground to quash the FIR. It further found that the applicant had filed the quashing petition on 20 January 2022 without disclosing the rejection of his own anticipatory-bail application on 11 January. It treated that omission as an attempt to mislead the Court and observed that counsel should assist the Court with clean hands.

6. Relief : The Hon'ble High Court dismissed the application and refused to quash the FIR in Crime No. 597/2021.

Rohit Rajput v. State of M.P., M.Cr.C. no. 4509/2022, 09/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Food Safety and Standards Act / Section 42 prosecution route / IPC FIR - In this decision dated 29 April 2022, the Court construed Section 42 FSSA as prescribing a route through the Food Safety Officer, Designated Officer and Commissioner for offences punishable with imprisonment under the FSSA itself, including Sections 59–64. It did not treat that route as a general condition precedent to an IPC police case. The applicant identified no FSSA provision, among those considered by the Court, that barred the IPC case. Applying *State of M.P. v. Rameshwar, (2009) 11 SCC 424*, by analogy, the Court declined to hold that the special Act automatically excluded general criminal law.

Food-safety penalty / parallel prosecution / double jeopardy objection - The Court distinguished an adjudicatory penalty for substandard food under Sections 49, 51 and 68 FSSA from a fine or imprisonment for a criminal offence. It quoted *R.S. Joshi v. Ajit Mills Ltd., AIR 1977 SC 2279*, on forfeiture as a penalty, including statutory liability without mens rea. It also cited *Som Distilleries* on a regulatory penalty for breach without actual loss or a guilty mind. On that basis, the existence of the pending adjudicatory complaint

alongside the IPC prosecution did not, by itself, establish the asserted bar of double jeopardy.

Substandard dairy product / proposed cheating charge / trial court's framing power - Eight of the ten dairy samples were reported to be substandard, rather than unsafe. The applicant pointed to no disclosure to customers that the products were below standard. The Court considered sale without that disclosure prima facie capable of cheating unsuspecting customers. The police charge sheet cited Sections 269, 272 and 273 IPC and omitted Section 420. Nevertheless, the trial court could consider the offence supported by the material when initially framing charges and could alter a charge under Section 216 CrPC. In this Section 482 proceeding, the High Court neither framed a Section 420 charge nor determined guilt. It dismissed the request to quash the FIR and charge sheet.

Case-note :- ***1. Facts :*** Rohit Sahu operated Subham Dudh Dairy Milk Product in Guna. On 9 January 2020, a Food Safety Officer inspected the dairy and found milk stored for sale in allegedly unhygienic conditions. Ten samples were taken under the Food Safety and Standards Act, 2006 (FSSA) and sent to the State Food Laboratory. They included milk from six containers, packaged milk, skimmed milk powder and desi ghee. The report dated 15 January 2021 found that two samples passed and eight were substandard. Under the FSSA reporting process, the Designated Officer transmitted the analyst's report for service and offered reanalysis under Section 46(4). Police registered Crime No. 184/2021 at Police Station Guna under Sections 269, 272 and 273 IPC and filed a charge sheet on 16 March 2021. Charges had not yet been framed. A complaint was later filed before the FSSA Adjudicating Officer on 15 July 2021. In his Section 482 CrPC petition, Sahu sought quashing of the FIR and charge sheet. He argued that substandard food under Section 3(zx) FSSA falls below specification without being unsafe and attracts, at most, a monetary penalty under Section 51 through adjudication under Section 68, rather than IPC prosecution. He put the penalty ceiling at ₹5 lakh. He also submitted that there was no injury or consumer complaint, that parallel adjudication and criminal proceedings amounted to double jeopardy, and that the charge sheet did not include Section 420 IPC. The State opposed quashing. These were submissions.

2. Precedents — Considered : *State of Madhya Pradesh v. Rameshwar and Others, (2009) 11 SCC 424*, was quoted for rejecting the argument that a special co-operative-societies regime barred general criminal proceedings merely because it was a complete code. There was no statutory bar, particularly where charges under the Prevention of Corruption Act, 1988 were involved.

R.S. Joshi etc. v. Ajit Mills Ltd. and another, AIR 1977 SC 2279, was quoted at length on statutory forfeiture and penalty. The quoted discussion rejects the argument that forfeiture equal to unlawful collections is merely a transfer of funds rather than a penalty. It recognises the legislature's power to impose penalties for enforcement and explains that economic or regulatory liability may be absolute, without mens rea. The present Court used that reasoning to characterise FSSA adjudicatory penalties as enforcement measures, while distinguishing the Act's provisions for fines and imprisonment. The quotation itself describes forfeiture as a kind of penalty or punishment. The High Court's operative distinction concerned this FSSA adjudication and the criminal offence and fine process in the case before it; it did not treat every statutory penalty as universally non-punitive for every purpose.

M/s Som Distilleries Pvt. Ltd. v. Excise Commissioner and Ors. (W.P. No. 60/2016, order of 30.11.2018), affirmed in W.A. No. 362/2019 on 28.03.2019, was used as an example of a penalty for breach of a public-interest regulatory rule without need to prove mens rea or actual loss.

3. Statutes considered : Section 42 FSSA provides for sampling, the analyst's report, scrutiny by the Designated Officer and a recommendation to the Commissioner for FSSA contraventions punishable with imprisonment. It also provides for sanction or referral to the appropriate court and communication to the Food Safety Officer, who launches that prosecution. The Court construed this route as applying to prosecution under FSSA Sections 59–64, rather than automatically to independently punishable IPC offences. Section 3(zx) defines substandard food as food that fails to meet a specified standard without being rendered unsafe. Section 46(4) concerned the offered reanalysis. The Court discussed Section 51's penalty for substandard food, Section 68's adjudicatory process and opportunity to make representations, and Section 49's criteria for fixing the penalty. Those criteria include gain or unfair advantage wherever quantifiable, loss caused or likely to be caused to any

person, repetition, whether the contravention was without the person's knowledge, and other relevant circumstances. It contrasted penalties under Sections 50–58 with fines and imprisonment under Sections 59–64.

The police charge sheet cited Sections 269, 272 and 273 IPC. The Court considered whether the omission of Section 420 IPC prevented the trial court from framing a cheating charge if the alleged undisclosed sale of substandard products supported one. Section 216 CrPC permits alteration of a charge. Section 482 CrPC was the basis of the High Court's quashing jurisdiction.

4. Issues : (i) Did the Section 42 FSSA route for sanction and prosecution of offences punishable with imprisonment under that Act, together with adjudication under Sections 51/68 for substandard food, bar an IPC police FIR and charge sheet on the dairy sample allegations? The applicant submitted that only the special Act's penalty procedure was available; the State opposed that submission.

(ii) Did the subsequent FSSA adjudicatory complaint make the pending criminal proceedings impermissible double jeopardy, given the Court's distinction between regulatory penalty and criminal fine/imprisonment? No previous completed punishment was identified.

(iii) Could the trial court consider Section 420 IPC at initial charge framing where police had not included it, in light of the reported substandard samples and absence of disclosed quality limitations to customers?

5. Ratio / Findings : The Court construed Section 42 FSSA as governing the statutory procedure for FSSA contraventions punishable with imprisonment, including the roles of the Designated Officer and Commissioner. It confined that procedural requirement to the cited FSSA offences under Sections 59–64. Sahu identified no FSSA provision that the Court regarded as a general bar to applying the IPC. *Rameshwar* supported the limited proposition that a special scheme does not automatically displace general criminal law without an applicable bar. The Court therefore declined to quash the police case merely because samples had been taken under the FSSA or because a penalty complaint under Sections 51/68 also existed.

The Court then examined the distinct character it attributed to FSSA adjudication. Section 68 provides for an inquiry and monetary penalty after an opportunity to make representations. Section 49 requires consideration of gain or unfair advantage wherever quantifiable, loss caused or likely to be caused to any person, repetition, whether the contravention was without the person's knowledge, and other relevant factors. The Act uses the term penalty in Sections 50–58 and provides for fines and imprisonment in Sections 59–64. Drawing on *R.S. Joshi* and *Som Distilleries*, the Court described a regulatory penalty as a means of enforcing compliance, potentially without mens rea or actual loss, and distinguished it from a criminal fine or imprisonment for an offence. The later adjudicatory complaint did not, by itself, make the concurrent criminal proceedings double jeopardy. This rejected the asserted bar while the proceedings were pending; it did not decide a question of successive final punishments.

Finally, the Court considered the eight samples reported to be substandard and Sahu's failure to identify any material showing that the packaged or loose milk products were marked, or otherwise disclosed to consumers, as substandard. It reasoned that a purchaser ordinarily expects food meeting FSSA standards and treated the undisclosed sale of products below those standards as prima facie capable of cheating. The police had omitted Section 420 from the charge sheet, and the trial court had not yet framed charges. The Court observed that, when framing charges, the trial court could frame a supported charge even if the police had not included that offence in the charge sheet. A charge could also be altered under Section 216 CrPC.

6. Relief : The Hon’ble High Court dismissed the application under Section 482 CrPC and refused to interfere with Crime No. 184/2021 or the existing charge sheet. The trial court remained responsible for framing charges on the material and law applicable at that stage.

Rohit Sahu v. State of M.P. and Ors., M.Cr.C. no. 10982/2021, 29/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Food Safety and Standards Act / Sections 272 and 273 IPC / Section 89 override - The Court dismissed this Section 482 CrPC application by expressly applying the same-day *Neelkamal Sharma* order and adopting its distinction between food-adulteration charges and cheating. *Ram Nath v. State of Uttar Pradesh,*

2024:INSC:138 : (2024) 3 SCC 502, was understood to give Section 89 FSSA priority over inconsistent Sections 272 and 273 IPC where the same food-adulteration conduct attracts the more stringent Section 59 FSSA. *Sushil Kumar Gupta v. State of West Bengal (Criminal Appeal No. 1798/2024, decided 22.03.2024)* was treated as barring simultaneous prosecution under those provisions. The adopted order distinguished *Manik Hiru Jhangiani v. State of M.P. (Criminal Appeal No. 3864/2023, decided 14.12.2023)*, which concerned the former Prevention of Food Adulteration Act. It also found the applicants' reliance on *Rajkumar Tinkar* distinguishable. Section 89 was not treated as conferring blanket immunity from all IPC offences. Roop Singh's FIR under Sections 420, 272 and 273 IPC was not quashed; this judgment did not recite its individual factual allegations.

Adulterated food represented as pure / distinct cheating allegation - The incorporated *Neelkamal* reasoning held that selling adulterated milk as pure to unsuspecting purchasers can prima facie constitute cheating under Section 420 IPC, even if the FSSA displaces prosecution under Sections 272 and 273 IPC. It followed *Rohit Jain v. State of Madhya Pradesh (M.Cr.C. No. 14294/2021, decided 23.02.2024)*, which in turn discussed *Manish Gupta v. State of M.P. (M.Cr.C. No. 11462/2021, decided 01.04.2021)*. It also relied on *State of Madhya Pradesh v. Rameshwar, 2009:INSC:456 : (2009) 11 SCC 424*, for the narrower proposition that, absent a bar, a special statute does not exclude general criminal law where independent criminal conduct is alleged. The adopted order left consideration of any FSSA charge to the trial court. Roop Singh's application was dismissed on those terms.

Case-note :- ***1. Facts :*** Roop Singh Kushwah and others applied under Section 482 CrPC to quash Crime No. 156/2021 at Police Station Pahadgarh, District Morena, registered under Sections 420, 272 and 273 IPC. Their counsel expressly conceded that the case was governed by the same-day order in *Neelkamal Sharma and Others v. State of M.P. and Others*, M.Cr.C. No. 46662/2022. The High Court reproduced the substance of that order and dismissed Roop Singh's application on its terms. The detailed dairy search, milk sample and powder concerned the companion *Neelkamal* matter; they were not findings of fact about the Roop Singh applicants.

In the incorporated *Neelkamal* order, police and a Food Safety Officer inspected a dairy on 19 April 2022. The quoted account describes the seizure of powder, semi-prepared milk, ghee and other articles, including a tanker said to contain adulterated milk. A Food Analyst reportedly identified a milk solution as an adulterant under Section 3(1)(a) FSSA and the powder as maltodextrin capable of use as an adulterant. The police in that case registered offences under Sections 420, 272, 273 and 34 IPC. The applicants contended that the FSSA displaced IPC prosecution, while the State defended the FIR. These were the facts and competing positions in the cited companion matter, not independently established facts of Crime No. 156/2021.

2. Precedents — Considered : *Neelkamal Sharma and Others v. State of M.P. and Others (M.Cr.C. No. 46662/2022, order of 08.04.2025)* is the immediate authority expressly adopted. It distinguishes food-adulteration offences from an independent allegation that a seller deceives purchasers by presenting adulterated food as pure. The present Court held that Roop Singh's case was covered and dismissed the application on the same terms, without restating that FIR's facts. The incorporated order addressed *Ram Nath v. State of Uttar Pradesh and Others, 2024:INSC:138 : (2024) 3 SCC 502*, as a Supreme Court decision specifically concerning Sections 272 and 273 IPC. It quoted *Ram Nath*'s express limitation to those offences and its observation that Section 59 FSSA is more stringent where the same conduct attracts both. Section 89 FSSA therefore prevails to the extent of inconsistency concerning those food offences. *Sushil Kumar Gupta v. State of West Bengal (Criminal Appeal No. 1798/2024, decided 22.03.2024)* was likewise read as concerning Sections 272 and 273 and prohibiting simultaneous prosecution under both regimes for that subject matter. The High Court distinguished the applicants' attempt to extend those holdings to a separate Section 420 allegation, while preserving their force for Sections 272 and 273. The applicants also relied on the co-ordinate-bench decision in *Rajkumar Tinkar v. State of M.P. (M.Cr.C. No. 2159/2012, decided 03.04.2024), which the incorporated order distinguished.*

Manik Hiru Jhangiani v. State of M.P. (Criminal Appeal No. 3864/2023, decided 14.12.2023), cited by the State, was distinguished. It concerned prosecution under Sections 7/16 of the former Prevention of Food Adulteration Act after the FSSA

had come into force; it did not decide whether an independent cheating allegation survived the Section 89 override. The adopted order relied *on Rohit Jain v. State of M.P. (M.Cr.C. No. 14294/2021, decided 23.02.2024)*, which in turn quoted *Manish Gupta v. State of M.P. (M.Cr.C. No. 11462/2021, decided 01.04.2021)*, on the prima facie possibility of cheating where adulterated or substandard food is presented as pure. The older *Manish Gupta* quotation also spoke broadly of Section 272 IPC. The adopted order qualified that aspect in light of *Ram Nath*: registration under Sections 272 and 273 might be incorrect, while Section 420 was retained. *State of Madhya Pradesh v. Rameshwar and Others, 2009:INSC:456 : (2009) 11 SCC 424*, was quoted both within the *Manish Gupta* extract and again by the incorporated court. It rejected a categorical claim that the M.P. Co-operative Societies Act, 1960 excluded the general criminal process where there was no statutory bar and a conspiracy to cheat the bank was alleged.

3. Statutes considered : Section 89 of the Food Safety and Standards Act, 2006 overrides other laws to the extent of inconsistency. In the incorporated analysis, Sections 272 and 273 IPC concern adulteration of food or drink intended for sale and the sale or exposure for sale of noxious or unfit food. Section 59 FSSA provides the corresponding, more stringent food-safety offence. Section 3(1)(a) FSSA appeared in the Food Analyst's description in *Neelkamal*. Section 420 IPC concerns cheating by deception and was treated as a distinct allegation where adulterated food is offered as pure. Section 34 IPC formed part of the *Neelkamal* FIR only; it was not among the listed Roop Singh offences. Section 482 CrPC was the basis of the quashing jurisdiction.

4. Issues : (i) Did Section 89 FSSA and the Supreme Court rulings on overlapping food-adulteration offences require quashing the entire FIR, including the separate Section 420 IPC allegation? In the companion reasoning, the applicants invoked the priority of the special law, while the State maintained that cheating could still be investigated.

(ii) Could the Section 420 allegation survive at the threshold where the incorporated companion case described adulterated milk being presented as pure, and what question about possible FSSA charges was reserved for the trial court?

5. Ratio / Findings : The Court adopted *Neelkamal*'s analysis and result. In that order, Section 89 FSSA was read with *Ram Nath* and *Sushil Kumar Gupta* as giving the FSSA priority where Sections 272 and 273 IPC concern the same food-adulteration conduct. The incorporated order acknowledged that registration under those two IPC provisions might be incorrect. It confined the Supreme Court holdings to the offences they considered and did not treat either *Ram Nath* or *Sushil Kumar Gupta* as foreclosing a separate allegation of cheating under Section 420 IPC. *Manik Hiru Jhangiani* concerned prosecution under a different historical statute and was distinguished.

The incorporated court treated the alleged false representation that adulterated milk was pure as capable of deceiving purchasers and prima facie supporting an offence under Section 420. The Food Analyst's result and the powder were recited as contextual material in that companion case. Following *Rohit Jain* and *Manish Gupta* on cheating, and applying *Rameshwar*'s principle against automatic exclusion of general criminal law, it held that Section 89's inconsistency rule did not completely bar IPC cheating. This proposition depends on facts supporting deception and the ingredients of the offence. It is neither a final finding of cheating nor authority for duplicate prosecution under Sections 272 and 273 IPC.

6. Relief : The Hon'ble High Court dismissed Roop Singh Kushwah and the other applicants' Section 482 CrPC application to quash Crime No. 156/2021 on the terms and conditions of the same-day *Neelkamal Sharma* order. In that order, the FIR was not quashed because the Section 420 cheating allegation remained. The trial court in that case could consider framing a charge under the FSSA if the statutory offence was disclosed.

Roop Singh Kushwah and Ors. v. State of Madhya Pradesh, M.Cr.C. no. 4492/2022, 08/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (812) Prev Next

Headnote :- Framing of charge / agency-based breach of trust / prima facie standard - The Court applied the Supreme Court's charge-stage authorities: *Ajay Kumar Parmar v. State of Rajasthan, AIR 2013 SC 633; Soma Chakravarty v. State (Th. CBI), 2007 AIR SCW 3683; P. Vijayan v. State of Kerala, 2010 Cri LJ 1427; State of Bihar v. Ramesh Singh, AIR 1977 SC 2018; Union of India v. Prafulla Kumar Samal, AIR 1979 SC 366; Niranjan Singh v. Jitendra Bhimraj Bijjaya, AIR 1990 SC*

1869; and *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*. At the initial stage, the court may sift the prosecution record only to identify the offence ingredients and sufficiently strong or grave suspicion. It does not determine guilt, conduct a roving evidentiary inquiry or resolve disputed authenticity as at trial. The complainant's FIR and Section 161 CrPC statement specifically alleged that Arun Yadav had been appointed an agent to sell vehicles and account for the receipts. On those allegations and consideration of the charge sheet as a whole, the Magistrate's prima facie view that Section 409 IPC was attracted could stand.

Criminal revision / premature weighing of charge-sheet material - Applying the restraints on charge-stage review and *Amit Kapoor*'s principles on sparing interference under Sections 397 and 482 CrPC, the Court held that the revisional court had exceeded its jurisdiction. It had scrutinised the genuineness of stock documents and required a handwriting-expert determination before allowing the Section 409 IPC case to proceed. The disputed signature could be tested at trial; it did not justify a detailed inquiry into the truth of the prosecution allegation at this preliminary stage. The order directing a Section 406 IPC trial in place of the Magistrate's Section 409 course was quashed, and committal to the Sessions Court was restored.

Case-note :- ***1. Facts :*** Royal Automobiles Private Ltd. complained that it was an authorised Mahindra vehicle dealer in the Gwalior division and had appointed Ashok Rawat and Arun Yadav as agents to sell vehicles through its Karera outlet. The FIR alleged that they sold three vehicles for cash, represented the transactions as financed by Mahindra Finance, and failed to credit the dealer's sale proceeds within the agreed seven to ten days. According to the complaint, an inquiry with the finance company revealed that it had not financed those sales. Partial deposits of ₹13,510 and ₹50,000 were made on 11 July and 29 October 2013, respectively. An affidavit promising payment of the alleged balance of ₹8,95,202 within three months was not honoured. These matters remained allegations at this procedural stage. Police registered Crime No. 432/2014 under Section 406 read with Section 34 IPC.

The Assistant Public Prosecutor applied for the material to be treated as also disclosing the aggravated offence under Section 409 IPC and for committal to the Sessions Court. The JMFC, Karera allowed the application on 29 October 2018. Arun Yadav challenged that order in Criminal Revision No. 163/2018 before the Second Additional Sessions Judge, Karera. On 31 January 2019, the revisional court allowed the revision, concluding after examining the documentary evidence that Section 409 was not made out and directing a trial under Section 406. The dealer invoked Section 482 CrPC to challenge the revisional order.

The dealer submitted that revision could correct legal flaws but could not be used to reassess the evidentiary record. It relied on the express allegation of agency in the FIR. Arun Yadav submitted that no document appointing him as an agent had been filed and that the JMFC should have referred the disputed signatures on a stock-acceptance document to a handwriting expert. The question for the Court was the permissible scope of preliminary assessment, rather than the genuineness of the signatures or ultimate proof of entrustment and appropriation.

2. Precedents — Considered : *Ajay Kumar Parmar v. State of Rajasthan, AIR 2013 SC 633*, was quoted on the distinction between judicial screening by a Magistrate under Section 190 CrPC and impermissible weighing of acceptable evidence at that stage. The screening concerns the complaint, case diary and witness statements under Sections 161 and 164 CrPC. *Soma Chakravarty v. State (Th. CBI), 2007 AIR SCW 3683*, supplied the provisional charge test: material suggesting that the accused might have committed the offence can justify a charge, whereas conviction requires proof beyond reasonable doubt. Prosecution material is taken as true for this limited inquiry. The present Court used these rules to reject a premature decision on credibility and authenticity. *P. Vijayan v. State of Kerala, 2010 Cri LJ 1427*, and *State of Bihar v. Ramesh Singh, AIR 1977 SC 2018*, were quoted on the distinction between mere suspicion and grave or strong suspicion at the charge stage. A judge may sift material and discharge the accused if the grounds are insufficient. Strong suspicion arising from the prosecution case may, however, justify proceeding even though it is not proof at trial. *Union of India v. Prafulla Kumar Samal, AIR 1979 SC 366*, added that the judge may weigh the record to the limited extent necessary to identify a prima facie case, considering broad probabilities and basic infirmities without a roving inquiry as at trial.

The order names the 1990 authority as "*Niranjan Singh vs. K.S. Punjabi vs. Jitendra Bhimraj Bijjaya*"

(*AIR 1990 SC 1869*). The quoted passage permits the judge, at the charge stage, to sift the record to determine whether facts taken at face value constitute the offence, without marshalling the evidence as at the end of trial. *Amit Kapoor v. Ramesh Chander & Anr., (2012) 9 SCC 460*, was quoted at length. It distinguishes the tentative opinion on charge under Section 228 from the definite opinion on discharge under Section 227, and strong suspicion at the initial stage from final guilt. Its principles governing restrained interference under Sections 397 and 482 require examination of the uncontroverted allegations and prosecution documents for the basic offence ingredients. They caution against meticulous assessment of proof, a full inquiry or reliance on extraneous defence material, while permitting intervention where an express bar, patent legal defect or abuse of process warrants it. A civil claim does not, by itself, displace allegations that also constitute a crime. The present Court applied these combined Supreme Court principles to the revisional order's treatment of the agency allegation and disputed stock signature.

3. Statutes considered : Section 406 IPC was the provision under which police registered the ordinary criminal breach-of-trust case and the revisional court directed trial.

Sections 397 and 482 CrPC concerned, respectively, the revisional order under challenge and the petition before the High Court. Exercising Section 482, the Court corrected what it regarded as an impermissible preliminary inquiry by the revisional court into the truth of prosecution documents. It directed committal for trial before the Sessions Court, leaving proof at trial unresolved.

4. Issues : (i) Did the FIR, Section 161 statement and charge sheet permit a prima facie view at the preliminary stage that the alleged vehicle-sales agent's handling of cash proceeds attracted Section 409 IPC, without first obtaining documentary proof of appointment or a handwriting-expert finding on the disputed stock record? The accused challenged the agency basis; the dealer relied on its express allegation and the limited scope of charge-stage review.

(ii) Did the revisional court, when reversing the Magistrate's committal course in favour of a Section 406 trial, exceed its proper role by evaluating the genuineness of charge-sheet material and demanding expert verification rather than assessing the prosecution material as a whole at face value? The petition also raised the scope of the High Court's corrective power under Section 482.

5. Ratio / Findings : The Court drew together the Supreme Court authorities' common charge-stage rule and its qualifications. A judicial officer must identify the offence ingredients and determine whether the record provides sufficient ground to proceed, sifting the material only for that purpose. Strong or grave suspicion may justify proceeding; mere suspicion or an inherently insufficient prosecution case may justify discharge. Neither a charge nor committal determines guilt. At this stage, the court must not undertake the detailed balancing of credibility, disputed document authenticity and probabilities reserved for trial. The quoted *Amit Kapoor* principles also caution against pre-trial quashing once a factual foundation for an offence has been alleged. They nevertheless preserve intervention where basic ingredients are absent, an express bar applies or abuse of process is established. The FIR and the complainant's Section 161 CrPC statement specifically alleged that Arun Yadav had been appointed an agent to sell the vehicles. The prosecution alleged cash sales, false descriptions of financing and failure to remit the receipts. The agency allegation supported the Magistrate's provisional assessment under Section 409. The revisional court instead evaluated the correctness and genuineness of the documents and reasoned that the stock-acceptance signature should first be referred to a handwriting expert. The High Court found that requirement unwarranted at this stage: it made the alleged agency depend on resolving a disputed document as at trial, despite the FIR and statement. The revisional court should have considered the charge sheet as a whole without a roving inquiry into the truth of the allegations. This was a prima facie procedural holding. The merits of the agent's defence, the question of expert examination at trial and ultimate culpability remained open.

6. Relief : The Hon’ble High Court quashed the Second Additional Sessions Judge's order dated 31 January 2019 in Criminal Revision No. 163/2018. It upheld the JMFC, Karera's order, identified in the concluding paragraph as dated 29 October 2018, and directed committal to the Sessions Court for trial. The Section 482 CrPC petition was disposed of.

Royal Automobiles Private Ltd. v. Arun Yadav and Ors., M.Cr.C. no. 39637/2019, 03/12/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (813) Prev Next

Headnote :- Seized property / loss in court-controlled custody / compensation - In *Smt. Basava Kom Dyamogouda Patil v. State of Mysore, AIR 1977 SC 1749*, the Supreme Court held that seized property may be in custodia legis even while physically held by another custodian under the court's direction. If it is lost or stolen, no prima facie showing of due care is made and its value is ascertainable, payment of that value may be ordered in an appropriate case. Applying this reasoning, the Court directed the State to pay ₹80 lakh for gold and silver ornaments seized in a criminal case, kept in the treasury and found missing before their ordered interim release. This was the value attributed to the seized ornaments by the respondents themselves. The ruling concerned the identified seized property, rather than the entire value of everything originally alleged to have been stolen. An earlier interim custody order had contemplated a three-fourths and one-fourth distribution subject to civil succession proceedings. The Court nevertheless directed release of the ₹80 lakh compensation according to the parties' shares only upon their obtaining succession certificates. The State's duty to pay and the identity of the ultimate recipients were separate questions.

Case-note :- ***1. Facts :*** The petitioners sought ₹80 lakh compensation under Article 226 of the Constitution for gold and silver ornaments seized in criminal cases and later found missing from the treasury where they had been kept under court control. The cases arose from a violent incident at a house. The judgment recounts the prosecution's allegation that intruders murdered Basanti Devi, injured Rameshchand and removed valuables. The writ concerned the seizure, official custody, subsequent non-production and assessed loss of the ornaments. The original cases included offences under Sections 302, 396, 307 and 460 IPC.

After trial, the petitioners applied for release under Sections 451 and 457 CrPC. An order dated 19 November 2013 provided for joint interim custody of the ornaments on a ₹30 lakh personal bond. In M.Cr.C. No. 10372/2013, the order dated 18 March 2016 modified that arrangement because Satish Goyal would not execute a joint bond. After valuation, three-fourths of the ornaments were to be given to the petitioners in interim custody on appropriate bonds. Satish Goyal could establish his share before the competent succession court and seek corresponding interim custody. The earlier order expressly permitted the trial court to recall and reallocate the ornaments if a later succession determination required it. These were temporary custody arrangements, not a final declaration of ownership.

On 28 March 2016, the trial court required the treasury to produce the ornaments for valuation and delivery, but they were not produced. It sought assistance from the District and Sessions Judge on 4 July 2016. By 6 July, a departmental inquiry concerning the former Malkhana Nazir had been instituted because the ornaments could not be traced. Following the inquiry, Crime No. 290/2017 was registered at Police Station Padav under Section 409 IPC concerning the missing property, valued at ₹80 lakh. The Court recorded that the ornaments had gone missing from the treasury and were not recoverable. The petitioners also complained of police inaction in finding those responsible.

2. Precedents — Considered : *Smt. Basava Kom Dyamogouda Patil v. State of Mysore and another, AIR 1977 SC 1749*, was the material Supreme Court authority quoted and applied. It rejected the view that a court could exercise authority over articles produced before it only if they remained in its physical possession. An order directing police to retain and value the articles could place them in custodia legis. Where articles forming the subject of an offence were lost, stolen or destroyed, the court was not powerless to order their return or, in an appropriate case, payment of their value, particularly where the State made no prima facie showing of due care. The value had to relate to the recovered and seized articles and be supported by the record, rather than represent the total value stated in the original theft complaint. In *Basava*, the Supreme Court used the charge sheet and police report to assess the recovered property at approximately ₹10,000 and ordered the State to pay that amount. It also noted the absence of a plea that the loss had occurred despite due care or through circumstances beyond the State's control. The present Court applied the same reasoning concerning custody and value to the seized ornaments kept in the treasury and later found missing when the trial court sought production. It treated the respondents' own valuation of ₹80 lakh as

the ascertained value of those ornaments. The earlier order in M.Cr.C. No. 10372/2013 (18 March 2016) provided for interim custody subject to determination of shares by the competent succession court.

3. Statutes considered : Article 226 of the Constitution provided the writ jurisdiction for the petitioners' claim to compensation for the official loss of property seized in criminal proceedings. Sections 451 and 457 CrPC were the basis of their earlier trial-court application for interim custody or release of the ornaments. The judgment explains that delivery could not take place because the treasury failed to produce them. The original violent-crime provisions and the cited warrant process under Section 299 CrPC were background matters only. Succession certificates were required to establish the competing recipients' shares before disbursement; no specific succession-law provision was interpreted.

4. Issues : (i) Should the State pay the assessed value of gold and silver ornaments seized in a criminal case, retained in official custody under court control and found missing when the trial court ordered interim release? The petitioners sought ₹80 lakh. The issue concerned responsibility for the property actually seized, rather than compensation for every item originally alleged to have been stolen.

(ii) Were the petitioners alone entitled to receive the full sum despite Satish Goyal's competing asserted succession share, or did distribution require a determination by the competent succession forum?

5. Ratio / Findings : The controlling question was the State's liability for the loss of the seized ornaments. Acting on earlier judicial directions, the trial court had required their production, valuation and temporary release. The treasury did not produce them; an official inquiry found them missing, and an FIR followed. Quoting and applying *Basava*, the Court gave legal significance to official retention under court control and rejected the result that disappearance of the case property would leave the claimant without compensation. *Basava*'s principle concerned articles actually recovered and seized, with an ascertainable value, and treated due care as relevant to the State's resistance in an appropriate case. The Court did not derive the value from an untested total claimed by the petitioners. It relied on the respondents' own assessment of ₹80 lakh and directed respondent No. 1 to pay that amount.

The Court distinguished the duty to pay from beneficial entitlement to the money. The earlier interim custody direction had provisionally allowed the petitioners three-fourths of the ornaments, subject to Satish Goyal's right to seek a succession declaration. Both groups claimed shares in this writ, and Satish Goyal had filed W.P. No. 27299/2018 claiming one-fourth. The Court expressly declined to determine their competing entitlement in this proceeding. Compensation was to be released according to the shares established by succession certificates. The provisional interim allocation therefore did not automatically become the final allocation of compensation.

6. Relief : The Hon'ble High Court disposed of the writ petition and directed respondent No. 1, the State Government, to pay ₹80 lakh compensation for the missing seized ornaments. The amount was to be released to the petitioners and Satish Goyal only upon their obtaining succession certificates for their respective shares, and in accordance with those certificates.

Ruchi Agarwal and Ors. v. State of Madhya Pradesh and Ors., W.P. no. 5466/2017, 03/09/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (814) Prev Next

Headnote :- Investigation / accused's role / Section 482 CrPC - In *Romila Thapar and Others v. Union of India and Others*, W.P. (Criminal) No. 260 of 2018, decided 28.09.2018, the Supreme Court held that an accused cannot select the investigating agency or demand a particular manner of investigation, including court monitoring. Allegations of mala fides require concrete particulars, although exceptional constitutional intervention remains available on a properly established basis. Following that authority and *Prabal Dogra v. Superintendent of Police, Gwalior, ILR 2017 MP 2881*, the Court refused the accused applicants' request to have police investigate a murder FIR from their alibi perspective or adopt their documents. On these facts, Section 482 did not authorise the Court to supervise a disputed investigative assessment.

Alibi / defence documents at investigation stage - The FIR specifically attributed the fatal gunshot to applicant No. 1. The applicants' claim that they were absent was a defence requiring cogent evidence; the investigating officer could not be compelled to rely on their documents. The Court also observed that the accused may use a prosecution document in defence

even if it has not been exhibited. These observations addressed a premature request to direct investigation. They did not determine the truth of the alibi or the applicants' guilt. Proceedings under Sections 82–83 CrPC had been initiated. The Section 482 application was dismissed.

Case-note :- ***1. Facts :*** The case arose from FIR Crime No. 38/2020 at Police Station Pichore, District Shivpuri. The complainant, Bhagwat Singh Chauhan, reported that he, his brother, his nephew Raghvendra Singh and others were at their agricultural field at about 4 p.m. on 19 December 2019 while crops were being irrigated. According to the report, Golu alias Rudra Pratap Singh (applicant No. 1), Banti (applicant No. 2) and other armed persons arrived. Applicant No. 1 allegedly fired at Raghvendra Singh's chest from close range, and further shots were fired towards those present. Raghvendra Singh died while being taken to Jhansi Hospital.

Counsel for the applicants submitted that police had found co-accused Meharwan Singh to be elsewhere and had not filed a charge sheet against him. Yet, according to the applicants, police had not examined documents showing that they too were absent. Police had filed a charge sheet against co-accused Sanju alias Sanjay Bundela, treating the applicants as absconding. Proceedings under Section 82 CrPC had begun, and further investigation concerning them remained pending under Section 173(8). The applicants invoked Section 482 CrPC, seeking a direction for a free, fair and impartial investigation that considered their defence material and asserted alibi. Later in the judgment, the Court recorded that proceedings under Sections 82 and 83 had been initiated.

2. Precedents — Considered : *Romila Thapar and Others v. Union of India and Others*, Writ Petition (Criminal) No. 260 of 2018, decided 28 September 2018, was quoted at length and applied as the governing Supreme Court authority. Drawing *on Narmada Bai v. State of Gujarat*, it states that accused persons cannot choose the investigating agency. Drawing *on Sanjiv Rajendra Bhatt v. Union of India*, it states that they have no right to prescribe the manner of investigation or mode of prosecution. Its reference to *E. Sivakumar v. Union of India* explains that an accused is not entitled, as a matter of course, to a hearing on a writ seeking impartial investigation or an exceptional transfer to the CBI. The quoted discussion of *Divine Retreat Centre v. State of Kerala* distinguishes intervention under inherent jurisdiction to change an investigator midstream from appropriate Article 226 directions where a mala fide exercise of investigative power is established. The Constitution Bench passage in *State of West Bengal v. Committee for Protection of Democratic Rights* cautions that CBI transfers under Articles 32/226 require sparing and cautious exercise in exceptional circumstances, rather than a routine response to allegations. *Romila Thapar* also requires concrete particulars of mala fides. A vague assertion and disagreement about the sufficiency of incriminating material do not justify court monitoring or investigation directed by the accused. Ordinary remedies of bail, discharge or quashing remain available at the proper stages. These authorities occur within the Supreme Court passage reproduced by the present Court. Its actual application was to reject the applicants' request to prescribe an investigative viewpoint, rather than to order or decide a CBI transfer. *Prabal Dogra v. Superintendent of Police, Gwalior, ILR 2017 MP 2881*, was also quoted and followed. That earlier High Court reasoning distinguishes the police duty to register a cognizable FIR from an accused's request for a Section 482 court to test the reliability of FIR allegations, case-diary statements or a medical report during investigation. It treats investigation as the officer's function, subject to a properly demonstrated case of bias, extraneous consideration or mala fides, and leaves disputed evidentiary questions for trial. The present Court applied that approach in refusing to prescribe how the applicants' alibi documents should be assessed. The *Romila Thapar* extract also mentions further authorities within its quotation of *Sanjiv Rajendra Bhatt* and its discussion of judicial limits.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973 was the provision under which the applicants sought an inherent-jurisdiction direction. On the facts presented, the Court held that persons accused in the FIR could not use it to dictate the investigating officer's treatment of their defence or require supervision of investigation from their preferred perspective. Section 173(8) formed part of the procedural context: further investigation concerning these applicants remained pending.

4. Issues : (i) Could accused persons seeking Section 482 intervention require police to investigate a murder FIR from their asserted alibi perspective and rely on documents they supplied, particularly when

police had treated a co-accused's absence differently?

(ii) Did the proffered alibi and disputed investigative assessment justify a judicial direction during pending investigation, or were those matters for proof and legally available later-stage defences?

5. Ratio / Findings : The Court distinguished fair investigation from an accused's power to control it. *Romila Thapar* holds that an accused cannot select an agency or dictate the manner of investigation, while preserving constitutional directions in a properly established case of mala fides or exceptional circumstances. *Prabal Dogra* similarly declines Section 482 supervision over an officer's assessment of disputed material, subject to demonstrated bias or extraneous consideration. By supplying documents said to show their absence, the applicants did not acquire a right to require investigation from their preferred viewpoint.

The FIR specifically alleged that applicant No. 1 fired the fatal shot. The Court also observed that the accused could use a prosecution document in defence even if it remained unexhibited. The initiation of proceedings under Sections 82–83 formed part of the context in which interference was refused.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC.

Rudra Pratap Singh and Ors. v. State of M.P., M.Cr.C. no. 48237/2020, 03/12/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (815) Prev Next

Headnote :- Circumstantial evidence — last seen together / Section 106 Evidence Act - The prosecution must first prove the association and a sufficiently close connection in time; last seen together is not conclusive by itself. *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750*, *Mahavir Singh v. State of Haryana, (2014) 6 SCC 716*, and *Jagroop Singh v. State of Punjab, (2012) 11 SCC 768*, were considered on the time gap and the possibility of an intervening event. *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, was applied to explain the limited role of facts especially within the accused's knowledge, once the prosecution has established the necessary foundation and those facts are considered with other circumstances. The deceased had been taken to the appellant's house, and his body was recovered buried there the next day. The appellant's account that the deceased had then visited another witness had not been put to that witness. The Court held that the last seen link was proved. This did not displace the prosecution's ultimate burden.

Discovery — Section 27 Evidence Act / articles in an open place - Applying *State of H.P. v. Jai Chand*, the Court held that public access to a recovery site does not, by itself, destroy the evidentiary value of an accused-led discovery. The appellant specified separate locations, led the police there and picked up the deceased's clothes and belongings, which the widow identified. The material link was his knowledge of where those particular articles lay. Accessibility had to be assessed in the full factual setting of the recovery; it was not an automatic ground for exclusion.

Circumstantial evidence — complete chain / conviction - *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, set out the five conditions requiring firmly proved and conclusive circumstances that exclude a reasonable hypothesis of innocence. *Pudhu Raja v. State, (2012) 11 SCC 196*, *Ram Singh v. Sonia, (2007) 3 SCC 1*, and *Inspector of Police v. John David, (2011) 5 SCC 509*, reinforced that suspicion cannot replace proof and that a missing important link breaks the chain. The Court considered together the last seen evidence, concealment of the body in the appellant's room, identified recovered articles, medical evidence of ligature strangulation and the viscera report recording a tranquilliser. It found the chain complete and affirmed the convictions under Sections 302 and 201 IPC. That conclusion rested on the circumstances proved in this appeal.

Case-note :- *1. Facts :* Sabir Khan appealed under Section 374 CrPC against the judgment and sentence dated 8 July 2011 of the Special Judge/Additional Sessions Judge, Guna, in Sessions Trial No. 283/2010. He had been convicted under Sections 302 and 201 IPC. For murder, he was sentenced to life imprisonment and a fine of Rs. 5,000, with one year of rigorous imprisonment in default. For causing disappearance of evidence, he received seven years of rigorous imprisonment and a fine of Rs. 5,000, again with one year in default. He challenged the completeness of the circumstantial chain, particularly the proof that Naushad's body had been recovered from a room in his house.

Naushad's widow, Neelu Bano (PW 1), described the appellant as a friend who regularly visited. She stated

that on 13 November 2010 he took Naushad away twice, the second time at about 2:30 p.m. At about 3 p.m., she spoke to Naushad while he was at the appellant's house. He told her that the appellant wanted him to stay until 10 p.m. Her later calls did not connect. The appellant visited her house, first to ask about Naushad and later to offer his phone for a call. The next morning, she and others went to the appellant's house and then approached the police. Her missing person report named the appellant as the person who had taken Naushad away. The defence challenged her account, suggesting that she and others had caused the death and buried the body to implicate him. She acknowledged a disputed financial claim between the two men and testified that the appellant disclosed the burial after police had beaten him.

Investigators stated that the appellant led them to a locked room in his house, where Naushad's body was exhumed. Neelu Bano, Salma (PW 2), Dr Anil Mishra (PW 3), investigating officer Devendra Singh (PW 7), D.K. Sharma (PW 8) and forensic scientist S.P. Sharma (PW 10) gave evidence about the recovery from different vantage points. The appellant's disclosure also led to the recovery of a pant, cap, belt and slippers at specified open locations; the widow identified the articles. A strip marked Trika 0.5 mg, with one of its four pills remaining, was seized from the house. The later viscera report recorded lorazepam, a tranquilliser. Dr D.S. Rana (PW 5) found an ante mortem ligature mark and subcutaneous haemorrhage, and identified strangulation/asphyxia as the cause of death. At the post mortem on 15 November, he estimated that death had occurred 36 to 48 hours earlier. The appellant called no defence witness. In his statement under Section 313 CrPC, he accepted that Naushad had come to his house but claimed that Naushad had then gone to Salma's house. That suggestion was not put to Salma. The High Court examined each circumstance and the evidence as a whole.

2. Precedents — Considered : On last seen evidence, *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750*, was quoted on the need to consider the interval between the last sighting and death. Where that interval permits another person to intervene, the inference is unsafe without other positive evidence. *Mahavir Singh v. State of Haryana, (2014) 6 SCC 716*, stated the same requirement of a close time gap. *Jagroop Singh v. State of Punjab, (2012) 11 SCC 768*, illustrated that discovery the next morning, considered with the medical timing, need not defeat the prosecution version. The Court applied those authorities to the afternoon departure, discovery the next day in the appellant's own room and the post mortem timing. *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, was quoted on the prosecution's initial evidentiary burden and the limited operation of Section 106 Evidence Act where facts lie especially within the accused's knowledge. Last seen gains force only when considered with surrounding incriminating circumstances and a failure to explain. The Court assessed the appellant's claim that Naushad went to Salma's house, noting that this account had not been put to her.

On discovery, *State of H.P. v. Jai Chand*, (reported in the judgment as *(2013) 10 SCC (Cri) 773*), was quoted for the rule that recovery of an article from an open place accessible to others is not, by that fact alone, vitiated under Section 27 Evidence Act. The Court applied that rule to the appellant's disclosure of particular locations, his production of the articles and their identification. It did not hold that every object found in a public place is automatically admissible or incriminating.

On the cumulative test, *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, was quoted at paragraph 153. Each circumstance must be fully established, point only to guilt, be conclusive, exclude other reasonable hypotheses and form an unbroken chain consistent, in human probability, with the accused having committed the act. *Pudhu Raja v. State, (2012) 11 SCC 196*, required reliable and clinching proof, warning that even grave suspicion cannot substitute for it. *Ram Singh v. Sonia, (2007) 3 SCC 1*, and *Inspector of Police v. John David, (2011) 5 SCC 509*, reiterated the need to prove every link and avoid conjecture. *John David* explained that the loss of an important link breaks the chain. It also reproduced a discussion from *State of U.P. v. Ram Balak, which included C. Chenga Reddy v. State of A.P. and* other cases. The Court applied the combined test after examining each issue and held that the proved chain was reasonably consistent only with the appellant's guilt.

3. Statutes considered : Section 374 CrPC provided the route for appealing against conviction and sentence. Section 313 CrPC gave the appellant an opportunity to answer the incriminating circumstances. The Court assessed his explanation against the prosecution evidence and his failure to

put to Salma the claim that Naushad had visited her house; it did not treat silence as a substitute for the prosecution case. Section 106 of the Evidence Act arose through *Ashok*, concerning facts especially within an accused's knowledge once the prosecution establishes a sufficient foundation. Section 27 of the Evidence Act was considered through *Jai Chand* in relation to discoveries at open locations. Sections 302 and 201 IPC were the offences of conviction. The Court affirmed both convictions after finding the homicide and concealment circumstances proved. It observed that life imprisonment was the minimum sentence under Section 302 and found no ground to alter either sentence.

4. Issues : (i) Did the prosecution prove that Naushad's death was homicidal by ligature strangulation and that he was last seen with the appellant within a sufficiently close and corroborated sequence, despite the claimed onward visit to Salma? (ii) Was the body proved to have been exhumed from a room in the appellant's house despite the absence of ownership documents and the suggested alternative attribution to the widow? (iii) Did discovery and identification of Naushad's belongings retain probative force when they lay in open places, and what use could be made of the pill strip and viscera finding? (iv) Did all the firmly proved circumstances, considered together, exclude a reasonable hypothesis of innocence under the governing Supreme Court test and justify affirming the conviction and sentence under Sections 302 and 201 IPC?

5. Ratio / Findings : The post mortem evidence established an ante mortem ligature mark with underlying haemorrhage and death by strangulation. In cross-examination, Dr Rana explained the approximate interval of 36–48 hours and that a ligature mark need not extend around the back of the neck. The Court treated the death as homicidal. It did not treat the case as involving a dispute over accidental or natural death.

On last seen evidence, the widow's account was corroborated by the missing person report naming the appellant and by Salma's evidence. In his Section 313 CrPC statement, the appellant accepted that Naushad had been in his house but claimed that he had then gone to Salma's house. That account had not been put to Salma. Applying the authorities on a close time gap, the Court considered the afternoon association on 13 November together with recovery of the body from the appellant's room the next day and the medical timing recorded on 15 November. It found the last seen circumstance proved. Its reasoning depended on the further links; it did not treat last seen alone as conclusive or transfer the entire burden under Section 106.

The Court found the location of the body proved by the converging evidence of the widow, Salma, the recovery witnesses, the investigating officer and the forensic scientist. It regarded the defence suggestion that the widow had arranged burial in the appellant's house as inconsistent with denying recovery there. The absence of documentary proof of title did not negate the unchallenged recovery evidence. The investigating officer also acknowledged that the room had been locked from outside and that relatives lived in the house. The Court concluded beyond reasonable doubt that the body had been buried in the appellant's room and dug out by him.

The appellant disclosed the locations of the deceased's clothes and belongings, then pointed them out and picked them up at more than one open place. The widow identified them. Applying *Jai Chand*, the Court held that open access alone did not invalidate the recovery, emphasising the appellant's specific knowledge of where the particular articles lay. It assessed the discovery evidence as a whole. A partly used Trika strip was recovered from his room, and the subsequent viscera report recorded lorazepam. The Court treated the timing and those findings as corroborating its inference that Naushad had been tranquillised before strangulation.

Finally, the Court applied the five-condition test for circumstantial evidence in *Sharad Birdhichand Sarda*, reinforced by *Pudhu Raja*, *Ram Singh* and *John David*. In its assessment, the homicidal death, close last seen sequence, concealment of the body in the appellant's room, accused-led discovery of identified belongings and toxicology evidence formed an uninterrupted chain. That chain pointed to his responsibility and excluded a reasonable explanation consistent with innocence.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. It affirmed the judgment and sentence dated 8 July 2011 in Sessions Trial No. 283/2010, including the convictions under Sections 302 and 201 IPC, life imprisonment and the seven-year term, with the respective fines and default sentences. It found no ground to interfere with either sentence, noting the minimum life term for murder. The appellant was in jail and was directed to undergo the remaining sentence. A copy of the judgment was

to be supplied to him immediately, free of cost. The trial court record was to be returned with a copy of the judgment for information and compliance.

Sabir Khan v. State of Madhya Pradesh, Cr.A. no. 788/2011, 10/05/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (816) Prev Next

Headnote :- Inherent powers — Section 482 CrPC / no mini trial - An application to quash an FIR and charge sheet must be assessed on the uncontroverted allegations and the applicable legal threshold. The Court cannot decide whether the complainant is truthful or accept disputed exculpatory material. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, were considered for the limits on a roving factual inquiry or scrutiny of the kind undertaken at trial. The Court could not determine whether the complainant's lawyer brother had induced false allegations or assess her earlier exculpatory writings in inherent jurisdiction. It expressly disclaimed any finding on the merits of those competing accounts.

Quashing — face-value offence threshold / limited documentary exception - *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, discussing *Bhajan Lal*, requires the power under Section 482 to be exercised sparingly and prohibits inquiry into the reliability of FIR allegations. *State of A.P. v. Gourishetty Mahesh and M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, permit quashing when the uncontroverted allegations and supporting material, even if accepted, disclose no offence. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognises that, in an appropriate case, a public document or a defence document whose veracity the complainant does not dispute may be considered; this does not permit a general assessment of contested writings. The Court found that the FIR prima facie alleged cruelty under Section 498A IPC and that counsel had not challenged the allegations taken at face value. The allegations and proposed defence were left for trial, and the quashing application was dismissed.

Case-note :- ***1. Facts :*** Sagar and the other applicants invoked Section 482 CrPC in MCRC No. 16026/2024 to seek quashing of FIR No. 13/2024 and the charge sheet in RCT No. 1168/2024 before the Judicial Magistrate First Class. The prosecution concerned Sections 498A, 406 and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. They also sought a stay of the proceedings and protection against coercive action pending the petition.

Counsel argued that applicant no. 1 and the complainant's brother were both practising advocates and that the brother had allegedly misled respondent no. 2 into making a false complaint. Counsel relied on writings in which, according to the applicants, she had attributed an earlier complaint to her brother's advice and denied harassment. The applicants denied any dowry demand and referred to their visit to Jabalpur for a marriage ceremony attended by respondent no. 2. They asked the High Court to treat these circumstances as showing that the FIR was false and motivated. After hearing counsel, the Court examined the suggested inference from the brother's profession and the competing possibility that applicant no. 1, also a lawyer, might have obtained exculpatory writings. It immediately clarified that these observations were not findings on the facts or merits: disputed allegations and defence accounts could not be resolved in a quashing petition. Counsel did not separately argue that the FIR allegations, even if accepted as true, failed to disclose an offence. The Court found that cruelty was prima facie alleged and decided the petition on that basis.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337*, was quoted for its ruling that the High Court had erred in halting investigation and conducting a roving inquiry into serious allegations under Section 482 CrPC. The Supreme Court there considered a disputed settlement document allegedly procured by threat; the High Court could not rely on it to decide consent before investigation. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, reinforced that an assessment of the merits before investigation is completed is uncalled for.

Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, reproduced the caution in *State of Haryana v. Bhajan Lal*: the power under Section 482 is exceptional, must be exercised sparingly and with circumspection, and does not authorise inquiry into the reliability or genuineness of allegations in the

FIR or complaint. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, stated the ordinary rule against assessing the accused's defence or the veracity of defence documents. It recognised an exception where, in an appropriate case, the document is a public document or its veracity is not disputed by the complainant.

State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226, explained the limits of the jurisdiction and the grounds for intervention: the High Court should not determine evidentiary reliability or stifle a legitimate prosecution, but may intervene sparingly where allegations taken at face value disclose no offence, an express legal bar applies, or abuse of process is otherwise established on sound principles. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, reiterated that quashing is justified if the uncontroverted FIR allegations and supporting material make out no offence. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproved findings on disputed facts and minute examination of the accused's defence after cognizance; defence evidence must be assessed at trial. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, order dated 30 June 2021, rejected meticulous scrutiny of the kind undertaken at trial under Section 482 and observed that an FIR need not be encyclopedic. The Bench applied these principles to the present case.

The judgment then cited *Munshiram v. State of Rajasthan, (2018) 5 SCC 678; Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221; State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547; S. Khushboo v. Kanniammal, (2010) 5 SCC 600; Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336; Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*; *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*; and *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, stating that they had laid down similar law. These authorities were cited for the test based on allegations taken at face value and the prohibition on conducting a mini trial.

3. Statutes considered : Section 482 CrPC was the source of the High Court's inherent jurisdiction and the principal provision interpreted. It permits intervention to prevent abuse of process or secure justice, but does not ordinarily permit the Court to decide disputed factual defences or assess witness credibility as a trial court would. Sections 498A, 406 and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act were the provisions under which offences were alleged in the FIR and charge sheet.

4. Issues : (i) Whether the High Court, in a challenge to an FIR and charge sheet under Section 482 CrPC, could determine that the complainant's lawyer brother had instigated false allegations, or accept disputed prior writings and social conduct as disproving her complaint. (ii) Whether the FIR allegations taken at face value and the uncontroverted prosecution material failed to disclose a cognizable offence so as to permit exceptional quashing, or whether the proposed defence required investigation and trial. (iii) Whether the applicants were entitled to quashing and the requested interim protection when their counsel had not challenged the FIR allegations as failing to disclose the ingredients of an offence and the Court found that cruelty was prima facie disclosed.

5. Ratio / Findings : Applying the Supreme Court authorities, the Court held that the jurisdiction under Section 482 must be exercised sparingly. Quashing on the ground that the allegations disclose no offence requires that the uncontroverted allegations, taken at face value, fail to disclose an offence. The Court acknowledged, through *Mohd. Akram Siddiqui*, that, in an appropriate case, a public document or a document whose veracity the complainant does not dispute may exceptionally be considered.

The principal defence argument rested on an inference from the brother's profession as a lawyer. The Court rejected the assertion that his legal training itself showed a motive to spoil the complainant's life. It observed that applicant no. 1 was also a lawyer and that the contrary inference concerning the procurement of exculpatory writings was equally possible. It expressly qualified these remarks: the possibilities were mentioned to test the gravity of counsel's allegation, not to decide whether either side's account was true. The merits of the writings, the alleged false report, the marriage visit and any underlying cruelty remained for determination in the criminal proceedings.

Counsel had not argued that the FIR allegations, taken at face value, failed to disclose the ingredients of the alleged offences. The Court found that the FIR prima facie disclosed cruelty and declined to determine the truth of the complaint or the defence at this stage. It therefore found no basis to interfere with the FIR or charge sheet.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC and refused to

quash FIR No. 13/2024 or the charge sheet in RCT No. 1168/2024.

Sagar and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 16026/2024, 20/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (817) Prev Next

Headnote :- Witness evidence — related or interested eyewitnesses / careful scrutiny - Kinship with a deceased person does not make sworn testimony inherently unreliable, nor does it impose an invariable requirement of independent corroboration. *P. Venkateswarlu v. State of A.P., (2002) 10 SCC 46*, required caution in assessing whether a related eyewitness's account is natural, consistent and supported by the record. *Abhishek Sharma v. State (Govt. of NCT of Delhi), (2024) 13 SCC 660*, explained that even partisan evidence, if intrinsically reliable after careful scrutiny, can sustain a conviction without an inflexible requirement of corroboration. Applying those principles, the Court examined the account given by the victims' relatives in light of their claimed vantage point, extensive cross-examination, the prompt dehati nalish and FIR, the medical evidence of injuries and the other evidence. Their failure to intervene in the axe assault was not treated as a ground for automatically rejecting their testimony. The Court found their account of the material events credible.

Murder appeal — cumulative ocular, medical and forensic assessment - The Court assessed the related eyewitnesses' account together with the multiple incised injuries to the victims' heads and faces, the consistent evidence of seizure of an axe from the appellant, and the FSL report detecting human blood on it. On this evidence, the absence of hair traces or a specific blood-group result did not undermine the eyewitness testimony or medical findings. A defence witness's account of unidentified assailants was rejected because her version changed during her testimony and conflicted with the unchallenged evidence of a prosecution witness who described her presence and conversation with the appellant. These findings rested on the evidence in this case. The convictions for two murders under Section 302 IPC and the concurrent life sentences were affirmed.

Case-note :- ***1. Facts :*** Sahab Singh challenged, by way of a criminal appeal, the judgment dated 24 November 2018 of the Additional Sessions Judge, Pichhor, District Shivpuri, in Sessions Trial No. 17/2017. He had been convicted on two counts under Section 302 IPC for the murders of Bhagwati Lodhi and Deva Pal. On each count, he was sentenced to life imprisonment and a fine of Rs. 2,000, with a default clause; the life sentences were directed to run concurrently. The appeal challenged the identification of the appellant, the reliability of the prosecution eyewitnesses and the supporting forensic evidence.

According to the prosecution, both women worked as Anganwadi workers and were carrying a midday meal to their workplace on 21 September 2016. Bhagwati's husband Jasrath (PW 1) and Deva Pal's brother-in-law Halke Pal (PW 2) were walking behind them. When the women stopped to clear bushes obstructing the path, the appellant allegedly emerged with an axe and repeatedly struck both, causing their deaths at the scene. The alleged motive was his longstanding demand for part of Bhagwati's salary after helping her obtain appointment; she had stopped making these payments during the preceding two years. A dehati nalish and merg report were prepared, and an FIR was registered. Investigation, the filing of a charge sheet and trial followed.

The defence disputed the eyewitnesses' presence or reliability, arguing that close relatives would have tried to save the women, that the alleged motive relating to recruitment was stale, and that the seized axe had no traces of hair or identification of a specific blood group. Phoolwati (DW 1) testified that three unidentified persons had attacked the women; the prosecution evidence also referred to her presence near the pond. The State relied on Jasrath and Halke's accounts, the seizure witnesses, the post mortem reports and the FSL evidence. The appellate court examined the eyewitness, medical, forensic and defence evidence separately and then considered it together.

2. Precedents — Considered : *P. Venkateswarlu v. State of A.P. and Others, (2002) 10 SCC 46*, was quoted for the observation that those present at an occurrence are often relatives or persons sharing an interest with the deceased; the safeguard is cautious scrutiny of their evidence. A natural and consistent account supported by the record is not rejected merely because of that relationship. The Bench applied this standard to Jasrath, Halke and the seizure witnesses, examining whether their accounts had been materially shaken or were improbable.

Abhishek Sharma v. State (Govt. of NCT of Delhi), 2023:INSC:924 : (2024) 13 SCC 660, was quoted for the principle that interested or even partisan testimony is not necessarily unreliable, and that no invariable rule requires independent corroboration in material particulars before such testimony can sustain a conviction. Its intrinsic reliability and probability require careful scrutiny; credible testimony may suffice in the circumstances of the particular case. The Court applied this principle to the relatives' consistent account under extensive cross-examination and its agreement with the early reports and other evidence.

3. Statutes considered : Section 302 IPC was the provision under which the appellant was convicted separately for the murders of Bhagwati and Deva Pal. The Court considered whether the prosecution evidence established both murders and whether the two life terms, fines and direction for concurrent sentences warranted appellate interference. The dehati nalish, FIR, medical reports and FSL report were assessed as evidence.

4. Issues : (i) Whether Jasrath and Halke's relationship to the deceased, failure to intervene and the alleged contradictions made their identification of the assailant armed with an axe unsafe, or whether their testimony remained reliable on careful scrutiny. (ii) Whether the medical and forensic evidence sufficiently supported the prosecution despite the absence of hair on the axe and a specific blood-group result. (iii) Whether Phoolwati's account of unidentified assailants created reasonable doubt, and whether the findings of guilt for the two murders and the concurrent sentences required interference on appeal.

5. Ratio / Findings : Dr Rituraj (PW 18) proved the post mortem reports Ex P/24 and Ex P/25. Bhagwati had three incised injuries above the shoulder, with fractures of the head and jaw; Deva Pal had three such injuries and one on her right hand, also with craniofacial fractures. The Court held that both deaths were homicidal. It rejected the contention that hair must have remained on the axe. Given the multiple blows and substantial bleeding, the sequence of injuries could not be inferred, nor could it be assumed that any hair traces would have remained. This assessment concerned the evidence in the case and did not state a general forensic rule.

Jasrath described watching from a safe distance, approaching after the assailant had fled and finding both victims dead. His extensive cross-examination disclosed no material inconsistency; his account agreed with the dehati nalish and FIR. Halke supported his account on the material facts. The Court treated the defence suggestion that Jasrath alone was present as acknowledging Jasrath's presence, while failing to dislodge Halke's account. No material discrepancy between Halke's testimony and his police statement was demonstrated. Applying *P. Venkateswarlu* and *Abhishek Sharma*, the Court carefully examined the related witnesses' evidence rather than rejecting it on account of their relationship or invariably requiring independent corroboration. It found their presence and account natural and reliable. It did not rely on the hearsay accounts of Maneesha and Anrath Pal as direct proof. Pramod (PW 4) and Sunil Pal (PW 16) gave consistent accounts of the appellant's apprehension and his production of an axe at his house. The investigating officer's evidence regarding seizure was not materially shaken. FSL report Ex P/23 confirmed human blood on the axe; the relevant documents were not challenged in cross-examination. The Court relied on the recovery and FSL result as corroboration. It did not consider the defence criticism concerning the absence of blood-group identification sufficient to displace the other evidence.

Phoolwati (DW 1) was related to Jasrath and was near the scene of the incident, as shown in the spot map. Her account of three unknown assailants changed during her testimony, including her later uncertainty about whether the appellant was involved. The Court also noted her strained relationship with Bhagwati. Saiyam Pal (PW 5) said that he was travelling with Phoolwati, saw the incident and heard her urge the appellant to stop; his account of her presence and conversation with the appellant was not challenged. The Bench found her contrary account unreliable. Considering the credible eyewitness, medical and forensic evidence together, it concluded that the appellant had murdered both women. It also considered the absence of an apparent motive for the witnesses to implicate him falsely; that circumstance did not replace the positive evidence.

6. Relief : The Hon'ble High Court dismissed the appeal against both conviction and sentence. It affirmed the two convictions under Section 302 IPC and the two life terms, each with a fine of Rs. 2,000 and its default clause. The life terms were to run concurrently, as ordered by the trial court. The Court

directed that a copy of the judgment be supplied to the appellant through the jail authority and that another copy, together with the record, be returned to the trial court for information and compliance.

Sahab Singh v. State of Madhya Pradesh, Cr.A. no. 704/2019, 14/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (818) Prev Next

Headnote :- Criminal writ — fair investigation / victim and accused rights - *Nasima v. State of U.P.*, SLP (Cri) No. 551/2022, explained that investigation under Section 2(h) CrPC involves collecting evidence to ascertain whether an offence has occurred. Fair investigation is indispensable to discovering the truth and ensuring a fair trial, while protecting the victim's rights and citizens' fundamental rights. *Dharam Pal v. State of Haryana, (2016) 4 SCC 160*, recognised the constitutional court's duty to remedy a genuinely unfair investigation, even after trial has begun, but required a foundation beyond imagined suspicion. The Court examined the widow's objections concerning a police constable's apparent death by hanging in light of the panchnamas, the specialist's post mortem findings and the scientific officer's report. It found no sufficient basis to transfer the investigation.

CBI investigation — Article 226 power / state consent - *State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*, was considered for the High Court's constitutional power to direct a CBI investigation within a State even without its consent under Section 6 of the Delhi Special Police Establishment Act. Federalism and separation of powers do not curtail judicial review. The power must nevertheless be exercised sparingly and in exceptional circumstances to secure a credible investigation, justice and fundamental rights. *State of Punjab v. CBI, (2011) 9 SCC 182*, illustrated such an extraordinary case, in which the local police could not investigate fairly. The Court did not regard mere dissatisfaction or suspicion as sufficient to satisfy that standard in the present case.

Investigation transfer — stage and exceptional necessity - *Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762*, recognised the superior courts' power to direct further, fresh, de novo or reinvestigation, or to transfer investigation between agencies, when the ends of justice demand it. That power must be exercised sparingly. *State of Punjab v. CBI and Dharam Pal* showed that the filing of a charge sheet, commencement of trial or examination of witnesses is not, by itself, an absolute bar where a sound basis establishes the need for an independent agency. Here, the death in 2017, the State's documented inquiries and explanations, and the absence of any substantiated serious irregularity did not justify transfer to the CBI in 2024. The petition was dismissed because the supporting material was insufficient, rather than for want of constitutional jurisdiction.

Case-note :- ***1. Facts :*** Sakesh Singh filed Writ Petition No. 8973/2017 under Article 226, seeking a direction to the Superintendent of Police, Rewa, to transfer the investigation into her husband Jail Pal Singh's death to the CBI. Her husband was a constable and was found hanging in a locked room on 15 March 2017. His father made a representation that day seeking an inquiry, and a marg case was registered at Gurh Police Station. The post mortem attributed death to asphyxia caused by hanging. The petitioner maintained that there had been no domestic reason for suicide and suspected deficiencies in the police inquiry. She and her relatives sent representations, including a request to the Home Minister for CID investigation on 14 April 2017 and communications to senior State and Union authorities. A State Minister also requested a fair inquiry.

The petitioner questioned the opening of the locked door without the landlord or an Executive Magistrate, part of the body touching the floor, the asserted inability to see inside from outside, and the post mortem being conducted without the family present and by only one doctor. She also pointed to differences between earlier party photographs showing liquor consumption while the deceased wore a shirt and trousers, and later photographs showing his body in a vest and shorts. The State filed a return and an additional return. It stated that a carpenter had opened the room, which was locked from inside, in the presence of three witnesses and had signed the door-opening panchnama; five persons had signed the body panchnama. According to the State, the scarf or muffler had stretched under the body's weight, explaining its position. It also stated that family members are not admitted to the mortuary; forensic specialist Dr Chakresh Jain had found no injury other than a neck ligature mark and had opined that death was due to hanging; and senior scientific officer Dr R.P. Shukla had inspected the

scene that day and supported the conclusion of suicide. The Court considered these materials in light of the petitioner's suspicions, the passage of more than seven and a half years, and the governing constitutional standard.

2. Precedents — Considered : *Nasima v. State of Uttar Pradesh*, Supreme Court order dated 21 April 2022 in SLP (Cri) No. 551/2022, was quoted for the definition of investigation under Section 2(h) CrPC as the authorised collection of evidence to ascertain whether an offence has occurred. It described fair investigation as the backbone of criminal justice and as protecting a victim's rights and every citizen's fundamental rights. The Bench accepted that purpose but found no sufficient basis on the present record to infer that the investigation was unfair.

State of Punjab v. CBI, (2011) 9 SCC 182, upheld transfer where the local police's inability to investigate fairly made an independent agency necessary. It also explained that the filing of a charge sheet did not automatically render the constitutional petition infructuous. The quoted judgment relied on the caution in *State of W.B. v. Committee for Protection of Democratic Rights* that the power must be exercised only in exceptional situations; the present Bench applied that standard but found no comparable circumstances. *Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762*, recognised the superior courts' jurisdiction under Section 482 CrPC and Article 226 to order further, fresh, de novo or reinvestigation, or to change the investigating agency, for the ends of justice. The power must be exercised sparingly and with circumspection. The present petition was under Article 226; the discussion of Section 482 formed part of the quoted precedent and did not describe the jurisdiction invoked in this petition.

State of W.B. v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571, was reproduced at length. The Constitution Bench held that ordinary law cannot curtail judicial review under Articles 32 and 226, and that a High Court may direct a CBI investigation into a cognizable offence within a State without its consent under Section 6. Such a direction violates neither federalism nor separation of powers. The power was grounded in the protection of Article 21 and fair, impartial investigation for both accused persons and victims. The Constitution Bench also cautioned that CBI directions are exceptional measures, to be used sparingly and cautiously to ensure credibility, complete justice or enforcement of fundamental rights. The Court accepted that it had the power, while requiring a sufficient factual basis for its exercise.

Dharam Pal v. State of Haryana, (2016) 4 SCC 160, was quoted on a victim's plea for fair investigation supported by a genuine foundation. Constitutional courts may direct another agency to investigate or order further investigation even after trial has begun and witnesses have been examined. Grave suspicion must, however, have a concrete basis and cannot rest on imagination. The Bench applied that qualification: contemporaneous records answered the alleged anomalies, which did not establish that the inquiry was a sham or that an exceptional need for transfer existed. The authorities were applied to the distinct questions of the purpose of investigation, constitutional power, procedural stage and factual necessity; they did not establish a general entitlement to CBI investigation.

3. Statutes considered : Article 226 of the Constitution conferred the High Court's writ jurisdiction and the power to protect fundamental rights through an exceptional transfer of investigation. Article 21 was considered through the Constitution Bench authority as protecting the right of both the accused and the victim to fair investigation. Articles 32 and 226, the federal allocation of police powers and Section 6 of the Delhi Special Police Establishment Act were discussed in *Committee for Protection of Democratic Rights* to explain why the absence of State consent does not bar a constitutional court's direction for CBI investigation. Section 2(h) CrPC defined the scope of investigation in *Nasima*. Section 482 CrPC was referred to in *State of Punjab* and *Vinay Tyagi* as a separate jurisdiction of the superior courts; the petition itself invoked Article 226.

4. Issues : (i) Whether the constitutional court could direct CBI investigation under Article 226 despite the State police's ordinary jurisdiction and the statutory consent framework, and what exceptional standard governs that relief. (ii) Whether the perceived defects in the inquiry into the constable's apparent death by hanging disclosed a concrete failure of fairness or credibility warranting an independent agency, in light of the scene records, medical evidence and the State's explanation. (iii) Whether the procedural stage or the time elapsed since the death in 2017 affected the power to transfer investigation or the exercise of discretion, and what relief was warranted on the actual record.

5. Ratio / Findings : The Court recognised fair investigation as central to criminal justice and accepted that Article 226 permits a direction for CBI investigation, even without State consent, in an exceptional case. *State of Punjab*, *Vinay Tyagi* and *Dharam Pal* showed that completion of investigation or commencement of trial does not automatically bar the exercise of jurisdiction. The power must be exercised sparingly and according to the facts. The decisive question was whether the petitioner had provided a sufficient factual basis for transferring the investigation from the local police.

The State's contemporaneous door-opening panchnama recorded that the room was locked and identified the witnesses and the carpenter who opened it; the body panchnama bore five witnesses' signatures. The Court considered the explanation that the scarf had stretched, allowing part of the body to touch the floor. The forensic specialist's post mortem recorded a neck ligature mark, no other injury and asphyxia due to hanging. A senior scientific officer's inspection of the scene supported suicide. The Court noted the photographs of a liquor party on the preceding day and of the later hanging scene, but did not infer homicide from the differences in clothing or the other circumstances alleged. The relatives' absence from the mortuary and the post mortem being conducted by one specialist did not, on the material referred to, establish that the inquiry was unfair.

More than seven and a half years had elapsed. The Court held that the petitioner had not made out a prima facie case for transfer of the investigation to the CBI, and that the suspicions expressed in her representation were not sufficiently serious or supported to justify such a transfer.

6. Relief : The Hon'ble High Court dismissed the writ petition under Article 226.

Sakesh Singh v. State of Madhya Pradesh and Others, W.P. no. 8973/2017, 17/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (819) Prev Next

Headnote :- Attempt to murder — Section 307 IPC / injury and intent - *State of M.P. v. Harjeet Singh, Criminal Appeal No. 1190 of 2009*, order dated 19 February 2019, was applied to distinguish the assailant's act, intention or knowledge from the injury ultimately caused. Hurt within Section 319 may suffice, without grievous or life-threatening injury under Section 320, if the requisite murderous intention or knowledge is accompanied by an overt act. The quoted Supreme Court discussion drew *on R. Prakash v. State of Karnataka, (2004) 9 SCC 27, Jage Ram v. State of Haryana, (2015) 11 SCC 366*, and *State of M.P. v. Kanha alias Omprakash, Criminal Appeal No. 1589 of 2018*, decided 4 February 2019. The location and severity of an injury may indicate intent but are not indispensable legal requirements; the weapon, words, motive, acts and surrounding circumstances may also reveal intent. Allegations of an attack with a sword and knife, including blows to the head, together with rod assaults and a stated threat to kill, supported the Section 307/34 charge despite the applicants' assertion that neither victim had sustained a bony injury. The finding was confined to the framing of charges.

Common intention — late arrival of a participant / charge-stage inference - The FIR alleged that Sanu telephoned Ubesh during the attack and Ubesh then arrived carrying an iron rod and assaulted both brothers. His arrival after the confrontation began did not alone establish that he was outside any shared intention under Section 34 IPC. The Court left whether he shared the necessary intention to the trial court on the evidence; it did not finally decide joint liability in revision.

Framing of charge — Section 34 compared with Sections 147, 148 and 149 IPC - Five persons were alleged to have assaulted the injured. Although the trial court had framed Section 307 with Section 34, the High Court directed it to reconsider whether the prosecution allegations instead called for charges under Sections 147, 148 and 149, or whether Section 34 had rightly been used. Membership, common object and shared intention could not be finally resolved on this revision record. The criminal revision was dismissed with that express reconsideration direction; the direction did not itself substitute a Section 149 charge or decide guilt.

Case-note :- ***1. Facts :*** Salman and the other applicants filed Criminal Revision No. 3473/2018 under Sections 397 and 401 of the Code of Criminal Procedure against the order dated 19 June 2018 of the First Additional Sessions Judge, Ashok Nagar, in Sessions Trial No. 162/2017. The trial court had framed charges under Section 307 read with Section 34 IPC on two counts, Sections 452, 294 and 506-B IPC, and Section 25(1-B)(B) of the Arms Act.

According to Subham Yadav's FIR of 18 May 2007 at 00:28, his elder brother Rahul had returned from the market and asked him to park a vehicle near their home. After a dispute over moving the vehicle, Sanu Bagula, Salman, Sanu Musalman (described as Salman's younger brother) and Akhtar left and returned armed. The account described Sanu Bagula as carrying a sword, Salman a knife, and Sanu Musalman and Akhtar iron rods. Subham and Rahul had entered their house; the FIR alleged that Sanu Bagula, Salman and Akhtar entered and dragged the brothers outside. It attributed to Sanu Bagula words urging that both be killed and a sword blow towards Subham's head. Rahul allegedly sustained finger injuries while intervening to prevent a further sword blow. The account attributed rod assaults on Subham to Sanu Musalman and Akhtar, and knife blows to Rahul's head, left hand and wrist to Salman. Sanu then allegedly telephoned Ubesh, who arrived with an iron rod and assaulted both brothers. Witnesses came on hearing the brothers' cries, after which the assailants fled. These are prosecution allegations as recited in the revision, not findings at trial.

The police filed a charge sheet, and the trial court framed the charges set out above. The applicants contended that neither victim had sustained a bony injury and that Section 307 was therefore not attracted. They separately argued that Ubesh had arrived only after the incident began and therefore neither belonged to the alleged unlawful assembly nor shared its common object. The State was represented by the Public Prosecutor. The revision concerned whether the charges were sustainable at this stage and whether the appropriate basis of group liability required reconsideration.

2. Precedents — Considered : The Court quoted and applied *State of Madhya Pradesh v. Harjeet Singh and Another*, Supreme Court order dated 19 February 2019 in Criminal Appeal No. 1190 of 2009, in considering Section 307. *Harjeet Singh* distinguished "hurt" under Section 319 IPC from "grievous hurt" under Section 320: grievous hurt is not a prerequisite where the act, circumstances and intention or knowledge attract Section 307. The injury actually caused may assist in determining intent but is not, by itself, determinative of whether the act amounts to an attempt to murder. The High Court applied that distinction to reject the contention that the asserted absence of a bony injury necessarily barred the charge.

The passage from *Harjeet Singh* quoted *R. Prakash v. State of Karnataka, (2004) 9 SCC 27*. *R. Prakash* concerned a blow to the temporal region and held that subsequent blows to other parts of the body did not exclude the application of Section 307. Its broader principle was that intention accompanied by an overt act may attract the provision even without an injury capable of causing death. Intention may be inferred from the wounds or other circumstances, and the act must be distinguished from its result. The present Court applied that principle as reproduced in *Harjeet Singh*, rather than treating each wound as independently decisive.

Jage Ram v. State of Haryana, (2015) 11 SCC 366, also appeared in the reasoning quoted from *Harjeet Singh*. Its test required the prosecution to establish the intention to commit murder and the act done by the accused. The nature of the weapon, words spoken during the incident, motive, part of the body struck, and nature and severity of the blows may indicate intention; an injury capable of causing death is not essential. *State of M.P. v. Kanha alias Omprakash, Criminal Appeal No. 1589/2018*, decided 4 February 2019, was quoted for the principle that grievous or life-threatening hurt is not a sine qua non. The weapon, force of the blows and other surrounding circumstances may disclose intention. These authorities stated overlapping principles, rather than separate categorical rules based on injury. The Bench applied their common approach, examining intention and the act, to sustain the charge in light of the alleged weapons and active assaults.

3. Statutes considered : Sections 397 and 401 CrPC conferred jurisdiction in criminal revision against the order framing charges. Section 307 IPC defines attempt to murder by reference to an act done with such intention or knowledge and in such circumstances that, if death resulted, the act would amount to murder. Its text distinguishes the basic punishment, the greater punishment where hurt results, and the special provision for life convicts. The Bench reproduced the section and its illustrations, and examined the intention or knowledge and the act rather than treating the absence of a fracture as conclusive. Sections 319 and 320 IPC arose in the Supreme Court passage to distinguish hurt from grievous hurt.

Section 34 IPC was the basis of the Section 307 charges actually framed. Sections 147, 148 and 149 IPC were the alternative provisions concerning rioting, an armed assembly and common object that

the High Court directed the trial court to consider in view of the allegation of five assailants. The operative charge and reasoning concern Section 307/34.

4. Issues : (i) At the stage of framing charges, did the asserted absence of a bony injury preclude a charge under Section 307 IPC despite the FIR allegations of armed blows, including to the head, and threatening words? (ii) Did Ubesh's alleged arrival after a telephone call conclusively exclude shared intention or collective liability, or did his alleged participation leave that question for determination on the trial evidence? (iii) Since the prosecution alleged an assault by five persons, should the trial court reconsider whether Section 34 was the appropriate basis of the attempt-to-murder charges or whether charges under Sections 147, 148 and 149 should be framed?

5. Ratio / Findings : The Court found that the FIR attributed an active role to the accused and rejected the contention that Section 307 requires a fracture or other grievous injury. Section 307 requires an act accompanied by the specified murderous intention or knowledge in the relevant circumstances. Applying *Harjeet Singh* and the Supreme Court analysis reproduced in it, the Court held that the seriousness of a wound may assist in inferring intent, but neither an injury capable of causing death nor an injury to a vital part is indispensable. The alleged attack with a sword, a knife and rods, the alleged blows to Rahul's head and other parts, the alleged sword blow towards Subham's head, and the expressed threat to kill provided a basis for the trial court's Section 307/34 charges at that stage.

The separate submission concerning Ubesh rested on his later arrival. The Court noted the specific FIR allegation that Sanu had summoned him, that he had arrived with an iron rod and that he had attacked both brothers. On those allegations, his later arrival alone could not end the inquiry into shared intention at the stage of framing charges. Whether he actually shared that intention was expressly left for the trial court to determine after recording evidence.

The trial court had framed the charge with the aid of Section 34, although the prosecution alleged five assailants. The High Court did not itself find that there was an unlawful assembly or apply Section 149. It directed the trial court to reconsider whether charges under Sections 147, 148 and 149 were made out or whether the charge with the aid of Section 34 had been correctly framed. The Section 307 charge thus survived the challenge based on injury, while the statutory basis and evidence concerning group liability remained open for consideration by the court framing charges. The dismissal was expressly subject to this direction for reconsideration.

6. Relief : The Hon'ble High Court dismissed the criminal revision with the observations and direction in paragraph 10. The trial court's Section 307/34 charge was not set aside on the ground of the asserted absence of a bony injury. The trial court was directed to reconsider whether charges under Sections 147, 148 and 149 IPC should be framed in light of the alleged assault by five persons, or whether Section 34 had been correctly applied. The Office was directed to send the order to the trial court for information and compliance.

Salman and Others v. State of Madhya Pradesh, Cr.R. no. 3473/2018, 11/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (820) Prev Next

Headnote :- FIR registration — police inaction / magistrate remedy - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguished the police duty to register an FIR on information disclosing a cognizable offence under Section 154 CrPC from the remedies available to a complainant if the police fail to act. It directed recourse to Sections 190 and 200 before the Magistrate; the cases concerning the police duty did not displace that complaint remedy. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, explained the Magistrate's inquiry into a complaint and the power to direct investigation. Applying those authorities, the Court dismissed the Section 482 application seeking police penal action over the alleged illegal seizure of a financed vehicle, with liberty to approach the Magistrate. It made no finding on the merits that the financier or other respondents had committed an offence.

Magistrate's investigation control — Sections 154(3) and 156(3) CrPC - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explained that an informant may first approach the Superintendent of Police in writing and then the Magistrate under Section 156(3) if the FIR remains unregistered or proper investigation is not undertaken. On prima facie satisfaction, the Magistrate may direct registration of an FIR, order a proper investigation and monitor that investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed that

remedy and the Magistrate's power to recommend a change of investigating officer when necessary. The Magistrate cannot, however, investigate personally. The Court relied on this effective alternative remedy in declining relief under its inherent powers.

Criminal-side writ — exceptional investigation intervention / alternative remedy - *Divine Retreat Centre* recognised that a direction under Article 226 may be issued in a rare case where mala fide investigation, abuse of power and breach of Chapter XII CrPC are clearly established. Even then, the High Court may insist on observance of the lawful process but cannot prescribe how the police should investigate. The Gwalior Division Bench in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, held that mandamus for registration may be denied where Sections 154(3), 156(3), 190 and 200 have not been invoked, subject to the four *Whirlpool* exceptions. It distinguished *Lalita Kumari*'s ruling on the police duty to register information disclosing a cognizable offence from an entitlement to bypass alternative remedies. The present application was under Section 482, and no exceptional factual basis for direct intervention was found.

Case-note :- ***1. Facts :*** Sameer Khan filed Miscellaneous Criminal Case No. 5092 of 2024 under Section 482 CrPC. The relief clause asked the High Court to direct State respondents 1 and 2 to take suitable criminal penal action against respondents 3 and 4. In argument, counsel said a vehicle financed by respondents 4 and 5 had been seized by them illegally and that police should act against the financiers. The allegation of illegality remained the applicant's contention.

The State opposed the application, submitting that the applicant could complain of police inaction to the competent Magistrate under Section 200 CrPC, and also referring to the corresponding BNSS complaint provision. The High Court framed the legal question as whether Section 482 could be invoked to obtain registration of an FIR. It considered Supreme Court decisions on the police's statutory duty, the complaint and investigation remedies before a Magistrate, and the limits of direct High Court intervention, together with a Gwalior Division Bench decision on writ mandamus. The proceeding invoked inherent powers and was not a writ petition.

2. Precedents — Considered : *Aleque Padamsee and Others v. Union of India and Others, (2007) 6 SCC 171*, was quoted for the distinction between two questions. Information disclosing a cognizable offence requires police registration under Section 154 CrPC; if the police fail to act, the aggrieved person may proceed before the Magistrate under Sections 190 and 200. *Aleque Padamsee* explained that *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, and *Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, concerned the police duty, rather than the procedure for obtaining redress. It distinguished those cases from *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, which addressed the complaint remedy before the Magistrate. These authorities appeared within the quoted passage to explain that distinction; they were not individually applied to the vehicle allegation. *Aleque Padamsee*'s separate direction about governmental sanction arose in its own litigation. The Court applied the distinction between registration duty and the remedy for police inaction in refusing a direct police direction.

Divine Retreat Centre v. State of Kerala and Others, (2008) 3 SCC 542, was quoted on two limits. Exceptional intervention under Article 226 may be justified where a mala fide exercise of investigative power, abuse and non-compliance with Chapter XII are clearly established. The court may insist on the lawful process but cannot dictate the police's investigative method. Ordinarily, a person complaining of police inaction may approach the Magistrate under Sections 190 and 200. The reproduced passage from *Gangadhar Janardan Mhatre* explained that, after receiving a complaint and recording evidence, the Magistrate may direct police investigation and submission of a report instead of immediately issuing process. If no offence appears, the complaint may be dismissed under Section 203; where an offence is prima facie disclosed, cognizance and process may follow. The Bench relied on the alternative remedy and did not find that the applicant had established the rare exception for writ intervention.

Sakiri Vasu v. State of Uttar Pradesh and Others, (2008) 2 SCC 409, set out the sequence of remedies: a written application to the Superintendent of Police under Section 154(3), followed, if that does not produce a satisfactory result, by an application to the Magistrate under Section 156(3) for registration or proper investigation. The Magistrate may supervise

the investigation to ensure that it is properly conducted. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others, (2016) 6 SCC 277*, reaffirmed *Sakiri Vasu* and required the Magistrate's prima facie satisfaction. It permitted a recommendation to senior police officers for a change of investigating officer where necessary. Investigation itself remains the police's function, and the Magistrate cannot undertake it personally. The decision also explained the institutional reason for directing ordinary complainants to the statutory forum.

Shweta Bhadauria v. State of Madhya Pradesh and Others, Gwalior Division Bench, W.A. No. 247/2016, decided 20 December 2016, was quoted for the principle that mandamus requiring police action under Section 154 may be declined if the informant has not used Sections 154(3), 156(3), 190 and 200, unless the four exceptions described in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, apply. It also distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which concerned the police duty to register an FIR, from an automatic entitlement to mandamus without recourse to the alternative remedy.

3. Statutes considered : Section 482 CrPC was the jurisdiction invoked, but the Court held that an application seeking a direction to register an offence or take penal action was unsuitable where the complaint remedies remained available. Section 154 CrPC concerns the recording of information disclosing a cognizable offence, while Section 154(3) permits a written approach to the Superintendent of Police. Section 156(3) empowers the Magistrate, on prima facie satisfaction, to direct registration or proper investigation and to monitor it, without investigating personally. Sections 190 and 200 provide the complaint and cognizance remedy emphasised in *Aleque Padamsee* and *Divine Retreat Centre*. The latter's quotation also describes dismissal under Section 203 where the complaint discloses no offence after inquiry. Chapter XII governs police investigation. Article 226 arose only in the quoted decisions on exceptional writ intervention and *Shweta Bhadauria*'s mandamus test; this applicant invoked Section 482, not Article 226. The operative paragraph identified the complaint remedy as "Section 200 of Cr.P.C./223 of BNSS".

4. Issues : (i) Whether the applicant could obtain a High Court direction under Section 482 requiring police criminal action over the alleged unlawful seizure of his financed vehicle, or was required to pursue the statutory remedies for police inaction. (ii) What distinguished the police's duty under Section 154 on receiving information disclosing a cognizable offence from the informant's remedies for registration, investigation or inquiry into a complaint, including recourse to the Superintendent of Police and the Magistrate. (iii) Whether the precedent concerning exceptional control of investigation under Article 226 displaced the ordinary alternative-remedy principle in this Section 482 application.

5. Ratio / Findings : The Court considered whether a Section 482 application seeking FIR registration was maintainable. It did not doubt the police duty under Section 154 where information disclosing a cognizable offence is supplied. The distinction drawn in *Aleque Padamsee* was that, if the police fail to perform that duty, the complainant should approach the Magistrate under Sections 190 and 200. *Divine Retreat Centre* and the passage from *Gangadhar* explained how the complaint is examined and when an investigation may be directed.

Sakiri Vasu and *Sudhir Bhaskarrao Tambe* explained a further sequence of statutory remedies: an approach to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3) if registration or investigation remains deficient. On prima facie satisfaction, the Magistrate may direct and monitor proper investigation and recommend a change of investigating officer, but cannot investigate personally. The Court relied on the availability of these remedies in holding that the requested direction to the police under Section 482 was unwarranted.

The exception in *Divine Retreat Centre* for an Article 226 case involving a clearly mala fide or abusive investigation was narrower than ordinary dissatisfaction with police inaction. *Shweta Bhadauria* also preserved the possible application of the *Whirlpool* exceptions to the alternative-remedy rule and distinguished *Lalita Kumari*'s ruling on the police duty to register an FIR from an unconditional entitlement to a writ.

6. Relief : The Hon'ble High Court dismissed the Section 482 application as not maintainable for the requested direct police-action relief. Sameer Khan was given liberty to approach the concerned Magistrate under Section 200 CrPC or Section 223

BNSS if he considered that an offence had been committed. The Magistrate remained free to assess any complaint according to law.

Sameer Khan v. State of Madhya Pradesh and Others, M.Cr.C. no. 5092/2024, 02/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (821) Prev Next

Headnote :- Anticipatory bail — voluntary deposit / alleged public money - *Ramesh Kumar v. State of NCT of Delhi, (2023) 7 SCC 461*, did not impose an absolute bar on considering a voluntary payment or deposit before bail. In an exceptional case alleging misappropriation of public money, a court may consider, in the larger public interest, an accused's offer to account for all or part of the sum before finally considering bail. That approach is unwarranted in cheating complaints involving private parties' money. Applying that qualified principle to alleged fictitious wheat procurement and transport involving public disbursement, the Court conditionally granted anticipatory bail to the applicant, who claimed to be a transporter's computer operator. He was required to deposit Rs 10 lakh with the Madhya Pradesh State Civil Supplies Corporation and appear before the investigating officer with the receipt by 28 September 2024. Failure to deposit the sum or appear by the deadline would automatically terminate the order.

Pre-arrest protection — operative conditions / complainant notice - Upon timely deposit and appearance, the applicant was to be released on a personal bond of Rs 1 lakh with one surety in the same amount, to the investigating officer's satisfaction. The Court directed that the complainant be informed of the bail grant, referring to *Aparna Bhat v. State of Madhya Pradesh, (2021) 16 SCC 179*. Counsel mentioned a coordinate Bench's interim order protecting different petitioners from coercive action; the Court did not treat it as establishing parity.

Case-note :- ***1. Facts :*** Samrat Singh applied under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, apprehending arrest in Crime No. 61/2024 at Police Station Dharkundi, District Satna. The FIR listed Sections 406, 417, 420, 467, 468, 471 and 120-B IPC, and Section 13(1)(b) read with Section 13(2) of the Prevention of Corruption Act, 1988, as amended in 2018. The case diary was available. The prosecution account, as presented by the applicant's counsel, concerned a procurement centre that purportedly dispatched 18 trucks carrying 2,360 quintals of wheat on 8 May 2024 and five more carrying 1,500 quintals under transport biltys. It was alleged that the wheat had neither been procured nor transported, that several persons' IDs had been used, and that GPS records placed the listed trucks elsewhere, although documents showed unloading at a railway station and dispatch by rail rakes. These remained allegations at the bail stage.

Counsel submitted that the applicant was only the computer operator working for procurement transporter Shri M.P. Vishal. He denied that the applicant was the transporter and claimed false implication. The applicant offered to deposit an amount fixed by the Court to demonstrate bona fides, relying on *Ramesh Kumar* concerning deposits of public money. Counsel also referred to the interim order dated 22 August 2024 in Writ Petition No. 23452/2024, restraining coercive action against other accused until the next hearing. The State opposed bail, asserting that the applicant was a transporter, that Rs 92 lakh had been disbursed to 58 agriculturists and that eight persons had been implicated.

2. Precedents — Considered : *Ramesh Kumar v. State of NCT of Delhi, 2023:INSC:596 : (2023) 7 SCC 461*, was invoked by counsel and then quoted in the Court's reasoning. Paragraph 26 expressly declined to lay down an absolute rule against considering an accused's willingness to pay or deposit money before bail. In an exceptional case alleging misappropriation of public money, a court may consider the accused's voluntary offer to account for all or part of the alleged public funds before finally considering anticipatory or ordinary bail, if returning that money to the system would serve the larger public interest. The judgment distinguished cheating disputes involving private parties' money, in which that approach was unwarranted. The High Court applied this limited discretionary principle in imposing the Rs 10 lakh deposit condition in the present allegation involving public disbursement.

The Court also cited "*XYZ (sic Aparna Bhat and Ors.) and Others v. State of Madhya Pradesh and Another*", *2021:INSC:192 : (2021) 16 SCC 179*, for intimation of the bail grant to the complainant. The authority was used for notification. The coordinate Bench's interim order in another writ petition formed

part of counsel's submission; this Bench did not develop or apply it as a precedent.

3. Statutes considered : Section 482 BNSS, 2023 was the procedural basis of this anticipatory-bail application. The listed IPC provisions concern criminal breach of trust, cheating, forgery, use of forged documents and conspiracy. Sections 13(1)(b) and 13(2) of the Prevention of Corruption Act formed part of the registered offence. The material legal question was whether the voluntary deposit offered could be imposed as an anticipatory-bail condition consistently with the public-money qualification in *Ramesh Kumar.* The bond and surety were operative conditions of release, rather than an interpretation of the charged offences.

4. Issues : (i) Whether, in the alleged fictitious wheat procurement and transport scheme involving public payments, the applicant should receive anticipatory bail on offering to deposit money, despite the State's opposition and the dispute over his role. (ii) How *Ramesh Kumar*'s exceptional public-money qualification, excluding private cheating disputes, governed the proposed deposit. (iii) What conditions and deadline should attach to protection, and whether the complainant should be informed of the bail grant.

5. Ratio / Findings : The Court noted the applicant's claim that he was a computer operator working with the transporter, rather than the transporter himself. It reproduced the distinction in *Ramesh Kumar*: an offer to account voluntarily for allegedly misappropriated public money may be considered exceptionally and in the larger public interest before bail is finally determined, whereas that approach is unwarranted merely to resolve a private money dispute. In light of the alleged false public-procurement records and the State's assertion of Rs 92 lakh disbursement, the Court applied that principle by requiring a deposit of Rs 10 lakh with the Madhya Pradesh State Civil Supplies Corporation as a condition of anticipatory bail.

Protection also required production of the deposit receipt and appearance before the investigating officer by 28 September 2024, together with a personal bond of Rs 1 lakh and one surety in the same amount to that officer's satisfaction. The deposit and appearance deadline were express conditions: failure to deposit the amount or appear by the deadline would automatically terminate the order. The Court cited *Aparna Bhat* for intimation to the complainant. The ruling applied the public-money principle, with its qualifications, to the particular bail record.

6. Relief : The Hon'ble High Court allowed the anticipatory-bail application subject to deposit of Rs 10 lakh with the Madhya Pradesh State Civil Supplies Corporation Limited, production of the receipt and appearance before the investigating officer by 28 September 2024. Failure to satisfy either the deposit requirement or the appearance deadline would automatically terminate protection.

Samrat Singh v. State of Madhya Pradesh, M.Cr.C. no. 38199/2024, 06/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (822) Prev Next

Headnote :- FIR mandamus — police duty / informant's remedy - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguished the police duty under Section 154 CrPC to register information disclosing a cognizable offence from the remedy available if the police fail to act. A complaint before the Magistrate under Sections 190 and 200 is the ordinary remedy; decisions requiring police registration do not, by themselves, confer a direct writ remedy. The Court applied that principle in dismissing this Article 227 petition seeking a police direction to register an FIR, with liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS. It decided neither the underlying offence nor the respondents' liability.

Magistrate control — complaint inquiry / investigation - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, reproduced *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, on the Magistrate's inquiry into a complaint. After recording evidence, the Magistrate may, on finding a prima facie case, direct police investigation and submission of a report. If no offence is disclosed, the complaint may be dismissed under Section 203; if an offence is prima facie disclosed, cognizance and process may follow. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explained the written approach to the Superintendent of Police under Section 154(3) and an application to the Magistrate under Section 156(3) for registration or proper investigation, subject to prima facie satisfaction. The Magistrate may monitor the investigation and, if necessary, recommend a different investigating

officer, but cannot investigate personally. The Court relied on these alternative remedies in disposing of the petition.

High Court writ restraint — exceptional investigation abuse / alternate remedies - *Divine Retreat Centre* reserved rare Article 226 action for a clearly demonstrated mala fide investigation, abuse of power and violation of Chapter XII CrPC, without allowing the court to prescribe investigative methods. The Division Bench in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, held that mandamus may be denied if Sections 154(3), 156(3), 190 and 200 have not been used, subject to the *Whirlpool* exceptions; it distinguished *Lalita Kumari*'s police-registration duty from an entitlement to bypass such remedies.

Case-note :- ***1. Facts :*** Sanat Kumar Soni filed Miscellaneous Petition No. 2445 of 2024, described as a petition under Article 227 of the Constitution read with Sections 156(3) and 200 CrPC. He sought registration of his complaint, a direction to the station house officer to lodge an FIR and investigate, and further appropriate relief. Counsel submitted that the petitioner had approached the respondents for FIR registration, but no action had been taken.

The State opposed the request for a direction to the police, submitting that an effective complaint remedy was available before the trial Magistrate under Section 200 CrPC, referred to together with Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The Court framed the question as whether a petition seeking a police direction to register an FIR was maintainable. It considered Supreme Court decisions distinguishing the police duty from the informant's remedy, the Magistrate's powers over registration and investigation, and the limits of High Court writ intervention, together with a Gwalior Division Bench ruling.

2. Precedents — Considered : *Aleque Padamsee and Others v. Union of India and Others, 2007:INSC:760 : (2007) 6 SCC 171*, was quoted in detail. It affirmed the police duty to register information disclosing a cognizable offence, while identifying Sections 190 and 200 CrPC as the complainant's remedy if the police fail to act. It reconciled *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, and *Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, concerning police action, with *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582, Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768, Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, concerning the procedure when police do not act. The earlier case's separate direction concerning governmental sanction related to its own litigation and was not applied to Soni's request. The Bench relied on the distinction between police duty and the remedy for inaction in refusing a direct FIR direction, without denying that duty.

Divine Retreat Centre v. State of Kerala and Others, 2008:INSC:341 : (2008) 3 SCC 542, was quoted for two related but distinct principles. The High Court may issue a direction under Article 226 in a rare case where a mala fide investigation involving abuse and non-compliance with Chapter XII is clearly established, but cannot dictate the details of police investigation. Where the police simply take no action, the ordinary remedy is a complaint under Sections 190 and 200. *Divine Retreat Centre* reproduced *Gangadhar*'s account of the Magistrate's inquiry: a police-investigation order and report may follow; the complaint may be dismissed under Section 203 if no offence is disclosed; or cognizance and process may follow a prima facie disclosure. The Court applied the principle requiring recourse to the alternative remedy.

Sakiri Vasu v. State of Uttar Pradesh and Others, 2007:INSC:1243 : (2008) 2 SCC 409, set out a written approach to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3) if FIR registration or investigation remained unsatisfactory. The Magistrate may direct registration and a proper investigation, and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others, (2016) 6 SCC 277*, reaffirmed that remedy, the requirement of prima facie satisfaction, the discretion to recommend a change of investigating officer to senior police, and the prohibition on the Magistrate investigating personally. Its concern that High Courts should not routinely entertain FIR-registration and investigation requests reinforced recourse to the statutory remedy before the Magistrate.

Shweta Bhadauria v. State of M.P. and Others, W.A. No. 247/2016, a Gwalior Division Bench decision dated 20 December 2016, was reproduced on alternative remedies and mandamus. It qualified the denial of mandamus under Section 154 by preserving

the four exceptions in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It also explained that *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, concerns mandatory police registration, rather than an automatic entitlement to a writ without using the alternative remedies.

3. Statutes considered : Article 227 was the constitutional provision named in the petition. Sections 154 and 154(3) CrPC govern cognizable-information registration and escalation to the Superintendent of Police. Section 156(3) concerns a Magistrate direction and monitoring of police investigation. Sections 190 and 200 provide the complaint and cognizance route; the *Gangadhar* quotation described Section 203 dismissal when the complaint fails to disclose an offence after inquiry. Chapter XII governs police investigation.

4. Issues : (i) Whether the petitioner's assertion that the police had failed to register an FIR justified the requested direction in this Article 227 miscellaneous petition. (ii) Which statutory remedies were available before the Magistrate for a complaint and, where appropriate, registration or investigation, as distinct from the police's initial duty under Section 154. (iii) How the narrow Article 226 exception and the qualification to the writ alternative-remedy rule stated in the authorities affected the request.

5. Ratio / Findings : The Court accepted the distinction between the police duty and the appropriate judicial remedy. *Aleque Padamsee* recognised that information disclosing a cognizable offence requires registration, but that police inaction is pursued by a complaint before the Magistrate under Sections 190 and 200. *Divine Retreat Centre* and *Gangadhar* explained the Magistrate's inquiry and the available investigation and process options. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* provided a further remedy through the Superintendent of Police and Section 156(3): on prima facie satisfaction, the Magistrate may direct and monitor proper investigation but cannot conduct it personally. These authorities supported the conclusion that the petitioner's assertion of police inaction did not, by itself, require the High Court to register the complaint or direct registration of an FIR.

The rare Article 226 exception in *Divine Retreat Centre* and the *Whirlpool* qualification preserved in *Shweta Bhadauria* showed that the ordinary alternative-remedy rule was not an absolute jurisdictional bar. *Shweta Bhadauria* also distinguished *Lalita Kumari*'s police-registration rule from an automatic entitlement to mandamus. The Court dismissed the petition seeking a direct FIR direction, while preserving recourse to the Magistrate. It decided the appropriate forum and remedy, without concluding that the police had acted lawfully or that the complaint lacked substance.

6. Relief : The Hon'ble High Court dismissed the miscellaneous petition, expressly leaving the petitioner at liberty, if he wished, to approach the concerned Magistrate under Section 200 CrPC or Section 223 BNSS for redress.

Sanat Kumar Soni v. Om Prakash Agrawal and Others, M.P. no. 2445/2024, 14/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (823) Prev Next

Headnote :- POCSO prosecution — age proof / medical test as fallback - On a third application for regular bail, the Court used Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 as a guide to the order in which age evidence should be considered. A school date-of-birth certificate or examination-board certificate comes first, followed, in its absence, by a municipal or panchayat birth certificate. Only in the absence of those documents is an ossification test or another current medical age test required. The prosecutrix's ninth-class mark sheet was issued in 2016–17, before the alleged incident on 4 January 2018. Both it and the school admission register recorded her date of birth as 4 November 2002. The Court found no overwriting in the photocopied register, mark sheet or headmaster's certificate. The father rejected the suggestion that she was twenty, and the mother's evidence was consistent with the school admission record. At this bail stage, the Court rejected the suggested adverse inference from the prosecutrix's refusal to undergo ossification testing and did not discard the record merely because the school was private. Defence counsel pressed for the age assessment despite the Bench's stated concern that it could prejudice the trial. The assessment was not a final determination for the trial.

Kidnapping and sexual-offence allegations — minor's call to meet / consent - Defence counsel cited *S. Varadarajan v. State of Madras, AIR 1965 SC 942*, and argued that the prosecutrix had telephoned the applicant and voluntarily asked him to take her away. The Court read her evidence as

acknowledging only that she and the applicant were on speaking terms. A call or meeting did not itself show that this minor had insisted on leaving for marriage or agreed to sexual relations. On the evidence before it, the Bench distinguished *S. Varadarajan*, as well as *Ashwani Kumar Saxena v. State of M.P., AIR 2013 SC 553*, and *Jabar Singh v. Dinesh*, 2010 (2) ACR 1214 (SC). It rejected the submission that consent negated the IPC rape and POCSO allegations, without finally resolving the trial evidence.

Regular bail — trial-delay assertion / Section 436A CrPC - About two years in custody and the examination of three witnesses did not establish responsibility for, or unreasonable delay in, the trial. No trial-court order sheets had been produced to show witness attendance or whether the applicant had sought adjournments. The Court also found that no statutory right to release under Section 436A had accrued, referring to the stated minimum sentence of ten years. It rejected the third bail application and declined to fix a deadline for completing the trial on the limited record, while expecting the trial to proceed expeditiously according to law.

Case-note :- ***1. Facts :*** Sandeep Chouhan's third application for bail under Section 439 CrPC arose from his arrest on 25 January 2018 in Crime No. 9/2018, registered at Indargarh Police Station, Datia, for offences under Sections 363, 366 and 376(2) IPC and Section 5/6L of the Protection of Children from Sexual Offences Act. The alleged incident occurred on 4 January 2018. The case diary was available to the Court. By the bail hearing, the prosecutrix's mother (PW1), the prosecutrix (PW2) and her father (PW3) had testified. The applicant claimed that the prosecutrix was over eighteen and had consented, so the rape allegation could not stand. Counsel insisted on an age finding despite the Bench's warning that a finding at the bail stage might prejudice the trial court. The Bench therefore examined the age evidence while recognising the limited procedural setting.

Counsel challenged the school date of birth on several grounds: there was allegedly overwriting; the fourth-class mark sheet said to have been handed to the police was missing from the charge sheet; the mother said that a teacher had written the date; and the prosecutrix had declined a proposed ossification test. Counsel sought an adverse inference and later argued that a private school register was unreliable. The State relied on the mother's estimate that the prosecutrix was about fifteen, her evidence that she had supplied the date at admission, and the ages of the younger siblings. It denied any overwriting. The Court inspected the photocopied admission register recording 4 November 2002, a ninth-class mark sheet for the 2016–17 session recording the same date, and a headmaster's certificate. The father denied the suggestion that she was twenty, noting that he had married in 1999.

Counsel further submitted that the prosecutrix had called Sandeep and wanted him to take her away, relying on *S. Varadarajan*. The Court noted her testimony that they were on speaking terms but rejected the inference that a phone call established that she had insisted on being taken away. Finally, counsel relied on roughly two years in custody and the examination of only three witnesses to seek bail or a time-bound trial. No trial-court order sheets were furnished to explain the delay, witness attendance or responsibility for adjournments.

2. Precedents — Considered : *Ashwani Kumar Saxena v. State of Madhya Pradesh, AIR 2013 SC 553*, and *Jabar Singh v. Dinesh and Others*, 2010 (2) ACR 1214 (SC), were cited by defence counsel to challenge acceptance of the date of birth recorded by the private school. The Bench considered the argument and distinguished the present case: the ninth-class mark sheet pre-dated the alleged offence, recorded the same birth date as the register, and the alleged overwriting was not visible.

S. Varadarajan v. State of Madras, AIR 1965 SC 942, was cited to support the applicant's contention that the prosecutrix herself had called and insisted that he take her away. The Court considered that reliance but distinguished the case on the limited evidence recited in the order. The prosecutrix said that they spoke; this did not establish that she had insisted on leaving or consented to marriage contrary to law, much less to sexual activity.

3. Statutes considered : Section 439 CrPC governed regular bail. IPC Sections 363 and 366 concerned the kidnapping and taking-away allegations; Section 376(2) and Section 5/6L POCSO Act were the registered sexual-offence provisions. Section 94(2) of the Juvenile Justice (Care and Protection of Children) Act, 2015 was reproduced as a guide to the sequence of age evidence: a school birth-date certificate or matriculation/equivalent certificate; in its absence, a birth certificate issued by a corporation, municipal authority or panchayat; and only in the absence of both, an ossification test or

another current medical age test ordered by the competent Committee or Board. The proviso required the test to be completed within fifteen days. The Court held that the prosecutrix's minority was material to the consent submission. Section 436A CrPC was considered in relation to a possible statutory right to release based on time in custody. The Court said that none had accrued after about two years in custody for an offence carrying a stated ten-year minimum sentence.

4. Issues : (i) For this third bail application, did the contemporaneous school documents and witness evidence support minority despite alleged overwriting, the school's private status, a missing earlier mark sheet and refusal to undergo ossification testing? (ii) Did the prosecutrix's admitted conversations or alleged telephone invitation establish that she had voluntarily asked to be taken away or had given legally relevant sexual consent, in light of the age assessment and counsel's cited authorities? (iii) Did the applicant's time in custody and the stated trial progress establish sufficient delay, an entitlement under Section 436A, or a basis for fixing a deadline to complete the trial? The Court cautioned against making an age finding at the bail stage but addressed the question because counsel pressed for a finding.

5. Ratio / Findings : The Court saw no overwriting in the photocopied admission register, the ninth-class mark sheet or the headmaster's certificate. The ninth-class mark sheet had been issued in 2016–17, before the January 2018 incident, which reduced the force of the suggestion that a birth date had later been contrived for the case. The Court weighed the parents' evidence, the father's rejection of the suggestion that the prosecutrix was twenty, and the plausibility of a student aged about sixteen being in tenth class. Applying the document-first sequence in Section 94(2) as a guide, it held that ossification testing was not required while the specified documentary material existed. Refusal to undergo that medical test therefore did not displace the school record. For the purpose of deciding bail, it found that the prosecutrix was a minor at the time of the incident and held that a minor's consent was immaterial to the defence submission.

On the taking-away contention, the Court distinguished being on speaking terms and making a call to meet from insisting that the applicant take a minor away for marriage or consenting to sexual relations. It distinguished *S. Varadarajan* and the two age authorities on the evidence before it. It therefore refused to treat the asserted consent as negating the prosecution at this stage.

The delay argument failed because no trial-court order sheets had been produced to show whether witnesses attended or the applicant sought adjournments. The examination of only three witnesses and custody since January 2018 did not, without that record, enable the Court to determine responsibility for delay. It stated that no statutory entitlement under Section 436A had arisen, referring to the stated minimum sentence of ten years and the period in custody. For the same lack of evidence, it did not fix a deadline for the trial, although it expected the trial to conclude expeditiously in accordance with law.

6. Relief : The Hon'ble High Court dismissed the third application for regular bail. No release under Section 436A CrPC was ordered.

Sandeep Chouhan v. State of Madhya Pradesh, M.Cr.C. no. 7471/2020, 19/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (824) Prev Next

Headnote :- Section 498A IPC — cruelty without dowry demand - The two limbs of the statutory explanation are alternatives. Clause (a) covers wilful conduct likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. Clause (b) covers harassment directed at an unlawful demand for property or valuable security, or arising from non-fulfilment of that demand. *Aluri Venkata Ramana v. Aluri Thirupathi Rao, SLP (Crl) No. 9243/2024*, order dated 12 December 2024, explained the broader protection introduced by the 1983 amendment. Drawing on *U. Suvetha* and *Arvind Singh*, it rejected dowry demand as an indispensable ingredient. Applying that test, the Court rejected the husband's argument that allegations of physical and mental harassment because his wife had a girl child could not support Section 498A merely because no dowry was demanded. The allegations remained to be tested at trial.

Matrimonial complaint — absence of earlier FIR / credibility at threshold - The wife's failure to complain between the 2009 marriage and 2021 did not make later allegations of domestic cruelty inherently false. The Court reasoned that violence within the home may go unreported while a woman

attempts to preserve the marriage. That explanation defeated the proposed automatic inference at the quashing stage; it was not a final credibility finding that every alleged incident occurred.

FIR quashing — face-value test / investigation autonomy - *Neeharika Infrastructure v. State of Maharashtra, (2021) 19 SCC 401*, was quoted on the police's authority to investigate cognizable offences and the sparing exercise of the power to quash. Where the FIR discloses no offence, investigation need not continue. While the material remains incomplete, the Court must not inquire into the reliability of the allegations or conduct a mini trial. The wife's two FIRs alleged identifiable assaults, threats and, in one, cruelty. The High Court declined to decide the truth of those allegations or stop the investigation.

Counter FIR — shared encounter / disputed rival accounts - The husband's FIR No. 503/2021 and the wife's FIR No. 504/2021 both placed him at her parental home on 2 August 2021 in connection with his scooter, but differed on who assaulted whom. His own account therefore partly corroborated the setting, but the disputed assault could not be resolved under Section 482. Her earlier FIR No. 274/2021 concerned 3 July and was lodged then, so it could not be a counterblast to his 2 August FIR. Neither circumstance warranted quashing either of her FIRs.

Informant malice — cognizable allegations / inherent powers - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, discussed the limited purposes of Section 482, the *R.P. Kapur* and *Bhajan Lal* categories, the distinction between an absence of legal evidence and contested evidence, and the caution against stifling a legitimate prosecution. Where an FIR alleges a cognizable offence, the informant's alleged malice is secondary and cannot, by itself, justify quashing. The material collected during investigation and evidence adduced at trial determine the fate of the accused. On this record, the rival FIR did not establish the wife's malice, and both quashing applications were dismissed.

Case-note :- *1. Facts :* A common order decided Sandeep Shakya's MCRC Nos. 35841 and 40764 of 2021, each seeking quashing of an FIR lodged by his wife, respondent 2. The first challenged Crime No. 274/2021, registered at Padav Police Station, Gwalior, under IPC Sections 294, 323 and 506. The wife alleged that, at their matrimonial house on 3 July 2021, he argued over trivial matters, abused her, struck her with fists and blows, and threatened to kill her if she told her parents. She informed an uncle before reporting the incident. The second challenged Crime No. 504/2021, registered at Gwalior Police Station under Sections 294, 323, 506 and 498A read with 34 IPC. It alleged harassment by the husband, his parents and his younger brother because the couple had a daughter rather than a son. The allegations included hair-pulling and assault on 3 July, and threats to drive her from the home and arrange his remarriage. It further alleged that, on 2 August at her parental home, he abused and slapped her, twisted her right hand, slapped two relatives who intervened, and threatened her as he left by scooter.

The husband said that they had married in 2009 and that she had made no complaint until 2021. He said there had been no dowry demand and characterised both FIRs as malicious retaliation for his own Crime No. 503/2021. In his FIR, he alleged that, after he reclaimed his scooter from his brother-in-law's home on 2 August, her relatives demanded that he return it, abused and assaulted him, and threatened him. The High Court compared the dates and accounts. Her first FIR had already been lodged on 3 July. Her second FIR and his FIR concerned 2 August, and each placed him at her parental home in connection with the scooter, although their accounts of the assault differed sharply. The Court also noted medical support for the reported assault in Crime No. 504/2021.

2. Precedents — Considered : *Aluri Venkata Ramana v. Aluri Thirupathi Rao and Others*, Supreme Court order dated 12 December 2024 in SLP (Criminal) No. 9243/2024, was quoted for the history and ingredients of Section 498A IPC. The quoted decision explained that the 1983 amendment addressed cruelty to married women beyond dowry deaths. Wilful conduct capable of serious physical or mental harm under clause (a) is an alternative to harassment for an unlawful property demand under clause (b). It reproduced *U. Suvetha v. State on the* ingredients requiring a married woman, cruelty or harassment, and the husband or his relative as the actor. It also reproduced *Arvind Singh v. State of Bihar on the* statutory treatment of painful or distressing conduct. The Bench's consideration of *Suvetha* and *Arvind Singh* was confined to those reproduced passages. It used the propositions incorporated through *Aluri* to reject the husband's argument that the absence of a dowry demand precluded an offence, without deciding guilt.

Neeharika Infrastructure Private Limited v. State of Maharashtra and Others, (2021) 19 SCC 401, was quoted at length. Its relevant test preserves police power and duty to investigate cognizable offences; if no offence at all appears, investigation need not proceed. FIR quashing is exceptional and sparing, and a court at this stage does not examine whether allegations are reliable or genuine, weigh incomplete evidence, or intrude on police investigation. The FIR need not be an encyclopaedia; the court assesses whether the stated facts disclose a cognizable offence, subject to the recognised parameters in *R.P. Kapur v. State of Punjab and State of Haryana v. Bhajan Lal*. The present Bench applied that threshold rather than deciding the rival assault accounts.

Before *Neeharika*, paragraph 12 listed *XYZ v. State of Gujarat, State of Tamil Nadu v. S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, M. Srikanth, CBI v. Arvind Khanna, Kunwar Singh, Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha*. The Court cited them collectively without developing independent holdings from them.

Renu Kumari v. Sanjay Kumar and Others, (2008) 12 SCC 346, was quoted extensively on the limits of Section 482. It explained the three statutory purposes of inherent jurisdiction and the need to exercise it cautiously and exceptionally. It also set out the categories summarised in *R.P. Kapur, AIR 1960 SC 866*, including a legal bar, allegations which do not constitute an offence when taken at face value, and a manifest absence of supporting legal evidence. It distinguished an absence of evidence from evidence whose credibility requires evaluation at trial, then reproduced the illustrative *Bhajan Lal, 1992 Supp (1) SCC 335*, categories, including a demonstrably malicious prosecution. It qualified this account by explaining that, where allegations disclose a cognizable offence, the informant's alleged malice is secondary and cannot by itself terminate the proceedings. The material gathered during investigation and evidence adduced at trial determine the outcome. The Bench applied that qualification to reject an inference of malice drawn solely from the husband's rival FIR. The additional cases nested in the *Renu Kumari* quotation supported its general caution; the present Court did not independently apply each of them.

3. Statutes considered : Section 498A IPC was reproduced with its explanation. Clause (a) concerns wilful conduct likely to lead to suicide or cause grave injury or danger to the woman's life, limb or mental or physical health. Clause (b) addresses coercive harassment linked to unlawful demands for property or valuable security. The husband or a relative must be the alleged actor. Dowry demand is not an ingredient in every case, although the alleged conduct must satisfy one of the statutory alternatives; absence of a dowry demand does not automatically prove cruelty. Section 482 CrPC provided the inherent jurisdiction to quash proceedings, to be exercised cautiously to secure justice or prevent abuse without trying contested facts. Sections 294, 323 and 506 IPC were recorded in both FIRs, and Sections 498A and 34 in the second.

4. Issues : (i) Could the Section 498A FIR survive without an allegation of dowry demand, given the separate wilful-conduct and unlawful-demand limbs and the alleged harassment because the couple had a daughter? (ii) Did the absence of police complaints during most of the marriage render the July and August 2021 allegations inherently false? (iii) Did the competing FIRs, their dates and the shared account of the scooter encounter show a retaliatory counterblast, or did they raise factual disputes for trial which could not be decided under Section 482? (iv) Did the husband's allegation of the wife's malice independently justify quashing when the FIRs alleged cognizable assaults, threats and cruelty? These questions concerned whether the proceedings should continue at the threshold, rather than final criminal liability.

5. Ratio / Findings : The Court applied the express alternatives in Section 498A. Wilful conduct of the serious character described in clause (a) can constitute cruelty even without an unlawful property demand under clause (b). *Aluri Venkata Ramana* reinforced this interpretation by explaining the statutory purpose and ingredients. The wife's allegation of physical and mental harassment because she bore a girl child could not be excluded merely on the ground that there was no dowry demand.

The long interval between the marriage in 2009 and the police reports in 2021 did not itself disprove cruelty. The Court observed that a woman may tolerate domestic mistreatment and avoid formal complaints to preserve her marriage; the absence of earlier FIRs cannot automatically establish falsity. The Court then applied the face-value standard stated in its Supreme Court citations and in *Neeharika*,

declining to inquire into credibility or conduct a mini trial. The two FIRs alleged specific acts of abuse, assault and threats, with cruelty also alleged in Crime No. 504/2021.

On the counterblast plea, chronology was decisive for Crime No. 274/2021. It concerned the incident on 3 July and was lodged that day, before the husband's 2 August Crime No. 503/2021, so it could not have been lodged in retaliation for his later report. In relation to Crime No. 504/2021, the rival August FIRs both placed the husband at the wife's parental home with his scooter but accused different people of assault. His own report thus partly supported the location and encounter rather than conclusively defeating her account. The correctness of the rival assault accounts was a disputed question of fact which could not be decided under Section 482.

Finally, *Renu Kumari* cautioned against treating the informant's alleged malice as an independent ground for quashing when the report discloses a cognizable offence. The Court noted the assault allegations and medical support for the second FIR, and found no basis to infer the wife's malice from the husband's FIR alone. It left the truth of the evidence, the participation of the persons accused and ultimate proof of the offences for investigation and trial. Both connected quashing applications consequently failed.

6. Relief : The Hon'ble High Court dismissed the applications. Neither Crime No. 274/2021 nor Crime No. 504/2021 was quashed. The Court made no order of acquittal or conviction and no final determination of the three rival FIRs; investigation and any ensuing criminal process remained subject to law.

Sandeep Shakya v. State of Madhya Pradesh and Others, M.Cr.C. no. 35841/2021 & 40764/2021, 07/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (825) Prev Next

Headnote :- Section 482 CrPC — face-value complaint / no defence mini trial - *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *State of T.N. v. S. Martin, (2018) 5 SCC 718*, cautioned against a roving factual assessment while investigation remained incomplete. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterated *Bhajan Lal*'s standard of sparing quashing and the prohibition on judging the genuineness of allegations. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, preserved intervention where allegations, taken at face value, fail to constitute an offence, or where a legal bar or manifest abuse is shown, while prohibiting premature assessment of credibility. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, stated the exception where no offence is disclosed. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, rejected detailed scrutiny of the defence at the Section 482 stage. The complaint alleged that a schoolteacher had submitted the complainant's land and loan documents to a bank, and a Section 202 witness linked him to that submission. The allegation that a later loan of Rs 2.9 lakh had been obtained through forgery and diverted could not be rejected on his bare denial.

Section 482 CrPC — defence document exception - *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, stated the ordinary rule against assessing the accused's defence or disputed defence documents when considering quashing. It recognised a limited exception for a public document or one whose veracity the complainant does not contest. The applicant produced no such undisputed material establishing his asserted lack of connection with the transaction. His status as a government-school teacher did not displace the witness's account that he had submitted documents to the bank. The Court applied the face-value threshold, rather than a categorical bar to all defence material.

Complaint process — prima facie sufficient ground / Section 202 witnesses - *Shivjee Singh v. Nagendra Tiwary, (2010) 7 SCC 578*, explained that "sufficient ground" in Sections 203, 204 and 209 CrPC means a prima facie basis to proceed, rather than proof for conviction. A Section 202 inquiry is restricted to whether process should issue; the Magistrate does not weigh the evidence meticulously as at trial. The complainant need examine only the witnesses she regards as material, rather than every named witness. Non-examination of some witnesses does not itself deprive the Magistrate of jurisdiction if a prima facie case remains. Vijay Kakodiya's Section 202 evidence linked the applicant to the documents, and the order issuing process was sustained. The order declaring him an absconder was noted separately and did not replace the prima facie test.

Cognizance — Section 468 CrPC limitation / offences above three years - The applicant relied on the transaction in 2007, the complaint filed on 25

November 2010 and cognizance taken on 13 March 2015. He conceded, however, that Sections 420, 467, 468 and 409 IPC carry imprisonment exceeding three years, so the Section 468 limitation bar he invoked did not apply. The quashing application was dismissed, and the interim order of 13 September 2019 was vacated.

Case-note :- ***1. Facts :*** Sandeep Shrivastava filed MCRC No. 37369/2019 under Section 482 CrPC to quash Complaint Case No. 352/2015, pending before the Additional Chief Judicial Magistrate at Lakhnadaun, Seoni. He contended that cognizance was time-barred and denied any connection with the alleged forgery, pointing to his employment as a teacher at Government Primary School Rahlon Khurd. Chando Bai, respondent 1, had complained under IPC Sections 409, 420, 467, 468 and 120-B. She alleged that she and her sons Vishwanath and Baijnath jointly owned 5.150 hectares in Rahlon Khurd, recorded in their names under khasra numbers 101/1, 190, 192 and 320. Seeking funds for farming in about 2007, she presented loan documents. She said that respondent 2, a branch manager, repeatedly told her that the Union Bank Dhuma branch would sanction the loan and retained the submitted papers after describing them as irrelevant.

According to the complaint, a recovery officer later told her that Rs 2.9 lakh was outstanding in her name, although she denied taking that loan or receiving its proceeds. She alleged that, about two months before complaining, she had learned that the applicant and bank officers had used forged or fabricated papers to withdraw and share the amount. Documents obtained through a right-to-information request allegedly bore forged signatures. Vijay Kakodiya, examined under Section 202 CrPC, stated that the applicant had submitted the complainant's documents. The High Court noted that the applicant had no official bank duty to receive those materials. It also noted an order dated 24 July 2019 declaring him an absconder, even though he had obtained a certified copy to challenge the proceedings. That observation did not replace the separate assessment of whether process should issue.

The applicant maintained that the allegations were false, denied his connection with the transaction and sought quashing of the entire proceeding. He further contended that the conduct in 2007, the complaint on 25 November 2010 and cognizance on 13 March 2015 established a limitation bar. He conceded, however, that the charged offences under Sections 420, 467, 468 and 409 carry imprisonment exceeding three years. The Bench addressed the Section 482 standard, the threshold for issuing process and that concession. An interim order dated 13 September 2019 remained in force until the final dismissal.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337*, was quoted on a High Court exceeding its Section 482 jurisdiction by evaluating disputed allegations before investigation was complete. In that case, allegations involving inappropriate pictures, blackmail and a contested settlement required investigation; the settlement's voluntariness could not be assumed. The present Bench applied the principle against a roving inquiry to the contested bank-document allegation, while keeping the distinct facts of the cited case separate. *State of Tamil Nadu v. S. Martin and Others, (2018) 5 SCC 718*, was quoted briefly against premature assessment before investigation was complete. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, quoted the *Bhajan Lal* caution that the categories are not a watertight code and that quashing is rare and sparing, rather than an inquiry into the reliability of FIR or complaint allegations. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, was quoted for a distinct qualification: ordinarily the High Court does not weigh an accused's defence or the truth of his documents at quashing, but an appropriate public document or a document whose veracity the complainant does not dispute may be considered. The cited passage names *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* as sources of that exception, without independent discussion of their facts. The current applicant's unsupported denial and occupation were not treated as such decisive undisputed proof. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, was quoted for the need to avoid deciding reliability, which is reserved for trial, and to prevent an accused from prematurely terminating a legitimate complaint. It also preserved the sparing power to intervene where allegations, even if accepted, do not constitute an offence, where a legal bar exists, or where malicious abuse is demonstrated. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, reinforced the power to quash when allegations taken at face value or uncontroverted material disclose no offence. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, criticised minute examination of a disputed defence after cognizance. *State of M.P. v. Kunwar Singh*, order of 30 June 2021 in Criminal

Appeal No. 709/2021, cautioned that a Section 482 court must not scrutinise material as a trial court would and that an FIR need not be encyclopaedic. The Bench applied the shared principle against a mini trial while retaining the exception where allegations taken at face value disclose no offence. *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* were cited as taking a similar view, without individually developed ratios in this order.

Shivjee Singh v. Nagendra Tiwary and Others, (2010) 7 SCC 578, was quoted extensively and applied to the order issuing process. "Sufficient ground" under Sections 203, 204 and 209 means prima facie satisfaction that proceedings should continue, rather than proof sufficient for conviction. Its discussion of *Chandra Deo Singh*, *Kewal Krishan* and *Mohinder Singh* described the narrow Section 202 inquiry: assessment of a trial defence and detailed appraisal of evidence belong to later stages. It further construed the proviso to Section 202(2) in context. Failure to examine every witness named by the complainant does not by itself deprive the Magistrate of jurisdiction if the material witnesses examined make out a prima facie case. The present Court found the complainant's account and Vijay Kakodiya's evidence sufficient to meet that threshold.

3. Statutes considered : Section 482 CrPC governed the request to quash the complaint. It restrained the High Court from trying contested defence facts while permitting intervention if uncontroverted allegations disclosed no offence or a recognised legal bar applied. Sections 200 and 202 concerned preliminary complaint evidence; the witness was examined under Section 202. Sections 203 and 204 governed dismissal of the complaint and issue of process respectively, and Section 209 appeared in the quoted explanation of "sufficient ground". The proviso to Section 202(2) was discussed through *Shivjee Singh*: it concerns examination of material witnesses, and not every failure to examine a named witness automatically creates a jurisdictional defect. Section 468 provided the basis for the limitation objection. The applicant conceded that IPC Sections 420, 467, 468 and 409 carried punishments exceeding three years, so the limitation period he invoked did not apply to the complaint.

4. Issues : (i) Did the complainant's account, taken with preliminary witness evidence at face value, make a prima facie case connecting this applicant to alleged forged banking documents, despite his denial and teaching post, so that Section 482 quashing was inappropriate? (ii) What level of "sufficient ground" and witness examination under Sections 202–204 was required for issuing process, as distinct from proof for conviction? (iii) Did the dates of the alleged transaction, complaint and cognizance trigger the Section 468 limitation bar in light of the specified offences' punishments?

5. Ratio / Findings : The Bench applied the Supreme Court's limits on Section 482 jurisdiction. *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Gourishetty Mahesh*, *CBI v. Arvind Khanna and Kunwar Singh* disfavoured premature factual appraisal or a mini trial of the disputed defence. *Mohd. Akram Siddiqui* preserved a narrow exception for a public or undisputed defence document; *M. Srikanth* and *Gourishetty Mahesh* preserved quashing where the accepted allegations disclose no offence. Here, the complaint alleged that the applicant had submitted the land and loan papers; a bank loan was later shown in Chando Bai's name with signatures she alleged were forged; she had received no proceeds; and the applicant and branch manager had shared the amount. Vijay Kakodiya's Section 202 statement specifically linked the applicant to submission of the documents. His status as a schoolteacher with no bank duty to accept the papers did not displace that allegation. His denial required examination of evidence, rather than a factual conclusion under Section 482. The Court noted the absconder order as a separate circumstance. It held that the complaint and witness evidence, if accepted, provided a basis for process, without finding that the applicant had in fact forged documents or received the funds.

Shivjee Singh established prima facie sufficient ground as the threshold for issuing process. The Magistrate need not determine whether the evidence proves guilt or weigh it as at a full trial. Not every witness named by a complainant must be examined if material preliminary evidence supports proceeding. In light of Vijay Kakodiya's account and the complaint narrative, the Court found no error in issuing process. It did not rely only on suspicion unconnected with the alleged acts.

The limitation submission failed on counsel's concession that IPC Sections 420, 467, 468 and 409 were punishable by imprisonment exceeding three years, for which the Section 468 limitation period invoked was inapplicable.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. Complaint Case No. 352/2015 and the order issuing process against Sandeep Shrivastava were not quashed. The interim order of 13 September 2019 was vacated.

Sandeep Shrivastava v. Chando Bai and Others, M.Cr.C. no. 37369/2019, 23/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (826) Prev Next

Headnote :- Article 226 mandamus — FIR request / statutory alternative - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguished the police duty to register an FIR on information disclosing a cognizable offence from the remedy when the police do not act: a complaint under Sections 190 and 200 CrPC. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognised Article 226 intervention in rare cases where a mala fide investigation, abuse of power and non-compliance with Chapter XII are clearly established. Even then, a court cannot direct how the police investigate. The Division Bench in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, held that mandamus may be declined for failure to use Sections 154(3), 156(3), 190 and 200, subject to the *Whirlpool* exceptions. *Lalita Kumari*'s statement of police duty does not itself confer an unqualified right to a writ. The Court dismissed this writ seeking an FIR direction, with liberty to approach the Magistrate, without deciding whether the unspecified affidavit allegation constituted an offence.

Magistrate remedies — Section 156(3) registration and investigation control - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, set out a written approach to the Superintendent of Police under Section 154(3), followed by a Section 156(3) application to the Magistrate if registration or investigation remained unsatisfactory. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed that, on prima facie satisfaction, the Magistrate may direct registration, require and monitor proper investigation, and recommend a change of investigating officer to senior police if necessary. The Magistrate cannot investigate personally. *Divine Retreat Centre*, reproducing *Gangadhar Janardan Mhatre*, also explained the complaint inquiry under Sections 190 and 200. On finding a prima facie case, the Magistrate may direct investigation and a report. A complaint disclosing no offence may be dismissed under Section 203, while a prima facie disclosure of an offence may lead to process. These available remedies supported the liberty to approach the Magistrate under Section 200 CrPC or Section 223 BNSS.

Case-note :- ***1. Facts :*** Sandeep Singh Rajawat filed Writ Petition No. 4266 of 2025 under Article 226, seeking a direction to the police to register an FIR. Counsel submitted that the petitioner had approached the respondents for registration but no action had followed. The State opposed the request, arguing that a writ seeking an FIR direction was not ordinarily maintainable because the petitioner had an efficacious complaint remedy before the trial Magistrate under Section 200 CrPC, also referred to as Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

The Court framed the issue as whether a writ seeking a direction to the police to register an FIR was maintainable. It quoted Supreme Court decisions distinguishing the police duty from the complainant's remedies, explaining the Magistrate's registration and investigation powers, and defining exceptional writ control. It also quoted a Gwalior Division Bench decision on alternative remedies. The decision concerns the appropriate forum and remedy; it does not determine the merits of any public-employment or false-affidavit offence.

2. Precedents — Considered : *Aleque Padamsee and Others v. Union of India and Others, (2007) 6 SCC 171*, was quoted at length. It recognised the police's duty under Section 154 when the facts disclose a cognizable offence, while explaining the aggrieved person's complaint remedy before the Magistrate under Sections 190 and 200 if the police do not register an FIR. The quoted decision distinguished *Ramesh Kumari* and *Lallan Chaudhary*, which addressed police action, from *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*, which addressed the remedy when the police fail to act. That distinction was applied here. *Aleque Padamsee*'s separate sanction direction related to its own litigation.

Divine Retreat Centre v. State of Kerala and Others, (2008) 3 SCC 542, was quoted on the exceptional exercise of Article 226 power where mala fide investigative conduct, abuse of power and non-compliance with Chapter XII are clearly

established. Even then, the court may insist on lawful process but cannot direct police methods. It separately directed complainants alleging ordinary police inaction to Sections 190 and 200. Its quotation of *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, explained the complaint inquiry. On evidence establishing a prima facie case, the Magistrate may direct investigation and a report instead of immediately issuing process. A complaint disclosing no offence may be dismissed under Section 203, while a prima facie disclosure of an offence may lead to cognizance and process. The present Court applied the ordinary complaint remedy.

Sakiri Vasu v. State of Uttar Pradesh and Others, (2008) 2 SCC 409, set out successive remedies: a written approach to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3) if the FIR remained unregistered or the investigation was deficient. The Magistrate may order registration or proper investigation and monitor it. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others, (2016) 6 SCC 277*, applied *Sakiri Vasu*'s alternative-remedy approach. It required prima facie satisfaction before the Magistrate issued directions, recognised the power to recommend a change of investigator to senior police, and emphasised that the Magistrate cannot investigate personally. The Bench quoted these propositions to explain recourse to the ordinary statutory forum rather than a routine FIR writ. It did not prejudge a future Section 156(3) application.

Shweta Bhadauria v. State of Madhya Pradesh and Others, W.A. No. 247/2016, a Gwalior Division Bench decision dated 20 December 2016, was reproduced as High Court precedent. It held that mandamus under Section 154 may be denied where the informant has not used Sections 154(3), 156(3), 190 and 200, unless an exception identified in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, applies. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, concerning the police duty to register an FIR, from an entitlement to a writ without using those alternative remedies.

3. Statutes considered : Article 226 of the Constitution was the writ jurisdiction invoked. Section 154 CrPC imposes the police duty to register information disclosing a cognizable offence; Section 154(3) provides for a written approach to the Superintendent of Police. Section 156(3) permits the Magistrate, on the relevant prima facie basis, to require registration or proper investigation and monitor it, while leaving investigation to the police. Sections 190 and 200 provide the alternative complaint and cognizance procedure, with dismissal under Section 203 if the inquiry reveals no offence, as discussed in the *Gangadhar* passage. Chapter XII governs police investigation in the discussion of exceptional intervention. The order's operative liberty refers to Section 200 CrPC or Section 223 BNSS, 2023.

4. Issues : (i) Whether Article 226 should be used to compel police registration when the petitioner asserted inaction on his request, despite alternative statutory routes. (ii) How the Section 154 duty differs from a complainant's remedies before the Superintendent of Police and Magistrate, including a complaint inquiry and Section 156(3) investigation control. (iii) Whether the exceptional writ power for demonstrated mala fide investigative abuse or the qualified alternative-remedy exception was engaged on this record.

5. Ratio / Findings : The Court distinguished the police's obligation from the petitioner's choice of forum. *Aleque Padamsee* held that information disclosing a cognizable offence calls for an FIR, while police inaction is addressed by approaching the Magistrate under Sections 190 and 200. *Divine Retreat Centre* and its *Gangadhar* quotation explained the Magistrate's options after examining a complaint. The complaint may be dismissed if no offence appears; if the applicable prima facie threshold is met, cognizance, process or a direction for police investigation may follow. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* also provided for a written approach under Section 154(3) and an application under Section 156(3), including monitoring of the investigation. The Magistrate cannot investigate personally.

The Bench also quoted *Divine Retreat Centre*'s rare Article 226 exception for clearly established mala fide or abusive investigation and *Shweta Bhadauria*'s qualification preserving the *Whirlpool* exceptions. The petitioner asserted that the police had not acted. The Court applied the ordinary statutory remedy and left him at liberty to approach the Magistrate.

6. Relief : The Hon'ble High Court dismissed the writ petition with liberty to the petitioner, if he wished, to approach the concerned Magistrate under

Section 200 CrPC or Section 223 BNSS, 2023 for redress.

Sandeep Singh Rajawat v. State of Madhya Pradesh and Others, W.P. no. 4266/2025, 17/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (827) Prev Next

Headnote :- Circumstantial murder proof — complete chain / suspicion cannot replace proof - *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, required each incriminating circumstance to be firmly proved, consistent only with guilt and conclusive. Together, the circumstances must form a complete chain excluding a reasonable hypothesis of innocence. *Pudhu Raja v. State, (2012) 11 SCC 196, Ram Singh v. Sonia, (2007) 3 SCC 1*, and *Inspector of Police v. John David, (2011) 5 SCC 509*, reinforced the need for reliable links and the distinction between conjecture and proof. *John David* also reproduced related formulations of the complete-chain requirement. The child's death by drowning was supported by unchallenged medical evidence, but this did not establish homicide or the accused's responsibility for the death. Once the last-seen and sandal-recovery links failed, a quarrel and threat at a marriage procession could not fill the gaps. *C.T. Ponnappa v. State of Karnataka, (2004) 11 SCC 391*, was relied on for the insufficiency of a solitary circumstance. The Court held that the evidence was consistent with an accidental fall into an unprotected well at ground level and acquitted the appellant of murder.

Last seen — short time gap, prosecution burden and corroboration - *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750, Mahavir Singh v. State of Haryana, (2014) 6 SCC 716*, and *State of U.P. v. Satish, (2005) 3 SCC 114*, required an interval sufficiently short to exclude a realistic possibility of intervention by another person. *Jagroop Singh v. State of Punjab, (2012) 11 SCC 768*, illustrated why an overnight gap may still be acceptable on the supporting facts of a particular case. *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, kept the initial burden on the prosecution. After a last-seen link is proved, Section 106 of the Evidence Act may apply to facts specially within the accused's knowledge, but that link is not conclusive without other circumstances. *Kanhaiya Lal v. State of Rajasthan, (2014) 4 SCC 715*, rejected an inference of guilt from last-seen evidence or a failure to explain alone. Here, Gulab delayed disclosure despite meeting the missing child's father. His account placed the pair first at a boundary wall and later under a tree absent from the spot map; his account of women drawing water also raised a timing discrepancy. Shivlal saw the pair from behind, and his conduct after the death was implausible. The Court found that last-seen was not proved beyond reasonable doubt.

Recovered article — identification of deceased's sandal - The old chappal allegedly recovered on the appellant's disclosure was never subjected to an identification test or identified by any witness in court as belonging to the child. Recovery of an unidentified object could not connect him to Naval Kishore's death. The proposed corroborative link therefore failed independently of the last-seen evidence. The decision addressed the object's identity and probative connection.

Motive — family quarrel / missing evidentiary links - Witnesses described Komal striking the appellant with a chappal in a marriage procession after ear-pulling, followed by a threat. The Court found that this weak motive, standing alone, did not prove that the appellant had pushed Komal's nine-year-old son into the well. With no reliable last-seen account and no identified sandal, it set aside the life sentence under Section 302 IPC and ordered the appellant's release if he was not required in another case.

Case-note :- ***1. Facts :*** Sangram appealed under Section 374 CrPC against the Additional Sessions Judge, Pichhore's judgment in Sessions Trial No. 140/2009 dated 19 June 2010. He had been convicted of Naval Kishore Pal's murder under Section 302 IPC and sentenced to life imprisonment, a fine of Rs 500 and three months' rigorous imprisonment in default. Naval, aged about nine, had come with his mother Vimla and siblings to a family wedding. His elder relative Jairam reported on 5 May 2009 that Naval had gone missing on 4 May and that a body had been found in Harbhajan's well. The police registered a merg inquiry under Section 174 CrPC, followed by a murder FIR and charge sheet after learning of a quarrel between Sangram and Naval's father Komal at the wedding procession. The prosecution alleged that a resentful Sangram had pushed the child into the well. Sangram denied guilt; thirteen prosecution witnesses and two defence witnesses were examined.

The post-mortem doctor, Dr Rohit Bhadkariya (PW8), described a laceration below the nose and

upper lip, and a contusion and swelling in the right parietal region. He concluded that death was caused by asphyxia due to drowning. As he explained, his report mistakenly recorded the date as 5 April instead of 5 May 2009. The defence did not challenge the cause of death in cross-examination. A tibia bone preserved for diatom examination was returned because it was broken, so the test could not be performed. The appellate Bench accepted drowning as the cause of death, excluded suicide on this record, and separately considered whether the child had fallen or been pushed into the well. Proof of drowning did not establish murder.

The alleged motive arose when someone pulled Komal's ear in the wedding trolley. Witnesses said that Sangram tried again, Komal struck him with a chappal, and Sangram threatened to "see" him. The prosecution relied on Shivlal (PW1) and Gulab (PW7) to place Sangram with Naval near the well on 4 May. Shivlal said that he had seen them from behind, walking towards the well. After learning that his great-grandson's body had been found, however, he left for Lohagarh and did not join Komal's family until 8 May. Gulab claimed a sighting at a boundary wall or under a sheesham tree, but the spot map showed an unprotected well at ground level, without a boundary wall or the tree. He met Komal after learning that the child was missing but did not disclose the claimed sighting; his police statement was recorded eight days later. His account of women fetching water there at 10 a.m. also conflicted with the alleged discovery of the body, the merg report at 11 a.m. and the panchnama at noon. The final alleged link was an old sandal recovered on Sangram's disclosure, which was never identified by a test or in court as Naval's. The appeal challenged the completeness of the circumstantial chain; the State defended the conviction.

2. Precedents — Considered : *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, set out five requirements: firmly established circumstances, consistency only with guilt, conclusive tendency, exclusion of innocent hypotheses, and a chain leaving no reasonable ground for innocence. The Bench quoted its distinction between "must be proved" and "may be", drawing on *Shivaji Sahabrao Bobade* as reproduced within *Sharad*, and applied it to the disputed last-seen and recovery links. *Pudhu Raja v. State, (2012) 11 SCC 196*, emphasised reliable, clinching evidence for each link and that grave suspicion cannot substitute for proof. *Ram Singh v. Sonia, (2007) 3 SCC 1*, likewise warned that failure of an important link breaks the chain and conjecture cannot fill the gap. *Inspector of Police v. John David, (2011) 5 SCC 509*, restated the complete-chain requirement and reproduced *State of U.P. v. Ram Balak's* discussion of other established formulations, including *C. Chenga Reddy, Padala Veera Reddy* and *Sharad*. The present Court treated these authorities as reinforcing the same standard and found that the prosecution had failed to exclude an accidental fall.

Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750, was quoted on the need for a last-seen interval so short as to exclude plausible intervention by another person. Its quoted passage referred to *Bodhraj*, *Rambraksh* and *Anjan Kumar Sarma*. *Mahavir Singh v. State of Haryana, (2014) 6 SCC 716*, and *State of U.P. v. Satish, (2005) 3 SCC 114*, reiterated the time-gap and evidentiary qualifications; *Satish* also noted the positive witness evidence in that case. *Jagroop Singh v. State of Punjab, (2012) 11 SCC 768*, showed that an overnight interval did not automatically invalidate last-seen evidence where the search and post-mortem timing in that case supported it. *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, kept the initial burden of proof on the prosecution and discussed the special-knowledge burden under Section 106 of the Evidence Act after last-seen evidence, while making clear that the circumstance was not conclusive without corroboration. *Kanhaiya Lal v. State of Rajasthan, (2014) 4 SCC 715*, required a further connection with the crime and rejected guilt based on a failure to explain alone. The High Court applied these initial-proof and corroboration safeguards before drawing any inference against Sangram. It found the two eyewitnesses unreliable in material respects.

C.T. Ponnappa v. State of Karnataka, (2004) 11 SCC 391, was quoted for the proposition that a solitary proved circumstance cannot establish guilt in a circumstantial case without a complete chain. That case concerned gunshot residue rather than a well. The Bench applied its broader rule on an incomplete chain to the weak motive remaining after the other links failed. The nested cases within the long quotation from *John David* were not individually analysed by the present Bench.

3. Statutes considered : Section 374 CrPC supplied the appeal from conviction. Section 302 IPC was the murder charge and conviction under review, and the

prosecution had to prove that the drowning resulted from culpable homicide by the appellant beyond reasonable doubt. Section 174 CrPC framed the initial police death inquiry; a murder FIR followed on the prosecution theory. Section 106 of the Evidence Act arose in the quoted *Ashok* last-seen principle: facts specially within an accused's knowledge may call for explanation after the prosecution proves a close and credible last-seen link, but the provision does not replace the initial burden or repair a missing chain. The diatom test failed because the sample was broken, and death by drowning was accepted on the unchallenged medical evidence, rather than on a statutory presumption.

4. Issues : (i) Was Naval's death established as drowning and, separately, as a homicide attributable to Sangram rather than an accidental fall? (ii) Did the wedding-procession dispute and threat constitute a sufficiently strong motive and, if not, what corroboration was required? (iii) Were PW1 and PW7 reliable last-seen witnesses with an adequately close, meaningful link to death, considering their conduct, discrepancies and the spot map? (iv) Was the recovered sandal proved to belong to Naval, and did all proved circumstances together exclude innocence under the Supreme Court's chain standard? The appeal concerned the existing murder conviction, sentence and custody.

5. Ratio / Findings : The Bench accepted PW8's unchallenged medical conclusion that drowning caused death, despite the corrected date in the report and the unavailable diatom test. The injuries did not independently establish that Sangram had pushed the child. With no evidence of suicide, the remaining question was whether the death was accidental or homicidal. Applying *Sharad*, *Pudhu Raja*, *Ram Singh* and *John David*, each prosecution link had to be proved by reliable evidence and form part of a chain incompatible with a reasonable explanation of accidental death. A speculative motive could not substitute for a failed last-seen or recovery link.

Witnesses described the ear-pulling, chappal strike and threat at the wedding, but the Court found no strong motive to kill Komal's child. The principles on time gap and corroboration in *Shailendra Rajdev Pasvan*, *Ashok*, *Mahavir Singh*, *Jagroop Singh*, *Satish* and *Kanhaiya Lal* required both a trustworthy sighting and a connection excluding a realistic intervening event. Gulab knew that the child was missing and met Komal, yet did not tell him of the claimed sighting. His account changed from a boundary wall to a sheesham tree absent from the spot map, while the well was at ground level and unprotected. His account of water being drawn at 10 a.m., the discovery of the body and the reporting sequence also raised a serious inconsistency, and his police statement was delayed. Shivlal's sighting from behind and departure to Lohagarh despite learning that his great-grandson was dead undermined his reliability. The Bench held that last-seen was not proved beyond reasonable doubt. That failure of proof prevented Section 106 from being used to shift the prosecution's initial burden on the basis of a conjectured encounter.

The old sandal was not identified in a test or by any trial witness as belonging to Naval. The Court therefore rejected its recovery as a proved incriminating link, without needing to decide every aspect of the disclosure procedure. Only the wedding quarrel remained, leaving the prosecution without a complete chain. *C.T. Ponnappa* reinforced that a solitary circumstance could not support a conviction. The spot map showed a well at ground level without a protective boundary. The Bench concluded that the child had fallen accidentally, that the alleged murder was unproved, and that the Section 302 conviction could not stand.

6. Relief : The Hon'ble High Court allowed the criminal appeal. The judgment and sentence dated 19 June 2010 in Sessions Trial No. 140/2009 were set aside, and Sangram was acquitted under Section 302 IPC. As he was in jail, the Court ordered his immediate release unless he was required in another case. It directed that he receive a free copy of the judgment and that the trial-court record be returned with a copy for compliance. The life sentence, Rs 500 fine and default term consequently ceased with the conviction being set aside.

Sangram v. State of Madhya Pradesh, Cr.A. no. 647/2010, 25/03/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (828) Prev Next

Headnote :- Successive regular bail — co-accused parity / disclosure and independent scrutiny - Later coordinate-Bench bail orders for Vishnu Bhadoriya and Sonu Khangar, and the trial court's consequent bail to Somendra Rajawat, did not by themselves establish a change warranting Sanjay Bhadoriya's release on his third Section 439 CrPC

application. His first application had been rejected on merits and that rejection had not been brought to the coordinate Benches' notice. The Court expressly rejected a negative-parity rule, yet required full material disclosure as a matter of judicial discipline and considered the present application independently, rather than automatically following orders made without the earlier refusal. Omission of details from the first short bail order was not a new circumstance.

Bail order — restraint in recording trial merits - *Vaman Narain Ghiya v. State of Rajasthan, (2009) 2 SCC 281*, was invoked to avoid an elaborate discussion of evidence in a bail order which might prejudice the trial. The Bench warned counsel of that risk if he pressed for a detailed ruling on the merits. Counsel nevertheless insisted. The Court then examined the FIRs filed before it and rejected the inaccurate factual submissions.

Witness intimidation — bail factors and victim's interest - Counsel invoked *Sanjay Chandra v. CBI, (2012) 1 SCC 40*, against treating refusal of bail as punishment. *Virupakshappa Gouda v. State of Karnataka, (2017) 5 SCC 406*, distinguished that case's context and required attention to the accusation, supporting evidence, punishment and risk of threatening or influencing witnesses. Its quotation incorporated the factor lists in *Chaman Lal* and *Prasanta Kumar Sarkar. Dinubhai Boghabhai Solanki v. State of Gujarat, (2018) 11 SCC 129*, was quoted on the victim's role and the public interest in an effective criminal process, without reversing the presumption of innocence. The FIR here alleged that the applicant and armed co-accused entered the complainant's home, threatened the family to secure changes in testimony in an earlier case involving the complainant's son, fired shots and assaulted the family. The 2016 FIR confirmed that the son was a victim, contrary to counsel's assertion. The Court regarded the alleged coercion as serious interference with justice and rejected bail.

Case-note :- ***1. Facts :*** Sanjay Bhadoriya's third application for bail under Section 439 CrPC arose from his arrest on 4 April 2018 in Crime No. 218/2018, registered at Cantt Police Station, Guna, for IPC Sections 307, 294, 458, 195-A, 427 and 34 and Arms Act Sections 25/27. His first application, MCRC No. 15055/2018, had been dismissed on merits on 24 April. A second application, MCRC No. 17597/2018, was dismissed as withdrawn on 14 May. Later, coordinate Benches granted bail to Vishnu Bhadoriya and Sonu Khangar on 31 May and 4 June in MCRC Nos. 20814 and 21014/2018, and the trial court granted bail to Somendra Rajawat alias Shetti on 20 June. Sanjay sought identical treatment. He argued that the later orders and the omission of some factual details from his own earlier short order amounted to a change in circumstances. The Court found that the coordinate orders did not refer to his earlier rejection on merits. It assessed his application independently, rather than applying a negative-parity rule.

The present FIR alleged that Vishnu, Somendra and others had assaulted the complainant's son and relatives in 2016, and that the pending trial prompted an attempt to force changes in their testimony. On the night of the present incident, it alleged a threatening telephone call to the son, followed by a late-night visit to the family home by Sanjay and three co-accused. Vishnu and Somendra allegedly carried firearms; Sanjay and Sonu carried lathis. The group allegedly threatened to kill the family if their statements were not changed and fired shots, from which the family members took shelter. They then allegedly climbed the boundary, broke doors and windows, and struck the complainant and his sons before fleeing when the police arrived. These were allegations considered at bail, rather than findings at trial.

Counsel asserted that the complainant and his relatives had no connection with the 2016 Crime No. 303/2016, and that the witness list in a separate Section 302 case also omitted them. The Bench asked whether an affidavit had been filed to support the first assertion; none had been filed. It examined the 2016 FIR, lodged by Vikash Agrawal, which named Satyam as a victim. The present complainant identified Satyam as his son. The witness list in the separate murder case did not address the alleged coercion concerning Crime No. 303/2016. Counsel also relied on FIR No. 196/2018, lodged by Sonu Khangar after an alleged assault by the complainant's side, to argue that the present case was a counterblast. In explaining that FIR, counsel described Sonu's employer Vishnu as Sanjay's business partner. The Court treated this as an admission of an association with a co-accused in both the earlier and present cases. Counsel insisted on a detailed order on merits despite the warning that such discussion might affect the trial. The State opposed release.

2. Precedents — Considered : *Vaman Narain Ghiya v. State of Rajasthan, (2009) 2 SCC 281*, was cited by the Court for restraint in detailed bail merits discussion and elaborate documentation. The Bench warned that a detailed ruling could prejudice the trial; the applicant's counsel expressly requested one anyway. The precedent explained the caution, not a final evidentiary standard for guilt.

Sanjay Chandra v. Central Bureau of Investigation, (2012) 1 SCC 40, was cited by counsel for the principle that refusal of bail should not punish a person who has not been convicted. The Bench quoted *Virupakshappa Gouda and Another v. State of Karnataka and Another, (2017) 5 SCC 406*, which acknowledged *Sanjay Chandra* but rejected automatic application of observations made in a different factual setting. *Virupakshappa* required attention to the nature and manner of the alleged crime and the circumstances of the particular case. Its discussion incorporated *Chaman Lal v. State of U.P., (2004) 7 SCC 525*, on the accusation, likely sentence, supporting evidence, apprehended witness tampering or threats, and prima facie support. It also quoted *Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496*, listing grounds to believe the accusation, gravity, sentence, flight, conduct, recurrence, witness influence and the risk of thwarting justice. The present Bench particularly considered the alleged threats to witnesses, intrusion into the home and firing of shots.

Dinubhai Boghabhai Solanki v. State of Gujarat and Others, (2018) 11 SCC 129, was quoted on the shift toward recognising victims as stakeholders and the social interest in fair, effective prosecution, including victim participation and compensation. The Court used it to emphasise that witness coercion can undermine delivery of justice. The order's final assessment remained a bail-stage application to the allegations and documents before the Bench.

3. Statutes considered : Section 439 CrPC governed the application for regular bail. The registered offences were IPC Sections 307, 294, 458, 195-A, 427 and 34 and Arms Act Sections 25/27; Section 195-A made the alleged pressure on witnesses especially relevant. The FIR in Crime No. 303/2016 was considered to test counsel's assertion that the present complainant's family had no connection with the earlier case, rather than to decide the earlier charges. Section 302 IPC arose only in a distinct pending murder case whose witness list counsel produced. The Bench explained that this other case was not the asserted source of the intimidation.

4. Issues : (i) Did subsequent bail of co-accused, obtained without disclosure of Sanjay's earlier merits rejection, require parity or constitute a sufficient new circumstance in a third bail application? (ii) Could a claimed omission of factual detail in the earlier short bail order justify rehearing on that basis, and how much merits discussion was appropriate? (iii) Did the allegation of coercion of the 2016 case's witnesses have a real evidentiary connection to the complainant's family, despite counsel's denial and reliance on other FIRs and a separate murder witness list? (iv) How should the presumption against punishment before conviction be balanced with prima facie accusation, threats, witness influence and victim or public interests at this bail stage?

5. Ratio / Findings : The Bench declined to follow the later co-accused bail orders mechanically. It stated that negative parity does not apply as a rule, but judicial discipline requires counsel to disclose all relevant facts, including an earlier rejection of a co-accused's bail application. Because the later coordinate orders did not mention Sanjay's first dismissal on merits, the Court assessed his application independently. The lack of detail in the earlier bail order was not a changed circumstance. Citing *Vaman Narain Ghiya*, the Court initially cautioned against a detailed discussion which could prejudice the trial.

The earlier FIR, arising in 2016, identified Satyam as a victim of Vishnu's alleged assault, and the present complainant identified Satyam as his son. This documentary link contradicted counsel's assertion, unsupported by an affidavit, that neither the complainant nor his family was involved. The witness list in the separate Section 302 case was irrelevant to the alleged pressure to change testimony in Crime No. 303/2016. Counsel's own account of FIR No. 196/2018 associated the applicant with Vishnu as business partners; it did not conclusively establish that the present case was a fabricated counterblast. The Court found sufficient support for the intimidation allegation for the purpose of deciding bail, rather than proof beyond reasonable doubt.

Sanjay Chandra's warning against punitive detention before trial was considered through *Virupakshappa Gouda*'s requirement to assess the risks in the particular case. Under the *Chaman Lal*

and *Prasanta Kumar Sarkar* factors, witness influence and the risk of thwarting justice were central here. *Dinubhai*'s discussion of victims reinforced the importance of protecting a fair process, without permitting conviction on accusation alone. The Court regarded the alleged visit with firearms and lathis, death threats linked to earlier testimony, indiscriminate firing and assault inside the house as direct interference with the delivery of justice and a serious risk to witnesses' freedom. It held that the case was unsuitable for bail. These were provisional reasons given in deciding a third bail application; the trial remained free to assess the offences and evidence.

6. Relief : The Hon'ble High Court dismissed the third application for regular bail.

Sanjay Bhadoriya v. State of Madhya Pradesh, M.Cr.C. no. 22796/2018, 04/07/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (829) Prev Next

Headnote :- Juvenility — 1999 offence / pending appeal under 2000 act - A Juvenile Justice Board inquiry found that Babua alias Rajiv Singh had been about seventeen years and five months old on 30 July 1999. The Juvenile Justice Act, 1986 then set the male-juvenile age threshold at sixteen, but the 2000 Act raised it to eighteen. Section 20 and its Explanation extend the later definition to pending trials, revisions and appeals as though it applied on the offence date. *Devilal v. State of M.P., Criminal Appeal No. 989/2007*, judgment dated 25 February 2021, was quoted at length. It explained that such proceedings may reach a finding of guilt, but the ordinary court must refer the matter to the Board instead of imposing an adult sentence on the juvenile. *Devilal*'s incorporated discussion of *Mumtaz*, *Pratap Singh*, *Bijender Singh*, *Dharambir*, *Kalu*, *Hari Ram*, *Satya Deo* and *Jitendra Singh* addressed the legal fiction, a claim made after conviction and the appropriate juvenile disposition. Repeal under the subsequent 2015 Act did not undo the accepted claim in a pending case, in light of Section 25 of that Act. Babua was treated as a juvenile despite the pre-2000 offence and his present adult age.

Juvenile convicted in regular court — conviction retained / sentence sent to board - The Court affirmed the Section 302 IPC findings against both Sanjay Singh and Babua for two deaths, on the basis of the unchallenged eyewitnesses and post-mortem evidence. The adult Sanjay's two life terms and five-year Arms Act term were affirmed. Babua's sentence was set aside while his conviction was retained. Under Section 20 of the 2000 Act, Section 15(d) and *Devilal*, the jurisdictional Juvenile Justice Board was to determine an appropriate fine within six months. Babua, who was already on bail, had to appear on 22 July 2022, and his bail bonds were discharged. The Court noted his substantial earlier custody as an undertrial and after conviction. This was a distinct sentencing outcome, rather than an acquittal of the juvenile or a reduction of the adult's sentence.

Common appeal — homicidal deaths, accused-wise evidence and abatement - The doctor described sharp and penetrating injuries including Virendra's severed neck and Raghunandan's gunshot and penetrating wounds, and opined two homicides. Ramrani, Sushila, Preeti and Guddi attributed knife blows to Babua and the beheading and shot to Sanjay; counsel conceded cross-examination had not discredited them. The Court sustained the findings while preserving different adult and juvenile consequences. Rajendra Singh, appellant 3, had died during the appeal; his appeal had already abated on 16 June 2022 and no new merits relief was ordered for him.

Case-note :- ***1. Facts :*** Criminal Appeal No. 696/2011 challenged the Additional Sessions Judge, Gohad's judgment dated 29 July 2011 in Sessions Trial No. 56/2000. The trial court had convicted Sanjay Singh, Babua alias Rajiv Singh and Rajendra Singh of two murders under Section 302 IPC. On each count, it imposed life imprisonment and a fine of Rs 1,000, with a stated three-year term of rigorous imprisonment in default. Sanjay and Babua also received five years' rigorous imprisonment and a fine of Rs 1,000, with one year's imprisonment in default, for Arms Act Sections 25(1)(a) and 27. The sentences were concurrent. Rajendra died during the appeal, which had been dismissed as abated in his case by order dated 16 June 2022. The present consideration of the merits and sentence therefore concerned the two surviving appellants.

The prosecution alleged that, on 30 July 1999, Virendra Singh went to fetch water and was surrounded by Rajendra, Sanjay and Babua. The weapons attributed to them included a gun, knife, country-made pistols and sword, according to their respective alleged roles. They pursued Virendra into Abhilakh's house, dragged him out and attacked him.

Eyewitnesses attributed the beheading to Sanjay and the penetrating knife wounds to Babua, with Rajendra also involved. Raghunandan was then shot and struck, dying at the scene. Ramrani reported the deaths and a background dispute over Rajendra's missing buffaloes. During panchayat negotiations, Virendra had temporarily handed over animals, and Rajendra had threatened the family. The police seized weapons, obtained post-mortems, sent articles to the forensic laboratory, obtained Arms Act sanction and filed charges. Rajendra initially absconded and was later named in a supplementary charge sheet. These were prosecution details; the appellate findings rested on medical and eyewitness evidence.

Dr A.K. Mudgal (PW12) documented deep incised and penetrating wounds, severed neck structures and shock from vital-organ injuries in Virendra. He recorded gunshot and penetrating wounds with shock in Raghunandan and classified both deaths as homicide. Ramrani (PW5), Sushila (PW6), Preeti (PW7) and Guddi (PW8) described the attacks and the respective roles. Counsel did not substantially challenge the trial court's finding of guilt and conceded that cross-examination had not undermined those witnesses. The principal appellate contention concerned Babua's age. At the High Court's direction, a Juvenile Justice Board report dated 12 March 2014 found that he had been approximately seventeen years, five months and twenty-four days old at the offence date; counsel's later submission described his age as seventeen years, five months and twenty-six days. Both versions placed him below eighteen and above sixteen. He had been on bail after the inquiry. The question was whether the eighteen-year threshold under the later 2000 Act applied to his pending appeal despite the sixteen-year threshold for males under the 1986 Act at the time of the 1999 incident.

2. Precedents — Considered : *Devilal v. State of Madhya Pradesh*, Supreme Court judgment dated 25 February 2021 in Criminal Appeal No. 989 of 2007, was the controlling authority. It considered a person who had been over sixteen but below eighteen at the time of an offence governed by the 1986 Act. Section 20 of the 2000 Act allows pending proceedings to continue before an ordinary court. If that court finds the person guilty, however, it must record the finding without imposing an adult sentence and refer the matter to the Juvenile Justice Board. The Explanation deems the eighteen-year definition applicable to pending trials, revisions and appeals even where the person is now an adult. The quoted *Devilal* passage discussed how the 2015 Act's Section 25 preserves the relevant inquiry despite repeal of the 2000 Act. Applying that legal framework to Babua, the Bench affirmed his guilt while setting aside his adult sentence.

Devilal quoted *Mumtaz alias Muntyaz v. State of U.P. on* the legal fiction in Section 20 and reviewed *Pratap Singh v. State of Jharkhand* and *Bijender Singh v. State of Haryana*. These explained why a male who had crossed sixteen under the old law could remain before an ordinary criminal court yet receive a juvenile disposition under the 2000 Act. It quoted *Dharambir v. State (NCT of Delhi)* and *Kalu v. State of Haryana on* claims of juvenility even after conviction and the inclusion of appeals among pending cases. It also quoted *Hari Ram v. State of Rajasthan*, as reaffirmed in *Satya Deo alias Bhoorey v. State of U.P.*, on applying the age definition retrospectively to pending proceedings despite the person's adulthood by the commencement of the 2000 Act. These authorities were incorporated through *Devilal*'s reasoning or noted as submissions. *Devilal* further considered *Jitendra Singh v. State of U.P. on* the practical disposition of a juvenile offender who is now an adult. Given the person's age and the grave offence, admonition, probation under parental or institutional care and placement in a special home may be unrealistic, leaving a fine as a feasible order for the Board. The present Court relied on that discussion and Section 15(d) of the 2000 Act to remit only the determination of an appropriate fine for Babua. The Board was required to fix its amount.

3. Statutes considered : Section 374 CrPC supplied the conviction appeal. Section 302 IPC governed the two murder convictions and minimum life sentence invoked for the adult Sanjay; Arms Act Sections 25(1)(a) and 27 governed the additional conviction and five-year sentence of Sanjay and Babua. Section 299 CrPC explained the initial charge sheet while Rajendra absconded.

Under the 1986 Juvenile Justice Act, a male above sixteen at the time of the 1999 offence fell outside the juvenile definition. The Juvenile Justice (Care and Protection of Children) Act, 2000 raised the threshold to eighteen under Section 2(l). Section 20 and its Explanation govern pending criminal proceedings. They permit an ordinary court to reach and record a finding of guilt, while requiring disposition by a Board under the juvenile law instead

of an adult sentence. Section 7-A was invoked in counsel's submission on age. Section 15(d) was cited for a fine as an available Board order. Section 25 of the 2015 Act appeared in the controlling *Devilal* discussion as preserving the accepted pending claim despite repeal of the 2000 Act.

4. Issues : (i) Were the two deaths homicidal and, although largely not disputed on appeal, did reliable evidence sustain the two surviving appellants' convictions and differentiated roles? (ii) Was Babua, aged between seventeen and eighteen on 30 July 1999 according to the Board inquiry, entitled to the 2000 Act's juvenile definition in this still-pending appeal although he did not qualify as a male juvenile under the 1986 Act? (iii) If guilt stood, what distinct sentences or Board disposition followed for adult Sanjay and Babua, considering Section 20, earlier custody and the now-adult status? (iv) What was the effect of Rajendra's death and prior abatement?

5. Ratio / Findings : The Bench examined the medical record despite counsel's limited challenge to the findings of guilt. Dr Mudgal's reports showed lethal antemortem cutting, penetrating and gunshot injuries to Virendra and Raghunandan, establishing homicidal death. The four eyewitnesses identified the respective acts: Babua inflicted penetrating wounds on Virendra, Sanjay severed his neck and shot at Raghunandan, and others attacked. Counsel conceded that cross-examination had yielded nothing making those witnesses unreliable. The Court therefore affirmed the two Section 302 findings against the surviving appellants and their recorded Arms Act convictions. Rajendra's already-abated appeal was neither revived nor decided afresh on the merits.

Under *Devilal*'s reading of Section 20, an ordinary court could complete the pending appeal and retain a finding of guilt, but the under-eighteen definition and juvenile disposition under the 2000 Act applied as though the Act had been in force at the time of the incident. On the quoted saving analysis, repeal under the 2015 Act did not remove that benefit. Babua's conviction was therefore affirmed, but the adult sentence imposed by the trial court could not stand. The Court noted his custody as an undertrial from 4 November 1999 to 25 April 2004 and after conviction from 29 July 2011 to 8 January 2014. It directed the Board to fix an appropriate fine under Section 15(d) in light of *Devilal*.

Sanjay was an adult whose guilt had been affirmed and who had no basis for juvenile relief. The Bench affirmed his two life sentences and the five-year term of rigorous imprisonment under the Arms Act, retaining the trial court's direction that the sentences run concurrently. The different outcomes followed each accused's statutory status, rather than different findings on the two killings.

6. Relief : The Hon'ble High Court dismissed Sanjay Singh's appeal; he remained in jail to serve the balance of the affirmed life and Arms Act sentences. Babua alias Rajiv Singh's appeal was allowed only as to sentence. His conviction was maintained, his sentence set aside, his bail bonds discharged, and the matter referred to the jurisdictional Juvenile Justice Board to determine an appropriate fine within six months. He was directed to appear there on 22 July 2022. Rajendra Singh's appeal had already abated because of his death. The Court directed that the appellants receive immediate free copies of the judgment and that the trial record be returned, with transmission to the Board for compliance.

Sanjay Singh and Others v. State of Madhya Pradesh, Cr.A. no. 696/2011, 22/06/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (830) Prev Next

Headnote :- Framing charge — strong suspicion and limited sifting - A revision against charges under IPC Section 304 Part II and Motor Vehicles Act Sections 184 and 185 was dismissed. At the stage of framing charges, the court considers the prosecution material and documents at face value to determine whether they disclose the ingredients of the alleged offence and whether the accused might have committed it. The court does not conduct a roving inquiry or require proof sufficient for conviction. *Sheoraj Singh Ahlawat v. State of U.P.* set out the governing principles, quoting *Onkar Nath*, *Som Nath Thapa* and *Mohanlal Soni* on the prima facie existence of the ingredients and strong suspicion founded on the material. It also discussed *Debendra Nath Padhi* on excluding a mini-trial based on defence material and *Rumi Dhar* on the comparable approach at discharge. *Prafulla Kumar Samal* permits limited sifting of the evidence and consideration of broad probabilities; discharge may be appropriate where two views are equally possible and the material raises only some suspicion, rather than grave suspicion.

Alcohol odour and fatal motorcycle crash — prima facie material, not conviction proof - The prosecution alleged that Sanjeev drove a motorcycle after consuming alcohol and drove rashly or negligently. He allegedly failed to negotiate a curve, causing the motorcycle to fall into a drain and Jeevan Ahirwar, who was riding with him, to suffer fatal injuries; Deepak escaped by jumping. The doctor's Pre-MLC recorded a smell of alcohol from Sanjeev's oral cavity. The Court considered this notation together with the alleged driving and accident as prima facie material for framing charges. It expressly left open whether the medical observation would suffice for conviction. *State through P.S. Lodhi Colony v. Sanjeev Nanda* was cited on alcohol's effect on coordination, judgment, reflexes and vision, and the resulting danger on the road. The trial must be decided on the evidence received at trial.

Limited revision outcome — trial unaffected - The Sessions Court's charge order dated 5 May 2022 in ST No. 14/2022 was sustained, and Criminal Revision No. 2104/2022 was dismissed. The High Court expressly directed that its observations would have no bearing on the final outcome and that the trial court must decide the case strictly on the evidence received at trial. The decision concerns the sufficiency of the material to frame charges; it neither affirms guilt nor finally determines the prosecution under Section 185.

Case-note :- ***1. Facts :*** Sanjeev Ahirwar challenged, under Sections 397 and 401 CrPC, the order dated 5 May 2022 passed by the First Additional Sessions Judge, Sironj, District Vidisha, in Sessions Trial No. 14/2022, framing charges under Section 304 Part II IPC and Sections 184 and 185 Motor Vehicles Act. According to the prosecution account, Sanjeev rode a motorcycle with Jeevan Ahirwar and Deepak alias China Ahirwar. He allegedly had consumed alcohol and drove rashly and negligently. Near Chaudakhedi junction, he allegedly failed to control the motorcycle at a curve, and it fell into a drain. Sanjeev and Jeevan suffered serious injuries; Deepak jumped from the vehicle, and Jeevan died of his injuries. A doctor recorded a smell of alcohol from Sanjeev's oral cavity in his Pre-MLC. Police filed a charge sheet, and the Sessions Court framed the stated charges. These were allegations and preliminary material, not trial findings. Sanjeev argued that the smell of alcohol from his oral cavity, without sufficient scientific evidence, could not establish that he was under the influence of alcohol. He also argued that this was simply an accident and could not sustain the Section 304 Part II charge. The State submitted that driving after consuming liquor endangers vehicle occupants and road users and that the charge order was justified. The High Court considered the revision on this limited record.

2. Precedents — Considered : Paragraphs 86–87 of *State through P.S. Lodhi Colony v. Sanjeev Nanda, (2012) 8 SCC 450*, were quoted on the danger of drunken driving and alcohol's effect on consciousness, vision, depth perception, coordination, judgment and reflexes. The quoted passage also rejected the contention in that case that the driver was not beyond the limit prescribed by the Motor Vehicles Act or that the victims were at fault. The order refers to the case as "*State of Sanjeev Nanda*."

Sheoraj Singh Ahlawat and Others v. State of U.P. and Another, (2013) 11 SCC 476, was quoted extensively on the standard for framing charges or ordering discharge. The passage quoted from *Onkar Nath v. State (NCT of Delhi)* requires the court to consider whether the prosecution material, taken at face value, discloses the ingredients of the offence and a ground for presuming its commission. Strong suspicion founded on that material may suffice, without an assessment of whether the evidence is sufficient for conviction. The quoted discussion in *Sheoraj* traces support through *State of Karnataka v. L. Muniswamy, State of Maharashtra v. Som Nath Thapa and State of M.P. v. Mohanlal Soni*: it is enough for framing a charge that the accused "might have" committed the offence, whereas conviction requires a finding that he "has" committed it. No detailed assessment of the material's probative value is undertaken at that stage. *Mohanlal Soni* specifically distinguishes sufficient ground to proceed from sufficient proof to convict.

The quotation from *Sheoraj* also discusses *State of Orissa v. Debendra Nath Padhi*, which confines the accused's submissions at the stage of framing charges to the police or prosecution record and excludes the production of defence evidence at that stage, as that would turn the proceeding into a mini-trial. It refers to *Rumi Dhar v. State of W.B. on* strong suspicion at discharge under Section 239. It also quotes *Union of India v. Prafulla Kumar Samal* on Section 227: the judge may sift and weigh the evidence for the limited purpose of determining whether a prima facie case exists, consider broad probabilities and basic infirmities, and discharge the

accused if two views are equally possible and the material raises only some suspicion, rather than grave suspicion. The judge may not, however, conduct a roving inquiry as though conducting the trial. The High Court applied these principles on strong suspicion to the Pre-MLC and the alleged crash.

3. Statutes considered : The charge order was challenged in revision under Sections 397 and 401 CrPC. Section 304 Part II IPC was the culpable-homicide provision under which the charge was framed. The revision determined only whether that charge could proceed on the prima facie record, leaving open whether knowledge, causation or the offence as a whole would ultimately be proved. Motor Vehicles Act Section 184 concerned dangerous driving, and Section 185 concerned driving by a person under the influence of alcohol or drugs. Charges had been framed under both provisions.

4. Issues : (i) Did the doctor's notation of a smell of alcohol, considered with the alleged rash or negligent motorcycle crash and fatal injury, provide material giving rise to strong or grave suspicion sufficient to sustain the Section 304 Part II charge? (ii) Did Sanjeev's contention that further scientific proof was absent require the charges to be quashed at this preliminary stage, or was that a matter for trial? (iii) Did the characterisation of the incident as an accident require the connected charges under Motor Vehicles Act Sections 184 and 185 to be set aside? (iv) What limits did review at the stage of framing charges impose on the weighing of evidence and on the trial court's eventual decision?

5. Ratio / Findings : The doctor specifically recorded a smell of alcohol from Sanjeev's oral cavity in the Pre-MLC. The High Court held that this was prima facie material indicating that he was under the influence of alcohol at the time of the accident. It expressly distinguished that preliminary assessment from the question whether the observation alone could justify a conviction. The Court also referred to the allegation that he drove negligently and that the motorcycle crash caused Jeevan's fatal injuries. Considering these circumstances together, it held that the Sessions Court had made no error in framing a charge under Section 304 Part II.

Applying *Sheoraj Singh Ahlawat* and the authorities cited in it, the High Court reiterated that a charge may be framed when the prosecution material supports grave suspicion that the accused might have committed the charged offence. The court may assess the record for prima facie ingredients and basic infirmities, but cannot undertake a meticulous or roving assessment of its evidentiary value as though deciding whether to convict. Sanjeev's contention that the odour was scientifically insufficient to establish that he was under the influence of alcohol was therefore left for trial and did not determine the outcome at the stage of framing charges. The passage from *Sanjeev Nanda* explained the danger and physiological effects of drunken driving; it did not replace proof of this accused's precise intoxication level or mental state.

6. Relief : The Hon'ble High Court has dismissed the criminal revision and sustained the charge order dated 5 May 2022. It expressly stated that none of its observations would affect the final outcome. The trial court must decide the case strictly on the evidence received at trial. No conviction, sentence, acquittal or final liability under the Motor Vehicles Act was determined.

Sanjeev Ahirwar v. State of Madhya Pradesh and Others, Cr.R. no. 2104/2022, 20/06/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (831) Prev Next

Headnote :- Successive Section 482 petition — post-charge-sheet challenge maintainable - The petitioners had earlier sought quashing of the FIR while the investigation was pending. One petition was dismissed after counsel declined to argue; another was withdrawn with liberty to challenge the charge sheet, which had meanwhile been filed. The State's objection to a third petition was rejected because the present challenge concerned the charge sheet filed after completion of the investigation, rather than the record available while the investigation was pending. The investigation against co-accused Keshav Upadhyay, a company employee, had separately been quashed in the context of a compromise and a finding that the dispute was civil. That result did not automatically apply to the company directors, as the allegations against them might involve different ingredients. The Court considered the merits and then dismissed the present petition.

Section 482 record — unproved private defence documents cannot resolve factual disputes - The directors relied on contractual default, an asserted right of forfeiture, notices concerning the remaining

amount, a claimed revocation of an agreement to sell to a third party, and a later settlement. The Court held that their private documents were not part of the charge-sheet record, were not public documents and required formal proof. At the stage of framing charges, the accused had no right to introduce defence documents. In exercising its inherent powers in this case, the Court would neither treat the private assertions as established nor go beyond the prosecution documents accompanying the charge sheet. The defence concerning payment and default, and the validity of the later transaction, were therefore matters for trial.

Villa transaction — civil features and conditional compromise do not themselves extinguish criminal allegations - The complainant allegedly paid Rs 17 lakh as an advance, and the lender disbursed Rs 45 lakh, toward the price of Rs 1,06,60,000 for a villa. Yet possession was withheld, and an allotment or agreement to sell was made in favour of a third party. The directors asserted that the buyer had defaulted and relied on a settlement dated 25 November 2016 under which the cases were to be withdrawn. The Court held that failure to perform a settlement term alone did not justify quashing the FIR. A transaction governed by a civil contract may also disclose prima facie ingredients of a criminal offence. Applying *Sau. Kamal Shivaji Pokarnekar v. State of Maharashtra*, the Court refused to stifle the proceedings by resolving disputed merits at the initial stage, while directing that its observations must not prejudice the trial.

Case-note :- ***1. Facts :*** Sanjeev Srivastava and other directors of M/s Assotech CP Infrastructure Private Limited petitioned under Section 482 CrPC to quash the charge sheet filed by Police Station Morar, Gwalior, in Crime No. 683/2015 under IPC Sections 420, 467, 468 and 471, and Criminal Case No. 818/2019 before the ACJM, Gwalior. The police registration also included Section 34. The complainant allegedly agreed to buy Villa A-4 in Windsor Hills, City Centre Extension, Gwalior, for Rs 1,06,60,000. An advance of Rs 17 lakh was paid to Keshav Upadhyay, a company employee and co-accused. A tripartite arrangement dated 17 December 2012 with Dewan Housing Finance Corporation provided financing of Rs 85 lakh, of which Rs 45 lakh was disbursed to the company. The complainant alleged that Rs 62 lakh had thus been paid without vacant possession being handed over. He further alleged that, after property values rose, the directors sought to alienate the villa and executed an allotment dated 1 June 2015 in a third party's favour.

In Keshav's separate MCRC No. 12512/2015, the investigation against him was quashed by order dated 3 April 2017 on the ground that the dispute was civil. The later discussion recorded the complainant's no-objection following a compromise. The directors' first petition to quash the FIR, MCRC No. 2442/2017, was dismissed on 5 December 2018 after counsel said he was unprepared and declined to argue. The Court pointed out that the allegations against the directors could involve ingredients different from those concerning Keshav. The directors withdrew MCRC No. 51893/2018 on 14 May 2019 with liberty to challenge the charge sheet, which had by then been filed. They brought that challenge in the present MCRC No. 30937/2019. They asserted that the complainant had defaulted, that the contract permitted forfeiture of 10% of the advance, and that notices had called on the complainant to collect the remaining amount. They admitted the execution of an agreement to sell to a third party but asserted that it had been revoked. They also relied on a compromise dated 25 November 2016 stipulating withdrawal of the civil and criminal cases. The Court distinguished the allegations from the directors' unproved private defence documents.

2. Precedents — Considered : *Sau. Kamal Shivaji Pokarnekar v. State of Maharashtra* was quoted and applied. The quoted passage held that, where a complaint prima facie discloses the ingredients of the alleged offences, the truth of the allegations must be determined at trial. Courts should not stifle proceedings at the initial stage of issuing process by deciding the merits of the accused's defence, and the civil character of an allegation alone does not require quashing. Although the Supreme Court case concerned issuance of summons, the High Court applied its principles on considering allegations at face value and on the coexistence of civil and criminal aspects to refuse quashing of this charge sheet. The Supreme Court quotation records counsel invoking *State of Karnataka v. M. Devendrappa and Anr.* The High Court based its rulings on successive petitions and private documents on the procedural sequence and its stated principles governing the stage of framing charges and the exercise of inherent powers. *Keshav Upadhyay*'s earlier High Court order was distinguished by reference to his role and the

later discussion of the compromise; it was not treated as requiring the same result for the directors.

3. Statutes considered : The inherent powers under Section 482 CrPC were invoked to quash the charge sheet and the pending criminal case. The charge sheet under review included IPC Section 420, concerning cheating, and Sections 467, 468 and 471, concerning the allegations of forgery and use of documents. The police registration also included Section 34. The parties' civil suit and settlement were factual matters; they did not provide independent statutory grounds automatically requiring quashing.

4. Issues : (i) Did the dismissal of the earlier petition and withdrawal of the subsequent petition bar a fresh Section 482 challenge to the charge sheet filed later? (ii) Could the directors rely on the quashing of the investigation against Keshav and on private papers concerning agreements, payments and forfeiture, outside the prosecution charge sheet, to establish without formal proof that the dispute was exclusively civil? (iii) Did the alleged conditional settlement and withdrawal of the civil suit compel withdrawal or quashing of the FIR? (iv) Did the alleged advance and lender payments, failure to hand over possession and attempted alienation to a third party prima facie permit criminal prosecution despite the contractual dispute? (v) What effect, if any, would these preliminary observations have on the trial?

5. Ratio / Findings : The State's objection to maintainability was overruled. The first petition was filed while the investigation was pending and further evidence could still be collected. The second was withdrawn with liberty to challenge the charge sheet after it had been filed. The present challenge therefore concerned a different procedural record following completion of the investigation. The order concerning Keshav, a company employee, did not automatically determine the directors' liability; the earlier order itself had noted that the allegations against them might involve different ingredients.

The directors' private documents were not part of the charge sheet, were not public documents and required formal proof. The Court declined to treat the disputed assertions concerning buyer default, forfeiture, notices and revocation as proved in the Section 482 proceeding. At the stage of framing charges, an accused could not introduce defence documents for an assessment as though at trial. In this proceeding, the Court confined itself to the prosecution material.

The alleged failure to perform a conditional settlement did not itself justify quashing the FIR, even if the civil suit had been withdrawn. The allegations, taken at face value, were that Rs 62 lakh had been received without possession being handed over and that alienation to a third party had been attempted. The Court noted the sanctioned loan of Rs 85 lakh and the disbursement of Rs 45 lakh. It calculated that Rs 40 lakh remained to be disbursed by the lender and Rs 4,60,000 remained payable by the complainant. On that account, the transaction could not be classified as purely civil merely because contractual questions arose. Following *Pokarnekar*, the Court held that the civil aspects did not prevent trial of the prima facie criminal allegations. It would neither resolve disputed merits nor require proof sufficient for conviction on a petition for quashing.

6. Relief : The Hon'ble High Court has dismissed the Section 482 petition; the charge sheet and Criminal Case No. 818/2019 remained pending. The High Court expressly confined its observations to the limited scope of interference at this stage. It directed the trial court not to be prejudiced by those observations and to decide the case strictly on the evidence adduced at trial. No quashing, conviction or relief enforcing the settlement was ordered.

Sanjeev Srivastava and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 30937/2019, 19/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (832) Prev Next

Headnote :- Counter-FIR and claimed retaliation — forty-minute sequence does not establish falsity - Following an altercation arising from a matrimonial dispute at the wife's parental home, Sant Kumar Namdev lodged Crime No. 350/2020 at 15:00, and his brother-in-law lodged Crime No. 351/2020 at 15:40. Sant contended that the later FIR was a counterblast. Both accounts acknowledged his visit and a confrontation; which party was the aggressor could be determined only through testimony and cross-examination. The High Court held that the timing of the FIRs, earlier apprehensions of false implication, SBI employment and asserted absence of criminal history could not replace an examination of whether the allegations, taken at face value, disclosed an offence.

Section 482 and charge stage — no factual mini-trial, but material-based strong suspicion - The

Court relied on several Supreme Court decisions in declining to resolve witness contradictions, credibility, the counterblast claim and defence allegations in its inherent jurisdiction. These were *XYZ v. State of Gujarat*; *S. Martin*; *Ajay Kumar Das*, quoting the caution in *Bhajan Lal*; *Mohd. Akram Siddiqui*, recognising a narrow exception for public documents or documents whose veracity the complainant does not dispute; *Gourishetty Mahesh*; *M. Srikanth*; *CBI v. Arvind Khanna*; and *Kunwar Singh*. The additional list of decisions on similar law was not discussed individually. On framing charges, the Court quoted *M.E. Shivalingamurthy* on limited sifting, grave rather than some suspicion, the prosecution record and exclusion of defence documents; *Soma Chakravarty* on suspicion founded on material, rather than suspicion alone; *Shiv Charan Bansal* on considering the ingredients at face value without weighing evidence as though at trial; and *Fatehkaran Mehdu* on review of a charge under Section 397, which does not involve the final test of guilt. The challenged order was sustained. These findings were preliminary, not conclusive.

House entry, threats, insult and hurt — prima facie allegations - Sant asserted that the incident occurred outside the house, that the threats were empty and that the abusive words were not necessarily obscene. His wife Laxmi's Section 161 statement alleged that he entered the house and her room, threatened her, and then abused and struck her brother with his fists and a plastic chair. Stones were allegedly thrown after her brother went outside. The Court found prima facie material for Sections 452 and 294, while leaving the intention behind the threats under Section 506 and the precise nature of the alleged obscenity to trial. It observed that Section 323 had not been specifically challenged and that the medical findings and chest pain also provided prima facie support for the allegation of hurt.

Police investigation — accused cannot prescribe its course - Sant complained that the investigating officer had ignored his representations and defence version before filing the charge sheet. Through *Prabal Dogra*, the Court incorporated the distinction drawn in *Manohar Lal Sharma* between rare judicial monitoring to ensure a fair investigation and impermissible supervision of the officer's conclusions. It also incorporated *Lalita Kumari* on the duty to register an FIR disclosing a cognizable offence and the limited scope of a preliminary inquiry. It quoted *Romila Thapar*, including its discussion of *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar*, *Divine Retreat Centre* and *Committee for Protection of Democratic Rights*, on the absence of an accused's entitlement to choose the investigating agency or method, subject to exceptional judicial intervention where mala fides are demonstrated. The Court found no error in the officer's failure to adopt the approach sought by Sant in his defence.

Case-note :- ***1. Facts :*** Sant Kumar Namdev petitioned under Section 482 CrPC to quash the FIR dated 9 May 2020 in Crime No. 351/2020 at Police Station Budhar, Shahdol, initially under IPC Sections 294, 323 and 506, and the JMFC's order framing charges under Sections 294, 323, 452 and 506 (two counts, Part II). His wife Laxmi was living at her parental home amid matrimonial litigation. Her brother Shivkant Namdeo alleged that Sant came to the house and threatened to kill Laxmi if she did not return with him. Sant allegedly abused and struck the brother with his fists, blows and a chair, and threw stones after the brother went outside, causing complaints of pain or injury to the fingers, wrist or hand and chest. Laxmi, her parents and others allegedly witnessed the incident or intervened. The medical account described abrasions to the right index finger and thumb, swelling of a finger, a bruise in the left cubital region, left-hand tenderness and left-chest pain without a visible external injury. The order first referred to five injuries and later to six, including chest pain. These were preliminary medical observations of simple injuries caused by a blunt object.

Sant's FIR in Crime No. 350/2020 had been lodged at 15:00, forty minutes before his brother-in-law's FIR at 15:40. He said that he had come because a child was ill, that his brother-in-law assaulted him, and that he fled to his vehicle, whose glass was damaged, and faced threats. He alleged that the later FIR was retaliatory, referred to contradictions and earlier representations predicting false implication, asserted that he had no criminal history and was employed by SBI, and complained that the police had disregarded his version. His Section 482 grounds also denied entry into the house, any intention to criminally intimidate and the use of obscene language. At the hearing, newly engaged counsel first sought an adjournment, then time to prepare, and ultimately stated that he had no instructions to argue. The Court condemned the conduct as bench

hunting, considered the written application and case diary, and heard the State.

The judgment reproduces Sant's FIR. The surrounding account records its material contents, including his visit to the parental home, contact by telephone, confrontation, escape and alleged damage to the car.

2. Precedents — Considered : On the limits of factual inquiry under Section 482, *XYZ v. State of Gujarat* was quoted on the error of conducting a roving inquiry while investigation was pending and prematurely relying on a disputed settlement. *State of Tamil Nadu v. S. Martin* concerned premature assessment of the merits. *Ajay Kumar Das v. State of Jharkhand* quoted *Bhajan Lal*'s caution that quashing powers must be exercised sparingly, without examining the reliability of the FIR or exercising inherent powers arbitrarily. *Mohd. Akram Siddiqui v. State of Bihar* explained the general bar on weighing the accused's defence documents, with a narrow exception for public documents or documents whose veracity the complainant does not dispute, referring to *Yin Cheng Hsiung*, *Bhajan Lal and Harshendra Kumar D. State of A.P. v. Gourishetty Mahesh* addressed sparing intervention where the allegations at face value disclose no offence, a legal bar exists or sufficient material shows a malicious prosecution, while rejecting an assessment of reliability as though at trial. *M. Srikanth v. State of Telangana* stated that quashing may be justified where the uncontroverted allegations and evidence collected disclose no offence. *CBI v. Arvind Khanna* rejected findings based on minute examination of disputed defence facts. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, held that Section 482 does not permit detailed scrutiny of the merits as though at trial and that an FIR is not an encyclopedia. Paragraph 33 lists *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*.

On investigation, the Court quoted *its own decision in Prabal Dogra v. Superintendent of Police*, incorporating *Manohar Lal Sharma* on the distinction between monitoring and supervising an investigation. Oversight to ensure a timely and fair investigation differs from directing the officer's opinion and compromising the independence of the trial. The quoted passage from *Lalita Kumari v. State of U.P.* required registration of an FIR where the information disclosed a cognizable offence. It permitted a preliminary inquiry only to determine whether a cognizable offence was disclosed, not to test the information's truth, and listed illustrative contexts and requirements concerning records and time limits. *Romila Thapar v. Union of India* was directly quoted on the absence of an accused's right to choose the agency or manner of investigation. Its discussion of *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar*, *Divine Retreat Centre and State of W.B. v. Committee for Protection of Democratic Rights* explained both the restriction and the possibility of exceptional constitutional intervention where justified; it did not impose an absolute bar on relief for a fair investigation. Other authorities listed within *Romila Thapar* were supporting citations, not independent holdings in the present case.

On framing charges, *M.E. Shivalingamurthy v. CBI* set out principles drawn from *P. Vijayan*: limited sifting of the evidence, consideration of broad probabilities and basic infirmities, discharge where two views are possible and one raises only suspicion rather than grave suspicion, and no roving inquiry or introduction of defence documents under Section 227. It cited *Sudershan Chakkar* and *Debendra Nath Padhi*. *Soma Chakravarty v. State through CBI* distinguished the possibility of commission of an offence, supported by material at the stage of framing charges, from proof sufficient for conviction, and rejected bare suspicion without supporting material. *State (NCT of Delhi) v. Shiv Charan Bansal* cited *Ramesh Singh* and *Dipakbhai Jagdishchandra Patel* on strong suspicion founded on material capable of becoming evidence at trial, without weighing the accused's probable defence. *State of Rajasthan v. Fatehkaran Mehdu* explained the limited scope of review of a charge under Section 397: the question is strong suspicion, not final guilt. These authorities were used to reject a premature trial of the two FIR accounts while preserving discharge where the requisite material is absent.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction to consider quashing; Section 397 arose through the authority on review of charges. Laxmi's and the complainant's statements under Section 161 CrPC supported the preliminary account of entry into the house and assault. Sections 154 and 173(2) arose in the incorporated reasoning on registration of an FIR and the investigation report. Section 227 appeared in the quoted standards governing discharge and defence material. IPC

Section 294 concerned the alleged abusive speech; Section 323 concerned simple hurt, read with Section 319's definition of hurt as including bodily pain; Section 452 concerned house trespass after preparation for hurt or assault; and Section 506 concerned the alleged threats. The Court treated the statement concerning entry into the house under Section 452 and the injury record as prima facie material, leaving disputed intention, words used and truth to trial.

4. Issues : (i) Did the forty-minute interval after Sant's FIR, matrimonial hostility, employment, claim of no criminal history or earlier fear of false implication establish that the later FIR was retaliatory or false and liable to be quashed under Section 482? (ii) Did the FIR and Section 161 statements, taken at face value, support the charged entry into the house, threats, abusive language and hurt, or raise disputed questions requiring testimony and findings on intention? (iii) Could Sant compel the investigating officer to adopt his representations and investigate in the manner sought in his defence? (iv) Could the charge order be sustained on strong suspicion founded on material, within the limited standards for framing charges and revisional review, without a roving inquiry as though at trial? (v) What followed from counsel's refusal to argue, and what protection remained for the trial?

5. Ratio / Findings : Both FIRs arose from Sant's admitted visit to his wife's parental home and a confrontation. The forty-minute interval between their registration could not establish which side was the aggressor. The contradictory accounts had to be tested through evidence and cross-examination. Earlier apprehensions of false implication indicated strained relations. The Court also noted a pending case under Section 498-A, which undermined the application's broad assertion of no criminal background, without determining guilt in that case. Sant's claim of government employment and an asserted clean record did not determine whether the allegations, taken at face value, disclosed a cognizable offence. On this disputed record, the Court could not treat one account as a counterblast or falsehood under Section 482. It relied on the quoted Supreme Court decisions in declining to conduct a roving inquiry into reliability, while preserving the possibility of quashing where uncontroverted allegations disclose no offence.

Laxmi's Section 161 statement expressly placed Sant inside the house and her room, where he threatened her. It described the subsequent abuse and assault of her brother with fists and a plastic chair, followed by stones after her brother went outside. The Court therefore found prima facie support for Section 452 rather than accepting Sant's assertion that the entire incident occurred outdoors. Whether he intended to carry out the threats under Section 506 and whether the language attracted Section 294 were questions for trial, although the alleged abusive words provided prima facie material under Section 294. Section 323 had not been specifically challenged in his petition. The medical marks and chest pain, together with Section 319's definition of hurt as including bodily pain, also provided prima facie support for that charge.

Prabal Dogra and *Romila Thapar* established that an accused has no entitlement to dictate the police's method, choice of agency or treatment of defence representations. *Lalita Kumari* supported registration where the allegations disclose a cognizable offence and confined preliminary inquiry to that threshold. The order recorded no finding of a mala fide investigation warranting exceptional intervention. The authorities on charges required strong suspicion founded on material actually on record, permitted limited sifting, and rejected both unsupported suspicion and a mini-trial based on defence material. Considering the circumstances together, the Court found no ground for interference and declined to decide credibility or guilt finally. It condemned counsel's conduct as bench hunting and decided the matter on the written grounds and case diary after hearing the State, instead of granting an adjournment.

6. Relief : The Hon'ble High Court has dismissed the Section 482 application; neither Crime No. 351/2020 nor the JMFC's charge order was quashed. The Court expressly directed that its findings at this limited stage must not prejudice or influence the trial judge, who must decide the case solely on the evidence adduced at trial.

Sant Kumar Namdev v. State of Madhya Pradesh and Others, M.Cr.C. no. 52736/2023, 06/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (833) Prev Next

Headnote :- Suspect's control of investigation — no entitlement to chosen method or agency - Sant Kumar Patel and others sought certiorari under Article 226 to quash an FIR dated 9 December 2023,

alleging that the complainant's documents were fabricated and that the police investigation was deficient. The Court considered whether a suspect could demand investigation in a particular manner or by a particular agency and whether the High Court could supervise the investigation. *Romila Thapar v. Union of India*, incorporating *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar*, *Divine Retreat Centre* and the constitutional caution in *Committee for Protection of Democratic Rights*, supported the absence of an accused's ordinary right to choose the investigator or method, or to be heard during investigation. *Dinubhai Boghabhai Solanki* was separately quoted, including its discussion of *W.N. Chadha*, *Rajesh Gandhi*, *Sri Bhagwan Samardha* and *Narender G. Goel*, on the limited role of an accused during investigation and the remedies available at trial. The quoted authorities preserved exceptional constitutional directions where mala fides were substantiated. The Court found no basis for intervention in this petition.

Court monitoring versus supervision — investigator forms independent opinion - Applying *Manohar Lal Sharma v. Principal Secretary*, the Bench distinguished rare monitoring to ensure progress, fairness and freedom from interference from directions controlling the officer's investigative course or conclusion. Supervision may shape the police report in advance and prejudice the trial court's independent assessment. The Court refused to direct a particular manner of investigation at the suspects' request. It acknowledged that, if a closure report were filed, the Magistrate could identify lapses and direct further investigation.

Fabricated-document allegation — disputed facts cannot be tried on writ record - The order records the petitioners' assertion that the complainant had fabricated documents, without setting out the underlying offence or identifying the particular documents. Whether the documents were fabricated was disputed and required evidence. Paragraph 15 refers to Section 482, although the proceeding and prayer were expressly under Article 226. The Court declined to conduct a mini-trial, found no ground for interference and dismissed the writ. It made no affirmative finding that the documents were genuine or that the petitioners had committed an offence.

Case-note :- ***1. Facts :*** Sant Kumar Patel and other petitioners filed Writ Petition No. 5790/2024 under Article 226 of the Constitution. They sought certiorari quashing an FIR dated 9 December 2023, suitable mandamus or other relief, and costs. Counsel asserted that the FIR had been registered on fabricated documents and that the police were not investigating properly despite the petitioners' representations pointing out discrepancies. The High Court heard counsel and identified two legal questions: whether suspects could demand investigation in a particular manner or by a particular agency, and whether the Court could supervise the investigation. The order does not set out the underlying offence in detail or record a finding of proof.

2. Precedents — Considered : *Romila Thapar and Others v. Union of India and Others, (2018) 10 SCC 753*, was quoted extensively. Its discussion adopted *the rule in Narmada Bai v. State of Gujarat* that accused persons have no say in the appointment of the investigating agency; the principle in *Sanjiv Rajendra Bhatt v. Union of India* that an accused has no ordinary right to prescribe the manner of investigation or mode of prosecution; and *E. Sivakumar v. Union of India*, citing *Dinubhai Boghabhai Solanki* and *Narender G. Goel*, on the absence of a right to be heard as a matter of course in a writ seeking transfer or independent investigation. *Romila Thapar* described the restriction in *Divine Retreat Centre v. State of Kerala* on replacing an investigator during investigation through inherent powers, while preserving appropriate directions under Article 226 where mala fide exercise of investigative power was demonstrated. It quoted the Constitution Bench in *State of W.B. v. Committee for Protection of Democratic Rights, West Bengal*, on sparing and exceptional constitutional directions transferring investigation to CBI where necessary for credibility, public confidence, complete justice or enforcement of fundamental rights, rather than as a routine response to allegations. The decision in *Romila Thapar* stressed the need for specific material facts rather than vague accusations and referred to available remedies before the jurisdictional courts.

Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626, was separately quoted. Its discussion of *Union of India v. W.N. Chadha* explained that the investigating officer gathers material before submitting the report under Section 173(2). A proposed accused is therefore not entitled to prior notice or participation as a matter of course and cannot dictate the method of investigation. *CBI v. Rajesh Gandhi* denied an accused's choice of

investigating agency while recognising the possibility of further investigation where the local investigation was unsatisfactory. *Sri Bhagwan Samardha*, referring to *Ram Lal Narang*, discussed further investigation under Section 173(8) after a report had been filed. The quoted passage stated that the accused need not be heard before such a direction. *Narender G. Goel* reiterated that evidentiary objections could be tested at trial and did not confer a right to be heard during investigation. These passages were cited to define the limits of a suspect's participation; they did not direct further investigation in this writ. The Court also referred to its own decision in *Prabal Dogra* for the same principle that an accused has no say in the investigation.

Manohar Lal Sharma v. Principal Secretary and Others, (2014) 2 SCC 532, was quoted at paragraphs 38–39. Court monitoring seeks proper progress, a free and fair inquiry and public confidence, without directing the mode of investigation. Supervising the execution of the investigation or formation of the officer's opinion, however, risks binding or influencing the trial and is impermissible. In rare and compelling cases, monitoring may ensure fairness and timely progress. The High Court applied this distinction in refusing directions requiring the investigation to follow the petitioners' chosen course, while recognising the Magistrate's powers if a closure report were subsequently filed.

3. Statutes considered : The writ was filed under Article 226, seeking certiorari to quash the FIR and broadly worded relief by way of mandamus. Section 173(2) CrPC appears in the Supreme Court extracts concerning the police report and the risk of premature court supervision. Section 173(8) appears in the extracts on further investigation after a report. Sections 202 and 204 appear in *W.N. Chadha*'s discussion of participation before process is issued.

4. Issues : (i) Could the petitioners, as suspects, direct the manner of investigation or choose another investigating agency on general allegations of fabricated documents and police inattention? (ii) Could the High Court supervise the police officer's steps and opinion during an ongoing investigation, as distinct from rare monitoring to ensure fairness? (iii) Could the FIR be quashed on this record by deciding whether the complainant's documents were true or fabricated? (iv) What relief could be granted on the Article 226 prayer, having regard to the qualified exceptional jurisdiction concerning mala fides or a fair investigation?

5. Ratio / Findings : Relying on *Romila Thapar* and *Dinubhai*, the Court held that an accused has no ordinary right to select the investigating agency, compel investigation in a chosen manner or require prior participation in its course. The quoted authorities preserved exceptional constitutional directions where genuine mala fides or compelling concerns about fairness were demonstrated. The Court nevertheless found no ground to interfere on the petitioners' allegations of fabricated documents and their complaints to the police.

Manohar Lal Sharma distinguished monitoring for a free, fair and timely investigation from supervising its conduct or dictating the officer's report, which could prejudge issues for trial. The Court refused to direct the police to follow the petitioners' preferred line of inquiry during investigation. It observed that, if a closure report were filed, the Magistrate could identify lapses and direct further investigation at that later procedural stage. The truth of the complainant's documents was disputed and could not be resolved through a mini-trial in the writ. The Court neither held the documents genuine nor decided the petitioners' guilt. Although one paragraph used Section 482 language, the proceeding and relief remained expressly those of a writ under Article 226.

6. Relief : The Hon'ble High Court has found no case for interference and dismissed the writ petition. It ordered no transfer or court supervision of the investigation and made no final finding on the documents' authenticity or the merits of any offence. *Sant Kumar Patel and Others v. State of Madhya Pradesh and Others, W.P. no. 5790/2024, 30/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (834) Prev Next

Headnote :- Rash and negligent act / Section 304-A IPC - The Court observed that proof that Kashiram died after a bullock's leg pressed his chest and private part at a crowded cattle-feeding function did not prove that appellant Santosh's own rash or negligent act caused the death. Sukhram Niware (PW/2) stated that Santosh's brother had driven Santosh's pair of bullocks from behind. The doctor described injuries to the ribs, sternum, trachea and testis that were compatible with pressure from a bullock's leg. This established the injury mechanism, not Santosh's

personal conduct. The High Court set aside the conviction and acquitted him.

Witness credibility / material change - Tamesh Niware (PW/5), who was 12 at the time of the incident, admitted that he arrived after hearing noise and saw Kashiram already on the ground. He then changed his account to claim that he had witnessed the incident. The Court found him unreliable because of that material change.

Reasonable doubt / appellate scrutiny - Ruplal's allegation that Santosh was in a hurry conflicted with Sukhram's statement that Santosh's brother had driven the bullocks. At a gathering with many cattle and people, the prosecution failed to connect the fatal act to Santosh beyond reasonable doubt. The appeal was allowed, the sentence of one year of simple imprisonment and fine of Rs. 5,000 was set aside, and the bail and surety bonds were discharged.

Case-note :- ***1. Facts :*** At a cattle-feeding and children's felicitation function in Mohgaon on 19 October 2009, hundreds of people and cattle gathered. Kashiram, who headed the ritual, asked Santosh to wait before taking his pair of bullocks through. The prosecution alleged that Santosh pushed him and rashly drove the pair, causing a bullock's leg to fall on Kashiram's chest and resulting in his death. A death inquiry, FIR, scene map, inquest and postmortem preceded the charge sheet under Section 304-A IPC. After hearing final arguments in the first trial, the Judicial Magistrate considered that Section 304 Part II might apply and committed the case to Sessions. The Sessions Court framed a charge under Section 304 but convicted Santosh under Section 304-A on 29 May 2015. It sentenced him to one year of simple imprisonment, a fine of Rs. 5,000 and three months' imprisonment in default. Santosh appealed under Section 374 CrPC. No one appeared for him at the appeal hearing; the High Court examined the trial record and heard the State.

2. Statutes considered : The criminal appeal was brought under Section 374 CrPC. Section 304-A IPC was the offence of conviction and the sole charge on which the appellate court acquitted Santosh. The record also describes the Magistrate's earlier view that Section 304 Part II IPC might be made out and the Sessions Court's framing of a charge under Section 304 IPC. Those procedural antecedents were recounted; they were not used to uphold a different offence on appeal. The Court ordered discharge of the bail and surety bonds after acquittal.

3. Issues : Did the prosecution prove beyond reasonable doubt that Santosh's rash or negligent driving caused Kashiram's death, when his bullocks were present but a prosecution witness attributed the driving from behind to Santosh's brother? Could Tamesh's claimed eyewitness account be relied on after he admitted arriving on hearing noise and seeing Kashiram already lying on the ground, then changed his account to claim direct observation? Proof of the death and the mechanism of pressure remained distinct from proof of the accused's conduct.

4. Ratio / Findings : Ruplal Niware described Santosh's impatience and alleged that his bullocks ran over Kashiram. In cross-examination, he could not describe the particular bullocks. He acknowledged the dense gathering of animals, the initial impression of a normal death, the absence of prior enmity and his later understanding that a stampede had occurred. Sukhram Niware stated that Santosh's brother drove Santosh's bullocks from behind, causing the animal to step on Kashiram's chest and private part. Sukhram also acknowledged that the death had initially been regarded as accidental. The doctor found a depressed sternum, fractured left ribs and sternum, a fractured trachea and a damaged right testis, and accepted that a bullock's leg could cause those injuries. That medical evidence supported heavy pressure and death; it did not identify who had set the animals moving. Tamesh first admitted in cross-examination that, when he arrived after hearing noise, Kashiram was already lying on the ground. His later claim that he personally saw the incident led the Court to reject his reliability. The Court found that the bullocks did not rush because of any rash or negligent act by Santosh, but had been driven by his brother. Santosh's ownership of the animals and presence at the incident did not discharge the prosecution's burden to prove his charged personal negligence beyond reasonable doubt. The outcome remains confined to the evidence and accused before the Court. The conclusion applies the standard of proof beyond reasonable doubt to the alleged personal rash or negligent act and its causal connection with the death under Section 304-A.

5. Relief : The Hon’ble High Court has allowed the criminal appeal. It set aside the judgment and sentence dated 29 May 2015 passed by the First Additional District Judge, Waraseoni, in Sessions Trial No. 244/2012 and acquitted Santosh under

Section 304-A IPC. As he was on bail, his bail and surety bonds were discharged, and he was no longer required in this case. A copy of the appellate judgment and the trial record were directed to be sent back for information and compliance.

Santosh v. The State of Madhya Pradesh, Cr.A. no. 1791/2015, 19/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (835) Prev Next

Headnote :- Fair trial / Section 273 CrPC - The Court observed that the prosecutrix, Sukarlal and Phoolwati were examined while appellant Santosh was absent. The order sheet recorded neither his undertaking to allow examination in his absence nor counsel's assumption of responsibility for cross-examination in those circumstances. Section 273 requires evidence to be taken in the accused's presence, or in his pleader's presence when personal attendance is lawfully dispensed with. Relying *on Atma Ram v. State of Rajasthan, (2019) 20 SCC 481*, the High Court held that Santosh's valuable right to observe and effectively cross-examine those material witnesses had been violated. The conviction could not stand.

Identification / unknown assailants - Although the FIR named Santosh, the prosecutrix conceded that the assailants had previously been unknown to her. She claimed that Phoolwati had supplied their names from a physical description. Phoolwati's testimony did not substantiate either that description or the claim that she had seen them. Sukarlal named no attacker and said that he could identify them if they were present. The accused's absence during the testimony prevented dock identification. The medical evidence of injuries and the rejection of the motorcycle-accident defence did not remedy the lack of proof of identity.

Appellate relief / remand - *Atma Ram* explains remedial re-examination and the exceptional nature of retrial. The High Court considered remand but declined it because about ten years had elapsed and because of the nature of the injuries. It set aside the convictions and sentence under Sections 323 (two counts) and 354 IPC, acquitted Santosh of the charges against him and cancelled his bonds. The special-statute charges formed part of the trial history, but the convictions under appeal were under the IPC provisions.

Case-note :- ***1. Facts :*** The prosecutrix and her fiancé Sukarlal said that three men had teased and assaulted them on a hill behind Rakhad Mohalla, Sarni, on 4 December 2013. She described abuse, blows and threats; Sukarlal said that he was injured while intervening. Crime No. 575/2013 included Sections 354, 294, 323, 506 and 34 IPC and a provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The charge sheet and later charges referred to additional IPC and special-statute provisions. Co-accused Sunil alias Lefty and Sandeep were later declared absconding. On 20 August 2019, the Special Judge at Betul convicted Santosh under Section 323 IPC on two counts and Section 354 IPC, imposing the terms and fines set out in paragraph 1 of the judgment. He appealed under Section 374(2) CrPC. The High Court reviewed the testimony of the prosecutrix (PW/2), Sukarlal (PW/3), Phoolwati (PW/1), medical and investigating witnesses, the FIR, the scene map and the trial order sheet of 3 October 2017.

2. Precedents — Considered : Applied: *Atma Ram and Others v. State of Rajasthan, 2019:INSC:516, (2019) 20 SCC 481*. The decision was quoted extensively in paragraph 26 and applied in paragraph 27 on the effect of examining witnesses in an accused's absence, prejudice, and the appellate power to order remedial re-examination or retrial. *Atma Ram* distinguishes the Section 299 setting in *Jayendra Vishnu Thakur*, where evidence from an earlier proceeding could not be read against an accused who had actually been in custody rather than absconding, and the witnesses were unavailable for meaningful cross-examination. It discusses Chapter XXXV irregularities, Sections 461, 386 and 391 CrPC and the exceptional nature of retrial, taking account of the interests of the accused and victims. The quoted *Atma Ram* passage invokes *S.L. Kapoor, A.R. Antulay* and *Ukha Kolhe*, among others, as part of the reasoning in that Supreme Court decision. In the present case, the High Court used *Atma Ram* to identify the seriousness of the lost opportunity, then independently decided against remand. Sections 366 –368, concerning death-sentence confirmation, form part of the long *Atma Ram* quotation; they were not the basis of jurisdiction in this appeal.

3. Statutes considered : The appeal against conviction was brought under Section 374(2) CrPC. Section 273 CrPC supplied the decisive rule requiring the accused's presence: unless expressly

otherwise provided, evidence must be taken in the accused's presence, or in his pleader's presence if personal attendance is dispensed with. Its proviso addresses a minor woman complainant in a sexual offence while preserving cross-examination. Sections 323 (two counts) and 354 IPC were the actual convictions overturned.

4. Issues : Could the conviction stand when the central witnesses were examined in Santosh's absence and the trial order sheet did not record a lawful procedural basis for proceeding in that way? Was Santosh reliably identified as one of three previously unknown attackers, despite his name appearing in the FIR, the unsupported account that Phoolwati supplied the names from a description, Sukarlal's non-identification and the missed dock identification? If the conviction could not stand, was remand or acquittal the proper appellate response after roughly ten years, taking the actual injuries into account? The Court also assessed the defence's account of a minor motorcycle accident against the scene map, but rejection of that account was not a substitute for affirmative prosecution proof of identity.

5. Ratio / Findings : The doctor recorded the prosecutrix's small shoulder abrasion, cut above the right eye and knee pain or swelling, as well as Sukarlal's pain and swelling. In cross-examination, he acknowledged that a fall could have caused the injuries. The spot map did not show a road, and the High Court rejected the accused's account of a motorcycle accident as implausible in light of that map. It then distinguished the occurrence from the identity of the assailants. The prosecutrix had not known them before the event but named them in the FIR. Phoolwati's testimony did not support the prosecutrix's assertion that she had given Phoolwati physical descriptions from which Phoolwati supplied the names, or that Phoolwati had seen the assailants. Sukarlal described three men without naming them and offered to identify them if they were presented. The prosecutrix and Sukarlal could not identify Santosh in the dock because they testified in his absence. The order sheet of 3 October 2017 recorded neither an undertaking to allow examination in his absence nor counsel's assumption of responsibility for cross-examination in those circumstances. Applying Section 273 and the fair-trial principle explained in *Atma Ram*, the Court held that the examination was improper and the convictions could not be sustained. *Atma Ram* permits remedial de novo examination in suitable cases; it does not make every irregularity automatically fatal without contextual analysis. The High Court therefore considered remand separately. Given the ten-year interval since December 2013 and the nature of the injuries, it found remand inappropriate on these facts. This was not a finding that no assault had occurred or a general rule that naming a previously unknown attacker in an FIR always fails. It concerned the failure of fair procedure and reliable identification in this case.

6. Relief : The Hon'ble High Court has allowed the appeal. It set aside Santosh's two convictions under Section 323 IPC and his conviction under Section 354 IPC, together with the Special Judge's judgment and sentence dated 20 August 2019. The concluding paragraph states that he was acquitted of all charges levelled against him. The Court declined to send the matter back for another trial. His bail and surety bonds were cancelled, he was no longer required in this matter, and the judgment and trial record were ordered to be returned for compliance.

Santosh v. The State of Madhya Pradesh and Others, Cr.A. no. 7257/2019, 10/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (836) Prev Next

Headnote :- Section 364-A kidnapping for ransom — essential link and proof beyond reasonable doubt - Bhure alias Balram Jatav and Shripal appealed against their life sentences under IPC Section 364-A and Sections 11/13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam. The Court set out the elements of abduction or detention, apprehension of death or hurt, and compulsion or ransom. It relied *on Malleshi v. State of Karnataka for* abduction, continuing detention and a communicated ransom demand; *Shyam Babu v. State of Haryana for* threatening detention and compulsion; and *Suman Sood v. State of Rajasthan for* detention and ransom. Those principles did not overcome the gaps in proof. No payer was examined, and there was no reliable account of who paid the alleged Rs 1 lakh ransom, to whom or where. Ramswaroop's account of release after payment conflicted with the officer's unsupported account of release following a police encounter. The alleged later sale to another gang further unsettled the identity of the alleged ransom recipient. The convictions could not stand.

Identification and investigative gaps — no TIP or reliable corroborating record - Both abductees first encountered the alleged miscreants during the incident. Neither Shripal nor the other accused underwent a test identification parade. The dates and places of Bhure's and Shripal's arrests, and their arrest memoranda, were not proved. The trial record also lacked proof of an incriminating seizure or Section 27 disclosure, the identity of participants in the claimed encounter, or documents supporting it. Mullu did not promptly report the abduction or ransom demand, and the initial missing-person report and FIR named no assailant. The High Court relied on these cumulative deficiencies rather than the absence of a TIP alone. The unappealed acquittal of three other co-accused remained intact; Santosh Kumar Dohare's appeal had abated on his death.

Article 21 compensation after malicious prosecution and long incarceration - The Bench found deliberate false implication and police collaboration in the account of an imaginary encounter. It described Bhure's custody as nearly twelve years and Shripal's imprisonment as nearly fifteen years. The Court applied *Hardeep Singh Anand v. State of M.P. and the Supreme Court's* enhancement of compensation in *Hardeep Singh*, alongside *Rudul Sah*, *Ravikant S. Patil*, *D.K. Basu* and *Anita Thakur.* Public-law monetary redress for a patent and incontrovertible violation of fundamental rights is compensatory, not punitive. It is additional to a civil damages claim and payable by the State. Each surviving appellant was awarded Rs 3 lakh, payable within three months and adjustable against any later civil damages. The State could recover the amount from erring persons. Proof of actual consequential loss was left to a civil suit. The award rested on specific constitutional findings on this record; it did not establish that every acquittal automatically attracts compensation.

Case-note :- ***1. Facts :*** Criminal Appeal No. 460/2004, brought under Section 374(2) CrPC, challenged the judgment dated 8 June 2004 passed by the Special Judge (M.P.D.V.P.K. Act), Bhind, in Special Sessions Trial No. 53/2003. Santosh Kumar Dohare, Bhure alias Balram Jatav and Shripal had been convicted under IPC Section 364-A read with Sections 11/13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam. They were sentenced to life imprisonment, a fine of Rs 10,000 and imprisonment in default. Santosh died during the appeal, and his appeal was dismissed as abated. Roope, Mahipat and Prayagnarayan were acquitted at trial, and their acquittal was not appealed. Samrath and Malkhan Singh had been shown as absconding. The appeal on the merits therefore concerned Bhure (appellant 2) and Shripal (appellant 3).

The prosecution alleged that five unknown persons took Ramswaroop and Mullu from the irrigation fields on the night of 25–26 January 2003 and detained them. Mullu was allegedly released after about four days with a demand for Rs 1 lakh in ransom and a death threat; Ramswaroop was allegedly released later after payment. Harmukh initially made a missing-person report, and Crime No. 20/2003 was registered under IPC Section 364. Charges were later framed under Section 364-A and the state Act. The trial court examined Harmukh PW1, Mullu PW2, Ramswaroop PW3, FIR recorder Rajesh Sharma PW4 and investigating officer Chandrapal Singh Tomar PW5. Radheshyam, Tulsiram and Hiralal testified for the defence. The defence emphasised Mullu's delay in reporting, the failure to examine the alleged payer, the contradiction between the ransom-payment and police-encounter accounts, the absence of a test identification parade, and the unproved links concerning arrest and recovery. The State defended the convictions. After considering the surviving appellants' prolonged custody, the High Court also addressed compensation under Article 21.

2. Precedents — Considered : *Malleshi v. State of Karnataka, (2004) 8 SCC 95*, was quoted for the definitions of kidnapping and abduction under IPC Sections 359 and 362, the use of force or deceitful inducement, the continuing nature of abduction or detention, and the ransom purpose under Section 364-A. It stated that a ransom demand must be communicated. *Shyam Babu v. State of Haryana, (2008) 15 SCC 418*, was cited for the statutory combination of kidnapping, a threat or reasonable apprehension of hurt or death, and compulsion or ransom. *Suman Sood v. State of Rajasthan, (2007) 5 SCC 634*, was quoted for detention for ransom and the meaning of ransom as a sum demanded for the release of a captive; it expressly referred back to *Malleshi*. The High Court stated the elements and then tested, rather than presumed, proof of identity, detention, threat and ransom demand or payment on this record. It did not reject the applicability of Section 364-A or lay down a universal requirement of direct proof of actual payment in every prosecution.

For compensation, the Bench quoted its earlier decision in *Hardeep Singh Anand v. State of M.P., (2008) 5 MPHT 172*. That judgment had applied *Rudul Sah v. State of Bihar* to monetary relief for a violation of Article 21, *State of Maharashtra v. Ravikant S. Patil to* unwarranted handcuffing, and *D.K. Basu v. State of W.B. to* public-law compensation. Such compensation is compensatory, not punitive, and is additional to a civil action, with the amount depending on the particular case and potentially adjustable against civil damages. In *Hardeep Singh v. State of M.P., Criminal Appeal No. 2250/2011*, by order dated 5 December 2011, the Supreme Court subsequently increased the compensation in that case from Rs 70,000 to Rs 2 lakh because it was inadequate for the proven suffering. Those figures formed part of the comparative reasoning; they were not the award in this appeal. *Anita Thakur v. State of J&K, (2016) 15 SCC 525*, was quoted for State liability in public law for patent and incontrovertible police misconduct or violation of fundamental rights, subject to a high standard of proof and without a defence of sovereign immunity. Its citations to *Saheli*, *Joginder Kaur*, *Vidhyawati* and *Nilabati Behera* formed part of that quoted synthesis; they were not independently analysed as holdings in the present appeal. On this record, the Bench made its own finding of deliberate malicious prosecution and ordered Rs 3 lakh to each surviving appellant.

3. Statutes considered : The appeal against conviction was brought under Section 374(2) CrPC. Section 428 appeared in the trial court's custody certificate. IPC Section 364-A, quoted in the judgment, concerns kidnapping, abduction or continued detention accompanied by a threat, reasonable apprehension of hurt or death, or actual hurt or death, to compel conduct or payment of ransom. It is punishable by death or life imprisonment and fine. Sections 359 and 362 IPC were discussed through the definitions of kidnapping and abduction in *Malleshi*; the original FIR invoked Section 364. Sections 11/13 of the M.P.D.V.P.K. Act were the linked state Act charges. The Court's list of deficiencies included the lack of proof that any disclosure statement under Section 27 of the Evidence Act had been recorded. Article 21 of the Constitution governed the right to life and personal liberty and the decision on public-law compensation. Actual damages for malicious prosecution beyond the fixed constitutional sum were left to a possible civil suit.

4. Issues : (i) Did the prosecution prove beyond reasonable doubt that Bhure and Shripal were the abductors or detainers and that the threats and ransom elements of Section 364-A and the linked state Act charge were established? (ii) What weight should be given to the delayed or absent report, lack of test identification, inconsistent explanations for Ramswaroop's release, failure to examine the payer, and missing documentation of the police encounter, arrests, recoveries and disclosures? (iii) Could compensation under Article 21 be awarded in this appeal after the Bench found deliberate false implication and unusually long imprisonment, and what relationship would it have to civil damages and recovery from erring persons? (iv) What relief was specific to the two surviving appellants, given Santosh's death and the final acquittal of the others?

5. Ratio / Findings : Mullu PW2 said that five men took both victims, that Shripal and Samrath demanded Rs 1 lakh with a death threat in Rampura, and that he was released after about four days. The Court noted the absence of a reliable, prompt police report from him about his captivity or the ransom demand, as well as inconsistencies in his account of the timing. Ramswaroop PW3 said that payment of Rs 1 lakh preceded his release, but also asserted that Shripal had sold him to Pahalwan's gang for Rs 1 lakh. The investigating officer said that the police freed Ramswaroop in an encounter on 26 March 2003. Neither account explained the release mechanism described in the other. The officer did not identify the encounter participants, give sufficient particulars of its date and place to link an appellant to it, explain its outcome or produce supporting documents. The Ex. P2 panchnama named no miscreant involved in the encounter. The prosecution did not examine the brother said to have paid the ransom, identify who paid whom and where, establish the source of the money or whether a mediator was involved, or reconcile which gang held Ramswaroop. Harmukh, a brother, did not claim that he had paid. The Court treated these as central contradictions in the ransom chain rather than minor variations.

Identification and investigation also failed. The witnesses first saw the alleged abductors during the incident, but no TIP was held for Shripal or the accused. Ramswaroop identified Bhure in court, and his claimed acquaintance with Shripal dated only

from the abduction. The dates and places of Bhure's and Shripal's arrests, the arrest memoranda and the witnesses to the arrests were not proved. There was no documented incriminating seizure or disclosure under Section 27. Mullu said that the police had beaten Santosh. On the evidence as a whole, the Bench held that the prosecution had miserably failed to prove guilt beyond reasonable doubt and found that Bhure and Shripal had been falsely implicated. The other trial acquittals and the abatement of Santosh's appeal remained outside this decision on the merits.

The trial certificate and custody history showed that Shripal had been in jail since 5 July 2003. Bhure had been in custody in 2003 and, after conviction, until he was granted appellate bail on 26 March 2015. The Court characterised their confinement as about fifteen and twelve years, respectively. After discussing *Hardeep Singh Anand* and the Supreme Court's enhancement in *Hardeep Singh*, *Rudul Sah*, *D.K. Basu*, *Ravikant S. Patil* and *Anita Thakur*, the Bench concluded that the complainant had maliciously implicated them and that the police had joined in an account of an imaginary encounter. Its specific finding of deliberate mala fide prosecution and prolonged deprivation of liberty warranted constitutional compensation. Rs 3 lakh each was fixed as public-law compensation under Article 21; proof of the exact further pecuniary loss was reserved for a civil suit. The amount could be adjusted in such a suit, and the State could recover it from erring persons. The holding rests on the Court's particular factual findings and the high standard described in *Anita Thakur*, rather than acquittal alone.

6. Relief : The Hon'ble High Court has allowed the appeal for Bhure alias Balram Jatav and Shripal. Their convictions under Section 364-A and the M.P.D.V.P.K. Act, and the life sentences imposed by the judgment dated 8 June 2004, were set aside. Both were acquitted of all charges. Bhure's bail and surety bonds were discharged, and Shripal was ordered to be released immediately unless wanted in another case. Santosh's appeal had already abated following his death; the unchallenged trial acquittals of Roope, Mahipat and Prayagnarayan were unaffected. The State was directed to pay Rs 3 lakh each to Bhure and Shripal within three months, adjustable against any later civil damages award. It could recover the amount from erring persons.

Santosh Kumar Dohare and Others v. State of Madhya Pradesh, Cr.A. no. 460/2004, 24/05/2018, D.B., Hon'ble Justice Shri Vivek Agarwal & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers / FIR quashing — face-value allegations and investigation - The Court observed that the High Court's power under Section 482 CrPC is wide but exceptional. Where a cognizable offence is disclosed, investigation must ordinarily proceed. An FIR may, however, be quashed where its uncontroverted allegations, taken in their entirety, disclose no offence, or where an express legal bar, inherent improbability or sufficiently established abuse justifies intervention. *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, and *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, were invoked against premature interference. *Ujjal Kumar Burdhan* reproduced *Swapan Kumar Guha* on the need to gather evidence and *Jeffrey J. Diermeier* on the cautious exercise of inherent jurisdiction. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, and *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, set out the *Bhajan Lal* and abuse-of-process limits. Those exceptions did not justify quashing this FIR, which alleged a later assault and threat.

Quashing / no mini-trial — defence and factual disputes - *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, sets out a structured prima facie test under Sections 397/482 without a meticulous assessment of proof. It also explains that a predominantly civil controversy does not immunise separately disclosed criminal conduct. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, *State of Orissa v. Saroj Kumar Sahoo*, *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021, 30*.06.2021, caution against resolving disputed facts or stalling investigation through a roving inquiry. An FIR is not an encyclopaedia. The Court applied that limit to the applicant's contested claim that he was in his office and left the evidence to be tested at trial.

Quashing / qualified exceptions and reasoned review - *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, confirms that intervention is justified when allegations accepted at face value do not disclose an offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, guards against both routine interruption of an inquiry and harassment through inherently improbable accusations. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, permits narrow consideration of defence documents that are public or of undisputed veracity. The order identifies no such decisive document for the asserted office alibi. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, requires reasons addressing the particular facts when deciding whether to interfere.

Alibi / trial proof - The first applicant's claim that he was in his office was treated as an alibi requiring proof beyond reasonable doubt; it could not be accepted merely on assertion at the FIR-quashing stage. He may prove it at trial, where the prosecution's case and the defence can be tested.

Divorce / later independent criminal allegation - The earlier divorce and alimony decree did not determine whether the former spouses were involved in a separate alleged roadside confrontation on 12 December 2023. The Court held that the FIR's allegations of abuse, assault with fists and blows, and a threat prima facie disclosed offences under Sections 294, 323 and 506/34 IPC. It deprecated the unsupported general allegation that the informant misused her position as a woman and dismissed the Section 482 petition. The trial court must decide independently, without being prejudiced by this threshold order.

Case-note :- ***1. Facts :*** Santosh Kumar Mishra (applicant No. 1) and respondent No. 2 were previously married. Counsel for the applicants reported that the trial court had passed a decree of judicial separation and that an appellate compromise decree in First Appeal No. 2347/2018 had dissolved the marriage. The latter was said to require payment of ₹5,00,000 as permanent alimony and specified monthly, weekly and yearly payments for their daughter Akshita, including maintenance, food, tuition, school transport and activities. According to FIR No. 0497/2023 at Police Station City Kotwali, Satna, the informant was returning from Bloom School on 12 December 2023 when, near Balaji Marbles, her former husband and his second wife Nikki arrived in a car. The informant alleged that Nikki forced her scooter to stop, abused her filthily, scuffled with her, struck her with fists and blows, and pushed her onto the road, causing injuries. She alleged a threat that she would be killed in future and said that Anoop Pandey and passers-by witnessed the occurrence. These are FIR allegations, not facts proved by this order. The applicants denied that any incident had occurred. Counsel asserted that the first applicant was in his office at the relevant time, that the informant continued to make accusations after the divorce, and that she was misusing her position as a woman. They invoked Section 482 CrPC in MCrC No. 4794/2024 to quash the FIR for offences under IPC Sections 294, 323 and 506 read with Section 34.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, disapproves quashing an FIR before proper investigation unless continuing it would itself be an abuse of process. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, protects statutory investigation where the allegations disclose a cognizable offence, subject to the exceptional case of malicious or vexatious prosecution. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, explains why public justice requires material to be gathered after an offence is disclosed. Its excerpt reproduces *State of W.B. v. Swapan Kumar Guha on the* threshold for investigation and *Jeffrey J. Diermeier v. State of W.B. on the* three purposes and restrained exercise of inherent power. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, rejects a roving inquiry into the merits and premature reliance on a disputed settlement while serious allegations remain to be investigated. It reinforces leaving the present dispute to the proper process; it does not establish that any settlement in this case was coerced. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, is quoted briefly against assessing the case before investigation ends.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, quotes *Bhajan Lal*'s categories of allegations that disclose no offence at face value and proceedings manifestly attended by mala fides. It discusses the sparing but effective protection available against untenable prosecution. Its embedded *Medchl Chemicals*, *Zandu Pharmaceutical Works* and *Shakson Belthissor* passages illustrate the limited exception and protection of an apparently innocent person; they are not separately applied to decide the applicants' facts. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, calls for a reasoned analysis of the factual setting rather than abstract citation. *Amit*

Kapoor v. Ramesh Chander, (2012) 9 SCC 460, sets out the cautions governing Sections 397/482: consider the uncontroverted record, the ingredients of the offence, legal bars and patent abuse, without testing the likelihood of conviction, reliability or external defence material at the threshold. It also distinguishes a purely civil wrong from facts supporting both civil and criminal remedies and qualifies *Madhavrao Jiwajirao Scindia* through *P.P. Sharma*. The long list of cases embedded in its paragraph 27.15 is not treated as separate holdings of this High Court. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, repeats *Bhajan Lal*'s caution against testing the genuineness of an FIR in a Section 482 inquiry.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, states the ordinary rule excluding defence documents and the narrow exception for public documents or documents of undisputed veracity, referring to *Yin Cheng Hsiung* and *Harshendra Kumar D*. The present order identifies no conclusive document within that exception for the office alibi. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, recognises sparing interference where no prima facie offence is disclosed or a legal bar is shown, but rejects premature assessment of reliability and the stifling of legitimate prosecution. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, surveys the purposes and limits of inherent power, available statutory remedies, the *Bhajan Lal* categories, the basic factual foundation principle in *Indian Oil Corpn. v. NEPC India Ltd.*, and the caution in *State of Orissa v. Saroj Kumar Sahoo* against forecasting conviction. Its extended discussion confines *Madhavrao*'s reasoning on special features to its facts and explains the limiting force of *State of Bihar v. P.P. Sharma*, particularly in disputes with a civil component. The High Court did not infer that the earlier divorce gave the applicants a settlement-based right to quash a later assault allegation.

M. Srikanth v. State of Telangana, (2019) 10 SCC 373, confirms that allegations accepted at face value, or uncontroverted supporting material, making out no offence may justify quashing. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, balances the need to avoid premature obstruction of an inquiry against intervention where an inherently improbable allegation would turn criminal process into a means of harassment. The quoted passage refers to *L. Muniswamy* on preventing proceedings from becoming a weapon of harassment or persecution. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, forbids resolving disputed defence facts through minute scrutiny at the Section 482 stage. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, order of 30 June 2021, likewise rejects appraisal as if at trial and states that an FIR need not narrate all the evidence.

3. Statutes considered : Section 482 of the Code of Criminal Procedure, 1973, was invoked to prevent abuse of court process or secure justice by quashing the FIR. It requires exceptional and careful exercise of jurisdiction, rather than a trial of defence evidence. The quoted *Amit Kapoor* passage also discusses the distinction from revision under Section 397 and the framing of charges under Section 228. A passage quoted through *Padal Venkata Rama Reddy* states *Bhajan Lal*'s distinctions concerning investigation under Sections 156(1) and 155(2) and a police report under Section 173(2). These procedural references supplied context; they were not separate determinations concerning the registration of this FIR or the charge. The FIR named Sections 294, 323 and 506 read with Section 34 of the Indian Penal Code, 1860 (obscene abuse, causing hurt, criminal intimidation and common intention).

4. Issues : (i) Taking the informant's allegations as they stood, should the High Court exceptionally quash FIR No. 0497/2023 under Section 482 despite the alleged roadside abuse, assault and threat? This required an inquiry into a prima facie offence and abuse of process, rather than a prediction of conviction. (ii) Could the first applicant's assertion that he was in his office be accepted as an alibi to negate the FIR before evidence was tested, and what remained open for trial? (iii) Did the prior divorce and compromise decree have any legal bearing on a separate alleged post-divorce incident? (iv) Did counsel's general suggestion that the informant was misusing her status as a woman establish any reason to discredit the complaint?

5. Ratio / Findings : The Court first examined the limits of Section 482 jurisdiction through a substantial series of Supreme Court decisions. Their common premise is that the FIR allegations and the permitted record must be assessed at face value, with intervention where no offence, a legal bar, patent improbability or demonstrable abuse is shown. The same precedents require restraint where a cognizable offence is disclosed and disputed matters call for investigation or trial. In particular, *Mohd. Akram*

Siddiqui identifies a narrow exception for public documents or documents of undisputed veracity. The Court held that a plea of alibi must be proved beyond reasonable doubt and cannot be evaluated in this FIR-quashing proceeding. It reserved the first applicant's ability to prove it before the trial court. The earlier divorce resolved the marital relationship but did not resolve whether the later roadside conduct occurred. Because the FIR concerned that later independent incident, dissolution of the marriage did not itself justify quashing. The Court deprecated and rejected the sweeping allegation that respondent No. 2 was misusing her position merely as a woman. Taking the uncontroverted FIR allegations of abuse, physical attack and threat, it found a prima facie case under Sections 294, 323 and 506 read with Section 34 IPC. This is a threshold holding under limited inherent jurisdiction; it is neither a factual verdict that the alleged incident occurred nor a finding of guilt.

6. Relief : The Hon'ble High Court has dismissed the application under Section 482 CrPC to quash FIR No. 0497/2023 in its entirety. The FIR and ensuing process were left to proceed. By way of caution, the Court expressly directed the trial court to decide the case without being influenced or prejudiced by this order, which concerned only the limited standard for quashing.

Santosh Kumar Mishra and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 4794/2024, 16/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 226 / FIR-registration mandamus — police duty and alternative statutory remedy - The Court observed that the police must register an FIR when information discloses a cognizable offence. That statutory duty does not, however, ordinarily confer an immediate writ remedy against police inaction. *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguished the police duty from the informant's remedy under Sections 190 and 200 CrPC. It explained that *Ramesh Kumari* addressed the former, while *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari* addressed the latter. *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, 20.12.2016, applies the rule of alternative remedy to a mandamus under Section 154, subject to the recognised *Whirlpool* exceptions. It explains why *Lalita Kumari*'s rule on the duty to register an FIR does not itself determine entitlement to a writ. The writ was dismissed with liberty to approach the Magistrate.

Police inaction / magistrate route - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, provides for recourse first to the Superintendent of Police under Section 154(3) and then to the Magistrate under Section 156(3). The Magistrate may direct registration and proper investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, follows that remedy and explains that the Magistrate may, if necessary, recommend a change of investigating officer but cannot investigate personally. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, through *Gangadhar* and *AIIMS Employees' Union*, identifies the complaint route under Sections 190/200 and the Magistrate's powers to enquire, direct investigation, issue process or dismiss the complaint. The Court directed no FIR or investigation in the present case; it preserved the petitioner's recourse under Section 200 CrPC / Section 223 BNSS.

Fair investigation / exceptional writ control - *Divine Retreat Centre, (2008) 3 SCC 542,* recognises rare intervention under Article 226 upon a clear showing that investigative power has been exercised mala fide and that Chapter XII has not been complied with. Such intervention is confined to enforcing lawful process rather than prescribing investigative steps. Counsel's citations of *Lalita Kumari* and *Shaikh Ansar Ahmad* were arguments; the Court applied the authorities on writ maintainability and remedies before the Magistrate.

Case-note :- ***1. Facts :*** The petitioners said that they had lodged a complaint with the authorities. According to counsel, statements had also been recorded, but the enquiry had not concluded and no FIR had been registered. In Writ Petition No. 18039/2024 under Article 226 of the Constitution, they sought production of records relating to Annexures P-4 and P-6 and a mandamus directing respondents 1–4 to register an FIR against respondents 5–10. They also sought a direction to the Director General of Police to transfer the matter to an independent agency for a fair enquiry, alleging that respondent 4 had refused to enquire despite the material supplied. Petitioners' counsel relied on what the order calls *Lalta Kumari* and *Lalita Kumari*,

Shaikh Ansar Ahmad Md. Husain, and the Division Bench decision in *Smt. Laxmi Sharma* to support police action. State counsel accepted the general duty to register an FIR for a cognizable offence but argued that police inaction should be taken to a Magistrate under Section 200 CrPC, identified in the order with Section 223 BNSS. The Court heard both sides and framed the central question as the maintainability of a writ seeking police registration. After surveying Supreme Court and Madhya Pradesh precedent, it dismissed the writ while preserving the Magistrate route. The order does not set out the underlying incident, complaint contents, actual statement transcripts or any finding on the private respondents' conduct.

2. Precedents — Considered : The three Supreme Court decisions cited by the petitioners as *Lalta/Lalita Kumari* and *Shaikh Ansar Ahmad* appear in counsel's submissions. The Judge did not separately analyse their merits or adopt their full reasoning. Their relevance to the police duty is addressed only through the Court's discussion of other authorities and the Division Bench's express distinction. *Smt. Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, was quoted and applied to distinguish the uncontroversial duty to register an FIR upon cognizable information from the judicial remedy when the police fail to act: a complaint before the Magistrate under Sections 190 and 200. The quoted Supreme Court passage explains that *Ramesh Kumari* and *Lallan Chaudhary* concern the police response to cognizable information. *AIIMS Employees' Union (Regd.) v. Union of India, (1996) 11 SCC 582, Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768, Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, address the procedure and remedy before the Magistrate when the police fail to act. The High Court used this distinction to refuse a direct registration writ while preserving recourse to the Magistrate; it did not hold that registration is optional for the police.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, was quoted for two related but distinct rules. Its paragraph 42 invokes *Gangadhar* and *AIIMS Employees' Union* for the complaint remedy under Sections 190 and 200. The *Gangadhar* passage explains that a Magistrate can enquire under Chapter XV, direct police investigation upon prima facie material, dismiss a complaint under Section 203 if no case is disclosed, or take cognizance and issue process. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, was quoted for recourse to the Superintendent of Police under Section 154(3) CrPC and an application under Section 156(3) when registration or a proper investigation is lacking. The Magistrate has authority to order and monitor investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, was quoted as following *Sakiri Vasu*. The effective remedy lies with the Magistrate, who may, on a prima facie basis, direct registration or proper investigation and recommend a change of officer if needed, but cannot personally investigate.

The Court also quoted the Madhya Pradesh Division Bench decision in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, decided on 20 December 2016. It holds that a mandamus under Section 154 can be declined if the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, unless one of the recognised exceptions in *Whirlpool v. Registrar of Trade Marks, (1998) 8 SCC 1*, applies. It expressly distinguishes *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which concerns the police duty to register an FIR disclosing a cognizable offence, from an entitlement to bypass the remedies and obtain mandamus. The embedded authorities form part of the Supreme Court's quoted reasoning on these propositions.

3. Statutes considered : Article 226 of the Constitution was invoked for mandamus and a direction to an independent agency to conduct a fair enquiry. The Court treated the availability of ordinary criminal procedure remedies as central to the exercise of that writ jurisdiction. Section 154 CrPC concerns registration on receipt of cognizable information, and Section 154(3) permits recourse to the Superintendent of Police if the police fail to act. Section 156(3) CrPC permits a Magistrate to direct police registration or investigation where prima facie warranted. Sections 190 and 200 provide a complaint and cognizance route, while Section 203 permits dismissal after inquiry where appropriate. The Court's operative liberty specifically refers to Section 200 CrPC / Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

4. Issues : Could petitioners who say that their complaint and recorded statements led to no FIR obtain a direct order under Article 226 commanding police registration despite the available remedies through the police hierarchy and Magistrate? An associated request concerned whether the alleged

refusal to conduct an enquiry justified a writ directing an independent agency. The Court quoted the exceptional mala fide standard, but made no direction for an independent agency.

5. Ratio / Findings : The Court first distinguished the police's statutory obligation from the judicial remedy available to an aggrieved complainant. *Aleque Padamsee* affirmed the duty to register an FIR when information discloses a cognizable offence but pointed to Sections 190 and 200 if the police do not act. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* set out successive statutory remedies through the Superintendent of Police and Magistrate, with power to order registration and investigation and to monitor its propriety. *Divine Retreat Centre* recognised exceptional writ control over mala fide investigative abuse, confined that control to statutory process, and reiterated the Magistrate complaint route in ordinary cases of police inaction. The binding Division Bench decision in *Shweta Bhadauria* expressly distinguished *Lalita Kumari*'s rule on police duty from an automatic entitlement to writ mandamus, while preserving recognised exceptions to the usual alternative-remedy rule. Applying those principles, the Court made no direction for registration or transfer. The refusal concerned the procedural route, and the petitioners were left to seek relief before the Magistrate.

6. Relief : The Hon'ble High Court has dismissed the writ petition. It expressly granted the petitioners liberty, if they so desire, to approach the appropriate Magistrate under Section 200 CrPC / Section 223 BNSS for redress of their grievance.

Santosh Kumar Mishra and Others v. State of M.P. and Others, W.P. no. 18039/2024, 25/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (839) Prev Next

Headnote :- SC/ST Act / Section 18 anticipatory-bail bar — prima facie act offence - The Court observed that, at the pre-arrest bail stage, the High Court can examine the allegations to decide whether they disclose a prima facie offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Merely citing provisions of the Act does not foreclose that inquiry. Counsel relied *on Atendra Singh Rawat v. State of M.P.*, 2019 (2) MPLJ (Cri) 481, for this threshold proposition. In light of the Section 250 M.P. Land Revenue Code order against the complainant party and the alleged location of the incident on the disputed plot, the possibilities of false or excessive implication or private defence remained open. On this limited assessment, the Court held Section 18 inapplicable and granted conditional anticipatory bail, expressly without commenting on the merits. The appellant had to appear before the investigating/arresting officer by 10 January 2024 and furnish a bond of ₹1,00,000 with one surety in the same amount. He had to attend interrogation and comply with the conditions under Section 438(2) CrPC. The order would lapse if he failed to appear. The complainant had been informed of the appeal under Section 15-A of the Act and was to be informed of the grant of bail in light of *Aparna Bhat v. State of M.P.*, Criminal Appeal No. 329/2021, 18 March 2021.

Case-note :- ***1. Facts :*** The appellant Santosh Sen apprehended arrest in Crime No. 08/2023 at Police Station AJK Guna, District Guna. The FIR named IPC Sections 294, 323, 336, 34 and 506 and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. By order dated 9 June 2023, the Special Judge (Atrocities), Guna, rejected his application for anticipatory bail. He appealed under Section 14-A(2) of the Act. The State reported that the complainant had been informed of the appeal as required by Section 15-A, and the case diary was before the High Court. Counsel for the appellant argued that an order under Section 250 of the M.P. Land Revenue Code had found that the complainant party had encroached on the appellant's land. He submitted that the alleged incident occurred on that plot and that the criminal accusation was made to overcome the revenue order. He relied on *Atendra Singh Rawat* concerning the Section 18 threshold and offered cooperation. He also claimed that the risks of flight or interference with evidence were low and that the trial was likely to take a long time. These were submissions, not final findings of fabrication or innocence. The State opposed the appeal, contending that Section 18 made anticipatory bail unavailable. The Court heard the parties and considered whether the appeal could be entertained at the threshold in light of the land order, then allowed it on conditions.

2. Precedents — Considered : *Atendra Singh Rawat v. State of M.P.*, 2019 (2) MPLJ (Cri) 481, was cited by appellant's counsel for the proposition that Section 18 does not bar pre-arrest bail where the allegations do not make out a prima facie SC/ST Act offence. *Aparna Bhat and Others v. State of M.P.,*

Criminal Appeal No. 329/2021, decided 18 March 2021, was mentioned by the Court solely in directing intimation of the grant of bail to the complainant.

3. Statutes considered : The appeal against the Special Judge's refusal of anticipatory bail was brought under Section 14-A(2) of the SC/ST Act. The restriction in Section 18 was the controlling question. The Court examined whether a prima facie offence under the Act was disclosed and held the bar inapplicable on its limited assessment of these facts. Section 15-A required the complainant to be informed of the appellate proceeding; the State reported that this had occurred, and further intimation of the grant of bail was ordered. Section 250 of the M.P. Land Revenue Code was relevant as the stated basis of the existing encroachment order. The High Court did not adjudicate title or possession afresh. Section 438(2) CrPC supplied the further standard conditions for the anticipatory bail granted.

4. Issues : Did the Section 18 SC/ST Act bar prevent consideration of the anticipatory-bail appeal merely because offences under the Act were listed, or could the Court examine whether the allegations disclosed a prima facie offence under the Act? If the bar did not apply, did the existing revenue order and the location of the reported incident justify conditional anticipatory bail on the case as then presented?

5. Ratio / Findings : The Court stated that it could examine the allegations to see whether a prima facie SC/ST Act offence was made out. This threshold determination preceded application of the Section 18 bar. On its assessment of the present record, an order under Section 250 had been passed against the complainant party, who, according to the Court's brief discussion, had not vacated the disputed land. The alleged criminal incident was said to have occurred on that plot. The Court reasoned that the possibilities of false or excessive implication or the appellant's exercise of private defence could not be ruled out. It consequently held that the statutory bar on anticipatory bail would not apply. The holding concerns the qualified prima facie inquiry under Section 18 and its application to this land-possession dispute. It does not lay down a blanket rule that a revenue order defeats an SC/ST prosecution.

6. Relief : The Hon’ble High Court has allowed the appeal for anticipatory bail.

Santosh Sen v. State of Madhya Pradesh and Others, Cr.A. no. 8061/2023, 29/12/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (840) Prev Next

Headnote :- Investigation / suspected accused's control - The Court observed that a person suspected in an FIR has no right to choose the investigating agency or officer, prescribe the method of investigation or demand that the police accept his proposed defence at the inquiry stage. The Court quoted *Romila Thapar v. Union of India, (2018) 10 SCC 753*, on the choice of agency and its reliance on *Narmada Bai* and *Sanjiv Rajendra Bhatt*. It also quoted the discussion of *E. Sivakumar,* which explains that an accused does not automatically have a right to be heard when an impartial investigation is ordered. *Romila Thapar*'s discussion of *Divine Retreat Centre* preserves rare process directions under Article 226 where investigative power is shown to have been exercised mala fide.

Article 226 / monitoring versus supervision - *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, was applied to distinguish constitutional monitoring of a legally justified investigation from supervision of police choices. The High Court declined to direct the investigating officer's methods or test the disputed factual defence in the writ proceeding and dismissed the petition. This ruling does not withdraw the exceptional public-law jurisdiction explained in the quoted authorities.

Alibi / forum and evidentiary stage - The suspected accused said that he was at home during the incident, occupied with a forthcoming marriage function. The Court treated this as an alibi requiring cogent and reliable evidence before the trial court.

Case-note :- ***1. Facts :*** Santosh Singh Rajawat was a suspected accused in Crime No. 248/2022 registered at Police Station Gole Ka Mandir, District Gwalior. In a petition under Article 226 of the Constitution, he sought an order directing a decision on his representation (Annexure P/1) and a fair inquiry, with other appropriate relief. His counsel asserted that he had been falsely implicated because he was at his house at the time of the alleged offence. He was said to have been occupied with purchases and the Mahila Sangeet function connected with the planned marriage of Yogeshwar, described in the order as the son of Santosh. The High Court heard his counsel, considered his position as a suspected

accused and the limits on intervention in investigation, and dismissed the petition. The wedding-function account was his asserted defence, not a judicial finding about the occurrence.

2. Precedents — Considered : The Court quoted *Romila Thapar v. Union of India, (2018) 10 SCC 753*, paragraphs 23–27, at length. *Romila Thapar* considered whether named accused or persons purporting to represent them could insist on changing an investigating agency and whether a special or court-monitored investigation was justified. It rejected an accused's entitlement to select an agency. The quoted passage cited *Narmada Bai v. State of Gujarat for* the rule that an accused has no say in the appointment of an agency and *Sanjiv Rajendra Bhatt v. Union of India for* the absence of a right to prescribe the manner of investigation or prosecution. Within that discussion, *E. Sivakumar v. Union of India* explained that an accused need not be heard as a matter of course in a writ seeking impartial investigation, invoking *Dinubhai Boghabhai Solanki* and *Narender G. Goel*. *Romila Thapar* also quoted *Divine Retreat Centre v. State of Kerala on the* inability of an interested accused, complainant or informant to choose the agency or an officer during an investigation. It preserved an aggrieved person's rare recourse under Article 226 when investigative power is shown to have been exercised mala fide. The High Court used these principles to reject the suspected accused's attempt to steer the police inquiry. Other decisions, including *W.N. Chadha*, appear as supporting references within the *Sanjiv Rajendra Bhatt* quotation.

Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532, was expressly cited by the High Court for the constitutional court's power to monitor an investigation without supervising its manner. The Court applied that distinction to refuse the petitioner’s requested interference.

3. Statutes considered : Article 226 of the Constitution was invoked to seek a decision on the representation and a direction for a fair inquiry. Crime No. 248/2022 identified the pending police matter. The plea of alibi was an evidentiary defence requiring cogent, reliable proof at trial; it did not confer a threshold entitlement to control the inquiry.

4. Issues : Could a suspected accused invoke Article 226 to have the police conduct a fair inquiry in the particular manner implied by his representation, when his factual basis was an asserted absence from the scene? This raised the limits on an accused's participation in agency selection and the method of investigation, and the separate distinction between constitutional monitoring and supervision. Could the asserted whereabouts be accepted in the writ proceeding instead of being tested as an alibi at trial?

5. Ratio / Findings : Treating the petitioner as a suspected accused, the Court applied *Romila Thapar*'s principle that an accused cannot dictate the investigating agency or the way an officer conducts a criminal inquiry. The Court stated that constitutional courts cannot supervise an investigation. It distinguished the permissible monitoring function recognised in *Manohar Lal Sharma* from a direction prescribing police methods. The petitioner's explanation that he was at home for a family function was treated as a plea of alibi requiring cogent, reliable evidence before the trial court. The High Court therefore declined to turn that disputed defence into an instruction controlling the ongoing investigation. This was a procedural refusal of writ relief. It was not a final finding that the alibi was untrue, that the petitioner was present at the scene, or that the prosecution had proved any offence.

6. Relief : The Hon’ble High Court has dismissed the writ petition as lacking merit.

Santosh Singh Rajawat v. State of Madhya Pradesh and Others, W.P. no. 12572/2022, 11/07/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (841) Prev Next

Headnote :- Statutory cognizance bar / Section 195 CrPC - The applicants sought quashing of Crime No. 0345/2021 under Section 482, arguing that only a complaint could initiate action. The Court dismissed their petition. The respondents submitted that Section 195's complaint requirement for an offence under Section 186 IPC restricts the court's taking of cognizance, rather than registration of an FIR or police investigation. The FIR also alleged an offence under Section 189 IPC, which the Court expressly held was outside the Section 195 bar. The respondents treated any later objection to cognizance as distinct from the FIR challenge.

Complaint definition / non-cognizable report - The explanation to Section 2(d) CrPC treats a police report that discloses a non-cognizable offence after investigation as a complaint, and the officer making it as the complainant. The Court quoted *Ushaben v. Kishorbhai Chunilal Talpada, (2012) 6 SCC 353*, for

the principle that the police are not prevented from investigating allegations of both cognizable and non-cognizable offences. The order recorded the respondents' reliance on *Zaid Pathan* for the registration/cognizance distinction and their further citation of *Ramesh Mendola*.

Inherent jurisdiction / result - The allegations that the applicants obstructed a Child Welfare Committee hearing, pressed for action on a society file and threatened its chair were not tested for guilt. The Court found no basis for interference with the FIR at the Section 482 stage and dismissed the petition.

Case-note :- ***1. Facts :*** Applicants Sarika Shrivastava and others sought to quash the FIR dated 7 July 2021, Crime No. 0345 at Kotwali, Chhindwara, under Sections 186, 189 and 34 IPC, and any consequent proceedings. The FIR account, reproduced from counsel's submission, alleged interruption of a Child Welfare Committee hearing concerning a juvenile on 15 June 2021. Applicant No. 2, described as a teacher, allegedly arrived with his wife and a society file. He insisted that the chair sign and seal it despite the ongoing hearing, and threatened the chair and a female participant when asked to return later. Applicant No. 1, described as a news correspondent, allegedly arrived with microphones, recorded the proceedings on a mobile phone and questioned the chair. The alleged pressure concerned recognition of a foster-care society with purported deficiencies. These were allegations in the criminal process, not facts found after trial. The applicants' principal legal ground was that Section 195 CrPC required a complaint by an authority or court and therefore precluded an FIR. The respondents opposed quashing and distinguished investigation from cognizance.

2. Precedents — Considered : The High Court quoted *Ushaben v. Kishorbhai Chunilal Talpada and Others, (2012) 6 SCC 353*, paragraphs 14–19. *Ushaben* discussed Section 198-A and Sections 498-A and 494 IPC, the meaning of a complaint under Section 2(d), and the absence of a bar on police investigation where a complaint contains allegations of both cognizable and non-cognizable offences. The present Court applied that principle concerning investigation of mixed offences. *Ushaben*'s discussion of *Babubhai Madhavlal Patel* was quoted as a factual distinction within the Supreme Court's reasoning, rather than independently analysed here. The respondents also relied on two Madhya Pradesh coordinate-bench orders. *Zaid Pathan and Others v. State of M.P.*, MCrC 32779/2020, decided on 22 December 2020, was cited for the distinction between registration of an FIR and later cognizance: an FIR may be registered, while an order taking cognizance solely on a final report may be challenged where a complaint is required. They also cited *Ramesh Mendola v. State of Madhya Pradesh*, MCrC 32126/2022, decided on 28 June 2022.

3. Statutes considered : Section 482 CrPC was invoked to seek quashing of the FIR. The applicants relied on Section 195 CrPC as a bar concerning Section 186 IPC; the respondents distinguished its restriction on court cognizance from FIR registration. The Court expressly held that Section 189 IPC, another offence alleged in the FIR, was outside the Section 195 bar. Section 2(d) CrPC defines a complaint as an allegation to a Magistrate for action, excluding a police report. Its explanation, however, treats a police report that discloses a non-cognizable offence after investigation as a complaint and the reporting officer as the complainant. The quoted Supreme Court decision concerned Sections 198-A CrPC and 498-A and 494 IPC in its own setting; those were not offences alleged against the present applicants.

4. Issues : Did the asserted Section 195 requirement of a complaint by an authority or court make FIR registration and police investigation under Sections 186, 189 and 34 IPC unlawful at the threshold, warranting quashing under Section 482? This required distinguishing FIR registration and investigation from a court's later decision on cognizance and recognising the independent allegation under Section 189. A related question concerned the relevance of Section 2(d)'s explanation treating a police report as a complaint when it discloses a non-cognizable offence.

5. Ratio / Findings : The Court read Section 2(d), including its explanation, as permitting a police report that discloses a non-cognizable offence after investigation to be treated as a complaint in the stated circumstances. The respondents distinguished Section 195's restriction on cognizance from FIR registration, despite the allegation under Section 186. The Court expressly noted that Section 189 was not covered by the Section 195 bar. Applying *Ushaben*, it stated that the police could investigate non-cognizable allegations along with cognizable allegations in a case involving both. The respondents' reliance on *Zaid Pathan* identified the possible later remedy if a court improperly took cognizance on a

final report where a complaint was required. The Court expressed no conclusion on the alleged facts or ultimate charge.

6. Relief : The Hon'ble High Court has dismissed the application under Section 482 CrPC because no case for interference was made out. The FIR and investigation were left to proceed according to law.

Sarika Shrivastava and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 12179/2022, 22/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (842) Prev Next

Headnote :- Anticipatory bail / conditional grant - The Court observed that Saroj Devi's first application under Section 438 CrPC concerned allegations of an armed confrontation with the police in Crime No. 151/2021 under Sections 307, 353, 336, 332 and 34 IPC and Sections 25/27 Arms Act. Counsel stressed that she was not alleged to have fired a gun herself, disputed her involvement, referred to a pending habeas corpus petition containing allegations against the station officer, noted co-accused Shadilal's regular bail, and offered her cooperation. The State opposed the application. Without commenting on the merits, the High Court granted anticipatory bail if she appeared before the investigating or arresting officer by 18 January 2022 and furnished a personal bond of Rs. 1,00,000 with one surety in the like amount. She had to attend interrogation and comply with Section 438(2). The order would lapse and the police could take her into custody if she failed to appear by the deadline.

Complainant notice - The Court directed intimation of bail to the complainant in light of *Aparna Bhat v. State of M.P., Criminal Appeal No. 329/2021*.

Case-note :- ***1. Facts :*** Saroj Devi apprehended arrest in Crime No. 151/2021 at Police Station Ater, Bhind, involving Sections 307, 353, 336, 332 and 34 IPC and Sections 25/27 of the Arms Act. The account presented at the hearing was that the police approached co-accused Shadilal over an illegal gun on 1 October 2021. He allegedly fired three shots at the officers, causing no injury. He and then the applicant allegedly instigated her daughter to fire from a roof. Those shots missed, and the police fired four shots in return. The applicant was also alleged to have pelted stones to help Shadilal escape, injuring Constable Abhishek's right palm. She contested her implication, referred to the recovery recorded by the police, and relied on Writ Petition No. 10479/2020, a pending habeas corpus case containing allegations concerning her daughter's rings and mobile phone and SHO Atul Bhadauriya. Counsel said that Shadilal had obtained regular bail on 22 November 2021, that the applicant was not alleged to have fired a gun and was a woman, and that she would cooperate and would neither abscond nor tamper with evidence. The State opposed the application; the case diary was available.

2. Precedents — Considered : The Court cited *Aparna Bhat and Others v. State of Madhya Pradesh, Criminal Appeal No. 329/2021*, decided 18 March 2021, solely to direct intimation of the grant of bail to the complainant. The applicant cited Shadilal's prior regular-bail order, MCrC No. 56651/2021 dated 22 November 2021, as a fact supporting parity. The pending habeas writ formed the background to her submission of false implication; it was not a binding finding of police misconduct.

3. Statutes considered : Section 438 CrPC governed the first application for protection from arrest, and subsection (2) supplied the continuing conditions. Section 439 CrPC was mentioned only because the co-accused had received regular bail under it. The registered allegations included IPC Sections 307, 353, 336, 332 and 34 and Arms Act Sections 25/27; their ingredients were neither decided nor converted into findings of guilt. The separate habeas corpus proceeding and the order passed in it were cited as facts, without disposal of that writ. The applicant was directed to appear by a fixed date and furnish a bond and surety to the investigating/arresting officer.

4. Issues : Was conditional anticipatory bail appropriate pending investigation on the record and submissions then available, despite allegations of gunfire at the police and injury to a constable from stone pelting? The factors advanced included the absence of an allegation that the applicant had personally fired a gun, her offer of cooperation, her being a woman, the claim of retaliatory implication and Shadilal's regular bail. A further operational question concerned securing her attendance and cooperation in the investigation and informing the complainant of the bail decision.

5. Ratio / Findings : After hearing the State's opposition, the Court considered the circumstances without commenting on the merits and allowed the application on express conditions. The grant provided conditional pre-arrest protection on this

record. It was not an exoneration, a determination that the SHO had falsely implicated the applicant, or a finding that the allegations of instigation and stone pelting had been disproved. Protection was expressly conditional on her appearing before the investigating/arresting officer by 18 January 2022. The bond, surety in the like amount, availability for further interrogation and compliance with Section 438(2) required her participation in the process. The order directed intimation to the complainant by reference to *Aparna Bhat*.

6. Relief : The Hon'ble High Court has allowed the first application for anticipatory bail.

Saroj Devi v. State of Madhya Pradesh, M.Cr.C. no. 1145/2022, 11/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (843) Prev Next

Headnote :- Seized material / non-production - A complainant-witness sought a direction to produce articles said to belong to deceased Chhunna alias Prem Kumar and to recall the identification and seizure witnesses. The deceased had been identified from clothing, photographs and a black thread tied at the waist; the prosecution also alleged that clothing had been recovered from the accused persons. The Court held that, although seized objects may be incriminating, their non-production in court alone does not automatically invalidate the seizure or require acquittal. *State of Rajasthan v. Sahi Ram, (2019) 10 SCC 649*, was quoted for that contextual assessment. *Vijay Pandey v. State of Uttar Pradesh, (2019) 18 SCC 215*, illustrated the distinct failure to link a tested narcotic sample to the seized material.

Sessions trial / complainant's role - The applicant was a witness to identification of the body and to investigative proceedings, but counsel identified no authority entitling the applicant to challenge non-production or obtain recall through this Section 482 application. Conducting a Sessions trial is primarily the public prosecutor's duty; a complainant may assist. The application was dismissed.

Case-note :- ***1. Facts :*** Saroj Sharma moved an application under Section 482 CrPC concerning a Sessions trial arising from the death of Chhunna alias Prem Kumar. In the relief set out on the first page, the applicant asked for a direction to the respondents to produce the deceased's seized articles before the trial court and for the identification and seizure-panchnama witnesses to be recalled for further statements. Counsel said that, despite the trial court's repeated letters to the authorities, the objects had not been produced. According to counsel, this had prevented the applicant and seizure witnesses from identifying them in court. The charge sheet indicated that the applicant had identified the deceased's body from clothing, photographs and a black thread tied at the waist. The prosecution also alleged that the deceased's clothing had been recovered from the accused persons.

2. Precedents — Considered : Applied: *State of Rajasthan v. Sahi Ram, 2019:INSC:1096, (2019) 10 SCC 649*, paragraphs 15–16, was quoted to show that non-production of alleged contraband was not, by itself, the sole ground for acquittal in the cases surveyed. Deficiencies in proof of seizure, the explanation of custody or the link between the tested samples and seized material were additional considerations. The Court used that limited proposition in the present dispute over seized clothing, which was not contraband. *Vijay Pandey v. State of Uttar Pradesh, 2019:INSC:837, (2019) 18 SCC 215*, was quoted separately: a laboratory report alone could not prove that the tested sample was the one seized from the accused; the prosecution had to establish the link between them.

3. Statutes considered : Section 482 CrPC was invoked to seek directions for production of the articles and recall of the witnesses. The Court's decisive procedural premise was that a Sessions prosecution is conducted by the public prosecutor. The request for recall appeared in the relief and submissions and was refused on the basis that the applicant had shown no standing, as part of the Court's refusal to interfere. The NDPS discussion arose in the cited Supreme Court decisions, rather than as the statutory basis of the present trial.

4. Issues : Could a complainant or identification witness invoke inherent jurisdiction to compel the investigating authorities to produce seized articles and recall the identification and seizure witnesses in a Sessions trial conducted by the public prosecutor? Did non-production of clothing allegedly recovered from the accused, even after repeated letters, by itself invalidate the seizure or justify a court direction? The related distinction concerned identification of the body from photographs, clothes and thread, as opposed to the separate allegation that the deceased's clothes had been recovered from the accused persons.

5. Ratio / Findings : From the charge sheet, the Court noted that Saroj Sharma's own evidence concerned identification of the body and that the alleged recovery from the accused persons could be an incriminating circumstance. The applicant was also a witness to investigative proceedings. Asked to identify the applicant's competence to challenge the investigating officer's failure to produce the objects, counsel could point to no authority or locus. The Court stated that conducting a Sessions trial is primarily the public prosecutor's duty and that the complainant's role is to assist. It accepted that production of incriminating articles can be important, but held that non-production alone was insufficient to discard the seizure. *Sahi Ram*'s assessment of several NDPS cases did not permit automatic acquittal merely because the exhibits had not been produced. *Vijay Pandey* illustrated a distinct failure of proof where the seized and laboratory-tested samples could not be linked. The Court's refusal to interfere rested on the applicant's attempt to direct the conduct of the trial and the insufficiency of non-production alone as a basis for interference.

6. Relief : The High Court dismissed the Section 482 application because no case for interference was made out. The trial remained with the public prosecutor, subject to lawful trial-court control. There was no acquittal, conviction, finding on the ultimate identification of physical objects, or adjudication of the alleged recovery's final evidentiary weight.

Saroj Sharma v. The State of Madhya Pradesh and Others, M.Cr.C. no. 10246/2025, 11/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (844) Prev Next

Headnote :- Civil suit and criminal process / forged agreement - Nattho Bai alleged that she had not executed an agreement to sell jointly owned land, although the applicants had produced such an agreement in a pending civil suit and two of them were witnesses to it. The JMFC ordered registration of an FIR and investigation into cheating, forgery, use of a forged document and conspiracy under Section 156(3) CrPC. The civil suit did not bar a parallel criminal inquiry. *Kishan Singh v. Gurpal Singh, Syed Askari Hadi Ali Augustine Imam v. State* and *Prem Raj v. Poonamma Menon* distinguish the respective standards of proof and reject any automatic binding effect of findings in one forum on the other, while preserving the limited relevance of earlier judgments under Evidence Act Sections 40–43.

Section 482 / prima facie offence - The allegations of a forged agreement used in litigation, reinforced in the record by a police status report describing it as apparently forged, disclosed a cognizable offence on their face. The Court applied the threshold stated in its cited Supreme Court quashing authorities and declined to determine authenticity or guilt before investigation.

Mala fides / disputed fact - Applying *Renu Kumari v. Sanjay Kumar*, the Court held that the complainant's alleged hostility was insufficient by itself where a cognizable offence was disclosed. It could not adjudicate the disputed allegation of mala fides at this stage. The application challenging the Magistrate's order of 27 July 2024 was dismissed.

Case-note :- ***1. Facts :*** Nattho Bai, respondent No. 1, asserted joint ownership and possession of agricultural land bearing survey No. 206/min-2, measuring 0.7000 hectares, at village Sasera, Gwalior. She alleged that she had never executed an agreement to sell it, yet the applicants had filed an agreement in Civil Suit No. 431A/2023 before the Eighth Additional District Judge. Applicants Dinesh Singh and Satendra Singh were named as witnesses to the agreement. Her complaint alleged that the forged document was being used to grab the land. A police status report dated 14 June 2024 described the agreement as apparently forged on a prima facie assessment. On 27 July 2024, the JMFC, Gwalior, allowed the application under Section 156(3) CrPC in Case No. UN CR/540/23 and directed registration of an FIR and investigation under Sections 420, 467, 468, 471 and 120B IPC. Sarvendra Kumar and others invoked Section 482, arguing that the pending civil suit and the complainant's alleged mala fides invalidated that direction. The State opposed the application. The High Court heard submissions at the admission stage, rather than evidence at a trial.

2. Precedents — Considered : *Kishan Singh (Dead) through LRs v. Gurpal Singh, (2010) 8 SCC 775*, was quoted on concurrent civil and criminal proceedings and their different standards of proof. It drew on the Constitution Bench decision in *Iqbal Singh Marwah* and discussed *K.G. Premshanker* and Evidence Act Sections 41–43. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, was quoted separately on the limits of the binding effect of a civil judgment and its

relevance under Sections 40–43, and on the need to decide whether to stay proceedings according to the facts of each case. *Prem Raj v. Poonamma Menon, SLP (Cr.) No. 9778/2018*, decided 2 April 2024, was quoted with its examination of *Karam Chand*, *K.G. Premshanker*, *Vishnu Dutt Sharma*, *Satish Chander Ahuja*, *Iqbal Singh Marwah* and *M.S. Sheriff*.

The Court then listed *XYZ v State of Gujarat*, *State of Tamil Nadu v S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *CBI v Arvind Khanna*, *Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* in support of the Section 482 threshold: quashing on the ground that no offence is disclosed requires that the uncontroverted allegations fail to disclose an offence. Those authorities were listed without individual analysis of their facts. *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted at length on restraint in exercising inherent jurisdiction and the secondary importance of an informant's mala fides where the allegations disclose a cognizable offence. *R.P. Kapur v. State of Punjab* was referred to within the passage quoted from *Renu Kumari*.

3. Statutes considered : Section 156(3) CrPC governed the Magistrate's order for registration and investigation. Section 482 CrPC supplied the applicants' challenge and the High Court's limited threshold review. The alleged IPC offences were Sections 420, 467, 468, 471 and 120B, concerning cheating, forgery, use of a forged document and conspiracy. Evidence Act Sections 40–43 were discussed through the Supreme Court authorities as possible routes for relevance of a previous judgment in an appropriate later proceeding. The pending civil suit's outcome and title questions remained open.

4. Issues : Did the civil suit concerning the property and agreement preclude the criminal court from referring a complaint alleging fabrication and use of that agreement for investigation? Was the uncontroverted allegation that Nattho Bai had never executed the agreement, despite its production by the applicants in their civil suit, sufficient to disclose a cognizable offence at the Section 482 threshold? Could the alleged mala fide motive be adjudicated or, by itself, invalidate the Section 156(3) direction before investigation? The court was not asked to determine competing evidence of signatures as a trial judge or choose which litigant owned the land.

5. Ratio / Findings : The High Court held that civil and criminal proceedings can run in parallel. Their different burdens of proof and evidentiary records prevent findings in one proceeding from automatically binding the other, subject to the specific Evidence Act rules where relevant. The complaint's allegation that a forged agreement had been prepared and used in a civil suit disclosed a cognizable offence. The police status report describing the agreement as apparently forged formed part of the account presented by counsel. The Court used the listed Supreme Court quashing authorities to assess the allegations at face value, rather than to decide whether the agreement would ultimately be proved forged. The alleged personal hostility or mala fides was a disputed fact that the Court could not determine in this proceeding under its inherent powers. Under *Renu Kumari*, where the allegations disclose a cognizable offence, the informant's possible animus alone does not defeat investigation. None of the circumstances shown justified interference with the Magistrate's direction.

6. Relief : The High Court dismissed the Section 482 application. The JMFC's order of 27 July 2024 directing registration of an FIR and police investigation under Section 156(3) remained operative.

Sarvendra Kumar and Others v. Nattho Bai and Others, M.Cr.C. no. 48591/2024, 20/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (845) Prev Next

Headnote :- Arrest and investigation / judicial control - The Court held that a complainant cannot obtain a direction under Article 226 requiring the police to arrest persons named in the complainant's FIR or file a charge sheet merely because the FIR has been registered. *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, quoted *M.C. Abraham v. State of Maharashtra* on the discretion under Section 41 CrPC: the investigating officer must assess the need for arrest in the circumstances; a cognizable accusation does not automatically require arrest. Directing arrest or a particular conclusion would amount to supervising the investigation.

Timely completion / Section 173(1) CrPC - The statute requires investigation without unnecessary delay. In Crime No. 483/2019, concerning alleged

IPC cheating and forgery and Prize Chits Act offences, the police had not finished investigating. The High Court directed the investigating officer to conclude it as early as possible, decide whether an offence was made out, and take necessary lawful steps toward a closure report or charge sheet according to the result. The petitioner could make a further grievance to the Gwalior Superintendent of Police. No deadline, arrest order or compulsory charge sheet was imposed.

Case-note :- ***1. Facts :*** Sarvendra Singh made a complaint alleging cheating, forgery and use of forged documents. On that basis, Police Station Hazira, Gwalior, registered Crime No. 483/2019 under Sections 420, 467, 468 and 471 read with Section 34 IPC and Sections 5 and 7 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. He complained that the police had neither arrested the accused nor concluded the investigation. His writ petition under Article 226 sought expeditious investigation by respondents Nos. 2 and 3. The Court separately addressed the demand for arrest advanced during argument.

2. Precedents — Considered : Applied: *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted extensively. That decision disapproved directions by a High Court to record statements, arrest, seize property and file a charge sheet, or to conduct the investigation from a particular angle. It explained that the police may close a case or file a charge sheet according to the result of a lawful investigation. Within that decision, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, describes arrest under Section 41 CrPC as discretionary and requiring regard for liberty, rather than as a mechanical consequence of an FIR. *D. Venkatasubramaniam* also quoted *Divine Retreat Centre v. State of Kerala* on hearing persons likely to be adversely affected by drastic judicial directions concerning investigation. The Supreme Court's further discussion of inherent power under Section 482 concerned its own procedural setting; Sarvendra Singh had invoked Article 226. The High Court applied the stated limit on supervision of investigation.

3. Statutes considered : Article 226 of the Constitution supplied the writ route. Section 173(1) CrPC required investigation to be completed without unnecessary delay and supplied the affirmative direction. Section 41 CrPC appears in the quoted *M.C. Abraham* passage for police arrest discretion. The FIR cited IPC Sections 420, 467, 468 and 471 with Section 34, and Sections 5 and 7 of the 1978 Prize Chits and Money Circulation Schemes (Banning) Act. A final report could be a closure report or a charge sheet depending on the investigation; neither result was mandated by the order.

4. Issues : Should the High Court direct arrest of the alleged perpetrators at the complainant's request while investigation into the FIR remained unfinished? Could the investigation remain pending indefinitely, and what direction for expedition could lawfully be made under Section 173(1) without prescribing its means or result? The Court distinguished a command to perform a specific discretionary police act from enforcement of the statutory obligation to complete investigation without unnecessary delay.

5. Ratio / Findings : The High Court refused to direct arrest. *D. Venkatasubramaniam*, drawing on *M.C. Abraham*, explains that an investigating officer may investigate before deciding whether arrest is necessary and that even a report of a cognizable offence creates no automatic duty to arrest. Directing arrest and the filing of a charge sheet would amount to supervising the police investigation and pre-empting the conclusion the officer must reach. Section 173(1), however, imposes a statutory duty to complete investigation without unnecessary delay. The officer could not leave the investigation pending, but had to decide whether the evidence disclosed an offence, promptly submit the appropriate final report and take the steps required by law. Investigative discretion remained subject to the statutory duty to complete the investigation without unnecessary delay.

6. Relief : The High Court finally disposed of the writ with a direction to the investigating officer to conclude the investigation into Crime No. 483/2019 as early as possible and take the necessary steps under law. The request for a direction to arrest was refused, and no charge sheet was ordered. Sarvendra Singh remained free to submit a grievance to the Superintendent of Police, Gwalior, who was to consider it according to law.

Sarvendra Singh v. State of Madhya Pradesh and Others, W.P. no. 3851/2020, 24/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (846) Prev Next

Headnote :- Matrimonial cruelty / parents-in-law - The Court observed that the FIR did more than merely name relatives. The wife alleged that her husband and his parents repeatedly demanded Rs. 5 lakh and taunted her; that the parents-in-law denied her adequate food and compelled her to do all the housework; that she was reproached after the birth of a daughter; and that her phone contact was restricted and the father-in-law broke her mobile. *Taramani Parakh v. State of Madhya Pradesh, (2015) 11 SCC 260*, treats such allegations of harassment by close family members as triable, while cautioning against implicating distant relatives without supporting material. The High Court found a prima facie case against the two parent applicants and left the question of guilt for trial.

Quashing / disputed defence material - A private declaration dated 4 May 2023 did not conclusively disprove the alleged ouster on 5 May 2023. It required proof and itself referred to strained relations. The purported disowning intimation of 2021 was undermined by the shared address and the later account of continued residence together. The other letters to the police bore no acknowledgment of receipt. The Court considered *Abhishek v. State of M.P. on* careful scrutiny of malicious prosecutions, but found no ground to quash the FIR, charge sheet or pending JMFC proceeding. The order does not state the exact penal sections of the FIR and charge sheet.

Case-note :- ***1. Facts :*** Applicants No. 1 and 2 were the father-in-law and mother-in-law of respondent No. 2, who had married their son Sanjeev Kumar on 10 December 2022. In her FIR in Crime No. 169/2023, she alleged that matters were normal for four months, after which her husband and parents-in-law demanded Rs. 5 lakh and taunted her about dowry. She alleged that her parents-in-law denied her adequate food, compelled her to do all the housework and restricted communication with her parents. She further alleged that her husband abused and assaulted her during pregnancy, that the family criticised her for giving birth to a daughter, and that applicant No. 1 broke her mobile. According to her, the demand and harassment culminated in her expulsion on 5 May 2023, with a threat to kill her if she returned without the money. She went to her parental home with her daughter. The applicants applied under Section 482 CrPC to quash the FIR dated 3 June 2023, the charge sheet dated 26 June 2023 and the proceedings before the JMFC, Bhopal. They relied on a written declaration dated 4 May 2023, addressed to nobody, stating that she had left because of disputes with her in-laws; a purported notice of 2021 disowning the son and his wife; and notices to the police in 2023 bearing no acknowledgment of receipt.

2. Precedents — Considered : The Court quoted paragraphs 12–14 of *Taramani Parakh v. State of Madhya Pradesh and Others, (2015) 11 SCC 260. Taramani* reproduced *Kailash Chandra Agrawal*'s caution, with reference to *Kans Raj*, against casually implicating distant relatives without attributing specific roles. It also held that allegations of dowry harassment by a husband and his parents, forcing the complainant to leave the matrimonial home, raise a triable issue and do not warrant quashing. The quoted passage from *Kailash Chandra* cited *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* on the established principles governing quashing. The applicants relied *on Abhishek v. State of Madhya Pradesh, Criminal Appeal No. 1457/2015*, decided 31 August 2023, to seek closer scrutiny where a complaint appears manifestly frivolous or motivated by vengeance, including consideration of circumstances beyond the FIR. The High Court considered that submission and the writings produced, but did not accept those documents as establishing exoneration.

3. Statutes considered : Section 482 CrPC governed the request to quash the FIR, charge sheet and ensuing proceeding. The allegations concerned dowry demand and matrimonial cruelty, and the order identified Crime No. 169/2023. The defence writings were private documents or purported communications to the police, whose proof and receipt were in dispute. They were not public orders conclusively determining that the family had separated. The Court did not decide the burden at trial, the standard for conviction or the final admissibility of evidence.

4. Issues : Did the wife's specific allegations against her parents-in-law disclose a prima facie case, or had relatives been implicated indiscriminately? Could the one-day difference between an unaddressed departure letter and the alleged date of ouster in the FIR, or the earlier disowning notice, conclusively disprove their involvement at the Section 482 stage? Did the case appear manifestly malicious on the closer scrutiny discussed in *Abhishek*? The Court was not determining the exact date of departure,

whether the incident concerning the child or the phone could be independently proved, or the applicants' guilt.

5. Ratio / Findings : The Court read the FIR as alleging specific acts by the parents-in-law: taunts, repeated demands for money, deprivation, restrictions on communication and the breaking of a phone, in addition to assaults by the husband. *Taramani Parakh* supported a trial on such allegations against the husband and parents; the caution concerning distant relatives could not be applied mechanically. The private declaration of 4 May was addressed to nobody, referred to strained relations and required proof. The complainant could explain the one-day difference in dates at trial, and a plausible explanation could be relied on. The purported disowning notice dated 31 May 2021 did not explain why the son remained at the same Mehrauli address. Applicant No. 1's later letter dated 5 May 2023 expressly stated that they lived in the same house. The later notices also bore no acknowledgment of receipt. The judge described these circumstances as the planned preparation of a false defence indicating a guilty mind. This was an assessment on the prima facie case in the present application, rather than a final finding of criminal guilt. Even on the scrutiny sought by the applicants under *Abhishek*, the defence papers did not displace the triable complaint.

6. Relief : The Hon'ble High Court found a prima facie case warranting prosecution of applicants Nos. 1 and 2 and dismissed the Section 482 application. It declined to quash Crime No. 169/2023, the charge sheet and the pending proceeding before the JMFC, Bhopal. The accused could prove their documents at trial and address the discrepancy in dates.

Satendra Kumar and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 40838/2023, 13/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (847) Prev Next

Headnote :- False promise of marriage / consent - The Court observed that a promise of marriage made falsely from the outset to obtain sexual relations, and directly connected with the woman's decision to engage in them, differs from a promise made genuinely but subsequently broken. It relied on *Deepak Gulati*, *Uday*, *Sonu alias Subhash Kumar*, *Pramod Suryabhan Pawar* and *Dhruvaram Murlidhar Sonar* on misconception of fact under Section 90 IPC and consent under Section 375 IPC. The High Court read the Section 164 statement as describing a relationship over roughly three years, meetings at hotels and a New Year outing after the first incident. It held that the subsequent refusal to marry amounted, at most, to a breach of promise and did not show that consent had been procured by a promise that was false when made.

Quashing / allegations in FIR and Section 164 statement - The FIR and the Section 164 statement described the first incident as forcible and recorded assurances of marriage afterwards. The Section 164 account also referred to an invitation to a birthday party before that incident and further physical relations afterwards. The Court quashed Crime No. 48/2021 under Sections 376 and 376(2)(n) IPC and all consequential proceedings in exercise of its powers under Section 482 CrPC.

Case-note :- ***1. Facts :*** A B.A. second-year student alleged that she had known Satendra Rathore since Class XII, when he followed her and proposed marriage. According to the FIR, he took her to Krishna Restaurant on 9 December 2020 and forcibly raped her on the pretext of marriage; after she protested, he assured her that they would marry. Her statement under Section 164 CrPC described an invitation to a birthday party at Krishna Hotel, a first act that she alleged was forcible, continued contact, a New Year outing, another meeting at a hotel involving physical relations on 4 January 2021, and a refusal to marry on 9 January. She also stated that he had physical relations with her on several occasions over about three years. Counsel for the applicant disputed that her consent had been obtained under a misconception of fact, relying on the length of their contact. The State argued that the earlier stalking had put her under pressure, while the complainant argued that continued reliance on a promise could still vitiate consent. Rathore sought quashing of the charge sheet and proceedings in Crime No. 48/2021, Police Station Kotwali, Morena, under Sections 376 and 376(2)(n) IPC.

2. Precedents — Considered : *Deepak Gulati v. State of Haryana, AIR 2013 SC 2071*, was quoted for the distinction between a promise made falsely at the outset with a mala fide motive and a genuine intention to marry that was later frustrated. *Tilak Raj v. State of Himachal Pradesh, AIR 2016 SC 406*, was quoted in relation to an adult relationship on a different factual record. *Uday v. State of Karnataka,*

(2003) 4 SCC 46, was quoted at length on the assessment of consent in the circumstances of each case and the two requirements under Section 90: consent given under a misconception of fact, and the accused's knowledge or reason to believe that consent was given because of that misconception. *Sonu alias Subhash Kumar v. State of Uttar Pradesh, AIR 2021 SC 1405*, supported quashing where the FIR alleged only a subsequent refusal to marry, without alleging that the promise was false from the outset. *Pramod Suryabhan Pawar v. State of Maharashtra* was quoted for the requirements of bad faith when the promise was made and a direct connection between the false promise and the woman's decision to engage in sexual relations; it referred to *Anurag Soni* and *Deepak Gulati*. *Dhruvaram Murlidhar Sonar v. Naval Singh Rajput*, cited as 2019 (3) MPLJ (Cri.) SC 52, was quoted for the distinction between consensual relations and deception. These authorities were applied to consent alleged to have been given on a promise of marriage.

3. Statutes considered : Section 482 CrPC governed the quashing request. The FIR concerned offences under Sections 376 and 376(2)(n) IPC and was ultimately quashed. The prosecutrix's statement recorded under Section 164 CrPC was partly reproduced and was central to the Court's analysis. The principle of misconception of fact under Section 90 IPC and the consent requirement under Section 375 IPC were explained through the Supreme Court passages quoted. The State's submission that the earlier stalking undermined free consent was recorded.

4. Issues : Whether the complaint and the Section 164 statement disclosed a promise known to be false when made and directly responsible for the giving of consent, or only a subsequent breach after a continuing relationship. Whether, on that reading, prosecution under Sections 376 and 376(2)(n) amounted to an abuse of process warranting relief under Section 482.

5. Ratio / Findings : The High Court emphasised the friendship, conversations on mobile phones, a meeting at a hotel on 9 December 2020, continued conversations, a New Year outing, another meeting at a hotel on 4 January 2021 and the refusal to marry on 9 January. It also read the Section 164 statement as describing physical relations on several occasions over roughly three years. On that account, it held that the record did not show that the applicant had made a knowingly false promise of marriage at the outset. The Court treated the prolonged meetings and requests for marriage as inconsistent with the claim that consent had been obtained under the alleged misconception. It characterised the case as, at most, a breach of promise and held that prosecution under Section 376 on that basis would be an abuse of process. *Deepak Gulati*, *Uday* and *Pramod Pawar* require an assessment of the facts, the intention when the promise was made and the direct connection with consent, rather than the mechanical application of a period of time. The Court reasoned, on the facts before it, that three years were sufficient for a prudent woman to understand the position. The statement and FIR described the first act as forcible.

6. Relief : The Hon'ble High Court allowed the application under Section 482. It quashed FIR Crime No. 48/2021 at Police Station Kotwali, Morena, under Sections 376 and 376(2)(n) IPC and all consequential criminal proceedings, including the challenged charge sheet.

Satendra Rathore v. State of Madhya Pradesh and Others, M.Cr.C. no. 45389/2021, 28/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (848) Prev Next

Headnote :- Police investigation / arrest discretion - The Court observed that a complainant invoking Section 528 BNSS cannot require the High Court to direct the arrest of named persons or the filing of a charge sheet in Crime No. 339/2024. *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, quoted *M.C. Abraham v. State of Maharashtra on* the cautious exercise of police discretion under Section 41 CrPC; an FIR does not itself mandate arrest. A direction requiring a particular arrest or prosecutorial result would amount to supervision of the investigation.

Completion without delay - Section 173(1) CrPC, identified in the order with Section 193 BNSS, requires investigations to be completed without unnecessary delay. The investigating officer was directed to conclude the investigation registered at Police Station University, Gwalior as early as possible and take the steps required by law, including filing an appropriate closure report or charge sheet after assessing whether an offence was disclosed. The applicant could submit any further grievance to the Superintendent of Police, Gwalior.

Case-note :- ***1. Facts :*** Satendra Singh Rajawat stated that Police Station University, Gwalior had registered Crime No. 339/2024 on his complaint but had taken no further action and had not arrested the persons he accused. His application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita sought directions to the police respondents to arrest the private respondents and submit a charge sheet to the subordinate court. The application sought arrest and submission of a charge sheet, as the Court described in paragraphs 2–3. The Court considered the extent to which it could direct steps in the investigation while ensuring compliance with the statutory duty to complete it.

2. Precedents — Considered : Applied: *D. Venkatasubramaniam and Others v. M.K. Mohan Krishnamachari and Another, 2009:INSC:1132, (2009) 10 SCC 488*, was quoted extensively. It disapproves of casual High Court directions to arrest, seize assets and file a charge sheet or to investigate from a specific angle, recognising that the police may either file a charge sheet or close the case after investigation. Within the quoted decision, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains the discretion to arrest under Section 41 CrPC and the effects of unnecessary arrest on liberty and reputation. The quotation also invokes *Divine Retreat Centre v. State of Kerala on* the need to hear persons affected by judicial orders directing investigation that have drastic consequences. *D. Venkatasubramaniam* addressed Section 482 CrPC in its original setting; this application invoked the current inherent-power provision, Section 528 BNSS.

3. Statutes considered : Section 528 BNSS was invoked for the application. The High Court quoted the requirement under Section 173(1) CrPC to complete investigation without unnecessary delay and identified Section 193 BNSS as the corresponding provision in the introductory line and operative discussion. Section 41 CrPC appears in the Supreme Court's quoted explanation of the discretion to arrest. A final report could be a closure report or a charge sheet, as the investigation lawfully warranted; Section 528 did not make the complainant's preferred result a statutory duty.

4. Issues : Whether an applicant on whose complaint an FIR was registered could obtain orders directing the police to arrest particular accused persons and prosecute them by filing a charge sheet, and whether the pending investigation nonetheless had to be concluded promptly under the statutory requirement to avoid unnecessary delay. The issue concerned the distinction between specifying the method and outcome of the police investigation and enforcing the obligation to reach a lawful conclusion.

5. Ratio / Findings : Applying *D. Venkatasubramaniam*, the Court held that a direction to arrest and file a charge sheet would amount to supervision of police decisions that depend on the material collected during investigation. Registration of an FIR disclosing a cognizable offence does not make arrest automatic, and the investigation may conclude with a closure report or prosecution. At the same time, Section 173(1) CrPC/Section 193 BNSS requires completion without unnecessary delay. The investigating officer could not keep Crime No. 339/2024 pending indefinitely and had to decide whether an offence was made out and submit the appropriate final report as soon as the lawful investigation permitted.

6. Relief : The Hon'ble High Court finally disposed of the Section 528 application. The investigating officer was directed to complete the investigation as early as possible and take the necessary steps under law, without a numerical deadline or a direction requiring a particular outcome. If the applicant had a grievance, he could approach the Superintendent of Police, Gwalior, who was to consider it according to law.

Satendra Singh Rajawat v. The State of Madhya Pradesh and Others, M.Cr.C. no. 18520/2025, 28/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (849) Prev Next

Headnote :- Double murder / Section 300 thirdly - The Court observed that a land-cultivation dispute was followed by Laxman Singh Jatav's deliberate firing of a 12-bore gun at Archana and Veere alias Virendra, causing fatal injuries to the chest and internal organs. Applying Sections 299–300 IPC, *Virsa Singh v. State of Punjab* and *Arun Nivalaji More v. State of Maharashtra*, the Bench affirmed two convictions under Section 302. The Bench held that intentional infliction of the proved bodily injuries, objectively sufficient to cause death in the ordinary course of nature, sufficed without a separate intention to cause death.

Attempted murder and hurt - The Bench affirmed Laxman's conviction on three counts under Section

307 for firing at the injured interveners Kailashi, Sultan and Jagdish, and Satish alias Vikram Singh Jatav's separate conviction under Section 323 for striking Dinesh with a lathi.

Private defence / proportionality - The complainant party's barehanded arrival and Leelawati's simple injuries did not justify Laxman's lethal gunfire. *Kashi Ram v. State of Rajasthan* was relied on for the limits of the right of private defence under IPC Sections 97–106. Both appeals against conviction were dismissed; Satish's bonds were cancelled and he was ordered to surrender, while Laxman remained in jail. The connected surety proceeding under Section 446 was closed without a separate order.

Case-note :- ***1. Facts :*** On 29 June 2007, Dinesh's cultivation of land bought by his family led to a confrontation with Laxman Singh Jatav. Family members Kailashi Bai and Archana went towards Laxman's house after abuses were hurled. The prosecution stated that Laxman fired a 12-bore double-barrel gun at Kailashi and Archana and then at Veere alias Virendra when he intervened; Archana and Veere died. Sultan Singh and Jagdish Singh also suffered injuries during the incident. Satish alias Vikram Singh Jatav separately struck Dinesh with a lathi. The police registered Crime No. 62/2007, examined the injured persons, seized a gun, cartridges and a lathi, and obtained postmortem reports and other material. The Second Additional Sessions Judge, Dabra, in Sessions Trial No. 293/2007 convicted Laxman under Section 302 IPC on two counts and Section 307 on three counts, imposing life imprisonment and seven years' rigorous imprisonment respectively, with fines and default stipulations; the trial court directed his jail terms to run separately. Satish was convicted under Section 323 and sentenced to one year's rigorous imprisonment and a fine of Rs. 500 with a default stipulation. Their two appeals were heard with a State proceeding under Section 446 CrPC against Satish's surety Sitaram, following an earlier failure by Satish to appear. Counsel from the legal-aid panel argued the matters when the appellants were unrepresented.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, supplied the four requirements for Section 300 Thirdly: proof of the existence of a bodily injury and its nature, both objectively established; intention to inflict the injury actually found; and the objective sufficiency of that injury to cause death in the ordinary course of nature. *Arun Nivalaji More v. State of Maharashtra* explained the progression from Section 299 to the clauses defining murder and, where appropriate, Section 304 Parts I and II. *Anda v. State of Rajasthan* reinforced the requirement that the injury be sufficient to cause death. *Mahesh Balmiki*, *Pulicherla Nagaraju*, *Sangapagu Anjaiah*, *State of Rajasthan v. Kanhaiyalal and Bavisetti Kameswara Rao* were quoted on assessing intention from the weapon, location of injury, force and circumstances, without mechanically applying a single-blow rule. *Dhirajbhai Gorakhbhai Nayak* and the discussion of Exception 4 in *Kanhaiyalal* described a sudden mutual fight, absence of premeditation and absence of undue advantage; the Bench did not bring Laxman's offence within that exception. *Moti Singh* and *Wassan Singh* were cited by the defence on private defence; *Kashi Ram v. State of Rajasthan, (2008) 3 SCC 55*, was quoted on reading IPC Sections 97–106 together and limiting defensive force to an actual unlawful threat, drawing on *Bishnas* within the quotation. Other decisions appeared within the reproduced reasoning and were not separately applied to the facts of the present case.

3. Statutes considered : Sections 299 and 300 IPC defined culpable homicide and murder, with Section 300 Thirdly central to the decision. Section 302 was the basis of the two murder convictions; Section 307 was the basis of the three attempted-murder counts, and Section 323 was the basis of Satish's conviction for hurt. IPC Sections 97–106 governed the rejected plea of private defence. Sections 147–149 IPC appeared in the original FIR narrative, but the appellate disposition affirmed only the stated counts. The statements under Section 313 CrPC and the defence testimony were reviewed; Section 446 CrPC concerned the connected surety proceeding.

4. Issues : Whether Laxman's intentional gunfire, the fatal chest injuries and the medical evidence established two murders under Section 300 Thirdly rather than a lesser offence of culpable homicide; whether his firing at the interveners supported three counts under Section 307; whether Satish's lathi blow supported conviction under Section 323; and whether the approach to Laxman's home and Leelawati's injuries justified the exercise of private defence or required a different outcome. The appeals also required evaluation of the eyewitness accounts and defence evidence, and disposal of the matters

concerning Satish's bail and the related surety proceeding.

5. Ratio / Findings : The postmortem reports attributed Archana's death to a firearm wound rupturing the heart and right lung and Veere's death to firearm damage to the left lung, with haemorrhage and shock; the Court held that the wounds were ante-mortem and sufficient in the ordinary course of nature to cause death. Injured and other prosecution witnesses placed Laxman with the gun and Satish with a lathi. Leelawati, called as a defence witness, admitted in cross-examination that her husband owned the 12-bore gun and fired the fatal shots. The Bench found the eyewitness accounts trustworthy and, overall, corroborated by the medical evidence. It rejected the argument that the absence of an intention to kill excluded murder under Section 300 Thirdly, because the relevant intention was to inflict the proved fatal injury; the objective inquiry into sufficiency under *Virsa Singh* then completed the test for murder. Laxman's convictions for two murders and three counts of attempted murder were upheld. The Bench attributed only Dinesh's lathi injury to Satish and affirmed his conviction under Section 323. Leelawati had two simple wounds caused by a blunt object, but the visiting complainants were described as barehanded; the principles governing defensive force in *Kashi Ram* did not justify the firearm attacks in those circumstances.

6. Relief : The Hon'ble High Court dismissed Satish's and Laxman's criminal appeals, affirming the trial judgment and sentences dated 5 February 2011. Satish's bail and surety bonds stood cancelled and he was ordered to surrender to serve the unserved portion of his one-year sentence. Laxman remained in jail to serve the imposed terms. Copies were directed to be sent to the concerned jail and, with the record, to the trial court.

Satish alias Vikram Singh Jatav and Others v. State of Madhya Pradesh and Others, Cr.A. no. 174/2011 & 799/2011; M.Cr.C. no. 7709/2014, 29/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (850) Prev Next

Headnote :- Last seen / circumstantial chain - The Court observed that several witnesses had seen nine-year-old Kallu alias Trilok Singh with Satish and three associates on the route from Arya Nagar towards Simariya, before the police recovered his buried body at the instance of the accused. The postmortem established death by manual strangulation. *State of Rajasthan v. Kashi Ram, (2006) 12 SCC 254*, treats the accused's failure to explain facts especially within his knowledge, after sufficiently proximate last-seen evidence has been proved, as an additional link in the chain, without shifting the prosecution's ultimate burden. The Bench held that the cumulative circumstances proved Satish's guilt beyond reasonable doubt.

Evidence screening - Jagdish Soni's claim at trial that he had seen the child with the group was rejected because he had not stated that fact in his police statement; the material observations of other witnesses were accepted. *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, was quoted on minor discrepancies. The Court held that the contradictions in the police officers' accounts of the timing of the FIR and report did not affect the prosecution case.

Discovery / disposition - Recovery of the body from a covered pit in Simariya forest under Section 27 Evidence Act corroborated the chain of circumstances. The Court affirmed the conviction under Section 302/34 IPC read with Section 13 MPDVPK Act and the life sentence, dismissed Satish's appeal and directed the Jail Superintendent to inform him of the result.

Case-note :- ***1. Facts :*** Nathu Singh's son Kallu alias Trilok Singh, aged about nine, disappeared after leaving home to play on 11 March 2006. His father made a missing-person report in which no accused was named. During the inquiry, witnesses stated that they had seen Kallu with Satish Kumar Dubey (Jatav), who had worked near the family's home as a watchman, and with Pramod, Mukesh and Suresh. The group was seen near SRK School and on the route towards Simariya and Sheetla Mata Mandir. The police arrested the men, recorded memoranda and recovered Kallu's body from a pit covered with clay in Simariya forest. The postmortem attributed death to homicidal asphyxia caused by manual strangulation, with the time since death assessed at 6 –24 hours. Crime No. 188/2006 was initially registered under Section 365/34 IPC and Sections 11/13 of the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam (MPDVPK Act); the subsequent charge sheet included Sections 302, 364-A and 34 IPC. The Special Judge in Trial No. 83/2006 acquitted Satish and two co-accused of the charge under Section 364-A/34 but convicted them under Section 302/34 read with Section 13

MPDVPK Act. Satish was sentenced to life imprisonment and a fine of Rs. 500, with six months' rigorous imprisonment in default, and appealed under Section 374 CrPC.

2. Precedents — Considered : *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, was quoted for the limited rule that absence of motive need not defeat credible direct evidence; the inference of murder in this prosecution rested on last-seen and recovery circumstances. *Mallikarjun v. State of Karnataka, (2019) 8 SCC 359*, was quoted on assessing whether discrepancies in the witnesses' accounts affected the core of the case; its quotation discussed *Bakhshish Singh*, *Sunil Kumar Sambhudaya Gupta* and *Raj Kumar Singh* as supporting authorities, without separately applying their holdings to the facts of this case. *State of Rajasthan v. Kashi Ram, (2006) 12 SCC 254*, paragraphs 23–24, was applied for the principle that failure to explain facts within special knowledge may provide an additional link under Section 106 Evidence Act after the last-seen circumstances have been proved. *Kashi Ram* itself states that the burden of proving the criminal charge remains on the prosecution and that a plausible explanation may discharge the limited burden concerning facts within special knowledge.

3. Statutes considered : Section 302 read with Section 34 IPC and Section 13 MPDVPK Act formed the basis of the conviction affirmed on appeal. The trial acquittal under Section 364-A/34 IPC was described in paragraphs 4–5; that charge did not result in a conviction on appeal. Sections 365/34 IPC and 11/13 MPDVPK appeared in the history of the initial FIR. Section 27 Evidence Act concerned discovery of the buried body following the accused's memoranda. Section 106 Evidence Act concerned the possible inference from facts especially within the accused's knowledge after the prosecution had proved the foundational circumstances, without reversing the burden of proving murder. Sections 313 and 374 CrPC concerned the accused's statements and the appeal. The postmortem and police exhibits were considered as evidence.

4. Issues : Whether the circumstantial evidence placed Kallu last in the company of Satish and his associates sufficiently close to the time of death; whether recovery of the body and the medical finding of homicidal death completed proof beyond reasonable doubt; and whether the witnesses' omissions or the timing of the report undermined the chain of circumstances. A distinct issue was whether the defence evidence supported Satish's claim of police assault or fabrication. The strangulation was not proved by direct eyewitness testimony, and the trial acquittal for ransom kidnapping did not result in acquittal of murder.

5. Ratio / Findings : Sanjeevsingh Sikarwar and Guddu Ghuraiya stated that they had seen Satish and three others taking Kallu near the school; other witnesses had seen them in a jeep or going towards Simariya. The Court accepted the material parts of Chhiddaram's, Pulandar's, Navalsingh's, Virendra's and Raghuveer's accounts despite differences about the route, precise time, clothing or delayed disclosure. It specifically rejected neighbour Jagdish Soni's additional claim that he had seen Kallu with the group because that fact was absent from his recorded police statement. The father had named no suspect in the initial missing-person report. The witnesses and investigating officer described discovery of the body in a covered pit at Simariya, and Dr. P.L. Gupta found that death was homicidal and caused by manual strangulation. The Court treated these circumstances, together with the accused's failure to give a satisfactory explanation after the last-seen circumstances had been proved, as a complete chain under *Kashi Ram*. ASI Narwariya and SHO Dwivedi differed about the timing of submission of the report and registration of the FIR; the Court held that this did not affect the prosecution case, in view of the FIR on record and the time that had elapsed since Narwariya's retirement. Satish's claim that he had been beaten in custody was undermined by his own cross-examination and the evidence of the defence doctor. On the cumulative record, the Bench held that guilt was proved beyond reasonable doubt.

6. Relief : The Hon’ble High Court dismissed the criminal appeal. The Special Judge's conviction dated 24 December 2009 under Section 302/34 IPC read with Section 13 MPDVPK Act, and the life sentence, fine and default term, stood affirmed. Satish was already in jail; the High Court directed the Jail Superintendent to inform him of the result and ordered that the trial record be returned with a certified copy.

Satish Kumar Dubey (Jatav) v. State of Madhya Pradesh, Cr.A. no. 240/2010, 22/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (851) Prev Next

Headnote :- Matrimonial cruelty / parallel divorce case - The Court observed that the FIR under Sections 498-A and 506 read with Section 34 IPC alleged demands for a two-tola gold chain and a motorcycle, physical and mental harassment, and Kusum Prajapati's expulsion to her parental home. The existence or timing of her husband's divorce petition and the ex parte decree did not establish that the FIR was a counterblast or bar the criminal proceedings. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, and *Kamaladevi Agarwal v. State of West Bengal, (2002) 1 SCC 555*, require independent adjudication according to the distinct standards of proof in civil and criminal proceedings.

Continuing cruelty / parental home - Citing *Rupali v. State of U.P., (2019) 5 SCC 384*, the Court noted that compelling a married woman to live at her parental home because dowry demands were not met can constitute cruelty. The applicants themselves asserted that the wife was living separately and did not deny that the minor daughter was with them. As evidence was already being recorded, the Court dismissed their application under Section 482.

Case-note :- ***1. Facts :*** Kusum Prajapati married applicant No. 1 Satish Verma on 17 April 2003. She alleged that he and his family members demanded a two-tola gold chain and a motorcycle that her parents could not afford to provide as further dowry, beat and harassed her, disregarded a request made at a family panchayat, and turned her out on 5 February 2017. She further alleged that her husband then assaulted her at her parental home and took away their daughter Akshita. Crime No. 115/2017 at Kotwali, Morena, was registered under Sections 498-A and 506 read with Section 34 IPC. The applicants were the husband, mother-in-law, younger brother-in-law and a maternal father-in-law, as described in the order. They stated that Kusum had voluntarily left on 14 December 2015, that the husband had sought mediation and filed a divorce petition under Section 13 of the Hindu Marriage Act, and that an ex parte decree had subsequently dissolved the marriage. They characterised the FIR as a response to the divorce petition, contended that remote relatives had been falsely implicated, and acknowledged that evidence was already being recorded at trial. The order records their claim that the FIR report was lodged on 10 February 2017, after the alleged expulsion on 5 February.

2. Precedents — Considered : *Pratibha v. Rameshwari Devi and Others, (2007) 12 SCC 369*, was quoted against drawing an adverse inference merely because the wife's FIR followed separation and the husband's divorce petition. Attempts at settlement may explain the timing, and the civil petition does not automatically terminate criminal proceedings. *Kamaladevi Agarwal v. State of West Bengal, (2002) 1 SCC 555*, was quoted on the distinct standards and independent determination of civil and criminal proceedings, including its reference to the Constitution Bench decision in *M.S. Sheriff v. State of Madras*. *Rupali v. State of Uttar Pradesh, (2019) 5 SCC 384*, supplied the specific proposition that a woman forced to live at her parents' home after dowry-related expulsion can suffer cruelty there. No precedent was used to make a final individual finding against the brother-in-law or maternal father-in-law.

3. Statutes considered : The application for quashing was filed under Section 482 CrPC. Sections 498-A, 506 and 34 IPC were the offences stated in the FIR. The husband's divorce petition was filed under Section 13 of the Hindu Marriage Act. Order IX Rule 13 CPC was mentioned in counsel's account of Kusum's unsuccessful application concerning the ex parte decree. Those civil proceedings did not bind the criminal court in its determination of the allegations.

4. Issues : Whether the sequence of the divorce petition and ex parte decree made the wife's FIR retaliatory or legally untenable; whether the allegations of dowry-related expulsion and separate residence could disclose continuing cruelty; and whether the Court should quash the proceedings when evidence was being recorded, on the basis of disputed dates, characterisations and the alleged participation of the younger brother-in-law and maternal father-in-law.

5. Ratio / Findings : The Court held that an FIR lodged after divorce litigation is not, for that reason alone, a counterblast. *Pratibha* and *Kamaladevi* require independent adjudication under the different standards applicable to civil and criminal proceedings; the existence of an ex parte decree does not negate a triable case under Section 498-A. The applicants themselves asserted that Kusum was

living separately and did not deny that the daughter was residing with them. *Rupali* explains that forced residence at the parental home because of unmet dowry demands can itself constitute alleged cruelty; separation does not automatically end that allegation. The Court noted that evidence was already being recorded at trial and found no useful purpose in exercising inherent power to terminate the proceedings. The decision therefore refuses quashing at the threshold; it does not finally determine that all four applicants committed every alleged act.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. Crime No. 115/2017 and the ongoing trial remained pending.

Satish Verma and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 10219/2017, 20/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (852) Prev Next

Headnote :- Assault on public servant / railway crossing - The Court observed that closing the crossing for railway safety formed part of the gateman's official duty. Saurabh insisted that it be opened for his tractor and, after crossing, returned and allegedly injured the gateman. The gateman's direct account, officers' prompt observations of bleeding, medical findings of a cut on the thumb and an abrasion on the ear, and the defence witness's admissions about the closed gate and quarrel supported the convictions under Sections 332 and 353 IPC.

Hostile witnesses / corroboration - The officers who were declared hostile for omissions in their accounts nevertheless confirmed the prompt report and visible injuries. The Court relied on the supportive portions of their evidence without treating their later observations or information received as eyewitness accounts of the assault. The doctor acknowledged that a nail could also have caused the ear abrasion.

Criminal revision / concurrent findings - Under Sections 397 and 401 CrPC, concurrent findings of fact cannot be interfered with unless they are contrary to the record and perverse. Saurabh did not explain why the ordinary trial court lacked jurisdiction merely because the incident concerned a railway gate. The convictions and the sentence of six months' rigorous imprisonment and fine under Section 332, with no separate sentence under Section 353, were affirmed. The revision was dismissed.

Case-note :- ***1. Facts :*** On 17 December 2015, Bahadur Singh Meena was serving as gateman at railway Gate No. 405 in Antri Anantpaith Kalyani village. He stated that Saurabh arrived by tractor and pressed him to open the closed crossing. After obtaining permission from a superior, he opened it and allowed the tractor to pass. Saurabh allegedly returned on foot, demanded unhindered passage in future, abused Bahadur when told that the gate must be operated according to law, attacked him with a knife, bit his left ear and fled. Bahadur promptly reported the matter, leading to FIR No. 180/2015 under Sections 294, 353, 332, 324 and 506 Part II IPC. The JMFC convicted Saurabh under Sections 332 and 353 on 8 March 2017 and acquitted him of the other charges. Six months' rigorous imprisonment and a fine of Rs 500, with two months' imprisonment in default, were imposed under Section 332; no separate sentence was imposed under Section 353. Criminal Appeal No. 47/2017 was dismissed on 29 October 2021. Bahadur (PW-1) described the assault. Bhan Singh (PW-2) arrived later and saw the bleeding ear, expressly stating that he had not witnessed the assault. Junior Engineer Sanjay (PW-4) arrived within ten minutes, saw bleeding from the ear and palm, and supplied a duty certificate; Senior Section Officer Chauhan (PW-5) received the initial report and sent help. These officers were declared hostile because their accounts were incomplete, but supported parts of the prosecution case in cross-examination. Dr Soni (PW-6) recorded a recent, simple cut caused by a sharp object on the right thumb and an abrasion on the left ear, accepting that a nail could have caused the latter. Defence witness Somveer Rana (DW-1) claimed that there had only been a heated argument and an improper demand for money. He nevertheless acknowledged that the gate was closed, that Saurabh had demanded its opening and that the confrontation occurred at 2:23 p.m.; he could give no specific details of earlier closures and had made no complaint about them to a superior.

2. Statutes considered : Sections 332 and 353 IPC concerned hurt and assault or criminal force against the gateman in the discharge of his public duty. The Court sustained both convictions and retained the trial court's single sentence under Section 332, describing the offence under Section 353 as lesser. Sections 294, 324 and 506 Part II were charges of which Saurabh had been acquitted; those acquittals were not disturbed. Sections 397 and 401 CrPC

governed the revision; the Court stated that concurrent findings could not be interfered with unless they were contrary to the record and perverse. The applicant claimed that only the Railway Magistrate had jurisdiction, but did not establish a supporting statutory basis.

3. Issues : (i) Whether the gateman's account and corroborating evidence proved the assault under Section 332/353 in the discharge of his official crossing duty, despite the partly hostile officers, the doctor's alternative explanation for the ear abrasion and DW-1's account. (ii) Whether the railway setting displaced the JMFC's jurisdiction. (iii) Whether the concurrent conviction and six-month sentence could be disturbed under Sections 397 and 401 CrPC.

4. Ratio / Findings : Closing the crossing when a train is due protects road users and forms part of the gateman's official duty. Even the defence witness acknowledged that Saurabh had insisted on opening the closed gate; no authority for that insistence was shown. Bahadur's account of the subsequent assault was supported by immediate observations of injury, prompt reports and medical findings. The Court accepted the cumulative evidence despite the doctor's acknowledgment that a nail could have caused the abrasion. The Court found no error in the concurrent findings under Sections 332/353. In revision, it could not interfere merely to substitute a different appreciation of the evidence: the findings had to be contrary to the record and perverse, and its review, undertaken by way of caution, found neither defect. Saurabh did not explain why the JMFC lacked competence merely because the altercation concerned a railway gate. The Court considered the sentence already imposed to be lenient and found no reason to alter it. The other acquittals remained undisturbed. The High Court stated the limits of revisional interference and examined the record.

5. Relief : The Hon’ble High Court affirmed the JMFC judgment dated 8 March 2017 and the appellate judgment dated 29 October 2021, the convictions under Sections 332 and 353 IPC, and the sentence of six months' rigorous imprisonment and a fine of Rs 500 under Section 332, without a separate sentence under Section 353. Saurabh was in jail and was directed to serve the remaining term; a free copy of the judgment was ordered. The criminal revision was dismissed.

Saurabh v. State of Madhya Pradesh, Cr.R. no. 2874/2021, 24/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (853) Prev Next

Headnote :- FIR registration / alternative remedy - The Court observed that Saurabh Dohare's application under Section 528 BNSS sought a direction to the police to register an FIR. *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, recognises the duty to register information disclosing a cognizable offence but directs an aggrieved complainant to the remedy of a complaint before the Magistrate if the police fail to act. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, confines extraordinary intervention in investigation under Article 226 to the rarest cases where investigative powers have been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is established. It likewise identifies the ordinary Magistrate remedy.

Magistrate inquiry / police escalation - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explain recourse to the Superintendent of Police under Section 154(3) CrPC and, if necessary, to a Magistrate under Section 156(3). The Magistrate, on being prima facie satisfied, can direct registration or a proper investigation and monitor it, without personally conducting the investigation. The Madhya Pradesh Division Bench's *Shweta Bhadauria* distinguishes the police duty discussed in *Lalita Kumari* from entitlement to immediate writ relief without using the available remedies, subject to its stated *Whirlpool* exceptions. The High Court left Dohare free to complain to the Magistrate under Section 200 CrPC / Section 223 BNSS.

Case-note :- ***1. Facts :*** Saurabh Dohare stated that he had complained to the police but no FIR had been registered. He applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking registration of an FIR against the persons identified in his application. State counsel opposed the application on the ground that, if the police had not acted, Dohare could approach the concerned Magistrate.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the police duty to register information disclosing a

cognizable offence from the remedy for failure to perform that duty: the complainant may invoke Sections 190 and 200 CrPC before the Magistrate. The quoted passage discussed *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari* on the remedy; *Ramesh Kumari* and *Lallan Chaudhary* concerned the police duty rather than the complainant's procedural route. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, states that extraordinary intervention under Article 226 is confined to the rarest cases where investigative powers have been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is established, and that the ordinary remedy for police inaction is a complaint before the Magistrate. Its quotation from *Gangadhar* explains the inquiry, possible direction for investigation, dismissal or issue of process following a prima facie assessment. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explains recourse to the Superintendent of Police under Section 154(3) and to a Magistrate under Section 156(3) CrPC for registration or proper investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, follows *Sakiri Vasu*, including the Magistrate's power to monitor the investigation without personally conducting it. The *Madhya Pradesh Division Bench's Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, distinguishes the statutory duty in *Lalita Kumari* from entitlement to a writ without using alternative remedies, subject to the stated *Whirlpool* exceptions.

3. Statutes considered : Section 528 BNSS was the inherent-power provision invoked, but the Court declined to direct registration of an FIR on that application. The Supreme Court passages discussed CrPC Sections 154(3), concerning a representation to superior police officers; 156(3), concerning a Magistrate's direction for investigation; and 190 read with 200, concerning complaint and cognizance procedure. The operative liberty was to pursue a private complaint under Section 200 CrPC / Section 223 BNSS.

4. Issues : Whether an application under Section 528 BNSS seeking a direction to the police to register an FIR should be entertained on an allegation of non-registration, and which statutory remedy remained available before the Magistrate.

5. Ratio / Findings : The duty to register information disclosing a cognizable offence does not make every failure by the police a case for an immediate High Court direction. *Aleque Padamsee* distinguished the police duty from the complainant's remedy for its breach. *Divine Retreat Centre* described the limited scope for extraordinary intervention in the rarest cases where investigative powers have been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is established. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* identify recourse to superior police officers and the Magistrate's power, on prima facie satisfaction, to direct registration or proper investigation and to monitor it, while the police conduct the investigation. The Madhya Pradesh Division Bench likewise distinguished the duty discussed in *Lalita Kumari* from ordinary writ maintainability where alternative remedies exist. In the present case, the Court accepted the State's objection based on the Magistrate remedy, dismissed the Section 528 application and reserved the complaint route.

6. Relief : The Hon'ble High Court dismissed the application under Section 528 BNSS. Dohare was expressly left free, if he wished, to approach the concerned Magistrate under Section 200 CrPC / Section 223 BNSS for redress. No direction to register an FIR or finding on the underlying complaint was issued.

Saurabh Dohare v. State of Madhya Pradesh, M.Cr.C. no. 12754/2025, 08/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (854) Prev Next

Headnote :- Investigation / arrest and charge sheet - The Court observed that Saurabh's application under Section 482 CrPC sought directions to arrest the persons accused in Crime No. 204/2021 and file a charge sheet. Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court recognised the police's statutory discretion in conducting an investigation. That decision's discussion of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, rejects mechanical arrest under Section 41 merely because an FIR disclosing a cognizable offence has been registered. The quoted principle from *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, also cautions against orders seriously affecting persons without hearing them. An investigation may end in a charge

sheet or a closure report; an order under Section 482 cannot predetermine arrest, seizure or prosecution.

Section 173(1) CrPC / completion without unnecessary delay - The Court observed that discretion over the outcome does not permit an investigation to remain pending indefinitely. Section 173(1) requires completion of the investigation without unnecessary delay. The officer must decide whether an offence is made out and expeditiously submit a lawful final report. The Court directed early completion of the investigation and the steps required by law, and left Saurabh free to place any grievance before the Superintendent of Police for consideration.

Case-note :- ***1. Facts :*** On Saurabh's complaint, Police Station Matabasaiya, Morena, registered Crime No. 204/2021 alleging offences under Sections 307 and 34 IPC. He stated that no further action had been taken by the police and the accused had not been arrested. His application under Section 482 CrPC asked the High Court to direct the police both to arrest them and to file a charge sheet.

2. Precedents — Considered : The Court quoted and applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, on the police's control over the manner of investigation and the restrained exercise of the High Court's power under Section 482. The quoted paras 25 and 31–32 state that arrest, seizure and filing a charge sheet are not inevitable consequences of every FIR and cannot be mechanically directed by a High Court. In that decision's quotation from *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, Section 41 CrPC permits arrest at the police officer's discretion after assessing its necessity. Arrest is not an automatic duty on receipt of information disclosing a cognizable offence, given its effect on liberty and reputation. *D. Venkatasubramaniam* also invoked *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on the opportunity of hearing before directions having serious consequences for affected persons. It confined inherent power to giving effect to orders under the Code, preventing abuse of the process of a court and securing the ends of justice, and warned against casual, unreasoned orders directing how the police should investigate. The present Court applied these principles in refusing to compel arrest and filing of a charge sheet; it did not adjudge the suspects innocent or the investigation satisfactory.

3. Statutes considered : Section 482 CrPC was invoked for relief under the Court's inherent power, but it did not authorise supervision of the police's decision whether to arrest or file a charge sheet. Section 41 CrPC, as described in the Supreme Court quotation, permits but does not require a police officer to arrest every suspect in a cognizable case. Section 173(1) CrPC expressly requires completion of the investigation without unnecessary delay. After investigating, the officer must reach a lawful conclusion and submit a final report, whether a closure report or a charge sheet.

4. Issues : Whether a complainant invoking Section 482 could require the arrest of named suspects and filing of a charge sheet because the FIR had been registered without the requested further action; and whether the Court could require timely completion of the investigation under Section 173(1) while leaving its outcome and the investigative steps to the police's judgment.

5. Ratio / Findings : The power and duty to investigate rest with the police. In light of *D. Venkatasubramaniam* and its quotation of the reasoning in *M.C. Abraham*, arrest is a discretionary measure to be exercised cautiously, rather than a mechanical step following registration of an FIR. An investigation may properly end without arrest or prosecution. An order compelling both arrest and filing of a charge sheet would dictate the course and result of an inquiry that depend on the evidence, and would therefore amount to impermissible supervision under Section 482. The Court declined that prayer. It distinguished the duty to complete the investigation in time from discretion over its outcome: Section 173(1) does not permit the officer to keep the matter pending indefinitely. The officer must decide as soon as possible whether an offence is made out and file the resulting final report without unnecessary delay.

6. Relief : The Hon’ble High Court disposed of the application without directing arrest of the suspects or filing of a charge sheet. The investigating officer was directed to conclude the investigation as early as possible and take the necessary steps under law, including submission of the lawful final report. Saurabh was left free to approach the Superintendent of Police, Morena, with any further grievance, which was to be considered according to law.

Saurabh v. State of Madhya Pradesh, M.Cr.C. no. 3998/2022, 28/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (855) Prev Next

Headnote :- Sexual-offence FIR — limitation and reporting delay distinguished - Saurabh Tyagi sought quashing under Section 482 CrPC of Crime No. 73/2024 under IPC Sections 376 and 376(2)(n), relying on delay in reporting. The Court held that Section 468 CrPC prescribed no limitation bar for offences punishable with imprisonment exceeding three years. Delay in lodging an FIR is a separate matter: *Skoda Auto Volkswagen*, *Ravinder Kumar* and *Mohammad Wajid* establish that delay alone does not render an FIR illegal or warrant quashing; explanations for delay and credibility are assessed on evidence. Prompt reporting assists investigation and reduces the opportunity for concoction, but does not guarantee truth.

Inherent quashing — no disputed-fact trial of consent or alleged extortion - The applicant denied any physical relationship and alleged that the prosecutrix had demanded money by sending a QR code on WhatsApp and filed a false FIR after he refused. The Court held that those assertions required proof at trial. It treated the allegation of a sexual offence involving consent obtained through a misconception of fact as one whose truth could not be decided through a mini-trial under Section 482. *XYZ v. State of Gujarat* warned against deciding contested questions of consent or coercion on disputed settlement material during investigation; *S. Martin, Ajay Kumar Das*, *CBI v. Arvind Khanna and Kunwar Singh* likewise prohibit detailed findings on disputed merits in quashing proceedings. *Mohd. Akram Siddiqui* preserved a narrow exception for defence documents that are public documents or whose veracity the complainant does not dispute. The Court required the asserted QR-code demand to be proved at trial.

Face-value threshold and exceptional quashing power - *State of A.P. v. Gourishetty Mahesh and M. Srikanth* recognise the power to quash proceedings when the allegations, accepted as true, do not disclose an offence, a legal bar exists, or sufficient material establishes abuse, while cautioning against stifling a legitimate prosecution. *Ajay Kumar Das* quoted *Bhajan Lal* on the sparing exercise of the power and the prohibition on an inquiry into the reliability of the FIR. The Court held that the specific allegations of rape could not be rejected by accepting the applicant's denial or allegation of blackmail without evidence. The application was dismissed, leaving guilt, consent and the defence for determination at trial.

Case-note :- ***1. Facts :*** Saurabh Tyagi filed Miscellaneous Criminal Case No. 13714 of 2024 under Section 482 CrPC to quash FIR Crime No. 73/2024 at Police Station Misrod, Bhopal City, registered for offences under IPC Sections 376 and 376(2)(n). Counsel submitted that the FIR was delayed, the allegations were false, there had been no physical relationship, and respondent 2 had sent a QR code to his WhatsApp account demanding money before filing the FIR when he refused. These were defence assertions, rather than facts found by the High Court. The Court described the FIR as containing a specific allegation of rape and referred conditionally to consent obtained through a misconception of fact. It considered whether delay in reporting, denial of physical relations or the alleged demand could justify quashing at this preliminary stage. No witness evidence or QR-code authentication was tried in this proceeding.

2. Precedents — Considered : *Skoda Auto Volkswagen (India) Pvt. Ltd. v. State of U.P. and Others, (2021) 5 SCC 95*, was cited for the prohibition on deciding disputed questions of fact or examining the reliability and correctness of allegations in a complaint when considering a petition to quash an FIR, and for the proposition that mere delay cannot by itself terminate criminal proceedings. *Ravinder Kumar and Another v. State of Punjab, (2001) 7 SCC 690*, explained that the law fixes no deadline for lodging an FIR and that a delayed FIR is not illegal. Prompt reporting enables early investigation and reduces the opportunity for concoction, yet even a prompt FIR does not conclusively establish truth; there may be various genuine reasons for delay. *Mohammad Wajid and Another v. State of U.P. and Others, AIR 2023 SC 3784*, separately confirmed that delay in registration alone does not warrant quashing an FIR.

XYZ v. State of Gujarat, (2019) 10 SCC 337, was quoted at length. In that case, the High Court exceeded its jurisdiction under Section 482 by making premature findings about consent and a settlement alleged to have been obtained by coercion. Serious allegations of blackmail and interference were matters for investigation and trial.

Here, the decision supported refusal to adjudicate the truth of the applicant's denial and allegation of financial pressure. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, was quoted on the error of assessing the merits before investigation had been completed. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, quoted the caution in *State of Haryana v. Bhajan Lal* that the power to quash must be exercised sparingly and with circumspection, without an inquiry into reliability or arbitrary exercise of inherent power.

Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, described the normal rule against evaluating defence documents when considering quashing, and the exception in an appropriate case for public documents or documents whose veracity the complainant does not dispute, referring to *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D. State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, warned against a premature assessment of reliability but recognised sparing intervention where the allegations, taken at face value, disclose no offence or no cognizable offence, an express legal bar exists, or sufficient material establishes abuse or malice. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, similarly recognised quashing where the uncontroverted allegations and supporting material disclose no offence. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, rejected detailed findings on disputed defences of the accused in a petition invoking inherent power after cognizance. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021, 30* June 2021, stated that an FIR is not an encyclopedia and that Section 482 does not permit scrutiny of evidence as at a trial.

3. Statutes considered : Section 482 CrPC was the inherent jurisdiction invoked to quash the FIR; its limits on examining disputed facts and its requirement to consider the allegations at face value governed the decision. Section 468 CrPC was addressed directly: it creates no limitation period barring prosecution for these offences because IPC Sections 376 and 376(2)(n) carry punishment exceeding three years. The Court's reference to consent obtained through a misconception of fact was conditional and contextual, rather than a determination that a particular promise or representation had been proved. The QR-code demand was a proposed defence requiring evidence, rather than an established charge of extortion.

4. Issues : (i) Did Section 468 provide a limitation bar to prosecution under IPC Sections 376 and 376(2)(n)? (ii) Could an unspecified delay in reporting, by itself, justify quashing this sexual-offence FIR? (iii) Could the High Court accept the applicant's denial of physical relations and assertion of a QR-code money demand to declare the complaint false in exercise of jurisdiction under Section 482? (iv) Did the allegations, taken at face value, disclose an offence requiring investigation and trial, or did the recognised exceptional grounds for quashing apply? These questions concern termination at a preliminary stage, rather than the applicant's guilt.

5. Ratio / Findings : The alleged offences are punishable with imprisonment exceeding three years, so Section 468 did not impose a limitation period on their prosecution. The Court separately held that delay in lodging an FIR alone does not render it illegal or establish abuse of process. *Skoda Auto Volkswagen* and *Mohammad Wajid* ruled out quashing merely for delay; *Ravinder Kumar* explained both the practical value of prompt reporting and the possibility of genuine reasons for delay, without treating promptness as a guarantee of truth.

The applicant's denial of physical relations and assertion of a WhatsApp QR-code demand required proof and could not be accepted as conclusive against the prosecution allegations in a petition under Section 482. The Court quoted *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *M. Srikanth*, *Arvind Khanna* and *Kunwar Singh* on the limits of that jurisdiction. A complaint that, taken at face value, fails to disclose an offence or is subject to a legal bar may be quashed, and public defence records or those whose veracity is undisputed may exceptionally be examined. Contested questions of fact and the credibility of the defence, however, must be decided through the ordinary process. The order stated that where consent was allegedly obtained through a misconception of fact and rape was specifically alleged, the Court could not test the correctness of those allegations through a mini-trial. On the allegations and the applicant's grounds, the Court found no basis for exercising its inherent power to interfere.

6. Relief : The Hon'ble High Court dismissed the application. FIR Crime No. 73/2024 remained in force; no order quashed or stayed it. The disputed matters remained for investigation and trial.

Saurabh Tyagi v. State of Madhya Pradesh and Others, M.Cr.C. no. 13714/2024, 10/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial cruelty / dowry-linked ouster - The Court observed that the FIR alleged repeated demands for Rs 25 lakh by the husband and parents-in-law, assault and abuse, expulsion on 25 December 2022 without custody of the child, and continued residence at the parental home. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was applied for the principle that the mental trauma of expulsion and fear of returning can continue at the parental home even though no physical assault occurs at the parental home. *The High Court's Amar Singh v. Vimla* similarly treated a wife being compelled to reside at her parental home as cruelty. The Court considered the allegations at face value and rejected the bare contention that the length of the marriage or absence of dates for each earlier act made the allegations stale.

Delay and limitation / continuing cruelty - The Court observed that the complainant specified her expulsion on 25 December 2022 and alleged a renewed demand at her parental home on 12 February 2023, followed by the FIR on 28 February.

Family roles / Section 482 threshold - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was applied: the caution against implicating distant relatives without a specific role does not displace triable allegations against a husband and his parents where specific harassment and forced departure are pleaded. Its discussion of *Kailash Chandra Agrawal* and *Kans Raj* explains that distinction. The present FIR attributed the demand to all three applicants, assault with a broom to the mother-in-law, dashing the complainant's head against a wall to the husband, and assault during pregnancy and expulsion to the applicants. The hospital admission in December 2022 and the supplementary explanation for the absence of miscarriage records were considered, while their evidentiary sufficiency was left open. The Court cited *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh* and *M. Srikanth*.

Zero FIR / police-station territory - The Court observed that Mahila Thana, Vidisha, registered the report at serial No. 0 and transferred it to Gulabganj police station. A police station cannot refuse registration solely because it lacks territorial jurisdiction to investigate; it must transfer the FIR to the competent station. The territorial objection failed, and the application under Section 482 to quash Crime No. 25/2023 and consequential proceedings was dismissed.

Case-note :- ***1. Facts :*** Respondent No. 2 married applicant No. 1, Saurabh Yadav, on 13 December 2015; applicants Nos. 2 and 3 were her mother-in-law and father-in-law. She had a daughter aged about six when she lodged FIR Crime No. 25/2023 on 28 February 2023. According to her allegations, after some time at the matrimonial home in Vidisha, the three applicants criticised the dowry as insufficient and demanded Rs 25 lakh, although her father had already given what he could. She alleged abuse and physical cruelty, which worsened after the daughter's birth. Specifically, she stated that the mother-in-law beat her with a broom, the husband dashed her head against a wall, and an assault by the applicants during her second pregnancy caused an abortion. She alleged that they threatened to burn her if she did not comply with their dictates. She complained of back and waist pain and lack of treatment. She stated that on 25 December 2022 the applicants assaulted and expelled her with only the clothes she wore and retained the child. She contacted her brother through a passerby's phone; he took her to Bansal Hospital, Bhopal, where spinal-cord infection and tuberculosis were found. She stated that the applicants did not contact her during treatment and that mediation by relatives had failed. On 12 February 2023, the applicants allegedly came to her parental home at Pawai, repeated the demand for Rs 25 lakh and threatened separation and death; the mother-in-law allegedly threatened to remarry her son. These are FIR allegations attributed to the complainant, rather than final findings that each event occurred. The FIR alleged offences under Sections 498-A, 294, 323, 506 and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. The applicants sought quashing under Section 482 CrPC of the FIR and consequential proceedings.

2. Precedents — Considered : *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted and applied on the meaning of cruelty under Section 498-A: physical or verbal matrimonial cruelty can cause mental trauma that continues when the wife, expelled or driven away, takes shelter at her parental home and fears returning. Applying that principle, the Court treated the alleged dowry-related expulsion on

25 December and continued residence at the parental home as continuing cruelty, rather than an event whose effects ended at the matrimonial home. *Amar Singh v. Smt. Vimla*, Cr.R. No. 2376/2020 (MP High Court, 22 June 2021), was cited for the view that compelling a wife to reside at her parental home amounts to cruelty.

Taramani Parakh v. State of M.P., (2015) 11 SCC 260, was quoted in detail. Its discussion of *Kailash Chandra Agrawal v. State of U.P., (2014) 16 SCC 551*, and *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, cautions against mechanically implicating distant relations without a particular role. The position of a husband, his parents or close family differs where the complaint attributes specific demands and harassment to them. *Taramani* also states that allegations of cruelty and forced separation which, taken at face value, raise triable issues should proceed to trial, leaving actual harassment to proof; proceedings that are, on their face, an abuse of process may still be quashed. Its quoted paragraph named *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* as authorities on quashing. The High Court applied the principle concerning triable issues to these allegations against the husband and his parents, rather than treating their relationship alone as establishing culpability.

At paragraph 14, the High Court named *XYZ v. State of Gujarat, State of Tamil Nadu v. S. Martin, Ajay Kumar Das v. State of Jharkhand, Mohd. Akram Siddiqui v. State of Bihar, State of A.P. v. Gourishetty Mahesh, M. Srikanth v. State of Telangana, CBI v. Arvind Khanna, State of M.P. v. Kunwar Singh*, *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*. It invoked them collectively for the stated proposition that quashing under Section 482 requires the uncontroverted allegations not to make out an offence.

3. Statutes considered : Section 482 CrPC provided the limited jurisdiction to quash proceedings. Section 498-A IPC was the principal cruelty offence considered in the Court's reasoning on continuing mental trauma; Sections 294, 323, 506 and 34 IPC and Sections 3–4 of the Dowry Prohibition Act were also alleged in the FIR. The Court's conclusion that the allegations were sufficient for prosecution at this stage was not a conviction on any count. The issue of the police station's territorial jurisdiction was treated as one of registration and transfer: Mahila Thana, Vidisha, could record the information at serial zero and send it to Gulabganj for investigation.

4. Issues : (i) Whether an FIR described as having been lodged eight years after marriage and without precise dates for every earlier incident was delayed or time-barred despite the specified expulsion on 25 December 2022 and alleged renewed demand on 12 February 2023. (ii) Whether the wife described specific roles of the husband and his parents sufficient to raise triable allegations of cruelty and dowry demands, or merely named them in general terms. (iii) Whether asserted deficiencies in the police medical examination in March 2023, the hospital records of December 2022 and the supplementary statement could negate the FIR at the Section 482 stage. (iv) Whether initial registration at Mahila Thana, Vidisha, at serial No. 0 was invalid for lack of territorial jurisdiction despite transfer to Gulabganj.

5. Ratio / Findings : A complainant cannot necessarily recall the precise date of each episode of matrimonial cruelty over the years; the absence of those particulars does not negate the specifically alleged expulsion on 25 December 2022. The Court read the FIR as a whole as alleging expulsion for failure to meet a dowry demand and continued residence at the parental home without custody of the child. Applying *Rupali Devi* on continuing mental injury and *Amar Singh* on compelled residence at the parental home, it rejected the applicants' arguments of delay and limitation at this stage.

The complaint attributed a demand for Rs 25 lakh to the three applicants, who were close family members, and described their separate alleged acts of assault, abuse, threats, harm during pregnancy and expulsion. In light of *Taramani Parakh*, the Court distinguished unsupported naming of distant relatives from specific allegations raising triable issues. It considered the admission to Bansal Hospital on 28 December 2022 as supporting the alleged history of treatment for back and spinal problems, despite the later police examination on 6 March 2023. It noted the alleged miscarriage and the complainant's supplementary statement explaining the absence of records. That statement concerned the unavailability of miscarriage records, rather than a retraction of the cruelty allegations exonerating the applicants. The truth and evidentiary weight of the rival accounts remained for trial, rather than a mini-trial under Section 482.

Finally, Mahila Thana had recorded the FIR at serial zero and transferred it to Gulabganj. The police station receiving the information could not refuse to register an FIR disclosing a cognizable offence merely because it lacked territorial jurisdiction to investigate; the proper course was to transfer it. Taking the allegations at face value, the Court found them sufficient for prosecution and found no basis to interfere.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC. FIR Crime No. 25/2023 at Gulabganj under the five IPC sections and Sections 3–4 of the Dowry Prohibition Act, and consequential proceedings, were not quashed.

Saurabh Yadav and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 9436/2024, 07/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Counter FIRs / rival aggressor accounts - The Court observed that Sayra Bano's Crime No. 34/2020 alleged an incident at 10:30 a.m. on 1 February 2020, while the challenged Crime No. 119/2024 described a confrontation over plots at 9 a.m. that morning. The competing complaints did not establish which side attacked first. Determining the aggressor, the validity of title documents, or the truth of the alleged boundary damage or gunfire required factual adjudication, which was not permissible in quashing proceedings under Section 482 CrPC / Section 528 BNSS.

Inherent powers / *Renu Kumari* threshold - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted and applied: Section 482 preserves powers to give effect to orders under the Code, prevent abuse of process and secure the ends of justice, but its exercise is exceptional and is distinct from appeal or revision. Its discussion of *R.P. Kapur, AIR 1960 SC 866*, and *Bhajan Lal, 1992 Supp (1) SCC 335*, identifies categories involving allegations that disclose no offence on their face, a legal bar, no legal evidence, manifest improbability and clear mala fides. It distinguishes absence of evidence from disputed reliability of evidence. Once a cognizable offence is disclosed, the informant's alleged malice assumes secondary importance and cannot by itself terminate the prosecution. The Court cited *XYZ, S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh* and *M. Srikanth*.

FIR delay / prior effort to obtain registration - The Court observed that the challenged FIR was registered about four years after the occurrence in February 2020. However, respondent No. 4 had approached the High Court in MCrC No. 40034/2022 after police inaction, and registration followed the resulting order. *Skoda Auto Volkswagen (India) Pvt. Ltd. v. State of U.P.*, reported here as *(2021) 5 SCC 795*, and *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, reject delay alone as a ground for quashing. *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, explains the value of prompt reporting without treating promptness as conclusive proof of truth or delay as illegality. The Court rejected the contention that delay by itself required quashing and left credibility to be assessed on evidence.

Disputed defence / disposition - The Court observed that the applicants' allegation of retaliatory registration was disputed. The claims about forged lease papers, a disabled licensed rifle and the other side's aggression appeared in the complainant's account; they were not established facts. The FIR alleged an attack, abusive language, boundary damage and threats. The Court could not determine the reliability of the rival accounts in exercise of its inherent jurisdiction. It found no case for interference and dismissed the application to quash FIR Crime No. 119/2024 under Sections 323, 294, 506, 147 and 148 IPC and consequential proceedings.

Case-note :- ***1. Facts :*** The applicants sought quashing of FIR Crime No. 119/2024, registered on 16 March 2024 at Kotwali, Sheopur, for offences under Sections 323, 294, 506, 147 and 148 IPC and consequential proceedings, invoking Section 482 CrPC / Section 528 BNSS. The allegation concerned a disputed confrontation on the morning of 1 February 2020 near the plots claimed by the complainant at Survey Nos. 201 and 202, beside a hutment attributed to Nanne Khan. According to the account placed before the Court, the complainant's son, Firoz, was having work done by a JCB when Sayra Bano and several other named persons allegedly compelled the driver to remove the machine, called others, attacked Firoz, used obscene abusive words within others' hearing, damaged a boundary wall, entered the plot, attempted to take possession and threatened to kill the complainant party if it returned. The complainant side alleged that the police had not acted on its report and that political

and media pressure had instead led to a false FIR against it, including a disputed allegation that the complainant had fired a licensed .315-bore rifle. It asserted that the complainant was absent and that his rifle, kept in an almirah, had been damaged in an earlier fall and could not fire. The account also disputed the opposing side's leases for Survey Nos. 313 and 316 and alleged attempted occupation through forged documents. These were conflicting allegations and submissions, rather than findings on ownership, forgery, the rifle's operation or assault. Sayra stated that she had lodged Crime No. 34/2020 against respondent No. 4 under Sections 323, 504, 436, 506 and 34 IPC, alleging an incident at about 10:30 a.m. the same day; counsel conceded that the version of the complainant in the challenged FIR placed the incident at approximately 9 a.m. Counsel also relied on the roughly four-year delay. The Court noted respondent No. 4's earlier MCrC No. 40034/2022 after police inaction and that registration followed a High Court order.

2. Precedents — Considered : *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346*, was quoted extensively and adopted as the framework under Section 482. It describes three purposes: giving effect to an order under the Code, preventing abuse of the process of a court and securing the ends of justice. Although wide, inherent power must be exercised exceptionally and cautiously, and is distinct from appellate or revisional review of facts. Its quoted discussion of *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, covers a manifest legal bar, allegations accepted in their entirety but constituting no alleged offence, and absence of legal evidence or evidence manifestly failing to prove the charge. The judgment emphasises that the last category differs from legal evidence whose reliability requires assessment at trial. Its discussion of *Bhajan Lal* lists illustrative categories involving allegations disclosing no offence or no cognizable offence, uncontroverted allegations disclosing no offence, absurd or inherently improbable allegations, a legal bar and malicious institution of proceedings, while warning against routine quashing. *Renu Kumari* also explains that an informant's alleged mala fides assume secondary importance once the report discloses a cognizable offence; the evidence gathered and led will determine guilt. Its internal references to *Janata Dal*, *Raghubir Saran*, *Dhanalakshmi*, *P.P. Sharma*, *Rupan Deol Bajaj*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar*, *Satvinder Kaur*, *Rajesh Bajaj*, *M. Devendrappa*, *Awadh Kishore Gupta* and *Saroj Kumar Sahoo* occur in that quoted explanation and receive no distinct application by the present Court. The High Court applied these principles to the competing accounts of who was the aggressor and the allegation of a retaliatory FIR, limiting its inquiry to the allegations at face value without conducting a mini-trial.

At paragraph 5, the Court also collectively invoked *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350; State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M. Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh*, Cr.A. No. 709/2021; *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*. It stated only their common proposition that uncontroverted allegations which fail to make out an offence can warrant quashing, and that the Court cannot examine the accused's defence at that stage. *Skoda Auto Volkswagen (India) Pvt. Ltd. v. State of U.P.*, reported in the order as *(2021) 5 SCC 795*, was applied to reject mere reporting delay and examination of disputed facts as grounds for quashing an FIR. *Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, explains why immediate reporting is ideal, while recognising that delay may have genuine causes and promptness does not guarantee truth. *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, reiterates that delay alone does not warrant quashing.

3. Statutes considered : Sections 323, 294, 506, 147 and 148 IPC were the offences alleged in the challenged FIR. The counter-FIR was described as alleging offences under Sections 323, 504, 436, 506 and 34 IPC; its validity or prosecution was not disposed of. Survey numbers, the rifle's condition and the genuineness of property documents were matters of factual dispute; no statutory determination of title was made.

4. Issues : (i) Whether the parties' two reports about the morning of 1 February 2020 enabled the High Court to identify the aggressor and quash the later FIR on the applicants' allegation that it was a counter-case or retaliation. (ii) Whether the allegations of assault, unlawful assembly, abuse,

interference with property and threats, accepted at face value, failed to disclose an offence or fell within a recognised exception permitting exercise of inherent power; and whether the disputed plot documents, the rifle account and the applicants' allegation of malice could be determined at this preliminary stage. (iii) Whether the interval of approximately four years between the event and registration itself required quashing, given the complainant's intervening approach to the High Court after alleged police inaction.

5. Ratio / Findings : Counsel's concession placed both reports on the same morning, although at 9 and 10:30 a.m. The Court inferred from the competing accounts that an incident had taken place, but the central question of who initiated the confrontation remained disputed. Section 482 / Section 528 did not permit it to resolve that question by preferring one account. The complainant's allegations about a false gunshot charge, a damaged rifle and plot-title documents, and the applicants' reliance on their counter-FIR, did not become established facts through the petition. *Renu Kumari*, including its discussion of *R.P. Kapur* and *Bhajan Lal*, permits an examination of the allegations at face value and exceptional intervention to prevent abuse. It does not permit weighing evidence that may or may not support the charges after full proof. Applying the collectively cited Supreme Court cases, the Court held that disputed defences fell outside that preliminary inquiry. It found no ground, on the face of the allegations, to terminate the charged proceedings.

The applicants' contention that four years of delay required quashing also failed. The Court noted that respondent No. 4 had earlier approached it in MCrC No. 40034/2022 because the police had not acted, and the impugned FIR was registered in compliance with a High Court order. It therefore declined to treat the registration date as showing only unexplained inaction. *Skoda Auto*, *Ravinder Kumar* and *Mohammad Wajid* establish that mere delay is not an automatic ground for quashing and that genuineness requires factual assessment. Considering the record as a whole, the Court found no case for interference.

6. Relief : The Hon’ble High Court dismissed the application under Section 482 CrPC / Section 528 BNSS. FIR Crime No. 119/2024 under Sections 323, 294, 506, 147 and 148 IPC and consequential proceedings were not quashed.

Sayra Bano and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 54489/2024, 18/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Minor's induced departure / subsequent adult marriage - The Court observed that the birth certificate submitted by Seema stated her date of birth as 16 October 2005; she was below eighteen when her parents reported her missing on 21 September 2023. The non-cognizable report filed by the petitioners described her first departure and marriage to petitioner No. 2 during minority, her return through the police, and a later court marriage after she attained eighteen. *Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat, (2021) 3 SCC 12*, was applied for the stated principle that, if a minor leaves home on the inducement of an accused, offences under Sections 363 and 366 IPC would be made out. The High Court rejected the plea that she had merely been held captive by her parents. The later marriage after adulthood did not remove the issue of the earlier alleged kidnapping. The Court refused to quash the FIR and dismissed the writ petition. It also found no foundation for the allegations of assault by the police or parents, or for the requested protection and directions governing the recording of statements. An erroneous location in the accompanying affidavit led to a separate direction to the Gujarat Law Secretary to examine whether the notary's licence should continue, following due process under the Notaries Act; the Court did not itself cancel the licence.

Case-note :- ***1. Facts :*** Seema Bhojne and the other petitioners invoked Article 226 in Writ Petition No. 7782/2024. They sought recording of petitioner No. 1's police statement at the High Court, with counsel present or by video conference; police protection and freedom from pressure when any judicial statement under Section 164 CrPC was recorded in Damoh; quashing of the FIR concerning petitioners Nos. 2–4 if those statements disclosed no crime; and directions restraining the police and private respondents from harming them or interfering with the asserted marriage of petitioners Nos. 1 and 2. Counsel alleged that her parents had filed a false missing-person (Gum Inshan) report on 21 September 2023, claiming that she was a minor and had been kidnapped, although they had kept her captive. The petitioners relied on Annexure P/2, a birth certificate

stating her date of birth as 16 October 2005; that date made her under eighteen when the missing-person report was lodged. Counsel asserted her marriage to petitioner No. 2, beating of petitioners Nos. 3–4 by the police, and closure of the missing-person report. The petitioners had also filed non-cognizable report No. 43/2024 from Shivaji Nagar, Buldhana, lodged by Vishal Gautam Savdekar. That report describes the girl leaving home twice: she first married Sanjay Ramesh Bhojne, petitioner No. 2, before turning eighteen, was returned through Tendukheda police, and married him again in court after attaining adulthood.

2. Precedents — Considered : *Anversinh alias Kiransinh Fatesinh Zala v. State of Gujarat, (2021) 3 SCC 12*, was the Supreme Court authority expressly applied. The judgment states, in substance, that if a minor leaves home on the inducement of an accused, offences under Sections 363 and 366 IPC would be made out. Both minority and inducement qualify the proposition; the Court did not declare that every voluntary departure of a minor amounted to kidnapping. Applying the stated rule to the petitioners' own birth certificate, the account of the first marriage during minority and the subsequent return through the police, it rejected the contention that the parents had merely held petitioner No. 1 captive and refused to quash the FIR.

3. Statutes considered : Article 226 of the Constitution provided the jurisdictional basis for the requests for mandamus, protection and conditional quashing. Sections 363 and 366 IPC were the kidnapping and abduction provisions invoked in the Court's application of *Anversinh*. The Notaries Act was expressly invoked to require due process before any potential administrative action against the notary; the Court did not cancel the licence itself.

4. Issues : Whether the petitioners' documents and the later marriage after adulthood justified treating the original missing-person or kidnapping allegation as false and quashing the case, despite the birth date establishing minority on 21 September 2023 and the submitted report describing the first marriage during minority; whether there was a factual foundation for police protection, a specified venue and procedure for recording statements, and restraint on the family or police; and whether the apparent error in notarial verification required administrative examination with procedural safeguards.

5. Ratio / Findings : The date of birth recorded in Annexure P/2, 16 October 2005, made petitioner No. 1 a minor when the missing-person report was lodged on 21 September 2023. The non-cognizable report filed by the petitioners themselves recorded her first departure, marriage to petitioner No. 2 during minority, return through the police, and another marriage only after she attained eighteen. The Court considered this inconsistent with counsel's explanation that she had been held captive by her parents, and described the initial event as kidnapping by petitioners Nos. 2–4. Applying the limited proposition in *Anversinh* concerning a minor's induced departure, it refused to quash the earlier allegation on the basis of the later marriage after adulthood. This was the Court's conclusion on the writ material, rather than a conviction after trial. It separately found no foundation for the claim that the police had treated petitioners Nos. 2–4 improperly or that petitioner No. 1 had been beaten by the police or her parents. It therefore declined the requested directions on recording statements, protection and non-interference. The Court criticised the notary's casual verification because the affidavit placed Ahmedabad in Maharashtra despite his Ahmedabad, Gujarat, seal. It directed the Gujarat Law Secretary to consider whether the licence should continue, expressly subject to due process under the Notaries Act. The referral left the licence question for administrative decision and did not itself cancel the licence.

6. Relief : The Hon’ble High Court dismissed the petition under Article 226. No FIR was quashed, no mandamus for protection or a particular statement-recording procedure was issued, and no order declaring the marriage valid or barring parental involvement was made. A copy of the order and affidavit was directed to be sent to the Gujarat Law Secretary, Department of Law and Legislative, for necessary information and compliance with the direction to examine the notary's licence through statutory due process.

Seema Bhojne and Others v. State of Madhya Pradesh and Others, W.P. no. 7782/2024, 15/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 after charge sheet and trial progress - The Court held that filing of the charge sheet on 7 July 2018, after the petition was filed on 2 July under Section 482, and the subsequent

framing of charges and examination of the prosecutrix did not prevent a decision on the merits. *Satish Mehra* permits sparing exercise of the power to quash even after charges are framed where the material, accepted in its entirety, discloses no offence, without determining guilt. *Anand Kumar Mohatta*, drawing on *Joseph Salvaraj*, rejects the contention that filing a charge sheet bars quashing; *Ravikant Dubey* similarly addresses a trial at an advanced stage.

Consent on a marriage promise and subsisting first marriage - The Court held that the prosecutrix's account under Section 161 acknowledged her marriage in 2011, separation in 2012 without divorce, and repeated sexual relations with the petitioner in his room over eight months. No coercion in developing that relationship was alleged. She knew that her first marriage subsisted and that another marriage was not then legally possible. On the Court's assessment of these allegations, her consent could not be attributed to a promise of marriage giving rise to a misconception of fact under Section 90. The later refusal to marry, allegedly based on caste, did not by itself establish a deceitful intention at the outset. *Deepak Gulati*, *Uday, Tilak Raj, Pramod Suryabhan Pawar* and *Dr Dhruvaram Murlidhar Sonar* explained that distinction; the finding in *Yedla Srinivasa Rao* that a girl of tender age had consented through fraud was considered on its different facts. The inquiry depends on the facts and requires a false intention at the inception of the promise and a causal connection with consent, rather than merely an unfulfilled future promise.

Quashing and the separate assault allegation - The Court held, on its assessment of the complainant's allegations and statements, that an offence under Section 376 IPC was not disclosed. It quashed the FIR in Crime No. 103/2018 under Sections 376 and 323 IPC and all consequential criminal proceedings.

Case-note :- ***1. Facts :*** Senjeet Singh sought quashing under Section 482 CrPC of FIR Crime No. 103/2018 at Police Station Maharajpura, Gwalior, under Sections 376 and 323 IPC and all consequential proceedings. He filed the petition on 2 July 2018; the charge sheet was prepared and filed on 7 July during its pendency. At the hearing, the State submitted that charges had been framed and the prosecutrix examined, as indicated by endorsements showing that documents had been exhibited. Respondent No. 2 had earlier appeared through counsel, but no one appeared for her at this hearing; the petitioner and the State were heard. In her FIR of 3 March 2018, the complainant, a beautician, stated that she had befriended him about eight months earlier, that he had promised marriage and repeatedly had sexual intercourse with her, including at his room behind Chawla Market shortly before the FIR. When he called her again and asked for sex, she refused until they married; she alleged that he refused marriage and beat her. Her statement under Section 161 CrPC added that she had married Sunil Shrivas in 2011, left him after a family dispute in 2012, studied through Class 10 and repeatedly visited the petitioner's room. She alleged that he refused marriage because they belonged to different castes and assaulted her with fists and blows, causing injuries. Her statement under Section 164 recounted the other facts but omitted the first marriage. The petitioner's counsel submitted that there had been no divorce, referred to a pending case under Section 498-A IPC and the Dowry Prohibition Act against the husband and to a marriage card, and argued that she knew she could not marry the petitioner while her first marriage subsisted. He also stressed the absence of any allegation that force was used to take her to his room. The State argued that whether consent was free or given under a misconception was a question for trial, particularly after the charge sheet and subsequent trial proceedings.

2. Precedents — Considered : *Satish Mehra v. State (NCT of Delhi), (2012) 13 SCC 614*, was quoted at length on the sparing exercise of Section 482 where the prosecution allegations and investigation material, accepted in their entirety at face value, disclose no offence. That power survives the framing of charges and does not authorise a determination of guilt. *Anand Kumar Mohatta v. State (Govt. of NCT of Delhi)*, decided 15 November 2018, was quoted on the continuing availability of Section 482 after a charge sheet or while an application for discharge is pending. It relied on *Joseph Salvaraj A. v. State of Gujarat, (2011) 7 SCC 59*, to explain that the FIR, charge sheet and documents may be examined to determine whether the ingredients of an offence are prima facie disclosed. *Ravikant Dubey v. State of M.P.*, 2014 Cr.L.R. (M.P.) 162, was the coordinate-bench authority that an advanced trial and recording of witness evidence do not automatically exclude relief under Section 482. *Deepak Gulati v. State of Haryana, AIR 2013 SC 2071*, distinguished a deceitful promise of marriage made at the outset to

induce intercourse from an honestly intended promise subsequently broken, and required consideration of the woman's informed choice and other possible reasons for consent. *Tilak Raj v. State of Himachal Pradesh, AIR 2016 SC 406, was quoted on its own facts involving an adult, mature complainant and a relationship lasting two years, where the evidence did not show that a promise of marriage had induced consent. Uday v. State of Karnataka, (2003) 4 SCC 46*, required scrutiny of the particular facts, rejected a rigid formula, considered awareness that an inter-caste marriage might not take place and the absence of proof of initial deception, and stated the two conditions under Section 90: a misconception and the accused's knowledge or reason to believe that consent resulted from it. Its quoted discussion refers to *State of H.P. v. Mango Ram on* meaningful voluntary choice and to *Rao Har Narain Singh* and *Vijayan Pillai* as approved approaches; these are references within the quotation, rather than separately applied facts. *Abid Ali v. State of M.P.*, MCRC 1363/2016 (18 May 2017), was the coordinate-bench example of voluntary, repeated intimacy despite avoidance of marriage, leading to quashing under Section 376. *Yedla Srinivasa Rao v. State of A.P., (2006) 11 SCC 615*, was also quoted: dishonest intention from the outset, persuasion of a girl of tender age by an assurance of marriage, and fraud causing her consent can vitiate that consent. Age, education, social setting and evidence matter. *Pramod Suryabhan Pawar v. State of Maharashtra*, reported in the order as (2019) SCCC 608, reiterated the requirement of a false intention at the inception of the promise and that the misconception must form the basis of the woman's choice, as distinct from a later breach, drawing on *Deepak Gulati*. *Dr Dhruvaram Murlidhar Sonar v. State of Maharashtra* explained the distinction by reference to a conscious, continuing adult relationship on its own facts and the test of whether allegations disclose an offence at face value. The Court considered these authorities together and applied them to this complainant's subsisting marriage and voluntary relationship.

3. Statutes considered : Section 482 CrPC provided the High Court's inherent power to prevent abuse of process and secure the ends of justice, and was exercised after the charge sheet and progress of the trial. Sections 161 and 164 CrPC concerned the prosecutrix's two recorded accounts; the first included her prior marriage, while the second omitted it. Sections 375 and 376 IPC concerned consent and the alleged rape; Section 90 IPC provided the rule on misconception of fact, including the accused's knowledge or reason to believe that consent resulted from that misconception.

4. Issues : Whether the pending challenge under Section 482 became untenable because a charge sheet was filed shortly afterwards, charges were framed and the prosecutrix apparently examined; whether the complainant's own allegations and statements, considered with the stated circumstances, disclosed that intercourse over eight months rested on consent vitiated by a promise of marriage false from its inception within Section 90, so as to prima facie disclose an offence under Section 376; and whether the whole FIR under Sections 376 and 323 and consequential proceedings should be quashed. The State urged determination of consent at trial, while the petitioner relied on her subsisting first marriage and the absence of coercion.

5. Ratio / Findings : The petition could be considered on its merits despite the intervening charge sheet and progress of the trial. *Satish Mehra*, *Anand Kumar Mohatta* and *Ravikant Dubey* permit examination at those stages of whether the material, taken at face value, prima facie discloses the ingredients of an offence. Intervention remains exceptional, and the material is not weighed to determine guilt. On the Court's reading, the complainant knew that her first marriage remained undissolved and that she could not marry this petitioner while it subsisted. Her repeated visits to his room and intercourse over about eight months were described without coercion or pressure in developing the sexual relationship. The Court held that, in those circumstances, the alleged promise of marriage could not give rise to a misconception of fact under Section 90. Consent was voluntary for the inquiry under Section 376, notwithstanding the alleged subsequent refusal, caste explanation and assault. The precedents required a distinction between a knowingly false promise from the outset that actually induced consent, particularly on the vulnerable facts of *Yedla*, and subsequent inability or unwillingness to marry after a conscious relationship.

6. Relief : The Hon’ble High Court allowed the petition under Section 482. It quashed the FIR in Crime No. 103/2018 at Maharajpura, Gwalior, under both Sections 376 and 323 IPC and all consequential criminal proceedings. This was quashing, rather than

a trial acquittal or a determination of the petitioner's ultimate factual guilt after evidence.

Senjeet Singh v. State of Madhya Pradesh and Others, M.Cr.C. no. 25681/2018, 11/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (860) Prev Next

Headnote :- POCSO minor prosecutrix and closed cross examination - The Court held that the child witness had attended on successive occasions. On 23 October 2021, her examination-in-chief ended around 12:20 p.m., and counsel for the defence had been present during it. The chosen lead advocate did not attend for cross-examination despite repeated calls. His associate sought deferral without giving a reason, although the Court had previously warned that failure to cross-examine on the next date would close that right. Neither the asserted later arrival at 4:20 p.m. nor the accused's claim that counsel acted contrary to instructions required the child to attend again. They could change counsel or complain to the Bar Council. On these facts, closure under Section 309 was upheld and interference under Section 482 refused. The State had invoked POCSO Sections 33 and 35.

Section 309 CrPC, attended witnesses and exceptional adjournment - The Court held that examination from day to day is the norm once witnesses are being examined. Where a witness is present, an adjournment without examination requires special reasons recorded in writing. Under the quoted proviso, absence or non-readiness of a party's pleader permits an appropriate order dispensing with examination. *Vinod Kumar* addressed cross-examination immediately after examination-in-chief and fairness to both sides. *Akil* and *Shambhu Nath Singh* explained the stringent rule applicable when witnesses attend; *Swaran Singh*, *Gurnaib Singh* and *Mohd. Khalid* warned of harassment, influence and misconduct resulting from unjustified deferrals. *Krishnan v. Krishnaveni* emphasised timely public justice. The Court applied these authorities in rejecting the repeated, unexplained obstruction on this record.

Case-note :- ***1. Facts :*** The applicants challenged under Section 482 CrPC the order of the Special Judge (POCSO Act), Bhind, dated 23 October 2021 in ATR No. 41/2020, closing their right to cross-examine the minor prosecutrix. She appeared on 16 September 2021 but could not be examined because of a reference following an advocate's death. She appeared again on 9 October; defence counsel was not ready to cross-examine her, and the trial court warned that failure to do so on the next date would close the right. On 23 October, her examination-in-chief began at noon and ended around 12:20 p.m. The judgment records that counsel for the applicants was present during the examination, but their chosen lead advocate, Neeraj Shrivastava, did not appear to conduct cross-examination despite repeated instructions. His associate insisted that only he would conduct it and later sought deferral without giving a reason. The trial court closed the right under Section 309. The applicants asserted that Shrivastava appeared at 4:20 p.m., sought a final opportunity to avoid irreparable prejudice, and stated that their lawyer had requested adjournments without their instructions. The State opposed the application, relying on the child's repeated attendance, the statutory procedure for a child witness and alleged deliberate obstruction.

2. Precedents — Considered : *Akash Batham and Others v. Santoshi*, CRR 380/2017 (MP High Court, 21 April 2017), was quoted on refusal of an unsubstantiated request for adjournment when a witness attended and counsel, although offered the post-lunch session, persisted in seeking delay. The absence of a Bar Council complaint was noted in that case. *Kuldeep Singh Tomar v. State of M.P.*, MCRC 5816/2018 (8 March 2018), was quoted for the principle that conducting a criminal trial from day to day is the rule and adjournment the exception. *Vinod Kumar v. State of Punjab, (2015) 3 SCC 220*, was extensively quoted: ordinarily, cross-examination should finish on the day examination-in-chief ends, or continue the next day if examination runs late. Departure from Section 309 requires special recorded reasons. Prolonged intervals expose witnesses to pressure and undermine fairness to both the accused and the prosecution. Its quoted discussion incorporates *Gurnaib Singh*, *Talab Haji Hussain*, *Swaran Singh* and *Shambhu Nath Singh*. *Talab Haji Hussain* concerns conduct by the accused that endangers a fair trial within the quoted *Gurnaib* passage; the present judgment also directly quotes *Swaran*, *Gurnaib* and *Shambhu* later. *Akil v. State (NCT of Delhi), (2013) 7 SCC 125*, quoted a Delhi High Court circular summarising the rule of prompt sessions trials under Section 309 and the requirement for special reasons recorded in writing. Kerala practice rules and local administrative targets

appeared within that quotation; they were not imposed as independent directions on the Bhind court. *Krishnan v. Krishnaveni, (1997) 4 SCC 241*, was summarised on public justice and completion of trial before witnesses' memories fade, in view of practices of delay and influence. *Swaran Singh v. State of Punjab, (2000) 5 SCC 668*, was directly quoted on repeated adjournments that exhaust witnesses or expose them to threats and inducements, resulting in a miscarriage of justice. *Gurnaib Singh v. State of Punjab, (2013) 7 SCC 108*, was directly quoted on active control by the trial court, adherence to the statute, and the duties of the Bench and Bar to prevent procrastination. *State of U.P. v. Shambhu Nath Singh, (2001) 4 SCC 667*, was quoted at length on the successive requirements of Section 309: once examination begins, trial must proceed from day to day; postponement beyond the following day requires recorded reasons; and where a witness attends, adjournment without examination requires special reasons in writing. Counsel's convenience alone is not such a reason. *Mohd. Khalid v. State of West Bengal, (2002) 7 SCC 334*, was quoted on the impropriety of deferring cross-examination after examination-in-chief except for compelling reasons. Its passage directly refers to *Shambhu Nath Singh* and quotes *N.G. Dastane v. Shrikant S. Shivde on* advocates' duty to make arrangements and the possibility that repeated dereliction amounts to misconduct. The present judgment applied these authorities to the unexplained delay on this record, without excluding legitimate fair-trial exceptions.

3. Statutes considered : Section 482 CrPC provided the jurisdiction to review the trial order; relief was refused on the record. Section 309(1) CrPC requires continuous proceedings from day to day once examination of witnesses has begun, unless an adjournment beyond the following day is necessary for recorded reasons. The proviso to Section 309(2) concerning witnesses in attendance requires special reasons recorded in writing for adjournment without examining a present witness. The additional provisos quoted restrict adjournments requested by a party to circumstances beyond its control, exclude an advocate's engagement in another court as a ground, and permit recording of the statement and appropriate orders dispensing with examination when a party or counsel is absent or unready. The quoted text also includes a proviso for expeditious rape trials and other limits on remand and sentencing, which were not separately resolved in this case. The State relied on POCSO Act Section 33 concerning examination of a child and Section 35's 30-day period for evidence and completion of trial within one year as far as possible.

4. Issues : Whether Section 482 should be exercised to restore the applicants' right to cross-examine after repeated attendance of the minor prosecutrix, a prior warning, completion of examination-in-chief and an unexplained failure of their chosen lead counsel to attend for cross-examination; how Section 309's requirements for proceedings from day to day and examination of witnesses in attendance applied to the request for a final defence opportunity; and whether blaming counsel or his asserted arrival at 4:20 p.m. justified requiring the child to attend again. The issue concerned management of this trial, rather than guilt, the content or credibility of the child's testimony, or a general waiver of the right to defend.

5. Ratio / Findings : In light of the quoted Section 309 and the Supreme Court authorities considered, a court should examine a witness who attends rather than routinely defer cross-examination. Once examination has begun, expedition is the rule; adjournment without examining a present witness requires genuine special reasons recorded in writing. The chosen lawyer's failure to appear when required, his associate's unexplained request and the earlier non-readiness despite a warning were insufficient here. The accused could not require the minor prosecutrix to attend repeatedly through such tactics. If counsel acted against their instructions, they could replace him or approach the Bar Council; that assertion alone did not override the child's interest or establish error in the closure order. The Court held that where an oblique request to defer cross-examination is designed to defeat the purposes of a criminal trial, the accused or counsel are responsible for the resulting closure. On the conduct in this case, it found no basis to interfere. The State's submissions on the POCSO timelines remained distinct from the Court's analysis under Section 309.

6. Relief : The Hon’ble High Court dismissed the application under Section 482. The order dated 23 October 2021 closing the applicants' right to cross-examine the prosecutrix remained undisturbed.

Shadab Ansari and Others v. State of Madhya Pradesh, M.Cr.C. no. 47659/2022, 12/12/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (861) Prev Next

Headnote :- Section 498-A, non-dowry cruelty and ritual-related assault - The Court held that the complaint specifically alleged that the husband, his younger brother and his mother had filthily abused the wife and assaulted her with fists and blows, causing injuries, because her family had not organised the Hath Dhulai ritual. Even if a demand to perform that ritual were not a dowry demand within Explanation (b), Section 498-A Explanation (a) separately covers wilful conduct likely to cause grave injury or danger to mental or physical health.

Civil restitution notice and criminal proceedings - The Court held that the husband's notice for restitution of conjugal rights, issued before the FIR, did not by itself establish that the complaint was false and retaliatory. *Kishan Singh*, *Syed Askari Hadi Ali Augustine Imam* and *Prem Raj* were considered on the different standards of proof in civil and criminal proceedings and the absence of automatic binding force between findings in the two proceedings, subject to the rules on relevance and limited conclusiveness in Evidence Act Sections 40–43 and any exception arising in the particular case. The *Karam Chand* formulation quoted in *Prem Raj* was explained in light of later Constitution Bench law and was not adopted as an unqualified rule. *Pratibha* confirms that civil matrimonial proceedings alone do not warrant quashing an FIR that discloses a prima facie offence.

Face-value Section 482 assessment - The Court held that the denial of the incident, the claimed absence of external injury and the assertion that the FIR was a counterblast raised matters requiring evidence. A specific allegation of assault by all three applicants could not be disbelieved by conducting a mini trial under Section 482. *Pratibha* precludes quashing on extraneous considerations when the FIR itself discloses an offence. The application to quash Crime No. 136/2023 under Sections 294, 323, 498-A and 34 IPC and the pending criminal proceedings was dismissed.

Case-note :- ***1. Facts :*** Shahnawaz Ansari, the complainant's husband, his younger brother and his mother applied under Section 482 CrPC to quash FIR No. 136/2023, registered at Police Station Ranjhi, Jabalpur, under Sections 294, 323, 498-A and 34 IPC, and the pending RCT No. 8204/2023 before the JMFC. A charge sheet had been filed. The wife alleged that, since her marriage about eight months earlier, all three had treated her cruelly and pressed her parents to arrange a Muslim ritual called Hath Dhulai. She alleged that, on 25 February 2023 around 8 p.m., all three abused her over that issue and struck her with fists and blows, injuring her back, neck and left wrist. The applicants submitted that the accusations were false and that no external injury had been found. They contended that the FIR was a counterblast because it followed a notice in the husband's proceeding for restitution of conjugal rights, and that a request to perform a ritual could not amount to a dowry demand.

2. Precedents — Considered : *Kishan Singh (Dead) through LRs v. Gurpal Singh, (2010) 8 SCC 775*, was quoted on the different standards of proof —preponderance of probabilities in civil proceedings and proof beyond reasonable doubt in criminal proceedings—and the ordinary absence of binding force between findings in the two proceedings. It expressly qualified that principle by recognising that prior judgments may be relevant under Sections 41–43 of the Evidence Act. The excerpt directly invoked *Iqbal Singh Marwah v. Meenakshi Marwah on the* different burdens of proof. It also explained that *Syed Askari Hadi Ali Augustine Imam* had treated the broad *Karam Chand* position as inconsistent with the Constitution Bench decision in *M.S. Sheriff* and the later decisions in *K.G. Premshanker* and *Vishnu Dutt Sharma*. The present Court relied on this line of authority to reject an automatic bar arising from civil proceedings. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Admn.), (2009) 5 SCC 528*, was separately quoted at length. Its passage from *K.G. Premshanker* states that a prior judgment may be relied on where Evidence Act Sections 40–43 make it relevant; a Section 41 judgment has the conclusive force prescribed by that provision; res judicata may govern civil suits; and CrPC Section 300 governs a retrial after a conviction or acquittal that satisfies its conditions. Relevance and effect depend on the particular case; there is no absolute exclusion. The decision rejects automatic binding force in either direction and notes the residual exclusion under Section 43 and its exceptions. Its longer excerpt from *Iqbal Singh Marwah* concerns court complaints under Sections 340/341/343 CrPC, delays arising from civil appeals and the different standards of proof. *P. Swaroopa Rani* was quoted there for the proposition that civil and criminal proceedings may continue simultaneously, with any stay depending on the circumstances. The present judgment applied the

principle that the proceedings are independent and that findings in one are not automatically binding in the other. *Prem Raj v. Poonamma Menon*, the Supreme Court decision of 2 April 2024 in SLP (Cr.) 9778/2018, was also quoted. The passage first records counsel's reliance on the older formulation in *Karam Chand* that civil findings bind criminal courts. It then refers to *Vishnu Dutt Sharma* and *Satish Chander Ahuja* on the later law and treats the Constitution Bench reasoning in *Iqbal Singh Marwah* as settling the different burdens of proof and the absence of automatic final or binding effect. The discussion of *M.S. Sheriff* within that excerpt favours timely criminal proceedings in the public interest, while expressly rejecting a hard-and-fast rule of priority and recognising the special circumstances of a particular case. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, was directly quoted: a matrimonial FIR cannot be quashed under Section 482 on extraneous inferences about delay or the husband's filing of civil divorce proceedings when its allegations disclose a prima facie offence. The complainant's attempts at settlement explained the delay in that case. This Court applied *Pratibha* to reject the applicants' counterblast contention, which required consideration of evidence, and their attempt to disbelieve the allegation of assault.

3. Statutes considered : Section 498-A IPC and its Explanation were reproduced. Clause (a) covers wilful conduct of the specified seriousness that is likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. Clause (b) separately covers harassment to coerce compliance with an unlawful demand for property or valuable security, or harassment because of non-fulfilment of that demand. The Court reasoned that the alleged beating over the ritual could constitute cruelty despite the applicants' denial of a dowry demand. Section 482 CrPC governed the limited review for quashing on the basis of uncontroverted allegations, a charge sheet having already been filed. Evidence Act Sections 40–43 were discussed through the Supreme Court authorities as qualifications governing the relevance and conclusiveness of prior judgments. Section 41, in particular, can give a qualifying judgment the conclusive effect prescribed by that provision. The husband asserted that he had instituted proceedings for restitution of conjugal rights.

4. Issues : Whether the alleged assault on the wife over Hath Dhulai could disclose cruelty under Section 498-A when the applicants asserted that the ritual was not dowry; whether a prior notice for restitution of conjugal rights and civil matrimonial proceedings established that the FIR was a false counterblast or legally barred prosecution; and whether the applicants' denial of the incident and submission that there was no external injury permitted quashing of the FIR and the pending criminal case. The Court assessed whether the allegations, taken at face value, met the threshold for proceeding, leaving proof of the facts and individual offences to trial.

5. Ratio / Findings : Section 498-A Explanation (a) operates independently of the harassment linked to a demand under Explanation (b). The Court described an assault on a woman over non-performance of Hath Dhulai as causing mental injury and applied that reasoning to the specific allegations of abuse and beating by the three applicants. It was not necessary to classify the ritual as dowry to reject the challenge at this stage. Civil and criminal cases are decided on their own evidence and under different standards of proof. Neither the husband's notice for restitution of conjugal rights nor a presumption of retaliation based on the timing displaced the FIR. The cited Supreme Court decisions preserved the statutory relevance of certain prior judgments under Evidence Act Sections 40–43. Here, however, the applicants relied on a proceeding and notice rather than a binding determination. *Pratibha* also cautioned against reliance on extraneous material and findings on credibility in a Section 482 review. The claimed absence of external injury and the assertion that no incident had occurred raised disputed questions of fact, whereas the FIR specifically alleged that each applicant had assaulted the wife. On the uncontroverted allegations, the Court found no basis for quashing.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. FIR No. 136/2023 and the related charge-sheet proceedings in RCT No. 8204/2023 continued; criminal liability was not finally determined.

Shahnawaz Ansari and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 43223/2023, 08/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (862) Prev Next

Headnote :- Section 482, disputed defence and document exception - The Court held that a quashing petition could not determine whether the complainant had falsely accused her in-laws, used a phone late at night or been assaulted. The Jio usage statement was in her husband's name and did not establish that she had used the phone. The husband's ownership of an industry and the parents' age or occupation did not confer immunity. It was not shown that the finding in proceedings for maintenance under Section 125 CrPC governed the Section 498-A prosecution. *XYZ*, *S. Martin*, *Ajay Kumar Das*, *Gourishetty Mahesh*, *M. Srikanth*, *Arvind Khanna* and *Kunwar Singh* were relied on for the limits of review on allegations taken at face value and the prohibition against a mini trial. *Mohd. Akram Siddiqui* permitted consideration, in an appropriate case, of a defence document that was public or whose veracity the complainant did not dispute.

Section 498-A, cruelty independent of dowry - The Court held that cruelty through wilful conduct under Explanation (a), affecting mental or physical health, does not depend on a dowry demand under Explanation (b). The wife's specific allegations of food deprivation, abuse, assault, humiliation over the children's fees and eviction supported prosecution of her husband and his parents at the prima facie stage. Drawing on *Meera* and *Taramani Parakh*, the Court rejected automatic leniency because the mother-in-law was elderly or the father-in-law was an advocate. The truth of disputed allegations remained for trial.

Omnibus case against married sister-in-law and accused-wise relief - The Court held that the collective allegations naming Nazia Khan did not specify an act of her own sufficiently to require her to face trial. The narrow power to quash on allegations taken at face value, explained in *Satish Mehra*, and the caution against over-implication in *Kans Raj*, *Monju Roy* and *Chandralekha*, applied according to the facts, supported quashing for her alone. The FIR in Crime No. 04/2021 and the consequential trial were quashed as to Nazia. The Section 498-A/34 prosecution against Shahnaz Ahmed, Iqbal Ahmed and Ashfaq Ahmed continued, and the interim order was vacated.

Case-note :- ***1. Facts :*** The four applicants were the complainant's mother-in-law Shahnaz Ahmed, father-in-law Iqbal Ahmed, married sister-in-law Nazia Khan and husband Ashfaq Ahmed. They applied under Section 482 CrPC to quash the FIR dated 24 August 2021 in Crime No. 04/2021, Mahila Thana, Narsinghpur, and the consequential proceedings. The complainant stated that she had married Ashfaq on 1 November 2007 and had two children. She alleged recurring harassment from March 2019, including disputes over household work, food deprivation, physical assault, filthy abuse and expulsions from the home. When she sought money for school fees, she was allegedly insulted. Her husband moved with her and the children to Gadarwara in October 2020. She described an incident on 16 July 2021, as her in-laws prepared to go to Bhopal, involving abuse, assault and her expulsion from the home. Her brother then took them to Kareli. She explained that she had delayed reporting because she did not want to spoil her family life. The applicants denied the allegations. They relied on the parents' ages of about 64 and 71 and asserted that they lived separately. They submitted that Nazia had married in 2003, had two children and lived about 200 km away. They challenged the complainant's character and alleged late-night phone use, contended that the husband's industry enabled him to meet the school fees, denied any dowry demand and insisted that a preliminary enquiry should have been held. The State and the complainant opposed the application. These defence assertions were disputed and were not accepted as established facts.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337,* disapproved premature quashing through a roving inquiry into disputed coercion and settlement. Its investigative context concerning a sexual offence was relied on by analogy against resolving the truth of this complainant's allegations. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, rejected a premature assessment of the merits during investigation. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, reiterated the warning in Bhajan Lal that inherent powers to quash must be exercised sparingly and do not permit an inquiry into the reliability of the FIR. Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, stated the ordinary bar against weighing an accused's defence documents, while preserving an exception in an appropriate case for a public document or one whose veracity the complainant does not dispute. State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, balanced protection from baseless prosecutions against the need to avoid stifling legitimate cases. Absence of an offence on allegations taken at face

value, a legal bar or sufficient material showing malicious use of process may justify exceptional quashing; weighing disputed evidence does not. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, described the power to quash when even the accepted allegations and supporting evidence fail to disclose an offence. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, rejected a detailed adjudication of a disputed defence under Section 482 after cognizance. *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021 (30 June 2021), rejected meticulous scrutiny resembling a trial and stated that the FIR is not an encyclopedia. Paragraph 16 also listed *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha*. These authorities supported the Court's prima facie assessment of the case against the parents and husband and its refusal to accept their disputed personal explanations. *Meera v. State by Inspector of Police, Criminal Appeal 31/2022 (11 January 2022), was invoked on the duty of a mother-in-law and her family to care for a daughter-in-law rather than harass her over jewels or other issues. Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was quoted in support of continuing a prosecution against a husband and his parents on sufficiently stated allegations of cruelty despite factual disputes, while distinguishing distant relatives against whom individual material was lacking. The quoted passage referred to *Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* on the established standard for quashing. The detailed dowry complaint reproduced in that authority concerned its own facts. *Satish Mehra v. State (NCT of Delhi), (2012) 13 SCC 614, was quoted on the exceptional power under Section 482 to assess allegations at face value, including after charges have been framed.* Its excerpt included the categories in *Kapur* concerning a legal bar, non-disclosure of an offence and abuse of process; the power to secure the ends of justice explained in *L. Muniswamy*; and the requirement of judicial scrutiny before framing a charge in *Century Spinning*. *Ravikant Dubey v. State of M.P., 2014 Cr.L.R. (M.P.) 162, was quoted as a coordinate-bench decision that the progress of a trial and examination of witnesses do not by themselves defeat maintainability. Kans Raj v. State of Punjab, (2000) 5 SCC 207*, warned against finding guilt from close relationship or conjecture in dowry-death cases. Its trial context required proof beyond reasonable doubt, distinct from the present inquiry into whether the allegations, taken at face value, justified proceedings. *Monju Roy v. State of W.B., (2015) 13 SCC 693*, required a tangible individual role for distant relatives and careful scrutiny, while cautioning against weighing a matrimonial complaint in golden scales. It quotes *Kans Raj* and *Raja Lal Singh*, the latter in turn referring to *Kamesh Panjiyar. Chandralekha v. State of Rajasthan*, cited in the order as *2013 (1) UC 155*, quashed very general accusations against relatives, including a married sister-in-law, on its facts of long delay and uncertainty about co-residence. The present Court applied its concern about specificity to Nazia; the six-year delay discussed in *Chandralekha* concerned that case, not this FIR. These last authorities supported distinguishing her position from the more particular allegations against the other three applicants.

3. Statutes considered : Section 482 CrPC governed the inherent jurisdiction to quash, to be exercised sparingly on the FIR's uncontroverted allegations rather than through a trial of disputed facts. Section 498-A IPC and its Explanation were reproduced. Clause (a) covers wilful conduct of the specified seriousness that is likely to drive a woman to suicide or cause grave injury or danger to her life, limb or mental or physical health. It operates independently of clause (b), which concerns harassment over an unlawful demand for property or valuable security. The Court expressly held that a dowry demand is not a sine qua non for cruelty under clause (a).

4. Issues : Whether the specific allegations of household deprivation, abuse, assault, humiliation over school fees and eviction disclosed cruelty under Section 498-A by the husband and his parents without a dowry demand; whether the defences based on personal history, age, occupation, separate residence and the usage bill could be resolved under Section 482; whether an adverse finding in maintenance proceedings controlled the distinct criminal prosecution; and whether the married sister-in-law's inclusion without a specific act satisfied the prima facie threshold as to her. The Court had to distinguish disputed matters requiring proof at trial from the absence of sufficiently particular allegations of an offence.

5. Ratio / Findings : The Court assessed the allegations at face value under Section 482 and rejected a mini trial of credibility. The husband's Jio usage statement identified him as the subscriber and did not establish that the wife had made the alleged

late-night calls. His ownership of an industry did not rule out cruelty. The parents' admitted travel to Bhopal neither established nor disproved the alleged incident, and age or membership of the legal profession conferred no immunity. The Court's rhetorical question as to why a wife would make a false report after fourteen years formed part of its preliminary assessment; it did not create a legal presumption of truth or determine credibility finally. Section 498-A clause (a) can apply to sufficiently grave harm to mental or physical health without a dowry demand under clause (b). There were sufficiently specific allegations against the husband and his parents to require a trial. It was not shown that the adverse Section 125 finding bound the criminal case against the sister-in-law. She was, however, discharged on a separate ground: the allegations of her own role remained collective and general. Her marriage and residence elsewhere were matters asserted by the defence. *Kans Raj*, *Monju Roy*, *Chandralekha* and *Satish Mehra* supported the narrow exercise of the power to quash after assessing her individual position. All relatives, and all applicants, could not be treated alike when the specificity of the allegations against them differed.

6. Relief : The Hon'ble High Court quashed the FIR in Crime No. 04/2021 and the consequential criminal trial only as to applicant No. 3, Nazia Khan, who was discharged. The applications of applicants Nos. 1, 2 and 4—Shahnaz Ahmed, Iqbal Ahmed and Ashfaq Ahmed—were dismissed, and their prosecution under Section 498-A/34 IPC was directed to continue. The interim order dated 21 October 2021 was vacated.

Shahnaz Ahmed and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 49017/2021, 11/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (863) Prev Next

Headnote :- Article 226 petition to compel FIR registration - The petitioner sought a direction to the police to register an offence on his complaint. The Court held that filing a criminal complaint before the competent Magistrate was an efficacious alternative remedy and dismissed the writ petition with liberty to file such a complaint. *Divine Retreat Centre*, through its discussion of *Gangadhar Janardan Mhatre*, directs a complainant alleging police inaction to the remedies under Sections 190 and 200 CrPC. It preserves the power to issue directions under Article 226 in the rarest cases where investigation powers have been exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII is established. Even then, the Court may insist on compliance with the lawful process but cannot direct how the investigation is to be conducted. The Division Bench decision in *Shweta Bhadauria* similarly permits refusal of mandamus under Section 154 where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four alternative-remedy exceptions recognised in *Whirlpool*. It distinguishes the question of the duty to register an FIR in *Lalita Kumari* from an entitlement to seek writ mandamus directly.

Case-note :- ***1. Facts :*** In Writ Petition No. 19988/2022 under Article 226, Shailendra Rajput sought a direction to the respondent authorities to register an FIR on his complaint, together with any other appropriate relief. State counsel objected to maintainability on the ground of an alternative remedy, citing *Sakiri Vasu*, *Aleque Padamsee*, *Divine Retreat Centre* and the Madhya Pradesh Division Bench decision in *Shweta Bhadauria*. The Court framed the question whether an Article 226 petition seeking registration of an FIR was tenable. It quoted *Divine Retreat Centre* and *Shweta Bhadauria* and found that the petitioner could file a criminal complaint before the competent court.

2. Precedents — Considered : The Court quoted the Supreme Court decision in *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*. Paragraphs 41–42 distinguish the rare exercise of Article 226 power at the instance of an aggrieved person, where the High Court is convinced that investigation powers have been exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII CrPC is established, from an ordinary case of police inaction on information received. Even in such a rare case, the writ court may insist on observance of the statutory process but cannot direct the manner of investigation. The quoted passage relies *on Gangadhar Janardan Mhatre v. State of Maharashtra*: following police inaction, the complainant may invoke Sections 190/200 before the Magistrate, who may examine the complaint, dismiss it under Section 203 if no offence is disclosed, issue process where warranted or direct investigation in accordance with the statutory procedure. The Court also quoted *Shweta Bhadauria*

v. State of M.P., Writ Appeal 247/2016, a Madhya Pradesh Division Bench decision. It permits refusal of mandamus to compel the police to register an FIR under Section 154 when the informant has not used the alternative remedies under Sections 154(3), 156(3), 190 and 200, unless one of the four recognised exceptions in *Whirlpool Corporation v. Registrar of Trade Marks* applies. *Lalita Kumari v. Government of U.P.* concerns the duty to register information disclosing a cognizable offence; it does not confer an automatic right to bypass alternative remedies and obtain writ mandamus.

3. Statutes considered : Article 226 of the Constitution was invoked as the basis of public-law jurisdiction. Its exceptional exercise remained available under the rule quoted from *Divine Retreat Centre*, although relief was refused here because filing a criminal complaint was an efficacious remedy. CrPC Sections 154(3) and 156(3) provide the alternatives of recourse to a superior police officer and a Magistrate's direction for investigation, as discussed in *Shweta Bhadauria*. Sections 190 and 200 govern a complaint to a Magistrate following police inaction. The quoted discussion of *Gangadhar* also refers to enquiry under Chapter XV, investigation under Chapter XII and dismissal under Section 203 if the material discloses no offence.

4. Issues : Whether the Court should entertain a direct petition under Article 226 for mandamus to register an FIR despite the available statutory remedies of complaint and investigation; and whether, on the facts pleaded, the cited exceptional public-law power displaced the restraint arising from an alternative remedy.

5. Ratio / Findings : The Court considered a criminal complaint before the competent Magistrate an efficacious remedy. Applying *Divine Retreat Centre* and the binding Division Bench decision in *Shweta Bhadauria*, it declined to entertain the writ petition. Ordinary police inaction is addressed through the specified statutory remedies. An Article 226 direction remains possible in the clear, exceptional circumstances of mala fide investigation, abuse of power and noncompliance with the statutory process. Such a direction must require observance of lawful process and cannot prescribe how the investigation is to be conducted.

6. Relief : The Hon'ble High Court dismissed the writ petition with liberty to file a criminal complaint before the competent court. It issued no direction to register an FIR or conduct a police investigation.

Shailendra Rajput v. State of Madhya Pradesh and Others, W.P. no. 19988/2022, 03/09/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (864) Prev Next

Headnote :- Section 340 CrPC and distinct collateral prosecution direction - The Court held that, under *Pritish*, a court may consider a complaint under Section 340 for an apparent offence affecting its proceedings if an inquiry is expedient in the interests of justice. Neither a preliminary enquiry nor a hearing of the proposed accused is mandatory at that initial stage; guilt is determined in the subsequent proceedings before the Magistrate. Here, the trial judge instead directed the police to register an offence over the allegedly mala fide municipal demolition and conspiracy, rather than making a complaint about false evidence given in court. Section 340 did not justify that unrelated direction after the earlier order summoning additional accused under Section 319 had been quashed.

Trial scope, public-servant demolition and Section 99 - The Court held that the trial for murder and attempted murder arising from shots fired during an official demolition did not determine the validity of the demolition order. The municipal personnel acted under an existing order that had not been separately challenged. The qualified restrictions in Section 99 on private defence against acts of public servants done in good faith undermined the trial judge's collateral premise that the demolition necessarily justified the shooting. As the State's appeal against the shooters' acquittal was pending, the High Court confined relief to the unauthorised directions and did not decide the merits of that appeal.

Judicial strictures against witnesses and non-parties - The Court held, on the authorities of *Niranjan Patnaik*, *Manish Dixit*, *Amar Pal Singh*, *State of Gujarat v. R.A. Mehta and Om Prakash Chautala*, that damaging remarks must be supported by the record, necessary for deciding the case and preceded by an opportunity for the affected person to explain. The trial judge revived a theory on which an order under Section 319 had already been quashed and issued criminal and departmental directions against officials and witnesses outside the charges being tried. The reasoning of the same-day companion order was expressly incorporated. Paragraphs 77, 79 and 80 of the trial judgment dated

21 February 2018 were set aside as against Shailendra Shukla, and his Section 482 application was allowed.

Case-note :- ***1. Facts :*** Shailendra Shukla's MCRC No. 10066/2018 was decided as expressly covered by the same-day order in MCRC No. 9246/2018. The present judgment reproduces that order's complete reasoning in 26 paragraphs. In the companion case, Anand Singh Parihar challenged paragraphs 77, 79 and 80 of the judgment dated 21 February 2018 passed by the 3rd Additional Sessions Judge, Rewa, in Sessions Trial 382/2014. On 26 July 2014, a municipal team had arrived to demolish a dilapidated house in Rewa pursuant to a demolition order. Rajbhan Singh allegedly fired shots during the drive, injuring Neeraj Singh and fatally shooting Rajlallan Singh. Rajbhan and Ranveer were prosecuted under Sections 302/307 read with 34 IPC and an Arms Act provision. The trial court had earlier exercised Section 319 to summon municipal officials and others as accused for alleged conspiracy and abetment in the events surrounding the demolition. The High Court quashed that order on 15 December 2017 in Criminal Revision 3463/2017. The subsequent trial judgment acquitted the shooters but asserted that the allegedly mala fide demolition and conspiracy with the deceased had provoked the exercise of private defence. It directed the police to register offences under IPC Sections 452, 429, 325, 119, 120-B and 109 against officials and witnesses, including Anand and Shailendra, and also directed departmental action. Meanwhile, on 20 March 2023, the State obtained leave to appeal the acquittal in Criminal Appeal 4450/2023. The High Court expressly refrained from deciding the merits of that appeal. Adopting the companion order's reasoning, it granted the present petitioner the same relief from the same impugned paragraphs.

2. Precedents — Considered : *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, was extensively quoted in the companion order on CrPC Sections 195(1)(b), 340 and 341. A preliminary enquiry under Section 340 is discretionary. The central requirement is the court's opinion that an inquiry into an apparent offence affecting its proceedings is expedient in the interests of justice; even that opinion does not make a complaint automatic. The proposed accused need not be heard before the complaint is made, but has a right to be heard during the ensuing pre-trial procedure before the Magistrate under Sections 238 –240 and may appeal under Section 341. *Pritish* includes the Constitution Bench's caution in *M.S. Sheriff* against expressing an opinion on guilt at the stage of deciding whether to make a complaint. The High Court explained this procedure for offences involving false evidence in court and distinguished the actual direction concerning demolition, which neither made a Section 340 complaint nor found that false evidence had been given (incorporated paragraphs 9–12). *Niranjan Patnaik v. Shashibhusan Kar, (1986) 2 SCC 569*, reproduced the three questions in *State of U.P. v. Mohammad Naim* that govern disparaging judicial remarks: whether there was an opportunity to explain, whether the evidence supported the remarks and whether they were necessary for deciding the case. Fairness and restraint must accompany judicial independence. *Manish Dixit v. State of Rajasthan, (2001) 1 SCC 596*, required an opportunity to be heard before castigating remarks carrying serious consequences were made. *Amar Pal Singh v. State of U.P., (2012) 6 SCC 491*, concerned intemperate remarks against a judicial officer, institutional credibility and the superior court's measured corrective role. The Court drew on its principle of restraint. *State of Gujarat v. Justice R.A. Mehta* was also considered on judicial restraint. *Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SCC 417*, addressed reputation under Article 21 and the requirement of audi alteram partem before damaging judicial comments. Its excerpts quote *Teesta Setalvad* on persons who were not made parties and the threefold test in *Mohammad Naim*. These authorities supported the conclusion that the trial judge's collateral strictures and directions for prosecution and departmental action were unwarranted and beyond jurisdiction. They did not displace the specific rule in *Pritish* that a hearing is not required before a Section 340 complaint is made.

3. Statutes considered : Section 482 CrPC provided the basis for invoking inherent jurisdiction in the present and companion cases to remove the unauthorised directions. Section 319 CrPC had been used to summon additional accused in the trial, but that order had already been reversed in revision; the test under that provision was not reconsidered. Sections 195(1)(b), 340 and 341 CrPC govern the limited procedure for a court complaint concerning offences affecting the administration of justice, the opinion on expediency, the optional preliminary enquiry and the appeal. The later procedure before the Magistrate was discussed through Sections 238–

243 and 343. The companion order discusses apparent false-evidence offences under IPC Sections 192–196 and then states that the trial order was not a complaint concerning Sections 193–196. Section 99 IPC was reproduced, including the restrictions on private defence against a public servant's act done in good faith under colour of office where no serious apprehension arises, the opportunity to seek protection from public authorities, the limit on harm inflicted and the explanations concerning knowledge and authority. IPC Sections 302, 307/34 and Arms Act Section 28 concerned the separate trial of the shooters and the pending appeal. The proposed registration under IPC Sections 452, 429, 325, 119, 120-B and 109 was the collateral direction set aside.

4. Issues : Whether, in its judgment acquitting the accused in the shooting case, the trial court could direct prosecution and departmental action against municipal officials and witnesses over the demolition when the Section 319 summoning order had already been quashed and the demolition issue was outside the charges tried; how the proper procedure under Section 340 for a complaint concerning an offence affecting court proceedings differed from the actual direction to register an offence with the police; whether the official demolition order and Section 99 supported the trial judge's collateral premise of private defence and conspiracy; and whether adverse findings against affected non-parties met the requirements of necessity, evidence and opportunity to explain. The merits of the State's appeal against acquittal were left open.

5. Ratio / Findings : *Pritish* establishes that a court may make a complaint under Section 340 without a mandatory preliminary enquiry or prior hearing of the proposed accused if it forms the statutory opinion on expediency, subject to safeguards in the proceedings before the Magistrate. The trial judge did not follow that procedure. Instead, he directed prosecution over demolition conduct outside the charges in the shooting case, after the order summoning the officials under Section 319 had already been quashed. The municipal team was carrying out an existing official order that had not been invalidated in the proper forum. The murder trial could not serve as a collateral review of that municipal decision. Referring to Section 99, the Court found no basis on the record for treating the officials as acting in bad faith or for treating the demolition as conferring a right of private defence so as to proceed against the witnesses. It refrained from deciding whether the shooters had been rightly acquitted because the State's appeal was pending. The Court also found untenable the supposed conspiracy between the deceased and the officials to create the circumstances of his own fatal shooting; other tenants had vacated without resistance. Independently of the defect in the direction for prosecution, harmful judicial comments require an opportunity to explain, evidentiary support, necessity and restrained expression. The unauthorised criminal and departmental directions disregarded the earlier revision order and exceeded the proper scope of the trial.

6. Relief : The Hon'ble High Court allowed the present Section 482 application. Expressly incorporating the reasoning and relief in MCRC 9246/2018, it set aside the directions against Shailendra Shukla in paragraphs 77, 79 and 80 of the judgment dated 21 February 2018 in Sessions Trial 382/2014. The companion order set aside the directions for criminal prosecution and departmental action against Anand and others. The pending State appeal against the shooters' acquittal remained undetermined.

Shailendra Shukla v. State of Madhya Pradesh and Others, M.Cr.C. no. 10066/2018, 28/06/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (865) Prev Next

Headnote :- Successive bail appeal — intervening evidence and provisional assessment - The Court allowed the fifth appeal for bail under Section 14-A(2) of the SC/ST Act after the prosecutrix had been examined and had not supported the prosecution, and a newly received DNA report had not detected the appellant's profile on the vaginal slide or other incriminating articles. The State fairly acknowledged both developments. Considering them, the allegations and the appellant's custody since 31 January 2021, the Court ordered his release without deciding the merits of the trial.

Pandemic decongestion — Article 21 and individual release - The Supreme Court's orders dated 23 March and 7 April 2020 in *In Re: Contagion of COVID 19 Virus in Prisons*, Suo Motu W.P.(C) 1/2020, were quoted and applied. The first addresses Article 21 and prison overcrowding by directing State and Union Territory High Powered Committees to determine appropriate categories for

parole or interim bail, having regard to the offence, sentence and other relevant factors. Its reference to offences punishable with imprisonment up to seven years is illustrative and creates neither an automatic exclusion nor an entitlement. The second requires arrangements to ensure that released prisoners are not stranded, including transport or temporary shelter. The High Court directed a medical examination, a COVID test if advised by the doctor, appropriate treatment if the appellant tested positive, and arrangements by the local administration for his return home if cleared.

Victim intimation and release conditions - The complainant had been informed of the appeal under Section 15-A of the SC/ST Act but did not appear. In light of *Aparna Bhat v. State of M.P.*, Criminal Appeal 329/2021, decided on 18 March 2021, the Court directed that she be informed of the grant of bail. Release required a personal bond of Rs 1,00,000 with a surety in the same amount, an undertaking to comply with COVID directions, compliance with the other conditions under Sections 437/439 CrPC and supply of a copy of the order to the police station having jurisdiction. The order provided that breach or bail jump would cause it to cease to have effect and expressly directed the police to take the appellant back into custody in the circumstances specified.

Case-note :- ***1. Facts :*** Shakeel Khan was arrested on 31 January 2021 in Crime No. 18/2021 at Police Station Pohri, Shivpuri, for alleged offences under Sections 376 and 506 IPC and the SC/ST (Prevention of Atrocities) Act provisions listed in the order as Sections 3(1)(va), 3(2)(5), 3(1)(w)(2) and 3(5a). The Special Judge, Atrocities, Shivpuri, rejected bail on 5 February 2021. The fourth statutory appeal had been dismissed on 13 July 2021 in CRA 3842/2021; CRA 5115/2021 was the fifth appeal under Section 14-A(2). The complainant was informed of its pendency under Section 15-A but did not appear. State counsel appeared, and the case diary was available. The appellant relied on developments since the previous bail decision: the prosecutrix had been examined at trial and had turned hostile, and a DNA report showed no profile of the appellant on the vaginal slide or other incriminating articles. Counsel also urged that the trial was likely to be delayed, that there was no risk of absconding or tampering and that the appellant remained in custody. State counsel opposed bail but, after reading the testimony and DNA report, conceded those developments in the evidence. The High Court considered the second wave of COVID-19, cited two Supreme Court orders on contagion in prisons and granted conditional release on 9 September 2021.

2. Precedents — Considered : The Supreme Court's order dated 23 March 2020 in *In Re: Contagion of COVID 19 Virus in Prisons*, Suo Motu W.P.(C) No. 1/2020, was reproduced in material part. Having regard to Article 21 and the danger posed by prison overcrowding during COVID-19, the Supreme Court directed every State and Union Territory to constitute a High Powered Committee comprising the chair of the State Legal Services Committee, a senior Home/Prison official and the Director General of Prisons. The committee was to determine the categories of prisoners who might be released on parole or interim bail and the duration of release. The quoted order refers, by way of illustration, to prisoners convicted or under trial for offences punishable with imprisonment up to seven years. It then leaves the categories to the committee, having regard to the nature and severity of the offence, the sentence or charge and other relevant factors. The High Court considered decongestion during the second wave alongside the appellant's custody and the developments in the evidence.

The Supreme Court's further order dated 7 April 2020 in the same suo motu case was separately quoted. It required Union and State authorities to ensure that released prisoners were not stranded, provide transport home or the option of temporary shelter during lockdown, and arrange safe transit through the Directors General of Police. The Union could issue directions under the Disaster Management Act, 2005 or other law. The High Court gave effect to that order by requiring a medical examination before release, a test if advised by a doctor, hospital treatment if the appellant tested positive, and arrangements to take him home if no infection was suspected or his test was negative. *Aparna Bhat and Others v. State of M.P.*, Supreme Court Criminal Appeal No. 329/2021, decided on 18 March 2021, was invoked for intimation of the grant of bail to the complainant.

3. Statutes considered : Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act governed the appeal against the Special Judge's refusal of bail. Section 15-A concerned notification to the complainant. The State stated that she had been informed of the appeal, and a separate intimation after the bail order was directed. Sections 437 and 439 CrPC were referred

to for the ordinary bail conditions. Article 21 of the Constitution underlies the Supreme Court's quoted direction on safety in prisons during COVID. The Disaster Management Act, 2005 was mentioned in the quoted safe-transit order as a possible basis for Union directions.

4. Issues : Whether the fifth appeal for bail warranted a different provisional outcome after the prosecutrix's trial testimony and the DNA report, despite dismissal of the fourth appeal and the serious offences registered; how custody and prison decongestion during the second wave should be considered in that individual assessment; and what steps for safe release, compliance and intimation to the complainant should accompany any grant.

5. Ratio / Findings : The developments identified by the Court went beyond a repetition of the earlier bail arguments. The prosecutrix had since been examined and had not supported the prosecution, and the DNA profile of the appellant was not found on the identified exhibits. The State conceded those facts after examining the material. The Court considered the allegations and detention since 31 January 2021 and expressly weighed the need to decongest prisons during the second wave of COVID, citing the Supreme Court's committee direction based on Article 21. Its pandemic-related assessment concerned the custodial risk at that time. The Supreme Court's further direction on transit formed the basis of the medical examination, testing, hospital and transport conditions. Section 15-A and *Aparna Bhat* accounted for intimation to the complainant. The provision that breach would cause the order to cease to have effect was an express condition imposed in this case.

6. Relief : The Hon'ble High Court allowed the fifth appeal for bail under Section 14-A(2) of the SC/ST Act.

Shakeel Khan v. State of Madhya Pradesh and Others, Cr.A. no. 5115/2021, 09/09/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (866) Prev Next

Headnote :- FIR registration — police duty and complainant's remedy - The Court held that the allegation that the police had not registered the petitioner's FIR did not warrant a direct mandamus under Article 226 when he could approach the Magistrate. *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the duty to register information disclosing a cognizable offence under Section 154 CrPC from the remedy following police default: a complaint under Sections 190 and 200. It explains that *Ramesh Kumari* and *Lallan Chaudhary* concern the police duty to register an FIR, whereas *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari* concern the procedure available to the complainant. The decisions address different questions and disclose no conflict requiring a direct writ.

Investigation grievance — statutory escalation and magistrate's role - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, permits an informant to approach the Superintendent of Police under Section 154(3) and then the Magistrate under Section 156(3) for registration of an FIR, proper investigation and judicial monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reiterates that remedy before the Magistrate, subject to prima facie satisfaction. It explains that the Magistrate may direct proper investigation and, if necessary, recommend a change of investigating officer, but cannot investigate personally.

Article 226 exception — clear investigative abuse and process rather than method - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, preserves rare intervention by the High Court at the instance of an aggrieved person on a clear showing of mala fide investigation, abuse of power and noncompliance with Chapter XII CrPC. Intervention is limited to insisting on observance of the statutory process and cannot prescribe how the police must investigate. Its quotation from *Gangadhar Janardan Mhatre* describes the Magistrate's inquiry into a complaint, dismissal under Section 203 where warranted, and the issue of process or investigation under the Code. *Shweta Bhadauria*, the Madhya Pradesh Division Bench decision in W.A. 247/2016, permits refusal of mandamus under Section 154 where the remedies under Sections 154(3), 156(3), 190 and 200 have been bypassed, subject to the recognised alternative-remedy exceptions in *Whirlpool*. It distinguishes the duty in *Lalita Kumari* to register information disclosing a cognizable offence from an entitlement to seek a writ directly.

Case-note :- ***1. Facts :*** Shakti Singh Thakur filed Writ Petition No. 15955/2024 under Article 226, seeking directions to the official respondents to act against respondents 4–7 and register an offence. He alleged that he had approached the authorities for registration of an FIR but no action had been taken.

He also sought Rs 10 lakh as compensation from specified respondents for mental and physical suffering allegedly caused by false litigation, a declaration that the private respondents and their relatives had no right over the identified property, and a direction that they be imprisoned if they later filed a petition for possession. The State submitted that a complaint before the Magistrate under Section 200 CrPC, corresponding in its submission to Section 223 BNSS, was an efficacious remedy. The Court framed the question whether a writ direction to register an FIR was maintainable, quoted four Supreme Court authorities and a Madhya Pradesh Division Bench decision, and dismissed the petition with liberty to file a complaint before the Magistrate.

2. Precedents — Considered : *Aleque Padamsee and Others v. Union of India, (2007) 6 SCC 171*, was quoted in substantial detail. It recognises the police duty to register an FIR when the information discloses a cognizable offence, while distinguishing that obligation from the procedure available to an aggrieved person after police inaction: a complaint before the Magistrate under Sections 190 and 200 CrPC. The quotation also includes the sanction question and the three-month direction in *Aleque*'s own litigation. This Court applied its distinction concerning the remedy for police inaction.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, paragraphs 41–42, was quoted on both the exceptional power and its limits. An aggrieved person may obtain directions under Article 226 in rare cases where investigation powers have clearly been exercised mala fide, abused and used contrary to Chapter XII CrPC. The High Court may insist on observance of the statutory process but cannot dictate investigative steps. For ordinary police inaction, the informant must use Sections 190/200. The quoted passage from *Gangadhar Janardan Mhatre* explains the Magistrate's inquiry into a complaint and recording of evidence under Chapter XV, dismissal under Section 203 when no offence is disclosed, the issue of process when a prima facie offence appears, or a direction for police investigation under Chapter XII. *AIIMS Employees' Union* is mentioned in support. The present Court applied the ordinary remedy before the Magistrate.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, paragraph 11, was quoted on a written complaint to the Superintendent of Police under Section 154(3) following refusal to register an FIR, followed, if the result is unsatisfactory, by an application to the Magistrate under Section 156(3). The Magistrate may order registration and proper investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, was separately quoted and follows *Sakiri Vasu*. It directs the complainant seeking registration of an FIR or proper investigation to the Magistrate under Section 156(3), rather than directly to the High Court. On prima facie satisfaction, the Magistrate may grant relief, including, where necessary, recommending a change of investigating officer to the superior police authority. The Magistrate may monitor the investigation but cannot personally conduct it. Both authorities support the statutory alternative on which the petition was dismissed.

Shweta Bhadauria v. State of M.P., the Madhya Pradesh Division Bench decision in Writ Appeal 247/2016, decided on 20 December 2016, was quoted as the controlling local authority. Mandamus compelling registration under Section 154 may be declined when the informant bypasses Sections 154(3), 156(3), 190 and 200, unless one of the four recognised alternative-remedy exceptions in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, applies. It distinguishes the police duty in *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, to register information disclosing a cognizable offence from an entitlement to seek a writ directly without using the available remedies. *Lalita Kumari* was considered through the Division Bench quotation.

3. Statutes considered : Article 226 of the Constitution was invoked for writ relief, subject to the qualified principles concerning alternative remedies and rare cases of investigative abuse. Section 154 CrPC concerns the police duty to register information disclosing a cognizable offence; Section 154(3) provides recourse to the superior police officer. Section 156(3) permits a Magistrate, on prima facie satisfaction, to direct or monitor investigation. Sections 190 and 200 provide the route of complaint and cognizance following police inaction. In the quotation from *Divine Retreat*, Chapter XV governs the Magistrate's inquiry, Section 203 provides for dismissal if the complaint discloses no offence, and Chapter XII governs investigation. These provisions explain the alternative remedies. State counsel expressly identified Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 as the contemporary

complaint provision corresponding to Section 200 CrPC, and the Court referred to it in granting liberty.

4. Issues : Whether a direct petition under Article 226 for mandamus compelling the police to register an FIR should be entertained merely on an allegation of inaction, despite the remedies of a complaint and a Magistrate's direction for investigation; whether the exceptional writ power concerning demonstrated mala fide abuse of Chapter XII powers had any stated basis in this record; and what liberty should accompany dismissal.

5. Ratio / Findings : The High Court accepted the State's objection based on an alternative remedy. It applied the distinction in *Aleque Padamsee* between the police duty under Section 154, which is not extinguished by a failure to act, and the informant's remedy under Sections 190/200. That Supreme Court decision expressly reconciles the apparently differing decisions on the duty to register an FIR and the remedy following a failure to do so. *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* provide for further recourse under Sections 154(3) and 156(3) and the Magistrate's power, on prima facie satisfaction, to order or monitor an investigation without conducting it personally. *Divine Retreat* preserves a narrow exception under Article 226 for clear mala fide abuse and noncompliance with Chapter XII, while confining intervention by the High Court to observance of lawful process. *Shweta Bhadauria* makes restraint based on an alternative remedy subject to the *Whirlpool* exceptions and explains that *Lalita Kumari* does not itself determine entitlement to a writ. On this petition, the Court applied the ordinary remedy before the Magistrate.

6. Relief : The Hon’ble High Court dismissed the writ petition with express liberty to the petitioner, if he so desired, to approach the competent Magistrate under Section 200 CrPC / Section 223 BNSS for redress. It did not direct registration of an FIR or supervise an investigation. The claims for Rs 10 lakh compensation, a property declaration and a direction for prospective imprisonment were not granted.

Shakti Singh Thakur v. State of Madhya Pradesh and Others, W.P. no. 15955/2024, 26/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Death in judicial custody — inadequate inquiry and fresh fact-finding - The Court held that the JMFC's conclusion that death resulted from ordinary cardio-respiratory failure did not account for the ante-mortem injuries recorded in the postmortem of an undertrial lodged in Morena District Jail. The inquiry's concluding paragraph relied on the absence of a witness despite public notice, the improbability of an outsider entering the jail and the doctors' opinion of natural death. The District and Sessions Judge was directed to conduct a fresh inquiry, record witnesses' statements anew and make specific findings on the injuries and medical response. If suspicious circumstances were found, responsibility was to be fixed; the person prima facie responsible for the injuries was also to be identified.

Prisoner life and health — Article 21 protection - *Re: Inhuman Conditions in 1382 Prisons, (2017) 10 SCC 658*, quoting *Kewal Pati*, recognises that a prisoner retains constitutional rights and that the next of kin are entitled to compensation when an unlawful custodial death is established. Its directions require documentation of natural and unnatural deaths in prisons and review and correction of deficiencies in medical care. Paragraph 58.8 expressly recognises a prisoner's health as a human right. The High Court applied that framework to the unexplained ante-mortem injuries and the failure to provide first aid in jail despite the complaint of chest pain.

Public-law compensation — independent remedy with proof limits - *Nilabati Behera v. State of Orissa, (1993) 2 SCC 746*, recognises monetary amends under Articles 32/226 for an established violation of Article 21 as a public-law obligation of the State. The remedy is independent of a tort suit or penal proceedings and must be exercised with restraint. *Sube Singh v. State of Haryana, AIR 2006 SC 1117*, requires a patent, incontrovertible and gross constitutional wrong, with attention to death, medical evidence or visible corroboration, before compensation is awarded in writ proceedings. Civil and criminal remedies remain available even when that additional public-law threshold is not met. Referring to *State of M.P. v. Shyamsunder Trivedi, (1995) 4 SCC 262*, it explains the difficulty of obtaining evidence of custodial violence and the need for preventive safeguards, without treating every allegation as proved. On the basis of the custodial death, unexplained documented injuries and lack of first aid in jail, the Court directed the State to pay the widow Rs 3 lakh. It expressly left the merits of the fresh inquiry open and preserved her right to a separate civil suit. The State was given

liberty to recover the amount from a defaulting officer in accordance with law. No officer's fault or precise mechanism of death was finally determined.

Judicial-inquiry accountability — conditional referral - *Vishnu Prasad Sharma v. State of M.P.*, Madhya Pradesh High Court CRA 9761/2018, decided on 11 January 2019, described glaring irregularities in another custodial-death inquiry and directed vigilance scrutiny of the CJM. In the present case, the District and Sessions Judge's report must also be sent to the Principal Registrar. The Principal Registrar must forward it for vigilance inquiry into the former JMFC only if the District and Sessions Judge finds that the earlier inquiry was not conducted in accordance with law. The petitioner may approach the Human Rights Commission regarding the jail authorities and jail doctor. Neither disciplinary responsibility nor criminal liability for assault was determined.

Case-note :- ***1. Facts :*** Shakuntala's husband, Ramesh Jatav, was arrested by Bhagchini Police Station, Morena, on 30 March 2015 in Crime No. 45/2015 for alleged offences under IPC Sections 392 and 120-B and Sections 11/13 of the MPDVPK Act. He was an undertrial in Morena District Jail and died on 25 July 2015. Shakuntala stated that their son had met him in jail that day and found him apparently well, with no complaint of chest pain. She suspected the circumstances of his death because the postmortem recorded ante-mortem injuries. She said that she had been denied access to the body before the postmortem and that her requests for an inquiry had gone unanswered. She also alleged that he had been falsely implicated in the underlying robbery case. In WP No. 20840/2017, she sought an inquiry, compensation and possible employment for her adult son. The State and Jail Superintendent submitted that Ramesh had complained of chest pain, had been taken by jail ambulance to the District Hospital and had died of cardio-respiratory failure, as stated in the medical-board opinion and the JMFC's judicial inquiry dated 24 August 2015. The State also referred to another criminal case registered against him in 2014. The return described Annexure R1 as a pre-MLC, but the Court clarified that it was the medical officer's intimation to the police of the death. Paragraph 17 of the JMFC's inquiry, reproduced in the judgment, rejected assault because no witness had come forward after public notice and entry by an outsider seemed impossible. It then relied on the doctors' conclusion of heart and respiratory failure. The High Court found that the unexplained injuries and the failure to provide medical attention in jail had not been sufficiently examined.

2. Precedents — Considered : *Nilabati Behera v. State of Orissa, (1993) 2 SCC 746*, paragraphs 32–35, was quoted at length on the distinct nature of constitutional compensation. An established infringement of Article 21 may warrant monetary amends under Article 32 or 226 on the basis of the State's strict public-law responsibility, without confining the victim to a private tort suit. The remedy vindicates the public duty to protect life and is independent of, and may coexist with, civil damages or prosecution of the offender. The State may seek indemnity or take lawful action against the wrongdoer. The quoted rule requires an established infringement, suitable redress and restraint to prevent writ proceedings from becoming a disguised civil action for damages. *Rudul Sah* is identified within *Nilabati* as a foundational example of monetary relief. Lord Denning's lecture is quoted on adapting public-law remedies. The High Court applied the principle that constitutional compensation was available for a custodial death accompanied by unexplained injuries and failure to provide first aid, while preserving a civil suit and granting the State liberty to recover the amount.

Re: Inhuman Conditions in 1382 Prisons, In Re, (2017) 10 SCC 658, was extensively quoted. Paragraph 45 draws *on Kewal Pati v. State of Bihar for the* principle that imprisonment does not extinguish constitutional rights and that unlawful loss of life in prison warrants relief to the next of kin. Paragraph 48 collects fifteen High Court examples of compensation: deficient medical care in custody (*Nina Rajan Pillai*; *Santosh Kumari*; *State of J&K v. Sajad Ahmad Dar)*; ante-mortem injuries or torture (*Bheduki Buragohain*; *Madhuben Adesara*; *Sabu*; *Ravindra Nath Awasthi*; *Mst. Madina*); shootings or attacks in custody (*Kewalbai*; *Tmt. Rohini Lingam*; *Amandeep*; *Mrs. Meena Singh*; *Lawyers for Justice*); a prisoner found tied and hanging (*Banalata Dash*); and a dangerous compelled recovery (*Dukhuram*). These illustrations were recounted by the Supreme Court. Paragraph 58.1 requests High Courts to identify the heirs of inmates who died unnatural deaths and award suitable compensation unless adequate compensation has already been paid. Paragraph 58.2 requires dissemination of guidance on prisons and custodial deaths and documentation of every natural and unnatural death; paragraph 58.3

calls for clearer NCRB categories of death. Paragraphs 58.4–58.7 concern staff training, counsellors, contact with family and lawyers, and SLSA audits of prison conditions. Paragraph 58.8 recognises prisoner health as a human right and requires States to review and remedy deficiencies in medical facilities. Paragraphs 58.9–58.11 concern boards of visitors, study of open prisons and records of deaths of children in care institutions.

Sube Singh v. State of Haryana and Others, AIR 2006 SC 1117, paragraphs 21–22 and 24, sets out the caution governing public-law compensation and the complementary remedies. Before awarding compensation for custodial death, torture or another Article 21 violation, the court must examine whether the wrong is patent and incontrovertible, sufficiently gross to shock the conscience, and supported by death, a medical report, visible marks, scars or disability. Allegations that lack sufficient corroboration or are exaggerated may instead be addressed through civil or criminal proceedings. That limit does not excuse illegal detention or custodial violence, which remains actionable. Its quotation from *State of M.P. v. Shyamsunder Trivedi, (1995) 4 SCC 262*, reiterated in *Abdul Gafar Khan* and *Munshi Singh Gautam*, cautions against an unrealistic demand for direct eyewitness evidence of police custodial violence because of concealment. The passage concerns appreciation of evidence in such cases. Paragraph 24 of *Sube Singh* lists preventive measures, including training, supervision, compliance with the arrest safeguards in *D.K. Basu*, transparent records and independent inquiry. The High Court referred to it when considering the postmortem injuries and the failure to provide medical care, while expressly leaving definitive causation and individual responsibility to the fresh inquiry.

Vishnu Prasad Sharma v. State of M.P., a coordinate Bench decision of the Madhya Pradesh High Court in CRA 9761/2018, decided on 11 January 2019, 2019 MPLJ Online 1, was quoted concerning another custodial-death inquiry in which significant records were missing and findings appeared potentially coloured. That Bench directed the Principal Registrar (Vigilance) to inquire into the CJM's conduct and permitted an approach to the Human Rights Commission. In the present case, the Court directed that a finding in the fresh inquiry that the earlier JMFC inquiry had not been conducted lawfully would trigger forwarding of the report for vigilance scrutiny.

3. Statutes considered : Article 226 of the Constitution provided the public-law jurisdiction to direct a fresh inquiry and award compensation. Article 21 protected life and health in prison and formed the basis of *Nilabati*, *Re: Inhuman Conditions* and *Sube Singh*. Articles 32 and 226 appear in those Supreme Court passages as constitutional routes for distinct monetary redress; civil suits and criminal prosecutions remained available. The quoted passage from *Sube Singh* refers to the arrest safeguards in *D.K. Basu*. The Juvenile Justice (Care and Protection of Children) Act, 2015 is mentioned within the national direction in *Re: Inhuman Conditions* concerning records of deaths of children in care institutions.

4. Issues : Whether the JMFC's brief conclusion of natural death sufficiently addressed the documented ante-mortem injuries and the absence of first aid for chest pain when the availability of a jail doctor was uncertain; whether a fresh, independent judicial inquiry was required to determine causation, the medical response and prima facie responsibility; whether the custodial death, unexplained injuries and failure to provide care justified immediate public-law compensation under Article 226 despite the pending factual inquiry, while preserving civil remedies; and whether deficiencies in the original inquiry should lead to conditional judicial-vigilance oversight.

5. Ratio / Findings : The postmortem recorded ante-mortem injuries for which neither the State nor the JMFC provided an explanation based on conflict between inmates, assault by officials, medical treatment or another identified cause. The JMFC's conclusion that outsiders could not enter, no witness had alleged a beating and the doctors had found cardio-respiratory failure did not address injuries sustained in custody. The High Court drew a strong inference that Ramesh had been beaten inside the jail, but later expressly refrained from prejudging the fresh inquiry. It did not identify an assailant or finally attribute the physiological cause of death to the injuries. The evidence of Jiledar Singh and the hospital doctor, Dr Rakesh Sharma, described a complaint of chest pain, transfer to the jail gate and hospital, unrecordable pulse and blood pressure on arrival, first aid at the hospital, an ECG and the declaration of death. The inquiry did not answer why Ramesh had not first been taken to the jail dispensary

or given first aid in jail, or whether a jail doctor was present. Even on the State's account of natural death, the Court regarded this as a deficiency in medical care in custody. It directed the District and Sessions Judge to conduct a fresh inquiry, record witnesses' statements afresh and make specific findings. *Re: Inhuman Conditions* supplied the constitutional principles concerning life, medical care in prison, documentation and relief to the next of kin. *Nilabati* established an independent public-law remedy, while *Sube Singh* required attention to the certainty, seriousness and corroboration of an Article 21 violation. The High Court considered the undisputed death in jail, medically recorded injuries and absence of treatment sufficient to direct immediate payment of Rs 3 lakh by the State, without determining all the facts to be examined in the fresh inquiry. The widow retained her right to claim civil damages. Under *Vishnu Prasad Sharma*, a further finding that the JMFC's inquiry was unlawful would lead to a vigilance referral, rather than an automatic disciplinary conclusion. The antecedent criminal cases did not relieve the prison authorities of their duty.

6. Relief : The Hon'ble High Court found the JMFC's inquiry unsatisfactory and directed the District and Sessions Judge, Morena, to conduct a fresh inquiry, inspect the records and re-record witnesses' statements. The Judge was to make specific findings about the ante-mortem injuries and who was prima facie responsible for causing them, examine the jail dispensary, availability of a doctor and absence of first aid, and fix responsibility if the death was found suspicious. The report was to be sent to the High Court's Principal Registrar and the Principal Secretary, Home Department. The State was directed to pay Shakuntala Rs 3 lakh, without prejudice to her right to a civil suit and with liberty to recover the amount from defaulting officer(s) in accordance with law. If the fresh inquiry found that the earlier JMFC proceedings were contrary to law, the Principal Registrar was to forward the report to the Principal Registrar (Vigilance) for inquiry against the former JMFC, Rajesh Jain. Shakuntala was free to approach the Human Rights Commission regarding the jail officials and the doctor in the jail hospital.

Shakuntala v. State of Madhya Pradesh and Others, W.P. no. 20840/2017, 06/02/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Trial court's witness-management power — prosecution sequence subject to just decision - The Court held that Sections 225, 226 and 301 CrPC, under which the Public Prosecutor conducts a Sessions prosecution, do not displace the court's power under Section 311 or its responsibility to secure material evidence. *Mina Lalita Baruwa v. State of Orissa, (2013) 16 SCC 173*, reconciles the limits on a private person's participation in the prosecution under Section 301(2) with the trial court's independent power under Section 311. In that case, a material discrepancy between a statutory witness's testimony and a document he had prepared required action by the prosecutor, recall of the witness or questions by the court, without unfair prejudice. Here, in his second application for bail in a murder case, the applicant complained that the cited eyewitnesses had not been examined. The prosecutor wished to examine other witnesses first, but then stated that Shivendra and Rakesh Kevat would be included on the next date. The High Court directed the trial court to call eyewitnesses at the beginning of the trial and issue summons itself if the prosecutor failed to request them. Their examination-in-chief was to be recorded when they were present, even if defence counsel was then unready to cross-examine.

Witness protection and timely evidence — pressure risk without presumed hostility - *Mahendra Chawla v. Union of India*, Supreme Court, formulated the Witness Protection Scheme, which the High Court invoked to emphasise the need for vigilance. *Ramesh v. State of Haryana, (2017) 1 SCC 529*, explains that witnesses may turn hostile because of intimidation, inducement, political, family or monetary pressure, delays, or even inaccurate recording by the police under Section 161. Its discussions of *Krishna Mochi*, *Zahira Habibullah Sheikh*, *Sakshi* and *Sanjeev Nanda* reinforce the need for protection, fair testimony and careful use of credible portions of hostile testimony. The High Court reasoned that unjustified delay in examining known eyewitnesses could expose them to the culture of compromise. The trial judge should therefore not remain a mute spectator to the prosecutor's choice of sequence. The bail application was dismissed as withdrawn, with directions concerning the conduct of the trial.

Case-note :- ***1. Facts :*** Shambhu was arrested on 16 November 2021 in Crime No. 204/2021 at Indar

Police Station, Shivpuri, for alleged offences under Sections 302, 201, 147, 148 and 149 IPC. His first application for bail under Section 439 CrPC, MCRC 22080/2022, was dismissed on 5 May 2022. In this second application, he chiefly complained that the prosecution was not examining the witnesses cited as eyewitnesses. On 26 September 2022, the High Court asked State counsel why Rakesh Kevat was not being summoned. At the hearing, State counsel reported that the Public Prosecutor preferred to examine other witnesses first and had not included Shivendra and Rakesh Kevat in the current list, but intended to include them for the trial date of 13 October 2022. The applicant's counsel then sought leave to withdraw the bail application. Before permitting withdrawal, the judge addressed the danger of delaying eyewitness evidence, quoted *Mina Lalita Baruwa* and a long passage from *Ramesh* on witnesses turning hostile, cited *Mahendra Chawla*, and issued directions to the trial court.

2. Precedents — Considered : *Mina Lalita Baruwa v. State of Orissa and Others, (2013) 16 SCC 173*, paragraphs 18–21, was quoted in material part. That case concerned a victim's grievance that the oral testimony of statutory witness PW18 conflicted with an exhibit he had prepared, and that the courts had mechanically rejected the grievance by reference to Section 301 CrPC. The Supreme Court distinguished the restricted participation of private counsel under Section 301(2) from the court's wide power under Section 311. That power includes recall, examination and necessary questions by the court to clarify vital evidence essential to a just decision. The trial judge and prosecutor should act to keep the record accurate without causing prejudice, as a crime affects both society and the victim.

Mahendra Chawla and Others v. Union of India, described in this order as the Supreme Court's decision formulating the Witness Protection Scheme, was cited on the importance of witness protection. *Ramesh and Others v. State of Haryana, (2017) 1 SCC 529*, paragraphs 39–49, was extensively reproduced. It recognises several reasons for retraction. A witness may justifiably disown a statement inaccurately or forcibly recorded by the police under Section 161; fear, family or political pressure, inducement, money and social dynamics can also subvert later testimony. Its passage from *Krishna Mochi v. State of Bihar* stresses fear of powerful offenders. *Zahira Habibullah Sheikh (5) v. State of Gujarat* describes witnesses as vital to a fair trial and explains the State's duty to enable safe, truthful testimony, particularly against political, muscle or money power. *Sakshi v. Union of India* discusses screens, sensitive questioning through the presiding officer during cross-examination, and breaks for vulnerable rape or child witnesses. Those safeguards formed part of the Supreme Court quotation; they were not ordered for Shivendra or Rakesh in this murder trial. *State v. Sanjeev Nanda* explains that hostile testimony may be scrutinised and its credible portion used, citing *State of U.P. v. Ramesh Prasad Misra and K. Anbazhagan*. With *Manu Sharma* and *Zahira*, it cautions courts against remaining mute spectators when intimidation or manipulation affects the truth. *Ramesh* also lists threats, inducement, stock witnesses, protracted trials, procedural hassles and gaps in protection, and reproduces observations of the Malimath Committee, the Law Commission and sociologists about pressure and a culture of compromise. The High Court applied this general risk to the unexplained scheduling delay; it did not find that the two witnesses were hostile or compromised.

3. Statutes considered : The second application for regular bail was made under Section 439 CrPC. Sections 225 and 226 CrPC describe the conduct of a Sessions prosecution, while Section 301 defines the Public Prosecutor's role and the limited participation of a privately instructed pleader. Section 311 empowers a court at any stage to summon, examine or recall a person, and requires it to do so when that person's evidence appears essential to a just decision. The High Court relied on this power to direct the summoning and sequence of the cited eyewitnesses despite the prosecutor's preferred order.

4. Issues : In a second bail application based on delay in examining cited eyewitnesses, whether the Public Prosecutor alone could postpone their examination in favour of corroborative witnesses, or whether the trial court should itself summon material witnesses and regulate the sequence of their examination; how delayed examination and the risk of pressure on witnesses affect a fair trial and witness protection; and what directions could be issued when the applicant sought withdrawal rather than pressed the bail prayer.

5. Ratio / Findings : State counsel acknowledged that the prosecutor had chosen to examine other witnesses first and omitted Shivendra and Rakesh

Kevat from the current list, although they were cited as eyewitnesses. He stated that they would be included on 13 October. The judge found no satisfactory reason for giving preference to potentially corroborative testimony over eyewitness evidence. *Mina Lalita Baruwa* explains that the prosecutor's conduct of the prosecution under Section 301 does not make the trial court passive: under Section 311, the court can address vital omissions and exercise its own powers concerning witnesses to secure a just decision without undue prejudice. Sections 225 and 226 likewise do not prevent judicial control of the sequence in which witnesses are examined. *Mahendra Chawla* and *Ramesh* explain the importance of timely testimony: delay can increase exposure to pressure and compromise. *Ramesh* also recognises that changed testimony may reflect an inaccurate earlier police record rather than improper influence. The Court therefore expressed concern; it did not find that these witnesses had already been compromised. It directed the trial judge to call them early, reject requests from the prosecution or defence inconsistent with that direction, and record their examination-in-chief when they attended even if defence counsel was then unready to cross-examine. The bail application was disposed of on withdrawal, with the directions concerning the trial and the conditional obligation to issue summons forming part of that disposal.

6. Relief : The Hon'ble High Court dismissed the second application for regular bail as withdrawn. The trial court was directed to examine eyewitnesses at the outset, disregard contrary requests from the prosecutor or defence, call the eyewitnesses itself if the prosecutor failed to request their examination, and record the examination-in-chief of witnesses present even if defence counsel was unready to cross-examine. The Public Prosecutor was expected to request summons, bailable warrants or warrants. If no such request was made, the trial court was to summon Shivendra and Rakesh Kevat.

Shambhu v. State of Madhya Pradesh, M.Cr.C. no. 45036/2022, 28/09/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Special leave refusal — non-merger does not create recall jurisdiction - The Court applied *Kunhayammed v. State of Kerala, (2000) 6 SCC 359*, as affirmed in *Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd., (2019) 4 SCC 376*: refusal of leave does not cause the High Court judgment to merge in a Supreme Court appellate judgment, whether the refusal is speaking or non-speaking. A speaking refusal's declaration of law can bind under Article 141 and its other findings bind the parties and lower forum by judicial discipline; appellate merger arises after leave is granted. Although SLPs by the State and several affected witnesses and the State's review petition were dismissed, the applicant concerned said he had not filed an SLP and was heard on his own contention. The absence of merger did not remove Section 362 CrPC's independent bar on altering the final appellate judgment.

Signed criminal judgment — substantive recall versus genuine denial-of-hearing recall - Section 362 CrPC bars review or alteration of a signed final judgment except to correct a clerical or arithmetical error or as expressly authorised by law. *Mohd. Zakir v. Shabana, (2018) 15 SCC 316*, prohibits correction on merits even where the error is patent; *Sooraj Devi v. Pyare Lal, (1981) 1 SCC 500*, citing *Sankatha Singh*, rejects use of Section 482 inherent power to override that prohibition. *Vishnu Agarwal v. State of U.P., AIR 2011 SC 1232*, relying *on Asit Kumar v. State of W.B.*, distinguishes recall of an order passed without an affected party's required hearing from merits review. The applicants sought to delete paragraphs 22–23 of the final 2017 acquittal judgment ordering proceedings for allegedly false evidence. The Court held that an advance hearing was not required before initiating proceedings under Section 340. The application therefore sought reconsideration on merits rather than a permissible procedural recall. It was also filed nearly two years after judgment.

Perjury complaint — two conditions and deliberate material falsehood - Section 340 read with Section 195(1)(b)(i) requires a prima facie offence connected with the court proceedings and a finding that an inquiry is expedient in the interests of the administration of justice. *K.T.M.S. Mohd. v. Union of India, (1992) 3 SCC 178*, with *K. Karunakaran*, urges care and a prima facie case reasonably supported by the material. *State Govt. of NCT of Delhi v. Pankaj Chaudhary, (2019) 11 SCC 575*, discusses *Amarsang Nathaji, (2017) 1 SCC 113, Iqbal Singh Marwah, (2005) 4 SCC 370*, and *Chajoo Ram* to require deliberate, conscious, material falsity rather than every inconsistency;

expediency looks chiefly to impact on the administration of justice, not only injury to a litigant. The Court said its 2017 appellate judgment had applied both conditions to the particular witness and investigation record and could not be reopened under Section 362. Its reproduced earlier finding of tainted investigation included *Dayal Singh v. State of Uttaranchal*, AIR 2012 SC 3046, on investigators' diligence, honesty and accountability.

Preliminary inquiry and notice — optional stage before complaint - *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, states the participation of a would-be accused is not required when a court decides whether an inquiry is expedient under Section 340. *Amarsang Nathaji and State of Goa v. Jose Maria Albert Vales, (2018) 11 SCC 659*, confirm that a preliminary inquiry is optional if the court can form a prima facie opinion on existing material; a complaint is not automatic even then. Sections 341 and 343 provide later appellate and Magistrate processes. The 2017 direction initiated the court-complaint process on a prima facie view, and the lack of an earlier hearing or preliminary inquiry did not vitiate it in this case; both connected Section 482 petitions were dismissed.

Case-note :- ***1. Facts :*** The Fifth Additional Sessions Judge, Gwalior convicted Kallu, Naval Singh alias Navla, Ballu alias Balram, Ramratan, Jaswant and Ramras in Sessions Trial 30/2004 on 8 November 2004 of kidnapping/conspiracy provisions including IPC Sections 364-A, 363 and 365 read with Section 120-B and MPDVPK Act Section 13. Dayaram was convicted by the Special Judge in Sessions Trial 15/2010 on 18 July 2012 under IPC Sections 363 and 364-A and MPDVPK Act Sections 11/13. Five criminal appeals ended in a common High Court judgment on 25 September 2017 acquitting all seven. That judgment nevertheless found named prosecution witnesses and investigating officers had deliberately given false evidence, criticised a purportedly fabricated kidnapping case and directed the trial court to initiate proceedings against eleven named persons, including Shanti Swaroop Sharma, Vijay and Ajay Choudhary, Jaishankar/Vicky, Atal Bihari, Purshottam Bajpai, Vikas/Vijay, S.S. Sikarwar, S.S. Chouhan, Manoj Sharma and Ramesh Dande. On 26 July 2019, the Supreme Court dismissed the State's SLP and the SLPs of several persons whose prosecution had been directed. The State's Review Petition (Criminal) Nos. 45–49 of 2010 was dismissed on 21 January 2020. The first applicant said he personally had not filed an SLP. MCRC 35271/2019 and the connected MCRC 42189/2019 of S.S. Sikarwar invoked Section 482 to recall paragraphs 22–23 of the 2017 judgment, especially the perjury directions. Counsel argued that dismissal of the SLPs in limine did not cause merger of the judgment, and that the lack of a hearing before the adverse observations warranted recall. The first petition was filed on 20 August 2019, nearly two years after the appellate judgment.

2. Precedents — Considered : *Kunhayammed v. State of Kerala, (2000) 6 SCC 359*, was relied upon by the applicant. *Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd., (2019) 4 SCC 376*, was quoted by the Court as reaffirming *Kunhayammed*: refusal of special leave, speaking or otherwise, does not merge or replace the lower decision; the declaration of law in a reasoned refusal binds under Article 141 and findings other than declarations of law bind the parties and the lower court in later proceedings by judicial discipline. Once leave is granted and an appellate order made, merger follows; the quoted principle also distinguishes when High Court review jurisdiction is lost after appellate invocation and addresses the timing of review in relation to refusal of special leave. The judge accepted this legal distinction and heard on merits the applicant who had not filed an SLP, but held that it did not confer power under Section 482 to recall the judgment on merits.

Mohd. Zakir v. Shabana, (2018) 15 SCC 316, was quoted for Section 362's strict bar: even a patently erroneous final order cannot be reheard or corrected on merits under the guise of clerical correction. Correction must follow a lawful appellate or other procedure. *Vishnu Agarwal v. State of U.P., AIR 2011 SC 1232*, quotes *Asit Kumar v. State of W.B.*, to distinguish a procedural recall where an affected person lacked an opportunity of hearing from review, which reconsiders a merits error. The Court considered that genuine exception but found the applicants had no right to a hearing before initiation under Section 340. *Sooraj Devi v. Pyare Lal, (1981) 1 SCC 500*, quoted near the conclusion, holds that Section 482 inherent power does not fall within Section 362's exception for express statutory authority and cannot circumvent what the Code prohibits, referring to *Sankatha Singh*. Those authorities led to refusal to reopen the earlier paragraphs, with delay also noted.

K.T.M.S. Mohd. v. Union of India, (1992) 3 SCC 178, quoted Section 340's requirements of an offence connected with the court proceedings and expediency in the interests of justice and, through *K. Karunakaran v. T.V. Eachara Warrier*, the two requirements of a prima facie case which, if unrebutted, has a reasonable likelihood of establishing the specified offence and an independent need for prosecution in the interests of justice. *State Govt. of NCT of Delhi v. Pankaj Chaudhary, (2019) 11 SCC 575*, was then quoted extensively. It recites *Amarsang Nathaji v. Hardik Harshadbhai Patel, (2017) 1 SCC 113*, that contradiction alone is insufficient without deliberate false statement or fabrication, and that a preliminary inquiry may be held but is optional where the court can form the necessary opinion. It discusses *the Constitution Bench Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*: expediency turns on the effect on administration of justice rather than merely the extent of private injury; even an injurious forged document may have slight effect in a case supported by voluminous other evidence. *Chintamani Malviya* is mentioned as reiteration. Its *Chajoo Ram v. Radhey Shyam* passage demands deliberate, conscious, material falsehood, a reasonably probable conviction and care against mechanical action on inconclusive or innocent inaccuracies. These were used to identify the two conditions the earlier appellate court said it had considered, not to decide the proposed accused person's criminal guilt now. *S.K. Viwambaran*, *Mohd. Naim* and *Manish Dixit* were counsel-cited on adverse strictures without developed quotations or separate analysis here. *Dayal Singh v. State of Uttaranchal, AIR 2012 SC 3046*, appears within the earlier acquittal judgment reproduced in paragraph 31, stressing investigators' and doctors' diligent, truthful and fair duties and the seriousness of flagrant omissions. The present Court used the reproduced account to show that the original direction followed consideration of the relevant material. It did not retry the kidnapping case or determine any new liability of the police.

British v. State of Maharashtra, (2002) 1 SCC 253, rejects an automatic right of a would-be accused to participate before the court decides whether an inquiry is expedient under Section 340, because that step does not approach a determination of guilt. *Amarsang Nathaji*, quoted again directly, explains that a preliminary inquiry is optional and a complaint does not follow automatically even if a prima facie offence appears. *State of Goa v. Jose Maria Albert Vales, (2018) 11 SCC 659*, confirms that clauses (a)–(e) of Section 340(1) may be taken without a mandatory preliminary inquiry; it highlights Section 341 appeal against making or refusing a complaint and Section 343 procedure before the receiving Magistrate, including possible adjournment while the underlying appeal is pending. These authorities answered the applicant's no-hearing and no-inquiry objection.

3. Statutes considered : Section 482 CrPC was invoked as the source of inherent jurisdiction, but it cannot override Section 362's prohibition once the appellate criminal judgment was signed; Section 362 saves express statutory exceptions and clerical/arithmetical correction, neither of which permitted deletion of reasoned paragraphs. Sections 195(1)(b)(i) and 340 govern a court complaint for specified offences affecting justice committed in or in relation to its proceedings: the court determines whether there is a prima facie offence and whether an inquiry is expedient in the interests of justice, may hold a preliminary inquiry if needed, records its opinion, and can complain to a competent Magistrate. Section 341 provides appeal against making/refusing the complaint; Section 343 governs the Magistrate's procedure, including the power under subsection (2) to adjourn the case while an appeal concerning the underlying judicial proceeding is pending. IPC Section 193 perjury is discussed in the *K. Karunakaran* extract; Sections 199/200 IPC appear in the *Amarsang* quotation as false-statement context and were not newly adjudicated charges in these MCRCs. Article 141 of the Constitution appears in *Khoday*'s rule concerning a declaration of law in a speaking order refusing special leave. The IPC kidnapping/conspiracy and MPDVPK charges describe the acquitted appeals, not issues reconsidered in this proceeding.

4. Issues : Whether refusal of SLPs by other participants and the State merged the 2017 criminal judgment in a Supreme Court judgment or otherwise affected a non-SLP applicant's ability to seek relief; whether asking to erase its adverse factual observations and prosecution directions was a genuine procedural recall based on denial of a required hearing or a prohibited merits review under Section 362 despite Section 482; whether Section 340 required a separate preliminary inquiry and advance hearing for these prospective accused, and

whether the earlier decision had at least addressed prima facie offence and expediency; and whether nearly two years' delay independently weakened the petitions. The correctness of acquittals, ultimate guilt for perjury and the underlying land or kidnapping claims were not being tried anew.

5. Ratio / Findings : The Court accepted the distinction concerning non-merger in *Kunhayammed* and *Khoday.* It heard the applicant who said he had not filed an SLP. It nevertheless treated Section 362 as an independent statutory bar to changing paragraphs 22–23 of the signed 2017 judgment. *Mohd. Zakir* and *Sooraj Devi* foreclosed merits correction under either Section 362 or inherent Section 482 power. *Vishnu Agarwal* and *Asit Kumar* allow a genuine procedural recall where an affected party was denied a required hearing. That ground was unavailable here because the court-complaint stage under Section 340 involves only a prima facie inquiry in the interests of justice, not a determination of guilt. *Pritish, Amarsang* and *State of Goa* permit decision on existing material without a mandatory preliminary inquiry or participation by the would-be accused; later Section 341/343 procedures remain available. On the separate Section 340 thresholds, *K.T.M.S. Mohd.* and *Pankaj Chaudhary*, with *Iqbal Singh Marwah* and *Chajoo Ram*, require a prima facie case of deliberate material falsehood and expediency assessed by reference to the administration of justice. The judge said those matters had been assessed in 2017, quoting paragraph 22's detailed criticisms: a proposed eyewitness Girraj Chourasia was neither traced nor examined; the spot map of a populated place was prepared on the instructions of a person who was not an eyewitness and bore no independent signatures; police did not trace the ransom letter source or arrange a trap; forest-hideout and recoveries were inadequately explained; a money-ownership affidavit and change of investigating officer raised further doubts; independent witnesses were not examined. The earlier judgment inferred a motive to grab land, a false allegation of kidnapping, a deliberately tainted investigation and false witness testimony, citing *Dayal Singh* for investigative honesty. This 2020 Court used the quoted reasoning only to reject the claim that the two Section 340 conditions or evidentiary basis had simply been ignored, while refusing to reopen whether those factual conclusions were right.

6. Relief : The Hon'ble High Court dismissed the application. The connected application filed by S.S. Sikarwar was also dismissed.

Shambhu Singh Chauhan and Others v. State of Madhya Pradesh; S.S. Sikarwar v. State of Madhya Pradesh, M.Cr.C. no. 35271/2019 & 42189/2019, 06/03/2020, D.B., Hon'ble Justice Shri Sheel Nagu & Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Successive anticipatory bail — withdrawal order and change in circumstances - The Court held that the applicant's first application under Section 438 CrPC had been dismissed as withdrawn and not pressed on 26 November 2015, without further liberty to revive the prayer. The later Bench declined to reinterpret or review that coordinate Bench order, counsel having raised no objection when withdrawing the application. On the same day, the Bench hearing the first application had just refused anticipatory bail to the similarly placed Panchayat Secretary by a detailed order on merits. Both the Sarpanch and the Secretary attended the Gram Sabha that approved the disputed mutation resolution, and the applicant showed no distinguishing feature. The subsequent setting aside of the Gram Sabha proceeding under Section 44 of the M.P. Land Revenue Code, the claimed noncompletion of mutation, the delay in filing the charge-sheet, the co-accused's eventual regular bail and the assertion that custody was unnecessary did not persuade the Court that the circumstances had materially changed. The State relied on the case diary to allege prima facie concerted action and a need for custodial interrogation.

Case-note :- ***1. Facts :*** Shanti Devi, the Sarpanch of the concerned Gram Panchayat, apprehended arrest in Crime No. 67/2015 at Alampur Police Station, Bhind, for alleged offences under Sections 420, 467 and 468 IPC concerning a Gram Sabha mutation resolution. Her first application for anticipatory bail, MCRC 10886/2015, was dismissed by a coordinate Bench on 26 November 2015 as withdrawn and not pressed, without liberty to revive the prayer. The present judge recorded that, on the same day, that Bench had rejected the application for anticipatory bail of co-accused Panchayat Secretary Anand Dubey by a detailed order on merits, after which Shanti Devi's counsel chose not to press her application. In MCRC 27606/2017, her second

application under Section 438, counsel submitted that the earlier order could not extinguish her right to apply on the basis of subsequent events. Counsel described a paper prepared by the Patwari and placed before the Gram Sabha by the Secretary, and contended that she had no role involving dishonesty or forgery. According to her, the proposed mutation had not been effected and a competent revenue authority under Section 44 of the M.P. Land Revenue Code had set aside the Gram Sabha order. Counsel also relied on the asserted duration of the investigation without a charge-sheet, the Secretary's later regular bail and the absence of any need for custodial interrogation. The State opposed the application, submitting that the case diary prima facie showed that the Sarpanch, Secretary and Patwari had acted together dishonestly on the basis of inadequate old revenue records, and that custody was required for interrogation. These were competing submissions, not final findings of guilt or title.

2. Statutes considered : Both applications sought pre-arrest bail under Section 438 CrPC. In the repeat application, following the earlier withdrawal without liberty, the Court required a material change in circumstances and refused to review the coordinate Bench's order.

3. Issues : Whether the later application under Section 438 could secure pre-arrest bail after the first had been voluntarily withdrawn without liberty to renew the prayer; whether the asserted revenue outcome, the claim that mutation had not been effected, the applicant's separate role, the co-accused's regular bail and the time spent in investigation amounted to a material subsequent change; and whether the prima facie case alleged by the State and its claimed need for custodial interrogation justified refusal.

4. Ratio / Findings : The judge declined to use a fresh bail proceeding to revise the coordinate Bench's 2015 order permitting withdrawal without liberty to renew the prayer; counsel had not objected at that time. The sequence of the earlier proceedings was material. Anand Dubey, the similarly placed Secretary, had been refused anticipatory bail on merits on the same day. No materially distinct role was shown for the Sarpanch, as both had been present when the disputed resolution was passed. The Court also considered the present application on merits. Counsel's reliance on the reversal of the revenue order, the claim that mutation had not been completed and the later grant of regular bail did not persuade it that the circumstances governing pre-arrest relief had materially changed. The State relied on case-diary material alleging that the officials had acted together dishonestly and that custodial interrogation was required; the order recorded that opposition. The Court found that no change in circumstances had been made out and dismissed the application on merits as well as in light of the earlier order granting no liberty to renew.

5. Relief : The Hon’ble High Court dismissed the second application for anticipatory bail.

Shanti Devi v. State of Madhya Pradesh, M.Cr.C. no. 27606/2017, 25/01/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Personal bias / Section 482 — personal impleadment prerequisite - The Court applied *State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222; Federation of Railway Officers Association v. Union of India, AIR 2003 SC 1344; J.N. Banavalikar v. Municipal Corporation of Delhi, AIR 1996 SC 326; A.I.S.B. Officers Federation v. Union of India*, JT 1996 (8) SC 550; and *Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SCC 417*: clear allegations of personal mala fides against an officer cannot be adjudicated without joining that officer personally and giving him an opportunity to answer. The latter authority discussed *Teesta Setalvad*, *Babu Chakraborthy* and *Dilip Kumar Deka* on avoiding adverse judicial remarks against unheard persons. The SDM had not been joined in his personal capacity. The allegations of his property interest and a staged attack were therefore not considered; their truth or falsity was not adjudicated.

Temporary patta / mutation / derivative title - The 1972 five-year patta over recorded forest land expired in 1977. Applying *Krishna Bahadur Singh v. State of Madhya Pradesh*, WP 17922/2015, decided 16 April 2024, the Court held that the 26 June 1984 circular did not revive an expired patta or confer bhumiswami rights automatically without an order by the competent authority. The three persons originally entered in the revenue records were neither heirs nor transferees of Bilson Tirkey. Their 1983–84 entries purportedly rested on a non-existent order. *State of A.P. v. Star Bone Mill and Fertiliser Company, (2013) 9 SCC 319*, including its treatment of *Gurunath Manohar Pavaskar, Nair Service*

Society and *Chief Conservator of Forests*, supplied the rule that a revenue entry is not title and a transferor cannot convey a better title. The Additional Collector's contrary decision upholding the deeds could not establish title.

Prior revenue adjudication / criminal proceeding - The Additional Collector's order of 14 October 2019 was incorrect in its treatment of the patta and circular and did not bind the criminal case. *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775*, *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Admn.), (2009) 5 SCC 528*, and *Prem Raj v. Poonamma Menon*, SLP (Cr.) 9778/2018, decided 2 April 2024, were applied: civil and criminal proceedings have different proof standards; earlier judgments may be relevant under Evidence Act Sections 40–43 and exceptional statutory rules, but findings of fact in one proceeding do not automatically bind the other. Their discussion of *Iqbal Singh Marwah*, *K.G. Premshanker*, *M.S. Sheriff*, *Vishnu Dutt Sharma* and the rejected broad *Karam Chand* proposition explains that distinction. Proceedings may continue concurrently; priority or a stay depends on the circumstances.

FIR / suspect's pre-audience - *Anju Chaudhary v. State of U.P., (2013) 6 SCC 384*, discussing *W.N. Chadha* and *Samaj Parivartan Samudaya*, was applied: Sections 154 and 156(3) CrPC do not ordinarily contemplate a hearing for a suspect before registration of an FIR or investigation; requiring it would compromise prompt fair investigation. The quoted precedent recognises that a higher court reversing dismissal of an application may need to hear the suspect, depending on the facts. It creates no general entitlement to a hearing before registration. None of the applicants was entitled to a hearing at the FIR stage. They had not challenged the SDM's 25 January 2020 revenue order, so any pre-order hearing question was immaterial here.

False document / ownership declaration - *Mohd. Ibrahim v. State of Bihar, (2009) 8 SCC 751*, quoted by the Court, distinguishes a dishonest seller conveying in his own name from impersonation or purported authority of another: the former conduct alone does not amount to making a false document under Section 464 IPC or forgery under Sections 467 and 471. *Ram Narayan Popli v. CBI, (2003) 3 SCC 641*, was then used for Section 420 deception and inducement, Sections 463–468 forgery, and Section 471 knowing use. The High Court nonetheless inferred a prima facie false document and forgery from statements in these deeds denying government lease status and asserting exclusive ownership, in the setting of an allegedly forged earlier mutation entry and absence of title.

Civil claim / quashing standard / good faith - *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, was applied for cautious Section 482 scrutiny of uncontroverted allegations and offence ingredients, without a mini-trial, while permitting prosecution where civil and criminal elements coexist. The alleged chain of transfers of government land and the declarations disclosed a prima facie criminal element. Section 52 IPC requires due care and attention for good faith; the subsequent purchasers' bare assertion of bona fide belief did not overcome their failure to verify title from the records. Four Section 482 petitions were dismissed and interim orders vacated; guilt, each purchaser's knowledge and the reliability of the evidence were not finally determined.

Case-note :- ***1. Facts :*** Four connected Section 482 CrPC applications, M.Cr.C. Nos. 7431, 9859, 12289 and 17457 of 2020, arose from FIR No. 45 of 30 January 2020 at Civil Lines Police Station, Chhatarpur, invoking IPC Sections 420, 467, 468, 469 and 471. The applicants in the common order were Sharad Agarwal, Alpana Awasthi with others, Manisha Mishra with others, and Ramswaroop Choubey. The Court used the first application as the factual lead while dismissing all four. Khasra No. 336, 5.261 hectares, had appeared as forest land in 1943–44 through 1952–53. A five-year temporary patta was granted to Bilson Tirkey on 7 January 1972 and was not extended after 1977. The complaint attributed to the Tehsildar, following the SDM's communication, alleged that in 1983–84 Ramsewak, Sarman Devi and Ramswaroop had their names entered as bhumiswamis on the strength of a non-existent revenue order, whereas the State's name should have been restored. They were shown neither as Bilson's heirs nor as persons who had received title under a deed from him. The table in the judgment traced successive transfers: Sarman Devi to Sheikh Jahoor Mansoor, Ramswaroop to Santosh Kumar, Sheikh Jahoor to Premchand Gupta, Santosh Kumar to Prem Kumari and Alpana Awasthi, Ramsewak to Laxmi Prasad Awasthy, Prem Kumari and Premchand Gupta to Richa Barsaiyan, Richa to Manisha Mishra, Laxmi Prasad Awasthy and Manisha to Sharad Agarwal, Sharad to Prakhar Samajothan Pragati Samiti through Ajay Singh

Bhadoriya, and that society to Ajay Kumar Tiwari. Applicants relied on the Additional Collector's 14 October 2019 order in Revenue Case 29/A-21/2019 –20 accepting the deeds, asserted no hearing before the SDM's 25 January 2020 order, and alleged the SDM's personal interest and a separate attack staged by the SDM himself. Those claims were submissions, not findings accepted in this order. The respondent and State stressed the absence of title in the first three persons entered in the revenue records and alleged false statements in the sale deeds that the land was not government lease land. The applicants sought quashing or deletion of their names and consequent proceedings, arguing that the dispute concerned civil title and relying on *Mohd. Ibrahim*'s distinction concerning a false document. The SDM's revenue order itself was not challenged in these petitions.

2. Precedents — Considered : *State of Bihar v. P.P. Sharma, 1992 Supp (1) SCC 222*, required personal impleadment and an opportunity to answer allegations of mala fides; *Federation of Railway Officers Association v. Union of India, AIR 2003 SC 1344*, required clear rather than vague bias allegations and joinder of the person concerned; *J.N. Banavalikar v. Municipal Corporation of Delhi, AIR 1996 SC 326*, and *A.I.S.B. Officers Federation v. Union of India*, JT 1996 (8) SC 550, similarly excluded findings of personal malice without joining the person accused. *Om Prakash Chautala v. Kanwar Bhan, (2014) 5 SCC 417*, supplied the related restraint against adverse judicial observations about an unheard non-party, citing *Teesta Setalvad v. State of Gujarat, State of W.B. v. Babu Chakraborthy* and *Dilip Kumar Deka v. State of Assam*. The latter in turn mentioned *State of U.P. v. Mohd. Naim, Jage Ram* and *R.K. Lakshmanan v. A.K. Srinivasan*. On these authorities, the Court rejected the submission alleging personal bias without deciding its merits. *Krishna Bahadur Singh v. State of Madhya Pradesh*, WP 17922/2015 and connected cases, decided 16 April 2024, a High Court precedent, construed the 26 June 1984 circular: the temporary patta had to subsist on that date and conferral of bhumiswami rights required an order by the competent authority. The principle precluded reliance on Bilson's expired patta. *State of A.P. v. Star Bone Mill and Fertiliser Company, (2013) 9 SCC 319*, stated the principle that a transferor cannot convey a better title than he possesses and distinguished fiscal revenue records from title. Its reproduced discussion of *Gurunath Manohar Pavaskar v. Nagesh Siddappa Navalgund* treated revenue entries as raising a presumption of possession, while *Nair Service Society v. K.C. Alexander and Chief Conservator of Forests v. Collector* qualified presumptions based on possession where the facts or a competing title are known. The first mutation and ensuing deeds did not themselves establish title.

Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775, held that findings of fact in civil and criminal proceedings do not automatically bind the other forum, because civil cases require a preponderance of probabilities and criminal cases proof beyond reasonable doubt, subject to statutory relevance under Evidence Act Sections 41–43. Its discussion of *Iqbal Singh Marwah v. Meenakshi Marwah*, *Syed Askari Hadi Ali Augustine Imam*, *Vishnu Dutt Sharma*, *M.S. Sheriff* and *K.G. Premshanker* rejected the earlier general proposition in *Karam Chand* that civil-court findings bind the criminal court. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Admn.), (2009) 5 SCC 528*, was separately quoted: *K.G. Premshanker* requires examination of relevance and effect under Sections 40–43, and Section 300 CrPC addresses prior conviction/acquittal; a previous judgment is not universally conclusive. *P. Swaroopa Rani* confirmed possible concurrent proceedings. *Prem Raj v. Poonamma Menon*, SLP (Cr.) 9778/2018, decided 2 April 2024, reviewed *Karam Chand*, *K.G. Premshanker*, *Vishnu Dutt Sharma*, *Satish Chander Ahuja* and the Constitution Bench in *Iqbal Singh Marwah*, quoting *M.S. Sheriff*: criminal proceedings may ordinarily deserve precedence, but no rigid rule governs a stay or makes one forum's findings universally binding. The High Court used this line to reject the claim that the Additional Collector's order was conclusive.

Anju Chaudhary v. State of U.P., (2013) 6 SCC 384, explained the ordinary exclusion of pre-FIR hearing to a suspect under the CrPC scheme, quoting *Union of India v. W.N. Chadha on the* risk of frustrating investigation and *Samaj Parivartan Samudaya v. State of Karnataka on* absence of a right to a hearing during investigation before registration. It acknowledged that a higher court reversing dismissal of an application may need to hear the suspect in the circumstances of the case; this is not an absolute right. The Court applied the no-hearing rule to FIR registration. *Mohd. Ibrahim v. State of Bihar, (2009) 8 SCC 751*, quoted in full relevant part, drew a crucial Section 464 distinction: a person who

conveys another's property in his own name, even while dishonestly asserting ownership, does not on that basis alone make a document purporting to have been made by another or with another's authority; without a false document, forgery under Sections 467 and 471 cannot follow. *Ram Narayan Popli v. CBI, (2003) 3 SCC 641*, a three-judge decision, set out deception and induced delivery for Section 420, the respective document offences, knowledge or reason to believe for use under Section 471, and the false-document plus specified intent elements of forgery. Its distinction concerning when a false description amounts to impersonation was relevant to the present case. The High Court concluded that the specific declarations in these deeds concerning government-lease status and ownership, coupled with lack of title and the alleged false mutation, disclosed a prima facie case involving a forged document. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, was adopted as the standard for cautious exercise of the power to quash: test uncontroverted allegations and ingredients, avoid factual trial and consideration of external defence materials, respect legal bars and abuse-of-process exceptions, and do not quash merely because the same transaction gives rise to civil remedies.

3. Statutes considered : Section 482 CrPC governed the four applications and the limited review of the FIR on its allegations taken at face value. IPC Sections 420, 467, 468, 469 and 471 were the FIR offences; Section 470 appeared in the SDM's request and the applicants' legal argument. The Court examined Section 420's deception and inducement, Sections 463–464's making of a false document with requisite intent, the forgery specified in Section 467, Section 468's cheating purpose and Section 471's knowing use. Section 52 IPC defined good faith by due care and attention, which the Court used in assessing the claimed bona fide purchases. Evidence Act Sections 40–43 concerned limited relevance or conclusiveness of prior judgments; the presumption of possession under Section 110 was discussed in *Star Bone Mill*. The 26 June 1984 Madhya Pradesh revenue circular concerning possible conferral of bhumiswami rights was applied through *Krishna Bahadur Singh*; the judgment identified no automatic title transfer from an expired temporary patta.

4. Issues : (i) Could allegations of personal bias and ulterior conduct by the SDM be assessed without making him a respondent in his personal capacity? (ii) Did Bilson's expired patta, later mutation and the 1984 circular establish title in the first three vendors or validate the sale chain, and did the Additional Collector's view bind a criminal court? (iii) Did the applicants have a right to be heard before FIR registration or before the SDM's unchallenged revenue order? (iv) Did the alleged deeds and entries disclose false-document, forgery and cheating ingredients at the Section 482 stage in light of *Mohd. Ibrahim* and *Ram Narayan Popli*? (v) Did the claimed civil nature and subsequent purchasers' asserted good faith justify quashing despite prima facie criminal allegations?

5. Ratio / Findings : (i) Because the SDM was not personally joined, the Court, following *P.P. Sharma* and companion authorities, refused to entertain untested allegations against him. The five-year patta ended in 1977. The 1984 circular was non-retrospective in the manner explained in *Krishna Bahadur Singh*, required a patta subsisting on that date and an order conferring bhumiswami rights, and did not create Bilson's title here. No deed or inheritance linked Bilson to Ramsewak, Sarman Devi or Ramswaroop. The allegedly fictitious mutation of their names could not constitute a document of title; *Star Bone Mill*'s rule precluded passage of better title by later registered deeds. The Additional Collector's order was therefore considered erroneous. In addition, under *Kishan Singh*, *Syed Askari* and *Prem Raj*, the Collector's findings did not automatically bind a criminal prosecution; a previous judgment's possible relevance under the statute does not make it conclusive proof in another forum. (iii) *Anju Chaudhary* excluded a general pre-registration hearing for suspects; none was owed before this FIR. The SDM's 25 January order was not under challenge, so alleged lack of hearing before it did not decide Section 482 relief. (iv) The Court quoted *Mohd. Ibrahim*'s distinction between an untrue assertion of one's own ownership and Section 464's separate requirement that the document purport to have been made by another or with another's authority, and the ingredients explained in *Popli*. It nevertheless treated the declarations in the sale deeds asserting exclusive ownership and denying government-lease status, in the alleged chain of transfers of government land, as disclosing a prima facie case involving forged documents and illegal gain. (v) *Amit Kapoor* required a restrained inquiry on the allegations taken at face value, not a mini-

trial; a civil title remedy would not itself remove criminality. Under IPC Section 52, an assertion of bona fide purchase without checking earlier records did not establish due care; those records had shown forest land and no intervening release by the State or valid title in the original vendors. The Court found no ground to interfere with the FIR. Whether the prosecution ultimately proves knowledge, deception, forgery and individual participation remains for later stages.

6. Relief : The Hon'ble High Court dismissed all four connected M.Cr.C. petitions. Interim orders were vacated.

Sharad Agarwal v. State of Madhya Pradesh and Others; Alpana Awasthi and Others v. State of Madhya Pradesh and Others; Manisha Mishra and Others v. State of Madhya Pradesh and Others; Ramswaroop Choubey v. State of Madhya Pradesh, M.Cr.C. no. 7431/2020 & 9859/2020 & 12289/2020 & 17457/2020, 06/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Matrimonial prosecution / distant relations - A vague group allegation of ₹4 lakh demand and harassment in the FIR and Section 161 statement did not identify any act by applicants 4 and 5, Mridula and Ram Kumar Mishra, persons living separately and connected through the husband's maternal aunt, rather than members of his household. *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, warns that dowry accusations against relations require proof of overt acts and that indiscriminate implication can weaken genuine prosecution; *Monju Roy v. State of W.B., (2015) 13 SCC 693*, adopted its caution while requiring tangible specific material before distant relations are summoned, without weighing genuine dowry allegations in golden scales. *Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, quashed extremely general allegations against separately situated relations in its own setting; *K. Subba Rao v. State of Telangana, (2018) 14 SCC 452*, required specific instances of involvement, while recognising the restraint against intervention at an interlocutory stage unless there is abuse of process, citing *Bhajan Lal* and *Kailash Chandra Agrawal*. *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, calls for careful pragmatic scrutiny of accusations against separately living relatives; *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, requires particulars identifying each accused's acts, rather than repetition of statutory language; *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, rejects casual naming without allegations of active involvement, drawing on *G.V. Rao*. Applying the qualified principle common to these authorities, the Court quashed the prosecution only of the two distantly connected applicants.

Divorce litigation / criminal case independence - *Kamaladevi Agarwal v. State of W.B., (2002) 1 SCC 555*, explained the distinct civil and criminal standards and, with the qualified rule in the Constitution Bench decision in *M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, rejected quashing merely because civil proceedings were pending. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, applied Section 482 and the approach in *Bhajan Lal* to allegations taken at face value: a wife need not lose criminal recourse because she tried reconciliation before complaining after her husband petitioned for divorce; civil and criminal cases may proceed independently. Here, the timing of the complaint after the divorce petition and the divorce decree under appeal, accompanied by a restraint on remarriage, were not grounds to end the prosecution of the husband and parents on allegations of dowry demand and cruelty taken at face value. The civil court's finding about the alleged affair did not bind the criminal court.

Section 482 / defence facts and differentiated result - A mediator's account of the complainant's language and the applicants' disputed adultery assertion were matters for the trial court, not for factual adjudication in this quashing petition. The uncontroverted complaint alleged renewed ₹4 lakh demand and mental and physical harassment by husband Sharad Sharma and parents Indra Sharma and Vinesh Chandra Sharma. It justified their continuing prosecution under IPC Sections 498-A, 294, 506/34 and Dowry Prohibition Act Section 4 at this stage, while the absence of material identifying any individual act justified quashing as to Mridula and Ram Kumar Mishra.

Case-note :- ***1. Facts :*** Respondent No. 2 stated that she married applicant No. 1 Sharad Sharma on 8 February 2015. Her FIR of 5 April 2017 alleged marriage expenditure and gifts including ₹13,51,000 cash, gold, silver and household goods; all named applicants allegedly taunted her for insufficient dowry, sought a further ₹4 lakh, abused and assaulted her on refusal, and eventually excluded her

from the matrimonial home. She said her father tried persuasion and three reconciliation proceedings at Mahila Thana Padav had not resolved matters. The Magistrate's 2 May 2017 order took cognizance against five applicants under IPC Sections 498-A, 294, 506 and 34 and Section 4 of the Dowry Prohibition Act in Criminal Case 1554/2017. They petitioned under Section 482 CrPC to quash that order and prosecution. At a 31 January 2022 hearing, the High Court sought clarification of applicants 4 and 5's relationship. Respondent No. 2's subsequent filing showed mother-in-law Indra Sharma's real sister was Mamta Mishra, who was not accused; Ram Kumar Mishra was Mamta's devar and Mridula Mishra his wife, Mamta's devarani. Thus the two were remote connections, not husband Sharad's parents or siblings; their cause-title addresses showed separate residence in Gwalior. The FIR and Section 161 statement alleged the collective demand and harassment against all but identified no specific conduct by these two. Sharad, Indra and Vinesh Chandra Sharma were the husband and parents-in-law. They contended that the wife had a relationship with Vaibhav, that a divorce decree contained a civil finding in their favour, and that a mediator had recorded her and her brother's insulting language toward his parents. They characterised the FIR as retaliation for Sharad's divorce petition. The State and complainant maintained that the allegations warranted prosecution; an FIR after the divorce filing alone did not prove a counterblast. The divorce decree was under First Appeal 277/2020, with a 19 February 2020 interim restraint on Sharad remarrying. These competing assertions were not treated as proven facts of the criminal charges.

2. Precedents — Considered : *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, cautioned against treating all in-laws and other relations as culpable merely by association in dowry death cases; overt acts attributed to persons other than the husband must be proved beyond reasonable doubt in a trial. The High Court used its warning against implicating relatives without particulars when assessing the case before trial; it did not apply the trial burden to make a finding of innocence. *Monju Roy v. State of West Bengal, (2015) 13 SCC 693*, reaffirmed caution and required specific, tangible material before summoning distant relations while recognising that genuine allegations of dowry demand and harassment in a case of unnatural death should not be weighed unrealistically; its excerpt discussed *Kans Raj and Raja Lal Singh v. State of Jharkhand, (2007) 15 SCC 415*, the latter mentioning *Kamesh Panjiyar. Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, quashed general allegations against relatives amid long delay and uncertain cohabitation in its own facts; this Court applied the requirement of specific allegations without treating this case as involving that six-year delay. *K. Subba Rao v. State of Telangana, (2018) 14 SCC 452*, explained that interdiction at an interlocutory stage is exceptional but warranted for abuse of process, and required specific involvement rather than bald assertions against distant maternal uncles; it cited *State of Haryana v. Bhajan Lal and Kailash Chandra Agrawal*. *Preeti Gupta v. State of Jharkhand, AIR 2010 SC 3363*, required circumspection and attention to whether accused relatives lived apart and actually visited or participated, without assuming all complaints false. *Neelu Chopra v. Bharti, (2009) 10 SCC 184*, rejected a complaint naming penal sections without identifying the offences and acts of each accused. *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, distinguished casual naming from active involvement and cited *G.V. Rao v. L.H.V. Prasad on* avoiding needless matrimonial litigation. The High Court considered these authorities in substance and applied them to the absence of allegations identifying individual acts by the two distantly connected applicants.

Kamaladevi Agarwal v. State of West Bengal, (2002) 1 SCC 555, distinguished proof by probabilities in civil cases from proof beyond reasonable doubt in criminal cases and held that pending civil litigation by itself cannot end criminal proceedings. It reproduced *the Constitution Bench's M.S. Sheriff v. State of Madras, AIR 1954 SC 397*, favouring prompt criminal adjudication in its context while expressly disavowing an inflexible priority rule; the possibility of conflicting results alone does not make the decision of one forum binding on the other. *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, found that the High Court had improperly gone beyond FIR allegations and relied on extraneous circumstances when quashing, invoked *Bhajan Lal*'s illustrations, and rejected an automatic adverse inference from the wife's complaint after unsuccessful settlement efforts and a divorce petition. Applying these, the present Court refused to deem this FIR a counterblast solely from chronology. The civil finding about the alleged affair and the divorce decree, which had not attained

finality, did not bind the criminal court or settle the criminal issues.

3. Statutes considered : Section 482 CrPC governed the petition invoking inherent jurisdiction against cognizance and consequent proceedings. The Court tested the uncontroverted allegations at that limited stage and declined to decide disputed defence facts. Section 161 CrPC concerned the complainant's police statement and the absence in it of specific allegations against applicants 4 and 5. IPC Sections 498-A, 294, 506 and 34 and Section 4 of the Dowry Prohibition Act were the offences of which cognizance was taken; the Court did not separately construe each offence's elements but assessed the alleged dowry demand, harassment, abuse and the allegations against the group as the basis for continuing or quashing the prosecution. Civil and criminal standards of proof were compared through *Kamaladevi* and *M.S. Sheriff*, while guilt remained for the criminal court.

4. Issues : First, did the FIR and Section 161 statement disclose enough specific material to prosecute Mridula and Ram Kumar Mishra, given their remote connection and separate residence, or would their inclusion on a collective allegation without distinguishing their acts amount to an abuse of process? Second, did a divorce action filed before the FIR, a later decree under appeal and a civil finding about the wife's alleged relationship require quashing the case against Sharad and his parents as retaliatory or as having been resolved by the civil proceedings? Third, could contested reconciliation conduct and alleged adultery be decided on a Section 482 petition instead of trial, and did the remaining allegations taken at face value justify continuation?

5. Ratio / Findings : The clarified relationship showed that the two distantly connected applicants were the devar and devarani of the husband's maternal aunt, rather than close relations of Sharad and his parents. Their separate residences reinforced the need for a specific role. Both FIR and Section 161 statement used an omnibus assertion that all five demanded ₹4 lakh and caused mental and physical harassment, without identifying an act by either remote applicant. The Supreme Court authorities required tangible material identifying individual involvement in such a setting; the Court found insufficient basis to put those two to trial and quashed their prosecution. As to husband and parents, a complaint following a divorce petition did not necessarily demonstrate a counterblast. The wife's earlier attempts at reconciliation provided a plausible explanation for the timing of her complaint; the Court did not lay down a general presumption excusing every delay. *Kamaladevi* and *Pratibha* precluded quashing merely because civil divorce litigation also existed, and the appealed decree had not attained finality. Civil findings about the asserted affair did not bind the criminal case, while their truth and a mediator's report about the wife's conduct were contested matters for the trial court. At the Section 482 stage the uncontroverted ₹4 lakh demand and physical and mental harassment allegations supplied a prima facie case against Sharad, Indra and Vinesh; deciding their defence or credibility would exceed the limited inquiry. The Court distinguished between the accused according to their alleged roles and relationships; it did not treat all five as exonerated or convicted together.

6. Relief : The Hon'ble High Court partly allowed the Section 482 application. Criminal Case 1554/2017 and prosecution were quashed only as to applicant 4 Smt. Mridula Mishra and applicant 5 Ram Kumar Mishra. The quashing request was dismissed for applicant 1 Sharad Sharma, applicant 2 Smt. Indra Sharma and applicant 3 Vinesh Chandra Sharma; the proceedings against them pursuant to the cognizance order continue.

Sharad Sharma and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 6385/2017, 15/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder / Section 300 thirdly - *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, requires the prosecution to prove the injury, its nature, the intention to inflict that particular injury and its objective sufficiency in the ordinary course of nature to cause death; a further subjective intent to kill or knowledge that the injury was sufficient to cause death is not required by that clause. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079/2005, sets out the alternatives of intention and knowledge under Section 299, the further inquiry into Section 300's clauses and exceptions, and the distinction between Section 304 Part I and Part II where the offence is not murder. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, explains sufficiency in the ordinary course of nature as a high probability of death, with the weapon and site of

injury being relevant. On the evidence of multiple abdominal and other firearm wounds, the postmortem opinion and the accepted account of the shooting, the Court affirmed the convictions under Section 302/34 for Shami Ulla's murder. It declined to reduce the offence on the asserted absence of a separate intention to kill.

Murder classification / injury circumstances and Exception 4 - *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319; Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444; Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799; State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*; and *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, require intention to be assessed in context and reject automatic reduction from Section 302 to Section 304 merely because only one blow was struck. *Kanhaiyalal* discussed *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram*; *Bavisetti* discussed *State of Karnataka v. Vedanayagam and Virsa Singh*. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, requires, for Exception 4, a sudden mutual fight without premeditation, in the heat of passion and without taking undue advantage or acting cruelly. Those cases were considered for their tests; the present coordinated attack involving multiple shots on an unarmed group without a prior altercation did not satisfy the exception.

Section 34 / participation and concert - The prosecution must establish a criminal act by several persons in furtherance of their shared intention. Each need not inflict a separate fatal blow, but merely accompanying the assailant is insufficient. *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, distinguishes common intention without an individually attributed overt blow from participation without concert; *Shyamal Ghosh v. State of W.B., AIR 2012 SC 3539*, and *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, stress plan and proof of actual participation. *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, recognises that concert may be formed even on the spur of the moment; *Hem Raj v. Delhi Administration, AIR 1990 SC 2252*, and *Dashrathlal v. State of Gujarat, 1979 Cri LJ 1078* (SC), exclude association alone.

Private defence / proportionate necessity - *Kashi Ram v. State of Rajasthan, (2008) 3 SCC 55*, reads IPC Sections 97–106 together, relying *on Bishnas v. State of W.B., (2005) 12 SCC 657*, for a defensive response, rather than retaliation, within the limits of reasonable force, including property protection. The Court found no impending unlawful armed force from the unarmed occupants of the field and instead an armed ambush with multiple shots, rejecting the appellants' property-defence and sudden-provocation accounts.

Injured testimony / attempted murder / dying declaration - The materially consistent account of injured eyewitnesses Amjad and Firoj Ulla was corroborated by MLCs, radiographs, surgery, postmortem and forensic material; serious treatment and advice not to speak explained Firoj's delayed police statement. Both surviving victims suffered multiple potentially fatal firearm injuries, sustaining two separate counts under Section 307/34. Rafat Ulla's appeal abated upon verified death in custody; the surviving appellants' appeal was dismissed and convictions and concurrent sentences affirmed.

Case-note :- ***1. Facts :*** The appeal under Section 374 CrPC challenged the convictions recorded by the First Additional Sessions Judge, Guna, on 25 February 2011 in Sessions Trial 370/2009. The trial court had imposed life imprisonment and ₹10,000 fine each under IPC Section 302/34 for Shami Ulla's murder, ten years' rigorous imprisonment on each of two Section 307/34 attempted-murder counts concerning Amjad Ulla and Firoj Ulla with ₹5,000 fine per count, and ₹5,000 fine under Section 427/34 for motorcycle damage, with default stipulations and concurrent imprisonment. Jail verification of 24 March 2022 established appellant 2 Rafat Ulla had died in custody; his appeal was dismissed as abated. The remaining appellants contested culpability. On 4 July 2009 at about 2:30–3 p.m., Amjad, Firoj and Shami went to cultivate an agricultural field. The prosecution alleged Shaukat Ulla, Rafat Ulla, Jan Hasan and Abid Khan arrived armed and fired repeatedly, injuring all three; Abid also damaged Amjad's Pulsar motorcycle with stones. Others intervened. At District Hospital, Guna, Amjad lodged Dehati Nalishi Ex. P1, which formed the basis for Cantt. Guna FIR 269/2009 (Ex. P33), initially for attempted murder and damage. The wounded were examined and referred to Indore; Shami died in hospital on 6 July. Murder was added and a charge sheet filed on 30 October 2009. Twenty prosecution witnesses testified, the accused denied the allegations under Section 313 CrPC and called no defence witness. On appeal they challenged the treatment of the Dehati Nalishi as an FIR, the roughly one-month delay in recording a witness

statement, the reliance on interested witnesses and discrepancies in their accounts, asserted private defence of agricultural property and absence of murderous intention, and later objected to lack of Shami's dying declaration. The State defended the convictions. The medical evidence included Dr Yogesh Dwivedi's same-day MLCs recording multiple gunshot entries on Shami and both survivors; radiographs by Dr Sitaram Singh Raghuvanshi showed firearm injuries and projectiles; Dr Ashish Agrawal described Firoj's urgent abdominal surgery and ICU admission and treated Shami, who died following surgery. Dr A.K. Lachhewal attributed death to firearm injuries to vital organs and complications, finding the wounds sufficient in the ordinary course of nature. The investigating officer described spot recoveries and seizure of a gun and cartridges from Rafat; the judgment reports a positive FSL result. Jan Hasan remained absconding and his case was not adjudicated in this appeal.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, is the central Section 300 Thirdly authority: the prosecution must objectively establish the particular injury and its nature, prove intention to inflict that very injury rather than accident or a different injury, then objectively establish that it was sufficient in the ordinary course of nature to cause death. The burden remains on the prosecution; subjective intent to cause death or foresee fatal sufficiency is not an additional Thirdly element. The Court applied that test to the firearm wounds and the medical cause of death. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079/2005, set out a structured inquiry under Sections 299 and 300, including the five murder exceptions and application of Section 304 Part I when intention is the dominant element and Part II when only knowledge is established. The excerpt also distinguished the particular knowledge required by clause Secondly from a mere probability; the Court focused on Thirdly here. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, explained ordinary-course sufficiency and the significance of the weapon or the site targeted. *Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319*, rejected a universal single-blow rule; *Pulicherla Nagaraju v. State of A.P., (2006) 11 SCC 444*, listed factors indicating intention without making the list exhaustive, including weapon, vital site, force, provocation, premeditation, prior enmity and number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, assessed weapon, target and force in a crowbar injury. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, discussed *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram* in rejecting automatic reduction after one blow and restating Exception 4. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, similarly required surrounding circumstances, citing *State of Karnataka v. Vedanayagam and* reproducing *Virsa Singh*'s distinction between intent to inflict the actual injury and the degree of its gravity. These authorities collectively supported classification of the homicide in its factual context; this prosecution concerned multiple firearms rather than a single blow. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, explained the cumulative conditions of Exception 4 concerning sudden fight, heat of passion, absence of premeditation and absence of undue advantage, distinguishing mutual combat from one-sided provocation. The Court found no prior quarrel and an armed ambush, so rejected that reduction.

On common intention, *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, was discussed for concert and the distinction between absence of a separately attributed overt blow and absence of common intention; *Shyamal Ghosh v. State of W.B., AIR 2012 SC 3539*, described the antecedent plan and action in its pursuance; *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, placed on the prosecution the burden of proving actual joint participation and concert. *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, allowed meeting of minds to develop at the scene while requiring concert. *Hem Raj v. Delhi Administration, AIR 1990 SC 2252*, illustrated acquittal of nonparticipating associates when only one assault was proved; *Dashrathlal v. State of Gujarat, 1979 Cri LJ 1078* (SC), rejected liability for mere accompaniment. In the present case, these principles were applied to assailants found to have been present and firing. *Kashi Ram v. State of Rajasthan, (2008) 3 SCC 55*, required integrated reading of IPC Sections 97–106. Its passage drew *on Bishnas v. State of W.B., (2005) 12 SCC 657*, and quoted criminal-law texts on anticipated attack, defensive force rather than revenge, and reasonable proportionality even in defence of property; the present Court found no factual foundation for using deadly force in defence.

3. Statutes considered : Section 374 CrPC governed the conviction appeal; Section 313 governed accused examination at trial. IPC Section 299 defines culpable homicide by intended death, an intended injury likely to cause death, or knowledge of likely death. Section 300's clauses define when culpable homicide is murder, with clause Thirdly addressing intentionally inflicted bodily injury objectively sufficient to cause death in the ordinary course, and Exception 4 addressing a sudden fight without premeditation or undue advantage. Sections 302 and 304 determine murder versus lesser culpable homicide punishment. Section 307 applied to the two living gunshot victims and Section 427 to the damaged motorcycle. Section 34 imposed joint liability for an act by several persons in furtherance of common intention; it did not make association alone sufficient. IPC Sections 97–106 governed private defence of person or property and the necessary force limits. Section 149 was mentioned illustratively in the Section 34 exposition, but no unlawful assembly count was under appeal. The testimony, MLCs, postmortem, seizure and FSL evidence formed part of the proof.

4. Issues : (i) Was Shami's death homicidal, and did the proven deliberate firearm injuries satisfy Section 300 Thirdly rather than a Section 304 category or Exception 4? (ii) Did the coordinated shooting of Amjad and Firoj and the medical assessment of the likelihood of death support two Section 307/34 attempts? (iii) Were common intention and participation proved against the surviving appellants, rather than inferred from company alone? (iv) Did the property-defence or sudden-provocation explanation fit a necessary, proportionate response or an unpremeditated fight? (v) Did witness relationship, the delayed police statement, FIR-origin objection, minor discrepancies or the missing dying declaration undermine the credited account? Rafat's appeal separately raised abatement after death.

5. Ratio / Findings : The postmortem attributed Shami's death to gunshot damage of vital organs and complications, and regarded the wounds as sufficient to cause death in the ordinary course of nature. This matched the injured brothers' account of a concerted armed attack. Under *Virsa Singh*, proof of the intention to inflict the particular bodily injuries and their objective sufficiency to cause death sustained Section 300 Thirdly; the judges found no need for a separate intention to bring about death. The use of firearms, the multiple wounds and the targeting of vital regions supported a finding of intentional assault under the authorities requiring consideration of the surrounding circumstances. The Court did not apply the single-blow cases mechanically to a repeated shooting. The accepted injured-witness accounts identified the shooters and Abid's separate damage to the motorcycle. Firoj's one-month police-statement delay was explained by serious referral and advice not to talk; the Court found his cross-examination materially intact. Their relationship did not lead the Court to reject either injured witness. The MLCs, radiographs, urgent treatment, postmortem and reported positive FSL supported the account; minor differences in Safi and Arif's accounts were not fatal. For the two survivors, numerous gunshot entries, Firoj's internal injury and surgery, and the doctor's assessment that death was probable supported intentional attempts under Section 307 on two counts, rather than an inference from Shami's death alone.

Section 34 liability rested on the accepted finding that the appellants arrived together armed and fired, together with Abid's damage to the motorcycle, rather than their mere association. The discussion insists on a proved joint act and shared intention, with no need for each person to fire the decisive fatal projectile. Private defence failed: unarmed cultivators were attacked by persons who arrived with firearms; no antecedent altercation or necessity for lethal defence was shown. On the Court's facts, the ambush was planned and the circumstances did not establish a sudden mutual fight or the absence of undue advantage required for Exception 4. Shami's survival under care until 6 July did not make a dying declaration mandatory in a case supported by accepted direct and medical evidence; its absence did not require acquittal. These are appellate findings on this evidence, including individual participation and intent, not universal presumptions arising from injury or failure to record a dying declaration.

6. Relief : The Hon’ble High Court dismissed Rafat Ulla's appeal as abated following verified death in jail. The surviving appellants' appeal was dismissed; the trial court's 25 February 2011 judgment and concurrent life imprisonment, two ten-year attempted-murder terms, fines and default stipulations were affirmed. Any appellant on bail was directed to surrender immediately; bail and surety bonds were cancelled. The record was to be returned to the trial court and a copy sent to the jail. The

judgment did not decide the case of absconding Jan Hasan.

Shaukat Ulla and Others v. State of Madhya Pradesh, Cr.A. no. 210/2011, 11/04/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Court-document forgery / Section 195(1)(b)(ii) - *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, approving *Sachida Nand Singh*, limits the requirement of a court complaint to the enumerated offences committed in respect of a document after it has been produced or admitted in evidence, while it is in custodia legis. An age certificate alleged to have been fabricated beforehand and then used in two bail applications was outside the bar because of when the alleged forgery occurred. On the Collector's report that the centre said to have issued the certificate had no X-ray machine and had issued no such certificate, the High Court's earlier direction to its Principal Registrar to lodge an FIR, rather than file a court complaint under Section 195, was permissible. That direction was expressly prima facie and left the police to investigate the certificate's authenticity and the doctor's possible role; it was not a final finding of forgery.

Recusal objection / prior prima facie referral - The judge's earlier direction, based on the evidence, for police investigation of a document submitted in a bail matter did not itself make the Court an aggrieved complainant or establish bias in the later Section 439 hearing. The applicant's asserted Section 195 error failed on *Iqbal Singh Marwah*, and counsel conceded that no prior conclusive adverse finding had been made, withdrew the recusal request and apologized. The Court rejected the attempt to select a forum on that premise and declined bail in light of the alleged attempt to obtain it through the suspect certificate.

Case-note :- ***1. Facts :*** Sher Singh was arrested on 13 July 2021 in Crime 409/2020 at University Police Station, Gwalior, under IPC Sections 420, 466, 467, 468 and 471. This was his first Section 439 CrPC regular-bail application in that forgery prosecution, M.Cr.C. 60190/2021. The background was a different case, Crime 241/2020 at Myana, Guna, alleging IPC Sections 363, 366-A and 376 and POCSO Sections 5/6 concerning a prosecutrix whose school record gave 13 March 2004 as date of birth. In his first bail application in that case, M.Cr.C. 37338/2020, the applicant submitted an Aadhaar record showing a different date of birth and a certificate purportedly issued by a medical officer at UPHC Sironj, Vidisha. On 5 October 2020 the judge noted that Aadhaar was not a certificate of date of birth and that no basis, ossification test, X-ray film or report supported the purported medical age certificate, ordered the Vidisha Collector to inquire, and refused bail in that application. A second application, M.Cr.C. 48215/2020, relied on the same certificate. The Collector's report of 25 November 2020, reproduced in the present judgment and placed before the Court in December, relayed the investigating committee's conclusion that the centre said to have issued the certificate lacked an X-ray machine and had not issued such a certificate; police investigation of the document was recommended. The report did not conclusively determine whether the doctor had given a false account. On 8 December 2020 the judge, expressly relying prima facie on the report, directed the Principal Registrar to give police the report and annexures and lodge an FIR over filing an allegedly forged certificate; police could check the document's genuineness and investigate the doctor if appropriate. That second bail application in the POCSO case was also dismissed. At the outset of the present forgery-case bail hearing, counsel demanded recusal because the same judge had directed the FIR. He argued that Section 195 CrPC required a court complaint for a forged document filed before a court and that the earlier direction to lodge an FIR was therefore erroneous. The judge asked counsel to distinguish forgery preceding court filing from forgery during court custody. Counsel acknowledged he had not examined the governing Supreme Court law, ultimately accepted that the earlier order had made no final finding against Sher Singh and apologized for the recusal request.

2. Precedents — Considered : *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, is the controlling Supreme Court authority. Its Constitution Bench paragraph 33 approved *Sachida Nand Singh* and held that Section 195(1)(b)(ii) CrPC applies to the listed document offences only if they are committed after a document has been produced or given in evidence in a court proceeding, while it is in court custody. The High Court applied that temporal distinction to the certificate said to have been made before the two bail applications in the POCSO case were filed, permitting a police FIR rather than

requiring the court's formal complaint. This did not conclusively prove when or by whom any forgery occurred; it answered the applicant's contention that the statute imposed an absolute bar on the facts underlying the referral. *Sachida Nand Singh* appears within the quoted Constitution Bench holding. A reference to *Independent Thought v. Union of India, (2017) 10 SCC 800*, occurs in the reproduced 5 October 2020 order about the minor prosecutrix and the refusal of bail in the separate POCSO case.

3. Statutes considered : Section 439 CrPC governed the present regular-bail request. Section 195(1)(b)(ii) CrPC was substantively construed as a limited restriction requiring a court complaint for cognizance of specified document offences committed while the document is in custodia legis, not a general ban on FIR investigation of a document forged before filing. The earlier bail applications and police referral supplied procedural background. IPC Sections 420, 466, 467, 468 and 471 were the forgery-case FIR offences; the elements of those offences were not tried in this order. IPC Sections 363, 366-A and 376 and POCSO Sections 5/6 belonged to the distinct underlying sexual-offence proceeding in which the disputed certificate was used. Aadhaar, school and purported medical age material were described as factual background, without a fresh final determination of age in this application.

4. Issues : Did Section 195(1)(b)(ii) prohibit an FIR when a certificate was allegedly forged before being filed in a bail case, or did the requirement of a court complaint apply only to forgery while the document was in judicial custody? Did the same judge's earlier prima facie direction for police inquiry require recusal or amount to an adverse final determination, and should bail be granted in the ensuing forgery case? The genuineness of the document and the possible role of the medical officer remained for police investigation and any later proceedings, not final resolution in this application.

5. Ratio / Findings : The Court applied the temporal distinction in *Iqbal Singh Marwah*. The suspect certificate was alleged to have existed when attached to the 2020 bail applications, rather than having been forged after production in court. Therefore Section 195(1)(b)(ii) did not require a court complaint to the exclusion of an FIR, and the earlier instruction to the Principal Registrar was legally tenable. The Collector's report and the committee's account supplied a prima facie reason for investigation: no X-ray equipment at the named centre and denial that it issued age certificates. The earlier order itself allowed police to check whether the certificate was genuine and whether a doctor had falsely issued it or given an inaccurate account; it did not make a conclusive judicial finding of the applicant's guilt. Counsel accepted that limitation and withdrew the claim that the judge was an aggrieved complainant. On these facts, the recusal request lacked its asserted legal and factual foundation. The Court treated attempting to secure bail with the suspect certificate as serious misconduct, declined sympathy in the present bail application and warned against forum shopping and unprepared submissions.

6. Relief : The Hon'ble High Court dismissed the first application for regular bail in Crime 409/2020. No recusal was ordered, and the FIR lodged under the earlier direction to the Registrar remained undisturbed. Counsel's apology was recorded and he was advised to prepare and present factual and legal issues with greater care.

Sher Singh v. State of Madhya Pradesh, M.Cr.C. no. 60190/2021, 15/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- FIR inaction / Article 226 and alternate process - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguished the police duty to register cognizable information under Section 154 CrPC, as in *Ramesh Kumari* and *Lallan Chaudhary*, from the remedy available to the complainant when the police fail to act; it explained the Magistrate complaint route under Sections 190 and 200, drawing on *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, similarly directed complainants alleging ordinary police inaction to that statutory remedy, while preserving intervention under Article 226 in the rarest cases where investigative powers have been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is established, limited to ensuring lawful process rather than directing how the investigation should be conducted. Applying those distinct propositions, the High Court declined to issue a writ directing investigation of the petitioner's allegations concerning a cheque given as security.

Registration / magistrate investigation oversight - *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, prescribed an approach to the SP under Section 154(3), followed, if necessary, by an application under Section 156(3) for registration or proper investigation. A Magistrate may direct and monitor a proper inquiry after prima facie satisfaction. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed this route, including a possible recommendation to the SP for a change of investigating officer, while leaving the investigation itself with the police. The passage from *Gangadhar* quoted in *Divine Retreat Centre* also described examination of a complaint under Sections 190 and 200, possible investigation and dismissal under Section 203. These remedies remained open to the petitioner, whose writ was dismissed with liberty to approach the competent Magistrate under Sections 156(3), 200 and 202.

Alternative remedy / exceptional writ qualification - *Shweta Bhadauria v. State of M.P.*, WA 247/2016, decided 20 December 2016, was followed for denying routine mandamus to register an FIR when the remedies under Sections 154(3), 156(3), 190 and 200 have not been exhausted, subject to the recognized *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, exceptions. It distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which addresses the duty of the police to register an FIR rather than a right to bypass statutory remedies through mandamus.

Case-note :- ***1. Facts :*** Shirish Yadav filed Writ Petition 14723/2022 under Article 226 concerning a written police complaint of 21 June 2022. He alleged that respondents 3 and 4 retained signed papers and blank cheques, including a cheque allegedly handed over as security in a 2016 agreement, and feared misuse. His prayers asked for the records, proper police inquiry and investigation and action against those respondents, return of the cheque and signed papers, and restraint against misuse. Counsel submitted that police had taken no action on his complaint. The State appeared through a Government Advocate. The judge identified the question of the appropriate remedy: whether a writ under Article 226 should direct the police to register an FIR. The Court surveyed Supreme Court and Division Bench authorities and dismissed the petition with liberty to approach the Magistrate.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, affirmed the police duty to register a cognizable offence but distinguished what police must do from which remedy an informant must use if they do not. It treated *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582*, *Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768*, *Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, as supporting a Magistrate complaint under Sections 190 and 200. It explained that *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, reiterated *by Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, concerned the police's statutory duty rather than the procedure for seeking judicial redress. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognized exceptional intervention under Article 226 in the rarest cases where investigative powers have been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is established, but limited the High Court to ensuring lawful process rather than specifying how officers should investigate. For ordinary police inaction it applied *Gangadhar* and the remedy before the Magistrate under Sections 190/200. The passage from *Gangadhar* explained inquiry under Chapter XV, possible police investigation, dismissal under Section 203 where no offence appears, and issuance of process where a prima facie case is disclosed.

Sakiri Vasu v. State of U.P., (2008) 2 SCC 409, set out the more specific steps: complain in writing to the SP under Section 154(3), then apply to a Magistrate under Section 156(3) if the FIR is still not registered or proper investigation is not conducted. A Magistrate who is satisfied may order registration or investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reaffirmed this remedy in place of a routine petition under Article 226, recognizing the Magistrate's power to recommend a change of investigating officer to the SP if necessary, but not to investigate personally; the quoted decision did not dictate an officer change in this case. *Shweta Bhadauria v. State of M.P.*, WA 247/2016, decided 20 December 2016, was the binding Division Bench explanation that mandamus may be declined where the remedies under Sections 154(3), 156(3), 190 and 200 have not been exhausted unless one of the recognized *Whirlpool Corporation v. Registrar of*

Trade Marks, (1998) 8 SCC 1, alternative-remedy exceptions applies. Its quotation distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: compulsory police registration of qualifying information does not itself establish entitlement to immediate writ mandamus without regard to available remedies.

3. Statutes considered : Article 226 of the Constitution was invoked for relief directing police investigation, return of the cheques and signed papers, and protection against misuse; the request was assessed in light of the available statutory remedies. Section 154 CrPC concerns registration of cognizable information; subsection (3) permits an approach in writing to a superior police officer after refusal. Section 156(3) enables a Magistrate, on appropriate satisfaction, to order registration and proper police investigation and monitor its course without personally taking over investigation. Chapter XII investigation and Chapter XV complaint procedures were distinguished.

4. Issues : Whether the petitioner's assertion of police inaction on his 21 June 2022 written complaint entitled him to an Article 226 command for FIR registration, inquiry or investigation against the private respondents despite the statutory remedies before the SP and the Magistrate. Whether the exceptional writ power reserved for the rarest cases of mala fide exercise of investigative powers, with a clear case of abuse of power and non-compliance with Chapter XII, altered the ordinary route on the material described.

5. Ratio / Findings : Information disclosing a cognizable offence places a statutory duty on the police to register an FIR, but *Aleque Padamsee* distinguishes that duty from an automatic entitlement to mandamus on a complainant's writ petition. Sections 154(3), 156(3), 190 and 200 provide remedies when the police fail to act. *Sakiri Vasu* and *Sudhir Tambe* explained the Magistrate's powers to secure and monitor investigation, and *Divine Retreat Centre* preserved a limited public law power of intervention in the rarest cases where investigative powers have been exercised mala fide and a clear case of abuse of power and non-compliance with Chapter XII is established, without permitting the High Court to manage the police's investigative methods. The rule in *Shweta Bhadauria* concerning alternative remedies, subject to recognized exceptions, distinguished *Lalita Kumari*; the writ was treated as an ordinary inaction complaint with no exceptional facts found.

6. Relief : The Hon'ble High Court dismissed the Article 226 petition. Shirish Yadav was expressly left at liberty, if he wished, to approach the competent Magistrate under Sections 156(3), 200 and 202 CrPC for redress.

Shirish Yadav v. Union of India and Others, W.P. no. 14723/2022, 08/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Victim age / documentary hierarchy - *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, extended the age-determination sequence in Rule 12(3) of the Juvenile Justice Rules, 2007 to child victims. The sequence gives priority to a matriculation or equivalent certificate, then, in its absence, the birth record from the first school attended, followed, in its absence, by a municipal or panchayat certificate; medical opinion is sought only when those documents are unavailable. The Court relied on the Class V record proved by the headmaster, which gave the date of birth as 4 April 2001. He testified that the register carried the same date, and the grandmother's unchallenged estimate of age supported that evidence. *State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736*, treated a school entry made in the discharge of public duty as admissible under Section 35 Evidence Act and capable of corroborating other evidence, without making every such entry conclusive. *Murugan v. State of T.N., (2011) 6 SCC 111*, emphasised documents made ante litem motam, while allowing inquiry into the informant, the source of the entry and the need for corroboration. It cited *Umesh Chandra*, *Radha Krishna Singh* and *Madan Mohan Singh*'s review of further authorities. The ossification report was not proved and could not be read against the appellant. The doctor's estimate of 15–16 also indicated minority. The Court held that the prosecutrix was under 18 on 8–9 June 2014.

Minority / consent and factual defence - Having found that the prosecutrix was a minor, the Court treated her alleged willingness to accompany the appellant or consent to sexual intercourse as immaterial to the rape charge. She described being induced by a promise of marriage, travelling to and living with him in Jaipur, sexual intercourse, and their return before they were recovered together. She

admitted that he had previously given financial assistance to her household, but denied that the case had been fabricated to avoid repayment.

Aggravated rape / lesser included offence - The prosecution did not allege that the appellant had raped a woman knowing her to be pregnant, as required by the charged Section 376(2)(h) IPC. Nor did it allege that the rape had caused grievous bodily harm, maiming, disfigurement or endangerment of life under clause (m). The convictions under those aggravated provisions were set aside. The Court held that the graver charge included the basic element of rape and, on the facts proved, substituted a conviction under Section 376(1), although no separate charge under that subsection had been framed.

Statutory minimum / sentence and relief - After the conviction was altered, the approximately five years already served did not justify limiting the sentence to the period undergone, as the appellant had requested. The Court applied the then minimum of seven years under Section 376(1). It imposed seven years' rigorous imprisonment, a fine of ₹5,000 and six months' imprisonment in default. The three-year term under Section 363 and the five-year term under Section 366, with their original fines and default terms, remained unchanged. The sentences were to run concurrently. The appeal was allowed only to that extent, and the appellant was already in jail.

Case-note :- ***1. Facts :*** The appellant appealed under Section 374 CrPC against the Additional Sessions Judge, Pichhore's judgment dated 30 April 2015 in Sessions Trial 89/2014. The trial court had imposed three years' rigorous imprisonment and a ₹100 fine under IPC Section 363, five years and a ₹200 fine under Section 366, and ten years and a ₹400 fine under Section 376(2)(h)/(m), each with a specified term of imprisonment in default. On 9 June 2014, the grandmother, Shantibai, reported that the prosecutrix had disappeared overnight and that the appellant was also missing from the village. The prosecutrix and her siblings had been living with their grandmother after their father's death and their mother's departure. FIR 150/2014 initially invoked Sections 363/366; rape and POCSO Sections 3/4 and 5/6 were added later. The girl and the appellant were recovered on 21 August 2014. Medical and school material was collected, and the trial court framed charges under Sections 363, 366, 376(2)(h)/(m) IPC and POCSO Section 4. The recited conviction, however, concerned the three IPC counts; the appellate account records no POCSO conviction. Fifteen prosecution witnesses testified, and Shishupal testified as DW1 along with another defence witness. The girl said that he had persuaded her with a promise of marriage. She described travelling on foot and by bus and train through Sunaj, Ashoknagar and Guna to Jaipur, where they rented lodging, stayed for about a month and had sexual intercourse. They then went to Bareilly before returning. The grandmother and brother described her disappearance and later recovery; two recovery witnesses said that she and the appellant had been apprehended together. The defence alleged a financial grievance: the appellant had paid ₹15,000 for a pump and helped with treatment for the grandmother's injury, and the family had difficulty repaying him. The prosecutrix admitted the transactions but denied that the case had been concocted. The headmaster proved a Class V progress report recording her date of birth as 4 April 2001. He testified that the school admission register carried the same date, entered on information from the parents. The grandmother's estimate that she was 13 was not challenged in cross-examination. An ossification report had been obtained but was not proved. The examining doctor assessed her age as 15–16 and recorded no fresh external injury. The doctor's description of prior sexual activity remained medical testimony; it was not a judicial reason for disbelieving the prosecutrix or implying lawful consent. The appellant disputed minority, relied on consent and false implication, and sought a sentence limited to the nearly five years spent in jail since arrest. The State supported the conviction.

2. Precedents — Considered : *Jarnail Singh v. State of Haryana, (2013) 7 SCC 263*, applied the then age-determination sequence in Rule 12(3) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 to victims as well as children in conflict with law. A matriculation or equivalent certificate took priority, followed, in its absence, by a birth certificate from the first school attended, and then, if unavailable, by a birth certificate from a public authority. An opinion from a duly constituted Medical Board was to be sought only if those documents were absent. The order reproduces the rule and *Jarnail Singh*'s explanation that each preceding document takes priority. The present Court relied on the school progress report proved by the headmaster and his testimony about the register, and did not rely on the unproved ossification result.

State of Chhattisgarh v. Lekhram, (2006) 5 SCC 736, held that a school register entry made in the discharge of public duty was admissible under Section 35 Evidence Act. Admissibility did not make it infallible; its weight depended on corroborating parental information and the circumstances. Here, the grandmother's evidence of age and the headmaster's testimony supported the entry. *Murugan v. State of T.N., (2011) 6 SCC 111*, treated records made before the dispute as potentially reliable under Section 35, while emphasising that the court may examine who supplied the information, its source, the entry's authenticity and the need for corroboration. It referred to *Umesh Chandra v. State of Rajasthan*, *State of Bihar v. Radha Krishna Singh*, and *Madan Mohan Singh v. Rajni Kant*. The last of these reviewed *Brij Mohan Singh*, *Birad Mal Singhvi*, *Updesh Kumar*, *State of Punjab v. Mohinder Singh*, *Vishnu* and *Satpal Singh*.

3. Statutes considered : Section 374 CrPC provided for the appeal. The convictions under IPC Sections 363 and 366, relating to kidnapping and abduction, remained intact. The charged Section 376(2)(h) required rape of a woman known to be pregnant, while clause (m) required rape causing grievous bodily harm, maiming, disfigurement or endangerment of life. The prosecution case did not support either aggravating circumstance. A conviction for the basic rape offence under Section 376(1) was substituted on appeal, although no separate charge under that subsection had been framed. The Court applied the statutory minimum of seven years applicable at the relevant time. Section 35 Evidence Act governed the admissibility of the school records; their source and evidentiary weight were separately assessed. Rule 12(3) of the 2007 Juvenile Justice Rules, made under the 2000 Act and applied to child victims by *Jarnail Singh*, supplied the relevant sequence of evidence. The ossification report remained unproved and could not be read against the appellant.

4. Issues : Did admissible and reliable evidence establish that the prosecutrix was under 18 on the date of the incident, despite the unproved ossification report and the doctor's separate estimate? If she was a minor, could the claims of consent, the promise of marriage and the financial-transaction defence displace the kidnapping and rape findings? Were the pregnancy-based and injury-based aggravated rape clauses proved? Could the appellate court substitute a conviction under the basic Section 376(1) when only the aggravated subsections had been charged? What sentence could be imposed in light of the then minimum and the nearly five years already undergone?

5. Ratio / Findings : The headmaster proved the Class V school record and testified that the admission register carried the same date of birth, entered on parental information. Although he had not brought the register, the Court accepted his evidence and the grandmother's unchallenged estimate of age. *Jarnail Singh* gave the available school source priority over medical opinion under the historical Rule 12 hierarchy. *Lekhram* and *Murugan* required attention to admissibility under Section 35 and the evidentiary foundation, rather than treating all entries as conclusive without support. The ossification report was not proved, and the Court expressly declined to read it against the appellant. The doctor's estimate was 15–16; neither that estimate nor the unproved report established adulthood. The Court found that the prosecutrix was a minor. Her account of travel and sexual intercourse, her recovery with the appellant and the absence of a convincing explanation of false implication supported the core findings. She admitted receiving financial help but denied malicious fabrication. In the Court's reasoning, her minority made alleged willingness or consent immaterial to the rape charge. The question of aggravation was separate. There was no allegation of pregnancy known to the appellant or of rape causing grievous bodily harm, maiming, disfigurement or endangerment of life. The convictions under Section 376(2)(h)/(m) therefore could not stand. The then minimum of seven years precluded limiting the sentence to the period already undergone, as the appellant sought. The findings under Sections 363 and 366 were retained.

6. Relief : The Hon’ble High Court allowed the appeal in part. It set aside the conviction under Section 376(2)(h)/(m) and the accompanying sentence of ten years and a ₹400 fine. In their place, it convicted the appellant under Section 376(1) IPC and imposed seven years' rigorous imprisonment, a ₹5,000 fine and six months' rigorous imprisonment in default. The three years and ₹100 fine under Section 363 and the five years and ₹200 fine under Section 366, with their original default terms, remained intact. The terms of imprisonment were to run concurrently. The trial judgment was otherwise affirmed, and the appellant was in jail.

Shishupal v. State of Madhya Pradesh, Cr.A. no. 596/2015, 01/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Public servant sanction / reasonable nexus - *Devinder Singh v. State of Punjab through CBI, (2016) 12 SCC 87*, summarised the principles under Section 197 CrPC. A genuine connection with official duty is construed liberally, even where the officer exceeds authority, but an unrelated crime cannot be protected by a fanciful claim of official duty. Sanction is required for an assault intrinsically connected with the official task. *D.T. Virupakshappa v. C. Subash, (2015) 12 SCC 231*, required sanction for an alleged police assault connected with investigation, while expressly leaving the merits and the possibility of later government sanction open. *Om Prakash v. State of Jharkhand, (2012) 12 SCC 72*, drawing on *K. Satwant Singh* and *Ganesh Chandra Jew*, applied the test of a direct or integral connection with duty, as distinct from an independent objectionable act. Its discussion of excess in police encounters was specific to that context. Here, the complainant's own account placed the alleged filthy abuse and fist blows during the forest officials' interception of a tractor carrying sand from a forest river. No mining lease was alleged. The officials' interception and seizure served the protection of forest property, and the High Court found a reasonable nexus requiring previous sanction before cognizance under IPC Sections 294/323.

Sanction stage / cognizance consequence - *Devinder Singh* permits the need for sanction to be considered at cognizance and, where necessary, raised or reconsidered at charge, on appeal or after evidence. The competent executive authority decides whether to grant sanction on an objective assessment of the material. The passage quoted from *K. Kalimuthu v. State by DSP, (2005) 4 SCC 512*, in this judgment records only an advocate's response, rather than an independent holding. In the setting stated in this complaint, the JMFC's conclusion that the alleged blows and language could not be connected with duty was held to be materially erroneous.

Case-note :- ***1. Facts :*** Forest officials Shiv Kumar Tiwari and others applied under Section 482 CrPC to challenge the order dated 17 December 2019 by which the JMFC, Kotma, took cognizance under IPC Sections 294 and 323 on a private complaint, and the resulting proceedings. The complainant said that, on the instructions of his employer, Mohd. Shahid Ali, he drove a tractor carrying sand collected from Kevai River for construction under Gram Panchayat Dongariya Kala. According to him, forest staff stopped him on 9 February 2017, demanded the tractor key, pulled him down when he refused, abused and beat him, and asked him to call his employer. He alleged that the officials demanded ₹50,000 and threatened a false case when Mohd. Shahid protested. He said that the police took no action on his report, so he filed a complaint under Section 200. The Magistrate recorded statements under Sections 200 and 202 and took cognizance. The officials submitted that their forest offence report, POR 4315/25, which the order dates as 9 September 2017, concerned illegal extraction and carriage of sand from forest compartment PF566 under Indian Forest Act Sections 33(1)(b), 41 and 42. They had also submitted a report for confiscation of the tractor-trolley. They alleged that the complainant's party forcibly took back the vehicle and material, leading to a separate report under IPC Sections 384, 353, 332 and 186. These competing accounts and their stated dates were submissions, rather than final findings of guilt. The respondent argued that filthy abuse and fist blows could never form part of official duty. The High Court considered the complainant's own statement that he had extracted sand from a river in the forest area, that the officials had questioned its source and stopped the vehicle, and that no mining lease was claimed. It then examined whether the alleged excess had a reasonable connection with official duty requiring sanction under Section 197.

2. Precedents — Considered : *Devinder Singh v. State of Punjab through CBI, (2016) 12 SCC 87*, set out a detailed synthesis in nine parts. Sanction protects honest public service; it cannot be used to conceal crime. An act reasonably connected with duty may remain protected despite an excess of authority, and no universal factual rule determines that connection. An assault may require sanction if intrinsically linked to the task, but a pretended connection is insufficient. The competent authority must decide sanction objectively. The need for sanction may be considered at cognizance, raised at charge or on appeal, or examined during inquiry or on fuller evidence. The Court applied the test of a genuine connection to the officials' forest seizure.

D.T. Virupakshappa v. C. Subash, (2015) 12 SCC 231, held that an alleged assault or detention during police investigation had an essential connection with duty and required prior sanction. It set aside the process without deciding the merits and left recourse to government sanction open. The present judge applied that reasoning by analogy to an alleged excess during enforcement; it was not proof that the allegations in the forest complaint were false. *Om Prakash v. State of Jharkhand, (2012) 12 SCC 72*, reiterated the test of a direct or integral connection. It cited *K. Satwant Singh* and *Ganesh Chandra Jew* on why excess does not automatically remove protection. In its separate police-encounter setting, it cautioned against unlawful killing while also recognising protection against prosecution for defensible actions closely connected with duty. The present Court applied the reasonable-nexus reasoning; the broader encounter observations did not confer immunity for every alleged assault by a forest officer. *K. Kalimuthu v. State by DSP, (2005) 4 SCC 512*, also appears in the judgment, but the quoted passage records the prosecution advocate's submission that sanction did not apply in that case.

3. Statutes considered : Section 482 CrPC was invoked to challenge cognizance and the proceedings. Section 197 CrPC governed previous sanction where a public servant was accused of an act done while acting or purporting to act in the discharge of official duty. The Court examined whether the alleged conduct had a reasonable connection with duty; official status alone was insufficient. Sections 200 and 202 CrPC governed the private complaint and examination of witnesses before cognizance. Indian Forest Act Sections 33(1)(b), 41 and 42 appeared in the officials' separate forest offence report, while IPC Sections 384, 353, 332 and 186 appeared in their alleged counter-report. The absence of a claimed mining lease formed part of the forest-enforcement context; it was not a final conviction of the tractor driver for a mining offence.

4. Issues : Were the alleged insulting language, fist assault and accompanying demand during the forest officials' interception and seizure of a sand-laden tractor reasonably connected with the discharge or purported discharge of their duty, so as to require previous sanction under Section 197? Could the Magistrate take cognizance under Sections 294/323 without sanction on the categorical basis that abuse and assault could never form part of official duty?

5. Ratio / Findings : On the complainant's own account, the vehicle carried sand taken from a forest river, no lease was claimed, and the officials stopped him and questioned the source of the sand. Their duty to protect forest property provided an official basis for interception and seizure. Applying *Devinder Singh*'s test to these facts, the Court held that the alleged insult and blows during that encounter were reasonably connected with the discharge or purported discharge of official duty, even if the officials exceeded their authority. That connection required prior sanction. The Court rejected the Magistrate's categorical separation of the allegations from official duty and held that taking cognizance without sanction was materially illegal. The requirement provides for executive scrutiny before prosecution; it does not decide on the merits that abuse, blows or an unlawful demand are authorised. *Devinder Singh* permits reconsideration if later material changes the assessment of the connection with duty, but the complaint material here was sufficient to decide the question at the outset.

6. Relief : The Hon'ble High Court allowed the application. It set aside the order dated 17 December 2019 by which the JMFC, Kotma, took cognizance in the unregistered criminal case of 2019. The private complaint was dismissed, and the cognizance was held to be bad for want of sanction under Section 197 CrPC.

Shiv Kumar Tiwari and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 11760/2020, 16/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Article 21 / prison decongestion and bail - *In Re: Contagion of COVID 19 Virus in Prisons*, Suo Motu WP(C) 1/2020, order of 23 March 2020, treated overcrowding during COVID-19 as an Article 21 concern and directed State and Union Territory High Powered Committees to identify categories eligible for parole or interim bail, considering offence nature, sentence and severity. The example concerning punishment of up to seven years did not itself grant release to every prisoner. The High Court considered second-wave decongestion and this applicant's individual Section 439 circumstances, including alleged 65-litre liquor seizure and custody, and granted bail without a merits finding or identified committee category. The

absence of the case diary led to checks of criminal antecedents and earlier pandemic parole before release rather than an assumption that either was absent.

Safe transit / conditions of release - The Supreme Court's 7 April 2020 order in the same matter directed the Union and States to ensure released prisoners had transport or shelter options and safe transit during lockdown, contemplating Disaster Management Act directions. The High Court applied it through medical examination, conditional testing, treatment if positive, and local administration transport home when medically cleared. Release required a ₹1 lakh personal bond and like surety; the order prescribed compliance with pandemic instructions and provided for its own loss of effect upon specified violations, antecedents, prior temporary parole or bail jump. *Aparna Bhat v. State of M.P.*, Criminal Appeal 329/2021, decided 18 March 2021, was cited to direct notification of the complainant, without further discussion of its ratio. The release was to remain operative through trial subject to conditions.

Case-note :- ***1. Facts :*** Shiv Narayan applied for regular bail under Section 439 CrPC following arrest on 17 July 2021 in Kumbhraj Police Station Crime 193/2021, Guna, alleging IPC Section 353 and M.P. Excise Act Section 34(2). Counsel referred to a seizure of 65 litres of country liquor, custody since arrest, likely trial delay, no antecedents, no pandemic parole and a limited risk of absconding or interference with the prosecution case. The State opposed but could not verify antecedents because the case diary was unavailable. The Court therefore decided on the application averments and facts in the impugned order, during the second COVID-19 wave, by video conference. It quoted the Supreme Court's March 2020 prison-decongestion order and April 2020 safe-transit order, then imposed individual bail, medical, travel and verification conditions.

2. Precedents — Considered : *In Re: Contagion of COVID 19 Virus in Prisons*, Suo Motu WP(C) 1/2020, Supreme Court order of 23 March 2020, invoked Article 21 to address infection risk in crowded prisons and required State and Union Territory High Powered Committees composed of legal-services, Home/Prison and prison leadership to decide classes appropriate for parole or interim bail. The up-to-seven-year punishment description was an example; categorization also depended on the offence, sentence, gravity and other factors. The Supreme Court's further order of 7 April 2020 required the Union and States to prevent released prisoners from becoming stranded, providing transport home or a temporary shelter option and safe transit; Union action under the Disaster Management Act was contemplated. The High Court applied that concrete implementation principle by ordering medical examination, treatment or clearance and local administration arrangements to send the applicant home. *Aparna Bhat v. State of M.P.*, Criminal Appeal 329/2021, decided 18 March 2021, was cited in one sentence for intimation of bail to the complainant. Its other reasoning was not reproduced or materially analysed, and the order considered it only for that limited purpose.

3. Statutes considered : Section 439 CrPC governed regular bail and Section 437's ordinary conditions were retained by reference. M.P. Excise Act Section 34(2) and IPC Section 353 were the registered offences, not interpreted on their ingredients in this order. The COVID-19 instructions of central, State and local government became conditions of this bail order, subject to the order's stated lapse consequences.

4. Issues : Should bail be granted on the facts of this case during the second pandemic wave with an alleged substantial liquor seizure, short custody and an unavailable case diary? How should the Court implement medical screening and safe transit for release under the Supreme Court's decongestion directions while verifying antecedents and earlier temporary parole?

5. Ratio / Findings : The judge weighed the allegations, custody and prison decongestion concern, and ordered release without commenting on trial merits. The March Supreme Court order placed committee-based population reduction in an Article 21 setting; it did not remove the need for individual bail assessment. In the absence of the case diary, State counsel could not confirm criminal history. Accordingly, the trial court was required to verify antecedents before releasing Shiv Narayan and withhold release if more offences were registered; it also had to verify any earlier pandemic temporary parole and withhold release if present. The April order guided the arrangements for transit: a competent doctor would examine him, test if medically necessary, arrange hospital care if positive, and local authorities would send him home if cleared. A bond, like surety, pandemic-rule compliance and police-station copy were ordered.

The order states that violations of pandemic instructions or bail conditions and bail jump would cause this order automatically to lose effect; that is the wording and scope of this particular bail order, not a general adjudication of every statutory bail-cancellation procedure. Complainant intimation followed the brief *Aparna Bhat* citation.

6. Relief : The Hon'ble High Court allowed the first application for regular bail under Section 439 CrPC, subject to verification of criminal antecedents and prior pandemic temporary parole before release; the specified disqualifying findings would preclude release under the order.

Shiv Narayan v. State of Madhya Pradesh, M.Cr.C. no. 37526/2021, 18/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Corruption sanction / administrative satisfaction - *State of Maharashtra v. Mahesh G. Jain, (2013) 8 SCC 119*, treats sanction under Section 19 as an administrative decision based on prima facie satisfaction, which may be shown by the order or by evidence. Its validity is not tested through a hypertechnical review of the merits. *Mohd. Iqbal Ahmed, AIR 1979 SC 677*, and *State of Rajasthan v. Tarachand, AIR 1973 SC 2131*, place on the prosecution the burden of proving the facts put before the authority. The High Court found the signed order and the identifying witness sufficient, despite the author's non-examination.

Corruption sanction / appellate failure of justice - *Nanjappa v. State of Karnataka, (2015) 14 SCC 186*, distinguishes the Special Judge's power to act where sanction is invalid from the restriction under Sections 19(3)–(4) on appellate interference without failure of justice. *State of Bihar v. Rajmangal Ram, (2014) 11 SCC 388, Parkash Singh Badal v. State of Punjab, (2007) 1 SCC 1*, and *State of Mizoram v. C. Sangnghina, (2019) 13 SCC 335*, reinforce that standard and the timing of objection. *State of Karnataka v. Ameerjan, (2007) 11 SCC 273*, cautions against pedantry while preserving the sanction's protective purpose. A wrong date for the completed trap was treated as a typing error without any demonstrated failure of justice.

Official duty / Section 197 CrPC - *S.K. Zutshi v. Bimal Debnath, (2004) 8 SCC 31*, requires a reasonable nexus with official duty and permits protection for an excess that remains connected to that duty. *Choudhury Parveen Sultana v. State of W.B., (2009) 3 SCC 398, CBI v. B.A. Srinivasan, (2020) 2 SCC 153, Parkash Singh Badal and Rajib Ranjan v. R. Vijaykumar, (2015) 1 SCC 513*, exclude protection for unlawful gain or conspiracy for which office is used as a cloak. The demand for payment for demarcation had no reasonable nexus with official duty; adding the conspiracy charge did not require sanction under Section 197.

Charge alteration / fair trial - *Nallapareddy Sridhar Reddy v. State of A.P., (2020) 12 SCC 467*, explains the power under Section 216 to alter a charge before judgment, the required direct nexus with the record and the safeguards against prejudice under Sections 216–217. The same allegations supported altered charges, seven chosen witnesses were further cross-examined, and defence evidence was heard; the appellants showed no lost opportunity. A new trial was unnecessary, and conviction did not itself establish prejudice.

Hostile witness / corroborated portions - *Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111, Radha Mohan Singh v. State of U.P., (2006) 2 SCC 450, Arjun v. State of Chhattisgarh, (2017) 3 SCC 247*, and *Ramesh Harijan v. State of U.P., (2012) 5 SCC 777*, permit either side to rely on dependable portions of hostile testimony after careful scrutiny. The complainant denied the demand, but admitted material signatures, an offer to the Patwari, transfer of the treated notes and the officers' presence. The Court tested these matters against the trap evidence and record; it did not accept his earlier statements wholesale.

Illegal gratification / directed receipt and capacity - *Chaturdas Bhagwandas Patel v. State of Gujarat, (1976) 3 SCC 46*, explained, in the context of former Section 161 IPC, that actual power to perform the promised official act is unnecessary where a public servant induces a belief that assistance will be given. The Patwari also had an actual role in demarcation. *Hazari Lal v. State (Delhi Admn.), (1980) 2 SCC 390*, permits receipt to be proved through the surrounding circumstances and distinguishes mere recovery in *Sita Ram* and *Suraj Mal*. The recorded demand, coordinated officers, instruction to pay the Kotwar, matched tainted notes and positive tests on his hands and pocket established the prosecution case despite negative officer tests and the Kotwar's unappealed acquittal.

Demarcation record / forged rejection defence - Under the State circular, the Revenue Inspector

lacked power to finally reject the demarcation application. The original seized file lacked decision sheets, the later defence papers conflicted and were not proved to predate the trap, and the Tahsildar received a report of pendency after it. The Court found the purported early rejection and website entry unproved, held the later papers fabricated, and affirmed the work-related corruption findings.

Recorded voice / refused sample - The Court assessed the recorder, transcript, identification and related evidence together with the Patwari's written refusal to provide a specimen voice sample.

Forged court exhibit / Section 195 boundary - *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, confines Section 195(1)(b)(ii) to specified document offences committed while the document is in court custody and makes a complaint under Section 340 dependent on expediency in the interests of justice. Because the officers' documents were found forged before production, the High Court directed the trial court to lodge an FIR; that direction was separate from the perjury referral.

False evidence / Section 340 referral - *K.T.M.S. Mohd. v. Union of India, (1992) 3 SCC 178*, calls for care; *State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575*, and *Amarsang Nathaji v. Hardik Harshadbhai Patel, (2017) 1 SCC 113*, require a prima facie case of deliberate falsehood and expediency in the interests of justice; a preliminary inquiry is optional. *State of Goa v. Jose Maria Albert Vales, (2018) 11 SCC 659*, confirms that such an inquiry is not obligatory. *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, holds that a prospective accused has no right to participate at that preliminary stage.

Case-note :- ***1. Facts :*** These connected appeals challenged the judgment of the Special Judge (Prevention of Corruption Act), Gwalior, dated 29 October 2021 in Special Case 300013/2016. Revenue Inspector Anand Kumar Shukla and Patwari Shiva Bhadoriya were each convicted of IPC Section 120-B (two years' rigorous imprisonment, ₹2,000 fine), Prevention of Corruption Act Section 7 (three years, ₹4,000 fine), and Section 13(1)(d)/13(2) read with Section 120-B (four years, ₹4,000 fine), with stated default terms and concurrent substantive sentences. Co-accused Kotwar Basarat Khan was acquitted; no appeal challenged his acquittal.

According to the complaint, Aslam Khan and his brother sought demarcation of five bighas in Kulaith. An application and fee were lodged on 23 May 2014, with 13 June shown as the target date. He alleged Shukla referred him to Bhadoriya and told him to pay what she demanded; she allegedly sought ₹15,000 at ₹5,000 per bigha and agreed to ₹7,000. He complained to the Lokayukta unit on 24 June. Police supplied a digital recorder, obtained a recording of a conversation on 25 June, opened the sealed recorder, prepared a transcript and a Section 65-B certificate. The 27 June trap was suspended when Bhadoriya could not be reached, and the treated notes were resealed. On information of a further appointment, the trap was renewed on 30 June at Jan Mitra Kendra, amid a local fair. The complainant gave a signal. Both officials and Basarat Khan were inside; the prosecution said Bhadoriya instructed payment to him. The numbered ₹7,000 notes were recovered from his kurta. His fingers and the pocket tested positive for phenolphthalein, as did the complainant's fingers; both appellants' fingers tested negative. The demarcation file was seized from Shukla. Its originals were returned after self-attested copies had been made. Call records, a written refusal by Bhadoriya to supply a voice sample, service and revenue records, panch testimony and forensic records were also produced.

The original 2017 charges were altered under CrPC Section 216 in July 2019 to include Section 120-B and the relevant Prevention of Corruption Act combinations against both appellants and Section 8 read with conspiracy against Basarat Khan. After that alteration the accused selected witnesses for further cross-examination and called defence witnesses. On appeal they challenged sanction (which recited 27 instead of 30 June as trap date), lack of separate Section 197 sanction, alteration of the charges without a new trial, the complainant's hostile account, whether any demarcation work remained, Bhadoriya's competence and voice identification, and proof of conspiracy. They asserted the land application had been rejected before the trap and uploaded online, and that the ₹7,000 went to Basarat for unpaid drumming at a wedding. The High Court examined the alleged rejection documents, the seizure and the conduct of the parties. It also raised whether alleged later fabrication of official records required an FIR and whether the complainant's testimony before the Court warranted a complaint under Section 340.

2. Precedents — Considered : Sanction: *State of Maharashtra v. Mahesh G. Jain, (2013) 8 SCC 119*,

was applied to the prosecution's burden of proving a valid administrative sanction based on relevant facts. Such sanction may be proved by the order itself or by evidence. The authority must reach prima facie satisfaction; the Court does not sit in appeal over the merits of its material. *Mohd. Iqbal Ahmed v. State of A.P., AIR 1979 SC 677*, sets out two modes of proof: the sanction order may state the facts and satisfaction, or other evidence may establish the facts placed before the authority. *State of Rajasthan v. Tarachand, AIR 1973 SC 2131*, applied the same burden and explained, through the Privy Council's *Gokulchand Dwarkadas Morarka* principle and *Madan Mohan Singh*, that the offence facts need not appear in a particular form if proved by other evidence. The High Court relied on the witness who identified the sanctioning authority's signature, the text of Ex. P.15 and the absence of an earlier objection demanding the maker's examination. *State of Karnataka v. Ameerjan, (2007) 11 SCC 273*, cautions against construing sanction pedantically but also stresses its protective purpose; the Court applied both sides and treated the wrong trap date as a typing error that caused no prejudice.

Nanjappa v. State of Karnataka, (2015) 14 SCC 186, was quoted at length for the distinction between a Special Judge's ability to hold the prosecution defective for want of valid Section 19(1) sanction and the restriction under Section 19(3)–(4) on reversal by an appellate or revisional court absent actual failure of justice, taking into account whether an objection should have been raised earlier. *State of Bihar v. Rajmangal Ram, (2014) 11 SCC 388*, describes sanction as a filter for honest public servants while Section 19(3) and CrPC Section 465 balance that protection against inconsequential errors; *Parkash Singh Badal v. State of Punjab, (2007) 1 SCC 1*, emphasises failure of justice related to the error and timing of objection; *State of Mizoram v. C. Sangnghina, (2019) 13 SCC 335*, requires a reasoned finding of failure of justice before reversing on an irregularity. The High Court applied these principles without treating every mistake as immaterial. No failure of justice arising from the date discrepancy was shown.

Official duty: *S.K. Zutshi v. Bimal Debnath, (2004) 8 SCC 31*, states the test of reasonable connection under CrPC Section 197 and a useful question whether omission of the complained-of act could itself be dereliction; even excessive performance may be protected if genuinely connected. *Choudhury Parveen Sultana v. State of W.B., (2009) 3 SCC 398*, explains that abuse of official power outside lawful duty cannot claim that protection. *CBI v. B.A. Srinivasan, (2020) 2 SCC 153*, distinguishes actual or purported discharge from office used as a cloak for unlawful gains. *Parkash Singh Badal* explains that conspiracy and other inherently unlawful acts are not official functions merely because status supplies opportunity. *Rajib Ranjan v. R. Vijaykumar, (2015) 1 SCC 513*, states the same for conspiracy, misconduct and fabricated records while cautioning that the rule must be properly applied to the facts. The High Court applied the reasonable-nexus principle drawn from these authorities to bribery and the conspiracy charge, not to all alleged official misconduct indiscriminately.

Charge: *Nallapareddy Sridhar Reddy v. State of A.P., (2020) 12 SCC 467*, explains the wide but judicially controlled Section 216 power, including a new charge after completion of evidence and argument before judgment. It draws on *P. Kartikalakshmi* for the court's exclusive power, *Anant Prakash Sinha* for the need for ingredients supported by the record and a fair trial, and *Jasvinder Saini* for the procedural protections under Sections 216–217. An alteration must be read and explained, and actual prejudice may call for adjournment or retrial. The High Court applied the tests of direct nexus and prejudice to the same underlying material and opportunities actually extended.

Hostility and proof: *Rameshbhai Mohanbhai Koli v. State of Gujarat, (2011) 11 SCC 111*, and *Radha Mohan Singh v. State of U.P., (2006) 2 SCC 450*, establish that a hostile witness's evidence is not erased from the record and dependable portions supporting either side may be used after careful scrutiny. *Rameshbhai* draws on *C. Muniappan* and other decisions to distinguish material contradictions from trivial discrepancies. *Arjun v. State of Chhattisgarh, (2017) 3 SCC 247*, reiterates cautious use and the usual search for corroboration, quoting *Paramjeet Singh* and related authorities. *Ramesh Harijan v. State of U.P., (2012) 5 SCC 777*, applies the same approach to signatures on recovery records, while cautioning through *Balaka Singh* that truth may be separated from falsehood only where that separation is possible, and through *Appabhai* against treating minor embellishment as fatal. The High Court used the complainant's admitted conduct and signatures with other evidence while rejecting his alternative payment account. *Hazari Lal v. State*

(Delhi Admn.), (1980) 2 SCC 390, holds that the transfer of tainted money may be inferred from a reliable chain of surrounding events, not necessarily directly seen; it distinguishes *Sita Ram* and *Suraj Mal*, where mere recovery without dependable proof of voluntary receipt did not suffice. The High Court used it for circumstantial receipt through Basarat rather than for an independent presumption based solely on recovery from an appellant. *Chaturdas Bhagwandas Patel v. State of Gujarat, (1976) 3 SCC 46*, in the context of former Section 161 IPC, says a public servant may induce payment by representing capacity to assist even without actual power or intent; the Court used this to reject Bhadoriya's competence defence, also finding that as Patwari she had a real demarcation role.

False documents and court process: *Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370*, limits the Section 195(1)(b)(ii) bar to listed offences committed after a document comes into court custody; its Section 340 discussion makes a complaint depend on expediency in the interests of the administration of justice, rather than the victim's loss alone. The Court applied the custody distinction to its finding that the documents were made outside court and directed an FIR. *Dhananjay Sharma v. State of Haryana, (1995) 3 SCC 757, explains the grave effect of false affidavits and evidence on judicial administration, citing Chandra Shashi.*

For the complainant's possible false evidence, *K.T.M.S. Mohd. v. Union of India, (1992) 3 SCC 178*, requires care, a prima facie likelihood of establishing the offence and expediency in the interests of justice. *State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575*, sets out the two Section 340 preconditions and quotes *Amarsang Nathaji v. Hardik Harshadbhai Patel, (2017) 1 SCC 113*: a contradictory statement alone does not establish deliberate falsehood. The court must find intentional falsity and expediency in the interests of justice; a preliminary inquiry is optional. The quoted discussion also invokes *Iqbal Singh Marwah* and *Chajoo Ram*'s caution against frequent perjury complaints on doubtful or innocent inaccuracies. *State of Goa v. Jose Maria Albert Vales, (2018) 11 SCC 659*, confirms that preliminary inquiry is not obligatory; *Pritish v. State of Maharashtra, (2002) 1 SCC 253*, holds that a prospective accused has no right to be heard at the preliminary expediency stage. The Court adopted these threshold principles, dispensed with another preliminary inquiry, and directed a complaint; the ensuing proceedings before the trial court remain separate from proof of guilt.

3. Statutes considered : Prevention of Corruption Act, 1988 Sections 7 and 13(1)(d) read with 13(2) supplied the bribery and misconduct convictions, with IPC Section 120-B as the participation charge. Section 19(1) made competent prosecution sanction a precondition; Sections 19(3)–(4) restrict appellate or revisional interference on account of defects without failure of justice and require consideration of when the objection was raised. CrPC Section 197 protects specified public servants for an offence reasonably related to actual or purported official duty, a nexus absent for a bribe demand or criminal conspiracy here; no independent Section 197 sanction was required. Sections 216(1)–(5) authorise charge alteration before judgment, require explanation to accused, provide for continuation, adjournment or a new trial according to the question of prejudice, and address any additional sanction; Section 217 concerns recall after alteration. IPC Section 120-B was added to the officers' charges; Section 8 PC Act was the Kotwar's altered charge, but his acquittal was not before the Court. Section 114 of the Evidence Act was discussed through *Hazari Lal*'s circumstantial inference, and was not treated as an automatic substitute for foundational proof in this case. CrPC Section 91 arose in the unsuccessful trial request for original demarcation records. Section 129 of the M.P. Land Revenue Code and the 28 January 2014 departmental circular explained the Inspector's field role and the Tahsildar's authority to make the final demarcation decision. CrPC Section 195(1)(b)(ii) was analysed in relation to fabrication before production in court, as distinct from an offence committed while the exhibit is in court custody. Section 195(1)(b)(i) and Section 340 supplied the judicial complaint procedure for intentional false evidence, including a discretionary preliminary inquiry and an expediency finding. CrPC Section 465 was discussed in the Supreme Court sanction quotation.

4. Issues : (i) Did the sanction order, proved through identification of its signer rather than examination of the sanctioning authority, show proper application of mind; did its wrong trap date occasion failure of justice on appeal? (ii) Did Section 197 require further sanction when the officials' bribery and conspiracy related to work they were authorised to do? (iii) Did Section 216's 2019 alteration of the 2017 charges, after prosecution evidence and accused examination,

require a fresh trial or was meaningful defence opportunity provided? (iv) Which portions of the complainant's hostile testimony remained reliable, and did the surrounding trap evidence establish demand, directed payment and conspiracy notwithstanding no recovery from or positive tests on the two officials? (v) Did a previously rejected application, an allegedly uploaded order, lack of the Patwari's final decision authority, and absence of scientific voice comparison defeat the prosecution? (vi) Did the record show fabricated official documents made before filing in court, and did Section 195 bar an FIR? (vii) Was there sufficient material and expediency in the interests of justice to direct a Section 340 complaint concerning the complainant's testimony without a further preliminary inquiry or his prior participation? Sentencing and the Kotwar's acquittal were considered, but his separate guilt was not an appeal issue.

5. Ratio / Findings : Sanction: the order identified the facts and was proved by a witness identifying the sanctioning authority's signature. Failure to examine that authority was not automatically fatal, especially without the defence raising the issue while proof was being led. The mistaken reference to a trap on 27 June was treated as a typing error in the sequence of the suspended attempt and the 30 June recovery. No specific failure of justice was shown. The Court upheld Section 19 sanction, recognising both valid prior satisfaction and the appellate restriction rather than treating absence of a valid sanction before the Special Judge as invariably harmless.

Section 197: demarcation was an official function, but obtaining illegal gratification for performing it was not an official duty or an excess reasonably connected to such duty. The reasonable-nexus test concerns the alleged act, rather than merely the office held by the accused. The conspiracy allegation likewise did not become an official act. Thus the additional statutory sanction objection failed.

Alteration: the trial court reformulated the same allegations, read and explained the added charges, offered the opportunity for re-examination and further cross-examination, allowed the accused's chosen witnesses to be further tested and received defence evidence. The appellants identified no charge they had been unable to answer and no opportunity they had lost. A notation that earlier charges were cancelled did not convert a permitted alteration into an automatic fresh trial; later conviction was not itself evidence of prejudice.

Hostility: Aslam Khan denied a bribe demand and asserted he paid Basarat's drumming dues, but admitted the application, many signatures on the complaints and trap records, his offer of money to Bhadoriya, handing over treated notes to Basarat and both officers' presence. The Court tested his denial and alternative explanation against his sustained cooperation with the trap, panch evidence and documents. The complainant's conduct and corroborated admissions could be relied on despite his hostility. Trap evidence explained two attempts, storage and return of treated money, numbered recovery from Basarat and the chemical results, including negative results for the officers. The Court accepted the circumstantial evidence of payment at the officials' direction. Basarat's unappealed acquittal was left undisturbed even though the Court considered its trial reasoning implausible.

Pending work: The alleged 15/16 June rejection was contradicted by the original seized seven-page file without order sheets, a 5 July communication of continuing pendency, inconsistent notes about an objection versus a damaged map, unserved notice, unproved and undated list of rejected cases, and no computer record establishing upload. The Revenue Inspector could not finally reject the application under the circular. The Court found the documents Ex. D.2–D.6 prepared later after the originals had been returned, and the list Ex. D.1 unreliable; neither displaced the finding concerning the purpose of the bribe. It regarded the Patwari as involved in demarcation, but also applied *Chaturdas* to explain why exact competence to make the final order was not essential where payment was induced through official position. A recording of the conversation was made and transcribed, call records showed relevant contacts, and she refused in writing to supply a comparison sample.

Conspiracy and guilt: Shukla's referral to Bhadoriya, her negotiation of the bribe, joint presence and direction to pay Basarat provided the chain of circumstances from which the Court found their common design proved beyond reasonable doubt. It affirmed their IPC Section 120-B and Prevention of Corruption Act convictions and concurrent sentences. The sentence challenge failed in view of the Court's assessment of corruption's seriousness.

Consequential process: the alleged official defence documents were, on the Court's findings, fabricated

outside the judicial proceeding and then filed to support a false rejection story. The bar under Section 195(1)(b)(ii), concerning documents in court custody, therefore did not apply. The Court directed the trial court to lodge an FIR against the two appellants for forging the official records; that direction for a separate investigation was not an additional conviction in these appeals. The complainant's material change from complaint and trap participation to exculpatory trial account prompted the Court to infer deliberate false testimony and consider judicial administration. Applying the two Section 340 conditions, it found a prima facie case and expediency, dispensed with further preliminary inquiry and directed the trial court to make a complaint.

6. Relief : The Hon'ble High Court dismissed both criminal appeals, filed respectively by Shiva Bhadoriya and Anand Kumar Shukla. The Special Judge's 29 October 2021 conviction and sentence were affirmed: the four-year, three-year and two-year rigorous imprisonment terms and respective fines and default terms remained in force, with substantive sentences concurrent. Shukla, already in jail, was to serve the remaining sentence. Bhadoriya's bail bonds were cancelled; she had 15 days to surrender, failing which the trial court could issue a warrant. The trial court was directed separately to lodge an FIR regarding the officers' allegedly forged official demarcation records and to make a Section 340 CrPC complaint concerning Aslam Khan's court evidence. Basarat Khan's unappealed acquittal remained outside the disposition. Free judgment copies were to be furnished and the trial record returned for information and compliance.

Shiva Bhadoriya and Ors. v. State of Madhya Pradesh, Cr.A. no. 6664/2021 & 6678/2021, 12/09/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Bail condition / public money - *Ramesh Kumar v. State (NCT of Delhi), (2023) 7 SCC 461*, permits exceptional consideration, in the larger public interest, of an accused's voluntary offer to account for all or part of allegedly misappropriated public money before bail is finally decided. The quoted rule does not warrant the same approach in a private cheating dispute. Applying it to alleged fictitious procurement and transport entries, the Court noted over four months' custody, the applicant's ₹10 lakh offer and his potential responsibility for the entries despite his claim of pressure. Release required deposit of that sum with Madhya Pradesh State Civil Supplies Corporation and production of the receipt, together with a ₹1 lakh personal bond and a surety in the same amount. The Court cited *Aparna Bhat v. State of Madhya Pradesh, (2021) 16 SCC 179*, for the consequential direction to notify the complainant; it did not adopt a further test for bail from that authority.

Case-note :- ***1. Facts :*** Shiva Singh, a computer operator at a society, sought regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in Crime 61/2024 registered at Dharkundi police station, Satna. He had been arrested on 28 June 2024. The alleged offences were under Sections 406, 417, 420, 467, 468, 471 and 120-B IPC and Section 13(1)(b) of the Prevention of Corruption Act read with amended Section 13(2). The prosecution alleged that no food-grain had actually been purchased, although the computer records showed purchases worth about ₹90 lakh and transportation of grain that did not exist. Defence counsel stated that public money of ₹92.64 lakh had been misappropriated by more than eight people. The applicant claimed that he had been compelled to enter false information. The Court regarded his own act of making the entries as potentially significant despite the alleged pressure, without determining the accusation at the bail stage.

The applicant relied on an anticipatory-bail order dated 6 September 2024 in favour of co-accused Samrat Singh, who had undertaken to deposit ₹10 lakh. Another co-accused, Dhananjay Dwivedi, had refused a deposit, argued the case on merits and been denied bail on 3 October. The order records the applicant's offer to deposit ₹10 lakh and his reliance on custody of more than four months. The State opposed release. The differing earlier orders provided factual context; parity alone was not held to determine this application.

2. Precedents — Considered : *Ramesh Kumar v. State (NCT of Delhi); 2023:INSC:596; (2023) 7 SCC 461*, paragraph 26, was quoted and applied. It left open an exception for alleged misappropriation of public money where an accused voluntarily offers to account for the whole or part of that money. In such a case, the court may consider, in the larger public interest, whether the amount should be returned to the system before the application for anticipatory or

regular bail is finally considered. The decision expressly distinguished private disputes concerning money allegedly obtained by cheating. The Court applied that limited exception to the alleged public procurement loss and the applicant's undertaking, together with its assessment of custody and his potential responsibility for the entries. It required actual payment and production of the receipt before release.

The Court cited *XYZ (sic Aparna Bhat and Ors.) v. State of Madhya Pradesh; 2021:INSC:192; (2021) 16 SCC 179*, only for intimation of the grant of bail to the complainant. The order did not reproduce or analyse any passage or broader ratio from that judgment; its treatment was confined to the consequential notification direction.

3. Statutes considered : Section 483 BNSS conferred jurisdiction to consider regular bail. The charge description referred to the 2018 amendment, without substantive interpretation. The public-money condition rested on the *Ramesh Kumar* precedent and the Court's discretion in granting bail; it was not a judicial determination of the proceeds. The bond and surety requirements, operation of the order until the end of trial and its loss of effect upon bail jump were the operative release terms.

4. Issues : Could the applicant be granted regular bail on the basis of custody recorded as exceeding four months and a voluntary deposit of ₹10 lakh towards alleged misappropriation of public money, despite his claim that he had been compelled to make the false computer entries? How did the Supreme Court's exceptional category concerning public money, as distinct from private claims of cheating, apply? What payment, bond and post-release conditions should govern?

5. Ratio / Findings : The Court reproduced the qualified rule in *Ramesh Kumar* and treated the allegation as involving public funds. It recorded custody of more than four months and considered the applicant's own offer to deposit ₹10 lakh. On this provisional record, his explanation of pressure did not make the inaccurate entries irrelevant to his potential responsibility. The earlier co-accused orders reflected different positions concerning deposit and the merits; they did not become a mechanical rule of parity. Exercising its discretion to grant bail, the Court permitted release only after deposit of the specified sum with Madhya Pradesh State Civil Supplies Corporation Limited and production of proof before the trial court, in addition to security. In view of *Aparna Bhat*, it also directed intimation to the complainant.

6. Relief : The Hon'ble High Court allowed the application for regular bail subject to deposit of ₹10 lakh with the Madhya Pradesh State Civil Supplies Corporation Limited and production of the receipt.

Shiva Singh v. The State of Madhya Pradesh, M.Cr.C. no. 46413/2024, 25/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Inherent powers / cognizable allegations - *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, and *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, caution against prematurely stopping police investigation where an offence is disclosed. *Ujjal Kumar Burdhan* also quotes *Swapan Kumar Guha* on disclosure depending on the facts, and *Jeffrey J. Diermeier* on careful exercise of the power to prevent abuse of process. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, reject a roving inquiry or assessment of the merits before investigation is complete. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, illustrates *Bhajan Lal*'s categories concerning absence of an offence and manifest malice. The Court applied the test of taking allegations at face value to the specific accusations concerning a car demand, cruelty and ornaments.

Quashing / prosecution record and stage - *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, requires careful and exceptional exercise of powers under Sections 482/397. The prosecution allegations must be considered as a whole to determine whether they disclose an offence, without predicting conviction or marshalling evidence; a civil aspect does not itself extinguish criminality. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterates *Bhajan Lal*'s caution against examining reliability. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, recognises exceptions for absence of an offence, a legal bar and clear malice, but cautions against prematurely ending a legitimate prosecution. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437, reproduces the Bhajan Lal categories and confines Madhavrao's special treatment of civil disputes. M. Srikanth v. State of Telangana, (2019) 10 SCC 373*,

preserves quashing where even the uncontroverted allegations disclose no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, protects against absurd harassment while cautioning against frequent interference. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, CrA 709/2021 (30 June 2021), reject detailed assessment of a disputed defence and explain that an FIR need not be an encyclopaedia. Applying these principles together, the Court declined to quash the triable case.

Defence documents / limited exception - *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, permits consideration of a defence document that is public or whose veracity the complainant does not dispute, in an appropriate quashing case. *Amit Kapoor and CBI v. Arvind Khanna* otherwise exclude contested material produced by the accused and minute findings of fact. The applicants' photographs, WhatsApp exchanges, gifted phone and transfers were private material requiring proof and could not establish falsity at this stage.

Matrimonial relatives / specific allegations - *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, applies the ordinary test of whether a case is triable, while cautioning against merely omnibus allegations against relatives. Its discussion distinguishes *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra* on their facts. Here, the alleged demand and beating by the husband, and the sister-in-law's alleged insistence on a car and involvement with jewellery, disclosed specific prima facie roles. The credibility of those allegations remained for trial.

Unjoined official / personal allegation - The Court declined to decide the applicants' personal accusation that the investigating officer had colluded with the complainant, because the officer had neither been impleaded in her personal capacity nor given an opportunity to be heard.

Case-note :- ***1. Facts :*** The complainant's husband, Shiva Soni, and her sister-in-law, the co-applicant, sought quashing under Section 482 CrPC of FIR 259/2023, dated 18 September 2023, registered at Cantonment police station, Jabalpur, under Sections 498-A and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, together with proceedings in RCT 9490/2023 before the JMFC. The complainant, respondent 2, married applicant 1 on 10 May 2023. She alleged that within days he demanded a Creta car, that she discussed the demand with her in-laws and applicant 2, that she was harassed for dowry, and that her gold ornaments or streedhan were taken. She alleged that her signatures were obtained on blank stamp papers and that she returned to her parents after an altercation over dowry. She also described an incident on 29 June when her husband and in-laws sought to take her back. She feared for her safety and alleged that they beat and abused her, threatened divorce and remarriage, and obtained her signatures on an agreement. In her Section 161 statement, the Court noted a specific accusation that her husband beat her over the car demand and that the sister-in-law insisted that her parents provide a car because nothing had been given in dowry.

The applicants denied cruelty and any demand for dowry. They relied on cohabitation of roughly twelve days, the timing of the September FIR and an earlier July complaint which, they asserted, gave a different account and had not been supplied to them. They alleged that investigating officer Kamla Patel had colluded with the complainant to obtain a new complaint and FIR, and argued that the original complaint disclosed no cognizable offence. They produced photographs showing a cordial relationship before and after marriage, WhatsApp messages, a gifted phone and payments made by the husband to the complainant. They maintained that these materials disproved the dowry demand. The State was represented.

2. Precedents — Considered : FIR and investigation restraint: *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, disapproved of premature quashing of an FIR without proper police investigation, unless continuation itself would abuse the process. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, holds that an FIR disclosing a cognizable offence ordinarily permits statutory investigation; interference on the ground of alleged malice is exceptional. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, quotes *State of W.B. v. Swapan Kumar Guha on the* need to complete investigation where the facts disclose an offence, and *Jeffrey J. Diermeier* on the three purposes of Section 482, its wide but non-arbitrary power and its cautious exercise to prevent injustice. The High Court applied these principles in declining to decide disputed accusations at the threshold. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, disapproved of quashing before investigation through a roving inquiry into a disputed, allegedly coerced settlement and serious allegations. *State of Tamil Nadu v. S. Martin, (2018)*

5 SCC 718, rejects a premature assessment of the merits.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, reiterates two *Bhajan Lal* categories: allegations which, even if accepted in their entirety, disclose no prima facie offence; or proceedings that are manifestly malicious and motivated by private vengeance. It requires sparing intervention, while recognising the need to protect a person from wholly untenable complaints and abuse, drawing on *Medchl Chemicals*, *Zandu Pharmaceutical Works* and *Shakson Belthissor.* The Court examined whether the present FIR fell within an exception for absence of an offence or abuse and concluded that it did not. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, requires a judge to set out the facts, apply the relevant quashing principles and give reasons. The High Court then described the parties' allegations and explained why they raised a triable case.

Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460, provides the comprehensive framework under Sections 397/482 and at the charge stage reproduced by the Court. It requires assessment of whether the uncontroverted prosecution facts prima facie satisfy the offence, permits intervention for inherent improbability, a legal bar or patent injustice, and balances personal freedom against prosecution. A meticulous evidentiary inquiry or prediction of acquittal is impermissible; ordinarily, the prosecution record must be used rather than external material supplied by the accused. A civil claim and a criminal offence may coexist. The quoted discussion confines *Madhavrao Jiwajirao Scindia*'s reasoning concerning civil disputes; it does not authorise a conviction-probability test in every case. The High Court followed this rule concerning the procedural stage. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, likewise cites *Bhajan Lal*'s rejection of a rigid formula and the prohibition on inquiries into the genuineness of FIR allegations. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, permits appropriate consideration of a document produced by the accused if it is public or its veracity is not disputed by the complainant. The applicants' private photographs, messages and payments required proof and did not establish that exception. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, distinguishes cases of abuse, inherent improbability, an express bar and absence of an offence from an attempt to use Section 482 as a substitute for trial. The Court treated the contested explanations as matters for trial.

Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437, sets out the broad inherent power, its exceptional exercise and its relationship with specific statutory remedies. It reproduces *Bhajan Lal*'s seven illustrative categories, *Indian Oil Corporation*'s warning against stifling a legitimate prosecution where the basic factual ingredients are pleaded, and *State of Orissa v. Saroj Kumar Sahoo's* restraint on assessing probabilities. Through *State of Bihar v. P.P. Sharma*, it explains that *Madhavrao* does not impose a universal duty to estimate the prospect of ultimate conviction; genuine disputes that are predominantly civil and involve settlement considerations have their own context. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, retains the exceptions concerning allegations that disclose no offence at face value and uncontroverted evidence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, cautions that interference may obstruct inquiry, but also requires intervention against absurd, inherently improbable accusations used to harass. Its quoted supporting authorities, *L. Muniswamy* and *Kurukshetra University*, explain that balance. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, rejects High Court findings on minute, disputed matters of defence even after cognizance. *State of M.P. v. Kunwar Singh*, CrA 709/2021, order of 30 June 2021, explains that Section 482 does not permit scrutiny of the kind undertaken at trial and that an FIR need not be an encyclopaedia. The Court relied on these principles in leaving credibility and contested documents for trial.

Matrimonial relative: *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, permits quashing where allegations are absurd or disclose no case. Where allegations of matrimonial cruelty raise a triable case, however, the Court does not assess the reliability of the version or counter-version. It also cautions against omnibus allegations targeting relatives who are generally uninvolved in the couple's affairs. The decision quotes *Amit Kapoor* and distinguishes *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra* on their facts. The High Court applied that qualified rule to the specific car-demand and jewellery allegations against the sister-in-law, as well as the husband's alleged conduct.

3. Statutes considered : Section 482 CrPC confers inherent jurisdiction on the High Court to give effect to orders under the Code, prevent abuse of process and secure justice, subject to restraint appropriate to the procedural stage and the recognised exceptions. Section 397 concerning revision, Section 228 concerning charge, and Sections 173(2), 156(1) and 155(2) arose in the quoted Supreme Court framework, particularly the distinction between investigation of an FIR and review of a charge. They were not separate requests for relief here. The complainant's Section 161 statement supplied further specific allegations at this stage, rather than sworn proof of guilt. Sections 498-A and 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act were the FIR offences. The Court found prima facie allegations of cruelty, dowry demand and participation, without finally determining the statutory ingredients. The application sought quashing of both the FIR and the pending trial proceedings.

4. Issues : Did the FIR and the complainant's Section 161 account, accepted for the threshold inquiry, allege facts capable of constituting cognizable offences concerning dowry cruelty and related conduct against the husband and the sister-in-law individually? Could the brief cohabitation, delay, allegedly inconsistent earlier complaint, cordial photographs, messages, gift and bank transfers establish falsity without testing the evidence? Could the personal accusation that the investigating officer had conspired with the complainant justify a finding against an official who had neither been impleaded nor heard?

5. Ratio / Findings : The power under Section 482 is broad, but cannot be used at the FIR or charge-sheet stage to decide whether a witness is truthful or defence documents outweigh her account. The starting point is to take the allegations at face value. Genuine cases involving absence of an offence, a legal bar, inherent improbability or clear abuse remain exceptions; investigation or trial must not be stifled where material facts plausibly disclose criminal conduct. Here, the husband allegedly demanded a car shortly after marriage, beat the complainant over that demand and took her ornaments. The sister-in-law was not implicated merely because of her relationship: the Section 161 account attributed to her an insistence on a car for her brother, and the complaint alleged her participation in taking the gold ornaments. Alleged family discussions, signatures on blank papers, return to the parental home, fear, abuse and threats provided further context. These uncontroverted allegations were capable of constituting a cognizable offence.

The Court declined to take judicial notice of the applicants' private photographs, WhatsApp messages, gifted phone or transfers as conclusive material. They required proof and an opportunity to be tested; no exception for a public or undisputed document was established. Nor did the asserted earlier complaint, the time interval or the twelve days at the matrimonial home establish on their face that all stated ingredients were absent. The personal accusation that investigating officer Kamla Patel had colluded with the complainant could not be determined against her without impleading her in her personal capacity and giving her an opportunity to explain. Applying *Taramani Parakh*'s caution to the sister-in-law individually, the Court found specific material allegations rather than a purely omnibus accusation.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. FIR 259/2023 and RCT 9490/2023 before the JMFC, Jabalpur, were not quashed. Proof of cruelty, dowry demand, the jewellery allegations, the applicants' private records and the contested investigative facts remained for determination in the competent criminal proceedings.

Shiva Soni and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 55076/2023, 17/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (882) Prev Next

Headnote :- Rape / promise of marriage and misconception - *Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 3 SCC (Cri) 903*, applies Sections 90 and 375 IPC and distinguishes a promise made dishonestly from a promise made in good faith but later broken. Bad faith when the promise was made and an immediate or direct nexus between the resulting misconception and the woman's agreement to the particular sexual act are necessary. Its discussion of *Deepak Gulati*, *Uday*, *Anurag Soni* and *Yedla Srinivasa Rao* preserves the requirements concerning the accused's knowledge and the woman's active, reasoned choice.

Successive acts / independent consent - The Court observed that consent to an initial encounter does not

constitute consent to every later encounter. On the face of the FIR, the complainant alleged demands concerning her salary and relocation, violence and her decision to end the proposed marriage. The applicant then allegedly threatened exposure and self-harm and induced her to visit Jabalpur on 21 November 2020, when another sexual act occurred. The Court found that the question of consent to the later act prima facie fell within Section 90.

Inherent powers / no roving trial - *Munshiram v. State of Rajasthan, (2018) 5 SCC 678, Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221, Ujjal Kumar Burdhan, (2012) 4 SCC 547*, and *XYZ v. State of Gujarat, (2019) 10 SCC 337*, call for restraint in interfering with investigation and deciding disputed consent. *S. Khushboo, (2010) 5 SCC 600*, and *M. Srikanth, (2019) 10 SCC 373*, preserve the exceptions where the allegations, taken at face value, disclose no offence or the proceedings manifestly abuse the process. *Amit Kapoor, (2012) 9 SCC 460, Ajay Kumar Das, (2011) 12 SCC 319, Gourishetty Mahesh, (2010) 11 SCC 226, Padal Venkata Rama Reddy, (2012) 12 SCC 437*, and *M.N. Ojha, (2009) 9 SCC 682*, require a careful balance without predicting conviction. *Mohd. Akram Siddiqui, (2019) 13 SCC 350*, confines consideration of documents produced by the accused to appropriate cases involving public or undisputed material. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, CrA 709/2021 (30 June 2021), reject minute factual scrutiny at the quashing stage. Applying these authorities, the Court refused the applicant's request to disbelieve an FIR that raised triable allegations and dismissed the petition.

Case-note :- ***1. Facts :*** Shivam Gupta applied under Section 482 CrPC to quash FIR Crime 12/2021, dated 27 March 2021, registered at Mahila Thana, Katni, and the resulting proceedings under Sections 376(2)(n), 294, 323 and 506 IPC. The complainant, respondent 2, was an adult woman employed as a police constable. Their families had arranged a proposed marriage. The FIR reproduced in the judgment stated that they became close through telephone conversations and that the applicant first had sexual intercourse with her on 5 April 2020 after assuring her of imminent marriage. It also described subsequent encounters. She alleged that he demanded that she transfer her salary to his family or leave her job and move to Jabalpur, beat and abused her when she refused, gave her abortion pills during a pregnancy, and threatened to circulate their joint photographs and obstruct another marriage when she decided to end the match. The FIR identified 21 November 2020 as the last encounter. She stated that he summoned her to Jabalpur after cutting his wrist; she went to persuade him, stayed overnight and intercourse occurred despite the changed relationship and the pressure. She reported the case four months later.

The applicant argued that an adult constable familiar with the law had voluntarily maintained the relationship and had herself ended the marriage arrangement. He submitted that a later failure to marry could therefore not amount to a misconception under Section 90. Respondent 2 argued that the demands, violence and threats showed exploitation and an intention to deceive her from the beginning. The Court subsequently examined consent as it related to successive acts during the relationship. The parties relied on *Deepak Gulati*, *Tilak Raj*, *Uday*, *Pramod Suryabhan Pawar*, *Sonu* and three M.P. High Court decisions, including *Senjeet Singh*. In its later reasoning, the Court quoted and applied *Pramod* and an extensive series of decisions on Section 482.

2. Precedents — Considered : *Pramod Suryabhan Pawar v. State of Maharashtra, (2019) 3 SCC (Cri) 903*, is the central substantive authority reproduced by the High Court. It reads Section 375 IPC and Explanation 2 with Section 90. Consent requires an active, unequivocal, reasoned and voluntary choice concerning the specific sexual act; the absence of physical resistance alone does not establish consent. Section 90 excludes consent given under fear or misconception where the person doing the act knows or has reason to believe that consent was given on that basis. A promise made in good faith but later unfulfilled differs from a false promise made without an intention to marry when it was given. For a misconception based on a promise of marriage, the promise must have been dishonest at inception and of immediate relevance, or bear a direct nexus, to the woman's decision to engage in that act. *Pawar*'s quotation explains *Dhruvaram Sonar* and *Kaini Rajan* on active deliberation; *Anurag Soni* and *Deepak Gulati* on initial dishonesty as distinct from unforeseen failure; *Yedla Srinivasa Rao* on a sustained deceptive promise; and *Uday* on both the woman's misconception and the accused's knowledge. In *Uday*, love and known family opposition could sever the nexus between the promise and consent. The High Court applied this

framework, acknowledged that there might have been consent at the outset, and distinguished the later alleged pressure and intercourse.

On the separate question of quashing, *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, rejects premature intervention before proper investigation in the absence of abuse. *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, generally leaves allegations disclosing a cognizable offence to police investigation, while recognising intervention in exceptional cases of malicious proceedings. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, quotes *Swapan Kumar Guha* on the need for investigation once an offence is disclosed, and *Jeffrey J. Diermeier* on the three purposes of inherent jurisdiction and its cautious, non-arbitrary exercise. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, rejects a roving inquiry and an assumption of consent where allegations of coercion and a disputed document require investigation. The High Court applied that warning, specific to the procedural stage, to the present allegations. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, likewise disapproves of deciding the merits before investigation is complete.

S. Khushboo v. Kanniammal, (2010) 5 SCC 600, refers to *Bhajan Lal*'s categories concerning allegations that disclose no offence even at face value and proceedings that are manifestly malicious. Through *Medchl Chemicals*, *Zandu Pharmaceutical Works* and *Shakson Belthissor*, it explains the need both to avoid stifling a legitimate prosecution and to prevent harassment through wholly untenable proceedings. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, requires the judge to set out the factual context and reasons for interference. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, states the broad test under Sections 397/482 and at the charge stage. The uncontroverted prosecution allegations must be assessed as a whole; intervention is permissible where ingredients are absent, allegations are inherently absurd, a legal bar applies or serious injustice arises. The Court must not predict conviction, marshal evidence or ordinarily rely on external material produced by the accused. Its discussion confines *Madhavrao Jiwajirao Scindia*'s special-facts doctrine to predominantly civil disputes; likely acquittal is not a universal test for quashing.

Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, reiterates *Bhajan Lal*'s flexible categories and the restraint required in examining the reliability of FIR allegations. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, recognises a narrow exception for defence documents that are public or whose veracity the complainant does not dispute. No such document formed the basis of the applicant's plea, as recorded in this order, that the allegations were false. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, preserves the categories of no offence, an express bar and demonstrated abuse, while reserving assessment of reliability for trial. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, sets out *Bhajan Lal*'s seven illustrative categories and *Indian Oil*'s requirement of a basic factual foundation. Through *Saroj Kumar Sahoo*, it rejects an assessment of probabilities; through *P.P. Sharma*, it explains that *Madhavrao* does not universally permit an early prediction of conviction. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, confirms that quashing is justified where the uncontroverted material truly discloses no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, cautions against frequent obstruction of proceedings, while also rejecting tolerance of patently absurd harassment. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, rejects detailed findings on a disputed defence under Section 482, even after cognizance. *State of M.P. v. Kunwar Singh*, CrA 709/2021, 30 June 2021, explains that examination of an FIR is not trial scrutiny and that an FIR need not be encyclopaedic. These authorities supported the High Court's refusal to decide whether the informant was lying or the applicant's account would prevail.

3. Statutes considered : Section 375 IPC, particularly the description concerning absence of consent and Explanation 2's requirement of voluntary agreement to the specific act, was read with Section 90's exclusion of consent under fear or misconception and its condition concerning the accused's knowledge. The registered charge was repeated rape under Section 376(2)(n). Sections 294, 323 and 506 IPC were the accompanying FIR charges, concerning allegations of abuse, beating and intimidation. Section 482 CrPC conferred inherent jurisdiction to prevent abuse and secure justice; it did not authorise findings on reliability of the kind required at trial.

4. Issues : Did the FIR, taken at face value, allege a misconception under Section 90 or a non-voluntary sexual act sufficient to resist quashing, despite the first encounter following the families' marriage

arrangement and the woman's eventual decision to end it? What did the false-promise test require concerning the applicant's original intention, causation and knowledge of the misconception? Could earlier voluntary intimacy constitute consent to an encounter alleged to have occurred after pressure, violence, threats and the breakup? Could the High Court, on a petition under Section 482, accept the applicant's denial and determine the complainant's credibility instead of allowing the criminal process to test the matter?

5. Ratio / Findings : *Pramod Suryabhan Pawar* requires more than subsequent non-marriage to establish a misconception under Section 90 based on a promise. The false promise must have been made without a bona fide intention to marry at the time, and the misconception must directly cause the woman's agreement, with the requisite knowledge on the accused's part. The High Court expressly acknowledged that the first encounter after the marriage arrangement might have been consensual. It then considered the alleged changes during the relationship: pressure to transfer her salary or leave her job and move to Jabalpur, physical abuse, the complainant's decision to discontinue the relationship, threats to defame her through photographs and to harm himself, and the later Jabalpur visit and intercourse. Consent must be assessed separately for each act. On these particular allegations, the Court stated that the applicant's intentions became dishonest during the relationship and that the question of consent to the later act prima facie fell within Section 90.

The petitioner's contention that the allegations were false required an assessment of the informant's reliability and the factual significance of the relationship. Section 482 permits quashing where an FIR truly discloses no offence or abuses the process. It does not permit such a detailed, roving inquiry where the account, if proved, can establish a cognizable offence. The complainant's age and occupation did not by themselves establish consent to the later alleged act, and her decision to end the marriage plan did not automatically resolve that question. The Court declined to determine the defence version before trial.

6. Relief : The Hon'ble High Court dismissed the application under Section 482; FIR Crime 12/2021 and the related criminal proceedings were not quashed.

Shivam Gupta v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 32728/2021, 30/06/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (883) Prev Next

Headnote :- Abduction / forced movement - Section 362 IPC covers a person who is compelled by force or induced by deceit to go from any place. According to the FIR and Section 161 statement, the applicant called the complainant outside, forced him into a car and took him away against his will while he was restrained and beaten. At the anticipatory-bail stage, the Court treated this account as a prima facie allegation of abduction. It rejected the claim of voluntary release because the complainant's father and two companions allegedly intercepted the car and secured his release.

Anticipatory bail / conduct and profession - The Court rejected the applicant's profession as a practising advocate as a ground for special treatment; counsel identified no statutory privilege or exemption. His professional duty to uphold the law did not lessen the alleged seriousness. A notice under Section 41A CrPC and non-arrest during investigation did not determine the later bail request. The applicant had not attended court when the charge-sheet was filed, faced allegations of forcible abduction, and had described himself as a student in a withdrawn Section 482 petition despite Bar membership since 2020. The Court regarded that unexplained inconsistency as adverse to the claim that he had approached it with clean hands and declined anticipatory bail.

Case-note :- ***1. Facts :*** Shivam Yadav filed his first application for anticipatory bail under Section 438 CrPC in Crime 87/2024, registered at Sanjeevani Nagar police station, Jabalpur, under Sections 294, 323, 365, 506 and 34 IPC. The complainant, an LL.B. student whose father practised law, alleged that on 5 March 2024 the applicant telephoned him and asked him to come outside. The applicant said they were going to Abhay Rana's house and, when the complainant objected, forced him into an i20 car. The complainant alleged that the applicant abused him and assaulted him with punches or kicks while Som Thakur and Yash Garg held him. He contacted his father, who arrived with Ayush Patel and Shobhit Mishra, after which he was released. He alleged that he was threatened with death on release. The State disputed the applicant's claim that the release was

voluntary, stating that the father and his companions had intercepted the vehicle and witnessed the beating.

The applicant submitted that he was a practising lawyer and a member of the District Bar Association, had not been arrested during investigation and had received a notice under Section 41A CrPC. Counsel relied on Supreme Court authorities concerning non-arrest and bail, but admitted that the applicant had not appeared before the Magistrate when the charge-sheet was filed. Counsel described the accusations as not grievous and denied that they disclosed abduction. The Court also examined an earlier quashing petition under Section 482, withdrawn by the applicant on 2 April 2024. Its cause title described him as a student, although the identification document filed with the bail application showed Bar Association membership since 2020. Counsel could not explain that description. The applicant offered to attend court in future and assured the Court that he would not mislead it.

2. Precedents — Considered : Counsel cited *Siddharth v. State of U.P., (2022) 1 SCC 676; Aman Preet Singh v. CBI, (2022) 13 SCC 764; Mahdoom Bava v. CBI, 2023:INSC:263*; and *Satender Kumar Antil v. CBI* in support of relief after the Section 41A notice and non-arrest during investigation. The Court based its assessment on the text of Section 362, the particular allegations, the applicant's non-appearance and his conflicting descriptions of his professional status.

3. Statutes considered : Section 438 CrPC governed the first application for anticipatory bail. Section 41A was relevant because notice had been issued during investigation. Section 362 IPC defines abduction as compelling a person by force, or inducing a person by deceitful means, to go from any place. Sections 294, 323, 506 and 34 IPC concerned the allegations of abuse, hurt, intimidation and common intention. The Court considered witness statements under Section 161 CrPC at the provisional bail stage.

4. Issues : Did the alleged forced entry into a car and movement against the complainant's will prima facie satisfy the definition of abduction under Section 362 for the purpose of anticipatory bail? Was his release voluntary, or did it result from interception by his father and others? Did the Section 41A notice and non-arrest during investigation, or the applicant's profession, warrant pre-arrest protection despite his non-appearance when the charge-sheet was filed? What weight should be given to his unexplained earlier description as a student while claiming to have approached the Court with clean hands?

5. Ratio / Findings : Considering the FIR and Section 161 account at the bail stage, the Court found that the complainant had been forced to move from outside his home into a vehicle and towards another place. This prima facie satisfied the definition in Section 362. The State's account, supported in the order by the complainant, his father and the accompanying witnesses, attributed his release to their interception and intervention rather than a voluntary decision by the applicant. The alleged beating heightened the concern. The Court rejected counsel's request for special treatment based on the applicant's profession as a lawyer. No legal privilege to commit an offence had been identified, and a lawyer's duty to uphold the law made his profession no ground for leniency on these allegations. The Court acknowledged the Section 41A notice and non-arrest during investigation, but weighed the admitted non-appearance when the charge-sheet was filed and the overall circumstances; it did not treat the notice as conclusive.

The Court examined the applicant's assurance that he would not mislead it. It compared the description of him as a "student" in the earlier quashing petition's cause title with the Bar ID showing membership since 2020. Counsel could not explain the discrepancy. The Court therefore regarded the submission that the applicant had approached it with clean hands as false. This was a discretionary assessment of the record for anticipatory bail.

6. Relief : The Hon'ble High Court dismissed the first application for anticipatory bail.

Shivam Yadav v. The State of Madhya Pradesh, M.Cr.C. no. 27233/2024, 05/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (884) Prev Next

Headnote :- Abetment of suicide / instigation and mens rea - Sections 107 and 306 IPC: *Sanju @ Sanjay Singh Sengar, (2002) 5 SCC 371*, and *Kishori Lal, (2007) 10 SCC 797*, explain the modes of abetment as instigation, conspiracy followed by an act or illegal omission in pursuance of it, and intentional aid. Mens rea is indispensable to instigation. *Chitresh Kumar Chopra, (2009) 16 SCC 605*, permits an inference of instigation from an

intentional continuing course of conduct that leaves the deceased no option. A reasonably certain tendency to incite the consequence must nevertheless be shown; words spoken in anger without that intention are insufficient. *Praveen Pradhan, (2012) 9 SCC 734*, treats intention and the particular circumstances as decisive and rejects a rigid formula. Applying these principles, the Court found that the note and witness evidence could support a prima facie prosecution; it did not record a final conviction.

Abetment of suicide / continuing humiliation - *UDE Singh, AIR 2019 SC 4570*, distinguished repeated, calculated humiliation that destroys the victim's self-esteem from a single instance of teasing or insult. The Court applied that principle to Dr Shivani Nishad's alleged repeated threats to falsely implicate the deceased in rape and eve-teasing, send him to jail and compel his family to sell their home and leave the colony, together with daily taunts and his fear that his career would be ruined. The suicide note specifically implicated her. The Court relied on witness statements to infer Rani Nishad's shared participation, although the note did not specifically attribute the rape threat to her. These allegations supported a case under Section 306 IPC only prima facie.

Abetment of suicide / limits of harassment inference - *Gangula Mohan Reddy, (2010) 1 SCC 750*, and *M. Mohan, (2011) 3 SCC 626*, require clear mens rea and a positive act, described as active or direct conduct intended to push the deceased into suicide, for conviction. *Orilal Jaiswal, (1994) 1 SCC 73*, cautions against treating an unusually sensitive response to ordinary discord as abetment. *Amalendu Pal, (2010) 1 SCC 707*, requires direct or indirect incitement and a positive act sufficiently close to the death; harassment alone is insufficient. *Ramesh Kumar, (2001) 9 SCC 618*, excludes words spoken in anger without the intended consequence. The Court considered these limits but regarded the alleged continuing false rape threats and degrading pressure as materially more than ordinary neighbour discord at this preliminary stage.

Quashing / prima facie assessment - *Praveen Pradhan, (2012) 9 SCC 734*, and *Amit Kapoor, (2012) 9 SCC 460*, explain that quashing does not require a firm finding on the merits or a detailed assessment of the evidence. Instigation may be inferred from a course of conduct. Reading the suicide note and witness statements together, the Court found sufficient material against both applicants, despite the differing specificity of the allegations against each. It refused to quash Crime 39/2023 under Section 306 IPC in exercise of Section 482 CrPC. Counsel identified no statutory exemption from trial based on applicant 1's profession as a doctor; guilt remained open.

Case-note :- ***1. Facts :*** Chandra Shekhar @ Pawan Ahuja died by hanging on 20 December 2022 at Bamhani, Mandla. Police recovered a signed suicide note written in red ink from his trouser pocket and conducted an inquest and postmortem. The note described a long-running neighbourhood dispute and cases involving the deceased and his mother, Shanti Ahuja, Dr Shivani Nishad, Shivani's mother Rani Nishad and other neighbours. It stated that the criminal cases had affected his coaching studies in Indore and prospects of employment. It specifically attributed to Shivani repeated demands that the family sell their home and leave the colony, accompanied by threats to falsely accuse him of rape and eve-teasing and have him jailed. He described fear, the loss of self-respect and of his will to endure, difficulty in selling the house, expenditure on the cases and concern for his mother. He identified Shivani and Kailash Nandanwar as persons who should be punished, apologised to his mother and also described himself as weak. On the note and the statements of Shanti, Anees Memon, Mahendra Ramtekkar, Govind Thakur, Anmol Verma, Amit Ahuja and Ankit Rai, police registered Crime 39/2023 under Section 306 IPC at Bamhani.

Shanti's statement traced the neighbourhood dispute to garbage being dumped in a drain over about ten years. She described cross-complaints in 2020, her son's lack of direct involvement, repeated taunts by five neighbours that mother and son were shameless or ought to have died despite the registered cases, and several threats of a false rape case attributed specifically to Shivani. She stated that her son feared harm to his PSC prospects and was depressed, and that his father had taken him to Bamhani. Her statement placed that move in October 2022, while the note described his living there after the threats. She recounted a further quarrel with both applicants on 28 November 2022 and a telephone call informing her son. He returned to Balaghat on 8 December, distressed over the criminal cases and rape threat. She also referred to his father's account on 17 December of plans to sell the house. The father discovered the death on 20 December. The Court

recorded that other witnesses made similar allegations.

Shivani and Rani applied under Section 482 CrPC to quash the FIR and proceedings. Their counsel argued that the ingredients of Section 107 were absent even if the allegations were accepted, and that Shanti caused trouble in the society and was the subject of residents' complaints. Counsel relied on *M. Mohan* and *Gangula Mohan Reddy*. The State opposed the application, submitting that continuous threats of a knowingly false rape and eve-teasing case and repeated humiliation had destroyed the deceased's self-esteem. It relied on *UDE Singh*. The applicants had mistakenly impleaded the deceased as respondent 2 instead of his mother. The Court noted that they had not explained how he could be served or how proceedings against him could be maintained, and then considered the merits. The petition's reference to 'Section 107 of Cr.P.C.' reflected counsel's formulation; the definition of abetment reproduced and analysed by the Court was Section 107 IPC.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605*, defined instigation as goading, urging or provoking. Literal words commanding suicide are unnecessary; a reasonably certain tendency to incite the consequence may emerge from an accused's acts, omission or continuing conduct that leaves the person no option. A word spoken in anger or emotion without the intended consequence is excluded. The High Court applied that framework to the continuing threats, without requiring an express exhortation to die. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734*, treated the instigator's intention and the factual circumstances as central. It permitted an inference without direct evidence or a rigid formula and confined the quashing court to a tentative view, referring to the presumption under Section 228 CrPC. The High Court applied that tentative approach. *Sanju @ Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371*, set out the three routes under Section 107: instigation, conspiracy accompanied by the required further conduct, and intentional aid. It required mens rea for instigation. *Kishori Lal v. State of M.P., (2007) 10 SCC 797*, also explained the three alternatives, the meaning of incitement, the distinct character of abetment, and the link under Section 109 to a proved specific offence where no other punishment provision applies. The Court used these principles as the legal framework for Section 306.

Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750, required clear mens rea and an active or direct act intended to push the deceased into suicide for conviction. It cautioned against conviction where the person was hypersensitive to ordinary petulance and domestic discord. *M. Mohan v. State represented by the Deputy Superintendent of Police, (2011) 3 SCC 626*, similarly required a mental process of instigation or intentional aid, a positive act and clear mens rea for conviction. The applicants relied on both authorities. The Court set out their principles but found prima facie material of more sustained and grave conduct. *State of West Bengal v. Orilal Jaiswal, (1994) 1 SCC 73*, required care in assessing whether cruelty had actually induced suicide and warned against treating a hypersensitive response to ordinary discord as proof. The Court considered that caution as a limit on the inference; it did not exonerate the applicants at this preliminary stage.

Amalendu Pal @ Jhantu v. State of West Bengal, (2010) 1 SCC 707, required proof of direct or indirect incitement and a positive act sufficiently proximate to the occurrence; harassment alone does not sustain conviction. *Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618*, excluded a remark made in anger without the necessary intention and reiterated the caution concerning ordinary discord. At the quashing stage, *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, requires a tentative assessment rather than evaluation or marshalling of the record to decide the merits. The Court also cited *Kumar @ Shiva Kumar v. State of Karnataka, Criminal Appeal 1427/2011, decided 1 March 2024, as laying down the same principles governing abetment. UDE Singh v. State of Haryana, AIR 2019 SC 4570*, provided the central analogy. The quoted Supreme Court reasoning distinguished a single teasing episode from incessant humiliating references to a girl's broken engagement, coordinated taunts, destruction of her self-esteem and a final incident that exhausted her tolerance. On those proved facts, it sustained the abetment findings. The High Court compared the alleged continuing false rape threats, social disgrace and harm to the deceased's career and self-esteem, particularly Shivani's identified role, with the sustained, calculated pressure in *UDE Singh*. It applied the precedent at a prima facie quashing stage, without importing the conviction finding or factual setting of that case into the present one.

3. Statutes considered : Section 306 IPC punishes a person who abets another's suicide. Section 107 IPC defines abetment through instigation, conspiracy accompanied by conduct in pursuance of it, or intentional aid by an act or illegal omission. Its explanations address wilful misrepresentation or concealment as instigation and prior or contemporaneous facilitation as aid. In assessing Rani's alleged role from the witness statements, the Court used the phrase 'sharing the common intention'. Section 482 CrPC provided the applicants' recourse to inherent jurisdiction for quashing the FIR and proceedings. The Court made a tentative assessment of whether the allegations supported the ingredients of Sections 306/107.

4. Issues : (i) On the note and investigative witness statements, did the alleged persistent false rape and eve-teasing threats, pending cases and public taunts satisfy the instigation requirement under Section 107 for a prima facie case under Section 306? Or did they amount only to ordinary quarrels or harassment without the positive, intended and sufficiently connected conduct required by Supreme Court authority? (ii) Did the absence of a specific rape-threat allegation against Rani in the note prevent proceedings against her where witness accounts allegedly implicated her in continuing taunts and shared intention? (iii) Could the Court quash the FIR and proceedings under Section 482 on the applicants' competing account that Shanti was a troublemaker, or did the record require the tentative assessment prescribed in *Praveen Pradhan* and *Amit Kapoor*? (iv) Did Shivani's medical profession exempt her from the ordinary IPC trial process?

5. Ratio / Findings : The Court first set out Sections 306 and 107 and distinguished the substantive standards for an eventual conviction from the preliminary question raised by this Section 482 application. *Chitresh Kumar Chopra* and *Praveen Pradhan* permitted an inference of intentional instigation from continuing conduct and the surrounding circumstances without literal words directing suicide. *Sanju* and *Kishori Lal* explained the statutory modes and the mental requirement. The Court also considered *Gangula Mohan Reddy*, *M. Mohan*, *Orilal Jaiswal*, *Amalendu Pal* and *Ramesh Kumar*: mens rea and a positive act are necessary, harassment alone is insufficient, the conduct must have a meaningful temporal and causal connection, and an unusually sensitive response to routine social or domestic friction does not itself prove abetment. At the quashing stage, *Praveen Pradhan* and *Amit Kapoor* called for a tentative view.

The Court considered the suicide note at length. It described prolonged litigation and anxiety about studies and employment, and attributed to Shivani repeated demands that the family sell the house and leave, backed by threats of a false rape and eve-teasing accusation and imprisonment. The Court regarded the prospect of a young job aspirant being branded a rapist and jailed on a false allegation as capable of destroying his social standing, self-esteem and career. Shanti's statement added repeated taunts by the neighbours that the deceased and his mother were shameless and that he had not died despite the cases, Shivani's recurring rape accusation threat, the deceased's distress and the further events during November and December 2022. Applying *UDE Singh*'s distinction between a single insult and prolonged degrading pressure, the Court regarded these allegations as more than an empty threat or ordinary neighbour discord. The continuing pattern, rather than an isolated incident in October, November or December, supported a prima facie offence under Section 306 against Shivani.

The note did not specifically attribute a rape or eve-teasing threat to Rani. The Court relied on Shanti's and other witnesses' allegations of daily taunts and both applicants' involvement to find sufficient material of shared intention for prosecution. The applicants' description of Shanti as notorious and responsible for the neighbourhood disturbance remained a contested defence position and did not justify ending the case on this preliminary record. Counsel's request that Shivani be spared trial because she was a doctor failed because no IPC exemption based on that status was identified. The Court found sufficient material to prosecute both applicants. The truth of the allegations, intent, participation, proximity and guilt remained for ordinary adjudication.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC to quash Crime 39/2023 and the proceedings under Section 306 IPC against Shivani and Rani Nishad. No exemption or protective condition was granted to the doctor applicant. The prosecution could proceed; the order neither convicted either applicant nor finally determined the allegations against neighbours who were not applicants.

Shivani Nishad and Ors. v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 27101/2023, 07/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Common intention / Section 34 IPC - Liability for a joint criminal act requires proof of shared intention and participation in furtherance of it. Every participant need not inflict an injury, but mere presence or accompaniment does not establish the necessary connection. *Suresh Sankharam Nangare*, 2012 (9) SCALE 345, *Shyamal Ghosh, AIR 2012 SC 3539*, *Mrinal Das, AIR 2011 SC 3753*, and *Ramashish Yadav, AIR 1999 SC 1083*, were considered on concert, participation and the possibility of a common purpose forming at the scene. *Hem Raj*, *AIR 1990 SC 2252*, *Dashrathlal, 1979 CrLJ 1078* (SC), *Rajagopalswamy Konar, 1994 CrLJ 2195* (SC), and *Sheikh Nabab, 1993 CrLJ 43* (SC), illustrate the limits of liability where another participant's common purpose or act is not proved. No injury-causing act or shared intention to commit murder was proved against Gorelal. The alleged later shoe blow had no corresponding injury; he was unarmed, wept beside Ramesh and assisted in the inquest. His conviction under Section 302 or 302/34 was reversed, while Shivcharan remained individually liable.

Murder / Section 300 thirdly - *Virsa Singh*, *AIR 1958 SC 465*, requires proof of the existence and nature of the injury, intention to inflict that particular injury, and its objective sufficiency to cause death in the ordinary course of nature. *Anda*, *1966 CrLJ 171*, explains that the weapon and the part of the body struck may show that sufficiency; intention to kill is not an additional requirement of clause Thirdly. *Arun Nivalaji More*, Criminal Appeals 1078–1079 of 2005, distinguishes the intention and knowledge grounds under Section 299, the murder clauses in Section 300 and, where murder is excluded, the alternatives under Section 304 Part I and Part II. The Court applied these tests and confirmed the conviction under Section 302. It relied on Shivcharan's deliberate lathi blows to vital parts of the head and face and the medically established fatal parietal fractures.

Murder or lesser homicide / contextual assessment - *Mahesh Balmiki, (2000) 1 SCC 319*, *Pulicherla Nagaraju, (2006) 11 SCC 444*, *Sangapagu Anjaiah, (2010) 9 SCC 799*, *Kanhaiyalal, (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao, (2008) 15 SCC 725*, reject automatic reduction of an offence to Section 304 merely because there is a single injury. The weapon, vital part struck, force, attendant quarrel and other circumstances determine intent. The Court considered the *Arun Raj*, *Ashokkumar Magabhai Vankar*, *Leela Ram* and *Vedanayagam* illustrations reproduced within those authorities, and applied the contextual principle to multiple lathi blows, rather than a single-blow case. *Dhirajbhai Gorakhbhai Nayak, (2003) 9 SCC 322*, and the Exception 4 test reproduced in *Kanhaiyalal* require a sudden mutual fight without premeditation, in the heat of passion, with no undue advantage or cruelty. No attack by Ramesh on Gorelal or mutual fight was established here, and the Court retained the classification as murder.

Private defence / reasonable apprehension and necessary force - Sections 96, 97 and 99–101 IPC confine defensive force to what is necessary. Causing death under Section 100 depends on a reasonable apprehension of death, grievous hurt or another enumerated assault. *Rizan*, *AIR 2003 SC 976*, places the defence burden at a preponderance of probabilities. *Madan Mohan Pandey, (1991) CrLJ 467* (SC), treats the weapon as relevant to excess; *Arjun*, *AIR 2012 SC 2181*, requires force commensurate with the threatened injury; and *Ranjitham*, (2011) 13 SCALE 221, rejects exact mathematical measurement or an invariable requirement of physical injury. The Court rejected Shivcharan's claim that he acted to defend his father. The deceased was eating, no weapon or injury corroborated the alleged aggression, and repeated fatal lathi blows were not shown to be necessary. Gorelal was acquitted because his own act or common intention was not proved, while Shivcharan's life sentence and fine were affirmed.

Case-note :- ***1. Facts :*** Gorelal owned about 30 bighas of land and had allotted four to his son Ramesh. Ramesh's demand for more land led to family quarrels. He was Shivcharan's brother and Vimlabai's husband. On 5 January 2008, Gorelal visited Ramesh and sought return of the land. During the altercation, Gorelal tore his own clothes and left. The prosecution alleged that later, while Ramesh was eating at the door of his house, Shivcharan and Gorelal arrived and Shivcharan repeatedly struck him with a lathi on the head, mouth, face, back and

limbs. Vimlabai stated that Ramesh fell and Gorelal then struck his head with a shoe. The Court understood this as occurring after death or collapse and found no medical injury attributable to the shoe blow. Ramesh died at the scene. The FIR was lodged on 6 January at Cantt police station, Guna. Inspector L.C. Shrivas prepared the inquest and scene records, recovered blood-stained and plain earth and two teeth, seized a blood-stained lathi from an accused's house, recorded witness statements and sent the articles for forensic examination. The postmortem recorded several facial and limb injuries, depressed fractures of both parietal bones and a linear fracture of the right parietal bone. Fatal skull and brain injury had been caused by a hard, blunt object.

On 23 June 2009, the Special Judge/Additional Sessions Judge, Guna, in Sessions Trial 99/2008 convicted Shivcharan under Section 302 IPC. In describing the trial conviction, the appellate judgment refers to Gorelal's conviction under Section 302 or 302/34. Each was sentenced to rigorous imprisonment for life, a fine of Rs 1,000 and six months' additional rigorous imprisonment in default. Both appealed under Section 374 CrPC. They challenged Vimlabai's testimony as that of an interested witness, relied on alleged contradictions and Ramesh's drunkenness, and pointed out that several witnesses arrived after the assault and two did not support the prosecution. Shivcharan asserted that Ramesh attacked Gorelal and that he used lawful force to defend his father. Gorelal submitted that the only act attributed to him was a shoe blow after Ramesh had died. The State sought affirmance. The appellate Bench framed questions concerning the death, the perpetrator, common intention, the classification of the homicide and private defence. The judgment labels both men appellant 1 and describes Shivcharan as deceased in one passage; elsewhere it identifies their respective roles.

2. Precedents — Considered : On common intention, *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345, states that Section 34 may apply without an overt blow being individually attributed to the accused if a common purpose is proved. Participation without that shared purpose is insufficient; prior concert or a meeting of minds is essential. *Shyamal Ghosh v. State of West Bengal, AIR 2012 SC 3539*, describes a plan formed before the act and conduct in pursuance of it. *Mrinal Das v. State of Tripura, AIR 2011 SC 3753*, places on the prosecution the burden of proving that multiple participants acted on prior concert. *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083*, recognises that common intention may develop at the spur of the moment, provided there is a meeting of minds. The Bench considered these authorities with Section 34 and assessed Gorelal's role individually, without inferring a plan merely from the family relationship and his arrival with Shivcharan. Paragraph 26 separately cites *Bijay Singh v. State of M.B., 1956 CrLJ 897*, on presence and prior concert.

Hem Raj v. Delhi Administration, AIR 1990 SC 2252, illustrates the acquittal of persons whose participation in murder was disbelieved, while the person proved to be the sole assailant remained liable. *Dashrathlal v. State of Gujarat, 1979 CrLJ 1078* (SC), rejects liability through mere accompaniment. In *Rajagopalswamy Konar v. State of Tamil Nadu, 1994 CrLJ 2195* (SC), a family land dispute led to an attack in which one accused stabbed and another caused only simple stick injuries. The latter's conviction under Section 302/34 was not sustained, but his separate liability under Section 324 was retained. *Sheikh Nabab v. State of Maharashtra, 1993 CrLJ 43* (SC), declined to sustain a conviction where the alleged overt act was not proved. The High Court applied this group of authorities in requiring proof of Gorelal's own participation in a shared intention to commit murder, and acquitted him.

On homicide classification, *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, sets out four elements under Section 300 Thirdly: the existence of an injury, its nature, intention to inflict the particular injury found, and the sufficiency of that injury to cause death in the ordinary course of nature. The last question is objective. Intention to cause death or to cause an injury known to be fatal is not an additional element of Thirdly; an unintended or accidental different injury may negate the third element. *Anda v. State of Rajasthan, 1966 CrLJ 171*, emphasises the high probability of death from the intended injury. The weapon or the part of the body struck may indicate that sufficiency. *Arun Nivalaji More v. State of Maharashtra*, Criminal Appeals 1078–1079 of 2005, describes the successive inquiries under Sections 299 and 300, the exceptions, and the distinction between intention under Section 304 Part I and knowledge alone under Part II where Section 300 murder is excluded. The Court considered these principles before assessing the postmortem and assault evidence concerning the multiple deliberate blows that caused fatal head injuries. Paragraph 32

also discusses Section 300 Secondly and refers to 'Shri Ahirwar'.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, rejects the proposition that a single blow necessarily falls outside Section 302. The location of the injury, weapon, manner of assault, restraint of the victim and surrounding circumstances may support murder, Section 304 or another offence. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322*, interprets Exception 4 to Section 300 as requiring a sudden mutual fight without premeditation, in the heat of passion, and without unfair advantage or cruel or unusual conduct. A mere quarrel is insufficient. *Pulicherla Nagaraju @ Nagaraja v. State of A.P., (2006) 11 SCC 444*, identifies a non-exhaustive set of factors bearing on intent: the weapon and its source, the vital part struck and force used, chance or planning, prior enmity, provocation, heat of passion, undue advantage and the number of blows. *Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799*, inferred intent from a crowbar blow to a vital part of the skull causing fractures, rather than applying a rule based only on the number of injuries. The High Court applied the contextual approach to the several lathi blows and fatal skull fractures, without finding the alleged fight in which Shivcharan claimed to have rescued his father.

State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639, reproduces *Arun Raj v. Union of India, (2010) 6 SCC 457*, on the absence of an automatic single-blow rule and on intent inferred from the weapon and vital part struck. It also reproduces *Ashokkumar Magabhai Vankar v. State of Gujarat, (2011) 10 SCC 604*, concerning a forceful wooden-pestle injury to the head and the absence of grounds for Exception 4, and *Leela Ram* on single-blow classification and the four cumulative requirements of Exception 4. *Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725*, likewise rejects automatic application of Section 304 Part II merely because there is a single injury, requiring consideration of premeditation, weapon, assault and the other evidence. Its extended quotation discusses *State of Karnataka v. Vedanayagam, (1995) 1 SCC 326*, where an intentional knife injury sufficient in the ordinary course of nature to cause death supported Section 302 despite being a single injury. It also reproduces *Virsa Singh*'s distinction between intent to cause the precise injury and the objective seriousness of that injury. In paragraph 50, the Bench expressly turned from this body of law to the evidence. The illustrations concerned single-blow decisions, whereas Shivcharan's case involved several blows. The Court applied the contextual analysis, rather than the factual results of those single-blow cases.

On private defence, *Madan Mohan Pandey v. State of U.P., (1991) CrLJ 467* (SC), treats the weapon as relevant to whether the right was exceeded. *Rasikbhai Ram Singh Rana v. State of Gujarat*, 1999 (1) Guj CR 176, is a Gujarat High Court authority, cited for the defence's responsibility to establish its version; it is not a Supreme Court holding. *Rizan v. State of Chhattisgarh, AIR 2003 SC 976*, requires a reasonable and probable account of self-defence showing the need to repel an attack or a continuing reasonable apprehension. The accused must establish the plea on a preponderance of probabilities from the whole record. *Arjun v. State of Maharashtra, AIR 2012 SC 2181*, requires reasonable apprehension and force commensurate with the threatened injury; causing death requires reasonable fear of death or grievous hurt. *Ranjitham v. Basavaraj*, (2011) 13 SCALE 221, cautions that defensive force cannot be measured with mathematical precision and that absence of physical injury does not, by itself, defeat a defence supported by reasonable apprehension of danger to life or grievous hurt. Having considered these protections, the Bench found no credible aggression or weapon on Ramesh's part, no injury to the accused and repeated lethal lathi blows. It rejected the plea on the evidence, without denying the doctrine categorically.

3. Statutes considered : Section 374 CrPC provided the convicted appellants' right of appeal, and Section 161 governed the recording of investigative witness statements. Section 34 IPC attributes a joint criminal act to each participant where shared intention and participation are proved; it does not create a separate offence. Sections 96 and 97 IPC preserve defence of one's own or another's body or property, subject to Section 99, including the prohibition on excessive harm and the absence of a right where there is time to obtain public protection. Section 100 permits causing death for specified serious assaults reasonably threatening death or grievous hurt, and for the other listed categories. Section 101 confines force to harm other than death where those categories do not apply. Section 8 of the Evidence Act, concerning motive and relevant previous or subsequent conduct, was reproduced. The Court assessed Gorelal's weeping after the event and

participation in the inquest, and Shivcharan's absence, as conduct. Section 299 IPC defines culpable homicide through intention to kill, intention to cause an injury likely to be fatal, or knowledge of likely death. Section 300 Thirdly covers intentional infliction of the particular injury sufficient in the ordinary course of nature to cause death, subject to the exceptions; Section 302 prescribes the punishment for murder. Section 304 Part I and Part II were discussed as possible alternatives based on intention or knowledge if murder were excluded. Section 304-A and Section 324 arose in general distinctions and precedent examples, rather than as charges against these appellants.

4. Issues : (i) Did the medical and eyewitness evidence prove a homicide caused by deliberate fatal injury, and establish Shivcharan as the lathi assailant despite the defence challenge to interested witnesses and witnesses who arrived later? Did Section 300 Thirdly sustain murder, or should the offence be reduced under Section 304/Exception 4? (ii) Did Gorelal participate in the lethal act or act with a proved common intention under Section 34, given that the sole shoe blow attributed to him followed Ramesh's fall and had no corresponding injury, and having regard to his conduct after the death? (iii) Did Shivcharan's assertion that Ramesh attacked Gorelal satisfy the burden on a preponderance of probabilities for defence of another under Sections 96–101, with reasonable apprehension of serious harm and force confined to necessity? Each appellant separately challenged the trial conviction and sentence.

5. Ratio / Findings : The Bench framed the questions, set out the statutory provisions and extensive Supreme Court guidance, and then assessed the evidence. The doctor found depressed fractures of both parietal bones, a linear fracture of the right parietal bone and fatal skull and brain trauma caused by a hard, blunt object within 24 hours of autopsy. Vimlabai described Shivcharan arriving with a lathi and striking Ramesh on the head, mouth and other parts of the body. The injuries and seized articles were consistent with a violent assault by a blunt object. The Court recognised that several named witnesses arrived after the incident, that the child Bharti was grazing goats and was not an eyewitness, and that Mangal Singh and Munnalal did not support the prosecution. It found that Shivcharan caused the fatal head injuries. *Virsa Singh*'s test of intention to inflict the particular injury and its objective sufficiency to cause death, together with *Anda* and the contextual authorities, explained why Section 300 Thirdly and Section 302 were sustained despite the arguments on intent and classification. Multiple lathi blows to vital parts and the severity of the skull injuries did not justify an automatic reduction under Section 304.

The evidence against Gorelal was more limited. Vimlabai placed his shoe blow after Ramesh's collapse, and the doctor found no corresponding shoe injury. No witness stated that Gorelal caused a fatal injury or acted with a proved shared intention. He had no weapon. Puran Dheemar found him weeping beside Ramesh. He remained for the inquest and was a witness to a scene record, whereas Shivcharan was absent. These circumstances did not prove common intention or an act of participation attributable under Section 34 beyond reasonable doubt. The earlier examples in paragraph 21 of assistance from a distance, instructions or deliberate omission show why each participant need not commit identical overt violence; they did not supply the missing evidence against Gorelal. The Court found that the prosecution had failed to prove either Section 302 or 302/34 against him.

Shivcharan's alternative claim that Ramesh attacked Gorelal was examined under the burden on a preponderance of probabilities described in *Rizan* and under Sections 99–101. On the accepted account, Ramesh was sitting at his door and eating. No weapon attributed to him was recovered, and no injury or medical report showed harm to either accused. The Court found no circumstance establishing an attack by Ramesh on Gorelal or a need to rescue him. Repeated lathi blows to the head caused fatal fractures and were not shown to be a necessary or rational response in defence. *Arjun*'s requirement of force commensurate with the threatened injury and *Madan Mohan Pandey*'s emphasis on the weapon supported rejection of the plea. *Ranjitham*'s caution against rigid measurement did not sustain a defence unsupported by a credible, reasonable apprehension of death or grievous hurt. The Court therefore affirmed Shivcharan's individual murder conviction while reaching the opposite conclusion in Gorelal's case.

6. Relief : The Hon’ble High Court allowed Gorelal's appeal and acquitted him, setting aside his conviction under Section 302 or Section 302 read with 34 IPC and the sentence of rigorous imprisonment for life, fine of Rs 1,000 and default term. It directed that he

be informed through the jail superintendent and released forthwith if not required in another crime. Shivcharan's appeal was dismissed. His conviction under Section 302 and the trial sentence of rigorous imprisonment for life, a fine of Rs 1,000 and six months' further rigorous imprisonment in default were confirmed, and he was to be informed in jail. The common appeal was disposed of with the modification to the trial judgment. A copy of the appellate judgment and the trial record were to be sent back immediately.

Shivcharan and Ors. v. State of Madhya Pradesh, Cr.A. no. 445/2009, 17/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Forensic evidence / government expert report - Under Section 293(1) CrPC, a qualifying Government scientific expert's report on material duly submitted for examination may be used in a criminal proceeding without automatically requiring the report's author to give oral evidence. The court retains the power under subsection (2) to summon and examine the expert. The Court reproduced the categories of experts covered by the provision, noted that the accused had not sought cross-examination of the scientific officer, admitted FSL Ex. P.12 and considered the human sperm and semen found on the child's anal slide, swab and underwear and on the appellant's underwear.

Child sexual-offence proof / no injury - *Dastagir Sab v. State of Karnataka, (2004) 3 SCC 106*, explains that semen on the victim's clothing can corroborate the account of the offence and that injury is not indispensable to proof of rape. The absence of injury alone cannot defeat reliable ocular evidence. The Court applied that principle by analogy in the boy's case under Section 377 IPC and, in the alternative, Sections 3/4 POCSO. Despite the absence of external or internal injury, it accepted his account of the night assault, his prompt disclosure to his father and the next-day report, together with the admitted FSL findings on the anal samples and underwear. On that combined evidence, it affirmed guilt beyond reasonable doubt and the sentences.

Case-note :- ***1. Facts :*** On the night of 8 October 2014, a boy went to a temple in his village. He stated that Shivkumar induced him to go towards a field, tied his hands when he resisted, removed his clothes and committed an unnatural sexual act. The boy returned around midnight in tears and immediately told his father, Khilan. They reported the incident the next day, 9 October, at about 13:30; the police station was about 20 km away. The boy was medically examined, and an anal slide, swab samples and his underwear were collected. Articles including the appellant's underwear were sent for forensic examination. The police recorded witnesses' statements and collected a school admission register, a caste certificate, material from the scene and FSL Ex. P.12. The narrative describes the boy as ‘about 15’, while both school records reproduced by the Court give 11 August 1997 as his date of birth. On those dates, he would have been about 17 years and two months old at the time of the incident; both accounts place him below 18.

The Special Judge for the SC/ST (Prevention of Atrocities) Act, Guna, framed charges under Sections 363 and 377 IPC, Sections 3/4 POCSO and Section 3(2)(v) of the SC/ST Act. As described in the appeal, the trial judgment of 19 June 2015 convicted the appellant under Sections 363 and 377 IPC and Sections 3/4 POCSO, but imposed no separate POCSO sentence. The appeal's opening summary does not include POCSO in the conviction description, whereas paragraph 8 does. The operative appellate paragraph refers to Sections 363 and 377 ‘or in the alternative’ Sections 3/4 POCSO. The trial sentences described were seven years' rigorous imprisonment and a fine of Rs 2,000 under Section 363, and ten years' rigorous imprisonment and a fine of Rs 5,000 under Section 377, with unspecified default imprisonment.

The appeal under Section 374 CrPC was initially listed for consideration of an application to suspend Shivkumar's sentence on the grounds of custody and expected delay, but both sides agreed to a final hearing. He relied on the absence of external or internal injury and alleged false implication. Counsel later objected that the FSL officer had not been examined. The State supported the conviction. The High Court assessed the boy's account and cross-examination, Khilan's evidence of the disclosure, the two school registers, the medical report, the seizure witnesses and the forensic report.

2. Precedents — Considered : *Dastagir Sab v. State of Karnataka, (2004) 3 SCC 106*, was the only Supreme Court authority applied by the High Court. The quoted paragraphs treat semen on the victim's garment as corroborative evidence and reject bodily

injury as a necessary element of proof of rape. Where the ocular evidence is overwhelming, absence of injury cannot be the sole ground for concluding that rape did not occur. The High Court applied that evidentiary test to the boy's alleged anal assault under Section 377 IPC and POCSO's provisions on penetrative sexual assault. It relied on the semen and sperm found on the anal slide and swab and on the child's and appellant's underwear, the boy's consistent account and his prompt disclosure.

3. Statutes considered : Section 374 CrPC governed the appeal from conviction. Section 293(1) permits a document purporting to be a report signed by a specified Government scientific expert, on material duly submitted for examination, to be used as evidence in a criminal inquiry, trial or proceeding. Section 293(2) permits the court to summon the expert if it thinks fit. Subsection (3) deals with attendance through a responsible officer who is conversant with the matter, unless the court directs the expert to attend personally; subsection (4) lists the qualifying experts. The judgment reproduces clause (e), covering the Director, Deputy Director and Assistant Director of a Central or State FSL, but its conclusion cites Section 293(4)(a), which concerns the Chemical Examiner. The Court also relied on the absence of an application by the accused to cross-examine the expert; it did not hold that every challenge to a Government report is automatically waived in all cases.

Section 363 IPC concerned the kidnapping charge, and Section 377 governed the alleged unnatural sexual act. Sections 3 and 4 POCSO were invoked for penetrative sexual assault and its punishment, though the trial order, as described, imposed no separate sentence for that offence. Two witnesses who produced the school admission registers proved the recorded birth date, and the Court treated the boy as a minor.

4. Issues : (i) Could FSL Ex. P.12 be used as evidence under Section 293 CrPC although its scientific officer had not been called, where the defence had made no application for cross-examination? (ii) Did the absence of external or internal injury make the boy's account of anal assault unreliable, or did his testimony, immediate disclosure to his father, next-day FIR and the semen findings prove the relevant offences beyond reasonable doubt? (iii) Should the trial conviction or sentences be altered on appeal?

5. Ratio / Findings : The Court accepted the records proved by Amod Tiwari and Suresh Kirketta, which gave 11 August 1997 as the boy's date of birth, and concluded that he was a minor on 8 October 2014. It regarded his account as specific: the appellant took him from the temple, tied him and committed an unnatural act. The boy explained why the incident was not reported during the night. He told Khilan immediately on returning, and the FIR was lodged the following day. His father supported the account of immediate disclosure. Nothing emerged in cross-examination to undermine that evidence, and no motive of enmity was identified. The defence suggestion that the two had been friends did not establish a reason for false implication. The doctor found no external injury.

On the defence objection that the analyst had not been examined, the Court quoted Section 293 in full. As no application had been made to call the officer, it read Ex. P.12 in evidence. The report showed human sperm and semen stains on the boy's anal slide, swab and underwear and on the appellant's underwear.

Applying *Dastagir Sab*, the Court rejected the contention that absence of bodily injury conclusively disproved an otherwise credible account of sexual assault. The findings on the anal samples and clothing provided independent corroboration, and the disclosure to the father further supported the testimony. Taken together, the Court held that the evidence established guilt beyond reasonable doubt. In stating its conclusion on guilt, it referred to Sections 363 and 377 IPC or, in the alternative, Sections 3 and 4 POCSO. Having regard to the nature of the conduct, it found no reason to interfere with the sentence.

6. Relief : The Hon’ble High Court dismissed the criminal appeal and affirmed the Special Judge's judgment and sentence of 19 June 2015 in Special S.T. 109/2014. The appellant, who was already in jail, was directed to serve the remaining terms.

Shivkumar v. State of M.P., Cr.A. no. 550/2015, 05/12/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (887) Prev Next

Headnote :- Police inaction / magistrate route - *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the police duty to record information disclosing a cognizable offence from the

informant's remedy when officials fail to act: Sections 190 and 200 CrPC permit a complaint before the Magistrate. *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, explains recourse to the Superintendent of Police under Section 154(3), followed by the Magistrate under Section 156(3), who can direct registration and proper investigation and monitor its progress. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage*, cited as *(2016) 6 SCC 277*, applies that procedure to non-registration and deficient investigation. It permits the Magistrate to consider recommending a change of investigating officer through the proper authority, without conducting the investigation personally. Applying these principles, the Court dismissed the buyer's petition under Section 528 BNSS concerning an already registered case of misappropriation at a showroom and his unanswered complaint. It left him free to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.

Fair investigation / exceptional Constitutional control - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, recognises exceptional directions under Article 226 where mala fide exercise of investigative power and a clear case of abuse and non-compliance with Chapter XII CrPC are demonstrated, while prohibiting the court from dictating the method of investigation. The Court also considered the Division Bench ruling in *Shweta Bhadauria*: the availability of ordinary remedies before police authorities and the Magistrate may justify declining mandamus for FIR registration, while recognised exceptional writ grounds remain available. The police duty described in *Lalita Kumari* does not determine the maintainability of a writ petition.

Case-note :- ***1. Facts :*** Shivraj Singh Dhakad stated that he had deposited cash to purchase a car but had not received the vehicle. He claimed that he too was a victim and that no action had been taken on his written complaint to the station house officer. Under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), he asked the High Court to direct a free, fair, proper and impartial investigation in the registered crime. The State opposed the petition on the ground that a petition for FIR registration was not maintainable. The Court framed its central question as the maintainability of a direction to register an FIR. The prayer recorded in paragraph 1, however, sought a fair investigation of an already registered case.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, recognises that police must register an FIR on information disclosing a cognizable offence. Failure to perform that duty does not, by itself, make a direct High Court direction the ordinary remedy for a complainant: the informant can file a complaint before the Magistrate under Sections 190/200 CrPC. The quoted Supreme Court passage distinguishes the police duty discussed in *Ramesh Kumari* from the remedy explained in *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. It also mentions *Lallan Chaudhary* as reiterating the police duty. The Court adopted the distinction between the registration duty and the remedy for its breach.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542, preserves rare intervention under Article 226 where investigative power is exercised mala fide and a clear case of abuse and non-compliance with Chapter XII CrPC requirements is made out. The High Court may insist on lawful process but cannot prescribe how the police investigate. In ordinary cases of police inaction, the authority directs the informant to the Magistrate under Sections 190/200. It quotes *Gangadhar*'s account of a complaint inquiry under Chapter XV: the Magistrate may order investigation, dismiss the complaint under Section 203, or issue process where a prima facie offence is disclosed. The High Court quoted this discussion to explain the limits of exceptional constitutional intervention and the ordinary statutory remedy.

Sakiri Vasu v. State of Uttar Pradesh, (2008) 2 SCC 409, explains the sequence of remedies: a written application to the Superintendent under Section 154(3) for non-registration, followed by an application to the Magistrate under Section 156(3) if the FIR remains unregistered or the investigation remains deficient. The Magistrate can order registration, direct proper investigation and monitor its progress. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage*, reported in this judgment as *(2016) 6 SCC 277*, follows *Sakiri Vasu* and discourages routine recourse to Article 226 for such complaints. It explains that a Magistrate who is prima facie satisfied may direct proper investigation, consider recommending a change of investigating officer to the police superior and monitor the investigation, but cannot conduct it personally.

Shweta Bhadauria v. State of M.P., W.A. 247/2016, decided 20 December 2016, was the Division Bench

authority of this High Court. Its quoted holding permits denial of mandamus for FIR registration where the complainant has bypassed Sections 154(3), 156(3), 190 and 200 CrPC, while preserving the four exceptional grounds referred to in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. It distinguishes *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: the police duty to register an FIR does not determine entitlement to High Court mandamus without first using the alternative remedy. The Court applied this principle in rejecting the present direct petition, without excluding exceptional writ jurisdiction.

3. Statutes considered : The quoted earlier Supreme Court and Division Bench precedents concern the police duty to register an FIR under Section 154 CrPC, recourse to the Superintendent under subsection (3), the Magistrate's power under Section 156(3) to supervise registration and investigation, the complaint and cognizance procedure under Sections 190 and 200, and possible dismissal after inquiry under Section 203. The Court's operative liberty expressly refers to Section 200 CrPC or Section 223 BNSS for a complaint before the Magistrate. *Divine Retreat Centre* discussed investigation under Chapter XII CrPC and rare intervention under Article 226. The present proceeding was under Section 528; that constitutional discussion formed part of the quoted authorities rather than an exercise of writ power in the operative order.

4. Issues : (i) Was a petition under Section 528 seeking a fair police investigation in already registered Crime 61/2025 an appropriate means of obtaining direct High Court relief when Shivraj also complained of police inaction on his separate written grievance? The State characterised the matter as a request for FIR registration, and the Court framed the question in those terms. (ii) What remedies before superior police authorities and the Magistrate are available for non-registration or deficient investigation, and may the High Court bypass them without an exceptional basis? (iii) What relief, if any, should be granted on the limited record?

5. Ratio / Findings : Applying *Aleque Padamsee*, the Court distinguished the substantive duty to register an FIR from the forum for seeking a remedy. Police should record information disclosing a cognizable offence, but the complainant's remedy for inaction lies in the statutory complaint procedure before the Magistrate. *Divine Retreat Centre* explained that, in rare cases where investigative power is exercised mala fide and a clear case of abuse and non-compliance with Chapter XII is made out, the High Court may insist on lawful process under Article 226. It cannot dictate the police's method of investigation. *Sakiri Vasu* and *Sudhir Tambe* identify further remedies under Sections 154(3) and 156(3), including Magistrate directions for registration and proper investigation and judicial monitoring within those powers. *Shweta Bhadauria* explains the relationship between those remedies and a request for constitutional mandamus, preserving exceptional grounds without equating the police duty in *Lalita Kumari* with an automatic right to direct writ relief. The Court treated recourse to the Magistrate as the proper next step. The prayer sought a fair investigation, while the judgment repeatedly framed the matter as a request for FIR registration. The operative result was dismissal with liberty to file a complaint before the Magistrate.

6. Relief : The Hon'ble High Court dismissed the petition under Section 528 BNSS. Shivraj was expressly left at liberty, if he wished, to approach the appropriate Magistrate under Section 200 CrPC/Section 223 BNSS for redress of his grievance.

Shivraj Singh Dhakad v. The State of Madhya Pradesh and Ors., M.Cr.C. no. 15850/2025, 22/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (889) Prev Next

Headnote :- FIR — matrimonial dispute — preliminary inquiry — registration without inquiry — The wife's FIR alleged a dowry demand and incidents of harassment, assault and threats by her husband and relatives within approximately two years of marriage. The accused sought protection under Article 226 from coercive action and challenged the FIR on the ground that the police had not conducted a preliminary inquiry. Applying *Lalita Kumari* and the reasoning adopted from *Meera Yadav*, the Court held that a preliminary inquiry may be desirable in a matrimonial case but is not a mandatory condition for valid registration of an FIR. When the information itself discloses a cognizable offence, registration cannot await verification of its truth. *CBI v. Thommandru Hannah Vijayalakshmi*, discussed at length in the quoted *Meera Yadav* passage, reinforces that the illustrative categories for

preliminary inquiry give the accused no right to demand one, and that its omission alone does not vitiate an FIR. That authority concerned a corruption/CBI case.

Writ challenge — relatives — specific allegations and no mini-trial — The FIR alleged that the brother-in-law abused the complainant, his wife assaulted her with fists and blows, and all petitioners took part in the later visit to Jevar, where a renewed dowry demand was followed by threats. The husband was alleged to have assaulted and threatened her. The Court held that these allegations were sufficiently specific at the investigation stage, despite the defence contention that they were omnibus allegations. An FIR is not an encyclopedia. Whether the alleged acts occurred and whether the allegations are reliable must be determined through investigation or trial, rather than by examining credibility under Articles 226/227 or Section 482 CrPC. The Court applied *Neeharika Infrastructure*'s principle of restraint against premature quashing and judicial interference with the investigation of cognizable offences, and dismissed the writ petition.

Case-note :- ***1. Facts :*** Shubham Gaur and two relatives filed Writ Petition No. 22848 of 2024 under Article 226. Petitioner 1 was the husband of respondent 2. Petitioner 2 was her brother-in-law, and petitioner 3 was petitioner 2's wife. They sought protection from coercive action and a direction for mediation to be arranged; the Court treated the petition as a challenge to the FIR for offences under Sections 85, 296, 115(2), 351(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, and Sections 3/4 of the Dowry Prohibition Act. According to the FIR, the marriage took place on 9 May 2022 and the complainant's father gave dowry said to be worth ₹10–12 lakh. She alleged subsequent taunts over insufficient dowry and a further demand for ₹2 lakh, harassment and assaults. Specifically, petitioner 2 used filthy abuse and petitioner 3 struck her with fists and blows. She alleged that she was assaulted and expelled from the matrimonial home on 13 June 2024, went to her parental house at Gwalior and then stayed at Jevar, Tikamgarh. Reconciliation efforts allegedly failed, and her belongings were returned by courier. She further alleged that on 14 July 2024 the petitioners and mother-in-law visited Jevar, where the husband slapped and abused her, demanded ₹2 lakh as a condition of keeping her, and the group left after threatening her life. The FIR was lodged on 18 July 2024. The petitioners argued that matrimonial allegations against close relatives must be specific, that the allegations against petitioners 2 and 3 were vague and omnibus, and that the FIR could not stand without a preliminary police inquiry.

2. Precedents — Considered : *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, is the Constitution Bench authority on Section 154 CrPC. Registration is mandatory if the information discloses a cognizable offence. Any permissible preliminary inquiry is confined to determining whether such an offence is disclosed, rather than testing the informant's truthfulness. Matrimonial and family disputes are illustrative categories in which an inquiry may be considered according to the circumstances; they do not create an obligatory procedure before registration. The Court invoked *Lalita Kumari* directly and adopted its detailed treatment in the earlier *Meera Yadav* decision. The lengthy passage from *Meera Yadav* discussed *CBI v. Thommandru Hannah Vijayalakshmi (Criminal Appeal No. 1045/2021, decided 8 October 2021)*. In that corruption/CBI case, the Supreme Court held that information adequately disclosing a cognizable offence permits registration without preliminary inquiry. Even where an inquiry is desirable, it is not thereby mandatory, nor does the accused acquire an automatic right to a hearing before the FIR is registered. The reproduced Supreme Court discussion traced *P. Sirajuddin* and *Nirmal Singh Kahlon* on preliminary safeguards, the controlling rule in *Lalita Kumari*, the desirability of inquiry in the particular context of *Yashwant Sinha*, *State of Telangana v. Managipet*'s rejection of an accused's claimed right to inquiry, and *Charansingh*'s approval of an appropriate inquiry before registration where justified. It also explained that the CBI Manual contains administrative instructions rather than a statutory amendment to the Code, and that *K. Veeraswami* does not give an accused an entitlement to explain disproportionate assets before registration of an FIR or filing of a charge-sheet. Applying the principle that a preliminary inquiry is not mandatory, the High Court held that its omission did not vitiate the matrimonial FIR. It then quoted and applied *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, (2021) 19 SCC 401*, on judicial restraint at the FIR and investigation stage. Police ordinarily investigate cognizable allegations; quashing is exceptional, the FIR need not be an encyclopedia, and the court considers whether an offence is disclosed on its face without testing

credibility, genuineness or the merits while investigation is in progress. The quoted discussion in *Neeharika* preserves the power to intervene where no offence is disclosed or recognised exceptional grounds exist, and refers to *R.P. Kapur* and *Bhajan Lal* as governing the parameters for quashing.

3. Statutes considered : Article 226 was invoked for the writ petition and the directions sought. The Court also referred to Article 227 and Section 482 CrPC when explaining why it could not conduct a premature mini-trial. Section 154 CrPC supplied the framework for registration and preliminary inquiry in the quoted precedents. The FIR listed BNS Sections 85 (cruelty allegation), 296, 115(2), 351(3) and 3(5), and Dowry Prohibition Act Sections 3 and 4.

4. Issues : (1) Does failure to conduct a preliminary inquiry before registering a matrimonial FIR invalidate its registration or warrant quashing, where the complaint is said to disclose cognizable offences? (2) Are the accusations against the husband and petitioners 2 and 3 so general that no investigation can lawfully proceed against them, or are sufficiently specific acts attributed to them at this preliminary stage? (3) Can the writ court assess the truth, credibility or ultimate proof of those accusations, or halt coercive investigative action before the statutory investigation, in light of the Supreme Court's limits on quashing?

5. Ratio / Findings : The Court distinguished the desirability of a preliminary inquiry from a mandatory legal requirement. *Lalita Kumari* permits an inquiry in appropriate cases to determine whether a cognizable offence is disclosed. Where the information discloses such an offence, however, an FIR must be registered without first testing the truth of that information. The reasoning adopted from *Meera Yadav* and *Thommandru Hannah Vijayalakshmi* explains why the omission of an inquiry alone cannot invalidate a registered FIR; a relative named in the FIR acquires no automatic right to an inquiry as a prerequisite to registration. The Court therefore rejected the objection based on the absence of an inquiry. On the specificity of the allegations, the Court identified the acts attributed to each petitioner and the later incident involving the group. The brother-in-law was alleged to have abused the complainant; his wife was alleged to have assaulted her; the husband was alleged to have assaulted and threatened her; and the petitioners were alleged to have gone to Jevar in connection with the renewed demand and threats. At this stage, these specific allegations prevented the challenge based on a purely vague, omnibus FIR from succeeding. The FIR need not set out all the evidence. Applying *Neeharika Infrastructure*, the Court could not test the complainant's truthfulness, weigh the reliability of proof or conduct a mini-trial under Articles 226/227 or Section 482.

6. Relief : The Hon'ble High Court dismissed the writ petition, finding no ground for interference.

Shubham Gaur and Others v. The State of Madhya Pradesh and Others, W.P. no. 22848/2024, 20/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (890) Prev Next

Headnote :- Victim / complainant — private counsel's role at sessions trial — The petitioner, who claimed to be the complainant, sought exercise of the power under Section 311 CrPC / Section 348 BNSS after the trial court rejected his application. He conceded that he, rather than the Public Prosecutor, had filed the application and that Sections 225 and 301(2) CrPC entrust conduct of the Sessions prosecution to the prosecutor. The Court quoted and applied *Rekha Murarka v. State of West Bengal*: the victim's counsel has a meaningful but secondary role in assisting the prosecution, subject to the prosecutor's directions. The possibility of prosecutorial oversight does not entitle private counsel to make oral arguments or examine witnesses in parallel with the prosecutor. Counsel may convey proposed questions or points through the prosecutor, or bring a material issue left unaddressed to the judge's notice. If the judge finds merit in it, the judge may exercise the power under Section 311 CrPC or Section 165 of the Evidence Act. This preserves victim participation, prosecutorial independence, safeguards for the accused and trial fairness.

Witness recall — factual foundation — The Article 227 petition challenged the Additional Sessions Judge's order of 7 May 2025 in Sessions Trial No. 140/2016 refusing the complainant's application under Section 348 BNSS / Section 311 CrPC. On examining the application, the High Court found no allegation identifying a lapse by the Public Prosecutor and no assertion that an overlooked question or issue had been brought to the trial judge's notice. The limited procedure recognised in *Rekha*

Murarka requires a specific factual foundation for judicial intervention; merely citing Section 311 does not give a complainant a free hand to conduct the prosecution. On these omissions in the application, the Court held that the privately filed application could not be considered and dismissed the supervisory petition. The ruling does not abolish the judge's independent statutory power where a properly identified material omission warrants its exercise.

Case-note :- ***1. Facts :*** Shubham Sharma filed Misc. Petition No. 2554 of 2025 under Article 227, seeking to quash the order dated 7 May 2025 of the Tenth Additional Sessions Judge, Morena, in Sessions Trial No. 140/2016 and to allow an application under Section 348 of the Bharatiya Nagarik Suraksha Sanhita, 2023, described in the petition as the counterpart of Section 311 CrPC. At an earlier hearing the High Court asked whether the recall application had been filed by the complainant or the Public Prosecutor. Counsel confirmed it was filed by the petitioner as complainant and fairly accepted that, under Sections 225 and 301(2) CrPC, the private party can assist but not conduct a Sessions prosecution. He nevertheless invoked paragraph 12.5 of *Rekha Murarka*, arguing that private counsel should have a remedy when a prosecution is inadequately contested. The High Court examined the application and found that it identified neither a lapse by the Public Prosecutor nor a material issue previously brought before the judge and left unaddressed.

2. Precedents — Considered : The Court quoted at length and applied *Rekha Murarka v. State of West Bengal*, *Criminal Appeal No. 1727/2019*, decided 20 November 2019. The Supreme Court's interpretation of the word 'assist' in the proviso to Section 24(8) CrPC and of Section 301(2) gives the victim's counsel a secondary role to that of the Public Prosecutor, whose primacy in a Sessions trial is reinforced by Section 225. The Supreme Court rejected an unrestricted independent right to make oral submissions or to examine and cross-examine witnesses: a parallel prosecution can disrupt the prosecutor's strategy, turn the case into a vindictive contest and weaken the accused's procedural safeguards. It also acknowledged the real possibility that overburdened prosecutors may overlook relevant matters and preserved meaningful victim participation. Ordinarily, counsel should convey proposed points and questions through the prosecutor. If an important omission remains despite that step, counsel may place the proposed question or point before the judge. If persuaded of its merit, the judge may invoke Section 311 CrPC or Section 165 of the Evidence Act. Even such an oversight by the prosecutor does not give private counsel an unbridled power to examine witnesses personally. Applying paragraph 12.5 of *Rekha Murarka*, the High Court required an identified factual foundation and intervention through the judge, and tested the complainant's application against those requirements.

3. Statutes considered : Article 227 of the Constitution supplied the High Court's supervisory jurisdiction over the trial court order. Section 348 BNSS, 2023, and Section 311 CrPC were the provisions invoked for the requested witness recall or examination; the Court analysed the claim through the Section 311 language of *Rekha Murarka*. Section 225 CrPC governs Sessions trial prosecution by a Public Prosecutor, and Section 301(2) confines a private pleader's role in that prosecution. The proviso to Section 24(8) CrPC, interpreted in *Rekha Murarka*, permits a victim's advocate to assist the prosecution; it does not displace the prosecutor. Section 165 of the Indian Evidence Act was discussed within the Supreme Court passage as a judicial means of clarifying an overlooked material point. The quoted discussion also referred to the victim's appeal proviso to Section 372 CrPC to explain why meaningful trial participation matters.

4. Issues : (1) Could the complainant, rather than the Public Prosecutor, seek recall and thereby obtain effectively independent control of witness examination in a Sessions trial? (2) What limited procedure does *Rekha Murarka* recognise if a prosecutor neglects a material question suggested by the victim's counsel? (3) Did this application identify a specific prosecutorial omission and a prior attempt to bring the relevant matter to the judge's notice, so that the exercise of the judicial power under Section 311 could be considered? (4) Did refusal of the application warrant interference under Article 227?

5. Ratio / Findings : The Court accepted counsel's concession that the Public Prosecutor has primacy in conducting a Sessions prosecution. It applied *Rekha Murarka* to preserve both effective assistance by the victim's counsel and the prosecutor's control of the trial. A claim that the Public Prosecutor might be ineffective is insufficient to transfer the making of oral submissions or examination of witnesses to a

private complainant. The Supreme Court's distinction protects the accused and the integrity of a coherent prosecution. At the same time, the victim's counsel may draw attention to a material overlooked point through the prosecutor and, if it remains unaddressed, seek the judge's independent consideration. If the judge finds merit in it, the powers under Section 311 CrPC and Section 165 of the Evidence Act may be exercised to address the omission; counsel does not acquire those powers personally. On examining the petitioner's application, the Court found no specific allegation of a lapse by the prosecutor and no assertion that a material omission had first been brought to the trial judge's notice. It therefore held that the complainant's application under Section 311 could not be considered on the factual foundation presented and found no ground to interfere with its refusal in supervisory jurisdiction. This procedural holding concerns the particular application; it does not declare that a judge can never recall a witness at a victim's suggestion or that every private submission is forbidden.

6. Relief : The Hon'ble High Court dismissed the Article 227 petition. The order of 7 May 2025 was not quashed, and the complainant's Section 348 BNSS / Section 311 CrPC application was not allowed.

Shubham Sharma v. The State of Madhya Pradesh and Others, M.P. no. 2554/2025, 19/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (892) Prev Next

Headnote :- Bail — recovery condition — The applicant, in custody since 8 July 2020 on allegations of cheating and conspiracy connected to KIFL Bazar OPC Pvt. Ltd.'s deposit scheme, offered to pay one-third of an asserted ₹37,17,337 company liability. In his third Section 439 CrPC application, he relied on custody and likely trial delay and invoked *Sanjay Chandra v. CBI*. Applying *Dilip Singh v. State of M.P.*, the Court declined the payment offer: a court deciding bail or anticipatory bail cannot serve as the complainant's recovery agent.

Corporate nominee — prima facie criminal acts — The applicant contended that he was a nominee, rather than a director of the company, and had no civil liability during the director's lifetime. The Court held that civil liability was not the issue in the bail application. The supplementary statement described his role in forming the company and stated that he held 12,500 shares. Depositors' statements attributed to him and the co-accused the act of persuading them to deposit money on a promise that it would be doubled. The company was said to lack RBI registration and a banking licence. Considering these circumstances, the scale of the alleged cheating and the earlier rejection of a co-accused's bail application, the Court refused bail.

Case-note :- ***1. Facts :*** Shyam Goyal filed his third application for regular bail under Section 439 CrPC in Crime No. 22/2020, Police Station Kampoo (STF), Gwalior, concerning alleged offences under Sections 420 and 120-B IPC and the added Sections 66D and 74 of the Information Technology Act. He had been arrested on 8 July 2020. The case diary was unavailable, but his counsel supplied the charge sheet already filed and asked the Court to decide the application on that basis. The applicant contended that Shailendra Kansana, rather than he, was the director of KIFL Bazar OPC Pvt. Ltd., and that he was a nominee without civil liability during the director's lifetime. Counsel offered to pay one-third of the stated company liability of ₹37,17,337. Counsel attributed ₹30,11,903 to Goyal and Fateh Singh and ₹7,05,434 to Kansana. The applicant relied on the period already spent in custody and the expected length of the trial. The State opposed bail. The Court considered these submissions separately from the statements attributing personal acts to Goyal and noted the earlier rejection of co-accused Fateh Singh Mahor's bail application.

2. Precedents — Considered : *Sanjay Chandra v. CBI*, cited in the order as (2011) SCC Cri 26, was relied on by the applicant in seeking bail on account of custody since July 2020 and the expected delay in trial. The Court recorded that reliance and refused relief on the alleged facts. *Dilip Singh v. State of M.P. and Another, Criminal Appeal No. 53/2021* arising from SLP (Criminal) No. 10484/2019, order of 19 January 2021, was expressly applied for the principle that a court considering bail or anticipatory bail cannot act as a recovery agent for the complainant. The Court relied on that principle to reject the offered deposit. It also noted the earlier rejection of co-accused Fateh Singh Mahor's bail application.

3. Statutes considered : Section 439 CrPC governed the third application for regular bail, in which the Court considered the payment offer and the prima facie case. Sections 420 and 120-B IPC and Sections 66D and 74 of the Information Technology Act were

the alleged offences. The absence of RBI registration and a banking licence formed part of the circumstances considered in assessing the alleged solicitation of deposits. The Supreme Court's recovery-agent principle concerned the use of a monetary deposit in deciding bail; the Court was not making a final restitution or compensation order.

4. Issues : (1) Could the applicant's proposed deposit of one-third of the amount allegedly obtained by cheating be accepted as a basis or condition for bail? (2) Did his status as nominee rather than director, and his contention that a nominee has no civil liability during the director's lifetime, answer the prima facie allegations that he had personally induced depositors? (3) Having regard to the period of custody, the expected duration of the trial, the available charge sheet, the victims' statements and the rejection of the co-accused's bail application, was this a fit case for relief under Section 439? The Court was deciding whether to grant bail, rather than adjudicating the depositors' civil claims or determining final criminal responsibility.

5. Ratio / Findings : Applying *Dilip Singh*, the Court rejected the proposed deposit at the outset because using bail to recover the complainants' money would make the Court a recovery agent. It then considered the merits separately. The applicant's claimed exemption from civil liability as a nominee did not answer the question of possible criminal liability for his own alleged conduct. Abhishek Gupta's statement described Goyal's involvement in setting up the company, his nomination and his holding of 12,500 shares. The statements of Wasid Khan, Raj Kumar Gupta and other depositors were said to implicate him, along with others, in inducing deposits by promising to double the money. The company allegedly accepted deposits without RBI registration or a banking licence. Considering the number of depositors allegedly cheated and the rejection of Fateh Singh Mahor's bail application, the Court held that this was not a fit case for bail.

6. Relief : The High Court dismissed the third application for regular bail.

Shyam Goyal v. State of M.P., M.Cr.C. no. 11130/2021, 12/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Quashing — disputed defence — The prosecutrix alleged that Shyam Kushwah held her mouth, hands and legs while another man raped her at a co-accused's house on 25 February 2021. He sought quashing of the FIR lodged on 8 March, relying on his mobile-phone location, a recorded conversation, his asserted unfamiliarity with the place and the eleven-day delay in reporting the incident. Exercising jurisdiction under Section 482 CrPC, the High Court applied the test of whether the uncontroverted allegations prima facie disclosed an offence. An alibi must be established by reliable evidence; the Court could not determine the disputed question of location at this stage. The audio recording could not be accepted without proof that it was unaltered and that the voices were those claimed. The Court declined to conduct a roving inquiry into guilt or the truth of the allegations while the investigation or prosecution proceeded.

Group rape — restraint by participant — The applicant contended that he had not personally raped the prosecutrix. On the allegation that he had held her while another person committed rape, the Court held that Section 376D does not require every participant personally to commit the physical act of rape. Sharing the common intention or participating with mens rea may suffice. This was an assessment of the FIR at the quashing stage, not a conviction or a finding of fact after trial.

Delayed FIR — sexual assault — The eleven-day delay did not, by itself, warrant quashing. The Court observed that the accused may obtain the benefit of delay if the prosecution fails to give a plausible explanation. It also observed that, after physical violation, the complainant may take time to decide whether to report the incident because the family's reputation is at stake. The credibility of the particular account remained to be tested.

Case-note :- ***1. Facts :*** Shyam Kushwah applied under Section 482 CrPC to quash the FIR in Crime No. 127/2021 at Jhansi Road police station, Gwalior, for offences under Sections 376D and 506 IPC and Sections 3(1)(w)(ii) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The prosecutrix alleged that, on 25 February 2021, she went to Mona Kushwah's house to recover her money. The applicant offered her money to do work, abused her when she refused, and held her mouth, hands and legs while another man raped her. Mona allegedly locked the room from outside, and the prosecutrix's mother later opened it. The prosecutrix reported the incident on 8 March 2021. The applicant relied on the eleven-day delay,

denied visiting or knowing Mona's house, produced mobile call-location details and an audio CD of a purported conversation with the prosecutrix and her husband, and sought a fair investigation. The State contended that his defence required proof.

2. Precedents — Considered : In ¶7, the Court cited Supreme Court decisions requiring caution in exercising jurisdiction under Section 482. *Munshiram v. State of Rajasthan, (2018) 5 SCC 678*, concerned premature quashing before proper investigation had been conducted; *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221*, held that investigation of an FIR disclosing a cognizable offence should ordinarily continue. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547*, emphasised proper investigation and restraint in interference. *XYZ v. State of Gujarat, (2019) 10 SCC 337*, cautioned against a roving inquiry into a disputed complaint of a sexual offence. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, rejected a premature assessment of the merits. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600*, discussed the *Bhajan Lal* grounds concerning failure to disclose an offence on the face of the allegations and proceedings instituted with mala fides. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336*, required reasons addressing the particular case. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*, prescribed assessment of the prima facie record, sparing exercise of the quashing power and avoidance of detailed weighing of evidence. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterated the need for caution. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, stated that defence documents are ordinarily not considered, subject to the limited exception for public documents or documents whose veracity is undisputed. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, and *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437*, addressed the scope of the power, the need for caution and prevention of abuse. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, concerned allegations which, taken at face value, fail to disclose an offence; *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682*, addressed inherently improbable allegations. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, held that a disputed defence must be tested at trial. In ¶8, the Court expressly referred to *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021, 30* June 2021, on the prohibition against meticulous appraisal of evidence and the principle that an FIR is not an encyclopedia. Applying these principles to the offered alibi and recording, the Court then considered Section 376D and the delay in lodging the FIR in its own assessment of the case.

3. Statutes considered : Section 482 CrPC supplied the inherent jurisdiction to quash proceedings where the allegations, taken at face value, fail to disclose an offence or a recognised exceptional ground of abuse of process appears. Disputed questions requiring proof are normally left to investigation or trial. Section 376D IPC was invoked for group rape. The Court rejected the contention that every participant must personally perform penetration where a participant shares the common intention or acts with mens rea. The passage quoted from *Amit Kapoor* referred to Sections 397, 228 and 173(2) CrPC and illustrative grounds for quashing; these formed part of the precedent discussion and were not independent charges or reliefs decided in the present case.

4. Issues : (1) Did the allegations, taken at face value, disclose an offence warranting continuation of the FIR despite the applicant's denial, claimed mobile-location alibi and recording? (2) Could the High Court authenticate the recording, determine the identity of the voices or decide the applicant's location and presence under Section 482? (3) Could Section 376D apply to a person alleged to have restrained the prosecutrix while another person committed rape? (4) Did the eleven-day delay between the incident and the report, without an explanation accepted at this stage, require quashing? The petition sought quashing of the FIR, not a decision on guilt after trial; no final finding on credibility was required.

5. Ratio / Findings : Applying the authorities cited in the order, the Court held that, under Section 482, it cannot decide the truth of contested allegations or undertake a detailed appraisal of evidence when the FIR, taken at face value, discloses cognizable criminal conduct. The applicant's claim based on mobile location was a plea of alibi requiring cogent and reliable evidence; it was not a disputed fact to be decided in the petition invoking inherent powers. The recording could not be relied on without proof that it was unaltered and that the voices were those of the prosecutrix and her husband. The claimed conversation also indicated that the applicant knew the prosecutrix. On the specific allegation that he had restrained her while another man raped her, the Court

held that personal penetration by every accused was not necessary to proceed under Section 376D where common intention or participation with mens rea was alleged. The eleven-day delay was not decisive. Failure to provide a plausible explanation may benefit the accused, while hesitation following sexual violation may explain some delay. Considering the defences and the reporting interval together, the Court found no ground for quashing. These observations did not establish that the prosecution had proved all the elements of the offences; the applicant remained entitled to contest the evidence at the proper stage.

6. Relief : The High Court dismissed the application under Section 482 to quash the FIR in Crime No. 127/2021.

Shyam Kushwah v. State of M.P. and Others, M.Cr.C. no. 31640/2021, 15/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (894) Prev Next

Headnote :- Disciplinary inquiry — parallel corruption case — An assistant sub-inspector sought a stay of a departmental inquiry instituted in September 2020 while a Lokayukta case proceeded under Section 7 of the Prevention of Corruption Act on an allegation that he had demanded illegal gratification during an investigation. The disciplinary charge, reproduced in the judgment, alleged dishonest misuse of lawful authority and violation of Police Regulation 64(2)(3). The criminal charge sheet was not produced. The petitioner could not state whether it had been filed, though the State asserted that it had. Applying the Supreme Court decisions in *B.K. Meena*, *M. Paul Anthony*, *Stanzen Toyotetsu* and related cases, the Court held that departmental and criminal proceedings may proceed simultaneously. A stay requires a showing, on the facts of the case, that continuation of the inquiry would prejudice the criminal defence in a grave matter involving complicated questions of law and fact. That risk must be balanced against the need for prompt disciplinary proceedings. The factual connection between the proceedings and reliance on the circular did not establish grounds for a stay on this record.

Delay and distinct charges — An interim order passed in November 2020 had stayed the departmental inquiry for more than three years. The Court emphasised that the stay could not continue indefinitely and held that the departmental misconduct charge was distinct from the criminal allegation. It vacated the stay, dismissed the writ petition and directed completion of the inquiry within six months.

Case-note :- ***1. Facts :*** Shyam Sunder Manjhi, an assistant sub-inspector formerly posted at Jaso police station, filed a petition under Article 226 seeking a stay of the departmental inquiry dated 1 September 2020 and quashing of its charge sheet during the pendency of a Lokayukta corruption case. Crime No. 166/20 arose from an allegation that he had demanded illegal gratification while conducting an investigation; the State's return alleged that he had been caught accepting it. The departmental charge, as summarised by the Court, concerned misuse of lawful authority, dishonest behaviour and dereliction of duty contrary to paragraph 64(2)(3) of the Police Regulations. The petitioner contended that the two proceedings arose from identical facts. He relied on a General Administration Department circular dated 30 July 2023 concerning parallel departmental action during a Lokayukta investigation or trial and action on the investigating agency's recommendation after completion of the investigation. The State opposed a stay merely because the criminal case was pending. Neither side produced the Lokayukta criminal charge sheet. The petitioner could not confirm the stage of the criminal case, whereas the State asserted that the charge sheet had been filed. An interim order dated 2 November 2020 had already stayed the departmental inquiry for more than three years.

2. Precedents — Considered : *Avinash Sadashiv Bhosale v. Union of India, (2012) 13 SCC 142*, quoting *Karnataka SRTC v. M.G. Vittal Rao, (2012) 1 SCC 442*, explained that there is no legal bar to simultaneous proceedings, that a stay to avoid prejudice to the criminal defence is available only in cases involving complicated questions of fact and law, and that disciplinary proceedings should be concluded promptly. *Stanzen Toyotetsu India Pvt. Ltd. v. Girish V., (2014) 3 SCC 636*, required the gravity of the charge and likely prejudice to the criminal defence to be balanced against delay; gravity alone was insufficient without complicated questions of law and fact. *State Bank of India v. Neelam Nag, (2016) 9 SCC 491*, rejected a straitjacket formula. *Shashi Bhushan Prasad v. CISF, (2019) 7 SCC 797*, explained, through *A.P. SRTC v. Mohd. Yousuf Miya and Ajit Kumar Nag*, the distinct purposes and standards of proof in the two

proceedings, and quoted the five factors in *M. Paul Anthony. Depot Manager, A.P. SRTC v. Mohd. Yousuf Miya, (1997) 2 SCC 699*, was separately reproduced on the need to assess prejudice on the facts of each case. *Kusheshwar Dubey v. Bharat Coking Coal Ltd., (1988) 4 SCC 319*, recognised that an appropriate stay may be sought, although the pendency of a criminal case creates no legal bar to disciplinary proceedings; earlier labour decisions were quoted in it. *Kendriya Vidyalaya Sangathan v. T. Srinivas, (2004) 7 SCC 442*, concerned analogous allegations of illegal gratification and the impropriety of granting stays as a matter of course. *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679*, stated the principles governing simultaneous proceedings, identical facts involving grave charges and complicated questions, and undue delay. *State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417*, was reproduced at length on prejudice to the criminal defence, complexity, prompt disciplinary proceedings and the need to avoid routine stays. The Court applied these authorities to vacate the prolonged stay, without laying down that simultaneous inquiries must proceed in every case. Other authorities appeared within the quoted passages.

3. Statutes considered : Article 226 of the Constitution was invoked to seek a writ of mandamus or an order staying the departmental inquiry. Section 7 of the Prevention of Corruption Act, 1988 concerned the criminal allegation of demand or acceptance of illegal gratification; the ingredients of the offence and the petitioner's guilt were not adjudicated in this writ petition. Paragraph 64(2)(3) of the Police Regulations was the stated basis of the departmental misconduct charge. The different standards of proof and rules of evidence governing criminal trials and departmental inquiries were discussed through *Shashi Bhushan Prasad* and *Mohd. Yousuf Miya*.

4. Issues : (1) Must an inquiry into police misconduct be stayed because a Lokayukta investigation or trial under Section 7 arising from the same incident is pending? (2) Did the petitioner show that a grave criminal charge involving complicated questions of fact and law, common evidence and a concrete risk of prejudice to his criminal defence made a stay advisable? (3) What weight should be given to the interim stay lasting more than three years, uncertainty about the stage of the criminal case and the separately framed charge under Regulation 64? (4) Did the administrative circular relied on by the petitioner require a different outcome on this record?

5. Ratio / Findings : The Court held that there is no legal bar to simultaneous departmental and criminal proceedings. Whether a stay is advisable depends on the facts of the case, including whether grave criminal charges involve complicated questions of fact and law and whether continuation of the departmental inquiry, particularly on common evidence, would prejudice the accused's criminal defence. Even where a stay is justified, undue delay in the criminal case weighs against its continuation. The petitioner did not contend that any complicated question was involved and could not establish the contents of the criminal charge sheet or the stage of the criminal case. The departmental charge concerned dishonest misuse of police authority and violation of Regulation 64(2)(3), which the Court held to be distinct from the criminal allegation of illegal gratification. *KVS v. T. Srinivas* supported the conclusion that corruption allegations do not automatically require a stay of departmental proceedings. The interim order passed in 2020 had stayed the inquiry for more than three years. The Court held that it could not continue indefinitely. The judgment refers to registration of the criminal case in 2000.

6. Relief : The High Court vacated the interim stay dated 2 November 2020 and directed the respondents to conclude the departmental inquiry within six months from the date of the order. It dismissed the writ petition and directed the Registry to communicate the order.

Shyam Sunder Manjhi v. State of Madhya Pradesh and Others, W.P. no. 14437/2020, 23/11/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Quashing — civil matrimonial proceeding — The husband and his parents sought quashing under Section 528 BNSS of an FIR and charge sheet under Section 85 BNS and Sections 3–4 of the Dowry Prohibition Act. The husband relied on his pending petition for restitution of conjugal rights and claimed that the wife's FIR was a counterblast. Applying *Kishan Singh*, *Syed Askari Hadi Ali Augustine Imam*, *Prem Raj*, *Pratibha* and *Vishnu Dutt Sharma*, the High Court held that civil and criminal proceedings have different standards of

proof and that findings in one are not automatically binding in the other, subject to the limited rules governing the relevance of previous judgments. The allegations in the pending petition under Section 9 of the Hindu Marriage Act remained unproved and did not warrant quashing the FIR. The applicants withdrew their separate contention that this was a 'second FIR', conceding that the earlier written police complaint was not an FIR. That ground was dismissed as not pressed.

Dowry cruelty — expulsion and mental harm — The FIR alleged that a demand for ₹5 lakh and a vehicle was made after one month of marriage and that the wife was driven out about four months after marriage when her father could not meet the demand. Taken at face value, forcing the wife out of the matrimonial home for failure to meet a dowry demand could amount to mental cruelty. *Rupali Devi* recognises that the psychological harm may continue after she takes shelter in her parental home. The Court held that the parties' brief written compromise need not record every alleged atrocity and refused to quash the proceedings.

Case-note :- ***1. Facts :*** Siddharath (also spelled Siddharth in the FIR account) Upadhayay, his father and mother petitioned under Section 528 of the Bharatiya Nagarik Suraksha Sanhita to quash the FIR in Crime No. 61/2024 at Mahila Thana, Ashoknagar, and the charge sheet for offences under Section 85 of the Bharatiya Nyaya Sanhita and Sections 3 and 4 of the Dowry Prohibition Act. The wife stated that she married the first applicant on 15 February 2023 and was treated well for one month. Thereafter, all the applicants demanded ₹5 lakh and a vehicle. When her father could not meet the demand, they drove her out on 12 June 2023. She reported the matter on 19 October 2024. The applicants contended that she had complained to Mungavali police in August 2024 and that the later FIR was a prohibited second FIR. They also relied on a written compromise of June 2024 to live separately and the husband's petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. They alleged that no preliminary inquiry had been conducted, that the case affected his PSC interview prospects and that the allegations were false. The Court granted time to produce the outcome of the earlier police inquiry, but the applicants could not establish it. They conceded that the earlier written complaint was not an FIR and did not press the second-FIR objection. The State opposed quashing. The remaining questions were whether the FIR was a counterblast to the civil proceeding and whether it alleged cruelty.

2. Precedents — Considered : *Kishan Singh v. Gurpal Singh, (2010) 8 SCC 775* was applied for the different standards of proof in civil and criminal proceedings and the principle that findings in one are not binding in the other, subject to the limited relevance of judgments under Evidence Act Sections 41–43. *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), (2009) 5 SCC 528*, examined *K.G. Premshanker*, the superseded general proposition in *Karam Chand* and the circumstances in which previous judgments may have limited evidentiary relevance. *Prem Raj v. Poonamma Menon, SLP (Criminal) No. 9778/2018*, decided 2 April 2024, quoted the Constitution Bench decisions in *Iqbal Singh Marwah* and *M.S. Sheriff* in rejecting a general rule that findings in one proceeding bind the other. It also discussed the order in which proceedings may be taken up, depending on the circumstances of the case. *Pratibha v. Rameshwari Devi* was quoted for the proposition that a husband's civil matrimonial petition cannot, by itself, bring a criminal complaint to an end. *Vishnu Dutt Sharma v. Daya Sapra, Civil Appeal No. 3238/2009*, reiterated the separate nature of the proceedings. *Rupali Devi v. State of U.P., (2019) 5 SCC 384* explained the continuing mental trauma relevant to cruelty under Section 498-A IPC; the Court applied that reasoning by analogy to the allegation under Section 85 BNS. *Amar Singh v. Vimla*, Criminal Revision No. 2376/2020 (MP High Court, 22 June 2021), was cited on the cruelty involved in compelling a wife to live in her parental home. Earlier decisions, including *Iqbal Singh Marwah*, *K.G. Premshanker* and *M.S. Sheriff*, appear in the quoted Supreme Court analyses, with their qualifications concerning the relevance of judgments. The superseded general statement in *Karam Chand* was not treated as governing law.

3. Statutes considered : Section 528 BNSS was invoked to seek quashing in exercise of the Court's inherent jurisdiction. Section 85 BNS and Sections 3 and 4 of the Dowry Prohibition Act were the provisions under which the charge sheet was filed; the judgment referred by analogy to Section 498-A IPC. Section 9 of the Hindu Marriage Act governed the husband's pending petition for restitution of conjugal rights, whose unproved pleadings could not determine the criminal allegations. Sections 40–43

of the Evidence Act, 1872 were discussed in the cited authorities as provisions governing the limited relevance of previous judgments, rather than as a rule making them automatically binding. Section 300 CrPC appeared in a quoted passage concerning a previous conviction or acquittal.

4. Issues : (1) Could the earlier written complaint to Mungavali police be treated as the first FIR so as to invalidate the later FIR at Mahila Thana? This objection was abandoned after the concession and dismissed as not pressed. (2) Did the husband's petition for restitution of conjugal rights and the asserted compromise to live separately establish that the FIR was a malicious counterblast or otherwise warrant quashing? (3) Taken at face value, did the allegations of a dowry demand and expulsion disclose sufficient cruelty against the applicants to permit the prosecution to continue?

5. Ratio / Findings : The applicants acknowledged that the earlier complaint was not an FIR and did not press the second-FIR objection. The Court stated that, where a police preliminary inquiry finds insufficient evidence, the police are obliged to supply the report to the complainant and file it before the Magistrate. No final outcome of the earlier complaint had been identified on the record. As to the civil and criminal proceedings, their different standards of proof and the limited relevance of previous judgments meant that neither the unproved pleadings in the pending restitution petition nor the counterblast contention determined the criminal case. A wife's decision to report the matter after the marriage had apparently reached an impasse did not, by itself, make her FIR an abuse of process. Taken at face value, the alleged dowry demand and expulsion within months of marriage constituted mental cruelty for the purpose of deciding whether to quash the proceedings. *Rupali Devi* supported the continuing emotional impact after the wife left the matrimonial home. A settlement note need not record every alleged atrocity. The Court examined whether the allegations were sufficient to permit the proceedings to continue, without deciding guilt, and declined to quash the FIR and charge sheet.

6. Relief : The Hon'ble High Court dismissed the application under Section 528 BNSS. The withdrawn second-FIR objection was dismissed as not pressed. The FIR and charge sheet under Section 85 BNS and Sections 3–4 of the Dowry Prohibition Act remained in place.

Siddharath Upadhayay and Others v. State of M.P. and Others, M.Cr.C. no. 14509/2025, 25/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (897) Prev Next

Headnote :- Bail — parity tied to role — Sikandar appealed under Section 14A(2) of the SC/ST Act against the refusal of bail in a case of murder and an alleged attempt to conceal it. According to the record, he, Omkar and Gajendra assaulted Shyamlal with lathis and took him to hospital under the false identity of Nathuram, who had died years earlier. The other accused were alleged only to have furnished false information. The Sessions Judge granted Gajendra bail by relying on High Court bail orders concerning the latter group and stating that the charge sheet disclosed no specific role for him. On examining the charge sheet, including the reproduced extract, and the case diary, the High Court found that this comparison ignored the different roles. Applying *Shri Mahadev Meena* and *Ramesh Bhavan Rathod*, it held that parity requires a comparison of the accused's conduct and position in relation to the incident. Mere involvement in the same case or the use of similar weapons is insufficient. The gravity of the allegations, the prima facie material and the alleged concealment of the victim's identity defeated Sikandar's claim despite his period of custody and the possibility of trial delay.

Erroneous bail order — procedural review — The High Court found that the Sessions Judge's order granting bail to Gajendra ignored the specific assault allegations and relied on bail orders concerning persons accused only of furnishing false information. It directed registration of a separate case under Section 439(2) CrPC, service of a show-cause notice through the Superintendent of Police and a later hearing on whether the bail order should be recalled. Gajendra's bail was not cancelled at that stage. Drawing on *Harjit Singh* and *Mahipal*, the judgment distinguished scrutiny of an unlawful grant of bail from cancellation for a subsequent breach. It also directed transmission of the order for administrative consideration of the Sessions Judge's conduct, after referring to an earlier order on the binding force of unreported High Court judgments. These directions were separate from the decision on Sikandar's bail appeal.

Case-note :- ***1. Facts :*** Sikandar Singh Narvariya, arrested on 19 February 2021, filed his first bail appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the Special Judge's refusal of bail on 31 May 2021. Crime No. 21/2021 at Barohi, Bhind concerned allegations of murder and IPC offences relating to forgery, false records, public servants and evidence, as well as offences under Sections 3(2)(vi) and 3(2)(v) of the SC/ST Act. The State reported that notice had been given to the complainant under Section 15-A; no one appeared for him. According to the prosecution, Sikandar, Omkar alias Daplu and Gajendra beat Shyamlal with lathis, took him to J.A. Hospital, Gwalior, under the name of Nathuram, who had died in 2013, obtained a death certificate in that false name and did not bring the body back to the village. The injured Shyamlal died on 8 June 2020. The other co-accused were alleged to have given false information to the police, but not to have assaulted him. Sikandar relied on the Sessions Court's order of 10 August 2021 granting Gajendra bail, his own custody, completion of the investigation and the prospect of a lengthy trial. He also asserted that there was no risk of his absconding or interfering with the prosecution. The High Court compared Gajendra's bail order with the charge sheet, police statements and earlier High Court bail orders. The Sessions Judge had treated those accused only of giving false information as though they had also assaulted the victim and had stated that the charge sheet assigned no specific role to Gajendra.

2. Precedents — Considered : *Shri Mahadev Meena v. Praveen Rathore, Criminal Appeal No. 1089/2021, 27* September 2021, was quoted and applied on the factors governing bail and the need to assess each accused's role when considering parity. It distinguished a co-accused granted bail because of a particular personal circumstance from an accused attributed a major role. *Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230*, was separately quoted for the principle that parity requires consideration of the accused's role and position in relation to the incident and the victims. A comparison based merely on similar weapons or the same charge is insufficient. The decision also emphasised the need for reasons and consideration of the gravity of the offence. *State of Kerala v. Mahesh, Criminal Appeal No. 343/2021, 19* March 2021, was quoted on the judicious exercise of discretion, prima facie material, seriousness and the risks of absconding or interference. *Harjit Singh v. Inderpreet Singh, Criminal Appeal No. 883/2021, 24* August 2021, was quoted on bail discretion and the distinction between setting aside an unjustified grant and cancelling bail for subsequent misconduct or supervening circumstances. *Sanjay Chandra* was mentioned in the extract from *State of Kerala* on seriousness and the balance of relevant considerations. The earlier High Court bail orders concerning Upendra Jatav and Jarman Singh showed that, unlike Sikandar, they were not alleged to have assaulted the victim.

3. Statutes considered : Section 14A(2) of the SC/ST Act provided for the appeal against the Special Judge's refusal of bail; notice to the complainant under Section 15-A was reported. Section 439 CrPC governed the bail discretion discussed in the cited authorities. Section 439(2) was invoked for a separate show-cause proceeding concerning Gajendra's earlier grant of bail, which was not recalled by this order. The assessment at this interlocutory stage neither convicted anyone nor decided the separate cancellation proceeding.

4. Issues : (1) Was Sikandar similarly situated to Gajendra and the other accused granted bail, having regard to the different allegations of assault and false information and the Sessions Judge's description of the charge sheet? (2) Did the gravity of the allegations and the prima facie material, including the alleged use of a deceased person's name for hospital admission and the death certificate, warrant refusal of bail despite custody and possible trial delay? (3) Did the apparent factual error in Gajendra's bail order call for a separate review under Section 439(2), and what procedure would afford him an opportunity to be heard? (4) Did the Sessions Judge's conduct call for transmission of the order for administrative consideration? The latter two matters resulted in procedural directions, without a final cancellation of bail or disciplinary decision.

5. Ratio / Findings : The Court held that bail granted to one accused cannot be extended mechanically to another on the ground of parity. The comparison must take account of each accused's alleged conduct and connection with the offence. The persons previously granted bail by the High Court were accused of giving false information after the death. By contrast, the charge sheet and witness statements identified Sikandar, Gajendra and Omkar as the alleged assailants who took Shyamlal to hospital under Nathuram's identity. The Sessions Judge's

order granting Gajendra bail incorrectly treated these two groups alike and stated that the charge sheet assigned him no specific role. An order based on those errors did not entitle Sikandar to bail on parity. The alleged assault and elaborate concealment, assessed under the Supreme Court's bail principles, made his case unfit for release. As Gajendra's bail order itself appeared to disregard material facts, the Court directed notice and registration of a separate case under Section 439(2) to consider recall, preserving his opportunity to respond. The quoted authority distinguished correction of a perverse grant from cancellation for subsequent conduct. The direction to the Registrar General to place the order before the Chief Justice arose from the Sessions Judge's repeated departures from settled judicial discipline, including the earlier issue concerning unreported judgments. The criminal allegations remained for trial, and this order did not decide the separate show-cause case.

6. Relief : The Hon'ble High Court dismissed Sikandar's bail appeal under Section 14-A(2) of the SC/ST Act. It directed registration of a separate matter concerning Gajendra under Section 439(2), service of notice through the Superintendent of Police, Bhind, and listing for consideration of cancellation on 20 October 2021. Gajendra's bail was not cancelled by this decision. The Registrar General was directed to place the order before the Chief Justice for possible administrative action concerning the Sessions Judge. The order did not itself impose any administrative action.

Sikandar Singh Narvariya v. State of M.P. and Others, Cr.A. no. 5870/2021, 04/10/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (898) Prev Next

Headnote :- Homicidal death — medical qualification — Papitabai was found dead in her matrimonial home. The post-mortem report recorded ante-mortem contusions on the neck, chin, face and eyes, and gave the cause of death as asphyxia due to strangulation. Although the report stated that the final opinion would depend on the surrounding circumstances and evidence, the Court rejected the contention that the doctor was uncertain about strangulation. The pattern of injuries indicated a struggle and established that the death was homicidal.

Section 106 — foundation first — The prosecution proved four circumstances: the spouses lived under the same roof; they returned together from a family wedding; their relations were strained; and her strangled body was found in his house. *State of T.N. v. Rajendran* and *Kalu v. State of M.P.* permitted the Court, on that foundation, to require a cogent explanation of facts especially within the husband's knowledge. *Shivaji Chintappa Patil* cautions that Section 106 does not relieve the prosecution of its primary burden or make mere co-residence conclusive. The Court rejected the appellant's account that he found his wife dead on returning at 4 p.m., in view of the established death before her father's complaint at 9:45 a.m. His claim that he was taking her to hospital was inconsistent with leaving the body and failing to join the inquiry. The Court treated his false explanation under Section 313 as an additional link, rather than as a substitute for the circumstances already proved.

Circumstantial chain — absence after event — Witnesses described earlier beating or harassment, the appellant's departure with the deceased from a family function and his absence after her death. Several other witnesses turned hostile, including those concerning an alleged attempt to dispose of the body; the Court did not treat that episode as independently proved. It considered the appellant's arrest eight days later and his absence from the investigation together with the medical evidence and the circumstances proved concerning the matrimonial home. Applying *Sharad Birdhichand Sarda*, the Court found the chain complete beyond reasonable doubt and affirmed the conviction under Section 302 and the sentence of life imprisonment.

Case-note :- ***1. Facts :*** Sitaram appealed under Section 374 CrPC against the Sessions Court's judgment of 15 January 2010 convicting him under Section 302 IPC of murdering his wife, Papitabai, and sentencing him to life imprisonment, a fine of ₹500 and six months' rigorous imprisonment in default. The couple married in 2002 and lived at Dabra. After being informed of her death on 16 December 2008, her father, Atar Singh, found her body at the appellant's house and reported the matter to the police. The post-mortem report described extensive ante-mortem contusions on the neck and face and gave the cause of death as asphyxia due to strangulation. The investigation also concerned an alleged demand for a motorcycle and ₹20,000 and earlier harassment. Charges were framed under

Section 302 or, alternatively, Section 304B IPC; the appeal concerned the conviction under Section 302. Sitaram contended that the prosecution had not proved homicide, that the couple's children had not been examined and that an unknown intruder might have killed her. The Court examined the evidence of the doctor, relatives and hostile witnesses, the husband's presence and conduct, and his replies under Section 313. In those replies, he stated that he had returned home at about 4 p.m., seen Govind leaving and found his wife dead. In another reply, he claimed that he was taking her for treatment rather than disposing of her body. The Court assessed these replies against the earlier time of death and the absence of evidence that he had participated in the police inquiry.

2. Precedents — Considered : *State of T.N. v. Rajendran, (1999) 8 SCC 679*, was applied on the cumulative assessment of circumstantial evidence and an untrue explanation as an additional link in a case of strangulation within the home. *Kalu v. State of M.P., (2019) 10 SCC 211*, was quoted at length on the limited burden concerning facts especially within the accused's knowledge after the prosecution has established the necessary foundation. Its discussion of *Hanumant*, *Tulshiram Sahadu Suryawanshi*, *Trimukh Maroti Kirkan*, *Mir Mohammad Omar* and *Shambu Nath Mehra* cautions against displacing the prosecution's primary burden. *Shivaji Chintappa Patil v. State of Maharashtra, (2021) 5 SCC 626*, was expressly quoted to qualify the application of Section 106: co-residence and having last been seen together cannot, by themselves, establish guilt without the necessary prosecution evidence. Its extracts discuss *Subramaniam*, *Gargi* and *Sawal Das*. *Omprakash v. State of Uttaranchal, (2003) 1 SCC 648* and *Dara Singh v. Republic of India, (2011) 2 SCC 490* were cited on abscondence as relevant conduct, rather than proof of guilt by itself. *Rohtush Kumar v. State of Haryana, (2013) 14 SCC 434* was quoted on an explanation under Section 313 and a false answer as an additional circumstantial link; *Musheer Khan*, *Sunil Clifford Daniel and State of Maharashtra v. Suresh* appear within its quotation. *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116* was applied in the final assessment of the chain of circumstances.

3. Statutes considered : Section 302 IPC was the provision under which the murder conviction was affirmed and prescribed a minimum sentence of life imprisonment. Section 106 of the Evidence Act concerns facts especially within a person's knowledge. It applies only after the prosecution establishes the foundational circumstances and does not reverse the ultimate burden of proving guilt. Section 8 of the Evidence Act was referred to through *Dara Singh* in relation to abscondence as conduct; Section 114 was discussed in the passage quoted from *Kalu* on inferences from proved facts. Section 313 CrPC afforded the accused an opportunity to explain incriminating circumstances; a false answer could provide an additional link in an otherwise proved chain. Section 174 CrPC governed the initial inquiry into the death, and Section 374 governed the appeal.

4. Issues : (1) Was Papitabai's death homicidal despite the post-mortem report's qualification concerning the final opinion? (2) Did the prosecution establish a complete chain identifying Sitaram as her killer, having regard to their shared residence, strained relations, their presence together before the incident and the discovery of her body in his house? (3) At what stage could Section 106 require an explanation from him, and what weight could be given to his inconsistent replies under Section 313 and his absence after the death? (4) Did the possibility of an unidentified intruder or the non-examination of the children raise reasonable doubt in this case? The alternative dowry-death charge was not the conviction under appeal.

5. Ratio / Findings : The qualification that the final opinion depended on other circumstances did not negate the medical officer's finding of asphyxia due to strangulation. The multiple injuries to the neck and face supported a finding of homicidal violence. The prosecution proved that the appellant and deceased lived together, that he returned with her from a wedding, that their relations were strained and that her strangled body was found in his house. These circumstances supplied the necessary foundation; guilt was not presumed from the marriage alone. On that foundation, the manner of death called for an explanation of facts especially within his knowledge under Section 106, subject to the caution in *Kalu* and *Shivaji Chintappa Patil* that the prosecution's primary burden remained. The Court rejected Sitaram's account of returning at 4 p.m. in view of the established death before the complaint at 9:45 a.m. His claim that he was taking her for treatment was inconsistent with leaving the body and failing to join the police inquiry. As the witnesses had turned hostile, the alleged attempt to dispose of the body in

a tempo was not itself proved. The Court instead considered his own reply and the other proved conduct. His absence from the scene and arrest eight days later were additional circumstances and were insufficient by themselves. A false reply under Section 313 likewise strengthened the chain only after the foundational facts had been established. Applying *Sharad Birdhichand Sarda*, the Bench found that the chain excluded any reasonable hypothesis consistent with innocence.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the conviction under Section 302 IPC, life imprisonment, the fine of ₹500 and the term of imprisonment in default. Sitaram remained in custody to serve the remaining sentence. A free copy of the judgment was ordered to be supplied to him, and the trial record was directed to be returned. *Sitaram v. State of M.P., Cr.A. no. 209/2010, 29/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (899) Prev Next

Headnote :- Acquittal appeal — leave and perversity — A private complainant sought leave under Section 378(3) CrPC to challenge the JMFC's acquittal of the respondents under Section 323 IPC after an alleged assault in a field during a long-standing land dispute. The High Court noted that the complaint lacked a supporting affidavit and quoted *Priyanka Srivastava* on the requirement of a sworn affidavit for an application under Section 156(3). It also examined the civil proceedings concerning title, in which the decree initially granted to the complainant had been reversed. Finding no perversity in the acquittal, the Court declined leave. Where the evidence permits two views, the appellate court cannot displace the trial court's reasonable view favouring the accused merely because it prefers another view.

Case-note :- ***1. Facts :*** Sitaram Gadariya sought permission under Section 378(3) CrPC to appeal against the judgment of the JMFC, Ashoknagar, dated 20 September 2021 in RCT No. 1607/2017, acquitting the respondents under Section 323 IPC. He alleged that on 1 August 2016, while he and his relatives were spraying pesticides on farmland, the respondents insisted on harvesting the crops and assaulted him with fists and blows when he objected. After his police complaints failed to secure action, an earlier High Court order had indicated that he could file a private complaint under Section 200 CrPC, and he did so. He contended that the trial court had rejected his evidence on flimsy grounds. After receiving the trial record, the High Court noted that the private complaint lacked a supporting affidavit. It also considered the long-standing dispute over possession of the land. The decree for title and injunction granted in his favour in 2002 in Civil Suit No. 505-A/1998 had been set aside in RCA No. 79-A/2004; a second appeal was stated to be pending. The respondents had relied on the appellate civil decree as Exhibit D-2. The Court viewed the criminal case as an attempt to give a criminal character to the civil dispute after that reversal. Its finding governing the leave request was that no perversity had been shown in the acquittal.

2. Precedents — Considered : *Priyanka Srivastava v. State of U.P., (2015) 6 SCC 287* was quoted for the specific requirement that an application under Section 156(3) CrPC seeking a Magistrate's direction for investigation be supported by a sworn affidavit and disclose the earlier approaches under Sections 154(1) and 154(3). The High Court referred to that decision after noting the absence of an affidavit supporting this complainant's private complaint under Section 200.

3. Statutes considered : Section 378(3) CrPC governed the request for leave to appeal in this case. Section 200 CrPC was the provision under which the private complaint was filed after the police failed to take action.

***4.* Issues :** (1) Did the applicant show a perverse finding by the trial court or any other ground for granting leave against the acquittal under Section 323? (2) Where the evidence reasonably permitted more than one view, could the High Court replace the trial court's view favouring the accused? (3) What bearing did the absence of an affidavit and the civil litigation concerning the land have on the request for leave?

5. Ratio / Findings : The Court noted that the complaint lacked a supporting affidavit and quoted the safeguard applicable to applications under Section 156(3). It also considered the property dispute and the reversal of the complainant's civil title decree. On the facts of this case, it viewed the prosecution as an attempt to give a criminal character to that civil dispute. After examining the trial record, the Court found no perversity in the JMFC's acquittal. The availability of another possible view did not justify overturning the trial court's reasonable

view favouring the respondents. The Court therefore affirmed the acquittal and refused leave.

6. Relief : The Hon'ble High Court refused leave to appeal under Section 378(3) and dismissed the application. It affirmed the JMFC's judgment of 20 September 2021 acquitting the respondents under Section 323 IPC.

Sitaram Gadariya v. State of M.P. and Others, M.Cr.C. no. 55116/2021, 16/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (900) Prev Next

Headnote :- Abetment of suicide — intent and proximate act — Against the background of related FIRs, Shivam Yadav, who was absconding in an earlier assault case, died after coming into contact with an electrical installation in a field. His brother alleged that, on the preceding night, Sitaram Yadav and others abused and threatened them, saying that they would ruin Shivam's life and that it would be better for him to die than to keep running. In the Article 226 petitions seeking quashing of the FIR under Sections 306, 294, 506 and 34 IPC, the High Court accepted those allegations as true for the purpose of assessing whether an offence was disclosed. Applying Sections 306 and 107 and the Supreme Court decisions on instigation, it held that the alleged words, without any further overt act or facts showing an intention to bring about suicide, disclosed neither the necessary mens rea nor a positive act sufficiently connected with the suicide. Words spoken in anger without intending the consequence do not, by themselves, amount to instigation; a continued course of conduct may amount to instigation on different facts. The finding was confined to this record.

Obscenity — words and annoyance — Mukul, the sole eyewitness, stated in his written complaint and his account under Section 174 that the accused had used filthy abuse, but did not specify the obscene words or allege annoyance to those who heard them. Section 294 IPC requires an obscene act in a public place, or the utterance of obscene words in or near a public place, causing annoyance to others. Even if the allegations were accepted as true, these necessary ingredients were not disclosed.

Intimidation — intended alarm — Applying *Vikram Johar* on Sections 503/506, the Court held that a threat of injury must be accompanied by an intention to cause alarm or compel an act or omission. On the allegations concerning this exchange, it found no intention to carry out the threats so as to cause alarm or compel conduct, and held that Section 506 was not disclosed. It quashed Crime No. 571/2023 in its entirety in both writ petitions. Its separate direction to the Superintendent of Police, Niwari, to consider whether persons had knowingly sheltered the deceased while he was wanted in the earlier case was conditional. Costs of ₹20,000 were imposed on respondent 9, with directions for recovery and contempt proceedings in default.

Case-note :- ***1. Facts :*** By a common order in Writ Petition Nos. 21097 and 22734 of 2023, the High Court considered Sitaram Yadav's challenge under Article 226 to the FIR in Crime No. 571/2023 at Prithvipur, Niwari, under Sections 306, 294, 506 and 34 IPC. The earlier Crime No. 171/2023 arose from a March assault on Sitaram's brother, Ajay Pratap Yadav; Shivam Yadav and others were accused and were reported to be absconding. Sitaram alleged that police officers were related to the accused in that case, that pressure was being exerted to compromise and that the later FIR was retaliatory. He also referred to an earlier writ petition seeking police protection. On 31 July 2023, Shivam was found dead near an electrical distribution installation, with a wire stuck to his hand. His brother, Mukul, alleged that, while taking him home the previous night, they met Sitaram, Munna and Ajay or Sanjay Yadav near a temple. He alleged that these persons abused and threatened them, saying that they would spoil Shivam's life and that it would be better for him to die than to run from pillar to post. The other witnesses largely repeated the account as hearsay. Mukul gave the same account of the roadside exchange in his statement under Section 174. Sitaram contended that, even if the FIR account were accepted, it disclosed no abetment, obscenity or intimidation.

2. Precedents — Considered : On restraint in quashing proceedings and the exception where the basic ingredients of an offence are absent, the Court discussed *XYZ v. State of Gujarat, (2019) 10 SCC 337; State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718; Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319; Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, including the limited exception for public documents or defence documents whose authenticity is undisputed; *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226; M.*

Srikanth v. State of Telangana, (2019) 10 SCC 373; CBI v. Arvind Khanna, (2019) 10 SCC 686; and State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021, 30 June 2021. It also referred to decisions taking a similar view, including *Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha*. On instigation, it quoted *Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605* on goading, intention and a possible continued course of conduct; *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734* on the factual context and the tentative assessment at the quashing stage; *Sanju v. State of M.P., (2002) 5 SCC 371* on mens rea; *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750*; *Orilal Jaiswal, (1994) 1 SCC 73*; *M. Mohan, AIR 2011 SC 1238*; *Kishori Lal, (2007) 10 SCC 797*; and *Amalendu Pal, (2010) 1 SCC 707* on active incitement proximate to the suicide. It also quoted *Amit Kapoor, (2012) 9 SCC 460 and Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618. Kumar alias Shiva Kumar v. State of Karnataka, Criminal Appeal No. 1427/2011, 1* March 2024, was referred to as laying down the same law. *Vikram Johar v. State of U.P., (2019) 14 SCC 207, quoting Fiona Shrikhande and Manik Taneja, governed the separate analysis of the ingredients of criminal intimidation.*

3. Statutes considered : Article 226 was the writ jurisdiction invoked; the Court used the Section 482 CrPC standard of accepting the allegations as true as guidance on quashing. Section 306 IPC punishes abetment of suicide. Section 107 defines abetment by instigation, conspiracy accompanied by an act or illegal omission in pursuance of it, or intentional aid. Section 294 requires obscenity in the relevant public setting and resulting annoyance; the general allegation of abuse identified neither the obscene words nor resulting annoyance here. Sections 503 and 506 require a threat of injury with an intention to cause alarm, to compel an act which the person is not legally bound to do, or to compel omission of an act which the person is legally entitled to do. Section 34 was included in the FIR, and the Court found that the allegations did not disclose the offences read with that provision. Section 174 CrPC governed the witness statements in the inquiry into the death; the Court considered Mukul's direct account separately from the hearsay accounts. Sections 82–83 CrPC and the earlier allegations of assault and attempted murder formed the background to Shivam's status as a wanted accused.

4. Issues : (1) If the roadside words were accepted as alleged, did they amount to intentional instigation or aid of suicide with the necessary direct causal connection under Sections 107 and 306? (2) Did the general allegation of filthy abuse identify obscene words uttered in or near a public place and resulting annoyance under Section 294? (3) Did the alleged threats disclose an intention to cause alarm or compel conduct under Sections 503 and 506? (4) Could the charges be quashed on the allegations themselves without deciding witness reliability or the allegation of police bias? (5) What separate direction was appropriate concerning the alleged sheltering of an accused who was absconding?

5. Ratio / Findings : The Court accepted Mukul's direct account for the purpose of deciding whether the alleged acts disclosed an offence. The accused were alleged to have threatened Shivam at the roadside and said that he would be better off dead, but no accompanying overt act or facts showing an intention that he take his own life were alleged. Sections 306/107 require the culpable mental process involved in instigation, conspiracy or intentional aid; the alleged words in this encounter did not disclose it. Section 294 was also not made out because the allegations specified neither the obscene words nor any resulting annoyance. Applying *Vikram Johar,* the Court found that the alleged threat did not disclose the intention required for Section 506: an intention to cause alarm or compel a person to act or refrain from acting. It held that, even on accepting the allegations as true, no offence under these provisions read with Section 34 was disclosed. Separately, the Court noted the witness accounts that Shivam had been sheltered while absconding in the earlier case. It directed the Superintendent of Police to consider whether that conduct disclosed an offence and to register an FIR only if he reached that conclusion.

6. Relief : The Hon'ble High Court quashed Crime No. 571/2023 in its entirety under Sections 306, 294, 506 read with 34 IPC and allowed both writ petitions. The Superintendent of Police, Niwari, was directed to consider whether the named relatives, witnesses and in-laws had committed offences by knowingly sheltering an absconder, and to register an FIR if he concluded that an offence had been committed. Respondent 9 was directed to deposit costs of ₹20,000 with the Registry within one month. In

default, recovery and contempt proceedings were directed.

Sitaram Yadav v. State of Madhya Pradesh and Others; Ajay Pratap Yadav and Others v. State of Madhya Pradesh and Others, W.P. no. 21097/2023 & 22734/2023, 15/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (901) Prev Next

Headnote :- Investigation — no compelled arrest or charge sheet — After registration of Crime No. 375/2024 at Pohari, Shivpuri, the complainant invoked Section 528 BNSS seeking arrest, proceedings under Sections 82–83 against an absconding accused, expeditious investigation and filing of a charge sheet. Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari and its* reliance on *M.C. Abraham*, the High Court refused to direct arrest or prescribe the outcome of the investigation. The quoted authority treated arrest under Section 41 CrPC as a matter of police discretion affecting liberty; not every investigation must end in arrest, seizure or a charge sheet. Judicial directions prescribing the manner of investigation without reasons or a hearing for those affected may have serious consequences.

Prompt completion — lawful report — The Court separately applied Section 173(1) CrPC and its counterpart, Section 193 BNSS, which require completion of the investigation without unnecessary delay. It directed the investigating officer to conclude the investigation as early as possible, determine whether an offence was made out and take lawful steps to submit the appropriate final report, whether a closure report or a charge sheet. The applicant remained free to approach the Superintendent of Police, Shivpuri, with any grievance.

Case-note :- ***1. Facts :*** Siyaram Giri Goswami's complaint resulted in registration of Crime No. 375/2024 at Police Station Pohari, District Shivpuri. He applied under Section 528 BNSS, alleging that the police had taken no effective further action and had not arrested the accused. He sought compulsory arrest, proceedings under Sections 82–83 if the accused was absconding, and expeditious investigation so that justice could be secured without delay. The Court also addressed the request for a direction to file a charge sheet. The State appeared. The High Court distinguished directions prescribing the outcome of an investigation from the statutory duty to complete it without unnecessary delay.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488* was quoted at length and applied. It set aside a High Court order mechanically directing investigative steps, including recording statements, arrest, seizure and filing a charge sheet, without reasons or a hearing for the persons affected. Its extract relied *on M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649* on police discretion under Section 41 CrPC: registration of a cognizable FIR does not require arrest of every accused, and the decision must be taken cautiously because it affects liberty. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542* appeared within the *D. Venkatasubramaniam* quotation on the need to hear affected persons before issuing judicial directions with drastic consequences. The quoted Supreme Court decision also explained that an investigation may result in a charge sheet or a finding that no case is made out, and that inherent jurisdiction cannot be used to direct police methods without the grounds required by the governing provision.

3. Statutes considered : Section 528 BNSS was the provision invoked by the complainant for exercise of inherent jurisdiction; the cited precedent discussed the corresponding power under Section 482 CrPC. Section 173(1) CrPC and Section 193 BNSS were referred to by the Court as requiring completion of the investigation without unnecessary delay and submission of the appropriate final report, whether a closure report or a charge sheet.

4. Issues : (1) Could the High Court, at the complainant's request, direct the police to arrest the accused, initiate absconder proceedings and file a charge sheet after registration of an FIR? (2) Could it require completion of the investigation without unnecessary delay while preserving police assessment of the evidence and statutory discretion? (3) What remedy remained if the complainant continued to have a grievance?

5. Ratio / Findings : Registration of a cognizable case does not automatically require arrest or filing of a charge sheet. The police have the statutory duty to investigate and adopt lawful methods. An order compelling particular steps would improperly direct their assessment of the evidence and decisions affecting liberty. Applying *D. Venkatasubramaniam*, the Court refused to direct arrest or filing of a charge

sheet. The investigation could not, however, be left pending indefinitely. The Court read Section 173(1) CrPC and Section 193 BNSS as requiring timely completion and a final report after the investigating officer determined whether an offence was disclosed. Its direction for prompt completion left open a closure report or prosecution and all steps required by law. The applicant could place any further grievance before the Superintendent of Police, who would consider it in accordance with law.

6. Relief : The Hon'ble High Court disposed of the application, directing the investigating officer to conclude the investigation as early as possible and take the necessary steps required by law. The applicant was given liberty to approach the Superintendent of Police, Shivpuri, with any grievance.

Siyaram Giri Goswami v. State of Madhya Pradesh and Others, M.Cr.C. no. 1462/2025, 29/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (902) Prev Next

Headnote :- Abetment of suicide — threat, mens rea and charge — The applicants challenged a charge under Section 306 IPC in revision under Sections 397/401 CrPC after Lokendra, aged 17, hanged himself on 6 January 2022. The prosecution alleged that, at about 7 a.m., they threatened to cut him into pieces if he was seen in the village, throw his body into a river and kill his parents. A witness intervened, and the boy was found dead shortly afterwards. The State and complainant relied on the applicants having been seen near the place of incident, but conceded that no charge under Section 302 had been framed and that no background for the threat had been alleged. Applying Sections 306 and 107 IPC and the Supreme Court decisions on instigation, intention, positive action and inference from the circumstances, the Court found no allegation of earlier threats or enmity or any background from which an intention to bring about suicide could be inferred. It also observed that there was no evidence of threats having been given to the deceased's parents or other family members. Even if the prosecution account were accepted, the threat alleged in this case did not disclose abetment of suicide sufficient to put the applicants on trial. The charge order was set aside and the applicants were discharged.

Case-note :- ***1. Facts :*** In ST No. 32/2022, the First Additional Sessions Judge, Sabalgarh, Morena, framed a charge under Section 306 IPC on 17 February 2022. Lokendra, aged about 17, had died by hanging on 6 January. The post-mortem report gave the cause of death as asphyxia due to hanging, and the death was treated as suicide. After recording witness statements, the police registered an FIR and filed a charge sheet. The applicants were alleged to have threatened Lokendra at about 7 a.m. that, if he was seen in the village, they would cut him into pieces, throw his body into a river and kill his parents. Beedha, described as his uncle, objected and was abused. After Beedha went away, his niece reported that Lokendra had hanged himself. The applicants sought revision under Sections 397/401 CrPC. The State and complainant submitted that the applicants had also been seen near the place of incident, but conceded that the last-seen contention was of no significance without a charge under Section 302 and that no background for the threat had been put forward.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi), (2009) 16 SCC 605* explains that instigation may be inferred from acts, omissions or a continued course of conduct leaving no other option, but requires the necessary intention and reasonable certainty of inciting the consequence. Angry words without an intended consequence may be insufficient. *Praveen Pradhan v. State of Uttaranchal, (2012) 9 SCC 734* emphasises intention and the circumstances of the case, without a rigid formula; the view at the quashing or charge stage is tentative, rather than a finding after trial. *Sanju alias Sanjay Singh Sengar v. State of M.P., (2002) 5 SCC 371* concerns the modes of abetment under Section 107 and mens rea for instigation. *Gangula Mohan Reddy v. State of A.P., (2010) 1 SCC 750 and M. Mohan v. State, AIR 2011 SC 1238* discuss, as standards for conviction, positive or direct conduct and clear mens rea intended to drive a person to suicide. *Kishori Lal v. State of M.P., (2007) 10 SCC 797* explains the distinct Section 107 alternatives of instigation, conspiracy or intentional aid. *Amalendu Pal alias Jhantu v. State of W.B., (2010) 1 SCC 707* addresses direct or indirect incitement, an active role and positive action proximate to the suicide in the quoted analysis of conviction. *Amit Kapur v. Ramesh Chander, (2012) 9 SCC 460* explains that a tentative view of the record suffices at the charge stage and

that instigation may be inferred from the circumstances; its quotation discusses *Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618*. The applicants also relied on *Ramesh Kumar*, whose passages were reproduced in this judgment through *Amit Kapur. Iqbal Singh*, *Surender*, *Kishori Lal* and *Sonti Rama Krishna* appeared within the extract from *Praveen Pradhan*, rather than as separate applications to the present facts.

3. Statutes considered : Sections 397 and 401 CrPC governed the revision against the charge order. Section 306 IPC punishes abetment of suicide; the suicide was treated as established for the limited purpose of considering the charge. Section 107 IPC defines abetment by instigation, conspiracy accompanied by an act or illegal omission in pursuance of it, or intentional aid by an act or illegal omission, with explanations concerning misrepresentation and facilitation. No charge under Section 302 IPC had been framed, so the proposed last-seen argument was immaterial to this revision. Section 228 CrPC appeared in the quoted *Praveen Pradhan* passage concerning the tentative assessment at the charge stage.

4. Issues : Did the alleged threat, shortly followed by a minor's suicide, disclose a prima facie case of intentional instigation or aid under Sections 107 and 306 IPC? Did the applicants' alleged presence nearby add anything when murder had not been charged? Could the charge stand on the allegations as a whole without any alleged motive, earlier threat, enmity or continued conduct? The Court was reviewing the charge and was not deciding guilt after trial.

5. Ratio / Findings : Abetment requires culpable instigation, conspiracy or intentional aid, assessed from the words and conduct in their context and connection with the suicide. The High Court accepted the prosecution allegations for this preliminary assessment. It found no alleged background for the severe threat and no evidence of earlier threats to Lokendra. It also observed that there was no evidence of threats having been given to his parents or other family members, or of enmity with the family. The words alleged without that background did not disclose an intention to make Lokendra commit suicide. The last-seen contention did not assist the charge under Section 306 when no charge under Section 302 had been framed. Even the allegations taken in their entirety therefore failed to disclose a case for trial under Section 306. The Court did not decide whether the threat independently constituted another offence.

6. Relief : The Hon'ble High Court allowed the criminal revision. It set aside the First Additional Sessions Judge's order of 17 February 2022 framing a charge under Section 306 IPC in ST No. 32/2022 and discharged the applicants.

Siyaram Rathore and Others v. State of M.P. and Others, Cr.R. no. 796/2022, 05/05/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (903) Prev Next

Headnote :- Food Safety and Standards Act, 2006 — Section 66 — corporate offence and nominee — A Food Safety Officer took a sample of Fortune Soya Chunks at Satya Sai Agroils Private Limited's factory; the analyst reported that the food was unsafe. The complaint invoked Sections 3(zz), 26(2)(i) and 59 against S.K. Shukla as the company's nominee, but did not arraign the manufacturing company as an accused. The challenge under Section 482 CrPC to the Magistrate's cognizance order was confined to that omission. The High Court applied Section 66, under which the responsible person "as well as the company" is deemed guilty. It relied on *Aneeta Hada*'s interpretation of a provision imposing liability for an offence by a company, *Sharad Kumar Sanghi*'s decision concerning the absence of the company as an accused and vague allegations against its managing director, and its own earlier ruling concerning a food manufacturer. As no wrongdoing in a personal capacity was alleged against Shukla, he could not be prosecuted solely for the company's offence without the company also being prosecuted. The order dated 29 December 2014 was quashed.

Case-note :- ***1. Facts :*** On 23 July 2014, a Food Safety Officer inspected Satya Sai Agroils Private Limited's factory at Vidisha and took a sample of packaged Fortune Soya Chunks. The analyst reported that the sample was unsafe. The designated officer sent a copy of the report to the applicant, S.K. Shukla, and sanction was granted to prosecute by filing a complaint. The JMFC, Vidisha, took cognizance on 29 December 2014 in Criminal Case No. 3171/2014. In his application under Section 482 CrPC, Shukla confined his argument to whether he could be prosecuted as the manufacturing company's nominee when the company itself had not been made an accused. The State maintained that he could be

prosecuted by virtue of his nomination alone. The Court found no allegation against him in a personal capacity.

2. Precedents — Considered : *Aneeta Hada v. Godfather Tours and Travels (P) Ltd., (2012) 5 SCC 661* explains, in the quoted analysis of Section 141 of the Negotiable Instruments Act, that a company may be criminally liable and that the intention of those who constitute its directing mind may be attributed to it. The statutory fiction imposing vicarious liability on responsible functionaries requires the company to be arraigned as an accused. The High Court applied that requirement by analogy to Section 66 of the Food Safety Act. The extensive extract discusses corporate mens rea through *Iridium India Telecom* and *Standard Chartered Bank*, and the purpose and limits of statutory deeming provisions. Its conclusion rests on *C.V. Parekh*; it overrules *Sheoratan Agarwal* and overrules *Anil Hada* with the qualification stated in that decision. *Sharad Kumar Sanghi v. Sangita Rane, (2015) 12 SCC 781* was quoted concerning allegations principally against a company that had not been arraigned as an accused, with no specific personal allegation against its managing director. The Court applied that distinction to the nominee. *Managing Director v. State of M.P.*, MCrC No. 1301/2011 (MPHC, 20 February 2017), was followed. In that earlier ruling concerning a food manufacturer, the Court held that an officer could not be prosecuted solely in his official capacity without the manufacturing company being made an accused.

3. Statutes considered : Section 66(1) of the Food Safety and Standards Act provides that, when a company commits an offence under the Act, the persons in charge of and responsible for the conduct of its business, as well as the company, are deemed guilty. Its first proviso concerns the head or person in charge of a branch, unit or establishment nominated as responsible for food safety. The second provides a defence based on lack of knowledge or the exercise of due diligence. Section 66(2) separately deems a director, manager, secretary or other officer guilty where consent, connivance or attributable neglect is proved. The Court reproduced the whole section, but decided only the issue arising from the company's absence as an accused and the lack of any personal allegation against the nominee; it did not decide a due-diligence defence. Sections 3(zz), 26(2)(i) and 59 concerned the alleged unsafe-food offence. Section 36 was referred to in connection with sanction for prosecution. The applicant invoked Section 482 CrPC to seek quashing of the JMFC's order.

4. Issues : Can a nominated official be proceeded against on a complaint alleging that the company manufactured an unsafe food product when the company is not an accused and no act in a personal capacity is alleged against the official? How does the deemed liability for an offence by a company under Section 66 operate in light of the Supreme Court's requirement that the company be arraigned as an accused?

5. Ratio / Findings : The company was the identified manufacturer and the principal alleged offender; Shukla was prosecuted solely as its nominee. Liability under Section 66 presupposed an offence by the company. Applying the cited decisions on corporate liability and its own earlier ruling, the Court held that the nominee could not be prosecuted alone when the company had not been made an accused. No allegation against Shukla in a personal capacity provided a separate basis for his prosecution. The proceeding against him was therefore bad in law.

6. Relief : The Hon'ble High Court allowed the application under Section 482 CrPC. It quashed, as against the applicant, the order dated 29 December 2014 by which the JMFC, Vidisha, took cognizance in Criminal Case No. 3171/2014.

S.K. Shukla v. State of M.P., M.Cr.C. no. 12658/2015, 22/03/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (904) Prev Next

Headnote :- Quashing — road accident — CCTV and disputed negligence — A car driver sought quashing of an FIR and prosecution under Sections 279, 337 and 304-A IPC by a petition under Articles 226/227. A passenger on a motorcycle had died in the accident. The driver asserted that the motorcycle struck the front right side of his car as he turned, contrary to the FIR's account that his car struck the motorcycle from behind. He also alleged that the police had suppressed CCTV footage. The footage was in fact listed in the charge-sheet, and the State produced two clips. The High Court viewed them in open court. One did not capture the impact; the other showed the motorcycle approaching from behind and coming into contact with the car's front right side during its right turn. The Court's limited examination

disproved the allegation that the footage had been suppressed and addressed the discrepancy in the accounts of the impact. It did not finally decide whether the motorcycle was in the wrong lane or who was negligent. A driver turning right was expected to check for traffic coming from behind. On this record, the Court could not rule out the driver's contribution to the accident and found a prima facie case. Under the cited Supreme Court decisions on quashing, disputed facts raised in defence and detailed appreciation of evidence were matters for trial. Military service and possible harm to the driver's career did not justify quashing. The Court expressly confined its observations about the accident to the quashing issue and directed the trial court to make independent findings after evidence was recorded.

Case-note :- ***1. Facts :*** Crime No. 303/2023 was registered on 15 July 2023 at Gorabazar, Jabalpur, under Sections 279, 337 and 304-A IPC after a collision on 14 July injured the motorcyclist, who was the complainant, and killed the pillion passenger, Rohit Kewat. The car was driven by Army officer Soami Saran Bhatnagar. He stated that, as he turned right towards Ridge Road, the motorcycle came from behind on the wrong side and struck the front right side of his car. The FIR, however, stated that his car struck the motorcycle from behind. He alleged that the FIR was delayed and false, and that CCTV footage supplied to the police had been omitted from the charge-sheet. The State and the complainant opposed the petition. The Court found that the footage was listed in the charge-sheet and that the State had supplied a pen drive with its return. Of the two clips, one showed no collision. The clip from Hoshiyarsingh Gate showed the motorcycle approaching from behind and coming into contact with the front right side of the turning car. Both vehicles were travelling in the same direction. The Court left for trial whether the motorcycle was on the wrong side near the short divider at the junction of several roads or was trying to avoid the turning car.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337*, was quoted against a roving inquiry under Section 482 into contested allegations and premature factual findings. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, disapproved a detailed assessment before completion of the investigation. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, quoted Bhajan Lal's caution that quashing should be exercised sparingly, without an inquiry into the reliability of the allegations. Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, stated that the accused's defence documents should ordinarily not be weighed at this stage, while recognising an exception for public documents or documents whose veracity is undisputed. State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, discussed quashing where the allegations taken at face value disclose no offence, a legal bar applies or the proceeding is maliciously instituted, while prohibiting a trial of evidence that would bring a legitimate prosecution to a premature end. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, recognised quashing where the uncontroverted FIR allegations and supporting evidence disclose no offence. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, rejected findings on minute details of disputed facts at the Section 482 stage. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021* (30 June 2021), rejected meticulous scrutiny before trial and held that an FIR need not be an encyclopaedia. The Court also referred to similar views in *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha*. Drawing on these authorities, the Court stated that proceedings could be quashed only when the uncontroverted allegations did not make out an offence, and applied that restraint to the accident record.

3. Statutes considered : The petition was filed under Articles 226/227 of the Constitution. The Court considered the corresponding scope of interference under Section 482 CrPC without treating the writ petition as an application under that provision. Sections 279, 337 and 304-A IPC were the offences in the FIR, concerning rash driving, hurt caused by a dangerous act and death caused by negligence; the Court did not finally decide whether each ingredient was established. The Motor Vehicles Act and Rules were referred to concerning overtaking from the right; no numbered rule was specified. The charge-sheet and CCTV footage formed part of the prosecution material already available. The disputed manner of driving and lane position required evidence at trial.

4. Issues : Should the FIR and prosecution be quashed because the video showed contact at the car's front right side rather than the impact described in the FIR, because the motorcycle allegedly came from the wrong lane, because CCTV footage was

said to have been omitted, or because the petitioner's Army career would suffer? The threshold inquiry was whether an offence was prima facie disclosed, rather than a conclusive apportionment of negligence.

5. Ratio / Findings : The CCTV footage had not been suppressed: it was listed in the charge-sheet and was before the Court. The clips supported a different account of the point of impact, but that discrepancy did not decide whether the driver, while turning right, had taken due care to check behind and give way to traffic passing him. The Court referred to overtaking from the right and observed a possible failure to use the side mirror. It declined to decide conclusively either the motorcycle's position near the divider or the petitioner's negligence. The material disclosed a prima facie case under the provisions invoked against him. Given the limited scope of interference in writ or inherent jurisdiction, the disputed facts and the defence account required trial. The petitioner's status as an Army officer did not justify an exception. The Court expressly stated that its observations about the precautions expected of the driver were provisional and made only to address the submissions for quashing; the trial court was to decide after evidence was recorded.

6. Relief : The Hon'ble High Court dismissed the writ petition, leaving the FIR and prosecution in place. The trial court was directed to make its own factual findings after recording evidence, without treating the High Court's provisional observations on negligence as final. *Soami Saran Bhatnagar v. State of M.P. and Others, W.P. no. 20738/2023, 01/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (905) Prev Next

Headnote :- Recovery evidence — police witness and hostile panch witnesses — In a revision against concurrent convictions for housebreaking and theft of two laptops belonging to a BSF officer, the accused contended that recovery from a room in another person's house did not establish his exclusive possession. He also relied on the independent seizure witnesses having turned hostile. The investigating officer testified that a memorandum under Section 27 of the Evidence Act led to recovery from the room rented by the accused. The accused admitted his tenancy and his signature on the seizure memo. The laptops' detailed serial numbers matched the complainant's account and their identification in court. The independent witnesses admitted their signatures on the documents despite denying the recovery. Applying *State, Govt. of NCT of Delhi v. Sunil*, *Praveen Kumar* and *Yakub Abdul Razak Memon*, the High Court held that official status or the absence of independent corroboration does not automatically discredit reliable police testimony about recovery. The court must assess that evidence on its own worth and consider any reasons to distrust it. Finding no perversity in the concurrent findings under the stated revisional standard, the High Court declined to admit the revision, affirmed the convictions and dismissed the application for suspension of sentence.

Case-note :- ***1. Facts :*** Somnath Mukherjee filed a revision, stated to be under Sections 438 and 442 BNSS, against the JMFC, Dabra's convictions under Sections 457 and 380 IPC dated 9 November 2022, which had been affirmed on 29 June 2024 in Criminal Appeal No. 88/2022. For each offence, he was sentenced to one year's rigorous imprisonment and a fine of Rs.1,000, with one month's simple imprisonment in default. The substantive sentences were to run concurrently. Deputy Commandant Gurpreet Singh left his quarter at the BSF Academy in February 2015. On returning on 13 March, he found his private Compaq laptop and official HP laptop missing. He later identified the laptops by their serial numbers, together with the chargers brought to court. The defence disputed whether the room in Bhadoriya's property was in the applicant's exclusive possession, relied on the independent recovery witnesses having turned hostile, and alleged false implication in several BSF-related cases in retaliation for an ATM-card dispute. State counsel referred to five other similar prosecutions. The defence replied that four had ended in acquittal and that the conviction in the remaining case was under revision.

2. Precedents — Considered : *State, Govt. of NCT of Delhi v. Sunil, (2001) 1 SCC 652* holds that a recovery document is not automatically tainted because it lacks independent signatures. The investigating officer's evidence must be assessed on its own worth, rather than presumed untrustworthy because of official status. The absence of independent witnesses may be considered where there is a concrete reason to suspect the truthfulness of the police account. *Praveen Kumar v. State of Karnataka, (2003) 12 SCC 199* holds that Section 27

does not require independent witnesses to be present when a statement is made to the police. Seeking independent corroboration is a matter of prudential caution, rather than an inflexible rule, where the police evidence is independently reliable. *Yakub Abdul Razak Memon v. State of Maharashtra, (2013) 13 SCC 1* states that a panch witness is not disqualified merely because a family member works in the police. Police testimony requires greater care in scrutiny, but cannot be rejected solely because independent witnesses were not examined. The High Court applied these principles in assessing PW-8's evidence together with the admitted signatures, tenancy and specific identification of the articles.

3. Statutes considered : The applicant was convicted under Sections 457 and 380 IPC for housebreaking and theft in a dwelling. I.A. No. 1899/2025 sought suspension of sentence and bail; it was disposed of as a consequence of the refusal to admit the revision.

4. Issues : Did the fact that the two independent seizure witnesses had turned hostile, the existence of multiple rooms in the landlord's house, and the defence account render the recovery unreliable despite the investigating officer's testimony and the corroborating circumstances? Was any perversity shown in the two courts' factual findings sufficient to warrant admission of the revision? What was the consequence for the pending request for suspension of sentence?

5. Ratio / Findings : PW-8 described the arrest, the memorandum under Section 27 and the seizure of two laptops from the room rented by the applicant. The applicant admitted that he was residing as a tenant and that Ex.P-8 bore his signature. PW-6 and PW-7 had turned hostile, but admitted the relevant signatures. PW-6 also acknowledged that the police had not pressured him and that documents should be read before signing. PW-3 identified the laptops and chargers in court; the complaint and seizure record contained the laptops' serial and book numbers. The Court held that PW-8's evidence could not be rejected merely because he was a police officer and applied the Supreme Court's principles requiring assessment of its reliability in the circumstances. The challenge to exclusive possession and the defence allegation of retaliation did not establish perversity in the concurrent findings of conviction. The Court stated that revision under Sections 397/401 CrPC did not permit reappreciation of factual findings that were not perverse.

6. Relief : The Hon'ble High Court dismissed the criminal revision in limine and consequently dismissed I.A. No. 1899/2025 for suspension of sentence and bail. It affirmed the convictions and sentences upheld by the appellate court in 2024 and imposed by the trial court in 2022.

Somnath Mukherjee v. State of Madhya Pradesh, Cr.R. no. 4429/2024, 28/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (906) Prev Next

Headnote :- Investigation control — arrest and charge-sheet request — The informant sought directions under Section 482 CrPC to arrest the accused in Crime No. 118/2017 under Sections 307 and 147–149 IPC and to file a charge sheet. The suspected persons had not been impleaded. Applying *D. Venkatasubramaniam* and its discussion of *M.C. Abraham*, the High Court refused to use its inherent jurisdiction to supervise investigative methods or direct arrest and the report to be filed. Arrest under Section 41 is discretionary and must be approached with caution because it affects liberty. Not every investigation must result in arrest, seizure or prosecution. The precedent also cautioned against directions with far-reaching consequences without reasons or a hearing for the persons affected. Separately, Section 173(1) CrPC required the investigation that had remained pending to be completed without unnecessary delay. The investigating officer had to decide whether an offence was made out and file the appropriate final report. The Court directed early completion and necessary steps according to law, leaving open whether a closure report or charge sheet should be filed. It also permitted the informant to approach the Superintendent of Police, Guna, with a grievance.

Case-note :- ***1. Facts :*** On Sonu Bhadoriya's complaint, Police Station Myana, Guna, registered Crime No. 118/2017 for alleged offences under Sections 307, 147, 148 and 149 IPC. He claimed that the police had taken no further action and had not arrested the accused. In his application under Section 482 CrPC, he sought directions for arrest and filing of a charge sheet. The suspected persons were not joined in the proceeding. The Court distinguished those impermissible requests to dictate investigative steps from the police's statutory obligation to complete the investigation that remained pending.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488* was quoted extensively and applied. The Supreme Court set aside mechanical High Court directions to record statements, arrest, seize property and file a charge sheet, issued without reasons or a hearing for those affected. It explained the police's responsibility and discretion in choosing investigative methods. An investigation may disclose no case and lead to a closure report; filing a charge sheet is not inevitable. The grounds for exercising Section 482 are limited to giving effect to orders under the Code, preventing abuse of the process of a court and securing the ends of justice. The quoted discussion of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649* explained the discretion under Section 41 CrPC. Registration of an FIR for a cognizable offence does not automatically require arrest, and the power must be exercised cautiously because it affects liberty and reputation. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542* appeared within the extract concerning an affected person's opportunity to be heard before a judicial direction with drastic consequences. The present Court noted that the suspects had not been impleaded. *M.C. Abraham* and *Divine Retreat Centre* formed part of the Supreme Court discussion applied in this case.

3. Statutes considered : The application invoked the inherent jurisdiction under Section 482 CrPC, which the Court declined to use to direct arrest or filing of a charge sheet. Section 41 CrPC was discussed in the controlling Supreme Court extract as a discretionary power of arrest without a warrant. That discussion did not amount to granting or refusing arrest on an assessment of the evidence against a particular person in this case. Section 173(1) CrPC expressly requires every investigation under the Chapter to be completed without unnecessary delay. The Court applied it to require completion and a final report, whether a closure report or a charge sheet.

4. Issues : Could an informant obtain directions under Section 482 requiring the arrest of suspects who had not been joined in the proceeding and the filing of a charge sheet before the police completed the investigation? Could the Court enforce Section 173(1)'s prohibition on unnecessary delay while leaving the police free to decide what the evidence supported? What remedy remained for a continuing grievance?

5. Ratio / Findings : Directing the police to arrest the accused and file a charge sheet would dictate steps that depended on police discretion and the evidence, and would amount to supervision of the investigation. Such a direction would also affect persons who had not been heard. Following *D. Venkatasubramaniam*, the Court refused that relief. A registered case could not, however, be left pending without a conclusion. Section 173(1) required completion without unnecessary delay. The investigating officer had to determine whether an offence was made out and file the appropriate final report. The Court directed early completion and necessary steps according to law, without fixing a deadline or requiring a charge sheet.

6. Relief : The Hon'ble High Court disposed of the application under Section 482 with a direction to the investigating officer to complete the investigation as early as possible and take necessary steps according to law. Bhadoriya was free to submit his grievance to the Superintendent of Police, Guna, for consideration according to law.

Sonu Bhadoriya v. State of Madhya Pradesh, M.Cr.C. no. 51038/2022, 06/12/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (907) Prev Next

Headnote :- Section 482 CrPC — FIR for abduction, intimidation and rape — The applicant sought quashing of Crime No. 414/2020, contending that the prosecutrix had made no allegation of rape initially but had added it four days later. He also argued that the spot map's reference to Section 376 showed that the document had been antedated. The Court held that these submissions required an assessment of witness credibility and the timing of the spot map, both matters for trial. The investigating officer had to be given an opportunity to explain the discrepancy. The Court surveyed the Supreme Court's restrictions on premature quashing, while recognising exceptional grounds where allegations taken at face value disclose no offence, a legal bar applies, the allegations are absurd or the proceeding is malicious. Review under Section 482 did not permit conclusive findings on truthfulness or a detailed appraisal of evidence. The FIR under Sections 366, 506 and 376 IPC was not quashed, and the application was dismissed.

Case-note :- ***1. Facts :*** Sonu Chitodiya (Jatav) applied under Section 482 CrPC to quash the FIR in

Crime No. 414/2020 at Police Station Porsa, Morena, initially under Sections 366 and 506 IPC, with Section 376 added later. Counsel's principal submission was that the prosecutrix had not alleged rape in her first account but had made that allegation four days later. He asserted that the witnesses were untruthful and that the case had been concocted. He also submitted that the spot map mentioned Section 376 even though that provision had been added later, suggesting that the map was antedated. After hearing the applicant's counsel and examining the precedents on quashing at length, the High Court held that the truth of the prosecutrix's accounts and the timing of the spot map required scrutiny at trial. The investigating officer was to have an opportunity to explain the discrepancy. The Court gave no conclusive account of the incident or final finding on the evidence.

2. Precedents — Considered : *Munshiram v. State of Rajasthan, (2018) 5 SCC 678* and *Teeja Devi v. State of Rajasthan, (2014) 15 SCC 221* counselled restraint in quashing an FIR before proper investigation where a cognizable offence was disclosed, while recognising exceptional intervention against abuse of process or malicious proceedings. *State of Orissa v. Ujjal Kumar Burdhan, (2012) 4 SCC 547* emphasised completion of a proper investigation into disclosed offences. Its quotations from *Swapan Kumar Guha* and *Jeffrey J. Diermeier* explained that disclosure depends on the particular facts and that inherent power, though wide, has limits. *XYZ v. State of Gujarat, (2019) 10 SCC 337* and *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718* rejected premature roving inquiries and factual findings. *S. Khushboo v. Kanniammal, (2010) 5 SCC 600* reproduced *Bhajan Lal*'s grounds concerning allegations that disclose no offence when taken at face value and proceedings manifestly attended by mala fides. The extract also discussed other authorities on sparing intervention and the preservation of genuine complaints. *Sangeeta Agrawal v. State of U.P., (2019) 2 SCC 336* required a reasoned application of quashing principles to the facts. *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460 set out detailed cautions and exceptions for quashing charges under Sections 397/482: assessment of the uncontroverted record for a prima facie offence and its basic ingredients, patently improbable allegations, legal bars and abuse of process. It prohibited a trial on the merits at that stage and explained that the existence of a civil remedy does not by itself justify quashing. Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319* quoted *Bhajan Lal*'s warning that the power should be used sparingly. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350* distinguished the ordinary exclusion of disputed defence documents from the narrow exception for public documents or documents whose veracity is undisputed. Its extract cited *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar. State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226* balanced intervention where no prima facie offence is disclosed, a legal bar applies or sufficient material establishes mala fides against the need to avoid stifling a legitimate prosecution. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy, (2012) 12 SCC 437* explained the sparing use of inherent powers, alternative remedies, the *Bhajan Lal* categories and the limits of *Madhavrao*'s reasoning in the particular civil dispute. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373* reiterated that quashing is justified where the allegations taken at face value disclose no offence. *M.N. Ojha v. Alok Kumar Srivastav, (2009) 9 SCC 682* recognised intervention against harassment based on inherently improbable allegations while cautioning against frequent premature obstruction. *CBI v. Arvind Khanna, (2019) 10 SCC 686* and *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021* (cited in this judgment as dated 30 July 2021), rejected detailed examination of disputed facts on the merits. *Kunwar Singh* observed that an FIR need not be an encyclopaedia. The Court applied the restraint reflected in these authorities to the applicant's challenges to credibility and the spot map.

3. Statutes considered : Section 482 CrPC governed the application invoking inherent jurisdiction. Section 173(2) CrPC and Sections 155(2) and 156(1) CrPC appeared in quoted general principles concerning police reports and investigation of cognizable offences. Their discussion was confined to those quoted principles, without a separate procedural ruling on this FIR.

4. Issues : Could the prosecutrix's allegation of rape four days after her first account establish her untruthfulness as a matter of law at the Section 482 stage? Did the spot map's reference to Section 376, when that offence was added later, establish antedating so conclusively that the FIR should be quashed without an opportunity for the investigating officer to explain? Did the uncontroverted allegations otherwise fail to disclose an offence

under the provisions invoked, or bring the case within a recognised exception for abuse of process? The applicant's submissions required resolution of evidentiary disputes, rather than identifying a legal defect apparent from the allegations taken at face value.

5. Ratio / Findings : The recognised exceptional grounds for intervention at this stage included a case where the uncontroverted allegations disclosed no offence. The High Court could not decide whether the witnesses were truthful or the prosecutrix was reliable. The alleged development in her account after four days was not resolved against her in the application for quashing. The timing of the spot map was likewise a matter for trial, where the investigating officer had to be given an opportunity to explain the discrepancy. The Court therefore declined to stifle a legitimate prosecution by deciding contested credibility or document authenticity in advance.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. The FIR under Sections 366, 506 and 376 IPC was not quashed.

Sonu Chitodiya (Jatav) v. State of Madhya Pradesh and Others, M.Cr.C. no. 47537/2021, 03/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (908) Prev Next

Headnote :- Attempt to murder — Section 307 IPC — intention and overt act — Suraj Sen was repeatedly stabbed by Sonu Kushwah after refusing a demand for ₹500 to buy liquor. Kushwah allegedly threatened to kill him. Counsel challenged the conviction under Section 307 on the grounds that the doctor had not described the injuries as dangerous to life and that independent witnesses had not supported the prosecution. The judgment also recorded a query report describing the injuries as dangerous to life. Applying *Anjani Kumar Chaudhary and State of M.P. v. Kanha*, the High Court held that a fatal or life-threatening injury is not a prerequisite for Section 307. Intention or knowledge may be inferred from the weapon, the words used, the parts of the body targeted, and the force and number of blows. The nine wounds to the head, face, ears and neck, the frontal fracture, the threat and the continued assault supported the conviction under Section 307.

Related and injured witnesses — The injured Suraj, his mother and his brothers were natural witnesses. Their relationship and the fact that two independent witnesses had turned hostile did not automatically make their evidence unreliable. The Court applied the Supreme Court's requirement of close scrutiny of interested or inimical testimony and distinguished kinship from a demonstrated interest in securing a conviction. It relied on the prompt Dehati Nalsi recorded at the hospital and the medical corroboration. The Court separately upheld the conviction under Section 329 IPC on the evidence of the demand for money and the assault following refusal. Both convictions were maintained. Neither provision prescribed a minimum sentence. Considering that fact along with the appellant's age, the date of the incident and his custody, the Court reduced the rigorous imprisonment on each count from ten years to seven years and enhanced the fines. The substantive terms were to run concurrently.

Case-note :- ***1. Facts :*** Sonu Kushwah appealed under Section 374 CrPC against the judgment dated 19 March 2015 of the 14th Additional Sessions Judge, Gwalior, in ST No. 319/2014. The prosecution alleged that, on 18 December 2013 at about 8:30 p.m. near Shitla Mata Temple, he demanded ₹500 from Suraj Sen to buy liquor. When Suraj refused, he abused him, threatened to kill him and inflicted repeated knife injuries, continuing the assault after Suraj fell. Suraj's mother, Ramwati, called for help, and his brothers arrived. A Dehati Nalsi was recorded at the hospital at about 9:30 p.m., leading to an FIR under Sections 307, 327 and 294 IPC. Charges were framed under Sections 307, 329 and 504. The trial court acquitted the appellant under Section 504 and convicted him under Sections 307 and 329, sentencing him to ten years' rigorous imprisonment and a fine of ₹3,000 on each count. The defence challenged the reliability of the related witnesses, relied on the independent witnesses having turned hostile, and submitted that the doctor had not described any injury as life-threatening. It also sought credit for approximately five years and four months spent in custody. The judgment, however, recorded that the query report, Ex. P/14, described the injuries as dangerous to life. The State relied on the injured witness and the repeated assaults. The doctor recorded nine incised or lacerated wounds on the head, ears, face and neck, and a CT scan showed a depressed frontal fracture extending towards the orbit.

2. Precedents — Considered : *Anjani Kumar Chaudhary v. State of Bihar, (2014) 12 SCC 286* was

quoted for the requirement under Section 307 of intention or knowledge coupled with an act, and for the principle that injury to a vital part is not essential. Its extract referred to *Mohan* and *Vasant Vithu Jadhav* in explaining how intention may be inferred from words, weapons and acts in the circumstances of each case. *State of M.P. v. Kanha alias Omprakash, (2019) 3 SCC 605* was quoted and applied for the principle that grievous or life-threatening hurt is not a sine qua non. Its discussion adopted *Balram Bama Patil*, *Saleem* and *Jage Ram* on inferring intention from the surrounding facts, the severity of wounds and the overt conduct. On witness evidence, *Mahavir Singh v. State of M.P., (2016) 10 SCC 220* required heightened scrutiny of genuinely interested or chance witnesses and recognised that contradicted testimony could be rejected. *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418* recognised the need for caution where hostility exists, while rejecting an inflexible requirement of independent corroboration. It quoted *Darya Singh* and *Raghubir Singh*. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129* distinguished a natural witness who is a relative from an interested witness acting out of animus. Drawing on *Hari Obula Reddy* and *Kartik Malhar,* it allowed reliance on intrinsically reliable evidence of relatives after scrutiny. *Shyam Babu v. State of U.P., (2012) 8 SCC 651* rejected automatic exclusion of truthful family witnesses; *Mano Dutt* and *Dayal Singh* appeared within its discussion. *Jodhan v. State of M.P., (2015) 11 SCC 52* discussed *Dalip Singh* and *Hari Obula Reddy*. Kinship alone does not establish false implication, but a concrete motive or suspicious testimony calls for care and may require corroboration in material particulars. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195* brought together the principles on related and inimical evidence, including that enmity may explain either false implication or the assault itself. *Kamta Yadav v. State of Bihar, (2016) 16 SCC 164* emphasised the significance of an injured eyewitness's presence and the need for deeper scrutiny of related testimony.

3. Statutes considered : Section 307 IPC required an act done with such intention or knowledge, and in such circumstances, that causing death by that act would amount to murder. If hurt results, the higher range of punishment under the provision is available. Section 329 IPC concerned the separate conviction for voluntarily causing grievous hurt in connection with extortion of the demanded property. The Court relied on Ramwati's prompt report and evidence of the ₹500 demand, refusal and ensuing assault, without an extensive separate exposition of the provision. The trial court acquitted the appellant under Section 504 IPC. The FIR's initial references to Sections 327 and 294 did not result in appellate convictions. Section 374 CrPC governed the appeal. The memorandum under Section 27 of the Evidence Act, the knife seizure and the omissions in the statement under Section 161 CrPC formed part of the evidentiary account, rather than separate rulings on admissibility or investigation. Neither provision under which the appellant was convicted prescribed a mandatory minimum sentence; this informed the modification.

4. Issues : (1) Could the conviction under Section 307 stand when counsel submitted that no injury had been medically declared life-threatening, in light of the accused's words, weapon, repeated blows, the parts of the body targeted and the actual wounds? (2) Did the fact that the independent witnesses had turned hostile, together with the family relationship of the injured and other eyewitnesses, make their evidence untrustworthy, or did the prompt report and medical corroboration support it after careful scrutiny? (3) Did the demand for ₹500 and the assault after refusal establish the separate count under Section 329? (4) Should the ten-year terms be reduced in view of the appellant's age, the incident in 2013 and the prolonged custody?

5. Ratio / Findings : The Court rejected a test under Section 307 based solely on the result of the assault. The nine wounds, including bone-deep head injuries, the frontal fracture, the large knife seized and the expressed threat to kill supported murderous intention and an overt act, irrespective of a particular description of danger to life. The injured Suraj's account remained reliable after cross-examination despite the identified omissions concerning the demand and abuse. His mother reported the incident within about an hour, and the medical evidence corroborated the essential assault. His brothers arrived on hearing the screams and witnessed part of the incident. The fact that two independent witnesses had turned hostile did not automatically discredit these natural witnesses; their credibility was examined with the care required by the cited decisions. The knife was recovered on the accused's memorandum. The Court found the offence under Section 307 proved beyond reasonable doubt. It separately found Section 329 established by

Ramwati's prompt account and testimony that the demand for money preceded the assault. On sentence, the Court maintained both convictions but reduced the rigorous imprisonment on each count from ten years to seven years, increasing the fines from ₹3,000 to ₹10,000 on each count.

6. Relief : The Hon'ble High Court allowed the appeal in part. It affirmed the convictions under Sections 307 and 329 IPC and modified the sentence on each count to seven years' rigorous imprisonment and a fine of ₹10,000, with three months' rigorous imprisonment in default on each count. The substantive terms were to run concurrently. The appellant was in jail.

Sonu Kushwah v. State of M.P., Cr.A. no. 442/2015, 02/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (909) Prev Next

Headnote :- Investigation — arrest and report — Two and a half months after an FIR, the informant applied under Section 528 BNSS for directions to arrest the accused, file a challan after inquiry and initiate the process under Sections 84–85 BNSS. The accused had not been joined in the proceeding. Applying *D. Venkatasubramaniam* and the principles from *M.C. Abraham* and *Divine Retreat Centre* quoted in that decision, the High Court held that registration of an FIR does not require immediate arrest. After considering the evidence, the investigating officer may file either a charge sheet or a closure report. The Court could not use its inherent jurisdiction to remove that discretion or issue directions with drastic consequences against persons who had not been heard. As to Section 193(1) BNSS, the passage of two and a half months did not, by itself, establish unnecessary delay warranting intervention at that point. The application was disposed of without a direction at that stage, with liberty to approach the Court again if the investigation was not completed within a reasonable period.

Case-note :- ***1. Facts :*** Sourabh applied under Section 528 BNSS for directions to the respondent to arrest the accused, file a challan after due inquiry and initiate proceedings under Sections 84 and 85 BNSS. Counsel submitted that, although two and a half months had passed since the FIR, the police had neither arrested anyone nor filed a charge sheet. The accused were not made respondents. The Court considered whether it could direct arrest and filing of a charge sheet. It separately examined whether the elapsed period amounted to unnecessary delay under Section 193(1).

2. Precedents — Considered : *D. Venkatasubramaniam and Others v. M.K. Mohan Krishnamachari and Another, (2009) 10 SCC 488*, was quoted extensively and applied. The Supreme Court set aside a High Court order directing the recording of statements, arrest, seizure and filing of a charge sheet without adequate reasons or a hearing for the affected accused. Investigation is the police's statutory responsibility. It may disclose a case for prosecution or lead to the conclusion that no charge sheet should be filed. The inherent powers under the former Section 482 CrPC do not justify routine judicial control of particular investigative steps. Within the quotation, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649* explained the discretion to arrest under Section 41 CrPC and the need for caution because arrest affects liberty. A report of a cognizable offence does not by itself require arrest. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542* explained the requirement of a hearing before judicial orders with drastic consequences for a person's reputation. The present Court applied these principles to the suspects who had not been joined and to the ongoing investigation.

3. Statutes considered : Section 528 BNSS was the basis for invoking inherent jurisdiction, corresponding to the former Section 482 CrPC discussed in the quoted decision. Section 193(1) BNSS concerned completion of investigation without unnecessary delay. The Court found no reason for intervention at that stage, after two and a half months, while preserving liberty to approach it later if the delay became unreasonable. The former Section 41 CrPC appeared in the quoted discussion of *M.C. Abraham*.

4. Issues : Could the Court, under Section 528 and at the informant's request, direct the police to arrest accused persons who had not been impleaded, initiate the process under Sections 84–85 and file a charge sheet before the investigation was complete? Did the passage of two and a half months since the FIR, without further facts showing delay, warrant a direction at that stage under Section 193(1) to complete the investigation? The Court left the necessity of arrest and the eventual outcome of the investigation to the police's judgment according to law.

5. Ratio / Findings : Compelling arrest would take away the investigating officer's discretion as to arrest. Requiring a charge sheet would exclude the lawful option of a closure report. Such directions would also risk prejudice to persons who had not been heard. The quoted Supreme Court principles precluded such directions dictating the investigative steps and outcome. The Court assessed the elapsed period separately. The passage of two and a half months was, by itself, insufficient at that point to establish unnecessary delay in the investigation, so the Court declined to issue an immediate direction under Section 193(1). It expressly preserved Sourabh's liberty to approach it again if the investigation was not completed within a reasonable time.

6. Relief : The Hon'ble High Court disposed of the application with liberty to approach it again if the investigation was not completed within a reasonable period.

Sourabh v. State of Madhya Pradesh and Others, M.Cr.C. no. 9722/2025, 05/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (910) Prev Next

Headnote :- Compromise-based quashing — serious allegations — The applicants sought quashing of a BNS FIR on the basis of compromise. The complainant alleged in the FIR that a group took him from a public place in a car, threatened him with a pistol, demanded ₹5 lakh, assaulted him and obtained ₹16,000 through Google Pay. They allegedly compelled him to hold the pistol while false videos were recorded containing self-incriminating statements and an account of voluntary payment. They then demanded the balance, threatening to circulate the video and falsely implicate him. The High Court considered whether these allegations described a simple private incident or offences that were heinous and against society. Considering the allegations together, particularly the abduction from a public place, the assault with the pistol butt and the forced video, it applied *Gian Singh* and *Narinder Singh* and declined to quash the FIR on compromise. The FIR remained in force, and the application was dismissed.

Case-note :- ***1. Facts :*** Sourav Gurjar and others applied under Section 528 BNSS, 2023 / Section 482 CrPC to quash the FIR in Crime No. 139/2025 at Police Station Bahodapur, Gwalior, registered under Sections 308(5), 127(2), 115(2), 296 and 3(5) BNS. According to the FIR, complainant Paras Rathore was with friends near Shiv Temple, Sagartal, on 11 March 2025 when persons in an unregistered white Glanza approached. Jashn allegedly called him into the car on the pretext of talks with Lalit. The driver, Deependra, took him towards Tighara Road, pointed a pistol and demanded ₹5 lakh. When Paras said that he had no money, some members allegedly urged that he be shot. Frightened, he said that he had only ₹16,000. The group then allegedly assaulted him, and Jashn struck near his eye with the pistol butt. They allegedly obtained ₹16,000 through Google Pay and compelled him to make statements in two videos portraying him as having come armed to kill Deependra and as having paid voluntarily. They demanded a further ₹4.84 lakh, threatening otherwise to circulate the video. They also warned that he would be implicated if he told anyone about the incident. The complainant contacted friends, returned home and told his father the next morning. I.A. Nos. 7249/2025 and 7250/2025 sought quashing on the basis of compromise.

2. Precedents — Considered : *Gian Singh v. State of Punjab, (2012) 10 SCC 303* and *Narinder Singh and Others v. State of Punjab and Another, (2014) 6 SCC 466* were expressly cited as the Supreme Court framework for deciding whether settlement justified exercise of the inherent power to quash, having regard to the nature and societal impact of the alleged offences. The High Court applied the limit concerning serious offences by examining the combined allegations of abduction from a public place, violence and forced videos containing self-incriminating statements.

3. Statutes considered : Section 528 BNSS and the former Section 482 CrPC were the expressly stated bases for invoking inherent jurisdiction. The two interlocutory applications sought quashing on the ground of compromise.

4. Issues : Did the allegations in the FIR describe a simple private incident that could appropriately be concluded through compromise, or conduct sufficiently grave and against society to make quashing in inherent jurisdiction inappropriate despite the settlement applications?

5. Ratio / Findings : The FIR described abduction from a public place, followed by assault with a pistol butt, threats and extraction of money. It also alleged that the complainant was forced to make statements in videos falsely portraying him as having come to

kill another person and as having paid voluntarily. The Court considered these connected allegations heinous and against society, rather than a merely private dispute. Applying *Gian Singh* and *Narinder Singh*, it held that compromise did not justify quashing the FIR on those facts.

6. Relief : The Hon'ble High Court dismissed the application under Section 528 BNSS / Section 482 CrPC despite I.A. Nos. 7249/2025 and 7250/2025 seeking quashing on the basis of compromise.

Sourav Gurjar and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 14536/2025, 04/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (911) Prev Next

Headnote :- Further investigation — Section 173(8) CrPC — *State of A.P. v. A.S. Peter, (2008) 2 SCC 383*, was considered: the police retain the statutory power to conduct further investigation after filing a charge sheet, without prior permission of the Magistrate being a legal prerequisite; reinvestigation stands on a different footing. *Ram Lal Narang*, reproduced in that authority, explains why informing the court and seeking formal permission are ordinarily desirable when fresh facts emerge after cognizance. *Hasanbhai Valibhai Qureshi v. State of Gujarat, (2004) 5 SCC 347*, was considered: defective investigation may be cured during trial, and the possibility of delay alone cannot defeat further investigation undertaken to ascertain the truth. The omission of a seized diary containing alleged acknowledgments of receipt from the charge sheet and handwriting examination warranted further investigation.

High Court inherent power — *State of Punjab v. CBI, (2011) 9 SCC 182*, was considered: the limits governing Section 173(8) and subordinate courts do not restrict the High Court's power under Section 482 to order fresh investigation or reinvestigation where necessary to secure the ends of justice. The passage quoted from *Mithabhai Pashabhai Patel* distinguishes further investigation, which continues the earlier investigation, from reinvestigation, which is ordinarily forbidden under the statutory framework. In the present case, the Court ordered further investigation, rather than de novo investigation.

Fair investigation — *Nirmal Singh Kahlon v. State of Punjab, (2009) 1 SCC 441*, recognized the accused's right to fair investigation under Article 21 and the victim's equal entitlement to it. *Vinubhai Haribhai Malaviya v. State of Gujarat, (2019) 17 SCC 1*, was considered for the requirement of a fair investigation before trial, so that actual offenders are brought to trial and the innocent are spared. The deliberate withholding of the complainant's seized diary, without depositing it in the malkhana or producing it before the court, could not be sustained by casually refusing further investigation. The subsequent discovery of its concealment constituted a fresh factual basis for that investigation. Any liability of an officer under Sections 201/120B IPC remained a matter for investigation; no conviction was recorded.

Trial management — The trial court's refusal on 7 December 2019 violated judicial discipline by disregarding the ongoing High Court proceedings concerning the diary. The order was set aside and the prosecution's application under Section 173(8) was allowed. The diary, already filed on 7 January 2020, was to be treated as charge sheet material, and the police were directed to file their report within three months. If further examination of prosecution witnesses concerning the diary was required, the trial court was to recall them suo motu under Section 311 CrPC.

Case-note :- ***1. Facts :*** In M.Cr.C. No. 9801/2021, the State invoked Section 482 CrPC against the order dated 7 December 2019 by which the First Additional Sessions Judge, Dabra, rejected its application under Section 173(8) in ST No. 26/2017. The complainant alleged that land had been sold to her by impersonating Bhagwanlal and that a further payment of Rs 35 lakh was taken without executing a sale deed. Offences under Sections 419, 420, 467, 468 and 471 IPC were registered, and the underlying case also involved allegations of conspiracy. The police seized her personal diary, which allegedly recorded respondent No. 4 Satish Sharma's acknowledgment of receipt of money, but omitted it from the charge sheet against respondents 1–3 and kept the investigation pending against respondents 4–5. The seizure memo was included, and a photocopy of the diary remained in the police case diary; the original was neither deposited in the malkhana nor sent to the handwriting expert. Satish was later summoned under Section 319 CrPC. His earlier applications for anticipatory and regular bail brought the missing diary to the High Court's attention in M.Cr.C. No. 37198/2019. The

reproduced orders dated 1, 4 and 21 October, 20 and 28 November and 30 December 2019, and 6 January 2020, recorded contradictory accounts of searches of police drawers, the belated recovery of the diary in an unsealed condition, official explanations, DGP affidavits, an SIT inquiry and the registration of Crime No. 07/2020 against an officer and others. The earlier bail application was dismissed, and the diary was ultimately filed in the trial court on 7 January 2020. The State sought further investigation into the diary, its suppression and the officers' conduct. The trial court refused permission while the related High Court proceedings were still pending.

2. Precedents — Considered : *State of Punjab v. CBI, (2011) 9 SCC 182*, was quoted at ¶31: the limits on ordinary further investigation under Section 173(8) after a police report do not restrict the High Court's inherent power under Section 482 to order fresh investigation or reinvestigation to secure the ends of justice. Its quotation from *Mithabhai Pashabhai Patel v. State of Gujarat* distinguishes further investigation from reinvestigation and notes the ordinary limits on subordinate courts; *it also reproduces the distinction stated in Ramachandran v. R. Udhayakumar. State of A.P. v. A.S. Peter, (2008) 2 SCC 383, was quoted at ¶33 for the police's continuing statutory power to conduct further investigation without prior permission of the Magistrate being mandatory, in contrast to reinvestigation without authority. R.P. Kapur, J.A.C. Saldanha* and *Ram Lal Narang* appeared as supporting or contextual authorities in that discussion. The passage from *Ram Lal Narang*, reproduced through *A.S. Peter*, stresses that after cognizance the police should ordinarily inform the court and seek formal permission to preserve institutional comity, although the statutory power survives. *Hasanbhai Valibhai Qureshi v. State of Gujarat, (2004) 5 SCC 347*, was separately quoted at ¶33: the need to ascertain the truth and ensure a fair and effective trial can warrant further investigation to cure defects after cognizance, despite delay; it refers to *Ram Lal Narang* and expressly refrains from expressing a final opinion on the merits. *Nirmal Singh Kahlon v. State of Punjab, (2009) 1 SCC 441*, was quoted at ¶35 on the entitlement of both the accused and the victim to fair investigation, with reference to Article 21 and the State's obligations. *Vinubhai Haribhai Malaviya v. State of Gujarat, (2019) 17 SCC 1*, was quoted at ¶36 on fair investigation as the foundation of a fair trial and the need to identify the guilty and spare the innocent.

3. Statutes considered : Section 482 CrPC provided the High Court's inherent jurisdiction. Section 173(8) governed the police's continuing power to investigate and the State's application for further investigation after a report under Section 173(2). Section 36 CrPC appeared in the discussion of superior police officers' powers quoted from *A.S. Peter.* Section 319 CrPC formed the basis of Satish's earlier summons and the procedural context. Section 311 CrPC governed the recall of trial witnesses if further examination became necessary after production of the diary. Article 21 informed the discussion of fair investigation. Sections 201 and 120B IPC were identified as possible bases for prosecution if concealment or conspiracy were proved; no charge under those provisions was adjudicated here. Sections 82/83 CrPC and the bail provision in Section 439 formed part of the quoted chronology. The allegations of fraud, impersonation and forgery, and offences under Sections 406, 419, 420, 467, 468 and 471 IPC, concerned the underlying criminal case, whose merits were not decided in this Section 482 order.

4. Issues : Whether the police and the High Court could require further investigation after the filing of the charge sheet and cognizance, despite the trial court's refusal; whether the deliberate withholding of the seized diary and the investigating officers' conduct justified further investigation into the evidence; whether possible delay or the ongoing trial prevented such investigation; and how the diary and the examination of prosecution witnesses should be dealt with once the diary formed part of the trial record.

5. Ratio / Findings : The charge sheet recorded the seizure of the diary but did not include it. A photocopy remained in the case diary, the original had not been deposited in the malkhana, no handwriting examination had been sought, and the police explanations of its rediscovery conflicted with contemporaneous entries. The earlier orders and subsequent compliance established, in the Court's view, that the diary had been deliberately withheld to protect Satish. The Court criticized the trial court for disregarding the pending High Court inquiry and thereby violating judicial discipline. Under *State of Punjab v. CBI*, the ordinary limits under Section 173(8) do not restrict the High Court's power under Section 482. Under *A.S. Peter*, the police retain the

statutory power to investigate further after filing a charge sheet, without prior permission being a legal prerequisite. The quoted guidance in *Ram Lal Narang* nevertheless favours informing the court and seeking formal permission; the request made here was proper. *Hasanbhai* permits further investigation into newly revealed defects even if it may delay the trial. *Nirmal Singh Kahlon* and *Vinubhai* require fair investigation for both sides. The Court treated the discovery of deliberate withholding as a new fact warranting further investigation; it did not direct a de novo investigation. It identified the possible application of Sections 201 and 120B IPC to an officer, subject to investigation, without convicting anyone. The Court noted that the diary had already been filed on 7 January 2020 and directed that it be treated as part of the charge sheet or supplementary charge sheet. If further examination of prosecution witnesses concerning the diary was required, the trial court was to recall them on its own motion under Section 311.

6. Relief : The Hon'ble High Court set aside the trial court's order dated 7 December 2019 and allowed the prosecution's application under Section 173(8). The police were permitted to conduct further investigation in accordance with the earlier High Court orders. The diary already filed before the trial court was to form part of the charge sheet or supplementary charge sheet. The police were directed to complete further investigation within three months from the date of the order and file their report. If further examination of prosecution witnesses concerning the diary was required, the trial court was directed to recall them suo motu under Section 311. The application under Section 482 was allowed.

State of M.P. v. Anil Sharma and Others, M.Cr.C. no. 9801/2021, 02/07/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (912) Prev Next

Headnote :- Speedy trial — witness process — Repeated non-execution of trial-court summons, bailable warrants and warrants, including against police witnesses, impedes the accused's right to a speedy trial. The Court contrasted the police report's emphasis on High Court warrants with the neglected trial-court process and the recorded reduction in unexecuted process after judicial scrutiny. The DGP was asked to address obligations and accountability in a personal affidavit.

Witness protection and trial management — *Mahender Chawla v. Union of India, (2019) 14 SCC 615*, was invoked for the Witness Protection Scheme. The Court observed that prompt examination protects witnesses from prolonged exposure to pressure from accused persons and that police must execute witness process efficiently. It rejected the DIG's slipshod report and directed the DGP to answer thirteen specific questions about scheme implementation, trial-court warrants, witness security, officers' defaults and the effect of delay on the right to a speedy trial.

Case-note :- ***1. Facts :*** In M.Cr.C. No. 46653/2021 styled *State of M.P. v. Bhuribai*, the High Court was considering police compliance with earlier concerns over unexecuted summons, bailable warrants and warrants for trial witnesses, including police personnel. An affidavit filed by an AIG, CID, enclosed the report dated 19 January 2022 of the former DIG, Chambal Range. The Morena SP attended by video conference. Police Headquarters circulars of 30 March and 3 April 2019 monitored High Court warrant execution, whereas the Bench's concern was trial-court process. The table on page 2 recorded pending perpetual arrest warrants falling from 3,738 on 7 December 2021 to 3,350 on 7 January 2022; arrest warrants against employees fell from 98 to 51 and against the general public from 307 to 104; bailable warrants against employees fell from 153 to 89 and against the general public from 254 to 178; summons against employees fell from 128 to 95 and against the general public from 222 to 206. The Court attributed some improvement to its scrutiny but rejected the DIG's general claim of efficiency. It quoted a 20 October 2021 bail order in a different matter, M.Cr.C. No. 47332/2021, in which an accused detained since 7 May 2017 was released after repeated failure to bring prosecution witnesses, including police officers, to trial; the quoted chronology also records delays due to COVID and an absconding co-accused. The SP reported that only one constable had been censured after an inquiry. The Bench regarded the institutional response as insufficient and rejected the DIG report.

2. Precedents — Considered : *Mahender Chawla and Others v. Union of India and Others, (2019) 14 SCC 615*, was identified at ¶3 as the Supreme Court decision formulating the Witness Protection Scheme. The Bench relied on that scheme when scrutinizing

police measures and stressing the early recording of testimony to reduce witnesses' vulnerability to pressure. The 20 October 2021 order in M.Cr.C. No. 47332/2021 is an earlier High Court bail order quoted as an example of witness non-production and the accused's prolonged detention; it is not a Supreme Court authority or the operative order in the present matter.

3. Statutes considered : The decision concerns an accused's fundamental right to a speedy trial and witness attendance and security in criminal trials. It cites the Supreme Court Witness Protection Scheme by reference to *Mahender Chawla*. The 2019 Police Headquarters circulars were administrative measures whose application only to High Court warrants was questioned in the direction to the DGP; the Court did not finally determine a question of statutory interpretation.

4. Issues : Whether police inaction in executing trial-court process against prosecution witnesses, including police officers, undermined speedy trial and witness protection; whether circulars monitoring only High Court warrants could justify neglecting trial-court process; whether the report, censure and claimed improvements adequately addressed failures; and what explanation and account of corrective steps the DGP should provide.

5. Ratio / Findings : The Court found the DIG's report focused on the wrong class of warrants and gave a distorted account of the execution of process against trial witnesses, despite reductions after High Court scrutiny. Police must efficiently execute witness process without waiting for the Court to prompt them. Delayed attendance can violate the accused's speedy-trial right and leave witnesses exposed to pressure; the scheme in *Mahender Chawla* provided the recognized framework for witness protection. The SP's inability to recall the earlier bail criticism and the punishment of censure alone heightened the Court's concern. The Court rejected the DIG report as slipshod and directed a personal affidavit addressing each issue from the DGP.

6. Relief : The Hon'ble High Court directed the DGP, Madhya Pradesh, to file a personal affidavit answering every one of the thirteen enumerated issues by 7 February 2022 and ordered the matter to be listed on 8 February 2022. A copy was to be supplied to the Additional Advocate General for communication through the Morena SP to the DGP. The former DIG's report was rejected.

State of M.P. v. Bhuribai, M.Cr.C. no. 46653/2021, 25/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (913) Prev Next

Headnote :- Section 273 CrPC — evidence in accused's presence — *Atma Ram v. State of Rajasthan*, (2019) 20 SCC 481, was considered: exceptions to the accused's presence must be found in the Code, such as Sections 299 and 317, or a valid dispensation from attendance with counsel present. The imprisoned accused here was not produced on either day of the investigating officer's examination and cross-examination, and no order, undertaking or consent dispensed with his attendance. Counsel's appearance did not imply waiver. The breach caused prejudice because the investigating officer's testimony was material and the accused had the right to observe the witness and assist in his defence.

Irregularity and cure — *Atma Ram* distinguished *Jayendra Vishnu Thakur v. State of Maharashtra, (2009) 7 SCC 104*, where witnesses from an earlier trial were unavailable and effective cross-examination impossible. Chapter XXXV and Section 461 CrPC distinguish irregularities that vitiate proceedings from breaches that can be remedied; re-examination in the accused's presence with cross-examination can remove the prejudice. The quoted *Ukha Kolhe v. State of Maharashtra, AIR 1963 SC 1531*, cautions that a complete retrial is exceptional. The existing conviction and death sentence were set aside, but the matter was remanded solely for the re-examination of investigating officer PW-20; no other evidence could be led.

Capital reference and limited remand — *Atma Ram* explained Sections 366–368 CrPC: a death sentence requires High Court confirmation, and the Court can direct additional inquiry or evidence, annul conviction or acquit even without a substantive appeal by the accused. Sections 386 and 391 provide related appellate evidence and retrial powers. In this combined reference and appeal the Bench directed the limited corrective procedure and an examination under Section 313 confined to any new facts emerging from PW-20's fresh evidence, with production and decision deadlines. The merits of guilt, POCSO and IPC charges, and capital sentencing were left for fresh adjudication by the trial court.

Case-note :- ***1. Facts :*** The High Court jointly considered Criminal Reference Capital No. 10/2022 under Section 366 CrPC and Chhatrapal Rawat's Criminal Appeal No. 12641/2022 against the judgment dated 5 December 2022 of the Special Judge (POCSO Act)/Second Additional Sessions Judge, Datia in Special Sessions Trial No. 15/2022. The trial court convicted him under Sections 363, 366, 376A and 302 IPC and Sections 5(l)/6 POCSO Act after the death of a nine-year-old girl missing from a wedding gathering in May 2022, and imposed death sentences under Section 376A, Section 302 and POCSO, along with lesser prison terms and fines for kidnapping-related counts. The narrative included a cousin child witness's account of the accused taking the girl away, postmortem findings of homicidal strangulation and possible sexual assault, seized clothing and biological samples, and forensic referrals. The accused was jailed but was not produced when investigating officer Kamal Kishore Goyal (PW-20) was examined on 17 October and cross-examined on 18 October 2022. The State conceded the absence, arguing that the defect could be remedied by recording fresh testimony rather than acquitting the accused. The reproduced trial order sheets show counsel appeared while the accused was absent and no reason, consent or dispensation was recorded; no video appearance was arranged.

2. Precedents — Considered : *Atma Ram and Others v. State of Rajasthan, (2019) 20 SCC 481*, was quoted at length and applied at ¶¶13,17–18. It treats the Section 273 presence right as valuable and recognizes express Code exceptions (including Sections 299 and 317 and dispensation with counsel present), while leaving a general implied-dispensation question unresolved where the accused objected. It distinguishes between irregularities under Section 461 that vitiate proceedings and curable defects under Chapter XXXV, requiring attention to prejudice and an effective cure. *Atma Ram*'s discussion of *Jayendra Vishnu Thakur v. State of Maharashtra, (2009) 7 SCC 104*, explained why relying on evidence recorded earlier from witnesses who were now unavailable, against an accused who had been in custody and unable to cross-examine them, caused inherent prejudice; re-examining available witnesses with the accused present is different. The nested quotation from *Jayendra Vishnu Thakur* cites *S.L. Kapoor v. Jagmohan* and *A.R. Antulay v. R.S. Nayak*. *Atma Ram* also interpreted Sections 366–368 and 386, 391 CrPC to permit further evidence, acquittal, retrial and the more limited step of a de novo examination of specified witnesses in a capital reference and appeal. Its quotation of *Ukha Kolhe v. State of Maharashtra, AIR 1963 SC 1531*, described a complete retrial as exceptional and generally inappropriate simply to let prosecution repair evidence it failed to adduce; *Ramanlal Rathi* appears within that nested quotation, rather than as an independent holding of the present Court.

3. Statutes considered : Section 273 CrPC requires trial evidence in the accused's presence, or, when personal attendance is dispensed with, in counsel's presence, subject to express exceptions; its proviso permits protective measures for a young female sexual-offence complainant while retaining cross-examination. Sections 299 and 317 are identified in *Atma Ram*'s quotation as exceptions, but no order dispensing with this prisoner's attendance had been made and no waiver had been established. Section 461 and Chapter XXXV address the consequences of irregularities. Sections 366–368 concern confirmation of a death sentence, further inquiry or evidence, and the High Court's powers on a reference; Sections 386 and 391 concern appellate relief and additional evidence. Section 313 governed any supplementary examination confined to genuinely new facts. The IPC and POCSO sections in the prior judgment identify charges and sentences, not fresh merits rulings here.

4. Issues : Whether examination and cross-examination of the material investigating officer while the imprisoned accused was absent violated Section 273; whether counsel's presence or implied consent cured the absence; whether the violation automatically required acquittal or total retrial; and the proper scope of relief in a death reference with a connected conviction appeal, including any further examination under Section 313.

5. Ratio / Findings : The prosecution had the accused in custody but offered no reason for failing to produce him; the trial judge recorded neither grounds under Section 317 nor consent from the accused or his counsel and made no arrangement for his appearance by video conference. The Bench found no implied waiver and concluded that the accused's absence during PW-20's material testimony prejudiced the right protected by Section 273. Following *Atma Ram*, it treated the defect as curable by re-examination with the accused present and full cross-examination, not as an automatic

nullity warranting acquittal. The death reference and appeal gave the High Court sufficient power to remedy the defect. It set aside the judgment and sentences and confined remand to PW-20, prohibited other new evidence and any additional defence not previously taken, required new factual matters from his testimony to be put to the accused under Section 313, and directed the prosecution to secure both participants.

6. Relief : The Hon'ble High Court set aside the trial judgment and sentences dated 5 December 2022 and remanded the matter for PW-20's evidence to be recorded afresh in the accused's presence. The witness and the accused were to be produced. Examination under Section 313 was confined to any new facts emerging from that evidence; no other evidence, application for new witnesses or new defence was permitted. A short adjournment to engage new counsel was permitted, with the next evidence date within ten days. The examination of PW-20 and any further examination under Section 313 were to be completed by 20 July 2026. Arguments were to be heard by 4 August 2026, and a fresh judgment was to be delivered by 19 August 2026; the trial record was to be returned immediately. The capital reference was answered on that basis, and the conviction appeal was disposed of. *State of M.P. v. Chhatrapal Rawat; Chhatrapal Rawat v. State of M.P., Cr.Rf.C. no. 10/2022; Cr.A. no. 12641/2022, 19/06/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Pushpendra Yadav, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (914) Prev Next

Headnote :- Appeal against acquittal — *Sambhaji Hindurao Deshmukh v. State of Maharashtra, (2008) 11 SCC 186, Bhim Singh v. State of Haryana, (2002) 10 SCC 461*, and *State of Punjab v. Ajaib Singh, (2005) 9 SCC 94*, were considered: the appellate court may reappraise evidence but does not reverse an acquittal based on a reasonably possible view merely because another view exists. Erroneous assumptions about material facts, disregard of evidence and a perverse view permit interference. Here the trial court accepted untested affidavits and misread the municipal file and physical inspection; its acquittal was reversed.

Defence evidence — Section 5 of the Prevention of Corruption Act required trial as a warrant case; Section 243 CrPC permitted the production of defence witnesses or the lawful issue of process to secure their attendance. Respondents had declined to lead evidence, yet affidavits of six persons accompanying written arguments were treated as proof without permission or cross-examination. The Court rejected that procedure. *Khandesh Spinning and Weaving Mills Co. Ltd. v. Rashtriya Girni Kamgar Sangh, AIR 1960 SC 571*, was considered as an analogy concerning proof by affidavit where specifically authorized and cross-examination under a different regime, not a basis for applying the CPC procedure for evidence by affidavit in this criminal trial.

Corruption attempt and document offences — Undated municipal notes claimed the submersible pump had already been removed, but the estimate included its removal, while the spot inspection record showed that it remained in the bore. Quotations bypassed the technical branch; a final bill for removal, cleaning, hand pump and platform work followed two days after the work order, with no installed hand pump on inspection. The Court found false documents and a concerted attempt to draw payment, despite payment being stopped after a complaint and before disbursement. It convicted Hari Singh under Section 15 Prevention of Corruption Act read with Section 120B IPC and contractor Kamal Kishore Puniyani under Sections 467, 468, 471, 420 and 120B IPC. Hari Singh's claim that he had obeyed his superiors did not establish good faith under Section 52 IPC, because he had failed to exercise due care despite the apparent contradictions in the file.

Sentence and relief — The Court declined to impose a sentence different from those awarded to the co-accused in the connected cases, noting that no notice of enhancement had been issued in those appeals. Hari Singh received six months' rigorous imprisonment and ₹10,000 fine on each of two counts. Puniyani received two years' imprisonment and a fine of ₹15,000 on each count of forgery or use of a forged document, and six months' imprisonment and a fine of ₹10,000 under Section 120B; no separate Section 420 sentence was imposed. The sentences were to run concurrently, with the stated terms of default imprisonment, and surrender was directed by 31 March 2022. Administrative placement before the Chief Justice was directed concerning the trial judge's reliance on affidavits.

Case-note :- ***1. Facts :*** In Criminal Appeal No. 959/2013 under Section 378 CrPC, the State challenged the acquittal dated 29 July 2011 by the

Special Judge (Prevention of Corruption Act), Gwalior in Special ST No. 1/2010 of Executive Engineer Hari Singh Khairwar under Section 15 PC Act read with Section 120B IPC and contractor Kamal Kishore Puniyani under Sections 467, 468, 471, 420 and 120B IPC. A complaint alleged fabricated municipal water-supply maintenance files in relation to work valued at about ₹2 crore. This appeal examined the Rangiyana Colony file for an estimated ₹9,940: an undated request from a councillor for a hand pump because a bore had low yield; undated engineering notes claiming submersible-pump removal and bore cleaning; an estimate that nevertheless charged for removal, cleaning, new pump and platform; quotations addressed only to three contractors and all entered consecutively on 19 August 2003; unauthorized opening of quotations by an assistant engineer instead of the technical branch; executive approval, work order on 30 December 2003 and contractor bill on 2 January 2004. A subsequent stamped endorsement and measurement entry certified completion of the work; payment recommendations and cheques were prepared, but complaint and inquiry stopped payment. Investigating officer Virendra Singh Tomar's spot panchnama did not locate a hand pump and indicated the old submersible pump remained in the bore. Witnesses described missing technical scrutiny, maps and measurements, though the committee inquiry had limitations. Sanction for Hari Singh was proved; prosecution of other officers and connected appeals had separate histories. Trial court accepted affidavits filed by Puniyani with written arguments from six persons never examined as defence witnesses and inferred work was done; both respondents had earlier stated they would lead no defence evidence. The High Court reviewed the original file and unexhibited documents on which the respondents relied, and found that those documents did not support their defence. The quotation, measurement book, note and spot panchnama formed part of the record; the panchnama records that the submersible pump remained in the bore and no hand pump had been installed.

2. Precedents — Considered : *Sambhaji Hindurao Deshmukh v. State of Maharashtra*, (2008) 11 SCC 186, was quoted at ¶14 on the limits of interference with an acquittal, including the rule that a reasonably possible view favouring the accused should not be reversed merely because another view is possible. *Bhim Singh v. State of Haryana, (2002) 10 SCC 461*, was quoted at ¶15 for restraint unless the trial view is perverse, unsupported or one no reasonable person would reach; its supporting citations were embedded in the quotation. *State of Punjab v. Ajaib Singh, (2005) 9 SCC 94*, was quoted at ¶16 for reappraisal coupled with preservation of a reasonably possible view supporting acquittal. The Bench applied these three authorities to find this trial acquittal perverse because untested affidavits and contradictions in the work record had been mishandled. *Khandesh Spinning and Weaving Mills Co. Ltd. v. Rashtriya Girni Kamgar Sangh, AIR 1960 SC 571*, was quoted at ¶63 for oral and documentary proof and the use of proof by affidavit where specifically authorized and subject to conditions under Order XIX CPC in industrial proceedings, subject to cross-examination safeguards. The Court expressly said CPC did not govern the criminal trial; it used the authority only to show that even that analogy would not admit affidavits filed without permission along with final arguments.

3. Statutes considered : Section 378 CrPC governed appeal from acquittal. Section 5 PC Act prescribed the warrant-case procedure, and Section 243 CrPC provided for producing defence witnesses or issuing lawful process subject to its conditions, rather than relying on affidavits untested by cross-examination; Section 313 recorded each respondent's position on the defence. Section 3 Evidence Act and Order XIX CPC were discussed only as a rejected analogy to affidavit proof. Section 15 PC Act and Section 120B IPC supported the attempted corrupt act and conspiracy conviction of Hari Singh; Sections 467, 468, 471, 420 and 120B IPC formed Puniyani's convictions for the fabricated records of work and billing. Section 52 IPC defined good faith by due care and attention.

4. Issues : Did the State meet the exceptional acquittal-reversal threshold? Were the office records and inspection sufficient to show that the claimed pump work had not been done and that officials and contractor had advanced a false payment claim, despite no release of funds? Could the trial judge accept affidavits from persons not examined as defence witnesses, filed with final arguments in a warrant-case trial governed by Section 243? Did following superiors' instructions satisfy Section 52 good faith in the face of obvious inconsistencies? What sentence was appropriate after reversal in light of the treatment of co-accused in connected cases?

5. Ratio / Findings : The Court reconstructed the procurement sequence and placed particular weight on the conflict between a note saying a pump was already removed and a bill including the removal cost; all quotations arrived consecutively, were opened without technical scrutiny, and a bill for work involving several components was submitted within two days. No hand pump was found and the pump said to have been removed remained in the bore. An undated councillor letter and summer-urgency explanation lacked support, and payment was stopped only after complaint. The affidavits on which the trial judge based its finding that the work had been completed had not been admitted through any procedure for defence evidence under the CrPC or tested by prosecution cross-examination. The judge's contrary assumptions about a simple two-day hand-pump installation ignored the full estimate and record. Under the three acquittal authorities, the trial court's view was perverse, rather than merely one of two possible views. The Court held that the file had been fabricated and the evidence sufficient to convict the two respondents on their respective charges notwithstanding non-payment. Hari Singh's assertion that he had followed his superiors' instructions did not satisfy the requirement of due care under Section 52 because obvious documentary anomalies fell within his checking function. The non-examination of the inquiry committee chair did not negate the evidentiary value of the other evidence.

6. Relief : The Hon'ble High Court allowed the State's appeal, set aside both acquittals and convicted Hari Singh under Section 15 PC Act read with Section 120B IPC, and Puniyani under Sections 467, 468, 471, 420 and 120B IPC. Hari Singh was sentenced to six months' rigorous imprisonment and ₹10,000 fine on each Section 15 and Section 120B count, with one month's rigorous imprisonment in default on each count. Puniyani was sentenced to two years' imprisonment and a fine of ₹15,000 on each count under Sections 467, 468 and 471, and six months' imprisonment and a fine of ₹10,000 under Section 120B, with two months' rigorous imprisonment in default on each count. No separate sentence was imposed under Section 420. The sentences were to run concurrently. Bail bonds were cancelled, surrender was directed by 31 March 2022, and the trial record was to be returned. The Registry was directed to place the matter concerning the trial judge before the Chief Justice on the administrative side.

State of M.P. v. Hari Singh Khairwar and Others, Cr.A. no. 959/2013, 03/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (915) Prev Next

Headnote :- Circumstantial evidence — *Sharad Birdichand Sarda v. State of Maharashtra, AIR 1984 SC 1622,* was invoked for a complete chain excluding any reasonable hypothesis consistent with innocence; the Bench accepted that principle and evaluated the prosecution independently of Section 313 admissions. The child brother's last-seen account, the accused's acknowledgment to the father that the child had been in his company, the movements recorded on CCTV, Y-DNA match and later flight collectively established guilt. *Padman Bihar v. State of Odisha, 2025:INSC:751, Digamber Vaishnav v. State of Chhattisgarh, AIR 2019 SC 1367, Arun Shankar v. State of M.P., AIR 2024 SC 1920*, and *Dinesh Kumar v. State of Haryana, (2023) 20 SCC 49*, were cited on the weakness of last-seen evidence and the need for temporal proximity; the Court accepted those limits but found the independent links decisive.

Electronic and scientific proof — Recordings from the DVRs of two shops were transferred to pen drives and accompanied by certificates under Section 65B of the Evidence Act. In the presence of counsel, the appellate court played Article A-2 in chambers, rejected the specific contention that the face was obscured, and assessed the father's unshaken identification and location evidence. The DNA report matched a Y-DNA profile in vaginal swab and slide with the accused's blood-derived profile; the suggested sample manipulation lacked proof, and the safe custody and transfer of the samples were not shown to have been compromised.

Section 313 CrPC — *Pramila v. State of U.P., Darshan Singh v. State of Punjab*, and *Palvinder Kaur v. State of Punjab, (1952) 2 SCC 177*, were considered: prosecution must first prove guilt; answers are read as a whole, not by selecting admissions and discarding the explanation. The Bench used the accused's admissions only to fortify its independent evidentiary findings, after examining his asserted family animosity. The convictions under Sections 366, 302 and 376AB IPC and Sections 5(m)(n)/6 POCSO were upheld.

Death reference — *Ramnaresh v. State of Chhattisgarh, (2012) 4 SCC 257*, was quoted for aggravating circumstances. The Bench said those factors did not fit, and declined to confirm the death sentence because no previous criminal antecedents or danger to society had been proved, commuting Section 302 punishment to life for the remainder of natural life plus ₹25,000 fine; the other sentences remained undisturbed.

Case-note :- ***1. Facts :*** The High Court decided Criminal Reference Capital No. 8/2023 under Section 366(1) CrPC with Kallu Rathore's jail Criminal Appeal No. 369/2024 against the judgment dated 12 December 2023 of the 11th Additional Sessions Judge/Special Judge (POCSO Act), Gwalior in SC No. 164/2022. A girl aged about nine or ten went missing after being seen near a temple with Kallu, a relative of her family who promised her ice cream. Her father later asked Kallu about her; Kallu said she had left after the purchase. Her body, showing rape and fatal head trauma, was found concealed by bushes near a railway crossing. The boy brother, parents and other relatives testified; CCTV from two shops traced a man and child toward the area. Police recovered DVR footage and Section 65B certificates and submitted biological samples, clothing, nail scrapings, hair and a stone to FSL. The vaginal slide and swab produced a Y-DNA male profile matching Kallu's blood-derived profile. He was arrested after being untraceable. Trial conviction was under Sections 366, 302 and 376AB IPC and Sections 5(m)(n)/6 POCSO, with death for murder, life for rape and POCSO, and seven years for Section 366; fines and default terms accompanied the trial sentences. He disputed CCTV identification, the non-examination of the ice-cream vendor and other children, family animosity, sample integrity and reliance on his Section 313 admissions. No defence witness was called. The judgment uses child victim references without naming her.

2. Precedents — Considered : *Sharad Birdichand Sarda v. State of Maharashtra, AIR 1984 SC 1622*, was cited by appellant at ¶21 for a complete chain of circumstantial evidence excluding any reasonable hypothesis consistent with innocence; the Bench accepted the principle and applied it to the aggregate evidence. *Padman Bihar v. State of Odisha, AIR 2025 SCW 2538, Digamber Vaishnav v. State of Chhattisgarh, AIR 2019 SC 1367, Arun Shankar v. State of M.P., AIR 2024 SC 1920*, and *Dinesh Kumar v. State of Haryana, (2023) 20 SCC 49*, were grouped in counsel's last-seen argument. *Pramila v. State of U.P.*, (2022) 2 MPLJ (Cri) 34 (SC), *Darshan Singh v. State of Punjab*, (2024) 2 MPLJ (Cri) 191 (SC), and *Palvinder Kaur v. State of Punjab, (1952) 2 SCC 177*, were cited at ¶22 and expressly accepted for the prosecution's burden of proof and the requirement to read Section 313 answers as a whole; the Court then examined the accused's explanation.

3. Statutes considered : Section 366(1) CrPC required High Court confirmation of a death sentence imposed by the trial court. Section 313 CrPC governed questioning of the accused; the answers could supplement, but not replace, independent prosecution proof. Section 65B Evidence Act certificates accompanied the two shop CCTV recordings; the Court assessed their clarity and identification. Its disposition affected the Section 302 death sentence and left the convictions and punishments on the other counts intact.

4. Issues : Whether the prosecution established a complete chain despite objections to last-seen identification, the non-examination of other children and the vendor, the clarity of the CCTV footage, purported family animosity and suggested DNA sample misuse; what weight could be given to the accused's Section 313 answers while respecting his explanation and the prosecution's burden of proof; and whether death should be confirmed in the capital reference after aggravating and mitigating circumstances were considered.

5. Ratio / Findings : The 12-year-old brother consistently described the accused's ice-cream inducement; the evidence of the father and mother, together with the other evidence, corroborated that Kallu had said the victim had later left his company. The Bench played the second CCTV pen drive in chambers in both counsel's presence and found that a man with a clearly visible face was accompanying a child; the father's identification and the relevant place and time were not challenged effectively in cross-examination. The authenticity of the pen drives, accompanied by Section 65B certificates, was not materially challenged. The Y-DNA match from intimate samples to the accused's blood was considered together with sample custody, transfer and absence of substantiated manipulation. These links, plus his subsequent flight, completed the chain beyond reasonable doubt. Under the cited Section 313 authorities, the Bench first assessed the independent prosecution evidence and then treated the accused's admissions as reinforcement and

rejected a bare animosity explanation. Convictions were upheld. For sentence, it quoted *Ramnaresh*'s aggravating examples and said they did not fit, while no prior criminal record or danger to society was proved. It declined death confirmation and substituted natural-life imprisonment for murder.

6. Relief : The Hon'ble High Court upheld the murder, rape, kidnapping-related and POCSO convictions. Confirmation of the death sentence was refused, and the sentence under Section 302 was commuted to life imprisonment for the remainder of the appellant's natural life with ₹25,000 fine, without a default sentence on that fine as stated by the Court. The sentences on other counts were left undisturbed. The capital reference and jail appeal were answered accordingly. Copies of the judgment were directed to be sent to the jail and the trial court for compliance.

State of M.P. v. Kallu Rathore; Kallu Rathore v. State of M.P., Cr.Rf.C. no. 8/2023; Cr.A. no. 369/2024, 17/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (916) Prev Next

Headnote :- Material omission in early account — A Dehati Nalishi lodged about two and a half hours after a village shooting specifically attributed the firing to Ramvir, Ghanshyam and Nathu, yet attributed no firearm, firing, surrounding of the house or stone throwing during firing to Kaushlendra. The later accounts attributing a gunshot to him differed as to whether he had struck Manohar, Mamta or Gomati. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, and *Tomaso Bruno v. State of U.P., (2015) 7 SCC 178*, distinguish harmless variations from contradictions or omissions destructive of a material prosecution assertion. The Court held that this was a material omission, while recognising that an FIR need not be encyclopedic. The later recording of the injured witnesses' case diary statements was not alone a reason to reject them; medical treatment and the four deaths furnished a plausible explanation.

Common object — The prosecution described successive stages: bursting of crackers; an objection followed by abuse and initial stone throwing; gunfire; and the alleged surrounding of the house and stone throwing during the gunfire. The last stage, if proved, could demonstrate joining an unlawful assembly with the shooters' object. It was omitted from the early report, however; site plans did not depict stones and none was seized; witnesses did not reliably establish the later conduct. The earlier bursting of crackers and abuse did not show that the respondents foresaw the gunfire or shared a common object to commit murder or attempted murder. Kaushlendra likewise had no proved overt act during shooting. No Section 294 IPC charge had been framed, so the suggested abuse could not support a separate conviction.

State appeal against acquittal — *State (Delhi Admn.) v. Laxman Kumar, (1985) 4 SCC 476; Bhim Singh v. State of Haryana, (2002) 10 SCC 461; State of Punjab v. Ajaib Singh, (2005) 9 SCC 94*; and *State of U.P. v. Nandu Vishwakarma, (2009) 14 SCC 501*, with *Chandrappa v. State of Karnataka, (2007) 4 SCC 415*, recognised the appellate court's full power to reappraise the evidence, while requiring restraint where the acquittal reflects a reasonable view and the accused has the benefit of the double presumption of innocence. No perversity or material illegality was shown. The seven respondents' acquittal was affirmed and the State's Section 378 CrPC appeal dismissed.

Case-note :- ***1. Facts :*** This Section 378 CrPC State appeal challenged the 2nd Additional Sessions Judge, Morena's 20 May 2005 judgment in ST No. 37/2001, Crime No. 204/2000, insofar as it acquitted seven respondents: Mahendra Singh alias Kallu Singh, Kaushlendra Singh, Sindhi Singh, Dinesh Singh Tomar, Kallu alias Kalyan Singh, Mahesh Singh and Rajesh Singh Sikarwar. Three others, Nathu Singh, Ghanshyam Singh and Ramvir Singh, were convicted; their separate appeals and the State's appeal concerning Ramant Singh in the cross case (Crime No. 203/2000, ST No. 229/2003) were heard together and pronounced the same day following *Nathilal*, but those appeals were not disposed of by this judgment. A son's birth celebration at Ramant's home was interrupted by crackers, objection, abuse and stones; the prosecution alleged shooting and later encirclement. Keshav, Jaswant, Raghunath alias Chhote Singh and Mamta died from gunshot wounds; Gomati and Manohar had gunshot injuries, supported by postmortems, MLCs and X-rays. The deaths and injuries were effectively unchallenged. The prompt Dehati Nalishi Ex. P.1 attributed shooting to the three convicted men, without assigning any role to the seven respondents after the firing began. At trial, witnesses attributed a shot at Manohar to Kaushlendra and alleged stone throwing around the house during firing by other respondents.

The State characterized the early omissions as minor because FIRs need not be encyclopedic and subsequent statements contained the allegations. The respondents relied on the reasonable trial view and acquittal restraint.

2. Precedents — Considered : *Nathilal & Ors. v. State of U.P. & Anr.*, 1990 Supp SCC 145, was relied on for the simultaneous hearing and same-day pronouncement of the cross-case and connected conviction appeals. *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, and *Tomaso Bruno v. State of U.P., (2015) 7 SCC 178*, were quoted to distinguish insignificant inconsistencies from omissions or variations that materially undermine the prosecution case. The Court applied them to the later allegation that Kaushlendra had a gun and fired it. *Yogesh Singh*'s quoted paragraph itself refers to *Rammi*, *Leela Ram*, *Bihari Nath Goswami*, *Vijay*, *Sampath Kumar*, *Shyamal Ghosh* and *Mritunjoy Biswas*; *Tomaso Bruno*'s quoted paragraph refers to *Dayal Singh*, *Radhakrishna Nagesh* and *Umesh Singh*. *State (Delhi Admn.) v. Laxman Kumar, (1985) 4 SCC 476*, recognised that an acquittal strengthens the presumption of innocence and that a reasonable view of the evidence should not be disturbed. *Bhim Singh v. State of Haryana, (2002) 10 SCC 461*, allowed independent reappraisal but cautioned against routine reversal merely because another view was possible; its quoted passage lists *Mohanlal Hargovind Dass*, *Balraj Singh*, *Wasudeo Ramchandra Kaidalwar* and *Ram Kumar Pandey* as earlier authorities referred to in that quotation. *State of Punjab v. Ajaib Singh, (2005) 9 SCC 94*, likewise required the view supporting acquittal to be unreasonable or perverse before interference. *State of U.P. v. Nandu Vishwakarma, (2009) 14 SCC 501*, quoted *Chandrappa v. State of Karnataka, (2007) 4 SCC 415*, on the appellate court's full power of review, the absence of a statutory restriction arising from expressions such as compelling reasons, the double presumption of innocence and the need to preserve a reasonable view supporting acquittal. The Bench applied those authorities after its own appraisal and found no perversity.

3. Statutes considered : Section 378 CrPC provided the State's acquittal appeal. Statements of several witnesses under Section 161 CrPC were recorded later: Gomati on 2 November, Rajabeti on 22 October, Manohar on 4 December and Kumher on 17 October 2000; delay alone was not decisive in the circumstances. Sections 147–149 IPC concerned alleged assembly, rioting and vicarious liability; murder and attempted murder were under Sections 302 and 307, with Section 34 also described in the opening acquittal account, while the detailed charge paragraphs use Section 149. Section 148 and Section 324/lathi allegations appeared in charge framing. No Section 294 charge for alleged abuse was framed. The medical evidence established the gunshot deaths and injuries but did not establish these respondents' criminal participation.

4. Issues : Whether a detailed, prompt first report's omission of Kaushlendra's possession of a gun or role after the firing began was material despite witnesses' later allegation, and whether delayed Section 161 statements or inconsistent victim identification changed that assessment; whether crackers, abuse or stones before firing established participation and a shared common object to commit murder or attempted murder, or whether stone throwing and surrounding during firing were reliably proved; and whether the trial acquittal was an unreasonable or perverse view warranting reversal on the State's appeal.

5. Ratio / Findings : The early report specifically named the three shooters and their victims but did not say Kaushlendra carried or fired a gun, returned with one, or acted during gunfire. Ramant could not explain the absence of these later assertions. Gomati, Rajabeti and Kumher varied over whom Kaushlendra had shot, while Manohar attributed a shot to him. The Bench regarded the substantive addition as a material improvement and inferred later deliberation, noting that Kaushlendra was the son of Ghanshyam, who had been convicted. It expressly declined to reject injured testimony merely on the dates of police recording: treatment and the four fatalities explained the delay. It nevertheless found no proved shot or contemporaneous overt act by Kaushlendra, and no shared common object or intention. For the other six, the Court separated the bursting of crackers, abuse and stone throwing before firing from the alleged encirclement and stone throwing after firing began. Throwing stones while shots were fired could indicate that a person had joined the unlawful assembly and shared its common object. However, Ex. P.1 did not allege that phase, some names were missing, the two site plans did not depict stones, no stones were seized, and witnesses were vague, silent or inconsistent about conduct during firing. Bursting crackers did not establish foresight of the shooting. The trial court's account

was plausible on this evidentiary record and the State identified no perversity. An appellate court has the full power to reconsider facts and law but does not overturn a reasonable acquittal view simply because it could draw another conclusion.

6. Relief : The Hon'ble High Court dismissed the appeal. The 20 May 2005 acquittal of all seven respondents in ST No. 37/2001 was affirmed, their bail bonds discharged, and the trial record ordered returned.

State of M.P. v. Mahendra Singh and Ors., Cr.A. no. 790/2005, 30/04/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (917) Prev Next

Headnote :- Section 273 CrPC and material witness absence — The jailed accused was not produced when the two doctors who prepared his semen slide and collected his underwear and pubic hairs were examined, yet the trial court relied on their testimony in a prosecution that included an offence under Section 377 IPC. The third witness examined that day spoke only of a co-accused's mobile number and caused no prejudice. Counsel's no-objection without the accused's instructions could not cure the State's failure to produce him or meet the requirements of Section 317. *Atma Ram v. State of Rajasthan, (2019) 20 SCC 481*, supported re-examination of the two material witnesses in his presence under the broad death-reference and appeal powers; a full retrial remains an exceptional remedy. **Expeditious listed evidence** — The advance fixing of evidence dates and the opportunity actually taken to cross-examine witnesses complied with Sections 230–231 CrPC. No contemporaneous request for more preparation time, or later application for recall, was made on the ground that a witness had appeared on the first scheduled date. *Gouri Shankar v. State of Punjab, (2021) 3 SCC 380*, supported rejection of the allegation that the pace of examination alone had caused prejudice.

DNA report and defence stage — After the prosecution case was effectively reopened for the DNA report Ex. C-1, the trial court dismissed an objection without recording or answering it, exhibited the report under Section 293, supplemented the Section 313 examination and heard final argument on the day the report arrived. The defence challenged the failure to specify the biological source of the DNA on the clothing and bed-sheet and sought an opportunity to question the scientific officer. Sections 232–234 require a meaningful opportunity to present the defence and final arguments; the compressed sequence caused actual prejudice. The trial court must decide the objections by a reasoned order or examine the expert, give the accused a renewed opportunity to lead defence evidence, and allow at least a week to prepare final submissions.

Disposition — The conviction and death sentences in the Section 366 reference and Section 374 appeal were set aside, all findings of conviction wiped out, and the matter remanded for the two doctors' fresh evidence and proceedings from the DNA report stage. Four months were allowed; counsel of choice or qualified legal aid was directed if requested.

Case-note :- ***1. Facts :*** CRRFC No. 9/2018 under Section 366 CrPC and Nandkishore alias Nandu's Criminal Appeal No. 6946/2018 under Section 374 concerned the judgment dated 13 August 2018 passed by the 1st Additional Sessions Judge, Datia in Special Sessions Trial No. 21/2018. Rishabh Gupta, a boy aged about ten, disappeared on 2 March 2018; his father reported calls by an unidentified person. Police viewed footage depicting him with Nandkishore and Ranu alias Dilip Sahu on a motorcycle, recovered a body packed in gunny bags from a canal following the recorded disclosures, and collected cloth, bed-sheet, biological, mobile/CDR and CCTV materials. The police alleged kidnapping for ransom, unnatural sexual assault, murder, destruction of evidence, POCSO and MPDVPK offences. Ranu was a juvenile ordered tried as an adult in Children's Court; that separate trial stalled after his flight from a special home, so the reference and appeal proceeded. Nandkishore was convicted under Sections 364A, 377, 302, 201 IPC, Sections 5/6 POCSO and Sections 11/13 MPDVPK Act; death sentences were imposed for kidnapping for ransom and murder, along with other terms of imprisonment and fines. He disputed the missing ransom demand in FIR, voluntary motorcycle boarding, CCTV hard disks, timing of recovery versus postmortem receipt, the stains and their source on the bed-sheet, the custody of samples, and the DNA report's unspecified source on clothing and bed-sheet. On 9 July 2018 the jailed accused was not produced when Dr S.S. Batham, Dr Dinesh Kumar and Rambihari Patsaria were examined. The doctors' testimony about the collection of the samples was relied on in

the trial judgment. Prosecution testimony had otherwise been recorded according to a closely spaced schedule announced in advance. On 10 August, the awaited DNA report Ex. C-1 arrived; objections were labelled ineffective without reasons, the accused was further questioned under Section 313, and final arguments were heard that day. Judgment followed on 13 August.

2. Precedents — Considered : *Atma Ram & Others v. State of Rajasthan, (2019) 20 SCC 481*, was quoted at length and applied to the recording of evidence in the accused's absence contrary to Section 273: not every irregularity vitiates a case, material prejudice can be repaired by re-examination in the accused's presence, and Chapters XXVIII and XXIX provide broad High Court powers including further evidence or an exceptional retrial. The quoted Supreme Court passage distinguishes *Jayendra Vishnu Thakur*'s irreparable lack of cross-examination under Section 299, and refers to *S.L. Kapoor, A.R. Antulay, State of Haryana, Rajasthan SRTC, Ukha Kolhe* and *Ramanlal Rathi* in its reasoning about natural justice and exceptional retrial. The quoted source's reference to four family murders concerns *Atma Ram*'s facts, not the single child death in *Nandu*. *Gouri Shankar v. State of Punjab, (2021) 3 SCC 380*, was quoted in rejecting a complaint based solely on rapid witness examination, in view of the actual opportunity to cross-examine and the absence of an application for recall.

3. Statutes considered : Section 273 CrPC required evidence to be taken in the accused's presence or, if his personal attendance had validly been dispensed with, in his pleader's presence; the Court rejected the purported consent given by counsel alone when the jailed accused had not been produced. Section 317 requires a proper basis for dispensing with attendance and recorded reasons. Any informed instruction from the accused must also be assessed; such an instruction was absent here. Sections 230–231 govern fixed prosecution evidence dates and discretionary deferral/recall; Section 311 was used to recall the father. Section 293 permitted use of a government scientific report but did not excuse reasoned disposal of an objection or a fair opportunity to seek cross-examination of the scientific officer. Sections 232–234 structure consideration of acquittal after prosecution evidence, calling upon the accused to enter on his defence, and final arguments. Section 313 questioning cannot compress the subsequent opportunity to present the defence and final arguments after new evidence. Sections 366–368 govern capital confirmation and further inquiry/evidence; Sections 374, 386 and 391 concern appeal and additional evidence.

4. Issues : Whether trial testimony of three witnesses recorded while the jailed accused was absent caused prejudice requiring cure, and whether counsel's no-objection without the accused's instructions sufficed; whether prompt examination of available witnesses on fixed dates independently impaired cross-examination; whether admission of a late DNA report with an unexplained rejection of objection, immediate additional Section 313 questioning and same-day final argument denied a meaningful defence; and what tailored relief a High Court on a death reference and conviction appeal could order without deciding guilt.

5. Ratio / Findings : Rambihari addressed a co-accused's telephone and had no incriminating account against Nandkishore; his examination in the accused's absence caused no relevant prejudice. The two doctors' testimony established the collection of his forensic samples and had been relied on by the trial judge in relation to a sexual-offence count. The accused's presence was therefore important to enable him to observe the witnesses and instruct counsel for cross-examination. The State's failure to bring a jailed accused could not be held against him, and counsel's undertaking, given without the accused's instructions, did not establish that attendance had been dispensed with under Section 317. *Atma Ram* supported limited re-examination rather than treating the entire trial as incurably void. The other trial dates were announced, witnesses were cross-examined, and there was neither a timely objection about readiness nor a request for recall, so their efficient examination did not itself cause prejudice. In contrast, directing production of the pending DNA report implicitly reopened the prosecution case. The defence's objection to its source and reliability had to be recorded and decided with reasons; merely describing it as non-effective was insufficient. After the report was marked under Section 293, further questioning under Section 313 and final arguments on the same day left no preparation time for a material new report or renewed defence, contrary to Sections 233–234; on these facts prejudice was clear. Confirmation under Section 366 is a continuation of the trial and obliged the High Court to secure fair process.

6. Relief : The Hon'ble High Court set aside the conviction and sentence dated 13 August 2018, and all findings of conviction stood wiped out. On remand, Drs Batham and Dinesh must be examined afresh in Nandkishore's presence; proceedings then resume at the 10 August DNA-report stage. He may file written objections, which must be decided by a reasoned order; an application to examine or cross-examine the scientific officer must be considered in accordance with law; he may seek defence evidence in light of the report. Only after compliance with Section 233 shall the case be fixed for final arguments, with at least one week allowed for preparation. The trial court shall decide without influence from its former findings, complete the exercise within four months from the date of receipt of a copy of this judgment, provide chosen or legal-aid counsel on request (the latter with at least 15 years' bar standing and criminal-law knowledge), and immediately provide this judgment free to the jailed accused.

State of M.P. v. Nandu (Nandkishore), Cr.Rf.C. no. 9/2018; Cr.A. no. 6946/2018, 26/07/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Common intention — Section 34 IPC — participation and acquittal — The State appealed the acquittal of Ram Outar and Subhash Sharma on charges under Sections 148 and 302 read with Section 149 IPC after two men were killed in a field attack. It argued that Subhash drove the tractor bringing the assailants and that both respondents surrounded the victims and joined exhortations; others had been convicted on the same evidence. The Division Bench examined the eyewitness record and found no proved individual participation or attributable act of these respondents, while the trial court had also recorded an acquittal on the rioting charge. It explained that Section 34 requires a joint criminal act in furtherance of common intention and some conduct by each participant, though each accused need not cause a separate injury. A covert act or deliberate omission may suffice in the circumstances. Mere common intention or association without proof of an act did not establish their constructive liability here. It affirmed the acquittal and discharged bail bonds.

Case-note :- ***1. Facts :*** In Criminal Appeal No. 542/2003 under Section 378 CrPC, the State challenged the judgment dated 4 February 2003 passed by the Sixth Additional Sessions Judge (Fast Track Court), Bhind, in ST No. 347/2000. By that judgment, Ram Outar (also rendered Ramavtar in the judgment) and Subhash Sharma were acquitted on charges under Sections 148 and 302 read with 149 IPC. On 16 October 1999, Mataprasad and Tejram went to a field to plough; children brought breakfast. The prosecution alleged that accused persons arrived in a tractor-trolley driven by Subhash, some armed with firearms, surrounded the men, and Murari fired; both victims died. Harendra lodged a prompt FIR. The State asserted that Harendra and Shriprakash placed both respondents in the surrounding group, exhorting that the victims not escape, and relied on convictions of other assailants. The defence supported the trial acquittal. The judgment records associated appeals by Ashok and Murari being decided separately and a delinked appeal by other accused who had absconded and had been tried separately. Those matters were separate from the disposition of this State appeal.

2. Precedents — Considered : *Suresh Sankharam Nangare v. State of Maharashtra*, 2012 (9) SCALE 345 was cited on the requirement of a prearranged plan and prior concert under Section 34, and the relationship between proved common intention and an individual overt act; the Court's discussion required proof of participation, by an overt or covert act, by each person sought to be held liable. *Shyamal Ghosh v. State of West Bengal, AIR 2012 SC 3539* was cited for the requirement of a plan and action in pursuance of it. *Mrinal Das v. State of Tripura, AIR 2011 SC 3753* was cited for the prosecution burden of proving actual participation of more than one person and shared intention. *Ramashish Yadav v. State of Bihar, AIR 1999 SC 1083* was cited on prior meeting of minds, which may develop at the spur of the moment. *Bijay Singh v. State of M.B., 1956 CrLJ 897* was cited for presence and prior concert; the judgment states that presence is required at ¶16 and gives an illustration of remote assistance at ¶11. *Hem Raj v. Delhi Administration, AIR 1990 SC 2252* was cited for the acquittal of alleged confederates whose participation was disbelieved, where only one assailant's participation was proved. *Dashrathlal v. State of Gujarat, 1979 CrLJ 1078* (SC), addressed why merely accompanying an accused is insufficient. *Rajagopalswamy Konar v. State of*

Tamil Nadu, 1994 CrLJ 2195 (SC), and *Sheikh Nabab v. State of Maharashtra, 1993 CrLJ 43* (SC), illustrated the need to assess proven acts and shared intention rather than impose collective murder liability without the requisite foundation.

3. Statutes considered : Section 378 CrPC provided for the State's appeal against acquittal. Section 34 IPC was discussed as a rule attributing a criminal act done by several persons in furtherance of common intention to each proven participant, with no requirement that every participant cause an individual injury. The statements under Section 161 CrPC, FIR, postmortems and cartridge recoveries formed part of the evidentiary background.

4. Issues : Did the State show a basis to disturb the two respondents' acquittal by proving their participation and shared intention or common object, despite evidence that other persons fired fatal shots? Were Subhash's alleged driving of the tractor and both respondents' alleged surrounding of the victims and exhortation to the assailants established with sufficient reliability? Could liability under Section 34 be inferred merely from association when the trial court found no act attributable to them?

5. Ratio / Findings : The Court explained that Section 34 requires a joint act in furtherance of shared intention and attributes that act to each participant. A participant's conduct may differ from the lethal act and may even consist of a deliberate omission in the circumstances. It nevertheless required a proven individual contribution to the joint action. On review of the trial record, Harendra's account did not establish Subhash's participation; the Bench found no proved overt act by either respondent and considered the rioting-charge acquittal. The medical evidence established both firearm deaths, and the eyewitnesses attributed the shooting to Murari and possession of a gun to Ashok. That evidence did not itself establish the participation of Ram Outar and Subhash. The State's tractor and exhortation theory did not displace the trial assessment. The Court dismissed the acquittal appeal for lack of merit. In paragraph 11, the Court stated that presence at the scene was not invariably necessary and gave examples of assistance from a distance. In paragraph 16, it stated that presence and prior concert were two necessary elements.

6. Relief : The Hon'ble High Court dismissed the State's appeal under Section 378 and affirmed the acquittal of Ram Outar and Subhash Sharma. Their bail bonds were discharged and further appearance before the Registry in this appeal was dispensed with. The trial record was directed to be returned.

State of Madhya Pradesh v. Ram Outar and Others, Cr.A. no. 542/2003, 30/04/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Evidence — material contradictions and incident genesis — The FIR named unknown assailants although relatives later claimed to have identified the shooter and briefed the informant. The earlier complaint, letters and statements identified a fireworks dispute as the origin of the incident; trial testimony denied it and gave incompatible sequences of the first shots. The Court rejected the alleged eyewitness accounts as materially changed and unreliable, rather than treating the variations as minor lapses caused by the passage of time.

Place of occurrence — *Bhagwati Prasad v. State of M.P., (2010) 1 SCC 697*, was considered: a changed spot affects proof when the defence establishes a deliberate, substantial change bearing on the entire case. Blood on the roof, a shoe near the dilapidated building, movement of the body and uncertainty about the bullet's trajectory supported a materially different place of occurrence. These circumstances undermined the witnesses' claimed opportunity to see the incident and their account of who was the aggressor; the doctor could not conclusively establish the relative positions of the deceased and the shooter.

Unexplained accused-side injuries — *Takhaji Hiraji v. Thakore Kubersing Chamansing, (2001) 6 SCC 145*, rejected an automatic adverse inference: the injuries must be serious and sustained in the same occurrence, and their effect must be assessed in light of the witnesses' evidence and the competing defence version. *Lakshmi Singh v. State of Bihar, (1976) 4 SCC 394*, explained that suppression may indicate an untrue genesis, support a probable defence or create doubt, but minor injuries or otherwise cogent independent proof may make non-explanation immaterial. Four deaths and two gunshot injuries arising from the cross occurrence were supported by medical evidence but remained unexplained by these partisan witnesses; in this factual combination the prosecution account was unreliable.

Witnesses — *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, was considered: relationship alone does not make a witness interested; a motive for false implication or benefit from the result, and the consistency of the evidence, matter. The witnesses' position in the cross case, suppression of the casualties, alteration of the place of occurrence and improvements in their testimony supplied concrete grounds for close scrutiny and rejection of their evidence here. *Matru v. State of U.P., (1971) 2 SCC 75*, *Kundula Bala Subrahmanyam v. State of A.P., (1993) 2 SCC 684*, and *Animireddy Venkata Ramana v. Public Prosecutor, (2008) 5 SCC 368*, were considered on abscondence: flight alone does not prove guilt, but can have contextual weight. The relatives' absence during immediate investigation added to, but did not replace, the credibility analysis.

Private defence and acquittal — With no reliable evidence that Ramant fired, the trial court's finding that he had fired in private defence could not stand. The acquittal was maintained because the prosecution had failed to prove its case, and was expressly described as honourable. *Gorle S. Naidu v. State of A.P., (2003) 12 SCC 449*, was considered: an appellate court may review acquittal evidence, but the strengthened presumption of innocence, the possibility of two reasonable views and the requirement of compelling and substantial reasons limit interference; unjustified exclusion of convincing evidence can warrant intervention. Here, the acquittal was justified, but the stated basis for it required correction. The State's appeal was dismissed, the acquittal under Sections 148, 302 or alternatively 302/149 IPC was upheld, and the bail bonds were discharged.

Case-note :- ***1. Facts :*** In Criminal Appeal No. 584/2008 under Section 378 CrPC, the State challenged the judgment dated 20 May 2005 passed by the Second Additional Sessions Judge, Morena, in ST No. 229/2003, acquitting Ramant Singh on charges under Sections 148, 302 or alternatively 302/149 IPC. Leave to appeal was granted only against Ramant, not nine co-accused. On 16 October 2000 Brajesh suffered a fatal gunshot; Angad's 21:15 FIR named unknown assailants, despite later claims that relatives had seen Ramant fire and told him. Police at the scene also discovered three bodies by Ramant's house and injured persons; a fourth person, Mamta, subsequently died. The other dead were Keshav, Jaswant and Raghunath; Gomati and Manohar survived gunshot injuries. A cross FIR and ST No. 37/2001 followed, with convictions of Nathu, Ghanshyam and Ramvir and acquittal of several others recorded as cross-case context. The linked appeals were heard simultaneously and pronounced the same day in light of *Nathilal v. State of U.P.*, 1990 Supp SCC 145; this judgment disposes of the appeal concerning Ramant. Ram Singh's private complaint and police charge sheet were tagged after Section 210 CrPC proceedings. At trial, the father Ram Singh, brother Mahesh and relative Munesh claimed to witness a street shooting; Angad was not an eyewitness. Rajesh and Kallu turned hostile, and Ramvir was examined as a court witness after a public prosecutor sought to drop him. The trial judge rejected the principal eyewitness accounts but reasoned that Ramant shot in private defence. On appeal Ramant argued that no reliable evidence established he fired at all.

2. Precedents — Considered : *Nathilal v. State of U.P.*, 1990 Supp SCC 145, was invoked at ¶1 for coordinated hearing of cross-case appeals, with separate judgments pronounced on the same day. *Bhagwati Prasad v. State of M.P., (2010) 1 SCC 697*, was quoted and applied at ¶49: a discrepancy in the place of occurrence gains significance if the defence establishes a deliberate, substantial change affecting the whole story. *Takhaji Hiraji v. Thakore Kubersing Chamansing, (2001) 6 SCC 145*, was quoted for the controlling qualifications: non-explanation of injuries is not invariably fatal; serious injuries sustained in the occurrence, partisan evidence and a plausible defence affect its significance. *Lakshmi Singh v. State of Bihar, (1976) 4 SCC 394*, was quoted extensively for the inferences from unexplained serious injuries and the alternative outcomes, including no adverse effect where injuries are minor or independent prosecution proof is cogent; its references to *Mohar Rai*, *Puran Singh and State of Gujarat v. Bai Fatima* appeared within that quotation. *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, was quoted and applied at ¶51: relationship alone does not make a witness interested; benefit, animus or a motive for false implication, and the evidence's inherent reliability, probability and consistency, matter. The reproduced passage also refers to *Kalki*, *Ganapathi*, *Dalip Singh*, *Jayabalan* and other authorities. *Matru v. State of U.P., (1971) 2 SCC 75*, *Kundula Bala Subrahmanyam v. State of A.P., (1993) 2 SCC 684*, and *Animireddy Venkata Ramana v. Public Prosecutor, (2008) 5 SCC 368*, were quoted at ¶52 on

abscondence: abscondence alone is weak evidence and may reflect innocent fear, but it can gain weight when considered with other circumstances; the Bench used the witnesses' immediate absence contextually. *Gorle S. Naidu v. State of A.P., (2003) 12 SCC 449*, was quoted and applied at ¶¶55–56 on reappraisal of acquittal evidence, the strengthened presumption of innocence, the possibility of two views and the need for compelling reasons for reversal.

3. Statutes considered : Section 378 CrPC provided the State's appeal against acquittal. Sections 148, 302 and 302/149 IPC were the charged alternatives; absence of reliable proof of Ramant's shot defeated direct murder liability, and the unappealed or upheld findings on lack of unlawful assembly/common object left the Section 149 route unavailable. The trial court exercised Section 311 CrPC to examine Ramvir as a court witness after the public prosecutor sought to give him up. The respondent was examined under Section 315 CrPC.

4. Issues : Did reliable evidence establish that Ramant fired the fatal shot, and could the State overturn his acquittal? Did the claimed witnesses suppress the fireworks origin, disagree about the first shooter, conceal the other four deaths and two injuries, shift the place of death, and falsely claim to have been in a position to witness the incident? What weight should be assigned to kinship, actual cross-case interest and immediate absence? If firing by Ramant was not proved, could the trial court nevertheless base the acquittal on private defence?

5. Ratio / Findings : Dr Parashar established Brajesh's homicidal firearm death, but could not fix the shooter's location from the bullet's downward path and gave several possible relative positions. Earlier records referred to fireworks, whereas the purported witnesses disowned that origin and gave materially different firing sequences. Angad's FIR named no assailant and claimed Mahesh, Ramvir and Rajesh could supply names, which was incompatible with the claim that Angad had immediately been informed that Ramant was the shooter. Ram Singh and Munesh were absent from initial police proceedings; Mahesh's Section 161 statement followed fifteen days later, his torch-repair detail was an improvement, and the trial court noted Munesh's hesitant demeanour. None reliably witnessed the killing. Physical evidence included blood on or flowing down from the roof of Brijlal's dilapidated house and a shoe near it; Brajesh's body had initially been moved and was eventually taken to a distant garden, while his admitted pistol was not recovered. The Court found a substantial, deliberate change in the claimed location affecting the prosecution theory; its assessment that Ramvir's shot could have hit Brajesh on the roof was a probable defence explanation supporting doubt, rather than a conclusive finding in this appeal that Ramvir had killed him. The four deaths and two gunshot injuries on Ramant's side were supported by medical evidence and arose from the same occurrence, yet the witnesses professed ignorance. Under *Takhaji* and *Lakshmi Singh* this combination, rather than non-explanation in isolation, undermined the prosecution. Their relationship alone would not make their evidence unacceptable under *Mohd. Rojali Ali*, but their concrete cross-case interest and material evasions rendered them unreliable. Their absence after the incident had contextual relevance under *Matru*, *Kundula* and *Animireddy*; it did not independently prove guilt. The prosecutor's effort to give up Ramvir, originally identified in the FIR as a possible source of assailant names, and the court's decision to examine him supported the conclusion that the real incident was being suppressed. With no other evidence that Ramant carried or fired a firearm, private defence did not arise as a basis for his acquittal. The Court reappraised the evidence under *Gorle S. Naidu*, found no ground to reverse the result, and corrected the unsupported finding that Ramant had fired the shot.

6. Relief : The Hon'ble High Court dismissed the State's appeal. The trial court's acquittal of Ramant under Sections 148, 302 or alternatively 302/149 IPC was maintained with the modification that he was honourably acquitted under Section 302 because the prosecution failed to prove he fired, rather than being acquitted on a finding of private defence. Acquittal on unlawful assembly/common object grounds was upheld. The bail bonds were discharged, no further appearance before the Registry was required, and the trial record was directed to be returned.

State of M.P. v. Ramant Singh, Cr.A. no. 584/2008, 30/04/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (920) Prev Next

Headnote :- Attempted corruption and conspiracy — The Court convicted Executive Engineer Karaiya under Section 15 of the Prevention

of Corruption Act read with Section 120-B IPC after examining his participation throughout the municipal waterworks file. He authorized quotations despite an estimate charging removal of a pump that the undated note claimed had already been removed, approved the outcome of three quotations received in sequence on the same day from selected contractors and opened by an unauthorised Assistant Engineer without scrutiny by the Technical Branch, and issued a work order on 30 December 2003. The contractor billed on 2 January 2004; the purported measurement book reproduced the estimated items without recording dimensions; later spot inspection found the old submersible pump in place and no replacement hand pump. Disbursement was stopped following the complaint. Non-payment did not answer the alleged attempt.

Proof and acquittal appeal — The trial judge confined Karaiya's role to calling quotations and treated non-expert witnesses' broad assurances of regularity as decisive despite the documents. Those witnesses' opinions did not constitute expert evidence under Section 45 of the Evidence Act. *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, supported an independent, fair assessment notwithstanding investigative deficiencies. *Sambhaji Hindurao Deshmukh v. State of Maharashtra, (2008) 11 SCC 186*, *Bhim Singh v. State of Haryana, (2002) 10 SCC 461*, and *State of Punjab v. Ajaib Singh, (2005) 9 SCC 94*, require respect for a reasonable acquittal view, yet allow reversal for incorrect assumptions about material facts or perversity. The documentary misreading made this acquittal perverse.

Sentence — After a separate hearing, Karaiya received six months' rigorous imprisonment and a fine of ₹10,000 on each count, with one month's rigorous imprisonment in default on each count. The substantive sentences were directed to run concurrently. The Court criticized similar co-accused terms as slight but followed parity because enhancement notice had not been given in their connected appeals. The bail bonds were cancelled, and he was directed to surrender by 31 March 2022.

Case-note :- ***1. Facts :*** In State of M.P.'s Section 378 CrPC appeal, the High Court reviewed R.N. Karaiya's acquittal by the judgment dated 29 May 2013 passed by the Special Judge (Prevention of Corruption Act), Gwalior, in Special Sessions Trial No. 01/2010. A complaint alleged fabricated municipal water-maintenance files of around ₹2 crore and illegal gratification; Lokayukt and municipal inquiries led to prosecution. This appeal concerned a particular Rangiyana Colony file, Article A-1, for claimed replacement of a submersible pump with a hand pump for ₹9,940. Karaiya was Executive Engineer; a councillor's undated request and Sub-Engineer Narendra Bhadoria's undated note asserted a bore was cleaned and old pump removed, while the estimate also included a charge for its removal. Assistant Engineer Ajay Pandvia proposed calling quotations, Karaiya authorized calling them in July 2003, only three contractors were approached, all undated bids arrived on 19 August in sequential inward-register slots, and Pandvia opened them despite the Technical Branch's role. Karaiya approved the selected low quote on 3 September and signed the work order dated 30 December. Contractor Kamal Kishore Puniyani billed on 2 January 2004; Narendra and Pandvia certified by a stamp that the work was satisfactory and cited a measurement book that contained price items but no actual measurements. Payment was recommended and a cheque endorsement appeared, but the complaint stopped release and the file was closed. Investigator Virendra Tomar's spot panchnama showed no hand pump and the old submersible still inside the bore. Committee members examined thousands of files cursorily without their own site visits, while the accounts of a separate investigator and the spot witness differed. The trial judge acquitted Karaiya on the premise that he only permitted the calling of quotations and later irregularities lay with others. Co-accused conviction and acquittal appeals were heard simultaneously, but their dispositions are separate.

2. Precedents — Considered : *Sambhaji Hindurao Deshmukh v. State of Maharashtra, (2008) 11 SCC 186*, was quoted for full review coupled with respect for a properly appreciated trial acquittal, interference when material facts are wrongly assumed or evidence not properly assessed, and preservation of an acquittal based on one of two reasonable views. The quoted passage cites *Ganesh Bhavan Patel*, *Babu, Awadhesh*, *Thanedar Singh* and *Raja Ram* as supporting authorities. *Bhim Singh v. State of Haryana, (2002) 10 SCC 461*, likewise rejects routine reversal for another possible view but permits it when the trial result is perverse or unsupported; *Mohanlal Hargovind Dass*, *Balraj Singh*, *Wasudeo Ramchandra Kaidalwar* and *Ram Kumar Pandey* are referred to within its quoted

passage. *State of Punjab v. Ajaib Singh, (2005) 9 SCC 94*, was cited for reappraisal and interference only if the acquitting view is unreasonable or perverse. *Dayal Singh v. State of Uttaranchal, (2012) 8 SCC 263*, was quoted for the criminal court's own responsibility to evaluate admissible evidence fairly and not let defective investigation decide the outcome. Its extensive quoted material references *NHRC, Zahira Habibullah, K. Yarappa Reddy, Ram Bali* and *Karnel Singh*; these authorities appear within the quotation on society's interest and the independent assessment of proof. The Court applied the acquittal cases to the mistaken view of Karaiya's actual role in the successive approvals and *Dayal Singh* to independent assessment.

3. Statutes considered : Section 378 CrPC governed the State's appeal from acquittal. The charge and ultimate conviction were under Section 15 Prevention of Corruption Act (attempted criminal misconduct as framed here) read with Section 120-B IPC concerning conspiracy. Sanction under Section 19 of the PC Act permitted the supplementary prosecution. Section 45 Evidence Act furnished the distinction between relevant expert opinion and an ordinary witness's unsupported conclusion: the court assessed Article A-1, measurement book Article B and Ex. P.21 itself. The co-accused's charges under Sections 420, 467, 468 and 471 IPC were described, but Karaiya was not convicted on them. Sentence on both counts was fixed after a separate hearing following conviction.

4. Issues : Whether Karaiya's participation ended with authorizing quotations or extended through approving selection and issuing the work order in a file bearing obvious anomalies; whether the stopping of payment or the witnesses' conclusory assurances displaced the documentary and spot-inspection evidence of an attempt to obtain payment for work not done; whether the trial court's contrary view was reasonable enough to withstand acquittal-appeal scrutiny; and what sentence should follow conviction when connected co-accused were given short terms without enhancement notice.

5. Ratio / Findings : The Bench compared the note asserting prior removal and cleaning with the estimate charging for removal; questioned the claim of a summer emergency in July and the unexplained replacement of the more effective submersible pump with a hand pump; and noted the absence of a record explaining the fate of municipal equipment. Karaiya approved the file without examining these inconsistencies, the restriction of quotations to three contractors, Pandvia's unauthorised opening of the quotations or the absence of Technical Branch scrutiny, then approved the selected quote and signed the order. The bill submitted two days later and the completion certificate were not supported by actual measurements; the court inspected the actual book rather than accepting Rajesh Sharma's statement that it contained measurements. The spot record placed the old pump inside the bore and found no replacement. The court recognized that evidence from a separate co-accused trial could not be read in this trial; it mentioned an earlier statement only while discussing departmental procedure, while relying on this record's documents and testimony for its conclusion. The trial judge's narrow premise that Karaiya only authorized calling bids disregarded his later approval and work order, and his reliance on a lay witness opinion rather than the file was contrary to Section 45's expert-opinion distinction. On cumulative evidence, the Bench found his participation in the attempted fraudulent payment and conspiracy to be proved beyond reasonable doubt even though no funds were disbursed. The acquittal was perverse rather than a reasonable view entitled to appellate restraint under *Sambhaji, Bhim Singh* and *Ajaib Singh*.

6. Relief : The Hon'ble High Court set aside the acquittal and convicted Karaiya under Section 15 of the PC Act read with Section 120-B IPC. After hearing counsel on sentence, the Bench called the connected co-accused's six-month punishments too slight but declined a different term here because their appeals lacked notice for enhancement. It imposed six months' rigorous imprisonment and ₹10,000 fine for each count with one month's rigorous imprisonment in default on each count; substantive terms run concurrently. The bail bonds were cancelled, surrender before the trial court was directed by 31 March 2022, and the State's appeal was allowed.

State of M.P. v. R.N. Karaiya, Cr.A. no. 338/2014, 03/03/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (921) Prev Next

Headnote :- Article 226 FIR mandamus — A police officer's duty under Section 154 CrPC to register information disclosing a cognizable offence does not, by itself, make a writ directing registration

the ordinary remedy for police inaction. *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, and *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, direct aggrieved informants to the Magistrate under Sections 190/200. The latter recognises rare relief under Article 226 for clear mala fide abuse and noncompliance, without directing how the investigation is to be conducted. The MP Division Bench in *Shweta Bhadauria*, W.A. No. 247/2016, applied the requirement to pursue alternative remedies, subject to *Whirlpool*'s exceptions, and distinguished *Lalita Kumari*'s registration duty from an independent entitlement to mandamus.

Remedial sequence — *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, described a written application to the Superintendent of Police under Section 154(3), followed by an application to the Magistrate under Section 156(3) for registration or proper investigation and for monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, reinforced the alternative remedy before the Magistrate and explained that the Magistrate may recommend replacing an investigator, but cannot investigate personally. The present writ was dismissed with express liberty to pursue a complaint under Section 200 CrPC/Section 223 BNSS.

Case-note :- ***1. Facts :*** Subhadra Jaiswal and the other petitioners filed Writ Petition No. 25390/2024 at Jabalpur under Article 226. They sought mandamus directing respondent authorities 2–5 to act on directions in an order dated 28 April 2023 and to decide representations dated 19 and 25 July 2024 after hearing private respondents 6–7. They also sought production of the records. Their counsel said that they had approached the police for registration of an FIR without result. State counsel objected that the proper remedy was a complaint before the Magistrate under Section 200 CrPC, identified in the order as Section 223 BNSS.

2. Precedents — Considered : *Aleque Padamsee v. Union of India, 2007:INSC:760 : (2007) 6 SCC 171*, was quoted on the police duty to register cognizable information and the complaint remedy under Sections 190/200 when the police fail to act. The quoted discussion distinguishes *Ramesh Kumari* and *Lallan Chaudhary*, which concern the police's substantive registration duty, from the remedial procedure addressed in *AIIMS Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. The sanction-related direction concerned the facts of *Aleque Padamsee*, rather than the present petition. *Divine Retreat Centre v. State of Kerala, 2008:INSC:341 : (2008) 3 SCC 542*, was quoted on rare Article 226 relief where a clear case of mala fide investigation and statutory abuse is shown. It also quotes *Gangadhar* and *AIIMS* on a complaint to the Magistrate under Sections 190/200, including the options to inquire, direct investigation, dismiss if no offence is disclosed, or issue process. *Sakiri Vasu v. State of U.P., 2007:INSC:1243 : (2008) 2 SCC 409*, was quoted on recourse to the SP under Section 154(3), followed by directions from the Magistrate under Section 156(3) for registration, proper investigation and monitoring. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, followed *Sakiri Vasu* and described a possible recommendation to change the investigating officer, while leaving investigation itself to the police. *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (Division Bench, 20 December 2016), was quoted for denial of FIR mandamus where alternative remedies had not been exhausted, unless the exceptions in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*, applied. Its second proposition distinguishes *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, which concerns the duty to register rather than an automatic entitlement to a writ. The order refers to the four *Whirlpool* exceptions but does not enumerate them.

3. Statutes considered : Article 226 confers public-law writ jurisdiction; the Court declined routine FIR mandamus in the presence of statutory remedies. Section 154 CrPC concerns registration of a cognizable FIR, with written recourse to the SP under subsection (3). Section 156(3) permits the Magistrate to direct and monitor investigation, but not to investigate personally. Sections 190/200 CrPC provide a private complaint and cognizance route. The operative liberty specified Section 200 CrPC or Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

4. Issues : Did the alleged failure to register an FIR justify mandamus and directions concerning the earlier order and representations under Article 226 despite the statutory remedies before the SP and Magistrate? How does the duty to register cognizable information differ from the remedy available when that duty is not performed? Was any rare public-law exception shown?

5. Ratio / Findings : The Court applied the quoted Supreme Court and Division Bench authorities in

directing ordinary redress to the Magistrate. The police must register a cognizable case when the facts disclose one, but a person alleging inaction can approach the SP and apply under Section 156(3), or make a complaint under Sections 190/200. *Divine Retreat Centre* reserves exceptional writ intervention for demonstrated mala fide investigative abuse and clear noncompliance with Chapter XII; *Shweta Bhadauria* recognises the *Whirlpool* exceptions.

6. Relief : The Hon'ble High Court dismissed the petition with liberty to the petitioners, if they so desired, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS for redress of their grievance.

Subhadra Jaiswal and Ors. v. State of Madhya Pradesh and Ors., W.P. no. 25390/2024, 05/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (922) Prev Next

Headnote :- Cross-FIR investigation and police discretion — No charge sheet or closure report had been filed in the petitioner's assault/trespass FIR, Crime No. 229/2021, although the police had filed a charge sheet in the opposite party's cross-FIR, Crime No. 230/2021. He sought an order under Article 226 compelling a charge sheet in his case. *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, rejects judicial directions prescribing investigative steps or requiring arrest, seizure and a charge sheet; the police may conclude that the evidence makes out a case or that no case is made out. The quoted decision also emphasises notice to persons affected by drastic orders and caution in exercising inherent power. The Bench declined to order the predetermined result sought.

Timely completion — Section 173(1) CrPC requires investigation to be completed without unnecessary delay. The investigating officer cannot leave the petitioner's FIR pending indefinitely and must determine the appropriate final report, whether a charge sheet or closure report, as early as possible. The Court disposed of the writ by directing completion and the necessary steps in accordance with law. It left the choice of report to the investigator and permitted the petitioner to take a grievance to the Superintendent of Police, Bhind.

Case-note :- ***1. Facts :*** Subhash Chandra Nagayach filed Writ Petition No. 23881/2022 under Article 226, seeking a direction to submit a charge sheet immediately. His report led Police Station Lahar, District Bhind, to register Crime No. 229/2021 under Sections 323, 294, 452, 506 and 34 IPC. The opposite party lodged Crime No. 230/2021 against him on the next day, 21 May 2021, under Sections 323, 294, 506, 34 and 325 IPC. The police had filed a charge sheet in Crime No. 230/2021, but had filed neither a closure report nor a charge sheet in Crime No. 229/2021. The petitioner therefore asked the High Court to compel the filing of a charge sheet in the case registered on his report.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted extensively. It disapproved unreasoned High Court directions to record witness statements, arrest, seize and file a charge sheet, because the police have the statutory duty and discretion to investigate and may find either a prosecutable case or none. Its incorporated quotation from *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explains that arrest under Section 41 CrPC is discretionary and affects liberty and reputation; it does not follow mechanically from an FIR. The decision also invokes *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on a hearing for those exposed to drastic directions for investigation. *D. Venkatasubramaniam*'s analysis of Section 482 confines inherent power to giving effect to orders under the Code, preventing abuse of process and securing the ends of justice. That case concerned an unreasoned order made without hearing the affected parties. The present Bench applied the principle against interference to the Article 226 request and did not issue the requested direction to file a charge sheet. The bank-account safeguarding and six-month directions in the quotation formed part of the order reversed in *D. Venkatasubramaniam*; they were not directions in the present case.

3. Statutes considered : Article 226 provided jurisdiction for the present writ petition. Section 173(1) CrPC expressly requires every investigation under Chapter XII to be completed without unnecessary delay; the final report may be a charge sheet or closure report according to the evidence. Sections 323, 294, 452, 506, 34 and 325 IPC identify the allegations in the two cross-FIRs. The discretion to arrest under Section 41 CrPC and the inherent power under Section 482 CrPC arise in the quoted Supreme Court reasoning.

4. Issues : Did the filing of a charge sheet in the cross case, while the petitioner's FIR remained pending, justify an order compelling the police to submit a charge sheet and arrest the accused in his FIR? Could the statutory duty to complete the investigation promptly be enforced without controlling its conclusion?

5. Ratio / Findings : The Supreme Court authority leaves the method of investigation and the evidence-based outcome to the police; the High Court should therefore not direct arrest or the filing of a charge sheet. The charge sheet in the cross case did not predetermine the result in the petitioner's case. Section 173(1), however, does not permit unnecessary investigative delay: the officer must complete the inquiry, decide whether an offence is made out and submit the legally appropriate final report, either a closure report or charge sheet. The Court directed prompt completion and the necessary lawful action while preserving that discretion.

6. Relief : The Hon'ble High Court disposed of the writ by directing the investigating officer to conclude the investigation in Crime No. 229/2021 as early as possible and take the steps required by law. The petitioner could apply to the Superintendent of Police, Bhind, with any further grievance, to be considered in accordance with law. The specific request to compel a charge sheet was not granted.

Subhash Chandra Nagayach v. State of Madhya Pradesh and Ors., W.P. no. 23881/2022, 03/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (923) Prev Next

Headnote :- Unexplained injuries and genesis — Subhash and three others were medically examined and arrested at hospital after the same fight over land in 1992. Subhash had multiple wounds to his head and elsewhere, with a suspected forearm fracture. Yet many prosecution witnesses denied or professed ignorance of injuries to the accused, although they themselves were being tried in the cross case. *State of M.P. v. Gopi, 1993 Supp (1) SCC 514; Dashrath Singh v. State of U.P., (2004) 7 SCC 408; Mono Dutt v. State of U.P., (2012) 4 SCC 79; Balwan Singh v. State of Haryana, (2005) 11 SCC 245; Ravishwar Manjhi v. State of Jharkhand, (2008) 16 SCC 561*; and *Takhaji Hiraji v. Thakore Kubersing Chamansing, (2001) 6 SCC 145*, were considered. Failure to explain the injuries does not automatically require acquittal. Here it was material because the serious injuries arose in the same occurrence, the accounts were partisan and a competing narrative was probable.

Possession and private defence — *Rame Gowda v. M. Varadappa Naidu, (2004) 1 SCC 769*, requires a true owner to use lawful means to recover property from someone in settled possession, while distinguishing a fleeting trespass. *Subramani v. State of T.N., (2002) 7 SCC 210*, and *Munshi Ram v. Delhi Administration, (1968) 2 SCR 455*, allow a defence of property and person to be assessed on a probability standard from the record, even without an express plea. Witnesses acknowledged Subhash's cultivation, the asserted Collector's restoration order was not produced, and the Section 145 and encroachment judgments relied on by the defence supported his possession. The complainants might have attempted forcible removal. The Bench found private defence available, but also doubted whether Subhash had fired.

Result — Medical evidence showed pellets in three complainants, but the 12-bore gun was recovered at the scene rather than from Subhash, and the prosecution did not give a dependable account of how the fight between the parties began. The surviving appellants' convictions on their respective rioting, trespass, hurt, Section 3(1)(iv)/(v) SC/ST Act and Section 27 Arms Act counts were set aside. The earlier, unchallenged Section 307/149 acquittals were not reopened, and Onkar's appeal had abated. The bonds were discharged.

Case-note :- ***1. Facts :*** This appeal under Section 374 CrPC challenged the Special Judge (SC/ST Prevention of Atrocities), Guna's conviction dated 20 February 2004 in ST No. 78/1993. On 21 November 1992 at Chak Parsi Kheda, Ram Prasad, Madan and Prem, who belonged to the complainant party and claimed Government allotments, encountered Subhash Sharma and his companions cultivating the disputed fields. Witnesses said that Subhash fired a 12-bore gun several times, wounding all three, and that the others carried lathis, a farsa or pistols. Medical examination showed pellet-like wounds with black edges, and X-rays showed radio-opaque objects in the three injured persons. The trial court convicted Subhash under Sections 147, 447 and 148 and three counts under Section 324 IPC, Section 27 Arms Act and Sections 3(1)(iv)/(v) SC/ST Act. Ramkishan son of Puran was convicted under Sections 147/447 and those SC/ST provisions; Soma, Gajanand and the other Ramkishan were

convicted under Sections 147/447. The trial acquittals on attempted-murder and several other counts were not appealed. Onkar died during the appeal, which abated as to him; Kajod had died before the trial ended, and Amra remained absconding. The defence maintained that Subhash was in settled cultivating possession, that the complainants sought to dispossess him forcibly, that the accused suffered grave injuries in the same occurrence, and that a right of defence arose. The prosecution claimed allotment and restoration of possession, but did not produce the asserted Collector's restoration order. Revenue records showed holdings of various tribal persons as well as Subhash's family, and the Patwari's 1992 demarcation placed Subhash in possession of certain allotted parcels. The defence exhibited a decision under Section 145 CrPC and several acquittals in encroachment cases. Several prosecution witnesses acknowledged that they themselves were facing trial in the cross case. Dr H.D. Sharma recorded numerous wounds to Subhash's head and elsewhere, and injuries to Soma, Gajanand and Kajod; the police admitted four accused to hospital and arrested them there. The 12-bore gun was seized from the scene, rather than from Subhash personally.

2. Precedents — Considered : *State of M.P. v. Gopi, 1993 Supp (1) SCC 514*, was quoted on the effect on eyewitness credibility of denying a grievous injury suffered by an accused in the same occurrence. *Dashrath Singh v. State of U.P., (2004) 7 SCC 408*, stated a contextual rule rather than a mechanical one, incorporating *Bhaba Nanda Sarma* and *Takhaji Hiraji*: the seriousness and timing of injuries, the quality of witnesses, a competing defence account and the origin of the fight all matter, and reliable prosecution evidence may still be accepted. *Mono Dutt v. State of U.P., (2012) 4 SCC 79*, similarly recognises exceptions to the normal expectation that same-occurrence injuries will be explained, first requiring consideration of their seriousness and timing. *Balwan Singh v. State of Haryana, (2005) 11 SCC 245*, makes the consequence depend on the facts and nature of the injuries. *Ravishwar Manjhi v. State of Jharkhand, (2008) 16 SCC 561*, considered grievous injuries requiring an explanation, distinguishing the minor injuries in its reference to *Ayodhya Ram*. *Takhaji Hiraji v. Thakore Kubersing Chamansing, (2001) 6 SCC 145*, *expressly rejects an invariant rule and relates significance to serious injuries caused in the same episode and partisan or competing accounts. Rame Gowda v. M. Varadappa Naidu, (2004) 1 SCC 769*, was quoted extensively on protecting settled possession even against a person with better title. It distinguishes inchoate or casual trespass and permits proportionate resistance to an intrusion. *Subramani v. State of T.N., (2002) 7 SCC 210*, addresses defence of person and property, the less onerous burden under Section 105 Evidence Act and concern about concealment of the incident's origin. Its quotation from *Munshi Ram* stresses that a person facing an immediate forcible intrusion need not first seek the authorities' help. *Munshi Ram v. Delhi Administration, (1968) 2 SCR 455*, was separately quoted for the principle that private defence may arise from cross-examination and defence evidence even without an express plea, and may be established on a preponderance of probabilities. The Bench ultimately doubted whether Subhash fired.

3. Statutes considered : Section 374 CrPC provided jurisdiction over the conviction appeal; proceedings under Section 145 CrPC formed part of the defence account of possession. Sections 147, 148, 149, 447, 307 and 324 IPC concerned the unlawful-assembly, trespass, attempt and hurt charges, but the unappealed Section 307 acquittals were outside this appeal. Sections 3(1)(iv) and 3(1)(v) SC/ST Act were the land-related atrocity counts. Sections 25/27 Arms Act appeared in the charge-sheet, and Section 27 was included in Subhash's conviction. Section 105 Evidence Act, discussed through *Subramani*, requires the accused to establish a general-exception defence on probability; it does not shift the prosecution's burden to prove guilt beyond reasonable doubt.

4. Issues : Did the serious injuries suffered by Subhash and his companions in the same occurrence, and denied by prosecution eyewitnesses, undermine the account of how the incident began and the reliability of the prosecution case? Who was in effective possession of the parcels, and could an allotted holder forcibly remove someone in settled possession without lawful process? Could private defence of person and property arise without a formally pleaded exception, and what burden applied? Did the evidence nevertheless prove Subhash's use of the gun and the distinct surviving IPC, SC/ST and Arms Act convictions beyond reasonable doubt?

5. Ratio / Findings : Hospital and medical records established injuries to the accused, including

multiple head wounds and a possible fracture for Subhash. Interested complainant witnesses denied or professed ignorance of those injuries although they faced trial for causing them. The cited Supreme Court decisions require a contextual assessment rather than automatic acquittal. Here the serious injuries in the same transaction, together with a credible dispute over who began forcible dispossession, made the failure to explain them indicative of concealment of the fight's genesis. Some witnesses acknowledged that Subhash was still cultivating the land; none produced the Collector's order said to have restored possession to the complainants. The Patwari's demarcation and earlier Section 145 and encroachment decisions supported the probability of settled possession. *Rame Gowda* prohibits even a rightful owner from forcibly evicting someone in settled possession as an encroacher, while distinguishing a new, casual intrusion. Under *Subramani* and *Munshi Ram*, defence of person and property can arise from cross-examination and documents without a specific plea, on a probability standard. The Court considered the complainant party's attempted forcible exclusion probable and found private defence available. Together with recovery of the gun from the scene rather than from Subhash, the admission of police enmity and the unreliable account of the incident's origin, these circumstances cast doubt even on the allegation that Subhash fired. The prosecution failed to prove the surviving charges beyond reasonable doubt. The merits of the unchallenged attempted-murder acquittals were not in issue.

6. Relief : The Hon'ble High Court allowed the appeal for the surviving appellants. It set aside all their impugned convictions and sentences on their respective counts under Sections 147/148/447/324 IPC, Section 3(1)(iv)/(v) SC/ST Act and Section 27 Arms Act, and acquitted them. The trial judgment of 20 February 2004 was set aside to that extent, and the bail and surety bonds were discharged. Onkar's appeal had already abated on his death, and the other trial acquittals had not been challenged.

Subhash and Ors. v. State of M.P., Cr.A. no. 213/2004, 01/05/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (924) Prev Next

Headnote :- Revision merger — The applicant had already challenged the CJM's order of 18 April 2017 taking cognizance under Sections 406/420 IPC in a Sessions revision, which was dismissed on merits on 26 August 2017. His Section 482 petition identified the CJM order but did not challenge the revisional order. The High Court held that the earlier order had merged into the later one; merely stating that the challenge concerned the entire proceeding did not cure that omission.

Double jeopardy — A prior conviction under Section 138 Negotiable Instruments Act in respect of the same dishonoured cheque did not, by itself, bar a private complaint under Sections 406/420 IPC. *Sangeetaben Mahendrabhai Patel v. State of Gujarat, (2012) 7 SCC 621*, distinguishes identical offence ingredients from overlapping transaction facts under Article 20(2), Section 300 CrPC, Section 26 General Clauses Act and Section 71 IPC. The statutory presumption of liability, initiation by complaint and absence of a requirement to prove fraudulent intent when the cheque was issued distinguish Section 138 from the IPC offences. *Kailash Chandra Jain v. Jai Kumar Jain* followed that distinction in a case involving an earlier NI Act acquittal. The High Court affirmed both orders and dismissed the application for inherent-power relief.

Case-note :- ***1. Facts :*** Subhodh Mishra filed M.Cr.C. No. 24507/2018 under Section 482 CrPC to quash the order of 18 April 2017 by which the Chief Judicial Magistrate, Ratlam, took cognizance in Criminal Case No. 1324/2017 under Sections 406 and 420 IPC. He had earlier filed Criminal Revision No. 52/2017, which the Sessions Judge, Ratlam, dismissed on merits on 26 August 2017. He nevertheless did not expressly challenge the revisional order in the present application, arguing that his challenge to the entire criminal proceeding made a separate challenge unnecessary. On the substantive ground, he submitted that proceedings under Section 138 Negotiable Instruments Act concerning the same cheque had resulted in his conviction by the JMFC on 15 March 2018 in Criminal Case No. 1094/2012. He argued that prosecution on similar allegations was therefore barred by Section 300 CrPC and Article 20(2). The order decides the procedural challenge and double-jeopardy objection at cognizance, rather than the truth of the accusations of cheating or criminal breach of trust.

2. Precedents — Considered : *Sangeetaben Mahendrabhai Patel v. State of Gujarat, (2012) 7 SCC 621*, was quoted for the test of identical

ingredients under Article 20(2), Section 300 CrPC, Section 26 General Clauses Act and Section 71 IPC. It explains that prosecution under Section 138 NI Act does not require proof of dishonest intention when the cheque is issued, whereas such intention may be relevant to the IPC offences. The NI Act provides for a presumption of antecedent liability, the possibility of adjusting a fine and commencement only by complaint, unlike IPC prosecution. Overlapping transaction facts do not make the offences identical. In *Sangeetaben*, the earlier NI Act proceeding was sub judice, whereas the present applicant asserted an actual conviction; the distinction between offence ingredients was nevertheless applied. *Kailash Chandra Jain v. Jai Kumar Jain*, M.Cr.C. No. 1415/2015 (MP High Court, 20 February 2017), was quoted as a subsequent application of that principle, holding that acquittal under Section 138 did not bar prosecution under Section 420.

3. Statutes considered : The applicant sought quashing through the inherent power under Section 482 CrPC. Section 300 CrPC bars retrial for the same offence after conviction or acquittal by a competent court, including its stated scope for an alternative charge on the same facts. Article 20(2) provides constitutional protection against double punishment. Section 26 General Clauses Act and Section 71 IPC were quoted through *Sangeetaben* to distinguish overlapping enactments and multiple punishment. Section 138 NI Act concerns dishonour of a cheque issued for an enforceable liability; Sections 406 and 420 IPC concern criminal breach of trust and cheating, with different ingredients. The IPC matter was brought by a private complaint under Section 200 CrPC.

4. Issues : Could a Section 482 challenge to the CJM's cognizance order succeed without a challenge to the Sessions Judge's subsequent revisional order on merits? Did a Section 138 conviction concerning the same cheque make the later private complaint under Sections 406/420 an impermissible second prosecution for the same offence?

5. Ratio / Findings : Once the revision against cognizance was dismissed on merits, the CJM order merged into the revisional decision, which had not been challenged. The applicant's description of his application as a broad challenge to the proceedings was insufficient. Independently, double jeopardy required identical legal ingredients, rather than merely the same cheque or overlapping allegations. The prior Section 138 conviction concerned statutory cheque dishonour, while the IPC case involved distinct elements, including dishonest or fraudulent intention relevant to cheating. The evidentiary requirements and manner of commencing proceedings under the NI Act also differ. Applying *Sangeetaben*, the Court held that the second complaint was not barred.

6. Relief : The Hon'ble High Court affirmed the CJM order of 18 April 2017 and the Sessions revisional order of 26 August 2017, and dismissed the Section 482 application. The subsequent IPC complaint could proceed.

Subhodh Mishra v. Vaheed Ali, M.Cr.C. no. 24507/2018, 01/08/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (925) Prev Next

Headnote :- Section 482 and family-specific allegations — After the husband, Suchit, died, his application abated. The wife's FIR alleged that he, the younger brother-in-law (applicant 2) and the mother-in-law (applicant 3) beat and expelled her on 3 April 2017 following dowry-linked instigation. Taking those specific allegations at face value, the Court declined to determine their truth or treat the defence's 2015 compromise as conclusive, and allowed the prosecution to continue against applicants 2–3. *XYZ v. State of Gujarat, (2019) 10 SCC 337*; *Gourishetty Mahesh, (2010) 11 SCC 226; CBI v. Arvind Khanna, (2019) 10 SCC 686; State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021; and *Taramani Parakh v. State of M.P., (2015) 11 SCC 260* guided the review of the allegations at face value without a mini-trial. The applicants invoked *Kahkashan Kausar* against omnibus implication, but that authority did not displace the specific allegations of their direct conduct.

Continuing cruelty — The wife alleged that she was expelled to her parents' home and later faced a demand for ₹1 lakh and an assault there. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, recognises the continuing mental trauma caused by dowry-linked expulsion; *Amar Singh v. Smt. Vimla* was cited to similar effect. Her residence at her parental home did not, by itself, defeat a complaint under Section 498-A. *Meera v. State, (2022) 3 SCC 93*, was cited on cruelty by a mother-in-law, but the decision to continue the present prosecution against her rested on her alleged participation.

Distant relative — Against the uncle-in-law, Ramu (applicant 4), the FIR alleged only vague instigation, without a personal assault or specified act. *Satish Mehra v. State (NCT of Delhi), (2012) 13 SCC 614; Kans Raj v. State of Punjab, (2000) 5 SCC 207; Monju Roy v. State of W.B., (2015) 13 SCC 693*; and *Chandralekha v. State of Rajasthan* supported intervention against a sham prosecution of a distant relative, even after trial had begun. Crime No. 337/2017 and RCT No. 906/2017 were quashed as to him alone.

Case-note :- ***1. Facts :*** Suchit Chourasiya and three relatives sought quashing under Section 482 CrPC of Crime No. 337/2017, Police Station Kotwali, Chhindwara, registered under Sections 498-A, 506 and 34 IPC and Sections 3/4 Dowry Prohibition Act, and of RCT No. 906/2017 before the JMFC. Suchit, respondent 2's husband, died on 27 April 2023. A death certificate was filed, his death was not disputed, his name was deleted and his application was dismissed as abated. The account gives 28 May 2013 as the marriage date. The wife alleged dowry-linked instigation by the younger brother-in-law (applicant 2), mother-in-law (applicant 3) and distantly related uncle-in-law (applicant 4). She also alleged that her husband drank, used sleeping pills and mortgaged her jewellery; that she was left at her parents' home around the birth of their son in 2014; and that she returned to the matrimonial home under a settlement dated 3 September 2015. She alleged that her husband and applicants 2–3 beat and expelled her on 3 April 2017, and that her husband demanded ₹1 lakh and beat her at her parental home on 28 May 2017. She said that she continued to reside there. The applicants denied the allegations, relied on the settlement and claimed that the relatives had been implicated generally. The respondents relied on specific allegations and the ongoing trial.

2. Precedents — Considered : The applicants cited *Kahkashan Kausar v. State of Bihar, (2022) 6 SCC 599*, on omnibus accusations against relatives; the Bench instead distinguished the roles actually alleged. The general limits on Section 482 review were supported by quotations from *XYZ v. State of Gujarat, (2019) 10 SCC 337*, on avoiding a roving inquiry or treating a disputed settlement as conclusive; *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, on premature assessment during investigation; *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, on the caution expressed in *Bhajan Lal*; and *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, on the limited exception permitting consideration of public or undisputed defence documents. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, distinguished examination of the ingredients at face value from an evidentiary trial. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, concerned the absence of a prima facie offence, while *CBI v. Arvind Khanna, (2019) 10 SCC 686*, reserved disputed facts for trial. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, prohibited meticulous weighing of evidence and stated that an FIR need not be an encyclopedia. *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* were also listed as similar authorities without separately stated source ratios. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted on continuing mental cruelty after expulsion; *Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020 (MP High Court, 22 June 2021), applied that reasoning. *Meera v. State, (2022) 3 SCC 93*, was cited on abuse by a mother-in-law. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, quoted *Amit Kapoor*'s extensive framework for prima facie quashing, cautioned against omnibus allegations against an entire family, and distinguished *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra*. *Satish Mehra v. State (NCT of Delhi), (2012) 13 SCC 614*, was quoted on rare intervention even after charge where the material, if accepted, discloses no offence; *R.P. Kapur* and *L. Muniswamy* were incorporated in that quotation. *Ravikant Dubey v. State of M.P.* was cited on the maintainability of a Section 482 application even during an advanced trial. The applicants also invoked *Geeta Mehrotra v. State of U.P., (2012) 10 SCC 741*, and *Preeti Gupta v. State of Jharkhand, (2010) 7 SCC 667*, concerning relatives. *Kans Raj v. State of Punjab, (2000) 5 SCC 207*, *Monju Roy v. State of W.B., (2015) 13 SCC 693*, and *Chandralekha v. State of Rajasthan* were quoted on the need for specific material against distant relatives and against delayed, vague allegations against the entire family.

3. Statutes considered : Section 482 CrPC provided the inherent power. The Court assessed the allegations against each person at face value, rather than trying the evidence or deciding the effect of the 2015 settlement. Section 498-A IPC concerns cruelty to a wife by her husband or his relatives, including the alleged mental trauma of compelled residence at

her parental home following dowry-linked expulsion. Sections 506 and 34 IPC and Sections 3/4 Dowry Prohibition Act were included in the FIR and proceedings. The husband's death caused his application to abate.

4. Issues : Did the specific prima facie cruelty allegations against the younger brother-in-law and mother-in-law survive Section 482 review despite the settlement, denial and timing objections? Did the general allegation of instigation against the distant uncle-in-law disclose a triable case? What effect did the husband's death have on his pending application?

5. Ratio / Findings : The Bench first recorded that Suchit's application had abated. It prohibited a mini-trial or reliance on a contested defence. Public or undisputed defence records may be examined in an appropriate case, but the 2015 reconciliation did not answer the allegations of acts in 2017. The FIR specifically alleged that applicants 2–3 joined in the beating and expulsion and instigated dowry pressure; those allegations warranted trial. Applying the cited *Rupali Devi* principle, the trauma of compelled residence with parents following dowry-linked expulsion can continue after the physical expulsion. The assertion that the wife lived at her parental home therefore did not defeat Section 498-A. The Court discussed the mother-in-law's position as a woman by reference to *Meera*, but the decision to proceed against her rested on her specifically alleged conduct. Ramu, a distant uncle-in-law, was not assigned any personal assault or particularised conduct beyond generic instigation. Even accepting the allegations in their entirety, continuing the prosecution against him would be an abuse of process. The Court reached different outcomes according to the act attributed to each person, rather than applying a blanket rule to all in-laws.

6. Relief : The Hon’ble High Court dismissed Suchit's Section 482 application as abated after his death and deletion of his name. It denied quashing to applicants 2 and 3, against whom the FIR and RCT continued. The application was allowed only for applicant 4, Ramu Chourasiya: Crime No. 337/2017 and the further proceedings in RCT No. 906/2017 were quashed as to him.

Suchit Chourasiya and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 45072/2018, 19/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (926) Prev Next

Headnote :- Section 498-A IPC — continuing mental cruelty - *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was quoted and applied for the principle that emotional distress caused by physical or verbal cruelty and forced departure from the matrimonial home can persist at the parental home even without new physical acts there. The FIR alleged that the husband and parents-in-law demanded Rs. 40 lakh, refused respondent no. 2 re-entry on 13 December 2021, and compelled her to return to her parents in Bhopal. At the Section 482 threshold, the Court treated the alleged dowry-linked exclusion and resulting mental trauma as continuing cruelty under Section 498-A, giving rise to a fresh cause of action from day to day.

Territorial investigation — parental-home nexus - The applicants' sole ground for quashing was that the alleged acts had occurred in Delhi and Mahila Thana, Bhopal, could neither investigate nor file a charge sheet. Counsel invoked Section 178 Cr.P.C. and *Y. Abraham Ajith and others v. Inspector of Police, Chennai and another.* Applying *Rupali Devi* to the alleged continuing psychological effect of the dowry-linked expulsion at the parental home in Bhopal, the Court found that part of the cause of action arose there. The police station had jurisdiction to investigate, and its charge sheet was not without jurisdiction on this ground.

Case-note :- ***1. Facts :*** The applicants were Sudesh Gupta, described as respondent no. 2's mother-in-law; her husband, the father-in-law; and their son, respondent no. 2's husband. They applied under Section 482 Cr.P.C. in M.Cr.C. No. 46173/2022. They sought quashing of Crime No. 2/2022 at Police Station Mahila Thana, Bhopal, registered under Sections 498-A and 34 IPC, on the sole ground pressed: lack of territorial jurisdiction. The police had already filed a charge sheet, and the applicants challenged its territorial validity as well as that of the FIR.

The FIR narrative, as recounted by the Court, stated that respondent no. 2 married on 7 December 2014 at Bhopal and faced physical and mental harassment for dowry. It alleged a current demand of Rs. 40 lakh and prior transfers of Rs. 67 lakh to the husband and some family accounts. She alleged that her husband's treatment had caused her to lose her employment and suffer a loss of Rs. 10 lakh. The FIR attributed a demand of Rs. 15 lakh to the husband from March 2021 and a demand of Rs. 25 lakh to the in-laws, and

stated that her marriage articles remained in the matrimonial home. It described continuous harassment from 7 August 2021. On 13 December 2021, when she sought to enter the matrimonial home, the parents-in-law allegedly insisted that she first arrange Rs. 40 lakh. She said she was refused entry, returned to her parents in Bhopal, and made two later telephone calls to her husband that went unanswered.

The applicants submitted that, even if the FIR allegations were accepted at their highest, all the acts occurred in Delhi. They therefore argued that Section 178 Cr.P.C. could not support investigation in Bhopal and that the charge sheet filed there was without jurisdiction. They cited two Supreme Court decisions. Counsel for the respondents opposed the application. The Court considered whether the alleged dowry-linked exclusion, compelling the wife to live at her parental home, could itself constitute continuing cruelty there. It resolved that territorial question and dismissed the application on 18 March 2024.

2. Precedents — Considered : *Rupali Devi v. State of U.P., 2019:INSC:479 : (2019) 5 SCC 384*, was quoted and applied. Its explanation of Section 498-A embraces both physical and mental cruelty. Abuse, humiliation or violence that drives a wife from the matrimonial home may cause emotional distress and fear of returning that persist at the parental home, even without further overt physical acts at the parental home. The present Court applied that continuing psychological effect to the alleged refusal of re-entry over dowry and the wife's resulting stay in Bhopal. It concluded that the FIR disclosed continuing mental cruelty in Bhopal for the purpose of territorial investigation.

Y. Abraham Ajith and others v. Inspector of Police, Chennai and another, Appeal (Criminal) No. 904/2004, decided 17 August 2004, and *Manish Ratan and others v. State of M.P. and another, 2007 (1) JLJ 198*, were cited by the applicants in support of their argument under Section 178 Cr.P.C. that the relevant acts occurred only in Delhi. Applying *Rupali Devi* to the alleged facts, the present Court rejected the contention that there was no connection with Bhopal.

3. Statutes considered : The applicants invoked the Court's inherent powers under Section 482 Cr.P.C. to quash the FIR and challenge the territorial validity of the filed charge sheet. They relied on Section 178 Cr.P.C. in their territorial argument; the Court resolved the dispute by finding that part of the continuing cause of action arose at the parental home. Section 498-A IPC governed the cruelty offence. Applying *Rupali Devi*, the Court recognised continuing mental trauma from dowry-linked expulsion even without renewed physical violence in Bhopal. The inquiry concerned the territorial competence of the police on the pleaded allegations, rather than a verdict on the monetary allegations.

4. Issues : (i) Even assuming that the alleged initial matrimonial acts occurred in Delhi, does a wife allegedly excluded for an unmet dowry demand experience continuing mental cruelty under Section 498-A at the parental home in Bhopal where she is compelled to stay? (ii) If part of that offence arises in Bhopal, does Mahila Thana have territorial competence to investigate Crime No. 2/2022 and file the charge sheet, thereby defeating the sole ground pressed for quashing under Section 482?

5. Ratio / Findings : The Court identified the decisive issue as whether forced removal or exclusion from the matrimonial home over dowry could itself amount to cruelty that persisted at the parental home. It quoted *Rupali Devi*'s explanation that mental distress can persist after physical abuse or abusive exchanges in the matrimonial home have ended. The absence of a new physical assault where the wife takes shelter does not necessarily end the psychological effects of the conduct that compelled her departure and left her afraid or unable to return.

Taking at face value the FIR's specific allegation that re-entry was refused on 13 December over a demand of Rs. 40 lakh, the Court held that the resulting compelled residence with her parents in Bhopal involved continuing mental cruelty under Section 498-A. It described a fresh cause of action arising each day while the dowry-linked exclusion persisted. Because part of the alleged cause of action arose within the territorial jurisdiction of Mahila Thana, Bhopal, the station could investigate, and its already filed charge sheet was not territorially invalid.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. Crime No. 2/2022 and the filed charge sheet were not quashed for alleged lack of territorial jurisdiction in Bhopal.

Sudesh Gupta and Ors. v. State of Madhya Pradesh and Ors., M.Cr.C. no. 46173/2022, 18/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (927) Prev Next

Headnote :- Article 226 — pending FIR — arrest and charge-sheet directions - The petitioners' complaint led to an FIR under Sections 420 and 406 IPC, but they sought arrests, additions of accused and offences, and completion of the investigation. Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court declined to direct arrest, a predetermined charge sheet or the manner of investigation. That Supreme Court ruling explains that an investigation may end in a charge sheet or a no-case report. The passage it quotes from *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, treats arrest under Section 41 as a matter of police discretion that affects liberty and must be exercised cautiously. The incorporated passage from *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, explains why drastic orders affecting persons require a hearing.

Section 173(1) Cr.P.C. — unnecessary delay — outcome-neutral report - The investigator has a statutory duty to complete the investigation without unnecessary delay and decide, on the material collected, whether a case is made out. The Court directed the investigator to conclude the investigation as early as possible and take the necessary lawful steps, permitting a closure report or charge sheet according to the evidence. The petitioners could present a grievance to the Superintendent of Police, Indore, for consideration in accordance with law.

Case-note :- ***1. Facts :*** Sudheer Verma and others filed Writ Petition No. 14048 of 2024 under Article 226 before the Indore Bench. Their complaint had resulted in a police FIR alleging cheating and criminal breach of trust under Sections 420 and 406 IPC. They said the police had neither arrested the accused persons nor completed the investigation. The prayer embedded in paragraph 1 sought action on the representation and Manpur police Crime No. 303/2023; early arrests; inclusion of a specifically named proposed accused and additional IPC provisions; completion of the inquiry within a time limit and presentation of a challan; alternative action if arrest did not occur; and other appropriate relief.

The petitioners' counsel pressed the lack of arrests and delay in completing the investigation into the registered FIR. The Court heard the matter and considered both the request to direct arrest or filing of a charge sheet and the independent statutory duty to complete the investigation. It disposed of the writ on 10 September 2024 with a limited direction to conclude the investigation and liberty to approach the Superintendent of Police.

2. Precedents — Considered : *D. Venkatasubramaniam and others v. M.K. Mohan Krishnamachari and another, 2009:INSC:1132 : (2009) 10 SCC 488*, was quoted at length and applied. In that case, the Supreme Court set aside a High Court order that, without reasons and without hearing the persons affected, described witness statements, arrest, seizure and filing of a charge sheet as obligatory police steps. The decision distinguishes the police duty to investigate from the courts' role: courts ordinarily may not prescribe the angle or method of investigation, and a completed investigation may support either a charge sheet or a conclusion that no case is made out. The quoted decision concerned the exercise of Section 482 jurisdiction, while the present matter was an Article 226 petition. The present Court applied the principle of police autonomy in investigation to reject the requested directions for arrest and a charge sheet.

The *D. Venkatasubramaniam* quotation incorporated *M.C. Abraham v. State of Maharashtra, 2002:INSC:575 : (2003) 2 SCC 649*, for the narrower proposition under Section 41 Cr.P.C.: police may arrest without a warrant in specified situations, but the power is discretionary, does not operate mechanically after every cognizable FIR, and must be exercised cautiously because it affects personal liberty, reputation and status. The quotation also incorporated *Divine Retreat Centre v. State of Kerala, 2008:INSC:341 : (2008) 3 SCC 542*, on the need for a reasonable hearing before a judicial order directs an investigation with consequences for persons whose reputation or interests may be affected. The material application in the present case was the refusal to supervise police discretion; the Court separately applied the requirement of prompt completion under Section 173(1).

3. Statutes considered : Article 226 of the Constitution provided the jurisdiction for the present writ petition. Section 41 Cr.P.C. featured in the quoted passage from *M.C. Abraham*. Section 173(1) Cr.P.C., expressly quoted and applied by the Judge, requires every Chapter XII investigation to be completed without unnecessary delay. The Court distinguished a lawful final report, whether a closure report or charge sheet, from an order predetermining its content.

4. Issues : (i) Did registration of an FIR for cheating and criminal breach of trust, together with the petitioners' dissatisfaction with police inaction, authorise an Article 226 order to arrest accused persons, include further persons or offences, file a charge sheet, or otherwise prescribe investigative steps? (ii) Could the police nevertheless leave the case pending indefinitely, or did Section 173(1) require an evidence-based final decision and report without unnecessary delay? (iii) Should the petitioners retain an administrative avenue for a later grievance?

5. Ratio / Findings : The Court refused the direction to arrest at the outset. The detailed Supreme Court reasoning in *D. Venkatasubramaniam* made clear that even a cognizable FIR does not impose an automatic duty to arrest, seize or file a charge sheet, and a court may not substitute its instructions for the investigating officer's evidentiary judgment. The incorporated *M.C. Abraham* passage explained the qualification on Section 41 discretion arising from its effect on personal liberty. The incorporated *Divine Retreat Centre* passage illustrated why judicial directions against affected persons can have drastic effects without notice. Drawing on that reasoning, the High Court reached the narrower conclusion required in this case: directing arrest or a charge sheet in the pending investigation would amount to supervising it.

The Court then quoted Section 173(1), which imposes a positive duty to complete the investigation without unnecessary delay. The restriction on judicial directions about investigative steps therefore did not permit indefinite pendency. The investigator had to decide whether an offence was made out and submit the appropriate final report, either a closure report or charge sheet, as early as possible. The direction required prompt completion and all necessary lawful steps without prescribing the outcome. It set no calendar deadline, directed no particular arrest and compelled no prosecutorial conclusion. The petitioners were given liberty to take any later grievance to the Superintendent of Police, Indore, who would consider it in accordance with law.

6. Relief : The Hon'ble High Court finally disposed of the writ. The investigating officer was directed to conclude the investigation as early as possible and take the steps required by law. In case of grievance, the petitioners could apply to the Superintendent of Police, Indore, who would consider the application in accordance with law.

Sudheer Verma and others v. State of Madhya Pradesh and others, W.P. no. 14048/2024, 10/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (928) Prev Next

Headnote :- Regular bail — pre-trial custody — trial unable to progress - On the prosecution's own account, a charge-sheet had been filed in the CBI Prevention of Corruption Act case, but sanction to prosecute the public servants had not been received, cognizance had not been taken and the trial could not proceed for the time being. Applying the presumption of innocence, the Court released the applicant, a private person, under Section 439 Cr.P.C. rather than continue her custody while the trial was presently unable to progress.

Regular bail — charge-sheet timing — default bail distinction - The investigating officer argued that, because the bail application preceded the charge-sheet, the applicant could not rely on the subsequent lack of trial progress. The Court rejected that contention and assessed the current custody position on regular bail. It expressly stated that it was not deciding default bail.

Bail order — complainant intimation - In the light of *Aparna Bhat and others v. State of M.P., Criminal Appeal No. 329/2021*, decided 18 March 2021, the Court directed that the complainant be informed of the grant of bail.

Case-note :- ***1. Facts :*** Suma Bhaskaran, whom the prosecution described as a private person, was arrested on 19 May 2024 in CBI AC-I, New Delhi, Crime No. RC2162024A0004/2024. The registered offences were Sections 7, 7-A, 8, 9, 10 and 12 of the Prevention of Corruption Act, 1988. She applied for regular bail under Section 439 Cr.P.C. before the charge-sheet was filed. By the hearing, the charge-sheet had been submitted, but her counsel said that no accused had been supplied a copy.

Investigating Officer Shri Som stated that sanction to prosecute the public servants had not yet been received. On the prosecution's stated position, the court could not take cognizance against those public servants and, until then, could not proceed against a private person such as the applicant. He said that copies of the charge-sheet would be supplied only after sanction and cognizance. During dictation of

the order, the officer argued that the applicant could not rely on this subsequent circumstance because she had applied before the charge-sheet was filed. The Court rejected that objection, considered the present inability of the trial to progress and granted conditional regular bail on 23 July 2024.

2. Precedents — Considered : The Court referred to *Aparna Bhat and others v. State of M.P., Criminal Appeal No. 329/2021*, decided 18 March 2021, in directing that the complainant be informed of the grant of bail.

3. Statutes considered : Section 439 Cr.P.C. governed the regular bail application. The registered allegations were under Sections 7, 7-A, 8, 9, 10 and 12 of the Prevention of Corruption Act, 1988. The investigating officer identified the absence of sanction to prosecute public servants and the absence of cognizance as obstacles to proceeding. The Court recorded that position as the reason the trial could not presently progress. It expressly distinguished regular bail from default bail. The presumption of innocence informed the custody decision.

4. Issues : (i) Was continued detention of the applicant justified on a Section 439 regular bail request when, on the prosecution's admitted position, sanction and cognizance remained pending and trial progress was presently blocked? (ii) Did the application's filing before the later charge-sheet prevent consideration of the current trial position, when no entitlement to default bail was being decided? (iii) What release and complainant-notification terms should be imposed?

5. Ratio / Findings : The Court considered whether the applicant could remain in custody when the trial was not progressing. It proceeded on the prosecution's own account that legal hurdles presently prevented the proceedings from moving forward. In that situation, and because guilt had not been established, the applicant could not be left in jail while the trial was unable to proceed. The conclusion was tied to the prosecution's admitted present impasse and the assessment under Section 439.

The Court rejected the officer's further contention about the charge-sheet's filing date because it was not deciding default bail. On regular bail, it could assess the current absence of trial progress at the hearing even though the application preceded the charge-sheet. It granted bail on a Rs. 1 lakh personal bond with one surety of the same amount and required appearance on the dates fixed by the trial or committal court. The order would remain effective until the end of trial, but would lapse upon a bail jump, leaving the trial court free to take the applicant into custody. Citing *Aparna Bhat*, the Court directed intimation of the bail grant to the complainant.

6. Relief : The Hon'ble High Court allowed the application for regular bail under Section 439 CrPC. *Suma Bhaskaran v. Union of India, M.Cr.C. no. 27895/2024, 23/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (929) Prev Next

Headnote :- Criminal-side writ — offence classification — investigation control - A complainant could not obtain an Article 226 direction requiring the police to add Section 452 IPC to the FIR merely because it had been omitted. The investigating agency remained free to add an offence if the evidence prima facie supported it. A judicial direction prescribing the section would amount to supervision of the investigation.

Criminal-side writ — arrest — hearing of affected persons - The petitioner had not impleaded the alleged accused whose arrest she sought. A coercive judicial direction could not be issued without making them parties. The Court applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, which rejects judicial prescription of arrest and investigative outcomes. Its quoted reasoning referred to *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on discretionary arrest under Section 41 Cr.P.C., and *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on hearing persons likely to be affected by drastic orders. The Court refused the requested direction to arrest.

Investigation — Section 173(1) Cr.P.C. — prompt lawful conclusion - Although the Court refused to direct addition of an offence or arrest, it applied the duty to complete investigation without unnecessary delay. The officer was directed to conclude the investigation in Crime No. 46/2021 as early as possible and take the steps required by law, deciding on the material whether to file a closure report or charge-sheet. The petitioner could refer any further grievance to the Superintendent of Police.

Case-note :- ***1. Facts :*** Suman Koli filed W.P. No. 11376/2021 under Article 226 after her report led Police Station Gwalior, District Gwalior, to register

Crime No. 46/2021. She complained that Section 452 IPC had not been added and that the alleged accused had not been arrested. The alleged accused were not joined as respondents.

No one appeared for the petitioner when the matter was called. Sanjay Kumar Sharma appeared for the State. The Court considered the writ contentions, refused to prescribe the offence or direct arrest, and quoted the Supreme Court on judicial control of investigation and hearing affected persons. It then applied Section 173(1) Cr.P.C. to require prompt completion and the steps required by law, and disposed of the petition on 14 December 2021.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted extensively and applied. The Supreme Court had set aside a High Court order requiring statements, arrest, seizure and a charge-sheet. The order had been issued without adequate reasons or notice to the affected persons. The principle preserves the police's statutory responsibility to investigate and their discretion over method and outcome. An investigation may lead to prosecution or a conclusion that no case is made out; a court should not mechanically prescribe coercive steps. The present Court applied that principle to refuse supervision of this FIR or a direction to arrest and file a charge-sheet. It also separately noted that the persons whose arrest was sought had not been made parties.

M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649, appeared in the *D. Venkatasubramaniam* passage. It explains that Section 41 Cr.P.C. gives the investigator discretion, rather than a mechanical duty to arrest immediately every person accused of a cognizable offence. The effect on liberty and reputation requires caution. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, also appeared in that quoted reasoning on the need for a reasonable opportunity of hearing before an order likely to affect a person's reputation or have drastic consequences. The references to Section 482 Cr.P.C. concerned the Supreme Court case; the present proceeding was an Article 226 writ.

3. Statutes considered : Article 226 of the Constitution provided the jurisdiction invoked for the writ directions. Section 173(1) Cr.P.C. was quoted and applied: investigation under the Chapter must be completed without unnecessary delay. The investigator must then decide whether the material supports prosecution or closure and take the reporting steps required by law. Section 41 Cr.P.C. appeared in the quoted Supreme Court reasoning on police discretion to arrest. Section 482 Cr.P.C. concerned that precedent's setting, rather than the present writ jurisdiction. Sections 294, 323, 506 and 34 IPC and the cited SC/ST Act provisions described the registered case only. The petitioner sought addition of Section 452 IPC; its ingredients were not tested, and the police remained free to add it if prima facie warranted.

4. Issues : (i) Could the writ court direct the police to add Section 452 IPC to Crime No. 46/2021? (ii) Could it compel arrest of the alleged accused, particularly when they had not been joined as parties? (iii) Could it require timely completion without dictating the investigating officer's method and the final decision to file a charge-sheet or closure report?

5. Ratio / Findings : The Court refused to direct inclusion of Section 452 IPC because doing so would substitute judicial supervision for the investigating agency's assessment. The police remained free to add offences supported by prima facie evidence.

On arrest, the Court first noted that the persons against whom coercive relief was sought had not been impleaded. It could not grant the request against persons who were not parties. The extensive quotation from *D. Venkatasubramaniam* gave a further reason: arrest, seizure and filing a charge-sheet are matters for investigative assessment, rather than necessary consequences of registering an FIR. The nested *M.C. Abraham* passage explained discretionary arrest, while *Divine Retreat Centre* addressed the hearing of persons likely to be affected by drastic judicial orders. In paragraph 9, the Court expressly refused to supervise the investigation by directing arrest or the filing of a charge-sheet.

On timing, the Court quoted Section 173(1) and required completion of the investigation without unnecessary delay. It directed the officer to conclude the investigation as early as possible, decide whether an offence was made out and take the steps required by law, including a final report that could be either closure or a charge-sheet. The duty to complete the investigation was thus enforced without predetermining its outcome, adding Section 452 or compelling arrest.

6. Relief : The Hon'ble High Court finally disposed of the Article 226 petition, directing the investigating officer to conclude the investigation as early as possible and take the steps required by law. It did not

direct addition of Section 452 IPC or arrest of the alleged accused who had not been made parties. The petitioner could submit any further grievance to the Superintendent of Police, Gwalior, for consideration in accordance with law.

Suman Koli v. State of M.P. and others, W.P. no. 11376/2021, 14/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (930) Prev Next

Headnote :- Section 482 Cr.P.C. — alibi — disputed defence evidence - The duty certificate relied on to show that the father-in-law and husband were elsewhere on the alleged incident dates required examination of the employer and proof of the documents. The accused could not discharge the burden of proving alibi by asking the Court to resolve disputed facts while exercising jurisdiction to quash the FIR.

Section 498A IPC — dowry-related expulsion — continuing cruelty - Specific allegations of dowry demands, abuse, assault and expulsion from the matrimonial home disclosed a triable case of cruelty at this stage. Applying *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, the Court held that mental distress caused by matrimonial cruelty may continue while the wife takes shelter in her parental home, even after physical acts at the matrimonial home have ceased. The allegations remained to be proved at trial.

FIR — preliminary enquiry — family dispute - The absence of a preliminary enquiry before registration did not, by itself, invalidate the FIR. The Court relied on *State of J&K v. Dr. Saleem Ur Rehman, Criminal Appeal No. 1170/2021*, decided 29 October 2021, to distinguish an enquiry into whether a prima facie basis exists for registration from investigation under the Code. It also relied on *CBI v. Thommandru Hannah Vijayalakshmi* for registration of a regular case where the available information adequately indicates a cognizable offence. Counsel cited *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*, but the Court did not accept that a preliminary enquiry was mandatory here.

Matrimonial FIR — relatives — face-value quashing test - Applying *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, the Court recognised the need for caution with omnibus accusations against relatives. Where the complaint discloses a triable case, however, its reliability is not tested against a competing defence before trial. The FIR alleged specific conduct by the father-in-law, mother-in-law and younger brother-in-law. The application under Section 482 to quash it was therefore dismissed.

Case-note :- ***1. Facts :*** The complainant, respondent no. 2, reported that she had married Monu Singh Gahlod on 18 April 2016. She alleged that, despite the cash, household goods and ornaments given at marriage, her husband and his relatives demanded a further Rs. 5 lakh and subjected her to verbal abuse and cruelty. The three applicants in M.Cr.C. No. 18966/2022 were her father-in-law Sundar Singh Gahlod, her mother-in-law and her younger brother-in-law. According to the FIR, the mother-in-law taunted her for insufficient dowry and instigated assaults, and the relatives participated in conduct culminating in her expulsion. The report described an assault on 7 December 2016, her father's visit the next day, removal of ornaments and her return to the parental home. It also described another visit and alleged assault on 21 March 2017, followed by refusals to let her enter the matrimonial home.

Crime No. 99/2019 was registered at Mahila Thana, Gwalior, under Sections 498A, 506, 294 and 34 IPC and Section 4 of the Dowry Prohibition Act. The applicants sought quashing under Section 482 Cr.P.C. Counsel asserted, without supporting material, that the husband had died during the pandemic. Counsel also argued that employer records placed the father-in-law and husband on duty on two dates, that the allegations against the relatives were vague, that no independent witness had been examined and that a preliminary enquiry should have preceded registration of the FIR in a family dispute. The Court heard the applicants, considered the allegations at face value and the legal objections, and dismissed the application on 27 April 2022.

2. Precedents — Considered : The Court reproduced and applied *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, which explains that Section 498A cruelty includes mental and physical suffering. Mental stress caused by conduct in the matrimonial home, expulsion and fear of returning may continue at the parental home after the physical acts have ceased. The Court applied that principle to the alleged expulsion and the complainant's continued residence with her parents, treating the pleaded continuing harm as legally relevant.

In *State of Jammu & Kashmir and others v. Dr. Saleem Ur Rehman, Criminal Appeal No. 1170/2021*, decided 29 October 2021, the Supreme Court distinguished a preliminary enquiry into whether a

prima facie basis exists for registering an FIR from investigation under the Cr.P.C. after registration. The passage reproduced by the Court explains that some enquiry into the allegations may occur before registration. It does not become investigation under the Code merely because it is detailed, and its duration and scope do not automatically invalidate subsequent proceedings or prejudice the accused. The present Court relied on that distinction to reject the challenge based on preliminary enquiry.

In *CBI v. Thommandru Hannah Vijayalakshmi alias T.H. Vijayalakshmi and another*, the quoted Supreme Court passage described the CBI Manual's preliminary-enquiry procedure where information suggesting serious misconduct needs verification but is not yet sufficient for a regular case. Once the information or its verification sufficiently indicates a cognizable offence, a regular case must be registered instead of a preliminary enquiry. The Court relied on that passage to reject the claim that a preliminary enquiry was mandatory here.

The Court quoted *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, on the standard for quashing, including caution with omnibus accusations against relatives in matrimonial cases. The authority also states that, where allegations disclose a triable case, the Court does not test their credibility against a competing version at the threshold. The complaint reproduced in *Taramani* was the factual example in that Supreme Court case, not the present complainant's complaint. Applying the principle to the individual allegations in this FIR, the Court refused quashing.

Counsel cited *Lalita Kumari v. Government of U.P. and others, (2014) 2 SCC 1*, to submit that a preliminary enquiry was desirable in a family dispute. The Court rejected the asserted implication that such an enquiry was mandatory by applying the later authorities discussed above.

3. Statutes considered : Section 482 Cr.P.C. provided the inherent jurisdiction invoked to quash the FIR. The Court confined its assessment to the allegations and declined to decide the alibi or disputed defence evidence. Section 498A IPC concerned the cruelty allegation, with *Rupali Devi* explaining continuing mental cruelty after expulsion. Sections 506, 294 and 34 IPC and Section 4 of the Dowry Prohibition Act were also registered offences, but their independent ingredients were not analysed in this order. In considering the registration objection, the Court distinguished preliminary enquiry before an FIR from investigation under the Cr.P.C.

4. Issues : (i) Could the employer duty certificates establish the asserted alibi of the father-in-law and husband and justify quashing the FIR under Section 482 without proof at trial? (ii) Did the FIR contain specific, triable allegations against the three relatives, and could dowry-related expulsion and mental distress at the parental home form part of the cruelty allegation? (iii) Did the absence of a preliminary enquiry in a family dispute, by itself, require quashing? (iv) Under the Supreme Court's standard for quashing matrimonial proceedings, did these particular allegations warrant quashing the FIR?

5. Ratio / Findings : The Court held that the accused bore the burden of proving alibi through cogent and reliable evidence. The asserted employer certificate and claim of being on duty required examination of the employer and proof of the documents. That defence could not be decided in proceedings under Section 482.

On cruelty, the Court found specific allegations against each applicant in the FIR and rejected the contention that the relatives had been implicated merely because of their relationship. It considered the alleged dowry-related expulsion and the complainant's stay at her parental home in light of *Rupali Devi*'s distinction between physical acts and their continuing mental effects. The pleaded conduct was capable of attracting Section 498A; proof and each applicant's liability remained matters for trial.

On registration, the Court distinguished a preliminary enquiry, which gathers prima facie information before an FIR, from investigation under the Cr.P.C. after registration. Applying *Saleem Ur Rehman* and *Thommandru Hannah Vijayalakshmi*, it rejected a categorical requirement of a pre-FIR enquiry and the contention that absence of such an enquiry alone warranted quashing. The CBI Manual passage concerned the context of the Supreme Court case and explained why information sufficiently disclosing a cognizable offence requires registration of a regular case rather than preliminary screening. Counsel's reliance on *Lalita Kumari* did not alter that conclusion.

Finally, applying *Taramani Parakh*, the Court recognised the need for caution where relatives face only omnibus allegations, but found a triable case in the specific narrative before it. It declined to conduct a mini-trial by comparing the FIR's reliability with

the asserted duty records. The finding that no ground for quashing had been made out concerned the sufficiency of the allegations at the threshold, not whether they had been proved. The application therefore failed.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 Cr.P.C. to quash Crime No. 99/2019. The FIR and ensuing criminal process were not quashed.

Sundar Singh Gahlod and others v. State of M.P. and others, M.Cr.C. no. 18966/2022, 27/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (931) Prev Next

Headnote :- Criminal-side writ — investigation control — police discretion - A writ seeking prompt and unbiased investigation of a registered FIR did not authorise the Court to direct arrest, seizure or the filing of a charge-sheet. The Court applied *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, which disapproved judicial directions requiring specified coercive steps or predetermined investigative outcomes. That decision discussed *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, on the discretionary power of arrest under Section 41 Cr.P.C. and its effect on liberty. It also cited *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, on notice to a person likely to be affected by drastic judicial directions. The present Court applied the principle limiting judicial control of investigation and did not direct arrest or the filing of a charge-sheet.

Investigation — Section 173(1) Cr.P.C. — no unnecessary delay - The statutory duty to complete investigation without unnecessary delay permits a direction to conclude the pending FIR investigation and take the steps required by law. The officer must decide on the material whether to file a charge-sheet or a closure report. The writ was disposed of with that limited direction and liberty to approach the Superintendent of Police with any further grievance.

Case-note :- ***1. Facts :*** Sundar Singh Yadav filed an Article 226 petition before the Madhya Pradesh High Court at Gwalior. On his complaint, Police Station Vishwavidyalaya, District Gwalior, had registered Crime No. 112/2022 under Sections 420, 406 and 34 IPC. The prayer identified the FIR as dated 26 March 2022. The petitioner asserted that the police had not yet concluded the investigation and sought directions to respondents 2 and 3 to investigate expeditiously, fairly and without bias, along with ancillary relief and costs. The Court heard the petitioner's counsel, set out the Supreme Court's limits on judicial intervention in investigation, quoted Section 173(1) Cr.P.C. and disposed of the petition on 22 November 2022.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted at length and applied. The Supreme Court had set aside a High Court direction requiring the police to record statements, arrest, seize property and file a charge-sheet. The direction had been issued without reasons and without hearing the affected persons. The police have the statutory duty to investigate, and the conduct of the investigation falls within their domain. The evidence may support prosecution or a conclusion that no case is made out. A High Court cannot mechanically prescribe particular investigative acts or conclusions under Section 482 Cr.P.C. Caution is required before issuing directions or observations with drastic consequences. In Yadav's Article 226 petition, the Court applied that authority to hold that directing arrest and the filing of a charge-sheet would amount to supervision of the investigation, which it could not undertake.

Within the reproduced Supreme Court reasoning, *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, explained that arrest under Section 41 Cr.P.C. in a cognizable case is discretionary; recording an FIR does not impose an immediate duty to arrest. The need for arrest must be assessed cautiously because it affects liberty and reputation. That reasoning supported the principle in *Venkatasubramaniam* against ordering arrest through a writ direction. *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, appeared in the same quoted passage on the need for a reasonable hearing before judicial directions likely to affect a person's reputation and liberty.

3. Statutes considered : Article 226 of the Constitution provided the writ jurisdiction invoked for directions concerning the pending FIR investigation. Section 173(1) Cr.P.C. was expressly quoted: investigation under the relevant Chapter must be completed without unnecessary delay. Applying that duty, the Court required the officer to complete the investigation and take the consequential steps required by law, leaving the material to determine whether a charge-sheet or

closure report should be filed. Section 41 Cr.P.C. appeared in the Supreme Court quotation on discretion to arrest. Section 482 Cr.P.C. concerned the procedural setting of the Supreme Court case and the limits of intervention under the inherent power. Neither provision was the operative jurisdiction in the present petition. Sections 420, 406 and 34 IPC identified only the registered accusations; their ingredients were neither analysed nor decided.

4. Issues : (i) Could the writ court require specified investigative steps, including arrest and filing a charge-sheet, in response to a complainant's request for fair and expeditious investigation? (ii) Did the continuing investigation attract the Section 173(1) duty to complete it without unnecessary delay, and what direction could be issued without prejudging the outcome of the report?

5. Ratio / Findings : The Court applied *D. Venkatasubramaniam* to distinguish permissible judicial oversight from police discretion in investigation. The quoted Supreme Court reasoning explained why protective directions may improperly predetermine arrest, seizure and prosecution. Those steps require the investigator's assessment of the evidence, and the completed investigation may properly result in either a charge-sheet or closure. The quoted *M.C. Abraham* passage stressed caution in arrest and its effect on liberty. The *Divine Retreat Centre* passage addressed drastic directions against persons who had not been heard. In paragraph 5, the present Court drew the narrower conclusion that it could not supervise the investigation and that directing arrest and the filing of a charge-sheet would amount to such supervision.

At the same time, Section 173(1) imposed a duty to complete the investigation promptly. The officer could not leave the registered investigation pending indefinitely. The Court required completion as early as possible and the steps required by law, including an appropriate report after the officer had decided whether an offence was made out. Paragraph 7 expressly refers to both a closure report and a charge-sheet; the direction therefore did not compel prosecution. The limited relief required expedition while leaving assessment of the investigation's outcome to the officer.

6. Relief : The Hon'ble High Court finally disposed of the Article 226 petition. It directed the investigating officer to conclude the investigation as early as possible and take the steps required by law. The petitioner remained free to apply to the Superintendent of Police, Gwalior, concerning any grievance, to be considered in accordance with law.

Sundar Singh Yadav v. State of Madhya Pradesh and others, W.P. no. 25609/2022, 22/11/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (932) Prev Next

Headnote :- Bail — successive application — framing of charge - After the earlier rejection on merits, the framing of charges was not a favourable change of circumstance merely because it occurred later. The trial court had found prima facie material to proceed. Applying *Virupakshappa Gouda v. State of Karnataka, (2017) 5 SCC 406*, the Court reasoned that filing a charge-sheet reflects the investigating agency's prima facie case and does not, by itself, amount to a changed circumstance warranting bail. The subsequent framing of charges was likewise insufficient.

Bail — pre-trial liberty — Section 436A Cr.P.C. - The Court applied *Kalyan Chandra Sarkar v. Rajesh Ranjan, AIR 2005 SC 921*, for the principle that detention authorised by law for a non-bailable offence does not, by itself, violate Article 21. Pre-trial detention is not punishment, and Section 436A prescribes statutory custody thresholds. The Court described half the maximum period as an outer limit. The provision quoted in the judgment, however, permits continued detention beyond that point after hearing the Public Prosecutor and recording reasons, while absolutely prohibiting detention beyond the maximum period. It excludes delay caused by the accused from the calculation. The applicant did not claim to have reached the half-period threshold.

Bail — claimed trial delay — record and non-disclosure - The Court rejected the submission based *on* delay and *Dipak Shubhashchandra Mehta v. CBI, (2012) 2 SCC (Cri) 350*, because the applicant had produced no order sheets showing delay or establishing that he had not sought adjournments. It also recorded his failure to disclose the dismissed Section 482 challenge to the charge-sheet. As no changed circumstance was demonstrated, the third regular bail application was dismissed.

Case-note :- ***1. Facts :*** Sunil Gupta was arrested on 1 March 2021 in Crime No. 107/2021 at Police Station Maharajpura, Gwalior, in connection with allegations under Sections 354, 376 and 506 IPC and Sections 3–8 of the Protection of Children from Sexual Offences Act, 2012. His first bail application

under Section 439 Cr.P.C., M.Cr.C. No. 20833/2021, had been dismissed on merits on 29 April 2021. The present M.Cr.C. was the third application for regular bail.

The applicant also sought three months' temporary bail through I.A. No. 24337/2021. Counsel submitted that, during the applicant's custody, his wife had been staying with his sister, who would no longer accommodate her, and that he needed time to arrange a residence. During argument, counsel accepted that the applicant's mother and his wife's parents and sibling were alive. The claim that her parents would not assist because the marriage had taken place without their knowledge or consent had no supporting material on record. The Court rejected temporary bail because it could not conclude that nobody was available to look after her.

For regular bail, the applicant relied on the framing of charges as a change since the earlier rejection on merits. He also invoked the presumption of innocence, the principle that pre-trial detention is not punishment and the availability of successive applications on changed circumstances, and alleged delay in trial. Charges had been framed on 31 July 2021. The Court noted that no order sheets had been produced to show the progress of the proceedings or the causes of any delay. It also noted the applicant's failure to disclose in this bail application that his application under Section 482 Cr.P.C. to quash the charge-sheet had been dismissed.

2. Precedents — Considered : The Court expressly relied on *Virupakshappa Gouda and another v. State of Karnataka, (2017) 5 SCC 406,* for the proposition that filing a charge-sheet does not itself constitute a changed circumstance for bail. It reflects the police assessment that prima facie material is sufficient to send the accused for trial. By analogy, the Court found that the later framing of charges, reflecting the trial court's prima facie assessment, was not a favourable change.

Counsel cited *Kalyan Chandra Sarkar v. Rajesh Ranjan, AIR 2005 SC 921,* for the availability of successive bail applications on changed circumstances. The Court separately relied on its treatment of lawful detention: custody for a non-bailable offence, when authorised by law, does not merely by its existence violate Article 21. Reading that principle with the quoted Section 436A framework, the Court rejected the claim to immediate release because the applicant did not claim to have met the relevant custody threshold.

Counsel relied on *Dipak Shubhashchandra Mehta v. Central Bureau of Investigation and another, (2012) 2 SCC (Cri) 350,* to seek bail on the ground of trial delay. The Court found that reliance misconceived on the material before it: no order sheets had been filed to establish delay or show that the applicant had not sought adjournments.

Counsel cited *Sanjay Chandra v. Central Bureau of Investigation, 2012 (1) SCC 40,* and *Azhar Sah v. State of Bihar and others, (2008) 5 SCC 82,* on pre-trial liberty, the presumption of innocence and assessment of release on the individual facts.

3. Statutes considered : Section 439 Cr.P.C. provided jurisdiction for the third regular bail application. Section 436A Cr.P.C. was quoted and applied to the contention concerning pre-trial custody. As reproduced, it excludes offences for which death is specified as one of the punishments. A detainee who has undergone one-half of the maximum term is to be released on personal bond, with or without sureties, subject to the first proviso. That proviso permits the court, after hearing the Public Prosecutor and recording reasons, to continue detention beyond one-half or release the person on bail. The second proviso prohibits detention beyond the maximum specified term. The explanation excludes delay attributable to the accused when calculating detention for release. The half-period is therefore subject to the express provisos. The present applicant did not allege that he had reached that period. Article 21 was considered in relation to detention authorised by law, with reliance on *Kalyan Chandra Sarkar.* The IPC and POCSO provisions concerned the alleged offences; their ingredients were not decided in this bail order.

4. Issues : (i) Did framing charges after the earlier rejection of bail on merits amount to a changed circumstance supporting the third Section 439 application? (ii) Did the applicant's claim to pre-trial liberty and approximately five months in custody establish an entitlement to release under Article 21 and the Section 436A thresholds? (iii) Was the alleged trial delay supported by material showing the course of proceedings and responsibility for adjournments? (iv) Did the claimed need to arrange housing for the applicant's wife justify the separate request for three months' temporary bail?

5. Ratio / Findings : The Court held that framing charges was not a favourable change of circumstance for the successive application. At that stage, the trial court had found sufficient prima facie material to

require a trial. The Court drew the comparison from *Virupakshappa Gouda*: filing a charge-sheet does not, by itself, amount to a change in the accused's favour, and the later framing of charges after judicial consideration was likewise insufficient.

On custody and liberty, the Court accepted that pre-trial detention is not punishment. Applying *Kalyan Chandra Sarkar,* it rejected the argument that detention authorised by law for a non-bailable accusation is inherently unconstitutional. It quoted Section 436A as a guiding statutory measure. Paragraph 14 describes detention beyond half the maximum sentence as unauthorised. The statutory text quoted immediately before it, however, contains a first proviso permitting detention beyond the half-period after hearing the Public Prosecutor and recording reasons, a second proviso setting an absolute maximum-term ceiling, and an exclusion for delay caused by the accused. The operative finding did not require a decision at either boundary, because the applicant did not even claim to have completed the half-period.

On trial delay, the applicant produced no order sheets substantiating the allegation or showing that he had not sought adjournments for argument on charge. Charges had been framed on 31 July 2021. The Court therefore found no factual basis for applying *Dipak Shubhashchandra Mehta* to this request. It also recorded that dismissal of the earlier Section 482 challenge to the charge-sheet had not been mentioned in the application or disclosed during argument, although the same counsel had appeared in that proceeding. These findings concerned the record before the Court. The separate temporary-bail request failed because the asserted absence of assistance for the wife was unsupported in light of the acknowledged availability of close relatives.

6. Relief : The Hon'ble High Court dismissed the third application for regular bail under Section 439 CrPC and rejected I.A. No. 24337/2021 for three months' temporary bail.

Sunil Gupta v. State of M.P. and others, M.Cr.C. no. 40317/2021, 13/08/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (933) Prev Next

Headnote :- Inherent jurisdiction — compromise in POCSO and heinous offences - Applying *Ramji Lal Bairwa v. State of Rajasthan*, Cr.A. 3403/2023 (07.11.2024), and the *Gian Singh* and *Laxmi Narayan* principles reproduced there, the Court held that Section 482 cannot be used to quash proceedings on settlement for heinous offences that are not private in nature and have a serious impact on society. A prediction that conviction is unlikely after compromise does not by itself justify abruptly quashing the proceedings. The allegations of repeated rape and aggravated POCSO offences against a minor fell within that limit. The FIR and sessions case were therefore allowed to proceed.

Sexual offences — victim dignity, proposed marriage and hostile-witness prediction - The Court relied on *State of M.P. v. Madanlal, (2015) 7 SCC 681*, which rejects compromise or marriage as a basis for leniency in rape or attempted rape. The Court's earlier order in *Arif Khan* applied that principle and explained that, even if the prosecutrix turns hostile, scientific or circumstantial evidence may still support conviction. Those reasons supported dismissal of the present compromise-based quashing request.

Case-note :- ***1. Facts :*** Sunil Kushwah applied under Section 482 CrPC to quash Crime No. 51/2024 at Police Station Girwai, Gwalior, and the consequential proceedings in Sessions Case No. 110/2024 pending before the XI Additional Sessions Judge, Gwalior. The FIR alleged kidnapping and procuration, as well as repeated rape under IPC Sections 363, 366-A and 376(2)(n), along with aggravated child sexual offences under POCSO Sections 5 and 6. The request to quash the FIR and prosecution was based on compromise. The Court considered the pleadings and the State's submissions and decided only that question under Section 482.

2. Precedents — Considered : *Ramji Lal Bairwa and another v. State of Rajasthan and others, Criminal Appeal No. 3403/2023*, decided 7 November 2024, was quoted for its discussion of *Gian Singh and State of M.P. v. Laxmi Narayan*. The inherent power cannot be used to end proceedings merely on compromise where the offences are heinous, are not private in nature and have a serious impact on society. *Ramji Lal Bairwa* also rejected the argument that a perceived remote or bleak prospect of conviction after settlement is, by itself, sufficient to terminate an investigation or criminal proceedings. The present Court applied that limitation to the allegations of sexual offences against a minor. *State of M.P. v. Madanlal, (2015) 7 SCC 681*, was quoted on the victim's dignity as a reason against compromise in rape or attempted rape

and against marriage as a means of exerting pressure. The present order records that the passage arose in a discussion of sentence and applies it here to refuse quashing on compromise. The *Court's own* decision in *Arif Khan v. State of M.P.*, M.Cr.C. 39588/2019 (20 September 2019), had applied *Madanlal* to reject quashing even on a claim of marriage. It also cautioned that, even if the prosecutrix turns hostile, scientific or circumstantial evidence may still support conviction.

3. Statutes considered : Section 482 CrPC provided the High Court's inherent jurisdiction. Its use to quash proceedings on compromise was limited by the grave nature of the alleged offences and their character as offences affecting society rather than a purely private dispute. IPC Sections 363, 366-A and 376(2)(n), and POCSO Sections 5 and 6, were the provisions alleged in the FIR and sessions prosecution. The application sought quashing; it did not call for a verdict at trial.

4. Issues : Could a private compromise justify quashing the FIR and pending sessions prosecution under Section 482 for alleged kidnapping, repeated rape and aggravated POCSO offences against a minor, given the impact of serious sexual offences on society? Did the possible effect of settlement on the prospects of conviction, or the general arguments about marriage or victim hostility discussed in the precedents, alter that limitation?

5. Ratio / Findings : The Court treated the allegations as grave offences against a minor. Applying *Ramji Lal Bairwa*'s discussion of *Gian Singh* and *Laxmi Narayan*, it held that compromise cannot turn a heinous offence with serious public impact into a purely private dispute whose proceedings may be quashed under the inherent power. The quoted Supreme Court reasoning expressly rejected a prediction of bleak conviction prospects after settlement as a sufficient reason to terminate the process. *Madanlal*'s rejection of compromise in rape cases and the Court's application of that principle in *Arif Khan* reinforced the refusal. *Arif Khan* also explained that possible hostility by the victim does not necessarily exclude other evidence. The conclusion was confined to the insufficiency of compromise as a legal ground for quashing these serious allegations.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC. FIR Crime No. 51/2024 and the consequential proceedings in Sessions Case No. 110/2024 were not quashed on the asserted compromise and remained to be adjudicated in the ordinary course.

Sunil Kushwah v. State of Madhya Pradesh and Ors., M.Cr.C. no. 48673/2024, 25/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (934) Prev Next

Headnote :- Connected criminal appeals — separate trial record - Applying *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Cr.A. 1306/2021, the Court held that evidence from the trial of Sunil, Deepak and Mukesh could not be transposed into Bunty's later, separate trial record. His appeal, though heard analogously, required a separate judgment.

Conviction appeal — unrepresented appellants - After counsel and the appointed amici failed to appear, the Court relied *on Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, examined the trial record and decided the appeals on their merits rather than dismissing them for non-prosecution. It reached separate conclusions for the three appellants.

Evidence — complete circumstantial chain - Applying *Munish Mubar, (2012) 10 SCC 464*, *Sharad Birdhichand Sarda*, *(1984) 4 SCC 116*, *Padala Veera Reddy, 1989 Supp (2) SCC 706*, *Balwinder Singh*, *1995 Supp (4) SCC 259*, and *Harishchandra Ladaku Thange, (2007) 11 SCC 436*, the Court required every circumstance to be firmly proved and the cumulative chain to exclude any reasonable hypothesis consistent with innocence. Suspicion or a false defence cannot supply a missing link. The Bench found the direct evidence of Mukesh's involvement in the abduction and the last-seen circumstance sufficient, but rejected the alleged chain of calls and kinship against Sunil and Deepak.

FIR — prompt named abduction report - The Court applied *Krishnan, (2003) 7 SCC 56*, *Harban Sahai, (1998) 6 SCC 50*, and *Satpal Singh, (2010) 8 SCC 714*, on the corroborative value of prompt, detailed reporting and the risk of later embellishment. Sonu Ben's report at 09:30, following the abduction at 09:00, named Mukesh, the co-accused and the Bolero number. Eyewitness testimony tested in cross-examination supported the report.

Last seen — abduction-to-death proximity - Applying *Ashok, (2015) 4 SCC 393*, *Digamber Vaishnav, (2019) 4 SCC 522*, and *Shailendra Rajdev Pasvan, (2020) 14 SCC 750*, the Court treated

last-seen evidence as insufficient by itself. It required a credible sighting and temporal proximity, with the initial burden remaining on the prosecution before an explanation under Section 106 could arise. On the facts concerning Mukesh, the Court considered the proved armed abduction on 17 November, discovery of the body on 27 November and the pathologist's six-to-twelve-day interval since death sufficiently proximate, together with the other circumstances. The finding concerning this ten-day interval was specific to those facts.

Forensic identity — decomposed body - The Court found that the parentage DNA report, Ex. P.55, the sampling evidence and the doctors' testimony confirmed that the decomposed remains were Sagar's. The incised neck and cranial wounds and the head injury established homicidal death and informed the assessment of the interval since death.

Discovery — accessible place - Applying *State of H.P. v. Jeet Singh, (1999) 4 SCC 370*, and *Yakub Razak Memon, (2013) 13 SCC 1*, the Court held that public accessibility alone did not invalidate discovery under Evidence Act Section 27. Ordinary visibility and the accused's disclosed knowledge remained material. Sunil Vishwakarma led the police to the body hidden in remote bushes. He had withdrawn his appeal; the disclosure was his, not Mukesh's.

Seizure and article identification — distinct proof questions - Applying *Girja Prasad, (2007) 7 SCC 625*, the Court accepted reliable police testimony proving seizure of the chain and mala recovered from Mukesh, although the civilian seizure witnesses had not identified the articles in court. It applied *Malkhan Singh, (2003) 5 SCC 746*, which distinguishes substantive in-court identification from the corroborative role of an investigation parade, to the articles. As Sagar's father had not identified them at trial, the prosecution had not proved that they belonged to Sagar.

Sword and calls — missing links - The Court found that the FSL detected no blood on the allegedly blood-stained sword. It was therefore not proved to be the murder weapon. No seizure memo or subscriber evidence linked Mukesh to the three alleged SIMs, so the purported calls did not prove conversations with Sunil or Deepak. Ordinary family contact was also insufficient to establish conspiracy.

Conspiracy — accused-wise proof - The Court found that Sunil and Deepak had neither been named as abductors nor last seen with Sagar, and that no incriminating article linked either of them to the crime. Unproved telephone attribution and kinship did not complete the circumstantial chain. Their conspiracy-related convictions were set aside. Mukesh's distinct involvement in the abduction and the last-seen evidence sustained his IPC convictions.

Arms Act — proven possession and sanction - The Court found that the seizure testimony concerning Mukesh's country-made pistol, the sanction evidence and the unchallenged armorer's report supported his separate conviction under Sections 25/27 Arms Act.

Case-note :- ***1. Facts :*** Criminal Appeal No. 2025/2009, filed by Sunil Tiwari and his son Deepak Tiwari, and No. 2050/2009, filed by Sunil's brother Mukesh Tiwari, challenged the judgment dated 13 October 2009 in Sessions Trial No. 42/2008, Katni. According to the prosecution, Sagar Singh was taken from near Gupta Hotel in a black Bolero MP 21 E 0855 on 17 November 2007 at about 09:00. Sonu Ben's FIR named Mukesh, driver Shrichand Kori, Bhawani Kant Dubey, Sunil Vishwakarma and Rakesh Choudhary. It described pistols, a knife and Sagar's forcible placement in the vehicle, but did not name Sunil or Deepak. Sagar's body was found on 27 November in bushes off a forest track following co-accused Sunil Vishwakarma's disclosure. Advanced decomposition prompted parentage DNA testing. The autopsy disclosed incised neck and cranial wounds and identified head injury as the cause of death. Police seized a Rudraksh mala and a silver chain with a gold locket on Mukesh's later disclosures. They also seized a sword and a country-made pistol. Officers asserted that a mobile handset and three SIMs had been found with Mukesh, but prepared no seizure memo for the phone or SIMs. The prosecution alleged that Sunil and Deepak had communicated with Mukesh as part of a conspiracy. The trial court acquitted Pappu @ Dharmendra and convicted seven others. Four convicted co-accused withdrew their appeals in 2022. Absconding Bunty was tried later on separately recorded evidence; his appeal was heard analogously but was to be decided by a separate judgment. The three present appellants received concurrent sentences under Sections 120B, 364/120B, 365/120B, 302/120B and 201/120B IPC, including life imprisonment on the murder count. Mukesh was additionally convicted under Sections 25/27 Arms Act. The appellants' counsel did not attend, and multiple appointed amici also failed to attend the final hearing. The Bench examined the

record itself and heard the State. The material questions were whether the direct evidence of abduction and the subsequent death established Mukesh's liability, and whether any proved conspiracy link implicated the two relatives who had not been seen at the abduction.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs Department,* Cr.A. 1306/2021, was applied to require that Bunty's appeal from his separate trial be considered on its own evidence. *Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, was invoked for review on the merits despite the absence of counsel and amici. The Court read the record and reached different outcomes for the individual appellants. On circumstantial evidence, *Munish Mubar v. State of Haryana, (2012) 10 SCC 464*, required proved, conclusive circumstances excluding alternative hypotheses. *Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116*, set out five conditions and distinguished what "may" be proved from what "must" be proved. Its reproduced discussion of *Hanumant* emphasised the exclusion of reasonable hypotheses consistent with innocence. *Padala Veera Reddy v. State of A.P., 1989 Supp (2) SCC 706*, stated substantially similar tests for the cumulative evidence. *Balwinder Singh v. State of Punjab, 1995 Supp (4) SCC 259*, warned that emotion or suspicion cannot substitute for proof. *Harishchandra Ladaku Thange v. State of Maharashtra, (2007) 11 SCC 436*, explained how a principal fact may be inferred from closely connected facts, required a complete chain and stated that a false defence cannot cure gaps in the prosecution case. The Bench stated that it would apply these principles to each appellant rather than infer guilt by association.

For the FIR, *Krishnan v. State, (2003) 7 SCC 56*, treated almost immediate reporting as limiting the opportunity to deliberate before falsely implicating someone. *State of U.P. v. Harban Sahai, (1998) 6 SCC 50*, treated an early, detailed FIR as strong corroboration. *Satpal Singh v. State of Haryana, (2010) 8 SCC 714*, explained the risk of embellishment from unexplained delay. The Court applied these principles to Sonu Ben's prompt naming of Mukesh and the jeep, together with its assessment of the eyewitnesses. On last-seen evidence, *Ashok v. State of Maharashtra, (2015) 4 SCC 393*, quoted *Trimukh Maroti Kirkan* and *Kanhaiya Lal*. It emphasised that non-explanation alone cannot prove guilt, that the prosecution must first establish sufficient evidence and that Section 106 Evidence Act can operate only with sufficient surrounding evidence. *Digamber Vaishnav v. State of Chhattisgarh, (2019) 4 SCC 522*, required trustworthy evidence of the sighting and close temporal proximity. *Shailendra Rajdev Pasvan v. State of Gujarat, (2020) 14 SCC 750*, stressed that the gap must be short enough to exclude intervention by another person. The Bench considered the pathologist's six-to-twelve-day interval since death and the ten days between abduction and recovery sufficient to establish proximity on these facts, without fixing an exact time of death.

State of H.P. v. Jeet Singh, (1999) 4 SCC 370, explained that discovery under Section 27 includes the place and the accused's knowledge of it: a hidden object may remain undiscovered even in a place accessible to others. *Yakub Razak Memon v. State of Maharashtra, (2013) 13 SCC 1*, likewise rejected the proposition that recovery from a public place is automatically discredited. The Court applied both to the concealed body located in a remote forest on Sunil Vishwakarma's information; it did not attribute the disclosure to Mukesh. *Girja Prasad v. State of M.P., (2007) 7 SCC 625*, permitted reliance on trustworthy police witnesses without an inflexible requirement of civilian corroboration. The Bench applied that principle to the officers who identified the chain and mala seized from Mukesh. *Malkhan Singh v. State of M.P., (2003) 5 SCC 746*, primarily concerns identification of accused persons. It explains that sworn identification at trial is substantive evidence, while an investigation parade ordinarily corroborates it, subject to exceptions depending on the facts. The Bench applied that distinction to the property articles. As Sagar's father had not identified them in court, there was no substantive trial evidence proving that the articles, though proved to have been seized, belonged to Sagar.

3. Statutes considered : IPC Section 120B concerned the alleged agreement linking the charged acts. Sections 364 and 365 concerned kidnapping or abduction and confinement, Section 302 concerned murder, and Section 201 concerned disappearance of evidence; each was charged with 120B. Arms Act Sections 25 and 27 governed Mukesh's firearm count, and sanction for prosecution under those provisions was proved. Evidence Act Section 27 concerned disclosure leading to discovery. Section 9 was discussed through *Malkhan Singh* on

identification, and Section 106 through *Ashok* on the limited explanation of facts within special knowledge after the prosecution had adduced sufficient evidence. CrPC Section 374(2) provided appellate jurisdiction. Section 161 concerned eyewitness statements, and Section 173(8) concerned the investigation kept pending against the then-absconding accused.

4. Issues : (i) Could the Bench decide the connected appeals of Sunil, Deepak and Mukesh after counsel and the appointed amici failed to appear, while reserving Bunty's appeal from his later, separate trial for a separate judgment? (ii) What complete and fully proved chain was required for conviction on circumstantial evidence, and how did the prompt FIR, the four abduction eyewitnesses, the last-seen interval, the medical evidence, the DNA evidence and the discovered body bear on Mukesh individually? (iii) Did recovery of the body from a forest accessible to the public lose evidentiary value under Section 27, and was the decomposed body sufficiently identified as Sagar's? (iv) Was seizure of the chain and mala proved, had the victim's father substantively identified them in court as Sagar's, and could the sword be treated as the murder weapon when the FSL found no blood on it? (v) Could conversations with Sunil and Deepak be established without seizure documentation and subscriber evidence for Mukesh's alleged phone and SIMs, and, even if a family call occurred, did it prove conspiracy? (vi) Were the evidence of Mukesh's firearm possession, the sanction and the armorer's evidence sufficient for Sections 25/27 Arms Act, and what convictions, sentences and custody consequences followed for each appellant?

5. Ratio / Findings : The Bench examined the record despite the absence of representation and, applying *A.T. Mydeen*, kept Bunty's separately recorded trial evidence distinct. It set out the requirement, drawn from *Munish Mubar*, *Sharad*, *Padala Veera Reddy*, *Balwinder* and *Harishchandra*, of fully proved circumstances forming a cumulative chain that excludes reasonable hypotheses consistent with innocence. It then assessed each appellant separately rather than attribute Mukesh's acts to his relatives. Sonu Ben's FIR, lodged about half an hour after the incident, specifically named the five abductors and the jeep. His cross-examination disclosed nothing material to discredit him. Gaurav, Sandeep and Abhishekh supported the abduction account despite certain omissions from police statements and Gaurav's later examination. The Bench found that Mukesh and four co-accused had forcibly taken Sagar on 17 November. The autopsy disclosed fatal incised injuries, and the pathologist placed death within six to twelve days before the examination. The body was discovered ten days after the abduction. Applying *Ashok*, *Digamber* and *Shailendra* to that medical interval and the proved abduction, the Bench found sufficient proximity to establish the last-seen circumstance against Mukesh. That finding rested on the stated interval, without proof of an exact hour of death. Sagar's father identified the body, parentage DNA Ex. P.55 confirmed its identity, and the fatal head wounds established homicide. Sunil Vishwakarma led the police to the remains hidden in bushes off a difficult forest route. Applying *Jeet Singh* and *Yakub Razak Memon*, the Court held that accessibility of the wider forest did not invalidate the discovery. Sunil Vishwakarma's appeal had been withdrawn; the disclosure was not a statement by Mukesh himself.

On Mukesh's own recoveries, Atin Tiwari and Sardar Singh attested seizure of the Rudraksh mala and silver chain, but neither identified the objects at trial. Officers Bundeldhar Dwivedi and Vinod Singh Baghel identified the articles they had seized. Applying *Girja Prasad*, the Bench accepted their reliable official evidence as proof of seizure. Guman Singh had identified the articles at the investigation parade, but was not asked to identify the seized mala and chain in court. Applying *Malkhan Singh*'s distinction, the Court found no substantive evidence that the objects belonged to Sagar. Although the seizure and forwarding documents described the sword as blood-stained, the FSL found no blood on it. The Court therefore did not accept it as the weapon of offence. Officers asserted that a Nokia handset and three SIMs had been found with Mukesh, but there was no seizure memo, explanation for its absence or subscriber evidence. The purported numbers could therefore not be attributed to him. The Court affirmed Mukesh's convictions under Sections 120B, 364/120B, 365/120B, 302/120B and 201/120B IPC on the evidence of abduction and last seen, which it considered sufficient. The seized country-made pistol and cartridge, the proved sanction and the report of the armorer, who was not cross-examined, separately supported the conviction under Sections 25/27 Arms Act.

Neither Deepak nor Sunil was named in the abduction FIR, placed at the forcible taking or last

seen with Sagar. No incriminating article was recovered from either of them. Seizure of Deepak's own phone was recorded, but the alleged recipient numbers were not linked to Mukesh's unseized SIMs. The trial court had also relied on a call before the offence. The alleged calls involving Sunil likewise depended on unproved SIM attribution. Mukesh was Deepak's uncle and Sunil's brother. Even if a call between them were established, it would not, without more, prove an agreement to abduct and murder. The prosecution had not established the circumstantial conspiracy chain against either appellant, and all their convictions based on it were set aside. As to Mukesh's sentence, the minimum life term under Section 302 required no interference. His concurrent sentences and Arms Act conviction were affirmed. The Bench noted that Mukesh remained in prison and discussed a remission circular in light of another life sentence; it did not order a new determination of remission in this appeal.

6. Relief : The Hon'ble High Court allowed the appeal of Sunil Tiwari and Deepak Tiwari, acquitted them of all charges and set aside their convictions and sentences. Deepak's bail and surety bonds were discharged. Sunil's bail had earlier been cancelled for non-appearance, but, following acquittal, the Court held that he was no longer required in this case. Mukesh's appeal was dismissed. His IPC and Sections 25/27 Arms Act convictions and concurrent sentences, including life imprisonment, were affirmed, and he was directed to serve the remaining sentence in jail. The 2009 trial judgment was thus affirmed for Mukesh and set aside for Sunil and Deepak. The trial records were to be returned for compliance. Bunty's appeal remained for a separate judgment; the withdrawn appeals and Pappu's acquittal were not reopened.

Sunil Tiwari and Ors. v. State of Madhya Pradesh; Mukesh Tiwari v. State of Madhya Pradesh, Cr.A. no. 2025/2009 & 2050/2009, 04/09/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Headnote :- NDPS Act — Section 50 / personal search - The Court held that recovery from inside the suspect's Kurti attracted Section 50. *Kishan Chand v. State of Haryana, (2013) 2 SCC 502*, was considered on strict observance of safeguards and the limited relevance of prejudice after total non-compliance. *Prabha Shankar Dubey v. State of M.P., (2004) 2 SCC 56,* emphasised the substance of communication rather than a fixed form of words. *Dehal Singh v. State of H.P., (2010) 9 SCC 85,* distinguished personal from vehicle searches and addressed effective communication of the option. *Vijaysinh Chandubha Jadeja v. State of Gujarat, (2011) 1 SCC 609,* required communication of the right and explained the consequence of non-compliance. *Ashok Kumar Sharma v. State of Rajasthan, (2013) 2 SCC 67,* rejected an assumption that a rustic suspect knows the law. The officer need not state the section number if she communicates the actual right. Ex. P-2 informed Sunna of the alternative of search before a Gazetted Officer or Magistrate, and Ex. P-3 recorded her choice of the female officer before the search. On those facts, the Court found strict compliance; it did not treat consent alone as a substitute for notice.

NDPS Act — Section 42 / superior-officer information - The Court found that the prior information had been recorded, a report sent to the SDO(P), and his absence noted. On the officer's return, the Town Inspector, her immediate superior, received the Dehati Nalishi, registered the FIR and took over the investigation. Informing a higher officer was not prohibited merely because the information also had to reach the immediate superior. The Court found compliance on the evidence considered together and referred to the amended period of seventy-two hours.

NDPS Act — seal, malkhana and sample continuity - The Court found that the signatures on the packets, deposit certificate and serial entry, forwarding on the next day, and the FSL's receipt of the sample in sealed condition established continuity for sample A1. Those records answered the objection that the register had not been produced. The FSL report dated 19 February identified diacetylmorphine.

Witnesses — police and Raksha Samiti member - The Court held that Gora Bai's service in the Raksha Samiti and routine contact with the police did not automatically make her a police "pocket witness". Sections 3 and 13 of the 1999 State Act set out her public duties. Applying *Govindaraju, (2012) 4 SCC 722*, *Tahir, (1996) 3 SCC 338*, and *Girja Prasad, (2007) 7 SCC 625*, the Court held that trustworthy official evidence may sustain a conviction without an inflexible requirement of independent corroboration.

Such evidence nevertheless requires careful scrutiny, including examination of any concrete indication of bias or overzealousness.

Evidence — minor chronological discrepancy - The Court found that the differing oral accounts of when the weighing scale was obtained concerned preparation for the raid. The contemporaneous rojnamcha recorded the sequence. The discrepancy did not affect the statutory notice or proof of seizure and was not material to guilt.

NDPS Act — Sections 52 and 57 / post-seizure duties - The Court found that prompt communication to the superior officer and his taking over the investigation answered the objection on this record. It followed *Gurbax Singh v. State of Haryana, (2001) 3 SCC 28*, on the directory character of Sections 52 and 57. It separately required proof of compliance with the personal-search safeguard and of sample custody.

Case-note :- ***1. Facts :*** On 14 February 2016, Sub-Inspector Manju Makheniya, posted at Kotwali, Ashoknagar, received information that Sunna Ahirwar was standing under the Azad Mohalla overbridge with smack concealed on her person for sale. The information was recorded in the rojnamcha and sent to the SDO(P), whose absence was reported. A party including female officers and women witnesses, one of whom was Raksha Samiti member Gora Bai, found Sunna at the indicated place. The officer gave the personal-search notice Ex. P-2, explaining the choice of search before a Gazetted Officer or Magistrate or by the investigating officer. Sunna's written consent, Ex. P-3, recorded her choice of the female officer. After the raiding party offered itself for search, the officer searched Sunna behind a bridge pillar and allegedly recovered a polythene packet from her Kurti. The material weighed 8 g. Two samples of 2 g each and the remaining 4 g were sealed and marked A1, A2 and A. A Dehati Nalishi recorded on the spot led to registration of the FIR. The contraband was deposited in the malkhana and sample A1 was sent for analysis. The FSL reported diacetylmorphine. The trial court framed a charge under Sections 8/22(b) of the NDPS Act and, on 26 March 2021, convicted Sunna under Sections 8(c)/22(b). It imposed four years' rigorous imprisonment, a ₹10,000 fine and six months' imprisonment in default. In the appeal under Section 374 CrPC, counsel challenged the Section 50 notice, Section 42 report, conflicting accounts of procurement of the scale, proof of seizure and safe custody, Gora Bai's independence, and compliance with Sections 52/57. Counsel cited *Kishan Chand*, *Ram Avtar* and several High Court decisions.

2. Precedents — Considered : *Kishan Chand v. State of Haryana, (2013) 2 SCC 502*, was quoted on the protective purpose and strict observance of mandatory NDPS duties, and the limited role of prejudice where an absolute duty has not been complied with at all. The Court then found actual compliance with Section 50. *Prabha Shankar Dubey v. State of M.P., (2004) 2 SCC 56*, was applied on effective communication of the Section 50 right without a fixed verbal formula; the reproduced reasoning also explained fairness and the option of search before the conveniently available senior officer. *Dehal Singh v. State of H.P., (2010) 9 SCC 85*, distinguished vehicle searches from personal searches and treated communication of the option as notice of the right. Since the present case involved a personal search, the safeguard applied. *Vijaysinh Chandubha Jadeja v. State of Gujarat, (2011) 1 SCC 609*, a Constitution Bench decision reproducing *State of Punjab v. Baldev Singh*, required the officer to inform the suspect of the Section 50(1) right and to comply strictly with that duty; non-compliance would render the personal recovery suspect. *Ashok Kumar Sharma v. State of Rajasthan, (2013) 2 SCC 67*, rejected reliance on a presumption that a rustic suspect knows the law. The High Court did not dispense with communication on the basis of presumed knowledge; it held that the actual choice had been conveyed even though the section number had not been stated.

Govindaraju alias Govinda v. State by Sriramapuram Police Station, (2012) 4 SCC 722, was considered on the reliability of official evidence where there was no proof of fabrication through overzealousness. *Tahir v. State (Delhi), (1996) 3 SCC 338*, and *Girja Prasad v. State of M.P., (2007) 7 SCC 625*, were relied on for the absence of an automatic requirement of independent corroboration and the prudential need for careful scrutiny of official testimony. The Court applied those principles to Gora Bai and the evidence concerning the raid. *Gurbax Singh v. State of Haryana, (2001) 3 SCC 28*, was cited and followed on the directory character of Sections 52 and 57.

3. Statutes considered : Section 50(1) of the NDPS Act requires effective communication of the choice of search before the nearest Gazetted Officer or Magistrate when a person is to be searched;

subsection (4) requires that a female be searched only by a female. Section 42 governed the issue of prior information and reporting. The Court noted the post-2001 substitution of “within seventy-two hours” in the provision discussed and considered the station record, report to the SDO(P) and later receipt of the information by the immediate superior. Sections 52 and 57 concerned handling and reporting after arrest or seizure; the cited precedent treated them as directory, and the Court found factual compliance. The possession prosecution and sentence for intermediate quantity were recorded under Sections 8(c)/22(b), although the charge-sheet had referred to 8/21. Section 374 CrPC governed the appeal. Sections 3 and 13 of the Madhya Pradesh Gram Tatha Nagar Raksha Samiti Adhiniyam, 1999 concerned the committee's constitution and duties and were relevant to Gora Bai's role. In her response under Section 313 CrPC, Sunna denied possession and alleged false implication because of her brother's police history, without making a specific factual challenge to the account of the search.

4. Issues : (i) Whether recovery from the accused's clothing attracted Section 50 and whether the notice and written choice communicated the substantive right to search before a Gazetted Officer or Magistrate, including the female-search requirement, rather than assuming that the suspect knew the law. (ii) Whether recording the informer's message, informing the SDO(P), and then informing the immediate superior when the police party returned and the FIR was registered satisfied the Court's analysis under Section 42. (iii) Whether the chronology of obtaining the scale and the asserted non-production of the malkhana register created material doubt about the search, sample identity, seals, deposit and transmission to the laboratory. (iv) Whether Gora Bai's Raksha Samiti service and contact with the police station made her evidence unreliable, and what scrutiny official evidence required. (v) Whether Sections 52 and 57 had been breached and whether the conviction and four-year sentence should be disturbed.

5. Ratio / Findings : The Court applied Section 50 because the packet was allegedly concealed inside Sunna's Kurti. It rejected the proposed additional requirement that the officer expressly state that the choice arose under “Section 50”: the law requires actual awareness of the Gazetted Officer or Magistrate alternative, not prescribed words. It also rejected a general presumption that a rural accused already knows the safeguard. What mattered was that Ex. P-2 communicated the right, Ex. P-3 recorded Sunna's choice, and a female officer then searched her. The Court therefore found strict compliance on the proved facts, while accepting the Constitution Bench's rule that failure to communicate the right would imperil a conviction based solely on the contraband recovered in the personal search. As to Section 42, the contemporaneous diary recorded the message, its dispatch to the SDO(P) and his absence. On the party's return, the Town Inspector, who was the immediate superior, received the Dehati Nalishi, registered the FIR and took over the investigation. Giving information to the SDO(P), a higher officer, was not prohibited. The Court found compliance in that sequence. The weighing scale concerned preparation for the raid. The oral accounts differed as to whether it arrived before the messenger returned, but the diary established the sequence and no essential search fact depended on that difference. As to custody, the officer's and appellant's signatures on sealed packets A/A2, the three-packet malkhana entry 29/16 and certificate Ex. P-16, dispatch on the next day, sealed receipt by the FSL on 16 February, and its report dated 19 February linked the tested sample to the seizure. Those particulars answered the objection that the register had not been produced. The Court considered Gora Bai's statutory duties to assist the public and found that her station visits and honorarium alone did not establish bias. Applying careful scrutiny rather than automatic exclusion of official witnesses, it found no concrete basis for calling her a police pocket witness and considered her evidence with the raid records. Finally, the Court found that the arrest and case had been promptly communicated to the Town Inspector and that Section 52 had been complied with. *Gurbax Singh*'s treatment of Sections 52 and 57 as directory did not reduce the separate requirement of strict compliance with Section 50. On the evidence as a whole, the Court affirmed guilt beyond reasonable doubt.

6. Relief : The Hon’ble High Court dismissed the criminal appeal. It affirmed the Special Judge's conviction dated 26 March 2021 under Sections 8(c)/22(b) of the NDPS Act and the sentence of four years' rigorous imprisonment, a ₹10,000 fine and six months' imprisonment in default. The Court declined to reduce the term within the stated statutory range for intermediate quantity. Sunna, already in jail, was directed to serve the remaining sentence. A copy of the judgment was to be supplied to her free of cost,

and the trial record returned with a copy for compliance.

Sunna v. State of Madhya Pradesh, Cr.A. no. 2442/2021, 12/04/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Criminal appeals — separate trials / record integrity - Applying *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Cr.A. 1306/2021 (31.10.2021), the Court decided together the four appeals arising from the same trial, while leaving Raju and Mukesh's appeals from their separate trial for a separate judgment. Evidence from one trial cannot automatically be read against separately tried accused.

Conviction appeal — counsel's refusal to argue - The Court observed that *Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, quoting *K.S. Panduranga*, permits an appeal to be decided on its merits from the record when counsel remains absent or refuses to assist after an appropriate opportunity, but forbids dismissal for default simpliciter and recognises appropriate arrangements, as a matter of prudence, for an appellant in jail. The Bench considered the complete record and available written submissions despite Chhuttan's counsel's silence.

Evidence — related, interested and injured witnesses - The Court observed that *Mahavir Singh, (2016) 10 SCC 220*, *Raju, (2012) 12 SCC 701*, *State of U.P. v. Kishanpal, (2008) 16 SCC 73*, *Sudhakar, (2018) 5 SCC 435*, and *Sarwan Singh, (2003) 1 SCC 240* require careful scrutiny of credibility rather than categorical rejection based on kinship or interest. Enmity requires greater care. *Sadhu Saran Singh, (2016) 4 SCC 357*, and *Mahesh, (2008) 13 SCC 271* do not treat the failure to examine unrelated bystanders as automatically fatal to the prosecution. *Majju, (2001) 9 SCC 449*, and *State of U.P. v. Naresh, (2011) 4 SCC 324* recognise that proved injuries support a witness's presence at the occurrence, subject to material contradictions in the testimony. Vinod and Shiv Kumar had contemporaneous injuries; their accounts and those of Anita and Akash @ Akku withstood careful scrutiny and were consistent with the medical findings.

Witness contradictions — scene and delayed police statements - The Court observed that *State of U.P. v. Naresh, (2011) 4 SCC 324*, and *Parbata, (2005) 13 SCC 398* distinguish ordinary variations from material contradictions; the adjoining houses of Maithili and Prakash explained the differing descriptions of the place. *V.K. Mishra, (2015) 9 SCC 588*, and *Sunil Kumar v. State of Rajasthan, (2005) 9 SCC 283* do not permit an automatic adverse inference from delay in recording statements under Section 161 without a link to unfair practice; the three witnesses were named in the prompt FIR, one of them, an injured witness, was medically examined that day, and the investigator was not asked to explain the delay.

Motive — enmity as a double-edged circumstance - The Court observed that *Anil Rai, (2001) 7 SCC 318*, requires anxious scrutiny of both the possible motive for the crime and the risk of false implication; *Matibar Singh, (2015) 16 SCC 168*, recognises that proved enmity may support an otherwise credible account. Pressure to compromise in the earlier case, armed confrontation and eyewitness accounts consistent with the medical evidence led the Bench to accept motive without substituting it for proof.

Unlawful assembly — Section 149 IPC / common object - The Court observed that *Lalji, (1989) 1 SCC 437*, and *Manjit Singh, (2019) 8 SCC 529*, explain the requirement of an unlawful assembly of five or more persons, the inference of common object from conduct and weapons, and constructive liability for an offence committed in pursuit of that object or which the members knew was likely to be committed in its pursuit; an overt act by every member is unnecessary, while mere onlookers must not be implicated. The armed group's threats and concerted assaults proved the appellants' participation and common object.

FIR — prompt reporting as corroboration - The Court observed that *Krishnan, (2003) 7 SCC 56*, *Jarnail Singh, 1993 Supp (3) SCC 91*, and *State of U.P. v. Harban Sahai, (1998) 6 SCC 50*, treat an early detailed FIR as a check against later fabrication and corroboration of the informant's testimony. Vinod's 09:30 report of a 09:00 occurrence was consistent with his later testimony and the medical findings.

Dying declaration — fitness and reliability - The Court observed that *Ramesh v. State of Haryana, (2017) 1 SCC 529*, permits reliance on a voluntary, reliable declaration by a maker fit to make the statement and able to identify the assailant, without an inflexible requirement of corroboration. A Naib Tahsildar recorded Ajay's account naming Sunny, with medical fitness checks before and after

recording; the Bench accepted it with the surrounding evidence.

Medical proof and causation — later death after sword injuries - The Court observed that the findings of firearm injuries and sharp-force head injuries were consistent with the distinct roles described by the eyewitnesses. Ajay's later death followed skull fractures and subdural bleeding. Applying the High Court Division Bench's *Bablu @ Virendra Kumar* (Cr.A. 427/2009, 21.12.2017), the Court held that complications arising from the inflicted injury did not break the causal connection; the repeated blows to a vital part of the body supported the finding of murder.

Alibi — positive proof after prosecution presence evidence - The Court observed that *Vijay Pal v. State (NCT of Delhi), (2015) 4 SCC 749*, reproducing *Binay Kumar Singh*, holds that the prosecution retains the burden of proving the accused's presence and requires strict, positive proof of an alibi once that burden is discharged, while credible defence evidence may still raise a reasonable doubt. Chappa's doctor was not posted at the hospital then and could not authenticate the admission papers, so the claimed hospital admission did not exclude his presence at the occurrence.

Case-note :- ***1. Facts :*** Four appeals against the judgment dated 25 October 2017 of the Additional Sessions Judge, Datia, in ST No. 131/2014 were heard together: Cr.A. 5631/2017 by Aakash and Chappa @ Harkishan, 6250/2017 by Chhuttan, 6251/2017 by Kadori @ Chunnilal, and 6252/2017 by Sunny. The prosecution alleged that on 29 May 2014 at about 09:00, Vinod Balmik, Badal, Ajay @ Ajju and Shiv Kumar were returning near Maithili's house. An earlier assault case and pressure on the complainant side to compromise supplied the alleged motive. The group named in the FIR included Raju, Mukesh, Aakash, Chappa, Chhuttan, Sunny and Kadori. The witnesses assigned 0.315 bore weapons to Raju, Mukesh and Chhuttan, 12 bore guns to Aakash and Chappa, a sword to Sunny and a lathi to Kadori. Kadori allegedly struck Vinod, the three 0.315 bore shooters inflicted Badal's facial and abdominal wounds, Sunny repeatedly struck Ajay's head with the sword, and Aakash and Chappa fired and allegedly struck Shiv Kumar with gun handles. Badal died at the scene; Ajay was treated in Datia and Gwalior, gave a declaration recorded by Naib Tahsildar Vinit Goyal, and died on 8 June. Vinod's FIR Ex. P/1 was lodged about 09:30. Vinod and Shiv Kumar had contemporaneous injury examinations. Badal's post-mortem identified three firearm entrance wounds with corresponding exit tracks; Ajay's examination and autopsy showed incised scalp wounds, skull fractures and subdural haematoma. The police recorded statements, prepared maps, recovered earth and cartridge, later seized firearms, sword and lathi, obtained FSL reports and filed the original and supplementary charge-sheets. Vinod, Anita, Shiv Kumar and Akash @ Akku testified as eyewitnesses. Except for Vinod's same-day statement, the other three police statements were taken on 23 June. Chappa offered hospital records through Dr. Omkar Singh Rai as an alibi. The trial court acquitted Rohit @ Golu and acquitted Chappa of an Arms Act Section 30 charge, but convicted the five appellants under Section 148 IPC, two counts of Section 302/149, and two counts of Section 323/149. It imposed three years' rigorous imprisonment for Section 148, two life terms for Section 302/149 and one year for each Section 323/149 count, with the fines and default terms specified in its order. All substantive sentences were to run concurrently. Raju and Mukesh were arrested after this trial judgment and tried separately; their listed appeals were not disposed of in this judgment. Some appellate counsel declined oral argument after final-hearing notice; counsel for Aakash, Chappa and Kadori supplied written submissions, while Chhuttan's counsel supplied none. The defence raised objections concerning related witnesses and delayed statements, differing descriptions of the scene, enmity, common object and the number of participants, the absence of an injury or fired cartridge attributable to a 12 bore gun, Ajay's intervening complications and Chappa's alibi. The State relied on the four eyewitnesses, injuries and medical support.

2. Precedents — Considered : *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Cr.A. 1306/2021, decided 31 October 2021, was applied at the outset: evidence in these appellants' trial could not be used against Raju and Mukesh in their separate trial; their appeals were left for independent determination. *Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, reproduced *K.S. Panduranga*'s six propositions on deciding an appeal on its merits when an appellant or counsel is absent: no dismissal for default simpliciter, no obligatory adjournment, record-based determination and appropriate arrangements for an accused in jail or legal

assistance, as a matter of prudence. The Bench adopted that course after notice and counsel's failure to assist, and examined the trial record.

For related and injured witnesses, *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, required evidence that was cogent and had a ring of truth, with special care when assessing an interested or chance witness. *Raju v. State of T.N., (2012) 12 SCC 701*, discussed the distinction between related and interested witnesses and the limits of those broad descriptions, cited *Dalip Singh* and *Darya Singh* within its quotation, and required discerning scrutiny of a relative hostile to the accused as a rule of prudence, rather than automatic corroboration. The Bench applied that requirement of careful scrutiny without treating the categories as conclusive. *State of U.P. v. Kishanpal, (2008) 16 SCC 73*, reiterated that otherwise credible, natural testimony cannot be rejected merely because the witness is related, while enmity calls for caution. *Sudhakar v. State, (2018) 5 SCC 435*, required the careful scrutiny described in *Sarwan Singh* as a rule of prudence, rather than treating the evidence as legally infirm; *Sarwan Singh v. State of Punjab, (2003) 1 SCC 240*, focused on whether the evidence was credible even without independent support. *Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357*, and *Mahesh v. State of Maharashtra, (2008) 13 SCC 271*, explained why absence of unrelated bystanders does not by itself undermine a trustworthy injured or related eyewitness. *Majju v. State of M.P., (2001) 9 SCC 449*, gave evidentiary significance to the presence of witnesses whose injuries were objectively proved. The Bench applied these together to Vinod and Shiv Kumar's injuries and the accounts of all four witnesses after scrutiny. *State of U.P. v. Naresh, (2011) 4 SCC 324*, also gave due weight to the testimony of injured witnesses, subject to examination for major discrepancies, and distinguished ordinary variations attributable to memory or shock from material contradictions. *Parbata v. State of Rajasthan, (2005) 13 SCC 398*, treated minor differences in descriptions of the scene as insufficient to reject natural and consistent witnesses; the Bench applied both to the adjoining houses and nearby junction.

V.K. Mishra v. State of Uttarakhand, (2015) 9 SCC 588, and *Sunil Kumar v. State of Rajasthan, (2005) 9 SCC 283*, were applied to the 25-day delay in three Section 161 statements: delay is not automatically disqualifying, the investigator should be asked to explain, and the concern is the unfair introduction of witnesses to give false support to the prosecution. *Anil Rai v. State of Bihar, (2001) 7 SCC 318*, explained enmity's dual potential as motive or false implication and the need for anxious scrutiny; *Matibar Singh v. State of U.P., (2015) 16 SCC 168*, supported a motive inference from proved hostility when the eyewitness account survives testing. *Lalji v. State of U.P., (1989) 1 SCC 437*, explained the statutory requirement of five or more members, their shared object, offences committed in its pursuit or which the members knew were likely to be committed in its pursuit, and constructive liability without requiring an overt act by each member. *Manjit Singh v. State of Punjab, (2019) 8 SCC 529*, incorporated *Sikandar Singh*, *Masalti* and *Subal Ghorai* on formation of common object, its inference from the circumstances and the prohibition on implicating passive onlookers. The Bench applied these tests to the armed group whose members threatened and participated in the assault. *Krishnan v. State, (2003) 7 SCC 56, Jarnail Singh v. State of Haryana, 1993 Supp (3) SCC 91*, and *State of U.P. v. Harban Sahai, (1998) 6 SCC 50*, were quoted on the role of a prompt, detailed FIR in checking fabrication and corroborating testimony; Vinod's report followed within half an hour. *Ramesh v. State of Haryana, (2017) 1 SCC 529*, discussed the basis in necessity for admitting a dying declaration, the declarant's opportunity to identify the assailant, fitness, voluntariness and independence, and its possible sufficiency without mandatory corroboration; Ajay's declaration was accepted in the circumstances in which it was made and alongside the other evidence. *Vijay Pal v. State (Govt. of NCT of Delhi), (2015) 4 SCC 749*, reproduced *Binay Kumar Singh* on Section 11 alibi: prosecution presence proof remains necessary, the accused must then positively exclude his presence at the occurrence, and reliable defence evidence raising reasonable doubt can still matter; Chappa's witness could not prove the hospital documents. The High Court *Division Bench Bablu @ Virendra Kumar v. State of M.P.*, Cr.A. 427/2009 (21.12.2017), was followed on complications caused by the inflicted injuries.

3. Statutes considered : IPC Sections 141 and 149 supplied the framework of an unlawful assembly of five or more persons, common object and constructive liability; Section 148 punished armed rioting. Section 302/149 (two deaths) and Section

323/149 (two injured persons) were the affirmed convictions. Section 294, Section 307 and Arms Act Sections 25/27 appeared in registration or charge-sheet history, while the trial court's Section 30 Arms Act acquittal of Chappa was not reversed. CrPC Section 161 governed witness statements and the examination of delay or omissions; Section 164 governed some witness statements. Ajay's separate dying declaration was recorded by the Naib Tahsildar. Section 174 concerned the death intimation, and Section 299 was mentioned in the later charge-sheet history concerning absconding accused. *Vijay Pal*'s quoted alibi discussion invoked Evidence Act Section 11.

4. Issues : (i) Whether the Bench could decide the four connected appeals on the record of their common trial despite counsel's unwillingness to argue, while keeping Raju and Mukesh's separate-trial appeals outside this judgment. (ii) Whether Badal's and Ajay's deaths were homicidal, Ajay's later complications were caused by the sword injuries, and medical findings supported the different eyewitness descriptions; whether Vinod and Shiv Kumar were injured at the occurrence. (iii) Whether four related eyewitnesses, including two injured witnesses, were credible after careful scrutiny in the face of the non-examination of unrelated neighbours, old hostility, allegedly inconsistent descriptions of the place and 25-day delay in three police statements; what corroboration the prompt FIR provided. (iv) Whether a group that had come armed to demand a compromise shared Section 149 common object, as opposed to an unplanned encounter or a group below the statutory number, and whether all appellants could be constructively liable notwithstanding distinct weapons and blows. (v) Whether Ajay's fitness-certified declaration identifying Sunny as the sword assailant was reliable. (vi) Whether the weapon recoveries materially supported the prosecution and whether the lack of 12 bore injury or fired cartridge undermined the identified group role. (vii) Whether Chappa's claimed hospital admission excluded his presence once prosecution evidence was accepted. The separately tried co-accused's appeals, Rohit's unchallenged acquittal and Chappa's Arms Act acquittal were not the subject of an adverse decision in these appeals.

5. Ratio / Findings : The Bench separated Raju and Mukesh's appeals in accordance with *A.T. Mydeen* because their trial evidence was distinct. Applying *Surya Baksh Singh* and the quoted *K.S. Panduranga* conditions, it held that engaged counsel's refusal to assist after prior notice did not compel adjournment or a default dismissal. It read the entire record and available written submissions, then decided the appeals on their merits. Badal's autopsy showed three firearm tracks and death caused by firearm injuries to vital organs; Ajay's earlier incised scalp wounds, later fractures and subdural haematoma established death from head injury and coma. The medical examinations documented Vinod's and Shiv Kumar's simple injuries close in time to the occurrence. The absence of substantial cross-examination on cause of death and the consistency between the injuries and the accounts supported both homicidal findings.

The Bench evaluated Vinod (PW1), Anita (PW2), Shiv Kumar (PW3) and Akash @ Akku (PW4) individually, without presuming credibility merely because they were relatives. Vinod and Shiv Kumar's contemporaneous injuries supported their natural presence at the occurrence; Vinod's 09:30 report identified the assailants and essential roles, and the eyewitness descriptions of three shots to Badal and a sword attack on Ajay matched medical evidence. Anita and Akash withstood material cross-examination. The lack of unrelated witnesses alone did not displace their credible accounts. Maithili's and Prakash's houses adjoined on the spot map; descriptions as near a house, at its door or near the junction did not amount to a material contradiction going to the root of the case. The omission of Vinod's "three or four" blows and other minor details was assessed in the context of the entire evidence, without treating each variation as a material alteration of the account. The three delayed statements under Section 161 were from persons already named in the prompt FIR; Shiv Kumar was medically examined on the day, and the investigating officer was not asked why he delayed their statements. The Bench found no demonstrated unfair practice or reason to reject their evidence solely because of the delay. Existing enmity could have prompted either the crime or the false implication of additional persons, so it examined the specific weapon roles against the injuries. The armed group's demand for compromise, the unarmed victims, no injury to any appellant and the concerted assault led the Court to reject the suggestion of a sudden fight.

Under *Lalji* and *Manjit Singh*, the Court inferred a shared object from the conduct and attack of five or more armed members, while the named appellants

were active participants rather than incidental onlookers. Chhuttan was one of the three firearm assailants of Badal, Sunny's sword blows to Ajay were directly attributed by eyewitnesses and Ajay's declaration, Kadori's lathi blows to Vinod matched injuries, and Aakash and Chappa's use of firearms and gun handles supported their participation in the unlawful assembly. Section 149 extended responsibility for both deaths and injuries without requiring a fatal blow by each, after membership and object were established. Vinod's prompt report corroborated his account against the suggestion of a later fabrication; it did not replace the need to test the testimony. Naib Tahsildar Goyal obtained medical fitness certificates before and after recording Ex. P/16 in conditions of relative privacy, and Ajay identified Sunny; the Bench treated minor variations as nonfatal and accepted the declaration under *Ramesh*. As to Ajay's death ten days later, the medical evidence linked the complications to the head blows; no independent cause of death was proved, and repeated sword blows to a vital part of the body supported the intention and knowledge required for murder under the principle applied by the High Court in *Bablu*. Finally, Chappa's doctor was not posted at the PHC at the relevant time and could not identify the maker's signatures on the alleged admission records, so the plea of alibi was not proved by positive evidence. The prosecution's burden to prove presence did not lessen because alibi was pleaded; its credible evidence of presence was assessed before the alibi. The cumulative proof sustained each appellant's convictions beyond reasonable doubt.

6. Relief : The Hon'ble High Court dismissed all four appeals. The five appellants' convictions under Section 148, two counts of Section 302 read with Section 149 and two counts of Section 323 read with Section 149 IPC, and the sentences imposed at trial, including the direction that the substantive terms run concurrently, were affirmed. No reduction of the life sentences was made. Aakash, Chappa @ Harkishan, Chhuttan and Kadori @ Chunnilal, then on bail, had their bonds cancelled and were directed to surrender to the trial court within one month; Sunny was already in jail and was to serve the remaining term. The judgment was directed to be sent to the trial court for compliance. The appeals of separately tried Raju and Mukesh remained for separate judgments; Rohit @ Golu's trial acquittal had not been appealed by the State.

Sunny v. State of Madhya Pradesh and connected appeals of Aakash and Ors., Chhuttan, and Kadori, Cr.A. no. 6252/2017 & 5631/2017 & 6250/2017 & 6251/2017, 06/07/2026, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Anuradha Shukla, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (937) Prev Next

Headnote :- Investigation autonomy — no compulsory arrest or charge-sheet - Quoting and applying *D. Venkatasubramaniam v M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court held that Section 482 could not be used to direct the police to arrest named persons, seize property and file a charge-sheet regardless of the evidence. That authority drew on *M.C. Abraham, (2003) 2 SCC 649*, on the cautious exercise of the discretion to arrest under Section 41 CrPC. An FIR does not invariably require arrest or result in a charge-sheet. The quoted passage also referred to *Divine Retreat Centre, (2008) 3 SCC 542*, which warned that judicial orders having drastic consequences for persons who have not been heard require procedural fairness.

Investigation completion — Section 173(1) CrPC - The Bench separately applied the statutory requirement to complete investigation without unnecessary delay, referring also to Section 193 BNSS as its counterpart. The investigating officer must investigate, decide whether a charge-sheet or closure report is warranted, and submit the appropriate report promptly. The Court refused the informant's request for a predetermined result, but directed lawful completion of the investigation and gave him liberty to approach the Superintendent of Police with a grievance.

Affected-person hearing — limit of the judicial intervention considered - *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, as reproduced in *D. Venkatasubramaniam*, required a reasonable opportunity of hearing before the judicial investigation order under consideration, which arose from anonymous allegations and had drastic consequences for reputation. *D. Venkatasubramaniam* also set aside coercive directions against persons who had neither been impleaded nor heard, and required reasons consistent with the statutory purposes of Section 482.

Case-note :- ***1. Facts :*** Suraj, the informant in Crime No. 62/2024 registered on 21 February 2024 at Police Station Khaniyadhana, District Shivpuri, filed Misc. Criminal Case No. 42326/2024 under Section

482 CrPC. He asserted that the police had taken no further action and had not arrested respondent Nos. 3 and 4. He sought a direction for their arrest and for the filing of a charge-sheet. The assertion of inaction was the applicant's submission; the Court did not find that the officers had acted mala fide.

2. Precedents — Considered : *D. Venkatasubramaniam v M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was extensively quoted in paragraph 4 and directly applied in paragraph 5. It disapproved an earlier High Court order directing the police to record witness statements, arrest suspects, seize property and file a charge-sheet, since those discretionary steps depend on the evidence and circumstances. The police have a statutory duty to investigate, but a court should normally neither direct how the investigation is to proceed nor prescribe its conclusion through Section 482. Investigation may result in a charge-sheet or a finding that no case is made out. Inherent power may be exercised to give effect to an order under the Code, prevent abuse of court process or secure the ends of justice; it must be used sparingly and with recorded reasons. This authority formed the basis for refusing Suraj's requested coercive directions.

The passage in *D. Venkatasubramaniam* quotes *M.C. Abraham v State of Maharashtra, (2003) 2 SCC 649*: Section 41 CrPC permits an officer to arrest without warrant in specified circumstances, but does not invariably require arrest; the officer may first investigate whether arrest is necessary. Arrest encroaches on personal liberty and affects reputation, so the power requires caution in light of the offence and the person concerned. The same Supreme Court extract refers to *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, on a fair hearing before a judicial investigation order based on an anonymous petition that threatened the affected person's reputation. It criticises casual, unreasoned directions issued without hearing those affected. That requirement concerns the judicial intervention described; it does not establish a general entitlement to prior notice before an ordinary police investigation.

The Bench's separate conclusion that investigation must be completed promptly rested on Section 173(1) CrPC and the BNSS counterpart stated in the order.

3. Statutes considered : Section 482 CrPC preserved the High Court's limited inherent powers; a direction requiring arrest and a predetermined charge-sheet would not be a proper exercise of that jurisdiction. Section 41 CrPC arose in the quoted Supreme Court authority and leaves the decision to arrest to the investigating officer, subject to its conditions and safeguards. Section 173(1) CrPC expressly requires completion of investigation without unnecessary delay; the order refers alongside it to Section 193 BNSS as its counterpart. A closure report and a charge-sheet were identified as possible outcomes of investigation, rather than remedies between which the informant could choose.

4. Issues : (i) Whether the informant could invoke Section 482 to compel the police to arrest two named persons and file a charge-sheet in the registered crime. (ii) If those outcomes could not be dictated, what duty remained on the officer as to the time for completing the investigation and its lawful conclusion. (iii) What relief, if any, could address the applicant's grievance without substituting a judicial decision for the investigating officer's discretion.

5. Ratio / Findings : Applying *D. Venkatasubramaniam*, the Bench held that arrest and the filing of a charge-sheet could not be compelled through this application. Registration of an FIR does not automatically require arrest, and investigation need not result in arrest or prosecution if the material collected does not support it. Directing both specified steps would amount to supervising the investigation by predetermining its method and result. The quoted Supreme Court authority also warns of the consequences for liberty and reputation and of the need for a hearing when a judicial direction affects persons who are not before the court.

Section 173(1) CrPC requires completion of investigation without unnecessary delay. The officer cannot leave it pending indefinitely; he must decide whether an offence is made out and submit the appropriate final report, whether a closure report or a charge-sheet, as early as possible. This duty is consistent with investigative independence: it requires a decision according to law without dictating what the decision must be.

6. Relief : The Hon'ble High Court disposed of the application. The prayers for the arrest of respondent Nos. 3 and 4 and for a direction to file a charge-sheet were refused. The investigating officer was directed to conclude the investigation as early as possible and take the necessary steps according to law. Suraj was given liberty to apply to the Superintendent of

Police, Shivpuri, with any grievance, which the Superintendent was to consider in accordance with law. The Court neither ordered arrest nor mandated a charge-sheet, and did not decide the merits of the underlying crime.

Suraj v. State of Madhya Pradesh and Others, M.Cr.C. no. 42326/2024, 01/03/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (938) Prev Next

Headnote :- Criminal procedure — Sections 320 and 482 CrPC — verified compromise — independent legal assessment - *Narinder Singh and Others v. State of Punjab and Another, (2014) 6 SCC 466*, distinguishes statutory compounding from quashing under the inherent power. Settlement may support relief even for non-compoundable offences, but the High Court must exercise that power sparingly to secure justice or prevent abuse of process. The Court must assess the predominantly civil character of the dispute, whether it has been fully settled, whether the prospects of conviction are remote and whether continuation would be oppressive. Serious offences affecting society, and the special-statute offences or offences committed by public servants in their official capacity specified in the authority, cannot be quashed merely by agreement. Applying that framework, the High Court held that the Principal Registrar's verification of the compromise did not itself entitle the applicant to quashing.

Compromise-based quashing — alleged forged sale deed and death certificate — government agencies - The alleged execution of a sale deed in a deceased person's name and the false description of the applicant's wife in a death certificate involved misuse of government agencies to obtain property. Applying *Narinder Singh*, the High Court held that this aspect of the alleged documents took the matter beyond a simple private dispute. It refused to quash Crime No. 324/2014 and Sessions Trial No. 663/2014.

Section 482 CrPC — settlement timing — trial stage undisclosed - Paragraph 29.7 of *Narinder Singh*, *(2014) 6 SCC 466*, requires the Court to consider whether settlement occurs during investigation or at an initial stage of evidence, rather than when evidence is nearly complete or the matter is at arguments, when restraint is ordinarily required. Its separate example concerning a conviction under Section 307 did not arise in the present case. The High Court treated the applicant's failure to disclose the trial stage as material and dismissed the application, without presuming that evidence had been completed or a conviction recorded.

Case-note :- ***1. Facts :*** In M.Cr.C. No. 46961/2019, Suraj invoked Section 482 CrPC to quash Crime No. 324/2014 registered at Police Station Gole Ka Mandir, Gwalior, and Sessions Trial No. 663/2014. The prosecution concerned Sections 420, 467, 468, 471, 424, 416, 419 and 120-B IPC. Complainant Jagdish Singh alleged that his uncle Maalsingh exclusively owned and possessed the identified house properties, was issueless, and had kept Jagdish with him to look after him. The complaint alleged that Suraj Singh procured a sale deed dated 28 February 2007 in favour of his elder brother Chanda Singh and a woman represented as Chanda Singh's widow, although Chanda Singh had died in a road accident on 24 February 1992. A motor-accident claim award was said to have been made in Suraj Singh's favour. According to the complainant, another person impersonated the deceased Chanda Singh and signed the deed to obtain Maalsingh's property, with accused Nos. 5 and 6 acting as witnesses.

The complaint further alleged that Suraj, described as illiterate, used his deceased brother's mark-sheet to work in Surya Factory, Malanpur, under Chanda Singh's name. Smt. Rajni, described as the wife of Suraj Singh alias Chanda Singh, died on 25 July 2011. It was alleged that a false death certificate named Chanda Singh as her husband, and that accused Nos. 2–4, her sons, represented themselves as Chanda Singh's children although they were Suraj's children. These were the complainant's allegations concerning forged identities and government documents; they were not findings of guilt.

A civil suit challenged the sale deed as forged and void. Maalsingh died on 30 January 2012, after which Jagdish said that he had been substituted as plaintiff in the plaint. Jagdish alleged that the police had taken no action on his repeated complaints, leading him to file a complaint under Section 200 CrPC. An order under Section 156(3) resulted in registration of the FIR. The police investigated and submitted a charge-sheet, and the applicant faced the stated sessions trial, instituted in 2014.

Suraj submitted that the dispute had been resolved. An application under Section 320 CrPC had not been

accepted because the offences were non-compoundable. In compliance with the High Court's order dated 11 December 2019, the Principal Registrar verified the compromise and submitted a report. Suraj relied on that verification to seek quashing of the sessions trial. The State opposed relief on the grounds of the alleged forgery and the applicant's failure to disclose the stage reached by the trial. The State cited *Narinder Singh*, which the High Court subsequently quoted and applied in its own reasoning.

2. Precedents — Considered : *Narinder Singh and Others v. State of Punjab and Another, (2014) 6 SCC 466*, was cited by the State and then considered by the Court. Paragraph 7 reproduces paragraph 29 of that judgment, including subparagraphs 29.1–29.7. The authority concerns the limits on the exercise of inherent jurisdiction when settlement is relied on to terminate non-compoundable criminal proceedings. Applying that framework, the Court considered the public aspect of the alleged forgery and the applicant's failure to disclose the trial stage, and refused quashing. The authority was thus applied in the decision, rather than merely mentioned in the State's submissions.

The quoted passage distinguishes statutory compounding under Section 320 from quashing under the inherent power in Section 482. A settlement may support relief under Section 482 even for a non-compoundable offence, but the power must be exercised sparingly and cautiously, to secure the ends of justice or prevent abuse of the process of the court. The High Court must form an opinion on either of those purposes. Verification that the parties have settled does not itself establish that the legal conditions for quashing are satisfied.

The quotation distinguishes offences having a serious impact on society from predominantly private disputes. Heinous offences of mental depravity, including murder, rape and dacoity, do not become private disputes merely because the victim and offender settle. The passage also excludes quashing merely on compromise for the specified offences under special statutes, such as the Prevention of Corruption Act, or offences committed by public servants while acting in that capacity. Cases of a predominantly civil character, especially commercial, matrimonial and family disputes, require a different assessment when the parties have resolved their entire dispute. The Court must examine whether the prospect of conviction is remote and bleak and whether continuation would cause oppression, prejudice or extreme injustice. In the present order, the Court treated the allegations as extending beyond a simple private dispute because government agencies had allegedly been misused.

Subparagraph 29.6 concerns Section 307 IPC. It describes such offences as generally crimes against society, but states that the statutory description alone is insufficient. The Court may examine whether the charge is supported by evidence, including the nature of the injury, whether a vital part of the body was affected, the weapon used and the medical material, and assess the prospects of conviction on a prima facie basis. The possibility that settlement may restore harmony between the parties may also be relevant to the assessment described in that passage. Section 307 was not among the charges in the present case.

Subparagraph 29.7 emphasises the timing of settlement and the procedural stage. A settlement reached shortly after the alleged offence, while investigation is continuing, or after framing of charge when evidence has not begun or is at an initial stage, may receive more favourable consideration, subject to the necessary prima facie assessment. Where evidence is nearly complete or has concluded, or the matter is at arguments, the High Court should normally refrain from quashing because the trial court can decide the merits. The order did not identify the stage reached by Suraj's trial. The material consideration here was that the trial had been instituted in 2014 and its current stage had not been disclosed. Without that information, the Court could not treat the compromise as sufficient to terminate the prosecution.

3. Statutes considered : Section 482 CrPC governed the High Court's inherent jurisdiction and the purposes for which proceedings could be quashed on compromise. Section 320 provided the distinct statutory procedure for compounding; according to the applicant, that procedure had not resulted in compounding because the offences were non-compoundable. The Court refused relief after applying the principles governing its inherent power. It did not hold that inability to compound automatically excluded jurisdiction under Section 482.

Sections 200 and 156(3) CrPC formed the procedural background: the complainant's private complaint

and the order leading to an FIR after alleged police inaction.

Sections 420, 467, 468, 471, 424, 416, 419 and 120-B IPC identified the stated prosecution for cheating, forgery, use of documents, removal or concealment of property, personation and conspiracy.

4. Issues : (i) Whether a compromise verified by the Principal Registrar, after the Section 320 application had been unsuccessful, required the High Court to quash non-compoundable criminal proceedings under Section 482, or whether the Court was still required to make an independent judicial assessment.

(ii) Whether allegations of using a deceased person's identity in a sale deed and falsifying a death certificate through government agencies could be treated as merely a private property dispute which the complainant and accused could settle for purposes of terminating prosecution.

(iii) Whether the applicant's failure to disclose the stage reached by a sessions trial instituted in 2014 was material to the safeguards concerning the timing of settlement and the procedural stage set out in *Narinder Singh*.

5. Ratio / Findings : Verification established the fact that the parties had compromised; it did not determine whether the proceedings should be quashed in light of the governing legal principles and public interest. By reproducing *Narinder Singh*'s distinction between Sections 320 and 482, the Court recognised that a non-compoundable offence may still be quashed through a properly justified exercise of inherent power. Such an order nevertheless requires an assessment of the ends of justice or prevention of abuse of process, subject to the limits stated in that authority. Settlement did not confer an automatic entitlement to quashing.

The Court's assessment rested on the allegations in the FIR. A sale deed was allegedly executed in favour of a person who had died long before the transaction. Rajni's death certificate allegedly described her as Chanda Singh's widow, although she was the applicant's wife. The Court considered these allegations to involve misuse of government agencies in an attempt to obtain property. It therefore held that the case was not simply a private dispute between two parties. On that reasoning, compromise did not resolve the wider concern arising from the alleged documents. The Court did not classify the applicant as a public servant or treat the alleged use of government agencies as a charge of corruption.

The timing of settlement was a further material consideration. The State pointed out that the sessions trial had been instituted in 2014, and the Court expressly noted that the applicant had not disclosed its stage. *Narinder Singh* requires sufficient information to distinguish investigation or an early stage of evidence from nearly completed evidence, arguments or the specified post-conviction situation. The applicant provided no particulars of the trial stage.

After considering the allegations and the quoted Supreme Court principles, the High Court held that no case had been made out to quash either the FIR or the sessions trial. Its refusal rested on the public aspect of the alleged documents and the failure to disclose the trial stage.

6. Relief : The Hon'ble High Court dismissed the Section 482 application in paragraphs 8–9. Crime No. 324/2014 and Sessions Trial No. 663/2014 were not quashed, and the existing prosecution against the applicant continued.

Suraj v. Jagdish Singh and Others, M.Cr.C. no. 46961/2019, 22/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (939) Prev Next

Headnote :- NDPS Act — cannabis cultivation / conscious act — The Court held that the recording of land in Ram Singh's name in the revenue records and the alleged presence of 402 plants in a field did not establish that he had consciously cultivated them. He was absent during the search. The identification of the field and the account of the seizure relied on the other accused's alleged confessional statements; neither his exclusive possession nor cultivation by him was proved. Section 20(a) requires proof that the accused consciously engaged in cultivation; land title alone did not establish that act in this case.

NDPS Act — accused-wise cultivation proof — The Court found that Suraj's later Medical Board certificate could not be rejected without considering the searching officer's admission that his sight was weak on the date of the raid. The defence doctor could not specify his precise condition on that earlier date or say whether he could undertake agricultural work. The Patwari's inspections did not corroborate the presence of a cannabis crop, the identification of the relevant plots was uncertain, and no land was recorded in Ramkali's name. Taken together with the deficiencies in the evidence of the raid, these

circumstances left cultivation by Suraj or Ramkali unproved.

Evidence — official and seizure witnesses — The Court held that P.N. Pal's evidence could not be rejected merely because he was a police officer; the evidence of a sole witness may suffice if reliable. Both independent witnesses to the raid had turned hostile, and no other member of the raiding police party testified. His account therefore required close scrutiny in light of the defence evidence and the evidence concerning the land and crops. On that assessment, the Court found his evidence unreliable in this case.

NDPS Act — household ganja possession — The Court found that the separate alleged recovery of 1.25 kg of ganja from an almirah in Suraj and Ramkali's house was not proved, since the unsupported evidence of the sole searching officer had been found unreliable.

Criminal appeal — absent appellants — Relying *on Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, the Court examined the trial record and heard the prosecutor after the appellants repeatedly failed to appear despite notice. It decided the appeal against conviction on the merits and ultimately acquitted all three appellants, rather than dismissing the appeal for default.

Case-note :- ***1. Facts :*** Suraj Singh, his wife Ramkali and his brother Ram Singh appealed against the judgment dated 8 August 2012 passed by the Special Judge (NDPS Act), Shivpuri, in Special Sessions Trial No. 1/2010. On 16 March 2010, ASI P.N. Pal received information that Suraj and Ramkali sold ganja from their house and cultivated cannabis near it. The information was entered in the rojnamcha, and a report under Section 42 was sent to the SDO(P). His office acknowledged receipt while he was unavailable. Pal assembled a police party, accompanied by Krishna Kumar and Brikhbhan. According to the prosecution, notices for the search were given and Suraj and Ramkali's consent was recorded. An iron almirah was then searched, and 1 kg 250 g of ganja was recovered, along with a scale, cash and newspaper pieces. The prosecution further alleged the recovery of 485 plants weighing 12 kg 300 g from a field/courtyard attributed to them. After their alleged confessional statements, Exs. P-23 and P-24, a further 402 plants weighing 9 kg 100 g were allegedly recovered from a field attributed to Ram Singh. Samples of the household ganja and both lots of plants were sealed and sent for FSL testing. Revenue records showed survey Nos. 743 and 719 in Ram Singh's name and Nos. 730/A, 732/2 and 747/3 in Suraj's name. Neither record showed any land in Ramkali's name. The trial court convicted all three of the cultivation offence recorded as Section 20(a)(b)(i), and additionally convicted Suraj and Ramkali under Section 20(b)(ii)(A) for the household ganja. It imposed four years' rigorous imprisonment and a ₹4,000 fine for each offence, with imprisonment in default, without directing the two sentences to run concurrently. While on bail pending appeal, the appellants subsequently failed to appear before the Registry and remained unrepresented at consecutive listings despite express notice that the appeal could be heard. The High Court examined the trial record and heard the Public Prosecutor.

2. Precedents — Considered : *Surya Baksh Singh v. State of U.P., (2014) 14 SCC 222*, is the sole Supreme Court judgment expressly invoked in this High Court decision. In its procedural order dated 3 May 2018, reproduced in paragraph 1, the Court relied on that judgment to examine the record and hear the prosecutor after the appellants and their counsel remained absent despite an earlier warning.

3. Statutes considered : Section 20(a) of the NDPS Act required proof of cultivation, which the Court interpreted as a conscious act to be proved against each accused. Sections 42 and 57 were referred to in the account of the reporting of information and seizure. Notices under Section 50 were described in connection with the search of the premises/field, but the appellate reasoning did not independently decide a breach of those provisions. The appeal against conviction was brought under Section 374(2) CrPC, and statements under Section 161 CrPC were recorded during the investigation.

4. Issues : (i) Whether the alleged recovery of cannabis from a field, or the recording of that field in an accused's name, established a conscious act of cultivation under Section 20(a), particularly in Ram Singh's case, when he was absent during the search and neither his exclusive possession nor an independent link to cultivation was shown. (ii) Whether the evidence proved cultivation by Suraj or Ramkali, considering Suraj's impaired vision, the Medical Board certificate, the limits of the defence doctor's evidence, the searching officer's admission, the Patwari's crop inspections and the evidence concerning the plots. (iii) Whether Pal's account alone proved the seizures when neither independent witness supported the prosecution and no other

member of the raiding party testified. (iv) Whether the alleged recovery of 1.25 kg of household ganja and the separate conviction for possession could be sustained in light of the finding about Pal's credibility and the absence of evidence linking ownership of the house to the accused. (v) Whether, after the appellants repeatedly remained absent despite notice, the Court could and should decide the appeal against conviction on its merits after examining the trial record and hearing the Public Prosecutor.

5. Ratio / Findings : The High Court held that "cultivating" under Section 20 presupposes a conscious act by the accused. The recording of land in an accused's name cannot replace proof of cultivation by that accused. Ram Singh was not shown to have been present at the scene or in exclusive possession of the land. The asserted identification and search of his field followed the other appellants' alleged confessional statements; no notice was given to him and no consent was obtained from him. There was insufficient proof that the 402 plants were on his land or had been cultivated by him. As to Suraj, the trial court rejected a medical certificate obtained four months after the search, overlooking Pal's admission that Suraj had limited vision at the time of the search. Dr. Puranik could not specify Suraj's precise condition on the earlier date or state whether he could undertake agricultural work, but Pal's admission materially supported the certificate. The High Court considered that evidence together with the Patwari's observation of vegetable crops rather than cannabis, the absence of reliable identification of the plots and house, and the lack of evidence attributing cultivation to Ramkali, in whose name no land was recorded. Krishna Kumar and Brikhbhan did not support the prosecution, and no other member of the raiding party was examined. Pal's evidence could not be rejected merely because he was a police officer, and the number of witnesses was not decisive. Nevertheless, his evidence required close scrutiny and was found unreliable when assessed with the other evidence. The alleged recovery from the house consequently also failed: no documentary evidence of ownership of the house or of its connection with the recorded land was produced, and the only examined witness to the search was unreliable. The judgment narrated the malkhana and FSL steps, including the defence questions about unnumbered register entries. The decisive ground, however, was the lack of credible proof of seizure and cultivation; the Court did not expressly find that identification of the substance in the laboratory or continuity of the samples had failed. At the procedural stage, relying on *Surya Baksh Singh*, the High Court examined the record and decided the appeal on its merits despite the appellants' repeated absence. It did not presume guilt from their non-appearance.

6. Relief : The Hon'ble High Court allowed the appeal and set aside the judgment and all sentences dated 8 August 2012. Suraj Singh, Ramkali and Ram Singh were acquitted of every charge. This set aside both the household ganja convictions of Suraj and Ramkali and the cultivation convictions of all three appellants. As the appellants were on bail, their bail bonds were discharged and they were no longer required to attend in this case.

Suraj Singh and Ors. v. State of M.P., Cr.A. no. 638/2012, 09/05/2018, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (940) Prev Next

Headnote :- Section 482 CrPC — mutation dispute — fiscal entries — Mutation entries serve fiscal purposes and do not establish title. A dispute over mutation does not, by itself, prevent civil or criminal proceedings concerning an allegedly fraudulent sale transaction from continuing. The High Court rejected the applicants' objection based on the mutation dispute.

Civil suit and criminal complaint — allegedly deceptive sale deed — simultaneous proceedings — Applying *Kishan Singh, (2010) 8 SCC 775, Syed Askari, (2009) 5 SCC 528,* and *Prem Raj*, Supreme Court decision dated 2 April 2024 in SLP (Criminal) No. 9778/2018, the High Court ruled that a pending civil suit did not warrant quashing cognizance where the allegations concerning the sale deed also involved criminal ingredients. The principle in *P. Swaroopa Rani* permits civil and criminal proceedings to continue simultaneously; whether either should be stayed depends on the circumstances of the particular case. The finding of sufficient ground for taking cognizance was affirmed.

Evidence — civil and criminal proceedings — different standards of proof — independent findings — *Iqbal Singh Marwah, (2005) 4 SCC 370*, as quoted in the authorities relied on, requires civil cases to be decided on a preponderance of probabilities and criminal cases on proof beyond

reasonable doubt, each on the evidence adduced in that proceeding. The quoted decisions in *K.G. Premshanker* and *Vishnu Dutt Sharma* reject the propositions associated with *Karam Chand Ganga Prasad* and *V.M. Shah* that civil findings automatically bind criminal courts or supersede criminal findings. *Satish Chander Ahuja, (2021) 1 SCC 414,* permits a civil court to consider evidence led in criminal proceedings; it does not make the other forum's findings automatically final.

Evidence Act, 1872 — Sections 40–43 — relevance and effect of previous judgments — *K.G. Premshanker, (2002) 8 SCC 87*, quoted in *Syed Askari* and *Prem Raj*, requires the court first to determine whether an earlier judgment is relevant under the statute and then to determine its legally permissible effect. The conclusiveness specified in Section 41 and other limited uses of previous judgments qualify the general rule that the proceedings are independent. Section 43 preserves the exceptions where the existence of a judgment is a fact in issue or is otherwise relevant. The High Court relied on these qualified principles in rejecting the contention that the pending civil suit barred criminal proceedings.

Parallel proceedings — priority of criminal proceedings — exceptions — *M.S. Sheriff, AIR 1954 SC 397,* quoted through *Iqbal Singh Marwah* in *Prem Raj*, ordinarily favours prompt criminal proceedings to preserve evidence and secure timely justice. The rule is not inflexible. The likelihood of embarrassment and special circumstances, including another proceeding nearing completion, may justify a different course; the possibility of conflicting findings alone does not. The High Court refused to quash cognizance. It neither stayed the civil suit nor directed that the proceedings follow a mandatory sequence.

Case-note :- ***1. Facts :*** Suraj Singh Dhakad and Others filed M.Cr.C. No. 23628/2024 under Section 482 CrPC challenging the order dated 19 May 2022 passed by the First Additional Sessions Judge, Shivpuri, in Criminal Revision No. 71/2021. The revisional court had affirmed the order dated 9 April 2021 passed by the Judicial Magistrate First Class, Pohri, in Criminal Case No. 161/2021, taking cognizance against the applicants for offences under Sections 420 and 120-B read with Section 34 IPC. Respondent No. 1, Shriwati Dhakad, stated that she was an illiterate resident of village Rasera, Police Station Bairad, District Shivpuri, and could not even sign her name. According to her, the Assistant Secretary of the Gram Panchayat informed her that a house had been sanctioned in her name and that she needed to register to receive the payment. Suraj Singh Dhakad allegedly took her to Pohri to register the house and crop. Rajendra Prajapati, Dharmendra and Naresh Dhakad, described as applicants Nos. 3–5, accompanied her. She alleged that she was taken to an office on two occasions, told that Suraj would construct the sanctioned house, instructed to say that she had received the amount if an officer asked, and induced to affix her thumb impressions on documents.

She alleged that those documents were used to procure a sale deed in respect of her land. Suraj Singh and Reena Dhakad, applicants Nos. 1 and 2, subsequently told her that they had purchased the land and obtained mutation in their favour. She denied having executed a sale deed or alienated her land and alleged that they threatened her when she resisted their claim. Her complaint referred to Survey Nos. 780/1, 777/1, 703/1, 702/1, 687/1, 639/1, 7/1 and 781, with a total area stated to be 16–17 bighas, allegedly transferred under the pretext that a house had been sanctioned for her.

She initially succeeded in challenging the mutation in the applicants' favour, but the Commissioner, Gwalior Division, allowed their appeal. In challenging the criminal proceedings, the applicants submitted that the High Court had set aside the mutation order on 6 December 2022 in M.P. No. 2828/2021 and that the Supreme Court had directed the parties to maintain status quo on 10 November 2023 in SLP (Civil) Diary No. 42723/2023. Relying on the mutation litigation and the pending civil suit concerning the same sale deed, they contended that taking cognizance in the criminal case was unlawful. The respondents opposed the application.

2. Precedents — Considered : *Kishan Singh (Dead) through LRs v. Gurpal Singh and Others, (2010) 8 SCC 775* — Paragraphs 16–18 are reproduced in paragraph 7 of the judgment. They explain the different standards of proof and the independent adjudication of civil and criminal proceedings. Quoting *Iqbal Singh Marwah v. Meenakshi Marwah*, the decision states that civil cases are decided on a preponderance of probabilities, whereas the prosecution must prove a criminal case beyond reasonable doubt. Findings in one proceeding do not automatically bind the other, although earlier judgments may be relevant under

Sections 41–43 of the Evidence Act. The extract also refers to the treatment of *Karam Chand Ganga Prasad* in *Syed Askari* and *Vishnu Dutt Sharma*. The High Court applied these principles in rejecting the contention that the pending civil proceedings barred the criminal case.

Syed Askari Hadi Ali Augustine Imam and Another v. State (Delhi Administration) and Another, (2009) 5 SCC 528 — Paragraphs 24–29 are separately reproduced. They explain that, even where criminal proceedings receive priority, the civil suit must be decided on its own merits and evidence. *Th*e extract fr*o*m *K.G. Premshanker v. Inspector of Police* explains the statutory rules governing previous judgments, res judicata in civil suits, the protection under Section 300 CrPC subject to its conditions, and the distinction between relevance and conclusiveness. It rejects a general rule that findings in one forum automatically bind the other. The High Court relied on this reasoning in rejecting the applicants' contention that the civil proceedings barred the criminal case.

K.G. Premshanker v. Inspector of Police and Another, (2002) 8 SCC 87 — The decision is referred to in both the *Syed Askari* and *Prem Raj* extracts. Paragraphs 30–31 require the court first to determine whether a previous judgment is relevant under Sections 40–43 and then to determine the effect given to it by law. A previous final judgment may be relied on as the Evidence Act permits. Res judicata in civil suits and the protection against a further criminal trial under Section 300 operate subject to their respective conditions. Where civil and criminal proceedings arise from the same cause, a relevant judgment is not necessarily conclusive. Section 41 specifies the judgments that have conclusive effect; the effect of a judgment relevant under Sections 40, 42 or another provision must be assessed in its context. The quoted illustration of trespass explains that a civil decree concerning title and possession may materially affect a later prosecution for trespass, subject to the criminal court's assessment under the law. Whether a judgment is relevant for a limited purpose, such as motive or a fact in issue, depends on the circumstances of the case.

Iqbal Singh Marwah v. Meenakshi Marwah, (2005) 4 SCC 370 — This Constitution Bench decision is quoted or referred to in *Kishan Singh*, *Syed Askari* and *Prem Raj*. It explains that civil and criminal proceedings must be adjudicated independently under their different standards of proof; avoiding conflicting findings does not make one forum's findings final in the other. Its discussion of *M.S. Sheriff* also explains the preference for criminal proceedings and the exceptions to that preference. The *Syed Askari* extract reproduces paragraph 24 of *Iqbal Singh Marwah*, which addresses the delay that may result from the procedure for a court complaint under Sections 340, 341 and 343(2) CrPC and the consequent risk of losing evidence. That consideration supported rejection of the broad interpretation of the restriction on court complaints proposed in *Iqbal Singh Marwah*.

M.S. Sheriff v. State of Madras, AIR 1954 SC 397 — The reasoning of this Constitution Bench decision is reproduced through *Iqbal Singh Marwah* in *Prem Raj*. Paragraphs 15–16 ordinarily favour giving criminal proceedings priority because the public interest requires prompt punishment of the guilty and prompt vindication of the innocent while events and evidence remain fresh. The possibility of conflicting results does not, by itself, determine which proceeding should take priority; the likelihood of embarrassment and the particular circumstances must be considered. There is no inflexible rule. A civil case or another criminal proceeding nearing completion may justify a different course. The direction staying civil proceedings was made on the facts of *M.S. Sheriff*.

P. Swaroopa Rani v. M. Hari Narayana — Paragraph 11 is reproduced in the *Syed Askari* extract. It states that civil and criminal proceedings may continue simultaneously and that a stay of either depends on the facts and circumstances of the case. This principle supported the refusal to quash cognizance merely because a civil suit was pending.

Prem Raj v. Poonamma Menon and Another, Supreme Court decision dated 2 April 2024 in SLP (Criminal) No. 9778/2018 — This is the third authority directly quoted by the High Court. The extract discusses *K.G. Premshanker*, *Vishnu Dutt Sharma*, *Satish Chander Ahuja* and the Constitution Bench decisions. It affirms the different standards of proof and rejects a universal rule that one court's findings bind the other, subject to the statutory rules governing the relevance and effect of earlier judgments. It also reproduces the reasoning in *M.S. Sheriff* on the preference for criminal proceedings and the exceptions to that preference. Applying this discussion, the High Court concluded that a pending civil suit did not, by itself, warrant quashing cognizance.

Karam Chand Ganga Prasad v. Union of India, (1970) 3 SCC 694 — The proposition from this decision is reproduced as part of counsel's submissions in the *Prem Raj* extract and is not accepted in the quoted authorities. The extracts from *Syed Askari* and *Kishan Singh* state that *Karam Chand* failed to consider the Constitution Bench decision in *M.S. Sheriff* and describe it as per incuriam or overruled. *Vishnu Dutt Sharma v. Daya Sapra, (2009) 13 SCC 729*, and *K.G. Premshanker* explain the contrary position set out in the judgment. *V.M. Shah* is also referred to in the *K.G. Premshanker* extract. These references explain why civil findings do not automatically prevail over criminal findings; the High Court did not formulate separate holdings on each of those decisions.

Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414 — The *Prem Raj* extract refers to this decision for the limited proposition that a civil court is not barred from considering evidence led in criminal proceedings. Such consideration does not make the criminal result automatically binding. The High Court did not decide the admissibility or weight of any particular criminal deposition in a civil suit.

3. Statutes considered : Section 482 CrPC — The applicants invoked the High Court's inherent jurisdiction to challenge the order taking cognizance and its affirmance in revision. The question was whether the mutation dispute, litigation involving the civil status-quo order and the pending suit justified quashing those orders. The High Court declined to exercise its inherent powers on those grounds.

Sections 420 and 120-B read with Section 34 IPC — Cognizance was taken for these offences on a complaint alleging that thumb impressions and sale documents affecting an illiterate landholder had been obtained by deception.

Sections 40–43 of the Indian Evidence Act, 1872 — The quoted authorities explain the statutory rules governing the relevance and effect of previous judgments. The court must first determine relevance and then the effect permitted by law. The conclusiveness specified in Section 41 qualifies the general rule that findings in civil and criminal proceedings are independent. Under Section 43, judgments outside Sections 40–42 are generally irrelevant unless their existence is a fact in issue or another provision makes them relevant.

Sections 340, 341 and 343(2) CrPC — The quoted discussion in *Iqbal Singh Marwah* addresses delay in the procedure for a court complaint, including a preliminary inquiry, an appeal against an order directing a complaint, and the court's discretion to adjourn the complaint proceeding when the decision in the underlying judicial proceeding is under appeal. Section 476 of the old Code is mentioned in the account of the proceedings in *M.S. Sheriff*. These provisions arise in the quoted authorities; they are distinct from the provisions applied to Shriwati's complaint.

4. Issues : (i) Whether the pending mutation litigation and the asserted civil status-quo order concerning the property prevented the criminal complaint from proceeding, although mutation entries serve fiscal purposes and do not establish title.

(ii) Whether the pending civil suit concerning the same allegedly fraudulent sale deed required quashing of criminal cognizance, or whether the transaction alleged could have both civil consequences and criminal ingredients.

(iii) Whether, despite the different standards of proof, findings of fact in one forum automatically bind the other, and how the Evidence Act provisions governing previous judgments qualify the general rule.

(iv) Whether the preference for criminal proceedings stated in the quoted authorities imposes a mandatory rule governing the sequence or stay of proceedings.

(v) Whether the order taking cognizance and its affirmance in revision warranted interference on the grounds urged. Questions of title, the authenticity of the sale deed on the evidence, the guilt of individual applicants and the eventual outcome of either proceeding remained for determination by the appropriate forum.

5. Ratio / Findings : **The Court observed that —** mutation entries serve fiscal purposes and are not documents of title. A dispute over those entries does not, by itself, prevent a civil suit or criminal prosecution from continuing. The Court therefore rejected the applicants' objection based on mutation. Their submissions concerning the High Court's mutation order and the Supreme Court's status-quo direction did not establish a bar to taking criminal cognizance.

A transaction may give rise to both a civil suit and a criminal complaint. Applying *Kishan Singh*, *Syed Askari* and *Prem Raj*, the Court explained that civil findings do not automatically govern a criminal adjudication merely because both concern the same subject. Civil cases are decided on a preponderance

of probabilities, whereas the prosecution must prove a criminal case beyond reasonable doubt. Each proceeding must be decided on the evidence adduced in it. The possibility of different results does not, by itself, require criminal proceedings to be terminated. The independence of the proceedings remains subject to the statutory rules governing previous judgments. The discussion in *K.G. Premshanker*, reproduced in the authorities relied on by the High Court, requires the court to determine relevance under Sections 40–43 and then the permissible effect of the relevant judgment. Section 41 specifies the judgments that have conclusive effect. Other provisions may permit limited relevance, depending on the matters decided and the purpose for which the judgment is relied on. Res judicata in civil suits and Section 300 CrPC operate in their respective settings. The applicants could not, therefore, treat a pending civil suit as a binding adjudication that defeated criminal cognizance.

The quoted authorities reject the proposition that civil findings automatically bind criminal courts or supersede criminal findings. Their treatment of *Karam Chand* and *V.M. Shah* rests on the Constitution Bench decisions in *Iqbal Singh Marwah* and *M.S. Sheriff*, together with the principles discussed in *K.G. Premshanker* and *Vishnu Dutt Sharma*.

As to simultaneous proceedings and their timing, *P. Swaroopa Rani* permits civil and criminal proceedings to continue together. *M.S. Sheriff* explains the usual preference for criminal proceedings: delay may impair proof and unduly prolong uncertainty for the accused and the complainant. The preference is flexible. The likelihood of embarrassment and special circumstances, including another proceeding nearing completion, may justify a different course. The High Court relied on these principles in rejecting the objection based on the pending civil suit. It did not order a stay or prescribe a mandatory sequence for the proceedings.

In considering the allegation that sale documents had been obtained by deception, the Court observed that execution of a forged sale deed would also involve criminal ingredients. It found sufficient ground for taking cognizance and affirmed the orders of the courts below. The decision rejected a pre-trial challenge under the High Court's inherent powers. It did not establish that the prosecution had proved the sale deed to be forged, that the complainant's title had been established, or that mutation proved every applicant's guilt. The civil and criminal proceedings remained subject to independent determination in the respective forums.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC. It affirmed the order dated 19 May 2022 in Criminal Revision No. 71/2021 and the Judicial Magistrate's order dated 9 April 2021 taking cognizance in Criminal Case No. 161/2021. Cognizance for offences under Sections 420 and 120-B read with Section 34 IPC remained in place.

Suraj Singh Dhakad and Others v. Shriwati Dhakad and Others, M.Cr.C. no. 23628/2024, 19/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (941) Prev Next

Headnote :- Witness protection — witness protection scheme — fresh representation — *Mahender Chawla v Union of India*, Supreme Court Writ Petition (Criminal) No. 156/2016, judgment dated 5 December 2018, was cited for the nationwide application of the Witness Protection Scheme. The petitioner alleged that he and other witnesses were being threatened. The High Court directed the Superintendent of Police, Gwalior, to take the necessary action to protect him if he submitted a fresh representation under the Scheme.

Arrest and result of investigation — judicial restraint — Applying *D. Venkatasubramaniam v M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, which was quoted at length, the High Court declined to direct the police to arrest the private respondents or file a charge-sheet. Whether investigation warrants arrest, seizure, a charge-sheet or a closure report is for the police to decide in accordance with law. The Court could not prescribe those steps through the present Article 226 prayer. *M.C. Abraham, (2003) 2 SCC 649*, quoted in that decision, explains that the discretionary power of arrest under Section 41 CrPC must be exercised cautiously. The quoted passage from *Divine Retreat Centre, (2008) 3 SCC 542*, requires a fair hearing before judicial directions having drastic consequences for a person's reputation.

Investigation — Completion without unnecessary delay — Section 173(1) CrPC — Refusal to direct arrest or predetermine the filing of a charge-sheet did not relieve the investigating officer of the duty to reach a conclusion and promptly submit the

appropriate final report. Section 173(1) requires investigation to be completed without unnecessary delay. The petitioner could approach the Superintendent of Police, Gwalior, with any further grievance.

Opportunity of hearing — judicial order directing investigation — scope of quoted authority — *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, quoted in *D. Venkatasubramaniam*, required an opportunity of hearing before a judicial order directing investigation on anonymous allegations with drastic consequences for the affected person's reputation. *D. Venkatasubramaniam* also disapproved unreasoned directions against persons who had not been joined as parties. The High Court relied on that warning in refusing the demand for compulsory arrest.

Case-note :- ***1. Facts :*** Suraj filed Writ Petition No. 17320/2019 under Article 226 before the Madhya Pradesh High Court, Gwalior Bench. Alleging that he and other witnesses were being threatened, he sought protection for himself and his family, arrest of the private respondents, and quashing of any criminal proceeding that might be brought against him. The references to respondent numbers in the prayer and the discussion of arrest were inconsistent. The Court decided the petition on 26 August 2019.

2. Precedents — Considered : *Mahender Chawla and Others v Union of India and Others*, Supreme Court Writ Petition (Criminal) No. 156/2016, judgment dated 5 December 2018 — The High Court cited this decision as formulating the Witness Protection Scheme applicable throughout India. Applying that Scheme, it directed the Superintendent of Police, Gwalior, to take the necessary protective action if Suraj submitted a fresh representation. This was a separate, conditional direction on his request for protection as a witness under the national Scheme.

D. Venkatasubramaniam v M.K. Mohan Krishnamachari, (2009) 10 SCC 488 — The decision is quoted at length in paragraph 8 and applied in paragraph 9. It disapproved unreasoned High Court directions requiring the police to record statements, arrest persons, seize property and file a charge-sheet. Investigation is a statutory duty of the police and may lead to a conclusion that no case is made out. The High Court's inherent power under Section 482 CrPC is confined to the purposes specified in that provision and must be exercised with care. Judicial observations must also take account of their practical consequences. In the present Article 226 petition, the High Court applied this reasoning in refusing to order mandatory arrests or predetermine the filing of a charge-sheet. It nevertheless directed lawful completion of the investigation.

The extract from *D. Venkatasubramaniam* quotes *M.C. Abraham v State of Maharashtra, (2003) 2 SCC 649*, on Section 41 CrPC. Arrest is discretionary, subject to the statutory conditions, and need not follow every FIR. Because arrest affects liberty and reputation, the officer should cautiously consider whether it is necessary, after such investigation as is appropriate. The extract also quotes *Divine Retreat Centre v State of Kerala, (2008) 3 SCC 542*, on the need to hear those likely to be affected before making a judicial order directing investigation on anonymous allegations with drastic reputational consequences. That safeguard concerns judicial intervention in the circumstances described; it does not establish a general right to advance notice of ordinary police investigation.

3. Statutes considered : Article 226 — The petition invoked the High Court's writ jurisdiction to seek protection and compulsory police action. Section 41 CrPC — The quoted Supreme Court discussion explains the discretionary power of arrest; it does not require arrest whenever a complaint is made. Section 482 CrPC — The quoted authority addresses the limited purposes of the High Court's inherent power. The present petition was under Article 226, rather than Section 482. Section 173(1) CrPC — The High Court directly quoted and applied the requirement to complete investigation without unnecessary delay. Depending on the evidence, the final report could be a closure report or a charge-sheet.

4. Issues : (i) What action could be directed on the request for witness protection based on alleged threats? (ii) Could the Court direct the police to arrest the private respondents and file a charge-sheet? (iii) Could it require timely completion of the investigation and submission of the appropriate final report without prescribing the result? (iv) Was there a basis to quash an unspecified future criminal proceeding? The judgment did not give a developed finding on the last request or grant relief quashing any proceeding.

5. Ratio / Findings : **The Court observed that —** the Witness Protection Scheme formulated in *Mahender Chawla* applied throughout the country. If

Suraj submitted a fresh representation, the Superintendent of Police, Gwalior, was required to take the necessary action to protect him under that Scheme. The Court did not assess a threat category or immediately prescribe a particular protective measure. Applying *D. Venkatasubramaniam*, it refused to direct arrest or require a charge-sheet. The police must decide, in accordance with law and the material gathered, whether arrest or seizure is warranted and whether a charge-sheet or closure report should be filed. Directing the arrest of specified private persons and the filing of a charge-sheet would amount to supervising and predetermining the investigation. The quoted reasoning included *M.C. Abraham*'s explanation of the effect of arrest on liberty and *Divine Retreat Centre*'s warning about judicial orders made without hearing those affected.

Section 173(1) CrPC nevertheless required the investigation to be completed without unnecessary delay. The investigating officer had to determine whether an offence was disclosed and submit the appropriate final report as early as possible. The Court directed completion of the investigation and the necessary steps under the law without prescribing the result. Suraj remained free to approach the Superintendent of Police, Gwalior, with any grievance.

6. Relief : The Hon'ble High Court disposed of the writ petition. It directed the Superintendent of Police, Gwalior, to take the necessary protective action under the Witness Protection Scheme if Suraj submitted a fresh representation. It refused to direct mandatory arrest or predetermine the filing of a charge-sheet. The investigating officer was directed to complete the investigation as early as possible and take the necessary steps under the law. Any further grievance submitted to the Superintendent of Police was to be considered in accordance with law. The order did not adjudicate an entitlement to a particular protective arrangement or grant quashing of a future proceeding.

Suraj v. State of Madhya Pradesh and Others, W.P. no. 17320/2019, 26/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (942) Prev Next

Headnote :- Circumstantial proof — homicide distinct from identification — *Sharad Birdhichand Sarda (1984) 4 SCC 116*, adopting *Hanumant* and its five conditions, was applied. Poison in the viscera and an ante-mortem ligature mark on the lower part of the neck supported the finding of homicidal death, but did not identify Surajbai or Bhuribai as the offenders. The Court set aside their conviction under Section 302/34 because the alleged links, considered separately and together, did not exclude other reasonable possibilities.

Last seen, motive and witness location — *Shailendra Rajdev Pasvan (2020) 14 SCC 750* and the authorities cited in it require reliable proof that the accused and deceased were last seen together, with a sufficiently short interval. The assertion that Hari had returned was an unsupported improvement in the evidence. Suresh's claimed presence at Rukmani's adjoining house and his account of hearing cries were not proved. The alleged relationship, earlier quarrel and Bhuribai's visit for her delivery did not establish the necessary proximity or participation.

Core omissions, delayed examination and inimical witnesses — *Harbeer Singh (2016) 16 SCC 418* and *A. Shankar (2011) 6 SCC 279* distinguish minor discrepancies from significant omissions under Section 162 that undermine credibility. *Sheo Shankar Singh (2011) 3 SCC 654* requires delay in examining a witness to be assessed in context; delay is not automatically fatal. Here, unexplained delays of four to five months in recording statements compounded material improvements. *Akalu Ahir (1973) 2 SCC 583* and *Anil Rai (2001) 7 SCC 318* required careful scrutiny of admitted enmity without automatic rejection of the testimony.

Rekhabai's reported confession — Section 30 — *Sk. Yusuf (2011) 11 SCC 754*, *Kusal Toppo (2019) 13 SCC 676* and *Chandrapal, AIR 2022 SC 2542*, required caution in assessing the alleged extra-judicial confession. *Sk. Yusuf* requires proof of truthful, voluntary and unambiguous words, assessed with caution. The *Sahadevan (2012) 6 SCC 403* principles quoted in *Kusal Toppo* and *Chandrapal* require a confession to inspire confidence, be free from material discrepancies or inherent improbability, and be proved according to law; cogent corroboration strengthens its value. The three witnesses gave divergent accounts, and one had not heard Rekhabai directly. The principles in *Pancho (2011) 10 SCC 165* and *Haricharan Kurmi*, quoted in *Kusal Toppo*, distinguish Sections 3 and 30. Even a proved confession by a co-accused can provide

only assurance after substantive evidence supplies a satisfactory foundation, subject to a joint trial for the same offence. It could not form the foundation of the case against these appellants when the other links had failed.

Accused's FIR — admissibility and factual limit — *Aghnoo Nagesia, AIR 1966 SC 119*, distinguishes the act of reporting and a non-confessional admission from a police confession barred by law. An FIR is not, by itself, substantive evidence. Surajbai's non-inculpatory report suggested a possible line of investigation concerning a rope and sickle. The Court did not accept its account as proof of suicidal hanging or of the identity of an alternative killer.

Investigation — material gaps and adverse directions — The hospital worker was not examined, the cart owner was not identified, and the cart was not seized. The alleged discovery at the tree in the early morning was not investigated. The Court found that the prosecution had failed to identify the killer and acquitted both women. It criticised the trial court's failure to assess cross-examination and directed proceedings under Section 340 concerning five witnesses and three officers. *Pritish v State of Maharashtra, (2002) 1 SCC 253*, *Amarsang Nathaji v Hardik Harshadbhai Patel, (2017) 1 SCC 113*, and *State of Goa v Jose Maria Albert Vales, (2018) 11 SCC 659*, quoted in the *Kallu* recall ruling, supported dispensing with preliminary inquiry or prior notice where the court could form a prima facie opinion that further inquiry was expedient in the interests of justice. The direction did not determine those persons' guilt.

Appreciation of testimony — cross-examination and criminal appeal — The trial court must assess examination in chief in the light of cross-examination and give due weight to admissions and material contradictions. If it considers a contradiction immaterial, it must explain that conclusion rather than ignore the contradiction. The failure to do so here contributed to unsupported convictions affecting life and liberty. *Suryabaksh Singh v State of U.P., (2014) 14 SCC 222, was invoked when counsel and the appointed amicus did not appear.* The Bench examined the complete trial record and acquitted both appellants.

Case-note :- ***1. Facts :*** In Sessions Trial No. 117/2009, the appellants Surajbai and Bhuribai were convicted by the trial court on 23 December 2010 under IPC Section 302 read with Section 34 for the death of Hari alias Bhaggu and sentenced to life imprisonment and a ₹500 fine each, with six months' rigorous imprisonment in default. On 30 July 2009, charges were framed under Sections 302/34 and 201 IPC against Bhuribai, and under Sections 302/34, 201 and 203 IPC against Surajbai. The trial court acquitted both of Section 201 and acquitted Surajbai of Section 203; Bhuribai was not charged under Section 203. On 21 September 2008 at about 7.30 a.m., Surajbai reported that she had been asleep until Sukmabai's alarm at about 3.30 a.m.; she said she cut a rope to bring down Hari alias Bhaggu from a neem tree, took him to a hospital and returned with his body after a compounder declared him dead. The police registered Merg No. 51/2008 and, after inquiry, Crime No. 185/2009 alleging poisoning, a staged suicide and false information. Twelve prosecution witnesses were examined; the appellants denied guilt and adduced no defence evidence. An earlier report by Surajbai dated 13 September 2008 concerned Hari's alleged sickle assault on her on 10 September 2008; relatives admitted that he subsequently stayed with Sewantibai while police were searching for him.

The prosecution alleged that Hari lived with Surajbai after her husband Pannalal's death, that an earlier dispute had included an attempted kerosene attack, and that he returned to her home after staying with his sister. Suresh (PW7) said he heard a plea not to administer "medicine" and the sound of strangulation. Relatives Dinesh (PW1), Phoolabai (PW2) and Sukmabai (PW6) recounted information allegedly given by Surajbai's daughter Rekhabai, a juvenile co-accused, and said Hari's body was seen in a bullock cart outside a hospital before it was brought to Surajbai's courtyard. Surajbai herself had reported that Sukmabai discovered Hari at a neem tree, that the rope was cut and that Hari was taken to hospital. Bhuribai, Surajbai's sister, was visiting for her delivery; her presence was admitted under Section 313 CrPC, but this was not an admission of guilt. The prosecution relied on a pesticide bottle, rope and sickle at the spot. Dr Anil Kumar (PW4) found a ligature mark on the lower part of the neck and evidence of asphyxia. Poison was later found in the viscera. The Bench accepted that the death was homicidal, yet concluded that the identity and acts of the killer remained unproved.

2. Precedents — Considered : *Suryabaksh Singh v State of U.P., (2014) 14 SCC 222*, was invoked in paragraph 8 when neither counsel nor amicus

appeared, as the Bench itself examined the trial record and heard the State.

Sharad Birdhichand Sarda v State of Maharashtra, (1984) 4 SCC 116 — The decision, quoting *Hanumant v State of Madhya Pradesh and Shivaji Sahabrao Bobade*, is set out in paragraph 12. Its five conditions require the circumstances to be fully established and conclusive, consistent only with guilt, and sufficient to exclude other reasonable hypotheses. The chain must be complete and show that, in all human probability, the accused committed the act. The quoted discussion also refers to *Anant Chintaman Lagu* and other decisions on circumstantial evidence. The Bench applied the five conditions to each alleged link. Proof of homicidal death was not treated as proof that the accused women had caused it.

Shailendra Rajdev Pasvan v State of Gujarat, (2020) 14 SCC 750 — Paragraph 13 reproduces the requirement of a complete chain of circumstances stated in *Trimukh Maroti Kirkan* and the last-seen principle discussed in *Bodhraj*, *Rambraksh* and *Anjan Kumar Sarma*. The interval must be sufficiently short to exclude another person's involvement. Where the interval is long or unproved and permits another person to intervene, an inference of guilt from last-seen evidence is unsafe without further positive evidence. The Bench found no reliable proof that Hari had returned or was last seen with either appellant.

Sk. Yusuf v State of W.B., (2011) 11 SCC 754 — Quoted in paragraph 64, the decision treats an extra-judicial confession as weak evidence requiring cautious assessment. It must be voluntary, truthful, made in a fit state of mind and expressed in clear words. A confession that passes the test of credibility may nevertheless support a conviction. *Kusal Toppo v State of Jharkhand, (2019) 13 SCC 676*, quoted in paragraph 65, explains this caution through *Sahadevan* and the Section 30 authorities, including *Gopal Sah*, *Pancho* and *Haricharan Kurmi*. The *Sahadevan* principles require careful scrutiny, voluntariness and truth, the capacity to inspire confidence, absence of material discrepancies or inherent improbability, and proof according to law. Cogent circumstances and corroboration increase reliability. *Pancho*'s quotation from *Haricharan Kurmi* distinguishes a co-accused's confession from substantive evidence under Section 3: Section 30 permits it to provide assurance only after independent evidence supplies a satisfactory foundation. A joint trial for the same offence remains a statutory condition. The judgment does not establish that the juvenile Rekhabai was jointly tried with these appellants. *Chandrapal v State, AIR 2022 SC 2542*, discussed in paragraphs 67–68, brings together *Paltan Mallah*, *Sahadevan*, *Jagroop*, *Sk. Yusuf* and *Pancho* on reliability, corroboration and the rule that a co-accused's statement cannot be the starting point. Applying those principles to the incompatible accounts of Rekhabai's alleged words, the Bench did not treat any reported statement as independently sufficient against Surajbai or Bhuribai.

Harbeer Singh v Sheeshpal, (2016) 16 SCC 418 — Quoted in paragraph 69, the decision applies the Explanation to Section 162 CrPC to significant omissions that create serious doubt about credibility. *A. Shankar v State of Karnataka, (2011) 6 SCC 279*, quoted in paragraph 70, distinguishes natural variations in memory and minor embellishments from material contradictions affecting the core of the case. It requires assessment of overall credibility rather than mechanical rejection. The Bench applied these principles to the alleged kerosene incident, Hari's claimed return, transport and voices, and the improvements made by witnesses in court. *Sheo Shankar Singh v State of Jharkhand, (2011) 3 SCC 654*, quoting *Ranbir* and *Satbir Singh*, was considered in paragraphs 81–84. Delay in examining a witness does not automatically destroy the prosecution case. The information available to investigators, the timing and explanation, and the possibility that a witness was unfairly introduced must be considered. No satisfactory explanation was given here for the late statements of Dinesh and Suresh.

Aghnoo Nagesia v State of Bihar, AIR 1966 SC 119 — Quoted in paragraph 78, the decision states that an FIR is not substantive evidence. If its maker testifies, it may be used for corroboration or contradiction. Giving the information may constitute conduct under Section 8 of the Evidence Act; a non-confessional statement may be an admission under Section 21. A confessional FIR made to the police cannot be used against an accused because of Section 25. The Bench treated Surajbai's report as non-inculpatory and as a source of investigative leads, while expressly declining to accept the report itself as proof of its alternative account.

Akalu Ahir v Ramdeo Ram, (1973) 2 SCC 583, and *Anil Rai v State of Bihar, (2001) 7 SCC 318*,

paragraphs 87–90, explain that enmity may provide a motive for both crime and false implication; a related or inimical witness is scrutinized but is not rejected automatically if otherwise consistent. The Bench applied careful scrutiny because several relatives acknowledged hostility and had serious omissions and inconsistencies.

On Section 340 CrPC, the Bench quoted the earlier decision in *Kallu v State of M.P.* dated 25 September 2017 and the recall order dated 6 March 2020. T*he* latter re*p*roduce*d Pritish v State of Maharashtra, (2002) 1 SCC 253*, *Amarsang Nathaji v Hardik Harshadbhai Patel, (2017) 1 SCC 113*, and *State of Goa v Jose Maria Albert Vales, (2018) 11 SCC 659*. Those principles permit the court to dispense with preliminary inquiry when it can form a prima facie opinion that further inquiry is expedient in the interests of justice. The proposed respondent need not participate before that opinion is formed. By order dated 20 February 2024, the Supreme Court declined to interfere with the *Kallu* recall direction, expressly noting that guilt had not been established and the proceedings were for further inquiry. Those proceedings concerned different persons. The Bench relied on them for the applicable procedure before directing proceedings in the present case. The special leave petitions and review referred to in paragraphs 103–104 were dismissed.

3. Statutes considered : Section 302 read with Section 34 IPC governed the conviction for murder with common intention challenged in the appeal. Both women were acquitted of the charge under Section 201. The charge under Section 203 was framed against Surajbai alone and resulted in her acquittal, a relevant qualification in considering her FIR. Section 374(2) CrPC provided the appeal, and Section 313 concerned the limited admission that Bhuribai had come for her delivery. Section 161 governed police statements; the Explanation to Section 162 permitted a significant omission to amount to a contradiction according to its context. Section 154 concerned recording the FIR. Sections 8 and 21 of the Evidence Act govern conduct and non-confessional admissions, while Sections 25–26 restrict police confessions. Section 30 governs the limited consideration of a co-accused's confession. Sections 145 and 157 concern contradiction and corroboration where the maker testifies. Sections 3 and 30 distinguish substantive evidence from the limited consideration of a co-accused's confession in a joint trial for the same offence. Section 340 CrPC, read with Section 195(1)(b)(i) in the quoted authorities, governs the court's preliminary opinion and complaint process for alleged offences affecting the administration of justice. Initiation is not a final finding of criminal guilt. The quoted *State of Goa* decision also explains the appeal under Section 341 against making or refusing a complaint and the procedure under Section 343. The receiving Magistrate must, as far as may be, deal with the matter as a case instituted on a police report, but may adjourn it where an appeal in the underlying judicial proceeding is pending.

4. Issues : (i) Did the prosecution prove a complete circumstantial chain identifying each appellant, beyond establishing homicide? (ii) Were the alleged return and last-seen event, motive, overheard words, Rekhabai's statements, the account of the hospital visit and cart transport, and seized articles reliable links? (iii) How should material omissions, late statements and admitted family hostility affect credibility? (iv) What evidentiary use could be made of Surajbai's non-confessional FIR without accepting its narrative as substantive proof? (v) Could the trial court rely on examination in chief without weighing cross-examination, admissions and core contradictions? (vi) Could the Bench direct initiation of Section 340 proceedings against witnesses and investigators without notice or preliminary inquiry, and what did that direction decide?

5. Ratio / Findings : **The Court observed that —** the ligature mark on the lower part of the neck and the forensic finding of poison established homicidal death. Dr Anil Kumar's qualifications concerning the mechanism and timing of death were considered, and the Court concluded that the ligature mark was inconsistent with suicidal hanging. Proof of murder nevertheless had to be distinguished from proof of the appellants' involvement. *Sharad Birdhichand Sarda* required a complete chain implicating the accused. Hari had left Surajbai's house after the earlier quarrel. The sole assertion that he returned was a material improvement in Suresh's later account. The alleged kerosene stains were omitted from earlier statements and were not coherently explained. The alleged illicit relationship and resulting motive were disputed. Suresh's claimed presence at Rukmani's house adjoining Surajbai's house was unverified, and Rukmani was not examined. His account of hearing pleas against administration of medicine and the sound of

strangulation, and his assertion that the appellants transported Hari, did not inspire confidence. Bhuribai's admitted stay for her delivery did not prove participation. The medical evidence could not supply these missing links.

Dinesh, Phoolabai and Sukmabai gave conflicting accounts of Rekhabai's alleged statements. According to another witness, Dinesh was asleep when Rekhabai allegedly visited. Sukmabai admitted that she neither saw nor heard Rekhabai directly. Even if the words amounted to a reliable confession by the co-accused, Section 30 did not permit them to serve as the starting point or sole proof against these appellants. Significant omissions from earlier statements concerning administration of poison, kerosene, Hari's return and cart transport affected the substance of the account, rather than harmless detail. Dinesh's police statement was recorded after about four months. Suresh's statement was dated 1 February 2009, and the investigating officer described it as having been recorded after five months. Neither delay was satisfactorily explained. *Sheo Shankar Singh* does not make every delay fatal, but the delays here compounded material improvements. The admitted hostility was assessed as a possible motive for both the offence and false implication, without a categorical presumption either way.

No compounder was examined, neither the cart nor its owner was traced, and the alleged discovery at the neem tree by Sukmabai was not investigated. Recovery of a pesticide bottle from an agriculturist's courtyard did not, by itself, connect the women with the offence. The precise place from which the rope was seized was uncertain, and the rope and sickle also corresponded to investigative leads in Surajbai's report. Even on the witnesses' account, Hari's body had been brought back to her courtyard. Surajbai's FIR was non-confessional and was not barred by Sections 25–26 of the Evidence Act. Her conduct in lodging it and remaining available was relevant. The Bench nevertheless expressly declined to treat the FIR as substantive proof of suicide or as a proved account of who discovered or transported Hari. The identity of the murderer remained unresolved. The trial court was criticised for accepting examination in chief without assessing cross-examination and material contradictions. Paragraph 109 requires due weight to admissions and material contradictions, and an explanation where a contradiction is considered immaterial. Cross-examination enables an accused to test the prosecution case; ignoring it undermines a proper adjudication affecting life and liberty. As of 22 August 2024, Surajbai had undergone 13 years and 11 months of actual imprisonment. Bhuribai had undergone three months and four days and had initially been sent to jail with her one-year-old daughter and three-year-old son.

For proceedings under Section 340, the Bench ruled that preliminary inquiry and notice to the proposed respondents were not compulsory if the court could form a prima facie opinion that further inquiry was expedient in the interests of justice. It considered the witnesses' deliberate false testimony and the investigators' deliberate failure to pursue material leads, and directed the trial court to initiate proceedings against PW1, PW2, PW5, PW6, PW7, PW9, PW10 and PW11.

6. Relief : The Hon'ble High Court allowed the appeal. It set aside the judgment dated 23 December 2010 and the life sentence under Sections 302/34 IPC, and acquitted both appellants of that charge. Bhuribai's bail bonds were discharged. Surajbai, who was in jail, was ordered to be released immediately. The judgment and record were to be sent to the trial court for information and compliance, including initiation of the directed proceedings against the five identified witnesses and three officers on the stated basis under Section 340.

Surajbai and Bhuribai v. State of Madhya Pradesh, Cr.A. no. 122/2011, 16/10/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (944) Prev Next

Headnote :- Separate trials — evidence confined to the accused's own record — *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Criminal Appeal No. 1306/2021, and *Karan Singh v. State of M.P., AIR 1965 SC 1037*, require separate assessment of the evidence in distinct trials, subject to lawful exceptions and a fair opportunity to contest the evidence. Bhanupratap's and Ajab's later testimony, recorded only in Dilip's trial, could not be used in Surajbhan's trial merely because it also suggested his absence. *Karan Singh* distinguishes an acquittal in another person's case from a binding adjudication between the same parties.

Fair trial — presence and cross-examination — appellate record — *A.T. Mydeen* explains that an accused's culpability ordinarily cannot be determined from evidence recorded without the

accused or the accused's pleader being present and without an opportunity to cross-examine. An appeal against conviction examines the record of that trial, subject to lawful further inquiry or additional evidence. Applying these principles, the Court rejected reliance on the later evidence recorded for the co-accused. Those statements did not amount to a formal acquittal of Surajbhan.

Incomplete judgment — distinct victims and unresolved charges — The trial judgment decided the charge under Section 302/149 only in respect of Pahalwan Singh and the charge under Section 307/149 only in respect of Bhanupratap. It neither gave a finding nor recorded an acquittal concerning Darshan Singh's murder or the attempted killing of Ajab Singh. Each charge concerning a distinct victim required a decision; silence did not amount to acquittal. The Court also noted that a single charge had been framed for each offence.

Section 386 and Section 482 CrPC — limited remand without state appeal — The Court declined sentence enhancement because no sentence had been imposed on the omitted counts. It also declined retrial because no procedural lapse in recording evidence warranted that course. Despite the absence of a State appeal, it exercised inherent power under Section 482 to require a judgment on the two undecided counts alone. Paragraph 28 protected the findings concerning Pahalwan and Bhanupratap and required assignment to a different Sessions Judge. The exercise was to be completed within three months. Paragraph 30 set aside the judgment and sentence and remanded the matter for the limited purpose specified in paragraph 28. The remand did not decide the omitted counts.

Judicial administration — inquiry into incomplete judgment - The District Judge (Inspection), Gwalior, was directed to inquire within two months into whether the presiding trial judge's omission resulted from negligence or extraneous considerations and, if warranted, to place the matter before the Chief Justice on the administrative side. This was a conditional inquiry direction, not a concluded finding of misconduct.

Case-note :- ***1. Facts :*** Bhanupratap Singh Gurjar reported an armed attack in a field at about 10:15 a.m. on 16 October 2006 during an irrigation dispute. According to the prosecution, several armed persons surrounded the group. Kedar and Ramhet fired guns, Surajbhan also fired at Bhanupratap's father Pahalwan Singh, and others attacked his cousin Ajab Singh with a farsa and lathis. Pahalwan and Bhanupratap's uncle Darshan Singh died at the scene. Bhanupratap stated that he was chased and fired upon; Ajab was injured. Offences were registered under Sections 302, 307, 147, 148, 149 and 120-B IPC. After investigation, charges were framed against Surajbhan and the other accused; Dilip was initially absconding. By order dated 23 January 2008, the trial court framed a single charge under Section 302/149 and a single charge under Section 307/149 despite the two homicide victims and two attempted-murder victims. The High Court specifically noted this irregularity in framing the charges.

Bhanupratap (PW1) and Ajab (PW2) testified in Surajbhan's presence. Surajbhan later absconded and was declared absconding on 25 October 2008. He was arrested and produced before the court in April 2017. The trial resumed, other witnesses were examined, and prosecution evidence was closed in February 2020. Dilip was arrested during Surajbhan's trial, and evidence concerning him was recorded separately. In their later testimony in 2018 concerning Dilip, PW1 and PW2 supported the occurrence but turned hostile on Dilip's identity. They also stated that Surajbhan had not been present. Surajbhan sought to rely on those later statements in his defence.

On 9 July 2021, the First Additional Sessions Judge, Gohad, in Sessions Trial No. 118/2007 convicted the appellant under Sections 302/149 IPC and sentenced him to life imprisonment and a fine of ₹1,000, with six months' rigorous imprisonment in default. For the offence under Sections 307/149, he received five years' rigorous imprisonment and a fine of ₹1,000, with six months' rigorous imprisonment in default. For the offence under Section 148, he received one year's rigorous imprisonment and a fine of ₹500, with six months' rigorous imprisonment in default. The sentences were to run concurrently. The judgment expressly decided Pahalwan's murder and the attempted murder of Bhanupratap, but gave no decision on Darshan's murder or the attempted murder of Ajab. In Criminal Appeal No. 6213/2021, Surajbhan challenged the eyewitness evidence, the medical evidence concerning the timing of death and the physical exhibits. He also relied on enmity and the later testimony in Dilip's trial.

2. Precedents — Considered : *A.T. Mydeen and Another v. Assistant Commissioner, Customs Department*, Supreme Court Criminal Appeal No.

1306/2021, order dated 29 October 2021 — The decision was directly applied. The quoted paragraphs 39–42 require proof to be assessed within the particular trial. Evidence concerning an accused's culpability is ordinarily recorded in the presence of that accused or counsel, with an opportunity to cross-examine, subject to statutory exceptions. Evidence from another trial of the same incident cannot simply determine a separately tried co-accused's guilt. An appeal against conviction ordinarily examines the record of the trial concerned, subject to further inquiry or additional evidence lawfully undertaken under Sections 367 or 391 CrPC. *A.T. Mydeen* found error in a common appellate judgment based on only one of two separate trial records. Applying these fair-trial principles, the High Court refused to rely on PW1's and PW2's later testimony recorded only in Dilip's trial.

Karan Singh v. State of M.P., AIR 1965 SC 1037 — The decision was applied to the distinction between separate proceedings. Its quoted reason*ing* states that one person's acquittal in proceedings to which another person was not a party does not conclusively determine the facts in the latter's case. Each case must be decided on its own evidence. *Karan Singh* distinguished *Pritam Singh v. State of Punjab, AIR 1956 SC 415*, and *Sambasivam v. Public Prosecutor*, 1950 AC 458, concerning the conclusiveness of an acquittal between the parties. It also distinguished *Krishna Govind Patil v. State of Maharashtra, AIR 1963 SC 1413*, which concerned acquittal of all the other alleged joint actors and conviction of a sole accused for sharing common intention with those same acquitted persons in one proceeding, a legally impossible position. *Karan Singh* did not permit evidence from the other proceeding to be transferred into the later case. The High Court applied the requirement to decide each case on its own record. The Section 34 examples in that precedent did not themselves decide the present charges under Section 149.

3. Statutes considered : Sections 302/149 and 307/149 IPC governed the homicide and attempted-murder charges based on alleged liability for a common object. Section 148 concerned rioting with a deadly weapon. The trial court decided the charges concerning Pahalwan and Bhanupratap but left those concerning Darshan and Ajab undecided. Section 386 CrPC sets out the appellate powers in appeals against conviction, acquittal and other orders, including retrial, alteration and consequential orders. The safeguards governing enhancement were considered, but there was no sentence on the two omitted counts to enhance. Section 482 preserves the High Court's inherent power to give effect to orders under the Code, prevent abuse of process or secure the ends of justice. The Bench exercised it to require a judgment on the omitted charges. The reference in *A.T. Mydeen* to Sections 367 and 391 concerned further inquiry or additional evidence in an appeal; neither power was exercised in this case.

4. Issues : (i) Could Surajbhan rely on the 2018 statements of PW1 and PW2 recorded in Dilip's separate proceeding, after those witnesses had already testified in Surajbhan's presence, to challenge the evidence in his own trial? (ii) Was the trial judgment complete when it decided Pahalwan's murder and the attack on Bhanupratap but gave no decision on the charged murder of Darshan and attempted killing of Ajab? (iii) In the absence of a State appeal concerning those omissions, what corrective power and limited relief were available, and could sentence enhancement or a new trial be ordered?

5. Ratio / Findings : **The Court observed that —** each separately tried accused's culpability must be determined on the record of that accused's trial, subject to lawful exceptions and a fair opportunity to contest the evidence. The Bench upheld the trial court's refusal to use the later testimony from Dilip's separate trial. PW1 and PW2 had already testified in Surajbhan's presence; their later examination in 2018 concerned Dilip alone. Applying *A.T. Mydeen* and *Karan Singh*, the Court ruled that statements suggesting Surajbhan's absence could not be treated as evidence in his trial merely because both trials concerned the same incident.

The trial judge had convicted Surajbhan for Pahalwan's murder and the attempted murder of Bhanupratap without either convicting or acquitting him on the charges concerning Darshan's murder and the attempted murder of Ajab. That silence made the judgment incomplete; it did not amount to an implied acquittal. After considering Section 386, the High Court declined to initiate sentence enhancement because no sentence existed on the omitted counts. It also declined retrial because the defect was the absence of a decision, rather than a procedural lapse in recording evidence. Exercising Section 482 despite the absence of a State appeal, it directed a decision on those counts. The remand neither permitted reconsideration of the expressly protected

findings concerning Pahalwan and Bhanupratap nor predetermined whether the remaining counts would be proved.

The case was to be assigned to a different Additional Sessions Judge, who was required to decide the omitted counts within three months of receipt of the record. The record was to be transmitted immediately, and the appellant was to remain in custody. A separate inquiry on the administrative side, to be completed within two months, was directed into possible negligence or extraneous considerations on the part of the original presiding judge. Any adverse material warranting action was to be placed before the Chief Justice. Paragraph 30 states generally that the 2021 judgment and sentence were set aside and expressly limits the remand to paragraph 28, which protects the findings concerning Pahalwan and Bhanupratap.

6. Relief : The Hon'ble High Court disposed of the appeal with a limited remand. The trial court was to pronounce judgment under Section 302/149 on Darshan Singh's murder and under Section 307/149 on the attempted killing of Ajab Singh, without disturbing its findings concerning Pahalwan Singh and Bhanupratap Singh. The Principal District and Sessions Judge, Bhind, was directed to assign the file to an Additional Sessions Judge other than the judge who had delivered the incomplete judgment. The exercise was to be completed within three months of receipt of the record. Paragraph 30 set aside the judgment and sentence dated 9 July 2021 for this limited exercise. The appellant was to remain in jail, receive a free copy immediately, and the record was to be returned promptly. Separately, the District Judge (Inspection), Gwalior, was to complete an inquiry within two months and place any substantiated negligence or extraneous consideration before the Chief Justice for possible administrative action.

Surajbhan Singh v. State of Madhya Pradesh, Cr.A. no. 6213/2021, 20/01/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (945) Prev Next

Headnote :- FIR — cognizable information — duty and remedy distinguished — *Aleque Padamsee v. Union of India, (2007) 6 SCC 171*, distinguishes the police duty to register an FIR on information disclosing a cognizable offence from the remedy available when the police fail to act. The complainant ordinarily proceeds before the Magistrate under Sections 190 and 200 CrPC. Applying that distinction, the Court refused a direct mandamus under Article 226 and left Surbhi Soni free to approach the Magistrate.

Police inaction — Section 154(3), Section 156(3) and magistrate supervision — *Sakiri Vasu v. State of U.P., (2008) 2 SCC 409*, and *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, explain the remedies before the Superintendent and then the Magistrate for registration of an FIR or proper investigation. The Magistrate may direct and monitor the investigation and, in an appropriate case, recommend a change of investigating officer. The Magistrate does not personally investigate. The High Court treated these statutory remedies as the ordinary course.

Article 226 — exceptional mala fide investigation - *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, preserves writ intervention in the rarest of cases where mala fide exercise of investigative power and a clear case of abuse of power and non-compliance with Chapter XII are established; even then, the court enforces the lawful process rather than dictating investigative steps.

Alternative remedy — Madhya Pradesh division bench — *Lalita Kumari* distinction — *Shweta Bhadauria v. State of M.P.*, W.A. 247/2016, states that mandamus to enforce Section 154 may be refused where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the recognised exceptions to the rule concerning alternative remedies. *Lalita Kumari*'s rule requiring registration on information disclosing a cognizable offence does not itself determine entitlement to a writ where those remedies have been bypassed. The petition was dismissed with liberty to approach the Magistrate under Section 200 CrPC/Section 223 BNSS.

Case-note :- *1. Facts :* Surbhi Soni filed Writ Petition No. 291/2025 under Article 226 of the Constitution alleging that police had failed to act on her written complaint of 23 September 2024 and a further complaint to the Superintendent of Police dated 25 October 2024. She sought directions for proper, fair and impartial investigation against private respondents 5–9, an order preventing closure of the case proceedings, immediate registration of an offence and submission of a final report. The State argued that she had an efficacious remedy before the

Magistrate, referring to Section 200 CrPC and Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The High Court framed the question as whether a writ seeking a direction to register an FIR was maintainable in these circumstances.

2. Precedents — Considered : *Aleque Padamsee and Others v. Union of India and Others, (2007) 6 SCC 171* — The decision was quoted at length. It recognises the police duty to register an FIR on cognizable information, while directing a complainant faced with police inaction ordinarily to proceed under Sections 190 and 200 CrPC before the Magistrate. *Ramesh Kumari v. State (NCT of Delhi), (2006) 2 SCC 677*, and its reiteration in *Lallan Chaudhary v. State of Bihar, (2006) 12 SCC 229*, were distinguished as addressing the action required of the police, rather than the procedure for obtaining a judicial remedy. *Aleque Padamsee* relied on *All India Institute of Medical Sciences Employees' Union v. Union of India, (1996) 11 SCC 582, Gangadhar Janardan Mhatre v. State of Maharashtra, (2004) 7 SCC 768, Hari Singh v. State of U.P., (2006) 5 SCC 733*, and *Minu Kumari v. State of Bihar, (2006) 4 SCC 359*, as supporting the complaint remedy. The High Court applied that distinction to the writ sought here without deciding the merits of Surbhi Soni's allegations. The separate direction concerning sanction in *Aleque*'s operative order concerned that case, rather than the present complaint.

Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542 — The quoted passage states both the exception and its limit. Writ intervention under Article 226 is available in the rarest of cases where mala fide exercise of investigative power and a clear case of abuse of power and non-compliance with Chapter XII are established. Even then, the High Court may insist on observance of the process prescribed by law, but cannot dictate how the police conduct the investigation. Relying on *Gangadhar Janardan Mhatre* and *AIIMS Employees' Union*, the passage also explains the remedies of a complaint to the Magistrate and an inquiry where police take no action on the information given.

Sakiri Vasu v. State of Uttar Pradesh, (2008) 2 SCC 409 — The decision explains recourse under Section 154(3) CrPC to the Superintendent, followed by an application under Section 156(3) to the Magistrate if registration or proper investigation is not forthcoming. The Magistrate may direct registration and proper investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, followed *Sakiri Vasu*. It explains that direct writ petitions would overwhelm High Courts when supervision by the Magistrate is available. In appropriate circumstances, the Magistrate may recommend a change of investigating officer, but cannot personally investigate. In that case, the Supreme Court set aside the High Court order and entrusted oversight of the investigation to the Magistrate. In the present petition, the Bench applied the rule concerning statutory remedies; that separate factual disposition concerned the proceedings in *Sudhir Bhaskarrao Tambe*.

Shweta Bhadauria v. State of M.P. and Others, W.A. No. 247/2016 (Madhya Pradesh High Court Division Bench, 20 December 2016) — The decision was treated as binding within the High Court. It permits refusal of mandamus to compel performance of the duty under Section 154 where the remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four recognised exceptions identified in *Whirlpool Corporation v. Registrar of Trade Marks, (1998) 8 SCC 1*. The Division Bench distinguished *Lalita Kumari v. Government of U.P., (2014) 2 SCC 1*: its rule concerns the police duty to register an FIR on cognizable information, rather than entitlement to direct mandamus without recourse to the statutory remedies.

3. Statutes considered : Article 226 — The petitioner invoked the High Court's writ jurisdiction for mandamus concerning criminal investigation. Section 154 CrPC imposes the duty to register an FIR on cognizable information; Section 154(3) permits a complaint to the Superintendent where the police station does not record it. Section 156(3) permits the Magistrate to direct investigation, including registration or further proper investigation in the circumstances discussed in the quoted authorities. Sections 190 and 200 provide the complaint and cognizance remedy. The Magistrate's inquiry and decision on issuing process are explained in the quoted *Gangadhar* passage. Chapter XII governs the statutory investigation process. The quoted exception permits writ intervention in the rarest of cases where mala fide exercise of investigative power and a clear case of abuse of power and non-compliance with that Chapter are established. The Court expressly reserved liberty under Section 200 CrPC/Section 223 BNSS in its order.

4. Issues : (i) Whether the petitioner, alleging police inaction on her September and October 2024 complaints, could obtain an Article 226 mandamus for registration of an FIR, prevention of closure and fair investigation without using the remedies before the Magistrate, after having complained to the Superintendent. (ii) How the police duty to register cognizable information differs from the judicial remedy for enforcing that duty, and whether the narrow exception permitting Article 226 intervention in a mala fide investigation applied.

5. Ratio / Findings : **The Court observed that —** the police duty to register an FIR on cognizable information must be distinguished from the complainant's ordinary remedy when the police fail to act. Under the principle in *Aleque Padamsee*, an aggrieved complainant ordinarily proceeds before the Magistrate under Sections 190/200. The remedies described in *Sakiri Vasu* and *Sudhir Bhaskarrao Tambe* include recourse under Section 154(3), followed by an application under Section 156(3) for registration or proper investigation. The Magistrate may direct and monitor investigation within statutory limits. T*he* Division Bench decision in *Shweta Bhadauria* reinforces that failure to use those remedies permits refusal of direct mandamus, subject to the established exceptions. *Lalita Kumari*'s rule concerning the police duty does not confer an automatic writ remedy; it addresses a different question.

Divine Retreat Centre preserves exceptional writ intervention in the rarest of cases where mala fide exercise of investigative power and a clear case of abuse of power and non-compliance with Chapter XII are established. Even then, the High Court may require observance of lawful procedure but cannot dictate investigative steps. The High Court dismissed Surbhi Soni's writ petition while preserving the remedy before the Magistrate. The decision concerned the remedy and jurisdiction; it neither approved the alleged police inaction nor determined the merits of the underlying complaint.

6. Relief : The Hon'ble High Court dismissed the writ petition. Surbhi Soni was granted liberty, if she wished, to approach the concerned Magistrate under Section 200 CrPC/Section 223 BNSS for redress of her grievance.

Surbhi Soni v. State of Madhya Pradesh and Others, W.P. no. 291/2025, 16/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (946) Prev Next

Headnote :- DNA evidence — negative result — prosecutrix's credibility — A DNA report is corroborative evidence in this prosecution. A negative or non-supportive result does not, by itself, justify rejecting the prosecutrix's testimony; her credibility must be assessed on the evidence led. A result adverse to the accused may provide an additional incriminating link.

Trial management — late DNA application — judgment not stayed — A direction for DNA testing did not automatically suspend the trial or require postponement of judgment. The accused sought testing roughly five years after the alleged incident in 2016, one day before prosecution evidence closed. They offered no explanation for the delay, and the trial court had expressly directed that the trial continue. The High Court directed prompt steps to obtain the RFSL report but refused to stay delivery of judgment pending its receipt.

Additional evidence — Section 391 CrPC — possible later request — If the report was received after judgment and an appeal became necessary, the applicants could ask the appellate court to take the additional material on record under Section 391 CrPC. This preserved a possible remedy; it did not admit the report or determine whether the requirements of Section 391 were satisfied.

Case-note :- ***1. Facts :*** Surendra and the other applicants faced trial in Special Sessions Trial No. 16/2017 on charges under Sections 376-D and 34 IPC arising from an alleged rape in 2016. On 7 December 2021, approximately five years after the alleged incident and at an advanced stage of the trial, they applied for DNA testing. On 8 December, the trial court directed immediate collection of their blood samples but expressly stated that the trial would not be kept in abeyance pending the report. It described the report as corroborative and left the accused free to object to it or make representations about it. The prosecution closed its evidence that day, and the case was fixed for examination of the accused under Section 313 CrPC. A reference led to an adjournment from 14 to 20 December 2021. On 14 December, the accused sought a stay of delivery

of judgment until the DNA report was received. The trial court refused that request.

In M.Cr.C. No. 62740/2021 under Section 482 CrPC, the applicants contended that, having authorised the test, the court would act unfairly by pronouncing judgment before receiving the report. The State opposed relief on the ground that the application was late and prosecution evidence had closed.

2. Statutes considered : Sections 376-D and 34 IPC identify the gang-rape and common-intention charges. The applicants invoked Section 482 CrPC to challenge the refusal to stay delivery of judgment. Section 313 CrPC concerned the impending examination of the accused and showed how far the trial had advanced. Section 391 CrPC was mentioned as a possible means of asking the appellate court to receive additional material if the report arrived after judgment and an appeal became necessary. No application under Section 391, or decision admitting such material, was before the Court.

3. Issues : (i) Whether the trial court's direction to obtain a DNA test compelled it to postpone delivery of judgment until the report was available, notwithstanding its express order that the trial continue, the five-year delay in seeking the test, closure of prosecution evidence and the imminent examination of the accused under Section 313. (ii) What significance a future negative or incriminating report might have for evaluating the prosecutrix's evidence, and what procedural avenue could remain if it arrived after judgment. Neither guilt nor the actual reliability of the prosecutrix was to be decided in this Section 482 application.

4. Ratio / Findings : **The Court observed that —** a DNA report provides corroborative evidence. A negative report does not automatically displace the prosecutrix's testimony; her credibility must be assessed on the evidence led. A result adverse to the accused may provide an additional link. These observations concerned the possible effect of a future report, rather than an assessment of a report already received. The applicants sought testing about five years after the alleged incident, just before prosecution evidence closed and the case was fixed for examination of the accused. They gave no explanation for the delay. The trial court had permitted collection of blood samples while expressly declining to stop the trial. Its testing direction therefore did not, by itself, entitle the applicants to postpone pronouncement of judgment. A negative DNA result alone would not justify disbelieving the prosecutrix.

The Court directed the investigating officer to request the Regional Forensic Science Laboratory to provide the report as early as possible and directed the laboratory to make every endeavour to give it priority. It nevertheless refused the stay. If the report was received after judgment and the applicants needed to appeal, they could apply to the appellate court under Section 391 CrPC. That possible application did not determine whether the material would be admitted or how the application would be decided.

5. Relief : The Hon'ble High Court dismissed the Section 482 petition and refused the prayer to stay delivery of the trial judgment pending the DNA report. The investigating officer was directed to request the RFSL to provide the report promptly, and the RFSL was directed to make every endeavour to prioritise it. The applicants retained the possibility of asking the appellate court to receive later material under Section 391 CrPC if an appeal became necessary.

Surendra and Others v. State of Madhya Pradesh, M.Cr.C. no. 62740/2021, 20/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (947) Prev Next

Headnote :- Evidence — related and interested witnesses — distinction — *Raju v. State of T.N., (2012) 12 SCC 701*, discussing *State of Rajasthan v. Kalki and the Constitution Bench* in *State of Bihar v. Basawan Singh*, distinguishes kinship from a witness's stake in the result and cautions that even a natural witness may be interested. The Court assessed Akram, the injured Munna's brother, by examining his account, cross-examination and the supporting medical evidence, rather than excluding his testimony automatically.

Evidence — interested testimony — corroboration and scrutiny — *Jalpat Rai v. State of Haryana, (2011) 14 SCC 208*, rejects a universal requirement of corroboration, but calls for scrutiny of possible exaggeration and attention to assurance from the surrounding circumstances of the particular case. *Chandgi Ram*, *Nagappan* and *Harbeer Singh* similarly require close scrutiny of testimony given by related witnesses. The Court found the injured witness and Akram credible after examining their material account and the fracture evidence. *Rohtash*

Kumar's quoted discussion of police witnesses appeared in the judgment, but no rule concerning police witnesses was independently decisive in this appeal.

Evidence — hostile independent witnesses — injured witness — The hostility of Deepak, Bachan Lal, Ballu and Narendra did not automatically discredit the accounts of Munna or Akram. The Court read Akram's statement about his arrival at the spot alongside his claim to have seen blows from a distance, and found the witnesses' material version consistent with the MLC and X-rays; it did not rely on the hostile witnesses as positive eyewitness evidence.

Evidence — suggested accidental fall — factual foundation — A probable defence may emerge from prosecution material, but the doctors' acceptance of a hypothetical fall on stones did not establish that such a fall occurred. The MLC contained no mention of a smell of alcohol. There was no evidence of stones at the location or of a fall from a height, and Munna denied the suggestion that he was intoxicated. The Court rejected that alternative on this record.

Attempt to murder — Section 307 versus Section 326 — mens rea and overt act — *State of M.P. v. Harjeet Singh*, drawing on *R. Prakash*, *Jage Ram and State of M.P. v. Kanha alias Omprakash*, explained that proof of grievous or inevitably fatal injury is not essential. The essential elements are the intention or knowledge required for murder and an overt act. The injury, weapon, force and part of the body targeted inform the inference of that mental element. Seven forceful blows with an iron pipe around the head and jaw, one blow to the leg, and parietal, mandibular and tibial fractures justified affirming the conviction under Section 307 rather than converting it to one under Section 326.

Sentence — assault severity and appellate result — The term of seven years' rigorous imprisonment and ₹10,000 fine were left intact although the appellant had spent about four years in custody by the date of the appeal decision; the Court relied on the repeated head blows and multiple fractures. The conviction and sentence were affirmed and the appeal dismissed.

Case-note :- ***1. Facts :*** On 2 August 2014, Akram Ali alias Kallu (PW1) reported that, after hearing abusive language near Yasmin's house at Village Ludhabali, he saw Surendra Puri strike his brother Munna Khan alias Abid (PW4) repeatedly with an iron pipe on the head. The FIR described the altercation as arising from Munna's visits to Yasmin; Munna later testified that ₹50,000 was owed to him by the appellant and that he had been called to collect it. Munna was unconscious. He was taken to the Shivpuri Trauma Centre and then referred to Gwalior, where he said he remained admitted for ten days. The appellant allegedly threatened them if a police report was made. Crime No. 264/2014 was registered at Police Station Dehat, Shivpuri, under IPC Sections 307, 294, 323 and 506 Part II. The police recorded witness statements, collected medical records, clothing and earth samples, and seized an iron pipe; the charge-sheet also referred to Section 325.

The trial court framed charges under Sections 294, 307 (with Section 323 as an alternative charge) and 506 Part II. Eleven prosecution witnesses were examined; the appellant denied guilt and examined no defence witness. Medical examiner Dr R.K. Rishishwar (PW6) recorded eight injuries caused by hard and blunt force, seven around the head, face or jaw and one on the left leg. X-ray evidence proved fractures of both parietal bones, the mandible and the left tibia, and radiologist Dr M.L. Agrawal (PW9) confirmed the X-ray report. Deepak Rathore, Bachan Lal, Ballu alias Rahish Khan and Narendra Bhargava turned hostile. Akram supported the core assault account but did not support every detail of the police formalities and was questioned by the prosecutor on those limited aspects. Munna described repeated head and leg blows and denied that he had fallen on stones while drunk.

The Sessions Judge, Shivpuri, in Special Sessions Trial No. 270/2014 on 18 March 2016 convicted Surendra under Section 307 IPC, sentenced him to seven years' rigorous imprisonment and a ₹10,000 fine with imprisonment in default, and acquitted him of Sections 294, 323 and 506 Part II. In Criminal Appeal No. 426/2016 under Section 374 CrPC, the appellant argued that independent witnesses had turned hostile, the remaining witnesses were brothers and unreliable, the intention required under Section 307 was absent and, at most, an offence under Section 326 was made out, and the custodial term was excessive. The State defended the finding by relying on the weapon, repeated head blows and fractures.

2. Precedents — Considered : *Raju v. State of T.N., (2012) 12 SCC 701*, was quoted for the distinction between a related witness and an interested witness.

It discussed *State of Rajasthan v. Kalki, (1981) 2 SCC 752*, which said relationship by itself does not amount to an interest in the result, and qualified an overbroad suggestion that a natural or sole possible eyewitness can never be interested. *Raju* invoked the Constitution Bench in *State of Bihar v. Basawan Singh, AIR 1958 SC 500*. A partisan or interested non-accomplice is assessed through considerations that vary with the case, which may include independent corroboration in a proper case, while an accomplice is treated under the separate accomplice rule. The present Court used the distinction between kinship and interest to assess Akram's testimony rather than reject it because he was Munna's brother. *Jalpat Rai v. State of Haryana, (2011) 14 SCC 208*, rejects a universal requirement that the evidence of interested or inimical eyewitnesses be corroborated, but warns of exaggeration or over-implication where enmity exists; in that case the Supreme Court sought medical, ballistic and circumstantial assurance and found material gaps in that assurance. The High Court quoted both aspects of this caution. It did not infer that this appellant was involved merely because witnesses were related: it examined their evidence alongside documented injuries. *Rohtash Kumar v. State of Haryana, (2013) 14 SCC 434*, was quoted on what makes a witness independent and the need to scrutinise police evidence rather than reject it categorically. Its nested citations to *Pradeep Narayan Madgaonkar*, *Paras Ram*, *Balbir Singh*, *Kalpnath Rai*, *M. Prabhulal* and *Ravindran* concern police or official witnesses and were part of the quoted exposition; no official-witness credibility issue was independently decided here.

State of Rajasthan v. Chandgi Ram, (2014) 14 SCC 596, directs attention to the actual quality of a related witness's testimony and its testing in cross-examination, not relationship alone. The quoted passages discuss *Mano Dutt v. State of U.P., (2012) 4 SCC 79*, which explains why family members may naturally witness or intervene and why credible, corroborated testimony need not be rejected, and *Dinesh Kumar v. State of Rajasthan, (2008) 8 SCC 270*, which emphasizes the importance of injured testimony and careful assessment of any interested or inimical witness. *Nagappan v. State, (2013) 15 SCC 252*, discussed consistency, medical corroboration and hostility of other witnesses, with a long parenthetical list of authorities concerning related witnesses. The present Court applied the common credibility principle to Munna and Akram.

Harbeer Singh v. Sheeshpal, (2016) 16 SCC 426, was quoted with its discussion of *Darya Singh v. State of Punjab*: the evidence of a relative who shares hostility towards the accused requires careful inquiry into the witness's presence, the probabilities and any infirmities. *Harbeer Singh* also cautioned that independent corroboration is not an indispensable rule; the quality of evidence governs, and its quotation of *Raghubir Singh v. State of U.P.* recognizes that the prosecution need not call every potential witness and unnecessarily multiply the evidence. The High Court applied the rule of close scrutiny without automatic rejection in paragraphs 18–20, where the medical findings and contemporaneous police and ambulance response supported the brothers' accounts. The adverse conclusion on the facts in *Harbeer Singh*'s own case was not applied to the facts of this appeal.

State of M.P. v. Harjeet Singh and Another, Supreme Court Criminal Appeal No. 1190/2009, order dated 19 February 2019, was applied to the Section 307 issue. It explains that Section 307 refers to "hurt" as defined in Section 319, not necessarily "grievous hurt" in Section 320; murderous intention or knowledge, coupled with an overt act in the statutory circumstances, is essential, whereas a wound capable of causing death is not. The quoted *Harjeet* passage invokes *R. Prakash v. State of Karnataka, (2004) 9 SCC 27*, for the distinction between the act and its result and the relevance of an actual wound, which is not indispensable; *Jage Ram v. State of Haryana, (2015) 11 SCC 366*, for the prosecution's burden to prove intent and act and the contextual factors of the weapon, words used, motive, body part injured and severity of the blows; and *State of M.P. v. Kanha alias Omprakash, Criminal Appeal No. 1589/2018*, decided 4 February 2019, for the principle that grievous or life-threatening hurt is not indispensable. The passage also contains a cross-reference to *State of M.P. v. Mohan, (2013) 14 SCC 116*, without separate analysis. The High Court expressly applied the combined test to seven forceful blows to the head and jaw and another blow to the leg, maintaining the conviction under Section 307 rather than converting it to one under Section 326; it did not create a legal requirement that all Section 307 injuries be on vital parts.

3. Statutes considered : IPC Section 307 punishes an act done with such intention or knowledge, and in such circumstances, that if death resulted the offender would be guilty of murder; the provision

prescribes a separate consequence where hurt is actually caused. The Court reproduced its text and illustrations and used the Supreme Court's distinction between "hurt" under Section 319 and "grievous hurt" under Section 320. The fracture evidence strongly supported the nature and force of the attack, although Section 307 does not require proof of grievous or necessarily fatal injury. Section 326 was the alternative offence urged by the appellant, but the Court retained Section 307 in light of the proved mental element and assault. Sections 294, 323 and 506 Part II were among the charges of which the appellant was acquitted. Section 374 CrPC supplied the appellate route.

4. Issues : (i) Whether the material accounts of injured Munna (PW4) and his brother Akram (PW1) were credible despite hostility of four independent witnesses, Akram's variations on arrest and seizure formalities, his statement that Munna was already on the ground when he reached the spot, and the defence suggestion of an intoxicated fall. (ii) Whether seven blows about the head and jaw and another to the leg with an iron pipe, causing multiple fractures, established the intention or knowledge and act for attempted murder under Section 307, or should instead be classified as an offence under Section 326. (iii) Whether the seven-year custodial sentence and fine warranted reduction in view of time already served.

5. Ratio / Findings : **The Court observed that —** Akram's evidence, read as a whole, indicated that he saw the assault while approaching from a distance and found Munna on the ground when he actually reached the site. It found no effective challenge to the core account given by the injured Munna and Akram. The MLC, radiology and fractures supported the repeated blows; the prompt police and ambulance response provided assurance from the surrounding circumstances. Applying *Raju*, *Jalpat Rai*, *Chandgi Ram*, *Nagappan* and *Harbeer Singh*, the Court held that kinship and possible interest require careful scrutiny of the testimony, rather than its categorical exclusion. An independent eyewitness is not invariably required. The four hostile independent witnesses did not displace otherwise credible and medically corroborated evidence. The prosecutor's limited cross-examination of Akram about arrest and seizure did not lead the Court to find his account of the assault false.

The defence could draw a probable explanation from prosecution evidence even without leading a defence witness, but a medical concession about hypothetical injuries from falling onto stones is not proof that a drunken fall occurred. The MLC contained no mention of a smell of alcohol, no relevant question about alcohol was put to the examining doctor, and there was no evidence of stones at the spot or a fall from a height. Munna denied the suggested explanation. The Court rejected that alternative on the actual record, while continuing to assess whether the prosecution had discharged its burden, rather than requiring the appellant to prove his innocence.

On offence classification, Section 307 requires the mental element and an overt act; an actual injury is evidence from which intention may be inferred and is relevant to the applicable statutory punishment, but neither grievous hurt nor a necessarily fatal wound is indispensable. *Harjeet Singh* and the authorities it discussed required a contextual assessment of the weapon, target, repeated force and other circumstances. Seven blows were delivered with an iron pipe around the head and mandible, and another to the leg. Fractures affected both parietal bones, the mandible and tibia. The Court inferred the requisite intention or knowledge of causing death and held that Section 307, not the proposed Section 326, was proved. As to punishment, the appellant had served approximately 72 days during trial and roughly three years eleven months after conviction by the date of the appeal decision; the Court nonetheless found seven years' rigorous imprisonment proportionate to the repeated head attack and multiple fractures.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. The 18 March 2016 judgment and sentence in Special Sessions Trial No. 270/2014 were affirmed: Surendra Puri remained convicted under IPC Section 307 and liable to serve seven years' rigorous imprisonment and pay a ₹10,000 fine, subject to the trial court's provision for imprisonment in default. He was in jail and was directed to serve the full remaining sentence. The trial court's acquittals on Sections 294, 323 and 506 Part II were not altered.

Surendra Puri v. State of Madhya Pradesh, Cr.A. no. 426/2016, 15/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (948) Prev Next

Headnote :- Murder — Section 300 thirdly — intended injury and objective sufficiency —

Following *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, the Court distinguished the intention to inflict the particular bodily injury proved from the objective question whether that injury was sufficient in the ordinary course of nature to cause death. The clause does not additionally require an intention to kill. The fatal parietal injury, skull fracture and medical opinion, considered with the prosecution evidence, supported the affirmance of the appellant's conviction under Section 302. The finding required reliable proof that he had inflicted the injury.

Homicide gradation — Section 299 and Section 304 parts I and II — The Court drew *on Arun Nivalaji More v. State of Maharashtra* to distinguish culpable homicide based on intention from the category based on knowledge alone. Before substituting Section 304 for Section 302, it considered whether any clause of Section 300 or an exception to it applied. *Anda v. State of Rajasthan* explained the requirement under clause Thirdly that the injury be sufficient in the ordinary course of nature to cause death. The record did not justify the appellant's requested conversion to either part of Section 304.

Intention — weapon, target and attendant circumstances — *Mahesh Balmiki v. State of M.P., Pulicherla Nagaraju v. State of A.P., Sangapagu Anjaiah v. State of A.P., State of Rajasthan v. Kanhaiyalal* and *Bavisetti Kameswara Rao v. State of A.P.* were considered on the inference of intention from the particular facts, including the weapon, vital part targeted, force, injuries and surrounding circumstances. A single blow does not automatically fall outside Section 302. *Kanhaiyalal* also discussed *Arun Raj*, *Ashokkumar Magabhai Vankar* and *Leela Ram*, and *Bavisetti* discussed *State of Karnataka v. Vedanayagam and Virsa Singh*. The Court applied this contextual approach to the appellant's axe assault and the fatal brain injury. It did not treat the case as one involving only a single injury.

Exception 4 — sudden fight and unfair advantage — *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat and* the Exception 4 analysis reproduced in *Kanhaiyalal* require a sudden fight in the heat of passion, absence of premeditation, and the absence of undue advantage or conduct that is cruel or unusual. Absence of premeditation alone cannot convert murder to culpable homicide not amounting to murder. On assessing the assault proved in this case, the Court rejected the request to apply Section 304.

Eyewitness credibility — enmity and relationship — Applying *Kunwarpal alias Surajpal v. State of Uttarakhand, (2014) 16 SCC 560*, the Court recognised that prior enmity could provide a motive either for the offence or for false implication. Jitendra's relationship with Jamuna called for careful scrutiny, not automatic rejection. Despite Makhan's denial of having witnessed the attack and other inconsistencies, the Court accepted Jitendra's account of the material events in light of the evidence as a whole and the medical corroboration.

Medical and ocular proof — fall theory — The doctor's hypothetical concession that a forceful fall on a sharp stone could cause injury did not require acceptance of the defence theory. The spot map did not show the alleged culvert, the defence witnesses had not seen a fall, and the postmortem and other prosecution evidence supported an assault. That conclusion rested on the evidence in this case; it did not establish a presumption that every medical possibility is irrelevant.

Case-note :- ***1. Facts :*** On 25 August 2010 Jitendra Kumar (PW1) reported that his father Jamuna had been assaulted near Lallu Malli's field at Kurwai, District Vidisha. There was prior enmity arising from a land dispute: Jamuna and another person faced a case concerning the murder of Kanchhedi Lal, father of appellant Suresh Ahirwar. Jitendra alleged that Suresh and Parma, Asharam and Gulab attacked Jamuna with an axe and lathis and fled when he arrived. Jamuna was found unconscious near a roadside drain or alleged culvert and was declared dead after being taken to hospital. The matter was recorded as a merg, FIR Crime No. 282/2010 was registered under Sections 302/34 IPC, and the police prepared the inquest, spot map, seizure and arrest records, obtained the postmortem and FSL report, and filed a charge-sheet.

At trial, nine prosecution witnesses and four defence witnesses were examined. Jitendra maintained that he saw the four persons assaulting his father; Makhan (PW2), who was said to have warned him, denied seeing an ongoing attack on returning to the site; Veer Singh (PW4) did not support the prosecution; and Jamuna's wife Kunwar Bai (PW5) gave a different time and expressed suspicion of Makhan. The doctor (PW3) found a parietal laceration measuring 15 × 13 cm and extending to the bone, with a skull fracture; an incised wound over the right scapula measuring 17 × 9 cm and extending to the bone; an ankle contusion; and a puncture

wound on the thigh. He attributed death to a brain injury and classified the death as homicidal, while accepting the hypothetical possibility of injury from forceful contact with a sharp stone. The investigating officer (PW9) described seizure of an axe pursuant to Suresh's memorandum and lathis attributed to the others; his spot map showed a drain rather than a culvert. The judgment discusses human blood of group B on some FSL exhibits but does not identify a definitive scientific link between a particular accused's weapon and the victim.

Suresh denied guilt under Section 313 CrPC and alleged false implication because of the previous murder case; the defence also suggested that an intoxicated Jamuna had fallen into a culvert. The Second Additional Sessions Judge, Vidisha, in Sessions Trial No. 333/2010 convicted Suresh under Section 302 IPC on 30 November 2011, sentencing him to rigorous life imprisonment and a ₹1,000 fine with the trial court's default provision, while acquitting the three co-accused. Suresh's Criminal Appeal No. 51/2012 challenged Jitendra's identification of the assailant and his reliability as a witness, the contradictions and timing, the absence of light, the acquittal of co-accused, the consistency of the medical evidence with the prosecution account, and the refusal to apply Section 304 Part I or II. The State supported the conviction.

2. Precedents — Considered : *Virsa Singh v. State of Punjab, AIR 1958 SC 465*, was adopted for the four distinct requirements of Section 300 Thirdly: proof of an injury, its nature, an intention to inflict that very injury, and its objective sufficiency in the ordinary course of nature to cause death. The prosecution bears the burden throughout. Neither an intention to kill nor knowledge that the injury is fatal is an additional requirement under that clause. The Court used this framework to evaluate the fatal head injury and the Section 302 versus Section 304 request; the passage quoted again in *Bavisetti* makes clear that the intention to inflict the injury is a factual question distinct from the seriousness of the injury. No accidental infliction of the proved injury was accepted here.

Arun Nivalaji More v. State of Maharashtra, Criminal Appeal Nos. 1078–1079/2005, was considered for the sequence of analysis under Sections 299, 300 and 304: an intention to cause death or a bodily injury likely to cause death differs from knowledge that death is likely; a Section 300 clause yields murder unless an exception applies; where Section 300 is not attracted, the categories based on intention ordinarily fall under Section 304 Part I, while the category based on knowledge alone falls under Part II. The Court applied that framework and refused to alter the conviction. *Anda v. State of Rajasthan, 1966 Cri LJ 171*, explained that Section 300 Thirdly concerns an intended injury carrying a high probability of causing death in the ordinary course of nature. The weapon and the part of the body injured may inform that assessment. The Court discussed it in assessing the fatal injury.

Mahesh Balmiki v. State of M.P., (2000) 1 SCC 319, rejected a fixed rule that a single blow must fall outside Section 302. The injury, vital part targeted, weapon, force, manner of assault and surrounding circumstances determine the requisite mental element and the nature of the offence, as illustrated by the cited knife wound to the chest of a victim held by others. The Court applied the principle that the circumstances must be considered; it did not proceed on the factual premise that Jamuna had sustained only one wound. *Pulicherla Nagaraju alias Nagaraja v. State of A.P., (2006) 11 SCC 444*, set out a non-exhaustive list of circumstances relevant to intention—weapon carried or picked up, vital target, force, chance or planning, enmity, provocation, heat of passion, unfair advantage and number of blows. It cautions both against automatically treating murder as a lesser offence and against treating every fatal altercation as murder. The Bench applied it in sustaining the conviction under Section 302 on its assessment of this assault.

Sangapagu Anjaiah v. State of A.P., (2010) 9 SCC 799, inferred intention from a crowbar attack on the head with force enough to cause multiple skull fractures; the judgment considered the combined effect of the weapon, part of the body targeted and resulting injuries. The weapon used against Jamuna and his injuries nevertheless required independent proof. *State of Rajasthan v. Kanhaiyalal, (2019) 5 SCC 639*, was reproduced for the proposition that one blow does not preclude Section 302 and that a lethal strike on a vital part may reveal intention. In the passage examined by the Court, *Kanhaiyalal* discussed *Arun Raj v. Union of India, (2010) 6 SCC 457*, *Ashokkumar Magabhai Vankar v. State of Gujarat, (2011) 10 SCC 604*, and *Leela Ram*: their discussion concerned a single blow, weapon and force, and, in *Leela Ram*, the cumulative requirements of Exception 4.

Bavisetti Kameswara Rao v. State of A.P., (2008) 15 SCC 725, likewise cautioned against mechanically applying Section 304 Part II merely because there was a single injury; intention must be assessed from the surrounding circumstances. It quoted *State of Karnataka v. Vedanayagam, (1995) 1 SCC 326*, in which medical evidence that the knife injury was sufficient to cause death in the ordinary course of nature, together with the other facts, supported restoration of the conviction under Section 302. It also referred to *Vedanayagam*'s reliance on *Virsa Singh*. The quoted distinction between the intent to inflict the actual wound and the objective seriousness of that wound informed the Bench's statement of the law.

Dhirajbhai Gorakhbhai Nayak v. State of Gujarat, (2003) 9 SCC 322, was considered for Exception 4: a sudden mutual fight in the heat of passion and without premeditation must coincide with the absence of undue advantage and of cruel or unusual conduct. The fight must involve the deceased. The passage expressly distinguishes a mere sudden quarrel from satisfaction of all the requirements. *Kanhaiyalal*'s quotation of *Leela Ram* repeated the four cumulative requirements.

Kunwarpal alias Surajpal and Others v. State of Uttarakhand and Another, (2014) 16 SCC 560, was expressly applied in paragraph 38 for the two-sided significance of prior enmity: it may support false implication or supply motive for the offence. The Bench then required close scrutiny of the related witness and accepted Jitendra's account on the evidence as a whole. The defence had cited *Amar Singh v. State (NCT of Delhi)*, *Kuna alias Sanjay Behera v. State of Odisha*, *State of Rajasthan v. Bhola Singh*, *Stalin v. State and State of M.P. v. Ratan Singh*, as well as the Madhya Pradesh decisions *Ramadhar alias Pappan Khamparia* and *Rewaram*. These authorities were cited by counsel in paragraph 6.

3. Statutes considered : IPC Section 299 defines culpable homicide through intention to cause death, intention to cause bodily injury likely to cause death, or knowledge that the act is likely to cause death. Section 300 sets out when culpable homicide amounts to murder. The Court specifically examined clause Thirdly: the intentional infliction of the proved injury and the separate objective question whether it was sufficient in the ordinary course of nature to cause death. Exception 4 to Section 300, considered through Supreme Court authority, requires a sudden fight in the heat of passion, without premeditation, unfair advantage, or cruel or unusual conduct. Section 302 provides punishment for murder. Section 304 Part I addresses culpable homicide not amounting to murder based on the specified intention. Part II addresses homicide that does not amount to murder and is based on knowledge without the specified intention. The Court applied these distinctions to reject conversion of the appellant's Section 302 conviction. Section 34 IPC appeared in the FIR's allegation of common intention, but was not independently interpreted in this appeal. Section 313 CrPC governed the appellant's trial statement and denial; no distinct Section 313 procedural question was decided.

4. Issues : (i) Whether Jamuna's death was homicidal and whether the prosecution reliably proved Suresh's participation despite Jitendra's kinship and prior enmity, Makhan's and other witnesses' lack of support, varying incident times, alleged darkness, the proposed accidental fall, and the acquittal of the other three accused. (ii) Whether the medical and forensic material sufficiently supported the prosecution account to sustain the conviction or made accidental death a reasonable alternative. (iii) Whether the proved assault and mental element constituted murder under Sections 299–300, particularly Section 300 Thirdly, or warranted application of Section 304 Part I or II or the sudden-fight exception.

5. Ratio / Findings : As to identification and credibility, the Court reviewed Jitendra's assertion that he saw Suresh and the others attacking Jamuna, his evidence of the old murder case and land dispute, Makhan's denial of seeing an ongoing assault or giving the claimed warning, Veer Singh's failure to support the prosecution, Kunwar Bai's differing timing and accusation against Makhan, and the defence evidence. It found the inconsistencies insufficient to discredit the prosecution case on the evidence as a whole. As *Kunwarpal* cautions, enmity can motivate either a crime or a false accusation; a related witness is not disqualified but must be scrutinised carefully. The Court accepted Jitendra's testimony after that scrutiny and did not treat the acquittal of the other accused as automatically establishing Suresh's innocence. This was an assessment of the evidence in this case, rather than a rule that a sole related witness must invariably be accepted.

As to the cause of death and corroboration, the doctor attributed death to a brain injury accompanying the extensive bone-deep parietal wound and skull fracture and classified the death as homicidal, while also recording injuries to the scapular region, ankle and thigh. The Bench acknowledged his conditional concession that a forceful fall on a sharp stone could cause injury, together with the defence suggestion that an intoxicated Jamuna had fallen into a culvert. It found that the defence witnesses did not directly establish a fall, the officer's map showed a drain rather than the alleged culvert, and the medical findings, seizure evidence and overall prosecution account supported assault. The Court discounted the proposed visibility objection by stating that sufficient light remained around 7 p.m. in August; that finding formed part of the Court's assessment of the facts.

The Court observed that — culpable homicide is the genus and murder a species. It explained the mental states under Section 299 and examined Section 300 Thirdly through *Virsa Singh* when deciding the classification of the offence. The intention to inflict the particular bodily injury must be proved, while the sufficiency of that injury to cause death in the ordinary course of nature is an objective question. The prosecution bears the burden of proof. The cited single-blow cases, including *Mahesh Balmiki*, *Kanhaiyalal* and *Bavisetti*, rejected mechanical classification of the offence; *Pulicherla Nagaraju* directed attention to all attendant circumstances. Applying these principles to the appellant's axe assault and the severe fatal head injury, and having accepted the prosecution evidence, the Court held that neither Section 304 Part I nor Part II was attracted. It found no grave error in the trial court's conviction and sentence.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. The judgment and sentence dated 30 November 2011 of the Second Additional Sessions Judge, Vidisha, in Sessions Trial No. 333/2010 were affirmed against Suresh Ahirwar: conviction under Section 302 IPC, rigorous imprisonment for life, ₹1,000 fine and the trial court's default provision. The appellant, already in jail, was directed to serve the remainder of his sentence. Copies were to be sent to the jail authorities and the trial court with the record for information and compliance. The acquittal of the other co-accused remained undisturbed.

Suresh Ahirwar v. State of Madhya Pradesh, Cr.A. no. 51/2012, 22/06/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder and attempt to murder / field assault — On 10 March 2010 Suresh and Devendra confronted Suresh's brother Mahesh over an alleged accusation of crop theft while Mahesh and his wife Bhagwati were cutting gram in their field. Mahesh stated that Suresh struck his head and hands with an iron rod and that Devendra struck his legs with a lathi. When Bhagwati intervened, Suresh struck her head and Devendra broke her legs. Mahesh survived with head and limb injuries; Bhagwati died on the way to the hospital to which she had been referred. The MLC and postmortem documented multiple head wounds, bilateral tibial fractures and other blunt trauma, with the cumulative head and lower-limb injuries sufficient to cause death. The Sessions Court imposed life imprisonment under Section 302 and ten years' imprisonment under Section 307, to run concurrently, with fines and default terms. The High Court affirmed.

Police statement of deceased / mental fitness — ASI Chauhan said he recorded Bhagwati's Section 161 CrPC statement Ex. P.20 at about 19:15–19:25 and considered her fit to make it. Because she died from these injuries, the statement could, in principle, fall within Section 32 Evidence Act even though it had been recorded by the police. A doctor's certificate was not invariably required, and a slight difference between the times shown by different watches did not establish that the statement could not have been recorded. However, Dr. Sharma examined her at substantially the same time, described her as semi-conscious and in a serious condition, and stated that she could not give a statement. The prosecution failed to prove that she was fit to make the statement, so Ex. P.20 was not relied upon as a dying declaration. Anand Kotwar's assertion at trial that the victims had orally named the assailants was likewise rejected because of a major omission from his earlier statement. The Court instead relied on Mahesh's direct account as an injured eyewitness.

Witness credibility, medical variation and offence classification — *Chandrasekar* and *Abdul Sayeed* accord particular weight to an injured eyewitness's testimony without dispensing with scrutiny. The

alleged motive of grabbing land was unsupported (*Rizan*). The defence's hypothetical explanation of a fall and the alleged conflict concerning blunt penetrating injuries to the legs did not render the eyewitness account impossible. *Krishnan*, *Dharkole*, *Radhakrishna Nagesh* and *Mahavir Singh* require a material, rather than speculative, conflict with the medical evidence. The delay in recording Rakesh's statement was explained by his fear and departure to Raipur. His evidence was used only to corroborate the injured eyewitness (*Mohd. Khalid*, *Sheo Shankar Singh*). Several other witnesses turned hostile, and examination of the ambulance driver was not necessary. *Lavghanbhai* and *Ajmal*, with *Dhirendra Kumar*, *Mohd. Rafiq*, *Rayavarapu Punnayya* and *Pulicherla Nagaraju* appearing in the quoted passages, guided the inquiry under Sections 302/304. The appellants arrived armed and repeatedly struck the unarmed victims on their heads and both legs. The Court found the assault cruel and rejected the plea of a sudden fight warranting reduction to Section 304 Part I. Both convictions and the concurrent sentences were upheld. Devendra's bail bonds were cancelled and he was ordered to surrender, while Suresh, already in jail, was to serve the remaining sentence.

Case-note :- ***1. Facts :*** Suresh and Devendra appealed under Section 374 CrPC against the judgment dated 28 December 2011 of the 1st Additional Sessions Judge, Dabra, in Sessions Trial 196/2010. Both were convicted under Section 302 IPC (life imprisonment and a fine of ₹1,000, with one year's rigorous imprisonment in default) and Section 307 IPC (ten years' rigorous imprisonment and a fine of ₹1,000, with one year's rigorous imprisonment in default). The sentences were concurrent. They were charged under Sections 302/34 and 307/34 after police had investigated additional IPC allegations; the appeal's operative convictions were recorded under Sections 302 and 307. During the appeal, Suresh was in jail and Devendra was on bail.

At approximately 5 p.m. on 10 March 2010, Mahesh and his wife Bhagwati were cutting gram in their field. Mahesh said his brother Suresh, carrying an iron rod, and nephew Devendra, carrying a lathi, confronted him about a supposed accusation of crop theft, then beat him on the head, hands and legs. Bhagwati intervened and was struck on the head and both legs. Mahesh suffered lacerations, deformity and bilateral leg injuries; Bhagwati had multiple head wounds, bilateral tibia fractures and other trauma and died en route to J.A. Hospital after initial treatment at Dabra. The postmortem attributed death to cardiorespiratory failure from the cumulative head and leg injuries and classified the death as homicidal. ASI Chauhan recorded a Dehati Nalishi in the 108 ambulance and later recorded Bhagwati's statement under Section 161.

Mahesh testified as an injured eyewitness. Kriparam and Anand Kotwar, although cited as eyewitnesses, said they arrived after the attack; other witnesses did not support the whole case. Rakesh stated that he saw the beating from a distance of 50–60 feet, but fled in fear and left for Raipur. His police statement was recorded two to two-and-a-half months later. Anand asserted at trial that both victims named the appellants, but that assertion was absent from his earlier statement. The officer stated that Bhagwati gave her statement at 19:15–19:25, while the doctor described her as semi-conscious and too unwell to make a statement when he examined her at about 19:15. The defence questioned the declaration, the consistency of the medical evidence, the witnesses' interest, the non-examination of the ambulance driver and the rejection of the sudden-fight plea.

2. Precedents — Considered : *Chandrasekar v. State, (2017) 13 SCC 585*, quoting *Brahm Swaroop*, and *Abdul Sayeed v. State of M.P., (2010) 10 SCC 259*, were quoted in paragraphs 38–39. Injuries sustained in the same incident strongly support an eyewitness's presence and make the false implication of another person in place of the actual assailant less likely. Nevertheless, convincing major contradictions may discredit the testimony. *Abdul Sayeed* quotes several earlier decisions concerning injured witnesses, including *Jarnail Singh*, *Shivalingappa Kallayanappa*, *Kishan Chand* and *Krishan*. The Court also cited its own *Nathu Singh* decision at paragraph 40. It independently tested Mahesh's specific account against the medical findings and the alleged motive for false implication, rather than treating his injuries as conclusive proof of every allegation.

Krishnan v. State represented by Inspector of Police, (2003) 7 SCC 56, *State of M.P. v. Dharkole, (2004) 13 SCC 308*, *Radhakrishna Nagesh v. State of A.P., (2013) 11 SCC 688*, and *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, were quoted in paragraphs 44–47. Credible eyewitness testimony is not displaced by hypothetical medical alternatives or minor variations. A serious conflict that makes the

eyewitness account impossible stands on a different footing. The passage quoted from *Radhakrishna Nagesh* includes *Dayal Singh*, *Kamaljit Singh* and *Madan Gopal Kakkad*; *Mahavir Singh* itself refers to *Abdul Sayeed*. The Court considered the doctor's explanation of blunt penetrating wounds, the possibility that the rod had a pointed end, and Mahesh's own injuries in rejecting the alleged incompatibility. It did not treat the medical evidence as irrelevant.

Mohd. Khalid v. State of W.B., (2002) 7 SCC 334, and *Sheo Shankar Singh v. State of Jharkhand, (2011) 3 SCC 654*, were quoted at paragraphs 49–50. Delay in examination of an eyewitness under Section 161 CrPC is not per se fatal; the explanation for the delay, the police's knowledge of the witness and indications that the witness was introduced to falsely support the case are material. The passage quoted from *Sheo Shankar Singh* includes *Ranbir* and *Satbir Singh*. Rakesh's fear and absence were accepted as explaining the delay, and his evidence corroborated Mahesh's account. *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, quoted at paragraph 57 with references to *Dalip Singh*, *Guli Chand*, *Vadivelu Thevar*, *Rameshwar*, *Masalti*, *Jagir Singh* and *Lehna* within the quoted passage, rejects automatic discrediting of a relative and requires a foundation for a plea of false implication. The alleged motive of coveting the land lacked such a foundation in this case.

Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329, quoted at paragraph 60, sets out, by reference to *Dhirendra Kumar*, the factual considerations relevant to Sections 302/304: weapon, body part, force, sudden fight, previous enmity, provocation, passion and cruelty. *Ajmal v. State of Kerala*, Criminal Appeal 1838/2019, judgment 12 July 2022, quoted at paragraph 61, in turn quotes *Mohd. Rafiq*, *Rayavarapu Punnayya* and *Pulicherla Nagaraju* on the degrees of culpable homicide and the evidence relevant to intention. In rejecting the claim that the argument about crop theft reduced the offence, the High Court applied these factors, emphasising that the appellants came armed, the victims were unarmed, and the assault caused multiple head injuries and fractures of both legs. The facts discussed in those quotations concern the cited cases, rather than this incident in the field.

3. Statutes considered : IPC Sections 302 and 307 were the affirmed convictions for Bhagwati's death and the assault on surviving Mahesh; Section 34 appeared in framed charges and the charge sheet, but the Court's operative order retained the substantive offences against both appellants. The defence sought a reduced conviction under Section 304 Part I, which was rejected in the context of Section 300. Other IPC counts in the charge sheet, including 325, 294, 323, 324 and 506, formed part of the charging history; they were not additional convictions decided on appeal. Section 374 CrPC provided the route of appeal. Bhagwati's statement was recorded under Section 161 CrPC and, because death followed from the incident, could, in principle, be relevant under Section 32 Evidence Act. The Court rejected it because mental fitness had not been proved, rather than merely because no formal medical certificate had been obtained. The Kotwar's assertion that the victims had orally named the assailants was likewise not relied upon because of a major contradiction. The FSL report and seized items formed part of the investigation.

4. Issues : (i) Whether Bhagwati's death was homicidal and whether the roles of both appellants in the assault on her and Mahesh were proved by admissible, reliable evidence. (ii) Whether the deceased's police statement was sufficiently shown to be made in a fit mental condition and could be treated as a dying declaration. (iii) Whether Mahesh's injuries and relationship, Rakesh's delayed statement, the hostile witnesses, the non-examination of the ambulance driver and possible medical alternatives undermined the prosecution case. (iv) Whether the confrontation over an alleged accusation of crop theft warranted reduction to Section 304 Part I on the ground of a sudden fight, and whether the concurrent sentences under Sections 302/307 required alteration.

5. Ratio / Findings : **The Court observed that —** the medical records established that the cumulative blunt injuries to the head and lower limbs were fatal and that the death was homicidal. The police officer's assertion that Bhagwati was fit to give a statement under Section 161 at 19:15 could not prevail over the treating doctor's description, at substantially the same time, of her semi-consciousness, grave condition and inability to give a statement. Slight differences between the times shown by different watches did not establish mental fitness. The absence of a formal certificate alone would not have been decisive, but the affirmative medical evidence to the contrary was. Ex. P.20 was not a reliable dying declaration. Anand's new

assertion that the victims had orally named the assailants was also excluded because of a substantial omission from his earlier statement. The Court expressly excluded these accounts and affirmed guilt on the remaining evidence.

Mahesh's injuries gave his direct account particular weight. His attribution of the iron rod to Suresh and the lathi to Devendra was consistent with the head wounds and injuries to both legs. The hypothetical possibility of repeated falls did not provide a persuasive alternative explanation for the injuries caused in the attack as a whole. The doctor explained that blunt penetrating wounds had irregular margins, and the metal rod could have had a pointed end. Mahesh's own serious condition meant he might not have seen every separate strike on Bhagwati; that did not make his central testimony medically impossible. Rakesh's corroborating account remained acceptable because the delay had been explained. The failure of Kriparam and other bystanders to support the prosecution as eyewitnesses did not displace the direct evidence. The ambulance driver was not a necessary witness to the occurrence. The alleged plan to seize Suresh's adjoining land was unsupported by evidence that the land had been taken after the arrests or that Suresh's family had been obstructed.

Mahesh and Bhagwati were unarmed and working in their field. The appellants arrived carrying weapons and assaulted them, breaking both victims' legs and inflicting multiple head injuries. The Court found the assault unusually cruel and outside the conditions for reduction on the ground of a sudden fight. It rejected the request to apply Section 304 Part I and affirmed the convictions for murder and attempted murder. Life imprisonment was the minimum sentence under Section 302, and the concurrent ten-year term under Section 307 and the fines were left unaltered.

6. Relief : The Hon'ble High Court dismissed the criminal appeal and affirmed the Dabra trial judgment dated 28 December 2011, the convictions under Sections 302 and 307, the fines, default terms and concurrent sentences. Devendra's bail bonds were cancelled and he was directed to surrender immediately before the trial court to serve the remaining sentence. Suresh, already in jail, was to serve the remaining sentence. Free copies were directed for the appellants and the trial record was to be returned.

Suresh and Others v. State of Madhya Pradesh, Cr.A. no. 194/2012, 22/08/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (950) Prev Next

Headnote :- Section 364A IPC / Section 13 MPDVPK act / Section 346 IPC — Five appellants, Suresh, Bhaggu, Kailash, Ramcharan and Rajesh alias Babba, appealed against the life sentences imposed for the alleged abduction of Ram Prakash Rajput for ransom and his secret confinement. His brother filed a missing report on 22 July 2005; the FIR named alleged abductors on 9 August, before Ram Prakash returned on 14 August. The alleged abductee stated that ₹10 lakh had been demanded, but did not explain how the demand was communicated to his family. His brother spoke of a demand for ₹1 lakh conveyed through a negotiator who was not examined and a letter that was not produced. The other witnesses who relied on hearsay did not identify a verifiable source. Ram Prakash's account of escape conflicted with the officer's claim of police recovery. His evidence concerning the abductors' descriptions, his knowledge of their names, visibility at night, blindfolding and the use of code names was inconsistent. The Court found that abduction, captivity and a demand for ransom all remained unproved beyond reasonable doubt, and acquitted all five appellants.

Identification and changed testimony — *Mukesh v. State (NCT of Delhi)* distinguishes dock identification, which is substantive evidence, from a test identification parade (TIP), which serves an investigative and corroborative purpose. The absence of a TIP alone does not render subsequent identification in court inadmissible. Here, however, the police had shown the previously unknown appellants to Ram Prakash at the police station, and he admitted that he learnt their names only then. Applying *Krishna Kumar Malik*, the Court found his subsequent dock identification unreliable as independent identification evidence. The State relied on *Khujji* to argue that Ram Prakash had been won over and had reversed his account in the later cross-examination. That argument failed because his first cross-examination, recorded on the same day as his examination-in-chief, had already disclosed the central defect in identification. The problem did not

arise for the first time from his later explanation concerning code names.

Police collusion and Article 21 compensation — The sources said to have been relied on during the missing-person enquiry for naming the accused at an early stage were not produced. Investigating officer Raghvendra Singh allowed the witnesses to see the accused at the police station, did not conduct a TIP, and gave a recovery account inconsistent with the alleged abductee's account of escape. The High Court expressly found a fabricated case in connivance with Ram Prakash, Manohar and Omprakash. Each appellant had suffered over 11 years of actual custody; Rajesh remained jailed. Applying *Ankush Maruti Shinde*, *Islamic Relief Committee* and *S. Nambi Narayanan* concerning established violations of liberty and dignity, it ordered the State to pay ₹3 lakh to each appellant within one month and file receipts within 45 days. The State was permitted to recover the amount from the officer's salary/pension and from Ram Prakash and Manohar as arrears of land revenue. The right to seek further compensation through a civil suit was preserved, without adjustment of this award. The convictions and sentences were set aside. Rajesh's release was directed unless his custody was required in another case, and the other appellants' bail bonds were discharged.

Case-note :- ***1. Facts :*** Criminal Appeals 463, 466 and 482/2008 jointly challenged the judgment dated 26 April 2008 of the Special Judge, Datia, in Special Sessions Trial 58/2005. Suresh, Bhaggu Dheemer, Kailash Dheemer, Ramcharan and Rajesh alias Babba had been sentenced to life imprisonment and a fine of ₹10,000 (with two years' rigorous imprisonment in default) under Section 364A IPC read with Section 13 of the Madhya Pradesh Dakaiti aur Vyapharan Prabhavit Kshetra Adhiniyam (MPDVPK Act), and one year's rigorous imprisonment under Section 346 IPC, to run concurrently. The charge sheets also referred to Sections 11 and 13 MPDVPK and, for Rajesh, Arms Act Sections 25 and 27, but these were not listed in the judgment as separate convictions under appeal. The appellants disputed abduction and any ransom demand.

Manohar Singh said his brother Ram Prakash went to see cattle on 22 July 2005 at about 7 p.m. and did not return, so he lodged a missing person report at 23:30. The FIR, Ex. P.4, was recorded only on 9 August and named Nandu and Rajesh, although Ram Prakash reportedly returned on 14 August. Ram Prakash described men stopping him in the dark, holding his hands at gunpoint, moving him through fields and forest, and detaining him for thirteen and then eight days before he escaped when guards slept. He spoke of a ransom demand for ₹10 lakh, while Manohar and Omprakash referred to a demand for ₹1 lakh allegedly conveyed through another person. Manohar claimed to possess a ransom letter, which he neither supplied to police nor exhibited. Karan Singh, said to have negotiated, was not examined. Omprakash's source was an unidentified outsider and he admitted enmity with Rajesh. The doctor recorded contusions and swelling after the alleged return.

The abductee stated that he was sometimes blindfolded and was kept 25–30 feet from the men, where he could not hear their conversations, yet claimed to have heard their names. In cross-examination, he said that they used code names and that he learnt their actual names only when the police showed him the accused at the station. There was no test identification parade. Investigating officer Raghvendra Singh PW5 claimed to have recovered Ram Prakash at Bhaguvapura. This contradicted Ram Prakash's account that he had escaped, gone to his brother-in-law's house and then proceeded to Police Station Tharet. PW5 produced neither the statements recorded during the missing-person enquiry nor a verifiable source for the names in the 9 August FIR. He admitted showing the accused to the witnesses at the police station. The Court assessed these contradictions together, rather than treating them as an isolated discrepancy.

2. Precedents — Considered : *Khujji v. State of M.P., (1991) 3 SCC 627,* was invoked by the State in paragraph 22(x) to disregard the abductee's cross-examination of 24 July 2007 as an attempt to assist the defence after an interval. In *Khujji*, the witness materially departed from his earlier account identifying the accused. Here, the examination-in-chief and cross-examination recorded on 15 June 2007 already disclosed that Ram Prakash learnt the appellants' names only after they had been shown to him at the police station. His evidence in the adjourned cross-examination in July reflected that existing weakness; it did not reverse an earlier firm account of identification. The High Court distinguished *Khujji* factually and considered the later evidence.

Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1, was quoted at paragraph 22(xi). A TIP serves an investigative and corroborative purpose, while identification in court is substantive evidence. The absence of a TIP does not itself render identification in court inadmissible; the weight to be given to it depends on the circumstances. The passage quoted from it discusses *Matru*, *Santokh Singh*, *Malkhansingh*, *Visveswaran* and *Manu Sharma*. Those authorities include the principle that, in an appropriate case, guilt may be proved by circumstantial evidence without identification. *Krishna Kumar Malik v. State of Haryana, (2011) 7 SCC 130*, was then quoted and applied: where a witness had been shown a previously unknown suspect at the police station and the description was deficient, subsequent dock identification could become meaningless. Here, the prior exposure to the accused, the absence of earlier descriptions, darkness and blindfolding, contradictions concerning code names and the inability to hear conversations made the identification unreliable. The Court did not hold that dock identification is invariably inadmissible when no TIP has been conducted.

Ankush Maruti Shinde v. State of Maharashtra, (2019) 15 SCC 470, was quoted at paragraph 32 as an example of compensation awarded by the Supreme Court under Article 142 in the peculiar circumstances of false implication. The High Court did not purport to exercise Article 142 itself. *State of Gujarat v. Islamic Relief Committee of Gujarat, (2018) 13 SCC 687*, quoted at paragraph 33, emphasises that monetary relief in public law for infringement of a fundamental right, particularly Article 21, is limited and does not follow from every ultra vires administrative act. The passage quoted from it considers *Hindustan Paper*, *Rabindra Nath Ghosal*, *Common Cause* and *Nilabati Behera*, including the distinct remedies available in private law. *S. Nambi Narayanan v. Siby Mathews, (2018) 10 SCC 804*, was separately quoted on malicious prosecution, dignity, wrongful detention and Article 21 compensation, with *D.K. Basu*, *Joginder Kumar*, *Kiran Bedi*, *Delhi Judicial Service Association*, *Sube Singh* and *Hardeep Singh* appearing in the quoted passage. The High Court applied the Article 21 principles to its affirmative finding that the appellants had been falsely implicated and awarded ₹3 lakh to each. *Ankush* concerned an award of ₹5 lakh in that case. The present award rested on the affirmative finding of false implication, rather than acquittal alone.

3. Statutes considered : Section 364A IPC and Section 13 MPDVPK Act formed the basis of the principal conviction for abduction for ransom; Section 346 IPC covered secret wrongful confinement. The case against the accused failed because identity, abduction, captivity and a ransom demand were not proved on the evidence in this case. Police had charged Section 364A/34 IPC, Section 11 MPDVPK and, for Rajesh, Arms Act Sections 25/27, but the appeals concerned the convictions specifically listed in paragraph 2 and did not analyse the independent ingredients of Arms Act offences. CrPC provisions governing identification and police statements were considered through *Mukesh*, including the context of Section 162. There was no absolute statutory entitlement to a TIP. According to the judgment, the CrPC contained no direct provision for compensation to an accused falsely implicated in circumstances of this kind. Article 21 protected liberty and dignity; the High Court's public-law compensation was distinguished from the Supreme Court's own Article 142 power in *Ankush*. The State was permitted to recover the amount from the persons responsible, and the right to bring further civil proceedings was expressly preserved.

4. Issues : (i) Whether the alleged ransom demand, abduction, secret detention and these appellants' identity were proved beyond reasonable doubt. (ii) Whether the later courtroom identification could be relied upon after the accused had been shown at the police station without a TIP, and whether the abductee's adjourned cross-examination represented a suspect change of account under *Khujji*. (iii) Whether the investigator's naming of accused in the FIR at an early stage without supporting material, failure to produce the sources, showing of the accused to witnesses, and contradictory recovery account amounted to malicious false implication. (iv) If all convictions failed after prolonged imprisonment, whether Article 21 permitted monetary relief against the State, recovery from wrongdoers and a separate civil claim. The Court was not deciding any additional Arms Act conviction, whether recovery would ultimately be made, or the amount of any later civil damages award.

5. Ratio / Findings : **The Court observed that —** the evidence was deficient in several connected respects. Ram Prakash's account of a demand for

₹10 lakh differed from the hearsay account of a ₹1 lakh demand. Communication of a demand to the family was not established, Karan Singh was not examined, and the purported ransom letter was withheld. No payment was alleged. Captivity and identity were also unsupported: darkness, blindfolding, a 25–30-foot separation and the use of code names undermined the claimed recognition. No site map of the place of captivity had been prepared, and his account of escape conflicted with PW5's claim to have recovered him. The 9 August FIR already named Rajesh and Nandu before the abductee's return, and no statement recorded during the missing-person enquiry was produced to establish the source of those names. The appellants had been shown to the witnesses at the police station, which deprived the subsequent dock identification of reliability in this case. The State's argument based on *Khujji* failed because the material admission that the accused had been shown at the police station preceded the adjourned cross-examination. Omprakash's account, based on hearsay from an unidentified source and accompanied by admitted enmity, provided no reliable corroboration. The Court held that not only the demand for ransom, but also the abduction and secret confinement, remained unproved beyond reasonable doubt.

The Court's conclusion extended beyond a finding of reasonable doubt. Investigating officer Raghvendra Singh could not substantiate how the names came to be included in the FIR. He failed to produce the statements recorded during the missing-person enquiry, did not conduct a TIP, allowed the witnesses to see the accused at the station and claimed a recovery inconsistent with the abductee's account of escape. On the record as a whole, the Court expressly found that a false case had been created in connivance with Ram Prakash, Manohar and Omprakash to settle scores arising from enmity. That specific affirmative finding, rather than acquittal alone, formed the basis of constitutional redress. The appellants had suffered more than eleven years of custody; Rajesh was still jailed. The guarantee of liberty and dignity under Article 21 justified an award of ₹3 lakh to each appellant against the State. *Ankush* illustrated the remedy in exceptional cases of false implication. The Court considered the limits stated in *Islamic Relief Committee* and the analysis of malicious prosecution in *Nambi Narayanan* before granting relief in public law for the established abuse. The State's right to recover the amount from the officer and witnesses did not displace its immediate duty to pay the appellants.

6. Relief : The Hon'ble High Court allowed all three appeals; the Special Judge's 26 April 2008 judgment and sentences under Section 364A IPC read with Section 13 MPDVPK and Section 346 IPC were set aside for all five appellants. Rajesh alias Babba was to be released immediately unless required in another case; the remaining appellants' bail bonds were discharged. The State was directed to pay ₹3 lakh to each appellant within one month and file receipts with the Principal Registrar within 45 days. It was permitted to recover the amount from PW5's salary/pension and from PW1 and PW2 as arrears of land revenue. The appellants could separately sue PW1, PW2 and PW5 for further compensation, with no adjustment of this award against any such civil award.

Suresh and Others v. State of Madhya Pradesh, Cr.A. no. 463/2008 & 466/2008 & 482/2008, 17/08/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Murder appeal / differentiated accused roles — A quarrel arose during the civil-court demarcation on 16 April 2011 between brothers Ramesh Chandra and Suresh Chandra Pathak. Court Commissioner Anand Kumar Yadav's report and testimony placed the suspension of the commission proceedings at about 1:10 p.m., after attempts to pacify the parties; he did not witness any firing. Ramesh died from a gunshot injury to the chest. The FIR lodged at 14:15 attributed the fatal shot and a second shot that struck the wall and damaged a pipe to Pawan. It alleged that Khemraj fired at Mukesh and that Banti had fetched the brothers. Suresh's appeal had already abated upon his death. The High Court examined the convictions of Banti, Khemraj and Pawan separately, rather than accepting or rejecting the family witnesses' account in its entirety.

Related and inimical testimony, material omissions and common intention — The deceased's two sons and grandson were natural witnesses who shared his hostility towards the accused; their evidence required close scrutiny. The Court rejected Shailesh Sharma's claim to have been present as a chance witness, having regard also to his conduct during the trial. A related witness is not automatically unreliable and independent

corroboration is not invariably required (*Mahavir Singh*, *Harbeer Singh*, *Vijendra Singh*, *Raju*, *Jodhan*, *Yogesh Singh*, *Mohd. Rojali Ali* and related cases). Rishabh's absence from the FIR did not by itself discredit him (*Mansingh*, *Pramod Mahto*, *Nirpal Singh*). However, the earliest statements attributed to Banti only the task of calling his brothers before any fight had begun. The allegations introduced at trial—that he had been instructed to fetch guns, had pushed the victim and had instigated the murder—were material, unexplained improvements (*S. Govindaraju*, *Yogesh Singh*). Banti's common intention under Section 34 was not proved. The allegation that Khemraj fired at Mukesh was undermined by changes in the chronology, the absence of the expected impact marks in the spot map, and the commissioner's independent evidence. His presence as an assailant and his intention under Section 307 were not established beyond reasonable doubt.

Separable core, FIR dispatch and legal character of Pawan's act — Falsus in uno is not a rule of Indian evidence: the reliable part of testimony may be accepted despite separable, unreliable additions (*Achhar Singh*, *Kameshwar Singh*, *Swaran Singh*, *Bhagwan Jagannath Markad*). The account that Pawan fired at the chest remained consistent from the FIR through the trial and was supported by medical evidence and the recoveries. The Magistrate's receipt of the FIR copy on Monday, 18 April did not establish fabrication. Preparation of the map, seizures, inquest and postmortem on the day of the incident showed that action had been taken promptly (*Pala Singh*, *Mahmood*, *Jafel Biswas*, *Anjan Dasgupta*, *Balvir Singh*). The failure to send merg papers to SDO(P) and the absence of any further independent eyewitness did not invalidate evidence otherwise found reliable (*Prithvi*, *Jagdeo*, *Ambika Prasad*). The commissioner had left and the crowd had dispersed. No one on the victim's side was armed, and there was no provocation from that side. Pawan deliberately fired at the chest. The plea of a sudden fight, seeking reduction to Section 304 Part I, was rejected by applying *Lavghanbhai* and *Ajmal*. His convictions and sentences under Section 302, Section 201 (concerning the tampered firing pin) and Section 30 Arms Act were upheld. Banti and Khemraj were acquitted of all counts, and their bail bonds were discharged. Pawan remained in jail.

Case-note :- ***1. Facts :*** These consolidated appeals challenged the judgment dated 3 May 2012 of the 2nd Additional Sessions Judge, Gwalior, in Sessions Trial 340/2011. Suresh Chandra Pathak, Banti alias Nogendra and Khemraj alias Khemu had been convicted under Section 302/34 IPC and sentenced to life imprisonment and a fine of ₹10,000, with six months' rigorous imprisonment in default. Khemraj was also sentenced to four years' rigorous imprisonment and a fine of ₹5,000 (with six months' rigorous imprisonment in default) under Section 307 IPC, and six months' rigorous imprisonment and a fine of ₹2,000 (with one month's rigorous imprisonment in default) under Section 30 Arms Act. Pawan Pathak was convicted under Section 302 IPC (life imprisonment and a fine of ₹10,000, with six months' rigorous imprisonment in default), Section 201 IPC (two years' rigorous imprisonment and a fine of ₹3,000, with four months' rigorous imprisonment in default) and Section 30 Arms Act (six months' rigorous imprisonment and a fine of ₹2,000, with one month's rigorous imprisonment in default). The sentences were concurrent. Suresh Chandra died pending appeal, and his appeal was dismissed as abated by the 20 July 2022 order. Only the appeals of the surviving appellants remained for decision on merits.

The families were in dispute over property, and a civil court appointed Advocate Anand Kumar Yadav to inspect and measure it. On 16 April 2011 an argument followed the inspection. According to the FIR, Ex. P.3, lodged by Ramesh's son Mukesh at 14:15, Suresh called Pawan and Khemraj through Banti; Pawan arrived with Suresh's licensed mouzer, fired at Ramesh's chest and then fired a second shot that struck the wall and damaged a pipe. Khemraj allegedly had a 12-bore firearm and fired twice at Mukesh, who escaped. The family took Ramesh to hospital, where he was declared dead. The doctor found an entry wound with a track through the ribs and left lung and an exit wound near the scapula. Death resulted from shock and hemorrhage caused by a firearm shot fired from a distance. He classified the death as homicidal but did not identify the particular gun or the angle of the injury. The commissioner's report, Ex. P.16, records that the parties argued after the inspection, as he began measuring the road/open plot. He and the advocates tried to calm them, and he suspended the proceedings at about 1:10 p.m. He also testified that he remained there briefly and did not witness any firing. The commissioner's report is dated 19 April 2011 and has

an appended demarcation plan. The police spot map, Ex. P.4, was a separate document.

Mukesh (PW1), Shailesh (PW2), Rakesh (PW3) and Rishabh (PW4) testified as eyewitnesses. They were connected to Ramesh and to each other; Rishabh was Mukesh's son and was not named in the FIR. Their testimony at trial materially expanded the roles attributed to Banti and Khemraj in the FIR and their earlier police statements. The fatal shot to the chest was consistently attributed to Pawan. The contemporaneous police records documented preparation of the map, collection of blood and earth samples, recovery of two spent cartridges and three broken bullet fragments, and the inquest and postmortem on 16 April. The FIR copy reached the Magistrate on 18 April, following Saturday and Sunday. The defence questioned the relatives' testimony, the delayed transmission of the FIR, the absence of independent witnesses, the chronology emerging from the commissioner's evidence, and the lack of forensic corroboration. Alternatively, it sought Pawan's conviction under Section 304 Part I.

2. Precedents — Considered : On related and interested testimony, *Mahavir Singh v. State of M.P., (2016) 10 SCC 220*, requires careful scrutiny and a plausible explanation for a chance witness's presence; *Harbeer Singh v. Sheeshpal, (2016) 16 SCC 418*, quoting *Darya Singh* and *Raghubir Singh*, requires careful scrutiny where a witness is hostile towards the accused and treats independent corroboration as a matter of prudence, rather than an indispensable requirement. *Vijendra Singh v. State of U.P., (2017) 11 SCC 129*, quoting *Hari Obula Reddy* and *Kartik Malhar*, stresses intrinsic reliability and a distinction between relation and actual interest. *Raju v. State of T.N., (2012) 12 SCC 701*, explains the distinction further: it questions a categorical *Kalki* statement that a natural relative can never be interested, cites the Constitution Bench decision in *Basawan Singh*, and requires closer and more discerning scrutiny where enmity exists, rather than outright rejection of the testimony. The passage quoted from it includes *Dalip Singh*, *Darya Singh*, *Waman* and a series of decisions concerning related witnesses. *Jodhan v. State of M.P., (2015) 11 SCC 52*, *Yogesh Singh v. Mahabeer Singh, (2017) 11 SCC 195*, *Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475*, *Shamim v. State (NCT of Delhi), (2018) 10 SCC 509*, *Rizan v. State of Chhattisgarh, (2003) 2 SCC 661*, and *Mohd. Rojali Ali v. State of Assam, (2019) 19 SCC 567*, were further quoted. Applying these principles, the Court cautiously assessed the evidence of the relatives who were hostile towards the accused. It distinguished Shailesh's account as a chance witness from the consistent attribution of the shooting to Pawan. Not all the decisions mentioned within the quotations were separately analysed in this judgment.

State of M.P. v. Mansingh, (2003) 10 SCC 414, *Pramod Mahto v. State of Bihar, (2003) 9 SCC 215*, and *Nirpal Singh v. State of Haryana, (1977) 2 SCC 131*, were quoted at paragraphs 44–47 to reject the contention that Rishabh's testimony was automatically disqualified because he was not named in the FIR. His omission from the FIR was a matter for scrutiny; there was no statutory requirement to name every eyewitness in it. *S. Govindaraju v. State of Karnataka, (2013) 15 SCC 315*, and *Yogesh Singh* were quoted at paragraphs 52–53: rejection is warranted where omissions and improvements affect the core of the case and create serious doubt, rather than where discrepancies are trivial. The new allegations seeking to establish Banti's common intention met that test. The separate, consistent account attributing the shooting to Pawan did not.

Achhar Singh v. State of H.P., (2021) 5 SCC 543, *Kameshwar Singh v. State of Bihar, (2018) 6 SCC 433*, *Swaran Singh v. State of Punjab, (2000) 5 SCC 668*, and *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537*, were quoted in paragraphs 71–74. They reject mechanical application of falsus in uno and require the reliable part of the evidence to be separated from exaggerations that can be distinguished from it. The passage quoted from *Achhar Singh* refers to *Gangadhar Behera* and *Hari Chand*. The Court applied this principle in accepting the evidence against Pawan despite acquitting the other appellants; it did not accept every detail of the witnesses' accounts.

Pala Singh v. State of Punjab, (1972) 2 SCC 640, *Mahmood v. State of U.P., (2007) 14 SCC 16*, *Jafel Biswas v. State of W.B., (2019) 12 SCC 560*, *Anjan Dasgupta v. State of W.B., (2017) 11 SCC 222*, and *Balvir Singh v. State of M.P., (2019) 15 SCC 599*, were quoted at paragraphs 84–88 on Section 157 CrPC. The timing of dispatch remains an external check on the FIR's authenticity. Extraordinary, unexplained delay linked to prejudice or manipulation may be material, but delay alone does not invalidate an FIR lodged promptly and followed by immediate investigation. The passage quoted

from *Mahmood* includes quotations from *Anil Rai* and *Alla China Apparao*, while that from *Jafel Biswas* includes *Daud Khan*, *Sheo Shankar Singh* and *Sandeep*. *Prithvi (Minor) v. Mam Raj, (2004) 13 SCC 279*, and *State of U.P. v. Jagdeo, (2003) 1 SCC 456*, were cited at paragraphs 95–96 on defective investigation; *Ambika Prasad v. State (Delhi Admn.), (2000) 2 SCC 646*, at paragraph 100 on the non-examination of more independent witnesses, with *State of U.P. v. Anil Singh* appearing in the quoted passage. The Court applied these principles only after assessing the reliability of the evidence in the case.

Lavghanbhai Devjibhai Vasava v. State of Gujarat, (2018) 4 SCC 329, quoted at paragraph 106, sets out, by reference to *Dhirendra Kumar*, the contextual factors relevant to distinguishing murder from an offence under Section 304. *Ajmal v. State of Kerala*, Criminal Appeal 1838/2019, quoted at paragraph 107, reproduces *Mohd. Rafiq*, *State of A.P. v. Rayavarapu Punnayya and Pulicherla Nagaraju on* the degrees of culpable homicide and the factors relevant to intention. In rejecting the request to apply Section 304 Part I, the High Court considered the commissioner's departure, the absence of a sudden fight when the fatal shot was fired, the firearm aimed at the chest and the fact that the victim was unarmed. These decisions do not establish that every single firearm injury invariably attracts Section 302.

3. Statutes considered : IPC Section 302 governed Pawan's intentional murder conviction and the trial court's convictions of Banti and Khemraj under Section 302/34 on the basis of common intention. Section 34 required proof of shared criminal intention, which was not established by the original evidence concerning Banti's initial task of calling his brothers or Khemraj's disputed conduct. Section 307 concerned Khemraj's alleged attempt to kill Mukesh; the failure to prove that he fired the shots resulted in his acquittal. Pawan sought a reduced conviction under Section 304 Part I. That request was rejected on the facts, applying the framework of Section 300 discussed in the cited precedents. Pawan's conviction under Section 201 was affirmed because the firing pin of the mouzer used by him and seized from Suresh was found to have been tampered with. The conviction under Section 30 Arms Act was affirmed for Pawan's use of Suresh's licensed gun and set aside for Khemraj because the allegation that he fired was not proved. CrPC Section 157 concerned prompt dispatch of the FIR to the Magistrate, while Section 159 was discussed in *Pala Singh* in relation to the Magistrate's control over the investigation. Section 231(2) explained the deferral of a witness's cross-examination. Police Regulation 174 was raised for failure to send merg papers to SDO(P). Neither the omission of a witness's name from the FIR nor the failure to examine every independent person was treated as a statutory bar.

4. Issues : (i) Whether death was homicidal and which surviving appellant's participation in the shooting was proved beyond reasonable doubt. (ii) Whether close relationship, prior enmity, Shailesh's chance presence and Rishabh's omission from the FIR rendered the witnesses' accounts unreliable in their entirety. (iii) Whether unexplained trial improvements established Banti's Section 34 intention or Khemraj's alleged Section 307 shots. (iv) Whether rejection of the testimony concerning some accused also required rejection of the separate, consistent account concerning Pawan. (v) Whether a two-day interval before the FIR copy reached the Magistrate and the failure to send the merg papers indicated an antedated case, or whether the contemporaneous investigation and reliable evidence answered those challenges. (vi) Whether Pawan's shooting constituted murder or an offence under Section 304 Part I as he sought, and whether his convictions under Section 201 and the Arms Act should stand. Suresh's personal appeal had abated and was not adjudicated afresh.

5. Ratio / Findings : **The Court observed that —**

Dr. Manjhi described the entry and exit wounds from the shot to the chest, which damaged the ribs and lung and caused fatal hemorrhage. The death was homicidal. The Court then separately assessed the witnesses' accounts and the role of each accused. The hostile relationship required close scrutiny, but did not by itself render the testimony of the deceased's sons and grandson false. The omission of Rishabh's name from the FIR did not disqualify his testimony. Shailesh, a lawyer friend, had no clear reason for attending the demarcation. Having regard also to his conduct near the witness box, the Court found his claimed presence as an eyewitness to be fabricated. The Court assessed the remaining family witnesses' accounts individually, rather than accepting them mechanically.

As to Banti, the FIR and all the police statements referred to showed only that Suresh had sent him to call his brothers before any violence had begun. They neither placed him at the subsequent firing nor

attributed to him knowledge that firearms would be brought. The versions introduced at trial alleged that he had pushed the victim, had been instructed to bring guns and had instigated the killing. Each witness was confronted with these omissions and failed to explain them. These additions fundamentally altered the role attributed to him under Section 34. In the absence of reliable proof that Banti shared a common intention to kill, his conviction based on common intention could not stand. As to Khemraj, the later suggestion that he had already attended the roof inspection conflicted with early accounts of his arrival after being called. Witnesses put Mukesh near his father when Khemraj allegedly fired, but no expected impact marks were found on the wall behind the target along the alleged line of fire. The spot map did not reliably identify Khemraj's position. Commissioner Yadav described a dispute during measurement of the road, his departure after unsuccessful attempts to pacify the parties, and the absence of firing while he was present. This undermined the account that the firing occurred immediately. Mukesh was present but the Court found he sheltered from Pawan's shots and approached his father after the assailants fled. Neither the shots allegedly fired by Khemraj nor his participation in the murder was proved beyond reasonable doubt. The commissioner's report supports the timing and the attempts to pacify the parties, but does not itself establish what happened after he left.

The first shot fired by Pawan at the chest and the second shot that struck the wall and damaged a pipe were consistently described from the FIR onwards. The medical findings, broken bullet pieces and evidence from the scene supported this consistent account. Indian evidence law did not require its rejection merely because the witnesses had embellished the role of another accused. The use of an available motorcycle to take the victim to hospital, rather than Mukesh's car, did not disprove Mukesh's presence. The FIR lodged at 14:15 on 16 April was followed by preparation of the map at 14:30, seizure at 15:00, dispatch of the body at 15:30 and postmortem at 16:30. Receipt of the FIR copy on Monday, 18 April did not establish that it had been antedated. The failure to send the merg papers and the absence of additional independent witnesses did not discredit this corroborated account. These findings did not alter the conclusion that the prosecution had separately failed to prove its case against Banti and Khemraj.

Pawan's request to apply Section 304 Part I was rejected. The commissioner had suspended work and departed, and the crowd had dispersed. No one on the victim's side was armed, and that side had not instigated the fatal assault. Pawan brought a firearm and fired from a distance at the chest, a vital part of the body. In these circumstances, the act constituted murder, rather than culpable homicide not amounting to murder arising from a sudden fight. The Court also affirmed the conviction under Section 201 because the firing pin was found to have been tampered with, and the conviction under Section 30 Arms Act for the use of Suresh's licensed mouzer. As life imprisonment was the minimum sentence under Section 302, the sentence required no alteration.

6. Relief : The Hon'ble High Court allowed the criminal appeal filed by Banti and Khemraj. All their convictions and sentences were set aside; they were acquitted, and, being on bail, their bonds were discharged. The criminal appeal by Pawan was dismissed. His convictions under Sections 302 and 201 IPC and Section 30 Arms Act and his concurrent sentences, including life imprisonment, were upheld. He was in jail and was directed to serve the remaining sentence. Suresh Chandra's appeal had abated on death under the earlier order. The Registry was to supply Pawan a free copy and return the trial record with the judgment.

Suresh Chandra Pathak and Others v. State of Madhya Pradesh; Pawan Pathak v. State of Madhya Pradesh, Cr.A. no. 379/2012 & 401/2012, 05/08/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Anticipatory bail / initial legality of grant / Section 439(2) CrPC — The deceased married Nitendra Kushwah on 6 December 2020 and died by hanging on 7 March 2022. Her father challenged the anticipatory bail granted by the Sessions Court to her father-in-law, Rajendra Kushwah, on 29 April 2022. His account specifically attributed to Rajendra a demand for ₹3 lakh in November 2021 and dowry-related taunts and harassment. The Sessions Court treated the father-in-law's case as identical to that of Varsha Singh, the deceased's Jethani. Varsha had received anticipatory bail on 18 April 2022 because the allegations against

her were vague and omnibus. The Sessions Court did not analyse the father-in-law's different role or the specific allegation against him. *Kamla Devi*, *Brijmani Devi*, *Jaibunisha*, *Manoj Kumar Khokhar*, *Ramesh Bhavan Rathod* and the *Mahipal* line require consideration of relevant factors and intelligible reasons, brief as they may be, so that the exercise of bail discretion can be reviewed. The impugned parity formula was unreasoned and ignored material already on record.

Role-specific parity — A co-accused's bail does not establish parity merely because both persons are co-accused. As explained in *Shri Mahadev Meena* and *Ramesh Bhavan Rathod* and adopted through the High Court's *Sikandar Singh Narvariya* discussion, the accused's attributed conduct, relationship to the occurrence and position relative to the victim determine comparability. Vague allegations against the co-accused daughter-in-law were not comparable to the specific allegation of a direct monetary demand against the father-in-law; *Taramani Parakh* supplied additional context on particularised in-law allegations. The Court found no basis to apply the reason for granting Varsha bail to Rajendra.

Original invalidity versus later cancellation — The respondent invoked *Dolat Ram* and *Abdul Basit* and submitted that he had not misused the liberty granted by bail. The High Court distinguished a higher forum's review of whether the grant itself was perverse, illegal or unjustified from cancellation following supervening misconduct or new circumstances. *Brijmani Devi*, *Bhoopendra Singh*, *Mahipal*, *Jaibunisha*, *Manoj Kumar Khokhar*, *Neeru Yadav* and *Padmakar Tukaram Bhavnagare* were considered in explaining this distinction. Section 362 bars the same court from altering a final order, except to correct a clerical or arithmetical error. It does not bar a challenge before the higher court to the legality of the original grant. The father's Section 439(2) application succeeded: the Sessions order was set aside, Rajendra was ordered to surrender to the trial court within 15 days, and warrants could issue if he failed.

Case-note :- ***1. Facts :*** Suresh Kumar Kushwah, father of the deceased, invoked Section 439(2) CrPC against the anticipatory bail granted by the Sessions Court to respondent No. 1, her father-in-law Rajendra Kushwah, in Bail Application No. 1129/2022 on 29 April 2022. The daughter married Nitendra Kushwah on 6 December 2020 and died by hanging on 7 March 2022, within one year and four months of the marriage. According to the father, she was initially treated properly, then reported dowry taunts, harassment and abuse by her husband and in-laws. He said that, in November 2021, he visited with his wife and son Ramprakash to ask that the daughter not be harassed; the father-in-law responded that she would be kept properly only upon payment of ₹3 lakh.

The High Court had granted anticipatory bail to co-accused Varsha Singh, described as the deceased's Jethani, in MCRC No. 17854/2022 on 18 April 2022. That order found vague and omnibus allegations against her, taking account of her separate position as a daughter-in-law; it expressly referred to the specific allegation against the father-in-law. The Sessions Court nevertheless granted Rajendra anticipatory bail by saying his case was identical to Varsha's. The father attacked that unexplained parity and failure to consider the direct allegation. Rajendra opposed the application on the ground that cancellation required subsequent misuse of bail, which had not been alleged.

2. Precedents — Considered : *Kamla Devi v. State of Rajasthan, (2022) 6 SCC 725*, was quoted in paragraph 5. It identifies the seriousness of the offence, flight risk, influence over witnesses and tampering with evidence among the non-exhaustive factors relevant to bail. It treats a grant made mechanically and without reasons as non-application of mind. The quoted passage names *Gudikanti Narasimhulu*, *Prahlad Singh Bhati*, *Anil Kumar Yadav*, *Ram Govind Upadhyay*, *Kalyan Chandra Sarkar*, *Prasanta Kumar Sarkar*, *Ramesh Bhavan Rathod*, *Brijmani Devi*, *Manoj Kumar Khokhar* and *Jaibunisha* as its authorities. These authorities appear within the passage quoted from *Kamla Devi*; several are also discussed separately later in the judgment. The Court applied the reasoning requirement to the Sessions order, without requiring a full trial at the bail stage.

Brijmani Devi v. Pappu Kumar, (2022) 4 SCC 497, was quoted in paragraphs 6 and 13. Its discussion of *Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496*, stresses that genuine, clear reasons constrain arbitrariness and demonstrate consideration of relevant factors. Its quotation of *Bhoopendra Singh v. State of Rajasthan, (2021) 17 SCC 220*, and *Mahipal v. Rajesh Kumar, (2020) 2 SCC 118*, separates appellate scrutiny of an original bail order for perversity, illegality or lack of justification from subsequent cancellation grounded

in later circumstances or breaches. The High Court applied both strands to the omissions in the original grant in this case.

Jaibunisha v. Meharban, (2022) 5 SCC 465, quoted in paragraph 7, requires attention to allegations, potential sentence, witnesses, tampering, antecedents and prima facie support while permitting brief reasons at an early stage. It says a casual, reasonless grant may be assailed by prosecution or informant in a higher forum; its reference to *Gurcharan Singh v. State (Delhi Admn.), (1978) 1 SCC 118*, differentiates new post-grant circumstances for cancellation from a challenge to an original order that was perverse when made. The Court applied that distinction between the appropriate forum and grounds of challenge.

Manoj Kumar Khokhar v. State of Rajasthan, (2022) 3 SCC 501, quoted in paragraph 8, reinforces brief but meaningful reasons through *Ramesh Bhavan Rathod* and repeats the distinction drawn in *Mahipal* and *Bhoopendra Singh*. It discusses *Myakala Dharmarajam v. State of Telangana, (2020) 2 SCC 743*, on the proposition that lengthy reasons are unnecessary where the grant shows examination of the case record; this did not permit an unexplained statement of parity. *Ramesh Bhavan Rathod v. Vishanbhai Hirabhai Makwana, (2021) 6 SCC 230*, reappears in paragraph 10 through *Sikandar Singh Narvariya* and requires comparison of the actual role and relationship to the incident and victim rather than a surface similarity. *Shri Mahadev Meena v. Praveen Rathore, Criminal Appeal No. 1089/2021*, quoted within *Sikandar*, rejects parity based on another accused's different personal ground and emphasizes role, gravity and prima facie material; the quoted passage refers to *Ram Govind Upadhyay* and *Prasanta Kumar Sarkar*. The High Court recorded that its earlier order in *Sikandar Singh Narvariya*, Criminal Appeal No. 5870/2021, had been affirmed by the Supreme Court in SLP (Cri) No. 9149/2021, *Axay Kumar Dwivedi*, on 26 November 2021.

Ramadhar Baghel v. State of M.P., MCRC 58792/2021, and *Mahesh Pahade v. State of M.P.*, prior High Court decisions quoted at length in paragraph 9, bring together Supreme Court bail principles and the ability of an aggrieved victim to challenge an illegal grant. The passage quoted from *Ramadhar* discusses *Harjit Singh v. Inderpreet Singh*, *Gudikanti Narasimhulu*, *Ash Mohammad*, *Sitaram Popat Vetal*, *Ram Govind Upadhyay*, *Prasanta Kumar Sarkar*, *Chaman Lal*, *Sonu* and *Neeru Yadav* on relevant factors and judicial discretion. *Mahesh Pahade* discusses *Amanullah*, *Puran*, *P.S.R. Sadhanantham*, *Lachhman Dass*, *Amarmani Tripathi* and *Prakash Kadam* on victim standing and the initial-illegality distinction.

Neeru Yadav v. State of U.P., (2016) 15 SCC 422, and *Padmakar Tukaram Bhavnagare v. State of Maharashtra, (2012) 13 SCC 720*, were discussed in paragraphs 14–16 for correction of a legally infirm grant and for distinct parameters governing cancellation. *Abdul Basit alias Raju v. Mohd. Abdul Kadir Chaudhary, (2015) 1 SCC (Cri) 257*, was invoked by the respondent and quoted in paragraph 17: Section 362 bars a court that has finally disposed of a matter from substantively reviewing its own order in the absence of a statutory exception. It permits correction of clerical or arithmetical errors. *Dolat Ram v. State of Haryana, 1995 SCC (Cri) 237*, was relied on by the respondent as a later-misuse cancellation principle; the High Court found it did not bar higher-court review of the original materials. *Taramani Parakh v. State of M.P., (2015) 11 SCC 260*, was cited at paragraph 21 as supporting the relevance of specific allegations against in-laws, without deciding their guilt. The operative distinction was initial invalidity, not a finding of later abuse.

3. Statutes considered : Section 439(2) CrPC was the procedural provision expressly invoked in the father's application to challenge the grant of anticipatory bail. The High Court examined the legal validity of the Sessions grant on the record then available. Section 362 CrPC was addressed to distinguish prohibited substantive review by the same court after disposal from a challenge in the higher court; clerical or arithmetical correction is the quoted limited exception.

4. Issues : (i) Whether the Sessions Court gave legally adequate reasons by merely treating Rajendra, the father-in-law, as comparable to co-accused Varsha, who had been granted bail, despite the materially different and specific allegation of a dowry demand against him. (ii) Whether Section 439(2) relief could set aside the original anticipatory-bail order on its existing record in a higher court without proof that Rajendra later misused liberty, and how Section 362 affects same-court reconsideration. (iii) What consequential direction followed. The merits of the dowry and cruelty allegations, ultimate guilt, and the continuance of Varsha's separate bail were not before the Court for final adjudication.

5. Ratio / Findings : **The Court observed that —** the Supreme Court decisions considered at the outset require a reasoned exercise of bail discretion. The bail court must consider pertinent factors, including the actual accusation and prima facie case, gravity, criminal history where material, flight and interference risks, while avoiding final evidentiary conclusions. Reasons need not be elaborate at an initial stage, but an unexplained formula prevents meaningful scrutiny and indicates non-application of mind. The Sessions order did little more than describe Rajendra's case as identical to Varsha's and failed to consider the father's specific statement that Rajendra had demanded ₹3 lakh. That omission made the initial anticipatory-bail grant legally unsustainable.

Parity failed for an independent factual reason. Varsha was a different relative, herself a daughter-in-law, against whom the prior order described vague allegations. The allegation against Rajendra specified his role, the monetary demand, its amount and the encounter in November 2021, alongside dowry-related taunts and harassment. The role-based approach in *Ramesh Bhavan Rathod* and *Shri Mahadev Meena* required examination of that difference. Merely describing the two cases as identical did not establish parity. The Court cited *Taramani Parakh* in its application and treated the accusation as relevant to bail, without treating it as a finding of guilt.

The absence of any allegation of subsequent misuse did not answer the challenge to the original grant. A higher court may examine whether the original grant was perverse, arbitrary, illegal or unjustified on facts and material existing at grant. A cancellation application based on later breach or new facts uses a distinct test; a same-court substantive review after disposal is restricted by Section 362. The Court accepted the father's challenge before the higher court within the Section 439(2) proceeding on the initial record and held the Sessions order legally unsustainable. It did not purport to reverse a valid grant merely because another judge preferred a different discretionary balance, nor did it find supervening misconduct.

6. Relief : The Hon'ble High Court allowed the application for cancellation of anticipatory bail and set aside the Sessions Court's order dated 29 April 2022 in Bail Application No. 1129/2022. Respondent No. 1 was directed to surrender before the trial court within 15 days from the date of the order, failing which the trial court was permitted to issue warrants of arrest to secure his appearance.

Suresh Kumar v. Rajendra Kushwah and Others, M.Cr.C. no. 26249/2022, 23/08/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- IPC Section 498-A / Dowry Prohibition Act Sections 3–4 / specificity at Section 482 stage - The applicants described the allegations of dowry-related cruelty as false, vague and omnibus, pointing out that the wife's mother had lodged the FIR and that the husband had earlier sought divorce. The FIR specified a demand for ₹10 lakh or a four-wheeler, alleged continuing physical and mental harassment, described an attempt to expel the wife on 24 March 2018 and stated that the demand was repeated at a Panchayat on 30 November 2019. The chargesheet named the wife as a witness and included statements under Section 161 CrPC from her mother, father, brother and a relative. The filed MLC copy was partly obscured and could not be read clearly enough to support a definitive medical finding. The Court applied *Taramani Parakh v. State of M.P., 2015:INSC:221, (2015) 11 SCC 260*: allegations that harassment by a husband and his relatives caused the wife to leave the matrimonial home cannot be held to disclose no offence on their face merely because the accused dispute them. Whether cruelty occurred is a matter for trial. The High Court rejected the objection that the allegations were vague, without deciding whether the charges were proved or treating the fact that the mother alone had reported the matter as a separate bar to registration.

Divorce proceedings / asserted counterblast - The Court quoted and applied *Pratibha v. Rameshwari Devi, 2007:INSC:929, (2007) 12 SCC 369*. That decision disapproved quashing on the basis of extraneous inferences from the timing of proceedings. It held that a spouse's divorce petition and related civil proceedings do not, by themselves, bring criminal proceedings to an end where the FIR discloses a prima facie offence. It also recognised that attempts at reconciliation may explain the timing of a report. The Supreme Court's reference to *Bhajan Lal*'s illustrative categories formed part of that analysis. In the present case, the applicants' earlier divorce petition did not, by itself, establish that the mother's FIR alleging cruelty and dowry demands

was a retaliatory complaint liable to be quashed. The Court dismissed the quashing petition. It expressly directed that its observations at this preliminary stage, other than statements of law, should not prejudice the trial court's independent assessment of the evidence.

Case-note :- ***1. Facts :*** Suresh Patel and the other applicants petitioned under Section 482 CrPC to quash FIR Crime No. 15/2020 at Police Station Chhatarpur for IPC Section 498-A read with Section 34 and Dowry Prohibition Act Sections 3 and 4. The wife of applicant No. 1 did not herself lodge the FIR; her mother, respondent No. 3, did. The applicants said the husband's divorce petition had preceded the FIR, described it as a counterblast and asserted that the accusation was false and omnibus. The State opposed quashing, pointing to specific dowry and harassment allegations.

According to the mother's FIR, the marriage took place on 24 February 2014. The FIR alleged physical and mental harassment, a demand for ₹10 lakh or a four-wheeler, an attempt to force the wife out of the matrimonial home on 24 March 2018, continuing treatment at several places, a dispute over jewellery and repetition of the dowry demand at a Panchayat on 30 November 2019. It also stated that the daughter's mental condition prevented her from giving a statement. These matters remained allegations. The Court noted that the chargesheet nevertheless listed the wife as a witness. It also identified statements under Section 161 CrPC by the mother, her husband Jugal Kishore, her son Ankit and their relative Ramesh alleging harassment. The Court noted that an MLC had apparently been conducted and a doctor had given an opinion, but the filed photocopy was partly covered by another document and could not be read reliably.

2. Precedents — Considered : *Taramani Parakh v. State of M.P., 2015:INSC:221, (2015) 11 SCC 260*, was quoted in paragraphs 7–8. The allegations in that case included demands for gold and cash, harassment by the husband and parents-in-law, beating and departure from the matrimonial home. The Supreme Court held that, taking those allegations at face value, it could not be said that no offence was made out. Whether cruelty had actually occurred was a matter for trial. The High Court applied that principle to the specified, repeated demand and conduct alleged in the present case.

Pratibha v. Rameshwari Devi, 2007:INSC:929, (2007) 12 SCC 369, was quoted in paragraphs 9–10. The Supreme Court disapproved the High Court's reliance on delay, a divorce petition and extraneous investigative findings to quash a cruelty FIR when the complainant's family had pursued reconciliation and the allegations disclosed a prima facie offence. Civil divorce proceedings and criminal proceedings were independent; the filing of a divorce petition was not, by itself, a ground for quashing. The High Court applied *Pratibha* to reject the applicants' contention, based on the earlier divorce petition, that the FIR was a counterblast. The truth of the allegations remained for trial.

3. Statutes considered : Section 482 CrPC was invoked to seek quashing of the FIR and associated record at this preliminary stage. Section 498-A read with Section 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act were the offences alleged. The witness statements in the chargesheet were recorded under Section 161 CrPC. The partly obscured MLC copy could not be read reliably and therefore provided no reliable basis for a definitive medical conclusion, favourable or adverse.

4. Issues : (i) Whether the FIR lodged by the wife's mother and the witness statements alleging particular dowry demands and continuing physical and mental harassment were so vague or omnibus that prosecution under Section 498-A and the Dowry Prohibition Act could not continue. (ii) Whether the husband's earlier divorce petition established that the later FIR was a retaliatory counterblast requiring quashing. (iii) Whether the observations made at this preliminary stage would bind the trial court. The Court did not finally determine the truth of the accusations or the full evidentiary value of the partly obscured MLC in these proceedings under Section 482.

5. Ratio / Findings : The Court did not treat the fact that the mother had lodged the FIR as an automatic defect. It examined the substance of the allegations: a specific demand for a large sum of money or a vehicle, continuing harassment, an attempted expulsion from the matrimonial home and repetition of the demand at a Panchayat on a specified date. The chargesheet included statements from several relatives and listed the wife as a witness. Applying *Taramani Parakh*, the Court held that allegations describing particular acts of cruelty could not be quashed merely because their truth was disputed; their truth was for trial. It rejected the objection that the available allegations were vague, without treating them as findings of guilt.

On the contention concerning timing, the Court applied the separate principle in *Pratibha*. A pending civil divorce petition does not, by itself, defeat criminal allegations. Describing the FIR as a counterblast cannot replace examination of whether the complaint discloses a case. The applicants' reference to the earlier divorce petition did not provide a legal ground for quashing the proceedings despite the recorded allegations of dowry demands and cruelty. The Court therefore found no reason to interfere. It expressly confined its factual observations to the preliminary stage and directed the trial court to decide on the evidence without being influenced or prejudiced by the order. The accused's defences on the merits remained open.

6. Relief : The High Court dismissed the application. The FIR was not quashed. The trial court was directed to assess the evidence independently, without treating the High Court's observations, other than statements of law, as conclusive.

Suresh Patel and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 56767/2021, 23/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Negotiable Instruments Act, Section 138 / mixed dishonour memo - A cheque for ₹1,35,000 was returned on first presentation for insufficient funds and a difference in the drawer's signature. On re-presentation, it was returned for insufficient funds and an alteration requiring a full signature. The trial court found that the cheque had been issued to discharge a legal liability and that payment had not been made after statutory notice, but acquitted the drawer because of the second mixed bank endorsement. The High Court held that the additional alteration endorsement did not displace the insufficient-funds ground. If the account lacked sufficient funds, that ground remained operative. *Laxmi Dyechem v. State of Gujarat, 2012:INSC:546, (2012) 13 SCC 375*, gives Section 138 a purposive interpretation: signature mismatch, a changed mandate, account closure and stop-payment instructions may fall within it, subject to statutory notice, an opportunity to pay, a legally enforceable liability and any genuine rebuttal. *Santosh Kumar Gupta v. State (Delhi High Court)*, quoting *Devan v. Krishna Menon (Kerala High Court)*, explained that a bank's notation is not conclusive. The court must ascertain the real reason for dishonour; a signature actually proved not to be genuine stands on a different footing. The trial court's affirmative findings and the failure to pay after notice defeated its sole basis for acquittal. The High Court set aside the acquittal as perverse.

Re-presentation / later default - *Msr Leathers v. S. Palaniappan, 2012:INSC:424*, permits successive presentations and prosecution on a later default, subject to the applicable statutory conditions. Re-presentation at the drawer's instruction did not invalidate the present complaint: the second return again recorded insufficient funds, and the cheque amount remained unpaid after statutory notice. *R. Vijayan v. Baby, 2011:INSC:745, (2012) 1 SCC 260*, was considered for the punitive, compensatory and restitutive purposes of Section 138. The Court imposed one year's rigorous imprisonment and a fine of ₹2,70,000, with a two-month default sentence. It partly set aside the acquittal, affirmed the other trial findings, convicted the respondent and directed him to surrender by 7 January 2025.

Case-note :- ***1. Facts :*** Suresh Singh Sikarwar appealed under Section 378 CrPC against the judgment dated 28 January 2011 by which the JMFC, Gwalior, acquitted Radheshyam Sharma on a complaint under Section 138 of the Negotiable Instruments Act. Cheque No. 90299 was for ₹1,35,000. On first presentation, the bank recorded insufficient funds and a difference in the drawer's signature. The drawer asked for re-presentation; the second return recorded insufficient funds and an alteration requiring a full signature. The complainant issued statutory notice on 15 May 2009, but the cheque amount remained unpaid. The trial court found that the cheque had been issued to discharge a legal liability and that payment had not followed notice. It nevertheless acquitted the respondent because it treated the alteration endorsement as outside Section 138. The appellant submitted that insufficient funds was an independent reason on both returns and that the second endorsement could not displace it. The respondent defended the acquittal.

2. Precedents — Considered : *Bir Singh v. Mukesh Kumar, 2019:INSC:149, (2019) 4 SCC 197*, was relied on by the complainant's counsel in paragraph 3. The Court quoted the Delhi High Court's decision in *Santosh Kumar Gupta v. State*, CRMC No. 2271/10, decided on 16 September 2017. That decision quoted *Devan v. Krishna Menon* of the Kerala High Court: an instrument whose signature is proved not to be genuine cannot attract Section 138,

but a bank's signature-mismatch notation is not conclusive. The court must ascertain whether insufficient funds was the actual cause of dishonour. *Santosh Kumar Gupta* also quoted *Dinesh Harakchand Sankla v. Kurlon Ltd.* of the Karnataka High Court on intentional alteration of signatures or dates and the rebuttable presumptions under Section 139. *Dinesh* quoted *NEPC Micon Ltd. v. Magma Leasing Ltd., 1999:INSC:211, (1999) 4 SCC 253,* on purposive interpretation of Section 138 and the inclusion of account closure within insufficiency of funds, so that a drawer cannot indirectly defeat the provision's purpose. The quoted observations about possible charges under Section 420 IPC concerned those other proceedings. They were neither a conviction for cheating nor a direction to frame such a charge in the present case.

R. Vijayan v. Baby and Another, 2011:INSC:745, (2012) 1 SCC 260, was cited for the punitive, compensatory and restitutive character of Chapter XVII of the Act and the practical importance of providing compensation through a single criminal forum. M/s Laxmi Dyechem v. State of Gujarat, 2012:INSC:546, (2012) 13 SCC 375, was quoted at length. It interprets insufficiency of funds under Section 138 as a genus that may include dishonour for account closure, stopped payment, reference to the drawer, signature mismatch or a missing signature image, having regard to whether changes were made to prevent payment. That principle is qualified: an innocent change of authorised signatory need not, by itself, constitute an offence. Statutory notice, an opportunity to pay, the debt or liability and the evidence and any rebuttal remain material. The High Court applied this authority to reject acquittal based categorically on one bank notation when insufficient funds was also expressly recorded. *Msr Leathers v. S. Palaniappan and Another, 2012:INSC:424*, was cited for permissible repeated presentation and prosecution on a later default. It supported treating the second dishonour as actionable if the statutory requirements were met.

3. Statutes considered : Section 378 CrPC provided for the complainant's appeal against acquittal. Section 138 of the Negotiable Instruments Act governed dishonour of a cheque issued for a legally enforceable liability, statutory notice and failure to pay. The trial court had already found the liability and non-payment after notice. The judgment treated the insufficient-funds return and the second mixed endorsement as falling within Section 138 when the other statutory conditions were satisfied. The quoted Delhi and Karnataka decisions discussed Section 420 IPC in the context of other proceedings, rather than a charge decided here. *R. Vijayan* explained the broader compensatory purpose of Chapter XVII. The actual order imposed a fine without expressly directing its disbursement as compensation. The judgment recorded notice dated 15 May 2009 and subsequent non-payment; it decided no contested question of the service date or computation of limitation.

4. Issues : (i) Could a trial court acquit on the sole ground that the second bank memo added "alteration requires full signature" when that same memo also recorded insufficient funds and the first return likewise included insufficiency? (ii) Could the cheque's re-presentation and second return sustain a Section 138 complaint after notice and non-payment? (iii) What appellate relief followed from the trial court's already affirmative findings on debt/liability and notice?

5. Ratio / Findings : The Court held that the insufficient-funds notation remained an operative reason for dishonour despite the additional alteration endorsement. As explained in *Laxmi Dyechem* and the authorities quoted through *Santosh Kumar Gupta*, the purpose of Section 138 would be defeated if a concurrent endorsement automatically protected a drawer from prosecution despite insufficient funds and failure to pay after notice. The distinction stated in *Devan* remained relevant: proof that the signature was not genuine may mean that the instrument was not the drawer's cheque. A bank's notation cannot mechanically determine that question. In the present case, the trial court had affirmatively found that the cheque was issued to discharge a legal liability and that payment had not been made. The appellate court did not find that the signature had been proved to be forged. It reasoned that, if the failure to put a full signature after alteration had been innocent, the drawer could have paid after notice. Insufficient funds remained a recorded reason for dishonour. The High Court held the acquittal to be perverse and reversed it.

Msr Leathers separately answered the question of re-presentation. A cheque may be presented again, and a later default may give rise to prosecution if the conditions of Section 138 are met. The drawer's instruction to re-deposit the cheque and the second return for insufficient funds fell within that rule. *R. Vijayan*'s compensatory and restitutive purposes

were cited. In imposing rigorous imprisonment and a fine, the sentencing paragraph referred to the allegations against the respondent.

6. Relief : The High Court allowed the appeal. It partly set aside the JMFC's acquittal dated 28 January 2011 as to Issue No. 2 and affirmed the findings on Issues Nos. 1 and 3. Radheshyam Sharma was convicted under Section 138. After hearing on sentence, the Court ordered one year's rigorous imprisonment and a fine of ₹2,70,000, with two months' rigorous imprisonment in default. He was directed to surrender by 7 January 2025. If he failed to surrender, the trial court was free to issue an arrest warrant to enforce the sentence.

Suresh Singh Sikarwar v. Radheshyam Sharma, Cr.A. no. 1008/2013, 28/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Medical Termination of Pregnancy Act, 1971 / minor alleging rape - In a petition under Article 226 brought by the father of a girl aged about 15, the Court considered Sections 3 and 5(1) in the form then in force. Section 3(2), subject to subsection (4), prescribed the conditions concerning gestation and the opinions of registered medical practitioners. Explanation 1 presumed the anguish caused by a pregnancy alleged by the pregnant woman to result from rape to constitute grave injury to her mental health. Section 3(4)(a) required written guardian consent for a person below 18. The Court also quoted Section 5(1), which provided a life-saving exception to certain limits. The Medical Board assessed gestation at approximately eight to ten weeks, found the girl fit for the procedure if investigations were normal, and recommended early action. The Court applied *Murugan Nayakkar v. Union of India*, WP(C) 749/2017, order dated 6 September 2017, on the relevance of a minor's age, trauma and expert medical-board opinion. The distinct medical assessment concerning the 13-year-old petitioner in that case was not treated as a finding about this girl. On the present record, the High Court allowed the father and daughter's prayer and directed prompt termination, subject to medical complications.

Clinical directions / limited judicial-order immunity - The CMHO, Gwalior, was directed to admit the minor by 11 September 2020. The heads of gynecology and anesthesia and other specialists were to attend the procedure; experienced senior doctors were to act if the department heads were unavailable. The State was to ensure postoperative care. The Court quoted *Shaikh Ayesha Khatoon v. Union of India (Bombay High Court)*, which concerned a materially different case of fetal anomalies at a late stage of pregnancy and discussed reproductive choice, statutory interpretation and medical risk. In paragraph 13, the present Court expressly relied on that decision to protect doctors participating in this procedure from litigation arising out of its order. The quoted Bombay analysis includes the Supreme Court authorities *Nalinakhya Bysack*, *Sri Ram Narain Medhi*, *M. Pentiah*, *Balasinor Nagrik Co-operative Bank* and *Dadi Jagannadham* on statutory interpretation.

Case-note :- ***1. Facts :*** Suresh Singh, the father of a girl then aged about 15, filed WP No. 12677/2020 under Article 226 seeking State action to terminate her pregnancy. He alleged that she had been sexually assaulted, leading to registration of FIR Crime No. 378/2020 at Police Station Thatipur, Gwalior, under Sections 376(2)(n), 323 and 506 IPC and Sections 3 and 4 POCSO. The school headmaster's certificate and the case diary recorded her date of birth as 17 June 2005. The FIR particulars, age record and father's account formed the factual basis of the requested protective relief.

On 31 August 2020, the Court directed the CMHO to constitute a team including a gynecologist and an anesthetist. The medical report recorded about two months' amenorrhoea and gestation of approximately eight to ten weeks. It advised routine investigations, stated that the girl was fit for the procedure if the investigations were normal, and recommended early action. The Court considered the medical report and case diary. It treated the pregnancy as arising from alleged rape, considered the child's age and anguish, and granted the requested relief on 8 September 2020.

2. Precedents — Considered : *Murugan Nayakkar v. Union of India and Others*, Supreme Court WP(C) No. 749/2017, order dated 6 September 2017, was quoted and directly applied. In that case, a 13-year-old petitioner alleged rape and sexual abuse. A court-appointed board recommended termination, assessed the risks of both termination and delivery, and noted neonatal complications. The Supreme Court allowed termination in view of the petitioner's age, trauma, continuing agony and the medical board's advice. The High Court applied that approach, based on the

individual circumstances and board opinion, to the girl aged approximately 15 with an early pregnancy in the present case.

Shaikh Ayesha Khatoon v. Union of India and Others of the Bombay High Court was quoted extensively. That case concerned a pregnancy beyond 27 weeks with significant fetal anomalies, whereas the present case concerned an early pregnancy alleged to result from rape. The quoted reasoning addresses reproductive choice and possible grave injury to mental health within the MTP Act's conditions, reads Section 5 as a whole, distinguishes interpretation of remedial provisions from that of penal provisions, and protects doctors implementing the order. In paragraph 13, the present High Court stated that, although it had already permitted termination, doctors participating in the procedure would have immunity from litigation arising out of its order. It also provided for experienced substitutes if department heads were unavailable. The Bombay quotation reproduces another Bombay decision, *High Court on its own motion v. State of Maharashtra*, on mental health and the woman's foreseeable environment. It also cites *Nalinakhya Bysack v. Shyam Sunder Haldar, Sri Ram Narain Medhi v. State of Bombay, M. Pentiah v. Muddala Veeramallappa, Balasinor Nagrik Co-operative Bank v. Babubhai Shankerlal Pandya* and *Dadi Jagannadham v. Jammulu Ramulu* against adding words to a statute; *New India Assurance Co. v. Nusli Neville Wadia on* purposive construction; and *RBI v. Peerless General Finance on* reading text with context. Those Supreme Court authorities are nested within the quoted Bombay judgment; the Madhya Pradesh High Court did not separately analyse them or make their propositions independent holdings. The reference to a proposed amendment in 2014 was historical discussion within that quotation, rather than operative statutory law applied in the present case.

3. Statutes considered : Article 226 provided the writ jurisdiction for protective medical directions. The Court quoted the Medical Termination of Pregnancy Act, 1971 as it stood in September 2020. Section 3(1) protected a registered medical practitioner from criminal liability for a termination performed in accordance with the Act. Section 3(2) prescribed the gestational and opinion requirements then in force: one practitioner where pregnancy did not exceed 12 weeks, and not fewer than two where it exceeded 12 but not 20 weeks. The quoted provision required an opinion formed in good faith on the specified risk to life or of grave injury to physical or mental health, or the specified risk of serious fetal abnormality. Explanation 1 presumed the anguish caused by a pregnancy alleged by the pregnant woman to result from rape to constitute grave injury to mental health. Section 3(3) permitted consideration of her actual or reasonably foreseeable environment. Section 3(4)(a) required written guardian consent for a girl under 18. The IPC and POCSO provisions identified the underlying FIR; the writ did not determine criminal liability.

4. Issues : (i) Whether a minor's pregnancy alleged to follow rape could be terminated under the then-applicable MTP framework, in light of her age, the statutory mental-health presumption and individual medical-board advice. (ii) What hospital attendance, specialist and postoperative safeguards should accompany prompt implementation, and what was the scope of the protection afforded to participating doctors?

5. Ratio / Findings : The Court verified the minor's age from the school certificate and case diary, directed and considered an expert examination, and set out Sections 3 and 5(1) as the statutory framework applicable in 2020. Applying the approach in *Murugan Nayakkar,* it considered the rape allegation, the girl's mental trauma and age, and the medical board's advice. It held that the termination sought by the father and daughter should be allowed. The board assessed gestation at approximately eight to ten weeks and found the procedure possible if investigations were normal. The Court directed immediate action expressly subject to medical complications; it did not treat safety as unconditional. Its observations about the danger of continuing the pregnancy concerned this child's circumstances, rather than a medical finding that every minor's pregnancy necessarily threatens life.

The implementation directions specified the latest admission date, attendance by experienced specialists and postoperative care to be ensured by the State. In paragraph 13, the Court relied specifically on *Shaikh Ayesha Khatoon* to protect doctors participating in the procedure from litigation arising out of the order. The protection was confined to those doctors and that judicial order; it did not extend to unrelated wrongful conduct.

6. Relief : The High Court allowed the writ petition and directed the respondents to carry out termination

promptly, subject to medical complications. The CMHO, Gwalior, was to admit the child by 11 September 2020. The heads of gynecology and anesthesia and other specialists were to be present, with experienced senior doctors acting if the department heads were unavailable. The State was to provide postoperative care. Participating doctors received the protection from litigation arising out of the order stated in paragraph 13.

Suresh Singh v. State of Madhya Pradesh, W.P. no. 12677/2020, 08/09/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Quashing / disputed facts and defence - Section 482 CrPC permits intervention when uncontroverted allegations, taken at face value, do not disclose an offence, or a clear legal bar or an abuse of process warranting quashing is established. It does not permit a roving inquiry into the truth of disputed allegations. *XYZ v. State of Gujarat, (2019) 10 SCC 337, State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718, Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319, State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226, M. Srikanth v. State of Telangana, (2019) 10 SCC 373, CBI v. Arvind Khanna, (2019) 10 SCC 686,* and *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021 (30 June 2021), were relied on for the principle that allegations must be assessed at face value without trying disputed facts at the quashing stage. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350, recognises a limited exception permitting consideration, in an appropriate case, of a public document or a defence document whose veracity is not disputed by the complainant.* The applicants disputed the alleged construction, the occurrence and the complainant's account; those were matters for evidence after charges had been framed.

Mala fides / rival complaint - *Renu Kumari v. Sanjay Kumar, (2008) 12 SCC 346,* quoted the illustrative categories in *State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335*, and the principles in *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*. It stressed that inherent power is exceptional and cannot be used to stifle a legitimate prosecution. Where the FIR discloses a cognizable offence, the informant's alleged hostility is, by itself, secondary. The truth of the applicants' complaint accusing the mason of misconduct required evidence. As to their defence that a neighbour had instigated the FIR, the Court stated that the applicants had to prove it beyond reasonable doubt by leading evidence before the trial court. Filing a counter-complaint did not extinguish the FIR. The High Court did not find that no incident had occurred and refused to quash on the alleged mala fides, without deciding the counter-case.

FIR delay - *Skoda Auto Volkswagen (India) Private Limited v. State of U.P., (2021) 5 SCC 795, Ravinder Kumar v. State of Punjab, (2001) 7 SCC 690*, and *Mohammad Wajid v. State of U.P., AIR 2023 SC 3784*, were applied. The law fixes no universal period for lodging an FIR, and delay alone neither makes an FIR illegal nor justifies quashing. Explanations for delay and the reliability of the allegations require examination. *Ravinder Kumar* also explains why prompt reporting is useful without treating promptness as a guarantee of genuineness. The asserted delay of 17 days was insufficient by itself; the Court noted the mason's payment dispute, no prior enmity and the distinction between delay in lodging an FIR and a statutory time bar to prosecution, leaving trial questions open. The application was dismissed; the trial record was to be returned and the trial court was directed to dispose of the stayed trial preferably within one year after receiving a certified copy of the order.

Case-note :- ***1. Facts :*** Suresh Tripathi and the other applicants sought quashing under Section 482 CrPC of FIR Crime No. 258/2020 at Police Station Govindgarh, Rewa, and the resulting chargesheet. The FIR named IPC Sections 294, 374, 506 and 34, and SC/ST (Prevention of Atrocities) Act Sections 3(1)(r), 3(1)(s), 3(2)(va) and 3(1)(h). After the trial record was called, the Court observed that on 26 April 2022 charges had actually been framed under IPC Sections 294 and 506-B and SC/ST Act Sections 3(1)(r) and 3(1)(s). The sections listed in the FIR and those under which charges were framed are distinct procedural details; the order does not state that every FIR section survived charge framing.

The complainant, a mason, alleged a verbal agreement for house construction and partial payment. He said that, on 28 July 2020, he went to applicant No. 2's house, where he met applicants Nos. 2 and 3 and demanded the outstanding amount. The FIR alleged caste-linked abuse, refusal of payment and threats, and referred to neighbours witnessing or hearing the incident. The applicants denied the occurrence and construction, disputed that

the incident took place in public view, and alleged that the mason had entered the house and behaved improperly towards applicant No. 3. They said that her counter-complaint remained pending and that her statement under Section 200 CrPC had not been recorded. They alleged that a neighbour with whom they had legal disputes had maliciously instigated the FIR, and relied on a reporting delay of 17 days. The Court recorded that the trial had remained stayed because its record had been called.

2. Precedents — Considered : On disputed facts and the limits of Section 482, *XYZ v. State of Gujarat, 2019:INSC:1199, (2019) 10 SCC 337*, was quoted to explain why it was wrong to stop an investigation on the basis of findings reached through a roving inquiry into contested allegations and a disputed purported settlement. The facts discussed in *XYZ* belonged to that case, rather than the present mason's dispute. *State of Tamil Nadu v. S. Martin, 2018:INSC:284, (2018) 5 SCC 718*, criticised premature factual assessment before the investigation had ended. *Ajay Kumar Das v. State of Jharkhand, 2011:INSC:655, (2011) 12 SCC 319*, quoted *Bhajan Lal*'s warning that Section 482 is sparingly used and is not a credibility inquiry into the FIR. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, stated the ordinary rule against evaluating the accused's defence documents, with a narrow exception permitting consideration, in an appropriate case, of a public document or a document whose veracity is not disputed by the complainant; the judgment did not apply that exception to a specific established document here. *State of A.P. v. Gourishetty Mahesh, 2010:INSC:405, (2010) 11 SCC 226*, stressed the need to prevent harassment without prematurely ending a legitimate prosecution, identified failure to disclose an offence on the face of the allegations and a legal bar as possible grounds for quashing, and left assessment of reliability to the trial court. *M. Srikanth v. State of Telangana, 2019:INSC:1172, (2019) 10 SCC 373*, restated that quashing is justified where the allegations in the FIR, taken at face value, do not disclose an offence, or where the uncontroverted allegations and the material collected in their support do not disclose an offence. *CBI v. Arvind Khanna, 2019:INSC:1152, (2019) 10 SCC 686*, disapproved minute review of disputed defence at the cognizance stage. *State of M.P. v. Kunwar Singh*, Cr.A. 709/2021, order of 30 June 2021, was quoted against meticulous scrutiny of the kind undertaken at trial and for the point that an FIR is not an encyclopedia. The Court added the similar line of *Munshiram v. State of Rajasthan; Teeja Devi v. State of Rajasthan; State of Orissa v. Ujjal Kumar Burdhan; S. Khushboo v. Kanniammal; Sangeeta Agrawal v. State of U.P.; Amit Kapoor v. Ramesh Chander; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy*; and *M.N. Ojha v. Alok Kumar Srivastav.* These latter eight decisions were cited in support of the same restraint; the order did not separately develop a holding from each.

For mala fides, *Renu Kumari v. Sanjay Kumar, 2008:INSC:278, (2008) 12 SCC 346*, was extensively quoted after the applicants invoked *State of Haryana v. Bhajan Lal*, *1992 Supp (1) SCC 335*. *Renu Kumari* reproduced the three purposes for which inherent jurisdiction may be exercised, the principles in *R.P. Kapur v. State of Punjab, AIR 1960 SC 866*, concerning a legal bar, failure of the allegations taken at face value to disclose an offence, and manifest absence of legal evidence, and *Bhajan Lal*'s seven illustrative categories, including manifest malice. The quoted discussion also cautions that extraordinary power cannot be used to weigh contested evidence or short-circuit a legitimate prosecution. The quoted passage explains that the informant's alleged mala fides are secondary where cognizable allegations exist, and that the evidence determines the prosecution's outcome. Nested citations to *Janata Dal*, *Dhanalakshmi*, *P.P. Sharma*, *Rupan Deol Bajaj*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar, Satvinder Kaur, Rajesh Bajaj*, and *State of Karnataka v. M. Devendrappa*, (2002) 3 SCC 89, also appear in the quoted discussion.

On reporting delay, *Skoda Auto Volkswagen (India) Private Limited v. State of U.P., 2020:INSC:661, (2021) 5 SCC 795*, held that mere delay in making a complaint does not by itself justify quashing and that the Court cannot decide disputed facts at that stage. *Ravinder Kumar v. State of Punjab, 2001:INSC:414, (2001) 7 SCC 690*, explained that law fixes no universal FIR reporting period; promptness can preserve memory and reduce possible concoction but is not a guarantee of accuracy, and genuine causes for delay vary. *Mohammad Wajid v. State of U.P., 2023:INSC:683, AIR 2023 SC 3784*, reiterated that delay alone cannot quash an FIR. The High Court applied those rules to the asserted 17 days, without a final credibility adjudication.

3. Statutes considered : Section 482 CrPC provided the High Court's inherent jurisdiction. The

requirement to assess allegations at face value, the purpose of preventing abuse of process and the prohibition on a trial of disputed facts at the quashing stage governed all three objections. The FIR initially named IPC Sections 294, 374, 506 and 34 and SC/ST Act Sections 3(1)(r), 3(1)(s), 3(2)(va) and 3(1)(h); the existing charge order named only IPC Sections 294, 506-B and SC/ST Act Sections 3(1)(r), 3(1)(s). The Court distinguished mere delay in giving information from a statutory bar to prosecution.

4. Issues : (i) Could the FIR and chargesheet be quashed because the applicants denied the occurrence, construction and public-view facts and advanced a conflicting account? (ii) Did asserted mala fide instigation or the applicants' pending complaint extinguish this prosecution? (iii) Did a 17-day interval between the incident and report, without an identified statutory bar, justify quashing? (iv) What should happen to the stayed trial and called-up record after disposal?

5. Ratio / Findings : First, the Court held that proceedings could be quashed under Section 482 if the uncontroverted allegations failed to disclose an offence. It could not determine the reliability of disputed allegations or try contested defence facts at that stage. The Supreme Court authorities in paragraphs 11–19 required restraint while preserving the power to intervene against clear abuse. An FIR need not contain an exhaustive account of the prosecution case. *Mohd. Akram Siddiqui* permits consideration, in an appropriate case, of a public document or a defence document whose veracity is not disputed by the complainant. Here, however, the applicants' allegations that there had been no construction or incident, and the allegations in their pending counter-complaint, remained disputed; they were not shown to fall within that limited exception. The Court left credibility and truth to the trial court.

Second, *Renu Kumari*'s discussion of *Bhajan Lal* and *R.P. Kapur* recognises that proceedings may be quashed for mala fides in an exceptional case where the grounds are properly established, but an allegation of hostility is not itself proof that the FIR is fabricated. The competing accounts of the incident between the mason and the applicants remained disputed. The Court noted that the applicants' own counter-complaint indicated that some incident had occurred, without deciding which account was true. In relation to the particular defence of the neighbour's alleged instigation, the Court stated that the applicants had to prove that defence beyond reasonable doubt by leading evidence before the trial court. Where prima facie cognizable allegations remained, such motives were secondary and the mere filing of the applicants' complaint could not justify quashing the FIR.

Third, applying *Skoda*, *Ravinder Kumar* and *Mohammad Wajid*, the Court held that delay alone did not make the FIR illegal or justify quashing. The asserted delay of 17 days could be explained at trial. The Court referred to the mason's alleged demand for outstanding payment and the absence of earlier enmity. It preserved the qualification concerning a statutory bar to prosecution; it did not determine a particular limitation period. The competing factual accounts and the delay therefore supplied no ground for intervention under the inherent power.

6. Relief : The High Court dismissed the application and refused to quash the FIR or the proceedings. It directed the office to return the trial record immediately. Since the trial had remained stayed because its record had been called, the Court directed the trial court to dispose of it preferably within one year of receiving a certified copy of the order.

Suresh Tripathi and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 9413/2023, 13/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (957) Prev Next

Headnote :- Forest confiscation / criminal trial - The Court quoted and applied *State of Madhya Pradesh and Others v. Kallo Bai, (2017) 14 SCC 502*. Confiscation under Section 15 of the Adhiniyam considered in that case is a quasi-judicial process independent of the criminal trial. It depends on the authorised officer's satisfaction that a forest offence was committed using the seized article; complete proof of an accused's guilt at trial is not a precondition. The quoted statutory scheme requires a reasoned confiscation order. It permits the specified owner or person concerned to establish that the article was used without their knowledge or connivance or, where applicable, that of their servant or agent, and that all reasonable and necessary precautions were taken. Sections 15-A and 15-B provide remedies of appeal and revision. The applicants sought to set aside confiscation of a pickup allegedly used to transport wood unlawfully on the ground that the accused were still on trial. Applying *Kallo Bai*, the Court rejected that sole

ground and dismissed the application under Section 482 CrPC.

Case-note :- ***1. Facts :*** Suryavati Gautam and the other applicants filed Misc. Criminal Case No. 60309/2022 under Section 482 CrPC to seek quashing of the impugned confiscation order; their prayer referred to Annexures A/1 and A/2. Their pickup van, registration MP53 GA 3263, had been confiscated on the allegation that it had been used to transport wood illegally. The applicants submitted that the accused persons were still being tried for the associated forest offence and that their guilt had not been proved. They argued that confiscation must await a finding of guilt in that trial.

2. Precedents — Considered : *State of Madhya Pradesh and Others v. Kallo Bai, (2017) 14 SCC 502*, was the sole Supreme Court decision cited and applied. The High Court quoted paragraphs 14, 15 and 22 and treated the rule in *Kallo Bai* as decisive of the applicants' contention. That decision explained the Section 15 scheme of the Adhiniyam before the Supreme Court. Forest officers may seize specified vehicles and articles if they have reason to believe that these were used in a forest offence. Confiscation is a quasi-judicial decision based on the authorised officer's statutory satisfaction that an offence was committed using the articles; it does not depend on a criminal conviction. The quoted Section 15 provisions require a reasoned written order and prescribed procedural safeguards. They permit release on security under subsection (3-A) and transfer under subsection (5-A) where the authorised officer was involved in the seizure. They also protect an owner or other specified person who establishes use without their knowledge or connivance or, where applicable, that of their servant or agent, together with all reasonable and necessary precautions. Section 15-A provides an appeal, and Section 15-B provides revision before the Sessions Court. The quoted Supreme Court conclusion permits confiscation before guilt is completely established. The High Court applied that independence from the timing of the criminal trial to the present pickup.

3. Statutes considered : The applicants invoked Section 482 CrPC to seek High Court intervention against confiscation. The Court found no ground to exercise that power on the contention advanced. The quoted *Kallo Bai* analysis concerns Section 15 of the Adhiniyam: seizure on reason to believe, quasi-judicial confiscation on the authorised officer's satisfaction, written reasons and protection for the specified owner or person concerned. Sections 15-A and 15-B provide remedies of appeal and revision. The passage compares the release provision with Section 53 of the Forest Act as amended in Madhya Pradesh.

4. Issues : The sole issue argued and decided was whether the pickup could not be confiscated, and the impugned order should therefore be set aside, merely because the trial for alleged illegal transportation of wood remained pending and the accused had not yet been found guilty.

5. Ratio / Findings : Applying *Kallo Bai*, the Court rejected the premise that confiscation must await a criminal conviction. Statutory forest confiscation is independent of the outcome of the criminal trial and may precede complete proof of guilt. The authorised officer conducts a quasi-judicial inquiry under the confiscation law. The quoted Supreme Court principle remains subject to statutory satisfaction and procedural safeguards, including reasons and an opportunity for the protected owner or person concerned to establish lack of knowledge or connivance and all reasonable and necessary precautions. Mere pendency of the forest-offence trial therefore did not invalidate confiscation of the pickup. On that sole contention and the totality of the circumstances stated, the Court found no case for interference.

6. Relief : The High Court dismissed the Section 482 application and declined to interfere with the impugned confiscation. No costs were specified.

Suryavati Gautam and Others v. Forest Circle Officer, Curhat Forest Division, Sidhi and Others, M.Cr.C. no. 60309/2022, 25/04/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (958) Prev Next

Headnote :- Parallel proceedings / civil will suit and criminal complaint - The Court applied *M.S. Sheriff v. State of Madras, 1954:INSC:32, AIR 1954 SC 397*. Criminal matters should ordinarily take precedence so that they are resolved promptly, but the rule is not inflexible. The likelihood of embarrassment and the stage of the proceedings may justify a different course; the possibility of conflicting civil and criminal decisions is not a relevant consideration. *M. Krishnan v. Vijay Singh, 2001:INSC:499, AIR 2001 SC 3014*, holds that criminal proceedings for alleged document forgery cannot be quashed merely because a suit concerning

those documents is pending. Criminal allegations require independent proof, and filing a suit cannot automatically frustrate prosecution. *Kamaladevi Agarwal v. State of West Bengal, 2001:INSC:517, AIR 2001 SC 3846*, and *P. Swaroopa Rani v. M. Hari Narayana, 2008:INSC:299, (2008) 5 SCC 765*, likewise permit simultaneous proceedings, with any stay dependent on the circumstances. The High Court therefore rejected the applicants' request to restore the dismissal under Section 203 CrPC solely because civil litigation concerning a will was pending.

Civil and criminal findings / Evidence Act relevance - *Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), 2009:INSC:290, (2009) 5 SCC 528*, and *Kishan Singh v. Gurpal Singh, 2010:INSC:509, (2010) 8 SCC 775*, were applied. Civil and criminal courts decide independently on the evidence before them, applying preponderance of probabilities and proof beyond reasonable doubt, respectively. *K.G. Premshanker v. Inspector of Police, 2002:INSC:381, (2002) 8 SCC 87*, as discussed in those judgments, recognises that a previous judgment may be relevant under Evidence Act Sections 40–43 and a judgment falling within the class specified in Section 41 may be conclusive; neither proceeding's findings become universally binding merely because they concern the same document. *Kishan Singh* examined the contrary language in *Karam Chand* and *V.M. Shah* in the light of the Constitution Bench decision in *M.S. Sheriff* and later decisions, and quoted *Iqbal Singh Marwah* on distinct standards.

Court complaint / pre-production forgery - *Iqbal Singh Marwah v. Meenakshi Marwah, 2005:INSC:129, (2005) 4 SCC 370*, holds that Section 195(1)(b)(ii) CrPC applies to the enumerated offences committed with respect to a document after its production or receipt in evidence, while it is in judicial custody. The will in question was alleged to have been forged before production in court; no manipulation in custodia legis was alleged. Respondent No. 1's complaint under Section 200 did not have to be instituted by the court under Section 195 merely because a related civil suit was pending. The Section 482 petition was dismissed and the interim order dated 15 March 2019 vacated. The Sessions revision order directing registration of the complaint remained effective.

Case-note :- ***1. Facts :*** Respondent No. 1, Vijay, filed a complaint under Section 200 CrPC alleging that the late Kusum Bai was illiterate and that Girish and Ravi Jaiswal exploited that circumstance to obtain execution of a will dated 12 July 2011. The complaint alleged that when she learned of it, she cancelled that will through a registered document dated 21 June 2012. The order separately records the applicants' submission that Vijay had brought a civil declaration suit alleging forgery of a will dated 11 May 2013. The applicants said their written statement denied the civil averments and pointed to signatures on documents in Kusum Bai's Civil Suit No. 29-A/2013 against Sanjay Kumar Jaiswal as possible comparison material. Neither signature comparison nor the merits of the civil suits were decided in the criminal order.

The complaint invoked IPC Sections 420, 467, 468, 471 and 109 read with Section 34. After examining witnesses under Section 202 CrPC and considering documents, the JMFC, Khandwa dismissed the unregistered complaint under Section 203 on 15 March 2018 for want of a prima facie case. Vijay's Criminal Revision No. 29/2018 succeeded before the Sessions Judge, Khandwa on 7 February 2019: that court set aside the dismissal and directed registration of the complaint case. Sushama Jaiswal and other applicants then petitioned under Section 482 CrPC, seeking to set aside the revisional order and restore the Magistrate's dismissal. Their argument was that the pending civil suit about a disputed will should prevent a criminal case. An interim High Court order dated 15 March 2019 remained in force until this final decision.

2. Precedents — Considered : *M.S. Sheriff v. State of Madras, 1954:INSC:32, AIR 1954 SC 397*, was quoted for the general desirability of giving criminal matters precedence when civil and criminal proceedings coexist: criminal justice should be swift while memories remain fresh. The Constitution Bench did not regard the possibility of conflicting civil and criminal decisions as a relevant consideration. In that context, it identified the likelihood of embarrassment as the only relevant consideration and expressly disclaimed a hard-and-fast rule, since special circumstances or an advanced stage could make another course expedient and just. The High Court used that qualified framework against an automatic bar based on the pending civil suit; it did not actually order a stay of a civil suit in this case.

M. Krishnan v. Vijay Singh, 2001:INSC:499, AIR 2001 SC 3014, was quoted and applied to forgery

allegations that also involved a civil dispute. A criminal case alleging forgery of documents and gains obtained through them cannot be quashed merely because a party has filed a suit concerning those documents. Otherwise, filing a suit could obstruct an anticipated prosecution. The prosecution must independently prove the allegations in its complaint and the accused may obtain discharge or acquittal if it fails. Civil adjudication and criminal adjudication use different standards, with proof beyond reasonable doubt required in criminal proceedings and proof on a balance of probabilities in civil proceedings. The High Court applied that principle without deciding that these applicants had forged a will. *Kamaladevi Agarwal v. State of West Bengal and Others, 2001:INSC:517, AIR 2001 SC 3846,* was cited for the related point that a pending civil action, even before a court of higher status and authority, does not itself justify quashing a criminal proceeding governed by the CrPC.

P. Swaroopa Rani v. M. Hari Narayana, 2008:INSC:299, (2008) 5 SCC 765, was quoted for concurrent civil and criminal proceedings and a fact-dependent decision whether either should be stayed. Its quoted passage refers to *M.S. Sheriff*, *Iqbal Singh Marwah v. Meenakshi Marwah, 2005:INSC:129, (2005) 4 SCC 370,* and *Institute of Chartered Accountants of India v. Association of Chartered Certified Accountants, (2005) 12 SCC 226*. The present Court applied the principle permitting concurrent proceedings, while retaining the qualification that any stay depends on the circumstances of the case.

Syed Askari Hadi Ali Augustine Imam v. State (Delhi Administration), 2009:INSC:290, (2009) 5 SCC 528, was quoted on the separate question of the effect of findings in another proceeding. A criminal court may take cognizance on a prima facie case even where civil litigation is pending, with any stay dependent on the nature and stage of the proceedings. Its discussion of *K.G. Premshanker v. Inspector of Police, 2002:INSC:381, (2002) 8 SCC 87,* qualifies the independence of courts: a final earlier judgment can be relevant as Sections 40–43 of the Evidence Act permit, with Section 41 specifying judgments that may be conclusive. Their relevance and effect must be assessed rather than assumed. Res judicata in civil suits and Section 300 CrPC's bar to a second criminal trial are different rules. The High Court used this material to reject the premise that civil findings automatically bind the criminal court, without identifying a final civil decree whose admissibility it had to decide.

Kishan Singh (Dead) Through Legal Representatives v. Gurpal Singh and Others, 2010:INSC:509, (2010) 8 SCC 775, was quoted at length. It examined *Karam Chand Ganga Prasad*'s broad statement that civil decisions bind criminal courts and noted that it had not addressed the Constitution Bench's qualified account in *M.S. Sheriff*; it likewise discussed *V.M. Shah*'s civil-precedence language and *K.G. Premshanker*'s rejection of that approach. It reproduced the view that criminal courts must form their own assessment and the distinct proof standards stated in *Iqbal Singh Marwah*. *P. Swaroopa Rani*, *Syed Askari* and *Vishnu Dutt Sharma* also appear in the quoted discussion. *Kishan Singh*'s resulting rule is that findings in civil and criminal cases about the same subject do not automatically bind one another; each uses its own evidence and standard, with the limited Sections 40–43 relevance of previous judgments remaining possible. The High Court adopted that qualified rule. The quotation also reproduces a Privy Council passage from *King Emperor v. Khwaja Nazir Ahmad*. That passage *and the* nested references formed part of the quoted reasoning; they were not treated as separate holdings by this High Court.

Iqbal Singh Marwah v. Meenakshi Marwah, 2005:INSC:129, (2005) 4 SCC 370, was separately quoted on Section 195(1)(b)(ii) CrPC. It approved the principle attributed to *Sachida Nand Singh*: a court complaint is required for the enumerated forgery offences committed with respect to a document after its production or receipt in evidence in court, while it is in custodia legis. The High Court applied that distinction concerning timing and custody to the allegation that the will had been forged before production in court, and rejected the Section 195 bar.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction invoked to set aside the Sessions revision order and restore dismissal of the complaint. Sections 200 and 202 CrPC governed the respondent's private complaint and the Magistrate's preliminary witness examination; Section 203 provided for the dismissal that was challenged in revision. The judgment addressed whether the complaint could proceed, not whether the ingredients of IPC Sections 420, 467, 468, 471 and 109/34 were ultimately proved. Section 195(1)(b)(ii) CrPC was considered as a statutory restriction on cognizance

for certain offences concerning documents in court; under *Iqbal Singh Marwah*, it attaches only to offences committed with respect to a document after production or reception in evidence while it is in judicial custody. An allegation of forgery before production falls outside that requirement for a court complaint, so the complainant's Section 200 route remained open. Sections 40–43 of the Evidence Act specify circumstances in which prior judgments may be relevant in later litigation, and Section 41 may make a specified judgment conclusive; this does not create a general rule that a pending civil case controls a criminal one. The quoted Supreme Court discussion also distinguished civil res judicata and Section 300 CrPC's prior-conviction-or-acquittal rule, neither of which was applied to bar this complaint. Criminal allegations remain subject to proof beyond reasonable doubt, unlike civil preponderance.

4. Issues : (i) Whether a pending civil suit disputing a will's genuineness required the criminal complaint about alleged cheating and forgery to be dismissed or quashed, and whether concurrent proceedings or their relative timing required a different course. (ii) Whether findings in a civil action would bind criminal adjudication, given distinct proof standards and the qualified relevance of earlier judgments under Evidence Act Sections 40–43. (iii) Whether Section 195(1)(b)(ii) CrPC required a court-filed complaint rather than Vijay's Section 200 complaint where the alleged forgery preceded production of the document in a judicial proceeding.

5. Ratio / Findings : On the first issue, the Court held that civil litigation and criminal prosecution could proceed together. *M.S. Sheriff* favours prompt criminal adjudication but makes precedence and any stay dependent on the circumstances; the possibility of conflicting civil and criminal decisions is not a relevant consideration. *M. Krishnan* and *Kamaladevi Agarwal* reject dismissal of a criminal forgery accusation solely because related civil litigation exists, since an accused could otherwise frustrate prosecution by bringing suit. *P. Swaroopa Rani* confirms that the proceedings may continue simultaneously, while making any stay dependent on the facts and circumstances. The applicants' reliance on a pending civil declaration suit and proposed signature comparison therefore did not, by itself, justify interfering with respondent No. 1's complaint or the Sessions Judge's direction to register it.

On the second issue, *Syed Askari* and *Kishan Singh* established a qualified principle of independent adjudication. The criminal court must assess allegations on its own evidence and require proof beyond reasonable doubt; a civil court applies probabilities. A decision in one forum is not automatically binding in the other merely because the parties or disputed property overlap. The Court's quoted account of *Karam Chand*, *V.M. Shah* and *K.G. Premshanker* explains why an unqualified rule that civil findings bind criminal courts is incorrect. Yet the Evidence Act's Sections 40–43 can make a particular final judgment relevant, and Section 41 may make the statutorily identified kind conclusive. The Court therefore rejected the contention that the civil suit automatically controlled the criminal proceedings, without ruling on the admissibility or weight of a final civil judgment in this record.

On the third issue, the Court applied the distinction in *Iqbal Singh Marwah* concerning when the alleged forgery occurred. Section 195(1)(b)(ii) requires a court complaint for the relevant offence concerning a document after it is produced in court and while it is in custodia legis. Here, the alleged forgery preceded production of the disputed document; the judgment says it was not manipulated while in the court's custody. The bar did not prevent the private Section 200 complaint. With no further argument advanced, the applicants had shown no ground for interfering with the Sessions revision order. This was a threshold determination; the allegations of cheating and forgery remain subject to the ordinary criminal process.

6. Relief : The High Court dismissed the application. It refused to set aside the order dated 7 February 2019 passed by the Sessions Judge, Khandwa, in Criminal Revision No. 29/2018. That order setting aside the JMFC's dismissal under Section 203 dated 15 March 2018 and directing registration of the complaint therefore remained effective. The High Court also vacated its interim order dated 15 March 2019. No costs or additional conditions were specified.

Sushama Jaiswal and Others v. Vijay and Others, M.Cr.C. no. 10617/2019, 20/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (959) Prev Next

Headnote :- Investigation / no compelled charge-sheet - The Court applied *D. Venkatasubramaniam v.*

M.K. Mohan Krishnamachari, 2009:INSC:1132, (2009) 10 SCC 488. Investigation is the responsibility of the police; a High Court cannot casually prescribe examination of witnesses, arrest, seizure or filing of a charge-sheet. A lawful investigation may result in a charge-sheet or a conclusion that no prosecutable case is made out. The quoted Supreme Court discussion relied on *M.C. Abraham v. State of Maharashtra, 2002:INSC:575, (2003) 2 SCC 649*, to explain that arrest under Section 41 CrPC is discretionary and must be considered cautiously rather than mechanically. It also relied on *Divine Retreat Centre v. State of Kerala, 2008:INSC:341, (2008) 3 SCC 542*, on hearing persons whose reputation and liberty would be affected by coercive judicial directions. The High Court held that a direction compelling a charge-sheet against the accused in Crime No. 324/2015 would amount to supervising the investigation, and refused that relief.

Investigation / prompt completion and lawful report - Section 173(1) CrPC, identified alongside Section 193 BNSS in the order, requires completion without unnecessary delay. The Court distinguished an impermissible direction to file a charge-sheet from a permissible direction to complete the long-pending investigation and submit the report required by law after the investigator assesses whether an offence is disclosed. It directed expeditious completion and the steps required by law, with liberty to apply to the Superintendent of Police, Gwalior, if a grievance persists.

Case-note :- ***1. Facts :*** Sushma Dubey filed a petition under Article 226 of the Constitution asking the High Court to direct the respondents to file a charge-sheet within a stipulated time in Crime No. 324/2015 at Police Station Gole Ka Mandir (also rendered Gola Ka Mandir in the narrative), Gwalior. She said the crime had been registered on her complaint under IPC Sections 120-B, 420, 467, 468 and 471, concerning allegations of conspiracy, cheating and document offences, but alleged that the police had taken no further action and had not filed a charge-sheet by the time of the petition. Counsel for the State appeared. The petition raised the question whether a writ could require investigation to result in a charge-sheet, and what relief was available for delay in investigating a long-pending FIR. The petition was decided on 12 December 2024.

2. Precedents — Considered : *D. Venkatasubramaniam and Others v. M.K. Mohan Krishnamachari and Another, 2009:INSC:1132, (2009) 10 SCC 488*, was extensively quoted and applied. In the case considered in that authority, the High Court had directed the police to take specified investigative steps, including recording statements, arrest and seizure, and to file a charge-sheet. The Supreme Court explained that investigating a crime is the police's statutory duty and normally within their domain. A court should not direct how the investigation must proceed or assume that it must end in arrest, seizure and a charge-sheet. The police may decide on the evidence that a case warrants a charge-sheet or that no such case is made out. The inherent jurisdiction under Section 482 is limited and cannot sustain casual, unexplained orders with far-reaching effects. The present High Court applied that principle to refuse a direction compelling a charge-sheet in the petitioner's FIR, while separately requiring prompt completion in accordance with the statute.

Within the Supreme Court's quoted reasoning, *M.C. Abraham v. State of Maharashtra, 2002:INSC:575, (2003) 2 SCC 649*, explains that Section 41 CrPC confers discretion to arrest on specified grounds. The officer need not arrest immediately or automatically after a cognizable complaint; the officer must assess the nature of the offence and the person involved cautiously, having regard to liberty and reputation, in the course of investigation. *D. Venkatasubramaniam* used that principle to show why a court cannot predetermine arrest as an obligatory step.

The quoted Supreme Court judgment also relied *on Divine Retreat Centre v. State of Kerala and Others, 2008:INSC:341, (2008) 3 SCC 542*, on notice and a reasonable opportunity to be heard before a judicial order directs investigation or other drastic action affecting a person's reputation. In *D. Venkatasubramaniam*, the persons accused in the underlying petition had not been impleaded or heard. That was a separate ground for setting aside the High Court's order in that case. The quoted discussion states the grounds for exercising Section 482 power: giving effect to an order under the Code, preventing abuse of process and securing the ends of justice. The present petition, however, invoked Article 226 and concerned the requested investigative direction. The High Court relied on the quoted authority in refusing to compel a charge-sheet; it did not quash the FIR or prescribe an alternative outcome.

3. Statutes considered : Article 226 was the jurisdiction invoked for the requested writ. IPC

Sections 120-B, 420, 467, 468 and 471 were the offences listed in the registered FIR; the High Court neither interpreted their elements nor determined that evidence supported a charge. Section 173(1) CrPC, which the order identified together with Section 193 of the Bharatiya Nagarik Suraksha Sanhita, 2023, was quoted for the requirement that every investigation under the relevant chapter be completed without unnecessary delay. The Court applied that duty to require prompt completion and a final report in accordance with law, leaving the choice between a charge-sheet and closure report to the investigative process. The Supreme Court passage quoted Section 41 CrPC on discretionary arrest and discussed Section 482 CrPC as the inherent jurisdiction used in its own underlying case; no arrest direction or relief under Section 482 was granted in this writ.

4. Issues : (i) Whether the High Court could direct police to file a charge-sheet against the accused in Crime No. 324/2015 merely because the petitioner asserted that investigation had stalled. This required distinguishing a lawful investigation and its possible final report from a prosecution outcome selected by the Court. (ii) Whether the duty under Section 173(1) CrPC/Section 193 BNSS provided a narrower remedy requiring timely completion without prescribing arrest, seizure or a charge-sheet. (iii) Whether the petitioner retained a channel for any continuing grievance before the Superintendent of Police.

5. Ratio / Findings : The Court first refused the specific relief sought. *D. Venkatasubramaniam* had set aside an order directing specified investigative steps and a charge-sheet. It explained that a lawful investigation may or may not justify arrest, seizure or prosecution. The quoted *M.C. Abraham* passage treats arrest as a discretion affecting liberty and reputation, rather than an automatic consequence of an FIR. The *Divine Retreat Centre* passage within the quotation concerns the consequences of drastic judicial orders for persons who have not been heard. Relying on the quoted authority, the High Court held that compelling a charge-sheet would amount to supervising the investigation.

The Court then explained that leaving the investigative decision to the police did not permit the investigation to remain unresolved. Section 173(1) CrPC/Section 193 BNSS requires completion without unnecessary delay. The investigating officer must conclude the pending investigation, assess from the material collected whether an offence is made out, and take the corresponding steps required by law for a final report, whether a charge-sheet or closure report. The Court directed completion as early as possible. It fixed no calendar deadline, decided no outcome in advance and did not supervise individual investigative steps. If the petitioner still had a grievance, she could apply to the Superintendent of Police, Gwalior, who was required to consider it in accordance with law.

6. Relief : The High Court finally disposed of the writ petition. It refused the prayer for a charge-sheet within a stipulated period, but directed the investigating officer to conclude the investigation expeditiously and take the steps required by law, including the appropriate final report after assessment. The petitioner remained free to approach the Superintendent of Police, Gwalior, whose consideration of any grievance was to be in accordance with law. The order did not direct a charge-sheet, arrest or seizure, record a conviction, fix a precise deadline, award costs or make a substantive finding on the underlying IPC offences.

Sushma Dubey v. State of Madhya Pradesh and Others, W.P. no. 39513/2024, 12/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Joinder of accused / same transaction under Section 223(d) CrPC - *State of Andhra Pradesh v. Cheemalapati Ganeswara Rao, (1964) 3 SCR 297*, was considered on the relationship between the ordinary rule of separate trials and joint trial of connected offences. Where offences by several accused form part of the same transaction, only difficulty or embarrassment caused to the accused in defending themselves can justify separate trials. The threshold question is whether the offences form part of that transaction. The High Court found no allegation that Ajay Sharma's wife and son assisted, facilitated, abetted or conspired in his alleged repeated rape. Their alleged assault on the prosecutrix on 20 November 2020 was attributed to opposition to the relationship, rather than participation in the alleged rape. Although factually connected, the acts were independent for the purposes of Section 223(d). The Court set aside the charge order dated 9 September 2021 insofar as it rejected the applicants' objection to joint trial.

Non-cognizable offence / deemed complaint - Under the Explanation to Section 2(d) CrPC, a police officer's report disclosing a non-cognizable offence after investigation is deemed to be a complaint, and the officer is deemed to be the complainant. Since the police had filed a charge-sheet alleging Section 323 IPC against the applicants, that report was to be treated as a complaint even though their joint trial with the person accused of rape was disallowed.

Separate simultaneous trials / same court and distinct records - Although the alleged assault did not form part of the same transaction as the alleged rape, the Court found a direct nexus between the accusations. It retained both matters before the existing Sessions Court rather than sending the applicants' case to the JMFC. It ordered separate but simultaneous trials, separate recording of evidence and two judgments. The common court did not combine the trials; each accusation remained subject to independent adjudication. The criminal revision was allowed to that limited procedural extent.

Case-note :- ***1. Facts :*** The applicants, Sushma Sharma and another, were described as the wife and son of co-accused Ajay Sharma. In recounting the prosecution allegations, counsel for the applicants submitted that Ajay, a civil engineer, had begun living alone in a rented residence in Triveni Apartment, Patel Nagar, Gwalior, for work in 2020, while his wife and son remained in Ghaziabad. A woman who performed household work for him alleged a physical relationship with Ajay from 1 October to 7 December 2020, eventually giving rise to an allegation of repeated rape under Section 376(2)(n) IPC. The prosecution further alleged that the wife and son travelled to Gwalior on 20 November 2020 and assaulted the woman. Neighbours reportedly responded to her screams. The wife and son reportedly left on 22 November, and Ajay remained. The woman alleged that the relationship continued and that Ajay refused to marry her on 7 December. She lodged a typed report on 10 December 2020 at Police Station University, Gwalior; the police registered IPC Sections 376(2)(n) and 323 and later submitted a charge-sheet.

The Sixth Additional Sessions Judge, Gwalior, in Sessions Trial No. 252/2021 framed charges under Sections 323/34 IPC against the wife and son by an order dated 9 September 2021. They challenged that order under Sections 397 and 401 CrPC in Criminal Revision No. 2269/2021. Their counsel confined the argument to Section 223(d) CrPC. They submitted that the alleged assault arose from disapproval of Ajay's relationship and formed no part of the same transaction as the alleged rape. They also submitted that they had not assisted in the alleged rape. The trial court had rejected their joinder objection by relying on the Supreme Court's *Cheemalapati* decision. The State and complainant opposed the revision. The High Court therefore examined the arrangement of the trials, not whether the accused had committed rape or assault.

2. Precedents — Considered : *State of Andhra Pradesh v. Cheemalapati Ganeswara Rao and Another, (1964) 3 SCR 297*, was the sole materially discussed precedent. The trial court had used it to reject the applicants' objection to a joint trial. The High Court stated the principle drawn from that decision. Where several persons are accused of several offences, separate trials may be the more reasonable normal course. If the offences form part of the same transaction, only embarrassment or difficulty caused to the accused in defending themselves can justify separate trials. Whether the offences form part of one transaction is therefore an essential threshold. A common complainant or factual link does not, by itself, establish that requirement. The High Court applied that threshold to the present allegations: no accusation was made that the wife and son facilitated, abetted or conspired with Ajay to commit the alleged rape; their alleged assault expressed opposition to his relationship with the woman. It therefore refused to treat the assault and alleged rape as the same transaction under Section 223(d). The Court did not reject the authority itself.

3. Statutes considered : Sections 397 and 401 CrPC provided the criminal revision route against the Sessions Judge's charge order. Section 223(d) CrPC, which was central to the dispute, concerns joint charging and trial of persons accused of different offences committed in the course of the same transaction. The Court distinguished a direct factual connection from the statutory requirement that the offences form part of the same transaction. IPC Section 376(2)(n) concerned the allegation of repeated rape against Ajay Sharma. The charge framed against the applicants was under Section 323 read with Section 34 IPC, concerning assault with common intention; the Court treated Section 323 as a non-cognizable offence for the procedural question. Section 2(d) CrPC defines complaint and its Explanation deems a police officer's report made

after investigation disclosing a non-cognizable offence to be a complaint, with the officer deemed complainant. That statutory rule required the charge-sheet against the applicants to be treated as a complaint after joint trial was disallowed.

4. Issues : (i) Whether the wife's and son's alleged 20 November 2020 assault was committed in the same transaction as Ajay's alleged repeated rape, so that Section 223(d) permitted their joint trial, notwithstanding the asserted oppositional motive and absence of assistance, abetment or conspiracy. (ii) How the filed police report alleging a non-cognizable Section 323 offence against the applicants should be treated once their joint-trial objection succeeded. (iii) Whether the connected allegations should then be sent to the JMFC or kept in the same Sessions Court with distinct trials and evidentiary records.

5. Ratio / Findings : The Court applied the same-transaction inquiry in *Cheemalapati* to the alleged conduct of each accused. Ajay's alleged physical relationship with the woman between October and December 2020 was distinct from the wife's and son's alleged assault during their brief visit in November. There was no prosecution allegation that they assisted, facilitated, abetted or conspired in the alleged rape. Their alleged reason for assaulting the woman was opposition to the relationship. On those allegations, the assault did not form part of the same transaction as the alleged rape; a factual connection between the incidents did not satisfy Section 223(d). The trial court's reliance on *Cheemalapati* did not establish the necessary connection. The High Court set aside the order dated 9 September 2021 only insofar as it rejected the applicants' objection to joint trial. This did not discharge them from the Section 323/34 charge.

The Court then addressed the procedural consequence. Section 323 IPC was non-cognizable in the Court's analysis, but the police had already filed a report after investigation. The Explanation to Section 2(d) CrPC therefore deemed the report to be a complaint and the investigating officer to be the complainant. The Court did not use this deeming provision to decide whether the assault took place or to merge it with the rape prosecution.

Finally, the Court found a direct connection between the subject matters despite holding that they did not form one transaction for joint trial. It considered it inappropriate to send the applicants' case to the JMFC. It directed the same Sessions Court to conduct separate but simultaneous trials, record evidence separately in each, and deliver two different judgments. The common court and concurrent timing coordinated the proceedings without joining their adjudication. Each accusation remained for determination on its own record; a finding on one charge could not be assumed for the other merely because the court was the same. The decision concerned the allegations at the pretrial revision stage and left factual guilt open.

6. Relief : The High Court allowed the criminal revision. It set aside the Sixth Additional Sessions Judge's order dated 9 September 2021 in ST No. 252/2021 insofar as it rejected Sushma Sharma's and the other applicant's objection to joint trial. The assault case was not sent to the JMFC. The Sessions Court was directed to hear the related matters separately but simultaneously, record evidence separately and deliver two separate judgments.

Sushma Sharma and Others v. State of M.P. and Others, Cr.R. no. 2269/2021, 14/02/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Judicial monitoring / investigative supervision - *Manohar Lal Sharma v. Principal Secretary, 2013:INSC:839, (2014) 2 SCC 532*, was quoted and applied. Monitoring maintains surveillance over the progress and fairness of an investigation and ensures its freedom from outside interference. It may be warranted in rare and compelling circumstances. Supervision involves directing the investigation's execution. If a court directs the investigating officer's opinion or report under Section 173(2) CrPC, it risks binding or influencing the trial court and reducing the trial to a formality. The High Court therefore refused the petitioner's request to supervise the police Merg inquiry.

Complainant's remedies / magistrate's control - *Aleque Padamsee v. Union of India, 2007:INSC:760, (2007) 6 SCC 171*, explained that the police must register information disclosing a cognizable offence. If they fail to do so, the remedy is a complaint under Sections 190 and 200 CrPC, rather than an ordinary writ directing registration. It distinguished *Ramesh Kumari*'s ruling on the police duty from the remedy discussed in *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*. *Lallan Chaudhary*

was noted as reiterating that duty. *Divine Retreat Centre v. State of Kerala, 2008:INSC:341, (2008) 3 SCC 542*, quoted *Gangadhar* on the Magistrate's inquiry under Chapter XV, dismissal under Section 203, cognizance and issue of process, or a direction for investigation where appropriate. *Sakiri Vasu v. State of U.P., 2007:INSC:1243, (2008) 2 SCC 409*, described the remedy of approaching the Superintendent of Police under Section 154(3), followed by the Magistrate under Section 156(3), if an FIR has not been registered or the investigation is deficient. The Magistrate can direct and monitor a proper investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage, (2016) 6 SCC 277*, followed *Sakiri Vasu* and explained that a Magistrate who is prima facie satisfied may recommend a change of investigating officer, but cannot conduct the investigation personally. The High Court applied these principles and expressly referred to Section 200 CrPC/Section 223 BNSS and Section 156(3) CrPC/Section 175 BNSS. Any application to the Magistrate must be assessed without being influenced by dismissal of the writ petition.

Article 226 / alternative remedy - The quoted Division Bench ruling in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016 (20 December 2016), permits refusal of a writ compelling compliance with Section 154 CrPC when the remedies under Sections 154(3), 156(3), 190 and 200 have not been pursued, subject to the *Whirlpool* exceptions. Its reference to *Lalita Kumari* distinguishes the police's duty to register an FIR from an entitlement to bypass those remedies by seeking mandamus. Following that ruling and the Supreme Court authorities considered, the High Court dismissed this petition as not maintainable and granted liberty to approach the Magistrate.

Case-note :- ***1. Facts :*** Sushobhan Zanane petitioned under Article 226 of the Constitution concerning the death of his father, Late Subash Chandra Zanane. He submitted that his father had died in suspicious circumstances, maintained that his father had not committed suicide, and complained that the police were not conducting the Merg inquiry properly. He sought a fair, impartial investigation and legal action against respondents Nos. 4 and 5 for alleged abetment of suicide or possible murder. He also asked for disciplinary action against officers of Police Station Lasudia said to have ignored his father's complaints, immediate protection for him and his family from respondents Nos. 4 and 5, and other appropriate relief.

At a hearing on 10 September 2024, the High Court framed two legal questions: the distinction between judicial monitoring and supervision of an investigation, and whether an aggrieved complainant has an efficacious remedy before the Magistrate when dissatisfied with the progress of a police inquiry. The final order of 12 September 2024 resolved those questions by applying Supreme Court authority and a Division Bench precedent. The court refused the requested supervision and FIR registration direction in this writ. It did not decide the nature of the death or whether the proposed offences had been committed.

2. Precedents — Considered : The Court quoted paragraphs 38–39 of *Manohar Lal Sharma v. Principal Secretary and Others, 2013:INSC:839, (2014) 2 SCC 532*. In those paragraphs, the Supreme Court explained that monitoring in a court-directed investigation preserves confidence in an impartial inquiry, checks delay, protects the investigation from external influence and ensures that allegations are investigated to a lawful conclusion. It involves maintaining surveillance over progress without directing the means and manner of investigation. Supervision, by contrast, involves directing the execution of the investigation. If a superior court directs the investigator's opinion in the report under Section 173(2) CrPC, the trial court's independent determination may be compromised and the trial rendered a formality. Rare and compelling circumstances may justify monitoring, but the Code does not envisage a court supervising police investigation.

Aleque Padamsee and Others v. Union of India and Others, 2007:INSC:760, (2007) 6 SCC 171, was quoted on the difference between the police's duty to register information disclosing a cognizable offence and the remedy if they fail to do so. The quoted passage explained that the remedy is to follow the complaint procedure before the Magistrate under Sections 190 and 200 CrPC, rather than seek an ordinary writ directing the police to register an FIR. It differentiated *Ramesh Kumari, 2006:INSC:98, (2006) 2 SCC 677*, which concerned the police duty on receiving information disclosing a cognizable offence, from the remedy considered in *All India Institute of Medical Sciences Employees' Union v. Union of India, 1996:INSC:1247, (1996) 11 SCC 582; Gangadhar Janardan Mhatre v. State of*

Maharashtra, 2004:INSC:556, (2004) 7 SCC 768; *Hari Singh, 2006:INSC:375, (2006) 5 SCC 733*; and *Minu Kumari, 2006:INSC:223, (2006) 4 SCC 359*. *Lallan Chaudhary v. State of Bihar, 2006:INSC:696, (2006) 12 SCC 229*, was mentioned within the passage as reaffirming the duty to register.

Divine Retreat Centre v. State of Kerala and Others, 2008:INSC:341, (2008) 3 SCC 542, was quoted for the same statutory remedy and the limits on seeking an ordinary writ when the police take no action. Its quotation from *Gangadhar Janardan Mhatre* explains the Chapter XV complaint route: a Magistrate who is prima facie satisfied may take cognizance and issue process. Where appropriate, the Magistrate may direct the police to investigate and submit a report, or dismiss the complaint under Section 203 CrPC if it discloses no offence. The Supreme Court passage also attributes this method to *All India Institute of Medical Sciences Employees' Union*.

Sakiri Vasu v. State of U.P. and Others, 2007:INSC:1243, (2008) 2 SCC 409, was quoted on the remedy of a representation to the Superintendent of Police under Section 154(3). If the FIR is still not registered or the investigation is deficient, the aggrieved person may apply to the Magistrate under Section 156(3). A Magistrate may direct registration or proper police investigation and monitor that investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others, (2016) 6 SCC 277*, was quoted as following *Sakiri Vasu*: a Magistrate who is prima facie satisfied may require a proper investigation and recommend a change of investigating officer if necessary. The Magistrate may monitor the investigation but cannot conduct it personally, as investigation is police work. High Courts ordinarily should not entertain such grievances under Article 226. The quoted *Sudhir Tambe* judgment set aside a different High Court order and directed a Magistrate to act there. The present High Court applied its legal principles; it did not grant that other case's operative relief.

Shweta Bhadauria v. State of M.P. and Others, Writ Appeal No. 247/2016 (Gwalior Bench, 20 December 2016), a Division Bench decision of the same High Court, was quoted on the refusal of mandamus to compel registration under Section 154 CrPC when the statutory remedies in Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four exceptions identified in *Whirlpool Corporation v. Registrar of Trade Marks, 1998:INSC:400, (1998) 8 SCC 1*. The same quotation distinguishes *Lalita Kumari v. Government of U.P., 2013:INSC:748, (2014) 2 SCC 1*: its rule requiring registration of an FIR does not decide whether a person can seek mandamus without using the alternative remedies.

3. Statutes considered : Article 226 was invoked to seek a writ directing investigation, action against the suspects, disciplinary action against police officers and protection. The court declined supervisory control of the police inquiry and the requested FIR direction in view of the cited precedents and the available statutory remedy. Section 154 CrPC concerns the police's duty to register information disclosing a cognizable offence. Subsection (3) provides for a representation to the Superintendent of Police if the police fail to register an FIR. Section 156(3) CrPC empowers a Magistrate, on being prima facie satisfied as described above, to direct registration or proper investigation and monitor police compliance, without conducting the investigation personally. Sections 190 and 200 CrPC provide for a complaint before the Magistrate and cognizance of the offence. The quoted *Divine Retreat Centre*/*Gangadhar* discussion also mentions an inquiry under Chapter XV, dismissal under Section 203 where no offence is disclosed, and a direction for police investigation and a report where appropriate. Section 173(2) CrPC appears in *Manohar Lal Sharma*'s explanation of why a superior court should not direct the investigator's opinion. The High Court expressly identified Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 alongside Section 200 CrPC, and Section 175 BNSS alongside Section 156(3) CrPC, as provisions under which the petitioner could approach the Magistrate.

4. Issues : (i) Whether the petitioner's dissatisfaction with a police Merg inquiry into his father's death entitled him to judicial supervision, and how that differs from exceptional court monitoring that does not direct the investigative method. (ii) What statutory remedies are available to a complainant when police allegedly fail to register cognizable information or to investigate properly, including the Magistrate's powers and limits. (iii) Whether this Article 226 petition for investigative control and an FIR direction was maintainable without pursuing those remedies.

5. Ratio / Findings : On the first question, the High Court adopted *Manohar Lal Sharma*'s distinction. Monitoring involves maintaining surveillance over the progress and fairness of an investigation without

selecting the investigative steps or directing the officer's conclusion. In rare and compelling cases, it may preserve impartiality and prevent delay or interference. Supervision involves directing how the investigation is carried out. A superior court that directs the opinion expressed in the report under Section 173(2) would interfere with the trial court's independent adjudication and risk reducing the trial to a formality. The petitioner asked the High Court to supervise an inquiry said to be inadequate; the Court declined that form of control.

On the second question, the Court treated *Aleque Padamsee* and *Divine Retreat Centre* as separating the police's duty to register information disclosing a cognizable offence from the informant's judicial remedy for inaction. Sections 190 and 200 CrPC permit a complaint to the competent Magistrate. *Sakiri Vasu* describes the sequence of a representation to the Superintendent of Police under Section 154(3), followed by an application under Section 156(3) if the FIR remains unregistered or the investigation is deficient. *Sudhir Bhaskarrao Tambe* explains that the Magistrate may direct registration of an FIR or a proper investigation, as appropriate, monitor its progress and recommend changing the investigating officer when warranted, while leaving the investigation to police. These are conditional powers exercised on the Magistrate's independent assessment, rather than directions that follow automatically merely because a complainant is dissatisfied.

In relation to Article 226, the quoted *Shweta Bhadauria* decision treated available remedies under Sections 154(3), 156(3), 190 and 200 as grounds for refusing ordinary mandamus to compel registration. It acknowledged *Whirlpool*'s exceptions and explained that *Lalita Kumari*'s ruling on the police duty does not itself determine entitlement to a writ. The High Court concluded that it could neither supervise the inquiry nor issue the requested FIR registration direction in this petition. It identified the Section 200 CrPC/Section 223 BNSS complaint with a Section 156(3) CrPC/Section 175 BNSS application as an available course if the petitioner remains dissatisfied. The Magistrate, if approached, must decide in accordance with law without being influenced by this dismissal.

6. Relief : The Hon'ble High Court dismissed the writ petition as not maintainable, with liberty to approach the concerned Magistrate by filing the complaint and investigation application described above. It directed that any such application be decided strictly in accordance with law, without being influenced or prejudiced by dismissal of the writ petition. It granted no separate relief against respondents Nos. 4 and 5 and issued no direction for immediate protection. It made no determination that the father's death was murder, suicide or abetment, and imposed no costs or separate condition in the operative order.

Sushobhan Zanane v. State of Madhya Pradesh and Others, W.P. no. 20757/2024, 12/09/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Accused's writ / no right to prescribe investigative angle - *Romila Thapar v. Union of India; (2018) 10 SCC 753*, citing *Narmada Bai*, *Sanjiv Rajendra Bhatt* and *E. Sivakumar*, states that an accused ordinarily cannot choose the investigator or dictate the method of investigation. Its discussion of *Divine Retreat Centre* preserves the power to issue appropriate directions under Article 226 where mala fide exercise of investigative power is convincingly shown. The High Court applied that distinction to a person named in an FIR under Sections 363, 344 and 376 IPC who sought a 'fair and impartial' investigation. It refused to direct investigation from his preferred angle and left him free to raise his factual defence at trial.

Monitoring / no disguised judicial supervision - *Manohar Lal Sharma v. Principal Secretary; (2014) 2 SCC 532*, distinguishes rare judicial monitoring of fair and timely progress from directions prescribing the investigating officer's steps or conclusions. Intrusive supervision can undermine the trial court's later independent role. Exceptional intervention remains available for statutory abuse, threats to liberty or property, or an investigation not conducted bona fide. The High Court applied that distinction directly and through its earlier *Prabal Dogra* decision: describing a direction as "monitoring" does not permit a judge to prescribe how evidence must be collected. The petition was dismissed without any order for monitoring or transfer.

Case-note :- ***1. Facts :*** Uday Pal Singh filed Writ Petition 3607/2020 seeking a direction from the Madhya Pradesh High Court for a fair and impartial investigation in Crime 412/2019 at Hazira police station, Gwalior. Respondent 5 had lodged an FIR

against him under IPC Sections 363, 344 and 376. Counsel for the petitioner was Vibhor Kumar Sahu; the State appeared through a Government Advocate. The Court framed the question as whether it could direct the investigating agency to investigate in a particular manner. It dismissed the writ after considering Supreme Court law on an accused's control over investigation and on judicial monitoring.

2. Precedents — Considered : *Romila Thapar v. Union of India; (2018) 10 SCC 753*, was quoted on whether accused persons, or persons acting for them, may choose or change the investigating agency and demand court monitoring. In that discussion, *Narmada Bai v. State of Gujarat* rejects an accused's right to choose the agency; *Sanjiv Rajendra Bhatt v. Union of India* rejects a right to dictate the manner of investigation or mode of prosecution. *E. Sivakumar v. Union of India* concerns the absence of a routine right to be heard when a High Court exceptionally entrusted investigation to the CBI. That passage cites *Dinubhai Boghabhai Solanki* and *Narender G. Goel* on a hearing at the investigative stage, and lists *W.N. Chadha, Mayawati, CBI v. Rajesh Gandhi, CCI v. SAIL and Janata Dal as authorities for the* same general position. *Divine Retreat Centre v. State of Kerala*, also quoted through *Romila*, distinguishes an impermissible change of investigator midstream merely by exercising inherent jurisdiction from appropriate directions under Article 226 where mala fide investigation is convincingly shown. The High Court applied the rule against an accused dictating the investigation while preserving that exceptional public-law power.

Prabal Dogra v. Superintendent of Police, Gwalior and State of M.P., MCRC 10446/2017, order of 30 November 2017, was quoted on the requirements of a fair trial. It explains that judicial supervision which compels the investigating officer to form a particular opinion can impair the trial court's later independent role. Its quotation of *Manohar Lal Sharma*, and its application of that reasoning to an accused claiming false implication, supported the present Court's limited role. *Prabal Dogra* also reproduced *Lalita Kumari v. State of U.P.; (2014) 2 SCC 1*, on mandatory registration of information disclosing a cognizable offence, the limited purpose of preliminary inquiry, promptness and General Diary recording. On its own facts, *Prabal Dogra* noted the absence of allegations against the investigator. The MLC and witness allegations discussed there concerned that earlier case, not Uday Pal Singh's FIR.

Manohar Lal Sharma v. Principal Secretary; (2014) 2 SCC 532, was also quoted independently at paragraphs 24, 26 and 39. Police investigation ordinarily falls within the investigating agency's domain, subject to statute and legitimate purpose. A superior court may intervene in exceptional cases of abuse, statutory breach affecting rights or investigation not conducted bona fide. Monitoring maintains oversight of fair and timely progress. Supervision, by contrast, prescribes methods and risks shaping the final police opinion before trial, undermining the trial court's independence. The High Court applied that distinction to refuse a direction prescribing an investigative angle under the guise of monitoring.

3. Statutes considered : CrPC Section 173(2) appears in *Manohar Lal Sharma*'s explanation that police form an investigative opinion for the trial court's later independent assessment. Section 482 CrPC appears in the quoted *Prabal Dogra* discussion but was not Uday Pal Singh's procedural route.

4. Issues : Whether an accused's request for a fair and impartial investigation of an existing FIR could justify a writ directing police to pursue his chosen line of investigation without a demonstrated exceptional statutory defect or mala fide conduct. Whether describing such a direction as “monitoring” could avoid the restriction on judicial supervision of the investigator's methods and opinion.

5. Ratio / Findings : The rule stated in *Romila Thapar* denies an accused an ordinary right to choose the investigating agency or the manner of investigation. *Divine Retreat Centre* qualifies that rule by preserving Article 226 intervention where mala fide investigation is convincingly shown. The quoted law also recognises exceptional intervention for abuse of investigative power. The High Court held that the accused could not obtain a direction requiring the police to investigate from his preferred angle. He remained free to put forward his defence at trial. That procedural decision did not determine guilt.

Manohar Lal Sharma supplied the further reason for keeping investigation and trial distinct. The police collect material and form an opinion; the trial court independently decides whether an offence has been made out. In rare and compelling circumstances, a superior court may monitor whether the investigation proceeds fairly and without delay.

Directing particular investigative acts or conclusions, however, would undermine that division of roles. The High Court followed its earlier reasoning in *Prabal Dogra* and rejected an attempt to prescribe an investigative angle under the label of "monitoring." It gave no direction for monitoring, transfer or a particular police method.

6. Relief : The Hon'ble High Court dismissed the writ petition.

Uday Pal Singh v. State of Madhya Pradesh and Others, W.P. no. 3607/2020, 06/03/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (964) Prev Next

Headnote :- Compromise quashing / third-party property and societal interest - *Gian Singh v. State of Punjab; (2012) 10 SCC 303*, and *Narinder Singh v. State of Punjab; (2014) 6 SCC 466*, distinguish predominantly private disputes in which Section 482 CrPC relief may be appropriate from offences with a serious societal dimension. *State of M.P. v. Laxmi Narayan*, Criminal Appeal 349/2019, 5 March 2019, clarifies that complete settlement may justify quashing non-compoundable cases of a predominantly civil or commercial character. The Court must, however, consider the offence, the accused's antecedents and conduct, the circumstances of compromise and the procedural stage. Its examples involving special statutes and serious violence illustrate the limits of that power; they were not charges in this case. The land-sale agreement represented that the applicants exclusively owned all the listed land, including surveys 29/2 and 30/2, and thereby allegedly induced payment of a Rs 25 lakh advance. The Court described those plots as a third person's property. Earlier orders had found prima facie material under IPC Sections 420, 467 and 468, and an earlier request for quashing on merits had failed. The unexplained later settlement, unknown trial stage and third-party ownership dimension led the High Court to refuse quashing. A civil component does not by itself require either quashing or prosecution.

Case-note :- ***1. Facts :*** Ummed Singh and the other applicants sought quashing under Section 482 CrPC of Crime 439/2013 at Huzrat Kotwali, Gwalior, and Sessions Trial 292/2015, solely on the basis of a compromise with the complainant. The complainant alleged that, under an agreement dated 15 June 2010, he was to purchase half of the land spread across 36 survey numbers and described as approximately 20.247 or 20.274 hectares. A Rs 25 lakh advance was paid, with the balance payable at conveyance. The agreement represented that all the listed property belonged exclusively to the applicants and was free of encumbrances. Surveys 29/2 (2.09 hectares) and 30/2 (0.836 hectares) were said to be frontage land important to the bargain. According to the accusation and the High Court's description at this preliminary stage, however, they belonged to Sajju, a third person. The complainant said he would neither have entered into the agreement nor advanced the money had he been told that those plots did not belong to the sellers. The order uses both 20.247 and 20.274 for the overall land area.

Earlier proceedings had already affected the charges. The trial court had not initially framed charges under IPC Sections 467 and 468, but the complainant's Criminal Revision 834/2016 resulted in a direction to add those charges. The applicants' separate challenge under Section 482 in MCRC 337/2014 had been dismissed on merits, with prima facie material found under Sections 420, 467 and 468. The parties subsequently reported a settlement. The High Court noted that counsel had not explained why the complainant, who had previously contested the matter vigorously, had agreed to settle. Counsel also could not identify the current stage of the trial. The Court refused quashing on compromise without retrying the land-title dispute or determining criminal guilt.

2. Precedents — Considered : *Gian Singh v. State of Punjab; (2012) 10 SCC 303*, and *Narinder Singh v. State of Punjab; (2014) 6 SCC 466*, were invoked by the High Court to distinguish disputes of an overwhelmingly private character from crimes affecting society. In the latter category, the victim's settlement does not by itself justify terminating prosecution. The High Court applied that distinction because the agreement allegedly sought both to dispose of an uninvolved owner's land and to deceive the purchaser who paid the advance.

State of M.P. v. Laxmi Narayan and Others, Criminal Appeal 349/2019, judgment of 5 March 2019, was quoted in greater detail. The first quoted limb permits inherent quashing of non-compoundable offences of an overwhelmingly civil character, including those arising from commercial transactions or family or matrimonial relationships, when the parties have resolved their entire private dispute. The other reproduced limbs restrict quashing of corruption and

public-servant offences merely on compromise. They also address serious Section 307/Arms allegations and permit scrutiny of whether such a charge is merely nominal only at the appropriate stage after investigation. Even for private offences, they require consideration of the accused's antecedents and conduct, including absconding and how the compromise was procured. The quotation omits a numbered limb. No corruption, Section 307 or Arms count was charged here: those references were limits stated in the Supreme Court quotation. The High Court applied the distinction between private disputes and offences affecting society, together with the circumstances of settlement, to the third-party-property allegation, prior adverse orders and unexplained compromise. The trial stage was unknown; the order did not establish any particular stage.

3. Statutes considered : Section 482 CrPC was invoked as the inherent power to quash a non-compoundable prosecution on settlement. Section 320 CrPC appears in *Laxmi Narayan*'s distinction between inherent quashing and statutory compounding. IPC Section 420 concerned the allegation of cheating through false claims of ownership and the resulting payment of an advance. Sections 467 and 468 IPC concerned the additional forgery charges directed in the earlier revision. The High Court treated them as prima facie supported, without finally adjudicating them here. The civil agreement's enforceability, third-party ownership and specific-performance terms formed the background to the criminal quashing request and were not finally decided. The references to special statutes, Section 307 IPC and the Arms Act in the *Laxmi Narayan* quotation illustrated limits on compromise quashing; they were not offences in Crime 439/2013.

4. Issues : Whether the reported settlement with the purchaser required or justified inherent quashing of a pending cheating and forgery prosecution alleging misrepresentation of title to identified plots belonging to an uninvolved third party. What bearing the earlier merits dismissal of the applicants' quashing challenge, the successful revision for additional charges, the unexplained move from contested litigation to settlement and the unknown trial stage had on discretionary relief.

5. Ratio / Findings : The High Court read the agreement in the case diary as representing that all the included plots belonged exclusively to the applicants and were free of encumbrances. It read the complaint as alleging that the inclusion of frontage surveys 29/2 and 30/2 had materially induced the complainant to pay Rs 25 lakh. The Court described those plots as belonging to Sajju, a third person. The Court considered that the attempt to sell those plots without authority took the prosecution beyond a payment dispute between two parties. The earlier quashing order and the complainant's successful charge revision had left prima facie material for cheating and forgery; the Court did not treat those preliminary orders as final proof of guilt. Nor did it decide the civil bargain by treating the settlement as conclusive of the criminal proceedings.

Gian Singh and *Narinder Singh* permit the High Court to distinguish private wrongs from offences affecting society. *Laxmi Narayan* permits relief on compromise in non-compoundable matters of a predominantly civil or commercial character after full settlement, but requires consideration of the offence's gravity and context, the accused's antecedents and how settlement came about. The complainant had earlier sought stronger charges, yet counsel did not explain what had prompted the later compromise. Counsel also could not identify the trial stage. Those gaps, together with the third-party ownership allegation and the earlier prima facie finding, led the Court to hold that the case was unsuitable for quashing. The Court said that civil liabilities should be decided in civil suits. Its refusal to quash left the criminal prosecution to continue.

6. Relief : The Hon’ble High Court dismissed the Section 482 petition. Crime 439/2013 and Sessions Trial 292/2015 continued notwithstanding the reported settlement. The refusal was confined to quashing on compromise in the stated procedural and factual circumstances.

Ummed Singh and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 19094/2018, 06/03/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (965) Prev Next

Headnote :- Section 304-A traffic death / lapse of time and deterrent sentence - *State of Punjab v. Saurabh Bakshi; (2015) 5 SCC 182*, applies proportionality and gives substantial weight to deterrence in sentencing for rash-driving deaths. It confines an earlier compensation-based reduction to the facts of that case and rejects a general rule

permitting custody to be exchanged for money. Its discussion of *Balwinder Singh* and *Dalbir Singh* cautions against routinely reducing imprisonment for careless driving to the period already served. *Guru Basavaraj* and *Gopal Singh* recognise individual mitigating factors and caution against either mechanically harsh punishment or sentencing based on fancy. Applying that framework, the High Court refused to reduce Unnisa's two-year rigorous-imprisonment term merely because 32 years had passed since the 1992 tractor-trolley accident and he offered a higher fine. He had carried passengers in an agricultural trolley and turned back while driving to collect fares, causing the vehicle to overturn, two deaths and injuries to seven persons. Those facts justified the trial court's sentence.

Compensation, fine and jail / distinct functions - *Saurabh Bakshi*'s quoted treatment of *Guru Basavaraj* distinguishes civil compensation under the Motor Vehicles Act and criminal compensation under Section 357(3) CrPC from adequate punishment, while allowing the sentence to be adjusted to the circumstances. It also quotes *Dalbir Singh* on road-safety deterrence and *B. Nagabhushanam* on refusing an unwarranted reduction in custody. *Siriya, Alister Anthony Pareira, Gopal Singh* and *Shyam Narain* appear in its discussion of danger, proportionality, reform and social impact. Applying those principles, the High Court held that an increased fine did not justify dispensing with the remaining jail term in this serious accident.

Revision / unchallenged factual conviction - The applicant did not challenge the convictions under IPC Sections 279, 304-A, 337 and 338 or identify perversity in the concurrent factual findings. The High Court explained the limited grounds for interfering with factual findings in revision under Sections 397/401 CrPC and affirmed the convictions. The dispute before it was therefore confined to sentence.

Case-note :- ***1. Facts :*** Unnisa sought criminal revision under Sections 397 and 401 CrPC against the 7 July 2005 judgment of the JMFC, Dabra, and the 20 July 2006 appellate judgment of the Third Additional Sessions Judge (Fast Track), Dabra. He had been convicted under IPC Sections 279, 304-A, 337 and 338 for a tractor-trolley rollover on 2 June 1992. The sentence imposed under Section 304-A was two years' rigorous imprisonment and a Rs 2,500 fine. The prosecution's account was that Unnisa drove tractor MBW 885 with passengers in its trolley. After crossing the Adampur culvert, he looked or turned back to collect their fares while driving, lost control and overturned the vehicle. Gonabai died at the scene; Ajeet Singh subsequently died. According to the court's sentencing findings, seven passengers suffered injuries. The FIR was registered as Crime 81/1992, and the investigation led to charges under Sections 279, 337, 338 and 304-A IPC. The trial and first appellate courts found culpable rashness/negligence. In the High Court, counsel did not challenge the findings supporting conviction or identify factual perversity. Counsel instead sought a reduction of custody to the period already served because 32 years had elapsed, and offered an increased fine. The State emphasised that the applicant had carried passengers in a trolley meant for agricultural produce and had tried to collect fares while driving.

2. Precedents — Considered : *State of Punjab v. Saurabh Bakshi; 2015:INSC:276; (2015) 5 SCC 182,* was the central Supreme Court sentencing authority quoted and applied. It rejects a general rule that an offer of acceptable compensation for a victim's rehabilitation always warrants reduced custody under Section 304-A, regardless of the gravity of the crime. It calls for proportionate sentencing and deterrence in rash-driving deaths while recognising mitigation and reform according to the facts of each case. The High Court applied that framework to the serious tractor-trolley accident and rejected the request for a reduction to time served in return for a higher fine.

Within the quoted *Saurabh Bakshi* analysis, *Balwinder Singh* is discussed as a case in which the High Court had reduced imprisonment to 15 days. *Dalbir Singh v. State of Haryana is discussed for* its emphasis on professional-driver vigilance and road-accident deterrence, and its caution against invoking Section 4 of the Probation of Offenders Act in the kind of Section 304-A rash-driving death it addressed. *In B. Nagabhushanam v. State of Karnataka,* the Court declined to interfere with a six-month custodial term and quoted *Rattan Singh v. State of Punjab on* training and corrective measures accompanying punishment. *Guru Basavaraj* considered serious road accidents involving multiple victims, the need for an adequate and proportionate sentence, and the distinction between compensation under the Motor Vehicles Act or Section 357(3)

CrPC and custodial punishment. The cases cited in *Guru Basavaraj—State of Karnataka v. Krishna*, *Sevaka Perumal*, *Jashubha Bharatsinh Gohil*, *State of Karnataka v. Sharanappa Basanagouda Aregoudar and State of M.P. v. Saleem*—were not individually analysed by this High Court.

Siriya v. State of M.P. was quoted within *Saurabh Bakshi* on adjusting deterrence and mercy to the facts. *Alister Anthony Pareira v. State of Maharashtra* explained that IPC Sections 279, 304-A, 336, 337 and 338 punish acts because of their inherent danger, regardless of an intention to kill. *Gopal Singh*, quoting *Shailesh Jasvantbhai*, explained that just punishment must be proportionate and reasoned, taking account of culpability, antecedents, age, reformation, lapse of time and social impact rather than following a rigid formula. *Shyam Narain* addressed the social goal of punishment and the interests of victims and the public. These discussions formed part of the *Saurabh Bakshi* passage considered by the High Court.

3. Statutes considered : IPC Section 304-A governed causing death by a rash or negligent act and the two-year custodial sentence. The convictions under Sections 279, 337 and 338, concerning dangerous driving and hurt/grievous hurt, were also affirmed. Sections 397 and 401 CrPC governed the criminal revision and the court's limited power to interfere with concurrent factual findings where no perversity was shown. The quoted Supreme Court passage mentions Section 4 of the Probation of Offenders Act in the context of leniency discussed in *Dalbir Singh*, compensation under Section 357(3) CrPC, and Motor Vehicles Act compensation as a separate sphere. The State referred to violations of vehicle carriage norms, but no specific Motor Vehicles Act provision was adjudicated. In recounting the trial court's sentencing decision, the order refers to “Section 71 of Cr.P.C.”.

4. Issues : Whether, when conviction was not challenged and no perversity was identified, revision permitted interference with the lower courts' factual findings. Whether the two-year rigorous-imprisonment sentence for a rash-driving accident causing deaths and multiple injuries should be reduced to the period already served, whose length was not stated, because 32 years had elapsed, with an increased fine replacing the unserved jail term. How *Saurabh Bakshi*'s deterrence and proportionality principles, including the distinction between compensation and punishment, applied to these driving facts.

5. Ratio / Findings : The High Court treated the trial and first appellate findings of rash and negligent driving as concurrent factual conclusions. Unnisa's counsel did not challenge conviction or point to perversity. The court said its revision power did not permit routine interference with such facts and affirmed the IPC Sections 279, 304-A, 337 and 338 convictions. It then considered the actual sentence request independently.

The case-law analysis quoted from *Saurabh Bakshi* requires proportionality and places particular emphasis on deterrence in fatal road offences, while recognising mitigation according to the facts of each case. Compensation for victims' rehabilitation, civil motor claims and directions under Section 357(3) do not automatically replace adequate punishment. *Dalbir Singh*'s deterrent reasoning and *Guru Basavaraj*'s distinction between compensation and punishment were relevant to the request to replace custody with a larger fine. The High Court considered the lapse of 32 years against Unnisa's conduct: carrying fare-paying passengers in an agricultural trolley, turning back to collect money while driving across or just after a culvert, losing control, and causing two deaths and seven injuries. On those facts, it held that reduction to time served was unwarranted despite the proposed fine increase. The court considered the two-year term proportionate. Its decision did not lay down a general rule excluding judicial discretion in less serious circumstances.

6. Relief : The Hon’ble High Court dismissed the revision. It affirmed the trial and first appellate convictions, the two-year rigorous-imprisonment term under Section 304-A and the Rs 2,500 fine. It ordered neither an increased fine nor a reduction in custody. Unnisa's bail bonds were cancelled, and he was directed to surrender before the trial court by 29 December 2024 to serve the remaining term. The court directed that its judgment and the lower-court record be sent for compliance.

Unnisa v. State of Madhya Pradesh, Cr.R. no. 611/2006, 04/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (966) Prev Next

Headnote :- PCPNDT cognizance / monitoring nomination versus authorized complainant -

Section 28(1) of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 restricts cognizance to specified complaints. These may be made by the concerned Appropriate Authority, an officer authorised for that purpose by the Central Government, State Government or Appropriate Authority, or a person who has given the Authority at least 15 days' prescribed notice of the offence and intention to complain. Following *Dr. Manvinder Singh Gill v. State of M.P.*, MCRC 4393/2013, 4 July 2013, the High Court distinguished appointment from nomination to assist monitoring. The State's designation of district magistrates as Appropriate Authorities on 4 April 2007 did not make an executive magistrate nominated by a district magistrate an Authority or an authorised complainant. The SDO (Revenue), Bhind, lacked competence to file the sonography-centre complaint, despite the later order making him officer in charge for that purpose. Mere nomination to monitor implementation did not constitute the required statutory authorisation.

Defective complainant / curability and statutory purpose - *Voluntary Health Assn. of Punjab v. Union of India; (2016) 10 SCC 265*, explains the PCPNDT Act's constitutional purpose, detailed statutory scheme and restricted cognizance route under Section 28. The scheme calls for effective implementation in accordance with its safeguards. *M.M.T.C. Ltd. v. Medchl Chemicals; (2002) 1 SCC 234*, held under Section 142 of the Negotiable Instruments Act that an initially unauthorised human representative of a corporate payee could be replaced without quashing a complaint filed in the payee's name. The High Court applied that analogy while recognising that the SDO was not an Appropriate Authority and that Section 28 prescribed eligibility to complain. It treated the filing as a curable irregularity, permitted the District Magistrate, as the Appropriate Authority, to join the complaint or be substituted as complainant, and allowed the SDO to testify. It declined to quash a prosecution instituted in 2014 but challenged only in 2018, with charges reportedly framed in 2017. The cure granted was joinder or substitution in the pending complaint. The statutory notice requirement concerned the separate private-complainant route.

Case-note :- ***1. Facts :*** Usha Mishra operated the sonography centre at Purna Multi-specialty Nursing Home, Bhind. Following an inspection on 14 March 2014, a complaint alleged violations of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and its 1996 Rules. A State order dated 4 April 2007 designated district magistrates as Appropriate Authorities and permitted them to nominate executive magistrates to assist in monitoring. On 15 May 2014, the District Magistrate, Bhind, made the Sub-Divisional Officer (Revenue) officer in charge for filing the complaint. The SDO filed it, and Criminal Case 710/2014 was pending before the Chief Judicial Magistrate, Bhind. Mishra applied under Section 482 CrPC on 23 August 2018 to quash the prosecution. She argued that the SDO's monitoring nomination and designation as officer in charge made him neither the statutory Appropriate Authority nor a duly authorised officer entitled to file the special complaint. She relied on the coordinate bench decision in *Dr. Manvinder Singh Gill* construing the same State notification. The State accepted that the competence issue had been decided and asked that the Appropriate Authority be permitted to file a fresh complaint. Mishra maintained that Section 28's express restriction on cognizance made the proceedings void and that the later cure of corporate representation in *M.M.T.C.* was inapplicable. The Court noted her delayed challenge and failure to disclose the stage of the case in her application. Website information indicated that charges had been framed in 2017 and that prosecution evidence was listed next. An intervening stay had been granted. The order describes that stay as dated 1 February 2019, but later vacates an interim order dated 13 February 2019.

2. Precedents — Considered : *Dr. Manvinder Singh Gill v. State of Madhya Pradesh*, MCRC 4393/2013, order dated 4 July 2013 (coordinate bench), considered the notification dated 4 April 2007 and the nomination of additional collectors for PCPNDT monitoring. It held that nomination to assist implementation did not appoint an Appropriate Authority or authorise an officer to file the statutory complaint under Sections 17 and 28. The High Court followed that ruling on materially identical facts and held that the Bhind SDO was not a competent statutory complainant. It then considered a separate question: whether the defect required quashing or could be cured. The quoted passage from *Gill* did not resolve that question here.

Voluntary Health Assn. of Punjab v. Union of India; (2016) 10 SCC 265, was quoted at considerable

length. It discusses the equal dignity of the girl child, prevention of sex selection and female foeticide, the detailed scheme of the PCPNDT Act and Rules, and the duties of Appropriate Authorities. The passage specifically identifies Section 28's complaint-eligibility requirements, alongside the Authority's functions under Section 17, its powers under Section 17-A, and the provisions governing registration, records, offences and enforcement. It calls for functioning authorities, prompt prosecutions and institutional reporting. The High Court relied on this context in interpreting the Act to promote effective enforcement.

M.M.T.C. Ltd. v. Medchl Chemicals and Pharma (P) Ltd.; (2002) 1 SCC 234, was quoted on a complaint under Section 142 of the Negotiable Instruments Act filed in the name of a company payee through an initially unauthorised human representative. Referring to *Vishwa Mitter v. O.P. Poddar,* it recognises that any person may ordinarily set the criminal law in motion, subject to a special statute's eligibility requirements. Its discussion of *Associated Cement Co. Ltd. v. Keshvanand* distinguishes the corporate de jure complainant from its human representative and permits later substitution of the representative. The High Court considered Mishra's objection that Section 28 PCPNDT restricts cognizance, compared the wording of Section 142 and extended the analogy of curable representation to the SDO's complaint. This was an analogy between different statutes; the Supreme Court had not decided the PCPNDT issue in *M.M.T.C.* The separate private-complainant route under PCPNDT Section 28(1)(b) still requires at least 15 days' prescribed notice.

3. Statutes considered : Section 23 of the PCPNDT Act supplied the alleged penal offence. Section 28(1)(a) restricts cognizance to a complaint by the concerned Appropriate Authority or an officer authorised by the Central Government, State Government or Authority. Section 28(1)(b) permits a complaint by a person who has given the Authority not less than 15 days' notice, in the prescribed manner, of the alleged offence and intention to complain. Section 28(2) provides that only a Metropolitan Magistrate or Judicial Magistrate First Class may try an offence under the Act. Under Section 28(3), the Court may, on the demand of a clause (b) complainant, direct the Authority to provide copies of relevant records. Section 17(3)(b) and the State notification explain the designation of a district Appropriate Authority; mere nomination for monitoring does not authorise a Section 28 complaint. Section 482 CrPC provided the quashing jurisdiction. Section 142 of the Negotiable Instruments Act was the comparative cognizance provision discussed in *M.M.T.C.*, not the provision governing the charge in this case.

4. Issues : Did the district magistrate's nomination of an SDO (Revenue) to monitor PCPNDT implementation, together with the order making him officer in charge, authorise him under Section 28(1)(a) to file the complaint? Once his lack of authority was accepted, were the 2014 complaint and cognizance incurably void, or could the District Magistrate, as the properly designated Appropriate Authority, later join the complaint or be substituted as complainant, considering the corporate-complainant analogy and Section 28(1)(b)'s alternative route? Did the delayed invocation of inherent jurisdiction, after the trial appeared to have advanced, warrant quashing?

5. Ratio / Findings : Following *Dr. Manvinder Singh Gill,* the High Court distinguished appointment by the State under the special Act from a district magistrate's nomination to assist monitoring. The 2007 notification made district magistrates Appropriate Authorities. It did not itself confer their power to complain on an executive magistrate nominated to assist them, and the later Bhind order appointing an officer in charge did not supply that authority. The SDO's complaint was therefore not a complaint by an Appropriate Authority under Section 28(1)(a).

Section 28 nevertheless permits more than one route for filing a complaint, including a private person's complaint after the prescribed 15-day notice. Citing *Voluntary Health Association*, the Court emphasised the Act's protective purpose and detailed enforcement scheme in considering the consequence of filing by the wrong official. *M.M.T.C.* had permitted replacement of an initially unauthorised company representative under a differently worded restriction on cognizance. Mishra argued that the PCPNDT defect concerned jurisdiction, rather than representation. The High Court considered that distinction but held the filing based on nomination to be a correctable irregularity. The properly designated District Magistrate could join the complaint or be substituted as complainant, and the SDO could appear as a witness. The conclusion rested on the analogy and procedural cure adopted in this case.

The complaint was filed in 2014, and the quashing application followed four years later. The Court relied on website information that charges had been framed in 2017 and prosecution evidence was listed; Mishra had not disclosed the procedural stage in her application. The unexplained delay and apparently advanced stage reinforced the Court's refusal to terminate the proceedings for the identified defect.

6. Relief : The Hon'ble High Court disposed of the Section 482 application without quashing Criminal Case 710/2014. It granted the District Magistrate, Bhind, leave to join as complainant and directed him to apply for joinder or substitution within one month of the date of the order. The SDO could appear as a witness. The prosecutor was directed to inform the District Magistrate, and copies were to be sent for compliance. The interim stay was vacated. The trial court was directed to conclude the trial within six months of receiving the order. The judgment refers to the two differing February 2019 stay dates noted above; it did not determine the charge or the ultimate trial result.

Usha Mishra v. State of Madhya Pradesh, M.Cr.C. no. 34370/2018, 03/09/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (967) Prev Next

Headnote :- Matrimonial cruelty / specific allegations against parents-in-law - *Geeta Mehrotra v. State of U.P.; (2012) 10 SCC 741*, and *Kahkashan Kausar v. State of Bihar; (2022) 6 SCC 599*, guard against prosecuting relatives under Section 498-A merely because they are named or face omnibus allegations. *Taramani Parakh v. State of M.P.; (2015) 11 SCC 260*, leaves triable allegations of dowry demands and parental taunts for trial, rather than testing their truth in quashing proceedings. Its quotation of *Kailash Chandra Agrawal* and *Kans Raj* stresses the need for an attributed role, particularly for distant relatives. The High Court distinguished the nonspecific allegation of pregnancy-related harassment in *Kahkashan*. Here, the wife attributed repeated demands for Rs 25 lakh, confinement, threats of remarriage, rebukes concerning her husband's conduct and an assault to her father- and mother-in-law at identified matrimonial locations. Taking the FIR allegations at face value, the Court declined to quash the proceedings against them. It did not find those allegations proved.

Sister-in-law / joint family allegations without individual act - *Kans Raj v. State of Punjab; (2000) 5 SCC 207*, cautions against automatically implicating a spouse's relatives in dowry offences. *Monju Roy v. State of W.B.; (2015) 13 SCC 693*, distinguishes omnibus allegations against siblings and other relatives from allegations concerning the husband and parents. *Chandralekha v. State of Rajasthan* illustrates quashing where vague allegations and the surrounding circumstances disclose abuse of process. The applicants also cited *Preeti Gupta*, without a separate application of its facts. Reading the same FIR separately for the unmarried sister, Nivedika, the High Court found only collective assertions and no specific individual act supporting prosecution for the registered cruelty, hurt, intimidation, abuse or Dowry Prohibition Act offences. It quashed Crime 12/2022 and RCT 1719/2022 only as to her. Her unmarried status did not itself provide an exemption, and the allegations specific to the parents did not automatically extend to every named family member.

Case-note :- ***1. Facts :*** Vaibhav Tiwari, his father Sushil, his mother Shashiprabha (spelt 'Shasihprabha' in the order) and his unmarried sister Nivedika applied under Section 482 CrPC to quash Crime 12/2022 at Khandwa and the ensuing proceedings, RCT 1719/2022 before the Fourth JMFC. The registered offences were IPC Sections 498-A, 294, 323, 506 and 34 and Sections 3 and 4 of the Dowry Prohibition Act. At the outset, the husband withdrew his application, which was dismissed as withdrawn. The contested decision therefore concerned the parents and sister. The published order identifies the complainant wife as respondent 2 and recounts FIR allegations, not judicial findings of abuse.

The wife said that she married Vaibhav on 19 June 2019 and initially lived with his family in Sagar. She alleged that he said the marriage was for social recognition and dowry, and complained that her family had given Rs 2.51 lakh instead of Rs 25 lakh. When she told his parents and sister, they allegedly repeated the demand and said that the marriage was for dowry. She described confinement and restrictions on meeting visitors. At Ratnagiri, where her husband was posted and the relatives were also allegedly present, she attributed a renewed demand and a threat of remarriage to family members. She also described her mother-in-law's rebuke when she reported her husband's refusal of marital intimacy.

After questioning women's clothing found in her husband's house, she alleged abusive speech, blows with fists and threats when she raised the matter with relatives at Sagar. The husband allegedly threatened, separately, to push her in front of a train. She returned to her parental home in March 2021 and made a complaint that September while hoping to preserve the marriage. She returned after a family assurance in December, but finally left for Khandwa on 19 December 2021. She lodged the FIR on 8 August 2022. Parts of the narrative refer collectively to the sister and a brother-in-law; the Court had to assess the role attributed to each applicant.

The applicants invoked the Supreme Court's warnings against sweeping matrimonial allegations. The wife relied on *Taramani Parakh* and the State supported registration. The High Court separated the parent-specific demands and conduct from the sister's broad inclusion, without testing disputed veracity at the FIR stage. It did not decide whether any dowry demand, confinement, assault, threat or extramarital relationship actually occurred.

2. Precedents — Considered : *Geeta Mehrotra v. State of U.P.; 2012:INSC:478; (2012) 10 SCC 741*, was invoked and applied for the principle that merely naming a relative in a matrimonial dispute, without a specific role, does not justify mechanically requiring that person to stand trial. A specific allegation of physical or mental torture may justify proceeding. The Court found the repeated demands and conduct attributed to the father- and mother-in-law materially different from mere naming. It applied the caution to the sister's general inclusion in the allegations.

Kahkashan Kausar v. State of Bihar; 2022:INSC:163; (2022) 6 SCC 599, was invoked for quashing general and omnibus allegations against in-laws. The High Court expressly distinguished its example, where all accused were said generally to harass and threaten termination of pregnancy, from this FIR's particularised demands, confinement and responses attributed to the parents. It did not reject *Kahkashan*'s rule; it applied its specificity inquiry with a different outcome for the parents and sister.

Taramani Parakh v. State of M.P.; 2015:INSC:221; (2015) 11 SCC 260, was cited by the wife and quoted by the High Court. The allegations in that case of dowry demands, parental taunts and forced separation raised a triable issue of cruelty. Their truth could not be decided through pretrial quashing. Its quotation of *Kailash Chandra Agrawal v. State of U.P.; (2014) 16 SCC 551*, calls for care where distant relatives are named without specific material. It distinguishes abuse apparent on the face of the complaint from matters requiring assessment of competing evidence at trial. The nested passage refers to *Kans Raj v. State of Punjab; (2000) 5 SCC 207*, on implicating relatives too widely. It also lists *K. Ramakrishna*, *Pepsi Foods*, *Bhajan Lal* and *Asmathunnisa* for the general parameters of quashing, without separately applying their facts here. The High Court relied on *Taramani*'s approach of taking allegations at face value and leaving triable issues for trial in refusing to quash the proceedings against the parents.

For Nivedika, *Kans Raj* was independently quoted on the principle that mere relationship and conjecture do not establish involvement in a dowry offence; overt acts must be proved beyond reasonable doubt at trial. At the FIR stage, the High Court used that principle to examine whether an individual accusation was discernible, rather than requiring proof to the trial standard before prosecution. *Monju Roy v. State of W.B.; (2015) 13 SCC 693*, was quoted on the risk of exaggeration in naming family members and the need to distinguish sisters and other relatives from the husband and parents. *Chandralekha v. State of Rajasthan; 2013 (1) UC 155*, was quoted for quashing vague allegations against relatives in its particular circumstances, including uncertainty about residence and extraordinary delay. The Court applied those principles when assessing the allegations against Nivedika separately.

3. Statutes considered : Section 482 CrPC supplied the inherent quashing power. The FIR registered IPC Section 498-A (matrimonial cruelty), Sections 294, 323, 506 and 34 (the related abuse, hurt, intimidation and common-intention allegations), and Dowry Prohibition Act Sections 3 and 4. The Court examined whether the FIR made sufficiently particular individual allegations against each relative for prosecution to continue. Sections 3 and 4 were quashed along with the remaining proceedings only for Nivedika. No statutory exception for an unmarried sister was articulated. The husband withdrew his petition, so the judgment neither absolved nor convicted him.

4. Issues : Were the allegations of repeated dowry demands, confinement, family pressure and other identified conduct attributed to Sushil and Shashiprabha sufficiently specific to defeat their request for pretrial quashing, despite the cited

decisions on omnibus allegations? Did the joint references to Nivedika in the same FIR attribute an identifiable individual role sufficient to require her prosecution for the listed offences? What relief should follow for each applicant after the husband withdrew his challenge?

5. Ratio / Findings : The High Court assessed the FIR separately for each applicant. As to Sushil and Shashiprabha, it identified allegations that they repeated the Rs 25 lakh demand after the wife reported her husband's statement, imposed or participated in restrictions at Sagar, and renewed the demand at Ratnagiri with a threat that he would remarry. It also identified allegations of abuse and assault when she reported marital mistreatment. The mother was specifically alleged to have rebuked her about intimacy and children. These allegations remained to be tested, but were more particular than the undifferentiated allegation in *Kahkashan*. *Geeta Mehrotra* and *Kahkashan* protect relatives named without an adequate role. *Taramani Parakh* shows that allegations of parental dowry taunts and harassment, taken at face value, may raise triable issues under Section 498-A. The Court declined to assess credibility at the Section 482 stage and dismissed the parents' quashing applications.

For Nivedika, the Court found collective allegations alongside other family members, without a distinct act attributed to her individually. She was an unmarried sister-in-law, but the decision rested on the absence of a specific individual role, not an immunity based on that status. *Kans Raj*, *Monju Roy* and *Chandralekha* call for caution against sweeping inclusion of relatives and permit intervention where the complaint on its face does not justify requiring a relative to stand trial. Applying those principles, the Court found no sufficient individual allegation to support Nivedika's prosecution for the listed IPC and dowry offences and quashed the proceedings only as to her. This was an assessment of the allegations at the FIR stage, not an acquittal of one relative on the evidence or a conviction of the others.

6. Relief : The Hon’ble High Court dismissed Vaibhav's Section 482 application as withdrawn. It dismissed Sushil and Shashiprabha's applications, leaving Crime 12/2022 and RCT 1719/2022 to proceed against them. Nivedika's application was allowed. The FIR and subsequent proceedings were quashed only so far as they concerned her.

Vaibhav Tiwari and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 1731/2023, 15/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Insurance cover-note fraud / office custom no answer to proved dishonest conduct - An alleged office practice of issuing cover-note books to a probationary development officer, contrary to the accepted limits of his authority, did not itself excuse criminal liability. In his Section 313 CrPC answers, branch manager Satish Chandra Sareen admitted that he orally directed the issue of the books. He knew that the officer could not independently sign cover notes, had received complaints from insured persons and knew that premiums had not reached the company. The High Court based its finding of joint involvement on these admissions and Sareen's inaction, together with Mohan Singh Noriya's unauthorised cover notes, collections, non-deposit of premiums and altered records. Its finding did not rest on the administrative departure alone. The claimed good-faith business purpose and prevailing practice did not explain the later complaints and transactions. On this record, the judgment affirmed the convictions under Sections 420/120-B and 468/471/120-B IPC and the then-applicable Sections 13(1)(d)/13(2) of the Prevention of Corruption Act.

False insurance records / comparison with contemporaneous copy and premium evidence - The original cover note, Ex.P/13, was torn at the insured's identifying details and the premium particulars. Its photocopy, Ex.P/15, preserved the truck details and premium of Rs 1,350, while a duplicate purported to record a Luna and Rs 30. Another original cover note bore a later endorsement of cancellation that was absent from an earlier photocopy. Insured witnesses described paying premiums. Company records and the accused's explanations showed that the amounts had not been deposited. Nilesh Jain's Rs 6,212 was returned only after a long interval, which did not negate the original collection. The High Court inferred deliberate alteration, rejected Noriya's general cancellation and refund defence, and sustained the convictions for cheating, forgery/use and corruption. These findings rested on the identified record comparisons and witness evidence.

Case-note :- ***1. Facts :*** Two connected criminal appeals challenged the convictions recorded on 2 September 1998 by the Special Judge (CBI), Jabalpur, in Special Case 1/1997. Satish Chandra Sareen, branch manager of New India Insurance Company, filed Criminal Appeal 2016/1998. He died on 13 April 2021. After the CBI verified his death, his widow, Veena Sareen, was permitted under Section 394(2) CrPC to continue the appeal. Mohan Singh Noriya, a probationary development officer, filed Criminal Appeal 2113/1998. The trial court imposed concurrent terms. Sareen received two and a half years' rigorous imprisonment and a fine of Rs 3,000, with six months in default, under Section 420 read with Section 120-B IPC. Under Sections 468/471 read with Section 120-B, he received two years and a fine of Rs 2,000, with three months in default. Under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, he received two and a half years and a fine of Rs 5,000, with six months in default. Noriya received the corresponding terms of two and a half years, two years and two and a half years, and the corresponding fines. His forgery/use conviction is described in the table as under Sections 468/471, without expressly adding Section 120-B; the concluding affirmation uses Section 120-B collectively.

The office arrangement was substantially undisputed. A cover-note book was issued to Noriya on Sareen's oral instructions, and the issue was entered in the stationery register. A probationary officer was not authorised to issue cover notes under his own signature. Insurance proposals ordinarily went to the manager for approval, and copies of cover notes had to be returned to the branch. The CBI alleged that Noriya accepted premiums for trucks and other vehicles, issued or purported to cancel cover notes, failed to deposit the collections and altered records to conceal the insured persons, vehicles and amounts. It alleged total misappropriation of Rs 10,738 and exposure/loss of Rs 14,95,023 arising from two accident compensation claims. The specified claim figures concerned claims filed; the judgment did not identify separate proof of payment by the insurer.

The Court examined the cover notes and witness evidence in detail. The original Ex.P/13 was torn at the insured's name, premium, dates and vehicle particulars. Its photocopy, Ex.P/15, showed the truck and a premium of Rs 1,350. A branch copy instead described a Luna and Rs 30. In another instance, an original cover note was marked 'cancelled', but an earlier photocopy had no such entry. Krishna Kumar Gupta described paying Rs 1,365 for truck insurance. P.J. Singh and Ashok Kumar Sanyal testified that small premiums were collected without cover notes being issued, and that they made complaints acknowledged by Sareen. Shyam Kumar Gupta described the truck cover note for Rs 1,350. Nilesh Kumar Jain said that he paid Rs 6,212 for insurance already obtained, later received a refund after a long delay and discovered that the premium had not been deposited. Noriya denied collecting certain sums, asserted cancellations and refunds, and denied misappropriation. Sareen admitted orally directing the issue of cover-note books, but relied on a prevailing office practice and a good-faith intention to expand business. Their Section 313 CrPC answers also confirmed relevant procedures, signatures, complaints and non-deposit of premiums. A preliminary enquiry led to the FIR, investigation, prosecution sanction and trial. 16 prosecution witnesses and one defence witness were examined.

2. Statutes considered : IPC Section 420 read with Section 120-B, and Sections 468/471 read with Section 120-B in the judgment's concluding formulation, governed the affirmed convictions for cheating/conspiracy and forgery/use of forged documents. Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, governed both corruption convictions under the law applied to the conduct in the 1990s. The accused were examined under Section 313 CrPC; their answers were considered with the other evidence, rather than as a substitute for the prosecution's case. Section 394(2) CrPC enabled Sareen's widow to continue his pending appeal after his death. The narrative records that prosecution sanction was obtained, but its validity or the identity of the competent authority was not an issue decided.

3. Issues : Did Sareen's admitted direction to issue cover-note books to a probationary officer, together with the complaints and known non-deposit of premiums, support the joint criminal findings, or was it excused by an established office practice or innocent business development? Could Noriya's denials of collecting premiums, claims of cancellation and later return of Rs 6,212 withstand the insured witnesses' evidence and the comparison of original, photocopied and duplicate records? Should each accused's convictions under the IPC and Prevention of Corruption Act counts stand, and

should Noriya's concurrent sentences be reduced? Sareen's death also raised the procedural question of his widow's continuation of the appeal, which had already been allowed.

4. Ratio / Findings : The Court did not base its decision on Sareen's managerial status alone. His Section 313 answers acknowledged authorising the issue of cover-note books to Noriya, the officer's lack of authority to sign, his own signatures on relevant cover notes, complaints from insured persons and non-deposit of the Rs 6,212 premium. His claimed intention to improve business and reliance on office practice provided no legal basis to excuse the proved transactions; counsel identified no provision providing such an excuse. The Court also found that he took no action on the complaints, Ex.P/4 and P/5, which he had received. It considered his conduct together with Noriya's diversion of premiums and manipulation of cover notes and inferred joint involvement. It did not treat the case as an isolated negligent departure from stationery practice. Its conclusions rested on the admitted procedures, witness evidence and comparison of the cover-note records.

The Court compared the documents instead of accepting the claims of cancellation. Ex.P/13 was otherwise intact but lacked the identifying, vehicle and premium particulars. Ex.P/15 preserved the truck details and Rs 1,350 entry, while the duplicate showed a Luna and Rs 30. The concentrated pattern of missing particulars led the Court to infer deliberate tearing, rather than ordinary wear. In Krishna Kumar Gupta's transaction, an earlier copy without 'cancelled' contrasted with the original bearing that endorsement. The Court inferred that the endorsement had been added after the accident. The insureds' accounts of payment and the two complaints acknowledged by Sareen supported the finding that premiums had not reached the company. Jain's eventual refund confirmed that Rs 6,212 had previously been collected and did not establish timely deposit. The Court rejected Noriya's general denials and cancellation account. It found unauthorised issue, missing premiums and manipulated cover notes proved. In its concluding formulation, it affirmed both appellants' convictions under IPC Sections 420/120-B and 468/471/120-B and Sections 13(1)(d)/13(2) of the Prevention of Corruption Act.

In considering sentence, the Court emphasised the trust created when a policyholder pays for motor insurance. Employees' diversion of premiums and false cover records undermined confidence in the promised indemnity. The Court regarded the concurrent terms of two and a half years' and two years' rigorous imprisonment as already lenient and found no reason to reduce Noriya's punishment. Sareen's appeal continued through his widow under Section 394(2), but no further surrender order was made in his case because he had died.

5. Relief : The Hon'ble High Court dismissed both appeals and affirmed the trial convictions and concurrent sentences. It cancelled Noriya's bail bonds and directed him to surrender before the trial court by 13 November 2024 to serve the remaining sentence. If he failed to surrender, the trial court could issue a warrant. No further custody step was ordered for the deceased Sareen, whose widow, Veena Sareen, had already been permitted to continue his appeal. The judgment and trial record were to be sent to the trial court for compliance.

Veena Sareen v. Central Bureau of Investigation; Mohan Singh Noriya v. Central Bureau of Investigation, Cr.A. no. 2016/1998 & 2113/1998, 17/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Injured eyewitness / failed recovery of alleged weapon - Failure to prove seizure of the weapon from the accused does not necessarily defeat proof of the assault. Bhuralal (PW1) identified Veer Singh Kushwah as the person who struck his head with a wheel spanner. Nainji (PW2) witnessed the assault, and Hansraj (PW4) saw the accused flee. Nainji said that the spanner was at the scene, whereas the investigating officer claimed that it was seized from the appellant about ten days later. No forensic report established blood on it. The High Court held that recovery from the appellant was not proved, but accepted the injured witness's account and the other direct evidence, supported by the skull fracture and medical treatment. It rejected as unreliable Birbal's claim that the unconscious victim had identified the assailant to him. The witnesses denied the alternative theory of injury from flying stones, which lacked supporting evidence from the scene.

Attempt to murder / intention or knowledge from manner of attack - Section 307 IPC requires an act done with the intention or knowledge, and in circumstances, such that death caused by the act

would amount to murder. Grievous or life-threatening injury is not an indispensable ingredient. *State of M.P. v. Kanha; (2019) 3 SCC 605*, permits intention to be inferred from any actual injury and the surrounding circumstances, including the weapon and severity of the blows. The High Court applied that test to repeated, unprovoked blows with a metal wheel spanner on the forehead, a vital part of the body. The blows caused lacerations, a comminuted frontal-parietal fracture, unconsciousness, operations and prolonged hospitalisation. The spanner's ordinary use as a mechanical tool did not prevent it from being a deadly weapon as used in the assault. The Court inferred both an intention to cause death and knowledge of that risk. It maintained the Section 307 conviction despite the failure to prove recovery from the accused.

Attempt to murder and grievous hurt / same injured person - The trial court convicted the appellant under Section 307 IPC for the assault on Bhuralal, the sole victim. The High Court held that the additional conviction under Section 326 for the same assault was unwarranted and expressly set it aside. No separate sentence under Section 326 had been imposed at trial. The seven-year term of rigorous imprisonment and the trial fine of Rs 1,500, with its default term, remained undisturbed. The concluding paragraphs describe the appeal as dismissed and the trial judgment as affirmed, although the judgment expressly sets aside the Section 326 conviction.

Case-note :- ***1. Facts :*** Veer Singh Kushwah appealed under Section 374 CrPC against the judgment dated 21 August 2019 of the Fifth Additional Sessions Judge, Guna, in Sessions Trial 115/2018. The trial court convicted him under Section 307, described as its second part because hurt was caused, and Section 326 IPC for injuries to Bhuralal. It imposed seven years' rigorous imprisonment and a fine of Rs 1,500, with six months' rigorous imprisonment in default, but no separate sentence under Section 326. It acquitted him under Sections 294 and 506 Part II. The appeal was listed for consideration of an application for suspension of sentence. Counsel requested a final hearing because Kushwah had served more than three years, and the parties were heard finally.

According to the prosecution, Kushwah and Bhuralal drove dumpers for Birbal Singh. Bhuralal reportedly complained to the owner that Kushwah had stolen diesel. At about 5–5:30 a.m. on 12 March 2018, Kushwah allegedly struck Bhuralal repeatedly on the head and face with a wheel spanner after a verbal dispute. Bhuralal lost consciousness. The owner and others arranged initial treatment at Guna and further treatment at Kota. The prosecution account attributed the report of the incident on 17 March to Hansraj. Crime 40/2018 was initially registered under Sections 323, 294, 506 and 307 IPC. The investigation included witness statements, medical records, material from the scene and a disputed seizure of the spanner. The charge sheet also included Section 326. At trial, Kushwah denied guilt and suggested that Bhuralal had been struck by stones flying from mine blasting. He also alleged that a loan dispute over Rs 5,000 had led to his false implication.

Bhuralal (PW1) said that Kushwah struck his head with the spanner. He could not count the blows because he lost consciousness. Nainji (PW2), who had been sleeping nearby, said that he saw the blow and briefly caught the appellant. Hansraj (PW4) described seeing Kushwah flee immediately after the assault, but disowned the rural complaint attributed to him. Birbal (PW3) saw Bhuralal injured later and claimed that Bhuralal had identified the assailant to him, although Bhuralal said that he was unconscious after the attack. The first doctor found two forehead lacerations, and an x-ray showed a comminuted frontal-parietal skull fracture. A treating surgeon described unconsciousness, operations to the head and face, and hospitalisation in Kota from 13 to 25 March. The Court noted that the emailed photocopies of treatment records identified by the doctor apparently had not been formally exhibited. It relied on his testimony and the other admitted medical evidence.

Kushwah challenged his convictions under both Section 307 and Section 326. He relied on the blasting theory and, alternatively, sought reduction of the seven-year sentence to the period already served. The State supported the trial court's decision. The High Court had to assess identification, the medical evidence of injury, the disputed seizure, the mental element for attempt to murder, the additional grievous-hurt conviction and the sentence.

2. Precedents — Considered : *State of M.P. v. Kanha; (2019) 3 SCC 605*, was the Supreme Court decision materially applied to the test for the offence. The quoted rule is that proof of grievous or life-threatening injury is not indispensable for Section

307 IPC. Intention may be inferred from any actual injury and the surrounding circumstances, including the weapon and severity of the blows. The High Court considered Section 307 alongside *Kanha* and applied the rule to repeated blows with a metal spanner on a vital part of the head, the extensive fracture and the operations. It did not infer attempt to murder solely from the medical classification of the injury as grievous.

3. Statutes considered : Section 307 IPC was reproduced in the judgment. It punishes an act done with the intention or knowledge, and in circumstances, such that death caused by that act would amount to murder. Where hurt is caused, it permits life imprisonment or the specified lesser punishment. The Court inferred intention and knowledge from the manner of attack, the weapon, the location of the injuries and the force of the blows. It rejected the gravity of injury as the sole or indispensable legal test. Section 326 IPC was the additional grievous-hurt conviction for the same attack on the sole injured person. The Court held it unnecessary once the Section 307 conviction was maintained and set it aside, without independently examining all its elements. Sections 294 and 506 Part II were the subjects of acquittals at trial, while Sections 323, 294, 506 and 307 were the original FIR charges. Section 374 CrPC provided the appellate route. The judgment records the absence of an FSL report, rather than a report finding no blood.

4. Issues : Did the injured witness's and eyewitnesses' accounts, read with the medical findings, establish Kushwah's assault despite the materially inconsistent claim of recovery of the wheel spanner and the unsupported flying-stones theory? Did repeated blows with a metal spanner on the forehead establish the intention or knowledge required by Section 307, rather than only grievous hurt under Section 326? Was grievous or life-threatening injury a necessary legal prerequisite? Could a separate Section 326 conviction stand for the same attack on the sole injured person after conviction under Section 307? Should the seven-year sentence be reduced to the period already served? The request for suspension of sentence was overtaken by the final hearing.

5. Ratio / Findings : The Court first assessed identification, rather than treating the disputed seizure as decisive of the whole case. Bhuralal identified Kushwah as the person who assaulted him with the spanner. Nainji's eyewitness account supported him, and Hansraj saw the appellant flee after the attack. Birbal was not an eyewitness. His claim that Bhuralal named the appellant was unreliable because Bhuralal said that he had lost consciousness after the assault. Hansraj's denial of the Dehati Nalishi did not displace the direct testimony that the Court accepted. The first medical examination recorded two forehead lacerations; the x-ray showed a comminuted skull fracture, and the treating surgeon described unconsciousness and operations. These findings supported the central account, subject to the Court's express qualification that some emailed medical photocopies apparently had not been exhibited.

Nainji said that the spanner was lying at the scene and was taken by the police. The investigating officer, however, claimed that it was seized from Kushwah's possession about ten days later. No FSL report was produced to establish blood on the spanner. The High Court therefore held that seizure from Kushwah was not proved. It nevertheless held that failure to recover the weapon from the accused did not undermine the credible oral and medical evidence. The witnesses denied the suggested injury from flying stones. No stone was recovered, and the investigating officer was not asked about the presence of any at the scene. Bhuralal denied the loan-based suggestion of false implication. The Court accepted the evidence that Kushwah had repeatedly struck him.

Section 307 requires the intention or knowledge that would make death resulting from the act murder, assessed in its context. Under *Kanha*, a particular degree of actual injury is not necessary, although the injury may be evidence of mental state. A wheel spanner is a metal vehicle tool. Used repeatedly to strike the forehead, it was capable of being a deadly weapon in the manner in which it was used. The vital location, severe force, comminuted frontal-parietal fracture, unconsciousness and surgeries enabled the Court to infer both knowledge of possible death and an intention to kill. It affirmed the Section 307 conviction despite finding that the alleged seizure from the accused had not been proved.

The trial court had also convicted Kushwah under Section 326 for injuries to the same sole victim. The High Court held that this additional conviction was unnecessary once guilt under Section 307 for the attack was established, and expressly set it aside. It neither imposed nor removed a separate Section 326 sentence, since none had been imposed at trial. The

seven-year term fell within the higher punishment range under Section 307 where hurt is caused. Given the unprovoked attack on the head in the early morning, the sentence was not excessive merely because more than three years had already been served. The sentencing decision rested on those circumstances.

6. Relief : The Hon'ble High Court maintained the Section 307 conviction and seven years' rigorous imprisonment, with the trial court's fine and default stipulation. It declined to reduce the sentence to the period already served and directed Kushwah, who was already in jail, to serve the remaining term. Paragraph 41 expressly set aside the Section 326 conviction concerning the same sole victim. Paragraphs 43–45 state that the trial judgment was affirmed and the appeal dismissed. No separate sentence under Section 326 had been imposed.

Veer Singh Kushwah v. State of Madhya Pradesh, Cr.A. no. 8401/2019, 19/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Alibi / prosecution burden and defence proof - *Vijay Pal v. State (Govt. of NCT of Delhi); (2015) 4 SCC 749*, quoting *Binay Kumar Singh v. State of Bihar*, explains that alibi is an evidentiary plea under Section 11 of the Evidence Act. The prosecution must first establish the accused's presence and participation; the plea does not lessen that burden. Once the prosecution discharges it, the accused must prove absence at the critical time by positive, strict evidence sufficient to exclude presence. Defence evidence of sufficient quality may nevertheless raise a reasonable doubt. *S.K. Sattar v. State of Maharashtra; (2010) 8 SCC 430*, adds that failure to prove alibi does not itself establish the prosecution's case. The High Court applied these principles to the procedural question before it. The applicants claimed that they were in their office, but their presence at the scene was disputed and required evidence at trial.

Quashing / disputed office-location plea - An assertion of absence from the alleged scene cannot ordinarily be established as fact in a Section 528 BNSS application to quash an FIR by asking the High Court to assess contested evidence. The applicants' claim that they were in their office, and their complaint that the police had ignored it, depended on proof to be assessed at trial. The Court dismissed the application.

Investigation / accused cannot prescribe method - *Romila Thapar v. Union of India; (2018) 10 SCC 753*, considered *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar*, *Divine Retreat Centre* and the Constitution Bench decision in *Committee for Protection of Democratic Rights*. The accused cannot select the investigating agency or dictate the method of investigation. Exceptional constitutional intervention upon a demonstrated basis of mala fides or unfairness remains available. *Dinubhai Boghabhai Solanki v. State of Gujarat; (2014) 4 SCC 626*, discussed *W.N. Chadha*, *CBI v. Rajesh Gandhi*, *Sri Bhagwan Samardha* and *Narender G. Goel* on accused participation and hearing before submission of the police report, further investigation and the opportunity to challenge evidence at trial. There is no general right to participation or a hearing before the report, subject to exceptions under the Code. The applicants' request that the police investigate from their viewpoint did not entitle them to an investigation on their own terms.

Court monitoring / no supervision of investigative choices - *Manohar Lal Sharma v. Principal Secretary; (2014) 2 SCC 532*, distinguishes judicial monitoring of timely and fair progress from directions controlling the manner of investigation or the investigator's substantive conclusions. Intrusive supervision risks prejudging the trial. Applying that distinction under Section 528 BNSS, the High Court declined to direct the police to pursue the applicants' chosen line of investigation. At most, it could monitor completion in accordance with Section 193(1) BNSS, corresponding in the order to Section 173(1) CrPC, without dictating investigative steps. The judgment made no affirmative monitoring order.

Case-note :- ***1. Facts :*** Veerendra Singh Rajpoot and other applicants applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash the FIR in Crime 37/2025 at Madhavganj police station, Gwalior. The FIR invoked Sections 296 and 351(2) of the Bharatiya Nyaya Sanhita, 2023, and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Their sole stated ground for quashing was that they were in their office, not at the scene. They said that they had complained to the police authorities about their absence, but that the police had not investigated from their point of view. After considering their submission and quoting

authorities on alibi and control of investigation, the High Court dismissed the application. It did not determine their physical location.

2. Precedents — Considered : *Vijay Pal v. State (Govt. of NCT of Delhi); 2015:INSC:194; (2015) 4 SCC 749*, was quoted on alibi after the trial court in that case had rejected the plea. It incorporated *Binay Kumar Singh v. State of Bihar*, which explains that alibi is not an exception under the Penal Code. It is an evidentiary fact relevant under Section 11 of the Evidence Act because presence elsewhere is inconsistent with presence at the scene of the offence. The prosecution retains the primary burden of establishing presence and participation. Once reliable prosecution evidence satisfactorily establishes presence, an accused who relies on alibi must produce positive, strict evidence of absence with sufficient certainty to exclude presence. Defence evidence strong enough to raise a reasonable doubt may still entitle the accused to that benefit. The High Court relied on this framework to leave the office-location dispute for trial. It did not itself undertake the preceding assessment of whether the prosecution had proved presence.

S.K. Sattar v. State of Maharashtra; 2010:INSC:546; (2010) 8 SCC 430, was quoted on the need to prove alibi by positive evidence sufficient to exclude presence. It also states the distinct proposition that failure to establish alibi cannot replace proof of the prosecution's case beyond reasonable doubt. Its reference to *Gurpreet Singh v. State of Haryana* concerned deference, in an appeal by special leave, to concurrent findings rejecting an alibi. It was not a finding of fact in the present FIR proceedings. The High Court relied on *S.K. Sattar* in treating the defence as a matter requiring trial evidence; it did not shift the ultimate prosecution burden.

Romila Thapar v. Union of India; 2018:INSC:912; (2018) 10 SCC 753, was quoted extensively. It cited *Narmada Bai v. State of Gujarat* and *Sanjiv Rajendra Bhatt v. Union of India for* the principle that an accused cannot choose the investigating agency or dictate its method. *E. Sivakumar v. Union of India and Dinubhai Boghabhai Solanki* addressed the question of hearing the accused when CBI investigation was directed. *Divine Retreat Centre v. State of Kerala* distinguished the limits on replacing an investigating officer through inherent jurisdiction from constitutional directions upon proof of a mala fide exercise of power. *Romila Thapar* also quoted *the Constitution Bench decision in State of West Bengal v. Committee for Protection of Democratic Rights; (2010) 3 SCC 571*, on the sparing and exceptional exercise of the power to transfer investigation to CBI, with due institutional caution. *Romila Thapar* itself rejected vague assertions of mala fides and declined an assessment of proof reserved for trial, while recognising the available judicial remedies. The High Court applied the principle against dictating investigation to the applicants' demand for their preferred line of inquiry. It was not deciding a developed claim for transfer or constitutional intervention on grounds of mala fides. Other cases, including *W.N. Chadha*, were also cited within *Romila Thapar.*

Dinubhai Boghabhai Solanki v. State of Gujarat; 2014:INSC:139; (2014) 4 SCC 626, was independently quoted. It discussed *Union of India v. W.N. Chadha; 1993 Supp (4) SCC 260*, on the usual absence of an accused's right to participate or be heard before investigative action, subject to statutory exceptions and later safeguards at trial. *CBI v. Rajesh Gandhi; (1996) 11 SCC 253*, rejected an accused's right to decide who investigates and recognised the power of lawful further investigation. *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P.; (1999) 5 SCC 740*, explained further investigation after a report and the absence of a routine requirement to hear the accused beforehand. *Narender G. Goel v. State of Maharashtra; (2009) 6 SCC 65*, preserved the accused's opportunity to challenge the material gathered when it is tested at trial.

Manohar Lal Sharma v. Principal Secretary; 2013:INSC:839; (2014) 2 SCC 532, was quoted on the distinction between judicial monitoring and supervision. Monitoring seeks fair and timely progress without directing the collection of evidence or the investigator's opinion. Supervision directs the execution of the investigation and may compromise the subsequent trial. Exceptional monitoring by superior courts under their constitutional powers remains possible. The High Court adopted the distinction in declining to direct the police under Section 528 to investigate the applicants' chosen version.

3. Statutes considered : Section 528 BNSS was invoked as the High Court's inherent jurisdiction to quash the FIR. It did not authorise the Court to resolve the contested alibi through an evidentiary inquiry of the kind conducted at trial or to dictate the

police's method of investigation. Section 193(1) BNSS, paired in the order with Section 173(1) CrPC, was mentioned only in relation to completion of investigation. The quoted pre-BNSS precedents refer to Section 11 of the Indian Evidence Act, 1872, as the rule governing the relevance of alibi. CrPC Sections 173(2), 173(8), 202 and 204 appear in their explanations of police reporting, further investigation and the stage at which the accused may participate.

4. Issues : Could the applicants obtain quashing of the FIR by asserting that they were in their office rather than at the alleged scene, or did that disputed alibi require proof and assessment against the prosecution evidence at trial? Did their representations entitle them to require the police to investigate from their chosen viewpoint? Could the High Court under Section 528 BNSS direct particular investigative steps, as distinct from exercising the limited power to monitor progress without supervising the substance of the investigation?

5. Ratio / Findings : The High Court treated the applicants' assertion that they were in their office as a disputed question of fact. *Vijay Pal*, quoting *Binay Kumar Singh*, places the initial burden of proving presence and participation on the prosecution. Once presence is established through reliable evidence, the accused who asserts alibi bears a demanding burden of producing positive evidence, while sufficiently credible defence evidence may raise a reasonable doubt. *S.K. Sattar* emphasises both the strict standard for proving alibi and the independent requirement that the prosecution prove guilt beyond reasonable doubt. These assessments require evidence at trial. The disputed defence version could not itself compel quashing at this stage.

On the complaint about investigation, *Romila Thapar* and *Dinubhai* establish that an accused generally cannot dictate the agency, method or sequence of investigation and has no routine right to participate or be heard before the police report. The authorities quoted within those decisions also recognise exceptions under the Code, later opportunities to rebut prosecution evidence, and exceptional intervention by superior courts upon an adequate showing of unfairness or mala fides. The applicants alleged only that the police had not adopted their perspective. The Court held that their representation did not entitle them to compel a particular plan of investigation. It did not pronounce them guilty.

Manohar Lal Sharma imposed a related but distinct restraint on the Court. Monitoring permits oversight of lawful, fair and timely progress. Supervision would direct or channel investigative acts and risk influencing the eventual trial court through a police opinion shaped by the superior court. The High Court therefore declined to direct the police under Section 528 BNSS to investigate in the precise manner requested. It said that monitoring could, at most, concern completion under Section 193(1) BNSS/Section 173(1) CrPC. On those limited grounds, it found no basis to exercise its inherent jurisdiction.

6. Relief : The Hon'ble High Court dismissed the Section 528 BNSS petition. The FIR in Crime 37/2025 remained operative. The applicants obtained neither quashing nor a direction requiring the police to follow their proposed line of investigation. Their factual alibi remained for assessment on evidence at the proper stage.

Veerendra Singh Rajpoot and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 14318/2025, 01/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Related eyewitnesses / careful appraisal - *State of U.P. v. Naresh; (2011) 4 SCC 324*, holds that kinship alone is no ground to discard otherwise credible testimony and requires careful assessment where false implication is alleged. *Salim Sahab v. State of M.P.; (2007) 1 SCC 699*, drawing *on Dalip Singh v. State of Punjab* and *Rameshwar v. State of Rajasthan*, likewise rejects an automatic presumption that a relative is partisan. Applying those principles, the High Court scrutinised the evidence of Raju's parents, Dilli (PW1) and Shivrani (PW9), who described Veeru's knife assault. Dilli said that he reached the scene after being summoned. The Court found their central account supported by the prompt FIR and medical evidence of the injuries. The judgment reproduced *Naresh*'s rule on injured witnesses, but neither parent was treated as an injured witness in this case. The non-examination of Mahendra and Lallu did not render the parents' consistent evidence inadmissible or inherently unreliable. The investigating officer attributed their

nonappearance to fear while two accused were absconding.

Contradictions and omissions / core of prosecution account - *Mritunjoy Biswas v. Pranab; (2013) 12 SCC 796*, distinguishes ordinary discrepancies from omissions that go to the root of the case and seriously impair a witness's credibility. *Naresh* also recognises errors arising from observation, memory and shock, while requiring rejection of material improvements that affect the prosecution's case at its core. Applying these tests to the parents' accounts, the High Court found that, despite the alleged variations, their account of Veeru stabbing Raju with a knife remained consistent and was corroborated by the medical evidence.

Medical and ocular evidence / homicidal injury - The medical examination and post-mortem recorded penetrating chest and abdominal wounds, an arm wound, protruding abdominal tissue, internal bleeding and shock following injury to vital organs. The Court found these observations consistent with the parents' account of a knife attack and held that the death was homicidal. It rejected the submission that better initial treatment might have prevented the death, noting the prompt treatment and referral and Raju's death on the way to the referral hospital. Its conclusion rested on the particular medical record.

Seized knife / absence of detectable blood - The recovered iron knife was Article C in the forensic report, Ex.P/22, which recorded no blood stain. The Court held that this negative result did not displace the accepted direct account of Veeru's stabbing, supported by the injuries. PW7 and PW8 denied witnessing the recovery but acknowledged their signatures on Ex.P/12. The Court accepted the seizure on this record. The judgment recorded no positive blood match and made no finding explaining the absence of stains.

Case-note :- ***1. Facts :*** Veeru alias Virendra and Komal Patwa were convicted by the Second Additional Sessions Judge, Damoh, in Sessions Trial 93/2003 by judgment dated 15 January 2009. Veeru was sentenced under Section 302 IPC to life imprisonment and a fine of Rs 500, with six months' rigorous imprisonment in default of payment. Komal received the same sentence under Section 302 read with Section 34. The prosecution proceeded in two trials because Komal and Parvati had initially absconded. The trials were heard together and disposed of by a common judgment. Suman and Parvati were acquitted of their murder/common-intention and associated charges. Veeru was acquitted under Section 341 IPC and Sections 25(1)(ka) and 27 of the Arms Act. The judgment reported no State appeal against those acquittals. Komal died while the appeal was pending, and his appeal abated on 5 September 2024. Veeru's conviction alone therefore remained in issue.

The prosecution alleged an attack on Raju Vishwakarma at Hinoti bus stand at about 4 p.m., following earlier enmity. The narrative initially describes Dilli, Raju's father, as present. In his testimony, however, Dilli said that Rubi summoned him and that, on reaching the scene, he saw Komal wielding scissors and Veeru a knife. Shivrani, Raju's mother, also described their attack and said that Suman and Parvati held Raju's hands. Dilli lodged the FIR at 5 p.m. under Sections 341, 307 and 324 IPC. Raju was unconscious. He was medically examined and referred to Jabalpur Medical College, but died on the journey, after which Section 302 was added. The text's paragraphs 5 and 12 date the incident 14 August 2008, whereas the investigating officer gives 14 August 2002, the post-mortem is dated 15 August 2002, and the crime and trial numbers are from 2002/2003.

The prosecution examined 13 witnesses. Dilli (PW1) and Shivrani (PW9) described knife injuries to the chest, abdomen and arms, with abdominal contents protruding. The medical witnesses recorded serious incised or stab wounds, internal bleeding and death from shock due to injury to vital organs. The investigating officer (PW13) said that he seized Veeru's knife under Ex.P/12. PW7 and PW8 denied witnessing the recovery but acknowledged their signatures on the seizure memo. The forensic examination found no blood stain on the knife, Article C. PW3 turned hostile, while PW4 and PW5 were not established to be eyewitnesses. Mahendra and Lallu, who were named as eyewitnesses, did not testify. The officer attributed their absence to fear arising from the absconding accused. He also referred to an account recorded on loose paper, which was not part of the prosecution file or case diary.

Veeru sought to have his conviction set aside. He challenged the parents' credibility as interested witnesses and relied on alleged inconsistencies, the non-examination of independent eyewitnesses, the negative knife test and doubts about seizure. He also questioned proof of motive and causation in view of the treatment given, and sought parity with the

acquitted co-accused. The State relied on the direct attribution of the assault to him, the prompt FIR, recovery of the weapon and medical corroboration. The High Court was deciding the appeal against the murder conviction, not an appeal against the acquittals.

2. Precedents — Considered : *Mritunjoy Biswas v. Pranab; 2013:INSC:525; (2013) 12 SCC 796*, was quoted on the test of trustworthiness. Ordinary discrepancies and insignificant embellishments do not undermine the core of the prosecution's case. An omission that goes to the root of the case and creates serious doubt about a witness's truthfulness or credibility may do so. The Court applied *Mritunjoy Biswas* to the consistent account that Veeru used a knife, finding the alleged peripheral contradictions insufficient to discredit it.

State of U.P. v. Naresh; 2011:INSC:189; (2011) 4 SCC 324, was quoted on three points: injured witnesses, related witnesses and discrepancies. The related-witness passage states that a familial link alone does not undermine credibility. Where false implication is alleged, however, the evidence of related witnesses must be carefully scrutinised for cogency and credibility. The passage on discrepancies distinguishes ordinary lapses of memory or observation from material contradictions and improvements that impair the core of the prosecution's case. The High Court relied on the related-witness and discrepancy principles in accepting the parents' account.

Salim Sahab v. State of M.P.; (2007) 1 SCC 699, was quoted to reject the inference that a close relative must be a partisan witness. It reproduced the reasoning in *Dalip Singh v. State of Punjab; (1953) 2 SCC 36*, which rejected a supposed rule requiring corroboration merely because eyewitnesses were women or related to the deceased. It also referred to *Rameshwar v. State of Rajasthan; 1951 SCC 1213*, which had earlier rejected that fallacy. The High Court adopted the related-witness principle, scrutinised the evidence closely and relied on the medical support for PW1 and PW9. It did not impose a legal requirement of corroboration in every case involving related witnesses.

3. Statutes considered : Section 302 IPC governed Veeru's murder conviction and life sentence. Section 302 read with Section 34 governed Komal's conviction, but his appeal had abated. Common intention was not separately reconsidered for Veeru. Section 341 IPC and Sections 25(1)(ka) and 27 of the Arms Act were among the charges on which acquittals were recorded at trial. The trial court regarded the knife as not prohibited and found that no firearm or explosive had been used for the purposes of Section 27. The State did not challenge those findings. Sections 307 and 324 IPC were among the original FIR offences before Raju's death led to the addition of Section 302. The accused were examined under Section 313 CrPC at trial.

4. Issues : Could the parents' direct testimony sustain Veeru's conviction despite their relationship with Raju, the alleged contradictions, the lack of support from PW3–PW5 and the non-examination of Mahendra and Lallu? Did the medical record establish homicidal injury consistent with the account of knife blows, or did the allegedly deficient initial treatment undermine causation? Did the absence of blood on the seized knife and the seizure witnesses' denials create reasonable doubt? Did the acquittal of Suman and Parvati require Veeru's acquittal despite the different roles attributed to them?

5. Ratio / Findings : The Court found that the FIR was prompt: the attack was said to have occurred at about 4 p.m., and the report was registered at 5 p.m. Dilli and Shivrani were related to Raju. *Naresh* and *Salim Sahab*, with *Dalip Singh* and *Rameshwar*, nevertheless preclude automatic rejection of their evidence on that ground. The authorities require scrutiny of credibility, which the Court undertook when assessing the parents' descriptions of Veeru striking Raju with a knife. Both identified him as an assailant, identified his weapon and described injuries subsequently recorded in the clinical and post-mortem findings.

Mritunjoy Biswas and *Naresh* require the Court to consider whether an omission or contradiction affects the prosecution's case at its core. The fact that PW3 turned hostile and that PW4 and PW5 were not established to be eyewitnesses did not refute the account personally given by PW1 and PW9. The investigating officer explained that Mahendra and Lallu had not testified because they were afraid while two accused remained at large. The High Court found the parents' available evidence sufficient despite the non-examination of those witnesses.

The examining doctors described an unconscious patient with an abdominal wound and protruding tissue, a chest wound and an arm wound. The post-mortem recorded penetrating chest and abdominal injuries, abdominal bleeding and damage to vital

tissue. Death was attributed to shock from injury to vital organs. The Court found that the death was homicidal and that the injuries were consistent with the direct account of blows with a sharp weapon. It rejected the submission that Raju might have survived with better initial treatment: prompt primary care and referral were recorded, he died on the way to the referral hospital, and the record disclosed no significant treatment delay. The Court also considered the earlier enmity mentioned in the account and did not regard the challenge to motive as displacing the direct evidence.

The police seized an iron knife attributed to Veeru under Ex.P/12. Although PW7 and PW8 denied that the recovery took place in their presence, they acknowledged their signatures on the seizure memo. The Court concluded that the recovery was proved. Ex.P/22 recorded no blood on Article C. On these facts, the Court held that the negative result did not exculpate Veeru because it accepted the direct evidence of his knife assault, corroborated by the medical evidence.

Suman and Parvati were described as holding Raju's hands, but neither was alleged to have inflicted an injury. The trial court acquitted them. Veeru, by contrast, was specifically identified as inflicting knife wounds, so their acquittal did not entitle him to the same result. Komal's appeal had abated on his death. The Court affirmed Veeru's individual liability under Section 302 on the evidence it accepted, without reopening the acquittals or the Arms Act findings, which the State had not challenged.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. Veeru's conviction under Section 302 IPC and life sentence, including the trial court's fine and default term, stood affirmed. The High Court noted the jail report dated 26 August 2024, which stated that he had completed 15 years, eight months and 13 days in custody and had been granted bail by order dated 9 August 2018. It cancelled his bail bonds and directed him to surrender forthwith to serve the remainder of the life sentence. If he failed to surrender, the concerned court was to issue a non-bailable warrant. The judgment and trial record were to be sent to the trial court for compliance, and a copy of the judgment was also to be sent to the jail authorities. Komal's appeal had already abated on 5 September 2024.

Veeru and Others v. State of Madhya Pradesh, Cr.A. no. 208/2009, 25/10/2024, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Vishal Mishra, Honorable High Court of Madhya Pradesh.

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Headnote :- Alibi / proof of absence at relevant time - *Shaikh Sattar v. State of Maharashtra; (2010) 8 SCC 430*, requires an accused who raises an alibi to prove absence by positive evidence with sufficient certainty to exclude presence at the crime scene. In the quoted decision, the accused had failed even to make absence probable. It also cited *Gurpreet Singh* on concurrent findings rejecting an alibi. The High Court described the plea as requiring cogent proof, rather than proof merely on a preponderance of probabilities. Vetal Singh Gurjar asserted that footage from his home CCTV showed that he was elsewhere when the alleged assault and demand for money occurred at the plot.

CCTV / source time and evidentiary integrity - The time displayed on a household DVR can be set manually. An incorrect setting could make footage appear to have been recorded at a different time. The High Court held that the applicant's CCTV footage was not conclusive by itself and had to be proved in accordance with law before it could establish his alibi. The footage therefore did not provide a conclusive basis for quashing the FIR.

Quashing / pending civil suit and alleged retaliation - *Renu Kumari v. Sanjay Kumar; (2008) 12 SCC 346*, applies the principles in *R.P. Kapur* and *Bhajan Lal*. It treats alleged malice on the informant's part as secondary where a cognizable offence is disclosed. It also precludes adjudication of the reliability of evidence at the Section 482 stage, while preserving the power to quash where the allegations disclose no offence on their face or the proceedings clearly constitute an abuse of process. *XYZ, S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, Gourishetty Mahesh, M. Srikanth, CBI v. Arvind Khanna and Kunwar Singh* address the corresponding limits on a roving inquiry. These authorities include the limited exception allowing consideration, in an appropriate case, of a public defence document or one whose veracity the complainant does not dispute. *Munshiram, Teeja Devi, Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* were cited to similar effect. The FIR specifically alleged a demand of Rs

2 lakh for a liquor party, blows, abuse and death threats while the complainant was working on a plot. The pending property suit and claimed CCTV alibi did not displace the allegations under IPC Sections 327, 323, 294 and 506, which disclosed a cognizable offence on their face. The Court dismissed the quashing application without determining the truth of the assault, money demand or video footage.

Case-note :- ***1. Facts :*** Vetal Singh Gurjar applied under Section 482 CrPC to quash the FIR in Crime 20/2024 at Sirol, Gwalior, registered under IPC Sections 323, 294, 506 and 327. The informant alleged that he was working on a plot opposite Narayan School at about 11 a.m. on 25 January 2024 when Gurjar ordered him to stop work, abused him and demanded Rs 2 lakh for a liquor party. When the informant refused, Gurjar allegedly kicked and punched him. The informant's father, Sanjeev Goyal, and Rahul Goyal allegedly intervened. While leaving, the accused reportedly threatened to kill them if work resumed. These were allegations in the FIR, not judicially established events.

Gurjar alleged that the accusation was false. He said that a civil suit concerning the plot was pending between the parties and that the FIR had been lodged maliciously. He also asserted that he was at home at the time of the incident and relied on footage from a CCTV camera installed there. The High Court had to decide whether the video relied on by the accused and the property dispute justified quashing the FIR, despite allegations disclosing a cognizable offence, without trying the disputed facts.

2. Precedents — Considered : *Shaikh Sattar v. State of Maharashtra; (2010) 8 SCC 430*, was quoted on the accused's burden of proving an alibi by positive evidence with sufficient certainty to exclude presence at the relevant place and time. In that case, the accused had not even made his absence probable. The quotation refers to *Gurpreet Singh v. State of Haryana* on a separate appellate point: a concurrent finding of fact rejecting an alibi normally cannot be reopened in an appeal by special leave as though no factual determination had been made. The High Court applied the burden governing the alibi plea but did not determine the applicant's presence or the authenticity of his video as a trial court would. The prosecution still bears the burden of proving the charged offences; the alibi standard concerns the accused's affirmative plea.

Renu Kumari v. Sanjay Kumar; (2008) 12 SCC 346, was quoted at length. It explains that the power under Section 482 must be exercised sparingly to give effect to orders under the Code, prevent abuse of process or secure the ends of justice. It recounts the categories in *R.P. Kapur v. State of Punjab: a* legal bar, allegations that disclose no offence on their face, and absence of legal evidence. It also invokes the illustrative categories in *Bhajan Lal*, including a manifestly malicious proceeding. It distinguishes an absence of legal evidence from an assessment of whether admissible evidence is sufficient for conviction. Where a cognizable offence is alleged, malice on the informant's part ordinarily becomes secondary. The authorities cited within *Renu Kumari*, including *Dhanalakshmi*, *P.P. Sharma*, *Rupan Deol Bajaj*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar*, *Satvinder Kaur*, *Rajesh Bajaj*, *M. Devendrappa*, *Awadh Kishore Gupta* and *Saroj Kumar Sahoo*, were not individually applied to the facts concerning the plot. The High Court considered the allegations at face value and rejected alleged malice arising from civil litigation as an independent basis for quashing.

XYZ v. State of Gujarat; (2019) 10 SCC 337, disapproved a roving inquiry before the investigation was complete and reliance on a disputed document to infer consent. *State of T.N. v. S. Martin; (2018) 5 SCC 718*, rejected a premature assessment of the merits. *Ajay Kumar Das v. State of Jharkhand; (2011) 12 SCC 319*, reiterates *Bhajan Lal*'s caution against testing the reliability of FIR allegations. *Mohd. Akram Siddiqui v. State of Bihar; (2019) 13 SCC 350*, states a narrow exception: in an appropriate case, a defence document may be considered if it is a public document or its veracity is not disputed by the complainant. It draws on *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* In the present case, the High Court held that the household CCTV footage was not conclusive without proof in accordance with law. *Gourishetty Mahesh*; *(2010) 11 SCC 226*, balances protection against abuse of process with the need to avoid bringing a prosecution to an end without a full inquiry. *M. Srikanth*; *(2019) 10 SCC 373*, reiterates the test of whether the allegations, taken at face value, disclose an offence. *CBI v. Arvind Khanna; (2019) 10 SCC 686*, prohibits findings on disputed defence material. *State of M.P. v. Kunwar Singh*, CRA 709/2021, 30 June 2021, rejects detailed scrutiny of evidence as at trial and the requirement that an FIR contain an encyclopedic account. *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S.*

Khushboo, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* were cited to similar effect. The High Court applied the prohibition against a mini-trial after finding that the allegations disclosed cognizable offences on their face.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR. The Court considered whether the uncontroverted allegations prima facie disclosed an offence and whether the accused's defences could be decided without taking evidence. IPC Sections 323 (hurt), 294 (abuse/obscenity), 506 (criminal intimidation) and 327 (hurt connected with the alleged demand for money) were the provisions under which the case was registered. The pending civil suit formed part of the background; it did not constitute an express statutory bar to prosecution.

4. Issues : Did the accused's home CCTV conclusively establish an alibi at the precise time of the alleged incident, justifying quashing under Section 482 without awaiting proof of the device's time setting, the footage's authenticity and identity? Were the pending civil property suit and alleged malice sufficient to characterise the FIR as a false, retaliatory use of process, despite specific allegations of a demand for money, assault, abuse and threats? Did the uncontroverted FIR allegations disclose a cognizable offence under the registered IPC provisions?

5. Ratio / Findings : The Court first considered the affirmative plea of alibi. *Shaikh Sattar* requires the accused to produce positive evidence capable of excluding presence at the alleged scene at the relevant time. A DVR's displayed date and time can be set manually. Footage bearing the date and time of the incident is therefore not automatically conclusive; the recording and its timing must be proved. The Court accordingly declined to determine the alibi or the video's reliability in the quashing proceedings. The stricter standard governing proof of an alibi does not relieve the prosecution of its own burden at a full criminal trial.

The pending property suit could be a source of conflict between the parties. Under *Renu Kumari*, however, allegations of malice on the informant's part do not by themselves justify quashing where a cognizable offence is disclosed. The FIR specified the acts, place, demand for money, blows, intervention and threat. The Supreme Court authorities permit exceptional quashing where there is a legal bar, the accepted allegations disclose no offence or the proceedings manifestly abuse the process. They do not permit a premature trial of competing evidence. *Mohd. Akram Siddiqui* recognises the limited exception for public defence documents or documents whose veracity the complainant does not dispute. The High Court treated the home video as non-conclusive unless proved in accordance with law. It held that the allegations, accepted for this limited inquiry, disclosed a cognizable offence and that their truth could not be tested through a mini-trial.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The FIR in Crime 20/2024 under IPC Sections 323, 294, 506 and 327 remained in place. No costs or further conditions were stated.

Vetal Singh Gurjar v. State of Madhya Pradesh and Others, M.Cr.C. no. 8475/2024, 19/11/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Post-charge discharge / subordinate court review - *Adalat Prasad v. Rooplal Jindal* held that a subordinate criminal court, which has neither review nor inherent power, cannot recall its order taking cognizance. It overruled *K.M. Mathew v. State of Kerala on* that point and identified relief under Section 482 before the High Court as a possible remedy in an appropriate case. Here, charges under IPC Sections 471 and 120-B had already been framed. The trial court refused the applicant's fresh request, described as discharge or acquittal under CrPC Section 232, based on a later handwriting report. The High Court found no error in refusing to reopen that stage. It then separately considered, but rejected, quashing in exercise of its inherent power.

Handwriting expert / cautious evaluation, not conclusive exoneration - *Padum Kumar v. State of U.P.; (2020) 3 SCC 35*, discussed the caution expressed in *S. Gopal Reddy* and *Magan Bihari Lal* against conviction based solely on handwriting opinion without independent support. It also quoted *Murari Lal*; *(1980) 1 SCC 704*, on the relevance of expert opinion under Section 45 of the Evidence Act, the fallibility of expertise, and the need to examine the expert's reasons and the other evidence. That decision rejects an inflexible requirement of corroboration or initial suspicion in every case. The High Court treated the report stating that the questioned gift-deed signature and handwriting were not the applicant's as non-conclusive; it did not treat

the report as requiring automatic acquittal. The applicant had neither supplied the charge sheet to show the remaining prosecution material nor challenged the order framing charges. The Court therefore could not determine that the entire case lacked evidence. It recognised that the defence could rely on a favourable prosecution document even if it had not been exhibited; the applicant said that the prosecution had filed the expert report. The report's existence did not, by itself, require termination of the prosecution.

Quashing / incomplete record - The original FIR named Chander Patidar and Rakeeb Khan in connection with an alleged forged property transfer. Chander allegedly said that the applicant had executed the gift deed. The applicant denied doing so, and the handwriting report was received after charges had been framed. Even assuming that the opinion favourable to the defence formed part of the prosecution material, its weight in relation to the other evidence required assessment at trial. The Section 482 application was dismissed. The Court did not declare that the applicant had signed the document or that expert evidence could never be decisive on a complete evidentiary record.

Case-note :- ***1. Facts :*** Vijay Kant Shrivastav sought quashing under Section 482 CrPC of the charge sheet and the ensuing proceedings in Crime 414/2020 at Ratibad, Bhopal. The FIR arose from Yogendra Maheshwari's allegations against Chander Patidar and Rakeeb Khan of cheating, forgery, use of forged material, conspiracy and abetment under IPC Sections 420, 467, 468, 471, 120-B and 109. Chander allegedly stated that the property had been transferred to him under a gift deed executed by Shrivastav. Shrivastav denied executing the deed and asserted that he had been falsely arrested. The police sent the disputed handwriting and signatures, together with admitted samples, to an expert. They filed the charge sheet before the report was received. In September 2021, he unsuccessfully sought an adjournment until receipt of the expert report. In January 2022, he applied for discharge under CrPC Section 227, but that application was rejected. On 9 November 2022, the trial court framed charges against him only under IPC Sections 471 and 120-B. The High Court emphasised that he had not challenged that charge-framing order in the present proceedings.

The handwriting expert later opined that the disputed writing and signature were not Shrivastav's. He then sought discharge or acquittal on the basis of that report. On 17 February 2023, the trial court rejected his application, holding that there was no provision to discharge or acquit him under Section 232 in the manner sought after charges had been framed. It continued the examination of witnesses. Before the High Court, he argued that there was no reason for him to undergo trial once the expert had exonerated him. The State responded that the stage of framing charges had already passed. The reported record contained neither the charge sheet nor a description of the other incriminating evidence collected.

2. Precedents — Considered : *Adalat Prasad v. Rooplal Jindal; AIR 2004 SC 4674*, held that after taking cognizance, a subordinate criminal court has neither review nor inherent power to recall that order. It overruled *K.M. Mathew v. State of Kerala; AIR 1992 SC 2206*, and identified recourse to the High Court under Section 482 as the potential remedy. The High Court applied that rule against recall to the present request made after charges had been framed and upheld the trial court's refusal. It independently examined the asserted ground for quashing under Section 482.

Padum Kumar v. State of U.P.; (2020) 3 SCC 35, was quoted in detail on handwriting expert evidence. Its discussion of *S. Gopal Reddy v. State of A.P.; (1996) 4 SCC 596*, and *Magan Bihari Lal v. State of Punjab; (1977) 2 SCC 210*, warns of the danger of convicting an accused solely on handwriting opinion without reliable supporting evidence. The authorities quoted within that discussion include *Ram Chandra*, *Ishwari Prasad Misra*, *Shashi Kumar Banerjee* and *Fakhruddin*. They address the limited conclusiveness of expert opinion and the desirability of direct or circumstantial support. *Padum Kumar* also reproduces *Murari Lal v. State of M.P.; (1980) 1 SCC 704*. That decision explains that Section 45 of the Evidence Act makes the opinion of a person skilled in handwriting identification relevant, that experts supply criteria to enable an independent judicial judgment, and that the court should test the expert's reasons against the full record. *Murari Lal* rejects treating experts as invariably suspect or insisting on corroboration as an unbending rule; the degree of corroboration depends on the facts. The High Court applied caution in the converse situation: a negative signature opinion favourable to the defence was neither conclusive proof of innocence nor sufficient, by itself, to terminate the prosecution. The High Court described such opinion as a weak

type of evidence. The *Murari Lal* passage it quoted expressly qualifies the approach according to the facts of the case, rather than imposing an invariable corroboration rule.

The Court recognised the principle that an accused may rely on a favourable prosecution document even if it has not been exhibited. It nevertheless found the record insufficient to determine that the expert opinion displaced all other evidence.

3. Statutes considered : Section 482 CrPC was invoked before the High Court to quash the charge sheet and proceedings despite the trial court's refusal. Section 227 CrPC governed the earlier discharge application, rejected before charges were framed; the High Court did not reopen that order. Section 232 CrPC was invoked in the later application described as one for discharge or acquittal. The trial court rejected that premature course while witnesses were still being examined. The reported judgment uses the rule in *Adalat Prasad* concerning recall of cognizance to emphasise the limits on review by subordinate criminal courts. IPC Sections 471 and 120-B were the charges actually framed against Shrivastav. Sections 420, 467, 468 and 109 appeared in the FIR allegations against other persons and in the investigation's background. The High Court did not state that those provisions remained charges against him. Section 45 of the Evidence Act, discussed through *Murari Lal*, concerns the relevance of handwriting opinion, rather than its conclusiveness.

4. Issues : Whether, after framing charges and beginning witness examination, the trial court had to grant a fresh application described as one for discharge or acquittal because a handwriting report favourable to the accused had been received; and whether its refusal warranted intervention under Section 482. Separately, whether the negative signature and handwriting opinion was conclusive enough to quash the charge sheet and prosecution under IPC Sections 471 and 120-B, without the charge sheet or a record showing the absence of other evidence. The permissible use of the unexhibited expert material said to have been filed by the prosecution was raised, but its precise ultimate weight was left for assessment on the evidence.

5. Ratio / Findings : The High Court held that the trial court had not erred in refusing, on the later application, to revisit the stage of framing charges that had already been completed. *Adalat Prasad* rejected the power of a subordinate court simply to recall cognizance, leaving recourse to the High Court under Section 482 where justified. The High Court accordingly considered that separate question of inherent-power relief. It neither declared the expert report inadmissible nor rewrote the charges. It noted that Shrivastav had not challenged the November 2022 charge-framing order itself.

A handwriting comparison is opinion evidence relevant under Section 45, rather than a judicial verdict. *Padum Kumar, S. Gopal Reddy* and *Magan Bihari Lal* caution against conviction based on unsupported handwriting opinion. The quoted *Murari Lal* passage requires examination of the expert's reasons and all other direct and circumstantial evidence, and rejects an invariable presumption of suspicion or requirement of corroboration. A report stating that the questioned marks were not Shrivastav's therefore favoured the defence but did not, by itself, finally exonerate him. The High Court could not assess it against the whole prosecution case because the applicant had not supplied the charge sheet or shown that there was no other evidence. It recognised the principle that the defence may rely on a favourable prosecution document even if it has not been exhibited. The applicant asserted that the prosecution itself had filed the expert report. Lack of exhibition alone did not bar reliance on a favourable prosecution document. The Court nevertheless declined to infer from this report alone that no material remained for trial.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. The order of 17 February 2023 refusing discharge or acquittal after charges had been framed, and the ongoing trial under IPC Sections 471 and 120-B, remained undisturbed. The expert report could be relied on and evaluated in accordance with lawful trial procedure. Neither guilt nor acquittal was declared, and no costs or remand were ordered.

Vijay Kant Shrivastav v. State of Madhya Pradesh, M.Cr.C. no. 40620/2023, 05/10/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (974) Prev Next

Headnote :- Arrest / non-mandatory custody in offence punishable below seven years - *Arnesh Kumar v. State of Bihar; (2014) 8 SCC 273*, requires police officers to assess the necessity of arrest under Section 41 CrPC instead of arresting automatically. When making an arrest, they must complete the

statutory checklist and record their reasons. They must inform the Magistrate of a decision not to arrest and serve a Section 41-A notice within the prescribed period, subject to an extension supported by recorded reasons. Before authorising detention, the Magistrate must scrutinise the material and record reasons. Noncompliance may expose police officers to departmental action and contempt proceedings. A Magistrate who authorises detention without recording reasons may also face action. *Md. Asfak Alam v. State of Jharkhand*, CRA 2207/2023, 31 July 2023, required DGPs and High Courts to issue instructions for strict implementation. In a pending Section 138 NI Act case, the complainant sought to compel the accused's arrest after proceedings under Section 174-A IPC concerning his nonappearance. His counsel conceded that arrest for an offence punishable with less than seven years' imprisonment was not mandatory. The High Court held that the CJM had not erred in refusing to direct arrest and dismissed the Article 226 petition.

Case-note :- ***1. Facts :*** Vijay Kumar Badal was the complainant in a prosecution under Section 138 of the NI Act, SC NIA 86/2021, against respondent 5. He said that the accused was not attending the Magistrate's court despite a permanent non-bailable warrant. He applied under CrPC Sections 82 and 83 for proclamation and attachment, and sought registration of an offence under IPC Section 174-A for nonappearance. According to the reported order, the trial court directed Omti police station to register the Section 174-A offence and initiate the proclamation and attachment proceedings. Badal then sought a direction to arrest respondent 5. The Chief Judicial Magistrate rejected that application on 30 January 2024, holding that arrest was not mandatory for an offence under Section 174-A punishable with less than seven years' imprisonment. Badal invoked Article 226 to challenge the order. He also sought directions to State officials to produce respondent 5 in the NI Act trial and secure his presence under the warrant.

Counsel for Badal fairly conceded that *Arnesh Kumar* requires an assessment of the necessity for arrest under Section 41 in an offence punishable with less than seven years' imprisonment, and does not require automatic police arrest. The reported order then quoted the Supreme Court's operational directions and a later decision requiring implementing instructions, and declined to compel arrest.

2. Precedents — Considered : *Arnesh Kumar v. State of Bihar; (2014) 8 SCC 273*, was the controlling Supreme Court authority, expressly accepted by the petitioner and applied by the Court. Paragraph 11, quoted in the order, seeks to prevent unnecessary arrests and mechanical authorisation of detention by Magistrates. It directs the police to assess necessity under Section 41(1)(b)(ii) CrPC, complete a checklist, and submit the reasons and materials supporting an arrest. A decision not to arrest must be sent to the Magistrate within two weeks, subject to an extension granted by the District SP for recorded reasons. A notice to appear under Section 41-A must be served within two weeks, again subject to an extension supported by written reasons. The Magistrate must examine the material and record satisfaction before authorising detention. Police noncompliance may attract departmental action and contempt proceedings; a Magistrate's authorisation without reasons may attract departmental action. Although *Arnesh Kumar* arose in the context of Section 498-A, the High Court applied its necessity rule to the Section 174-A offence punishable with less than seven years' imprisonment.

Md. Asfak Alam v. State of Jharkhand and Another, Criminal Appeal 2207/2023, decided on 31 July 2023, was quoted for its directions to State DGPs and High Courts to issue instructions, circulars and guidance for strict implementation of the above arrest safeguards by the lower courts and police. The instructions and circulars were to be issued within eight weeks of the Supreme Court's order.

3. Statutes considered : Article 226 of the Constitution was invoked to challenge the CJM's refusal and seek directions to produce the accused. Section 138 of the Negotiable Instruments Act identified the pending cheque complaint; its ingredients or merits were not discussed. IPC Section 174-A concerned the nonappearance offence for which the trial court had directed registration. The request for arrest was rejected because an offence punishable with less than seven years' imprisonment does not make arrest mandatory. Section 41 CrPC, together with Section 41-A in the *Arnesh Kumar* directions, governs the police's assessment of the necessity for arrest and the notice to appear.

4. Issues : Whether the complainant in a pending NI Act case could obtain a direction under Article 226 compelling the police to arrest or produce the absent

accused merely because Section 174-A proceedings had been ordered and a non-bailable warrant was said to remain outstanding. More specifically, whether the Magistrate erred in treating arrest in the Section 174-A case, punishable with less than seven years' imprisonment, as discretionary and subject to the necessity requirements of Section 41, rather than mandatory.

5. Ratio / Findings : The decisive premise was conceded: an offence punishable with less than seven years' imprisonment does not, by itself, require automatic arrest. The police must apply Section 41 as construed in *Arnesh Kumar.* The Supreme Court's requirements concerning a checklist, reasons, notice and judicial scrutiny seek to prevent needless custody while preserving lawful arrest when the statutory test is met. *Md. Asfak Alam* required instructions for strict implementation by the institutions concerned. Applying these principles to Badal's request for arrest, the High Court held that the CJM had committed no legal error in refusing it.

6. Relief : The Hon'ble High Court dismissed the writ petition. The CJM's order of 30 January 2024 rejecting the application for a direction to arrest respondent 5 remained undisturbed. No mandamus was issued to the police or trial court to produce him. The NI Act complaint and the reported proclamation and Section 174-A proceedings were neither quashed nor concluded, and were not finally evaluated. No costs or further directions were made.

Vijay Kumar Badal v. State of Madhya Pradesh and Others, W.P. no. 19550/2024, 24/08/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (975) Prev Next

Headnote :- Closure report / police duty to submit and magistrate's control - The police cannot retain a prepared final or closure report at the station because notice has not yet been served on the complainant. *Jakia Nasim Ahesan v. State of Gujarat; (2011) 12 SCC 302*, relying on *Bhagwant Singh v. Commissioner of Police*, explains the sequence: after a report under Section 173(2)(i) reaches the Magistrate, the court must notify and hear the informant before declining cognizance or dropping all or part of the case. That requirement of judicial notice did not justify the Kailaras police withholding their prepared report. The Magistrate had a photocopy, the status report and the earlier High Court directions. He should have required the report to be produced and considered it together with the private complaint. The dismissal of the complaint, without addressing the reported dying declaration or the report's actual filing status, was set aside.

Revision hearing / suspect's procedural protection - *Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel; (2012) 10 SCC 517*, distinguishes two stages. A suspect has no right to be heard before process is issued in a complaint inquiry under Section 200/202. Section 401(2), however, gives a right of hearing when the complainant seeks revision of a Section 203 dismissal and reversal may revive the proceedings. The High Court expressly recognised that rule. It nevertheless proceeded without notice to proposed accused respondents 2–6, stating that the present correction under Section 482 concerned only the Magistrate's disregard of earlier directions and procedure, while leaving the merits open on remand. That stated reason for dispensing with notice is confined to this procedural setting; it does not abrogate the Supreme Court's safeguard in revision.

Private complaint / protest petition and police obstruction - Earlier orders had permitted Vijay Singh to object to what was represented to be a filed closure report or to file a private complaint. A later order directed consideration of the report and complaint together, with the complaint capable of being treated as a protest petition. Contrary to the representations that the report had been filed, the police had merely prepared it. Their retention of the report, while the complainant was already before the Magistrate, frustrated the procedure directed by the Court. The High Court required filing within three days, a fresh decision within two months and an ADGP inquiry within one month into the responsible police officers. The Magistrate was not to be influenced by the observations in his earlier dismissal. The complaint was restored for consideration according to law, without being allowed on the merits.

Case-note :- ***1. Facts :*** Vijay Singh applied under Section 482 CrPC to challenge the order dated 22 October 2019 by which the Judicial Magistrate First Class, Sabalgarh, dismissed his private complaint. He alleged that, on 7 October 2015, a car intercepted him and his father, Ramroop Tyagi, as they returned from court. Respondents 2–6 got out, and Dwarika fired at his father. FIR Crime 340/2015 at Kailaras initially invoked IPC Sections 147 and 307 and Arms

Act Sections 25/27. After Ramroop died on 8 October, Section 302 was added. Singh alleged that political pressure had distorted the investigation.

In WP 365/2016, the State represented that a closure report had been filed. On that basis, the High Court directed Singh on 4 November 2016 to object to the final report or pursue a private complaint. The Court recorded that the police had prepared a closure report dated 24 July 2016 but had never filed it in court. Singh filed a private complaint on 26 November 2016 under IPC Sections 302, 347 and 149 and Arms Act Sections 25/27, attaching a photocopy of the prepared report and the earlier order. His statement and that of a witness were recorded in January 2017. The Magistrate repeatedly adjourned the matter for a police report and further action during 2017–19. A police status report was received on 11 April 2019. Its text, reproduced in the order, expressly stated that a closure report had been prepared, referring to cross-cases, earlier hostility and an alleged lack of support for the murder accusation.

On 9 September 2019, in MCRC 36918/2019, the High Court again proceeded on the mistaken impression that the closure report was already pending. It directed the Magistrate, on an application, to consider the final report and complaint together, treating the latter as a possible protest petition to avoid inconsistent decisions, preferably within two months. That order was filed before the Magistrate. Nevertheless, on 22 October 2019, he dismissed the complaint, referring to another case against the complainant's side, prior enmity and the prepared closure report. He neither required the report to be filed nor reconciled his course with the High Court's orders. Respondents 2–6 had withdrawn their own Section 482 challenge to the FIR on 8 November 2016; that withdrawal did not decide the merits. In the present application, the High Court called for the lower court record and police diary. The JMFC's letter of 22 November, reproduced in the order, was read as explaining that the police had not filed the closure report because the complainant had not appeared or been served in connection with its consideration. He was, however, pursuing a complaint before that same court.

2. Precedents — Considered : *Manharibhai Muljibhai Kakadia v. Shaileshbhai Mohanbhai Patel; (2012) 10 SCC 517*, was quoted at length on a suspect's right of hearing. Before process is issued in a complaint inquiry under Sections 200–204 CrPC, a suspect cannot demand participation in the Magistrate's decision whether to proceed. Section 401(2), however, expressly protects an accused or 'other person', including an identified suspect before process, when the complainant challenges a Section 203 dismissal in revision. Reversal may prejudice the suspect by reviving terminated proceedings, so an opportunity to defend the dismissal must be given. The High Court acknowledged this binding distinction. It then stated that notice was not being issued to respondents 2–6 in the present case because it was correcting the Magistrate's failure to comply with earlier directions and statutory procedure, without deciding whether their alleged conduct constituted an offence.

Jakia Nasim Ahesan v. State of Gujarat; (2011) 12 SCC 302, was quoted on the sequence for a final report and its reliance *on Bhagwant Singh v. Commissioner of Police*. A report under Section 173(2)(i) proposing that there is no sufficient ground to proceed must first be placed before the Magistrate. Before deciding against cognizance or against proceeding with named persons, the Magistrate must give the informant notice and an opportunity to be heard on the report, with the materials supplied as required by law. The High Court applied that sequence in rejecting the police's explanation for retaining the report. A requirement of judicial notice at a later stage could not justify the investigating police withholding the report, particularly when the complainant was already before the court.

The order also reproduced the Court's earlier directions in WP 365/2016 and MCRC 36918/2019. They form part of the binding procedural history of this dispute, rather than independent Supreme Court holdings. It referred to *Virendra Singh v. State of M.P.*, MCRC 37389/2019, in which the Director General's affidavit addressed a wider backlog of final and enquiry reports that had not been filed.

3. Statutes considered : Section 482 CrPC was invoked to correct the Magistrate's dismissal and secure consideration of the report and complaint according to law. Section 173(2)(i) CrPC concerns forwarding the police final report to the Magistrate. The Court treated retention of a prepared closure report by the police as contrary to that procedure. Sections 200, 202, 203 and 204 govern examination on a private complaint, inquiry, dismissal and issue of process. *Manharibhai* explains the suspect's participation and the termination of proceedings when a complaint is dismissed. Section 401(2) requires an accused or other person to be heard

before a prejudicial revisional order; the Court acknowledged that distinct revision setting. The alleged IPC homicide, unlawful assembly and related offences, and Arms Act Sections 25/27, formed the background to the complaint and FIR. Their ingredients were not finally determined. The order did not convict anyone, decide that cognizance must be taken or make a binding assessment of the dying declaration.

4. Issues : (i) Could Kailaras police retain a prepared closure report at the station because notice had not been served on the complainant, when two earlier High Court orders and the pending private complaint assumed or required judicial consideration of the report? (ii) Did the Magistrate err in dismissing the complaint despite the prepared report, status statement, earlier directions and alleged dying declaration, without obtaining the report and following the procedure directed by the High Court? (iii) Was notice to the named proposed accused required before this limited procedural remand under Section 482, in light of the Supreme Court's rule for a complainant's revision against a Section 203 dismissal? The question whether the alleged homicide and accusations against the named respondents were proved remained entirely open.

5. Ratio / Findings : The High Court first verified a basic matter that had been overlooked in the earlier proceedings. Despite counsel's earlier representation and the Magistrate's use of a copy, the original closure report had never been presented to the court. The police had prepared it, as the status report confirmed, but retained it at the station. The explanation that notice had not been served on the complainant was untenable. *Jakia Nasim Ahesan* and *Bhagwant Singh* place the notice requirement at the Magistrate's consideration of the submitted final report, before dropping all or part of the proceeding. The complainant was already pursuing a complaint before that very court, which also undermined any claimed practical impediment. The Court found that the police had deliberately acted to benefit the proposed accused and directed an inquiry by the superior police authority, leaving the identification of the responsible officers to that inquiry.

The Magistrate had the photocopy, police status report and earlier High Court orders. He nevertheless neither required the police to file the final report nor considered the complaint in accordance with the directed protest-petition procedure. His reference to enmity was insufficient: hostility could operate either way, and he had not addressed the alleged dying declaration. The High Court treated the dismissal as a breach of procedure. It did not find the proposed accused guilty or hold that the closure recommendation was false on the merits. It set aside the dismissal and required a fresh decision according to law, taking account of the actual report, the earlier orders and the order permitting withdrawal of the accused's petition, without being influenced by the former dismissal's observations.

The Court acknowledged *Manharibhai*'s express rule under Section 401(2) requiring a hearing in a complainant's revision against a Section 203 dismissal, since revival could prejudice a suspect. It nevertheless dispensed with notice to proposed accused respondents 2–6 here. It stated that it was correcting blatant noncompliance without deciding the merits and that further notice would delay the proceedings. The original allegation, the police grounds for closure and the status of the dying declaration remained for the Magistrate to assess according to law.

6. Relief : The Hon'ble High Court allowed the Section 482 application. It set aside the JMFC's order dated 22 October 2019 dismissing the complaint and remanded the matter for fresh consideration in light of WP 365/2016, MCRC 36918/2019 and MCRC 5544/2016, without being influenced by the earlier dismissal's observations. Kailaras police were directed to file the final report within three days, and the JMFC was to complete the exercise within two months. Singh was to appear before the court below on 6 December 2019. The Additional Director General of Police, Chambal Range, was directed to identify within one month the officers responsible for unauthorised retention and report the proposed action to the Principal Registrar. Copies were to be sent promptly, and the prosecutor was to inform the ADGP. The order did not direct issue of process against respondents 2–6, taking of cognizance, a finding on homicide or final acceptance or rejection of the closure report.

Vijay Singh v. State of M.P. and Others, M.Cr.C. no. 46932/2019, 30/11/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (976) Prev Next

Headnote :- Retaliatory FIR / alleged mala fides and cross-litigation - *Renu Kumari v. Sanjay Kumar; (2008) 12 SCC 346*, explained the categories

in *R.P. Kapur* concerning a legal bar, absence of an offence and absence of legal evidence, as well as *Bhajan Lal*'s illustrative categories of abuse. It held, however, that once a cognizable offence is disclosed, the informant's alleged motive is generally secondary to the material collected during investigation and the evidence at trial. A court must distinguish a case in which there is no legal evidence from one in which it is asked to assess whether the available evidence will support the accusation. Here, the prior prosecutions and admitted hostility between the families could support either a theory of false implication or a motive for the alleged act. The High Court therefore declined to decide the claimed 'counterblast' at the Section 482 stage. The complainant's allegations under IPC Sections 354, 323, 294 and 506 were treated as prima facie disclosing a cognizable offence; their truth remained a matter for trial.

Quashing / early investigation and defence limits - *Munshiram*, *Teeja Devi* and *Ujjal Kumar Burdhan* (quoting *Swapan Kumar Guha* and *Jeffrey J. Diermeier*) protect the investigation of disclosed offences from premature interruption, subject to exceptional cases of abuse. *XYZ* and *S. Martin* caution against a roving inquiry before investigation is complete. *S. Khushboo* preserves intervention where the allegations, taken at face value, disclose no offence or where there is manifest abuse, citing *Medchl Chemicals*, *Zandu Pharmaceutical* and *Shakson Belthissor*. *Amit Kapoor* requires an assessment of the prima facie allegations and the prosecution record without conducting a mini-trial. It confines *Madhavrao*'s rationale to its special circumstances involving a predominantly civil dispute, rather than treating bleak prospects of conviction as a universal ground for quashing. *Ajay Kumar Das*, *Mohd. Akram Siddiqui*, *Gourishetty Mahesh*, *Padal Venkata Rama Reddy*, *M. Srikanth*, *M.N. Ojha*, *CBI v. Arvind Khanna and Kunwar Singh* were discussed in relation to the sparing and reasoned exercise of power, the narrow exception for defence documents that are public or undisputed, and the refusal to test disputed defences at this stage. *Sangeeta Agrawal* requires reasons specific to the case, rather than a bare citation of authorities. The Court applied this common principle of restraint and declined the invitation to assess the merits for the purpose of quashing.

FIR delay / trial evaluation - The alleged occurrence was between 7 and 7:15 p.m. on 4 March 2020, and the FIR was registered at 6 p.m. on 5 March. The High Court held that a delay of a few hours or overnight is not, by itself, fatal. Whether the prosecution plausibly explains the delay and what effect it has on credibility are questions for trial.

Alibi / time of alleged offence - A plea of alibi concerns where the accused was when the offence allegedly occurred, not where he was when an FIR was lodged. The applicant said that he came to Gwalior High Court on 5 March 2020, whereas the FIR placed the incident on the evening of 4 March. He did not claim that he was absent at the time of the alleged offence. A compromise application under Section 320 was not relied on because neither side appeared for verification on four dates, and consent remained unestablished.

Case-note :- ***1. Facts :*** Vijay Singh Jatav, a retired Army employee, petitioned under Section 482 CrPC to quash the FIR in Crime 24/2020 registered at Ater, Bhind, against him under IPC Sections 354, 323, 294 and 506 on respondent 2's complaint. He described longstanding hostility between the two households. His wife had earlier complained that respondent 2's husband, Prahlad Jatav, had harassed her. Prahlad was convicted under IPC Section 354-A in February 2016. On appeal in July 2017, his six-month custodial sentence was replaced by a fine of Rs 4,000. Vijay's wife lodged another case in 2019 against Prahlad and two others for house trespass, hurt, threat, abuse and common intention. Vijay also asserted that Prahlad later raped his wife, but that the police registered lesser offences. This prompted a separate Section 482 application filed at Gwalior on 5 March 2020.

Vijay described the FIR against him as a retaliatory counterblast. He said that the alleged occurrence was between 7 and 7:15 p.m. on 4 March 2020, whereas the FIR was registered at 6 p.m. on 5 March, leaving time for deliberation. He also claimed that he was away in Gwalior to file the other petition on 5 March. State counsel opposed quashing. Vijay's counsel conceded that there had been further litigation in 2021 and cited *Bhajan Lal* on malice. The High Court considered whether the allegations disclosed a cognizable offence and the proper stage for deciding questions of motive, reporting delay and alibi. Separately, a compromise application under Section 320 had been filed. The parties did not appear before the Principal Registrar for verification on 26 March, 11 August, 18 August or 9 September 2021, leaving it uncertain whether the complainant had consented.

2. Precedents — Considered : Counsel invoked *State of Haryana v. Bhajan Lal; 1992 Supp (1) SCC 335*, in support of the plea that the proceedings were malicious. The Court addressed that contention through *Renu Kumari v. Sanjay Kumar; (2008) 12 SCC 346*. The analysis quoted from that decision identifies the three purposes of Section 482 and the exceptional nature of its exercise. It sets out the categories in *R.P. Kapur v. State of Punjab* concerning a legal bar, allegations that disclose no offence on their face, and absence of legal evidence. It also distinguishes between absence of legal evidence and an invitation to weigh the available evidence. It recounts *Bhajan Lal*'s illustrative categories, including allegations that disclose no offence on their face or proceedings attended by manifest malice. It stresses, however, that where a cognizable offence is alleged, the informant's mala fides alone are of secondary importance and cannot take the place of investigation or trial. *Renu Kumari* cites *Dhanalakshmi*, *P.P. Sharma*, *Rupan Deol Bajaj*, *O.C. Kuttan*, *O.P. Sharma*, *Rashmi Kumar*, *Satvinder Kaur*, *Rajesh Bajaj* and *M. Devendrappa*. The High Court applied *Renu Kumari* to the hostility between the households. It regarded enmity as capable of motivating both a crime and a false charge; the counterblast theory therefore required evidence.

Munshiram v. State of Rajasthan; (2018) 5 SCC 678, cautions against quashing before a proper investigation unless there is an abuse of process. *Teeja Devi v. State of Rajasthan; (2014) 15 SCC 221*, protects the statutory investigation of a prima facie cognizable offence, except in exceptional cases of malicious and vexatious prosecution. *State of Orissa v. Ujjal Kumar Burdhan; (2012) 4 SCC 547*, quoted *State of W.B. v. Swapan Kumar Guha on the role of* investigation in gathering evidence once an offence is disclosed. It also quoted *Jeffrey J. Diermeier* on the breadth of inherent power, its non-arbitrary character and the need to exercise it sparingly. *XYZ v. State of Gujarat; (2019) 10 SCC 337*, disapproved premature quashing based on a disputed settlement concerning consent and a roving inquiry. *S. Martin* likewise rejected an assessment of the merits before investigation was complete.

S. Khushboo v. Kanniammal; (2010) 5 SCC 600, quoted *Bhajan Lal*'s examples of allegations disclosing no offence and malicious proceedings. It discussed *Medchl Chemicals*, *Zandu Pharmaceutical* and *Shakson Belthissor* in preserving exceptional intervention against harassment through wholly untenable complaints while protecting genuine complaints. *Sangeeta Agrawal v. State of U.P.; (2019) 2 SCC 336*, requires the court to identify the material facts and give reasons for interfering or declining to interfere. *Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460*, was quoted extensively on the fine jurisdictional distinction between revision and inherent powers. It requires uncontroverted allegations and prosecution materials to be read as a whole, with attention to the basic ingredients of the offence, manifest improbability and legal bars. It calls for caution and prohibits a full inquiry into the evidence or a prediction of conviction. Civil remedies can coexist with criminal proceedings; special circumstances involving a predominantly civil dispute do not establish a general test based on low prospects of conviction. Its reconsideration of *Madhavrao Jiwajirao Scindia* through *P.P. Sharma* and *M.N. Damani* explains that limitation.

Ajay Kumar Das v. State of Jharkhand; (2011) 12 SCC 319, reiterated *Bhajan Lal*'s requirement that the power be exercised rarely and with circumspection, without an inquiry into the reliability of the FIR allegations. *Mohd. Akram Siddiqui v. State of Bihar; (2019) 13 SCC 350*, allows an accused's document to be considered in an appropriate case if it is a public document or its veracity is not disputed by the complainant, citing *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* The applicant did not claim that he was absent at the time of the alleged offence. *Gourishetty Mahesh*; *(2010) 11 SCC 226*, balances protection against abuse with the need to avoid prematurely terminating a plausible prosecution. *Padal Venkata Rama Reddy*; *(2012) 12 SCC 437*, discusses the exceptional and discretionary exercise of Section 482 power, the availability of an effective specific remedy, and the limits of *Madhavrao*'s special civil circumstances, quoting *Bhajan Lal*, *Indian Oil* and *Saroj Kumar Sahoo*. *M. Srikanth*; *(2019) 10 SCC 373*, restates the power to quash where the allegations, taken at face value, disclose no offence. *M.N. Ojha*; *(2009) 9 SCC 682*, preserves intervention against harassment through absurd allegations while condemning arbitrary obstruction of proceedings. *CBI v. Arvind Khanna; (2019) 10 SCC 686*, prohibits findings on disputed defences of the accused after cognizance. *State of M.P. v. Kunwar Singh*, CRA 709/2021, 30 June 2021, rejects

detailed pretrial scrutiny and any requirement that the FIR be encyclopedic. The Court considered these decisions together as the framework requiring restraint, applied it to the disclosed offence, and left contested factual defences for trial.

3. Statutes considered : Section 482 CrPC was invoked as the source of inherent jurisdiction, whose recognised purposes are to give effect to orders under the Code, prevent abuse of process and secure justice. Its exercise at the FIR stage concerns allegations that are legally insufficient on their face, a legal bar or exceptional abuse; it does not involve deciding credibility, the explanation for delay or a disputed alibi on the basis of the accused's assertions. IPC Sections 354, 323, 294 and 506 concern the alleged offences against modesty, hurt, obscenity and intimidation in the complaint. The Court treated the allegations as disclosing a cognizable offence without adjudicating each element or a final charge. Section 320 CrPC was invoked for compromise, but verification failed. The Court neither found a lawful concluded compromise nor approved compounding. It did not analyse any statutory provision specifically governing alibi.

4. Issues : (i) Whether prior cross-litigation and admitted animosity established, at the FIR-quashing stage, that respondent 2 had lodged a false counterblast despite allegations constituting a cognizable offence. (ii) Whether the overnight interval between the alleged act on 4 March and the report on 5 March, by itself, justified quashing, or whether its explanation and effect should be tested at trial. (iii) Whether proof that Vijay came to Gwalior court on the date of the FIR furnished an alibi for the alleged act on the previous evening. (iv) Whether a proposed compromise under Section 320 supported disposal when the parties did not appear for verification and respondent 2's consent was not established.

5. Ratio / Findings : The High Court held that the acts alleged in the FIR disclosed a cognizable offence. It declined to treat the hostility between the families and the earlier convictions or complaints as conclusive proof of fabrication. Under *Renu Kumari* and *Bhajan Lal*, proceedings that are manifestly malicious may be quashed in an appropriate case. A prior grudge, however, can point in either direction: it may motivate a false accusation or conduct giving rise to an accusation. Which occurred is a question requiring evidence. The extensive precedents on Section 482 reinforced that investigation into facts disclosing an offence should proceed. Courts may intervene where there is a legal bar, allegations that disclose no offence on their face, a wholly untenable case or clear abuse, but must not assess the likelihood of conviction or weigh the accused's disputed factual defence. The Court treated the counterblast allegation as a disputed question of fact. It did not find that the allegations made by both sides were true.

The FIR placed the occurrence between 19:00 and 19:15 on 4 March 2020; it was registered at 18:00 on 5 March. The Court did not make a factual finding that the interval was trivial or satisfactorily explained. It held that delay is not inevitably fatal, and that the existence of a plausible explanation and the effect of the interval on reliability must be assessed at trial. Delay alone therefore did not justify quashing an FIR that disclosed a cognizable offence on its face. The alibi argument failed because of the chronology on which it rested. A plea of alibi requires presence elsewhere at the time of the alleged offence. Vijay relied on his attendance at Gwalior High Court on 5 March, the day of FIR registration, but did not assert that he was absent between 7 and 7:15 p.m. on 4 March. His later visit to the High Court did not establish that he was elsewhere when the alleged incident occurred. This did not amount to a finding that he was present at the incident.

The Section 320 application did not alter the outcome. The parties had failed to attend four appointments before the Registrar, and it was unknown whether the complainant had consented. In the absence of a verified compromise, the Court considered the grounds urged for quashing and declined relief.

6. Relief : The Hon’ble High Court dismissed the Section 482 application. The FIR in Crime 24/2020 under IPC Sections 354, 323, 294 and 506 was not quashed.

Vijay Singh Jatav v. State of M.P. and Others, M.Cr.C. no. 18651/2020, 11/01/2022, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (977) Prev Next

Headnote :- Matrimonial cruelty / specific allegations against relatives at quashing - *Taramani Parakh v. State of M.P.; (2015) 11 SCC 260*, cautions against omnibus allegations against relatives, but excludes a pretrial inquiry into reliability where a triable case is alleged. It

distinguished *Neelu Chopra*, *Manoj Mahavir Prasad Khaitan* and *Geeta Mehrotra* on their particular facts and treated them as laying down no inflexible rule protecting relatives. Here, the wife alleged a Rs 5 lakh dowry demand and threats by her husband Vikas Anand David, cash demands by both applicants, and a separate visit and death threat by his elder brother, applicant 2. The High Court found specific allegations against the brother. It noted that the living mother-in-law was not being prosecuted and regarded the complainant's focus on the husband and elder brother-in-law as indicating that the allegations were not exaggerated. The IPC Section 498-A FIR and pending trial proceedings were allowed to continue on the allegations accepted at face value.

Section 482 / no roving factual inquiry - *XYZ v. State of Gujarat; (2019) 10 SCC 337*, condemned premature quashing on a disputed settlement and a finding of consensual relations before investigation was complete. *State of T.N. v. S. Martin; (2018) 5 SCC 718*, likewise rejected premature assessment during investigation. *Ajay Kumar Das* applied *Bhajan Lal*'s caution against examining FIR reliability. *Gourishetty Mahesh*; *(2010) 11 SCC 226*, and *M. Srikanth*; *(2019) 10 SCC 373*, preserve intervention where allegations accepted at face value disclose no offence, while protecting legitimate prosecution. *CBI v. Arvind Khanna* and *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, rejected minute evaluation of the defence; Kunwar Singh also reiterated that an FIR need not be an encyclopedia. *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha* were cited for similar restraint. The applicants' rival account of the wife's alleged relationship, counselling and refusal to return required proof and could not displace specific allegations at this stage.

Defence documents / scope of the exception - *Mohd. Akram Siddiqui v. State of Bihar; (2019) 13 SCC 350*, states that quashing courts ordinarily do not assess defence documents. In an appropriate case, a public document or a document whose veracity the complainant does not dispute may be considered. The passage cites *Yin Cheng Hsiung*, *Bhajan Lal* and *Harshendra Kumar D.* The High Court quoted that exception, took the FIR allegations at face value and held that the applicants' disputed account of family and counselling events required proof at trial.

Case-note :- ***1. Facts :*** Vikas Anand David and his elder brother Vishal applied under Section 482 CrPC to quash Crime 25/2019 at Mahila Thana, Jabalpur, and RCT 2369/2019 pending before the Judicial Magistrate First Class. Respondent 2, an advocate, alleged that she married applicant 1 on 24 January 2019 under Christian rites. She said that the brothers had concealed that the family followed Christian rites, although a Hindu-style entry ritual was performed when she reached the matrimonial home. According to her, the husband immediately said that family pressure had led him to marry her and that he loved someone else. She alleged that he said she 'should not have brought any articles in dowry' and had married her only for money, and demanded Rs 5 lakh. Both applicants allegedly insisted that she should have brought cash and misbehaved with her. She described five days of threats and ill-treatment in the matrimonial home, including denial of warm clothing in winter and medical care when ill. Her husband allegedly took her jewellery, abused her when she objected and threatened that she would be buried and nobody would find her. At her sister-in-law's birthday celebration, she was allegedly compelled to dance before others; her objection led to a quarrel and a threat of exclusion from the home. When she first went to her parental home, the husband allegedly took her wedding jewellery and money and insisted that she return with the demanded cash. She alleged renewed dowry demands and quarrels when she returned. The mother-in-law then called the elder brother, who scolded her and, when she objected, allegedly threatened that she would be killed and buried in the house and nobody would find her. She also alleged subsequent exclusion from the house, character attacks in the Christian community and the husband's failure to answer her calls or messages.

The applicants asserted that the wife had a relationship with Ashish Patel and that relatives and pastor Lalit Solomen discussed reconciliation at her parental home, but she refused to return. The husband approached Parivar Paramarsh Kendra on 28 March 2019. According to the applicants, the counsellor tried to reconcile them, but on 15 April she refused to return and threatened to lodge an FIR. They described the dowry and cruelty allegations as false and referred to misuse of IPC Section 498-A. The High Court examined the FIR allegations at face value under the Section 482 threshold.

2. Precedents — Considered : *XYZ v. State of Gujarat; (2019) 10 SCC 337*, was quoted for disapproving a roving inquiry and reliance on a disputed settlement to find a sexual relationship consensual while allegations of blackmail and coercion still required investigation. The present Court applied its procedural restraint to the applicants' account of another relationship and reconciliation, which could not be accepted on their assertion. *State of Tamil Nadu v. S. Martin; (2018) 5 SCC 718*, was quoted against premature evaluation during investigation. *Ajay Kumar Das v. State of Jharkhand; (2011) 12 SCC 319*, invoked *State of Haryana v. Bhajan Lal* to emphasise sparing exercise of Section 482 power and avoidance of an inquiry into reliability or genuineness.

Mohd. Akram Siddiqui v. State of Bihar; (2019) 13 SCC 350, states that a court ordinarily avoids assessing defence documents but may, in an appropriate case, consider a public document or one whose veracity the complainant does not dispute. The passage cites *Yin Cheng Hsiung*, *Bhajan Lal and Harshendra Kumar D. v. Rebatilata Koley for* that exception. The High Court quoted this qualification and held that the applicants' disputed claims concerning counselling and the wife's alleged relationship required proof at trial.

State of A.P. v. Gourishetty Mahesh; (2010) 11 SCC 226, permits intervention where allegations accepted at face value disclose no offence, a legal bar applies or the prosecution is demonstrably malicious. It also protects legitimate prosecution from being stopped through an assessment of evidence. *M. Srikanth v. State of Telangana; (2019) 10 SCC 373*, permits quashing where uncontroverted FIR allegations and the material collected in support disclose no offence. *CBI v. Arvind Khanna; (2019) 10 SCC 686*, condemned minute findings on disputed defence facts after cognizance. *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, decided on 30 June 2021, cautioned against scrutiny of evidence as at trial in Section 482 proceedings and reiterated that an FIR need not narrate everything. The High Court applied this restraint because the wife alleged a concrete dowry demand and specific acts by each applicant. It also cited *Munshiram v. State of Rajasthan; Teeja Devi v. State of Rajasthan; State of Orissa v. Ujjal Kumar Burdhan; S. Khushboo v. Kanniammal; Sangeeta Agrawal v. State of U.P.; Amit Kapoor v. Ramesh Chander; Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy*; and *M.N. Ojha v. Alok Kumar Srivastav*, (2009) 9 SCC 682, for a similar view on Section 482.

Taramani Parakh v. State of M.P.; (2015) 11 SCC 260, supplied the qualification concerning matrimonial cases. Absurd allegations, failure to disclose an offence or abuse of process may justify quashing. Courts must be cautious with omnibus allegations against relatives, but must not determine reliability before trial where a triable harassment case is alleged. *Taramani* reproduced *Amit Kapoor*'s principles concerning allegations taken at face value, legal bars, coexistence of civil and criminal claims and exclusion of external defence material. It distinguished *Neelu Chopra v. Bharti*, where the husband's parents were old, the husband had died and the main allegations concerned him, with no cogent material against the others. In *Manoj Mahavir Prasad Khaitan v. Ram Gopal Poddar*, a jewellery-theft case lodged during an earlier matrimonial-cruelty prosecution was found absurd. *Geeta Mehrotra v. State of U.P.* concerned the husband's brother and sister after divorce. *Taramani* treated those decisions as dependent on their facts and as laying down no inflexible rule beyond the settled quashing principles. Here, the Court relied on specific allegations that applicant 2 had insisted on cash, scolded the wife after being called and threatened her when she objected.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR and pending JMFC proceeding. The Court considered whether the uncontroverted allegations broadly disclosed an offence and declined to assess credibility or the applicants' disputed defence. IPC Section 498-A arose in the matrimonial-cruelty prosecution and the parties' submissions. The alleged Rs 5 lakh demand and harassment supplied the prima facie factual basis. The Christian and Hindu rites formed part of the complaint's factual narrative.

4. Issues : Whether the wife's allegations of a Rs 5 lakh demand and mistreatment by the husband, together with the specified conduct and threat of his elder brother, accepted as true at the Section 482 stage, disclosed a triable cognizable offence and justified continuation of FIR Crime 25/2019 and RCT 2369/2019. Whether the allegations against the elder brother were merely omnibus references to kinship or concerned specific conduct. Whether the applicants' account of an earlier relationship, failed counselling and refusal to return could be accepted to quash the FIR before trial, having regard to the

ordinary limits on defence material and the quoted exception for a public document or one whose veracity was not disputed.

5. Ratio / Findings : The Court took the FIR allegations at face value for the threshold inquiry. The husband was specifically alleged to have demanded Rs 5 lakh, taken wedding jewellery and money, threatened the wife and behaved cruelly during and after the brief cohabitation. Both applicants were alleged to have insisted on cash. The elder brother was also said to have been called after a quarrel, scolded her and, when she objected, threatened that she would be killed and buried in the house and nobody would find her. These allegations identified each applicant's conduct.

The Section 482 authorities permit intervention where allegations accepted as true disclose no offence, a legal bar applies or exceptional abuse is apparent. They exclude a mini-trial of credibility or the rival account. The applicants' claims about Ashish Patel, counselling and refusal to return were disputed defence facts requiring evidence. *Mohd. Akram Siddiqui*'s quoted exception permits consideration, in an appropriate case, of a public document or one whose veracity the complainant does not dispute. The Court held that the applicants' defences required proof during trial. *Taramani*'s caution concerning relatives was met by the specific allegations against applicant 2, in contrast with the fact-specific authorities distinguished in that decision. The Court also noted that the living mother-in-law was not being prosecuted and regarded the complainant's focus on the husband and elder brother-in-law as indicating that her allegations were not exaggerated. It held that the uncontroverted allegations disclosed a cognizable and triable offence, while their correctness, credibility and reliability were matters for trial.

6. Relief : The Hon'ble High Court dismissed the Section 482 application. Crime 25/2019 at Mahila Thana, Jabalpur, and RCT 2369/2019 before the JMFC continued against both applicants. The disputed defences, credibility and ultimate guilt remained matters for the trial court.

Vikas Anand David and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 38444/2019, 23/02/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Cognizance / accused's defence material - *State of Orissa v. Debendra Nath Padhi; (2005) 1 SCC 568*, holds that an accused has no right to produce defence material at the stage of framing charges or taking cognizance. Under Section 91 CrPC, necessity and desirability depend on the stage and purpose of the request. The provision does not permit a fishing inquiry into innocence at that stage. *Padhi* disapproved *Satish Mehra*'s contrary interpretation of Section 227 and held the broader observations in *Om Parkash Sharma* to be obiter. Applying these principles, the High Court declined to assess Vikas Tiwari's factual defence that his complaint to the Chhattisgarh Chief Secretary about a public officer remained pending and therefore prevented the officer's wife from maintaining a defamation complaint. It treated that assertion as a disputed matter requiring evidence before the trial court.

Quashing / inquiry on allegations taken at face value - *Pramod Suryabhan Pawar v. State of Maharashtra; (2019) 9 SCC 608*, explains the three purposes of Section 482 and the caution required before foreclosing investigation or trial. Drawing on *Inder Mohan Goswami* and *Bhajan Lal*'s illustrative categories, it requires sparing exercise of inherent power and excludes adjudication of competing evidence at this stage. *Dhruvaram Murlidhar Sonar* reserves appreciation of evidence for trial, while permitting quashing where the complaint's allegations do not constitute an offence. *Chilakamarthi Venkateswarlu v. State of A.P.; (2020) 17 SCC 595*, permits a prima facie examination of the record, but not a trial of its reliability. It reiterates *Bhajan Lal* and *Dhanalakshmi* on complaint cases and permits intervention for wholly absent offence ingredients or manifest error in issuing process, while protecting legitimate prosecution. Its discussion also invokes *Zandu Pharmaceutical*, *S.W. Palanitkar*, *M.A.A. Annamalai*, *Sharda Prasad Sinha*, *Nagawwa* and *L. Muniswamy*. The High Court applied this distinction: Tiwari sought acceptance of a factual defence and did not argue that the complaint's allegations, accepted in their entirety, failed to disclose an offence under IPC Section 500.

Writ challenge / defamation cognizance - Article 226 was invoked against the Bhopal Magistrate's order taking cognizance under IPC Section 500 on Yasmin Singh's complaint about a letter concerning her husband. The Court treated the asserted

pendency of the petitioner's administrative complaint, and its claimed justification for the letter, as a disputed defence requiring proof at trial. It acknowledged the power to quash under Articles 226/227 or Section 482, but dismissed the writ while leaving that defence for the trial court. Counsel's reliance on *Kapil Agrawal* and *Shafiya Khan* concerning harassment did not answer the Court's question about considering the accused's defence material.

Case-note :- ***1. Facts :*** Vikas Tiwari filed a writ petition under Article 226 against the Judicial Magistrate First Class, Bhopal's order dated 10 March 2022 in complaint case RCT/2912/2022. The Magistrate had taken cognizance under IPC Section 500. Tiwari had sent a letter to the Chief Secretary of Chhattisgarh complaining about Aman Kumar Singh, Principal Secretary to that State's Chief Minister. Aman Kumar Singh's wife Yasmin Singh then filed a criminal defamation complaint. Tiwari contended that no defamation offence could be made out until his pending complaint about her husband was decided. He specifically requested consideration of ground 6(h) of his petition, which invoked Supreme Court decisions on quashing criminal proceedings used for harassment or pressure.

The High Court acknowledged its power to quash proceedings. Its question to counsel concerned the basis on which it could consider the accused's disputed defence while reviewing the cognizance order. The Court examined *State of Orissa v. Debendra Nath Padhi and* the Supreme Court passages in *Pramod Suryabhan Pawar* and *Chilakamarthi Venkateswarlu*. It held that Tiwari's defence required proof before the trial court. His argument sought determination of disputed facts, rather than a finding that the complainant's allegations, accepted as true, were legally insufficient.

2. Precedents — Considered : The petitioner relied on *Kapil Agrawal v. Sanjay Sharma, (2021) 5 SCC 542*, and *Shafiya Khan v. State of U.P.; (2022) 4 SCC 549*, for the power to quash criminal proceedings used for harassment or pressure. The High Court explained that its power to quash had never been questioned. Those authorities did not answer its query about considering the accused's contested defence at this stage.

State of Orissa v. Debendra Nath Padhi; (2005) 1 SCC 568, supplied the procedural rule. In the quoted paragraphs 23–28, the Supreme Court held that an accused has no right to introduce material at the stage of framing charges or taking cognizance. Section 227 ordinarily concerns the prosecution record produced under Section 173. Under Section 91, necessity or desirability must be assessed with reference to the stage, proceeding and party making the request. The provision compels production of documents; it does not give the accused an early right to produce defence material or seek a roving inquiry. *Padhi* held that *Satish Mehra v. Delhi Administration* was incorrectly decided insofar as it allowed such material at that stage. The broader observations in *Om Parkash Sharma v. CBI* concerning reliable material produced by the accused were obiter and did not override the statutory framework for framing charges. The High Court applied *Padhi* in declining to evaluate the asserted validity or pendency of Tiwari's separate complaint as a defence to the officer's wife's criminal complaint.

Pramod Suryabhan Pawar v. State of Maharashtra; (2019) 9 SCC 608, was quoted for the three purposes of Section 482: giving effect to orders under the Code, preventing abuse of process and securing the ends of justice. It requires caution because quashing denies the prosecution an opportunity to establish its case through investigation and evidence. The reproduced discussion invoked *Inder Mohan Goswami v. State of Uttaranchal; (2007) 12 SCC 1*, for sparing and careful exercise of the wide inherent power. *State of Haryana v. Bhajan Lal; 1992 Supp (1) SCC 335*, supplied illustrative categories, including allegations disclosing no offence when accepted at face value and malicious proceedings. These examples were not exhaustive. *Pawar*'s discussion of *Dhruvaram Murlidhar Sonar v. State of Maharashtra; (2019) 18 SCC 191*, distinguishes examining whether allegations legally constitute an offence from deciding their truth or weighing evidence. The High Court applied that distinction to Tiwari's request for consideration of his factual defence.

Chilakamarthi Venkateswarlu v. State of A.P.; (2020) 17 SCC 595, was extensively quoted. Its paragraphs 15–23 permit limited examination of the record for a prima facie case and intervention for manifest error in issuing process or absence of basic offence ingredients. They prohibit deciding evidentiary reliability or forecasting conviction as a trial or appellate court would. The extract invokes *Zandu Pharmaceutical Works v. Mohd. Sharaful Haque* against testing evidentiary reliability, and *S.W.*

Palanitkar concerning process issued for acts that do not constitute offences. *M.A.A. Annamalai*, *Sharda Prasad Sinha* and *Nagawwa* concern complaint cognizance where the allegations disclose no offence. *Dharampal* states that inherent power cannot be exercised to do what the Code expressly prohibits. The extract repeats *Bhajan Lal*'s seven illustrative categories. It also quotes *Dhanalakshmi v. R. Prasanna Kumar*; 1990 Supp SCC 686, on reading the complaint as a whole and avoiding a forecast of the trial outcome. *Dhanalakshmi* permits intervention where a complaint discloses no offence or is frivolous, vexatious or oppressive. Where the allegations, read with the complainant's statement on oath, disclose the ingredients and there is no material showing a mala fide, frivolous or vexatious complaint, interference is unjustified. *State of Karnataka v. L. Muniswamy; (1977) 2 SCC 699*, concerns preventing proceedings from becoming an instrument of persecution. The High Court followed the permitted prima facie inquiry and declined to determine the merits of Tiwari's disputed defence.

3. Statutes considered : Article 226 of the Constitution was the stated jurisdiction for challenging the Magistrate's cognizance order. The Court also referred to Article 227 supervisory power and Section 482 CrPC inherent power when explaining the analogous restraint in quashing proceedings; this petition was brought under Article 226. IPC Section 500 was the offence for which cognizance was taken. Section 91 CrPC, considered through *Padhi*, authorises production of documents necessary or desirable for an investigation, inquiry, trial or other proceeding. It does not give an accused a general right to compel defence material at the charge or cognizance stage. Sections 227–228, 239–240 and 173 CrPC appeared in the quoted discussion of the framework for framing charges and the prosecution record relevant at that stage.

4. Issues : Whether the pendency of Tiwari's complaint about a public officer automatically defeated the officer's wife's IPC Section 500 complaint and warranted quashing of the cognizance order. Whether, at this preliminary stage, the High Court could determine the truth, propriety or legal justification of Tiwari's letter on disputed defence material, or examine only whether the complaint's allegations, accepted as true, disclosed an offence or a recognised abuse of process. The power to quash in an appropriate case was not disputed.

5. Ratio / Findings : The Court distinguished its power to quash from the permissible grounds for exercising it. Ground 6(h), concerning harassment and pressure, addressed a power the Court had not questioned. The operative issue was whether the accused could secure termination of the complaint by having his factual explanation accepted. Under *Padhi*, an accused cannot insist on consideration of defence documents at the charge or cognizance stage. Section 91 requires assessment of necessity with reference to the stage and purpose; it does not permit a fishing inquiry into innocence. Tiwari relied on the asserted pendency of his complaint to the Chief Secretary and the justification it allegedly supplied for his statement. Assessing that claim and its effect required determination of contested facts, rather than application of a legal bar apparent on the face of the complaint.

Pawar and *Chilakamarthi* permit an extraordinary writ or Section 482 court to examine allegations and the record at face value, intervene where uncontroverted allegations disclose no offence or the process is manifestly abusive, and prevent criminal proceedings from becoming a means of harassment. They exclude a premature trial of whether Tiwari's letter was correct or his defence valid. The Court expressly noted that Tiwari had not argued that no offence was disclosed even if the wife's complaint allegations were accepted in their entirety. It treated his claim that the criminal case must await resolution of the administrative complaint as a disputed defence requiring evidence. That defence was left for proof before the trial court.

The High Court therefore found no basis to interfere with the Magistrate's order.

6. Relief : The Hon'ble High Court dismissed the writ petition. The 10 March 2022 order taking cognizance under IPC Section 500 remained in force. Tiwari could raise his factual or legal defamation defence before the trial court through evidence in the appropriate proceeding.

Vikas Tiwari v. Yasmin Singh, W.P. no. 13302/2023, 01/07/2023, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Circumstantial evidence / last seen and explanation - The father said that Ramkali left with her husband Vikram to make offerings and was later found dead. The High Court treated this

unrebutted last-seen evidence as a significant link, together with the medical opinion of homicidal head and facial injuries caused by a hard, blunt object. Having held that the prosecution definitely proved that she was last alive in Vikram's company, the Court placed the onus on him to prove that he had neither injured nor murdered her. It found that the defence remained silent and held the circumstantial evidence sufficient to sustain the murder conviction.

Hostile or partly supportive witnesses - Several prosecution witnesses denied parts of the police account. The father disavowed the FIR narrative that he had seen the killing and said that he learned of his daughter's death later. His evidence that the couple left together to offer prayer remained unrebutted in cross-examination. Although most witnesses did not support the prosecution case, the Court relied on this part of his testimony and the combined circumstances to affirm guilt. The father's trial account supplied evidence of last company, rather than an eyewitness account of the killing.

Medical proof of homicidal death - The post-mortem described destructive head and facial injuries, fractures and death from shock due to haemorrhage and injury to vital organs. In cross-examination, the doctor accepted that a fall from a height following dizziness and headache was likely to cause the injury. The recorded evidence also contains his denial that a fall from a height due to dizziness, followed by collision with the floor, was likely to cause such injury. The Court accepted the medical opinion of homicidal death caused by a hard, blunt object as part of the circumstantial case. The seized stone and laboratory report were mentioned; the investigating officer stated that a blood-stained vest had not been tested for blood group. The Section 302 conviction, life imprisonment and Rs 1,000 fine were affirmed.

Case-note :- ***1. Facts :*** Vikram Ahirwar appealed under Section 374(2) CrPC against the Sessions Judge, Vidisha's judgment dated 21 September 2011 in Sessions Trial 86/2011. He was convicted under IPC Section 302 of murdering his wife Ramkali and sentenced to life imprisonment and a Rs 1,000 fine with a default stipulation. They had been married for about eight years and lived at her father Gubre Ahirwar's home. The police account alleged that Vikram suspected her character and harassed her. On 19 November 2010, the couple left to offer prayer at Jhapret Ghat or a temple. The father's reported FIR account was that he later saw Vikram killing Ramkali near riverside bushes and fleeing. At trial, he denied witnessing the killing and said that he learned of her death afterwards. He maintained that Vikram had taken her from home that day to make offerings. In cross-examination, he also spoke of harassment and beating, despite saying in examination-in-chief that the couple lived happily. The High Court relied on their last company as proved by his trial evidence.

A merg intimation and FIR Crime 389/2010 were recorded and the body was examined. A blood-marked triangular stone, other stones, broken bangles, slippers, a shirt and other items were seized. The post-mortem described severe head and facial damage and attributed death to shock from haemorrhage and injury to vital organs. Police recorded witnesses' statements, arrested Vikram and filed the charge sheet. He denied guilt in his Section 313 examination and called no defence evidence. Seven prosecution witnesses testified. Julfa and Udhet Singh denied several incriminating details and were treated as hostile, although parts of their evidence described the couple's relationship or journey. The father said that no killing occurred in his presence. The defence relied on the absence of an eyewitness, material omissions and contradictions, incomplete medical evidence and the absence of an overt act in the father's courtroom account. The State supported the conviction.

2. Precedents — Considered : The Court treated last-seen evidence as an important link in the chain of circumstances. It held that the prosecution had definitely proved that Ramkali was last seen alive with Vikram, considered the medical finding of homicidal injury and called for a reasonable explanation of her death. On those facts, it placed the onus on Vikram to prove that he had neither injured nor murdered her, and found that the defence remained silent.

3. Statutes considered : IPC Section 302 provided the murder conviction and life sentence under appeal. Section 374(2) CrPC provided the appellate jurisdiction, and Vikram denied the accusation in his trial-stage Section 313 examination. The Court applied its circumstantial-evidence and last-seen analysis after finding the relevant prosecution facts proved, and placed the onus on Vikram to explain the death and prove that he had neither injured nor murdered Ramkali. The fine and default stipulation were maintained.

4. Issues : (i) Whether Ramkali's death was homicidal or the head and facial injury could be explained by a fall. (ii) Whether, despite hostile testimony and the father's denial of seeing the killing, proof that Ramkali left alive with Vikram and was later found dead near the river established his guilt and placed an onus on him to explain the death. (iii) Whether the claimed contradictions and omissions required acquittal or the Section 302 conviction and sentence should stand. The High Court identified last-seen theory as a distinct question and decided the appeal on that basis.

5. Ratio / Findings : Dr P.K. Jain's post-mortem evidence described severe destructive injuries to the head and face, fractures and death from shock due to haemorrhage and injury to vital organs. In cross-examination, he accepted that a person suffering dizziness and headache was likely to sustain the injury by falling from a height. The recorded evidence also contains his denial that a person falling from a height due to dizziness and colliding with the floor was likely to sustain such injury. The Court accepted the medical opinion that death was homicidal and the injuries were caused by a hard, blunt object. The body and a blood-marked stone were found near the river. FSL Exhibit P18 was mentioned; the investigating officer said that the blood-stained vest had not been tested for blood group.

The Court acknowledged that most prosecution witnesses had not fully supported the prosecution account. Julfa and Udhet Singh denied some alleged threats or beating, and the father did not maintain that he had seen the fatal assault. His statement that the couple left together to make offerings remained unrebutted in cross-examination. In the evidence quoted by the Court, he said that Vikram and Ramkali went to the shrine together and that he learned of her death later. The Court found their last company proved and considered it with her subsequent discovery dead near the river and the medical finding of homicidal injury. It treated last seen as a significant link calling for a reasonable explanation. On those facts, it placed the onus on Vikram to prove that he had neither injured nor murdered his wife, and found that the defence remained silent. It held the evidence sufficient to establish guilt despite the absence of accepted eyewitness testimony.

The defence submissions of false implication and absence of previous criminal antecedents did not persuade the Court to disturb the trial findings. The father's trial testimony disavowed the eyewitness allegation in the initial account but retained the last-seen evidence on which the High Court relied.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the 21 September 2011 conviction under Section 302 and the sentence of life imprisonment and Rs 1,000 fine with the trial court's default stipulation. Vikram was in custody and was directed to serve the remaining sentence. Copies of the judgment were directed to be sent to the jail authorities and, with the record, to the trial court.

Vikram Ahirwar v. State of Madhya Pradesh, Cr.A. no. 111/2012, 07/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (980) Prev Next

Headnote :- POCSO / child prosecutrix and corroboration - A child complainant's reliable testimony does not require further corroboration as a legal prerequisite. The prosecutrix identified Vimal and described his taking her near a graveyard, assaulting her and threatening to kill her if she told anyone. Her account was supported by prompt disclosure and by her mother's and Kallu's immediate observations of her bleeding and the appellant leaving. The MLC recorded a ruptured hymen and a bleeding vaginal-wall laceration, and the FSL report detected human sperm on the vaginal specimens. The High Court held that guilt was proved beyond reasonable doubt. This evidence reinforced the child's reliable testimony; corroboration was not a mandatory condition for accepting it. The doctor acknowledged that a corn stalk could cause the injury and gave no specific opinion of rape. Considering the evidence as a whole, the Court rejected the suggested corn-stalk explanation. The FSL reported human sperm in the specimens; the DNA report was apparently not received.

POCSO / child status - The prosecutrix was about eight when the 2014 incident occurred. A school headmaster proved a school record showing her date of birth as 12 July 2006, but acknowledged that it did not mention the underlying Anganwadi certificate. The age challenge did not succeed on the record before the Court, which affirmed the Section 4 POCSO conviction.

Charge / aggravated rape specification - The police charge sheet included IPC Section 376(2)(i),

but the trial court framed a charge under Section 376 only. The High Court held that a specific charge should be framed and that an unqualified Section 376 charge could not be treated as one under Section 376(2)(i). It affirmed the conviction under Section 376 and Section 4 POCSO, with no separate IPC sentence. The ten years' rigorous imprisonment and fine under POCSO, with default imprisonment, were maintained. The acquittal under Section 363 formed part of the trial result.

Case-note :- ***1. Facts :*** Vimal appealed under Section 374 CrPC against the judgment dated 27 April 2015 of the 2nd Additional Sessions Judge, Sironj, Camp Kurwai, in Special Sessions Trial 179/2014. The trial court acquitted him of kidnapping under IPC Section 363 and convicted him under IPC Section 376 and POCSO Section 4. For the POCSO offence, it imposed ten years' rigorous imprisonment and a Rs 2,000 fine with default imprisonment; no separate sentence was imposed under Section 376. The appeal challenged the child's age, the reliability of the testimony and the finding of guilt, alleging contradictions and false implication. The High Court recorded that the FIR was lodged within three hours.

The prosecution case was that the child and her siblings had gone towards a pond and Vimal lured her towards a graveyard. The report alleged that he inserted his finger in her private part and sexually assaulted her. The child testified that, before fleeing, he threatened to kill her if she told anyone. She was found bleeding and reported the assault. Her mother Shayra Bi and Kallu heard her screams, saw her blood-stained condition, received a prompt account and saw Vimal leaving; neither witnessed the assault itself. Her father Sabir Shah heard the account after returning from work and lodged the report. Her brother Majid described Vimal taking her aside, but said that she later spoke of an injury caused by a blade and did not tell him of rape. The child denied the defence suggestions that a quarrel over Rs 20 for corn led to a false accusation or that a fall and a corn stalk caused her injury.

Dr Mamta Pardesi recorded that the secondary sexual characters were not developed. She found a ruptured hymen and a bleeding 3 x 1/2 x 1/4 cm vaginal-wall laceration caused by a hard, blunt object, and noted a possibility of sexual intercourse. In cross-examination, she accepted that a corn stalk could cause the injury and that the hymen could rupture during play. She had given no specific opinion of rape. FSL Exhibit P17 detected human sperm on the vaginal slide and swab. The judgment noted that the DNA report was apparently not received despite samples having been forwarded. Hospital-admission and repair documents were unexhibited and unproved, while the mother spoke of seven days' hospitalisation. School headmaster Vishwanath Singh Rajput proved the school date of birth of 12 July 2006, acknowledging that the record did not mention the underlying Anganwadi certificate. The judgment described the investigation and the seizure witnesses' evidence. The accused called no defence witness. The police charge sheet invoked IPC Sections 363 and 376(2)(i) and POCSO Section 4; the trial court framed charges under Sections 363 and 376 IPC and Sections 3/4 POCSO.

2. Precedents — Considered : The Court stated the established rule that reliable testimony of a prosecutrix does not require further corroboration. It assessed the child's account with her prompt disclosure, the surrounding witnesses' evidence and the medical and laboratory findings.

3. Statutes considered : Section 374 CrPC provided the appellate route for challenging the special-trial conviction and sentence. IPC Section 376 was the rape charge actually framed and the conviction affirmed. Although the police charge sheet referred to Section 376(2)(i), the Court held that a general Section 376 charge could not be treated as a specifically framed Section 376(2)(i) charge. The trial acquittal under IPC Section 363 formed part of the judgment affirmed on appeal. POCSO Sections 3 and 4 provided the charge of penetrative sexual assault on a child and its punishment. The ten-year rigorous term and fine, with default imprisonment, were imposed under POCSO. No separate IPC prison term was imposed.

4. Issues : (i) Whether the prosecution proved the child's age and Vimal's commission of sexual assault beyond reasonable doubt despite the challenge to the school record, variations in the witnesses' accounts and the suggested corn-stalk cause of injury. (ii) Whether the trial court's unqualified Section 376 charge could be treated as a specific aggravated Section 376(2)(i) charge because the police charge sheet named that clause. (iii) Whether the POCSO punishment warranted leniency on appeal.

5. Ratio / Findings : The Court held that a reliable prosecutrix's testimony can sustain conviction without further corroboration. The child described the appellant taking her to the graveyard, assaulting

her and threatening to kill her if she told anyone. The Court recorded that the FIR was lodged within three hours and that she promptly told her mother and Kallu. Their evidence concerned their immediate observations, her disclosure and their sighting of the appellant leaving; neither claimed to have witnessed the act. The brother's account of an injury by a blade was recorded, but the Court accepted the child and the supporting circumstances despite the asserted contradictions.

The MLC recorded a bleeding vaginal-wall laceration and hymenal rupture, and the FSL detected human sperm in the vaginal specimens. Considering the evidence together, the Court rejected the corn-stalk explanation, particularly because of the human sperm. The laboratory finding supported the occurrence of sexual assault. The DNA report was apparently not received; the evidence identifying Vimal came from the child and the immediate surrounding circumstances. The Court also noted that the hospital documents were unexhibited and unproved.

On age, the headmaster proved the school record showing birth on 12 July 2006. He said that the entry was based on information from the father and an Anganwadi certificate, although the record did not mention that certificate. The Court recorded this cross-examination, accepted that the child was about eight and upheld the POCSO conviction. On the procedural issue, it required a specific charge: the reference to Section 376(2)(i) in the police report did not make the trial court's Section 376 charge an aggravated charge. It affirmed the conviction under Section 376 and Section 4 POCSO. Refusing leniency in the ten-year POCSO sentence, the Court stressed that the rape of a girl of about eight raised an alarming concern about the security of young girls in society.

6. Relief : The Hon'ble High Court dismissed the appeal and affirmed the 27 April 2015 conviction under IPC Section 376 and POCSO Section 4. The ten years' rigorous imprisonment and Rs 2,000 fine under POCSO, with default imprisonment and no separate IPC sentence, were maintained. The Section 363 acquittal formed part of the affirmed trial judgment. Vimal was in custody and was directed to serve the remaining sentence.

Vimal v. State of Madhya Pradesh, Cr.A. no. 120/2016, 14/08/2019, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (981) Prev Next

Headnote :- Section 482 / inheritance dispute / no allegation of a forged will - *Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460*, requires the court to consider whether the uncontroverted allegations satisfy the ingredients of a criminal offence, without conducting a mini-trial. A civil claim may coexist with a crime, but proceedings for a purely civil wrong without criminality may be quashed. Its discussion confines *Madhavrao Jiwajirao Scindia*'s civil-dispute reasoning to its context; weak prospects of conviction are not a universal test for quashing. *Naresh Kumar v. State of Karnataka, SLP (Cr.) No. 1570/2021*, decided on 12 March 2024, quoted *Paramjeet Batra v. State of Uttarakhand; (2013) 11 SCC 673*, on the cautious exercise of power to prevent a civil dispute from being given a criminal character where the essential criminal ingredients are absent. It also cited *Randheer Singh*; *(2021) 14 SCC 626*, and *Usha Chakraborty*, on preventing criminal process from becoming a weapon of harassment. The son claimed a one-fifth ancestral share under a 2009 Lok Adalat award. He alleged that his mother and brother relied on his late father's will to obtain mutation even of his share. His counsel expressly conceded that the FIR contained no allegation of a forged will. The High Court held that his objection to the testator's ability to bequeath that share was a matter for civil declaration. On that account, no criminality could be attached to the testator, and the dispute did not warrant IPC Sections 420/120-B proceedings against the mother and brother. The parties' rights were outside the scope of the FIR. The Court quashed Crime No. 87/2018 and reserved the son's civil remedy.

Case-note :- ***1. Facts :*** Vimla Bansal and another applicant sought quashing under Section 482 CrPC of Crime No. 87/2018 at Police Station Harda for offences under IPC Sections 420 and 120-B. Respondent 2 alleged that a 2009 Lok Adalat compromise recognised one-fifth interests for him, his father, mother and brother Sonu in their ancestral properties: an Axis Bank building at Harda, a commercial complex, 4.77 acres with a warehouse and petrol pump, and two acres on Hadiya Road. He lived and worked in Bhopal. After his father's death,

he learned that the Axis Bank building had been mutated in his mother's name and its rent was being credited to her account. He also learned that other property had been transferred in the names of his mother and brother on the basis of his father's will. He alleged collusion and prejudice to his one-fifth share.

The applicants submitted that the FIR gave a criminal character to a predominantly civil inheritance dispute. The State and complainant opposed the application, initially submitting that a forged will had been used. The High Court asked counsel to identify an allegation of fabrication in the FIR. The complainant's counsel conceded that no forged will was alleged. He maintained that the will had been prepared in connivance with the late father and wrongfully included the complainant's share.

2. Precedents — Considered : *Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460*, was quoted in detail. At the stage of quashing or framing charges, the court considers whether the uncontroverted allegations and accompanying record broadly establish an offence. Patent improbability, an express legal bar or abuse may justify intervention, but the court does not meticulously examine the evidence or predict conviction. The same facts may give rise to both a civil claim and a criminal offence; the availability of a civil remedy alone does not prevent prosecution. Conversely, proceedings for a predominantly civil wrong lacking criminal ingredients may be quashed to prevent misuse. Its explanation of *Madhavrao Jiwajirao Scindia* through later decisions confines that precedent to its particular, predominantly civil setting. Weak prospects of conviction do not supply a universal test. The High Court applied the distinction between allegations disclosing criminal ingredients and a civil dispute.

Naresh Kumar and Another v. State of Karnataka and Another, SLP (Cr.) No. 1570/2021, decided on 12 March 2024, was quoted for its discussion of *Paramjeet Batra v. State of Uttarakhand; (2013) 11 SCC 673*. *Paramjeet Batra* requires cautious exercise of Section 482 power, but permits quashing where an essentially civil transaction is given a criminal character, particularly where essential criminal ingredients are absent and a civil remedy is available or has been pursued. *Naresh Kumar* also cited *Randheer Singh v. State of U.P.; (2021) 14 SCC 626*, on preventing prosecution from becoming a weapon of harassment, and *Usha Chakraborty v. State of West Bengal*, on quashing an essentially civil dispute presented as a crime. The High Court applied these principles after counsel expressly conceded that no forged will was alleged. The dispute concerned the father's legal ability to bequeath the son's claimed share.

3. Statutes considered : Section 482 CrPC provided the inherent power invoked to prevent an alleged abuse of criminal process. The FIR alleged cheating and conspiracy under IPC Sections 420 and 120-B. The Court found no allegation that the will was fabricated and treated the pleaded title and mutation dispute as civil, without the criminal ingredients necessary to continue the FIR. Section 397 CrPC and charge framing arose in the quoted *Amit Kapoor* discussion; the present application invoked the inherent jurisdiction.

4. Issues : Whether the son's allegations that his mother and brother obtained mutation on the basis of his father's will, despite the prior one-fifth Lok Adalat allocation, disclosed a criminal wrong under Sections 420/120-B or an essentially civil dispute about inheritance and the extent of testamentary power. In particular, whether forgery of the will was alleged, or whether the objection was that the father's will included property he could not bequeath. If the objection concerned only that testamentary power, whether Section 482 permitted quashing of the FIR while preserving the son's right to challenge the will's effect on his share in civil court.

5. Ratio / Findings : The Court considered whether the allegations disclosed a predominantly civil dispute or also involved criminal ingredients. The complainant's counsel admitted that the FIR contained no allegation of a forged will. The allegation was that, despite the Lok Adalat allocation, the father's will was relied on to obtain mutation even of the son's claimed one-fifth share. Whether the will could operate against that share, and the consequent entitlement to mutation and rent, were matters for civil adjudication. On the contention that the testator had bequeathed the complainant's share, the Court held that no criminality could be attached to the testator.

Amit Kapoor preserves prosecution where the same facts also constitute a crime, while excluding a mini-trial or a speculative assessment of conviction. *Naresh Kumar* and *Paramjeet Batra* permit relief where an essentially civil dispute is given a criminal character; *Randheer Singh* and *Usha Chakraborty* caution against using that process for harassment. In

view of the absence of alleged fabrication and the dispute about entitlement, the High Court held that this was a civil inheritance dispute presented as a criminal offence. It quashed the FIR under Section 482 on those facts and counsel's concession.

6. Relief : The Hon'ble High Court allowed the Section 482 application and quashed FIR Crime No. 87/2018 under IPC Sections 420 and 120-B. The complainant was given liberty, if so advised, to seek a civil declaration that the will was null and void to the extent of his share. No order as to costs was made.

Vimla Bansal and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 18061/2018, 20/07/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (982) Prev Next

Headnote :- Rape allegation / misconception of fact / subsisting marriage - The petitioner sought quashing of the charge sheet and Sessions proceeding on allegations of an initial forced act and repeated intercourse on a promise of marriage, followed by refusal. The prosecutrix said that she later learned he was already married. The Court noted that he was admittedly married with two children and that his marriage subsisted. At the pretrial quashing stage, it inferred a prima facie false promise from his knowledge that he could not marry her while that marriage continued, and applied Section 90 IPC to consent obtained under misconception. Her adult status did not by itself establish freely given consent. The Court also recorded her allegation of repeated forcible acts during the intervening period and treated each alleged non-consensual act as independently material. Its assessment of consent was prima facie and based on the allegations accepted at that stage.

Sexual-offence FIR / reporting interval / continuing allegations - *Satyapal v. State of Haryana; (2009) 6 SCC 635*, and *State of Punjab v. Gurmit Singh; (1996) 2 SCC 384*, were applied for their principle that reluctance, stigma and the circumstances must be considered before discrediting a sexual-offence complaint because of delayed reporting. *Asha v. State*, Karnataka High Court CRLP 673/2021, was cited for the principle that delay alone does not justify quashing. The petitioner calculated the interval from the first alleged act on 1 June to the FIR on 14 October 2022. The Court also recorded allegations of repeated forcible acts during that period. Describing the interval as approximately four months, it found no delay warranting quashing.

Pretrial quashing / allegations taken at face value / limits on factual inquiry - *Munshiram v. State of Rajasthan; (2018) 5 SCC 678*, *Teeja Devi v. State of Rajasthan; (2014) 15 SCC 221*, *State of Orissa v. Ujjal Kumar Burdhan; (2012) 4 SCC 547*, *XYZ v. State of Gujarat; (2019) 10 SCC 337*, and *State of Tamil Nadu v. S. Martin; (2018) 5 SCC 718*, were quoted on restraint against prematurely ending a prima facie cognizable case or conducting a roving inquiry into contested consent and defence before proper investigation. *S. Khushboo v. Kanniammal; (2010) 5 SCC 600*, and *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy; (2012) 12 SCC 437*, reproduced *Bhajan Lal* grounds concerning absence of a prima facie offence, legal bar, inherent improbability and abuse. Genuine complaints should proceed, while appropriate exceptional cases permit intervention. *Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460*, rejects a mini-trial and ordinary reliance on external defence evidence, while permitting quashing where basic ingredients fail. Its treatment of predominantly civil disputes does not make weak prospects of conviction a universal test. *Mohd. Akram Siddiqui v. State of Bihar; (2019) 13 SCC 350*, recognises a narrow exception for a public defence document or one whose veracity the complainant does not dispute. *State of A.P. v. Gourishetty Mahesh; (2010) 11 SCC 226*, *M.N. Ojha v. Alok Kumar Srivastav; (2009) 9 SCC 682*, and *M. Srikanth v. State of Telangana; (2019) 10 SCC 373*, preserve intervention for plainly deficient or malicious accusations while protecting legitimate prosecutions. *CBI v. Arvind Khanna; (2019) 10 SCC 686*, and *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, prohibit resolving disputed facts or conducting trial-level scrutiny of evidence at the threshold. Taking the allegations at face value in this charge-sheet and Sessions matter, the High Court declined to determine the factual defence or quash the case; guilt and consent remained for trial.

Case-note :- ***1. Facts :*** Vinay Mishra filed Writ Petition No. 30152/2023 under Article 226 seeking certiorari against the charge sheet described in the prayer as No. 1/2023 dated 6 May 2023. He also sought termination of Sessions Case No. 462/2023 pending before the 10th Additional Sessions Judge, Bhopal. The proceedings arose from an FIR dated 14 October 2022. The prosecutrix, stated to be 34, met

Mishra in May 2022 when she visited HDFC Bank's Arera Colony branch with biodata for recruitment. According to the complaint recited by the Court, he promised marriage and forcibly had intercourse with her on 1 June 2022, followed by sexual relations on that asserted pretext at different places and on several occasions. In discussing the intervening period, the Court also recorded her allegation of repeated forcible relations. She said that he later refused marriage, stopped answering calls or messages, and that she discovered he was already married.

Mishra argued that the interval of four months between the first alleged act and the FIR was unexplained. As the complainant was an adult, he contended that her consent could not have been obtained by misrepresentation within Section 90 IPC. The Court heard his counsel, quoted Section 90 IPC, considered the authorities on sexual-offence reporting delay and quashing, and dismissed the writ. The relief sought was certiorari and termination of the Sessions case.

2. Precedents — Considered : *Satyapal v. State of Haryana; (2009) 6 SCC 635*, treated the social context and reluctance to report a sexual offence as relevant to FIR delay, considered with testimony, medical evidence and surrounding circumstances. *State of Punjab v. Gurmit Singh; (1996) 2 SCC 384*, explained the possible reluctance to expose the prosecutrix and her family to stigma and the deliberation that may precede reporting. The High Court applied their caution against mechanically discrediting a complaint because of elapsed time. *Asha v. State, Karnataka High Court* CRLP 673/2021, decided on 10 November 2021, was cited for delay alone not warranting quashing. Here, the alleged forcible acts continued after the first June incident and before the October FIR, and the Court found no delay warranting quashing.

Munshiram v. State of Rajasthan; (2018) 5 SCC 678, warned against quashing an FIR prematurely, before proper investigation, unless continuation would abuse the process. *Teeja Devi v. State of Rajasthan; (2014) 15 SCC 221*, protected the statutory investigation of a prima facie cognizable offence, subject to exceptional intervention for malicious and vexatious prosecution. *State of Orissa v. Ujjal Kumar Burdhan; (2012) 4 SCC 547*, quoted *Swapan Kumar Guha* on the need for proper investigation once an offence is disclosed. It also quoted *Jeffrey J. Diermeier* on the wide but cautious exercise of Section 482 powers to secure justice and prevent abuse. *XYZ v. State of Gujarat; (2019) 10 SCC 337*, concerned premature quashing of a sexual complaint after conclusions about disputed consent and coercion were drawn from an asserted settlement. The present Court used it against a roving factual inquiry into the complainant's account. *State of Tamil Nadu v. S. Martin; (2018) 5 SCC 718*, likewise criticised a merits assessment before investigation was complete. These authorities supported restraint against displacing the ordinary process of proof.

S. Khushboo v. Kanniammal; (2010) 5 SCC 600, quoted selected *Bhajan Lal* categories permitting quashing where the allegations disclose no prima facie offence or the prosecution is demonstrably malicious, while protecting genuine complaints. *Sangeeta Agrawal v. State of U.P.; (2019) 2 SCC 336*, required an intelligible account of the facts, application of governing law and reasons for interference. *Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460*, set out safeguards for Sections 397/482. Failure to disclose the basic ingredients, patent improbability, an express legal bar or abuse may justify relief. The court should not forecast conviction, critically weigh the evidence or ordinarily consider external defence material. A civil aspect alone does not remove criminality. Its treatment of *Madhavrao Jiwajirao Scindia* confined that precedent's rationale to its special setting of a predominantly civil dispute. *Ajay Kumar Das v. State of Jharkhand; (2011) 12 SCC 319*, reiterated the circumspect exercise of the *Bhajan Lal* jurisdiction and the prohibition on examining the allegations' reliability.

Mohd. Akram Siddiqui v. State of Bihar; (2019) 13 SCC 350, recognised an exception where the defence document is public or its veracity is not disputed by the complainant. *State of A.P. v. Gourishetty Mahesh; (2010) 11 SCC 226*, balanced protection from baseless prosecution with the trial court's role in deciding disputed credibility. *Padal Venkata Rama Reddy v. Kovuri Satyanarayana Reddy; (2012) 12 SCC 437*, discussed exceptional Section 482 intervention, clean hands, alternative remedies, all seven *Bhajan Lal* examples and the limited application of the predominantly civil *Madhavrao* rationale. *M. Srikanth v. State of Telangana; (2019) 10 SCC 373*, preserved quashing where even accepted allegations and uncontroverted supporting material disclose no offence. *M.N. Ojha v. Alok Kumar Srivastav; (2009) 9 SCC 682*, warned against

both unnecessary obstruction of proceedings and refusal of relief where inherently improbable allegations are used to harass. *CBI v. Arvind Khanna; (2019) 10 SCC 686*, disapproved resolution of disputed defence facts under Section 482. *State of M.P. v. Kunwar Singh, Criminal Appeal No. 709/2021*, order of 30 June 2021, rejected meticulous scrutiny of evidence as at trial and recalled that an FIR need not be an encyclopaedia. The Bench quoted these authorities and declined to try Mishra's factual arguments about adult consent and credibility in the writ.

3. Statutes considered : Section 90 IPC, quoted in paragraph 5, provides that consent given under fear of injury or misconception of fact is not consent for IPC purposes if the person doing the act knows, or has reason to believe, that it resulted from that fear or misconception. The Court provisionally applied the misconception limb to the promise of marriage, given Mishra's knowledge of his subsisting marriage and two children. Article 226 provided the formal writ jurisdiction. Section 482 CrPC and Article 227 arose in the analogous limits on pretrial quashing, while Section 397 and the charge-framing provisions appeared in the quoted *Amit Kapoor* decision.

4. Issues : Whether the October FIR and charge-sheet proceeding should be terminated because the first alleged act was in June and the complainant was an adult, or whether the continuing allegations and context of sexual-offence reporting required further adjudication. Whether a marriage promise allegedly made with knowledge that the existing marriage prevented its fulfilment could prima facie bring consent within misconception under Section 90 IPC, with final facts reserved for trial. Whether Article 226 / analogous Section 482 jurisdiction permitted acceptance of Mishra's account of consent and credibility through detailed scrutiny of disputed evidence, and whether this was a case of no offence on the face of the allegations or abuse, rather than an unresolved factual defence.

5. Ratio / Findings : The Court held that adulthood alone did not establish consent. For the threshold assessment, it accepted the allegations of the initial forced act and repeated relations on a promise of marriage, including the allegation of repeated forcible acts recorded in its discussion of delay. Mishra was admittedly married with two children and his marriage subsisted. The Court reasoned that he knew he could not lawfully fulfil the promise to marry the prosecutrix while that marriage continued. It inferred a prima facie false promise and consent under misconception within Section 90 IPC.

Satyapal and *Gurmit Singh* required attention to stigma and reluctance before discrediting a sexual complaint for reporting delay. The Court described the interval from the first June act to the FIR as about four months, during which the prosecutrix alleged repeated forcible acts. It held that delay alone could be explained and that this account disclosed no delay warranting quashing. It also observed that each individual act without the prosecutrix's consent would amount to rape.

The Section 482 authorities identified the limits of threshold review. Genuine prima facie cognizable allegations ordinarily proceed to investigation or trial; failure to disclose the ingredients, patent improbability, a legal bar or established abuse may justify exceptional quashing. *Amit Kapoor, XYZ, CBI v. Arvind Khanna and Kunwar Singh* precluded a roving examination of Mishra's factual defence or a forecast of the trial result. The quoted *Mohd. Akram* exception permitted consideration of a public defence document or one whose veracity the complainant did not dispute. Taking the allegations at face value, the possible misconception affecting consent and the continuing alleged acts warranted refusal of immediate termination. The Court dismissed the petition.

6. Relief : The Hon'ble High Court dismissed the writ petition. It refused the requested quashing of the charge sheet and Sessions Case No. 462/2023; the criminal proceeding was to continue according to law.

Vinay Mishra v. State of Madhya Pradesh and Others, W.P. no. 30152/2023, 04/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (983) Prev Next

Headnote :- Additional accused / cognizance under Section 190 / distinction from Section 319 - *Nahar Singh v. State of Uttar Pradesh; (2022) 5 SCC 295*, was followed. After taking cognizance and issuing process against some accused, a Magistrate may, at the cognizance stage, summon another person whose involvement is indicated by the material, even if the police omitted that person from the charge sheet. That power does not depend on waiting for a later Section 319 CrPC application or evidence during trial. *Nahar Singh*'s discussion of *Dharam Pal*, *Raghubans Dubey* and *Kishun Singh*

explains that cognizance is of the offence and that the Magistrate may disagree with the police and consider material beyond the report, including a complaint and Section 164 material. Here, the offences were Magistrate-triable and the FIR named Vinay Sachdeva as the person who struck the complainant's head with a lathi. Even assuming that no witness had testified, Section 190 remained available despite the lower court having described its order as one under Section 319. Vinay had supplied no trial order sheets to establish the stage. The police decision to omit him after considering an alibi did not bind the Magistrate.

Case-note :- ***1. Facts :*** Vinay Sachdeva invoked Section 482 CrPC / Section 528 BNSS to challenge the JMFC, Gwalior's order of 22 July 2024 in RCT No. 1822/2019 and the dismissal of his revision on 6 September 2024 in Criminal Revision No. 279/2024. Dharmendra Agarwal's FIR alleged that, on 6 August 2018, Vinay and Sunny Sachdeva came on a motorcycle near Maternity Hospital, Murar, and abused him. Vinay allegedly struck his head with a lathi, causing bleeding. Sunny allegedly threatened to kill him if he tried to have the shop vacated. Deepak Agarwal and others were said to have witnessed the incident. After investigation, the police concluded that Vinay had not been present and filed a charge sheet only against Sunny.

In the Magistrate proceedings, Sunny applied under Section 216 CrPC to delete a charge described in the judgment as Section 373 IPC. The complainant applied under Section 319 CrPC to summon Vinay. The Magistrate dismissed Sunny's application, allowed the complainant's application and summoned Vinay as an additional accused. Vinay's revision was dismissed. In the present application, he argued that Section 319 had been invoked prematurely because trial evidence had not begun. He also relied on a communication to the CSP asserting that he had been at a friend's home and Sunny at his own home. The State supported the orders.

2. Precedents — Considered : *Nahar Singh v. State of Uttar Pradesh and Another; (2022) 5 SCC 295*, was quoted and applied. The Supreme Court held that earlier issuance of process against some accused does not exhaust the Magistrate's power, at the cognizance stage, to summon another person whose involvement is indicated by the material on record despite omission from the charge sheet. The Magistrate need not wait for the Section 319 stage. In *Nahar Singh*, the material included the victim's Section 164 statement; the present case involved an express FIR allegation against Vinay.

In the quoted passage, *Dharam Pal v. State of Haryana; (2014) 3 SCC 306*, explained that a Magistrate may disagree with the police report and act on a protest petition, including in a case to be committed to the Sessions Court. *Raghubans Dubey v. State of Bihar; AIR 1967 SC 1167*, and *Kishun Singh v. State of Bihar; (1993) 2 SCC 16*, supported the principle that cognizance is of the offence, rather than the offender, and permits proceedings against other implicated persons. These authorities were considered through *Nahar Singh*. The present Court noted that the offences were triable by the Magistrate and relied on the FIR allegation that Vinay delivered the lathi blow.

3. Statutes considered : Section 190 CrPC empowered the Magistrate to take cognizance of an offence and, on sufficient material, proceed against a person not sent up by the police. Section 319 CrPC was invoked to summon Vinay as an additional accused; he objected that trial evidence had not begun. The Court held that Section 190 action remained possible even on that assumption and noted the absence of trial order sheets. Section 216 CrPC concerned Sunny's unsuccessful separate application to delete the charge described as Section 373 IPC.

4. Issues : Whether the Magistrate could proceed against Vinay, whom the police omitted from the charge sheet, when the complainant applied under Section 319 but Vinay asserted that no trial witness had testified. Whether earlier process against Sunny exhausted the Section 190 power, whether the FIR material indicating Vinay's role supported additional process at that stage, and whether the police's acceptance of his alibi prevented it. Whether these objections justified interference under the inherent powers.

5. Ratio / Findings : Vinay had not supplied the trial court order sheets to establish the procedural stage. Even assuming that no witness had testified, the Magistrate could act under Section 190 at the cognizance stage: cognizance is of the offence, rather than only the persons included in the police report. *Nahar Singh* permits process against another implicated person on the material before the Magistrate, despite earlier process against a co-accused, without waiting for Section 319 trial evidence. The revisional court had considered the FIR, which expressly alleged that Vinay struck

Dharmendra's head with a lathi. The offences were triable by the Magistrate, and the police's exclusion of Vinay after considering an alibi did not remove the Magistrate's independent power. The High Court found no ground for interference under the inherent provision.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC / Section 528 BNSS. The JMFC's summons and the revisional order remained in force, and Vinay remained an additional accused in the trial.

Vinay Sachdeva v. State of Madhya Pradesh and Others, M.Cr.C. no. 54349/2024, 20/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (984) Prev Next

Headnote :- Public interest writ / service matters / stranger's request - *Gurpal Singh v. State of Punjab; (2005) 5 SCC 136*, was quoted on scrutiny of a PIL applicant's credentials, the precision and seriousness of the information, and possible oblique motives. Its discussion of *Duryodhan Sahu* states that PILs in service matters generally should not be entertained. Bunkar alleged financial irregularities of ₹25 lakh or more in a Chief Medical and Health Officer's office and sought changes to officials' postings, recovery and disciplinary action under clauses 11.6 and 16.5 of the Samvida Manav Sansadhan Manual 2021. The State objected that a stranger could not seek intervention in an employee's service conditions. The Court quoted the PIL safeguards and dismissed the petition.

Nonregistration of FIR / statutory police and magistrate remedies - *Aleque Padamsee v. Union of India; (2007) 6 SCC 171*, distinguishes the police duty to register information disclosing a cognizable offence from the remedy for failure to do so: a complaint to the Magistrate under CrPC Sections 190 and 200. *Sakiri Vasu v. State of U.P.; (2008) 2 SCC 409*, provides for recourse to the Superintendent of Police under Section 154(3) and then to the Magistrate under Section 156(3). If prima facie satisfied, the Magistrate may direct registration and proper investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage; (2016) 6 SCC 277*, reiterates that such grievances should ordinarily follow the statutory remedy. The local Division Bench in *Shweta Bhadauria*, W.A. 247/2016, recognised exceptions to the alternative-remedy rule and distinguished *Lalita Kumari*'s police-duty ruling from entitlement to immediate writ mandamus. The State submitted that Bunkar had not approached the investigating agency. The Court dismissed the writ with liberty to approach the Magistrate under Section 200 CrPC / Section 223 BNSS 2023, as stated in its order.

Exceptional Article 226 intervention / mala fides / statutory process - *Divine Retreat Centre v. State of Kerala; (2008) 3 SCC 542*, recognises exceptional Article 226 intervention where the High Court is convinced that investigative power has been exercised mala fide and a clear case of abuse of power and noncompliance with Chapter XII is made out. The power is reserved for the rarest cases. Even then, the Court cannot dictate how the police investigate, but may insist on observance of the Code's process. The Bench quoted that qualification alongside the ordinary Magistrate remedy and dismissed the petition with liberty to pursue that remedy.

Case-note :- ***1. Facts :*** Vinod Bunkar filed Writ Petition No. 26741/2024 under Article 226, alleging financial irregularities of ₹25 lakh or more in the office of the Chief Medical and Health Officer, Chhindwara, respondent 3. He said that he had complained and made a representation to the Collector, but neither criminal nor service-law action had followed. He sought an inquiry, recovery and changes to officials' postings under clause 11.6 of the Samvida Manav Sansadhan Manual 2021. He also sought recovery under clause 16.5 and suitable penal action under the IPC.

The State opposed the petition, submitting that Bunkar had not approached the investigating agency and that statutory remedies were available for seeking FIR registration. It also objected that a stranger was seeking service action against an officer who had not been impleaded in his personal capacity. The judge considered Supreme Court authorities on scrutiny of service-matter PILs, police inaction and Magistrate remedies, together with a Madhya Pradesh Division Bench decision. He dismissed the writ with liberty to approach the Magistrate, expressly referring to the BNSS provision in the operative order.

2. Precedents — Considered : *Gurpal Singh v. State of Punjab and Others; (2005) 5 SCC 136*, was relied on by the State and quoted by the Bench. It requires scrutiny of the applicant's credentials, the prima facie correctness and nature of the information, and whether it is precise and sufficiently serious.

Genuine public grievances must be balanced against reckless allegations and concealed personal motives. Its discussion of *Duryodhan Sahu v. Jitendra Kumar Mishra* states that PILs in service matters generally should not be entertained. *Ashok Kumar Pandey* and the other nested authorities warn against misuse of judicial time by impostor claims. The State invoked these principles in objecting to the requested posting and recovery directions and submitted that the officer had not been personally impleaded.

Aleque Padamsee v. Union of India; (2007) 6 SCC 171, distinguishes the police duty from the remedy for its breach. The police must register an FIR when information discloses a cognizable offence. If they fail to perform that Section 154 duty, the informant may complain to the Magistrate under Sections 190 and 200 CrPC. The decision distinguished *Ramesh Kumari*'s police-duty question from the procedure to follow when the police do not act. It referred to *All India Institute of Medical Sciences Employees' Union*, *Gangadhar Janardan Mhatre*, *Hari Singh* and *Minu Kumari*.

Divine Retreat Centre v. State of Kerala; (2008) 3 SCC 542, was quoted on exceptional Article 226 intervention where the High Court is convinced of mala fide exercise of investigative power and a clear case of abuse and noncompliance with Chapter XII is established. Even in those rare cases, the Court may insist on the Code's process but cannot prescribe the method of investigation. Its nested *Gangadhar* discussion explains the Section 190/200 complaint route and the Magistrate's options after preliminary inquiry, depending on whether a prima facie offence is disclosed. *Sakiri Vasu v. State of U.P.; (2008) 2 SCC 409*, provides for a written approach to the SP under Section 154(3), followed, if necessary, by an application under Section 156(3). The Magistrate may direct registration or proper investigation and monitor the investigation. *Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage; (2016) 6 SCC 277*, followed *Sakiri Vasu*, including the Magistrate's discretion to recommend a change of investigating officer, and discouraged routine Article 226 petitions seeking FIR registration.

The local Division Bench decision in *Shweta Bhadauria v. State of M.P.*, W.A. No. 247/2016, decided on 20 December 2016, was quoted on refusal of FIR mandamus when the alternative CrPC remedies under Sections 154(3), 156(3), 190 and 200 have not been used, subject to the four *Whirlpool* exceptions. It distinguished *Lalita Kumari v. Government of U.P.; (2014) 2 SCC 1*, which concerns the police's duty to register an FIR, from entitlement to bypass the alternative remedies and obtain a writ.

3. Statutes considered : Article 226 was the jurisdiction invoked. CrPC Section 154 concerned registration of cognizable information, with recourse to the SP under subsection (3). Section 156(3) enabled Magistrate-directed registration or proper investigation where warranted; Sections 190 and 200 provided the private-complaint route. The quoted *Divine Retreat Centre* exception concerned compliance with Chapter XII of the CrPC. The operative order permitted an approach to the Magistrate under Section 200 CrPC or Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Penal action under the IPC was requested. Clauses 11.6 and 16.5 of the Samvida Manav Sansadhan Manual 2021 were cited in the requests for posting changes and recovery.

4. Issues : Whether the petitioner could use an Article 226 proceeding presented in public interest to obtain inquiry, posting changes, recovery and disciplinary action concerning service personnel on the financial-irregularity allegations, particularly without personally impleading the affected officer. Separately, whether the alleged inaction concerning possible criminality entitled him to immediate FIR-related mandamus without using the statutory police or Magistrate remedies.

5. Ratio / Findings : The Court quoted *Gurpal Singh*'s requirement of close scrutiny of PIL credentials and information, particularly in matters concerning an employee's service. The State had objected that Bunkar was a stranger seeking intervention in service conditions and that the officer had not been impleaded in his personal capacity. The Court set out the service-PIL principles before considering the authorities on criminal-law remedies.

Aleque Padamsee affirmed the duty to register information disclosing a cognizable offence and identified a Magistrate complaint as the remedy for police inaction. *Sakiri Vasu* explained the Section 154(3) and 156(3) remedies and the Magistrate's power to ensure proper investigation; *Sudhir Bhaskarrao Tambe* discouraged routine writ petitions bypassing that remedy. *Shweta Bhadauria* distinguished *Lalita Kumari*'s police-duty ruling from entitlement to writ mandamus and recognised exceptions to the alternative-remedy rule. *Divine*

Retreat Centre preserved exceptional Article 226 intervention for mala fide exercise of investigative power where clear abuse and Chapter XII noncompliance are established. The State submitted that Bunkar had not approached the investigating agency. After setting out these authorities, the Court dismissed the petition and left him free to pursue the Magistrate remedy.

6. Relief : The Hon'ble High Court dismissed the writ petition. It granted Bunkar liberty, if he wished, to approach the competent Magistrate under Section 200 CrPC / Section 223 BNSS 2023 for redress.

Vinod Bunkar v. State of Madhya Pradesh and Others, W.P. no. 26741/2024, 16/10/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (985) Prev Next

Headnote :- Article 226 / directions concerning arrest and investigation - *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari; (2009) 10 SCC 488*, was followed on the police's statutory responsibility for investigation. A court ordinarily cannot direct arrest, seizure, investigation from a particular angle or the filing of a charge sheet merely because an FIR has been registered. The quoted decision in *M.C. Abraham v. State of Maharashtra; (2003) 2 SCC 649*, explains that arrest under Section 41 CrPC is discretionary. The power must be exercised cautiously because it affects liberty, rather than mechanically upon an accusation. Here, the petitioner sought arrest, monitored investigation, investigation by another agency and action against officers in a cheating FIR. The High Court declined to prescribe the method of investigation or direct arrest and the filing of a charge sheet.

Section 173(1) CrPC / completion without unnecessary delay - Police discretion over investigative steps and the outcome does not displace the duty to complete investigation without unnecessary delay. The officer must submit the appropriate final report, whether a closure report or a charge sheet. In Crime No. 246/2023, the Court applied Section 173(1) and directed completion as early as possible, with the steps required by law. The petitioner remained free to approach the Superintendent of Police with a grievance.

Case-note :- ***1. Facts :*** Vinod Sachdev filed Writ Petition No. 31696/2023 under Article 226 of the Constitution. Police Station Waraseoni, Balaghat, had registered Crime No. 246/2023 under IPC Sections 406, 417, 418 and 420. Sachdev alleged that the police had taken no substantial action, had not arrested the suspect and had made little progress. He sought the investigation record and a fair, transparent investigation considering all the material, completed within a time limit under the supervision of respondent 6. Alternatively, he sought investigation by another State or Central agency. He also sought an inquiry into the conduct of respondent officers 3 to 5 and other relief. The State opposed the petition.

The High Court distinguished the request to compel arrest and control investigative choices from the statutory duty to complete investigation promptly. It considered *D. Venkatasubramaniam* and Section 173(1) CrPC, declined to prescribe the police's method and outcome, and directed expeditious completion according to law. It also left Sachdev free to apply to the Superintendent of Police with a grievance.

2. Precedents — Considered : *D. Venkatasubramaniam and Others v. M.K. Mohan Krishnamachari and Another; (2009) 10 SCC 488*, was quoted extensively. The High Court relied on it in refusing to order arrest and in explaining that directions to arrest and file a charge sheet would supervise the investigation. The Supreme Court had disapproved the earlier High Court's mechanical direction to record particular statements, arrest, seize property and file a charge sheet within six months without explaining why those steps were necessary. Investigation ordinarily falls within the police's statutory domain. Depending on the evidence, it may result in a charge sheet or a closure report; every investigation need not lead to arrest or seizure. The present judge applied that principle in declining to supervise the manner of investigation. The quoted case concerned Section 482 CrPC; Sachdev's petition was under Article 226.

Within that Supreme Court passage, *M.C. Abraham v. State of Maharashtra; (2003) 2 SCC 649*, explained that Section 41 CrPC permits arrest on a cognizable accusation but does not invariably require immediate arrest. Arrest affects liberty and reputation, so the discretion must be exercised cautiously in the circumstances of the case. The High Court applied that qualification in refusing to direct arrest of the suspect. *D. Venkatasubramaniam* also quoted *Divine Retreat Centre v. State of Kerala; (2008) 3 SCC 542*, concerning a judicial order directing investigation on an anonymous petition filed in the High Court. The quoted passage required

a reasonable opportunity of hearing for persons likely to be affected, particularly where the order had drastic consequences for reputation. *D. Venkatasubramaniam* further stressed reasoned restraint in exercising Section 482 jurisdiction.

3. Statutes considered : Article 226 provided the jurisdiction for the present criminal-side writ petition. Section 173(1) CrPC required completion of investigation without unnecessary delay. The Court applied it to require prompt, lawful completion and an appropriate final report, leaving the outcome as a closure report or a charge sheet. Section 41 CrPC arose in the quoted *M.C. Abraham* discussion of discretionary arrest. Section 482 CrPC concerned the inherent powers discussed in the quoted Supreme Court decision.

4. Issues : Whether, after registration of the cheating and breach-of-trust FIR, the petitioner could obtain directions under Article 226 for immediate arrest, specified investigative steps, supervision or another investigating agency on the allegation of lack of progress, and whether a judicial direction requiring arrest and a charge sheet would dictate the investigation's course and outcome. Independently, whether Section 173(1) justified a direction to complete the pending investigation without unnecessary delay while leaving the method and the final report's conclusion to the investigator.

5. Ratio / Findings : Applying *D. Venkatasubramaniam* and its quoted *M.C. Abraham* passage, the judge held that registration of an FIR and dissatisfaction with progress did not make arrest obligatory. In conducting the statutory investigation, the police decide whether and when arrest or seizure is necessary and whether the evidence warrants a charge sheet or closure. A judicial direction to arrest and file a charge sheet would supervise the investigation and predetermine its outcome. The quoted Supreme Court decision criticised directions issued casually, without reasons or a hearing for the affected persons. In the present petition, the Court declined to supervise the manner of investigation or direct arrest and a charge sheet. It granted no transfer, monitoring or inquiry into officers' conduct.

Judicial restraint did not permit the investigation to remain pending indefinitely. The Court applied Section 173(1), which requires every investigation under the relevant CrPC chapter to be completed without unnecessary delay. The investigating officer had to reach a lawful conclusion and submit the appropriate final report. The Court directed the officer to finish as early as possible and take the steps required by law. Sachdev remained free to apply to the Superintendent of Police, Balaghat, with a grievance, which would be considered according to law. The directions retained the officer's discretion over investigative steps and the outcome while requiring compliance with the duty of prompt completion.

6. Relief : The Hon'ble High Court disposed of the Article 226 petition by directing the investigating officer to conclude investigation as early as possible and take the steps required by law. Sachdev was free to approach the Superintendent of Police, who would consider any grievance according to law. The Court refused to direct arrest or the filing of a charge sheet. It made no order transferring the investigation, monitoring it or directing a disciplinary inquiry.

Vinod Sachdev v. State of Madhya Pradesh and Others, W.P. no. 31696/2023, 12/01/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (986) Prev Next

Headnote :- Circumstantial evidence / murder / discovery / last seen / medical evidence - There was no eyewitness to Rahul's killing in Mor Pahadi forest. Witnesses saw Vinod Sharma take the twelve-year-old from the family home, buy treats and walk toward the forest with him. Rahul's body, a knife, danda, cap and slippers were later found at Vinod's instance. The post-mortem recorded eleven ante-mortem injuries, including a punctured trachea. The doctor considered the sharp injuries possible with the knife shown to him. The Bench assessed these circumstances together and affirmed the conviction under Section 302 IPC despite the absence of an eyewitness.

Section 27 discovery / recovery / medical opinion - *Jagroop Singh v. State of Punjab; (2012) 11 SCC 768,* was quoted for its acceptance of credible disclosure and weapon recovery supported by an unrebutted medical opinion that the recovered weapon could cause the fatal injuries. The High Court accepted the investigating officer's and accompanying witnesses' accounts that Vinod led them to Rahul's body and the articles. It also noted the doctor's opinion that the injuries were possible with the knife shown to him.

Section 313 explanation / incriminating circumstances / circumstantial chain - *Jagroop Singh*, referring to *State of Maharashtra v. Suresh;*

(2000) 1 SCC 471, states that failure to give an appropriate explanation, or a false answer, when incriminating circumstances are put under Section 313 CrPC may provide a missing link in completing the circumstantial chain. *Jagroop Singh* expressly added that it cited *Suresh* only to highlight the absence of any explanation of the circumstances put to the accused. Here, Vinod gave no explanation of the evidence that he took Rahul away and bought a knife, and did not account for his knowledge of the body's location. The Bench considered that failure alongside the proved discovery soon after death, the last sighting and the medical evidence.

Reasonable doubt / doubt arising from the evidence - *Jagroop Singh* quoted *Sucha Singh v. State of Punjab; (2003) 7 SCC 643*, for the distinction between a fair doubt arising from the evidence, reason and common sense, and an imaginary, trivial or merely possible doubt. The prosecution need not answer every conjectural hypothesis. The Bench found the combined last-seen, discovery and medical circumstances proved beyond reasonable doubt despite the absence of an eyewitness.

Case-note :- ***1. Facts :*** Vinod Sharma appealed under Section 374 CrPC against the judgment of the Additional Sessions Judge, Sironj, Vidisha, dated 22 July 2010 in Sessions Trial No. 207/2008. He had been convicted under Section 302 IPC of murdering Rahul, the twelve-year-old son of his brother-in-law Mahesh, and sentenced to life imprisonment and a fine of ₹5,000 with a default stipulation. On 3 June 2008, Vinod's wife Shivkumari refused to return with him from her parental village, Chitawar. The prosecution alleged that he suspected an improper relationship between her and Mahesh, took Rahul toward Mor Pahadi forest, struck him with a danda and repeatedly cut him with a knife. The prosecution case began with the report Vinod himself made at Sironj police station on 5 June.

The police registered Crime No. 204/2008. Investigating officer Bharat Bhushan Sharma said that, during interrogation, Vinod disclosed where Rahul's body, a knife and danda lay in the forest and led the police there. A cap, slippers and other articles were recovered and documented in the presence of witnesses. The body was sent for post-mortem and the seized items for chemical examination. Mahesh and Mukesh described hearing Vinod disclose the location at the police station and accompanying the police to the recovery spot. Villagers Narmada Prasad and Raju Sharma also described that sequence. Shopkeeper Lalliram said that Vinod came with Rahul at about 7:30 a.m., bought biscuits, chocolate and other treats, and left toward the forest without collecting his change. Santosh Sharma separately saw the pair walking in that direction that morning. Shivkumari said that Vinod took Rahul from her house. A shopkeeper said that Vinod had bought an inexpensive household knife, although he could not recall the date. The medical officer found two blunt head contusions and multiple deep wounds caused by a sharp object on the neck, trunk, back and wrist, together with a punctured trachea and fractured ulna. Death resulted from haemorrhage and shock. The doctor considered injuries of this type possible with the knife later shown to him by the police, but had not recorded whether it bore blood.

Vinod challenged the conviction on the ground that there was no eyewitness and that the finding based on circumstantial evidence was perverse. The State supported the trial court's judgment. The Division Bench examined the investigating officer's evidence, the recovery and shopkeepers' accounts, the last-seen evidence, the post-mortem and Vinod's response under Section 313 CrPC. It dismissed the appeal.

2. Precedents — Considered : *Jagroop Singh v. State of Punjab; (2012) 11 SCC 768*, was quoted at length. It accepted credible disclosure and weapon recovery supported by medical opinion that the recovered blade could cause the injuries, and assessed the circumstantial chain as a whole. The High Court relied on that reasoning after accepting the accounts of several witnesses to the recoveries at Vinod's instance and the doctor's opinion that the injuries were possible with the knife. *Jagroop Singh* quoted *State of Maharashtra v. Suresh; (2000) 1 SCC 471*, for the proposition that failure to give an appropriate explanation, or a false answer, to incriminating circumstances put under Section 313 CrPC may provide a missing link in completing the chain. It expressly added that it referred to *Suresh* only to highlight the accused's failure to give any explanation of the circumstances put to him. In the present case, the Bench considered Vinod's failure to explain taking Rahul away, the knife-purchase evidence and his knowledge of the body's location together with the prosecution's last-seen, recovery and medical evidence.

Jagroop Singh also reproduced *Sucha Singh v. State of Punjab; (2003) 7 SCC 643*, which distinguishes a reasonable doubt arising from the evidence from an

imaginary, trivial or merely possible doubt. The present Bench considered the circumstances together and rejected the contention that absence of an eyewitness required reversal of the conviction.

3. Statutes considered : IPC Section 302 was the sole conviction under appeal. Section 374 CrPC provided for the appeal. Section 27 of the Indian Evidence Act arose in the officer's account of Vinod's disclosure of the body and articles. Section 313 CrPC governed the opportunity to explain incriminating circumstances; the Court considered the failure to explain them alongside the prosecution evidence. The FIR and Merg formed part of the investigation narrative.

4. Issues : Whether the evidence that Vinod took Rahul toward the forest, knew and disclosed the body's hidden location, led the recovery of associated articles, together with the corroborative post-mortem findings, formed a reliable circumstantial chain sufficient to sustain Section 302 despite the absence of an eyewitness. Whether his failure to explain the circumstances put under Section 313 CrPC added weight to that chain, and whether the absence of an eyewitness gave rise to a reasonable doubt founded on the evidence.

5. Ratio / Findings : The Bench found that the investigating officer gave satisfactory answers in cross-examination and that his evidence was supported by the FIR, disclosure, panchnama, recovery and forensic-dispatch documents. Mahesh and Mukesh supported the essential sequence: at the police station, Vinod disclosed that the body and implements were in Mor Pahadi forest, and he accompanied the group to the spot where they were found. Narmada and Raju corroborated the journey and recovery. The Court rejected the suggested fabrication and found no material discrepancy undermining these accounts.

Lalliram placed Vinod with Rahul early that morning, buying treats and walking toward Mor Pahadi. Santosh also saw them heading there, and Shivkumari confirmed that they left together. The knife seller described a purchase by Vinod but could not specify its date; the knife was an ordinary household implement. The doctor recorded eleven blunt and sharp injuries, including a punctured trachea, and attributed death to haemorrhage and shock. He considered the sharp injuries possible with the knife shown to him, but had not recorded whether it bore blood. The medical evidence supported the account of the assault and homicidal death.

Vinod gave no explanation under Section 313 of the incriminating circumstances put to him and did not account for his knowledge of the body's location in the forest. The Bench considered this failure with the last-seen and recovery evidence and the medical findings. *Jagroop Singh* reproduced the missing-link proposition from *Suresh*, while expressly limiting its reference to highlighting the absence of any explanation. *Sucha Singh*'s distinction between reasonable and speculative doubt, reproduced in *Jagroop Singh*, informed the rejection of the objection based on absence of an eyewitness. On the combined evidence, the Court held the murder proved beyond reasonable doubt and found no ground to interfere with the trial conviction.

6. Relief : The Hon'ble High Court dismissed the criminal appeal. It upheld the trial court's conviction under Section 302 IPC and sentence of life imprisonment and a fine of ₹5,000 with the default stipulation. Vinod was in jail and was directed to undergo the remainder of his sentence.

Vinod Sharma v. State of Madhya Pradesh, Cr.A. no. 655/2010, 01/02/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Deepak Kumar Agarwal, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (987) Prev Next

Headnote :- Murder / Section 300 thirdly and the intended injury - *Virsa Singh v. State of Punjab; AIR 1958 SC 465*, sets out four inquiries: whether a bodily injury exists, its nature, whether the accused intended to inflict the particular injury found, and whether that injury was sufficient in the ordinary course of nature to cause death. A separate intention to kill is unnecessary under clause Thirdly. *Arun Nivalaji More v. State of Maharashtra*, Appeal (Cri.) 1078–1079 of 2005, distinguished culpable homicide under Section 299, murder under Section 300 and the intention and knowledge requirements of Section 304 Parts I and II. *Anda v. State of Rajasthan; 1966 Cri LJ 171*, emphasised that the intended injury must be sufficient in the ordinary course of nature to cause death. Fatal skull fractures and brain rupture caused by the group assault with sharp and blunt weapons supported the Section 302 finding. *Mahesh Balmiki v. State of M.P.; (2000) 1 SCC 319, Pulicherla Nagaraju v. State of A.P.; (2006) 11 SCC 444, Sangapagu Anjaiah v. State of A.P.; (2010) 9 SCC 799, State of Rajasthan v. Kanhaiyalal; (2019) 5 SCC 639*, and *Bavisetti Kameswara Rao v. State of A.P.; (2008) 15 SCC*

725, were considered for the relevance of the weapon, body part, force and surrounding circumstances. A single blow does not automatically require reduction of a murder conviction; this case involved several accused and injuries. The Court quoted the cumulative requirements of sudden-fight Exception 4 from *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat; (2003) 9 SCC 322*. It accepted the evidence of the group's departure after the liquor refusal, armed return and assault, and affirmed the murder conviction.

Attempt to murder / intention and act / effect of injury - *Hari Singh v. Sukhbir Singh; (1988) 4 SCC 551*, was considered for Section 307 IPC. The act must be done with such intention or knowledge and in such circumstances that, if it caused death, it would amount to murder. Intention is inferred from the weapons, manner of use, motive, force, site of injury and surrounding circumstances. Neither an injury capable of causing death nor an actual injury is essential, although actual hurt affects the statutory punishment. The Bench found that the armed group also inflicted medically proved injuries on Kalyan, Jyotiram and Sonpal when they intervened, and affirmed the Section 307/149 conviction.

Unlawful assembly / common object / individual overt acts - Section 149 IPC requires membership of an unlawful assembly of at least five persons with a common object under Section 141. Liability arises for an offence committed in prosecution of that object or one the members knew was likely to be committed in its prosecution. *Dani Singh v. State of Bihar; (2004) 13 SCC 203*, distinguishes a shared unlawful object from mere presence and explains that an overt act need not invariably be proved against every member. *Kuldip Yadav v. State of Bihar; (2011) 5 SCC 324*, requires a clear finding that the common object was unlawful. *Mahadev Sharma v. State of Bihar; (1966) 1 SCR 18*, explains the implied rioting ingredients and why separate charges for every lesser offence are not always necessary. More than five persons returned after the liquor refusal carrying farsa, ballam, axe and lathi, and attacked Shivprasad and the rescuers. The Bench inferred their common object from their collective conduct. It rejected the objection that an individual overt act had to be established against every appellant and also noted the acts attributed to them. Its conclusion described their shared purpose as "common intention"; the convictions were under Section 149.

Related and injured witnesses / careful scrutiny - *Harbeer Singh v. Sheeshpal; (2016) 16 SCC 418*, through its discussion of *Darya Singh*, requires careful examination of related or interested witnesses' presence and of infirmities in their evidence. Independent corroboration is not an inflexible requirement, and evidentiary quality matters more than the number of villagers examined. The Bench accepted Sukhram's account as corroborated by injured witnesses Kalyan, Jyotiram and Sonpal and by the medical findings. It found that the identified omissions did not undermine the prosecution case. It rejected the submissions that darkness prevented identification and that a fall caused the injuries, finding sufficient post-sunset light and injuries consistent with the attack.

Investigation omissions / delayed statements / eyewitness and medical evidence - The defence relied on delayed Section 161 CrPC statements of some injured witnesses, absence of blood on the seized weapons and failure to send the weapons to a ballistic expert. The Bench found no prejudice from the delay. On the evidence in this case, investigative shortcomings did not undermine the reliable direct testimony of the injured witnesses, which was corroborated by the post-mortem and injury reports.

Case-note :- ***1. Facts :*** This common judgment decided Criminal Appeal Nos. 629/2009, brought by Vinoda, and 674/2009, brought by Gangadeen and others, against the same conviction of 17 August 2009 in Sessions Trial No. 137/2006 at Ambah, Morena. Barelal, appellant 5 in CRA 674/2009, died during the appeal; his appeal had already abated by the order of 20 October 2021. The surviving appellants were Vinoda, Gangadeen, Ramsundar, Ramnaresh and Mahaveer. Under IPC Section 148, the trial court imposed one year's rigorous imprisonment. Under Section 302/149, it imposed life imprisonment and a fine of ₹1,000, with six months' rigorous imprisonment in default. Under Section 307/149, it imposed seven years' rigorous imprisonment and a fine of ₹500, with three months' rigorous imprisonment in default. Under Section 324/149, it imposed one year's rigorous imprisonment and a fine of ₹200, with two months' rigorous imprisonment in default. The High Court affirmed all these convictions and sentences.

The prosecution alleged that, at about 7 p.m. on 13 March 2006, Mahaveer and Vinoda told complainant Sukhram's son Shivprasad, also called Sheoprasad, to bring liquor. When he refused, they abused him

and left. They allegedly returned with a larger group carrying farsa, ballam, axe and lathis and attacked the unarmed Shivprasad. Sukhram and witnesses Kalyan, Jyotiram and Sonpal described the blows to Shivprasad and the injuries inflicted on the three witnesses when they came to his rescue. The parties knew one another. The police registered the FIR, arranged medical examinations and a post-mortem, prepared a map, seized clothes, soil and weapons, and recorded witness statements, some after hospitalisation. The medical officer found incised and blunt injuries to Shivprasad's head, skull fractures, rupture of the brain and haemorrhage. Death resulted from coma and was homicidal. Kalyan had several incised wounds on the head, chest and arm; Sonpal had incised head wounds; and Jyotiram had an incised chest wound. The complainant and injured witnesses gave eyewitness accounts that the Bench compared with the medical findings.

The accused pleaded not guilty. Gangadeen said that he had been in Udaypura, Ramsundar said that he had been working in Gwalior, and Vinoda said that he had been in Delhi. None examined a defence witness. In appeal, counsel disputed the place of occurrence, the available light, the medical consistency of the accounts and proof of a five-person unlawful assembly with a shared object. Counsel also relied on the witnesses' relationship with the deceased, contradictions, delayed police statements, absence of independent village witnesses and lack of blood on the recovered weapons. The High Court examined the nature and authorship of the homicide and injuries, the requirements of Sections 307 and 149, and witness reliability before deciding the surviving appeals.

2. Precedents — Considered : *Virsa Singh v. State of Punjab; AIR 1958 SC 465*, was quoted for the four requirements of Section 300 Thirdly. The prosecution must objectively establish a bodily injury and its nature, prove intention to inflict the particular injury found, and objectively establish that the injury was sufficient in the ordinary course of nature to cause death. A separate intention to cause death, or knowledge of the likely fatal consequence, is not a further requirement of that clause. The Bench applied this framework in rejecting the contention that absence of intention to kill excluded murder despite the fatal head injuries. *Arun Nivalaji More v. State of Maharashtra*, Appeal (Cri.) 1078–1079 of 2005, was reproduced for the sequence of inquiries under Section 299, Section 300 and its exceptions. It also distinguished the intention required by Section 304 Part I from the knowledge required by Part II. *Anda v. State of Rajasthan; 1966 Cri LJ 171*, emphasised that the intentionally inflicted injury must be sufficient in the ordinary course of nature to cause death.

Mahesh Balmiki v. State of M.P.; (2000) 1 SCC 319, rejected a universal rule that a single blow excludes murder: the weapon, body part, force and manner of infliction are material. *Pulicherla Nagaraju v. State of A.P.; (2006) 11 SCC 444*, gave a non-exhaustive list of circumstances relevant to intention when distinguishing Section 302 from Section 304 Parts I and II. These included whether the weapon was carried or picked up, the body part targeted, force, sudden fight, preparation and undue advantage. *Sangapagu Anjaiah v. State of A.P.; (2010) 9 SCC 799*, inferred intention from a forceful crowbar blow to the skull on the facts of that case. *State of Rajasthan v. Kanhaiyalal; (2019) 5 SCC 639*, discussed why a single blow does not automatically exclude murder through *Arun Raj* and *Ashokkumar Magabhai Vankar*, and restated the Exception 4 requirements through *Leela Ram*. *Bavisetti Kameswara Rao v. State of A.P.; (2008) 15 SCC 725*, rejected a test based mechanically on the number of injuries and quoted *Virsa Singh* through *Vedanayagam*. These authorities formed the Court's survey of injury and mens rea principles. In the present group assault with several weapons and injuries, the Court found the head injuries fatal and affirmed murder. *Dhirajbhai Gorakhbhai Nayak v. State of Gujarat; (2003) 9 SCC 322*, set out the cumulative requirements of Section 300 Exception 4: absence of premeditation, a sudden mutual fight in the heat of passion, and absence of undue advantage or cruel or unusual conduct.

Hari Singh v. Sukhbir Singh; (1988) 4 SCC 551, explained that Section 307 requires the intention or knowledge necessary for murder, assessed from the act and surrounding circumstances irrespective of its eventual result. The Court stated this principle before examining the injuries inflicted on the three rescuers during the assault and sustaining the Section 307/149 conviction.

Dani Singh v. State of Bihar; (2004) 13 SCC 203, explained the requirements of Section 149: an unlawful assembly of at least five persons, a shared unlawful object under Section 141, conscious participation, and an offence committed in

prosecution of that object or known by its members to be likely in its prosecution. Mere membership without the requisite common object is insufficient; an individual overt act need not invariably be established. *Kuldip Yadav v. State of Bihar; (2011) 5 SCC 324*, requires a clear, evidence-based finding that the common object was unlawful. *Mahadev Sharma v. State of Bihar; (1966) 1 SCR 18*, explained the relationship between Sections 143, 147, 148 and 149 and why separate charges for lesser rioting offences are not always necessary.

Harbeer Singh v. Sheeshpal; (2016) 16 SCC 418, quoted *Darya Singh* on careful scrutiny of related witnesses who shared the victim's hostility to the accused, including their actual presence and infirmities in their accounts. It rejected an inflexible requirement of independent corroboration and emphasised quality rather than quantity of evidence. The Bench applied that approach to Sukhram and the injured family witnesses, finding medical corroboration and no fatal contradiction. The State relied on *Surjit Singh* to support its submission that, without previous enmity, there was no reason for false implication, and on *Meharban* for its submission that minor discrepancies did not undermine the prosecution case. The defence invoked *Ankush Maruti Shinde*; *(2019) 15 SCC 470*, on fair investigation and trial. It relied on *Prabhat*, *Noushad*, *Balakrushna Swain*, *Salveraj*, *Balaka Singh*, *Amar Singh*, *Vijaybhai Bhanabhai Patel* and *Vipin Jog* in challenging omissions, credibility and delay. The Court rejected the factual objections on the evidence in this case, finding no prejudice from the delay.

3. Statutes considered : IPC Section 299 defined culpable homicide by reference to intention to cause death or bodily injury likely to cause death, or knowledge that death was likely. Section 300, particularly clause Thirdly, distinguished murder where the particular bodily injury intended was sufficient in the ordinary course of nature to cause death, subject to the statutory exceptions. Section 302 prescribed punishment for murder. Section 304 Parts I and II were discussed as lesser homicide categories, but the murder convictions were affirmed. The cumulative conditions of Exception 4 were quoted. Section 307 required an act done with such intention or knowledge and in such circumstances that, if death resulted, it would be murder; the Court considered the attacks on the rescuers. Sections 141 and 149 concerned the unlawful common object, minimum membership and liability for offences committed in prosecution of that object or known to be likely in its prosecution. Section 148 concerned rioting with deadly weapons. The Section 324/149 conviction for hurt by dangerous weapons was also affirmed.

4. Issues : (i) Whether Shivprasad's death was homicidal and the proved assault and injuries established murder under IPC Sections 299–300 Thirdly and 302, rather than an offence under Section 304 or one falling within Exception 4. (ii) Whether the acts and mental element directed at the rescuers, considered with their proved injuries, sustained Section 307/149 and the accompanying Section 324/149 conviction. (iii) Whether an unlawful assembly of at least five persons with a shared unlawful object existed for liability under Sections 149 and 148, despite the objection concerning proof of each member's overt act. (iv) Whether the related and injured witnesses' accounts, medical findings, available light, delayed statements, discrepancies, absence of independent witnesses and omissions in weapon examination and investigation left a reasonable doubt about the identity of the assailants or the place and manner of attack.

5. Ratio / Findings : The doctor found incised and blunt head injuries, fractures of the frontal and parietal skull bones, and rupture of the brain, with death resulting from coma. This established homicidal death and dangerous fatal injuries. Under *Virsa Singh*'s Section 300 Thirdly test, proof that the accused intended to inflict the particular bodily injury found, and that it was sufficient in the ordinary course of nature to cause death, makes separate proof of an intention to kill unnecessary. The Court examined intention and knowledge in light of the weapons, the body parts targeted and the force used, as discussed in the Supreme Court authorities. The group left after the refusal to bring liquor and returned with lathi, farsa, ballam and axe. Witnesses described blows to the head, and the medical findings corroborated the severe injuries. The Bench affirmed murder and did not convert the conviction to Section 304. Its survey quoted *Dhirajbhai* and the authorities discussing Exception 4 for the cumulative requirements of a sudden mutual fight, absence of premeditation, heat of passion, and absence of undue advantage or cruel or unusual conduct.

The medical examinations recorded incised wounds on Kalyan's head and other parts of his body, Sonpal's head and Jyotiram's chest. As explained in

Hari Singh, Section 307 requires an act done with the intention or knowledge necessary for murder and in the requisite circumstances; an injury capable of causing death is not essential. The Court accepted the evidence that the same group attacked the rescuers with sharp weapons, considered their medical reports and affirmed the Section 307/149 conviction. The conviction and punishment under Section 324/149 also remained intact.

For Section 149, the Bench required at least five members and a common object within Section 141. *Dani Singh* excludes liability based on mere presence without the requisite shared object, but does not invariably require an individual overt act; *Kuldip Yadav* requires a clear finding that the common object was unlawful. The Court inferred the shared purpose from the liquor demand and refusal, the group's temporary departure and collective armed return, the attack on unarmed Shivprasad, and the assaults on those who came to his rescue. Sukhram and the injured witnesses also attributed particular acts to several participants. On this evidence of collective conduct and the attributed acts, the Court sustained Sections 148, 302/149, 307/149 and 324/149.

Relationship alone did not discredit Sukhram or injured witnesses Kalyan, Jyotiram and Sonpal. Following *Harbeer Singh*, the Court scrutinised their accounts, accepted their presence and found their account of the assault corroborated by the post-mortem and injury reports. It treated the identified police-statement omissions as nonmaterial and rejected the submission that a fall caused the skull and sharp injuries. It found identification possible in the post-sunset light at about 7 p.m. on 13 March. The judgment referred both to moonlight evidence and to residual light after sunset at approximately 6:25 p.m. The Court emphasised the quality rather than the number of witnesses and did not require independent village witnesses as an inflexible rule. Delays of roughly twenty days in recording some injured witnesses' Section 161 statements were challenged. Given the direct testimony corroborated by medical evidence, the Bench found no prejudice from the delay. The absence of blood on recovered weapons and the investigation lapses, including failure to send weapons for ballistic examination, did not outweigh that evidence on its assessment. The accused had asserted three alibis and examined no defence witness; the Court affirmed the convictions on the accepted eyewitness and medical evidence.

6. Relief : The Hon'ble High Court dismissed Vinoda's criminal appeal and the appeal of surviving appellants Gangadeen, Ramsundar, Ramnaresh and Mahaveer. It affirmed the convictions and sentences of 17 August 2009 in Sessions Trial No. 137/2006. Vinoda, Gangadeen and Ramnaresh were on bail; their bail bonds were cancelled, and they were directed to surrender before the trial court to serve the remainder of their sentences. Ramsundar and Mahaveer, already in jail, were to be informed of the result through the Jail Superintendent. Barelal's appeal had already abated on his death during its pendency. The trial record was to be returned immediately with a copy of the judgment.

Vinoda and Others v. State of Madhya Pradesh; Gangadeen and Others v. State of Madhya Pradesh, Cr.A. no. 629/2009 & 674/2009, 28/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Circumstantial evidence / complete chain / reasonable doubt - *Sharad Birdhichand Sarda v. State of Maharashtra; (1984) 4 SCC 116*, and *Pattu Rajan v. State of T.N.; (2019) 4 SCC 77*, require every circumstance to be fully established, conclusive and consistent only with guilt. The circumstances must exclude reasonable hypotheses of innocence and form a complete chain. *Satish Nirankari v. State of Rajasthan; (2017) 8 SCC 497*, emphasises the quality and reliability of the links, rather than their number. *Mohd. Faizan Ahmad v. State of Bihar; (2013) 2 SCC 131*, explains that suspicion cannot replace proof, however grave the offence. Medical evidence established homicidal death. The prosecution did not prove the alleged motive, confessions or sighting, and the forensic material did not identify the perpetrators. All five appellants were given the benefit of reasonable doubt.

Extra-judicial confession / voluntariness / credibility / surrounding circumstances - Applying *Sahib Hussain v. State of Rajasthan; (2013) 9 SCC 778*, *Sk. Yusuf v. State of W.B.; (2011) 11 SCC 754*, and *R. Kuppusamy v. State; (2013) 3 SCC 322*, the Court accepted that a clear, true, voluntary and trustworthy extra-judicial confession may alone sustain conviction. The circumstances in which the confession was made and the witness's credibility require careful scrutiny. Corroboration strengthens

credibility but is not an inflexible requirement in every case. *Kusal Toppo v. State of Jharkhand; (2019) 13 SCC 676*, reproduces the *Sahadevan* safeguards concerning material discrepancies and inherent improbabilities. *Kulwinder Singh v. State of Punjab; (2006) 12 SCC 538*, makes the timing, circumstances and recipient's credibility relevant; *State of Rajasthan v. Kashiram; (2006) 12 SCC 254*, illustrates the unreliability of an unnatural confession to persons in whom the accused had no reason to confide. Here, the unexplained visit to an isolated Kothi, conflicting accounts of the confessors and inconsistent timings undermined credibility. In its assessment, the Court treated the allegation that Bali had confessed as an improvement unsupported by the earliest record or the other two witnesses. It also rejected the alleged confession by Bihari.

Co-accused's confession / limited use under Section 30 - The discussion of *Pancho* and the Constitution Bench decision in *Haricharan Kurmi v. State of Bihar*, reproduced in *Kusal Toppo*, explains that a co-accused's confession is not substantive evidence against another accused under Section 3 of the Evidence Act. Under Section 30, the court must first assess whether the independent evidence satisfactorily supports the charge against the other accused. Only then may it consult the confession for assurance; the confession cannot be the starting point. The High Court quoted these limits when considering the alleged confessions implicating several persons. Neither a reliable confession nor an independently complete chain was established against the appellants.

Witness improvements / visibility / route / prompt disclosure - The Court did not reject the relatives merely because of their relationship with the deceased. Their material departures from the Dehati Nalishi and police statements nevertheless required close scrutiny. The time of the search shifted from after 8 p.m. to earlier hours when daylight might remain. The witnesses bypassed village houses and went to an isolated room. Their accounts differed on whether they returned to the village before proceeding to the culvert, and they claimed to follow blood drops despite admitted darkness and no reliable source of light. The spot map recorded neither drops along path E nor the points from which they claimed to see the accused. The first police information at 4 a.m. concerned a missing person. The failure promptly to name the assailants to relatives or police, together with the physical difficulty of identifying faces and a body from a distance, made the alleged sighting of disposal unreliable. The contradictions were material.

Last seen together / suspicion insufficient - The Court considered partly hostile Imrati Bai's claim that she had seen Hargovind with Bihari at about 7–7:30 p.m. It did not discard her evidence in its entirety. That timing conflicted with the alleged confession to an already completed killing at about 6 p.m. Her claimed disclosure to villagers was also absent from her police statement. Applying *Mohd. Faizan Ahmad*, *Pattu Rajan* and *Satish Nirankari*, the Court found at most suspicion against Bihari, without a proved chain linking him or the other appellants to the murder.

Human blood / inconclusive grouping - Applying *Kansa Behera v. State of Orissa; (1987) 3 SCC 480*, the Court held that human blood on an accused's clothing or weapon, without a group connecting it to the deceased, did not positively establish its source. The possibility that it was the accused's own blood remained. The deceased's articles indicated group A, while the blood on certain recovered lathis and clothing could not be grouped. The human origin of the blood in earth near the Kothi was not established. The Court also noted an unexplained delay in transit to the forensic laboratory, described as twelve days. With the other circumstances unproved, the recoveries did not establish guilt.

Case-note :- ***1. Facts :*** Hargovind was found dead under a culvert near the Datia–Gwalior road after disappearing from village Jakhoria on 7 December 2008. The prosecution alleged that Vir Singh, Bali alias Balkishan, Biharilal, Siyasharan, Ravindra and others took him from his home at about 11 a.m. to discuss compromise of a pending assault complaint. Vir Singh's wife Pista had made that complaint against Hargovind, his wife Jayanti Bai and his mother Manku. Hargovind's brother Phool Singh said that he, Jayanti Bai and Rati Bai went in search of him to Biharilal's room, or Kothi, in a field, where Biharilal confessed to killing him. In court, Phool Singh also attributed a confession to Bali. The witnesses claimed to have followed blood drops to the culvert and seen the accused carrying or depositing the body. The complaint also attributed later confessions to Pista, Lallan and Meera.

The Dehati Nalishi was recorded on 8 December at about 7 a.m. An earlier telephone report to the police at 4 a.m. had described Hargovind as missing. The police prepared the spot map, seized earth and

articles, examined witnesses and obtained forensic and post-mortem reports. The medical evidence described ante-mortem head injuries caused by heavy blunt force, resulting in coma and homicidal death. The police charge-sheeted the five appellants under IPC Sections 302, 201 and 34, but found insufficient evidence to charge-sheet the other named persons. The Sessions Judge framed charges under Sections 302 and 201. On 29 December 2009, the Fast Track Court, Datia, convicted all five. Each received life imprisonment and a fine of ₹5,000, with two years' rigorous imprisonment in default, under Section 302, and three years' rigorous imprisonment and a fine of ₹2,000, with six months' rigorous imprisonment in default, under Section 201. They appealed under Section 374 CrPC, disputing the alleged motive, confessions and last-seen evidence, the changing witness accounts of time, the blood trail and the origin of the blood. The State supported the trial judgment. After finding homicidal death established, the Division Bench examined whether the appellants had inflicted the injuries or disposed of the body.

2. Precedents — Considered : *Sahib Hussain v. State of Rajasthan; (2013) 9 SCC 778*, and *Sk. Yusuf v. State of W.B.; (2011) 11 SCC 754*, require caution in assessing an extra-judicial confession. Although ordinarily weak evidence, it can sustain conviction when its clear words are proved and it is voluntary, truthful, made in a fit state of mind and credible. The High Court applied those qualifications. *R. Kuppusamy v. State; (2013) 3 SCC 322*, explains that corroboration is a prudential safeguard rather than an absolute requirement when the recipient is trustworthy and the confession is truly voluntary and reliable. Its discussion of *Gura Singh* and *Sahadevan* distinguishes a proved, reliable confession from a mere allegation that one was made. The Court expressly concluded that a trustworthy voluntary confession could be the sole basis of conviction, but found the alleged admissions unreliable on the evidence.

Kusal Toppo v. State of Jharkhand; (2019) 13 SCC 676, was quoted extensively. Its discussion of *Gopal Sah* and *Pancho* emphasises the danger of relying on a weak confession without cogent surrounding evidence. The *Sahadevan* safeguards require care, voluntariness, truth, confidence, absence of material discrepancies and inherent improbabilities, and proof in accordance with law; corroborative circumstances add credibility. The Constitution Bench principle in *Haricharan Kurmi v. State of Bihar*, reproduced through *Pancho*, distinguishes the maker's confession from its use against a co-accused. Under Evidence Act Sections 3 and 30, the latter is not substantive evidence. The court begins with independent evidence and may then consult the confession only for assurance of a conclusion supported by that evidence. The High Court included these principles in its framework for assessing the alleged confessions. *Kulwinder Singh v. State of Punjab; (2006) 12 SCC 538*, makes the circumstances, timing and recipient's credibility relevant. *State of Rajasthan v. Kashiram; (2006) 12 SCC 254*, rejected an unnatural claim of confession to persons in whom the accused had no reason to confide. The Court applied those considerations to the unexplained visit to Biharilal's isolated room and the inconsistent accounts of who had confessed.

Mohd. Faizan Ahmad v. State of Bihar; (2013) 2 SCC 131, explains that neither the gravity of the offence nor suspicion can replace legal proof. That principle was relevant to Imrati Bai's limited sighting. *Pattu Rajan v. State of T.N.; (2019) 4 SCC 77*, requires a conclusive, exclusive and complete chain of circumstances. It reproduces the five requirements in *Sharad Birdhichand Sarda v. State of Maharashtra; (1984) 4 SCC 116*: the circumstances must be fully established, consistent only with guilt and conclusive; they must exclude other hypotheses and form a complete chain leaving no reasonable conclusion of innocence. *Satish Nirankari v. State of Rajasthan; (2017) 8 SCC 497*, emphasises the quality and reliability of the links and excludes an inference based only on suspicion. The Bench considered the circumstances together and again applied *Sharad Birdhichand Sarda* when assessing the bloodstains after the other links had failed.

Kansa Behera v. State of Orissa; (1987) 3 SCC 480, explains that human blood on recovered clothing, without serological grouping, cannot positively connect the stains to the deceased; they could conceivably be the wearer's own blood. The High Court applied that limitation to the recovered weapons and clothes whose blood group was inconclusive, particularly because the deceased's group A was known.

3. Statutes considered : IPC Section 302 concerned murder, and Section 201 concerned disappearance of evidence or disposal of the body. Section 34 appeared in the charge-sheet, while the trial charges

and operative acquittal were under Sections 302 and 201. Section 374 CrPC provided for the appeal against conviction. Evidence Act Sections 3 and 30 arose in the quoted Constitution Bench discussion of the limited use of a confession against a co-accused. The Court assessed the police statements, first report, spot map, forensic material and medical evidence.

4. Issues : (i) Whether the medically established homicidal death could be attributed beyond reasonable doubt to each appellant through a complete circumstantial chain, including the alleged compromise motive. (ii) Whether a confession by Biharilal, Bali or others was reliably proved despite changes in the recipient witnesses' accounts and the surrounding circumstances, and how a maker's confession differed from its possible use against a co-accused. (iii) Whether the family witnesses reliably saw the accused move or leave the body near the culvert, given the disputed search times, darkness, route and lack of prompt disclosure, and whether Imrati Bai's claimed sighting supplied a dependable last-seen link. (iv) Whether the earth, recovered lathis and clothing, medical evidence and serology independently connected the five appellants with homicide or disposal. Whether the combined circumstances established authorship of the offences, as distinct from merely proving homicidal death or creating isolated suspicion.

5. Ratio / Findings : The doctor established fatal ante-mortem blunt head injury and homicidal death, but that evidence did not identify the assailants. The alleged motive of demanding money for compromise was not proved. Pista was the complainant in the assault case, whereas Hargovind, Jayanti Bai and Manku faced prosecution. The Court considered that they would have had reason to seek compromise and found no reason for Vir Singh to press Hargovind for it. The witnesses' accounts of the alleged talks differed and material details were absent from their earlier statements. The allegation of an illicit relationship between Pista and Hargovind was also absent from the police statements. The Court found no proof that the accused had taken Hargovind away for compromise at 11 a.m.

Phool Singh, Jayanti Bai and Rati Bai were not disqualified merely because they were related to the deceased, but their evidence required meticulous scrutiny. Their original account placed the search after Hargovind failed to return by 8 p.m.; their court accounts shifted departure to 6–7 p.m. or 5:30 p.m. The Court regarded this as an attempt to suggest that enough daylight remained to follow blood drops. They bypassed the accused persons' village homes and went directly to Biharilal's isolated field room, about half an hour away. Their assertion that Hargovind had told them to go there was made only at trial. In their police statements, they said that they returned to the village after the alleged confession and later searched with villagers and a torch. Their court accounts made the culvert sighting immediate. This changed the possible time of the sighting by hours. They admitted darkness and lack of visibility. The spot map showed neither blood drops along the irregular field boundary marked E, nor the claimed viewing points or blood at the place where the body lay. Failure to collect earth from that route could, by itself, have resulted from faulty investigation, but it did not overcome the combined credibility problems. The movement of the cloth Kathri remained unexplained, and its alleged use to carry the body was disowned at trial. The witnesses claimed to have seen the body from a distance, behind persons carrying it horizontally by its limbs, without approaching it. They did not promptly disclose the assailants' names to villagers or relatives. Although Phool Singh had a phone, he gave no immediate police account of a confession or the body. The first police information at 4 a.m. concerned only a missing person. The Court rejected the alleged sighting of disposal and the witnesses' account because of these material contradictions and physical improbabilities.

The Court separately examined the alleged confessions. The earliest report attributed a confession only to Biharilal. In its assessment, the Court also treated Jayanti Bai and Rati Bai as attributing a confession only to him. Phool Singh's later inclusion of Bali was absent from his police account, as the investigator confirmed. The Court held that a confession by Bali had not been proved. The unexplained visit to the isolated room, disputed timing, lack of a natural reason for Biharilal to confide in the family members and conflicting accounts of subsequent events also undermined the alleged admission by Biharilal. The original complaint attributed statements to Pista, Lallan and Meera, but the police found insufficient evidence to charge-sheet them. Applying *Sahib Hussain*, *Sk. Yusuf*, *R. Kuppusamy*, *Kusal Toppo*, *Kulwinder Singh* and *Kashiram*, the Bench accepted that a reliable voluntary confession could sustain conviction, but declined to accept the disputed accounts in this case.

The quoted discussion in *Pancho* and *Haricharan Kurmi* also required independent evidence against a co-accused before a confession could be consulted for assurance under Sections 3 and 30.

The Court considered the evidence actually given by Imrati Bai despite her partly hostile testimony. Her claim that she had seen Hargovind alive with Biharilal at about 7–7:30 p.m. conflicted with Phool Singh's revised account of a confession to a completed killing at about 6 p.m. Her police statement did not record the supposed disclosure to villagers, and prompt communication of that sighting was not proved. At most, the account created suspicion against Biharilal. *Mohd. Faizan Ahmad*, *Pattu Rajan* and *Satish Nirankari* required reliable and conclusive links, rather than an inference drawn from the gravity of the crime, conjecture or doubtful circumstances.

The blood in the earth outside the Kothi had disintegrated, so its origin could not be established as human. Certain recovered lathis and clothing bore human blood, but its group could not be determined; the deceased's articles indicated group A. The Court also noted an unexplained interval in transit to the Gwalior forensic laboratory, described as twelve days over a distance of about 75 km. Applying *Kansa Behera*, it found no positive connection between those stains and Hargovind. In this circumstantial case, the failure to establish the other links made blood grouping crucial. The ungrouped human blood and recoveries could not complete the chain. Applying *Sharad Birdhichand Sarda* to the evidence as a whole, the Court held that the guilt of any appellant under Sections 302 or 201 had not been proved beyond reasonable doubt.

6. Relief : The Hon'ble High Court allowed the Criminal Appeal. It set aside the convictions and sentences of 29 December 2009 in Sessions Trial No. 64/2009 and acquitted Vir Singh, Bali alias Balkishan, Biharilal, Siyasharan and Ravindra of offences under IPC Sections 302 and 201. As the appellants were in jail, it directed their immediate release unless required in another case. It also directed return of fines if deposited, provision of a free copy of the judgment to the appellants and immediate dispatch of the judgment and record to the trial court for information and compliance.

Vir Singh and Others v. State of Madhya Pradesh, Cr.A. no. 23/2010, 21/10/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Bail cancellation / forged medical record / *M. Murugeson* distinguished - The applicant doctor contended that the High Court exceeded its jurisdiction under *State v. M. Murugeson* when, after cancelling another accused's anticipatory bail, it expressed the expectation that departmental and criminal action would follow. The Court distinguished disposal of an ordinary bail application under Section 439 from cancellation sought on the ground that a forged certificate had been used to obtain bail. The certificate's authenticity was central to cancellation. After finding it forged on the State's enquiry report, the cancellation court could consider the prosecutor's undertaking. The earlier order expressed hope and belief that the undertaking would be honoured. The doctor's subsequent promotion to In-charge Specialist, despite a request for a departmental enquiry, showed that the observation had not influenced the administrative authorities.

Forged material before court / Section 340 CrPC - Referring to *State Govt. of NCT of Delhi v. Pankaj Chaudhary; (2019) 11 SCC 575*, the High Court held that a separate preliminary enquiry and a hearing for the suspect are not invariably required where the material on record permits a prima facie opinion for action under Section 340. Here, the police had heard the doctor, examined the hospital records and reported that the certificate was forged. The earlier cancellation court had considered that report. The High Court stated that it could have directed prosecution of the doctor and Ragini Pandey under Section 340 concerning the document used to obtain anticipatory bail. It had instead recorded the prosecutor's undertaking that departmental and criminal action would be taken.

Regular bail / fraud affecting judicial proceedings - The doctor's first application under Section 439 in a case under IPC Sections 420, 465, 466, 468 and 120-B was refused. The medical certificate purported to show that Ragini Pandey was in hospital, supporting an alibi disputed by the prosecution. The State enquiry found that hospital documents had been fabricated. The Court rejected

the doctor's explanation concerning identification of patients on OPD slips because the record also showed purported inpatient admission and examination. It treated the alleged use of the forged certificate to obtain anticipatory bail as a serious interference with the administration of justice and held that the case was not fit for bail.

Case-note :- ***1. Facts :*** Dr Virendra Singh Gaur, arrested on 4 February 2021 in Crime No. 101/2018 at Police Station Dabra, sought his first regular bail under Section 439 CrPC. The alleged offences were IPC Sections 420, 465, 466, 468 and 120-B. According to the prosecution, while working as a doctor at Government Hospital, Dabra, he prepared a false medical certificate or prescription for Ragini Pandey. She used it to obtain anticipatory bail in MCRC No. 7358/2017 on 10 July 2017. The document showed her admitted and treated from 4 to 5 June 2017. The complainant maintained that she was present at the incident and at the police station, where CCTV had recorded her presence. Mukesh Parashar sought cancellation of her anticipatory bail in MCRC No. 9375/2017. On 27 March 2018, the High Court found the certificate forged and cancelled the bail. The Supreme Court dismissed her challenge in SLP (Criminal) No. 4986/2018 on 12 June 2018 and allowed seven days for surrender. The present judgment records that she had not surrendered.

During the cancellation proceedings, the police investigated the hospital records. The State submitted an enquiry report stating that the OPD register, other hospital documents and the certificate were forged and that Pandey had never been admitted or treated at Dabra District Hospital. The police heard Gaur and recorded his statement. He admitted that he was not on duty on 3 or 4 June 2017, but explained that he had covered emergency duty because the doctor assigned to it was late. In the cancellation order, the Court considered the report and recorded the Public Prosecutor's undertaking that departmental and criminal action would be taken. It expressed the hope that the undertaking would be honoured. An FIR was subsequently registered, and Gaur was arrested.

Gaur submitted that hospital employees prepared OPD slips and entered patients' names, while doctors examined the patients brought to them and wrote prescriptions. He relied on the grant of bail to employee Jaswant by the trial court on 21 January 2021. The State opposed release, submitting that a false certificate prepared to obtain anticipatory bail or support an alibi amounted to fraud on the Court. The judge referred to the separate application seeking withdrawal of the observation in paragraph 36 of the cancellation order. In that application, a document showed that Gaur had been promoted to In-charge Specialist on 4 October 2018, although the CMHO had requested a departmental enquiry on 3 July 2018. The Court considered that this showed that the observation had not influenced the authorities. The present application sought regular bail.

2. Precedents — Considered : *State Represented by Inspector of Police v. M. Murugeson and Another* was relied on by Gaur for the proposition that, after deciding an ordinary bail application under Section 439, the High Court's jurisdiction in that matter ends and it should not issue further directions. The Court distinguished the earlier Pandey proceeding because it concerned cancellation of bail obtained through a forged medical record. Determining the record's authenticity was necessary to decide cancellation. The Court therefore rejected the contention that *Murugeson* precluded consideration of the prosecutor's undertaking or the expression of hope and belief in the earlier order.

State Govt. of NCT of Delhi v. Pankaj Chaudhary; (2019) 11 SCC 575, was relied on in the discussion of Section 340 CrPC. The High Court understood it as permitting action on a prima facie opinion formed from the record without invariably conducting a further preliminary enquiry and hearing the suspect. The police had already heard Gaur during their enquiry, and the cancellation court had considered the report finding the certificate false. The High Court reasoned that it could have directed prosecution of Gaur and Ragini Pandey under Section 340 without further notice in these circumstances. Instead, it had recorded the Public Prosecutor's undertaking concerning departmental and criminal action.

The High Court's cancellation order of 27 March 2018 formed the background to the present case and contained the contested observation.

3. Statutes considered : Section 439 CrPC governed Gaur's first regular-bail application. IPC Sections 420, 465, 466, 468 and 120-B were the alleged offences concerning the forged medical record. Section 340 CrPC was discussed as a possible means of initiating prosecution concerning a forged document filed in judicial proceedings and affecting

the administration of justice. Referring to *Pankaj Chaudhary*, the Court considered that the existing record and prior police hearing permitted that course, while the earlier order had instead recorded the prosecutor's undertaking.

4. Issues : Whether the seriousness of the alleged preparation and use of a forged hospital certificate to obtain another person's anticipatory bail, and the material supporting that allegation, justified refusing the doctor's first regular bail despite his explanation concerning OPD duties and the separate grant of bail to an employee. Whether the rule in *M. Murugeson* concerning further directions after disposal of an ordinary bail application invalidated the earlier cancellation court's observation on the prosecutor's undertaking. This required consideration of the authenticity question before the cancellation court and whether Section 340 permitted a response to the document allegedly used to defraud it.

5. Ratio / Findings : The Court relied on the police enquiry, in which Gaur had been given an opportunity to explain the certificate, and on the hospital register and other records reported to be fabricated. It rejected his general explanation that doctors do not verify the name on an OPD slip because the allegation was not confined to treatment as an outdoor patient. The documents also purported to show Pandey admitted and examined by him as an indoor patient. The cancellation court had considered the report and found the certificate forged. The Court regarded issuing such a certificate for use in criminal proceedings as direct interference with the administration of justice by playing fraud on the Court.

The Court distinguished *M. Murugeson*. Although disposal of an ordinary application under Section 439 ends the court's jurisdiction in that bail matter, the earlier cancellation proceeding concerned the very use of a forged record to obtain anticipatory bail. The cancellation court had to examine the document. Its consideration of the prosecutor's undertaking after finding the certificate forged remained connected to that question. Paragraph 36 expressed hope and belief that the undertaking would be honoured. The doctor's promotion to In-charge Specialist after the CMHO's request for an enquiry showed that the observation had not influenced the administrative authorities.

Referring to *Pankaj Chaudhary*, the High Court considered that the record and the doctor's earlier police hearing could have supported Section 340 action without further notice in these circumstances. It emphasised its responsibility to respond to fraud affecting its proceedings. Considering the alleged use of the forged certificate to obtain anticipatory bail and the enquiry material, it held that the case was not fit for regular bail.

6. Relief : The Hon'ble High Court dismissed the first application for regular bail under Section 439 CrPC.

Virendra Singh Gaur v. State of Madhya Pradesh, M.Cr.C. no. 11166/2021, 01/04/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Bail cancellation / forged medical certificate / *M. Murugeson* distinguished - The doctor sought recall of paragraph 36 of the earlier order cancelling Ragini Pandey's anticipatory bail. That paragraph recorded the prosecutor's undertaking to take departmental and criminal action concerning the forged hospital certificate used to obtain bail and expressed the Court's hope that the undertaking would be honoured. *State v. M. Murugeson* concerned further directions after disposal of an ordinary bail application under Section 439. The Court distinguished it because the sole ground for cancellation was that a forged document had been used to obtain anticipatory bail. The cancellation court had to examine the certificate and had found, on the State's report, that it was forged. It could not ignore fraud affecting its proceedings. The paragraph expressed hope rather than issuing a binding direction. The subsequent grant of charge of the post of Specialist to the doctor, despite the CMHO's request for an enquiry, showed that the observation had not prejudiced the departmental authorities.

Section 340 CrPC / prima facie case and expediency - *State (NCT of Delhi) v. Pankaj Chaudhary; (2019) 11 SCC 575*, was quoted for two preconditions: the material before the court must prima facie support a complaint concerning an offence within Section 195(1)(b)(i), and an inquiry must be expedient in the interests of justice. The quoted reasoning in *Amarsang Nathaji* and *Iqbal Singh Marwah* explains that a preliminary inquiry is optional. Intentional false evidence or fabrication and the effect on the administration of justice require consideration. A complaint does not follow automatically from every inconsistent statement or

even every prima facie offence. The police had recorded the doctor's statement, and the cancellation court had considered the State's report finding the certificate forged. The High Court stated that it could have exercised power under Section 340 but had left further action to the State by recording the prosecutor's undertaking.

Successive Section 482 petition / suppression of material facts / Section 362 - The doctor had withdrawn an application filed in 2018 to quash the FIR and another filed in 2019 to recall the same observation. Nevertheless, he declared in the present petition that no petition on the same subject had been filed. The Court found that the relief sought in the 2019 application was identical in substance and that the declaration suppressed the earlier proceedings. It held that repeating the withdrawn recall request would amount to review prohibited by Section 362 CrPC. It dismissed the petition with costs of ₹10,000, payable to the Registry within thirty days, and directed the trial court to decide the criminal case strictly on the evidence before it.

Case-note :- ***1. Facts :*** Dr Virendra Kumar Gaur filed MCRC No. 16495/2021 under Section 482 CrPC to recall the part of paragraph 36 of the High Court's order of 27 March 2018 in MCRC No. 9375/2017 concerning departmental and criminal action against him. A prosecution under Section 307 IPC was pending against Ragini Pandey and her husband. In seeking anticipatory bail, Pandey relied on a certificate issued by Gaur to show that she was admitted to Government Hospital, Dabra, rather than present at the alleged occurrence. She obtained anticipatory bail on 10 July 2017. On the complainant's application for cancellation, the State enquired into the certificate and reported that it was forged and that Pandey had neither been admitted nor treated at the hospital. The High Court cancelled her anticipatory bail on 27 March 2018. The Supreme Court dismissed her SLP (Criminal) 4986/2018 on 12 June 2018 and allowed seven days for surrender. The present order records that she had not surrendered. The police registered Crime No. 101/2018 against Gaur under IPC Sections 420, 465, 466, 468 and 120-B. He had been arrested, and his regular-bail application, MCRC 11166/2021, was dismissed by a separate detailed order on the same day as the present petition. The bail application and the recall petition were decided separately.

In paragraph 36 of the cancellation order, the Public Prosecutor stated that departmental and criminal action would be taken against Gaur and the others in view of the police findings. The Court expressed its hope and belief that the undertaking would be honoured. Gaur contended that this was an unauthorised direction made after deciding bail and without hearing him. Relying on *State v. M. Murugeson*, he claimed prejudice in departmental proceedings and at his forthcoming trial. The State and the complainant opposed recall. The police had recorded Gaur's statement before reporting that the certificate was forged. The complainant produced the order of 4 October 2018 giving Gaur charge of the post of Specialist, although the CMHO had requested a suitable departmental enquiry from the Health Commissioner on 3 July 2018. The Court noted that Gaur had not shown that he faced such an enquiry. It considered whether paragraph 36 had imposed a binding direction or caused prejudice.

The complainant also referred to Gaur's earlier applications. MCRC 48280/2018 sought quashing of the FIR and was withdrawn on 28 June 2019 after argument. MCRC 21485/2019 sought recall of the observations in the cancellation order of 2018 and was also withdrawn after arguments. Yet the present petition declared that it was the first on the subject and that no such petition had been filed or was pending. The High Court compared the prayers, particularly the recall prayer in the 2019 application, when considering Section 362 and costs.

2. Precedents — Considered : *State Represented by Inspector of Police v. M. Murugeson and Another* was relied on by Gaur. It was described as holding that, once an ordinary bail application under Section 439 had been decided, the court's jurisdiction in that matter ended and further directions were unwarranted. The High Court distinguished that situation. The earlier proceeding in 2018 concerned cancellation of Pandey's anticipatory bail because she had obtained it by relying on a forged medical certificate. The certificate's authenticity was central to that decision, and the cancellation court had found it forged on the State's report. Recording the prosecutor's undertaking and expressing hope that it would be honoured was therefore not an extraneous direction after disposal of an ordinary bail application.

State (NCT of Delhi) v. Pankaj Chaudhary; (2019) 11 SCC 575, was quoted at length and applied. It stated two preconditions for Section 340 action: the material must prima facie support a complaint concerning an offence under Section 195(1)(b)(i)

CrPC, and an inquiry must be expedient in the interests of justice. Its quotation from *Amarsang Nathaji v. Hardik Harshadbhai Patel* explains that a contradictory statement alone does not always justify prosecution. The court must consider intentional false evidence or fabrication, the overall circumstances and the probable consequences of prosecution when assessing the interests of justice. A preliminary inquiry is permitted but is not mandatory if the record already enables the court to form the requisite opinion. Even then, a complaint need not follow as a matter of course. The nested Constitution Bench passage in *Iqbal Singh Marwah v. Meenakshi Marwah* makes the effect on the administration of justice, rather than the magnitude of private injury alone, central to expediency. *K.T.M.S. Mohd. v. Union of India* was referred to within the quoted discussion on intentional false evidence and the interests of justice; *Pritish v. State of Maharashtra* supported the explanation that a complaint is not mandatory as a matter of course. The passage also records that *Chintamani Malviya v. High Court of M.P.* reiterated the same principle. Here, the police had heard Gaur and reported on the certificate. The Court reasoned that it could have exercised Section 340 power but had instead left further action to the State.

The Supreme Court had dismissed Pandey's SLP against cancellation of anticipatory bail. Gaur's regular-bail application was dismissed in a separate order on the same day as the present recall petition.

3. Statutes considered : Section 482 CrPC was invoked to recall an observation in an earlier criminal order. The Court applied Section 362 to the successive request for the same recall relief after withdrawal of the earlier application, holding that it would amount to prohibited review. It also found suppression of the earlier proceedings. Section 340 CrPC, read with Section 195(1)(b)(i), was discussed as a possible response to forged material filed in judicial proceedings, subject to a prima facie foundation and expediency in the interests of justice. A preliminary inquiry is not invariably necessary, and a complaint does not follow automatically. Section 439 CrPC arose in the ordinary-bail authority distinguished by the Court and in Gaur's separate regular-bail proceeding. IPC Sections 420, 465, 466, 468 and 120-B were the offences registered against Gaur concerning the certificate. Section 307 IPC concerned the background prosecution against Pandey and her husband.

4. Issues : Whether paragraph 36 of the anticipatory-bail cancellation order of 2018 imposed a binding direction prejudicing Gaur without a required hearing, or permissibly addressed the forged certificate on which cancellation depended. Whether the rule in *Murugeson* concerning further directions after disposal of an ordinary bail application applied, and whether the qualified procedure under Section 340 permitted the court to respond to the suspected fraud. Independently, whether the present Section 482 recall petition was maintainable after withdrawal of a materially identical recall application, particularly when it declared that no petition on the same subject had been filed, or whether it sought review prohibited by Section 362.

5. Ratio / Findings : The Court examined the terms of paragraph 36. The prosecutor had undertaken that departmental and criminal action would be taken, and the Court had expressed its hope and belief that the undertaking would be honoured. The observation was not a binding command. The police had heard Gaur before submitting their report on the certificate. Despite the CMHO's request for an enquiry, the department later gave him charge of the post of Specialist, and he had not shown that any departmental enquiry was pending against him. The Court concluded that the observation had neither influenced nor prejudiced the departmental authorities. It considered the claimed effect on the forthcoming trial separately.

The forged certificate had been filed to obtain anticipatory bail. The cancellation court was therefore required to examine its authenticity and had concluded, on the State's report, that it was forged. The rule in *M. Murugeson* concerning directions after disposal of an ordinary Section 439 bail application was distinguishable. The Court explained that it could not ignore the use of a forged document in judicial proceedings. *Pankaj Chaudhary* recognised power under Section 340 where the record prima facie supports the requisite complaint and an inquiry is expedient in the interests of justice, without requiring a separate preliminary inquiry in every case. In the earlier order, the Court had recorded the prosecutor's undertaking and left further action to the State.

The Court then compared the earlier proceedings with the declaration in the present petition. The application filed in 2018 sought quashing of the FIR and had been withdrawn after argument. The application under Section 482 in 2019 sought recall

of the observation in the cancellation order of 2018 and had also been withdrawn. The present petition sought the same recall while declaring that no earlier petition on the same subject had been filed. Counsel's lack of involvement in the earlier cases did not excuse the applicant's failure to disclose them. The Court held that the applicant had not approached it with clean hands. It found suppression of material facts and held that repeating the withdrawn recall request would amount to review prohibited by Section 362. It dismissed the petition with costs of ₹10,000. Addressing the concern that the cancellation observations might affect the pending prosecution, it directed the trial court to decide strictly on the evidence coming before it.

6. Relief : The Hon'ble High Court dismissed the application to recall paragraph 36 of the order of 27 March 2018. Gaur was directed to deposit costs of ₹10,000 in the High Court Registry within thirty days from the date of the order. The trial court was directed to decide the pending case strictly on the evidence before it.

Virendra Kumar Gaur v. State of Madhya Pradesh and Others, M.Cr.C. no. 16495/2021, 01/04/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Earlier complaint / request for action at another police station / quashing - The applicants contended that the wife had withdrawn her complaint of 19 October 2024 to Panipat police and that her later FIR at Karera was therefore false. The Court examined the communication and police diary filed with the petition. In the communication, she reiterated allegations of abuse and dowry demands. She also alleged that her husband and his parents had threatened her through calls from different numbers. Fearing for her life if she returned to Panipat, she asked that action be taken by Karera police in Shivpuri, where her parental home was situated. The Panipat diary recorded that no further legal action was sought there because she wanted investigation at her parental-home police station. The Court held that the communication did not amount to a withdrawal of the allegations. It therefore rejected the applicants' contention that the later FIR should be quashed under Section 482 on that basis.

Divorce petition / subsequent matrimonial FIR / *Pratibha* - The husband filed a divorce petition under Section 13 of the Hindu Marriage Act on 24 September 2024. The wife complained to Panipat police on 19 October and lodged the FIR at Karera on 7 January 2025. Applying *Pratibha v. Rameshwari Devi; (2007) 12 SCC 369*, the Court held that the earlier divorce petition and the time spent attempting reconciliation did not, by themselves, establish that the subsequent criminal complaint was false or retaliatory. As explained in *Pratibha*, the inquiry at the FIR stage concerns whether the complaint's allegations prima facie disclose a cognizable offence. Extraneous inferences from divorce litigation or delay cannot replace that inquiry. Civil and criminal proceedings may coexist. The applicants also relied on *Preeti Gupta v. State of Jharkhand*. The FIR alleged dowry demands, repeated beatings by the husband and his parents, an assault by all four applicants on 21 August 2024 and the wife's continued residence with her parents. The Court dismissed the petition.

Case-note :- ***1. Facts :*** Virendra Parihar, his mother, father and elder brother sought quashing under Section 482 CrPC of FIR Crime No. 13/2025, lodged by his wife, respondent No. 2, at Karera Police Station, Shivpuri, on 7 January 2025. She alleged that she married applicant No. 1 on 10 May 2023 and that her parents spent about ₹15 lakh on dowry. About a month after the marriage, her in-laws allegedly began demanding a four-wheeler and complaining that too little dowry had been given. She alleged that her husband and his parents taunted her, said that she was not to their liking and that he could have married a woman of his choice. She alleged frequent beatings by the husband and his parents and an assault by all four applicants on 21 August 2024. She informed her brother Sonu Tomar and called him to the matrimonial home. She then returned to her parental home and continued to live there. According to her, her parents repeatedly tried to persuade the in-laws to take her back, but they refused.

The husband filed a divorce petition under Section 13 of the Hindu Marriage Act on 24 September 2024. The wife made an earlier complaint to the police at Tahsil Camp, Panipat, on 19 October 2024. The applicants contended that she subsequently withdrew that complaint and that the Karera FIR was a false counterblast to the divorce petition. They relied on the earlier complaint, filed as Annexure B, and her subsequent communication and the Panipat police diary, filed as Annexure F. They also pointed to

differences between the complaints: the earlier complaint mentioned ₹10 lakh, whereas the FIR referred to marriage expenditure of ₹15 lakh, and the earlier complaint did not specify the date on which she was allegedly ousted. Counsel relied on *Preeti Gupta v. State of Jharkhand*. The State opposed quashing.

In the communication reproduced in the order, the wife reiterated her complaint of assault, abuse and dowry demands. She stated that she had been excluded from the matrimonial home and that, after she returned to her parental home, her husband and his parents threatened through calls from different numbers to kill her if she came to Panipat. Fearing for her life, she asked that action be taken by Karera police at her parental home rather than by Panipat police. The reproduced Panipat diary recorded that she did not seek legal action there and wanted action at her parental-home police station; it accordingly sought closure of the local file. After reading these documents, the Court treated the communication as a request for action at another police station, rather than a withdrawal of the allegations.

2. Precedents — Considered : The applicants relied on *Preeti Gupta v. State of Jharkhand*.

Pratibha v. Rameshwari Devi and Others; (2007) 12 SCC 369, was quoted and applied. In that case, the Supreme Court rejected the quashing of a matrimonial FIR on extraneous considerations and an adverse inference from the interval between the wife's departure from the matrimonial home and her complaint, during which efforts at reconciliation had continued. A divorce petition under Section 13 of the Hindu Marriage Act did not bring an otherwise maintainable criminal proceeding to an end. Civil and criminal proceedings remain separate and independent even when they arise from the same facts. To determine whether a cognizable offence is prima facie disclosed, the Court must examine the allegations in the complaint or FIR. It cannot replace that inquiry with findings in an investigation report or extraneous adverse inferences. The High Court applied *Pratibha* to reject the argument based on the divorce petition preceding the FIR and to explain the wife's efforts to return to the matrimonial home before complaining.

3. Statutes considered : Section 482 CrPC was invoked to quash FIR Crime No. 13/2025. The Court applied the limits on that power explained in *Pratibha*, requiring an examination of whether the complaint or FIR allegations prima facie disclose a cognizable offence, without relying on extraneous considerations to terminate the proceedings. Section 13 of the Hindu Marriage Act concerned the husband's divorce petition and its chronological relationship to the complaint. The matrimonial proceeding did not itself bring the criminal proceeding to an end.

4. Issues : Whether the wife's complaint of 19 October 2024, her subsequent communication and the Panipat police diary established that she had withdrawn her allegations and thereby discredited the Karera FIR. Whether the husband's divorce petition of 24 September, the interval between the complaints and the differences alleged by the applicants justified treating the FIR of January 2025 as a counterblast and quashing it under Section 482, despite its allegations of dowry demands, physical abuse, threats and departure to the parental home.

5. Ratio / Findings : The Court examined Annexure F rather than accepting counsel's repeated assertion that the complaint had been withdrawn. The communication reiterated the allegations and added that the wife had been threatened if she returned to Panipat. She explained that she feared for her safety and wanted action by Karera police at her parental home, rather than further investigation by Panipat police. The diary similarly recorded that she did not seek legal action at Panipat and wanted investigation at her parental-home police station. The Court held that these documents did not establish withdrawal of the complaint and rejected the applicants' contention as misconceived. It also criticised counsel's attempt to mislead the Court by presenting the communication as a withdrawal.

On the contention that the FIR was retaliatory, the Court applied *Pratibha*. Divorce litigation and a criminal complaint may proceed independently. The filing of a divorce petition before a complaint does not, by itself, establish that the complaint is malicious or justify disregarding its allegations. The Court considered that the wife appeared to have tried to preserve the marriage and decided to disclose the alleged cruelty only after reconciliation or reunion no longer seemed possible. Her earlier patience and the efforts at reunion described in the FIR could not, on that basis, justify treating her allegations as false and baseless. The Court also stated that findings recorded by a civil court are not binding on a criminal court and vice versa. It rejected the grounds based on the supposed withdrawal and the timing of the divorce petition and, considering the

circumstances as a whole, found no basis to quash the FIR.

6. Relief : The Hon'ble High Court dismissed the petition under Section 482 to quash FIR Crime No. 13/2025 at Karera. The FIR against the four applicants remained unquashed.

Virendra Parihar and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 14779/2025, 09/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 306 IPC / financial fraud and suicide / threshold inference - The Court rejected the proposition that a debt created by fraud could never support a prosecution for abetment of suicide. It applied *Chitresh Kumar Chopra* and *Praveen Pradhan* on intentional instigation which may be inferred from conduct and circumstances without express words. *Sanju*, *Gangula Mohan Reddy*, *M. Mohan*, *Kishori Lal* and *Amalendu Pal* require the mental element, positive participation and causal connection under Section 107; *Orilal Jaiswal* cautions against finding abetment from ordinary discord and an unusually sensitive reaction alone. Here, the applicant and his partner allegedly obtained the brothers' signatures on loan papers and vouchers, fraudulently created a KCC facility, withdrew ₹5.75 lakh and transferred money to the applicant's firm. A liability of about ₹7 lakh including interest remained, and the applicant allegedly refused repayment and threatened Dilip Bhartiya before his death by hanging. The Court considered the possible consequences for mortgaged property and the brothers' finances sufficient to support an inference of abetment for prosecution on these allegations. It distinguished *V.P. Singh* and *Netai Dutta*, relied on by the applicant, as cases concerning disciplinary or employment grievances rather than the alleged deception and debt burden here.

Cheating / fraudulent KCC withdrawal - The applicant allegedly took Pradeep and Dilip to the bank, obtained their signatures on loan papers and vouchers, procured a Kisan Credit Card facility despite the father's subsequent objection to borrowing, and diverted ₹5.75 lakh from the relevant accounts. The Court held that those allegations prima facie disclosed cheating under IPC Section 420. It assessed that offence separately from the allegation of abetment of suicide under Section 306.

Charge and quashing threshold / *P. Vijayan* - Applying *Amit Kapoor v. Ramesh Chander*, the Court formed a tentative view of the circumstances from which instigation could be inferred, without assessing the record to determine guilt. *P. Vijayan v. State of Kerala* permits discharge where the material gives rise only to suspicion rather than grave suspicion. The judge must sift the police record and apply a judicial mind to whether there is sufficient ground to proceed, without weighing the evidence and probabilities as at trial. The alleged loan burden and fraudulent withdrawals supplied sufficient material for prosecution. The Court refused to quash the FIR and proceedings under Sections 306 and 420 in exercise of Section 482.

Case-note :- ***1. Facts :*** Virendra Patel sought quashing under Section 482 CrPC of FIR Crime No. 437/2022 at Police Station Bichiya, Rewa, under IPC Sections 306 and 420, and the criminal proceedings pending before the Additional Sessions Judge. Dilip Bhartiya was brought dead to Sanjay Gandhi Memorial Hospital on the morning of 7 November 2022, having died by hanging the preceding night. The police registered proceedings under Section 174 CrPC, conducted an inquest enquiry, recorded witness statements and registered the criminal case after a preliminary enquiry. The prosecution account included the statement of Dilip's brother, Pradeep Kumar Patel.

Pradeep stated that he and Dilip lived jointly with their parents and that their father had given each of them five acres of land. The brothers also had a joint bank account. About three years before Dilip's death, he asked Virendra Patel about obtaining a loan to establish a polyhouse. The applicant began visiting their home and, with his partner Manish Patel, allegedly took the brothers and their documents to Union Bank of India, Transport Nagar, Dhekaha. They obtained the brothers' signatures on loan papers and vouchers. When told of the proposed polyhouse loan, the father opposed borrowing. Nevertheless, the applicant and his partner allegedly procured a Kisan Credit Card facility in the brothers' names. They withdrew ₹2.5 lakh from the joint account on 24 November 2020, and ₹2.25 lakh on 15 December 2020 and ₹1 lakh on 22 March 2021 from Pradeep's account. The total withdrawal of ₹5.75 lakh resulted in a liability of about ₹7 lakh with

interest. According to the prosecution, the money was transferred to the applicant's Rudra Grah Udyog account. The family learnt of the allegedly fraudulent loan about six months before Dilip's death. Pradeep said that Dilip became distressed and was threatened when repayment was repeatedly requested. Dilip hanged himself on 6 November 2022 at about 10:30 p.m. Other witnesses gave similar statements.

The applicant submitted that, even if the allegations were accepted, neither Section 306 nor Section 420 was attracted. He argued that Dilip could have reported the alleged cheating to the police instead of taking his life, and that instigation or aid within Sections 107/109 IPC could not therefore be inferred. He relied on *V.P. Singh*, *Sanju alias Sanjay Singh Sengar* and *Netai Dutta*. The respondents opposed quashing. They relied on the allegedly fraudulent KCC facility, withdrawal and diversion of funds, resulting debt and threats as disclosing cheating and circumstances which could amount to abetment of suicide.

2. Precedents — Considered : *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi); (2009) 16 SCC 605*, was quoted on instigation as intentional goading, incitement or encouragement. Express words directing suicide are not essential. Acts, omissions or continued conduct may create circumstances in which the deceased sees no other option, but the accused's intention and a reasonable certainty of inciting the consequence must be discernible. Words spoken in anger without intending the consequence do not suffice. *Praveen Pradhan v. State of Uttaranchal; (2012) 9 SCC 734*, likewise requires consideration of intention and the circumstances of the particular case. Section 107 recognises instigation, conspiracy and intentional aid; direct evidence is not always necessary, and the view formed when considering quashing is tentative. The Court applied those principles in rejecting the proposition that fraudulent financial conduct could never support an inference of abetment under Section 306.

Sanju alias Sanjay Singh Sengar v. State of M.P.; (2002) 5 SCC 371, was cited by counsel and quoted by the Court on the three modes of abetment under Section 107 and the mens rea required for instigation. *Gangula Mohan Reddy v. State of A.P.; (2010) 1 SCC 750*, and *M. Mohan v. State* were considered on the mental process, active or direct act and intention to push the deceased into circumstances where no alternative appears available. *State of West Bengal v. Orilal Jaiswal; (1994) 1 SCC 73*, cautions that ordinary discord and an unusually sensitive response do not automatically establish abetment. *Kishori Lal v. State of M.P.; (2007) 10 SCC 797*, explained instigation, conspiracy and intentional aid under Section 107. It also explained that Section 109 applies where the act abetted is committed in consequence of the abetment and no separate provision prescribes its punishment, in which case the punishment is that provided for the original offence. *Amalendu Pal alias Jhantu v. State of West Bengal; (2010) 1 SCC 707*, requires careful assessment of positive conduct sufficiently proximate to the suicide, rather than harassment alone, and explains intentional facilitation under Section 107 Explanation 2. The Court considered those requirements and found the alleged financial conduct and its consequences sufficient for prosecution at this stage.

Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460, was quoted on the tentative assessment at the charge or quashing stage, without exhaustive evaluation of the record. Drawing on *Ramesh Kumar*, its passage recognises that instigation may be inferred from continued conduct creating circumstances in which the deceased perceives no option. The Court considered that principle in relation to the alleged debt and possible loss of property given as security. It then quoted *P. Vijayan v. State of Kerala* on discharge under Section 227. Where two views are possible and one gives rise only to suspicion, as distinct from grave suspicion, the judge may discharge the accused. The judge must apply a judicial mind and sift the police evidence and documents to determine whether there is sufficient ground to proceed. That assessment does not involve predicting conviction or weighing evidence and probabilities as at trial. Applying the standard, the Court found sufficient material for prosecution.

V.P. Singh and Others v. State of Punjab and Others, Supreme Court Criminal Appeal No. 2103/2010, decided 24 November 2022, was relied on by the applicant. It concerned a student who died after being reprimanded for misconduct at college and the prospect of disciplinary action and communication with his father. The Court distinguished those circumstances from the alleged fraudulent loan burden here. *Netai Dutta v. State of West Bengal; (2005) 2 SCC 659*, concerned an employee who did not join after transfer and, two years later, submitted a resignation letter complaining of

stagnation in salary and his circumstances. The resignation was accepted with immediate effect, and he was later found dead on a railway track. The Court distinguished that employment grievance from the alleged KCC diversion and debt. It stated that the principle in *Sanju* had already been considered, but the authorities relied on did not assist the applicant because the present allegations were materially different.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR and further proceedings. Section 174 CrPC governed the initial inquest enquiry after the hanging death. IPC Section 306 concerns abetment of a completed suicide. Section 107 defines abetment through instigation, conspiracy accompanied by the requisite act or illegal omission, or intentional aid by act or illegal omission. Under its first explanation, a person instigates an act by voluntarily causing or procuring it, or attempting to do so, through wilful misrepresentation or wilful concealment of a material fact which that person is bound to disclose. Its second explanation requires conduct before or at the act which is intended to facilitate it and actually does so. Section 109 was referred to in counsel's submission and the quoted discussion of abetment. IPC Section 420 concerned the allegedly dishonest bank/KCC transaction and withdrawal. Section 227 CrPC appeared in the discharge standard quoted from *P. Vijayan*, and Section 228 in the tentative charge-stage discussion quoted from *Praveen Pradhan*. The Court considered grave suspicion sufficient for framing charges.

4. Issues : Whether the alleged fraudulent use of loan signatures, creation of a KCC facility, withdrawal of ₹5.75 lakh, resulting debt of about ₹7 lakh with interest and threats following requests for repayment could prima facie disclose abetment of Dilip's suicide under Section 306, or whether his ability to approach the police necessarily excluded the required intention and causal connection. Separately, whether the loan-document and withdrawal allegations prima facie disclosed cheating under IPC Section 420. Finally, whether the FIR and pending proceedings should be quashed under Section 482 when the allegations raised disputed questions about the transactions and intention, having regard to the distinction between mere and grave suspicion in *P. Vijayan*.

5. Ratio / Findings : The Court considered Sections 306 and 107 and the Supreme Court authorities requiring intentional instigation, conspiracy or aid and a sufficient causal connection. *Chitresh* and *Praveen* recognise that instigation may be inferred from conduct without express words. *Gangula*, *M. Mohan* and *Amalendu Pal* require more than distress or harassment alone to establish guilt. The argument that Dilip could have complained to the police did not warrant quashing on the present allegations. The alleged conduct comprised obtaining the brothers' signatures, fraudulently creating and drawing upon the KCC, transferring money to the applicant's concern, imposing a substantial debt on the farming brothers and threatening Dilip instead of repaying it. The Court noted that ₹7 lakh could have very different significance for different households. Failure to repay could expose mortgaged property to attachment, and the prospect of losing that property and uncertainty about the future could create circumstances in which the deceased perceived no alternative. The Court therefore declined to hold that fraudulent withdrawal followed by suicide could never disclose abetment. It found sufficient material in this case for a charge and prosecution under Section 306.

On cheating, the Court separately considered the alleged visit to the bank, signatures on loan papers and vouchers, the father's objection to borrowing, and the subsequent fraudulent creation of the KCC and withdrawal of money. The alleged withdrawal of ₹5.75 lakh from the relevant accounts, with a resulting debt of ₹7 lakh including interest, prima facie disclosed Section 420.

The Court applied the threshold appropriate to quashing under Section 482 and the framing of charges. *P. Vijayan* requires judicial scrutiny of whether the material raises more than mere suspicion, without a trial-like inquiry into competing probabilities. *Amit Kapoor* requires a tentative assessment in context. The alleged fraud, debt and threats provided sufficient material for the proceedings to continue. *V.P. Singh* concerned a college reprimand and *Netai Dutta* an employment grievance; those circumstances differed from the present allegations. The requirement of mens rea in *Sanju* remained part of the test. The Court refused to terminate either accusation at that stage, leaving proof and the precise causal connection for trial.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. FIR Crime No. 437/2022 and the further criminal proceedings at

Rewa under IPC Sections 306 and 420 continued against Virendra Patel.

Virendra Patel v. State of Madhya Pradesh and Others, M.Cr.C. no. 14788/2023, 14/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Separate trials / accused-specific record - After Devendra Sharma's arrest, witnesses in Virendra Sharma's trial were recalled for cross-examination on Devendra's behalf. Kishan Sharma was arrested later and tried separately, with witnesses examined afresh. Applying *A.T. Mydeen v. Assistant Commissioner, Customs Department*, Supreme Court Criminal Appeal No. 1306/2021, order of 29 October 2021, the Bench assessed the evidence against each appellant from the depositions in his own trial. Chandu had been disbelieved in the Virendra/Devendra trial. In Kishan's trial, Chandu and Deendayal did not support the prosecution against him. The Bench separately considered the direct testimony of Krishna Sharma and Devendra Upadhyaya against Kishan on that trial record.

FIR omission / eyewitness names - The FIR was lodged promptly while Rakesh was seriously injured, but did not name his wife Krishna (PW 3) or her brother Devendra Upadhyaya (PW 4). Following *V.K. Mishra v. State of Uttarakhand; (2015) 9 SCC 588*, and *Kunwarpal v. State of Uttarakhand; (2014) 16 SCC 560*, the Bench held that an FIR need only state the broad facts and need not name every eyewitness. It considered the witnesses' account of passing the village bus stand, the informant's urgency in seeking care for Rakesh, and the explanation for recording their police statements about four days later. Their evidence was not rejected merely because the informant had omitted their names.

Related witnesses / enmity / independent evidence - The Bench examined the evidence in light of Krishna's relationship as the deceased's wife, PW 4's relationship as her brother, the absence of independent witnesses from the nearby bus stand, and the admitted election enmity. *Kunwarpal and Ruli Ram v. State of Haryana; (2002) 7 SCC 691*, recognise that enmity may motivate either false implication or the offence. Evidence found acceptable after careful scrutiny is not discarded merely because of that enmity. The Bench accepted their account that Virendra and Devendra struck Rakesh with lathis while Kishan stood with a country-made pistol. It considered the medical evidence of numerous injuries from hard and blunt objects and lathis, the village bus timings, the appellants' recorded criminal antecedents and the witnesses' relationships in assessing their evidence.

Oral statements before death / differentiated liability - Krishna and PW 4, and Deendayal in the first trial, recounted Rakesh's identification of the lathi assailants and Kishan's role with the pistol while he was conscious. The defence contended that Rakesh could not speak. The Bench accepted the witnesses' account that he was conscious and speaking, together with their direct observations and the evidence establishing homicidal injuries. It considered Deendayal's later failure to support the prosecution against Kishan on the separate trial record. The Bench affirmed Virendra's and Devendra's convictions under Section 302 and Kishan's conviction under Section 302/34. Kishan was not attributed a fatal lathi blow or a gunshot causing Rakesh's death. Devendra's separate acquittal under Section 323 and Kishan's acquittal under Section 307 were left undisturbed.

Case-note :- ***1. Facts :*** A Division Bench at Gwalior decided three appeals. Virendra Sharma (Criminal Appeal 311/2010) and Devendra Sharma (312/2010) challenged the judgment dated 5 March 2010 in Shivpuri Sessions Trial 14/2009, sentencing each under IPC Section 302 to life imprisonment and a fine of ₹5,000, with six months' rigorous imprisonment in default. Kishan Sharma (Appeal 3050/2018) challenged the separate judgment dated 15 February 2018 in the proceeding described in the judgment as Sessions Trial 400014/2019. He had been sentenced under Section 302/34 to life imprisonment and a fine of ₹2,000, with two months' rigorous imprisonment in default. The trial court had acquitted Devendra under Section 323 and Kishan under Section 307.

The incident was alleged to have occurred on 28 September 2008. Deendayal (PW 7) took the seriously injured Rakesh to the police station and lodged the FIR at 10:40 a.m. He stated that at about 10 a.m., while he was tying a calf at a well, the three appellants arrived on a motorcycle. He alleged that Devendra assaulted him, Virendra urged Kishan to shoot him, and Kishan fired but missed. After his mother intervened, the three left. Deendayal then found Rakesh injured near a culvert. Rakesh allegedly told him that, while returning after a shave,

he had been stopped near the bus stand; Virendra and Devendra beat him with lathis while Kishan pointed a country-made pistol at him. Rakesh was referred from PHC Bairad to Gwalior but died on the way. The police seized a lathi from Virendra. The postmortem recorded thirty-one fresh ante-mortem injuries, including numerous contusions with a rail pattern, fractures and fatal injuries to the liver, lungs and brain. Death was attributed to cardiorespiratory failure from multiple injuries and internal haemorrhage. The medical witness rejected the suggested explanation of a motorcycle fall and described the death as homicidal.

Virendra was arrested in October 2008. Devendra was arrested in April 2009 during the first trial, and the witnesses were recalled for cross-examination on his behalf. Kishan was arrested in January 2014 and tried separately, with fresh depositions. Krishna Sharma (PW 3), Rakesh's wife, and her brother Devendra Upadhyaya (PW 4) said that they were travelling to a family ritual at Shivpuri when they saw Virendra and Devendra beating Rakesh with lathis and Kishan standing with a pistol near the culvert. They said that Rakesh was conscious and identified his assailants to them. Deendayal also recounted an oral statement by Rakesh in the first trial, while Chandu (PW 6) was disbelieved. In Kishan's trial, Chandu and Deendayal turned hostile and did not support the prosecution against him; Sharda Bai (PW 2) also did not support that accusation. Krishna and PW 4 maintained their account of Kishan's armed presence. The defence alleged that they were related and planted witnesses and that Rakesh could not speak. It relied on their omission from the FIR, the failure to produce the ritual invitation, the absence of independent witnesses at the bus stand and the recording of their police statements roughly four to five days later. The State supported the convictions.

2. Precedents — Considered : The Bench applied *A.T. Mydeen and Another v. Assistant Commissioner, Customs Department*, Supreme Court Criminal Appeal No. 1306/2021, decided 29 October 2021, in assessing evidence from separate trials. The evidence against each appellant had to be considered from the depositions in his own trial. Witnesses in Virendra's trial were recalled after Devendra's arrest, whereas those in Kishan's later trial were examined afresh. Deendayal's support for the prosecution in the first trial was therefore kept distinct from his failure to support it against Kishan in the separate trial.

V.K. Mishra v. State of Uttarakhand; (2015) 9 SCC 588, was quoted for the principle that an FIR need not set out every detail of the prosecution case; a statement of the broad facts may suffice. *Kunwarpal v. State of Uttarakhand; (2014) 16 SCC 560*, was quoted both on the absence of a legal requirement to name every witness in the FIR and, later, on the significance of enmity. Applying the FIR principle, the Bench considered the urgency of reporting while Rakesh needed medical care. It assessed the omitted witnesses' evidence on its merits rather than treating the omission of their names as decisive.

Ruli Ram v. State of Haryana; (2002) 7 SCC 691, was quoted on the careful assessment of evidence where there is factional enmity. Hostility may provide a motive for either the offence or false implication. The foundation for a plea of false implication must be examined against the evidence, and enmity alone does not require rejection of testimony found reliable. Paragraph 16 of *Kunwarpal* states the same principle. The Bench considered the election dispute, the witnesses' relationships, their presence and the challenges to their accounts, but found no sufficient basis to reject Krishna and PW 4. It also considered the difficulty of obtaining independent witnesses in a faction-ridden village described in *Ruli Ram*, alongside the actual village bus-stand setting and the appellants' recorded criminal antecedents.

3. Statutes considered : Section 374 CrPC provided the appellate remedy against the convictions. IPC Section 302 governed the murder convictions of Virendra and Devendra; Section 302 read with Section 34 governed Kishan's conviction for his participation with the two lathi assailants while armed with a pistol. Devendra's acquittal under Section 323 and Kishan's acquittal under Section 307 were not disturbed. The investigation and supplementary charge-sheet also referred to IPC Sections 307, 341 and 294/34, while the appeals concerned the three murder convictions. The Bench assessed Rakesh's oral statements identifying his assailants together with the direct eyewitness and medical evidence. It found homicidal death from the injuries; the pistol was not identified as the weapon causing Rakesh's death.

4. Issues : First, whether the medical evidence established homicidal death despite the challenges

concerning rigor mortis, different weapons and a suggested motorcycle accident. Second, whether the wife's and her brother's identification of the lathi assailants and Kishan's armed role, together with Rakesh's oral statements, was reliable despite their relationship, admitted enmity, omission from the FIR, non-production of the ritual invitation, absence of independent passengers from the bus stand and the delay of about four days in recording their police statements. Third, how the evidence of those witnesses, Deendayal and Chandu should be assessed separately for the two trials, particularly where the latter witnesses did not support the prosecution against Kishan. Finally, whether the evidence sustained the two convictions under Section 302 and Kishan's conviction under Section 302/34, leaving the separate acquittals undisturbed.

5. Ratio / Findings : Dr V.S. Tomar (PW 10) described thirty-one fresh injuries, including repeated contusions with a rail pattern, fractures and injuries to the internal organs and brain. He attributed death to cardiorespiratory failure from multiple injuries and internal haemorrhage and estimated that death had occurred approximately three to twenty-four hours before the postmortem. Cross-examination about rigor mortis and the failure to show him the seized weapons did not displace that account. He rejected the suggestion that a motorcycle fall could have caused the observed injuries. The Bench held that Rakesh's death was homicidal.

Applying *A.T. Mydeen*, the Bench examined the evidence in the Virendra/Devendra trial. Krishna (PW 3) and her brother PW 4 described Virendra and Devendra beating Rakesh with lathis while Kishan stood with a country-made pistol. They approached the culvert as the assailants fled and said that Rakesh could speak and identify them. In cross-examination, Krishna said that she had seen the assault from about fifty metres but could not identify the assailants from that distance; she nevertheless denied the suggestion that she had not seen their faces. The cross-examination also addressed kinship, election enmity, the later police statements and the proposed Shivpuri ritual. In that trial, PW 4 said that he and his sister accompanied Rakesh towards Gwalior. The Bench accepted their presence and testimony. Deendayal (PW 7), who took Rakesh to the police, recounted his identification of the lathi assailants and Kishan's pistol role. Chandu was not relied on because the trial court had disbelieved him. Devendra's acquittal under Section 323 for the separate alleged assault on Deendayal remained undisturbed.

Kishan's trial was assessed on its own evidence. Deendayal, Chandu and Sharda Bai did not support the prosecution against him. Krishna and PW 4 repeated their account that Kishan stood with a pistol while Virendra and Devendra beat Rakesh. Krishna's police statement did not mention the pistol, and that omission was raised in cross-examination. Krishna could not say whether the police had seized her husband's motorcycle, which she said had been sold three to four months after the incident. PW 4 clarified Kishan's role as standing with a country-made pistol. In that trial, he stated that his police statement had been recorded after five to six days and that he had stayed at his sister's house rather than accompanied Rakesh to Gwalior. The Bench accepted the two witnesses' evidence against Kishan, together with Rakesh's oral account to them. His conviction was under Section 302/34 for murder with common intention, rather than for inflicting a fatal lathi injury or firing a shot which killed Rakesh. His acquittal under Section 307 remained intact.

Following *V.K. Mishra* and *Kunwarpal*, the Bench held that the FIR need not name every eyewitness. Deendayal lodged it promptly while Rakesh was seriously injured and needed referral for treatment; Rakesh died on the way to Gwalior. The omission of Krishna and PW 4 therefore did not justify rejecting their evidence. The Bench accepted their account of encountering the assault while travelling to the ritual. The failure to produce the invitation or examine the relative hosting it did not create serious doubt in those circumstances. It also declined to assume that passengers must have been waiting at a village bus stand served by a few buses at known times. No witness had been asked whether a bus arrived during the assault. The Bench referred to the recorded criminal antecedents: eleven cases against Devendra and three each against Virendra and Kishan. It also recorded four further offences after Virendra's release on bail and five after Devendra's release, with their bail cancelled on 12 March 2020. It considered that background when explaining why independent villagers might not come forward.

Under *Kunwarpal* and *Ruli Ram*, the Bench considered both possible effects of the election enmity: a motive for the assault and a motive for false implication. It scrutinised the testimony and regarded the wife's and her brother's identification of the actual assailants as more plausible than falsely

implicating the appellants while sparing the real offenders and risking further hostility. PW 4 explained that he and his sister had gone to submerge Rakesh's ashes and gave their statements on returning. In light of that explanation and the wife's bereavement, the Bench did not regard recording the statements about four days later as an unexplained delay. It found Krishna and PW 4 reliable and their account of Rakesh's oral statements consistent with their direct observations and the medical evidence of homicide. The different positions of the other witnesses in the respective trials remained distinct.

6. Relief : The Hon'ble High Court dismissed all three appeals. Virendra's and Devendra's convictions under IPC Section 302 by the judgment dated 5 March 2010, and their life sentences with fines of ₹5,000 each and six months' rigorous imprisonment in default, were affirmed. Kishan's separate conviction under Section 302/34 by the judgment dated 15 February 2018, and his life sentence with a fine of ₹2,000 and two months' rigorous imprisonment in default, were also affirmed. Virendra and Devendra, who were in jail, were directed to serve the remaining sentence. Kishan's bail bonds were cancelled, and he was directed to surrender immediately before the trial court to serve the remaining sentence. A copy of the judgment was to be provided to the appellants immediately, free of cost. The trial record was to be returned with a copy of the judgment for necessary information. The acquittals under Sections 323 and 307 were left undisturbed.

Virendra Sharma and Others v. State of Madhya Pradesh, Cr.A. no. 311/2010 & 312/2010 & 3050/2018, 10/12/2021, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Abetment of suicide / Sections 306 and 107 IPC / intention and direct act - The Supreme Court decisions considered by the Court distinguish a person's subjective distress from an accused's instigation, conspiracy or intentional aid leading to suicide. *S.S. Chheena v. Vijay Kumar Mahajan, Gurcharan Singh v. State of Punjab, Gangula Mohan Reddy v. State of A.P.*, and *M. Mohan v. State* require clear mens rea and a positive, active or direct act intended to push the deceased towards suicide. *Orilal Jaiswal* cautions against treating ordinary domestic discord, to which the deceased was unusually sensitive, as sufficient for liability. *Chitresh Kumar Chopra* and *Praveen Pradhan* explain that instigation may be inferred from conduct creating circumstances in which the deceased sees no alternative; no fixed form of words is essential. Words spoken casually or in anger, without the requisite intention, may not constitute instigation. *Kishori Lal* sets out the alternative modes of abetment under Section 107. *Amalendu Pal* requires an active and sufficiently proximate role, rather than harassment alone. The Court applied the requirements of intention, a positive act and a causal connection, rather than inferring abetment merely from the death.

Suicide note / family financial expectations / quashing - The handwritten note dated 12 August 2018 blamed the deceased's brothers for not helping with his children's education and marriage expenses and for using and selling a family tractor without paying its instalments, leaving him liable for the loan. His body was found on 17 August. The initial postmortem opinion stated cardiorespiratory failure, with a final opinion reserved until the viscera report; that report recorded ethyl alcohol. Taking the note's allegations at face value, the Court held that the unmet family expectations and tractor-loan dispute did not disclose instigation or abetment intended to drive Rajaram to suicide under Sections 306/107, even if the applicants' conduct might be morally wrong. *Madan Mohan Singh v. State of Gujarat* and *Swamy Prahladdas v. State of M.P.* support the requirement of intentional instigation with a proximate connection, rather than blame in a note or a casual utterance alone. *Amit Kapoor v. Ramesh Chander* explains that the view formed at the charge or quashing stage is tentative and that instigation may be inferred where the accused's conduct creates the circumstances leading to suicide. The Court found no such allegations here and quashed the FIR, charge-sheet and ensuing proceedings under IPC Sections 306/34.

Case-note :- ***1. Facts :*** Virendra Singh and the other applicants sought quashing under Section 482 CrPC of FIR Crime No. 243/2018 at Police Station Station Road, Morena, the charge-sheet and all ensuing proceedings under IPC Sections 306 and 34. Rajaram, aged approximately fifty years, was found dead in a field on 17 August 2018. According to the applicants' counsel, the first informant reported that his grandfather had found an unidentified person

lying dead with liquor and glasses beside him. The deceased was subsequently identified as Rajaram. Counsel stated that the postmortem revealed no external injury and gave cardiorespiratory failure as the cause of death, reserving a final opinion until receipt of the viscera report. The subsequent viscera report recorded ethyl alcohol.

The police recovered a handwritten note from Rajaram's clothing, reproduced in paragraph 2 of the judgment. Dated 12 August 2018, it named Virendra Singh and Devendra Singh, referred to in the note as the elder son, as persons whom Rajaram blamed for his decision to take his life. He complained that they had educated their own children and obtained employment for them but had not helped with his children's education or marriage expenses. He also alleged that they had used the tractor for about twelve years without paying its instalments and then sold it, leaving him liable for the loan. Witness statements also referred to a family dispute. After investigation, the police filed a charge-sheet under Section 306.

The applicants questioned whether the note and the other material described in the judgment disclosed prima facie abetment. The Court identified that as the central question, set out Sections 306 and 107, considered the Supreme Court authorities and assessed the family-finance allegations in deciding whether the proceedings should be quashed.

2. Precedents — Considered : The Court quoted *S.S. Chheena v. Vijay Kumar Mahajan* on the mental process of instigation or intentional aid. Liability under Section 306 requires a positive act, clear mens rea and an active or direct act intended to push the deceased into a position where suicide appears to be the only option. That passage reproduced *State of West Bengal v. Orilal Jaiswal; (1994) 1 SCC 73*, on the caution required where the deceased was unusually sensitive to ordinary domestic discord. It also referred to *Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi); (2009) 16 SCC 605*, on intentional goading and the need to consider each case's circumstances rather than apply a rigid formula. The Court also quoted *Orilal* and *Chitresh* directly.

Gurcharan Singh v. State of Punjab; (2017) 1 SCC 433, reiterated the requirement in *Chheena* of clear mens rea and an active or direct act leading the deceased to suicide. *Gangula Mohan Reddy v. State of A.P.; (2010) 1 SCC 750*, and *M. Mohan v. State represented by the Deputy Superintendent of Police* also required a positive, intentional act which leaves the victim seeing no alternative. *Gangula* further applied the caution in *Orilal* concerning unusual sensitivity to ordinary discord.

Satvir Singh and Others v. State of Punjab and Another was quoted on the structure of Section 306: suicide must have been committed, and the accused must have abetted it. The quoted decision held that a conviction under Section 116 read with Section 306 would amount to the impermissible concept of abetting an abetment. The present proceedings concerned an alleged completed suicide under Section 306. *Kishori Lal v. State of M.P.; (2007) 10 SCC 797*, explained the alternatives in Section 107: instigation, conspiracy followed by the requisite act or illegal omission, or intentional aid. It also explained that under Section 109, where the act abetted is committed in consequence of the abetment and no separate provision prescribes punishment for that abetment, the punishment is that provided for the original offence. The Court considered that discussion in applying the elements of Section 107 to the present allegations.

Madan Mohan Singh v. State of Gujarat concerned a suicide note and FIR which, even taken as stated, expressed anguish against a superior without disclosing purposeful instigation, conspiracy or aid with a proximate connection to the suicide. Its caution against requiring a person to face trial on irrelevant or speculative allegations informed the assessment of the family grievances in the present note. *Swamy Prahladdas v. State of M.P.* concerned a casual utterance during a quarrel which did not disclose the required mens rea or a direct connection to the suicide at the charge stage. The Court considered that principle in the present setting of financial expectations: blame or distress alone does not establish intentional incitement.

Chitresh Kumar Chopra was directly quoted on instigation as goading, urging, provoking or encouraging an act. It may be inferred from acts, omissions or continued conduct which leave the deceased with no other option, even without particular spoken words, but a reasonable certainty of incitement must be discernible. *Praveen Pradhan v. State of Uttaranchal; (2012) 9 SCC 734*, likewise emphasised intention and the circumstances of the particular case. Instigation may be inferred without direct verbal evidence, and a court considering quashing forms a tentative view. The High Court therefore examined whether the alleged

conduct disclosed the required intentional and causal connection, rather than treating the absence of express words as decisive.

Sanju alias Sanjay Singh Sengar v. State of M.P.; (2002) 5 SCC 371, restated the modes of abetment under Section 107 and the need for mens rea in instigation. *Amalendu Pal alias Jhantu v. State of West Bengal; (2010) 1 SCC 707*, explained that harassment alone cannot sustain a conviction under Section 306 without direct or indirect incitement or positive action sufficiently proximate to the suicide which led or compelled the person to take that step. Its quoted discussion also explained intentional aid under Section 107 Explanation 2. The High Court considered those principles when assessing the alleged non-payment of instalments and refusal of financial support at the quashing stage.

Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460, was quoted on the tentative assessment required at the charge or quashing stage. The court forms a view from the record and accompanying documents without evaluating them to determine final guilt. The passage referred to *Ramesh Kumar* for the principle that instigation may be inferred from a course of conduct which creates circumstances of total frustration, leaving the deceased with no other option. Applying that approach, the Court found that the present note and record did not allege such criminal conduct.

3. Statutes considered : IPC Section 306 punishes abetment of a completed suicide. Section 107 defines abetment by instigation, conspiracy accompanied by the requisite act or illegal omission, or intentional aid by act or illegal omission. Under its first explanation, a person instigates an act by voluntarily causing or procuring it, or attempting to do so, through wilful misrepresentation or wilful concealment of a material fact which that person is bound to disclose. Its second explanation concerns conduct before or at the time of the act which is intended to facilitate it and actually does so. The Court applied the requirements of intention, causal connection and active conduct when considering the note. IPC Section 34 formed part of the accusation, and the Court quashed the proceedings under that provision together with Section 306. Section 482 CrPC supplied the inherent jurisdiction invoked against the FIR, charge-sheet and proceedings. Sections 109 and 116 IPC and Section 228 CrPC appeared in the quoted Supreme Court discussions concerning abetment and the tentative assessment at the charge stage.

4. Issues : Whether the suicide note blaming the deceased's brothers for withholding financial assistance for his children and failing to pay the tractor instalments, together with witness accounts of a family dispute, disclosed prima facie instigation, conspiracy or intentional aid under Sections 306/107 IPC. The question required distinguishing a moral or civil grievance and the deceased's response from purposeful conduct by the applicants sufficiently connected to the suicide. The related question under Section 482 was whether the allegations, taken as stated at that stage, could sustain the charge-sheet and proceedings under Sections 306/34.

5. Ratio / Findings : The Court assessed the note against the statutory definition and the Supreme Court's requirement of criminal intention and active instigation or aid. *Chitresh* and *Praveen* recognise that instigation may be inferred from intentional acts or continued conduct creating the relevant circumstances; particular words directing suicide are not essential. A note assigning blame must nevertheless disclose facts constituting statutory abetment and a causal connection. Naming relatives and expressing disappointment did not meet those requirements here.

The note expressed Rajaram's expectation that his brothers would support him financially, pay for his children's education and marriages, and discharge the instalments on a tractor used by the family for years and later sold. The Court said that the failure to help might be morally wrong but did not amount to instigation or abetment. As the children's father, Rajaram was responsible for their expenses. If he believed that the applicants should have paid the loan instalments, he could have taken legal steps. On the allegations before it, the Court characterised his response to the unfulfilled family expectations as unusually sensitive.

The note's accusation did not disclose a purposeful act by the applicants leading Rajaram to suicide or an intentional course of conduct leaving him with no alternative. The Court therefore found no prima facie offence under Section 306 warranting their prosecution. It quashed the FIR under Sections 306 and 34, the charge-sheet and the proceedings arising from it.

6. Relief : The Hon'ble High Court allowed the application under Section 482. FIR Crime No. 243/2018 at Station Road Morena under IPC

Sections 306 and 34, the charge-sheet and all criminal proceedings pending on its basis were quashed against the applicants.

Virendra Singh and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 8367/2019, 12/02/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Hostile witness / actual testimony - The complainant had forgotten some details in her examination-in-chief and was declared hostile so that the prosecutor could cross-examine her. In that cross-examination, she narrated the allegations against all three applicants. The Court therefore rejected their assertion that she had withdrawn from the prosecution case.

Section 498-A IPC / specific in-law allegations / parental home - The FIR alleged dowry demands and a quarrel over insufficient cash at the marriage in May 2023, followed by an assault and threats on 14 November and the complainant's departure to her parental home the next day. In reconciliation proceedings, she specifically alleged that her mother-in-law and father-in-law had taunted her about inferior articles and incomplete payment of cash. Applying *Taramani Parakh v. State of M.P.; (2015) 11 SCC 260*, the Court held that the allegations against the husband and his parents raised triable questions of cruelty and were not merely general or omnibus assertions. *Taramani* reproduced the caution in *Kailash Chandra Agrawal* against implicating distant relatives without a specific role; it did not require quashing the present FIR containing specific allegations against the husband and his parents. *Rupali Devi v. State of U.P.; (2019) 5 SCC 384*, explained how mental distress caused by matrimonial abuse may continue at the parental home. The Court relied on that principle and its decision in *Amar Singh* when considering the allegation that the complainant had been forced to leave the matrimonial home.

FIR quashing / *Neeharika Infrastructure* - In considering quashing under Sections 482 CrPC/528 BNSS, the Court followed *Neeharika Infrastructure v. State of Maharashtra; (2021) 19 SCC 401*. The police ordinarily have the right and duty to investigate cognizable allegations. Quashing must be exercised sparingly; the reliability of allegations is not tested at that stage, and the FIR need not state every detail. Inherent jurisdiction nevertheless remains available where no offence is disclosed or exceptional intervention is warranted. The Court also cited a group of Supreme Court authorities for the proposition that proceedings may be quashed if the uncontroverted allegations do not make out an offence. The specific allegations of dowry harassment, assault and forced departure disclosed an offence here. The Court refused to quash the FIR under IPC Sections 498A, 294, 323, 506, 34 and Dowry Prohibition Act Sections 3/4.

Case-note :- ***1. Facts :*** Virendra Singh Sumali, his mother and his father sought quashing under Section 482 CrPC/Section 528 BNSS of FIR Crime No. 06/2024 registered at Vidisha Mahila Police Thana. The FIR alleged IPC Sections 498A, 294, 323, 506 and 34 and Sections 3 and 4 of the Dowry Prohibition Act. The complainant, respondent No. 2, married applicant No. 1 on 30 May 2023. She alleged that the applicants demanded dowry. A two-wheeler, ornaments, household goods and ₹1,80,000 cash had been given, but the applicants quarrelled during the wedding over the allegedly insufficient cash. She stated that she had previously been driven out because her husband was employed and the dowry was said to be inadequate for his status. She further alleged that on 14 November 2023 the applicants beat and abused her over insufficient dowry and threatened to burn her alive. She called her brother, went to her parental home on 15 November and narrated the incident to her family. The judgment also recorded that her husband had refused to take her back during reconciliation.

The applicants contended that the allegations were vague, general and omnibus. They also asserted that the complainant had turned hostile during cross-examination and supplied a copy of her examination-in-chief. On examining it, the Court found that she had forgotten some details. It explained that the Public Prosecutor could not put leading questions to her and that she was therefore declared hostile; during the prosecutor's cross-examination, she narrated the allegations against the applicants. The Court described the applicants' contrary submission as misconceived and false even to their knowledge. In reconciliation proceedings, she had alleged that her husband beat and physically harassed her and forced her out. She had also specifically alleged that her mother-in-law and father-in-law taunted her because the articles supplied were inferior and the full cash amount had not been given.

2. Precedents — Considered : The Court extensively quoted *Taramani Parakh v. State of Madhya Pradesh and Others; (2015) 11 SCC 260*. That decision reproduced *Kailash Chandra Agrawal v. State of U.P.; (2014) 16 SCC 551*, which drew *on Kans Raj v. State of Punjab; (2000) 5 SCC 207*. It cautioned against indiscriminately implicating distant relatives in dowry cases without a specific role or supporting material; merely naming them is insufficient. *Taramani* also held that where allegations against the husband and his parents disclose harassment which forced the complainant to leave the matrimonial home, their truth is a matter for trial and the proceedings cannot be quashed at the outset. *Kailash Chandra Agrawal* recognised quashing where the proceedings are, on their face, an abuse of process, while cautioning against testing rival versions where triable issues remain. The present Court applied *Taramani* to the specific allegations against the husband and his parents, rather than treating the caution concerning distant relatives as immunity from prosecution.

Rupali Devi v. State of U.P.; (2019) 5 SCC 384, was quoted on cruelty under Section 498-A. Cruelty may be physical or mental. Mental trauma caused by abuse and being forced to leave the matrimonial home may continue while the wife stays with her parents, even if no further physical violence occurs there. The Court relied on that principle when considering the continuing effect of the alleged forced departure. It also *cited Amar Singh v. Smt. Vimla*, Criminal Revision No. 2376/2020, decided 22 June 2021, for the holding that compelling a married woman to live at her parental home amounts to cruelty.

The Court also quoted *Neeharika Infrastructure Private Limited v. State of Maharashtra and Others; (2021) 19 SCC 401*, at length. Paragraph 13 explains the police's right and duty to investigate cognizable offences and the restraint required in quashing proceedings. An FIR need not contain every detail. During investigation, the court ordinarily must not test the truth or reliability of the allegations or stop the prosecution at its inception. Inherent jurisdiction remains available where no cognizable offence is disclosed, the process is abused or exceptional intervention is required to prevent a miscarriage of justice, subject to the principles in *R.P. Kapur* and *Bhajan Lal*. The quoted expression "rarest of rare" in relation to quashing is distinct from the standard governing the death penalty. The question at this stage is whether an offence is disclosed, rather than whether the allegation is true on the merits. The High Court applied that distinction and declined to examine the disputed truth of the allegations.

In paragraph 14, the Court cited *XYZ v. State of Gujarat, State of Tamil Nadu v. S. Martin, Ajay Kumar Das, Mohd. Akram Siddiqui, State of A.P. v. Gourishetty Mahesh, M. Srikanth, CBI v. Arvind Khanna, State of M.P. v. Kunwar Singh, Munshiram, Teeja Devi, State of Orissa v. Ujjal Kumar Burdhan, S. Khushboo, Sangeeta Agrawal, Amit Kapoor, Padal Venkata Rama Reddy* and *M.N. Ojha* together for the proposition that proceedings may be quashed if the uncontroverted allegations do not make out an offence.

3. Statutes considered : Section 482 CrPC and Section 528 BNSS were invoked to quash the FIR. IPC Section 498A raised the principal question of cruelty, including the alleged dowry harassment and the continuing mental effect of being forced out of the matrimonial home. The Court considered the FIR and the specific allegations against the three applicants as a whole. The other offences alleged in the FIR were under IPC Sections 294, 323, 506 and 34 and Sections 3 and 4 of the Dowry Prohibition Act.

4. Issues : First, whether the supplied testimony supported the applicants' assertion that the complainant had turned hostile and withdrawn her allegations. Second, whether the FIR and reconciliation statements attributed sufficiently specific conduct to the husband, mother-in-law and father-in-law to raise triable allegations of cruelty and dowry harassment, rather than merely implicating the family through omnibus assertions. This included the effect of the alleged compulsion to stay at her parental home. Third, whether the High Court could examine the truth of those allegations when considering quashing under its inherent jurisdiction.

5. Ratio / Findings : The Court rejected the premise that the complainant had withdrawn her allegations. The supplied testimony showed that she had forgotten some details and was declared hostile to enable cross-examination by the prosecutor, during which she narrated the allegations against the applicants. The Court called the applicants' submission misconceived and false even to their knowledge. Her actual testimony did not support their assertion that she had resiled from the prosecution case.

The Court relied on the alleged quarrel over cash at the wedding and the specific allegations of assault and threats on 14 November 2023. It also considered the complainant's departure to her parental home, the husband's refusal during reconciliation to take her back, and the particular taunts attributed to his parents about inferior articles and incomplete payment of cash. The caution in *Taramani Parakh* about merely naming distant relatives did not justify disregarding those specific allegations against the husband and his parents. Whether the alleged acts occurred was a matter for trial. Relying on *Rupali Devi* and *Amar Singh*, the Court considered the continuing mental cruelty associated with the alleged compulsion to live at her parental home.

Applying *Neeharika* and the other authorities cited on assessment of allegations at face value, the Court held that their truth could not be examined under the inherent jurisdiction at this stage. The applicants' denial and contention that the accusations were vague did not justify quashing when the specific allegations disclosed an offence.

6. Relief : The Hon'ble High Court dismissed the application to quash FIR Crime No. 06/2024. The proceedings under IPC Sections 498A, 294, 323, 506 and 34 and Dowry Prohibition Act Sections 3 and 4 continued.

Virendra Singh Sumali and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 22705/2024, 19/02/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (996) Prev Next

Headnote :- Civil and criminal ingredients / commercial pledge / Section 482 CrPC - The commercial nature of a gold pledge securing a ₹40 lakh business loan did not make the entire complaint predominantly civil. The complainant alleged that, after he repaid the loan and the gold was not returned, the applicants joined their brother, the lender, in supplying about 87.8 kilograms of purported silver of equivalent value as temporary security for the kilogram of gold. Testing indicated that the material was copper coated with silver, and the police seized it. The Court found that the applicants' alleged knowing supply of fake silver to gain the complainant's confidence disclosed prima facie criminal conduct. It refused to quash the FIR under IPC Sections 420 and 406, with Section 409 subsequently added.

Supreme Court quashing standard / *Amit Kapoor* - The Court cited *Harmanpreet Singh Ahluwalia, Mohammed Ibrahim, Mahmood Ali* and *Usha Chakraborty* together with *Amit Kapoor v. Ramesh Chander; (2012) 9 SCC 460*, on the coexistence of civil and criminal remedies. It distinguished a predominantly civil wrong lacking criminal ingredients from allegations involving criminal conduct. The Court reproduced paragraph 27 of *Amit Kapoor*, which requires cautious and sparing exercise of Section 482. The allegations and prosecution documents must be taken at face value to determine whether they disclose a prima facie offence, without a mini-trial, an assessment of likely conviction or reliance on external defence material. An available civil claim does not extinguish a criminal prosecution. Applying that distinction to the alleged supply of fake silver in place of the unreturned gold, the Court dismissed the application.

Case-note :- ***1. Facts :*** Vishal Goyal and the other applicants sought quashing under Section 482 of the Code of Criminal Procedure of FIR Crime No. 661/2022, Police Station Kotwali, Morena, alleging IPC Sections 420 and 406, with Section 409 subsequently added. The complainant stated that he had borrowed ₹40 lakh for his business from co-accused Ankush Goyal, who ran a jewellery shop, and had pledged one kilogram of gold as security. He alleged that he repaid the entire amount in February 2022 in the presence of Ankush, Ankush's wife Manju and Sonu Goyal. When he asked for the gold, Ankush said that it was in Agra and promised to return it within seven or eight days. The complainant's later requests were unsuccessful. According to the FIR, Ankush and his brothers, the applicants, said that they could not immediately retrieve the gold and offered eighty-eight kilograms of silver, said to be of equivalent value. The silver was to be returned when the gold was restored. Relying on that assurance, the complainant accepted about 87 kilograms 800 grams.

The complainant further alleged that, despite repeated requests in May 2022 to return the gold and take back the silver, the applicants and Ankush continued to avoid doing so. At about noon on 15 June 2022, he went to Ankush's house but could not find him, and Ankush's phone was switched off. The applicants also gave no satisfactory answer. Becoming suspicious, the complainant had the purported silver tested by Ravi Soni, who said that it was copper coated with silver. The complainant

alleged that he then found Ankush's house locked and his phone still switched off. The applicants said that they would call Ankush and delayed on that pretext for eight to ten days before refusing to return the gold. The Court also noted that the police had seized the alleged fake silver.

The applicants submitted that the gold had been pledged only with Ankush and that they had been falsely implicated to put pressure on him. They contended that the entire transaction was a business dispute which should not be converted into a criminal case. They relied on *Rikhab Birani and Another v. State of U.P. and Another, SLP (Criminal) No. 8592/2024*, order dated 16 April 2024. The complainant accepted that the original pledge was with Ankush but maintained that the applicants had joined him in supplying the alleged fake silver and were equally responsible. According to the complainant, that joint act involved criminal conduct, so the allegations could not be treated as predominantly civil. The High Court heard both sides and considered whether the FIR should be quashed on that ground.

2. Precedents — Considered : The applicants relied on *Rikhab Birani* to support their contention that the business transaction should not be converted into a criminal case.

The Court cited *Harmanpreet Singh Ahluwalia and Others v. State of Punjab and Others; (2009) 7 SCC 712; Mohammed Ibrahim and Others v. State of Bihar and Another; (2009) 8 SCC 751; Mahmood Ali and Others v. State of U.P. and Others*; and *Usha Chakraborty and Another v. State of West Bengal and Another*, together with *Amit Kapoor v. Ramesh Chander and Another; (2012) 9 SCC 460*. It relied on those authorities for the principle that civil and criminal proceedings can continue simultaneously. A predominantly civil dispute may justify quashing where the basic criminal ingredients are absent; the presence of criminal conduct prevents quashing merely because the transaction also has a civil aspect.

The Court reproduced paragraph 27 of *Amit Kapoor* on the exercise of jurisdiction under Sections 397 and 482 CrPC. The test is whether the uncontroverted allegations and accompanying prosecution documents prima facie establish an offence. Quashing is exceptional and requires care. Patent absurdity, the absence of basic criminal ingredients or abuse of process may justify intervention. The court must not conduct a meticulous evaluation or mini-trial, predict conviction, or rely on external material supplied by the accused to conclude that no offence is disclosed or acquittal is possible. A civil claim may coexist with a criminal offence. The quoted principles also recognise an express statutory bar and require a balance between the accused's liberty and the complainant's or prosecution's right to investigate and prosecute. The power serves real and substantial justice. Where the factual foundation of an offence is laid and its requirements are substantially satisfied, the court should not hasten to quash merely because one or two ingredients are not expressly stated or do not appear to be satisfied. The passage includes principles concerning quashing at the charge stage; the present application sought quashing of an FIR on its alleged facts. Applying *Amit Kapoor*, the Court held that the allegations of knowingly supplying fake silver disclosed criminal conduct and refused to terminate the proceedings.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR. The Court considered the restraint required in exercising that power and the assessment of allegations at face value through *Amit Kapoor*. Section 397 CrPC appeared in the quoted discussion of revisional and inherent jurisdiction; the present application was under Section 482. The FIR alleged IPC Section 420 for cheating and Section 406 for criminal breach of trust, with Section 409 subsequently added.

4. Issues : Whether the original business loan and gold pledge made the entire accusation a civil or commercial dispute warranting quashing under Section 482, or whether the applicants' alleged subsequent participation in supplying fake silver as security for the unreturned gold disclosed sufficient criminal conduct for the FIR to proceed. The question required consideration of the two stages in the context of the entire alleged transaction. The applicants denied involvement in the original pledge, while the complainant alleged their joint participation in the later supply of fake silver.

5. Ratio / Findings : Relying on the Supreme Court authorities, the Court held that civil and criminal proceedings may coexist. The existence of a business transaction or civil claim does not by itself justify quashing. The question is whether the allegations describe a predominantly civil wrong without criminal ingredients or disclose prima facie criminal conduct. Under *Amit Kapoor*, the FIR and prosecution material must be assessed cautiously at

face value, without meticulous weighing of evidence or a premature assessment of likely conviction.

The Court considered two connected stages of the alleged transaction. First, the complainant pledged a kilogram of gold to secure a ₹40 lakh loan, repaid the loan, and was told by Ankush that the gold was in Agra and would be returned later. Second, the applicants allegedly joined Ankush in offering eighty-eight kilograms of silver of equivalent value to gain the complainant's confidence until the gold was returned. The complainant received approximately 87.8 kilograms. Testing later indicated that the material was copper coated with silver, and the Court also referred to its seizure by the police. The Court held that knowingly supplying fake silver as genuine security to gain the complainant's confidence involved cheating, although the original gold pledge arose from a business transaction. The applicants' alleged participation in that later act supplied the criminal conduct attributed to them; their contention that the original pledge was only with Ankush did not justify quashing.

In refusing to quash, the Court held that the applicants knew that the material supplied as genuine silver was copper coated with silver and acted with an intention to cheat. That conclusion was reached on the allegations and the police seizure at the stage of considering quashing. Applying *Amit Kapoor*, the Court held that the civil aspect of the transaction did not warrant ending the FIR when the allegations also disclosed criminal conduct.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 to quash FIR Crime No. 661/2022. The proceedings under IPC Sections 420 and 406, with Section 409 subsequently added, therefore continued.

Vishal Goyal and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 16788/2024, 22/04/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO Act Sections 7/8 / minor complainant / settlement quashing - The Court refused to quash the FIR and criminal case alleging IPC Section 354 and POCSO Sections 7/8 against the complainant's maternal uncle on the basis of a verified family compromise. The Registrar verified the settlement but reported that the offences were non-compoundable under Section 320 CrPC. The father claimed to have compromised on behalf of the minor girl. The applicant argued that registration of an offence under a special statute did not prevent quashing under Section 482, relying on *Ramgopal v. State of M.P.*, Criminal Appeal 1489/2012, order of 29 September 2021. The Court rejected the request. It relied on its earlier analysis in *Arif Khan v. State of M.P.*, MCRC 39588/2019, and on *Independent Thought v. Union of India; (2017) 10 SCC 800*, which held that intercourse with a wife under eighteen is not excluded from rape merely because of marriage. Applying the protective principle to the compromise, the Court held that a minor's consent, immaterial at the time of the alleged sexual offence, could not become material for quashing through a later settlement. Accepting the compromise would indirectly defeat the protective purpose of POCSO. The Section 482 application was dismissed. The present allegations concerned breast touching and threats.

Case-note :- ***1. Facts :*** Vishal Kukreja applied under Section 482 CrPC to quash FIR Crime No. 282/2018 at Police Station Madhoganj, Gwalior, and Criminal Case No. 135/2018. The registered offences were IPC Section 354 and Sections 7/8 of the Protection of Children from Sexual Offences Act. According to the prosecution, on 1 July 2018 a minor girl was walking towards her tuition teacher's house when Kukreja stopped her at about 4:30 p.m. He urged her to accompany him, saying that her mother was staying at his house. When she refused, he allegedly pressed her breast and threatened to spoil her father's career and have her kidnapped. She narrated the incident to her father and grandmother, and the FIR was lodged.

Kukreja stated that he was the complainant's maternal uncle. He submitted that a dispute between his sister, the girl's mother, and the girl's father had led to a false complaint intended to put pressure on him. He asserted that the family disputes had been settled and that the parties wished to end the litigation. On 26 August 2019, the High Court directed them to appear before the Principal Registrar for verification of the compromise. After recording statements, the Registrar verified the settlement and reported that IPC Section 354 and POCSO Sections 7/8 were not compoundable under Section 320 CrPC. On 14 November 2019, the State objected that the compromise could not be accepted because POCSO was a special statute. Kukreja relied

on a Supreme Court decision concerning quashing on compromise. The child's father appeared before the Registrar and claimed to have compromised on her behalf. The Court considered whether that verified settlement justified quashing in view of the complainant's minority and the offences alleged under the protective statute.

2. Precedents — Considered : Kukreja relied on *Ramgopal and Another v. State of M.P.,* Supreme Court Criminal Appeal No. 1489/2012, order dated 29 September 2021, to seek quashing on compromise despite the registration of an offence under a special statute. The Court recorded that submission but refused to quash the proceedings for the reasons concerning the minor's consent and the protective statute.

The Court relied on its earlier decision in *Arif Khan v. State of M.P. and Others*, MP High Court MCRC No. 39588/2019, order dated 20 September 2019, which had examined compromise in a sexual-offence case involving a minor. In that discussion, the Court referred to Section 375 Sixthly IPC, under which intercourse with a girl under eighteen constitutes rape irrespective of consent, and to the Supreme Court's decision concerning a child wife. It applied the reasoning that a minor's consent, legally immaterial when the offence was allegedly committed, could not become material for quashing the prosecution on compromise. The present application concerned IPC Section 354 and POCSO Sections 7/8; Section 375 supplied the age-and-consent reasoning rather than the offence charged.

Independent Thought v. Union of India and Another; (2017) 10 SCC 800, was considered in the Court's discussion of *Arif Khan*. It read down Exception 2 to IPC Section 375 so that intercourse with a wife under eighteen is not excluded from rape solely because of marriage. That decision concerned a child wife and the marital exception to rape. The Court drew on its protective age-and-consent principle when refusing to quash the present prosecution for the alleged POCSO sexual assault on compromise.

3. Statutes considered : Section 482 CrPC was invoked to quash the FIR and criminal proceedings on compromise. The Court refused relief because treating the minor's consent as material to compromise would defeat POCSO's protective purpose. Section 320 CrPC governed statutory compounding; the Registrar reported that IPC Section 354 and POCSO Sections 7/8 were non-compoundable. IPC Section 354 concerned the alleged assault outraging modesty, while Sections 7/8 of POCSO were the provisions invoked for the alleged sexual assault. IPC Section 375 Sixthly and the reading down of Exception 2 were discussed through *Arif Khan* and *Independent Thought* to explain the significance of minority and consent. Section 375 was not a charged offence in the present case.

4. Issues : Whether the verified family compromise claimed by a minor complainant's father on her behalf justified quashing under Section 482 of a prosecution under IPC Section 354 and POCSO Sections 7/8, in view of the offences' non-compoundability and the legal immateriality of a minor's consent.

5. Ratio / Findings : The compromise had been verified, but the Registrar reported that the offences were non-compoundable, and the State opposed ending the POCSO prosecution on settlement. The Court considered whether a minor girl could enter into a compromise for quashing proceedings concerning the alleged sexual assault. Her father had claimed before the Registrar to have compromised on her behalf. Relying on *Arif Khan* and the principle in *Independent Thought* concerning a wife under eighteen, the Court held that consent which was immaterial when the alleged sexual offence was committed could not become material merely because it was later expressed through a compromise. Permitting that result would indirectly defeat the protective purpose of POCSO. The Court illustrated the point by considering a minor who reports sexual violation despite having consented: the police would have to register the FIR because her consent was immaterial. Quashing that FIR on her application for compromise the very next day would permit indirectly what could not be done directly and would defeat the purpose of Section 375 IPC and the POCSO provisions.

The Court discussed the age-and-consent principle in rape law, while the present FIR alleged IPC Section 354 and POCSO Sections 7/8. The child-wife decision supplied the protective principle applied to the compromise; the present ruling refused quashing of the non-compoundable sexual-assault prosecution. The alleged family dispute and false implication were submissions made by the applicant in support of quashing.

6. Relief : The Hon'ble High Court dismissed the application to quash FIR Crime No. 282/2018 and Criminal Case No. 135/2018 on compromise. The

verified settlement did not terminate the proceedings under IPC Section 354 and POCSO Sections 7/8.

Vishal Kukreja v. State of Madhya Pradesh and Others, M.Cr.C. no. 34817/2019, 11/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Insecticides Act Section 24 / service of analyst report / recipient of protest - The Analyst reported that the fungicide sample was misbranded. The complaint did not state that the Insecticide Inspector had delivered the report by a notice under Section 24(2). Instead, the Deputy Director of Agriculture sent the report with an order restraining sales on 20 July 2018. On 6 August, within twenty-eight days, the applicants informed that officer that they intended to controvert the report and sought analysis by the Central Insecticides Laboratory. The State did not allege that the letter was forged; it objected that the Deputy Director was not the prescribed recipient. Reading subsections (2) and (3) together in those circumstances, the Court held that the applicants could respond to the official who had delivered the report. If he considered himself incompetent to act, he should have forwarded the protest. The trial court's rejection of the later application, made 161 days after a separate August reply, overlooked the timely notice of 6 August.

Insecticides Act Section 24 / analyst conclusiveness / valuable retesting right - The Court applied *Northern Mineral Ltd. v. Union of India, (2010) 7 SCC 726*. Timely written notice of an intention to adduce evidence in controversion removes the State Analyst report's conclusive character and enables Central Laboratory testing. The accused need not use a particular form of demand or disclose the grounds of the defence. *Gupta Chemicals (P) Ltd. v. State of Rajasthan, (2010) 7 SCC 735*, and *State of Punjab v. National Organic Chemical Industries Ltd., (1996) 11 SCC 613*, explain the value of that defence and the prejudice caused when official delay or failure to preserve or produce a sample defeats it. Here, the failure to act on the timely challenge deprived the applicants of retesting. The Court therefore quashed five complaints and the consequential proceedings.

Other accused / Section 24(4) / existing central laboratory report - *Northern Minerals Ltd. v. Rajasthan Govt., (2016) 12 SCC 298*, distinguishes the twenty-eight-day written-protest requirement for the person from whom the sample was taken from the route available to another accused under subsection (4). *Indofil Industries Ltd. v. State of Punjab, (2017) 8 SCC 656*, explains that a request to the court for testing concerns a prosecution based on a State Analyst report where no Central Laboratory report is already available. An existing conclusive Central report cannot simply be subjected to another test under that provision. The Court considered those qualifications. The present cases concerned an initial State Analyst report and a timely protest on which no action was taken, rather than an existing Central report.

Case-note :- ***1. Facts :*** By a common order, the Court decided MCRC Nos. 52793/2020, 99/2021, 103/2021, 106/2021 and 109/2021. It used the facts of the first case because counsel stated that the legal issues were common and that the differences concerned the dates of the reports and protests. The applicants included the managing director and quality controller of Vizien Organics, the manufacturer of Savera Fafundi fungicide, labelled as containing 12% Carbendazim and 36% Mancozeb. Complaints received in June-July 2018 alleged crop damage. The Deputy Director of Agriculture, Harda, took a sample from a seller on 3 July and sent it for analysis on 4 July. The State Analyst reported on 12 July that it contained 1.06% Carbendazim and no detectable Mancozeb. The seller's licence was cancelled after the replies were found unsatisfactory. The complaint alleged misbranding under Insecticides Act Section 3(k)(l), punishable under Section 29(1)(A). The applicants sought quashing of the private complaints and consequential proceedings under Section 482 CrPC. The allegation rested on the State report; there was no final judicial finding about composition following Central retesting.

The applicants contended that the Insecticide Inspector had not delivered the report by a notice under Section 24(2). Instead, the Deputy Director sent it with the order restraining sales dated 20 July 2018. On 6 August they wrote expressing their intention to contradict the report and requested Central Insecticides Laboratory testing. They contended that their statutory defence had been ignored. Their later application to the court in January 2019 was rejected on 16 January as having been made 161 days after the earlier reply of 2 August. On 16 June 2021, the High Court directed an

affidavit on whether the letter of 6 August had been received, because the seal on the copy was indistinct. In its subsequent return, the State said that no request had been made to the prescribed Inspector or the court where proceedings were pending. It also referred to the alleged submission of the letter of 6 August to the Deputy Director and objected that he was not the statutory recipient. The applicants further submitted that the Deputy Director was also known as the Insecticide Inspector and had collected and sent the sample for analysis. The Court distinguished the timely protest of 6 August from the later court application and considered whether the recipient objection and official inaction had defeated retesting in all five connected matters.

2. Precedents — Considered : *Northern Mineral Ltd. v. Union of India, 2010:INSC:365; (2010) 7 SCC 726*, was extensively quoted and applied. It construed Sections 24(3)-(4) as providing that timely written notification of an intention to adduce evidence in controversion of the Analyst report removes its otherwise conclusive evidentiary status. The accused need not disclose defence grounds or expressly demand Central testing in prescribed words. The stated intention implies that demand and empowers the Magistrate to send the sample for analysis. Where no court proceedings are pending, notice must be given to the Inspector, who should act promptly and produce the sample so that the right remains effective. *Northern Mineral* treated *National Organic Chemical Industries*, *Unique Farmaid* and *Gupta Chemicals* as consistent with that principle; the result did not depend on a separately worded demand for retesting. The High Court applied the principle to the letter of 6 August and held that official inaction had violated the defence right.

Gupta Chemicals (P) Ltd. v. State of Rajasthan, (2010) 7 SCC 735 as printed in the order, was quoted on the Analyst report's ordinary conclusiveness, the twenty-eight-day protest requirement and the serious prejudice caused when Inspector inaction and expiry of shelf life prevent Central retesting. Continuation of the prosecution in that case was held futile. The High Court relied on its reasoning concerning the statutory defence.

State of Punjab v. National Organic Chemical Industries Ltd., (1996) 11 SCC 613, explained the Section 22 requirements for dividing, sealing, returning and preserving samples, together with the opportunity under Section 24 to controvert the report. The third sample had not been supplied in that case, and delay deprived the accused of a meaningful Central test. The Supreme Court upheld quashing on that basis. It also noted that an accused who does not use an available statutory remedy cannot automatically claim deprivation of the defence. The High Court relied on the need to keep that defence effective.

Northern Minerals Ltd. v. Rajasthan Govt., (2016) 12 SCC 298, was quoted for a harmonious reading of Sections 24(3) and (4). The person from whom a sample is taken must object within twenty-eight days. Another accused may seek Central testing through the court under subsection (4), without that same express time condition. That accused's valuable defence cannot be frustrated through no fault of their own, and they must bear the testing cost. The Court considered this qualification in the context of manufacturer personnel and a sample taken from a dealer.

Indofil Industries Ltd. v. State of Punjab, (2017) 8 SCC 656, was quoted on the evidentiary effect of Sections 24(3)-(4), the need for prompt Inspector action and the limit where a Central Insecticides Laboratory report already forms part of the prosecution. In that situation, another accused cannot require a second test of the sample already used under subsection (4); the Supreme Court upheld continuation of the prosecution in that case. It referred to *Unique Farmaid* and *Gupta Chemicals* in explaining that the Inspector should promptly send the third sample for Central testing or institute proceedings in time to enable testing through the court. The present High Court considered that authority alongside the timely protest on which no action had been taken and the initial State Analyst report, rather than an existing Central report.

The interim order of June 2021 recorded counsel's reliance on *Northern Mineral* and *National Organic* and the State's submissions on timing, sampling and the earlier reply of 2 August. The final judgment resolved the recipient and retesting questions after considering the State's subsequent return.

3. Statutes considered : Under Section 24(1) of the Insecticides Act, 1968, the Analyst must, within thirty days, deliver a signed report in duplicate, in the prescribed form, to the Inspector who submitted the sample. Subsection (2) requires the Inspector to deliver one copy to the person from whom the sample was taken and retain the other for prosecution. Under subsection (3), the signed State

Analyst report is evidence and is ordinarily conclusive unless that person notifies the Inspector, or the court where proceedings concerning the sample are pending, in writing within twenty-eight days of receipt that they intend to adduce controverting evidence. Unless the sample has already been tested by the Central Laboratory, subsection (4) permits the court, on a qualifying notification, to send it for Central testing on its own motion or, in its discretion, at the request of the complainant or accused. The provision requires the Central Laboratory to test or analyse within thirty days and report in writing signed by, or under the authority of, its Director; that report is conclusive. Subsection (5) allocates the testing cost as the court directs. The Court read the delivery and protest provisions together because the Deputy Director had transmitted the report without a separate Inspector's notice. Section 3(k)(l) and Section 29(1)(A) identified the alleged misbranding offence and penalty. Section 200 CrPC governed the complaints, and Section 482 supplied the inherent power used to quash them after the statutory defence had been lost.

4. Issues : (i) Had the State complied with Section 24(2) when the Deputy Director enclosed the Analyst report with an order restraining sales and no separate Inspector's notice was pleaded? (ii) Was the written protest of 6 August to that officer effective and timely under Section 24(3), despite the State's objection that it should have been addressed to the Inspector? (iii) What consequences for evidence and retesting followed from a qualifying protest, including the rights of manufacturer personnel or other accused and the limit on another test where a Central report already existed? (iv) Did the failure to act on the protest deprive these applicants of a valuable statutory defence so that the five complaints could not continue?

5. Ratio / Findings : The complaint did not state that an Inspector had delivered the report by a notice under Section 24(2). The Deputy Director's prohibitory order of 20 July enclosed the report but did not purport to be such a notice. The State accepted that the report had been delivered in that way and did not allege that the letter of 6 August was fabricated. Its objection concerned the Deputy Director's competence to receive it. The Court held that the applicants had validly expressed their intention to controvert the report by responding within twenty-eight days to the official who had sent it. If that official considered himself incompetent to act, he should have forwarded the application to the Inspector. Rejection of the later court application as 161 days late did not displace the earlier timely protest.

The timely notice of intention removed the Analyst report's conclusive character. *Northern Mineral* established that no particular form of retesting demand was necessary. *Gupta Chemicals* and *National Organic* illustrated the loss of a defence when official conduct defeats access to a viable sample and Central analysis. *Northern Minerals* and *Indofil* explained the position of other accused and the restriction on another test where a Central report already exists. No Central test was shown to have been undertaken in these complaints. The Court held that the complainant should have arranged Central analysis after the protest and that the failure to do so violated a valuable, mandatory safeguard. The loss of the statutory opportunity justified quashing all five prosecutions; the recipient objection could not defeat a timely response to the official whom the State had itself used to send the report.

6. Relief : The Hon'ble High Court allowed the common applications under Section 482. It quashed the complaints under Section 200 CrPC and all consequential proceedings in RCT Case Nos. 739/2019, 741/2019, 743/2019, 740/2019 and 738/2019.

Vishesh Bansal and Others v. The State of Madhya Pradesh, M.Cr.C. no. 52793/2020 & 99/2021 & 103/2021 & 106/2021 & 109/2021, 07/05/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Power-of-attorney holder / witness box / own acts - The Court applied *Janki Vashdeo Bhojwani v. IndusInd Bank Ltd., (2005) 2 SCC 217*, to a criminal case in which the complainant's wife had been permitted to testify in his place. An attorney-holder may testify on oath about her own acts and facts within her personal knowledge. A power of attorney does not enable her to give evidence of the principal's personal experience as though she were the principal. The Supreme Court approved the Rajasthan High Court's approach in *Shambhu Dutt Shastri* and *Ram Prasad*, and disapproved the contrary view in *Floriano Armando Luis*. The High Court set aside the trial and revisional orders. It confined the wife's evidence to acts she had performed as attorney-holder and did

not permit her to testify for or on behalf of her husband.

Evidence Act Section 120 / civil and criminal limbs / complainant's spouse - The Court read Section 120 as making the spouse of a party to a civil suit a competent witness, while its criminal limb refers to the spouse of the person against whom proceedings are brought. Marriage to the complainant did not entitle this wife to replace him in the witness box under that criminal limb. The Court connected the restriction with the prosecution's burden of proof beyond reasonable doubt and its concern about accounts given without direct knowledge. The decision concerned representative testimony in the husband's place, rather than a general exclusion of a spouse's direct evidence of facts personally witnessed. The underlying criminal charge was not decided.

Case-note :- ***1. Facts :*** Vishnu Sharma applied under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, identified in the order alongside the former Section 482 CrPC. He challenged the order dated 11 December 2023 passed by the JMFC, Gwalior, in Criminal Case No. 1817/2017 and its affirmance by the Sessions Judge, Gwalior, on 13 March 2024 in Criminal Revision No. 35/2024. Those orders permitted the complainant's wife to testify for and on behalf of her husband. The trial court had stated that she could speak only to facts within her personal knowledge.

Relying on *Janki Vashdeo Bhojwani*, Vishnu argued that a power-of-attorney holder may give evidence of acts performed by the holder but cannot enter the witness box in the principal's place. Respondent 2 contended that the wife was a competent witness under Section 120 of the Indian Evidence Act. The High Court examined the Supreme Court's rule concerning attorney-holders and Section 120's distinct civil and criminal limbs. It set aside both lower orders and specified the limited scope in which she could give evidence.

2. Precedents — Considered : *Janki Vashdeo Bhojwani and Another v. IndusInd Bank Ltd. and Others, 2004:INSC:695; (2005) 2 SCC 217*, was cited by counsel, quoted and applied by the Judge. The Supreme Court distinguished the authority to appear, plead and act under Order III Rule 2 CPC from the personal act of entering the witness box. An attorney-holder cannot testify in the principal's place or give evidence as though the principal's firsthand knowledge were her own. The holder may testify about acts she performed and facts within her personal knowledge. The quoted passages approved *Shambhu Dutt Shastri v. State of Rajasthan*, (1986) 2 WLN 713, and *Ram Prasad v. Hari Narain, AIR 1998 Raj 185*, which drew that distinction. The Supreme Court disapproved and overruled the contrary view in *Floriano Armando Luis*, (2002) 2 Bom CR 754, to the extent discussed. The High Court applied the attorney-holder principle in this criminal proceeding and examined whether Section 120 separately entitled the complainant's wife to testify in his place. It held that the provision did not do so.

3. Statutes considered : Section 528 BNSS, 2023 was the inherent-jurisdiction provision invoked; the order identified Section 482 CrPC in parentheses as its earlier counterpart. The Court quoted Section 120 of the Indian Evidence Act, 1872 and distinguished its two limbs. In civil proceedings, spouses of parties to a civil suit are competent witnesses. In criminal proceedings, the provision refers to the spouse of the person proceeded against. The Court held that the latter wording did not refer to a complainant's spouse as such. It emphasised proof beyond reasonable doubt in criminal proceedings, in contrast to the civil standard of preponderance of probabilities. In explaining why an attorney-holder could not give evidence in the principal's place, the Court treated hearsay without direct evidence as having no independent evidentiary value and described hearsay as only corroborative.

4. Issues : (i) Could the holder of the complainant's power of attorney testify for and on his behalf beyond acts she personally performed as attorney-holder? (ii) Did Section 120 of the Evidence Act give the wife of a criminal complainant a wider competence to give evidence in his place, despite the provision's different civil and criminal limbs? (iii) Should the trial and revisional permissions stand or be confined? The Court was not deciding the merits of the underlying criminal case or any particular disputed fact to be proved in it.

5. Ratio / Findings : The Court applied *Janki Vashdeo Bhojwani*'s distinction between acts performed by an authorised person and evidence based on personal knowledge. A power of attorney does not allow its holder to enter the witness box as though she were the principal. Section 120's civil limb makes spouses of parties to civil suits competent witnesses; its criminal limb concerns the spouse of the person against whom proceedings are

brought. The husband here was the complainant. Marriage to him did not bring the wife within that criminal limb so as to prove his firsthand account in his place. The Court emphasised the prosecution's burden of proof beyond reasonable doubt. It treated hearsay without direct evidence as having no independent evidentiary value and described it as only corroborative. Despite the trial court's personal-knowledge restriction, the High Court found material irregularity in permitting testimony beyond the wife's own acts as attorney-holder. It expressly confined her evidence to acts performed in that capacity.

6. Relief : The Hon'ble High Court allowed the application under Section 528 BNSS. It set aside the Sessions Judge's order dated 13 March 2024 and the JMFC's order dated 11 December 2023. The wife could give evidence of acts she performed as attorney-holder, but could not testify for or on behalf of her husband as principal. The criminal case was not dismissed or decided on its merits.

Vishnu Sharma v. Rakesh Sharma and Others, M.Cr.C. no. 28267/2024, 13/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / complainant seeking arrest and charge escalation - In Crime No. 174/2023, registered under IPC Sections 323, 294, 506 and 34, the applicant sought a fair investigation, protection for his family, addition of penal sections on the basis of a medical report, and arrest of the allegedly absconding accused. Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court refused to direct arrest or require a charge sheet. Investigation is the police's statutory duty, and a court exercising Section 482 powers ordinarily cannot prescribe each investigative step or dictate the report's outcome. *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, quoted within that authority, explains that Section 41 CrPC confers a discretionary arrest power to be exercised cautiously; arrest does not follow automatically from an FIR. The Supreme Court passage also relied on *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*. That case concerned a judicial direction to investigate allegations in an anonymous petition without hearing the affected person, with drastic consequences for that person's reputation.

Section 173(1) CrPC / Section 193 BNSS reference / timely final report - The Court stated that an investigation must be completed without unnecessary delay. It reproduced Section 173(1) CrPC and also referred to Section 193 BNSS. It directed the investigating officer to conclude the investigation into the 2023 FIR as early as possible, decide according to law whether an offence was made out, and submit the appropriate closure report or charge sheet. The Court left the necessary lawful investigative steps and the final report's outcome to the police. It expressly refused to compel arrest or a charge sheet. The applicant remained free to approach the Superintendent of Police, Morena, with a grievance for consideration according to law.

Case-note :- ***1. Facts :*** Vivek Tyagi applied under Section 482 CrPC concerning Crime No. 174/2023 at Police Station Kailaras, District Morena. His complaint had led to registration of the case under IPC Sections 323, 294, 506 and 34. He alleged that the police had taken no further action and had not arrested the persons he accused.

The written prayer sought four forms of relief: a fair and impartial investigation; protection for Tyagi and his family from the accused; addition of sections in the FIR on the basis of his medical report; and arrest of the allegedly absconding accused. Counsel emphasised police inaction and the failure to arrest. The Court considered whether it could direct arrest and the filing of a charge sheet, examined the Supreme Court's limits on judicial supervision of investigation, and then addressed the duty to complete the investigation. It disposed of the application by directing prompt completion and leaving Tyagi free to submit a grievance to the Superintendent of Police.

2. Precedents — Considered : *D. Venkatasubramaniam and Others v. M.K. Mohan Krishnamachari and Another, 2009:INSC:1132; (2009) 10 SCC 488*, was extensively quoted and applied. The Supreme Court set aside an unreasoned High Court order directing particular investigative steps, including recording statements, arrest, seizure and filing a charge sheet. The persons seriously affected by those directions had not been heard; the Supreme Court held that the order was a nullity and liable to be set aside on that ground alone. Investigation is the police's duty, but the evidence must inform their lawful decision whether arrest, seizure or a charge sheet is warranted, or whether no case is made out. Section 482 has limited purposes

and must be exercised cautiously and with reasons. The present High Court applied that principle in refusing to direct the arrest of the persons accused by Tyagi or to require a charge sheet. It nevertheless required the investigation to be completed without unnecessary delay. *M.C. Abraham v. State of Maharashtra, 2002:INSC:575; (2003) 2 SCC 649*, appeared within the *D. Venkatasubramaniam* quotation. Its discussion of Section 41 CrPC explains the police officer's discretion to arrest in the specified cognizable-offence situations after appropriate inquiry; registration of a complaint does not automatically require arrest. Because arrest interferes with liberty and reputation, the power must be exercised cautiously, taking account of the offence and the persons involved. The Supreme Court passage also quoted *Divine Retreat Centre v. State of Kerala, 2008:INSC:341; (2008) 3 SCC 542*. That case concerned a judicial direction to investigate allegations in an anonymous petition without hearing the person affected. The quoted principle required a reasonable opportunity to be heard before a judicial order with drastic consequences, particularly for reputation. *D. Venkatasubramaniam* criticised the absence of notice to the affected persons and of reasons for directing particular police action. These three authorities formed part of the present Judge's reasoning.

3. Statutes considered : Section 482 CrPC was the jurisdictional basis of Tyagi's application. The quoted precedent states its purposes: giving effect to orders under the Code, preventing abuse of process and securing the ends of justice. It requires cautious exercise of the power rather than routine interference with police discretion. Section 41 CrPC, discussed in the *M.C. Abraham* passage, confers a conditional and discretionary power of arrest without a warrant; it does not compel arrest upon registration of a case. The Court reproduced Section 173(1) CrPC, requiring every investigation under the chapter to be completed without unnecessary delay, and referred alongside it to Section 193 BNSS. IPC Sections 323, 294, 506 and 34 were the registered offences. The order did not construe their elements or select additional provisions on the basis of the applicant's reference to a medical report.

4. Issues : (i) Could a complainant alleging police inaction obtain directions under Section 482 compelling arrest, particular investigative steps, addition of FIR sections and a charge sheet in the registered case? (ii) Was the investigating officer nevertheless bound to complete the investigation without unnecessary delay and submit the lawful final report? The Court was not assessing guilt or the legal effect of the medical report referred to by the applicant.

5. Ratio / Findings : The Court refused to direct arrest or the filing of a charge sheet. *D. Venkatasubramaniam* treats investigation as the police's statutory responsibility and cautions against a court prescribing steps in place of the investigating officer's assessment. The *M.C. Abraham* discussion within it explains that arrest under Section 41 requires the exercise of judgment and does not follow merely from registration of an FIR disclosing a cognizable offence. The general direction to take necessary lawful steps did not grant the specific prayers for compelled arrest and a charge sheet. The Court also applied the duty under Section 173(1) CrPC to complete investigation without unnecessary delay, referring alongside it to Section 193 BNSS. An officer cannot keep the investigation pending indefinitely: the officer must decide whether an offence is made out and submit the appropriate closure report or charge sheet as early as possible. The final direction required completion and necessary steps according to law, leaving the decision on arrest, any added sections and the report's outcome to the statutory process. The Court fixed no calendar deadline. Tyagi remained free to approach the Superintendent of Police, Morena, with a grievance for consideration according to law.

6. Relief : The Hon'ble High Court finally disposed of the application by directing the investigating officer to conclude the investigation in Crime No. 174/2023 as early as possible and take the steps required by law. It expressly refused to compel arrest or the filing of a charge sheet. The operative relief was confined to completion of the investigation and liberty for Tyagi to submit a grievance to the Superintendent of Police, Morena, for consideration according to law. The order did not grant a separate protection direction or select enhanced penal sections. The alleged offences and the accused persons' culpability remained for the statutory process.

Vivek Tyagi v. The State of Madhya Pradesh and Others, M.Cr.C. no. 22681/2023, 16/12/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / charge sheet and framed charges / face-value threshold - The Court heard the challenge to the revisable order framing charges because the applicant also challenged the entire charge sheet, but dismissed the application on merits. It applied *XYZ v. State of Gujarat, (2019) 10 SCC 337, State of T.N. v. S. Martin, (2018) 5 SCC 718, and Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319.* It also relied on *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226, CBI v. Arvind Khanna, (2019) 10 SCC 686, State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, and the associated authorities. Those decisions establish that Section 482 does not permit a roving inquiry into disputed defence facts, credibility or the likely result of a trial. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, recognises quashing where the allegations, accepted at face value, or the uncontroverted allegations and supporting evidence disclose no offence. *Gourishetty* also recognises an express legal bar as a ground for intervention. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, permits consideration, in an appropriate case, of a public document or a defence document whose truth the complainant does not dispute. The Court held that the detailed allegations of dowry demands, assault, threats and taking of property were sufficient to proceed under IPC Sections 498-A, 406 and 506 Part-II. It did not decide whether those allegations were true.

Earlier complaint / second FIR / double jeopardy - The application made to the family counselling committee on 17 March 2021 had not resulted in an FIR or a prosecution and trial. The FIR registered following the complainant's further application on 2 October 2021 was therefore neither a prohibited second FIR for the same occurrence nor a second prosecution.

Matrimonial cruelty / parental home / delay and continuing harm - The Court applied *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, concerning mental trauma that continues after a woman leaves the matrimonial home because of physical or verbal cruelty. It also referred to *Amar Singh v. Smt. Vimla*, Criminal Revision 2376/2020, MP High Court, 22 June 2021, on being compelled to live at the parental home. The applicant relied on the time elapsed, the complainant's employment and his contrary account. The Court assessed her separate residence in light of her allegations of sustained demands, harassment and assault, and declined to quash the proceedings under Section 482.

Civil remedy / alleged second marriage / criminal ingredients - The Court applied *Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736.* The same facts may constitute both a civil wrong and a criminal offence, and an available civil remedy does not by itself justify quashing where the allegations disclose a criminal offence. The availability of a forum to challenge the alleged second marriage as void therefore did not preclude prosecution for alleged conduct that disclosed criminal ingredients. The Court also observed that bigamy is an offence.

Case-note :- ***1. Facts :*** Vivek Walter applied under Section 482 CrPC to quash the charge sheet and the order dated 15 June 2023 passed by the JMFC, Jabalpur, framing charges under IPC Sections 498-A, 406 and 506 Part-II in Criminal Case No. 2017/2021. His counsel acknowledged that the charge order was revisable, but pressed the challenge to the entire charge sheet. The High Court heard the application on merits. His wife, respondent 2, had first approached the Parivar Paramarsh Committee. She alleged that he appeared with difficulty on 18 September 2021 and signed the reconciliation record, but did not return for the session on 2 October. Her further application that day led to an FIR. The police completed the investigation and filed a charge sheet. According to the wife, they married under Christian rites on 12 February 2007. She alleged demands before and at the marriage for a car, household items and jewellery, the taking of cash gifts and other property, and repeated demands thereafter. She alleged that he took ₹1 lakh from her aunt for a honeymoon and made demands connected with his surgery. Her account also described assault and twisting of her wrist, destruction of her phone, confinement in a bathroom, threats to ruin her life, and further assaults in 2007 and 2008, one of which resulted in hospital admission. She alleged that he disposed of four gold bangles, used a credit card in her name without paying, pressed her family for money and property, sent her to her parental home with their ill child and threatened her mother. She said that she endured the treatment for years in the hope of preserving the marriage, but complained after learning of the alleged second marriage. These are her accusations, not judicial findings.

Walter asserted that the earlier complaint dated 17 March 2021 contained the same allegations and that the later FIR therefore amounted to a prohibited

second prosecution. He said that the allegations and purported remarriage were false, that his wife had left without cause, and that she worked as a professor earning about ₹75,000 a month. He also contended that the FIR was time-barred and that the dispute about the alleged second marriage belonged before a civil or matrimonial forum. The Court considered the challenge to the charge sheet and charge order without trying the disputed evidence.

2. Precedents — Considered : *XYZ v. State of Gujarat, (2019) 10 SCC 337*, was quoted on the limits of Section 482. It disapproved a High Court's roving inquiry into coercion and disputed relationship facts while investigation was pending; the alleged settlement did not conclusively answer the serious allegations. *State of Tamil Nadu v. S. Martin, (2018) 5 SCC 718*, was briefly quoted against assessing the case prematurely before investigation had ended. *Ajay Kumar Das v. State of Jharkhand, (2011) 12 SCC 319*, reiterated the caution in *State of Haryana v. Bhajan Lal* that inherent quashing powers must be exercised sparingly and cannot be used to decide the reliability or genuineness of FIR allegations. The High Court applied that caution to Walter's request that it disbelieve his wife. *Mohd. Akram Siddiqui v. State of Bihar, (2019) 13 SCC 350*, was quoted for the general rule against assessing the accused's defence or the truth of defence documents at the quashing stage. It permits consideration, in an appropriate case, of a public document or a document whose truth the complainant does not dispute. *State of A.P. v. Gourishetty Mahesh, (2010) 11 SCC 226*, was quoted at length. Section 482 does not permit a trial of credibility or the likelihood of conviction; intervention may nevertheless be justified where face-value allegations disclose no offence, an express legal bar applies, or sufficient material shows malicious institution of proceedings. *M. Srikanth v. State of Telangana, (2019) 10 SCC 373*, restated the grounds for quashing where allegations taken at face value, or uncontroverted allegations with the supporting evidence, disclose no offence. *CBI v. Arvind Khanna, (2019) 10 SCC 686*, disapproved detailed findings on disputed defence facts after cognizance had been taken. *State of M.P. v. Kunwar Singh*, Criminal Appeal 709/2021, Supreme Court order dated 30 June 2021, was cited against scrutiny resembling a trial and for the proposition that an FIR is not an encyclopedia. Those authorities supported the High Court's refusal to decide the truth of Walter's denial or assess his wife's credibility. Paragraph 17 also lists *Munshiram*, *Teeja Devi*, *Ujjal Kumar Burdhan*, *S. Khushboo*, *Sangeeta Agrawal*, *Amit Kapoor*, *Padal Venkata Rama Reddy* and *M.N. Ojha v. Alok Kumar Srivastav* as taking a similar view. *Satvinder Kaur v. State (Govt. of NCT of Delhi), (1999) 8 SCC 728*, was separately quoted for allowing police investigation where an FIR prima facie discloses an offence and for assessing quashing on the allegations rather than deciding their disputed truth. Its passage referred to *State of W.B. v. Swapan Kumar Guha* and *Pratibha Rani v. Suraj Kumar* for those propositions. In its own factual setting, it also discussed territorial investigation under Sections 178(c) and 156(2) CrPC. It further quoted *State of Kerala v. O.C. Kuttan*, which referred to *State of U.P. v. O.P. Sharma* and *Rashmi Kumar v. Mahesh Kumar Bhada*, on the exceptional and cautious exercise of quashing powers without weighing FIR materials. *Vinod Raghuvanshi v. Ajay Arora, (2013) 10 SCC 581*, was quoted against stifling a prosecution having substance at the initial stage or predicting what would be proved at trial. It also noted the possibility of altering charges under Section 216 CrPC. *CBI v. A. Ravishankar Prasad, (2009) 6 SCC 351*, identified the purposes of Section 482: giving effect to an order under the Code, preventing abuse of process and securing justice, with sparing exercise of the power. The High Court relied on those authorities in refusing to terminate the prosecution by assessing disputed facts. *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, was applied for the continuing mental cruelty suffered after a woman takes shelter with her parents following alleged physical or verbal abuse. *Amar Singh v. Smt. Vimla*, Criminal Revision 2376/2020, MP High Court order dated 22 June 2021, was cited for the proposition that compelling a woman to live at her parental home amounts to cruelty. Those decisions supported the rejection of the contention that her residence apart from Walter itself disproved cruelty. *Indian Oil Corpn. v. NEPC India Ltd., (2006) 6 SCC 736*, was quoted on the availability of civil and criminal remedies where the facts disclose both civil and criminal ingredients. The Court applied it to reject the argument that the alleged remarriage could be challenged only through a civil declaration.

3. Statutes considered : The application invoked the High Court's inherent power under Section 482 CrPC and was heard despite the revisability of the

charge order. The quoted authorities identify the exceptional grounds for intervention where the allegations disclose no offence or a legal bar applies; they do not permit a trial of the defence. Sections 498-A, 406 and 506 Part-II IPC were the framed charges. The Court considered whether the allegations of cruelty, taking of property and threats sufficed at that stage, without deciding whether the offences would be proved at trial. Section 216 CrPC appeared in the passage quoted from *Vinod Raghuvanshi* as a power to alter charges later in the trial; the High Court did not exercise it. The objection based on two FIRs for the same offence failed because the earlier complaint had not resulted in an FIR, prosecution or trial.

4. Issues : (i) Could the challenge under Section 482 to the charge sheet and framed charges succeed by assessing disputed allegations, defence assertions and the complainant's credibility rather than accepting the prosecution allegations at face value? (ii) Did the March 2021 complaint, followed by the October application and FIR, amount to an impermissible second FIR or second prosecution? (iii) Did the years of separate residence, her income, the delay and the husband's contrary account defeat the allegation of cruelty? (iv) Did an available civil or matrimonial remedy concerning the alleged second marriage bar a criminal prosecution where the allegations independently disclosed criminal offences?

5. Ratio / Findings : The Court heard the application on merits at counsel's insistence because the entire charge sheet was challenged, while acknowledging that the charge order was revisable. The Supreme Court authorities permit quashing under Section 482 where uncontroverted allegations do not prima facie disclose an offence or an express legal bar precludes the proceedings. They do not permit the Court to decide disputed truth, assess credibility, predict the trial result or consider defence documents outside the applicable limited exception. The allegations described specific demands, assaults, retention or use of property and threats over time. Although their truth was disputed, the Court held that, taken at face value, they disclosed grounds to proceed under the framed IPC provisions. The earlier complaint dated 17 March had not been registered as an FIR or led to a prosecution and trial. The committee proceedings and further application on 2 October therefore did not amount to two FIRs or successive prosecutions. The Court rejected the assertion that the wife had no reason to live with her parents: she alleged that she had been driven to do so by physical and mental harassment. *Rupali Devi*'s principle of continuing mental trauma and the cited local decision supported the assessment that the consequences could persist after she left the matrimonial home. Her income and Walter's denials were matters relied on by the applicant. The Court held that the specific allegations, accepted at face value, disclosed the charged offences. It also rejected the argument that the availability of a forum to challenge the purported second marriage made the criminal allegations non-maintainable. Under *Indian Oil*, civil and criminal proceedings may coexist where the allegations disclose criminal offences. The Court also observed that bigamy is an offence.

6. Relief : The Hon'ble High Court dismissed the application under Section 482. It declined to quash the charge sheet and the order dated 15 June 2023 passed by the JMFC, Jabalpur, framing charges under IPC Sections 498-A, 406 and 506 Part-II in Criminal Case No. 2017/2021.

Vivek Walter v. State of Madhya Pradesh and Others, M.Cr.C. no. 35562/2023, 05/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Circumstantial evidence / last seen / narrow time gap - The Court considered *Ramreddy Rajeshkhanna Reddy v. State of A.P., (2006) 10 SCC 172, Hatti Singh v. State of Haryana*, and *State of U.P. v. Satish, (2005) 3 SCC 114*. The rule quoted from those decisions applies where the interval between the accused and the deceased being last seen together alive and the discovery of death is so short that no person other than the accused could have committed the crime. Even then, courts should look for corroboration. Where the interval is long and others could have intervened, a conclusion of guilt on last-seen evidence without other positive evidence is hazardous. In this case, villagers testified that the accused had taken the girl, who was aged about seven, away and returned alone. The Court considered that evidence together with the recovery of her body from a drain, the medical evidence of injuries and testimony about admissions made to villagers.

Complete chain / murder, rape and concealment / appellate proof - The appellant challenged the grandmother's and sister's testimony, alleged that the

sister had been tutored and relied on the absence of motive. The Court nevertheless held that the last-seen testimony, other circumstances and medical evidence proved his guilt beyond reasonable doubt under IPC Sections 302, 376(1)(f) and 201. It held that hiding the body in a drain caused the disappearance of evidence. The concurrent sentences were affirmed: life imprisonment, ten years' rigorous imprisonment and three years' rigorous imprisonment, respectively, together with the trial court's fines and default terms.

Case-note :- ***1. Facts :*** Vrindawan appealed from jail against the judgment dated 8 September 2011 passed by the Second Additional Sessions Judge, Vidisha, in Sessions Trial No. 334/2010. The trial court convicted him under IPC Section 302 and imposed life imprisonment and a ₹1,000 fine; under Section 376(1)(f), ten years' rigorous imprisonment and a ₹1,000 fine; and under Section 201, three years' rigorous imprisonment and a ₹500 fine. The default terms were five, five and three months' imprisonment, respectively. The substantive sentences were to run concurrently. The prosecution alleged that a girl, described by the appellate court as aged around seven, disappeared in March 2010. Nand Lal, the village chowkidar, reported the discovery of her body. A merg was registered, the scene was documented, and drain water, a shawl and clothing were seized. Dr. P.K. Jain conducted the postmortem on 26 March; samples, the tibia and clothing were preserved, and FSL reports were obtained. The police examined Vrindawan, registered an FIR and arrested him. They investigated the case and charged him with murder, rape and causing the disappearance of evidence. In his statement under Section 313 CrPC, he denied the accusation, stated that he had worked as a labourer in Bhopal for three years and claimed false implication. He examined no defence witness. The prosecution examined twelve witnesses. On appeal, he argued that the testimony of the grandmother, Boonda Bai (PW2), and elder sister, Pooja (PW3), contained material contradictions and omissions, that Pooja had been tutored, and that motive was absent. He sought to have the conviction set aside. The State supported the trial court's findings.

2. Precedents — Considered : *Ramreddy Rajeshkhanna Reddy v. State of A.P., (2006) 10 SCC 172*, was relied on for the last-seen principle. The judgment records that it relied *on Anil Kumar Singh v. State of Bihar, (2003) 9 SCC 67*, and *Reddy Sampath Kumar v. State of A.P., (2005) 7 SCC 603*. The reproduced passage requires the interval between the accused and the deceased being last seen together alive and the discovery of death to be so short that no person other than the accused could have committed the crime. Even then, courts should look for corroboration. The quotation attributes that proposition to *State of U.P. v. Satish.*

Hatti Singh v. State of Haryana was separately quoted as following *Ramreddy* on the same requirement of a short interval and corroboration. *State of U.P. v. Satish, (2005) 3 SCC 114*, was also quoted directly. It cautions that a conclusion of guilt is hazardous where the interval is long and others could have intervened, in the absence of other positive evidence that the accused and deceased were last seen together. The High Court applied those principles to the witnesses' accounts of seeing Vrindawan with the child and to the other circumstances.

3. Statutes considered : IPC Section 302 governed the murder conviction; Section 376(1)(f) governed the rape conviction as charged and sentenced under the law then applied; and Section 201 governed the conviction for causing the disappearance of evidence of the offence. The appeal examined whether the circumstantial evidence proved all three charges beyond reasonable doubt. In his statement under Section 313 CrPC, Vrindawan denied the accusation and asserted that he had been working in Bhopal. Section 174 CrPC appeared in the account of the police merg proceedings.

4. Issues : (i) Did the last-seen evidence and supporting circumstances form a complete chain proving that Vrindawan murdered and raped the minor and concealed evidence, despite the alleged witness contradictions, tutoring and absence of motive? (ii) Should the trial convictions and concurrent sentences be affirmed?

5. Ratio / Findings : Nand Lal (PW1) described the recovery of the body and the initial police proceedings. He did not know how the child had died and repeated what villagers had said about the accused. Boonda Bai (PW2) described her search and missing-person report. Pooja (PW3), the deceased's elder sister, identified Vrindawan as a relative and testified that he had taken the child away. Kunwar Singh (PW6), Kamal (PW7) and Gajju (PW8) gave the principal last-seen accounts. The accused had been seen with the child; Kamal said that he returned alone at around 7 p.m. The Court

also relied on Kunwar Singh's testimony that the accused admitted the murder before him and Khilua. The postmortem recorded a laceration on the anterior vaginal side and decomposition, but Dr. Jain could not give a definite cause of death. He estimated that death had occurred three to four days before the examination. He also testified that the accused had admitted rape when the doctor examined him and that the child's injury was not caused by a fall or contact with a penetrating object. He acknowledged that he had not stated the size of the injuries in his report. The Division Bench nevertheless held that the witness testimony, medical evidence and recovery of the body from a drain together completed the circumstantial chain, excluded another perpetrator and proved guilt beyond reasonable doubt. It held that hiding the body in the drain caused the disappearance of evidence under Section 201. In view of the child's rape and murder, it found the trial sentences adequate.

6. Relief : The Hon'ble High Court dismissed the appeal. It affirmed the convictions and sentences under IPC Sections 302, 376(1)(f) and 201 imposed by the trial judgment dated 8 September 2011, including the fines, default terms and concurrent running of the substantive sentences. Vrindawan, who was already in jail, was to serve the remaining sentence. The outcome was to be communicated to the jail authorities, and a copy of the judgment and the record were to be sent to the trial court.

Vrindawan v. State of Madhya Pradesh, Cr.A. no. 289/2012, 07/07/2022, D.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia & Rajeev Kumar Shrivastava, Honorable High Court of Madhya Pradesh.

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Headnote :- Medical Termination of Pregnancy Act / minor rape complainant / Medical Board - The Court considered an Article 226 petition by a girl described as about seventeen who alleged rape and whose pregnancy measured sixteen weeks and six days. It applied Sections 3 and 5(1) of the Medical Termination of Pregnancy Act, 1971 as they stood before amendment, together with *Murugan Nayakkar v. Union of India*, W.P. (Civil) 749/2017, order of 6 September 2017. In that case, the Supreme Court permitted termination for a thirteen-year-old alleged sexual-abuse survivor after considering her age, trauma and the Medical Board's assessment. In X's case, the Board found termination medically feasible after correction of anemia; its report recorded the haemoglobin condition as ">10 gm". The Court permitted termination subject to those safeguards, directed admission by 20 March 2020 and required the procedure to be carried out promptly with gynecology, anesthesia and other specialists, followed by State postoperative care.

Statutory framework / pregnancy within twenty weeks / mental-health injury - Under the version of Section 3(2) quoted in the 2020 order, a pregnancy exceeding twelve but not twenty weeks required the good-faith opinion of two registered medical practitioners on the specified health or fetal-risk grounds, subject to Section 3(4). Explanation 1 presumed grave injury to mental health where the woman alleged that the pregnancy resulted from rape. Section 5(1) separately disapplied the specified duration and two-practitioner conditions, as well as Section 4, where immediate termination was necessary to save the woman's life. The Court considered the girl's age, alleged sexual trauma, the Board's assessment of gestation at sixteen weeks and six days, and its finding of fitness subject to correction of anemia.

Court-ordered procedure / medical safeguards / clinician protection - Following the approach in *Shaikh Ayesha Khatoon v. Union of India*, a Bombay High Court decision, the Court granted participating doctors immunity from litigation arising from its termination order. It required the heads of gynecology and anesthesia and the other specialists to be present during the procedure. If the heads were unavailable, experienced senior doctors were to carry it out. The Court also directed postoperative care.

Case-note :- ***1. Facts :*** The petitioner, anonymized as X in the judgment, approached the Madhya Pradesh High Court under Article 226 for permission and an immediate direction to terminate her pregnancy. In an FIR dated 16 February 2020, she stated that she was about seventeen. She alleged that Rahul Pal had developed physical relations with her on a promise of marriage and refused to marry her after she became pregnant. She also alleged that his parents, Sunita and Dhruv, supported him and scolded her, and that his brother Manoj tried to outrage her modesty. FIR No. 105/2020 at Police Station Dwarikapuri, Indore, listed IPC Sections 363, 366-A, 376(2)(n), 376-D, 323, 294 and 354(A), POCSO Sections 5, 6, 11 and 12, and specified SC/ST (Prevention of Atrocities) Act provisions. X's

pregnancy was initially described as three months. On 13 March 2020, the Court ordered her examination by the Medical Board at M.Y. Hospital, Indore. Sonography dated 16 March assessed gestation at sixteen weeks and six days. Two gynecologists considered termination possible after correction of anemia. The psychiatric assessment found no current psychiatric illness and described her mental capacity as appropriate for her age. The medicine and anesthesia opinions made fitness conditional on correction of anemia, recording haemoglobin as ">10 gm". The Board's overall opinion was that termination was feasible after correction of anemia. The Court had to decide whether to grant prompt permission and what safeguards were needed for a pregnant minor who alleged sexual assault.

2. Precedents — Considered : *Murugan Nayakkar v. Union of India and Others*, W.P. (Civil) No. 749/2017, Supreme Court order dated 6 September 2017, was quoted and applied. In that case, a thirteen-year-old alleged rape and sexual-abuse survivor sought termination of her pregnancy. The Medical Board advised termination and considered the maternal risk comparable to delivery at term. It also noted the possibility of prematurity and complications requiring neonatal intensive care. The Supreme Court considered the child's age, the trauma of sexual abuse, her present agony and the Board's report, and permitted termination with arrangements at the designated hospital. The present High Court applied that approach to X's age, alleged trauma and the conditional fitness reported by its own Board.

Shaikh Ayesha Khatoon v. Union of India and Others, a Bombay High Court decision, was quoted for its directions concerning procedural risk and protection for the doctors. The petitioner there had been informed of the risks and could undergo termination at her own risk and consequences. The doctors who had placed their opinions on record were granted immunity from litigation arising from that petition. In X's case, the High Court granted doctors participating in the termination process immunity from litigation arising from its order.

3. Statutes considered : The Court exercised writ jurisdiction under Article 226 to grant relief concerning medical termination. It quoted the Medical Termination of Pregnancy Act, 1971 as applicable to this 19 March 2020 order. Section 3(1) protected a registered medical practitioner from penal liability where termination complied with the Act. Under the quoted Section 3(2), a pregnancy exceeding twelve but not twenty weeks required at least two registered medical practitioners to form a good-faith opinion on either of two grounds. One was that continuation would involve a risk to the woman's life or of grave injury to her physical or mental health. The other was a substantial risk of such physical or mental abnormalities in the child, if born, as to render it seriously handicapped. Explanation 1 presumed grave injury to mental health where the woman alleged that the pregnancy resulted from rape. Section 3(3) permitted consideration of her actual or reasonably foreseeable environment. Section 3(4)(a) required written consent from the guardian of a woman under eighteen. Section 5(1) disapplied the specified duration and two-practitioner conditions, as well as Section 4, where a registered medical practitioner formed a good-faith opinion that immediate termination was necessary to save the woman's life. The IPC, POCSO and SC/ST Act provisions identified the FIR allegations; the Court did not determine criminal guilt.

4. Issues : (i) Should X, described as seventeen and alleging a rape-related pregnancy of sixteen weeks and six days, receive prompt permission for termination under the MTP framework then in force and the Medical Board's assessment? (ii) What clinical conditions, specialist presence and postoperative care were required for the authorised procedure? (iii) Should doctors acting under the Court's termination order receive the protection from litigation arising from that order drawn from the Bombay precedent?

5. Ratio / Findings : The Court examined the Board's report and did not authorise an unconditional immediate procedure. It considered the gestation, the girl's stated age, the alleged rape and trauma, and the clinical requirement to correct anemia. Applying *Murugan Nayakkar*, which emphasised the minor survivor's age, suffering and medical assessment, it allowed the petition. The Court stated that delivery would threaten the minor's life, while making permission subject to correction of anemia and specialist medical management. It directed admission by the next day and termination as early as feasible after correction of anemia. The heads of gynecology and anesthesia and the other specialists were to be present; experienced senior doctors were to carry out the procedure if the heads were absent.

The State was to provide postoperative care. Following *Shaikh Ayesha Khatoon*, the Court granted participating doctors immunity from litigation arising from its order.

6. Relief : The Hon'ble High Court allowed the writ petition. Respondents were directed to carry out termination; the Chief Medical and Health Officer, Indore, was to admit X by 20 March 2020, with the procedure as early as possible subject to medical complications and specifically after correction of anemia. The specified heads, specialists or experienced substitutes were to attend, and the State of Madhya Pradesh was to ensure postoperative care. The Court granted order-related immunity to participating doctors.

X v. State of Madhya Pradesh and Others, W.P. no. 5521/2020, 19/03/2020, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / investigation control / compelled arrest - Applying *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, the Court refused the complainant's request for a direction to arrest persons named in an already registered FIR. The Supreme Court explained that investigation falls within the police's statutory domain; courts ordinarily should not require arrest, seizure or a charge sheet as predetermined investigative steps or outcomes. In its discussion of *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, it explained that arrest under Section 41 CrPC is discretionary and must be exercised cautiously because it affects liberty and reputation. Registration of a cognizable FIR does not automatically require arrest. The High Court accordingly declined to supervise the investigating officer or order arrest.

Inherent power / affected persons / reasons - The passage from *D. Venkatasubramaniam* also considered *Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*. In the context of a judicial direction to investigate allegations in an anonymous petition, that authority required a reasonable opportunity of hearing for a person whose reputation would be drastically affected by the order. The passage also warned against casual orders under Section 482 made without reasons.

Section 173(1) CrPC / timely investigation / lawful final report - Although the Court could not compel arrest or a charge sheet, Section 173(1) required the investigation to be completed without unnecessary delay. The investigating officer had to determine, in accordance with law, whether an offence was made out and submit the appropriate final report, either a closure report or a charge sheet, as early as possible. The Court directed prompt completion and the steps required by law, leaving the decision on arrest and the outcome of the investigation to the police. It also permitted the applicant to approach the Superintendent of Police with a grievance.

Case-note :- ***1. Facts :*** The applicant, identified in the judgment as X, had reported Crime No. 467/2021 at Police Station Jhansi Road, Gwalior. The registered offences were IPC Sections 376, 376(2)(n), 323, 506 and 34. X applied under Section 482 CrPC, alleging that the police had taken no further action after registration and had not arrested the accused persons. X sought directions to respondents 1 and 2 to take the necessary steps to arrest them. The Court heard counsel for the applicant and the State. It considered the limits on judicial control of police investigation and the statutory duty to complete an investigation without unnecessary delay.

2. Precedents — Considered : *D. Venkatasubramaniam v. M.K. Mohan Krishnamachari, (2009) 10 SCC 488*, was quoted at length and applied. In that case, the High Court had directed the police to record statements, arrest the accused, seize property and file a charge sheet within a fixed period, without adequate reasons or a hearing for the affected persons. The Supreme Court held that the police must investigate according to law, but courts ordinarily should not direct how particular investigative steps are to be taken or require a particular outcome. An investigation may lead to a charge sheet or to a conclusion that no case is made out. The inherent power under Section 482 is confined to its statutory purposes and must be exercised with care and reasons. The present High Court applied that principle to refuse the requested arrest direction and supervision of the investigation. In *D. Venkatasubramaniam*, the Supreme Court relied on *M.C. Abraham v. State of Maharashtra, (2003) 2 SCC 649*, to explain Section 41 CrPC. In the situations specified by that provision, a police officer must exercise judgment, after appropriate inquiry, on whether arrest is necessary; a cognizable report does not make arrest automatic. The officer must exercise the power cautiously, having regard to liberty, reputation, the nature of the offence and the

persons involved. The quoted decision also relied *on Divine Retreat Centre v. State of Kerala, (2008) 3 SCC 542*, for the requirement of a reasonable opportunity of hearing before a judicial direction to investigate that seriously affects a person's reputation. That discussion concerned a judicial direction to set criminal law in motion on an anonymous petition. *D. Venkatasubramaniam* criticised casual, unreasoned observations made without hearing the affected parties. It treated the order made without hearing the affected appellants as a nullity and set the impugned order aside. The present High Court reproduced that reasoning in support of its refusal to issue coercive directions.

3. Statutes considered : The applicant invoked the High Court's inherent jurisdiction under Section 482 CrPC. The quoted Supreme Court reasoning identified its purposes as giving effect to an order under the Code, preventing abuse of court process and securing the ends of justice. It required cautious exercise of that power and did not authorise routine judicial supervision of each police decision in an investigation. Section 41 CrPC, discussed through *M.C. Abraham*, permits arrest without a warrant in specified situations but requires the officer to exercise judgment; registration of a cognizable case alone does not require arrest. Section 173(1) CrPC, expressly quoted and applied by the High Court, requires every investigation under the chapter to be completed without unnecessary delay. Depending on the result, the appropriate final report may be a closure report or a charge sheet.

4. Issues : (i) On X's application under Section 482 after registration of Crime No. 467/2021, could the High Court direct arrest of the accused, dictate investigative steps or require a charge sheet merely because no arrest had occurred? (ii) Could the Court require timely completion of the investigation without predetermining the police conclusion?

5. Ratio / Findings : The Court rejected the request for an arrest direction. Applying *D. Venkatasubramaniam* and its discussion of *M.C. Abraham*, it held that directing arrest and the filing of a charge sheet would amount to supervising an investigation within the police's statutory domain. Arrest under Section 41 is discretionary and depends on the circumstances and evidence, with due regard to its effect on liberty and reputation. The allegation of investigative inaction did not justify a direction for immediate arrest or a presumption that the investigation must result in prosecution. The Court distinguished those limits from the police's statutory duty to act. Section 173(1) requires completion of the investigation without unnecessary delay. The investigating officer cannot keep it pending indefinitely, but must determine whether the material discloses an offence and promptly submit the appropriate final report, either a closure report or a charge sheet. The Court directed completion as early as possible and the other steps required by law, preserving police judgment on arrest and the substance of the report. The applicant could submit a grievance to the Superintendent of Police, Gwalior, for consideration according to law.

6. Relief : The Hon'ble High Court finally disposed of the Section 482 application. The Court refused to direct arrest or dictate a charge sheet. It directed the investigating officer to conclude the investigation as early as possible and take necessary lawful steps under Section 173(1) CrPC. X remained free to apply to the Superintendent of Police, Gwalior, if aggrieved; any such application was to be considered according to law.

X v. State of Madhya Pradesh and Others, M.Cr.C. no. 62945/2021, 21/12/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / relatives / omnibus allegations - The Court considered *Kans Raj v. State of Punjab, (2000) 5 SCC 207, Monju Roy v. State of W.B., (2015) 13 SCC 693*, and *Chandralekha v. State of Rajasthan*, which caution against mechanically implicating every relative in matrimonial prosecutions. Neither the FIR nor the statement under Section 161 CrPC identified a specific incident or role attributable to the younger brother-in-law. He could not bring the complainant back from her parental home without the consent of the husband and parents-in-law, so their failure to bring her back could not be attributed to him as continuing cruelty. The FIR, charge sheet and consequent proceedings were quashed only against him.

Section 498-A IPC / parents-in-law / dowry taunts - The Court found sufficient material to prosecute the father-in-law and mother-in-law on the specific allegations that they taunted the complainant for bringing insufficient dowry and did not permit her return. Although no particular instances of cruelty were mentioned, the Court applied *Taramani Parakh*

v. State of Madhya Pradesh, (2015) 11 SCC 260, for the proposition that such dowry taunts can themselves constitute cruelty. Quashing was refused despite their reliance on an earlier representation anticipating false implication and on the hospital care they had arranged for the complainant.

Restitution proceeding / later FIR / counterblast - Applying *Pratibha v. Rameshwari Devi, (2007) 12 SCC 369*, which discussed the *Bhajan Lal* illustrations for quashing, the Court held that a matrimonial civil proceeding does not bring an independent criminal case to an end, even when both arise from the same facts. A wife may delay reporting while hoping for reconciliation; that delay alone does not make her later complaint a retaliatory counterblast. The fact that the husband instituted restitution proceedings before the FIR therefore did not warrant quashing the prosecution against him.

Continuing mental cruelty / residence apart / delay - The Court applied *Rupali Devi v. State of U.P., (2019) 5 SCC 384*, to the continuing psychological impact of alleged cruelty after a wife takes shelter at her parental home. In its assessment of this case, the Court considered the husband's and parents-in-law's failure to bring the complainant back, presumably because the dowry demand remained unmet, together with the specific allegations of harassment and assault. The Court also noted that the period of limitation for taking cognizance is three years where the offence carries a maximum sentence of three years.

Case-note :- ***1. Facts :*** The four applicants sought quashing under Section 482 CrPC of FIR No. 40/2022 registered at Mahila Thana Shivpuri, District Shivpuri, the charge sheet and the resulting proceedings for IPC Sections 498-A and 323 read with Section 34 and Dowry Prohibition Act Sections 3/4. Applicant 1, Yakub Khan, was the complainant's father-in-law; applicant 2, Kamrunnisha, was her mother-in-law; applicant 3, Nishant Chaudhary, was her husband; and applicant 4, Prashant Chaudhary, was her younger brother-in-law. According to the FIR, she married Nishant under Muslim rites on 5 February 2020. Her father had died, and her mother and brother arranged the marriage; the FIR described substantial expenditure, cash payments, household articles and jewellery given at the marriage. The complainant alleged that, after two or three months, all the applicants demanded another ₹10 lakh and harassed her for bringing inadequate dowry. She further alleged that they expressed displeasure when she gave birth to a daughter on 27 September 2021. She alleged assaults, depression and treatment in Morena and Gwalior. On 26 January 2022, after her condition worsened, her mother took her and her daughter to Shivpuri; the applicants did not bring her back. The applicants contended that the statement under Section 161 CrPC repeated only general accusations against Prashant. The parents-in-law relied on an earlier police representation anticipating false accusation and on the five or six days of hospital treatment they had arranged, which they said showed their concern for her. Counsel for the complainant and the State submitted that the FIR supported prosecution. The complainant also argued that the failure to bring her home after 26 January 2022 amounted to desertion linked to the dowry demand. For Nishant, counsel further argued that the FIR was delayed and had been lodged after he instituted proceedings for restitution of conjugal rights. The police had filed a charge sheet before the High Court's decision. The Court assessed each applicant separately.

2. Precedents — Considered : *Kans Raj v. State of Punjab, 2000:INSC:251, (2000) 5 SCC 207*, was quoted for the need to establish overt acts rather than infer every in-law's complicity in a dowry-death case merely from kinship. In the reproduced passage, the Supreme Court required overt acts attributed to persons other than the husband to be proved beyond reasonable doubt. *Monju Roy v. State of W.B., (2015) 13 SCC 693*, quoted *Kans Raj* and explained that allegations against distant relations require tangible material identifying their specific roles. It distinguished their position from that of the husband and close family, while requiring a pragmatic assessment rather than weighing every allegation in golden scales. Its discussion of *Raja Lal Singh v. State of Jharkhand, (2007) 15 SCC 415*, illustrated the setting aside of convictions where relatives' names appeared to have been added merely to implicate more family members. The High Court applied *Monju Roy* to the absence of any particular act attributed to Prashant. *Chandralekha v. State of Rajasthan, 2013 (1) UC 155*, was quoted for quashing the FIR against relatives in that case because the allegations were exceptionally vague, common residence was uncertain and there had been extraordinary delay. *Taramani Parakh v. State of Madhya Pradesh, 2015:INSC:221, (2015) 11 SCC 260*, was applied for the proposition that taunts about bringing insufficient dowry can constitute cruelty.

Pratibha v. Rameshwari Devi, 2007:INSC:929, (2007) 12 SCC 369, was quoted to show why extraneous civil proceedings do not justify quashing and why delay while reconciliation is pursued does not automatically warrant an adverse inference. Applying *Pratibha*, the Court rejected Nishant's argument that the FIR was a counterblast to his earlier restitution application. The High Court also stated that civil-court findings do not bind the criminal court, which must decide the criminal case on the allegations in those proceedings. *Rupali Devi v. State of U.P., 2019:INSC:479, (2019) 5 SCC 384*, was quoted for the continuing mental trauma caused by earlier physical or verbal cruelty after a wife takes shelter with her parents, even if no new physical act occurs there. The High Court applied that principle to the continuing effect of the alleged conduct of the husband and parents-in-law and to the objection based on delay. It expressly declined to attribute to Prashant a duty to bring her back without the others' consent.

3. Statutes considered : Section 482 CrPC governed the High Court's jurisdiction to quash the proceedings. The Court examined the statement recorded under Section 161 CrPC alongside the FIR to determine whether a particular role was attributed to Prashant. IPC Section 498-A concerned the alleged matrimonial cruelty, Section 323 the alleged assault or hurt, and Section 34 the alleged common intention. Sections 3/4 of the Dowry Prohibition Act were invoked for the alleged dowry-related conduct. The Court assessed whether there was sufficient material to prosecute each applicant; it did not determine their final culpability.

4. Issues : (i) Did general allegations against the family, without an act attributable to the younger brother-in-law, justify continuing the FIR, charge sheet and prosecution against him, including on the ground that he failed to bring the wife back to her matrimonial home? (ii) Did the dowry taunts and refusal to take her back provide sufficient material to continue proceedings against the parents-in-law? (iii) Could the proceedings against the husband be quashed merely because he instituted restitution proceedings before the FIR was lodged, and could alleged mental cruelty continue after the wife moved to her parental home?

5. Ratio / Findings : The Court examined the FIR and the statement under Section 161 CrPC to identify the allegations against Prashant. Both contained collective allegations that the in-laws demanded ₹10 lakh, were displeased by the birth of a daughter and harassed the complainant, but neither identified a particular incident, manner of harassment or direct role attributable to him. Applying *Kans Raj*, *Monju Roy* and *Chandralekha* within their respective contexts, the Court found those general allegations insufficient to require him to face trial. The complainant's mother had taken her to her parental home after hospitalisation; the applicants had not taken her there. It was for the husband and parents-in-law to bring her back, and Prashant could not do so without their consent. Their failure to bring her back could not be attributed to him as continuing cruelty merely because he was her younger brother-in-law. The Court therefore quashed the FIR, charge sheet and subsequent proceedings against him for all the charged offences. Yakub and Kamrunnisha stood on a different footing. The FIR specifically alleged that they taunted the complainant for bringing inadequate dowry and did not permit her return. Although the FIR and the statement under Section 161 CrPC did not identify particular instances of cruelty, the Court applied *Taramani Parakh* to hold that such dowry taunts could themselves constitute cruelty. It refused to quash the proceedings on those allegations despite the parents-in-law's reliance on their earlier police representation and the medical care they had arranged. As regards Nishant, the FIR alleged specific mental and physical harassment, assault and a dowry demand. Applying *Pratibha*, the Court held that the independence of civil and criminal proceedings defeated the argument that the FIR was a retaliatory counterblast merely because his restitution application came first. The High Court also stated that civil-court findings do not bind the criminal court, which must decide the criminal case on the allegations in those proceedings. A wife may delay reporting while hoping that matters will improve; the sequence of proceedings alone did not establish that her complaint was false. The Court noted that the limitation period for taking cognizance is three years where the maximum sentence is three years. Applying *Rupali Devi*, it also considered the continuing psychological harm after the complainant moved to her mother's home. In that assessment, it took account of Nishant's and his parents' failure to bring her back, presumably because the dowry demand remained unmet. The allegations of the husband's maltreatment and dowry demand warranted his prosecution.

6. Relief : The Hon'ble High Court allowed the application only for applicant 4 Prashant Chaudhary. FIR No. 40/2022, the charge sheet and criminal proceedings arising from that FIR for IPC Sections 498-A, 323/34 and Dowry Prohibition Act Sections 3/4 were quashed as to him. The application was dismissed for applicants 1 Yakub Khan, 2 Kamrunnisha and 3 Nishant Chaudhary, whose prosecution could continue.

Yakub Khan and Others v. The State of Madhya Pradesh and Others, M.Cr.C. no. 3953/2023, 23/01/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- Section 482 CrPC / matrimonial cruelty FIR / restitution decree - An ex parte decree for restitution of conjugal rights did not, by itself, justify quashing an FIR alleging dowry demands, harassment and assault under IPC Sections 498-A, 323 and 34 and Sections 3/4 of the Dowry Prohibition Act. The husband had neither sought execution under Order XXI Rule 32 CPC nor pursued divorce under Section 13(1A)(ii) of the Hindu Marriage Act. The applicants did not show that the wife knew of the decree or that they had attempted to resume cohabitation after it. As the FIR disclosed cognizable offences, the Court dismissed the Section 482 application.

Desertion / Supreme Court precedent / sufficient reason to live apart - The Court quoted and applied *Savitri Pandey v. Prem Chandra Pandey; (2002) 2 SCC 73*, including its discussion of *Bipinchandra Jaisinghbhai Shah v. Prabhavati; AIR 1957 SC 176*. Desertion requires separation and an intention permanently to end cohabitation. It also requires the other spouse's lack of consent and the absence of reasonable cause for leaving. The inference depends on the parties' conduct, the circumstances and their bona fide willingness to resume married life. A wife living separately for valid reasons could not be treated as a deserter merely because an ex parte restitution decree had been obtained and left unexecuted.

Case-note :- ***1. Facts :*** Yashwant Singh and three relatives applied under Section 482 CrPC to quash FIR Crime No. 0562/2020 registered at Police Station Bhind Dehat, District Bhind. The FIR alleged offences under IPC Sections 498-A, 323 and 34 and Sections 3/4 of the Dowry Prohibition Act. The applicants were the complainant's father-in-law, mother-in-law, husband's younger brother and husband. According to the complainant, she married the fourth applicant on 24 June 2011. Her father gave a motorcycle, ornaments and household goods within his means. She alleged that the family nevertheless demanded a house and ₹50,000, subjected her to mental and physical harassment, and beat her on 5 September 2020 until she lost consciousness. Her daughter told the complainant's mother about the incident, and the complainant's parents took her to the district hospital at Bhind. The applicants relied on an ex parte decree for restitution of conjugal rights dated 28 March 2018 in Family Court Case No. 221/2017 (HMA). They argued that the complainant had not returned and that the FIR had been lodged nine years after the marriage. The father-in-law had asked the Collector to ensure a fair investigation and the filing of a closure report. Counsel said that similar representations had been made to police authorities, but no acknowledgments were filed. A panchanama dated 28 November 2013 recorded a claim of earlier reconciliation efforts. A representation dated 30 May 2015 alleged that the complainant was unwilling to perform household work and had threatened false implication. The State submitted that the FIR disclosed cognizable offences and that the Collector could not enforce an ex parte matrimonial decree.

2. Precedents — Considered : The High Court quoted *Savitri Pandey v. Prem Chandra Pandey; (2002) 2 SCC 73*, on matrimonial desertion: intentional and permanent abandonment of marital obligations without the other spouse's consent and without reasonable cause. Desertion was to be assessed as a continuing course of conduct, rather than a mere change of residence. The quoted passage discussed *Bipinchandra Jaisinghbhai Shah v. Prabhavati; AIR 1957 SC 176*. It identified actual separation and animus deserendi on the part of the deserting spouse, together with the deserted spouse's lack of consent and the absence of conduct by that spouse giving reasonable cause for the separation. Temporary anger did not, by itself, establish desertion. The inference depended on the circumstances. The quoted passage explained that a bona fide offer to resume married life could bring desertion to an end before divorce proceedings had begun, whether made before or after the statutory period had elapsed. Throughout the period relied on, the deserted spouse had to affirm the marriage and

remain ready and willing to resume married life on reasonable conditions. The reproduced passage placed the burden of proving the relevant elements on the petitioner seeking divorce and stated that desertion had to be proved beyond reasonable doubt. Although corroboration was not an absolute legal requirement, the quoted passage stated that courts ordinarily insisted on it unless its absence was satisfactorily explained. The High Court applied this framework in rejecting the contention that separate residence and an unexecuted ex parte decree conclusively established desertion for the purpose of quashing the FIR under Section 482, particularly when the FIR alleged cruelty.

3. Statutes considered : Section 482 CrPC provided the inherent jurisdiction invoked to quash the FIR. IPC Sections 498-A (cruelty), 323 (hurt) and 34 (common intention), along with Sections 3/4 of the Dowry Prohibition Act, were the provisions invoked in the FIR. The Court held that the FIR disclosed cognizable offences. The restitution decree relied on by the applicants had been passed under Section 9 of the Hindu Marriage Act. The Court identified two possible steps after that decree: execution under Order XXI Rule 32 CPC, or a divorce petition under Section 13(1A)(ii) of the Hindu Marriage Act on the ground that there had been no restitution of conjugal rights for one year or upwards after the decree in proceedings to which the spouses were parties. The Court reproduced the separate judicial-separation and restitution grounds in Section 13(1A); the restitution ground was relevant here. Neither course had been pursued.

4. Issues : (i) Did the ex parte restitution decree, the complainant's failure to return and the applicants' earlier representations justify quashing the later FIR alleging matrimonial cruelty, hurt and dowry offences? (ii) Did separate residence establish desertion without considering reasonable cause and the parties' conduct after the decree?

5. Ratio / Findings : The Court found that the husband had made no attempt after the decree to bring the complainant home, had not sought execution under Order XXI Rule 32 CPC, and had not petitioned for divorce under Section 13(1A)(ii). The applicants did not even claim that they had informed her of the ex parte decree. The Court regarded reliance on a decree that had not been acted upon as insufficient to defeat the FIR. The earlier panchanama and representation did not establish any subsequent enforcement of the decree or displace the FIR allegations at the quashing stage. The State had submitted that the Collector had no power to enforce the decree. Applying *Savitri Pandey* and the discussion of *Bipinchandra* within it, the Court held that a wife living apart for valid reasons was not necessarily a deserter and that the husband could not take advantage of his own wrong. The FIR alleged that cruelty had caused the separation and disclosed cognizable allegations of dowry demands, harassment and assault. The decree and the contested defence therefore did not warrant quashing under Section 482.

6. Relief : The Hon'ble High Court dismissed the application under Section 482 CrPC and declined to quash FIR Crime No. 0562/2020.

Yashwant Singh and Others v. State of Madhya Pradesh and Others, M.Cr.C. no. 44258/2020, 15/03/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Headnote :- POCSO — victim age — Section 94 JJ Act evidence hierarchy - In deciding an accused's request for an ossification test in an anticipatory-bail proceeding, the Court applied *Joginder Singh v. State of Haryana, (2014) 11 SCC 335*, and Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Medical age estimation may be used only if the prescribed school or matriculation record is unavailable and, failing that, no specified municipal or panchayat birth certificate is available. Here the school register was in the police case diary, and an ossification report was already available; the accused could not dictate an additional investigative step. The application for an ossification test was rejected.

Victim age — Samagra ID and unauthenticated application — reliability and statutory priority - The family Samagra ID was not a specified record of age under Section 94 and its statement of age in 2014 conflicted with the applicant's own claim that the prosecutrix turned 18 in June 2021. An unattested application for a caste certificate, suggesting a different birth date, was neither authenticated nor among the specified age records.

Minor wife — marital exception to rape — anticipatory bail - The Court applied *Independent Thought v. Union of India, (2017) 10 SCC 800*, which read down Exception 2 to Section 375 IPC so that sexual intercourse with a wife below 18 remains

an offence. On the prosecution account, the alleged rapes also preceded the purported marriage papers. The certificate relied on was issued by a society that remained subject to an operative restraint in *Shalu Sharma v. State of M.P.*, WP 762/2020. The Court therefore treated that marriage as invalid; a stay of the guideline direction concerning another body did not lift this restraint. For these reasons, the Court rejected the asserted marriage as a ground for anticipatory bail.

Case-note :- ***1. Facts :*** Yogesh Gahlot sought anticipatory bail under Section 438 CrPC in Crime No. 597/2021 of Police Station Thatipur, Gwalior, registered for IPC Sections 366-A, 343, 376(2), 376(3), 506 and 34 and POCSO provisions recorded as Sections 5(l)/6 and 3/4. He also sought an ossification test of the prosecutrix by I.A. 31859/2021 and permission to place additional age-related documents on record by I.A. 31838/2021 and 31839/2021. The prosecution account, not a final judicial finding, stated that the prosecutrix was born on 20 November 2006, went missing on 22 June 2021 and returned on 2 July 2021. She alleged that Gahlot and co-accused Rohit took her to a room; Gahlot said he would marry her, confined her for seven to eight days and raped her repeatedly while Rohit supplied food on visits. She further alleged that Gahlot took her to his home and that he and his parents later compelled her to sign unread marriage papers before she returned home and reported the incident. Gahlot contested her minority. His counsel said school records obtained through the Right to Information Act contradicted earlier material and that corrected documents had already reached police on 8 November 2021. He relied also on a family Samagra ID, an application used for a caste certificate showing 5 June 2003, and a marriage certificate from Mool Shankar Arya Samaj Vaidik Sanstha. The Court examined the case diary, which contained the school documents supplied to police and an ossification report.

2. Precedents — Considered : *Joginder Singh v. State of Haryana, (2014) 11 SCC 335*, was cited by the Court for assessing a victim's age according to the Juvenile Justice framework. The order states the principle while reproducing Section 94 of the 2015 Act. The hierarchy places available school date-of-birth or matriculation material ahead of municipal or panchayat certificates and medical estimation. Because the school register was in the case diary and an ossification report existed, the High Court rejected the applicant's demand for another test. *Shalu Sharma v. State of M.P.*, WP 762/2020, order of 9 December 2020, was an earlier High Court order restraining the specific Mool Shankar Arya Samaj Vaidik Sanstha from solemnizing marriages. The Court distinguished an interim stay in RP 1202/2020 of 13 January 2021 affecting a direction to Madhya Bharat Arya Pratinidhi Sabha to amend guidelines concerning Special Marriage Act Sections 5–8. According to the information provided by State counsel and recorded in the order, the restraint against the certificate-issuing Sanstha itself had not been stayed in WA 95/2021. The Court consequently treated the alleged marriage solemnized despite that restraint as invalid. *Independent Thought v. Union of India, (2017) 10 SCC 800*, was applied for its reading down of Exception 2 to Section 375 IPC. Under that ruling, physical relations with a wife younger than 18 are not protected by the marital exception. The High Court used it as a separate answer to the claimed marriage defense, in addition to the allegation that rape preceded the purported signing of papers.

3. Statutes considered : Section 438 CrPC governed the request for anticipatory bail. Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 was set out and applied to the age inquiry. It gives priority to the prescribed school or matriculation evidence. If that evidence is unavailable, a birth certificate issued by a corporation, municipality or panchayat is to be sought. Only in the absence of both categories may age be determined by an ossification or other modern medical test ordered under that provision. IPC Section 375 Exception 2, as read down in *Independent Thought*, was material to the claimed marital protection.

4. Issues : (i) Was the accused entitled to an ossification test to contest the prosecutrix's alleged minority when school material and a medical report were already in the case diary? (ii) Could the Samagra family entry or unattested caste-certificate application displace the hierarchy of age evidence prescribed by the statute, and was a separate filing of school papers necessary when police already possessed them? (iii) Did an asserted marriage certificate undermine the allegations sufficiently to warrant anticipatory bail, given the timing of the alleged assaults, the operative restraint on its issuing society, and *Independent Thought*'s rule concerning a wife under eighteen?

5. Ratio / Findings : The Court considered the request for an age test under the hierarchy of evidence prescribed by Section 94, noting that the case diary contained the school register and an existing ossification report. It rejected the request for an additional ossification test, also observing that an accused may not instruct the investigating officer in the method of investigation. The documents the applicant said the school corrected and sent on 8 November 2021 were themselves in the case diary, so there was no need to take his copy separately on record under I.A. 31838/2021. The Samagra ID, showing the prosecutrix as eighteen in 2014, was not a statutory age record and would imply an age around twenty-five in 2021, inconsistent with the applicant's own assertion that she had only just turned eighteen. The caste-certificate application was unattested by a competent authority and not one of the sources of age evidence specified in Section 94. The Court therefore declined to accept those documents in place of the school evidence at the bail stage. The Court next considered the asserted marriage without treating it as a complete defence to the allegations. The prosecution account placed repeated assaults before the alleged forced signing of marriage papers and maintained that the prosecutrix was a minor. The certificate was issued by the named Arya Samaj Sanstha against which the earlier restraint remained operative; the review stay concerning a different representative body did not remove it. On that basis the Court regarded the purported marriage as invalid. As a separate ground, *Independent Thought* precluded reliance on the Section 375 marital exception where a wife is under eighteen. In light of the allegations and those age and marriage considerations, no case for pre-arrest protection was made out.

6. Relief : The Hon'ble High Court dismissed the application for anticipatory bail under Section 438 CrPC and rejected I.A. 31859/2021 for an ossification test. I.A. 31838/2021 seeking to place the school documents on record was rejected as unnecessary because they were in the case diary; the Court also explained why the material relied on in I.A. 31839/2021 could not establish the claimed age. *Yogesh Gahlot v. State of M.P., M.Cr.C. no. 54837/2021, 17/11/2021, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.*

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Case Sr. no. (1008) Prev Next

Headnote :- Investigation — accused's choice of agency or method — no right - In dismissing an accused's Article 226 petition seeking a fair and impartial investigation of an FIR against him, the High Court applied *Romila Thapar v. Union of India, (2018) 10 SCC 753*, and *Dinubhai Boghabhai Solanki v. State of Gujarat, (2014) 4 SCC 626*. The accused cannot select the investigating agency, dictate the manner of investigation, demand court monitoring of it, or claim participation or prior hearing as a matter of course while it is underway. The cited authorities preserve remedies available at later stages and the constitutional court's exceptional power to address a demonstrably mala fide investigation.

Constitutional writ — court monitoring and supervision of investigation — distinction - Applying *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*, the Court held that a direction prescribing how the police should investigate would amount to impermissible judicial supervision. Exceptional monitoring may ensure progress, fairness and freedom from external interference without selecting investigative steps or determining the investigating officer's opinion. Such supervision risks influencing the trial court's independent assessment of a police report; the accused's request was therefore refused.

Transfer or independent investigation — exceptional Constitutional intervention - *Romila Thapar*, as quoted and applied by the High Court, reiterated that an accused cannot choose an agency. *Divine Retreat Centre* and the Constitution Bench in *Committee for Protection of Democratic Rights* preserve Article 226 intervention where mala fides are established or exceptional circumstances require intervention to ensure credibility, protect fundamental rights or do complete justice. A mere allegation against the local police is insufficient.

Case-note :- ***1. Facts :*** Yogesh Singh Bhadoriya was named as an accused in Crime No. 526/2024 at Police Station Dehat, District Bhind. According to the relief sought in the writ petition, the FIR invoked BNS provisions stated as Sections 115(2), 296, 51(3), 126(2) and 3(5), along with Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Under Article 226, the petitioner asked the High Court to direct the respondents to conduct a fair and impartial investigation. The Court framed the

question as whether the accused could maintain a request to have investigation conducted in a particular manner and ultimately declined intervention.

2. Precedents — Considered : *Romila Thapar v. Union of India, 2018:INSC:912, (2018) 10 SCC 753,* was quoted extensively and treated as the governing statement. In its paragraphs 24–27, drawing on *Narmada Bai*, *Sanjiv Rajendra Bhatt*, *E. Sivakumar* and *Divine Retreat Centre*, the Supreme Court stated that an accused has no right to appoint or select an investigative agency, prescribe the method of investigation or prosecution, or insist on hearing as a matter of course when an impartial investigation is directed. *Divine Retreat Centre*, as reproduced there, distinguishes the inability of an interested person to choose the officer from the High Court's Article 226 power to give appropriate directions when satisfied that the power of investigation is being exercised mala fide. *Romila Thapar* also quotes the Constitution Bench in *State of West Bengal v. Committee for Protection of Democratic Rights, (2010) 3 SCC 571*. That authority states that a CBI transfer is an extraordinary constitutional measure to be exercised sparingly and cautiously, not on routine accusations, but where credibility, fundamental rights, complete justice or exceptional ramifications demand it. In the particular *Romila Thapar* case, vague assertions of mala fides and disputed evidence did not warrant an agency selected by the accused or court monitoring; ordinary bail, discharge and quashing remedies remained available at appropriate stages. *Dinubhai Boghabhai Solanki v. State of Gujarat, 2014:INSC:139, (2014) 4 SCC 626*, was quoted at length to explain why an accused has no ordinary right to participate at the investigation stage. Its extracts from *Union of India v. W.N. Chadha* explain why collecting investigative material does not ordinarily require giving the accused prior notice and an opportunity to be heard under the audi alteram partem rule, absent a statutory requirement or relevant exception; an accused ordinarily has no say over the manner of investigation until the appropriate procedural stage. The passage from *CBI v. Rajesh Gandhi* rejects an accused's choice of agency and notes the legal availability of further investigation after an earlier police report. *Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwanandha Maharaj v. State of A.P.* explains that Section 173(8) CrPC permits further investigation and that the court need not first hear every possible accused before directing it. The reproduced passage also states that, when the police undertake further investigation, it is desirable that they inform the court and seek formal permission. *Narender G. Goel v. State of Maharashtra* similarly reserves challenge to the authenticity, admissibility or weight of evidence for trial while rejecting an accused's hearing claim during investigation. *Manohar Lal Sharma v. Principal Secretary, 2013:INSC:839, (2014) 2 SCC 532*, was quoted separately, with extracts from its paragraphs 38–39. The Supreme Court distinguishes exceptional monitoring, which watches progress and safeguards independence and fairness, from supervision, which directs execution and risks making the trial court's assessment of the investigator's Section 173(2) report a formality. The High Court expressly applied that distinction: requiring police to investigate in a particular manner would be supervision, which the Court said it could not undertake.

3. Statutes considered : Article 226 of the Constitution was the source of the writ jurisdiction invoked for fair investigation. CrPC Sections 173(2) and 173(8) appeared in quoted Supreme Court discussions of a police report and further investigation; CrPC Sections 202 and 204 appeared in the quotation on accused participation.

4. Issues : (i) Could a person already accused in the Bhind FIR obtain an Article 226 direction that the police investigate his case in the manner he sought on the basis of a general request for fairness and impartiality? (ii) Could the High Court prescribe the course of the police investigation, or would that cross the line from exceptional judicial monitoring into supervision? The reproduced Supreme Court material also discusses the accused's choice of agency, participation or hearing during investigation, extraordinary CBI transfer and later procedural remedies.

5. Ratio / Findings : The Court began with the accused's status and the nature of the direction sought. *Romila Thapar* and *Dinubhai* established that an accused does not control the selection of agency or the mode and manner of police investigation. An accused has no ordinary right to a prior hearing or participation at that stage. The qualifications in those authorities preserve constitutional intervention where mala fides or an exceptional failure of investigative fairness is properly established. They also preserve legally available remedies at later stages. The Court then

applied the distinction in *Manohar Lal Sharma*. In rare and compelling circumstances, monitoring is concerned with progress, fairness and freedom from interference. Directing investigative steps would amount to supervision and could compromise the independent statutory roles of the police and the trial court. The requested direction to investigate in a particular manner amounted to such supervision. The Court consequently held that an accused's general request for such direction, together with the impossibility of judicially supervising police methods, did not justify interference.

6. Relief : The Hon'ble High Court dismissed the Article 226 writ petition. No agency transfer, court-monitored inquiry, investigation-specific direction, quashing of the FIR or other relief was granted.

Yogesh Singh Bhadoriya v. The State of Madhya Pradesh and Others, W.P. no. 12471/2025, 15/05/2025, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Case Sr. no. (1009) Prev

Headnote :- SC/ST Act — caste insult — public view through playback of recorded conversation - In the challenge under Section 482 CrPC, the Court rejected the contention that the alleged caste insult could not have occurred within public view under Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the 1989 Act. On the transcript before it, the Court relied on the applicant's awareness that his caste-abusive telephone conversation was being recorded and on its later playback before another person. The conclusion was expressly prima facie, and the Court distinguished public view from a public place.

Recorded conversation — objection to collection — evidentiary effect - The applicant's assertion that he had not permitted the recording did not establish its illegality. On the Court's reading of the transcript, he knew that the conversation was being recorded and expressed no concern. In any event, the Court applied *Radha Kishan v. State of U.P.*, which requires careful examination of evidence obtained by an illegal search rather than its automatic rejection. The Court thus rejected the argument for automatic exclusion.

Investigation defect — cognizance and trial — prejudice - Applying *H.N. Rishbud v. State (Delhi Admn.)*, cited in the order as (1954) 2 SCC 934, the Court rejected the proposition that an asserted illegality in collecting evidence necessarily invalidates the prosecution. That authority distinguishes a defect in investigation from a jurisdictional defect affecting cognizance or trial. Once cognizance has been taken and the proceedings have concluded, an earlier illegality in investigation does not vitiate the result unless it has caused a miscarriage of justice. The present quashing petition was dismissed on a prima facie reading of the transcript.

Case-note :- ***1. Facts :*** Zuber Khan applied under Section 482 CrPC to quash Crime No. 91/2022 of Police Station Moti Nagar, Sagar. The opening paragraph of the judgment lists Sections 290, 506 and 507 IPC and Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The complainant alleged that, on 5 February 2022, Neeraj Tiwari played a mobile-phone recording of Khan's conversation. In the recording, Khan allegedly abused MLA Pradeep Laria, referred to him by caste, insulted and intimidated him, and threatened to kill Laria and K.S. Pitre, persons connected with the Sagar Division Cricket Association. The complainant said that he belonged to the same Scheduled Caste and felt humiliated on hearing it. The police investigated, filed a charge-sheet, and placed a transcript on record. Khan argued that the original call was private, the complainant was neither the person addressed nor the person threatened, Laria had not complained, and Tiwari recorded and played the conversation without Khan's consent. The Court did not reproduce the offensive language.

2. Precedents — Considered : The Court reproduced the Supreme Court's analysis of the relationship between investigation, cognizance and trial in *H.N. Rishbud v. State (Delhi Admn.)*, cited in the order as (1954) 2 SCC 934. Even a serious breach of a mandatory rule governing investigation is different from a bar regulating the competence of a court to take cognizance or try a matter. Section 190 CrPC does not make every invalid police report a jurisdictional nullity. Where cognizance has been taken and the case has run its course, a defect in the preceding investigation does not by itself vitiate the result; a miscarriage of justice attributable to the defect must be shown. The quoted passage contrasts Sections 193 and 195–199 CrPC and refers to Section 537 of the earlier Code on failure of justice. As stated by the High Court in its account of *Radha Kishan v. State of U.P.*, evidence collected in an

illegal search is not rejected automatically but must be carefully examined.

3. Statutes considered : The applicant invoked the High Court's inherent jurisdiction under Section 482 of the Code of Criminal Procedure, 1973 to seek quashing. The Court considered Sections 3(1)(r) and 3(1)(s) of the SC/ST (Prevention of Atrocities) Act, 1989 in relation to the alleged caste-directed insult or abuse within public view; Section 3(2)(va) was also invoked by the FIR and included in the Court's prima facie conclusion. The order treated public view as distinct from a public place. IPC Sections 506 and 507 concern the alleged threats; the first paragraph records Section 290, while paragraph 15 refers to Section 294 along with Sections 506 and 507. The *Rishbud* quotation discusses CrPC Sections 190, 193 and 195–199 and an earlier Code's Section 537 to explain the limits of an investigation-defect objection.

4. Issues : (i) On the allegations and transcript, could an insult in the original telephone conversation that was later played before the complainant support the public-view component of the SC/ST Act offences at the Section 482 stage? (ii) Was the recording shown to be without the applicant's knowledge or consent, and would an alleged illegality in recording or collection automatically make it unusable and require quashing? (iii) Did the absence of a complaint from Laria and the complainant's position as a person who heard the recording require termination of the proceedings?

5. Ratio / Findings : The Court read the transcript as showing that Khan was aware of the recording and had not objected; he had, indeed, indicated that Tiwari could record it. On that reading of the transcript, the Court rejected the factual premise that the conversation had been recorded without Khan's knowledge and permission. It further reasoned that a speaker who knew the exchange was being recorded and could be played to others could not, on the facts alleged, obtain quashing merely by pointing to the privacy of the original call. Because the recording was later played before another person, the Court found the allegation of caste insult and intimidation capable, prima facie, of satisfying the requirement of public view. The Court also cited *Radha Kishan* for careful scrutiny rather than automatic rejection of evidence gathered by an illegal search, and quoted *H.N. Rishbud* to distinguish an investigation defect from a jurisdictional defect and to require miscarriage of justice before an already concluded proceeding is vitiated. The Court relied on these authorities to reject the arguments for automatic exclusion of the evidence and automatic quashing of the proceedings at this preliminary stage. From the transcript the Court found a prima facie case under the specified SC/ST provisions and, in its concluding paragraph, IPC Sections 294, 506 and 507.

6. Relief : The Hon'ble High Court dismissed the application for quashing under Section 482 CrPC. The Court found no case for interference after its prima facie assessment and left the ensuing criminal process undisturbed.

Zuber Khan v. The State of Madhya Pradesh and Others, M.Cr.C. no. 3780/2024, 12/03/2024, S.B., Hon'ble Justice Shri Gurpal Singh Ahluwalia, Honorable High Court of Madhya Pradesh.

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Principles Interpreted and Applied in Criminal Decisions
Decisions delivered by Hon'ble Shri Justice Gurpal Singh Ahluwalia | High Court of Madhya Pradesh | 2016–2026

About the Author

Vibhor Kumar Sahu is an Advocate practicing before the High Court of Madhya Pradesh, Bench at Gwalior. His professional practice encompasses Criminal, Constitutional, Civil, Writ and Service matters. His interest in legal writing lies in presenting judicial reasoning with clarity and fidelity through close reading, original case-notes and systematic subject classification.

He is the author of *Judicial Exposition of Service Law by Justice Gurpal Singh Ahluwalia*, a subject-wise study of service-law decisions delivered by Hon'ble Shri Justice Gurpal Singh Ahluwalia. That work laid the foundation for his continuing engagement with the study and organisation of His Lordship's judgments.

Criminal Law: Judicial Interpretation and Application -Principles Interpreted and Applied in Criminal Decisions - Decisions delivered by Hon'ble Shri Justice Gurpal Singh Ahluwalia is his second digest. It extends this work to criminal jurisprudence and brings a practising advocate's perspective to the identification of legal issues, the treatment of precedents and the presentation of judicial reasoning. The volume also draws upon the experience gained in preparing the earlier digest, particularly in developing headnotes, case-notes and a structured system of reference.

Through these publications, Mr. Sahu seeks to contribute to practical legal scholarship and to assist the Bench, the Bar, students and researchers in locating and studying the judgments themselves. His continuing endeavor is to combine the demands of professional legal research with a clear, disciplined and context-sensitive presentation of legal principles.